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Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS
FIRST SESSION

VOLUME 125—PART 11

JUNE 4, 1979 TO JUNE 12, 1979

(PAGES 13149 TO 14532)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1979

AUTHENTICATED
U.S. GOVERNMENT
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United States
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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Monday, June 4, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Happy are those who work for peace; God will call them His children.—Matthew 5: 9.

Eternal Lord, Heavenly Father, we pray for the gift of peace in our lives and in the world. Put aside the forces of evil that threaten Your people and cause alarm among the weak and defenseless. Give courage and power to those who earnestly desire the things that make for peace.

Encourage in us a longing for justice among the nations, and grant that we may be willing to be reconcilers and messengers of good will.

Above all else may we know Your peace, that gift that passes all human understanding, that filled with Your love, we may better serve You and our Nation. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

THE LATE HONORABLE WILLIAM G. BRAY

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I am deeply distressed to have to report to my colleagues in the House of Representatives that our distinguished former colleague, a Representative from the Sixth District of Indiana for 24 years, the Honorable William Bray, died early this morning after having suffered a stroke on Thursday.

Congressman Bray served this House and our country faithfully and well for well over two decades, during which he rose to the position of ranking Republican on the Committee on Armed Services. He was a man of charm, and of steadfastness, and a good friend to all who knew him, and to Mrs. Bray and his family, I extend my deepest condolences.

Mr. Speaker, if I may, I would yield to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. I thank the gentleman for yielding, and I also thank him for taking this time, as dean of the delegation from Indiana, to say a few kind words about Bill Bray.

Mr. Speaker, it is possible to be a good partisan, it seems to me, without being angry, without being cruel, and without saying unkind things about one's adversaries. Such a person was Bill Bray.

I am sure that later we will have special orders to commemorate the memory of this good and kindly man, but suffice it now for me to add that when I arrived here in 1965, no one was more avuncular, no one was kinder to me than was Bill Bray.

His good wife, Esther, will be officiating at the commissioning of the submarine *Indianapolis* toward the latter part of this month. I am sure as many of the delegation as can will be present.

Our sympathy goes to Mrs. Bray, and our gratitude goes to his family for having such a fine man to serve with in the Congress.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman.

I yield to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS of Indiana. I thank my colleague for taking this time.

I share the deep personal sorrow and loss that we have lost a very dear friend.

Most of us from Indiana knew Bill Bray before we came to Congress. I had the privilege of representing much of the district that Bill once served, so when I first came to Congress, I leaned heavily on Bill Bray for advice, as far as how to vote and how to handle the constituency.

Bill was more than just a partisan, as several Members have mentioned. He was a friend to all who knew him. He was a patriot. He served his community. He served in World War II as a hero.

He then came to the Congress and served for 24 years here, rising to ranking minority member of the Armed Services Committee. He put his country always first above all other things.

Last week, I was saddened to learn that he had had this stroke. I visited him and his wife in the hospital on Saturday evening, even though he was unconscious at the time, and realizing that his condition was very severe, we all were praying that he would survive this. But God in His wisdom has seen fit to take him from us.

It is a loss to our State, to the Nation, to lose a great person, a great friend as Bill Bray. Our prayers go out to Esther, his son Richard, and grandchildren, and the many friends he has throughout the world.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to extend their remarks on the life, character, and public service of the late Honorable William G. Bray.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

MANY THANKS TO THOSE WHO AIDED AFTER DISASTROUS TORNADOES IN TEXAS

(Mr. HIGHTOWER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HIGHTOWER. Mr. Speaker, in these days when we hear much about the self-seeking who are more concerned about their own interests than the interests of others, it is refreshing to find among all the criticisms those who show their concern and compassion for people in need.

In the wake of the disastrous tornadoes that struck Vernon and Wichita Falls, Tex., on April 10, 1979, not only did the local citizens and businesses serve as

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

good neighbors in working to help each other, but there is a growing list of other friends from all over the United States who generously responded.

Mayor Koch of New York was quick to offer the assistance of that troubled and often maligned constituency. There is also a long list of corporations who came to our aid.

I would like to publicly commend those who sent food or money to our area—the Campbell Soup Co., El Chico Corp., McDonald's Restaurants and others. The Levi Strauss Co. sent clothing. Texas International Airlines flew 5,000 pounds of Government forms free of charge to expedite Government procedures in providing services to the homeless. IBM Corp. sent a mobile computer to help keep track of the victims. Also, thanks to the people of the city of New York and thousands of other generous folk who typify the true American spirit of generosity to those who face adversity.

GENERAL LEAVE

Mr. HIGHTOWER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the subject of my 1-minute address today.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

THE WEAVER NATIONAL GRAIN BOARD BILL

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, on Tuesday, the Agriculture Committee takes up hearings on the Weaver National Grain Board bill, sometimes called the barrel for bushel bill.

We in this country are now paying exorbitantly high prices for oil, while selling our grain at dirt cheap, bargain-basement prices. This is intolerable.

The Weaver National Grain Board bill is the only way in which we can set higher prices in the world markets for our grain and get a reasonable and just return.

☐ 1210

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
June 1, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 1:05 p.m. on Friday, June 1, 1979, and said to contain a message from the President concerning the extension of the Jackson-Vanik Waiver Authority for a further period of twelve months and the continuation of the waivers applicable to the Socialist Republic of Romania and to the Hungarian People's Republic, together with a copy of the President's Determination in connection therewith.

With kind regards, I am

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, U.S. House of Representatives.

RECOMMENDATION FOR EXTENSION OF WAIVER AUTHORITY OF PORTIONS OF THE TRADE ACT OF 1974—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-137)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

In accordance with subsection 402(d)(5) of the Trade Act of 1974, I transmit herewith my recommendation that the authority to waive subsections (a) and (b) of section 402 be extended for a further period of twelve months.

In accordance with subsections 402(d)(5)(B) and (C), this recommendation sets forth my reasons for recommending the extension of waiver authority and for my determination that continuation of the waivers applicable to the Socialist Republic of Romania and to the Hungarian People's Republic will substantially promote the objectives of section 402.

I include as part of my recommendation, my determination that further extension of the waiver authority, and continuation of the waivers applicable to the Socialist Republic of Romania and to the Hungarian People's Republic, will substantially promote the objectives of section 402.

JIMMY CARTER.

THE WHITE HOUSE, *June 1, 1979.*

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, June 5, 1979.

PRESIDENTIAL GOLD MEDAL TO MRS. HUBERT H. HUMPHREY

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 613) authorizing the President of the United States to present a gold medal to the widow of Hubert H. Humphrey, as amended.

The Clerk read as follows:

S. 613

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President is authorized to present in the name of Congress, an appropriate gold medal to Mrs. Hubert H. Humphrey, in recognition of the distinguished and dedicated service which her late husband gave to the Government and to the people of the United States. For such purposes, the Secretary of the Treasury shall cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary. There are authorized to be appropriated not to exceed $15,000 to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal, and the appropriation used for carrying out the provisions of this subsection shall be reimbursed out of the proceeds of such sale.

(c) The medals provided for in this section are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

The SPEAKER. Is a second demanded?

Mr. STANTON. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Illinois (Mr. ANNUNZIO) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. STANTON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would authorize the Treasury to strike a gold medal for the President to present on behalf of Congress to the widow of Senator Hubert H. Humphrey. This medal would commemorate the late Senator's contributions to the service of the Federal Government and the people of the United States.

For nearly 30 years, Hubert Humphrey served America, both as Vice President and Senator. His contributions are too numerous to recount. It is sufficient to say that, because of him, many people's lives are better than they would otherwise have been.

Hubert Humphrey brought a genuine love for his work to public service. His attitude was contagious. He excited people and inspired in them an enthusiasm for public service. His vitality and excitement for serving the people of America should be a shining example for all elected and appointed officials.

The Banking Committee has made an amendment to this bill. Subsection (b) authorizes the Treasury to strike bronze duplicates of the gold medal for sale to the public. The bill was amended to permit the Treasury to recover the cost of the gold medal from the sale of the bronze duplicates. The Treasury is still required to strike the gold medal. This amendment does not change that, but is only intended to require the Treasury to attempt to recover the cost of the gold medal through the sale of the duplicates.

Mr. Speaker, I urge the passage of S. 613.

Mr. STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the late Senator Humphrey ranks among the truly great leaders of the 20th century. His autobiography, "The Education of a Public Man," is the journal of one who lived by the ideals of social and economic justice. He was unconditionally committed to helping the less fortunate both here and abroad. All of the civil rights legislation in the past 30 years bear his stamp; he was a champion of racial justice. He was father of the Peace Corps and authored the food for peace legislation as well as the Older American Act. Health and education laws were also hallmarks of his enormously productive career.

Hubert Humphrey was the conscience of the Senate, if not the conscience of the country. He was the ultimate patriot and a moral leader—a man for all seasons. After many partisan battles, no matter where you stood, you still loved Hubert Humphrey. He touched all of us in a special way. That unmistakable voice, and the power of his personality, turned our heads and made us smile. Today, he is in the company of saints. But, he is also with us in the prayer that opens each day of Congress; he is still with us when we debate human rights; his eloquence lives on.

As a statesman, he was humble in victory and gracious in defeat. Politics brought out the best in him. The sparkle of his personality signaled the humanity, courage, and spirit within. He loved life; he loved his country; and, above all, he loved the people. The genius of his legislative craftsmanship was always directed to the downtrodden, the broken, the poor, and the oppressed. He worked to change the system—and did. He shaped history to benefit the masses and not the privileged. His record was a triumph of humanity and principle.

The cancer that destroyed his life did not destroy his spirit; our memories of him are happy ones; he occupies an enduring place in the hearts of the American people.

I urge my colleagues to vote for S. 613.

● Mr. VENTO. Mr. Speaker, it is a very special honor to be able to join my colleagues today in congratulating my dear friend, Muriel Humphrey, as she receives one of our Nation's highest awards, the Presidential Gold Medal.

I have known Muriel for many years as an active Democrat, as a State legislator, and assistant majority leader, and as the Congressman representing Minnesota's Fourth District. It was always a pleasure to work with her and Hubert Humphrey, because they were so genuinely concerned about the people of this country. I have never seen anyone work harder or more diligently for the things they believed in, nor anyone more loyal to those who were their trusted friends.

Muriel Humphrey is truly one of the outstanding women I know. She is very special to the people of Minnesota and the entire Nation. She has provided us with leadership, with support, and with wisdom. At a time when the entire country was in mourning at the death of Hubert Humphrey, she transcended her own grief and was an exemplar of strength and fortitude for all of us. Her courage and unselfishness will always be remembered.

For so many years, we knew Muriel as the quiet, loyal supporter, and partner of Hubert. She shared his life, his work, his goals. But when the time came, she accepted the challenge of leadership. Independent, plain-spoken, determined—she has been both a model and a teacher from whom we all may learn.

It is especially fitting, I think, that Muriel Humphrey receive this coveted award. She is most deserving of the honor. She has continued Hubert Humphrey's reputation for excellence and, after working with him so many years, she forged ahead to continue and finish the tasks they had begun together.

Her months in the Senate were good, productive ones, and we all benefited from her responsive and progressive leadership. Like her esteemed husband, Muriel Humphrey believes that "there are no problems between different points of view that cannot be reconciled if we are willing to give a little and to share a little and not expect it all our way."

Muriel exemplifies the best of Minnesota tradition and charm. She is an outstanding American and an outstanding individual.●

● Mr. OBERSTAR. Mr. Speaker, this afternoon the House will have a rare opportunity to pay proper tribute to the memory of a truly great American, Hubert H. Humphrey, when we take up S. 613, authorizing the presentation of a Presidential Gold Medal to Mrs. Hubert H. Humphrey.

I want to commend our colleague, the gentleman from Illinois (Mr. ANNUNZIO) and the members of his subcommittee for giving us this opportunity to recall and commemorate the great service of the late Hubert Humphrey to our Nation.

While it has been over a year since Senator Humphrey died, we still keenly feel the loss of his wise, compassionate, dedicated, and enthusiastic leadership. His passing has left a void in the Congress, the Democratic Party and in the Nation which has not been, and may never be filled. He created his own special interest in the public life of this country which will always be his alone.

For 30 years Hubert Humphrey was, in effect, the conscience of the Nation, and more: A visionary leader, whose unique genius it was to foresee needs and propose solutions years in advance. Eventually the Nation caught up to Humphrey and embraced the ideas he advocated in civil rights; foreign affairs, most notably, the Peace Corps and food for peace; education; economic development; and urban affairs. But, by the time the rest of us caught up to where Hubert was 10 years ago, he was off in pursuit of new challenges, always urging us on to greater heights of accomplishment for the common good of all Americans.

For Minnesotans, our sense of loss is especially great. Hubert Humphrey personified the ideal of excellence in public affairs. He represented and sustained the tradition of government as a powerful, progressive force for righting injustice and improving the quality of life in America and throughout the world.

In his final years of life, Hubert Humphrey knew the satisfaction of having been proved right. As a nation, we came to lament the tragedy that this great and good man never became President. In 1968, the American people denied themselves the services of Hubert H. Humphrey.

That election campaign marked the end of only one phase of Humphrey's public service. In 1970, irrepressibly, he returned to the Senate and again became that body's most effective and eloquent spokesman for the poor, the hungry, the disadvantaged.

Muriel Humphrey was a most appropriate successor to her husband and is a truly fitting recipient of this medal. Muriel Humphrey represents in Minnesota and throughout the country a living symbol of the ideals and the spirit of Hubert Humphrey.

We owe Muriel a tremendous debt of gratitude for her contribution to the public work of Hubert Humphrey and for carrying on his tradition in her own right as a U.S. Senator from Minnesota.

The people of Minnesota are fortunate to have had her service, her wisdom, charm, and grace in the office Hubert loved so much.

Mr. Speaker, this afternoon, when the roll is called on the Presidential Gold Medal bill, S. 613, I hope the vote will be unanimous, which it should be in full respect for the Humphrey contribution to the Nation.●

Mr. STANTON. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I want to thank the ranking Republican member on the Committee on Banking, Finance and Urban Affairs for the outstanding cooperation that he has always extended, and I am deeply grateful for the gentleman's support.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the Senate bill, S. 613, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

PRESIDENTIAL GOLD MEDAL TO BALLOONISTS ABRUZZO, ANDERSON, AND NEWMAN

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 348) to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ben Abruzzo, Maxie Anderson, and Larry Newman, as amended.

The Clerk read as follows:

S. 348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is hereby authorized to present, on behalf of the Congress, to Ben Abruzzo, Maxie Anderson, and Larry Newman, transatlantic balloonists, one gold medal each of appropriate design in recognition of their distinguished feat as aviation pioneers. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck three gold medals with suitable emblems, devices, and inscriptions to be determined by the Administrator of the National Aeronautics and Space Administration with the concurrence of the Commission on Fine Arts, subject to the approval of the Secretary of the Treasury. There are authorized to be appropriated not to exceed $45,000 to carry out the provisons of this subjection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the cost of the gold medals, and the appropriation used for carrying out the provision of this subsection shall be reimbursed out of the proceeds of such sale.

(c) The medals provided for in this section are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

The SPEAKER. Is a second demanded?

Mr. STANTON. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Illinois (Mr. ANNUNZIO) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. STANTON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, S. 348, would award gold medals to the three Americans who were the first persons to fly a balloon across the Atlantic. Each balloonist would receive an identical medal.

Their flight was in the great tradition of American aviation. Two of them had tied to cross the Atlantic a year earlier and had to ditch that balloon into the sea near Iceland. Rather than being discouraged by the failure, they learned from it and succeeded on their next attempt.

Congress has honored aviation pioneers in the past. The Wright Brothers and Charles Lindbergh were presented with gold medals. Like them, these balloonists are self-made Americans who accomplished their feat on their own, without Government aid or grants.

This bill was amended by the Banking Committee in the same manner as S. 613 was amended. The Treasury is required to attempt to recover the cost of the gold medals through the sale of the duplicates.

Mr. Speaker, I urge the passage of S. 348.

Mr. STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Americans have an enduring capacity to challenge the unknown. It is refreshing to know that our pioneering spirit is still alive. Three high-altitude balloonists braved the bitter cold and icy storms of the Atlantic ocean during their historic 6-day journey.

When the Double Eagle II set down 50 miles from Paris last August, it was a reenactment of our ability to beat the odds through courage, skill, an determination. Seventeen previous attempts to balloon the Atlantic ended in disappontment and sometimes disaster.

Through Messrs. Abruzzo, Anderson, and Newman, we revive the spirit of Columbus, Lindbergh, and the explorers of the American frontier. If this unique achievement is to serve as an example to other Americans, perhaps we should focus on one important aspect of their personalities. They did not give up. The year before, they had tried and failed, with Mr. Abruzzo injured and temporarily crippled in the process. But, they learned from their experiences, added a third crew member, pilot Larry Newman, and then wrote a chapter in history.

I share their pride in achievement and warmly endorse S. 348.

Mr. Speaker, I now yield such time as he may consume to the gentleman from New Mexico (Mr. LUJAN).

□ 1220

Mr. LUJAN. I thank the gentleman for yielding.

Mr. Speaker, I think it is appropriate that the House of Representatives today give approval to S. 348, which would authorize the President to present a specially struck gold medal to Ben Abruzzo. Maxie Anderson, and Larry Newman.

As you will recall, these are the three outstanding Americans who made aviation history last year by being the first men to cross the Atlantic Ocean in a balloon, the Double Eagle II.

Historically, the Congress has honored citizens of great courage who have been pioneers in the field of aviation. Among them were Charles Lindbergh in 1927, for the first transatlantic flight and Amelia Earhart in 1932.

The daring feat of our ballooning trio deserves a place in history equal to that of these earlier heroes.

These three gentlemen exemplify the spirit that has enabled this Nation to meet the challenge after challenge during our relatively brief history of 200 years.

Despite an unsuccessful first attempt to cross the Atlantic, the balloonists persevered and succeeded in setting several world records.

But more importantly they succeeded in revitalizing the spirits of millions around the world and making clear, that given the freedom, there are no boundaries to individual achievement.

Truly it was an amazing feat. The three adventurers from New Mexico took off from Presque Isle, Maine, and on August 11, 1978, landed their balloon in a farmers field in France. Recognizing the scope of their journey thousands of Frenchmen cheered wildly for the Americans.

They had been in flight 137 hours, a new record and they had traveled 3,107 miles, also a new world record.

All of these aviation pioneers have lengthy backgrounds in their field.

Maxie Anderson has been flying everything from balloons to planes for 30 years and is also a successful businessman. Ben Abruzzo is another aviation veteran who is also known to New Mexicans as the manager of the Sandia Peak ski area. Larry Newman, the youngest of the trio, has been involved in flying for better than a dozen years and operates the world's largest hang-gliding manufacturing plant.

Certainly Ben, Maxie and Larry have achieved a goal worthy of this medal and I hope you will approve S. 348. By doing so you not only honor three outstanding men but encourage individuals the world over who are engaged in worthy pursuits.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the Senate bill, S. 348, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the Senate bill, S. 348, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

VETERAN SENIOR CITIZEN HEALTH CARE ACT OF 1979

Mr. SATTERFIELD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4015) to amend title 38, United States Code, to establish demonstration centers of geriatric research, education, and clinical operations within the Veterans' Administration.

The Clerk read as follows:

H.R. 4015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veteran Senior Citizen Health Care Act of 1979".

SEC. 2. (a) The Congress makes the following findings:

(1) The Nation's World War I veteran population is in immediate and compelling need of geriatric and extended health services and medical care.

(2) The Nation's large World War II veteran population is aging in increasing numbers and is in immediate need of a sufficient level of geriatric and extended health services and medical care.

(3) Because of the increasing proportion of the Nation's population that is elderly, greater attention must be given to understanding and meeting the health care needs of the elderly of the Nation as a whole as well as the elderly in the veteran population.

(4) Except for health and medical programs of the Veterans' Administration, the health and medical programs presently operated by the Federal Government are neither oriented toward, nor readily capable of providing for, the immediate delivery of geriatric and extended health care and medical services for those segments of the Nation's population that are aged or aging.

(5) The Veterans' Administration has the capability and the obligation to provide health maintenance for such veterans and to conduct the research, training of medical and paramedical personnel, and clinical operations required or occurring in connection with the state and condition of aging.

(b) The purposes of this Act are—

(1) to provide for the rapidly increasing demand for geriatric and extended health care and medical services being placed upon the Veterans' Administration hospital system by the Nation's veterans; and

(2) to make the Veterans' Administration hospital system the leader in geriatric research, the training of medical and paramedical personnel in care of the elderly and the delivery of health care to the aged, and to make such system the repository of medical knowledge of the science of gerontology (dealing with the emotional and psychological aspects of aging).

SEC. 3. Section 4103(a)(4) of title 38, United States Code, relating to the Office of the Chief Medical Director, is amended by adding at the end thereof the following new sentence: "One Assistant Chief Medical Director shall be a qualified doctor of geriatrics and gerontology and shall be responsible for all geriatric research, education, and clinical health care and service operations of the Veterans' Administration.".

SEC. 4. (a) Section 4101 of title 38, United States Code, relating to the functions of the Department of Medicine and Surgery, is amended by adding at the end thereof the following new subsection:

"(e)(1)(A) The Administrator shall designate fifteen Veterans' Administration hospitals as the locations for demonstration centers of geriatric research, education, and clinical operations and may designate not more than five additional Veterans' Administration hospitals as locations for such demonstration centers if suitable hospitals are available for such purpose and if there are sufficient funds available for such purpose.

"(B) In designating hospitals under paragraph (A) of this paragraph, the Administrator shall take into consideration—

"(i) the hospitals that, on the date of the enactment of this subsection, are operating a geriatric research, education, and clinical center and shall designate, to the extent possible, each such hospital as a demonstration center;

"(ii) the need for geographic dispersion of such centers; and

"(iii) the desirability of designating hospitals which are affiliated with an accredited medical school which has (or may reasonably be anticipated to develop) a department, division, or organized program of geriatrics.

"(2) The demonstration centers of geriatric research, education, and clinical operations shall operate until September 30, 1983.

"(3)(A) Not later than ninety days after the effective date of this subsection, the Administrator shall establish a Geriatrics and Extended Care Task Force (hereinafter in this paragraph referred to as the 'task force') within the Veterans' Administration Special Medical Advisory Group. The task force shall act in an advisory capacity to the Assistant Chief Medical Director responsible for geriatrics and extended care and shall perform such functions as the Administrator or Chief Medical Director may direct.

"(B) The task force shall assess—

"(i) the capability of the Veterans' Administration to provide high quality geriatric and clinical health services on a sustained, continuing, and growing basis to eligible veterans; and

"(ii) the current and projected needs for geriatric and extended health services and medical care among eligible veterans.

"(C)(i) Not later than eighteen months after the effective date of this subsection, the task force shall submit a report to the Administrator and the Special Medical Advisory Group with respect to its findings and conclusions under subparagraph (B) of this paragraph. Such report shall include an assessment of the quality of the operations of the demonstration centers of geriatric research, education, and clinical operations established under paragraph (1) of this subsection, an assessment of the extent to which the Veterans' Administration, through the operation of such centers, is meeting the needs of eligible veterans for geriatric and extended care medical services, and an assessment of any deficiencies in the operation of such centers.

"(ii) Not later than ninety days after receipt of the report under clause (i) of this subparagraph, the Administrator shall transmit such report, together with the Administrator's comments and recommendations, to the Committees on Veterans' Affairs of the Senate and House of Representatives. The Administrator shall include with such report a statement of any plans for improvements to the operation of the demonstration centers.

"(4) Not later than four years after the effective date of this subsection, the task force shall submit a report to the Administrator, and the Administrator shall submit to such committees, a final report assessing the quality of operations of such centers. Such report shall include recommendations and plans for extending such programs of operation as may have been developed at such centers throughout the Veterans' Administration hospital system in such a way as to assure the provision of high-quality geriatric and related extended care medical services through each hospital in the system.

"(5) There is authorized to be appropriated for the purpose of operating the demonstration centers of geriatric research, education, and clinical operations established under paragraph (1) of this subsection the amount of $15,000,000 for fiscal year 1980, the amount of $20,000,000 for fiscal year 1981, the amount of $25,000,000 for fiscal year 1982, and the amount of $25,000,000 for fiscal year 1983.".

SEC. 5. The amendments made by this Act shall take effect on October 1, 1979.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Virginia (Mr. SATTERFIELD) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SATTERFIELD. Mr. Speaker, H.R. 4015, the Veteran Senior Citizen Health Care Act of 1979, introduced by the distinguished member of the committee, the gentlelady from Massachusetts (Mrs. HECKLER) would serve to identify and elevate geriatric medicine into a position of higher visibility and priority within the Department of Medicine and Surgery of the Veterans' Administration.

It would provide for the establishment of demonstration centers of geriatric research, education, and clinical operations within the Veterans' Administration.

It has been brought to the attention of our committee that the rapidly expanding veteran population above the age of 60 requires increased attention to both the acute and long-term medical care of this group of patients in the health care delivery system of the Veterans' Administration.

The importance of the proposed legislation is established by virtue of the fact that, ultimately, veterans aged 65 and older will comprise more than 60 percent of all males aged 65 and older. This is expected to occur at or about the turn of the century. At present the average age of approximately 650,000 veterans of World War I is 83.

This measure does not provide additional medical care benefits for any veteran; it is intended to focus a greater effort to prepare for and treat our population of aging eligible veterans in the years ahead. Moreover, statistics indicate that in the year 2010 there will be more than a million veterans aged 85 years or older.

To insure the development of a vigorous, ongoing program to enhance geriatric care in the VA medical care system, the bill directs the Administrator to designate 15 Veterans' Administration hospitals as locations for demonstration centers of geriatric research, education, and clinical operations and confers upon him the further authority to designate up to 5 additional VA hospitals as locations for such demonstration centers provided suitable hospitals and sufficient funds are available for that purpose.

In designating hospitals as demonstration centers under this program, the Administrator is directed, to the extent possible, to designate those VA hospitals which on the date of enactment, are operating a geriatric research, education, and clinical center.

He is directed to consider also the need for geographic dispersion of such centers and the desirability of designating VA hospitals affiliated with an accredited medical school which has or may reasonably be anticipated to develop an organized program of geriatrics. Under the bill the demonstration centers so designated are authorized to operate until September 30, 1983.

To insure proper leadership in this program the bill would provide that one Assistant Chief Medical Director shall be a qualified doctor of geriatrics and gerontology who will be responsible for all geriatric research and education as well as the operations of geriatric clinical health services within the Veterans' Administration. The Administrator is required also to establish a "geriatrics and extended care task force" within the "VA special medical advisory group" to act in an advisory capacity to the Assistant Chief Medical Director responsible for geriatrics and extended care. Among the functions of the task force would be the responsibility to assess the capability of the VA to provide high quality geriatric and clinical health services to eligible veterans and to determine the current and projected needs for such services among eligible veterans.

The bill requires specific reports from the task force together with its comments and recommendations concerning the quality of operations of each demonstration center.

Funds authorized by the bill for the purpose of operating these demonstration centers are $15 million in fiscal year 1980, $20 million in fiscal year 1981, and $25 million each in fiscal years 1982 and 1983.

I urge passage of this legislation.

Mr. Speaker, I reserve the remainder of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as she may consume to one of the leaders in our committee on this legislation, the original sponsor of it, the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Speaker, I wish at the outset to congratulate and express my appreciation to the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from Texas (Mr. ROBERTS), the chairman of our Subcommittee on Medical Facilities and Benefits, the gentleman from Virginia (Mr. SATTERFIELD) for his prompt handling of the geriatrics legislation which the House is considering today, and my colleague, the distinguished ranking minority member, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) for his support of all legislation which deals with the elderly, and for the expeditious manner in which he has particularly lent his leadership to the question of the care of the elderly as it is expressed in H.R. 4015.

Mr. Speaker, I have authored this important and major legislative initiative because it is now necessary to identify and elevate geriatric medicine into a position of high visibility and priority within the Veterans' Administration.

Mr. Speaker, 1,000 Americans turn age 65 each day. With regard to veterans, the average age of the 600,000 World War I veteran is 80. The average age of the 13½ million World War II veterans is 60.

Today more persons in America are living longer lives. Our veteran senior citizen population also is approaching record numbers. Last year nearly a quarter of a million veteran senior citizens approached the VA seeking geriatric medical care.

Currently there are 6 million veterans aged 60 and older.

By 1985 there will be 9 million.

By 1990 there will be 10½ million.

By the year 2000 the number will plateau at a steady 11 million.

Yet, geriatric medicine in the United States is in its infancy. Geriatrics today is where pediatrics was 40 years ago.

Of the 120 medical schools in the Nation, only three offer geriatrics as a specialty, according to the latest data available. Of the 25,000 medical school faculty members, only 15 are regarded as qualified to teach geriatrics.

These statistics, Mr. Speaker, are shocking. Geriatrics as an important medical specialty is grossly underdeveloped and too long neglected.

According to Dr. Valorie Portnoy, chief of geriatric medicine at the George Washington University Medical Center, the proper development of geriatric medicine in this country would mean that some 400,000 of the current 1.2 million nursing home patients could live outside of institutions and be treated on an outpatient basis.

H.R. 4015 which is before us today, the Veteran Senior Citizen Health Care Act of 1979, is designed to reverse this underdevelopment and stagnation.

H.R. 4015 provides the specific statutory authority and mandate for the Veterans' Administration to meet the unprecedented demand for geriatric health care that the advent of record numbers of veteran senior citizens presents.

The bill requires that 15 Veterans' Administration medical centers shall be designated as demonstration projects in geriatric research, training of medical personnel, and community based clinical operations.

The legislation also provides that an additional five medical centers may be designated as resources and funds permit.

To assure a high quality of operation of the demonstration centers, my bill authorizes the Administrator to select VA medical centers that are affiliated with accredited medical schools as sites for these projects.

The legislation establishes a geriatrics and extended care task force at the VA to identify geriatrics as a priority medical specialty of increasing importance. The task force shall monitor and guide the quality, progress, and growth of the geriatric centers.

In our report to accompany my bill, we on the Veterans' Committee strongly recommend to the VA that it establish the title of Assistant Chief Medical Director for Geriatrics and Extended Care within the Department of Medicine and Surgery. This title would give this major programmatic effort the high visibility that is required as a prerequisite to success.

This bill is before the House today because all of the veterans' service organizations unanimously support, endorse, and advocate its passage.

The Nation's leading geriatricians also favor this bill. My chief cosponsor is the distinguished gentleman from Florida, the chairman of the Select Committee On Aging, CLAUDE PEPPER, who is nationally recognized in the field of legislation for the elderly. CLAUDE PEPPER'S strong support of my bill underscores its importance to all elder Americans—veterans and nonveterans; women and men alike.

I would like to express my appreciation to the distinguished gentleman from Arkansas (JOHN PAUL HAMMERSCHMIDT), the ranking minority member of the Veterans' Committee, for his total and vigorous support of my legislation. As a member of the Select Committee on Aging, JOHN PAUL is especially attuned to the health care needs of our vastly expanding senior citizen population, and his concern and commitment to the veteran senior citizen is universally acknowledged.

It has been a great pleasure and privilege to work on this bill with the distinguished gentleman from Virginia (DAVID SATTERFIELD) who is the very able chairman of the Subcommittee on Medical Facilities and Benefits, and who conducted timely hearings on this new authorizing legislation.

Mr. Speaker, the essential focus of this can be summed up by quoting Dr. Alexander Leaf, a world renowned geriatrician at the Massachusetts General Hospital, who said: "A long life is worth living only if there is something worth living for."

My bill, now before this distinguished body, not only can result in longer life for veterans and for Americans from all walks of life, but it can also insure that these lives can be healthier, more independent, and more productive as well.

I urge my colleagues to grant their approval to this bill.

☐ 1230

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I support the bill before us. It looks to the future when large numbers of World War II veterans will seek the services of Veterans' Administration hospitals. Many of them have asked nothing of the Nation in return for the hazardous service they rendered during the time of our greatest international danger. They have quietly taken their places in society without the assistance of veterans benefits, raising families, pursuing careers, paying their taxes.

For many the time has come when medical benefits are badly needed. Their average age is over 60 and they are becoming subject to the infirmities of aging. Because of the population's trend toward greater longevity, the Veterans' Administration has estimated there will be a greatly increased number of veterans over age 85 during the next two decades—more than a million as compared with 130,000 veterans over age 85 living today.

This means heavy demands will be made on the VA medical system for geriatric care. The need for expanded gerontological research, and specialized training in this field is obvious.

The Veterans' Administration has already made a start in this direction and H.R. 4015 will give their embryonic geriatric projects the attention and impetus they need to grow into an effective program that will meet the needs of aging veterans.

I want to compliment the gentlewoman from Massachusetts, (Mrs. HECKLER) for her vigorous and dedicated advocacy of this measure. She did her homework well and presented the facts to the House Veterans' Affairs Committee in a forceful manner. I also compliment the chairman of the Committee's Subcommittee on Medical Facilities and Benefits, the gentleman from Virginia (Mr. SATTERFIELD) for his significant contributions to the bill.

Mr. Speaker, I support H.R. 4015 without reservation and recommend that our colleagues approve it.

Mr. SATTERFIELD. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE), a member of the committee.

Mr. WYLIE. Mr. Speaker, I rise in support of H.R. 4015. It recognizes the medical needs of a segment of America's veterans population that has given much and asked little. They left depression-quieted mill towns and the untilled fields that characterized this country in the early 1940's and entered the Armed Forces.

The people forget, Mr. Speaker, in the dark days of 1942 many nations and some of our own citizens thought we were fighting in a lost cause against the mighty war machines of the Axis powers. But they reckoned without the American GI. He dared anything. He went where he had to. His courage inspired his own leaders to acts of daring that rallied the Nation and won the war.

Many of these World War II veterans slipped quietly back into civilian life without asking their government for anything more than the freedom they had won. Only a quarter of them used up their eligibility under the GI bill. By comparison more than 60 percent of our Vietnam-era veterans to date have used their GI bill college benefits.

But now, averaging over age 60, this generation of veterans is beginning to need the services of VA hospitals. The Veterans' Administration has taken tentative steps toward preparing for this great influx of aging veterans. Statutory authority is needed, however, to expand this program rapidly and in the proper direction to meet the oncoming need.

H.R. 4015 has been carefully drafted to accomplish that goal. It builds on an existing operation, using available expertise as a foundation to build an adequate structure of clinical care, education, and rehabilitation.

I too wish to compliment the chairman of the Medical Facilities and Benefits Subcommittee of the House Veterans' Affairs Committee, Mr. SATTERFIELD, for bringing this bill before us. I also compliment the gentlelady from Massachusetts (Mrs. HECKLER) for her strong, single-minded determination in dealing with this pressing issue.

I recommend approval of H.R. 4015.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from South Dakota (Mr. ABDNOR), a member of the committee.

Mr. ABDNOR. Mr. Speaker, I rise to give my wholehearted support to the bill we have before us at this time. I would like to associate myself with the remarks of the Members who have so ably preceded me today: The gentlewoman from Massachusetts has played a most significant role in bringing the issue of geriatric care to the forefront. I will not dwell on what the bill does. My remarks will be directed at the reason why such legislation is necessary.

This bill does basically one thing. It has one goal. That is to identify and elevate geriatric medicine to a priority position in the Veterans' Administration medical hierarchy. It is no secret that the veteran population is growing older. Today there are more than 6 million veterans over the age of 60. As the World War II veteran ages, that number will grow significantly. It is estimated that by 1985 there will be 9 million veterans age 60 or older. That number will exceed 11 million by 1995, and estimates indicate that figure should remain constant through the year 2000.

Section 117(a) of Public Law 94-581 directed the Chief Medical Director of the Veterans' Administration to report both the short- and long-range plans of the Administration with regard to the increasing average age of the Nation's veterans' population. The VA reported to the committee in January of last year stating in part:

> The VA is well aware of its responsibility to the aging veteran and the problems that will result from the increasing number who will seek VA assistance. Plans and programs have been developed over a considerable period of time and are being emphasized to meet these needs as they become increasingly pressing during the remainder of the century . . . Since most national health insurance legislation proposed to date doesn't include the elimination of co-payments or significant changes in nursing home care coverage, it is possible that national health insurance may not have a large immediate impact upon the veteran with limited resources who now seeks VA services.

I cite this for one reason alone, and that can be reflected by the fact that veterans will make up a major portion of the male aged population for the remainder of the century and most usually the VA is a comprehensive health care service resource which represents a last source of care for veterans who do not usually use the VA.

The VA has been a leader in trying to plan and implement a geriatric care and training program. The first step was taken in 1975 when the Veterans' Administration established an Office of Extended Care which sought to unite diverse long-term care programs found within the VA. The Congress approved funds in that year to establish very limited geriatric research, education, and clinical centers (GRECC) program which would do precisely that. There are currently eight of these centers in the VA health care system. They each have researchers and clinicians with specific background and expertise, but have a common focused interest in geriatrics and gerontology. Their interest and collaboration has been instrumental in the development of programs related to caring for the aging.

I want to say that I also sit on the Select Committee on Aging so this bill is especially important. My interest in our aging population is significant. This statement is not to say that the VA is not doing a good job, but to add emphasis to the fact that we have a good base that must be expanded to insure that we are prepared to face the task of serving the large aging population in the very near future.

I want to add extra emphasis to how important this is because I do not believe the administration's recent budget decision is going to have anything but an adverse effect on the necessity of geriatric study, education, research, and care. This measure will insure that our older veteran will not suffer due to a shortsighted and a budget-slashing mentality.

I will close by stating that I am most pleased to be a cosponsor of this very important and farsighted legislation. I certainly hope you will join me in voting for it.

● Mr. GRASSLEY. Mr. Speaker, as ranking minority member of the Select Committee on Aging I would like to commend Congresswoman HECKLER and the Committee on Veterans' Affairs for addressing the health care needs of the older veteran.

The study that served as the basis for this legislation deals with a problem the Select Committee on Aging has been grappling with how to adequately plan for the health care needs of America's growing elderly population. The importance of focusing the VA's attention on geriatric medicine cannot be overstressed. The facts that this study unearthed cannot be ignored. Adequate geriatric programs must be developed now if the future health care needs of veterans are to be satisfied. It will be too late to honor our promises to veterans in 1990 when half of the U.S. males over 65 will be veterans and in 2010 when it is possible over 1 million veterans will be over 85 without action now.

Mr. Speaker, I support this legislation as a strong directive to the VA to develop a high priority program of geriatric care. I am encouraged that the committee required strict accountability of the VA to Congress on their progress in this important area.

This is a worthy bill and warrants the attention of each and every Member of the House. The importance of preserving a dignified level of veterans programs cannot be underestimated. Promises made to the men who risked their lives in the service of our Nation must be honored. I believe this bill intelligently anticipates those obligations.●

● Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 4015, a bill to establish demonstration centers of geriatric research, education, and clerical operations within the Veterans' Administration.

The establishment of a geriatrics and extended care task force within the Veterans' Administration special medical advisory group will help in elevating geriatric medicine into a position of higher visibility and priority within the VA. I believe that the creation of this special task force is badly needed in order to separate and clearly identify geriatrics as a priority medical specialty. This is an important medical care program for the veteran senior citizens.

It is an undisputable fact that the Nation's World War I veteran population is in need of geriatric and extended health services as well as of medical care. Also that the veterans of World War II are aging in increasing number and this compounds the problem on the VA set of medical priorities. This problem should be tackled in the most effective manner.

This bill does precisely that. If this legislation is enacted, the VA will be in a much better position of orienting its medical and health programs toward the aging veteran population before it becomes too late.

I urge you to vote in favor of this bill.●

● Mr. ROBERTS. Mr. Speaker, the reported bill, H.R. 4015, is designed to enhance the treatment of extended care patients in VA medical facilities. The bill would identify and elevate geriatric medicine within the Department of Medicine and Surgery of the Veterans' Administration. With an ever-increasing number of aged veterans using the VA facilities, it is imperative, Mr. Speaker, that we concentrate more of our efforts in the treatment of long-term patients.

I commend the distinguished chairman of our Subcommittee on Medical Facilities and Benefits, the Honorable David E. Satterfield, for making it possible for the House to consider this legislation today. I want to also pay special tribute to the distinguished ranking minority member of the full committee, the Honorable John Paul Hammerschmidt, and I want to especially commend a ranking minority member of the subcommittee, the Honorable Margaret Heckler, for her dedication to this legislation. She has devoted much time and effort in focusing attention on the ever-increasing medical needs of our aged veterans.

I urge the adoption of the bill.●

● Mr. PEPPER. Mr. Speaker, as the principal cosponsor with Mrs. Heckler of H.R. 4015, the Veteran Senior Citizen Health Care Act of 1979, I want to commend Mrs. Heckler and the Committee on Veterans' Affairs for bringing this important legislation before the House in an expeditious manner.

The purpose of this legislation, is to bring geriatric medicine into a priority position within the Veterans' Administration. It would require that one Assistant Chief Medical Director of the Department of Medicine and Surgery be qualified in geriatrics and gerontology and have responsibility for all geriatric research, education, and clinical health care and service operations of the VA.

The bill requires that 15 VA hospitals be designated as demonstration centers of geriatric research, education, and clinical operations and authorizes the designation of 5 additional demonstration centers. It authorizes $15 million for fiscal year 1980, $20 million for fiscal 1981, $25 million for fiscal 1982, and $25 million for fiscal 1983 for operation of these demonstration centers.

The bill further provides that the Administrator establish a geriatrics and extended care task force within the VA's special medical advisory group.

As chairman of the Select Committee on Aging and its Subcommittee on Health and Long-Term Care, I have been shocked at the lack of geriatric training in our country. Of 120 medical schools in the United States, only 50 or so offer elective courses in geriatrics. Only three medical schools offered geriatric specialties as of 1976. And there is only one endowed chair of geriatric medicine in the entire country, and that chair has only recently been filled. Of the 25,000 medical school faculty members, only 15 have been thought qualified to train medical students in geriatrics. Persons 65 and over make up 11 percent of our population; by the year 2030, this figure is expected to grow to 18 percent. Our knowledge and understanding of the unique health needs of these people should grow in direct proportion. Sadly, that just is not happening.

The VA is uniquely suitable for expanded geriatric training for three major reasons. First, the aging veteran population is expanding along national trends. There will be almost 3 million elderly veterans in 1980; by the year 2000, this figure will rise markedly to nearly 8 million. At the turn of the century, over 60 percent of the 12.7 million elderly men in this country will be veterans, men who look to the VA for the health care they need and deserve.

Second, the VA is appropriate for the task because it operates the largest health system in the country—with 172 hospitals, 228 outpatient clinics, 88 nursing homes, and 16 domiciliaries. Its research capabilities are enormous and impressive, producing Nobel Prize winners. Its education programs are effective, and first steps have already been made by creation of a geriatric physician fellowship program—a modest, but welcome effort.

Third, the VA offers a wide range of services to its patients. The program we propose could demonstrate to the private sector the benefits to be gained from better use of noninstitutional services such as home health care, day care, and stepped-up outpatient care. This is of utmost importance as we move toward national health insurance.

This is a good bill, one to which I am proud to lend my support.●

Mr. SATTERFIELD. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Virginia (Mr. Satterfield) that the House suspend the rules and pass the bill, H.R. 4015.

The question was taken.

Mrs. HECKLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1240

FIRE PREVENTION AND CONTROL ACT AUTHORIZATIONS, FISCAL YEAR 1980.

Mr. BROWN of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4016) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, as amended.

The Clerk read as follows:

H.R. 4016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 17. (a) There are authorized to be appropriated to carry out the foregoing provisions of this Act, except as otherwise specifically provided, with respect to the payment of claims, under section 11 of this Act, an amount not to exceed $24,799,000 for the fiscal year ending September 30, 1980, which amount includes—

"(1) $4,875,000 for programs which are recommended in the report submitted to the Congress by the Administrator pursuant to section 24(b)(1);

"(2) $10,430,000 for the National Academy for Fire Prevention and Control; and

"(3) $307,000 for adjustments required by law in salaries, pay, retirement, and employee benefits.

"(b)(1) There are authorized to be appropriated for the additional administrative expenses of the Federal Emergency Management Agency, which are related to this Act and which result from Reorganization Plan Numbered 3 of 1978 (submitted June 19, 1978) and related Executive orders, an amount not to exceed $600,000 for the fiscal year ending September 30, 1980.

"(2) Paragraph (1) of this subsection shall take effect on the date on which a permanent Director for the Federal Emergency Management Agency is appointed by the President pursuant to section 102 of Reorganization Plan Numbered 3 of 1978, or the date on which all functions, agencies, and officers specified in sections 201, 202, 203, and 301 of Reorganization Plan Numbered 3 of 1978 are transferred to the Federal Emergency Management Agency, whichever is later.".

Sec. 2. Section 21(b)(4) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2218(b)(4)) is amended by striking out: "$100 a day" and inserting in lieu thereof "the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332(a))".

Sec. 3. Section 16(b) of the Act entitled "An Act to establish the National Bureau of Standards", approved March 3, 1901 (15 U.S.C. 278f(b)), is amended to read as follows:

"(b) Authorization of Appropriations.—For purposes of this section, there are authorized to be appropriated an amount not to exceed $5,650,000 for the fiscal year ending September 30, 1980, which amount includes—

"(1) $525,000 for programs which are recommended in the report submitted to the Congress by the Administrator of the United States Fire Administration pursuant to section 24(b)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2220(b)(1)); and

"(2) $119,000 for adjustments required by law in salaries, pay, retirement, and employee benefits.".

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. Brown) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. Hollenbeck) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. Brown).

GENERAL LEAVE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4016 which authorizes for fiscal year 1980 $24,799,000 for the U.S. Fire Administration; $600,000 for administrative expenses of the Federal Emergency Management Agency and $5,650,000 for the Fire Research Center of the National Bureau of Standards.

Mr. Speaker, let me begin by expressing my appreciation to Mr. Hollenbeck, our ranking minority member and my colleagues on the Science, Research, and Technology Subcommittee for the excellent job they have done in assisting us to prepare this bill for consideration today. I also wish to commend Mr. Gordon Vickery, the new Director of the U.S. Fire Administration for his vigorous outlook as he begins his tenure as Administrator. I think he will bring new energy and life to the Fire Administration. I strongly encourage him, while the administration is undergoing great changes both within itself and within the new Federal Emergency Management Agency, to leave no stone unturned, to strike out in bold, creative ways to tackle the Nation's hideous, needless fire losses.

Mr. Speaker, losses from fire in this country continue to be at high levels. Indeed they have increased over the past year so far as we can tell from our data. In the past year 8,700 persons lost their lives and there were about 310,000 injuries as a direct result of fires. About 175 of those who die and 60,000 of those injured are firefighters acting in the performance of their dangerous occupation. Firefighting incidentally is the most dangerous of all occupations. Loss of life and limb is higher than in any other occupation including even the police. Interestingly enough, the nearest comparable occupation is deep sea diving.

Property losses caused by fire are estimated to exceed $4 billion per year. Other indirect costs such as the cost of maintaining fire departments and insurance push the total cost of fires to this country to about $13 billion annually. Yet these losses are needless when we compare our statistics with those of other nations such as the Netherlands and Italy where deaths are approximately one-quarter what they are in this country per 100,000 of population. And those figures are national averages. For some areas of the country the figures are distressingly higher—notably the South, particularly among the rural poor, and in Alaska. So not only do we have a national problem but within our Nation we have regional problems as well.

Mr. Speaker, the prevention and control of fires is primarily the responsibility of local authorities. But to support and reinforce State and local efforts, the U.S. Fire Administration then called the National Fire Prevention and Control Administration and the Fire Research Center at the National Bureau of Standards were established under the Federal Fire Prevention and Control Act of 1974. This act grew out of recommendations developed over a 2-year period by the National Commission on Fire Prevention and Control. That Commission concluded "that a 50-percent reduction in deaths, injuries, and property losses from fire is quite possible within the next generation." The Commission also concluded that the Federal assistance averaging about $150 million annually would be required to achieve that goal. The budget for the Federal Fire Prevention and Control has, on the other hand, averaged around 11 percent of that figure.

Our committee found that there might be need for a substantially increased program; however, we are not aware of any data which will permit a realistic estimate of the optimum level of Federal involvement. We look forward to the time when such data does become available in order to assess the need for stronger Federal efforts in fire prevention and control which can address the true magnitude of our Nation's needless fire losses. Given the current data situation and given the substantial reorganization which the Administration is undergoing at this point, our committee has only endorsed the President's limited request with the exception of an antiarson effort. That increase grows out of a report mandated by authorization legislation for fiscal year 1979. I shall return to that program in a few minutes but let me briefly run through the overall budget request at this time.

The committee is recommending a total budget request of $31,049,000 made up of the following elements, namely, $10,430,000 for the National Academy for Fire Prevention and Control; $1,628,000 for public education; $748,000 for internal administration; $3,895,000 for the National Fire Data Center; $2,916,000 for fire technology and management research; $4,875,000 for antiarson programs at the U.S. Fire Administration, and $307,000 for base pay increases at the Fire Administration. Thus, for the U.S. Fire Administration we recommend authorization of $24,799,000 out of the total of $31 million.

In addition, the $31 million includes $600,000 for administrative expenses associated with this program at the new Federal Emergency Management Agency. Incidentally, the committee recommends that authorization of these administrative expenses be made contingent upon the appointment of a permanent Director to the new Agency and upon the appointment of a permanent Director to the new Agency and upon completion of the Reorganization Plan No. 3 with the inclusion of all proposed functions and agencies within the Federal Emergency Management Agency. We believe that further delays will only slow down this program and do not permit a comprehensive and organized approach to hazard mitigation. In their current embryonic state we are concerned that protracted delays will cripple programs at the Fire Administration. Therefore, we believe that these administrative expenses should be only authorized for the new Agency if that Agency comes fully into existence and when it has a permanent Director with full authority to act and design all the programs of that Agency.

Finally, the total of $31 million includes $5,650,000 for the Fire Research Center. Of this, $525,000 is directed to those components of the antiarson program which are appropriate for the Fire Research Center and $119,000 is an authorization to cover mandatory base increases. It should be noted that the remaining $5,006,000 was requested by the President. Of this amount, $1,112,000 would be appropriated directly to the Center through the National Bureau of Standards whereas $3,894,000 is received indirectly through an appropriation to the U.S. Fire Administration. The committee holds that the Center should always receive sufficient funding directly to insure stability of its long-term research independent of changing priorities at the U.S. Fire Administration and other FEMA agencies.

In this connection, Mr. Speaker, I would like to draw attention to the fact that a division of funding in appropriations would appear to run counter to the intent of the 1974 act. That act placed authority to conduct a fire research program in the Secretary of Commerce and definitely not in the Administrator of the U.S. Fire Administration. The Administrator of the Fire Administration is to have consultative status and I think, the pass through of certain funds through his Agency might be useful to insure that consultation is taken seriously. However, the receipt of the preponderance of its funds from the U.S. Fire Administration appears to be somewhat at variance with the original act. Thus, I hope that the Office of Management and Budget, who we understand was responsible for allocating these appropriation requests, will consider closely the rationale for its decision in light of the organic act.

Mr. Speaker, in the administration's bill only $17,501,000 was requested. For reference estimated expenses for fiscal year 1979 are $18,209,000. However, fairly substantial categories were requested under a general "as necessary" authorization. These included over $7 million for the operation of the National Fire Academy as well as $600,000 for the FEMA administration expenses and $307,000 for the base pay increases at the Center for Fire Research and at the Fire Administration. When these generic requests are taken into account of the $13,548,000 difference between the committee recommendation and the Administration request only $5,400,000 represents a program added by the committee. This program is the antiarson program referred to earlier and itself is based upon recommendations prepared by the U.S. Fire Administration. To conclude this discussion of the budget the committee bill recommendation is not substantially different from the Administration request with the exception of the arson program but we do believe that authorization should be granted for specified levels and should not be given on a general unlimited basis.

Mr. Speaker, the committee expressed itself on a number of programs and policies of the Fire Administration. Perhaps the most important or at least the most controversial of these was the National Fire Academy. While the committee is in general agreement with the selection of the new site of the Fire Academy at Emmitsburg, Md., we did feel some concern, for example with regard to the potentially substantial consumption of energy which the dispersed site would require. We also believe that the site is somewhat bigger than would be required for the projected load of 300 students. Thus we urge, and I reiterate the importance, that education and training programs carried out by other Federal emergency management agencies such as the Civil Defense Academy be located in Emmitsburg. In addition the committee urges the Fire Administration to take seriously the directive to conduct a market analysis to determine the true number of students that can be expected to attend the Academy as well as looking for new opportunities and new areas where the Academy's services are needed. Finally, we think it is important that the Academy conduct periodic followup evaluations to determine how its training programs have affected the actual operations of local fire departments.

The Fire Academy has received strong support from the fire services and it does have a potentially useful role. However, it does comprise the largest single expense amounting to approximately 40 percent of the U.S. Fire Administration's budget. To justify such a substantial concentration of the Administration's limited funds on one specific activity must prove to have a high degree of leverage in spreading the effects of its activities among local fire departments, and allied professions. The committee, I know, will continue to review this situation closely and should that multiplicative effect not occur in practice the committee may wish to reexamine the purpose and viability of the National Academy at some time in the future.

Mr. Speaker, as you and my colleagues here know, I have always been concerned about the need to approach social needs in a coordinated and planned manner. For this reason I generally support the directive of the 1974 act for the Fire Administration to develop a program of fire master planning for communities. Now that the Fire Administration is incorporated within FEMA as part of an overall emergency management program by the Federal Government I think it is important that both FEMA and the U.S. Fire Administration take every opportunity to stress integrated community emergency planning. Emergency planning itself should, so far as relevant, be integrated with other community plans bearing on such considerations as land use and building practices. Mr. Speaker, the report submitted by the Fire Administration on community fire master planning is a good start but does not address these issues of comprehensiveness nor does it really provide data to substantiate the costs and benefits of community master planning although some starts have been made. Therefore, we would not concur in the recommendation for a 5-year, $89,000,000 program to institute master planning in 5,000 communities. We would suggest rather that the Fire Administration design a statistically sound pilot study to be implemented over a 2- or 3-year period, perhaps reaching 400 or 500 communities with a total cost of around maybe $10,000,000.

Mr. Speaker, public education is an extremely important component of fire prevention and is vital to reducing our shocking fire losses. While the committee notes that the Fire Administration's public education program has made a substantial effort, for instance in the distribution of materials concerning smoke detectors, we also believe it important that the results of these activities be evaluated to determine what impact public education is having upon the fire prevention habits and attitudes of the public.

Mr. Speaker, the Fire Administration has indicated that it is beginning the development of a 5-year interagency planning program. I commend the Fire Administration for understaking this initiative under Mr. Vickery's direction. Let me add that I hope that our committee will be brought into the planning process at all stages. As I suggested earlier in this speech, I would particularly urge that in this planning effort the Fire Administration bend over backward to look for new and creative ways in which its activities might complement and benefit those of other Federal agencies concerned not only with fire but other emergencies. I hope that the Fire Administration will use this period of transition as an opportunity to branch out on potentially high payoff approaches to coordinated fire prevention and control before the organization of FEMA has solidified to its final form.

Mr. Speaker, when the 1974 act was passed Congress recognized that one of the most important activities the Federal Government could undertake would be to coordinate the nationwide collection and analysis of fire data. Therefore one of the major sections of the act concerns the establishment of the National Fire Data Center. The committee is pleased to note the continued expansion of this system. However, we are concerned about the quality of the data being received. There is great variation by region within the Nation and unfortunately, Southern States which are known to have the highest fire death rates in the country have not, by and large, joined the data system. The national data system is potentially important not only because it contributes to our understanding of fire but because it may aid us in determining what an optimum level of Federal involvement in fire prevention and control should be. I believe, therefore, that the Fire Administration should place great importance on improving the quality as well as the coverage of the fire data system. It should also expand its analysis of nonresidential fires including forest and brush fires as specified by section 9 of the Organic Act. For this reason the committee is pleased to note that the administration as one of its new initiatives in the Fire Administration has proposed to expand the data center and to add four positions to the staff in that division who will provide technical support to participating States.

Finally, Mr. Speaker, let me note that our committee is greatly concerned about the application and implementation of research sponsored by the Federal Government. One example of this is the consultative and advisory relationship which the Fire Research Center has with the Consumer Product Safety Commission, given in section 22 of the Organic Act. As the data before our committee has often made clear one of the major causes of death from fire concerns cigarettes and smoldering fires in upholstered furniture. The Fire Research Center as far back as 1974 proposed performance standards for fabrics covering upholstered furniture.

At the present time these standards are still under review by the Commission. Although the results of such evaluation are under review by the Commission pending the evaluation of a program of voluntary standards proposed by the furniture industry, and although the results of such evaluation are due within a year, the committee is concerned that 5 years is too long a time to complete the adoption of effective standards to reduce the great fire hazards posed by the flammability of upholstered fabric.

During the 1974–79 period, pending the adoption of these flammability standards, approximately 6,500 lives have been lost by this type of fire. While not all could have been saved a substantial number of people would be alive today had these flammability standards been adopted.

Therefore, the committee urges and I would strongly concur that the Consumer Product Safety Commission should move to adopt such standards as soon as is feasible. I think it is possible that our committee may wish to undertake special oversight hearings to determine how the implementation of research by such agencies as the Fire Research Center can be more effectively carried out by regulatory agencies such as the Consumer Product Safety Commission.

Mr. Speaker, the death and property losses by fire are totally needless. We have set ourselves a goal of reducing fire losses by 50 percent—a goal which is surely obtainable judging by the experience of other countries. I urge my colleagues to join me in supporting H.R. 4016.

Mr. HOLLENBECK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague, GEORGE BROWN, and rise in support of H.R. 4016, to authorize appropriations for the U.S. Fire Administration for fiscal year 1980. Let me say that I thank him for his generous remarks and add that it has been a great pleasure working with him on this legislation. He raised a great many questions which provide a far more searching inquiry into this authorization than has occurred in the past. Its success here today will be due in no small part to his efforts in preparing this bill for our consideration.

Mr. Speaker, as my colleague noted, fire losses in this country are shocking. There is no need that this country should suffer such high fire losses by comparison with other nations where the rates for fire deaths per 100,000 of the population are as low as a quarter of ours. Only Canada rivals our disgraceful record and, unfortunately, the problem varies widely around the country. Some parts of the Nation experience extremely high fire losses—over 40 persons per 100,000 annually killed by fires, while for others the rate is, fortunately far smaller.

Mr. Speaker, in New Jersey, in 1 month recently, over 21 people were killed in arson fires. In other States such as Connecticut, arson has risen dramatically over the past 5 years. The national annual loss is $1.4 billion a year with over 1,000 lives lost annually out of the total fire deaths in this country of 8,700 persons per year. The property losses are fully comparable to those of other major crimes such as arson and theft and robbery which are around $1 billion each per year. For this reason, I strongly support the committee's recommendations to authorize the $5.4 million antiarson program proposed by the U.S. Fire Administration.

The program would be authorized for 1 year to see how it works out on a trial basis, although arson is one of the few areas where we have reason to believe that a substantial increase in Federal funding could provide very significant results. For example, the experience of Seattle, Wash, during 1976 and 1977 indicates that vigorous coordinated community action by law enforcement officials, prosecutors, fire services, political leaders, and citizens can reduce arson property losses by 50 percent. There property losses were reduced by an arson task force from approximately $3.2 million to $1.6 million annually. The Seattle task force was stimulated by a $40,000 grant from the insurance industry and suggests the high leverage payoff that would result from a coordinated program of Federal technical assistance, research, and training. The report prepared by the U.S. Fire Administration of which a draft has been received by the committee, stresses the importance of coordinated interagency action particularly insuring close cooperation between prosecutors and arson investigators. In this sense, I am pleased to note that the Fire Administration has recently concluded an interagency agreement with the Law Enforcement Assistance Administration. This agreement will seek to assure that coordination mechanisms are developed to assist State and local governments in effectively cooperating with Federal antiarson activities.

Mr. Speaker, the U.S. Fire Academy has gone through ups and downs. It is potentially an important program and I think it is time for the Academy to be completed on its new site. I have some reservations about that site and about the current design of the Acadmy which are expressed in the committee views which my colleague, the gentleman from California, has discussed. Now that the site has been chosen, however, it is time to get on with the Academy. I hope that the Congress will, at the same time, continue to maintain a close oversight and that the Fire Administration has recently to provide us with concrete data demonstrating how its training programs have actually affected the practices and expertise of local fire departments and allied professions.

Mr. Speaker, to conclude, let me say that the Federal Government has a definite role to play in assisting States and local governments in the prevention and control of fire. I strongly support this legislation and urge my colleagues to do likewise. I hope that over the coming year in its new position as a component of the Federal Emergency Management Agency, the U.S. Fire Administration will broaden its outlook to determine how fire services may better contribute to all types of emergency prevention, as well as alleviation. I urge my colleagues to pass H.R. 4016.

● Mr. HANCE. Mr. Speaker, I join my colleagues here and rise in support of H.R. 4016 to authorize appropriations to the U.S. Fire Administration and for the Center for Fire Research for fiscal year 1980.

In particular I concur with our subcommittee chairman, GEORGE BROWN, in his remarks concerning the National Fire Academy. I think it is time at last that the National Academy, which has been under consideration for some 5 years now, be completed so that the courses can begin as soon as possible.

Mr. Speaker, I was particularly impressed by the remarks of Congresswoman BEVERLY BYRON who testified before our subcommittee on the Emmitsburg site for the Fire Academy on its importance to the improvement of the skills and training of firefighters and allied professionals. She noted that the cost of land and buildings consisting of 14 buildings and 110 acres of the former St. Joseph's College site in Emmitsburg, Md. was only $3.5 million. That strikes me as an extraordinarily good buy. Federal Government would surely never lose its investment in the property. The site itself is one of great beauty and is in superb physical condition and should be an inspiration to the students who come there to study. Mrs. BYRON wisely pointed out that most of the Nation's firefighters are volunteers from rural communities, contrary to the perception that the Nation's fire problem is an urban problem. Therefore, she noted that the small volunteer fire department at Emmitsburg would probably be a much more appropriate training situation for most of the firemen in this country. I think it is very important that the Academy seek particularly to address the problem of improving the skills and training of rural firefighting companies and I would urge the administration to use its new Academy to the utmost to achieve this purpose.

Mr. Speaker, the Emmitsburg site was criticized on the grounds that it would be too large for use by the Fire Academy. I should note that last year the Marjorie Webster Junior College site at Washington was criticized as being too small and lacking sufficient room for expansion. Now that the Fire Administration has found a substantial site I believe they are to be commended for following the apparent directive of the Congress.

In sum, Mr. Speaker, let me say that I strongly support the National Fire Academy and the U.S. Fire Administration. I believe that the Federal Government has an important role to play in providing information, technical assistance, and advanced training to the Nation's fire services and allied professions in the prevention and control of fire which are still fundamentally a local responsibility. I also believe that the Federal efforts at fire prevention and control should be integrated with other emergency management programs. I hope the Administrator, Mr. Vickery, will pursue that policy to the greatest extent practical.

As has been pointed out many times, Mr. Speaker, fire losses in this country are disgraceful. Their reduction would serve to reduce inflationary pressures in the economy in addition to reducing the needless suffering loss of life, and property. Mr. Speaker, I urge the support of H.R. 4016 and hope that the House will pass this important legislation today.●

● Mr. WYDLER. Mr. Speaker, I join my colleague, Mr. HOLLENBECK, and rise in support of H.R. 4016, authorizing appropriations for the U.S. Fire Administration for fiscal year 1980. Let me add that I think the gentleman from New Jersey, CAP HOLLENBECK, has done an outstanding job in taking a long and hard look at the programs within the jurisdiction of our committee. I think he is to be commended for his leadership.

Mr. Speaker, as everybody has mentioned, U.S. fire losses are needlessly high. While I am a strong believer in fiscal economy by the Federal Government, our losses are shocking; the programs of the Fire Administration could well serve to reduce inflationary pressures on the economy by reducing the property losses, the loss of human lives, and a tremendous number of injuries, many of which scar and maim for life.

Mr. Speaker, although I generally support the concept of the Fire Academy, I must admit I have had some reservations about the particular siting of the National Fire Academy. I strongly concur with the committee views which suggest that the program must demonstrate its effectiveness in changing and improving the practices and training of local fire departments if we are to continue to support it. I urge the Fire Administration to get the National Academy started rapidly, but it should also stand capable of demonstrating its effectiveness over the coming years. This Government can ill afford to perpetuate expensive but ineffective programs and physical monuments or prestige symbols unless at the same time they also serve the purpose for which they were mandated.

As I said, the concept of the academy is good, but as my colleagues on the majority pointed out, given that 40 percent of the Fire Administration's budget is devoted to the National Academy, I think it especially important that the Administration take steps to insure that this is the most effective program upon which to spend its limited funds.

To conclude Mr. Speaker, I support H.R. 4016 and urge my colleagues to join me. I hope that the new Administration and the Federal Emergency Management Agency will take maximum advantage of this reorganization opportunity to undertake innovative programs coordinating fire with other emergency management programs so that Federal expenditures in areas that alleviate human suffering and property losses in fire prevention and control will achieve their maximum effectiveness.●

Mr. BROWN of California. Mr. Speaker, I have no further requests for time.

Mr. HOLLENBECK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROWN of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. BROWN) that the House suspend the rules and pass the bill, H.R. 4016, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1160) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended—

(1) by striking "and" immediately after "1978,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and $27,274,000 for the fiscal year ending September 30, 1980".

SEC. 2. Section 16(b) of the Act of March 3, 1901 (15 U.S. 278f(b)) is amended—

(1) by striking "and" immediately after "1978,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and $5,600,000 for the fiscal year ending September 30, 1980".

SEC. 3. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 26. (a) The Administrator shall, within ten months of the date of enactment of this section, complete a study of the effectiveness of smoke detectors, heat detectors, and sprinkler suppression systems in saving lives, preventing injuries, and limiting property damage in fires, which report shall be submitted to the Congress and the President. In conducting such study, the Administrator shall consider, among other factors—

"(1) whether and the extent to which such devices and systems have been and are effective in reducing the severity of fires, including estimates with respect to the potential for savings in lives, prevention of injuries attributable to the operation of such systems and devices; and

"(2) the experience of Federal organizations, States, localities, and other political subdivisions which have required the use of such systems and devices.

"(b) If the Administrator determines, as a result of the study conducted pursuant to subsection (a) of this section, that smoke detectors, heat detectors, sprinkler suppression systems or other similar systems or devices either have been or may be of assistance in the detection and control of fire, the Administrator shall include, as part of the report conducted pursuant to this section, recommendations regarding what should be the Federal role, if any, with respect to creating incentives for the use of such devices or systems by the public, by business concerns, and by Federal, State, and local governments. In making such recommendations, the Administrator shall consider—

"(1) the incentives, including financial incentives, which might be developed to require or facilitate installation within new or existing buildings of smoke detectors, heat detectors, sprinkler suppression systems, or any combination of such systems, or other similar systems and devices; and

"(2) the benefits, if any, of demonstration or other such programs directed at residents in high impact fire areas in order to increase the use of smoke detectors, heat detectors, sprinkler suppression systems, or other systems or devices.

"(c) As part of its report submitted pursuant to this section, the Administrator shall provide specific legislative proposals to the Congress for implementing any recommendations made pursuant to this section.

"(d) Upon request of the Administrator, each Federal department and agency shall furnish to the Administrator such information, data, estimates, and statistics, and allow the Administrator access to all information in its possession, as the Administrator may reasonably determine to be necessary for the conduct of the study required by this section.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 4016, was laid on the table.

RETIREMENT INCOME SECURITY AMENDMENTS

Mr. THOMPSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3915) to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 10 months the date on which the Corporation must pay benefits under terminated multiemployer plans.

The Clerk read as follows:

H.R. 3915

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4082(c) of title IV of the Employee Retirement Income Security Act of 1974 (relating to effective dates; special rules) as amended by Public Law 95–214, is further amended—

(1) by striking "July 1, 1979" in paragraphs (1), (2), and (4) and substituting "May 1, 1980" in each such paragraph; and

(2) by striking "June 30, 1979" in paragraphs 2(B) and 4(D) and substituting "April 30, 1980" in each such paragraph.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey (Mr. THOMPSON) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 20 minutes.

The Chair recognized the gentleman from New Jersey (Mr. THOMPSON).

□ 1250

Mr. THOMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. THOMPSON. Mr. Speaker, H.R. 3915 amends title IV of the Employee Retirement Income Security Act to defer for 10 months, from July 1, 1979, to May 1, 1980, the effective date of automatic termination insurance coverage of multiemployer pension plans.

The termination insurance program was established to protect workers against loss of their pension benefits in the event their pension plan terminates with insufficient assets to pay guaranteed benefits. Title IV created the Pension Benefit Guaranty Corporation to administer the program, which is funded by premiums paid to the Corporation by both single and multiemployer plans. Premiums paid by multiemployer plans are retained in a separate fund.

The Corporation now guarantees benefits under terminated multiemployer plans on a discretionary basis.

Why must we defer automatic coverage?

To avert disaster. Should automatic coverage go into effect, at current premium rates paid by multiemployer plans, the Corporation could not afford to continue to guarantee benefits it is currently paying and cover the additional plans which have indicated the likelihood of their termination and need for coverage.

The Corporation has exercised its discretion to guarantee benefits in five terminated multiemployer plans, and has estimated that payments to participants in those funds will total over 3 million dollars in fiscal 1980. Estimated premium income is a little over $4 million annually. The Corporation would have to borrow from the Treasury to meet its obligations.

Why not simply raise premiums?

Because the premium rates the Corporation estimates it would need to guarantee the benefits to multiemployer plans likely to terminate in the next 10 years are prohibitive and would further weaken already financially distressed plans.

A significant cause of the difficulty for many plans is a shrinking contribution base caused by industry declines as a result of foreign competition or technological or other external economic factors. But the Corporation has also concluded that current ERISA rules, and the termination insurance program in particular, do nothing to strengthen financially weak plans, and are an incentive to termination.

What is needed is a complete revision of certain ERISA rules and particularly the termination insurance program, to improve the financial condition of multiemployer plans and eliminate the present incentives to termination while maintaining a high level of benefit security for participants.

Tomorrow my task force will begin hearings on the complex and highly technical rules proposed by the administration for a revised program. Four committees must consider those proposals. Under the circumstances it would be irresponsible to let automatic coverage go into effect or to do anything other than give thorough and careful consideration to the proposed new program.

That is the reason why my distinguished colleagues, Representative ULLMAN, the chairman of the Ways and Means Committee, and Representatives ASHBROOK and ERLENBORN, have cosponsored this bill; and Senators JAVITS and WILLIAMS have introduced the identical bill in the Senate.

There is no reason for us not to move swiftly on this simple and necessary deferral so that we can get to the substantive issues at hand. I intend to report out a sound and workable program this session if possible.

I urge my colleagues to support this deferral so we can move on to that task. We owe it to millions of retirees and workers who have been told that they will be assured the retirement income security for which they worked a lifetime.

Mr. ERLENBORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill, H.R. 3915, and I would join with my colleague, the gentleman from New Jersey (Mr. Thompson), in hoping that the House will support this bill and pass it.

Mr. Speaker, in 1974, when ERISA, the Employee Retirement Income Security Act, was passed, it certainly was the intention of all the people who were involved in the construction of that Act to help guarantee to the working men and women of the United States the pensions that had been promised to them, to encourage the continuation of pension plans and the construction of new plans, and in general to help guarantee the income security of the working men and women of this country in their retirement years.

In some ways ERISA has fallen short of that mark. As far as single employer plans are concerned, approximately one-third of the plans that were in existence at the time ERISA was enacted have terminated. This has occurred for various reasons. Among them are the burdens of ERISA, and in some instances the mere fact that insurance was available to pay the promised pensions of those who were participants in the plans may have—and in some cases I am sure it has occurred—encouraged the termination of plans, sometimes then leading to the adoption of a different type of plan to provide for income security. But to some extent the mere existence of termination insurance has precipitated the termination of plans.

As to multiemployer plans, they were not covered with mandatory insurance because we knew at the time ERISA was passed multiemployer plans were in a different category than the single employer plans, and we really had not determined legislatively that we knew exactly what we ought to do relative to their insurance. We have had discretionary insurance in effect since the enactment of ERISA, and in some cases PBGC has seen fit to extend new coverage to a few multiemployer plans.

Once before we were required to extend the effective date for mandatory coverage of the multiemployer insurance. In the interim we have not found the ultimate answer, but I think that new directions have been provided by the recommendations made by the Pension Benefit Guaranty Corp. These were referred to by my colleague, the gentleman from New Jersey (Mr. Thompson).

What we should do is amend the basic ERISA law to encourage the continuation of plans and to allow for the adjustment of plan benefits, if necessary, for the health and the continued existence of multiemployer plans. If, before we make those basic changes, we allow mandatory insurance coverage to go into effect, the inevitable result will be to encourage the termination of plans that are now in existence. This would certainly not be to the best interests of the working men and women who are now covered by those plans.

Therefore, Mr. Speaker, I wholeheartedly support this move to defer for an additional 10 months the imposition of mandatory multiemployer insurance coverage so that in the interim, as my colleague, the gentleman from New Jersey (Mr. Thompson), has said, our committee can have hearings, pass judgment on the recommendations made by the administration and by PBGC, and report legislation that will be helpful in seeing that insurance coverage, when it does take effect, does not have the harmful effects we anticipate it would at the present time.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. THOMPSON. Mr. Speaker, I yield myself such time as I may use.

I would like to express, Mr. Speaker, my gratitude to my friend and colleague, the gentleman from Illinois (Mr. Erlenborn), who, with our former colleague from Pennsylvania, former Representative John Dent, has worked for so many years, so constructively and in such a splendid bipartisan spirit to bring about the enactment of the pension law commonly known as ERISA. It is an enormously complicated piece of legislation, and it is enormously important economically.

☐ 1300

Over a period of time, the gentleman from Illinois and our former colleague, Mr. Dent, who preceded me as the chairman of the ERISA task force, worked extremely well together; cooperatively together. My involvement is relatively recent, in terms of being the chairman of the task force. I was a conferee at the passage of the original legislation. I think that by our efforts together, the gentleman from Illinois and I will be able to present this body and to the American people, on the basis of the experience that has been had with this legislation so far, legislation which will protect the contributors to pension plans.

We are talking, Mr. Speaker, in terms of approximately $500 billion in pension plans, single and multiemployer and otherwise, in the United States of America. It is an extremely important bit of legislation.

I am deeply grateful to my colleague and friend and to my colleagues from the task force for their cooperation.

Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. Thompson) that the House suspend the rules and pass the bill, H.R. 3915.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3915, just passed.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

SHIPPING ACT AMENDMENTS OF 1979

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 3055) to amend the Shipping Act, 1916, to strengthen the provisions prohibiting rebating practices in the U.S. foreign trades, as amended.

The Clerk read as follows:

H.R. 3055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Shipping Act Amendments of 1979".

Sec. 2. Section 16 of the Shipping Act, 1916, is amended by striking "$5,000" in the sixth paragraph, and inserting, in lieu thereof, "$25,000".

Sec. 3. Section 18(b) of the Shipping Act, 1916, is amended by deleting subsection (6) thereof and by adding the following new language in lieu thereof:

"(6) Whoever violates any provision of this section, other than subsection (b)(3) hereof involving rebates or refunds shall be subject to a civil penalty of not more than $5,000 for each day such violation continues.

"(7) Whoever violates subsection (b)(3) hereof by means of rebates or refunds, shall be subject to a civil penalty of not more than $25,000 for each shipment on which a rebate or refund was paid and to suspension by the Commission of any or all tariffs filed by or on behalf of such carrier, or suspension of that carrier's right to utilize any or all tariffs or conferences of which that carrier may be a member, for a period not to exceed twelve months. Any carrier whose tariffs or rights of use thereof have been suspended pursuant to this paragraph and who accepts cargo for carriage during the suspension period which cargo otherwise would have been governed by the provisions of the suspended tariff(s) shall be subject to a civil penalty of not more than $50,000 for each shipment so accepted.

"For purposes of this subsection and section 22(c) of this Act, a shipment shall mean all of that cargo, the carriage of which is evidenced by a single bill of lading.".

Sec. 4. Section 21 of the Shipping Act, 1916, is amended by designating the existing two paragraphs as subsection "(a)" and by adding a new subsection (b) as follows:

"(b) The Commission shall require the chief executive officer of every vessel operating common carrier by water in foreign commerce and to the extent it deems feasible, may require any shipper, consignor, consignee, forwarder, broker, other carrier or other person subject to this Act, to file a periodic, written certification under oath with the Commission attesting to—

"(1) a policy prohibiting the payment, solicitation, or receipt of any rebate which is unlawful under the provisions of this Act;

"(2) the fact that such policy has been promulgated recently to each owner, officer, employee, and agent thereof;

"(3) the details of the efforts made, within the company or otherwise, to prevent or correct illegal rebating; and

"(4) full cooperation with the Commission in its investigation of illegal rebating or refunds in United States foreign trades, and in its efforts to end such illegal practices.

The Commission may by regulation prescribe the form and content of any certification required under the authority of this subsection. Failure to file any such certification shall result in a civil penalty of not more than $5,000 for each day such violation continues.".

Sec. 5. Section 22 of the Shipping Act, 1916, is amended as follows:

(a) designate the two existing paragraphs as "(a)" and "(b)", respectively;

(b) amend subsection (b), as designated by this Act, by deleting therefrom the phrase "except as to orders for the payment of money,"; and

(c) immediately after subsection (b), as designated by this Act, insert the following:

(c)(1) In addition, to, and without limiting the authority granted to the Commission by subsections (a) and (b) hereof, the Commission may, on its own motion, institute an adjudicatory investigation into possible violations of section 16 (other than paragraphs First and Third) involving rebates or refunds in foreign commerce or violations of section 18(b)(3) involving rebates or refunds, with the powers set forth in subsection (c)(2) hereof in addition to those already contained in sections 27, 43, and other sections of this Act.

"(2) Failure on the part of any common carrier, respondent to a proceeding instituted pursuant to subsection (c)(1), or any other person directly or indirectly controlling, controlled by, or under common control with such respondent carrier, to comply with any subpena or any duly issued order compelling an answer to interrogatories or to designated questions propounded by deposition or compelling production of documents in relation to any investigation conducted under subsection (c)(1), shall authorize the Commission to issue an order to show cause why any or all tariffs filed pursuant to section 18(b) of this Act, by or on behalf of the respondent carrier, or any or all rights of the respondent carrier to utilize such tariffs in the case of conference tariffs, should not be suspended until that carrier or any person directly or indirectly controlling, controlled by, or under common control with such carrier, has fully responded to the pertinent deposition, interrogatory, production request or motion, or subpena, and after such proceeding, to so suspend those tariffs or the respondent carrier's rights to utilize such tariffs. Any carrier whose tariff(s) or rights of use thereof have been suspended pursuant to this subparagraph and who accepts cargo for carriage during the suspension period which cargo otherwise would have been governed by the provisions of the suspended tariff(s) shall be subject to a civil penalty of not more than $50,000 for each shipment so accepted.

"(3) If, in defense of its failure to comply with a subpena or discovery order issued in relation to any investigation conducted under subsection (c)(1), a common carrier alleges documents or information are located in a foreign country and cannot be produced because of the laws of that country, the Commission shall immediately notify the Secretary of State of such failure to comply and of the allegation relating to foreign laws. Upon receiving such notification, the Secretary of State shall promptly consult with the government of the nation within which the documents or information are alleged to be located for the purpose of assisting the Commission in obtaining the documents or information sought.

"(4) Before any tariff suspension ordered pursuant to subsection (c)(2), or section 18(b)(7) of this Act, becomes effective, it shall be immediately submitted to the President who may, within ten days after receiving it, disapprove any such order if he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.".

SEC. 6. Section 23 of the Shipping Act, 1916, is amended by deleting therefrom the language ", other than for the payment of money,".

SEC. 7. Section 27 of the Shipping Act, 1916, is amended by deleting from subsection (b) thereof the phrase "other than for the payment of money".

SEC. 8. Section 29 of the Shipping Act, 1916, is amended by deleting therefrom the phrase "other than an order for the payment of money,".

SEC. 9. Section 30 of the Shipping Act, 1916, is amended in the initial and final paragraphs thereof by deleting the phrase "for the payment of money" and by inserting, in lieu thereof, the phrase "for the payment of reparation".

SEC. 10. Section 32 of the Shipping Act, 1916, is amended by inserting at the end thereof the following new subsections:

"(d) No penalty shall be imposed on any person for conspiracy after August 29, 1972: (1) to rebate or refund in violation of the initial paragraph or paragraph Second of section 16, or under section 18(b)(3) of this Act; or (2) to defraud the Commission by concealment of such rebates or refunds in any manner.

"(e) Notwithstanding any other provision of law, the Commission shall have authority to assess or compromise all civil penalties provided in this Act: *Provided, however,* That in order to assess such penalties a formal proceeding under section 22 of this Act shall be commenced within five years from the date when the violation occurred.".

SEC. 11. The provisions of this Act, including the amendments made by this Act, shall become effective immediately upon its date of enactment.

The SPEAKER. Is a second demanded?

Mr. McCLOSKEY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from California (Mr. MCCLOSKEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to commend for favorable consideration of the House, legislation reported out unanimously by the Merchant Marine and Fisheries Committee, namely, H.R. 3055, a bill that would amend the Shipping Act, 1916, to strengthen the provisions prohibiting rebating practices in the U.S. foreign trades. Under present law, common carriers by water in the foreign commerce of the United States are prohibited from charging any rates lower than those in their published tariffs. With extensive overtonnaging in our trades, many carriers have been offering secret kickbacks, commonly called rebates, to attract more cargo for their ships. The purpose of this legislation is to strengthen the provisions of the Shipping Act, 1916, and, thus, the powers of the Federal Maritime Commission relating to the prohibitions and sanctions for rebating in our foreign trades. Rebating threatens the stability and unimpeded flow of our ocean commerce, and the inability of the FMC to enforce our laws against rebating in a nondiscriminatory manner threatens the preservation of a strong and competitive U.S. Merchant Marine.

This landmark legislation would permit the FMC to carry out its regulatory function to deter rebates, in a swift, effective and even-handed fashion. And, for the first time, foreign-flag ocean carriers would be required to comply with FMC subpenas and discovery orders or face exclusion from our ocean trades. Through this legislation, the committee intends that unlawful rebating practices will be severely curtailed and eliminated from our ocean commerce.

BACKGROUND AND NEED FOR THE LEGISLATION

In the spring of 1976, representatives of the largest U.S.-flag container line, disclosed to the Federal Maritime Commission that extensive audits of its overseas operations in the U.S. ocean trades had revealed widespread payments of illegal rebates by its employees and agents. Subsequent months of analyzing documents and negotiating a settlement culminated in an agreement dated January 5, 1977, under the terms of which the carrier agreed to pay a civil penalty of $4 million. This is the largest civil penalty settlement in the history of U.S. transportation. Widespread, illegal rebating in the U.S. ocean trades became apparent, when, based largely upon these disclosures, the FMC commenced investigation of more than 200 shippers and consignees and some 27 United States and foreign-flag carriers.

Ever since enactment of the Shipping Act, 1916, there have been reports of malpractices in the U.S. foreign trade routes. In 1961, the Federal Maritime Commission was established as an independent regulatory body by reorganization plan No. 7, which separated the Nation's existing ocean shipping laws into two categories and entrusted them to different Federal agencies for administration. The Maritime Administration, U.S. Department of Commerce, assumed the promotional mission. The FMC was given responsibility for those statutes designed to protect U.S. shippers and the public interest as a whole against excesses on the part of common carriers by water and certain other persons "subject to the Shipping Act." From the extensive hearings held on H.R. 3055 and similar legislation in the 95th Congress, it is apparent that the FMC has failed to provide consistent and effective regulation in dealing with the complex nature of the rebating problem. While sporadic penalties have been imposed for rebating violations, the problem, until recently, was never attacked in an organized and long-range program or fashion.

Sections 16 and 18(b)(3) of the Shipping Act, 1916, as amended, prohibit common carriers by water in our liner trades from allowing any person to obtain transportation or related services for property at less than the published rates in their tariffs on file with the FMC. In other words, the statute prohibits any carrier subject to the jurisdiction of the Commission from offering any direct or indirect monetary inducement that departs from the rates contained in its published tariff in order to attract cargo. The act similarly prohibits shippers, consignors, consignees, forwarders, brokers, or other persons subject to the jurisdiction of the Commission, from obtaining or attempting to obtain transportation at less than the published tariff rates. Violations of these prohibitions are called "malpractices," of which rebates are one example. Clearly, the statutory prohibitions constitute a mandate for "fair" competition in the U.S. liner trades. That mandate also goes to the very heart of the U.S. concept of the liner conference system.

A liner conference is a group of carriers serving the same ocean trade that have agreed to operate on the basis of a common tariff covering ocean cargo rates and terms and conditions of service. In the U.S. ocean trades, a conference agreement must be approved by the Commission pursuant to section 15 of the Shipping Act, 1916, before implementation. The theory underlying the conference system is that the common tariff will neutralize, to a large extent, the prospect of predatory economic competition between carriers serving a given trade, thus providing shippers and consumers with dependable service at stable rates. Apart from the fact that rebating is illegal in the U.S. ocean trades, a conference carrier that "breaks ranks" by rebating is not only taking advantage of the honesty of his competitors who abide by the published conference tariff, he is also endangering the stability of our trades and the integrity of our tariffs. Hence, rebating within U.S. liner conferences is a particularly pernicious practice under our shipping laws as they stand today. In the final analysis, it is the American consumer who will pay the hidden costs.

Rebating is simply a device to attract traffic away from competitors. Generally speaking, when times are good, the load factors experienced by carriers in U.S. liner trades are sufficiently high that the incentive for "cargo stealing" diminishes even without the existence of other stabilizing mechanisms. Conversely, when times are bad, traffic is light and the incentive to "steal cargo" increases, since there are no effective stabilizing mechanisms in what is essentially a capital intensive industry. In other words, since there is no effective mechanism in a given U.S. trade to smooth out fluctuations in traffic and their economic impact on individual carriers, rebating goes hand in hand with the ratio between available cargo and the liner tonnage competing for that traffic.

Unlike a railroad that can increase or decrease the size of its trains to conform to the traffic, ocean carriers incur substantially the same voyage costs for bunkers, insurance, and crews' wages, whether the vessel is empty or fully loaded. Therefore, in periods of slack traffic, the demand for any cargo is progressively accelerated.

We operate our liner trades on a "come one, come all" basis, inviting participation of foreign-flag carriers as cross traders—carriers trading between countries other than their own—as well as in our bilateral trades. Given the range, value, amount, and predictability of ocean cargo to and from the United States, our policy of freedom of access to our liner traders has attracted ocean carriers away from less lucrative routes. The result is that our liner trades tend to be overtonnaged even in good times, and, absent an effective mechanism to stabilize the liner cargo/tonnage ratio, a climate conducive to rebating often prevails in the ocean trades of the United States.

The hearing record of H.R. 3055 reveals that although the FMC has been proceeding deliberately in its rebating investigation nevertheless more than 2 years have elapsed since the first settlement was made in January 1977, and the Commission is still hampered in its ability to conclude its investigations satisfactorily and equitably. It then becomes obvious that a compelling need exists for legislation to furnish the FMC with new weapons for combating rebating.

PROBLEMS OF EFFECTIVE ENFORCEMENT OF REBATING PRACTICES

Rebating violations may be committed through a variety of complex transactions that frequently involve overseas accounts and records scattered throughout the world. With the onset of containerization even greater competitive pressure has been placed on the liner trades and rebating has become far more sophisticated and extensive. Varieties of rebating described by witnesses during the hearings included acceptance of currency at lesser rates of exchange than officially prevailing: absorption of drayage; nonassessment of demurrage on containers; and numerous other methods.

The major direct problems faced by the committee in fashioning legislation were:

First. The penalties for rebating under the existing provisions of the Shipping Act, 1916, have not been sufficient to take the profit out of rebating, and the difficulty of enforcing those penalties often makes rebating worth the risk;

Second. Every major foreign nation has adopted a "hands-off" policy in terms of regulation of its shipping, or has provided various statutory schemes designed to reserve cargo for its national flag carriers. Most of these countries permit closed conferences, shippers' councils, pooling and rationalization schemes, or have moved to enact cargo reservation laws similar to those contemplated in the UNCTAD Code of Liner Conduct. In many foreign ocean trades, rebates are legal; 13 of our trading partners have enacted "blocking statutes" which, in one form or another, prohibit their companies from providing business records and other information to agencies or other nations, such as the FMC;

Third. Severe nonconference competition has contributed to the pressures that stimulate rebating. In recent years, this competition has taken on new dimensions in the form of state controlled carriers whose goals may transcend commercial profit, and whose economic power comes from the state itself; and ultimately

Fourth. Overtonnaging in a capital intensive industry, such as the ocean transportation industry, has encouraged rebates and other malpractices, often committed in competitive self-defense.

NATURE OF H.R. 3055

On March 19, 1979, I introduced H.R. 3055 together with Mr. JONES of North Carolina, Mr. BIAGGI, Mr. ANDERSON of California, Mr. BREAUX, Mr. BOWEN, Mr. HUBBARD, Mr. BONKER, Mr. AUCOIN, Mr. OBERSTAR, Mr. BONIOR of Michigan, Mr. AKAKA, Mr. MYERS of Pennsylvania, Mr. DONNELLY, Mr. MCCLOSKEY, Mr. SNYDER, and Mr. DAVIS of Michigan.

Similar legislation, H.R. 9518, was introduced in the 95th Congress, and it passed the House on March 22, 1978, by a vote of 390 to 1. On October 6, 1978, the legislation unanimously passed the Senate. The bill, on November 4, 1978, was returned with a veto message.

The President's message assigned two reasons as the basis for rejecting H.R. 9518. First, his direction to the interagency maritime policy task force that it "would provide by an early date, a set of recommendations that will address both the substance of our rebating laws as well as procedures for enforcement."

The second reason reflected the President's reliance on shipping negotiations led by the State Department and held between the United States and the Consultative Shipping Group (CSG) of European maritime countries and Japan during November 1978. The President expressed hope that those discussions would establish a cooperative shipping regime which would make unnecessary the remedies provided by H.R. 9518.

On November 6, 1978, I had been informed that if the above approaches did not work in the immediate future, the executive branch would reevaluate the legislation early in the next session of Congress. We are well into the 96th Congress, and the problems which caused the committee to act as decisively as it did on H.R. 9518 are not in the least lessened. The United States-CSG talks were completed in November of 1978, but there has been no release of those documents by CSG countries, which are so essential to effective enforcement of our prohibitions against illegal rebating. The interagency maritime policy task force has not, at this date, addressed the substance or the enforcement procedures of our rebating laws. Consequently, the Federal Maritime Commission, as the major agency responsible for antirebating enforcement, must perforce discriminate against U.S. shipping operators since it is only against them that they can effectively insist on production of documents.

The Subcommittee on Merchant Marine of the House Committee on Merchant Marine and Fisheries held 1 day of hearings on H.R. 3055 on May 16, 1979. This hearing supplemented the 7 days of hearings the committee held in the 95th Congress on H.R. 9518.

On May 31, 1979, the Committee on Merchant Marine and Fisheries met in markup session on H.R. 3055. After discharging the Subcommittee on Merchant Marine from further consideration of H.R. 3055, the Committee on Merchant Marine and Fisheries approved H.R. 3055, as amended, by a unanimous voice vote and ordered the bill reported to the House.

As reported the bill would amend the Shipping Act, 1916, in the following manner:

First. Increase the civil penalties in section 16, now provided for malpractices by means of false billings, classification, and the like from not more than $5,000 per violation to not more than $25,000 per violation;

Second. Increase penalties by amending section 18(b)(6), for tariff related violations other than rebating from $1,000 per day to not more than $5,000 per day;

Third. Increase penalties for section 18(b)(3) rebating violations from not more than $1,000 per day to not more than $25,000 per shipment. In addition, for a rebating violation the FMC could suspend a carrier's tariffs up to a year, subject to disapproval by the President for requirements of national defense or foreign policy;

Fourth. Authorize the FMC to require certification by executives of carriers, shippers and forwarders relating to corporate policy and efforts to prohibit rebating and to cooperate in any investigation or rebating;

Fifth. Authorize the FMC to suspend tariffs for failure to comply with subpenas or discovery orders in a formal rebating investigation. The President would have authority to nullify such suspension orders in the interest of national defense or foreign policy requirements;

Sixth. Requires the Federal Maritime Commission to notify the Secretary of State where a carrier claims inability to produce the necessary documents of information because of a "blocking statute." The Secretary of State is directed to consult with a government of the nation within which the documents or information are located for the purpose of assisting the Commission in obtaining the documents or information sought;

Seventh. Clarify the intent of the Congress in the 1972 act which changed the specific rebating violations from a criminal penalty to a civil violation to insure that the provision would be retroactive and the intent of the Congress would be made clear; and

Eighth. Authorize the FMC to assess all civil penalties under the Shipping Act, 1916, in order to provide swift, effective, uniform action on rebate violators.

In sum, H.R. 3055, furnishes the Federal Maritime Commission with a veritable arsenal of weapons which can be brought to bear against those who in any way impede the free flow of commerce along our international trade routes.

CONCLUSION

Rebating continues to be a serious problem in our foreign ocean commerce. As an indication of the magnitude of the problem in the first 7 months of fiscal year 1979, the FMC has already settled 33 cases involving rebating activity for a total of $3,442,000 in penalties. It has caused discrimination between shippers, loss of cargoes and bankruptcy for U.S.-flag liner operators, and instability in our foreign commerce. Repeated attempts at diplomatic resolution have been historically unavailing. The widely heralded efforts by the administration's maritime policy task force have yielded no solution and, as of this date, have resulted only in international embarrassment.

Of immediate concern is the rank disparity caused by enforcement of our laws prohibiting secret discounts most severely against U.S.-flag carriers. More severe fines, demands for more data, restrictive settlements, alienation of identified shippers receiving rebates, and criminal conspiracy charges are inflicted on U.S. carriers, but not on their foreign counterparts enactment of H.R. 3055 will not only curtail ocean malpractices, but more importantly, it will promote legitimate competition without which U.S.-flag carriers cannot survive.

The committee believes that this legislation is necessary to combat rebating and correct the disparities in enforcement. A comprehensive maritime policy remains the chief objective of the committee. This antirebating legislation is an important and integral part of such a policy.

Mr. Speaker, fundamental notions of fairness and decency demand that we act swiftly to clear our international trades of illegal rebates. The payment of such rebates runs counter to the moral values and expectations of the American people. It is not only unethical, but it destroys fair competition and imposes unnecessary and hidden costs on the shipping public. Finally, they create severe problems between the United States and citizens of friendly foreign nations which could result in serious foreign policy implications.

Mr. Speaker, I urge passage of this significant and very necessary legislation.

Mr. Speaker, over the weekend there were news stories that certain American-flag and certain foreign-flag shipping lines were indicted for price fixing. To remove any perplexity in the minds of the Members of the House as to whether the indictment should effect the vote on this bill, please be advised that it is my considered judgment that the indictment strengthens and points up the necessity of this legislation in several ways.

First, I have even better appreciation of the difficulty that the FMC has in getting documents from foreign-flag lines when I see the complexity of the composition of these foreign-flag lines. For example, Atlantic Container Lines, which is a company technically under jurisdiction of the Federal Maritime Commission, is a consortium composed of Wallenius Line, Swedish Transatlantic Line and Swedish America Line of Sweden, Intercontinental Transport of Holland, Cunard Steamship Co. of the United Kingdom, and French Line of France. Dart Containerline is similarly a joint venture of a Belgium company, a British company and a Hong Kong company. Hapag-Lloyd is the result of a consolidation of two German companies. With consortia so composed, it makes it almost impossible for the FMC to get documents necessary to study the problems of rebating. I should point out that even the Department of Justice, which has been so active in pursuing American-flag carriers, failed to object to any of these consolidations, while it objects to any American companies that wish to consolidate.

In that regard, none of the companies under foreign-flag have been charged in the indictment with conspiracy to rebate, while the three American-flag carriers had previously been so charged, by the Department of Justice.

Obviously, this legislation is necessary. When one further reads the indictment itself, one becomes further impressed with the necessity of putting teeth into our antirebate laws. How else can we cope with the complexity of consortia? How else can we cope with the underlying threat to competition by Russian flag carriers which is tacitly recognized in the indictment. If anything, the indictment strengthens the necessity of the legislation. The indictment, itself, recognizes that the purpose of the alleged price fixing was to maintain and stabilize the rates for transportation of freight between the United States and Europe. The biggest factor destroying the stability of rates is rebating.

Hence, the necessity of this legislation is made more immediate by the latest action of the Department of Justice.

Mr. Speaker, I reserve the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 3055, but only because it represents a temporary means of dealing with the serious problem of illegal rebating which has been so detrimental to the U.S.-flag merchant marine in recent years. H.R. 3055 should be considered solely as an interim measure, since it addresses only the symptom, not the cause, of the problem.

Since 1975, three major steamship companies serving the United States—Seatrain, U.S. Lines and Sea-Land—have admitted to wholesale violations of the antirebating provisions contained in the Shipping Act, 1916. Widespread rebating practices have been alleged as a contributing cause of the recent bankruptcies of 2 of the 10 U.S.-flag subsidized liner operators. Of our 10 subsidized liner operators, 7 have been under investigation for illegal rebating.

All elements of the maritime industry agree, however, that the cause of rebating is overtonnaging in the U.S. liner conferences. Chairman Murphy put it this way:

> The basic cause of rebating is overtonnaging, and consequently, a measure of control over capacity is probably the long-term solution to this problem.

H.R. 3055 unfortunately makes no effort to deal with overtonnaging. The bill makes no attempt to amend those sections of the Shipping Act, 1916, which have created the basic confusion and conflict between the antitrust division of the Justice Department on one hand and the Departments of State, Commerce and Treasury on the other. Until this conflict is resolved by congressional action, the remedies provided by H.R. 3055 provide merely a bandaid solution, if that.

Passage of H.R. 3055 also points out the basic failure of the administration to meet the President's commitment to Congress when he vetoed a similar bill on November 5, 1978. In his veto message, the President said:

> I commit my administration to work with the next Congress to develop a comprehensive maritime policy for the United States, in which the concerns reflected by this bill as well as broader policy issues can be fully addressed.

Thus far the President has done absolutely nothing to work with the 96th Congress toward a comprehensive maritime policy.

It has been over 3 years since the President first promised to develop a comprehensive maritime policy. On May 25, 1976, then-candidate Carter said:

> In the months ahead, I hope to issue a comprehensive paper on our overall pro-

gram for returning our Nation to its No. 1 status as a maritime Nation.

Over a year ago the President established an interagency task force on maritime policy. That task force was to have delivered its recommendations to the Congress in October of 1978. Subsequently, the White House stated that its recommendations would be in the hands of Congress by February 28, 1979. Today, May 31, 1979, the task force report and recommendations have still not yet been completed, and its director, William Johnston, on Maritime Day, May 22, 1979, recommended that the maritime industry present its own case to the Congress, tacitly conceding that the administration was unable to do so.

Under these circumstances, H.R. 3055, even though only an interim measure, seems worthy of passage.

The basic problem of overtonnaging in U.S. trades, can only be resolved by a congressional decision to either strengthen conferences or to abolish them. Since the British "Royal Commission Report on Shipping Rings" in the early 1900's and the U.S. "Alexander Report" in 1914, conferences have been recognized as the lesser of two evils in international shipping.

Conferences, in order to retain their stability and cohesiveness, have a natural incentive to police their own members and prevent rebating. If Congress authorizes strong conferences and gives them the right to limit membership, there should be no need for H.R. 3055 or to mandate that conference members adhere to rates they have fixed. If the conference system is going to work, conference members themselves will have the incentive to prevent rebating, and they certainly will have a far greater ability to do so than the U.S. Government. The Federal Maritime Commission's record in this respect is abysmal, and hopefully, a comprehensive new national maritime law will abolish the FMC.

Independent, nonconference carriers could be completely deregulated with no obligation to publish tariffs and thus no obligation to charge only the published rates. If we strengthen the conference system and give conference carriers incentives to operate more efficiently, we can do the same thing for independents, permitting them to operate on a freely competitive market, charging whatever price the market will bear. One argument raised against this point of view is that the independents could then give preferential rights to large customers. But of course they can do that now. Volume discounts are entirely legal. Also, if an independent carrier wishes to give a preferred rate to a certain customer, all he needs to do is change the tariff description. One example drawn to our attention recently showed that rates on file with the Federal Maritime Commission for frozen meat differ from rates also on file for frozen meat in one-inch cubes. Obviously, the latter rate is designed for a particular customer and is merely a legalized form of offering a preferred rate. Neither present law nor H.R. 3055 addresses this question which points up the difficulty of Government regulation of the competitive free-market system.

Conference self-regulation, paralleled by competition from unregulated independents would seem far preferable to the present system, even with the minor improvement H.R. 3055 will hopefully add.

The increased regulatory authority of H.R. 3055 should therefore be temporary only, to be replaced at the earliest possible date by a comprehensive new maritime law which reduces Government intervention in international shipping, permits stronger conferences and provides for unregulated independent competition.

Mr. MURPHY of New York. Mr. Speaker, I have no further requests for time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 3055, as amended.

The question was taken, and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from further consideration of the Senate bill (S. 199) to amend the Shipping Act, 1916, to strengthen the provisions prohibiting rebating practices in the U.S. foreign trades, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Shipping Act Amendments of 1979".

SEC. 2. Section 16 of the Shipping Act, 1916, is amended, by striking "$5,000" in the sixth paragraph, and inserting, in lieu thereof, "$25,000".

SEC. 3. Section 18(b) of the Shipping Act, 1916, is amended by deleting subsection (6) thereof and by adding the following new language in lieu thereof:

"(6) Whoever violates any provision of this section, other than subsection (b)(3) hereof involving rebates or refunds shall be subject to a civil penalty of not more than $5,000 for each day such violation continues.

"(7) Whoever violates subsection (b)(3) hereof by means of rebates or refunds, shall be subject to a civil penalty of not more than $25,000 for each shipment on which a rebate or refund was paid and to suspension by the Commission of any or all tariffs filed by or on behalf of such carrier, or suspension of that carrier's right to utilize any or all tariffs of conferences of which that carrier may be a member, for a period not to exceed twelve months. Any carrier whose tariffs or rights of use thereof have been suspended pursuant to this paragraph and who accepts cargo for carriage during the suspension period which cargo otherwise would have been governed by the provisions of the suspended tariff(s) shall be subject to a civil penalty of not more than $50,000 for each shipment so accepted.

"For purposes of this subsection and section 22(c) of this Act, a shipment shall mean all of that cargo, the carriage of which is evidenced by a single bill of lading.".

SEC. 4. Section 21 of the Shipping Act, 1916 is amended by designating the existing two paragraphs as subsection "(a)" and by adding a new subsection (b) as follows:

"(b) The Commission shall require the chief executive officer of every vessel operating common carrier by water in foreign commerce and to the extent it deems feasible, may require any shipper, consignor, consignee, forwarder, broker, other carrier, or other person subject to this Act, to file a periodic, written certification under oath with the Commission attesting to—

"(1) a policy prohibiting the payment, solicitation, or receipt of any rebate which is unlawful under the provisions of this Act;

"(2) the fact that such policy has been promulgated recently to each owner, officer, employee, and agent thereof;

"(3) the details of the efforts made, within the company, or otherwise, to prevent or correct illegal rebating; and

"(4) full cooperation with the Commission in its investigation of illegal rebating or refunds in United States foreign trades, and in its efforts to end such illegal practices. The Commission may by regulation prescribe the form and content of any certification required under the authority of this subsection. Failure to file any such certification shall result in a civil penalty of not more than $5,000 for each day such violation continues.".

SEC. 5. Section 22 of the Shipping Act, 1916 is amended as follows:

(a) designate the two existing paragraphs as "(a)" and "(b)", respectively;

(b) amend subsection (b), as designated by this Act, by deleting therefrom the phrase "except as to orders for the payment of money,"; and

(c) immediately after subsection (b), as designated by this Act, insert the following:

"(c)(1) In addition to, and without limiting the authority granted to the Commission by subsections (a) and (b) hereof, the Commission may, on its own motion, institute an adjudicatory investigation into possible violations of section 16 (other than paragraphs First and Third) involving rebates or refunds in foreign commerce or violations of section 18(b)(3) involving rebates or refunds, with the powers set forth in subsection (c)(2) hereof in addition to those already contained in sections 27, 43, and other sections of this Act.

"(2) Failure on the part of any common carrier, respondent to a proceeding instituted pursuant to subsection (c)(1), or any other person directly or indirectly controlling, controlled by, or under common control with such respondent carrier, to comply with any subpena or any duly issued order compelling an answer to interrogatories or to designated questions propounded by deposition or compelling production of documents in relation to any investigation conducted under subsection (c)(1), shall authorize the Commission to issue an order to show cause why any or all tariffs filed pursuant to section 18(b) of this Act, by or on behalf of the respondent carrier, or any or all rights of the respondent carrier to utilize such tariffs in the case of conference tariffs, should not be suspended until the carrier or any person directly or indirectly controlling, controlled by, or under common control with such carrier, has fully responded to the pertinent deposition, interrogatory, production request or motion, or subpena, and after such proceeding, to so suspend those tariffs or the respondent's carrier's rights to utilize such tariffs. Any carrier whose tariff(s) or rights of use thereof have been suspended pursuant to this subparagraph and who accepts cargo for carriage during the suspension period which cargo otherwise would have been governed by the provisions of the suspended tariff(s) shall be subject to a civil penalty of not more than $50,000 for each shipment so accepted.

"(3) If, in defense of its failure to comply with a subpena or discovery order issued in relation to any investigation conducted under subsection (c)(1), a common carrier alleges documents or information are located in a foreign country and cannot be produced because of the laws of that country, the Commission shall immediately notify the Secretary of State of such failure to comply and of the allegation relating to foreign laws. Upon receiving such notification, the Secretary of State shall promptly consult with the Government of the nation within which the documents or information are alleged to be located for the purpose of assisting the Commission in obtaining the documents or information sought.

"(4) Before any tariff suspension ordered pursuant to subsection (d)(2), or section 18(b)(7) of this Act, becomes effective, it shall be immediately submitted to the President who may, within 10 days after receiving it, disapprove any such order if he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.".

SEC. 6. Section 23 of the Shipping Act, 1916 is amended by deleting therefrom the language ", other than for the payment of money,".

SEC. 7. Section 27 of the Shipping Act, 1916 is amended by deleting from subsection (b) thereof the phrase "other than for the payment of money".

SEC. 8. Section 29 of the Shipping Act, 1916 is amended by deleting therefrom the phrase "other than an order for the payment of money,".

SEC. 9. Section 30 of the Shipping Act, 1916 is amended in the initial and final paragraphs thereof by deleting the phrase "for the payment of money" and by inserting, in lieu thereof, the phrase "for the payment of reparation".

SEC. 10. Section 32 of the Shipping Act, 1916 is amended by inserting at the end thereof the following new subsections:

"(d) No penalty shall be imposed on any person for conspiracy after August 29, 1972: (1) to rebate or refund in violation of the initial paragraph or paragraph Second of section 16, or under section 18(b)(3) of this Act; or (2) to defraud the Commission by concealment of such rebates or refunds in any manner.

"(e) Notwithstanding any other provision of law, the Commission shall have authority to assess or compromise all civil penalties provided in this Act: *Provided, however,* That, in order to assess such penalties a formal proceeding under section 22 of this Act shall be commenced within 5 years from the date when the violation occurred.".

SEC. 11. The provisions of this Act, including the amendments made by this Act, shall become effective immediately upon its date of enactment.

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike out all after the enacting clause of S. 199 and to insert in lieu thereof the provisions of H.R. 3055, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3055) was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

VACATING PROCEEDINGS ON AND RECONSIDERATION OF S. 1160, FIRE PREVENTION AND CONTROL ACT AUTHORIZATIONS FOR FISCAL YEAR 1980

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent to vacate the proceedings of the House whereby the Senate bill (S. 1160) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes, was passed earlier today.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1160) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes, and ask for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended—

(1) by striking "and" immediately after "1978,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and $27,274,000 for the fiscal year ending September 30, 1980".

SEC. 2. Section 16(b) of the Act of March 3, 1901 (15 U.S.C. 278f(D)) is amended—

(1) by striking "and" immediately after "1978,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and $5,600,000 for the fiscal year ending September 30, 1980".

SEC. 3. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 26. (a) The Administrator shall, within ten months of the date of enactment of this section, complete a study of the effectiveness of smoke detectors, heat detectors, and sprinkler suppression systems in saving lives, preventing injuries, and limiting property damage in fires, which report shall be submitted to the Congress and the President. In conducting such study, the Administrator shall consider, among other factors—

"(1) whether and the extent to which such devices and systems have been and are effective in reducing the severity of fires, including estimates with respect to the potential for savings in lives, prevention of injuries attributable to the operation of such systems and devices; and

"(2) the experience of Federal organizations, States, localities, and other political subdivisions which have required the use of such systems and devices.

"(b) If the Administrator determines, as a result of the study conducted pursuant to subsection (a) of this section, that smoke detectors, heat detectors, sprinkler suppression systems or other similar system or devices either have been or may be of assistance in the detection and control of fire, the Administrator shall include, as part of the report conducted pursuant to this section, recommendations regarding what should be the Federal role, if any, with respect to creating incentives for the use of such devices or systems by the public, by business concerns, and by Federal, State, and local governments. In making such recommendations, the Administrator shall consider—

"(1) the incentives, including financial incentives, which might be developed to require or facilitate installation within new or existing buildings of smoke detectors, heat detectors, sprinkler suppression systems, or any combination of such systems, or other similar systems and devices; and

"(2) the benefits, if any, of demonstration or other such programs directed at residents in high impact fire areas in order to increase the use of smoke detectors, heat detectors, sprinkler suppression systems, or other systems or devices.

"(c) As part of its report submitted pursuant to this section, the Administrator shall provide specific legislative proposals to the Congress for implementing any recommendations made pursuant to this section.

"(d) Upon request of the Administrator, each Federal department and agency shall furnish to the Administrator such information, data, estimates, and statistics, and allow the Administrator access to all information in its possession, as the Administrator may reasonably determine to be necessary for the conduct of the study required by this section.".

MOTION OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROWN of California moves to strike out all after the enacting clause of S. 1160 and to insert in lieu thereof the provisions of H.R. 4016, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 4016) was laid on the table.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1979

Mr. ASHLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. ASHLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3875, with Mr. BROWN of California in the chair.

□ 1310

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Ohio (Mr. ASHLEY) will be recognized for 1 hour, and the gentleman from Ohio (Mr. STANTON) will be recognized for 1 hour.

The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the bill, H.R. 3875, the Housing and Community Development Amendments of 1979, which was reported out of the committee by a vote of 34 ayes, 3 nays.

Before proceeding, Mr. Chairman, I would like to commend the distinguished Chairman of the full committee, my colleague from Wisconsin, Mr. Reuss, for his splendid cooperation and assistance, and our new ranking minority Member, my colleague from Ohio, BILL STANTON, who carries on a great tradition of bipartisan support for housing and community development legislation, and the other distinguished members of our Housing and Community Development Subcommittee.

Mindful of our need for fiscal restraint in this difficult year, the committee bill contains no new program initiatives and contains responsible authorization levels, most of which do not exceed the levels authorized in prior years, and in many instances, are less. H.R. 3875 provides authorizations for the HUD-assisted housing, community development and other related programs through fiscal 1980 and extends the basic HUD and FmHA insuring authorities. In addition, the bill contains a major overhaul of the Interstate Land Sales Full Registration Act which will reduce the regulatory burden on small developers and will increase the remedies and protections available to defrauded land purchasers.

The most difficult deliberations made by the committee this year focused on the assisted housing programs. Thirty years ago, the Congress made a commitment to a decent home and a suitable living environment for every American, and in each year since the passage of the Housing Act of 1949, the Congress has recommitted itself to that goal. These past 30 years have been a period of remarkable growth and success in housing. The stock of housing has nearly doubled while at the same time the Nation has seen the number of substandard housing units fall from 35.5 percent of the housing stock to less than 5 percent. Though we have made great strides, we still have much to do. It is estimated that there are currently 14.2 million American households living in substandard conditions or severely over burdened by housing costs. Almost 10 million of these households live in rental housing and have little or no control over their housing conditions. With the enacting of the Landmark Housing and Community Development Act in 1974, the Congress rededicated itself to meeting the needs of these families. In the first 4 years after the passage of that act, we authorized sufficient funding to provide assistance for 1,600,000 families at an annual rate of 400,000 additional families assisted. But even at that rate, it would take almost 25 years before our commitment could be fulfilled.

While the committee was reluctant to reduce funding authorization for low-income housing programs, the levels proposed in this bill are adequate to fund up to 300,000 units of low-income assisted housing, down from the 400,000 unit target provided in prior years.

I personally regret that the need for budget restraint has forced us to reduce our recommitment for low-income Federal housing assistance by nearly 30 percent, but the need for assisted housing is as clear as the price that we must all pay for it. So it was our reluctant judgment that in this year of fiscal restraint that the reduction in the number of families to be assisted was necessary. However, I strongly believe that we must maintain our commitment to the American people made 30 years ago. We have much that is left to do to provide the adequate shelter for our lower income citizens, and we cannot for long sustain this reduction in assisted housing.

This bill recognizes and has taken steps to prevent the loss of low- and moderate-income housing units from the limited available inventory and to target available resources to those most in need. Financial assistance is provided for troubled multifamily housing projects, and additional public housing modernization funds are provided. The bill provides that not less than $55 million in annual contract authority be made available for public housing modernization for existing public housing projects.

The bill has also provided that these funds be used on a priority basis for the modernization of substandard vacant units. In too many cities, public housing projects sit empty and vandalized, unfit for habitation. The tragedy of this situation is not so much in the blight that is brought to the community or even in the fact that the Federal Government is still paying for these empty hulks, but rather in the fact that needy families for whom these projects were built must continue to live in squalor. Our committee believes that this situation must change. In the past, the modernization program has suffered from a lack of adequate attention and from constantly shifting priorities. In expanding the funding level such that over $600 million of improvements can be financed, it is our belief that vacant and vandalized units must be made available and that the quality of these existing public housing units must be upgraded. To that end we have set a priority on the use of these modernization funds for substandard and vacant units.

The bill provides an authorization increase of $275 million in fiscal year 1980 for the urban development action grant (UDAG) program. We still believe that our urban centers need Federal help, and that this increased UDAG funding is a productive addition, engendering growth in our urban communities. This level was requested by the President as part of his urban policy initiatives. During the first 2 years of activity, the program grants have leveraged private investment worth an average of six times the amount of the grant. We believe this increase will stimulate enough productivity in the Nation's most distressed communities to more than offset its cost.

H.R. 3875 would extend the FHA authority to insure mortgages under the National Housing Act and increase the maximum insured single-family mortgage amounts by 8 percent. The insurable mortgage amounts for mobile homes are also increased by 8 percent and for mobile home sites by 25 percent. The amount by which multifamily housing mortgages can exceed the statutory limit has been increased from 50 to 75 percent in high-cost areas.

Funds for the section 202 elderly and handicapped housing program are authorized for 3-additional fiscal years.

Title IV of this bill would amend the Interstate Land Sales Full Disclosure Act by balancing the need to relieve small developers from regulation with provisions strengthening consumer remedies for fraud.

Mr. Chairman, the committee's efforts here reflects the responsibility of Government to protect the consumer from fraudulent sales practices and at the same time not overburden our governmental entities with undue regulatory responsibilities and finally to rid the small businessman-developer from the acres of paperwork under which they must now operate.

Several exemptions from the registration and disclosure requirements of the act have been added for small developments, including subdivisions of less than 100 lots. The anti-fraud provisions are extended to all subdivisions regardless of size and cover omissions of material fact. Duplicative State and Federal registration and disclosure requirements are eliminated by having HUD certify States whose laws provide consumers with protection similar to the Federal law. HUD is provided a cease and desist power which is limited to prohibiting the use of fraudulent sales practices. This title also extends the statute of limitations, particularly for fraudulent acts, and increases the penalties for criminal violations.

Mr. Chairman, title V would, for the first time, place authorization limits on the rural housing insurance fund and subject all activities carried out through the fund to the annual appropriation process while amending and extending basic FmHA authorities for an additional fiscal year.

Mr. Chairman, I am not comfortable in presenting a bill to this House that represents a reduction in our efforts to house low-income people. But we have attempted to balance the nationwide concerns on budget restraint with our committee's long commitment to housing our low-income citizens and aiding our distressed urban communities. I believe that we have achieved a fair and equitably balanced piece of legislation that merits this House's support.

□ 1320

Mr. STANTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this legislation, with

one major exception, represents a status quo approach to the funding of HUD programs. When you look at just those programs we authorize from year to year, there is an increase in funding over the last year's authorization of $313 million. The increase over the administration's request is $213 million. This is a rather modest increase over last year's authorization, or rather it will be when certain adjustments are made through floor amendments.

In fact, if one amendment in particular is adopted, the increase will be only $38 million. Our bill would also then be below the administration's request. To save you the trouble of going through mental arithmetic, I am referring, of course, to the proposed amendment to eliminate the $275 million increase in the urban development action grant program. H.R. 3875 proposes to increase the authorization of this program from $400 million to $675 million. This is a 70-percent increase and is completely unwarranted for a program that has never received oversight hearings by our committee and has been questioned by the General Accounting Office.

The rest of the increase, $38 million is well below the rate of inflation. The annual contract authority for assisted housing is increased by $91 million from last year and it is $146 million over the President's request. But there is almost a parallel decrease of $95 million in the authorization for the section 312 rehabilitation program, which, due to a carryover of fiscal year 1979 funds, will still be at approximately the level approved last year. The two subsidy programs for operating expenses receive small increases. Both the 701 planning fund and the research budget are cut slightly, but the 202 elderly program is increased by $35 million.

All in all, I believe the authorization levels with the exception of UDAG, are realistic ones in view of the tight budget constraints we are working under.

Mr. Chairman, as ranking minority member of both the Banking Committee and the Housing Subcommittee, I would like to congratulate my colleague from Ohio, Mr. Ashley, on all his time and effort which went into the drafting of H.R. 3875. On many issues Chairman Ashley and I were in complete agreement. On a number of others, we were not.

Basically, H.R. 3875 continues existing programs at generally the same levels as in the past, with one notable exception, UDAG—urban development action grants. To those who argue that the funding levels represent cuts in the number of assisted housing units, I would say correct; but we authorize "dollars" not "units" and until inflation is brought under control there will never be any way to preserve the value of the dollars in terms of the units they can buy.

Inflation has more than doubled since this administration took office, and it is on its way to tripling. The FHA insurance rate was 8 percent on January 20, 1977—it now is 10 percent, the highest rate in FHA's history. Well, what does this mean in terms of dollars? For a $50,000 mortgage with a 30-year term, it would take a monthly payment of $367 to amortize the loan at an 8-percent interest rate. That same loan would require a payment of $439 at 10 percent. In other words, as a direct result of inflation and its effect on the FHA interest rate, a home buyer will have to pay $72 a month more for the same house than it would have cost just 2 years ago, even if it was brought at the same price.

That is not to say that the FHA rate is too high. In fact, it may be too low based on the current market rates. All I want to do is illustrate the cost-effect of inflation on mortgage payments. Indeed, that $50,000 mortgage would be more like the $65,000 FHA ceiling authorized in H.R. 3875. In that case the monthly payments would be $570 or $203 per month more.

Regrettably, some of the inflation in housing costs was HUD induced. For the longest time the Secretary refused to raise the FHA rate thereby triggering the imposition of anywhere from 6 to 8 points in order to have the mortgage bear a realistic market yield. Virtually all of these points, which were borne by the sellers, became factored into the sales price of the house. The result was an inflated price for that house and any other house in the area when its selling price was based on comparables.

During the hearings on this legislation, a number of Members made that point to the Secretary, but she steadfastly argued she was correct in holding down the rate. Suddenly, less than 10 days after similarly testifying in the other body, she increased the rate from 9½ to 10 percent—stating, "The change was dictated by the persistent high level of discounts prevalent for FHA-insured loans."

There are some cynics who say this was done to keep Congress from taking the Secretary's rate setting authority away and establishing a negotiated rate such as exists in the conventional market. All I can say is, the damage has been done and we will probably never live to see the day that those excessive points are removed from the base cost of those homes. At least with proper fiscal and monetary policies we can hope to see the interest rate drop. Surely, it would have been better policy to have had a higher FHA rate earlier so as not to build in costs marketwide, and have a change to lower these costs at a later date through a reduction in the interest rate, when market conditions permitted.

I would also like to comment on another disturbing event, which occurred after the committee reported out H.R. 3875 on May 10, 1979. We have been informed by the Secretary of HUD that she plans to ignore the committee's action to disapprove a HUD regulation under the legislative review process enacted last year. This provision provides that the committee has 20 days to review a regulation and if within the 20 days the "committee has reported out" a resolution of disapproval or other legislation intended to disapprove a rule or regulation, such rule or regulation "shall not become effective for a period of 90 calendar days."

In a letter dated May 18, 1979, the Secretary states, "Legislation to disapprove all or a portion of this regulation was not reported to either the House of Representatives or the Senate prior to the expiration of 20 calendar days * * *". However, the law merely requires that the committee "report out" such legislation, it does not require that it be "reported to" either the House or Senate.

It is beyond me how HUD could have the audacity to tell the committee and the Congress that the action taken by the committee does not meet the intent of Congress. Such a contention would be laughable if it were not so serious. Admittedly, the administration is still "new," but we would have thought that it would have learned by now that there is a difference between "reporting out" a bill and filing a report, which it contends is the effective act. Does HUD contend that the committee did not know what it was doing? Does HUD contend it knows what the law means better than the authors of that law? All that is necessary is to read the transcript of the Banking Committee's session on May 10, 1979, and it is clear that Chairman Ashley's motion was to "report out" H.R. 3875, and upon its passage Chairman Reuss stated the bill was "reported out." There is no need for further debate.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to my colleague the gentleman from New Jersey (Mr. Minish), chairman of the Subcommittee on General Oversight and Renegotiation.

Mr. MINISH. Mr. Chairman, I rise in support of H.R. 3875, the housing bill reported out by the Banking Committee. As usual, Chairman Ashley has done an excellent job in developing a bill which meets our country's housing needs.

I am particularly interested in title 4 of this year's housing bill, because it contains amendments to the Interstate Land Sales Full Disclosure Act. The impetus for reform of the Land Sales Act came originally from hearings which the Oversight Subcommittee of the Banking Committee, which I chair, held last year. We found that the present Federal land sales law, which is 10 years old, does not properly protect people who buy unimproved land. We also found that State and local laws are ineffective. Many States do not even have land sales disclosure statutes.

Let me caution my colleagues that they have a responsibility to the thousands of American consumers who have been ripped off by unscrupulous land developers and to the thousands more who will be gouged if we do not enact the necessary protections contained in title 4. The special interests who have been contacting you in an effort to destroy or weaken this title of the bill are solely interested in their own personal gain. They have already bilked land purchasers out of millions of dollars. Some of them have gone to jail. Others have paid fines but the consumer has received no real protection in this area. Tampering with title 4 is tantamount to giving developers a license to steal.

The deficiencies in our laws have allowed some land developers to bilk thousands of our constituents out of millions of dollars. Although there are a lot of honest, reputable developers, there are many developers who still depend on artificial demand, high pressure sales tactics, and promotional gimicks. Many developers still use unfair contracts of sale, put out misleading advertising and promise things they cannot deliver. A large element of the industry remains severely undercapitalized and subject to bankruptcy anytime the economy slows down. These are the facts of life in the land sales industry and something has to be done about it.

The bill before you today does something about it. Despite the rhetoric you may hear from the developers and their allies, this is a balanced bill. It does what the industry is always saying we should do—it separates the good developers from the bad developers. The consumer protections it provides are well thought out, well drafted, and narrow in their scope. If passed, they will force the entire land sales industry to adhere to standards which are already being met by the best developers. It will give HUD the enforcement powers that almost every other Federal agency already has this bill is not going to put anybody out of business—at least not if they are halfway honest and if they are not they should be put out of business immediately.

The opponents of land sales reform seem to conveniently overlook the small business exemptions in this bill. Among other things, this bill raises the minimum filing floor of the Interstate Land Sales Act to 100 lots. A representative of the industry testified last year that a 100 lot floor would exempt 53 percent of all subdivisions filing with HUD in the previous 2 years. When this change is combined with the two other new exemptions in this bill and the homebuilder exemption passed last year, it is reasonable to guess that this bill will let two-thirds of all developments out from under the coverage of the Federal law. If the industry wants a small business exemption, there it is. It is clean, simple, and unlike other proposals, it does not create giant loopholes for large as well as small developers.

In summary, H.R. 3875's approach to the problems in the land sales industry is fair, balanced, and intelligent. It protects our constituents from being ripped-off and also provides breaks for small business. I strongly recommend that the House pass this legislation without emasculating its reforms.

□ 1330

Mr. STANTON. Mr. Chairman, I reserve the remainder of my time.

Mr. ASHLEY. Mr. Chairman, I yield such time as he may consume to my good friend, the gentleman from the District of Columbia (Mr. FAUNTROY).

Mr. FAUNTROY. Mr. Chairman, I rise in support of H.R. 3875, the Housing and Community Development Amendments of 1979. This bill is the product of very careful consideration by both the subcommittee and the full committee. It reflects a careful balance between the needs of the people of our Nation and the resources of our times. The bill speaks specifically to a number of pressing problems which have been exacerbated by this inflationary period and it heralds new ground in offering protections to the consumer in interstate land sale transactions.

In bringing this bill to the floor, the chairman of the subcommittee, Mr. ASHLEY, is to be commended for his diligence and his perseverance in seeking adequate resources to fully fund the 300,000 units proposed by the administration. Had the committee agreed to the amounts proposed by the department, it is quite possible that fewer than 260,000 units would have been made available. The people of this Nation who have the least of the resources owe a debt to our chairman who insisted upon full funding for at least the number of units explicitly promised by the department. Even with this level, however, it is well below the 360,000 units proposed for this current year and substantially below the 400,000 units proposed in previous years.

While those of us on the subcommittee are determined not to let it slip below the 300,000-unit level, we really must have a renewed commitment in the Nation by the Congress and the administration if we are to assure for every American a decent home and a suitable living environment. We owe the people of this Nation nothing less. I would hope, therefore, that in coming years, our housing programs will more nearly reflect what I believe was intended by the Housing Act of 1949 and the landmark Housing and Community Development Act of 1974.

With fewer resources, it becomes increasingly incumbent upon the administration to develop innovative programs and to utilize existing resources that will stretch what funds are available. The committee has considered these issues at great length; I would hope that the message is clear with the administration that both better utilization and more resources must be committed to meeting the nation's housing needs in the rural as well as the urban sectors.

With less plentiful resources, it has become necessary to assure that those who are intended to be assisted are both provided the resources and where necessary assured a preference. This bill, more than any other bill in recent years, does that. With displacement of families becoming an increasingly more severe problem in some of our communities, H.R. 3875 contains provisions intended to assure that displaces will be given a preference whether in acquiring an ownership interest in a condominium or cooperative through the 235 home ownership assistance program or in selection as a tenant of public housing or the section 8 program.

Where HUD should acquire the property and then elect to rehab or demolish the same, this year's bill also makes it explicit that the Secretary is required to provide the maximum opportunity for such tenants to either return to a repaired unit or to occupy another unit in a HUD-owned project or to receive other assistance. This provision grows out of the decisions of the department to decline to provide assistance where an acquisition, usually by foreclosure, is made without an intention by the department to hold it as housing under a Federal program. The range of alternatives which the Secretary may use remains in an effort to provide as great flexibility as is possible consistent with the intention of the Congress.

In addition to providing a priority to persons who are displaced or who live in substandard units, this bill seeks to assure that public housing projects, section 8 projects, and that others that are obtaining assistance under the "troubled projects program" will remain and continue to be available for low- and moderate-income families. In a time of reduced funding and where pressures rise to change the character of some of these units, it is important that we not lose any of our low-income housing stock. The committee's action in this regard is highly significant and most important.

One of the concerns that has bothered some members of the committee has been the increasing costs of our housing programs. In an effort to meet some of that concern without substantially deviating from the intention of these programs to assist those who are poor, the committee reluctantly, I can truthfully say, adopted a provision increasing maximum tenant contribution to rent for families with incomes above 50 percent of median from the present 25 percent of adjusted income to 30 percent. This change will affect tenants in both public and section 8 housing on a sliding scale relative to income.

It means that families with incomes of $8,000 to $10,000 a year will be forced to pay more for their assisted housing. In a colloquy I had with our chairman, I have been assured that the committee expects the Secretary to take care to assure that no family is overburdened by an increase in the rents which can be phased in over a 2-year period. I am, quite frankly, unhappy about this amendment. If I could be asured that other less attractive alternatives would not be considered in its stead, I would work to strike that provision. I fear its impact particularly upon the elderly. I also know that the rising costs of housing generally has made our assisted projects more sought after by those between 50 and 80 percent of median income than in the past. While we should not want to deny any need one access or to place access on a less than equal basis, we have no choice both in light of the limited numbers of units and their high costs. Our obligation is, first to those poor whose incomes are below 50 percent of median. I would expect the department in implementing this provision of the bill to not only direct its attention to smoothing the impact but to assure that the new units coming into service are used first to aid those whose incomes are below 50 percent of median.

While this amendment must be viewed on one hand as a set back for those of us who believe in the Brooke amendment, it is hard on the other hand a reaffirmation of the intention of Brooke that those who have the best resources will not pay more than 25 percent of their income for housing. In adopting this amendment, the committee has gone far to meet the concerns of those who have expressed them while continuing to target available assistance to the poor. It cannot go further; and I certainly will not go further.

I have devoted much of my comment and time to the assisted housing and displacement portions of this bill. The other provisions of the bill also have my full support. I want to caution, however, that in supporting the increase in the limits of the various FHA programs, I would fully expect the department and the committee to explore with greater detail whether these increases are actually beneficial or are merely becoming a new floor under which little housing activity occurs. We have, in the past years, repeatedly raised these limits and I have supported them. In a market where supply is out of balance with demand, however, removing the constraint implicit in a limit may itself be a cause of higher prices of which I would not want to be a contributing factor.

Finally, I would like to make just one comment on the interstate land sales provisions of this bill. The hearings held by the Subcommittee on Housing and the Subcommittee on Oversight demonstrated without any doubt that there are severe and costly abuses affecting unwary, unsophisticated, and innocent buyers. Until now, little could be done about it. While the existing registration and disclosure procedures have been helpful, problems have continued to result. Thus, it was the considered judgment of the committee, with which I am in full and absolute concurrence, that if the public is to be protected against the most abusive and fraudulent practices, the Office of the Interstate Land Sales Registration (OILSR) had to possess the power to issue a cease-and-desist order. This enforcement power will provide a tool which will allow OILSR to act rapidly and precisely to prevent a continued use of fraudulent and deceptive sale practices. Rather than being a mechanism for delay, it will assure that where there are legitimate concerns by a developer or by the department, one will have a speedy determination and an opportunity to move quickly for a court hearing. In the past, OILSR has had to rely upon voluntary compliance or upon the Department of Justice to bring a criminal complaint. This is burdensome upon both parties—the department and the developer—and will be made less so by the new procedures which tend to bring these issues to a quick and decisive decision.

There is always reluctance to provide this kind of power to a department. That is as it should be. I am convinced that in restricting the use of this power to the narrow scope to halt harmful and fraudulent activity, we have acted with considered prudence and care to avoid abuse while protecting the consumer.

This bill is a carefully crafted document. The report provides substantial guidance to the department. It is one on which the committee and its staff has worked most diligently. I appreciate the work which the staff and the chairman has put into it and applaud them for what I believe is an excellent response to some very difficult problems. While some of us would have done some things differently, we must look at this bill in the totality of its four corners. In that context, I urge its adoption.

□ 1340

Mr. ASHLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I appreciate the chairman yielding the time. I want to rise in support of the measure, H.R. 3875, and I want to compliment our chairman and the ranking minority member for their conduct of the hearings. As a new member on the Housing Subcommittee it gave me the opportunity to explore the ramifications of our housing programs, community development programs, the 312 program, the UDAG program and a variety of other Federal initiatives that have been Federal law for years.

Some of the programs are relatively new so I think as demonstrated in the report there is a necessity for continued close oversight on the programs that are operational and serving our varied communities.

This year, as the chairman pointed out in his initial remarks, is a year in which we face a tight budget, one in which programs, that are designed to meet significant needs such as housing, have been tempered by limitations in spending opportunities and dollars available.

I think the subcommittee has done what we could to take these dollars and provide the best opportunity for meeting the various housing needs.

There are examples, such as the neighborhood investment corporation where new ideas are fostered, admittedly while not being started this year they will be continued and, we have fostered attempts to stimulate them. I think they offer among the best opportunity for new housing programs in the future.

In addition to that, this bill is founded on a concept of trying to rehabilitate and to recapture existing housing stock in the urban setting which has in recent years experienced difficulty and fallen into disrepair. I think it really represents a conservation of resources both in dollars and physical facilities that have been begging for years for some attention.

COMMUNITY DEVELOPMENT PROGRAMS

Section 312, rehabilitation loans: The committee has authorized $150 million for section 312 rehabilitation loans. While this represents a decrease from last year's authorized level, the combination of the $150 million-plus carryover funds will provide a program level equal to last year's.

UDAG: H.R. 3875 increases the authorization for one of the most successful Federal community development programs. The UDAG program has proved to be a valuable tool in the revitalization of distressed older cities. The program is structured so that the Federal funds act as a catalyst for increased private sector investment. Experience has shown that the average investment of private funds to UDAG funds has been 6 to 1. In many cities these funds have leveraged an even greater amount of private investment. The additional $275 million authorized by this legislation will result in a greater partnership and will provide short-term construction employment as well as thousands of central cities long-term employment opportunities crucial to maintaining the economic viability of the central city.

HOUSING

The availability of safe and decent housing at affordable cost continues to be a major problem for millions of our citizens. This legislation authorizes the construction of 300,000 new units of publically assisted housing. This represents a decrease from the number of starts authorized last year. But these new units and the housing units already in the pipeline will result in a greater level of Federal starts this year than last.

Other important housing provisions include:

Authorization for 6,000 Indian housing units. Nowhere is the housing crisis more severe than on the Indian reservations. Currently more than 60 percent of all reservation residents live in substandard housing. I am pleased that the subcommittee has maintained the present Federal commitment to provide decent housing in this area.

Up to $55 million is designated for modernization of existing public housing projects. In many cities, empty hulks stand vacant and vandalized. These projects drain away our limited housing funds without providing any shelter. More tragically, these units remain vacant while families desperately needing this decent and affordable housing are placed on waiting lists to enter operating housing projects.

The subcommittee has also acted to restrict the possibility of the conversion of Government financed section 8 housing. In many areas, the revitalization of a section of a city has been so successful that the builder will find it more profitable to convert his property away from low- and moderate-income families. The requirement that the builder maintain the low-income nature of the property for 20 years will insure the integrity of this program. Without this action the Government will be directly subsidizing the removal of thousands of housing units from occupation by moderate- and low-income persons.

Lastly the subcommittee has adjusted the FHA mortgage insurance limitations to reflect the pressures of inflation on the housing market. FHA mortgage insurance provides the only affordable method for homeownership financing available to millions of Americans. Without this action these people will be relegated to an increasingly smaller share of the available homes.

INTERSTATE LAND SALES AMENDMENTS

This legislation also enacts major consumer protection safeguards. The Interstate Land Sales Full Disclosure Act was passed in response to a need for Government protection for consumers against fraudulent practices of some land developers. The changes in H.R. 3875 are the result of 10 years of experience in the administration of this law. This experience and evaluation has shown good cause for the exemption of some types of land sales as well as a need for increased consumer protection in other areas.

One important effort to eliminate overlapping Government is the provision to allow the Secretary of HUD to transfer the reporting and disclosure activities to State governments which have substantially equivilent requirements.

This legislation also provides additional consumer protection by eliminating the exemption from the antifraud provision if the subdivision contains less than 50 lots. The committee accurately recognizes the Federal responsibility to protect consumers from fraudulent activities whether the developer is large or small.

The Housing and Community Development Act Amendments of 1979 also grants to the Secretary of HUD narrow and careefully drawn cease-and-desist powers. This power can only be used when the Secretary has reasonable cause to believe that fraudulent activity is occurring and that immediate action is necessary to prevent further damage to purchasers. Currently no administrative enforcement powers exist to combat fraudulent advertising techniques. This power is crucial to the department's efforts to enforce the antifraud provisions that already exist in the law.

In conclusion H.R. 3875 is well-balanced legislation. Faced with the current budget constraints the committee has chosen to strengthen those programs in which we receive the greatest benefit for the money invested. This legislation will result in an increased Federal role in housing and community development activities while reducing budget authority from last year by $36 million. Mr. Speaker I urge my colleagues to support H.R. 3875 as reported from the committee.

Mr. ASHLEY. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, first I would like to thank my good friends from Ohio on both sides, the chairman and the ranking member, for the work they have done in turning out this complex but most important bill. However, I am disturbed and I am going to talk to one subject matter here that really is not addressed as I would like to see it addressed and I am not even sure how it can be resolved.

There is a major problem existing in this country, today, in housing. We are seeing it not only right here in the District of Columbia but we are seeing it in New York, we are seeing it in Westchester County and we are seeing it throughout the entire country, and that is the availability of rental space. One of the major causes that is bringing about this deterioration of rental facilities is this conversion of the condominiums and cooperatives—the conversion of these buildings at a highly profitable rate for the individuals involved and at a tremendously detrimental situation to middle-income, lower middle-income, elderly people on fixed incomes who are living in these apartments.

Because condominiums sound wonderful and I think the idea is perfectly sound for people who are earning well, probably young married people who are both working and can afford to make this kind of initial investment, but it is an absolute catastrophe for others.

Right here in the District of Columbia we are seeing, today, one of the most massive condominium conversion programs taking place, that are moving out and creating impossible situations for people who have lived in these buildings for many years and are suddenly, abruptly told by January 1 they must either buy or get out.

Now, I think somehow we have a responsibility for this situation.

I noticed today in the New York Times a major article dealing with rental units and the lack of them in this country. They go on to describe that the main problem is that rapid growth of condominium conversion.

Where do these middle-income and lower middle-income people go? Where do the elderly people go who have fixed incomes?

☐ 1350

I think that the City Council right here in the District of Columbia has just within the last week or two issued a 90-day moratorium on the conversion of condominiums. I do not know how long they can keep on 90-day conversion, but it is obvious that they are recognizing the problem right here in the District.

I can remember 8 years ago when I first came to Washington, of the difficulty of finding an apartment to rent. You had to really look. Let us say that I was in the position of paying a little more rent than many average people can pay. Today in Washington it is practically impossible to find a rental area. Those that have been fortunate over the years to have come up with an apartment they can pay the rent on are today suddenly faced with, "Get out, either put up money or get out."

It is not only the problem of putting up money, the actual cost of carrying these apartments is far higher.

Now, some people's answer to that is, "Yes, but you have a tax deduction you can take." Well, a tax deduction may be meaningful if you have a high enough income to take advantage of it; but the people we are talking about who are the overwhelming majority right here in the District of Columbia do not have that advantage and do not have it. They are faced with an intolerable situation.

An example, Mr. Chairman, is in Westchester County. There is not one rental unit being built or has been built in this past year. The builders are not building rental units. They are building condominiums.

Now, I realize we cannot tell people what to build and we have difficulty, of course, in saying what they can sell or what they cannot sell; but it seems to me there ought to be a method that we can address to protect at least people who are living in rental units today and to give them a time differential, that they are not simply faced with 6 months and get out.

I feel we have got to address this issue and do something about it promptly.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has expired.

Mr. ASHLEY. Mr. Chairman, I yield the gentleman from New York 5 additional minutes.

Mr. FAUNTROY. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I am glad to yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. Mr. Chairman, I want to commend the gentleman for bringing to our attention two problems that we have attempted to address; the problem of a lack of increase in rental stock and the problem of conversion from rental to owner-occupied units which often result in substantial displacement. In this bill, we have sought to meet some of the needs of displacement resulting from condominium and cooperative conversions by amendments to the section 235 homeownership assistance program, and we have rather fully met the problems of displacement which result from Government actions both by prior legislation and amendments to last year's bill which provided assistance to displacees of HUD-acquired property. The gentleman is correct, however, in pointing out the increased pressures placed upon all units, especially the number of subsidized units in this country and particularly this city, by the number of private actions which are difficult to reach by Federal legislation. That is one of the reasons that the small number of assisted housing units authorized in this bill and the even smaller number proposed by the administration is such a tragedy.

The gentleman has properly pointed out that the District of Columbia Council here has recognized that problem and has attempted at least to delay the rapid displacement particularly of elderly citizens on limited incomes from rental units by condominium conversion by the use of moratoria. Unfortunately, we are not able to address the need to meet all of the displacement needs of those who are being moved out of adequate housing units by condominium conversion in the private sector.

The gentleman has put his finger on a very serious problem. How do we, without limiting the right of private ownership to sell, protect the rights of a large and growing segment of society to have a place to live? Right now, there are more than 20,000 units seeking to change from rentals to some form of cooperative or condo ownership in the District of Columbia. It is a problem which we have not, in this committee, fully addressed but one which I think we can devote some resources in the coming months. Quite frankly, there is, with the exception of the 235 program and some other things which our Department of Housing and Community Development are trying to do, very little hope in the horizon that persons being displaced from units whose conversion was delayed by the Council last month, can find adequate new or rehabilitated housing in the

District of Columbia. I appreciate the gentleman bringing this to our attention.

Mr. PEYSER. Mr. Chairman, I appreciate the gentleman's comments.

I am wondering if it is possible and perhaps the chairman might have a thought on this; I am frankly reaching, because I am becoming suddenly aware of something probably I should have become aware of a long time ago here; is it possible we could establish a program that if we cannot tell a property owner when he can or cannot sell, that we can establish either rules, establishing either the amount of time individuals can have in which to find additional rental space and assuming that rental space is available. In other words, perhaps there ought to be a proof of availability for the rental space within a geographic area that makes it possible for these people at least to move somewhere. Maybe there is a time element that we can put in. Maybe there is a way of subsidizing those tenants to find themselves the private dwellings, who are unable to meet these downpayment requirements. I do not know.

I know of the concern that the gentleman from Ohio has had for people in these categories and in all people, because I have worked with the gentleman from Ohio before. I am just wondering, does the gentleman have any thoughts on this matter as to what we might do?

Mr. ASHLEY. Mr. Chairman, in the gentleman's comments and the comments that we have had with others on this subject, it is clear we are faced with a rather recent and accelerating development, the solution to which is very difficult to get at, because of straightout constraints that are upon us in terms of the extent to which we can impair the ability of a property owner to sell or to dispose of his property as he sees fit and appropriate.

I would say to the gentleman that the subcommittee tries to focus with respect to housing and community development on those areas that are a matter of acknowledged national concern, that represent a national problem.

Frankly, the condo conversation problem is of fairly recent origin. It is not pervasive. It does not span the country. It really manifests itself principally in a half a dozen of our larger cities and in Florida, I would suspect; so that while we have tracked the problems that are being raised, we have had some preliminary hearings, I have got to say to the gentleman that we are not sufficiently far advanced in our committee deliberations to have struck upon a range of alternative solutions. We are not at that juncture at this point.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has again expired.

Mr. ASHLEY. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. Chairman, I would commend to the gentleman's attention the committee report language which makes it clear that the committee has directed attention to this problem. We say that the 235 ownership program, the only direct homeownership program on the statute books, that assistance under this program should be made available particularly at this time to those eligible families who are being displaced, because of conversion of existing multifamily rental projects to condominiums and cooperative ownership. We go on to point out that this is a problem of recent and accelerating proportions. It is our judgment that about 100,000 rental units were converted to condo or cooperative ownership in 1978, only about 50,000 in 1977. In 1979, we expect the rate to be at a level of about 130,000; so it is clear that we are in a deepening thicket.

We do direct that the 235 program be made available on a priority basis to people who are victimized by condominium conversion.

□ 1400

Frankly, inasmuch as that is the only homeownership program to which we have a recourse, the actions that we might take are limited. We could come up with another new homeownership program directed at people who are caught by conversion. That is a possibility. We can take action presumably and potentially to thwart conversion or to delay it, as the gentleman has indicated.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has expired.

Mr. ASHLEY. Mr. Chairman, I yield 3 additional minutes to the gentleman from New York (Mr. PEYSER).

Will the gentleman yield further?

Mr. PEYSER. I yield to the gentleman from Ohio.

Mr. ASHLEY. But, Mr. Chairman, if I may continue, I would say to the gentleman we are not in a position at this juncture to do that, because the problem, while it is intense in particular communities, is not national in scope, and I would say to the gentleman again that this is a matter the subcommittee is following with considerable concern.

We are not prepared at this juncture, however, to legislate definitely on the proposition. We do not know enough. The remedies that are available have not been explored in sufficient depth. But this is a matter of which we are aware, and we do express a concern.

So with that, I would just say to the gentleman that I appreciate his comments. I know also how deeply the gentleman from the District of Columbia (Mr. FAUNTROY) has felt about this for a number of months, indeed years. But our resources are very limited, and the comments that have been expressed on the legislation this year affirm that fact. We are taking a very substantial cut in the number of assisted housing units for the next fiscal year. In most of the programs contained in this bill we are not funding at current levels of expenditures but, rather, at reduced levels.

So we are inhibited in what we can take on in the way of new program initiatives. But, having said that, we are using every resource at our command, particularly the 235 program, to try to bring some degree of relief where it is, indeed, needed.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for his comments. I know of his concern, and I also recognize the situation with respect to title II, section 235.

I have one other thought, Mr. Chairman. Many times people who live in condominiums and people who are living in apartments are organizing and have been organizing tenant associations through which they can better represent themselves really in dealing with the condominium owner or the new ownership that comes in.

There might even be a way of strengthening tenant association capacities as to their outreach and what they can do. Right now I think it is very vaguely defined as to the rights of tenants and associations. There may be something in this direction.

Mr. Chairman, I do appreciate the gentleman's concern, and I certainly want to try, as I know he does, to look into this matter further.

Mr. ASHLEY. Mr. Chairman, I have no further requests for time.

Mr. STANTON. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Ohio (Mr. WYLIE), a very valuable member of the subcommittee.

Mr. WYLIE. Mr. Chairman, I thank the gentleman from Ohio (Mr. STANTON) for his generosity in yielding me this time. I think I can bring my remarks to a close within 2 minutes or perhaps less than 2 minutes.

Mr. Chairman, I rise in support of the bill now before us because I think basically it is a good bill, and I think it is fair to characterize it as basically a housekeeping bill.

There are no real new innovations, as I see it, in the bill, and that is probably in the mood of the country right now. There are some real major changes in the interstate land sales provisions of the bill about which I think all the Members ought to be aware which, generally, I support.

By granting HUD cease and desist power in this area, we are treading new water and plowing new ground, and this alone represents a very substantive change in the present law.

There will be an amendment offered to strike the cease and desist provisions from the bill.

Another change concerns UDAG funding. It is increased by approximately 70 percent. Again an amendment will be offered to reduce this amount.

FHA mortgage limits have been in creased from $60,000 to $65,000, which is a compromise but a realistic increase, I think, one which I supported in the subcommittee and in the full Committee on Banking, Finance and Urban Affairs when it was considered there.

All in all, as I say, it is a good bill, to my way of thinking, and it reflects credit on the subcommittee chairman Mr. ASHLEY and the persistence, expertise and good judgment that he has used in bringing this bill to the House floor today.

Mr. Chairman, I am also pleased to join in cosponsoring this bill with the ranking minority member, the gentleman from Ohio (Mr. STANTON), who also made a most significant contribution to the final product.

Mr. STANTON. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding me this time.

Perhaps the chairman of the subcommittee could give us a little information. My question is this:

What is the maximum amount of rent subsidy paid under section 8?

It appears that last year we had something in the neighborhood of $1,260 per month that could be paid for a four-bedroom apartment in an elevator-operated high rise in New York City. It was considered by region, and that was where the maximum amount could be paid. For 1980 it will be $1,164 in San Francisco, I understand.

Mr. Chairman, I will ask the gentleman, do we have that information now, or is that being discussed in the legislation before us at the present time?

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, to answer the gentleman's question, yes, I can give him at least a pretty close guesstimate.

I suppose that if we go to a high building cost area such as New York City, where the fair market rentals are determined on the basis of comparable rents for comparable properties, a very large family, with seven, eight, or nine kids, in a four-bedroom apartment, might enjoy a rental subsidy in the neighborhod of $920 to $950 per month, in that area.

Mr. MILLER of Ohio. Then perhaps the amount has been lowered since last year, because it was about $200 per month more than that last year. Around $1,260 per month was paid under section 8.

Mr. ASHLEY. Yes. Those rents are adjusted periodically, and it is my understanding that since this colloquy took place a year ago, there has been a reduction in the amount.

Mr. MILLER of Ohio. Mr. Chairman, the colloquy has been helpful, and maybe it will be more so next year. I thank the gentleman for his reply.

● Mr. REUSS. Mr. Chairman, I rise in support of this year's housing bill, H.R. 3875. I would like to commend the distinguished chairman of the Subcommittee on Housing and Community Development, my colleague from Ohio Mr. ASHLEY, and the distinguished ranking Republican member of both the subcommittee and the full committee, the gentleman from Ohio, BILL STANTON.

This year's housing bill reflects the budgetary restraints under which we all are operating this year. Since the Housing and Community Development Act of 1974, we have been authorizing funding in our housing legislation to produce assisted housing at an annual rate of 400,000 units. In this bill, we have reduced that target to 300,000 units reflecting both the high cost of producing low-income housing and the budget restraints that have caused us to cut back on funding levels. I regret the fact that we have been forced to reduce our level of housing assistance, but I would commend our committee for being able to provide the funding necessary to produce 300,000 units. I am pleased that this bill increases the amount of funds to be made available for the modernization of existing public housing units and for reauthorizing the operating subsidy program for troubled FHA-insured multifamily housing projects.

Mr. Chairman, probably the most controversial provision of this bill is the provision authorizing an additional $275 million for the urban development action grant program. The urban development action grant program was enacted in 1977 at an authorization level of $400 million a year for 3 years. The program has been in operation now for 2 years and, in my opinion, it has been one of our most dynamic and successful urban programs. I would strongly urge my colleagues to vote down all of the amendments that will be offered to cut back on additional funding for this UDAG program. No other Federal urban program that we have enacted in recent years has been able to attract, with the lure of Federal dollars, the private investment capital that many of our declining urban areas so desperately need as has this program.

This bill would also provide additional funding for the section 312 rehabilitation loan program at a reduced authorization level for 1980 but together with repayments and unused authorities from previous fiscal years a level of activity of some $245 million in loan funds should be available through fiscal year 1980.

H.R. 3875 authorizes and extends for an additional fiscal year various programs and authorities of the Secretary of HUD under the National Housing Act and would reauthorize the very popular section 202 housing for the elderly and handicapped program for an additional 3 years. The committee bill also contains a major overhaul of the Interstate Land Sales Full Disclosure Act which will reduce the regulatory burden of small developers and increase the remedies and protections available to defrauded land purchasers.

Also, the bill would extend the funding authorization for the Farmers Home Administration's rural housing assistance programs.

Mr. Chairman, I would urge my colleagues to strongly support this bill.●

Mr. STANTON. Mr. Chairman, we have no further requests for time on this side of the aisle, and I yield back the balance of my time.

Mr ASHLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill will be considered for amendment by titles, and each title shall be considered as having been read.

The Clerk will designate the short title, section 1.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress, assembled, That this Act may be cited as the "Housing and Community Development Amendments of 1979".

Mr. ASHLEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

☐ 1410

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3875.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION TO PRINT TABLES IN CONGRESSIONAL RECORD, UNDER SECTION 302(a) OF CONGRESSIONAL BUDGET ACT, REFLECTING AGREEMENTS REACHED IN CONFERENCE ON HOUSE CONCURRENT RESOLUTION 107, FIRST CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1980

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent to print in the RECORD the tables showing the crosswalk allocations to the House and Senate committees under section 302(a) of the Congressional Budget Act, reflecting the agreements reached in conference on House Concurrent Resolution 107, the first budget resolution for fiscal year 1980, as modified by further amendment. In addition, I ask unanimous consent that these tables be considered as meeting the requirements of section 302(a) of the Budget Act.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the distinguished chairman of the Committee on the Budget explain why this is necessary?

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Speaker, on May 21, 1979, the statement of managers on the conference report on House Concurrent Resolution 107, appeared in the RECORD. However, subsequent to that, action was taken which affected primarily the function 500—education, training, employment, and social services—allocation totals, specifically the addition of $350 million in budget authority. Since, procedurally speaking, in adopting the first concurrent resolution for fiscal year

1980, the House adopted an amendment and not a conference report, it is necessary to include at this time a revised allocation of the appropriate levels of new budget authority and outlays among the various committees. This allocation will guide the Congress in scorekeeping spending measures mostly affecting fiscal year 1980 as they are considered over the next few months.

It should be noted that within certain committees, an allocation for new entitlement authority has been included. For purposes of section 401(b)(2) and section 302 of the Budget Act, this amount represents the appropriate allocation of new budget authority, as determined by the Budget Committee, to fund various new entitlement programs within the jurisdiction of a given committee over the next fiscal year.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, it is because this did not come back as a full conference report?

Mr. GIAIMO. If it had come back as a full conference report, the allocation would have been included in the conference report and this would have been taken care of then. But since, as we said, we did not come back with a full conference report, and since we have had a change after that in what was agreed to in the conference, as the gentleman will recall, whereby the Senate on its own added $350 million for educational programs, and we did the same here, it affected the allocation totals. This is the way in which we cure that and enable the committees of the House to proceed with their legislative entitlement and appropriating legislation under the allocation made to them, and it allows us to keep score properly under the Budget Act, as we are mandated to do.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. CORMAN. Mr. Speaker, reserving the right to object, I would like to inquire of the chairman of the Committee on the Budget if he knows how much was allocated to the Committee on Ways and Means in function 500, if that is easily available?

Mr. GIAIMO. If the gentleman will yield, I am informed that it is $756 million.

Mr. CORMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The tables are as follows:

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(a) OF THE CONGRESSIONAL BUDGET ACT

[In thousands of dollars]

House committee and function	Fiscal year 1979	
	Budget authority	Outlays
APPROPRIATIONS COMMITTEE		
050 National defense	127, 402, 312	114, 791, 714
150 International affairs	13, 575, 848	8, 620, 939
250 General science, space, and technology	5, 352, 809	5, 149, 253
270 Energy	8, 585, 381	6, 735, 381
300 Natural resources and environment	14, 497, 556	13, 000, 907
350 Agriculture	8, 267, 903	1, 524, 793
370 Commerce and housing credit	5, 405, 614	3, 922, 013
400 Transportation	10, 048, 007	17, 124, 884
450 Community and regional development	8, 852, 666	9, 630, 026
500 Education, training, employment, and social services	31, 958, 159	29, 639, 916
550 Health	28, 747, 808	28, 975, 582
600 Income security	52, 136, 728	35, 149, 400
700 Veterans benefits and services	19, 866, 736	20, 029, 667
750 Administration of justice	4, 200, 257	4, 205, 338
800 General government	6, 822, 891	6, 690, 033
850 General purpose fiscal assistance	7, 377, 249	7, 453, 473
900 Interest	0	895
920 Allowances	700, 000	700, 000
Committee total	353, 797, 924	313, 344, 214
HOUSE AGRICULTURE COMMITTEE		
300 Natural resources and environment	232, 701	191, 724
350 Agriculture	91, 310	4, 734, 420
450 Community and regional development	355, 370	132, 952
850 General purpose fiscal assistance	240, 593	240, 593
900 Interest	−44, 000	−44, 000
Committee total	875, 974	5, 255, 689
HOUSE ARMED SERVICES COMMITTEE		
050 National defense	9, 892	19, 500
400 Transportation	30	30
700 Veterans benefits and services	12	12
Committee total	9, 934	19, 542
HOUSE BANKING, FINANCE AND URBAN AFFAIRS COMMITTEE		
050 National defense	0	990
150 International affairs	0	−167, 485
370 Commerce and housing credit	576, 797	−901, 723
450 Community and regional development	31, 046	66, 887
500 Education, training, employment, and social services	287	44, 660
550 Health	0	−824
600 Income security	38, 169	69, 311
700 Veterans benefits and services	0	−17, 044
800 General government	−17, 000	−17, 080
900 Interest	7, 818	7, 818
Committee total	637, 117	−914, 490
HOUSE DISTRICT OF COLUMBIA COMMITTEE		
750 Administration of justice	8, 000	8, 000
850 General purpose fiscal assistance	832	20, 832
Committee total	8, 832	28, 832
HOUSE EDUCATION AND LABOR COMMITTEE		
500 Education, training, employment, and social services	20, 677	17, 953
550 Health	0	19
600 Income security	6, 108	5, 192
Committee total	26, 785	23, 164
HOUSE FOREIGN AFFAIRS COMMITTEE		
150 International affairs	6, 954, 743	8, 177, 137
370 Commerce and housing credit	4, 800	6, 000
600 Income security	228, 345	113, 028
Committee total	7, 187, 888	8, 296, 165
HOUSE GOVERNMENT OPERATIONS COMMITTEE		
800 General govertent	1, 230	1, 142
850 General purpose fiscal assistance	6, 854, 924	6, 852, 124
Committee total	6, 856, 154	6, 853, 266
HOUSE ADMINISTRATION COMMITTEE		
250 General science, space, and technology	70	72
500 Education, training, employment, and social services	5, 351	5, 666
800 General government	41, 150	1, 950
Committee total	46, 571	7, 688
HOUSE INTERIOR AND INSULAR AFFAIRS COMMITTEE		
270 Energy	2, 480	2, 480
300 Natural resources and environment	54, 541	30, 689
450 Community and regional development	282, 431	192, 927
800 General government	76, 900	76, 307
850 General purpose fiscal assistance	599, 298	604, 215
Committee total	1, 015, 650	906, 618
HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE		
300 Natural resources and environment	0	30
370 Commerce and housing credit	22, 937	21, 707
400 Transportation	420	420
550 Health	4, 636	5, 205
600 Income security	4, 156, 816	4, 402, 723
850 General purpose fiscal assistance	5, 287	6, 219
Committee total	4, 189, 466	4, 436, 304
HOUSE JUDICIARY COMMITTEE		
300 Natural resources and environment	165	380
370 Commerce and housing credit	15, 587	5, 885
600 Income security	6, 830	2, 130
750 Administration of justice	0	−5, 081
(New Entitlement Authority)	(4, 000)	
800 General government	152, 018	237, 569
Committee total	174, 600	240, 883

House committee and function	Fiscal year 1979	
	Budget authority	Outlays
HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE		
300 Natural resources and environment	130, 272	96, 591
370 Commerce and housing credit	12, 436	11, 950
400 Transportation	305, 504	−75, 649
850 General purpose fiscal assistance	4, 100	4, 827
Committee total	452, 312	37, 719
HOUSE POST OFFICE AND CIVIL SERVICE COMMITTEE		
300 Natural resources and environment	0	330
370 Commerce and housing credit	6, 900	6, 713
550 Health	0	−154, 839
600 Income security	20, 296, 620	12, 073, 150
800 General government	6, 329, 715	6, 329, 715
Committee total	26, 633, 235	18, 255, 069
HOUSE PUBLIC WORKS AND TRANSPORTATION COMMITTEE		
270 Energy	278	1, 650, 278
300 Natural resources and environment	34, 674	42, 385
400 Transportation	8, 790, 700	−5, 024
450 Community and regional development	46, 363	46, 084
Committee total	8, 872, 015	1, 733, 723
HOUSE SCIENCE AND TECHNOLOGY COMMITTEE		
250 General science, space, and technology	5, 200	2, 993
270 Energy	20	20
300 Natural resources and environment	11, 297	11, 297
800 General government	0	1
Committee total	16, 517	14, 31
HOUSE SMALL BUSINESS COMMITTEE		
450 Community and regional development	1, 000	0
Committee total	1, 000	0

House committee and function	Fiscal year 1979	
	Budget authority	Outlays
HOUSE VETERANS' AFFAIRS COMMITTEE		
700 Veterans benefits and services	1, 066, 316	720, 429
Committee total	1, 066, 316	720, 429
HOUSE WAYS AND MEANS COMMITTEE		
500 Education, training, employment, and social services	723, 721	0
550 Health	32, 028, 000	28, 655, 301
600 Income security	119, 848, 510	111, 852, 562
800 General government	4, 025	4, 025
850 General purpose fiscal assistance	465, 000	465, 000
900 Interest	59, 921, 000	59, 921, 000
Committee total	212, 990, 256	200, 897, 888
UNASSIGNED TO COMMITTEES		
050 National defense	−412, 204	−412, 204
150 International affairs	−9, 130, 591	−9, 130, 591
250 General science, space, and technology	41, 921	47, 682
270 Energy	−988, 159	−988, 159
300 Natural resources and environment	−2, 061, 206	−2, 074, 333
350 Agriculture	−59, 213	−59, 213
370 Commerce and housing credit	−145, 071	−172, 545
400 Transportation	−44, 661	−44, 661
450 Community and regional development	−368, 876	−368, 876
500 Education, training, employment, and social services.	−8, 195	−8, 195
550 Health	−7, 780, 444	−7, 780, 444
600 Income security	−2, 567, 496	−2, 567, 496
700 Veterans benefits and services	−533, 064	−533, 064
750 Administration of justice	−8, 257	−8, 257
800 General government	−9, 110, 929	−9, 123, 662
850 General purpose fiscal assistance	−6, 897, 283	−6, 897, 283
900 Interest	−7, 484, 818	−7, 485, 713
950 Undistributed offsetting receipts	−18, 100, 000	−18, 100, 000
Committee total	−65, 658, 546	−65, 707, 014
Report total	559, 200, 000	494, 450, 000

House committee and function	Fiscal year 1980		
	Budget authority		Outlays
APPROPRIATIONS COMMITTEE			
050 National defense	137, 201, 128		124, 801, 174
150 International affairs	10, 756, 811		9, 193, 765
250 General science, space, and technology	5, 695, 901		5, 495, 966
270 Energy	4, 979, 478		6, 179, 478
300 Natural resources and environment	14, 359, 669		13, 506, 434
350 Agriculture	4, 963, 547		1, 569, 234
370 Commerce and housing credit	5, 471, 880		4, 415, 615
400 Transportation	10, 504, 440		18, 779, 230
450 Community and regional development	8, 907, 080		8, 274, 173
500 Education, training, employment, and social services	30, 091, 308		30, 486, 032
550 Health	30, 338, 796		30, 504, 445
600 Income security	56, 334, 369		37, 981, 583
700 Veterans benefits and services	20, 653, 275		20, 539, 459
750 Administration of justice	4, 200, 271		4, 405, 237
800 General government	7, 139, 598		7, 035, 920
850 General purpose fiscal assistance	6, 923, 219		6, 921, 001
800 Interest	0		449
920 Allowances	−100, 000		−100, 000
9			
Committee total	358, 420, 770		329, 989, 195
HOUSE AGRICULTURE COMMITTEE			
300 Natural resources and environment	243, 494		222, 695
350 Agriculture	99, 122		3, 893, 435
450 Community and regional development	12, 220		−8, 148
850 General purpose fiscal assistance	283, 458		283, 458
Committee total	638, 294		4, 391, 440
HOUSE ARMED SERVICES COMMITTEE			
050 National defense	−166, 927		−166, 973
(New Entitlemnnt Authority)		(99, 000)	
400 Transportation	30		30
700 Veterans benefits and services	12		12
Committee total	−166, 885		−166, 931

House committee and function	Fiscal year 1980		
	Budget authority		Outlay
HOUSE BANKING, FINANCE AND URBAN AFFAIRS COMMITTEE			
150 International affairs	691, 500		−169, 883
370 Commerce and housing credit	1, 513, 351		−1, 032, 094
450 Community and regional development	34, 976		67, 766
500 Education training, employment, and social services	0		−1, 931
550 Health	0		−187
600 Income security	39, 700		0
700 Veterans benefits and services	0		−20, 081
800 General government	3, 237		2, 804
900 Interest	7, 828		7, 828
Committee total	2, 290, 592		−1, 145, 778
HOUSE DISTRICT OF COLUMBIA COMMITTEE			
750 Administration of justice	8, 640		8, 640
Committee total	8, 640		8, 640
HOUSE EDUCATION AND LABOR COMMITTEE			
500 Education, training, employment, and social services	28, 461		25, 748
(New Entitlement Authority)		(−72, 000)	
600 Income security	5, 720		5, 758
(New Entitlement Authority)		(−509, 000)	
Committee total	34, 181		31, 506
HOUSE FOREIGN AFFAIRS COMMITTEE			
150 International affairs	10, 832, 506		8, 556, 935
370 Commerce and housing credit	5, 179		4, 995
600 Income security	247, 445		127, 927
Committee total	11, 085, 130		8, 689, 857

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(a) OF THE CONGRESSIONAL BUDGET ACT

[In thousands of dollars]

	House committee and function	Fiscal year 1980		
		Budget authority		Outlays
	HOUSE GOVERNMENT OPERATIONS COMMITTEE			
800	General government	1, 337		1, 295
850	General purpose fiscal assistance	6, 171, 156		6, 180, 263
	(New Entitlement Authority)		(−684, 000)	
	Committee total	6, 172, 493		6, 181, 558
	HOUSE ADMINISTRATION COMMITTEE			
250	General science, space and technology	76		74
500	Education, training, employment, and social services	5, 660		5, 728
800	General government	45, 750		50, 750
	Committee total	51, 486		56, 552
	HOUSE INTERIOR AND INSULAR AFFAIRS COMMITTEE			
270	Energy	12, 516		12, 516
300	Natural resources and environment	25, 602		30, 889
450	Community and regional development	268, 268		186, 357
800	General government	91, 204		90, 578
	(New Entitlement Authority)		(20, 000)	
850	General purpose fiscal assistance	602, 748		605, 158
	Committee total	1, 000, 338		925, 498
	HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE			
300	Natural resources and environment	0		80
370	Commerce and housing credit	24, 751		23, 005
400	Transportation	454		443
550	Health	4, 620		4, 779
	(New Entitlement Authority)		(74, 000)	
600	Income security	4, 381, 123		4, 783, 364
850	General purpose fiscal assistance	5, 387		5, 287
	Committee total	4, 416, 335		4, 816, 958
	HOUSE JUDICIARY COMMITTEE			
300	Natural resources and environment	178		178
370	Commerce and housing credit	15, 587		14, 876
600	Income security	7, 373		2, 330
750	Administration of justice	0		−4, 966
800	General government	152, 019		152, 019
	Committee total	175, 157		164, 437
	HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE			
300	Natural resources and environment	140, 122		107, 435
370	Commerce and housing credit	1, 000		2, 283
400	Transportation	308, 065		−52, 500
850	General purpose fiscal assistance	3, 700		4, 300
	Committee total	452, 887		61, 518
	HOUSE POST OFFICE AND CIVIL SERVICE COMMITTEE			
050	National defense:			
	(New Entitlement Authority)		(−111, 000)	
300	Natural resources and environment	0		330
370	Commerce and housing credit	7, 590		7, 245
550	Health	0		−129, 802
600	Income security	22, 740, 420		13, 672, 971
	(New Entitlement Authority)		(−110, 000)	
800	General government	7, 601, 000		7, 601, 000
	(New Entitlement Authority)		(72, 000)	
920	Allowances:			
	(New Entitlement Authority)		(−24, 000)	
	Committee total	30, 349, 010		21, 151, 744
	HOUSE PUBLIC WORKS AND TRANSPORTATION COMMITTEE			
270	Energy	15, 000, 000		1, 800, 000
300	Natural resources and environment	29, 579		30, 603
400	Transportation	9, 160, 000		−4, 214
450	Community and regional development	48, 758		49, 654
	Committee total	24, 238, 337		1, 876, 043
	HOUSE SCIENCE AND TECHNOLOGY COMMITTEE			
250	General science, space, and technology	5, 719		5, 651
270	Energy	20		20
300	Natural resources and environment	12, 171		12, 176
	Committee total	17, 910		17, 847
	HOUSE SMALL BUSINESS COMMITTEE			
450	Community and regional development	1, 000		0
	Committee total	1, 000		0
	HOUSE VETERANS' AFFAIRS COMMITTEE			
700	Veterans benefits and services	1, 089, 619		623, 516
	(New Entitlement Authority)		(629, 000)	
	Committee total	1, 089, 619		623, 516
	HOUSE WAYS AND MEANS COMMITTEE			
500	Education, training, employment, and social services	740, 148		0
	(New Entitlement Authority)		(756, 000)	
550	Health	35, 745, 000		31, 209, 181
600	Income security	134, 452, 815		130, 135, 032
	(New Entitlement Authority)		(42, 000)	
800	General government	4, 320		4, 099
850	General purpose fiscal assistance	306, 000		306, 000
900	Interest	65, 326, 000		65, 326, 000
	Committee total	236, 574, 283		226, 980, 312
	UNASSIGNED TO COMMITTEES			
050	National defense	−434, 201		−434, 201
150	International affairs	−9, 680, 817		−9, 680, 817
250	General science, space, and technology	−1, 696		−1, 696
270	Energy	−1, 192, 014		−1, 192, 014
300	Natural resources and environment	−2, 210, 815		−2, 210, 815
350	Agriculture	−62, 669		−62, 669
370	Commerce and housing credit	−139, 338		−235, 925
400	Transportation	−522, 989		−522, 989
450	Community and regional development	−372, 302		−469, 802
500	Education, training, employment, and social services	−15, 577		−15, 577
550	Health	−7, 988, 416		−7, 988, 416
600	Income security	−3, 408, 965		−3, 408, 965
700	Veterans benefits and services	−542, 906		−542, 906
750	Administration of justice	−8, 911		−8, 911
800	General government	−10, 638, 465		−10, 638, 465
850	General purpose fiscal assistance	−6, 195, 668		−6, 205, 467
900	Interest	−9, 333, 828		−9, 334, 277
950	Undistributed offsetting receipts	−19, 700, 000		−19, 700, 000
	Committee total	−72, 449, 577		−72, 653, 912

SENATE COMMITTEE ALLOCATIONS PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT, FISCAL YEAR 1979

[In billions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Budget outlays	Budget authority	Budget outlays
Appropriations Committee	353.6	313.1		
Agriculture, Nutrition, and Forestry Committee	.8	5.2	10.0	10.2
Armed Services Committee	(1)	(2)	10.4	10.4
Banking, Housing, and Urban Affairs Committee	.6	−.9		(3)
Commerce, Science, and Transportation Committee	1.1	(4)	.3	.3
Energy and Natural Resources Committee	1.2	1.2	.1	(5)
Environment and Public Works Committee	8.3	1.9		
Finance Committee	219.5	207.4	34.1	34.8
Foreign Relations Committee	7.2	8.3		
Governmental Affairs Committee	26.6	18.3		
Judiciary Committee	.2	.2	(5)	(5)
Labor and Human Resources Committee	4.3	4.5	3.6	3.4
Rules and Administration Committee	(6)	(7)		
Veterans' Affairs Committee	1.1	.8	13.1	13.4
Select Committee on Indian Affairs	.3	.2		
Select Committee on Small Business	(3)			
Not allocated to committees	−65.7	−65.7		
Total, budget	559.2	494.45	71.5	72.5

[1] Less than $15,000,000.
[2] Minus $11,000,000.
[3] Less than $5,000,000.
[4] Minus $3,000,000.
[5] Less than $45,000,000.
[6] Less than $50,000,000.
[7] Less than $10,000,000.

Note: Details may not add to total due to rounding.

SENATE COMMITTEE ALLOCATIONS PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT, FISCAL YEAR 1980

[In billions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Budget outlays	Budget authority	Budget outlays
Appropriations Committee	357.9	328.1		
Agriculture, Nutrition, and Forestry Committee	.5	4.3	11.3	11.1
Armed Services Committee	−.2	−.2	11.5	11.5
Banking, Housing, and Urban Affairs Committee	2.5	−1.4		
Commerce, Science, and Transportation Committee	1.3	(1)	.2	.2
Energy and Natural Resources Committee	1.0	.9	.1	.1
Environment and Public Works Committee	23.7	2.1		
Finance Committee	242.8	235.0	35.7	35.9
Foreign Relations Committee	11.1	8.7		
Governmental Affairs Committee	30.4	21.2		
Judiciary Committee	.2	.2	(2)	(2)
Labor and Human Resources Committee	4.4	4.9	3.7	3.6
Rules and Administration Committee	.1	.1		
Veterans' Affairs Committee	1.1	.8	14.1	14.1
Select Committee on Indian Affairs	.2	.2		
Select Committee on Small Business	(3)			
Not allocated to committees	−72.7	−72.7		
Total, budget	604.4	532.0	76.6	76.4

[1] Minus $3,000,000.
[2] Less than $50,000,000.
[3] Less than $5,000,000.

Note: Details may not add to total due to rounding.

SENATE COMMITTEE ALLOCATIONS PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT, FISCAL YEAR 1981

[In billions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Budget outlays	Budget authority	Budget outlays
Appropriations Committee	379.3	350.3		
Agriculture, Nutrition, and Forestry Committee	.7	6.5	12.2	12.0
Armed Services Committee	−.2	−.2	12.3	12.0
Banking, Housing, and Urban Affairs Committee	2.9	−.8		
Commerce, Science, and Transportation Committee	1.4	(1)	.2	.2
Energy and Natural Resources Committee	1.1	1.0	.1	.1
Environment and Public Works Committee	9.1	1.8		
Finance Committee	272.3	257.6	37.8	38.5
Foreign Relations Committee	12.1	9.6		
Governmental Affairs Committee	33.0	23.2		
Judiciary Committee	.2	0.2	.1	.1
Labor and Human Resources Committee	4.8	5.1	3.6	3.7
Rules and Administration Committee	(2)	(3)		
Veterans' Affairs Committee	1.1	.8	14.5	14.5
Select Committee on Indian Affairs	.3	.3		
Select Committee on Small Business	(1)			
Not allocated to committees	−77.7	−77.7		
Total, budget	640.3	577.7	80.8	81.0

[1] Less than $5,000,000.
[2] Less than $45,000,000.
[3] Less than $20,000,000.

Note: Details may not add to total due to rounding.

SENATE COMMITTEE ALLOCATIONS PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT, FISCAL YEAR 1982

[In billions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Budget outlays	Budget authority	Budget outlays
Appropriations Committee	401.4	370.9		
Agriculture, Nutrition, and Forestry Committee	.7	6.6	13.0	12.9
Armed Services Committee	−.2	−.2	13.6	13.4
Banking, Housing, and Urban Affairs Committee	3.2	−.8		
Commerce, Science, and Transportation Committee	1.5	(1)	.2	.2
Energy and Natural Resources Committee	1.2	1.1	.1	.1
Environment and Public Works Committee	8.2	1.4		
Finance Committee	306.2	281.4	40.0	40.8
Foreign Relations Committee	13.0	10.5		
Governmental Affairs Committee	36.1	25.6		
Judiciary Committee	.2	.2	.1	.1
Labor and Human Resources Committee	5.0	5.3	3.5	3.6
Rules and Administration	(2)	(3)		
Veterans' Affairs Committee	1.1	.9	15.0	15.0
Select Committee on Indian Affairs	.3	.3		
Select Committee on Small Business	(1)			
Not allocated to committees	−86.2	−86.2		
Total, budget	691.6	616.9	85.4	85.9

[1] Less than $5,000,000.
[2] Less than $45,000,000.
[3] Less than $10,000,000.

Note: Details may not add to total due to rounding.

SUPPLEMENTAL SECURITY INCOME DISABILITY AMENDMENTS OF 1979

Mr. CORMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3464) to amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. Corman).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3464, with Mr. Bennett in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. Corman) will be recognized for 1 hour, and the gentleman from New York (Mr. Conable) will be recognized for 1 hour.

The Chair recognizes the gentleman from California (Mr. Corman).

Mr. CORMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there as disabled supplemental security income (SSI) recipients, including severely disabled individuals, who, despite their handicaps, are desirous of working and reducing to the extent possible their dependence on the SSI program. Under present SSI law, however, there are substantial disincentives for disabled recipients, to seek or maintain employment.

Under current Federal SSI law and regulations, needy aged, blind and disabled individuals with income and resources below specified levels may qualify for a maximum Federal SSI cash benefit of $208 a month as of July 1, 1979. In most States, individuals who qualify for SSI benefits also qualify for medicaid and social services under titles XVI and XX. For employed SSI beneficiaries, cash benefits are gradually reduced as the individual's earnings, subject to certain disregards, increase.

Under present law, to qualify for SSI benefits on the basis of disability, an individual must be "unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." The Secretary of HEW is required to prescribe the criteria for determining when services performed or earnings derived from employment demonstrate an individual's ability to engage in substantial gainful activity (SGA). For 1979, the level of earnings established by the Secretary for determining whether a disabled individual is engaging in SGA is $280 a month.

The effect of the SGA test is to place an earnings limitation on disabled recipients which is lower than the point at which Federal SSI benefits paid to aged or blind recipients phase-out due to earnings. Moreover, the limitation results in a benefits "cliff" for disabled recipients. Rather than gradually phasing out of the program, as do the aged and the blind, the disabled individual loses all benefits when an earnings pattern in excess of $280 a month is demonstrated. Under current SSI provisions, (as of July 1, 1979) a disabled individual who earns more than $280 a month faces the loss of up to $1,200 in yearly Federal SSI payments plus the loss of any State SSI supplementation payments. In addition, he or she may lose social service assistance and medicaid.

Faced with this abrupt loss of income assistance, health care and social services, disabled individuals with employment potential are discouraged from seeking and accepting employment. Even those persons with a strong desire to work dare not risk the complete loss of medical care, income assistance and needed social services.

Another disincentive arises when a person who is determined to be disabled and eligible for SSI benefits subsequently gets a job and then loses SSI eligibility because of earnings in excess of the SGA limit. If he then loses his job, he may have to wait 2, 3, or more months before reestablishing eligibility for SSI payments. The prospect of going several months without earnings, SSI benefits, and possible medicaid coverage is a tremendous disincentive for many disabled individuals to seek employment.

For the purposes of reducing these work disincentives, H.R. 3464 would make the following changes in the SSI disability program, effective July 1, 1980:

With regard to SGA determination: The "substantial gainful activity" (SGA) earnings limit, currently $280 a month, would be raised to the level at which an individual's monthly countable earnings—that is, gross earnings minus specified disregards—equal to basic Federal SSI benefit for that month. Based on the July 1, 1979, monthly Federal SSI benefit of $208, under the bill the SGA earnings limit for that month would be $481 for a disabled individual with no excludable "impairment related work expenses." In determining countable earnings for purposes of the SGA earnings limit, an individual's gross monthly earnings would be reduced by the first $65 of such earnings and 50 percent of remaining earnings. Individuals whose disabilities are sufficiently severe to result in a functional limitation necessitating special assistance in order for them to work would be allowed an additional "impairment related work expense disregard." These severely disabled individuals would be allowed to reduce their countable earnings by an amount equal to the cost of specified services, devices or other items (not including routine drugs or routine medical services, unless those drugs or services are necessary for the control of the disabling condition) which, because of their disability, they must have in order to be able to work, regardless of who pays for the necessary services. This "impairment related work expense disregard" would be applied to an individual's earnings before the "50 percent of remaining earnings disregard" is applied.

In Summary, under the bill the following disregards would be allowed in determining countable earnings for purposes of SGA: the first $65 of monthly earnings; "impairment related work expenses" for certain severely disabled individuals; plus, 50 percent of remaining monthly earnings.

With regard to SSI payment determination: A "standard work related expense disregard" equal to 20 percent of gross earnings would be allowed in the determination of a disabled individual's monthly SSI payment. Individuals whose disabilities are sufficiently severe to result in a functional limitation requiring special assistance in order for them to work would be allowed an additional "impairment related work expense disregard" equal to the cost to the individual of any attendant care services, medical devices, equipment, prostheses, and similar items and services which are necessary for the individual to remain employed, whether or not such services or items are also needed to enable the person to carry out normal daily functions.

Under the bill, for purposes of determining the monthly SSI payment, the basic earnings disregards for a disabled individual would be:

The first $65 of monthly earnings—current law;

"Standard work related expense disregard" equal to 20 percent of gross earnings;

"Impairment related work expenses" of certain severely disabled individuals; plus

Fifty percent of remaining monthly earnings—current law.

The bill would also provide for disability status without SSI payments. A disabled SSI recipient would be allowed to retain disability status, without receiving SSI payments, for 12 months following termination of SSI benefits due to earnings in excess of the SGA limit. During this 12-month period, a person could immediately requalify for SSI payments if necessary because of a loss of or reduction in earnings. This 12-month period during which the individual would maintain disability status without SSI payments would follow the 9-month "trial work period," plus the 3 months allowed before actual termination of payments provided under present law.

In addition, a person who loses title II—disability insurance—or SSI disability status due to earnings in excess of the SGA limit would be considered presumptively disabled if he or she reapplies for SSI benefits within 4 years following the loss of disability status. Such an individual would begin receiving SSI payments immediately upon a determination that he or she meets the income and assets tests and would continue to receive benefits unless and until it was determined that the disability requirements were not met.

In addition to the changes in the SSI disability program summarized above, the bill contains the following provisions:

It would allow for certain SSI demonstration projects. The Secretary of HEW would be authorized to conduct experimental, pilot, or demonstration projects which, in his judgment, are likely to promote the objectives or improve the administration of the SSI program. The Secretary, however, would not be authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his or her participation in the project. The Secretary could not require any individual to participate in a project and would have to assure that the voluntary participation of individuals in any project is obtained through an informed written consent agreement which satisfies requirements established by the Secretary. The Secretary would also have to assure that any individual could revoke at anytime his or her voluntary agreement to participate.

The bill would modify current law pertaining to the deeming of parents' income to disabled or blind children. For purposes of SSI eligibility determination, the "deeming" of parents' income would be limited to disabled or blind children under 18 regardless of student status. Those individuals through 21 who are receiving benefits at the time of enactment would be protected against loss of benefits due to this change.

H.R. 3464 would modify current practices pertaining to the provision of decision notices for SSI applicants. The Secretary of HEW would be required to provide SSI applicants with a decision notice containing a citation of the pertinent law and regulations, a summary of the evidence, and the reasons for the decision on their application.

The bill would allow the continuation of SSI payments during participation in a rehabilitation program. An SSI beneficiary could not be terminated due to medical recovery while he or she is participating in an approved vocational rehabilitation program which the Social Security Administration determines will increase the likelihood that the person may be permanently removed from the disability benefit rolls.

I urge the Members of the House to vote in favor of this legislation.

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3464, a measure to modify the supplemental security income program as it relates to financially needy disabled individuals so as to overcome significant work disincentives now built into this Federal income assistance program.

The legislation would respond to seriously disabled individuals who, despite their handicaps, desire to work and thus to reduce their dependence upon SSI. I believe that this is a sound objective, and that the committee's legislation, while perhaps not completely satisfactory in every respect, is on balance a substantial improvement over current policy.

The core of the legislation, which is also its more costly element, is found in sections 2 and 3. These provisions would markedly increase the earnings level for determining substantial gainful activity, a principal eligibility criteria in the SSI disability program. In place of the current SGA limit of $280, which is set by regulation, the earnings limit would be raised to the level at which an individual's monthly countable earnings would be equal to the basic Federal SSI benefit. Based on the anticipated monthly Federal SSI benefit level for the year beginning July 1, 1979, the SGA earnings limit would be $481 a month for a disabled person with no excludable impairment-related work expenses. An individual whose handicaps require him to have special assistance in order to work would be allowed to deduct from earnings the cost of such specialized services or devices, resulting in a SGA level above the $481 monthly figure in such cases. In determining earnings capacity, no ordinary work expenses, such as transportation or uniforms would be deducted from earnings.

In addition to the earnings disregards already in law and the impairment related deductions discussed above, ordinary work expenses would be deductible, on a 20 percent of earnings, flat-rate basis, for purposes of calculating a disabled person's monthly SSI benefit.

Another element of this legislation would allow a disabled SSI recipient to retain disability status, without receiving SSI payments, for 12 months following termination of SSI benefits due to earnings in excess of the SGA limit. Furthermore, loss of disability insurance or SSI disability due to earnings in excess of the SGA limit would result in one's being considered presumptively disabled if he or she reapplies for SSI benefits within 4 years. These provisions are designed to encourage severely disabled recipients to attempt gainful employment. They seek to remove the fear that employment failure could result in their being without income or medicaid assistance for a protracted period.

Together, these measures seek to overcome current policies which significantly discourage severely disabled people from trying to work even if they earnestly desire to do so and believe they can fulfill certain jobs.

In my judgment, welfare reform of this character and direction warrants our support.

The legislation before the House contains a number of other provisions designed to improve the SSI disability program. They include: First, authority for SSI demonstration projects designed to promote the objectives or improve the administration of the program; second, a modification of the "deeming" practice as it relates to parents' income to disabled or blind children at certain ages; third, a requirement that a more informative decision notice be sent to SSI applicants; and fourth, a provision barring termination, on medical grounds, of an SSI beneficiary while he is participating in an approved vocational rehabilitation program.

Mr. Chairman, the cost estimates furnished by the Congressional Budget Office indicate that the provisions of this bill will increase budget authority and outlays by $63 million in fiscal year 1981—the first full year of implementation—rising to $158 million in fiscal year 1984. The bulk of these increases stem from the provisions relating to the SGA test and to the treatment of ordinary work expenses and impairment-related work expenses. I might note, however, that the Congressional Office acknowledges that cost estimates involving disability determinations are not as precise as we would hope they would be. CBO cautions:

> There is a paucity of information available on current disabled recipients and even less information is available on the potentially eligible recipients. In addition, it is difficult to predict the behavioral reponse of either recipients or administrators.

Accordingly, while supporting the enactment of these provisions, which are the product of extensive, careful deliberations by the Subcommittee on Public Assistance on Unemployment Compensation over 2 or more years, I urge that we thoroughly monitor their effects to be certain that they are accomplishing their purposes and that the associated costs are within acceptable perimeters.

Mr. Chairman, I urge my colleagues in the House of Representatives to adopt H.R. 3464.

● Mr. STARK. Mr. Chairman, it is with great pleasure that I rise in strong support of H.R. 3464, the Supplemental Security Income Disability Amendments of 1979.

There are now severely disabled individuals on the SSI rolls, who, depsite their handicaps, want to work—and want to reduce their dependency on the SSI program. The present SSI statute, however, sets major obstacles in the path of those SSI beneficiaries who are looking for work. This legislation eliminates these work disincentives.

There is one point that I would like to emphasize. H.R. 3464 is not going to give anybody a free ride. The goals of this legislation are, in fact, quite modest—to give severely handicapped individuals who want to work, but cannot without some help from the Federal Government, the chance to do so. For a handicapped person, the chance to work is a chance for independence—a chance to live with an added measure of dignity.

Under current law an individual who earns $280 a month is engaged in "substantial gainful activity" (SGA) and therefore not eligible for SSI benefits. A person who fails the SGA test faces the loss of up to $1,200 in yearly Federal SSI benefits plus the loss of any State SSI supplementation payments. In addition, he or she may lose social service assistance and medicaid. Even those persons with a very strong desire to work cannot dare risk the complete loss of medical care, income assistance and needed social services.

H.R. 3464 would increase the SGA earnings limit to the level at which earnings equal the basic Federal SSI benefit for the month. The test of an individual's ability to engage in substantial gainful activity would be adjust to coincide more closely with the normal phase-out point for Federal SSI benefits.

Under current law only the blind are able to disregard expenses reasonably related to the earning of income for purposes of determining eligibility for, and the amount of, SSI benefits. H.R. 3464 would allow the disabled to disregard "impairment related work expenses" for purposes of determining eligibility and the amount of benefits. These include the costs of attendant care, as well as the costs of wheelchairs, braces, and the costs of drugs and services necessary to control the disabling condition and permit the individual to work. The bill also provides for a "standard work related expense disregard" equal to 20 percent of gross earnings for purposes of determining the amount of monthly benefits for an eligible person. These new disregards do not give the SSI beneficiary any more net income. They are in the bill because the Subcommittee on Public Assistance found that for the handicapped the cost of working can exceed the earnings from a job. Not only does he or she have the normal work related expenses such as transportation and uniforms, but there may also be work expenses related to the impairment such as a specially adapted telephone or typewriter, a wheelchair, urinary appliances or attendent care.

Under current law, an individual who loses SSI eligibility because his or her earnings exceed the SGA limit must reapply as a new applicant in order to reestablish eligibility for SSI benefits. A new medical determination must be made. A person who went off SSI because of his earnings could lose his job and then have to wait 2, 3 or more months before reestablishing eligibility for SSI and in many cases social services and Medicaid. Because of their handicaps disabled persons often cannot be sure that they will be able to remain in the work force once they leave the SSI rolls. The chance of having to go for months with nothing to fall back on is a major work disincentive—one which I have been concerned about for some time.

Last year I introduced legislation to correct this problem—legislation which passed the House overwhelmingly but never made it to the Senate floor. This year I introduced the same bill. Over 90 Members of the House joined me as cosponsors. I am particularly pleased to report that H.R. 3464 contains the provisions of my bill. It provides that a disabled person would retain disability status, without receiving benefits, for 12 months following termination of SSI benefits on account of earnings in excess of the SGA limit.

In addition, a person who loses SSI disability status because of earnings in excess of SGA would be considered presumptively disabled if he or she reapplies for SSI benefits within 4 years of the loss of disability status. Such a person would begin receiving benefits as soon as it was determined that he or she meets the income and assets test. Benefits would be terminated only when and if it was determined that the disability requirements were not met.

Mr. Chairman, this legislation puts people back to work. It mines a resource of talent and energy that has been sadly neglected in the United States—the millions of disabled Americans with the will to work. I urge my colleagues to vote for H.R. 3464.●

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Mr. CORMAN. Mr. Chairman, I yield back the balance of my time.

Mr. CONABLE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. CORMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. BENNETT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration (H.R. 3464) to amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3464.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT—SUBPENA IN CASE OF SECURITIES AND EXCHANGE COMMISSION AGAINST UNIFICATION CHURCH INTERNATIONAL

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Standards of Official Conduct:

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT,
Washington, D.C., May 31, 1979.

Hon. THOMAS P. O'NEILL,
Speaker, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: A subpoena issued by the Securities and Exchange Commission addressed to Mr. John M. Swanner, Staff Director, Committee on Standards of Official Conduct of the United States House of Representatives, was received by certified mail on May 31, 1979.

The supoena would require the deposition of Mr. Charles Kim taken before the Committee on Standards of Official Conduct on September 16, 1977.

The subpoena is forwarded herewith and the matter presented for such action as the House in its wisdom may deem appropriate.

Sincerely,

CHARLES E. BENNETT,
Chairman.

The SPEAKER pro tempore. The Clerk will read the subpena.

The Clerk read as follows:

[U.S. District Court for the District of Columbia, Civil action No. 79-1197]

SECURITIES AND EXCHANGE COMMISSION, VERSUS UNIFICATION CHURCH INTERNATIONAL, DEFENDANT

To: John Swanner, Staff Director, Committee on Standards of Official Conduct, U.S. House of Representatives, 2360 Rayburn Building, Washington, D.C. 20515.

You are hereby commanded to appear in (the office of the Committee on Standards of Official Conduct, 2360 Rayburn Building, Washington, D.C. to give testimony in the above-entitled cause on the 6th day of June, 1979, at 10:00 o'clock a.m. (and bring with you) Deposition of Charles Kim taken before the Committee on Standards of Official Conduct on September 16, 1977.

Mr. BENNETT. Mr. Speaker, I send to the desk a privileged resolution (H. Res. 296) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 296

Whereas, in the case of Securities and Exchange Commission vs. Unification Church International, pending in the United States District Court for the District of Columbia (Civil Action No. 79-1197), a civil subpoena was issued by said court and addressed to John Swanner, Staff Director, Committee on Standards of Official Conduct, U.S. House of Representatives, directing him to appear in the office of the Committee on Standards of Official Conduct, 2360 Rayburn House Office Building, at 10:00 antemeridiem on June 6, 1979, and to bring with him the deposition of Charles Kim taken before the Committee on Standards of Official Conduct on September 16, 1977: Therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That when said court determines upon the materiality and relevancy of the deposition called for in the civil subpoena then it shall be in order for John Swanner, Staff Director of the Committee on Standards of Official Conduct, to produce a certified copy of the depostiion for use by the Court, and it shall be in order for the said court, through any of its officers or agents, to inspect the original deposition, but the possession of said documents and papers by any Member, officer, or employee of the House shall not be disturbed or removed from its place of file or custody; and be it further

Resolved, That a copy of these resolutions be transmitted to said court as a respectful answer to the subpoena aforementioned.

The SPEAKER pro tempore. The gentleman from Florida (Mr. BENNETT) is recognized for 1 hour.

Mr. BENNETT. Mr. Speaker, this is a very simple resolution wherein the House, as is usual and customary in such cases, would make available to the courts, a deposition deemed to have been taken in executive session of the Committee on Standards of Official Conduct during the 95th Congress.

In fact it is only because it was taken in executive session that this resolution becomes necessary. If it were not executive session material it would be available under the provisions of House Resolution 10.

The deposition covered by the resolution is in fact already in the hands of the Securities and Exchange Commission, it having been released to them pursuant to committee action in the last Congress. That release, however, was conditional upon their using it solely for their own internal purposes. But now the SEC needs the material for a civil suit, so to remove the conditions the resolution is necessary.

Mr. Speaker, I urge adoption of the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

INTERNATIONAL BALLET COMPETITION

(Mr. HINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HINSON. Mr. Speaker, for the first time in our Nation's history, the world's most prestigious ballet competition will be held in the United States. And it will happen in Jackson, Miss., the capital of our State.

From June 18 to 30, the most promising young ballet talents in the world will compete for honors in the 1979 international ballet competition. Varna, Bulgaria, has hosted an international ballet competition nine times within the past two decades. Other international competitions are hosted by Tokyo and Moscow.

This Olympic-level event will attract dancers, coaches, and trainers from 2 dozen countries, the international press corps, and tourists from throughout the region, the Nation, and the world. They will come to get their first look at tomorrow's dance stars, and participate in a host of other activities. Past competitions have introduced to stardom such talents as Fernando Bujones, Ann Marie DeAngelo, and Mikhail Baryshnikov.

Competition is being sponsored in the United States by the New-York-based International Ballet Competition, Inc., a group which includes many distinguished names in the performing arts; and by Mississippi Ballet International, Inc., a nonprofit organization of prominent Mississippians formed for this purpose.

For the first time in its history, the event has the endorsement of the international dance section of the International Theater Institute-UNESCO, whose president and co-president are Yuri Grigorovitch, director of the world-famed Bolshi Ballet, and Robert Joffrey, director of America's prestigious Joffrey Ballet. Grigorovitch and Joffrey will be in Jackson throughout the competition as cochairmen of the judges' panel. The judges' panel will be made up of 14 ballet experts, each representing one country. Countries represented will be: Australia, Belgium, Bulgaria, Canada, Czechoslovakia, Cuba, Denmark, France, Hungary, Japan, United Kingdom, United States of America, Union of Soviet Socialist Republics, and Venezuela.

National Educational Television has an interest in the program and may film it for national distribution.

The city of Jackson and the State of Mississippi are extending their full cooperation. The Governor of Mississippi, Cliff Finch, has termed the competition as "Mississippi's outstanding cultural event." The mayor of Jackson, Dale Danks, has pledged the city's full support. Lt. Gov. Evelyn Gandy will serve as honorary chairperson to the advisory committee. State, city, and county facilities are being provided along with financial assistance. The main competition events will be held in the Jackson City Auditorium.

A number of honored guests have been extended invitations. The President has been extended an invitation to the June 30 gala event and the First Lady has been extended an invitation to serve as honorary chairperson for the competition. Invitations have also been extended to Mr. Vinegradov, artistic director, Kirov Ballet, Moscow; Mr. Emil Dimietrov, director of Bulgarian International Ballet Competition, and the Princess Christina of Sweden.

Tickets for all performances and other competition events will be available to the general public.

Mr. Speaker, I am immensely proud of Jackson and of the hundreds of her citizens who are laboring long and hard to make the competition a success. I particularly want to recognize the work of the project coordinator, Mrs. Margie Tyler of the Mississippi Agricultural and Industrial Board; and the members of the board of directors of Mississippi Ballet International, Inc.:

BOARD OF DIRECTORS

Mr. Donald Lutken (Mississippi Power and Light).

Mayor Dale Danks (Jackson Mayor).

Mr. Walter Dennis (Pres. Hinds County Board of Supervisors).

Mr. George Williams (Mississippi A & I Board).

Mrs. Lida Rogers (Mississippi Arts Commission).

Mr. Harry C. Strauss (Pres.—Mississippi Ballet International).

Mrs. Rosalind Seabrook (Secretary—Mississippi Ballet International).

Mrs. W. T. Hogg (Vice President—Mississippi Ballet International).

Mr. Cecil Smith (Treasurer—Mississippi Ballet International).

Mrs. J. W. Underwood (Governor's Committee for the Arts).

Dr. Richard Freis (Millsaps College).

Dr. Norman McCrummen (Belhaven College).

Dr. Melvin Evans (Jacksou State University).

Mrs. Heber Simmons (Mississippi Ballet Theatre).

Mrs. Delia Stewart (the Mississippi Coast Ballet).

Ms. Thalia Mara (Jackson Ballet Guild).

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A CALL FOR A CARIBBEAN COALITION

The SPEAKER pro tempore (Mr. ATKINSON). Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 60 minutes.

• Mr. REUSS. Mr. Speaker, the time is ripe for a Caribbean coalition, based on respect for human rights and for human progress. It would include all the lands that center upon this great inland sea—the United States and Canada, the Bahamas, Cuba, Haiti, and the Dominican Republic, Puerto Rico, the Leeward and Windward Islands, Jamaica, Trinidad, the newly emerged Surinam and Guyana, Venezuela and Colombia, the Central American countries, and Mexico.

The impetus toward a cooperative coalition must come—and in fact is now coming—from the lands to the south of the United States. But the United States should be quick to lend a receptive ear and a helping hand to the process.

The Caribbean coalition that I envisage would be informal and practical. Its politics should steer clear of military pacts and special alliances. Its economics should stress jobs and reasonble prices and a steadily increasing standard of living, rather than fancy constructs like common markets or free trade areas.

The time is ripe for a Caribbean coalition, I suggest, because, despite difficulties, progress is discernible both in politics and in economics.

Politically, it is true that the area contains a leading totalitarian regime of the left, Castro's Cuba, and four plutocratic dictatorships of the right which lie between Costa Rica and Mexico. But it also contains the model democracy of Costa Rica, the refreshingly democratic governments of such former British possessions as Jamaica, Trinidad, Barbados, and Guyana, and the stable and basically democratic governmental structures of Venezuela, Colombia, and Mexico. More, the political air has been recently cleared by the Panama Canal Treaty.

Economically, it is true that the area contains the hemisphere's three poorest countries—Haiti, Honduras, and Guyana—and vast numbers of miserably poor people even in such mighty lands as Colombia and Mexico. But it also contains example after example of hopeful coping with economic adversity, largely sparked by the Inter-American Development Bank, now in its 20th year, and by national aid programs such as those of the United States and Venezuela. The area contains the oil and gas, the nickel, the bauxite, so much else we dearly need.

What would be the business of a Caribbean coalition?

In the political field, as I have said, there must be vigorous support of democracy and human rights. Canada and the United States have in recent years made these an increasing part of their foreign policy toward the area.

Recently, Mexico, Costa Rica, and Panama have had severe censure for Nicaragua and its genocidal civil wars. Countries which scanted human rights in days gone by, such as the Dominican Republic, are now vastly improving their protection of basic rights.

For the United States, I would hope that our support for human rights would not get off the track by any felt necessity to break diplomatic relations with countries which deny them. To speak specifically of Nicaragua, I would hope that we would make no effort to discontinue diplomatic representation, but instead maintain an open door policy designed to lead to freedom for its tortured people.

At the other end of the political spectrum lies Cuba. There the rupture of relations between the United States and Cuba 20 years ago has not worked. Cuba still lacks political freedom, it is still firmly allied with the Soviet Union, and its African adventures continue to be of concern to the United States. But no unbiased observer can put aside the improvements in education, health, housing, jobs, and the general standard of living under the Castro regime.

The beginnings of normalization between the United States and Cuba were undertaken in 1977 with the establishment of Cuban and United States interest missions.

Almost all the democratic countries of the Caribbean area today recognize Cuba. Just the other day Castro was accorded a royal welcome by Mexico's President Portillo. Cuba's recent conduct in Africa has been more moderate. And its release of political prisoners a few months ago created a widespread good impression.

As an incident to a Caribbean coalition, the United States would do well to resume full diplomatic relations with Cuba, as we have done with adversaries of much more serious stature such as China and the Soviet Union.

By excluding Cuba, we give Castro the leadership in his self-styled Afro-Latin policy. We of the United States, with 10 percent of us of African descent, and another 10 percent of Latin American extraction, ought not to be bashful about an Afro-Latin policy of our own. Our making a pariah out of Cuba merely convinces many of the Caribbean people that we are against Afro-Latins, or against their economic and social organizations as well.

Full normalization of relations with Cuba will not be easy. And the negotiation of reciprocal claims, and of trade policy, will take time.

There is much to trade. Cuba needs U.S. industrial machinery, tractors, computers, spare parts, and medicines. Why should the United States cut off these export markets, and instead leave them to the Soviet Union, Europe, and Japan? Cuban nickel alone, for which American smelters lie handy, would make a noteworthy exchange.

Most important of all, normalization with Cuba would open up Cuba to ideas and influences that are now effectively blocked out, and could lead to a gradual increase of freedom for the Cuban people. It is madness that Cuban young people now perforce attend universities only in the Soviet-bloc countries. Why not open our own society to their training?

So much for the Caribbean political sphere. What about economics?

A good first step would be the speedy fifth replenishment of that excellent organization, the Inter-American Development Bank. The IDB, to its credit, is increasingly emphasizing the Caribbean area.

Last week, along with Representative Chalmers P. Wylie, a ranking minority member of the House Committee on Banking, Finance and Urban Affairs, I attended the 20th annual meeting of the IDB, in Jamaica. In addition to inspecting some IDB-funded rural development projects, I had an unparalleled opportunity to discuss issues relating to the political, social, and economic development of the Caribbean countries with leaders from throughout the area.

In his annual report to the 41 Governors of the IDB, President Antonio Ortiz Mena pointed out that the Bank approved a record volume of new loans in 1978, with special emphasis on the poorest countries of Latin America and the Caribbean, and the poorest groups of their citizens. The fifth replenishment will aim at enlarging the share of the Bank's lending aimed at the poorest from its present 35 to 50 percent. This is particularly necessary, Mr. Ortiz Mena pointed out, because of the problems the region is facing due to the rise in oil prices and the unstable demand for basic products. He said:

> Economic growth must be accompanied by firm income distribution policies.

The IDB, in my judgment, should be one of the cornerstones of the Caribbean coalition. But we need also some new economic thinking, thinking that goes beyond traditional aid programs.

Part of the rethinking should involve reordering modest portions of our U.S. farm policy, where present policy keeps Americans from getting plentiful and inexpensive food, and disrupts Caribbean relations. We need to reconsider the U.S. restrictions placed on vine-ripened Mexican winter tomatoes, and on tropical cane sugar generally. We should lessen our impediments, and spend whatever small sums are needed to wean American beet sugar farmers and winter tomato growers into products which can compete in a free market.

Second, our international labor policy needs to be examined. As is well-known, we are host to millions of illegal workers from Mexico and the Caribbean area. Bereft of most social benefits, they still undertake work that most Americans will not. The problem is going to be solved neither by barbed wire fences on the Rio Grande, nor by the unlimited exploitation inherent in the illegal market. We might take a look at West Germany, which has prospered with huge numbers of workers from Southern Europe and from Turkey as guest workers, treated fairly and with dignity. The matter ought to be put high on the agenda of the new Caribbean coalition.

Third, take tourism. The lands of the Caribbean with their beaches, their mountains, their year-round climate in the seventies and eighties, are increasingly a mecca for upper-income American tourists. Cancun in Mexico, where the Gulf of Mexico joins the Caribbean, had 200 miserable inhabitants early in the 1970's. Today, as a result of the imaginative resort planning of the Mexican tourism agency, 25,000 Mexicans have good jobs servicing the hotels, growing the food, and doing the other things needed to support the tourism industry.

But the tourism industry may be tapering off. We may be running out of affluent visitors from the United States and Canada. And in any event, the season is only from December to April or so (even though the temperature around the inland sea is delightful the year round).

A solution helpful for the elderly of the North, the poor of the South, and taxpayers everywhere, commends itself. Why not let the nonaffluent elderly of the United States and Canada in on the joys of a benign year-round climate, with considerable savings in dollars and energy, and with a vast jobmaking and prosperity-inducing potential for the poorer lands to the South?

The United States and Canada could make available units of public and other assisted elderly housing in the Caribbean to United States and Canadian social security beneficiaries at a cost no greater, and probably a great deal less, than it would cost to build new housing units in Boston, New York, Detroit, Chicago, Milwaukee, Minneapolis, Calgary, or Montreal. Let any city in the colder regions which wants to provide the opportunity to such of its elderly citizens as wants it, locate some of its units for the elderly in Jamaica, in Mexico, or wherever.

Vast numbers of local jobs could be provided by constructing one- or two-story garden units in agreeable locations. Great energy savings would be possible by not having to heat high-rise apartments in colder northern cities. Local jobs could be generated not only in building and maintaining the elderly housing, but in producing fruits, vegetables, poultry, fish, beef, and pork for the new permanent residents, and providing health and recreational services. Higher local incomes would soon translate into more demand for United States and Canadian goods.

A U.S. retiree, with a social security benefit and public housing entitlement, could live like a king, and at the same time solve so many of the economic problems of the host country.

The project, of course, is much bigger than anything that can be handled just by HUD or the Department of State, or by the cities of the North, or by the countries to the South. But a Caribbean coalition, in which problem-solving is the goal, could bring it off.

Fourth, concerning the economics of energy, the Caribbean coalition could provide a model for much of the world. By concentrating on solar power, the Caribbean coalition could truly find its place in the Sun.

The region's oil-importing countries—everyone but Venezuela, Mexico, and Trinidad—face a particularly fearful problem of escalating electricity costs as the price of oil inevitably increases. Surely small-scale solar-power electricity—from photovoltaic cells and from wind generators—is what makes much sense here. The Sun shines bright—ideal for photovoltaic; and the winds blow strong—ideal for wind generation. And since photovoltaic and wind generation are decentralized, as opposed to massive centralized coal, oil, or nuclear-powered electric generators, photovoltaic and wind are ideally suited to the islands and small countries to the South.

The United States has been inexcusably lethargic in creating a progressively larger market for photovoltaic and wind electricity, as Barry Commoner points out in his remarkable new book "The Politics of Energy," published today. With the Caribbean coalition as a broader market, there is even less reason for further U.S. delay.

Moreover, the appropriate use of the Sun stands out in many other examples of coalition economics. If the United States, for example, should decide to give both its consumers and the cane-sugar lands to the South a break by buying more of their inexpensive cane sugar, we will still have the problem of United

States' high-cost sugar beet farmers. But sugar beets are a prime source of alcohol to make gasohol for the next 30 years or so as we phase down on our use of oil for transportation; and their distillery residues make excellent feed for cattle. Beets could thus be an apt renewable source of solar energy.

Or take the elderly housing suggestion made above. Instead of heating high rises in the frozen North with nonrenewable oil, coal, or gas, why not help our senior citizens who wish to move to the South of the Caribbean, and let the Sun do the heating?

So there is much to be done, politically and economically, by a Caribbean coalition. The wind is already starting to blow from the South. The United States should begin at once to reexamine our policies in such areas as agriculture, immigration, and energy. We should make clear that we are eager to join wholeheartedly in a preliminary conference, and to make the coalition a reality.●

MORE GASOLINE

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas (Mr. COLLINS) is recognized for 15 minutes.

Mr. COLLINS of Texas. Mr. Speaker, gasoline is a serious crisis in the United States today. Primarily the gasoline shortage is, because one-half of the oil the United States consumes is imported and the United States subsidizes foreign oil imports.

Five years ago when Congress established price control regulations, we were only importing $3 billion of oil. Last year the United States imported $42 billion of oil.

Congress established price regulations of oil 5 years ago. At that time, the price of crude oil was $5.50 a barrel. Official Libya price quoted is $21.3 which upped the Algerian and Nigerian price of $21 a barrel. Last week Ecuador sold 720,000 barrels at $36 a barrel with 45 bidders fighting to pay $36. The world price jumped in 5 years from $5.50 to $36 a barrel while the United States has price controls that have limited our domestic production so the United States buys foreign oil.

Regulations on energy have never worked. In 1954, the U.S. Government took over the price control of natural gas. With 25 years of gas price control, we have seen natural gas prices rise from 9 cents mcf in 1954 to $2.19 here in the United States.

Price control has never worked anywhere in peacetime in world history. Oil in 5 years has gone from $5.50 to $36 and gas under price control has gone from 9 cents to $2.19.

Regulations created the oil and gas shortage. Let us deregulate and increase domestic production so half of our oil will not be imported at $42 billion a year.

Mr. Speaker, energy is short. Gasoline is in short supply.

An excellent explanation was spelled out by Milton Friedman in this issue of Newsweek.

Here is the way that Friedman puts it on the line. Below are a few of the key lines from his excellent analysis:

> There is an energy crisis, there are gasoline lines, for one reason and one reason only. Because government has decreed that there shall be.
>
> Economists may not know much. But we know one thing very well: how to produce surpluses and shortages.
>
> Do you want a surplus? Have the government legislate a minimum price that is above the price that would otherwise prevail. That is what we have done at one time or another to produce surpluses of wheat, of sugar, of butter.
>
> Do you want a shortage? Have the government legislate a maximum price that is below the price that would otherwise prevail. That is what New York City and, more recently, other cities have done for rental dwellings, and that is why they all suffer or will soon suffer from housing shortages. That is why there were so many shortages during World War II. That is why there is an energy crisis and a gasoline shortage.
>
> There is one simple way to end the energy crisis and the gasoline shortage tomorrow—and I mean tomorrow and not six months from now, not six years from now. Eliminate all controls on the prices of crude oil and other petroleum products. The gasoline lines would melt faster than the snows of winter.
>
> Other misguided policies of government and the monopolistic behavior of the OPEC cartel might keep petroleum products expensive, but they would not produce the disorganization, chaos and confusion that we now confront.
>
> Gas would cost less: And, perhaps surprisingly, this solution would reduce the cost of gasoline to the consumer—the true cost. Prices at the pump might go up a few cents a gallon, but the cost of gasoline today includes the time and gasoline wasted standing in line, and hunting for a gas station with gas, plus the $10.8 billion annual budget of the Department of Energy, which amounts to around 9 cents per gallon of gasoline.
>
> Removing price controls would show how useless, indeed harmful, are the activities of James Schlesinger and his 20,000 employees. It might even occur to someone how much better off we were before we had a Department of Energy.

NCOA FETES USMC 1979 TOP SQUAD LEADERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BOB WILSON) is recognized for 5 minutes.

● Mr. BOB WILSON. Mr. Speaker, on Thursday, May 17, 1979, I was privileged to join the Non-Commissioned Officers Association of the USA (NCOA) in hosting a luncheon honoring the Marine Corps 1979 top squad leaders.

The affair was held in one of the Rayburn House Office Building dining rooms and was attended by the distinguished chairman of the House Armed Services Committee, the Honorable MELVIN PRICE; the committee's ranking majority member, the Honorable CHARLES E. BENNETT; Representatives STEVE SYMMS, ELDON RUDD, and ROBERT MCCLORY, all former marines; Gen. Robert H. Barrow, USMC, the new Commandant of the Marine Corps Selectee, now Assistant Commandant of the Marine Corps; and Sergeant Major of the Marine Corps John R. Massaro, USMC.

The top squad leaders, 10 sergeants in all, were at Marine Corps Base, Quantico, Va., competing their units against one another for the title of 1979 top Marine Corps squad. The sergeants were from the corps infantry regiments assigned to the United States, Hawaii, and Okinawa.

NCOA President Normand M. Gonsauls, San Antonio, Tex., presented each sergeant with a framed certificate, appropriate for the occasion, and wished them good luck in their final stages of competition.

The sergeants were:

Sgt. F. Arriola, Jr., 6th Marine Regiment;
Sgt. G. P. Fuller, 4th Marine Regiment;
Sgt. A. L. Gourlay, 1st Marine Regiment;
Sgt. M. A. Lahaye, 9th Marine Regiment;
Sgt. T. G. Lewis, 7th Marine Regiment;
Sgt. R. A. Lynam, 25th Marine Regiment;
Sgt. J. B. Raley, 8th Marine Regiment;
Sgt. R. P. Scriven, 2nd Marine Regiment;
Sgt. M. T. Swanson, 9th Marine Regiment; and
Sgt. J. C. Talley, 3rd Marine Regiment.

Chairman PRICE, Representative BENNETT, and General Barrow offered a few remarks. They lauded the NCOA for saluting these young Marines and for the association's efforts in behalf of the men and women of the Armed Forces.

After luncheon, our former colleague, the Honorable Fred Schwengel of Iowa, now president, U.S. Capitol Historical Society, led the sergeants on a tour of the Capitol.

Cohosts for the occasion were John R. Butz, NCOA Coordinator for Military Affairs, and Richard W. Johnson, Jr., NCOA Coordinator for Veterans' Affairs. NCOA Secretary-Treasurer and Director of Government Affairs, "Mack" McKinney, was master of ceremonies.

Joining the luncheon to salute the top squad leaders were:

John Stirk, representing Sen. Robert Morgan (NC).

Paul Skrabut, representing Sen. Harrison A. Williams (NJ).

BGen. Al Brewster, USMC, Marine Legislative Liaison.

BGen. R. A. Kuci, USMC, Director, Training Division.

Master Chief Petty Officer of the Navy Robert Walker, USN (also, member NCOA International Board of Directors).

Douglas Wilburn and Karen Heath, of my office.

BGen. George L. Bartlett, USMC Ret., Ex. Dir., Marine Corps Assn.

Col. George Dodenhoff, USMC Ret., Ex. Dir., Marine Corps Reserve Officers Association.

Col. Hazel Benn, USMC Ret., Women Marines Association.

Col. Phelps Jones, USA Ret., Director, National Security and Foreign Affairs, representing former Marine Eric Sandstrom, Commander-in-Chief, Veterans of Foreign Wars.

Col. Kirby Vick, USMC Ret., representing The Retired Officers Association.

Col. Milton B. Irons, USMC, president, Washington-Quantico Chapter, Third Marine Division Association.

Major Herb N. Harmon, USMCR, representing the Marine Corps Reserve.

Captain Cy L. Kammeier, U.S.M.C. Ret., Ex. Dir., Marine Corps League.

Sergeant Major E. L. Cassell, USMC Ret., member Board of Directors, National Association for Uniformed Services.

Sergeant Major Mort Landy, USMC Ret., Veterans Service Officer, Marine Corps League.

Ernie Garcia, representing Senator Bob Dole (KS).●

FEDERAL HOME LOAN BANK BOARD: THE BANKER'S BUDDY

The SPEAKER pro tempore (Mr. ATKINSON). Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, give to consumers with one hand and take from them with the other: This has become the new creed of at least one Government agency. Hiding behind the cover of its decision to aid consumers by raising the maximum allowable interest rate on savings accounts, the Federal Home Loan Bank Board took a more significant but less publicized action which will fuel inflation by adding significantly to the cost of owning a home. The Board's actions will add a few dollars to people's pocketbooks while adding billions to the already overflowing coffers of financial institutions.

This example of making token gestures to consumers while creating substantial benefits for lenders occurred on May 30, when the FHLBB, spearheaded by Chairman Robert McKinney, voted to allow all federally chartered thrift institutions to offer variable rate mortgages. These lending instruments are a new type of loan whose interest rates fluctuate over the life of a mortgage. Variable rate mortgages are currently permitted in California, and the experience there reveals that the rates do not fluctuate, they just remain on an ever upward path.

Thrift institutions have persistently contended that without the authority to offer this new type of loan, mortgage credit availability would be reduced and the housing needs of the Nation would not be met. Yet an argument that more funds will be generated by the existence of VRM's amounts to a confession that rates on these loans are certain to rise. These increases will boost the cost of homes, adding to inflation, and pricing families out of the housing market.

The significance of the Board's action is not just its effect on home buyers or the economy at large. It is yet another example of regulars singlehandedly seeking to usurp the role of Congress by making legislative decisions. Last fall, Chairman MCKINNEY vowed that he would restrict VRM's to California, but he has now bowed to pressure from the thrift industry and granted its long time wish, just weeks before he is scheduled to leave the Board. More recently, he had promised Members of Congress that he would delay any decisions on this issue until Congress completes its consideration of major changes in the regulation of financial institutions.

This turnabout raises fundamental questions about the powers of regulatory agencies. When these governmental bodies become more responsive to the wishes of those they regulate than to the demands of Congress, the time has come to seriously reevaluate their powers. Congress is already being forced to deal with problems created by a court ruling that bank regulatory agencies exceeded their authority in permitting new types of transaction accounts. To make a major decision on a matter of public policy currently under debate is more than an innocent effort of any agency to carry out its functions. It is a deliberate and inexcusable effort to undermine the power entrusted to the legislative branch by the Constitution.

I have already introduced legislation which would reverse the Board's decision by prohibiting variable rate mortgages, and I am confident that Members of this Congress, unlike the FHLBB, will look beyond the narrow interests of financial institutions to the broader needs of our economy and our constituents.●

TEXAS, CALIFORNIA MOVE TO BLOCK AMTRAK CUTBACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. COELHO) is recognized for 5 minutes.

● Mr. COELHO. Mr. Speaker, neither the House nor the Senate passed a resolution of disapproval for the Department of Transportation's Amtrak reorganization plan. I feel that was a mistake and something that the Congress will one day regret.

However, for the supporters of a national rail transportation system, there is still hope. Both the States of California and Texas have filed suit against the Department of Transportation to block implementation of the plan.

In light of this, Mr. Speaker, I insert an article entitled "Texas, California Move to Block Amtrak Cutback" published in the May 24, 1979, Washington Post, in the RECORD at this point:

TEXAS, CALIFORNIA MOVE TO BLOCK AMTRAK CUTBACK

(By William H. Jones)

Two states have gone to federal court in an attempt to block the Carter administration's plan for slashing Amtrak's national rail passenger network.

Unless either house of Congress acts by midnight to veto the administration proposal—a development that congressional leaders said yesterday was all but impossible—Amtrak is due to eliminate service over 43 percent of its routes as of Oct. 1.

But Texas Attorney General Mark White and California's Department of Transportation have filed lawsuits seeking to halt the rail system restructuring.

At the same time, Amtrak's business is continuing to balloon to record proportions as travelers worried about the availability of gasoline for their cars are overloading the passenger system's telephone reservation networks.

Last week, a record number of callers tried to reach Amtrak; of 2 million calls placed, 1.5 million could not be answered because of busy signals. Advance reservations now are 50 percent higher than at this time last year.

After studying these figures, as well as passenger ridership data for a number of trains now scheduled to be halted at the end of September, a growing number of representatives and senators also have begun to have second doubts about the Carter proposal.

Congressional staff members said yesterday that a major effort is being prepared to dump the Carter proposal later on the Senate and House floors—simply by introduction of amendments to Amtrak authorization bills, requiring that all current trains be continued until the impact on passenger ridership of the current energy crisis can be assessed.

An aide to Rep. Albert Gore (D-Tenn.) conceded yesterday that keeping all trains appears to be a "long shot," but several Capitol Hill staff members said they anticipate broad support for keeping many trains now slated for abandonment.

Texas Attorney General White argued, in a suit filed in U.S. District Court in Laredo, that some routes are to be dropped without providing adequate public comment. He also charged that the "history of Amtrak service in Texas is plagued with charges of inadequate and inefficient service . . . specifically Texas service has long been marred by inferior equipment, late trains, ridiculously low speeds, lack of facilities, circuitous routes, and most importantly, lack of cooperation by Amtrak executives and personnel."

U.S. DOT officials declined to comment on the suits until they are reviewed and an Amtrak spokesman expressed surprise that his firm was named in the suits, since DOT prepared the cutback plan.

Both the Texas and California suits charge that the U.S. Department of Transportation failed to provide an environmental impact statement in drawing up the Amtrak cutbacks—the same type of statements that government requires of corporations. DOT filed only a "negative declaration," contending the absence of any environmental impact.

But Susan Brown, a spokeswoman for the California DOT (Caltrans) said yesterday the federal DOT did not address such issues as increased energy consumption for auto travel, diversion of business, air pollution, employment losses, adverse impact on small business or any other environmental-related issue.

In addition, Caltrans charged in its suit that the Carter plan violates the Clean Air Act and the National Historic Preservation Act (22 railroad stations involved in the plan are historic buildings). Nor did the federal government comply with a congressional mandate to study the absence of alternative transportation in some communities affected, according to the suit, filed in U.S. District Court, in Sacramento.

Finally, the California suit alleges that a Constitutional issue is involved—the "right to travel," which would be eliminated for some people." ●

COMPREHENSIVE WINDFALL PROFITS TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

● Mr. COTTER. Mr. Speaker, on behalf of myself and Mr. LEDERER, Mr. SHANNON, Mr. STARK, and Mr. BRODHEAD, I am introducing a refined version of our comprehensive windfall profits tax. While many Members are working to prevent the decontrol of crude oil—a goal that many of us share—it is prudent to make sure that there is a strong but fair windfall profits tax available for consideration should this effort not succeed.

The bill we are introducing today has the following features:

It taxes windfall profits at an 85-percent rate;

It continues the monthly adjustment to the basic price for "old" and "new" oil;

It raises more than $61.5 billion over a 6-year period from both windfall profits and Federal income tax;

It prohibits the use of depletion or intangible drilling to offset windfall profits;

It continues the tax beyond 1981;

It places an "OPEC tax" of 85 percent on oil that would otherwise escape taxation. The purpose of this new tax is to prevent artificially high profits on U.S. oil that results from future price increases imposed by the OPEC oil cartel above the rate of inflation; and

The tax begins June 1, 1979.

The new bill has an effective Federal tax rate of 75 percent while the President's Federal tax rate is at a maximum 34 percent. To these effective Federal tax rates an additional 5 to 8 percent must be added for State sales and severance taxes. This figure is variable because oil companies can reinvest profits in currently expensed items thereby reducing their state tax liability.

Since we allow a deduction for Federal and State taxes that has been traditional in all tax legislation, the effective tax rate of 7 percent does not equal the 85 percent official rate. However, it is still significantly higher than the President's alternative, which is 34 percent.

One major fact stands out. Our proposal raises $61 billion over a 6-year period while the President's proposal raises only $34.6 billion. These totals are the combination of increased Federal income tax and windfall profits tax.

The strength of our windfall profits tax can easily be seen by comparing the impact of a windfall profits tax alone in 1982. Our windfall profits tax taxes $7.6 billion while the President's raises only $3.4 billion.

We urge our colleagues to join us on this bill. This legislation is not designed to be punitive but to insure there will be adequate Federal revenues to help low and moderate income families who are now experiencing higher oil prices, increased energy R. & D. programs, mass transit, and other worthwhile programs that many of us believe to be desirable.

Joint Committee on Taxation Estimates of the Windfall Profits Tax Proposed by President Carter and Cotter, Lederer, Shannon, Stark & Brodhead

The Joint Committee on Taxation estimates have been made on a model which attempts to take into account the various "feedback" effects on revenues resulting from changes in oil drilling and oil production in response to both decontrol and a windfall profit tax.

The enclosed tables show, for each proposal, the gross amount of windfall profit tax collected in each calendar year through 1984 (line 1) and the change in income tax receipts resulting from imposition of the tax (line 2). (Income taxes change both because the windfall profit tax is deductible and because it changes oil drilling, oil production and such other deductible costs as State income and severance taxes.) The net increase in recepits from the windfall profit tax (line 3) is the gross tax minus the reduction in income tax receipts. In addition, the tables show the revenue gain from disallowing percentage depletion on the windfall profit (line 4) and the combined revenue impact of that change in the income tax and the windfall profit tax itself (line 5). The tables also show the effective windfall profit tax rate, measured relative to a comprehensive tax on the entire deregulation profit and the additional oil company revenues from future oil price increases above $16 per barrel (line 6). Finally, there is an estimate of the additional income tax collected solely as a result of decontrol of oil prices (line 7). This revenue is in addition to any revenue from a windfall profit tax.

In each case, the estimates assume that the President's phased decontrol program goes into effect as planned; and the tables show the change in revenues, compared to present law, resulting from the imposition of various windfall profit taxes. A $17.50 world oil price, adjusted for inflation, is assumed.

COTTER, LEDERER, SHANNON, STARK, AND BRODHEAD PROPOSAL—ESTIMATED REVENUE EFFECTS FROM DECONTROL OF CRUDE OIL PRICES AND WINDFALL PROFIT TAX

[Millions of dollars]

Windfall profit tax	1979	1980	1981	1982	1983	1984
1. Gross windfall profit tax	0	5,840	11,165	13,679	13,556	13,514
2. Income tax decrease resulting from imposition of windfall profit tax.	−71	2,500	4,963	6,280	6,541	6,889
3. Net revenue gain from windfall profit tax after reduction in Federal income tax.	71	3,340	6,203	7,398	7,016	6,625
4 Tax increase from disallowing depletion on windfall profit.	0	116	215	239	210	195
5. Net effect on Treasury receipts from windfall profit tax.	71	3,456	6,417	7,637	7,225	6,819
6. Effective tax rate	0	0.789	0.771	0.756	0.734	0.710
7. Memo: Increase in income tax resulting from decontrol.	237	2,192	5,147	6,858	7,418	8,116

Source: Joint Committee on Taxation.

PRESIDENT CARTER'S PROPOSAL.—ESTIMATED REVENUE EFFECTS FROM DECONTROL OF CRUDE OIL PRICES AND WINDFALL PROFIT TAX

[Millions of dollars]

Windfall profit tax	1979	1980	1981	1982	1983	1984
1. Gross windfall profit tax	0	2,037	5,029	6,172	5,700	5,813
2. Income tax decrease resulting from imposition of windfall profit tax.	−42	912	2,304	2,939	2,926	3,192
3. Net revenue gain from windfall profit tax after reduction in Federal income tax.	42	1,125	2,725	3,232	2,774	2,621
4. Tax increase from disallowing depletion on windfall profit.	0	79	177	196	161	153
5. Net effect on Treasury receipts from windfall profit tax.	42	1,204	2,902	3,428	2,934	2,774
6. Effective tax rate	0	.275	.347	.341	.309	.305
7. Memo: Increase in income tax resulting from decontrol.	237	2,192	5,147	6,858	7,418	8,116

Source: Joint Committee on Taxation.

Technical Explanation of Carter Windfall Profits Tax

Under the bill, an 85-percent windfall profit tax would be imposed on crude oil price increases resulting from either price control deregulation or from future OPEC price increases. The tax generally would apply to price increases in excess of the amount to which producers would have been entitled if the price control regulations which were effective prior to President Carter's phased decontrol program had been retained with adjustments for inflation.

The tax would apply to the first sale of domestically produced crude oil. It would apply to the difference between the actual selling price of the oil and the adjusted ceiling price (as of March 1979) for the oil, adjusted for inflation. The tax would apply both to oil which currently is subject to price controls, and to oil which presently is not regulated. Thus, it would apply to production from stripper properties. from wells located north of the Arctic Circle, and to "newly discovered oil."

TAXABLE OIL

The tax generally would be imposed upon the holder of an economic interest in the producing property, and would apply to the sale of all domestically produced crude oil.

Taxable crude oil would be classified in one of three tiers. The first tier, which would be subject to the greatest amount of tax, essentially would be the oil that now is priced as lower tier oil but which will be released to the upper tier and eventually deregulated under the Administration's pricing policy. The second tier would consist of oil that now is upper tier oil, oil exempted from the first tier tax by reason of the phase-out of that tier through the property's historic decline curve. The third tier, which would be subject to the lowest amount of tax, would include oil produced from stripper properties, "newly discovered oil," oil produced from qualified tertiary enhanced recovery projects, and oil produced from wells north of the Arctic Circle.

STRUCTURE OF THE TAX

The bill would subject three categories of oil to the 85-percent windfall profit tax rate. The oil subject to this tax would be:

(1) Oil above the historic decline curve of the property,

(2) Oil in excess of this decline curve, and

(3) Oil which presently is not subject to regulation, and which is not classified in either category or (2).

The tax rate would be 85-percent of the difference between the actual selling price of the oil, and the base price appropriate to its classification. For the first category of oil, the initial base price would be the March 1979 ceiling price of lower tier oil, which averages about $6.00 per barrel. For the second category of oil, that which now is classified as upper tier oil it would be the March 1979 ceiling price of upper tier oil, which averages about $13.00 a barrel. For the final classification, it would be $16.00 adjusted for quality and location differentials. In each instance the base price, with respect to which any windfall profit is measured, would be adjusted monthly for net increases in the consumer price index. The windfall profit subject to tax under the bill would be any amount by which the price of a particular barrel of oil exceeds its adjusted 1979 base price.

(*a*) *Lower tier tax*

The amount of oil subject to the lower tier tax would be the oil produced on a property in excess of the amount represented by its historic decline curve. Thus, the lower tier tax base would depend on a particular property's historic decline rate, and its production for a specific month. No exception from the lower tier tax base would be made for "marginal properties." However, the lower tier tax base would not include oil produced from stripper wells, or from qualified tertiary enhanced recovery projects.

(*b*) *Upper tier tax base*

The upper tier tax base would be equal to 85-percent of the difference between the actual selling price of that oil and the March 1979 upper tier ceiling price, adjusted for inflation. The upper tier tax base would include all oil produced from a property in excess of its historic decline rate or from a property which first produced oil after 1972. However, it would not include oil produced north of the Arctic Circle, stripper oil, or "newly discovered oil."

(*c*) *Tier 3 tax base*

The tier 3 tax base would apply to oil not covered by either of the first two tax bases, including oil produced north of the Arctic Circle, oil produced from stripper properties, and "newly discovered oil." The windfall profit on third tier oil would be 85-percent of the difference betwen the adjusted price, prescribed by Treasury regulations, at which uncontrolled crude oil of the same quality, grade, and location would have sold in December 1979 if the average landed price for imported crude oil were $16.00 a barrel, and the well-head sale price.

This phase of the tax would be permanent.

TAX CALCULATION

Taxpayers could deduct the increase in State serverance taxes in excess of what would have been imposed if the barrel had been extracted and sold in March 1979 at its base price. For this purpose, increases in the rate of serverance taxes after March 1979, would not be taken into account.

The windfall profit on a barrel of crude oil could not exceed net income attributable to that barrel. Net income for a taxable period would be determined by dividing taxable income from the property by the number of barrels of taxable crude oil produced from that property. Taxable income would be computed without any deductions for depletion, for the windfall profit tax, and for intangible drilling and development costs. However, the cost of drilling a dry hole on the property would be allowed as a deduction.

For purposes of determining percentage depletion under the income tax, gross income from the property would be reduced by the full amount of the windfall profit, not only the amount of the windfall profit tax, and taxable income would be determined without regard to the tax.

Generally, the purchaser of the crude oil would collect and pay over the windfall profit tax imposed with respect to the oil by deducting the amount of the tax payable to the producer.●

LEGISLATION FOR THE 13TH ALASKA NATIVE REGIONAL CORPORATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. Udall) is recognized for 5 minutes.

● Mr. UDALL. Mr. Speaker, I am introducing today H.R. 4300, by request, to amend the Alaska Native Claims Settlement Act of 1971 to provide an equitable distribution of land for the 13th Regional Corporation. I am joined by Mr. Lowry and Mr. Won Pat.

The 13th Regional Corporation is composed of Alaska Natives who were not residents of Alaska and who chose to enroll in a 13th region rather than to one of the 12 Alaska-based Native regional corporations. The Settlement Act provided that this regional corporation, if established, would share in the monetary benefits of the act, but not any land settlement.

The bill, which I am introducing by request, would authorize the establishment of a Commission to determine whether or not the 13th Regional Corporation should be entitled to land benefits under the Settlement Act.

I have grave doubts about the merits of this legislation, but I do think that this significant portion of the Alaska Natives are entitled to have their proposal before the Congress. I introduce the bill for that reason and do not wish the introduction of this bill to be taken as support for the proposition that the 13th region should be entitled to land benefits.●

INTRODUCTION OF BILL TO FULFILL U.S. COMMITMENT TO THE INTERNATIONAL SUGAR AGREEMENT (ISA)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Vanik) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, for over a year, the Congress unsuccessfully has been considering legislation to: First, provide for U.S. implementation of the International Sugar Agreement; and second, establish a long-range domestic sugar program.

I have serious doubts that the House of Representatives will approve a domestic sugar program this year. The programs which have been proposed are costly and will contribute to inflation. Moreover, interested parties continue to be divided on the main provisions of the bill. While I am willing to schedule markup of this legislation in my Ways and Means Trade Subcommittee, I am unable to vote for the bill in its present form.

I do support, however, U.S. implementation of the International Sugar Agreement. The United States led in the negotiation of this agreement throughout much of 1977. Stability in sugar trade is important for many of the world's poorer developing nations. Further, sugar prices in the range proposed by the International Sugar Agreement of 11 cents to 21 cents per pound—raw value—will benefit U.S. producers and consumers over the long run. The Congress should support the administration's leadership in negotiating this agreement; we should enact title I of the various sugar bills so that the United States is a "good faith" participant in the ISA. Passage of this title is important for the success of American economic foreign policy goals.

Therefore, I am today introducing as a separate bill title I of H.R. 2172. I hope that the House will adopt this single title.●

TOGETHER ON GAS PRODUCTION

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, on May 29, the Washington Post ran an article by the emminent columnist, Joseph Kraft in which he discussed the current gasoline shortage.

Mr. Kraft was certainly correct in asserting that Government partnership with industry in the production of synthetic gasoline is an idea whose time has come.

The technology to produce gasoline from coal, shale, tar sands, and other natural resources is available. We need no more experimentation and pilot plants. We need to get to producing gasoline now.

Yesterday, the president of a major oil company said on national television that gasoline will have to reach $1.50 a gallon before the oil companies start producing enough gasoline to meet the demands. Of course he was talking about gasoline from petroleum.

I think it is time we stopped playing into the hands of those who would strangle this Nation's energy lifeline and start producing synthetic fuels.

I insert the Joseph Kraft article in the Record:

[From the Washington Post, May 29, 1979]

Together on Gas Production

Thanks to gas lines and soaring prices, the irresistible power of an idea whose time has come is now on the verge of asserting itself in the American approach to the energy problem. The idea is government partnership with industry in the production of synthetic gasoline.

Known technical possibilities abound. Programs for putting them to work are now popping up all over Washington.

Among the technical possibilities, probably the most dramatic center around the use of coal as a base. The United States has hundreds of millions of tons of unused coal. The coal can easily be changed to methanol, which can then be treated to produce high-octane gasoline. Department of Energy officials figure synthetic gasoline produced that way could be sold commercially at about $1.30 per gallon.

Synthetic gasoline can also be produced from shale, and from tar sands, which are both plentiful in this country and abroad. Another potential source is dosing gasoline with various forms of alcohol to produce gasohol.

Price has been the principal obstacle to development of synthetic fuels. Before 1973, when gas was going for around 30 cents per gallon, there was no point in even thinking much about synthetics. The mushrooming of prices in 1974 set in motion some thought about government stimulus for more production. Among other people, Vice President Nelson Rockefeller and Sen. Adlai Stevenson developed proposals.

Even then, however, more conservation looked like a more attractive alternative than more production. As it happens, industrial users have cut back heavily on consumption of energy. Whereas it used to require about one-percent growth in energy consumption to yield a one-percent gain in gross national product, now a half-percent increase in energy consumption is enough to accommodate a one-percent rise in economic activity.

But experience since the Iranian troubles cut oil supplies last fall has revived the idea of stimulating more production for two reasons. First of all, it has become clear that while conservation is useful, it is no answer.

By accident or design, the oil exporting countries grouped in the OPEC cartel can always cut back production more than the importing countries can cut consumption. The present world shortage is apt to be repeated over and over again.

Moreover, prices have been rocketing upwards. Last week six different OPEC countries raised prices in a move capped by Algeria which drove the price of crude, which started this year around $12 a barrel, to $21 per barrel.

That increase will probably be generalized at an OPEC meeting in Geneva on June 26. The price of gasoline, now running at over 80 cents per gallon in the United States, will almost surely rise to over $1.25 before the year is out. So, synthetic gasoline could be competitive, provided a way could be found to ensure industry against sudden cuts in OPEC prices designed to wipe out the competition.

In these conditions there has been a sudden resurgence of interest in programs for government partnership with industry in the production of synthetic gasoline. The most advanced project is a bill put forward by Rep. William Moorhead (D-Pa.) that would amend the Defense Production Act of 1950 to provide up to $2 billion in guarantees for production of synthetic fuels.

The Moorhead bill passed the Banking Committee by a 39 to 1 vote on May 8. It will probably clear the House early next month, and then move on to the Senate.

The administration has a variety of programs for subsidizing synthetic crude production and gasohol. The proposed windfall tax on oil profits, for example, includes an Energy Security Fund that would make money available for new production.

Many private individuals and groups have been pushing the idea in various ways. Prof. Walt Rostow of the University of Texas has one plan. Felix Rohatyn, the financier who helped rescue New York City from bankruptcy, has another. A third is being circulated by three prominent Washington attorneys—Lloyd Cutler, Paul Ignatius and Eugene Zuckert.

Exactly which one of these proposals will prevail is not clear. Nor when. Free enterprise freaks, suspicious of any cooperation between government and business, oppose the plans root and branch. There is also opposition from consumer groups and inside the administration on the grounds that the oil industry will reap a bonanza.

But the 39 to 1 vote for the Moorhead bill in the Banking Committee reflects the political realities. Price hikes and shortages have demonstrated overwhelming support for the production answer to the energy problem. "In the next few weeks," an Energy Department official said the other day, "It's going to be a flood." ●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mrs. Spellman (at the request of Mr. Wright) for this week on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Reuss, for 1 hour, today to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. Whittaker) to revise and extend their remarks and include extraneous matter:)

Mr. Collins of Texas, for 15 minutes, today.

Mr. Bob Wilson, for 5 minutes, today.

(The following Members (at the request of Mr. Bailey) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Weaver, for 10 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Conyers, for 5 minutes, today.

Mr. Coelho, for 5 minutes, today.

Mr. Cotter, for 5 minutes, today.

Mr. Udall, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Murtha, for 5 minutes, today.

Mr. Barnes, for 10 minutes, on June 5, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Whittaker) and to include extraneous matter:)

Mr. Wydler.

Mr. Jeffries.

Mr. Hinson.

Mr. Collins of Texas.

Mr. McKinney.

Mr. Young of Alaska.

Mr. Bob Wilson.

Mr. Courter.

(The following Members (at the request of Mr. Atkinson) and to include extraneous matter:)

Mr. Anderson of California in 10 instances.

Mr. Gonzalez in 10 instances.

Mrs. Byron in 10 instances.

Mr. Rosenthal in 10 instances.

Mrs. Bouquard in five instances.

Mr. Hamilton in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Ms. Holtzman in 10 instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. Cavanaugh in five instances.

Mr. Daschle in two instances.

Mr. Pease.

Mr. Matsui.

Mr. Holland in five instances.

Mr. Edwards of California in five instances.

Mr. Fisher in 10 instances.

Mr. Ratchford.

Mr. Rostenkowski in two instances.

Mr. Wirth.

Mr. Weiss.

Mr. Vanik in two instances.

Mrs. Schroeder.

Ms. Oakar.

Mr. Kostmayer.

Mr. Rodino.

Mr. Harris.

Mr. Stokes.

Mr. Mineta.

Mr. Vento in two instances.

Mr. Miller of California in six instances.

Mr. Cotter.

Mr. Murphy of New York.

Mr. Fountain.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 709. An act to authorize appropriations for the Coast Guard for fiscal years 1980 and 1981, and for other purposes.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that the committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2805. An act to make technical and conforming changes to the financial disclosure provisions in the Ethics in Government Act of 1978.

ADJOURNMENT

Mr. MYERS of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 36 minutes p.m.) the House adjourned until tomorrow, Tuesday, June 5, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1731. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1979 and budget amendments for fiscal year 1980 for the District of Columbia (H. Doc. No. 96–138); to the Committee on Appropriations and ordered to be printed.

1732. A letter from the Secretary of Labor, transmitting the first semiannual report of the Inspector General of the Department of Labor, covering the period ended March 31, 1979, pursuant to section 5(b) of Public Law 95–452; to the Committee on Government Operations.

1733. A letter from the Secretary of Housing and Urban Development, transmitting the first semiannual report on the activities of the Office of Inspector General, Department of Housing and Urban Development, covering the period ended March 31, 1979, pursuant to section 5(b) of Public Law 95–452; to the Committee on Government Operations.

1734. A letter from the Deputy Secretary of Defense, transmitting the first semiannual report on the activities of the audit, inspection and investigative units of the Department of Defense, covering the period ended March 31, 1979, pursuant to section 8(a)(1) of Public Law 95–452; to the Committee on Government Operations.

1735. A letter from the Comptroller General of the United States, transmitting a report on the status of the recommendations proposed by the Commission on Government Procurement in December 1972 (PSAD–79–80, May 31, 1979); to the Committee on Government Operations.

1736. A letter from the Assistant Secretary of Housing and Urban Development for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1737. A letter from the Acting Administrator of General Services, transmitting a followup report on the recommendations contained in the final report of the President's Commission on Mental Health, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

1738. A letter from the Assistant Attorney General (Antitrust Division), transmitting a report on competition in the coal industry, pursuant to section 8 of the Federal Coal Leasing Amendments Act of 1976; to the Committee on Interior and Insular Affairs.

1739. A letter from the Acting Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Southwest Research Institute, San Antonio, Tex., for a research project entitled "Production Engineering Development and Demonstration of the Draft Power Sensor," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

1740. A letter from the Deputy Assistant Secretary of the Interior, transmitting a proposed plan for the use and distribution of Caddo judgment funds awarded in docket 226 before the Indian Claims Commission, pursuant to sections 2(a) and 4 of Public Law 93–134; to the Committee on Interior and Insular Affairs.

1741. A letter from the General Counsel of the Department of Energy, transmitting notice of a meeting relating to the International Energy Program to be held June 5–8, 1979, in Dusseldorf, West Germany; to the Committee on Interstate and Foreign Commerce.

1742. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting a report on whether authority, to allocate natural gas, which is not otherwise subject to allocation under subtitle A of title III of the Natural Gas Policy Act of 1978, is likely to be necessary to meet high-priority uses, pursuant to section 303(j) of the act (Public Law 95–621); to the Committee on Interstate and Foreign Commerce.

1743. A letter from the president, U.S. Railway Association, transmitting the third annual report on the performance of the Consolidated Rail Corporation, pursuant to section 307(b) of the Regional Rail Reorganization Act of 1973, as amended; to the Committee on Interstate and Foreign Commerce.

1744. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204 (d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1745. A letter from the Secretary of Housing and Urban Development, transmitting a statement of her Department's position with respect to proposed legislative changes in the application of the Davis-Bacon and related acts to the Department's programs; jointly, to the Committees on Education and Labor and Banking, Finance and Urban Affairs.

1746. A letter from the Comptroller General of the United States, transmitting a report on U.S. economic aid in the Middle East and Southern Africa (ID–79–23, May 31, 1979); jointly, to the Committee on Government Operations, and International Relations.

1747. A letter from the Under Secretary of Energy, transmitting a report on the potential for energy conservation in apartment buildings, pursuant to section 224 of Public Law 95–619; jointly, to the Committees on Interstate and Foreign Commerce and Banking, Finance and Urban Affairs.

1748. A letter from the Secretary, Federal Energy Regulatory Commission, transmitting final valuations of properties of carriers subject to the Interstate Commerce Act, pursuant to section 19a of the act; jointly, to the Committees on Interstate and Foreign Commerce and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Submitted June 1, 1979*]

Mr. PERKINS: Committee on Education and Labor. H.R. 4136. A bill to amend the Child Nutrition Act of 1966 to extend the authorization of appropriations contained in section 7 of such act; with amendment (Rept. No. 96–229). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted June 4, 1979*]

Mr. PERKINS: Committee on Education and Labor. Report pursuant to section 302(b) of the Congressional Budget Act of 1974; (Rept. No. 96–230). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. Report pursuant to section 4(b) of House Concurrent Resolution 107 (Rept. No. 96–231). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 3055. A bill to amend the Shipping Act, 1916, to strengthen the provisons prohibiting rebating practices in the U.S. foreign trades; with amendment (Rept. No. 96–232). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FRENZEL:

H.R. 4290. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment for purposes of the minimum tax of charitable contributions made by certain charitable trusts established by corporations; to the Committee on Ways and Means.

By Mr. RUDD:

H.R. 4291. A bill to enhance U.S. intelligence collecting capabilities by prohibiting the unauthorized disclosure of information concerning individuals engaged or assisting in foreign intelligence or counterintelligence activities, and for other purposes; jointly to the Permanent Select Committee on Intelligence, and to the Committees on Post Office and Civil Services, and Veterans Affairs.

By Mr. ABDNOR:

H.R. 4292. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. GIAIMO:

H.R. 4293. A bill authorizing the President of the United States to present a gold medal in recognition of Matthew Alexander Henson; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HARRIS:

H.R. 4294. A bill to amend the Immigration and Nationality Act to provide special immigrant status for certain retired officers and employees, and certain children and surviving spouses of officers and employees, of international organizations; to the Committee on the Judiciary.

By Mr. LUKEN:

H.R. 4295. A bill to amend the Clayton Act to protect against the growth of monopoly power of major petroleum companies and for other purposes; to the Committee on the Judiciary.

By Mr. MURTHA:

H.R. 4296. A bill to provide that, with respect to disaster loans made by the Small Business Administration in connection with the Johnstown flood of July 1977, $5,000 of each such loan shall be canceled and the interest rate shall be reduced to 1 percent; to the Committee on Small Business.

By Mr. RODINO (by request):

H.R. 4297. A bill to amend section 1875 of title 28, United States Code, with respect to the appointment and compensation of counsel for a juror claiming a violation by his employer of rights guaranteed by such section; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI:

H.R. 4298. A bill to amend the Internal Revenue Code of 1954 to provide that certain aggregation rules will not apply for purposes of determining whether distributions from purchase money pension plans are eligible for rollover treatment; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI (for himself, Mr. CORMAN, Mr. FISHER, Mr. HOLLAND, and Mr. ARCHER):

H.R. 4299. A bill to amend the Internal Revenue Code of 1954 to clarify the application of the investment tax credit to certain property used in maritime satellite communications; to the Committee on Ways and Means.

By Mr. UDALL (by request) (for himself, Mr. LOWRY, and Mr. WON PAT):

H.R. 4300. A bill to amend the Alaska Native Claims Settlement Act to provide an equitable distribution of land to the 13th Regional Corporation; to the Committee on Interior and Insular Affairs.

By Mr. BROOMFIELD:

H.J. Res. 349. A joint resolution to authorize the President to issue a proclamation designating July 22, 1979, through July 28, 1979, as "Puerto Rican Constitution Week"; to the Committee on Post Office and Civil Service.

By Mr. COURTER:

H.J. Res. 350. Joint resolution to authorize and request the President to proclaim the week of June 17 through 23, 1979, as "Product Safety Week"; to the Committee on Post Office and Civil Service.

H.J. Res. 351. Joint resolution to designate the year of 1979 as the "Food-for-Peace Year"; to the Committee on Post Office and Civil Service.

By Mr. MOLLOHAN:

H.J. Res. 352. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. LEACH of Iowa (for himself and Mr. LOEFFLER):

H. Res. 297. Resolution limiting the aggregate number of staff members employed by committees of the House of Representatives, and by joint committees of the Congress to assist Members of the House of Representatives, to the aggregate number of staff members so employed on September 30, 1977; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROOMFIELD:

H.R. 4301. A bill for the relief of Jacqueline M. Roe; to the Committee on the Judiciary.

By Mr. HANSEN:

H.R. 4302. A bill for the relief of Felicia Marie (Castillo) Smith; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 628: Mr. Howard.

H.R. 745: Mr. Weaver, and Mr. Hollenbeck.

H.R. 811: Mr. Gephardt, Mr. Heftel, and Mr. Kindness.

H.R. 827: Mr. Donnelly, Mr. Wolff, Mr. Yatron, Mr. Zeferetti, Mr. Scheuer, and Mr. Florio.

H.R. 1263: Mr. Alexander.

H.R. 1264: Mr. Kogovsek.

H.R. 1576: Mr. Frost, Mr. Hamilton, Mr. Jacobs, and Mr. Whittaker.

H.R. 1577: Mr. Frost, Mr. Hamilton, Mr. Jacobs, and Mr. Whittaker.

H.R. 1578: Mr. Frost, Mr. Hamilton, Mr. Jacobs, and Mr. Whittaker.

H.R. 1918: Mr. Heftel and Mr. Gonzalez.

H.R. 1959: Mr. St Germain, Mr. Whitehurst, Mr. Kemp, Mr. Cleveland, and Mr. Breaux.

H.R. 2077: Mr. Hollenbeck, Mr. McCormack, Mr. Pepper, Mr. Rinaldo, and Mr. Symms.

H.R. 2446: Mrs. Fenwick.

H.R. 3439: Mr. Gilman, Mr. Dougherty, Mr. Traxler, Mr. Pease, Mr. Wyatt, and Mr. Boland.

H.R. 3460: Mr. Leland, Mr. Cleveland, Mr. Gilman, Mr. Maguire, Mr. Trible, Mr. Tauke, Mrs. Chisholm, Mr. Mavroules, and Mr. Jeffords.

H.R. 3474: Mr. Clinger.

H.J. Res. 19: Mr. Ratchford, Mr. Campbell, and Mr. Fish.

PETITIONS, ETC.

Under clause 1 of rule XXII,

135. The SPEAKER presented a petition of the Executive Committee of the Western Conference of the Council of State Governments, Sacramento, Calif., relative to funding for the Federal-aid highway program, which was referred to the Committee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2444

By Mr. GRASSLEY:

—Page 9, after line 17, insert the following new subsection and redesignate the succeeding subsection accordingly:

(d) The Secretary shall assign to one of the principal officers appointed under subsection (a) responsibility for the promotion and coordination of programs of the Department which provide assistance to rural education. Such officer shall work with the Interdepartmental Education Coordinating Committee to coordinate such programs with related activities and programs of other Federal departments and agencies.

H.R. 3875

By Mr. BINGHAM:

—On page 26, line 16, strike out "$9,500,000" and insert in lieu thereof "$12,000,000".

By Mr. BONER of Tennessee:

—Page 5, after line 9, insert the following new subsection:

(e) Section 119(b) of the Housing and Community Development Act of 1974 is amended by aiding the following new sentence at the end thereof: "For the purpose of the preceding sentence, an urban county shall be considered as severely distressed and eligible for assistance under this section if it contains at least one area which—

"(1) has the levels of physical and economic distress set forth in the minimum standards referred to in the preceding sentence; and

"(2) was, before 1960, a city with a population of at least 50,000 persons."

By Mr. McKINNEY:

—Page 14, after line 22, insert the following new section:

ENERGY CONSERVATION

Sec. 210. The United States Housing Act of 1937 is amended by adding the following new section at the end thereof:

"ENERGY CONSERVATION

"Sec. 13. (a) In utilizing contract authority which is provided by section 5(c) and has been approved in appropriation Acts for use in the modernization of low-income housing projects (other than projects assisted under section 8) on or after October 1, 1979, the Secretary shall, to the maximum extent practicable, give priority to projects which will be modernized to a substantial extent with weatherization materials as defined in section 412(9) of the Energy Conservation in Existing Buildings Act of 1976.

"(b) The Secretary shall, to the maximum extent practicable, require that newly constructed and substantially rehabilitated projects assisted under this Act with authority provided on or after October 1, 1979, shall be equipped with heating and cooling systems selected on the basis of criteria which includes a life-cycle cost analysis of such systems.".

By Mr. HANSEN:

—Page 14, after line 22, insert the following new section:

LABOR STANDARDS AND ASSISTED HOUSING ACTIVITIES CONDUCTED BY NEIGHBORHOOD-BASED NON-PROFIT ORGANIZATIONS OR INDIANS

Sec. 210. Section 12 of the United States Housing Act of 1937 is amended by inserting the following before the period at the end thereof: ", except that the provisions of this section shall not apply to (1) a substantially rehabilitated project assisted under section 8 if such rehabilitation is carried out, directly or by contract, by a neighborhood-based non-profit organization, and (2) any project for families who are members of any Indian tribe, band, pueblo, group, or community of Indians or Alaskan Natives".

H.R. 4289

By Mr. MILLER of Ohio:

—On Page 67, after line 16, insert the following section:

Sec. 302. Of the total budget authority provided in this Act, for payments not required by iaw, five per centum shall be withheld from obligation and expenditure; *provided*, that of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed ten per centum.

SENATE—*Monday, June 4, 1979*

(Legislative day of Monday, May 21, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. Robert C. Byrd, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Blessed are the pure in heart: for they shall see God.—Matthew 5: 8.

Let us pray:

O Thou Ruler of men and nations, our Creator, Redeemer, and Judge, grant to us Thy grace that in this forum of democracy we may lift high the banner of freedom and carry it with courage and strength before the whole world. May Thy living word lodge deep in our minds and guide our actions.

Give us pure hearts to see Thee, stout hearts to bear our burdens, willing hearts to bear the burdens of others, and hearts that beat in unison with Thee that we may carry forward the divine intention for this Nation and the world.

A heart in every thought renewed,
And full of love divine,
Perfect and right and prue and good
A copy Lord of Thine.

—Charles Wesley

In the Redeemer's name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., June 4, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Robert C. Byrd, a Senator from the State of West Virginia, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. ROBERT C. BYRD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Alaska (Mr. STEVENS) is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings to date be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged to the time under my special order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOREN). Without objection, it is so ordered.

ENERGY: A REAL PROBLEM

Mr. ROBERT C. BYRD. Mr. President, many thousands of words have been spoken and written on the energy problems facing our Nation.

My purpose in speaking out at this time is not to add my voice to the policy debate. My position is fairly well known. I support the President's decision to gradually decontrol oil prices, because I believe that this is the only way to assure an adequate, stable, and sure supply of oil. I support the imposition of a meaningful windfall profits tax in the interests of fairness, and in order to provide revenues which should be used to increase research and development into alternate sources of energy, and to provide for development of mass transit.

My purpose is to comment on the course of the debate itself.

The energy problem is one which affects every single American. It is an overriding concern to all of them. It affects the worker's ability to get to and from the job. It affects the daily schedule of the housewife. It affects the ability of families to travel and make vacation plans. It affects the availability of heating fuels in the cold winter months. It affects the ability of factories and businesses to operate.

It affects the very growth of our Nation.

And—it affects the pocketbook of each and every one of us.

There is no doubt that the problem is real, but it has been difficult to pinpoint its causes—and, thus, doubly difficult to find the proper solutions.

And it has been difficult to make the American people believe that, indeed, there really is an energy problem.

But I am concerned that the confusion and frustration felt by so many of us when faced with problems which are hard to grasp and harder to tackle will lead to a mentality of panic and cynicism.

This attitude complicates the problem further.

It is my hope and my belief that the proper solutions will be found.

This is not the time for anyone to throw up his hands in despair.

The country has faced equally tough issues in the past. We have faced natural disasters, economic depression, and war; we have met the challenges and emerged stronger as a nation.

The Congress has faced the tough issues in the past.

The U.S. Senate has especially had the courage to face up to the tough issues. And the American people will have that courage once they really understand and are convinced that there is an energy problem.

It seems to me that all one needs to do to be convinced and to know that there is an energy problem is simply to look at the price tag that the American people are paying for imported oil. The price tag is $50 billion. That is $50 for every minute since Jesus Christ was born. Fifty billion dollars, and it is going to be more by the end of this year, probably $55 billion, or $60 billion—who knows—and it will not be long before it will be $100 billion. Think what that will do to the stability of the dollar; think what that will do to the balance of payments; think what that will do to the economy; think what that will mean to the security interests of this country.

The American people must be convinced that there is a problem. They must stop hearing optimistic reports one day and pessimistic forecasts the next day. One day, our problems are solved; the next day, everything looks bleak. They will have to hear a consistent, solid story, and it will have to be backed up by facts. Once they understand that the problem is there, I believe that the American people can stand up to the tough issues.

The energy problem, will be with us a long time, but I am confident that we can find ways to deal with it.

The good sense and good judgment of the American people, and of the policymakers—the decisionmakers elected by the people—must be given a chance to prevail.

The obstacle to a sound resolution of the energy issue which I most fear is a hardening of positions, a heightening of the rhetoric, a polarization of positions.

It has been said that politics is the art of the possible. It has also been said that politics is the art of compromise. Both are true. In this Government of freely elected representatives, every point of view imaginable is voiced on every conceivable issue. This is as it should be in a representative democracy such as ours.

But if room is not left for compromise, the continued functioning of the political system is not possible.

In other words, no solution is possible without compromise.

I believe that the American people understand this. They know that solutions are not painless, and they know that no solution is perfect.

So this is not a time for elected officials to take rigid positions. It is our responsibility to represent the national interest, to continue to look for answers on the issues of emergency standby rationing and conservation plans; on the issue of oil price decontrol; on the issue of an excess profits tax.

It is our responsibility to continue the dialog between the respective positions on all these issues until a solution is found.

The uncertainty of our energy future is a challenge which will be met, provided that the dialog continues.

In this way, the American people can be reassured that the Government deserves their confidence.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining on the leadership time and an additional 15 minutes under an order.

Mr. ROBERT C. BYRD. I yield 4 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. I thank the majority leader.

Mr. President, what the majority leader has just said is extremely interesting. It is interesting for several reasons.

I spent part of the last week in Tulsa, Okla., talking to a group of eminent oil experts, and in Eau Claire, Wis., pumping gas at a filling station.

Everywhere, the problem is that nobody knows the facts. We just do not know what our reserves are, what our inventories are, how much oil is available. It is a puzzling and perplexing situation.

In agriculture, we know. The Federal Government gives us the facts. We know, month to month, what our crop is, what is available. We know in equipment and in industry, but not in petroleum.

In fact, we take the word of the oil companies. They are good and decent people, and I am sure they are honest people, but they give us the facts as they see them from their own viewpoint.

The result is that the American people do not know what is going on. When they do know, as the majority leader has told us, we are likely to get far more support for whatever program the leadership in this body and the President of the United States propose.

But until the American people feel that they have the facts, told honestly, fully, and objectively, it will be very hard to rally the kind of support the Senator from West Virginia has called for so ably.

CURRENT STRATEGIC ALTERNATIVES

Mr. PROXMIRE. Mr. President, in the ongoing controversy over the need for and the deployment of the MX missile, well balanced, comprehensive analyses are a welcome source of education and information. Such an analysis is provided in an especially lucid article by Kosta Tsipis in the May issue of Technology Review.

Dr. Tsipis begins his discussion by analyzing our current triad of strategic weapons and the question of an emerging threat due to the introduction of new weapons systems by the Soviet Union. He addresses the possible responses to this threat in terms of alternatives which answer both to improved survivability of the U.S. strategic forces and to improved countersilo capabilities through upgraded characteristics of U.S. strategic missiles.

The alternatives suggested for improved survivability of our strategic weapons, 10 in number, range from doing nothing, strengthening our current systems, to a variety of basing modes for the proposed new mobile MX system. We are obligated to entertain and thoroughly examine this full range of possible responses, especially when the price tag for certain choices will easily run to tens of billions of dollars.

Mr. President, each of us could improve and broaden our understanding of the issues involved in the current MX debate and the developing SALT debate by studying the full range of options. I ask unanimous consent that the article by Dr. Tsipis be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The MX Missile: A Look Beyond the Obvious

(By K. M. Tsipis)

The bulk of the land-based strategic missile force of the United States consists of 1,000 Minuteman missiles housed in underground silos. Although the performance characteristics of this force have improved continuously since its initial deployment in 1960, maintaining it ahead of corresponding improvements in the Soviet land-based strategic missiles, the basic parameters of the Minuteman force have remained invariant, conveying the sense of confidence the U.S. has had in this robust and well-protected component of its strategic triad. Recently, however, the U.S. has been developing a new land-based intercontinental ballistic missile (ICBM) known as MX (Missile Experimental). In fact, the President is soon to announce his final decision regarding the exact complexion and rate of deployment of this new strategic system.

The proposed MX weapon system consists of a new ICBM and a new basing mode for the missile. The MX missile is designed to deliver more re-entry vehicles of higher yield with greater accuracy than the Minuteman III missile presently can (*see the table on page 57*). The basing of the missile would employ some combination of concealment, mobility, and blast and radiation shielding to protect the MX from a possible counterforce nuclear attack. Many potential basing modes have been considered, including:

Mobility in underground tunnels;

Mobility between supernumerary hardened shelters or silos;

Air launching from transport aircraft;

Deployment in modified Minuteman silos; and

Deployment in new "superhardened" silos.

The purpose of this article is to discuss briefly the impact of the basing mode for this new U.S. landbased intercontinental missile on our future strategic capabilities and arms-limitation efforts. The term arms limitation is used here in the context of two distinct goals.

To maintain strategic stability and avoid crisis instability.

To limit to the degree possible political and military reliance on large numbers of nuclear weapons. These goals are not always compatible and often cannot be satisfied simultaneously within a self-consistent strategic doctrine or even with regard to a single strategic weapon system. This article points out some inherent inconsistencies between a conservative approach to conceivable future contingencies and the ongoing arms limitation policy, and it attempts, by developing and analyzing alternatives to the MX, to examine various options beyond their merely technical problems and the performance characteristics of the components they incorporate. In this context the paper examines separately two key properties of MX that differentiate it from the existing ICBM force of Minuteman II and III, i.e., its proposed mobile and concealed basing, and its increased accuracy and payload—in particular its more numerous complement of (heavier) MIRVs—re-entry vehicles that can be separately targeted. The former is a response to the potential Soviet acquisition of hard-target kill capability with the deployment of the SS–18 and SS–19 ICBMs and the projected development of new guidance systems with greater accuracy for these or future missiles. But the latter would extend the U.S. capability for flexible response to include extensive assured countersilo kill capability, which is evidently contrary to the goal of stability that the mobile basing seeks to enhance. This internal inconsistency could very well induce the Soviet Union to deploy a similar system. Though at first glance this similarity appears to contribute to strategic stability, it will be seen that it introduces instability and uncertainty on a grand scale.

ANALYSIS OF A THREAT

The U.S. strategic forces consist of a triad of strategic-weapon vectors, namely land-based ICBMs, bomber aircraft capable of intercontinental ranges, and ocean-going nuclear-powered submarines, each equipped with 16 launchers of ballistic missiles. This last will start being replaced beginning in 1980, by the new Trident submarines, each carrying 24 launchers.

The land-based component consists of 550 Minuteman III missiles, 450 MM II missiles, and 54 Titan missiles, with the basic characteristic displayed in a table on page 6. The NS20 guidance system and the W–78 warhead that are now replacing existing components will reduce the MM III CEP, or circular error probability, to 0.1 nautical miles and increase the warhead yield to 0.35 megatons. At the present time, land-based missiles constitute the most accurate and flexible component of the U.S. arsenal in terms of command and control, but they carry only about 25 per cent of the total equivalent explosive megatonnage in the U.S. strategic arsenal.

Until the present time, the land-based force has been considered relatively well protected from a surprise Soviet attack. The deployed Soviet intercontinental ballistic missile force of SS–9 and SS–11 does not posses the accurracy, the yield, and the number of warheads necessary to destroy more than a small fraction of the Minuteman force—on the order of 10 per cent.

The Soviet Union, however, has developed, tested, and begun deploying a new class of ICBMs with improved accuracy, and more warheads of greater yield. These missiles are said to have the characteristics displayed on page 59.

The S.A.L.T. II negotiations, which have attempted to regulate the deployment of strategic systems in the U.S. and the U.S.S.R., appear to have set at this time (March, 1979) a sublimit of 800 MIRVed ICBMs on either side with a further sublimit of about 300 heavy MIRVed missiles such as the SS–9 or the SS–18. Since the total limit on land-based strategic launchers will be about 1300, it is possible that the Soviet Union will deploy up to 500 single warhead land-based ICBMs of the S–11, SS–17, or SS–19 class. Furthermore, some of the heavy missiles such as the SS–9 or the SS–18 could be deployed with one very large warhead with a yield of up to 20 megatons. Thus by 1985 the Soviet Union could deploy the land-based force shown at the bottom of page 59. Such a force could, in principle, permit allocation of up to six warheads against each Minuteman silo.

New missile silos can withstand considerable overpressures without suffering functional disruption, so attacking re-entry vehicles must explode very near the silo if they are to destroy it. On the other hand, the targeting of more than two warheads against the same point target appears to be impractical because of fratricide effects: the prompt electromagnetic and nuclear radiation pulse that accompanies a nuclear explosion can combine with the air turbulence and the dust and debris that are scattered into the atmosphere by the explosion of the warhead near the ground to destroy or disrupt a second re-entry vehicle arriving shortly after the first. If the first-arriving warhead is exploded high above the target, a second RV may be able to reach the target and explode on the ground if the timing of its arrival can be accurately pre-determined. But the uncertain fate of additional warheads scheduled to arrive at a point-target soon after a previous nuclear detonation makes it hard to conceive of the effective use of more than three RVs targeted against the same missile silo. At most two of them (the first fused to explode in the air, and the second on the ground) would be allocated against hardened point-targets such as MM silos, with a third sent against the same silo only as a confidence measure in case one of the other malfunctions. Standard calculations indicate that the kill probability of a single Soviet warhead against an MM silo after 1985 could be 46 percent and of two warheads 71 percent. Since the Soviet missiles are reported to have reliabilities no higher than 80 percent, the theoretical probability of destroying a MM Silo with a single Soviet warhead would be 36 percent, and that of two warheads 60 percent. If the Soviet Union indeed could achieve the hypothetical performance characteristics mentioned above, then after 1990 the kill probabilities of SS–18 and SS–19 RVs against a MM silo will be as shown in the table on page 60.

It seemingly follows that if the Soviet Union were able to achieve missile accuracy of 0.1 nautical miles after 1990, and proceeded to deploy several thousand RVs, the theoretical vulnerability of the Minuteman force would be, at least on paper, almost complete.

But such a conclusion requires not only the assumptions made above, but also the further (and drastic) assumption that the fate of the entire MM force can be calculated by multiplying the destruction probability of one missile in its silo by the total number of silos. This last assumption could lead to misleading results, for in addition to the uncertainties inherent in the modeling of an attack by a single weapon against one silo—uncertainties that are augmented by the fratricide effect if multiple weapons are to be used against one silo—this assumption does not make allowance for the uncertainties inherent in the complex operation of launching in a timely sequence hundreds of missiles that carry thousands of warheads cross-targeted on a large number of silos. Though the law of large numbers would tend to favor such an attack, the fact that statistical fluctuations will obtain, and that such an attack could be rehearsed but never tested in order to assess these fluctuations, points to the conclusion that *any* analytical calculation of damage to an entire land-based force of ICBMS will have a much lower confidence level than the calculation of single-silo vulnerability. In addition, such variables as the weather conditions over each target, the state of the ground at different silos sites, and the state of preparedness of the targeted silos, to mention but a few obvious factors, may affect the outcome of an attack in a systematic but unpredictable way above and beyond the random statistical fluctuations. Therefore, even the possession by one nation of a large number of very reliable launchers carrying RVS with warheads of maximum countersilo lethality cannot realistically insure that this nation can expect to destroy all the missiles of another with high confidence. That applies symmetrically both to the U.S. and the U.S.S.R.

ANALYSIS OF ALTERNATIVES

While the development of the MX missile is thought of as a response to the threat outlined above, the system can also be seen as representing a marked increase in the countersilo lethality available to U.S. defense planners. Current plans envision that each MX missile could carry ten re-entry vehicles, each with a warhead of about 0.35 megatons explosive yield and a projected accuracy of about 0.05 nautical miles, i.e. 100 meters, so aside from reliability, each such warhead could destroy a silo with near certainty. The MX as planned therefore constitutes a prima facie countersilo weapon.

In enumerating alternative systems to the MX I accordingly separate the two key characteristics of this missile—first, improved survivability, and second, enhanced countersilo lethality—and I list alternate systems that would achieve the same improvements over the Minuteman force that the MX is designed to attain. Each such alternative—they are summarized in the table on page 65—must be compared with the others in terms of survivability, cost, timeliness and availability of the technology, effects on strategic and crisis stability, effects on arms limitation efforts, and satisfaction of military capablities required by U.S. strategic doctrine.

Alternatives that improve survivability. The first option in response to the theoretical Soviet threat to the Minuteman force is to take no action whatsoever at the present time, other than to continue technical research and analysis of implications of alternate modes of ICBM basing. The arms-control implications of such a policy would be mixed. On the one hand, it would certainly decelerate the quantitative and qualitative strategic-weapons competition between the U.S. and the U.S.S.R., and in addition contribute to the maintenance of the overall strategic stability, since the deployment of the MIRVed SS–18 and SS–19 Soviet missiles could be viewed as restoring the equilibrium in land-based ballistic missile systems, upset by the introduction of the American MIRVs in the early 1970s. Moreover, the financial cost of this option would be zero, and its implementation would not be time-dependent since it does not require the maturation of any specific technology. Further still, the U.S. would maintain within this option an assured countervalue retaliatory capability resident in 75 per cent of the strategic nuclear weapons carried by aircraft and submarines. These vectors are expected to remain relatively invulnerable in the coming decade barring unexpected Soviet technological breakthroughs. On the other hand, the expectation that a large proportion of MM missiles could be destroyed in their silos by a Soviet preemptive attack after 1985 could result in an increased crisis instability if no steps are taken to reduce their perceived vulnerability. Moreover, embracing this option will mean militarily that the ability of the U.S. to repond rapidly and flexibly in a nuclear mode to a Soviet nuclear provocation will be eroded. The U.S. might thus be depicted as being strategically inferior, unwilling to maintain an ongoing commitment to the invulnerability of the land-based component of its triad, and in danger of losing strategic options such as flexible response that past U.S. administrations had declared significant.

The second option would be to increase the resistance of MM silos to the effects of proximate nuclear explosions. A one-megaton explosion would produce overpressures in excess of the structural strength of a 2,000–p.s.i. silo at a distance of 600 meters beyond ground zero, and it would open a crater with a radius of 200 meters, within which any silo whatever would be destroyed. In principle, then, increasing the strength of the silo to match the overpressure at the rim of such a crater would reduce the lethal radius of the weapon from 600 to 200 meters. Actually, however, further hardening of a silo beyond 2,000 p.s.i. would yield diminishing returns, because even if the silo were made strong enough to withstand overpressures above 2,000 p.s.i., the detonation of a large nuclear weapon on the ground might well disrupt the missile inside it while leaving the silo itself intact. For example, the acceleration the missile would experience from a one-megaton explosion at a distance that would just leave a 3,000–p.s.i. silo intact would be several thousand times the acceleration of gravity. Even with isolating systems protecting the missile, such acceleration would certainly disrupt the intertial guidance system of the launcher. Moreover, nuclear and electromagnetic radiation, along with debris ejected from the excavated crater of such an explosion, would probably incapacitate the operation of the silo or of the missile inside it, even if they both remain structurally intact. It seems, therefore, that further reinforcement of silos, even if possible, would buy only marginal additional security for the missiles, and this at extraordinary costs.

The third option is to install local silo defenses as proposed, for example, by R. Garwin (International Security; Fall, 1976, p. 50 ff). Such defenses envision, inter alia, the installation of jamming devices or of elevated corner reflectors to confuse the radar altimeters in the fusing mechanisms of the re-entry vehicle, or the radar-triggered explosion of buried shaped charges that would lift a curtain of debris into the path of the vehicle. These devices could not protect the silos with absolute certainty, but they would diminish the number of destroyed silos, and thus would force the opponent to expend a large portion of his supply of counterforce RVs. Certainly they would increase the uncertainty of outcome of a countersilo attack to such an extent that they would make its planning more difficult, and the political decision to execute it more improbable. Such passive or quasi-passive defenses appear militarily effective and relatively inexpensive. Since they could increase the safety of existing land-based ICBMs, they would contribute to the minimization of crisis instability, would avoid the need for further qualitative or quantitative changes in land-based strategic weapons. However, at least any semi-active measures employed to defend silos could be considered in violation of the ABM treaty. The treaty could be reopened to negotiations and amended to accept such silo defenses. There is a danger, however, that such an approach may result in the weakening or even the abrogation of this important arms-control agreement.

The fourth option is to devise and install new types of protective structures for land-based missiles. This could offer considerably improved protection for the latter, without requiring renegotiation of the ABM treaty. One such type of structure includes deep underground chambers where the missiles are kept, with firing ports protected by an artificial lake of water or mud many tens of meters deep. At the end of a nuclear attack the lake could be drained, exposing the shaft from which one or more missiles could be launched. A second approach would be to install ballistic missiles in invisible locations on the bottoms of lakes. The missiles could then be launched from canisters, and at times of surface icing a hole could be automatically blown through the ice to permit each missile's launching.

However, fixed, tethered canisters present security problems that make them unsuitable for basing, as the cables that provide power and command and control links could facilitate their discovery. The canisters could be provided, however, with radio-frequency antennae that would be deployed upon an acoustically transmitted command during a nuclear alert. In addition, this mode of deployment could create serious arms limitation problems, since the number of tethered canisters would not be verifiable from space-borne monitoring devices. Still another type of protective structure is predicated on the fact that in general a re-entry vehicle of intercontinental range that follows a minimum-energy trajectory and travels ballistically will approach the surface of the earth at angles no larger than 20° to the local horizontal. Thus structures built into mountains with exit ports on the southern slopes, or even ordinary silos built into deep ravines, canyons, or very near the southern face of abrupt escarpments with heights of several hundred meters, would be protected from ordinary ballistic-missile attacks. Such structures could indeed complicate the attack or force a degradation of the re-entry vehicle's accuracy. They would not, however, insure a long-term high level of invulnerability to the missiles and would tend to be expensive: the relocation of 500 Minutemen in new protective structures could well cost more than $10 billion. The fourth class of solutions, however, has no *a priori* disadvantages. Further research on new protective structures seems appropriate, and could ultimately prove productive.

The fifth option is to approximate, in the case of land-based ICBMs, the mobility of the Polaris/Poseidon/Trident force by installing ballistic missiles on mobile lake-bound or continental-shelf systems. If one assumes that the four-month-long surface-icing problem could be overcome, then lake-bound deployment offers two workable possibilities: bottom-crawling manned or unmanned missile transporters, and manned or unmanned submersibles. The former seem to have no real advantages over the latter, which could carry a few missiles each in canisters outside a pressure hull, be powered by inexpensive power plants, and be capable of speeds of a few knots.

Their command and control link could be via buoys with antennae scattered over the surface of the lake. High-frequency acoustical links with ranges of a few kilometers could transmit from the buoys to the submersible. Spread spectrum communications links could also be used. Since the total area of the principal Great Lakes is almost 80,000 square miles, saturation attack against such vehicles is practically impossible. Yet just like seagoing submarines, the submersibles would be denumerable by national technical means of verification and therefore would not present any arms-control difficulties. At a cost of $50 million per submersible, the cost of 100 vehicles carrying, say 6 missiles each would be $5 billion; but the cost could easily be twice as large, and additional sums would have to be expended for communication, launch, and maintenance facilities. The cost of the entire system thus could easily reach beyond $15 billion, including the 600 missiles. Moveover, highfrequency acoustical communications technology or spread spectrum links would require further development before they could be applied to such a system. Finally, lake-bound or continental-shelf systems would tend to be outside the normal domain of Air Force activities and as such may prove politically awkward and bureaucratically heretical.

The sixth option is to develop mobile land-based ICBM systems such as trucks carrying missiles and circulating over a large area of secured territory (*not* on public highways), or even missiles on trucks concealed in secret locations. The key difficulty of these schemes is their physical security, since even on restricted territories such trucks could be vulnerable to sabotage or an attack by enemy agents. If strict policing of the secured territories were required, there would be complaints from numerous citizens groups interested in maintaining free access to these lands (incidentally, the Soviet Union would have no such problem if they decided to follow suit). In the case of the unconcealed mode, moreover, one cannot exclude the future possibility of real-time targeting capability that would defeat the entire scheme. The concealed mode, on the other hand, would create problems of verification of any numerical limits that may be put on the system. It would thereby abort, or make much more difficult, an ongoing effort at strategic weapons limitation. Finally, the command and control links to a mobile system could be both inadequate for a counterforce attack and potentially vulnerable.

A variant of these mobile-basing options is to place the missiles on vehicles circulating on tracks housed in underground tunnels. An MX missile deployed in such a tunnel, assuming a nominal blast hardness for the latter, would present a relatively soft and linear target to an attacker, in contrast to the hard point target presented by a Minuteman silo. The linear extension of this target would oblige the attacker to allocate several warheads to its destruction, but the softness of the target would permit even relatively inaccurate RVs to be effective against it. Hence the large stock of ICBM RVs which the Soviet Union will possess by 1985 would be particularly well suited for a successful attack against these tunnels. Indeed, by assigning widely separated aim points along the tunnel and by coordinating warhead detonations to within seconds of one another, these RVs could avoid the fratricide effects which limit the number of warheads that can be effectively allocated against a hardened point target such as a silo. However, the achievement of such precise attack coordination could be difficult and uncertain. Analysis of the effect of such an attack on a tunnel-based MX indicates that a tunnel 200 p.s.i. hard and 20 kilometers long could be completely collapsed by 10 one-megaton nuclear weapons targeted along its length and carried by RVs with CEPs of 0.25 nautical miles. The exact vulnerability is sensitive to several parameters, such as the length, hardness, orientation, and number of MX tunnels constructed, but over a wide spectrum of these parameters a 200-tunnel basing mode that could cost about $20 billion would be more vulnerable after 1985 than the present-day Minuteman force.

There are other questions, possibly even more serious, about the vulnerability of tunnel-based missiles: it may be much easier to disable the command, control, and communications systems than to satuate the tunnel with lethal overpressure. Although the feasibility of this cannot be meaningfully assessed without detailed command and control design data, illustrative examples abound. Consider that some concepts call for launch control of tunnel-based missiles from fixed, hardened command posts backed up by mobile command posts in some of the tunnels, as well as by airborne command posts. The launch signals from these sources might be transmitted to the launcher in an electrical or optical cable buried during the construction in the tunnel floor. If there were but one feedpoint per cable, in a known location (e.g. at the tunnel entrance), the command and control system could be disabled by cratering this feed point with a single warhead. On the other hand, if there were one feedpoint in an unknown, randomly distributed location, cratering the center of the tunnel would disable the system with probability 0.5.

This example, unrepresentative though it may be, emphasizes that the survivability of the command and control systems must be guaranteed if the survivability of the missile force is to be assuredly better than that of other existing or possible basing systems, and the number of RVs the enemy must expend to achieve its destruction is to be disproporationately higher than the number of U.S. RVs that would be destroyed.

Still another possible basing mode within this sixth option would be to construct many thousands of silos, say 10,000, in which would be placed 500 real and 9,500 dummy missiles. The dummy weapons would necessarily have the same optical, infrared, and nuclear radiation signatures as the real ones, and in addition would display the same weight and torsional and inertial moments so that as the dummies and the real weapons were shuffled among the silos no unauthorized observations either on the ground or from outer space could be used to tell them apart. To omit the dummy weapons and merely shuffle the 500 missiles among the 10,000 empty silos with special transporters is not considered safe, since an enemy could potentially distinguish empty from filled silos with reconnaissance satellites, and thereby vitiate the purpose of this basing mode. The S.A.L.T. II agreement seems to limit the Soviet Union to about 9000 nuclear warheads carried by land-based ICBMS, so a multiple-aim-point system appears at first glance to render the U.S. land-based force invulnerable. One must, however, examine the possible outcomes if the Soviet Union decides to develop a mirror image of this mobile land-based system. Clearly, the Soviet Union will be legally free to construct such a system at the expiration of the S.A.L.T. II protocol that forbids the deployment of mobile land-based ICBMS for the next three years. If they decide to do so, they will be at a distinct advantage with respect to the U.S. because they have available a much larger area in which to distribute their silos and also a considerably greater opportunity to subject large portions of this area to rigid police control. If their system possessed complete indistinguishability between real and dummy missiles so far as our reconnaissance and verification satellites are concerned, there will be no way for the U.S. to make absolutely sure that the U.S.S.R. will not clandestinely replace some, if not all, of the dummy missiles with real ones. The replacement of only 1,000 of the 9,000 dummies with real missiles carrying up to ten warheads each will provide the Soviet Union with enough wareheads to target all 10,000 silos of a U.S. multiple aim point system, thus negating the intent and expense of the entire U.S. effort.

To what extent verification procedures can be negotiated that will permit authorized inspectors to detect the clandestine transformation of 10 percent of the dummies into real missiles, but will not allow unauthorized differentiation between dummy and real weapons, is an open question with both technical and political components. An unprecedented degree of cooperation between the two sides would certainly be required, especially since on-site inspection, so far resisted by the Soviet Union, would most probably be required. If assured verification proved to be impossible, however, the price for the deployment of a multiple aim point system would include the vitiation of all past and future S.A.L.T. agreements. As it happens, there is reason to believe that the Soviet Union is flexible in devising a definition for "launcher" (if they equated "launcher" with "silo," Minuteman II would have to be counted as MIRVed because they are in the same silos as Minuteman III), but even so it will be difficult to define denumerably as "launchers" only real missiles that are supposed to appear identical to 9,500 dummy objects. (To define silos as launchers would automatically nullify the S.A.L.T. II agreement.) All considered, then, the basing of missiles in a manner that offers a finite number of concealed aim points to an attacker has several serious flaws: first, it would be susceptible to one-sided worse-case analyses which, in the absence of adequate verification opportunities, will suggest that the other side clandestinely possesses enough RVS to defeat even the most dispersed multiple aim point basing scheme; second, such fears could generally materialize, in which case the U.S. ICBM force would indeed be vulnerable; and third, it would nullify the ceiling on land-based missiles agreed upon S.A.L.T. II.

The seventh option is to place ICBMs in large transport aircraft or in heavy-lift helicopters, as yet undeveloped. This basing mode is characterized by denumerable missile-carriers and unlimited mobility. Wide-body jets such as the Boeing 747, McDonnell Douglas DC–10, or the military transport C–5A have payload capacity in excess of 125 tons and useful volumes that could accommodate up to three MM-sized missiles, but only one MX missile, which is expected to weigh up to 95 tons. It is, of course, possible to settle on a somewhat smaller new missile, so that two could be carried by a large transport plane. The basic cost of such aircraft is $30 to 40 million, but with the necessary command, control, and communications equipment, adequate guidance, and quick take-off capability, each would cost no less than $50 or 60 million. With two missiles carried by each wide-body aircraft, the basing cost would be comparable to that of a tunnel-based missile, and considerably less expensive than that of a multiple aim point system that would include over 9,000 sophisticated dummies, several hundred transporters, and 10,000 silos.

Mobile ICBMs carried by commercial-type transport aircraft offer several military advantages over a tunnel-based or multiple point system: Their mobility makes them untargetable by hostile ICBMs and, in conjunction with early-warning systems and quick alert and take-off capabilities, immune from submarine-launched ballistic missiles as well. Even in the remote eventuality of Soviet real-time targeting capability, they could escape under attack. They also have the distinct advantage that while the aircraft can be launched on warning of probable attack, the missiles on board do not have to be fired towards their targets immediately. This adds flexibility to the management of our ICBM force. On the other hand, a missile not as large as the contemplated MX may have to be used in conjunction with an airborne basing mode, and this would allow fewer RVs per missile, perhaps no more than five or six. In addition, aircraft-borne ICBMs would probably be, at least *ad initio,* somewhat less accurate than a tunnel- or silo-based missile. There is no reason to believe, however, that the accuracy of a plane-launched ICBM cannot eventually reach that of a silo-based missile, especially if it is endowed with terminal guidance.

Heavy-lift helicopters offers even greater arms control and military security advantages as a basing mode, but they suffer from operational problems. In particular, a helicopter capable of lifting 50 tons, flying with a speed of 100 knots, with one hour endurance, and capable of quick lift-off is expected to cost about $20 million. Thus, it is approximately comparable in cost to a hard silo. Yet helicopters can be deployed practically anywhere, and can be moved randomly in time once a day or more. In addition they can escape easily from attack without the need to launch their missiles. Therefore this basing mode is immune to real-time targeting provided the helicopters are appropriately dispersed, since the travel time of even a submarine-launched ballistic missile would be about 20 minutes. Further still, the helicopters, if uniquely configured and not concealed, would be denumerable from satellites and therefore would cause no verification problems. The principal drawbacks are that the helicopters have large maintenance costs and are thought to be more susceptible to catastrophic accidents than airplanes. A helicopter can be damaged by overpressures of 1.5 to 2 p.s.i.; therefore a one-megaton explosion four miles away could incapacitate it.

It should be added that the ICBM could in principle be launched either in flight or after landing the helicopter, but that launching in flight would require a minimum altitude for the craft of 1,000 to 2,000 meters above ground level, since if the missile is to be launched while suspended from a parachute it requires several hundred meters of fall to stabilize in a vertical position. This requirement introduces some severe technical problems, especially if the helicopter is to operate in hot weather. A land-and-launch system is thus a desirable possibility, and in fact it could be readily developed, for tens of thousands of landing pads could be inexpensively prepared and their positions carefully surveyed. Such a system would have the accuracy and command and control characteristics of a silo-based system. Furthermore, the non-targetability but verifiability of the numbers of helicopters from satellites make this basing mode attractive in terms of arms limitation. Both the strategic balance and crisis stability are enhanced, and no present or future numerical limitations need be upset by its deployment. Finally, since airborne systems are truly mobile they do not tempt an enemy to acquire an unlimited number of RVs in the hope of making them vulnerable; neither would he have the opportunity to do so clandestinely by mirroring the U.S.-basing scheme as in the case of a MAP system.

The eighth option is to institute a policy of launching our land-based ICBMs from under attack after assessing the threat to them (launch on assessment, for short). Militarily, this contradicts the basic requirement of the U.S. strategic retaliatory force that it "can ride out an attack." Moreover, reliance on this option would almost certainly require modernization of the existing early-warning and command, control, and communication systems involved in the management of our land-based ICBMs. Leaving the land-based forces as they are now serves the purposes of strategic stability and numerical limitation of weapons. But crisis instability would be exacerbated by the change in launch policy and the land-based missile force would lose a considerable degree of its flexibility, an operational property that distinguishes it from the other two, much less flexible, components of the U.S. strategic triad. A launch on assessment posture thus appears undesirable on a number of militarily significant counts.

The ninth option is to attempt to reduce or remove the threat to the land-based systems of both the U.S. and U.S.S.R. by reducing the lethality and reliability of counterforce systems on both sides by mutual agreement. Effective steps in that direction would be:

Agreement on reduction of the numbers of land-based MIRVED ICBMs in the early stages of S.A.L.T. III.

Sharp reduction of the number of ballistic missile tests, either for development or for confidence testing.

The effectiveness of these measures depends on quantitative considerations: the fewer missile tests allowed per year, the less the reliability of missiles and the confidence of military planners in them, and the longer the time between development and deployment of a new ICBM. The smaller the number of MIRVed land-based missiles in an arsenal, the less its cumulative lethality against a silo-based force, but also the less the capability of its fraction surviving a counterforce attack.

This option is the most advantageous for arms control, in terms of both strategic and crisis stability, provided the number of land-based missiles is not reduced to the point that the ICBM force would become sensitive to a surprise attack. In addition, too small a number of launchers could be considered vulnerable to a countersilo attack from an advanced SLBM force. Although such scenaria admittedly have a small probability of materialization, the possibilities cannot be totally ignored. Militarily, a reduction in lethality and reliability would remove the option of large-scale counterforce strikes against an opponent while leaving intact a policy of "flexible response." As such its utility or disutility, as far as the security of the U.S. is concerned, depends upon U.S. strategic doctrine.

The tenth and last option to improve the survivability of U.S. strategic forces is in effect to reduce the strategic triad to a diad consisting of aircraft and submarines. The undisputable benefits of such an option extend over all key arms-limitation objectives, e.g., strategic and crisis stability and numerical reductions of nuclear weapons, but this must be viewed in conjunction with the perceived or actual disadvantages that could emerge as well. Consider that the assured capability of the U.S. to deter a countervalue attack against this country would remain intact, since it resides largely in the submarine ballistic, missile force and the bombers that carry over half of all U.S. throw-weight, but that the U.S. by abandoning its land-based ICBMs, would deprive itself, for some time at least, of the many options of flexible response and counterforce attack. In addition, if this reduction were undertaken unilaterally, the superiority of the U.S.S.R. in throw-weight that would result from the U.S. undertaking might become politically significant, depending on the replacement chosen by the U.S. for its land-based ICBMs. Clearly, the importance of such scenaria may be more political than military. There is little doubt that an SLBM attack against Soviet air-defense assets, followed by the penetration of U.S. bombers with their enormous payloads of cruise missiles and gravity bombs over Soviet urban centers, is no less threatening or deterring than the spectre of 2,000 MX warheads aimed against military command posts, hardened naval bases, or Soviet missile silos. The addition of cruise missiles to the U.S. force of penetrating aircraft makes the remaining diad, if anything, more threatening, since this weapon system possesses some incidental counterforce capability.

Alternatives that increase countersilo capabilities. In the 1979 budget of the U.S. Department of Defense, the mission of the MX is listed as "provide increased quantity and improved quality ICBM re-entry vehicles for more effective SIOP [single integrated operating plan] target coverage. The MX will also alleviate the growing asymmetry between Soviet and U.S. ICBM capability." Two alternatives are capable of fulfilling these requirements. The first is to improve the guidance and navigation systems on board MM II and III so as to achieve better re-entry-vehicle accuracy. This will not increase the number of RVs and will not equalize the throw-weight of Soviet and U.S. land-based forces. Since, however, land-based missiles are considered indispensable for "selective option strikes," it is unrealistic to expect that such "selective strikes" will require more than the 3,000 RVs that can be carried by an improved Minuteman force. At that point the strike would look more like an all-out attack. Moreover, throw-weight is in itself unsuitable for judging the capability of a nuclear missile force because its importance is highly dependent on a number of assumptions. Large throw-weight may very well bespeak the inability of a country to miniaturize electronic and other components, develop light-weight re-entry thermal shields, or derive large amounts of explosive energy from a given mass of fissile or fusion material.

Improved accuracy can be achieved in the existing missile force by installing new inertial-navigation platforms in the re-entry vehicles, by endowing the latter with terminal maneuverability and the ability to recognize targets, and by using gravity gradiometers to account for the effects of gravity on the trajectory of a missile. All of these techniques have been under development in the U.S. for years, and MARVS are at least in the stage of preliminary testing. Additionally, the Global Positioning System, a set of twenty-four navigation satellites, now in the process of initial deployment, could be used to guide RVS against fixed targets. In sum, the accuracy achievable by MX warheads could also be launched by warheads carried by the launchers such as Minuteman.

In that context, the second alternative is to provide sea-launched missiles with maneuverable, terminally-guided RVS. This is technically feasible, although it may require the use of gravity gradiometers on the submarine and the boosters as well as the installation of terminal guidance on the RVS. The key problem with using sea-based launchers for flexible response missions is the command and control link, but the increased range of the D5 SLBM, now in development, with the associated possible stationing of submarines near U.S. coastal areas, would facilitate considerably the solution of this problem, since even in the case of real-time Soviet targeting capability the submarine could be commanded with impunity to surface, receive detailed targeting instructions, and resubmerge within a few minutes. Indeed, high-rate communications with submerged submarines may be possible via spread-spectrum communication links—especially in waters controlled at the surface by the U.S. Navy—that do not require the submarine to surface at all. In any event, arrangements might have to be made to incease the flexibility and target menu of the onboard computer, but this does not appear to present any technical difficulties.

OUTCOME OF THE ANALYSIS

To conclude: Technological developments are pointing inexorably toward the eventual vulnerability—real or perceived—of any fixed, land-based ICBM system if no changes are made. This is part of a more basic problem: that new technological improvements will continue to increase the threat to the strategic arsenals of the U.S. and the U.S.S.R. more rapidly than the present political climate (both national and international) permits the conclusion of agreements constraining weapons and improving our security.

Despite this condition, it appears from the analysis in this article that the most cost-effective means of maintaining the present mutual invulnerability of Russian and American land-based ballistic missile forces through the next decade, and probably beyond, would be an agreement to limit drastically the testing of long-range ballistic missiles. Such a measure would predictably impede the transformation of existing ICBMs into effective counter-silo weapons, would slow down the development of any new strategic missiles, and would make planning a counterforce attack more difficult, and therefore less probable. Coupled to careful, balanced numerical reductions of the land-based ICBMs of the U.S. and U.S.S.R., and also to a comprehensive nuclear test ban, such an agreement could insure the survivability of the land-based element of the U.S. strategic triad, and would maintain its operational flexibility beyond 1990.

If, however, the Soviet Union continues to refuse such an agreed-upon limitation of ballistic missile testing, then the United States must indeed move to insure both the actual and perceived invulnerability of its land-based ICBM force. Of all the basing modes proposed towards this end, certainly the least promising are those that rely on the combination of limited mobility and concealment. The tunnel-based mode does not offer sufficient security and the multiple aimpoint approach is likely to be copied by the Soviet Union, and that will create enormous uncertainty as to the counterforce capabilities of that country. It may actually threaten the U.S. with the complete destruction of its land-based force, since there will be, because of the very design of the system, no way to verify with certainty compliance to any numerical ceilings on missiles and warheads. For the same basic reason, deployment of the MAP system will nullify all previous S.A.L.T. agreements on numerical limitation of land-based missiles and make future such agreements impossible. In a word, the price of MAP must include the end of the S.A.L.T. process.

On balance, then, it seems reasonable to conclude that if the security of the most flexible component of the U.S. strategic triad requires the deployment of a new ballistic missile with a novel basing system, the best current choice would be a mobile system of unlimited mobility and denumerable strength, either airborne or submarine.

THE GENOCIDE CONVENTION AND AMIN'S REGIME

Mr. PROXMIRE. Mr. President recently there has been a wealth of articles on the deplorable state in which Idi Amin put Uganda during his 8-year regime. The country is virtually bankrupt. Destitution is rampant, while Idi Amin was busy attacking neighboring Tanzania and freely insulting nations.

But Idi Amin destroyed much more than the economy and the pride of Uganda. He is responsible for the wholesale murder of hundreds of thousands of Acholi and Langi tribesmen, as well as Christians.

How could this have happened? "What did we do to hinder this reign of terror?" The answer is "nothing."

After World War II, with the memory of the genocide of 6 million Jews in Europe still fresh, the United Nations created a mechanism which would seek, once and for all to abolish the crime of genocide. For 30 years the Genocide Convention has been pending before the Senate, awaiting ratification. However, we have failed to ratify that convention, although we were the principal instruments in persuading the United Nations to adopt it.

Despite frequent reminders from Uganda for the last 8 years, the Senate has not taken action. This hesitation, this dawdling, has been a constant embarrassment internationally and it has been a tragedy universally.

Final approval of this treaty becomes more urgent by the day.

Mr. President, It is time for the Senate to ratify the Genocide Convention.

RECOGNITION OF MR. STEVENS

The **PRESIDING OFFICER.** The Senator from Alaska (Mr. STEVENS) is recognized.

THE ENERGY PROBLEM

Mr. STEVENS. Mr. President, I listened with great interest to the statement made by the distinguished majority leader, and I agree with him in his plea to the American people.

However, it is meant as no reflection on my good friend from West Virginia when I say that I noticed with interest, as I was coming through Seattle and Denver, the statement made by the colleague of the majority leader, the senior Senator from West Virginia (Mr. RANDOLPH), calling upon the President to be more forceful in his program for the use of coal.

I believe it is unfortunate that we continue to talk about an energy crisis and thereby convey to the American people that a shortage of energy resources exists. That simply is not true. We have enough coal, if properly used, to take the burden off petroleum right now.

In 1978, we produced 5 percent less coal than we produced in 1977. Why? Because the administration continues to court the extreme environmentalist clique—about 3 or 4 percent of the people—that has infiltrated almost every department and division of the Federal Government and which continues to delay the development of the energy resources of this country, rather than attempting any sort of balance.

It is high time that we start to recognize these people; who they are and where they are. I intend to begin such recognition with an example here on the floor.

Mr. James Gorland, former attorney for the Sierra Club in San Francisco, is now Assistant Attorney General in charge of land and water. If a suit were to be filed against the new Alaska gas pipeline, it would be his duty to defend the United States against the suit. Yet, he was one of the attorneys who attacked the Alaska oil pipeline.

I do not think that the administration can shift the burden of the current energy shortages so far as supplies are concerned, off anywhere else. Those shortages too, come from the ineptness of the Department of Energy who jawboned the refiners, asking them to continue to run fuel oil for this winter because some soothsayer says it is going to be a very bad winter.

A very bad winter may be coming, but the exact projections for increased demand in California were there on their desks. The conclusion, then is they chose to create the crisis that exists in terms of supply of energy.

Mr. President, it is time we realized that this country should be run by people who have a sense and understanding of balance; people who are capable of deciding between extreme environmental policy and extreme developmental policy.

I am pleased that most of my colleagues in the Senate do not believe in either extreme. I think most of us believe that there can be a balance in the protection of our environment and in the production of the energy resources necessary to maintain this Nation as the strongest economically and defensively in the world. But a sense of balance cannot continue if the administration continues to look for scapegoats and for some way to attack the industry that brought us the energy, brought us through World War II, and has brought us to the position of predominance economically and militarily in the world.

I hope that more will speak out on this matter in the near future.

MISTY FJORDS

Mr. STEVENS. Mr. President, one of the most controversial issues in the Alaska lands controvery is the designation of an area known as Misty Fjords.

As a recent article in the Baltimore Sun pointed out, this area "presents in miniature the issues at stake—and perhaps the solutions to be reached—in the long-running controversy over how best to manage the Alaskan land mass."

They say the "Alaskan land mass." They should have said the "Federal lands in Alaska."

But in any event, the final disposition of Alaska's lands will have a tremendous impact, not only on the citizens of my State, but on each and every American. It is a complicated issue, requiring careful consideration. Unfortunately, the political perception has narrowed to oil versus caribou. It just is not that simple. There are many, many issues to be considered and it is my hope that the Senate will consider each of the issues which are raised before making decisions which will have long-range effects on the future of our Nation and absolutely long-range effects upon my State of Alaska.

Mr. President, when I first came to the Senate I suggested the Granite Fjords Gateway National Park. That park has now been redesignated as the Misty Fjords Area. But I invite the attention of the Senate to the way the area was expanded without any regard to the geology, to protection of scenic beauty of the area, and to the real features that have national significance. It has become a symbol of the extreme environmentalists' demand to use land control to prevent rational and reasonable development under stipulations necessary to protect our environment.

I ask unanimous consent that the article from the Baltimore Sun, "More Change Necessary on Alaska Issue," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

More Change Necessary on Alaska Issue

(By Curt Matthews)

Washington.—There is in Alaska a nearly inaccessible place known as Misty Fjords that presents in miniature the issues at stake—and perhaps the solutions to be reached—in the long-running controversy over how best to manage the Alaskan land mass.

Misty Fjords is a place of spectacular scenic beauty that sits upon a valuable deposit of molybdenum, a scarce mineral used to strengthen steel. The United States Borax & Chemical Co. already has laid claim to the molybdenum and wants to dig it up. But to do so would surely detract from the natural beauty of Misty Fjords.

"The beauty of Misty Fjords is a scarcer resource than molybdenum," according to the Wilderness Society, an organization dedicated to conservation of nature and wildlife areas.

But Alaska Gov. Jay Hammond, concerned that so much of Alaska will be left to nature the state will never reach economic maturity, said recently, "We are saddled with the responsibility as America's last great storehouse of resources. It is not easy to be both oil baron to the nation and national park for the world."

Last Tuesday, when the House of Representatives voted 268 to 157 to protect from private exploration about 125 million acres of federally owned land in Alaska, Misty Fjords got special attention. The House bill recognized the legitimate claim of U.S. Borax, but restricted access to the area over a single road and future development to a radius of three-quarters of a mile around the existing claim.

The compromise over the Misty Fjords molybdenum presented a victory to neither side in the conservation vs. development debate—but it demonstrated how the interests of both sides will have to be reconciled throughout Alaska if the debate is to be concluded in the current session of Congress. The bill passed by the House was sponsored by Representatives Morris K. Udall (D., Ariz.) and John B. Anderson (R., Ill.). It was opposed strongly by Representative Don E. Young, a Republican and Alaska's lone member in the House.

Speaking against the bill, Representative Young told his colleagues in the House last Tuesday, "You are taking more lands away from my state and you make it impossible for us to retain many of the jobs we now have."

In urging passage of his bill, Representative Udall said, "We are leaving an area twice the size of California to the 400,000 people of Alaska to use as they will. The 220 million people of America are entitled to the preservation of the last great area of wild beauty left in the United States."

The economic backdrop for the debate over the Alaska lands bill cannot be dismissed, either in Alaska or in the Lower 48 states. Construction of the Alaska pipeline to move oil from the North Slope to the port of Valdez brought many workers to the state who, with the completion of the pipeline, now are unemployed or underemployed.

And in the continental United States, as oil and gasoline stocks become more scarce and therefore more expensive, it may get much more difficult to sustain the argument that potential reserves in Alaska should go unexplored.

As the Senate's Committee on Energy and Natural Resources prepares to take up the legislation, the economic questions are likely to be drawn even more sharply in focus.

Spokesmen for both of Alaska's senators, Ted Stevens (R.) and Mike Gravel (D.), say that neither is pleased with the House bill and will try to reshape key portions of it before the Senate votes on the legislation.

Among the key measures opposed by the Alaskan delegation in Congress are restrictions on oil exploration in Arctic areas set aside as wildlife refuges, severely restricted access across wilderness areas in the state's interior, and curbs on the cutting of timber in 40 percent of Alaska's forests areas.

"The House bill wipes out Alaska's timber industry" says Steven Silver, legislative assistant for Senator Stevens. "It will mean the loss of 2,000 to 3,000 jobs."

The legislation passed by the House and now pending before the Senate puts aside 44.7 million acres of federal land in Alaska for national parks and preserves, 76 million acres for wildlife refuges and 5.3 million acres for national forests and scenic areas along the state's wild rivers.

About one-third of the state's total land area of 365 million acres is directly affected by the House bill.

The controversy over how to manage federal lands in Alaska is rooted in legislation that granted statehood to the territory in 1959. Before statehood, virtually all of Alaska was federally owned wilderness. The statehood law gave Alaska the right to select 103 million acres that would be turned over to the state.

The state-owned land in Alaska, including the oil-rich areas around Prudhoe Bay, is a land mass equal to all of New England, plus New York and Pennsylvania.

In 1971, in recognition of claims by native Eskimos, Indians and Aleuts, Congress passed legislation that granted the native inhabitants of Alaska 42 million acres and at the same time imposed a temporary freeze on development of federal land pending congressional action to set aside at least 80 million acres for parks, wildlife refuges and national forests.

The deadline for the 80 million acre setaside was 1978. However, in the closing hours of the congressional session last year, the Senate failed to act on a bill passed by the House that is nearly the same as the bill passed Tuesday. The snag in the Senate last year came when Senator Gravel threatened a filibuster and refused to go along with a compromise worked out by Senator Stevens regarding access corridors across wilderness areas.

When Congress was unable to meet the deadline set forth in the 1971 Native Claims Act, President Carter, the Secretary of the Interior, Cecil D. Andrus, and the Secretary of Agriculture, Bob Bergland, took various steps to protect more than 150 million acres temporarily and give Congress another opportunity to legislate permanent measures.

It is uncertain how soon the Senate will act on the bill sent over from the House, although it is agreed that hearings are unlikely before mid-summer. Senator Henry M. Jackson (D. Wash.), chairman of the Energy and Natural Resources Committee, is also a ranking member of the Senate Armed Service Committee, and is keenly interested in the strategic arms limitation treaty with Russia that also is pending in the Senate.

When the Alaskan lands bill does gain the focus of attention in the Senate, it could produce a showdown debate on one or more of the issues simmering just below the surface of the land-use question. For there is inherent in that question the seeds of major national controversy regarding state's rights and federal authority, resource development vs. conservation and present energy needs balanced against the recreational needs of future generations.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STEVENS. I am happy to yield.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the two Calendar Orders Nos. 184 and 185 be reversed and that the Senate proceed upon the completion of the orders to take up Calendar Order No. 185.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, it is my understanding, then we will proceed with the Department of Justice authorization bill first and that the time agreement of 2 hours, with 30 minutes on each amendment, with the exception of the Hollings amendment, will continue and that will be followed by the Solid Waste Disposal Act.

Mr. ROBERT C. BYRD. Yes; the time agreement on each will not be affected but because of problems in arranging for the managers to be here at noon we have to switch the orders.

Mr. STEVENS. Mr. President, there is no objection.

Mr. ROBERT C. BYRD. I thank the distinguished acting Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I shall propound a unanimous-consent request on the resolution to be proposed by Mr. HUDDLESTON. It deals with coal. It will be introduced. He will ask for immediate consideration. I understand it has been cleared on the other side of the aisle. I have cleared it.

I make the following unanimous-consent request: That there be 20 minutes on the resolution, to be equally divided between Mr. HUDDLESTON and the acting Republican leader, or his designee, and that no amendments be in order.

Mr. STEVENS. It is my understanding the resolution has not been introduced but this subject is familiar to us. I urge that there be no objection to Senator HUDDLESTON's proposal, and we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed at this time to the consideration of the Calendar Orders Nos. 192 and 193 and that they be disposed of by unanimous consent and the Senate take them in reverse order, 193 and 192.

The PRESIDING OFFICER. Without objection, it is so ordered.

PIPELINE SAFETY ACT OF 1979

The Senate proceeded to consider the bill (S. 411) to improve the protections afforded the public against risks associated with the transportation of hazardous commodities by pipeline, which had been reported from the Committee on Commerce, Science, and Transportation with amendments as follows:

On page 2, top of the page, insert the following:

TABLE OF CONTENTS

Sec. 1. Short title of bill.

TITLE I—NATURAL GAS

Sec. 101. Short title.
Sec. 102. Declaration of policy.
Sec. 103. References to Natural Gas Pipeline Safety Act of 1968.
Sec. 104. Definitions.
Sec. 105. Standards.
Sec. 106. State safety programs.
Sec. 107. Enforcement powers.
Sec. 108. Administration.
Sec. 109. Appropriations authorization.
Sec. 110. Clerical and conforming amendments.
Sec. 111. Effective date.
Sec. 112. Savings provisions.

TITLE II—LIQUID PIPELINE SAFETY

Sec. 201. Short title.
Sec. 202. Declaration of policy.
Sec. 203. Definitions.
Sec. 204. Regulations governing transportation of hazardous liquids and pipeline facilities.
Sec. 205. State certifications and agreements.
Sec. 206. Judicial review of standards and orders.
Sec. 207. Compliance.
Sec. 208. Penalties.
Sec. 209. Compliance orders.
Sec. 210. Specific relief.
Sec. 211. Inspection and maintenance.
Sec. 212. Powers and duties of the Secretary.
Sec. 213. Annual report.
Sec. 214. Citizens civil action.
Sec. 215. Appropriations authorized.
Sec. 216. Conforming amendments.
Sec. 217. Effective date.
Sec. 218. Savings provisions.

On page 3, line 5, strike "to expressly provide the Secretary of Transportation with preconstruction design approval authority for pipeline facilities" and insert "to clarify the authority of the Secretary of Transportation";

On page 4, line 3, strike "or intended for use";

On page 4, line 5, strike "GENERAL.—";

On page 5, line 1, strike "CRITERIA.—";

On page 5, beginning with line 10, strike through and including line 19;

On page 5, line 20, strike "(d) EXISTING FACILITIES.—" and insert "(c)";

On page 5, line 24, after "adopted" insert ", or to any pipeline facility used in the transportation or storage of liquified natural gas for which an application for the approval of the siting, construction, or operation of such facility was filed before March 1, 1978, with—

(1) the Department of Energy or any predecessor organization pursuant to section 3 or section 7 of the Natural Gas Act; or

(2) the appropriate State agency, in the case of any facility not subject to the jurisdiction of the Department of Energy under the Natural Gas Act"

On page 6, line 10, strike "(c) PREEMPTION.—" and insert "(d)";

On page 6, line 16, strike "(f) WAIVERS.—" and insert "(e)";

On page 7, line 5, strike "sixty" and insert "60";

On page 7, line 15, strike "(g) COOPERATION AND CONSULTATION.—" and insert "(f)";

On page 9, beginning with line 10, strike through and including line 12;

On page 9, line 14, strike "107" and insert "106";

On page 10, line 12, strike "twelve" and insert "12";

On page 10, line 17, strike "significant." and insert "significant;".";

On page 10, line 19, after "(4)" insert a comma and "and by inserting "and" immediately after paragraph (1) thereof";

On page 11, line 7, strike "108" and insert "107";

On page 11, line 11, strike "ASSESSMENT OF CIVIL PENALTIES.—";

On page 12, line 3, strike "COLLECTION OF CIVIL PENALTIES.—";

On page 12, line 23, strike "CRIMINAL PENALTIES.—" and insert "Any person who willfully and knowingly—";

On page 13, line 1, strike "Any person who willfully violates" and insert "Violates";

On page 13, line 6, strike "five" and insert "5";

On page 13, line 8, strike "Any person who willfully injures" and insert "Injures";

On page 13, line 12, strike "$15,000" and insert "$25,000";

On page 13, line 13, strike "fifteen" and insert "15";

On page 13, line 21, strike "GENERAL.—";

On page 14, line 13, strike "HAZARDOUS PIPELINE FACILITIES.—";

On page 15, line 3, after the period, insert "However, the Secretary shall include in such an order an opportunity for hearing as soon as practicable after issuance of an order.".";

On page 15, line 13, strike "109" and insert "108";

On page 15, line 16, strike "GENERAL.—";

On page 15, line 20, strike "documents, records, and property," and insert "documents and records,";

On page 15, line 23, strike "RECORDS.—";

On page 16, line 7, strike "INSPECTION.—";

On page 16, line 16, strike "PUBLIC AVAILABILITY OF ACCIDENT REPORTS.—";

On page 17, line 3, strike "PROTECTION OF TRADE SECRETS.—";

On page 17, line 16, strike "110" and insert "109".

On page 17, line 20, strike "$4,206,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for the fiscal year ending September 30, 1981" and insert "$5,000,000 for the fiscal year ending September 30, 1980, and $5,350,000 for the fiscal year ending September 30, 1981";

On page 18, line 5, strike "$2,820,000" and insert "$3,017,000";

On page 18, line 6, strike "such sums as may be necessary" and insert "$3,228,190";

On page 18, line 9, strike "Act."." and insert "Act.";

On page 18, beginning with line 10, insert the following:

"(c) There are authorized to be appropriated $500,000 for the fiscal year ending September 30, 1980, and $535,000 for the fiscal year ending September 30, 1981, for the purpose of carrying out the Federal grants-in-aid provisions of section 205(c) of this Act.".

On page 18, line 16, strike "111" and insert "110";

On page 18, line 19, strike "a(13)" and insert "3 of subsection (a)";

On page 19, beginning with line 1, strike through and including line 3;

On page 19, beginning with line 4, insert the following:

EFFECTIVE DATE

SEC. 111. The provisions of this title shall take effect on the date of their enactment.

SAVINGS PROVISIONS

SEC. 112. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges which have been issued, made, granted, or allowed to become effective under the provisions of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.), as amended, and which are in effect at the time this title takes effect, shall continue in effect as though issued, made, granted, or allowed to become effective under the authority of this title, according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, by any court of competent jurisdiction, or by operation of law.

(b) Suits, actions, or other proceedings pending upon the date of enactment of this title shall not be affected by the provisions of this title and shall be completed as if this title had not been enacted, unless the Secretary makes a determination that the public safety otherwise require.

On page 20, line 25, strike "petroleum, petroleum products, and any other liquid that is flammable, corrosive, or toxic" and insert "petroleum and petroleum products";

On page 21, beginning with line 4, strike through and including line 6, and insert in lieu thereof the following:

(3) "transportation of hazardous liquids" means the movement of hazardous liquids by pipeline, or their storage incidental to such movement, in or affecting interstate or foreign commerce; except that it shall not include any such movement through gathering lines in rural locations or onshore production, refining, or manufacturing facilities

or storage or in-plant piping systems associated with any of these facilities.

On page 21, line 18, strike "or the treatment of hazardous liquids during the course of transportation,";

On page 21, beginning with line 23, strike through and including page 22, line 2, and insert in lieu thereof the following:

(5) "interstate pipeline facilities" means those pipeline facilities used in the transportation of hazardous liquids in interstate or foreign commerce;

On page 22, line 19, strike "GENERAL.—";

On page 23, line 5, strike "CRITERIA.—";

On page 23, beginning with line 14, strike through and including line 23;

On page 23, line 24, strike "(d) EXISTING FACILITIES.—" and insert "(c)";

On page 24, line 4, strike "(c) PREEMPTION.—" and insert "(d)";

On page 24, line 13, strike "(f) WAIVERS.—" and insert "(e)";

On page 25, line 12, strike "(g) COOPERATION AND CONSULTATION.—" and insert "(f)";

On page 27, line 20, strike $10,000" and insert "$5,000";

On page 29, beginning with line 3, insert the following:

(c) (1) Except as otherwise provided in this section, if an application submitted not later than September 30 in any calendar year, the Secretary shall pay out of funds appropriated or otherwise made available up to 50 percent of the cost of the personnel, equipment, and activities of a State agency reasonably required during the following calendar year to carry out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section; or to act as agent of the Secretary with respect to interstate pipeline facilities. The Secretary may, after notice and consultation with a State agency, withhold all or any part of the funds for a particular State agency if he determines that such State agency (A) is not satisfactorily carrying out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section, or (B) is not satisfactorily acting as agent of the Secretary with respect to interstate transmission facilities. No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such a safety program and that the aggregate expenditures of funds of the State, exclusive of Federal grants, for hazardous liquid pipeline safety programs will be maintained at a level which does not fall below the average level of such expenditures for the last 2 fiscal years preceding the date of enactment of this section.

(2) Funds authorized to be appropriated by section 110 of this Act shall be allocated among the several States for payments to aid in the conduct of pipeline safety programs in accordance with paragraph (1) of this subsection.

(3) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

(4) The Secretary may, by regulation, provide for the form and manner of filing of applications under this section, and for such reporting and fiscal procedures as he deems necessary to assure the proper accounting for Federal funds.

On page 30, line 16, strike "(c)" and insert "(d)";

On page 31, line 1, strike "(d)" and insert "(e)";

On page 31, line 11, strike "(e)" and insert "(f)";

On page 31, line 18, strike "(f)" and insert "(g)";

On page 33, beginning with line 11, strike through and including line 12 and insert in lieu thereof the following:

(2) comply with the requirements of section 211 regarding the preparation, maintenance, and carrying out of a plan of inspection and maintenance; and

On page 33, line 22, strike "ASSESSMENT OF CIVIL PENALTIES.—";

On page 34, line 14, strike "COLLECTION OF CIVIL PENALTIES.—";

On page 35, line 9, strike in entirety and insert in lieu thereof the following:

(d) Any person who willfully and knowingly—

On page 35, line 11, strike "Any person who willfully violates" and insert "Violates";

On page 35, line 16, strike "five" and insert "5";

On page 35, line 18, strike "Any person who willfully injures" and insert "Jnjures";

On page 35, line 21, strike "$15,000" and insert "$25,000";

On page 35, line 22, strike "fifteen" and insert "15";

On page 36, line 8, strike "GENERAL.—";

On page 37, line 1, strike "HAZARDOUS PIPELINE FACILITIES.—";

On page 37, line 16, after the period, insert "However, the Secretary shall include in such an order an opportunity for hearing as soon as practicable after issuance of the order.";

On page 37, beginning with line 20, strike through and including page 38, line 6, and insert in lieu thereof the following:

INSPECTION AND MAINTENANCE

SEC. 211. (a) Each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities shall prepare, maintain and carry out a current written plan of inspection and maintenance of each facility used in that transportation and owned or operated by that person in accordance with regulations prescribed by the Secretary or, where a certification or agreement pursuant to section 205 of this title is in effect, by the appropriate State agency. A plan required by this subsection shall be practicable and designed to meet the need for pipeline safety and shall be made available to the Secretary or appropriate State agency upon request.

On page 38, line 21, strike "filed" and insert "required";

On page 39, line 10, strike "GENERAL.—";

On page 39, line 14, strike "documents, records, and property," and insert "documents and records,";

On page 39, line 17, strike "RECORDS.—";

On page 40, line 1, strike "INSPECTION.—";

On page 40, line 10, strike "PUBLIC AVAILABILITY OF ACCIDENT REPORTS.—";

On page 40, line 22, strike "PROTECTION OF TRADE SECRETS.—";

On page 46, line 4, strike "215" and insert "216";

On page 46, line 12, strike "216" and insert "217";

On page 46, line 15, strike "217" and insert "218";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pipeline Safety Act of 1979".

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TITLE I—NATURAL GAS

SHORT TITLE

SEC. 101. This title may be cited as the "Natural Gas Pipeline Safety Act Amendments of 1979".

DECLARATION OF POLICY

SEC. 102. The Congress finds that more effective realization of the purposes of the Natural Gas Pipeline Safety Act of 1968, especially as it relates to the transportation of liquefied natural gas, requires that Act to be amended to clarify the authority of the Secretary of Transportation, to improve the investigation and enforcement powers of the Secretary, and to clarify and update existing provisions of the Act.

REFERENCES TO NATURAL GAS PIPELINE SAFETY ACT OF 1968

SEC. 103. Except as otherwise expressly provided, whenever in this title any reference, amendment, or repeal is expressed in terms of a reference or amendment to, or repeal of, a section or other provision, it shall be considered to be made to a section or other provision of the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1671 et seq.).

DEFINITIONS

SEC. 104. (a) Section 2(2) is amended by inserting "(including liquefied natural gas)" immediately after "natural gas".

(b) Section 2(4) is amended to read as follows:

"(4) 'Pipeline facilities' includes, without limitation, new and existing pipe, rights-of-way, and any equipment, facility, or building used in the transportation of gas or the treatment of gas during the course of transportation, but rights-of-way as used in this Act does not authorize the Secretary to prescribe the location or routing of any pipeline facility;".

(c) Sections 2(8) and 2(9) are amended by striking out "Federal Power Commission" and inserting in lieu thereof "Federal Energy Regulatory Commission".

STANDARDS

SEC. 105. (a) Section 3 is amended to read as follows:

"REGULATIONS GOVERNING TRANSPORTATION OF GAS AND PIPELINE FACILITIES

"SEC. 3. (a) The Secretary shall issue, in accordance with the provisions of section

553 of title 5, United States Code, including an opportunity for informal oral presentation, Federal safety standards for the transportation of gas and pipeline facilities. The standards shall apply to each person who engages in the transportation of gas or who owns or operates pipeline facilities. The standards shall be practicable and designed to meet the need for safe transportation of gas and may govern any safety aspect of that transportation and of pipeline facilities which the Secretary considers necessary or appropriate.

"(b) In prescribing standards under this section, the Secretary shall consider—

"(1) relevant available pipeline data;

"(2) whether the standards are appropriate for the particular type of pipeline transportation or facility;

"(3) the reasonableness of any proposed standards; and

"(4) the extent to which the standards will contribute to public safety.

"(c) Except as provided under section 10(b) of this Act, any standard issued under this section affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date it is adopted, or to any pipeline facility used in the transportation or storage of liquefied natural gas for which an application for the approval of the siting, construction, or operation of such facility was filed before March 1, 1978, with—

"(1) the Department of Energy or any predecessor organization pursuant to section 3 or section 7 of the Natural Gas Act; or

"(2) the appropriate State agency, in the case of any facility not subject to the jurisdiction of the Department of Energy under the Natural Gas Act.

"(d) Any State agency may adopt additional or more stringent safety standards for intrastate pipeline transportation if those standards are compatible with the Federal standards issued under this Act. No State agency may adopt or continue in force any safety standards applicable to interstate transmission facilities.

"(e) Upon application by any person engaged in the transportation of gas or the operation of pipeline facilities, the Secretary may, by order, after notice and opportunity for hearing and under such terms and conditions and to such extent as he deems appropriate, waive in whole or in part compliance with any standard established under this Act, if he determines that waiver of compliance with such standard is not inconsistent with gas pipeline safety. The Secretary shall state his reasons for any such waiver. A State agency, with respect to which there is in effect a certification pursuant to section 5(a) or an agreement pursuant to section 5(b), may waive compliance with a safety standard in the same manner and under the same conditions as the Secretary, provided such State agency gives the Secretary written notice at least 60 days prior to the effective date of the waiver. If, before the effective date of a waiver to be granted by a State agency, the Secretary objects in writing to the granting of the waiver, any State agency action granting the waiver will be stayed. After notifying such State agency of his objection, the Secretary shall afford such agency a prompt opportunity to present its request for waiver, with opportunity for hearing, and the Secretary shall determine finally whether the requested waiver may be granted.

"(f)(1) Whenever the establishment of a standard or action upon application for waiver under the provisions of this Act would affect continuity of any gas services, the Secretary shall consult with and advise the Federal Energy Regulatory Commission or State commission having jurisdiction over the affected pipeline facility before establishing the standard or acting on the waiver application and shall defer the effective date until the Federal Energy Regulatory Commission or any such commission has had reasonable opportunity to grant the authorizations it deems necessary.

"(2) In any proceedings under section 7 of the Natural Gas Act (15 U.S.C. 717f) for authority to establish, construct, operate, or extend a gas pipeline which is or will be subject to Federal or other applicable safety standards, any applicant shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain the pipeline facilities in accordance with Federal and other applicable safety standards and plans for maintenance and inspection. Such certification shall be binding and conclusive upon the Federal Energy Regulatory Commission unless the relevant enforcement agency has timely advised the Commission in writing that the applicant has violated safety standards established pursuant to this Act.

"(3) Upon request, the Secretary shall furnish to the Federal Energy Regulatory Commission any information he has concerning the safety of any materials, operations, devices, or processes relating to the transportation of gas or the operation of pipeline facilities.

"(4) The Secretary is authorized to advise, assist, and cooperate with other Federal departments and agencies and State and other interested public and private agencies and persons, in the planning and developing of (1) Federal safety standards, and (2) methods for inspecting and testing to determine compliance with Federal safety standards.

"(5) The Secretary is authorized to consult with, and make recommendations to, other Federal departments and agencies, State and local governments, and other public and private agencies or persons, for the purpose of developing and encouraging activities, including the enactment of legislation, to assist in the implementation of this Act and to improve State and local pipeline safety programs.".

(b) The Act is amended by striking out sections 7 and 13.

STATE SAFETY PROGRAMS

SEC. 106. (a) Section 5(a) is amended—

(1) by striking out "Except for the fourth sentence of section 3(b), section 12(b), and except as otherwise provided in this section, the provisions of this Act" and inserting in lieu thereof "Except for section 10(b) and except as otherwise provided in this section, the authority of the Secretary under this Act to prescribe safety standards and enforce compliance with such standards".

(2) by striking out "excavation" in clause (4) and inserting in lieu thereof "demolition, excavation, tunneling, or construction".

(3) by striking out, in clause (5), "sections 9 and 10" and inserting in lieu thereof "sections 8(a) and 10(a)".

(4) by striking out, in clause (5), "; except that a State agency may file a certification under this subsection without regard to the requirement of injunctive and monetary sanctions under State law for a period not to exceed five years after the date of enactment of this Act".

(5) by amending clause 5(ii) to read as follows: "all accidents or incidents reported during the preceding 12 months by each such person involving personal injury requiring hospitalization, fatality, property damage exceeding $5,000 (whether or not sustained by a person subject to the safety jurisdiction of the State agency) and any other accident which the State agency considers significant;".

(b) Section 5(b) is amended by striking out paragraphs (3) and (4), and by inserting "and" immediately after paragraph (1) thereof.

(c) Section 5 is further amended by striking out subsection (f); redesignating subsections (c), (d), and (e) as (d), (e), and (f), respectively; and adding a new subsection (c) to read as follows: "(c) The Secretary is authorized to conduct whatever monitoring may be necessary of any State program established by certification or agreement under this section to assure that such programs are being carried out in compliance with such certification or agreement. State agencies shall cooperate fully in a system of Federal monitoring of their programs.".

ENFORCEMENT POWERS

SEC. 107. (a) The Act is amended by redesignating section 8 as section 7; by striking out sections 9 and 10; and by adding new sections 8, 9, and 10 to read as follows:

"PENALTIES

"SEC. 8. (a) Any person who is determined by the Secretary of Transportation to have violated any provisions of this Act or any regulation or order issued thereunder including any order issued under sections 9 or 10(b) of this Act, shall be liable to the United States for a civil penalty of not more than $1,000 for each violation for each day that violation persists, except that the maximum civil penalty shall not exceed $200,000 for any related series of violations. The amount of the penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, and such other matters as the Secretary believes justice may require.

"(b) Except as provided by subsection (c), a civil penalty assessed under subsection (a) may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, it may be compromised by the Secretary. The amount of the penalty, when finally determined (or agreed upon in compromise), may be deducted from all sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(c) When a civil penalty of not more than $1,500 has been assessed under subsection (a), the matter may be referred for collection of the penalty directly to the Federal magistrate of the jurisdiction wherein the person liable may be found, for institution of collection procedures under supervision of the district court, if the court has issued an order delegating such authority under section 636(b) of title 28, United States Code.

"(d) Any person who willfully and knowingly—

"(1) Violates a provision of this Act or a regulation or order issued thereunder including any order issued under sections 9 or 10(b) of this Act shall, upon conviction, be subject, for each offense, to a fine of not more than $25,000, imprisonment for a term not to exceed 5 years, or both.

"(2) Injures or destroys, or attempts to injure or destroy, any interstate transmission facility shall, upon conviction, be subject, for each offense, to a fine of not more than $25,000, imprisonment for a term not to exceed 15 years, or both.

"COMPLIANCE ORDERS

"Sec. 9. The Secretary may issue orders directing compliance with this Act or any regulation issued thereunder. The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce such orders by appropriate means.

"SPECIFIC RELIEF

"Sec. 10. (a) (1) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress or restrain a violation by any person of a provision of this Act or a regulation issued thereunder. Such district courts shall have jurisdiction to determine such actions and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

"(2) In any proceeding for criminal contempt for violation of a mandatory or prohibitive injunction issued under this subsection, which violation also constitutes a violation of this Act, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

"(b) (1) If the Secretary finds, after reasonable notice and an opportunity for hearing, that any pipeline facility is hazardous to life or property, he shall, by order, require the person operating the facility to take necessory corrective action. Such corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action, as appropriate. The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce orders issued under this subsection by appropriate means.

"(2) The Secretary may waive the requirements for notice and hearing under this subsection and provide for expeditious issuance of an order under this subsection in any case in which he determines that the failure to do so would result in the likelihood of serious harm to life or property. However, the Secretary shall include in such an order an opportunity for hearing as soon as practicable after issuance or an order.".

(b) Section 6 is amended by striking out the existing heading and inserting in lieu thereof "JUDICIAL REVIEW OF STANDARDS AND ORDERS" and by inserting the words "standard or" immediately before the word "order" wherever it appears in subsections (a), (b), and (c).

ADMINISTRATION

Sec. 108. Section 12 is amended to read as follows:

"POWERS AND DUTIES OF THE SECRETARY

"Sec. 12. (a)—The Secretary is authorized, to the extent necessary to carry out his responsibilities under this Act, to conduct investigations make reports, issue subpenas, conduct hearings, require the production of relevant documents and records, take depositions, and conduct, directly or indirectly, research, testing, development, demonstration, and training activities.

"(b) Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require, and shall submit such reports and shall make such records and information available as the Secretary may request, to enable him to determine whether such person has acted or is acting in compliance with this Act and the standards or orders issued under this Act.

"(c) Officers, employees, or agents authorized by the Secretary, upon presenting appropriate credentials to the person in charge, are authorized to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining whether such persons have acted or are acting in compliance with this Act and the standards or orders issued under this Act.

"(d) Accident reports made by any officer, employee, or agent of the Department of Transportation shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident. Any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigations. Any such report shall be made available to the public in a manner which need not identify individuals. All reports on research projects, demonstration projects, and other related activities shall be public information.

"(e) All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (a), (b), or (c) which information contains or relates to a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Secretary or any officer, employee, or agent under his control, from the duly authorized committees of the Congress.".

APPROPRIATIONS AUTHORIZATION

Sec. 109. Section 15 is amended by redesignating it as section 14 to read as follows:

"APPROPRIATIONS AUTHORIZED

"Sec. 14. (a) There are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1980, and $5,350,000 for the fiscal year ending September 30, 1981, for the purpose of carrying out the provisions of this Act and the Hazardous Liquid Pipeline Safety Act of 1979, except that the funds appropriated pursuant to this subsection shall not be used for Federal grants-in-aid.

"(b) There are authorized to be appropriated $3,017,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary $3,228,190 for the fiscal year ending September 30, 1981, for the purpose of carrying out the Federal grants-in-aid provisions of section 5(d) of this Act.

"(c) There are authorized to be appropriated $500,000 for the fiscal year ending September 30, 1980, and $535,000 for the fiscal year ending September 30, 1981, for the purpose of carrying out the Federal grants-in-aid provisions of section 205(c) of this Act.".

CLERICAL AND CONFORMING AMENDMENTS

Sec. 110. (a) Section 14 is amended by redesignating it as section 13; by striking out "March 17" and inserting in lieu thereof "June 15"; and by striking out "3(e)" in paragraph 3 of subsection (a) and inserting in lieu thereof "3(f)".

(b) Sections 16 and 17 are amended by redesignating them as sections 15 and 16, respectively.

(c) Section 16(f), as redesignated, is amended by striking out "minimum".

EFFECTIVE DATE

Sec. 111. The provisions of this title shall take effect on the date of their enactment.

SAVINGS PROVISIONS

Sec. 112. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges which have been issued, made, granted, or allowed to become effective under the provisions of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.). as amended, and which are in effect at the time this title takes effect, shall continue in effect as though issued, made, granted, or allowed to become effective under the authority of this title, according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, by any court of competent jurisdiction, or by operation of law.

(b) Suits, actions, or other proceedings pending upon the date of enactment of this title shall not be affected by the provisions of this title and shall be completed as if this title had not been enacted, unless the Secretary makes a determination that the public safety otherwise requires.

TITLE II—LIQUID PIPELINE SAFETY

SHORT TITLE

Sec. 201. This title may be cited as the "Hazardous Liquid Pipeline Safety Act of 1979".

DECLARATION OF POLICY

Sec. 202. It is declared to be the policy of Congress in this title to improve the ability of the Secretary of Transportation to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous liquids by pipeline in or affecting interstate or foreign commerce.

DEFINITIONS

Sec. 203. As used in this title—

(1) "person" means any individual, firm, joint venture, partnership, corporation, association, State, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof;

(2) "hazardous liquid" means a substance or material which is in liquid form (excluding liquefied natural gas) when transported by pipeline facilities and which, as determined by the Secretary, may pose an unreasonable risk to life or property when transported by pipeline facilities. For the purpose of this title "hazardous liquid" includes but is not limited to,

(3) "transportation of hazardous liquids" means the movement of hazardous liquids by pipeline, or their storage incidental to such movement, in or affecting interstate or foreign commerce; except that it shall not include any such movement through gathering lines in rural locations or onshore production, refining, or manufacturing facilities or storage or in-plant piping systems associated with any of these facilities.

(4) "pipeline facilities" includes, without limitation, new and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of hazardous liquids, but rights-of-way as used in this title does not authorize the Secretary to prescribe the location or the routing of any pipeline facility;

(5) "interstate pipeline facilities" means those pipeline facilities used in the transportation of hazardous liquids in interstate or foreign commerce;

(6) "intrastate pipeline facilities" means pipeline facilities which are not interstate pipeline facilities;

(7) "interstate or foreign commerce" means commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof;

(8) "State" includes each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(9) "Secretary" means the Secretary of Transportation.

REGULATIONS GOVERNING TRANSPORTATION OF HAZARDOUS LIQUIDS AND PIPELINE FACILITIES

SEC. 204. (a) The Secretary shall issue, in accordance with the provisions section 553 of title 5, United States code including an opportunity for informal oral presentation, Federal safety standards for the transportation of hazardous liquids and pipeline facilities. The standards shall apply to each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities. The standards shall be practicable and designed to meet the need for safe transportation of hazardous liquids and may govern any safety aspect of that transportation which the Secretary considers necessary or appropriate.

(b) In prescribing standards under this section, the Secretary shall consider—

(1) relevant available pipeline data;

(2) whether the standards are appropriate for the particular type of pipeline transportation or facility;

(3) the reasonableness of any proposed standards; and

(4) the extent to which the standards will contribute to public safety.

(c) Except as provided under section 210 (b) of this title, any standard issued under this section affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date it is adopted.

(d) Any State agency may adopt additional or more stringent safety standards for intrastate pipeline facilities and the transportation of hazardous liquids associated with those facilities, if those standards are compatible with the Federal standards issued under this title. No State agency may adopt or continue in force any safety standards applicable to interstate pipeline facilities or the transportation of hazardous liquids associated with those facilities.

(e) Upon application by any person engaged in the transportation of hazardous liquids or the operation of pipeline facilities, the Secretary may, by order, after notice and opportunity for hearing and under such terms and conditions and to such extent as he deems appropriate, waive in whole or in part compliance with any standard established under this title, if he determines that a waiver of compliance with such standard is not inconsistent with pipeline safety. The Secretary shall state his reasons for any such waiver. A State agency, with respect to which there is in effect a certification pursuant to section 205(a) or an agreement pursuant to section 205(b), may waive compliance with a safety standard in the same manner and under the same conditions as the Secretary, provided such State agency gives the Secretary written notice at least sixty days prior to the effective date of the waiver. If, before the effective date of a waiver to be granted by a State agency, the Secretary objects in writing to the granting of the waiver, any State agency action granting the waiver will be stayed. After notifying such State agency of his objection, the Secretary shall afford such agency a prompt opportunity to present its request for waiver, with opportunity for hearing, and the Secretary shall determine finally whether the requested waiver may be granted.

(f)(1) The Secretary is authorized to advise, assist, and cooperate with other Federal agencies and State and other interested public and private agencies and persons, in the planning and developing of (1) Federal safety standards, and (2) methods for inspecting and testing to determine compliance with Federal safety standards.

(2) The Secretary is authorized to consult with, and make recommendations to, other Federal agencies, State and local governments, and other public and private agencies or persons, for the purpose of developing and encouraging activities, including the enactment of legislation, to assist in the implementation of this title and to improve State and local pipeline safety programs.

STATE CERTIFICATIONS AND AGREEMENTS

SEC. 205. (a) Except for section 210(b) and except as otherwise provided in this section, the authority of the Secretary under this title to prescribe safety standards and enforce compliance with those standards shall not apply to intrastate pipeline facilities or the transportation of hazardous liquids associated with those facilities, when the safety standards and practices applicable to same are regulated by a State agency which submits to the Secretary an annual certification that such State agency—

(1) has regulatory jurisdiction over the safety standards and practices of intrastate pipeline facilities and the transportation of hazardous liquids associated with those facilities;

(2) has adopted, as of the date of the certification, each Federal safety standard established under this title which is applicable to intrastate pipeline facilities and the transportation of hazardous liquids associated with those facilities or, with respect to each such Federal safety standard established within one hundred and twenty days before the date of certification, is taking steps pursuant to State law to adopt such standard;

(3) is enforcing each such standard;

(4) is encouraging and promoting programs designed to prevent damage to pipeline facilities as a consequence of demolition, excavation, tunneling, or construction activity;

(5) has the authority to require record maintenance, reporting, and inspection substantially the same as are provided under section 212 and the filing for approval of plans of inspection and maintenance described in section 211 and that the law of the State makes provision for the enforcement of the safety standards of such State agency by way of injunctive and monetary sanctions substantially the same as are provided under sections 208(a) and 210(b). Each annual certification shall include a report, in such form as the Secretary may by regulation provide, showing (i) name and address of each person subject to the safety jurisdiction of the State agency; (ii) all accidents or incidents reported during the preceding twelve months by each such person involving personal injury requiring hospitalization, fatality, or property damage exceeding $5,000 (whether or not sustained by a person subject to the safety jurisdiction of the State agency), together with a summary of the State agency's investigation as to the cause and circumstances surrounding such accident or incident; (iii) the record maintenance, reporting, and inspection practiced by the State agency to enforce compliance with such Federal safety standards, including a detail of the number of inspections made of pipeline facilities by the State agency during the preceding twelve months; and (iv) such other information as the Secretary may require. The report included with the first annual certification need not show information unavailable at that time.

(b) With respect to any intrastate pipeline facilities or transportation of hazardous liquids associated with those facilities for which the Secretary does not receive an annual certification under subsection (a), the Secretary may, by agreement with a State agency authorize such agency to assume responsibility for, and carry out on behalf of the Secretary as it relates to those facilities or associated transportation, the necessary actions to—

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with Federal safety standards; and

(2) establish procedures for approval of plans and inspection and maintenance substantially the same as are required under section 211.

Any agreement executed pursuant to this subsection shall require the State agency promptly to notify the Secretary of any violation or probable violation of a Federal safety standard which it discovers as a result of its program.

(c) (1) Except as otherwise provided in this section, if an application submitted not later than September 30 in any calendar year, the Secretary shall pay out of funds appropriated or otherwise made available up to 50 percent of the cost of the personnel, equipment, and activities of a State agency reasonably required during the following calendar year to carry out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section; or to act as agent of the Secretary with respect to interstate pipeline facilities. The Secretary may, after notice and consultation with a State agency, withhold all or any part of the funds for a particular State agency if he determines that such State agency (A) is not satisfactorily carrying out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section, or (B) is not satisfactorily acting as agent of the Secretary with respect to interstate transmission facilities. No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such a safety program and that the aggregate expenditures of funds of the State, exclusive of Federal grants, for hazardous liquid pipeline safety programs will be maintained at a level which does not fall below the average level of such expenditures for the last 2 fiscal years preceding the date of enactment of this section.

(2) Funds authorized to be appropriated by section 110 of this Act shall be allocated among the several States for payments to aid in the conduct of pipeline safety programs in accordance with paragraph (1) of this subsection.

(3) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

(4) The Secretary may, by regulation, provide for the form and manner of filing of applications under this section, and for such reporting and fiscal procedures as he deems necessary to assure the proper accounting for Federal funds.

(d) A certification which is in effect under subsection (a) shall not apply with respect to any new or amended Federal safety standard established for intrastate pipeline facilities or transportation of hazardous liquids associated with those facilities pursuant to this title after the date of such certification. The provisions of this title shall apply to any such new or amended Federal safety standard until the State agency has adopted such standard and has submitted an appropriate certification in accordance with provisions of subsection (a).

(e) If after receipt of annual certification under subsection (a), the Secretary determines that the State agency is not satisfactorily enforcing compliance with Federal safety standards, he may, on reasonable notice and after opportunity for hearing, reject the certification or take such other action as he deems appropriate to achieve adequate enforcement including the assertion of Federal jurisdiction. When such notice is given by the Secretary, the burden of proof shall be upon the State agency to show that it is satisfactorily enforcing compliance with Federal safety standards.

(f) Any agreement under subsection (b) may be terminated by the Secretary if, after notice and opportunity for a hearing, he finds that the State agency has failed to comply with any provision of such agreement. Such finding and termination shall be published in the Federal Register and shall become effective no sooner than fifteen days after the date of publication.

(g) The Secretary is authorized to conduct whatever monitoring may be necessary of any State program established by certification or agreement under this section to assure that such programs are being carried out in compliance with such certification or agreement. State agencies shall cooperate fully in a system of Federal monitoring of their programs.

JUDICIAL REVIEW OF STANDARDS AND ORDERS

SEC. 206. (a) Any person who is or will be adversely affected or aggrieved by any standard or order issued under this title may at any time prior to the sixtieth day after such standard or order is issued file a petition for a judicial review with the United States Court of Appeals for the District of Columbia or for the circuit wherein such petitioner is located or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose.

(b) Upon the filing of the petition referred to in subsection (a), the court shall have jurisdiction to review the standard or order in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief as provided in such chapter.

(c) The judgment of the court affirming or setting aside, in whole or in part, any such standard or order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(d) Any action instituted under this section shall survive, notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office.

(e) The remedies provided for in this section shall be in addition to and not in substitution for any other remedies provided by law.

COMPLIANCE

SEC. 207. (a) Each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities shall—

(1) at all times after the date an applicable safety standard established under this title takes effect comply with the requirements of such standard;

(2) comply with the requirements of section 211 regarding the preparation, maintenance, and carrying out of a plan of inspection and maintenance; and

(3) permit access to or copying of records, and make reports or provide information, and permit entry or inspection, as required under section 212.

(b) Nothing in this title shall affect the common law or statutory liability of any person.

PENALTIES

SEC. 208. (a) Any person who is determined by the Secretary to have violated any provisions of this title or any regulation or order issued thereunder including any order issued under sections 209 or 210(b) of this title, shall be liable to the United States for a civil penalty of not more than $1,000 for each violation for each day the violation continues, except that the maximum civil penalty shall not exceed $200,000 for any related series of violations. The amount of the penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, and gravity of the violation and with respect to the person found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, and such other matters as the Secretary believes justice may require.

(b) Except as provided by subsection (c), a civil penalty assessed under subsection (a) may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, it may be compromised by the Secretary. The amount of the penalty, when finally determined (or agreed upon in compromise), may be deducted from all sums owed by the United States to the person charged. All penalties collected under this Subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) When a civil penalty of not more than $1,500 has been assessed under subsection (a), the matter may be referred for collection of the penalty directly to the Federal magistrate of the jurisdiction wherein the person liable may be found, for institution of collection procedures under supervision of the district court, if the court has issued an order delegating such authority under section 636(b) of title 28, United States Code.

(d) Any person who willfully and knowingly—

(1) Violates a provision of this title or a regulation or order issued thereunder including any order issued under sections 209 or 210(b) of this title, shall, upon conviction be subject, for each offense, to a fine of not more than $25,000, imprisonment for a term not to exceed 5 years, or both.

(2) Injures or destroys, or attempts to injure or destroy any interstate pipeline facility, shall, upon conviction, be subject for each offense, to a fine of not more than $25,000 or imprisonment for a term not to exceed 15 years, or both.

COMPLIANCE ORDERS

SEC. 209. The Secretary may issue orders directing compliance with this title or any regulation issued thereunder. The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce such orders by appropriate means.

SPECIFIC RELIEF

SEC. 210. (a)(1) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress or restrain a violation by any person of a provision of this title or a regulation issued thereunder. Such district courts shall have jurisdiction to determine such actions and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

(2) In any proceeding for criminal contempt for violation of a mandatory or prohibitive injunction issued under this subsection, which violation also constitutes a violation of this Act, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(b)(1) If the Secretary finds after reasonable notice and an opportunity for hearing, that any pipeline facility is hazardous to life or property, he shall, by order, require the person operating the facility to take necessary corrective action. Such corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action, as appropriate. The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce orders issued under this subsection by appropriate means.

(2) The Secretary may waive the requirements for notice and hearing under this subsection and provide for expeditious issuance of an order under this subsection in any case in which he determines that the failure to do so would result in the likelihood of serious harm to life or property. However, the Secretary shall include in such an order an opportunity for hearing as soon as practicable after issuance of the order.

INSPECTION AND MAINTENANCE

SEC. 211. (a) Each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities shall prepare, maintain and carry out a current written plan of inspection and maintenance of each facility used in that transportation and owned or operated by that person in accordance with regulations prescribed by the Secretary or, where a certification or agreement pursuant to section 205 of this title is in effect, by the appropriate State agency. A plan required by this subsection shall be practicable and designed to meet the need for pipeline safety and shall be made available to the Secretary or appropriate State agency upon request.

(b) If the Secretary or appropriate State agency finds that a plan required under this section is inadequate to achieve safe operation of pipeline facilities, the Secretary or appropriate State agency shall, after notice and opportunity for a hearing, require the plan to be revised. In determining the adequacy of a plan filed under this section, the Secretary or appropriate State agency shall consider—

(1) relevant available pipeline safety data;

(2) whether the plan is appropriate for the particular type of pipeline transportation;

(3) the reasonableness of the plan; and

(4) the extent to which such plan will contribute to public safety.

POWERS AND DUTIES OF THE SECRETARY

SEC. 212. (a) The Secretary is authorized, to the extent necessary to carry out his responsibilities under this title, to conduct investigations, make reports, issue subpenas, conduct hearings, require the production of relevant documents and records, take depositions, and conduct, directly, or indirectly, research, testing, development, demonstration, and training activities.

(b) Each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require, and shall submit such reports and shall make such records and information available as the Secretary may request, to enable him to determine whether such person has acted or is acting in compliance with this title and the standards or orders issued under this title.

(c) Officers, employees, or agents authorized by the Secretary, upon presenting appropriate credentials to the person in charge, are authorized to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining whether such persons have acted or are acting in compliance with this title and the standards or orders issued under this title.

(d) Hazardous liquid pipeline accident reports made by any officer, employee, or agent of the Department of Transportation shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident. Any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in accident investigations. Any hazardous liquid pipeline accident report shall be made available to the public in a manner which need not identify individuals. All reports on research projects, demonstration projects, and other related activities shall be public information.

(e) All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsections (a), (b), or (c), which information contains or relates to a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under this title. Nothing in this section shall authorize the withholding of information by the Secretary or any officer, employee, or agent under his control, from the duly authorized committees of the Congress.

ANNUAL REPORT

SEC. 213. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on June 15 of each year a comprehensive report on the administration of this title for the preceding calendar year. Such report shall include—

(1) a thorough compilation of the leak repairs, accidents, and casualties occurring in such year with a statement of cause whenever investigated and determined by the National Transportation Safety Board;

(2) a list of Federal hazardous liquid pipeline safety standards established or in effect in such year with identification of standards newly established during such year;

(3) a summary of the reasons for each waiver granted under section 204(f) during each year;

(4) An evaluation of the degree of observance of applicable safety standards for the transportation of hazardous liquids and pipeline facilities including a list of enforcement actions, and compromises of alleged violations by location and company name;

(5) a summary of outstanding problems confronting the administration of this title in order of priority;

(6) an analysis and evaluation of research activities, including the policy implications thereof, completed as a result of Government and private sponsorship and technological progress for safety achieved during such year;

(7) a list, with a brief statement of the issues, of completed or pending judicial actions under the title;

(8) the extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to the public;

(9) a compilation of—

(A) certifications filed by State agencies under section 205(a) which were in effect during the preceding calendar year, and

(B) certifications filed under section 205(a) which were rejected by the Secretary during the preceding calendar year, together with a summary of the reasons for such rejection; and

(10) a compilation of—

(A) agreements entered into with State agencies under section 205(b) which were in effect during the preceding calendar year, and

(B) agreements entered into under section 205(b) which were terminated by the Secretary during the preceding calendar year, together with a summary of the reasons for each such termination.

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of hazardous liquid pipeline safety programs.

(c) The Secretary is authorized to submit one annual report in satisfaction of the report requirements of this section and of section 13 under the Natural Gas Pipeline Safety Act of 1968, as amended.

CITIZENS CIVIL ACTION

SEC. 214. (a) Except as provided in subsection (b), any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against any other person (including any State, municipality, or other governmental entity to the extent permitted by the eleventh amendment to the Constitution, and the United States) who is alleged to be in violation of this title or of any order or regulation issued under this title. The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced under subsection (a) with respect to any alleged violation of this title or any order or regulation issued under this title—

(1) prior to the expiration of sixty days after the plaintiff has given notice of such alleged violation to the Secretary (or to the applicable State agency in the case of a State which has been certified under section 205(a) and in which the violation is alleged to have occurred), and to any person who is alleged to have committed such violation; or

(2) if the Secretary (or such State agency) has commenced and diligently pursuing administrative proceedings or the Attorney General of the United States (or the chief law enforcement officer of such State) has commenced and is diligently pursuing judicial proceedings with respect to such alleged violation.

Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

(c) In any action under subsection (a), the Secretary (with the concurrence of the Attorney General) or the Attorney General may intervene as a matter of right.

(d) Nothing in this secton shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of this title or any order or regulation under this title or to seek any other relief.

(e) In any action under this section the court may, in the interest of justice, award the costs of suit, including reasonable attorney's fees and reasonable expert witnesses fees, to a prevailing plaintiff. Such court may, in the interest of justice, award such costs to a prevailing defendant whenever such action is unreasonable, frivolous, or meritless. For purposes of this subsection, a reasonable attorney's fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this section, and (B) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

(f) For purposes of this section, a violation of any safety standard or practice of any State shall be deemed to be a violation of this title or of any order or regulation under this title only to the extent that such standard or practice is not more stringent than the comparable Federal safety standard.

CONFORMING AMENDMENTS

SEC. 216. (a) Section 112(c) of the Hazardous Materials Transportation Act (49 U.S.C. 1811(c)) is amended by striking out "chapter 39 of title 18, United States Code" and inserting in lieu thereof "the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. et seq.)".

(b) Sections 831 through 835 of chapter 39 of title 18, United States Code are repealed.

EFFECTIVE DATE

SEC. 217. The provisions of this title shall take effect on the date of enactment.

SAVINGS PROVISIONS

SEC. 218. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges which have been issued, made, granted, or allowed to become effective under the provisions of chapter 39 of title 18, United States Code repealed by this title and which are in effect at the time this title takes effect, shall continue in effect as though issued, made, granted, or allowed to become effective under the authority of this title, according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, by any court of competent jurisdiction, or by operation of law.

(b) Suits, actions, or other proceedings pending upon the date of enactment of this title shall not be affected by the provisions of this title and shall be completed as if this title had not been enacted, unless the Secretary makes a determination that the public safety otherwise require.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 411.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COLORADO RIVER BASIN SALINITY CONTROL ACT—INCREASE OF TITLE I APPROPRIATIONS CEILING

The Senate proceeded to consider the bill (S. 496) to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (act of June 24, 1974; 88 Stat. 266), and for other purposes, which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 2, line 6, strike "use" and insert "obtain from the Secretary of Energy";

On page 2, line 16, after "Secretary" insert "of Energy";

On page 3, beginning with line 11, strike through and including line 21, and insert in lieu thereof the following:

"(4) Enter into contracts for the delivery of water from said well field to entities within the United States for municipal and industrial or irrigation purposes: *Provided*, That contracts for replacement water supplies to prevent damage to existing water users shall include water charges no greater than if such water users had continued to obtain their water from existing sources without the United States lowering the water table, and that the delivery of such replacement water supply shall not make the acreage limitation and related provisions of the Reclamation Law applicable to privately developed lands: *Provided further,*

On page 7, beginning with line 4, insert the following:

SEC. 8. Section 10 of the Small Reclamation Projects Act of 1956 (70 Stat. 1044), as amended, is further amended by deleting "$400,000,000" and inserting in lieu thereof "$600,000,000".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 24, 1974 (hereafter referred to as the "Act"), is hereby amended as follows:

SECTION 1. Section 101(b)(2) is amended, by inserting "(A)" after (2), by deleting the last sentence of the paragraph, and by adding thereafter the following:

"(B) The Secretary is authorized to obtain from the Secretary of Energy electrical power and energy available from the Navajo Generating Station which is in excess of the Central Arizona Project pumping requirements for the purpose of supplying power and energy requirements of the desalting plant and protective pumping well field constructed pursuant to title I of the Act: *Provided,* That revenues credited to the Lower Colorado River Basin Development Fund shall not be diminished below those amounts which would have accrued had the power been marketed at the rate determined by the Secretary of Energy for the sale of power from the Navajo Generating Station to utilities and public entities, as a result of the use of power and energy for the desalting, protective pumping works, and other uses authorized by law, and that power and energy from the Navajo Generating Station shall be used first to meet the pumping requirements of the Central Arizona Project and after those needs have been met, for the desalting and protective pumping facilities constructed pursuant to title I of the Act, and finally for other uses.

"(C) The Secretary of the Interior is authorized to purchase supplemental power and energy as required for the purposes of supplying the power and energy requirements of the desalting plant and protective pumping well field.".

SEC. 2. Section 101(c) is amended by inserting ", Colorado River waters used for the mitigation of fish and wildlife habitat losses" after "from the desalting plant" in two places.

SEC. 3. Section 103(a) of the Act is amended by adding a new subsection (4) as follows:

"(4) Enter into contracts for the delivery of water from said well field to entities within the United States for municipal and industrial or irrigation purposes: *Provided,* That contracts for replacement water supplies to prevent damage to existing water users shall include water charges no greater than if such water users had continued to obtain their water from existing sources without the United States lowering the water table, and that the delivery of such replacement water supply shall not make the acreage limitation and related provisions of the Reclamation Law applicable to privately developed lands: *Provided further,* That no contract shall be entered which will impair the ability of the United States to continue to deliver to Mexico on the land boundary at San Luis and in the Limitrophe Section of the Colorado River downstream from Morelos Dam approximately one hundred forty thousand acre-feet annually, consistent with the terms contained in Minute No. 242 of the IBWC.

SEC. 4. A new section 106 shall be added to the Act, as follows, and succeeding sections shall be renumbered accordingly:

"SEC. 106. The Secretary is hereby authorized to administer and dispose of lands and interests in lands acquired, and facilities constructed under this title, and revenues received in connection with this authority shall be credited to the General Fund of the Treasury.".

SEC. 5. Section 108 of the Act is changed to section 109 and is amended by striking the first sentence and inserting in lieu thereof: "There is hereby authorized to be appropriated the sum of $333,382,000 for the construction of the works and accomplishment of the purposes authorized in sections 101, 102, 103, and 110, of which $3,579,000 is authorized for mitigation of fish and wildlife losses associated with replacement of the Coachella Canal in California, and $6,969,000 is authorized for mitigation of fish and wildlife losses associated with the Desalting Complex Unit and the Protective and Regulatory Pumping Unit in Arizona, based on July 1977 prices plus or minus such amounts as may be justified by reason of ordinary fluctuation in construction costs involved therein, and such sums as may be required to operate and maintain such works and to provide for such modifications as may be made pursuant to section 104.".

SEC. 6. A new section 110 shall be added to the Act, as follows:

"SEC. 110. In order to provide measures determined by the Secretary of the Interior to be approrpiate to mitigate loss of fish and wildlife habitat associated with other measures taken under this title:

"(a) The Secretary is authorized to—

"(1) acquire lands by purchase, eminent domain, or exchange;

"(2) dispose of land, facilities, and equipment;

"(3) construct, operate, maintain, and make replacements of facilities: *Provided, however,* That no funds will be provided for operation, maintenance, or replacement of non-Federal facilities.

"(b) All costs authorized by this section are nonreimbursable.".

SEC. 7. A new section 111 shall be added to the Act, as follows:

"SEC. 111. As used in this title:

"(a) Navajo Generating Station means—

"(1) the United States entitlement to a portion of the output of power and energy from the Navajo Generating Station, Page, Arizona, pursuant to United States participation in that generating station;

"(2) in the event that said United States entitlement is integrated with other generating facilities, then Navajo Generating Station means that amount of power and energy from the integrated system which is attributable to the United States Navajo entitlement;

"(3) when the Navajo Generating Station is replaced at the end of its useful life or an alternative resource is established, then Navajo Generating Station means an amount of power and energy equivalent to the present United States entitlement from Navajo, from the replacement resource.

"(b) All terms used herein that are defined in the Colorado River Compact shall have the meanings therein defined.".

SEC. 8, Section 10 of the Small Reclamation Projects Act of 1956 (70 Stat. 1044), as amended, is further amended by deleting $400,000,000" and inserting in lieu thereof "600,000,000".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read:

A bill to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the Act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Projects Act of 1956 (70 Stat. 1044), and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I thank the acting Republican leader for yielding.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged to the special order that was set aside for Senator BAKER.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. KENNEDY was recognized.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield briefly?

Mr. KENNEDY. I yield.

Mr. ROBERT C. BYRD. I thank the Senator.

VETERANS' HEALTH CARE AMENDMENTS OF 1979—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 7 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 7) to amend title 38, United States Code, to revise and improve certain health-care programs of the Veterans' Administration, to authorize the construction, alteration, and acquisition of certain medical facilities, and to expand certain benefits for disabled veterans, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of May 24, 1979.)

Mr. CRANSTON. Mr. President, I rise to urge my colleagues to support the conference report on S. 7, the proposed Veterans' Health Care Amendments of 1979. This measure reflects the best efforts of the Senate and House conferees charged with the responsibility of resolving the differences between S. 7 as passed by the Senate on May 16, 1979, and the House amendment to S. 7, agreed to by the House on May 21, 1979. The conferees met on May 23, 1979, and I strongly believe that the product of our work is an equitable and reasonable resolution of the differences between the two versions and represents a fair vindication of the Senate bill.

Mr. President, the Committees on Veterans' Affairs of the House and the Senate established as a major priority in the 96th Congress the early enactment of legislation to establish new programs of readjustment counseling for Vietnam-era veterans and of preventive health-care services for veterans with service-connected disabilities, to expand the authorities for the VA's alcohol and drug treatment programs, to make certain improvements in the VA's medical facility construction and acquisition program, and to improve and expand other health benefits for our Nation's veterans. The conference agreement represents the achievement of this goal and the culmination of an 8-year effort in the Congress to establish the readjustment counseling program and expand the alcohol and drug treatment programs.

BACKGROUND

Mr. President, legislation to establish programs of readjustment counseling services for certain veterans and expanded services for the treatment and rehabilitation of veterans suffering from drug and alcohol dependence or abuse disabilities has been passed by the Senate in five Congresses now—S. 2108, 92d Congress; S. 284, 93d Congress; S. 2908, 94th Congress; H.R. 5027, 95th Congress and S. 7, 96th Congress. In addition, the pilot program of preventive health-care services which the conference agreement would establish for veterans with service-connected disabilities is derived from provisions in legislation that the Senate Veterans' Affairs Committee favorably reported and the Senate passed in the 94th (S. 2908), the 95th (H.R. 5027), and the 96th (S. 7) Congresses.

Although the Senate passed provisions to establish such readjustment counseling, alcohol and drug treatment, and preventive health-care services programs in prior Congresses, the House failed to act on them.

Therefore, before the close of the 95th Congress, in an effort to achieve their enactment, I entered into extensive discussions with the chairman of the House Veterans' Affairs Committee's Subcommittee on Medical Facilities and Benefits (Mr. Satterfield). The result was an extensive package of veterans health-care legislation, representing a fair and reasonable compromise of the concerns of the two committees regarding veterans' health-care programs, which would be of great value to our Nation's veterans.

In addition to provisions for the abovementioned programs, the agreement incorporated, with modifications, the major provisions of H.R. 5025, the proposed "Veterans' Administration Medical Facilities Acquisition Act," as passed by the House in the 95th Congress, requiring approval by the House and Senate Veterans' Affairs Committees of the construction or acquisition of major VA health-care facilities.

It also contained amendments to title 38 of the United States Code relating to other veterans' health-care benefits and to administrative and personnel matters. Unfortunately, due to the parliamentary logjam in the House and Senate at the end of the last Congress, final action on this compromise measure could not be secured.

S. 7, which I introduced on January 15, 1979, contained the basic provisions of the agreement reached at the end of the 95th Congress with certain further refinements and revisions. Cosponsors of the Senate bill include Senators Simpson, Talmadge, Randolph, Stone, Durkin, Matsunaga, Thurmond, Stafford, and Hart. A companion bill, H.R. 1608, was introduced in the House on January 29, 1979, by Chairman Satterfield.

The Senate Veterans' Affairs Committee reported S. 7 with an amendment in the nature of a substitute and two amendments thereto on April 27, 1979. On May 16, the Senate considered this legislation, adopted two amendments thereto, and passed S. 7 as amended. On May 21, 1979, the House passed H.R. 1608 as reported, with minor floor amendments, and then substituted the provisions of that measure into S. 7, the measure previously passed by the Senate.

BASIC PURPOSE

Mr. President, the conference agreement generally achieves the purposes set forth in our committee report on S. 7 (S. Rept. 96-100), and thus will improve the quality, scope, and efficiency of health-care services provided to our Nation's veterans through the Veterans' Administration's health-care system by—

First, establishing important new programs primarily for the benefit of veterans with service-connected or service-related health problems, including first, a program of readjustment counseling for Vietnam-era veterans who are suffering from problems in readjusting to civilian life; second, a pilot program providing for the treatment and rehabilitation of veterans with alcohol or drug dependence or abuse disabilities in community-based non-VA facilities through contractual arrangements with such facilities; and third, a pilot program of preventive-health care services for certain veterans with service-connected disabilities.

Second, extending outpatient dental benefits to veterans who were prisoners of war and were captive for at least 6 months and to 100-percent service-connected disabled veterans;

Third, modifying the circumstances under which medical and dental care may be provided on a contract basis;

Fourth, improving the VA medical facilities construction program; and

Fifth, making other needed improvements in the veterans' health-care system.

MAJOR DIFFICULTIES BETWEEN HOUSE AND SENATE VERSIONS AND CONFERENCE RESOLUTIONS

Mr. President, the House and Senate, having previously worked out the major differences that have separated the bodies over the years, were in fundamental agreement on most of the legislation. However, there were certain differences between the Senate bill as amended and the House amendment thereto. I would like to outline briefly the major areas of difference and summarize the resolutions reached under the conference agreement.

First, with respect to the new readjustment counseling program, both the Senate bill and the House amendment provided contract authority for mental health services for eligible Vietnam-era veterans who have been determined to need such services to help them readjust to civilian life. The Senate bill provided contract authority for the readjustment counseling as well. The conference agreement includes the Senate provision.

Also, regarding the readjustment counseling program, the Senate bill provided for contracting out when the standard criteria for contract medical care are met, that is, when VA facilities cannot furnish economical care because of geographical inaccessibility or when they cannot furnish the type of care the veteran needs. The House amendment would have established special, more liberal criteria.

I should note here that the substance of the House provision was offered as an amendment to S. 7 on the floor by the Senators from Pennsylvania (Mr. Heinz) and South Dakota (Mr. McGovern and Mr. Pressler), and expressly rejected by a vote of 42 to 53.

The conference agreement includes the Senate language, with the understanding agreed to by the conferees and stated on page 25 of the Joint Explanatory Statement accompanying the conference report, that, if the Administrator, on the advice of a VA mental health professional upon application of the criterion for furnishing contract care provided for in new section 612A and section 601(4)(C) that the VA is "not capable" of furnishing the care or services required, determines that the VA facility in question cannot furnish the type of counseling or services needed for that particular veteran, the Administrator should contract with a private facility to provide such services, provided that the quality and effectiveness of the program of such facility has been approved by the Administrator in accordance with the criteria which the Administrator is required to prescribe in regulations.

The joint explanatory statement also notes that it would be appropriate for the Administrator to contract with community mental health centers in such cases when such quality and effectiveness criteria of the Administrator are met.

Mr. President, I believe that this approach represents a fair and reasonable resolution of the issue. It focuses the responsibility for the readjustment counseling program in the VA, where the overwhelming majority of veterans can be best served, but provides for some flexibility—in accordance with the general criteria applicable to contract care for service-connected disabilities—in making readjustment counseling and related mental health services available on a contract basis when necessary. It was of fundamental importance to the concept of the Senate bill—to provide adequate flexibility for contracting for needed counseling and mental health services without granting broader authority than is available to contract for treatment for service-connected disabilities—to prevail on this issue.

In addition, the House amendment, but not the Senate bill, provided that psychologists, as well as physicians, as provided for in both the Senate bill and the House amendment, may make the determination, based on a mental and psychological assessment of the veteran, that the provision of mental health services to a veteran is necessary to facilitate the veterans' readjustment to civilian life. The conference agreement includes the House provision.

Second, with respect to dental care, the Senate bill, but not the House amendment, would have directed the Administrator of Veterans' Affairs to prescribe regulations insuring that, except where required by compelling medical or dental reasons, special priority in the provision of dental care be given in accordance with a specified order generally emphasizing service-connected dental care. The House conferees would not agree to the establishment of such a priority but were agreeable to limiting the circumstances under which the lowest priority—under the Senate provision—of dental care may be provided. Thus, the conference agreement provides that dental services may generally be furnished to hospitalized veterans for non-service-connected dental conditions only to the extent that the dental facilities to be used for such care are not needed to provide dental care for dental conditions or disabilities listed in section 612(b) of title 38.

The section 612(b) listing includes dental conditions which are service-connected or associated with and aggravating a service-connected disability, a dental condition of a totally disabled service-connected veteran or a veteran who was a POW for at least 6 months, a non-service-connected dental condition for which treatment was begun while the veteran was hospitalized, and a dental condition of a Spanish-American War veteran.

The conference agreement provision permits exceptions for non-service-connected dental care during hospitalization only when the dental care is for a dental condition associated with or aggravating a disability for which the veteran was hospitalized and when compelling medical reasons or a dental emergency requires furnishing dental services to a hospitalized veteran. Routine dental work is expressly excluded from the compelling medical reasons or dental emergency criteria.

I expect these criteria to be strictly construed and closely monitored by the VA in order to achieve the basic purpose of this provision—increased utilization of the VA's own dental care resources for the direct provision of service-connected care and of outpatient dental care in the other categories listed in section 612(b).

Third, the Senate bill, but not the House amendment, limited VA expenditures, beginning in fiscal year 1980, for outpatient dental care and services provided by contract—so-called "fee-basis" care—to the amount expended for such care in fiscal year 1978—$45.2 million. The House conferees would not agree to such a "cap" on "fee-basis" dental care but were agreeable to requiring a report when expenditures for "fee-basis" dental care are expected to exceed the amount of the Senate-proposed cap.

Thus, the conference agreement requires the Administrator to notify and provide justification—in terms of the strict application of the section 601(4)(C) contract criteria, described below, and the new provision, described in the preceding item, limiting incidental dental care for certain hospitalized veterans—in a report to the Senate and House Veterans' Affairs Committees if and when VA contract dental expenditures are expected to exceed in any fiscal year the fiscal year 1978 level for such expenditures.

The conferees imposed this reporting requirement because of their concern that the VA has been using its contract dental authority without strictly adhering to the general criteria of section 601(4)(C) of title 38, United States Code, limiting the use of such authority—to situations in which VA facilities cannot furnish economical care because of geographical inaccessibility or because VA facilities cannot furnish the type of care required—and their strong conviction that those criteria should be strictly applied.

Fourth, regarding the new preventive health-care program, the Senate bill authorized a 4-year program with maximum expenditures of $3.5 million in fiscal year 1980, $5 million in fiscal year 1981, $7 million in fiscal year 1982, and $9 million in fiscal year 1983. The House bill authorized a 6-year program with maximum expenditures of $25 million per year and the pro rata portion thereof in any year in which the program is effective for only part of the year. The conference includes compromises providing for a 5-year program with maximum expenditures of $10 million in fiscal year 1980, $12 million in fiscal year 1981, $13 million in fiscal year 1982, $14 million in fiscal year 1983, and $15 million in fiscal year 1984.

Fifth, the House amendment, but not the Senate bill, would have required that the House and Senate Veterans' Affairs Committees must adopt resolutions approving construction, alteration, or acquisition of any VA medical facility costing more than $2 million, or for the lease of any medical facility by the VA at an average annual rental of more than $500,000, before appropriations may be made for any such medical facility project. Such a requirement was included in the bill as reported to the Senate, but was deleted on the Senate floor when the amendment of the Senator from Wisconsin (Mr. PROXMIRE) prevailed by a two-vote margin.

During the conference, the Senate conferees strongly urged that the House recede on this issue in light of the Senate action. However, the House conferees were adamant in their desire to maintain the House provision in tact and cited the fact that the House amendment had passed by a unanimous vote without dissent being voiced on the floor of that body, and that the predecessor bill in the 95th Congress, H.R. 5025, on which the House provision was based, had passed the House by a vote of 373–19.

They remained steadfast when the Senate conferees offered as a substitute for the Committee-resolution-approval requirement a provision requiring annual authorizing legislation for major VA medical facility projects.

They were equally unreceptive to a proposal requiring approval by a concurrent resolution—as I had proposed unsuccessfully on the Senate floor—instead of by Committee resolutions, and would not even accept a requirement that the Committee adopt their approval resolutions by a fixed date.

The Senate conferees did their utmost to convince the House on these points, but in vain. We were clearly deadlocked. Thus, after much debate and only as a way of reaching a final resolution of the conference issues so that we could proceed with legislation of great importance to many veterans in need of assistance, the Senate conferees agreed to accept the House provision, with some Senate modifications.

Fifth, the Senate bill, but not the House amendment, included a requirement, proposed on the floor by the Senator from New Mexico (Mr. DOMENICI), that the Administrator of Veterans' Affairs report to the House and Senate Veterans' Affairs Committees by October 1, 1979, on home-modification needs of veterans who are totally blind from service-connected causes. The conference agreement includes this requirement.

DISCUSSION OF CONFERENCE REPORT

Mr. President, the conference agreement has five titles: Health services programs; Contract-care programs; Construction, alteration, lease, and acquisition of medical facilities; Benefits payable to persons residing outside the United States; and Miscellaneous provisions, as follows:

Title I: Health services programs.—This title would establish new health services programs for veterans and improve existing programs. Included in title I of the committee bill are provisions that would:

First. Clarify the statutory hierarchy of outpatient treatment priorities in section 612(i) of title 38, United States Code, by expressly providing that medical examinations to determine the existence or rating of a service-connected disability—for the purpose of establishing eligibility for disability compensation and service-connected health-care services—be included in the third priority for outpatient care, along with non-service-connected care for veterans with service-connected disability ratings.

Second. Require the VA to notify and provide justification to the House and Senate Veterans' Affairs Committees if and when VA expenditures for contract dental care are expected to or do exceed the amount expended for such contract care in fiscal year 1978—$45.2 million.

Third. Provide that, except where required by compelling medical reasons, or a true dental emergency, dental services may be furnished to hospitalized veterans for non-service-connected dental conditions only to the extent that the dental facilities to be used for such care are not needed to provide dental care for dental conditions or disabilities listed in section 612(b) of title 38.

Fourth. Extend eligibility for outpatient dental-care benefits to veterans who were prisoners of war for at least 6 months or who have service-connected disabilities rated as total.

Fifth. Establish a new program for the VA to provide directly outpatient readjustment counseling and followup mental-health services by the VA—and to do so by contract, subject to the availability of appropriations, in certain limited circumstances under the general criteria applicable to contract care for veterans with total, service-connected disabilities—for Vietnam-era veterans (including family-member counseling where necessary) who request such counseling within 2 years from discharge or release or within 2 years after the enactment of the legislation, whichever is later.

Sixth. Provide for a pilot program for the treatment and rehabilitation of veterans with alcohol and drug dependence or abuse disabilities under which the VA would be authorized, for a period of 5 years, to contract for alcohol and drug treatment for veterans in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities and the Administrator would be required to cooperate with the Secretary of Labor and the Director of the Office of Personnel Management with respect to employment opportunities for veterans to whom the VA has provided services for such disabilities and who have been rehabilitated.

Seventh. Establish a 5-year pilot program of preventive health-care services, as the Administrator may deem feasible and appropriate, for veterans with 50-percent-or-more service-connected disability ratings and for veterans receiving treatment involving a service-connected disability, using interdisciplinary health-care teams in providing such services and not exceeding maximum expenditures of $10 million in fiscal year 1980, $12 million in fiscal year 1981, $13 million in fiscal year 1982, $14 million in fiscal year 1983, and $15 million in fiscal year 1984.

Eighth. Authorize the provision of hospital care, nursing home care, and medical services in the United States for the service-connected disabilities of certain Filipino veterans of service in the Philippine Commonwealth Army and New Philippine Scouts.

Ninth. Provide, except with respect to the provision described in item 1, above, that the provisions of this title shall take effect on October 1, 1979.

Title II: Contract-care programs.—This title would expand and clarify the circumstances under which the VA may furnish contract care in certain cases. Included in title II are provisions that would:

First. Restore limited authority to expand the circumstances under which certain veterans would be eligible for contract outpatient treatment—so-called "fee-basis" care—for non-service-connected disabilities, by revising certain amendments to chapter 17 of title 38 made by Public Law 94-581, the Veterans Omnibus Health Care Act of 1976, to provide that, if the general conditions for the provision of contract care are satisfied—that VA facilities are incapable of providing care economically because of geographical inaccessibility or are unable to provide the required care—veterans eligible for regular aid-and-attendance or housebound benefits may be provided fee-basis care if, on the basis of a physical examination, it is determined that the medical condition of such veteran precludes appropriate treatment in a VA-operated or other Government facility.

Second. Expressly provide authority for contract diagnostic services necessary to make determinations of eligibility for, or of the appropriate course of treatment in connection with, treatment of a non-service-connected disability at an independent VA outpatient clinic on the grounds that the treatment would obviate the need for hospital admission.

Third. Authorize the Administrator to enter into contracts, subject to the availability of appropriations, with certain organizations—those recognized by the VA under section 3402 of title 38—for providing emergency VA medical services at the national conventions of such organizations and to receive reimbursement for such services except to the extent that the recipients of such services are otherwise eligible therefor under chapter 17 of title 38.

Fourth. Provide for full reports by the VA on its use of all of its contract-care authorities, to be submitted annually on February 1, beginning in 1980.

Title III: Construction, alteration, lease, and acquisition of medical facilities.—This title would improve the planning and implementation of the VA's medical facilities construction program by providing for a statutory role for the House and Senate Veterans' Affairs Committees in the planning for and approval of funding for major VA medical facilities as part of the Congressional authorization and appropriations processes. Included in title III are provisions that would:

First. Provide that no appropriation shall be made for the construction, alteration, or acquisition of any VA medical facility costing more than $2 million, or for the lease of any medical facility to the VA at an annual rental of more than $500,000, without the House and Senate Veterans' Affairs Committees having first adopted resolutions approving the project.

Second. Allow the Administrator to increase the estimated construction or acquisition cost over the amount specified in such approval resolutions by not more than 10 percent.

Third. Require that the committees be notified, in advance, of any proposed reprograming of appropriated funds.

Fourth. Establish, and authorize appropriations for, a revolving fund for garage and parking construction projects involving expenditures of $2 million or less at VA medical facilities.

Fifth. Require the VA to submit two annual reports to the committees, a June 30 report—containing a 5-year plan for construction, replacement, and alteration of the medical facilities that are most in need of construction, replacement or alteration, a priority listing of the 10, or more, hospitals most needed, and general plans for each such medical facility—and a January status report of all approved medical facility projects that were not completed at the time of the previous status report.

Sixth. Recodify and make various minor, technical, and conforming amendments to the provisions of title 38, United States Code, relating to the construction and acquisition of VA medical facilities.

Seventh. Provide that the provisions of this title generally shall take effect on October 1, 1979, except that the requirement of committee approval described in item 1, above, shall not apply to projects approved by the President prior to that date.

Title IV: Benefits payable to persons residing outside the United States.—This title includes provisions that would:

First. Require, in order for VA benefits to be paid to or on behalf of a child residing outside the United States, based on the adoption of such child by a veteran under the laws of a foreign country, that the adoptive child be under age 18 at the time of the adoption; be receiving one-half or more of such child's annual support from the veteran; be residing with the veteran, except in certain specified circumstances; and not be residing with the child's natural parent, unless the natural parent is the veteran's spouse. After the veteran's death, such an adoption would be recognized for VA benefits purposes only if the veteran was entitled to and did receive a dependent's allowance or similar benefit for the child at any time during the year before the veteran's death, or if the above requirements were met for at least 1 year prior to the veteran's death.

Second. Require the VA to submit to the President and the Congress, by February 1, 1980, a report of a comprehensive study, together with the VA's recommendations, on various issues involved in the payment of VA benefits to persons residing outside the 50 States and the District of Columbia—including economic issues, issues related to adoptive relationships under foreign laws, issues involved in the amount and method of payment of benefits payable to certain persons in the Philippines, issues relating to the continued operation of a VA regional office in the Philippines, the effects of the provisions described in point (1) above and estimates of the present and future costs of benefits payable to persons residing outside the 50 States and the District of Columbia and to certain Filipino veterans. This study would be required to be performed in conjunction with a similar study, mandated by section 308 of Public Law 95-588, the Veterans' and Survivors' Pension Improvement Act of 1978, regarding the payment of VA pension benefits overseas.

Title V: Miscellaneous provisions.—This title would make certain changes in title 38, United States Code, with respect to administrative and personnel matters. Included in title V are provisions that would:

First. Authorize the Administrator of Veterans' Affairs to prescribe regulations permitting employees of the VA's Department of Medicine and Surgery who are nationally recognized principal investigators to accept payment, in cash or in kind, from non-Federal agencies, organizations, and individuals for travel expenses in connection with such employees' official duties in certain limited circumstances.

Second. Provide for nominations by the President and confirmation by the Senate of the Deputy Administrator of Veterans' Affairs.

Third. Repeal the outdated authority for a VA office in Europe and provide benefits, effective October 1, 1979, to VA employees working outside the United States—specifically, for VA employees in the Philippines, certain family visitation travel expenses, subsistence expenses upon return to the United States, and certain benefits relating to the sale or purchase of a residence or the settlement of an unexpired lease of an employee who is being transferred.

Fourth. Amend the schedules of rates of basic pay appearing in present section 4107 for section 4103 employees (top Department of Medicine and Surgery (DM&S) employees at the VA's central office) and section 4104(1) employees (DM&S physicians, dentists, nurses, podiatrists, optometrists, physician assistants, and expanded function auxiliaries) to reflect the pay rates (effective October 7, 1978) set by the Executive Order No. 12087.

Fifth. Require the Administrator of Veterans' Affairs to report to the House and Senate Veterans' Affairs Committees by October 1, 1979, on home modification needs of veterans who are totally blind from service-connected causes.

COST IMPACT OF CONFERENCE REPORT

Mr. President, on May 30, 1979, the committee received from the Congressional Budget Office an estimate of the costs of the conference agreement on S. 7. The CBO estimate indicates that the costs of this legislation for the next 5 years would be: $37.2 million in fiscal year 1980, $64.1 million in fiscal year 1981, $51.1 million in fiscal year 1982, $49.5 million in fiscal year 1983, and $54.9 million in fiscal year 1984.

Mr. President, I ask unanimous consent that the CBO cost estimate be printed in the Record at this point.

There being no objection, the estimate was ordered to be printed in the Record, as follows:

Congressional Budget Office Cost Estimate

1. Bill number: S. 7.

2. Bill title: Veterans' Health Care Amendments of 1979.

3. Bill status: As filed by the Conferees, May 24, 1979.

4. Bill purpose:

Sec. 101. Provides that those veterans seeking physical examinations required in application for service-connected compensation be placed third in the statutory hierarchy of priorities for outpatient care eligibility.

Sec. 102. Extends outpatient dental services to veterans held six months or more as prisoner of war, and veterans with service-connected disabilities rated at 100 percent.

Sec. 103. Provides counseling for Vietnam era veterans with mental or psychological problems related to adjustment from military to civilian life.

Sec. 104. Gives the Veterans Administration (VA) authority to conduct a five-year pilot program for the treatment of alcohol or drug dependence disabilities in halfway houses.

Sec. 105. Gives VA authority to conduct a five-year pilot program of preventive health care for veterans with service-connected disabilities rated at 50 percent or more.

Sec. 106. Extends authority to the VA to provide hospital and nursing home care within the limits of VA facilities to eligible Commonwealth Army veterans and New Philippine Scouts residing in the U.S.

Sec. 201. Would restore contract care for veterans eligible under Section 612(g) of Title 38, on a limited basis.

Sec. 202. Allows the VA to provide an emergency medical team for the national conventions of VA recognized veterans organizations.

Sec. 301. Revises VA authority and planning guidelines for health care facility construction and alteration. Would require Congressional review for projects exceeding $2 million in cost, or leased medical facilities exceeding $500,000 per year.

Sec. 401. Places restrictions on who may receive benefits as an adopted child for persons residing outside the U.S.

Sec. 402. Requires the VA to conduct a comprehensive study of benefits payable under Title 38, U.S.C., to persons residing outside the U.S.

Sec. 501. Requires VA employees who are nationally recognized investigators in medical research to accept travel allowances from non-federal agencies, organizations, and individuals to attend meetings, perform advisory services.

Sec. 502. Requires the Deputy Administrator of Veterans' Affairs to be approved by the Senate.

Sec. 503. Eliminates authority for VA European Office, and adds certain travel and readjustment fringe benefits for VA personnel in the Philippines.

Sec. 504. Updates the base salary schedules for the VA Department of Medicine and Surgery of Title 38, U.S.C.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984
Estimated authorization/ estimated outlays					
Sec. 102	0	0	0	0	0
Sec. 103	15.8	24.9	10.5	5.7	3.6
Sec. 104	3.7	13.7	11.2	12.2	13.0
Sec. 105	10.0	12.0	13.0	14.0	15.0
Sec. 201	7.7	13.5	16.4	19.6	13.3
Total	37.2	64.1	51.1	49.5	54.9

The estimate assumes appropriation of the estimated authorization amounts by October, 1979.

The costs of this bill fall within budget function 700.

6. Basis for estimate:

Sec. 101. This section only changes the priority schedule for medical examination service to those already eligible for this service. It is estimated to have no cost.

Sec. 102. In a cost estimate prepared February 1, 1979, CBO estimated five year costs of $82.1 million for this section. This estimate reflected the cost of providing dental services to an additional group of eligible veterans while maintaining the current level of service to veterans presently receiving care.

The amendments offered to this section make clear the intent to accommodate the additional dental services to former P.O.W.'s and 100 percent disabled veterans within the capacity of existing VA facilities. The amendments would require the VA to justify in writing expenditures for contract dental care in excess of fiscal year 1978 levels. Also, the conditions under which dental treatment can be provided to persons with non-service-connected disabilities in VA facilities have been restricted.

CBO estimates that as amended this section would add no additional costs to the federal budget.

Sec. 103. The VA estimates that over 30 percent of Vietnam era veterans face serious problems related to readjustment to civilian life. CBO assumes that of the 8.7 million separated Vietnam era veterans eligible under this program, 170,000 veterans will actually seek counseling from the VA during the first two years following enactment. Of the average 100,000 Vietnam era veterans discharged from active duty every year, CBO estimates about 10 percent will apply for readjustment counseling. The VA anticipates each veteran will require an average six hours of counseling to complete treatment. CBO estimates the cost of each visit to be $35 and projects this cost to rise at an average rate of 7 percent a year.

As amended, the VA would have the authority to contract with private facilities under certain conditions for furnishing counseling and related mental health services provided by this section. One of the primary criteria for the receipt of contract care is geographical accessibility. According to the VA, about 30 percent of persons currently receiving outpatient care from the VA live more than 100 miles from the nearest VA outpatient facility. Because readjustment counseling would require the average veteran to make frequent visits for treatment, CBO assumes those living more than 100 miles from the nearest VA facility would qualify for contract care. CBO further assumes the average contract visit would cost $10 more than a VA visit, and that reduced travel time for veterans would induce a 30 percent increase in the number of visits for those receiving contract care.

Sec. 104. The VA anticipates placing an average 5,700 patients a year in halfway houses during the five year period of the pilot program. The projected caseload fluctuates in the first three years as the program is phased in. CBO assumes that each placement will require an average 60 days of care at an average cost of $25 (in 1979 dollars). These assumptions are based on studies conducted by the Alcohol, Drug Abuse, and Mental Health Administration of existing programs.

Sec. 105. In a cost estimate prepared February 1, 1979, CBO estimated the five year costs of this provision to be $125 million. This estimate reflected the maximum amount allowable under the original authorization language, and was based on information provided by the VA as to the anticipated level of services that would be provided under the section.

The amendments to this section would lower the authorization ceiling. The CBO estimate of the cost of this section reflects this change.

Sec. 201. Costs were estimated by assuming that approvals for 612(g) contract care would increase at an annual rate of five percent above current levels. A surge in applications is expected in the first two years. Costs are inflated by CBO assumptions of price increases in the general economy.

Sec. 202/Sec. 301. The costs of these sections are estimated to be insignificant.

Sec. 401. This section establishes certain criteria which adoptions transacted outside of the United States must meet in order for the adopted child to be eligible for dependents' or survivors' benefits. There should be some savings resulting from this provision as the adoption requirements in many foreign countries are considerably more lenient than those proposed here. The resultant savings, however, should be less than $500,000 a year.

Sec. 402. This section directs the Administrator to conduct a study of the issues involved in the payment of veterans' benefits to persons residing outside of the United States. It is expected that this study could be performed within the limits of the President's current budget request.

Sec. 501. Since VA employees are currently not reimbursed for such travel expenses, no net savings or costs are expected.

Sec. 502. This provision is assumed to involve no new federal costs.

Sec. 503. The VA no longer maintains a European Office. Travel and readjustment fringe benefits for VA personnel in the Philippines would affect an average of two employees per year, resulting in insignificant costs.

7. Estimate comparison: None.

8. Previous CBO estimate: transmitted a cost estimate of S. 7 as introduced by the Committee on Veterans Affairs on January 15, 1979. On March 28, 1979, CBO prepared a second estimate of S. 7 as ordered reported by the Senate Committee on Veterans Affairs March 9, 1979. The estimates differ to the extent that some of the sections have been amended.

9. Estimate prepared by: Steven Crane and Nina Shepherd (225-7766).

10. Estimate approved by:

James L. Blum,
Assistant Director for Budget Analysis.

CONCLUSION

Mr. CRANSTON. Mr. President, in closing, I want to express my deep appreciation to the distinguished chairman of the House Committee on Veterans' Affairs (Mr. Roberts), the dedicated ranking minority member of the full committee and the Subcommittee on Medical Facilities and Benefits (Mr. Hammerschmidt), and the very able chairman of that subcommittee (Mr. Satterfield), whose leadership and cooperative spirit, particularly in our negotiations at the end of the last Congress and at the conference, have made it possible for this legislation to progress as quickly as it has in this Congress. I am also very grateful to the distinguished ranking minority member of our committee, the Senator from Wyoming (Mr. Simpson), whose active and outstanding participation in the conference enabled us to fashion a fine and reasonable agreement. I also want to thank Senators Talmadge, Randolph, Stone, Durkin, Matsunaga, Thurmond, and Stafford, for their continuing contributions.

In addition, I would also like to express my thanks to several members of the House committee staff whose expertise and diligence were invaluable in the development of this measure—Mack Fleming, Jack McDonald, Ralph Casteel, Paul Mills, and David Cole, as well as to the members of our committee staff who participated in this effort—Ellen Akst, Ed Scott, Jon Steinberg, Harold Carter, Molly Milligan, Terri Morgan, Mikki Day, Janice Orr, and Becky Walker—and members of our committee's minority staff—Garner Shriver, Gary Crawford, and John Pressly, as well as Senator Simpson's assistant, Ken Bergquist. We are also very much indebted to the legislative counsels, Hugh Evans of the Senate and Bob Cover of the House, to Steve Crane of CBO, to Robert Coy, the VA's Deputy General Counsel, and other VA staff, for their technical assistance.

Finally, Max Cleland, the Administrator of Veterans' Affairs, deserves special congratulations on this occasion. Almost a decade ago, Max first testified as to the need of Vietnam veterans for special help in readjusting to civilian life; and, since becoming Administrator in February 1977, he has been an extremely effective advocate for the readjustment counseling programs that will be established under this legislation. He deserves a major share of the thanks for this conference agreement.

Mr. President, I am very glad that we have finally reached the point of passing the conference report on this important legislation. I believe the conference report is fully deserving of the Senate's support, and I urge its adoption.

● Mr. DOMENICI. Mr. President, I would like to take this opportunity to sincerely thank the distinguished chairman of the Senate Veterans' Affairs Committee, Alan Cranston, the Senate managers, as well as the House managers of the conference committee for including my amendment to S. 7, the veterans' health care legislation.

My amendment, as accepted by the conference committee, will require the Administrator of Veterans' Affairs to report to both the House and Senate Veterans' Affairs Committees not later than October 1, 1979, why available home-modification assistance for veterans who are totally blind is not being utilized. Under current law, $30,000 is available for adaptive housing for a blinded veteran who has lost the use of one or both of his lower extremities. It had been my intent by introduction of my bill, S. 827, and my original amendment to S. 7, to allow up to 50 percent of the present adaptive housing allowance for blinded veterans who did not have the misfortune of losing the use of one lower extremity, but was handicapped only by the loss of sight. As pointed out during consideration of my amendment on the floor, however, under section 612 of title 38, United States Code, up to $2,500 is available for improvements and structural alterations to home for the service-connected disabled veteran, and up to $600 for the non-service-connected disabled veteran.

The crucial question raised during consideration of the amendment, and the question appropriately included in the conference committee's final version of S. 7, is why the blinded veteran is not taking advantage of the available funds to improve his home living conditions. A survey conducted by the Veterans' Administration indicated only two service-connected blind veterans have utilized these funds since the program became available. Furthermore, Mr. President, I think it important to point out that in the most recent issue of the BVA Bulletin, distributed by the Blinded Veterans Association, an informative article was included to acquaint the membership of the funds provided under section 612. The article aptly pointed out that only recently was the Association made aware of this provision, and that few blinded veterans have taken advantage of this benefit. With all due respect for the fine services the Veterans' Administration provides for our disabled veterans, I believe it is fair to say the blinded veteran has simply not been adequately advised of this benefit. Hopefully, after receiving the BVA Bulletin, we will witness a greater response to this needed assistance.

I am, therefore, particularly pleased that the conference committee is requesting the Administrator's views as to the reasons why funds are not being utilized, and how implementation of the present provisions can be improved so blinded veterans can begin taking advantage of this home-modification program.

I would like to say a special word of thanks to Senators Heinz and Pressler for speaking to this issue during consideration of S. 7, and to Senators Cranston and Simpson for their dedicated efforts in addressing and accepting this amendment to the bill. I believe a very real concern has been identified, and I look forward to reviewing the Veterans' Administration's study as now required by adoption of S. 7.●

The PRESIDING OFFICER. Without objection, the conference report is agreed to.

SPECIAL SUPPLEMENTAL FOOD PROGRAM AUTHORIZATION, 1980

Mr. KENNEDY. Mr. President, I ask unanimous consent that the title of S. 292, which was passed by the Senate on May 23, be appropriately amended so as to read: "An Act To Reduce the Fiscal Year 1980 Authorization for Appropriations for the Special Supplemental Food Program, and for Other Purposes.".

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1980

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1157, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1157, to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes.

The PRESIDING OFFICER. Debate on this bill is limited to 2 hours to be equally divided and controlled by the Senator from Massachusetts (Mr. Kennedy) and the Senator from South Carolina (Mr. Thurmond), with 30 minutes on any amendment in the first degree, except an amendment by the Senator from South Carolina (Mr. Hollings) relating to the FBI on which there will be 1 hour, and 20 minutes on any amendment in the second degree and 10 minutes on any debatable motion, appeal, or point of order.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Ava Abramowitz, David Boies, Tom Susman, Paul Summitt, and Ken Feinberg, during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, today the Senate considers S. 1157, authorizing appropriations for the Department of Justice for fiscal year 1980. This bill represents the product of a fully bipartisan effort on the part of the Committee on the Judiciary. It encompasses the findings of 3 months of intensive investigations and 7 days of wide-ranging hearings. It authorizes the Department of Justice to be appropriated $1,917,316,000—an increase of $38.5 million over the President's budget for fiscal year 1980.

The importance of the authorization process cannot be underestimated. It provides the Congress the unique opportunity to assess the policies and procedures of the Department of Justice, as well as the programs and performance of each of its units. It enables us to contribute in a most immediate way to the formulation of policy and program direction for the Federal justice system. And, it assists us in insuring for the American people that the funds which support the Department of Justice are funds well spent.

Prior to last year, there was no coordinated oversight. Congressional participation in Federal justice system policy development was virtually limited to persuasion and discrete legislation on issues of the day. Problems in one component of the system all too often went unnoticed until their impact broke into scandal proportions. Thus, the committee resolved to use the authorization process to effect comprehensive, systemwide oversight.

To that end, the committee decided to review fewer Department of Justice units this year, but to review those units in far greater depth. We heard testimony from the Attorney General, the Solicitor General, the Assistant Attorneys General of the Criminal Division, the Land and Natural Resources Division, and the Antitrust Division, as well as testimony from the Director of the Federal Bureau of Investigation, the Commissioner of the Immigration and Naturalization Service, and the Administrator of the Drug Enforcement Administration. The committee also held hearings on the U.S. Marshals' witness security program—to ascertain its impact on the Nation's fight against organized crime. The Committee was particularly interested in the quality of its support service to the justice units responsible for curtailing organized crime; that is, the Federal Bureau of Investigation, the 94th offices of the U.S. Attorneys and the Criminal Division.

The review process culminated in a special hearing at which the Deputy Attorney General and the Associate Attorney General were called to testify. It was at this hearing that the committee coalesced many of its findings and directed Department of Justice attention to them.

The findings of the committee are numerous and are detailed in what I believe to be a most thoughtful report. First, the committee found success in several areas. The much beleaguered witness security program has qualitatively improved since the committee last focused on the effort in 1978. The Federal Bureau of Investigation similarly has taken great strides in improving its performance, concentrating increasingly on quality cases and not merely the promulgation of investigations for statistics' sake. The Criminal Division has restructured its resources to better prepare itself for the law enforcement problems of the 1980's. The Antitrust Division has instituted major management improvements, among which are plans to accelerate its use of automation in support of litigation.

These successes are encouraging and the Department of Justice deserves much credit for them. But, the committee also became aware of brewing problems, several of which the committee believes can be alleviated with small, but targeted increases in resources.

First and foremost, the committee found that the Department of Justice does not appear to have the resources and the guidelines, nor to have fully assumed the coordinative responsibilities necessary to insure that Federal enforcement of the civil and criminal law is as equitable and as effective as the American people expect it to be.

This finding is most distressing. Increases over the past several years in investigative resources throughout the Government are numerous. The offices of the Inspectors General alone have expanded 432 positions since fiscal year 1978.

Yet, increases in Government prosecution and litigation resources are minimal. The Criminal Division's Fraud Section has grown by only 24 positions in that time, and the Civil Division's Fraud Section has grown even less (17 positions). The Civil Rights Division has received no increase in positions since fiscal year 1973, yet its caseload has grown annually since that time. The Land and Natural Resources Division is similarly unable to meet with existing resources the heavy demands on its expertise.

Because of this imbalance, the insufficiency of resources, and ever-growing caseloads, the committee concluded that all too often the Department of Justice cannot manage its caseloads, but is driven by them. The committee questioned whether, in the name of austerity, these divisions should be maintained at existing levels and found that they should not. Prosecution of serious violations should not be a function of the number of prosecutors at hand; civil litigation backlogs should not be permitted to increase until they are totally out of control.

Thus, the authorization bill takes steps to correct this. Government-wide imbalance by providing the Department of Justice the resources it requires to accomplish its mission. For those who question the size of the increase, let me assure you the increase is necessary. It is justified. And, it will prove cost effective.

The increases recommended for prosecution of fraud cases alone should result in recoupment of many millions of dollars in judgments and fines. The Civil Division estimates that one group of cases will return $20 million to the Treasury.

The increases for the Land and Natural Resources Division similarly should pay for themselves; the committee estimates that delays in processing land acquisition cases cost the Government $40 million annually.

Mr. President, S. 1157 reflects these and other concerns of the Committee on the Judiciary. I would appreciate just a few more minutes of my colleagues' time to highlight how the bill will assist the Department of Justice and the justice process it supports.

The administration requested $575,608,000 for the FBI, 1 percent less than the amount appropriated in fiscal year 1979. Within this figure, there is an increase of 70 positions for organized crime and 170 positions for white-collar crimes. I am convinced, as is the committee, that if the Bureau is to do a creditable investigative effort in these high-priority areas, these increases are essential.

The budget also includes reductions. Many of these decreases are supported by the committee; in particular, the committee concurred in those decreases which portend a new era for the FBI. The Bureau should be encouraged to focus increasingly on the complex, quality case.

Thus, the committee approved the planned reduction of 105 positions and $2 million. In the FBI's fugitive program with respect to nonviolent escapees on short custodial time.

There are other decreases, however, which the committee could not approve. Of most concern were the $4.3 million in reductions which would cease all too abruptly the FBI's traditional role of assisting States and localities nationwide. The committee found it inconsistent and illogical to reduce State and local training when bank robberies are at an alltime high and Law Enforcement Assistance Administration funds so sharply reduced.

There are two other provisions in the bill concerning the FBI to which I should like to direct your attention. Section 3(c) precludes the FBI from procuring or utilizing message-switching equipment; that is, equipment which could receive a message from a State or local unit of government, store it in a computer until an outgoing line is available, and then retransmit that message to another State or local unit of government. Message-switching is a highly controversial issue; this provision simply maintains the status quo until consideration of the pending report by the Office of Technology Assessment on FBI information systems is completed by the Congress.

The second provision, section 7, exempts the Bureau from various banking, contracting, leasing, and fiscal statutes when the Director and the Attorney General determine that such exemptions are "necessary for the conduct of undercover operations." This section, included in last year's act, has been expanded slightly to permit the FBI to establish proprietaries. It also requires the Director to conduct a detailed fiscal audit on each undercover operation with gross receipts or income in excess of $50,000, and to report annually on those audits to the Congress.

The committee determined that no other changes in the language authorizing the Bureau should be affected, as the committee will soon be holding hearings on a charter for the FBI to make clear to all the powers and responsibilities of the FBI.

CRIMINAL DIVISION

In light of the increases in Inspectors General resources, as well as the 240 position increase in FBI organized crime and white-collar crime resources, the committee determined to increase the Criminal Division 81 positions and $2,392,000. As explained on pages 10 and 11 of the report, this increase should strengthen the Division's capacity to make priority enforcement initiatives, especially the nascent economic crime unit program, as effective as possible.

CIVIL DIVISION

Similarly, logic demands that the authorization for the Civil Division be increased to keep pace with increasing workload. As I stated previously, the $2 million increase authorized by the committee is targeted primarily for civil fraud; it should pay for itself in judgments and fines.

CIVIL RIGHTS DIVISION

The committee found for the second consecutive year that the authorization requested for the Civil Rights Division is inadequate to allow the Department to fulfill its commitment in the civil rights field. Some programs are being terminated; others are being severely reduced. To end program curtailment, to meet pressing caseloads, and to maintain the Division as an affirmative force in our society, the committee has increased the authorization requested by $2 million.

LAND AND NATURAL RESOURCES DIVISION

Mr. President, I commend to your attention pages 14 through 23 of the report in which, I believe, you will find a most thorough and thought-provoking analysis of the many needs of the Land and Natural Resources Division. The committee concluded that the work of the Division cannot be carried out in the public interest unless its litigation and case management capability is substantially strengthened. To that end, it authorized an increase of $5.2 million for the Land Division.

In section 14 of the bill, the committee also authorized the Attorney General to initiate investigations of possible violations of environmental or natural resource laws and to bring actions to enforce these laws. In explaining this section, the committee report states at page 15 that—

> This provision is not meant to infringe upon the authority of agencies and departments to implement or enforce the statutes they are charged with administering.

The committee expects that the Attorney General will consult and cooperate with the agencies and departments charged with enforcing environmental and natural resource laws. The provision is not intended to affect or amend the memorandum of understanding entered into between the Environmental Protection Agency and the Department of Justice in June 1977 and incorporated in the Clean Air Act, as amended.

ANTITRUST DIVISION

The committee authorized an additional $5 million to support the State antitrust grant program established in 1976. The program, as originally authorized, provided for $30 million to be appropriated in equal amounts over a 3-year period. To date, only $21 million has been appropriated. Based on a survey of States attorneys general and its own investigations, the committee concluded that the 3-year program should be authorized for 1 final year to provide it the opportunity it requires to accomplish the goal of encouraging State antitrust enforcement efforts.

The committee authorized for the division itself the level requested by the President, but directed that those resources be reallocated along the lines of the Division's self-stated priorities. A comparison of Division allocation of resources suggests the necessity for this realinement; since fiscal year 1978, low-priority programs have increased some, while resources for reduction in oligopoly and monopoly and private conspiratorial conduct, the Division's highest priorities, have been reduced. Policy dictates that funds should follow priority programs.

U.S. ATTORNEYS AND MARSHALS

In light of the increased emphasis against organized crime by the FBI and the Criminal Division and the continuing high priority placed on it by both the Attorney General and the Committee on the Judiciary, the committee determined to restore the U.S. Marshal Service's witness security program to its fiscal year 1979 level. This small but highly effective program has been strengthened significantly over the last year by the Department; its utility should not be curtailed for lack of funds. The additional $941,000 authorized should permit the witness security program to continue to provide the service on which the Department's prosecutors have come to rely.

The committee also included in section 19 of the bill authorization to allow the termination of service of private process, except as requested by indigents or as ordered by the court. The cost of this service exceeds revenues and burdens all taxpayers for the benefit of a few. The $700,000 needed to serve private process as required by the exemption remains in the Marshal Services authorization.

In order to insure adequate resources for the newly created judgeships, the committee authorized appropriations for the offices of the U.S. attorneys at the level requested by the administration. The adequacy of the request can nevertheless be questioned, as reliable workload data is lacking.

To resolve the ambiguity caused by insufficient data, the committee, in section 11 of the bill, mandated the Attorney General to submit for congressional review a plan for the activation and coordination of compatible, comprehensive case management information and tracking systems for each of the U.S. attorneys' offices and the legal divisions. Such systems are already operational in cities cities and States across the country. Our Nation's understanding of the nature of crime and the quality and equity of justice has been much improved as a result of the information generated by them.

It is indefensible that the Federal Government should know less about the Federal justice system than it knows about State and local justice. Section 11, along with section 2 which provides funds for the Department to contract the expertise it requires to develop the plan, should do much to eradicate the information vacuum we are faced with today.

IMMIGRATION AND NATURALIZATION SERVICE

The committee, in reviewing the authorization request for INS, provided funding as requested for all service activities and increased by $7 million the amounts available for appropriation for INS border patrol efforts. The committee chose to limit the increase pending the results of the analysis of INS' management operations mandated in section 10 of the bill.

Mr. President, the program funding levels authorized in this bill are necessary and sound. They reflect a thoughtful balance between justice needs and fiscal concerns, and they will serve our Nation well.

Mr. President, I commend this bill to you and urge its adoption.

Finally, Mr. President, I want, as I mentioned at the outset, to indicate the very strong cooperation we had, of all members of the Committee on the Judiciary, the majority members, and also the members of the minority. We had strong support and helpful assistance. It was a unanimous report, a unanimous recommendation to the Senate. I think we had the most comprehensive review and oversight that we have seen in the Judiciary Committee. I think it was well worth the effort for the members and it does represent a strong bipartisan recommendation to this body.

I am enormously grateful for the helpful assistance of the ranking minority member, the distinguished Senator from South Carolina (Mr. THURMOND) and his excellent staff, who cooperated with us so generously.

Mr. THURMOND. Mr. President, I yield myself such time as I may require. Is there a time limit on this bill?

The PRESIDING OFFICER (Mr. RIEGLE). The Chair advises that the Senator from South Carolina has 1 hour.

Mr. THURMOND. Mr. President, I am pleased to join Senator KENNEDY in presenting to my colleagues in the Senate S. 1157, a bill to authorize appropriations for the Department of Justice. The Judiciary Committee has worked long and hard on all aspects of this bill and the committee finished product is one the committee supports unanimously. I am certain that the Senate as a whole can support this bill and I urge Senators to do so.

I need hardly point out to my colleagues that budgetary considerations have preoccupied a great deal of our time this year. Our deliberations in the matter of authorizations for the Justice Department were no exception. In the hearings the committee held and in the written questions provided to divisions which did not have hearings, the theme of fiscal responsibility was heard over and over. The agency in many cases was required to go beyond its formal justification document to assure the committee that past appropriations had been used wisely and that any requested increases were justified.

The budget request submitted by the administration was an austere one. The $2,406,705,000 request was 4 percent lower than the Department's fiscal year 1979 estimate of $2,518,267,000. It should be noted that this figure includes authorizations for the Law Enforcement Assistance Administration (LEAA) and its juvenile justice programs, which are authorized separately. The committee found it necessary to increase authorizations in some areas. However, the final total is still modest enough, in relative terms, to merit our support. The total is less than four one-hundredths of 1 percent of the entire fiscal year 1980 Federal budget.

Several of the specific increases warrant some discussion. The Lands and Natural Resources Division of the Justice Department was one of the agencies on which the committee held hearings. The hearings revealed personnel levels so low that the staff is unable to perform properly its mandated tasks. The caseload of this division is growing all the time. Mr. President, the inability of the small staff to keep up with their work is costing the taxpayers money. For example, the current backlog in land acquisition cases, primarily for our national parks, is costing us $40 million a year which inflation adds to the price of the land. I feel that the modest increase in personnel and support we have given this Division is more than justified by the savings we can expect as a result.

The increase will also enable the Division to respond to new problems. The Division has authority in the area of toxic and hazardous wastes as well as authority to investigate and prosecute violations of environmental or natural resource laws. The committee report details its recommendations on this point, and I commend my distinguished colleagues Senator Baucus and Senator Cochran for their special interest and work on this section.

The request for the Federal Bureau of Investigation was smaller for all investigative areas except the organized crime and white-collar crime areas. The committee feels that the reductions requested in many cases are too severe and will prevent the FBI from fulfilling its law enforcement responsibilities. The committee, therefore, has authorized restoration of positions and funding in several areas.

The general law enforcement training program conducted by the FBI has been a valuable tool to State and local law enforcement agencies. The FBI is beginning to turn over new areas of investigation to State and local authorities. This will allow the FBI to redirect its own efforts to areas of high national priority. It is, however, unreasonable to expect the State and local officials to take more responsibility and at the same time to reduce the training available. The committee recommends that 93 positions and $1,774,000 be added to this program so that this valuable service to State and local law enforcement units can be continued.

The committee further recommends that 101 positions and $2,600,000 be added for the FBI's personal crimes program, to handle forcible crimes against banking institutions. The administration's requested reduction in this program flies in the face of statistics that show bank robberies reaching an alltime high in 1978. State and local authorities obviously, at this time, are not able to handle such matters adequately. They may, in time, be able to take over, but until then, the FBI should not reduce the level of its effort in this program.

The FBI has begun a recruitment program designed to find special agent candidates from a wider range of backgrounds and groups. I believe that this effort, in general, is commendable. However, there have been problems with the new special agent selection system.

Mr. President, I ask unanimous consent that a series of letters dealing with the problems encountered by a constituent of mine, Mr. Ervin Robertson, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. I hope that the FBI will move with all speed to work out these problems. The persons recruited through this special program, and particularly Mr. Robertson, seem to have a devotion to the FBI that augurs well for their future as special agents.

Finally, the committee was concerned over the reduction of resources proposed for the terrorism program. We were particularly concerned since the United States will host the 1980 Winter Olympics at Lake Placid, N.Y. We have restored nine positions and $500,000 to make sure that every precaution is taken to avoid any terrorist incident.

Mr. President, the regulatory impact on policy areas is minimal. It makes some clarifications in policy areas such as case management, message-switching, and prosecution guidelines. Furthermore, it is a budget with very little, if any, fat, and I urge its passage.

In closing, Mr. President, I express my appreciation to the able chairman of the committee, Senator Kennedy, for the outstanding leadership and cooperation he provided in the preparation of this important bill.

I also express my appreciation to the members of the minority for their splendid work and to the members of the majority and minority staffs for their dedication to duty and the fine job they did.

EXHIBIT 1

April 10, 1979.

Hon. William H. Webster,
Director, Federal Bureau of Investigation, Washington, D.C.

Dear Judge Webster: At the conference in Williamsburg, Virginia, we had an occasion to discuss the situation of my constituent, Ervin Robertson. I gave you a letter in which I again express my interest this matter.

I would appreciate a follow-up reply to my inquiry so that I may be able to respond to my constituent.

Thank you for your kind and prompt attention to this matter, and with kindest regards and best wishes,

Sincerely,

Strom Thurmond.

Duncan, Brown, Weinberg, & Palmer, P.C.,
Washington, D.C., April 2, 1979.

Hon. Strom Thurmond,
Senate Judiciary Committee, Russell Senate Office Building, Washington, D.C.

Dear Senator Thurmond: During his recent testimony before the Judiciary Committee, Federal Bureau of Investigation Director Webster was asked a series of questions about the New Special Agent Selection System and its impact upon clerical employees who entered on duty with the Federal Bureau of Investigation prior to its implementation.

I am the attorney for several dozen of these FBI clerical employees and have, on their behalf, filed a class action suit against Director Webster in the United States District Court for the District of Columbia. In the course of discovery as a result of this litigation, we have obtained information which might be useful to the Committee as it considers and evaluates Director Webster's testimony on this subject.

Director Webster testified that there were five classes into which applicants were placed and from which selections were made based upon the Bureau's employment priorities. In point of fact, as the enclosed document demonstrates, there are seven such classes. Specifically these classes consist of:

(1) women,
(2) members of minority groups,
(3) accountants,
(4) lawyers,
(5) scientists,
(6) language specialists, and
(7) members of the "modified class."

This last group is composed of graduates of four year colleges who possess three years of professional, executive, complex investigative or other specialized experience. For many years, the Bureau has regarded satisfactory performance as a clerical employee of the Bureau as the equivalent of such other specialized experience, as long as the modified applicants were employed by the Bureau.

Prior to April 19, 1977 the modified class was, in practice, subdivided into two distinct groups, clerical employees and nonclerical employees. Upon satisfactory completion of minimum requirements, clerical employees were assigned a chronological ranking, based upon their date of qualification. This ranking determined the order by which they would be selected for consideration of appointment as a special agent when selections were made from the modified class. One of the effects of the New Special Agent Selection System is to eliminate this chronological ranking.

The stated justification for this elimination of chronological selection was the Bureau's desire to implement an agent selection system that resulted in the selection of those persons who performed best on standardized tests which were specifically designed in order to predict probable performance as an FBI agent.

The application of this system is subject to two major flaws. First, it fails to account for the contractual commitments which the Bureau had with the 400 or so clerical employees who entered on service prior to the implementation of the New Special Agent Selection System with the understanding that they would be processed under the system in place at the time they were employed.

Second, the system has within itself an internal inconsistency. The Bureau does not select the highest scoring applicants from *among* the seven groups. Rather, the highest scoring applicants from *within* each class are selected. Because the Bureau has given priority to the selection of women and members of minority groups, the modified class has been subjected to an overwhelming burden.

The Agents' test is divided into a written examination and oral interview. An applicant may score 50 points on the written test with an additional 5 points available to veterans. In order to qualify for an interview, the following minimum scores on the written exam are required of each class:

Females	31.50
Minorities	31.50
Accounting	32.32
Law	34.44
Science	32.08
Language	35.08
Modified	37.38

It would be quite one thing if the various categories that the FBI has selected and the scores that they have applied were based upon some need associated with the performance of the Bureau. However, an official FBI witness, when asked specifically whether the minimum qualifying scores were established on the basis of agency need or affirmative action, replied, under oath, that it was in response to the latter. Moreover, we have additional evidence to suggets that the scores are adjusted semiannually in order to result in a predetermined number of selections being made from each class; a procedure which we believe is clerically unconstitutional.

The New Special Agent Selection System, though based on test and interview scores, does not guarantee that the best from among all applicants are selected. Indeed, it is entirely possible and consistent with the system for a clerical applicant scoring 37.37 in the written test to have no opportunity to proceed to the interview phase while a woman scoring 31.50 would be given such an opportunity.

I do not know whether such a system, if implemented in a vacuum, would be invalid. However, this system was not implemented in a vacuum. It was implemented in the face of and without regard to the 400 persons who consciously selected employment with the Bureau as a means of improving their chances of obtaining eventual appointment as a special agent. These clerical employees invested several years of their lives. They do not deserve to be forgotten. Even less do they deserve to be placed at the bottom of the competitive ladder. Yet this is precisely where the New Special Agent Selection System places them for reasons of policy having nothing to do with their performance as a group, actual or predicted.

We do not wish to hamper the Bureau's efforts to provide equal employment opportunity. The Bureau must, however, pursue that policy in a lawful manner.

While these clerks have decided to pursue their legal remedies, many continue to hope for an administrative solution that will recognize the Bureau's contractual and moral obligations. Any assistance you might provide in obtaining such an administrative solution would be welcome.

Sincerely,

PHILIP L. CHABOT, Jr.

To Mr. Long.
From S. R. Burns.
Subject Special agent selection system—processing scores.

Purpose: To set forth background in this matter and make appropriate recommendations.

Synopsis: This memorandum seeks to establish cut-off scores which will select applicants for interview from the top of each selection category, conserve our limited resources and are fair to all applicants. Currently, we have five qualification programs. The seven selection programs are the five qualification programs plus one for minorities and one for females. Our selection system uses a minimum total score of 74.00 as the lowest score at which an applicant might be selected for appointment. Selections are made from highest down in each of the seven selection programs. Current hiring guidelines are ⅓ accountants, ⅓ attorneys and ⅓ from other programs on a fiscal year basis. Average appointment scores for the previous four classes are: accounting 87.32, law 89.44, science 87.08, foreign language 90.08, modified 92.38, minority 80.83 and female 84.06. Applicants available for selection based on a minimum total score of 74.00 set forth. Recommended interview cutoff scores developed by using average appointment score by program less the maximum interview score. This method will ensure applicants who have any chance for selection at present will be afforded interview. This will cause 533 additional interviews above those which would have been generated by the Task Force recommended scores.

RECOMMENDATIONS

(1) That cut-off scores be established in the Testing Phase of the system which will be used to determine which applicants are afforded a formal interview.

(2) That these scores be reviewed at least every six months and adjusted as needed.

(3) That from approval until February 28, 1979, the following scores be used to determine which Special Agent applicants will be interviewed:

Test ranking grade required to be interviewed

Program:	
Accounting	32.32
Female	31.50
Foreign Language	35.08
Law	34.44
Minority	31.50
Modified	37.38
Science	32.08

Details: These recommendations establish scores which will select individuals from the top of each selection category for interview. This selection is based upon their performance in the testing phase and includes those who have even the remotest chance at present to be considered for a New Agents' Class depending upon their interview score.

There are five qualifying programs (law, accounting, foreign language, science and modified). We have seven selection programs which are made up of the five qualification programs plus one for minorities and one for females. These seven selection programs have been established to enable the Bureau to fill its needs for additional Special Agents in the female and minority categories. The present method of selection utilizes the score of 74.00 (Percentile Ranking Grade) as a qualifying score. All applicants are ranked by total score (PRG) in the program(s) in which they qualify. For example, a female applicant, who is an attorney and a member of a minority group, would be ranked in three selection programs.

The actual makeup of each New Agents' Class is proposed and approved by the Administrative Services Division. General guidelines are aimed at dividing the available appointments approximately ⅓ attorneys, ⅓ accountants and the remainder from the other programs on a fiscal year basis. The policy also exists that we should hire as many minorities and females as possible. The recent classes have used as a goal 50 percent minorities and/or females in the selection process.

Within each selection category, individuals are chosen from the top down. This results in the selection of individuals in one program whose total score may be higher or lower than the selection score in another program for a particular New Agents' Class. In the last four classes, the average appointment scores have been as follows (a blank exists where no appointment was made in a particular program):

Date	Size	Accounting	Law	Science	Language	Modified	Minority	Female
Sept. 11, 1978	30	86.05	91.69			92.37	81.15	81.53
Sept. 25, 1978	24	85.00	89.17		87.84	90.87	79.23	85.33
Oct. 23, 1978	20	89 68			92.32	93.22	79.89	83.94
Nov. 13, 1978	28	88.54	87.46	87.08		93.08	83.07	85.42
Average		87.32	89.44	87.08	90.08	92.38	80.83	84.05

As a practical matter, such flexible selections are necessary if our increased emphasis upon accountants, attorneys, minorities and females is to succeed. As previously stated, an applicant may qualify in one or more selection programs. The pool of available applicants is arrayed by total score. As of 10/13/78, the first one hundred applicants by program include:

Accounting	11
Law	25
Science	1
Foreign Language	4
Modified	75
Minority	3
Female	8

Collaterally, a decision to increase the number of individuals selected from the Modified Program will have little impact upon our support employees at the present time. Of the top 100 applicants ranked by total score regardless of program, 6 are support employees; of the top 50, 1 is a support employee.

This is a result of a larger proportion of the applicants being in the Modified Program. The pool, therefore, is much larger in this program and as a statistical matter there will be a greater number of higher scores in our system from this program.

In an evaluation by the Office of Institutional Research, Training Division, it was established that a test score (Test Ranking Grade) of 31.50 could be used as the maximum test cut-off without adversely impacting upon any minority group in the legal sense. This score was derived from an analysis of all applicants processed through 2/10/78. Also included were the individuals who entered on duty in New Agents' Classes 78-1 through 78-8. Therefore, we can set the TRG cut-off for minority applicants to 31.50 without having an adverse impact. The recommendation to establish flexible test score cut-offs is based upon administrative practicality and the determination that individuals with test ranking grades lower than those proposed stand virtually no chance of appointment at present. If some selectivity is not instituted, there are 1849 individuals who have a TRG of 31.50 or above who will be interviewed. As of 10/13/78, the following applicants were available for selection based on their achieving a PRG (Total Score) of at least 74.00:

Accounting	118
Law	185
Science	20
Foreign language	28
Modified	673
Minority	36
Female	111

At best we will only be able to offer approximately 220 appointments in fiscal year 1979.

If the minimum test ranking grade is uniformly moved to 40.00, that would reduce the number of interviews but would also eliminate all minority applicants presently available with a score of 31.50 or better, all but six females and all but two science applicants. At this score, there would be 25 accountants, 16 attorneys and 179 modified eligible for the interview phase. Because the number of applicants in the modified program is so much greater than in any other program and selection of modifieds is less than other programs, the consequence of using an across the board cut-off is that our interviewers would be tied up doing modified interviews without any corresponding increase in the number of this type applicant being selected for appointment.

The New Agents' Task Force considered both the practical and legal aspects of setting flexible cut-off scores. It was the opinion of SA Danny Schofield, Legal Counsel Division, who is a member of the task force and a doctoral candidate in public employment law, that such a policy as this would not be contrary to any presently decided Supreme Court case. This opinion is based upon the ability of the Bureau to demonstrate its needs, the historical underrepresentation of certain classes of individuals in the FBI and the need to have flexibility in the program to allow for short run fluctuations.

During Fiscal Year 1979, 11 New Agents' Classes have been proposed totalling 220 appointments. The average appointment score by program is set forth below. This score was derived from the 4 most recent classes which closely parallel our hiring in Fiscal Year 1979. From this total score has been subtracted the maximum interview score an applicant could earn (50 on the interview plus 5 veterans points (equalling 55).

	Accounting	Law	Science	Foreign Language	Modified	Minority	Female
Average aptitude score past 4 classes	87.32	89.44	87.08	90.08	92.38	80.83	84.
Less maximum interest	55.00	55.00	55.00	55.00	55.00	55.00	55.
	32.32	34.44	32.08	35.08	37.38	25.83	29.
Recording test score to be interviewed		34.44		35.08	37.38		

These scores should be subject to redefinition whenever it becomes apparent that we are getting either too many or too few applicants in any program to the needs of the FBI. In addition, the scores would be the subject of a review at least once every 6 months. These proposed scores would generate the following interviews:

Accounting	113
Law	113
Science	11
Foreign language	17
Modified	430
Minority	47
Female	58
Total	789

Memorandum of R. E. Long to Mr. McDermott captioned, "New Special Agent Selection System Task Force," dated 9/20/78, proposed the following interview cut-off scores:

TRG required to be interviewed

Program:

Accounting	35.00
Law	40.00
Science	31.50
Foreign language	31.50
Modified	45.00
Female	31.50
Minority	31.50

The table below contrasts the interviews which will be required under the two proposals at hand. Further, it should be pointed out that with each computer run new applicants' examinations are graded and they enter the system.

Program	Available for selection based on 74.00 PRG	Interviews from T/F record	Interviews from current proposal	Change
Accounting	118	81	113	+32
Law	185	25	113	+88
Science	20	11	11	0
Foreign language	28	23	17	6
Modified	673	11	430	+419
Female	36	47	47	0
Minority	111	58	58	0
Total	1,171	256	789	+533

As can be seen by adopting the recommendations in this memorandum, the gain in interviews will be mostly white male modified applicants followed by lawyers and accountants. At present there are 1224 applicants whose test scores will be below the proposed cut-off scores but are equal to or greater than 31.50. Twelve hundred are in the modified program with the other 24 being attorneys. On the other hand by using the average appointment score approach, we can assure ourselves that all applicants having a chance for selection will be afforded an interview. Those individuals who are not being interviewed will be available to us should we need them. Applicants are not deleted from the system except for suitability reasons or that they have been hired.

APRIL 26, 1979.

Mr. ERVIN ROBERTSON,
Commonwealth Avenue,
Alexandria, Va.

DEAR ERVIN: Please find enclosed a copy of correspondence I have received from Judge Webster which I believe you will find self-explanatory.

I am sorry that his reply to my inquiry could not be more favorable. However, as you will note on the third page of Judge Webster's letter, he states that "he would be pleased to offer you the opportunity to counsel with respect to your test scores".

If I can be of assistance in the future, please do not hesitate to let me know.

With kindest regards and best wishes,

Sincerely,

STROM THURMOND.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., April 16, 1979.

Hon. STROM THURMOND,
U.S. Senate, Washington, D.C.

DEAR SENATOR THURMOND: I have received your letter of March 9, 1979, concerning Mr. G. Ervin Robertson.

I would like to briefly describe the system the FBI uses in the selection of persons for the Special Agent Position. I will thereafter address Mr. Robertson's particular situation.

The FBI's Special Agent Selection System is a comprehensive method for evaluating all applicants for that position. There are five separate programs (law, accounting, foreign language, science, and modified) through which an applicant can qualify for the initial or testing phase of the system. For your information, under the modified program, a person must possess a four-year college degree and three years professional, managerial, and/or complex investigative experience.

Three tests constitute the testing phase of our selection system. These are a Spelling Test, a Cognitive Functions Test (academic ability), and an Agent Entrance Test. The Spelling Test is composed of fifty words taken from a core list of five hundred words furnished to each applicant at the time they apply. The Cognitive Functions Test predicts academic performance in our training academy, and also measures general knowledge and the ability to think critically. The Agent Entrance Test measures an applicant against a profile of an effective Special Agent in the field. This profile was developed through a five-year job analysis of the Special Agent position.

Applicants qualify for the next step in the system, which we call the interview phase, based upon the total score achieved in the test phase. Interviews are conducted by a three-member panel of non-supervisory Special Agents who have been formally trained at the FBI Academy to conduct this type of interview. The panel evaluates and rates each applicant in seven dimensions. These are: 1) Oral Communication, 2) Impact, 3) Work Standards, 4) Range of Interest, 5) Motivation/Commitment, 6) Initiative, and 7) Independence.

Points earned in both the testing and interview phases are combined to arrive at the applicant's total score. Further, if an applicant is a Veteran he or she is eligible for either five or ten Veterans Points as defined by the Office of Personnel Management. Half of the points earned are awarded when a person attains a minimum total score of 31.50 in the test phase of the system. The other half is awarded upon completion of the interview phase if a total interview score of at least 29.00 is attained.

The total score is used to rank each applicant against all other applicants within our seven selection categories (law, accounting, foreign language, science, modified, female, and minority). Selections for appointive consideration are made according to the needs of the Bureau from highest total score down in each of the seven selection programs. At present the priorities in hiring for the Special Agent position are accountants, minorities, and females.

With respect to Mr. Robertson, our records reveal that he was processed through the Special Agent Selection System in the modified program. In my view, his position that he was a victim of a kind of "reverse discrimination" is not supportable. The record of Mr. Robertson's total score after both phases of the evaluation reveals that he would not have been selected for appointive consideration because there are several hundred well-qualified applicants with higher scores than his in the modified program. Because there are applicants ahead of him in the same program, the FBI's Affirmative Action Program had no impact on Mr. Robertson's candidacy.

I hope that the above information will be of assistance to you in this matter.

Sincerely yours,

WILLIAM H. WEBSTER,
Director.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the name of the Senator from South Carolina (Mr.

THURMOND) be added as a cosponsor of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 197

(Purpose: To delete certain appropriation-forcing provisions, and to make other technical amendments)

Mr. KENNEDY. Mr. President, I send to the desk an amendment on behalf of myself and Senator THURMOND.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and Mr. THURMOND, proposes an unprinted amendment numbered 197.

Mr. KENNEDY. Mr. President, I ask unanimous consent that we dispense with the reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, beginning on line 8, strike out "of which $500,000 shall be made available" and insert in lieu thereof "including not to exceed $500,000".

On page 25, line 13, insert ", for the fiscal year ending September 30, 1980," immediately after "appropriated".

On page 3, beginning on line 14, strike out "of which $16,096,000 shall be made available" and insert in lieu thereof "including not to exceed $16,096,000".

On page 3, line 19, strike out "$16,439,000 shall be made available" and insert in lieu thereof "not to exceed $16,439,000".

On page 3, beginning on line 22, strike out "$16,076,000 shall be made available" and insert in lieu thereof "not to exceed $16,076,000".

On page 4, line 3, strike out "$2,052,000 shall be made available" and insert in lieu thereof "not to exceed $2,052,000".

On page 4, beginning on line 7, strike out "of which $31,500,000 shall be made available" and insert in lieu thereof "including not to exceed $31,500,000".

On page 4, line 11, strike out "$5,000,000 shall be made available" and insert in lieu thereof "not to exceed $5,000,000".

On page 5, beginning on line 1, strike out "of which $6,382,000 shall be made available" and insert in lieu thereof "including not to exceed $6,382,000".

On page 9, beginning on line 21, strike out "$62,954,000 shall be made available" and insert in lieu thereof "including not to exceed $62,954,000".

On page 12, beginning on line 7, strike out "of which $28,168,770 shall be made available" and insert in lieu thereof "including not to exceed $28,168,770".

On page 12, line 9, strike out "$100,000 shall be made available" and insert in lieu thereof "not to exceed $100,000".

On page 13, beginning on line 24, strike out "of which $2,440,000 shall be made available" and insert in lieu thereof "including not to exceed $2,440,000".

On page 18, line 16, strike out "title 18" and insert in lieu thereof "title 31".

Mr. KENNEDY. Mr. President, this amendment is technical in nature. It primarily serves to delete what some may refer to as appropriation-forcing language and to substitute in its stead clearer statements of policy direction. The language in no way undoes the committee's estimate of resource needs; rather it permits the Appropriation Committee to respond more flexibly to those needs within the very real constraints of the first concurrent budget resolution. I have been assured that the policy direction and program concerns addressed in the bill will be respected by the appropriation committee to the extent fiscal constraints permit. I urge adoption of this amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 198

(Purpose: To make certain amendments to the Act establishing the Select Commission on Immigration and Refugee Policy)

Mr. KENNEDY. Mr. President, I send to the desk an amendment on behalf of myself and Senator THURMOND.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), on behalf of himself and Mr. THURMOND, proposes an unprinted amendment numbered 198.

Mr. KENNEDY. Mr. President, I ask unanimous consent that we dispense with the reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, after line 11, add the following:

SEC. 20. Section 4 of Public Law 95–412 is amended—

(1) in subsection (b)(2), by striking out "receive the sum of $100" and inserting in lieu thereof "be compensated at a rate not to exceed the daily equivalent of the rate specified for grade GS–18 in the General Schedule as prescribed in section 5332 of title 5, United States Code";

(2) in subsection (d)(7), by striking out "September 30, 1980" and inserting in lieu thereof "March 1, 1981";

(3) in subsection (e)(1), by inserting after "detailed to the Commission" the following: "without reimbursement,";

(4) in subsection (i), by striking out "$700,000" and inserting in lieu thereof "$2,450,000, to remain available until expended."; and

(5) by amending subsection (j) to read as follows:

"(j) The Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the daily equivalent of the rate specified for grade GS–18 in the General Schedule as prescribed in section 5332 of such title.".

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Mike Altier and Mr. Romano Romani, of the staff of the Subcommittee on Improvements in Judicial Machinery of the Judiciary Committee, have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, as Senators know, the Congress acted last year to establish a Select Commission on Immigration and Refugee Policy, to undertake the important and difficult task of reviewing our Nation's immigration laws. The Commission is charged with the responsibility of recommending to Congress in 2 years, proposals to totally overhaul and recodify the Immigration and Nationality Act of 1952, as amended.

The first meeting of the Commission was on May 22, under the chairmanship of former Gov. Reubin Askew of Florida.

In support of this Commission's important work, and to correct some small errors and minor deficiencies in the original authorizing legislation, I introduced a bill (S. 811) at the request of Governor Askew and the administration. However, given the urgency of securing necessary authorization for the Commission—to allow it to begin its work after 6 months delay—I am attaching this bill as an amendment to the pending Department of Justice authorization bill.

Briefly, the amendment does the following: it changes the daily rate of compensation for the public members of the Commission; it extends the life of the Commission since it has been delayed by 6 months in starting; it specifies that detailees from Federal agencies may be detailed without reimbursement by the Commission; it specifically authorizes the Commission to procure the services of experts and consultants; and it increases the amount of funds authorized and eliminates section 4(j) which has as an effect the specific prohibition against the reimbursement of startup expenses.

Mr. President, I strongly recommend the enactment of this amendment which will significantly improve the ability of the Commission to conduct a thorough review of our immigration and nationality laws and to develop the information required for sound policy development. It is offered in behalf of myself and Senator THURMOND.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back my time.

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 199

(Purpose: To authorize a higher appropriation for the Federal Bureau of Investigation)

Mr. **HOLLINGS.** Mr. President, I call up my amendment and ask the clerk to report.

The **PRESIDING OFFICER.** The Chair advises the Senator that the amendment is not yet at the desk.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment numbered 199:

On page 7, line 9, strike "$580,408,000" and insert "$584,408,000".

The **PRESIDING OFFICER.** The Senator from South Carolina.

Mr. **HOLLINGS.** Mr. President, this is a $4 million increase for a general terms increase in the Federal Bureau of Investigation. I do not specify, but I will give the rationale in my remarks in support of the particular amendment. It is not my intent to zap in or zero in a particular $4 million amount, but, generally, for the FBI for additional personnel, as the FBI and the authorizing committees of Congress see fit.

As chairman of the subcommittee on State, Justice, Commerce, the Judiciary and Related Agencies, I have a great interest in the Department of Justice Authorization Act for 1980.

I have studied the bill generally and find no problem with the goals of the appropriation levels to be authorized for 1980, and I assure the distinguished manager of the bill that my subcommittee shares these goals, and we will do our best to provide the necessary appropriations.

However, our actions will be constrained by two very important factors: First of all, there is the Leach amendment in the Civil Service Reform Act which holds Federal employment to the level of September 30, 1977. As the managers of the bill know, this provision has already caused the Department of Justice to eliminate 1,500 positions funded in 1979 in order to make way for the additional personnel required for the 152 new judgeships and other higher priority departmental endeavors.

Mr. President, herein is one of the difficulties in the face of increased crime, and I shall give the particular statistics. The business of crime is booming in the United States. I think this is the thrust of my amendment. Most people think it is on the decrease. Actually violent crime has increased 5 percent; rape was up 6 percent; aggravated assault up 7 percent; as is the case of motor vehicle theft, which is up. The fact of the matter is that we are trying to have the States handle motor vehicle theft and transfer that out of the Federal courts in order to unlock the logjam of cases in the Federal system.

We now find that the motor vehicle theft is going to an organized, orchestrated, high-level basis of actually taking the cars, cutting them up, and selling the parts. What we think of as motor vehicle theft is recovering the automobile. We had a 90 percent recovery record, and we are down to 70 percent because the automobiles themselves are cut up, are unidentifiable, and sold. The parts are worth much more and make the crime pay. Robbery is up 3 percent. But the employment ceiling was placed in effect, and I have serious reservations that the administration will be able to accommodate within the overall ceiling the additional 805 positions over the President's budget authorized by this bill.

The second major constraint is the first concurrent budget resolution adopted last month. The target level for category 750, administration of justice, is less than the amount recommended by the President's request for that category. I am a member of the Budget Committee and I support our efforts to keep the 1980 deficit down to the $23 billion level established by the budget resolution.

Therefore, we must be vigilant of the effect that increases in these categories have on a total outlays approved for 1980.

We will have problems in funding the LEAA authorization already approved by the Senate, and that is compounded by the juvenile justice fund flow situation. We will be hard pressed to stay near the target in this category.

Mr. President, I am extremely concerned about the various provisions the committee has recommended in the bill that would have the effect of forcing up appropriations. I have covered that with the distinguished chairman, and the amendments he offered earlier will clarify that particular problem.

For some time I have been concerned about the FBI. I particularly have been concerned about the general trend of the resources toward our effectiveness in foreign counterintelligence. I have had the experience of looking into all of the Government's intelligence activities some 25 years ago as a member of the Hoover Commission. It was an eyeopener for me not only in defense but the CIA, the National Security Agency and in others. We realized that counterintelligence domestically was the responsibility of the FBI. We found they were doing more than an outstanding job.

In recent years, due to the concern with respect to the Weathermen and other activities that the FBI was engaged in for a particular time, the Bureau's resources in this area have been diminished. There have been several congressional investigations and the results of Watergate have had a great effect on the entire country, the investigative process, and the Congress as well.

We are all more cautious and more concerned with civil liberties. We are certainly concerned that we do not unnecessarily open letters and wiretap everybody. The Attorney General has issued guidelines so that every dissident organization does not become a target for the FBI, and insure that the Bureau itself does not get bogged down chasing rainbows.

Last year my subcommittee directed that the Immigration and Naturalization Service refuse entry into the United States of foreign visitors that the FBI had objected to their entry based on past intelligence activity. This caused a lot of anxiety down in foggy bottom and over at the CIA where, because of our agents overseas, there is a relationship of: "You don't bother our people, we won't bother yours. If you catch them send them home and that's the end of it." Director Webster does not accept that and neither do I.

There has been a complete reversal of the statistics on visa requests since we issued our directions. Instead of the FBI being overruled by the State Department simply on grounds of foreign policy, without an explanation, the FBI has been upheld in the majority of their objections. The convictions of spies in Alexandria, Va., and Newark, N.J., give clear indication that the ones we catch will be prosecuted.

Earlier this year, former Secretary of Defense wrote in the Reader's Digest that in 1972 we investigated 17,600 domestic security cases, but last year we only investigated less than 200. He also pointed out that in 1975 we had some 1,100 informants and that they had dropped to 42. The subcommittee had a closed session with FBI Director, William H. Webster and he verified the range of those figures during that session. In the last 5 years the Soviet bloc has doubled the number of intelligence officers stationed in the United States—to more than 900—and it is also a true statement that Communist personnel stationed in the United States now outnumber the U.S. intelligence officers by a wide margin.

I believe that the FBI should have additional personnel for foreign counterintelligence, but the Congress has established the Committee on Intelligence and the procedures for controlling the Nation's intelligence apparatus. I am advised that the Committee on Intelligence has endorsed the level requested for 1980 by the President for the FBI's counterintelligence program, and does not believe that an increase over that level is warranted at this time.

I do not agree with that conclusion as the administration's budget was established before the normalization of relations with the People's Republic of China, nor did it take into account the large number of Cuban and Soviet emigrees that are now coming in stepped-up numbers into the United States. Presently, the PRC has about 200 officials at the United Nations and here in Washington. It is expected that that number will eventually go up to 1,200. There is also expected between 800 and 1,000 exchange students from the PRC. They will be mostly graduate students in order to help them bridge their technology gap and consequently have a high potential for inclusion of persons engaged in obtaining our technology secrets.

There are 35,000 to 40,000 Soviet emigrees in the United States and this number is increasing. There is the potential for inclusion among this group people who have been recruited by the Soviet intelligence service.

I believe that an increase of $40,000,000 for the counterintelligence program would have been appropriate, but in view of the ceiling established by the Intelligence Committee, I will not press this further at this time. But I still hold for a general overall increased $4 million to take care of the listed crimes as well as the additional counterintelligence personnel.

GENERAL INCREASE

Mr. President, that authorization level of $534,408,000 that I propose will allow a general increase for the FBI that I believe is necessary. Earlier this morning my subcommittee heard testimony about a FBI supplemental request that we will not be able to handle without the cooperation of the distinguished managers of the bill because the 1979 authorization will be exceeded. There just has to be a little room in these authorization bills for such late blooming requests.

More specifically, Mr. President, we have been cutting back at Justice too much in the last 4 years. The FBI, despite its increasing responsibilities, in the light of the onslaught of the reorganization and trying to rebuild and reinstill confidence and credibility, has had a thousand agents cut. I can not use in an open session the exact figures, but there were dozens of counterintelligence agents coming into the United States over the objections of the FBI, on the signal of the Department of State. If there are 50 to 100, you can multiply that out, and see why, rather than their being cut some 1,000 agents, we, in the light of the added responsibilities, should have been adding some 1,000 agents.

What happens, then, of course, is that the agents at the various district levels assign their particular personnel to crimes like flights from justice, today even the bank robberies that we need to curb, and other things that will put them, at the end of the year, in a position where their district report will appear as a very good report, that they have solved so many crimes. Whereas, if you trail counterintelligence agents, all you can say is that you trailed them; there are no particular crime statistics from that district, and it does not make them look so forceful and efficient as the other areas.

So what we are doing is suffering in the counterintelligence area because of the onslaught of foreign agents, on the one hand, and the reduction of personnel on the other.

The FBI's top priorities for 1980 are organized crime, white collar crime, and foreign counterintelligence, and, I might add, the computerization field in the white collar crime area. We heard extensive testimony on this and we need additional personnel for this area. As the committee's report indicates, these priorities are to be met within a personnel level that is 536 positions below the level approved for 1979. This has forced the FBI to pull back on several activities such as bank robberies, individual stolen car cases, and the apprehension of fugitives. In view of the increased abilities of our State and local law enforcement personnel and the overall constraints on the budget, I cannot quarrel with the decreases taken in these areas.

However, car theft is still a major problem in the United States, particularly the major commercialized theft operations amounting to 700 FBI cases. These cases involved groups selling stolen cars, but also chopping them up and selling the parts. The groups can get more and be safer by selling the parts than by selling an entire car that can be identified by hidden numbers.

There are other items impacting heavily on the FBI that are not addressed in the levels authorized by the committee. For instance the Computer Fraud Act will be a very useful tool to the Bureau but it will enormously increase the FBI's jurisdiction. There is also interest by many Senators in increasing arson investigations by the FBI. These types of things will require additional resources that the level authorized by the committee will not allow.

Mr. President, this amendment will simply give to the FBI the same kind of leeway that the committee has given other areas of the Department. As I indicated earlier I cannot honestly say that the Appropriations Committee will fund the Department at the levels authorized in the bill, but the committee has given us targets to shoot for in the case of the Criminal, Civil, Civil Rights, and Land and Natural Resources Divisions, as well as the Immigration and Naturalization Service and the Federal Prison System. My amendment will increase the FBI's budget level by less than 1 percent, and will allow for a sufficient response by the Bureau to these emerging areas in the constant attack by the Bureau against crime.

I thank the distinguished Senator.

Mr. KENNEDY. Mr. President, I would recommend to the Senate that it accept the amendment of the Senator from South Carolina, with the clear understanding that the Senator from South Carolina has quite accurately portrayed the recent trends in the period of the last few years. We did increase the authorization some $4.8 million above the administration's budget, but even with that the amount authorized for the FBI would have been less than the amount appropriated a year ago, the FBI would have absorbed not only the increase in the cost of living, but it would also have had a real reduction in resources. The effect of both what was adopted in the committee and the Senator's amendment would put the FBI just about where it was in terms of last year. It is an extremely modest amendment.

The only concern we would have, and I think the Senator's explanation has clarified that, is that the increased funding should be used in the areas of high priority which have been established by the Bureau and the Department, and concurred in by the Judiciary Committee. We have reviewed priorities very carefully with the Bureau and have worked out over the period of last year and this year the areas of greatest emphasis. I am referring to the areas of fraud, organized crime, criminal investigations, and several of the other items which the Senator from South Carolina has mentioned.

With this understanding, that it would be the intention of the Senate that the resources would be allocated to priority items for the Bureau, which would only make sense, it seems to us to be an unobjectionable amendment.

The Senator also pointed out the concerns that the Senator has had and the American people have had in the areas where there have been abuses of individual rights and liberties of the American citizenry. I can give assurance to the Senator from South Caroline that we have worked, and are working, very closely with the Bureau in the fashioning of a charter, which will be a matter of very high priority in the Judiciary Committee. It is now in its final form and has been submitted to OMB.

Mr. Webster, Mr. Bell, Mr. Civiletti, and others, have spent a great deal of time giving assurances to the American people that the Department of Justice intends to protect their rights and liberties, as well as those of the individual FBI agents. In many instances agents are unsure when they are given various orders as to what is permissible and what is not permissible, particularly in areas, for example, that on their face would violate the law of the land.

So it seems to us that because we have placed this agency under really outstanding leadership, that of Judge Webster, and because there has been close coordination between the Justice Department, the FBI, and the Committee on Policy and Program Direction, the increased funds will be well allocated.

This amendment seems to me to be perfectly satisfactory.

As a final point, there are a number of programs that are included in the Justice Department, such as those of the Criminal Division, which carry forward the prosecution of the various cases investigated by the FBI. There has been a vast increase in cases because of the increased investigation of abuses of existing Federal statutes and violations of Federal law. Many of the investigations which go forward in terms of the FBI are stymied by the absence of attorneys who can bring the cases to prosecution. We want to make sure that the cases are going to be prosecuted after the investigative work has been done.

We have focused very closely on coordination between the Criminal Division and the FBI to try to put resources in balance. Similarly, in the Civil Division, for example, in their enforcement of the regulations of the Department of Energy we have worked to insure that there is going to be adequate investigation as well as litigation support.

Whether we are talking about the Criminal, the Civil, or the Lands Divisions, the areas pointed out by the Senator from South Carolina, and the other areas of civil rights and INS, the committee has established priorities. These priorities have been worked out in coordination with the Department of Justice and with the agencies which have been affected and have been approved virtually unanimously by the committee membership, Republican and Democrat alike.

I welcome the amendment of the Senator from South Carolina. I hope we can work with him to insure that the priority increases that we have established and worked out with the Justice Department are not going to be sacrificed due to budget constraints.

We are obviously discussing a small amount of money in light of the $1.8 billion administration budget under consideration. What we have done, Mr. President, is to have brought this authorization in at just about $38 million above the President's request; it is an extremely tight budget.

We have reduced some existing programs, though not many. We hope to find other areas where we can actually show reductions. The fact of the matter is, as the Senator from South Carolina has pointed out, this is a very barebones budget for the Department of Justice. Reducing very small amounts of money, I believe, can have a potentially significant adverse impact on the functions of the Justice Department in a number of different areas.

I have no further comments on this particular amendment. I would certainly urge the membership to accept it with the understanding that these items are going to be used for the department's and the committee's established priorities.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, the FBI has vast and diversified responsibilities. I feel this additional $4 million will assist them in meeting their responsibilities. For that reason I am pleased to support the amendment.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleagues, the managers of the bill.

For example, the manager's distinguished brother, a former Attorney General, was the first one to make the necessary provision to move against organized crime. I think we need more than ever that No. 1 priority within the FBI.

White collar crime and counterintelligence are the other two priorities of the FBI.

I believe our Subcommittee on Appropriations for the Department of Justice and the Judiciary Committee itself will be in lock step on those particular priorities.

I feel that the Attorney General got together with the President in the beginning, and his other Georgia friend, Mr. Jim McIntyre, of the Office of Management and Budget, and decide they were going to lead the way in cutting the budget and balancing it. I heard the Attorney General talk about the Governors down there, saying that Governors would welcome cutting out revenue sharing and all the grants-in-aid programs. That did not come to pass. When the Governors came to town, they were not voting to cut out anything. In contrast, having led the way, the Attorney General and the Justice Department got shortchanged. I have looked at all of these other budgets which have come through, as a member of the Budget Committee, and this one is the most strict. I think the loss of these particular agents in a general sense would impair the effectiveness of the Bureau and that is why I take this unusual step in presenting the amendment. I appreciate the distinguished chairman and his ranking member accepting it.

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. Is there objection to the amendment? The Chair hears none.

The amendment was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Levin). Without objection, it is so ordered.

UP AMENDMENT NO. 200

(Purpose: To amend certain provisions relating to the Immigration and Naturalization Service)

Mr. THURMOND. Mr. President, the distinguished Senator from Arizona (Mr. DeConcini) could not be here today, and he has requested that I offer an amendment for him, and I shall now offer that amendment. I send it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. Thurmond), for Mr. DeConcini and Mr. Mr. Domenici, proposes an unprinted amendment numbered 200:

On page 9, line 18, strike out "$305,817,000" and insert in lieu thereof "$313,317,000".

On page 9, line 21, strike out "$62,954,000" and insert in lieu thereof "$70,454,000".

Mr. THURMOND. Mr. President, I ask unanimous consent that a statement by Mr. DeConcini in connection with this amendment be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The statement is as follows:

STATEMENT BY MR. DECONCINI

Mr. President, the purpose of this amendment is to improve our border management capabilities in an especially critical area. It will increase the funding authorization for the Immigration and Naturalization Service from $305,817,000 to $313,317,000, an increase of $7.5 million. Further, this amendment specifies that the amount earmarked for enforcement of the immigration laws by the Border Patrol Program be increased from $62,954,000 to $70,454,000.

As many of my colleagues are aware, the illegal alien apprehension rate continues to exceed 1 million per year and approximately 835,000 of those are between ports of entry on the southwest border. Even the more conservative estimates by Border Patrol officers are that for every alien apprehended at the border, at least one and perhaps more successfully enter the country. The severe pressures on the border coupled with increasing incidents of violence are creating a dangerously volatile situation, a situation which demands a substantial prevention effort. And yet, in the face of this growing crisis there are, at any time today, no more than 350 Border Patrol officers along the almost 2,000-mile Mexican border.

To be sure, the exact magnitude of the undocumented aliens problem is subject to serious debate. However, I do not find it realistic to wait until the magnitude is precisely determined before framing a more adequate policy response. The illegal alien problem is extremely serious. There can be little doubt, however, that the most humane, reasonable, and readily available administrative solution is to prevent the entry of persons lacking proper documentation rather than attempting to locate and deport them from this country. We must not wait until the broader causes of the illegal alien problem can be addressed. Now is the time to take an essential step in maintaining better control of the border by providing for sufficient personnel and equipment necessary to mount an effective enforcement effort along the border.

Specifically, this amendment represents an addition of 233 properly equipped and supported border patrol positions or $7.5 million. This amount is required to move in the direction of restoring the funding necessary to support the manpower increases recommended by the Department of Justice. The Immigration and Naturalization Service had originally requested an increase of 1,032 additional positions. Currently 2,580 border patrol positions are authorized. The Department of Justice approved 202 of these new positions and is clearly of the opinion that such an increase is necessary to enchance the security of our borders. Unfortunately, the Office of Management and Budget not only denied the Department of Justice's recommendation of an additional 233 border patrol positions but cut deeply into the agency's personnel base, eliminating 269 border patrol positions which has been previously authorized and funded, pursuant, I might add, to Administration requests. I find it hard to understand the apparent vacillation with respect to policy in this area, where the inadequacy of our enforcement capabilities has long been recognized as a major component of the overall problem.

Concluding, I believe that this modest increase of an authorized ceiling for the Immigration and Naturalization Service is justified and I urge my colleagues to support this amendment.

Mr. THURMOND. Mr. President, the amount in the amendment has been reduced from $35 to $7.5 million. On that basis, I am offering the amendment in behalf of the two Senators I have mentioned.

I would not have favored $35 million, but I am willing to go ahead with $7.5 million. I believe the able chairman of the committee has agreed to accept the amendment on that basis, and I also agree.

The amount of this amendment merely brings authorized funds up to the level that was recommended by the administration.

Mr. KENNEDY. Mr. President, I am willing to see that this matter be brought to the conference and that it be reviewed carefully by the Appropriations Committee.

At the present time the Department is planning for INS probably the first really comprehensive management review of that agency. INS requires such a review and has required it for some time.

Many of the problems that have been associated with INS have come to view in more recent times. They have been building up over a period of years.

Quite frankly, I think that Mr. Castillo has been coping with an extremely complex and difficult situation, and he has been doing a very valid and worthwhile job. He has inherited some enormous management problems.

The concern I have had about the increases in the numbers of the border patrol generally—although I know it is a matter of special interest to the Senator from Arizona and the Senator from New Mexico—is that we at least should have some kind of evaluation as to what the numbers are going to mean in terms of the flow of illegals. We should get some tpe of cost-benefit analysis of the increase.

Some people who have appeared before the committee have said that you could put wall-to-wall border patrols down there and you still could not stop the flow of illegals into this country. We are facing serious problems with the numbers who do come here.

I am satisfied that the management study will include an evaluation of what the appropriate numbers should be, what the costs are going to be of those numbers, and what the costs would be of other alternatives. With that information we can recommend to the Senate, in an instructive and intelligent way, what the costs and benefits will be with respect to enforcement of immigration law.

I have no objection to this matter. I know that Senator DeConcini has been enormously interested in this problem, and his State has been very concerned. He has taken a great personal interest in INS, and he is extraordinarily knowledgeable about the situation. He also serves on the select commission which has been established on immigration policy, the first meeting of which has been chaired by former Governor Askew. He has committed his time and interest and considerable ability to helping us, as a country, to meet these particular objectives. It is because I know of the seriousness of his concern and the responsible attitude he has taken on this whole issue that I am glad to take this amendment to conference.

As a member of that commission and as one who has served on the Immigration Subcommittee of the Judiciary Committee for a number of years, and as one who has taken a great interest in the problems of immigration and refugees, I look forward to working closely with Senator DeConcini and other Members of the Senate in trying to deal with the matter of illegal entry into this country, a matter of very considerable concern to the American people.

I hope the Senate will accept this amendment. I thank the Senator from Arizona for reducing the earlier figures. I look forward to working with him as the INS resolves its particular management problems.

Part of the problem has been that INS have been unable to fill existing slots which have been authorized. That has been the case in the past. There is a general reluctance to see an expansion of the program when INS has been unable to fill the existing vacancies.

So this is a complicated problem. It will have our full attention. We in the Judiciary Committee will work very closely with Mr. Costello and the members of INS in bringing about responsible policies in this area and at costs that will be consistent with the policy objectives.

Mr. President, I yield back the remainder of my time.

Mr. THURMOND. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Kentucky (Mr. Huddleston) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. HUDDLESTON. Mr. President, I am pleased to join Senator DeConcini in introducing this amendment to the Department of Justice authorization bill. The amendment would substantially increase the number of border patrol personnel of the Immigration and Naturalization Service and thereby provides for more effective control of our borders.

In 1977, President Carter made the commitment to increase the border patrol by an additional 2,000. Since that time only 153 positions have been added by the INS. I believe that it is time to begin making a serious effort to carry out the President's commitment. Although the Judiciary Committee has added an additional 269 positions in this bill, it is not sufficient for the task at hand. In 1980, it is estimated that the border patrol will apprehend about 850,000 deportable aliens. However, as many as two or three times that number may escape apprehension due to the lack of sufficient border patrol officers.

The border patrol has been fighting a losing battle in its efforts to stop the flood of illegal aliens across our borders. Generally there are no more than 350 border patrol officers along the 2,000-mile Mexican border at any given time. This lack of personnel and equipment has caused a marked decrease in morale among the officers.

The increased presence of a sufficient number of officers along the border has been clearly demonstrated to result in a substantial increase in apprehensions. In 1977, the INS conducted a pilot program called "Operation Shortstop" in which border patrol officers were concentrated in the Chula Vista sector of the border. The result of this concentration was a dramatic increase in the number of apprehensions. This program proved that we can accomplish a great deal in our deterrent efforts if we are willing to commit the necessary resources.

The escalating problem of illegal aliens entering the United States represents a serious threat unless it is curtailed. Millions of illegal aliens are present in the country today, and we can anticipate that the problem will get worse instead of better. Over the next 20 years the world will undergo a serious population explosion which will create tremendous pressures upon developed countries. There are presently 4 billion people in the world, and this number is increasing at the rate of 70 million per year. This is the equivalent of adding nine cities the size of New York City to the world each year. Within the next 20 years this will mean an additional 1.4 billion people. During this same time, about 900 million people will be added to the world labor force, which already has millions of unemployed and underemployed people.

As we have learned from our experiences with Mexico, these vast numbers of people will naturally migrate to those countries with relatively healthy economies and low population growth rates. Sixty percent of the illegal aliens in the United States came from Mexico. Unfortunately, over the next 20 years their population will double and add millions more to their unemployment rate, which is extremely high now. Even with the vast amount of capital to be generated by Mexico's new-found oil, the country is not expected to produce adequate jobs for its unemployed for another 20 years.

The demands which millions of illegal aliens place upon our natural resources, governmental services, and the economy are significant. Our continued acceptance of the situation will exacerbate the problem as time goes by. We must make a commitment to deal with this problem now, and a decision to increase our border patrol is the best place to start.●

Mr. THURMOND. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 201

(Purpose: To require the Attorney General to submit a plan to Congress on the rehabilitation of the United States penitentiary at Leavenworth, Kansas)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. Dole) proposes an unprinted amendment numbered 201:

On page 29, after line 11, add the following:

Sec. 20. On or before September 1, 1980, the Attorney General shall submit to Congress a plan to alter the function of the United States penitentiary at Leavenworth, Kansas, to that of a modern correctional institution.

Mr. DOLE. Mr. President, the amendment I have sent to the desk simply directs the Attorney General to submit a plan on or before September 1, 1980, to Congress to alter the function of this U.S. penitentiary at Leavenworth, Kans., to that of a modern correctional institution.

THE FACILITY

Leavenworth Federal Prison is one of the oldest prisons in the Nation. Constructed in the early 1900's, it includes a 40-foot wall enclosing 22 acres of recreation yards, cellhouses, factories, and activity areas for inmates. The inmates are housed in four five-tier cell houses, two regular dormitories, and an alcohol treatment unit. In addition, there is a minimum security camp which houses just over 300 inmates in dormitory and single rooms.

Leavenworth houses older, sophisticated Federal offenders who are serving long sentences. The average age of inmates is 39, the average sentence is 14 years. Included in the prison's population is the prison contingent from Alcatraz when that facility closed in 1963.

PRISON POPULATION OF LEAVENWORTH

Mr. President, there are approximately 1,500 inmates at Leavenworth Prison, 6 to 8 inmates to a cell. Yet modern prison architecture dictates that the largest prisons built today house no more than 500 inmates. Leavenworth houses three times this number of inmates.

It is an antiquated facility. It is larger than most authorities consider optimum for effective institutional management. Quite frankly, the five-tiered main cell block is a human warehouse, barely adequate for human habitation. To operate an effective correctional institution in such an obsolete facility seems to me virtually impossible.

The Senator from Kansas believes that the reduction of the inmate population of Leavenworth and the modernization of that facility will result in the creation of an efficient contemporary prison facility. Our responsibility is as clear as the need itself.

As far as I know there is no objection to the amendment. I think it is acceptable to the floor leader and the minority leader of our committee.

Mr. KENNEDY. Mr. President, I urge the Senate to accept this particular amendment. In the review of the Department of Justice we did not give full attention to the general problems of the Bureau of Prisons. We focused on the other areas which I have outlined in my opening statement and which have been indicated in the report itself.

But the Senator from Kansas is quite correct that the Department of Justice has been considering, over a period of the last 4 to 5 years, a review of Leavenworth, leading to either renovation or termination, or some other kind of recommendation, but the Department has basically put this study off.

The House of Representatives itself has already adopted language which is very similar to that proposed by the Senator from Kansas. We had talked within the committee itself about that language and had indicated that there would be a high likelihood that we would accept the House language at conference. This will save us the need to do so.

There is no cost to this amendment. The development of the plan would be funded out of the existing authorization for the Bureau of Prisons.

This study is long overdue. We also give the assurance to the Members that in the oversight process next year the Bureau of Prisons, and all of those factors which relate to the handling of prisoners in our U.S. prison system, will be very carefully reviewed.

I have no objection. I think it is a valuable and useful addition to this legislation. I urge the Senate to give favorable consideration to the amendment.

Mr. THURMOND. Mr. President, I rise to support the amendment offered by the distinguished Senator from Kansas (Mr. Dole). This amendment directs the Attorney General to submit a plan to Congress to alter the function of the U.S. penitentiary at Leavenworth to modernize the facility and reduce current overcrowding.

The plain fact is that this institution is over 100 years old and has more than three times the inmate population it was designed to accommodate. The facility needs to be redesigned and converted primarily to single-cell occupancy which would not exceed a total inmate population of 500.

Some have argued that the institution should be closed down altogether. I reject this suggestion for two reasons:

First, it already has a physical plant that is up to date with respect to some of its plant and equipment. This plant is a valuable asset to our Government and should not be totally abandoned.

Second, the location is in the central part of the country, in the Middle West, and thus is a convenient location for prisoners from all parts of the Nation.

Mr. President, for these reasons I support the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that the report of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Committee on the Judiciary on inspection of Federal facilities at Leavenworth Penitentiary and the medical center for Federal prisoners dated January 1974, pages 3 through 9, be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Leavenworth Penitentiary

The shortcomings which the Subcommittee observed at the United States Penitentiary at Leavenworth, Kansas are not unique to that penitentiary. Similar faults were found in many State penitentiaries visited by the Subcommittee. In short, the faults of the Leavenworth Penitentiary are similar to those found throughout the country.

The Subcommittee spent only eight hours at the United States Penitentiary at Leavenworth, Kansas on October 26, 1973 and a similar amount of time at the Medical Center for Federal Prisoners in Springfield, Missouri on October 27. These short visits do not permit in-depth analysis of all that is good or bad about these particular facilities. The primary purpose of this Report is to help raise the level of Congressional and public awareness and involvement in the problems and needs of correctional institutions in general. It is the Subcommittee's belief that if the public is made aware of the failures and shortcomings of the existing system of imprisonment, it will insist on reform. Prison walls serve just as well to keep the public out as they do to keep the inmates in. The public is the key to any meaningful reevaluation of our system of corrections. Society's responsibility does not end with the imprisonment of an individual. Chief Justice Burger has well stated society's responsibility:

"We take on a burden when we put a man behind walls, and that burden is to give him a chance to change. If we deny him that, we deny him status as a human being, and to deny that is to diminish our own humanity and plant the seeds of future anguish for ourselves."

A TOUR OF THE PRISON

Under the direction of Warden Loren E. Daggett, and several members of his staff, the Subcommittee was escorted through the different parts of the prison. Leavenworth is a maximum custody institution which accepted its first prisoner in 1895. It has a population of 2,100. Most inmates are serving long sentences (average 11.5 years) and have significant prior criminal records. They are mostly over the age of 27 years and come from the Central and Western United States.

The Penitentiary has a budget for fiscal year 1973 of $7,003.000. A copy of this budget as provided by the Federal Bureau of Prisons follows:

Expenditures and obligations, U.S. Penitentiary, Leavenworth, Kans., fiscal year 1973

Salaries:	
Correctional service	$3, 142, 000
Case management professional	196, 000
Education, religion, recreation	182, 000
Operations (maintenance, food, farm, fiscal)	1, 120, 000
Medical and PHS commissioned officers	314, 000
Executive, administrative, clerical, others	504, 000
Total	5, 458, 000
Care:	
Food	432, 000
Farm	149, 000
Clothing and allowances	157, 000
Medical	60, 000
Release and transfer	69, 000
Total	867, 000
Equipment	59, 000
Maintenance and operations	579, 000
Education and recreation	40, 000
Total budget	7, 003, 000

The first building inspected was Cellhouse "A". It consists of a series of adjoining cells approximately 10 feet wide and 20 feet long, with four to six men in each cell. These cells consist of five levels, all facing an outside wall with windows about 30 feet away. Cellhouse "A" contains over 650 men. The Subcommittee was advised that at the first sign of homosexual conduct, or of sexual assaults, the inmates involved are moved to different sections of the institution. The one-man cells located in other cellblocks are very much in demand and there is a waiting list of inmates wishing to live there. The prison staff readily agreed with a Subcommittee observation that one-man cells in the whole institution would be a vast improvement over the present crowded conditions. The Subcommittee believes that these overcrowded conditions are further aggravated by the lack of any partitions between adjoining cells, and the total lack of opportunity for individual privacy.

It is alleged by the inmates and acknowledged by certain members of the correctional staff that prisoners run the penitentiary after 5:00 p.m. This condition results in homosexual rapes and attacks. From what the Subcommittee was able to observe, there may be some truth in that allegation. For example, in cellhouse "A" which houses over 650 men, only two or maybe three guards patrol five tiers of cells after 5:00 p.m. The guards usually patrol the bottom tier and at that level can also patrol tiers two and three, but tiers four and five cannot be seen by the guard patrolling on the bottom tier. The inmates on these upper tiers are frequently the subject of attacks and fires (as evidenced by the visibly charred concrete on these tiers). It seems clear to the Subcommittee that not only is the situation a danger to prisoners but also to the guards who have to patrol these areas. This problem is further complicated by the need for new locks on the cells. The Subcommittee understands that the present locks on the cells are old and ineffective and can be forced open by the inmates. Money and manpower are needed to correct this dangerous situation.

There are a number of inmates being "held-over" at Leavenworth while being transferred between Federal prisons. Some of these men were interviewed by members of the Subcommittee and were told that it was not unusual to be "held-over" for 8 to 10 weeks or longer. They also alleged that they are afforded fewer privileges and possessions while in this status. The Subcommittee intends to request from the Federal Bureau of Prisons more information concerning "hold-overs," their loss of privileges, reasons for transfer, time spent in this category, and similar matters.

In Cellhouse "B" approximately 500 men are housed in one and two-man cells. In the basement of cellhouse "B" approximately 200 men live in an open dormitory. There the beds are aligned very closely together precluding any opportunity for individual privacy. The dormitories are usually available for those inmates with less than five years to serve before release.

The segregation unit or control unit is Building 63 which the inmates refer to as "the hole". This building is for maximum security, consisting of two floors of single cells approximately 6' x 10' with a steel door. The door has a small, thin opening, large enough to slide a tray of food in to the prisoner. Administration practices in the control unit are often the source of many complaints by the inmates. It is alleged that inmates held there are frequently placed on a restricted diet and the only eating utensil permitted is a small, flat wooden ice cream spoon. These allegations were denied as false by the prison administrators.

Prior to visiting Building 63, the Subcommittee was advised that one of the men locked up in this unit was very much in need of medical and psychiatric care. It was alleged that he screamed and hollered day and night and that something was obviously wrong with him. While the Subcommittee was walking through this unit, no such person was in evidence. Inquiry was made of the guards as to whether such a person existed. They were unaware of any such person. Inquiry was then made of one of the inmates and he quickly pointed out the particular cell where the so-called "crazy man" was located and he also indicated that the prison staff had given the man a "strong sedative" just prior to the Subcommittee's arrival. The Subcommittee then went to the cell referred to by the inmate and the man located therein appeared to be sleeping. The Subcommittee requested to see any chart that may be kept on that particular inmate. With some delay the chart was finally located and retrieved. It indicated that the inmate in question recently received 250 milligrams of Thorazine. According to Taber's Cyclopedic Medical Dictionary, Thorazine is of medical value in "quieting severely excited psychiatric patients." His chart further indicated that he was receiving such dosages regularly. This was the second dose he received that day. When asked why this particular inmate was not placed in the medical center, the Subcommittee was advised that the hospital's psychiatric ward was closed for remodelling and that the inmate in question would be transferred to the Federal Medical Center at Springfield, Missouri in the near future.

PRISON INDUSTRIES

Leavenworth presently has a prison industries program comprised of shoe, brush, clothing, and furniture factories, as well as a computer program involving the U.S. Department of Agriculture. Approximately one-half of the inmates (900–1,000) are employed in the industries program at a pay scale which varies (21 cents to 51 cents an hour) according to the prisoners' grade standing or output. Earnings are credited to a person's account and may be sent home, used to make purchases at the Commissary, to purchase U.S. Savings Bonds, or accumulated for a release plan. Inmate participation in prison industries is voluntary. The average workday is approximately seven hours, beginning at 7:30 a.m. with a five day work week and one week off for a vacation with pay.

On a typical day, the clothing factory produces 500 to 600 pairs of pants and the shoe factory about 3,500 pairs of shoes which are primarily sold to the military. The brush industries has an annual gross sales volume of about 4 million dollars. The entire prison industries generates annual gross sales of approximately 12 million dollars with a 10% to 12% profit margin. The computer program, which involves only about 55 inmates, was the only industry that provided some type of job placement service for the inmates when they were released.

The Subcommittee was generally dissatisfied with the prisons' industrial programs, except for the computer/data processing program. Prison officials readily agreed that employable skills are not taught the inmates and the wages paid are rather meaningless. Nothing is so devastating to human aspirations as a work assignment which both parties know is useless. To provide inmates with a fair wage may, among other things, help keep their families together and off the welfare rolls. Greater emphasis is needed on meaningful job training and post-release employment placement. The Subcommittee has pending before it legislation which would go a long way in correcting this problem and it intends to begin consideration of that legislation in the near future.

The Subcommittee also inspected the educational facilities of the Penitentiary. It found them to be minimal. An inspection of the library facilities disclosed that they were minimal also and apparently they were from time to time nonexistent. The apparent lack of concern for educational and library facilities led the Subcommittee to conclude that there was too great an emphasis placed on custody of inmates and not enough on rehabilitation.

An inspection of the penitentiary hospital was also conducted. Inmates in the hospital alleged that the facility was never as clean as it was on the day of our inspection. They stated that the facility was swept, mopped and scrubbed immediately prior to our visit and that clean linens were distributed at the same time.

One source of concern to the inmate patients and employees in the hospital was the rate of pay which inmates received in the hospital. It was reported that inmates working in the hospital received $10 per month while inmates working in prison industries earned an average of $50 per month. As a result of this disparity, inmates with prior medical training refused to work in the hospial and worked making brushes and shoes instead. This was discussed with prison officials who agreed that it made no sense at all. They stated that the situation was a result of a lack of funds to increase the pay in the hospital facility. Members of the Subcommittee expressed their concern that only $60,000 of the institution's $7,000,000 budget was allocated to the hospital and urged the administration to attempt to take steps to correct this situation.

MEETING WITH REPRESENTATIVES OF THE GUARDS

In response to a letter to the Subcommittee from the membership of Local 919, American Federation of Government Employees (AFL–CIO), the Subcommittee met for over an hour with four representatives of the guards who patrol and supervise the day-to-day activities of the inmate population. Their combined service as guards totalled 74 years. The Subcommittee was advised that there was a shortage of staff within the institution and that two or three guards are often responsible for the supervision of over 650 inmates. The guards stated that this is a dangerous and sometimes an intolerable situation. As a result the guard is the target of daily harrassment, oral insult, and abuse. According to the spokesmen of the guards, inmates have spit directly into the face of officers. When this abuse is reported to the prison administration, the guards claim they are told that "they are professionals and that they must accept such abuse as part of their job and not respond in any way to inmate harassment". Spokesmen for the guards indicated that this type of response is very difficult to accept. It is their position that the guards should have more to say about the actual running of the prison, and that do-good groups have more input than they do and that "Federal Judges from back East should be kept out of the prisons." They were also critical of the kind of literature which the inmates are permitted to receive. They also suggested that once inmates are paroled from the institution, guards, not probation officers, should be in charge of supervising the parolee. The spokesmen also urged the reinstatement of capital punishment for any person convicted of slaying a corrections officer.

The representatives of the guards were particularly interested in and asked the Subcommittee to support H.R. 9281 (See Appendix A) which provides for earlier and increased retirement benefits for those law enforcement officers involved in "hazardous duty". This legislation passed the House of Representatives in September, 1973 and is now pending before the Senate Committee on Post Office and Civil Service. As of this writing, no action has been scheduled on this bill and the Civil Service Commission is on record as opposing it. A staff member of that Senate Committee indicated that hearings on H.R. 9281 were likely to be scheduled early this session.

Administrators, guards, and other staff members not only at Leavenworth but in institutions around the country are to be commended for the service they perform in antiquated and overcrowded facilities. While at Leavenworth the Subcommittee spoke with many inmates and received very few complaints of physical abuse or physical harrassment from prison officials. Men and women who staff correctional institutions are for the most part dedicated and well meaning and vital to rehabilitative process. They should receive a higher scale of remuneration, better training, and more realistic provisions for safety and security in the performance of their duties.

MEETING WITH THE INMATES

In addition to the request from the guards for a meeting, the Chairman of the Subcommittee received a letter signed by nine inmates of the Leavenworth Penitentiary. The letter (See Appendix B) listed eight categories of complaints which concern prisoners at Leavenworth. The authors of the letter requested a meeting with the Subcommittee in the prison auditorium in the presence of other prisoners to discuss existing problems. Because of the demand on the Subcommittee's time while at the prison and the lateness of the request, the Subcommittee was only able to meet privately for a half-hour with seven of the nine signatories of the letter in a staff office. In addition, members of the Subcommittee held brief discussions with many inmates throughout the day while touring the prison.

Due to the limited time available for the formal meeting with the inmates, they discussed what they felt were the major areas of discord between them and the institution. High on their lists of complaints was the problem of not having any kind of grievance committee. In order to draft the letter to the Chairman of the Subcommittee, the authors thereof had to do so with great difficulty and at the risk of violating prison regulations. They thought that some type of inmate grievance committee that was representative of the prison population could act as a "safety valve" through which the inmates could let off steam, rather than permit minor abrasions to fester into major sores of discord and revolt. It appears to the Subcommittee that this suggestion has merit and should be fully explored by the institution.

Another area of complaint concerned the handling of the mail. It is frequently alleged that inmate mail is mishandled, delayed and in some cases destroyed. Leavenworth has what they refer to as an "open mail" policy. An inmate may usually correspond with whomever he pleases, but all regular mail entering the institution or leaving it is examined for contraband. Mailing privileges can be withdrawn from individuals who abuse this policy through obscene, threatening, conspiratory or otherwise illegal correspondence. The maximum permissible length of a regular outgoing letter is two pages with writing permitted on both sides of the page.

The prison policy concerning letters to Members of Congress, Federal courts, government officials and the press from inmates is that such mail is not subject to inspection. Correspondence addressed to attorneys can also be mailed from the institution unopened. Correspondence from the attorney to the inmate is opened and inspected in the presence of the inmate, if the attorney has indicated on the incoming envelope that this is his preference. Inmates are advised that at their option and with the concurrence of their attorney, mail from the attorney will be opened in their presence but that if this election is made, it may cause some delay in the delivery of incoming correspondence. In accordance with prison policy, incoming mail is supposed to be stamped immediately upon arrival to show time of receipt.

Inmates complain of constant delay in mail delivery and they allege the amount of delay is related to whether the mail is critical of the institution. Inmates complain that all of their outgoing mail is read, therefore if they are critical of the institution or its staff, they risk personal reprisals. They complain that incoming mail is not stamped when received and although attorney mail is opened in their presence, there is considerable delay. Furthermore, mail from Members of Congress is opened and copied with the original sent to the inmiate's caseworker and the copy sent to the inmate. Many of these allegations were denied by the prison staff.

In many cases the mail is the only contact with the outside that an inmate has. Consequently, the inmates feel, and the Subcommittee agrees, that extra care should be exercised in handling the mail. The Subcommittee is of the opinion that there may be some slippage between what the prison policy is and what actually goes on in the mailroom. The Bureau of Prisons should not assume that the policy which it articulates in Washington, D.C. is followed at the different Federal institutions and should take steps to insure that its policy is followed to the letter by every Federal institution. The Subcommittee also agrees with the inmates that there is no apparent justification for the present practice of inspecting and reading mail addressed to inmates from Members of Congress.

Among the other matters discussed by the inmates were complaints that Federal Bureau of Prisons Policy Statements were not followed in the institution. They further claimed that certain guards should be relieved from duty on the grounds that they provoked incidents and were a danger to the inmates and their fellow guards. Inmates also expressed complaints that not enough food products were sold in the commissary, that it was difficult to shave with the prison issued razor blades and that the practices in the segregation building were unconstitutional and inhumane.

Inmates also expressed a great deal of concern over the practices of the U.S. Board of Parole, specifically their failure to give specific reasons in writing upon denial. They were also critical of the Bureau of Prison's methods of determining where an individual serves his sentence, claiming that there is no consideration of the location of an inmate's family so that family visits are frequently not possible because of the long distance between an inmate's institution and the residence of his family.

MEDICAL CENTER FOR FEDERAL PRISONERS, SPRINGFIELD, MO.

After devoting a full day to the Federal prison in Leavenworth, Kansas, the Subcommittee spent the night in Kansas City and early the next morning flew to Springfield, Mo., to visit the Federal Medical Center for prisoners. The Subcommittee was met at the airport and driven to the Medical Center by Dr. Pasquale Ciccone, the Director. After a briefing by Dr. Ciccone and his staff, the Subcommittee spent the rest of the day touring the Center's medical facilities and touring the special facilities used for the Special Treatment and Rehabilitative Training (START) program and talking to the staff and inmates of the program.

The Federal Medical Center at Springfield was built in 1930 to provide inmates of the Bureau of Prisons with intensive surgical, medical, and psychiatric care. The Center is reported by the Bureau of Prisons to provide a "full range of diagnostic and treatment services for medical and psychiatric patients." The optimum population is 750 patients and housing is provided in close, medium and maximum custody.

Mr. DOLE. Mr. President, I thank the floor leader for the acceptance of the amendment. Although it is not a major amendment, it certainly is one, as the distinguished Senators pointed out, that needs attention and it does focus and brings focus on what I consider to be an important problem

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. THURMOND. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. Mr President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 202

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment numbered 202.
>
> On page 3, line 19: delete $16,439.000 and insert $17,689,000.

Mr. STEVENS. Mr. President, it is my understanding that there is a 30-minute time limit on these amendments.

The PRESIDING OFFICER. The Senator is correct. There are 15 minutes to each side.

Mr. STEVENS. Mr. President, I state to the two managers of the bill at the outset that I do not intend to take the amendment to a vote. I did want to have the opportunity, however, to discuss a portion of this bill, specifically the committee report as it deals with land acquisition. As the report points out, the increase in land acquisition activities over the last few years is staggering. The caseload has grown from approximately 10,750 tracts pending in fiscal year 1973 to 18,473 in fiscal year 1978 and is presently over 20,000 tracts. The report also points out that the U.S. Government is committing more and more money to land acquisition. As of March of this year we have already spent $451 million. Major land acquisition efforts are increasing at an alarming rate.

Presently, Federal, State, and local governments—own almost one-half of the land in the United States. The Federal Government alone owns over 760 million acres, one-third of the total land area of this country. Much of this land has been acquired by condemnation, and in some cases by threats of condemnation which have dubious legality. I am extremely concerned about the land acquisition policies of the Federal Government and I am convinced that major steps must be taken to reform these policies. I have asked the Energy and Natural Resources Committee to hold hearings on land acquisition and the committee has agreed to do so.

The General Accounting Office issued a report in 1976 which was very critical of the land acquisition policies and procedures of the National Park Service. It is entitled "Private Land Acquisition in National Parks: Improvements Needed," dated September 20, 1976. The GAO investigated many complaints of harassment and intimidation of private property owners who were forced to sell to the Federal Government as a "willing seller."

The National Park Service agreed with the GAO report stating that:

> Their actions could be considered as harassment and were intended to hold down land price escalation and result in sales of private inholdings to the Park Service.

In addition to this GAO report, my staff has been involved in a separate investigation of all Federal land acquisition policies with particular attention paid to those of the National Park Service. Our investigation will soon be completed and individual case studies will illustrate that the threats of condemnation and harassment are, even now, continuing. These case studies are not limited to one park, or to one State, or to one region, they stretch from Alaska to Florida and from Hawaii to New York.

Presently the General Accounting Office is completing another, more extensive, investigation of many Federal agencies' land acquisition policies. This report is now before the Secretaries of the Interior and Agriculture for comment. I am hopeful that release of the GAO report along with the independent investigation by my staff will bring new light to what is going on in this country.

I am also confident that the Senate hearings, which I have requested, will review land acquisition policies and practices and will set a new and different direction for the actions of our Government in taking lands out of private ownership.

The figures represented in the committee report only represent dollars and numbers of tracts to be taken. These figures do not reflect the thousands of American families, the thousands of elderly and retired citizens of this country who have been ripped away from their heritage, their land.

These figures do not reflect the number of the vital and living communities which have been and are now being eliminated by the Federal Government.

In a letter addressed to me by James Moorman, Assistant Attorney General for Land and Natural Resources, in response to my question of how to address the problems his office faces in land acquisition, he stated:

> It is my view that the time has come to free the National Park Service of any restrictions on the use of the declaration of taking procedure.

I hope the chairman will listen to that. For that suggestion to come from the Department of Justice is, in my opinion, entirely inappropriate.

His suggestion for solving the administrative problems he faces within his Department is for Government to take all lands by declaration of taking rather than by a complaint in condemnation.

Mr. President, the difference is that when land is taken from a landowner by a declaration of taking, the landowner loses not only his property, he loses his right of due process in the taking. He loses the freedom to challenge the right of the Federal Government to take his land. He can only argue as to the price he will accept from the Federal Government. The declaration of taking is an emergency procedure which was established in a time when this country faced global war and severe economic depression. The intent of the law was to provide Government an expeditious means of acquiring land for the construction of Government buildings and other facilities eliminating court challenges to the taking.

Now the Assistant Attorney General in charge of the section responsible for land acquisition litigation, in order to eliminate his backlog, wants to deprive citizens of the United States of their right to challenge the Government taking of private land.

I sympathize with the tremendous workload that burdens the land acquisition section. If this amendment were adopted it would give them $1,250,000 more than the committee authorizes to deal with the workload as lawyers, rather than as bureaucrats willing to destroy the constitutional rights of citizens of this country. However, I hope they are not putting the cart before the horse. I hope they will not use the additional staff to assist the Government to condemn more lands under procedures which deny constitutional rights.

There are cases in the Department of Justice that have been pending for from 4 to 6 years. This causes landowners to live in a state of uncertainty year after year wondering when they will be paid for land which has been taken from them, as well as how much. This backlog must be attended to.

I know that Congress bears a great deal of the burden. Each year we pass more and more laws authorizing the taking of more and more land, yet we do not put up the money to protect the rights of owners of the land we have condemned. As ranking minority member of the Interior Appropriations Subcommittee dealing with this area, it appalls me to see the backlog in land cases, while we continue to grab more and more land. I argued this exact point last year.

I, for one, think we ought to start a new policy. The Federal Government, the local governments, and the State governments, should not have another acre of land unless they give up one they have. If not, by the end of this year governments will own well over one-half of the land in the United States. I hope Americans all across this country are aware of this. I certainly intend to bring it to their attention as I travel around this country. Mr. President, this country is based upon private enterprise and the freedom, the right, to own property.

I hope the committee will encourage the Department of Justice to end the uncertainty that many Americans face. It is also my hope that the Judiciary Committee and its new chairman, as well as the ranking minority member, will take a close look at new policies, which are starting to increase the backlog. Any time the Department of Justice deems it necessary to use the declaration-of-taking procedure to acquire land, setting it aside for national parks or activities such as that, it ought to come before the Congress to justify its position. This is what we are going to ask from the Appropriations Committee.

If anyone has any question about this policy, I urge him to go out to Kelly, Wyo., which is in Grand Teton National Park. You can fly over and look at this town which was privately owned for years and is now being condemned because it is within the confines of a national park.

Yet if you fly just 15 minutes away by helicopter and look down you see a brandnew subdivision of homes, structures, parking lots, and even a grocery which the taxpayers are building for the employees of the Park Service. On the one hand, we are condemning private land and homes, taking them out of private ownership and, on the other hand, using taxpayers' money to build homes for Government employees in the same park. This kind of thing is going on right now.

There is also a brandnew policy of the Department of the Interior which amplifies this problem and I hope it will become one of the chief issues of 1980. Who in this Government believes in private enterprise in this country? Who in this Government believe in private ownership of land?

Mr. President, unless the manager of the bill wants to comment upon my somewhat intemperate remarks, I will withdraw the amendment when he is finished.

Mr. KENNEDY. Mr. President, the Senator from Alaska has focused on an area in the Department of Justice authorization which is of enormous importance and consequence. I want to give assurances to the Senator from Alaska that the greatest percent increases in the authorization were for the Lands Division.

We authorized a 50-percent increase, for a total of $16.4 million. The actual request of the Department to OMB was some $13 million; the budget finally requested was $11.2 million. Senator BAUCUS, stating many of the same reasons and concerns expressed very eloquently by the Senator from Alaska, offered the amendment for the $5 million increase.

It seemed at that time, after some rather extensive hearings which he held, that $5 million was really the maximum that that particular division could use effectively.

There has to be recognition by this body that we have passed now in the last 2 years some 38 different environmental laws. They include not only laws concerning land acquisition, but also laws on hazardous substances for which this particular division also has an important responsibility. Moreover, there are new laws on wildlife preservation, marine resources, and controls of various types of pollution. The major responsibility for enforcing these laws in courts falls within this particular division.

So I want to assure the Senator from Alaska that we will work very closely with him and other like-minded Senators in insuring that there is going to be adequate authorization and appropriation for the Lands Division.

It does seem to us, however, that with the significant increase we did provide the Division, lands ought to be able to increase its effort in major areas. As the Senator pointed out, and which came through very clearly to the committee, the delay caused by not having the resources ends up costing the Federal Government more.

I hope the Senator will take these assurances and will work closely with us. As I say, the Senator from Montana has made enforcement of environmental and natural resources law a matter of great personal interest, and is providing very significant leadership to the committee. I look forward to working with the Senator from Alaska. I will mention this to the Senator from Montana, as well.

I hope we can get a full appropriation for the amount authorized this year; I strongly share the Senator's concern over the matters which are indeed of concern to all of us for the Lands Division.

Mr. THURMOND. Mr. President, first, I wish to associate myself with the splendid remarks of the able assistant minority leader. I think he has called to the attention of the American people today a very pertinent fact, and that is that the governments of this country own one-half of the land in this Nation.

In the first place, I do not think the governments of this Nation need to own that much land. In the second place, by taking that land off the tax books and putting that land on the public rolls, we are depriving the governments of this country of taxes that could be levied against this land.

As I ride about the country, in my State and other States, I see thousands and thousands of acres of land that are owned by the governments. I wonder why some of this land is not sold by the governments so the citizens of this country could buy it, own it, use it, and pay taxes on it?

We have one county, for instance, in South Carolina, McCormick County, where over one-half of the land, probably three-fourths of it, is owned by the government. That little county has a hard time generating sufficient tax revenue to carry on its necessary functions.

In my opinion, a lot of the land in that county should be disposed of by the Government and put on the taxbooks. I think the same thing could apply in many other parts of this country. I hope the Judiciary Committee will give full attention to this matter. I am heartened by what the distinguished chairman had to say on this subject. He may be assured of my full cooperation in taking steps along this line. I would like to see steps taken to return as much land as possible to the private sector of this country. The more we can let the people, the private sector, control, the better off the country will be, in my judgment.

Mr. STEVENS. Mr. President, I thank both Senators, and I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. THURMOND. Mr. President, I was requested by the Association of American Railroads to offer an amendment to S. 1157 which is identical, I understand, to a provision being proposed in the revised FBI charter. That amendment is to remove any doubt as to the railroads at least having access to criminal record information as in previous years.

I have discussed this matter, however, with the distinguished chairman, and he says that it is the purpose of the committee to include such an amendment in the FBI charter which is now being prepared.

In view of that, I shall not offer the amendment, but I ask unanimous consent, on this subject, that a letter addressed to the distinguished chairman, Hon. Edward M. Kennedy, be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Association of
American Railroads,
Washington, D.C., May 25, 1979.

Hon. Edward M. Kennedy,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: The Committee on the Judiciary on May 15 1979, reported S. 1157, Department of Justice Appropriation Authorization Act, Fiscal Year 1980. Section 6 of that bill would continue the use of funds for salaries and expenses of the Federal Bureau of Investigation (FBI) for the purposes set forth in related paragraphs of the Department of Justice Appropriation Act, 1973, Pub. Law 92-544, 86 Stat. 1115. The first related paragraph of that Act provides for, among other things, the "acquisition, collection, classification and preservation of identification and other records and their exchange with and for the official use of, the duly authorized officials of the Federal Government, of States, cities and other institutions." The second related paragraph provides for "the exchange of identification records with officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions, and, if authorized by the State statute and approved by the Attorney General, to officials of the State and local governments for purposes of employment and licensing." We believe that the second paragraph was included in the 1973 Act to permit the banking institutions to continue to receive identification records after the restrictive interpretation of the terms "other institutions" in 28 U.S.C. 534 by the U.S. District Court for the District of Columbia in *Menard* v. *Mitchell*, 328 F. Supp. 718 (1971).

Prior to the Court's decision in the *Menard* case, railroad police, which are commissioned police officials of States and local governments, had unlimited and direct access to FBI identification and other records. A short time after that decision, their direct access to such records was limited to law enforcement purposes. Then, six years later, by Attorney General Order 770-78, 43 F.R. 8137 (effective February 20, 1978), an interpretation was made that the exchange of such data was limited to "governmental" institutions, and railroad police were deleted from the list of officials with whom direct record exchangers may be made "since they are not subject to governmental control." This latest interpretation has caused railroad police some difficulties in obtaining necessary criminal record information to promote and maintain the security of rail shipments moving in interstate commerce. We believe that interpretation is wrong, and we have so informed the Department of Justice. Railroad police, as "authorized officials" of the States and *not* as "other institutions" as stated in the Attorney General's Order, are entitled under 28 U.S.C. 534 to exchange identification and other records with the FBI.

Recently, in a conference with a Department of Justice official regarding this matter, we were advised that railroad police are considered to be in a "grey area" status and that some form of legislative relief similar to that provided the banking institutions may be necessary to resolve the situation at this time. We believe that an amendment to S. 1157 containing the following language, which is identical to that being proposed in the revised FBI Charter, would remove any doubt as to railroad police access to criminal record information as in previous years:

"A law enforcement organization authorized by state statute to investigate crimes or apprehend criminals on interstate common carriers."

We respectfully request that the Committee on the Judiciary give favorable consideration to an appropriate amendment to Section 6 of S. 1157 which would provide that the funds authorized to the FBI may be used for the exchange of identification and other records with railroad police.

Attached for your information is a brief history of the purpose and function of railroad police.

Very truly yours,
H. J. Breithaupt, Jr.

Mr. KENNEDY. Mr. President, the Senator is quite correct. We will certainly consider this during our deliberations on the FBI charter. It seems appropriate that it be considered as a part of the charter rather than as a part of the authorization bill. We will work closely with the Senator from South Carolina.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I ask unanimous consent for a star print of the committee report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I am prepared to yield back——

Mr. WALLOP. Mr. President, I was not in on the rest of the Senator's sentence.

Mr. KENNEDY. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield the distinguished Senator from Wyoming such time as he may require.

UP AMENDMENT NO. 203

Mr. WALLOP. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. Wallop) proposes an unprinted amendment numbered 203. On page 27, lines 1—

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, lines 1 through 4, inclusive, delete Section 14 in entirety.

Mr. WALLOP. Mr. President, what this amendment proposes to do is delete, section 14 of S. 1157, found at page 27, lines 1 through 4, inclusive, of the bill. I hope that in the process of considering this amendment I may have the attention of the managers of the bill, because I think what it proposes is of importance, and that section 14, if enacted, would have a consequence that perhaps was not intended by those who drafted the bill.

Section 14 of S. 1157 authorizes the Attorney General to initiate an investigation of, and to bring an enforcement action in any case involving a violation of Federal environmental or natural resources laws.

Presently, the Department of Justice represents "client agencies"—the Environmental Protection Agency, the Departments of the Interior, Agriculture and Energy, the Army Corps of Engineers, the National Oceanic and Atmospheric Administration and the Coast Guard—by conducting litigation at their request. The Land and Natural Resources Division of Justice has virtually no authority for, or tradition of, initiating actions or investigations on its own motion in these areas.

According to the committee report, section 14 would clarify existing law. Mr. President, section 14 does much more than is suggested by the report. It is a departure from existing law.

Section 14 gives the Attorney General a broad grant of authority for cases which are now within the primary enforcement and investigative responsibility of the aforementioned agencies and departments of government. The Assistant Attorney General of the Land and Natural Resources Division at Justice, Mr. James Moorman, testifies that the Department of Justice now operates at the request of its client agencies. It does not currently have the statutory authority to initiate investigations or enforcement actions on its own notion as section 14 would provide. The record is sparse on the need for such broad authority. In fact, the bill as introduced contained no such provision. This section was added to the bill on the basis of the testimony of only one organization, the Environmental Defense Fund. Mr. William Butler, General Counsel for EDF, presented testimony to this effort before the Judiciary Committee on April 11, 1979. Significantly, the House has not included similar language in its Department of Justice authorization bill, H.R. 3303.

Because this provision affects numerous agencies and departments of Government, these agencies and departments should have the opportunity to comment on how this provision will impact upon their statutory responsibilities to enforce the laws in question. It is not sufficient to say that they had an opportunity to examine the language and to comment on it. They did not. Practically speaking, the provision is incorporated into the Department of Justice authorization bill, legislation they would not have reason to review. In fact, the provision was not brought to the attention of all of these agencies until late last week when my staff and staff on the Committee on Environment and Public Works requested their comments on it.

In response to these requests for comments, the EPA developed a position paper. In a letter written by Douglas Costle, Administrator of EPA, and endorsed by the Office of Management and Budget as consistent with the administration's position, Mr. Costle states strong objections to the provision with the following recommendation:

> I seriously object to this provision and recommend that it be deleted from the bill.

To insure, Mr. President, that Members have an opportunity to review the Administrator of EPA's reasons for opposing section 14, a copy of his letter has been placed on every Senator's desk.

In any event, for Members who have not had the opportunity to review that letter, I shall read it. It is addressed to the chairman, Senator KENNEDY, and it says:

> DEAR MR. CHAIRMAN: It has come to my attention that S. 1157, a bill authorizing appropriations for the Department of Justice for fiscal year 1980 contains the following provision:
>
> Section 14. The Attorney General may initiate an investigation of any violation of an environmental or natural resource law of the United States, and bring such actions as are necessary to enforce such laws.
>
> The provision would authorize the Department of Justice to conduct civil and criminal investigations of violations of environmental laws and to initiate civil or criminal prosecutions, all on its own initiative. In regard to criminal investigations and prosecutions, the provision appears unnecessary for full and vigorous enforcement of environmental legislation. Agencies and departments already administering such laws have authority to conduct civil investigations of violations of those laws and the Department already has authority, at the request of the program agencies and departments, to initiate civil actions for such violations.
>
> Not only is section 14 of S. 1157 an unnecessary provision, it also could lead to consequences adverse to the public's interest.
>
> The provision creates the potential for the development of dual enforcement strategies by the Department of Justice and by the agency or department administering a particular statute. Such dual strategies could be at odds and the resulting conflict could seriously disrupt the smooth administration of the statute involved.
>
> Under most of the statutes administered by EPA, enforcement involves a complex Federal-state cooperative relation with concurrent enforcement responsibilities and established cooperative arrangements. Addition of yet another Federal agency with independent investigative as well as litigative authority could, and probably would, upset these relations. EPA and/or the State could be engaged in negotiations leading to settlement which an independent investigation or civil suit could disrupt.
>
> At the outset of this Administration, EPA and the Department of Justice entered into a Memorandum of Understanding resolving early differences concerning enforcement of laws administered by EPA. This Memorandum of Understanding was incorporated by reference into the Clean Air Act Amendments of 1977. Section 14 of S. 1157 is therefore superfluous.
>
> For the reasons outlined above I seriously object to this provision and strongly recommend that it be deleted from the bill.
>
> The Office of Management and Budget advises that there is no objection to this report from the standpoint of the program of the President.
>
> Sincerely yours,
>
> DOUGLAS M. COSTLE.

Mr. President, there are other problems with section 14. The EPA, and some States, have entered into memoranda of understanding with the Department of Justice and other agencies and departments of Government concerning their respective litigation and investigatory responsibilities for the enforcement of Federal environmental and natural resource laws. Section 14 would have an adverse effect on these agreements. The EPA and Justice executed such an agreement on June 13, 1977, outlining the nature and kind of cooperation and coordination the two bodies would exercise. I ask unanimous consent that a copy of this memorandum of understanding be inserted in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WALLOP. My own State of Wyoming is concerned that State agencies and the Office of Surface Mining may trip over one another in an effort to enforce the act. Will a third layer of investigatory and enforcement authority help or hinder? I have reason to believe that if it exists independent of the others it will surely hinder.

The provisions of the Reclamation Act of 1902 must surely be considered to be a natural resources law. We are now in the process of reforming that law because, in part, it is capable of so many interpretations. Are we now to add the Department of Justice's interpretation on top of the Department of Interior's? With the power to independently investigate and enforce goes the responsibility to interpret and set policy. In the realm of reclamation law, those policies are already quite complex. Decisions concerning the use of water from Federal projects for agriculture involve tremendous expense. These decisions cannot be made in a climate of uncertainty, and a climate of uncertainty will only be exacerbated by the specter of dual enforcement and dual interpretation which accompanies it.

At a minimum, section 14 is certain to create confusion as to which provision—section 14 of S. 1157 or the memoranda of understanding—takes priority. There is of course the very real potential of dual or multiple enforcement actions and overlap and duplication of efforts in the area of enforcing these laws. I doubt sincerely whether the committee intended to create such a state of confusion.

To summarize, Mr. President, I move the deletion of section 14 from the Department of Justice authorization bill for the following reasons:

First. The Administrator of EPA seriously objects to its inclusion in the bill on the grounds that it could lead to consequences adverse to the public's interest.

Second. The record simply does not justify the inclusion of such a sweeping provision.

Section 14 as drafted would vest the Justice Department with independent authority to unilaterally investigate and bring actions to enforce environmental and natural resources laws. Nowhere in the language is it required that the Attorney General consult with the appropriate agency before commencing such investigations or other legal actions. This is a marked departure from current law wherein the Department of Justice responds to requests of other agencies for litigation assistance. If the Judiciary Committee and the Environment and Public Works Committee held hearings and developed the need for such a provision, my position would be otherwise. However, the Environment and Public Works Committee did not have the opportunity to examine in any depth the ramifications of this provision; nor has the Committee on the Judiciary done so, for that matter. It is premature to include such broad grant of authority to the Attorney General at this time, absent a more sufficient justification therefore.

Third. The House bill contains no comparable provision, also evidencing lack of immediate need for adopting such provision without first developing and examining the case for so doing.

Fourth. Section 14 could easily lead to dual enforcement of statutes without insuring cooperation and coordination amongst all agencies and/or departments responsible for such enforcement.

Fifth. Section 14 is likely to create very real confusion between the States and agencies that have negotiated memoranda of understanding or other similar agreements regarding the enforcement of environmental and natural resource laws.

Until such time as a record is developed evidencing the need for such provision and explaining how such a provision would impact upon the various departments and agencies now vested with primary reponsibility for enforcing Federal environmental and natural resource laws, we surely do not want to impede, interfere, or possibly, and unwittingly undermine the enforcement of this important body of laws. For all of the previously stated reasons, it is my opinion that it would be ill-advised to leave section 14, as drafted, in S. 1157.

I therefore urge my colleagues to support my amendment which would delete section 14 in its entirety.

EXHIBIT 1

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF JUSTICE AND THE ENVIRONMENTAL PROTECTION AGENCY

Whereas, the Department of Justice conducts the civil litigation of the Environmental Protection Agency;

Whereas, the conduct of that litigation requires a close and cooperative relationship between the attorneys of the Department of Justice and of the Environmental Protection Agency;

Whereas, the achievement of a close and cooperative relationship requires a clarification of the respective roles of the attorneys of the Department of Justice and of the Environmental Protection Agency;

Whereas, the Attorney General may decline to represent the Agency in particular civil actions, in which case the Agency may be represented by its own attorneys; and

Whereas, most challenges to and enforcement of regulatory standards and procedures adopted by the Environmental Protection Agency involve scientific, technical, and policy issues and determinations developed in lengthy rulemaking proceedings in which the Agency's attorneys have been involved and can provide the necessary expertise.

Now, therefore, the following memorandum of understanding is entered into between the Attorney General of the United States and the Administrator of the Environmental Protection Agency for the purpose of promoting the efficient and effective handling of civil litigation involving the Environmental Protection Agency:

1. The Attorney General of the United States (hereinafter referred to as the "Attorney General") shall have control over all cases to which the Environmental Protection Agency (hereinafter referred to as the "Agency") or the Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator") is a party.

2. When requested by the Administrator, the Attorney General shall permit attorneys employed by the Agency (hereinafter referred to as "Agency participating attorneys") to participate in cases involving direct review in the Courts of Appeal and shall also permit such attorneys to participate in other civil cases to which either the Agency or the Administrator are a party, *provided*, however, that:

(a) the Administrator or his delegate shall designate a specific Agency participating attorney for each case and shall communicate the name of such attorney in writing to the Attorney General;

(b) such Agency participating attorney shall be subject to the supervision and control of the Attorney General; and

(c) if required by the Attorney General, an Agency participating attorney shall be appointed as a Special Attorney or Special Assistant United States Attorney and take the required oath prior to conducting or participating in any kind of Court proceedings.

3. Agency attorneys shall not file any pleadings or other documents in a court proceeding without the prior approval of the Attorney General.

4. It is understood that participation by Agency attorneys under this memorandum includes appearances in Court, participation in trials and oral arguments, participation in the preparation of briefs, memoranda and pleadings, participation in discussions with opposing counsel, including settlement negotiations, and all other aspects of case preparation normally associated with the responsibilities of an attorney in the conduct of litigation; *provided*, however, that the Attorney General shall retain control over the conduct of all litigation. Such control shall include the right to allocate tasks between attorneys employed by the Department of Justice and Agency participating attorneys. In allocating tasks between the Department's and the Agency's attorneys, the Attorney General shall give due consideration to the substantive knowledge of the respective attorneys of the matter at issue so that the Government's resources are utilized to the best advantage.

5. In the event of any disagreement between attorneys of the Department of Justice and of the Agency concerning the conduct of any case, the Administrator may obtain a review of the matter in question by the Attorney General. The Attorney General shall give full consideration to the views and requests of the Agency and shall make every effort to eliminate disagreements on a mutually satisfactory basis. In carrying out such reviews, the Attorney General shall consult with the Administrator. In implementing this provision, it is understood that the Attorney General will not be expected by the Administrator to interfere with the direction of any trial in progress.

6. The settlement of any case in which the Department of Justice represents the Agency or the Administrator shall require consultation with and concurrence of both the Administrator and the Attorney General.

7. The Administrator and the Attorney General shall make an annual review of both the Department's and the Agency's personnel requirements for Agency litigation. The Attorney General and the Administrator will cooperate in making such appropriation requests as are required to maintain their respective staffs at a level adequate to the needs of the Agency's litigation.

8. The Attorney General shall establish specific deadlines, not longer than 60 days, within which the Department's Attorneys must either file complaints in Agency cases or report to the Attorney General why any such complaint has not been filed. In the event any Department Attorney does not file a complaint, he shall thereafter submit further periodic reports to the Attorney General until the complaint is filed or a decision is reached that it shall not be filed. Copies of the reports required by this section shall be provided to the Agency if requested.

9. If the Attorney General fails to file a complaint within 120 days of the referral of a request for litigation and a litigation report by the Agency to the Attorney General, then the Administrator may request the Attorney General to file a complaint within 30 days. Failure of the Attorney General to thereafter file a complaint within the said 30 days may be considered by the Administrator or his delegate to be a failure of the Attorney General to notify the Administrator within a reasonable time that he will appear in litigation for purposes of Section 305 of the Clean Air Act, 42 U.S.C. 1857h–3, Section 506 of the Federal Water Pollution Control Act, 33 U.S.C. 1366, or Section 1450 of the Safe Drinking Water Act, 42 U.S.C. 300j–9; *provided, however*, That the failure of the Attorney General to file a complaint within the time period requested by the Administrator in a case in which the Administrator requested immediate action under Sections 311(e) and 504 of the Federal Water Pollution Control Act, 33 U.S.C. 1321, 1364; Section 303 of the Clean Air Act, 42 U.S.C. 1857h–1; or Section 1431 of the Safe Drinking Water Act, 42 U.S.C. 300i; to protect public health may also be considered by the Administrator to be a failure of the Attorney General to so notify the Administrator under Section 305 of the Clean Air Act, 506 of the Federal Water Pollution Control Act or Section 1450 of the Safe Drinking Water Act.

10. All requests of the Agency for litigation shall be submitted by the Agency through its General Counsel or its Assistant Administrator for Enforcement to the Assistant Attorney General for the Land and Natural Resources Division or for the Civil Division, except matters requiring an immediate temporary restraining order may be submitted by regional Administrators of the Agency simultaneously to a United States Attorney and the appropriate Assistant Attorney General. All requests for litigation shall be accompanied by a standard litigation report which shall contain such information as shall be determined from time-to-time by the Attorney General to be necessary in order to prosecute Agency litigation. Similar reports shall also be provided for suits in which the Agency or the Administrator is a defendant, as requested by the Attorney General.

11. The Agency shall make the relevant file of any matter that is the subject of litigation available to attorneys for the Department of Justice at a convenient location when a request for litigation is submitted or when the Department is required to defend the Agency or the Administrator.

12. The Administrator shall undertake to review the Agency's procedures for the preparation of the record in cases involving direct review in the Courts of Appeal, including analyses of such matters as assembly, indexing, pagination, timing of preparation, and the allocation of tasks between the Agency and the Department. The Administrator shall consult with the Attorney General on the re-examination of these procedures.

13. The negotiation of any agreement to be filed in court shall require the authorization and concurrence of the Attorney General.

14. In conducting litigation for the Administrator, the Attorney General shall defer to the Administrator's interpretation of scientific and technical matters.

15. Nothing in this agreement shall affect any authority of the Solicitor General to authorize or decline to authorize appeals by the Government from any district court to any appellate court or petitions to such courts for the issuance of extraordinary writs, such as the authority conferred by 28 CFR 0.20, or to carry out his traditional functions with regard to appeals to or petitions for review by the Supreme Court.

16. In order to effectively implement the terms of this Memorandum, the Attorney General and the Administrator will transmit copies of this Memorandum to all personnel affected by its provisions. This Memorandum shall not preclude the Department and the Agency from entering into mutually satisfactory arrangements concerning the handling of a particular case.

17. This Agreement shall apply to all cases filed on or after the date of approval of this Agreement by the Attorney General and the Administrator.

18. The Attorney General and the Administrator may delegate their respective functions and responsibilities under this Agreement.

19. The Department and the Agency shall adjust the conduct of cases arising before the effective date of this Agreement in a manner consistent with the spirit of this Agreement.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, this provision is not intended to in any way affect or amend the memorandum of understanding entered into between the EPA and the Department of Justice in June of 1977, and which was incorporated in the Clean Air Act as an amendment. Rather, it is meant to cover a limited set of situations in which the Department of Justice has suspicion of a violation of the statutes over which the land and natural resources division has litigation authority. It would classify the Attorney General's ability to investigate and, if necessary, bring actions in those cases.

What we are trying to deal with is in the situations where the U.S. attorneys and other law enforcement agencies of the Department of Justice run into possible violations of environmental laws. We don't want them to be precluded from taking any kind of action. Clearly, if there is a criminal action, they can proceed. There is an open question whether they can proceed in areas of civil actions. All we would like to do is to make sure that the Justice Department is not restricted from moving on them.

If that is the intention of the Senator from Wyoming, I would be glad to try and work out language to achieve or accomplish that purpose.

We are interested in coordination; we are not interested in duplication.

We do not want to deny the Justice Department or the Lands Division the opportunity, to investigate those particular violations, but we obviously want coordination between the two enforcement bodies.

I think that is the principal point. It is addressed in my initial floor statement. It seems to me that ought to achieve it. It should meet the objections of the Senator from Wyoming.

Mr. WALLOP. Mr. President, if I may respond, nothing in the language of section 14 insures the kind of coordination you are referring to. On the contrary, section 14 gives the Attorney General unchecked discretion in the area of commencing investigations and civic actions to enforce a specific body of laws.

It seems to me that there has to be a more appropriate way to facilitate more effective enforcement of these laws than by inserting a far-reaching provision in the Department of Justice authorization bill, upon which scant comments have been received. I do not have a quarrel with the objective. I am not trying to make it impossible for people to pursue environmental law. What I am concerned about is adopting a new provision of law which might have a completely opposite effect than was originally intended by the distinguished Senator from Massachusetts.

Mr. President, in a growing number of situations all over the country, there are memorandums of understanding being negotiated not only between EPA and the Department of Justice, but also between the Federal Government and some of the States. My own State of Wyoming is about to become the first State in the Union to enter into an agreement with the Interior Department to enforce the Surface Mining Reclamation and Control Act of 1977. We are among a number of other States which have been recognized to operate our own programs under the Clean Air Act and portions of the Clean Water Act. Section 14, as it is written, regardless of ameliorative report language, would tend to override and to authorize the Department of Justice to enter into and supersede those memorandums of agreement between and among the States and our Federal agencies.

Mr. KENNEDY. Let me ask the Senator if it would help if we added this language:

> In carrying out this section, the Attorney General shall consult and cooperate with agencies with primary enforcement authorization.

That would recognize the primary enforcement authority so that they have to consult, they have to cooperate with the agency.

Mr. WALLOP. I think, if the Senator will permit some discussion on that, what he suggests does not really get at the problem of the Justice Department being able to independently, on its own motion, initiate investigations or actions. I think there may be a way to redraft this provision to prevent Justice from getting involved in a primary enforcement posture that supersedes what the intent of Congress was in establishing the other agencies and in enumerating their responsibilities regarding enforcing environmental and natural resource laws.

Mr. BAUCUS. Will the Senator yield?

Mr. KENNEDY. Yes.

Mr. BAUCUS. I hope the Senator from Wyoming can reach some kind of agreement here. When we held hearings, oversight hearings, on the lands division, it became very clear that there was a kind of problem here in that the Environmental Protection Agency, which is charged, along with the lands division, with enforcing the environmental laws, did not have the proper staff support or enforcement authority. Specifically, they did not have the staff. That is, the EPA has one or two investigators with law enforcement background to enforce the antipollution laws that Congress has passed over many, many years.

What we are trying to do here is, as the Senator from Massachusetts stated, allow the U.S. Government to enforce the antipollution laws where it should. If the quarrel is with the laws, we should amend the laws and address that problem at another time. But at this period of time, we are trying to set up an agreement between EPA and the lands division of Justice so that both agencies, together, will properly enforce the antipollution laws on the toxic waste disposal problems that we have been facing.

Mr. WALLOP. I have no problem with that. It is precisely my point that Justice and the agencies work together. And I underscore "together." The problem is that section 14 goes far beyond that. The problem is that we did not have any testimony from EPA, for example, on the need for this and we now have a letter on our desks saying that they do not approve of this manner of handling it.

Mr. BAUCUS. My point is that I hope the Senator from Wyoming will agree to an agreement that we are trying to accomplish here.

The PRESIDING OFFICER (Mr. JOHNSTON). The time of the Senator from Wyoming has expired.

Mr. KENNEDY. I yield 10 minutes to the Senator from Montana.

Mr. BAUCUS. I shall just take 1 minute here.

The full intent—and we are establishing that here on the floor of the Senate this afternoon—is not to give the Lands Division more investigative authority than it already now has. It is not to abrogate the authority and the power of the Environmental Protection Agency. Rather, it is to enable two agencies to work together so they can properly enforce the antitrust laws. We do not want to be caught in that never-never land where the two agencies get into a debate over who is to enforce them.

Mr. WALLOP. Will the Senator yield on that point?

Mr. BAUCUS. Yes.

Mr. WALLOP. I have no quarrel with finding language that would achieve the kind of cooperative effort you describe. But the language now in the bill does not do that. If the intent is to achieve a coordinated effort, I think we can work out that language. But if the intent is to provide the Justice Department with the authority to unilaterally intiate actions and investigations, then I would have to object.

Mr. BAUCUS. That is precisely my hope. I hope we can reach that understanding.

Mr. THURMOND. Will the Senator from Montana yield?

Mr. BAUCUS. I do not have the floor, but I shall yield.

Mr. KENNEDY. I yield.

Mr. THURMOND. Mr. President, I should like to inquire of the Senator from Montana who he thinks would work on this out of Justice Department? Would it be the Lands Division or which division?

Mr. BAUCUS. I do not fully know the inner workings of the Justice Department; that is, who in the Lands Division talks with whom in the Justice Department. It is certainly my hope and certainly my understanding that the Lands Division, in conjunction with the appropriate personnel in the Department of Justice, would work out an agreement with the Environmental Protection Agency.

Mr. THURMOND. The reason I ask that is that the Lands Division came in this year and said they are years behind now and that they are going to have to pay, I believe, over $40 million a year more on account of inflation because they cannot get to these cases that are now pending before them. If that is the case, how are they going to take on other cases, initiating investigations? I do not construe that, and it never has been the precedent that I have known of, for the Lands Division to initiate such investigations as this. In the Labor Department, the investigations of violations are handled by the lawyers there. The litigation could be handled by the Justice Department, along with the Labor Department. The same thing in the Agriculture Department, the same thing in the Commerce Department. Here we are singling out the agencies and departments concerned with responsibility in the environmental and natural resources area and saying to them, "In addition to what you are going to do, the Justice Department is also going to come in and initiate an investigation." I think it creates a duplication of efforts and I think it is a mistake.

I do not think we need to inject the Federal Government into any more areas than necessary. The EPA appears very reasonable here in what it says. I think this is a splendid letter. The agency representing the Federal Government in environmental matters says, "We do not want this provision."

This provision never should have been put in this bill in the first place. The letter says, "it also could lead to consequences adverse to the public's interest."

That is what the agency representing the Government in this area says on this point.

The Attorney General has not asked for this. The EPA says "We are against it." Why put it in? Why not think about it, hold some hearings on it, and then determine what can be done about it?

I am very concerned because we have a dual enforcement here by the EPA and the Justice Department. "Such dual strategies could be at odds," according to the letter from the EPA, "and the resulting conflict could seriously disrupt the smooth administration of the statute involved."

They go further and say: "Under most of the statutes administered by EPA, enforcement involves a complex Federal-State cooperative relation* * *." In other words, the State and Federal Governments are working together in a delicate relationship and when the Justice Department can come in and initiate suits, that could interfere with this relationship between the States and the Federal Government.

In addition, the letter says: "Addition of yet another Federal agency with independent investigative as well as litigative"—the Justice Department is a litigative department. Let us keep it that way. Let us not inject the Justice Department into everything. We have the EPA now handling this thing. They are handling the investigations. They say if we disturb this balance and let this section stay in here, it can cause a lot of trouble. In view of that, it seems to me we ought to take it out.

> EPA and/or the State could be engaged in negotiations leading to settlement which an independent investigation or civil suit could disrupt.

Who is saying that? EPA is saying that. That is what this section refers to. If EPA does not want it, why should we impose it on an Attorney General who has not asked for it?

I want to say further that this letter from the EPA also says:

> At the outset of this administration, EPA and the Department of Justice entered into a memorandum of understanding resolving early differences concerning enforcement of laws administered by EPA.

They have already worked together on it. They have already arrived at a conclusion. They have sent out a memorandum—EPA and the Justice Department. They are now together. Why do we want to adopt this, which will cause disruption, as this letter says it will? The EPA recommends strongly that this be deleted from the bill.

I am for this bill, and I would hate to take a position on this matter that is different from that of the distinguished chairman; but, frankly, this never should have been put in and I think it should come out of the bill. The EPA and the Justice Department already have reached an agreement. They have consulted; they have worked together; they have reached an agreement, and it has been put out in a memorandum. I think it should stand that way, and we should not allow the Justice Department to come in and say they are going to initiate investigations, that means they are going to institute actions. That is a matter for the EPA.

When it has to go to court, that is a litigating point, and that is where the Justice Department would come in.

Mr. BAUCUS. That is precisely the whole point of this—that is, both the Environmental Protection Agency and the lands division have jurisdiction and authority and power and responsibility to enforce antipollution laws.

The Senator is correct. Ordinarily, the EPA is more concerned with investigation, finding the violations; and ordinarily the lands division, along with the U.S. Attorney's office, is responsible for litigation and the prosecution of the case.

As the Senator also knows, in real life, problems often are not evenly divided into compact little boxes. Most often, there is a blur between those two lines.

The whole point of this provision is to help enable both EPA and the Lands Division to take care of those instances in which, during the course of an investigation, during the course of litigation, it would be not only appropriate but also necessary for the lands division to have sufficient power to get the evidence it needs in the prosecution of the case.

The Senator is correct in stating that we should be candid with ourselves, that a bit of turf jealousy exists between the two agencies. It is my hope, and I know it is the Senator's hope, that we can arrive at language which will eliminate that problem, so that both agencies—these two arms of the Government—are working in cooperation with each other and not in opposition and at odds with each other.

I think the Senator will agree that when we pass laws, we should enforce them. The whole point of this is to enable the EPA, in conjunction with the Lands Division, to enforce the law properly.

Mr. THURMOND. In the beginning, there may have been some turf jealously, because it says here:

> At the outset of this administration, EPA and the Department of Justice entered into a memorandum of understanding resolving early differences.

There were differences originally between EPA and the Justice Department. There are no differences now. The Justice Department says there are none. The Justice Department has not sent in a letter asking this. The EPA says, "We have settled it." In this letter, the EPA says that a memorandum of understanding was incorporated by reference into the Clean Air Act Amendments of 1977. So the Justice Department and EPA have reached an agreement.

We should let that agreement stand. Why come in and disrupt and cause trouble and have these agencies bickering? If we adopt this, the Justice Department can come in and initiate suits. Now the EPA does it, and the EPA has to work closely with the States in working out these problems, whether it is a sewerage problem or some other problem.

In my opinion, it would be a great mistake if we allowed this section to remain in.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. There is no time remaining on the amendment.

Mr. KENNEDY. I yield myself 5 minutes on the bill.

The PRESIDING OFFICER. On the bill, the Senator has 36½ minutes.

Mr. KENNEDY. Mr. President, I hope we can work out this matter through the process of accommodation.

If we were to follow the logic of my good friend from South Carolina, it would say that if you had a violation of EPA standards that was willful and actually criminal, then the Justice Department would go in there and investigate. Then, if it finds out that it is just civil it has to pull back. It has to put the investigation in some box; it has to forget about it.

Basically, under the memorandum of understanding between the Justice Department and EPA, EPA was given litigating involvement which was not a part of the initial legislation. It was incorporated by reference in the Clean Air Act.

That memorandum was part of the process of shared responsibility in this area. We are simply supplementing this so that apparent violations, which come to the U.S. attorneys can be investigated to insure that the law is enforced. It seems to me that that is a matter which can be accommodated between the Justice Department and the EPA. That is certainly the intention of those who supported the section.

As I say, I would be glad to work out language with my colleague, to try to clarify this particular question.

I would just note that I received Mr. Costle's letter at 10:30 this morning. I would say with respect to the issues he raises that we have other statutes administered by the Justice Department and other agencies without untoward results; the Clayton Act is litigated by both the Department and the FTC. So, too, other statutes involve the interplay of Federal and State enforcement responsibilities with more than one Federal agency involved.

But, I do agree that we want to reduce the overlap and the duplication as much as possible.

Mr. WALLOP. Mr. President, is there time I could be yielded?

Mr. KENNEDY. I yield 5 minutes to the Senator.

Mr. WALLOP. First of all, it is not the intent to prohibit the Justice Department from acting under the present law, nor does the memorandum of understanding prohibit the Department of Justice from acting under the present law. By deleting this section, we would not change the situation which now exists.

I ask the Senator from Montana if he has either read——

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. WALLOP. I yield.

Mr. KENNEDY. To my understanding, there is no reference to civil situations other than those in which EPA is a party under the EPA memorandum. There is no reference whatsoever under that to violations of the law which Justice comes across in which EPA is not already involved.

There is a reference to civil suits in which EPA is a party but not to others. The Senator will note the difference between what we are intending to do and what is referred to in that memorandum.

The Justice Department does have the authority in the area of criminal investigation. It does have that authority and that power today. What the amendment is attempting, as I understand it, is to prevent it from being involved——

Mr. WALLOP. By no stretch of the imagination am I trying to do that.

I ask the Senator from Montana if he has heard from any of the so-called client agencies or just from the one organization that was represented in the record. Did he hear from EPA, Interior, the Corps of Engineers, the Department of Agriculture, the Coast Guard? Has he heard from any of them in this hearing?

Mr. BAUCUS. In the hearings, there is a big void, a big gap.

Mr. WALLOP. Who demonstrated it? Did the agencies demonstrate it? The answer is that the agencies were not represented in the hearing. Is that correct?

Mr. BAUCUS. They were represented not on the record but we talked with the agencies.

Mr. WALLOP. But they have come and opposed it.

Mr. BAUCUS. As I say, if the Senator will yield at that point, obviously when EPA looks at this language they are going to get a little nervous. That is why, as I have said several times in the last half-hour, I think that we can work out language which accommodates our mutual concern here.

Mr. WALLOP. May I ask why should we not hold hearings on this thing? It is not impossible. I am not trying to make it impossible to enforce the environmental laws of the United States. Let me make that clear. But I am trying to avoid circumstances described in the letter from Secretary Costle. I am trying to avoid the ability to go witch hunting on the part of the Department of Justice, and I am trying to make it possible for them to live with the agreements which they already have with some agencies and that some States have with various Federal agencies.

All I am trying to say is why do this without hearings on a recommendation made by only one group in the absence of any testimony for the need for it or the effect of it, from the Coast Guard, the Department of Agriculture, the Department of Interior, the Corps of Engineers, the Bureau of Reclamation, EPA, and any other affected agencies. In the absence of any administration testimony for this provision, why should we do this without a hearing?

Mr. BAUCUS. If I may respond to the Senator's point, our hearings were oversight hearings of one division of the Department of Justice; that is, the Lands Division. That was the purpose of the hearings.

In the course of those oversight hearings, which cover all the various activities and responsibilities of the Lands Division, this was one problem with the roads.

I agree with the Senator that in the ideal world we would hold full-blown, long hearings, on every subject that comes up. But the Senator will admit very readily that we offer amendments and pass amendments to bills on which there have not been hearings because there are only 24 hours in a day and only 7 days in a week. We cannot have hearings on everything. I am sure that the Senator from Wyoming and this Senator and others concerned can, not with full-blown hearings but at least in some other posture, come up with the resolution here, and that is my hope. Many times I have heard the Senator say in the Chamber that he agrees with what we are trying to accomplish here. So I do not think we need hearings.

So, to answer the Senator's specific point, the focus of the hearings was oversight and in the Lands Division. It was not all of the other problems that arose.

Mr. WALLOP. If I may have the attention of the Senator from Montana——

The PRESIDING OFFICER. The 5 minutes of the Senator from Wyoming have expired.

Mr. WALLOP. Mr. President, will the Senator yield me 2 additional minutes?

Mr. KENNEDY. I yield the Senator 2 additional minutes.

Mr. WALLOP. Mr. President, if I may have the attention of both the Senator from Montana and the distinguished manager and chairman of the Judiciary Committee, my staff has just talked with Jim Moorman who is the assistant attorney general of the Lands and Natural Resources Division of the Department of Justice, who spoke with Marvin Durning, head of enforcement for EPA. It is Mr. Moorman's statement that the Department of Justice would defer to the EPA's position on section 14. And the EPA's express wish is to delete section 14 in entirety.

My suggestion is that the committee accept the amendment, hold hearings, and then move whatever legislation, if any, is needed to provide for the effective enforcement of the body of law under discussion. Is that possible?

Mr. BAUCUS. Mr. President, I shall respond to the Senator by saying I am not aware of that communication, and I have no reason to think it is not true. But I hope that the Senator will withdraw his amendment and we can either modify it or some way we could take care of this without the need to go through the hearings. We are just going to take up time. We are trying to accomplish the same purpose.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 204

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 204 to the amendment (UP No. 203) of the Senator from Wyoming (Mr. WALLOP):
>
> In Section 14, on page 27, line 1, insert after the word "may" the following:
>
> And, initiate with the concurrence of any agency with primary enforcement responsibility for an environmental or natural resource law, investigate any".

The PRESIDING OFFICER. The Chair is advised that this is not an amendment to the amendment of the Senator from Wyoming, since that is a motion to strike, but rather it is an amendment to perfect the language which the Senator from Wyoming proposes to strike, and therefore it takes precedence.

Under the time agreement, on this amendment there is a limitation of 15 minutes to a side. Who yields time?

Mr. KENNEDY. Mr. President, I ask to modify the amendment by striking the word "initiate."

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

In Section 14, on page 27, line 1, strike out: "initiate an investigation of", and insert after the word "may" the following:

"Initiate with the concurrence of any agency, with primary enforcement responsibility for an environment or natural resource law, investigate any".

Mr. KENNEDY. Mr. President, I would hope Senators will feel that this meets the principal concern of the Senator from Wyoming.

What we are interested in doing is maximizing the resources of EPA and maximizing the resources of the Justice Department, and to see that those resources are utilized in a way that will carry forward the fulfillment of the various pieces of environmental legislation for which the primary agency has responsibility.

It seems to me that this particular language adjusts to those interests. We are interested in avoiding duplication or overlap, but we also want to maximize the resources which exist, whether they be in EPA or in the Justice Department, to insure that the environmental laws of this country will actually be enforced. It seems to me this language will achieve that; it seems to me to be satisfactory.

Mr. WALLOP. Mr. President, I ask the Senator if he would be willing to modify his amendment further in one respect. As I heard it read, it said "any agency," and I think it should read "any agency or department."

Mr. KENNEDY. That is fine. I ask that the amendment be so modified.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

In Section 14, on page 27, line 1 strike out: "initiate an investigation of" and insert after the word "may" the following: "with the concurrence of any agency or department with primary enforcement responsibility for an environmental or natural resource law, investigate any".

Mr. WALLOP. I am satisfied that the amendments as modified, expresses my own intentions and the intentions of the EPA and the Department of Justice—that the Justice Department is not authorized to initiate investigations on its own motion; but rather to provide supplementary investigative capability to the agencies and departments that have primary enforcement responsibilities for these laws. They wanted, as the Senator said, to maximize the resources of both agencies.

I would also suggest that we not get hung up on only the Environmental Protection Agency, because it was not my intent to single them out, any more than the Department of the Interior, the Corps of Engineers, or any of the others, but that we look at this new language as maximizing the ability of all agencies with environmental and natural resource responsibilities to take the leading and primary responsibility for enforcing these laws with the backup support of the Justice Department. Is my understanding correct?

Mr. KENNEDY. It would certainly be my intention not to reduce or cut back, but rather, with this language, to enhance the enforcement capabilities of both agencies. We do not diminish or reduce the existing authority of either agency with this amendment.

Mr. WALLOP. And presumably it is our intention to lay at rest Mr. Costle's fear of dual enforcement policies and divergent policies on a single issue; is my understanding correct?

Mr. KENNEDY. We want the maximum enforcement and cooperation.

Mr. WALLOP. To the greatest extent possible.

Mr. KENNEDY. The Senator is correct.

Mr. WALLOP. That sets at rest my fears, and I thank the Senator for proposing the amendment.

Mr. THURMOND. Mr. President, in view of the modification made to section 14 by the distinguished chairman of the committee, I will go along with the amendment offered by the distinguished chairman and have no further objection.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. THURMOND. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 204) of the Senator from Massachusetts (Mr. KENNEDY).

The amendment was agreed to.

Mr. KENNEDY. I move to reconsider the vote by which the amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment (UP No. 203) of the Senator from Wyoming (Mr. WALLOP).

Does the Senator from Wyoming withdraw his amendment?

Mr. WALLOP. The Senator from Wyoming will withdraw his amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 205

(Purpose: To reduce authorizations for the Department of Justice for fiscal year 1980)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 205.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. KENNEDY. Mr. President, reserving the right to object——

Mr. HELMS. Mr. President, let the amendment be read.

Mr. KENNEDY. I am always reluctant to object if we have had any communication prior to the offering of the amendment with the Senator making the offer, but I have no knowledge or understanding of the amendment. Therefore——

Mr. HELMS. The Senator is right. I will ask that the amendment be stated in its entirety.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 3, line 22, strike "$16,076,000", and insert in lieu thereof "$14,076,000".

Mr. HELMS. Mr. President, the amendment I offer reinstates the administration's requested authorization for the Civil Rights Division for fiscal year 1980. The Judiciary Committee authorization is $16,076,000, which is $2 million more than the $14,076,000 actually sought by the President.

The committee increased the President's request for this one obviously favored Division by more than 14 percent. At a time when Congress is attempting to cut spending and wisely allocate limited funds, provided by the taxpayers, it is totally unjustified to authorize the Civil Rights Division at the level recommended by the committee.

I fail to see the reasons for the committee's belief that a minimum increase in funding of $2 million is needed, which includes $1.1 million for 35 additional positions within the Division.

If I calculate correctly, that comes to a little more than $31,400 apiece for 35 new bureaucrats.

If the Civil Rights Division is—as the committee claims in its report—"overburdened to a point where many programs are being terminated or severely reduced," then perhaps a more critical look is needed to see just how effectively the Division is performing within its prescribed jurisdiction. By any objective standard of measurement, the performance is not so good.

For example, I point to the Civil Rights Division's deep involvement in the so-called Wilmington Ten case in my State. For the better part of 2 years, officials of the Civil Rights Division, under the direction of Assistant Attorney General Drew Days, have been singularly obsessed with this particular case. Such interference in a State criminal case which has already been reviewed by the U.S. Supreme Court is nothing more than an unwarranted attack on the exemplary judicial system of North Carolina—aside from the wasted manpower and resources of the presumably "overburdened" Civil Rights Division. Mr. President, bear this in mind: even though a Federal grand jury—which, incidentally, was convened in Raleigh by the Civil Rights Division—turned up no evidence that the convicted arsonists' rights were violated by the State, Civil Rights Division attorneys nonetheless are now challenging the convictions in a Federal habeas corpus proceeding.

I might add, Mr. President, that the Wilmington store that was burned by these arsonists, according to testimony in the courts of North Carolina, was a store operated by a Greek citizen, a minority member himself.

And so, Mr. President, I cannot believe that the Civil Rights Division is strained for manpower or resources at a time when it is able to mount such a large effort on behalf of the defendants in the Wilmington Ten case. This unjustified and heavyhanded involvement in purely a State matter has stirred deep resentment among North Carolinians and particularly those who administer our court system.

I feel that they are justified in being resentful in this matter.

It seems clear enough that the authorized appropriation actually could be reduced well below the administration's request, particularly in light of the division's performance in the Wilmington Ten matter.

It is to be hoped that significant reductions will, indeed, be possible in future years. But for the time being, I believe the point will be made if we simply draw the line at what President Carter has asked for, but draw the line there and say, "No more." Do not add $2 million under some specious claim that it is necessary to relieve that overburdened Civil Rights Division staff.

Mr. President, I reserve the remainder of my time.

The **PRESIDING OFFICER**. The Senator from Massachusetts.

Mr. **KENNEDY**. Mr. President, the amendment of the Senator from North Carolina would strike some $2 million authorization from the Justice Department authorization for the Civil Rights Division. There has been no significant increase in terms of the total number of positions that have affected the Civil Rights Division over the period of the last 6 years. Effectively, the division is basically in a holding action in spite of the very major additional responsibilities that the division continues to have in the whole area of housing, the extension of credit, voting rights, Indian rights, and other Federal programs.

The Division has a full task, a full challenge facing it. Clearly, we have no information—if the Senator from North Carolina does we would welcome it—to indicate that the Civil Rights Division is involved in the interference with the judicial process in this country in some perverted way as suggested by the Senator from North Carolina. The Division established by statute; its responsibilities are statutory. It is basically to assure that the full range of protections of civil rights for the citizens of this Nation will be achieved and will be realized, through the courts of law if necessary.

So, Mr. President, I would oppose the amendment of the Senator from North Carolina. I will indicate to the Senator that we have reviewed very, very carefully the total authorization of this legislation. We are effectively authorizing appropriations of $1.9 billion. Basically, it is about $38 million over what was requested. It is a barebones budget, a very lean budget in light of the mandate of the Justice Department. The Civil Rights Division has the important responsibility of carrying forward the basic kinds of protection of the rights as guaranteed by the range of civil rights legislation passed over the period of recent years. However, we are talking basically about authorization; we are not talking appropriations.

It seems to me that with the work which has been done by Senator BAYH, this type of increase is well justified. I would certainly hope that the amendment would not be agreed to.

The **PRESIDING OFFICER**. Who yields time?

The Senator from North Carolina.

Mr. **HELMS**. Mr. President, the fact remains that the committee is proposing to increase by 14 percent the amount allocated for this division, 14 percent more than the President of the United States said they could spend wisely. They want to add 35 new bureaucrats, at a taxpayer cost of more than $31,000 apiece. Yet we hear that this is a barebones proposition.

Do you know who gets the barebones, Mr. President? The taxpayers of the United States. It is mighty easy for the U.S. Senate to sit here and allocate, authorize, and appropriate millions upon millions of dollars. We can call it a barebones budget all we want, but it is still the people all across America who have to pick up the tab.

Maybe $2 million is not worth anybody's consideration in the Senate, but I happen to think it is. As they say down in North Carolina, $2 million here and $2 million there adds up.

I suggest that for a division which has a record such as this one in terms of its conduct in my own State, we ought to be cutting instead of adding. As I said in my previous remarks, I am willing to stand still for what the President of the United States said he could spend wisely, which is $2 million less than what the committee recommends.

Mr. President, if we can get enough Senators on the floor, I want to seek the yeas and nays on this amendment, because I want Senators to put up or shut up on this business of cutting Government spending.

Mr. President, I ask for the yeas and nays.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **THURMOND** addressed the Chair.

The **PRESIDING OFFICER**. Who yields time?

Mr. **HELMS**. Mr. President, I yield to the Senator such time as he may require.

Mr. **THURMOND**. Mr. President, this amount was a compromise in the committee. The chairman of the subcommittee wanted a larger amount. It was a compromise, but I still feel that the President and the executive branch of the Government could perform the duties of the Civil Rights Division with the amount the President asked.

If we are going to cut expenses, we have to start to do it. When the President comes in and asks for this amount for this agency and says he can perform the job with that amount, I feel that we should not go beyond that amount. For that reason, I shall support the amendment of the distinguished Senator from North Carolina.

Mr. **KENNEDY**. Mr. President, I ask unanimous consent to place into the Record here the number of cases pending, starting with fiscal year 1971. Effectively, the number of cases handled by the Civil Rights Division has virtually doubled. The number of cases that have been actually terminated has also doubled. So the workload for this particular unit has multiplied; it is actually terminating double the amount of cases. Even with this increased authorization, we are talking about a virtual stabilization of the number of personnel. The effectiveness of that agency, I think, has been good.

There being no objection, the table was ordered to be printed in the Record, as follows:

CIVIL RIGHTS DIVISION, SELECTED WORKLOAD DATA

	Fiscal year—									
								Estimate		
	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980
Cases pending beginning of year	510	648	692	799	898	915	[1] 966	926	960	1,011
Cases received	206	162	209	236	163	198	175	226	224	250
Cases terminated	77	118	102	137	146	172	215	192	173	221
Cases pending end of year	648	692	799	898	915	941	926	960	1,011	1,040

[1] Fiscal year 1976 does not include transition quarter, which was between fiscal year 1976 and fiscal year 1977.

Mr. **KENNEDY**. Basically, we are talking about cases involving revenue sharing programs where there has been at least the indication, or there have been charges, of discrimination; we are discussing Indian rights, discrimination in violation of the Equal Credit Opportunity Act of 1979, particularly with respect to minorities and women. So, Mr. President, it seems to me that what approving this amendment would say to the American people is the Congress is going to vote to try to provide equal rights, equal voting rights for the citizens of this Nation, equal housing for the citizens of the Nation, or equal accommodations and transportation for the citizens of the Nation, but it is going to deny the Justice Department the opportunity to make sure that those promises are actually fulfilled.

It seems to me, Mr. President, that the efforts of this division are warranted and that the increase is justified. The work that has been done by Senator BAYH in this area—and the cases that have been made a part of the record and made a part of the report—fully warrant and justify this authorization. I am prepared to move ahead with a vote.

Mr. HELMS. Mr. President, I yield back the remainder of my time if the Senator yields his.

The PRESIDING OFFICER (Mr. BRADLEY). Does the Senator from Massachusetts yield back his time?

Mr. KENNEDY. Yes.

Mr. THURMOND. Mr. President, I yield back the time on this side.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Washington, (Mr. MAGNUSON), the Senator from North Carolina (Mr. MORGAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Arkansas (Mr. PRYOR), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The PRESIDING OFFICER. Have all Senators in the Chamber voted who wish to vote?

The result was announced—yeas 20, nays 59, as follows:

[Rollcall Vote No. 114 Leg.]

YEAS—20

Armstrong
Bellmon
Bumpers
Byrd,
Harry F., Jr.
Cochran
Exon
Ford
Hatch
Helms
Humphrey
Jepsen
Lugar
McClure
Schmitt
Stennis
Thurmond
Tower
Warner
Young
Zorinsky

NAYS—59

Baucus
Bayh
Bentsen
Boren
Boschwitz
Bradley
Burdick
Byrd, Robert C.
Cannon
Chafee
Cohen
Cranston
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Garn
Glenn
Hart
Heflin
Heinz
Hollings
Huddleston
Jackson
Johnston
Kassebaum
Kennedy
Leahy
Levin
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Muskie
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Talmadge
Tsongas
Wallop
Weicker
Williams

NOT VOTING—21

Baker
Biden
Chiles
Church
Culver
DeConcini
Goldwater
Gravel
Hatfield
Hayakawa
Inouye
Javits
Laxalt
Long
Magnuson
Morgan
Moynihan
Packwood
Pryor
Roth
Stone

So Mr. HELMS' amendment (UP No. 205) was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I rise in support of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield such time as the Senator from Montana may require.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. I thank the chairman for yielding.

Mr. President, I simply rise in support of the bill and thank the Members on both the majority and minority sides for their cooperation.

I held hearings over one portion of the authorization bill. That was the Lands Division. We found some problems which we have taken care of in the bill.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

Mr. KENNEDY. May we have order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAUCUS. Mr. President, as I was saying, the portion of the bill over which we held hearings was the Lands Division, and that has been discussed at great length and indepth earlier this afternoon.

We found several problems with the Lands Division, basically that they have not had the resources that they need to prosecute the pollution laws and the environmental laws that we have enacted in order to fulfill their mandate.

Mr. President, I think we have handled those problems adequately in the bill and certainly took care of them in committee. It is my hope that when the authorization bill passes Congress it is virtually intact, because it will address the fundamental problems that need to be addressed.

Mr. President, I wish to say a few words on behalf of the Justice Department authorization bill for 1980. This contains an authorization for the Department's land and Natural Resources Division which, for the first time, would allow this Division to fulfill its responsibility to vigorously enforce this Nation's environmental protection statutes. The Judiciary Committee hearings revealed several major deficiencies in the Division's litigating capability. For example, to prosecute violations of the 21 statutes controlling hazardous wastes, the Division has only one attorney. This is particularly disturbing in view of the fact that the Environmental Protection Agency has recently upwardly revised its estimate of the number of toxic wastes dumps in this country. EPA now says that approximately 2,000 dumps, located in virtually every State in the Union, pose "imminent and substantial danger to public health and the environment."

As the result of hearings and an extensive investigation into the operation of the Lands Division, the Judiciary Committee has recommended a nearly $5.2 million increase in the Division's budget. A major portion of this increase would be used to develop an effective litigating capability in the Government's battle against uncontrolled hazardous waste.

Also included in the authorized increase is a recommendation for additional resources for the land acquisition section. As you know, the United States acquires a large amount of land each year, primarily for national parks. The price that the United States must pay for that land is dependent, in part, on how quickly it can be acquired. On the average, it now takes the U.S. Government 4 years to purchase a tract of land. With sufficient resources the acquisition time could be reduced to 1 year. The unnecessary delay now costs the taxpayers' $40 million a year. There are those who argue that the Federal Government should not acquire as much land as it does, but no one should argue that if the Government does acquire lands it should not lose $40 million in the process. A relatively modest investment in staff resources for this section would be one of the most cost-conscious actions the Federal Government could take.

In the committee's view, additional resources for other Lands Division programs would also prove financially advantageous to the U.S. Treasury. For example, the marine resources section, which litigates ownership of oil and natural gas reserves on the Outer Continental Shelf, recently won a judgment for the United States of $2 billion. To effectively conduct similar litigation in the future, in addition to fulfilling its expanded responsibilities under several recent environmental statutes, this section will need to hire additional attorneys.

Much of the Lands Division dramatically increased workload is a direct result of the more than 35 environmental protection and land acquisition statutes enacted during the past decade. However, in the past, Congress and the Office of Management and Budget has not allocated sufficient staff resources to keep up with the steep rise in litigation. For example, the committee learned that the Department of the Interior will, over the next 12 months, refer approximately 1,000 strip mining cases involving violations of the Surface Mining Control and Reclamation Act of 1977. Yet the Division does not have a single attorney available to handle those cases.

Mr. President, the committee's recommendation for increased spending were made with full consideration of the fiscal consequences. Because, the increase in several areas, particularly land acquisition, will help in the fight for a balanced budget, I urge a unanimous vote for this bill.

I thank the Chair.

Mr. MUSKIE. Mr. President, the Senate has before it S. 1157, the Department of Justice Authorization Act of 1979. At this time, I would like to comment on the relationship of that bill to the first budget resolution for fiscal year 1980. Before I do, however, I would like to compliment the distinguished chairman and members of the Judiciary Committee for their expeditious handling of this legislation. The committee's performance this year is a significant improvement over past sessions when it was frequently necessary for the Budget Committee and the Senate to approve special waivers required for legislation reported after the May 15 deadline.

As the Senate knows, the budget resolution does not specify spending targets for individual programs. That is determined through the work of the authorizing and Appropriations Committees. However, it obviously is necessary for the Budget Committee to make an approximation of the amount of funding that might be required by a particular agency if it is to select spending targets that can reasonably be expected to accommodate the legislative intent of the Senate.

Mr. President, the budget resolution enacted by Congress assumes that aggregate funding for the programs of the Department of Justice authorized in S. 1157 will be roughly consistent with the President's request. This funding target is roughly equivalent to the fiscal year 1979 appropriation level and should provide adequate resources for the operation of the Department in the coming year.

As the Senate is by now well aware, the funding targets enacted by the Congress in order to achieve a balanced budget is fiscal year 1981 require funding restraints in almost all programs this year. The limited restraint required in this instance is entirely reasonable and should in fact have far less negative impact than actual cutbacks required in other areas.

S. 1157 authorizes appropriations of over $1.9 billion in fiscal year 1980 for Department of Justice activities. The budget impact of the legislation will occur in function 750, administration of justice, for which targets of $4.2 billion in budget authority and $4.4 billion in outlays were established in the first concurrent resolution.

If fully funded, the cost of this bill would exceed the functional targets by roughly $0.1 billion in budget authority and outlays. While this may not appear to be of major budgetary consequence, I would remind the Senate that such incremental increases, if unchecked would naturally result in cummulative totals far in excess of the approved spending targets. Further, full funding of this authorization, in conjunction with full funding of authorizations provided in the Law Enforcement Assistance Reform Act, which also was reported by the Judiciary Committee, would cause the functional targets for budget authority to be exceeded by over one-half billion dollars in fiscal year 1980. And if the same real level of funding was continued in subsequent years, the budget overages in fiscal year 1981 and fiscal year 1982 would be of similar magnitude.

When the LEAA legislation was considered in the Senate, the Budget Committee did not seek to amend that authorization to conform to the budget resolution targets, because the actual funding of LEAA will depend upon subsequent appropriations. Further, both Senator BELLMON and I expressed our confidence in the Appropriations Committee's ability to maintain the function 750 resolution ceilings.

Our position is the same with regard to this legislation.

In summary, Mr. President, I feel the Judiciary Committee has done a commendable job in reporting this authorizing legislation by the May 15 deadline required by the Budget Act. However, the Appropriations Committee will have to do some careful pruning if the budget resolution targets are not to be breached.

I have pointed out the potential budgetary impact of the reported bills in order to assure that the Senate is fully aware of its implications. This should prevent any unpleasant surprises down the road if it turns out that funding of excessive authorizations reported from the Judiciary Committee cause appropriations for other committees' programs to be reduced in order to stay within overall budget targets.

On the assumption that the Senate will ultimately approve appropriations levels lower than authorized for the Department of Justice, including LEAA, I intend to vote in favor of S. 1157.

● Mr. BELLMON. Mr. President, approximately 2 weeks ago the Senate passed S. 241, the Law Enforcement Assistance Reform Act, authorizing appropriations for LEAA in each of fiscal years 1980 through 1984. The fiscal year 1980 authorization level for LEAA contained in that bill was approximately $400 million above the level contemplated in the first budget resolution. The bill before us today presents a similar problem.

The authorization levels in this bill for Department of Justice activities would exceed our fiscal year 1980 first budget resolution assumptions by roughly $100 million in budget authority and outlays. Full funding of this bill and the LEAA authorization would cause the administration of justice functional targets contained in the budget resolution to be exceeded by over $500 million. The Budget Committee does not line-item, but when authorizations come through at levels far above those we assumed, we can predict problems ahead.

The Senate should be aware that appropriations for LEAA and the Department of Justice will need to be significantly reduced. I intend to work to insure that the appropriations' action reflects the restraint implied in the first budget resolution for fiscal year 1980.●

ANTI-ARSON

● Mr. GLENN. Mr. President, I take this opportunity to express my support of S. 1157. I want to draw particular attention to a provision of both this bill and its House counterpart that represents great progress in the fight against arson-for-profit.

S. 1157 and H.R. 3303 continue the provision of my Anti-Arson Act of 1977 that requires the FBI to classify arson as a major crime in its uniform crime reports. This provision was enacted into law as part of DOJ's fiscal year 1979 authorization and is wisely continued this year. S. 252, the Anti-Arson Act of 1979 will make this a permanent feature of the UCR upon enactment. S. 252 has been reported unanimously by the full Governmental Affairs Committee and now awaits clearance by the full Judiciary Committee. It has received strong support by the distinguished chairman of the Judiciary Committee as well as on the other side of the aisle by Senators PERCY, CHAFEE, and others. I look forward to its early consideration by the full Senate and House.

In the interim, I want to compliment the committee for continuing this significant step that, with the cooperation of the FBI and local authorities has already begun producing vital statistical information on the vicious crime of arson-for-profit. This is the Nation's fastest growing crime and is costing our Nation and its cities billions of dollars in property and insurance losses, lost taxes and jobs, housing units, and more. At the very least. we should be able to compile accurate arson criminal statistics. Until passage of this provision last year, there existed no mechanism for doing this.

I compliment my colleagues and urge support of S. 1157.●

Mr. KENNEDY. Mr. President, I know of no additional amendments to be proposed, and I am glad to yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. BAUCUS). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. Biden), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Arizona (Mr. DeConcini), the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from North Carolina (Mr. Morgan), the Senator from New York (Mr. Moynihan), the Senator from Arkansas (Mr. Pryor), and the Senator from Florida (Mr. Stone) are necessarily absent.

I further announce that the Senator from Florida (Mr. Chiles) is absent on official business.

I further announce that, if present and voting, the Senator from Iowa (Mr. Culver), the Senator from Washington (Mr. Magnuson), the Senator from Arizona (Mr. DeConcini), and the Senator from North Carolina (Mr. Morgan) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from California (Mr. Hayakawa), the Senator from New York (Mr. Javits), the Senator from Nevada (Mr. Laxalt), the Senator from Oregon (Mr. Packwood), and the Senator from Delaware (Mr. Roth) are necessarily absent.

The PRESIDING OFFICER. Is there any other Senator wishing to vote?

The result was announced—yeas 77, nays 2, as follows:

[Rollcall Vote No. 115 Leg.]

YEAS—77

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Cochran
Cohen
Cranston
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Heflin
Heinz
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kennedy
Leahy
Levin
Lugar
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Muskie
Nelson
Nunn
Pell
Percy
Pressler
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—2

Helms
Proxmire

NOT VOTING—21

Baker
Biden
Chiles
Church
Culver
DeConcini
Goldwater
Gravel
Hatfield
Hayakawa
Inouye
Javits
Laxalt
Long
Magnuson
Morgan
Moynihan
Packwood
Pryor
Roth
Stone

So the bill (S. 1157), as amended, was passed as follows:

S. 1157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1980".

Sec. 2. There are authorized to be appropriated for the fiscal year ending September 30, 1980, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) the following amounts:

(1) For General Administration, including hire of passenger motor vehicles, and miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration: $26,417,000, including not to exceed $500,000 for the management analysis under section 10 of this Act and for the preparation of the plan for case management information and tracking systems under section 11 of this Act.

(2) For the United States Parole Commission, including the hire of passenger motor vehicles: $5,555,000.

(3) For General Legal Activities, including—

(A) the hire of passenger motor vehicles;

(B) miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration;

(C) not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on this certificate;

(D) advance of public moneys under section 3648 of the Revised Statutes (31 U.S.C. 529);

(E) pay for necessary accommodations in the District of Columbia for conferences and training activities; and

(F) not to exceed $105,000 which may be transferred from the "Alien Property Funds, World War II", for the general administrative expenses of alien property activities, including rent of private or Government-owned space in the District of Columbia:

$111,748,000, including not to exceed $16,096,000 for the investigation and prosecution of alleged violations of the laws of the United States involving organized crimes and racketeering, public corruption, fraud, and narcotics and dangerous drugs, not to exceed $16,439,000 for litigation involving environmental protection, natural resources, Federal water and property rights, and Indian resources and claims, not to exceed $16,076,000 for the enforcement of the civil and criminal laws and any Executive order prohibiting discrimination against any person on account of race, color, national origin, sex, religion, or handicap, and for the enforcement of sections 241 and 242 of title 18, United States Cole, and not to exceed $2,052,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

(4) For the Antitrust Division, consumer protection and kindred laws: $48,592,000, including not to exceed $31,500,000 for the investigation and prosecution of cases involving private conspiratorial conduct, and cases involving monopoly and oligopoly, and not to exceed $5,000,000 for antitrust enforcement grants to the States under section 309 of the Omnibus Crime Control and Safe Streets Act of 1968.

(5) For United States Attorneys, Marshals, and Trustees, including—

(A) purchase of firearms and ammunition;

(B) lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year;

(C) supervision of United States prisoners in non-Federal institutions; and

(D) bringing to the United States from foreign countries persons charged with crime:

$232,573,000, including not to exceed $6,382,000 for the Witness Security Program.

(6) For Support of United States Prisoners in non-Federal institutions, including necessary clothing and medical aid, payment of rewards, and reimbursements to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by section 2 of the Act entitled "An Act to authorize certain expenditures from the appropriations of Saint Elizabeths Hospital, and for further purposes", approved August 4, 1947 (24 U.S.C. 168a): $25,100,000.

(7) For Fees and Expenses of Witnesses, including expenses, mileage, compensation, and per diems of witnesses in lieu of subsistence, as authorized by law; including advances of public moneys: $27,052,000, but no sums authorized to be appropriated by this Act shall be used to pay any witness more than one attendance fee for any one calendar day.

(8) For the Community Relations Service: $5,428,000.

(9) For the Federal Bureau of Investigation for—

(A) expenses necessary for the detection and prosecution of crimes against the United States;

(B) protection of the person of the President of the United States and the person of the Attorney General;

(C) acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies;

(D) such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General;

(E) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;

(F) acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition; payment of rewards;

(G) benefits in accordance with those provided under sections 911 (9) through (11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9) through (11), 1157, and 1160), under regulations prescribed by the Secretary of State; and

(H) not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and to be accounted for solely on his certificate.

$584,408,000. None of the sums authorized to be appropriated by this Act for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service. Using sums authorized to be appropriated by this Act, the Federal Bureau of Investigation shall classify the offense of arson as a part I crime in its Uniform Crime Reports.

(10) For the Immigration and Naturalization Service, for expenses necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including—

(A) advance of cash to aliens for meals and lodging while en route;

(B) payment of allowances to aliens, while held in custody under the immigration laws, for work performed;

(C) payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies;

(D) payment of rewards;

(E) not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on this certificate;

(F) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;

(G) acquisition, lease, maintenance, and operation of aircraft;

(H) firearms and ammunition and attendance at firearms matches;

(I) operation, maintenance, remodeling and repair of buildings, and the purchase of equipment incident thereto;

(J) refunds of maintenance bills, immigration fines, and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money;

(K) payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens;

(L) acquisition of land as sites for enforcement fence and construction incident to such fence;

(M) benefits in accordance with those provided under sections 911 (9) through (11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9) through (11), 1157, and 1160) under regulations prescribed by the Secretary of State; and

(N) research related to immigration enforcement which shall remain available until expended:

$313,317,000, of which not to exceed $50,000 may be used for the emergency replacement of aircraft upon the certificate of the Attorney General, and including not to exceed $70,454,000 for the enforcement of the immigration laws by the Border Patrol Program on the immediate border.

(11) For the Drug Enforcement Administration for its activities, including—

(A) hiring and acquiring law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year;

(B) paying in advance for special tests and studies by contract;

(C) paying in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory activities while engaged in cooperative enforcement and regulatory activities in accordance with section 503a (2) of the Controlled Substances Act (21 U.S.C. 873(a)(2));

(D) paying expenses not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate;

(E) paying rewards;

(F) paying for publication of technical and informational material in professional and trade journals; purchase chemicals, apparatus, and scientific equipment;

(G) paying for necessary accommodations in the District of Columbia for conferences and training activities;

(H) acquiring, leasing, maintaining, and operating aircraft;

(I) research related to enforcement and drug control to remain available until expended;

(J) contracting with individuals for personal services abroad, and such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management.

(K) benefits in accordance with those provided under sections 911 (9) through (11), 942, and 945 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9) through (11), 1157, and 1160), under regulations prescribed by the Secretary of State; and

(L) paying for firearms and ammunition and attendance at firearms matches:

$193,836,000, including such sums as are authorized by section 709(a) of the Controlled Substances Act (21 U.S.C. 904(a)), for the fiscal year ending September 30, 1980.

(12) For the Federal Prison System: $349,789,770, including the following:

(A)(i) For the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions, including not to exceed $28,168,770 for inmate medical services within the system, and not to exceed $100,000 for inmate legal services within the system;

(ii) purchase and hire of law enforcement and passenger motor vehicles;

(iii) compilation of statistics relating to prisoners in Federal penal and correctional institutions;

(iv) assistance to State and local governments to improve their correctional systems;

(v) purchase of firearms and ammunition; medals and other awards;

(vi) payment of rewards;

(vii) purchase and exchange of farm products and livestock;

(viii) construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code; and

(ix) transfer to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for the direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions.

(B) For Federal Prison Industries, Incorporated, to make such expenditures, within the limits of funds and borrowing authority, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Control Corporation Act, as may be necesssary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase and hire of passenger motor vehicles.

(C) For planning, acquisition of sites and construction of new facilities, and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended, including not to exceed $2,440,000 for renovation of medical facilities at existing Federal penal and correctional facilities, and the labor of United States prisoners may be used for work performed with sums authorized to be appropriated by this clause.

(D) For carrying out the provisions of sections 4351 through 4353 of title 18, United States Code, which establishes a National Institute of Corrections, to remain available until expended.

SEC. 3. (a) None of the sums authorized to be appropriated by this Act may be used to pay the compensation of any person employed after the date of the enactment of this Act as an attorney (except foreign counsel employed in special cases) unless such person shall be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia.

(b) The Department of Justice shall not be required to absorb from sums appropriated pursuant to the authorization provided in this Act, other than sums appropriated pursuant to section 4(f) of this Act, any increases in salary, pay, retirement, and other employee benefits authorized by law, or other nondiscretionary costs.

(c) None of the funds authorized to be appropriated in this Act may be used to purchase, lease, or otherwise acquire message-switching equipment until such time as the Committees on the Judiciary of the House of Representatives and Senate have each given their approval. For the purposes of this subsection, the term "message-switching equipment" means electronic equipment designed to receive a message, store it until an outgoing line is available, and then retransmit the message without any direct connection between the line on which the message was received and the line on which it is retransmitted.

SEC. 4. (a) Sums authorized to be appropriated by this Act which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations prescribed by the Attorney General.

(b) Sums authorized to be appropriated by this Act may be used for the purchase of insurance for motor vehicles operated in official Government business in foreign countries.

(c) Sums authorized to be appropriated by this Act for salaries and expenses shall be available for services as authorized by section 3109 of title 5 of the United States Code.

(d) Sums authorized to be appropriated by this Act to the Department of Justice may be used, in an amount not to exceed $31,000, for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

(e) Sums authorized to be appropriated by this Act may be used for—

(1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at cost not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents; and

(2) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

(f) There are authorized to be appropriated for the fiscal year ending September 30, 1980, such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

(g) Sums authorized to be appropriated for "Salaries and expenses, General Administration", "Salaries and expenses, United States Attorneys, and Marshals", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Bureau of Prisons" may be used for uniforms and allowances as authorized by sections 5901 and 5902 of title 5 of the United States Code.

SEC. 5. Section 5315(19) of title 5 of the United States Code, is amended to read as follows:

"(19) Assistant Attorneys General (10).".

SEC. 6. Notwithstanding the second of the paragraphs relating to salaries and expenses of the Federal Bureau of Investigation in the Department of Justice Appropriation Act, 1973 (86 Stat. 1115), sums authorized to be appropriated by this Act for such salaries and expenses may be used for the purposes described in such paragraph until, but not later than, the end of the fiscal year ending September 30, 1980.

SEC. 7. (a) With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 665(a)), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 529), section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254(a) and (c));

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 869 of title 31, United States Code;

(3) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 521); and

(4) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484);

only upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Associate Director) and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (3), or (4) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (3) and (4) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) with a net value over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation, as much in advance as the Director or his designee determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d)(1) The Federal Bureau of Investigation shall conduct detailed financial audits of undercover operations closed on or after October 1, 1979, and—

(A) report the results of each audit in writing to the Department of Justice, and

(B) report annually to the Congress concerning these audits.

(2) For the purposes of paragraph (1), "undercover operation" means any undercover operation of the Federal Bureau of Investigation, other than a foreign counterintelligence undercover operation—

(A) in which the gross receipts exceed $50,000, and

(B) which is exempted from section 3617 of the Revised Statutes (31 U.S.C. 484) or section 304(a) of the Act of December 6, 1945 (31 U.S.C. 869(a)).

Sec. 8. During the fiscal year for which appropriations are authorized by this Act, each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the Committees on the Judiciary, of the House of Representatives and the Senate, and other appropriate committees a minimum of 20 days before—

(1) reprograming of funds in excess of $150,000 or 10 percent, whichever is less, between the programs within the offices, divisions, and boards as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(2) reprograming of funds in excess of $500,000 or 10 percent, whichever is less, between programs within the Bureaus as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(3) any reprograming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of significant program changes and committing substantive program funding requirements in future years;

(4) increasing personnel or funds by any means for any project or program for which funds or other resources have been restricted;

(5) creation of new programs or significant augmentation of existing programs;

(6) reorganization of offices or programs; and

(7) significant relocation of offices or employees.

Sec. 9. (a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this Act and annual specific program evaluations of selected subordinate organization's programs, as determined by priorities set either by the Congress or the Attorney General.

(b) Subordinate Department of Justice organizations and their officials shall provide all necessary assistance and cooperation in the conduct of the evaluation, including full access to all information, documentation, and cognizant personnel, as required.

(c) Completed evaluations shall be made available to the Committees on the Judiciary of the Senate and House of Representatives.

(d) If the Committee on the Judiciary of either the Senate or the House of Representatives requests the Attorney General to perform an evaluation of the kind described in subsection (a) of this section, the Attorney General shall submit to the committee making the request, not later than 30 days after the date the request is made, a design and timetable for making the requested evaluation. If the projected time period for completing the evaluation exceeds 6 months, the Attorney General shall, during the course of the evaluation, submit intermittent reports on the progress of the evaluation to the committee making the request.

Sec. 10. The Attorney General shall make arrangements with an appropriate entity for an independent, comprehensive management analysis of the operations of the Immigration and Naturalization Service for the purpose of making such operations efficient and cost effective After the completion of such analysis, the Attorney General shall promptly submit a report to the appropriate committees of Congress on the results of such analysis together with any administrative or legislative recommendations of the Attorney General to improve the operations of the Service.

Sec. 11. (a) Not later than January 1, 1980, the Attorney General, after consultation with the Director of the Executive Office of United States Attorneys and such Assistant Attorneys General as he shall deem appropropriate, shall prepare and submit to the Committees on the Judiciary of the Senate and House of Representatives a plan for the activation and coordination, with the Department, of compatible, comprehensive case management information and tracking systems for each of the judicial districts of the United States, as described in chapter 5 of title 28, United States Code and for each of the divisions of the Department.

(b) Such plan shall—

(1) incorporate into the design of such systems all matters and cases involving the United States Attorneys and, where relevant, other Departmental resources;

(2) make provision for identifying and retrieving all relevant data, including—

(A) complete individual case information from intake or commencement of investigation to final disposition, including identification of the division or office primarily responsible for the case;

(B) requests for, and dedication of, investigative and litigative services;

(C) complete information on decisions not to prosecute or litigate alleged violations of the laws of the United States, the stage of the proceedings at which such decisions are made, and the reasons for such decisions; and

(D) identification of the source of the referrals of cases for prosecution or litigation, including other organizations within the Department and other agencies or departments of the Federal Government;

(3) take into account the importance of identifying investigations, prosecutions, and litigation in areas which the Attorney General may from time to time designate as high priority;

(4) consider the application of a case weighting system for evaluating prosecutorial and litigation decisions, dedication of resources, and case management and disposition by all Departmental personnel involved;

(5) emphasize as a goal maximum data retrieval and utilization; and

(6) include a timetable for implementation of the plan and the costs for implementation.

Sec. 12. (a) In addition to any other sums authorized to be appropriated by this Act for any purpose, there are authorized to be appropriated, for the fiscal year ending September 30, 1980, such sums as may be necessary to pay—

(1) the salary of the Special Counsel, appointed by the Attorney General for the purposes described in the order issued by the Attorney General on March 23, 1979 (Order Numbered 825–79, 28 CFR 0.53–0.54b);

(2) the salaries of such attorneys, investigators, and supporting personnel as may be hired for such purposes by the Special Counsel under the authority delegated to him by the Attorney General; and

(3) all necessary expenses related to such purposes.

(b) Any sums appropriated under the authority of subsection (a) shall remain available until expended so long as such sums are expended for purposes specified in subsection (a). Any sums remaining available after such purposes have been fulfilled shall be deposited in the Treasury of the United States.

(c) At such time that such Special Counsel makes his final report to the Attorney General and the Congress on his activities described in subsection (a), he shall account fully for any sums appropriated under the authority of subsection (a), including—

(1) amounts expended for salaries;

(2) amounts expended for necessary and related expenses;

(3) amounts remaining available but not expended for purposes described in subsection (a); and

(4) the amount, if any, deposited in the Treasury under subsection (b).

SEC. 13. The Immigration and Naturalization Service may not pay to any employee of the Immigration and Naturalization Service compensation in an amount which exceeds in any calendar year the amount of annual rate of basic pay to which the Commissioner of the Immigration and Naturalization Service is entitled for that calendar year.

SEC. 14. The Attorney General may, with the concurrence of any agency or Department with primary enforcement responsibility for an environmental or natural resource law, investigate any violation of an environmental or natural resource law of the United States, and bring such actions as are necessary to enforce such laws.

SEC. 15. Section 709(a) of the Controlled Substances Act (21 U.S.C. 904(a)), is amended to read as follows:

"(a) There are authorized to be appropriated $105,000,000 for the fiscal year ending June 30, 1975, $175,000,000 for the fiscal year ending June 30, 1976, $200,000,000 for the fiscal year ending September 30, 1977, $188,000,000 for the fiscal year ending September 30, 1978, $215,000,000 for the fiscal year ending September 30, 1979, and $193,836,000 for the fiscal year ending September 30, 1980, for the expenses of the Department of Justice in carrying out its functions under this subchapter.".

SEC. 16. Section 709 of the Controlled Substances Act (21 U.S.C. 904(b)) is amended by adding after subsection (b) the following new subsection:

"(c) Notwithstanding section 2680(k) of title 28, United States Code, the Attorney General, in carrying out the functions of the Department of Justice under this title, is authorized to pay, out of funds appropriated for such purpose and subsection (a), tort claims in the manner authorized by section 2672 of title 28, United States Code, when such claims arise in a foreign country in connection with the operations of the Drug Enforcement Administration abroad.".

SEC. 17. Section 511(d) of the Controlled Substances Act (21 U.S.C. 881(d)) is amended by—

(1) striking out "All provisions" and inserting in lieu thereof "The provisions", and

(2) striking out "and the award of compensation to informers in respect of such forfeitures".

SEC. 18. (a) In addition to any other sums authorized to be appropriated by this Act, there are authorized to be appropriated $5,000,000 for joint State, and joint State and local, law enforcement agencies engaged in cooperative enforcement under the Controlled Substances Act (21 U.S.C. 801 et seq.).

(b) The Attorney General shall, in accordance with section 553 of title 5, United States Code, promulgate regulations establishing criteria under which such cooperative enforcement agencies may qualify for funding under this section.

SEC. 19. (a) Section 569(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the United States marshals shall execute all lawful writs, process, and orders issued under authority of the United States, and command all necessary assistance to execute their duties.

"(2) Service of civil process, including complaints, summonses, subpoenas, and similar process, shall not be performed by the United States marshals on behalf of any party other than the United States, unless performed pursuant to—

"(A) section 1915 of this title or any other express statutory provision, or

"(B) order issued by the court in extraordinary circumstances.".

(b) The amendment made to title 28, United States Code, by subsection (a) of this section shall take effect on October 1, 1979.

SEC. 20. Section 4 of Public Law 95–412 is amended—

(1) in subsection (b)(2), by striking out "receive the sum of $100" and inserting in lieu thereof "be compensated at a rate not to exceed the daily equivalent of the rate specified for grade GS–18 in the General Schedule as prescribed in section 5332 of title 5, United States Code";

(2) in subsection (d)(7), by striking out "September 30, 1980" and inserting in lieu thereof "March 1, 1981";

(3) in subsection (e)(1), by inserting after "detailed to the Commission" the following: "without reimbursement,";

(4) in subsection (i), by striking out "$700,000" and inserting in lieu thereof "$2,450,000, to remain available until expended."; and

(5) by amending subsection (j) to read as follows:

"(j) The Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the daily equivalent of the rate specified for grade GS–18 in the General Schedule as prescribed in section 5332 of such title.".

SEC. 21. On or before September 1, 1980, the Attorney General shall submit to Congress a plan to alter the function of the United States penitentiary at Leavenworth, Kansas, to that of a modern correctional institution.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 1157.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I thank my colleague, the Senator from South Carolina, for all of his help and cooperation, as well as the other members of the committee and particularly the very fine staff members of both the majority and the minority who provided valuable help and assistance to the Senate on this legislation.

Ava Abramowitz Robert McNamara, Thomas Susman, David Boies, Pete Velde, Pamela Melton, Mark Gitenstein. Michael Gelacak, Tim Hart, Samual Kinzer, Romano Romani, Pamela Eldred, Robert Feidler, Timothy McPike, Michael Altner, Ken Kay, Frank Silby, Chris Harris, Ben Dixon, Ira Shapiro, Henry Ruempler, Yolandas McClain, Richard Allen, Alfred Regnery, Michael Klipper, Jessie Sydnor, Michael Hunter, Thomas Parry, and Bob Nichols.

I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that?

Mr. KENNEDY. I withhold it.

SOLID WASTE DISPOSAL ACT AMENDMENTS OF 1979

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is the resumption of S. 1156.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I believe that the distinguished Senator from Kentucky (Mr. HUDDLESTON) wishes to call up a resolution at this time and ask for its immediate consideration. It has been cleared on all sides. Before he does that, if he will allow me, I make the following unanimous-consent request: I ask unanimous consent that there now be a period for the consideration of routine morning business, and that Senator may be allowed to speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAPPY ANNIVERSARY, MR. McCAFFREY

Mr. YOUNG. Mr. President, last week, Joe McCaffrey, one of the most respected and able journalists covering Capitol Hill, marked his 35th anniversary of covering the Congress as a broadcast correspondent.

Joe is not only one of the ablest reporters in Washington but he is quite unique in one respect: He is one reporter who always looks for the good qualities in Members of Congress and other public officials. This is unique in that so many members of the press today think that only the bad is sensational and newsworthy. They may be right. Unfortunately, though, most of the resultant publicity has to do with the uglier side of America and its institutions. This leaves a bad and inaccurate image of us with people all over the world. With all our faults, the American people are by far the most honest and decent of any people in the world.

Joe McCaffrey's reporting is a great encouragement for people to become better public officials. It would be a great world if more people were like him. I extend to him my heartiest congratulations on his 35th anniversary and express the hope that he will be covering the Congress for many years to come.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. I ask unanimous consent that the period for morning business now be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 175—TO SUBSTITUTE DOMESTIC COAL FOR IMPORTED OIL

Mr. HUDDLESTON. Mr. President, on behalf of myself, the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), the distinguished Senator from West Virginia (Mr. RANDOLPH), the distinguished Senator from Kentucky (Mr. FORD), the distinguished Senator from Illinois (Mr. PERCY), the distinguished Senator from Pennsylvania (Mr. HEINZ), and the distinguished Senator from Montana (Mr. MELCHER), the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), and the distinguished Senator from North Carolina (Mr. HELMS), I send to the desk a resolution and ask for its immediate consideration.

Mr. CHAFEE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HUDDLESTON. I yield.

Mr. PRESSLER. Mr. President, I ask unanimous consent that Paul Holtz of my staff be accorded the privilege of the floor during the debate on the upcoming measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 175) to express the sense of the Senate that the United States should pursue a policy of displacing a specified percentage of foreign oil with domestic coal, and for other purposes.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the Senate will proceed to its consideration.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Lynn Wanlund of my staff have the privilege of the floor during the discussion and voting on the pending resolution, and during the consideration and voting on the Solid Waste Disposal Act Amendments, to follow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator join me as a consponsor of his resolution?

Mr. HUDDLESTON. I ask unanimous consent that the name of the Senator from West Virginia (Mr. ROBERT C. BYRD) be added as a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Tim Dudgeon, of my staff, be accorded the privilege of the floor during consideration and voting of the pending legislation, of the resolution relating to coal utilization which I shall offer, and of the solid waste disposal legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, this resolution expresses the sense of the Senate that this Nation should pursue a policy of displacing a specified percentage of foreign oil with domestic coal, and calls on the President to establish a reasonable target percentage and submit to the Congress within 60 days a plan to achieve it.

Coal's potential has been recognized for years. Coal deposits in this country alone contain enough energy to supply our present energy demand for more than 500 years, and it is estimated that other deposits, as yet unidentified, are equivalent in magnitude.

We have known for decades that coal can be converted into gases or liquids to replace scarce oil and natural gas.

Coal's potential was reiterated just last week on an international level when the International Energy Agency agreed that greatly increased coal use is required to meet growing energy demand, and that this is both desirable and possible in light of the world's abundant coal reserves.

For 5 years, we have been saying that coal is the answer to our energy problems; that coal will deliver us from dependence on foreign oil.

But, saying it does not make it happen.

Saying that coal is the answer has not saved us from long gasoline station lines, or the threats of brownouts, blackouts, industrial layoffs, and the utter chaos sustained energy shortages can create.

Saying that coal will deliver us from dependence on foreign oil has not stopped that dependence from increasing to the point where we are importing over half of the oil we consume at a cost of more than $50 billion a year.

We have to set a target for ourselves; identify what we will have to do to achieve it; and, then do it.

There is no question that there are formidable obstacles to the greater utilization of coal. Because of those obstacles, coal is the fuel of last resort. And, it will stay the fuel of last resort until positive efforts are made to overcome those obstacles to meet specific coal use targets.

But, as far I have been able to determine, we have no targets; we have no overall plan for coal.

Instead, we have more than 30 major organizational units in 12 departments and agencies with programs which affect coal production, transportation, and use—but, no one analyzing the combined effects of the policies being pursued; no one establishing a balance among the conflicting national objectives that are involved; no one with a good, solid sense of what is achievable in terms of increased coal utilization and how we get there from here.

As a result, our often stated commitment to coal appears to be faltering.

We have idle capacity for both the production and use of coal. Given our current energy situation, the demand for coal should be booming. Instead, the coalfields are plagued with unemployment, layoffs and short workweeks.

Transportation bottlenecks and cost increases are exacerbating the problem.

There is great uncertainty throughout both the coal production and user industries as to what the rules are—and what they are likely to be next month or next year.

Coal exports are declining; and, incredibly, imports of coke and coal are increasing.

Our Government's interest in research, development, and the demonstration of new synthetic fuels technologies, and technologies to facilitate the direct burning of coal appears to be slacking.

We cannot afford to let this lack of coordination, this lack of direction, continue. For the next few years, the only alternative we have to increasing our use of coal is continuing and increasing our dependence on foreign oil—and, that is an alternative that I absolutely cannot accept. The stakes are far too high and the risks too great to gamble this Nation's future on stability and good will in the major oil producing countries.

We have to regain our energy self-reliance, and to do that we must:

Maximize the conversion of existing coal capable plants from oil and gas to coal;

Maximize the wheeling of coal based power into oil and gas burning regions;

Accelerate the replacement of oil and gas fired boilers with coal burning equipment;

And, for the longer term, maximize the development and use of synthetic fuels.

In his April 5 energy address, President Carter called on the Department of Energy, the Environmental Protection Agency, and the Department of Interior to report to him within 60 days on what they can do to increase coal use.

The President also called on his Coal Commission to hold hearings on ways to increase the use of coal. The Commission held 2 very full days of hearings last week, and with testimony from coal experts from throughout the country.

These efforts should help to lay the groundwork for the kind of coordinated, aggressive coal policy this country needs. We must translate the vast bodies of information being developed into an active program for increased coal use; and an active program for replacing unreliable, expensive foreign oil with our own domestic coal.

We must have a specific commitment to coal and a specific plan for achieving it. That is the purpose of this resolution.

I yield to my colleague from Kentucky, Senator FORD.

Mr. FORD. Mr. President, I rise in strong support of the resolution offered by my colleague from Kentucky and commend him for his recognition of the fact that this Nation has yet to take that one step that represents a positive commitment toward reducing our dependence on foreign sources of fuel.

We continue to talk and talk about this Nation's energy dilemma. We talk about what could be done and what should be done, yet we remain unable to reach a consensus on the direction we should take. There are 100 Members of the Senate and 435 Members in the House of Representatives—and every one of us has a different idea of what we should be doing.

That is one reason—the most obvious reason—why we as a nation have yet to take that one giant step that could put this country on a course toward achieving energy stability.

As far as I am concerned, that one giant step is right under our noses. That one giant step would be to embark on a massive synthetic fuels development program—something this country could and should have undertaken years ago.

The future of our country's energy needs—at least until we figure out how to economically harness solar power and reduce the many risks still associated with nuclear—is with synthetic fuels. The most obvious resource on which a synthetic fuels program should be centered is coal.

We know that this country has enough coal reserves to last for hundreds of years. We know that clean fuels can be derived from coal. We know that synthetic oil and gas can be produced in huge quantities. We know that the technology exists to remove potential sources of pollution from raw coal and produce a clean-burning solid or liquid that electric utilities can use at existing facilities.

Perhaps most importantly, we now realize that the cost of producing these synthetic fuels—a cost that once was prohibitive—is now beginning to sound more and more like a bargain. According to Energy Secretary Schlesinger, OPEC price rises will bring the New York price of delivered Mideast light oil to over $18 per barrel by midsummer. If that happens, it would yield a cost to consumers close to that of synthetic fuels—energy produced in America, using American technology, creating American jobs and investment capital, and keeping American dollars at home instead of sending them abroad.

A logical step in that direction would be to establish and pursue a goal of displacing a specified percentage of foreign oil with domestic coal—as provided for in this resolution.

Until we set such a goal and then aggressively pursue it, this Nation will continue to wander aimlessly in search of a way to end the uncertainty which continues to persist about how this country will ever meet current and future energy needs.

Nations have survived all sorts of crises—unemployment, droughts, depressed standards of living—but no nation has ever survived a long, rampant inflation, and this we must never forget. And the only way we can ever hope to bring an end to inflation is to first come to grips with the energy dilemma which has a stranglehold on our country today.

Mr. HUDDLESTON. Mr. President, I yield to the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I am pleased to join in cosponsoring the resolution offered by the distinguished Senator from Kentucky (Mr. Huddleston).

Recently, the Governing Board of the International Energy Agency, of which the United States is a member, issued a communique calling for "greatly increased coal use," which is "both desirable and possible in light of the world's abundant coal reserves, and the economic advantages which coal has over oil." That call must be heeded.

The United States has the largest coal reserves in the entire world, and much of these reserves consists of the finest quality coal in the world. A natural resource of that size and quality cannot be ignored, particularly at this point in history.

Our current dependence on foreign oil is the most convincing argument for the greater use of coal. This resolution gets to the heart of the energy problem by expressing the sense of the Senate that U.S. energy policy must deal with our dependence on OPEC oil in specific terms. The proposition is simple but sound: Use American coal to displace foreign oil.

The resolution requests that the President submit a plan which spells out actions the United States can take to displace foreign oil with coal. I believe such a program would be in the best interests of this Nation.

Mr. President, at stake are the security and prosperity of our country. I urge my colleagues to support the resolution.

I congratulate the Senator from Kentucky for sponsoring this resolution and I thank him for yielding.

Mr. HUDDLESTON. I thank the distinguished majority leader.

I yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I am grateful for the opportunity to join with the majority leader, Senator Byrd, as a cosponsor with the able Senator from Kentucky.

I also have the privilege of sharing cosponsorship, I am sure, with many Members of the Senate, some who are perhaps not actually on the resolution but who feel as we do about the need for not just the good words for coal but the actual use of coal. Of course, first the increased production of coal and then the increased use of coal.

I would like to draw our attention very briefly to the statement that was made over 2 years ago. At that time the President declared that our country would engage in the "moral equivalent of war" to reduce our dependency on imported oil.

We are losing, rather than winning, as I understand it, that war. I think our importation of foreign oil has continued to increase. I believe I will ask the Senator from Kentucky. Are we in agreement that it is approximately 50 percent of our electric power which is produced by coal?

Mr. HUDDLESTON. I understand that figure is correct.

Mr. RANDOLPH. So with this situation we do know that the importation of foreign oil has continued not to decrease but to increase, and the national effort apparently has been at least not attended to, and even diminished, in connection with the energy resource which we know is available. That is the resource of coal.

So we have not had an aggressive program for the utilization of coal.

Coal, of course, can be used in many, many ways. We know that coal in World War II was the fossil fuel that was used by the Luftwaffe in its aircraft as the bombing of Great Britain, particularly London, took place. It was coal that fueled those aircraft. The Panzer tanks were fueled with a motor fuel which was made from coal.

Over and over again we note that the technologists were not only with the Nazi war machine but we in this country also had a synthetic liquid program back in the middle 1940's.

I am not going to fault anyone except to say that the record is very clear that the resolution that is offered today is timely. It is a message to the President that Senators consider a program for greater coal utilization is not for the future but something that is needed immediately. It is necessary now.

Frankly, the President has said that he is eager for the increased use of coal. The President will receive reports from the Department of Energy, the Environmental Protection Agency, and the Department of Interior outlining the steps which can be taken for the greater utilization of coal within the week. The President's Commission on Coal will also report with recommendations for short-term utilization. Our resolution will mandate the integration of those reports' recommendations into an action plan for coal utilization within 60 days.

One of the major concerns I have had through the years, back to the middle 1940's, has caused me to be not an ardent advocate but, in a sense, a crusader for the use of coal.

Mr. President, I ask unanimous consent to have printed in the Record at this point a letter that I sent to the President of the United States on this subject on June 1, 1979.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., June 1, 1979.

The President,
The White House.

Dear Mr. President: As a Senator from West Virginia, a major concern of mine has always been to promote energy development. The economy of our State depends in large part on a healthy coal industry.

At our recent meeting at the White House you assured me and other Senators from coal producing States that you were eager to see an increased utilization of coal. With respect to increased coal utilization the future is now, not in the near or mid-term.

I once again urge your Administration to make a firm commitment to coal utilization in solving our Nation's energy problems. This commitment must be made now if coal is to exercise a paramount role in our future energy policy. The recurring OPEC price increases underscore the necessity for increased utilization.

As a Nation, we must establish what coal can achieve in the next two-, three- or four-year period. Currently, about 50% of our electric power is produced by this energy source. We must anticipate a specific percentage increase in the near term, 1980, 1981, and 1982. Substantial emphasis has been placed on the long term utilization of coal, but action in the short term is lacking.

Present law provides an effective means to expand coal utilization now, but to date none of these initiatives has been carried forward.

Some provisions have received minimum effort within DOE but have lacked the commitment necessary to build a positive and substantive program. Examples of programs which have received little or no attention include:

The proposed Department of Energy budget request for coal research and development for fiscal year 1980 eliminates certain first generation demonstration projects (those which could be used immediately) in favor of more complicated coal projects which will take years to perfect. The "small gasifiers in industry" program (6 or so projects now completed) will receive no funding in 1980, even though Congress in the Energy Research and Development Administration Authorization Act of 1976 called for a transfer of DOE funds from another program to build 24–26 additional small gasifiers.

The Synthetic Fuels Loan Guarantee Program, which I sponsored in 1976, has never been used, although it received a $20 million appropriation last year. This provision would have been used on a project-by-project basis to encourage coal gasification and other synthetic fuels technologies on a small and large scale. The loan guarantee concept, if implemented effectively, could lead to very early commercialization of existing technologies through an appropriate partnership between Government and industry. The Department of Energy seems very willing to make grants in the hundreds of millions of dollars to large corporations for long range research and development, but it is not willing to "bridge the gap" through the use of loan programs to commercialize existing synthetic fuel technologies.

The Coal Loan Guarantee Program for development of small underground mines, which I sponsored in 1975, has been set up, but is underfunded, understaffed, and underpublicized.

A total of $783 million for coal research and development programs was requested by the DOE for fiscal year1980. The Office of Management and Budget reduced that request to $662 million. That reflects an $18 million reduction for the coal program compared to the fiscal year 1979 request. This type of action does not suggest an increasing commitment to coal.

There is no budget request for the Energy Impact Assistance Program contained in the Powerplant and Fuel Use Act for fiscal year 1980. The program was authorized at $120 million for the coming fiscal year. The Office of Management and Budget elected not to ask for the money and, instead, placed $150 million in the Economic Development Administration proposal now before the Environment and Public Works Committee which may or may not receive Congressional approval. We need both programs on a continuing basis.

The Administration is involved in interagency disputes which could cripple development of a needed coal transportation system that should be funded immediately.

The National Coal Policy Study contained in Section 741 of the Powerplant and Fuel Use Act has not been initiated to date. This study looks at both short and long term problems affecting the coal industry.

A Department of Energy demonstration project to locate a utility fuel gas project at the Cabin Creek, West Virginia, power plant, which would have used synthetic gas made from coal as fuel, has been curtailed. This demonstration plant, costing $41 million, would have provided 90 megawatts of power to the Kanawha Valley without new power plant construction.

The DOE seems to be committed to coal research programs which emphasize coal liquefaction. Although realizing the need to develop a synthetic fuel capacity, the Department is planning to place the Cresap Liquefaction Facility in Marshall County, West Virginia, in a standby condition. It seems that plant is being shut down before its full contribution to our synthetic fuels effort has been realized. The plant has been in its current mode of operation for less than one year.

The ability of the industry and miners to produce the necessary coal has been rightly questioned in the past. However, a maturity is developing between labor and management in the coal industry. It is my firm conviction that a consistent demand for coal, without the ups and downs of the past, will produce an environment where the only major constraint on the coal industry will be the degree of Federal commitment.

Mr. President, this is only a partial list of examples where initiatives could have been pursued or continued to promote an effective coal utilization program. It is indicative of the need for affirmative, progressive action by the Department of Energy. For too long we have allowed oil and nuclear energy to dominate our national policy decisions.

Your recent determination on the sulphur emissions limitation was correct and reasoned. It will provide greater opportunity for the burning of coal in an environmentally safe manner in the future. I commend your action and the attention that you gave to this issue. However, while generally endorsing that action, I raise a cautionary note. We must not promote the development of coal at the cost of our environment and the health and safety of our miners. Certainly, there is a need for coordination, fairness and flexibility in the implementation of regulatory statutes. This is particularly urgent in the case of the surface mining law. But, I must stress that our Nation has made substantial efforts to devise programs for the health and welfare of all citizens. We cannot retreat from these objectives, especially in the vital area of coal mine health and safety.

It should be noted that the list of initiatives outlines coal development programs that can be accomplished in a positive manner and provide for coal utilization in a safe environment.

Coal, as it has in the past, can provide the substantial answer to most of the world's energy requirements before the turn of the century. Decisions being made by officials in your Administration will have far reaching and lasting effects. Over the last two years we have witnessed policy decisions based on incomplete and distorted information about our energy resources later having to be retracted and modified. As a result, the confidence of our citizens in the ability of Government to handle energy problems has been eroded. Public awareness of how transition in energy use will affect it, and the reasons behind government and industry action, will serve to solidify support for government decisions on energy use or cause even more fear and distrust among citizens of our Nation.

With personal and official esteem, I am

Truly,

Jennings Randolph.

Mr. RANDOLPH. Mr. President, I again compliment the Senator from Kentucky, as I commend many, many Senators in this body, who are not carping critics of the administration. In no way do we want to appear in that role, but we are at a point where the talk must stop and the action, too long delayed, must begin. Hopefully, this sense of the Senate resolution will stimulate the actions by those who are in authority, including the President, in moving forward to meet the problems of energy in this country.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

The PRESIDING OFFICER. The time of the Senator from Kentucky has expired.

Mr. HARRY F. BYRD, JR. Will the Senator from Vermont yield me 2 minutes?

Mr. STAFFORD. Mr. President, I am glad to yield 2 minutes to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I commend the Senator from Kentucky for this resolution. I think it is a very important one. It is vital that our Nation recognize the importance of coal. Generally speaking, our Nation has not done that, the administration has not done that. It is time now, as the Senator from West Virginia (Mr. Randolph) said a moment ago, for action. I think this resolution is aimed in that direction.

I not only am pleased to support it, Mr. President, but I ask unanimous consent that I be listed as a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. MUSKIE. Mr. President, I rise in support of the resolution Senator Huddleston has placed before the Senate. It is abundantly clear to each Member of this body that our Nation must turn to an increasing degree to coal to meet our energy demands. Use of coal as fuel for utility boilers should be encouraged.

That coal must be clean coal, and it can be. We know that uncontrolled coal development and combustion carries a very high price: Degraded air quality, unpredictable climate changes, acid rain, and related human health and ecological effects.

Increased technological efforts will have to be undertaken so that breakthroughs which will allow more coal to be burned with a minimum of adverse ecological and human health effects. We have coal, located in both eastern and western regions of the Nation, which can be used now. Our priorities should be to mine that clean coal now and continue our efforts to improve cleanup technology for future years when cleaner fuels are gone. We must implement presently available technological improvements and redouble our scientific effort to improve on pollution control technology.

This Nation has committed itself to a nationwide policy of maintenance and attainment of clean air. We have within the American scientific community the expertise to see that the clean air goals of the country can be achieved while at the same time fulfilling our Nation's energy needs. The people of the United States have the desire, the commitment, and the ability to develop coal in an environmentally sensible way in the future. Commitment to this resolution carries with it a commitment to the long-term health of the Nation's citizens.

Our attention has been riveted on energy supply and demand and development technology since the 1973 oil embargo. Since then we have tried many energy approaches. We have found that "full speed ahead without regard to recognized and significant side-effects," is not an acceptable solution to our energy problem. Let us join together to develop a sound energy policy which is also environmentally responsible.●

Mr. STAFFORD. Mr. President, as far as this side of the aisle is concerned, I know of no further request for time to speak. I am prepared to yield back the time of the minority.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the resolution.

The resolution (S. Res. 175) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 175

Whereas, this nation faces the worst energy crisis in its history;

Whereas, continued dependence on unstable supplies of foreign oil constitutes a serious threat to our national security;

Whereas, payments for oil imports, estimated to exceed $50 billion this year jeopardize our economic well-being;

Whereas, coal deposits already identified in the United States contain enough energy to supply the Nation's entire present energy demand for more than 500 years and it is estimated that other deposits, as yet unidentified, are equivalent in magnitude;

Whereas, coal can be burned directly or converted into gaseous or liquid or solid synthetic fuels;

Whereas, in spite of its abundance and versatility, coal production and coal burning facilities are not being used to capacity; and

Whereas, the International Energy Agency Governing Board by communique of May 22, 1979 agreed that greatly increased coal use is required to meet growing energy demand, and that this is both desirable and possible in light of the world's abundant coal reserves and the economic advantages which coal already has over oil in many energy markets: Now, therefore, be it

Resolved, That it is the sense of the Senate that this nation should pursue a policy of displacing a specified percentage of foreign oil with domestic coal; and that the President submit to the Congress within 60 days a target and plan which will, to the maximum extent practicable, achieve such displacement.

SOLID WASTE DISPOSAL ACT AMENDMENTS OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, S. 1156, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (S. 1156) to amend and reauthorize the Solid Waste Disposal Act.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, debate on this bill shall be limited to 1 hour, to be equally divided and controlled by the Senator from West Virginia and the Senator from Vermont; 20 minutes on any amendment in the first degree, and 10 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the following staff members of the Committee on Environment and Public Works be granted the privilege of the floor during consideration of S. 1156: John Yago, Philip Cummings, William Donovan, Wesley Hayden, Bailey Guard, Curtis Moore, Peter Rosenberg, Lee Fuller, Hal Brayman, and Jacqueline Schafer; also, Joan Hunziker of Senator BRADLEY's staff, and Jim Rock of Senator BENTSEN's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I yield myself 5 minutes.

We know that this bill is a more important measure, a much more significant measure, than many Members of Congress realize.

Mr. President, 3 years ago, we significantly broadened the horizon of environmental legislation with adoption of the Resource Conservation and Recovery Act.

That measure addressed for the first time in a comprehensive way a host of associated problems—the management of municipal and industrial waste, storage and disposal of hazardous and toxic materials, and the environmental and health threats posed by open dumping. It also established the basis for exploiting the potential for materials recycling and reuse and for conversion of once-worthless trash and garbage into valuable sources of scarce fuel and energy.

That legisaltion was purposely designed to deal with those issues as essentially local problems best lending themselves to local solutions, in most instances. For that reason, it provided for close Federal supervision only in those areas where that authority was necessary—such as for control of hazardous and toxic substances—and for maximum involvement of State and local authorities in planning for implementation of its other objectives.

The soundness of that approach has, in my opinion, Mr. President, been fully confirmed by experience with the program during the more than 30 months since it was enacted. That experience is pertinent to our consideration today of S. 1156, authorizing a 3-year extension of the Solid Waste Disposal Act.

So I hope you will allow me a few moments to talk about some of the major program developments before turning to details of the bill now before us.

I think it is fair to say there have been some very significant results at the grassroots level in a wide variety of ways and places even while the Federal aspects of the program were still evolving through the development phase.

That has happened primarily because of the remarkable degree to which the basic aims of the law have been correctly interpreted and its challenges recognized and accepted.

Business and industry have responded in an imaginative and highly effective way to the need for development of new and better methods for solving waste disposal problems and for materials recycling and energy conversion.

There has been substantial progress made in the search for improved land disposal technology needed for the urgently needed phaseout of open dumping.

That is, in itself, a problem of massive proportions. Consider that there are an estimated 20,000 municipally operated open dumps and perhaps as many as 100,000 used by industries which must be closed or converted to acceptable standards. Ponder the implications of the need to dispose of an estimated 375 million metric tons of industrial waste each year and to determine how much of it must be treated as hazardous substances.

Time will not permit any detailed discussion of all aspects of industrial involvement in the resource recovery efforts. I think it warrants mention, though, that there are now about 45 plants, either operating or in advanced stage of development, for materials recycling or solid waste recovery. They represent a total investment of approximately $1 billion and a wide range of new and sophisticated concepts.

Hundreds of communities around the country are already becoming directly involved in major cleanup and recycling efforts, either with municipal support or as ground-sponsored projects. One of the most successful of those programs is that being operated in the State of West Virginia by the Citizens Recycling Council.

Conceived as a strictly volunteer-run enterprise by a then member of the general assembly, Helene Rotgin, the activity has grown by leaps and bounds under her imaginative and forceful leadership. Starting with a single area, it now is operating in half a dozen locations in the State and at last report, had accounted for recycling of more than 6 million pounds of waste material of various kinds.

Activities of this type are producing double dividends. They are helping to clean up the litter that has blighted too much of the face of America. They are also changing the attitude of Americans toward the trash and garbage problem by demonstrating the economic and energy values which it can produce, as well as the environmental necessity of better solid waste management and reuse.

Individual States and many local areas are making significant progress in preparation and implementation of solid waste management plans and programs and responding in an encouraging way to the challenge to become involved in the whole national effort.

That, of course, is what the resource conservation and recovery program is all about. In a broad sense, it summarizes where we stand now in the effort to translate an ambitious new concept into an effective reality.

It is in that context, Mr. President, that I now speak of S. 1156.

Essentially, the bill we consider is designed to expand on the record of progress already attained under the program. It seeks to refine objectives rather than revising them and to accelerate the pace of implementation rather than altering in any significant degree the direction in which it is aimed.

I am happy to say that there is sufficient funding authority in the measure to achieve that basic purpose if it is allowed to stand. The allotment provides $164 million for fiscal 1980, $175 million for fiscal 1981, and $180 million for fiscal 1982.

The totals include $80 million in general authorization for each of the 3 years and specific authorizations of grant funds for hazardous waste management programs, development and implementation of solid waste plans, and rural community assistance.

The measure also authorizes an appropriation of $5 million to the Department of Commerce to encourage the commercialization of resource recovery technology. I proposed that provision with the conviction that it could contribute substantially to further progress in implementing a key feature of the solid waste program and I can report that this view is shared by the Department.

Secretary Kreps has, in response to questions I submitted on the subject, already provided me with a general outline of the program being drawn up to carry out the objective of the special appropriation and assures me that the advice and cooperation of the industrial community will be sought in outlining and carrying out details of the plan.

At least 25 percent of the funds appropriated under the act would have to be used for State and local solid waste planning and management activities.

This, Mr. President, together with the increase in authorizations under section 4008(a)(1) manifests the committee's strong intention that adequate support be provided for State and local efforts to implement the act. I stress, too, that a significant portion of these funds will be available to local governments and regional authorities—a recognition by the committee that the urban resource recovery program under section 4008(a)(2) is not sufficient by itself to meet the solid waste management planning needs of local governments.

Another factor which can contribute to the accelerated effort is the progress made by the Environmental Protection Agency in developing program rules and guidelines, particularly in the hazardous waste area. Virtually all of them have either been completed or will be finished by the end of this year.

Agency regulations figure in several of the amendments embodied in S. 1156.

One of those provisions gives EPA flexibility to chose what products would be purchased under the requirements of section 6002 of the act for use of recycled materials and to set the timetable for issuance of new specifications. That section would also extend the deadline for changing specifications to allow use of recycled materials from 18 months to 5 years.

Another provision in the bill temporarily suspends an EPA proposal under which oil and gas drilling fluids might be regulated as hazardous waste. The committee adopted an amendment calling for a 2-year study to determine the degree of need and impact of such a regulation before deciding if it should become effective.

The reported bill provides interim status, with protection against prosecution for failure to have a permit, to any facility which is in existence on the date of promulgation of regulations under subtitle C. The Agency is under court order to promulgate those regulations by December 31, 1979. The meaning of the phrase "in existence" can best be understood by reviewing the discussion of the definition of "commenced construction" in the report of the Committee on Environment and Public Works on the Clean Air Act Amendments of 1977 (S. Rept. No. 95–127). A facility need not actually be in operation and receiving wastes to be "in existence." It must, however, have obtained all necessary State, local, or Federal permits and clearances, and, being justified in relying on those permits, the owner or operator must have made a financial commitment which cannot be terminated, relocated, or modified without a substantial loss.

Section 7 of the reported bill amends section 3004 to make clear that in establishing performance standards the Administrator is authorized to distinguish between requirements appropriate for new facilities and those appropriate for facilities in existence on the date of promulgation of pertinent regulations. This amendment arose from the committee's concern that many treatment train lagoons which were recently constructed or modified to comply with permit or pretreatment requirements under the Clean Water Act might face extensive reconstruction under the proposed section 3004 regulations. The committee does not intend that existing lagoons built or modified to comply with the Clean Water Act be subject to substantially different design or location standards from those under which they were built, or be required to undergo substantial reconstruction, unless they are over a water supply aquifer, in an area with an unusually high water table that is used for water supply, or known to be leaking into ground water used for water supply. Requirements for ground water monitoring and limitations on migration of substances should be sufficient.

One issue not directly addressed in these amendments has come to my attention. In the public comments on the proposed regulations under subtitle C, many commentators suggested schemes for the classification of hazardous waste, under section 3001, according to the degree of hazard. Such an approach is not permissible or appropriate under section 3001, nor does the reported bill contain any amendment which would provide that flexibility. It would be unfortunate if the Environmental Protection Agency were to repropose any of the subtitle C regulations based on this "degree of hazard" theory. Much time would be lost in an area that urgently needs regulation, and the approach would be unlikely to withstand judicial challenge.

On the other hand, the performance standards to be established under section 3004 should contain whatever is necessary to protect health and the environment from the hazardous waste in question, in any particular disposal method or circumstance. This is the appropriate point at which the regulations can reflect the degree of hazard of a waste or a disposal practice. That flexibility can be accomplished within the current agency consideration of the proposed regulations and the comments received, in a manner consistent with the statute.

The authorization levels in the reported bill, particularly for 1980, were made large enough to accommodate the anticipated budget amendment which the Administration is transmitting. This budget amendment provides funds for a major enforcement initiative on hazardous waste disposal sites. The Environmental Protection Agency, with support from the Department of Justice, will conduct a major program to identify sites and develop abatement actions and enforcement cases against such sites. The newly enhanced abatement authority under section 7003 will be employed to its fullest, along with cleanup and emergency response provisions of sections 311 and 504 of the Clean Water Act.

I emphasize, Mr. President, that S. 1156 is not an all-inclusive bill.

It does not attempt to address the serious, complex, and pressing problems that have surfaced in recent months on the hazardous waste and toxic substances front, especially for inactive or abandoned sites.

Those dangerous conditions, of which the Love Canal and Valley of the Drums episodes are headline-catching examples, demand separate, searching inquiries.

They are going to receive that special attention in hearings by the Environment and Public Works Subcommittees on resource protection and environmental pollution during this month and in July. Separate legislation will be developed to whatever degree is necessary to deal effectively with those and related problems. The President is expected to submit legislation on this subject shortly. Several members of our committee and other Members of the Senate will also be introducing bills. We expect this area to be a major legislative effort by the committee in the coming months.

Meanwhile, however, we cannot delay on reauthorization of the solid waste program as a whole, so that its progress can continue without interruption.

S. 1156 is designed specifically for that purpose and serves it well.

I commend it to your attention, and that of our colleagues, Mr. President, and urge its prompt adoption.

I also ask you to join me in tribute to those who did so much to make it the excellent measure now before you.

Each member of the Resource Protection Subcommittee contributed in a very important way to the bill and deserve our thanks.

Without minimizing the role of any of them, however, I would pay special tribute to Subcommittee Chairman JOHN CULVER, to JOHN CHAFEE, and to the distinguished ranking minority member of the full committee, BOB STAFFORD, for their particular individual contributions.

Finally, credit must also be given to the subcommittee and full committee staff members who worked tirelessly and very effectively as they always do to make this a strong and meaningful bill.

Your vote today will be an acknowledgment of how well each of them—members and staff alike—succeeded in their efforts.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. RANDOLPH. I thank the Chair. I shall not ask for further time now but will be available later for comment.

Mr. STAFFORD. Will the distinguished Senator yield to me long enough for a short colloquy, on my time?

Mr. RANDOLPH. Yes; I shall be delighted.

Mr. STAFFORD. Mr. President, this Senator has long had a great interest in the need to control highway litter, particularly the littering of used bottles and cans. As the distinguished floor manager (Mr. RANDOLPH) knows, the controversy continues over the best way to control such litter. Some argue, as I do, that bottle deposit laws work best. Others contend that we need improved recycling systems.

This legislation continues the evenhanded approach of the past, avoiding any change in the present law.

It is my understanding that the States and localities retain the right, as in the past, to adopt deposit laws or other source reduction measures, if they wish, and this legislation neither encourages nor discourages that kind of local legislation. Is that also the understanding of the floor manager?

Mr. RANDOLPH. Mr. President, the Senator from Vermont (Mr. STAFFORD) is correct. This legislation does not make any change in the current Federal approach, which neither encourages nor discourages such local legislation.

Mr. STAFFORD. I thank the distinguished chairman of the committee, the majority floor manager of this measure.

On this side of the aisle, the real work of preparing this measure has been carried out by the ranking minority member of the subcommittee involved, the distinguished Senator from Rhode Island (Mr. CHAFEE). I yield all the remaining time of the minority and the managership of the bill to Senator CHAFEE.

Mr. CHAFEE. I thank the Senator.

Mr. President, I yield myself such time as I may need. I understand that we have 30 minutes on our side. Is that correct?

The PRESIDING OFFICER. Yes. The Senator has 27 minutes remaining.

Mr. CHAFEE. I ask the Chair to inform me when 8 minutes have expired.

Mr. President, S. 1156 was ordered reported by the Committee on Environment and Public Works on May 15, 1979. The bill is not intended to establish any new and broad legislative policies. In fact, it is mostly a reauthorization act. On the contrary, it attempts to make midcourse corrections which are necessary for the Resource Conservation and Recovery Act to operate smoothly and efficiently.

In the past several months, it has become increasingly apparent that the disposal of wastes is a severe problem for the United States. It seems that every week a new story surfaces concerning vast damage resulting from wastes which have been disposed of improperly in the past. The problem is most severe with regard to abandoned dumps, although some facilities still in operation present hazards. I would like to say that this bill addresses and attempts to solve the problem of abandoned waste sites, but it does not. In this bill, we do not go into the matter of abandoned sites. We try to prevent the disposal of wastes occurring in such a fashion that in the future there will not be abandoned sites around the country.

It is not corrective legislation but preventive legislation. This bill is not designed to clean up the Love Canals of the United States, but to prevent future Love Canals.

The problems of cleaning up abandoned waste sites and compensating the victims of those chemicals and other toxics released into the environment will be addressed by later legislation. The committee has held 3 days of hearings thus far and plans several more days, both in Washington and in the field. Following these, I hope that we can develop and report for consideration by the full Senate a bill to help the hundreds, perhaps thousands, of innocent people who have been or may be injured by hazardous substances.

As I have indicated the bill before the Senate now attempts to address the broader problems of waste disposal generally. The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, requires the Environmental Protection Agency to issue and enforce regulations governing the disposal of various solid wastes and hazardous wastes. In addition, the act provides assistance to States, municipalities, and regional authorities to aid them in planning and managing disposal facilities which meet the standards of the act.

Further, the act sets standards for Government procurement to encourage the purchase of recycled materials in order to decrease the volumes of waste streams and to make maximum use of such materials. In addition, the act gives the Commerce Department authority to develop specifications and to promote markets for recycled materials and for exchange of valued materials which might otherwise be discarded as waste.

S. 1156 does not attempt to change any of these policy mandates, but rather to smooth the process of implementing them. The vast majority of the amendments are perfecting in nature and merely minor modifications of the statute. Others, however, are departures from the policies established under the original statute. These concern me.

I am referring to a decision by the committee to exempt the muds, brines, and other wastes associated with the production of oil and gas from regulation under the hazardous waste provision of RCRA. I have two reservations concerning the committee's action.

The first concerns the amendments to exempt the oil and gas production wastes from regulations so that a study could be conducted as to whether they are hazardous to humans or to the environment. Some other purposes of the study are also set forth. It seems to me that a decision as to whether to regulate or not regulate these wastes and brines should have been left to the Administrator of EPA after a study is completed. Rather than do this, the committee chose to exempt these wastes entirely. Before these wastes can be brought back under the umbrella of regulation, both Houses of Congress must act affirmatively. In effect, we must pass a new law. I voiced my reservations about that in the committee, but they were overruled.

My second and most serious reservation is for the precedent which this establishes. The committee's action invites pleas from other industries to be excluded from regulation. Those pleas are already being heard. The pulp and paper industry, the electrical utility industry, the coal industry, the chemicals industry, and the hard rock mining industry are already seeking exemptions. Some of those proposed exemptions will be incorporated in amendments offered on the Senate floor in a few minutes. The decision to grant them will not be made on the merits of one particular case, but on the persuasion of the particular industry involved. The industry interests are standing in line asking for special favors.

Mr. President, with the exception of the one provision I have mentioned, I think the bill as reported by the committee is sound, and I urge its adoption.

Mr. BENTSEN. Mr. President, I would like to discuss section 7 of the bill with Senator RANDOLPH, the distinguished chairman of the Environment and Public Works Committee.

Mr. RANDOLPH. I am pleased to discuss this section with the Senator from Texas. Section 7 amends section 3004 of the act to authorize the administration to distinguish in establishing performance standards for hazardous waste treatment, storage, and disposal facilities between requirements for new facilities and those for facilities in existence when the regulations under this section are promulgated. Many treatment train lagoons have recently been constructed or modified to comply with permits issued under the Clean Water Act. This clarification of the Environmental Protection Agency's Administrator's authority to distinguish between new and such existing facilities will allow the Agency to establish appropriate performance standards for such treatment train lagoons to limit any ground water or other problems associated with them. Integration of permitting under subtitle C with that under section 402 of the Clean Water Act will help reduce such conflicting requirements in the future.

Mr. BENTSEN. As I recall the discussion of this section during committee consideration of this bill during the original proposal of an amendment by Senator DOMENICI, the members were particularly concerned that many industries and municipalities have built or modified waste water treatment facilities such as waste stabilization ponds or contaminated rain water retention basins or other facilities to comply with the permitting requirements of the Clean Water Act. Because of Environmental Protection Agency regulations proposed under the Resource Conservation and Recovery Act, these entities are now faced with the possibility of having to close these waste water treatment facilities and modify them or build new ones.

As I said during the committee's discussion of this problem, it would make Congress look a bit ridiculous to pass one law, require the expenditure of a great amount of money, and then pass another law requiring the same expenditure again. It was the committee's intent that the Environmental Protection Agency give special consideration to those facilities where construction or modification was initiated or completed prior to the promulgation of regulations associated with this bill. The committee would anticipate that the Environmental Protection Agency would require a far lower degree of control for these existing facilities then for new facilities.

Mr. RANDOLPH. The Senator is correct in his assessment of the committee action and intent.

Mr. BENTSEN. I have a further concern with the Environmental Protection Agency's hazardous waste regulations. As I said before this body on May 16, Congress should consider whether these regulations properly focus on degree of hazard. Rather than classify the potential hazard in particular situations, the Environmental Protection Agency is proposing a "pass-fail" test which would determine whether or not a waste is hazardous. This arbitrary "pass-fail" determination does not adequately recognize the varying degrees of hazard potential of wastes or varying circumstances of wastes ultimate containment.

As a consequence, volumes of wastes which would have little or no impact on health and the environment, could be ruled "hazardous" under the proposed Environmental Protection Agency regulations. Considering the hazardous waste disposal sites are already in short supply and that it is becoming more and more difficult to establish new disposal sites, I believe that Congress should instruct the Environmental Protection Agency to concentrate its regulatory efforts on those categories of wastes which represent severe and pressing hazards. Moreover, I would seriously recommend that the Environmental Protection Agency consider developing a system of categorizing hazardous wastes according to the degree of potential hazard to health and the environment. I believe that such discretion exists under the existing law.

Mr. RANDOLPH. I understand the Senator's concern on these issues. I agree that the Environmental Protection Agency should exercise the flexibility in the act to make performance standards for facilities reflect the potential risk of the waste in question and the particular disposal practice.

Mr. BENTSEN. Further, Mr. President, I would like to respond to my good friend from Rhode Island, on the questions of drilling mud and brine waters. In Texas, for example, over 700,000 wells have been drilled. We have some 270,000 of these wells in operation today. About 15,000 will be drilled this year. These drilling efforts have been well controlled by existing State agencies with regulations that were promulgated in 1969 to control the types of disposal practices that the Environmental Protection Agency has been attempting to address in its newly proposed regulations. Quite frankly, I would rather see the EPA address its efforts to those disposal problems that have not had the kind of control that existing State and Federal regulations have provided on the exploration and production of crude oil and natural gas. A study will be made under the committee bill. It will be made over the next 2 years, and I have confidence in Congress in being able to resolve the issues that may result from it, to face up to any problems that may be found.

I do not care to see that responsibility delegated to the EPA. We will have a chance to consider whatever that study may show, and if it shows problems that we have not seen and were not apparent in what was presented to us, then I will be quite willing to vote for regulations to try to correct them.

Mr. RANDOLPH. Mr. President, may I inquire as to the time on both the majority and minority sides at the present?

The PRESIDING OFFICER. The majority has 15 minutes and 45 seconds remaining; the minority has approximately 22 minutes remaining.

Mr. RANDOLPH. I know the Senator from Kentucky has an important amendment. I think that we should have that at this time and then I will offer an amendment later.

Mr. HUDDLESTON. I thank the distinguished manager of the bill.

UP AMENDMENT NO. 206

(Purpose: To suspend full regulation of utility waste as a hazardous waste during a study of the hazards of such waste)

Mr. HUDDLESTON. Mr. President, I send to the desk an amendment on behalf of myself, Mr. ROBERT C. BYRD of West Virginia, and Mr. FORD of Kentucky.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) for himself, Mr. ROBERT C. BYRD, and Mr. FORD, proposes UP Amendment No. 206.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 15, strike "paragraph" and insert in lieu thereof "paragraphs".

On page 5, after line 13, insert the following:

"(3)(A) Notwithstanding the provisions of paragraph (1) of this subsection, fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels shall be subject only to existing State or Federal regulatory programs in lieu of subtitle C until at least six months after the date required for submission of the study required under section 8002(o) of this Act and after promulgation of regulations in accordance with subparagraph (B) of this paragraph: *Provided*, That owners and operators of disposal sites for such wastes may be required by the Administrator, through regulations prescribed under authority of section 2002 of this act, (i) as to disposal sites for such wastes which are to be closed, to identify the locations of such sites through surveying, platting, or other measures, together with recordation of such information on the public record, so as to assure that the location where such wastes are disposed of is known and can be located in the future, and (ii) to provide chemical and physical analysis and composition of such wastes, based on available information, to be placed on the public record.

"(B) Not later than six months after completion and submission of the study required by section 8002(o) of this Act, the Administrator shall, after public hearings and an opportunity for comment, either determines to promulgate regulations under this subtitle for fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, or determine that such regulations are unwarranted. The Administrator shall publish his decision in the Federal Register accompanied by an explanation and justification of the reasons for it. In making the decision under this paragraph, the Administrator shall utilize the information developed or accumulated pursuant to the study required under section 8002 of this Act."

On page 15, line 24, strike "a new subsection" and insert in lieu thereof "two new subsections".

On page 17, after line 22, insert the following:

"(o) MATERIALS GENERATED FROM THE COMBUSTION OF COAL AND OTHER FOSSIL FUELS.—The Administrator shall conduct a detailed and comprehensive study and submit a report on the adverse effects on human health and the environment, if any, of the disposal and utilization of fly ash waste, bottom ash waste, slag waste, flue gas emission control waste, and other by-product materials generated primarily from the combustion of coal or other fossil fuels. Such study shall include an analysis of—

"(A) the source and volumes of such material generated per year;

"(B) present disposal and utilization practices;

"(C) potential danger, if any, to human health and the environment from the disposal and reuse of such materials;

"(D) documented cases in which danger to human health or the environment from surface runoff or leachate has been proved;

"(E) alternatives to current disposal methods;

"(F) the costs of such alternatives;

"(G) the impact of those alternatives on the use of coal and other natural resources; and

"(H) the current and potential utilization of such materials.

In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal and State agencies concerning such material and invite participation by other concerned parties, including industry and other Federal and State agencies, with a view towards avoiding duplication of effort. The Administrator shall publish a report on such study, which shall include appropriate findings, not later than twenty-four months after the enactment of the Solid Waste Disposal Act Amendments of 1979. Such study and findings shall be submitted to the Committee on Environment and Public Works of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives.".

Mr. HUDDLESTON. Mr. President, it is my understanding that this amendment has been cleared by the committee on both sides of the aisle.

I rise to offer an amendment to the Solid Waste Disposal Act Amendments of 1979, relating to the regulation of byproducts produced from the combustion of coal and other fossil fuels. The Senate is well aware of the interest of my State in the production and utilization of coal and the status of Kentucky as a leading producer of this vital fuel. The present and anticipated shortage of petroleum products once again has illustrated this Nation's overreliance on the dwindling supply of oil as a major source of energy, and our corresponding failure to utilize our most abundant energy source—coal.

Unfortunately, many Government regulatory programs have the effect of adding to this country's failure to fully utilize our coal resources. This conclusion was brought home to me as a result of recent hearings, which I chaired, on the impact of Government regulations on coal production and utilization. Over 3 days of hearings in Lexington, Ky., and Washington, D.C., on May 11, 14, and 15, I received testimony from over 70 persons from Government, coal producers, consumers, environmental organizations, and other interested parties. While not all these witnesses spoke with a single voice, the overall message was one of confusion and disarray with respect to Government policies on the use of coal.

Many Government regulatory programs in fact discourage the increased utilization of coal by inflicting overlapping and unduly burdensome regulatory requirements. One program which could produce such a result is that proposed by the Environmental Protection Agency under the authority of the Solid Waste Disposal Act to regulate the management and control of hazardous waste from generation to final disposal. Testimony at the hearings indicated that this regulatory program, crucial for protection of this Nation's environmental quality through the control of truly hazardous wastes, could well, because of its overly broad implementation, include the overcontrol of materials such as byproducts of coal and other fossil fuel combustion—fly ash, bottom ash, and flue-gas emission control waste—which have never been demonstrated to be environmentally harmful. Solid waste byproducts of the combustion of coal and other fossil fuels have been present in the environment of this country since fossil fuels were first used, and our practical experience with these byproducts has revealed no instance where the ash, slag, or sludge could be shown to have posed a substantial hazard to human health or the environment.

Nonetheless, the interim regulations proposed for these fossil fuel combustion byproducts, including an estimated $1 billion of additional costs over a 3-year period for the electric utility industry alone. These burdens and costs would be imposed despite the fact that EPA has admitted to a lack of information on the degree of hazard, if any, of these wastes, and recognizes that any potential hazards are relatively low.

One of the principal impacts of this overbroad regulatory program on fossil fuel combustion byproducts would be to severely discourage, if not eliminate entirely, their reuse. This would run counter to one of the principal aims of our 1976 amendments to this act, which was "to conserve valuable material" based on a finding that "millions of tons of recoverable material which could be used are needlessly buried each year." Enactment of the 1976 amendments—the Resource Conservation and Recovery Act—was intended to stimulate recovery and reuse of discarded materials and thereby lessen the Nation's solid waste burden. Certainly Congress did not intend to impose additional constraints on beneficial reuses of discarded materials—the likely result of imposition of the proposed regulations on fossil fuel combustion byproducts. These byproducts are presently used—at a growing rate—for such things as roadbeds, raw material in cement and other construction items, structural fills, and ice and snow control. Potentially promising is their use in strip mine reclamation and in a number of other beneficial uses.

I am offering this amendment based on my conviction that additional regulation—beyond that already imposed by existing State and Federal programs—is not warranted in light of the present lack of any demonstrated hazard or need. My amendment is simple: It calls for suspension of additional regulation under the Solid Waste Disposal Act pending a detailed study by EPA of the degree of hazard—if any—posed by these materials, the adequacy of present disposal practices, and current and potential reuse. Upon completion of the study, the Administrator would conduct a rulemaking to determine whether any regulation is called for under the Solid Waste Disposal Act.

This amendment recognizes that the regulatory program proposed by EPA would have a significant impact on the utilization of coal and other fossil fuels and the reuse of their combustion byproducts. Therefore, additional regulations on these materials would not be promulgated until further information is developed to determine whether a sufficient degree of hazard exists to warrant additional regulations, and whether existing State or Federal programs adequately control any such hazards. In the rulemaking proceeding provided for in my amendment, the Administrator should be extremely cautious in imposing any additional regulations on these materials, particularly in view of the resulting discouragement of coal use and the recovery and reuse of valuable fossil fuel combustion byproducts.

The amendment also requires that certain information be placed into the public record in the event that the study, and subsequent EPA rulemaking, indicate that corrective action would be necessary. Specifically, as to sites which are to be closed, information locating the disposal site and a chemical and physical description of the disposed materials are to be placed on the public record. The description of the chemical and physical composition could be obtained by utilizing available information from operating records on the composition of the raw materials utilized in the combustion process, and of the waste products being disposed of. Additional testing and analysis should be required only if adequate information is not available from other sources.

Mr. President, I ask unanimous consent that a fact sheet on this fossil fuel combustion byproducts amendment be printed in the Record.

There being no objection, the fact sheet was ordered to be printed in the Record, as follows:

FACT SHEET ON FOSSIL-FUEL COMBUSTION BYPRODUCTS AMENDMENT

EPA proposed regulations for the disposal of hazardous wastes pursuant to the Resource Conservation and Recovery Act on December 18, 1978. Those proposals would place utility wastes produced from the combustion of fossil fuels in a special waste category with interim disposal requirements pending a later rulemaking. In proposing the special waste category, EPA admits to a lack of information of the degree of hazard, if any, of these wastes and recognizes that any potential hazards "are relatively low" (43 Fed. Reg. 58991–92). However, the proposed regulations would impose extensive additional interim requirements on disposal of these wastes despite the lack of any demonstrated need.

While some of these requirements may be met at some existing facilities based on requirements of a particular site, imposing these requirements at all sites, both existing and new, will require expenditures of approximately $1 billion during the first three years of regulation. Specifically, the proposed regulations would, among other things require:

(1) Detailed chemical and physical analysis of the waste materials. Such analysis would be costly, time consuming, and unnecessary since plant operation requires analysis of incoming coal supplies. Such analysis provides adequate knowledge of the composition of the relatively homogeneous waste produced in the combustion process (Sec. 250.43(f)).

(2) Siting restrictions applied to "new sources" would prohibit location of disposal facilities in a 500-year floodplain, wetland, in an active fault zone, coastal high-hazard area, or "so as to be likely to jeopardize the continued existence" of a threatened or endangered species. Since steam electric power plants must be located near a source of water, the flood plain, wetlands, and coastal area prohibitions would eliminate many available plant sites and would rule out siting disposal facilities in almost the entire States of Florida and Louisiana. These prohibitions would force expensive and less environmentally desirable siting choices for new plants prior to any demonstration of need for these prohibitions. And, once these siting decisions have been made for major generating facilities, the consequences are effectively irreversible for the 40 year life of the facility (Sec. 250.43–1). Siting of utility generating facilities is presently regulated by numerous federal, state, and local statutes and regulations, including NEPA, the Clean Air Act, and the Federal Water Pollution Control Act, among others.

(3) Security provisions would require a 6-foot fence surrounding the disposal facility and a controlled access to prevent unauthorized entry. Such a requirement is unnecessary since many plant sites have controlled access or are located at sites where such entry is not a problem. While such requirements may be appropriate for highly toxic chemicals, they are questionable at best when dealing with these utility wastes (Sec. 250.43–2).

(4) Paperwork requirements would require voluminous and burdensome documentation of the movement and quantity of waste materials disposed of. Since most of these materials are transported directly to on-site disposal facilities, such paperwork requirements are questionable at best, and un-

necessary at worst. In particular, the manifest provision, to require a document to accompany each offsite shipment, would discourage, if not eliminate sale for reuse, such as in construction, roadbuilding, etc., of these waste materials. (Sec. 250.43–5)

(5) The post-closure provisions would require the owner/operator to provide for 20 years of post-closure care of the disposal facility. There is no demonstrated need for the measures required on their present implementation at utility waste disposal facilities. Any post-closure requirements should be considered in the study provided for in proposed Section 8002(o).

(6) Monitoring requirements are open-ended, expensive, and premature in light of EPA's ongoing study of utility waste disposal practices. The EPA study is designed to provide precisely the types of information required of each owner/operator by this provision, despite the absence of evidence of adverse effects.

The basis for regulation as a hazardous waste, including the special waste category, is provided by the test procedures proposed by EPA in Sec. 250.13. The extraction procedure proposed as part of the test for toxicity in determining "hazardousness" has been strenuously criticized by the scientific community as not reflective of the "real-world" environment. Use of this procedure produces overly inclusive results such as designating as "hazardous" such common substances as Coca-Cola and seawater. Therefore, use of the proposed test to determine "hazardousness" as a basis for regulation can be misleading in many cases and require regulation of substances which, by any rational standard, do not pose a "substantial . . . hazard to human health or the environment." (RCRA Sec. 1004(5)).

* * * * *

The amendment is proposed in order to suspend imposition of the regulatory requirements and costs discussed in the absence of any demonstrated need for them. The amendment would suspend the interim regulations and require an EPA study to determine the nature of the wastes involved, degree of hazardousness, if any, under present disposal and reuse practices, and the impact of regulation on reuse. Upon completion of the study, the Administrator would determine, based on the study and other information, whether regulation should be imposed on these waste materials. This amendment would, in no way, alter the existing regulatory requirements for disposal and reuse, but would prevent the imposition of additional and unjustified regulations prior to a demonstration of need.

Mr. HUDDLESTON. Mr. President, in further explanation of what this amendment will do, it simply requires that EPA withhold the imposition of pending interim regulations relating to the disposal of fossil fuel combustion byproducts, until such time as the agency can make a determination as to whether or not these products do in fact constitute a hazard to human health or the environment.

We are not asking that EPA come back and require us to pass a law based on their findings but rather that they go through the regulatory process only after they make a determination as to just what is really involved here and whether it is necessary to impose additional regulations.

● Mr. FORD. Mr. President, given the lack of documentation about the potential hazards of utility wastes from the combustion of fossil fuels, there is good reason for the Senate to approve the amendment offered by my colleague from Kentucky.

The Environmental Protection Agency itself has admitted that it lacks information on any potential hazard of these wastes and already has indicated that even the chance of any potential hazards is "relatively low."

To impose stringent new disposal requirements without benefit of sufficient knowledge and study would be not only premature, but would impose an unnecessary burden on consumers and industry alike.

The imposition of the proposed new regulations will require expenditures of approximately $1 billion during the first 3 years of regulation—a cost that without a doubt will be passed on to the consumer.

Another effect of these new requirements will be to discourage the continued use of coal at those facilities where other optional sources of energy to produce electricity are available. This is totally inconsistent with the administration's stated objective to encourage increased coal production and use.

Too often Government is accused—and rightfully so—of acting without proper foresight, and I think the proposed new EPA regulations fit that particular category. There is no evidence, no documentation, no infallible proof that wastes from the combustion of coal should be determined hazardous under the criteria set forth in the Solid Waste Disposal Act.

As Senator HUDDLESTON has noted, this proposed regulation would directly conflict with the goals and objectives of the 1976 Resource Conservation and Recovery Act.

There simply is not sufficient cause or reason to implement these regulations until additional study—as provided for by this amendment—is completed. It also should be pointed out that this amendment will in no way alter the existing disposal requirements, but would instead shift the burden of proof to the agency to substantiate its findings before issuing new regulatory requirements.●

This is part of the regulatory problem that we are confronted with in this country as we try to respond to the energy needs that we have at this time.

Mr. President, I withhold the remainder of my time.

Mr. RANDOLPH. Mr. President, I agree with the amendment of the Senator from Kentucky and, if it is in accordance with his desire, I wish to be a cosponsor of the amendment.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Senator from West Virginia be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. As far as I know, we have no objection to the amendment, but there may be objection.

Mr. CHAFEE. Mr. President, this goes to the point I was making earlier about the exemptions that we opened the gateway to in the committee when we exempted the oil and gas industry for the muds and brines that resulted from their drilling. However, in that act, as I mentioned earlier, a study was to take place and, at the conclusion of the study if Congress wishes to put the oil and gas waste muds back under the act, Congress must act.

This is different in that this does not exempt ash, slagwaste, bottom ash waste and various wastes from coal from the act. Instead it provides for study. There is no definite time limit for the study, as I see the amendment. Is that not correct? It just says the EPA is to conduct the study and within 6 months after the study come forward with their conclusions.

Mr. HUDDLESTON. I believe the requirement is that that study be complete within 2 years.

In any event, the ball is in the court of the EPA. Although EPA actually is opposed to this amendment, it seems to me that compared to the action we have taken previously, in fact, this does not exempt the coal industry waste from the act. I have no objection to it.

Mr. ROBERT C. BYRD. Mr. President, I am pleased to join the distinguished Senator from Kentucky, Mr. HUDDLESTON, as a cosponsor of this amendment.

Three important concerns are addressed by the amendment. First, it reduces the regulatory burden on utilities and others who burn coal. This would promote the better use of our most abundant energy resource. Second, those who produce coal will be able to do so without the fear that utility customers will be forced to use some other fuel because of environmental regulations. Third, the amendment provides for a thorough study of wastes from coal burning. Adequate information is a necessary first step toward sensible regulation. The amendment makes certain that any regulations on these wastes will be fully justified.

This amendment helps clarify a difficult regulatory problem. I urge my colleagues to support it.

Mr. RANDOLPH. The question is on agreeing to the amendment, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Is all time yielded back?

Mr. CHAFEE. On the amendment.

The PRESIDING OFFICER. On the amendment. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. I would like to send an amendment to the desk, but before I do, I yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

UP AMENDMENT NO. 207

(Purpose: To provide a suspension of regulations for geothermal drilling comparable to that for oil and gas drilling)

Mr. DURENBERGER. I thank the Senator. I send an unprinted amendment to the desk for myself and Senator DOMENICI as a cosponsor.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER), for himself and Mr. DOMENICI, proposes an unprinted amendment numbered 207.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"On page 3, line 19, after "or natural gas" insert "or geothermal energy".

On page 4, line 24, after "or natural gas" insert "or geothermal energy".

On page 16, line 4, after "GAS" insert "or GEOTHERMAL ENERGY".

On page 16, line 8, after "or natural gas" insert "or geothermal energy".

On page 16, line 12, after "oil and gas" insert "and geothermal".

On page 17, line 3, after "natural gas" insert "or geothermal energy".

Mr. DURENBERGER. Mr. President, I rise in support of S. 1156 and will speak to proposed amendments to the Solid Waste Disposal Act.

My amendments would require that geothermal energy shall also be in the study on crude oil and natural gas which is to be conducted by the Administrator of the Environmental Protection Agency.

The amendments are simple, straightforward, and consistent with what I believe our national energy policy is all about, or should be. Simply put, if we are to reduce our hostage dependency on imported oil and gas, then we must increase our domestic production of these resources, and more importantly, we must do all we can to develop alternative energy sources.

Geothermal energy is one such alternative. The drilling muds, wastes, and their disposal are characteristically the same as those of oil and natural gas. Therefore, I ask that the treatment of geothermal energy under law be made consistent with that of oil and gas. My amendments provide for just treatment and consideration of the problems and potential contributions of this valuable resource.

Finally, I wish to make it clear that my support of the original amendment and those I am proposing today which deal with geothermal energy in no way lessens my dedication to protecting the environment. However, I am concerned that in our zealousness to protect the environment, there has been too much haste and too little thoughtful consideration of the need to prepare regulations which would both preserve the environment and at the same time allow for the rational and necessary development of our energy resources.

The 2-year study should allow the Administrator the time needed to adequately assess the potential environmental impacts, identify and evaluate the appropriate solutions, and prepare regulations which are consistent with our need to develop energy resources which are essential to our very way of life, while at the same time protecting our environment for both today and the future.

I appreciate very much the efforts of the chairman of the committee, Senator RANDOLPH, for his support and cooperation in developing these amendments. I thank the Chair.

Mr. RANDOLPH. The amendment offered by the Senator from Minnesota is in agreement with the thinking, I believe, of both the minority member and certainly of myself. I do not believe there is any difficulty and, frankly, I like the statement of the Senator in which he says that in no way does he withdraw from the need now to remember that we have obligations in the future for environmental qualities that need to be built into our very structure; is that correct?

Mr. DURENBERGER. Yes; I thank the Senator very much.

Mr. RANDOLPH. Fine.

We have no objection.

The PRESIDING OFFICER. Is all time on the amendment yielded back?

Mr. CHAFEE. We have no objection and we yield back the remainder of our time.

Mr. DURENBERGER. I yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. CHAFEE. Mr. President, I must say I believe that is the first amendment the Senator from Minnesota has presented, and it flew right through, so I congratulate him on his sterling performance. [Laughter.]

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 208

(Purpose: Relating to Retention of State Authority)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 208:

On page 9 after line 10, insert the following new section and renumber succeeding sections accordingly;

SEC. . Section 3009 of the Solid Waste Disposal Act (42 U.S.C. 6929) is amended by adding at the end thereof the following new sentence: "Nothing in this title shall be construed to prohibit any State or political subdivision thereof from imposing any requirements, including those for site selection, which are more stringent than those imposed by such regulations."

Mr. BUMPERS. Mr. President, the amendment I offer to the Solid Waste Disposal Act would permit States to establish standards more stringent than Federal standards with regard to the selection of sites for the disposal of hazardous waste material.

We are entering a period in the history of this country where disposal of hazardous wastes is becoming increasingly critical. In the past, we have neglected it to our dismay as has been reflected at Love Canal and other places around the country.

Hazardous waste disposal is one of the most severe problems facing local and State governments. It is no longer a problem that occurs somewhere else. It can happen in each of our States, and it has.

An article appeared in the New York Times magazine on January 21, 1979, describing the horrors of ground pollution. According to the article, Federal officials now suspect that more than 800 makeshift underground storage sites have the potential of becoming as dangerous as those at the Love Canal, in New York, and some are probably already severely hazardous.

In addition, the article points out that springs and wells are the main drinking reservoirs in 32 States.

It states:

> Chemical landfills never lie dormant. When water penetrates buried wastes, it removes soluble components, producing a grossly polluted liquid leachate that extends out from the dump . . . Leaching can continue, at any given site, for more than 100 years, picking up dangerous, stable materials and spreading them around a surprisingly large area . . . In humid regions, where rainfall exceeds evaporation, the problem is most acute: The more water in the ground, the more leaching.

The incident at Love Canal is not an isolated one. According to the article, each year, several hundred new chemical compounds are added to the 70,000 that already exist in our country. I ask unanimous consent that the article entitled "Love Canal, U.S.A." be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUMPERS. Mr. President, EPA still does not know how much hazardous waste we are generating in this country every year, nor how to get rid of it.

A recent GAO report on hazardous waste management programs was even more discouraging. It found that existing hazardous waste regulatory programs and programs that will be implemented in the near future, when compared with the volume of such waste to be disposed of, cannot adequately safeguard public health and the environment. The GAO report also indicates that State and EPA officials lack the knowledge to determine the volumes of hazardous waste. In one large State, for example, State officials estimated 20 million tons were generated each year but could account for disposition of only 2.2 million tons.

According to the Environmental Protection Agency, industry will generate an estimated 56 million metric tons of hazardous waste annually by 1980. About 34 million metric tons—61 percent—will come from industrial sources such as chemical firms. Hazardous waste are produced in all areas of the country; the annual volume in 1975 ranged from about 11,000 metric tons in South Dakota to about 4 million metric tons in New Jersey. EPA estimates that by 1980 the volume of hazardous waste will range from about 20,000 metric tons in South Dakota to about 4.6 million metric tons in New Jersey. Hazardous waste generation is expected to continue to increase from 4 to 6 percent each year. The following table will indicate by State the estimated hazardous waste that will be generated by States by 1980:

Estimated hazardous wastes generated by States in 1980

[*Thousands of metric tons*]

Alabama	850
Alaska	40
Arizona	180
Arkansas	420
California	3, 760
Colorado	300
Connecticut	950
Delaware	430
District of Columbia	40
Florida	1, 220
Georgia	970
Hawaii	40
Idaho	230
Illinois	3, 840
Indiana	2, 020
Iowa	540
Kansas	440
Kentucky	900
Louisiana	1, 360
Maine	200
Maryland	840
Massachusetts	1, 290
Michigan	2, 640
Minnesota	690
Mississippi	390
Missouri	1, 480
Montana	60
Nebraska	190
Nevada	50
New Hampshire	170
New Jersey	4, 640
New Mexico	80
New York	3, 500
North Carolina	1, 690
North Dakota	30
Ohio	3, 840
Oklahoma	300
Oregon	290
Pennsylvania	3, 710
Rhode Island	240
South Carolina	1, 350
South Dakota	20
Tennessee	2, 480
Texas	3, 580
Utah	140
Vermont	60
Virginia	1, 550
Washington	540
West Virginia	970
Wisconsin	1, 210
Wyoming	20
Total	56, 700

EPA projects, that when the Resource Conservation and Recovery Act is implemented, 50 to 60 additional sites for commercial use will be needed nationally for proper waste handling, treatment, and disposal. The act provides States with a framework for implementing hazardous waste treatment and disposal programs. However, it is inadequate in that it does not give States the opportunity to set standards more stringent than those provided by Federal authorities in establishing sites for waste disposal facilities. My amendment to the Solid Waste Disposal Act corrects this deficiency by allowing the States to adopt standards more stringent than the Federal standards when selecting sites for the disposal of hazardous waste materials.

In my State, a site for the disposal of hazardous waste, near the community of Hope, Ark., may meet Federal standards and, thus, qualify as a location for a hazardous waste facility. I believe the States should be allowed to adopt standards more stringent than Federal standards, in order to adequately protect the citizens of our States.

Mr. President, I am not going to belabor the point. My amendment is a very simple one: It simply provides that States may have more stringent standards than the Federal standards. The law now provides that State laws may not be less stringent, and this would be an addendum to that section of the act.

Exhibit 1

Love Canal, U.S.A.

(By Michael H. Brown)

In the years since Rachel Carson's "silent Spring," a great national concern has arisen over air and water pollution. It now appears that pollution seeping into the earth itself has gone largely unnoticed and in some cases may be far more dangerous as a direct cause of cancer and other severe human illnesses. "Toxic chemical waste," says John E. Moss, who was chairman of the House Subcommittee on Oversight and Investigations before his retirement this month, "may be the sleeping giant of the decade." Not until the nightmare of the Love Canal unfolded in Niagara County, N.Y., last summer did Americans become aware of the vast dangers of ground pollution. But the problem since then seems only to be worsening.

Each year, several hundred new chemical compounds are added to the 70,000 that already exist in America, and the wastes from their production—nearly 92 billion pounds a year—are often placed in makeshift underground storage sites. Federal officials now suspect that more than 800 such sites have the potential of becoming as dangerous as those at the Love Canal and some are probably already severely hazardous to unsuspecting neighbors. The problem is how to find them and how to pay the enourmous costs of cleaning them up before more tragedy results. So far, Federal, state and local governments have been, for the most part, reluctant to face the issue.

Sometime in the 1940's—no one knows or wants to remember just when—the Hooker Chemical Company, which is now a subsidiary of Occidental Petroleum, found an abandoned canal near Niagara Falls, and began dumping countless hundreds of 55-gallon drums there. In 1953, the canal was filled in and sold to the city for an elementary school and playground (the purchase price was a token $1), and modest single-family dwellings were built nearby. There were signs of trouble now and then—occasional collapses of earth where drums had rotted through, and skin rashes in children or dogs that romped on the field—but they were given little thought until the spring of 1978. By then, many of the homes were deteriorating rapidly and were found to be infiltrated by highly toxic chemicals that had percolated into the basements. The New York State Health Department investigated and discovered startling health problems: birth defects, miscarriages, epilepsy, liver abnormalities, sores, rectal bleeding, headaches—not to mention undiscovered but possible latent illnesses. In August, President Carter declared a Federal emergency. With that, the state began evacuating residents from the neighborhood along the Love Canal, as it is named after the unsuccessful entrepreneur, William Love, who built it in 1894. Two hundred homes were boarded up, the school was closed and the nation got a glimpse of what Senator Daniel Patrick Moynihan called "a peculiarly primitive poisoning of the atmosphere by a firm."

But it was clearly not so peculiar. Since then, new dumping grounds have been reported in several precarious places. Under a ball field near another elementary school in Niagara Falls health officials have found a landfill containing many of the same compounds; it was discovered because the ball field swelled and contracted like a bowl of gelatin when heavy equipment moved across it. Officials have discovered, too, that Hooker disposed of nearly four times the amount of chemicals present in the Love Canal several hundred feet west of the city's municipal water-treatment facility, and residues have been tracked inside water-intake pipelines. Across town, near Niagara University, a 16-acre Hooker landfill containing such killers as Mirex, C–56 and lindane—especially chemicals that were used in the manufacture of pest killers and plastics—has been found to be fouling a neighboring stream, Bloody Run Creek, which flows past drinking-water wells. About 80,000 tons of toxic waste are said to have been dumped there over the years.

Still worse, as the company recently acknowledged, Hooker buried up to 3,700 tons of trichlorophenol waste, which contains one of the world's most deadly chemicals, dioxin, at various sites in Niagara County between 1947 and 1972. Investigators immediately sought to determine whether dioxin had seeped out and, indeed, the substance was identified in small quantities within leachate taken from the periphery of the Love Canal, an indication that it may have begun to migrate. There are now believed to be an estimated 141 pounds of dioxin in the canal site—and as much as 2,000 pounds buried elsewhere in the county. The Love Canal is above the city's public water-supply intake on the Niagara River but a quarter of a mile away; the other sites are closer—in one case within 300 feet—but downstream of the intake. However, the Niagara flows into Lake Ontario, which Syracuse, Rochester, Toronto and several other communities make use of for water supply. Although health officials regard the dioxin discovery as alarming, they do not yet consider it a direct health threat because it is not known to have come into contact with humans or to have leached into water supplies. Academic chemists point out, however, that as little as three ounces of dioxin are enough to kill more than a million people. It was dioxin, 2 to 11 pounds of it, which was dispersed in Seveso, Italy, after an explosion at a trichlorophenol plant: Dead animals littered the streets, hundreds of people were treated for severe skin lesions and 1,000 acres had to be evacuated.

Two weeks ago, New York State health officials began to examine and conduct studies of residents and workers in the Niagara University area because of the dioxin concentrations. One local physician there expresses concern over an apparently high rate of respiratory ailments, and union officials say that workers in industries alongside the landfill are suffering from emphysema, cancer, and skin rashes. Cats have lost fur and teeth after playing near Bloody Run, some young goats have died after grazing on its banks, and the creek is devoid of all aquatic life.

So far, there are at least 15 dumps in Niagara County alone that have been discovered to contain toxic chemicals. But no one in the county, or anywhere else in the country, is sure exactly where underground dumpsites are. Of the thousands of covered pits suspected of containing toxic wastes in the United States, the U.S. Environmental Protection Agency says it is a fair estimate that as many as 838 are, or could become, serious health hazards. But the machinery to carry out the kind of monitoring and ininspecting now being done in Niagara County does not generally exist elsewhere. And the E.P.A., internal memorandums reveal, has not been eager to set it up because of the extraordinary expense and political problems that would inevitably present themselves. In fact, one regional official was reprimanded for trying to get the type of action that must be taken to guard against another Love Canal.

In at least one known case there are symptoms disturbingly similar. Just 400 feet from a residential area in Elkton, Md., is a disposal area that, according to E.P.A. files, was used both by the Galaxy Chemical Company and by a suspected, unidentified midnight hauler. Residents have complained of sore throats, respiratory problems and headaches, all reminiscent of the early days of trouble at the Love Canal. One local doctor contends that the cancer death rate in the area is 30 times greater than elsewhere in the county, though his report is the subject of much controversy. So far, no evidence of direct human contact with leachate is known to have occurred there, as it did at Niagara Falls; nor have residents demanded evacuation.

In Rehoboth, Mass., 1,000 cubic yards of resins left over from a solvent redistilling process were recently ordered removed from a dumpsite that the owner had placed within 10 feet of his own house. In Lowell, Mass., some 15,000 drums and 43 tanks of assorted toxic wastes are at present being removed from a site within 200 yards of homes, and chemicals leaking from the drums are appearing in sewers and a nearby river.

Authorities in Michigan claim that the beleaguered Hooker Company has dumped C-56 into sandy soil, contaminating public wells, which have been closed off, and polluting White Lake, near Montague; the state is trying to force the company into a $200 million cleanup. Hooker has also been involved in lawsuits filed by maimed workers in Hopewell, Va., who became sterile and lost their memories after exposure to Kepone, a pesticide that Allied Chemical and Hooker jointly made and packaged.

The U.S. Comptroller General, at the request of Congress, has mapped out stretches through much of the East, Texas and Louisiana and parts of Oregon, Washington and California as regions with the greatest potential for trouble. "Texans are only now becoming concerned about solid-waste disposal," says Doris Ebner, environmental manager for the Houston-Galveston Area Council. "What will happen is that there will be some disaster to make a flash." But serious ground investigations are still not given a top priority.

The tendency not to connect health problems with ground pollution has certainly been widespread. Before last summer, ground pollution was never a major concern in Niagara Falls, either. Because that city is relatively small and has a cheap source of hydroelectricity for chemical firms, most of its people have lived their whole lives on top of or near the hidden strains and goo of industrial pollution. Children near the chemical dumpsites often played with phosphorescent rocks, which would explode brilliantly when they were thrown against concrete. Direct on the old canal had turned white, yellow, red, blue and black; rocks were orangish; and cesspools of çaustic sludge gushed from several locations. These manifestations were viewed more as a matter of esthetics than as a health problem.

But indiscriminate dumping, dumping whatever wherever, has been a national way of life. Though American manufacturers of plastics, pesticides, herbicides and other products that produce huge amounts of toxic wastes are beginning to deposit them in centralized landfill sites—which may insure a closer inspection—the common practice has been to dispose of residues and forget about them. This has been true of private individuals as well, from independent haulers to local farmers.

Farmlands, because they make for nicely isolated dumping grounds, have posed special problems. In 1974, a 100-square-mile pastureland around Darrow and Geismar, La., was found to be contaminated with hexachlorobenzene (HCB), which was produced by the volatilization of wastes dumped into pits. HCB, a byproduct of the manufacture of carbon tetrachloride and perchoroethylene, causes liver deterioration, convulsions and death. During a routine sampling of beef fat by the U.S. Department of Agriculture as part of the Meat and Poultry Inspection Program, 1.5 parts per million of HCB was tracked in the meat of a steer belonging to W. I. Duplessis of Darrow. Further samplings showed that cattle were carrying the same toxin. Soil and vegetation were likewise tainted. The dumps were covered with plastic and dirt, and 30,000 cattle were ordered destroyed. The cattle were fed special diets instead of being slaughtered, however, and moved away from the area; their levels receded to an "acceptable" point, and 27 were deemed unmarketable and killed. No one can be sure how many cattle, grazing near dumpsites elsewhere, have made it to the dinner table undetected.

Several years ago in Perham, Minn., 11 persons suffered arsenic poisoning from leaching grasshopper bait. Those struck with contamination worked for a building contractor who drilled a well 20 feet from where bait had been buried by a farmer 30 years before. Severe neuropathy cost one of the employees the use of his legs for six months.

Much of past dumping has been plainly illegal. New Jersey, one of the most industrialized states and one whose cancer rate has been found to be substantially higher than the national average, has been a favorite spot for midnight haulers, or "scavengers," paid to cart off wastes and unload them in swamps, sewers, pits or abandoned wells to avoid paying for disposal at approved sites. In Coventry, R.I., officials found an illegal and highly toxic dump on a pig farm owned by a convicted gambler. It contained one suspected cancer-causing agent, carbon tetrachloride, and another compound that will ignite at 80 degrees Fahrenheit.

More blatant violators have been known simply to loosen tank-truck valves and get rid of contaminants along roadways in the dark of night. The owner of a New York company that reprocesses electrical transformers is currently on trial on charges of deliberately spilling out polychlorinated bipenyls (PCB's) from his truck onto 270 miles of a highway in North Carolina, and 700 residents of the Warrenton, N.C., area recently protested a state plan to create a new dump there for some 40,000 cubic yards of the tainted soil.

In other instances, dangerous conditions have been brought about more innocently. In Missouri, dioxin was discharged into waste oil and the oil was later sprayed on three race tracks and a farm road to control dust. Some 63 appaloosa and quarter horses, 6 dogs, 12 cats and a large number of birds died as a result. A child who frequently played on the dirt road was rushed to the hospital with severe bladder pains and urinary bleeding.

Ground pollution's greatest threat is to the national drinking supply. More than 100 million Americans depend upon ground water as the major source of life's most vital fluid. Springs and wells, as opposed to rivers and lakes fed by running streams, are the main drinking reservoirs in 32 states. Florida's population for example, is 91 percent dependent on ground water. Pouring tons of chemicals into the earth can be comparable, in an indirect way, to disposing of poisonous wastes upstream from a municipal river intake.

Chemical landfills never lie dormant. When water penetrates buried wastes, it removes soluble components, producing a grossly polluted liquid leachate that extends out from the dump. Therein resides the danger. Leaching can continue, at any given site, for more than 100 years, picking up dangerous, stable materials and spreading them around a surprisingly large area. E.P.A.'s Office of Solid Waste has guessed that the average landfill site, about 17 acres in size, produces 4.6 million gallons of leachate a year if there are 10 inches of rainfall. Last spring the Comptroller General reported that a billion gallons of ground water had been polluted near an Islip, L.I., landfill. A contaminated aquifer that was a mile long and 1,300 feet wide spoiled some drinking-water wells, which had to be sealed off and the homes connected to another source. In human regions, where rainfall exceeds evaporation, the problem is most acute: The more water in the ground, the more leaching occurs.

Several years ago the Union Carbide Corporation contracted with an independent hauler to remove an unknown number of drums from its Bound Brook, N.J., facility. Inside were wash solvents and residues from organic chemical and plastics manufacture. Instead of going to the Dover Township landfill, much of the waste was dumped on a former chicken farm in the Pleasant Plains section of Dover. Mr. and Mrs. Samuel Reich had leased the land to Nicholas Fernicola on the assumption, according to case files, that he was in the drum-salvaging business. When the Reichs smelled pungent odors emanating from the property, they investigated the land and found thousands of containers, both buried and strewn about the surface. Additional drums were discovered in a wooded area near the Winding River, four miles away. The drums were hauled away under court order, but the damage had been done. Sufficient quantities of chemicals had already entered the environment, and early in 1974 residents of the area began tasting and smelling strange things in their water. Dover's Board of Health, in emergency action, passed an ordinance forbidding the use of 148 wells and ordering that they be permanently sealed. Although there were no documented cases of illness as a result, it is difficult to determine how many residents had consumed potentially harmful substances before the odors were noted. Equally difficult is determining where and how far the leachate traveled.

The Government itself has been the cause of serious ground-water contamination. Sloppy storage at the Rocky Mountain Arsenal, formerly an Army production center for chemical-warfare agents, led to the contamination of 30 square miles of shallow aquifer near Denver and, in turn, to the abandonment of 64 wells used for drinking water and irrigation. Waterfowl in the area died, and poisoned soil turned sugar beets and pasture grasses a sickly yellow. An estimated $78 million will be needed to complete the proposed cleanup, but there is no way of recovering the chemicals that have already escaped. One irrigation well that shows traces of contamination is only a mile south of the city of Brighton's public well field. The arsenal dug an injection well 12,045 feet deep for an immediate disposal, but such facilities do little to insure against long-range migration; as it turned out, the well caused earth tremors and had to be closed.

In 1976, President Ford signed into law the Resource Conservation and Recovery Act. It may become an important piece of legislation, if the E.P.A. decides to implement it. This new law provides for a hazardous-waste regulatory program, control of open dumping, an inventory of disposal sites, and grants and programs for communities to set up solid waste management systems. The passage of that law was provoked by the fact that toxic-waste disposal not only has gone unwatched, but is indeed increasing at an alarming rate. The chief reason for the increase is, paradoxically, the imposition of air and water pollution regulations that have stepped up the practice of burying materials in the ground. Issuance of new disposal regulations was supposed to have been made within 18 months of the President's signature, but today the E.P.A. is predicting that they will not be ready before 1980.

Spurred by the Love Canal crisis, Representative Moss's House subcommittee met last fall to determine what was happening to the law. It was a discouraging hearing. Hugh B. Kaufman, an E.P.A. official assigned to look for landfill problems, told the Congressmen that the agency's policy has been to avoid finding such situations. "There were no guidelines in this memorandum [on landfills] for the regional office to alert the public to the potential dangers," Kaufman testified. "In fact, the memo further instructed the regions not to find new problem sites because they might be required to provide this information to Congress and the public." On July 16, according to Mr. Kaufman, Steffen Plehn, head of E.P.A.'s Office of Solid Waste, told him to stop looking for imminent hazards. Mr. Plehn admitted that Mr. Kaufman's statement was essentially true, but the reason, he said, was that jurisdiction for such matters was being defined under the agency's enforcement division while his unit was culling a "data base." The problem, according to Mr. Plehn, was bureaucratic.

As long ago as April 20, 1978, and more than three months before officials recognized the Love Canal as an emergency, Mr. Kaufman wrote John P. Lehman, E.P.A.'s Hazardous Waste Management Division director, and said it was "imperative" that dumpsites across the country be cleaned up immediately. "We are receiving reports that, for the most part, the state of hazardous-waste management in the U.S. is as bad or worse than it was when Congress passed [the Resource Conservation and Recovery Act]," Mr. Kaufman wrote, "I recommend that we shift our policy emphasis and not close our eyes to the fact that hazardous-waste facilities located in many states are presenting hazards to the public." Neither E.P.A. officials nor regional offices paid much attention to that advice. When Mr. Lehman warned E.P.A.'s regional office for Ohio that a chemical facility in Akron might be an "imminent hazard" (it appeared to be leaking chemicals into drinking wells), the office sent back a pointed note reprimanding him for "loosely" using the term "imminent hazard" and stating that the region's Air and Hazardous Material Division did "not intend to send any person from this office out to inspect the facility at this time." At about the same time, Mr. Plehn wrote Mr. Lehman a memorandum suggesting that he "put a hold on all imminent-hazard efforts."

But the agency cannot be held as the sole culprit. Its large volume of responsibilities—from car emissions to microwaves—is an awesome task. And it often gets little help from state, county and city agencies. The Niagara County health department and the city government did not consider the Love Canal situation an emergency, for example, and, in fact, played down the problem, and the New York State Department of Environmental Conservation did little in the way of investigation. Not until the state Department of Health stepped in was matter regarded as urgent.

Much of the randomness with which chemical companies have chosen their dumping grounds over the years will no doubt continue until the Resource Conservation and Recovery Act is implemented. Even then the problem will not go away. There is simply no such thing as a totally secure, self-contained landfill, a fact even those in the business admit. "There is no proof a landfill, 100 years from now, won't leach," says Paul Chenard, president of SCA Chemical Waste Services Inc. He says disposal methods have been improved. Pits can be lined with a special plastic. Waste-disposal firms can excavate on clay-based soil, compact the ground, install standpipes to pump out leachate, and slope the final cover to minimize rain infiltration. But the state of the art is new and no one issues guarantees. Many evironmentalists feel that only when there is "cradle-to-death" legislation demanding that wastes be rendered innocuous before disposal will the problem be under control, and there are no signs of that happening in the near future.

An E.P.A. memorandum has listed more than 32,254 storage, treatment and disposal sites, both on and off industrial premises, as existing in the nation. In an earlier breakdown, California ranked first, with 2,985; Pennsylvania, New York, Ohio and Texas were not far behind. Those statistics, officials emphasize, refer only to *known* sites. And even at the known sites the quality of the treatment is questionable. One estimate is that less than 7 percent of the 92 billion pounds of chemical waste generated each year receives proper disposal. After working in Nigara Falls for several months, Dr. David Axelrod, New York State Health Commissioner, says the overall problems of improper disposal and treatment "are incredibly immense." The Hooker Company—which contends that it did not know the possible dangers and was simply disposing of wastes as everyone else did—is already faced with claims against it in excess of $2 billion, and citizens' demands upon the state are only just beginning. New discoveries of dioxin are prompting new demonstrations, new arrests of demonstrators and new requests for evacuation and relocation. Patricia Pino, whose home in Niagara Falls is now unmarketable, was one of those arrested. "We request a reprieve from death row," she telegraphed Gov. Hugh Carey. "We are innocent of any crime." Her two children have liver abnormalities, and she has learned that she herself has cancer.

Mr. STAFFORD. Mr. President, will the Senator yield for a question?

Mr. BUMPERS. Certainly.

Mr. STAFFORD. I wonder if the Senator would care to have a cosponsor on his amendment. I would be delighted to be a cosponsor of the amendment.

Mr. BUMPERS. Mr. President, let the record show that the distinguished Senator from Vermont (Mr. STAFFORD) asks to be made a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, we have no objection to the amendment.

Mr. RANDOLPH. Mr. President, the amendment, which we have considered carefully before coming to the floor today with the able Senator from Arkansas, we think, rather than drawing away from the purpose of the act, focuses attention upon a very critical subject; and, like the Senator from Vermont, I now ask the privilege, if agreeable, of also being added as a cosponsor of the amendment.

Mr. BUMPERS. I thank the Senator very much. I am honored to have the distinguished Senator from West Virginia (Mr. RANDOLPH) as a cosponsor of my amendment.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. BUMPERS. I yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

UP AMENDMENT NO. 210

(Purpose: To provide coordination between permits for coal mining wastes issued by the Office of Surface Mining and permits which may be issued under the Solid Waste Disposal Act)

Mr. RANDOLPH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH), for himself, Mr. HUDDLESTON, Mr. FORD, and Mr. ROBERT C. BYRD, proposes an unprinted amendment numbered 210.

Mr. RANDOLPH. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 9, insert the following new section and renumber succeeding sections accordingly:

"SEC. 3(a) Section 1006(b) of the Solid Waste Disposal Act is amended by inserting 'the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 and following),' before 'and such other Acts of Congress'.

"(b) Sections 501(a)(B), 503(b)(2), 516 (b)(4), and 713 of the Surface Mining Control and Reclamation Act of 1977 shall be deemed to pertain to requirements under the Solid Waste Disposal Act as well as the authorities enumerated therein."

On page 6, after line 4, insert the following new section and renumber succeeding sections accordingly:

"SEC. 10. Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection:

'(f) COAL MINING WASTES AND RECLAMATION PERMITS.—In accordance with the requirements for integration under section 1006(b) of this Act, no individual permit shall be required under this title for any coal mining wastes or overburden covered by a permit and reclamation plan issued or approved under the Surface Mining Control and Reclamation Act of 1977. The Administrator is authorized to issue a general permit under this section, consistent with and reflecting the requirements of the Surface Mining Control and Reclamation Act of 1977, for all such coal mining wastes or overburden for which such permits have been issued, in lieu of any individual permit.'."

Mr. RANDOLPH. Mr. President, the majority leader (Mr. ROBERT C. BYRD) and the two Senators from Kentucky (Mr. HUDDLESTON and Mr. FORD) have joined me in this amendment. It provides that the Environmental Protection Agency will defer to the Office of Surface Mining on permits for coal mining wastes and overburden. Only permits from the Office of Surface Mining will be required. Any requirement which would result from the subtitle (c) hazardous wastes program will be integrated into the Office of Surface Mining permit requirement.

One regulatory program, I think, ought to be sufficient to cope with any hazardous aspects of coal mining wastes. I think it is a realistic approach. It does not attempt to do anything other than give close attention, through the Surface Mining Act, to this problem, which is a very real one. The purpose of authorizing the Administrator to issue a general permit is to allow a single, blanket permit covering all coal mining waste sites with permits from the Office of Surface Mining, to substitute for any individual site, hazardous waste permit requirement under the act.

I hope there can be agreement on the amendment which I am offering.

Mr. ROBERT C. BYRD. Mr. President, I am pleased to join my colleague from West Virginia as a cosponsor of this amendment.

The amendment will simplify the regulatory requirements of the two laws. Permits obtained under the Surface Mining Act of 1977 will fulfill the requirements of the Solid Waste Disposal Act. Coal producers will not have to get two sets of permits from two Federal agencies for one activity; waste disposal.

Cooperation between the Environmental Protection Agency and the Office of Surface Mining is a desirable goal. This amendment will help achieve such cooperation, and I urge that it be adopted.

Mr. CHAFEE. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. RANDOLPH. I yield back the remainder of my time.

Mr. CHAFEE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 210) was agreed to.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 211

Mr. RANDOLPH. Mr. President, there is another amendment that I would like to propose at this time.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH) proposes an unprinted amendment numbered 211:

On page 15, line 11, after "this Act" strike the comma and "the Administrator" and insert in lieu thereof "or any other authority of the Administrator, the Administrator or the Attorney General".

Mr. RANDOLPH. Mr. President, this goes to the subject of subpena power within the Department of Justice. Under the amendment that has just been read, the Attorney General would have the authority—and that is the Attorney General of the United States—to subpena records and to compel testimony of witnesses in the enforcement actions under the governmental statutes.

This authority was requested by our committee. It was brought to our attention by the Justice Department through Assistant Attorney General James Moorman.

I believe that the amendment is helpful, and I trust that there can be agreement from the minority in this matter.

Mr. CHAFEE. Mr. President, we have no objection.

Mr. RANDOLPH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia (Mr. RANDOLPH).

The amendment (UP No. 211) was agreed to.

UP AMENDMENT NO. 212

Mr. CHAFEE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE), for himself, Mr. RANDOLPH, and Mr. STAFFORD, proposes an unprinted amendment numbered 212:

On page 2, after line 9—

Mr. CHAFEE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 9, insert the following new section and renumber succeeding sections accordingly:

SEC. . Section 2001 of the Solid Waste Disposal Act is amended by redesignating it as section 2001(a) and by inserting a new section 2001(b) as follows:

"(b) INTERAGENCY COORDINATING COMMITTEE.—(1) There is hereby established an Interagency Coordinating Committee on Federal Resource Conservation and Recovery Activities which shall have the responsibility for coordinating all activities dealing with conservation and recovery from solid waste carried out by the Environmental Protection Agency, the Department of Energy, the Department of Commerce, and all other Federal agencies which conduct such activities pursuant to this or any other Act. For purposes of this subsection, "resource conservation and recovery activities" shall include, but not be limited to, all research, development and demonstration projects on resource conservation or energy or material recovery from solid waste, and all technical or financial assistance for State or local planning for, or implementation of, projects related to resource conservation or energy or material recovery from solid waste. The Committee shall be chaired by the Administrator of the Environmental Protection Agency or such person as the Administrator may designate. Members of the Committee shall include representatives of the Department of Energy, the Department of Commerce, the Department of the Treasury, and each other Federal agency which the Administrator determines to have programs or responsibilities affecting resource conservation or recovery.

"(2) The Interagency Coordinating Committee shall include oversight of the implementation of (A) the May 1979 Memorandum of Understanding on Energy Recovery from Municipal Solid Waste between the Environmental Protection Agency and the Department of Energy; (B) the May 30, 1978, Interagency Agreement between the Department of Commerce and the Environmental Protection Agency on the Implementation of the Resource Conservation and Recovery Act; and (C) any subsequent agreements between these agencies or other Federal agencies which address Federal resource recovery or conservation activities.

"(3) The Interagency Coordinating Committee shall submit to the Congress by March 1, 1980, and on March 1 each year thereafter, a Five Year Action Plan for Federal Resource Conservation or Recovery Activities, which shall identify means and propose programs to encourage resource conservation or material and energy recovery and increase private and municipal investment in resource conservation or recovery systems, especially those which provide for material conservation or recovery as well as energy conservation or recovery. Such plan shall describe, at a minimum, a coordinated and non-duplicatory plan for resource recovery and conservation activities for the Environmental Protection Agency, the Department of Energy, the Department of Commerce, and all other Federal agencies which conduct such activities."

Mr. CHAFEE. Mr. President, this amendment is submitted on behalf of Senator RANDOLPH, Senator STAFFORD, and myself. It establishes an interagency committee to coordinate Federal efforts toward resource conservation and resource recovery. It requires the committee to establish 5-year plans to enhance resource conservation and resource recovery. There are representatives from EPA, Commerce, and Energy on this interagency committee. I move adoption of the amendment.

Mr. RANDOLPH. Mr. President, I will take just 30 seconds to say that the amendment, which I am happy to join the Senator from Rhode Island in offering, is one that is a tightening up process, which is very important. I am in agreement with the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CHAFEE. I believe we are ready for final passage.

Mr. RANDOLPH. Mr. President, we do have an issue that the Senator from New Jersey (Mr. BRADLEY) wishes to discuss. He is on his way to the Chamber and should be here within a minute or two.

If agreeable at this time, I will ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections when there is an engrossment, if there is, in S. 1156.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BRADLEY. Mr. President, I rise in support of S. 1156, the Solid Waste Disposal Act Amendments of 1979. A strong national waste disposal program, especially aggressive enforcement of hazardous waste disposal regulations, is needed urgently to assist the States with the growing and varied problems associated with refuse disposal.

In 1978 this country produced approximately 490 million metric tons of refuse. With proper disposal, materials can be recycled, energy resources developed, and transportation and land fill costs reduced.

Disposal of toxic substances is a critical part of a national waste program. It poses grave and imminent economic, health, and social concerns to the citizens of virtually every State. Unlawful dumping, negligent, and inadequate disposal and storage of hazardous wastes has created a frightening national problem, the dimensions of which are only now beginning to be understood. The legislation before the Senate today will expand EPA's ability to assist State and local governments in the enforcement of hazardous waste disposal regulations and thus deserves our full support.

If I may ask the distinguished chairman, Senator RANDOLPH, it is my understanding that the Environmental Research Development and Demonstration Reauthorization Act of 1980 (H.R. 2676), as recently passed by this body, authorizes EPA to expend $4 million to demonstrate effective hazardous waste cleanup and isolation techniques. Is that correct?

Mr. RANDOLPH. The Senator is a new Member of the body from New Jersey, and we are delighted that he uses this occasion to speak on an important matter. As we look back at the reference to the act that he has spoken of, H.R. 2676, it does provide, as he has said, for an authorization of $4 million. That would go into the demonstration programs that he feels are very vital. I can say that I applaud his attention to the subject and certainly, I think that his statement can form a proper place in the consideration of this bill, thinking in terms of the legislation to which he makes reference.

Mr. BRADLEY. Hopefully, the knowledge gained through such demonstrations will prove valuable to States such as my own, which are struggling with the increasing burden of protecting the public from the significant hazards created by improperly disposed-of wastes. Incidents of unlawful disposal and abandonment of hazardous wastes has created a multimillion-dollar cleanup job for my State of New Jersey and endangers the lives and property of its citizens.

Certain New Jersey hazardous waste sites are proving particularly troublesome, because they do not involve a single or identifiable toxic, but rather dozens of different compounds. Some of these chemicals were previously unknown, the recent innovations of an unaccountable laboratory. For example, a site in Elizabeth, N.J., presents one of the most serious national problems of this sort. Along its waterfront, a private disposal firm unlawfully has stored more than 40,000 55-gallon drums. Many of the drums contain dangerous toxics and explosives such as picric acid crystals and nitro glycerin. There is imminent danger of spillage onto land and into Elizabeth's harbor.

Additionally, radioactive wastes and poisonous gases such as cyanide have been identified at the site and could pose a serious threat to literally hundreds of thousands of people who live in the danger zone. The community is frightened, outraged and helpless. The section of the waterfront where the drums are stored has been evacuated and closed to public activity. The assets of the company responsible for creating this problem are in State receivership, but they are far from adequate to meet the estimated cleanup cost of $10 million. Though the New Jersey State Department of Environmental Protection is now moving rapidly to analyze, isolate, contain, and provide permanent disposal for the drums' contents, the job is proving formidable and progressing slowly. Responsible State agencies are understaffed and lack information about appropriate containment and repackaging of certain toxic materials.

The demonstration of cost effective and innovative methods which will aid the disposal of hazardous wastes is crucial to protect the lives and property of those who are victims of such unfortunate occurrences.

I ask the distinguished chairman, am I correct that the Elizabeth situation is the type of problem which the committee intends to be addressed by the $4 million authorization of appropriations in H.R. 2676 and the regulations promulgated under subtitle C of the Resource Conservation and Recovery Act?

Mr. RANDOLPH. Mr. President, I respond to the Senator from New Jersey (Mr. BRADLEY) to say yes, the serious situation, almost tragic in its implications, that we have had described by him in reference to Elizabeth, N.J., is the kind of problem that we intended this $4 million to be used for. It is the intention of the members of our committee that the research and development funding be used to aid in the finding of new and, yes, more effective ways to dispose of hazardous waste. Also, this will help us to enforce the provisions of subtitle (c).

The Senator makes a contribution here by drawing our attention to it and we reaffirm what we have done and what we would like to do in the future.

Mr. BRADLEY. I thank the chairman for his willingness to engage in this colloquy and for his foresight in addressing this problem, which has such real ramifications for the people of New Jersey.

Mr. RANDOLPH. I thank the Senator.

Mr. President, I believe that we have no more requests for time. I believe that no further amendments have been presented, and we have no knowledge of amendments that might yet be offered. Is that correct?

Mr. STAFFORD. Mr. President, I say to my distinguished friend, the chairman of the committee, that I know of no further amendments nor any further requests to speak on this side. I am, therefore, prepared, whenever the chairman is, to yield back the remainder of my time.

Mr. RANDOLPH. I am ready to yield back the time allotted to the majority.

Mr. STAFFORD. I yield back the minority's time.

● Mr. WALLOP. Mr. President, generally section 3006 of the Solid Waste Disposal Act provides authority for the States to carry out hazardous waste programs in lieu of the Federal program unless the Administrator of the Environmental Protection Agency finds that a State's program is not equivalent to the Federal program, is not consistent with the Federal program or State programs applicable in other States, or it would not provide adequate enforcement of compliance with the hazardous wastes provisions of the act.

It concerns me that through this act, as in the case of many others, Wyoming and other rural States may be forced into requirements that may make sense for New York City, but which make no sense for rural localities.

It seems to me that one of the real advantages of State assumption of these programs envisioned by Congress in the act, over a more uniform Federal program, is that the States are better able to tailor their programs to meet local circumstances, while at the same time honoring the requirements and spirit of the act.

With this in mind, I ask the distinguished floor manager of the bill to clarify for me what is meant by State programs which are "not consistent" with the Federal program.

Mr. RANDOLPH. I would be happy to do so.

Mr. WALLOP. It is my understanding that consistency with the Federal program does not mean that a State program must or should be identical to it. Rather, it means that it must not be inconsistent with the Federal program or the programs of other States. It does not mean that a State program must duplicate the Federal program, or duplicate the programs of other States.

It seems to me that so long as State programs are not inconsistent with the Federal program under the act, then to the extent that State programs are required to be identical to the Federal program or the programs of other States, much of the advantage of intended State flexibility to deal with local conditions and special problems will be lost.

Mr. RANDOLPH. I agree with the distinguished Senator from Wyoming in his understanding of what is meant by "consistent" in section 3006 of the act. We do not intend that in order to receive authorization States must adopt programs which either duplicate or are identical to the Federal program or that of other States. By "consistent," we mean that the State regulations should coordinate to the maximum extent practical with the Federal programs and the programs of other States. Section 3006, I might add, also requires that the State program be equivalent to the Federal program. That is, it must be equally effective. In addition, the State must provide adequate enforcement with the requirements of the Resource Conservation and Recovery Act. But this does not mean the State program has to be identical, and it is the committee's view that the agency should be flexible in this regard.●

● Mr. MUSKIE. Mr. President, the Solid Waste Disposal Act before us for reauthorization has attained even more importance in 1979 than when we first passed the act in 1965.

The actual goals of the act, as amended by the Resource Conservation and Recovery Act of 1976, remain the same. We still want to enforce regulations to control the disposal of various hazardous and solid wastes, to provide assistance to States to help plan and manage disposal facilities, and to encourage the recycling of available materials. What has changed, however, is the urgency with which we must act to begin enforcing those provisions under subtitle C, the hazardous waste section of the law.

This Nation has been hit with the reality of what happens when adequate disposal standards are not followed. For example:

The citizens at Love Canal,

The people who lived near Toone, Tenn., and

The 750 families in Grey, Maine, who drank polluted groundwater for 4 years as a result of improper waste management, all have had to pay the price for inadequate hazardous waste policies and laws.

Our new sensitivity has forced us to assure that the more than 35 million metric tons of hazardous waste produced in this country each year will be monitored from its point of generation to the point of its disposal.

The General Accounting Office has testified that only two States in the Nation, California and Texas, come close to having adequate programs to safeguard their citizens against the problems caused by the improper disposal of hazardous waste. There is a clear need for a Federal program which sets guidelines and assists States wherever possible. S. 1156, which amends the Solid Waste Disposal Act, will help these efforts, and I urge its passage.

We must be cautious, Mr. President, in amending this statute.

Broad exemptions to this act could undermine the only adequate government authority dealing with the disposal of hazardous waste.

An amendment as broad as the one accepted by the House subcommittee last month could be interpreted to exempt all liquid and sludge hazardous wastes. These account for 60 to 75 percent of all hazardous wastes. They represent an imminent danger to many groundwater supplies around this Nation.

To a lesser degree, I remain concerned with the amendment passed by the Senate Committee on Environment and Public Works which exempts oil production muds and brines from stringent hazardous regulations. But I am confident the study called for in the amendment will provide definitive information determining whether or not these substances are hazardous.

This law does not deal with the past problems of inadequate hazardous waste disposal or the problems with abandoned dump sites. The Subcommittees on Environmental Pollution and Resource Protection are working hard to develop new legislation in this Congress to deal with the general release of toxic chemicals into the environment. That legislation will encompass these past practices as well as future problems.

The reauthorization of the Solid Waste Disposal Act is a necessary step toward the goal of controlling our wastes in this country. It is important, and I urge the Senate to support this legislation.●

The PRESIDING OFFICER (Mr. Tsongas). If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 1156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. This Act may be cited as the "Solid Waste Disposal Act Amendments of 1979".

Sec. 2. (a) Section 1004(14) of the Solid Waste Disposal Act is amended to read as follows:

"(14) The term 'open dump' means any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 4004 and which is not a facility for disposal of hazardous waste.".

(b) Section 1004(19) of the Solid Waste Disposal Act is amended to read as follows:

"(19) The term 'recovered material' means waste material and byproducts which have been recovered or diverted from solid waste, but does not include those materials generated from and commonly reused within the original manufacturing process itself.".

Sec. 3(a) Section 1006(b) of the Solid Waste Disposal Act is amended by inserting "the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 and following)," before "and such other Acts of Congress".

(b) Sections 501(a)(B), 503(b)(2), 516 (b)(4), and 713 of the Surface Mining Control and Reclamation Act of 1977 shall be deemed to pertain to requirements under the Solid Waste Disposal Act as well as the authorities enumerated therein.

Sec. 4. Section 2001 of the Solid Waste Disposal Act is amended by redesignating it as section 2001(a) and by inserting a new section 2001(b) as follows:

"(b) Interagency Coordinating Committee.—(1) There is hereby established an Interagency Coordinating Committee on Federal Resource Conservation and Recovery Activities which shall have the responsibility for coordinating all activities dealing with resource conservation and recovery fom solid waste carried out by the Envionmental Protection Agency, the Department of Energy, the Department of Commerce, and all other Federal agencies which conduct such activities pursuant to this or any other Act. For purposes of this subsection, 'resource conservation and recovery activities' shall include, but not be limited to, all research, development and demonstration projects on resource conservation or energy, or material recovery from solid waste, and all technical or financial assistance for State or local planning for, or implementation of, projects related to resource conservation or energy, or material recovery for solid waste. The Committee shall be chaired by the Administrator of the Environmental Protection Agency or such person as the Administrator may designate. Members of the Committte shall include representatives of the Department of Energy, the Department of Commerce, the Department of the Treasury, and each other Federal agency which the Administrator determines to have programs or responsibilities affecting resource conservation or recovery.

"(2) The Interagency Coordinating Committee shall include oversight of the implementation of (A) the May 1979 Memorandum of Understanding on Energy Recovery from Municipal Solid Waste between the Environmental Protection Agency and the Department of Energy; (B) the May 30, 1978, Interagency Agreement between the Department of Commerce and the Environmental Protection Agency on the Implementation of the Resource Conservation and Recovery Act; and (C) any subsequent agreements between these agencies or other Federal agencies which address Federal resource recovery or conservation activities.

"(3) The Interagency Coordinating Committee shall submit to the Congress by March 1, 1980, and on March 1 each year thereafter, a Five Year Action Plan for Federal Resource Conservation or Recovery Activities, which shall identify means and propose programs to encourage resource conservation or material and energy recovery and increase private and municipal investment in resource conservation or recovery systems, especially those which provide for material conservation or recovery as well as energy conservation or recovery. Such plan shall describe, at a minimum, a coordinated and non-duplicatory plan for resource recovery and conservation activities for the Environmental Protection Agency, the Department of Energy, the Department of Commerce, and all other Federal agencies which conduct such activities.".

Sec. 5. Section 2002(a) of the Solid Waste Disposal Act is amended as follows:

(1) in subparagraph (4), by striking "and" at the end thereof;

(2) in subparagraph (5), by striking the period and inserting in lieu thereof "; and"; and

(3) by adding the following new subparagraph at the end thereof:

"(6) to delegate the performance of any inspection or enforcement function under this Act to another department, agency or instrumentality of the Federal Government where such delegation would avoid unnecessary duplication of activity and would carry out the objectives of this Act and all applicable statutes administered by such other department, agency or instrumentality.".

Sec. 6. (a) Section 2006(b) of the Solid Waste Disposal Act is amended by inserting after "subsection (a)" a comma and the phrase "or $5,000,000 per fiscal year, whichever is less,".

(b) Section 2006 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(d) State and Local Support.—Not less than 25 per centum of the total amount appropriated under this title, up to the amount authorized in section 4008(a)(1), shall be used only for purposes of support to State, regional, local, and interstate agencies in accordance with subtitle D of this Act other than section 4008(a)(2) or 4009.".

Sec. 7. Section 3001(b) of the Solid Waste Disposal Act is amended by inserting "(1)" after "(b)" and by adding the following new paragraphs:

"(2)(A) Notwithstanding the provisions of paragraph (1) of this subsection, drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy shall be subject only to existing State or Federal regulatory programs in lieu of subtitle (C) until at least 24 months after the date of enactment of this paragraph and after promulgation of the regulations in accordance with subparagraphs (B) and (C) of this paragraph: *Provided*, That such State or Federal programs include, for waste disposal sites which are to be closed, provisions requiring at least the following:

"(i) The identification through surveying, platting, or other measures, together with recordation of such information on the public record, so as to assure that the location where such wastes are disposed of can be located in the future: *Provided, however*, That no such surveying, platting, or other measure identifying the location of a disposal site for drilling fluids and associated wastes shall be required if the distance from the disposal site to the surveyed or platted location to the associated well is less than two hundred lineal feet; and

"(ii) A chemical and physical analysis of a produced water and a composition of a drilling fluid suspected to contain a hazardous material, with such information to be acquired prior to closure and to be placed on the public record.

"(B) Not later than six months after completion and submission of the study required by section 8002(n) of this Act, the Administrator shall, after public hearings and opportunity for comment, determine either to promulgate regulations under this subtitle for drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy or that such regulations are unwarranted. The Administrator shall publish his decision in the Federal Register accompanied by an explanation and justification of the reasons for it. In making the decision under this paragraph, the Administrator shall utilize the information developed or accumulated pursuant to the study required under section 8002(n).

"(C) The Administrator shall transmit his decision, along with any regulations, if necessary, to both Houses of Congress. Such regulations shall not take effect unless between the date of transmittal and the end of the first period of one hundred and twenty calendar days of continuous session of Congress after the date on which such regulations are transmitted to such House, each House of Congress passes a resolution favoring such regulations.

"(3) (A) Notwithstanding the provisions, of paragraph (1) of this subsection, by ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels shall be subject only to existing State or Federal regulatory programs in lieu of subtitle C until at least six months after the date required for submission of the study required under section 8002(o) of this Act and after promulgation of regulations in accordance with subparagraph (B) of this paragraph: *Provided*, That owners and operators of disposal sites for such wastes may be required by the Administrator, through regulations prescribed under authority of section 2002 of this Act, (i) as to disposal sites for such wastes which are to be closed, to identify the locations of such sites through surveying, platting, or other measures, together with recordation of such information on the public record, so as to assure that the location where such wastes are disposed of is known and can be located in the future, and (ii) to provide chemical and physical analysis and composition of such wastes, based on available informaiton, to be placed on the public record.

"(B) Not later than six months after completion and submission of the study required by section 8002(o) of this Act, the Administrator shall, after public hearings and an opportunity for comment, either determine to promulgate regulations under this subtitle for fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, or determine that such regulations are unwarranted. The Administrator shall publish his decision in the Federal Register accompanied by an explanation and justification of the reasons for it. In making the decision under this paragraph, the Administrator shall utilize the information developed or accumulated pursuant to the study required under section 8002 of this Act."

Sec. 8. Section 3002(5) of the Solid Waste Disposal Act is amended by inserting "and any other reasonable means necessary" after "use of a manifest system", and by inserting ", and arrives at," after "disposal in".

Sec. 9. Section 3004 of the Solid Waste Disposal Act is amended by inserting after the first sentence thereof "The Administrator is authorized to distinguish in such performance standards between requirements appropriate for new facilities and for facilities in existence on the date of promulgation of such regulations.".

Sec. 10. Section 3005(e) of the Solid Waste Disposal Act is amended by striking "facility is in existence on the date of enactment of this Act," and inserting in lieu thereof "facility is in existence on the date of promulgation of regulations under sections 3001 and 3004, or any applicable revisions thereto, and".

Sec. 11. Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(f) Coal Mining Wastes and Reclamation Permits.—In accordance with the requirements for integration under section 1006(b) of this Act, no individual permit shall be required under this title for any coal mining wastes or overburden covered by a permit and reclamation plan issued or approved under the Surface Mining Control and Reclamation Act of 1977. The Administrator is authorized to issue a general permit under this section, consistent with and reflecting the requirements of the Surface Mining Control and Reclamation Act of 1977, for all such coal mining wastes or overburden for which such permits have been issued, in lieu of any individual permit.".

Sec. 12. (a) Section 3007(a) of the Solid Waste Disposal Act is amended as follows:

(1) by striking "subtitle" and inserting in lieu thereof "title";

(2) by striking "maintained by any person" after "establishment or other place";

(3) by inserting "or has handled" after "otherwise handles";

(4) by striking "any officer or employee" and inserting in lieu thereof "any officer, employee or representative";

(5) by striking "duly designated officer employee" and inserting in lieu thereof "duly designated officer, employee or representative";

(6) by striking "furnish or permit" and inserting in lieu thereof "furnish information relating to such wastes and permit";

(7) by striking "such officers or employees" and inserting in lieu thereof "such officers, employees or representative";

(8) by inserting "or have been" after "where hazardous wastes are"; and

(9) by striking "officer or employee obtains" and inserting in lieu thereof "officer, employee or representative obtains".

(b) Section 3007(b) of the Solid Waste Disposal Act is amended as follows:

(1) by inserting "or any officer, employee or representative thereof" before "has access under this section";

(2) by striking "the Administrator (or the State, as the case may be) shall consider such information or portion thereof" and inserting in lieu thereof "such information or particular portion thereof shall be considered";

(3) by inserting "(1)" before "Any records" and adding at the end thereof the following new paragraphs:

"(2) Any person not subject to the provisions of section 1905 of title 18 of the United States Code who knowingly and willfully divulges or discloses any information entitled to protection under this subsection shall, upon conviction, be subject to a fine of not more than $5,000 or to imprisonment not to exceed one year, or both.

"(3) In submitting data under this Act, a person required to provide such data may (A) designate the data which such person believes is entitled to protection under this subsection and (B) submit such designated data separately from other data submitted under this Act. A designation under this paragraph shall be made in writing and in such manner as the Administrator may prescribe.

"(4) Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee.".

Sec. 13. Section 3008 of the Solid Waste Disposal Act is amended as follows:

(1) in subsection (a)(1), by striking "the Administrator shall give notice to the violator of his failure to comply with such requirement. If such violation extends beyond the thirtieth day after the Administrator's notification,";

(2) in subsection (a)(2), by striking "thirty days";

(3) in subsection (b), by striking "or any suspension or revocation of a permit" and "or notice of the suspension or revocation"; and

(4) in subsection (c), by inserting "may include a suspension or revocation of a permit issued under this subtitle, and" after "Any order issued under this section".

(5) by adding the following new subsection:

"(e) Civil Penalty.—Any person who violates any requirement of this subtitle shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day of such violation shall, for purposes of this subsection, constitute a separate violation.".

Sec. 14. Section 3009 of the Solid Waste Disposal Act (42 U.S.C. 6929) is amended by adding at the end thereof the following new sentence: "Nothing in this title shall be construed to prohibit any State or political subdivision thereof from imposing any requirements, including those for site selection, which are more stringent than those imposed by such regulations."

Sec. 15. Section 3011(a) of the Solid Waste Disposal Act is amended by inserting before the period a comma and the following: "including programs to protect health and the environment from hazardous waste disposal sites or facilities which are no longer receiving wastes.".

Sec. 16. (a) Section 4003(2) of the Solid Waste Disposal Act is amended by striking "section 4005(c)" and inserting in lieu thereof "sections 4004(b) and 4005(a)".

(b) Section 4003(5) of the Solid Waste Disposal Act is amended by inserting "State or" after "The plan shall provide that no", and by striking the period after "resource recovery facilities", inserting a comma, and adding the following: "from entering into long-term contracts for the operation of such facilities, or from securing long-term markets for material and energy recovered from such facilities.".

Sec. 17. (a) Section 4005 of the Solid Waste Disposal Act is amended by deleting subsection (a) in its entirety and by redesignating subsection (c) as (a).

(b)(1) Section 4005(a) of the Solid Waste Disposal Act, as redesignated by this section, is amended by striking "Any" and inserting in lieu thereof "Upon promulgation of criteria under section 1008(a)(3), any"; by inserting "and 4003(3)" after "4003(2)"; by striking "the inventory under subsection (b)" after "not to exceed 5 years from the date of publication of" and inserting in lieu thereof "criteria under section 1008(a)(3)".

(2) Section 4005(b) of the Solid Waste Disposal Act is amended by striking "Not" and inserting in lieu thereof "To assist the

States in complying with section 4003(3), not".

SEC. 18. Section 6002 of the Solid Waste Disposal Act is amended as follows:

(1) in subsecion (c)(1), by deleting the first sentence and inserting in lieu thereof the following: "After the date specified in applicable guidelines prepared pursuant to subsection (e) of this section, each procuring agency which procures any items designated in such guidelines shall procure such items composed of the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, considering such guidelines.";

(2) in subsection (c)(1)(C), by striking "(ii)" and inserting in lieu thereof "(B)";

(3) in subsection (c)(2), by deleting "recovered material and recovered-material-derived fuel" and inserting in lieu thereof the following: "energy or fuels derived from solid waste";

(4) in subsection (c)(3), by deleting everything after "vendors" and inserting in lieu thereof the following:

"(A) certify that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by applicable specifications or other contractual requirements and

"(B) estimate the percentage of the total material utilized for the performance of the contract which is recovered materials.";

(5) in subsection (d), by striking the present language and inserting in lieu thereof the following:

"(d) SPECIFICATIONS.—All Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies shall—

"(1) as expeditiously as possible but in any event no later than five years after the date of enactment of this Act, eliminate from such specifications—

"(A) any exclusion of recovered materials and

"(B) any requirement that items be manufactured from virgin materials; and

"(2) within one year after the date of publication of applicable guidelines under subsection (e), or as otherwise specified in such guidelines, assure that such specifications require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item.".

(6) in subsection (e), by deleting the second sentence and inserting in lieu thereof the following:

"Such guidelines shall—

"(1) designate those items which are or can be produced with recovered materials and whose procurement by procuring agencies will carry out the objectives of this section. In making this determination, the Administrator shall consider, but is not limited in his considerations, to:

"(A) The availability of such items;

"(B) The impact of the procurement of such items by procuring agencies on the volume of solid waste which must be treated, stored or disposed of;

"(C) The economic and technological feasibility of producing and using such items; and

"(D) Other uses for such recovered materials.

"(2) set forth recommended practices with respect to the procurement of recovered materials and items containing such materials and with respect to certification by vendors of the percentage of recovered materials used, and shall provide information as to the availability, relative cost, and performance of such materials and items and where appropriate shall recommend the level of recovered material to be contained in the procured product. The Administrator shall prepare final guidelines for at least three product categories, including paper, by September 30, 1980, and for two additional product categories, including construction materials, by September 30, 1982.".

SEC. 19. Section 7003 of the Solid Waste Disposal Act is amended by striking "an imminent and" and inserting in lieu thereof "a" and by striking "the alleged disposal" and inserting in lieu thereof "such handling, storage, treatment, transportation or disposal".

SEC. 20. (1) Section 7006 of the Solid Waste Disposal Act is amended as follows:

(A) by revising section 7006 by inserting "(a)" before "Any";

(B) by adding after "pursuant to this Act" the following: "and the Administrator's denial of any petition for the promulgation, amendment, or repeal of any regulation under this Act";

(C) by adding after "or requirement under this Act" the following: "or denying any petition for the promulgation, amendment or repeal of any regulation under this Act";

(D) by inserting "or denial" after "date of such promulgation";

(E) by inserting "for review" after "date if such petition".

(2) Section 7006 of the Solid Waste Disposal Act is amended by adding the following as new subsection (b):

"(b) Review of the Administrator's action (1) in issuing, denying, modifying or revoking any permit under section 3005 and (2) in granting, denying, or withdrawing authorization or interim authorization under section 3006, may be had by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts such business upon application by such person. Any such application shall be made within ninety days from the date of such issuance, denial, modification, revocation, grant or withdrawal, or after such date only if such application is based solely on grounds which arose after such ninetieth day. Such review shall be in accordance with sections 701 through 706 of title 5 of the United States Code.".

SEC. 21. Subtitle G of the Solid Waste Disposal Act is amended by adding the following new section:

"SUBPENAS

"SEC. 7010. In carrying out this Act or any other authority of the Administrator, the Administrator or the Attorney General may by subpena require such attendance and testimony of witnesses and production of reports, papers, documents, answers to questions and other information as the Administrator deems necessary. Witnesses shall be paid the same fees and mileage that are paid to witnesses in courts of the United States. In the event of contumacy, failure or refusal of any person to obey such subpenas, any District Court of the United States in which venue is proper shall have jurisdiction to order any such person to comply with such subpena. Any failure to obey such an order of the court is punishable by the court as a contempt thereof.".

SEC. 22. Section 8002 of the Solid Waste Disposal Act is amended by adding two new subsections at the end thereof as follows:

"(n) DRILLING FLUIDS, PRODUCED WATERS, AND OTHER WASTES ASSOCIATED WITH THE EXPLORATION, DEVELOPMENT, OR PRODUCTION OF CRUDE OIL OR NATURAL GAS OR GEOTHERMAL ENERGY.—(1) The Administrator shall conduct a detailed and comprehensive study and submit a report on the adverse effects, if any, of drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy on the environment, including, but not limited to, the effects of such wastes on humans, water, air, health, welfare, and natural resources and on the adequacy of means and measures currently employed by the oil and gas and geothermal drilling and production industry, Government agencies, and others to dispose of and utilize such wastes and to prevent or substantially mitigate such adverse effects. Such study shall include an analysis of—

"(A) the sources and volume of discarded material generated per year from such wastes;

"(B) present disposal practices;

"(C) potential danger to human health and the environment from the surface runoff or leachate;

"(D) documented cases which prove or have caused danger to human health and the environment from surface runoff or leachate;

"(E) alternatives to current disposal methods;

"(F) the cost of such alternatives; and

"(G) the impact of those alternatives on the exploration, development, and production of crude oil and natural gas or geothermal energy.

In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal agencies concerning such wastes with a view toward avoiding duplication of effort and the need to expedite such study. The Administrator shall publish a report of such study and shall include appropriate findings and recommendations for Federal and non-Federal actions concerning such effects.

"(2) The Administrator shall complete the research and study and submit the report required under paragraph (1) not later than twenty-four months from the date of enactment of the Solid Waste Disposal Act Amendments of 1979. Upon completion of the study, the Administrator shall prepare a summary of the findings of the study, a plan for research, development, and demonstration respecting the findings of the study, and shall submit the findings and the study, along with any recommendations resulting from such study, to the Committee on Environment and Public Works of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives".

(o) MATERIALS GENERATED FROM THE COMBUSTION OF COAL AND OTHER FOSSIL FUELS.—The Administrator shall conduct a detailed and comprehensive study and submit a report on the adverse effects on human health and the environment, if any, of the disposal and utilization of fly ash wastes, bottom ash waste, slag waste, flue gas emission control waste, and other by-product materials generated primarily from the combustion of coal or other fossil fuels. Such study shall include an analysis of—

"(1) the source and volumes of such material generated per year;

"(2) present disposal and utilization practices;

"(3) potential danger, if any, to human health and the environment from the disposal and reuse of such materials;

"(4) documented cases in which danger to human health or the environment from surface runoff or leachate has been proved;

"(5) alternatives to current disposal methods;

"(6) the cost of such alternatives;

"(7) the impact of those alternatives on the use of coal and other natural reosurces; and

"(8) the current and potential utilization of such materials.

In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal and State agencies concerning such material and invite participation by other concerned parties, including industry and other Federal and State agencies, with a view towards avoiding duplication of effort. The Administrator shall publish a report on such study, which shall include appropriate findings, not later than twenty-four months after the enactment of the Solid Waste Disposal Act Amendments of 1979. Such study and findings shall be submitted to the Committee on Environment and Public Works of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives.".

SEC. 23. Section 3(b) of the Resource Conservation and Recovery Act of 1976 is amended by striking "the Solid Waste Utilization Act of 1976." and inserting in lieu thereof "this Act.".

SEC. 24. (a) Section 2006(a) of the Solid Waste Disposal Act is amended by striking "and" and inserting before the period "$80,000,000 for the fiscal year ending September 30, 1980, $80,000,000 for the fiscal year ending September 30, 1981, and $80,000,000 for the fiscal year ending September 30, 1982".

(b) Section 3011(a) of the Solid Waste Disposal Act is amended by inserting after "1979" the following "$30,000,000 for fiscal year 1980, $35,000,000 for fiscal year 1981, and $40,000,000 for fiscal year 1982".

(c) Section 4008(a)(1) of the Solid Waste Disposal Act is amended to read as follows:

"(1) There are authorized to be appropriated $30,000,000 for fiscal year 1978, $40,000,000 for fiscal year 1979, $20,000,000 for fiscal year 1980, $25,000,000 for fiscal year 1981, and $30,000,000 for fiscal year 1982 for purposes of financial assistance to States and local, regional, and interstate authorities for the development and implementation of plans approved by the Administrator under this subtitle.".

(d) Section 4008(a)(2)(C) of the Solid Waste Disposal Act is amended by adding at the end thereof: "There are authorized to be appropriated $13,950,000 for fiscal year 1980, $15,000,000 for fiscal year 1981, and $15,000,000 for fiscal year 1982 for purposes of this paragraph.".

(e) Section 4009(d) of the Solid Waste Disposal Act is amended by adding at the end thereof: "There are authorized to be appropriated $15,000,000 for each of the fiscal years 1980, 1981, and 1982 to carry out this section.".

(f) Subtitle E of the Solid Waste Disposal Act is amended by adding the following new section:

"AUTHORIZATIONS

"SEC. 5005. There are authorized to be appropriated to the Secretary of Commerce, $5,000,000 for each of fiscal years 1980, 1981, and 1982 to carry out the purposes of this subtitle.".

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the close of business today, and no later than 6:30 p.m., the Senate stand in recess until 11:00 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 153, H.R. 3577.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERIC AUTHORIZATIONS, 1980

The Senate proceeded to consider the bill (H.R. 3577) to amend section 8 of the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such act for fiscal year 1980, and for other purposes.

UP AMENDMENT NO. 209

Mr. ROBERT C. BYRD. Mr. President, I move to strike all after the enacting clause of the House bill, H.R. 3577, and insert the following:

That section 8 of the National Advisory Committee on Oceans and Atmosphere Act of 1977 (33 U.S.C. 857–18) is amended—

(1) by striking out "1978, and" in the first sentence and inserting in lieu thereof "1978,",

(2) by striking out "1979," in the first sentence and inserting in lieu thereof "1979, $565,000 for the fiscal year ending September 30, 1980 and $600,000 for the fiscal year ending September 30, 1981.", and

(3) by striking the second sentence.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The bill was ordered to be read a third time, was read the third time and, as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 139, S. 951, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 209 and 210.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

The resolution (S. Res. 172) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 670, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of that Act are waived with respect to the consideration of S. 670, a bill to amend the Rural Development Act of 1972. Such waiver is necessary because S. 670 authorizes the enactment of new budget authority that would first become available in fiscal year 1980, and the bill was reported one day after the May 15 deadline under the Congressional Budget Act.

S. 670 was intended to be reported on May 15 in compliance with the deadline for reporting new authorizing legislation. S. 670 and the committee report thereon were in fact made available to the Committee on the Budget on May 15. However, the actual filing of the report occurred on May 16.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 173) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 892, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of that Act are waived with respect to the consideration of S. 892, a bill to extend the authorization of appropriations for carrying out rural development research, small farm research, and small farm extension programs. Such waiver is necessary because S. 892 authorizes the enactment of new budget authority that would first become available in fiscal year 1980, and the bill was reported one day after the May 15 deadline under the Congressional Budget Act.

S. 892 was intended to be reported on May 15 in compliance with the deadline for reporting new authorizing legislation. S. 892 and the committee report thereon were in fact made available to the Committee on the Budget on May 15. However, the actual filing of the report occurred on May 16.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE RECESS

Under authority of the order of the Senate of May 24, 1979, the Secretary of the Senate, on May 29 and June 1, 1979, received messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received on May 29 and June 1, 1979, are printed at the end of the Senate proceedings.)

REPORT OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 77

Under the authority of the order of the Senate of May 24, 1979, the Secretary of the Senate, on May 29, 1979, received the following message from the President of the United States, which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I herewith transmit the Annual Report of the National Institute of Building

Sciences as required by section 809 of the Housing and Community Development Act of 1974.

Jimmy Carter.

The White House, *May 29, 1979.*

RECOMMENDATION FOR EXTENSION OF WAIVER AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 78

Under the authority of the order of the Senate of May 24, 1979, the Secretary of the Senate, on June 1, 1979, received the following message from the President of the United States, which was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with subsection 402(d)(5) of the Trade Act of 1974, I transmit herewith my recommendation that the authority to waive subsections (a) and (b) of section 402 be extended for a further period of twelve months.

In accordance with subsections 402(d)(5)(B) and (C), this recommendation sets forth my reasons for recommending the extension of waiver authority and for my determination that continuation of the waivers applicable to the Socialist Republic of Romania and to the Hungarian People's Republic will substantially promote the objectives of section 402.

I include as part of my recommendation, my determination that further extension of the waiver authority, and continuation of the waivers applicable to the Socialist Republic of Romania and to the Hungarian People's Republic, will substantially promote the objectives of section 402.

Jimmy Carter.

The White House, *June 1, 1979.*

MESSAGES FROM THE HOUSE RECEIVED DURING THE RECESS

Under authority of the order of the Senate of May 24, 1979, the Secretary of the Senate, on May 31, 1979, received a message from the House of Representatives, stating that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to S. 7, an act to amend title 38, United States Code, to revise and improve certain health-care programs of the Veterans' Administration, to authorize the construction, alteration, and acquisition of certain medical facilities, and to expand certain benefits for disabled veterans, and for other purposes.

The message also stated that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 869. An act to amend section 207 of title 18, United States Code.

The message further stated that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1543. An act to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974.

The message also stated that the House has passed the bill (S. 1007) to authorize supplemental international security assistance for the fiscal year 1979 in support of the peace treaty between Egypt and Israel and related agreements, and for other purposes, with amendments in which it requests the concurrence of the Senate, that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Zablocki, Mr. Hamilton, Mrs. Collins of Illinois, Mr. Studds, Mr. Barnes, Mr. Gray, Mr. Broomfield, Mr. Findley, and Mrs. Fenwick were appointed managers of the conference on the part of the House.

MESSAGE FROM THE HOUSE

At 11:02 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 709. An act to authorize appropriations for the Coast Guard for fiscal years 1980 and 1981, and for other purposes.

The message also announced that the House has passed the bill (S. 429) to authorize appropriations for fiscal year 1979, in addition to amounts previously authorized for procurement of aircraft, missiles, naval vessels, and other weapons, and for research, development, test, and evaluation for the Armed Forces, and for other purposes, with amendments in which it requests the concurrence of the Senate; that the House insists upon its amendments and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Price, Mr. Bennett, Mr. Stratton, Mr. Ichord, Mr. Nedzi, Mr. Charles H. Wilson of California, Mr. White, Mr. Nichols, Mr. Bob Wilson, Mr. Dickinson, Mr. Whitehurst, Mr. Spence, and Mr. Treen were appointed managers of the conference on the part of the House.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 3404. An act to amend the Federal Reserve Act to authorize Federal Reserve banks to lend certain obligations to the Secretary of the Treasury to meet the short-term cash requirements of the Treasury, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. Robert C. Byrd).

The message also announced that, pursuant to the provisions of section 1513(a) of Public Law 95-561, the Speaker has appointed Mr. Glickman and Mr. Ashbrook on the part of the House, and Mr. William B. Lincoln, of Dennisport, Mass., from private life, as members of the Commission on Proposals for the National Academy of Peace and Conflict Resolution.

ENROLLED BILLS SIGNED

At 1:41 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bills:

S. 709. An act to authorize appropriations for the Coast Guard for fiscal years 1980 and 1981, and for other purposes; and

H.R. 2805. An act to make technical and conforming changes to the financial disclosure provisions in the Ethics in Government Act of 1978.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. Robert C. Byrd).

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 1543. An act to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974; to the Committee on Finance.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 4, 1979, he presented to the President of the United States the following enrolled bill:

S. 709. An act to authorize appropriations for the Coast Guard for fiscal years 1980 and 1981, and for other purposes.

REPORTS OF COMMITTEES SUBMITTED DURING THE RECESS

Under the authority of the order of the Senate of May 24, 1979, the following report of a committee was submitted on May 29, 1979:

By Mr. GLENN, from the Committee on Governmental Affairs, with amendments and an amendment to the title:

S. 588. A bill to amend the Foreign Assistance Act of 1961 to authorize development assistance programs for fiscal years 1980 and 1981, to make certain changes in the authorities of that act, to authorize the establishment of an institute for technological cooperation, and for other purposes (Rept. No. 96-196).

Under the authority of the order of the Senate of May 24, 1979, the following reports of a committee were submitted on May 31, 1979:

By Mr. STENNIS, from the Committee on Armed Services, with an amendment:

S. 428. A bill to authorize appropriations for fiscal year 1980, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes (together with additional views) (Rept. No. 96-197).

By Mr. STENNIS, from the Committee on Armed Services, without amendment:

S. Res. 174. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 428. Referred to the Committee on the Budget.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MATHIAS, from the Committee on

the Judiciary, without amendment, and with a preamble:

S. Con. Res. 20. A concurrent resolution commending the city of Rockville, Maryland (Rept. No. 96–198).

By Mr. GLENN, from the Committee on Governmental Affairs:

Special Report entitled "Organization of Federal Volunteer Programs in Action" (together with minority views) (Rept. No. 96–199).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COHEN:

S. 1267. A bill to amend title XVIII of the Social Security Act to update the life safety requirements applicable to nursing homes under such title and under title XIX of such Act; to the Committee on Finance.

By Mr. BAYH:

S. 1268. A bill to amend the Petroleum Marketing Practices Act to facilitate the sale of gasohol by franchised gasoline dealers; to the Committee on Energy and Natural Resources.

By Mr. SCHWEIKER:

S. 1269. A bill to amend the Urban Mass Transportation Assistance Act of 1964 with respect to reduced fare ridership for elderly or handicapped persons; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JAVITS (for himself and Mr. JACKSON):

S. 1270. A bill to establish a program to assist the low income elderly and others in meeting increased primary residential fuel costs; to the Committee on Labor and Human Resources.

By Mr. MATSUNAGA:

S. 1271. A bill for the relief of Yue Chung Chiu; to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. J. Res. 84. A joint resolution to designate August 1980 as National Sport Aviation Month; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COHEN:

S. 1267. A bill to amend title XVIII of the Social Security Act to update the life safety requirements applicable to nursing homes under such title and under title XIX of such act; to the Committee on Finance.

NURSING HOME FIRE SAFETY ACT IMPROVEMENT ACT

● Mr. COHEN. Mr. President, I have the privilege to introduce legislation today to update the life safety requirements for nursing homes reimbursed under the medicare and medicaid programs in order to assure that these requirements are consistent with advances in the field of fire protection. Likewise, I am pleased to note that my former colleague in the House, Mr. CLAUDE PEPPER, will also be introducing this legislation.

It is difficult to comment on advances in fire safety without first mentioning the work of the National Fire Prevention Association (NFPA). The NFPA has established a reputation for developing standards to prevent damage to property and loss of life from fire. These standards are codified in the association's life safety code. Fire safety is not an exact science. Thus, the NFPA finds it necessary to periodically update its own code in order to keep current with the latest developments in the area of fire safety.

Since the beginning of Federal reimbursement for nursing home care under the medicare and medicaid programs, the Congress has been taking steps to improve fire safety. It should come as no surprise that the first minimum Federal fire safety standards for nursing homes —required by Public Law 90–248—were those incorporated in the NFPA's life safety code. At that time, the most recent version was the 1967, or the 21st, edition of the code. However, by the time the effective date of the law came into force—January 1970—the next edition of the code was well on its way to being released.

The Congress did not turn its attention to this issue again until 1974 after still another edition, the 23d, of the code had been released in 1973. Representatives of the nursing home association and the fire marshal in my State presented information to me and the other members of the Maine delegation concerning changes in the requirements of the code since the Congress mandated compliance with the older 1967 edition.

The 1967 edition was built largely on the technology of fire resistive construction (FRC). Compliance with this code had caused difficulty in the New England area because many nursing homes tended to be older than those in the rest of the country, and many were of wood-frame construction. In order to compensate for FRC, State legislatures in the area had mandated that all homes be fully sprinkler protected.

Facilities in these States had operated on waivers from the Department of Health, Education and Welfare (HEW) since the 1967 law took effect, but the new 1973 edition of the code mode greater use of sprinkler technology as a partial substitute for FRC. Consequently, the Maine delegation developed legislation to update the fire safety requirements of the law by substituting the 1973 edition of the NFPA code for the 1967 edition in the hopes that these State laws would be seen as fulfilling the requirements of the code. Although we had the best intentions to keep the law current with respect to the code, our legislation was not signed into law until December 31, 1975. Its effective date was July 1976. Four months later, the NFPA superseded its 1973 edition of the code with its 1976 edition.

Our shortsighted effort to update the code requirement is further complicated by the fact that now some health care facilities must meet the requirements of two versions of the code in order to participate as medicare and medicaid providers. The only specific mention of a particular version of the code—now 1973—is in the section of the law dealing with a level of nursing home care classified as "skilled nursing" (SNF). The Secretary of Health, Education, and Welfare, nevertheless, is charged with protecting the safety of individuals in other types of health care facilities, specifically hospitals and intermediate care facilities (ICF). When the original law requiring compliance with the 1967 version of the code was implemented, for the sake of uniformity, the Secretary by regulation applied that version as the standard for all health care facilities.

The Congress assumed that when SNF compliance with the updated version of the code was required in 1976, that the Secretary would follow suit with respect to similar requirements for hospitals and ICF's. However, this was not the case. These facilities must still comply with the 1967 version. The number of facilities with multiple levels of care is not isolated. In 1977, nearly 3,000 nursing homes, or 21 percent of all certified facilities in the county house both ICF and SNF sections. Furthermore, legislation now under active consideration in the Senate Finance Committee would expedite the ability of hospitals to convert underused bed capacity into SNF. In short, the number of these facilities is likely to grow.

Succeeding editions of the code do not necessarily provide more protection than other editions. Rather, they incorporate different elements of fire safety which together provide a measure of protection against the risk of loss by fire. However, evidence is accumulating that in order for fire safety to be cost effective, more than the construction of the building needs to be taken into consideration. There has never been a multiple death fire in a fully sprinklered nursing home while there have been many in nonsprinklered facilities constructed of fire-resistive material.

During my tenure as a member of the House Select Committee on Aging, an investigation was made into two multiple-death nursing home fires in Chicago. Both facilities were unsprinklered, yet had a fire-resistive rating to qualify them for approval under the 1967 edition of the code. The investigation concluded that there would not have been multiple deaths if the facilities were sprinklered. FRC is effective in protecting buildings. However, it does not provide the same degree of protection to the life of the bedridden, the frail, and those in wheelchairs who, for example, cannot negotiate heavy fire doors required in FRC without assistance.

More and more, we are coming to realize that an adequate life safety system must include a building safety system commensurate with the occupancy risk. The National Bureau of Standards (NBS) with the support of HEW, has been looking into the issue of calculating risk levels among various buildings and occupancy factors.

In November of 1978, the Bureau released a report in which a system is developed for determining how combinations of widely accepted fire safety systems or arrangements may provide a level of safety equivalent to that required by law. NBS has submitted its findings to the NFPA. It is anticipated that the forthcoming 1980 edition of the code will make significant allowances for equivalency based on the NBS system. In addition HEW intends to issue a notice of intent in the Federal Register this week to implement the NBS evaluation system. What we hope to achieve through the code is safety, not a standard of conformance that makes every nursing home look like every other nursing home.

The point is that there are trade-offs. The very existence of the waiver provisions in current law suggests that alternatives exist. Unfortunately unless present law is changed, the Secretary will be forced to make these equivalency determinations on a case-by-case basis. The problem is further compounded by the fact that waivers given to a facility must be renewed on a yearly basis. Lending institutions feel that they cannot loan a facility money for 5 or 10 years if a waiver can be removed in 1 year, forcing the facility out of business. This Catch-22 effectively prevents homes which do not meet FRC requirements from ever coming into compliance.

The bill I am introducing today allows the Secretary of Health, Education, and Welfare to determine the most appropriate life safety code provisions to be required. Moreover, the Secretary would be required to be uniform in his application of the code to all health care facilities. The Department would then be in a position to revise its fire safety requirements to reflect changes in technology or philosophy without having to seek legislative action. However, the public would still have input on the Secretary's decisions through the normal rulemaking process. It would also eliminate the need for a costly and time-consuming waiver process.

By giving the Secretary the flexibility to choose between editions of the code, the total responsibility for determining fire safety in nursing homes is not shifted to NFPA. Moreover, the Department is not forced to implement a code it considers unreasonable. At the same time, by specifying that the life safety code remain the standard of fire safety, congressional intent that fire safety be guaranteed by compliance with a widely recognized standard is retained.

The Secretary may not select any code which predates the 1967 version since it is generaly considered the most restrictive version of the code in terms of compliance alternatives. With the NBS evaluative tool in place, many homes, which in some cases have gone to great expense to comply with one edition of the code, will be protected from the disruption and cost of complying with new requirements based on the Secretary's determinations. In this regard, the effective date follows in the tradition of the legislation passed in 1975, allowing homes 6 months to plan their compliance options.

This legislation is minimal in cost and has been developed in consultation with HEW. It will not solve all the problems of fire safety in nursing homes, but it is a necessary step in our efforts to construct a reasonable and effective policy toward that end.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(j)(13) of the Social Security Act is amended by striking out "meets such provisions of the Life Safety Code of the National Fire Protection Association (23d edition, 1973) as are applicable to nursing homes" and inserting in lieu thereof "meets such provisions applicable to nursing homes, of such edition or editions (beginning with the 21st edition, 1967) of the Life Safety Code of the National Fire Protection Association, as are specified by the Secretary in regulations".

(b) The amendment made by subsection (a) shall be effective on the first day of the sixth month which begins after the month in which this Act is enacted.

SEC. 2. Whenever the Secretary of Health, Education, and Welfare, in carrying out his duties with respect to any provision of law for which he has administrative responsibilities, utilizes provisions contained in one or more editions of the Life Safety Code of the National Fire Protection Association for the purpose of establishing safety standards for any type or class of health care facility, the edition or editions of such Code utilized by him for such purpose shall be the edition or editions of such Code specified by him pursuant to section 1861(j)(13) of the Social Security Act (as amended by the first section of this Act).●

By Mr. BAYH:

S. 1268. A bill to amend the Petroleum Marketing Practices Act to facilitate the sale of gasohol by franchised gasoline dealers; to the Committee on Energy and Natural Resources.

GASOHOL MARKETING FREEDOM ACT

● Mr. BAYH. Mr. President, I am today introducing the Gasohol Marketing Freedom Act, legislation designed to permit America's franchised service station dealers to freely market gasohol—a clean burning, octane boosting blend of alcohol and gasoline—to the public. I believe this legislation is an important step toward the widespread commercialization of this exciting new energy source. A companion measure has been introduced in the House of Representatives by Congressman TOM DASCHLE. I urge my colleagues in both the House and Senate to quickly pass this bill and remove the specter of economic reprisals by the major oil companies against branded service station dealers—the major distributors of motor fuel in this country—who want to sell gasohol to their customers.

Mr. President, the grassroots response to this new product has been nothing short of astounding. Despite the stonewall of opposition among self-styled energy experts along the shores of the Potomac when some of us "gasoholics" began stressing the virtues of this renewable, domestic fuel almost 3 years ago, the American public has been quick to grasp the importance of gasohol—one of the very few means immediately available to us to reduce our dependence on foreign oil and compensate for local and regional spot shortages of petroleum products. Undeterred by official naysayers, individual citizens in every part of America have continued to pursue the dream of harnessing America's vast natural resources to meet our energy needs, with the promise of turning what are now problems—such as farm surpluses and falling farm incomes, agricultural, municipal and industrial wastes, and the like—into opportunities.

The result, Mr. President, is enormously gratifying. Gasohol is beginning to make a noticeable dent in motor fuel supplies in many Midwestern States—with my own State of Indiana at the top of the list. Plans are afoot from Louisiana to New Hampshire, and Pennsylvania to Washington State, to increase domestic production of anhydrous alcohol in order to meet the public's demand for gasohol.

It is not surprising, Mr. President, that agricultural cooperative associations have been in the forefront of this endeavor, and I am very grateful for the initiative they have taken. I say it is not surprising, Mr. President, because our co-ops understand the rural way of life, are close to the American farmer and have lost that good old American virtue of not being scared off by a good, even if new, idea. They have easily been able to see the logic of a new fuel that can boost local economies while at the same time supplying residents with a secure, effective, and clean-burning fuel. Many co-op officials lived through the changes that have revolutionzed American agriculture. They can see, more easily than an oil company executive, or a Federal energy planner that has never lived outside a metropolitan area, the possibility of developing new energy crops, high in Btu value, that can grow on now-idle set-aside or marginal acreage, or the potential for converting surplus agricultural crops and residues into energy.

There is, however, another reason why I believe the co-ops have taken the lead in this endeavor, Mr. President. And that reason, starkly put, is that the major marketers of motor fuels in this country—the "independent" managers of more than 146,000 branded franchise gasoline stations—cannot market gasohol without fear of economic reprisal from their suppliers, the major oil companies. This is true because they are currently prohibited from selling any product to the public other than franchisor products. No oil company I know of is currently providing retailers with gasohol. The major oil companies have shown no interest in developing gasohol, although it seems to me that the addition of a clean-burning, octane-boosting petroleum extended to the marketplace, at a time when there is not enough unleaded gasoline to go around, would be in their interest. However, they have not yet taken up the cudgels. In fact, Gulf Oil has recently announced its intention to sell what promises to be a highly efficient process for converting cellulose waste to alcohol because the company has decided it has no interest in further developing this process or product.

Mr. President, I would very much like to see our co-ops stay in the alcohol business because they are owned by the farmers of this country, and have their memberships' interests very much at heart, as do I. However, I also believe it is in the public's interest to permit gasohol to be freely sold, according to customer demand, in areas not served by our co-ops. This can only occur through the established marketing system for motor fuels in our Nation—the franchised, neighborhood service station dealers.

The legislation I am introducing today would encourage this development by amending the Petroleum Marketing Practices Act to prohibit gasohol sales from becoming legitimate grounds for a supplier to terminate or refuse renewal of a franchise, and by prohibiting economic reprisals against retailers who distribute gasohol. In short, it removes a major barrier now retarding gasohol sales and permits independent service station dealers to offer this attractive product to the public, without fear of reprisal.

Mr. President, I urge my colleagues on the Energy Committees in both the House and Senate to give this bill serious and timely consideration. I ask unanimous consent that a summary of the bill and its text be printed in the Record for the information of my colleagues.

There being no objection, the bill and summary were ordered to be printed in the Record, as follows:

S. 1268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Gasohol Marketing Freedom Act of 1979".

Sec. 2. Section 102(b) of the Petroleum Marketing Practices Act (15 U.S.C. 2802(b)), relating to grounds for termination or nonrenewal of gasoline dealer franchises, is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding paragraphs (2) and (3), the sale, consignment, distribution of gasohol, the offering (by advertising or otherwise) of gasohol, or any other act directly related to the sale, consignment, or distribution of gasohol (including the mixture of motor fuel and alcohol) is not grounds for termination of a franchise or a nonrenewal of a franchise relationship.

"(B) Subparagraph (A) does not apply to any violation by any person of any reasonable restriction under a franchise regarding the source of supply of any motor fuel which is a component of gasohol sold, consigned, or distributed by such person.".

Sec. 3. (a) Title I of the Petroleum Marketing Practices Act (15 U.S.C. 2801 and following) is amended by redesignating section 105 as section 106 and by inserting after section 104 the following new section:

"REPRISALS OR DISCRIMINATION AGAINST RETAILERS OR DISTRIBUTORS OF GASOHOL

"(a) No franchisor may engage in any act of economic reprisal against any person who is a franchisee of that franchisor because of that person's sale, consignment, or distribution of gasohol or any other act by that person which relates to the sale, consignment, or distribution of gasohol and which is not a grounds for termination or nonrenewal under section 102(b) (2) or (3).

"(b) For purposes of subsection (a), an act of economic reprisal includes any act or attempt of reprisal or discrimination against a person which had or would have had a substantial adverse economic effect on that person.".

(b) Section 105 of such Act (15 U.S.C. 2805) is amended—

(1) by striking out "Sec. 105" and inserting "Sec. 106" in lieu thereof;

(2) by striking out "102 or 103" where it appears in subsections (a) and (d) and inserting "102, 103, and 105" in lieu thereof;

(3) by inserting before the period in the first sentence of subsection (c) the following: ", or, in the case of a failure to comply with the requirements of section 105, that the franchisor engaged in an act (or attempted to engage in an act) which had (or would have had) a substantial adverse economic effect on the franchisee";

(4) by inserting before the period in the last sentence of subsection (c) the following: "or section 105 (as the case may be)".

(c) Such Act is amended by redesignating section 106 as section 107, and by striking out the last two items in the table of sections under the heading relating to title I and inserting in lieu thereof the following:

"Sec. 105. Reprisals or discrimination against retailers or distributors of gasohol.
"Sec. 106. Enforcement.
"Sec. 107. Relationship of this title to State law.".

Sec. 4. Section 101 of the Petroleum Marketing Practices Act (15 U.S.C. 2801), defining terms used in such Act, is amended by adding at the end thereof the following new paragraphs:

"(20) The term 'gasohol' means alcohol, or any mixture containing at least 10 percent or more (by volume) of alcohol, suitable for use as a fuel in self-propelled vehicles designed primarily for use on public streets, roads, and highways.

"(21) The term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal.".

Summary of Gasohol Marketing Freedom Act

Section 1. Title.

Section 2. The sale, consignment, distribution, offering for sale, or any other act directly related to the sale, consignment, or distribution of gasohol is not grounds for termination of a franchise or nonrenewal of a franchise relationship. Provides for a reasonable restriction on the source of supply for the non-alcohol component of gasohol.

Section 3. Prohibits economic reprisals or discrimination against retailers or distributors of gasohol.

Section 4. Defines terms.●

By Mr. SCHWEIKER:

S. 1269. A bill to amend the Urban Mass Transportation Assistance Act of 1964 with respect to reduced fare ridership for elderly or handicapped persons; to the Committee on Banking, Housing, and Urban Affairs.

● Mr. SCHWEIKER. Mr. President, I am introducing a bill today to allow elderly and handicapped persons to receive reduced rates on mass transit vehicles during off-peak hours upon presentation of a medicare card. As the law now stands, local transit authorities that receive Urban Mass Transportation Administration (UMTA) grants must offer reduced rates during off-peak hours to senior citizens and handicapped persons. However, most cities throughout the country require presentation of a special, locally obtained identification card to ride for reduced rates.

Many senior citizens and handicapped persons find it difficult to go to mass transit authority offices to apply for a special transportation identification card. They already possess identification which reliably proves their age or handicap. In addition, qualified individuals who travel or have relatives and friends in other cities find that these cities each require different reduced rate identification cards based on senior citizen/handicap eligibility. For example, a senior citizen who has a Washington, D.C. identification card cannot use that card to receive reduced rates in Baltimore. He or she must go to the Baltimore transit authority office to obtain a Baltimore card. This is an unnecessary burden.

My bill would simply require local transit authorities across the country to honor the medicare card as valid proof of eligibility for whatever reduced rate programs exist in the area. Presently, local transit authorities have discretion, within Federal guidelines, to establish their own eligibility requirements and rate structures for their reduced rate programs. Programs differ throughout the country—which is the major reason separate identification cards are required. But to qualify for an UMTA Federal grant, the program must offer reduced rates at least to those 65 and over and to "handicapped" persons. Likewise, to receive a medicare card, one must be 65 or over or have some handicap or disabling disease—so those who legitimately hold medicare cards are automatically eligible for every reduced rate prorgam which receives a UMTA grant. Almost 24 million senior citizens and 1.5 million handicapped persons have medicare cards.

It is not the intent of my bill to interfere with local transit authority eligibility requirements or rate structures, or to establish a uniform reduced rate program throughout the country. My bill simply allows those who already qualify for existing reduced rate programs to enjoy the reduced rates they deserve no matter where they are.

Many cities throughout the country—such as Philadelphia, Pittsburgh, Los Angeles, Miami, Atlanta, and Milwaukee—already accept medicare cards as proof of eligibility for reduced fares on mass transit vehicles. Senior citizens may now travel in any of these cities for the reduced rates that apply simply by presenting a medicare card upon boarding public transportation. My bill would require that the many other cities which do not currently accept medicare cards—such as Chicago, Washington, D.C., Baltimore, Houston, Detroit, and St. Louis—must adopt this policy. They would not be required to change their local reduced fare programs, and could continue to honor local identification cards, but they would have to honor a medicare card as well.

My bill will cost almost nothing. No new identification cards need to be printed, and no changes in reduced rate eligibility requirements or local mass transit fare structures are intended. However, by making mass transit travel more convenient for over 25 million citizens across the country, my bill will encourage mass transit use and thereby encourage energy conservation.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1269

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That section 5(m) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "For the purpose of this subsection and as a condition of assistance under this Act, any person who when boarding or paying mass transit fares, presents a medicare card duly issued to that person pursuant to title II or title XVIII of the Social Security Act shall receive the benefit of the rates established pursuant to this subsection for elderly or handicapped persons.".●

By Mr. JAVITS (for himself and Mr. JACKSON):

S. 1270. A bill to establish a program to assist the low income elderly and others in meeting increased primary residential fuel costs: to the Committee on Labor and Human Resources.

BASIC FUEL ASSISTANCE ACT OF 1979

● Mr. JAVITS. Mr. President, in the last 5 years, as world oil prices have more than sextupled, the poor in the United States have paid more and more for less and less of their basic energy supplies. While all Americans have had to shoulder a heavy burden of energy inflation, the poor have been hit disproportionately hard and in many cases now pay four times as large a proportion of their income for energy, as middle income households. While the median income U.S. household spends approximately 5 percent of its income on home energy costs, many low income households are spending over 20 percent of their annual budget on heat and light, or four times as large a share of income as the average family. In the coldest reaches of the Northeast, many poor households spend up to 35 percent of income on energy.

American incomes have not kept pace with inflation and especially with energy inflation. But the poor, including those who depend on Federal income assistance programs, have lagged even further behind, while the share of the dwindling income which they must spend on energy has skyrocketed.

Furthermore, the poor use far less energy than the average American. Per capita, 1975 figures show the poor using 50 percent less electricity and 24 percent less gas, and usage has dropped greatly since that time. Yet the energy the poor do use is likely to do them less good, as the condition of the homes they occupy and the appliances and automobiles they own are more dilapidated and less efficient than the U.S. average.

Other factors increase the relative energy disadvantage the poor suffer. For example, utilities charge higher unit prices for smaller amounts of usage; and utilities and heating oil dealers alike restrict credit and budget plans for the poor so that seasonal impact on the cash flow of these households is staggering.

The tragic sum of these inequities is the same—low income households have had to choose between paying their fuel bills or their rent, their light bill or their grocery store. Some people are dead; many others are ill as a result, and the highest toll has been among the elderly. We all remember sadly old persons found dead when their utilities were shut off in the dread winter of 1977. And we all know the scores of old people who have died from heat prostration in the summer. The grimmest toll may have been the 20 elderly indigent Texans who died in the Dallas heat wave of July 1978. Those who are hungry or enfeebled because they are deprived of energy are uncounted, but we know they number in the hundreds of thousands.

Mr. President, we need no further justification to establish a program of income assistance for basic energy needs. The law provides that all groups and regions shall be treated equally under the National Energy Act and the first National Energy Plan states clearly that "in particular, the elderly, the poor and those on fixed incomes should be protected from disproportionately adverse effects on their income. Energy is as necessary to life as food and shelter." For over 2 years the administration has pledged it would submit proposals for a permanent program to the Congress, and we are still waiting. The result has been the hastily conceived crisis programs which have, too little and too late, sent variable amounts of help through uncertain administrative channels to some of the poor who happened to meet the onerous restrictions set on this assistance.

The situation is already critical and grossly unjust. We cannot make remedial assistance contingent upon the decontrol of domestic oil prices nor enactment of a related tax measure. While it is true that, according to the Congressional Budget Office, domestic oil decontrol would cost the poor yet another $52 per family, the economic ravages of the OPEC cartel are more than sufficient to justify start up of a meaningful assistance program now.

There is no sign that this squeeze on world supply and prices will abate. Just 2 weeks ago Algeria and Libya increased the price of their light crude oil by 15 percent, an ominous portent of the mood of June's OPEC oil ministers' meetings. Prices are almost surely going up, and the United States has taken inadequate measures to protect itself. And it is an absolute certainty that the poor will again be hardest hit. Therefore, I am today introducing the Basic Fuel Assistance Act of 1979 with Senator HENRY JACKSON, the chairman of the Senate Energy Committee.

The act provides for a system of assistance payments for all those eligible for food stamps (with some adjustments which increase benefits for elderly in high rent, high medical cost areas) or AFDC or SSI. This will reach approximately 12 to 13 million households from the very poorest to working poor families making low salaries. The program is based on the principle that all families in a given region should pay roughly the same percent of their income for energy.

Assistance is given for heating or, in some cases, cooling. But everyone has to pay a share of their own expense. Assistance is only available for costs which exceed the average household expenditure in the region for that type of fuel up to a ceiling. In the first year, the ceiling is $45 a month. The amount of the payment is adjusted on a sliding scale so the poorest families pay only a slightly smaller share of their income than better-off families. Oil dealers and utilities receive their payment directly from a Federal Reserve member bank.

The participation of the family in paying bills keeps energy usage down. More importantly, the program is tied to the delivery of a comprehensive package of energy assistance including energy audits, conservation counseling, and weatherization services.

The administration of the program is designed to use existing Federal and State programs to maximize efficiency and simplicity. HEW will administer the program through State welfare offices. Community action agencies are involved in an active program of outreach, including the establishment of certification and processing centers with the welfare office to insure broader participation in the food stamp program—especially among the elderly. CAA's are also required to use information on each eligible household to provide it with counseling, analysis, and other energy-related assistance, including weatherization so that each household with energy programs receives comprehensive assistance designed to make it more energy efficient.

The total program cost will depend in part on the required prepayment and the ceiling amounts set by the Secretary of HEW. Roughly, with a 75 percent participation rate, which is much higher than the food stamp program participation today and even if everyone were to get the ceiling which is unlikely, we estimate the outside maximum cost is about $4.5 billion in the first fiscal year of full operation.

We regard this legislation as a comprehensive and carefully worked proposal which will, nonetheless, require much review and work by those experienced in delivering assistance to the poor and those experienced in providing home fuel. The comments we will solicit nationwide on this bill and the hearings we hope to have soon should serve to clarify and refine these proposals for solving this complex problem which has stymied policymakers for 4 years.

Furthermore, until such time as we can break our dependence on the OPEC cartel by insuring more generous supplies of oil, we may have to keep adjusting these program benefits upward. Should domestic oil decontrol become a reality, more assistance will be needed by fiscal year 1981. I am confident, however, that the windfall profits tax that may be imposed on profits resulting from OPEC increases or upon windfalls resulting from any decontrol of domestic oil can provide more than adequate new revenue for this purpose.

Indeed, Mr. President, I am convinced there should be three energy priorities for any new tax revenues. And the first and foremost is a basic energy assistance program for low-income people of significant size like the one Senator JACKSON and I are proposing today. The second is a rebate of the added home heating oil costs stemming from decontrol of domestic prices through a tax credit available to all heating oil users not receiving basic energy assistance. This would simply give oil users the same protection given households burning natural gas by the gas deregulation policy which passed the Congress last year. Later this week I will file such a tax rebate proposal somewhat similar to one proposed by Senator RIBICOFF.

Finally, we must establish coherent policy for finding oil and gas in non-OPEC countries and use such funds as are necessary to provide incentives to private concerns or to governments through bilateral and multilateral assistance programs. But we need to move expeditiously to deliver real help to families on basic fuels who are in desperate need.

Mr. President, I ask unanimous consent that the text of the Basic Fuel Assistance Act of 1979, together with the section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Basic Fuel Assistance Act of 1979".

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FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) rising world energy costs have significantly reduced the real purchasing power of low income households, and particularly the elderly, in the United States to levels at which the necessities of life cannot be acquired by them,

(2) the real incomes of those households receiving government assistance payments as a primary income source have diminished in proportion to the real incomes of other households in the United States,

(3) in all the United States, the cost of essential home energy supplies imposes a disproportionately larger burden on the incomes of low income households than on the incomes of other households and in some parts of the United States this differential among income groups' energy expenditures is extreme,

(4) low income Americans use less energy per capita than other Americans and have reduced their usage to the extent the conditions of their dwellings and equipment will allow,

(5) low income households need a variety of forms of assistance to reduce energy costs including financial support, energy conservation counseling, home weatherization and access to alternate energy sources,

(6) low income households lack access to energy supplies because of the structure of home energy distribution systems and prevailing credit practices,

(7) it is the policy of the United States that the elderly, the poor, and those on fixed incomes should be protected from disproportionately adverse effects on their income resulting from general economic conditions, and

(8) minimum quantities of home energy supplies are as necessary as food and shelter, and lack thereof poses a threat to life, health and safety.

DEFINITIONS

SEC. 3. As used in this Act the terms—

(1) "primary residential fuel" means electricity, oil, gas, coal, or any other fuel if used by a household as the principal source for heating or cooling a dwelling;

(2) "Secretary" means the Secretary of Health, Education, and Welfare;

(3) "State agency" means the unit of State government which was established for the purpose of administering assistance under titles IV and XVI of the Social Security Act;

(4) "household" means—

(A) any group of related individuals who are living together as one economic unit for whom primary residential fuel is customarily purchased in common;

(B) any individual living alone who purchases primary residential fuel directly or indirectly, by undesignated payments in the form of rent;

(5) "eligibility certificate" means a certificate issued pursuant to provisions of this Act;

(6) "supplier" means any establishment, including a recognized department thereof, which sells primary residential fuel for consumption by households;

(7) "wholesale supplier" means any establishment including a recognized department thereof, which sells primary residential fuel to retail primary residential fuel outlets for resale for consumption by households;

(8) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

(9) "Bank" means any member bank of the Federal reserve system;

(10) "prepayment" means the percentage of household income which must be applied under section 5(b).

ENERGY RELATED ASSISTANCE: COMMUNITY OUTREACH

SEC. 4. (a) The Secretary shall establish procedures in cooperation with the Secretary of Energy and the Director of the Community Services Administration and the Secretary of Housing and Urban Development for determining the need of dwellings occupied by households eligible for assistance under this Act for improved weatherization and other energy related assistance provided under the Economic Opportunity Act of 1964, and the Energy Conservation and Production Act (42 U.S.C. 6801), and for providing such assistance on a timely basis.

(b) The Secretary shall enroll and encourage to enroll eligible households to register for any other Federal, State, or local energy or energy related assistance programs for which they qualify including energy audits, counseling, and educational services, alternate energy technologies and weatherization. For the purposes of subsection (a), the Secretary shall collect and provide to Community Action Agencies and State agencies which are grantees of the Community Services Administration information relating to those households within the area served by such agencies which are eligible for improvements to dwellings or energy related assistance to become energy efficient.

(c) The Secretary shall distribute to the Director of the Community Services Administration a sum which is not less than 25 percent of the funds available for administration under section 7(c) for the purpose of carrying out vigorous public information and outreach programs to ensure registration of eligible households under this Act with special priority for such programs directed at the elderly through Community Action Agencies. These programs may include the establishment of new field offices to reach eligible households.

ASSISTANCE PROGRAM

SEC. 5. (a) (1) The Secretary shall establish in accordance with the provisions of this Act a program of assistance for meeting primary residential fuel costs of the elderly and other persons described in subsection (b). To the maximum extent feasible the Secretary shall publicize and promote the benefits of such program to all eligible persons.

(2) In establishing the assistance program under this subsection with regard to primary residential fuel costs for cooling the Secretary shall provide assistance only for those areas where the Secretary of Energy has determined by rule that historic weather patterns make such assistance necessary. Such determination shall be based upon historic degree days and humidity factors. Assistance for meeting the costs of cooling shall be extended only to households with an individual 60 years of age or older or to households which can establish an urgent medical need for cooling pursuant to standards established by the Secretary.

(b) The Secretary shall authorize payments in an amount equal to the amount of the bill less the required prepayment amount which shall be paid by the recipient in accordance with regulations promulgated by the Secretary. The required prepayment amount shall be based upon the percentage of income determined annually by the Secretary which an average household of similar type using the same primary residential fuel in that region would pay for primary residential fuel during the same season. For eligible households whose net income is the median income for all eligible households, the required prepayment shall be the same percentage of income as that determined by the Secretary to be the average. For the lowest income households eligible the required prepayment shall be 50 percent of the average. For the highest income households eligible, the required prepayment shall be 150 percent of the coverage. In no case shall assistance under this Act exceed an amount equal to the average total of primary residential fuel expenditure for households of similar type using the same fuel in the region as determined annually. In no case shall the monthly benefit exceed $45 in the first fiscal year of the program established by this Act.

(c) In housing projects established under sections 221(d)(3) and 236 of the National Housing Act of 1968, section 202 of the Housing Act of 1959, section 515 of the Housing Act of 1949, low rent housing established by the United States Housing Act of 1937, and section 8 of the Housing Act of 1974, payments shall be made directly to building operators in an aggregate monthly amount computed on the basis of the number of eligible tenants divided by the exact costs of primary residential fuel costs paid as an undesignated part of rent up to a ceiling amount per eligible tenant as determined under regulations by the Secretary annually to be comparable to the ceiling established for other eligible households.

(d)(1) The Secretary in consultation with the Secretary of Energy shall establish annually by rule a formula for levels of energy assistance payments comparable to those available to other eligible recipients to offset energy costs reflected in rents as undesignated building operating costs. Payment shall be made in the amounts due the eligible recipients to the supplier of the building operator according to the payment system established by regulation upon certification by both the building operator and the recipient that monthly rents have been reduced by the amount of the payment.

(2) Any building operator who, subsequent

to certification for participation in the program raises rents above the prevailing area annual rental inflation rate for buildings of the same type (as determined by the local housing authority) shall not be eligible for participation in the program established by this Act.

ELIGIBILITY STANDARDS

SEC. 6. (a) To be eligible for assistance under this Act a household—

(1) shall be eligible for benefits under the Food Stamp Act of 1977; or

(2) shall be eligible for assistance under titles IV and XVI of the Social Security Act.

(b) In construing eligibility for benefits under paragraph (1) of subsection (a) the Secretary shall disregard section 5(e) of the Food Stamp Act of 1977 and shall allow as deductions to household income a standard deduction of $60 a month for each household, except that households in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States shall be allowed a standard deduction determined by the Secretary in accordance with the best available information on the relationship of actual or potential itemized deductions claimed under the food stamp program in these areas to such deductions in the forty-eight contiguous States and the District of Columbia. Such standard deductions, starting July 1, 1978, shall be adjusted every July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index of the Bureau of Labor Statistics for items other than food for the six months ending the preceding March 31 and September 30, respectively. All households with earned income shall be allowed an additional deduction of 20 per centum of all earned income (other than that excluded by subsection (d) of this section), to compensate for taxes, other mandatory deductions from salary, and work expenses. Any household which is composed entirely of persons who are age 60 or older or who are recipients of benefits under title XVI of the Social Security Act shall be entitled to a medical expense deduction in an amount equal to the actual cost of medical expenses incurred by such household. Households shall also be entitled to (1) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction contained in clause (2) of this subsection, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education which is preparatory for employment, or (2) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed: *Provided*, That the amount of such excess shelter expense deduction for any household, other than a household which is composed entirely of persons who are age 60 or older or who are recipients of benefits under title XVI of the Social Security Act shall not exceed $75 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States, amounts determined by the Secretary in accordance with the best available information on the relationship of the actual shelter costs in those areas to such costs in the forty-eight contiguous States and the District of Columbia, adjusted annually (commencing July 1, 1978) to the nearest $5 increment to reflect changes in the shelter, fuel, and utilities components of housing costs in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the twelve-care and excess shelter expense deductions under clause (1) and (2) of this subsection, the maximum allowable level of which shall not exceed the maximum allowable deduction under clause (2) of this subsection.

(c) Each household participating in the program shall submit to the State agency proof that the household does purchase primary residential fuels or makes undesignated payments for primary residential fuel in the form of rent.

(d) The value of any fuel assistance provided to an eligible household under this Act shall not be considered income or resources for any purpose under any Federal or State law, including any law relating to taxation, public assistance or welfare program. ●

(e) The Secretary shall promulgate regulations for households described in subsection (a)(2) with regard to net income determination. Such regulations shall to the maximum extent feasible be similar to regulations under the Food Stamp Act of 1977 for the same purpose.

(f) The Secretary shall promulgate regulations providing for recertification of eligibility on a quarterly basis. No household shall be recertified for eligibility unless the prepayments required under subsection (b) of section 5 have been made during the previous quarter.

ADMINISTRATION OF FUNDS

SEC. 7. (a) The Secretary shall contract with each State agency to administer and distribute fuel assistance to households which meet eligibility standards under section 6.

(b) Fuel assistance shall be made available to eligible households for payment of outstanding unpaid fuel bills or may be used as a credit against future fuel bills incurred in the same quarter. If during a month in any quarter of eligibility a recipient has primary residential fuel costs which exceed the required prepayment and the amount of assistance under this Act for such month, any unused portion of assistance available in a prior month in the same quarter may be applied to such costs.

(c) The Director shall reimburse a State agency for 90 percent of the reasonable costs it incurs in administering the fuel assistance program. Such reimbursement shall be made upon terms and conditions prescribed by the Secretary.

PAYMENT SYSTEM

SEC. 8. (a) Each supplier shall be entitled to payments under this Act for primary residential fuel delivered to eligible households in an amount equal to the total cost of the primary residential fuel delivered less the amount of prepayments to be made by each recipient up to the ceiling amount for that client.

(b) A supplier shall be paid by any Federal Reserve Bank for primary residential fuel delivered to eligible households if such supplier presents to such Bank—

(1) identifying information for eligible households to which primary residential fuel was delivered,

(2) records of sales, indicating the date of sale, amount of fuel sold and the charge for each unit of fuel sold, and

(3) certification that the information provided is accurate and that the provisions of this Act have been complied with.

(c) The Secretary shall provide information to all eligible households on the operation of the program established by this Act in a manner calculated to be understood by the participants in specific regions.

RECORDS

SEC. 9. (a) Each supplier shall be responsible for keeping such records and documents relating to their participation in the program established by this Act as the Secretary may reasonably require.

(b) (1) The Comptroller General of the United States is authorized to audit the programs, activities, and financial operations of any supplier for any period during which Federal funds provided pursuant to this Act are being received for primary residential fuel pursuant to this Act. Any such audit may be conducted under such rules and regulations as the Comptroller General may prescribe. The Comptroller General shall report to the Congress at such times and to such extent as he considers necessary to keep the Congress informed on the use of such Federal funds and, to the extent appropriate, make recommendations for achieving greater economy, efficiency, and effectiveness in such programs.

(2) For the purpose of any audit conducted pursuant to this subsection, the Comptroller General, or a designated representative of the Comptroller General, shall have access to and the right to examine all books, accounts, records, reports, files, and other papers, items, or property belonging to or in use by any supplier.

PROHIBITIONS

SEC. 10. (a) No supplier of primary residential fuel may refuse to deliver primary residential fuel to any eligible household solely because such household is participating in the program estabilshed under this Act.

(b) No utility which is otherwise regulated by Federal, State, or local government which is a supplier of primary residential fuel may terminate supplies of primary residential fuel to eligible recipients unless—

(1) the recipient has received written notice of pending termination not less than 21 days prior to such termination, and

(2) the recipient has had an opportunity for a hearing and to be represented by counsel at such hearing. (c) Any supplier receiving payment under the program established by this Act shall provide primary residential fuel to eligible households under the same terms and conditions which apply to all households and shall not terminate supplies without adequate prior notification.

(d) Notwithstanding the provisions of subsections (b) and (c) no supplier of primary residential fuel may terminate supplies to any participating household during a severe weather emergency, as determined by the Secretary or the Governor of the State.

CRIMINAL PENALTIES

SEC. 11. (a) Whoever violates provisions of this Act or who knowingly provides false information in any report required under this Act shall be fined not more than $10,000 or imprisoned not more than 5 years or both.

(b) Whoever knowingly uses, transfers, acquires, alters, or possesses fuel assistance eligibility certificates in any manner not authorized by this Act shall be fined not more than $5,000 or imprisoned for not more than 1 year, or both for each violation.

REGULATIONS

SEC. 12. (a) The Secretary shall issue such regulations as necessary or appropriate for carrying out the provisions of this Act.

(b) Where appropriate the Secretary shall coordinate with the Secretary of Agriculture methods by which to implement provisions of this Act in conjunction with existing procedural requirements under the Food Stamp Act of 1964.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) For the purpose of carrying out the provisions of this Act (other than section 14) there are authorized to be appropriated such sums as may be necessary.

CRISIS INTERVENTION

SEC. 14. (a) The Director of the Community Services Administration shall establish a program to provide emergency energy assistance to individuals whose incomes do not exceed 150 percent of the poverty level as determined in accordance with criteria established by the Director of the Office of Management and Budget.

(b) Regulations promulgated by the Director under this section shall provide that—

(1) Such assistance shall be administered by the Community Action Agency and State Community Action Agencies;

(2) eligibility for such assistance shall depend on the existence of a present danger to health and safety as a result of severe weather or fuel supply conditions;

(3) such assistance is available for maintaining home heating supplies including emergency repairs or equipment;

(4) such assistance may be used for evacuation and emergency shelter in the event of heating supply interruption; and

(5) to the extent deemed reasonable this assistance shall be available only one time to any household in one year.

(c) There are authorized to be appropriated to carry out the provisions of this section $40,000,000 for the fiscal year ending September 30, 1980, $40,000,000 for the fiscal year ending September 30, 1981 and $40,000,000 for the fiscal year ending September 30, 1982.

SECTION-BY-SECTION ANALYSIS: THE BASIC FUEL ASSISTANCE ACT OF 1979

Secs. 1–3. Title, Findings, and Definitions.

Sec. 4. Energy Related Assistance: Community Outreach.

This section provides for both delivery of a comprehensive set of energy conservation services to enrolled eligible households and for an aggressive effort to reach and enroll the maximum possible number of eligibles.

First, the Secretary of HEW, who administers the Basic Fuel Assistance program, is charged with collecting all necessary information about the energy consumption of the homes of persons enrolling in the program and passing it on to CSA, HUD, and/or DOE for determining the need of such families for building rehabilitation, weatherization, energy conservation counseling, and alternative energy technologies. This section carries out the Act's intent to make energy use by all assistance recipients as efficient as possible through the use of all available conservation programs following an energy evaluation or audit of the dwelling.

Second, CSA is directed to carry out an aggressive program through CAA's and its state agency grantees, to inform and enroll eligible households. The section specifies that this effort may even extend to the establishment of field and mobile offices. This latter effort would be in coordination with the state agencies whose personnel are charged with the final responsibility for certifying eligibility and payment levels. The Secretary is directed to make available to CSA an amount equal to 25% of the federal funds for all state agency administration.

Sec. 5. Assistance Program.

Assistance is available for portions of residential heating costs and for cooling costs for the elderly or persons with a medical need in areas where the seasonal weather pattern is historically very warm and humid.

Every household is required to pay a share of their own bill. This share is determined to be that proportion of household income paid for heat by the average household using the same kind of fuel in the same region. The payment requirement is scaled slightly so that the poorest households pay less than the average and the better-off end of the eligible scale pays slightly more.

Benefits are available for the balance of the bill up to a ceiling amount per month. The ceiling is set by the Secretary so no household gets more assistance than the average bill in the region for the same type of fuel. Regardless, in the first year of the program, the highest ceiling would be $45 per month.

Special provision is made for renters who do not pay separate fuel bills. First, for federally-assisted housing of all kinds, payment is made directly to the project for a portion of eligible tenants' rent, as determined by formula to be equal to the assistance they could get if they were making separate fuel payments.

Second, for tenants in privately owned units, a similar formula is set to determine what part of their rent reflects fuel costs and what assistance they could get if they were paying a separate bill. The landlord reduces rents by an equivalent amount and payment is made by the program to the fuel supplier. The landlord must also adhere to prevailing area trends in annual rent increases.

Sec. 6. Eligibility.

Any household eligible for AFDC, SSI and/or Food Stamps is eligible for basic fuel assistance. In addition, any person over 60 is eligible who would be eligible for food stamps if they were permitted to deduct their actual shelter and medical expenses under the provisions of the Food Stamp Act of 1977. A household's net income is determined as it would be for Food Stamps with the same exceptions for persons over 60 as stated above.

A household must prove it either buys fuel directly or pays for fuel through rent.

Households' eligibility will be recertified quarterly, and to be recertified they must show receipts for the share of their own income it was determined they must pay for fuel costs.

Sec. 6. Administration.

HEW administers the program through state welfare agencies and pays 90 percent of the administrative costs.

Assistance not used in one month of the quarter for which a household is certified may be carried over to the next month until the quarter ends.

Sec. 8. Payment System.

Fuel suppliers submit bills directly to the program through any Federal reserve member bank and are immediately reimbursed. They must supply account and identification numbers for all recipient households, exact records of fuel sales and certification as to the accuracy of these bills.

The program must provide clear and simple information on benefits and procedures for each participant to use for themselves and their fuel suppliers.

Sec. 9. Records.

Fuel suppliers are required to keep full records and submit them to the Comptroller General as needed for the auditing of this program.

Sec. 10. Prohibitions.

Fuel suppliers cannot refuse to sell to participants solely on the basis that they are receiving assistance under this Act.

Regulated utilities participating must establish procedures for termination of service of primary fuel to participants which include 21 days advance written notice and an opportunity for a hearing with counsel.

Non-regulated suppliers including fuel dealers must serve participants on the same terms (credit, price, etc.) as applying to all others and must provide adequate notice prior to a termination.

No participating supplier may cut off service during a severe weather emergency as determined by the Secretary or the Governor.

Sec. 11. Criminal Penalties.

Each violation of this Act carries a maximum penalty of $10,000 and/or 5 years imprisonment.

Misuse of certification of eligibility carries a maximum penalty of $1000 and/or 1 year imprisonment.

Sec. 12. Regulations.

The Secretary of HEW shall issue the necessary regulations and coordinate with the Secretary of Agriculture as needed.

Sec. 13. Authorization of Appropriations.

Such sums as are needed to implement the program described above are authorized.

Sec. 14. Crisis Intervention.

CSA is given $40 million per year to establish a flexible crisis intervention program to supplement the basic fuel assistance program. Households whose income is at or below 150% of the national poverty level may get emergency help when they experience a danger to health and safety because of a lack of fuel. Such help can involve evacuation, emergency shelter, home repair or payment of bills. No household is expected to receive help more than once in a year.●

By Mr. PROXMIRE:

S.J. Res. 84. A joint resolution to designate August 1980 as National Sport Aviation Month; to the Committee on the Judiciary.

NATIONAL SPORT AVIATION MONTH

Mr. PROXMIRE. Mr. President, the attention of aviators around the world will focus on the United States during August 1980, when an unparalleled extravaganza of sports aviation events will be held at Oshkosh, Wis. The month will begin with the Experimental Aircraft Association's annual convention which, with an attendance in excess of 350,000 persons, is the world's largest aviation event. Annually this attraction draws visitors from around the globe, hailing from 47 countries in 1978.

The month will continue with the Experimental Aircraft Association's international aerobatic contest, and finally culminate by our hosting the world aerobatic championships, which will not be held again in the United States for many decades. The world aerobatic championships will draw competitors from many other countries including the Soviet Union, China, and the present world aerobatic champions, Czechoslovakia, providing the spectacle of intense international competition by the best of the world's aviators. The aerobatic championships can be likened to the Olympics of the air, requiring the crew members to execute complicated compulsory maneuvers, as well as free style routines meeting stringent specifications, yet providing unparalleled suspense and excitement.

Mr. President, August 1980 will see sport aviation activity never before witnessed in this country or elsewhere in the world. Sport aviation is a popular and growing industry in the United States and embraces the highest ideals of individual challenge and achievement. Aerobatic flying has always caught the imagination of Americans young and old from the earliest days of the barnstormers and American aviators continue to excell and lead the action. We of Wisconsin are particularly proud to host the guests and competitors from around the world in this magnificent display of human spirit and adventure.

Mr. President, I ask that a joint resolution which would put the Congress of the United States on record as being in favor of a National Sports Aviation Month be appropriately referred.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred.

ADDITIONAL COSPONSORS

S. 25

At the request of Mr. BAYH, the Senator from Louisiana (Mr. JOHNSTON), the Senator from Florida (Mr. CHILES), and the Senator from Missouri (Mr. DANFORTH) were added as cosponsors of

S. 25, a bill to designate the birth date of Dr. Martin Luther King, Jr., as a national holiday.

S. 35

At the request of Mr. Helms, the Senator from New Mexico (Mr. Schmitt) was added as a cosponsor of S. 35, a bill to repeal the Credit Control Act of 1969.

S. 246

At the request of Mr. Bentsen, the Senator from North Carolina (Mr. Morgan) was added as a cosponsor of S. 246, a bill to encourage greater individual savings.

S. 265

At the request of Mr. Domenici, the Senator from Wyoming (Mr. Simpson) was added as a cosponsor of S. 265, the Equal Access to Justice Act of 1975.

S. 506

At the request of Mr. Bayh, the Senator from Ohio (Mr. Glenn) was added as a cosponsor of S. 506, the fair housing amendments.

S. 526

At the request of Mr. Schweiker, the Senator from Florida (Mr. Chiles) was added as a cosponsor of S. 526 a bill to amend title XI of the Social Security Act to provide that a Professional Standards Review Organization shall not be considered to be an agency of the Federal Government.

S. 621

At the request of Mr. Mathias, the Senator from Oregon (Mr. Hatfield) was added as a cosponsor of S. 621, a bill to provide for further research and services with regard to victims of rape.

S. 625

At the request of Mr. Wallop, the Senator from Maine (Mr. Cohen) and the Senator from New Mexico (Mr. Domenici) were added as cosponsors of S. 625, a bill to amend the Federal Mine Safety and Health Amendments Act of 1977.

S. 697

At the request of Mr. Sasser, the Senater from Alabama (Mr. Heflin) was added as a cosponsor of S. 697, a bill to reduce by $500,000,000 the amount which may be obligated for travel and transportation of officers and employees in the executive branch during fiscal year 1980.

S. 904

At the request of Mr. Danforth, the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of S. 904, the Federal Assistance Reform and Small Community Act of 1979.

S. 913

At the request of Mr. Matsunaga, the Senator from West Virginia (Mr. Randolph) and the Senator from Alaska (Mr. Gravel) were added as cosponsors of S. 913, a bill to amend the Social Security Act with respect to health programs authorized under it, and for other purposes.

S. 968

At the request of Mr. Melcher, the Senator from Nevada (Mr. Laxalt) was added as a cosponsor of S. 968, a bill to amend certain provisions of title V of the Public Utility Regulatory Policies Act of 1978 to expedite processing of applications for crude oil transportation systems, and for other purposes.

S. 1081

At the request of Mr. Cohen, the Senator from Illinois (Mr. Percy) was added as a cosponsor of S. 1081, a bill to terminate the authorization for the Dickey-Lincoln School project, St. John River, Maine.

S. 1120

At the request of Mr. Matsunaga, the Senator from Hawaii (Mr. Inouye) was added as a cosponsor of S. 1120, a bill for the relief of Judge Louis LeBaron.

S. 1130

At the request of Mr. Bayh, the Senator from Hawaii (Mr. Matsunaga) was added as a cosponsor of S. 1130, the military legal assistance program.

S. 1165

At the request of Mr. Bellmon, the Senator from Alaska (Mr. Stevens) was added as a cosponsor of S. 1165, a bill to amend chapter 105 of title 10, United States Code, to provide for increases in the amount of the monthly stipend paid to participants in the Armed Forces health professions scholarship program.

S. 1166

At the request of Mr. Bellmon, the Senator from Alaska (Mr. Stevens) was added as a cosponsor of S. 1166, a bill to provide a permanent extension for the exclusion from gross income of certain amounts received under certain education programs for members of the uniformed services.

S. 1200

At the request of Mr. Bayh, the Senator from Maine (Mr. Muskie), the Senator from California (Mr. Hayakawa), the Senator from Nebraska (Mr. Exon), and the Senator from New Jersey (Mr. Bradley) were added as cosponsors of S. 1200, the Alcohol Fuels Regulatory Reform Act.

SENATE CONCURRENT RESOLUTION 17

At the request of Mr. Dole, the Senator from Alaska (Mr. Stevens) was added as a cosponsor of Senate Concurrent Resolution 17, to establish a United Nations Special Investigatory Commission to secure a full accounting of Americans listed as missing in Southeast Asia.

SENATE RESOLUTION 174—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Under the authority of the order of the Senate of May 24, 1979, on May 31, 1979, Mr. Stennis, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget:

S. Res. 174

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, with provisions of section 402(a) of such Act are waived with respect to the consideration of S. 428, a bill to authorize appropriations during the fiscal year 1980 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 428, as reported by the Committee on Armed Services.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

● Mr. BAYH. Mr. President, the Committee on the Judiciary, has scheduled hearings on S. 414, the University and Small Business Patent Procedures Act to be chaired by Senator Bayh, on June 6, 1979, at 9:30 a.m. in room 2228, Dirksen Senate Office Building.

Any persons wishing to submit written statements for the hearing record should send them to Joe Allen, 102-B Russell Senate Office Building, Washington, D.C. 20510.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold hearings on S. 262, S. 445, and other related regulatory reform legislation beginning at 9:30 a.m. and 3 p.m. on Tuesday, June 4, 1979, in room 3302 Dirksen Senate Office Building.

These hearings will continue on Wednesday, June 6, 1979, beginning at 9:30 a.m.●

SUBCOMMITTEE ON ANTITRUST, MONOPOLY AND BUSINESS RIGHTS

● Mr. BAYH. Mr. President, the subcommittee on Antitrust Monopoly and Business Rights, Committee on the Judiciary, has scheduled hearings on the antitrust equal enforcement amendment to be held on June 8, 1979, at 9:30 a.m. in room 5110, Dirksen Senate Office Building.

Any persons wishing to submit written statements for the hearing record should send them to Jessica Josephson, 102-B Russell Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON ENERGY REGULATION

● Mr. JOHNSTON. Mr. President, on Thursday, June 14, the Subcommittee on Energy Regulation will hold a hearing to receive a report from the Energy Information Administration on the current energy supply situation. This hearing will commence at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Questions about this hearing should be addressed to Benjamin S. Cooper or James T. Bruce of the subcommittee staff at 224-9894.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold a hearing on the nomination of Ruth T. Prokop, of the District of Columbia, to chair of the Merit Systems Protection Board, on Thursday, June 7, 1979, at 2 p.m. in room 3302, Dirksen Senate Office Building.●

SUBCOMMITTEE ON ANTITRUST, MONOPOLY AND BUSINESS RIGHTS

● Mr. METZENBAUM. Mr. President, the Judiciary Subcommittee on Antitrust, Monopoly, and Business Rights will hold hearings on a proposed amendment to S. 390, offered by Senator BAYH, on June 8 and June 12, 1979.

Senator BAYH will chair the hearings on June 8, which will begin at 9:30 a.m. in room 5110 of the Dirksen Senate Office Building.

On June 12, the hearings will begin at 10:30 a.m. in room 5110 of the Dirksen Senate Office Building.●

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, the Subcommittee on the Constitution, Committee on the Judiciary, has scheduled hearings on S. 506, a bill to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing. The hearings are presently scheduled for Tuesday, June 5, 1979, at 9:30 a.m., in room 1318, Dirksen Senate Office Building, and Monday, June 11, 1979, at 9:30 a.m., in room 2228, Dirksen Senate Office Building.

Any persons wishing to submit written statements for the hearing record should send them to Ben Dixon, 102-B Russell Senate Office Building, Washington, D.C., 20510.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON THE CONSTITUTION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Constitution Subcommittee of the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 5, 1979, to hold a hearing on S. 506, fair housing amendments to the Civil Rights Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the sessions of the Senate today and Tuesday, June 5, 1979, in order to hold hearings on S. 679, the diversity of citizenship bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet during the session of the Senate on Tuesday, June 5, 1979, beginning at 3 p.m. to hold a hearing on regulatory reform legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Science, Technology, and Space Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today beginning at 2:30 p.m. to hold a hearing on H.R. 1786, NASA authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE WASHINGTON BULLETS AND THE SENSE OF COMMUNITY

● Mr. McGOVERN. Mr. President, during the last few years I have become an unabashed fan of the Washington Bullets. This is an experience that has happened to many full-time residents of Washington and to many of us, like myself, who live here on assigned duty from other States. Not only is this championship National Basketball Association team composed of superb athletes, an excellent coach (Dick Motta), a dedicated owner (Abe Pollin), and an able manager (Bob Ferry), but it is thoroughly integrated into the life of the Nation's Capital City.

As busy as I am as a U.S. Senator and as deeply involved as I have been in the public and international affairs of this Nation, I have found myself more and more scanning the sports pages for commentary on the Bullets before reading the rest of the Washington Post and the Washington Star. My wife, my children and my in-laws—even my grandsons—have all been caught up in "Bullet fever."

It is clear from the sustained and standing ovation given this team after its recent defeat in the championship playoffs that the people of Washington and the other Bullets fans love this team.

Mr. Vic Gold has written a sensitive piece in today's Washington Post saying all of these things better than I can.

Dave Kindred, a Washington sports writer, has made a point, however, that also needs to be made. The NBA season is too long and too physically demanding on the players. It should be shortened by approximately one-third of the games now played during the regular season. It is my opinion as an amateur, as well as the opinion of many who are more proficient, that the Bullets might very well have again won the championship this year had it not been for the physical beating suffered by Mitch Kupchak and other Washington players during a long and difficult season. I still think this is the best team in the NBA.

But as the defending world champions with the best overall record for the current season, except for the final playoff games, the accumulated Bullets injuries made it especially hard for this team to do its best during the final playoffs. I think the finest athletes in the world today are the NBA basketball players. It is unnecessary and unreasonable to press these superb athletes beyond endurance in a season that is too long, too hectic, with too much travel, and too many games.

Mr. President, I ask that Vic Gold's article, together with articles by Dave Kindred and Ken Denlinger appearing in the Washington Post of Sunday, June 3, be printed in the RECORD.

The articles follow:

TUBE BOOB CANNOT COPE WITH NBA

(By Dave Kindred)

David Susskind filled his talk show panel one night with beautiful men and women cheek to cheek, as it were, with people who considered themselves ugly. Naturally, the beauties spoke of insecurity and loneliness as the high cost of unapproachable perfection. And the uglies said, hey, we'll trade our approachable warts for a smidgen of that pulchritude.

Professional basketball at playoff time is the most beautiful game of all. Remarkable athletes who make routine the movements that in review seem impossible are caught up in a game of disciplined improvisation. Nureyev knows where he'll step next. Bobby Dandridge invents his art by the millisecond, the beauty of his creation often dependent on the simultaneous maneuvers of Elvin Hayes, all silk, and Wes Unseld, all steel.

Yet nobody cares.

Almost nobody, anyway, if we are, as we must, to judge a sport's appeal to the American public by its reception on national television.

These NBA playoffs were a disaster on TV. Outside of insomniacs and incurable fans of the Bullets and Sonics, only hopelessly smitten basketball lovers watched those late-night telecasts of midweek games in the championship series. I was in Indianapolis for the 500-mile race and stayed up till 1:30 in the morning to see Game 3. The ratings show I was about the only person between Seattle and Washington so afflicted.

The NBA on TV doesn't work, and that is because, as Susskind learned from beauties, a blessing can also be a curse. Too much happens too quickly in an NBA game. Before we can file away for memory Bobby D's latest wonder, Dennis Johnson has performed levitation. It is a waterfall of thrills, and if the cumulative effect is awesome, as yet there is no way to savor each moment, just as it is impossible to appreciate each drop of water rushing over a cliff.

A truck driver in Dubuque may love pro football on the tube. The ratings show he most likely watches football every weekend, every Monday night and some Thursdays (God help us). Why would he watch football, an inferior game, and not tune in the NBA?

Because football is an inferior game.

It is inferior not only in pure athletic ability, but also in terms of sustained drama.

Twenty times in an NBA playoff game, Elvin Hayes might do a trick available to no other man. His work is passed off as routine. But if a 260-pound fat man who can't run 40 yards without risking cardiac arrest bashes his helmet into another corpulent gladiator, causing the clod to tip over, we see the collision on instant replay as proof of skill and courage.

That may be the clod's only nice play of the game, and it could have been done by a hippo on vacation from the swamp.

Truly wonderful athletic feats are performed so rarely in professional football games that they stand out like beacons in the darkness of mediocrity. And because football has so much dead time—time for the armored mastodons to catch their breath—it is ideally suited for television, which caters to an audience whose attention span is a heartbeat long.

Football viewers are asked to keep track of maybe five or six touchdowns a game. Bob Newhart, in his TV situation comedy, once complained of missing all the scoring in a 21-21 game. "I missed six touchdowns," he said, before adding on second thought, "or 14 field goals." In either case, nothing very memorable happened and the story line was clean.

To appreciate pro basketball on television, the viewer must work at it. Football is straightforward violence with an occasional piece of beauty that stands out disproportionately, as if Ann-Margret showed up at a reunion of old defensive tackles. Basketball is more complex. It is a series of small battles, each dramatic on its own account, each battle a thread in the fabric of a war.

Those battles are too subtle for television's coverage, too quickly here and gone. One long pass in a football game can produce victory. TV will replay it from four camera angles and it will be called a miracle. And it may well be, but in basketball the equivalent of that miracle is produced every 30 seconds.

That is why basketball is such a great game to watch if you are paying attention. It is basketball's blessing—if you are paying attention. But most television viewers bring small investments of attention to their tube, and basketball's blessing becomes a curse, its continuous miracles judged boring by audiences for whom one long pass a game is seen as drama beyond compare.

The NBA doesn't need a better game. It just needs the public to realize how good it is. To do that, the NBA must end the conventional wisdom that teams simply go through the motions in the regular season.

Why should anyone turn on the TV to watch a regular-season game when players and coaches admit it means little? And how can a TV viewer resist pro football when each game is seen as Armageddon.

After four months of ignoring the NBA's regular-season telecasts, few viewers are going to tune in for the playoffs. They are creatures of habit. The NBA must make regular-season games meaningful by reducing the 82-game schedule to 60-odd and advertising a huge money prize for regular season work. That way the world's finest athletes would be rested enough and interested enough to play their own Armageddon.

IN DEFEAT, THE CLUB "ARRIVED"

The enduring memory of what became the National Basketball Association's championship game was the end, Bullet fans rising to applaud a team that offered a most satisfactory season despite being unable to successfully defend its title.

"I think the Bullets have arrived in this area," said the assistant coach, Bernie Bickerstaff. Then he added, not contradictorily, "It's been a long time since the Bullets have been Bullets."

Nearly two months. The team with the best regular-season record in fact finished less than .500 in the playoffs, 9–10, losing the title to a Seattle team remarkable in its own fashion.

The Sonics lost their dominant player of a year ago to free agentry. The offense and defense had revolved around Marvin Webster. Then his replacement, Tom LaGarde, was injured and played less than a third of the season. Like all fine teams, the Sonics adjusted, everyone playing to his strength—and to his teammates' strengths—and ended the annual NBA marathon as champs.

"What hadn't I expected?" Bobby Dandridge said. "The guards (Gus Williams and Dennis Johnson) played with a lot more confidence. And Freddie Brown's shooting eye came back at just the right time. And (Jack) Sikma adjusted from forward to center very well. Everyone else played steady ball.

"They played better defense, ran back better. They had a good mixture. They did the things necessary to control us. They are the better team."

As an example of how grown men react to unimaginable pressure, Friday night in Capital Centre was excellent. It was not a classic game. Only one player on the winning team, Brown, made more shots than he missed. Wes Unseld managed just three rebounds in 44 minutes. Elvin Hayes was a force for three quarters and no factor the fourth.

Hayes is especially vulnerable in these moments. So much is expected, even after he delivers so much: 29 points, 14 rebounds, two blocked shots. And he emerges from the training room, after his teammates have faced most of the reporters, and says:

"I felt that just getting to the finals I'd be happy . . . I didn't feel we'd get by Atlanta, because last year they were so tough . . . Tom (Henderson) and Kevin (Grevey) played out their options and Wes has talked about this being his last year. I'd like to see all three return, but I doubt it.

"Kevin has said he'd like to play elsewhere . . ."

In fact, Grevey made it a point to emphasize, as he limped out of the dressing room: "I'll do anything to stay here. I don't want to leave. I haven't spoken to my agent in six weeks. And I'll finally talk with the Bullets, which I haven't done since training camp last year."

A year ago management considered what surely will take place reasonably soon: a changing of the guards. Wisely, the Bullets allowed their hearts to overrule their better judgment last year—and essentially the same cast performed better until it met guard-oriented teams.

When they consider which guards should come and which guards should go, the Bullets must ask themselves one question: who can help us most next season in the playoffs? The regular-season record is important, but the Bullets probably could make the playoffs with Abe Pollin in the back court.

The Bullets have been disenchanted with Henderson for some time. Yet he might be the most difficult guard to replace, because quality assist men are a scarce commodity in the league. And it hardly would do any good to weaken the front court, say by trading Greg Ballard without assurance Mitch Kupchak's back will improve, for somebody slightly more gifted than Henderson.

There are, by chance, two splendid lead guards among the present free agents. Privately, the Bullets already have discussed Kevin Porter. Publicly, Coach Dick Motta allowed his enthusiasm to show when, during a discussion about Unseld, he said, "Wes must have about 1,000 outlet passes stored up since Kevin left."

That would be the fascination—Unseld snapping those gorgeous long passes to Porter, who would lead all manner of fast breaks. Veteran Bullet watchers recall that Porter was the point guard on a team that had a better record than this one—but also one that was beaten soundly in the championship round by Golden State four years ago.

Before the Bullets forgive Porter, or make a serious pitch for him, they ought to remember that there were reasons he was traded to Detroit for Dave Bing: he was foul prone, not especially tough defensively and hardly an outside shooting threat.

Memory suggests he had trouble scoring. The record indicates otherwise. In that four-game sweep by the Warriors, Porter made 29 of 52 shots. The Bullets' major problem that play-off series was at small forward, when Mike Riordan lost his jump shot.

Now Washington has the best small forward in the league.

Still, running teams tend to run far less in the playoffs than they do in the regular season. Which means that a more versatile player, such as Armond Hill, might be the better free agent to chase.

Hill is less flashy than Henderson, a good deal slower than Porter. But he plays infinitely better defense than either man, is taller than Porter and has enough of a jumper to relieve double-team pressure on Hayes and Dandridge.

When they bought Dandridge on the free-agent market two years ago, the Bullets said they were looking ahead to the teams they would face in the playoffs, specifically the Philadelphia 76ers with Julius Erving. What about future guards?

Well, the 76ers, if Doug Collins becomes healthy, still loom—as does San Antonio, with George Gervin, the Sonics again and perhaps the Phoenix Suns.

There are a lot of playoff teams with large guards who could force the present Bullets to move Dandridge out of position. Which means that if a suitable replacement for Henderson cannot be found there is one collegian the Bullets ought to find a way to draft.

Dudley Bradley.

Bradley is about 6-foot-6 and seems to live for defense. At North Carolina, he played second guard much of the time—and in addition to defensive excellence he showed accuracy to about 20 feet under pressure in the ACC tournament championship game against Duke.

Bradley was not a scorer at North Carolina. He was a scorer in high school. Baltimore player of the year the year Larry Gibson also was a senior. And Carolina players also usually score more in the pros.

WASHINGTON FEVER

(By Vic Gold)

You have to live in Old Deecee
To know what the Bullets mean to me.
—*Lyrics to a Community Anthem.*

Interviewed at half time during a Bullets-Atlanta Hawks play-off game at the Capital Centre, Jimmy Carter, never one to lie to us about important things, candidly admitted he was rooting for the visitors. They were, after all, his hometown team. Whatever the political future holds for the president, he simply is domiciled in Washington. He *lives* in Georgia legally and, as his half-time interview revealed, spiritually as well.

Thus has it always been in the Nation's Capital. For all but a relative few—the legendary cave-dwellers—Washington has traditionally been a city made of, by and for tourists. A nice place to visit. Some stay for a few days. Others for a few decades. Yet others for a term or two. But "home" is the place we left, the city or town that holds our loyalties.

That was the way it was for this tourist until a moment of self-discovery 12 months ago when it finally struck me, after 20 years of domiciling in Washington, that I actually *live* here. For better or worse, this is home. My town. After two decades, as of that moment, I was no longer a transplanted Alabamian but a Washingtonian, rooted and rooting.

It was a unique experience—the conversion of a middle-aged transient into a local booster—but one, I found out, not exclusive to me. On the morning after my self-discovery, I traveled downtown to find that a city of transients had, by the alchemy of a single sports event, became a community; that is, a place where the inhabitants shared not merely the common travail of inadequate Metro service and an insufferable climate, but a common pride as well.

Recall, if you will, the magic moment. Oddly, it didn't take place in autumn—despite the fact that for years the closest thing this town reflected in the way of community spirit was a passion for the Redskins. Instead, the moment came in early June and, wonder of wonders, the ball was round, not oblate, handled by a transient from Louisville playing for a team transplanted from Baltimore.

No matter. In the catalytic instant when Wes Unseld dropped it through the hoop on that second free throw in the final minutes of the seventh game in Seattle, we came together, we Washingtonians—from Chevy Chase to 14th and U to Fairfax—as one. There had never been anything like it here. Not even—forgive me, George Allen, wherever you are—not even when the Redskins beat Dallas and qualified for the Super Bowl.

Finally, we had a world championship to call our own. *Our* Bullets had brought it back to *our* town.

True, there were those few among the furrow-browed to point out that what we were celebrating was success in a boys' game played by men. Undeniably. But it is also undeniable that in bringing harmony to a city where disharmony has been a way of life, Wes, Elvin and Bobby, Kevin and Tommy, Mitch and C.J., Larry and Greg had succeeded in doing that which any number of furrow-browed politicians, civic leaders and essayists could not do: Bullet fever transcended mere differences in region, political, economic or social status, race, age, sex, even GS rating. It was universal and euphoric.

Naturally, I thought again about that magic moment when, last Friday night, the ball went through the hoop on a free throw in the fourth quarter, this time to take away our championship. Moments later, Abe Pollin—looking as forlorn as you'll ever see him—telling an interviewer that despite this year's second place finish, he hoped the city would appreciate what his team had achieved. Then there was Wes Unseld, saying much the same thing, in his own laconic way.

"In Seattle," said the Bullets' captain, "when you come in second you get a parade. In Washington"—he shrugged and gave his interviewer that patented Unseld half-smile—"you get out of town."

Not quite, Wes. Maybe in the old days, back when the Bullets were a transient team playing for a city of transients. But all that changed a year ago, almost to the day. That standing ovation at the Capital Center when you left the court Friday night said something about what the Bullets have given this town since the moment in Seattle when you made that foul shot. This year, at last, we were cheering our winners.

Take a Washingtonian's word for it, the Bullets will be back.●

ILLINOIS BRICK

● **Mr. DANFORTH.** Mr. President, as we all know, the Committee on the Judiciary favorably reported S. 300, the Illinois Brick bill. I believe that Senator MATHIAS' moderating amendments help strike an appropriate balance between the competing interests on this bill and I commend him and the committee for their work.

I ask that a summary of the Judiciary Committee meeting on May 8, 1979, from the Congressional Quarterly be printed in the RECORD. I urge all of my colleagues to read it carefully before S. 300 comes to the floor. The issues it raises are among the most important we will consider in this Congress.

The article follows:

SENATE PANEL APPROVES "ILLINOIS BRICK" BILL

(By Charles W. Hucker)

After making major concessions to gain the vote of a key member, Sen. Edward M. Kennedy, D-Mass., has won a narrow victory in the first test of his leadership as chairman of the Senate Judiciary Committee.

By a 9–8 vote, the committee approved May 8 a revamped antitrust bill (S. 300) ardently opposed by business groups. It would overturn the Supreme Court's 1977 *Illinois Brick* decision and allow indirect consumer purchasers to sue price-fixers for triple damages under the Clayton Act.

S. 300 faces an equally tortuous battle on the Senate floor, where opponents are considered likely to launch a filibuster. One Kennedy aide claimed that a majority of the Senate could be mustered to vote for the bill, but conceded that gathering the 60 votes needed to end a filibuster was much more uncertain.

Symbolic tests

The committee battle over S. 300 was significant not only for the changes the bill would make in U.S. antitrust law. It became a sharp confrontation between business lobbying interests fighting the legislation and a coalition of consumer groups, unions and some state officials supporting the bill.

It also was the first major challenge to Kennedy's legislative agenda since he became head of the Senate Judiciary Committee in January. Kennedy avoided an embarrassing defeat, but he was forced to retreat from his original legislation in order to barely accomplish that.

Charles McC. Mathias, R-Md., the pivotal vote on the 17-member committee, said the legislation took on "symbolic importance" greater than its actual impact.

Mathias joined eight Democrats to provide a majority for a revised S. 300. Six Republicans and two Democrats voted against reporting the bill.

At a committee meeting April 23, Kennedy saw that he did not have Mathias' vote in favor of the original bill. Fearing a defeat, Kennedy postponed a vote until May 8. (*Background, Weekly Report. p. 791*).

In that two-week interlude, Mathias was the object of intense lobbying from both business groups and backers of the legislation. Mathias sought major changes in the bill and Kennedy acquiesced in a virtual rewriting of S. 300 to gain Mathias' support. Mathias and Kennedy met May 7 on the eve of the committee session to draft details.

LOBBY BATTLE

Lobbying pressure on Mathias reached an extreme degree. Mathias told the committee May 8 that a friend had received a telephone call concerning the *Illinois Brick* bill.

"You tell Mathias if he doesn't vote our way in the Judiciary Committee, he won't get a penny of our PAC (political action committee) money," Mathias said his friend was told.

"I'm not sure whether that was meant as a threat or a bribe," said Mathias, who is up for re-election in 1980. "I don't take it as either. It is illustrative of the way people are viewing this issue."

Mathias did not tell the committee the source of the telephone call to his friend and declined to identify it when questioned later. He said that if the incident had occurred in his office, he might have referred the matter to the U.S. attorney.

The Maryland Republican and his staff described that incident as the only unusual *Illinois Brick* lobbying he encountered. Mathias dealt with a steady stream of lobbyists from both sides of the *Illinois Brick* issue prior to the May 8 vote.

Among the business groups contacting Mathias were the Business Roundtable, an association of executives of many of the country's largest corporations: Maryland chambers of commerce and business executives from his home state.

Backers of the legislation lobbying Mathias included consumer groups and Esther Peterson, the president's special assistant for consumer affairs.

Opposing forces

The Business Roundtable and its member corporations were a principal element in the lobbying against S. 300.

The Roundtable published an information packet opposing the bill, called "The Illinois Brick Issue: An Examination of Public Policy on Antitrust Enforcement," and distributed it to members of Congress and staffs on Capitol Hill. It also was used to inform member companies about the issue, according to James Keogh, the Roundtable's executive director for public information.

Keogh said the material was prepared by the Columbia, S.C., public relations firm of Cook, Ruef, Spann and Weiser, under the direction of the Roundtable's antitrust task force. Partners in the Cook firm previously have worked for Democratic congressional candidates and for the government of Saudi Arabia.

Also working against S. 300 was the National Association of Manufacturers.

One of the main supporters of S. 300 was the National Association of Attorneys General. The *Parens Patriae* Act (PL 94–435), passed by Congress in 1976, gave state attorneys general authority to sue on behalf of consumers victimized by price-fixing schemes. The Supreme Court's *Illinois Brick* decision virtually nullified that authority.

Support for overturning the *Illinois Brick* decision also came from President Carter, who wrote Kennedy April 23 on behalf of S. 300. Administration lobbying was carried out by Peterson and the Justice Department's antitrust division.

Other proponents of S. 300 included the National Governors' Association, the National Association of Home Builders and the Consumer Federation of America.

BACKGROUND

Under the Supreme Court's decision in *Illinois Brick v. Illinois*, only direct purchasers are permitted to bring suits for price-fixing. The limitation of such suits to first or direct purchasers barred others in the chain of distribution—middlemen or indirect purchasers—from bringing suits even though they may have suffered financial loss.

Both the House and Senate Judiciary committees approved legislation in 1978 to overturn the *Illinois Brick* decision, but neither bill was considered on the floor.

The Senate Judiciary Committee tried to mark up S. 300 April 9 and 10, but all of the Republicans and most of the Democrats failed to show up for the sessions.

After a day of parliamentary maneuvering April 23, Kennedy postponed a vote when he saw that Mathias was seeking major changes in the bill.

Approval of S. 300 was made possible when the committee adopted May 8 by a 9–8 vote a proposal made by Mathias and Dennis DeConcini, D-Ariz., to make five significant alterations in the bill. The lineup of that vote was identical to the final vote to approve S. 300.

The principal change was a provision to overturn the Supreme Court's 1978 decision in *Pfizer Inc. v. Government of India* that foreign governments could sue for triple damages in price-fixing cases under U.S. antitrust laws.

Also, the Mathias-DeConcini amendment deleted a section of S. 300 that would have facilitated class action lawsuits. While that change received little discussion, it was an important alteration that will result in John C. Danforth, R-Mo., supporting the bill. Danforth was a cosponsor last year of *Illinois Brick* legislation, but did not join in sponsoring S. 300 because the class action provision was included by Kennedy.

The Mathias-DeConcini amendment also would authorize a court to set the plaintiff's attorney's fee in class action cases and to award to a winning defendant attorneys' fees if the court found that the plaintiff had acted in bad faith in bringing the suit.

The amendment also changed the effective date of S. 300, which as introduced was the date of enactment.

Although Kennedy and several other committee liberals had opposed the *Pfizer* provision in the past, they were willing to accept it and the four other changes as the price of winning Mathias' crucial vote for S. 300. It also helped guarantee that DeConcini would vote for S. 300. But unlike Mathias, DeConcini had not said he would oppose S. 300 if the changes were not made.

Several advocates of overturning the *Pfizer* decision, such as Strom Thurmond, R-S.C., and Orrin G. Hatch, R-Utah, made it clear that they would oppose adding the *Pfizer* provision to S. 300. If they had succeeded in defeating the Mathias-DeConcini amendment, which included the *Pfizer* provision and the four other changes, they would have kept S. 300 in the form most objectionable to Mathias.

On a 5–9 vote the committee defeated an amendment offered by Thad Cochran, R-Miss., that would have prevented indirect sellers from bringing suit for damages in price-fixing cases. That amendment was sought by some food chains and independent grocers.

The Cochran proposal would have assured that pending litigation by beef producers, who alleged price-fixing by the firms to which the producers sold their beef, would be dismissed because of the lack of standing.

PROVISIONS

As approved by the committee May 8, S. 300 would:

Overturn the Supreme Court's interpretation of the Clayton Act in the 1977 case of *Illinois Brick v. Illinois* and allow direct purchasers or indirect sellers to sue price-fixers for triple damages. This would restore the power of state attorneys general under the 1976 *Parens Patriae* Act to sue on behalf of consumers victimized by price-fixing schemes.

Partly overturn the Supreme Court's 1968 decision in *Hanover Shoe Inc. v. United Shoe Machinery Corp*. In that case the court refused to excuse a defendant who used a "pass-on" defense—that the direct purchaser plaintiff was not injured because he passed on the overcharges to indirect purchasers. S. 300 would allow a "pass-on" defense to prevent duplicate liability for a defendant.

Overturn the Supreme Court's 1978 decision in *Pfizer Inc. v. Government of India* that foreign governments could sue for triple damages in U.S. courts to recover financial losses resulting from violations of U.S. antitrust laws. S. 300 would permit a foreign government to sue for actual—but not triple—damages if its laws prohibited the same act and if the country's laws allowed the U.S. government to sue in that country for recovery of damages.

Authorize a court to set the amount of the plaintiff's attorney's fee in class action cases.

Allow a court to award a reasonable attorney's fee to a prevailing defendant if the plaintiff acted "in bad faith, vexatiously, wantonly or for oppressive reasons."

Provide for S. 300 to apply to all court cases that are pending at the time of enactment, except that the right to use a "pass-on" defense would be available only in cases filed after enactment.

HOUSE ACTION

The House Judiciary Committee's Monopolies Subcommittee has held hearings on two bills designed to overturn the *Illinois Brick* decision, but no markup has been scheduled. One bill (H.R. 2060), sponsored by House Judiciary Committee Chairman Peter W. Rodino, Jr., D-N.J., is identical to S. 300 as originally introduced.

The other bill (H.R. 2204), sponsored by Robert McClory, R-Ill., is nearly identical to the bill approved last year by the House Judiciary Committee.●

TOBACCO

● Mr. HUDDLESTON. Mr. President, since coming to the Senate in 1973 I have spent a great deal of time and effort on behalf of the tobacco growers of my State.

Tobacco, of course, is not the most popular subject in Washington these days—in large part because many people do not understand the nature of the tobacco price support program or the role it plays in American agriculture.

But as the attacks on tobacco grow both in number and intensity, it is vital that tobacco-producing States and areas receive strong and effective representation in the Senate and House.

One of our most effective spokesmen in this responsibility has been Senator ROBERT MORGAN of North Carolina. He knows the tobacco program, he never shies away when tobacco is under attack, and he is an articulate and effective spokesman. As chairman of the subcommittee which handles tobacco legislation, I know that the tobacco farmer has no greater friend or better ally in the Senate than ROBERT MORGAN.

I have just read an article which Senator MORGAN wrote for the Flue Cured Tobacco Farmer, in which he acutely outlines the problems facing the tobacco industry and also points the way out of that dilemma. He rightly urges that tobacco farmers get their message to the grassroots people, who I am confident will be sympathetic if the issues are explained.

I ask that the following article by Senator MORGAN be printed in the RECORD.

The article follows:

THE BEST STRATEGY FOR DEFENDING TOBACCO: REMIND OPPONENTS THAT IT HELPS SMALL FARMS STAY IN BUSINESS

(By Senator Robert Morgan)

In the four years I've been in the Senate, the tobacco program has been under attack many times. Because of the latest Surgeon General's report, I fully anticipate that our program will be under attack again in the future.

In many ways, our program has never been in a more precarious position. As a consequence of these political realities, we have to carefully develop our arsenal of weapons in supporting our program.

While the political climate for our program is uncertain, there is one potentially bright spot on the horizon. The new and welcomed mood of fiscal conservatism is encouraging. This is true because tobacco, out of the basic farm commodities considered in our farm statutes (dairy, wheat, feedgrains, soybeans, sugar, peanuts and cotton), is the least costly to the federal government. The fact that these farm programs cost taxpayers upwards of six billion dollars a year while our tobacco program costs about a million dollars a year is, by itself, an impressive argument for our program. To a certain degree, tobacco offers an important model for our other commodity programs.

While new public sentiment on spending helps, no one can say with any degree of certainty how long "fiscal reponsibility" will be the dominant political concern that it is today. Also, it is equally evident that this mood, however pervasive for the moment, has yet to grip many political leaders in Washington. As a consequence, the cost of the tobacco program is not necessarily a persuasive argument for some members of Congress.

It was this very point that was driven home to me and other Senators last year when I worked day-and-night in August striving to salvage the tobacco production research program (which had been entirely deleted from the President's proposed budget last year). In one of our meetings with opponents of tobacco a Senator with a negative attitude toward tobacco research mentioned that the cost of the research program was the least important consideration for him. This experience stressed to me the need to broaden our strategy. After two hectic days we won the battle on production research although the President's proposed budget for 1980 makes it clear that we have yet to win the war.

In the several months since that August, 1978, showdown, I have spent countless hours developing and scrutinizing many arguments—especially arguments with appeal to those who don't particularly care about balanced budgets and cost effective government programs.

It was during this period of time that I realized that one of the best pitches that could be made for our program had to do with the size of our farms.

Our tobacco program is truly a family farm success story. To me, coming from the nation's largest producing tobacco state, this is an important but not often used argument in justifying our tobacco program.

The fact that our tobacco program is a family farm program can be demonstrated in any number of ways: statistics, a tour through such books as *Mules & Memories*, an excellent photo documentary of the tobacco farmer by Pamela Barefoot.

Our small farm size has allowed many people to continue to live in rural areas. In fact, since World War II, rural areas in the South have constantly had better employment records than similar areas in other regions for one basic reason—tobacco.

To demonstrate, one only need to review what has happened to different farming regions around the country in my lifetime. For example, farms on the Great Plains have increased in size by a factor of ten since the Great Depression, largely because of increased mechanization, better fertilizers and more productive hybrids. There has been a comparable growth in the size of farms in the Corn Belt as well.

While people were flocking from farm to city in many regions, the exodus has not been nearly as great in the flue-cured and burley producing areas of the nation. Today, I am proud to boast to my colleagues that there are almost 150,000 farmers in North Carolina—close to Texas in leading the nation in the number of farms.

When it comes to average farm size, North Carolina has, for all practical purposes, the smallest in the nation. It is true that Rhode Island has a smaller farm size, but most of the farmers in Rhode Island are of the weekend variety. In North Carolina, our farms average only 104 acres. Other flue-cured states are somewhat larger, depending on how dominant tobacco is in their particular state.

What are farm sizes across the country? Arizona comes in at 6,500 acres; California, 575; Iowa, 247; Kansas, 594; Montana, 2,498; and Texas, 678. When the next *Fact Book on U.S. Agriculture* is released, I expect that the gap between tobacco and grain states will be even more pronounced.

The average farm size tells only part of the story about tobacco in rural employment. It is estimated that nearly 300 hours of labor are involved in producing and marketing one acre of tobacco. Less than four hours are needed for an acre of wheat, slightly more for corn.

It is true that tobacco farming has changed in some respects. Yet the basics of growing tobacco remain the same.

I suspect that many tobacco farmers have shared many of my thoughts. And, I think that we need to begin to show others that tobacco represents family farm agriculture. I personally cannot think of a better way to express these thoughts than with the words of Pamela Barefoot, author of *Mules & Memories*. "Above all," Pamela writes, "tobacco farmers value the independence and self-sufficiency of the small-farming life. They may never have heard of Thomas Jefferson's desire to make this a nation of sturdy, stable, and hard-working agrarian citizens, but perhaps that's because they've been too busy in the fields!"

As we get into the 1979 growing season, it would make great sense to think of ways we can share this point of view with those who remain "uneducated" about our great program.

As a Democratic Senator from the nation's leading tobacco state, it's been my privilege and duty to be thoroughly involved in educating my fellow members of Congress on the importance of our tobacco program to both North Carolina and the nation. As a tobacco farmer myself in Harnett County, I know firsthand what is involved in growing a leaf of tobacco. Likewise, being a product of the Great Depression when our program was first established, I have, through the years, developed a deep and enduring appreciation for our program.

Ultimately, the most effective "education" will come from you, the people at the grassroots. If you are successful to any degree in spreading this powerful and important message, then I will be that much more effective in justifying our program as your Senator.●

WHY TAXES ARE HIGH

● Mr. HELMS. Mr. President, there is a growing concern among the people of this country over the ever increasing burden of taxation at all levels of government. This is especially true when they consider the share of their income taken by the Federal Government. Indeed, some say a taxpayers' revolt is in the making.

Last week, I received a most concise piece of correspondence from a gentleman in North Carolina who used only one word: "Enough!" Come to think of it, that is about all he needed to say. All Senators know exactly what he meant. The American people are fed up with excessive spending and needless waste by the Federal Government.

Few taxpayers question expenditures for needed services or to help those among us who are truly deserving. But, Americans who have to work for a living are tired of being forced to support those who refuse to work.

Mr. John Rains, the capable editor of the Durham, N.C., Morning Herald, expressed these sentiments very clearly in an editorial recently.

Mr. President, I ask that the following editorial be printed in the RECORD at the conclusion of my remarks.

The editorial follows:

HERE IS AN EXAMPLE OF WHY TAXES ARE HIGH

News Item: If Duke Hospital could eliminate all its bad debts and free care for patients, the hospital could reduce its average daily charge to sleep-in patients by more than $27.

Roscoe Robinson, M.D., the hospital's chief executive officer, gave the figure Wednesday when questioned about the recent request by Durham County General Hospital for help from the county with bad debts and charity costs. Durham General asked for $89,000.

. . . (It was) Durham General's decision to ask the county to help cover charity care and bad debts . . . "If citizens are to be subsidized, we'd like some of the folk we care for to receive a proportionate amount" . . .

The problems at this county's two major hospitals may seem relatively minor when laid against the nation's major financial ailments. But consider them as only small flames in the fire that keeps all taxpayers in hot water.

Each citizen of the United States owes this country almost $113,000 as a "fair share" of the federal Government's $9 trillion debt.

And if you wonder why taxes are so high, consider that the Department of Health, Education and Welfare alone has 1,114,000 aid recipients and employs 1,217,000 people, more than the U.S. Army and Marine Corps combined, to keep those tax dollars flowing.

More than 40 percent of the income of the American people is now spent by civil servants, bureaucrats and representatives they have chosen to spend their money for them.

But these figures are for federal taxes. Not included in that total are taxes paid at municipal, county and state levels to help subsidize numerous facilities and costs passed on to "paying" users of many facilities to cover the expenses incurred by persons who cannot or will not pay. Locally, the financial straps at Duke and Durham General hospitals mean that 53.3 percent of the paying patients assume the losses from bad debts and free care. And the county, through taxes of course, is being asked to contribute.

No one suggests that aid should be withheld from citizens who are in genuine need of food, shelter, clothing or health care. Those who cannot pay for these necessities should receive them without question or delay.

But Americans across the country are beginning to ask how many of their dollars are being wasted in taxes and consumer costs to pay the bills of many who can but won't pay their own way. And many taxpayers are beginning to demand that the giveaway rolls be purged of the countless unconscionable, lazy and corrupt persons who will hold out their hands as long as something is being given away.●

LET US NOT GLAMORIZE THE SS-18

● Mr. BAYH. Mr. President, the Christian Science Monitor of June 1 ran an editorial which went to the very heart of the concern that many of us have about the Soviet buildup of "heavy ICBM's." As my colleagues are aware, the strides made by the USSR in MIRV technology, combined with the deployment of the SS-18 ICBM, have raised serious questions about the potential theoretical vulnerability of our land-based ICBM force. Because of the "glamorization" of the Soviet emphasis on so-called heavy ICBM's, I think the CSM editorial provides a reasoned explanation of why our military has not been as enthused over this type of weapon as some groups believe they should be. It is my hope that the tone of the Senate debate on SALT II will be as reasoned as the assessment of the CSM of this critical aspect of the total issue of the United States-U.S.S.R. strategic balance.

I request that the text of the editorial be printed in the RECORD.

The article follows:

SALT POINTS

We would like to tackle the complex SALT package piecemeal. The treaty is not yet fully completed and may not be made public until the upcoming US-Soviet summit meeting. But most of the salient provisions are known and are the subject of heated debate. The American people could stagger under the weight and complexity of the treaty details and so, to lighten the load, we will address the arguments one at a time in a series of editorials.

Take, to begin with, the argument made by the Committee on the Present Danger and other pact opponents that, under the treaty, the Soviet Union will be permitted more than 300 heavy ICBMs (land-based intercontinental missiles) of the latest type, while the United States will be permitted none. That may sound ominous but not when understood.

The fact is that American defense planners, including the Joint Chiefs of Staff, rejected the option of developing large land-based missiles in favor of deploying a triad of strategic nuclear delivery systems. The U.S. strategic force does not consist overwhelmingly of land-based ICBMs: fewer than 25 percent of all strategic warheads (and these, after all, are what cause destruction) are stored in Minuteman silos; the remainder are in submarines and heavy bombers. The Russians realize that even a totally successful first-strike attack on the Minuteman silos (and is total success possible?) would leave the Soviet Union open to devastating retaliation from the sea and from the aircraft.

This is not to ignore the problem of the increased vulnerability of Minuteman missiles to Soviet attack as Moscow's strategic force improves in destructive power and accuracy in the mid 1980s. But the SALT II treaty permits the U.S. to address and correct it. That is what talk of a new mobile missile is all about. And even if the Carter administration opts for the new MX ICBM (instead of, say, a mobile version of the Minuteman), it is expected to choose a smaller type because the maximum throw-weight permitted under SALT II is not deemed necessary. Size, in other words, is not the essential ingredient.

SALT II, moreover, makes a mobile missile system possible by limiting also the number of warheads on ICBMs. Without the treaty, the Russians would simply add more warheads to their missiles whenever they saw the U.S. building a new hole in the ground to hide the missiles. The arms race would gather steam.

To sum up, Moscow's big missiles do not threaten the security of the U.S. or its strategic deterrent. The vulnerability of the Minuteman silos can be dealt with (and would need to be dealt with even without a SALT agreement). And, to top it all, if the giant Soviet missiles were really something so dandy to have, we suspect the American military would long have been screaming for some of their own. But, we hope the American people notice, there's not a peep out of Washington on this score.●

MAINE'S ARMY GUARD RANKED FIRST IN NATION

● Mr. COHEN. Mr. President, under the Defense Department's total force policy, National Guard and Reserve units play an integral role in mobilization planning. Strong reserve forces are as important as active duty military units in insuring the Nation's defense readiness and capability.

For the last 342 years, since the first National Guard unit was established on October 7, 1636, the Guard has played a key role in preserving our freedom. Throughout our history, Guard units have distinguished themselves on the field of combat.

The Maine Guard, which has a proud history, can also take pride in its distinguished record today. The State's 2,800-member Army National Guard organization has just been ranked No. 1 in the Nation by the National Guard Bureau, based on a "Composite Performance Profile" for the first 6 months of the current fiscal year. It was selected over organizations in the other 49 States, the District of Columbia, the Virgin Islands, and Puerto Rico.

The 53 Army Guard organizations are rated in 35 different areas, including training, recruiting, retention, logistics, and aviation safety. In the Guard Bureau's first survey, for the 1978 fiscal year which ended last September, the Maine Guard ranked sixth. The latest ranking reflects the organization's improved level of proficiency and its continued commitment to excellence.

The Maine Army Guard has done very

well in attracting and retaining quality personnel. Said Col. Earl Adams, the Maine Guard's Chief of Staff:

> We're seeing a change in peoples' attitude toward the military.

He said, acknowledging that those who joined the Guard to avoid the draft during the Vietnam war are gone.

> The people who are here want to be here.

Maj. Gen. Paul R. Day, Maine's adjutant general, wrote the State's Army Guard members, telling them:

> You don't become No. 1 without good people at all levels.

The men and women of the Maine Army Guard deserve the recognition they are receiving for a job exceedingly well-done. I join in saluting them.

An article from the Bangor Daily News about their selection as No. 1 follows:

MAINE'S ARMY GUARD RANKED FIRST IN NATION

(By Robert Haskell)

AUGUSTA.—A cross-section of Maine residents may hold their heads a little higher and may respond with a little bit louder "Here, Sir," when mustering officers call their names before their two weeks of annual training this summer.

Maine's 2,800 members of the Army National Guard have been given incentive for taking their part-time military responsibilities more seriously than they have in the past.

Their statewide organization has been ranked number one in the nation by the National Guard Bureau in Washington, D.C., based on the "Composite Performance Profile," results for the first six months of the current fiscal year, which began last October.

That makes the Maine Army National Guard the best organization of its kind among the 50 states and the District of Columbia, the Virgin Islands and Puerto Rico.

It's an evaluation that Army Guard officials at state headquarters here are extremely happy about for several reasons.

The profile is just the second survey of its kind prepared by the Guard Bureau in Washington. It is based on performance ratings in 35 different areas including training, recruiting, retention, logistics and aviation safety.

And it reveals an improved level of proficiency by Maine's Army Guard personnel since the bureau released its first such survey for the 1978 fiscal year which ended last September.

At that time Maine was ranked sixth among the nation's 53 Army Guard organizations, Col. Earl Adams, the Maine Army National Guard's chief of staff, explained here this week.

"This superb showing by the Maine Army National Guard clearly reflects your own management emphasis and leadership. It also indicates that you have a staff that is literally second to none," said Maj. Gen. La Verne E. Weber, chief of the National Guard Bureau, in a recent letter to Maj. Gen. Paul R. Day, Maine's adjutant general.

"I want each of you to know how proud I am of your contribution to this outstanding achievement. You don't become number one without good people at all levels. We always knew we were the best. Now everyone else will know it," wrote Maj. Gen. Day in a letter to all of the state's Army Guard members.

Maine's Army Guard organization includes two engineer battalions with headquarters in Bangor and Portland and an engineer group headquarters in Waterville, an artillery battalion in Aroostook County, a supply and service battalion headquartered in Augusta, as well as the state headquarters at Camp Keyes here.

The overall number one rating does not mean that Maine's Army Guard organization was ranked first in all areas covered by the Guard Bureau's recent survey, Col. Adams indicated, but it does mean that the Maine organization scored consistently high in most of them.

Take total strength, for example.

As of April 30, there were 2,781 people on the Maine Army Guard rosters, Col. Adams explained. That's 94.4 percent of the state's allotment. The national average is 83.1 percent.

That makes Maine about 10th in the nation in that category.

"We're seeing a change in people's attitude towards the military," said Col. Adams, who acknowledged that those who joined the Guard just to avoid the draft during the Vietnam War are gone. "The people who are here want to be here," he said.

And many of them apparently want to stay. Since October, he pointed out, 561 people have become eligible to leave their National Guard units; 414 have stayed in, giving Maine a 73.8 percent retention rate. The national average is 63.4 percent, Col. Adams added.●

NEW COMMITMENTS IN THE PERSIAN GULF

● Mr. McGOVERN. Mr. President, several weeks ago during the arms sales to North Yemen debate, I made the point that the real issue involved was not the transfer of arms, but whether the transfer was part of a new Carter doctrine in the Persian Gulf region. Yesterday, the Washington Post reported that the National Security Council will be meeting in the next 2 weeks to consider a direct American military presence in the Gulf region. I will be issuing an analysis of this new doctrine shortly. In the meantime, I believe that the options being considered within the administration require extensive debate in Congress and by the public. The national security study memorandum carried out by Secretary Kissinger which led to the Nixon doctrine in the Persian Gulf, including the massive arms sales to the shah of Iran, has never been made public. There was very little debate about it at the time. Major questions were raised about the arms sales to the shah only after the original commitment had been made. It was too late by then to reverse or modify it.

The country should not make the same mistake again. The new proposals and the new commitments they imply should be fully and publicly explored. I urge my colleagues to give close attention to the options noted in this Post article, for they may lead us down the road to new Irans or new Vietnams in the future. I submit the article for the RECORD.

The text of the article follows:

A CARTER DOCTRINE FOR MIDEAST OIL?

(By Jim Hoagland)

On Wednesday, Cyrus R. Vance will pause in the White House basement while a guard checks his name off one of the world's most exclusive access lists. The secretary of state will then enter the windowless Situation Room and open a secret meeting of the Carter administration's top foreign policy strategists, who are being called together to survey the wreckage of a decade of U.S. policy in the Persian Gulf and Arabian Peninsula.

The agenda for the president's Policy Review Committee meetings for June 6 and 13 will not be couched in such stark terms, of course. Bureaucratically speaking, the policy makers will be gathering to consider the implications of and options for U.S. policy in the Middle East and Indian Ocean.

But the intense debate that is certain to flare at the two meetings could shape recommendations for the most significant increase in U.S. military strength abroad since the Vetnam war ended. Vance and his aides are thought to be opposing this, but they will face a strong drive from the Joint Chiefs of Staff, backed to some extent by the Defense Department and the National Security Council staff.

Behind the debate will lie six months of traumatic change in the regions that is the production heartland of OPEC. The twin pillars of a U.S. policy designed to keep enough crude oil flowing from Persian Gulf terminals to meet American needs have been pulled down with stunning speed.

Those pillars were the shah of Iran and the Egyptian-Saudi Arabian alliance that had been carefully nurtured by the Nixon, Ford and Carter administrations. Their disappearance and the two-year failure of President Carter and Congress to agree on an effective energy policy at home appear to be pushing the United States back toward an open reliance on direct military intervention as a policy instrument.

The forces that swept away the shah of Iran despite Carter's strong support also swept away the last remnants of the Nixon Doctrine and its reliance on regional allies to protect vital U.S. interests in the post-Vietnam world. Hovering around the edgs of the White House meetings this month will be a wraith-like Carter Doctrine still awaiting definition and scope.

Senior Carter advisers appear determined to find a new approach that, as one official put it, "avoids the extremes of Vietnam, where we tried to do everything ourselves, and the post-Vietnam period when we wouldn't do anything."

"We are not talking about permanent bases or formal alliances in the Persian Gulf," another official said, "but we have to be able to protect our interests in a region far more vital to us than Vietnam ever was."

The proposals to be discussed at the two high-level policy meetings this month are still wrapped in secrecy, and their ultimate form and fate are still highly uncertain. But they are known to include at this point the idea of a U.S.-based "readiness" force that could be airlifted into the region on short notice. Other, less controversial ideas are:

Establishing a new military command structure for the Middle East.

Keeping a continuous naval presence in and around the Arabian Sea to provide quick response but stay far enough "over the horizon" not to be visibly associated with Saudi Arabia and its neighbors.

INTERVENTIONIST PRESSURES

Resistance in the region to any highly visible U.S. efforts will bolster the arguments of those who will be seeking to limit the nature of American involvement. A State Department poll of U.S. embassies in the region last March turned up unanimous opposition to permanent U.S. bases and formal alliances, and Vance will undoubtedly cite this finding as the State Department presents its case on Wednesday for political and diplomatic options to halt the erosion of the American position there.

Moreover, Saudi Arabia and other oil producers will vehemently oppose a strike force earmarked to protect Persian Gulf oilfields which could be used just as easily to take over those same fields if the Saudis prove too difficult an ally. In sharp contrast to Henry A. Kissinger's public brandishing of a similar idea in the 1973 oil crisis, the Carter administration has kept discussion of an *extremis* option like this secret.

But strong pressures are beginning to build up that could pave the way for a return to a more actively interventionist policy, based on military presence, to guarantee U.S. access to foreign energy supplies. Key strategists in the administration sense a sharp change in the mood on Capitol Hill, and some members of Congress also say the tide that swept back U.S. intervention in Vietnam, Cambodia and Angola could now be turning the other way.

When the administration sent the aircraft carrier Constellation into the Arabian Sea in February in a show of strength, "most of the members up here were overjoyed," said a Midwestern representative. "All they have been hearing about is oil prices and supplies, and here is something being done."

Americans are already feeling the consequences of the failure of the two-pillar policy of alliances with Iran and Saudi Arabia to guarantee sufficient oil imports now. President Carter implicitly acknowledged this failure at his press conference Tuesday by connecting the present long lines at gasoline stations and other symptoms of shortage to the "over 200 million barrels of oil" that were not produced in Iran this winter.

"BROAD BUSH" PROPOSALS

The events that have made an increase in U.S. military involvement around the Persian Gulf almost inevitable stretch back to the beginning of the Carter administration, when the president signed an early strategy directive called PD–18 that outlined the need for a "quick response" military force for the Middle East.

Six months ago, with Shah Mohammed Reza Pahlavi tottering toward collapse and the present squeeze on global oil supplies beginning in earnest, President Carter's national security adviser, Zbigniew Brzezinski, revived the idea of a special Middle East force by asking the Defense Department for "broad brush" proposals to implement the presidential directive.

Brzezinski repeated that request with more urgency and precision after a border war between North and South Yemen in February raised tensions in the Arabian peninsula and the Egyptian-Israeli peace treaty severely limited U.S. political and diplomatic options with Arab oil producers.

While the proposals that will be on the Situation room table Wednesday were lurching quietly through the policy machinery, Vance and Brzezinski conducted a coded public dicussion over how the United States should respond to turmoil in the Middle East, South Asia and the Horn of Africa.

Brzezinski has asserted these areas form a linked "arc of instability" that requires a more consistent, tougher U.S. response to deter any Soviet meddling. Vance has emphasized instead each country's internal problems and the limits of U.S. power in resolving problems like those posed by the Iranian revolution.

But Vance's direct involvement in both the private and public discussions on this issue has been spasmodic. This top-level Middle East experts have been tied down for nine months on the Egyptian-Israeli negotiations. Gradually, the Pentagon and Brzezinski have moved into the vacuum this has created to become the driving forces on many aspects of regional policy.

Defense Secretary Harold Brown's visit to Saudi Arabia this winter was the clarion call for this new role. Brown reportedly asked Carter for instructions that would let him tell the Saudi royal family that the United States realized it had deep interests in the region other than the peace negotiations and that the administration would take substantive action, including military steps, to protect those interests.

Shortly after Brown's visit, the administration showed a new willingness to use military power in the region to back up its new posture. During the brief border fighting between North and South Yemen, the Pentagon ordered the Constellation into the Arabian Sea with escort vessels. Although there has been no public acknowledgement of it, the White House was prepared to authorize the carrier's 85 warplanes to engage in combat if Soviet or Cuban pilots stationed in South Yemen joined the conflict.

The Yemen response is seen by some administration officials as the watershed that separates the old, more passive Carter policy from the still embryonic but more active Carter Doctrine for the Middle East.

Until late this winter "there was a continuation of the attitude formed in other administrations that we were too tied down in Vietnam to play any security role in the Gulf, and we could leave it first to the British and then to the shah," said one administration planner. "The shah's disappearance and the sudden pullback by the Saudis ended that luxury for us."

The proposals intended to change that are still being worked up and are likely to be the subject of policy compromise or indecision that could muddy them even further. Participants in the process say that the administration's track record of putting off these kinds of decisions suggests that decisive action may still be well down the road.

ACTIVIST OPTIONS

But the main ideas that the Carter administration's senior policy makers will be examining at this point are known to include:

Establishing a new military command for the Middle East, which is now handled through the U.S. command in Europe. The Middle East commander-in-chief would probably not have combat units under his control but would be able to draw on earmarked "assets" from other commands in times of crisis.

Forming a quick-response combat force to be airlifted into the region. Among the ideas being discussed is a 100,000-man strike force for desert fighting and oil field attacks. A more likely alternative is a trimmed-down "surge deployment" force based in the United States. Either way, increased airlift capacity is a major aim.

Maintaining continuous upgraded naval presence in the Arabian Sea and northwest Indian Ocean. This would satisfy Saudi desires for a U.S. presence "over the horizon," out of Arab sight except in an emergency. A carrier force has been in the Indian Ocean continuously since the Yemen flare-up but the Midway is now on its way to the Straits of Malacca. One of the first decisions the administration faces in its over-all review is whether to send a new carrier force back into the Arabian Sea.

Expanding port facilities and barracks at Diego Garcia, an uninhabited Indian Ocean island that the Pentagon has long wanted to convert into a substantial base.

Conducting more formal and regular joint military consultations and planning exercises. U.S. officials feel they have scored a success in the first important effort at this, the planning and command structure team headed by Maj. Gen. Ralph Lawrence that has been in Saudi Arabia for the past three months.

The team has been deeply involved in helping the Saudis reorganize their ministry of defense and establish an effective military planning unit of their own. Lawrence, who participated in the Blair House talks involving Egypt, Israel and the United States, is the Pentagon's strongest candidate to take over the Middle East command if it is created.

After initially suggesting the idea themselves, the Saudis backed away when Brown agreed in February to forming a joint U.S.-Saudi military commission. The Saudis were concerned that the commission would be used to associate them with similar bodies for "collective consultations" that Brown was proposing to Egypt, Jordan and Israel.

The proposals being prepared in response to Brzezinski's tasking order are intended by the planners as carefully calibrated steps that would project American strength in a region where U.S. resolve has been called into question, but which would not launch American forces down a Vietnam-type slippery slope.

But the calibrations have to be made without any sure assessment of two important factors—the Soviet response to the decisions being taken in Washington and the continuing momentum of the Arab drive to undo the Egyptian-Israeli peace treaty, which Carter has committed the United States to protecting.

In private conversations with Americans recently, Russian visitors have sought to convey both a determination to match any steps taken by the United States military in the Indian Ocean region and an awareness of the dangers that an American reaction to instability in oil supplies could present for Moscow.

"The Russians are aware that grabbing the oil would be like grabbing Europe," said one Soviet affairs specialist.

More unpredictable is the course of events in the Arab campaign against Egypt's Anwar Sadat, and the extent of the American commitment to protect Sadat and the treaty. The administration has so far sought to emphasize publicly how little the treaty will cost in U.S. taxpayer dollars and to assert that U.S. troops will not be used to police the Egyptian-Israeli treaty under any circumstances.

An effective peace treaty that costs five to ten times the $1.5 billion the administration insists is to be the U.S. contribution would be not just a bargain but a miracle. And it is conceivable that a U.S. military role in guaranteeing the treaty may be necessary to protect it. By not trying to explain clearly the implied commitments it has accepted, the administration is probably working against its own long-term interests.●

A. PHILIP RANDOLPH

● **Mr. MATHIAS.** Mr. President, A. Philip Randolph's life almost spanned the civil rights movement in America. I say, almost, because we as a nation still have a way to go to insure equal opportunity in employment, access to housing and exercise by all Americans of their constitutional rights. But he was there at the beginning and was part of that beginning that has brought us to 1979.

Mr. Randolph actually started his labor and civil rights campaign in 1910, but it was not until 1937, that he came to national attention by organizing the International Brotherhood of Sleeping Car Porters. This was but a highlight of a career that would see him bring his demands for equality and justice to the attention of five Presidents.

In 1941, Mr. Randolph persuaded President Roosevelt to issue an Executive order establishing fair employment practices in the defense industries. After the war, Mr. Randolph was instrumental in having President Truman sign an Executive order ending segregation in the Armed Forces. He also induced the AFL–CIO to outlaw racial discrimination in 1955 at the time of their merger.

Mr. Randolph started his crusade at a time when the American public was not very receptive to his goals and when the media was not very likely to cover a black man organizing elevator operators in Harlem. He made an impact on American society without, as the Baltimore Evening Sun says "a cult of personality, but with greatness."

Mr. President, I ask unanimous consent that a story about the remarkable Mr. Randolph from the Baltimore Sun by Baltimore Delegate Troy Brailey be printed in the Record.

The article follows:

The Passing of a Great Black Leader: A. Philip Randolph

(By Troy Brailey)

It is unfortunate that until A. Philip Randolph died this month, his fight to bring economic security and justice to black Americans went relatively unnoticed.

This is true even though his fight was a long one, uninterrupted for more than 65 years.

He began it far in advance of the civil rights movement in America. For example, Mr. Randolph was arrested in a public park in Cleveland in 1917 for speaking out against racial prejudice. The judge refused to release him until he agreed to get out of town immediately.

Nor was his cause an easy one. Mr. Randolph once received a threat on his life in the form of a bloody human hand mailed from Louisiana.

He was one of the greatest black leaders in America. Dr. Martin Luther King said many times that it was a pleasure to sit on the same platform with him.

Jackie Robinson not only said it was an honor to be associated with him, he further declared that Mr. Randolph was the only black leader who could pull all factions in the civil rights movement together.

This was evident when Mr. Randolph was organizing the 1963 March on Washington. He found a problem at first convincing the Urban League and the National Association for the Advancement of Colored People to take part. At a meeting with them, however, Mr. Randolph persuaded the leaders of the two organizations to join the historic march. The two groups had hesitated because they felt the march would embarrass President Kennedy. As it turned out, President Kennedy wanted to address the march, but Mr. Randolph was opposed to that because he wanted the demonstration to be independent of party politics. He and the other five civil rights organization leaders met with the President at the White House after the march was over.

A. Philip was a proud man. He was tall and handsome in his younger life. He walked very erect. I loved to see him strut. Mr. Randolph was very close to the Pullman porters whose union he led, though he was never a Pullman porter himself. When he made one of his frequent trips to Baltimore, a newspaper reporter asked him about his closeness to his men. He said, "I am just one of the boys."

Whenever any affair was given in his honor, Mr. Randolph wanted the Pullman porters included. Like the time on January 24, 1960 when a Salute was given in his honor at Carnegie Hall in New York City. The dignitaries appearing on the program included Senator Jacob Javits, Senator Hubert Humphrey, Representative Adam Clayton Powell, former Governor Averell Harriman, Mayor Robert Wagner, Eleanor Roosevelt, Dr. Martin Luther King, Roy Wilkins, Ossie Davis and Ruby Dee. Still, Mr. Randolph asked that several rows of seats in the front of the hall be reserved for his Pullman porters. That's the kind of person he was.

In many ways A. Philip Randolph was a simple man. He never owned an automobile. He rode the Eighth Avenue bus to and from his 125th Street office daily. Furthermore, he lived in Harlem until he retired in 1969. Then he moved downtown to an apartment building owned by the International Ladies Garment Workers Union. That's where he was living when he died.

I am convinced that the reason Mr. Randolph did not get the recognition he deserved—though he was highly educated—was because he was a labor leader. Most black professionals and intellectuals do not identify with labor, although much of the good life they are enjoying today is the result of Mr. Randolph's life-long fight.

A. Philip Randolph could not be bought. When the Pullman company saw that Mr. Randolph had enough votes to win the election to have the Brotherhood of Sleeping Car Porters represent the Pullman porters, the company sent him a blank check.

He could have sold out the Pullman porters for a price. Instead he exposed the company.●

REFUGEE INFLATION

● Mr. HUDDLESTON. Mr. President, the Senate Judiciary Committee now has under consideration S. 643, which would substantially change our refugee admission laws. These laws, as well as other immigration statutes, need to be revised. However, these revisions require that we make some difficult decisions about the ability of the United States to adequately assimilate vast numbers of immigrants which include illegal aliens, legal immigrants, and refugees.

While it is true that we are a nation of immigrants, we are no longer the underpopulated frontier country we once were. The United States is now a densely populated industrial country which suffers from all the problems associated with such nations—high unemployment, excessive pollution, escalating Government budgets, and dwindling energy resources. Decisions we make in regard to future immigration must take into consideration these many problems which, without the appropriate attention, will get progressively worse.

The National Parks & Conservation Association has been very active in this issue and has developed a great deal of expertise in the area of population growth and its impact upon our environment.

The association supports, as I do, a viable refugee assistance program. However, such a program must be an integral part of a national immigration policy which has specified limitations that do not place undue strains upon our society, economy, or environment. The comments prepared by the association are incisive and represent the type of constructive thinking that we should be utilizing on this serious problem. I ask that the statement by Ms. Bikales be printed in the Record.

The statement follows:

Comments by Gerda Bikales

The National Parks and Conservation Association, a major environmental organization now celebrating the 60th year of its founding, has long advocated public policies leading to eventual population stabilization in America. Our deep commitment to demographic equilibrium has brought us to speak out repeatedly on the issue of illegal immigration, which contributes heavily to our ongoing population expansion, and is now prompting these comments on the proposed Refugee Act of 1979.

Though we advocate a more restrictive approach to immigration than that represented by current *de facto* policies, we are very much a part of America's humanitarian tradition, and we are deeply touched by the plight of the persecuted, the homeless, and the dispossessed who are seeking new opportunities on our shores. We recognize our moral obligation to assist the world's refugees, and nothing in the comments that follow is to be interpreted as opposition to this country's efforts in meeting its responsibilities for refugee resettlement assistance and refugee absorption to the greatest extent consistent with our national welfare.

Like the President and the Congress, we have looked forward to legislation that would normalize the flow of refugees, and yet provide a measure of flexibility in refugee admissions to allow for emergency situations. Unfortunately, we do not find the remedy to the inadequacies of our present system in H.R. 2816 (S. 643). It badly fails to meet its stated objective "to provide a permanent and systematic procedure for the admission to this country of refugees of special interest to the United States". It proposes to address urgent new problems through the dysfunctional, future-shocked, predictable expedient of simply inflating everything: the bill inflates the pool of eligibles, it inflates the numbers to be admitted, it inflates the level of decision-making on who and how many are to be admitted, and it inflates the costs of the program. What had been promoted as a fresh approach brings no new thinking to bear upon the problem, points to no new directions for action, presents no new ideas. The "solution" offered in H.R. 2816 is just more of the same—much more of the same.

THE DEFINITION OF "REFUGEE"

Despite all myths to the contrary, the population of the U.S. is expanding rapidly, fueled by an uncontrolled influx of illegal aliens. As a matter of fact, our population growth rate makes us the fastest growing industrial nation in the world; that's not an enviable position to be in at a time of severe energy shortages, to mention merely the obvious.

As environmentalists, our own concern is primarily with the total number of people we allow to join us, and not with any specific characteristics of these persons. However, when the definition of "refugee" is broadened as widely as in H.R. 2816, the numbers of those with a claim to asylum in the United States is instantly expanded, and the pressure of sheer numbers of eligibles clamoring for consideration creates momentum for greater admissions.

At the very least, the language of the proposed definition should be tightened by adding to the attributes of refugees eligible for resettlement in the United States "one who has no bona fide offer of resettlement in another country where his freedom is assured".

AN OPEN-ENDED ADMISSIONS PROCESS

We fully agree that the routine allocation of 17,400 visas for refugees under the present laws is insufficient in light of recent events. Increasing this number to 50,000 seems entirely justified and officially recognizes our country's long-term commitment to carry out its moral obligations in the area of refugee resettlement.

Our central disagreement is with the bill's proposed mechanism for the admission of refugees beyond the 50,000 mark, and with the basic philosophy that clearly underlies this proposal.

In essence, we are told that if enough pressure builds up to make a case for the admission of more than 50,000 refugees in any one year, the President, in a vague consultative but not binding arrangement with the Judiciary Committees of the Congress, will simply decide to take in more refugees. This scheme has a familiar ring—it reminds one of nothing so much as the recently much-abused parole authority of the Attorney General. Let us recall that it is precisely the wide-spread uneasiness about such an open-ended process that engendered calls for new legislation in the first place.

The escalation of the locus of decision-making, from the Attorney General to the President's office, is a gimmick that provides scant reassurance. We know that the Attorney general is, and indeed should be, the instrument of the President. Attorney General Bell, who has reluctantly used the parole authority to admit tens of thousands of refugees with the stroke of his pen, has certainly not aceted independently of the President, and, to his credit, not without the encouragement of the Congress as well. The problem is hardly whether the decision to admit more than 50,000 refugees should be vested in the Attorney General or in the President. That is altogether a false issue, offered for purely cosmetic purposes, and perhaps also for its subtle intimidation value. It has no relevance to the fundamental questions raised by the worldwide increase in refugees, which relate to the limits of our capacity to absorb new immigrants.

Philosophically, the proposed refugees legislation belongs to the "Wishful Thinking" school of resource management that assumes unliimted development potential in a permanently benign environment. It is an outlook that places great faith in the environment. It is an outlook that places great faith in the notion that every situation produces its own appropriate miracle.

Environmentalists, however, know with certainty that this is not necessarily the natural order of things on this planet. There is a strong moral case to be made for casting aside wishful thinking and reconciling ourselves to the truth that we live in a physical world of limits—some quite relative perhaps, but others absolute, immutable. While it is easy enough to bring more and more people into America, we have no way to create more water, more prime farmland, more safe energy, or even enough jobs. We must openly acknowledge the inconsistency of importing more and more people while at the same time importing more and more oil from capricious, unfriendly and rapacious suppliers. The more quickly we expand our numbers, the more vulnerable and dependent America becomes.

A responsible position on refugee admissions is one that recognizes these limits and accepts the truth that every newcomer requires sacrifice and sharing from us all. Yet, because we do not live by bread alone, it seeks to help as much as possible, short of reneging on promises made to our own disadvantaged, who have been waiting 300 years for their share of the American dream.

THE COSTS OF REFUGEE ADMISSIONS

The many emotional pleas for an open door to refugees and, for that matter, to immigrants in every category, appeal to our long tradition of welcoming those who seek freedom and new opportunities. They never mention that philosophies of resettlement have greatly changed in recent years, and that the public costs of such resettlement now constitute a considerable burden upon the American people. It is a burden most of us carry without complaint, because we value the spiritual nature of our contribution, but it is a burden nevertheless, one that can't be compounded indefinitely.

Until quite recently, ours was a "sink-or-swim" approach which left new settlers to fend for themselves, adjusting and surviving as best they could. Now we offer new residents a vast array of social programs to expedite their entry into the American mainstream. Some of these are enumerated in Title III of this bill, but refugees are of course eligible for, and indeed avail themselves of, all social benefits instituted by American society, such as Title XX, student scholarships, unemployment compensation, food stamps, job training, all of which add up to a very expensive public subsidy, and none of which were available to our own immigrant forebears.

In the case of non-European refugees and immigrants (and that is the large majority) the gift of legal residence brings with it precious affirmative action entitlements, in such competitive areas as jobs, graduate school admissions and business contracts with government agencies. Though not received without rancor, affirmative action enjoyed a fair measure of public support because it was perceived as a way to remedy past wrongs inflicted upon our native disadvantaged minorities.

Now, we find minority Americans increasingly in competition for affirmative action advantages with refugees and immigrants, and often losing out in the process. Good will for the program is sure to dissipate when the beneficiaries emerging are not those with a historic claim to redress, but on the contrary, those already the recipients of special and preferential treatment by the American people.

The erosion and predictable loss of affirmative action programs may well become the heaviest price to pay for an open-ended, excessively large admissions policy. It will be borne entirely by those in our society who can least afford it.

TOWARD AN INTEGRATED REFUGEE/IMMIGRATION POLICY

In recent times, refugees have been viewed as a special category of migrants to the United States, whose selection is influenced primarily by foreign policy considerations. Once in America, however, the foreign policy component that prompted admission is relegated to history; refugees become like other new immigrants, impacting permanently upon the nation's economic, social and environmental resources.

In many significant ways, America is already overpopulated. Simplistic measurements, such as overall density per square mile, do not give the full picture. A better index is our chronic inability to provide jobs for millions of citizens, or to protect the physical environment from dangerous degradation. Our achievements are often ephemeral: the painful and expensive progress made in restoring air quality, for example, has fallen victim to recurrent energy shortages that now dictate lower standards. It is evident that further economic development will have to proceed thoughtfully and slowly—if at all.

With these limitations in mind, we need a refugee policy that will allow us to respond to emergencies by allowing more refugees into the country, without, increasing the total number of immigrants entering America in any one year. The mechanism for doing this is readily at hand, and relatively simple.

We propose that all refugee entries above the 50,000 mark be deducted from our overall immigration quota for the following year. The addition of another 20,000 refugees, for instance, would mean 20,000 fewer immigrants the next year.

In effect, we are calling for a U.S. immigration policy that gives first priority to asylum for refugees and to the reunification of the immediate family members of the conjugal unit. Only in this fashion can we hope to discharge our moral obligation toward to world's homeless without shortchanging long-standing commitments to our dispossessed at home.

We are grateful for the opportunity to present our views on this important subject, and hope that we have contributed constructively to the public debate on this legislation.●

GEORGE TYSON

● Mr. MATHIAS. Mr. President, Federal employees have found themselves bearing a substantial part of the burden of various governmental campaigns to control inflation and fight our Nation's real and continuing energy dilemma. To their credit, they have borne this responsibility with good spirit and good will.

One Federal employee from the Social Security Administration in Baltimore, Md., George Tyson, has made a unique contribution to this country's effort to cope with the energy crisis. Mr. Tyson, working with other SSA employees in Baltimore, has coordinated SSA's vanpool program.

This program started in 1976 as an energy conservation measure. By April, 1979, 22 vans were bringing 287 employees to work, making it the largest such program in the Federal Government. SSA now says that it expects to have 30 vans in operation by the end of the year.

The Federal employees in this program have obtained the vans and borne the cost of their operation entirely on their own, without any governmental assistance. I want to make this point for the record as loudly and as clearly as I can. This program did not cost the Federal Government one cent. The employees, through George Tyson's coordination, carried the load all the way.

This was the first formal attempt by a Federal agency to establish a vanpool program. In these uncharted waters Mr. Tyson moved from point zero and developed all forms, maps, charts, and public information to promote and foster participation. He negotiated financing so that vans could be purchased by individuals. He set up insurance information for those who already owned vans and wanted to participate in the program. In addition, he set up driver training instruction for the van drivers.

It seems to me that George Tyson's initiative reflects the kind of creativity and initiative that will solve our energy problems. It is also indicative of the true quality of our public servants.

I am proud to bring to the attention of my colleagues this genuine contribution to the public weal by one individual Federal worker. It should serve as inspiration to each and every one of us.●

MOROCCO

● Mr. McGOVERN. Mr. President, Morocco is a country that has a vital impact on two important regions of the world—the Middle East and Africa. In the Middle East, Morocco is regarded as a moderate state which could be encouraged to lend its support to the peace treaty between Egypt and Israel. In Africa, Morocco has extended its influence to provide security for Zaire and is one of the key protagonists in the war in the western Sahara. It is on this last issue that the United States must make its position clear in approving the FMS request.

I have no objection to Morocco receiving military assistance for legitimate defensive purposes. I seriously object, however, to American military assistance being used in the controversial war in the Western Sahara.

Morocco has previously used F-5E's in that war in violation of our bilateral agreement that restricts the use of such equipment to operations within Morocco's internationally recognized borders. Despite American protests, Rabat has refused to comply with the agreement. Indeed, Morocco recently requested $3 million worth of spare parts and ammunition for these F–5E's. I objected to this request, but the administration granted Morocco these additional supplies. In so doing, a precedent was set for U.S. military involvement in an African war.

In reviewing the $15 million FMS credits added to the International security assistance bill, it should be made clear that Congress intends that this assistance be used strictly for defensive purposes, within Morocco's own internationally recognized borders. Furthermore, it should be emphasized that in evaluating future requests for military assistance to Morocco, Congress will take into account Morocco's record of compliance with the terms of our bilateral agreement.●

S. 344: HOW THE BILLBOARD INDUSTRY BEATS THE LAW

● Mr. STAFFORD. Mr. President, in its April issue, Planning, the magazine of the American Planning Association, carried a most interesting article discussing the failure of the present Federal billboard control law. In this article, Charles F. Floyd, the respected chairman of the Department of Real Estate and Legal Studies at the University of Georgia, states that:

> The effectiveness of the billboard control program is perhaps the environmental movement's greatest failure.

Because of the significance of Professor Floyd's views, and the fact that we soon will conduct hearings on S. 344 and the issue of billboard control, I ask that this article be printed in the Record.

The article follows:

How the Billboard Industry Beats the Law

(By Charles F. Floyd)

Passage of the federal Highway Beautification Act in 1965 promised an end to the billboards cluttering the rural landscape. In reality, however, the act largely has been a failure, its lofty aims destroyed by crippling amendments, the power of industry lobbyists, and the indifference of its former supporters. This story about the rise, fall, and impending demise of billboard control along our nation's highways focuses on a typical state, Georgia.

Although many states and local communities have been battling billboards since these eyesores came into vogue around the turn of the century, a strong push for national legislation came only after the beginning of the interstate highway program. The so-called Bonus Act was passed in 1958 to encourage the states to pass laws controlling billboards on the interstate system. The carrot was a small bonus in interstate highway construction funds.

Twenty-five states—located primarily in the Northeast, the Midwest, and along the Pacific coast—entered into bonus agreements before 1965. Among these states was Georgia, the only one in the Southeast to enact implementing legislation and the only bonus state to have its outdoor advertising control law overturned in the courts.

The 1958 federal law did not specify the methods to be used by a state to remove existing signs that did not comply with the new law. Of the 25 states that entered into bonus agreements, only three exercised the power of eminent domain (purchase) to eliminate nonconforming signs. The remainder elected to use their powers of regulation to force removal of the offending signs after an amortization or phaseout period.

At that time, the Georgia supreme court was hostile to all types of land-use controls and, in an opinion that is almost hysterical in tone, declared the amortization provision in the Georgia law unconstitutional. This decision, which is widely quoted because it is so at variance with prevailing legal opinion in other states, not only deprived Georgia of several million dollars in bonus payments but also opened the floodgates to the billboarders. It would cost the state around $20 million to remove nonconforming signboards that were erected along Georgia's interstate highways between the time the Georgia Bonus Act was declared unconstitutional in 1966 and the effective date of the subsequent 1971 act.

The Highway Beautification Act of 1965, sometimes called the Ladybird Johnson Act, could be described more accurately as the Billboard Baron's Financial Relief Act. The act was born with noble intentions—to make billboard control mandatory in all the states and to extend control to billboards along the primary highway system (most U.S. highways and some state highways). But what emerged offers a classic case of a law that was gutted by a powerful industry lobby.

First, all areas zoned for commercial and industrial use, plus "unzoned commercial and industrial areas," were exempted from any but the most minimal controls. For many years, the outdoor advertising industry has advanced the notion that billboards are a commercial land use and should be permitted in any commercial zone. The opposite is true, of course. Billboards are not a land use; they are a use of the road, and their value is derived solely from their visual intrusion on the road.

This principle has been recognized by many courts to justify stringent regulation or prohibition of off-premises advertising. The exemption from control is too broad, since it lumps ugly commercial strips with research parks and rural areas that happen to be zoned for future commercial development. The practical effect of the exemption has been to allow billboards where they are totally inharmonious and also in areas that are almost totally rural.

Second, on-premises signs (those signs that identify a place of business) were exempted from any controls. The result has been huge gas station signs towering above the landscape at almost every highway interchange.

The most devastating triumph of the billboard lobby was the provision making monetary compensation mandatory for the removal of all nonconforming signs. Even those states that had been using their police powers to remove signs under the Bonus Act now were required to pay for removal. This forced compensation, combined with meager appropriations for the program, has meant that very few signboards actually have been removed. Nationwide, only 30 percent of the nonconforming signs have been purchased; at the present level of funding, it will take another 109 years to buy the 215,000 remaining signs.

Georgia passed an Outdoor Advertising Control Act in 1967 in an obvious attempt to establish the very minimum criteria that would allow the state to comply with the Highway Beautification Act. Signs were allowed in any area that local authorities had zoned commercial or industrial, and the state highways within two to eight miles of municipalities. No limitations were placed on the number of signs permitted per mile, nor were any minimum size regulations estabished.

The Georgia law also provided that billboards could be erected in unzoned commercial and industrial areas. On the interstate system, these areas were defined as the land 3,500 feet on each side of the property line of any commercial or industrial activity. The existence of one small country store on a secondary road near the interstate could justify the permitting of billboards for 3,500 feet on both sides of the highway—a potential 28 billboard sites—and with no regulations regarding maximum size or number per site.

The more obvious result of this provision in the law was that it allowed billboards in rural areas near interchanges. Since most such areas had at least one commercial establishment, signboards were allowed for two-thirds of a mile or more on each side of every interchange.

Under pressure from John Volpe, then U.S. Secretary of Transportation, who ruled that the Georgia law did not comply with the federal law, the state revised its billboard control regulations in 1971 to set maximum size and spacing requirements and to tighten the definition of unzoned commercial and industrial areas. A glaring deficiency that had marked all national and Georgia billboard legislation up to this point remained in the 1971 Georgia law, however.

Framers of the Bonus Act, the 1958 federal law, felt it was necessary to establish some limit of control, and for somewhat obscure reasons this limit was set at 660 feet from the edge of the right-of-way. Beyond that, billboarders could do what they liked. The billboard industry responded in predictable fashion to this loophole by creating the phenomenon of the jumbo sign located just outside the control limit. There are now over 250 of these jumbos along the interstate highways in Georgia, with the cost of removal estimated in excess of $3 million.

Unfortunately, the Georgia law has been pitifully ineffective in two respects. It has failed to control the erection of new billboards, and it has done almost nothing to remove nonconforming billboards.

The Highway Beautification Act directed the U.S. Secretary of Transportation to accept the size and spacing limitations that were customary in the states. Thirty-two states, including Georgia, adopted a maximum size limitation of 1,200 square feet (equal to the floor area of a medium-sized, three-bedroom house and approximately twice the size of the largest billboards along the interstate system).

The billboard industry pushed for minimum spacing requirements since these limits prevent competitors from erecting signs that can obstruct each other. Under the Georgia law and most state laws, it is possible to have up to 42 billboards a mile along any portion of the interstate system that is zoned commercial or industrial and up to 70 billboards a mile along the primary system. Within municipalities, the number of allowable signs reaches the rather absurd level of 212 a mile. If each of these signs were of the maximum allowable size, the total area of the sign faces would equal three football fields for each mile of roadway.

Since the size and spacing requirements amount to virtually no control, the designation of commercial and industrial areas becomes all important. The Bonus Act allowed billboards only in commercial and industrial zones of municipalities designated by September 1959. The 1965 Highway Beautification Act eliminated this freeze and, in fact, removed most controls on all commercial and industrial areas, either zoned or unzoned. The size and spacing limitations were the only controls. The 1968 amendments directed the Secretary of Transportation to accept state and local zoning.

Local zoning authorities, though, often place more importance on the real or imagined benefits of billboard advertising than on uncluttered views for the motorist. Many local communities, particularly rural counties, have tried to circumvent the Highway Beautification Act by zoning long stretches of rural highways as commercial and industrial.

Largely rural Columbia County, near Augusta, Georgia, zoned its entire 26 miles of Interstate 20 as industrial. Camden County recently zoned about 750 acres for commercial use at each of five interchanges, even though less than 50 acres in the whole county are used commercially. Still other counties have designated areas along interstate highways as agricultural and commercial zones, but billboards are almost the only permitted commercial use.

The "unzoned commercial and industrial area" provision has served as a gigantic loophole in the law, permitting billboards to go up in predominantly rural areas. For example, small family businesses that happen to back up to an interstate highway—and that in many cases cannot even be seen easily from the highway—will permit the erection of several large billboards. Ironically, junkyards in rural areas that are screened and controlled under the Highway Beautification Act also have served as the justification for permitting billboards.

Some firms are ingenious in taking advantage of the loophole in the Highway Beautification Act. One property owner on Interstate 75 in Georgia erected a small shed in a rural area and put up a sign designating it a warehouse. A large billboard was erected next to this "warehouse," and an outdoor advertising firm then applied for a permit based on the area's being an "unzoned industrial" area.

It is difficult to conceive of a billboard removal program that could have been more ineffective than the one carried out nationally under the Highway Beautification Act. In fact, it is difficult to imagine how any expenditure of public funds could have been more ineffective.

Most public projects are planned so as to increase benefits and decrease costs. The billboard removal program has been designed to *minimize* the benefit-to-cost ratio. Congress directed that the first signs to be removed would be those voluntarily offered by the billboard companies. Nonconforming signs along heavily traveled rural highways would be the last to be removed. This strategy has meant that the very limited funds appropriated for highway beautification were dissipated in paying billboard firms for obsolete signs.

Georgia's Outdoor Advertising Control Act of 1971 rendered nearly 24,000 legally erected billboards nonconforming, but by mid-1978 only around 500 of these signboards had been removed. At the present rate, all of the billboards that were nonconforming in 1971 will come down by the year 2431—461 years after the deadline originally set in the 1965 Highway Beautification Act.

The national program has been weakened further by amendments contained in the 1976 Federal Highway Act. This law directed the states to retain until the end of the program all nonconforming rural signboards containing directional information. Moreover, the 1976 law allowed the states to retain these billboards permanently where their removal might cause economic hardship. This last provision has not been used yet in Georgia or any other state, mainly because so few signs actually are being removed.

Still not satisfied, the billboard industry is lobbying hard to amend the 1965 law further to permit "private directional signs" in all rural areas. This euphemism describes any billboard that contains directional information—a definition that covers an estimated 80 percent of the existing signboards. Only a few hours and a few gallons of paint are needed to change the others. Needless to say, the proposed amendments would almost completely gut what still remains of the billboard control program.

Illegal signs (those erected in violation of the law) also present a problem. The Georgia statute requires their removal within 30 days after official notification. Thereafter, the owner is subject to a fine of $1,000 per day, and the offending sign may be removed by the state.

Even so, there are now an estimated 7,000 illegal billboards in Georgia. Nearly 300 of these cases have been turned over to the state attorney general for legal action, and some of them have been buried in that office for over five years. The attorney general has not allowed the state department of transportation to take down illegal signs as provided in the law, nor has he ever sought to fine the owner of an illegal billboard.

Perhaps the ultimate perversion of the Highway Beautification Act has been in "vegetation control," i.e., the killing of trees. Illegal tree cutting along the highway right-of-way in front of billboards has been a serious problem in Georgia, as in most states. Recently, however, the Georgia transportation department solved the legal problem involved. It succumbed to pressure from the billboard industry and allowed the companies to cut these trees legally. Some of the pine trees removed along interstate 95 to give a better view of billboards were over 50 feet high.

Georgia's poor record in controlling billboards along its highways is a typical one. The Highway Beautification Act simply is too weak to be effective.

Imagine a clean water act that set as a standard for commercial and industrial rivers a pollution level that was twice the pollution level found in all but the worst industrial streams. Imagine further that the "commercial and industrial" designation would apply to all streams that received the effluent from at least one country store or were located in an area that the local governments hoped would become commercial or industrial sometime in the distant future. All nonconforming firms would be allowed to continue polluting until they were paid to stop. In addition, state and local governments that were using their police powers to require firms to reduce levels of pollution would be forced to drop these programs and pay compensation to the polluters from funds that would not be appropriated.

Imagine how effective this program would be in cleaning up our water! The Highway Beautification Act has been equally effective in reducing visual pollution along our highways.

The ineffectiveness of the billboard control program is perhaps the environmental movement's greatest failure. Extensive revision of the Highway Beautification Act is essential if the original objectives are to be achieved.●

THE SHABBY DEBT COLLECTION PRACTICES OF THE FEDERAL GOVERNMENT

● Mr. BAYH. Mr. President, I rise to enthusiastically support the efforts of my colleague from Tennessee, Senator SASSER, toward ending the shabby debt collection practices of the Federal Government. Thanks to the testimony of Elmer B. Staats, Comptroller General of the United States before the Legislative Branch Appropriations Subcommittee, chaired by Senator SASSER, we have learned that unpaid debts to the Government have reached the intolerable level of $140 billion. I strongly urge my colleagues to join me in cosponsoring Senator SASSER's sense-of-the-Senate resolution.

I am greatly concerned that the Federal Government act promptly to secure payment on this alarmingly high sum. This total increased by $22 billion in fiscal year 1978 alone. Yet the response of the Government to this increase was to write off $3.5 billion as losses due to bad debt; a figure which is $500 million greater than that of the previous year and which represents an increase of 60 percent over the 2 previous years. The taxpayer expects and surely deserves a Government as eager and effective in collecting its debts as it has always been in exacting its taxes.

Mr. President, the most telling point in Mr. Staats' testimony focused, I believe, on the character and financial standing of those in debt to our Government. It is not the indigent or disadvantaged who are benefiting, but companies and individuals with ample means to repay.

To cite some examples: The U.S. Geological Survey is responsible for collecting about $1.2 billion in annual royalties from the oil and gas industry. In 1977, however, there were delays in royalty payments reaching as high as $359 million.

These delays forced the Department of the Treasury to increase its borrowing, and the result for the taxpayer was that he or she had to make up for hundreds of thousands of dollars in interest charges that an already well-heeled oil and gas industry eluded paying. Further inquiries by the General Accounting Office and the Department of the Interior identified areas overlooked by the Geological Survey which could have brought in additional royalty revenues of $14.6 million.

Mr. Staats also provided us with numerous cases where individual loans were unjustifiable and prematurely written off as uncollectable. For instance, when auditing the Social Security Administration, the GAO discovered a $1,496 debt written off when the individual debtor pleaded hardship despite holding assets of over $100,000.

Finally, the Office of Education now holds student loans totaling $4 billion, of which $1 billion has already been placed in default. Needless to say, the default rate is rapidly increasing.

Mr. President, I strongly feel that concrete corrective actions need to be taken. Mr. Staats highlighted two such areas where this could be readily accomplished. First, the Federal Government could adopt the common sense measure of charging interest on overdue accounts. We have already reached a point where $200 million is being lost each year because this practice has not been instituted. Second, the Senate should consider directing the IRS to begin using its already legalized authority to withhold tax refunds to the extent an individual has delinquent debts. The GAO estimates that as much as one-third of all unpaid individual loans could be collected in this simple and direct manner.

Mr. President, the Senate must make it clear to all Government departments and agencies that they are expected to address this problem without delay. I therefore urge my colleagues to join in supporting Senator SASSER's sense-of-the-Senate-resolution that the present sloppiness and timidity in collecting Government debts will no longer be tolerated.●

EDMUND D. PELLEGRINO, M.D., A MAN OF REASON AND VALUES

● Mr. MATHIAS. Mr. President, an event of major significance to Washington's academic community took place on March 30 of this year, the inauguration of Edmund D. Pellegrino, M.D., as the 12th president of the Catholic University of America. Dr. Pellegrino is only the second layman to hold the title of president since the university's founding in 1887 under the sponsorship of Pope Leo XIII. The university was established as a graduate institution, one of only three in the United States at that time.

In his address to the academic convocation at the Shrine of the Immaculate Conception, Vice President MONDALE summed up the essence of Dr. Pellegrino's career and commitment to the moral and humanistic values which have guided the formation of western learning:

> His whole life has been a symbol of everything we cherish, not only in higher education, but in our fundamental values as a people . . . As recently as a decade ago, virtually no medical school in America offered a course in medical ethics. But today, thanks to (Dr. Pellegrino's) leadership, thousands of young doctors are now alive to the moral questions at the heart of their profession. The message of his career is one for all of us, and it is this: Get involved. Care. Try. Open your eyes and your heart to human need. And devote your energies to build a happier and more just America and world.

I know I speak for all of my colleagues in welcoming to the Capital of our Nation and to the seat of Roman Catholic higher learning in America a man whose nature combines the lofty characteristics of the Renaissance and Teilhard de Chardin's vision of man's future.

At this point I submit for the RECORD the text of Vice President MONDALE's address, and an article about Dr. Pellegrino from the Washington Post entitled "Doctor of Values."

The material follows:

TRANSCRIPT OF VICE PRESIDENT WALTER F. MONDALE'S ADDRESS

It is a special privilege for me to be here with you today on this absolutely magnificent spring day, to welcome into the Presidency of this great university someone that I admire and that I know you admire. Dr. Edmund Pellegrino is one of the most decent, caring, compassionate, dedicated educators in America today.

His whole life has been a symbol of everything we cherish, not only in higher education, but in our fundamental values as a people.

He is part of the story of America. His grandparents came to this country from Italy 100 years ago, believing in the promise of America.

The first to graduate from high school in his family, he learned first hand the lesson that education means opportunity. When he took the Hippocratic Oath, and said those ancient words, "With purity and with holiness I will pass my life and practice my art," those words must have touched deep chords within him.

For when he went to Alabama as a young Army doctor, he was moved by the desperate medical needs of rural America. And he wanted to do something about them.

Stricken with tuberculosis, this young doctor spent a year and a half in bed, and from his introspection came the commitment to devote his medical career to the underserved, to the poor, the vulnerable, to the marginal in our society.

For nearly 30 years, Ed Pellegrino has created and directed medical centers and journals and institutes committed to that goal.

He has been a strong force to revolutionize the training of American doctors. As recently as a decade ago, virtually no medical school in America offered a course in medical ethics. But today, thanks to your new President's leadership, thousands of young doctors are now alive to the moral questions at the heart of their profession.

This message of his career is one for all of us, and it is this: Get involved. Care. Try. Open your eyes and your hearts to human need. And devote your energies to build a happier and more just America and world.

And so it is profoundly fitting that you have chosen Dr. Pellegrino as the 12th president of Catholic University. For he continues a tradition here as old as this remarkable institution.

Squirreled away in Catholic's archives is a yellowed and fragile newspaper clipping which is now 90 years old. The Washington Post considered the dedication of Catholic University a front page story.

It poured that day. And though the rain came down in torrents, thousands of people turned out for a whole day of speeches.

Now there are a few experiences as unappetizing as standing in a puddle, huddling beneath a dripping umbrella, and straining to hear the faint words of a distant speaker, especially when that speaker is extolling the virtues of education.

Yet, there was something in Bishop Gilmour's speech that day 90 years ago that ignited his listeners and is with this institution today.

At a time when higher education was still reserved for a tiny and privileged elite, he spoke of learning as a gateway to opportunity.

At a moment when highwalls cut off many great universities from the community around them, he said the academy had a profound social mission.

In an age when theory was prized for theory's sake, he spoke of knowledge for action's sake.

What riveted Bishop Gilmour's listeners was this startling new purpose for the university, the idea that to the traditional functions of teaching and research, there must be added the goal of service as well. He put it this way: "There is no greater mistake than for the scholar or the school to assume that knowledge is for himself or itself. Knowledge is not for its possessor, nor genius for the individual. Both are gifts from God, to be used for the general good. Let the great ambition of this university be to lead in all that tends to elevate our people, benefit our fellow citizens, and bless our country. Let generosity mark the spirit of this house of learning." And so it has.

In the century since that wet afternoon, universities have made the spirit of generosity and service the soul of their mission.

They have opened their classrooms to the millions for whom education once stopped at high school—to the poor and the minorities and the immigrants.

They have opened their curriculum to the problems this nation faces—of hunger and poverty and disease and decay.

And they've offered their talents to their government, their ally and agent in the fight for social justice.

Just look at the list of progressive achievements of our nation, and you are also looking at the proud record of education's commitment to public service. From civil rights to disarmament, from full employment to free speech, it is the university that has been at the forefront—articulating, advocating, caring, trying.

My beliefs—and I know that's true of all of you here today—have been grounded in the conviction that if only we try, we can be wise enough and compassionate enough to improve lives not only for ourselves, but for others. And the more I learn about Catholic University's 90 years—and its faculty and students and alumni—the more I find this campus a brilliant testament to that belief.

President Wilson once said that, "It is not only learning, but the spirit of service, that will give a college its place in the annals of history."

By that measure alone, you have reason to be proud of Catholic University. The history of this institution is the history of its devotion to public service.

Today, when our city schools are in desperate need of new ideas and energy, your school of education runs a landmark Urban Teacher Corps program serving our own city.

Today when so many are stigmatized by the label of mental illness, your school of music offers a pioneering degree course in music therapy.

Today, when safe storage of nuclear waste—an issue that is with us in compelling urgency today—poses complex technical problems, scientists at this university are at work on a new kind of encapsulating glass a thousand times safer than anything used before. And please hurry up with that.

From Catholic's nursery program for emotionally disturbed preschoolers to its Institute for the Study of Aging, the clear and consistent theme is the spirit of generosity—a living embodiment of Paul's counsel to the Galatians: we must carry each other's burdens, and so fulfill God's law.

That will never be easy. And we will never forge a perfect society. But to shrink from the spirit of generosity is to turn our back on all that is good and decent and happy about us as a people. As Camus once wrote, "Perhaps we cannot prevent this from being a world in which children suffer. But we can lessen the number of suffering children. And if we do not do this, who will do it?"

As Catholic University looks to the future, it is blessed with a leader who knows the profound urgency of Camus' question—and who knows what American higher education can be at its best: at once dedicated to academic excellence, and at the same time committed to the service of something outside ourselves.

Dr. Pellegrino put it this way: "The special message of today's university is that science, technology, and the humanities can transform human life . . . that poverty must not 'always' be with us . . . that, through enlightened politics and economics, a better and more human life can be available to all people."

And it can. For in the end, the values of higher education are the same as the values of the Sermon on the Mount—the values of charity, of decency, and compassion, of fairness, and of love.

Under Dr. Pellegrino's stewardship, those will continue to be the values of all who are touched by this magnificent university.

You will never shrink from involvement. You will never hide behind the shield of value neutrality. You will never turn your back on human need.

Instead, you will be moved by the words of the Holy Father's first encyclical, when he said, "We have before us here a great drama that can leave nobody indifferent."

You will see the millions around the world who awaken without food and lie down without hope. And you will ask how you can help them.

You will see the refugees, hundreds of whom are in boats—dangerous boats out to sea, off Southeast Asia, as we meet today—and the political prisoners, the battle-scarred and the afflicted, and you will bend your energies to securing their dignity.

You will see a dangerous and mindless arms race, and try to stop it.

You will see the government as a fundamental instrument of social justice, and work with it to secure fairness for all Americans and all human beings.

You will do this—because you know that there is nothing more powerful than the human spirit in the service of high ideals.

For those who doubt it, I would simply remind you what happened earlier this week. What would be less likely than that peoples who have fought for generations—five times in 30 years—could somehow reach an agreement and find peace and that the sons and daughters of Abraham could be reunited in peace. (Applause).

To nourish, to strengthen, to transmit those values: that is the mission of this university in its partnership with church and family.

Dr. Pellegrino, members of the Catholic University community, it is an honor to join you as you recommit this university to that mission. You are inaugurating a new era in an ancient quest, one perhaps best described in the words of the Jesuit philosopher, Teilhard de Chardin, who said, "Someday, after mastering the winds, the waves, the tides, and gravity, we shall harness for the God the energies of love. And then, for the second time in the history of the world—man will have discovered fire." (Applause).

DOCTOR OF VALUES: EDMUND PELLEGRINO, THE NEW CHIEF AT CATHOLIC U.

(By Michael Kernan)

From the very beginning Dr. Edmund D. Pellegrino had a knack for being first.

He was the first in his family to graduate from high school, the first to go on to college and professional school, and the first to become a university president.

This afternoon he will be inaugurated as president of Catholic University, with Vice President Mondale as keynote speaker.

When he was 10 he asked his father, an immigrant salesman with a sixth-grade education, for an Encyclopedia Britannica. It would help him in school, he said, and his three bothers could use it too.

"I'm not sure he knew what it was, but he got it. It was a considerable sacrifice for him."

There were no books around the house, just newspapers. But the conversations at the dinner table were always on philosophical and moral and ethical issues.

"We always talked dialectically, critically," he said. "I don't know where my thing for books came from. I never remember a time when I didn't have one around."

Dr. Pellegrino, 58, and his wife Clementine have seven children, and they too have lively discussions at dinner, those who haven't gone on to academic studies, and in their house are many, many books.

He loves to read. And as a task-oriented man, he not only reads but he collects books. He haunts old bookstores. He insisted on having his formal picture taken in front of his bookshelves. His house is full of them. "They're crowding us out." He has whole rows of dictionaries and etymologies, not only because he loves to translate Latin poetry, but because etymology is almost a mania with him.

"I have an exquisite sensitivity to language," he said. "In another life I would have been a philologist."

Last week he gave a paper in Spain about words and language.

Then there is the piano, the love for Baroque music, the lab work on the chemistry of calcified tissues, the ferocious game of tennis he plays.

"Alfred North Whitehead said that if you want to live a life with satisfactions you really have to step out of your work now and then. Some people do it with crafts. I do it with music and poetry."

One can understand his need to unhitch himself from the drive that has made him a trailbreaker so many times. Before he came to Catholic he was founding president of the Yale-New Haven Medical Center.

Before that he was the first chairman of the medical department at the University of Kentucky and the Health Science Center of the State University of New York at Stony Brook.

He is also the founding editor of the Journal of Medicine and Philosophy, and he heads the Institute on Human Values in Medicine, a subject close to his heart.

"In a technical society thats precisely the need: to make value judgments," he said. "The opinion makers are making decisions for all the rest of us, and the Institute has for 10 years been developing programs for teaching ethics, philosophy, history and literature—for teaching values in the medical schools."

Already 80 medical schools are trying to teach their students to be something more than automatons without social consciousness, let alone conscience, technicians who think only of "how" and never "why."

He seemed to enjoy questions, as a person comfortable with debate.

"The real crisis for the private university is losing a little bit the sight of our central problem. There is a great general concern about the diminution of the quality or the value of the liberal arts education. People are very confused about what a liberal arts education is. And when the universities themselves are confused, what about the others?"

Keenly aware of the "tremendous earthquake of the 60s, the commitment of universities to value-free education, to neutralism . . ." he wants more than anything to revive the university's ancient function of civilizing people.

On his being a Catholic (and on the fact that it is to Catholics, and others with profound moral positions, that we turn increasingly in the dilemmas of medical ethics. Dr. Pellegrino says he feels his task is to make his stance clear, to raise the questions on issues that some fail to recognize as issues at all.

"We want to remind people that there's another side (to abortion, for example), and engage with others who differ intellectually."

For a man being interviewed on the eve of his inauguration, he seemed remarkably unflustered. As we left the room his glance brushed softly over the shelves of books, the etymology dictionaries, the encyclopedias. They came in there with him on his first day.

He'd just as soon be working with them as anything else, he muttered.

That is, if he weren't so busy running universities and publishing books and lecturing and heading up committees and receiving honorary degrees and thinking of new things to found.●

CHURCHES SEEK TO END ARMS BUILDUP

● Mr. McGOVERN. Mr. President, the Washington Post yesterday carried a report on the more visible role of churches in the peace movement against the arms race. This new activity could not come at a more important time. We seem to be entering an era in which we will have both arms control treaties and a new round of escalation in the arms race. Under SALT II, for example, both sides will be permitted to develop first-strike, counterforce systems. The Soviet Union will be allowed to MIRV their SS–18's while the United States will be permitted to develop a silo-busting MX ICBM. The likely result will be both a treaty and instability.

Under these conditions, the role of public opinion in reversing the arms race is vital. If the two superpowers are unable, for whatever reasons, to negotiate substantial reductions in nuclear weapons, public opinion movements will be necessary to create a political climate in which each side could take independent initiatives to slow the arms race. Therefore, religious activities against nuclear weapons could have a major impact on the attainment of true security.

Mr. President, I salute the wisdom and courage of the church leaders who are stimulating a new dialog in the religious community on the arms race and I wish them much success.

I submit the report for the RECORD.

The text of the article follows:

CHURCHES SEEK END TO ARMS BUILDUP

(By Marjorie Hyer)

Washington's First Baptist Church—whose most famous member is President Carter—begins a two-day peace convocation today.

The gathering, bringing together such disparate spokesmen as the Rev. William Sloane Coffin, the antiwar activist, and Southern Baptist preachers, is part of what some national church leaders believe is a new broad-based religious peace movement in this country.

Many of these new church peace efforts have grown out of the anti-Vietnam War network once led by people such as Coffin. The new church efforts are an attempt to "get the peace movement off the streets and into the churches," he said.

Support, moreover, is coming from church groups never identified with the peace movement, including Southern Baptists, other sectors of evangelical Protestantism, and conventional Roman Catholics who a decade ago deplored the activities of the Berrigan brothers.

Examples of the new religious fervor to fight the arms race and nuclear weapons include:

A day-long Memorial Day service last week during which thousands of Christians in more than 50 cities called for an end to the nuclear arms race. The vigil was sponsored by the Sojourners Fellowship, a Washington-based organization dedicated to living in accord with the New Testament.

In February, about 400 Southern Baptists gathered for a weekend convocation in Louisville on the "Peacemaking Agenda." It was the first conference specifically devoted to peace ever held under the auspices of the Southern Baptists, who tend to be identified more with personal pietism and evangelism than consideration of social and political questions.

In March, a delegation from the National Council of Churches met in Geneva with leaders of the Russian Orthodox Church to explore a mutual concern for peace. Their statement urged the "earliest possible approval" of SALT II accords as a next step toward "real, complete, general and total disarmament."

The Roman Catholic Archdiocese of Hartford, Conn., hardly a hotbed of radicalism recently issued, as part of the resource material in use by about 130 study and discussion groups in the archdiocese, a 65-page booklet titled, "A Call to Faithfulness: The Arms Race and the Gospel of St. Mark."

In addition to a theological exploration of the topic, the booklet points out that 27.7 percent of Connecticut's workers are involved in military-oriented industry, producing everything from nuclear submarines to small arms. The booklet also includes suggestions on how to work for peace, and lists secular and church-related peace organizations.

The most elaborate of the church-based peace efforts under way is the disarmament program of Riverside Church in New York City, where Coffin is senior minister.

Riverside's disarmament program, directed by another peace activist of the Vietnam War days, Cora Weiss, held a massive national "Reverse the Arms Race" convocation last December. It also has organized demonstrations against the launching of the Trident submarine, mobilized a Peace Sunday/Peace Sabbath effort earlier this year, and in general continues to hammer away in an effort to roll back the arms race.

The peace convocation at First Baptist Church here this weekend is one of about 70 similar gatherings around the country encouraged by the New York church.

The new efforts for peace are taking different approaches. Some, like the Riverside program, tend to hit hard on the guns-or-butter argument, with ready statistics on how many health clinics could be built for the price of one nuclear submarine. Such arguments also usually contend that nuclear weapons make for a more dangerous rather than a more secure world.

Groups such as the Sojourners come at the problem from a more explicitly religious approach.

"I think the significant thing is that there is a new constituency of people who are involved in this question on the basis of their personal faith . . . because of what they believe about Jesus Christ," explained Wes Michaelson of Sojourners, one of the coordinators of the Memorial Day prayer vigils.

"The people who came [to the prayer vigils] were there not for the real political reasons or for a rationalist war-is-bad, peace-is-good philosophy, but because of what they believe, because their own personal faith cannot countenance our nation's nuclear policy," he said.

For that reason, he said, groups such as Sojourners continue to stress prayer, worship and "getting people deeper in touch with their own faith and beliefs . . . I believe they need to look at the nuclear issue in light of their stated conviction that Jesus is Lord."

For Christians, Michaelson continued, "there is no way in which our nuclear policy can be called anything but idolatry of the nation. . . .

"We have to get people to raise the basic question, such as 'How can we in Christian terms ever justify the use of nuclear weapons?' "

Michaelson, a former legislative aide to Sen. Mark Hatfield (R-Ore.) does not dismiss the political dimension.

"Ultimately, it does have to be translated into political terms," he said, adding that he believes "the nuclear issue will be a major issue in the 1980 elections."

While there are different approaches in the churches' quest for peace, there also is beginning to be an exchange of methods and tactics.

Michaelson and several of his colleagues from Sojourners are involved in the leadership of the First Baptist conference this weekend. The conference itself is co-sponsored by the Church of the Saviour, a small congregation here that is closer to the iconoclasic Sojourners Fellowship than the establishmentarian First Baptist Church.

The Rev. Dr. Alan Geyer, a political scientist who heads a think tank at American University on the relationship between religion and politics, warned against "the danger of exaggerating the scope and significance" of a church-led peace movement at this time.

"Nevertheless," Geyer acknowledged, "certain things are breaking out in a number of places."

Geyer, who was technical adviser to the American church delegation at the meeting with the Russian churchmen in Geneva, is concerned that churches not depend upon dramatic gestures. He said that he wants peace to become a continuing involvement for churches.

"The church needs to find ways beyond peace resolutions and rallies to get people vocationally committed [to work-for peace] for a lifetime," he said.

But for church leaders such as Coffin, who spends an increasing amount of time crisscrossing the country mobilizing for peace, the cause has become something of a holy calling.

"The nation needs help from the religious community—from the men and women who are less conformed to the ways of this world," Coffin said, paraphrasing scripture.

"We've only got a prayer" of avoiding nuclear holocaust, he declared, adding, "We've got to do what we can." ●

LEGISLATION PROPOSING TO DESIGNATE BIRTHDAY OF DR. MARTIN LUTHER KING, JR., AS NATIONAL HOLIDAY

● Mr. DANFORTH. Mr. President, I am honored today to join several of my colleagues in cosponsoring legislation to designate January 15, Dr. Martin Luther King, Jr.'s birthday, as a national holiday.

Dr. King, through his lifelong efforts to achieve equality for all Americans, exemplified the spirit of American freedom and self-determination. His determination and quiet, unshakable dedication to his beliefs and goals serve as an inspiration to all of us who profess concern about world problems and, indeed, are genuinely concerned, but tire and sometimes want to turn our backs and say, "Later; I've had enough." One of the greatest lessons that Dr. King taught us is that persistent individual action and concern is critical to change. Groups may make laws, but it is only through individual responsibility and caring that the laws take form and meaning, and become justice.

Dr. King's cause—basic civil rights for all Americans—was, and remains, a great cause. His adherence to nonviolence served to illuminate the immense dignity of both Dr. King and his work. A national holiday honoring Dr. King would give us, the American people, the opportunity to reflect on and renew our commitment to the principles of human equality and personal dignity. With Dr. King, our Nation progressed in its awareness of human freedom. In his memory, we must continue his work.●

THE DAVIS-BACON ACT

● Mr. BAYH. Mr. President, in the past weeks there has been increasing public debate regarding the Davis-Bacon Act. Because of this growing concern I feel that more knowledgeable individuals should have the opportunity to present their analysis of Davis-Bacon. For that reason I ask that an article written by Henry C. Mayer, chairman of both the Labor Committee of Kentucky Economic Association, and the Committee on Public Issues of the Association for Social Economics, be printed in the RECORD.

Mr. Mayer is a distinguished student in the field of labor economics. I am confident that we all can gain a degree of additional insight into this subject as a result of Mr. Mayer's thorough analysis of the issue.

The article follows:

THE COMPLEX CONSTRUCTION-WAGE DEBATE

(By Henry C. Mayer)

The debate over the future of the Davis-Bacon Act and related state and federal laws is increasing in tempo if not necessarily in substance.

All these statutes declare that in construction projects involving money from the government agency, the federal or state departments of labor shall determine the wages to be paid workers in their various job classifications.

Those opposed to this legislation say these pay scales are inflationary and thus increase the cost of the projects to both the government and taxpayers. These persons also allege that the basic federal law, the Davis-Bacon Act, was an offspring of the Depression, and, since its conditions no longer prevail, the statute is no longer necessary.

My research suggests that a number of other viewpoints need to be considered. For instance, the proof offered so far to substantiate the inflationary character and outcome of activities undertaken under these laws is based on selected statistics.

Harvard's Clinton Bourdon and MIT's Raymond Levitt write, "Because of the polemical nature of the debate, there are no serious studies of the actual cost impact that Davis-Bacon has had. Most of the studies consist of only a few examples and illustrations of particular wage determinations which will raise the wage level (and perhaps the final cost) of selected projects. But since there are more than 14,000 wage determinations every year, it is not clear whether these wage determinations (that are cited) are really typical of the whole."

No one advocating repeal of these laws has adequately stated what that "whole" consists of. Harvard's Daniel Mills, who has analyzed nearly all the available data, notes that construction is really a complex of industries. At least four major divisions are widely recognized; residential, heavy and highway, dams and bridges, and non-residential structures of more than five stories. Not long ago, there were more than 300,000 firms of many sizes engaged in construction activities of one kind or another. Their work force, taken as a whole, was the largest for any industry in this country.

Construction probably has the most influential effect on the state of the national economy. Conversely, the health of the economy is often tested by ascertaining the well-being of construction.

Pressed for one word to describe both construction's structure and its employee relations, Mills' response would probably be "complex." Not only do major construction sectors differ from each other, the vast majority of firms have a small number of employees. And 20 or more major crafts are involved in the industry.

There are unique features about the employee relations—involving both union and non-union workers—in this industry that merit inclusion here.

One basic factor is the unique role which labor costs have in the makeup of a contractor's bid. Next, both the size of most firms and the length of a job have contributed to make the employee relationship weak. Third, mobility and the seasonal nature of their work affect the total yearly earnings of workers and the length of time they are employed during a 12-month period. It can be safely said that only a fraction of the three-to-six-million persons employed in construction during a year have year-round jobs.

It is also useful to consider the bidding process used in the construction industry. It is highly competitive and has resulted in extensive wage-cutting and the use of outside contractors furnishing workers from elsewhere over the years. These practices were especially widespread and traumatic during the Great Depression. The passage of the Davis-Bacon Act in 1931 was the successful conclusion of efforts to restrict them in order to protect local wages. Incidentally, the first such state law was enacted in Kansas in 1891.

Another factor in the passage of these laws was the hiring of workers without regard to their degree of training and skills, a practice that was undermining labor standards for members of the various crafts. The militancy of a number of anti-union contractors also contributed to legislative action.

Bourdon and Levitt said the Davis-Bacon Act "does not simply reflect the remains of an idiosyncratic response to Depression-era problems. . . . It represents one particular philosophy of government. . . . The reflection of a principle that the price of labor should not become an element in the competition for government construction contracts." And Richard Simonson, in an earlier study, concluded: "Government should not profit at the expense of distressed workers. . . . The maintenance of good labor relations on federal projects is more important than economy."

This aspect of the law, for which the adjective "ethical" is neither too strong nor inaccurate, suggests that a vigorous debate on this issue is in the national interest. One can only hope that it will reflect maturity and morality in the employment of the democratic process. All of us will be hurt if it descends to statistical prostitution and propaganda.

We must honestly identify and weigh the social costs of having and not having these statutes. We must be equally ruthless in recognizing the limitations in their administration and provide for their correction.

There can be no quantitative short cuts to avoid penetrating questions about how to apply our values to this debate. Unfortunately, the Courier-Journal's well-written editorial of Feb. 18, was an incomplete and, to some extent, inaccurate statement.

In our commendable and necessary efforts to contain and retard today's traumatic inflationary spiral, let us not forget that workers and ethical contractors for whom these laws were enacted are more than numerical units in a bid or a Census of Construction.●

PEOPLE FIRST

● Mr. DURENBERGER. Mr. President, on Saturday, June 2, I had the opportunity to participate in the "People First" rally in Minnesota. The purpose of the event was to raise awareness of the special needs of handicapped citizens.

Minnesota has long been a national leader in providing for the special needs of the handicapped. Many of our buildings are barrier free. We are working to provide transit systems designed for the handicapped and several of our State's leading employers are engaged in extensive job training and recruitment programs for the handicapped. The work being done in Minnesota in these and other areas has been copied nationally.

We are proud of our accomplishments in Minnesota, but we recognize that our success is far from complete. The handicapped are all too often confronted with discrimination and limited opportunities.

Perhaps society's greatest failure has been our inability to educate the public on the individuality of the handicapped. The theme of the rally I attended in Minnesota—"People First"—is more than a slogan for today and a memory for tomorrow. It conveys a principle all of us must strive to fulfill. If we take the time to see each other first of all as a person, we will be able to care for one another, to work together and to accomplish our goals.

Every person asks only that he or she be seen as an individual, as a person who has the same goals, hopes, fears, and desires as anyone else. Sometimes, unfortunately, our biases cloud our vision and people must be educated to look beyond a handicap.

Chester Oden, a professor at the University of Minnesota and the father of a handicapped son, understands the trials and tribulations of a handicapped person. He has devoted a great deal of his time to educating the public. His personal revelations have meaning for all of us. I ask that his story be printed in the RECORD (as published on May 30, 1979, in the Washington Post).

The article follows:

FAMILIES: RECOGNIZING AND LEARNING FROM THE "SPECIALNESS" OF A HANDICAPPED CHILD

(By Carol Krucoff)

Chester Oden couldn't put his finger on the problem, but the minute he saw his newborn son he knew there was something wrong.

Oden, who was in medical school at the time, tried to dismiss his fears as a student's premature diagnosis. But two days later his gut feelings were proved valid.

A specialist confirmed that Chester Wayne Oden III displayed eight classic signs of Down's syndrome, commonly called Mongolism. He would probably never walk, talk or become socialized, said the doctor, who recommended a good institution.

"My son had enough trouble, being black," Oden, 48, said during a stop in Washington to address health professionals at Howard University. "But being handicapped—that made being black seem easy."

Oden shunned the specialist's advice and raised his firstborn child at home—an experience that changed his life. He discontinued his medical studies at the Univeristy of Southern California, took up psychology and special education in Minnesota and went on to work with inner-city youngsters, corrections institutions and mental health agencies in Minneapolis and St. Paul, Minn.

Recently, as a professor of human relations at the University of Minnesota, Oden was asked to give a speech about what he terms the "invisible minority" of handicapped people. Before he approached the podium Oden overheard someone in the audience make a rude remark about the handicapped.

"I saw red rage in front of my eyes," recalled Oden. He threw out his prepared speech and talked instead about "the beautiful things my son has taught me."

"Wayne would rather laugh than anything else in life," said Oden, who dubs his son's affectionate, slobbery kisses "Wayne Specials."

"Here's a guy who's got a guaranteed spot in heaven—he doesn't think bad thoughts or do bad things. He got his nickname, Moose, because he's such a big, fat, soft ball of love. He's developed traits none of his seven brothers ever acquired. He has an adventurous spirit and is naturally more gregarious than the rest."

After the talk, a listener who also had a handicapped child encouraged Oden to turn his thoughts into a book. The result is "Moose: A Very Special Person," a compelling account starting with Wayne's birth and finishing as he sets off at age 20 for his first job as an "assistant sanitary engineer" in a Minnesota state building.

Then-Sen. Muriel Humphrey, the grandmother of a Down's syndrome child, writes in the preface that because "society said a Down's syndrome child was helpless, Moose's parents raised him without challenging him to develop new skills . . . but Moose's own inventiveness and his parents' willingness to learn from him enriched the lives not only of Moose and his family but of all those who encountered Moose's specialness."

Throughout the book Oden presents unflinchingly honest anecdotes about his struggle to do what was best for his son. "When Wayne was born I had wondered what we'd done to deserve the tragedy of his handicap," Oden writes. "As Wayne grew, I began to wonder what he had done wrong to deserve me—sometimes I couldn't believe my own incompetence at fathering."

Through his experience, Oden has developed these suggestions for other parents of handicapped children:

Visit other parents who have a child with the same or similar disability. An afternoon spent with a mother and her Down's syndrome son "succeeded in showing us that parenting a Down's child could be as natural as parenting any other child, and her easy attitude calmed us," Oden writes.

Think in terms of "cans" not "can'ts." Although specialists had cautioned Oden that Wayne might never walk, talk or relate to other people, Wayne did all three. "We had come to a point where there was only one person who could tell us what Wayne was capable of doing—Wayne himself."

Never refer to the child as "retarded" when he or she can hear you. "It's a term they know is derogatory and demeaning. If the child is getting into a situation where you have to intervene, use the word 'handicapped.' "

Avoid excluding the child. Wayne would get upset around dinner time when family members were each performing special chores. Oden finally realized that Wayne's name was not on the family "chore roster"; he had no assignment. "We excluded him out of love and concern, but we were actually handicapping him." ●

ORGANIZATION OF FEDERAL VOLUNTEER PROGRAMS IN ACTION

● Mr. GLENN. Mr. President, I submit for the RECORD the summary and recommendations of the Governmental Affairs Committee report "Organization of Federal Volunteer Programs in ACTION" which is being filed today.

The report follows:

ORGANIZATION OF FEDERAL VOLUNTEER PROGRAMS IN ACTION

I. SUMMARY AND RECOMMENDATIONS

(a) Introduction

This report examines the current organization of ACTION in response to the request of the Senate Labor and Human Resources Committee that the Governmental affairs Committee consider the advisability of transferring some or all of ACTION's programs to other agencies. It is the conclusion of this Committee that none of the programs now in ACTION should be transferred to other agencies.

On April 11, 1979 the Senate Labor and Human Resources Committee adopted, in connection with its consideration of the reauthorization of ACTION's domestic programs, a resolution requesting the Governmental Affairs Committee "to consider, and to report to the Senate by June 4, 1979, its recommendations as to whether some or all of the programs administered by the ACTION agency should be transfered and administered elsewhere." [1]

The Governmental Affairs Committee held public hearings on the matter on May 17th. A total of 59 federal, state or local officials, and private organizations appeared before the Committee, or submitted views for the record.

The hearings examined the ageny's programs, including the Peace Crops, VISTA, and and the Older American Programs. It considered the effect of various organizational changes on the agency as a whole, and on its programs. It examined the advantages and disadvantages of linking the Peace Corps Program with the proposed International Development Cooperation Agency.

The Committee subsequently met to consider the issue at an open meeting of the Committee May 22, 1979.

At that time the Committee voted 15 to 2 [2] to recommend to the full Senate:

(1) That ACTION agency be kept together as an independent executive branch agency;

(2) that the Peace Corps, as a part of ACTION, should be granted budget and policy autonomy in accordance with the new Executive Order 12137 issued by the President on May 16, 1979.

The Committee believes that a major reorganization, such as the dismantling of ACTION, should not be undertaken unless there are clear and compelling reasons. The Committee feels that, to date at least, no such compelling reasons have been identified to justify reorganization of ACTION. To the contrary, the Committee concludes that retaining the current organizational structure would provide the best opportunity for the volunteer programs to achieve the mission established for them by Congress—the coordination and encouragement of volunteerism in this country.

(b) *Overview of ACTION*

ACTION was established July 1, 1971, under the 1971 Reorganization Plan No. 1. This plan reorganized under a single agency seven Federal volunteer programs, six of which were previously administered among three Federal agencies and one (the Peace Corps) which was a semiautonomous unit within the State Department.

In addition to the Peace Corps, programs transferred to ACTION were the Volunteers-In-Service-To-America (VISTA) and the National Student Volunteer Program, both previously administered by the Office of Economic Opportunity, and the Foster Grandparent and Retired Senior Volunteer Programs, both previously administered by the Administration on Aging of HEW. In accordance with a co-management agreement with the Small Business Administration, ACTION assumed primary, but not total responsibility, for administering the Service Corps of Retired Executives (SCORE), and the Active Corps of Executives (ACE). These programs were returned to the Small Business Administration in 1975. The Domestic Volunteer Service Act of 1973 provided additional authority for new ACTION programs intended to broaden the range of volunteer service opportunities: (1) the University Year for Action Program, (2) the Senior Companion Program, and (3) a program of grants for demonstration projects.

ACTION was established because Congress and the Executive Branch agreed that there should be one single agency in the Government organized around the principle of voluntary action which could help preserve and promote the American tradition of citizens volunteering their time and skills to help others.

The 1971 Presidential proposal submitted to Congress stated that ". . . reorganization is the first step toward the goal of a system of volunteer service which uses to the fullest advantage the power of all the American people to serve the purpose of the American Nation. . . ." The six goals for ACTION were:[3]

(1) Expansion of the testing and development of innovations in voluntary services;

(2) Bringing together full-time and part-time volunteers and developing new opportunities for part-time volunteer service;

(3) Bringing together programs appealing to younger volunteers and those appealing to older volunteers;

(4) Development of programs combining foreign and domestic service and providing for an exchange of ideas and experience between these efforts;

(5) Broadening the utilization of volunteer abilities beyond categorical programs by allowing volunteer skills to be used in areas where they are not presently used; and

(6) Providing a more effective system of recruitment, training, and placement of full-time volunteers than at present by centralizing administrative and informational functions.

Achievement of these goals were to be supported by operations of the agency along the lines of five principles set forth in the reorganization message:

(1) Encouragement of local initiative;

(2) Assignment of volunteers, where appropriate, to work under other government agencies and private organizations;

(3) Utilization of local part-time volunteers for specific jobs;

(4) Involvement of educational and other organizations to broaden volunteer efforts; and

(5) Emphasis on recruiting and applying the skills of trained craftsmen and professional workers.

Those in favor of the 1971 plan testified before the House Government Operations Committee that creating ACTION would give more visibility to the principle of voluntarism. They stressed the number, variety, and fragmentation of the volunteer programs as major problems in properly channeling and expanding volunteer resources. The merger outlined in the reorganization plan, they argued, would allow volunteer programs to achieve greater efficiency and effectiveness and give the programs a necessary overall unity and direction which they previously lacked.

John W. Gardner, Chairman of Common Cause, captured the spirit and purpose behind the establishment of ACTION before the Senate Committee on Government Operations on June 1, 1971, in these words:

"Each of the volunteer corps that have been established to date has performed well in its own way. But each has been totally committed to it own pattern of operation and none has been charged with a really imaginative broad-scale explortion and development of the volunteer idea. If the various operations are brought together under one roof they can not only benefit by certain shared services, but the new agency can be charged with aggressive exploration of new patterns of volunteer activities. . . .

A more intellectual issue has been raised by those who argue that a volunteer corps must stay close to its subject matter. I agree, but don't see the need for it to be administered by the same agency that administers subject matter. Does anyone believe that the Peace Corps would have done better embedded in the State Department of AID? In the long-run I believe that the freshness of the volunteer spirit will be best preserved if all the various corps enjoy some degree of separation from the agency dealing with their subject matter."

ACTION's estimated budget for 1979 is $215 million. Of this $119 million, 55 percent, goes to the domestic programs and $96 million, 45 percent, goes to the Peace Corps.[4] ACTION with a permanent staff of 1979 employees supports around 280,000 full or part-time volunteers.

The volunteers provide a wide range of services to people of this country and the world:

PEACE CORPS

With 6,100 volunteers the Peace Corps is in 63 foreign countries helping the poor provide food, water, shelter and other basic human needs for themselves.

VISTA

With a $25.6 million budget 4,300 VISTA volunteers serve 1.2 million poor people through community organizations to help reduce poverty in the United States and its territories. VISTA volunteers are 69 percent women, 22 percent minorities and 20 percent are low-income.

Older American Programs

The Foster Grandparents Program enlists the services of 16,630 low income persons age 60 and older to help care for 40,000 handicapped youngsters in institutions, schools and homes.

The Retired Senior Volunteer Program (RSVP) have 250,000 volunteers age 60 and older in 682 community service projects in every state. They provide health and welfare assistance for the elderly and for the physically and mentally handicapped.

Senior Companion Program helps the elderly remain self-sufficient by bringing health care and other services into the home through 3300 low income volunteers age 60 or over.

Student Programs

University Year for Action (UYA) authorizes grants to colleges and universities to enable students to serve full time in community projects designed to reduce poverty and earn one year academic credit.

National Student Volunteer Program (NSVP) provides technical assistance through manuals, consultations, and training seminars to high schools, colleges and universities engaging students in volunteer services.

On May 16, 1979, the President issued a new Executive Order superseding the one issued in 1971 when ACTION was first established. Executive Order 12137 leaves the Peace Corps within ACTION, along with all the domestic volunteer programs already in the agency, but it grants the Peace Corps autonomous status within ACTION.[5]

(c) *Summary of committee findings and conclusions*

The Committee recommends that the volunteer programs now in ACTION be retained in ACTION in accordance with the organizational structure specified in the new Executive Order issued May 16, 1979.

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[1] The full text of the Resolution and the letter of transmittal from the Labor and Human Resources Committee appears in Appendix 1.

[2] Appendix 2 records the vote of the Committee.

[3] See U.S. House Document No. 92-74.

[4] An overall summary of ACTION's current activities and a description of the yearly budget of ACTION between 1972 and 1980 appear in Appendices 3 and 4.

[5] Appendix 5 contains the new Executive Order and an accompanying memorandum from the President. The appendix also contains a letter from the President to the Chairman of the Senate Foreign Relations Committee on the status of ACTION and the Peace Corps.

The following summarizes the Committee's findings and conclusions. These findings and conclusions are described in greater detail in the remainder of the report.

Peace Corps

Association of Peace Corps with ACTION Helps Ensure Continued Emphasis on the Small, Humanitarian Nature of the Volunteer Program. The public largely supports the Peace Corps because it views it primarily as a small, people-to-people program. The small, humanitarian nature of this volunteer program will be best protected if it is linked with ACTION, the only agency in the government which has the promotion of small, volunteer programs as its chief mission.

The Peace Corps Programs Benefit from Coordination with Domestic Programs. The Peace Corps shares an important community of interests with the rest of the ACTION programs. The linkage between domestic and international volunteer programs in ACTION demonstrates to Third World countries, bettter than any other bureaucratic arrangement, that the Peace Corps is not just another source of aid, but a volunteer agency, working with other volunteer programs in ACTION, to reduce poverty both at home and abroad. The close association of domestic and international programs leads to the sharing of ideas and experience which strengthens the Peace Corps as well as the domestic programs. At the same time, the placement of the Peace Corps in ACTION has not prevented the Peace Corps from cooperating with AID and other Federal agencies and international organizations. The Peace Corps and AID have now established collaborative mechanisms in 29 of the 38 countries where they both conduct operations. A reorganization is therefore not essential to ensure the continuation of this coordination.

The New Executive Order Protects Peace Corps Autonomy. New Executive Order 12137, issued by the President on May 16, 1979, should ensure autonomy for the Peace Corps within ACTION and control over the critical functions of budget and policy. Under the new Executive Order the Peace Corps should have at least as much autonomy as it ever had before it became part of ACTION. After the Executive Order has been implemented, Congress will be in a better position to evaluate whether it achieves its stated purpose. It is inappropriate, however, to subject the Peace Corps to further reorganization until the success of the new arrangements can be measured.

A Reorganization Linking the Peace Corps with AID Could Lead to Undue Domination by Other Foreign Policy Agencies. The proposed new International Development Cooperation Agency will be responsible for coordinating U.S. foreign assistance programs. AID will be the largest unit within the new agency. Linking the Peace Corps to the country's foreign assistance program by placing it as a semiautonomous unit within IDCA would make it harder for the Peace Corps to keep sufficient distance from the short-term foreign policy goals of the United States. Yet it is important to preserve this distance in order to insure continued support for the Peace Corps in this country and in the Third World. The reorganization would raise the possibility that the Peace Corps would be seen abroad as simply another part of our foreign assistance programs. The influence the Director of IDCA would have over the Peace Corps, as Chairman of the board governing the program, would mean that over the years, the programs' goals of the Peace Corps might become unduly influenced by the needs of our bilateral assistance programs. The uniqueness of the Peace Corps as an expression of American idealism, and the symbolic importance of its voluntary, people-to-people international development activities would be undermined. In addition, transferring the Peace Corps to IDCA would eliminate the significant advantages in coordination now derived from linking domestic and international volunteer programs in a single agency.

The Alternative of Establishing the Peace Corps as a Completely Separate Agency is Unjustified at This Time. Alternative organizational arrangements which would place the Peace Corps in a completely separate Federal agency, or in a quasigovernment foundation, can not be justified at this time in view of the President's recent Executive Order increasing the Peace Corps' autonomy within ACTION. The new status given the Peace Corps within ACTION should be tried before these other alternatives are considered. This is especially so since such a step would increase the total cost of the support services for the Peace Corps. It also would break the valuable link now achieved through ACTION between the different volunteer programs.

The Alternative of Establishing the Peace Corps as a Quasi-Government Foundation Involves Too Great a Separation from U.S. Interests. It would be unwise to place the Peace Corps in a quasi-government foundation over which the Federal Government would have only marginal influence. It is neither possible nor desirable to completely disassociate in this way the Peace Corps from the overall interests and goals of the U.S. Government abroad.

Domestic Volunteer Programs

The Testimony Supports the Retention of Domestic Programs in ACTION. The overwhelming weight of the testimony received by the Committee from private volunteer groups and others supported the retention of the domestic programs in ACTION.

ACTION Gives Priority Attention to Volunteerism. Witnesses testified that ACTION gives a focus and priority to volunteer efforts that is important if this country is to tap effectively the large, potential interest in this country in volunteer work. The dollar value of organized volunteer service in this country has been estimated at over $33.9 billion annually. The effective utilization and encouragement of these potential services could be threatened if the volunteer programs were fragmented among a number of Federal agencies, and no one agency saw the encouragement of volunteers as its chief mission. In addition to recruiting and supporting volunteers, ACTION encourages volunteerism by training volunteer leaders and managers, identifying areas for additional volunteer programs, an acting as a clearinghouse for information to State and local government, private volunteer groups, and individual citizens.

The Small Size of ACTION Agency Helps Make Programs Effective. Even if other agencies tried to do the work ACTION now does. ACTION may be able to do this work better than larger agencies because it is more likely to possess the flexibility and accessibility necessary to reach members of the public interested in volunteer work. Public opinion polls have suggested that recruitment of volunteers would drop-off if the individual volunteer programs were merged with larger, more bureaucratic agencies.

The Consolidation of Programs in Single Agency Saves Money and Improves Programs. The current structure of ACTION makes it possible to bring together in one place a number of related domestic programs. This leads both to better programs, and cost savings to the public. The domestic programs in ACTION now share a number of significant support services. OMB informed the Committee that a reorganization of the domestic programs would be likely to increase, rather than decrease, the expense of necessary support services. The Committee also received evidence that there are now significant joint efforts between the programs, such as VISTA and the Older American Volunteer Program, which would be significantly harder to achieve if the programs were fragmented among several separate agencies.

ACTION Provides Effective Coordination With Other Agencies. Current experience suggests a reorganization is not necessary to ensure coordination between ACTION programs and programs in other agencies. For example, 13 percent of the Retired Senior Volunteer Program projects, 20 percent of the Senior Companion Program projects and 35 percent of the Foster Grandparent Program projects are sponsored by community action agencies funded by the Community Services Administration. ACTION's Older American Volunteer Programs and HEW's Administration on Aging cooperate fully.

Reorganizing VISTA Could Undermine the Essential Nature of this Program. Transferring VISTA to the Community Services Administration could distort the nature of the VISTA program by causing it to resemble the Community Services Administration's grant programs than a volunteer program. The nature of the VISTA and the Community Services Administration program are different. The primary forces of the Community Services Administration is on the delivery of grants or other direct services to poor individuals, rather than on efforts to encourage individuals to organize for their own self-improvement. The emphasis in VISTA on helping the near-poor, as well as the poor, might diminish. The VISTA volunteer might be seen more as simply an additional source of labor to help implement the grant programs administered by the Community Services Administration. The relatively small VISTA program could simply become lost in the much larger Community Services Administration.

Reorganizing the Older American Programs Could Undermine the Essential Nature of this program. Groups representing older volunteers strongly oppose transferring the Older American programs to HEW's Administration on Aging as an "artificial graft" of these programs onto a Federal agency which might treat the older American as a problem rather than as part of the solution. Some viewed such a reorganization as consigning the programs to a "generational ghetto" in a much larger agency which is less likely to give priority to the program. Transferring the program to HEW could threaten the ability of these programs to recruit older Americans to serve as volunteers in the programs.

No major organizations should be undertaken unless clearly desirable, because it inevitably causes disruptions which reduce program effectiveness for a significant length of time. The Committee concludes that, at this time, it appears that there is much to be lost, and little to be gained, by transferring either the Peace Corps or the domestic volunteer programs to other agencies. Even if there were marginal advantages in transferring a single, particular program, such as the Peace Corps, to another agency the effect on ACTION as a whole would argue against such a move. The Committee believes that the original concept and motivation for establishing ACTION is as valid today as it was in 1971. Nothing has happened in the last six years to alter the importance of having within the Federal Government a single, small agency whose primary purpose is to encourage volunteer efforts. And in order to preserve that concept all the programs now in ACTION should be kept in place.

The Committee wishes to emphasize that this report was prepared solely in response to the request of the Senate Labor and Human Resources Committee, the Committee with jurisdiction over ACTION's domestic programs, that it examine organizational questions relating to the present location of the volunteer programs in ACTION. The report, therefore, focuses only on organizational issues. It does not consider any unrelated questions about ACTION's current management practices or its policies, or the personalities of the present leadership at ACTION.

At the same time, the Committee recognizes that there may be important questions about the mangement policies of ACTION which do not raise organizational concerns, but which Congress should examine in order to ensure itself that the programs themselves are being administered as effectively as possible.[6] For example, in the course of the hearings and the Committee's discussion of the matter, questions were raised about the possible use of ACTION funds to seek to influence the political process. The Committee felt that concerns raised in this connection were not caused by the current organizational arrangements. On the other hand, the Committee is concerned generally about the issue, and intends to examine the matter further in connection with its consideration of S. 691, a bill which prohibits the use of Federal funds obtained from any agency in the Government to lobby State and local legislative bodies.

The remainder of this report examines, in section II, the Peace Corps programs and, in section III, the domestic volunteer programs. In each instance the report summarizes the nature of the programs, describes the reasons why the Committee now favors retaining the programs in ACTION, and discusses the harmful effect a reorganization might have on the program.●

JOHN R. McGUIRE, FOREST SERVICE CHIEF, GETS PRESIDENT'S AWARD FOR DISTINGUISHED PUBLIC SERVICE

● Mr. MELCHER. Mr. President, for several years, many of us in the Congress have dealt with John R. McGuire, Chief of the Forest Service, on matters affecting that great agency. Earlier in this decade, we developed and enacted the Forest Management Act, which was a comprehensive revision of the basic Forest Service Organic Act which required close collaboration between the Committees of Congress involved and the Chief.

Through all our experience with Chief McGuire, we have found him an exceptionally well-informed, constructive, and cooperative individual—an outstanding public servant.

It was consequently with a great deal of pleasure and satisfaction that we learned that Chief McGuire had been given the President's Award for Distinguished Federal Civil Service at the Department of Agriculture's annual honor awards program on May 23.

The Forest Service has long been known as a career service of true professionals, doing an outstanding job of administering more than 180 million acres of Federal forest lands. That reputation has been greatly enhanced under the leadership of Chief McGuire.

I shall ask to include in the RECORD at the conclusion of these remarks a press release of the Department of Agriculture concerning the award, a biographical sketch of Chief McGuire, the remarks of Secretary of Agriculture Bob Bergland when he presented the President's award to the Chief, and a personal tribute by Assistant Secretary of Agriculture Rupert Cutler on that occasion.

I would like to precede these documents with my own expression of appreciation to the Chief for his infallible cooperation and constructive assistance in every task in which we have had joint involvement.

The material follows:

FOREST SERVICE CHIEF RECEIVES PRESIDENT'S AWARD

WASHINGTON, MAY 23—John R. McGuire, Chief of the U.S. Department of Agriculture's Forest Service, today received the President's Award for Distinguished Federal Civil Service.

The award, the highest honor accorded to a member of the federal career service, was presented to McGuire by Secretary of Agriculture Bob Bergland at the department's 33rd Annual USDA Honor Awards program. Seven employees and two departmental units received the Distinguished Service Award, the agriculture department's highest citation, and 71 employees and 17 units received the Superior Service award at the ceremony.

Bergland said McGuire was given the President's award for "providing outstanding and inspiring leadership to Forest Service programs and policies and for providing a comprehensive action plan that balances national needs against resource capabilities and insures protection, wise use, and perpetuation of our nation's natural resources."

McGuire has been a career forester with the Forest Service since 1939. In 1972, he was named chief of the agency, which administers 188 million acres of national forests and grassland, cooperates with state and private foresters and conducts major forestry research programs.

McGuire received the department's highest honor, the Distinguished Service Award, in 1974. He was a National Civil Service League award winner in 1976.

BIOGRAPHICAL SKETCH—JOHN R. McGUIRE

John R. McGuire is a native of Milwaukee, Wisconsin. He graduated with a bachelor of science degree from the University of Minnesota in 1939, and attained his master's degree in forestry at Yale University in 1941. In 1954, he received a master of arts degree in economics from the University of Pennsylvania.

From his first Forest Service employment in 1939—as junior field assistant in the Central States—Mr. McGuire held increasingly responsible positions, primarily concerned with forestry research.

Following a number of years as forest economist at the Northeastern Forest Experiment Station at Upper Darby, Pennsylvania, he was named Chief of the Station's Division of Forest Economics Research, subsequently holding a similar position at the Pacific Southwest Station at Berkeley, California. During this period, he contributed to the monumental survey "Timber Resources for America's Future."

In 1962, he was assigned to Forest Service headquarters in Washington, DC as staff assistant in Research. This was followed by four years as Director of the Forest and Range. Experiment Station in Berkeley, California (1963–67). His work has involved direction and coordination of Forest Service Research in California and Hawaii, including research in timber and range management, wildlife habitat, forest protection, recreation, economics, and management sciences.

Mr. McGuire served as Deputy Chief in charge of Program Planning and Legislation from 1967 to June 1971 when he became Associate Chief of the Forest Service. On April 30, 1972, he was named Chief.

During his forestry career, Mr. McGuire has written or collaborated in writing a number of scientific papers. He is a member of the Society of American Foresters. From 1941 to 1946 he served in the U.S. Army in Japan, the Philippines, and the Southwest Pacific.

In 1973, Mr. McGuire received the University of Minnesota Outstanding Achievement Award as a "forceful and effective leader and resource administrator with a calm, logical, and persuasive approach to complex issues in public land management and forest resource management."

In 1974, Mr. McGuire was honored by the U.S. Department of Agriculture with its Distinguished Service Award for "exceptional and creative leadership in planning and administering prgorams for advancing management of the Nation's renewable natural resources."

In 1976, Mr. McGuire was named one of the 10 National Civil Service League award winners for outstanding leadership among career Federal employees.

REMARKS BY SECRETARY OF AGRICULTURE, BOB BERGLAND

Now I have a very special privilege.

I am standing in for President Jimmy Carter in presenting the President's Award for Distinguished Civil Service to a most worthy representative of the United States Department of Agriculture.

This award—the highest a civilian in the federal service can earn—goes to John R. McGuire, Chief of the Forest Service.

Chief McGuire is a professional forester with forty years of federal service to his and the Nation's credit. He came up though the ranks of the Forest Service to be named its chief in 1972. He is particularly noted for his objectivity in analyzing controversial issues and taking a calm logical approach to resolving complex problems that are of major concern to many groups with opposing views on how the Nation's forest resources should be used.

John has long perceived the need for statutory recognition of the importance of long-term planning for America's renewable natural resources. After being named Chief of the Forest Service, he set about fostering the the development of comprehensive legislation which would provide for this planning. The result was the forest and rangeland renewable resources planning Act of 1974, called the most significant piece of resource legislation in the past 50 years. Its enactment was a tribute to John's vision, persistence, and leadership ability.

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[6] The general questions about the management policies of ACTION were recently examined by the House Committee on Education and Labor (Report No. 96–164, May 15, 1979). man of the committee's subcommittee on Select Education, Congressman Paul Simon, described the results of his study in a letter to this committee as follows:

"The House Select Education Subcommittee has held six days of oversight hearings on the ACTION Agency. During those six days we have looked at both the problems and success of the Agency. We heard from 55 witneses, 12 of which appeared at the request of the minority. In spite of charges of "cronyism" and politicization, charges for which more than 34½ hours of questioning of witnesses produced no substantiating evidence, the most pervasive theme of our hearings has been an overwhelming support for the programs of the ACTION Agency and support for an increase in efforts to develop the potential of volunteerism for our country. The ACTION Agency can provide the necessary leadership and coordination in this area."

But compare the more negative report of the House Appropriations Committee entitled "Policies, Procedures and Practices of ACTION," publihsed in Volume 7 of the Committee's hearings on Labor and HEW, April, 1979.

In the Senate the Labor and Human Resources Committee has jurisdiction over the authorization of the domestic programs. The Senate Foreign Relations Committee and the House Foreign Affairs Committee authorize funds for the Peace Corps.

Today I am presenting this award in recognition of his outstanding leadership. The citation reads as follows:

"An internationally renowned expert on forest policy, law, and administration, he has provided outstanding and inspiring leadership to Forest Service programs and policies.

"Amid national controversy over conservation, environmental, social, and industrial needs, he provided a comprehensive action plan that balances national needs against resource capabilities and insures protection, wise use, and perpetuation of our Nation's renewable natural resources."

Congratulations, John!

Remarks by Assistant Secretary M. Rupert Cutler

A PERSONAL TRIBUTE

I'd like to supplement the classic, comprehensive account of John McGuire's contributions to his country, which the Secretary read this morning, with a review of my personal experience as his colleague and nominal supervisor over the past two years, to reinforce the conclusion that John McGuire is a model public servant and a professional administrator with few peers in recent history.

As most of you know, the Carter Administration's subcabinet officials went through a lengthy waiting period as so-called consultants to the Secretary, early in 1977, while the FBI finished its security checks and the Senate contemplated the question of our confirmation. Senator Dole and others insisted that no assistant secretary move into his "official" office until confirmed, so I and my assistant secretary-designate colleagues worked for two months in small offices elsewhere in this building. I hadn't received this instruction the first day on the job, however—Valentine's Day 1977—so blithly walked into Room 212 A, put down my briefcase, and tried to make myself at home in an office roughly six times the size of my professorial cubicle at Michigan State. My eye fell on the telephone with its array of "hot line" buttons. The upper right hand button was labeled "McGuire." I thought I'd see if it worked. It did. A deep voice on the other end of the line said, "Good morning, Rupe. We've been expecting you. Can we come over and get acquainted?" And five minutes later Chief McGuire and his deputies were in my office to begin my education regarding Forest Service issues . . . a process that has continued on a daily basis since that time. John McGuire set the tone for our relationship with his request for his marching orders, and his pledge to follow loyally any orders received, after offering me, in each instance, a full array of decision options and discussing the merits and the pitfalls of each.

Under John McGuire's leadership, the Forest Service has responded loyally, effectively, and enthusiastically to the policy directions set by the Carter-Bergland administration.

There was some reluctance to endorse the President's Department of Natural Resources plan, but all of our new initiatives and directions have been responded to in first class, professional fashion.

The list of such initiatives is long, and includes revisions in wilderness management policy, the roadless area review and evaluation, the appointment of the Committee of Scientists and development of regulations to guide National Forest planning, new steps to minimize herbicide use, to control ORV's and protect wetlands and floodplains, ways to deal with the question of oral vs. sealed bidding on NF timber and to put up small sales for "gypo" loggers, new emphasis on fish and wildlife habitat, range management, and protection of visual resources . . . even new administrative appeal procedures.

John McGuire has responded positively to each request by me for changes such as those I've just mentioned as though he could read my mind.

We've worked closely together as a team—in such harmony that I've been criticized for not being tough and forceful enough vis-a-vis my administrators . . . and he's probably been criticized for going along with the "radical" ideas of an environmentalist Assistant Secretary, without dragging his heels and putting up a fight!

John's advice has kept me from making policy decision mistakes I would have otherwise made, and when the decisions have been made he's carried them out without hesitation. He's been open and forthcoming with respect to all aspects of his agency's activities, importantly including personnel and internal organization matters on which we've worked together, and I can state without reservations that John McGuire's presence has helped make the last two years the most rewarding of my 25-year career.

John, together with Mel Davis, Anson Bertrand, Jim Nielson, Dave Unger, Barry Flamm, and Betty Sickinger, you've made my job do-able, and I thank you for your loyal service.●

BISHOP MUSEUM EXTENDS HELPING HAND TO NEW PACIFIC NATIONS

● Mr. MATSUNAGA. Mr. President, in recent months much attention has been focused on the economic and political future of the newly-independent nations of the Pacific, particularly as to their relations with the United States. In all of the dicussions, however, observers have overlooked the continuing important role played by institutions such as Hawaii's Bernice Pauahi Bishop Museum, which has been helping these new nations for years and which has contributed significantly to their image of the United States.

An outstanding example of the type of assistance provided to the new Pacific nations by the Bishop Museum is the Wau Ecology Institute (WEI) in Papua New Guinea. WEI had its inception in a Bishop Museum Field Station which was established in Papua New Guinea in 1961. In the beginning, the Field Station's activities were limited to the collection of specimens of the area's unique flora and fauna, but during the 10-year period preceding the establishment of the institute, the museum expanded and diversified its activities to include research and education in conservation and agriculture. Now an independent, nonprofit corporation, WEI is still sponsored by the Bishop Museum. It is noteworthy that one of the four associate sponsors is the Smithsonian Institution. WEI is visited annually by an increasing number of internationally-known scientists and scholars, and is utilized extensively by the people of Papua New Guinea who have benefited directly from the agricultural and conservation research efforts.

The people of all 50 States can be truly proud of the role the Bishop Museum has played in helping Papua New Guinea and other nations in the Pacific area achieve economic and political self-determination through education and research. With the thought that my colleagues will find it of interest, I submit for the Record the brief narrative portion of WEI's Biennial Report for 1976–77, which provides additional information about WEI's current projects.

The material follows:

WAU Ecology Institute: Third Biennial Report

The years 1976 and 1977 saw considerable expansion of facilities and activities at the institute. Among the main developments were construction of the staff house and the moving of the zoo to a larger, more central area. New activities included the Composted Contour-mound Agro-silviculture project led by Dr. Wayne Gagné, and fruit tree project, by Alistair Hay. New publications also appeared, with the launching of the handbook series. Other activities included the holding of 2 Earthwatch sessions working on the Mt. Kaindi transect. Details are mentioned below under the respective annual reports.

GENERAL ACTIVITIES

WEI is a research and educational organization concerned with conservation, ecology and education relating to the Papua New Guinea environment. Teaching is afforded mainly to visiting classes from schools of all levels. Usually a week's orientation is devoted to the montane environments, with emphasis on examples from local life zones and representative niches as well as species of plants and animals. Nature tours are also hosted, and guiding and lecturing supplied as required. Other activities relate to reforestation of nearby grassy slopes, the protection of Mt. Kaindi, the development of a nature sanctuary and the preparation and publication of handbooks and leaflets relating to the above subjects.

HISTORY

WEI had its inception in Bishop Museum New Guinea Field Station which preceded the establishment of the institute by 10 years (1961–1971). The field station was involved by collecting specimens, primarily insects, but gradually became a research station where various types of biological and environmental research were carried out. In the transformation to an institute, with independence (but still some support) from Bishop Museum, and registration as a local non-profit corporation, the orientation changed again. The institute has become an educational organization while still fostering and engaging in research, both basic and applied. Among current emphases are teaching conservation, producing publications documenting the environment, researching the improvement of food production and developing a nature sanctuary. Initially 2 hectares with 1 house were rented in 1961 and then purchased in 1963. After this, adjacent properties were purchased almost each year until the grounds now cover 80 hectares. Most of the upper portions supported were grasslands, vegetable gardens, 2nd growth or remnant forest. These have largely been transformed into an extensive arboretum. Ten houses were acquired; a 10-room hostel was built, and also 2 laboratories and a small office.

The history of the institute has been described in greater detail in the First Biennial Report and in an appendix to "Ecology and conservation in Papua New Guinea" (WEI Pamphlet no. 2).

FACILITIES

The institute grounds cover 80 hectares of land on the lower slopes of Mt. Kaindi, just behind and SW of the town of Wau. The land includes steep natural forest, agricultural land, arboretum, zoo, grasslands and buildings. About ¼ of the land each is represented by natural forest, coffee plus vegetables and fruit trees, arboretum/zoo and grassy areas being reforested.

The Szent-Ivany Laboratory, office and old lab provide working space for staff and a few visitors, and contain plant and animal collections, exhibits and library. There is accommodation for 50 visitors.

A small branch station on the summit of Mt. Kaindi (2362m) includes 2 bunk-houses with space for at least 14 people. There is electricity and cooking facilities. The third small building is used as a lab, though essentially without equipment. ●

ORDER OF PROCEDURE TOMORROW AND FOR THE CONSIDERATION OF S. 1030

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow under the standing order the Senate then proceed to Calendar Order No. 120, S. 1030.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 11 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until tomorrow at 11 a.m.

Whereupon, at 5:08 p.m., the Senate recessed until tomorrow, Tuesday, June 5, 1979 at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate May 29, 1979, under authority of the order of the Senate of May 24, 1979:

DEPARTMENT OF ENERGY

John Mark Deutch, of Massachusetts, to be Under Secretary of Energy, vice Dale D. Myers, resigned.

THE JUDICIARY

Abner J. Mikva, of Illinois, to be U.S. circuit judge for the District of Columbia Circuit, vice a new position created by Public Law 95–486, approved October 20, 1978.

Richard P. Conaboy, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania, vice a new position created by Public Law 95–486, approved October 20, 1978.

Sylvia H. Rambo, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania, vice a new position created by Public Law 95–486, approved October 20, 1978.

IN THE ARMY

The following-named Army Medical Department officers for temporary appointment in the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3069, 3442 and 3447.

To be brigadier general, Medical Corps

Col Frederick Charles Biehusen, [redacted] Medical Corps, U.S. Army.

Col. Kenneth Anthony Cass, [redacted] Medical Corps, U.S. Army.

Col. Garrison Rapmund, [redacted], Medical Corps, U.S. Army.

To be brigadier general, Dental Corps

Col. Billie Branham Lefler, [redacted] Dental Corps, U.S. Army.

To be brigadier general, Army Nurse Corps

Hazel Winifred Johnson, [redacted], Army Nurse Corps. U.S. Army.

IN THE MARINE CORPS

The following-named officer under the provisions of title 10, United States Code, section 5232, to be assigned to a position of importance and responsibility designated by the President, in grade as follows:

To be lieutenant general

Maj. Gen. Edward J. Bronars, [redacted] U.S. Marine Corps.

The following-named officer under the provisions of Title 10, United States Code, section 5232, to be assigned to a position of importance and responsibility designated by the President, in grade as follows:

To be lieutenant general

Maj. Gen. William J. White, [redacted] U.S. Marine Corps.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of Section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be major

Carleton, Thomas B., [redacted].

DENTAL CORPS

To be captain

Spradling, Peter M., [redacted].
Koerner, Harry W., Jr., [redacted].

The following persons for appointment as Reserve of the Air Force, in grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Bayme, Lloyd G., [redacted].
Becker, David W., Jr., [redacted].
Fry, Michael B., [redacted].
Haynes, Vernon J., [redacted].
Jackman, Roger L., [redacted].
Kramer, Stephen W., [redacted].
Lentz, Carl W., III, [redacted].
Raymundo, Luciano C., [redacted].
Rockwood, Charles A., Jr., [redacted].
Whelan, Gerald P., [redacted].
Wilchins, Lawrence J., [redacted].

DENTAL CORPS

To be lieutenant colonel

MacDonald, Gerald B., [redacted].

The following officers for appointment as Reserve of the Air Force, in grade indicated, under the provisions of Section 593, Title 10, United States Code:

LINE OF THE AIR FORCE

To be lieutenant colonel

Canavan, Gregory H., [redacted].
Stephenson, John R., [redacted].

The following officers for promotion in the Air Forces Reserve, under the provisions of Sections 593 and 8376, Title 10, United States Code:

Lieutenant Colonel to Colonel

MEDICAL CORPS

Dedianous, Noel C., Jr., [redacted].
Hiatt, Wood C. [redacted].
Lundblad, Wilfred M., [redacted].
Sproch, Richard M., [redacted].

Major to lieutenant colonel

LINE OF THE AIR FORCE

Allen, Theodore M., [redacted].
Baker, Robert L., [redacted].
Blass, Lawrence, [redacted].
Edward, Jerry M., [redacted].
Evans, Gerald D., [redacted].
Fischer, Joseph W., [redacted].
Ford, Jesse J., Jr. [redacted].
Galloni, Joseph V., [redacted].
Gniadek, Edward J., [redacted].
Goode, Carroll G., [redacted].
Green, Edgar A., Jr., [redacted].
Hanner, Larry F., [redacted].
Howe, Jack S., [redacted].
Hughes, Albert E., Jr., [redacted].
Huhn, Aaron M., [redacted].
Johnston, William B., Jr., [redacted].
Kelnhofer, Joseph T., [redacted].
Kenny, Robert J., [redacted].
Landry, Charles D., [redacted].
Libsack, Gerald H., [redacted].
Maniscalco, Christopher N., [redacted].
McIntye, Arthur L., [redacted].
McMichael, George W., Jr., [redacted].
Molnar, John M., [redacted].
Morris, James L., [redacted].
Scarborough, Bobby A., [redacted].
Sleight, Leo M., [redacted].
Taylor, John E., [redacted].
Walling, Darrell H., [redacted].
Willett, Dale F., [redacted].

MEDICAL CORPS

Chronis, Alex G., [redacted].
Donaldson, Miriam E., [redacted].
Oyer, Frederick R., [redacted].
Shireman, Kenneth L., [redacted].

The following-named officers for promotion in the Army of the United States, under provisions of title 10, United States Code, sections 3442 and 3447:

IN THE ARMY

To be colonel

Herrera, Charles D., [redacted].
Marr, Francis W. [redacted].
Mauerhan, Karl E., [redacted].
Sposito, Paul, [redacted].

CHAPLAINS

To be colonel

Forrest, Alfred T [redacted].

The following-named officers for promotion in the Regular Army, under the provisions of title 10, United States Code, sections 3284 and 3299:

To be captain

Abbott, Richard L., [redacted].
Abel, Stephen G., [redacted].
Abizaid, John P., [redacted].
Abner, Charles Jr., [redacted].
Abrahamson, David L., [redacted].
Acree, Nathan E. [redacted].
Acton, Dennis A., [redacted].
Adam, Gary L. [redacted].
Adams, Andrew E., [redacted].
Adams, Benjamin M., [redacted].
Adams, Billy J., [redacted].
Adams, Gary E., [redacted].
Adams, James M., [redacted].
Adams, Jesse B. [redacted].
Adams, Richard A., [redacted].
Adams, Russell E. [redacted].
Adamson, Larry C., [redacted].
Addison, Garry R., [redacted].
Adee, Daniel S., [redacted].
Aiello, Thomas, [redacted].
Akers, Ronald J., [redacted].
Albright, James L., [redacted].
Alden, Michael A., [redacted].
Aldrich, Robert C., [redacted].
Allam, Robert P., [redacted].
Allen, Harry P., [redacted].
Allen, Henry H., [redacted].
Allen, Robert C. [redacted].
Allen, Ronald L., [redacted].
Allred, Joseph L., [redacted].
Almero, Daniel A. [redacted].
Alsonso, Ricardo L., [redacted].

Alvarez, Francisco, [redacted]
Amadeo, Dana S., [redacted]
Anderson, Michael T., [redacted]
Anderson, Monty J., [redacted]
Andrae, Richard M., [redacted]
Andrew, Flynn L., [redacted]
Andrews, William R., [redacted]
Ankley, Steven P., [redacted]
Anthony, William M., [redacted]
Arbona, Pedro L., [redacted]
Arison, Harold L., [redacted]
Arlund, Keith O. [redacted]
Armstrong, William, [redacted]
Arnold, Jeffrey L., [redacted]
Arras, Richard K., [redacted]
Ashworth, Robert L., [redacted]
Aston, Michael E., [redacted]
Atkins, Charles D., [redacted]
Aylward, Robert W., [redacted]
Babbitt, Richard R., [redacted]
Babylon, William T., [redacted]
Bacon, Alan J., [redacted]
Bailey, Brett W. [redacted]
Bailey, Claude R. [redacted]
Bailey, Michael J. [redacted]
Bailey, William W., [redacted]
Baker, Charles B [redacted]
Baker, Daniel B., [redacted]
Baker, Daniel J., [redacted]
Baker, Leon B. [redacted]
Bakian, Gregory J., [redacted]
Bakken, Keith W., [redacted]
Baldy, Paul A., [redacted]
Banker, Gary W., [redacted]
Banks, Quentin W., [redacted]
Barb, John M., [redacted]
Barbee, John C. [redacted]
Barbee, Luther D., [redacted]
Bargewell, Eldon A., [redacted]
Barney, Paul L., [redacted]
Barone, Lyle, [redacted]
Barron, David L., [redacted]
Barry, Thomas F., [redacted]
Barry, Thomas H. [redacted]
Barth, John D., [redacted]
Bartok, Louis J., [redacted]
Basquill, Stephen A., [redacted]
Basten, Michael F., [redacted]
Bastone, John J., [redacted]
Batt, William T., [redacted]
Battles, Emmett L., [redacted]
Batts, Joe R., [redacted]
Bauer, Thomas A., [redacted]
Baugh, James A. [redacted]
Baugh, William L., [redacted]
Baughman, James P., [redacted]
Bazemore, Haywood M., [redacted]
Beach, Harold A. [redacted]
Beard, Walter S. [redacted]
Beasley, Brad M., [redacted]
Beatty, Timothy J. [redacted]
Beaty, Douglas R. [redacted]
Beckett, Jack D [redacted]
Becton, Joel D. [redacted]
Beddingfield, Dwight, [redacted]
Belford, Matthew J., [redacted]
Bell, Kenneth U. [redacted]
Bell, Robert D., [redacted]
Bemis, John H. [redacted]
Bendler, Walter K., [redacted]
Benfer, Dennis E. [redacted]
Bennett, Douglas M. [redacted]
Bennett, Michael C., [redacted]
Bennett, Raymond K., [redacted]
Benson, Nolon J. [redacted]
Bentle, Mark E., [redacted]
Bergeron, Scott M [redacted]
Berlin, Charles H., [redacted]
Berry, Corlis S. [redacted]
Berryman, Steve N., [redacted]
Bertholf, Jan C. [redacted]
Bertocchi, Stephen, [redacted]
Bessler, James E., [redacted]
Bice, William S., [redacted]
Biggar, William M., [redacted]
Biggs, John D. [redacted]
Bikus, David L. [redacted]
Bird, Graham D. [redacted]
Birmingham, Daniel, [redacted]
Bivens, Courtland C., [redacted]
Black, Randall E., [redacted]
Blackerby, David C., [redacted]
Blackwood, Robert E., [redacted]
Blain, Thomas D., [redacted]
Blanco, Joseph M. [redacted]
Blankenbeckler, Paul [redacted]
Bledsoe, Gill L., [redacted]
Blevins, Bruce W., [redacted]
Blythe, Michael J., [redacted]
Bock, Douglas B., [redacted]
Bodre, Ronald A., [redacted]
Boevers, Bruce E., [redacted]
Bollinger, Michael, [redacted]
Bond, Kevin W., [redacted]
Bondi, James J., [redacted]
Bondiskey, William, [redacted]
Bonner, Garland C., [redacted]
Border, Gary L., [redacted]
Borman, Terry R. [redacted]
Borokhovich, Kenneth, [redacted]
Bosner, Gregory A. [redacted]
Boswell, James D., [redacted]
Botello, Benjamin, [redacted]
Bothe, Steven E., [redacted]
Boulter, Douglas R., [redacted]
Bowen, Gary W., [redacted]
Bowen, Phillip E., [redacted]
Bowen, William F., [redacted]
Bowers, William S., [redacted]
Box, James H., [redacted]
Boyatt, Michael D., [redacted]
Boyd, Gregory J. [redacted]
Boyd, Robert D. [redacted]
Bralley, James H. [redacted]
Brammell, Gary G., [redacted]
Brandenburg, William, [redacted]
Brandt, Duane E., [redacted]
Brandt, Michael J., [redacted]
Branham, James M. [redacted]
Brantley, Charles K. [redacted]
Braun, Daniel G. [redacted]
Bray, John J., [redacted]
Brehm, Ronald R., [redacted]
Brendsel, Allan C., [redacted]
Breneman, Steven H., [redacted]
Brewer, Paul G. [redacted]
Brice, Charlton L., [redacted]
Briceland, Patrick, [redacted]
Bridges, Russell P., [redacted]
Briggs, David E., [redacted]
Brigham, Mark D., [redacted]
Brisson, Douglas D., [redacted]
Britt, Randy M., [redacted]
Britton, Dallas F., [redacted]
Brogdon, Bunny C., [redacted]
Bronstein, Lawrence, [redacted]
Brontoli, Richard F., [redacted]
Brooks, Godfrey W. [redacted]
Brown, David C., [redacted]
Brown, Donald E., [redacted]
Brown, Gary L. [redacted]
Brown, Herbert G., [redacted]
Brown, Isaac, [redacted]
Brown, Kerry M., [redacted]
Brown, Larry E., [redacted]
Brown, Michael L., [redacted]
Brown, Robert A., [redacted]
Brown, Thomas H., [redacted]
Brownlee, Daniel P., [redacted]
Bruley, Roger L., [redacted]
Bryan, George M., [redacted]
Bryant, James J. [redacted]
Bryant, Thurman P., [redacted]
Bubb, David L., [redacted]
Buchner, Bruce D., [redacted]
Buehler, David J., [redacted]
Buell, David C., [redacted]
Bugert, William B., [redacted]
Buker, Robert H., [redacted]
Buller, Charles O., [redacted]
Burd, James M., [redacted]
Burghart, Daniel L., [redacted]
Burke, James R., [redacted]
Burke, Michael D., [redacted]
Burnett, David M., [redacted]
Burns, Mark C. [redacted]
Burse, Billy J., [redacted]
Burt, Michael C., [redacted]
Burt, Walter J. [redacted]
Burton, John T., [redacted]
Burton, Michael A., [redacted]
Burton, Nancy E., [redacted]
Burton, Thomas L., [redacted]
Bush, Brian J. [redacted]
Bustamante, Elias C., [redacted]
Butcher, Bruce O., [redacted]
Butts, Kent H. [redacted]
Byers, Mark E. [redacted]
Byrd, Duane E. [redacted]
Byrd, Larry G [redacted]
Cabell, Ben R. [redacted]
Cadow, Robert E., [redacted]
Callahan, Michael B., [redacted]
Cameron, James C., [redacted]
Campbell, Kevin T., [redacted]
Campbell, Roscoe W., [redacted]
Canavera, Clifford, [redacted]
Canciglia, Henry R., [redacted]
Candee, Lester G. [redacted]
Cannon, James W., [redacted]
Cannon, Thomas A., [redacted]
Cantlon, Scott E., [redacted]
Cantu, Frank Jr., [redacted]
Carcamo, Billy E. [redacted]
Carlson, John D., [redacted]
Carlson, Joseph R., [redacted]
Carlton, Roy D., [redacted]
Caron, Dennis P., [redacted]
Carr, Regis J [redacted]
Carraway, Thomas P., [redacted]
Carraway, William D., [redacted]
Carreer, James D., [redacted]
Carriere, Glenn D. [redacted]
Carstens, Joseph E., [redacted]
Carter, Richard M. [redacted]
Carter, Ronald A. [redacted]
Cartwright, Jeffrey, [redacted]
Carver, Douglas L., [redacted]
Carville, Charles L., [redacted]
Cary, John N., [redacted]
Casey, Timothy J., [redacted]
Caspers, Robert W., [redacted]
Cass, Steven L. [redacted]
Cassidy, Richard B., [redacted]
Cate, Warren D., [redacted]
Cathcart, Creston M., [redacted]
Cavin, William R., [redacted]
Cejka, Oliver J., [redacted]
Cekovich, Nicholas, [redacted]
Cerone, Joseph D. [redacted]
Chadick, William G. [redacted]
Chalkley, James R. [redacted]
Challender, Thomas, [redacted]
Challis, Daniel S., [redacted]
Chamales, Louis, G., [redacted]
Champagne, Gerard J., [redacted]
Chancellor, William, [redacted]
Chandler, Garth K., [redacted]
Charles, John R. [redacted]
Childs, Thomas M. [redacted]
Chilton, James P. [redacted]
Ching, Richard M., [redacted]
Choate, Kenneth, [redacted]
Chobany, George C., [redacted]
Christianson, Jeffrey, [redacted]
Christie, Donald H., [redacted]
Chychota, Michael T., [redacted]
Cippele, Alfred D. [redacted]
Ciriaco, John J., [redacted]
Clare, Ralph B., [redacted]
Clark, Andre [redacted]
Clark, Dennis K. [redacted]
Clark, Harry J., [redacted]
Clark, Thomas G., [redacted]
Clark, Thomas R., [redacted]
Clawson, David L., [redacted]
Clemence, Robert D., [redacted]
Clement, Lawrence D., [redacted]
Close, Allen C., [redacted]
Coats, Charles S., [redacted]
Coats, Stephen D., [redacted]
Cockrell, William S., [redacted]
Coe, William C., [redacted]
Coffman, Sammy L., [redacted]
Coleman, Aaron R., [redacted]
Coleman, Frederick, [redacted]
Collier, John A., [redacted]
Collier, Mark C., [redacted]

Collins, Robert L., [redacted].
Colonna, Edward N., [redacted].
Combs, Nicholas T., [redacted].
Condit, Howard R., [redacted].
Connors, Robert W., [redacted].
Conover, Gregory B., [redacted].
Conrad, Charles G., [redacted].
Conrad, Robert W., [redacted].
Conrad, Scott W., [redacted].
Conway, Paul L., [redacted].
Conway, Robert L., [redacted].
Cook, Ambrose F., [redacted].
Cooke, James C., [redacted].
Cooler, Ernest W., [redacted].
Cooley, John K., [redacted].
Coover, Donald P., [redacted].
Corley, Harry L., [redacted].
Cornett, Stanley N., [redacted].
Corpuz, Mariano, [redacted].
Correa, Peter C., [redacted].
Costantine, Alfred, [redacted].
Cotton, John R., [redacted].
Cottrell, Scott B., [redacted].
Cowardin, Louis J., [redacted].
Cox, Jerel L [redacted].
Cozza, Frank D., [redacted].
Crabtree, Brent A., [redacted].
Crabtree, Douglas A., [redacted].
Craig, Dean E., [redacted].
Craig, Jerry D., [redacted].
Cramer, Robert G. [redacted].
Crane, David M., [redacted].
Cray, John C. [redacted].
Crenshaw, Charles T., [redacted].
Cribbs, Wayne R., [redacted].
Crosby, Richard D., [redacted].
Crum, Christopher R., [redacted].
Crump, Christopher, [redacted].
Cude, William B., [redacted].
Culclasure, Charles, [redacted].
Culley, James S., [redacted].
Culpepper, Vanoy [redacted].
Cummins, Michael L., [redacted].
Cunningham, Russell, [redacted].
Curasi, Vincent B., [redacted].
Current, Thomas W., [redacted].
Curry, Steven P., [redacted].
Curtis, Philip C., [redacted].
Cyr, Joseph P. [redacted].
Dabling, Robert C., [redacted].
Daigle, Steven L., [redacted].
Dailey, Grover H. [redacted].
Dakin, Richard E., [redacted].
Dalby, Robert D [redacted].
Dalessandro, Robert, [redacted].
Dallaire, Richard M., [redacted].
Daly, Francis X., [redacted].
Daly, John H [redacted].
Damas, Nage L., [redacted].
Danhof, Ronald F., [redacted].
Daschke, Carl E., [redacted].
Davenport, Brian W., [redacted].
Davenport, Clyde E., [redacted].
Daves, Joseph H., [redacted].
Davis, Daniel J., [redacted].
Davis, David J., [redacted].
Davis, David P., [redacted].
Davis, Dennis C., [redacted].
Davis, Gary R., [redacted].
Davis, Gesna B., [redacted].
Davis, Joe B., [redacted].
Davis, Russell A., [redacted].
Davis, William J., [redacted].
Daxon, Eric G., [redacted].
Day, Paul L., [redacted].
Days, Douglas L., [redacted].
Daze, Thomas J., [redacted].
Deal, John C., [redacted].
Deatherage, William, [redacted].
Debow, Michael J., [redacted].
Debroux, James F., [redacted].
Decker, Robert L., [redacted].
Deeter, Louis P., [redacted].
Deharde, Mark A., [redacted].
Delcarlo, George H., [redacted].
Delong, Richard A., [redacted].
Dembowski, Richard, [redacted].
Dennis, Norman D., [redacted].
Denton, Michael E., [redacted].
Devero, Michael J., [redacted].
Dial, Steven M., [redacted].
Dickens, Larry M., [redacted].
Dickinson, Keith A., [redacted].
Dicks, Julian M., [redacted].
Dieterle, Mark J., [redacted].
Dietz, Garrett L., [redacted].
Dill, Joe M [redacted].
Dillon, James P., [redacted].
Dipprey, Larry W [redacted].
Dixon, Earnest J. [redacted].
Dodd, Mary C. [redacted].
Dolan, Peter P [redacted].
Domaszek, Gerald R., [redacted].
Donnell, Charles A., [redacted].
Doroski, Charles F., [redacted].
Dougherty, Francis, [redacted].
Douglas, Michael C., [redacted].
Dountz, Raymond D., [redacted].
Dowalgo, John E., [redacted].
Dower, Glen E., [redacted].
Doyle, Gerald S., [redacted].
Doyle, Robert W., [redacted].
Drebus, John R., [redacted].
Drechsel, William P., [redacted].
Dresen, Thomas E., [redacted].
Driggers, Robert A., [redacted].
Drouillard, Mark C., [redacted].
Drouin, Bryan S., [redacted].
Drozd, Timothy P., [redacted].
Drucker, Merrit P., [redacted].
Duffy, Joseph J., [redacted].
Duhaime, Jimmy R., [redacted].
Duncan, Joseph E. [redacted].
Dunn, James A., [redacted].
Dunn, William M., [redacted].
Durham, Edward J., [redacted].
Dvorsky, Paul A., [redacted].
Dyck, Edward I., [redacted].
Dyke, Charles E., [redacted].
Easter, Cornelius, [redacted].
Eastman, Terrence J., [redacted].
Ebeling, John A., [redacted].
Ebright, Richard P., [redacted].
Eckert, Gregory M., [redacted].
Edens, William T., [redacted].
Edwards, James T., [redacted].
Edwards, Richard H., [redacted].
Ehly, William E., [redacted].
Eichers, Michael E., [redacted].
Eikenberry, Karl W., [redacted].
Ellinger, Albert E., [redacted].
Elliott, Donald C., [redacted].
Elliott, John R., [redacted].
Elliott, Kenneth S., [redacted].
Ellis, Steven L., [redacted].
Ellison, James [redacted].
Emehiser, Frederick, [redacted].
Eng, David G [redacted].
Engle, Charles B. [redacted].
Epley, William W. [redacted].
Epperson, Steven H. [redacted].
Erbes, Bradley J. [redacted].
Erschen, Christopher, [redacted].
Ervin, Kent E [redacted].
Estes, David R., [redacted].
Everett, John P., [redacted].
Farrell, Michael E., [redacted].
Farrell, Patrick T., [redacted].
Fasulo, Robert J., [redacted].
Fath, Robert D., [redacted].
Feagles, Prentiss E., [redacted].
Federico, Sal J., [redacted].
Federle, Philip F., [redacted].
Fedora, David F [redacted].
Feeley, John F., [redacted].
Feeney, Christopher, [redacted].
Fehrenbach, Raymond, [redacted].
Feil, Scott R. [redacted].
Felton, Roger L., [redacted].
Fennel, Jack F [redacted].
Fennell, William J., [redacted].
Ferguson, Marion M., [redacted].
Ferguson, Mercer E., [redacted].
Ferm, Dennis K [redacted].
Ferris, George H., [redacted].
Ferschweiler, Keith, [redacted].
Ffrench, Lawrence R., [redacted].
Fields, Tommie L., [redacted].
Figiel, Kerry D., [redacted].
Filling, Robert L., [redacted].
Filter, William F., [redacted].
Finley, Herman F., [redacted].
Finnigan, Dennis P., [redacted].
Fiore, Uldric L., [redacted].
Fischer, Robert G., [redacted].
Fitzpatrick, Bernard, [redacted].
Flannery, Michael D., [redacted].
Flavin, Mark J., [redacted].
Fletcher, William J. [redacted].
Florez, Richard E., [redacted].
Floris, John P. [redacted].
Fones, Ronald E., [redacted].
Ford, David P., [redacted].
Foscue, Macon W., [redacted].
Foster, John J., [redacted].
Fotheringham, Peter, [redacted].
Fountain, Foster F., [redacted].
Fox, Bernard A., [redacted].
Fox, Lynn C. [redacted].
Fox, William P., [redacted].
Fracassa, Robert M., [redacted].
Francis, Edward M., [redacted].
Frank, Daniel T., [redacted].
Frankl, George H., [redacted].
Franklin, Charles D., [redacted].
Franks, Edwin L., [redacted].
Franks, John C., [redacted].
Franks, Robert F., [redacted].
Freckleton, Robert, [redacted].
Fredericks, Brian E., [redacted].
Freeman, Michael E., [redacted].
Freeman, Stephen E., [redacted].
Frein, Thomas F., [redacted].
Freise, Kent M., [redacted].
Fritz, Gary R., [redacted].
Frizzell, Russell J., [redacted].
Frolich, Stephen H., [redacted].
Frost, Monta M., [redacted].
Frye, Jan R [redacted].
Fukumitsu, Keith K., [redacted].
Fuller, James R., [redacted].
Fuller, Leslie L., [redacted].
Fulton, George A., [redacted].
Furlo, Michael A., [redacted].
Furloni, Joe F., [redacted].
Furr, Stephen R., [redacted].
Galing, Bernard W., [redacted].
Gallaway, Robert L., [redacted].
Gallen, John F., [redacted].
Galles, Clyde R., [redacted].
Gallimore, Ronald S., [redacted].
Gannon, Thomas P., [redacted].
Garabato, Franklin, [redacted].
Garcia, Anthony R., [redacted].
Garcia, Apolonio B., [redacted].
Garcia, Robert, [redacted].
Gardner, Stephen W., [redacted].
Garner, Dennis W., [redacted].
Garner, Steven E., [redacted].
Garretson, Jeremiah, [redacted].
Garrett, Jimmy F., [redacted].
Garrison, Buckner L., [redacted].
Gately, John B. [redacted].
Gay, John C. [redacted].
Gaydos, Lawrence A., [redacted].
Gaziano, Joseph F., [redacted].
Gearheart, Robert E., [redacted].
Gebhard, Norman A., [redacted].
Geishbush, David L., [redacted].
Gemmell, Daniel R., [redacted].
Genser, Steven R., [redacted].
Geoghan, Dennis P., [redacted].
Gerbers, Paul F., [redacted].
Gerbers, Ronald W., [redacted].
Gerhardt, Steven R., [redacted].
Gerner, Mark H., [redacted].
Get, Jer D., [redacted].
Gibbons, James P., [redacted].
Gibson, Joseph R. [redacted].
Giles, Wilbur C., [redacted].
Gillcrist, James M., [redacted].
Girten, Robert D., [redacted].
Glasgow, Wesley L., [redacted].
Glass, Randy D., [redacted].
Glyer, Peter C., [redacted].
Godwin, William S., [redacted].
Goins, Randell J. [redacted].
Gold, Charles B., [redacted].
Gold, Steven D., [redacted].
Gomez, Ruben, [redacted].

Goodwin, William P., [redacted]
Gordon, Jack R., [redacted].
Gordon, James E., [redacted].
Gordon, Larry R., [redacted].
Graber, Gary J., [redacted].
Graef, Ronald B., [redacted].
Graham, Richard C., [redacted]
Grant, Nicholas P., [redacted]
Green, Douglas L., [redacted].
Greene, Dennis R., [redacted].
Greene, Jeffrey A., [redacted]
Greene, Larry F., [redacted].
Gregg, Robert B., [redacted].
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Prewitt, Ilona E., [redacted]
Prewitt, Michael B., [redacted]
Priem, Richard G., [redacted]
Pritchett, Barry M., [redacted]
Prospero, Nicholas, [redacted]
Prouty, James R., [redacted]
Puglisi, John T., [redacted]
Purcell, John J., [redacted]
Pursel, Thomas L., [redacted]
Putignano, Patrick, [redacted]
Querry, Frederick M., [redacted]
Quillin, George E., [redacted]
Quimby, Robert B., [redacted]
Quinlan, Kenneth J., [redacted]
Quinn, Michael S., [redacted]
Quinnan, Edward J., [redacted]
Quinones, John P. [redacted]
Racelis, Pedro E. [redacted]
Racinowski, Ronald, [redacted]
Radford, James H., [redacted]
Raiford, Robert C., [redacted]
Rainey, William R., [redacted]
Ramm, Henry D., [redacted]
Ramsey, Leroy S., [redacted]
Rana, Paul J., [redacted]
Rankin, Robert W., [redacted]
Rankin, Thomas C., [redacted]
Rash, Charles R., [redacted]
Rasmussen, Brian E., [redacted]
Raymond, Matthew W., [redacted]
Read, Curt M., [redacted]
Read, Richard A., [redacted]
Read, Richard G., [redacted]
Reagan, Lynn A., [redacted]
Reardon, Robert H. [redacted]
Rech, Gerald A., [redacted]
Reddick, Robert M. [redacted]
Redner, Wallace J., [redacted]
Reed, David M. [redacted]
Reed, Marshall C., [redacted]
Reed, Ralph S., [redacted]
Reed, Robert W., [redacted]
Reehm, William R., [redacted]
Reese, Richard T., [redacted]
Remley, Steven L., [redacted]
Renton, Richard F., [redacted]
Reynolds, Gerald H., [redacted]
Reynolds, Thomas L., [redacted]
Reynolds, Wayne D., [redacted]
Reynoso, Alfredo R. [redacted]
Rhoades, Maynard S., [redacted]
Rhodes, Dale M. [redacted]
Rhodes, Robert C., [redacted]
Rice, Glenn M., [redacted]
Rice, Kevin M., [redacted]
Richards, John D., [redacted]
Richardson, Davis M., [redacted]
Richardson, Patrick, [redacted]
Riddle, Philip D., [redacted]
Riesco, Gabriel Jr., [redacted]
Riggers, Timothy P., [redacted]
Riggs, George P., [redacted]
Riggs, Richard D., [redacted]
Riley, Don T. [redacted]
Riley, Robert M., [redacted]
Rimel, Charles D., [redacted]
Rindoks, Roland R., [redacted]
Ringler, Richard W. [redacted]
Riordan, Kenneth A., [redacted]
Rios, Antonio, M., [redacted]
Rios, Leon H [redacted]
Ripple, James A., [redacted]
Ristow, Donald R., [redacted]
Ritchie, William D., [redacted]
Ritezel, William A., [redacted]
Ritter, Gary C., [redacted]
Ritter, John M., [redacted]
Roberson, Tommy H., [redacted]
Roberts, Joseph A. [redacted]
Roberts, Troy D. [redacted]
Roberts, Wade M., [redacted]
Robertson, Dana, [redacted]
Robinson, Arthur W., [redacted]
Robinson, Brian L., [redacted]
Robinson, Gregory A., [redacted]
Robinson, Kenneth B., [redacted]
Robinson, Lenwood J., [redacted]
Rockwell, Keith W., [redacted]
Roddy, John C., [redacted]
Roder, Charles C., [redacted]
Rodrigues, Richard, [redacted]
Roe, Robert R., [redacted]
Rogers, Roy W. [redacted]
Rollins, Robert C., [redacted]
Rombouts, Stephen R., [redacted]
Rosamond, Donald C., [redacted]
Rose, David W., [redacted]
Ross, Carl T. [redacted]
Ross, Richard J. [redacted]
Ross, Robert J., [redacted]
Ross, Ronald S., [redacted]
Rothlein, Julius, [redacted]
Rowan, Terrell W., [redacted]
Rowe, Dennis W., [redacted]
Rowley, Ronald M. [redacted]
Rubinow, Howard P., [redacted]
Rudy, Michael W., [redacted]
Rumold, Edward, [redacted]
Rupp, John R., [redacted]
Russ, Merle D. [redacted]
Russo, Robert F. [redacted]
Ruthenberg, Mark J., [redacted]
Rutherford, John W., [redacted]
Rutter, Mark H., [redacted]
Ruvio, Frank J. [redacted]
Rzeplinski, Michael, [redacted]
Sabo, Wayne J. [redacted]
Sams, Gayle D. [redacted]
Samuel, Alfred L., [redacted]
Sanborn, Alan W., [redacted]
Sanborn, William R., [redacted]
Sanchez, Ricardo S., [redacted]
Sanders, Danny W. [redacted]
Sanders, Michael E., [redacted]
Sandone, Randall J., [redacted]
Sansone, Robert J., [redacted]
Santos, Hector R., [redacted]
Sass, James F. [redacted]
Saul, George K., [redacted]
Saunders, Richard M., [redacted]
Savage, Richard T., [redacted]
Sawyer, Albert L., [redacted]
Sayes, Andre H. [redacted]
Scanlan, John J., [redacted]
Schaefer Kurt A., [redacted]
Scharpenberg, Henry, [redacted]
Scheipers, Eric B. [redacted]
Schermann, Wesley H., [redacted]
Schleck, Roth S. [redacted]
Schmitz, Francis D., [redacted]
Schnabl, Robert L., [redacted]
Schofield, Mark N., [redacted]
Schoultis, Peter M., [redacted]
Schramp Michael P., [redacted]
Schroeder, James T., [redacted]

Schroeder, Mark R., [redacted].
Schulte, Michael B., [redacted].
Schultz, John H., [redacted].
Schumm, Brian M., [redacted].
Schupner, Ronald E., [redacted].
Schwab, Rudolph T., [redacted].
Schwartz, Gerard W., [redacted].
Schwartzmann Charles, [redacted].
Schweitzer, Gary C., [redacted].
Sciarretta, Albert, [redacted].
Scott, James S., [redacted].
Scott, Paula F., [redacted].
Scott, Samuel T., [redacted].
Scovill, Thomas J., [redacted].
Scroggins, John C., [redacted].
Scully, Steven T., [redacted].
Scurzi Robert J., [redacted].
Seaman, Charles D. [redacted].
Seay, Wendell G., [redacted].
Seese, Blaik L., [redacted].
Sellers, James M., [redacted].
Semler, John M., [redacted].
Senkovich, Steven W., [redacted].
Seppa, Stephen A., [redacted].
Shackleford, Michael, [redacted].
Shaffer, Deon K., [redacted].
Shaffer, Paul K., [redacted].
Shaffer, Rodney L., [redacted].
Shanahan, Michael J., [redacted].
Shea, Kevin P. [redacted].
Shelton, Curtis L., [redacted].
Shepherd, Kim E. [redacted].
Sheridan, Dennis M., [redacted].
Shields, Murrell G., [redacted].
Shields, Selvin E., [redacted].
Shirk, John L., [redacted].
Shook, Tommy E., [redacted].
Short, Byron E., [redacted].
Shull, Thomas C., [redacted].
Sick, William M., [redacted].
Sielski, Timothy J., [redacted].
Sienko, Kenneth W. [redacted].
Siller, Richard B. [redacted].
Silva, James M., [redacted].
Simonsen, Jerry A., [redacted].
Simpson, Bruce E., [redacted].
Simpson, Charles W., [redacted].
Singer, Ronald E., [redacted].
Skidmore, Max A., [redacted].
Skinner, John E., [redacted].
Skog, Dennis N., [redacted].
Slider, William Z., [redacted].
Sliowski, Richard F., [redacted].
Smith, Gaylon, L., [redacted].
Smith, Gregory R., [redacted].
Smith, John A., [redacted].
Smith, John D., [redacted].
Smith, John W., [redacted].
Smith, Merritt M., [redacted].
Smith, Phillip L., [redacted].
Smith, Ralph E., [redacted].
Smith, Reinaldo A., [redacted].
Smith, Robert L., [redacted].
Smith, Terry E., [redacted].
Smith, William T., [redacted].
Snedden, Robert A., [redacted].
Snedden, Bruce A., [redacted].
Snipes, Paul C., [redacted].
Snow, Charles F., [redacted].
Snow, William A., [redacted].
Snyder, Charles E., [redacted].
Snyder, Michael S., [redacted].
Soby, Charles S., [redacted].
Soper, Alan L., [redacted].
Sorenson, Jeffrey A., [redacted].
Sosa, Manuel Jr., [redacted].
Sousa, Mark W., [redacted].
Spangler, Charles G., [redacted].
Spear, Harry L. Jr. [redacted].
Speer, William H., [redacted].
Spencer, Gilbert G., [redacted].
Spenser, Marshall L., [redacted].
Spivey, Paul H., [redacted].
Spyker, William W., [redacted].
Staggers, Robert L., [redacted].
Stanford, Thomas B., [redacted].
Stanislo, Nick K., Jr., [redacted].
Stanley, Ronald W. [redacted].
Stauss, Kenneth W., [redacted].
St Clair, Roy P., [redacted].

Steed, Stephen K., [redacted].
Stephens, Michael R., [redacted].
Stewart, Scott E., [redacted].
Stibrik, Richard A., [redacted].
Stikeleather, Edwin, [redacted].
Stipek, Paul A., [redacted].
St John, Donald A., [redacted].
Stober, James A., [redacted].
Stone, Culver E., [redacted].
Stone, Edward L., [redacted].
Stone, J. Elmer, [redacted].
Stoner, William F., [redacted].
Storm, John L., [redacted].
Stovall, Henry L., [redacted].
Strack, Douglas S., [redacted].
Stratman, Henry W., [redacted].
Strickland, Craig A., [redacted].
Strickler, Anthony, [redacted].
Strippoli, Steve B., [redacted].
Stuart, Henry P. [redacted].
Stucker, Larry A. [redacted].
Studer, Mark D., [redacted].
Stuhr, Michael P., [redacted].
Sturdivant, Louis W., [redacted].
Sturgeon, Douglas E., [redacted].
Stutler, Kenneth M., [redacted].
Styron, James C., [redacted].
Sudduth, John R. [redacted].
Sullivan, Donald P., [redacted].
Sullivan, Thomas E., [redacted].
Sumers, George M., [redacted].
Sutherland, William, [redacted].
Sutton, Albert T., [redacted].
Sutton, Lloyd L. [redacted].
Sutton, Robert C., [redacted].
Sutton, Thomas H., [redacted].
Swanson, Howard M. [redacted].
Swartz, Leonard G., [redacted].
Sweeney, Patrick C., [redacted].
Sweeney, Patrick J., [redacted].
Sydelko, Thomas G., [redacted].
Sylvester, William, [redacted].
Synovec, Thomas E., [redacted].
Taguba, Antonio M. [redacted].
Takala, Bruce E., [redacted].
Takami, Don K. [redacted].
Talbot, Cecil C., [redacted].
Tapp, John R., [redacted].
Tapp, Robert T., [redacted].
Tarkenton, Scott L., [redacted].
Taylor, Stephen C., [redacted].
Taylor, Thomas W., [redacted].
Taylor, William R., [redacted].
Taylor, William S., [redacted].
Taylor, William T., [redacted].
Taylor, William W., [redacted].
Teague, Gregory D., [redacted].
Teixeira, Thomas, [redacted].
Terry, Jo C., [redacted].
Teter, William A., [redacted].
Tetlack, Paul J., [redacted].
Thomas, John R., [redacted].
Thomas, Robert F., [redacted].
Thomas, Timothy L., [redacted].
Thompson, Dennis W., [redacted].
Thompson, George C., [redacted].
Thompson, Karl D., [redacted].
Thompson, Michael R., [redacted].
Thompson, Thomas N., [redacted].
Thompson, Tom E., [redacted].
Thomson, Robert B., [redacted].
Throckmorton, David, [redacted].
Tiefel, Mark A., [redacted].
Timmons, David J., [redacted].
Tiso, Roland J., [redacted].
Tisserand, John B., [redacted].
Tolbert, Joe V., [redacted].
Toler, Michael M., [redacted].
Tomlinson, Timothy, [redacted].
Tommey, Paul E. [redacted].
Toole, David H., [redacted].
Torgerson, Christopher, [redacted].
Tornquist, Emanuel, [redacted].
Torres, Nelson, [redacted].
Torres, Raul H., [redacted].
Tracy, Mary M., [redacted].
Travis, Kenneth L., [redacted].
Trettin, Thomas K., [redacted].
Trice, Lafayette, Jr., [redacted].
Triplett, Charles L., [redacted].

Trotter, Vernon L., [redacted].
Trotti, Paul W., [redacted].
Trzop, Peter R., [redacted].
Tuck, Richard A., [redacted].
Tully, Robert B., [redacted].
Tumblin, Philip, [redacted].
Turner, Ed S., III, [redacted].
Turner, Peter T. [redacted].
Tuttle, Henry S., [redacted].
Twitty, Theophlise, [redacted].
Tyler, Marion J., [redacted].
Tyner, David W., [redacted].
Tyrrell, David R., [redacted].
Ullrich, Louis B., [redacted].
Urrutia, Michael B., [redacted].
Utter, Richard R., [redacted].
Valcourt, David P., [redacted].
Vallario Richard A. [redacted].
Vance, Billy F., [redacted].
Vanden, Bloomen D., [redacted].
Vanek, Craig A. [redacted].
Vanhooser, Robert J., [redacted].
Vanhorn, Robert H., [redacted].
Vann, Charles S., [redacted].
Vargas, Edwin, [redacted].
Vasquez, Adolfo E., [redacted].
Vaughan, Dan E., [redacted].
Vaughan, David B., [redacted].
Vaupel, Lawrence E., [redacted].
Vea, Roldan, [redacted].
Venable, Bruce A. [redacted].
Venable, Charles J., [redacted].
Venci, Robert W., [redacted].
Vernon, Patricia A., [redacted].
Victor, James G., [redacted].
Vidlak, Michael D. [redacted].
Vincent, Mark E., [redacted].
Viney, Richard L., [redacted].
Violette, Paul E., [redacted].
Virden, Dennis D., [redacted].
Vogler, Gary L., [redacted].
Volz, Clifford C., [redacted].
Volz, Robert D. [redacted].
Vonhaas, Herbert N., [redacted].
Vorselen, Craig D. [redacted].
Voss, Robert D., [redacted].
Waite, Harold G., [redacted].
Walker, Charles R., [redacted].
Walker, Grant H., [redacted].
Walker, Robin C., [redacted].
Wallace, Catherine, [redacted].
Waller, David A., [redacted].
Walls, William G., [redacted].
Walsh, John C., [redacted].
Walters, Henry A., [redacted].
Walters, Peter D., [redacted].
Walton, George C., [redacted].
Wamsley, Rex E., [redacted].
Ward, Thomas E., [redacted].
Waring, Donald C., [redacted].
Warren, Douglas E., [redacted].
Wartner, Randall J., [redacted].
Washington, Ollie J., [redacted].
Waters, Steven F., [redacted].
Waters, Sumner H., [redacted].
Watson, Joseph F., [redacted].
Watts, Robert E., [redacted].
Watts, William J., [redacted].
Waugh, Steven A., [redacted].
Way, Robert B., [redacted].
Weaks, Ronald E., [redacted].
Weatherly, Joseph J., [redacted].
Weaver, David T., [redacted].
Webb, David J., [redacted].
Weber, Roger M., [redacted].
Webers, Joseph V., [redacted].
Weddington, Roy E., [redacted].
Wehde, Larry M., [redacted].
Weihrauch, Lynn S., [redacted].
Weimer, Curt F., [redacted].
Weinstock, Richard, [redacted].
Welch, James P., [redacted].
Welo, Robert L., [redacted].
Wentzy, David A., [redacted].
West, Steven R., [redacted].
Westhaus, Arnold J., [redacted].
Westholm, Robert L., [redacted].
Whalen, John F., [redacted].
Whelden, Craig B., [redacted].
Whisenhunt, Robert, [redacted].

Whitaker, Daniel S., [redacted].
White, Jonathan [redacted].
White, Norman J. [redacted].
White, William T., [redacted].
Whitney, Richard W., [redacted].
Whittington, Terry, [redacted].
Whitworth, Donald D., [redacted].
Whitworth, Trevor J., [redacted].
Wideman, James T., [redacted].
Wieck, Paul H., II, [redacted].
Wilcomb, Michael D., [redacted].
Wildrick, Craig D., [redacted].
Wildrick, George C., [redacted].
Wilkerson, Francis, [redacted].
Wilkes, Wayne K., [redacted].
Wilkinson, Dennis W. [redacted].
Williams, Murray W., [redacted].
Williams, Robert W. [redacted].
Williams, Shane L., [redacted].
Williamson, Arba G., [redacted].
Williamson, Daniel, [redacted].
Williamson, Robert, [redacted].
Willis, Jay C. [redacted].
Wilmoth, Frankie S., [redacted].
Wilson, Bennie K., [redacted].
Wilson, Lawrence B. [redacted].
Wilson, Richard C., [redacted].
Wilson, Roger C. [redacted].
Wilson, Thomas J., [redacted].
Wiltse, Christopher, [redacted].
Wimmer, Kenneth G., [redacted].
Windham, James H., [redacted].
Winklbauer, David, [redacted].
Winkles, Ronald C., [redacted].
Witte, Wallie S., [redacted].
Wolf, William A., [redacted].
Wolfe, James D., [redacted].
Wolfe, Paul L., [redacted].
Wolfe, Roderick D., [redacted].
Wolfe, William L., [redacted].
Wolfkill, Albert J., [redacted].
Wood, David A., [redacted].
Wood, Thomas R., [redacted].
Woodward, James W., [redacted].
Woodruff, Barry W., [redacted].
Workman, Keith W., [redacted].
Wortzel, Larry M., [redacted].
Wright, Daniel V., [redacted].
Wright, Dennis L., [redacted].
Wright, Napoleon, [redacted].
Wright, Walter E., [redacted].
Wroblewski, Walther, [redacted].
Wyatt, Lee T., II [redacted].
Wyland, Stewart W., [redacted].
Wyman, Robert D., [redacted].
Yamashita, Harold E., [redacted].
Yang, Philip S., [redacted].
Yarbrough, Clifford, [redacted].
Yeakey, George W., [redacted].
Yerger, John E., [redacted].
Yonan, Kenneth J. [redacted].
Young, Alan G [redacted].
Young, James E., [redacted].
Young, Jimmy L., [redacted].
Yunker, Stephen F., [redacted].
Zachariasen, Craig, [redacted].
Zamperini, Mark E., [redacted].
Zapka, Frederick A., [redacted].
Zegley, Raymond D., [redacted].
Zodun, Donald M., [redacted].
Zukauskas, Bruce E., [redacted].
Zurian, Steven A., [redacted].

DENTAL CORPS

To be captain

Cox, Gary W. [redacted].
Evans, John R. [redacted].
Infantino, Lillian, [redacted].

MEDICAL CORPS

To be captain

Berrey, Bedford H. [redacted].
Fitzharris, Joseph, [redacted].
Gibson, Merlyn D., [redacted].
Hollsten, Donald A. [redacted].
Innis, Bruce L. [redacted].
Kaup, Danny P. [redacted].
Knight, Robert D., [redacted].
Mancuso, Joseph J., [redacted].
Morris, William J., [redacted].
Ortiz'Nieves, Julio E., [redacted].
Prier, Ronald E., [redacted].
Smith, Paul N., [redacted].
Whitehead, Myron E., [redacted].
Wiswell, Thomas E., [redacted].

MEDICAL SERVICE CORPS

To be captain

Almquist, Allen F., [redacted].
Aspinell, Laurin J., [redacted].
Baldwin, Brian C., [redacted].
Beaty, Paul S. [redacted].
Boucher, Donald W., [redacted].
Bradley, Donald J., [redacted].
Broadwater, William, [redacted].
Brown, Richard E., [redacted].
Broyles, Thomas E., [redacted].
Buffington, Edwin L., [redacted].
Carpenter, James L., [redacted].
Carroll, Mark S., [redacted].
Fairbanks, James W., [redacted].
Fitzgerald, William, [redacted].
Fournier, Donald L., [redacted].
Freeman, Billie D., [redacted].
Fuller, Thomas G. [redacted].
Gerber, Frederick E., [redacted].
Gilbert, Gary R., [redacted].
Gonzalez, Jose M., [redacted].
Hammer, Gary W., [redacted].
Hoch, Alfred L., [redacted].
Hugley, Clarence L., [redacted].
Johnson, William B., [redacted].
Kiehl, Paul V., [redacted].
Kimball, David B., [redacted].
Kinkead, Albert E., [redacted].
Lee, David W., [redacted].
Litrio, John P., [redacted].
Marks, Jerry L., [redacted].
Meier, Robert W., [redacted].
Meis, Emil F., [redacted].
Moran, Errol L., [redacted].
Moscovic, David P., [redacted].
Nelson, Paul B., [redacted].
Nolan, David L., [redacted].
O'Keiff, James R., [redacted].
Pehrson, Kyle L., [redacted].
Placek, Gary R., [redacted].
Plunkett, Larry S., [redacted].
Raiha, Glenn N., [redacted].
Roden, Dan G. [redacted].
Ryczak, Robert S. [redacted].
Santos, Alfred G., [redacted].
Siebold, James R., [redacted].
Sikora, Robert G., [redacted].
Skinner, Richard I., [redacted].
Smith, Forrest H., [redacted].
Sosler, Louis J., [redacted].
Sullivan, Ronald W., [redacted].
Taplin, Glenn W., [redacted].
Wegner, William E., [redacted].
Wilkinson, William, [redacted].
Woodley, Leon, [redacted].
Woofter, John R., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be captain

Brandenburg, Joe W. [redacted].
Cline, Alana D., [redacted].
Hale, Carol J., [redacted].

VETERINARY CORPS

To be captain

Fournier, John S., [redacted].

ARMY NURSE CORPS

To be captain

Acuff, Robert C., [redacted].
Anderson, Timothy D., [redacted].
Andresen, James A., [redacted].
Armant, Joyce R., [redacted].
Baehr, Randall C., [redacted].
Balthaser, Gretchen, [redacted].
Bell, Karen A., [redacted].
Boone, Barbara M., [redacted].
Brockson, Margaret, [redacted].
Call, Catherine A., [redacted].
Clark, Connie S., [redacted].
Clayton, Mary B., [redacted].
Dyer, Roberta A., [redacted].
Eitel, Martin O. [redacted].
Elsesser, Susan [redacted].
Fluharty, Michael L., [redacted].
Frank, Mary E. [redacted].
Gautreaux, Douglas, [redacted].
Gray, Ollie B. [redacted].
Gurney, Cynthia A., [redacted].
Hammiller, Mary C., [redacted].
Heger, Mary J., [redacted].
Hix, Gary D. [redacted].
Hoge, Linda J. [redacted].
Hoke, Mary M. [redacted].
Hutchison, Janet M., [redacted].
Kirby, Judith A., [redacted].
Kochansky, Samuel W., [redacted].
Kost, Rebecca S. [redacted].
Lawver, John A., [redacted].
MacGhee, Bonnie, [redacted].
Mathieu, Eldred L., [redacted].
McClelland, Gail K., [redacted].
McCormack, Claire M., [redacted].
McFarland, Barbara, [redacted].
Miller, Arnold D., [redacted].
Patney, Carol A., [redacted].
Patrick, Marcia R., [redacted].
Richling, William A., [redacted].
Rompre, Robin M., [redacted].
Russell, Wayne G., [redacted].
Sassi, Mary E. [redacted].
Schaeberle, Donald, [redacted].
Scrogham, Jefferson, [redacted].
Steenbock, Mark G., [redacted].
Stipetich, Patricia, [redacted].
Suiter, Robert L. [redacted].
Taylor, Dianne M., [redacted].
Taylor, Russell W., [redacted].
Titcomb, Linda K., [redacted].
White, Lowell D. [redacted].
Whitehurst, Cynthia, [redacted].
Wise, Patricia B. [redacted].
Wood, Sylvia H., [redacted].
Yaws, Jane A. [redacted].

The following-named officers for promotion in the Regular Army, under the provisions of title 10, United States Code, sections 3284 and 3298:

To be first lieutenant

Adelizzi, Michael A., [redacted].
Anderson, Robert B., [redacted].
Brown, Johnny L., [redacted].
Bryant, Guy R. [redacted].
Butts, Steven J. [redacted].
Dames, Edward, [redacted].
Durham, William C., [redacted].
German, Bobby L., [redacted].
Gerrity, John L [redacted].
Kalita, David B. [redacted].
Knight, Gary L. [redacted].
Knight, James R., [redacted].
Lambert, Lloyd, [redacted].
MacDonald, Douglas, [redacted].
Maconi, Vincent, [redacted].
Matisziw, Boris, [redacted].
Morris, David A. [redacted].
Moser, David C., [redacted].
Richmond, Gary L. [redacted].
Russell, James G. [redacted].
Schramm, Erwin P., [redacted].
Shanahan, Timothy J., [redacted].
Sherman, Michael A. [redacted].
Soltas, Joseph G., [redacted].
Steger, Wayne M., [redacted].
Sullivan, Walter A., [redacted].
Sutherland, Gregg V., [redacted].
Whitehead, Frank G., [redacted].
Wofford, Sterling, [redacted].
York, Thomas E. [redacted].

IN THE MARINE CORPS

The following-named male officers of the Marine Corps for temporary appointment to the grade of lieutenant colonel under the provisions of title 10, United States Code, Section 5769:

Charles N. Adams
Joe C. Adams
Larry G. Adams
Wayne T. Adams
John D. Alexander
David G. Amey
David L. Anderson
Donald F. Anderson

Donald K. Angel
Clair E. Averill, Jr.
Wayne A. Babb
Stephen A. Bamberger
Maurice R. Banning
Emory W. Baragar
Richard D. Barba
Richard K. Bardo
Brent J. Barents
Harvey C. Barnum, Jr.
John J. Barrett
Frederick W. Beekman III
James A. Bell
Coy T. Best, Jr.
Richard L. Bianchino
James W. Bierman
Arthur C. Blades
Clifford G. Blasi
Giles W. Bond, Jr.
James A. Brabham, Jr.
Robert A. Bracy
John T. Braton
Walter J. Breede III
Harold L. Broberg
Charles O. Broughton
Gary E. Brown
Robert D. Brown
Samuel H. Brown, Jr.
Robert A. Browning
Frederick T. Bryan
Earl L. Bufton, Jr.
Arthur E. Burns III
Henry W. Buse III
Michael J. Byron
Richard D. Camp, Jr.
Thomas C. Carter
Paul R. Catalogne
Kurt J. Chandler
Theodore C. Cieplik, Jr.
John J. Clancy III
Joe Clark
William B. Clary
William F. Coenen
Ernest E. Collins
Bernis B. Conatser, Jr.
Thomas M. Conley
William J. Conley
Larry R. Cornwell
Everett E. Cossaboon
Walter J. Costello
Robert A. Courtemanche
Harold W. Courter
Paul H. Courtney
Miles H. Crafton, Jr.
Robert R. Craig
Robert A. Crane
John B. Creel, Jr.
Curtis T. Crews
Ronald R. Critser
Harvey F. Crouch, Jr.
Thomas B. Cullen
Marshall B. Darling
James A. Davis
James F. Davis
James R. Davis
Leslie H. Davis
Robert G. Dawson
Albert W. Deckel
Carmine J. Delgrosso
Thomas F. Dempsey
Chadwick H. Dennis
Harris H. Dinkins
Howard R. Donehower
Charles W. Dow
Leiland M. Duke, Jr.
Thomas J. Dumont, Jr.
Joseph M. Dwyer
Terry J. Ebbert
Ronald R. Eckert
James E. Edwards, Jr.
Paul R. Ek
Richard W. Elsworth
Russel A. Emerson
Robert E. Enis
John O. Enockson
Charles C. Entwistle, Jr.
Donald L. Evans
Donnie C. Evans
James L. Eyre
Brian J. Fagan
Fred T. Fagan, Jr.
Rupert E. Fairfield, Jr.
Robert W. Falkenbach
William J. Feind
William I. Ferrier
Peter B. Field
Alan J. Finger
Fredric L. Fish
Walter J. Fleming
George A. Focht
Bert R. Francis
Luis R. Fresquez
James R. Furleigh
William R. Gage
Sidney R. Gale
James A. Gallagher Jr.
Isaac E. Garcia
Joel R. Gardner
Gerald G. Garwick
Ronald L. Gatewood
George R. Gay
Robert W. Gehring
Charles R. Geiger
John R. Gentry
Aultie G. Gerwig
Michael R. Getsey
Robert F. Gibson
Paul B. Goodwin
Henry F. Gotard
John E. Grant, Jr.
Jerry M. Green
Joseph P. Greeves, Jr.
Michael A. Gurrola
John J. Gutter
Joseph J. Hahn, Jr.
Mark L. Haiman
John F. Hales
Thomas L. Hampton
Donald L. Hand
Christian L. Harkness
John D. Harrill, Jr.
William G. Harris, Jr.
Robert H. Hart
Alan H. Hartney
Everett D. Haymore, Jr.
Jerry G. Henderson
Gene D. Hendrickson
Jerry L. Henson
Donald H. Hering
Jerome L. Hess
Martin C. Higgins
Jon C. Hill
Thomas F. Hinkle
Amos B. Hinson, III
Alan W. Hitchens
Daniel A. Hitzelberger
James V. Hoekstra
John W. Hogue
Kenneth L. Holm
Richard J. Hooton, Jr.
John Y. Howo S.
Patrick J. Jones
Gerard T. Kalt
John R. Kelbaugh
Gerard H. Kelly
John A. Kelly
Francis T. Klabough
Timothy J. Klug
John R. Kopka
Charles C. Krulak
Larry J. Kuester
Nicholas J. Laduca, Jr.
Alfred Lardizabal, Jr.
Anthony V. Latorre, Jr.
Richard B. Lewis
Raymond A. List
David R. Little
Edward J. Lloyd
James F. Lloyd, Jr.
Richard E. Lochner
George P. Lombardo
Melvin H. Long
Michael J. Lucci
Charles A. Lyle
Robert W. Maddox
Raymond C. Madonna
Phillip S. Makowka
Lyle D. Mathews
Ronald R. Matthews
John F. McCammon
Thomas C. McClay
Harry M. McCloy, Jr.
James L. McClung
Daniel B. McDyre
Gerald L. McKay
Bruce S. McKenna
Denis A. McKinnon
Donald M. McVay
Antonio Mediavilla
Laurence R. Medlin
Anthony F. Mielczarski
Wallace L. Mills
James R. Mires, Jr.
Hubert Mitchell
Richard L. Morey
John R. Morgan
Charles H. Mulherin, Jr.
Thomas P. Mulkerin
Philip J. Murphy
Raymond M. Murphy
John A. Murray
Dominik G. Nargele
Anthony D. Nastri
William P. Negron
Eugene T. Nervo
Joseph Q. Nesmith, Jr.
David W. Noble
Charles F. Norton
Robert L. Oetting
Jeffrey W. Oster
Ray T. Pace
Robert L. Padgett
John F. Palchak
Edwin E. Parker
William H. Parks
Carmen N. Pastino
Jerome T. Paull
William F. Percival
Nicola M. Pereira, Jr.
Marvin F. Pixton III
Charley L. Plunkett
Gary L. Post
Charles R. Preston, Jr.
David G. Purdy
Stafford D. Purvis, Jr.
Thomas F. Rafferty
Arch Ratliff, Jr.
Michael J. Reilly
Gregory A. Rengel
Ronald W. Rensch
John A. Ressmeyer II
Jon K. Rider
John W. Ripley
Thomas W. Roberts
Ernest E. Price III
Donald J. Robinson II
William R. Roll
Christopher J. Rooney
James E. Sabow
Christopher B. Salmon
Melvin P. Sams
Vinson J. Sanangelo
Paul M. Schafer
Arthur J. Schmidt, Jr
George T. Schmidt
Dennis A. Schoen
Ludwig J. Schumacher
John C. Sease
Edward R. Seiffert
Harry F. Sharp II
John F. Shea
Roy H. Shelton, Jr.
John C. Short, Jr.
Louis L. Simpleman
James M. Sims
Harold W. Slacum
George E. Smith, Jr.
Ray G. Snyder
Gary D. Solis
Edward W. Sonneborn, Jr.
Charles R. Sorensen
Don F. Sortino
Ronald D. Sortino
Peter B. Southmayd
William M. Sparks
James B. Sramek
Roger F. Staley
Robert D. Staples
John D. Steel
Kent O. Steen W.
John F. Stennick
J. K. Stringer, Jr.
Laurence A. Stults
Joseph J. Sucha, Jr.
John P. Sullivan T.
Michael V. Sullivan
Richard T. Tanner
Thomas C. Taylor
Gary L. Telfer
Theard J. Terrebonne, Jr.
Gary E. Thiry
Richard P. Toettcher
David A. Tomasko
Richard D. Tomlin
Richard B. Trapp
Timothy M. Treschuk
Robert L. Turley
John D. Tyson, Jr.
David F. Underwood III
Abromo L. Vallese
Klaas, Vanesselstyn
James E. Vangorder, Jr.
James K. Vanriper
Paul K. Vanriper
Peter J. Vanryzin
Achille J. Verbeck, Jr.
Michael H. Vidos
John L. Vogt
David L. Walker
John S. Walker
Larry D. Walker
Jack E. Wallace
Philip J. Walsh
John D. Weber
John D. Weides
John B. Whalen
Robert C. Whitener, Jr.
Harold W. Whitten
Charles E. Wilhelm
Billy L. Williams
James R. Williams
Peter D. Williams
Robert B. Williams
David J. Willis
David F. Winecoff
Robert M. Wright
Michael W. Wydo
Michael D. Wyly
Rufus C. Young Jr.
Carl H. Yung
Frank J. Zanin

The following-named male officers of the Marine Corps Reserve for temporary appointment to the grade of lieutenant colonel under the provisions of title 10, United States Code, section 5769:

Hugh S. Atkins
William G. Barnes, Jr.
William R. Griffin
Matthew W. Lucas
James R. Mitchell
Barry A. Rudacille

The following-named women officers of the Marine Corps for permanent appointment to the grade of lieutenant colonel under the provisions of title 10, United States Code, section 5771:

Donna M. Campbell
Ruby J. Chapman
Dianne L. Marsh
Susan M. Mason

Executive nominations received by the Senate June 1, 1979, under authority of the order of the Senate of May 24, 1979:

DEPARTMENT OF JUSTICE

Alan A. Parker, of California, to be an Assistant Attorney General vice Patricia M. Wald, resigning.

Maurice Rosenberg, of New York, to be an Assistant Attorney General vice Daniel J. Meador, resigning.

THE JUDICIARY

Zita L. Weinshienk, of Colorado, to be U.S. district judge for the district of Colorado vice a new position created by Public Law 95–486 approved October 20, 1978.

DEPARTMENT OF AGRICULTURE

Daniel Marcus, of Maryland, to be General Counsel of the Department of Agriculture, vice Sarah Weddington, resigned.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Truman Aldrich Morrison, III, of the District of Columbia, to be an Associate Judge on the Superior Court of the District of Columbia for a term of 15 years, vice John G. Penn, elevated.

DEPARTMENT OF STATE

James Keough Bishop, of New York, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Niger.

THE JUDICIARY

Jim R. Carrigan, of Colorado, to be U.S. district judge for the district of Colorado vice a new position created by Public Law 95–486 approved October 20, 1978.

FEDERAL HOME LOAN BANK BOARD

The following-named person to the positions indicated:

Andrew A. DiPrete, of Rhode Island, to be a member of the Federal Home Loan Bank Board for the remainder of the term expiring June 30, 1979, vice Garth Marston, resigned.

Andrew A. DiPrete, of Rhode Island, to be a member of the Federal Home Loan Bank Board for the term of 4 years expiring June 30, 1983 (reappointment).

DEPARTMENT OF STATE

The following-named Foreign Service information officers for promotion in the Foreign Service to the classes indicated:

Foreign Service information officer of class 5: John Eric Lundin, of New Jersey.

Foreign Service information officers of class 6:

Richard Aker, of Arkansas.
Alexander Almasov, of Connecticut.
Cynthia Lee Grissom, of Michigan.
William L. Harwood, of Illinois.
Michael McCarry, of Florida.
Lois Winner Mervyn, of Arizona.
Bernard Francis Shinkman, of Virginia.
Charles N. Silver, of Maryland.

Foreign Service information officer of class 7: Emi Lynn Yamauchi, of Illinois.

EXTENSIONS OF REMARKS

OPPOSITION CONTINUES TO THE PERIPHERAL CANAL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. MILLER of California. Mr. Speaker, once again the question of whether or not to construct the Peripheral Canal has come before the California Legislature. As in past years, its proponents—the high volume water consumers of southern California—are willing to make "good faith" pledges to the residents of the Sacramento-San Joaquin Delta and the San Francisco Bay area regarding the future water quality of that critical economic and environmental region of the State.

But increasingly, residents of northern California recognize that the water appetite of the southern special interests is insatiable. Their spokesman will promise anything in order to secure construction of the Peripheral Canal, knowing full well that any pledges to maintain water quality in the bay and the delta can, and in all probability will, be overridden at the time of the first drought. For that reason, among many others, we would be far wiser to focus attention on less costly alternatives and improve management of our water supplies in California rather than perennially returning to the billion dollar canal.

The project has become so dubious that Federal water officials, and many in the Congress, have dismissed the notion of Federal funding of this white elephant. Nevertheless, State officials and canal proponents in the legislature continue to press for its authorization. The latest scheme would provide for State construction, with an expectation that the Federal Government would wheel central valley project water through the canal for a fee. However, the legislation is so controversial, and the cost of the project so enormous, that the bill's proponents are fearful of spelling out its true cost. Moreover, the Interior Department's solicitor, in a letter to me, has already indicated his belief that CVP use of the canal would constitute an unauthorized act under existing statutes, and would therefore require congressional action.

The people of California deserves more serious attention to their long-term water problems than this charade provides. There are many legitimate needs in the Central Valley and in southern California, and we should be spending our time on meeting those needs, without planning projects and stimulating policies which will lead to the desecration of one area of the State on behalf of another.

The San Francisco Examiner recently addressed the issue of the Peripheral Canal perceptively, recognizing the enormous threat which this facility represents for the entire bay area. This editorial echoes the well deserved criticism of the canal throughout northern California and among responsible planners in other regions of the State.

The editorial follows:

[From the San Francisco Examiner, Apr. 20, 1979]

DEAD CANAL PROJECT STIRS AGAIN

Some years ago then-Congressman Jerome Waldie, D-Contra Costa County, perhaps the most unrelenting foe ever of the Peripheral Canal, celebrated a legislative victory against that project by exclaiming, "The canal is dead. It will not rise again."

His jubilation was premature, as he has had good reason to observe in subsequent developments.

The canal has had a checkered history for 15 years. In 1977 the state Senate "killed" it again, long after Waldie's "victory." Last August that same scenario was re-enacted. At that time, Gov. Brown, whose dear baby this project is, commented that it would "take a little more time" to get the canal bill through the Legislature.

Well, it is on the move again. The indefatigable Southern California legislative delegation, always a thirst for more Northern California water, has introduced the canal bill again, proving to no one's surprise that project never was dead but sleeping.

But this time the canal emerges with a new gimmick attached. Its author, Sen. Ruben Ayala, D-Chino, has amended his bill to merely "authorize" the canal. Thus, shorn for the time of its $600 million appropriation, it can be passed by a simple majority vote rather than the two-thirds required of a money measure.

But in whatever guise it appears, the canal concept is hazardous to the health of the Sacramento-San Joaquin Delta and San Francisco Bay. It would detour immense volumes of water around the Delta and transport it south for agricultural purposes and to fill the swimming pools of Southern Californians.

The scheme provides for occasional squirts of fresh water to be directed into the Delta. It is claimed that that would be enough to flush it clean of salt water coming up in tidal sweeps from San Francisco Bay, but the sporadic injections obviously would not equal the steady wholesome flow that Mother Nature herself now generates. Moreover, in times of water shortage, not even that miserly allotment could be depended on.

Users of Delta water in farm, factory and kitchen would suffer from the deterioration in quality as would the ecology of San Francisco Bay, which just now is beginning to recover from a period of man-made pollution.

Thus the issue is of importance not only to Delta interests but to the Bay Area as well. That area needs a spokesman of the same dedication as Jerome Waldie, or his successors in that regard, Assemblyman Dan Boatwright and Congressman George Miller, on the scene in Contra Costa.

Assembly Speaker Leo McCarthy of San Francisco could fill the role brilliantly, but last year, on the bill's defeat, he remarked that he would start "building a case for the bill next year." He would receive greater acclaim among his constituents were he to start building a case against it.●

CHILDREN IN SOUTH AFRICA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. EDWARDS of California. Mr. Speaker, particularly poignant in the 1979 U.N. International Year of the Child is the abuse of children by South Africa. Evidence is abundant that children as young as 10 have been placed in solitary confinement. Many have been subjected to torture.

The following is reprinted from Amnesty International's Matchbox, spring 1979:

"WHEREAS MANKIND OWES THE CHILD THE BEST IT HAS TO GIVE. . . ."

(Part 2 of a continuing series in Matchbox on the 1979 UN International Year of the Child.)

On November 20, 1959, the General Assembly of the United Nations unanimously adopted the Declaration of the Rights of the Child. The spirit of the document was reflected in the preamble, which said in part, "mankind owes the child the best it has to give."

Since its founding in 1961, Amnesty International consistently has received information on children who are victims of human rights abuses. Many of the same countries that now celebrate the International Year of the Child nonetheless imprison, kidnap, torture and otherwise persecute some of their children.

DETENTION OF CHILDREN IN SOUTH AFRICA

There is mounting evidence that South African authorities, in their fight against "communism" and racial unrest (sparked by the 1976 Soweto disturbance), are detaining large numbers of children for long periods of time under security laws.

The children are held without parental access and often without parental knowledge of their detention. Children as young as 10 have been placed in solitary confinement for as long as five months, and many have been subjected to torture.

A report by the International Commission of Jurists, based on information provided by the highly reliable South African Institute for Race Relations and the UN Human Rights Commission *Ad Hoc* Working Group of Experts on Violations of Human Rights in Southern Africa, states that at least 150 children under 16 years were detained under security laws from September 1976 to April 1977 following the Soweto disturbances.

According to testimony put before the UN *Ad Hoc* Working Group in 1977, "many [of the detained children], as young as 10 and 12, had been held for several months"; "dozens of children, barely in their teens, have been kept in solitary confinement", and "in one Port Elizabeth trial, one of the accused turned out to be seven years old."

A South African lawyer who had testified recently to the *Ad Hoc* Working Group recently handled cases involving 91 children under 16 years old, including children 10, 12 and 13 years, some of whom "had spent five months in solitary confinement." Most of these 91 children were subsequently acquitted after spending up to five months in detention and many were used as State witnesses against other children.

According to provisions of security laws, only the authorities are permitted, access to detainees. Consequently, parents of detained children often plead in vain for information on their child's whereabouts and on whether the child is even alive.

South African press reports in 1976 and 1977 detail the cases of one father of a student, Philip Moloto, who was still trying during 1978—over one year after his son's arrest—to trace the boy's whereabouts, a mother who had tried to find her 15- and 13-year-old daughters, "who disappeared on a Sunday afternoon in November [1976]; and another father trying in vain to locate his daughter, 11, and niece, 8, who had been picked up by a police van in late 1976.

The use of torture and maltreatment by the security police against those in incommunicado detention is well documented by AI in its 1978 Report on Political Imprisonments in South Africa, and in its April 1979 Update. The Ad Hoc Working Group of Experts of the UN Commission of Human Rights concluded in a report on January 1968 that "it is quite clear that torture is used in almost every police station in South Africa."

Children are not treated differently.

Six students of Morris Isaacson High School in Soweto were arrested, interrogated and tortured in October 1976. The students described being beaten on the face, being beaten on the body with a sjambok (hide whip), being made to strip and having a wet sack placed over the head, being "strangled," having lights flashed at them, being given electric shocks, and being forced to sit on an imaginary chair for two hours. Several boys had scars and one boy lost his hearing in one ear as a result of the assaults.

Finally, a 10-year-old boy was arrested on November 1, 1976, and held in Modder B prison until December 9, when he was released on bail. His mother claimed in an affidavit that the child had been assaulted by police at the time of his arrest and that when she visited him in prison his face was so bruised that he could not eat. Major General Kriel, Deputy Commissioner of Police in charge of riot control, had said earlier that bail had been opposed on the ground that the child was to be charged with sabotage.

In the conclusion of its reports, the International Commission of Jurists added its voice to the numerous international human rights organizations, including Amnesty International, that call with the utmost urgency for an independent commission to examine all aspects of detention without trial in South Africa.●

CURBING OPEC'S POWER

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. ROSENTHAL. Mr. Speaker, together with JOHN CONYERS and CHARLES ROSE, I introduced H.R. 3604 which would establish a Federal nonprofit corporation as the sole U.S. importing agent for petroleum and petroleum products. I believe the creation of such an entity is a necessity in meeting the monopoly pricing activities of the Organization of Petroleum Exporting Companies (OPEC). I urge my colleagues to cosponsor this measure. In this connection I bring to my colleagues' attention the excellent column written by Hobart Rowen which appeared in the Washington Post Thursday, May 31, 1979, entitled "Curbing OPEC's Power" in which he states in regard to H.R. 3604 that "Surely, it's at least one answer to be considered" as a means for curbing OPEC's power.

The article follows:

CURBING OPEC'S POWER

OPEC has now raised oil prices 28 percent since the beginning of this year—and the cartel isn't finished with its plans for sticking it to the consuming nations, rich and poor. We'll soon look back on $1-a-gallon gas as cheap.

The grim fact that OPEC has become the main engine of worldwide inflation has now been recognized in a series of statements by senior administration officials.

The new burst of rhetoric began with testimony on Capitol Hill by Treasury Secretary W. Michael Blumenthal and Under Secretary of State Richard Cooper, who said that worldwide inflation had reached "a dangerous point" as a result of the oil price increases.

For the past four months, inflation here has been rising at an annual rate of 14 percent. Hopes that inflation might recede later this year have been dashed by the steady upward ratcheting of oil prices.

The U.S. oil import bill, last year $42 billion, is expected to run $52 billion to $55 billion in 1979. Unchecked, we are heading to the incredible oil import level of $100 billion in the mid-1980s. What happens to the dollar in such a situation?

It was left to presidential aide Stuart E. Eizenstat to bring the new worry into sharpest focus. The mild economic slowdown desired by the Carter administration to curb inflation "would turn into a recession," Eizenstat told a TV audience, if OPEC raises prices further.

"They are going to badly damage the world economy," Eizenstat said. And he pointed out that among those injured would be the poor nations "with whom they [OPEC] profess to have a great deal of sympathy."

The administration comes a little late to a public acknowledgment of the oil cartel's power. For so long, officials argued, the best policy was to turn the other cheek, and depend on OPEC's need to buy goods and services from the West, while reinvesting the cartel's surplus funds. "Recycling" was the magic watchword.

But it is now estimated that after all investments, purchases and extravagances of Arab royalty, OPEC surpluses will be $30 billion or more in this calendar year. That's about the same level as the aggregate balance of payment deficits of the debt-burdened poor nations.

A sense of desperation runs through the Blumenthal-Cooper-Eizenstat statements. They propose no moves the United States should take to retaliate against OPEC, alone or in concert with others.

Yet, they see clearly the handwriting on the wall in terms of future OPEC pricing policy. The cartel managers learned a great lesson from the Iranian revolution: Less means more.

"Everybody always said that the cartel could make more money by keeping it in the ground. But they never really did it until the Iranians men showed that it was practical. The Iranians discovered they could make as much money from 4 million barrels a day as from 6 million. Now, the rest of them, including our friends the Saudis, are following suit," one official says.

Meanwhile, the cartel's success in creating a shortage of supply has panicked buyers into bidding for "oil at any price." It is authoritatively reported that Ecuador sold 600,000 barrels last week for an incredible $36 a barrel, more than double the current official price. With spot prices going through the roof, OPEC will boost the official price again in Geneva on June 26.

What can be done? Obviously, the first answer is to boost other sources of supply. That includes not only coal and all alternatives to oil, but something better than the ham-handed approaches that have been made to Mexico to acquire a share of its oil and gas.

Second, conservation has to be directed by government order, not left to voluntary compliance. That means, among other things, getting Congress off its duff to vote for rationing authority.

Third, any number of ideas for curbing OPEC's power, rated as impractical, strange or nutty by the establishment need to be examined carefully. For example, a number of congressmen have introduced H.R. 3604, which would estabilsh a federal nonprofit corporation as the sole importing agent for oil. Economist John Kenneth Galbraith says: "The creation of this bargaining instrument is the completely logical, completely plausible answer . . . to the bargaining power of the other side." Surely, it's at least one answer to be considered.

For too long, officials like Emile Van Lennep, head of the industrial nations grouped in the OECD, have been saying, as he did on May 21, that "nothing . . . can be done" about the OPEC price increases themselves. Lennep accepts everything OPEC has done, and limits himself to recommending offsetting policies persuading wage-earners to "accept the cut in real incomes resulting from the rise in oil prices."

It is time to put an end to this defeatist attitude. Two days after the OPEC summit meeting in Geneva, there will be an economic summit in Tokyo among the seven major world powers. If this is to be more than a charade, the issue of how to deal directly with OPEC—an issue politely buried at earlier summits—needs to be explored on a forthright basis. There is no more pressing problem for the heads of state.●

CONSTITUENT SPEAKS OUT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. MINETA. Mr. Speaker, a constituent of mine wrote me the following letter, which I think is very representative of the frustration and bitterness many citizens are experiencing as a result of the current gasoline shortages in my State of California and elsewhere. I would like to draw the attention of my colleagues in the House of Representatives to this letter as an example of the level of exasperation of the American public over the energy situation.

DEAR MR. MINETA: Although I address this letter to you, it is a letter to the Congress of the United States of America. It is a letter written to address the gasoline problem that has been foremost in the news in the Santa Clara Valley and the Bay Area. Long lines at gas stations in this area and in only select areas of the United States are, without a doubt, another rape of the people of this nation.

Why is it that all across most of this nation, there are no gasoline lines, stations have ample gas, and most of the people can still manage to get to their jobs. It is obvious that to create a gasoline shortage in areas where people depend upon gasoline is one way, and the best way, to drive the price up.

I caution you and all elected politicians, to take a soul-searching look at what you may be creating, by allowing the petroleum monopoly to rape and pillage the tax-paying public.

If, by making it impossible to earn a living, provide for your family, and once a year take a small vacation, by using an automobile and possibly losing a home that we have worked all our life for, then the system we have is no longer worth working for.

Think of this, if I cannot have a home and I have nothing, then there is nothing to lose if the people should choose to openly revolt against the system of big government.

High taxes, open corruption of Federal Government, is the normal thing of today. What can elected politicians expect, other than possible armed rebellion, if this condition continues to exist.

The present administration has shown no will to solve problems, only increase the burden upon the taxpayer as a solution. It is obvious that our so-called elected representatives sleep with, and enjoy the favors of, all the powerful lobbying groups.

Three years ago I talked to you in person, in San Martin, and told you then that the taxpayer was tired of being taken advantage of. Result: Prop. 13!!!

I do not consider myself as one who has not contributed to this country. I've had my feet frozen three times and am holder of the Purple Heart; but today I truly believe that all of us servicemen were lied to and taken advantage of by our politicians.

This problem of no gasoline, long lines at the pumps, and holding pay increases to 7 percent, while the oil companies reap 40–50 percent profit, is a blatant insult to the American public.

Remember, if there is no hope, no future for the average U.S. taxpayer, there just may be no nation for anyone.

Yours truly,

LESLIE C. BARNETT,
San Martin, Calif.

P.S.: Please take note, this nation means a lot to me, to my children; but if I am to lose everything, and my children are never to have anything, then why should we contribute anything to a system that only takes from us.

I would very much like to have this letter read to Congress; but I know there is no chance of that, because Congress doesn't care about what the average voter has to say. ●

THE MYTH OF INCUMBENT PROTECTION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. MILLER of California. Mr. Speaker, one of the perennial issues before the Congress is the proposal for public financing of congressional elections. Every year we have long hearings, bitter debates, and then the bill is defeated. One of the longstanding arguments against public financing is that it is an "incumbent protection act," designed to keep the majority party in power. Anyone examining the list of Republican cosponsors of the bill, H.R. 1, would dismiss this statement. Further proof comes from an article in the Wall Street Journal which concludes that public financing would actually encourage challengers, and increase competitiveness for congressional seats. I support the idea of limited public financing of House elections, and the Journal article certainly dispels some of the myths opponents have used to defeat the bill. I recommend that this article be read by anyone who is concerned about the state of our Nation's Government, for its quality is determined by how it is elected.

THE MYTH OF INCUMBENT PROTECTION

(By Albert R. Hunt)

WASHINGTON.—Public financing of congressional elections "is essentially and irrevocably an incumbent protection device."

That is the bold warning emblazoned on a "fact sheet" prepared by Rep. Bill Frenzel, a Minnesota Republican and one of Congress's most serious students of campaign financing. Mr. Frenzel is assailing a bill that would extend partial public financing to House general elections, a bill symbolically labeled H.R. 1. He charges: "The spending limits that invariably accompany public financing can only aid incumbents, since challengers need to spend more to win."

It is a powerful argument. Any measure that adds to incumbents' existing advantages—expense allowances, constituent services, free mailings and other perquisites—is unhealthy. That would seem especially true for the Republican Party, which for 25 years has been a minority in the House where it currently is outnumbered 276 to 159. Most of the GOP leadership has lined up against the campaign-financing bill.

Yet two of the chief sponsors of this so-called "Incumbents Protection Act" are prominent House Republican leaders. Barber Conable of New York and John Anderson of Illinois. Nobody would suggest they are eager to relegate their party to guaranteed minority status. They and some of their supporters strongly argue that public financing would aid challengers more than it would protect incumbents.

Moreover, under public financing "the major beneficiaries . . . would be Republicans," asserts Stephen Hess, a political scientist and a longtime Republican braintruster. The reason: "The present system of private funding favors incumbents; and since most House incumbents are Democrats, ergo most challengers will be Republicans and will be advantaged by H.R. 1 over the existing system."

That's one reason many veteran Democratic House incumbents oppose the bill, despite its support by the Democratic leadership.

There are perhaps most significant considerations in examining public financing of House elections, such as the effects on the political system and whether enforcement would create another bureaucratic montrosity. But the question of the impact on challengers vis-a-vis incumbents is the dominant political issue.

PLENTY OF AMMUNITION

A careful combing of the spending statistics for the last two House elections suggests that there is plenty of ammunition for the argument that public financing would help challengers and make more races competitive. One reason is that incumbents generally are able to outspend their opponents and the proposed plan would tend to equalize spending.

Under H.R. 1, the federal government would provide up to $60,000 to a House candidate by matching private individual contributions of $100 or less. Anyone taking public money would have to abide by a spending limit of about $210,000 in 1980.

The legislation covers only House general elections; the Senate has thwarted congressional public financing plans in recent years. To qualify for any public money, a candidate would have to privately raise $10,000 in small contributions. Also, any candidate could refuse public funds and spend unlimited amounts.

The plan compares with a current system that limits contributions from individuals to $1,000 a candidate and to $5,000 from Political Action Committees, or PACs, without spending limits. Under this system, 371 of 383 incumbents were reelected in November 1976. In 1978, 368 of the 381 general election incumbents won.

Talk about an incumbents protection act! In the past two House elections, the reelection rate under the current system was 96 percent.

Certainly, nonmonetary factors affected the outcomes of these elections, but the spending statistics bolster the contention that the current financing system favors incumbents. In 1978, on top of all their other advantages, incumbents outspent challengers by better than a 3-to-2 margin, according to the Federal Elections Commission.

Some Republicans hope the proliferating corporate PACs will come to their rescue, but they may have a long wait. Despite a late rush of corporate PAC money to Republican challengers last fall, spurred by strong Republican-leadership complaints and critical news accounts, incumbent Democrats came out well ahead. Overall, according to the FEC, corporate PACs gave more than $2.12 million to Democratic incumbents, more than twice the $986,000 given to GOP challengers.

When labor and other PACs are considered, the figures are even more lopsided. In all, House Democratic incumbents received $10.43 million from PACs last fall, or almost three-and-a-half times the $3.04 million received by GOP challengers. (Even the affluent Republican Party coffers failed to make up this disparity.)

The explanation is simple. "It's a lot easier to invest in a known than an unknown entity," explains one corporate PAC manager. "That counts for a lot more than party labels."

Republicans don't disagree. But they contend the public financing proposal, with its spending ceiling, would undermine the one real shot challengers have to overcome incumbents—mounting an unusually expensive campaign. "Historically, successful challengers have usually been 'high spenders,'" asserts Republican national party chairman Bill Brock.

The Republican House campaign committee calculates that in 1978 the 19 successful challengers—14 were Republicans—spent an average of slightly more than $200,000 in the general and primary elections, while defeated incumbents in those races spent an average of $173,000. The conclusion: Only six or seven of those challengers would have won if H.R. 1 would have been law in 1978.

That conclusion, however, is questionable. First, the public financing bill would only affect general election spending; so primary outlays have to be knocked out in any comparisons. Second, an analysis of those 1978 elections shows that, after adjusting for inflation, only eight of the 19 successful challengers spent more than the proposed limit in the general election and most of those were only a relatively small amount over.

Further, two or those outsiders—Republicans Ron Paul of Texas and Daniel Lungren of California—were outspent by Democratic incumbents by almost $100,000 apiece. So a spending ceiling might have aided them.

In many other instances, it's easy to see how some losing 1978 challengers could have fared better under the proposed public financing plan. Ironically, one of these is Republican Duane Alton in Washington State, who lost by only 8,000 votes to Rep. Thomas Foley, one of the authors of H.R. 1. In the general election, incumbent Foley spent $243,000, more than double Mr. Alton's outlays. Under the public financing proposal, both candidates would have received and spent close to the maximum permissible, eliminating most of Rep. Foley's financial advantage and, just possibly, his 8,000-vote margin.

CURTAILING FREE RIDES

Perhaps more significantly, consider the number of noncompetitive House races last November. In 68 House elections, there was only one major party contestant, benefiting 49 incumbent Democrats and only 19 Republicans. Backers of public financing assert the lure of federal matching money would curtail these free rides by attracting more challengers.

The other side of that coin is that only 69 of the 435 races last November were decided by 10 percentage points or less. Advocates of public financing argue that such aid would help them turn at least some of the many one-sided elections into closer contests by helping long-shot aspirants, who usually are hindered by an ability to raise money.

Even when a challenger spots a vulnerable incumbent and starts raising big money, such action usually prods the incumbent into a spending race that maintains the odds even though the incumbent may be outspent. For instance, in 1976, Colorado GOP challenger Ed Scott spent $147,719 and came within a whisker of defeating incumbent Tim Wirth. Sensing victory, in 1978 candidate Scott pulled out all the money stops and spent an astounding $425,663. In turn, Rep. Wirth more than doubled his 1976 outlays to $384,194. The Democratic Congressman widened his margin to 11,000 votes from 2,400.

Whatever the other arguments for and against public financing of congressional elections, all of this casts serious doubt on House GOP chief Guy Vander Jagt's claim that public financing "preserves and protects the incumbent in perpetuity."

Apart from all the dry data, there is an even more convincing argument—if public financing were an incumbents protection act, it would have been enacted by the incumbents years ago.●

FRED WEATHERS TRIBUTE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. STOKES. Mr. Speaker, recently, an event was held in the St. Louis community to pay tribute to an outstanding St. Louisan, the Honorable Frederick N. Weathers, for nearly 50 years of distinguished civic, business, civil rights, and political leadership to his community. One of our colleagues from St. Louis, Bill Clay, had the privilege of hosting the tribute to honor Mr. Weathers for his dedicated, courageous, and tireless service to the St. Louis community. I would like to take this opportunity to share with all of my colleagues the text of Congressman Clay's toast to Mr. Frederick N. Weathers in honor of this occasion:

Remarks of Congressman William L. Clay

If you read the program, you know that at this point, I am to present a special tribute. According to Webster's International Dictionary, "special" is defined as possessing a quality, character or identity out of the ordinary or conspicuously unusual. My privilege, therefore is special, inasmuch as the honor has been bestowed upon me to present a tribute to a person who truly possesses quality, character and identity unique in any society.

Each of us present tonight knows Fred Weathers in his or her own way. Of course and perhaps the whole story of his life will never be told in concert by all of us. But if anyone knows the whole story, it would have to be a person who lived and breathed and experienced the totality of that story. Such a person we pay tribute to tonight.

Frederick N. Weathers has held centerstage in this community for 40 odd years. The spotlight never left him. Doris Weathers, the other half of the team never sought the limelight, but because of her understanding, her generosity, her charity, made it possible for Fred to be a harbor light in a community beset by storms and raging waters.

Doris Weathers has shared the great memories in the life of the man we honor tonight. The joys, the pleasures, the satisfactions are all hers. But no life is totally void of pain, suffering, struggle and setbacks. And surely during those times, Doris was there to comfort, to encourage, to inspire, to advise. In a sense, Doris Weathers made it possible for this community to benefit from the talents of Fred Weathers.

Doris, we in the community know you and know your contributions, we know you through the media of art. Constantly songwriters are dedicating their artistic abilities to portray your life in music. Even if Fred's life had not been filled with so many milestones, he would not have to look back anxiously for something to justify the time spent. He had a woman with both dignity and depth; charm and charisma; devotion and dedication, sincerity and strength. He had a woman all those glorious years who possessed a special dimension and told her own story with a message and a viewpoint. That story is entitled beauty and even the greats have not been able to define beauty, so I won't attempt. What I will do is to use the music of some of the greats to describe what they thought of you, Doris Weathers. Dinah Washington said in song—"What a difference a Doris made;" the temptations said, "She's my girl;" Mahalia Jackson said, "Fred's got the whole world in his hands;" Duke Ellington called you the sophisticated lady—but perhaps your greatest tribute was paid by the Commodores when they said, Doris Weathers, "You are once, twice, three times a lady." ●

FINNEYTOWN HIGH SCHOOL GIRL'S SWIM TEAM

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. LUKEN. Mr. Speaker, I would like to extend my heartiest congratulations to the Ohio State Champion Finneytown High School Girl's Swim Team of Cincinnati.

The Finneytown team broke three national and four State records enroute to their title. Of special significance is the performance of Kim Carlisle, who broke two of her own State records, and two national records as well. The 200 yard medley relay team of Kerry Alexander, Kim Carlisle, Shelley Carlisle and Marjorie Hill also broke a national record.

I would like to commend Coach Ginger Hemsworth and the entire team: Kim Carlisle, Paula Photos, Kerry Alexander, Marjorie Hill, Janice Owsiany, Shelley Carlisle, Cathy Gallagher, Debbie Widmann, Bonnie Newsome, Carrie Olsen, and Linda Laake.

It is my privilege to bring this accomplishment to the attention of my colleagues. I also suggest that they keep their eyes open. These young women may be representing our country before too long.●

NUCLEAR WASTE WORK MOVES AHEAD

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. MILLER of California. Mr. Speaker, as a member of the House Interior and Insular Committee, and a past member of its Subcommittee on Energy and the Environment, I have spent much of my time in Congress examining the Federal Government's work in the nuclear waste area. I think anyone who has looked closely at this issue have been frustrated by the lack of serious attention to this monumental problem. While there has been plenty of discussion and wringing of hands about what to do with this potentially hazardous material, I have found little action in the past years directed toward an actual solution. Therefore, I am pleased to insert into the Record a recent article in the Valley Pioneer, a paper in my district, which discusses a firm that is working on design plans for the first low-level nuclear waste depository. This is positive action toward solving this difficult problem, and I am proud that a company in Contra Costa County is a major participant in the solution.

Exclusive Report—MBA Scientists Could Solve Nuclear Waste Issue

(By Mark Compton)

One of the most important questions revolving around nuclear energy will be probed in the months to come by a small technical research firm in San Ramon. The answers found in the query might well influence the future of the entire industry.

MBAssociates, a small research and development company tucked away at the northernmost end of Bollinger Canyon, has been working since March on design plans for the first major nuclear waste disposal plant to be built in the United States.

Nuclear waste has troubled scientists and citizens alike since the first large-scale commercial use of fission arose. Without any permanent means of storing or destroying waste, fears have arisen within and without the nuclear industry that radioactive traps are being created at nuclear waste disposal sites.

Recognizing this, the federal government recently appropriated $500 million to build a large-scale waste disposal plant in Idaho Falls, Idaho. MBA's role in the project is to develop an automated system that will allow the proposed plant to run without any people present. The absence of people should not only increase the plant's efficiency but minimize, if not eliminate, the risk of human exposure.

The Twin Falls installation, which if approved should be in operation by 1986, will work only with low level waste. That work could well influence future disposal of high level waste, such as spent nuclear fuel rods.

The technology essential to the envisioned waste disposal plant is already workable. A process called "slagging pyrolysis" has been used for some time by at least eight cities around the world for condensing urban waste. Three American nuclear facilities have already showed that the process can be applied to low level nuclear waste on a small scale.

The challenge incumbent in the Idaho project is to make the process workable on a grand scale.

Slagging pyrolysis, a process used to turn solid waste into hard rock form, is a rather simple method of consolidating waste, even on a major scale. In the process, refuse is melted, cooled and hardened in brick molds.

The Twin Falls plant should boast an eight-foot diameter shaft that will carry waste down its 50-foot length to a furnace where 2800 degrees (Fahrenheit) worth of heat will melt the refuse into molten soup. The melted materials will then sink to the bottom of the furnace to be dripped out of a nozzle at the bottom into brick molds and hardened.

The bricks, when cool, will appear as large glass castings, featuring a consistency not unlike that of basalt. More importantly, the bricks will secure the low level waste in a permanently benign state.

Lynn Foote, manager of development engineering at MBA, assures that the bricks will stabilize the waste both chemically and physically. "It will stabilize the waste such that anything prone to be airborne will be secured," he claims. Leaching, too, should be halted.

Slagging moreover should reduce the volume of the waste by two-thirds—making permanent storage all the more convenient.

There is nothing speculative about the benefits of slagging. Already under way at nuclear facilities at Savannah River; Los Alamos, New Mexico; and Hanford, Washington, the process reduces as much as 200 pounds of waste per hour at each of the three installations.

Those figures, while pleasing, are far from the standards the DOE seeks. The proposed plant at the Idaho National Engineering Laboratory is projected to melt down two tons of waste per hour—a ten-fold increase.

The difference rests on automation. That's where MBA comes in.

Since it was founded 19 years ago on an abandoned Nike missile base in the Las Trampas hills, MBA has produced state-of-the-art technological advancements much like the ones called for by the DOE in the Idaho project.

Tele-operated devices that allow technicians to operate machines that perform human-like functions have become something of an MBA specialty. Such devices are perfectly suited to the needs of the nuclear industry.

The danger of contamination often proscribes humans from taking on tasks in nuclear installations. For just such occasions, remote-controlled machines that can function as a man are indispensable.

One such machine was flown to Three Mile Island, Pennsylvania, just after the accident in late March. It's still on standby there.

Machines and systems based on the same remote control technology could run the nuclear disposal plant at Twin Falls. The goal is to keep people out of the plant and away from possible contamination for at least 200 straight days.

"Maintenance, repairs and emergency operations will have to be planned in," explained Foote. "We have to be able to assure long-term reliability."

Plenty of work awaits the completion of the plant. There are already 1.3 million cubic feet of low level waste—rags, clothing, lab instruments, machinery, dirt—accumulated at the Idaho National Engineering Laboratory. By the time the disposal plant is built, that total figures to be 2.5 million cubic feet—and that's just the waste of a single nuclear installation.

The advantage of reducing such a staggering pile of garbage by two-thirds is clear. Applications for waste with higher levels of radiation remain to be seen however, since high level waste cannot be condensed too much without running the risk of starting a nuclear reaction in storage.●

ALTERNATIVES TO ENERGY DEPENDENCE: ENERGY IMPERATIVES

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. McKINNEY. Mr. Speaker, recently, I had the privilege to address the caucus of New England State legislators on the occasion of their alternative energy conference. At that time, I stressed the precarious position of the United States in the world energy marketplace. Recent events have only served to underscore that warning, with New England in a particularly vulnerable situation. However, more than a year ago the New England Congressional Caucus began a process unique to any region of this Nation—the formulation of a regional energy agenda. That final report will be released soon and in anticipation of that announcement, I submit the following for my colleagues' consideration:

ALTERNATIVES TO ENERGY DEPENDENCE

Ladies and Gentlemen: The New England Energy Congress, convened by the New England Congressional Caucus' Energy Task Force of which I am co-chairman, will soon release its final report. The product of almost 13,000 man-hours volunteered by engineers, bankers, consumers, environmentalists, and many more, that report outlines an ambitious agenda for our region's energy future—a future which will see alternatives to fossil fuels supply one quarter of our energy needs by the year 2000. Yet even this optimistic scenario (and have no doubt that it is a hopeful assessment of our energy dilemma) leaves us as dependent on oil at the turn of the century as the rest of the nation is today. That is, it will take all of the region's substantial political and technical talent to cut our current 80 percent oil addiction in half over the next twenty-one years. Therefore, I think it is vital that you, the state leaders who are on the front line in this as yet undeclared war, set as your goal the uninhibited development of alternative energy applications in this region.

Any serious discussion of New England's alternative energy potential must begin with an understanding of just what these so-called exotic technologies are an alternative to. In the past, I think that understanding has been somewhat clouded by a public perception that alternative energy was part-and-parcel of the post-60's alternative lifestyle movement characterized by communes and carrot juice. Fostered by industry scepticism and government ambivalence, the public came to believe that alternative energy technologies did not offer a serious answer to our mega-energy problems. However, as it daily becomes more obvious that the status quo of oil dependence will produce economic devastation and political anarchy in this region, our so-called alternatives become energy imperatives.

True, solar energy will not yield the hundreds of megawatts of electricity that a nuclear power plant or oil fired plant might produce. True, low-head hydro will not spawn the industrial expansion and tract housing of the all-electric days gone by. Yet, the centralization of both our energy production and its sources is at the heart of our energy problem today. In effect, we have put all our energy eggs into the OPEC bucket and the once-cheap and abundant goodies will soon be beyond the reach of the bulk of our constituencies. So, the exploitation of alternative energy sources to supplant even that ambitious one-quarter is at once a fundamental technical challenge and a political opportunity. For our ability as a democratic society to make complex technical choices, to deliver this nation from essential servitude to energy independence, to decentralize energy where possible and restore individual power will determine for generations the viability of democracies throughout the world.

The Energy Congress has produced the first regional energy plan in the nation, addressing our unique problems and applying our unique strengths to their solution. In a sense, such a regional plan is the price of New England's admission to the national energy struggle for we are perceived by the rest of the nation as the "gimme" states, the energy stepchild at the end of the national distribution network. We need a cumbersome entitlements program to protect us from the fact that we have no refinery; but we must beg on the world marketplace for finished petroleum products. We need higher rebates and crisis intervention funding due to the concentration of the poor in our cities. But, a Texan might rightfully ask, what has New England done to put its own energy house in order? The bumper sticker "Drive Fast and Freeze a Yankee" speaks volumes about New England's role in national energy policy to date. The New England Energy Congress report changes all that. At last we have a feasible, politically supportable plan of action to tighten our belts and apply our impressive list of educational and technical resources to bring alternative energies to the rest of the nation.

In particular, the final Energy Congress sets out a flexible energy mix of oil, coal, nuclear and alternatives which assumes supply availability and a 1.5% energy growth rate over the next twenty years. In that energy mix, alternatives such as low-head hydroelectric power, solar water and space heating, wood burning for electric and thermal uses, solid waste fuel, coal, wind power, tides, and fusion power will replace 510,000 barrels from the 2.07 million barrels per day of oil equivalent energy demand in the year 2000. That's half a million barrels of oil each day that we would not import, not refine, and not pay for by transferring more battered dollars to OPEC. But in reaching or surpassing that goal, each "energy imperative" exacts a political price which we have not yet been willing to remit.

THE CONSERVATION IMPERATIVE: DISCIPLINE

Conservation—the more prudent use of existing supply and distribution resources—is the single most valuable alternative energy tool at our disposal because it alone buys what no amount of Federal or State funding can purchase: TIME. Every OPEC price increase brings the cross-over point at which synthetics and other alternatives become cost-competitive months and years closer. We are not ready. It is only through the concerted efforts of State leaders, like you, and local officials that a pervasive public awareness of the conservation potential can be ingrained in a populace unfortunately nurtured on waste. Industry has had to conserve in order to remain competitive. But the individual still needs to be convinced that conservation is not the distasteful penalty for a profligate past but the key to the restoration of individual self-determination in energy policy and use. Conservation, and most of the other alternative energy strategies we will discuss here today, equip the individual consumer at any income level with a margin of insulation against the next OPEC surcharge or utility increase.

Unfortunately, the role of New England's State and local officials is made more difficult by the inadequacy of national energy policy to support conservation. It is estimated that funding under the National Energy Act for weatherization of low income housing will reach only 250,000 dwellings per year, assuming a minimal $800 per unit expenditure. At that rate, it will take forty years to weatherize the 9.9 million low-income homes in need of this basic conservation tool! Of course, the Northeast's colder winters and overwhelming reliance on expensive home heating fuels makes this federal commitment almost laughable, if the results were not so tragic. It falls to you to change the specifications for State-funded public housing, change local housing and building codes and otherwise attend to the details of this incomplete federal commitment.

THE SOLAR IMPERATIVE: FINANCING

Active solar systems retrofitted onto existing structures, and passive design techniques in new structures, offer yet another means to unlink the consumer from interruptable centralized energy sources. And again, a half-hearted federal commitment places the burden on you to refine high-minded policy into action. So far, federal demonstration efforts have proven only that the federal government should not demonstrate. Technically perfected, commercially viable solar energy products and designs still suffer under the dated wisdom of inaccurate predictions and institutional resistance. For the most part, that resistance has come from banks which subject the consumer to a Catch-22 dialogue that goes something like this: "We can't approve such a large loan at a lower rate because the technology has not been proven in the market." The consumer asks, "What will give solar technology that market experience?" The banks answer "Banks approving loans."

In my view, the answer to this problem—interest subsidies on solar loans to shorten the payback—also provides an opportunity for government at all levels to educate ourselves and the public to a new economic fact of life essential to alternative energy success: Life cycle costing analysis. With conventional energy prices continually escalating, it is counter-productive to build new housing with lower per-unit heating devices which, over the life of the home, will cost the consumer thousands of dollars more than if a more expensive solar hot water or space heating unit had been installed in the first place. Congress is now working on a bill I introduced, the Solar Bank Act, which would make low interest loans available for solar purchases and would require life-cycle cost comparisons against conventional devices. I urge you to support such efforts at the State level.

THE WOOD IMPERATIVE: MANAGEMENT

Our region has a unique potential for the use of wood as an energy source, as numerous studies have shown. However, competition of that resource between those who would generate electricity, those who would generate heat directly and those who would ferment alcohol must be resolved. To date, our forestry management practices have, to put it delicately, been less than exemplary. The States must play an important role in developing and improving those techniques which will produce an indigenous energy source and protect our environment. A wood energy program that contains anything less simply creates more problems than it solves. But the program must be undertaken. Once National Energy Act tax credits are extended to wood burning stoves and furnaces, a bill now under consideration by Congress, consumer demand should usher an entire new industry into our sagging economy. We need the energy and we need the jobs. In your deliberations today, I ask that you not overlook this important aspect of our energy future.

THE LOW-HEAD HYDRO IMPERATIVE: COMMUNITY ENERGY

New England's early industrial predominance in the textile field was built on the network of small but powerful rivers in the region. Yet today low-head hydroelectric generation represents barely 2 percent of our total energy consumed. Here again, the ten, twenty, even fifty megawatt hydro project will not alone solve a State's or even a county's energy problem. But the siting and use of hydroelectric generators gives the community one more diversified, OPEC-proof source of energy with which to light city streets, schools or hospitals. The technology is there, the environmental impacts can be minimal and the apparently small contribution just could be the difference between a tolerably inconvenient energy transition in the late 1980's and an economic and political crisis when the oil runs out.

I hope this brief survey of just a few alternative energy options convinces you that energy policy is much more a matter of people deciding to help themselves than one of massive national institutions awaiting the technological "fix" that may not be there. The stakes are too high, the time too short and the product of inaction too horrible to ignore these imperatives. As the Energy Congress source projections show, any shortfall in alternative energy output must be replaced by continued oil dependence or additional nuclear power.

Direct burning of coal in this region is too environmentally costly to make up much more than a minimum portion of our future needs. Further, there still remains the serious question of just where we get 970,000 barrels of oil per day in the year 2000. I'm still trying to convince this administration that U.S. oil in Alaska must be dedicated to meeting those long range domestic needs. They want to export that oil to Japan on the condition that we would receive that nation's OPEC consignments. Well, we are now in the process of trying to persuade refiners to balance gasoline production to build home heating stocks for next winter, now some 22 million barrels below last year's levels. I'd hate to think what would happen in 1985 and beyond if we had to beg for additional OPEC oil to heat our homes while U.S. oil went to Japan or sat on the West Coast for want of a domestic pipeline system to bring it here. These are the frightening variables which we can neutralize by following these energy imperatives. There are no alternatives.●

ESTABLISH A NONPROFIT FEDERAL OIL CORPORATION

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. ROSENTHAL. Mr. Speaker, on April 10, JOHN CONYERS, CHARLES ROSE and I introduced the Oil Imports Act of 1979 (H.R. 3604) to establish a Federal nonprofit corporation as the sole purchaser of foreign oil, including residual oil. The concept is not new. It is a recognized need. Under the Energy Policy and Conservation Act of 1975 Congress gave the President standby authority to create a Federal oil purchase agency.

H.R. 3604 mandates this need and sets forth additional needed guidelines.

The problem is, can we afford to allow the Department of Energy to do nothing and to compound this problem?

United Arab Emirates Minister of Petroleum and Natural Resources, Dr. Mani Said al-Utaybah, who is chairman of the current Organization of Petroleum Exporting Countries (OPEC) session, is touring certain OPEC countries with the purpose to coordinate the stands of Arab and other Gulf countries. On May 30 prior to his departure from Baghdad, he remarked that "the multinational oil companies are making enormous profits at the expense of consumers, thus exploiting the conditions of supply and demand." He also warned "against the dangerous role of multinational oil companies that manipulate oil prices and oil supplies" and "that the OPEC states will put an end to the actions of these companies and will adopt the appropriate measures, which will include blacklisting these companies."

Previously, OPEC declared war on the economies of the Western industrial nations. It seeks to disrupt the existing economic stability and values.

In this instance OPEC ignores the enormous profits being made by its members at the expense of consumers and the OPEC members who are also attempting to manipulate oil prices and oil supplies, possibly even with the aid of the companies they now throw stones at. There is no stability to OPEC pricing. Each day witnesses one OPEC nation after another breaking contractual price agreements and raising prices. Another practice entered into by OPEC members has been to ignore contracts and to move the sale at the Rotterdam spot price. OPEC actions have led to chaos in oil prices on international oil markets.

In view of this chaos many countries other than the United States have approached oil-producing nations with the purpose of purchasing oil directly from them. The list includes Canada, Sweden, Japan, Italy, Finland, Spain, Greece, Romania, Turkey, Thailand, Pakistan, India, Bangladesh, Sri Lanka, South Korea, Taiwan, and others. The Governments of Britain, France, and others control major multinational oil companies who carry out Government policy. But where do we stand?

What would happen if OPEC decided to blacklist Mobil and/or Exxon? How would this affect the distribution and marketing of crude oil in this country? What further economic havoc would this create? It is time for this Nation to consider and mandate the principle of H.R. 3604—the Oil Imports Act of 1979—and create a Federal nonprofit corporation to purchase this Nation's foreign oil needs. I urge my colleagues to join JOHN CONYERS, CHARLES ROSE, and myself in sponsorship and moving H.R. 3604 to legislation.●

GOING BEYOND GASOHOL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. MILLER of California. Mr. Speaker, the Congress, and the rest of the Nation, is increasingly looking to gasohol as a partial solution to the gasoline crisis. All over America, gasohol pumps are appearing and reducing our dependence on foreign sources of oil. My home State of California is particularly concerned with the rapid development of alternative sources of fuel for our cars, and a number of areas are being explored by the California State legislature. The Contra Costa Times, a major newspaper in my area, has even taken the initiative in developing a car powered entirely on methanol. This is an unusual action for a newspaper, which usually covers the news and not creates it, but this is an unusual situation. I applaud the Times' work in this area, and I include a three-part series on the car and its development by the paper. I commend it to all who are concerned about our energy situation and the possibilities of gasohol.

[From the Contra Costa Times, May 13, 1979]

METHANOL CAR BURNS THROUGH GAS SHORTAGE

(By Justin Roberts)

There is one car in Contra Costa County that has not been affected by the gasoline shortage.

In fact, it never will be.

Hardly anyone would notice it—it's just a white 1963 Plymouth Valiant sedan that looks as ordinary as any other auto used to travel to the BART station or to work—or for shopping.

But, looks are deceiving—there's a major difference.

It doesn't use gasoline!

Instead, it is fueled by alcohol, a type known as methanol which can be produced from garbage, vegetable matter, surplus or ruined farm crops, sewerage, lumbering wastes, this very copy of your newspaper—or any other organic material.

The venerable Plymouth was converted to an all-methanol-powered car by Contra Costa Times staffers in an experiment aimed at demonstrating that Americans need not remain dependent on either foreign or domestic oil to maintain their mobility.

The gasoline-free car, multiplied on a national scale, could reduce the country's international balance of payments deficit, increase the value of the dollar in international trade, and cut back on rampaging inflation that has grown from the weakened U.S. position in the international economy.

There are many other benefits that can be achieved.

They range from cleaning up the environment, developing a healthy domestic economy—and even extend to military aspects which will be covered in subsequent articles.

The Times' all-methanol car uses a fuel once known as wood alcohol. What's more, the only petroleum products in the experimental car are in the tires, plastic components and its upholstery of synthetic fibers made from petro-chemicals.

Motor oil in the crankcase, transmission and differential greases, front-wheel bearings, chassis greases and brake fluid are all synthetics—having been derived from alcohols.

It's a car that can be considered petroleum-free from an operating standpoint!

Performance is equal to the same car operated as a conventional gasoline-fueled vehicle. Acceleration is improved and while cruising ranges remain the same, The Times' methanol-powered car top speed is equal to that of the pre-modified automobile.

Fuel consumption is within an economic comparison to gasoline both at highway speeds and in city traffic and exhaust emissions are so low as to be insignificant when compared to gasoline-powered vehicles.

The use of alcohol-based lubricants in the crankcase, transmission and differential contributes to the mileage per gallon, since these non-petroleum based products offer a higher lubricity than conventional lubricants.

Development of The Times' experimental car started more than a year ago—virtually at the same time that Concord Assemblyman Daniel Boatwright sponsored an Assembly-financed methanol car project which was undertaken as a demonstration to establish the feasibility of methanol as a substitute for gasoline.

Boatwright currently has legislation pending in Sacramento that would clear the way for Californians to use either gasohol (a blend of ethyl alcohol and gasoline) or straight methanol in their automobiles.

But, while the state methanol car project resulted in development of a technically sophisticated conversion of a 1978 Ford Pinto station wagon by some of the West Coast's top-ranking engineering wizards, The Times' approach was aimed more at employing simpler technology used for many years in the automotive fuel.

Biomass involves the synthesizing of methanol from organic wastes or specially grown crops—or organized production of ethanol (ethyl alcohol) from grains, cane or beet sugar molasses, and a limitless number of other agricultural commodities.

An important consideration in The Times' approach to design was the recognition that auto-makers, because of their huge investments in production of long-standardized internal combustion engines, would look more favorably toward a conservatively-engineered modification than one which employs exotic technology expensive to produce to accomplish an identical goal.

Duplicating the changes in The Times experimental car on a production line basis in Detroit would result in a vehicle that causes no radical assembly line changes and would probably cost less to produce than a standard 1979 gasoline-powered auto.

This is based on the fact that alcohol is a clean-burning fuel and so, emission control devices which add hundreds of dollars to the cost of an automobile, could be eliminated by the manufacturer. The maker could produce cars whose emission levels are so low, they do not warrant either the now-required devices—or the fuel-costly detuning of automobile motors currently practiced to meet state and federal emission standards.

Selection of as old a car as a 1963 model for conversion to methanol was based on the fact that the car predates federal requirements on auto-makers to supply emissions data for each type of motor manufactured. This reporting system was instituted with 1965 models. It was in that era that so-called "smog controls" began to be required.

The 1963 model Plymouth is required only to have a positive crankcase ventilation device (PCV) which does not restrict efficient operation of the motor.

The modifications involved rebuilding the motor into a high-performance type, changing it from its original 8.2-to-1 compression ration to a 13.7–1 ratio.

Despite warnings from major oil company spokesmen and a proliferation of propaganda emanating from the petroleum firms that tell of the mechanical hazards of parts deterioration when used with methanol instead of gasoline, there has been no breaking down of integral parts once correct components were chosen.

[From the Contra Costa Times, May 14, 1979]

NON-FOSSIL FUELS MAY POWER OUR GASLESS FUTURE

(By Justin Roberts)

Had enough at the gas pumps?

In a dozen years or so, motorists may never get enough at the gas pumps. Major oil companies expect the real "crunch" to start in the nineties—and they figure it will certainly be on us by the year 2000.

That gives America—and all the rest of the world depending on petroleum for energy—about a decade to prepare our technology, our economy and our social system for the inevitable day when we slide into the downhill slope in oil supplies.

Petroleum is finite. Exxon claims it "wants us to know, but Exxon hasn't told the public the fearsome prospects contained in some of its own research data.

Since virtually all information about oil supplies and oil reserves are provided by the petroleum industry, The Times began checking on what the oil companies contemplate doing to stay in business when the petroleum is all used.

Exxon and Chevron, known as Standard Oil of New Jersey and Standard Oil of California respectively, both are engaged in researching methods of liquification of coal to produce gasoline, since oil companies have vast holdings or options on coal deposits, along with their ownership of other energy sources such as uranium, oil-bearing sands, shale and even geothermal lands in California.

In tracing these fossil fuel alternatives, The Times came across two technical reports dealing with liquefaction of coal.

One dated from August 1974 came shortly after the Arab oil embargo, and is signed by two Esso researchers (now Exxon). The abstract states in part that "In the last 20 years of this century, the demand for liquid fuels probably will exceed availability from conventional sources."

That was nearly five years ago. The last 20 years of this century start in less than eight months.

A February 1977 report of the Exxon Research and Engineering Company informs the few select industry readers that by the late 1980s (a decade or less) ". . . it seems possible that crude oil supplies, worldwide, will no longer be adequate to meet demand."

The report pinpoints the year 2000 as the time when the "pinch" will make coal liquefaction economically viable.

But while oil company defenders look askance at tax incentives for production of gasohol—a blend of alcohol and gasoline—Exxon's researchers state, "Government support will likely be necessary to get the pioneer (coal liquefaction) plants built by the late 1980s."

Coal too is a finite resource and Mobil (Standard Oil of New York) has come up with a patented process for converting methanol into gasoline. The supply sources would be either natural gas (mehane) or coal. They're all sticking to the fossil fuels.

According to Mobil Research and Development Corporation's own literature, it takes four gallons of methanol to produce one gallon of gasoline.

Methanol is a clean fuel gasoline is noted for its pollution.

Mobil undertook the research for this patented process of putting pollution back into a clean-burning fuel under a series of cost-sharing contracts with the U.S. Department of Energy.

But, Exxon's research resulted in a paper delivered in Columbus, Ohio, in April 1976 to the Central States section of the Combustion Institute on methanol and methanol-gasoline blends as automotive fuels.

In the introduction, authors W. J. Most and E. E. Wigg, both researchers in the products research division of Exxon Research and Engineering Company, declare in part, ". . . straight methanol does appear to have technical promise as a future fuel."

The paper does in fact, cite various problems of using methanol, but it also cites the excellent combustibility of the synthetic fuel.

The bugaboos consistently raised by the oil companies have already been fragmented by the Volkswagen Company, General Motors of Brazil and other companies willing to produce alcohol-powered cars as an alternative to finite fossil fuels.

Methanol is a replenishable and inexpensive fuel that can be produced from vegetation, forest wastes, solid wastes, sewage and virtually any unwanted organic material. Farmers are being paid to set aside vast acreages in the United States if they do not grow crops on them.

The set aside acres alone, if cultivated, could provide enough vegetable matter to produce a substantial part of the nation's energy needs and save the taxpayers from paying farmers to let the land lay idle.

In the United States, there were 1.7 million acres of farmland in 1978 upon which nothing was planted because the federal government paid almost $100 per acre to the owners to let the land remain fallow. The cost to the taxpayers was $1.6 billion last year—and farm economists figured that it added $1 to the price of each bushel of grain raised by farmers.

These alternative alcohol fuels are true solar energy—converting the sun's energy by photo-synthesis into plant life which can then be converted into energy through simple technology known widely in the scientific community.

These are your prospects and they are grim. They could mean the end of our society as we know it. They certainly can mean the end of our lifestyle. These portents have for years been manifesting themselves in our inflation and in our diminishing place in world markets and foreign exchange.

It was all these inescapable factors—combined with the fact that the alternatives are well-known and have been for decades that spurred The Times to embark on an unusual project for a newspaper: development of a car that does not rely on petroleum and uses fuel and lubricants that can not be monopolized or cartelized.

It's an answer that might prevent hundreds of thousands of Americans from having to put their shiny new cars up on blocks and watch their lives and their nation deteriorate because no one did anything in time to prevent it.

[From the Contra Costa Times, May 15, 1979]

METHANOL-POWERED CAR: ON THE ROAD TO THE FUTURE

(By Justin Roberts)

"It's better to light one candle than to curse the darkness."

There's darkness setting in with the prospects of worsening energy shortages—and one "candle" may be the Times' alcohol-powered car.

It's not the only one in the United States to operate on methanol (wood alcohol) but it may be the least exotic and the most economical.

The U.S. Department of Energy produced a modified Plymouth sedan last year that ran on methanol, at a cost of about $100,000.

The University of Santa Clara college of engineering has produced several methanol-fueled automobiles which perform just as well, but did not cost anything near the DOE's demonstration model.

The city of Santa Clara has a methanol-powered car that city staffers use to run errands.

The California Assembly has a methanol-powered 1978 Ford Pinto nicknamed the "Boatwright-car," after Concord Assemblyman Dan Boatwright, who sponsored the demonstration project.

The entire research project, funded at $44,000, cost less than the DOE vehicle's carburetor, although the state car is a result of highly sophisticated engineering.

"The Boatwright car" also operates far more economically than the DOE's test vehicle, outperforms it and—like the Times' car—has been in operation long enough to disprove claims by oil company opponents of alcohol fuel that methanol causes costly mechanical deterioration.

The Times' 1963 Plymouth Valiant project was launched some 15 months ago, after examination of some of the other highly engineered methanol vehicles. The goal was to convert a car to methanol use in the least complex manner possible. Achieving simplicity became a complicated project in itself.

The conversion was accomplished chiefly by Bill Brant, a machinist and master mechanic on the Times' mechanical maintenance staff.

The "slant six" Plymouth engine was disassembled and milled to achieve a 14–1 compression ratio. But in the course of tearing the motor down and reassembling it 14 times, and doing further machine work each time, the compression ratio was limited to 13.7–1 for mechanical reasons.

Since methanol has only half the energy potential (BTUs) of gasoline, a high compression approach was employed in order to maximize the use of energy.

With an approximately 70 percent gain in compression and efficiency, several types of carburetors were tested and modified. The final choice was a standard side-draft constantvelocity unit.

Accompanying the modification was tedious and often frustrating research in chemistry, combustion and automotive engineering. The goal of stepping forward with an alternative fuel was best served by looking backward into aged and often crumbling, yellowed journals, manuals and research papers from decades ago when methanol was widely used as automotive fuel.

During the months of working on the experimental car, analytical testing of combustion and ignition efficiency and resulting horsepower was done by Doug Mueller on the dynomometer at his Central Tune-Up shop in Concord.

Peter Felice, proprietor of the Red Line Synthetic Oil Corporation—and an expert in lubrication, compounded alcohol-based motor oils, gear and upper cylinder lubricants and greases—came up with a synthetic brake fluid during his months of coaching from the sidelines. Educated in both physics and chemistry, Felice's enthusiasm for the project—like that of the others involved—was based on his recognition of the need to develop practical, simple and economic alternatives to petroleum.

Bob Hagin, the Times' automobile columnist and auto shop instructor at College Park High School, provided the original car which had been given to the auto shop class by Mr. and Mrs. James Watson of Martinez, whose two sons, Stewart and Bryan, were students of Hagin's.

Research and tinkering continue in efforts to equal the miles per gallon that the venerable Valiant yielded on gasoline.

While critics claim a methanol-powered car can give only half the miles per gallon of a gasoline-powered car, the experiments have proven this claim incorrect. The vehicle yields about 80 percent of its former gas mileage and is expected to do even better with further adjustments.

Critics also claim methanol will "eat" certain parts of the fuel system, but the experiment shows that changes costing only a few cents for some rubber and plastic components will correct the problem.

Critics claim harmful effects to a motor when methanol is used as fuel. The all-iron motor of the Times' car was partially disassembled recently and carefully measured. It showed no sign of wear or deterioration. There was no sign of carbon or any other deleterious effect.

"It's better to light one candle than to curse the darkness," is the motto of the Christopher Society. St. Christopher was the patron saint of travelers.

There's not much else to say about an average car that doesn't use gasoline but does provide the average service it was designed for.

As Exxon says, "We wanted you to know."●

NATIONAL CONFERENCE OF CHRISTIANS AND JEWS HONOR ANTHONY P. RIDDER AND FREDERICK E. TERMAN WITH THE BROTHERHOOD AWARD

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. EDWARDS of California. Mr. Speaker, I would like to bring to the attention of my colleagues the outstanding contributions of Mr. Anthony Ridder and Dr. Frederick Terman to our community of Santa Clara County. Mr. Ridder and Dr. Terman will be honored on Tuesday, June 5 with the 1979 Brotherhood Award of the Santa Clara County Region of the National Conference of Christians and Jews. These gentlemen are certainly deserving of this fine honor.

Anthony Ridder is a graduate of the University of Michigan, but "saw the light" and moved to San Jose, Calif., in December of 1964. Since that time, Tony has been engaged as business manager, general manager and publisher of the San Jose Mercury News. He has been involved in a variety of community activities. He has served as chairman of the board of directors of the chamber of commerce, president of the Santa Clara County United Way, as a member of the board of governors of Goodwill Industries and on the board of fellows of Santa Clara University. We are all very proud of his accomplishments and contributions to the quality of life of our citizens.

Dr. Frederick Terman is an educator and electronics engineer. Dr. Terman's biographical background reads like a catalog of major university honors and recognition in our country and abroad. Certainly our valley's growth and economy have benefitted enormously from Dr. Terman's presence and work. He was born in Indiana and like Tony Ridder became a Californian. He graduated from Stanford University in 1920 and went on to further degrees at MIT. He returned to Stanford as an instructor in engineering and went on to become a professor, dean of the school of engineering, provost, vice president and acting president in 1964.

Dr. Terman has received many, many national awards and honors. He has also received many international honors including the King's Medal for Service in the Cause of Freedom (Great Britain), the Presidential Medal for Merit (Great Britain) and the Order for Civil Merit (Republic of Korea). Dr. Terman's long and illustrious career has made us all proud to honor him as our neighbor and as a distinguished citizen of Santa Clara County.

Mr. Ridder and Dr. Terman are indeed excellent role models for the young people of our valley. Let us hope that their service and commitment will inspire the next generation of leaders in our community and in our Nation.●

INVESTMENT TAX CREDIT CLARIFICATION FOR INMARSAT

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing a bill which relates to the investment tax credit provisions of the Internal Revenue Code, as they apply to property owned or used by an international organization.

For several years, COMSAT (Communications Satellite Corporation) has been the U.S. participant in the International Telecommunications Satellite Organization (INTELSAT), which is an international joint venture created by governments and telecommunications entities to establish and operate the satellites and related ground facilities of the global commercial communications system. Under section 48(a)(5) of the Internal Revenue Code, property is not eligible for an investment credit if it is used by an international organization or any agency or instrumentality of such an organization. Before 1971, it was unclear whether COMSAT's investments in satellites and other property of INTELSAT were eligible for the investment credit since the property could be said to have been "used" within the meaning of section 48(a)(5) of the Internal Revenue Code, by INTELSAT, an international organization. The Revenue Act of 1971 clarified that the use of property by INTELSAT would not disqualify COMSAT's interest in the property from the investment credit so as to further Congress' purpose under the Communications Satellite Act of 1962 to establish as expeditiously as possible international global commercial communications by satellite.

During the 95th Congress, the International Maritime Satellite Telecommunications Act (Public Law 95-564) amended the Communications Satellite Act of 1962 and designated COMSAT as the U.S. participant in the International Maritime Satellite Organization (INMARSAT). INMARSAT will be an unincorporated international joint venture to develop and operate a global maritime satellite telecommunications system.

My legislation would conform the investment tax credit provisions of the Internal Revenue Code to the recent amendments of the Communications Satellite Act of 1962 by extending the investment tax credit now available for nonmaritime global satellite telecommunications by providing that the ownership or use of property by INMARSAT is not to disqualify the property from the investment tax credit insofar as COMSAT is concerned.

The problem addressed by this proposed amendment is identical to that previously considered by the Congress in the Revenue Act of 1971. Like INTELSAT, INMARSAT will be an international joint venture, with COMSAT as the U.S. participant, and will operate a satellite system. COMSAT's investment in INMARSAT, like its investment in INTELSAT, will be based on actual utilization of the satellite. The proposed amendment to clarify the investment tax credit provisions for INMARSAT would further the congressional intent in the INMARSAT legislation to establish a global maritime satellite system on an economically viable basis.●

MANY ISSUES TO BE DISCUSSED AT THE FORTHCOMING INTERCOMMUNAL TALKS

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. COURTER. Mr. Speaker, due to the persistent efforts of United Nations Secretary General Kurt Waldheim, a basis for resumption of the negotiations on Cyprus has been established. We owe him a debt of gratitude.

Although we have no concrete results at this time, Saturday's communique gives us room for cautious optimism. The intercommunal talks, which will resume next month, must address a complicated array of issues: How to end the illegal Turkish occupation of the island, how to resettle the thousands of Greek Cypriot refugees displaced by the Turkish invasion, and how to formulate a constitution for a united and independent Cypriot State. Through the Secretary General's efforts, a framework for negotiations to resolve these and other problems has been established.

Since the communique was issued, the difficulty of the upcoming negotiations has been made clearer than ever by Mr. Denktash's statement that the two sides are still "180 degrees apart." While I was encouraged by the communique's statement that the resettlement of Varosha would be a top priority of the negotiations, not contingent on overall settlement, I am disappointed that no timetable is attached to this goal. I am also disappointed to see that the territory Mr. Denktash offers is capable of holding only a fraction of the 35,000 Greek Cypriots displaced from that city.

I hope that Secretary General Waldheim will press for a truly expeditious settlement of this particular issue as a demonstration of good faith on the part of the Turkish Cypriots, and that he will press for a settlement along the lines of the U.S. proposal of last November, with unlimited resettlement in an adequate amount of territory.

Clearly, the Secretary General has his work cut out for him. Let us hope that his skill and patience will bear fruit in his effort to bring the Greek and Turkish Cypriots to a just and enduring settlement.●

SARAH WEDDINGTON

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. PICKLE. Mr. Speaker, Sarah Weddington, the President's Special Assistant for Women's Issues, brings dignity, poise, and quality to the office. I have observed her service as a distinguished member of the Texas House of Representatives and later as legal counsel to the U.S. Department of Agriculture. She is a strong person, qualified and dedicated. I think the Members will enjoy reading this article from the Christian Science Monitor. I know the State of Texas is very proud of this gentle, yet capable administrator and spokesperson for everyone's equal rights.

SARAH WEDDINGTON

By Louise Sweeney

(Staff correspondent of the Christian Science Monitor)

In a small, windowless basement room of the White House hangs a map of the United States with 35 states painted chrome yellow. The keeper of the map, Sarah Weddington, watches it with the care of a General Patton studying the enemy's retreat in war.

Mrs. Weddington, the President's special assistant for women's issues, wants to turn three more states chrome yellow. The yellow tide signifies the number of states that have ratified the Equal Rights Amendment; 35 have passed it so far, and only three more will result in the ERA's becoming part of the Constitution.

Mrs. Weddington says one of the things she is most proud of during her six months in office is helping to get the ERA extension passed. It obviously means a lot to her; when she's asked if she really believes the amendment will be ratified, given all the flak it's run into so far, she says:

"I'm a naturally optimistic person, so I come at it from the viewpoint that I think it will pass. I think there are two things that are really going to determine it. . . .

"One is the election next year. Basically that's something it's not appropriate for the White House to be involved with, but it's an important factor because if you look at the states that failed to ratify this year, in a number of them—enough to have passed it—we only lacked, say, two votes. And in many votes, the undecided were only four to six votes.

"So there is such a narrow margin there between defeat and victory that the next election and who sits in the Legislature could well decide whether it will pass or fail."

JOB DIFFERENT FROM MIDGE COSTANZA'S

Mrs. Weddington knows all about the politics of who sits in the Legislature; as a former lawyer she sat in the Texas Legislature herself for several years before she came to Washington as general counsel for the Department of Agriculture 2½ years ago. She was tapped from this job by the President to succeed the brash, outspoken Margaret (Midge) Costanza as assistant for public liaison. But in the process the job description was changed: Sarah Weddington focuses only on women's issues, not the variety of special-interest groups which were Miss Costanza's province. It has been said that the choice of Mrs. Weddington marks the triumph of the politics of conciliation over the politics of confrontation. Certainly Mrs. Weddington is no Costanza, and no Bella Abzug, either.

SAME BASEMENT OFFICE

In person she has a soothing, smoothing quality, an implacable calm. There is something maternal about her that reminds you of soft things from childhood—comforters, custard, and stuffed animals. She creates an atmosphere of ease around herself. It is difficult to imagine her shouting, brandishing a picket sign, or marching. There is an almost old-fashioned quality about her, perhaps because with her long reddish-gold hair piled up on top or her head, she looks like a Gibson Girl.

Mrs. Weddington is a tall woman in a short room, the basement office with its low ceiling to which Miss Costanza was consigned after her fall from grace and from her original windowed headquarters near the Oval Office.

The day we talked she was wearing a black skirt, tan cardigan knit jacket, and a beige, green, and black leaf-patterned blouse. Pearls and a gold chain necklace mingle at her neck. On her feet are low-heeled black Gucci shoes with gold snaffles. She wears a thick gold signet ring. There is no sign of an engagement or wedding ring left from her divorce.

Her voice is soft, leisurely, semi-Southern, and she talks in a quiet stream. There is more on the subject of the ERA: "The second part is, it seems to me, that a lot of women and men too are confused about what the ERA would and would not do. The ERA in some ways has become a symbol for changes that people sometimes don't understand and sometimes are uncomfortable with. And I think we need to separate out those things the ERA would and would not do."

Which brings us to the military draft; many ERA opponents argue the amendment would result in drafting women. When Harold Brown, Secretary of Defense, announced recently that drafting women was a possibility, did Mrs. Weddington think "there goes ERA"?

She deflects that: "I think it cuts both ways. With Brown saying that, and I didn't know he was going to do it before he did . . . I had to think through what the impact of that was to me. I think one impact was to point out to people that the draft might well extend to women even without the ERA. And it sort of defuses this ability to say the ERA equals draft."

How does she feel about women being drafted?

"I don't have any problem with saying that women probably would be subject to whatever provisions [draft or alternative service]. If there were some sort of national system you would have all kinds of exemptions that would also apply to women. Saying that women could give some sort of public service does not equate wth women being in combat. About 92 percent of all the positions in the military are jobs that women do every day on the outside."

She speaks with the quiet poise of one who is sure of her position, her methods, and to quite a degree, her acceptance. Speaking of the women's movement, she says, "We have been through a period when it took a lot of us using tactics that are not appropriate for those already in. It is true that I am a person who comes from a background of being on the in. I mean I was in the Legislature, I am in the administration. I just work differently.

"Some people equate being abrasive with bringing change. I don't. For example, as I look back on the Texas Legislature, I was the key person in the Legislature [behind the amendment], so that we never rescinded on the ERA, even though we had hearings. I was one of the key sponsors on the equal credit for women. I was one of the two sponsors of the rape reform legislation. I was on the committee that redrafted the family code so that now property rights are equal as to men and women.

"So I have a long history of accomplishments within the Texas Legislature. Certainly the legislators disagreed with me at times, but I was a personal friend of almost all of them. It is very important to have close personal friendships in getting things done from the inside.

"In Texas I never participated in the marches on the State Capitol. I didn't feel comfortable doing it. But those women who did were helpful. Because even though the legislators were very turned off by the march, they did come to me and say, 'Now, what was that all about,' and it gave me a chance to educate them."

Bob Johnson, parliamentarian of the Texas Legislature, says of Sarah Weddington, "She's not conciliatory. She'd fight, work hard talking to people, convincing them, and there wasn't a dad-gummed thing they could do about her. She'd be dedicated, and when she's dedicated she's hard as nails. But she's not an abrasive person."

Mrs. Weddington used to spend time at the Johnsons' Austin, Texas, ranch, unwinding from her job as a Texas legislator. Mr. Johnson says "she's smart, dedicated, and I think she has boundless energy."

Asked about what one observer calls Mrs. Weddington's "conspicuous calm," Mr. Johnson suggests, "It's probably because she's thinking all the time, that's why she has that calm [appearance]. She probably has her fears and things that other folks have but she doesn't let them get ahold of her. It may be a studied approach in her speaking and delivery—in the Legislature, when things got hot and heavy, she was always very composed."

One of her habits, he notes, is "complete serenity."

Yet there's the other side of Sarah Weddington, the side that is anything but demure. She likes to hurl herself into life and learn about it. On the ranch, Bob Johnson remembers, they were out riding the horses one day and came to an area where the bulldozer was at work. She wanted to learn to drive it and did, keeping at it "until she was quite adept at pushing the dirt around out there."

Working in the White House often results in a sense of being isolated from what she calls "real people, people in their everyday lives." So she tries to get out among them, and plans a very unbureaucratic vacation—this year a horseback trip with friends into a wilderness area.

She also loves country-and-western dancing, music (Willie Nelson and Waylon Jennings), and going to the zoo. She can't stand watching TV, reads a lot (William Safire's novel about presidential politics, "Full Disclosure," and Marilyn French's feminist novel, "The Women's Room," are two of the latest).

"For me to be successful in the way I want to be successful, and for me to contribute in the way I want to contribute takes so much of my time and energies that I don't feel I can personally establish another relationship at the same time. . . . I do not realistically think I will marry again while I'm in public life," she says. Her seven-year marriage to her husband and law partner, Ron Weddington, ended in divorce in 1974.

The marriage is not mentioned in her official White House biography, nor was it mentioned in her campaign literature in Texas.

"I felt [in Texas] that whether I was married and who my husband was, was a subsidiary part of my life, and it wasn't the reason I was asking people to vote for me. Here . . . I think of myself as being very professional. . . . And, to me, whether I'm married or not is not really impacted by it."

Was her being in the Texas Legislature too much of a conflict with her marriage?

"Politics is hard on any marriage, whether you're talking about a man or a woman. In my case it just happened that while my husband was very supportive, it was difficult for him when I was the one always in the spotlight. And then, of course, the more I was in office, the more I was traveling and doing speeches and different things. And he wanted someone to be at home and watch TV and go to the movies, which I thoroughly understand.

"But I wasn't ready to make that change. So after our divorce, we practiced law together for another year. It was a very friendly divorce. And I have a lot of respect for him. He taught me a lot and I grew a lot in that relationship."

She speaks of how many women today are trying to think through combining the demands of their professions and their personal lives.

"I guess it's my admission that I'm not a superwoman. I can't do it all. And for me, I chose to do the job. . . .

"It's the same reason I don't have children. I just feel so strongly that if I had children I would want to spend a great deal of time and personal effort with them. . . . I just would not be pleased either way with my efforts on behalf of me or my efforts on behalf of the children."

In her own practice in Texas, Mrs. Weddington specialized in family law, and it was she who argued and won the landmark abortion case Roe v. Wade before the U.S. Supreme Court. Reference to the politically inflammatory issue of abortion is not included in her White House biography, which says only that "her experience includes a case argued successfully before the Supreme Court."

She explains, "I think that most groups identify me so closely with the abortion issue, especially in terms of women, that I really wanted them to realize all the other things I've done, too. And my work in the White House has not been on abortion but on a wide range of other issues. . . ."

Mrs. Weddington spent nearly three years preparing for the case she argued so successfully before the Supreme Court. It concerned a pregnant, unmarried waitress with an eighth-grade education who needed an abortion. She crammed the three years with reading, research, talking to people, and making speeches. At the end, she did "moot courts" with students and professors quizzing her as the Supreme Court would, at the University of Texas, where she received her law degree.

She says she was nervous, but when the big day arrived, observers called her cool and poised. She had come to Washington the night before her appearance. She hardly slept, getting up frequently to check citations for questions the justices might ask. She had been told it used to be traditional for women to wear a high-necked, long-sleeved, floor-length black dress. She chose a dark blue business suit.

That morning her initial nervousness evaporated in the flurry of welcoming friends in the court. She remembers the heavy questioning from the justices and the goose-quill pens on the lawyers' desks.

"Of course I remember the majesty of the courtroom setting. You have that room made of 13 kinds of marble. When you enter at the back, there are the pews where the lay people sit. And they tell you not to chew gum and not to write and not to talk and not to put your arm on the back of the pews. It's just like church. . . ."

Just like church, says Sarah Ragle Weddington, a preacher's daughter from west Texas. Born in Abilene, Texas, she grew up moving every four years or so from congregation to congregation. And she grew up confident:

"I grew up with the church people responding very affirmatively to me and my family. And the result is I've always expected that, and by and large people have met my expectations. . . . I never rebelled against being a preacher's daughter as some have. . . . I think it was because my father never said to me, 'You can't do that because you're the preacher's daughter.' He often said to me, 'You shouldn't or can't do that because it's wrong'. . . . I tended to be very serious and very stable and very solid and all these other things."

Her friend Abigail Havens says, "She's a true Texan, her first loyalties are to Texas. She's pointing toward statewide office—governor, attorney general, or lieutenant governor."

Meanwhile, back at the White House, Mrs. Weddington is busy turning the country chrome yellow for the ERA, busy helping the President to see that "there is a drastically increased number of women on both the federal circuit court and the federal district courts," even talking about the possibility of a woman on the Supreme Court, traveling, speechifying. In fact, she is busy "creating a climate and work relationship with the President, with the White House staff, Cabinet officers, and people on the outside that sets a stage for women's issues being considered important, being seriously dealt with." ●

ESKIMO HOLOCAUST

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, recently, the House of Representatives approved a bill setting aside huge areas of land in Alaska as national parks, wildlife refuges, and wilderness areas. As passed, the Alaska lands bill was opposed by myself, Alaska's Senators, Governor Hammond, the State legislature, and the majority of Alaskan residents.

During the course of debate on the Alaska lands issue, Members were constantly informed by special interest lobby groups that the State of Alaska should not get its land, because the State was part of the "rape, ruin, and run" gang. The only way to "save" Alaska, Members were told, was to vote in favor of large wilderness areas in my State.

If the speciousness of this argument was not already apparent to Members, it soon will be. On June 4, 5, and 6 WDCA, channel 20 in Washington, will be presenting a film entitled "Eskimo Holocaust." The film will be shown at 1:30 p.m. each day. The producer, Mr. Bruce Kendall, is a long time Alaskan who has carefully researched his topic. After watching this film, it will be evident that the real environmental villain in Alaska is the Federal Government.

I urge all Members to take the time to view this presentation and consider the effect of their vote on Alaskans.●

AGAINST THE LIFTING OF SANCTIONS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. EDWARDS of California. Mr. Speaker, many of my colleagues are becoming increasingly concerned over the issue of lifting sanctions against Zimbabwe Rhodesia. I welcome this concern over what I regard as a crucial issue. I feel greater interest in the issue can only result in a more informed decision on the lifting of sanctions.

The question of lifting sanctions against Zimbabwe Rhodesia is not in the forefront of many Members minds, and as such is easily subject to distortion. I hope we are able to have a lengthy discussion of the subject exposing all aspects of the question. Such a discussion can only result in a decision against the lifting of sanctions.

In the interest of informing my colleagues and contributing to the discussion on the lifting of sanctions, I have entered the following article from the Christian Science Monitor of May 31 into the RECORD:

THE BISHOP'S MOVE

Bishop Abel Muzorewa takes command of the new Zimbabwe Rhodesia. In an historical sense, it would be sanctimonious not to recognize the importance of the installation of the nation's first black Prime Minister. This represents a significant step in the right direction, the direction of ultimate full majority rule. It will now be up to the Bishop—if he expects international support—to show that he can govern effectively, make those constitutional changes needed to expand black participation, reach an accommodation with the political leaders left out of the internal settlement, and end the debilitating guerrilla war. That is a tall order.

By taking on the post of Minister of Defense himself, the Bishop presumably wants to maintain high visibility and demonstrate that he is in command of the war operations—and the country. That may be a good move politically and tactically but Mr. Muzorewa knows nothing about defense matters and that will not inspire confidence. There is little doubt that Ian Smith, who is not in the Cabinet but is a minister without portfolio, will continue to exercise enormous influence behind the scenes. The former white leader no doubt is kept on to reassure the nation's white minority, still leaving the country at increasingly high rates. But he will be the Bishop's albatross as well as his counselor. For until the Prime Minister and other black leaders can ease Mr. Smith from the political scene and prove they are truly in charge, there looks to be little hope for international recognition.

Pressures obviously are building for a lifting of economic sanctions against Zimbabwe Rhodesia and recognition of the new government. Even U.S. Secretary of State Cyrus Vance, after his talks at the Foreign Office in London, spoke of "a new reality" in Rhodesia. But the Americans and the British also recognize the political realities—and pitfalls—of premature moves made under domestic pressures. Even if the recent elections in Rhodesia are deemed fair and free enough to warrant recognition (and even that is open to question), the fact remains that the Salisbury government is only a limited black government and therefore the guerilla violence goes on. The African frontline states will not recognize the Muzorewa government; the Organization of African Unity will not recognize it; and the Commonwealth nations, too, have warned Britain about the dangers of recognition. For the British and U.S. governments to fly in the face of this militant mood would be inviting diplomatic disaster—a lineup of Britain and the U.S. with South Africa on one side and most of the African states plus the Soviet Union on the other. The Russians would be gleeful. It would also violate an action of the UN Security Council, a violation which would be morally and legally indefensible.

The challenge for London and Washington will be to continue to work with all factions in the ongoing black political struggle and to try to bring the civil war to an end. As many experienced diplomats counsel, the wiser course is not to take sides but to keep encouraging movement forward. Bishop Muzorewa is now in a position to play a crucial role. Peaceful resolution of the difficult conflict may well depend on how ably he plays it.●

REGULATION AND THE LEGISLATIVE REVIEW

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. KEMP. Mr. Speaker, the Housing and Community Development Amendments of 1978 provided for a significant congressional oversight of rules and regulations which the Department of Housing and Urban Development might wish to enforce. In the bill before us today, Congress is given the opportunity to overturn one of those regulations which my colleagues on the Committee on Banking, Finance and Urban Affairs found deficient. The committee took prompt and astute action to set the stage for invalidation and disapproval of the regulations permantly.

Mr. Speaker, it has become an all-too-common fact that excessive and erroneous regulation serves as a tremendous barrier between reward and effort for both individuals and businesses.

Representatives of the construction unions and industry in my district in Buffalo, N.Y., are incensed and outraged that HUD is attempting to proceed with implementation, even though the committee has met the requirements of Public Law 95-557. I join them in repudiating these thermal insulation directives which are neither energy-efficient nor cost-effective. I urge my colleagues to support the action of the Banking, Finance and Urban Affairs Committee and mandate a revision of the thermal requirement for the FHA minimum property standards which will lead to the saving of energy and allow the construction industry in my district and throughout our country to follow sensible, cost-effective policies.●

A CHAMPION FOR CHILDREN

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. WOLFF. Mr. Speaker, I wish to share with my colleagues a few brief words about Phil Sommese, of Westbury, N.Y., an outstanding individual who has selflessly given his time and energy in the battle against Cooley's anemia. Cooley's anemia is a grave congenital blood disorder which strikes at young children and requires treatment by frequent, expensive blood transfusions. I join with the Cooley's Anemia Foundation in honoring Mr. Sommese for his long-standing assistance in efforts to raise funds and support for research and treatment of this dread disease.

Mr. Sommese's tireless efforts to advance this worthy cause are a shining example of volunteerism and commitment on behalf of the young children who depend on the treatment made possible by the Cooley's Anemia Foundation to live and grow with hope for a secure future. When help is needed, Phil Sommese has been there to provide it. His concern has often been the key to success for events sponsored by the local chapter of the foundation. His standing as a prominent labor leader in the community has given additional strength to this cause. It is on this note that I wish to submit this brief biographical sketch of Mr. Sommese prepared by his friends in the Cooley's Anemia Blood and Research Foundation for Children. Mr. Sommese truly is a "heavy hitter" for these children who have needed this help so much.

The biographical sketch follows:

BIOGRAPHIC SKETCH OF PHIL SOMMESE

In the world of philanthropy, those who hear the call for help, who recognize the need to commit themselves to a worthy cause and are then able to do something about it, are called "heavy hitters". Sometimes these "heavy hitters" are public leaders in the charitable field, sometimes they work behind the scenes. But what they do makes things happen. The honoree of the Cooley's Anemia Foundation is one of these "heavy hitters". When Phil Sommese cares, things happen.

Married in 1940 to former Mary Abbatiello, Phil still resides in his boyhood community of Westbury, where his son was also raised and is now a Professor of Languages at the Suffolk Community College in Selden, N.Y., and is presently preparing to earn his Doctorate in Languages at the Stony Brook University.

Phil comes by his "heavy hitter" status naturally. An extraordinary athlete as a young man, Phil was a prize-fighter good enough to be a Golden Gloves champion for several years in a row in the mid-1930's and to have a successful professional career as a fighter until an injury, and the urging of his wife, Mary, ended his career in 1938.

He fought again though, in 1943, serving his country in the U.S. Navy in World War II and then entered the "War of the working man" by joining the crganized labor field after his tour of duty in 1946. In 1951, Phil was made a Delegate of the General Building Laborers Local 66, and again in 1972 he was elected Business Manager and Secretary-Treasurer. Phil's interest in children is well known. In 1974 he was honored by the Boys Town of Italy as its Man of the Year.

Because Phil Sommese is a "heavy hitter" and because he cares dearly for children in need those with Cooley's Anemia have, a very special friend and champion.●

STOP KNOCKING OUR PUBLIC SCHOOLS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. MILLER of California. Mr. Speaker, our growing loss of confidence in public schools has blinded us to many of the system's accomplishments. I would like to share with my colleagues an article which speaks to this issue. The article, which appeared in the Sunday edition of the Washington Post, delineates many of the system's successes over the last two decades. The author, William Greider, points to the significant increase in the number of black teenagers finishing high school as well as striking gains among young children in acquiring basic skills.

Serious problems continue to plague our public schools and we must act to correct them. However, ignoring our accomplishments only propels us more rapidly toward a self-fulfilling prophecy.

The article follows:

[From the Washington Post, June 3, 1979]

STOP KNOCKING OUR PUBLIC SCHOOLS

(By William Greider)

Every true American loves the familiar story of struggle and triumph by a group from the ethnic underclass—the Irish, the Italians and Jews, the Chinese and, now, the Koreans. So I have discovered another ethnic group whose struggle should be celebrated.

In one generation, these people overcame many of the educational inferiorities imposed on them for centuries. They tripled the number of their young people who graduate from high school. They broke down barriers to higher education and dramatically narrowed the gap with other more fortunate American children. They reached for equality—a ridiculous goal, considering their tragic history as a people—and their progress has been breathtaking.

You may not recognize it, but I am talking about America's native-born black citizens. A few weeks ago, on the 25th anniversary of the Supreme Court's *Brown* decision, instead of this triumphant message, we heard a chorus of gloom—from black leaders, of all people. Vernon Jordan of the Urban League said, in so many words, that nothing has changed in 25 years. James M. Nabrit, a beacon lawyer who argued one of those landmark cases, denounced the public schools as failures. And so on, with others.

The supposed failure of the public schools is, in fact, a favorite message in newspapers these days, especially in this newspaper, especially the failure of the District of Columbia schools from which so many white citizens have fled.

Personally, I am sick and tired of people beating up on the public schools. I think it is a form of scapegoating, a variation on the old game called "blaming the victim." I suspect some critics use "public schools" as a new codeworld for racial slurs, particularly in our largest cities. Most tragically, beating up on public schools serves the interests of those who wish to suppress social change, who want the poor and unwashed to stay in their place, scrubbing floors and shooting dope, tucked out of the way so the rest of us can go enjoying the more luxurious life of modern America.

At the risk of losing all open-minded readers, I admit my deep personal biases on this subject. I grew up in a family committed to public schools, committed in a way that nobody ever needed to articulate at the dinner table. My mother taught school, including poor and unwashed children in a city slum. My father served for years on a community school board. My aunt was a teacher. So was my sister. My grandfather struggled up from uneducated poverty, thanks to the "free common schools" of prairie Kansas, and he became a learned high school teacher himself. In the curious manner of these things, my wife's family has a similar profile—an abundance of teachers and school board members.

So I confess—when I hear glib generalizations about the hopelessness of public schools, somewhere deep in my psyche it sounds like they are beating up on our family, and I get angry.

Now I hope the public school critics will examine their own biases. How many are motivated, perhaps, by pretentions of class superiority or by racial fears? How many suffer from that social petulance that is really a contempt for children, including their own?

But let's stick to the facts. The evidence, as opposed to someone's rheumy recollections, supports me in this audacious claim: The American public schools are doing a better job today, better than ever before in our national history, of providing universal education for our young people, white, black, brown or whatever.

The facts, for example, describe an educational revolution among blacks. In 1950, only one of every four black children finished high school in America. Imagine: only one of four. The rest dropped out and, with rare exceptions, assumed the menial stations the society reserved for them—stoop labor.

Today, three out of four black children complete high school. Consider the social meaning of that change: In 30 years, the public schools were opened to a huge underclass of young people. Will anyone argue that this generation, now completing high school, is behind those children who, a generation ago, quit in the 7th or 8th grade? I would like to see the evidence for that.

The District of Columbia schools, notwithstanding their lousy reputation, participated in this great leap forward—more black kids in D.C. are finishing high school, many more are going to college. Just from 1972 to 1977, for instance, the D.C. school system increased its high school graduates by 9 percent—while D.C. high school enrollment was leveling off.

Older black leaders remember fondly the academic excellence of the older Dunbar High School, and they bemoan the present inadequacies of D.C. graduates. They are inclined to forget that old Dunbar was possible only because most black children did not finish high school, much less study Greek and Latin, a generation ago.

The equation is fairly simple, and it applies to public school across America: It's a lot easier to provide excellent education if you are only going to educate relatively few children, particularly if they are students who already do well. If the schools try to educate all children, the job becomes far more difficult. In the last generation, the public schools have tried to do this. They are a long way from what anyone would describe as a rousing success—but they are also far ahead of where they used to be.

This educational upheaval affected white children, too. In 1950, only 56 percent of white children completed high school. Does that shock you? It shouldn't. Poor whites in America have always outnumbered poor blacks. Today, about 85 percent of white children graduate from high school. Are they not better educated than their fathers and mothers who quit school in adolescence, many of them going, like poor blacks, to the bottom rung on the economic ladder? Show me the study proving that.

Anyone looking at such statistics will see, of course, that young blacks did not completely close the educational gap with whites. But their progress is clearly more dramatic than that remaining gap. It translated, with the aid of the civil rights movement and federal money, into an even more remarkable change in higher education—a crude parity, not perfect but certainly a watershed of deep social significance. Black enrollment is now about 13 percent of the college-age population—roughly equivalent to the black share of the overall population. Yes, a good number of these black students are in two-year community colleges, but that is a level most blacks never had a prayer of reaching a generation ago.

Again, it helps to remember what the past was really like—not how some people like to remember it. In 1960, there were 435 blacks in white colleges in the South. Today there are well over 100,000. That represents real social change, which begs the same question: Are these children not better educated than the earlier generation?

At this point, the criticis may say, "Yes, but . . ." The "but" leads to the muddled question of quality—how much are these children really learning? Aren't some high schools "graduating" illiterates, kids who can't read or write much? Yes, some high school "graduates" are illiterate. Yes, that is a scandal, one that ought to provoke outrage and reform.

But concentrating on this disturbing reality, as if it were "typical," is profoundly misleading. In general, notwithstanding what you think you read in the newspapers, the quality of student performance is as good or better today—repeat, as good or better—than it was a generation ago. Today's children, on the average, do as well or better on achievement tests than their parents did—if their parents were in school at all.

A serious performance gap remains, of course, between black and white, between rich and poor, though the racial differences are narrowing in basic skills. In any case, if you think about it, there will always be "gaps" on achievement scores between different students—unless you can imagine an America in which all children are born with precisely the same brain cells or talents or grow up in identical environments.

Arthur E. Wise of the Rand Corporation is one of a number of scholars who have studied the array of test results and concluded that the news chiefly is good, not bad. Since the Rand Corporation is not exactly a bleeding-heart think tank, inclined to wishful thinking as I am, Wise's conclusion is available:

"The loss of confidence is not the result of a decline in quality; it is the result of a re-emerging conservatism which wants to see the world as worse than it used to be."

One of Wise's favorites is a statewide sampling in Indiana that matched 10th graders of 1976 against 10th graders of 1944 and found the modern group to be superior—though the '76 class obviously included many of those children, white and black, who never reached the 10th grade in 1944.

This demographic change in the public schools—taking more children and taking them further—was also the real reason for most of another celebrated decline, the drop, until last year, in scores on the Scholastic Aptitude Test. The SATs used to be taken by an elite, a relative handful from the better schools, the better families. But then, thanks to egalitarian reforms in education, a much broader cross-section began taking the tests, more racial minorities, more women, more white males from poorer families. This pulls the national "average" down on that test (which measures aptitude, not achievement), just as the D.C. schools lost ground on tests as more affluent whites were replaced in the averages by poorer blacks. But this certainly doesn't mean black children are doing worse than before.

Nevertheless, the new "conservatism" has produced the current "back to basics" hysteria, a trend which is likely to hurt more children than it helps. The "back to basics" formula will make school more boring than it already is, more geared to the safest and lowest common denominator, Dick-and-Jane rote drills. Everybody, by God, is for reading, writing and arithmetic, so let's cram it into their hard little skulls. Most children will hate it. So will most teachers. But public anger must be served, however misguided. A few years hence, the schools no doubt will produce the "back to basics" test scores to show they have solved some problem.

Meanwhile, tests already show that children have been improving on basics, reading, writing and math, white children and black, North and South. The National Assessment reports find the most striking gains among 9-year-old black kids. This is significant because that's where the feds have spent most of the money—on helping younger children from poor families in the early years of schooling.

Indeed, the most serious problems reflected in the national testing is the opposite of rote skills: Students finishing high school show a declining ability to grasp complex ideas, to draw abstract inferences from diverse information. When you think about the complexity and change in their futures, that's a scary educational problem. But, unfortunately, the critics are stampeding the schools in the other direction.

Who should be blamed for this wrongheadedness? I would start with the school people, who are notoriously inept at defending themselves. They turn and run before every gust of public discontent. They conceal better than they explain.

Or you can blame the newspapers. I do. And I plead guilty myself to participating in that strange value system that finds failure more interesting or important than success.

But the problem with newspapers is not really good news versus bad news. Newspapers, by their nature, are constitutionally opposed to history. They are quite good at taking snapshots of today or yesterday, but they are incapable of looking backward and asking how the snapshot fits into a continuum of events, the complicated story of people changing over time. Today's outrage looks more outrageous if you have forgotten yesterday's.

In any case, as Wise noted, there is an audience out there that wants to hear this message of failure. (Interestingly, though, public opinion surveys indicate that citizens with children in the public schools—with their own channel of information independent of the news media—have a much higher opinion of the schools than do others.)

The belief in decline is really a public value statement, one that often implies that black children or poor children cannot improve themselves. If education makes no difference, why bother? The children, of course, hear the same message.

Does that make the gloomy Vernon Jordans into an unwitting spokesmen for conservatism? I think it does. It makes someone like the Rev. Jesse Jackson, corny as he sounds, a revolutionary, because Jackson's message to young blacks challenges the "illusion of inevitability," as one social philosopher calls it. The illusion of inevitability is a principal barrier to social injustice because it convinced the downtrodden, no matter how deep their pain, that nothing will improve their low status.

The continuing rage of black leaders, I believe, is aimed at the wrong target. In general, it was not the schools that failed the last generation of black children. It was the rest of society that disappointed the newly educated, that failed to provide the jobs and income that were promised when those young people were urged to stay in school.●

U.S. ARMY'S DEFENSE POSTURE AND THE FISCAL YEAR 1980 BUDGET

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. BONER of Tennessee. Mr. Speaker, recently I had the opportunity to meet directly with the Secretary of the Army, the Honorable Clifford Alexander, on a variety of issues of great concern to the constituents of the Fifth District of Tennessee. The Secretary indicated to me at that time that the United States was faced with critical shortages of basic operation and maintanence items in the defense budget, including adequate stockpiling; ammunnitions; food; and trucks in the European theater of operations.

Mr. Speaker, although the Army and Marine Corps' ground forces policies and programs for fiscal year 1980 are a virtual straight line continuation from those of fiscal year 1979, and earlier years, there are important unresolved questions which have been raised by observers. These include the amount requested for operation and maintenance for the Army is less than would be required to compensate for inflation for fiscal year 1979 to 1980. This raises the issues of whether the administration is underfunding the operation of maintenance accounts of the Army, vital for maintaining ongoing readiness in terms of fuel and spare parts. Can the efficiencies which the administration proposes in the operation and maintenance part of the budget affect the operations of our armed forces? Is the major increase in pre-positioned ground force equipment in Europe resulting in dangerously low active and reserve stocks in the continental United States? What is the ability of U.S. base forces to respond to non-European contingencies? What is the vulnerability of pre-positioned military equipment in Europe to a preempted Soviet bombardment and does this vulnerability call to question the placing of additional equipment in those stockpiles?

It has come to my attention, Mr. Speaker, in a hearing before the Subcommittee on Manpower and Personnel, of the Senate Committee on Armed Services, last year, June 20, 1978, in testimony prepared by my fellow colleague, ROBIN BEARD, Republican of Tennessee, entitled "An Analysis and Evaluation of the United States Army, April 1978." In this study, many platoon leaders and company commanders in the European theater complained about shortages of equipment. "The parts system for vehicles," they indicated is an aberration. We are consistently short on parts for our tracks, trucks, and other vehicles. We need more training days, our morale and effectiveness improve with training. We need more ammunition. In some cases, we have only fired weapons once in the past year. Junior officers felt that much more could be done to strengthen readiness. Improvements would include providing a full supply line for spare parts, increase training days and increase ammunition and supplies. In some cases the junior officers state that the equipment is antiquated and needs to be replaced.

I feel, Mr. Speaker, that in fiscal year 1980, unless Congress overrides the administration's request, the dangerous trend of cutting the Army's request for ammunition, procurement, trucks, and food will be continued. Plans to build up ammunition reserves in Europe and to generally improve the Army's ammunition posture would not be helped by the $316.8 million cut in the Army's request for fiscal 1980. The administration has also cut $36.5 million from funds requested to improve the readiness of the standby ammunition production base, and $14 million intended to improve ammunition storage facilities. The successive cuts over the last several years have put the Army in a position of real peril in terms of its ability to support an emergency which might last more than a few weeks. Mr. Speaker, we could end up with a shadow rather than the substance of a full defense capability unless we fund and pay more attention to training, material, readiness, adequate stocks of combat, consumables, and movability. It has been reported in the defense community that we seem to "shy away from combat readiness, high alerts, and rapid responses. These are taken for granted in the strategic forces where the stakes are highest, but nuclear warfare, thus far, remains a deadly abstraction while nonnuclear conventional combat is sadly an almost daily fact of life."

I have had the opportunity to review a report of the special Subcommittee on NATO Standardization, of the House Commitee on Armed Services, chaired by the Honorable DAN DANIEL, which indicated that witness after witness testified before the subcommittee about the relentless growth of the Warsaw Pact and Soviet military budgets. He indicated that this prolonged buildup has not been paralleled by an adequate response from the NATO allies. After reviewing the public statements about the commitment to NATO, the report indicated that the simple fact remains that the U.S. defense budget presently planned for fiscal year 1978 to 1981 will be at least $32.5 billion less than the previous administration had programed 2 years ago for the same period. In addition, the major readiness deficiency of the NATO alliance is, according to the report, that it does not have enough military resources to provide a creditable conventional defense.

Mr. Speaker, I was appalled to read in the Secretary of Defense's annual report for fiscal year 1980 to the Congress that there are currently large shortages in our war reserve stocks of the modern more efficient air and ground ammunitions. Secondary item war reserves are those combat essential consumables needed to repair, maintain, and support defense weapon systems and forces ranging from aircraft radar to GI combat boots. Secondary item war reserves are a relatively small part of the budget, however, shortages can severely degrade our combat capability so that a short fall in the war reserve inventory is as important in major equipment ammunitions. The fiscal year 1980 budget includes a $172 million reduction in the secondary item war reserves.

I intend to support efforts during the Department of Defense appropriations' legislation for fiscal year 1980, which would essentially seek to build up our operations and maintenance part of the defense budget to provide for an adequate war reserve capability, based on war plans and deployment schedule in the European and other theaters of operation so as to provide our Armed Forces with the needed ammunitions, trucks, food, and other combat equipment to meet the growing Soviet threat. As a result of the lessons of the 1973 Middle East war, in which our stockpiles were dangerously reduced, I feel it is encumbent on the Congress to review the defense fiscal year 1980 budget as it is reported out of the House Armed Services Committee, House Appropriation Defense Subcommittee, and to the floor for final consideration and action.

At this time I wish to commend the members of the House Appropriations and Armed Services Committee, as well as the President and the Secretary of Defense in preparing what I know is a difficult and important decision relating to the amount of moneys needed to maintain adequate national defense structure. However, it is time to reconsider where we are headed and whether we have the means, and the willpower, to provide our young men and women in uniform with the necessary equipment to defend our allies, and our vital national interests.●

A TRIBUTE TO ROBERT OLIPHANT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. SKELTON. Mr. Speaker, the Odessa, Mo., Chamber of Commerce is honoring one of its area's citizens for meritorious service this week. He is Robert Oliphant, president of the Bank of Odessa.

Mr. Speaker, this is certainly a most well deserved honor, as Mr. Oliphant has been an outstanding civic and business leader in western Missouri for many years. His wisdom and judgment have not only built a strong bank, but have advanced the agricultural and economic growth in Lafayette County and western Missouri substantially. To so many people, he has been a friend and an adviser. His optimism in the American way of life has proven to be well justified by the growth and development in the entire Odessa area.

I join with his many friends and neighbors in congratulating him on this special occasion.●

CONTINUING CRISIS IN FOSTER CARE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. MILLER of California. Mr. Speaker, a number of experts from throughout the United States met yesterday in the Washington Town Meeting on Foster Care. A major focus of this meeting was H.R. 3434, the Social Services and Child Welfare Amendments, which will soon come before the House. This legislation contains the most significant reforms of the Federal laws on foster care and adoption ever proposed, and has drawn overwhelming support from a long list of organizations concerned with the welfare of our children and the strength of the American family.

Organizations supporting H.R. 3434 include: the American Federation of State, County and Municipal Employees; American Home Economics Association; Association of Junior Leagues (on title II); Child and Family Justice Project, National Council of Churches of Christ in the USA; Children's Defense Fund; D.C. Office of the County of Los Angeles; Family Service Association of America; National Association for Retarded Citizens; National Association of Counties; National Conference of Catholic Charities; National Council of Jewish Women; National Governors' Association; and Women's Division, Board of Global Ministries, United Methodist Church.

Participants in yesterday's meeting included several major supporters of this important legislation. I would like to share with my colleagues the remarks of two speakers, the honorary chairperson of the Virginia Committee on the International Year of the Child, Elizabeth Taylor Warner, and the chairman of the National Children's Cause, David Evans, who is also the former president of the National Association of Foster Parents.

(The remarks follow:)

OPENING REMARKS—ELIZABETH TAYLOR WARNER

I want to welcome all of you to the Washington "Town Meeting on Foster Care."

The town meeting is a time-honored tradition in the history of this country—a time to come together and search for solutions to shared problems.

Today's meeting is an appropriate setting for us to make sure that the diverse needs of children are met. This year we are celebrating the International Year of the Child, a year that brings us together in a national children's cause. This year we must look at the needs, and the rights, of a special group of children—our nation's five hundred thousand foster children.

Far too many foster children stay in foster care for long, indeterminate periods of time because the present system does not emphasize helping the child's natural family.

Far too many are locked into foster care. An estimated one to two hundred thousand children with special health and emotional needs are difficult to place because enough foster homes are not available. These children could be freed for adoption, if we take special steps on their behalf.

Far too often foster parents face awesome responsibilities as they work to meet the needs of foster children, armed with meager resources.

These children are truly a voiceless, voteless minority, who must depend upon adults for care and support. As Virginia's chairperson for the International Year of the Child, I urge you to speak in their behalf, to act in their interest, and to take their cause to the nation's leaders.

Excerpts of Statement of David Evans

In the first session of the 95th Congress, Representative George Miller (D–California) introduced the foster care and adoption reform provisions to H.R. 7200, the Public Assistance Amendments of 1977—the first major piece of comprehensive legislation on foster care and adoption to be considered by the Congress in this decade. The 96th Congress now has before it H.R. 3434, the Social Services and Child Welfare Amendments of 1979, which is directed in part at the foster care system.

In 1977, President Carter called upon the National Foster Parent Association to shape national policies for foster children that strengthen and support family life. In response to the President's call, the National Foster Parent Association convened the first National Congress on Foster Family Care in Houston, Texas on April 26, 1978 to examine the impact of public policies on foster family care and child welfare services. The National Congress of Foster Family Care established twelve national task forces to weigh a variety of issues—the impact of deinstitutionalization on Foster Family Care, the Special Needs and Rights of Foster Children, Standards of Foster Care Services, and the Education and Training of Foster Parents.

Throughout 1978, "National Town Meetings on Foster Care" were held to take the President's call to the people most directly involved in providing day-to-day foster care services to the nation's 500,000 foster children—the nation's foster parents and case workers. We are gathered here today to bring their concerns to the President and the 96th Congress.

I want to discuss with you three major concerns of the NFPA National Congress on Foster Family Care—

1. the lack of a national commitment to children,
2. the unmet needs of foster children,
3. the lack of a comprehensive national policy for children and their families.

Our first concern is the lack of a real national commitment to children. It is perhaps one of the enduring myths of our American society that we are a child-oriented society. Our children are often referred to as the foundation of tomorrow. Yet, the fact remains that America, the richest and most advanced nation in the world, has no national policy or any real commitment to her children. Indeed, at the core of the present debate and problems of our foster care system is the absence of a comprehensive national policy for children and their families. Far too often our policies toward children have been a conflicting patchwork of programs and broken promises and all too frequently, child welfare programs have been given low priority at the state and national levels. The problem in part rests with an indifferent American public that has often been ignorant of the needs of children. And if the American people have been indifferent, our public officials have also been indifferent to the needs of children. Far too often there have been too few advocates for children at the National level. It has been estimated that in the 96th Congress only ten of the 100 members of the Senate and 112 of the 435 members of the House voted consistently in the interests of the nation's children. Our efforts with the 95th Congress did much to focus public awareness of the needs of foster children. H.R. 7200 was passed by the House of Representatives by a vote of 334–64. But we must continue to forge a viable commitment for children by taking our concerns to the President and the Congress.

Our second concern is for the children and the present state of foster family care. Of the 1.8 million children receiving social services, over half a million are in foster care-placement. Of those, 500,000—79 percent are in traditional foster homes, 14 percent are in institutions, and 7 percent are in group homes. In the past two decades, the number of children entering foster care has doubled.

The number of vulnerable children—potential foster children seem to be increasing. Certain areas of the country have ex-experienced disproportionately large increases in the number of children entering foster care. From 1948 to 1964, California—our most populous state—had a staggering 900 percent increase in its foster care population. Indeed, no community in the country is immune from the pressures that bring children into foster care.

As the phenomenon of child abuse and neglect has grown so has the need for foster family homes. It is estimated that forty to sixty percent of the children in foster care are there because of parental abuse and neglect.

We have very real concern for the estimated 100,000 to 200,000 foster children with special needs—minority children, physically handicapped children, mentally disturbed children—who might be legally freed for adoption but are locked into foster care—a virtual army of "limbo children" that society by its neglect has created.

We have a real concern for the changing nature of foster family care. Traditionally, foster care meant temporary care of separated children by substitute families in the community. Today, foster children often remain in care for long indeterminate, unplanned periods. Fifty percent stay in foster care two or more years; twenty-six percent have been in foster care more than five years; and twelve percent remain more than ten years . . .

Our third concern is for the lack of a comprehensive national policy for children and their families.

Secretary of Health, Education and Welfare, Joseph Califano has said, "If we are to fashion a humane and meaningful family policy for America, then we must begin with the foster care system."

The National Congress on Foster Family Care could not agree more. But, if we are to shape federal policies for children and their families we must begin by making a balanced and reasonable reassessment of the proper place of foster care in the continuum of child care.

First, our efforts and public policies must be directed at keeping natural families in tact by providing a range of community services to prevent drift into long term, unplanned foster care.

Secondly, we must direct our efforts at the substitute family—the American foster family. If we are to restructure young lives and reunite families we must have viable substitute families who are in turn adequately supported and assisted in their efforts. There can be little substantive change in foster care without focusing our efforts on the foster family within the community.

Thirdly, we must direct our energies and efforts at the children with special needs, the thousands of limbo children—who may not be freed from the uncertainties and impermanence of foster care unless special steps are taken.

In the final analysis, we must make our political system work for children. Children are among the most powerless members of society, and society must act in their interests to bring about change.

Alexander Chase has said, "There are few successful adults who were not first successful children". We will continue to do our part in making the 500,000 children of foster care successful children. We ask the President and the Congress of the United States to join in this effort in this the International Year of the Child.●

RELIEF FROM THE ERISA AGGREGATION RULES

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. ROSTENKOWSKI. Mr. Speaker, today, I am introducing a bill which would amend section 402 of the Internal Revenue Code of 1954, dealing with the tax treatment of certain distributions from pension plans.

In some cases, an employee receives a lump-sum distribution from a tax-qualified pension plan at a time when funds are not needed for retirement. Although the tax law provides special income averaging and capital gains treatment for these distributions if tax is paid when the distribution is received, many workers prefer to postpone payment of tax on a lump-sum distribution by transferring it to an individual retirement account in a tax-free rollover.

A tax-free rollover is available under existing law only for a lump-sum distribution of a worker's entire benefit under a plan. In applying the test for a lump-sum distribtuion, existing law requires that all pension plans of a particular employer are treated as a single plan, so that a total distribution to a worker from one pension plan is not a lump-sum distribution unless the worker receives a total distribution of his benefits under every other pension plan of the same employer.

Some employers maintain two different kinds of pension plans for the same employees because each plan may serve a different purpose. For example, American Airlines provides a defined benefit pension plan, from which retirees usually take monthly annuities, and a money purchase pension plan from which many workers would take a lump-sum distribution if they could engage in a tax-free rollover. In this situation, which is not unique to American Airlines, a worker cannot have a tax-free rollover of a distribution from the money purchase pension plan without also taking a total distribution from the defined benefit plan.

The bill I am introducing today would provide relief to workers who are covered by a defined benefit plan and a money purchase plan of the same employer. The bill permits a tax-free rollover of a total distribution from a money purchase pension plan without requiring a total distribution from a defined benefit plan of the same employer. Under the bill, if a total distribution from a money purchase plan is rolled over, a later distribution from the defined benefit plan could also be rolled over but would not qualify for the special income averaging rules or capital gain treatment.

I believe this legislation is noncontroversial in nature and hope that it can be considered in an expedient manner.●

THIRD ANNUAL LOWER EAST SIDE JEWISH SPRING FESTIVAL

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. MURPHY of New York. Mr. Speaker, the Jewish Community on the lower east side of Manhattan will host on June 10 the third annual Lower East Side Jewish Spring Festival. This year's events will surpass those of the past, when more than 25 various Jewish organizations and institutions of all descriptions celebrate their heritage and their future as a very active and very special part of the ethnic culture of New York City.

This is the third annual event, which has fast become a city-wide tradition. The featured activities include a street fair to be held on East Broadway, complete with singers, dancers and actors; there will be exhibits of art and photography; food booths and craft displays abound, and each of the organizations which participate will have their own display booths. And one of the main features of the day will be the walking tours of the very historic lower east side of New York City which will be conducted throughout the day.

This year, the recipient of the "Lower East Side Citizen of the Year" award will be Charles H. Silver, president of Beth Israel Medical Center, to be presented at a huge gathering which will include Mayor Ed Koch, Gov. Hugh Carey, City Council President Carol Bellamy, City Comptroller Harrison Golden, and many other distinguished citizens of New York.

It has been my honor and good fortune for many years to represent this portion of New York City, and I am proud of the multitude of accomplishments that this group of people have brought to the city. The theme of this year's festival is "Jewish Life on the Lower East Side, Based on the Present and the Future." They have enjoyed a distinguished past, and they are certain to have a glorious future.●

GOVERNMENT REGULATIONS—EXPENSIVE—GROWING

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. COLLINS of Texas. Mr. Speaker, inflation's burden on Americans points to Government regulations as an important cause. Regulations with their expense of paperwork, capital equipment and more costly processing means higher costs to the consumer. Regulations are hidden but the final higher price paid is the end result.

An excellent factual survey on "Benefit-Cost Analyses of Social Regulation" has been edited by James C. Miller, III and Bruce Yandle and published by the American Enterprise Institute.

This summary chart is living proof of the havoc that excessive Federal regulation is bringing in higher costs to the consumer. From 1970 to 1977 the number of pages in the Federal Register grew from 20,036 to 61,000. The expenditures just in social regulatory agencies grew from $1.449 billion to $7.318 billion.

The chart follows:

INDEXES OF GROWTH IN FEDERAL REGULATION, 1970–77

Year	Number of major "economic" regulatory agencies	Number of major "social" regulatory agencies	In millions of dollars: Expenditures of major "economic" regulatory agencies	In millions of dollars: Expenditures of major "social" regulatory agencies	Number of pages in Federal Register
1970	8	12	166.1	1,449.3	20,036
1971	8	14	196.8	1,882.2	25,447
1972	8	14	246.3	2,247.5	28,924
1973	8	17	198.7	2,773.7	35,592
1974	9	17	304.3	3,860.1	42,422
1975	10	17	427.6	4,251.4	60,221
1976	10	17	489.8	5,028.3	57,072
1977	10	17	917.1	7,318.3	61,000
Percentage increase (1970–1977)	25	42	452.0	405.0	204

●

NATIONAL FLAG WEEK

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. MOORHEAD of California. Mr. Speaker, on May 8, President Carter declared the week of June 10 National Flag Week. Made possible by Public Law 89–442, National Flag Week embraces and elevates June 14, National Flag Day. This special time reminds us of the impressive and unparalleled history of America and the grand and unprecedented heritage of Americans.

It asks us to reaffirm our patriotism; to renew our dedication to those principles of liberty and equality that made America great among nations. It asks too that we recommit ourselves to the preservation of the dignity and respect of man.

I would also like to take this moment to remember the man who made National Flag Week possible. Public Law 89–442 was authored by Congressman H. Allen Smith, my predecessor. Mr. Smith came to Washington, D.C., in 1957 and served with able distinction for 16 years. He was recognized as a man with an uncommon mastery of legislative rules and procedures. As the ranking minority member of the Rules Committee, he was highly respected by his colleagues and his constituents, regardless of political party. I salute National Flag Day and former Representative H. Allen Smith on this 13th anniversary of National Flag Week.●

ANNOUNCEMENT OF CHANGED DATES FOR BALANCED BUDGET HEARINGS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. RODINO. Mr. Speaker, I wish to announce that the public hearings of the Subcommittee on Monopolies and Commercial Law of the Committee on the Judiciary to consider proposed constitutional amendments to require a balanced Federal budget, previously announced for June 8 and June 15, will instead be held on June 12 and June 13.

The hearings will be in room 2141, Rayburn House Office Building, and will commence at 1:30 p.m. and 9:30 a.m. respectively.

Testimony on these proposals will be received from Members of Congress who wish to appear. Those Members interested in doing so should contact the subcommittee no later than Thursday, June 7.●

TRIBUTE TO "TOOK" GATHINGS

HON. JON CLIFTON HINSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. HINSON. Mr. Speaker, it was with great sadness that I learned of the death, on May 2, 1979, of the Honorable Ezekiel Candler "Took" Gathings.

"Took" Gathings served this Nation, and the great State of Arkansas, as a Member of Congress from 1939 until 1969. I was privileged to get to know him when he sponsored me as a Doorman for the House from March 1967 until March 1968. I admired him for his personal integrity and for the dedication he exhibited in representing the people of the First Congressional District of Arkansas, a post so ably filled now by our colleague, the Honorable BILL ALEXANDER.

I learned from his example and will revere his memory. His passing is a great loss to his family and to the State of Arkansas.●

FINANCIAL REPORT OF THE CONGRESSIONAL TEXTILE CAUCUS: QUARTERLY STATEMENT OF EXPENSES AND FUND BALANCE

HON. KENNETH L. HOLLAND

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. HOLLAND. Mr. Speaker, the Steering Committee of the Congressional Textile Caucus has approved the quarterly financial report of the caucus as of March 31, 1979. I am respectfully submitting herewith the financial report for insertion into the RECORD. Henceforth, the Congressional Textile Caucus will make this information available to the full House of Representatives on a quarterly basis. The report is as follows:

CONGRESSIONAL TEXTILE CAUCUS

FINANCIAL REPORT OF THE CONGRESSIONAL TEXTILE CAUCUS: QUARTERLY STATEMENT OF EXPENSES AND FUND BALANCE

State of expenses—March

Salaries	$5,000.00
Travel	0
Stationery	123.73
Telephone	62.70
Publications	307.00
Equipment	0
Miscellaneous	0
Total Expenses	5,493.43

Fund balance

Total revenues (clerk hire and membership dues)	$11,300.00

Less expenses

January	$ 1.00
February	0
March	5,493.43
Total Caucus Expenses	5,494.43
Unexpended Revenues	$5,805.57

CONGRESSIONAL TEXTILE CAUCUS MEMBERS WHO HAVE PAID DUES AS OF MARCH 13, 1979

W. G. Hefner, John J. Rhodes, Fernand J. St Germain, Robert A. Roe, Trent Lott, G. V. Montgomery, Margaret M. Heckler, Ed Jenkins, Charles S. Rose, Tom Bevill, Robert S. Walker, Dan Daniel, John J. Duncan, Lamar Gudger, Frederick W. Richmond, James C. Cleveland, Paul Simon, Sam B. Hall, Jr., Floyd Spence, Bill Nichols, Elwood Hillis, Stephen Neal, J. William Stanton, Gary A. Lee, James G. Martin, J. Kenneth Robinson, L. H. Fountain, James T. Broyhill, E. G. Shuster, Jack Edwards, Michael Myers, Charles Whitley, Butler Derrick, Richard C. Shelby, M. Caldwell Butler, Robert Duncan, Ronnie F. Flippo, Matthew J. Rinaldo, Marilyn Lloyd Bouquard, Ken Holland, Billy Lee Evans, Carroll A. Campbell, Jr., William L Dickinson, Barbara Mikulski, Harold C. Hollenbeck, Norman E. D'Amours, Ike F. Andrews, Geraldine A. Ferraro, Edward J. Patten, Allen E. Ertel, Benjamin A. Gilman, Jerome A. Ambro, Jonathan B. Bingham, John P. Murtha, Joseph M. Gaydos, Baltasar Corrada, Gus Yatron, Claude Pepper, Joseph P. Addabbo, Charles Wilson (Texas), Newt Gingrich, Richardson Preyer, and John Jenrette.●

TRIBUTES TO THE LATE HONORABLE ROGERS C. B. MORTON

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. BAUMAN. Mr. Speaker, the sense of loss felt as a result of the passing of Rogers C. B. Morton has been quite profound. Tributes and eulogies for this great American have continued.

His friends and neighbors in Maryland were particularly saddened by Rog's departure, and their reactions have been touching and eloquent. I include at this point in the RECORD recent comments by people who knew him well. The sincerity of the sentiments shows once again just how great a man Rog Morton really was.

The comments follows:

[From the Salisbury (Md.) Times, Apr. 20, 1979]

ADMIRERS ON SHORE PRAISE MORTON

(By Tom Leonard)

Eastern Shoremen, both Democrat and Republican, today expressed their sorrow upon learning of the death of former Republican Congressman and Secretary of the Interior Rogers C. B. Morton of Easton.

Former Gov. J. Millard Tawes, a Democrat who was long associated with Morton, said that their association was on the "personal" as well as political level. Tawes called Morton a "very fine, progressive citizen of the Eastern Shore," saying that the State had lost "a fine citizen and a good friend."

Democrat State Sen. Joseph J. Long of Salisbury expressed "a lot of admiration for the man." Long said that he believed Morton had "helped improve the stature of the Shore."

Community leader Avery W. Hall of Salisbury, a Republican, said that he "didn't know of anything (he) would question about Morton's desire to do good." "Morton," he said, "was not only big in size, but in stature as well."

Blan Harcum, chairman of the Wicomico County Republican State Central Committee, said that he was "naturally saddened by Morton's passing." The local party leader said that Morton "did a lot for his patry as well as the country."

The retired editor of the Daily Times, Richard L. Moore, called Morton "one of the great public servants of his time." Moore said that Morton's imposing size made him "easily recognizable."

Republican David A. Grier, a former City and County Councilman, was the campaign manager for Wicomico County when Morton first ran for Congress. Calling Morton "a great person and a very able congressman," Grier expressed the belief that Morton "would have gone farther in national government," had it not been for his health problems.

"A true friend of the Eastern Shore," was Del. Lewis R. Riley's summation of Morton's political contribution.

Joan Truitt, Democratic State Central Committee chairman for Wicomico County, called Morton's death "tragic." "The Democrats as well as the Republicans have lost a great individual," she said.

Another Democrat, Mayor Elmer F. Ruark, said he "admired Mr. Morton very much."

Former Democratic State Sen. Mary L. Nock expressed her admiration for "the work he did in the First District." He had a "keen interest and knowledge of the people of our area," she said.

Wicomico County Council President Victor H. Laws, a Democrat, said Morton was "a credit to the Shore, and his party."

Republican D. Ernest Matthews, a local political and poultry industry leader said that it was "hard to say anything too good about Rog Morton."

[From the Salisbury (Md.) Times, Apr. 20, 1979]

ROGERS C. B. MORTON

The Eastern Shore of Maryland has lost one of its best friends with the death of Rogers C. B. Morton.

News of the death of the 65-year-old former congressman from the Shore was announced late yesterday afternoon.

Although he was not a native, he had adopted the Eastern Shore as his home.

Morton was elected five times as the Shore's representative in the U.S. Congress. A Republican in a heavily populated Democrat district, Morton in his last bid for the position won reelection by the second highest GOP margin in the nation.

He left that post shortly after he was reelected to his fifth term to become Secretary of the Interior under Former President Nixon. Later he became commerce secretary under former President Ford.

On the Eastern Shore, Morton was known simply as "Rog" to his thousands of friends. A conservative by nature representing a conservative district, Morton was able to cross party lines easily.

He was one of those types of personalities who you couldn't help but like and admire even if you disagreed with his political position.

Eastern Shoremen can easily recall that "Rogers C. B. Morton smile." It was instant and it was real. His friends were important to him and once he met a new one he never forgot his or her name.

Rog Morton had gone into semi-retirement at his farm near Easton a few years ago because of illness. He loved his out-of-the-way farm outside Easton. The old estate is called Presqu'ile. In French it means "almost an island" and it was a special retreat from the business of Washington that Rog Morton loved. Francis Scott Key had once lived in the home which was built in 1795.

Although he used to brag that the C. B. in the middle of his name stood for Chesapeake Bay—one of his pet projects was the preservation of the bay—he had been named Rogers Clark Ballard Morton. He was named in honor of a great uncle, Gen. George Rogers Clark of the Continental Army. Ballard was his mother's maiden name and the name he and his brother had used when they began selling Ballard biscuits. Their firm was merged with Pillsbury and Rog Morton moved to the Eastern Shore of Maryland to raise cattle. Shoremen called on him to represent them in Washington in 1962.

Rog was once asked how he felt about being a U.S. Congressman and he said "It's great . . . but frustrating!" Great because of the opportunity to aid his fellow man and frustrating because of the maze he found in the Capitol.

His tall frame—he was six feet, seven inches—was a welcomed sight as he visited about the district.

We are saddened to hear of his death. We are glad that we knew him. Our condolences go out to his wife, Anne, and his children, David and Anne. The Shore will be forever grateful for his service. He represented something good in government that is seldom seen.

[From the Cambridge (Md.) Banner, Apr. 23, 1979]

ROGERS MORTON

Eastern Shoremen knew Rogers Morton as a good and kind friend. That line ran through the reminiscences of Shoremen who were shocked by his death last Thursday. One of our memories of the tall Talbot Countian dates back to a day when he was giving serious thought to running for Congress and had come to the office to talk about the choice of a Dorchester Countian to serve as his man Friday. Dressed in working man's clothes and with his hair unruly, he looked like a shaggy bear. Later he slicked up a bit as his career pointed toward Washington but his personal warmth never cooled.

Rogers Morton in Washington was a man of integrity in a sea of intrigue. None of the scandals which touched other high-placed Republicans touched him. He served capably as national party chairman before being named a cabinet officer by two Presidents. If cancer had not struck, he might have come out of retirement to run for governor. But the burden of two decades in federal service added to deteriorating health forced an end to his career.

Rogers Morton has left two monuments on the Eastern Shore. To the north, the Chesapeake Bay Model symbolizes his deep commitment to the bay. To the east, Assatague National Seashore owes its existence to him as much as to any single individual. Each is a part of his legacy to the people of the state and nation. Eastern Shoremen mourn his loss as a friend who was steady, dependable, warm and open.

[From the Easton (Md.) Star Democrat, Apr. 20, 1979]

FRIENDS RECALL MORTON AS COMPASSIONATE MAN

(By Liz Bowie)

EASTON.—Friends and political associates of Rogers C. B. Morton describe him first as a human, compassionate man. In the words of Sen. Charles McC. Mathias (R-Md), Morton was a man who "was so human that he made government itself seem human to people."

Rogers C. B. Morton, Republican Congressman for eight years from the Eastern Shore and Presidential cabinet member, died of cancer Thursday afternoon at his home near the East Wye River.

Friends of Morton remember him for his association with the Eastern Shore as much as his leadership in the House of Representatives, or for his services as Secretary of the Interior and Secretary of Commerce.

Judge Thomas Hunter Lowe said he remembered Morton walking down the streets of St. Michaels one day yelling, "Hey Tom, I voted for you!"

"He and I were in different parties, but oddly enough, we were friends," said Lowe.

A Queen Anne's politician, Vernon "Tex" Sultenfuss, a county commissioner, said, "He was a real fine man, one of the most unselfish men in politics. He always made sure everyone had a piece of the pie, and I think that's why he was so popular."

Mary Walkup, a county commissioner in Kent County who worked on his campaigns as a "Mortonette" and an organizer of his bull roasts, said, "Few people we come across have his abilities and particularly his willingness to give his abilities."

After retiring to the Eastern Shore, Morton devoted much of his time to building boats with his friend and neighbor, Peter O. Hersloff, who said, "We will all miss him very much in the business, the community and the country."

Rep. Robert E. Bauman (R-First) recorded a special taper message over the telephone from the Peoples Republic of China to his Washington office, expressing his grief and extolling the work Morton did for his country and his nation. "He was the kind of man it would be impossible to replace," he said.

Mathias saluted Morton's concern for the environment and work as a conservationist. "He wanted to conserve the things that are threatened by the advances in modern life—the best of nature. The Chesapeake Bay is a good example. To the extent that the Bay is better today than when he began his work—that really is a monument to Rog Morton."

Mathias described trips with Morton. "On occasion the two of us would fly in his single engine plane up and down the Eastern Shore, and when we would land in one of the towns of the Eastern Shore you could see the faces of people light up when his plane came into view, when they heard his laugh and saw the twinkle in his eye.

"The kind of joy in life that was Rog Morton's would be reflected in their faces."

Former Senator J. Glenn Beall, Jr. also saw Morton's appearance as the clue to his personality. "When he came into the room, he dominated it. He had a personality to match. He was a large person in intellect, in his capacity for understanding people and in his compassion," Beall told the Associated Press.

Rutledge Turner, a Dorchester County Republican, said, when he heard of Morton's death, "I think I lost a good friend, a good Eastern Shoreman."

Jane Hanks, former chairman of the Talbot County State Central Committee and former president of the Maryland Federation of Republican Women, remembered Morton as an outstanding Republican leader in the area, a loss to the Republican party, and a very popular person on the Eastern Shore.

Photographer and painter Laird Wise, who photographed Morton on a number of occasions, said Morton was "one of the nicest guys you would ever want to know. He was a very personal man—close to the people. Every time I ever did something he would thank me."

Wise said he remembered a time when he sent Morton a get well card, "and Morton sat down and wrote me a note to thank me. Now have you ever known someone to do that?"

[From the Denton (Md.) Caroline County Journal, Apr. 25, 1979]

ROG MORTON

There was, one reporter noted, no eulogy contained in the funeral service held for Rogers C. B. Morton, Saturday.

The truth of the matter is, none was needed, for if any public figure ever made a review of his credits unnecessary, it was he.

His service to the people of his beloved Eastern Shore as a congressman and later to all Americans as a cabinet member and advisor to presidents constitutes a record which is exceeded only by the personal integrity of the man himself.

Although his services were performed at a time when government was tainted with unprecedented scandals, he came through it all without being touched by anything suspect. In doing so, he earned the respect of not only his own political party but that of the loyal opposition.

Knowing Rog Morton was a rare privilege. Of all the things which might be said of him is the fact that in spite of his successes and station in life, he never lost the common touch.

[From the Chestertown (Md.) Kent County News, Apr. 25, 1979]

THE MORTON STYLE

Rogers C. B. Morton was a great big bear of a man with a white thatch of hair as white as snow.

When he died Thursday at his home in Talbot County it came as no surprise to many. For you see, Rogers C. B. Morton was fighting the big C—"Cancer."

It was even a fight a great big bear of a man could not win. It tells us much in our battle to conquer this terrible disease.

The Editor of this newspaper first met Mr. Morton 15 years ago when he was campaigning on the Eastern Shore. It was a dark, chilly morning at Hubbard's Pier in Rock Hall when Maryland's 1st District Congressman stretched his legs from a long ride in a Volkswagon campaign bus. He talked that morning with Bayside watermen. He wanted to be there before they were "on the water." Later that day it was the same with farmer, with businessman, with housewife, government worker, man-on-the-street, woman-in-the-supermarket. That was the Rogers Morton style.

We missed Mr. Morton in later years. He went on to greater heights—floor manager at the 1968 Republican Convention, GOP National Chairman, Secretary of Interior, Secretary of Commerce. His illness brought him back to Chesapeake Bay Country.

He made boats then. What a better way—than making boats.

Rogers C. B. Morton was a great leader. A great big bear of a man with a white thatch of snow. A man who knew how to live—and a man who knew how to face death gracefully.

[From the Centreville (Md.) Queen Anne's Journal, Apr. 26, 1979]

LOOKIN' AROUND

(By Dan Tabler)

Rog Morton was a friend of mine and I feel a deep personal loss at his death.

A lot of people can say that because he was that kind of a guy. He had the friendliness associated with the folks in our "Land of Pleasant Living" but was at the same time, an important figure in national politics.

Senator Mac Mathias was quoted as saying that Morton "was so human, he made government seem human to the people," and with that I concur.

There was no formal eulogy at the funeral Saturday in Easton and it is just the way Rog would have wanted it.

But it did not stop that outpouring of heartfelt expressions from friends, neighbors, state and national figures following his death by cancer last Thursday. He was a giant in more ways than one.

Rog Morton meant something more to me than the average newspaperman because he offered me a job and I sometimes wonder what might have happened if I had accepted.

It was back in 1962 when he first ran for Congress that I had a chance to go with him in a public relations capacity. The Good Wife and I talked it over and I did some soul-searching and decided I was better suited as a country newspaper editor than as a political writer. I never regretted my decision, but always appreciated the confidence Rog had in my writing abilities.

Sitting on my desk at home is a framed portrait Rog sent me after he had been named Commerce Secretary. It is inscribed: "To Dan Tabler, a great newspaperman, but an even greater friend."

I'll not attempt to add more tributes to those heaped on the big man from Talbot County. Suffice to say, I feel fortunate to have had Rog Morton as a personal friend.

COMMENTS ON ROGERS MORTON BY WBOC-TV-RADIO, SALISBURY, MD.

Just 9 days ago, Eastern Shoremen, state and national dignitaries, paid their last respects to Rogers C. B. Morton . . . a politician of the highest order . . . untouched by scandal. He served us for many years in Congress . . . became chairman of the Republican National Committee, served in two cabinet positions. Instrumental in making Assateaugue a National Seashore, he also pushed for the Alaska Pipeline . . . selling of oil leases off the east coast . . . oil shale development and establishment of a Department of Energy.

Who knows what power he might have had in state government had his health permitted him to stay in politics. With all of his political attributes, he had a fantastic ability to make friends, across all political spectrums. The Eastern Shore has lost a good man . . . perhaps even a great one. But for those of us who were privileged to know him on a first name basis for many years . . . we have lost a friend . . . and that is how we will remember him.

[From the Baltimore News American, Apr. 20, 1979]

A BIG LOSS—ROGERS C. B. MORTON WAS DEDICATED TO MARYLAND

It was not only because his middle initials were C. B. that friends of Rogers Clark Ballard Morton often referred to him as "Chesapeake Bay" Morton. It was also a tribute to his deep interest in the Bay and his long efforts to protect it.

And though the Bay was one of his special projects, the ex-Congressman who died Thursday also was active in almost everything else which, in his opinion, would benefit Maryland.

He came to this state after a successful business career elsewhere and settled on an estate on the Eastern Shore. Wealthy, energetic, tall and massive, he quickly became a leading citizen in the community and was elected to Congress. There, he achieved importance that led to his appointment as Secretary of the Interior, then Secretary of Commerce in the President's cabinet. A staunch Republican, he was selected to head the Republican National Committee.

Morton was one of the few Marylanders who became an important figure on the national political scene. Upon his retirement, which was partially caused by his illness, he resumed his ernest, though necessarily less active, interest in the affairs of the state that he adopted and loved.

Several times in recent years he was urged to become the Republican candidate for Governor. So well was he regarded by Marylanders of both parties that he might well have won but he preferred to live the placid life of an Eastern Shore estate owner.

The death of Rogers "Chesapeake Bay" Morton removes from our midst a man who served Maryland and the nation to the best of his very substantial abilitities.

[From the Elkton (Md.) Cecil Democrat, Apr. 25, 1969]

ROGERS C. B. MORTON—AN HONORABLE MAN

One of Maryland's most honorable men, Rogers C. B. Morton, died last Thursday at his home near Easton. A victim of cancer, Mr. Morton was only 64 years old.

His untimely death brought to a close a career of public service that any man could be proud of.

He served as a Cabinet secretary for two Presidents of the United States, represented his constituency in Congress for five terms (the First District which includes Cecil County), and was national chairman of the Republican Party.

Rogers Morton's reputation for integrity was recognized by friend and foe alike. His word was his bond.

Although his Congressional district was mostly conservative, Mr. Morton sought as GOP national chairman, to make the party "massively involved with millions of young people. . . . black people. . . . poor people."

Mr. Morton loved his estate on Wye River, for he was an outdoorsman which served him well as Secretary of the Interior. As one observer put it, "He brought a breath of fresh air to the Interior Department."

Mr. Morton as Congressman from the First District, started the tradition of an annual bull roast each summer to raise funds for the Republican Party and to provide an event for his friends and constituents to socialize and talk politics. . . . That tradition is still perpetuated by his latest successor Congressman Bob Bauman.

George Bush, former head of the CIA and now a Presidential candidate, offered a perceptive description of Mr. Morton who was a 6-foot-6, 225-pound "giant of a man."

Said Mr. Bush, "Because of his great stature, he was a friendly giant who felt as comfortable in the presence of presidents as he did with the working men and women of the Eastern Shore of Maryland who were his friends and neighbors."

We extend our sincere sympathies to Mr. Morton's family in the death of their loved one and join thousands of his friends who mourn the passing of an outstanding human being.

[From the Baltimore News American, Apr. 20, 1979]

MORTON: "MORE THAN A CONGRESSMAN"

(By John Aloysius Farrell)

LONGWOODS, MD.—Mrs. Lloyd Gootee had picked up her children and was heading home to their small, dusty farm when she stopped to talk about Rogers C.B. Morton—congressman, Cabinet member, adviser to presidents and a neighbor in this sleepy Eastern Shore community.

"My daddy knowed him," she said, after word of Morton's death filtered through the Talbot County countryside Thursday afternoon.

"They was friends, as he didn't live too far away and all. He was a big man and a great man, too. He was more than just a congressman. You always felt he was somebody you could talk to."

It was here, in the big white house on the banks of the East Wye River, that Rogers Morton succumbed to the cancer he had fought for nine years.

It is here he will be buried on Saturday afternoon, in the Old Wye Cemetery in Wye Mills, in a spot he chose. Services will be held at 3 p.m. Saturday at the Christ Episcopal Church in Easton.

The tributes came from across the state and country for the man who served as secretary of commerce, secretary of the interior, Republican national chairman, U.S. congressman and friend to two presidents.

For the price of a phone call to Palm Springs, Calif., you could hear a secretary read former President Gerald Ford's eulogy: "Rog Morton was one of the most decent, honest, considerate, unselfish and lovable persons I have ever known.

"He gave so much and expected nothing but friendship. The nation has lost a real man."

In San Clemente, Calif., former President Richard Nixon said, "His quiet courage in his long battle against cancer was an inspiration to all of us."

But the loss was marked, too, in places like Easton, Cambridge and Longwoods. It was here, in Maryland's tidewater country, that Morton found a real home.

"He adored this area . . . he loved it," said friend, neighbor and boat-building partner Peter Hersloff, as the hawks gently circled the flat, freshly tilled fields around Morton's home.

"He lived here. He hunted. He farmed here. He loved the land."

[From the Baltimore Evening Sun, Apr. 20, 1979]

A BIG MAN

Where the Republican party needs more Rogers C. B. Mortons, it now has one fewer, which is too bad—and not just for the Republicans. It's too bad generally because, in some of the nation's darkest years, he was a force at once for stability and for forward motion. What remarkable sort of man was this?

Physically, he was enoromous and bearlike and overpowering. Personally, he was quick and perceptive, amiable and courageous. Philosophically, he was broad-based and pragmatic, as conservative on fiscal questions as he was advanced on social enterprises. As to his natural leadership, a little history helps.

Here came this hulking stranger from Kentucky after World War II and set up, uninvited, as a cattleman in Maryland's most suspicious, most eastern corner. And yet the chemistry was right. Only ten years later he had so marinated himself in Shoreman's ways that he was chosen to speak in the House in Washington for his adopted homefolk. Rogers Morton was on his way.

Republican leaders quickly spotted him—who could miss a man standing six feet, seven?—and enlisted his easy, aw-shucks warmth. To his private consternation, though never to this personal shame, he found himself serving in Richard Nixon's cabinet, then Gerald Ford's. Always, he sought to pull in with Republicans the letouts—the young, the black, the poor. Roger Morton left the party larger, indeed larger than some there wanted it to be. He pointed out the right direction, whether or not the GOP is wise enough to follow.●

VIETNAM VETERANS' WEEK

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Ms. OAKAR. Mr. Speaker, last week, May 28-June 3, was set aside by the President and the Congress as Vietnam Veterans' Week. During this week Americans honored those veterans who served our country in an unpopular war. This is an important step in the direction of providing full benefits to all Vietnam veterans.

We cannot erase our neglect of the Vietnam veteran by words alone. For too long the men and women who carried this Nation's burden in Southeast Asia were made to feel ashamed of their service. Many still suffer deep psychological as well as physical wounds from the effects of the war from the rejection of their countrymen. Some veterans have been denied job opportunities and the chance to attain job skills. The benefits available to Vietnam veterans are simply not as extensive as those available to the veterans of World War II or Korea. This sad record must be reversed.

I am happy to say, Mr. Speaker, that upon being elected to Congress, the first piece of legislation that I sponsored was the Vietnam Veterans Adjustment Act. Aspects of this legislation became part of the Comprehensive Education and Training Act Amendments of 1978. The law directs that a portion of the public funds under the CETA program are to be used to train Vietnam veterans for jobs.

This law is only a start toward the goal of providing every Vietnam vet with a job. Vietnam Veterans' Week will only achieve its objective if the Congress takes direct action to finally provide the veteran of this unpopular war with all of the benefits to which he or she is entitled.●

VIETNAM VETERANS WEEK

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. PICKLE. Mr. Speaker, when those of us who fought in World War II returned home at the end of that conflict, we were greeted with the open arms of our country. There were parades and parties. A uniform was a ticket to instant respect from any and all Americans.

When those Americans who fought in Vietnam returned home from that war, their reception was as different as night from day. Instead of being greeted with parades and marching bands, they were greeted with silence and suspicion. Rather than seeking respect that they knew would not be there, they took off their uniforms and quietly folded them away.

Now that the Vietnam war is a part of our past, maybe Americans are beginning to be able to confront what that war meant to this country. Maybe we are now able to stand up and give the veterans of that war—no less noble men than those who fought in Europe, in the Pacific and in north Africa—a measure of the respect that they deserve for going off to fight a war that became a nightmare for us.

It is never an easy thing to go to war, but a soldier who knows that his country is behind him and supports him all the way has a sense of purpose. Therefore, when a soldier goes off to fight a war that has caused such controversy at home that he believes few care about his service, his morale, and his spirit must suffer terribly.

Maybe because these men did fight when their country called them to battle in a war that was so hated, we do owe them a larger debt. It is time Americans stood up and recognized that debt and gave that thanks to them. This week, congressionally designated as "Vietnam Veterans Week," is the fitting time to wake up and begin to deal with the plight of our Vietnam veterans.

For too long these veterans have had to bear the brunt of our national embarrassment about that conflict in Southeast Asia. Veterans Affairs Administrator Max Cleland said:

> I feel all Vietnam veterans have a certain hole in their soul that . . . can only be healed with special thanks.

It is too late for parades and marching bands, but it is not too late for us as a nation to give them that special thanks—and not just for 1 day or one congressionally designated week.●

HISTORY OF THE OXFORD TOBACCO RESEARCH LABORATORY

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. FOUNTAIN. Mr. Speaker, with the myriad of unresolved questions surrounding the smoking and health controversy, vital tobacco production and health-related research are all the more important. For example, over 600,000 farm families nationwide earn their living from tobacco. Taxes on tobacco products alone contribute over $6 billion annually to Federal, State, and local governments.

The Oxford Tobacco Research Laboratory, situated in my district in Granville County, N.C., has an excellent and long-standing worldwide reputation for valuable research into several aspects of tobacco production, including:

Breeding tobacco with lower tar and nicotine content;

Altering any of tobacco's chemical constituents which might be health hazards;

Extracting pure protein from tobacco, with a potential for feeding millions of the world's hungry by the year 2000;

Biological control of disease and insects in tobacco production;

Efficient production of tobacco, and production of a safer product;

Homogenized leaf curling, a process by which chemicals can be added to or taken out of tobacco.

Mr. Speaker, the Oxford Tobacco Research Laboratory is an enterprise funded jointly by the North Carolina Department of Agriculture and the U.S. Department of Agriculture. An excellent history of 69 fruitful years of tobacco research at Oxford was recently published in the Oxford Public Ledger, the local newspaper. I commend this article to the attention of my colleagues:

[From the Oxford Public Ledger, May 24, 1979]

TOBACCO RESEARCH PROGRAM BEGUN IN OXFORD IN 1910

The tobacco research program centered at Oxford was initiated in 1910 by one man operating out of his home on a small number of rented acres. Over the years, due to the coordinated efforts of the North Carolina Department of Agriculture, the United States Department of Agriculture, and the North Carolina Agriculture Research Service of N.C. State University, the Oxford Tobacco Research Station has grown to what has been called the largest tobacco research station in the world.

GRASSROOTS BEGINNING

Tobacco farmers in Granville and Vance counties played an important part in initiating scientific studies of tobacco problems. At a meeting of the Goodwyn Agricultural Club in Granville County on March 26, 1870, one of the members suggested that a laboratory be established primarily to test tobacco fertilizers. On April 1, 1888, farmers of Vance County met with the North Carolina Commissioner of Agriculture for the purpose of establishing an experiment station.

In 1910, a cooperative agreement for conducting tobacco research was reached between the U.S. Department of Agriculture and the N.C. Department of Agriculture. The USDA agreed to furnish a trained man and his expenses and the NCDA agreed to pay all land rentals, labor, and fertilizer bills. Under this agreement, the late Eugene G. Moss, operating out of his home near Wilton, initiated work with fertilizer experiments in 1910.

In 1911, the State of North Carolina rented the land that is presently the nucleus of the Oxford Tobacco Research Station from Granville County. At that time it was a part of the Granville County Home. In 1912, 250 acres of this land was sold to the N.C. Department of Agriculture. As superintendent of the Oxford Station, Moss eventually became director of virtually all tobacco experimental work in North Carolina. Under his aggressive leadership, experiments were conducted in many localties in the State.

A dwelling for the superintendent was constructed in 1912 and his office was located in this house until 1920 when a small office and laboratory building was constructed.

The reputation of the station was growing by 1921 and thousands of visitors came each year to see the work in progress and for help with tobacco problems. The station provided a tobacco seed cleaning service for farmers and kept a registered Jersey bull for service in the community. A small herd of Berkshire hogs was maintained to determine cost and returns and to furnish breeding stock to local farmers.

On July 1, 1935, the USDA established an office and laboratory at the station to study control methods for tobacco insects including flea bettles and hornworms. Mr. W. A. Shands was the first leader of this program and was in charge until 1940.

During 1938, the station received increased support for the research program. The U.S. Congress appropriated funds for an office and laboratory building, greenhouses, and a garage to be used by USDA and NCDA tobacco specialists. The State of North Carolina deeded 4.69 acres of land to the USDA for the location of these buildings. Upon completion of these structures, the station was recognized as the largest tobacco research station in the nation.

An additional 80 acres of land was purchased in 1941 by the N.C. Department of Agriculture, bringing the station total to 330 acres. In later years approximately 55 acres were sold for development of industrial complexes near Oxford.

On December 1, 1947, Mr. Moss retired as Superintendent of the Oxford Station and his duties were assumed by Mr. J. M. Carr. Under Mr. Carr's leadership an Engineering Laboratory was constructed in 1948 for studying engineering phases of tobacco and for support of the other research programs.

Further expansion of the facility did not occur until the period 1964–1968 when four new greenhouses and an insect rearing building were constructed. In 1964 one of the most significant improvements at the station occurred when the U.S. Congress appropriated funds for an additional building. This structure was completed in 1969 but since this time has been only partially staffed due to lack of funds.

On July 1, 1967, a significant change in organization was made. Mr. J. M. Carr had been serving in the joint capacity of Station superintendent combined job and had become too demanding on one individual, a superintendent, B. N. Ayscue, was employed by the N.C. Department of Agriculture and placed in charge of the physical operations of the station including management of the field research program. Mr. Carr then devoted his full time to research and handling administrative matters for the U.S. Department of Agriculture until 1968 when he retired.

Mr. Carr's duties were assumed by Dr. J. F. Chaplin who presently serves as Director of the Tobacco Research Laboratory located at the station. In 1973, C. R. Campbell assumed the duties of superintendent of the station.

The station continued to grow with the needs for tobacco research. In 1976, an additional 38 acres of research land were purchased and in 1977 a new tobacco processing laboratory was constructed for the purpose of studying tobacco processing and protein extraction. An additional greenhouse was constructed for the purpose of rearing beneficial tobacco insects presently being used in biological control studies in Bladen County, N. C. Greenhouse space was also added in 1978 for germplasm maintenance. The Oxford laboratory maintains a world collection of tobacco germplasm which is used by scientist in the U.S. and throughout the world to improve tobacco varieties. In 1979, an additional 89 acres were leased in order to supply the future land requirements of the station.

In 1978, a critical period in the history of the station occurred. The Presidential budget submitted to Congress asked that the 1.1 million dollars normally committed for Research Laboratory be omitted from future funding. North Carolina farmers and the tobacco industry were astonished at this attempt to close a facility that had meant the continued livelihood of farmers in North Carolina and the many people supported by the tobacco industry.

The grass-roots support that was responsible for the origin of the station in 1912 again responded to this threat to a facility that had contributed many-fold above operating expenses to the economy of North Carolina. A massive effort by local leaders, state and national legislators, North Carolina farmers and other organizations responded and had the funds restored in full. In 1979, an additional attempt to cut a portion of the funds for tobacco research at the station was launched but tobacco leaders are confident that these funds will again be reinstated.

RECORD OF SIGNIFICANT CONTRIBUTIONS

It is estimated that the annual expenditures for tobacco research at the Oxford station have been returned to North Carolina farmers and other citizens many-fold. Research activities have provided our farmers answers during critical periods and made their continued success possible.

During the early years of development, research work dealt mainly with fertilizer requirements, cultural practices, and diseases of tobacco. Work was also conducted with small grain, corn, and grasses. Crop rotation systems for areas infested with Granville Wilt were developed, different varieties were tested, and work was conducted on the value of priming tobacco as compared with stalk cutting. By 1921, a significant discovery had been made by Mr. Moss and his associates. A condition of tobacco normally referred to as 'sand drowning' was found to be caused by deficiency of the nutrient magnesium. This deficiency at that time was a common problem with many crops throughout the world so the discovery of corrective measures had global impact.

In the 1930's breeding work was initiated to develop a variety with resistance to Granville Wilt which was a major threat to the entire tobacco industry. In 1932, a similar variety development program was initiated to conquer another major disease, black shank. In 1943, Oxford 1, resistant to black shank, was released by station scientist, Mr. J. F. Bullock, and was the first tobacco variety to have bred-in resistance to a disease. In 1945, the variety Oxford 26, developed by Dr. Tom Smith, was released and was the first tobacco variety in the world to carry Granville Wilt resistance.

By now the station had become world known for excellence in tobacco research efforts and was looked upon as a leader in the industry. The contributions continued and in 1953 Dixie Bright 101 and 102 were developed and carried resistance to both Granville Wilt, black shank. Later, under the leadership of Dr. E. L. Moore, NC-95 was released which carried resistance to Granville Wilt, black shank, root knot nematode and fusarium wilt. NC-95 was the first root knot resistant variety to be developed and was the basis for all subsequent varieties resistant to the disease.

Entomologists at the station have made contributions in controlling tobacco insects. A massive insect rearing program has through the years supplied beneficial and harmful insects for study by scientists all over the world. A light trap program in the 1960's resulted in significant control of tobacco insects in Granville County. Studies of the life cycle of various insects have led to further understanding of insects and to the development of biological control studies.

Significant discoveries have likewise been made in the areas of engineering. Dr. F. J. Hassler and W. H. Johnson over 22 years ago worked at the Oxford station to study the potential for forced air tobacco curing. In just four years of work, the basic concept of bulk tobacco curing was developed and in five more years the first bulk curing barn was placed on a farm in Roberson County, N.C. Improved varieties have been developed as a result of work by station scientists. In addition, further advances in curing methods and energy saving techniques have been developed. A new concept called close-grown tobacco production has been developed in response to attempts to utilize a non-tobacco smoking material. Scientists feel that production of tobacco at high plant populations and utilization of the entire plant might be competitive with synthetics.

TOBACCO RESEARCH LABORATORY—IMPORTANT CONTRIBUTION

One of the largest contributing factors to the past and continued success of the research station is the Tobacco Research Laboratory operated by the Science and Education Administration of the U.S. Department of Agriculture. Ten scientists and their support personnel are located at the laboratory. Equipment and facilities such as greenhouses and growth chambers are available for all types of the most sophisticated tobacco research. The Research Laboratory program at Oxford and other research locations in North Carolina is responsible for approximately one-fourth of the total tobacco research programs in the State.

In the last few years the objectives of the research, conducted at the laboratory have changed due to changing problems and times. At present the most pressing problems in flue-cured tobacco production are those of labor required to produce the crop and the smoking and health issue.

The primary objectives and some of the recent accomplishments of the laboratory are:

Breeding and developing varieties and lines resistant to diseases and insects with varying chemical and other quality characteristics. The inheritance of nicotine levels in flue-cured tobacco were determined and based on the research. A low nicotine flue-cured line (LAFC 53) was developed and released. This line has a nicotine level of 0.2 percent as compared with normal cultivars of about 2.5–3.0 percent and has good smoking qualities.

Polyphenols are a group of chemicals in tobacco which are suspected of being a health hazard. The common varieties, as well as the germplasm collection were surveyed for this constituent and two fold differences were found. A breeding program was begun to change the levels of this chemical in the leaf.

A smoking laboratory has been completed where TPM (tar) and nicotine can be measured. In testing the germplasm for "tar" content, two fold differences were found. Lines with low tar have been identified and a breeding program begun to reduce the tar content. The reduction of tar in tobacco through genetic, production, and curing practices is a high priority research item.

The nicotine to tar ratio is important. People smoke for the nicotine yet it is generally believed that most of the harmful effect to the smoker is from the tar. Therefore, a reasonable approach would be to lower the tar and have the nicotine remain constant. Results obtained show differences in the tar-nicotine ratio in different tobaccos.

The world collection of Nicotiana species and tabacum germplam is maintained at the laboratory which includes over 65 Nicotiana species, 1,000 tobacco introductions and approximately 350 cultivars. This material is available to scientists all over the world who are interested in tobacco research and is needed in all breeding programs for chemically altering the plant.

Control of disease by use of pesticides that leave little or no residue and the use of methods that do not require the use of pesticides are being investigated. Non-pathogenic isolates of the brown spot fungus, when applied to leaves of tobacco before inoculation with the pathogenic strains of brown spot reduces the disease. This technique of inoculating plants with non-pathogenic strains of an organism to build up immunity in the plant has great potential for controlling plant diseases without the use of pesticides. The basic information can be used in controlling diseases in other plants.

Techniques have been developed to produce plantlets of tobacco in large numbers. In 1968 (when the project was started) eight plantlets were produced, now several thousand can be produced in a month. This technique allows changes in the genetic make up of the plant to be made rapidly. Using old techniques it would take seven or more years to change a plant genetically, however, with the haploid technique plant with four levels of nicotine were produced in two years. This technique will be used to change tar content. The technique produces a pure line or true breeding entity in one generation.

Projects are underway to breed tobacco with less suckers. There is considerable controversy at present over the use of Maleic Hydrazide on tobacco because of the residue levels. While it may not be practical to eliminate suckers, data obtained to date indicate that they can be reduced, therefore, if the number of suckers are reduced the amount of chemicals used on tobacco could be reduced thereby cutting down on the residue problem.

A pale yellow flue-cured breeding line (NC PY 10) was developed and released which offers to reduce the number of harvest. In addition this line was shown to have 10–30 per cent less polynuclear aromatic hydrocarbons. The line also contains lower levels of solanesol and sterols. These constituents are suspected of contributing toward health hazards in tobacco smoke.

Development of insect resistant tobacco varieties is an alternate to the use of insecticides. Resistance to the tobacco budworm has been identified in a line TI 1112. This line does not have glands on the leaves. The lack of glands causes the tobacco leaves not to have gum. We are in the process of determining what effect the absence of gum on the leaf may have on the amount of tar.

It was found that the spined stiltbug destroys hornworm and budworm eggs. A large scale pilot test is underway to test the practicality of using stiltbugs to control these pests. The project began in 1978 and will continue for three years. This is an alternate method of controlling insects which reduces the residues from pesticides.

Homogenized leaf curing (HLC) of flue-cured tobacco is being investigated at the laboratory. This process involves homogenizing the green tobacco and an accelerated curing method. The tobacco can then be dried and made into sheet and cigarettes. The tobacco made by this process has been shown to have lower biological activity. Also involved in this process is the extraction of protein. The recovery of protein on a rather large scale has been demonstrated at the Oxford Laboratory. The protein can be obtained in a pure form from tobacco which is the only green plant known where this can be accomplished.

Contributions from the laboratory continue to be important, not only to Nortn Carolina but to all of the tobacco growing areas of the United States.

THE RESEARCH PROGRAM TODAY

Today the research program has broadened to encompass every major area of tobacco research. Projects presently underway involve plant breeding, soil fertility, plant physiology, entomology, weed control, engineering, biochemistry, and variety testing. Important results will likely come from all of these studies. More than twenty-five scientists are served annually by the field staff at the research station. More than 10,000 research plots are processed annually. In addition, over ten acres are involved in tobacco mechanization and curing work. In total, the annual tobacco research program involves approximately 60 acres.

The investment at the Oxford facility is big. The North Carolina Department of Agriculture furnishes approximately 390 acres of land at the facility and equipment, buildings, and personnel for conducting all types of intensive tobacco field research. The U.S. Department of Agriculture provides one of the best equipped laboratories and greenhouse facilities found in the world for conducting tobacco research.

The total research effort at Oxford is dedicated to the production of a more economical, higher quality tobacco product which may be less hazardous to the consumer. The research center continues to be sensitive to the needs of the tobacco industry and is ready to accept the challenges of future production, processing and safety problems.●

AIDING THE G-4 IMMIGRANT

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. HARRIS. Mr. Speaker, today I am introducing legislation that would correct an inequity in our current immigration laws. The Harris bill seeks to help employees of international organizations, and their immediate family.

Under the current law, if an employee—for example, of the World Bank or the World Health Organization—terminates employment with the organization he or she, and the immediate family, must qualify independently for some lawful temporary or permanent status in the same manner as any other alien seeking to reside and work in the United States. For the children this law is particularly harsh. Having parents with jobs in the United States, the children are growing up and going to school here, losing their foreign identity and language facility in the process, and becoming fully Americanized. Yet, once they become independent of the immediate family they are required to leave the country and apply for visas to reenter, subject to the quota limitations of their country. This situation holds true for widowed spouses of the employee, and for the employee himself, if he decides to retire. This situation has obviously had a seriously disturbing effect on the morale of international civil service families in the United States. My bill would correct this inequitable situation.

This bill would confer special immigrant status to certain retired employees of international organizations, to the surviving spouses of certain deceased international organization employees and to certain children of international organization employees. Once deemed a special immigrant, the subject would merely have to apply for a change of status to permanent status. This can be done without leaving the country and he or she would not be counted against their country's quota limitations. The only stipulation is that the applicant must have resided in the United States for 5 years prior to filing the application.

Efforts to find an administrative solution to this problem have not been successful. For both humanitarian and other sound reasons I urge my colleagues to support this bill.●

FINANCIAL DISCLOSURE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. KOSTMAYER. Mr. Speaker, as a believer in complete financial disclosure by public officials and elected representatives, and as one who campaigned on a promise to disclose annually my net worth and taxes paid, I am submitting for publication in the CONGRESSIONAL RECORD the attached statement of net worth as of December 31, 1978:

STATEMENT OF NET WORTH, DECEMBER 31, 1978

ASSETS	
Cash in personal checking accounts	$1, 404. 65
Cash in savings accounts	6, 535. 65
Cash in charity fund checking account [1]	384. 45
U.S. Congressional Retirement Fund (contributed cost)	8, 624. 85
Mortgage escrow account	397. 58
1972 Chevrolet Malibu	1, 000. 00
Furnishings and personal property	6, 000. 00
Reimbursements due from Kostmayer for Congress committee	1, 689. 29
Condominium, Washington, D.C	45, 000. 00
Total assets	71, 036. 35
LIABILITIES	
Mortgage on condominium in Washington, D.C	34, 617. 08
Outstanding bills, approximate (credit card, revolving charges, etc.)	2, 500. 00
Total liabilities	37, 117. 08
Net worth	33, 919. 27
INCOME AND TAX INFORMATION 1978	
Gross income	57, 501. 78
Taxes:	
Federal	13, 768. 22
Pennsylvania	1, 265. 04
Washington, D.C	460. 50
Total taxes	15, 493. 76

[1] Contributions from charity fund in 1978 totaled $6,430.28.●

REINVENTING TV FOR THE 1980's

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. WIRTH. Mr. Speaker, the House Subcommittee on Communications is engaged in the redrafting of our Nation's communications laws, the Communications Act of 1934. This has been an extremely arduous task, and Chairman VAN DEERLIN has done an admirable job raising the issues which we must all address.

One of the central questions facing the subcommittee is the role of Federal regulation over radio and television broadcasting. Mr. Tom Shales of the Washington Post has written a provocative article taking one side of this complicated subject. I commend it to the attention of my colleagues.

(The article follows:)

REWRITING THE COMMUNICATIONS ACT OF 1934—WILL THE PUBLIC PROFIT TOO?

(By Tom Shales)

In his magnificent movie "Manhattan," Woody Allen calls television a medium that has "systematically lowered the standards of its audience." Now, with the communications revolution of the '80s staring us in the face, expectations are being raised again. There is the prospect of practically reinventing television and making it what it should have become the first time.

There also is the prospect that the United States Congress, under pressure from the perilously powerful broadcasting lobby, will deliver television into the wrong hands all over again, and into too few of them, entrusting it to the same people who run it now. Television is run now with one eye on profits and the other eye on, naturally, profits. This stalwart little toy simply has to be capable of a higher purpose than that.

What the House and Senate are considering is a rewrite of the Communications Act of 1934 to take into account such burgeoning and salutary technologies as cable TV, satellite transmission, and the oversight "ad hoc" networks that both make possible. There is every likelihood that this alleged overhaul will simply insure that the powers now ruling television will continue to dominate it in the future and that visions of expanded diversity and increased public access to the airwaves have as much foundation in reality as those of sugar plums dancing in the heads of sleeping tots.

Unfortunately for us, the poor trampled old viewers, legislators do not realize broadcasting is an ecological issue. It has as much or more to do with the quality of life than the availability of fuel or the flavor and color of the atmosphere. The airwaves, according to the 1934 Act, belong to the people, not to ABC, CBS, NBC, Time Inc., Metromedia, Westinghouse, Post-Newsweek, or any other titans of revenue. And yet the rewrite sponsored by Rep. Lionel Van Deerlin (D-Calif.) advocates deregulating television so that people will have even less say in what comes into their homes and even less chance of involvement in the broadcasting system that is supposed to operate according to their "interest, convenience and necessity."

Cable is going to liberate viewers with its spectacular array of increased channels, the reasoning goes, so it's high time we relieved broadcasters of such government-imposed nuisances as giving equal time to candidates for public office and treating controversial issues according to a doctrine of fairness.

This is precisely the wrong thinking and it will lead us down a road to ruin. In fact, broadcast television should be subject to more regulation, not less, and cable should be allowed to develop by natural evolution so long as some of its channels are kept open for public participation.

Television today serves a severely limited spectrum of tastes and needs. Mainly it grovels before advertisers by shamelessly courting the 1,200 families of questionable intelligence who have Nielsen meters in their homes. These people should be ashamed of themselves; they have made television a national monument to mediocrity. Any network executive who claims otherwise is talking through his hat.

Meanwhile, television has failed to develop with the diversity of other media. For example, there is no Village Voice of television, no New Republic of television, no New Yorker of television nor, for what its' worth, no Playboy or Blueboy of television. There is no Pacifica radio of television. There is no National Review of television. There is no Rolling Stone of television. There is no Ebony of television.

If American magazines were like American television, there would only be one magazine in America: The Reader's Digest. Or maybe TV Guide.

Cable could provide alternatives for people now ignored by television or who watch what's available with growing dismay and a resignation bordering on self-contempt. If cable is allowed to grow *laissez faire* and if broadcast television is made more responsible to the mass audience, TV, as we know it, could be the mainstream medium and cable, the minority medium. Then our system of communications would be what our system of government is supposed to be: majority rule with protection of minority interests.

Network and local TV news virtually and suspiciously *never* cover this kind of communications issue, so most people don't even know there is a Communications Act of 1934, much less a proposed rewrite of it that could disenfranchise them for good. Now, however, a new subculture of media-wise activists is emerging in this country, and though many of the groups involved in it are wearing the blinders of self-interest, together they may be able to challenge the intimidating clout that broadcasters have over Congress and the White House and just about everybody else but the pope.

Nicholas Johnson, a former FCC commissioner and dedicated troublemaker for the television industry, sees this subculture as a "coalition"—literally, in fact, since he helped form the Coalition for Public Rights in Broadcasting (CPRB), an umbrella for "dozens" of groups with diverse but specific stakes in the future uses of television. Johnson, who now heads the National Citizens Communications Lobby, says coalition groups range from the United Steelworkers to the American Federation of Teachers to the Friends of the Earth to the National Coalition of American Nuns. Representatives of the Screen Actors Guild, the United Auto Workers and the National Organization for Women are among those sitting on the steering committee. (The CPRB's address is Box 19101, Washington, D.C. 20036.)

"The way broadcasters look at it," says Johnson, "is that there should be no limitation on their opportunity to profit-maximize every minute of every hour of every broadcast day. That is simply unacceptable. Virtually every civilized democratic society has recognized that broadcasting is something heavily invested with social interest; it's like schools and libraries and national parks and forests. And so to make it responsive, some of them have gone so far as to ban anything like the commercial broadcasting system we have here.

"In this country, broadcasting is the society's cerebral cortex. It's replaced the conversation on the village green after Sunday church services or the handbills posted on trees. It's the medium in which we discuss the issues of our society and there must be some kind of provision for public participation and access in that medium."

Commercial television's efforts in this area have been token and minimal—from the CBS News production "Letters to CBS News" to the 30 seconds of tightly controlled air time some local stations give to private citizens to present little peeps of view. Public television only recently has begun allowing independent producers access to that insular and elitist system, and many public TV station's bypass such efforts in favor of shows about chess or cooking or, come next season, "disco dancing." Public television is a hypocritical contradiction in terms.

According to figures released last week by the FCC, pre-tax profits of the three television networks were down 7.9 percent in 1978 to a measly $373.5 million. Of course, the year before, those profits were $406.1 million, a 37.4 percent increase over 1976. Each network is allowed to own and operate five television stations, and these accounted for pre-tax profits to them in 1978 of $186.3 million, up 25 percent from 1977. These fabulous amounts of money are generated by a one-way system that is responsive not so much to the needs and desires of the American people, but to the unchallenged gospel dictated by a Nielsen computer in Dunedin, Fla. This computer runs American television.

Instead of investigating new ways for broadcasters to evade their public obligations, Congress should consider additional regulation to make television both more responsive and more representative. The television industry has proven now that its own self-policing organization, the National Association of Broadcasters, is incapable of devising, much less enforcing, rules to deal with the excessive number of commercials and promotional announcements—the clutter that makes much television truly unwatchable—and so it is time for the FCC to consider rulemaking along these lines.

It also is clear that children's programming is going to remain almost entirely a diet of junk food unless some sort of requirement is imposed on stations to air a certain amount of positive, educational programming weekly, and for once and for all, children must be given special consideration when it comes to advertising, for they are now bombarded during children's viewing hours with unfair and excessive appeals to their sweet teeth and materialistic urges.

Such regulations have nothing to do with the First Amendment or freedom of speech. They are a form of zoning—much the way cities zone certain neighborhoods for residences or businesses. Hours of the broadcast day could be zoned as well; the precedent has already been established by the Seven Dirty Words decision of the Supreme Court. It was a ghastly and thick-headed decision, and yet it may make certain substantive broadcast reforms possible, because it supports the idea that children are a specialized audience that should be treated differently than adults.

Meanwhile, cable is the pie of which everyone under the sun wants a piece. Whether there will be enough to go around remains to be seen, but the most crucial aspects of cable are fairly evident. Some cable channels must be kept open for public access, and cable system operation must be kept out of the hands of the same old Hollywood production companies or massive media conglomerates that now control television. Producers like Norman Lear and industry spokesmen like Jack Valenti, president of the Motion Picture Association of America (MPAA), are mostly worried that cable systems and superstations won't pay them enough money for their programs. That would just be their tough luck. Far more worrisome is the notion that cable operators will be going to these same old worn-out suppliers for the stuff they deliver to viewers.

We are suffocating on the television system as it now exists; those who think it's just jim-dandy simply have been conditioned by years of banality and public disservice to expect nothing finer. There are fantistic possibilities for television in the '80s—and with energy shortages likely to increase, we will probably be more TV-dependent and electronically linked than ever—but it's going to take all the kicking and screaming at our command to keep the revolution from going sour right before our very, and very tired, eyes.

We blew it once, it would be a shame to blow it again.●

ONCE IN A WHILE WE HAVE TO PUT A PRINCIPLE BEFORE A BUCK

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. FISHER. Mr. Speaker, as you know, Congressman Jeffords and I have introduced the Beverage Container Reuse and Recycling Act of 1979, calling for a nationwide refundable deposit system for carbonated beverages.

This is not a new concept. Seven States have already enacted related laws and a number of other States have the issue on their legislative agenda. However, the beer, malt liquor, and soft drink industries, with notable exceptions, continue to resist this important initiative. In view of the demonstrable energy and environmental benefits that are derived from a refundable deposit program, now is the time for industry to speak out.

A vivid illustration of industry leadership can be found in the following quote from a letter I received recently:

> It seems to me that once in a while we have to put principle before a buck.

It is my privilege to introduce into the Record the entire letter:

Washington, D.C.,
April 12, 1979.

Re: Beverage Container Recycling Legislation.

Hon. Joseph L. Fisher,
U.S. House of Representatives,
Cannon House Office Building,
Washington, D.C.

Dear Congressman Fisher: Please know that this company, the nation's largest stock exchange listed Pepsi-Cola producer, fully supports your bill designed to encourage recycling of beverage containers by requiring a refundable deposit of at least five cents.

I realize that our company is not in our industry majority in support of this legislation, but we believe it is in the best interest of the American consumer, and in the long run will be in the best interests of our industry.

We are Pepsi-Cola producers and marketers in New York State and North Carolina, and have observed extraordinary growth of throw-away containers in both of our areas. We regard this as both detrimental to the environment and a waste of critical energy and material resources.

It seems to me that once in a while we have to put principle before a buck.

Cordially yours,
Arthur W. Arundel,
Chairman of the Board.●

FEDERAL INDIAN POLICY

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. FISHER. Mr. Speaker, the following is a letter from one of my constituents concerning Indian policy. Theodore W. Taylor was formerly Deputy Commissioner of Indian Affairs, and, in the light of the recent events on the Red Lake Indian Reservation, raises some tough questions. If, as Mr. Taylor says, we appropriate over $2 billion annually for some 600,000 Indians, perhaps we in Congress should review the results. His remarks and questions should prove helpful to my colleagues as the debate on the efficacy of various Federal programs continues. He reminds us that Indians are citizens of the United States and of the States within which they reside, and asks if Indians should not have the same rights and accept the same responsibilities as other citizens.

I submit the letter to be included in the CONGRESSIONAL RECORD:

THEODORE W. TAYLOR,
Arlington, Va., May 23, 1979.

JOSEPH L. FISHER,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN FISHER: The May 21, 22, and 23 editions of the Washington Post report that violence erupted on the Red Lake Indian Reservation in Minnesota, Saturday, May 19, causing millions of dollars of property damage and leaving two youths dead. "They were shooting up the place, turning over desks, setting fires, destroying papers and tearing everything into shambles" and "about 50 vehicles were burned". How many U.S. tax dollars were involved in this destruction?

As a member of the Ways and Means Committee concerned with reduction in federal taxes (and therefore a reduction in federal expenditures) you should know that over $2 billion of your and my tax dollars are spent annually on approximately 600 thousand Indians ($3300 per capita or $13,200 for a family of four).

According to the newspaper reports the trouble at Red Lake started because the elected treasurer, a 34 year old bookkeeper, accused the tribal chairman and other leaders of "misspending tribal funds, nepotism, violating civil rights, and keeping poor records of millions of federal dollars flowing into the reservation each year" for the approximately 3000 Chippewas who live on the reservation. The lawless actions of the Sioux at Wounded Knee in 1973, the sacking of the BIA building and paying the culprits $66,000 to leave town, and the rural poverty and dependency on many Indian reservations are backdrops for the recent Red Lake episode.

Some serious questions need answering:

1. What are the sources of financing of the various Indian groups on federal reservations, eg., what proportion is raised by Indians taxing themselves (practically none, I suspect), by sale of Indian resources (eg. timber and oil), and various federal subsidies (probably the source of most funds on most reservations)? For example, how much of the property damaged at Red Lake was paid for, directly or indirectly, by U.S. tax dollars?

2. How have federal dollars been spent, with what results, and with what accountability? Why do we still have Indian rural slums, increasing Indian dependency, and an aimless existence for many? Have federal expenditures and federal policy contributed to this result?

3. What steps have been taken to encourage cooperation between Indians and non-Indians in their various states—in economic, social, and political activities? Very few Indian reservations or communities are self-sufficient. Cooperation between the Indian and non-Indian sectors would seem to be imperative if there is to be a reduction in the federal subsidy, a stop to increasing Indian dependency, and an increase in Indian self-sufficiency.

4. Has the fact that Indians are citizens of the U.S. and of the states in which they reside been lost from sight? Citizenship involves responsibilities as well as rights. Has our policy been based on increased responsibility of Indians for self-support, and for contribution to their state and federal governments in the same manner as other citizens?

5. Has the holding of Indian land in federal trust (costing federal tax dollars to administer) outlived its usefulness? Why should not Indians have the same opportunities, responsibilities and risks in land ownership as the rest of us? How long should they enjoy a special status with regard to freedom from a real estate tax? If Indians desire to keep and develop their land why can not they do so as fee owners?

6. What is the substance of so-called Indian sovereignty? Indian governments are generally not selfsupporting. They depend for the most part on federal and state tax dollars. Seventy percent of reservation Indian children are educated in state public schools, supported by state and federal tax dollars. Most of the rest are in BIA schools supported entirely by federal dollars. Indian roads are built mostly by state and federal funds. Indians are incarcerated in state or federal prisons, are subject to federal law, and make use of other state institutions such as institutions of higher learning, foster home care, and others. Indians receive welfare through the same system as the rest of their state neighbors, financed by the federal and state governments, plus additional subsidies by BIA (federal funds). Indian medical and hospital care is completely subsidized by the federal government. Does the above situation describe a sovereign condition? Indians seem to be the most dependent, least sovereign of any group in the U.S. Should not Congress make clear for the guidance of Indian policy (1) that Indians are citizens and have no special sovereignty and (2) that social programs will be applied to Indians, poor whites, or other minorities, on the basis of need, not race or blood?

7. The toughest question of all—who is an Indian? Biologically there are relatively few so-called "full bloods." Indian tribal members may, in some instances, have as little as 1/32 percent Indian blood. There may be 10 million people in the U.S. with some Indian blood. Only some 800 thousand (less than 1/10th) identified as Indians in the 1970 census, and over 300 thousand of these were in urban areas such as Los Angeles and New York. Does the difficulty of defining an Indian lend further support to social programs being applied on a "need" rather than a "racial" basis? All are citizens, regardless of race. Thus, should not all of us receive the same benefits and accept the same responsibilities?

These questions need answering.

They were not seriously reviewed by the so-called "American Indian Policy Review Commission" which was dominated by "professional" Indians and their supporters who sought to establish a "super citizenship" and "special rights" for Indians. The Commission forgot that Indians are citizens of the United States and the states in which they reside the same as the rest of us.

If these questions are answered, I suspect that not only much wasteful and harmful spending can be eliminated, but more importantly, Indians can be helped to achieve the dignity of Chief Joseph of the Nez Perce, who sought no special subsidy—only equal opportunity for education, work, and responsibility to the law—as well as freedom to worship in his own way.

Sincerely,

THEODORE W. TAYLOR,
Former Deputy Commissioner of Indian Affairs, Department of the Interior.●

WE SHOULD CONTROL OUR COMMODITY PRICE

HON. JAMES E. JEFFRIES

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. JEFFRIES. Mr. Speaker, Kansas farmers are very proud of their contributions to the world's food supply. But under the stress of increasing inflation and overregulation, the smaller family farms are caught in a serious financial squeeze which threatens their continued survival.

On one of my recent visits back home, I attended a meeting organized by local farmers who impressed me very deeply by their sincerity. These strong, silent people rarely complain, even under the most strenuous conditions. Yet now, they cannot afford to remain silent any longer. At that meeting, they presented me with several pages of material outlining their most urgent concerns. This material was prepared by several farmers including Paul Whitehair of Abilene, Fred Mills of Centralia, Charles Prochazka of Solomon, John Chase of Abilene, Loren Hinkle of Hope, Larry Hefty of Corning, Daniel Sack of Corning, Don Scherman of Seneca, Greg Schmitz of Marysville, Ray O'Neil of Beattie, and Rudy Vopata of Marysville.

All of them submitted excellent material on a variety of subjects of concern to them, but there is one I would like to share with my colleagues which very well sums up many of their views and expresses the frustration they all feel.

[The material follows:]

WE SHOULD CONTROL OUR COMMODITY PRICES

(By John Chase, Abilene, Kans.)

We farmers are tired of playing games. The time has come that the United States wakes up to the fact that we can't continue to send grains overseas at 20 year old prices and import oil and manufacture goods at 1979 prices. The price of diesel fuel 20 years ago was about 13¢ a gallon and today it is 55.5¢. Land in our area is 5 times as high. We cannot continue on $3.00 wheat when it was around $2.00 then. We've been told for years to increase our acreage to make up for cheap prices, but with interest rates at 11 to 12%, volume does not make up for the price.

By using our natural resources to raise cheap food and sell it to other nations at 20 year old prices we are undermining our own dollar. By selling grain at 100% parity it will strengthen the dollar and let our resources leave this nation at 1979 prices. The EEC has bought our wheat and then put a tariff on the wheat. The tariff was higher than the original price paid for the wheat. This extra money was then used for support money for their own farmers on their corn so they could sell it cheaper to other countries than what the U.S. was selling it for.

The control of farm production and selling of the grains must be with the farmer.

To do this, we need to have a referendum for wheat and one for feed grains. This is done by a vote of the farmers. This will enable the farmers to have more control and higher prices. The only way you will get support is to get loan rates raised and throw away target prices. With loans the government will get paid back, whereas target prices are only a form of welfare and farmers don't want welfare.

It is about time we get the support from the Congress that we were told we would get. All we want is to make a decent living for our families.●

LET'S HEAR IT FOR PUBLIC SCHOOLS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mrs. SCHROEDER. Mr. Speaker, America's favorite pastime, aside from baseball, seems to be beating up on various institutions of society. Congress, perhaps justifiably, gets its lumps all the time. The public school system gets the same treatment. I do not think that is entirely fair. So in rising to the defense of public schools, let me submit a recent Washington Post article by William Greider.

[From the Washington Post, June 3, 1979]

STOP KNOCKING OUR PUBLIC SCHOOLS

(By William Greider)

Every true American loves the familiar story of struggle and triumph by a group from the ethnic underclass—the Irish, the Italians and Jews, the Chinese and, now, the Koreans. So I have discovered another ethnic group whose struggle should be celebrated.

In one generation, these people overcame many of the educational inferiorities imposed on them for centuries. They tripled the number of their young people who graduate from high school. They broke down barriers to higher education and dramatically narrowed the gap with other more fortunate American children. They reached for equality—a ridiculous goal, considering their tragic history as a people—and their progress has been breathtaking.

You may not recognize it, but I am talking about America's native-born black citizens. A few weeks ago, on the 25th anniversary of the Supreme Court's *Brown* decision, instead of this triumphant message, we heard a chorus of gloom—from black leaders, of all people. Vernon Jordan of the Urban League said, in so many words, that nothing has changed in 25 years. James M. Nabrit, a beacon lawyer who argued one of those landmark cases, denounced the public schools as failures. And so on, with others.

The supposed failure of the public schools is, in fact, a favorite message in newspapers these days, especially in this newspaper, especially the failure of the District of Columbia schools from which so many white citizens have fled.

Personally, I am sick and tired of people beating up on the public schools. I think it is a form of scapegoating, a variation on the old game called "blaming the victim." I suspect some critics use "public schools" as a new codeword for racial slurs, particularly in our largest cities. Most tragically, beating up on public schools serves the interests of those who wish to suppress social change, who want the poor and unwashed to stay in their place, scrubbing floors and shooting dope, tucked out of the way so the rest of us can go on enjoying the more luxurious life of modern America.

At the risk of losing all open-minded readers, I admit my deep personal biases on this subject. I grew up in a family committed to public schools, committed in a way that nobody ever needed to articulate at the dinner table. My mother taught school, including poor and unwashed children in a city slum. My father served for years on a community school board. My aunt was a teacher. So was my sister. My grandfather struggled up from uneducated poverty, thanks to the "free common schools" of prairie Kansas, and he became a learned high school teacher himself. In the curious manner of these things, my wife's family has a similar profile—an abundance of teachers and school board members.

So I confess—when I hear glib generalizations about the hopelessness of public schools, somewhere deep in my psyche it sounds like they are beating up on our family, and I get angry.

Now I hope the public school critics will examine their own biases. How many are motivated, perhaps, by pretentions of class superiority or by racial fears? How many suffer from that social petulance that is really a contempt for children, including their own?

But let's stick to the facts. The evidence, as opposed to someone's rheumy recollections, support me in this audacious claim: The American public schools are doing a better job today, better than ever before in our national history, of providing universal education for our young people, white, black, brown or whatever.

The facts, for example, describe an educational revolution among blacks. In 1950, only one of every four black children finished high school in America. Imagine: only one of four. The rest dropped out and, with rare exceptions, assumed the menial stations the society reserved for them—stoop labor.

Today, three out of four black children complete high school. Consider the social meaning of that change: In 30 years, the public schools were opened to a huge underclass of young people. Will anyone argue that this generation, now completing high school, is behind those children who, a generation ago, quit in the 7th or 8th grade? I would like to see the evidence for that.

The District of Columbia schools, notwithstanding their lousy reputation, participated in this great leap forward—more black kids in D.C. are finishing high school, many more are going to college. Just from 1972 to 1977, for instance, the D.C. school system increased its high school graduates by 9 percent—while D.C. high school enrollment was leveling off.

Older black leaders remember fondly the academic excellence of the old Dunbar High School, and they bemoan the present inadequacies of D.C. graduates. They are inclined to forget that old Dunbar was possible only because most black children did not finish high school, much less study Greek and Latin, a generation ago.

The equation is fairly simple, and it applies to public schools across America: It's a lot easier to provide excellent education if you are only going to educate relatively few children, particularly if they are students who already do well. If the schools try to educate all children, the job becomes far more difficult. In the last generation, the public schools have tried to do this. They are a long way from what anyone would describe as a rousing success—but they are also far ahead of where they used to be.

This educational upheaval affected white children, too. In 1950, only 56 percent of white children completed high school. Does that shock you? It shouldn't. Poor whites in America have always outnumbered poor blacks. Today, about 85 percent of white children graduate from high school. Are they not better educated than their fathers and mothers who quit school in adolescence, many of them going, like poor blacks, to the bottom rung on the economic ladder? Show me the study proving that.

Anyone looking at such statistics will see, of course, that young blacks did not completely close the educational gap with whites. But their progress is clearly more dramatic than that remaining gap. It translated, with the aid of the civil rights movement and federal money, into an even more remarkable change in higher education—a crude parity, not perfect but certainly a watershed of deep social significance. Black enrollment is now about 13 percent of the college-age population—roughly equivalent to the black share of the overall population. Yes, a good number of these black students are in two-year community colleges, but that is a level most blacks never had a prayer of reaching a generation ago.

Again, it helps to remember what the past was really like—not how some people like to remember it. In 1960, there were 435 blacks in white colleges in the South. Today there are well over 100,000. That represents real social change, which begs the same question: Are these children not better educated than the earlier generation?

At this point, the critics may say, "Yes, but . . ." The "but" leads to the muddled question of quality—how much are these children really learning? Aren't some high schools "graduating" illiterates, kids who can't read or write much? Yes, some high school "graduates" are illiterate. Yes, that is a scandal, one that ought to provoke outrage and reform.

But concentrating on this disturbing reality, as if it were "typical," is profoundly misleading. In general, notwithstanding what you think you read in the newspapers, the quality of student performance is as good or better today—repeat, as good or better—than it was a generation ago. Today's children, on the average, do as well or better on achievement tests than their parents did—if their parents were in school at all.

A serious performance gap remains, of course, between black and white, between rich and poor, though the racial differences are narrowing in basic skills. In any case, if you think about it, there will always be "gaps" on achievement scores between different students—unless you can imagine an America in which all children are born with precisely the same brain cells or talents or grow up in identical environments.

Arthur E. Wise of the Rand Corpration is one of a number of scholars who have studied the array of test results and concluded that the news chiefly is good, not bad. Since the Rand Corporation is not exactly a bleeding-heart think tank, inclined to wishful thinking as I am, Wise's conclusion is valuable:

"The loss of confidence is not the result of a decline in quality; it is the result of a re-emerging conservatism which wants to see the world as worse than it used to be."

One of Wise's favorites is a statewide sampling in Indiana that matched 10th graders of 1976 against 10th graders of 1944 and found the modern group to be superior—though the '76 class obviously included many of those children, white and black, who never reached the 10th grade in 1944.

This demographic change in the public schools—taking more children and taking them further—was also the real reason for most of another celebrated decline, the drop, until last year, in scores on the Scholastic Aptitude Test. The SAT's used to be taken by an elite, a relative handful from the better schools, the better families. But then, thanks to egalitarian reforms in education, a much broader cross-section began taking the tests, more racial minorities, more women, more white males from poorer families. This pulls the national "average" down on that test (which measures aptitude, not achievement), just as the D.C. schools lost ground on tests as more affluent whites were replaced in the averages by poorer blacks. But this certainly doesn't mean black children are doing worse than before.

Nevertheless, the new "conservatism" has produced the current "back to basics" hysteria, a trend which is likely to hurt more children than it helps. The "back to basics" formula will make school more boring than it already is, more geared to the safest and lowest common denominator, Dick-and-Jane rote drills. Everybody, by God, is for reading, writing and arithmetic, so let's cram it into their little skulls. Most children will hate it. So will most teachers. But public anger must be served, however misguided. A few years hence, the schools no doubt will produce the "back to basics" test scores to show they have solved some problem.

Meanwhile, tests already show that children have been improving on basics, reading, and math, white children and black, North and South. The National Assessment reports find the most striking gains among 9-year-old black kids. This is significant because that's where the feds have spent most of the money—on helping younger children from poor families in the early years of schooling.

Indeed, the most serious problems reflected in the national testing is the opposite of rote skills: Students finishing high school show a declining ability to grasp complex ideas, to draw abstract inferences from diverse information. When you think about the complexity and change in their futures, that's a scary educational problem. But, unfortunately, the critics are stampeding the schools in the other direction.

Who should be blamed for this wrongheadedness? I would start with the school people, who are notoriously inept at defending themselves. They turn and run before every gust of public discontent. They conceal better than they explain.

Or you can blame the newspapers. I do. And I plead guilty myself to participating in that strange value system that finds failure more interesting or important than success.

But the problem with newspapers is not really good news versus bad news. Newspapers, by their nature, are constitutionally opposed to history. They are quite good at taking snapshots of today or yesterday, but they are incapable of looking backward and asking how the snapshot fits into a continuum of events, the complicated story of people changing over time. Today's outrage looks more outrageous if you have forgotten yesterday's.

In any case, Wise noted, there is an audience out there that wants to hear this message of failure. (Interestingly, though, public opinion surveys indicate that citizens with children in the public schools—with their own channel of information independent of the news media—have a much higher opinion of the schools than do others.

The belief in decline is really a public value statement, one that often implies that black children cannot improve themselves. If education makes no difference, why bother? The children, of course, hear the same message.

Does that make the gloomy Vernon Jordans into an unwitting spokesmen for conservatism? I think it does. It makes someone like the Rev. Jesse Jackson, corny as he sounds, a revolutionary, because Jackson's message to young blacks challenges the "illusion of inevitability," as one social philosopher calls it. The illusion of inevitability is a principal barrier to social injustice because it convinced the downtrodden, no matter how deep their pain, that nothing will improve their low status.

The continuing rage of black leaders, I believe, is aimed at the wrong target. In general, it was not the schools that failed the last generation of black children. It was the rest of society that disappointed the newly educated, that failed to provide the jobs and income that were promised when the young people were urged to stay in school.●

COMMENDS FRUIT EXPORTING COOPERATIVES

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. BOB WILSON. Mr. Speaker, generally, when we refer to our international trade picture, it is in somewhat gloomy terms. But one success story can be found among our Nation's exporters of fruit.

This bright spot in our foreign trade is the result of a spirit of cooperation among our fruit exporting cooperatives.

I heartily commend the industry for its achievements in the world of foreign trade and believe that the following accounting of their efforts will pass along valuable lessons for those of us here, and in the business community:

FRUIT COOPERATIVES AMONG EXPORTING ELITE

(By Donald E. Hirsch, Senior Agricultural Economist—Foreign Trade)

If there is ever a contest among export cooperatives for the title "exporter elite," the group that markets fruits will be a leading contender.

Of eight commodity groups of cooperatives selling to foreign buyers in 1976, fruit cooperatives ranked:

First in number of direct exporting cooperatives;

Second in cooperative share of total U.S. exports; and

Third in dollar value of commodities exported.

There were 29 fruit exporting cooperatives, more than double the number of any other commodity group. Their direct exports (sales to foreign buyers) accounted for 38 percent of total U.S. exports of fruits and preparations; only one other commodity group of cooperatives—nuts—had a larger share of total U.S. exports. In terms of both direct exports and total exports (direst sales plus sales to other U.S. firms for export) only two commodity groups of cooperatives—grains, and oilseeds and oilnuts—had exports of greater value.

Fruit cooperatives surpass all others in terms of merchandising food in Canada and overseas. There are other individual cooperatives—such as those exporting almonds and walnuts—that individually have excellent programs, but there is no other relatively large commodity group of associations that has brand names recognized by millions of foreign consumers.

The "family" of fruits exported by cooperatives is a large one. Each of the following "members" requires special expertise:

Apples, fresh and processed;
Apricots, processed;
Avocados, fresh and processed;
Blackberries, processed;
Blueberries, fresh and processed;
Boysenberries, processed;
Cherries, fresh and processed;
Cranberries, fresh and processed;
Figs;
Fruit cocktail;
Grapes, processed;
Grapefruit, fresh and processed;
Lemons, fresh and processed;
Nectarines, fresh;
Olives;
Oranges, fresh and processed;
Peaches, processed;
Pears, fresh and processed;
Pie filling;
Plumbs, processed;
Prunes;
Raisins;
Raspberries, processed; and
Strawberries, processed.

Especially well known overseas are the cooperative brand names for oranges, grapefruit, lemons, cranberries, prunes, and raisins and other grape products.

GEOGRAPHIC CONCENTRATION

There is a remarkable degree of geographic concentration in terms of fruit production and cooperative export enterprise. Headquarters of the 29 direct exporting fruit cooperatives are as follows:

State:	*Number of associations*
California	11
Florida	6
Oregon	4
Michigan, New York, Washington	2 each
Massachusetts	1
Pennsylvania	1

More than 80 percent of the cooperatives' $293 million of direct fruit exports in 1976 were made by associations headquartered in California. Most of the remainder were made by Florida-based associations.

Of the 11 cooperatives that individually had total exports (direct plus indirect) valued at more than $5 million, seven were headquartered in California, three in Florida, one in Oregon.

EXPORT VALUES AND SHARES

The values of direct and indirect exports of fruits and preparations by direct exporting cooperatives in 1976 are given in table 1. Fresh citrus ($187 million) accounted for nearly two-thirds of the direct exports, 70 percent ($64 million) of the indirect exports, and 65 percent ($218 million) of total exports of this commodity group in 1976.

The processed fruit subgroup had an unusually large number (17) of direct exporting associations. It also had a remarkably high percentage (95.3) direct exports. The percentages of direct exports were also high for other fresh fruit (55.2) and fresh citrus (85.7).

Seventy percent of the fresh citrus exported from the United States in 1976 was directly exported by cooperatives. Another 12 percent was moved into export marketing channels by these cooperatives and then exported by other firms.

More than 28 percent of the processed fruit exported from the United States in 1976 was directly exported by cooperatives. Only 6 percent of noncitrus fresh fruit (apples, cherries, strawberries, etc.) was exported directly by cooperatives.

COUNTRIES OF DESTINATION

Fruit cooperatives reported the ultimate destinations for 95 percent of their total exports (direct plus indirect) in 1976. About 41 percent of the cooperative exports of fruits for which destinations were given were made to Europe; 37 percent went to

Asia, and 18 percent to North America (Canada).

Southeast and East Asia ($96 million), and the European Community ($52 million), were the leading destinations for exports of fresh citrus marketed by cooperatives in 1976 (table 2). For reported shipments to individual countries, Japan was the leading market ($66 million), followed by Canada ($33 million). The Netherlands and France also were major importers.

Western Europe received more than half ($53 million) of all cooperative exports of processed fruit in 1976. Of that quantity, almost two-thirds ($34 million) went to the European Community. Among individual countries, Canada led ($18 million), followed by Japan ($13 million). Other major markets were the United Kingdom, Sweden, Denmark, Netherlands, West Germany, France, and Italy.

TABLE 1.—FRUITS AND PREPARATIONS; VALUE OF DIRECT AND INDIRECT EXPORTS BY DIRECT EXPORTING COOPERATIVES, 1976

Commodity	Direct exports			Indirect exports			Total exports	
	Cooperatives	Value in thousands [1]	Percent of total exports	Cooperatives	Value in thousands [1]	Percent of total exports	Cooperatives	Value in thousands [1]
Fruits and preparations	[2] 27	292,704	86.9	[2] 17	44,193	13.1	[2] 29	336,897
Citrus, fresh	6	186,874	85.7	3	31,130	14.3	6	218,004
Other fruit, fresh	9	10,347	55.2	6	8,383	44.8	9	18,730
All processed fruit [3]	17	95,483	95.3	10	4,680	4.7	20	100,163

[1] In U.S. dollars at U.S. loading port.

[2] Some associations export more than one of the listed commodities.

[3] Canned, frozen, dried.

Canada was an important market for all fruits exported by cooperatives in 1976, but Canada was especially important for the smallest subgroup, noncitrus fresh fruit, with 40 percent of those exports. Japan was also an important market for noncitrus fresh fruit.

MARKETING CHANNELS

Fruit cooperatives are far ahead of other U.S. exporting cooperatives in terms of establishing foreign sales offices. Of 41 cooperative sales offices in foreign countries in 1976, three-fourths were concerned with sales of fresh or processed fruit or both.

In terms of prevailing patterns in export marketing, rather than the actual proportions of the total volume of cooperative exports, the largest single marketing channel for cooperatives' direct exports of fruits and preparations in 1976 was the foreign sales representative. Seventy-eight percent of the total exports of fruits and preparations moved through five marketing channels: cooperatives' foreign sales representatives (36 percent), foreign distributors (19 percent), foreign retailers (8 percent), Japanese trading companies (8 percent), and U.S. export brokers (7 percent).

On the average, nearly half (47 percent) of the fresh citrus was sold directly by the cooperatives to foreign distributors. About one-fourth (23 percent) was sold by the cooperatives foreign sales representatives, U.S. export merchants and Japanese trading companies purchased most of the remainder.

Other fresh fruit moved through three channels: cooperatives' foreign sales representatives (39 percent); U.S. export merchants (31 percent—the largest proportionate use of this channel by any fruit subgroup); and foreign distributors (24 percent). The range in use of these channels by the individual cooperatives was 0 to 100 percent for the cooperatives' representatives and foreign distributors, and 0 to 80 percent for U.S. export merchants. These figures emphasize that no set pattern prevails throughout the group of exporting cooperatives.

Cooperatives' foreign sales representatives averaged 38 percent of the processed fruit, while another one-third of the direct exports of this subgroup was equally divided between Japanese trading companies, U.S. export brokers, and foreign retailers or associations of retailers.

TERMS OF SALE

In this article, we will not take the space required to define each of the 12 terms of sale (seven delivery and five payment) used in export sales made by fruit cooperatives. A manuscript covering all agricultural exports by cooperatives in 1976 is in the publication process; it will contain the rather lengthy sets of definitions.

TABLE 2.—FRUITS AND PREPARATIONS COOPERATIVE EXPORTS BY DESTINATION 1976 [1]

[In thousands of dollars]

Destination	Citrus fresh	Other fruit fresh	Processed fruit [2]	Total
North America: Canada	32,827	7,311	17,721	57,859
Latin America	662	2,702	6,141	9,505
Mexico	588	488	266	1,342
Central America	0	299	1,072	1,371
Caribbean	74	329	1,862	2,265
South America	0	1,586	2,941	4,527
Europe	74,583	2,850	54,197	131,630
Western Europe	55,583	2,850	53,197	111,630
European Community	52,483	2,041	33,773	88,297
Other Western	3,100	809	19,424	23,333
Eastern Europe	19,000	0	1,000	20,000
Asia	96,118	5,407	17,697	119,222
West Asia	0	0	1,034	1,034
Southeast Asia	96,118	5,407	16,663	118,188
Oceania	0	222	1,107	1,329
Africa	0	0	191	119
North Africa	0	0	12	12
Other Africa	0	0	107	107
Total reported	204,190	18,492	96,982	319,664
Unknown unreported	13,814	238	3,181	17,233
Total	218,004	18,730	100,163	335,897

[1] Includes both direct and indirect exports of all cooperatives engaged in direct exporting.

[3] Canned frozen, dried.

The percentages given here were selected to show prevailing patterns in export marketing, rather than the actual proportions of the total volume of cooperative exports under each term of sale.

Cooperatives exporting fruits and preparations in 1976 had a highly diversified pattern of terms of sale in making deliveries to U.S. ports and foreign destinations. Somewhat surprisingly, the similarity in patterns for processed fruit and noncitrus fresh fruit was greater than for fresh citrus and other fresh fruit.

An average of nearly half of the fresh citrus (44 percent) was sold c.i.f. foreign port. Another 30 percent was sold c. & f., and thus three-fourths (74 percent) of that commodity was sold on the basis of delivery to a foreign port.

The pattern for the other fresh fruit was 31 percent f.o.b., 26 percent f.a.s., 20 percent c.i.f., and 14 percent c. & f. Thus, 43 percent was sold delivered to a foreign port.

For the processed fruit, an average of 42 percent was f.o.b., 32 percent f.a.s., 5 percent c. & i., and the remainder (21 percent) under three terms of sale involving delivery to a foreign destination.

As noted earlier, the delivery term patterns for processed fruit and noncitrus fresh fruit were similar but unlike that for fresh citrus. The situation is reversed for payment term patterns. That for fresh citrus is more like the one for the processed fruit than for other fresh fruit.

An average of about one-third of the sales of both fresh citrus and processed fruit was made on open account and another third for cash against documents. Two-thirds of the other fresh fruit was sold on open account, and one-fifth cash against documents.

Sales on consignment were small (8 percent) for fresh citrus, but none of the other fresh fruit or processed fruit was sold according to that payment term.

One-third of the processed fruit, on the average, was sold under letters of credit. No doubt most of that volume was involved in sales to Latin America and Southeast and East Asia.

Small quantities of fresh and processed fruits were sold by drafts no accompanied by letters of credit.

CONCLUSIONS

Fruit cooperatives are a dynamic segment of the total cooperative export business. Some associations are more successful than others, but in general they have served their farmer-patrons exceedingly well.

Is their success due to:

Launching their export programs at a propitious time?

Easy access to foreign markets?

Glutted domestic markets that forced them to seek additional markets?

A competitive situation for international trade in their commodities that was not dominated by a few hugh international trading companies?

Readily available sources of financing and export expertise?

Sufficient volumes of commodities that foreign consumers desired, could easily identify, and could afford to buy?

Capable management and the understanding and support of most member-patrons?

An attractive package of product, price, and performance?

The fruit cooperatives have penetrated more deeply into the export marketing process than other cooperatives. They have far more overseas sales offices, larger shares of total U.S. exports of their commodities, established sales outlets in more foreign countries, a program that enables some of them to pool shipments with other firms and thus obtain lower ocean freight rates, higher proportions of direct sales to foreign buyers, and more sales providing delivery to foreign destinations. They have been leaders in their entire industry as well as among cooperatives.

Many of the fruit cooperatives, as well as other food exporting associations, could benefit from a study of the problems and opportunities, successes and failures, organizational structures, operating practices, and export marketing strategies of the entire group of fruit exporting cooperatives.●

STATUS OF THE CONGRESSIONAL BUDGET FOR FISCAL YEAR 1979

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. GIAIMO. Mr. Speaker, the House Budget Committee today is notifying the Speaker of the House of the current levels of congressional action on the budget compared to the spending ceilings and revenue floors established by the revised second budget resolution for fiscal year 1979, which was adopted on May 24, 1979. In order to keep Congress advised of the effect of its spending and revenue actions compared to the overall totals set in the most recently adopted budget resolution, periodic reports are required by section 308(b). Under the Budget Act a point of order lies against any measure that would cause the spending ceilings or the revenue floor established by a concurrent resolution on the budget to be breached.

Today's report indicates that the following amounts in the revised second budget resolution are still available: Budget authority, $6,695 million; outlays, $3,006 million; and revenues, $100 million. It was necessary to revise the second budget resolution for fiscal year 1979 in order to incorporate reestimates of the budget based on revised economic assumptions and to allow for any supplemental funding which may be necessary during the remainder of the fiscal year. The second resolution was revised during consideration of the first resolution for fiscal year 1980 in May.

This estimate of current level included in this report covers all enacted budget authority, including the continuing resolution, and estimates of entitlement authority and other mandatory spending items which require further appropriation action.

A copy of my letter to the Speaker and of the committee's report are attached.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 4, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Sec. 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. I am herewith transmitting the status report under H. Con. Res. 107, the revised Second Budget Resolution for FY 1979. This report reflects the resolution of June 1, 1979, and estimates of budget authority, outlays and revenues based on all completed action on spending and revenue measures as of close of legislative business June 1, 1979.

Sincerely,

ROBERT N. GIAIMO,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1979 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 107, REFLECTING COMPLETED ACTION AS OF JUNE 1, 1979

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	559,200	494,450	461,000
Current level	552,505	491,444	461,100
Under resolution	6,695	3,006	
Over resolution			100

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $6,695 million for fiscal year 1970, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 107 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $3,006 million for fiscal year 1979, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 107 to be exceeded.

REVENUES

Any measure that would result in a revenue loss exceeding $100 million for fiscal year 1979, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 107.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 4, 1979.

Hon. ROBERT N. GIAIMO,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the budget. This report for fiscal year 1979 is tabulated as of close of business June 1, 1979.

Since my last report the Congress has passed House Concurrent Resolution 107 revising the Congressional budget for the United States Government for fiscal year 1979. Also, the Congressional Budget Office has revised its estimates of revenue, budget authority and outlays based on the economic assumptions underlying the figures contained in the new budget resolution. The President has signed into law two bills previously passed by the Congress: H.R. 1147 is now Public Law 96-6 and H.R. 2439 is Public Law 96-7.

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	546,625	486,081	461,100
2. Entitlement authority and other mandatory items requiring further appropriation action.	5,879	5,364	
3. Continuing resolution authority.			
4. Conference agreements ratified by both Houses			
Current level	552,505	491,444	461,100
2d Concurrent Resolution	559,200	494,450	461,000
Under resolution	6,695	3,006	
Over resolution			100

Sincerely,

Alice M. Rivlin, Director.

PARLIAMENTARIAN STATUS REPORT SUPPORTING DETAIL, FISCAL YEAR 1979, AS OF CLOSE OF BUSINESS JUNE 1, 1979

[In millions of dollars]

	Budget authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	273,044	247,268
Previously enacted (95th Cong., 2d sess.)	339,531	304,072
Offsetting receipts (including amounts generated by current appropriation action)	−65,206	−65,206
Enacted this session:		
Sale of silver dollars (Public Law 96-2)	−20	−20
Deferral resolution (S. Res. 50)		1
First rescission bill, 1979 (Public Law 96-7)	−724	−34
Total, enacted	546,625	486,081
II. Entitlement authority and other mandatory items requiring further appropriation action (anticipated supplementals including pay):		
Function 050: Department of Defense:		
Civilian and military pay raises.	1,849	1,843
Retired pay	156	156
Function 150:		
Payment to Foreign Service retirement fund.	4	4
Offsetting receipts	−4	−4
Export-Import Bank (pay)		(*)
Function 270: Payment where energy tax credit exceeds liability for tax.	1	1
Function 350: Federal Crop Insurance Corporation (pay).		1
Function 370:		
Federal Home Loan Bank Board (pay).		2
Federal Savings and Loan Insurance Corporation (pay).		(*)
Function 400:		
Department of Defense:		
Panama Canal Corporation (pay).		1
Department of Transportation:		
St. Lawrence Seaway Company (pay).		(*)
Coast Guard retired pay.	4	4
Federal-aid highways (pay).		5

	Budget authority	Outlays
Function 500: Department of Health, Education, and Welfare:		
Grants to States for social services.	189	189
Student loan insurance fund.	243	
Human development services.	57	57
Function 550: Department of Health, Education, and Welfare:		
Grants to States for medicaid.	554	554
Federal hospital insurance (pay).		4
Function 600:		
Department of Agriculture:		
Child nutrition	150	10
Food stamp program	380	380
Department of Health, Education, and Welfare:		
Assistance payments program	91	91
Federal old-age and survivors insurance (pay)		72
Department of Labor: Unemployment trust fund—pay raise		1
Office of Personnel Management: Civil service retirement and disability (pay)		1
Railroad Retirement Board:		
Railroad retirement account (pay)		1
Regional rail transportation protective account	57	57
Function 700: Veterans' Administration:		
Compensation and pensions	1,025	972
Readjustment benefits	377	223
Function 750: The Judiciary: Court of appeals, salaries of judges	4	3
Function 800: Office of Personnel Management:		
Payment to civil service retirement	335	335
Offsetting receipts	−335	−335
Function 920: Allowances: Civilian agency pay raises	742	736
Total, entitlements	5,879	5,364
III. Continuing resolution authority		
IV. Conference agreements ratified by both Houses		
Total, current level, as of June 1, 1979	552,505	491,444
Concurrent resolution of May 24, 1979	559,200	494,450
Over ceiling		
Under ceiling	6,695	3,006

Note: Detail may not add due to rounding. ●

FINANCIAL STATEMENT

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. RATCHFORD. Mr. Speaker, I am today releasing a financial statement including an accounting of all assets and liabilities as of May 31, 1979, and a statement of income received and taxes paid for calendar year 1978. While I am aware this is not a requirement under Federal law, I have traditionally made such disclosure and will continue to do so.

FINANCIAL STATEMENT OF WILLIAM R. RATCHFORD

The following is a statement of assets, liabilities and capital as of May 31, 1979, and a statement of income and taxes paid for tax year 1978. All categories joint with wife, Barbara J. Ratchford.

1978 Income

William R. Ratchford, salary, State of Connecticut	$21,029.05
William R. Ratchford, partnership share, law firm, Papazoglou, Ratchford & Garmella	26,952.79
Barbara Ratchford, salary, Danbury Board of Education	18,649.23
Barbara Ratchford, American Institute of Foreign Study	175.00
Total	66,806.07
1978 Federal income taxes, joint return	17,990.75

Assets

Cash:	
Checking account—Danbury Banking & Trust	3,486.71
Savings—Danbury Banking & Trust	300.00
Share account—Wright Patman Federal Credit Union	218.00
Automobiles:	
1979 Chevrolet Blazer	8,500.00
1976 Honda Civic Station wagon	2,400.00
Household furnishings:	
Danbury home—2 Johnson Drive, Danbury	10,000.00
Nantucket summer home, Nantucket, Mass.	7,500.00
Other:	
Teacher's retirement (Barbara Ratchford)	7,802.95
Congressional retirement fund	1,533.32
Real estate:	
Home at 2 Johnson Drive, Danbury, Conn.	75,000.00
Summer Home at Nantucket, Mass.	78,000.00
Total all assets	194,740.98

Liabilities

Mortgages:	
Danbury home—Danbury Savings & Loan	44,601.30
Nantucket home—Nantucket Savings Bank	43,621.14
Danbury Home—Commercial Credit—Second mortgage taken to finance loan to Ratchford for Congress committee for 1978 campaign	12,116.95
Total	100,339.39
Notes payable:	
Congressional Credit Union, Washington, D.C.	5,671.03
Commercial Credit Union Danbury, Conn.	5,896.10
Union Trust, Danbury, Conn.	7,820.20
City Trust, Danbury, Conn.	2,381.65
Danbury Savings & Loan, Danbury, Conn.	9,414.63
Total	31,183.61
Total all liabilities	131,523.00
Total net worth	63,217.98

WILLIAM R. RATCHFORD,
M.C.●

WINDFALL PROFITS TAX

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. COTTER. Mr. Speaker, on May 31 I along with five of my colleagues from the Committee on Ways and Means introduced a refined version of our windfall profits tax. Since a number of our colleagues have expressed interest in the bill, I am including it in the RECORD at this point:

H.R. —

A bill to impose a windfall profit tax on domestic crude oil

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Crude Oil Windfall Profit Tax Act of 1979".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. WINDFALL PROFIT TAX.

(a) IN GENERAL.—

(1) AMENDMENT OF SUBTITLE D.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 45—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

"Sec. 4986. Imposition of tax.
"Sec. 4987. Amount of tax.
"Sec. 4988. Taxable crude oil; the 3 tiers for tax purposes.
"Sec. 4989. Windfall profit; removal price.
"Sec. 4990. Adjusted base price.
"Sec. 4991. Other definitions and special rules.
"Sec. 4992. Records and information; regulations.

"SEC. 4986. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—An excise tax is hereby imposed on the windfall profit from taxable crude oil removed from the premises during each taxable period.

"(b) TAX PAID BY PRODUCER.—The tax imposed by this section shall be paid by the producer of the crude oil.

"SEC. 4987. AMOUNT OF TAX.

"(a) IN GENERAL.—The amount of the tax imposed by section 4986 with respect to any barrel of taxable crude oil shall be 85 percent of the windfall profit on such barrel.

"(b) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 4986 shall be the same fraction of the amount of such tax imposed on a whole barrel.

"SEC. 4988. TAXABLE CRUDE OIL; THE 3 TIERS FOR TAX PURPOSES.

"(a) TAXABLE CRUDE OIL.—For purposes of this chapter, the term 'taxable crude oil' means all domestic crude oil.

"(b) TIER 1 OIL.—For purposes of this chapter, the term 'tier 1 oil' means taxable crude oil—

"(1) which is or would be subject to the lower tier ceiling price rule of the March 1979 energy regulations, and

"(2) which is not qualified Alaskan oil or newly discovered crude oil.

"(c) Tier 2 Oil.—For purposes of this chapter, the term 'tier 2 oil' means taxable crude oil—

"(1) which is or would be subject to the upper tier ceiling price rule of the March 1979 energy regulations, and

"(2) which is not qualified Alaskan oil or newly discovered crude oil.

"(d) TIER 3 OIL.—For purposes of this chapter, the term 'tier 3 oil' means taxable crude oil other than tier 1 oil and tier 2 oil.

"SEC. 4989. WINDFALL PROFIT; REMOVAL PRICE.

"(a) General Rule.—For purposes of this

chapter, the term 'windfall profit' means the excess of the removal price of the barrel of crude oil over the sum of—

"(1) the adjusted base price of such barrel, and

"(2) the amount by which—

"(A) any severance tax imposed with respect to such barrel, exceeds

"(B) the severance tax which would have been imposed if the barrel had been extracted and sold on March 31, 1979, at the base price. The amount of severance tax taken into account under paragraph (2)(A) shall not exceed the amount which would have been imposed under the State law in effect on March 31, 1979.

"(b) Net Income Limitation on Windfall Profit.—

"(1) In general.—The windfall profit on any barrel of crude oil shall not exceed the net income attributable to such barrel.

"(2) Determination of net income.—For purposes of paragraph (1), the net income attributable to a barrel shall be determined by dividing—

"(A) the taxable income from the property for the taxable year attributable to taxable crude oil, by

"(B) the number of barrels of taxable crude oil produced from such property during such taxable year.

"(3) Taxable income from the property.—For purposes of paragraph (2), the taxable income from the property shall be determined under section 613(a), except that no deduction shall be allowed for—

"(A) depletion.

"(B) costs deductible under section 263(c) (other than those incurred in drilling a nonproductive well), and

"(C) the tax imposed by section 4986.

"(4) Special rule where there is production payment.—For purposes of paragraph (2), if any portion of the taxable crude oil removed from the property is applied in discharge of a production payment, the gross income from such portion shall be included in the gross income from property in computing the taxable income of the producer.

"(c) Removal Price.—For purposes of this chapter—

"(1) In general.—Except as otherwise provided in this subsection, the term 'removal price' means the amount for which the barrel is sold.

"(2) Sales between related persons.—In the case of a sale between related persons (within the meaning of section 103(b)(6)(C)), the removal price shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

"(3) Oil removed from premises before sale.—If crude oil is removed from the premises before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(4) Refining begun on premises.—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the premises—

"(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

"(B) the removal price shall be constructive sales price for purposes of determining gross income from the property under section 613.

"(5) Meaning of terms.—As used in this subsection, the terms 'premises' and 'refined product' have the same meaning as when used for purposes of determining gross income from the property under section 613.

"Sec. 4990. Adjusted Base Price.

"(a) Adjusted Base Price Defined.—For purposes of this chapter, the term 'adjusted base price' means the base price for the barrel of crude oil plus an amount equal to—

"(1) such base price, multiplied by

"(2) the inflation adjustment for the calendar month in which the crude oil is removed (or deemed removed) from the premises.

The amount determined under the preceding sentence shall be rounded to the nearest cent.

"(b) Inflation Adjustment.—

"(1) In general.—For purposes of subsection (a), the inflation adjustment for any calendar month is the percentage by which—

"(A) the CPI for the second preceding calendar month, exceeds.

"(B) the CPI for March of 1979.

"(2) CPI.—For purposes of paragraph (1), the CPI for any month is the Consumer Price Index for All Urban Consumers published by the Department of Labor for such month.

"(3) Rounding.—The percentage determined under this subsection shall be rounded to the nearest 1/10 of 1 percent.

"(c) Base Price for Tier 1 Oil.—For purposes of this chapter, the base price for tier 1 oil is the lower tier ceiling price (as of March 31, 1979) for such oil under March 1979 energy regulations.

"(d) Base Price for Tier 2 Oil.—For purposes of this chapter, the base price for tier 2 oil is the upper tier ceiling price (as of March 31, 1979) for such oil under March 1979 energy regulations.

"(e) Base Price for Tier 3 Oil.—For purposes of this chapter, the base price for tier 3 oil is the price provided pursuant to regulations prescribed by the Secretary for the purpose of estimating (as nearly as may be practicable) the price at which uncontrolled crude oil of the same grade and location would have sold in December 1979 if the average price during such month for imported crude oil were $16 a barrel.

"Sec. 4991. Other Definitions and Special Rules.

"(a) Producer.—

"(1) In general.—For purposes of this chapter, the term 'producer' means the holder of the economic interest with respect to the crude oil.

"(2) Exception in case of certain specified amount production payments.—If a portion of the crude oil removed from a property is applied during the taxable year in partial or complete discharge of a production payment which—

"(A) is not limited by time or to a specified number of units, but

"(B) will be fully discharged only when a specified dollar amount (plus interest or other charges, if any) has been received by the holder of the production payment,

then the holder of the economic interest from which the production payment was created (rather than the holder of the production payment) shall be treated as the producer of such portion.

"(b) Other Definitions.—For purposes of this chapter—

"(1) Crude oil.—The term 'crude oil' includes a natural gas liquid treated as crude oil under the March 1979 energy regulations.

"(2) Barrel.—The term 'barrel' means 42 United States gallons.

"(3) Domestic.—The term 'domestic', when used with respect to crude oil, means crude oil produced from an oil well located in the United States or in a possession of the United States.

"(4) United states.—The term 'United States' has the meaning given to such term by paragraph (1) of section 638 (relating to Continental Shelf areas).

"(5) Possession of the united states.—The term 'possession of the United States' has the meaning given to such term by paragraph (2) of section 638.

"(6) Qualified Alaskan oil.—The term 'qualified Alaskan oil' means any crude oil produced from a well north of the Arctic Circle.

"(7) Taxable period.—The term 'taxable period' means—

"(A) the period beginning on June 1, 1979, and

"(B) each calendar quarter thereafter.

"(8) Newly discovered crude oil.—The term 'newly discovered crude oil' has the meaning given to such term under the June 1979 energy regulations.

"(9) Energy regulations.—

"(A) In general.—The term 'energy regulations' means regulations prescribed under section 4(a) of the Emergency Petroleum Allocation Act of 1973, as amended.

"(B) March 1979 energy regulations.—The March 1979 energy regulations—

"(i) shall be the terms of energy regulations as such terms existed on March 31, 1979, and

"(ii) shall be treated as including final action taken pursuant thereto before June 1, 1979, and as including action taken before, on, or after such date with respect to incremental production from qualified tertiary enhancement recovery projects.

"(C) June 1979 energy regulations.—The June 1979 energy regulations shall be the terms of energy regulations as such terms existed on June 1, 1979.

"(D) Continued application of regulations after decontrol.—Energy regulations shall be treated as continuing in effect without regard to decontrol of oil prices or any other termination of the application of such regulations.

"(c) Purchaser Collects Tax.—If the removal price of any taxable crude oil is determined under section 4989(c)(1)—

"(1) the tax imposed by section 4986 with respect to such crude oil shall be collected by the purchaser of such crude oil by deducting the amount of such tax from amounts payable for such oil,

"(2) the producer shall not be required to file a return of the tax imposed by section 4986 with respect to such oil, and

"(3) the producer shall be treated as having paid the amount of tax collected by the purchaser on the due date prescribed by section 6076 for filing the return for the taxable period in which such oil was removed from the premises.

In determining the amount to be collected under paragraph (1), section 4989(b) shall not apply.

"Sec. 4992. Records and Information; Regulations

"(a) Records and Information.—Each taxpayer liable for tax under section 4986, each partnership, trust, or estate producing domestic crude oil, each purchaser of domestic crude oil, and each operator of a well from which domestic crude oil was produced, shall keep such records, make such returns, and furnish such information with respect to such oil as the Secretary may by regulations prescribe.

"(b) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this chapter."

(2) Clerical amendment.—The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"Chapter 45. Windfall profit tax on domestic crude oil."

(b) Technical Amendments.—

(1) The first sentence of section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (4) the following new paragraph:

"(5) The windfall profit tax imposed by section 4986."

(2) Subsection (a) of section 613 (relating to percentage depletion) is amended by

inserting before the last sentence the following new sentence: "For purposes of this subsection and section 613A(d)(1), in the case of taxable crude oil (within the meaning of section 4988(a)), gross income from the property shall be reduced by the amount of the windfall profit (within the meaning of section 4989(a)) and taxable income shall be determined without regard to the tax imposed by section 4986."

(c) Time for Filing Return of Windfall Profit Tax; Depositary Requirements.—

(1) Time for filing return of windfall profit tax.—

(A) Part V of subchapter A of chapter 61 (relating to time for filing returns and other documents) is amended by adding at the end thereof the following new section:

"Sec. 6076. Time for Filing Return of Windfall Profit Tax.

"(a) General Rule.—Each return of the tax imposed by section 4986 (relating to windfall profit tax) for any taxable period (within the meaning of section 4991(b)(7)) shall be filed not later than the last day of the second month following the close of the taxable period.

"(b) Cross Reference.—

"For depositary requirements applicable to the tax imposed by section 4986, see section 6302(d)."

(B) The table of sections for such part V is amended by adding at the end thereof the following new item:

"Sec. 6076. Time for filing return of windfall profit tax."

(2) Depositary requirements.—Section 6302 (relating to mode or time of collection) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Windfall Profit Tax.—The mode and time for collecting the tax imposed by section 4986 (relating to windfall profit tax) shall be established by the Secretary by regulations."

(3) Technical amendment.—Section 7512 (relating to separate accounting for certain collected taxes, etc.) is amended—

(A) by striking out "or by chapter 33" in subsections (a) and (b) and inserting in lieu thereof ", by chapter 33, or by section 4986", and

(B) by striking out "or chapter 33" in subsections (b) and (c) and inserting in lieu thereof ", chapter 33, or section 4986".

(d) Certain Information Required To Be Furnished.—

(1) General rule.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"Sec. 6050C. Information Furnished by Purchaser and Operator Regarding Windfall Profit Tax on Domestic Crude Oil.

"(a) Certain Information Furnished by Purchaser.—Under regulations prescribed by the Secretary, the purchaser of taxable crude oil (within the meaning of section 4988) shall furnish to the taxpayer liable for tax under section 4986 with respect to such oil a monthly statement showing the following:

"(1) the amount of taxable crude oil purchased from such taxpayer during such month,

"(2) the removal price of such oil,

"(3) the base price and the adjusted base price with respect to such oil,

"(4) the amount of such taxpayer's liability for tax under section 4986 with respect to such oil, and

"(5) such other information as may be required by regulations prescribed by the Secretary.

"(b) Information Furnished by Operator.—Under regulations prescribed by the Secretary, if the purchaser of taxable crude oil and the operator of the well from which such crude oil was produced make a joint election under this subsection, the monthly statement required to be furnished by the purchaser under subsection (a) shall be furnished by such operator.

"(c) Time for Filing Monthly Statement.—Each monthly statement required to be furnished under subsection (a) or (b) for any month shall be furnished before the first day of the second month which begins after the close of such month.

"(d) Certification Furnished by Operator.—Under regulations prescribed by the Secretary, the operator of the well from which crude oil subject to the tax imposed under section 4986 was produced shall certify (at such time and in such manner as the Secretary shall by regulations prescribe) to the purchaser the base price (within the meaning of section 4990) with respect to such crude oil. For purposes of section 6652(b) (relating to additions to tax for failure to file other returns) such certification shall be treated as a statement of a payment to another person.

"(e) Cross References.—

"(1) For additions to tax for failure to furnish information required under this section, see section 6652(b).

"(2) For penalty for willful failure to supply information required under this section, 7241."

(2) Technical and conforming amendments.—

(A) Section 6652(b) is amended by striking out "or section 6051(d)" and inserting in lieu thereof the following: "section 6050C (relating to information regarding windfall profit tax on domestic crude oil), or section 6051(d)".

(B) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050C. Information furnished by purchaser and operator regarding windfall prolt tax on domestic crude oil."

(e) Criminal Penalty for Failure To Furnish Certain Informations.—

(1) In general.—Part II of subchapter A of chapter 75 (relating to penalties applicable to certain taxes) is amended by adding at the end thereof the following new section:

"Sec. 7241. Willful Failure to Furnish Certain Information Regarding Windfall Profit Tax on Domestic Crude Oil.

"Any person who is required under section 6050C (or regulations thereunder) to furnish any statement, information, or certification to any other person and who willfully fails to furnish such statement, information, or certification at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution."

(2) Clerical amendment.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 7241. Willful failure to furnish certain information regarding windfall profit tax on domestic crude oil."

(f) Information Furnished by Partnerships, Trusts, and Estates.—

(1) Information to be furnished to partners and to beneficiaries of estates and trusts.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new section:

"Sec. 6050D. Windfall Profit Information To Be Furnished to Partners and to Beneficiaries of Estates and Trusts.

"(a) Requirement.—Under regulations prescribed by the Secretary, each partnership, estate, and trust producing domestic crude oil for any taxable period shall furnish to each partner or beneficiary, as the case may be, a written statement showing the following:

"(1) the name of such partner or beneficiary,

"(2) information received by the partnership, trust, or estate pursuant to section 6050C.

"(3) such partner's or beneficiary's distributive share of the items referred to in paragraph (2), and

"(4) such other information as may be required by regulations prescribed by the Secretary.

"(b) Time for Furnishing Written Statement.—Each written statement required to be furnished under this section with respect to any taxable period shall be furnished before the first day of the third month following the close of such period."

(2) Clerical amendment.—The table of sections for such subpart B is amended by adding at the end thereof the following new item:

"Sec. 6050D. Windfall profit information to be furnished to partners and to beneficiaries of estates and trusts."

(g) Effective Date.—The amendments made by this Act shall take effect on June 1, 1979.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional Record on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, June 5, 1979, may be found in the Daily Digest of today's Record.

Meetings Scheduled

JUNE 6

9:00 a.m.

Labor and Human Resources

To hold hearings on the work place and higher education and their perspectives for the coming decade.

4232 Dirksen Building

9:30 a.m.

Judiciary

Constitution Subcommittee

To hold hearings on S. 414, to allow universities, nonprofit organizations, and small businesses to obtain limited patent protection on discoveries they have made under Government-supported research.

2228 Dirksen Building

*Veterans' Affairs

To hold hearings on S. 870, proposed GI Bill Amendments Act, S. 830, to eliminate the State's required payment in the educational assistance allowance program provided for veterans, and S. 881, to provide for the protection of certain officers and employees of the VA assigned to perform investigative or law enforcement functions.

6226 Dirksen Building

Select on Ethics

To continue hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.

1202 Dirksen Building

*Joint Economic

To continue hearings on national industrial productivity.

457 Russell Building

10:00 a.m.

Armed Services

Closed business meeting, to mark up S. 856, authorizing funds for fiscal year 1980 for military construction programs, Department of Defense; S. 975, authorizing funds for fiscal year 1980 for intelligence operations of the Federal Government; and H.R. 2154, to revise and update the Strategic and Critical Materials Stock Piling Act to conform the law to current stockpile policies and strengthen the role of Congress in stockpile matters.

212 Russell Building

Banking, Housing, and Urban Affairs
Economic Stabilization Subcommittee

To resume oversight hearings on the economic impact of gasoline shortages.

5302 Dirksen Building

Commerce, Science, and Transportation
Communications Subcommittee

To continue hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.

1318 Dirksen Building

Commerce, Science, and Transportation
Surface Transportation Subcommittee

To resume hearings on S. 796, proposed Railroad Deregulation Act.

235 Russell Building

Energy and Natural Resources

To resume consideration of S. 688, authorizing funds for fiscal year 1980 for civilian programs of the Department of Energy.

3110 Dirksen Building

Finance
International Trade Subcommittee

To hold hearings to explore the economic issues raised by the changes in the relationships in the next decade among the U.S., Canada, Mexico, and the Caribbean countries.

2221 Dirksen Building

*Foreign Relations

To hold hearings on the status of the international tax treaties.

S-116, Capitol

Governmental Affairs

To continue hearings on S. 262, 445, and 755, to require that all Federal agencies conduct a regulatory analysis before issuing regulations and to require the use of less time-consuming procedures to decide cases.

3302 Dirksen Building

Rules and Administration

To consider the nominations of Thomas E. Harris, of Virginia, and Frank P. Reiche, of New Jersey, each to be a Member of the Federal Election Commission, to be followed by consideration of pending legislative and administrative business.

301 Russell Building

2:00 p.m.

Appropriations
Energy and Water Development Subcommittee

To receive testimony on proposed supplemental funds for fiscal year 1979 for the Army Corps of Engineers, and the Bureau of Reclamation, Department of the Interior, and to receive further testimony on proposed budget estimates for fiscal year 1980 for these programs.

S-126, Capitol

JUNE 7

9:00 a.m.

Labor and Human Resources

To continue hearings on the workplace and higher education and their perspectives for the coming decade.

4232 Dirksen Building

Labor and Human Resources
Health and Scientific Research Subcommittee

To hold oversight hearings on the implementation of the national blood policy program.

318 Russell Building

9:30 a.m.

Labor and Human Resources
Aging Subcommittee

To hold hearings on the impact of the energy crisis on the elderly.

1223 Dirksen Building

Select on Ethics

To continue hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.

1202 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting to mark up proposed legislation authorizing funds for public works and economic development programs of the Economic Development Administration.

5302 Dirksen Building

Commerce, Science, and Transportation
Communications Subcommittee

To continue hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.

6226 Dirksen Building

Commerce, Science, and Transportation
Surface Transportation Subcommittee

To continue hearings on S. 796, proposed Railroad Deregulation Act.

235 Russell Building

Energy and Natural Resources

To continue consideration of S. 688, authorizing funds for fiscal year 1980 for civilian programs of the Department of Energy.

3110 Dirksen Building

Foreign Relations

To receive a briefing, in closed session, on the Middle East situation.

S-116, Capitol

Governmental Affairs

To hold hearings on S. 2, to provide for a review of Government programs every ten years.

3302 Dirksen Building

2:00 p.m.

Appropriations
Energy and Water Development Subcommittee

To receive testimony on proposed budget estimates for fiscal year 1980 and proposed supplemental funds for fiscal year 1979 for the Federal Energy Regulatory Commission, Department of Energy.

S-126, Capitol

Governmental Affairs

To hold hearings on the nomination of Ruth T. Prokop, of the District of Columbia, to be Chairman of the Merit Systems Protection Board.

3302 Dirksen Building

Judiciary

To hold hearings on the following nominations, Valdemar A. Cordova, of Arizona, to be U.S. District Judge for the District of Arizona; Jon O. Newman, of Connecticut, to be U.S. Circuit Judge for the Second Circuit; and Amalya L. Kearse, of New York, to be U.S. Circuit Judge for the Second Circuit.

2228 Dirksen Building

JUNE 8

9:30 a.m.

Judiciary
Antitrust, Monopoly and Business Rights Subcommittee

To hold hearings on a proposed amendment to S. 390, to expedite and reduce the cost of enforcing antitrust laws.

5110 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation
Communications Subcommittee

To continue hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.

235 Russell Building

JUNE 11

9:00 a.m.

Judiciary
Antitrust, Monopoly, and Business Rights Subcommittee

To hold oversight hearings on the activities of the railroad industry relating to the policy of promoting railroad mergers.

457 Russell Building

9:30 a.m.

Judiciary
Constitution Subcommittee

To resume hearings on S. 506, to provide the Department of Housing and Urban Development with new enforcement powers to insure compliance with statutes guaranteeing equal access to housing in the United States.

2228 Dirksen Building

Select on Ethics

To resume hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.

1202 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
International Finance Subcommittee

To hold hearings on S. 339, to facilitate U.S. exports relative to credit to Communist countries.

5302 Dirksen Building

Labor and Human Resources
*Health and Scientific Research Subcommittee
To resume hearings on S. 1177, to establish a partnership between the Federal Government and the States in the planning and provision of mental health services.
4232 Dirksen Building

JUNE 12

9:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold oversight hearings on housing issues relating to tax-exempt mortgage revenue bonds.
5302 Dirksen Building

*Veterans' Affairs
To hold hearings on S. 689, proposed Veterans' Disability Compensation and Survivors Benefits Act, and S. 754, proposed Veterans' Insurance Amendments Act.
6226 Dirksen Building

9:30 a.m.
Select on Ethics
To continue hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.
1202 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on S. 950, proposed Omnibus Solar Energy Commercialization Act.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold hearings on S. 703, to provide for the study, advanced engineerings, and design and or construction of certain public works projects for navigation and flood control on rivers and harbors in the United States and trust territories.
4200 Dirksen Building

10:30 a.m.
Judiciary
Antitrust, Monopoly, and Business Rights Subcommittee
To resume hearings on a proposed amendment to S. 390, to expedite and reduce the cost of enforcing existing antitrust laws.
5110 Dirksen Building

2:30 p.m.
Labor and Human Resources
Health and Scientific Research Subcommittee
Business meeting to begin mark up of S. 772–787, S. 1045, and S. 1075, bills to require drug companies to conduct postmarketing and scientific investigations of approved drugs, to transmit drug information to patients and health professionals regarding the use of approved drugs.
4232 Dirksen Building

JUNE 13

9:30 a.m.
Select on Ethics
To continue hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.
6226 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.
235 Russell Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To continue hearings on S. 950, proposed Omnibus Solar Energy Commercialization Act.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To continue hearings on S. 703, to provide for the study, advanced engineerings, and design and or construction of certain public works projects for navigation and flood control on rivers and harbors in the United States and trust territories.
4200 Dirksen Building

2:00 p.m.
Labor and Human Resources
Business meeting, to mark up S. 570, to control increases in hospital revenues (Hospital Cost Containment).
4232 Dirksen Building

JUNE 14

9:30 a.m.
*Energy and Natural Resources
Energy Regulation Subcommittee
To hold hearings on the Department of Energy's report on the status of the petroleum situation.
3110 Dirksen Building

Select on Ethics
To continue hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.
1202 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue hearings on S. 611, and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.
235 Russell Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Energy and Natural Resources
Energy Regulation Subcommittee
To receive testimony from the Energy Information Administration on the current energy supply situation.
3110 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 668, to allow the Cow Creek Band of the Umpqua Indians of Oregon to file a claim with the U.S. Court of Claims for alleged failure of the United States to fulfill treaty obligations.
6226 Dirksen Building

10:30 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the activities of financial institutions relative to the sale of insurance.
5302 Dirksen Building

2:00 p.m.
Labor and Human Resources
Health and Scientific Research Subcommittee
To resume mark up of S. 772–787, S. 1045, and S. 1075, bills to require drug companies to conduct post-marketing and scientific investigations of approved drugs, to transmit drug information to patients and health professionals regarding the use of approved drugs.
4232 Dirksen Building

JUNE 15

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.
235 Russell Building

JUNE 18

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcasting uses of the electromagnetic frequency spectrum.
235 Russell Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on S. 864, to establish an office within the Department of Commerce, which would promote and encourage the formation and utilization of export trade associations.
5302 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To resume hearings on S. 703, to provide for the study, advanced engineerings, and design and or construction of certain public works projects for navigation and flood control on rivers and harbors in the United States and trust territories.
4200 Dirksen Building

JUNE 19

9:30 a.m.
Commerce, Science, and Transportation
To resume oversight hearings on the trucking industry's economic regulation by the Federal Government, focusing on household moving and the problems confronting both the household goods carriers and the consumers they serve.
235 Russell Building

*Energy and Natural Resources
To hold oversight hearings on the activities of programs administered by the Surface Mining Control and Reclamation Act of 1977.
3110 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
To resume oversight hearings to explore the areas of basic learning skills used in elementary and secondary schools.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on S. 864, to establish an office within the Department of Commerce, which would promote and encourage the formation and utilization of export trade associations.
5302 Dirksen Building

Commerce, Science, and Transportation
Communications Subcommittee
To continue hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.
1202 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To continue hearings on S. 703, to provide for the study, advanced engineerings, and design and or construction of certain public works projects for navigation and flood control on rivers and harbors in the United States and trust territories.
4200 Dirksen Building

JUNE 20

9:00 a.m.
Veterans' Affairs
To hold hearings on veterans' claims for disabilities resulting from the effects of nuclear weapons testing.
6226 Dirksen Building

9:30 a.m.
Labor and Human Resources
To hold hearings on S. 446, proposed Equal Employment Opportunity for the Handicapped Act.
4232 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To resume hearings on S. 796, proposed Railroad Deregulation Act.
235 Russell Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Labor and Human Reserves
*Health and Scientific Research Subcommittee
To hold hearings on S. 568, to provide for the potential contribution and advancement of women in scientific, professional, and technical careers, and on proposed national health insurance programs.
457 Russell Building

3:00 p.m.
Labor and Human Resources
Health and Scientific Research Subcommittee
To resume markup of S. 772-787, S. 1045, and S. 1075, bills to require drug companies to conduct postmarketing and scientific investigations of approved drugs, to transmit drug information to patients and health professionals regarding the use of approved drugs.
S-207, Capitol

JUNE 21

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.
6226 Dirksen Building

*Energy and Natural Resources
To resume oversight hearings on the activities of programs administered by the Surface Mining Control and Reclamation Act of 1977.
3110 Dirksen Building

Labor and Human Resources
To continue hearings on S. 446, proposed Equal Employment Opportunity for the Handicapped Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on proposed legislation to establish financial reform programs.
5302 Dirksen Building

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To continue hearings on S. 796, proposed Railroad Deregulation Act.
235 Russell Building

*Labor and Human Resources
Health and Scientific Research Subcommittee
To continue hearings on S. 568, to provide for the potential contribution and advancement of women in scientific, professional, and technical careers, and on proposed national health insurance programs.
457 Russell Building

2:00 p.m.
Labor and Human Resources
Health and Scientific Research Subcommittee
To continue mark up of S. 772-787, S. 1045, and S. 1075, bills to require drug companies to conduct post-marketing and scientific investigations of approved drugs, to transmit drug information to patients and health professionals regarding the use of approved drugs.
EF-100, Capitol

JUNE 25

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 192 and 208, bills to provide for the tax treatment of foreign investors for property located in the United States.
2221 Dirksen Building

10:00 a.m.
*Labor and Human Resources
Health and Scientific Research Subcommittee
To hold hearings to investigate the environmental effects of low level radiation.
4232 Dirksen Building

2:00 p.m.
Labor and Human Resources
Health and Scientific Research Subcommittee
To resume mark up of S. 772-787, S. 1045, and S. 1075, bills to require drug companies to conduct post-marketing and scientific investigations of approved drugs, to transmit drug information to patients and health professionals regarding the use of approved drugs.
EF-100, Capitol

JUNE 26

9:00 a.m.
Labor and Human Resources
To hold hearings on S. 1076, proposed Multiemployer Pension Plan Amendments Act.
4232 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
To resume oversight hearings on the trucking industry's economic regulation by the Federal Government.
235 Russell Building

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on S. 734, proposed Federal Power Marketing Revolving Fund Act.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold hearings on proposed cost sharing factors for water resources projects.
4200 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
To hold hearings on proposed authorizations through fiscal year 1964 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.
1114 Dirksen Building

JUNE 27

9:00 a.m.
Labor and Human Resources
To continue hearings on S. 1076, proposed Multiemployer Pension Plan Amendments Act.
4232 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
To continue oversight hearings on the trucking industry's economic regulation by the Federal Government.
235 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed legislation to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on proposed authorizations through fiscal year 1984 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.
1318 Dirksen Building

JUNE 28

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To resume hearings on S. 734, proposed Federal Power Marketing Revolving Fund Act.
3110 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on proposed authorizations through fiscal year 1984 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.
4232 Dirksen Building

JULY 10

10:00 a.m.

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold oversight hearings on the implementation of the Outer Continental Shelf Leasing program.

3110 Dirksen Building

JULY 11

9:30 a.m.

Labor and Human Resources

To hold hearings on youth and the work place and their perspectives for the coming decade.

4232 Dirksen Building

10 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on the certification and inspection procedures of the DC 10 and other types of aircraft.

235 Russell Building

JULY 12

9:30 a.m.

Labor and Human Resources

To continue hearings on youth and the work place and their perspectives for the coming decade.

4232 Dirksen Building

Veterans Affairs

To hold oversight hearings on the efforts made by the Veterans' Administration to provide information on benefits due incarcerated veterans.

6226 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue hearings on the certification and inspection procedures of the DC 10 and other types of aircraft.

235 Russell Building

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To resume oversight hearings on the implementation of the Outer Continental Shelf Leasing program.

3110 Dirksen Building

JULY 24

9:30 a.m.

Labor and Human Resources

To resume hearings on S. 446, proposed Equal Employment Opportunity for the Handicapped Act.

4232 Dirksen Building

JULY 25

9:00 a.m.

*Veterans' Affairs

To hold hearings on S. 759, to provide for the right of the United States to recover the costs of hospital nursing home or outpatient medical care furnished by the Veterans' Administration to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts.

6226 Dirksen Building

CANCELLATIONS

JUNE 6

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold joint hearings with the House Subcommittee on Science, Research and Technology of the Committee on Science and Technology, to examine U.S. policies and initiatives of the U.S. Conference on Science and Technology for Development.

5110 Dirksen Building

10:00 a.m.

Rules and Administration

To hold hearings on S. 623, proposed Senate Election Reform Act, to be followed by consideration of legislative and administrative business.

301 Russell Building

JUNE 7

10:00 a.m.

Rules and Administration

To continue hearings on S. 623, proposed Senate Election Reform Act, to be followed by consideration of legislative and administrative business.

301 Russell Building

JUNE 8

9:00 a.m.

*Labor and Human Resources

Alcoholism and Drug Abuse Subcommittee

To hold hearings to examine the effectiveness of warning labels on alcoholic beverages.

6226 Dirksen Building

9:30 a.m.

Labor and Human Resources

Education, Arts, and the Humanities Subcommittee

To resume oversight hearings to explore the areas of basic learning skills used in elementary and secondary schools.

4232 Dirksen Building

Select on Ethics

To continue hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.

1202 Dirksen Building

JUNE 12

10:00 a.m.

Rules and Administration

To resume hearings on S. 623, proposed Senate Election Reform Act, to be followed by consideration of legislative and administrative business.

301 Russell Building

HOUSE OF REPRESENTATIVES—*Tuesday, June 5, 1979*

The House met at 12 o'clock noon.

Rev. Wayne A. Gardner, pastor, Wake Chapel Christian Church, Fuquay-Varina, N.C., offered the following prayer:

Almighty God, creator of Heaven and Earth, we praise Thee today for Thy blessings great and small and for the privileges that are ours in this great land.

We ask Your blessings upon the Members of this House, that with minds to think, hearts to feel, and the ability to reason, they may be kept from hypocrisy in feeling and action in all the critical decisions that affect the well being of this Nation and the world.

We pray for the wisdom, inspiration, understanding, encouragement, and strength of these leaders in their tremendous responsibilities, that our Nation be led into a future of blessing and not a future of doom.

Keep them sensitive to the needs of our land and not just selfish wants.

O God, may they not forget Your great love and Your will in all decisions.

In Thy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 7) entitled "An act to amend title 38, United States Code, to revise and improve certain health-care programs of the Veterans' Administration, to authorize the construction, alteration, and acquisition of certain medical facilities, and to expand certain benefits for disabled veterans; and for other purposes."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3577. An act to amend section 8 of the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such Act for fiscal year 1980, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 292. An act to reduce the fiscal year 1980 authorization for appropriations for the special supplemental food program.

REV. WAYNE A. GARDNER

(Mr. ANDREWS of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS of North Carolina. Mr. Speaker, it is a pleasure to welcome as our guest today, the Reverend Wayne A. Gardner, pastor of the Wake Chapel Christian Church in Fuquay-Varina, N.C.

Although a native of Suffolk, Va., and the holder of bachelor's and master's degrees in divinity from Lancaster Theological Seminary in Pennsylvania, Reverend Gardner received his undergraduate education at Elon College in North Carolina, and his entire ministry has been with churches in the heart of the Tarheel State.

Following his ordination in 1964, he has served churches in Alamance, Randolph, Lee, and Wake Counties. Two of

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

these counties are in the district I am privileged to represent, and the other two are in adjoining districts.

In addition to his pastorates, Reverend Gardner has served as a delegate for 4 years to the general synod of the United Church of Christ and has become a member of the board of the Caribbean Christian Center for the Deaf in Jamaica. He has served on the advisory council of the Elon Home for Children.

Mutual friends describe Reverend Gardner as compassionate, people oriented, and active in community affairs. These traits are borne out by his seemingly unlimited service in so many areas—alcoholism, libraries, aging, mental health, and hospital chaplains, to name a few.

In 1971 he was listed in "Outstanding Young Men of America." In addition to being a Mason and a member of the Ruritan and Exchange Clubs, Reverend Gardner is an accomplished musician, both in terms of singing and playing the piano. He and his wife, Judy, are the parents of two sons and a daughter.

On a personal note, today marks the first time since I entered Congress in January 1973 that a pastor from my district has delivered the opening prayer in the House. For this reason, Reverend Gardner's appearance is especially significant for me.

THE SHIRLEY DAVIS SUPREME COURT DECISION

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I am absolutely delighted to announce that the Supreme Court has just held that the House of Representatives can no longer be the last remaining plantation. They have just held in the Shirley Davis case where Shirley Davis sued ex-Congressman Otto Passman because he fired her saying he would rather have a man, that, No. 1, she has a cause of action; No. 2, that money damages would be a proper remedy that can be assessed; and, No. 3, the Federal courts are the proper place for her to take her action on discriminatory treatment.

It has been a very long and difficult 5-year period for Ms. Davis. I have been trying very hard to get jobs for her and to keep her alive during this very difficult period as she tested this constitutional right.

It has been shocking to me that many have said we as Members of Congress are exempt from the Constitution in hiring and firing employees. I am delighted to see the Supreme Court has said that is not the case. So I hope we as a body will now look toward good employee relations and cease and desist from any discrimination. If we do not it appears we are going to have to pay a very high penalty for continuing to discriminate and deny equal pay for equal work. I am glad that the Supreme Court has allowed the 18,000 plus congressional employees constitutional rights. I hope we consider the Schroeder-Udall bill that addresses this, gives employees a real remedy, and can move forward and clean up the hiring practices that this body has been notorious for. Shut down the plantation and play by the rules we insist the private sector and executive branch play by.

Mr. Speaker, I yield back the remainder of my time.

DEPARTMENT OF EDUCATION

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute.)

Mr. RATCHFORD. Mr. Speaker, I come before my colleagues to urge their support for a Cabinet-level Department of Education. This legislation is essential if we are to give education the important status of a major national priority. President Carter has already conceded that he spends a mere 2 percent of his time considering education issues. HEW Secretary Califano must address controversial issues such as abortion, saccharin, and welfare reform. As long as education remains within an agency dominated by health and welfare entitlement programs, it will never command the attention it so rightfully deserves.

We must have an increased accountability for educational issues in America. A Secretary of Education would meet this need by responding directly to the President and Congress, and by coordinating education-related programs which now fall within six separate agencies.

Another compelling reason for a Department of Education is to improve administrative efficiency. It now takes 1½ to 3 years before new programs and funds reach school districts and students. By eliminating many of the bureaucratic layers, this can be cut by as much as one-third to one-half.

There have been many totally unwarranted and inaccurate criticisms regarding the department of education. For example, the primary responsibility for education will remain with the State and local government. Furthermore, a new Department of Education will require no new funds. In fact, short- and long-term savings will be achieved by eliminating duplication in both administrative and staff support at several levels in HEW.

The establishment of a Department of Education will provide simpler, and more direct support to local governments. It will also fulfill the vital responsibilities of insuring civil rights and increasing access to educational and employment opportunities. I hope Congress recognizes the importance of this investment in our Nation's future.

PENNSYLVANIAN PROMOTED TO GENERAL AND NOMINATED TO HEAD ARMY NURSE CORPS

(Mr. SCHULZE asked and was given permission to address the House for 1 minute.)

Mr. SCHULZE. Mr. Speaker, today history is being made by the U.S. Army, and it gives me great pleasure to share the news of this historic event with my colleagues in the House of Representatives.

Hazel Winifred Johnson, a native of Malvern, Pa., is today being promoted to the rank of brigadier general. General Johnson is the first black woman in the history of our service corps to be advanced to this rank. Her astounding rate of advancement speaks for itself, as General Johnson has moved through the ranks from lieutenant to brigadier general in the short space of 19 years.

In addition to her recent promotion, it pleases me to share with you the news of her nomination by President Carter to head the Army Nurse Corps. Though her nomination is subject to Senate confirmation, we look forward to having this outstanding officer and resident of the Fifth Congressional District of the Commonwealth of Pennsylvania in this important position. As one Army officer said to me this morning, "this lady is a firecracker; she gets things done, she gets people moving, and she is going to do great things for the Army Nurse Corps."

I look forward to her confirmation, and take this time to honor General Johnson, and wish her well in her new endeavors.

INTRODUCTION OF LEGISLATION TO REQUIRE TERMINATION OF DEPARTMENT OF ENERGY ON JANUARY 15, 1982

(Mr. WHITEHURST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITEHURST. Mr. Speaker, today I am introducing legislation to require that the Department of Energy will be terminated on January 15, 1982, unless prior to that date the Congress has enacted a law to continue it. The fiscal 1979 budget for this Department was about $10 billion, and I do not believe that the American people have been getting their money's worth.

On Sunday, May 20, 1979, an excellent article by Garrett Epps appeared in the Washington Post magazine. Its length made the cost of introducing it in the RECORD too great, but I would like to commend it to the attention of my colleagues. It is entitled "The Creation of Energy: Why Our Newest Cabinet Department Is Without Form and Void," and it sets forth some cogent reasons for introducing a termination provision. The legislation establishing the Department provides only for a review at the end of 5 years; I think it is essential that we take a stronger stand than that, so that, if the Department has not succeeded in proving its worth by that time it will not simply be allowed to continue by default.

Let me also refer my colleagues to pages 11778–11779 of the May 17, 1979, RECORD, where they will find a reprint of an editorial from the Wall Street Journal, which also contains some strong reasons for putting a positive time limit on the Department of Energy.

EXTENSION OF THE ENERGY CONSERVATION LOAN PROGRAM TO MIDDLE-INCOME HOMEOWNERS AND RENTERS

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, today I am introducing a measure that will extend energy conservation loan assistance to the much-beleaguered middle-income families of the Nation. For too long now, this segment of society has been neglected by Government. We must offer these homeowners and renters the necessary incentive to assume the burden of a loan. These loans must be at a reasonable interest rate in order to make the energy-conserving improvements.

This country must intensify its efforts to conserve the precious energy supplies available as well as develop alternative sources. It must commit itself totally to this endeavor. Conservation of energy must be its No. 1 priority at this time. Although the winter months are another two seasons into the calendar year, we cannot act soon enough. Unless appropriate measures are taken now, this body will be faced with the possibility of a petroleum product shortage.

This bill offers an additional incentive by allowing homeowners and renters with incomes up to 150 percent of the median income for a particular area—or approximately $25,000, based on the national median income—instead of merely $14,000 per year, to participate in the conservation program. The current household limit of $2,500 would be retained.

Let the membership of this body take positive steps now before the cold winds of winter begin to blow.

U.S. AMBASSADOR TO THE UNITED NATIONS, ANDREW YOUNG

Mr. ASHBROOK. Mr. Speaker, now that we are going back to work after the Memorial Day recess there is the good news and the bad news to greet us. The bad news, of course, is that Andrew Young has continued his anti-American babblings over the weekend. The insults against all of us that he sputters from time to time in his semiofficial capacity as Ambassador to the United Nations cover such subjects as comparing Khomeini justice with ours, that there is probably as much due process in Iran as there is in this country; his comments on the execution in Florida and now recently he implies there was not a fair election in Rhodesia.

Of course, the good news is the press reports this morning that at last President Carter seems to be recognizing the fact that Andrew Young is not only a disgrace to this country but he may be an embarrassment to the President's administration.

We heard sometime ago a statement at one of the conventions of our majority party when the keynote speaker said, "How long, oh, how long." I think the American people can ask on Andy Young of Mr. Carter, "How long, oh, how long will you put up with this travesty."

I yield back the balance of my time.

PERSONAL EXPLANATION

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, I was absent last week due to a family matter. Had I been in attendance for the week's session I would have voted in the following manner:

Rollcall No. 163, "yea."
Rollcall No. 165, "yea."
Rollcall No. 168, "yea."
Rollcall No. 166, "nay."
Rollcall No. 170, "nay."
Rollcall No. 173, "yea."

Mr. Speaker, I ask unanimous consent that these remarks be placed in the permanent RECORD following these rollcall votes.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

VETERAN SENIOR CITIZEN HEALTH CARE ACT OF 1979

The SPEAKER. Pursuant to the provisions of clause 3, rule XXVII, the unfinished business is the question of suspending the rules and passing the bill, H.R. 4015.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Virginia (Mr. SATTERFIELD) that the House suspend the rules and pass the bill, H.R. 4015, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 406, nays 0, not voting 28 as follows:

[Roll No. 179]

YEAS—406

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Paul
Pease
Pepper
Perkins
Petri
Pickle
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stockman
Stokes
Studds
Swift
Symms
Synar
Tauke
Taylor
Thompson
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—28

Anderson, Ill.
Beilenson
Burton, John
Cavanaugh
Conyers
Dodd
Dougherty
Ferraro
Flood
Ford, Mich.
Forsythe
Fowler
Gephardt
Gray
Johnson, Calif.
Patterson
Peyser
Pursell
Rangel
Royer
Spellman
Stewart
Stratton
Stump
Thomas
Wilson, Tex.
Young, Alaska
Young, Fla.

☐ 1230

The Clerk announced the following pairs:

Mrs. Spellman with Mr. Anderson of Illinois.

Mr. John Burton with Mr. Forsythe.

Mr. Ford of Michigan with Mr. Thomas.

Ms. Ferraro with Mr. Young of Alaska.

Mr. Dodd with Mr. Pursell.

Mr. Johnson of California with Mr. Royer.

Mr. Gray with Mr. Young of Florida.

Mr. Stratton with Mr. Dougherty.

Mr. Flood with Mr. Conyers.

Mr. Patterson with Mr. Peyser.

Mr. Rangel with Mr. Cavanaugh.

Mr. Beilenson with Mr. Gephardt.

Mr. Fowler with Mr. Stewart.

Mr. Stump with Mr. Charles Wilson of Texas.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make the following announcement:

There had been scheduled today a suspension, but in view of the fact that it is the understanding of the Chair that it violates the Budget Act, the Chair will say to all committee chairmen that he will not recognize Members for bills under suspension that violate the Budget Act, without the concurrence of the Budget Committee.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1979

Mr. ASHLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community, and neighborhood devlopment and preservation, and related programs, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. ASHLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3875, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, June 4, 1979, section 1 had been considered as having been read. Are there any amendments to section 1?

If not, the Clerk will designate title I.

(Title I reads as follows:)

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

REHABILITATION LOANS

SEC. 101. (a) Section 312(d) of the Housing Act of 1964 is amended—

(1) by striking out "and not to exceed $245,000,000 for the fiscal year beginning on October 1, 1978" in the first sentence and inserting in lieu thereof "not to exceed $245,000,000 for the fiscal year beginning on October 1, 1978, and not to exceed $150,000,000 for the fiscal year beginning October 1, 1979"; and

(2) by adding at the end thereof the following new sentence: "Of the amounts available for loans under this section during any fiscal year beginning on or after October 1, 1979, the Secretary may utilize not more than $50,000,000 for rehabilitation loans for multifamily properties.".

(b) Section 312(h) of such Act is amended by striking out "1979" each place it appears and inserting in lieu thereof "1980".

(c) Subsections (i) and (j) of section 312 of such Act, as added by section 101(b) of the Housing and Community Development Amendments of 1978, are redesignated as subsections (j) and (k), respectively.

COMPREHENSIVE PLANNING

SEC. 102. The second sentence of section 701(e) of the Housing Act of 1954 is amended by striking out "and not to exceed $57,000,000 for the fiscal year 1979" and inserting in lieu thereof "not to exceed $57,000,000 for the fiscal year 1979, and not to exceed $45,000,000 for the fiscal year 1980".

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SEC. 103. (a)(1) Section 103(a)(2) of the Housing and Community Development Act of 1974 is amended by striking out "$250,000,000 for the fiscal year 1980" and inserting in lieu thereof "$290,000,000 for the fiscal year 1980".

(2) Section 106(m) of such Act is amended by striking out "or fiscal year 1979" and inserting in lieu thereof ", fiscal year 1979, or fiscal year 1980".

(b) Section 103(c) of such Act is amended by striking out "a sum not in excess of $400,000,000 for supplemental grant assistance under section 119 for each of the fiscal years 1978, 1979, and 1980" and inserting in lieu thereof "for supplemental grant assistance under section 119 a sum not in excess of $400,000,000 for each of the fiscal years 1978 and 1979, and a sum not in excess of $675,000,000 for the fiscal year 1980".

(c) Section 104(b)(3) of such Act is amended to read as follows:

"(3) The Secretary may waive all or part of the requirements contained in paragraphs (1), (2), and (3) of subsection (a) if (A) the application does not involve a comprehensive community development program, as determined by the Secretary, and (B) the Secretary determines that, with regard to the nature of the activity to be carried out, such waiver is not inconsistent with the purposes of this title.".

(d) Section 104(h) of such Act is amended—

(1) by inserting in the first sentence of paragraph (1)—

(A) after "National Environmental Policy Act of 1969" the following: "and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary)"; and

(B) after "such Act" the following: ", and such other provisions of law as the regulations of the Secretary specify,";

(2) by inserting in the second sentence of paragraph (2) after "National Environmental Policy Act" the following: "and such other provisions of law as the regulations of the Secretary specify,"; and

(3) by inserting in paragraph (3)(D)(i)—

(A) after "National Environmental Policy Act of 1969" the following: "and each provision of law specified in regulations issued by the Secretary"; and

(B) after "such Act" the following: "or other such provision of law".

AMENDMENT OFFERED BY MR. RITTER

Mr. RITTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RITTER: Page 4, line 1—

Section 103 is amended—

(a) by striking out "$675,000,000" in subsection (b) and inserting in lieu thereof "$475,000,000"; and

(b) by adding the following new subsection (c) and relettering each succeeding subsection accordingly:

"(c) Section 103 of such Act is further amended—

(1) by striking out '$3,800,000,000' in subsection (a)(1), and inserting in lieu thereof '$4,000,000,000';

(2) by striking out '$3,800,000,000' in subsection (b) and inserting in lieu thereof '$4,000,000,000'; and

(3) by striking out '$3,900,000,000' in subsection (c) and inserting in lieu thereof '$4,100,000,000'."

☐ 1240

Mr. RITTER. Mr. Chairman, my amendment would do two things: It would reduce the proposed increase for urban development action grants from 70 percent to about 20 percent; it would also increase the funding for community development bloc grants from 4 percent to about 9 percent.

Without my amendment, H.R. 3875 would provide an increase of approximately 70 percent in the authorization for the UDAG program, over the level in fiscal year 1979. It is inexplicable how such an increase can be justified for a program which was created in 1977, to provide "supplemental grant assistance" to the basic community development bloc grant program, and which has yet to receive even the most cursory review by the Congress.

One gets the impression that HUD prefers the UDAG program and would like to relegate the CDBG program to the role of supplemental assistance.

During the debate in committee, we heard that UDAG was a "success." However, according to the Random House Dictionary of the English Language, success is defined as "the favorable or prosperous termination of attempts or endeavors." Clearly, UDAG cannot be classified as a success. In fact, HUD testified that as of February 23, 1979, only $2,383,386 or 0.4 percent had been drawn down out of the $600 million worth of grants approved. This is hardly a basis for claiming success, let alone increasing the program level from $400 million a year to $675 million a year.

In light of this problem of definition, I find it interesting that the body of the committee report avoids describing the UDAG program as "successful" and uses the term "promising" instead.

Mr. Chairman, I am not trying to kill the UDAG program. But, I do not believe that, within the limited funds available, we should starve the basic bloc grant program and at the same time allow gluttony for UDAG.

Isn't a nearly 9-percent increase sufficient in a year of "austerity?"

The basic bloc grant program needs these funds if we are going to make such amounts available. With the increase in the number of SMSA's and metropolitan cities, there will be a shortfall of CDBG dollars. This bill provides for pro rata grant reductions to all recipients because of that fact.

I submit it makes more sense to add a portion of these funds to the CDBG program than to allow UDAG to swallow a 70-percent increase.

I believe this position makes sense, and it would make sense even without the two critical reports from GAO which have come to light recently.

You need only look to yesterday's Washington Post for an article entitled "HUD's Urban Action Grants Called Wasteful." That article, which discusses the most recent GAO review of UDAG, as presented before the House Government Operations Subcommittee on Intergovernmental Relations and Human Resources, goes into considerable detail on several grant awards. One of those is Montezuma, Ga.

I will not belabor the Montezuma grant except to note that I cited that award when I offered this same amendment in committee. GAO's findings support my initial questioning of that grant and indeed highlights other questions with that award.

I also cite the letter from the distinguished chairman of the Subcommittee which pursued the question of UDAG grants, Mr. Fountain. How anyone could support a $275 million increase for the program after reading that letter is beyond me.

If anyone has not read it yet, I have copies at the table.

Mr. Chairman, we all know that cities need assistance. We could never fund all their needs, and therefore, we must be rational and careful with the allocation of these funds.

I know the chairman of the subcommittee will say we should add the funds to UDAG because it is targeted. Well, that was what the dual formula adopted in 1977 was supposed to accomplish, and which HUD's own report says has a "quite high degree of targeting."

If I hear HUD correctly, they insist that at least 51 percent of CDBG funds benefit low-and-moderate income persons.

That sounds like targeting to me.

In light of the problems cited by GAO, UDAG should be the program with the restrictions.

Mr. Chairman, I urge support for this amendment to allow Congress a chance to exercise oversight before a massive increase in funding is authorized. A 70-percent increase is just too much.

Mr. FOUNTAIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am not taking a position on this particular amendment at this time because I am just opposed to a 69-percent increase of anything at this particular time. I just think that this is not the time to increase funds for a new program which has had experience only for little over a year or to increase the funds in the bill itself. While I support the basic concept, the basic objectives, of this bill—and always have—I just cannot support a 69-percent funding increase for the UDAG program at a time when HUD seems to be making some unnecessary and highly questionable grants under the existing authorization. We need to take a full inventory of this program before increasing authorizations in midstream. I say this because I favor the leveraging of private investment concept.

The Intergovernmental Relations and Human Resources Subcommittee, which I chair, carrying out its responsibilities, and knowing this legislation was coming up and that the Members ought to see what the situation is, held a hearing 2 weeks ago to examine the UDAG performance in initiating and leveraging private investment in economically distressed cities. This leveraging concept, if properly used, in my opinion, would appear to have tremendous value for creating jobs and expanding the tax base in severely distressed communities. And if properly applied, this concept might even constitute a more productive way to help distressed communities than providing general fiscal assistance.

In view of this potential, I was surprised and troubled by a GAO findings recently reported to the subcommittee, as indicated by the gentleman from Pennsylvania (Mr. Ritter), who just offered his amendment.

At my request, the GAO conducted a very careful study of 17 UDAG grants, in addition to the ones they already studied, for commercial and industrial development purposes made to cities of differing sizes in four States. The grants included in this sample were selected by GAO without prior knowledge of problems or irregularities.

☐ 1250

However, GAO acknowledges that its sample is not a scientific one. What this simply means is that the problems found for those 17 grants cannot be projected to estimate the incidence of problems associated with all UDAG grants awarded to date.

Nevertheless, the deficiencies which were found for the 17 grants, I think, are real and ought to be instructive for our purposes here.

According to the GAO analysis, 2 of the 17 grants cannot be credited with leveraging any private investment jobs or tax revenues.

A third grant was found to have stimulated only a minute amount of private investment and no jobs or tax revenues.

Another grant stimulated some jobs but no private investment. Two other UDAG grants were found to have generated private investment, but no new jobs.

Now these results are fairly similar to the findings from GAO's review of 18 UDAG grants reported to the Congress on March 30 and was the basis upon which I made the request of GAO to make a further study.

This is a disappointing picture, given the potential of the leveraging concept. Instead of castigating GAO for its subjective research or rushing blindly to HUD's defense, as some have done, I think it is important that we understand why these failures have occurred, if they have occurred, if the UDAG program is to deliver on its promise.

Now, I believe the explanation—and I have the committee report here—was clearly identified in the subcommittee's hearings.

The HUD witnesses testified that the Department has authority under the act to substitute UDAG funds for local or State funds already committed for a project before the UDAG application is filed.

Now this issue here is whether the 1977 UDAG legislation is intended as a catalyst to attract, to stimulate, and leverage private investment as the legislative history appears to confirm in the current committee report explicitly stated on page 8 or whether UDAG funds may be used to relieve communities of fiscal obligations previously negotiated.

If the latter arrangement is legal, then we have in the UDAG program another form of general revenue sharing rather than a leveraging instrument.

We surely have an obligation to clarify this matter today. Accordingly, I wonder if the gentleman from Ohio (Mr. Ashley) would respond to one or two questions which I would like to ask in this connection.

Mr. Chairman, I would like to include for the Record a letter concerning hearings by the Subcommittee on Intergovernmental Relations and Human Resources.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. Fountain) has expired.

(By unanimous consent, Mr. Fountain was allowed to proceed for 2 additional minutes.)

Mr. FOUNTAIN. I would like to ask the very distinguished chairman of the Housing and Community Development Subcommittee, if it is his understanding that UDAG funds may not be used in lieu of private or non-Federal public funds which would have been expended for the project in the absence of the UDAG grant?

In other words, I will state it this way: Does the gentleman agree that a UDAG grant must be necessary and essential as a catalyst for the generation of the local commercial or industrial development project for which it is to be used?

Mr. ASHLEY. Yes; as a general proposition, that certainly was the basis of the legislation. It was contemplated, of course, that a particular community has to be severely distressed in order to be eligible under the program. In any event, it was not contemplated that a community would be required to make a contribution from its own limited resources that would be at the expense of the level of services being provided in that community.

I suppose that it can be said that my city of Toledo might have been able to come up with the $12 million, which was the amount of our UDAG grant.

Well, it could have, but at the expense of the services that have been and continue to be provided in that city.

So that, while I agree with the proposition of the gentleman, I think it has got to be understood that those are the limits within which my response is framed.

Mr. FOUNTAIN. Now, the gentleman says it is a general proposition. One of the representatives of HUD——

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. Fountain) has again expired.

(By unanimous consent, Mr. Fountain was allowed to proceed for 2 additional minutes.)

Mr. FOUNTAIN. One of the representatives of HUD took the position that as long as the funds are used for a public purpose, it does not necessarily have to leverage private investment in commercial and industrial transactions.

Mr. ASHLEY. Does not have to what?

Mr. FOUNTAIN. Does not have to leverage private capital investment.

Mr. ASHLEY. No. I think that either the gentleman's interpretation is mistaken or he misspoke. The predicate of the program is that the investment of Federal dollars will trigger and will leverage private capital investment.

Mr. FOUNTAIN. If the private capital investment is already there and has already committed itself, what is the opinion of the gentleman as to whether or not this legislation authorized the application of Federal funds?

Mr. ASHLEY. You see, there is a good deal of confusion that arises over that. If private investment is committed to a certainty, then I would probably go along with the gentleman that the UDAG grant is not necessary as a catalyst. But there have been assertions on the part of the General Accounting Office that a course of action was embarked upon by a corporation that was irreversible and that the UDAG grant in that situation was not necessary.

That is what they said with respect to Toledo. That is what they have said with respect to Corning. That is what they have said with respect to a number of others.

I sharply challenge those assertions, and that is all they are. It is not a formal study by the General Accounting Office; I understand that, but I think that these assertions on the part of the Accounting Office are not well taken, are misleading, and in no respect helpful. This is not GAO's finest hour in terms of the work product produced for the gentleman in the well.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. Fountain) has again expired.

(By unanimous consent, Mr. Fountain was allowed to proceed for 1 additional minute.)

Mr. FOUNTAIN. I am trying to do is set the legislative record straight so that we know what we voted for initially when the UDAG program was passed, and when we extend it today.

Is the gentleman from Ohio saying that a UDAG grant can be made for commercial or industrial development if it does not serve as a catalyst for significant private investment.

Mr. ASHLEY. No. I think that is the basic purpose of the program.

Mr. FOUNTAIN. I thank the gentleman for his reply.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. Yes, I yield to the gentleman from Pennsylvania.

Mr. RITTER. Is the gentleman offering an amendment to cut the additional $275 million from the UDAG program?

Mr. FOUNTAIN. I am not, but I would say to the gentleman, if such an amendment is offered, I will certainly support it.

Mr. RITTER. In the absence of such——

Mr. FOUNTAIN. On the basis of the information we have thus far.

Mr. RITTER. Exactly. Judging from the gentleman's letter and judging from the comments of the GAO, and judging from the recent story in the Post, and judging from the gentleman's very excellent investigation in the Government Operations Subcommittee, it would seem logical to have an amendment which would reduce, by a major amount perhaps, the entire increase in the UDAG program.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. Fountain) has expired.

(At the request of Mr. Ritter and by unanimous consent, Mr. Fountain was allowed to proceed for 1 additional minute.)

Mr. RITTER. If the gentleman will continue to yield, the fact is my amendment does not cut the full increase from UDAG, although we hear opinions expressed that that might have been the proper course of action.

My amendment simply decreases a massive 70-percent increase in a general program until such time as the questions that the gentleman's subcommittee has raised can be answered. It reduces that allocation from 70 percent to 20 percent.

It puts the allocation, the rest of that allocation, into the community development block grant program, in a time of rampant inflation.

Our urban areas need the kind of help to continue to provide services so that they do not go downhill. We are talking about maintaining viable urban areas, and I think the community development block grant has been very, very successful all over this country. It is not a political tool. It has been applied fairly. It has been applied with excellent results, and it seems to me that in this particular amendment it transfers these funds to a proven program from an unproven program.

I thank the gentleman.

The letter referred to follows:

Intergovernmental Relations
and Human Resources Subcommittee,
Washington, D.C., May 31, 1979.

Hon. Henry S. Reuss,
Chairman, Banking, Finance and Urban Affairs Committee, Washington, D.C.

Dear Henry: The Intergovernmental Relations and Human Resources Subcommittee held a hearing last week to examine the performance of the UDAG program in leveraging commercial and industrial development in economically distressed cities.

Because of the subcommittee's legislative responsibility for programs of fiscal assistance targeted to distressed communities, we have a special interest in identifying cost-effective ways by which the Federal Government can help to stem and reverse the secular decline that has affected many of our older cities.

The UDAG concept, with its emphasis on using Federal grants as a catalyst for attracting and stimulating many times the amount of each grant in private investment, seemed to offer a very promising alternative, or supplement, to general purpose fiscal assistance which is not focused on a community's economic development needs.

The subcommittee's hearing revealed some serious weaknesses in the management of the UDAG program, and perhaps in the authorizing legislation as well, which I believe should be addressed next week when the House considers H.R. 3875, the Housing and Community Development Act of 1979.

At my request, the General Accounting Office conducted a three-month study to determine how well the UDAG program has succeeded in stimulating private investment, creating jobs, and expanding tax revenues. Under the direction of its chief economist, the GAO studied a sample of 17 grants made to cities of varying sizes for commercial and industrial development purposes. The GAO found that two of the 17 grants could not be credited with stimulating any private investment, jobs or tax revenues. A third grant of almost $1.8 million was found to have leveraged a $50,000 investment. In addition, the GAO reported problems with many of the remaining grants in its sample.

To give you a better idea of the GAO findings, I will briefly describe two of these projects.

A $5.8 million UDAG grant was awarded to Montezuma, Georgia (a city of under 4,000 population) to build by-pass roads around Montezuma and another small city to serve a $200 million pulp mill being constructed by Proctor and Gamble. The application was filed by Montezuma on February 28, 1978, and the grant awarded on August 2, 1978. However, the Governor of Georgia announced the company's decision to construct the plant on February 22, 1978 (6 days *before* the Montezuma application) and this date for the decision is confirmed in a brochure published by the company.

Montezuma stated in its grant application that the site selected by Proctor and Gamble, after an extensive search, is 'the No. 1 such site remaining in the State of Georgia." Apparently Montezuma was designated as the applicant because it is the only jurisdiction in the area that qualifies under the UDAG distress criteria.

The State of Georgia, which may have agreed to build the by-pass roads for Proctor and Gamble, is not eligible under the program; neither is Macon County, where the roads are to be located and which is to receive the UDAG funds from Montezuma.

HUD contends that the grant was necessary for construction of the plant to proceed because State funds had not been appropriated for this project. The roads, it should be noted, are not needed until completion of the plant construction which is estimated to take three years. Moreover, there is evidence that Proctor and Gamble had already contracted for construction of the pulp mill.

It is evident from the documentation that the UDAG grant was not responsible for the Proctor and Gamble investment, which itself has relatively little relationship to the city of Montezuma. In essence, this UDAG grant is tantamount to additional revenue sharing money for the State of Georgia.

Another UDAG grant, of approximately $1.8 million, was awarded to Corning, New York (a city of 14,400 population) to improve access roads and storm sewers for a new $16.3 million Corning Glass Works building. This small city has long been headquarters for Corning Glass, which is a multi-national corporation with annual sales of approximately $1.4 billion. The corporation has very close ties to the city in that it is the dominant taxpayer and the residence of the family which controls the company.

The facts in this case are as follows. The city apparently agreed in February 1978 to make the improvements subsequently included in the UDAG applicaion. The UDAG application is dated November 14, 1978 (10 months later) and the grant was awarded on February 2, 1979—a full year after Corning Glass Works made the commitment to build in the city.

It is extremely difficult, from this history, to draw a conclusion that the UDAG grant influenced that decision or leveraged the private investment.

HUD testified in our hearing that the grant was essential because the city had exhausted its bonding capacity and Corning Glass would have stopped construction if the grant were not made. HUD has not responded to the subcommittee's request for the documentation of those representations. However, the subcommittee was informed today by the New York State Department of Audit and Control that Corning (which has an AA bond rating from Moody's) has used only a small fraction of its available bonding capacity.

The central issue here is whether the 1977 UDAG legislation was intended to stimulate and leverage private investment. That was my understanding in voting for the program, and it is the understanding of other Members with whom I have discussed this matter. An examination of the legislative history also confirms that position.

However, the HUD Assistant Secretary responsible for the UDAG program takes a different view. Mr. Embry testified in our hearing that HUD has authority under the statute to substitute UDAG funds for local or State funds that have already been committed for a project. This is what was clearly done in the Montezuma and Corning cases, and, according to a recent GAO report, a similar substitution of Federal funds for local money was made in a $10 million award to Boston. If the intent of the law is unclear, we certainly have a responsibility to clarify it when H.R. 3875 is taken up. This might be accomplished either by an amendment or a suitable colloquy on the Floor.

Another matter that deserves prompt attention is the use of UDAG grants for loan purposes. I have been informed that more than half of the grants awarded to date are for loans by the recipient cities to developers for mortgages and related purposes. A $10 million grant to Baltimore, for example, was used as part of a second mortgage for the construction of a luxury convention hotel to be operated by the Hyatt Corporation. This loan is to be repaid to Baltimore with interest. While I have no objection to this type of development, I do not understand why UDAG money intended for loan purposes should be retained by the city once the development objectives have been accomplished.

With the Treasury now paying more than 9 percent interest to borrow money, it seems only reasonable that the Federal Government should recapture those funds. I would strongly suggest that you consider an amendment to the UDAG legislation to authorize a revolving loan fund for this purpose.

Still another problem disclosed by the GAO study is the fact that many local governments receiving UDAG assistance are granting tax abatements to the developers. I believe it would be appropriate and helpful to those cities if the legislative history were to indicate that UDAG assistance is intended to make private investments viable without tax abatements except in very special cases.

I am enclosing for your information the statement of Dr. Dennis J. Dugan, the GAO's chief economist, who testified at last week's hearing.

It is apparent from the subcommittee's hearing and the GAO findings that HUD is funding projects that do not leverage private investment. It may be that the current authorization for the UDAG program is more than HUD can spend on good projects that meet the leveraging test. In any event, I do not think it appropriate for Congress to increase that authorization until the legislative intent is clearly and unmistakably established as it relates to the leveraging of private investment, and the management of the program is greatly improved.

I would be glad to discuss this matter with you at your convenience before H.R. 3875 is debated.

Kindest personal regards and best wishes.

Sincerely,

L. H. FOUNTAIN,
Chairman.

☐ 1300

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me start by saying that there have been two great initiatives in the area of housing and community development in recent years; one under a Republican administration, the other under a Democratic administration.

The Republican initiative culminated in the community development block grant program, which was legislated by the Congress in 1974. The principal initiative of the current administration was the urban development action grant program which we put into effect a year ago.

These programs are complementary, but they are quite different. The purpose of the community development block grant program was to rationalize our previous categorical grant programs, bring them under a systematized procedure to provide for specific, known amounts of financing to communities of 50,000 or over throughout the country so that they could plan their development process and target funds by allocating resources on the basis of a tripartite formula, which takes into account, among other things, poverty, population, and condition of housing.

The UDAG program, while it seeks some of the same purposes, which is to say to bring relief to our distressed cities, really approaches the matter on a different basis. Instead of annualized funding across the board as we find in the community development program, the UDAG program provides that if a community is severely distressed, and where there can be for each Federal dollar invested in economic activity, at least 2 to 3, 5, perhaps 10 times that amount in private investment, then in these situations a grant may be approved.

So, the two programs have proceeded side by side, Mr. Chairman, and they have done so very successfully.

Have there been problems? Yes, there have been problems. There were problems with the initiatives advanced by the Ford administration. There have been problems with the UDAG program. Remarkably few, however. Remarkably few. I think it is worthy of note that in neither case has there been, to the best of my knowledge, any accusation of favoritism of politicization of the programs, not one single challenge along these lines.

The UDAG program is a different type of program than the community development program, and it is on that basis that the gentleman's amendment should be defeated. The amendment confuses two types of programs that really have basically different thrusts.

The community development program is for the general types of community development that are not necessarily economic in their thrust. The UDAG program is a job-creating program, a reinvestment program for our aging, deteriorating American cities.

Mr. Chairman, I would urge that the amendment be defeated. The urban development action grant program is really a most unique and remarkable effort to blend public assistance with private capital, to bring economic vitality back to our most distressed cities.

My colleague argues we should wait to increase the funding for this program saying we have yet to see the results of the program and, therefore, it would be imprudent to move forward now.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. ASHLEY was allowed to proceed for 5 additional minutes.)

Mr. ASHLEY. Mr. Chairman, I want to point out that on the basis of a Federal investment of $735 million to date of action grant funds, over $4.5 billion of private capital has been generated—and this goes to the colloquy that took place before I came to the well—where none otherwise would have taken place.

Despite what the General Accounting Office either says or does not quite say, there have been over 170,000 new permanent jobs created where none existed before. More than 78,000 jobs will be retained as a result and as a consequence of the applications approved to date. Over $160 million in annual local tax resources will be generated where none otherwise would have been raised.

These are the reasons, Mr. Chairman, that I am urging support of the committee approach and the rejection of the amendment of the gentleman from Pennsylvania.

Let me conclude by saying I have a brief that I would like to present, had I time, against the so-called study by the General Accounting Office. A more concise mish-mash of misinformation I have seldom seen.

With regard to the action grant program in Toledo, the General Accounting Office says, just to give you an illustration of GAO misinformation, that Owens-Illinois is Toledo's major employer and the Toledo Trust Co.'s major customer wrong on both counts. Absolutely wrong on both counts. It is not our largest employer and it is by no means the principal customer of the bank in question.

The General Accounting Office says that Owens-Illinois did not consider any alternative sites before deciding on investing $100 million in Toledo. Wrong again. All kinds of alternatives were explored in depth, and I have the backup data at the desk to prove it.

Who is wrong? The General Accounting Office is wrong, absolutely inaccurate in that assertion.

The GAO also asserts Owens-Illinois planned to develop the site prior to the granting of the UDAG grant. Wrong again. One hundred percent wrong on the facts.

Mr. Chairman, if this is the kind of example that is illustrative of the General Accounting Office study, I can then understand why the gentleman from North Carolina would take the well and express the concern that he did. This is slipshod workmanship on the part of a respected arm of the Congress, and frankly, I resent it. The program we have put in place should not be subject to this kind of shabby workmanship in terms of the analysis provided by the General Accounting Office.

Mr. Chairman, I would urge that the amendment of the gentleman from Pennsylvania be rejected, that we move forward with a program that has won the plaudits of communities across the country, a program that, in fact, has achieved precisely what it set out to do, which is to promote the investment of private capital in our cities which are most desperately in need of assistance.

Mr. ROUSSELOT. Mr. Chairman, would the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my distinguished colleague yielding.

I am surprised at his comments about the General Accounting Office.

Mr. ASHLEY. Why?

Mr. ROUSSELOT. Because I know on previous occasions he has usually utilized some of their material.

But, did the gentleman have any oversight hearings in his committee to disprove what they said?

Mr. ASHLEY. No, we did not have time.

Mr. ROUSSELOT. Then, how does the gentleman know they are not right?

Mr. ASHLEY. Because we have gone to the Department involved and I have asked for the workpapers of the General Accounting Office.

□ 1310

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. ASHLEY. Yes, I will yield to the gentleman.

Mr. ROUSSELOT. I appreciate my colleague's yielding. I never have seen him quite so excited. As I understand it, the General Accounting Office went out to visit several UDAG projects, well over 100?

Mr. ASHLEY. No.

Mr. ROUSSELOT. Seventeen projects. Excuse me.

Mr. ASHLEY. Seventeen.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ROUSSELOT, and by unanimous consent, Mr. ASHLEY was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. If the gentleman will yield further, can the gentleman tell us, did he review those projects that were investigated by the General Accounting Office?

Mr. ASHLEY. I have had an opportunity to go over their findings, and that is all. I think that this information came to us in the last 48 hours or so. What I have had an opportunity to do is to review the findings with respect to the city of Toledo, get at the methodology used by the General Accounting Office, and on the basis of that example, I am putting in question the accuracy and the validity of the findings in the other 16.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding. I want to associate myself with the remarks of the chairman in the well. I think he has done an excellent job in terms of laying out the fundamental difference between the UDAG program and the community development program, the difference in terms of leveraging. One of the criticisms in this GAO special document was the amount of dollars that were spent on a per capita basis in varied UDAG grants.

In other words, this program can provide substantial assistance on a one-shot initiative, based upon the conditions in a business commitment to attract business and industry into a community. It was just such criticism that the General Accounting Office revealed in terms of this report; was it not?

Mr. ASHLEY. Yes.

Mr. VENTO. And there is no relationship. The precision of this program, the essence of this program is to be able to inject a large amount of money, a larger amount of private capital, industry, and jobs into a community where they would not qualify, for instance, on an entitlement basis under the community development program, where the gentleman from Pennsylvania wants to shift some $200 million. What he is suggesting basically is to put $4 billion into community development and to leave somewhat less than a half billion dollars in the UDAG program, that we think is one of the only current Federal initiatives, the only basis that we have, to stimulate some economic development. Is that not right?

Mr. ASHLEY. The gentleman is entirely right. If we were to take the logic of the gentleman from Pennsylvania—and this has been suggested by others—and we were to transfer the UDAG funds into the community development program, all it would mean is that those cities that are eligible for automatic allocation of funds would receive slightly more money for community development, but in no instance would there then be sufficient funds in any community to undertake the kind of economic development that is possible under the UDAG program. That is why these are complementary, mutually supportive programs.

Mr. VENTO. Is this not a program where we have a competitive-grant basis, where we can look at these projects, analyze them, and make some decisions?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. VENTO, and by unanimous consent, Mr. ASHLEY was allowed to proceed for 4 additional minutes.)

Mr. ASHLEY. The gentleman is right, and here I think it can be said that the quality of review of the UDAG applications has improved very substantially since the beginning of the program. One would expect so, but the fact is at the present time there is a most intensive kind of review procedure. What causes me anguish is the fact that the General Accounting Office have taken the view that if it is in balance as to whether or not a corporation would have located in a community in any event, they assume that that corporation would have located there in any event and, therefore, they conclude that few, if any, jobs are created or retained. It is almost as if they had set out to discredit the program.

Mr. VENTO. If the gentleman will yield further, the community development program was one that brought together many different categorical initiatives that permitted some Federal discretion at the national level, and the community development program provided funds on an entitlement basis on a noncompetitive basis to assure continuity of community development in various segments of our urban communities and rural communities.

Mr. ASHLEY. The gentleman is right.

Mr. VENTO. This program is one of the last programs that we have which permit HUD to provide some opportunity for oversight, some competitive basis in terms of the merits of various programs, plus the necessity and the urgency of establishing that industrial base, establishing that productive base in our urban communities. Many communities, of course, qualify; others do not. In fact, it is very conceivable, is it not, in the purview of this program, and looking over the criteria, that there may be additional communities in the future that may or may not qualify for this program? So we are really not talking about a static base but really a very dynamic one in which communities may be coming in, with the opportunity to participate in UDAG based upon where they are relative to economic development criteria. So I think it would really be taking away from many communities that have not had the benefits of this program to cut it back at this time; would it not?

Mr. ASHLEY. The gentleman is right. There has been a question as to the capacity of the Department and of the UDAG program to absorb modestly greater funding at this time. Anybody with those ideas should be disabused of them because the program is limited in its resources and its ability to provide meaningful assistance to many of our severely distressed communities.

Apropos of the gentleman's question, the program is limited to severely distressed communities, and in our efforts to date we have scratched the surface, but we have by no means come to grips or really been responsive on a broad basis to the needs of hundreds upon hundreds of severely distressed communities that so badly need business and commerce and industry.

Mr. VENTO. If the gentleman will yield further, less resources rather than inequitable resources can mean we are going to be able to do less for them; is that right?

Mr. ASHLEY. The gentleman is entirely right.

Mr. VENTO. I thank the gentleman.

Mr. STANTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think it is appropriate that we take a minute to put ourselves in proper perspective. I think the colloquy we have had in the last 5 or 10 minutes has been outstanding. It has made me think more of the problems of UDAG than I have ever thought about before, because there has been the general consensus in our committee that this report had just come out and we had promised to have oversight on UDAG.

But what does the pending amendment do? To listen to the advocates here in the last 10 or 15 minutes, one would think somebody was out to kill the UDAG program. Believe me, I have in front of me an amendment that does exactly that: On page 3, strike out line 20 and all thereafter. And I am sitting over here on this side of the aisle discouraging people from offering this amendment, saying, gosh, give this program a try. What do we mean by "give it a try?" What we simply do is take a program that is funded at $400 million and we increase that by 19 percent. What the gentleman's amendment does is decrease it from a 70-percent increase in this program down to 19 percent increase, the most modest approach that I can possibly think of under a program that is especially so under attack by members of a different committee, and which our committee has agreed it is going to take a look at.

I have never heard the author of the amendment say anything strongly against UDAG. I see my neighbor and friend, the gentleman from Ohio, will speak on the amendment (Mr. SIBERLING). It is a very good and excellent program in Akron, Ohio, that has helped the city greatly.

All we are asking in this amendment is to take a look at it, give us time, and slow down the program, not to the same level but a 19-percent increase, a most modest approach.

Before I leave the well, let me assure the Members that there are strong emotions that are carried out of this committee. When we stop and think about a 70-percent increase, and we then think of all of the other programs in this bill. My favorite is Housing for the elderly. I think that is the best program we have ever had; I really do. I think next to the veterans' program for those back in World War II, that is the best housing program that American taxpayers give to the elderly. And here we are giving this program a 19-percent increase? Twenty-five percent? Thirty percent? Forty percent? We certainly are not giving it, Mr. Chairman, anywhere near a 70-percent increase. The fact is we are basically in the entire rest of the $3.9 billion plus legislation holding the line as the administration has asked. This is the one huge increase, and I would sincerely hope that we would give serious consideration to the amendment in which the gentleman from Pennsylvania is so modest, and just hold it down to a 19-percent increase.

□ 1320

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. I thank the gentleman for yielding.

I think the gentleman makes an important point and that is we are not eliminating UDAG at all. I think most of us feel in this body that UDAG is an important tool in arresting the deterioration of cities around this country.

What we have to do is to make certain that all of the tools are working as effectively as possible and that includes UDAG.

Mr. Chairman, I would like to point that very early on in the 96th Congress we set the proper tone in the Committee on Banking, Finance and Urban Affairs by looking at a piece of legislation that had passed in 1978, the Privacy Act. We eliminated a section of that act which would have added about $1 billion in unnecessary redtape. That is what we should be doing now—exercising oversight responsibility.

There is a difference of opinion as to whether or not GAO is right or GAO is wrong so let us have some hearings, let us measure the effectiveness of these programs and make sure that all of them are accomplishing their objective.

I thank the gentleman for yielding.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I will be happy to yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

Was the committee aware of this General Accounting Office report of March 30?

Mr. STANTON. In answer to the gentleman's question, basically we were aware at the time of the markup of the general GAO criticism.

Mr. ROUSSELOT. In this March 30 report?

Mr. STANTON. In the March 30 report.

Mr. ROUSSELOT. Mr. Chairman, I am glad to hear that because I was a little distressed that my colleague from Ohio (Mr. ASHLEY) acted like it came about all of a sudden. I am sure he did not mean that.

Mr. STANTON. Mr. Chairman, I think what the gentleman from Ohio was referring to probably is what we got out of the General Accounting Office report.

The CHAIRMAN. The time of the gentleman has expired.

(On the request of Mr. ROUSSELOT and by unanimous consent Mr. STANTON was allowed to proceed for 2 additional minutes.)

Mr. STANTON. I will yield further to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, the Committee on Government Operations has also looked into this?

Mr. STANTON. That is correct.

Mr. ROUSSELOT. I think one of the chairmen of the subcommittees spoke to this just a moment ago. They have evidently expressed some concern that there is quite a bit of looseness in this program and they are not at all sure where it is going.

Mr. Chairman, this amendment is merely an attempt to slow down this huge increase in this bill for UDAG. It is a 19-percent increase, still, you gentlemen said.

We are just trying to tone down this unwarranted increase. If you are a Member of Congress trying to be concerned about unwarranted and unnecessary increases, this is a very reasonable amendment, is it not?

Mr. STANTON. Mr. Chairman, I certainly wholeheartedly agree with the gentleman and I thank him for bringing that point out.

Mr. ROUSSELOT. I think the gentleman is to be complimented.

Mr. LAFALCE. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

What we have here is not an attempt to eliminate UDAG, but an attempt to transfer a large percent of the moneys intended for UDAG to the CD program. I do not think the amendment takes into consideration the fact that we did consider changes in the CD program in the act of 1977 whereby we reauthorized the CD program and created for the first time the UDAG program.

At that time we came up with a dual formula which targeted the money better and at that time we also came up with a 12-percent increase for the following fiscal year in the CD moneys.

We did something else in that act also, Mr. Chairman. We recognized CD money was not used primarily for the purpose of economic development and we realized if we were going to bring about the development of the urban centers of America, whether large or small, that we have to bring about economic development. We therefore created a new program, the urban development action grant program designed specifically to create jobs in urban America and to revitalize the cities of urban America.

Has it been successful? Well, in my judgment it has been the most successful program that the Government has had to date.

Mr. Chairman, everyone has been talking about the GAO report. They fail to realize the GAO report made a study of 18 cities that made awards. All the applications from those 18 cities were made in the first round. Some were granted in the second round as carryovers but the applications went in the first round for the category listed.

Mr. Chairman, GAO said, "Of the 18, we found fault with 4."

We are not talking about the 18. We are talking about four with which we found fault and for various reasons.

For example, "Well, the private sector leverage was not great enough."

You had in the first round a 3-to-1 average, private sector to public sector, and they critize a particular award, because the leverage was 2½ to 1. How are we going to have an average of three unless you have something less than three, for example, 2½ to 1?

Also, Mr. Chairman, there have been tremendous improvements made.

There have been tremendous improvements made in the implementation of UDAG from the first round to the present. In the first round we had approximately a 3-to-1 private/public ratio. We presently have approximately a 6-to-1 private/public ratio which is the reason that the present and new director of UDAG has said:

> Were I to review those 4 of the 18 that GAO criticized, 3 of those 4 certainly would not have been funded in this most recent round.

The program is improving.

Now, let us talk about that relationship between the public and private sector. Most Government programs in the past have simply given out Federal doles—whether it be in the form of grants or in the forms of loans. However, they have not required a commitment from the private sector as a sine qua non to Federal participation. This is the essential characteristic of the UDAG program which makes it so excellent and makes it deserving of tremendously additional funding.

You cannot get UDAG money, whether a grant or a loan, unless you have that commitment from the private sector.

In a sense, what the Government is finally doing is, the Government is saying, "We ought to conduct our operations as does the private sector. We ought to conduct Government the way business conducts its operations."

We are trying to run the Government like business. It may have been a Democratic initiative, but I have heard it coming from the mouths of Republicans so often you might well say it is a Republican concept.

Mr. EVANS of Delaware. Will the gentleman from New York yield?

Mr. LaFALCE. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Chairman, I thank my friend from New York for yielding.

I agree with the concept of UDAG. The leveraging of public funds by encouraging private sector investment is a noble objective.

However, the question before us here is, Are we doing that as effectively as we might? The GAO found that in many instances we were not and that private sector investment had not been encouraged to the degree claimed and the number of jobs had been overstated as well.

Mr. LaFALCE. The GAO found that in 4 of the 18 instances, in my judgment almost all of them in the first round, they had some marginal questions about them.

The Director of the UDAG program said:

> Surely, those are in the first round where we had but a few applications and if those applications were to come in today we would not approve them.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. SIMON and by unanimous consent Mr. LaFALCE was allowed to proceed for 3 additional minutes.)

Mr. LaFALCE. I would like to take those 2 minutes the gentleman from Illinois gave me, Mr. Chairman, to just point this out:

What the urban centers of America need is a catalyst. I have seen the almost magical effect of this catalyst. It has gotten people together. It has gotten people from the cities together in the planning departments, the community development departments, it has gotten developers together, it has gotten people from the financial institutions together, all because they saw the UDAG money out there and they knew that if they had that UDAG money they might be able to put something together to rejuvenate a city. Without that catalyst they would not have gotten together.

Further, Mr. Chairman, in almost all instances now the UDAG money is not going to the communities as a grant; it is going to the communities to be loaned to the private sector, usually with a low-interest rate or with a subordinated mortgage.

The money will be recycled and used over and over again. It will be repaid. We are not talking primarily about grants when we are talking about UDAG; we are talking in the great, great majority of instances about money being given to a municipality to be loaned to the private sector and to be repaid, recycled and reused by that local community.

□ 1330

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. LaFALCE. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Chairman, what GAO report is the gentleman referring to, the initial one on the original round of grants, or the one in May of 1979, on the second round of UDAG grants?

Mr. LaFALCE. I was referring to the one that made a study of 18 applications and had difficulty with four.

Mr. EVANS of Delaware. On May 23, 1979, there was an additional GAO report, and if I may, let me share with the gentleman some of the findings from 17 projects related to the question of leveraging.

The CHAIRMAN. The time of the gentleman from New York (Mr. LaFALCE) has expired.

(At the request of Mr. EVANS of Delaware, and by unanimous consent, Mr. LaFALCE was allowed to proceed for 2 additional minutes.)

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield further?

Mr. LaFALCE. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Chairman, I thank the gentleman for yielding.

On those 17 projects, HUD has overestimated, according to the GAO, the amount of private fund leveraging in seven instances; but GAO went on further to criticize the method the Department used in calculating the leveraging ratio. They said if you included public funds such as EDA grants, for example, then 16 of 17 projects would have overestimated the degree of leveraging.

I agree that the key to solving the problems of our cities is economic development. We need to provide more economic opportunity. We need to encourage investment in the private sector in order to provide permanent jobs. But the crucial question is, are we doing it as effectively as we might. I believe we just might properly exercise some oversight responsibility and thereby improve the program. And remember that this amendment does not eliminate UDAG, but rather increases its funding by 20 percent.

Mr. LaFALCE. The improvements in the UDAG program from the first round to the present have been tremendous. The leverage has been increased from approximately a 3-to-1 average, to approximately a 6-to-1 average.

Mr. EVANS of Delaware. Mr. Chairman, I do not really know whether the gentleman is talking about the first GAO report or the second GAO report.

Mr. LaFALCE. I am only aware of one.

Mr. EVANS of Delaware. We are talking in this instance about the GAO report issued on May 23 covering the second round of awards. That report addressed 17 projects.

Mr. LaFALCE. The GAO report that I read dealt with 18. The awards were made in 1978.

Mr. EVANS of Delaware. There are two GAO reports.

Mr. LaFALCE. I am talking about the one dealing with 18 applications and finding fault with but four, and marginally at best.

Mr. EVANS of Delaware. But this report deals with the 17 projects that I was just referring to, where they said if the proper method of calculating had been used that 16 of the 17 projects were overestimated in terms of leverage.

Mr. LaFALCE. All right; so HUD says they are now averaging at a 6-to-1 leverage. Overestimating might mean that the average is 5-to-1; but it is still a 66-percent improvement over the 3-to-1 leverage; maybe it is not quite 6 to 1, but perhaps 5 to 1. That is still a tremendous improvement.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it deeply bothers me to stand here and say that I have to speak against the amendment of my good friend, the gentleman from Pennsylvania; but I am fascinated by the attitude here that God created the perfect world in 1 day.

I sat here through two Republican administrations listening to them beg for a program just like this, that would leverage private money. Has it suddenly become Republican policy that this is bad?

This amendment would take $200 million out of a struggling new program and put it into one of the worst programs in the whole country, the community development grant program. No matter how hard we try, and last year I tried with the chairman, to work out a better formula. We put in age of housing. What a wonderful thing. We were going to solve the cities' problems, but we gave Greenwich, Conn., in my district, one of the richest communities in the entire United States of American more money. Greenwich, of course, turned around and said:

> We don't want it, because we don't like your Federal dollars or your Federal rules.

Is that what we are looking for? We talk about saving money, yet we spread money all over this country to communities that do not need it.

If we want to save money in this country, target money where money is needed. Do not waste it on communities that do not need it. That is what the UDAG grant program tries to do. That is the urban development action grant program.

Sure, it has its problems. I have seen poor grant proposals come from my own district, but be turned down. In my opinion they should be. The fact of the matter is that this program is working toward leverage. The community development program does not work toward leverage. It gives money where it is not needed. I cannot possibly find it within myself to stand here and say that we expect instantaneous perfection. I remember some of the programs that used to be dreamt up earlier around here. Did we expect instantaneous perfection out of the Defense Department with the Cheyenne? No; but we let them blow $480 million on it.

Do we expect instantaneous perfection out of the community development grant program? No.

With most of our categorical grant programs, no.

The fact of the matter is, if we took every Federal dollar, every urban tax dollar, every State dollar, and poured them into the cities of this country, we would not solve the cities' problems. What we have got to do is to set up programs where private initiative, private money, banks, corporations, move in.

I put the Secretary on notice about the UDAG program. I am going to put her on notice about a few other things today, by the way, since her Department is ignoring the actions of the Congress of the United States. I put her on notice that if this turns out to be parochial, partisan, Democratic, or Republican type of thing, that she is going to hear from me. Every time I think this is becoming such a program I will put it in the RECORD.

I appreciate what the gentleman is doing, but the gentleman is not going to save us any tax dollars. The gentleman is going to take $200 million out of a targeted program that sends money where it is needed and put it into a program which is not targeted and send money where it is not needed.

The fact of the matter is this program deserves a chance. It deserves a trial. It deserves also, I must say to my majority friends, a very healthy dose of oversight; but I am willing to go along and force it toward that end.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I would like to agree with the gentleman from Connecticut that the targeting of resources is exceedingly important and I do believe in the concept of UDAG. I do believe that there have been cases where UDAG has leveraged. I do believe in increasing the UDAG allocation by nearly 20 percent.

Does the gentleman believe that the $200 million industrial development activity in Montezuma, Ga., was seeded by the access ways in grant from UDAG? That is not what the Government Operations Subcommittee divulged.

Mr. McKINNEY. I happen to think that the Georgia grant was a bad grant and if I had been Administrator of the program, I would have turned it down.

Mr. Chairman, let me reclaim my time for just a moment. I remember in past times we started a program called section 8, which is going to come to haunt us and haunt us some more. I remember it took HUD over 18 months just to get regulations out on section 8, let alone have a program that works.

What I am saying, I think this program needs the time and the money to make it effective.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. McKINNEY) has expired.

Mr. RITTER. Mr. Chairman, I ask unanimous consent that the gentleman from Connecticut (Mr. McKINNEY) be allowed to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BRINKLEY. Mr. Chairman, I reserve the right to object. I will not object, if the gentleman will hear me for a moment.

I would like to enter into a colloquy with the two gentlemen with respect to Montezuma, Ga., and we will get more time if we may. I do not object.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania (Mr. RITTER) that the gentleman from Connecticut (Mr. McKINNEY) be allowed to proceed for 3 additional minutes?

There was no objection.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, in the letter from the distinguished subcommittee chairman on Government Operations, we learned that the Atlanta HUD administrator actually denied the request for the Montezuma grant with the explanation that the project would go on without said grant.

Mr. McKINNEY. Well, the gentleman is privy to a letter I have not read, so I would suggest perhaps that the colloquy should take place with the other gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield to me?

Mr. McKINNEY. Yes, I yield.

Mr. BRINKLEY. Mr. Chairman, I wonder if the gentleman is aware of the amount of money from the private sector that this UDAG grant triggered to the Buckeye Cellulose Corp. plant in Montezuma?

Mr. McKINNEY. I have a vague awareness of it, but not the exact number.

Mr. BRINKLEY. Let me inform the gentleman that it was $200 million. Normally in discussing that amount of money we talk about the Federal Government; but this, gentleman, if you please, was private money from Proctor & Gamble.

The State participation was $1,254,466. The UDAG grant was $5,742,000.

I fail to see why we cannot simply see the relationship where the percentage is about a 33 to 1 ratio, which sounds to me to be pretty good.

□ 1340

Mr. McKINNEY. Mr. Chairman, if I may regain my time, let me say that I agree with the gentleman, if otherwise they would not have spent the money, and that is what they accused UDAG of doing. The discussion going on between some of the opponents of UDAG funding is that UDAG handling it independently and Proctor & Gamble was involved later. I have no private knowledge that this is true. The GAO has cast aspersions at it, and I do not know exactly what the facts are.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I simply want to say that I agree with my colleague, the gentleman from Connecticut (Mr. McKINNEY).

I happen to come from the poorest district in the State of Illinois. We have one county where 29 percent of the population is on welfare; we have another county with 27 percent of the people on welfare. Those are depression types of statistics.

Most of the programs that go to help an area like ours are band-aid programs that provide a little relief but no substantive long-range relief.

But here we have finally the UDAG program that comes in and says, "We will have some Federal money, and if you get some private money, we will provide jobs and opportunities for people." I think it is a great program, and I cannot believe we are even considering cutting it.

The CHAIRMAN pro tempore (Mr. BENNETT). The time of the gentleman from Connecticut (Mr. McKINNEY) has again expired.

(By unanimous consent, Mr. McKIN-

NEY was allowed to proceed for 1 additional minute.)

Mr. McKINNEY. Mr. Chairman, would the gentleman not agree that by leveraging in private money, the Government is getting in and getting more out of it? When the Government comes in solely by itself to the gentleman's country or to my city of Bridgeport, it becomes a perpetual, generation-after-generation effort of more and more Federal money being poured in without anything else coming along from the private sector.

We can take all the Federal money in the world and we are not going to solve the problems of poverty until we generate jobs and generate private investment and all the other things that go with it.

Mr. SIMON. Mr. Chairman, I could not agree more. What we are doing is taking tax spenders and making taxpayers of them in the process.

Mr. McKINNEY. I agree with the gentleman.

Mr. Chairman, I yield back the balance of my time.

Mr. LUNDINE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, in my judgment, the urban development action grant program has resulted in investment decisions by the Federal Government made with insight ineffectiveness. This program is particularly important in this country at this time because of our thus-far unsuccessful fight against inflation. We are plagued by a reduction in the improvement of productivity across America.

If we are going to improve productivity in this country and reverse the dismal statistics of recent months, it is going to be absolutely essential to spur private investment, particularly in areas of economic distress. That requires a private-public partnership.

Here is a program that uniquely targets Federal grants to an area where the private money is willing to commit itself in partnership to create new jobs. The only way we can improve productivity effectively by Federal action, particularly with regard to investments or grants, is to target them in areas where that investment can have a real impact.

I have had the opportunity, both as a member of this subcommittee and also watching as someone who has some experience at the local level, to see decisions made by the Department of Housing and Urban Development with respect to this program, and in the main I think that they have been thoughtfully made. Their rejections as well as their approvals have been made with some insight and have been directed toward the improvement of productivity through the stimulation of private investment.

Mr. Chairman, let us look at one particular grant that has been much maligned and criticized here this afternoon and about which I think I might know something or a little bit more than those who have spoken before, namely, the grant of $1.8 million to the city of Corning, N.Y.

That has been labeled as something which cannot pass the "but for" test and obviously a ridiculous enrichment of one of America's most successful firms.

The fact of the matter is that Corning, N.Y., is located in the northernmost section of Appalachia. It is one of the highest unemployment regions, not only in New York State, but anywhere in the eastern part of the United States.

It is very difficult for a small town of about 14,000 people to retain its attractiveness to a billion dollar corporation. It is very difficult for that kind of community to continue to provide the attributes that lead to the growth of employment and the growth of investment in the area. As a matter of fact, we have documentation, both from the city and from the private investor, that this project does pass the "but for" test; that if it were not for the urban development action grant, the city of Corning did not have the practicable capability of providing the necessary facilities to accommodate the private investment.

Oh, yes, they might have the theoretical bonding capacity, but I am sure almost every community across this land which has received a UDAG grant has had some remaining bonding capacity. The point is that that capacity would have taken from that community's ability to provide for normal city services.

These investments all went into public works which were necessary to the location of an engineering building providing 800 new jobs within the city of Corning. That city is located, as I say, in a multicounty region that is plagued and has been in the past by high unemployment. It is a small town with limited capacity.

Many rural areas, I imagine in Georgia as well as in New York State, have benefited from this kind of targeted investment in the future of that region. But they only have benefited where they have had the capacity to demonstrate that private investment will follow, and that private investment would not be possible unless this grant were forthcoming.

We have the testimony of the mayor of that community, we have the record testimony of the corporation, and what do we have in opposition to that? We have a GAO statement—not a report but a statement—that is based on unfounded opposition.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. LUNDINE) has expired.

(By unanimous consent, Mr. LUNDINE was allowed to proceed for 2 additional minutes.)

Mr. LUNDINE. Mr. Chairman, that GAO report, first of all, never asked appropriate officials in Corning, N.Y., whether or not this was so. That GAO statement is without basis in fact except for when the groundbreaking took place.

I would like to say as one Member who has been deeply involved in local development that sometimes we have to take risks and sometimes we have to go ahead. Simply because this community and this corporation had the faith in the future and in their own capacity to deliver on their promises and simply because they went ahead, I do not think that should be an indictment of the entire program.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have been amazed at all this talk about the GAO report, which I have in my hand here.

Right in the opening part of the report they say:

> We must emphasize that at this stage we cannot draw any definite conclusions concerning the success or lack of success of the UDAG programs.

This is the most recent report, May 23.

It is apparent to me that what the gentleman is saying is absolutely true. In one of my own cities, in the city of Yonkers, we have had a UDAG program that has been tremendously successful. It is going to create over 2,000 jobs in a city that was near bankruptcy. And the best that the GAO says in analyzing Yonkers, which it did, in its report: "It appears that this program is successful." Even in their approval they are casting a strong doubt on a program that has had a tremendous impact on helping this city survive.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

The gentleman has indicated that the General Accounting Office was somehow irresponsible, and that they really had not gone there.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. LUNDINE) has again expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. LUNDINE was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. LUNDINE. I yield to the gentleman from California.

☐ 1350

Mr. ROUSSELOT. My understanding is that they did send investigators there. They talked to developers and to the city officials. So I do not think the gentleman wants to leave the record stating that they talked to no one. But does the gentleman recall what the New York State Department of Audit and Control said about Corning? Is the gentleman aware of that?

Mr. LUNDINE. I have not seen any written comment.

Mr. ROUSSELOT. They reported to the Government Operations Committee. And I think the gentleman might find that interesting before he makes any more broad statements about how nobody is paying attention to it. I think the gentleman ought to know that the department of audit and control said Corning only used a very small fraction of their available bonding capacity, that there was real doubt that this was needed.

Mr. LUNDINE. If I may regain my time, I did address that point in my debate. I doubt if any community in this country receiving a UDAG grant has probably used all of its bonding capacity.

I am not arguing that Corning had. All I am saying is that $1.8 million investment in necessary public works for a community of 14,000 is a pretty steep investment to have to make. I do not think that the tax base of that community, with which I am very familiar, has the capacity, even though there is a theoretical bonding capacity. The only thing that the department of audit and control can relate to is whether there is the legal bonding capacity for that community. What I am talking about is that the practical effect of that kind of deficit financing. which I know the gentleman from California abhors, on a small community already with a significantly high property tax rate.

Mr. ROUSSELOT. Will the gentleman yield further?

Mr. LUNDINE. I yield to the gentleman.

Mr. ROUSSELOT. I appreciate my colleague's yielding.

HUD testified that the reason they made this grant to Corning was because they had run out of bonding capacity. That is a conflict that committee members are concerned about and why they feel we do not need such a huge increase.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, one of the basic problems that we have here is that we go through a Catch 22-type of syndrome, and I really think it is shortsighted, in response to this amendment, in understanding the real impact that UDAG has in terms of the cities of America. The increase the committee has provided for will stimulate economic development in many of our distressed and declining urban areas. The Hunts Point area in my district, which is a large industrial area, has a very innovative UDAG grant application pending which would provide a strong economic incentive and encouragement for many businesses to remain in this area.

I stand here and speak as a Representative of probably the worst blighted area in the United States—and that is the south Bronx.

Just recently, Mr. Chairman, the board of estimate of the city of New York turned down a project which was going to earmark 746 housing units in the south Bronx. It has now become known as the infamous Charlotte Street project. The fact is, when we were discussing the project with the New York City Board of Estimate. The board of estimate, in narrowness said that the real key is not housing but jobs economic development.

When I was campaigning for the seat that I presently hold I said very clearly that we can no longer depend on government alone. Clearly it has to be a marriage and a partnership with the private sector to stimulate this economic development.

I know that the sponsor of this amendment has some knowledge of cities. He himself was born and raised in the Bronx. I can tell the Members that as chairman of the Subcommittee on Census and Population I have traveled over the past 6 months to many of our cities, and they are in deep, deep trouble. I used to think it was just the south Bronx and maybe the city of New York. But go to Chicago, go to Los Angeles, and you will see for yourself. UDAG in fact is going to give these cities the opportunity to coax some private investors to get involved in partnership with the Federal Government. If you understand the unemployment situation as it presently exists, then the bottom line merely breaks down to the fact that this amendment should not even be considered. We have a great job to do in America in terms of turning around cities and to implement an urban policy. An urban policy based on programs like UDAG of a 6 to 1 ratio. An UDAG program that will create and maintain jobs. I do not want people on welfare. Neither do other Members. I think the overwhelming majority of people presently on welfare would very much like to work.

The problem is that by taking this money and transferring it over to the community development block grant program, what you do is that you put a stranglehold on one of the most important programs that we have. I would ask the gentleman from Pennsylvania to please withdraw this amendment, because it is not going to solve any of the problems we all agree exist:

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

Mr. Chairman, I was fascinated by the comment that this has taken a lot of people off of welfare.

Mr. GARCIA. I did not say that. I said what I am hoping to accomplish with UDAG is to take a lot of people off of welfare.

Mr. ROUSSELOT. Oh, it is a hope.

Mr. GARCIA. That is right. Underline "hope." Without UDAG we have little hope.

Mr. ROUSSELOT. Oh, there is no hope without UDAG?

Mr. GARCIA. It is a lot easier with UDAG.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, the gentleman probably knows—it may be worth repeating for the benefit of some of the skeptics who usually are at the forefront of calling for a jobs training program—when we went through the CETA program, for example, at the urging of Members such as those who are supporting this amendment, we put up a $400 million private sector initiatives program. This UDAG program is a private sector initiatives program.

Here is what it has done so far. In a year of operation, in 398 projects that have been funded, 171,511 new permanent jobs have been committed. And 78,435 existing jobs have been saved. The leveraging has been 6.2 to 1. That is private money in relation to Federal money.

The CHAIRMAN. The time of the gentleman from New York (Mr. GARCIA) has expired.

(On request of Mr. WEISS and by unanimous consent, Mr. GARCIA was allowed to proceed for 2 additional minutes.)

Mr. WEISS. If the gentleman will yield to me further, it seems to me that the world is turning upside down when I hear my Republican colleagues opposing the kind of program that they are usually insisting that this body enact. I think that perhaps they are no longer talking about the merits of the program but they think, in some misguided fashion, that maybe there is more partisan politics to be gained in maintaining this position.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's yielding.

Mr. Chairman, both of my colleagues from New York understand there is some dispute about the General Accounting Office, and I know that some Members do not trust it. Most of you trust it when they are investigating Defense projects, but in this case you do not. They say that there is roughly only 24,000 jobs, at the very most, that they can trace that are directly responsible. I think that is fine. But I do not think we should be throwing around these figures of 171,000 when we really are not sure.

My colleague, the gentleman from New York (Mr. GARCIA), made it very clear that we are not sure, the facts are not in yet, as to how many people it has taken off of welfare. I hope it turns out that way. That would be fine. But what I am saying to my colleagues is that we do not know how many jobs it would produce, and I do not think we should throw around these figures.

Mr. GARCIA. Mr. Chairman, if I may reclaim my time, I would say to the gentleman from California (Mr. ROUSSELOT)—and then I shall yield back the balance of my time—all we can do at this particular moment in the history is to hope that we can get those people off welfare. UDAG at least provides us a practical vehicle toward that end.

Mr. AuCOIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am fascinated, as I frequently am, with my friend, the gentleman from California, in his advocacy of this amendment. It is well known to the members of the Housing Committee who served with him on this committee in the previous Congress that he has been an opponent of the UDAG program from the beginning. That context needs to be stated.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I will yield to the gentleman later, since I have referred to him.

Mr. ROUSSELOT. I want to acknowledge that that is correct.

Mr. AuCOIN. I think the members of the committee ought to know that this gentleman, who I consider a great personal friend, has been one of the staunchest critics of the UDAG program from the very outset—the very outset.

So let us just keep this in mind as the debate unfolds.

The gentleman would say, as he did to the gentleman from New York a moment ago, that if it cannot be shown that UDAG has kept people off of welfare, UDAG is a failure. I would ask the gentleman from California if he can document how many people have been kept off of welfare by the block grant program which this amendment would transfer funds into? He cannot make that showing.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I will yield to the gentleman in a minute, Mr. Chairman.

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So I say to my colleagues that that is an unfair standard to raise.

The gentleman from Connecticut, from the Republican side of the aisle, made the best speech in the debate so far. He talked about leveraging. He talked about the Republican concept that that represents. He is absolutely accurate in saying so.

Ladies and gentlemen, I want to suggest that UDAG does more than leverage private capital. It does do that. That is one of its decided advantages, as has been stated a number of times already, but it does more than that. It leverages something else. It leverages ideas.

If anyone is looking at the rot that is taking place today in the cities of this country, it can be seen that one of the causes is that they are bereft of ideas. There is no incentive for imagination. There is no incentive for creativity.

What UDAG does is put out a program, a carrot, if you will, at the end of a stick that says the Government is going to encourage the private sector and public sector to get together and put forward ideas that will provide the economic development that will reclaim something that is very important in those cities. That is the billions of dollars of private capital and Government capital that have been invested in those cities which will go down the drain if we do not do something to stem that tide. That is what the UDAG program does.

It does it better than the block grant program. The block grant program, as the gentleman from Connecticut pointed out, spreads money out in an automatic formula. It does not require any particular thinking on the part of the communities involved. All the communities have to do is stand there with their hands out, and the money falls in their palms. Now that really takes a lot of imagination.

On the contrary, UDAG says, you have got to think. You have got to provide some ideas. You have got to use some creativity. You have got to show there is some leveraging involved.

Surely there is no question that there are imperfections in UDAG. Make no mistake about it. There are imperfections in this program.

I was here in this House on this committee when we wrote this program. There are imperfections in it. But who among those who are attacking UDAG now—and have attacked it from the beginning—are prepared to say the block grant is faultless? The shortfall in funds for UDAG that would be created by this amendment will be transferred to the block grant program. How many UDAG critics are defending the instances in which block grant funds may have gone to ludicrous program expenditures? They are not doing that. They are focusing on something that is the best hope in this country for an urban strategy—a strategy which says the investment we have put into cities from both the private side and the Government side shall be protected.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding.

I had not intended to participate in this debate, but I was moved by the gentleman's eloquent, excellent statement. He is absolutely correct. There is no way we can solve our problems by Government alone or by private sector alone.

I had the privilege of directing a program in the city of New York for 3 years, in which the whole essence of our strategy was to put together the public and private decisions, each leveraging the other.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. AuCoin) has expired.

(By unanimous consent, Mr. AuCoin was allowed to proceed for 2 additional minutes.)

Mr. MAGUIRE. So that we would in fact build a multiplier into those key expenditures of money, both on the private and the public side, and that is exactly the strategy that we must pursue in my judgment if we are, in fact, going to move on the agenda with respect to our cities. There is no alternative.

I compliment the gentleman on his eloquence and his having had the perception to see to the essential key to a strategy for the future for us in the cities.

Mr. AuCOIN. I appreciate the gentleman's comments.

I would just say to the ladies and gentlemen of this committee to think twice before voting for this amendment.

I am sure the author of the amendment has the best of intentions, but make no mistake about it, there is no savings involved in this amendment. It is simply a question of where the money is going to be spent .We are either going to focus the money where the documented need exists, and protect an investment that totals billions of dollars as well as stop the rot that is killing major cities in every State in the Nation—or we can just funnel the money out in a formula that requires no city to get off its hands, put its thinking cap on, or come up with some creative ideas. The latter is what UDAG does, and it deserves to be supported fully.

I hope my colleagues will reject the amendment. I have not had in my district a single UDAG grant, so I am not protecting any parochial interest. I just happen to believe that what we need in this country is to get communities to think, to get them to recognize that Government alone cannot solve the problem, that they have got to work in cooperation with the private sector, and that even though there are going to be imperfections, there are imperfections in everything we do. Let us go about something that has some promise. This program has that promise, great promise, far more promise than the block grant program, in my judgment.

I urge the Members to defeat the amendment.

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have heard, I think, a great deal of discussion about the amendment and the nature of this amendment and what the purpose is. It is interesting to examine this, I think, from an historic standpoint as well and recognize the commitments that have been made over the past years regarding the community development program.

The genesis of that program is one in which various categorical programs existed at the Federal level, and there was a concern about the continuity of those programs and the predictability of programs.

So, as a consequence, back in 1974 or 1975, the then Republican administration put together a proposal which received the endorsement of this Congress and support of communities across this Nation, creating a community development program.

To this day, I think that is an excellent program for the purposes that it is intended, but there were some occurrences along the way here. It was predictable. It was stable. There were a lot of communities, first of all, that did not qualify under the entitlement provisions of that particular program.

Its main focus, of course, was for local decisionmaking. It did not give us the opportunity to analyze the national needs. It did not give us the opportunity to provide the significant increases that are sometimes associated with developing the right type of industrial development and so this program had some gaps. We had some flaws.

As a consequence, there is a great deal of urban capital, a great deal of urban deterioration that was not being addressed by that program; and the necessity arose for some kind of a program on a national basis that could look objectively, on the basis of merit, on the basis of competition, on the basis of ideas, that was put so well by my colleagues from Oregon, that those types of concepts could be integrated, could be synthesized together at the national level to address this problem.

So the point is we have to this day made good commitments to the community development program.

I think, in addition to that, the new UDAG program offers some new tools, some new opportunities that did not exist and will not exist with the reallocation that is mandated or suggested to be mandated by this amendment.

Indeed, it is interesting to note that there is some disenchantment with this program. I think we have to put aside the question of whether or not, for instance, various communities do or do not qualify for the particular UDAG grant. Obviously, there are going to be a minority of communities out of the total that apply for such grants to have some success. But I would just suggest, as I did in my colloquy with the chairman, that to reduce the size of the pot is to reduce the number of good ideas that likely will receive funding.

And we have heard today, and the dialog is replete with suggestions dealing with percentages, but the point is that the dollar change that takes place is an absolute one. Obviously, the percentage increase in terms of community development which would be nearly $4 billion, if this amendment were successful, would be much smaller, but nevertheless, it would not be targeted in the same way. It has a completely different thrust, and there is no documented evidence with regard to how that would be used, whether it would leverage the right type of ideas, or whether it be focused in the places that would attain the most good.

So I think that we have an opportunity here today to endorse a concept that has provided enormous benefit already and great hope for the future.

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One point I think that is worth noting, and that is there is an absolute commitment on the part of the Banking Committee and on the part of other committees of this House to provide an oversight of both of these programs. The problem is, of course, that it is very difficult to get a reading, based on the amount of activity that has or has not taken place.

While the resources are committed, while the resources to UDAG are committed, some of the construction has not begun. It is not evident, for instance, when you go into various communities that there has been any increase in jobs, that there has been anyone that has substantively benefited necessarily from this. A lot of it is, of course, benefits that exist on paper.

Of course, if you go into these communities and ask a developer: "Did you get some help from the Federal Government," I think we can all understand why they might be reluctant to admit receiving any type of help from the Federal Government. Most of them are pretty independent and not willing to admit to the type of help or assistance that they are receiving.

The CHAIRMAN pro tempore. The time of the gentleman from Minnesota has expired.

(By unanimous consent Mr. VENTO was allowed to proceed for 1 additional minute.)

Mr. VENTO. I think it is understandable that they do not associate nor do they think of themselves as receiving any special benefit. Nevertheless, if it were not for the UDAG program coming in, the community would not be able to attract those business investments to their communities. The communities that are receiving this do need special help. The various tax benefits, the investment tax credit, the industrial revenue bond type of concepts do not reach too or help significantly those UDAG qualified communities the same way they help other areas.

I would plead with my colleagues to reject this amendment, to support UDAG, with a pledge on my part and that of our committee to continue the type of oversight providing us with the opportunity to make decisions based on the actual benefits or the defects in this particular program.

Mr. WATKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, as most of you know, I stand here not representing New York, or Boston, or Chicago, or Detroit, but I stand representing the small cities and rural communities of this great Nation. The small cities such as Gerty, Coalgate, Tishomingo, Holdenville, Bokoshe, and other small cities and towns that are hurting economically and decaying in many cases. Many of them have grass growing in the streets instead of growing and developing an economic base which would allow them to survive.

I want to say that the UDAG program is helping, and I would like to point out one very practical reason why any of you who have small cities and rural communities in your district should oppose this amendment. Under the UDAG concept, where with this amendment they are trying to shift $275 million out, there is a 25-percent clause or set-aside that requires money to be invested in small cities and rural communities. That is nearly $70 million that they are taking away from the possibility of these small cities and communities receiving to allow them to compete.

Under the community development block grant—and let me say, I plan to talk to the subcommittee chairman on this later in a polite and courteous way when we go back to the subcommittee to try to get a set-aside on community development block grants so that our small cities can compete—receive fair and equitable treatment. Today, the community development block grant has less than 20 percent of that money going to small cities and rural communities of less than 50,000 population. That is unfair. That is not equitable.

Under UDAG we do have a set-aside that does assure at least 25 percent of that money, or nearly $70 million of it going to small cities and rural communities. We do not have that assurance with this amendment. If you represent a small city, a rural community in your district, you do not have that opportunity to compete equitably for CBDG moneys.

Mr. WEISS. Mr. Chairman, would the gentleman yield?

Mr. WATKINS. I yield to the gentleman from New York.

Mr. WEISS. I appreciate the gentleman yielding. I just want to say, in fact, his interpretation is absolutely sound, absolutely correct.

I just want to point out that of the $734 million that has been awarded in contracts, the city of New York has received the grand total of $6 million, less than 1 percent.

The fact is that if we were taking the kind of parochial attitude that has been suggested in some quarters, I should be supporting this amendment. I am not. I am opposing it, because it seems to me that we ought to be concerned with all parts of this country, the gentleman's as well as my own.

Mr. WATKINS. I will ask the gentleman to support my amendment later to get equity in the community development block grant program for small cities and rural communities.

Mr. WEISS. But not a pig in a poke, if you will.

Mr. ROUSSELOT. Mr. Chairman, would the gentleman yield?

Mr. WATKINS. I yield to my friend and colleague from California.

Mr. ROUSSELOT. I appreciate my colleague yielding.

The gentleman is aware that under the community development bloc grant program, to which my colleague is transferring part of these funds, only a very small portion, 20 percent of that goes to rural communities. So, he is actually upping the amounts that would be available for rural areas, with which I agree. In other words, far greater funds will be available for rural America in the community development bloc grant program than will be under UDAG. So, I am sure the gentleman meant to think about that.

Mr. WATKINS. Yes; and that is what I said. Less than 20 percent—I would say to my friend from California—would be available under the community development block grant program. Under UDAG we are assured of at least 25 percent. The small cities and rural communities do not have enough equity yet with 25 percent. I do not want my friend from California to think I am satisfied. But, at least we can get 25 percent of the money. Under the community development bloc grant program we are not assured, and we cannot get a hold of even 20 percent to this date.

Let me assure my colleague that we will be seeing an amendment one of these days on this floor to try to assure at least 50 percent of that money, because we have over 50 percent of the people who live in communities and small cities below 50,000 across this Nation. They do not have the chance to have the equity of programs, they do not have the grantsmanship, they do not have the staff to be able to compete with New York, or Boston, or Chicago or Detroit.

Mr. ROUSSELOT. If the gentleman would yield further?

Mr. WATKINS. Yes; I yield to the gentleman.

Mr. ROUSSELOT. That is why you should definitely increase the proportion going under the community development grant program. The gentleman understands under UDAG it is to small cities of 50,000 or less, and all of those cities that you just mentioned do not fit into that category. Those of 50,000 and under, that does not necessarily mean that they are in a rural area.

Mr. WATKINS. Many people do not have jobs in those small cities, and we are able with UDAG to build some jobs with the leverage money from private sector.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment. But I have to say it is not for all of the polite, modest, and responsible reasons that have been given by its authors on our side of the aisle. I would like to suggest to this House that UDAG is a lousy, counter-productive shell game, and that if we are going to waste money, we might as well waste it honestly by pouring it into the community development boondoggle, because nobody is more accomplished at efficiently wasting money than the mayors who are getting that money today.

The reason I say it is a shell game is because I have been sitting here and listening to this debate for an hour, and I have constantly heard about how this is a wonderful idea and, in fact, it is a Republican idea, allegedly, because it leverages private capital. And we have heard about the 3 to 1 ratios, and the 6 to 1 ratios.

I think we ought to ask a more basic question. That is, where is all of this leveraged capital or loan money coming from? Is it coming out of mattresses? Is it coming out of sterile bank vaults somewhere? Of course not. It is coming out of the capital market, it is coming out of the pool of loanable funds available, and that means every time you leverage $100,000 under a UDAG grant, or $500,000 to build a project and create a few jobs, you are eliminating exactly $100,000 in loans that would otherwise go somewhere else, and a facility that would otherwise be built somewhere else and jobs that would have otherwise been offered somewhere else.

So, I think when we talk about this we at least ought to understand one basic conclusion. That is that this program in no way, shape or form adds any net increase to the supply of jobs in this country, to the amount of production that occurs, or to the amount of GNP or economic activity. It simply re-allocates capital funds, and projects and building, and eventually jobs.

Do we have any evidence that this HUD-engineered reallocation of capital, and then of plants, and then eventually of jobs, do we have any confidence or reason to believe that this provides any benefit for the country? I would answer absolutely not.

In the first instance, I think you could argue just on a general plane that it actually lowers national employment and production because essentially what you are doing is allocating capital away from higher-productivity uses to lower-productivity uses.

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But, nevertheless, given the fact that we do have serious problems of blight and decay in certain urban areas, one might, nevertheless, make an argument that we should do it anyway; allocate money away from high productivity projects to lower productivity projects—if it could be precisely targeted to those areas with the highest cost, with the least attractive investment environments, with the greatest amount of surplus labor. In short, if we could target the money under this program to those areas of highest need and then leverage capital, we might get something out of it, although I do not think very much.

I am no expert on where all this UDAG money has gone around the country, but I have looked at my district. I have a dozen or so smaller towns in the size range that are potentially eligible for the small cities part of UDAG. I can guarantee to this House that there is absolutely no correlation between objective indicators of relative need as measured by investment climate or unemployment or anything else and where those UDAG grants have actually gone. In point of actual fact, where those UDAG grants have actually gone is simply a function of how well developed the city administrations are in terms of grantsmanship abilities. That is the sole criterion of why allocated money goes to those cities, as compared to many others which in connection with any objective measurement probably would have been in much higher need.

So not only are we accomplishing no net good for national employment and national production, but I doubt we are accomplishing very much net good in those truly depressed areas that may possibly benefit for leveraging of private capital, because I think there is no evidence of it going to those places.

Two years ago I went into a town in my district, and while I was there the theater burned down. This is a small, relatively prosperous town. The next year they rebuilt the theater with a UDAG grant. Now that particular city has an excellent manager who is a first class grantsman. And so they get lots of housing money, economic development, CETA, and now they have a UDAG grant.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. LUNDINE, and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 2 additional minutes.)

Mr. LUNDINE. If the gentleman will yield, do I understand the gentleman to say that there is an absolute, static amount of funds available in this country for investment, and that no one makes any decision as to whether the investment will be greater or lesser, but that it is really taking it from one pot or another?

Mr. STOCKMAN. No. What I am saying is that obviously the amount of available capital or loanable funds increases over time, and if you increase the savings rate or the retained earnings rate, the supply could expand even more. I would agree, but this program does absolutely nothing to increase that supply of loanable funds, so for the purposes of our analysis here, yes, it is fixed.

Mr. LUNDINE. If a company has retained earnings, though, they still have the opportunity as to whether to make capital investments in increased plant or just to retain those earnings and not add on to their plant; is that correct?

Mr. STOCKMAN. What do they do with those retained earnings? Do they hide them in a mattress? Do they paper the board room with them? Or do they plow them back into new investment or to the dividend holders who in turn reinvest them?

Mr. LUNDINE. Is there any evidence the gentleman has that he is able to present to this committee that in fact there have been investments going to lower-productivity areas as opposed to higher-productivity areas as a result of the UDAG program?

Mr. STOCKMAN. Yes; by definition that occurs. The reason private funds are not flowing on their own to these projects is that it is concluded that the relative rate of return expected would not be sufficient to invest the funds.

Mr. LUNDINE. So that is theoretical, and we are to take that as a fact?

Mr. STOCKMAN. It is not theoretical; it is empirical. Without that UDAG grant, that start-up money, the equity capital, you would not have that particular investment take place.

Mr. LUNDINE. But there is no empirical evidence of it?

Mr. STOCKMAN. Obviously, there is empirical evidence or these investments, these projects, these plants, these amusement parks, these rebuilt burned theaters, would not be financed by the private capital market on its own.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LaFALCE. Mr. Chairman, I ask unanimous consent that the gentleman be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. BRINKLEY. Reserving the right to object, Mr. Chairman, and I will not object, of course, there are others of us not on the committee who have been seeking recognition for a long time. Perhaps we can minimize the extensions of time, and all of us will be accommodated.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LaFALCE. The gentleman from Michigan (Mr. STOCKMAN) makes the very point that the UDAG program attempts to make, it seems to me. The UDAG program specifically attempts to target the money to distressed areas, saying that this is a reason for governmental assistance. I cannot speak of the experience in Michigan, but I can speak of the experience in western New York. I speak as a Congressman who has in his district received one UDAG grant or loan. But a neighboring district, the city represented by the gentleman from New York (Mr. NOWAK) as the gentleman from New York (Mr. KEMP) is also aware, for a dozen years talked about being able to revitalize the center of the city. They talked about the fact that they needed a hotel. They were not able to put together a financial package to make a hotel viable. With the $4 million that was given to the city as a low-interest loan, they were able to leverage that so that the banking community came in. The banking community would not have come in—that is absolutely certain—without that UDAG loan. The hotel is well on its way. It should be finished in about 6 months. Since the time of that award, the whole psychology has changed in the Buffalo area. It has served as a catalyst not just for that project but for a number of other projects in downtown Buffalo. In my congressional district up until now, take the city of Niagara Falls, the only thing they have been doing is tearing buildings down in urban renewal, but they have not been able to put buildings up. The private sector has not committed itself to the center of the city, and they did not have the Community Development Act to go to. With UDAG now we have gotten the different elements, the urban renewal director, the director of community development, the financial community developers at least to go where they are now talking about, and they are now in the process of preparing not a typical grant application that the gentleman spoke of but an application that is not just going from the public sector but it is going in from the financial community, the developers, the builders, et cetera, who can revitalize that city. I dare say that example could be illustrated elsewhere.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. STANTON, and by unanimous consent, Mr. STOCKMAN was allowed to proceed for one additional minute.)

Mr. STANTON. If the gentleman will yield, the gentleman from Buffalo brought out points that I have observed around this country. I would just ask the gentleman in the well a question. The urban renewal has filled that vacant spot in the city of Buffalo, as it has in many cities in the United States of America, and I just wondered what the gentleman in the well would think about this. As he knows, it is the Federal Government that came into these cities under programs instituted by Congress and created these vacancies. It is a Federal program now, UDAG, that is going to go back into these areas with matching funds and create something. The Federal Government paid to move the people out of this urban renewal area. It will then take the Federal Government and money to move people back into these areas. I just wondered philosophically if the gentleman in the well would think we would have been better off if perhaps we had never gone down that road in the first place?

Mr. STOCKMAN. I agree completely with the gentleman. It seems questionable to throw good new money after bad old problems in terms of mistakes made in the past. I would say to the gentleman those vacant lots contained deteriorating buildings that quite probably would have been torn down anyway.

Mr. BRINKLEY. Mr. Chairman, I move to strike the requisite number of words. I appreciate the opportunity to take the well of the House and discuss this matter with the Members. The gentleman from New York (Mr. LAFALCE), I do not believe, was quite through with his statement. If he would like to complete it, I am not going to take that long.

I just want to tell the Members and share with them the fact that in my years in Congress I have seen the image of the General Accounting Office moving from a position of great respect until today it seems to be more that of an advocate than a finder of fact, and I am not sure that is good; when the GAO takes on the role of an advocate and seems to be a champion for the position of the inquiring party or committee. I would urge the General Accounting Office to undergo self-scrutiny and to make certain that their function is as it should be, to be an objective arm of this body.

I would like to discuss briefly the UDAG grant program, just simply to add a few things for the record and then be all through. The Montezuma grant was for $5,742,000 for the development of industrial access roads to serve the projected Buckeye Cellulose Corp. plant. That money was not intended, according to the Governor of Georgia, to be a substitutionary at all. The fact of the matter is that there were no State funds for that portion of the projects.

☐ 1430

The private investment from Buckeye was $200 million. That is a ratio of 33 to 1.

I made a call downtown urging approval of the grant and I said that it seems really good. We have a ratio here of 33 to 1. That night I got home and I worried whether I had given misinformation. I said, that sounds to me to be an incredible amount of money, $200 million, for a private firm to be investing in this small rural Georgia community. But it was accurate and I confirmed it was accurate and talked with the people downtown again and finally, thanks to the participation of all parties, it was funded and I think correctly.

The State participation, the State Department of Transportation pledged to provide at State expense their full resources including staff engineering, design, administrative and supervisory functions at a cost of $1,034,456. In addition, the State agreed to construct an industrial access road through the State aid program at an estimated cost of $220,000.

The total participation was $1,254,466.

I cite all those figures simply to say I think it is a marvelous example of private investment, State participation and the UDAG grants.

The bottom line, Mr. Chairman, is this. It is jobs. It goes to the fabric of America and it goes to the backbone of America when we discuss jobs.

I do not care whether it is Republican or Democrat, the work ethic is what this country has been built upon and I think that is what we are talking about.

In that plant in Montezuma, it is projected to have an employment of 550 persons with 550 additional new jobs created by the area's wood harvesting industry.

The indirect jobs in addition are 700 and the total is 1,800 new jobs.

A success story? You bet it is. Let us reject the amendment, however well intentioned it may be because this is America and this is the way we should travel.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I will try to be brief. I just wanted to say to my good friend from my neighboring district in Ohio that one of the major differences between the Federal programs of the 1960's and the programs of the 1970's is that in fact the Federal Government does not act in an isolated fashion. That was wrong in the 1960's but now we have a healthy coalition of the people who know it, the community best and the needs of the community, the business community, the residents of that community, local government, the Federal Government, working together to produce jobs, to improve and have an impact on our cities and on our rural areas.

I for one am very regretful of the fact that we do not get more UDAG moneys in Cleveland. I for one remember a grant that we applied for and apparently we got the grant and our mayor unfortunately refused it and provided a stumbling block for this UDAG grant. Let me tell you what it would have done. It would have improved the bridge roads that go into our downtown area. We have not faced this problem in our country about what to do to repair our bridges and our streets that are bridged streets, and all the other kinds of structures that are rotting away with no concern by various programs.

This project would have repaired those bridge streets, it would have improved the downtown area. In return the business community would have built a 52-story building right in the heart of downtown. That would have created 1,500 more jobs.

I think that kind of coalition is healthy. I really am surprised, quite frankly, at the people on the other side of the aisle who would be opposed to the involvement of business in terms of the overall plan.

I do not agree with the gentleman from Michigan who I believe indicated that these grants are written solely by the mayor. That is not true. These grants are a healthy coalition of all the forces who can improve an area, particularly our urban areas, our older communities which really need this kind of help.

The one grant we did get is in an older area. This did provide for the commercial structures of a very old neighborhood to be improved. It provided a commitment on the part of the business people not only to stay in that community, but to expand facilities and provide more jobs. It also had an impact on housing. That is the kind of coalition I think we need in this country to improve the areas which really need it the most.

I am here to say my city of Cleveland surely needs this kind of help. I am delighted that our committee had the foresight to see that in fact, we not only gave a healthy amount of money to the community development block grant program which I believe is a fine, flexible program providing there is good planning on a local level. It can be very, very helpful.

We also had the kind of resources in the UDAG program that would expand what I consider to be an excellent type of program.

Mr. STANTON. Mr. Chairman, would the gentlewoman yield?

Ms. OAKAR. Certainly I would yield, Mr. Chairman.

Mr. STANTON. Mr. Chairman, it is not my intent, nor is it the intent of the author of the amendment to kill the program. Our only intention is to give it a 19-percent increase, instead of a 70-percent increase.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words and I shall speak in support of the amendment.

Mr. Chairman, I did have the privilege for several years to serve on this fine committee. My colleague from Oregon is correct. I have very, very serious reservations about UDAG, some of which are now coming to fruition. I think it is because of those serious reservations that I take the time to speak in favor of this proposed amendment which does nothing more than transfer increased funding authority from UDAG to the community development grant program which is far more proven than UDAG. Even my colleague from Oregon was very proper in saying it does have imperfections. That is why I speak.

I think we make a mistake, regardless of how hurt we feel because some program is attacked by the General Accounting Office in which we have great faith and hope, as my colleague from New York said, hope that it would begin to reduce the welfare rolls. I favor that concept. That is fine if it is doing it.

I realize the program has only been in place since 1977. We have not really had an opportunity to know all of what it will produce.

Mr. Chairman, I think it is also a mistake to increase an authorization so substantially in the face of some very strong reservations presented not from one source alone, only the General Accounting Office, but also from our own Committee on Government Operations.

Mr. Chairman, I am sure the members of this committee have taken the time to review the letter that the chairman of the subcommittee, the gentleman from North Carolina (Mr. FOUNTAIN), sent to the chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Wisconsin (Mr. REUSS), because there are some excellent points contained in this letter. That is all this amendment is about. It is to protect this Congress from not accelerating this program too rapidly when there are some serious imperfections, as my colleague from Oregon has already stated.

Let me quote from the letter of our colleague, the gentleman from North Carolina (Mr. FOUNTAIN), a sincere, dedicated Member of this body who is trying to warn us about some of these imperfections. In this letter of May 31 he said:

> The subcommittee hearings reveal some serious weaknesses in the management of the UDAG program and perhaps in the authorizing legislation as well, which I believe——

He tried to call that to our attention.

> should be addressed next week when the House considers H.R. 3875.

Now is the time to address those weaknesses, not go la-di-da, we will pass it on, just up the authorization and say, "Yes, there are some imperfections but it is so worthwhile a program that we will refuse to look at those things that are wrong with the program."

☐ 1440

Now, this is not just one source, the General Accounting Office, which I think, by the way, and I have read that entire report and I hope every member of the Committee on Banking and Currency has read that report, and is willing to stand up to those charges that are made in that report, because we bear the responsibility if we do nothing about it.

Now, my colleague, the gentleman from Pennsylvania, is doing nothing more than trying to take cognizance of those serious weaknesses, imperfections, whatever we want to call them, and say, "Let us not increase this to $675 millon." You know, that is a lot of money out there. It has to come out of our taxpayers' hides. We all know that. Let us only increase it to $475 million, he says, and as my colleague, the gentleman from Ohio (Mr. STANTON) said, that is a substantial increase, 19 percent. That is above the inflation guidelines of the President, your President, the one you elected.

Now, let us take cognizance of these two sources, the General Accounting Office and our own Committee on Government Operations, which held hearings, went into this whole thing—sure, one hearing, but so what. That is better than what the whole committee did.

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, I will yield to my colleague, who unfortunately did not get to yield to me.

At least, they held the hearings and I think this committee owes it to itself. I have served on this committee and I know the chairman of the Housing Subcommittee to be dedicated to the purposes of housing and I know that the gentleman wants to protect himself against the weaknesses in this program.

I say the way to do that is to transfer, as my colleague has done, from this funding increase for UDAG to a proven program that has worked (community development block grants) and not accelerate the increase so substantially this year and take the time to look at those weaknesses.

I hate to sit here and review all these weaknesses that were pointed out by the General Accounting Office, because I am sure my colleagues know about them; but they state over and over again that HUD failed to recognize the substantial weaknesses pointed out by people involved in the program, by those who they interviewed in the field, and they did not just talk to bureaucrats here in Washington, they talked to the people in the field that were responsible for dealing with this program.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Yes. I would yield to my colleague, the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I appreciate my colleague yielding.

I would just ask my colleague if the gentleman is standing before the committee today and saying there are not imperfections in the block grant program?

Mr. ROUSSELOT. Why, of course, there are.

Mr. AuCOIN. I am glad to hear the gentleman say that.

Mr. ROUSSELOT. But there are far less than in this program.

Mr. AuCOIN. How can the gentleman say that? On what does the gentleman rely?

Mr. ROUSSELOT. On the basis of the Government Operations Committee hearings.

Mr. AuCOIN. One hearing? Did I hear the gentleman correctly? They had one hearing?

Mr. ROUSSELOT. No; and second, the General Accounting report. Had the gentleman read both?

Mr. AuCOIN. I have, indeed.

Mr. ROUSSELOT. The gentleman has read both of these reports carefully?

Mr. AuCOIN. Both.

Mr. ROUSSELOT. And as the gentleman stated, there are weaknesses in this program?

Mr. AuCOIN. Mr. Chairman, will the gentleman yield further?

Mr. ROUSSELOT. Is that correct; did the gentleman say that? I will yield, but the gentleman did say there were weaknesses? I quoted the gentleman correctly?

Mr. AuCOIN. Yes.

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has again expired.

(At the request of Mr. AuCOIN, and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. AuCOIN. Mr. Chairman, if the gentleman will yield further, the gentleman is quite correct. I did say there were imperfections in UDAG and I am glad to hear the gentleman say there were imperfections in the block grant program, which the amendment which the gentleman supports would transfer dollars from UDAG into.

Mr. ROUSSELOT. But far less than in this program.

Mr. AuCOIN. I would also ask the gentleman one other question, which brings dollars from UDAG into this program?

Mr. ROUSSELOT. Far less than in this program and also HUD is doing a better job of managing the community development grant program than they are this one. That is my reason for supporting this amendment.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield further?

Mr. ROUSSELOT. Why, of course, I would be delighted to yield.

Mr. AuCOIN. Mr. Chairman, I am eternally grateful to the gentleman for yielding me this additional time.

I want to ask the gentleman if on the basis of the GAO reports on the Defense Department where it has in the past found imperfections, if the gentleman feels that the defense budget ought to be, therefore, scrapped or repealed?

Mr. ROUSSELOT. I did not say that. We are not scrapping this program. I think it ought to be critically looked at, and it has.

As a matter of fact, my colleague, the gentleman from Wisconsin (Mr. Aspin) presented an amendment about 4 years ago on the defense budget relating to how much increase there should be in a given weapons system. I supported this amendment because I thought the General Accounting Office report was excellent.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I am sorry that this appears to have become a partisan issue, because it should not be. Just because this particular program was conceived during a Democratic administration, whereas the urban development block grant program was conceived during a Republican administration, is no reason for cutting back this program and shifting the money to the urban development block grant program.

A year ago in my community in Akron, Ohio, we were in a state of mental depression, as well as, for many people, a state of economic depression. The two largest employers in our community, Goodyear and Firestone, had announced they were closing their two largest tire plants in our community, with a direct loss of 3,000 jobs. The community was very discouraged. Business was not making new investments and it looked like other businesses would be moving out.

I can tell you that the UDAG program has been one of the major factors, in fact, I will say it is the most important single factor in reversing that situation and that the psychology, so that today we have a community that is looking up, that has important economic growth already in the works, and that feels that they are on the move in the right direction.

Now, let me just tell you how that happened. The two largest UDAG projects in our community were both among those reviewed by the GAO. The first one was a very small project, relatively, a $5.5 million redevelopment program in the vicinity of the Firestone plant, but affecting only small businesses, small manufacturing concerns. The leverage from the private sector was $14 million and the UDAG grant was $5.5 million.

Now, the GAO claims that some of the private leverage was counted twice, because, says GAO, HUD counted certain bank loans to industry that were also counted as private investment. I am not going to argue that point, though I understand HUD does not agree with them. But let us say, for the sake of argument, that the leverage was only 2 to 1 instead of 3 to 1, if you concede the GAO's position. That is still a lot more direct leverage than we can usually demonstrate from the block grant program, which is a good program.

Most important to our community, not only did this UDAG grant keep a whole group of small firms from moving out of the city by providing a cleanup of the conditions in the area and room for their expansion, but it provided an economic stimulus for the sector of the city of Akron that was most affected when the Firestone plant closed its doors.

Now, the second program that was reviewed by the GAO involved an $11.4 million UDAG grant. That $11.4 million is matched by $1.5 million of State and local funds and an investment of $80 million by the Goodyear Tire & Rubber Co.

And what were they going to use that investment for? To remodel their largest Akron tire plant, which had closed its doors and laid off 1,300 people, and convert it into a modern technical center, with an investment by the company of $80 million. The chairman of the board of the company told me in person that unless the city of Akron invested the necessary money to reroute streets, acquire some of the necessary land that the company needed, and make some other public improvements, Goodyear would not make this investment.

Now, the city of Akron happens to have a Republican mayor, and if you gentlemen on that side of the aisle will ask him what he thinks of the UDAG program you will get an earful, because without that program his city would still be going downhill.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I will not yield yet, but I will in a minute.

It just happens that this is the most successful program administered by HUD for helping depressed cities to stimulate economic growth and to turn themselves around.

□ 1450

The reason the program works is because, unlike many grant programs, it insures investment by the private sector, and the private sector is where most of the jobs are coming from.

So I do not see that this should be made a partisan issue.

Mr. Chairman, I would like to say one other thing. It seems to me that in terms of jobs this deserves the support of any Member who believes that providing jobs should be the main function of these programs.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. Seiberling) has expired.

(By unanimous consent, Mr. Seiberling was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, the little $5.5 million program that I first mentioned is expected to produce 800 new jobs, small business jobs in the private sector, and they are permanent jobs. The $11.4 million investment will provide over 500 new jobs at Goodyear. They are permanent jobs; many of them are minority jobs. In addition it will make it possible to retain at Goodyear another 700 permanent jobs. It is also expected that the multiplier effect would add 3,000 new jobs in the community.

So we are talking here about a job-producing, private enterprise-encouraging, and city-saving program.

It seems to me that it is very significant that the GAO could find nothing wrong with the UDAG grant for the area of the Goodyear plant and that they found something to quibble at but nothing in principle wrong with the one in the area of the Firestone plant.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I thank the distinguished gentleman from Ohio for yielding.

I think we should take a look at the Akron situation and at the GAO report.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. Seiberling) has again expired.

Mr. RITTER. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio (Mr. Seiberling) be permitted to proceed for 1 additional minute.

The CHAIRMAN pro tempore. It there objection to the request of the gentleman from Pennsylvania?

Mr. ASHLEY. Mr. Chairman, reserving the right to object, I wonder if we could get some agreement on time. I wonder if there is any indication as to how many Members wish to be heard on this amendment?

Mr. RITTER. Mr. Chairman, if the gentleman will yield, I respect the gentleman's request, and I think by 3 o'clock we should conclude all debate on this amendment.

Mr. ASHLEY. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment and all amendments thereto conclude at 3 o'clock.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. WEISS. I object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

Is there objection to the request of the gentleman from Pennsylvania (Mr. Ritter) that the gentleman from Ohio (Mr. Seiberling) be allowed to proceed for 1 additional minute?

There was no objection.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, the GAO report substantiates what the gentleman from Ohio (Mr. Seiberling) has been saying, and I think in this atmosphere of backbiting and criticism of the GAO and the GAO report it is interesting to note that what the gentleman from Ohio regarding Akron has stated is substantiated by the GAO. The Akron program seems to have been successful and the GAO recognizes it.

I might add, however, that in one area the HUD release talked about 1,700 jobs retained. The application from Akron talked about 700, and the GAO talked about 700.

I have this final point. If we wish to turn further power over our cities and the future of our urban areas over to HUD and to the HUD decision process, then we should reject my amendment. If we consider that we should go ahead with UDAG and give it a 20-percent increase and keep the CDBG alive because it has performed well, and help to keep our municipalities solvent, then I urge this body to support my amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. Seiberling) has expired.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

PARLIAMENTARY INQUIRY

Mr. KAZEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. KAZEN. Mr. Chairman, may I ask, has the gentleman from New York (Mr. Weiss) spoken on this amendment before?

Mr. WEISS. I have not, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will state that the gentleman from New York (Mr. Weiss) has not spoken on his own time. He had time yielded to him.

Mr. KAZEN. Mr. Chairman, I thought I saw the gentleman on the tube back there.

The CHAIRMAN pro tempore. He is a very impressive gentleman.

Mr. KAZEN. I thank the chairman.

Mr. WEISS. Mr. Chairman, first let me state, both as a matter of time and a matter of courtesy, that I have not spoken before on my own time. Indeed I was perhaps the first Member to stand up to seek recognition. I asked the distinguished chairman of the subcommittee handling the legislation (Mr. Ashley) if I should speak before him or after him. He said that he would like to speak first. That goes back to about an hour ago. So I have no apologies at this point for exercising my rights as a Member of this body. I probably shall not take the full 5 minutes of my time.

Mr. Chairman, I rise today in opposition to the amendment to reduce funding for the UDAG (urban development action grant) program.

Earlier this month the House Government Operations Subcommittee on Intergovernmental Relations, upon which I sit, heard testimony from the GAO regarding the UDAG program. I was deeply distressed to learn, following those hearings, that much misleading and incorrect information was being released and circulated about this program.

According to the GAO report presented at the hearing, and I quote,

> We cannot draw any definite conclusions concerning the success or lack of success of the UDAG program,

and

> We emphasize that the size of this sample [of projects studied] is not large enough to provide statistically valid projections and conclusions.

Nevertheless, the information which has been circulated among our colleagues and in the press would tend to indicate that the Government Operations Subcommittee is now recommending some amendment or other position on the UDAG program based upon the GAO study. This is not the case.

Mr. Chairman, I would like to place in the Record at this point a summary of the UDAG program as presented to the Government Operations Subcommittee, which is excerpted from testimony before the subcommittee, and to then briefly mention what appears now to be the primary objections, however premature, to the program:

Statement of Robert C. Embry, Jr., Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development

Mr. Chairman, members of the subcommittee, thank you for this opportunity to discuss the activity and progress to date of HUD's Urban Development Action Grant program. Before beginning my formal testimony I would like to express some concern arising from the events leading up to this hearing. We welcome review by anyone of the Action Grant program, particularly by Congress. We think it to be a very successful program, one of which we can all be proud. But it can always be improved and suggestions for improvement are most welcome.

The circumstances surrounding this hearing, however, have led us to question whether the aim is to improve the program. We have been asked to prepare testimony responding to a GAO report we have never seen. GAO has circulated a report, without permitting us to review it and respond. We understand GAO has a report which they are releasing without giving HUD the opportunity to review the document and point out errors. Despite our repeated requests, GAO has refused to brief us as to their findings. GAO has told us that their unusual response has been directed by Congress. My only request in this matter is that if our program is reviewed in the future we be given the chance to participate and respond before GAO submits its conclusions to Congress. We believe this procedure would permit Congress to make a more effective use of its oversight functions.

UDAG BACKGROUND

Initiated in response to the need to encourage economic development activity in distressed cities and counties, the Urban Development Action Grant program was authorized by Congress almost two years ago. Consistent with President Carter's urban policy, the program is designed to foster joint public private ventures to combat local economic and physical distress. The Action Grant program was authorized under the 1977 Housing and Community Development Act for a three-year period at $400 million annually. In recognition of the program's early successes and progress, President Carter has requested as part of the 1980 budget a $275 million increase for the Action Grant program.

PROJECTS FUNDED

Our first Action Grant award announcement was made in April, 1978, and since that time, nine funding cycles have been completed. In FY '78 alone, a total of 236 awards for over $489 million of UDAG funds were approved. During that time, the Department received five hundred eleven applications requesting over $1 billion in funds.

To date, a total of 398 awards have been announced—206 from metropolitan cities and 192 from small cities. These awards represent some $734 million of Action Grant funds.

PROJECT CATEGORIES

As you know, authorizing legislation required the Department to maintain a "reasonable balance" among three types of projects approved: those designed to restore seriously deteriorated neighborhoods, those intended to reclaim under utilized real property for industrial purposes, and those aimed at renewing commercial employment centers.

A review of our funding activity in FY '78[1] shows that we have been successful in maintaining a balance among the various project types. That is 36.0%, or 85 of the projects funded in FY '78 were industrial, 35.6%, or 84, were commercial, and 67, or 28.4% were neighborhood-based.

A recent staff analysis of total UDAG awards made to date shows that the Department has continued to maintain a good balance in the distribution of project types. Data from the nine Action Grant funding cycles held thus far show that 37% of the projects, or 148, are industrial, 33% or 133 are commercial, and 29%, or 117, are neighborhood-based.

SELECTION PROCESS

The selection process for Action Grant applications begins in the HUD Area Offices, however, the bulk of the review process—including the final decision-making—takes place at the HUD Central Office.

Area office staff provide two major functions—first, they determine a community's eligibility to participate in the UDAG program and second, they prepare for Central office use position papers on each Action Grant application received.

Area offices have 30 days in which to prepare position papers, and then forward them along with applications to the Central office. It is at this juncture that applications undergo detailed and comprehensive analyses pertaining to eligibility, feasibility, and effectiveness. They are also assessed against a series of additional criteria which include the applicant's degree of distress; demonstrated performance in carrying out housing and community development programs; the project's impact on physical, economic and fiscal conditions; and the private and public investment commitments.

During the period of final review at the Central office, there is constant communication between senior staff, reviewers, in some instances representatives from the cities themselves, and the private sector to provide more accurate and/or more up-to-date information on various proposals. Action Grant staff provide technical assistance to cities to improve the quality of applicants and increase the likelihood of funding for feasible projects.

ATTRACTING PRIVATE INVESTMENT

In accordance with the Action Grant authorizing legislation, the attraction of private resources to projects is an important element.

Consequently, applications are carefully reviewed for both the quantity and the soundness of the private investment pledged to projects. Action grant "leveraging" figures take into account only those private funds to be spent subsequent to the HUD award.

In FY '78, over $2.9 billion of private investments were committed to Action Grant projects. This represents an overall leveraging ratio of 5.95 private dollars for every UDAG dollar awarded, (some $489.3 million total).

Analyses of leveraging ratios and total private commitments broken out by project type show interesting results. In FY '78, commercial projects received 49.8 percent of all UDAG funds awarded, attracted 46.4 percent of the total private investment made to UDAG projects, and yielded a leveraging ratio of 5.55 private dollars to each Action Grant dollar.

Industrial projects accounted for 29.5 percent of the total private dollars leveraged by UDAG projects, were awarded the smallest share of grant funds—23.6 percent—but had the highest leveraging ratio, 7.42 private dollars to UDAG dollars.

Neighborhood projects comprised 24.1 percent of total private commitments, received 26.6 percent of UDAG funds awarded, and had an overall ratio of 5.39 private dollars to UDAG dollars.

A review of the nine Action Grant funding cycles completed to date indicates that the amount of private sector investment in UDAG projects has risen to $4.5 billion, and that the overall leveraging ratio has risen to

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Footnotes at end of article.

6.18 private dollars for each UDAG dollar committed. Categorized by project type, industrial projects show a leveraging ratio of 8.34, commercial projects have a ratio of 5.78, and neighborhood-based projects have a ratio of 4.89.

THE ACTION GRANT AS A CATALYST

Not only are Action Grants a determining factor in attracting private investment which will make a city's development project financially feasible, but UDAG often stimulates a continued flow of private capital into a project after a grant is awarded. That is, of 174 projects recently surveyed,[2] 56 percent reported that additional private investments were injected into projects following announcement of the grant award. This additional capital is above and beyond original leveraging estimates determined by HUD. The average amount of the additional investment was $3.9 million per project.

Thus, the private leveraging ratios for individual projects as well as the entire program will be strengthened and boosted to levels even higher than originally expected. Furthermore, by considering only the private capital guaranteed as part of a specific project, our leveraging ratios have been conservatively estimated because they do not take into account the significant spin off private investments that are spurred by UDAG projects.

OTHER FEDERAL FUNDS

Our survey of 174 projects funded in FY 78 shows that 104 of them will receive assistance totaling over $250 million from other sources of Federal funds. Of that amount, $191 million will be used to assist sites in metropolitan cities, and $64 million will be used for projects located in small cities.

The Federal funds will be derived from various programs, although the largest percentage, 43%, will come from the Community Development Block Grant program. Other Federal program contributions to the 104 UDAG projects surveyed will include $34 million from Title I of the Economic Development Administration and $14 million from their Title IX program, $23.9 million from the Farmers Home Administration, and $22.7 million from the Federal Highway Administration.

JOBS AND HOUSING

Two important beneficial impacts of the Action Grant program are the employment opportunities created and/or retained, and the improved housing stock made available to residents.

Among projects approved in FY 78, over 272,000 jobs are expected to be generated within the localities awarded UDAG funds. Some 133,500 are new permanent jobs, 77,000 are construction jobs, and a little over 62,000 jobs will be retained. A review of all 398 projects approved to date shows that 171,500 new permanent jobs will be created, 116,400 construction jobs will be generated, and 78,400 jobs will be retained. The total jobs generated in all nine Action Grant funding cycles completed thus far total over 366,000.

As can be expected, neighborhood projects account for the highest percentage of housing units to be constructed and rehabilitated with Action Grant assistance, but overall, the housing activity to be undertaken is significant. FY 78 data show that 15,252 units are scheduled to be constructed, and 11,503 units to be rehabilitated, bringing the total to 26,755 units. Total Action Grant housing activity to date indicates that 17,019 units will be constructed and 23,626 will be rehabilitated. That raises the total housing activity to 40,645 new and rehabilitated units.

CONCLUSION

Mr. Chairman, I believe the information presented in this testimony supports the finding that the Urban Development Action Grant program is operating in full accordance with Congressional intent, and is having a beneficial impact upon cities experiencing economic and physical distress.

While maintaining a reasonable balance among project types, the program has clearly demonstrated its ability to generate numerous jobs, attract significant amounts of private and additional public resources, and improve and expand the housing stock. It has shown significant potential in meeting the major problems facing urban areas—inadequate physical development, declining tax bases, and decreasing employment. The flexible financing tool offered by Action Grants allows cities to undertake major projects in an expeditious manner in order to meet those problems.

In addition by combining private investments with public funds, the Action Grant program forges a public-private partnership that also results in a deeper commitment to the viability and continued prosperity of our urban areas.

Mr. Chairman, I will be pleased to answer any questions that you or other members of the subcommittee might have. Thank you.

FOOTNOTES

[1] Data obtained from the first Annual Urban Development Action Grant Report to Congress, scheduled to be published shortly.

[2] The survey is included in the first Annual Urban Development Action Grant Report to Congress. As part of that report, an in-depth analysis of the development and implementation processes was conducted for 174 Action Grant projects approved in Fiscal Year 1978.

I would also like to emphasize that I do not approach this debate or issue with a sense of regionalism. The city of New York has been one of the least successful applicant areas in securing UDAG funds in the year or so the program has been operational. Indeed, of approximately $735 million in total grant approvals, New York City has secured less than 1 percent of these moneys, or approximately $6 million.

The GAO study and testimony presented to our subcommittee was perhaps the worst job of program analysis I have seen since coming to Congress. Besides lacking any statistical validity, it was premised in great measure upon a GAO-contrived formula to analyze the degree of private or non-Federal investment which has been "leveraged," or encouraged into a project, by the Federal UDAG program. While I have grave reservation about this formula used by the GAO, even if the Government were to adopt the GAO methodology, there was a great deal of "leverage" in all UDAG grants. It is most important to note that this is one of very few Federal programs which actually and successfully generate any large amount of private sector moneys. According to the Department of Housing and Urban Development, the UDAG program has induced an average of six times as much private investment as it provides in grants in its first year of operation. According to the small GAO study, the UDAG program has levered private investment at an average of between 5.13 and 4.6 times private to public. In fact, the GAO found there to be more leverage than did HUD in 14 of 18 grants it studied. Assuming either analysis to be correct, this program is unquestionably the most successful Federal program in terms of generation of private commitments.

The UDAG program has also been responsible for the creation of an estimated 172,000 permanent full-time jobs, and the preservation of some 78,000 additional jobs, at an average of $4,243 per job, far less costly than any other economic or human development program in the Nation. The GAO study, however, did not count jobs created or retained in those few instances where they made a finding that there had been zero leveraging of private funds. One example of their findings, however, will quickly dispell the fallacy of the GAO position.

In Youngstown, Ohio, a manufacturing plant had been permanently closed for approximately 6 months before a UDAG application which would put the city in a position to lever the plant back into operation. It's previous employees were then mostly on unemployment insurance. GAO took the position that because the private investment money from a private commercial bank was insured by EDA and SBA that there was thus no private investment and thus no jobs created, notwithstanding the fact that some 175 jobs were being directly created with the aid of this relatively small UDAG.

There are two further issues which I believe should be addressed: That of the so-calling the revolving loan funds, and the use of tax abatements as UDAG incentives.

A substantial percentage of UDAG grants are used by the recipient cities for loans to developers, and are then repaid to the recipient grantees with interest. This is in complete conformity with the enabling legislation passed by this body in 1977. However, to assure complete compliance with the legislative intent of the UDAG law, HUD now requires—in its contracts with grantees—a continuing reusage of UDAG generated money solely for economic development, UDAG-related, activities. Thus, in many UDAG instances, Federal dollars are being used not only once for vital economic development, but on a revolving basis. HUD, in fact, is now experiencing what is called second generation applications for projects using these revolved funds as part of the levered public moneys. The Federal Government is thus getting substantially more in economic development terms than that which is even claimed by HUD. Yet, this being the case, some have suggested that UDAG moneys are being improperly "retained" by grantee cities in these loan repayment situations. I am sure that this view was mistakenly based upon the incomplete GAO study which I have already referred to above.

Finally, it has been suggested that many local governments receiving UDAG assistance are granting tax abatements to developers in contravention of the UDAG law. First, there is no such restriction in the enabling legislation. Second, almost all of the 10 to 15 percent of the grant projects in which there is any tax abatement are limited to the first few years of a project's lifespan. Third, because tax creation is one of the important selection criteria used by HUD, a city whose development plan does include any abatement is at a distinct disadvantage in the competition of UDAG funds. It is my further understanding that in such cases, there is then created an additional selection criteria of overwhelming job creation—with its resulting increased taxes—to offset the loss of direct tax revenues from the developer.

Mr. Chairman, the UDAG program gives us the unique opportunity to leverage private investment to aid our most economically distressed cities and counties across the country. It is almost incredible that the program can point to so many successes in the short period of its existence. Such positive results should be encouraged to grow, especially when the per/job cost to Government is so far below other Federal Government programs. Instead of the precipitous reduction of UDAG allocation contained, at the President's request, in this legislation, we should more properly be giving careful consideration to the granting of additional moneys to a program, which has thus far greatly surpassed all expectations, especially when compared to other Federal economic development programs.

Mr. Chairman, I want to refer basically now not to the substance of this measure because that, I think, has been adequately debated.

The gentleman from California, however, in the course of his statements referred to the GAO and to a letter from the distinguished chairman of the Subcommittee on Intergovernmental Relations and Human Resources as having definitively established certain facts.

Mr. Chairman, the report that has been attributed to the GAO, the General Accounting Office, dated May 23, 1979, is such a vague piece of work that they would not even acknowledge that it was a report; and they would not acknowledge that it was a study. It was simply a statement that Dr. Dugan, chief economist for the GAO, made before the subcommittee on May 23.

The statement that appears on the very first page of that testimony—and he repeated it a number of times in the course of his testimony, and I will repeat it again at this time—is as follows: he said,

> We cannot draw any definite conclusions concerning the success or lack of success of the UDAG program.

The letter that was referred to by the gentleman from California as having been sent by the distinguished chairman of the Subcommittee on Intergovernmental Relations and Human Resources, the gentleman from North Carolina (Mr. FOUNTAIN), was sent very clearly and specifically in his capacity as an individual Member of this body—and I am sure that he will verify that—because when we had a meeting of the subcommittee, it was agreed by him that we would not be and were in no position to establish a position for the subcommittee itself.

So the letter and the statement from the GAO should be, I think, taken for what the Members want to take it for, but not as definite conclusions to be drawn on the success of the program itself.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. RITTER).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 19, noes 10.

Mr. LAFALCE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1500

QUORUM CALL VACATED

The CHAIRMAN pro tempore (Mr. FARY). One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from New York (Mr. LAFALCE) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 159, noes 263, not voting 12 as follows:

[Roll No. 180]

AYES—159

Abdnor
Akaka
Ambro
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Bowen
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Deckard
Derrick
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fithian
Fountain
Frenzel
Gingrich
Glickman
Goldwater
Goodling
Gradison
Grassley
Grisham
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hansen
Harsha
Hillis
Hinson
Holt
Horton
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenrette
Johnson, Colo.
Jones, N.C.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Lee
Lent
Lewis
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McDonald
McEwen
Marlenee
Marriott
Martin
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Calif.
Mottl
Myers, Ind.
Nelson
O'Brien
Paul
Petri
Pursell
Quillen
Railsback
Regula
Rhodes
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Symms
Taylor
Thomas
Trible
Udall
Vander Jagt
Volkmer
Walker
Whitehurst
Whittaker
Whitten
Williams, Ohio
Winn
Wydler
Wylie
Young, Alaska

NOES—263

Addabbo
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Annunzio
Anthony
Applegate
Asnley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Clinger
Coelho
Collins, Ill.
Conte
Corman
Cotter
D'Amours
Danielson
Davis, S.C.
de la Garza
Dellums
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gore
Gramm
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Hopkins
Howard
Hubbard
Huckaby
Hughes
Jacobs
Jeffords
Jenkins
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Levitas
Livingston
Lloyd
Long, La.
Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Quayle
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Solarz
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stokes
Studds
Swift
Synar
Tauke
Thompson
Traxler
Treen
Ullman
Van Deerlin
Vanik
Vento
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whitley
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—12

Beilenson
Burton, John
Conyers
Flood
Forsythe
Johnson, Calif.
Patterson
Spellman
Stratton
Stump
Wampler
Young, Fla.

□ 1520

The Clerk announced the following pairs:

Mr. Wampler for with Mr. Johnson of California against.

Mr. Young of Florida for with Ms. Spellman against.

Mr. CARR and Mr. HALL of Texas changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent Mr. AMBRO was allowed to speak out of order.)

IN MEMORIUM TO LEONARD HALL

Mr. AMBRO. Mr. Chairman, I am deeply distressed to have to officially report to the House of Representatives that our distinguished former colleague, the Honorable Leonard W. Hall, died over the weekend. Congressman Hall, a constituent from Oyster Bay, Long Island, served this House and our country faithfully and well for decades both as a Member and as the chairman of the Republican National Committee, and as a confidant and advisor to President Dwight David Eisenhower.

Following the death of his father in 1915, Mr. Hall moved here to Washington and attended Georgetown University Law School. He then served 5 years in the New York State Assembly and later 7 terms in this House of Representatives. Mr. Hall was elected chairman of the Republican National Committee in 1953 and served for 4 years in that capacity. During that time, he worked closely with our late President Eisenhower and pioneered in the use of many political campaign techniques and strategies still practiced by many of us today.

When he resigned as GOP chairman, the Washington Post pointed out that he was leaving "the political stage with plaudits for one of the most remarkable performances in the annals of his party." But he never truly left that stage he loved so much and remained active in political and public life almost up to the time of his death.

His political roots extend deep into the fabric of his beloved Republican party and he devoted all of his life, and his energies to its success and triumphs.

I ask all of my colleagues to join me in recognizing the contribution of this great American and in extending our sympathies to his widow, the former Gladys Downsey who stood resolutely by his side through all of his years of political victories, as well as defeats.

He was a man of dedication, strength and practical wisdom, and to his family and many friends I extend my deepest condolences.

AMENDMENT OFFERED BY MR. NEAL

Mr. NEAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NEAL: Page 5, after line 9 insert the following new subsection:

(e)(1) Section 119(b) of such Act is amended—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end thereof the following:

"(2) For the purpose of paragraph (1), a city or urban county is severely distressed and eligible for assistance under this section if it contains one or more areas which have the levels of physical and economic distress set forth in the minimum standards referred to in paragraph (1). As used in the preceding sentence, the term 'area' in cities of fifty thousand or more in population or in urban counties means one or more contiguous census tracts having a population of ten thousand persons or 10 per centum of the total population, whichever is smaller, and in cities with a population of less than fifty thousand the term 'area' means one or more contiguous census tracts having a population of two thousand five hundred persons or 10 per centum of the population, whichever is greater. Assistance made available to a city or urban county in accordance with this paragraph shall be utilized for the direct benefit of the area or areas whose level of physical and economic distress qualified such city or county for assistance. Before providing assistance in accordance with this paragraph, the Secretary shall determine that the recipient will provide comparable services to the areas of distress commensurate with those provided to other parts of those cities or urban counties. The Secretary shall make available up to 20 per centum of the funds authorized under section 103(c) to cities and urban counties assisted in accordance with this paragraph.".

(2) The amendment made by this subsection shall become effective October 1, 1979.

Mr. NEAL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

□ 1530

Mr. NEAL. Mr. Chairman, the gentleman from New York (Mr. WOLFF) was preparing an amendment similar to this and I would like to offer this amendment on behalf of the gentleman from New York (Mr. WOLFF) and myself.

Mr. Chairman, the urban development action grants program provides special aid to cities and urban counties with severe economic and physical problems. Under present eligibility requirements, however, many communities with truly serious problems cannot qualify for this aid.

The problem is that eligibility is based on citywide or countywide economic and social statistics. A city that has severe pockets of poverty may not qualify because the citywide data do not reflect the need that exists in the distressed neighborhoods.

I think we all recognize that people living in neighborhoods with widespread poverty and physical deterioration share the common plight of the poor everywhere, even if their cities or suburbs enjoy general economic health.

In many cases, cities need special aid such as the UDAG program to help halt the deterioration of distressed neighborhoods and thereby keep urban blight from spreading to more stable areas.

Mr. Chairman, in view of this, I am introducing an amendment, identical to a provision of the Senate bill (S. 1149), which would make cities and urban counties with severe areas of poverty eligible for UDAG funds.

Under the amendment, a city or urban county could qualify if it contained one or more areas of severe economic and physical distress. Both large and small cities and urban counties would be eligible. In larger cities of 50,000 people or more, the areas of distress would have to include one or more contiguous census tracts having a population of 10,000 or 10 percent of the city population, whichever is less. In smaller cities of under 50,000, the distressed areas would have to include 1 or more contiguous census tracts with a population of 2,500 or 10 percent of the city population, whichever is greater.

Funds granted under this amendment would have to be used for the direct benefit of the distressed areas. The Secretary would also have to determine that the local government would be providing to the affected area services comparable to those provided to other parts of the city or county.

Under the amendment, up to 20 percent of the total UDAG funds would be available to cities and urban counties with pockets of poverty. These funds would be divided among large and small cities in the same proportion as in the present UDAG program.

Mr. Chairman, in authorizing the UDAG program, Congress intended to attack urban poverty and blight in areas of greatest need. We should recognize that these problems are as severe in the poverty pockets of an otherwise healthy city as they are anywhere else. I hope my colleagues will support this amendment.

The CHAIRMAN pro tempore. Are there other Members desiring to speak on this amendment?

If not, the question is on the amendment offered by the gentleman from North Carolina (Mr. NEAL).

The question was taken; and the Chair announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ASHLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 312, noes 102, not voting 20, as follows:

[Roll No. 181]

AYES—312

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Dornan
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison

Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mica
Michel
Miller, Calif.
Mineta
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nelson
Nichols
O'Brien
Oberstar
Ottinger
Panetta
Pashayan
Patten
Paul
Pepper
Perkins
Petri
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stack
Stangeland
Steed
Stenholm
Swift
Symms
Synar
Tauke
Taylor
Thomas
Treen
Trible
Udall
Ullman
Vander Jagt
Volkmer
Walgren
Walker
Watkins
Waxman
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Mo.

NOES—102

Addabbo
Anderson, Ill.
Annunzio
Ashley
Aspin
AuCoin
Bailey
Beard, R.I.
Bingham
Blanchard
Boland
Bolling
Bonior
Bonker
Brademas
Brodhead
Burlison
Burton, Phillip
Carr
Collins, Ill.
Corman
Cotter
Dingell
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Edgar
Ferraro
Ford, Mich.
Garcia
Gephardt
Giaimo
Gonzalez
Gray
Green
Guarini
Hall, Ohio
Hamilton
Holtzman
Jeffords
Kastenmeier
Kemp
Kildee
Kostmayer
LaFalce
Lederer
Leland
Lloyd
Lundine
Markey
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Ohio
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Nolan
Nowak
Oakar
Obey
Pease
Peyser
Rangel
Ratchford
Reuss
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Seiberling
Shannon
Simon
Solarz
St Germain
Staggers
Stanton
Stark
Stewart
Stockman
Stokes
Studds
Thompson
Traxler
Van Deerlin
Vanik
Vento
Weaver
Weiss
Yates
Zablocki
Zeferetti

NOT VOTING—20

Beilenson
Brown, Calif.
Burton, John
Conyers
Diggs
Fary
Flood
Florio
Forsythe
Fowler
Hawkins
Johnson, Calif.
Maguire
Patterson
Spellman
Stratton
Stump
Wampler
Wilson, Tex.
Young, Fla.

☐ 1540

Messrs. ANDERSON of California, MINISH, and WOLPE changed their vote from "no" to "aye."

Messrs. MAVROULES, KOSTMAYER, and MURPHY of New York changed thier vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1550

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Phillip Burton: Page 5, after line 9, add the following new subsection:

Section 102(a)(1) of such Act is amended by inserting "the Northern Mariana Islands," after "Guam,".

Mr. PHILLIP BURTON. Mr. Chairman, the amendment that I am offering is self-explanatory.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, the gentleman from California (Mr. Phillip Burton) has talked to us about this amendment. He is certainly right in offering the amendment, and we support it.

Mr. PHILLIP BURTON. Mr. Chairman, I thank the gentleman.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Phillip Burton).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WYDLER

Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wydler: Page 5, after line 9, insert the following new subsection:

(g) Section 119 of such Act is amended by adding the following new subsection at the end thereof:

"(l) No grant may be made pursuant to this section unless the Secretary, after examining documentation submitted by the applicant and after conducting other activities needed to verify such documentation, has determined—

"(1) that such grant is necessary and essential to the initiation of the local development project for which it is to be used; and

"(2) that funds from such grant will not be used in lieu of private or non-Federal public funds which would have been expended, in the absence of such grant, with respect to the project or projects for which such funds are to be utilized."

Mr. WYDLER. Mr. Chairman, I was hoping that I could get the chairman of the subcommitee to accept this amendment. It is really a perfecting amendment which tries to carry out what was the clear intent of the Congress in the original bill, and that was to see that the Federal funds that we sent to cities and communities across this country were used to generate some new project or some project that was not already going to be undertaken and completed by our local communities.

If that is all we do, we accomplish nothing here but substitute some Federal money for some private money or some other public money that is already available.

Mr. Chairman, what the GAO discovered in its report was that in many cases there is nothing in the records of the UDAG administration to indicate that these Federal funds were actually necessary. In fact, it was indicated that many times what happens is that, after the local community puts together the package, then they say, "Well, maybe we can get some Federal funds to use in place of our own funds," and then they go down and ask.

That is not what this program is all about. This program is supposed to start something that could not otherwise be funded. It is to generate some new activity around the Nation. So the purpose of the amendment, Mr. Chairman, is simple. When we passed the UDAG authorization in 1977, the Congress intended that localities take advantage of special or unique—those were the words of the bill—opportunities to use Federal money to assist in the promotion of local economic development projects. The clear intent of the Congress was that UDAG grants not be given for projects which were already underway or about to start. What would be the sense of that?

We wanted to avoid the situation where money would be used simply to replace local, State, or private moneys which were going to be spent whether the community received the grant or not.

The GAO study—and I understand it is disputed by the subcommittee chairman, and I understand it is not a perfect study—which was commissioned by our subcommittee of the Committee on Government Operations, detailed serious flaws in the administration of the program. These flaws were particular apparent in the way that HUD examines whether the project would have gone forward anyway without the Federal money. In some cases a letter or a telephone call from a local or State official stating that the State or locality did not have the money to handle the project itself was accepted. It was done just by a telephone call.

In other instances HUD officials could not document these claims from their files.

What this amendment does is to force the agency and the applicants to carefully document their claims before a grant could be awarded. Federal money, in my opinion and I hope in the opinion of this committee as well, should not be used to subsidize private developers or shield localities from the expense of projects which they would have borne in any event.

Mr. Chairman, I hope the amendment will be overwhelmingly approved, and I ask for an affirmative vote by the members of the committee.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I gladly yield to the chairman of the subcommittee.

Mr. ASHLEY. Mr. Chairman, I think I am accurate in saying that the concern which has been raised by this amendment is that Federal funds are being used to supplant funds already committed to a UDAG project by a State or a local government, and that this is an inappropriate use of such UDAG funding.

I am in no position to argue that. The committee, I might say, has taken the position that because the communities that are involved in UDAG are severely distressed communities, to start with—they have to be in order to be eligible—the use of a community's own funds or the commitment of those funds is very, very unlikely. It has not been the committee's position that UDAG funds should supplant city funds or State funds, but, as I say, it has been our position, because of the nature of the communities involved, that it is not necessary to impose specific requirements, as the amendment does, in requiring in certain circumstances that they fund a UDAG project out of their own resources.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. WYDLER) has expired.

(On request of Mr. ASHLEY, and by unanimous consent, Mr. WYDLER was allowed to proceed for 1 additional minute.)

Mr. ASHLEY. But, Mr. Chairman, if the gentleman will yield further and if I may continue, it seems to me, in view of the concern that is evident on the floor with respect to the appropriate use of funds under the UDAG program, that this amendment should be accepted.

□ 1600

I accept the amendment on the basis of the spirit that I think is intended. This is not an amendment that is intended to impede the legitimate use of UDAG funds. What we do not want is a straight-out substitution for UDAG funds that would be committed by a city or other public body; is that correct?

Mr. WYDLER. That is correct; and I thank the gentleman for his support. I just want to point out that I am leaving the discretion still in the Secretary where it belongs. It is not to transfer. It is simply to see that we have, when it is finished, a document filed that indicates that this project required Federal UDAG funds for it to be undertaken.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. WYDLER) has expired.

(On request of Mr. ASHLEY and by unanimous consent, Mr. WYDLER was allowed to proceed for 3 additional minutes.)

Mr. ASHLEY. If the gentleman will yield further, I am a little concerned about that kind of documentation. The amendment says:

> No grant may be made pursuant to this section unless the Secretary, after examining documentation submitted by the applicant and after conducting other activities needed to verify such documentation, has determined (1) that such grant is necessary and essential to the initiation of the local development project for which it is to be used.

There is no problem there.

The amendment further reads:

> (2) that funds from such grant will not be used in lieu of private or non-Federal public funds which would have been expended, in the absence of such grant, with respect to the project or projects for which such funds are to be utilized.

I do not know just exactly what would be involved in a documentation with respect to proving, demonstrating, that the city does not have the funds available, in lieu of the UDAG funding. The gentleman talks in terms of something in the nature of commitment of funds on the part of a local State government.

Mr. WYDLER. If it would help the chairman, it is not my intention to do that at all. It is not a question of examining the sheets, the profit and loss statements, of the city or community. My intention is simply to see that, when the documentation goes forward to the Federal Government, they will be able to establish that the city has not already authorized the expenditure of these funds.

Mr. ASHLEY. That is right.

Mr. Chairman, I have no objection.

Mr. WYDLER. I thank the gentleman.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Chairman, I would like to associate myself with the gentleman on this amendment. I had some concern about item (2), as the chairman did, but the more I look at it I realize that what the gentleman is trying to do is the thing I was trying to get clarified in my questioning of the chairman earlier, and that is that the funds are to be used for the purpose for which they are intended, and that is to leverage private capital investment. I think this amendment will also require the applicant to submit adequate justification in support of his application. I think that is one of the things that we have found we have not always had when we examine the documentation in a number of the agencies which have approved the expenditure of Federal funds.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I compliment the gentleman on the amendment. It definitely strengthens the program, and we are very pleased to accept it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. WYDLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BONER OF TENNESSEE

Mr. BONER of Tennessee. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. BONER of Tennessee: Page 5, after line 9, insert the following new subsection:
>
> (h) Section 119(b) of the Housing and Community Development Act of 1974 is amended by adding the following new sentence at the end thereof: "For the purpose of the preceding sentence, an urban county shall be considered as severely distressed and eligible for assistance under this section if it contains at least one area which—
>
> "(1) has the levels of physical and economic distress set forth in the minimum standards referred to in the preceding sentence; and
>
> "(2) was, before 1960, a city with a population of at least 50,000 persons."

Mr. BONER of Tennessee. Mr. Chairman, I rise to introduce an amendment to H.R. 3857, the Housing and Community Development Amendments of 1979, for the purpose of utilizing the urban develpoment action grant program (UDAG) to assist certain urban counties in which there are areas with special needs relating to physical and economic deterioration. My amendment is designed to correct an injustice to many urban counties throughout the Nation that cannot participate in this program as a result of the Department of Housing and Urban Development's use of overall statistical information for an entire city or urban county in order to determine eligibility. A city or urban county that does not meet certain criteria on the basis of these overall statistical measures cannot participate in the program even though it may contain an area that is severely distressed, both economically and physically. The amendment I am offering for consideration would allow an urban county, such as Nashville, Tenn., to be eligible for funding under UDAG program, providing that the area meet certain criteria set by HUD.

Mr. Chairman, this is not a regional problem nor one located specifically in the State of Tennessee. Cities that have combined urban counties or metro governments exist in the North, the South, the East, and the West, and include such large areas as Lexington, Fayette County in Kentucky; Marion County, Indianapolis, Ind.; East Baton Rouge, Parish-Baton Rouge; the counties of New York City; the county-city of Philadelphia; the metro governments of Denver, San Francisco, Jacksonville, San Jose, and Little Rock, to name a few. This failure on the part of our Federal Government to recognize the specific problems of these metro areas is one of the major flaws in the UDAG program. I ask unanimous consent, Mr. Speaker, to include a list of consolidated jurisdictions published by the National Association of Counties, at the conclusion of my remarks.

This amendment deals only with the problem of excluding from the UDAG program urban counties that contain areas of severe economic and physical distress. Many of these excluded cities and urban counties are some of the fastest growing in the Nation. I submit, however, Mr. Chairman that growth has its problems also and that these cities, including Nashville, Tenn., face the problem of coping with growth and innercity decay while meeting expanding demands from municipal services and the needs of our innercity.

The intent of my amendment is not to dilute or expand the program to give Federal dollars to healthy cities or counties. Its purpose is to make sure that all distressed areas on an equal basis can participate in a program specifically created to help such distressed areas and are not discriminated against by virtue of their boundaries, prior to incorporation as either a metro area or an urban county. It is important to remember that UDAG is a competitive program, not an entitlement, and selection is based on need and distress of the community.

Nashville-Davidson County, Tenn., one of the cities in Tennessee I am proud to represent, has had a metropolitan progressive form of government since April 1, 1963, thus incorporating the city and the county into one form of government. This incorporation helped to raise the statistical data necessary to meet the criteria to be eligible for UDAG funding per capita income; population lag; unemployment; job lag; and poverty. Attached please find a listing and summary of some of these criteria. Incorporation in Nashville dictated that the old city of Nashville, the most economically distressed area, would be discriminated against in its competition for Federal grants. As an example, Mr. Speaker, the percentage of houses built before 1940 under the UDAG standard must be 43.15 percent or higher. Old Nashville includes 40 percent and the Metro post-1963 Nashville, has 24.8 percent making it eligible to be considered under that specific criteria. Most of the criteria contains similar statistics.

My amendment would permit the city of Nashville, under its old boundaries, to compete for UDAG matching funds on a competitive basis with other cities.

List of Consolidated Jurisdictions

By Legislative Action (8):

New Orleans-Orleans Parish, Louisiana, 1805.

Boston-Suffolk County, Massachusetts, 1821.

Nantucket-Nantucket County, Massachusetts 18.

Philadelphia-Philadelphia County, Pennsylvania 1854.

San Francisco-San Francisco County, California, 1856.

New York-New York County, New York, 1874.

Honolulu-Honolulu County, Hawaii, 1907.

Indianapolis-Marion County, Indiana, 1969.

By Voter Referendum (17):

City and County of Denver, Colorado, 1904.

Baton Rouge-East Baton Rouge Parish, Louisiana, 1947.

Hampton-Elizabeth City County, Virginia, 1952.

Newport News-Warwick County, Virginia, 1957.

Nashville-Davidson County, Tennessee, 1962.

Virginia Beach-Princess Anne County, Virginia, 1962.

South Norfolk-Norfolk County, Virginia, 1962.

Jacksonville-Duval County, Florida, 1967.

Carson City-Ormsby County, Nevada, 1969.

Juneau-Greater Juneau Borough, Alaska, 1969.

Columbus-Muscogee County, Georgia, 1970.

Sitka-Greater Sitka Borough, Alaska, 1971.

Suffolk-Nansemond City (independent), Virginia, 1972.

Lexington-Fayette County, Kentucky, 1972.

Anchorage-Greater Anchorage Borough, Alaska, 1975.

Anaconda-Deer Lodge County, Montana, 1976.

Butte-Silver Bow County, Montana, 1976.

Definition: "There seems to be no one universal definition for city-county consolidation. The New County, U.S.A. Center uses the following definition:

City-County Consolidation: A city-county consolidation or merger involves the unification of the governments of one or more cities with the surrounding county. As a result of the consolidation, the boundary lines of the jurisdictions involved become coterminous. However, certain incorporated jurisdictions may opt to be excluded from the consolidation."

Criteria Comparisons

1. Percent of housing constructed before 1940: UDAG standard 34.15 percent. Old Nashville 35.40 percent. New Nashville 24.80 percent.

2. Per capita income: UDAG standard $1424. Old Nashville $1438. New Nashville $2136.

3. Percent change in population: UDAG standard 15.52 percent. Old Nashville 18.30 percent. New Nashville 15.10 percent.

4. Unemployment—1977: UDAG standard 6.9 percent. Old Nashville 7.9 percent. New Nashville 6.9 percent.

5. Percent of growth in retail and manufacturing employment: UDAG standard 7.08 percent. Old Nashville 7.00 percent. New Nashville 9.70 percent.

6. Poverty—Percent of people below '70: UDAG standard 11.24 percent. Old Nashville 19.10 percent. New Nashville 13.70 percent.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. BONER of Tennessee. I yield to the gentleman from Ohio.

Mr. STANTON. Indianapolis, Indiana, which meets this criteria, as a city they themselves would have qualified for urban grants, except then they go along and combine with the county. The entire city is now within the county and, therefore, the City of Indianapolis does not qualify any longer. Is this the same case in Nashville, where Nashville is a city of 50,000, which of itself would have qualified, but with the new counting criteria, included within the county, which means the city is not included?

Mr. BONER of Tennessee. Yes, that is absolutely correct. What you have left is the innercity. Once we went to what we hoped was a progressive streamlined form of metro government, extending those boundaries out to the Davidson county line, we find then when you have to use the criteria of unemployment and income per capita, included within the suburban areas, then that prevents us from competing for those particular UDAG grants.

☐ 1610

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

As I read this amendment, Mr. Chairman, this would further expand the action grant program. A few minutes ago, the House acted overwhelmingly to expand the program from severely distressed cities of 50,000 or more to cities of lesser distress, with pockets of poverty in them.

There was no legislation introduced in the House to include or incorporate pockets of poverty in the action grant program. There was at no time a request for a hearing by any Member of the House.

During our subcommittee markup and before the full committee, not a single Member asked to be heard with respect to pockets of poverty.

No amendment was ever produced, discussed, debated or voted upon. But there was an amendment a few minutes ago that was presented and passed overwhelmingly. If anybody in this body thinks that any of us has the slightest idea as to the efficacy, the necessity, the appropriateness of that amendment, it would interest me a great deal.

We have before us now an amendment that would further expand the universe of eligible communities for the action grant program, perhaps desirably, perhaps equitably. I have no idea, none whatsoever.

Nobody presented any case, any brief, any request, to our subcommittee, that this be considered.

One of the things that strikes me, Mr. Chairman, is that over the years the Subcommittee on Housing and Community Development, has developed a reputation for promulgating legislative initiatives on a bipartisan basis.

We like to have the opportunity to discuss among ourselves, to consider the views that are reflected from both sides of the aisle, particularly with respect to important departures or additions to legislation that is on the statute books. We have not had that opportunity.

Now, if this is the way, if this is the procedure that this body wants to follow, by all means, do so. I do not think that it is good legislative procedure. I do not think that it does this body justice, and I do not think it does the American people justice.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. STANTON. Of course, the chairman is absolutely right. He has the attention of all of us here on the House floor for his very important observations. I think what really additionally hurt is that it was offered by a member of our subcommittee, and which none of us had had any idea of until we arrived here today.

Then, I would only simply add something. As we all know, we never had a copy of this amendment until a minute ago. The reason I asked the questions that I did was that the gentleman, I know, has waited for several hours to offer this amendment. I have seen him here on the House floor. We did not have the amendment.

In retrospect, the language of the amendment that the gentleman had referred to earlier, when it did pass, covered the problem that we have. It refers to an urban county, and for purposes of that paragraph, "A city or urban county is severely distressed and eligible for assistance."

It is the reason I asked the gentleman the question I did about Indianapolis or Nashville.

Mr. BONER of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Tennessee.

Mr. BONER of Tennessee. I appreciate the gentleman yielding.

This bill was originally introduced as H.R. 1839 and referred to the House Banking, Finance and Urban Affairs Committee on February 5, 1979. I believe the amendment that we have before us was already printed in the February 5, 1979, Record. It was introduced timely, and I think also, my good friend, would agree most of what was already passed in the Neal amendment would be included in mine.

Certainly, there would be no harm in passing this to insure that those counties, particularly those cities and counties that are in metropolitan form of government, would be included to compete for UDAG funding.

Mr. ASHLEY. I claim back the balance of my time and say that the rationale is utterly consistent with the general proposition that we see a lot on this floor.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Ashley) has expired.

(By unanimous consent, Mr. Ashley was allowed to proceed for 1 additional minute.)

Mr. ASHLEY. That is the proposition that if a little is good, more is better.

We passed social security and other programs many years ago, and if little is good, more is better. We find it very hard to fund. We find 72 to 74 percent of our budget is uncontrollable.

I think that the gentleman has got a point. If a little UDAG is good, more is better. If it obtains appropriately to very distressed communities, then if it serves them well, then why not apply it to lesser distressed communities? And if it serves well the community of 50,000 or more, where most of our Americans live, then let us apply it to urban counties. Let us not have any hearings, though. Let us just present it on the floor and vote.

As I say, Mr. Chairman, if that is what this body is about, then the amendment should be approved.

Mr. VOLKMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have been listening to the debate on this amendment. I did listen to the debate, although I will say that many other Members did not, what little debate there was on the previous amendment from the gentleman from North Carolina.

I do, as I said, in listening to the explanation of the gentleman from Tennessee, not having seen his amendment, I think perhaps though that the problem may be solved by the amendment of the gentleman from North Carolina.

I would like to ask the chairman of the committee if that is correct?

Mr. ASHLEY. If the gentleman will yield, we never saw the amendment from the gentleman from North Carolina until about 35 or 40 minutes ago, something of that kind. I have not had an opportunity to study it in any detail.

Mr. VOLKMER. Then may I ask the Member from the minority side if he understands the amendment of the gentleman from North Carolina?

Mr. STANTON. Mr. Chairman, if the gentleman will yield?

Mr. VOLKMER. I yield to the gentleman from Ohio.

Mr. STANTON. When the gentleman was in the well, and I started to read from the previous amendment of the gentleman from North Carolina, it says:

> A city or urban county is severely distressed and eligible for assistance under this section if it contains one or more areas—

And it refers to an urban county or city. It does not limit it to the size.

If it does not add this amendment, I would not argue that the question of the gentleman's amendment could not have been argued on its merits. In my humble opinion, I do not think it is necessary.

Mr. VOLKMER. And in your opinion, and I think as a reasonable man——

Mr. STANTON. In other words, under the theory, the procedure which it was offered, it should be opposed.

Mr. VOLKMER. Even though we did not have the amendment from the gentleman from North Carolina——

Mr. STANTON. I do not know if the gentleman was listening to the gentleman from Ohio.

Mr. VOLKMER. I did.

Mr. STANTON. What he was saying in his objections, not only to the procedures of the amendment, what the gentleman is doing, and we fought here for 3 hours the amount of money we were going to give to this program.

Now, we have no idea how many other communities of America are now going to be eligible for the same amount of money. What the same fellow, the friend from Ohio, was saying, we are going to be back now to take care of the hundreds of new applications that are now eligible with the same amount of money.

So we have been in some ways wasting our time here this afternoon.

Mr. VOLKMER. But those areas, if they are distressed areas, should not they be taken care of also?

Mr. STANTON. If they are distressed areas within the criteria of the bill, then they certainly should be taken care of, within the criteria that now exists.

I have said to you, and I repeat for the fourth time, that I think that the Neal amendment took care of it.

Mr. VOLKMER. I agree.

□ 1620

Mr. BONER of Tennessee. Mr. Chairman, would the gentleman yield?

Mr. VOLKMER. I yield to the gentleman.

Mr. BONER of Tennessee. I think the argument that this is not the right procedure, in my opinion, does not have substance. I recognize that many amendments are brought before this body without an appropriate time to be studied and aired in the committee. My position simply is this, because cities and counties try to streamline their form of government they still have distressed areas. These grants are competitive in nature because you provide people in distressed areas the opportunity to compete for these grants. It is not a guarantee that they will receive any more money, and the philosophy that if some money is good, a little bit more is better, does not adequately depict the situation we are in here. Simply because the Government has changed and expanded its boundaries, it still contains pockets of poverty as were mentioned before.

I think in light of this that all we are doing is saying this is an area that can compete for the funds. You are not putting in any more funds than are being appropriated. All you are doing is giving a geographical area a chance to compete for UDAG funding. These people also live in a distressed area. They must also be entitled to compete for UDAG funds, but most importantly, we are not giving them anything more than we are giving someone else, because it is on a competitive basis and it is a discretionary thing that the Secretary of HUD can decide if he wants to.

Mr. VOLKMER. I would like to comment to the gentleman from Tennessee, I see nothing wrong with the gentleman offering the amendment, and I see nothing wrong with the gentleman from North Carolina offering the amendment that was adopted, even though it may not have been deliberated in the subcommittee. If there is an imperfection in legislation when it arrives on the floor, I see nothing wrong with correcting that imperfection on the floor.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Tennessee (Mr. Boner).

The question was taken; and on a division (demanded by Mr. Boner of Tennessee) there were—ayes 6, noes 18.

Mr. BONER of Tennessee. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore (Mr. Bennett). One hundred Members have apppeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

□ 1630

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Tennessee (Mr. Boner) for a recorded vote.

Does the gentleman from Tennessee insist upon his demand?

Mr. BONER of Tennessee. I do. Mr. Chairman.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 48, noes 357, not voting 29, as follows:

[Roll No. 182]

AYES—48

Anthony
Atkinson
Benjamin
Bennett
Bethune
Boggs
Boner
Bonior
Bouquard
Coelho
Edgar
Evans, Ga.
Evans, Ind.
Fazio
Flippo

Ford, Tenn.
Gore
Gray
Hance
Hollenbeck
Hopkins
Hubbard
Huckaby
Jones, N.C.
Jones, Tenn.
Leath, Tex.
Lewis
Lloyd
Lowry
Mattox
Mica
Moore
Oberstar
Paul
Sebelius
Shelby
Smith, Iowa
Stack
Stenholm
Swift
Treen
Volkmer
White
Whitley
Williams, Mont.
Williams, Ohio
Wolpe
Wydler

NOES—357

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Foley
Ford, Mich.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Grassley
Green
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Jenkins
Jenrette
Johnson, Colo.
Jones, Okla.
Kastenmeier
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Kelly
Kemp
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Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
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Levitas
Loeffler
Long, La.
Long, Md.
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McClory
McCloskey
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McEwen
McHugh
McKay
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Markey
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Marriott
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Michel
Mikulski
Miller, Calif.
Miller, Ohio
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Mitchell, Md.
Mitchell, N.Y.
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Van Deerlin
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Weaver
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Whitehurst
Whittaker
Whitten
Wilson, Bob
Winn
Wirth
Wolff
Wyatt
Wylie
Yates
Yatron
Young, Alaska
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Burton, John
Conyers
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Fary
Fascell
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Florio
Forsythe
Hagedorn
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Hawkins
Johnson, Calif.
Livingston
McDonald
Maguire
Marks
Mathis
Mikva
Patterson
Shuster
Spellman
Stratton
Wampler
Wilson, C. H.
Wilson, Tex.
Wright
Young, Fla.

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Messrs. FORD of Tennessee, WOLPE, and LOWRY changed their vote from "no" to "aye."

Mr. MOLLOHAN changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Are there any other amendments to title I?

There being no further amendments to title I, the Clerk will designate title II.

Title II reads as follows:

TITLE II—HOUSING ASSISTANCE PROGRAMS

AUTHORIZATION FOR LOW-INCOME HOUSING

Sec. 201. (a) (1) Section 5(c) of the United States Housing Act of 1937 is amended—

(A) by striking out "and" in the first sentence, and by inserting after "October 1, 1978" in such sentence the following: ", and by "$1,286,155,000 on October 1, 1979,"; and

(B) by inserting the following after the third sentence: "Of the additional authority authorized by the first sentence of this subsection with respect to October 1, 1979, not more than $223,142,000 is authorized to be approved in appropriation Acts for units assisted under this Act other than under section 8 (not less than $50,000,000 of which is authorized to be so approved for modernization of such units with a preference being given to the modernization of substandard vacant units), and not more than $1,063,013,000 is authorized to be so approved for units assisted under section 8, and the Secretary shall make available such assistance in the amounts to approved and in accordance with the second sentence of this subsection. In no case may the Secretary, with respect to the additional authority made available on October 1, 1979, enter into annual contributions contracts aggregating more than $223,142,000 for units assisted under this Act other than under section 8.".

(2) Section 213(d) (1) of the Housing and Community Development Act of 1974 is amended by inserting after "In allocating financial assistance" in the first sentence the following: "(other than assistance approved in appropriation Acts for use on and after October 1, 1979, under the United States Housing Act of 1937 for the purpose of modernization of low-income housing projects)".

(b) Section 9(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" after "on or after October 1, 1977,"; and

(2) by inserting the following before the period at the end thereof: ", and not to exceed $741,500,000 on or after October 1, 1979".

OPERATING ASSISTANCE FOR TROUBLED MULTI-FAMILY HOUSING PROJECTS

Sec. 202. (a) Section 201(h) of the Housing and Community Development Amendments of 1978 is amended by inserting the following before the period at the end of the first sentence: ", and not to exceed $92,000,000 for the fiscal year 1980".

(b) Section 236(f) (3) (B) of the National Housing Act is amended—

(1) by inserting the following after "October 1, 1978," in the first sentence: "or credited to such fund prior to October 1, 1978 but remaining unobligated on October 31, 1978,"; and

(2) by striking out "September 30, 1979" in the third sentence and inserting in lieu thereof "September 30, 1980".

AMOUNT OF TENANT CONTRIBUTION FOR RENTAL PAYMENTS

Sec. 203. (a) Section 3(1) of the United States Housing Act of 1937 is amended by striking out the third sentence and inserting in lieu thereof the following: "The rental for any dwelling unit shall not exceed that portion of the resident family's income which the Secretary establishes on the basis of the relative level of income of the family, but such rental shall not exceed 25 per centum of family income in the case of a very low-income family or, in the case of other families, 30 per centum of such income.".

(b) Section 8(c) (3) of such Act is amended by striking out the first and second sentences and inserting in lieu thereof the following: "The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and a portion of one-twelfth of the resident family's income which the Secretary establishes on the basis of the relative level of income of the family and on the basis of such other factors as the number of minor children in the household and the extent of medical and other unusual expenses incurred by the family. In carrying out the previous sentence, the Secretary shall provide that—

"(A) in the case of a very low-income family, the amount of such assistance payment shall be the difference between such rent and not less than 15 per centum but not more than 25 per centum of such family income, taking into consideration such relative level of income and such other factors;

"(B) in the case of a large very low-income family or a lower income family with exceptional medical or other expenses, as determined by the Secretary, the amount of such assistance payment shall be the difference between such rent and 15 per centum of such family income;

"(C) in the case of a very large lower income family, the amount of such assistance payment shall be the difference between such rent and 20 per centum of such family income; and

"(D) in the case of other families, the amount of such assistance payment shall be the difference between such rent and not less than 20 per centum but not more than 30 per centum of such family income, taking into consideration such relative level of income and such other factors.".

TENANT SELECTION CRITERIA

SEC. 204. (a) Section 6(c)(4)(A) of the United States Housing Act of 1937 is amended by inserting after "tenant selection criteria" the following: "which gives preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this Act and which is".

(b)(1) Section 8(d)(1)(A) of such Act is amended by inserting the following before the semicolon at the end thereof: ", except that the tenant selection criteria used by the owner shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this section".

(2) Section 8(e)(2) of such Act is amended by adding the following before the period at the end of the first sentence: ", except that the tenant selection shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking housing assistance under this section".

MAINTENANCE OF LOW-INCOME CHARACTER OF CERTAIN ASSISTED HOUSING PROJECTS

SEC. 205. (a) Section 9(a) of the United States Housing Act of 1937 is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out "(1)" and "(2)" in the second sentence and inserting in lieu thereof "(A)" and "(B)";

(3) by inserting the following before the period at the end of the third sentence: ", and such contract shall provide that no disposition of the low-income housing project with respect to which the contract is entered into shall occur (during and after the term of such contract) unless approved by the Secretary"; and

(4) by adding the following new paragraph at the end thereof:

"(2) The Secretary may not make assistance available under this section for any low-income housing project unless such project is being assisted by an annual contributions contract authorized by section 5(c) but not subject to section 8, except that after the duration of any such annual contributions contract with respect to a low-income housing project, the Secretary may provide assistance under this section with respect to such project as long as the low-income nature of such project is maintained.".

(b) Section 8(e)(1) of such Act is amended by striking out "one month" in the first sentence and inserting in lieu thereof "two hundred and forty months".

(c) Section 201(d)(1) of the Housing and Community Development Amendments of 1978 is amended by inserting the following before the semicolon at the end thereof: "; and the owner has agreed to maintain the low- and moderate-income character of such project for a period at least equal to the remaining term of the project mortgage".

DISTRIBUTION OF SECTION 9 OPERATING SUBSIDIES

SEC. 206. Section 9 of the United States Housing Act of 1937 is amended by adding the following new subsection at the end thereof:

"(d) If, in any fiscal year beginning after September 30, 1979, any funds which have been appropriated for such year remain after applying the provisions of the second and fourth sentences of subsection (a)(1), the Secretary shall distribute such funds to low-income housing projects which incurred excessive costs which were beyond their control and the full extent of which was not taken into account in the original distribution of funds for such fiscal year.".

SECTION 101 RENT SUPPLEMENTS

SEC. 207. Section 101 of the Housing and Urban Development Act of 1965 is amended—

(1) by striking out the first sentence of subsection (c) and inserting in lieu thereof the following new sentence: "As used in this section, the term 'qualified tenant' means any individual or family having an income which would qualify such individual or family for assistance under section 8 of the United States Housing Act of 1937, except that such term shall aslo include any individual or family who was receiving assistance under this section on the date of the enactment of the Housing and Community Deveolpment Amendments of 1979.";

(2) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) The amount of the payment made under any contract amended pursuant to subsection (1) with respect to any dwelling unit assisted under this section shall be determined in the same manner as it would be determined under section 8 of the United States Housing Act of 1937 if the tenants on whose behalf such payment is made were receiving assistance with respect to such unit under section 8 of such Act. The income of any tenant receiving assistance pursuant to any such contract shall be determined in the same manner as income is determined under section 8 of such Act.";

(3) by striking out subsection (e)(1)(B) and inserting in lieu thereof the following:

"(B) whether the individual or family was occupying substandard housing or was involuntarily displaced at the time it was seeking assistance under this section."; and

(4) by adding the following new subsection at the end thereof:

"(k) In making assistance available under this section, the Secretary shall give priority to individuals or families who are occupying substandard housing or are involuntarily displaced at the time they are seeking housing assistance under this section.

"(l) The Secretary may offer to amend each contract entered into pursuant to this section for the purpose of making such contract contain the terms and conditions which the contract would have contained if it had been entered into pursuant to section 8(e) of the United States Housing Act of 1937. Notwithstanding the provisions of subsection (a) and any other provision of law, and in order to carry out any changes in contracts as a result of the previous sentence, the Secretary may utilize additional authority made available on or after October 1, 1979, under section 5(c) of the United States Housing Act of 1937.".

SECTION 235 AMENDMENTS

SEC. 208. (a) Section 235(a)(1) of the National Housing Act is amended by adding the following new sentence at the end thereof: "In making such assistance available, the Secretary shall give preference to assisting low-income families in acquiring a condominium unit or in acquiring a membership in such a cooperative association, especially families who, without such assistance, would be likely to be displaced from rental units which are to be converted to condominium projects or to units in such a cooperative association.".

(b) Section 235(i)(3(A) of such Act is amended by striking out ", if the mortgagor qualifies" in the first proviso and all that follows through "public housing".

DISPLACED TENANTS IN A HUD-OWNED PROJECT

SEC. 209. Section 203(d)(2) of the Housing and Community Development Amendments of 1978 is amended by striking out "The Secretary shall seek to assure the maximum opportunity for any such tenant—" and inserting in lieu thereof the following: "The Secretary shall assure for any such tenant the right—".

COMMITTEE AMENDMENT

The CHAIRMAN pro tempore. The Clerk will report the committee amendment to title II.

The Clerk read as follows:

Committee amendment: Page 5, line 24, strike out "$50,000,000" and insert in lieu thereof "$55,000,000".

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. MATTOX

Mr. MATTOX. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATTOX: Page 14, line 6, strike out "In making" and all that follows through line 12, and insert in lieu thereof the following: "In making such assistance available, the Secretary shall give preference to low-income families who, without such assistance, would be likely to be displaced from rental units which are to be converted into a condominium project or a cooperative association. Such assistance may include the acquisition of a condominium or a membership in a cooperative association."

Mr. MATTOX (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MATTOX. Mr. Chairman, the amendment that I have offered is one that I believe is agreeable to both sides of the aisle. It is one that deals with the rewriting of the condominium section.

Basically, what I have attempted to do is correct some language and adopt new language that in effect would say that individuals cannot be forced out of rental properties as a result of those properties being turned into condominiums or cooperative type units, but that they will be given preferential treatment under the 235 program. The amendment further provides that the Secretary will be given authorization to allow those individuals to acquire either condominium or cooperative units to replace the housing that they are being forced from.

Mr. Chairman, I ask adoption of the amendment.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. MATTOX. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, the gentleman has covered the amendment with our side of the aisle, and we have no objection to the amendment.

Mr. ASHLEY. I am sorry, Mr. Chairman. Will the gentleman yield?

Mr. MATTOX. Yes, I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, I am sorry, but I did not hear the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, if the gentleman will yield further, do I understand that this amendment is at page 14, line 22? Is that the amendment the gentleman is offering?

Mr. MATTOX. Mr. Chairman, we are dealing with the amendment at page 14, line 6.

Mr. STANTON. Mr. Chairman, on this amendment also, the gentleman has covered it with us and we have no objection to the amendment.

Mr. ASHLEY. Mr. Chairman, if the gentleman will yield, the same goes for this side of the aisle. The gentleman from Texas (Mr. MATTOX) has offered a good amendment. It clarifies and insures the intent of both sides of the aisle in the committee bill. So we commend the gentleman and have no objection to the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. MATTOX).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MATTOX

Mr. MATTOX. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATTOX:

Page 14, line 22, insert the following after "tenant": "(who continues to meet applicable qualification standards)".

Mr. MATTOX. Mr. Chairman, this amendment has been given to both sides of the aisle, and I understand it is acceptable to both sides.

Basically, what it attempts to do is to provide that as housing projects are renovated and people in effect will be asked to move out, they will then be allowed to move back into those housing projects provided they meet the applicable standards. However, if somebody is not qualified or if their standards were to change during the time the project is being renovated, they would not be allowed to move back in unless they were actually again qualified.

Mr. Chairman, this is just a clarification, I think, of what is contained in the actual language of the bill.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. MATTOX. I yield to the gentleman from Ohio.

Mr. ASHLEY. Again, Mr. Chairman, the gentleman from Texas (Mr. MATTOX) has discussed this amendment with us. It is a clarifying amendment in a substantial measure, and we find it is constructive and have no objection to it. We hope the amendment will be adopted.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. MATTOX. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, the gentleman has been courteous enough to cover the amendment with us earlier this afternoon, and we certainly concur with the remarks of the chairman of the subcommittee and are willing to accept the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. MATTOX).

The amendment was agreed to.

Amendment offered by Mr. MCKINNEY:

Mr. McKINNEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCKINNEY: Page 14, after line 22, insert the following new section:

ENERGY CONSERVATION

SEC. 210. The United States Housing Act of 1937 is amended by adding the following new section at the end thereof:

"ENERGY CONSERVATION

"SEC. 13. (a) In utilizing contract authority which is provided by section 5(c) and has been approved in appropriation Acts for use in the modernization of low-income housing projects (other than projects assisted under section 8) on or after October 1, 1979, the Secretary shall, to the maximum extent practicable, also take into consideration projects which will be modernized to a substantial extent with weatherization materials as defined in section 412(9) of the Energy Conservation in Existing Buildings Act of 1976.

"(b) The Secretary shall, to the maximum extent practicable, require that newly constructed and substantially rehabilitated projects assisted under this Act with authority provided on or after October 1, 1979, shall be equipped with heating and cooling systems selected on the basis of criteria which includes a life-cycle cost analysis of such systems."

Mr. McKINNEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. McKINNEY. Mr. Chairman, the amendment I offer today is a simple, and perhaps as important, free augmentation of national housing policy. The provision gives the Department of Housing and Urban Development (HUD) more specific and achievable energy-saving authority than those HUD directives contained in the ill-fated National Energy Act. In adopting this amendment, we simply direct HUD to stress insulation and weatherization in the use of its public housing rehabilitation funds. In addition, the amendment gives HUD authority to calculate the budgetary savings due to energy conservation by using life cycle cost analysis in the section of heating and cooling systems.

These seem almost too obvious to require legislative authority, but all too often it is the obvious policy that is overlooked as we bury ourselves in the complex trivia of programs and subsidies. It is estimated that funding under the National Energy Act for weatherization of low-income housing will reach only 250,000 dwellings per year, assuming a minimal $800 expenditure each. At that rate, it will take 40 years to insulate the estimated 9.9 million homes in need of this basic conservation tool. The momentum of ongoing public housing improvement programs, funded by HUD, must be added to this effort if we are to avoid calamitous heating bills in winters to come.

It is also mind boggling to realize that HUD's own low-bid procedures for public housing heating and cooling systems often result in the purchase of the most costly and energy inefficient devices. In terms of the upfront cost, electric resistance heating is the cheapest buy. However, when the increasing cost of electricity, and the decreasing value of borrowed money, are factored in over the life of the unit, it is often cheaper to spend a little more at the outset and add a heat pump or solar application to stabilize fuel costs. That is life cycle cost analysis, and I believe HUD should begin to use it. Otherwise, it is just cruel to spend billions pretending to offer decent and affordable housing to the poor when the housing will cost more in energy every year.

A standard definition which HUD might use is as follows: Life cycle costing is the calculation of the accumulation of all funds spent or to be spent for the installation, operation, maintenance and care of a sytsem over its useful life. Such calculation should also include the discounting of future costs to reflect the relative value of money over time. Useful life can be determined by reference to standard Internal Revenue Service data.

Mr. Chairman, these small but important set changes were formulated by the delegates to the New England Energy Congress, a unique regional assembly convened by the New England Congressional Caucus energy task force, of which I am the cochairman. Next week, the Energy Congress will release its final report containing a detailed action agenda for New England's energy rescue. Various energy industry representatives, consumer advocates, environmentalists, bankers, State and local governments, and many more all served as delegates to the Energy Congress and they all agreed on the need for a more coordinated and concentrated effort to weatherize homes and make the ongoing efforts of Federal agencies serve our national energy goals—not compete with them. This amendment seeks to implement that recommendation as the first of many small but significant steps we must take to improve our energy posture. I urge adoption of the amendment.

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Mr. Chairman, I would state that, in a colloquy and discussion with the other side of the aisle, I by no means by this amendment mean to affect the matters discussed on pages 5 and 6, which are very near and dear to my heart, which is the modernization and a study that is given preference for vacant units and substandard units that the committee put in the bill. To me, Mr. Chairman, that is a matter of most immediate, absolute, total and complete concern. To clarify that point, I have somewhat changed my amendment from its original stand. The energy problem is a long-range problem I suggest it is going to be with us for a long time to come. But some of the figures, I would suggest to the Members, are pretty horrifying if you take the projected cost. Fuel oil for the Mid-Atlantic States and the Northeast for this coming winter will probably not be available unless the States and the Congress take some remedial action to see that public housing authorities are left solvent. They will probably be left totally bankrupt by the cost of fuel.

In the State of Connecticut, as I remember it, when we talked about senior citizen housing, the experts came and said, "Put 19 percent for energy factor." We said, "We think that is a little too low," and we put in 27 percent for energy factor. The energy factor is now over 50 percent, and it is obvious that these projects are in serious financial condition. I am not saying, "Madam Secretary, do this above all," because I happen to also believe, as does the chairman of this committee, that there are tremendous natural resources in substandard and unused and vacant buildings throughout the cities of this country.

In fact, housing rehabilitation has been one of my hobbies. But we could go on from that point and say that I do not in any circumstances with this amendment mean to take away from the priorities that the full committee put in this bill on pages 5 and 6, which I wish the Secretary would adhere to at each point, nor do I expect that this amendment would bring forth any conflict that the Housing and Urban Development Secretary might feel arises, because it is very clear, I think, from the legislative history that I am establishing right now that there is no conflict, that our desire is that the committee will take full precedence, but this will be a priority.

And, lastly, Mr. Chairman, I would suggest there is nothing wrong with this as a priority following the committee's priority. One of the first bonded housing units in the city of Bridgeport, Conn., was converted into a cooperative, which has been lauded by everyone as a fantastic idea. In fact, HUD has given money to modernize it and turn it over to the tenants.

The CHAIRMAN pro tempore. The time of the gentleman from Connecticut (Mr. McKinney) has expired.

(By unanimous consent, Mr. McKinney was allowed to proceed for 1 additional minute.)

Mr. McKINNEY. Mr. Chairman, we have asked many times and ask again that HUD or the Department of Energy, or anyone else, put domestic hot water solar systems on these buildings. We are simply talking about that one factor. Domestic heating fuel prices of 82 cents or 83 cents per gallon could bankrupt a very good potential cooperative project.

Mr. ASHLEY. Mr. Chairman, I rise in support of the amendment proposed by my colleague, the gentleman from Connecticut (Mr. McKinney). This amendment seeks to encourage greater energy conservation efforts in the modernization of our public housing units, and this is entirely on target. I support the amendment. The priority for renovating vacant and substandard units, as indicated by the gentleman from Connecticut, is already established in the bill. To renovate such units without including energy conserving improvements obviously makes little sense. So by encouraging the installation of energy conservation measures now we will assure that, as fuel costs escalate in the future, the utility costs for low-income tenants will be lower than they would otherwise be.

It also appears to be a sound financial management practice to consider a life cycle cost analysis as one of the criteria used in selecting heating and cooling systems for low-income housing units. While the front-end costs for a new system must be considered, it is important to require the efficiency and the long term operating costs of such systems to also be examined. So with these thoughts, Mr. Chairman, I applaud the amendment offered by my distinguished colleague, the gentleman from Connecticut (Mr. McKinney), and I urge its adoption.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, the minority is very pleased to join in the support of this amendment. I can only add that it is a constructive improvement and is in keeping with the quality of the work that the gentleman himself gives to the subcommittee and the effort he puts forth.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Connecticut (Mr. McKinney).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title II?

AMENDMENT OFFERED BY MRS. SNOWE

Mrs. SNOWE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Snowe: Page 14, after line 22, insert the following new section:

VERIFICATION OF INCOME

Sec. 211. Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection at the end thereof:

"(k) The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and federal income taxation and data relating to benefits made available under the Social Security Act, the Food Stamp Act of 1977, or title 38 of the United States Code. Any such information received pursuant to this subsection shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section."

Mrs. SNOWE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Maine?

There was no objection.

Mrs. SNOWE. Mr. Chairman, I am offering this amendment this afternoon on behalf of my colleague, the gentleman from New Jersey (Mr. Maguire), who had to leave because of a commitment. I was a cosponsor of this amendment, along with the gentleman from New Jersey (Mr. Hughes) and the gentleman from Iowa (Mr. Bedell).

Since 1971 the General Accounting Office has issued five reports which have identified shortcomings and weaknesses in tenant income reporting and verification in HUD's housing assistance programs. GAO indicated that much of the payment error is the result of poor area office monitoring.

HUD's own experimental housing allowance program serves as an indication of the scale of the problem. EHAP projected its findings to the section 8 program and estimated that a thorough process of income verification in the section 8 program could result in a potential reduction in gross payment error of $73.8 million—overpayment plus underpayment—and 10.8 million in net payment error.

I understand that HUD is about ready to embark on a study of the income verification process. I commend the Secretary for recognizing the need for such a study. However, it will be at least 2 years before we see the fruits of this endeavor. Something must be done in the meantime.

My amendment would mandate that HUD do occasional and thorough audits of randomly selected section 8 tenants. The Secretary is left to her own discretion as to how many audits are necessary and within HUD's financial and personnel capabilities. The tenants who are chosen will be required to provide the information themselves or authorize HUD to obtain the information.

I know that HUD plans to incorporate some auditing in its overall study. However, auditing should not be tied to the study alone. Auditing should be a standard part of HUD's program during the study, after the study is completed, until the Secretary has implemented a new system as an outgrowth of the study, and hopefully will be incorporated in whatever new system is proposed.

The thrust of this amendment is fairness. Those who deserve subsidies should not have to wait in line behind those who are receiving them outside the letter and spirit of the law.

As provided in the amendment, all information is confidential and restricted to income verification purposes, so that the tenant's right to privacy is preserved. Neither the Public Housing Authority (PHA) nor, most importantly, the project manager, will have access to this information.

The General Counsel of HUD found no legal prohibition in the use of these audits with respect to the Tax Reform Act of 1976 nor the Privacy Act of 1974. As a matter of fact, the General Counsel pointed out that HUD currently utilizes an IRS consent form for its section 235 program.

We must insure adequate privacy for the tenants but at the same time we must insure that the people who are receiving the subsidy are those who are truly needy.

We are all aware that fiscal responsibility is necessary. Any program that evidences the amount of error that this one does—$73 million per year—certainly needs to be made more efficient. This amendment is a step in that direction and I urge my colleagues to support it.

☐ 1710

Mr. GRISHAM. Mr. Chairman, will the gentlewoman yield?

Mrs. SNOWE. I yield to the gentleman from California.

Mr. GRISHAM. Mr. Chairman, I rise in support of the Snowe amendment, which would require HUD to improve income verification procedures in its section 8 rent control subsidy program. As ranking minority member of the Manpower and Housing Subcommittee, which has oversight jurisdiction over

HUD, I have special interest in this amendment.

This has been termed the "Oversight Congress." I applaud that concept, in view of the fact that the sense of the American people is that Government expenditures should be reduced and programs operated as effectively as possible. We in Congress must vigorously oversee these programs, and should expect HUD to do the same. HUD and its clients should show a greater concern for effective operation of its programs. Further, the Congress must play an adversary role to the executive departments.

In testimony before the Manpower and Housing Subcommittee last year, HUD stated that they saw no underreporting in section 8, knowing that HUD's Office of Policy Development and Research had budgeted over one-half million dollars for an upcoming study of section 8 cheating. However, already GAO has provided evidence of serious income misreporting. As has been stated earlier, the General Accounting Office has issued five reports on income certification deficiencies in HUD programs. Clearly, here is a Department which is unwilling to take steps to correct an intolerable situation. My staff informs me that the Comptroller's office indicated that GAO will not issue income verification reports beyond those already underway, and the reason for this is that the GAO is tired of returning to the same problem areas.

Congress should not sit still for 2 years while the HUD study is being done before improvements are made. HUD now has the authority to do audits. But presently, its procedures are inadequate because HUD area offices almost never look beyond the documents submitted by tenants. Few complete audits are performed. Unless HUD improves its verification process, I see little hope for reducing the incidence of misreporting by tenants receiving section 8 subsidies. In light of HUD's poor performance to date, I believe this amendment should be adopted to force the Department to better oversee its rent subsidy programs.

Mr. STANTON. Mr. Chairman, will the gentlewoman yield?

Mrs. SNOWE. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, it is my understanding the gentlewoman offers this on behalf of herself and the gentleman from New Jersey (Mr. MAGUIRE). The gentlewoman has been very gracious in giving us a copy of this amendment. Obviously a great deal of work, not only on behalf of the gentleman from New Jersey (Mr. MAGUIRE), but on the part of the gentlewoman, has gone into this; and I compliment the gentlewoman and support the amendment.

Mrs. SNOWE. I thank the gentleman.

Mr. Chairman, I urge my colleagues to support the amendment.

Mr. ASHLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment, but with a word of caution.

What the gentleman is suggesting makes sense, particularly when we are all trying to reduce costs in the section 8 program and to assure that its benefits go to those who need it most.

I know that HUD is conscious of this problem not only in section 8, but in all the assisted housing programs.

I do not doubt that there is a certain amount of understatement of income. On the other hand, at least one HUD study showed that almost as many people were contributing too much.

In the face of some evidence that problems do exist in the section 8 income certification process, HUD has acted responsively to address both the general and specific problems encountered.

In addition to centralizing the multifamily programs, the Department has established a steering committee to coordinate the Department's efforts to solve a number of specific section 8 related problems.

Some of the activities which the committee is overseeing include:

First. An examination of HUD's administrative procedures for handling tenant applications, recertifications, and the vouchering process in order to minimize the potential for error, waste, and/or fraud;

Second. The development of information and a training program for project owners and managers designed to reduce the error rate and confusion in section 8 tenant application, recertification and vouchering;

Third. The investigation of the cost-effectiveness of different remedial strategies; and

Fourth. A major study designed to examine error rates, processing deficiencies, and alternative certification and recertification techniques in a series of HUD programs—including section 8.

With respect to this study, let me say this, and our report addresses this problem quite specifically:

An RFP is out;

Responses are due next week; and

Awards will be made next month.

Frankly, this is a very rapid, priority movement by the Department just as we have insisted in our report and in discussions with top departmental officials.

Now, I understand the gentleman's concern. He wants to be sure that this study goes forth and he wants to be sure that some verification goes on during the study. And, I think he is right. Equally important, this Department and others must remain aware of the potential difficulties in the area.

My note of concern is that in no way do we introduce or even suggest star chamber type of investigations, and I know that neither the gentleman nor his amendment suggest that.

As I have said, I believe that what the Department is doing, particularly with the study, is right on track. The amendment will assure that this process continues and I am pleased to support it.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maine (Mrs. SNOWE).

The amendment was agreed to.

Mr. CAMPBELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask a question of the gentleman from Ohio (Mr. ASHLEY).

During our committee deliberations of H.R. 3875 I offered an amendment for consideration which would have provided clarification with respect to the definition of handicapped persons eligible for assistance under the HUD section 202 direct loan program. During the course of our committee's discussion on this issue, I agreed to withdraw my amendment in favor of clarifying committee report language on this subject. Unfortunately, the report language was inadvertently omitted and is not included in the committee report. I would, therefore, like to engage in a colloquy with the chairman to provide, for the record, an understanding of the committee's views with respect to this matter.

Mr. Chairman, I believe that it is clear that the Congress never intended that the 202 program for the elderly and handicapped, be expanded to include facilities for persons suffering from drug addiction and alcoholism who need specialized care.

Despite this fact, it has come to my attention that HUD and the administration are now proceeding without consultation with the committee to unilaterally expand the scope and definition of eligibility for assistance under the 202 program for inclusion of temporary impairment categories such as alcoholism and drug abuse.

My purpose, Mr. Chairman, is to clarify that section 202 eligibility is limited to the needs of our senior citizens and the truly developmentally disabled, and that they should not be expanded beyond the original intent of Congress and the ability of HUD to administer.

Those disabled by drug addiction and alcoholism require very special care, which is better available through HEW. This has been recognized by all of us through the years.

I seek only the assurances of the gentleman from Ohio, that HUD will be placed on notice that any unilateral action to expand the 202 program by regulation, or other administrative method—as previously described—prior to appropriate congressional review and study of the ramifications of this change, is contrary to the wishes of the committee.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Ohio.

Mr. ASHLEY. I am pleased to agree with my distinguished colleague from South Carolina. It is not our intention to permit HUD to unilaterally expand eligibility for the section 202 elderly and handicapped housing program by regulation to include people who require specialized care due to drug or alcohol addiction. However, it should be said at the same time that it is not our intention to exclude unilaterally people who have suffered from these afflictions in the past but who require no specialized care.

Mr. CAMPBELL. Certainly that is understood, and it was understood in my raising of the amendment to begin with.

I thank the chairman for clarifying this situation.

Mr. ASHLEY. I appreciate the courtesy of my friend from South Carolina. I apologize for the inadvertence that caused the report language not to be included as was promised.

Mr. CAMPBELL. Mr. Chairman, I yield back the balance of my time.

Mr. GARCIA. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, very briefly; I am not taking the 5 minutes, but I do want to talk about one section of title II. That is the section that is called 203, the increase in tenant contributions in assisted housing.

Mr. Chairman, in addressing myself briefly to this provision, the increase in the tenant's contribution, which would raise the rent for those people who are presently living in public housing whose incomes range from 50 to 80 percent of median income, from 25 to 30 percent of their annual income.

While in percentage terms, Mr. Chairman, the total number of tenants that would be required to pay this additional amount is small, the effect in certain areas of the country, and particularly, Mr. Chairman, in the city of New York, would be rather large. Of the total number of tenants living in New York City Housing Authority's projects some 23 percent fall into this income category. This is the group, Mr. Chairman, that we refer to as the working poor and, in my mind, Mr. Chairman, to force them to pay additional rent in this time of skyrocketing inflationary costs is really an unfortunate decision. But I realize the situation that the committee found itself in, particularly in its efforts to forestall a huge across-the-board increase in rentals for all tenants in assisted housing.

Mr. Chairman, the basic problem that many of us have in areas like the city of New York and my colleague, who sits on this committee with me, the gentleman from Maryland (Mr. MITCHELL) has, as many members of the Black Caucus have expressed themselves, is that there are people who are presently residing in public housing who, in fact, may be on welfare.

But then there is that core of people who are just marginally making it. The basic problem we have with the increase of 25 to 30 percent, Mr. Chairman, is that it is really going to play a very negative role in terms of their income and their ability to maintain themselves. I believe that it is unfair that our working poor families will be required to pay more rent. These families are barely able to keep their heads above the rapidly increasing costs of everything. One of the goals of this Congress is to get people off the welfare rolls and to become productive members of society. But now we are forcing the ones at the brink of the poverty line into a situation where welfare will be their only way to survive.

Mr. Chairman, I yield back the balance of my time.

My further concern, Mr. Chairman, is the unique situation that exists in the public housing projects of my city. New York City's Housing Authority has a far higher percentage of the so-called "working poor," than do other large city public housing authorities around the country. Most other public housing authorities in large urban areas are predominantly inhabited by very low income people, that is those below 50 percent of area median income. Twenty-three percent of New York City's public housing tenants are over the 50 percent of median income level. These people are just making it and they are making it because in many cases they live in our low rent public housing projects. In order to maintain economic integration as it exists in the New York City Housing Authority, we must be able to keep the high low income families in public housing. If they leave and the proportion of welfare families increases the subsidies paid by the Federal Government will also increase. In addition, we will be burdening them with a rent increase which may cause them to turn to other Federal assistance programs, whether it be welfare or food stamps or other Federal and local assistance.

□ 1720

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words.

I would like to commend my colleague from New York for his humane and thoughtful statement on the effect of the rent-income ratios in the proposed legislation. In New York City we have attempted to have a range of tenant incomes in our housing developments in accordance, I think, with the thinking of this House in passing the 1974 act. That means that a substantial number of our tenants in our public housing do fall in the range that will be affected by the bill.

While the overall impact of the bill on the tenants may be small, the effect will be quite significant. I myself am fearful that the impact on the public housing in general can be significant because, of course, these tenants tend to be in the leadership ranks within the housing developments, and in a sense, by raising the rents, often significantly with respect to such tenants, we may, in fact, drive out of public housing some of those whom we would most like to keep in it.

I too would express grave caution about this portion of the bill and wonder whether we are really going the right course in adopting it.

I recognize too, as my colleague from New York did, the pressures emanating from the other body on this issue, and perhaps we have to take this minimal step in order to fend off still worse from the other body. But I do think we should recognize what we are doing as we do that.

Mr. PEPPER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in spite of the popular impression, the housing problem of elderly is not primarily an institutional one. Only 5 percent of all people 65 and over live in institutions. Over 90 percent live in individual homes and housing projects scattered among housing occupied by people of all ages.

What makes the elderly unique is the extent of their housing needs. Close to 10 million elderly households are classified as having "lower incomes." Seventy-one percent of the Nation's senior citizens qualify for section 8 housing assistance. Close to 7 million elderly households—approximately 50 percent—have "very low" incomes (50 percent of the median or less).

Many elderly are paying more han 35 percent of their income for rent. The situation is especially severe for elderly women. The median ratio for this group is 37 percent and 50 percent of the households are paying more than 35 percent of their income. In total, more than 1.7 million elderly renters are paying an extremely high proportion of their income on housing. When the number of elderly homeowners paying over 35 percent of their income is added, the overall figure balloons to 2.8 million households.

Many other elderly are paying a lower proportion of their income, but for the poorest quality housing. One hundred forty-one thousand elderly homeowners and 180,000 elderly renters do not have complete plumbing facilities. The housing of 600,000 elderly households has two or more structural deficiencies. These figures clearly demonstrate that a substantial number of the elderly are living in units that would very probably fall below a socially acceptable minimum standard.

The Housing and Community Development Amendments of 1979 represent the agonizing compromise of addressing these needs in a time of fiscal restraint. The bill goes forward in meeting the 30-year-old congressional commitment of a decent home in a suitable living environment for every American. But, as the report on the bill states, "[We] must never lose sight of the fact that we have much left to do."

AMENDMENT OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANSEN: Page 14, after line 22, insert the following new section:

LABOR STANDARDS AND ASSISTED HOUSING ACTIVITIES CONDUCTED BY NEIGHBORHOOD-BASED NON-PROFIT ORGANIZATIONS OR INDIANS

SEC. 210. Section 12 of the United States Housing Act of 1937 is amended by inserting the following before the period at the end thereof: ", except that the provisions of this section shall not apply to (1) a substantially rehabilitated project assisted under section 8 if such rehabilitation is carried out, directly or by contract, by a neighborhood-based non-profit organization, and (2) any project for families who are members of any Indian tribe, band, pueblo, group, or community of Indians or Alaskan Natives".

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio.

There was no objection.

● Mr. APPLEGATE. Mr. Chairman, I respectfully request time to specifically address the community development block grant needs of small cities.

As much of my congressional district is comprised of small cities, I am accutely aware of the diverse array of community development needs of small cities. They are as great in number as many of the larger urban areas, but with the main difference of having smaller staffs and fewer resources to adequately address their particular needs. These needs run the gamut, from that of hardware, such as sewer, water, and other physical facilities, to needs less easily identified, like the revitalization of a downtown.

According to views reported in studies made on this subject, many small urban areas feel neglected by the Federal Government and cheated by the programs which have been tailored for larger cities. The small city is basically seeking fair consideration in programs that already exist and the required flexibility to meet their wide variety of needs.

Small cities have repeatedly identified the condition of streets, the condition of existing housing, a lack of housing for the elderly and handicapped, and attracting new jobs as uppermost in severity of problems. The top priorities for improvement in most instances have been identified as sewer and water facilities and street improvements.

Due to the broad range of eligible activities under CDBG, the small cities program can be effectively used by small cities to satisfy these needs—from basic infrastructure needs to sophisticated financing mechanisms for rehabilitation of housing.

The existing legislation responds specifically to small cities' needs through two mechanisms—the noncomprehensive or single purpose approach which allows cities to address a single critical community development need. This approach permits small cities to take advantage of simplified application requirements. For other small cities with more complex needs, the comprehensive approach may be more desirable and responsive to local needs. The legislation also provides the option of multiyear commitments under this approach which assures small cities a continued source of funds. An option which has been taken full advantage of by many small cities.

Another area through which small cities have benefited from the program's block grant approach has been the local determination of needs, a factor which most small cities find not only desirable, but also necessary. The stability which the program has demonstrated is yet another area for which small cities has shown appreciation. Equally important is the fact that the small cities program has one of the shortest time lags between application and approval.

For these reasons and many more, I support the continuation of the small cities program and it's authorization to help the community development of our smaller cities keep on a target with the rest of the Nation.●

● Mr. SABO. Mr. Chairman, housing rehabilitation has become an essential tool in HUD's efforts to revitalize the Nation's cities and to meet a growing population's need for decent, safe, and santitary housing. Public activity in this area is designed to meet needs created by disinvestment trends in urban areas and the inability of low-moderate income people to afford the cost of rehabilitation and financing without some form of assistance.

The section 312 loan program, authorized by the Housing Act of 1964 was one of the first major federally funded rehabilitation efforts, and has served as a model for other activities in the field. Interest in both section 312 and in use of community development block grant funds for rehabilitation increased dramatically in the last 5 years. Over 17,000 communities now administer HUD funded rehabilitation programs. The number of participants and the quality of individual programs are expected to grow as technical assistance activities are developed and expanded, and knowledge of rehabilitation increases.

The section 312 rehabilitation loan program supports local development activities funded by the community development block grant and urban development action grant programs. It provides 3 percent rehabilitation loans to low-moderate income owners of property in specifically designated target areas. The program can be used to meet the needs of different types of neighborhoods, which require different redevelopment strategies. For example, in aging areas surrounding the urban core, the low-interest loans can be used to finance necessary repairs and general improvements. In most cases, conventional financing even with FHA title I loan insurance would either be too expensive or unavailable—thus making rehabilitation impossible. The 312 loan thus serves three objectives: First, it extends the life of the housing supply; second, it helps stabilize and improve the quality of the neighborhood; and third, it improves the quality of housing for those who would not otherwise afford it.

In severely deteriorated urban centers, 312 loans can be used strategically as part of intensive community development efforts. They can stimulate other rehabilitation activity in the area by increasing confidence, providing visible proof of improvement and public activity, and to secure additional financing from public and private sources.

The new multifamily component authorized for $60 million for fiscal year 1979 will be used in conjunction with attempts to conserve and improve the supply of rental units. These provide the major source of housing for low-moderate income people. The existing supply has been decreasing at dangerously high rates due to abandonment, deterioration, condominium conversion, and the high cost of construction, maintenance, and repair. Escalating costs of labor and materials, and financing, necessitate after rehabilitation rent increases beyond the means of low- and moderate-income tenants. In many cases, therefore, instead of preserving apartment units for these people, rehabilitation effectively displaces them. Section 312 can perform two major functions: It reduces rehabilitation costs and, therefore, may stabilize rents, and provides financing that may not be available through private sources.●

● Mrs. CHISHOLM. Mr. Chairman, I rise today in support of the passage of H.R. 3875, the Housing and Community Development Amendments of 1979, H.R. 3875. At the same time, however, I must stress my concern over some aspects of the legislation, mainly what I see as the overall inadequacies in the levels of funding for programs administered by the Department of Housing and Urban Development.

With the passage of the 1949 National Housing Act, the Federal Government articulated its first national housing goal—"a decent home and suitable living environment for every American family." Thirty years later it is apparent that this goal has never been properly addressed. An estimated 14 million American families live in substandard housing or in homes costing excessive amounts relative to their incomes.

H.R. 3875 contains the authorizations for the major programs of the Department of Housing and Urban Development which seek to broaden the accessibility of low- and moderate-income families to decent and affordable housing. In addition, the successful community development block grant program and the urban development action grant program represent major vehicles for continued revitalization of declining American communities. With respect to the UDAG program, I fully support the increases which the Committee on Banking, Finance and Urban Affairs has proposed. This promising program remains the only way in which to leverage dollars out of the private sector for needed urban investment. It has the potential for making significant inroads into the unemployment situation in our inner cities.

Unfortunately, the committee has not seen fit to increase the funding levels for programs which have direct impact on the access of low-income Americans to better housing. The section 312 housing rehabilitation loan program is one of the most successful activities of the Department of Housing and Urban Development. Although the bill before us does increase authorization for the program by $20 million over the President's request, the funding level for the rehabilitation loans is a marked decrease from 1979 appropriations. Considering skyrocketing costs in the housing market, a reduction in housing starts, and the reduction in federally assisted rental units authorized for construction in 1980, it seems unwise to decrease funding for the only vehicle that people have to obtain low-interest rehabilitation loans.

Although I concur with the importance that the committee has placed on modernization of existing low-income dwellings, I am distressed at the cutback that will occur in new construction of needed public housing units. I hope that this is not setting a precedent of sacrificing new low-income housing construction for the sake of needed funds for modernization of existing units.

The current revitalization process proceeding in many American cities appears to be having a distinctly negative impact on lower income families. They are suffering immensely from the rising costs of housing which threaten to displace them from the communities that have been their long-time homes. Adequate funding for Federal housing programs for these families must be realized if this Nation is to firmly commit itself to the goal of decent affordable housing for every American.●

● Mr. WOLFF. Mr. Chairman, the amendment previously offered by myself and the gentleman from North Carolina (Mr. NEAL) today would provide eligibility under the urban development action grant program to a number of distressed areas of our country. Under present law, many of the needy areas are excluded from the program.

The amendment which I have cosponsored with the distinguished gentleman from North Carolina (STEPHEN L. NEAL), would amend section 119 of the Housing and Community Development Act of 1974 by allowing up to 20 percent of the UDAG funds to be targeted to cities and urban counties which have within their boundaries areas of extreme poverty. Grants that are made under this provision must be used for the direct benefit of the area or areas suffering from physical and economic problems. Large urban centers of 50,000 or more would be eligible if they contain inflicted areas.

The area of poverty would have to contain one or more contiguous census tracts with a population of 10,000 persons or 10 percent of the population, whichever is less. The area must meet certain eligibility requiremnts. Small cities would also be eligible to participate. For cities and urban counties with a population of less than 50,000, eligibility for the UDAG program would be granted to areas composed of one or more contiguous census tracts with a total population of 2,500 persons or 10 percent of the population, whichever is larger. This area must also meet the eligibility requirements outlined in the program's formula.

The UDAG program is designed to provide Federal assistance to areas in severe economic distress. The program utilizes a unique approach for it encourages private sector involvement in the overall development plan. Many areas, however, which are in dire need of assistance, are not eligible to participate in the program. Many localities have been excluded from the program because the criteria for eligibility is determined on a citywide or countrywide basis. Adequate treatment has not been provided for these areas contained within healthy cities and urban counties. The economic health of distressed communities can no longer be ignored. These communities located in the confines of healthy jurisdictions share the same realities that any other economically stagnant city or urban county faces.

There is another important reason for adopting this amendment. We have all learned that an illness or infection should be checked before it gets worse and spreads to healthy parts of the body. I think this analogy applies here. The boundaries of the "pockets of poverty" could disperse to the healthy areas. Because of this danger, these areas must be treated before they become major problems. By providing the UDAG assistance, "pockets of poverty" can be prevented from spreading into healthy localities.

Many of my colleagues may feel that cities which are experiencing times of prosperity would best be able to treat these areas without the assistance of the Federal Government. One must not forget that there are problems associated with rapid growth also, cities which are experiencing the pleasures of accelerated growth are also experiencing the hardships of increased demand on municipal services. Everyone knows that economic development is a delicate science. Additional pressures could easily spell the difference between economic development and economic distress. I firmly believe that this body should relieve the burden of one of these pressures by providing funds to assist governmental units in erasing "pockets of poverty."

The provisions of the amendment being discussed have been included in the Senate version of the Housing and Community Development Amendments of 1979. In the report of the Senate Committee on Banking, Housing, and Urban Affairs, the committee felt:

> In adopting this amendment, the committee recognized that people living in areas of distress within otherwise healthy cities share the same economic plight as people living elsewhere, and they should be eligible to benefit from the UDAG program.

I call upon my colleagues in the House of Representatives to express the same sensitivity that was expressed by the Senate committee. The failure to recognize these communities within economically healthy jurisdictions is a major flaw of the program and must be corrected. The Senate committee estimates that the 20 percent ceiling would earmark about $135 million of the proposed $675 million for fiscal year 1980. I applaud my colleague from North Carolina for putting forth this worthwhile initiative and I hope my colleagues will join in support of this amendment.●

Mr. ASHLEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BENNETT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4289, SUPPLEMENTAL APPROPRIATIONS, 1979

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 96–235) on the resolution (H. Res. 298) waiving certain points of order against the bill (H.R. 4289) making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2444, EDUCATION ORGANIZATION ACT

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 96–236) on the resolution (H. Res. 299) providing for the consideration of the bill (H.R. 2444) to establish a Department of Education, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES, AND THE ADMINISTRATION OF JUSTICE OF COMMITTEE ON THE JUDICIARY, AND SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT WEDNESDAY, JUNE 6, 1979, WHEN HOUSE IS IN SESSION

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the Committee on the Judiciary, and the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce be permitted to sit on Wednesday, June 6, 1979, when the House is in session, for the purpose of holding a legislative hearing.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON PANAMA CANAL OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT ON WEDNESDAY AND THURSDAY, JUNE 6 AND 7, 1979, DURING 5-MINUTE RULE

Mr. BAUMAN. Mr. Speaker, on behalf of the gentleman from New York (Mr. MURPHY) I ask unanimous consent that the Subcommittee on Panama Canal of the Committee on Merchant Marine and Fisheries be permitted to sit during the 5-minute rule on Wednesday and Thursday, June 6 and 7, 1979, for the purpose of holding hearings.

The SPEAKER. Is there objection to the request by the gentleman from Maryland?

There was no objection.

THE MOVE TO SABOTAGE THE TREATIES

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR of Michigan. Mr. Speaker, I would like to bring to the attention of my colleagues the following article by Mr. William F. Buckley, Jr., which recently appeared in the Washington Star. The House of Representatives will be voting on this legislation next week. Mr. Buckley's observations regarding the necessity of the implementing legislation for the Panama Canal treaties should be valuable to those Members who are presently reviewing their position on this important issue:

The Move to Sabotage the Canal Treaties

(By William F. Buckley, Jr.)

Concerning the effort by members of the House of Representatives to derail the Panama treaties, a few observations:

(1) There is only one discipline indispensable to self-government. That is acquiescence in a political fait accompli. The reason democracy doesn't work in most countries in the world is that corporate political decisions are not accepted as binding by the whole of the population. Vice President Richard Nixon had very good reason to believe, in November 1960, that he had in fact won the election. It is the most statesmanlike act of his career that he failed to press his claim. Because if he had done so, the country would have been thrown into chaos. Better, in other words, to have permitted Mayor Daley to steal votes in Chicago, than to dismantle the Republic.

(2) The current effort by a few congressmen to draft legislation implementing the Panama treaties isn't, in the proposals of Congressman Hansen, an effort at devising harmonious legislative devices to implement a treaty passed by two-thirds of the U.S. Senate. It is, really, an effort to repeal that treaty. None can, in clear conscience, recognize it as anything but that.

Another way to put it is this: if the Hansen proposals were written into law, the resulting situation would be one that Panama would never have agreed to during the decade of negotiations that led to the 1977 treaties. Moreover, the Hansen proposals ask for more than United States negotiations ever asked for under four presidents, two of them Democrats, two of them Republicans.

Among other things, Mr. Hansen is asking the Panamanians to pay to the U.S. the cost of constructing the canal, plus interest. One wonders why, while he is at it, Mr. Hansen hasn't proposed that Panama also reimburse Congress for the time it has spent in discussing the Panama problem.

The fact of it is that the Hansen proposals are parliamentary exploitation of an unseemly sort. They are the equivalent of a Democratic Congress refusing to pay the cost of the inaugural ceremonies of a Republican president.

(3) Any discussion of money, in the Panama treaty situation, is easily confused if one doesn't take carefully into account that revenues from the operation of the canal aren't infinitely expansible. It is all very well to say, blithely, that the Panama Canal Commission should raise the toll charges 20, 30, 50, 100 percent. But the demand for the canal is highly elastic. As matters now stand, a freighter traveling from Osaka to New York will flip a coin in deciding whether to use the Panama Canal or the Suez Canal.

The United States has a clear interest in keeping the cost of the canal down. And,under the treaty, a commission the majority of whose members are U.S. citizens would set the toll charges. To impose on Panama economic burdens that could only be discharged by raising those toll charges would result in heavy impositions on shipping, and higher costs to importers and consumers; and, at the margin, to diminished gross revenues as a result of unbearable costs. Thus the Hansen proposals, viewed economically, are an invitation to make the Panama Canal obsolete.

(4) Assuming the Hansen proposals carried in the House, what would the situation then be? Well, the Senate obviously would decline to go along. A majority of the Senate is hardly going to vote to undo what two-thirds of the Senate voted to do last year after the most prolonged debate since the Missouri Compromise. Under the circumstances, the treaty, scheduled to go into effect on October 1, 1979, would be frozen for lack of funds required for its implementation.

This would leave us with what? Not with the Treaty of 1903. That treaty was formally repealed by the Senate when the fresh treaties were enacted. There is no way that Congressman Hansen can bring back the old treaty. We would be left without an operative arrangement with Panama. In legal Limbo, so to speak. Panama could then legally seize the canal, withdrawing its commitments under the 1977 Treaty on the grounds that the partner to that treaty had not acted in good faith. And we would then be left with—the United States Marines. Period. We would have cut ourselves off from judicial and moral and military rights we now formally have, but which some people are prepared to give away for one round of applause at an American Legion rally.

☐ 1210

BALANCED ECONOMIC GROWTH AND LOW UNEMPLOYMENT WILL FOSTER HIGH PRODUCTIVITY

(Mr. HAWKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAWKINS. Mr. Speaker, in all the discussion and concern about the unsatisfactory performance of the economy and the clear signs of worst to come, nothing has received more attention than the unusually low rate of productivity growth during the last few years. Very low productivity growth reduces total production, and thus hurts every American. In addition, very low productivity growth, by increasing per unit costs of production, is one of the most fundamental causes of inflation.

When productivity gains were high, or between 3 and 4 percent a year for the private economy as a whole, the proper formula was to increase real wage rates in accord with productivity gains. This exerted no upward pressure upon prices. It also provided increases in the individual worker's purchasing power, properly in line with increases in output per hour of applied labor. This was fair to the worker, and it promoted balanced economic growth without inflation.

But when productivity gains have been very low or negative, wage rate policy becomes impaled upon one of two horns of an insoluble dilemma. If real wage rate gains are held to the level of very low or negative productivity gains, dissatisfaction or even discord becomes prominent throughout the industrial structure; and even more important, such trends in real wage purchasing power augment stagnation or recession instead of promoting economic recovery. For example, the average wage rate throughout the private economy is now about 2 percent lower than a year ago in real terms. On the other horn of the dilemma, if real wage rates are advanced far out of line with very low or negative productivity gains, the result is a large increase in inflationary pressures, either because this disparity forces prices upward or because it is used as an excuse for price increases far in excess of those justified by current levels of profits. That type of price excess is very obvious in the economy today.

It is therefore imperative that we examine the true causes of low or negative productivity growth, and shape policies accordingly. In my remarks on this floor on April 30, and not for the first time, I objected to the highly restrictive fiscal and monetary policies of the administration and the Federal Reserve Board in late 1978 and early 1979, affirmed in the main by even more recent actions of the Congress in connection with the first concurrent budget resolution and in other ways. These policies and programs are designed to fight inflation by a so-called "cooling off" of the economy, in other words, by deliberately reducing real economic growth and driving upward unemployment and idleness of other production resources. And I have repeatedly pointed out that such policies and programs, to the extent effective, strike a mortal blow at productivity growth, with a resultant increase in inflationary pressures.

The manifestations of the movement away from satisfactory real economic growth and toward rising unemployment, along with further increases in inflation, are all around us. The Government's index of leading economic indicators, as reported by the Commerce Department, dropped a record of 3.3 percent in April. The Department also reported that orders for manufactured goods declined 6.1 percent in April, the largest drop in 10 years. The unemployment rate in May was higher than in March. Meanwhile, the annual rate of inflation, lingering for awhile at the fantastic figure of 13 percent, has risen still higher. These trends have now become a matter of such common knowledge that they require no further documentation at this time. But, the adverse impacts of low economic growth and high unemployment upon productivity, and the aggravating impacts of low or negative productivity growth upon inflation, require repeated discussion.

I therefore find it necessary to review once again, the long empirical evidence on these points, which becomes even more pertinent in view of the most recent developments. During the period 1947–53, the real economic growth rate averaged annually 4.8 percent and unemployment was reduced to 2.9 percent, and during the period 1960–66 the real economic growth rate averaged annually 4.9 percent and unemployment was reduced to 3.8 percent. Accordingly, the average annual growth in productivity in the private economy was 3.8 percent in both periods. But, during the period 1953–60, the real economic growth rate averaged annually only 2.5 percent and unemployment rose to 5.5 percent, and again during the period 1966–70 the real economic growth rate averaged only 2.3 percent and unemployment in the last year was 4.5 percent. Accordingly, the average annual growth rate in productivity in the private economy during these two periods was only 2.6 percent and 1.7 percent, respectively.

In contrast, during 1970–72, when the average annual real economic growth rate rose to 4.4 percent, the average growth rate in productivity rose to 3.1 percent. But, during 1972–78, when the average real economic growth rate fell to 2.8 percent, and when unemployment rose to 6 percent in the last year, the average growth rate in productivity in the private economy was only 1.1 percent.

That the periods of higher real economic growth and lower unemployment have evidenced far less inflation that the periods of of low growth and high unemployment has been reviewed here and elsewhere so frequently that I deem it unnecessary to cite the data again at this time.

But, as to the productivity problem, the urgent reason why I bring this matter up again today is that the most recent figures published by the Labor Department, as reported in the Washington Post on May 30, afford striking confirmation of the fact that very low economic growth and very high unemployment strike blows at productivity growth. During the first quarter of 1979, compared with fourth quarter 1978, the annual rate of real economic growth fell to the disastrously low figure of 0.4 percent, and output per work hour, or productivity, actually declined at a 4.6 percent annual rate. This was the second largest productivity drop on record, and the steepest drop since early 1974 when we were in the early stages of the worst economic downturn since the Depression.

Despite the tremendous weight of the cumulative evidence for more than a decade, national economic policies are not taking the steps needed to improve productivity by reactivating real economic growth and reducing unemployment in accord with the mandates of the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1978. Instead, the President's 1979 Economic Report and budget message stated categorically the objective of lifting unemployment considerably above the 6 percent 1978 rate during 1979 and 1980, with a real economic growth rate objective averaging only 2.7 percent during 1979 and 1980 and only 3.8 percent as the average for 1978–83. Indeed, the preponderant judgment of economists and other analysts is that the national policies and programs now taking shape will result in a negative real economic growth rate—that is, an absolute recession—later this year or early next year, with unemployment greatly rising. On the basis of the empirical record to date, this commits us definitively to an intolerably low rate of productivity growth for as far ahead as we can see, and actually may bring about a long continuation of the negative rate of productivity growth which was obtained during the first quarter of this year. These adverse trends in the productivity growth rate mean continuation of one of the most powerful inflationary forces in the U.S. economy.

It is urged in some quarters that the remedy for the collapse of productivity growth is more incentives to business investment through still more generous depreciation allowances or other forms of tax concessions. This remedy has been tried several times in recent years, and it has not worked. It is a remedy inconsistent with attempts to reduce the Federal budget deficit. Far more important, the remedy is wrong because profit levels in general, and especially in some of those key industries like oil, are more than adequate to induce more business investment if not inhibited by the growing imbalance between very high profits and declining ability to consume. In fact, these imbalances have been increasing rapidly during the most recent period in the same manner as before previous periods of stagnation and recession. To illustrate, from fourth quarter 1977 to fourth quarter 1978, investment in plant and equipment which enlarges the ability to produce increased 6.1 percent in real terms and corporate profits increased 10 percent in real terms, while ultimate demand in the form of total private consumption expenditures plus total public outlays for goods and services increased only 3 percent in real terms and wages and salaries increased only 2.8 percent in real terms. The relative trends today are even worse.

Under these circumstances, further tax concessions to business investors will not evoke more investment toward the end of higher productivity gains. Even if such higher productivity gains took place along with the current imbalances and the deficiencies in ultimate demand which are being increased by current national economic policies, the result would be still more unemployment through technological displacement of workers. We have already gone too far in the direction of tax concessions for those who produce.

The safe and correct road toward substituting productivity advance for productivity decline is in an entirely different direction. The obvious fact is that both the Senate and the House were eternally right in 1978, as to productivity and other problems, when they approved the Humphrey-Hawkins Full Employment and Balanced Growth Act by overwhelming votes. That act mandates that unemployment be reduced every year, beginning with 1979, instead of pursuing policies which will lift unemployment for at least 2 years. It mandates year by year goals for real increases in total national production, beginning in 1979, consistent with these unemployment reduction goals, and also because we need full production as much as we need full employment. This imports a real economic growth rate averaging about 5.5 percent annually from 1978 to 1983. The act forbids the continued use of the discredited "tradeoff."

This "tradeoff" is allegedly intended to get less inflation through more unemployment when, as I have stated, the long and consistent empirical evidence is that more unemployment means more inflation. The act, in addition to mandating efforts to reduce inflation by enlarging real economic growth and lowering idle production resources, mandates a sensible eight-point program for the reduction of inflation, which is not being used.

All that has happened since the President signed the Full Employment and Balanced Growth Act on October 27, 1978, vindicates and corroborates the soundness of the act. Nothing has happened to justify the very recent and strange sea-change of policy on the part of a Congress which is proceeding to do just the opposite of what, for good reasons, it pledged itself in 1978 to do. Nothing has happened to justify the administration and the Federal Reserve, as well as the Congress, to pursue the 11 flagrant violations of the Humphrey-Hawkins Act which I specified in a recent insert in the CONGRESSIONAL RECORD on May 3, 1979.

Instead of taking the actions bearing upon the performance of the U.S. economy which would restore normalcy to productivity growth, the 1979 President's Economic Report and budget message told us that we must resign ourselves enduringly to a productivity growth rate averaging annually only about 1.5 percent, this having been about the adverse result of many years averaging very low real economic growth and very high unemployment. Further, this productivity forecast seems optimistic in view of what is now happening. But, even if the forecast is correct, it is dismal and defeatest beyond description.

This position by the administration, unfortunately confirmed by recent actions of the Congress, does not offer a positive and curative policy and program for improving productivity. Instead, this position is accompanied by the argument that the sharp downward trend in productivity during many years past and even now is inescapable and in the nature of things, and that nothing much can be done about it.

In consequence of this and other actions based upon the discredited assumption that the way to fight inflation is to strike blows at our general economic performance and at productivity growth, the disastrous inflation rate of recent months is still increasing, and the administration is now forecasting that at least an 8-percent rate of inflation for years to come is unavoidable. This is accompanied by soothing advice to us to be "patient," and to endure many more years of raging inflation on top of what we have had during the most recent years. This great Nation can and must do better than that, if we act in the light of reason and experience.

I earnestly hope that the administration, the Congress, and the Federal Reserve will begin to look at and respond to the evidence that the course upon which we are now embarked is wrong in all respects, and will immediately commence vigorously to reverse that course. It is patently wrong to persist in asserting that the antigrowth and prounemployment policies which have done so much damage for so long and even now, will turn out to be right, if only they are made still more repressive and unreasonable, and still more unjust to those in the lower half of the income structure, whether employed, unemployed or above the working age.

I do not like to appear to be a repetitive scold in these matters, but feel duty-bound in good conscience to state the facts. Unfavorable developments are never too old to be talked about, until they begin to be solved instead of aggravated.

NUCLEAR ENERGY AND THE FREEDOM OF THE WEST

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PRICE. Mr. Speaker, a number of newspapers last Monday, May 28, reported on a very significant piece of advice to the United States and the West in general. Prof. Andrei Sakharov, according to the reports, in an interview on West German television, again said we cannot abandon nuclear power if we want to maintain our freedom.

I cannot think of a source of advice that is more deserving or demanding of our attention. Yes, Professor Sakharov is now classified in the Soviet Union as a dissident but not long ago, as he put it in a recent article entitled "Nuclear Energy and the Freedom of the West," he was "one of the boys" in the Soviet Union and was involved in the top planning activities. He referred to efforts and plans in the Soviet Union to create and exploit energy shortages in the West. He disposed of the arguments of antinuclear elements in our society concerning safety and environmental effects, concluding that from both standpoints nuclear is not excelled by any other potential source of energy, and asserting that nuclear technology is one of the "necessary conditions" to our economic and political independence.

I included Professor Sakharov's complete article, which was obtained from him in December of 1977 and published in the Bulletin of the Atomic Scientist of June 1978, in the Congressional Record of August 11, 1978, page 25762. I do not think I can present the basic issues we face more succinctly than the way Sakharov outlines them in his article. We are very fortunate to have received his report and we should all seriously study his remarks and act accordingly.

The articles in the Monday, May 27, papers, one of which I am including at the close of my remarks, were very brief in telling who Sakharov is. He holds a position of preeminence in the nuclear science field. Besides being the developer of Soviet nuclear weapons, he lead in the development of nuclear power technology. In other words, he is one of the few Nobel laureates qualified in nuclear energy. With these qualifications and political background as a Soviet planner, his comments, views, and advice are highly deserving of our attention.

The article on Sakharov from the Monday, May 28, 1979, edition of the Washington Post follows:

West Needs Atom, Sakharov Warns

Cologne, West Germany, May 27.—Soviet dissident Andrei Sakharov, a Nobel Prize-winning physicist, said today the West cannot afford to abandon nuclear power if it hopes to remain politically independent.

In an interview with West German television, Sakharov said the mishap at the Three Mile Island plant near Harrisburg, Pa., was more of "a technical discomfort" than an accident and had been "greatly exaggerated" by critics.

"Were the West to reduce its program for building nuclear plants because of the accident in Harrisburg, it would result in a million times greater damage," Sakharov said.

Sakharov, a pioneer in the Soviet nuclear program, said the West would lose "very important advantages in economic competition with the Soviet Union and other socialist countries" if it curtailed its atomic development.

Sakharov said nuclear energy was in some ways safer than other sources, such as coal, because science better understood its effects.

He noted the uncertainty of the effects of coal-fired plants on the atmosphere's ozone layer, which protects life on Earth from harmful radiation from space.

TAX EXEMPT MORTGAGE REVENUE BONDS

The SPEAKER. Under a previous order of the House, the gentleman from Alaska (Mr. Young) is recognized for 5 minutes.

● Mr. YOUNG of Alaska. Mr. Speaker, I am today introducing a bill that amends section 103 of the Internal Revenue Code of 1954 to exempt from Federal income tax the interest on mortgage revenue bonds.

This bill would preserve the housing mortgage operations of the Alaska Housing Finance Corp., and other similar agencies of statewide jurisdiction. The Alaska Housing Finance Corp., played an extremely important role in meeting Alaskan housing needs during the population explosion of the pipeline construction years. With continued rapid rate of inflation, high housing costs, and the post-pipeline recession, the program of the Alaska Housing Finance Corp., is critical to the welfare and economy of the State.

Alaska is in a unique position among the 50 States with respect to the acute need for lower and moderate income housing, both in the developed areas of the State and in what is known as bush or remote Alaska. Alaska housing costs exceed the national average by at least 34 percent. The typical single-family dwelling in Anchorage is estimated to cost more than $98,000. The average family budget exceeds that of our nearest Lower 48 neighbor by 41 percent.

The Alaska Housing Finance Corp., was formed in 1971 and has issued over $480 million of housing bonds. In 1978 the corporation financed 38.5 percent of all the mortage loans made in the State. The corporation has eased housing costs and in particular has substantially contributed to the construction of new housing throughout the State.

The bill would apply to all statewide housing finance agencies issuing tax-exempt bonds under criteria of State control of the agency's operations which include specific State legislative authorization to finance housing for person's specified in State legislation, appointment of the board by the Governor or legislature, annual reporting to the legislature, and maintenance of a full-time staff.

A copy of the bill follows:

H.R. 4332

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Mortgage Revenue Bonds. Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Mortgage Revenue Bonds.—

"(1) In general.—Except as provided in paragraph (3), any mortgage revenue bond shall be treated as an obligation not described in subsection (a) (1) or (2).

"(2) Mortgage revenue bond defined.—For purposes of this subsection, the term 'mortgage revenue bond' means any obligation which is issued as part of an issue all or a significant portion of the proceeds of which are to be used directly or indirectly for mortgages on (or other owner-financing of) owner-occupied residences.

"(3) Exception.—Paragraph (1) shall not apply to any obligation which is issued by a State, or political subdivision, government instrumentality or public corporation of a State, with power to act throughout the State which—

"(A) is authorized by act of the appropriate legislative body of the State to finance the acquisition and ownership of residential real property for persons and families specifically designated by such legislative bodies;

"(B) the directors, trustees or other governing officers of which are appointed by, and serve at the pleasure of, the legislative or executive body of the State;

"(C) is required to report to the legislative of executive body of the State at least annually on its financial affairs and the achievement of its legislative objectives; and

"(D) maintains a full-time staff with responsibility for the processing of application for financial assistance, supervising the resulting mortgage losses and issuing the indebtedness required to finance its programs."

Section 1. Industrial Development Bonds Limited to Qualified State Housing Finance Agencies.

Subparagraph (A) of paragraph (4) of Section 103(b) of the Internal Revenue Code of 1954 (relating to industrial development bonds) is amended to read as follows:

"(A) residential real property for family units financed by an entity satisfying the requirements of subparagraph (g) (3) of this section."

Section 1. Effective Date.

(a) General Rule.—Except as provided in subsection (b), the amendments made by this Act shall apply to obligations issued after April 24, 1979.

(b) Exception for Certain Binding Agreements and Other Cases.—The Amendments made by this Act shall not apply (1) to obligations issued before May 25, 1979, pursuant to a binding written agreement to sell such obligations entered into before April 25, 1979, or (2) obligations for which a resolution or other action evidencing the issuer's intent to issue such obligations occurred before April 25, 1979.●

WE MUST FIGHT INFLATION AND UNEMPLOYMENT AT THE SAME TIME

The SPEAKER. Under a previous order of the House, the gentleman from

New York (Mr. Kemp) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, if we have learned one thing from the economic mistakes of the last decade, it is that recession is not the answer to inflation. Stopping the economy failed to stop inflation in 1969–71 and 1974–75. Yet the administration and too many Members of Congress seem to see no alternative to repeating once again the same costly and ineffective combination of Federal policies which led us into the last two recessions. This would be a tragic and unnecessary mistake.

I had the opportunity to testify on this subject this morning before the Task Force on Inflation of the House Committee on the Budget. I would like to submit that testimony for the interest of my colleagues:

Testimony of Congressman Jack Kemp

Mr. Chairman, I appreciate this chance to testify before the House Budget Committee's task force on inflation. The agenda before the task force is challenging, and I wish I had time to address several issues. However, I would like to confine my testimony today to one question—what is the proper combination of monetary and budgetary policies for fighting inflation and reducing unemployment? My conclusion will be that a consensus is emerging among leading economic theorists that inflation and unemployment are essentially separate problems, and can be solved at the same time with separate policies.

Strictly speaking, inflation is the result of monetary policy. Individual prices and wages rise and fall relative to each other all the time. But inflation—a rise in the general price level—can occur only when the supply of money grows faster than the supply of goods. The rise in a particular price does not increase the general price level unless it is accommodated by an expansion of the money supply.

Only when price stability is not the primary goal of our monetary policy does it mean anything to say that some event is "inflationary." Then the question becomes, for a given expansion of the money supply, what policies will reduce inflation? The answer, clearly, is: any policy which increases the expansion of real economic growth—increasing employment and improving productivity.

Inflation and unemployment are separate problems not only in theory, but in practice. The economic history of this century does not support the theory that there is any consistent tradeoff between inflation and unemployment. Twice in the 1950s we had recessions without inflation. Twice in the 1970s we have had recessions with inflation. In the 1920s and the mid-1960s we had strong economic growth without inflation. Between and since the last two recessions we have had fairly strong economic growth with inflation. Our failure to achieve economic growth and price stability at the same time is a failure of our economic policy rather than of our economic system.

Orthodox economic theory, of both the Keynesian and monetarist variety, concerns itself primarily with demand rather than supply. Keynesian demand management basically envisions only two policy responses to economic problems—either to increase demand or to reduce it. Therefore, our monetay and budgetary policy always tends to work in the same direction. We either get loose money, tax cuts and spending increases to "stimulate" demand; or tight money, tax increases and spending restraint to "dampen" demand; but seldom any other combination. Monetarist theory is often used along side Keynesian demand management. Monetarists argue essentially that inflating the money supply will stimulate demand and increase real output, as long as there is excess supply capacity, at least in the short run.

It is from within this framework that the administration views the problem of inflation. Alfred Kahn, the Administration's chief inflation fighter, said recently: "Nobody denies we could stop inflation in its tracks if we were willing to cut the rate of growth in the money supply and tighten Federal spending. But that would cause—as far as we can tell—serious unemployment."

The problem with the fiscal-monetary mix of demand management is that it exaggerates our booms and depressions. Attempting to slow down the economy in the interest of dampening demand was essentially the policy tried in 1969 and 1974. Frankly, to judge by the recessions that followed, it was the wrong choice. Some leading economic theorists, like Professor Robert Mundell of Columbia University, have the distinction of having warned us what would happen before it did. Based on his analysis of the 1969–71 recession, Mundell correctly predicted that a recession would result in 1974-75 due to Federal fiscal and monetary policies. Back in 1971, Mundell gave this analysis at an international conference on inflation in Bologna, Italy:

"In 1968, our problem was to stop the inflation without causing a depression. How should we have done that? Should we have done it through monetary policy or through fiscal policy? The actual policy was a tax surcharge—a move that reduced effective demand and thus was partly responsible for the recession that came about in 1969-70. After the tax increase, the inflation actually accelerated. This should not really surprise anyone, since, with a given rate of monetary expansion, a tax increase should lower output expansion and thus increase prices. And when inflation occurs in a progressive tax system, the budgetary policy becomes even more stringent than intended, because people move into higher tax brackets. By any calculation of budgetary tightness, there was great stringency in 1968, 1969, 1970, up to the present time. I can only conclude that the administration's answer to the question of how to stop inflation without causing a depression was the wrong answer, because the policy adopted caused a depression without stopping inflation. By any calculation the cost of the recession is between $90 billion and $150 billion. And the inflation certainly isn't over yet."

The inflation certainly was not over yet. In 1971 and 1972, the administration reversed its demand restraint, and following the advice of monetarists, attempted to inflate its way out of the recession. Wage and price controls were imposed in an attempt to prevent prices from rising. But the problem with wage and price controls is that when there is too much money, they can only distort individual prices, but cannot reduce the overall price level. To the degree that the price distortions reduce production, the controls can actually increase prices. In 1971 and 1972, all that excess money had to go somewhere. While wage and price controls eventually led to widespread shortages in the United States, especially in domestic energy production, the extra dollars went abroad, causing global inflation in a world which was on a dollar standard.

By late 1973, Congress and the administration again decided that the problem of inflation was serious enough to require tightening demand once again. Instead of an explicit tax surcharge as in 1968, the 1974 budget used inflation itself to raise tax rates. Since our tax laws do not adjust taxation for the effect of inflation, inflation causes tax increases by pushing everyone into higher and higher tax brackets.

Mundell and others correctly predicted that without a substantial tax cut in 1974, the number of unemployed would rise to more than 8 million, and that inflation would be double the official forecast of 7 percent.

The arguments used against a tax cut in 1974 were the same as those in 1978 and 1979. From a Keynesian viewpoint, which essentially ignores the supply effects of tax reduction, tax cuts would be inflationary because they would stimulate demand. Other economists argued that tax cuts would increase the deficit and "crowd out" private borrowing. Assuming that there is no revenue feedback, a tax cut would indeed crowd out private borrowing, but would increase private saving and reduce the need for borrowing by exactly the same amount. In addition, preventing a recession would increase the return on saving and investment as the economy expanded instead of contracted, would draw capital from abroad, and keep capital from going abroad. And the amount of finance, if any, necessary for a tax cut to prevent a recession would be far less than the finance necessary for deficits caused by a recession.

In any case, when the economy slowed down and then slipped into a recession, prices accelerated exactly as in the previous recession. Instead of a balanced budget in 1975 and 1976, we saw enormous deficits as the recession cut revenues and swelled spending.

The same policy cycle began yet a third time in 1977. We have seen two years of considerable inflation of the money supply, sizable increases in Federal spending and even a modest "tax cut" or two, although no net tax reduction. In the 1980 budget, however, the emphasis has shifted once again to demand restraint: a modicum of spending restraint combined with truly enormous tax increases due to inflation and social security payroll tax legislation. There is every reason to believe that we will see the same results from this policy as in 1969 and 1974—that is, a fairly severe recession—unless the policy mix is changed.

We are already seeing the familiar pattern repeat itself: an acceleration of inflation from 8 to 13 percent while the economy slowed to 0.4 percent growth in the first quarter of this year, even though the Federal Reserve was tightening money; a decline in productivity at a rate of 4.6 percent, with unit labor costs rising at 15 percent; a slowing in employment; and the biggest recorded drop ever in the index of leading indicators.

Congress's and the administration's tax policy puts the Federal Reserve in a difficult position. If the Fed tries to fight the recession by loosening money, it only increases inflation and pushes everyone into still higher tax brackets. If the Fed tightens money, it reaps the blame for causing the recession; yet as we saw in the last two recessions, slowing down the economy, decreasing supply and demand by the same amounts, gives us less of everything but inflation.

I don't believe that it is necessary to repeat the mistakes of the last two recessions. The Joint Economic Report of 1979 finds "an emerging consensus in the (joint economic) committee and in the country that the Federal Government needs to put its financial house in order and that the major challenges today and for the foreseeable future are on the supply side of the economy."

The proper mix of Federal budgetary and monetary policy is to continue to restrain demands by further tightening money and restraining Federal spending, while increasing incentives for real economic growth with Federal tax and regulatory policy. According to the joint economic report, "the greater the burden placed on production, the less production there will be. Reducing these tax and regulatory burdens may encourage the supply of labor, capital and output. This may weaken inflation and lessen the prospect that steps taken to manage demand will produce a slowdown."

I have criticized both Keynesian and monetarist theory. But I would like to suggest that the policy I am proposing makes sense in almost any economic framework. For Keynesians, who are concerned with aggregate demand, I would point out that any added "stimulus" to demand caused by a tax cut intended to increase supply could be completely offset by monetary and spending restraint. For monetarists, who argue that the inflation rate is determined directly by the rate of monetary expansion, tightening money further is consistent with stopping inflation.

I have carefully avoided specifying what sort of a tax cut we need, even though I am sure my colleagues on the Budget Committee are familiar with my ideas on the subject. I happen to believe that the most direct way to encourage additional employment, saving or investment is to reduce the tax on the next dollar earned by working, saving or investment—that is, to reduce marginal income tax rates. Since everyone pays income taxes, whether from wages and salaries, dividends, interest, royalties, capital gains or pensions, an across the board cut in tax rates encourages both labor and capital without the distortion toward one or the other which usually results from targeted tax credits. The personal income tax rate also appears to be closely related to productivity. The decline in improvements in productivity since 1967 coincides suspiciously closely with the approximately 60 percent increase in effective income tax rates due to inflation since that time.

But cutting personal income tax rates is certainly not the only method of increasing supply. We can index income and capital gains tax rates for inflation. We can adjust inventory appreciation and capital depreciation for inflation. We can remove price controls from domestic energy and stop subsidizing foreign energy imports. We can provide additional tax incentives for saving and investment. We can increase incentives to both workers and small-business employers for working or hiring the unemployed, respectively.

This mix of fiscal and monetary policies not only does not contradict the Budget Committee's desire to balance the budget, but is the only method by which the budget is likely to be balanced. A common formula holds that the Federal deficit widens by $20 billion for each 1 percent increase in the unemployment rate. Unlike a tax cut, which is an investment upon which we can expect some revenue return, revenue losses and spending increases due to unemployment are irretrievable unless Congress acts immediately to prevent them.

The Joint Economic Report of 1979 and the changing climate of thought among economic theorists are signs that it is possible to learn from our mistakes. The question now is whether we will do so in time to avert another recession.

THE COURTS AND NONPUBLIC EDUCATION—REVIEW OF THE STATUS OF AID FOR PRIVATE SCHOOLCHILDREN AND PARENTS

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 15 minutes.

Mr. ASHBROOK. Mr. Speaker, on April 29 the U.S. Supreme Court summarily affirmed the decisions of lower Federal courts in Public Funds for Private Schools against Byrne, which had invalidated a New Jersey statute providing an additional exemption from the State income tax for parents of nonpublic elementary and secondary schoolchildren. Thus, the Court adhered to a line of decisions which has steadily narrowed opportunities to assist nonpublic education in ways which do not have the kind of primary effect of advancing religion which the establishment clause of the first amendment was intended to prevent. I view these decisions as bad law and bad public policy.

Regarding constitutional law, the majority view in these cases has been most severely and tellingly criticized by the dissenting judges, both on the Supreme Court and lower courts. Justices Rehnquist and White and Chief Justice Burger have all written well-reasoned, sometimes stinging, dissents—and there is hope that these views will yet prevail. As the Chief Justice wrote in a separate opinion in the 1975 Meek against Pittenger case:

> One can only hope that, at some future date, the Court will come to a more enlightened and tolerant view of the First Amendment's guarantee of free exercise of religion, thus eliminating the denial of equal protection to children in church-sponsored schools, and take a more realistic view that carefully limited aid to children is not a step toward establishing a state religion—at least while this Court sits.

I certainly share that hope. When we act to improve educational opportunities for children we should reach out to all children, without regard to the schools they are attending. We need also to be able to foster and encourage freedom of choice and diversity in education at all levels. One benefit would be a strengthened—not weakened—public school system. At the college level, where the courts have permitted wide latitude in providing assistance to both public and private institutions, the public colleges and universities have grown stronger. Competition is good for any enterprise, including education.

Over the past 20 years Congress has generally moved in the direction of equal treatment of the public and private sectors of our educational enterprise. We should continue on that course. As I pointed out on the floor of the House on May 31, 1978, the Congress has an independent duty to judge the constitutionality of its actions—a judgment to which the courts are bound to give some weight—and we should continue to pursue efforts to provide equitable treatment in our education and tax legislation. In addition, a decision relating to a State statute is not necessarily indicative of what the result would be if a Federal law were passed.

In the meantime, however, State legislators, public and private school officials, and concerned citizens are puzzling over what they can do in their own sphere to assist all schoolchildren in ways the courts will not strike down. To assist them in working through these legal entanglements I have prepared a summary—in very abbreviated form—of the holdings of the U.S. Supreme Court.

While this summary rather graphically demonstrates the restrictions placed on aid for nonpublic schools below the college level, it also shows the many possibilities of providing meaningful assistance in helping to deal with educational problems encountered by all children.

I hope this summary will be useful to all those who are concerned about the health, well-being, and education of all of our children in both public and nonpublic schools.

Constitutionality of Various Forms of Public Assistance for Church-Related Education: Summary of Case Law

I. CHURCH-RELATED HIGHER EDUCATION

(A) Clearly approved assistance.—

1. Grants, loans, and "lease-back" arrangements for the construction of academic and related facilities which are not to be used for a sectarian purpose. *Tilton* v. *Richardson* (1971); *Hunt* v. *McNair* (1973).

2. Grants for the support of the general academic program of the institution, which may not be used for any sectarian activity. *Roemer* v. *Maryland Public Works Board* (1976).

(B) Assistance presumed constitutional.—

1. Tax deductions, credits, or other tax relief on account of cost of attending the institutions—on the assumption that these are less direct forms of aid than the grants and loans to the institutions which have been approved.

2. Student assistance: grants, loans, guaranteed loans, etc.

3. All forms of assistance specifically or by inference approved for precollegiate church-related education.

II. CHURCH-RELATED PRECOLLEGIATE EDUCATION

(A) Clearly approved assistance.—

1. Provision of free bus transportation to and from private schools, where public school pupils are provided the same service. *Everson* v. *Board of Education* (1947).

2. Loan of State-approved secular textbooks to children or their parents, upon their request, with the books stored in nonpublic schools but remaining the property of the State (*Board of Education* v. *Allen*, 1968, *Meek* v. *Pittenger*, 1975, *Wolman* v. *Board of Education*, 1977).

3. The provision of health services, including speech and hearing diagnostic services and diagnostic psychological services, with the personnel being public school personnel and physicians hired on a contract basis, with diagnosis and treatment on nonpublic school premises (*Wolman*, 1977, *Lemon* v. *Kurtman*, 1971, *Meek*, 1975).

4. Supplying standardized tests such as are used in the public schools, with the drafting and the scoring of tests done by public school personnel, and the testing being given in the nonpublic schools but without any financial aid to the schools (*Wolman*, 1977; also distinguishes this from unconstitutional testing programs where costs of teacher-prepared and scored tests in the nonpublic schools were reimbursed, *Levitt v. Committee for Public Education*, 1973).

5. Supplying to students who need specialized attention (especially including mentally and physically handicapped or emotionally disturbed pupils) therapeutic, guidance, and remedial services by public education or health employees, the services to be performed only in public schools, public centers, or in *mobile units* located off nonpublic school premises, and providing bus transportation to and from places where such services are rendered (*Wolman*, 1977).

(B) Assistance presumed constitutional.—

1. State-conducted institutes, seminars, etc., for both public and nonpublic school teachers, and long-term and short-term State-financed and controlled institutes—"long-term" being a semester or more—in public or private institutions of higher education. This practice has been Federally-financed since 1958 under the National Defense Education Act and the succeeding

Educational Professions Development Act (including the Teacher Corps) and could easily be adapted to a State-level operation supplementing the Federal programs. These programs have *never been challenged* in the courts, but it appears that a Court which would sustain a construction grant or loan or even a general purposes grant to church-related institutions of higher education (*Tilton v. Richardson*, 1971; *Roemer v. Maryland*, 1976) surely would sustain these kinds of programs for teachers.

2. Provision of school lunches and similar nutritional programs in church-related schools and institutions as part of a general school lunch or child nutrition program. See explicit approval voiced in majority opinion in *Meek v. Pittenger* at page 14 in slip opinion, there is no specific case on the issue.

3. Shared-time arrangements whereby pupils attending church-related schools are permitted to attend classes or activities in public schools (this is an old practice which has never been challenged, and from decided cases on "off the premises" instruction would appear beyond challenge).

(C) Assistance held unconstitutional.—

1. Salary supplements for teachers of secular subjects in church-related schools. *Lemon v. Kurtzman; Robinson v. DiCenso* (1971).

2. Direct aid to a church-related elementary or secondary school (e.g., grants to assist in maintenance of the premises to protect the safety of the children). *Committee for Public Education v. Nyquist* (1973).

3. Reimbursement to parents or guardians of part of tuition actually paid to church-related schools. *Nyquist* (1973).

4. A credit against income tax on account of tuition paid for pupils attending nonpublic church-related schools. *Nyquist* (1973).

5. Additional income tax exemption for parent of pupil attending a nonpublic church-related school. *Byrne v. Public Funds for Public Schools* (1979).

6. On-premises instruction in nonpublic schools by public school personnel, including remedial instruction for handicapped or disadvantaged pupils (*Meek*, 1975; *Wolman*, 1977).

7. Reimbursement of such schools for the expenses of administering both State-mandated and teacher prepared tests, and for keeping of various kinds of pupil records, where there is no distinction between the State-mandated tests and those prepared by teachers with a potential for sectarian influence (the latter described as "an integral part of the teaching process"). *Levitt v. Committee for Public Education* (1973).

8. Loan of instructional materials and equipment (as opposed to textbooks) to church-related schools for the use of pupils and teachers in non-religious courses. *Meek* (1975).

9. Purchasing and loaning to students or their parents, upon individual request, instructional materials (as opposed to textbooks approved in *Board of Education v. Allen*, 1968) of the kind used in the public schools, even though the law specifies that they are "incapable of diversion to religious use". In the 1977 *Wolman* case the Court held that this has the "primary effect" of providing a substantial advancement of the religious enterprise!

10. Provision by public school personnel of auxiliary services (including counseling, testing, psychological services, speech and hearing therapy, and remedial instruction) for handicapped and disadvantaged pupils in church-related schools, when the services are performed on the premises of such schools. *Meek* (1975).

CONCLUSION

Mr. Speaker, from the above summary it can be seen that below the college level the Court has been quite restrictive—and as the dissents in these cases have strongly argued, unreasonably restrictive—in the forms of public assistance it has been willing to approve for students attending church-related schools. At the same time, however, even the most narrow interpretation of these decisions leaves a great deal of room for constructive action to help nonpublic school pupils and teachers. A greater use of mobile laboratories and instructional units, particularly in fields requiring expensive equipment and specially trained personnel, is one obvious method of assistance. In many instances a greater use of teacher institutes and similar educational experiences—designed for both public and nonpublic school personnel—would be valuable. These are only examples and can be multiplied through imaginative use of forms of assistance which have been held constitutional.

Finally, I still believe that the voucher concept, tuition tax credits and approaches I have helped develop over the past decade can be constitutionally legislated. Aid to the parent or student in lieu of direct aid to the school itself has not been ruled out and should be considered.

ANNUNZIO INTRODUCES FINANCIAL INSTITUTIONS FUNDS ACCESS ACT

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the U.S. appeals court here in the District of Columbia recently struck down regulations issued by Federal financial regulatory agencies which granted new types of services that could be offered by financial institutions.

The court held that, first, banking agencies had exceeded their regulatory authority when they authorized automatic transfer services (ATS) for commercial banks; second, that the Federal Home Loan Bank Board exceeded its authority when it allowed Federal savings and loans to establish remote service units (RSU); and third, that the National Credit Union Administration exceeded its regulatory authority when it allowed federally chartered credit unions to offer a checklike instrument called share drafts.

I do not quarrel with the court's decision because, quite frankly, I think the court was totally correct in its findings, and in fact, I had suggested when the automatic transfer services were first suggested by the Federal Reserve Board that such new powers were clearly illegal. I pointed out at that time that this action marked another attempt by a Federal agency to legislate on its own.

CONGRESS MUST ACT BY JANUARY 1

The problem with the court's action is that the financial institutions operating in good faith have spent millions of dollars to inaugurate the services and many consumers, particularly in the share draft area, are taking advantage of this new service. The court recognized this fact and delayed the effectiveness of its decision until January 1, 1980, to give Congress a chance to deal with the problem.

Today I am introducing the Financial Institutions Funds Access Act which in simple terms legalizes the three actions of the regulatory agencies. In even simpler terms, the bill would make legal everything that the appeals court found to be illegal.

My approach is different from other legislation that is currently the subject of hearings before the House Committee on Banking, Finance and Urban Affairs' Subcommittee on Financial Institutions. That legislation would do away with the prohibition of payng interest on demand deposits and would grant demand deposit authority to thrift institutions such as credit unions and savings and loans. When that legislation is brought up for a vote, and I hope that will be shortly, I intend to offer my bill as a substitute.

My legislation is a quick and simple solution to what may be a monstrous problem that will strike on January 1. I feel that my bill, because of its noncontroversial nature, can be passed quickly whereas the demand deposit interest payment bill is the subject of great controversy and could well be defeated.

There are numerous problems with removing the prohibition established in 1933 of paying interest on demand deposits. At first glance it would appear that such an action would be highly beneficial to consumers, but quite the contrary is true. Interest bearing checking accounts are a consumer ripoff that will cost consumers millions of dollars a year in service charges and billions of dollars a year in the form of higher interest rates on loans. The only people who will benefit from interest bearing checking accounts are the very wealthy who can afford to keep thousands of dollars in a checking account and who write only a few checks a month. The average man or woman, however, will not save money with an interest bearing checking account but rather will end up paying extra for this new service.

NOW ACCOUNTS DO NOT HELP CONSUMERS

Congress has already granted a form of interest bearing checking accounts to the New England States and New York. These accounts, which are called NOW accounts—negotiable order of withdrawal—have been hailed as great consumer benefits, and are being cited as the reason that we should extend interest bearing checking accounts to the entire country. When NOW accounts were first established in New England they were, indeed, consumer benefits but in recent years the account terms have changed so dramatically that they no longer help the consumer. When the accounts were first offered in New England there were no minimum balance requirements, no monthly fees or charges for checks. The financial institutions soon found, however, that they were losing money under such arrangements and gradually they began adding extra charges. These accounts were so unprofitable that Massachusetts had the dubious honor of being the one State in the entire country with the lowest bank profits.

In order to get more money out of these accounts, banks began establishing minimum balances, monthly service charges and per check transaction fees. In some cases consumers whose balance dipped below the minimum not only failed to earn interest, but forfeited all previous interest.

It is widely believed that all financial institutions in New England are offering NOW accounts, but that is hardly the case. In some States at least one-third of the financial institutions do not offer NOW accounts and for one simple reason—they cost a great deal of money. Most of the non-NOW account institutions in New England are the small ones who can least afford a drain on their profits.

Mr. Speaker, the staff of my Consumer Affairs Subcommittee recently did a random survey of NOW account institutions in New England. The staff did not find a single institution that offered a NOW account on an absolutely free basis. All of the accounts had some strings attached and some of the strings were s great that they were more like a ball of twine. One banker even suggested that it would not be smart to open a NOW account because of the cost involved, and suggested another type of account as being more beneficial to consumers.

ONLY BIG DEPOSITORS WILL BE HELPED

If the New England NOW account situation is bad for the consumer, then the situation in New York State, the most recent addition to the NOW account ranks, is horrendous.

New York banks have done an outstanding advertising campaign to attract NOW account customers. Most of these ads promote the accounts as being "absolutely free." However, in order to benefit from these accounts a depositor must keep from $2,000 to $3,000 in the account at all times. A recent study done by the Federal Reserve Board shows that the average balance in a New York NOW account is $7,000. Certainly, the average consumer does not have $7,000 to keep in a checking account at all times and it would appear that only the wealthy are able to take advantage of interest bearing checking account in New York.

We have been told how consumers will benefit from interest-bearing checking accounts, but what we have not heard is how consumers will be hurt by these accounts.

In many cases consumers, in order to meet minimum deposit requirements, will have to take money from their savings account and keep it in their checking account. If an unexpected situation necessitates the use of that money they will lose the interest that it would earn, and in many cases, may be subjected to large service charges. They would have been better off to leave the extra money in a savings account.

The banking community has already made it clear that it will charge, and charge heavily, for services such as inerest-bearing checking accounts. Banker after banker who has appeaared before the banking committees of the Congress has boosted that "the day of the free lunch is over."

A recent article in the National Journal on banking questioned Edward Trautz, president of the East Lansing Michigan State Bank about charges on interest-bearing checking accounts. Said Trautz:

> Let's not kid ourselves. We're not in business for our health. We're going to pass those costs along.

Not only will consumers who use interest-bearing checking accounts end up paying extra costs, but even consumers who do not have such accounts and do not want them, will end up paying billions of dollars a year extra in interest costs on loans. If the banks are going to pay interest to wealthy checking account holders then small borrowers will have to pay higher interest rates for loans so that the banks can generate enough money to pay the big depositors. And since interest rates are a leading cause of inflation, it is clear that interest-bearing checking accounts will only add to the inflation spiral.

SMALL FINANCIAL INSTITUTIONS WILL SUFFER

So far I have discussed interest-bearing checking accounts only with regard to the problems they will cause consumers, but like the consumers, the small financial institutions will not only be hurt but some of them may well be put out of business because of these accounts.

It has already been shown that it costs financial institutions a great deal of money to offer interest-bearing checking accounts. The start up costs and the ongoing costs are enormous. This is one of the reasons why many small financial institutions in New England have not offered NOW accounts.

The largest banks in the country will offer interest-bearing checking accounts and will siphon off many accounts from small banks. The small banks that do try to offer interest-bearing checking accounts will have to charge higher interest rates on loans and thus will also lose loan customers to the larger banks.

It is my prediction that if interest-bearing checking accounts are authorized by law it will be only a matter of months before the large banks begin offering this service on a nationwide basis. You will see the large New York banks going into the Midwest and to the Southeast offering mail-order, interest-bearing checking accounts and shortly thereafter the other big banks will begin moving into the mail-order business. In a short time a few banks will dominate the picture.

If you think this is just so much blue-skying, consider what has happened in the bank credit card field.

Until a few years ago financial institutions were prohibited under the threat of antitrust prosecution from offering more than one type of bank credit card. However, the Justice Department, citing the need to increase competition in the credit card field, dropped its ban on more than one credit card and allowed financial institutions to offer as many as they wanted. Almost immediately the big banks began flooding the country with credit card offers skipping merrily across State lines through the mails. Small banks found it almost impossible to compete with the mail-order banking and many had to give up their credit card programs. Now, remember that Justice allowed the multicard offering or "duality" as it is referred to in the credit card industry, in order to foster competition. After several years of so-called fostering we now find that 35 banks in this country issue 50 percent of all the bank credit cards in circulation, and since there are some 14,000 banks in this country, it can easily be seen that duality has not fostered competition but rather has fostered monopoly.

The exact same thing will happen if interest-bearing checking accounts are allowed. The small consumer will be tricked into believing that he or she will be getting a benefit that does not exist. The small financial institution will be severely hurt and only the large financial institution and the large depositor will benefit. Interest rates on loans will increase and inflation will continue to soar.

Congress cannot let that happen and Congress can see that it does not happen by supporting my legislation and voting against interest-bearing checking accounts.●

GONZALEZ SPEECH TO MOTIVATED TEXANS: TO FIGHT, SO TO SPEAK, FOR THEIR LIVES AND THEIR CHILDREN'S LIVES

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

● Mr. GONZALEZ. Mr. Speaker, last Saturday I had the privilege of attending one of the most inspiring and privileged rallies of my life, invited by a group of young, motivated Texans: To fight, so to speak, for their lives and their children's lives that is, the terrible menace of commercial development of fission nuclear plants. In inclement weather, from all over Texas, these predominantly and overwhelmingly young people congregated in a lonely, isolated farm-to-market road known as Texas 521.

I take the liberty of offering for the RECORD the text of my remarks:

REMARKS OF U.S. REPRESENTATIVE HENRY B. GONZALEZ

MY FRIENDS: In ancient kingdoms that attained great wealth and strength, kingdoms that raised great cities and achieved great knowledge, kingdoms that dazzled the world with their power, there was all too often a most terrible flaw. Despite all their enlightenment and despite all their power, the ancients believed that their gods required terrible sacrifices.

In the kingdom of the Maya and Aztec, human sacrifice was not unknown. And in the dawning of the Hebraic God, even Abraham was prepared to sacrifice his own son to prove his fidelity to God. But more terrible than anything was the god of the Phoenicians and the Ammonites—the god Moloch, who demanded the most terrible sacrifice of all. Moloch demanded the sacrifice of children, who died by fire.

We stand here before a modern-day Moloch. The priests of the nuclear cult demand that we sacrifice to this new god, but we are asking questions:

What is the sacrifice?

Why should we offer ourselves up, or our children?

For we do not want to give blind obeisance to the demands of the priests who serve this new and most terrible god.

The god of nuclear power is going to have a short life.

Let me tell you this: not even the advocates of nuclear power believe that it will solve our energy problems. And just a decade ago they were telling us that nuclear power would solve all the energy problems of all time, and would be so cheap that it would not have to be metered.

Just five years ago the government proclaimed that nuclear power would in 1985 meet 40 per cent of all our energy needs. But today we know that even if all the plants that are being built or planned are in fact completed not even half that goal will be met. And we know too that not even a third of all the nuclear plants predicted to be built five years ago will in fact ever be built. Why is this?

Why is it that between 1974 and 1979 the utilities of this country did not order even a half dozen new reactors? Why is it that the Tennessee Valley Authority—the biggest nuclear builder of them all—has shut down construction on not one but four nuclear plants? And why is it that the Nuclear Regulatory Commission itself has suspended issuing new operating licenses for the time being?

These are not radicals; they are not fools; these are people in the business. They know something about nuclear power, and it's time that the rest of us found out about it too.

What they know is the nuclear power as we know it today is simply not workable.

First of all there is the problem of what to do with the wastes that these plants create. Nobody knows the answer to that one—nobody. For nobody has come up with a way to safely store a waste that will be deadly from now until the end of time.

Second, there is the problem of what you do with a decommissioned plant. If this plant before us is ever finished, its useful life will be over in forty years. But what will happen then? It will have to be entombed forever, because it will be too dangerous to touch. There is no way to dispose of a dead nuke, there is no Forest Lawn for dead nukes.

Third, there is the fact that uranium fuel will be close to exhaustion in forty years. Plants like this, even if they last that long, will be useless by that time. And in the meantime the cost of uranium will climb and climb, meaning that these plants are no bargain, and certainly they are not going to be the cheap power that was promised in the dawn of the atomic age.

Where are those prophets now? Where are they who said that this was going to be cheap power? They are gone, they are gone out preaching something new: that this is safe power.

But we know and they know that it is not safe. We know that more reactors than just Three Mile Island have been subject to serious accidents: it's just that the industry would prefer that we forgot those accidents. And Three Mile Island simply made clear that this latest message of the prophets of Moloch is merely intended to lull the victims of sacrifice into dumb assent.

Even the advocates of nuclear power admit that the technology in this plant will be obsolete in a few short years. They admit that the only way nuclear power is going to survive is to get the successor to this technology built.

That new technology is the breeder reactor. But the breeder reactor, though it produces more fuel than it consumes, is more dangerous than anything yet dreamed of by the most malicious mind of man. The breeder operates at such high temperatures that it must be cooled by liquid sodium—a liquid that burns violently in the presence of air, and a liquid that would create a hydrogen gas explosion in the presence of water. And if that is not bad enough, what the breeder produces is weapons-grade plutonium, a product more deadly by many times than anything used in nuclear plants today.

If we go this way, into this nuclear technology, the next step will be breeder reactors—reactors that are not safe on this planet or in this universe.

That is the wrong road to go down.

This is the time and place to stop.

We have a choice to make about energy. Let us, for once, make an intelligent and informed choice.

The priests want to stampede us into accepting their new god. But we, who like Abraham should be prepared to make sacrifice, ought to be as intelligent as he.

For Abraham did not receive a message from any priest or intermediary. He listened with his own ears to the message of God, and God was merciful. That was an intelligent act.

But those who worshipped Moloch listened to the priests, the cultists, the ones who preyed on their fears, who capitalized on their ignorance, and who appealed to their unwitting trust.

We have a choice: we can learn for ourselves, or we can accept uncritically what the priests of nuclear power have preached.

We know that they have been wrong; we know they have lied; and we know that they have been ignorant. If we would be intelligent, we will learn for ourselves what the facts are.

And the facts are that nuclear power will not solve the problems of the world: it will compound and complicate them.

Nuclear power is neither safe nor sane. It is only expedient.

If we look at the facts, if we make intelligent and informed choices, this will be our choice: no more nukes.

ADMINISTRATION'S WELFARE AMENDMENTS OF 1979

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. CORMAN) is recognized for 10 minutes.

● Mr. CORMAN. Mr. Speaker, I am pleased to introduce today, together with the distinguished chairman of the Ways and Means Committee, Mr. ULLMAN, the Social Welfare Reform Amendments of 1979. This is one of two bills which the administraion has sent to the Congress to increase job opportunities and improve cash assistance programs for the poor, and to better coordinate and streamline the administration of our welfare programs.

The social welfare reform amendments are designed to address the most pressing problems of the welfare system. These amendments will remove many of the present inequities in public assistance benefits and coverage. The bill will strengthen work requirements and, by standardizing and automating program administration, assist the States in their efforts to eliminate waste, fraud, and error. The bill will also make certain modifications in the supplemental security income (SSI) and child support enforcement programs.

The Work and Training Opportunities Act of 1979, a companion administration proposal which will be under the jurisdiction of the Education and Labor Comimttee, will provide 620,000 additional training and work opportunities for low-income families with children, in both private and public sector employment.

Our present welfare system does not treat equitably the 25 million Americans who live in poverty. Benefits for families in need vary widely from State to State. State welfare benefits (cash plus food stamps) range from 49 percent of the poverty level in some States to 96 percent in others. In 13 States, benefits are less than 65 percent of the poverty level.

Eligibility for benefits also varies widely. While 26 States and the District of Columbia provide aid to two-parent families if the father is unemployed, the other 24 States provide no assistance for families where both parents are present. Further, only 20 States have federally supported emergency assistance programs to help low-income families overwhelmed by natural disaster, job loss, sudden increases in the cost of heating fuel or other unexpected emergency situations.

In addition to the inequities, the many different welfare programs are difficult and expensive to administer. The complexity of the system has produced inefficiency, error, and waste. The Social Welfare Reform Amendments of 1979 would take some important steps toward resolving these problems. The major features of the bill include the following:

FEDERAL MINIMUM BENEFIT

A national minimum benefit (AFRC payment plus food stamps) equal to 65 percent of the poverty level would be established. This would reduce much of the State-to-State variation and assure that needy families in the 13 States which pay the lowest benefits would receive more adequate assistance.

AFDC-UNEMPLOYED PARENT PROGRAM

An AFDC–UP program would be established in all States. Welfare benefits would be available to two-parent families where the principal earner is unemployed. An enforceable work requirement would apply to the family's principal earner, who would also receive necessary job-search assistance and training.

EMERGENCY ASSISTANCE PROGRAM

All States would be eligible for Federal funds to be used in meeting emergency needs of families and individuals. A block grant would be made to States to help them assist needy families in times of unforseeable emergencies.

Simplified administration: The AFDC program would be simplified and AFDC eligibility rules would be coordinated with the food stamp program. Deductible work expenses would be standardized. Cash assistance would be based on more frequent reporting of recipients' actual circumstances. The Federal Government would assist States in the design, implementation and operation of data-processing and other management systems aimed at improving welfare administration.

Recipients' rights and responsibilities: Recipients' rights to prompt eligibility determination, fair hearings, and prompt replacement of missing checks would be assured. Recipients would be responsible for providing eligibility information promptly.

Earned income tax credit: The earned income tax credit would be expanded to provide greater assistance and work incentives for the working poor. The tax credit rate on the first $5,000 of earnings would be increased from 10 percent to 12 percent. Thus, the maximum credit would increase from $500 to $600. When income reaches $7,000 the credit would begin to phase out at a rate of 15 cents for each additional dollar of income, leaving no credit at $11,000 of income.

Fiscal relief: State and local welfare costs would be reduced through a 10-percent increase in the Federal share of AFDC costs and a 30-percent increase in AFDC-UP costs. Further, States would be "held harmless" for increased costs of welfare for the first 8 years of the new program.

Food stamp cash-out for SSI recipients: Some 1.6 million aged, blind and disabled SSI recipients would be eligible for cash assistance in place of food stamps.

The bill would also make certain modifications in the SSI program. The changes include provisions affecting eligibility and benefits of couples living apart, persons in medical institutions, recipients working in sheltered workshops, persons hospitalized outside the United States, persons who dispose of assets in order to qualify for SSI benefits, spouses of deceased recipients, and presumptively eligible individuals.

The bill would make administrative changes in the SSI program with respect to retrospective accounting, federally administered variations in State supplementation, direct payments to drug addicts and alcoholics, the offset of retroactive OASDI payments against SSI, prompt replacement of lost or stolen checks, and the passthrough of Federal SSI payment increases.

Other provisions in the bill would limit the time within which a State must file for Federal matching funds for public assistance programs, increase the matching rate and funding ceiling for the territories, and amend the Immigration and Nationality Act to reduce the likelihood that immigrant aliens become dependent on State and Federal welfare programs.

Finally, the legislation would amend the child support enforcement program, providing Federal matching funds for costs of collection of child support payments on behalf of non-AFDC families and other administrative changes.

Mr. Speaker, this bill and its companion jobs bill would raise nearly 800,000 families out of poverty. It would streamline our welfare system, reduce error, fraud and waste, and result in an administrative savings of $300 million.

Mr. Speaker, I urge the Members of the House to give careful consideration to this legislative package which provides us with an opportunity to make some sound and much-needed revisions in our welfare system.

I request permission to include in the RECORD at this point a section-by-section summary of the administration's public assistance legislation that has been prepared by the Department of Health, Education, and Welfare.

SECTION-BY-SECTION SUMMARY OF THE SOCIAL WELFARE AMENDMENTS OF 1979

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN; ASSISTANCE TO MEET EMERGENCY NEEDS; EARNED INCOME CREDIT

Part A—Income and Resources

Definition of Income and Amount of Disregards from Earned Income

Section 101 of the bill makes several amendments affecting the definition and treatment of income under the AFDC program.

Subsection (a) pertains to income disregards. Paragraph (1) adds the reference, in section 402(a)(7) of the Act, to the new section 412 (described below) that contains detailed provisions for determining income and resources. It also removes the generalized reference to exclusion of work expenses, as these amounts are standardized by other amendments described below.

Paragraph (2) of subsection (a) revises much of section 402(a)(8). As amended, that section would provide for disregards from income. First, income is determined by applying the detailed definition contained in section 412 described below which excludes, among other things, 20% of wages and self-employment income in recognition of work expenses, and child care expenses up to a monthly limit of $160 per child between July 1979 and June 1980, with appropriate adjustments, if necessary, thereafter. From this, there is disregarded the first $70 (rather than, as under current law, the first $30) of earned income plus one-third of the remainder of the earned income of an individual included in the AFDC grant. Provision would also be made, in section 402(a)(8)(B), for an additional disregard of income from any source, in States where the AFDC paid to a family with no other income, plus the food stamp allotment such a family would receive (with no income other than AFDC and allowing only the standard deduction of the food stamp program) is less than 65 percent of the poverty level (defined below). The State must disregard income in an amount equal to the difference between its AFDC grant to a family with no other income, and the grant that would be payable to such a family if, AFDC, together with the food stamps that family would receive, equaled 65 percent of the poverty level. This is referred to informally as the "low benefit disregard".

Subsection (b) adds a new section 412 to the Social Security Act, containing an explicit statement of items to be included in and excluded from income. It largely parallels the provisions of section 5 of the Food Stamp Act of 1977, with a few exceptions where the purposes or characteristics of the AFDC program suggest different treatment. Most importantly, paragraph (9) of section 412(a) would provide for the exclusion of the cost of producing self-employment income and 20 percent (as a standardized work expense allowance) of wages, salary, or net earnings from self-employment. Paragraph (10) prescribes the exclusion of amounts spent for child care (or necessary care for an incapacitated family member) up to a monthly limit of $160 per person for the 12 months beginning July 1979, with subsequent adjustments to that amount to the extent the Secretary finds appropriate because of changes in the cost of the care.

Section 412(b) would require the Secretary of Health, Education, and Welfare to issue regulations, after consultation with the Secretary of Agriculture, to assure the coordinated operation of the AFDC and food stamp programs.

Subsection (c) provides that these amendments (to the AFDC plan requirements) become effective six months after their enactment, but a State may amend its plan and implement these changes during that six month period.

Provision is also made, effective January 1, 1980, for including in an individual's earned income the advance payment of the earned income credit (under the Internal Revenue Code of 1954) for which an individual is eligible.

Income of Stepparents

Section 102 would add a new paragraph to section 402(a) of the Social Security Act, the requirements for State plans under the aid to families with dependent children (AFDC) program. States would be required to count that portion of the income (after subtracting the 20 percent of earned income for work expenses) of a child's stepparent (living in the same home as the child) which exceeds (1) the amount needed by the stepparent to support himself and others living in the same household whom he claims as dependents for Federal income tax purposes, (2) amounts actually paid by the stepparent to dependents not living in the same household, and (3) payments of alimony or child support to individuals not living in his household. The amendment would be effective October 1, 1979.

Treatment of Certain Income

Section 103 changes the treatment of certain types of income under the AFDC program. Subsection (a) addresses the provision in current law that requires AFDC, payable because of the unemployment of a parent, to be reduced by the amount of unemployment compensation received by him. This section would be repealed and unemployment compensation would be treated as any other nonemployment income.

Paragraph (1) of subsection (b) repeals section 402(a)(19)(D), the plan requirement relating to the work incentive program that requires the complete disregard of earnings or training allowance under the WIN program and the consideration in determining need of additional expenses in connection with participation in that program. These payments would, thereafter, be treated as any other earned income. Paragraph (2) amends the WIN program (section 434(a)) to provide for the reimbursement of expenses in connection with training under WIN, in addition to the incentive payment already authorized by law. Paragraph (3) adds a new subsection to section 434, to require the disregard from income of incentive payments or payments to reimburse for expenses made under section 434(a).

These amendments become effective six months after enactment.

Modifications in Treatment of Income Effective Fiscal Year 1982

Section 104 establishes several amendments to part A of title IV with a delayed effective date of October 1, 1981.

Paragraph (1) of subsection (a) repeals the reference, in section 412(a), to income excluded because it is received too irregularly or infrequently to be anticipated (since, with retrospective accounting this should no longer be a problem).

Paragraph (2) limits the exclusion of income for child care costs to families with dependent children other than by reason of the unemployment of a parent.

Subsection (b) amends section 402 (a)(8)(A) such that the disregard of the first $70 of earned income and one-third of the remainder will cease to be applicable to families receiving AFDC by reason of the unemployment of a parent.

Subsection (c) would raise the percent of the proverty level, from 65 to 75 percent, specified in section 402(a)(8) for purposes of establishing the extent of the low benefit disregard.

Subsection (d) repeals section 402 (a)(8)(D), the requirement that the earned income disregard, currently $30 plus one-third of the remainder, only be available to current or recent recipients, or to families who would be eligible without the application of that disregard. This amendment establishes so-called "eligibility to the break-even amount".

Definition of Resources and Allowable Limits

Section 105 amends section 412 of the Act to authorize the Secretary to specify items to be excluded from and included in resources; the bill would also prescribe allowable resource limits for State AFDC plans. The allowable amount must be at least $750, and may be as high as $1,750, at State option. Those States that have resource limits higher than $1,750 in effect for September 1981, will not be required to lower their resource limits.

Items to be included in and excluded from resources are specified (in addition to the Secretary's rules) and generally parallel the applicable provisions contained in section 5 of the Food Stamp Act of 1977 and the implementing regulations. Excluded from resources are: the home, a burial plot, household goods and personal effects, the cash surrender value of life insurance (up to limits prescribed by the Secretary), property which provides a reasonable rate of return or is essential to the employment of a family member, amounts received from a public agency for restoration of a home or business damaged in a disaster, and resources that cannot be readily converted to cash by any family member.

This section also adds two paragraphs to section 402(a): State plans must provide that liens will not be placed against property of AFDC recipients, and that individuals will be ineligible for AFDC if they dispose of property having an uncompensated value of more than $3000 within 24 months of applying for benefits or while in recipient status. A period of ineligibility ranging from 6 to 24 months (depending on the amount of uncompensated value) applies to the individual in the family who disposes of property. If he recovers the resource or its fair market value, however, the period of ineligibility ceases at that time and his eligibility will be considered under the current circumstances.

These amendments will be effective October 1, 1981.

Part B—Eligibility and benefit structure

Eligibility for AFDC by Reason of the Unemployment of a Parent

Section 106 amends section 407 of the Social Security Act, the unemployed father program.

Subsection (a) removes the references to "unemployment of a father" and broadens the statutory language to include either parent, whichever is the "principal earner" (a term defined by the amendment made by subsection (c) below).

Subsection (b) would amend section 407 (a). Unemployment would be determined in accordance with regulations of the Secretary, as under current law. However, section 407(a) of the Act would be amended to indicate that those regulations will prescribe a uniform minimum monthly level of earnings expected from full time employment—thus defining the limit of unemployment. Such a limit, if prescribed at the present time, would equal $500 per month.

Subsection (c) repeals the requirement that the unemployed parent have been employed for at least 6 out of 13 quarters in the period ending a year before the application for AFDC (or received unemployment compensation within the year prior to application).

Subsection (d) adds a definition of principal earner to section 407—whichever parent, living in the home, earned the greater amount in the six months preceding application for AFDC (although the Secretary is given authority to issue rules to avoid hardship or deal with unusual cases).

Subsection (e) makes various conforming changes in section 402(a)(19) of the Act, pertaining to referral for and subsequent requirements relating to employment services and acceptance of employment or training. A new clause is added to section 402(a)(19) (A) to exclude from the work requirement the second parent in the unemployed-parent family, unless the parent who is the principal earner has failed to comply with all applicable requirements.

Subsection (f) repeals the requirement currently in section 407(b) that the parent undergo a 30-day waiting-period (i.e., must have been unemployed for 30 days) before receiving AFDC.

Subsection (g) describes the effective dates. The amendments made by subsections (a), (b), (d), and (e) become effective October 1, 1980; the deletion of the "6 out of 13 quarters" test and of the 30-day waiting period occur October 1, 1981.

Amount of Benefits for Child Not Living With Relative Responsible for His Support

Section 107 of the bill would add a new section 413 to part A of title IV, effective October 1, 1979, to describe the circumstances under which the States may reduce the AFDC grant in accordance with Secretarial regulations. The reduction, to recognize the reduced financial need for the costs of shelter and utilities that occurs in many such cases, may be made when there is no relative in the household legally responsible for their support or when the support of the relative is being provided from another source.

Definition of Dependent Child; Mandatory Coverage of Certain Individuals

Subsection (a) of section 108 amends section 406 of the Act to limit the definition of dependent child, as applicable to those over age 17 and attending school beyond the secondary level, to those attending full-time, and to define AFDC to include payments to pregnant women, who would, following the child's birth, be eligible for AFDC. Subsection (b) amends section 402(a), the requirements for State plans, to require coverage of all dependent children including dependent children of unemployed parents, the pregnant women described above, and the parent (or both parents, in incapacity or unemployment cases) of the dependent child living in the same home. However, at its option, the State may exclude dependent children who are over 17 and attending school beyond the secondary level.

These amendments become effective October 1, 1981.

Benefit Standards

Section 109 of the bill would mandate a national minimum AFDC benefit. Subsection (a) amends the AFDC plan requirements so that an approved plan must provide for making payments of the difference between a family's (countable) income and the State's monthly cash needs standards. That standard may be no less than the amount which, together with the value of food stamp allotment the family would receive (as a household having no income other than AFDC and applying only the standard deduction of the food stamp program), equals 65 percent of the poverty level (prescribed below).

Subsection (b) amends section 402(a) (1)—the Statewideness plan requirement. It allows an exception to that general rule so that, so long as they are at or above the minimum benefit level, (1) States may have no more than six monthly needs standards depending on the geographic area of the State to which they apply, and (2) six additional, lower levels for the unemployed parent cases.

These amendments become effective October 1, 1981; however, a State may grandfather the payment standards for families that received AFDC for September 1981 if those pre-existing standards are higher than the required monthly cash needs standard that would otherwise be applicable to the family. Further, for four years after the effective date of this amendment, States may have a greater number of geographic variations than described above so long as the State has an approved amendment to its AFDC plan demonstrating that it is making substantial progress toward meeting the required number of variations by the end of the four years.

Income Poverty Guidelines; Adjustment for Changes in the Consumer Price Index

Section 110 of the bill would add a new section 414 to part A of title IV of the Social Security Act, containing definitions and procedures for establishing several critical amounts alluded to in various other amendments made by this bill and described above.

"Income poverty guidelines" are those prescribed by the Office of Management and Budget for the nonfarm population of the United States (and as adjusted by OMB pursuant to section 625 of the Economic Opportunity Act of 1964). For the first nine months of fiscal year 1980, the guidelines prescribed for 1979, adjusted by the change in the Consumer Price Index from December 1977 to December 1978, will be used; for the twelve months beginning with July 1980 (and each 12 month period thereafter), the guidelines for the same year will be used, adjusted by the CPI change for the 12 month period ending with the preceding December.

The monthly allotment of food stamp coupons under the Food Stamp Act of 1977 will be determined for the first nine months of fiscal year 1980 by reference to the allotments that would have been available for the January-June 1979 period. Thereafter, for any 12 month period beginning with July, the allotments are determined with reference to the schedules for the preceding 6 months.

These amendments are effective upon enactment.

Determinations of Eligibility; Representation of Claimants; Notice and Opportunity for Hearing

Section 111(a) amends section 402(a)(4) of the Social Security Act to delineate a claimant's rights and responsibilities. Subparagraph (A) states his right to opportunity to apply for assistance; subparagraph (B) requires a prompt determination of eligibility, and notice (and payment, if the applicant is eligible) of the determination within 30 days. For those applicants whose eligibility cannot be determined within 30 days, for reasons other than the applicant's failure to cooperate, subparagraph (C) requires the plan to provide that they be found "presumptively eligible" and be provided cash assistance for three months (two months for AFDC-UP families) or until the determination is made, whichever is sooner, and that the payments on the basis of presumptive eligibility not be considered overpayments. Subparagraph (D) requires replacement of lost or stolen checks within 10 days from the date replacement was requested (if requested between the third and thirtieth day following the usual delivery day). Subparagraph (E) requires the plan to provide notice and opportunity for a hearing and that, if action adversely affecting a recipient's payment is taken based upon information furnished by the recipient, or because of this failure to report, notice will be sent to arrive no later than the date upon which the action will become effective. Subparagraph (F) requires the State to allow clients to be represented by lawyers (or any other of their choice) in any matter involving the State or local agency.

Subsection (b) repeals section 402(a) (10) since its substance is consolidated into section 402(a) (4).

Subsection (c) amends section 406 to state that payments on the basis of presumptive eligibility and payments to replace lost or stolen checks are aid to families with dependent children, and could, therefore, be included for Federal matching.

Period for Determination of Aid; Times at Which Payment Must Be Made

Section 112 of the bill adds a new paragraph (21) to the statutory requirements for State plans. It pertains to the effective date of the application, the period for determination of eligibility and calculation of aid, and the time (or times) during the month at which payment must be made. Most requirements are new; a few reflect a reorganization of the provisions of existing law.

Subparagraph (A) requires that an application will be effective for the month preceding the month of filing, but the State may pro rate the first payment by the number of days that elapsed in the month of filing before application was made.

Subparagraph (B) requires that States determine eligibility for and amount of assistance for a month at the time (or times) prescribed by the Secretary after the close of the month and that all income received by a family member before the date of application, and family composition and amounts of resources, to the extent there have been changes from the month preceding application to the month of application, will be treated in accordance with the rules prescribed by the Secretary (consistent with a new subsection (d) added to section 402 (a)) to the extent it affects eligibility or benefit amount for the month of application or the preceding month. Subsection (d) would require the Secretary to prescribe rules for the first two months' payments that provide for an uninterrupted transition to the retrospective accounting system and that with respect to factors affecting eligibility and benefit amount in the first two months will allow the Secretary to take appropriate account of changes in a family's circumstances that have recently occurred and to assure that initial benefits will reflect the family's current, rather than its past, need for AFDC.

The new paragraph also requires that payment of at least half the amount for which the family is eligible be made within the month after application, and that payment of at least half the monthly amount be made when the determination of eligibility occurs (unless the regular day for payment is within the next week).

Also, the plan must provide that with regard to unemployed parent cases, after the first two months, the family will be eligible for any month only if the Secretary of Labor certifies that employment for that month was not offered to the principal earner (or if he fails to submit any certification).

An additional plan requirement is added to assure that the State will review, at least annually, all facts relevant to a family's eligibility and that the State will adopt all rules for reporting by recipients that the Secretary requires.

These amendments are effective October 1, 1981, but if the Secretary finds that although the State does not fully meet these requirements, it is moving to place all its cases into a phased review cycle, and will complete that process within the 6-month period that begins with the effective date of the requirement, the Secretary may conclude that the State plan is not out of compliance with Federal rules. The State is also given the option of implementing these amendments at any earlier date following enactment, with the approval of the Secretary. Such a State may also have a six-month period to phase in its cases on the rolls at the selected effective date.

Provision is also made for a transitional payment, when the State shifts from prospective to retrospective accounting. Since no benefits would otherwise be paid in that month, a transitional payment will be made to each family eligible for AFDC for the preceding month. The amount of the transitional payment will be the same as the amount the family received for the preceding month, plus, if the (retrospective) payment will be made later than the tenth day of the following month, that amount pro rated by the fraction of the next month elapsing before payment will be made. The transitional payment will be treated as an AFDC payment, and the increase because of the elapsed days in the following month must be disregarded from income under any other Federal or State program.

Employment Requirement and Services Related to Employment

Section 113 contains various amendments to section 402(a) (19) of the Social Security Act, the requirements related to employment, training, and related services. The general purpose of these amendments is to retain the requirement for participation in the employment related activities, leading up to referral for employment and training, but without limiting the means of satisfying those requirements to referral to and participation in the work incentive program established under part C of title IV of the Act. These amendments will make it possible to bring work incentive programs and similar programs operated under the Comprehensive Employment and Training Act (CETA) together in a more integrated administrative framework. (The Administration will be proposing related amendments in companion draft legislation to amend the Comprehensive Employment and Training Act.)

Subsection (a) (2) does make an amendment of substance (currently contained in regulations); it specifies that for purposes of section 402(a) (19) of the Act, good cause for refusing employment or training exists if an individual would have less income after accepting the job or training opportunity than he did before. (When making this comparison, income has the same meaning as it does for AFDC, plus whatever publicly funded in-kind benefits the Secretary of Labor specifies.)

A second change is the amendment of the sanction provision in section 402(a) (19) (F) (i) that would leave to State option (rather than require, as under present law) the making of protective payments for the child of a relative who refuses to comply with the work requirement.

Another substance change concerns the sanction that is applied following a refusal (without good cause) to accept employment. The amendment would repeal the sixty-day delay in the imposition of specified sanctions if the individual accepts counseling designed to persuade him to participate in the program. Instead, there is a 30 day delay period after which the prescribed sanction must be imposed for at least 45 days (or until the individual withdraws his refusal), whichever is later.

Part C of title IV of the Act is amended to allow the Work Incentive Program, as currently administered, and similar programs under a new part E of title II of CETA to be administered under an integrated administrative system. These amendments will serve to better coordinate WIN and CETA activities, better utilize CETA programs, especially those that will be proposed as a new part E of title II, to serve similar populations, and avoid duplication of services between WIN and CETA. References throughout the bill are made to "employment and training services", rather than "manpower services" as currently in the law, in order to bring WIN into closer conformity to CETA.

As amended, section 431 would authorize the appropriation of funds direcly to the Secretary of Labor, rather than to the Secretary of Health, Education, and Welfare who currently transfers the funds to the Secretary of Labor. Subsection (a) (2) would mandate that joint appropriations for WIN programs and any similar CETA functions specify the amount to be used for work incentive programs. Subsection (c) changes the allocation formula to reflect both State AFDC caseload and costs of providing services, to assure continued support for needed services.

Section 432, as amended, would require that the programs be statewide and be administered by agencies and authorities which the Governor would designate. The Secretary of Labor will deal directly with public or private agencies only in cases where the State plan is disapproved. Conforming references throughout the amendments to part C of title IV therefore change the administration of the WIN program from the Secretary of Labor directly to the State.

Section 433 as amended would require the plan to provide for an administrative system for coordinating employment and training services between WIN and CETA, would require establishment of statewide and labor market area planning committees to plan both this and similar programs under CETA and would require the plan so produced be approved by the Secretary of Labor in consultation with the Secretary of Health, Education, and Welfare. The program so developed would provide services for both WIN registrants and other AFDC eligible individuals requesting such services. As with other provisions mandating coordination between WIN and CETA, section 433(a) (3) specifies that when any activities mandated by part C of title IV can be carried out by a similar program under CETA, the State plan for this and CETA must be an integrated plan consolidating similar provisions.

Section 433(i), describing the conditions under which public service employment programs may be operated, is amended to mandate use of the CETA system as the principal provider of such jobs either by specific agreements with prime sponsors or otherwise. It therefore deletes all the current conditions which govern public service employment.

Section 435 is amended to require cash contributions, rather than in-kind, as currently allowed, for the 10% State share in the WIN program.

Although the proposed program will be operated under appropriations made directly to the Secretary of Labor, joint Federal administration is preserved by requiring concurrence of the Secretary of Health, Education, and Welfare in regulations for the WIN program and by providing for the establishment of a national coordination committee to review and recommend procedures and policies, including coordination with CETA. Current law mandates joint regulation and the national coordination committee, but allows state plan to be reviewed and approved at the regional level. The change would strengthen the Federal role and facilitate closer coordination and use of the CETA system.

These amendments become effective October 1, 1981, except that the amendment made by subsection (a)(5) and (6) and subsection (c) (to leave to State option the decision to make protective payments for the child if the relative refuses employment and imposing, after a 30 day period, a sanction of at least 45 days and continuing until withdrawal of the refusal) are effective October 1, 1979.

Assistance to Meet Emergency Needs

Section 114 of the bill adds a new section 415 at the end of part A of title IV of the Act relating to assistance for families with children to meet their emergency needs. That section defines "emergency needs" (those arising from an accident or disaster or other uncontrollable, unpredictable or nonroutine event) and "eligible family" (one that receives AFDC, or whose income is not more than twice the poverty guidelines and whose resources meet a State prescribed limit between $750 and the allowable resource amount for AFDC), and "assistance to meet emergency needs" (assistance in the form of cash, vendor payments, or other forms found appropriate by the State). The authorization for FY 1982 would be $200 million (and such sums as are necessary for subsequent years).

Subsection (b) adds a plan requirement so States must provide assistance to meet emergency needs, in accordance with priorities prescribed by the Secretary.

Subsection (c) makes the necessary amendments to section 403 of the Act, payments to States, to set up block grants to States for this purpose. Half the available funds are distributed among the States on the basis of AFDC caseload, the other half on the basis of State spending for AFDC. If any of these amounts are not spent by a State, it may retain one-third for use in the subsequent year for emergency assistance, and return the remainder to the Secretary. He may reallot so much of those amounts as do not exceed 5% of the total appropriation for that year.

The remainder of this section makes necessary conforming amendments.

Part C—Federal Financial Participation; Administrative Improvements; Related Medicaid Amendments

Increased Federal Financial Participation

Section 115 of the bill amends section 403 of the Act to increase the Federal support for State AFDC programs. Effective October 1, 1981, an additional amount for each quarter equal to 10 percent of the non-Federal share of total expenditures in that quarter for aid to families with dependent children deprived by reason of the death, absence, or incapacity of a parent, and 30 percent of the expenditures for aid in unemployed parent cases, would be provided to each of the fifty States and the District of Columbia. States must pass through to the localities a portion of this additional payment that is proportional to the localities' participation in the non-Federal share of AFDC expenditures.

Limitation on Fiscal Liability of States

Section 116 amends part A of title IV by adding a new section 417, establishing effective October 1, 1981, a limitation on State fiscal liability under the AFDC program. Section 417 would provide:

(a) If, in FY 1982, or any of the following four fiscal years, a State's "allowable expenditures" exceed 95 percent of its "fiscal liability base" (both terms are defined below), the Secretary will pay the amount of that excess to the State. For fiscal years 1987 through 1989, he will pay a declining proportion (starting at 100 percent, and decreasing by one-third percent each year) of the excess determined for 1986. The State must agree to "pass-through" to political subdivisions that contribute to the non-federal cost of AFDC a proportionate share of these payments.

(b) "Allowable expenditures" means a State's expenditures for aid to families with dependent children in fiscal year 1982 (or any of the following four fiscal years) times (in situations in which there has been a real benefit increase) the ratio of the average monthly AFDC payment for an indigent individual in FY 1979 (or, if greater, the mandatory minimum AFDC payment level) to the average monthly payment to such an individual in FY 1982 (or the subsequent fiscal year). The State's "fiscal liability base" is the non-Federal share of expenditures for aid to families with dependent children in 1979, indexed to reflect changes in the cost of living from FY 1979 to FY 1982 (or the subsequent fiscal year).

(c) Additionally, in recognition of the possible increase in the Medicaid caseload because of the new AFDC requirements, States may increase the amount of the allowable expenditures described above by: the average amount of medical assistance furnished to an AFDC family in 1979 (indexed for changes in the cost of living from FY 1979 to FY 1982 (or the subsequent fiscal year)), times the increase in the number of AFDC families eligible for medical assistance between FY 1979 and FY 1982 (or the subsequent fiscal year).

(d) Finally, States may increase their "allowable expenditures" for 1982 or the subsequent fiscal year) by the product of the average administrative cost per case in FY 1979 (indexed (times the increase) to 1982 or 1983) times the increase in the average monthly number of cases throughout the applicable year.

Administrative Improvements

Section 117 amends section 402(a)(5) of the Act, the plan requirement for necessary methods of administration, to specify some of the particular areas in which the Secretary will be issuing regulations for required administrative methods. They will deal with a variety of administrative matters related to a State's operation of the program, such as prospective budgets for its administrative costs, allowable costs and cost allocation rules, fiscal controls, and quality control procedures. This amendment will be effective October 1, 1979.

Programs for Mechanized Processing and Management Information Systems

Section 118 would amend section 403 of the Social Security Act to make improved Federal matching available to States that develop and operate computerized management information systems for their AFDC programs. The matching rate would be 90 percent for the costs of development and implementation of such systems, and 75 percent for their ongoing operation. The State's system must meet specified criteria in order to qualify for the increased support, including matters such as the compatibility of State systems with each other and with those of the Social Security Administration to the extent necessary to permit the conduct of periodic screening between jurisdictions. The State may, at its option, use these systems in its administration of other Social Security Act programs. However, the Secretary will prescribe cost allocation rules and no part of the costs attributable to the programs other than AFDC may be included for matching under the AFDC program. Additionally, the Secretary would be directed to provide necessary technical assistance to enable States to develop and operate such systems. These amendments will become effective October 1, 1979.

Assistance for the Development of Administration Improvements in AFDC Programs

Section 119 would add a new section 418 to the Act, authorizing the Secretary to make funds available to any State agency by administering a plan approved under the Social Security Act, to assist the agency in developing improved or innovative administrative techniques to enhance program administration. Specific administrative objectives are described that proposals must meet in order to be funded under this new section. Funding would be available for up to 75 percent of the costs; none of these Federal funds would be available for computer-related expenses or expenses of routine administration. These amendments would be effective upon enactment.

Corrective Action Regarding Overpayments and Underpayments

Section 120 adds a new plan requirement to section 402(a); effective October 1, 1980, State AFDC plans must provide for the recovery of overpayments, and for the making of payments to correct erroneous denials or underpayments previously made.

AFDC Recipient Review

Section 121 of the bill amends section 402(a) of the Act, effective October 1, 1979, to require the State AFDC plan to provide that the State will, together with other State welfare agencies, review its caseload to verify the identity of recipients and determine whether a recipient is receiving AFDC, or any other Federally supported benefits, under the same program in more than one State.

Monitoring and Assessment of Performance in the AFDC Program

Effective upon enactment, section 122 of the bill would add a new section 1117 to the Social Security Act. That new section would direct the Secretary to develop procedures for monitoring and assessing performance, at least annually, of the effectiveness of the statutory plan requirements and the AFDC plans, as implemented, in achieving the purposes of the law.

Technical Amendments to Incentive Adjustments for AFDC Quality Control

Section 123 of the bill contains technical amendments to section 403(j) of the Social Security Act, a new provision added by the Social Security Amendments of 1977. That subsection of the law authorizes incentive payments to States with low erroneous payments. Further, no distinction is presently made in the law between erroneous expenditures, i.e., overpayments to eligibles or payments to ineligibles, on the one hand, and so-called negative case actions, or underpayments (or the failure to make payments) to eligibles. Therefore, this section would amend section 403(j) to define these different types of case actions and provide specifically for the manner in which each class should be taken into account in calculating incentive payments. Because these amendments are essential to the calculation of incentives, they would be effective January 1, 1978, the date that subsection (j) first went into effect.

Amendments to Medicaid Program

Section 124(a) amends section 1902 to specify that, for purposes of categorical eligibility for Medicaid, an individual will only be considered to be an AFDC recipient if he received Medicaid in one of the four preceding months based on his receipt of AFDC, or he would, in the current month, be eligible for AFDC without application of the disregard from earned income of $70 plus one-third of the remainder.

Subsection (b) amends section 1902 of the Social Security Act to specify that, if a State AFDC plan did not, for September 1981, include dependent children of unemployed parents, then the State's Medicaid plan need not include such families when the Federal requirement for their inclusion in AFDC becomes effective on October 1, 1981. Also, if the State's Medicaid plan for September

1981 did not include coverage of the medically needy, then medically needy coverage subsequent to September 1981 is not required to include the medically needy families with an unemployed parent. Finally, subsection (c) amends section 1903(f)(2) so that, in evaluating a family's income to determine whether it is medically needy, the AFDC earned income disregard of $70 plus one-third of the remainder will not be applied.

Part D—Implementation

State Implementation of Amendments

Section 125 authorizes the Secretary of Health, Education, and Welfare, to allow a State (at its request) to implement over a six month period certain of the amendments that this bill would make. In the case of changes in the criteria for determining eligibility for or amount of aid to families with dependent children, the amendment may be phased in if the Secretary finds that it will be accomplished for recipients of AFDC over the course of the six-month redetermination cycle, and that that phasing is consistent with the proper and efficient operation of the AFDC plan. No such gradual effectuation is authorized, however, for applicants for AFDC.

Applicability of Amendments to the Territories

Section 126 specifies which sections of the bill apply only to the 50 States and the District of Columbia, and which apply as well to the territories (which for this purpose, includes Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands).

Part E—Amendments to the Internal Revenue Code Affecting the Earned Income Credit

Governmental Payments To Be Disregarded for Purposes of Support and Maintenance of Household Tests

Section 127 of the bill would amend section 2 of the Internal Revenue Code of 1954 to provide that, when determining whether a person is support by himself or by another individual, or when a person is maintaining a household, amounts provided under a public program of assistance used for support or for maintenance of a household will not be taken into account. This amendment will become effective January 1, 1980.

Amendments to the Earned Income Tax Credit

Section 128 amends the Internal Revenue Code of 1954 to make the following changes for years after 1981 in the earned income credit: section 43(a) of the Code would be amended to allow a credit equal to 12 percent (rather than 10 percent) of earned income not in excess of $5000. The limitation on the credit, contained in subsection (b), would be amended to provide a maximum credit of $600 (instead of $500) and provision would be made for reduction of the credit by 15 percent (rather than 12.5 percent) of adjusted gross income over $7000 (instead of $6000). The definition of earned income would be amended to expressly exclude earnings from services performed in a public service job if such earnings are paid in whole or in part, from funds provided under title II of the Comprehensive Employment and Training Act of 1973.

TITLE II—SUPPLEMENTAL SECURITY INCOME

Part A—Food Stamp Cash-Out

Food Stamp Cash-Out for SSI Certain Recipients

Section 201 of the bill amends part A of title XVI by adding a new section providing cash payments in lieu of food stamps for certain SSI recipients.

Section 1619 of the Social Security Act would provide as follows:

(a) The Secretary will make a cash payment, in addition to the SSI benefits (which, throughout this section, includes Federally administered supplementary payments) payable to an individual, in the case of each such beneficiary living alone (in his own household) or living with others all of whom are SSI beneficiaries. The payment will be made together with the SSI check and will be excluded from income in determining the amount of the federally administered supplementary payment.

(b) The Secretary will establish one amount for eligible individuals, and another for eligible couples. The amount will equal the value of the coupon allotment to an aged individual (or couple) with no income other than the SSI benefits, and subtracting only the standard deduction specified in section 5(e) of the Food Stamp Act of 1977 and one-half the maximum excess shelter deduction specified in that section, currently $75. In establishing these amounts, the Secretary will only consider supplementary payments if they are made to at least half the SSI beneficiaries in the State. If the State has geographic variations, the lowest one will be used, and the SSI benefits (to determine the amount of coupon allotment) for each fiscal year will be the statutory benefit amount in effect for July of the preceding year.

These amendments will be effective October 1, 1981. An individual who is eligible for an additional payment in lieu of food stamps, and received food stamps for September 1981 in a greater amount, will receive the latter amount so long as it is greater and he is continuously eligible for SSI, and ending with the month he no longer lives in his own home, or moves out of the State in which he resides during September 1981. Any person who receives the additional payment will be ineligible for food stamps (or inclusion in a food stamp household). Any State which has cashed out food stamps (and includes the bonus value of food stamps in its State supplementation levels) shall pay only the difference between the additional payment in lieu of food stamps and the bonus value already paid through the State supplementation.

Part B—Improvements in Standards for Determing Eligibility and Amount of SSI

Eligibility of Couples Living Apart

Section 202 of the draft bill would amend section 1614(b) of the Act, the section containing most of the definitions used in the SSI program, to modify the definition of eligible spouse. An individual would cease to be the "eligible spouse" of another after they had been living apart for more than one calendar month, rather than six months as in existing law. The current six month period imposes real hardships upon separated couples; they are living apart and hence incurring the greater living expenses occasioned by separate residences, but they can only be paid at the lesser rate which is designed for a couple living together. The one month separation requirement would allow the couple's living arrangement to stabilize before the recomputation of SSI benefits is required but would not impose that seems to be an excessively protracted waiting period. During that one month period, the couple would be paid on the basis of whichever of their (separate) living arrangements yielded the higher amount.

In addition, this amendment would treat a husband and wife as living apart, even though they may be living in the same medical institution. Since institutional charges for members of a couple are assessed on an individual basis, and thus in such cases the rationale for a reduced SSI benefit for couples—economies of living together—is not applicable, the couple members should be treated as individuals for SSI purposes.

Eligibility of Individuals in Certain Medical Institutions

Section 203 of the draft bill would amend section 1611(e) of the Social Security Act to provide a one month delay for an institutionalized SSI recipient before either making him totally ineligible (if he is now residing in a public institution and Medicaid payments are not made on his behalf) or applying the reduced $25 payment standard (if Medicaid is making payments to the institution for the individual). Under present law, the sharp reduction in SSI benefits in the case of an individual who has come to rely upon them to maintain his residence outside of an institution can be extremly harsh when the period of institutionalization is not long. In such cases the recipient must continue to pay expenses in connection with his permanent residence so that he can return there. For this reason, continuing to compute payments under the same living arrangement assumptions as applied in the previous month, for a period of one additional month, is considered reasonable. This one month extension will only apply to individuals who received SSI for the preceding month and may therefore reasonably be assumed to rely upon the payment. This proposal is also intended to coordinate with the amendment made by the preceding section. If one member of a couple goes into an institution (and thus they are living apart), they may continue to receive a couple's benefits for one more month. Thereafter the reduced standard would apply, but at the same time the couple could be treated as two individuals and the income of one would not count against the other.

Earned Income in Sheltered Workshops

Section 204 of the bill would provide for treating income received in a sheltered workshop setting as earned income in all cases for purposes of determining eligibility for and the amount of SSI benefits. This would correct the inequitable situation under current law in which sheltered workshop income of some SSI recipients must be treated as unearned income (and as such is subject to only a $20 per month exclusion) simply because the recipient is engaged in a rehabilitation program and thus is not in an "employee" relationship with the workshop. Sheltered workshop income of SSI recipients who are not engaged in a rehabilitation program, and thus are employees, is treated as earned income and is subject to more liberal income exclusions ($65 per month plus one-half of the remainder).

Exclusion from Resources of Burial Plots

Section 205 would amend section 1613 of the Social Security Act to provide for the exclusion of burial plots from the resources of an individual. Such an exclusion would allow low income people, usually the elderly, to receive SSI benefits without being forced to choose between retaining the burial plot or a small amount of savings. There is often enormous resistance on the part of the aged to giving up a burial plot, especially when doing so would mean the person could not be buried at the same location as other members of his family.

Exclusion From Resources of Funds Set Aside for Burial Expenses

Section 206 would amend section 1613 of the Social Security Act, prescribing rules for the treatment of resources under the supplemental security income (SSI) program, to provide for an exclusion from countable resources of amounts set aside to meet the burial expenses of an eligible individual or his spouse who is living with him. Each may exclude up to $1500 in a separately identifiable fund for burial expenses, but that amount must be reduced by the amount of any whole life insurance policies that have been excluded from resources, or irrevocable burial trusts, either or which would serve the same purpose. Further, if the amount set aside for burial expenses is used for another purpose, or any excluded cash surrender value is obtained by the individual, future SSI benefits will be reduced by a like amount.

Exclusion of Certain Real and Personal Property From Income

Section 207 of the draft bill would amend the SSI program to add to the list of exclusions from income unearned income in the form of real or personal property (1) which would be excluded from resources (e.g., a house which the individual inherits and thereupon moves into), or (2) which is not readily convertible to cash and is not in the form of food or clothing. It can be extremely harsh to reduce an individual's benefits in a month that he receives, for example, a gift or inheritance even though he can't use it to meet normal living expenses.

Also, it serves no program purposes to count as income property which will immediately be excluded from resources. The property would continue to be treated as a resources, subject to the overall limit on the allowable value of resources. If it caused the total value to exceed the resource limit, the provision of section 1613(b), on disposition of resources, could then be invoked.

Underpayments to Ineligible Spouse of Deceased SSI Recipient

Under section 208 of the draft bill, the underpayment provision of the SSI program (section 1631(b) of the Social Security Act) would be amended to allow the correction of underpayments with respect to a deceased SSI recipient by making payment to his surviving spouse who was living with him at the time of death, regardless of whether the spouse is eligible for SSI.

Under the provisions of current law, such payments may only be made to a surviving eligible spouse. This restriction causes hardship for a surviving ineligible spouse who may have incurred debts providing for the needs of the SSI recipient prior to his death and expected to make payment from the SSI benefits of the eligible individual. Enactment of this proposal would alleviate the hardship caused when the ineligible spouse cannot receive the underpayment and would greatly enhance public understanding of the program.

Increased Payment for Presumptively Eligible Individuals

Section 209 of the bill would amend that provision of the Social Security Act which authorizes cash advances of SSI payments to meet cases of financial emergency. Under section 1631(a)(4)(A) of the Act, as presently in effect, payments may be made to a presumptively eligible individual of up to $100 per month. This amendment would liberalize the provision in two regards: first, it would allow payment of up to the full amount of monthly benefits, and second, the amendment would permit such a payment to be made for three successive months. The amounts contained in the proposal are more realistic in light of the current cost of living and would allow the Secretary to be more responsive to the immediate needs of indigent individuals. However, this provision, as amended, would continue to be tightly administered as under present law so as to limit its applicability to individuals where there is a strong presumption of eligibility and who are facing clear financial emergencies.

In-Kind Remuneration

Section 210 of the draft bill would amend section 1612(a)(1)(A) of the Social Security Act to broaden slightly the definition of earned income. That provision presently refers back to the title II definition of wages, which does not include remuneration furnished in a form other than cash for agricultural or domestic service or service not in the course of the employer's trade or business. The effect of that exclusion, when carried over to the SSI program, is to require the treatment of such amounts as unearned income, with the resultant dollar-for-dollar reduction in SSI benefits (after the initial $20 per month disregard). There is no apparent reason for treating in-kind remuneration of workers in the SSI program differently from that in-kind earnings of other workers.

Continuation of Benefits for Certain Individuals Hospitalized Outside the United States

The present SSI law makes an individual ineligible for benefits for any month throughout all of which he is outside the United States. Section 212 of the draft bill would amend section 1611(f) to apply a special rule, consistent with a provision in the Medicare program, for SSI recipients receiving inpatient hospital services provided outside the United States. The amendment made by section 211 would provide that an individual will be eligible for SSI if he is outside the United States to obtain inpatient hospital services because the foreign hospital is closer to his home or more readily accessible than the closest adequate facility within the United States, or, in the case of emergency hospital services he was within the United States (or traveling between Alaska and another State) when the emergency requiring hospitalization occurred, and the foreign hospital was closer than the nearest alternative facility within the United States. This amendment is consistent with the general intent of the restriction of SSI eligibility to those within the United States, while making an exception for reasonable situations.

Extension of Special Income and Resource Provisions

Section 212 of the proposed bill would amend sections of 1611 (g) and (h) of the Social Security Act to extend the applicability of those special grandfathering provisions relating to income disregards for the blind and to resource limits.

The grandfathering protection would continue until the individual had been ineligible for either an SSI benefit or a State supplementary payment for six consecutive months. Under the present law, recipients who were converted from the superseded State administered programs are entitled to have the resource exclusions and, in the case of the blind, the income disregard rules, of those programs applied to them until the expiration of a six month period during which they are ineligible to receive SSI benefits. However, in some cases, individuals would (usually because of income) be eligible for a State supplementary payment and therefore on the program rolls continuously although ineligible for the basic Federal payment. It seems inequitable and without any program purpose to cause one group of recipients to lose its eligibility for grandfathering protection while preserving it for another group in almost identical circumstances.

Deletion of Term "Child"

Section 213 of the draft bill would repeal section 1614(c) of the Social Security Act, the definition of the term "child" for purposes of the SSI program, and make several minor conforming amendments. A "child" under current law is under 18, or if a student, under 22, and is neither married nor the head of a household. This term is then used in various places throughout title XVI; for example, there is a special definition of disability in the case of a child under 18, and special rules on the effect of a parent's income and resources on the eligibility of a child under 21. There seems to be no reason, however, for having these special rules apply to a "child" under some specified age rather than an "individual" under the same age. The primary adverse effect of the use of the term "child" comes about in the disparity of treatment of parents' income and resources between students and non-students, and that distinction seems unwarranted in the context of the SSI program.

Repeal of Mandatory State Supplementation

Section 214 of the proposed bill would repeal section 212 of P.L. 93-66, the requirement that States pay mandatory supplementation to maintain the December 1973 income levels of all SSI recipients who, for December 1973 (the last month of the superseded State grant-in-aid programs), were recipients of State assistance. The requirement is a condition of continued Federal cost sharing in a State's Medicaid program.

Attempting to relate current payments to State standards in effect in 1973 is a task of enormous administrative complexity, and the relationship to current circumstances becomes increasingly tenuous as time goes on. This provision was intended as a transitional device to protect former State recipients from a loss of income. Now, however, States should be allowed to set standards for all recipients within their boundaries and apply them equally throughout.

Limitation on Eligibility for SSI of Persons Who Dispose of Assets

Section 215 of the draft bill would amend section 1611(e) of the Social Security Act to preclude SSI eligibility in the case of an individual who transferred assets, without compensation if the assets (or portion thereof) transferred without compensation had a value of $3,000 or more. The bar would apply with respect to transfers occurring within any 24-month period, beginning with the twenty-fourth month preceding application. The period of ineligibility ranges from 6 to 24 months (depending on the amount of uncompensated value). However, the prohibition would cease immediately upon the return to the applicant of the uncompensated portion of the assets, or the payment to him of their fair market value.

The effect of this amendment will carry over to Medicaid eligibility without further amendment of title XIX of the Act except in the case of States applying their 1972 Medicaid criteria, under the authority of section 1902(f) of the Act. Therefore, a brief amendment would be made to that section to assure that this rule would apply to eligibility for Medicaid in all States.

Rounding of Cost-of-Living Adjustments

Section 216 would amend section 1617 of the Social Security Act to provide for rounding the annual SSI benefit amounts to the nearest $12.00, or, in monthly terms, to the nearest dollar. Under present law, SSI benefit amounts are rounded to the next higher multiple of 10 cents. This amendment parallels the Administration's proposal to round monthly benefit amounts under title II of the Act to the nearest dollar and will therefore facilitate relationships between the two programs.

Part C—Improved Administration of the SSI Program

Judicial Establishment of Fees for Representing SSI Claimants

Section 231 would add a new subparagraph (B) to section 1631(d)(2) of the Social Security Act to provide that when an SSI claimant obtains a favorable judicial decision, the court may set a fee for the attorney who represented the claimant. The fee can't exceed 25 percent of past due SSI benefits, and will represent the full amount which the attorney can charge for his services in connection with that judicial proceeding. Title XVI currently authorizes the Secretary to prescribe fees in connection with administrative proceedings; this amendment would bring the provisions of title XVI with respect to fees for representation of SSI claimants fully in line with current law under title II and XVIII.

Retrospective Monthly Accounting

Under current law, continuing eligibility for and the amount of SSI benefits are determined on a prospective quarterly basis. (Initial applications are considered on a monthly basis during the first quarter if they are filed in the second or third month.) Of necessity, therefore, income (as well as other circumstances, such as living arrangements) affecting eligibility and amount of payment must be assumed, with subsequent corrective action required should the assumptions prove to be inaccurate. Section 232 would amend the relevant sections of title XVI, therefore, to provide that eligibility and benefit amount will be determined on a monthly (rather than quarterly) basis, and will be retrospective.

The amount of payment that will be made will be determined, therefore, after the close of the month for which it is made. Similarly, an application will be effective back to the first day of the month preceding the month in which it is actually filed. Special provision is made for the Secretary to waive the limitations on payment applicable to individuals in hospitals, nursing homes, or other medical institutions, in order to facilitate their leaving the institution and receiving, in the month of leaving, an SSI payment in an amount appropriate to the new living arrangement. The Secretary is also given authority to prescribe rules for the first two months payments, in accordance with rules he would issue under a new paragraph. Under these regulations, first two months' payments will provide for an uninterrupted transition to the retrospective accounting system and, with respect to factors affecting eligibility and benefit amount in the first two months, will allow the Secretary to take appropriate account of changes in an individual's circumstances that have recently occurred to assure that initial benefits reflect his current rather than past need for SSI.

Special provision is also made for a transitional SSI payment to be made in the first month for which the retrospective accounting method is effective. Since no benefits would otherwise be paid in that month, a transitional payment, to each individual eligible for SSI for the preceding month, will be made. The amount of the transitional payment will be the same as the amount the beneficiary received for the preceding month, plus, if the (retrospective) payment will be made later than the tenth day of the following month, that amount pro rated by the fraction of the next month elapsing before payment will be made. The transitional payment will be treated as an SSI payment, and the increase because of the elapsed days in the following month must be disregarded from income under any other Federal or State program.

Limitation on Federally-Administered Variations in State Supplementation

Section 233 of the draft bill would amend section 1616 of the Social Security Act, the section dealing with optional State supplementation and agreements for Federal administration of that supplementation. The amendment would prescribe the specific situations in which the Secretary would be authorized to administer varying amounts of optional supplementation. Any changes from the basic amount set by the State, other than those specified in the revised subsection (c) (2) of section 1616, could not be included within the agreement for Federal administration.

Under the proposed amendment, the Secretary may administer a basic amount of supplementation for an individual living independently in his own place of residence; in addition, he may vary that amount at the State's request to take account of the situation in which an individual:

(1) lives in the household of another,

(2) lives with an essential person whose status has been grandfathered by section 211 of P.L. 93–66,

(3) lives in his own residence with his eligible spouse,

(4) lives in the household of another with his eligible spouse, or

(5) lives with an eligible spouse and an essential person.

With respect to the basic amount for individuals living independently, and to each of the five differing amounts based on living arrangements, there may be two variations of each of those amounts (for a total of three amounts per living arrangement) in recognition of as many as three geographic classifications within each State.

It should be noted that there would be no federally administered variation allowed from the basic supplementary payment amount by reason of an individual's being aged, blind, or disabled.

In addition, a new paragraph (3) would be added to subsection (c) to preclude the administration by the Secretary of a supplementary payment to any individual to whom the $25 personal needs allowance applies. The large number of variations which the Secretary has been asked to administer by some States has greatly added to the administrative complexity of the SSI program. To impose outside limits on the number and types of variations with which he will have to deal should allow reduced error rates and generally facilitate the administration of the SSI program.

Elimination of Requirement for Representative Payment of SSI to Drug Addicts and Alcoholics

Section 234 would delete the requirement that a disabled or alcoholic cannot receive the SSI benefits for which he is eligible directly, but rather must have payment made on his behalf to a representative payee. The effect of repealing this provision is to allow payment to be made on the same basis of the same considerations as are applied to any other recipient. Individual judgments would be made by the Secretary, and in those cases where it is found appropriate to safeguard the individual's interest, payment could be made to a representative payee. However, that result would not be mandated. This result would contrast with present law, where payment can only be made through a representative some situations in which officials of the facility at which the individual is receiving treatment assert that direct payment would be consistent with and enhance the individual's course of treatment.

Adjustment of Retroactive Benefits Under Title II on Account of Advances of SSI Benefits

Section 235 of the draft bill would add a new section 1132 to the Social Security Act. This new section will allow the Secretary to offset, against retroactive benefits paid under title II, amounts of SSI benefits paid for the same period for which the retroactive title II payment is eventually made. The retroactive payment would be reduced by the amount of the SSI benefits which would not have been paid had there been timely payment made under title II, and the reduction will go to reimburse the general funds for expenditures for those excess SSI payments. With this mechanism, each program will bear its true share of the costs of benefit payments to an individual. Under current law, an individual eligible under both the OASDI and SSI programs whose determination of eligibility for OASDI is delayed can in some cases receive a windfall—i.e., full payment under both programs for the same months—since SSI would have been paying benefits without any reduction because of OASDI. In situations where State supplementary payments were also made, but would have been smaller (or zero) had the title II payment been made on a monthly basis from the time of first entitlement, the Secretary will reimburse (or credit) the State for its pro rata share of the adjustment.

This provision will allow a more accurate assessment of relative program costs and eliminate windfall retroactive title II benefits which reward individuals merely because the first payment under title II was delayed.

Replacement of Benefit Checks

Section 236 of the draft bill would amend the payment section of the SSI law to provide authority for the prompt replacement by the Secretary of benefit checks which have been lost, stolen, or destroyed or, for any other reason, not delivered to the recipient within two days following the usual delivery day. The Secretary would be directed to issue regulations specifying procedures for replacement. The legislative language specifies that the replacement request must be made within the same month for which the missing check was issued. The regulations are also to specify the procedures which will be followed to reconcile accounts with the Treasury Department. This authority will allow the Secretary to be more responsive to the immediate and often urgent need for funds of SSI recipients.

Mandatory Pass-Along of SSI Benefit Increases

Section 237 would make certain technical amendments to section 1618 of the Social Security Act, the section requiring States to pass along to SSI recipients increases in the Federal benefits. The amendments made by subsection (a) would delay the period with respect to which the pass-along applies so that these technical amendments would be applicable to the period for which the pass-along is in effect; under the amendment it would apply to increases occurring after June 30, 1979. Also they would eliminate the requirement that there be an agreement, and merely have its condition for Medicaid matching stand on its own. Finally, a fixed (rather than sliding) time period would be provided for establishing the 12 month total of expenditures which form the basis of the alternate condition States can meet under this section, i.e., rather than maintaining levels of benefits, it can maintain total expenditures for supplementation. The period would be fixed as the 12 months beginning July 1976, to maintain equivalence with the December 1976 date that sets the benefit rate that may be maintained as the primary way of passing along benefit increases.

Subsection (b) would give a State the option of changing from cash supplementation (paid directly to individuals) to vendor payments in the case of individuals residing in domiciliary or personal care facilities. If a State makes such a change, the amount of the vendor payments to the facilities will be subtracted from the State's total expenditures that must be made in determining whether it has met the pass-along condition of section 1618.

Two new subsections would be added to section 1618. Subsection (c) prescribes that the penalty will not be invoked if the Secretary finds that the State had made reasonable efforts to comply with the pass-along conditions, but fell short of maintaining its total expenditures, to permit the State to make additional payments after the close of the relevant 12-month period. The Secretary would also prescribe by regulation the criteria for determining that the State was making continuing "reasonable efforts".

Subsection (d) specifies that if Federal participation under Medicaid is to be withheld, by reason of the State's failure to make reasonable efforts to comply with the pass-along requirements, the Secretary shall thereafter withhold Medicaid payment otherwise payable until he has recovered the amount paid under title XIX for the period for which the State failed to meet the pass-along conditions.

Deletion of Obsolete Reference

Section 238 of the draft bill would delete the cross reference to section 205(f) of the Social Security Act which appears in section 1631(d)(1) of the Act. Section 205(f), regarding witnesses who give testimony which can be used against them, was repealed by the Crime Control Act of 1970 (P.L. 91-452).

Correction of Incorrect Reference in P.L. 92-603

Section 239 amends section 305(b) of the Social Security Amendments of 1972 to correct a cross reference contained therein. Section 201(g)(1)(A) of the Social Security Act contained the authority for reimbursing the Trust Funds for portions of administrative expenses attributable to SSI. In 1976, this provision was redesignated as section 201(g)(1)(B), but the reference contained in section 305(b) of P.L. 92-603 were not conformed.

TITLE III—AMENDMENTS APPLICABLE TO TWO OR MORE PROGRAMS UNDER THE SOCIAL SECURITY ACT

Limitation on Period Within Which Claims For Reimbursement Must be Filed

Section 301 would add a new section 1133 to the Act to prescribe express time periods within which claims for Federal reimbursement under the public assistance programs (including for this purpose Medicaid and social services) must be made. The new section would require that Federal reimbursement would not be available unless the claim were made within the two fiscal years following the fiscal year in which the expenditure occurred. Standards are also prescribed (with discretion in the Secretary to allow variations at the request of the State) for determining when an expenditure is made.

Consolidated Account for Administrative Expenses

Section 302 of the draft bill would amend title VII of the Social Security Act by adding a new section, authorizing expenditures from the Trust Funds for carrying out titles II and XVIII (authority currently contained in section 201(g)(1) of the Social Security Act), and authorizing the transfer of amounts from the Trust Funds or from the general fund of the Treasury into a consolidated account for administering all programs for which the Social Security Administration and the Office of Child Support Enforcement are responsible. Transfers into the consolidated account will be made originally on the basis of estimates; however corrections will be made throughout the fiscal year, no less frequently than quarterly, on the basis of actual experience to assure that each Trust Fund and each general fund program bears only its appropriate share of the administrative costs. A final accounting will be made after the close of the fiscal year and amounts transferred or credited, so that each source of funding has been repaid, with interest, for any amounts with which it should not have been charged. If this had not occurred fully by the close of the following fiscal year, the authority to use the consolidated account in this way will cease to exist.

Research and Demonstration Authority Under the Social Security Act

Section 303 makes several amendments to sections 1115 and 1120 of the Social Security Act, pertaining to research and demonstration projects under the Act.

Subsection (a) extends to part D of title IV (the child support enforcement program) the authority to waive plan requirements and limitations on matching in order to conduct projects to promote the objective of the assistance titles.

Subsection (b) would raise from $4 million to $20 million the amount available to the Secretary to make Federal payments for costs under section 1115 demonstrations that would otherwise have to be met from non-Federal sources.

Subsection (c) amends section 1120 of the Act to delete the requirement that all research and demonstration projects under the Act be approved by the Secretary or Under Secretary, personally, if the funding is all Federal money.

Improved Financing for the Territories

Section 304 makes several amendments all designed to make permanent improvements in the financing of the assistance programs in the territories. Subsection (a) would provide, beginning in fiscal year 1980, a permanent matching rate of 75 percent in the assistance programs. Subsection (b) makes the necessary amendments to section 1108 to double the ceilings that have been in effect for each year since 1972 (with the exception of 1979, for which year only the Tax Reform Act tripled the ceilings). The section also makes express provision for the Commonwealth of the Northern Mariana Islands.

Subsection (c) makes the ceilings on payments to the territories subject to a new subsection (e) of section 1108, that would, in effect, impose a maintenance of effort requirement. The maximum amount available for payment to a territory would be reduced by any decrease in that territory's expenditures for cash assistance from the amount it spent in fiscal year 1978.

Support of Immigrants

Section 305 of the draft bill would amend the Immigration and Nationality Act; subsection (a) would add a new section 216 to that Act to require that in the case of an immigrant seeking admission to the United States and relying upon financial support from a sponsor, the sponsor must execute a legally enforceable agreement to furnish a specified level of support for 5 years following the immigrant's entry into the United States. Such an agreement would not be required from immigrants, or classes of immigrants, designated by the Secretary of Health, Education, and Welfare after consulting with the Secretary of State or the Attorney General, as refugees.

The sponsor providing the support agreement must be a citizen or an alien lawfully admitted for permanent residence. He must furnish evidence of his ability to support, and must agree to provide income sufficient to keep the immigrant from becoming eligible for assistance under Federal, State, or local assistance programs based on need, or publicly funded assistance for routine medical care (as defined by the Secretary of Health, Education, and Welfare).

The agreements can be enforced by the United States or by a State or local agency providing assistance to the immigrant; suit may be brought in Federal district court when the amount in controversy exceeds $10,000 (otherwise the suit must be brought in any other court of competent jurisdiction). Suit may be brought to enforce support or to recover assistance already furnished.

If public assistance is furnished to an immigrant with respect to whom there is an enforceable support agreement in effect, and efforts to secure support under such an agreement are unsuccessful, the receipt of assistance may constitute grounds for deportation.

The new section would state expressly that the support agreement is unenforceable under any of the following circumstances: the immigrant is under age 65 and became blind or disabled after entry, the sponsor dies, the sponsor is adjudicated bankrupt, or the sponsor cannot fulfill the agreement because of changes in his financial circumstances that could not be foreseen when he undertook to provide support.

The head of any agency providing support is directed, notwithstanding any other provision of law, to furnish information necessary to the Attorney General concerning their provision of assistance and efforts to enforce support agreements as he needs to carry out the Immigration and Nationality Act. Similarly, the Attorney General will provide information (including a copy of the support agreement) to any agency administering a program of public assistance furnishing benefits to the immigrant (or seeking to secure support for him).

These amendments would apply to immigrants applying for admission after the ninetieth day following the date of enactment of this draft bill other than those who, sixty or more days before the effective date, had obtained affidavits of support.

Conditions Governing Availability of Certain Federal Records

Section 306 amends title XI of the Social Security Act, effective upon enactment, to add a new section 1134 containing two informational cross references. Subsection (a) cites the reader to section 6103 of the Internal Revenue Code of 1954 for rules governing disclosure of certain return information in the files of the Social Security Administration for purposes directly connected with the administration of Social Security Act programs providing cash or medical assistance. The rules governing disclosure are contained in the amendments made by the following section of this bill. Subsection (b) of the new section contains cross references to the authority for State unemployment compensation agencies to provide information necessary for the administration of those programs. To better carry out these changes, amendments are made to title III of the Social Security Act, to assign responsibility for sharing wage information to State agency administering the State unemployment compensation (and to relocate the amendments to this effect made by section 508 of P.L. 94-566 and to make conforming changes). This section repeals section 411 of the Act, since all disclosure would be under the Internal Revenue Code, and makes conforming amendments to two other sections of the Act.

Disclosure of Tax Return Information

Section 307, to assist in eligibility and benefit determinations under the specified State plans approved by the Secretary of Health, Education, and Welfare under the Social Security Act, or in connection with the SSI program, and to institute effective quality control systems provides for the disclosure of certain tax return information to the Department of Health, Education, and Welfare and to State agencies administering the programs, of aid or medical assistance under title I, IV (part A), X, XIV, XVI, or XIX of the Social Security Act.

New paragraphs would be added to section 6103( ) of the Internal Revenue Code of 1954, dealing with disclosure of information for purposes other than tax administration, authorizing the Social Security Administration to disclose information it has already received (under subsection ( )(1) or, in connection with annual reporting, under section 232 of the Social Security Act), to other officials of the Department of Health, Education, and Welfare or to State agencies (but subject to limitations described below) in order to determine eligibility or benefit amount under the cash or medical assistance programs assisted under the Social Security Act. (Paragraph (c) of section 6103 would be similarly amended so that such information could be disclosed in connection with the child support enforcement program.) However, information can only be disclosed to the extent that it is necessary for these purposes, as determined by the Secretary of Health, Education, and Welfare. This determination must be contained in regulations which, while not specified in the bill, it is understood will be formulated in accordance with the rulemaking procedures, including notice and opportunity to comment, required under 5 U.S.C. 553.

The remainder of this section comprises conforming amendments to other related provisions of the Internal Revenue Code of 1954, including the requirements for safeguarding disclosed information.

TITLE IV—CHILD SUPPORT ENFORCEMENT

Collection of Support for Certain Adults Receiving AFDC

Section 401 of the bill would make a series of amendments to part D of title IV of the Social Security Act to the end that State child support agencies would be responsible for collecting support, in those cases in which that support obligation has already been established, for adult AFDC recipients. Amounts collected would be subject to the same rules regarding distribution and similar matters as are collections of child support.

Child Support Collections for Non-AFDC Families

Section 402(a) of the bill would amend section 455(a) of the Social Security Act to make permanent the authority to use Federal funds by State child support agencies to make collections on behalf of non-AFDC families.

Subsection (b) would amend section 454 (6) of the Act to require (rather than allow) the imposition of a fee for collection services for these families. The fee would be fixed at 10% of the amount collected and withheld by the agency from the collection before the balance is distributed to the family. However, the amendment would specifically preclude imposing the fee where to do so would make the family eligible for AFDC.

Amendments Regarding Incentive Payments

Section 403 of the draft bill would revise section 458 providing for incentive payments in relation to the amount of support collected. The revision would eliminate incentive payments in interstate cases (because of the enormous amount of administrative complexity involved), and make States (in addition to political subdivisions, as in current law) eligible for incentive payments. However, all incentive payments (to the States and to the political subdivisions) would be paid from collections before any distribution is made to the Federal or State governments, rather than having the full cost of the incentive payments taken from the Federal share of collections.

Incentive Payments to Tribal Governing Bodies

Section 404 of the draft bill would specifically include tribal governing bodies as local government organizations eligible for incentive payments.

Three Months' Extension of AFDC Eligibility

Section 405 of the draft bill would amend part A of title IV (AFDC) to afford a State the option of disregarding, for up to three months, the excess of support collections paid the family for that month. Thus, even though the amount collected for one or two months to meet a monthly obligation might be sufficient to make the family ineligible for AFDC, the State would have the option of keeping the family in the AFDC program until a stable payment pattern had been established and could reasonably be expected to be continued. Where the State did not choose to exercise this option, the collection would go directly to the family, as under existing law.

Corresponding changes would be made in part D of title IV. Payment on the support obligation would be made to the State (which had adopted the AFDC disregard option) during the period to which the disregard applied. The distribution provision would also be amended, allowing States to retain amounts equal to AFDC payments during this period; in this way neither the State nor the individual would be worse off by reason of the decision to let the family remain on the AFDC program for up to three extra months.

Additionally, minor clarifying amendments closely related to the new distribution provisions would be made to section 457 (distribution of collections) to make explicit the distinction between payments on the current month's obligation, and those with respect to earlier periods. These technical amendments would necessitate no change in the existing program policies or in the administration of the child support program.

Method of Determining Reimbursement of the Federal Government

Section 406 of the draft bill would specify that the Federal share of reimbursement from child support collections for AFDC previously paid to the family would be based upon the Federal AFDC matching rate for the quarter in which the collection is distributed. Currently the law requires that Federal reimbursement be calculated on the basis of the rate in effect when the AFDC payment was made. The change made by the amendment would provide a simpler and more practical way to determine reimbursement.

Method of Payment for Support Collection Services

Section 407 of the proposed bill would add a new subsection to section 455 to prohibit advances of Federal funds to a State child support enforcement agency unless a full and timely report of collections and expenditures was made to the Secretary. The report would have to cover all prior quarters other than the most recent two quarters preceding the one for which advances of funds are sought. Additionally, section 403 (payments to State AFDC agencies) would be amended to reduce the amount payable to a State under that program by the amount due to the Federal government as its share of collections in accordance with section 457.

● Mr. ULLMAN. Mr. Speaker, the administration's welfare reform package this year deserves serious consideration by Congress. It contains many of the ideas and provisions that were in the welfare reform bill I introduced in the last Congress. It is an incremental proposal rather than a comprehensive package. It retains food stamps for all families except SSI recipients. It tightens administrative procedures. It mandates a reformed unemployed father program in all States. It provides for a minimum cash and food stamp benefit in all States and expands work opportunities. And most important of all, it has a moderate price tag. Last year's administration proposal would have cost an estimated $20 billion more than current welfare programs by 1982, while this proposal (welfare and jobs) adds an estimated $5 to $7 billion.

This proposal corrects many of the deficiencies of the current system without tearing it down and starting from scratch. It corrects the deficiencies in the following way:

Simplifies eligibility determination: It replaces a detailed list of work expenses with one standard. It enables SSI recipients to receive benefits without going through two application and eligibility processes. Food stamp and AFDC definitions of income and assets are standardized and coordinated.

Tightens administration procedures: It bases eligibility on past income rather than predictions of future income; mandates monthly reporting and provides additional moneys for computer checks. Furthermore, it reduces the income level from $16,000 to $12,000 in several States at which benefits phase out.

Improves the equity of benefit payments: The bill relates benefits to earnings for women with children—regardless of their employment history. Present law pays welfare benefits to a woman who becomes temporarily unemployed and then returns to work, while denying any benefits to a woman with the same salary who has no record of unemployment.

This bill also eliminates the "100-hour rule" which terminates benefits to a family when the principal wage earner worked more than 100 hours a month. The rule now encourages some families to work short of the 100-hour limit—often at higher total incomes than those working more than 100 hours.

Mandates a minimum payment: Mandates a minimum Federal payment equal to 65 percent of the poverty line for all families with children.

Improves work incentives: It strengthens the work requirements and provides additional work opportunities for unemployed parents. By removing the 100-hour rule, there is increased incentive to become fully employed.

It is not a perfect bill. I am disappointed that people with uneven incomes during the year are not treated more fairly, but it definitely is a step in the right direction and is a vast improvement over last year's bill.

The committee will need to study the bill to see if any further improvements can be made. We will have to examine the cost of the program carefully to insure the welfare portion of this package has less than a $3 billion cost. If the cost estimate is correct, I think we can move the bill through the committee.●

WAYS AND MEANS TRADE SUBCOMMITTEE EXPLORING IMPROVEMENTS IN CALCULATION OF ECONOMIC IMPACTS OF IMPORT RELIEF ACTIONS

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, under the General Agreement on Tariffs and Trade (GATT), article XIX, nations may take temporary "safeguard" or "escape clause" actions to assist their industries in adjusting to import competition which is injuring those industries. Such actions, usually quotas or increased tariffs, must be temporary and designed to give the domestic industry a "breathing space" in which to improve their efficiency and competitiveness in their existing fields or to develop new lines of production. Article XIX actions are a response to competition from fair trade and are different from antidumping and countervailing duty cases in which a domestic industry is protected against unfair, dumped or subsidized competition.

The article XIX concept is contained in domestic law in sections 201 through 203, of the Trade Act of 1974, and actions in this area are often referred to as 201 import relief cases. In recent years, various forms of 201 relief have been provided to the domestic color television, footwear, specialty steel, citizen band radio, ferrous fastener, and ferrochromium industries.

Obviously, the use of the 201 import relief provision entails both costs and benefits to society. The costs might involve higher prices as the foreign competition is temporarily curbed. The benefits could involve increased domestic employment and decreased economic or social disruption, and perhaps in the long run increased industry competitiveness.

Under the law, the U.S. International Trade Commission (ITC) investigates applications for relief under section 201, and makes recommendations to the President. The President is charged with considering the full consequences of accepting the tariff or quota recommendation of the ITC. He may accept their advice, modify it, or reject it. If he modifies it or rejects it, the Congress has 90 working days in which it may override the President's decision, and in effect, enact the ITC's original recommendation. Administrations have seemed reluctant to use fully the 201 procedure. In part, this reluctance stems from a concern over the costs of import relief.

What I want to discuss today is the fact that there is often considerable difficulty in determining the costs and the benefits involved in relief cases. There are often disagreements among agencies and between the agencies and private economists and industry spokesmen.

These disagreements over the cost and benefit of import relief action have made it very difficult for the Congress to consider intelligently potential overrides of the President's modification or rejection of ITC recommendations.

In considering these cases, we on the subcommittee and in Congress have great difficulty with the figures for consumer costs. Often times each of the executive agencies that comment on these relief petitions provides us with different estimates for the same import relief measures. For example, in the metal fastener case which came before my subcommittee last Congress, the ITC proposed a 30-percent declining tariff on imports. ITC staff estimated that the costs for this remedy would be $33 million, and could restore 2,500 jobs in the industry. The special trade representative estimated consumer costs for the ITC recommended relief to be between $30,000 and $260,000 per job with between 700 and 2,000 jobs being saved. In testimony before the subcommittee, William Nordhaus of the Council of Economic Advisers reported only the higher cost estimate and the lower job retention figures.

A recent Department of Labor study entitled "Price Behavior of Products Under Import Relief" challenges the conventional economic analysis that states the effect of import relief is always inflationary. By studying the actual price behavior of products under relief, the study concludes that if the relief period is used to upgrade technology, expand investment and increase capacity utilization, improvements in productivity and domestic supply can moderate consumer price rises.

Traditional economic methodology, however, considers different criteria aside from price and reaches very different conclusions.

Needless to say, I am concerned about the amount of disagreement and divergence on what would seem to be a basic statistical question. Investigation of these figures revealed several problems inherent in them. The variances of these estimates result not from the use of different methodological frameworks but rather result from the use of different statistical inputs concerning the supply and demand effects of price increases caused by trade restraints. These inputs vary from agency to agency and from one study to the next. These differing estimates cloud the issue and make it difficult for us to legislate policy that will benefit workers, industries, and consumers.

The traditional economic framework used to evaluate these cases is known as the allocative efficiency method. Allocative efficiency is defined as making the best use of resources (land, labor, and capital) at a given moment assuming tastes and technology remain constant and perfect competition exists in the marketplace. To the extent that these assumptions are not true, the validity of the estimates is highly questionable.

The framework is further limited by problems concerning the accuracy of supply and demand statistics used in these analyses. Many of the statistics quoted in these reports are based on data that is nearly 10 years old. It is thus impossible to say that these figures which are intended to replicate market conditions can, in fact, do this. Consequently, the consumer cost figures presented to us are often times at best educated guesses and at worst, misleading manipulations of data.

Although at present the allocative efficiency procedure is the only standard available that can quantify efficiency losses to consumers, many researchers believe that other criteria are also important. The allocative efficiency standard does not take into account any of the benefits industries might attain during the relief period. For example these factors can include technological progress, cost minimization by firms, and economies of scale. The technological progress criteria refers to the hypothesis that trade restrictions, while causing allocative inefficiencies, might be conducive to fostering technological progress which in the long run will reduce consumer costs.

For example, according to the Department of Labor study, the specialty steel industry may have used the quota relief period to modernize, place new technologies in operation, and thereby become more competitive. It is essential that the most accurate analysis of the costs and benefits involved in granting import relief be available to us in our consideration of these cases, so that we can direct relief policies in ways that benefit both industries and consumers. Further study of both how the present methodology is established and how the framework can be improved needs to be undertaken.

Because of the subcommittee's past concerns about the accuracy of agency comments on the costs and benefits of import relief, and because of the challenges posed by the Department of Labor study, I have asked the Subcommittee on Trade staff to investigate this subject area. We have contacted all of the various agencies commonly involved in 201 cases—the ITC, Commerce, Labor, STR—as well as the GAO and the Library of Congress and requested them to:

First, comment on the Department of Labor study;

Second, provide suggestions on how the methodology and inputs used in analyzing 201 cases can be improved;

Third, meet informally to develop a consensus on how information provided to the Congress in future 201 (and other imports actions) can be improved;

In response to our request, the agencies have provided some very useful papers. The Library of Congress will soon be publishing a background paper on the analysis of costs of import relief actions. In the coming weeks, I will be sending these papers to various economists and analysts around the country in the hope that we may receive private sector and academic comment on ways to improve the methodology and data used in analyzing certain trade-related actions.

The development of a comprehensive accurate standard for import relief analysis would be beneficial for the complete assessment of policy alternatives for industries currently facing or likely to face, increased import competition.●

THE SUPERSONICS

The SPEAKER. Under a previous order of the House, the gentleman from Washington (Mr. DICKS) is recognized for 10 minutes.

● Mr. DICKS. Mr. Speaker, not since V–J Day has there been more joy in Seattle, over 400,000 Puget Sounders gave the Sonics a tumultuous parade yesterday. The Supersonics are the world's champions of basketball.

This year's team was a far cry from the expansion team which was born a dozen years ago. The loyal fans of Seattle have suffered through more losing seasons than many of them care to remember. But that is all a distant memory now. We have a winner on our hands and if Lenny Wilkens and Sam Shulman have anything to say about it we will continue to have a winner for a number of years to come.

The Sonics victory is more than one of basketball, it is one of civic and regional pride. Those of us from the Pacific Northwest have grown accustomed to being dismissed and ignored by much of the eastern media, not only in sports but in other areas as well. The 400,000 who thronged through Seattle's streets yesterday were united in celebrating the common goal. It was the kind of atmosphere which gives one encouragement that we can take a similar united attitude toward solving our more serious problems.

The Sonics players all deserve the greatest of congratulations. Gus Williams was a scoring demon throughout the entire series. Jack Sikma has shown he has developed into one of the NBA's premier centers. No one can outdo the grandfather of the team Paul Silas in positioning for offensive rebounds. Larry O'Brien is owed a debt of gratitude for making Lonnie Shelton a Sonic. MVP Dennis Johnson has shown what defense can mean in this game and the behind the back passes of John Johnson have left his opponents dazed and bewildered. The Sonic outside bomber, Downtown Freddie Brown showed his typical accuracy—coming off the bench to provide real leadership. And the bench was always there when needed.

But none of this would have been possible without the genius of Lenny Wilkens and his able assistant Les Habeggar. Lenny's patience and positive attitude have shown that negative reinforcement is not the most effective way to inspire superhuman efforts.

Congratulations are also due to the Washington Bullets who performed so well throughout the playoffs and gave us a tough battle despite injuries to key players. I am looking forward to a third renewal—another match—of the Bullets versus the Sonics finals next year. It is the kind of tradition I think all of us from the two Washingtons would enjoy. Seattle's Supersonics are No. 1—how sweet it is.●

OPPOSITION TO WAIVER PROVISION IN DEPARTMENT OF EDUCATION BILL

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. Brademas) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, today my colleagues will be called upon to vote on the Department of Education organization bill.

This measure contains a provision which deeply concerns me. Accepted in haste by the Government Operations Committee, section 439 was offered to H.R. 2444. Specifically, section 439 would give the Secretary of Education discretionary authority to waive certain Federal statutory requirements regarding State and local organizational structures for programs administered by the new department.

Section 439 has such serious and damaging implications and such broad application that I feel constrained to join several of my colleagues in offering an amendment to strike the provision.

My concerns are directed specifically to the following:

First. Although this provision is so significant and can have such adverse impact on at least 60 programs of the new department, the Government Operations Committee has not held a single day of hearings to examine carefully this proposal.

Second. The committee with substantive jurisdiction over most of these programs, the Committee on Education and Labor, has not had a single day of hearings on the proposal represented by section 439. Indeed, such an amendment has never been submitted to, proposed to, or considered by the committee.

Third. The report of the Committee on Government Operations explaining the provision is inaccurate in its representation of what section 439 would do, which fact suggests that there was not a clear understanding by this committee of the impact of the provision.

Fourth. The author of the amendment acknowledges that this amendment is intended to provide relief for one State, whose plan for vocational rehabilitation was judged in violation of Federal law. I should note in this connection, Mr. Speaker, that the State in question has lost a series of court appeals and that the U.S. Supreme Court rejected its final appeal. Having lost in the courts, that particular State is now attempting this backdoor approach.

Mr. Speaker, the problems of one State concerning one program should not dictate a policy for all States and all programs of the new department.

Finally, Mr. Speaker, I would urge my colleagues to read carefully the attached articles, which clearly justify my concerns. In addition, I include a partial list of organizations representing handicapped persons and which oppose section 439.

Mr. Speaker, I urge my colleagues to join in deleting this harmful amendment.

The list and articles follow:

Organizations Opposing Section 439 of H.R. 2444

American Academy of Physical Medicine and Rehabilitation.

American Association of Workers for the Blind.

American Coalition of Citizens with Disabilities.

American Congress of Rehabilitation Medicine.

American Council of the Blind.

American Deafness and Rehabilitation Association.

American Foundation for the Blind.

Conference of American Instructors for the Deaf.

Conference of Executives of American Schools for the Deaf.

Council of State Administrators of Vocational Rehabilitation.

Council for Exceptional Children.

Gallaudet College.

International Association of Parents of the Deaf.

National Association of the Deaf.

National Association of Retarded Citizens.

National Council of State Agencies for the Blind.

National Easter Seal Society.

National Multiple Sclerosis Society.

National Rehabilitation Association.

Preliminary Findings of an Audit of Vocational Rehabilitation Program in Florida by Office of the Inspector General (HEW)

Following are some of the preliminary findings of the audit of the vocational rehabilitation program in Florida conducted by the Office of the Inspector General, Department of Health, Education and Welfare:

The VR program in Florida has decreased significantly in the number of clients accepted and rehabilitated. Florida ranks 44th in these two categories where prior to reorganization they ranked 20th and 29th respectively.

Financial deficiencies confirmed those reported by the Florida Auditor General in FY 1977. Almost 10% of VR funds were temporarily used for other purposes. Two examples:

Salary cost of $1.9 million were charged to VR even though the employees worked on other programs (this was subsequently adjusted)

Disability Determination program expenses of $33,000 and other improperly coded expenses of $221,000 were incorrectly charged (not yet adjusted)

Lack of a centralized financial management system prevented fund transfers among districts to meet program objectives; thus, services to clients in some districts were reduced or restricted.

Refunds, credits and third-party reimbursements have been accounted for improperly. More than $357,000 have not been credited to the Federal government for fiscal years 1977 and 1978.

Unliquidated obligations were not properly recorded and reported, as a result, Florida had remaining balances of $800,000 in FY 1977 and $1.1 million in FY 1978 even though they reported these funds obligated.

[From the Tallahassee (Fla.) Democrat, May 6, 1979]

Politicians Should Meet Vo-Rehab Requirements

Florida leaders have turned fiction writers in an attempt to avoid following federal rules for the operation of the state's vocational rehabilitation program.

They intend to hand the program over to what they describe as "a private, non-profit" organization. But the organization is nothing more than a disguised government agency.

Gov. Bob Graham, Senate President Phil Lewis and House Speaker Hyatt Brown turned to the private agency approach last week after the U.S. Supreme Court refused to hear the state's challenge of federal guidelines for spending federal money to rehabilitate the handicapped.

REGIONAL SYSTEM

It's a matter of principle, they said. Modifying the HRS regional delivery system would destroy its integrity and set a bad precedent, they maintain, contending the one-stop social service delivery provided by HRS is better than what the federal law requires: A single administrator with statewide control over budget and employees.

So they are, in reality, keeping their own plan by creating the "private, non-profit" organization. Just how private will it be? Directors of the new agency would be appointed by the governor from nominees by the 11 HRS districts. David Pingree, HRS secretary, would serve as the 12th director. That may meet the technical requirements of the federal government, but it violates the spirit of them—and of the court ruling.

Simply switching to the new system is bound to cause disruption in the services provided Florida's thousands of handicapped citizens. And it could cost the employees of the agency valuable retirement and other benefits they have accumulated during years of service.

MEET REQUIREMENTS

The fact is: Florida needs to do nothing it has not already done to remain eligible for federal funds. The needed adjustments have already been made so the state can continue to receive funds until the transfer to the non-profit organization is made. Or the program could be shifted back to the

Department of Education where it operated for many years without any serious problems.

Either move would insure continued federal financial support necessary to keep the program going, keep intact the career service protections and pensions of over 900 employees, and give our political leaders ample time to convince Congress to change the law to allow the state to integrate VR into the social services delivery system.

Anger and frustration stemming from attempts to deal with House Majority Whip John Brademas, principal congressional sponsor of vocational rehabilitation, have pushed our leadership into an illogical position.

"We consider this matter to be a crucial issue of state's rights and prerogatives versus federal dictation and control," Gov. Graham said. The purpose in handing the program over to a separate agency he said is to get the state out from under any responsibility for the program and put the primary responsibility on the federal government.

MISSES GOAL

The problem is the plan scheduled for legislative consideration doesn't accomplish that goal. The state must still bear the responsibility.

The state would continue to put about $7 million into the program with the federal government contributing more than $30 million.

The new agency also would follow the federal guidelines that Graham Lewis Brown and others say they abhor. Why are the guidelines so objectionable when applied to VR within the Department of Health and Rehabilitative Services but not when applied to a new agency that is really another arm of government?

ABIDING BY RULES

After the Supreme Court turned down Florida's appeal Gov. Graham directed HRS to go along with federal rules until June 30—or as long as necessary thereafter until the new agency is in place and able to function.

Meeting those rules was so simple the public must wonder what all the fuss is about. Pingree had to do little more than give statewide authority over budget and personnel to the vocational rehabilitation program director Dr. Jack Hutchison.

There is no reason this arrangement couldn't be continued indefinitely within HRS. It would not disrupt the present one-stop service system through the HRS regional offices and it would meet minimal requirements of federal law for continued funding.

We don't need any more posturing by state officials on the phony issue of state's rights. That issue was settled years ago when states abrogated their rights in order to get more federal money.

Florida can play by federal rules, as all other states do, and should not be reluctant to do so. Handing vocational rehabilitation over to a so-called "private" agency would prove nothing, except that our officials don't know how to bow gracefully to defeat.

[From the Tallahassee (Fla.) Democrat, Feb. 15, 1979]

STATE IS JEOPARDIZING PROGRAM

(By David Cook)

Top state leaders are being unreasonably stubborn in resisting federal requirements for administration of the program to assist disabled Floridians.

They prefer to dump the state's vocational rehabilitation program rather than comply with federal law. A more insensitive position would be hard to imagine.

The federal government doesn't say Florida must change its regional setup for administering social services in order to comply with federal law. All Florida must do is put one official with statewide responsibility in charge of vocational rehabilitation.

Legislators who say that changing the administration of the rehabilitation program would wreck the regional system would have you believe it is a flimsy structure built on a vocational rehabilitation foundation.

That simply isn't true.

Nor is it true that the U.S. Department of Health, Education, and Welfare is trying to impose some esoteric rule on the state of Florida that violates its sovereign rights.

What is at issue is a federal law, written by Congress, with the express purpose of preventing states from channeling federal vocational rehabilitation money into other social services.

In short, it is a law designed to prevent just what has been happening in Florida since the Legislature reorganized the Department of Health and Rehabilitative Services into a homogenized regional system.

Actually, the impasse with the federal government could be resolved quickly and efficiently by transferring vocational rehabilitation from HRS back to the Department of Education where it was located previously.

Administration then would be from Tallahassee, in full compliance with the federal law.

But that's too simple. It isn't what legislative leaders or Gov. Graham want to do. They are acting as though they have no knowledge of the background of the situation and could care less.

The federal government isn't trying to impose anything on Florida that it hasn't accepted willingly in the past.

Senate President Phil Lewis and House Speaker Hyatt Brown, with the support of other legislative leaders, demanded that HEW go along with Florida's regional system or operate the vocational rehabilitation program itself.

They ignored the fact that Florida went to federal court to argue the issue and lost.

In March 1977 HEW Secretary Joseph Califano rejected inclusion of vocational rehabilitation in Florida's regional HRS plan and threatened to cut off federal funds that amount to 80 percent of the program's budget. Califano pointed out the Florida plan did not conform with federal law and that he was required by law to cut off the funds.

The State sued Califano and HEW but lost in a series of court decisions. In November 1978, the Fifth District Court of Appeals upheld HEW's position and said Florida must create a separate agency to administer the program or lose federal assistance.

Gov. Askew decided before he left office that an appeal to the U.S. Supreme Court would be a waste of taxpayers' money. He negotiated with Califano to continue federal funding until the Graham administration and the Legislature worked out a compromise.

An attempt to reach agreement failed recently because of the stubbornness of legislative leaders who intend to have things their way.

The position now is to tell HEW to run the program itself or negotiate with private agencies to run it. Gov. Graham said yesterday the state had no alternative but to quit the program. That simply isn't so.

It could be that our state leaders are running a bluff; that they expect HEW Secretary Califano to break the law and accept Florida's allegedly more efficient regional system rather than administer the program itself.

If that is so, it is a cavalier way to treat a valuable program that provides job training and counseling for some 83,000 handicapped Floridians.

What the state officials ignore is that Califano has no choice. He must comply with federal law and take over the program. He can't accept the legislative deal.

If HEW runs the program, that leaves the state with no say in how the program is run or how the money is spent. I can't imagine legislators giving up any so-so over the spending of some $33 million each year.

Florida has been placed in an untenable position through attempts to buck federal law.

When legislators originally decided to include vocational rehabilitation in the regional HRS setup, they were told they would be in violation of federal requirements. They ignored the warning and chose to fight on the flimsiest basis—state's rights.

They picked the wrong program on which to make a stand. If the state put more money into the program, it might have an argument to change the law, but as matters stand the state has no argument.

Legislative leaders should be willing to retain state control by establishing a fully identifiable program, administered from Tallahassee, in full compliance with the law.

There is no greater principle involved than simply obeying the law. Surely the state wants to do that.

[From the Tallahassee (Fla.) Democrat, Feb. 16, 1979]

STATE SHOULDN'T PUT FOX IN HEN HOUSE

Gov. Bob Graham and legislative leaders bowed their backs and stood firm against the giant federal government Wednesday. They would resist the "gross intrusion of states' rights," declared Senate President Phil Lewis.

Garbage. What the federal government is trying to assure is that the money it puts into the state's vocational rehabilitation program is actually spent on vocational rehabilitation. They have not only the right, but the responsibility, to do that. After all, 80 cents out of every $1 spent on the program in this state comes from the federal treasury.

Let us spend your 80 cents and our 20 cents the way we want to or we'll turn the whole thing over to you, Graham and company warned. And Wednesday, that's what they did.

The gain? See if you can find any. The federal government obviously will operate the program under the same guidelines it setdown for Florida. All the state did was lose any control over the program, although it will still be contributing its 20 cents worth to finance it.

The potential loss could be great. The U.S. Department of Health, Education and Welfare has never operated such a program itself. No one knows how long it will take HEW to set up machinery or how services will actually be provided in the interim.

This stand-in-the-vocational-rehab door approach risks far more than control of some dollars, it risks vitally needed services for more than 80,000 handicapped people in Florida.

It also risks doing great damage to one of the few state programs that actually pays for itself by helping the handicapped become productive, taxpaying citizens.

The state battled HEW in the courts on that issue and lost. The federal agency, judges agreed, was simply following the law passed by Congress.

Graham and Lewis and House Speaker Hyatt Brown should have known the next step—get Congress to alter the law. If their position is right, it's likely Congress would agree to do just that.

State leaders should have been working with Florida's congressional delegation to get that change made all during the period the case was in court.

Instead, they found a nifty way to counter federal intrusion—they gave everything to the feds.

That's about as logical as it would be for a farmer to solve the problem of a fox occasionally raiding his hen house by locking the fox in the hen house.

Didn't Graham spend any of his workdays on a farm?

[From the Sentinel (Fla.) Star, Feb. 24, 1979]

Auditor Blasts HRS for "Sloppy" Records

Tallahassee.—Florida's long-troubled social services agency doesn't have records to show how it spent $39.8 million while it was implementing a reorganization plan drawn up by the Legislature, Auditor General Ernest Ellison said Friday.

Millions of dollars in various agency funds are still unreconciled, Ellison said, and the state's largest agency could balance its bankbook only 62 percent of the time.

Managers at the Department of Health and Rehabilitative Services don't have records showing how they spent $39.3 million of the $2.12 billion the state comptroller paid out for HRS expenses in the 1976–77 fiscal year, Ellison said.

And, Ellison disclosed, federal officials are so annoyed with HRS' sloppy bookkeeping that they wrote the agency: "It is a rarity when any report from your agency does not require substantial revision or correction. Even when revised, we question their accuracy."

In the latest of his scathing HRS audits, Ellison accused the agency of accounting deficiencies so pervasive that department managers had to abandon all attempts to reconcile their 1976–77 spending records with the comptroller's actual disbursements.

HRS officials disclosed last year their decision to abandon the attempt to reconcile the funds, but Ellison said suspending the effort would have serious effects on subsequent audits.

Secretary David Pingree said he hoped "future audits will not be unduly influenced by events of this one fiscal period." Ellison replied testily that HRS alone bears the blame for the accounting "breakdown."

The 242-page audit was Ellison's latest report on HRS' fiscal affairs while it went through a painful reorganization ordered by the Legislature in 1975. HRS officials have blamed many of their accounting problems on a reorganization schedule which they said imposed impossible demands on their agency.

Ellison also said HRS often paid for programs by drawing money out of accounts set up to pay for other, unrelated programs.

In one case the agency billed the federal government for $579,515 in unidentified charges attributed to the vocational rehabilitation program. In another case HRS loaned its district administration fund $239,765 from other accounts—then repaid the loan twice.

Pingree, who has been a top HRS manager since 1976 and was promoted to the top job by Gov. Bob Graham, said both discrepancies have been corrected. He blamed the foul-ups on the Department of Administration's delay in approving a new accounting code system.

Ellison also:

Charged that he couldn't determine from HRS' records how much was actually spent from the $94.6 million the agency received from the federal government as its share of a particular federal program.

Blamed HRS, not a contractor who actually pays Medicaid claims to health providers, for the delay in paying 6,000 Medicaid claims totalling $590,000. Many claims dated back to 1976 but they weren't turned over to the HRS-paid contractor until recently.

Chastised the Youth Services Program Office for lax supervision of a $1 million contract with Associated Marine Institutes, Inc., which provides a special marine environment educational and counseling program for troubled youths. He said HRS isn't closely watching spending for AMI or assuring that AMI finds jobs for its trainees.●

INTRODUCING THE JOINT RESOLUTION ON U.S. SPACE OBSERVANCE, JULY 16 THROUGH 24, 1979

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. Fuqua) is recognized for 5 minutes.

● Mr. FUQUA. Mr. Speaker, today I am introducing a House joint resolution congratulating the men and women of the Apollo program upon the 10th anniversary of the first manned landing on the Moon and requesting the President to proclaim the period of July 16 through 24, 1979, as "United States Space Observance." I am delighted that 170 Members have agreed to cosponsor this joint resolution. However, an additional 50 Members are needed as cosponsors in order to have the bill reported from the Committee on Post Office and Civil Service. I am circulating another "dear colleague" requesting cosponsors and would encourage my colleagues to respond positively in remembrance of this most historic occasion.●

THE LATE BILL BRAY

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. Evans) is recognized for 5 minutes.

● Mr. EVANS of Indiana, Mr. Speaker, I was deeply saddened to learn of the death of Congressman Bill Bray. Bill Bray was a dedicated American who served his Nation and his constituents with ability and hard work.

His long years of service in the U.S. Congress are certainly remembered for the support which he gave to military veterans and especially toward the cause of a strong defense. His accomplishments serve as a lasting tribute to his work and are reflective of his fair and dedicated representation of the Sixth District of Indiana.

The loss of his contribution is one which will be sorely missed by all who knew him and admired his work. I extend my deepest sympathy to his wife, family, and many friends.●

WHO GETS THOSE CRUDE OIL PROFITS?

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. DEVINE. Mr. Speaker, in the confusion charges, and countercharges, alleging big oil cartel rip-offs, huge profits, and so forth, emotion often overrides reason and objectivity.

I am a cosponsor, Mr. Speaker, of a resolution of inquiry directing the President to come up with accurate answers and assessments in order that the public receive information upon which they can rely and is believable.

Meanwhile, an article appeared in the Washington Post last Thursday, May 31, which merits the attention of all consumers of energy, and which should be studied in detail. I commend the author of the column, Bill Gold.

The article follows:

Who Gets Those Big Oil Profits?

Alexander Vogel poses a question that intrigues me.

He writes, "What would your reaction be if I told you I knew of a company that was going to make a substantial profit this year? Would you want to buy a few hundred shares of stock in the company?

"What if these profits were to be enormous? Would you be interested? Of course. Any investor would be. Then why haven't the oil company shares shot up in price?"

If you think that question can be adequately answered in a sentence or two, you're not familiar with the complexities involved. Inasmuch as I own no oil company stocks or bonds, permit me to make a few comments.

Oil industry earnings have indeed been high, and give indication of going higher. But dividends have not kept pace, and dividends are the key to stock prices these days.

Investors who once thought earnings are the most important factor in establishing the value of a share of stock now give greater weight to the percentage of return their investment will produce.

The result is that the prices of oil shares have been disappointing to the owners of the companies. Some of those owners are middle-class, middle-income men and women who buy shares directly. Some are people whose money has bought shares indirectly, through pension funds, mutual funds, life insurance equities and profit-sharing plans.

When we talk about oil barons who profiteer at the expense of hapless consumers, we think of rich old men whose sole delight in life is counting their money and squeezing blood out of turnips. The truth is, however, that the Rockefellers and their ilk own only a tiny fraction of the oil industry. Most of it is owned by people of modest means who are looking for a prudent way to invest their savings.

These days, one can earn more on his savings by lending the money to the United States government than by buying shares in Exxon, Mobil, Shell or the other major oil companies.

Treasury bills pay 9.6 to 9.7 percent, whereas money invested in Exxon shares earns a return of around 7 percent. Mobil's owners get 6.5 percent, and Shell's receive only 5.2 percent. Scores of tax-free bond issues pay more than that.

And those who put their money into U.S. government obligations or tax-free "municipals" don't have to sit up nights worrying about when OPEC will spring another surprise.

None of the foregoing is meant to be an argument for or against deregulation of oil prices or the imposition of an excess profits tax.

I can't form judgments on those issues without more information. For example: what assurance de we have that oil industry profits will be used to search for more oil, or to develop a substitute fuel?

Without such information, I can't develop any strong opinions as to what is best for the country. Therefore I espouse no program. I have passed along Alexander Vogel's question for one purpose only.●

BLIND AMBITION—HOAX

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. DEVINE. Mr. Speaker, a number of constituents have made inquiry about a recent television series entitled "Blind Ambition," glorifying one John Dean. This series, in my opinion, represents another reason it is essential that responsible persons have access to the programing on the networks in order that the public airways not be used to subtly propagandize the public, suggesting fiction may be fact.

On May 28, the Ohio News Service, published by Roger F. Dreyer and Thomas H. Dudgeon, summarized this recent telecast in terms that say it better than I could myself. The article follows:

TV AND GUT-LEVEL POLITICS

As the presidential derby's silly season gets underway there is not, nor is there likely to be, a more effective piece of political propaganda than the multi-hour regurgitation of the Watergate "Horrors" done as TV's genuflection to John Dean's "Blind Ambition."

Half soap opera, half sex-play, half character acting, half caricature, but all pluperfect political commentary, it was carefully designed, scripted, cast and acted as an indictment of American morality, government and politics for 60 million viewers and eventually, of course, with subtitles, for millions of our self-appointed critics around the world.

Who cares that TV's Richard Nixon was a spastic, shallow robot? That's what TV said, so that's how it was!

Who cares that TV's John Dean was a stud duck more like Clark Gable than the real John Dean? That's what TV said, so that's how it was!

Who cares that TV's John Erlichman was a toothy, rumpled vampire? That's what TV said, so that's how it was!

On and on thru one man's plot and a TV cast which was no more likely to approach the truth than an English Punch cartoon of Jeremy Thorp chasing a male bunny.

The sadness, ugliness and illegality of Watergate is a national shame. We ought to have learned something more from it than the sophomoric skill to revive it in melodrama. Families break up time and time again because some member insists on constantly dwelling on another's imperfection. History repeats the same lesson for nations and societies. We are what we believe we are, and thus try to be.

Once, not so long ago, the world believed—because our propaganda thru our entertainers told them so—that we were a happy, productive and proud people. We believed it also, and were.

Now we tell each other and the rest of the world we are a saddened, introspective, defenseless nation victimized by the capriciousness of our own ill-chosen leaders. And, we almost believe it!

Further, as surely as night follows day, if we repeat it often enough we will believe it. Then it will surely come true.

Enough, already!

This wallowing around in our own national puke has gone far enough! We deserve to lose the world's respect and our earned leadership unless we learn to put our mistakes behind us and go forward to do better.

"Blind Ambition" was a callous exercise in TV money-making. It was timed to stimulate an already eroding confidence in our political system and electoral process at the onset of a national political campaign. It deserves to be called what it is . . . a piece of soap opera sophistry aimed straight at our vulnerable political guts.●

GENERAL LEAVE

Mr. FROST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from California (Mr. CORMAN).

The SPEAKER. Is there objection to the request by the gentleman from Texas?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. YOUNG of Florida (at the request of Mr. RHODES), for June 5 through June 6, on account of death in family.

Mr. HAWKINS, for June 5 through June 8, on account of death in family.

Mr. GOLDWATER, through June 12, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WHITTAKER), to revise and extend their remarks, and to include extraneous matter:)

Mr. HILLIS, for 1 hour, on July 17.

Mr. YOUNG of Alaska, for 5 minutes, today.

Mr. LAGOMARSINO, for 60 minutes, on June 12.

Mr. KEMP, for 10 minutes, today.

Mr. ASHBROOK, for 15 minutes, today.

(The following Members (at the request of Mr. FROST) to revise and extend their remarks and include extraneous material:)

Mr. WEAVER, for 10 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. CORMAN, for 10 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. DICKS, for 10 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mr. WOLFF, for 5 minutes, today.
Mr. FUQUA, for 5 minutes, today.
Mr. DASCHLE, for 5 minutes, today.
Mr. EVANS of Indiana, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CORMAN and to include extraneous matter notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $3,667.

(The following Members (at the request of Mr. WHITTAKER) and to include extraneous matter:)

Mr. SHUSTER.
Mr. YOUNG of Alaska in two instances.
Mr. CONTE.
Mr. ROTH.
Mr. LUJAN.
Mr. HYDE.
Mr. BOB WILSON in two instances.
Mr. ANDERSON of Illinois.
Mr. DANIEL B. CRANE.
Mr. HOLLENBECK.
Mr. LAGOMARSINO.
Mr. KEMP.
Mr. DORNAN in two instances.
Mr. PAUL in five instances.
Mr. GOLDWATER.
Mr. MCCLOSKEY in three instances.
Mr. CORCORAN.
Mrs. HOLT in two instances.
Mr. ASHBROOK in three instances.

(The following Members (at the request of Mr. FROST) and to include extraneous matter:)

Mr. PEASE in two instances.
Mr. SABO.
Mr. IRELAND in two instances.
Mr. BINGHAM.
Ms. MIKULSKI.
Mr. MAZZOLI in two instances.
Mr. RATCHFORD.
Mr. BONIOR of Michigan.
Mr. RAHALL.
Mr. HALL of Ohio.
Mr. WIRTH.
Mr. HAMILTON.
Ms. OAKAR.
Mr. VENTO.
Mr. WOLPE.
Mr. FOUNTAIN.
Mr. DRINAN.
Mr. BONKER in two instances.
Mr. EDGAR.
Mr. DIXON.
Mr. WEAVER.
Mr. DASCHLE in two instances.
Mr. ZEFERETTI.
Mr. EVANS of Indiana.
Mr. SIMON.
Mr. SCHEUER.
Mr. BIAGGI.
Mr. NOLAN.
Mr. RUNNELS.
Mr. MCDONALD in five instances.
Mr. APPLEGATE.
Mr. MAGUIRE.
Mr. BENJAMIN in two instances.
Mr. CORMAN.
Mr. GARCIA.
Mr. BREAUX in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 292. An act to reduce the fiscal year 1980 authorization for appropriations for the special supplemental food program, to the Committee on Education and Labor.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 7. An act to amend title 38, United States Code, to revise and improve certain health-care programs of the Veterans' Administration, to authorize the construction, alteration, and acquisition of certain medical facilities, and to expand certain benefits for disabled veterans; and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on June 4, 1979 present to the President, for his approval, bills of the House of the following title:

H.R. 2805. To make technical and conforming changes to the financial disclosure provisions in the Ethics in Government Act of 1978.

H.R. 3404. To amend the Federal Reserve Act to authorize Federal Reserve banks to lend certain obligations to the Secretary of the Treasury to meet the short-term cash requirements of the Treasury, and for other purposes.

ADJOURNMENT

Mr. FROST. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 31 minutes p.m.) the House adjourned until tomorrow, Wednesday, June 6, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1749. Communication from the President of the United States, transmitting a report on progress toward the conclusion of a negotiated solution of the Cyprus problem, pursuant to section 620C(c) of the Foreign Assistance Act of 1961, as amended (H. Doc. No. 96-139); to the Committee on Foreign Affairs and ordered to be printed.

1750. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1751. A letter from the Assistant Secretary of the Interior, transmitting the financial statements of the Colorado River Storage Project and participating projects for fiscal year 1978, pursuant to section 6 of the Colorado River Storage Project Act of 1956; to the Committee on Interior and Insular Affairs.

1752. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend the influenza immunization program; to the Committee on Interstate and Foreign Commerce.

1753. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

1754. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a final environmental impact statement and supplemental information on the Corps of Engineers local flood protection project at Davenport, Iowa, pursuant to section 404(r) of the Federal Water Pollution Control Act, as amended; to the Committee on Public Works and Transportation.

1755. A letter from the Comptroller General of the United States, transmitting a report on the audit of the financial statements of the Federal Crop Insurance Corporation, Department of Agriculture, for fiscal year 1978, pursuant to section 106 of the Government Corporation Control Act, as amended (CED-79-72, May 31, 1979) (H. Doc. No. 96-140); jointly, to the Committees on Government Operations and Agriculture, and ordered to be printed.

1756. A letter from the Comptroller General of the United States, transmitting a report on the examination of financial statements of the National Flood Insurance program as of December 31, 1977, pursuant to section 1373 of Public Law 90-448 (CED-79-70, June 1, 1979) (H. Doc. No. 96-141); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs, and ordered to be printed.

1757. A letter from the Comptroller General of the United States, transmitting a review of the U.S. Virgin Islands Comptroller's audit of the procurement of desalination plants, pursuant to section 17(j) of the Revised Organic Act of the Virgin Islands, as amended (82 Stat. 840); jointly, to the Committees on Government Operations and Interior and Insular Affairs.

1758. A letter from the Comptroller General of the United States, transmitting a report on the impact of selected Federal Communications Commission regulatory policies and rules (CED-79-62, June 4, 1979); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

REPORTS OF COMMITTEE ON PUBLIC BILLS AND RESOLUTIONS

Under the clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Omitted from the Record of May 30, 1979*]

Mr. FOLEY: Committee on Agriculture H.R. 3398. A bill to amend the Food and Agriculture Act of 1977 relating to increases in the target prices of the 1979 crops of wheat, corn, and other crops under certain circumstances, and for other purposes; with amendment (Rept. No. 96-228, pt. I). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted June 5, 1979*]

Mr. FUQUA: Committee on Science and Technology. Report on allocation of budget totals for fiscal year 1980 (Rept. 96-233). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 827. A bill to establish dispute resolution procedures and an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service; with amendment (Rept. 96-234). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. House Resolution 298. Resolution waiving points of order against H.R. 4289. A bill making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes. (Rept. No. 96-235). Referred to the House Calendar.

Mr. DODD: Committee on Rules. House Resolution 299. Resolution providing for the consideration of H.R. 2444. A bill to establish a Department of Education, and for other purposes. (Rept. No. 96-236). Referred to the House Calendar.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X:

The bill, to amend the Food and Agriculture Act of 1977 relating to increases in the target prices of the 1979 crops of wheat, corn, and other crops under certain circumstances, and for other purposes (H.R. 3398, as reported on May 30, 1979) was referred by the Speaker as follows:

The committee of the Whole House on the State of the Union discharged, and referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344.

SUBSEQUENT ACTION ON BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X:

Referral of H.R. 51. A bill to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas and liquefied petroleum gas, to provide standards with respect to the siting, construction, and operation of liquefied natural gas facilities, and for other purposes; which was referred to the Committee on Public Works and Transportation, extended for an additional period ending not later than June 12, 1979.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FOLEY:

H.R. 4303. A bill to amend the Food Stamp Act of 1977 to eliminate certain restrictions on excess shelter expense deductions with respect to households which are composed entirely of persons who are age 60 or older or who are recipients of benefits under title XVI of the Social Security Act and to allow deductions for certain medical and dental expenses in the computation of incomes for such households; to the Committee on Agriculture.

By Mr. DORNAN:

H.R. 4304. A bill to amend section 312(c) of the Federal Aviation Act of 1958, relating to research and development, to require the Secretary of Transportation to assure the development of a collision avoidance system for use on all civil and military aircraft of the United States in the interest of air safety; jointly, to the Committees on Public Works and Transportation and Science and Technology.

By Mr. ANNUNZIO:

H.R. 4305. A bill to authorize federally chartered savings and loan associations to establish remote service units, to authorize federally chartered credit unions to utilize share draft accounts, and to authorize federally insured banks to automatically transfer funds from savings accounts to checking accounts; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ARCHER:

H.R. 4306. A bill to amend title II of the Social Security Act to make it clear that every beneficiary is entitled to apply the monthly earnings test in at least 1 year after 1977, to provide that income attributable to services performed before initial benefit eligibility by an individual entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her net earnings from self-employment for purposes of the earnings test, and to assure the payment of benefits accordingly; to the Committee on Ways and Means.

By Mr. ARCHER (for himself and Mr. Cavanaugh):

H.R. 4307. A bill to provide that an employer will not be required to comply with the provisions of the Revenue Act of 1978 which require advance payment of the earned income credit until January 1, 1980; to the Committee on Ways and Means.

By Mr. ATKINSON (for himself, Mr. Phillip Burton, Mr. Kostmayer, Mr. Murphy of Pennsylvania, Mr. Kazen, Mr. Won Pat, Mr. Weaver, Mr. Miller of California, Mr. Florio, Mr. Markey, Mr. Corrada, Mr. Lagomarsino, Mr. Vento, Mr. Rahall, Mr. Kastenmeier, and Mr. Runnels):

H.R. 4308. A bill to provide for the establishment of the Legionville National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BENJAMIN (for himself, Mr. Gaydos, Mr. Buchanan, Ms. Mikulski, Mr. Regula, and Mr. Quayle):

H.R. 4309. A bill to amend the Tariff Schedules of the United States to provide for the proper classification of cold finished steel bars; and for other purposes; to the Committee on Ways and Means.

By Mr. BIAGGI (for himself, Mr. Murphy of New York, Mr. Pritchard, Mr. Oberstar, Mr. Myers of Pennsylvania, and Mr. Hughes):

H.R. 4310. A bill to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Ways and Means.

By Mr. PHILLIP BURTON (for himself, Mr. Sebelius, Mr. Seiberling, Mr. Kostmayer, Mr. Patterson, Mr. Markey, Mr. Murphy of Pennsylvania, Mr. Vento, Mr. Weaver, Mr. Florio, Mr. Kastenmeier, and Mr. Won Pat):

H.R. 4311. A bill to authorize a plan for an Antarctic Historic and Natural Preserve and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CONTE:

H.R. 4312. A bill to amend the Federal National Mortgage Association Charter Act to increase the income ceilings for families eligible for energy conservation loans, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. D'AMOURS:

H.R. 4313. A bill to provide for grants to the States to employ State foresters, to provide for a current determination of the number of woodlot owners in each State, to provide for the availability of forest fuel utilization training, and to increase the assistance and information provided by the Department of Energy to the Forest Service and by the Small Business Administration to small woodlot owners and wood fuel distributors and marketers; jointly, to the Committees on Agriculture and Small Business.

By Mr. DASCHLE:

H.R. 4314. A bill to extend for 10 years the period during which the Secretary of Agriculture may enter into contracts under the Great Plains conservation program and for other puroposes; to the Committee on Agriculture.

By Mr. DORNAN:

H.R. 4315. A bill to amend the Export Administration Act of 1969 to prevent the export to certain countries of goods or technology which have any potential application for military, law enforcement, or intelligence gathering purposes; to require the President to notify the Congress of any approval of a license for the export of goods or technology to such countries; to provide for congressional disapproval of any such license application; to require the Secretary of Defense to prepare a military impact statement for the Congress with respect to certain export license applications; and for other purposes; to the Committee on Foreign Affairs.

H.R. 4316. A bill entitled the "National Space Policy Act of 1979"; to the Committee on Science and Technology.

By Mr. FISHER:

H.R. 4317. A bill to amend the boundary of the Harpers Ferry National Historical Park to include Short Hill in Loudoun County, Va., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FOLEY:

H.R. 4318. A bill to amend the Food Stamp Act of 1977, as amended, to improve food stamp program fiscal accountability through reductions in inaccurate eligibility and benefit determinations and intensified fraud detection and recovery procedures; and to remove specific dollar limitations on appropriations while continuing to limit expenditures to available funds; and for other purposes; to the Committee on Agriculture.

By Mr. HUGHES:

H.R. 4319. A bill to amend the Internal Revenue Code of 1954 to provide that State and local governments and certain tax exempt organizations shall be eligible for the refund of the investment tax credit for solar and wind energy property; to the Committee on Ways and Means.

By Mr. McKAY (for himself, Mr. Kazen, Mr. Cheney, and Mr. Hansen):

H.R. 4320. A bill to consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming; to the Committee on Interior and Insular Affairs.

By Mr. FUQUA (for himself, Mr. Winn, Mr. Addabbo, Mr. Akaka, Mr. Ambro, Mr. Anderson of Illinois, Mr. Anthony, Mr. Archer, Mr. Atkinson, Mr. Bafalis, Mr. Bailey, Mr. Benjamin, Mr. Bennett, Mr. Bevill, Mr. Blanchard, Mrs. Boggs, Mr. Boland, Mr. Bonior of Michigan, Mrs. Bouquard, Mr. Bowen, Mr. Brodhead, Mr. Brown of California, Mr. Buchanan, Mr. Carter, Mr. Chappell, Mr. Cheney, Mr. Clausen, Mr. Collins of Texas, Mr. Conable, Mr. Conte, Mr. Corrada, Mr. Cotter, Mr. Dannemeyer, Mr. Davis of Michigan, Mr. de la Garza, Mr. Derwinski, Mr. Dicks, Mr. Diggs, Mr. Downey, Mr. Duncan of Tennessee, Mr. Emery, Mr. Ertel, Mr. Evans of Georgia, Mr. Evans of Delaware, Mr. Fary, Mr. Fascell, Mr. Fauntroy, Mr. Fazio, Mrs. Fenwick, Mr. Flippo, Mr. Flood, Mr. Foley, Mr. Forsythe, Mr. Fountain, Mr. Fowler, Mr. Frost, Mr. Gephardt, Mr. Ginn, Mr. Goldwater, Mr. Gore, Mr. Green, Mr. Grisham, Mr. Guyer, Mr. Hagedorn, Mr. Hall of Ohio, Mr. Hance, Mr. Hansen, Mr. Hawkins, Mr. Hefner, Mr. Hightower, Mr. Holland, Mr. Hollenbeck, Mr. Horton, Mr. Howard, Mr. Hubbard, Mr. Hutto, Mr. Hyde, Mr. Ireland, Mr. Jeffords, Mr. Jeffries, Mr. Jenkins, Mr. Jenrette, Mr. Johnson of California, Mr. Kazen, Mr. Kelly, Mr. Kemp, Mr. Kogovsek, Mr. Kostmayer, Mr. Kramer, Mr. Lagomarsino, Mr. Leach of Iowa, Mr. Lederer, Mr. Lehman, Mr. Leland, Mr. Lloyd, Mr. Lundine, Mr. Lungren, Mr. Madigan, Mr. Markey, Mr. Martin, Mr. Mathis, Mr. Mavroules, Mr. McDade, Mr. Mineta, Mr. Murphy of Pennsylvania, Mr. Murphy of New York, Mr. Murphy of Illinois, Mr. Natcher, Mr. Neal, Mr. Nedzi, Mr. Nelson, Mr. Oberstar, Mr. Panetta, Mr. Patten, Mr. Paul, Mr. Pepper, Mr. Perkins, Mr. Preyer, Mr. Price, Mr. Pritchard, Mr. Rahall, Mr. Railsback, Mr. Rangel, Mr. Regula, Mr. Richmond, Mr. Ritter, Mr. Roberts, Mr. Robinson, Mr. Rodino, Mr. Roe, Mr. Roth, Mr. Rousselot, Mr. Royer, Mr. Rudd, Mr. Runnels, Mr. Scheuer, Mr. Schulze, Mr. Sebelius, Mr. Sensenbrenner, Mr. Sharp, Mr. Simon, Mr. Skelton, Mr. Smith of Iowa, Mrs. Smith of Nebraska, Mr. Solarz, Mrs. Spellman, Mr. Spence, Mr. Stack, Mr. Staggers, Mr. Stangeland, Mr. Stanton, Mr. Stenholm, Mr. Stewart, Mr. St Germain, Mr. Stockman, Mr. Stratton, Mr. Symms, Mr. Tauke, Mr. Thomas, Mr. Traxler, Mr. Treen, Mr. Vento, Mr. Walgren, Mr. Walker, Mr. Watkins, Mr. Waxman, Mr. Weiss, Mr. White, Mr. Whitehurst, Mr. Charles H. Wilson of California, Mr. Wolff, Mr. Wolpe, Mr. Won Pat, Mr. Wylie, Mr. Young of Missouri, and Mr. Zeferetti):

By Mr. CORMAN (for himself and Mr. Ullman):

H.R. 4321. A bill to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes; jointly, to the Committees on Ways and Means, Agriculture, Interstate and Foreign Commerce, and the Judiciary.

By Mr. LUJAN:

H.R. 4322. A bill to amend the Internal Revenue Code of 1954 to allow the deduction for depletion to the purchaser of the waste or residue of uranium mining or of the rights to extract ores or minerals from such waste or residue; to the Committee on Ways and Means.

H.R. 4323. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for each barrel of oil or bitumen produced from the several rock types variously known as "tar sand," "bitumen rocks," "oil impregnated rocks," "oil sand and rock asphalt," from which oil is not recoverable in its natural state by oil well production methods including currently used enhanced oil recovery techniques; to the Committee on Ways and Means.

H.R. 4324. A bill to provide for the availability of timber and other forest products in wilderness areas to individuals exclusively for use as firewood in their personal residences; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. MOTTL:

H.R. 4325. A bill to provide for a special prosecutor for the investigation and prosecution of violations of any provision of the Emergency Petroleum Allocation Act of 1973 or any regulation promulgated thereunder; jointly, to the Committees on the Judiciary and Interstate and Foreign Commerce.

By Mr. SCHEUER:

H.R. 4326. A bill to establish a national commission to study the scientific and technological implications of information technology in education; jointly, to the Committees on Education and Labor and Science and Technology.

By Mr. SIMON (for himself, Mr. Perkins, Mr. Hawkins, Mr. Stack, Mr. Kramer, and Mr. Erdahl):

H.R. 4327. A bill to amend the General Education Provisions Act to extend the authorization of appropriations for the National Institute of Education; to the Committee on Education and Labor.

By Mr. VANIK:

H.R. 4328. A bill providing for the implementation of the International Sugar Agreement, 1977, and for other purposes; jointly to the Committees on Agriculture, and Ways and Means.

By Mr. WHITEHURST:

H.R. 4329. A bill to terminate the Department of Energy; jointly, to the Committees on Government Operations and Rules.

By Mr. CHARLES H. WILSON of California:

H.R. 4330. A bill to amend the antitrust laws to provide that the refusal of nonprofit blood banks and of hospitals and physicians to obtain blood and blood plasma from other blood banks shall not be deemed to be acts in restraint of trade, and for other purposes; to the Committee on the Judiciary.

H.R. 4331. A bill to amend the Immigration and Nationality Act relating to the immigration to the United States of graduates of foreign medical schools; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 4332. A bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on mortgage revenue bonds will not be exempt from Federal income tax; to the Committee on Ways and Means.

H.J. Res. 353. Joint resolution congratulating the men and women of the Apollo program upon the 10th anniversary of the first manned landing on the Moon and requesting the President to proclaim the period of July 16 through 24, 1979, as United States Space Observance; to the Committee on Post Office and Civil Service.

By Mr. BENNETT:

H. Res. 300. Resolution authorizing the Committee on House Administration to acquire a suitable residence to be maintained as a home for pages employed by the House of Representatives; to the Committee on House Administration.

By Mr. MICA:

H. Res. 301. Resolution to direct the Office of Technology Assessment to conduct a study of unutilized consumer energy conservation devices, to report its recommendations concerning legislative executive measures which would promote the utilization of such devices, and to require the establishment of a joint select committee to prepare such legislation as may be necessary to carry out such purposes; jointly, to the Committees on Science and Technology and Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

210. By the SPEAKER: A memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the proposed transfer of a helicopter maintenance complement from the New Cumberland Army Depot to the Naval Air Station at Corpus Christi, Tex., and the proposed deactivation of the Fort Indiantown Gap Military Reservation; to the Committee on Armed Services.

211. Also, memorial of the Legislature of the Territory of Guam, relative to forgiveness of the interest payments made on the loan under the Guam Rehabilitation Act; to the Committee on Interior and Insular Affairs.

212. Also, memorial of the Legislature of the Territory of the Virgin Islands, relative to amending the Organic Act of the Virgin Islands to permit sessions of the Virgin Islands Legislature to be held in locations other than the capital; to the Committee on Interior and Insular Affairs.

213. Also, memorial of the Legislature of the State of Maryland, requesting that Congress propose, or call a convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States to require that the total of all Federal appropriations may not exceed the total of all estimated Federal revenues in any fiscal year, with certain exceptions; to the Committee on the Judiciary.

214. Also, memorial of the Legislature of the State of New Hampshire, relative to the dredging and widening of the Piscataqua River; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FISHER:

H.R. 4333. A bill for the relief of Robert V. Linderman; to the Committee on the Judiciary.

By Mr. MITCHELL of New York:

H.R. 4334. A bill for the relief of M. Sgt. Grady H. Haynes; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 556: Mr. Paul.

H.R. 628: Mr. Lent.

H.R. 654: Mr. McClory, Mr. Pritchard, and Mr. Evans of Delaware.

H.R. 785: Mr. Ottinger.

H.R. 789: Mr. Dixon and Mr. Stokes.

H.R. 1297: Mr. Holland and Mr. Clay.

H.R. 1921: Mr. Paul.

H.R. 1985: Mr. Treen.

H.R. 1986: Mr. Harris.

H.R. 2248: Mr. Mottl, Mr. Peyser, Mr. McKinney, Mr. Erdahl, Mr. Gray, Mr. Alexander, Mr. Conable, Mr. Gilman, Mr. Lott, and Mr. Myers of Indiana.

H.R. 2272: Mr. Abdnor.

H.R. 2443: Mr. Jacobs, Mr. Whitehurst, Mr. Winn, Mr. Rinaldo, Mr. Zeferetti, Mr. Solomon, Mr. Snyder, Mr. Florio, Mr. John L. Burton, Mr. Carter, Mr. Charles Wilson of Texas, Mr. Corrada, Mr. Bonior of Michigan, Mr. Vento, Mr. Mathis, Mr. Moakley, Mr Hughes, Mr. Hollenbeck, Mr. Ertel, Mr. Lloyd, Mr. Devine, Mr. Nedzi, Mr. McCloskey, Mr. Neal, Mr. Panetta, Mr. Bauman, Mr Mitchell of New York, Mr. Won Pat, Mr. Hanley, Mr. Ottinger, Mr. Mollohan, Mrs. Spellman, Ms. Ferraro, Mr. Bevill, Mr. Evans of Indiana, Mr. Ginn, Mr. Carr, Mr. Archer, Mr. Mineta, and Mr. Solarz.

H.R. 2540: Mr. McKinney.

H.R. 2653: Mr. Forsythe, and Mr. Rinaldo.

H.R. 2705: Mr. Daschle.

H.R. 2735: Mr. Hyde, Mr. McClory, and Mr. Murphy of Illinois.

H.R. 3056: Mr. Patten, Mr. Edgar, and Mr. Walgren.

H.R. 3111: Mr. Hutto.

H.R. 3603: Mr. Bonior of Michigan, and Mr. Charles Wilson of Texas.

H.R. 3718: Mr. Burgener, Mr. Carter, Mr. Collins of Texas, Mr. Dornan, Mr. Grassley, Mr. Hughes, Mr. McCormack, Mr. Simon, and Mr. Whitehurst.

H.R. 3888: Mr. Fascell.

H.R. 3905: Mr. Scheuer, Mr. Seiberling, Mr. Brinkley, Mr. Winn, Mr. Akaka, Mr. Robinson, Mr. Hughes, Mrs. Fenwick, Mr. Miller of California, Mr. D'Amours, Mr. Vento, Mr. Dornan, Mr. Mathis, Mr. Wolpe, Mr. Daschle, Mr. Young of Missouri, Mr. Evans of Georgia, Mr. McHugh, Mr. Patterson, Mr. Fithian, Mr. Albosta, Mr. Mikva, Mr. Weaver, Mr. Jeffords, Mr. Stenholm, Mr. Weiss, Mr. Gephardt, Mr. Price, Mr. Eckhardt, Mr. Panetta, Mr. Gudger, and Mr. Rinaldo.

H.R. 4006: Mr. Stark.

H.R. 4027: Mr. Bedell, Mr. Cleveland, Mr. Collins of Texas, Mr. Fisher, Mr. Grassley, Mr. Howard, Mr. Hughes, Mr. Jeffords. Mr. Panetta, and Mr. Roybal.

H.J. Res. 56: Mr. Daniel B. Crane.

H.J. Res. 220: Mr. Annunzio, Mr. Frost, Mr. Perkins, Mr. Bedell, Mr. Kogovsek, Mr. Whittaker, Mr. Hughes, Mr. Pepper, Mr. Evans of the Virgin Islands, Mr. Forsythe, Mr. Markey, Mr. Brodhead, Mr. Pickle, Mr. Vento, Mr. Huckaby, Mr. Murphy of Illinois, Mr. Gray, Mr. Donnelly, Mr. Edgar, Mr. Dornan, Mr. Hutto, Mr. AuCoin, and Mr. D'Amours.

H.J. Res. 251: Mr. Conyers, Mr. LaFalce, Mr. Drinan, Mr. Burgener, Mr. Simon, Mr. Frenzel, Mr. Buchanan, Mr. Long of Maryland, Mrs. Schroeder, Mrs. Spellman, Mr. Downey, Mr. Mineta, Mr. Gray, Mr. Rangel, Mr. Bonior of Michigan, Ms. Ferraro, Ms. Mikulski, Mr. Garcia, Mr. Cavanaugh, Mr. Weiss, Mr. Solarz, Mr. Gilman, Mrs. Chisholm, and Mr. Harris.

H.J. Res. 330: Mr. Ashbrook, Mr. Bevill, Mr. Brown of Ohio, Mr. Collins of Texas, Mr. Corrada, Mr. Dan Daniel, Mr. de la Garza, Mr. Devine, Mrs. Holt, Mr. Huckaby, Mr. Hyde, Mr. Jones of North Carolina, Mr. Kindness, Mr. Lagomarsino, Mr. Miller of Ohio, Mr. Rousselot, Mr. Solomon, Mr. Treen, Mr. Whitehurst, Mr. Whittaker, and Mr. Bob Wilson.

H. Con. Res. 83: Mr. Gilman, Mr. Scheuer, Mr. Coughlin, and Mr. Gray.

H. Con. Res. 118: Mr. Mitchell of Maryland, Mr. Edwards of California, Mr. Ottinger, Mr. Simon, Mr. Carr, Mr. Brown of California, Mr. McKinney, Mr. Seiberling, Mr. Edgar, and Mr. Bonker.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

136. By the SPEAKER: Petition of the American Subcontractors Association, Washington, D.C., relative to the association's legislative recommendations; to the Committee on Education and Labor.

137. Also, petition of the board of directors, Forest Industries Telecommunications, relative to proposals by the Roadless Area Review and Evaluation (RARE II); jointly, to the Committees on Agriculture and Interior and Insular Affairs.

138. Also, petition of the 60th National Convention of the American Legion, New Orleans, La., relative to implementation of the Panama Canal treaties; jointly, to the Committees on Foreign Affairs, Merchant Marine and Fisheries, and Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2444

By Mr. ASHBROOK:

—Page 80, strike out lines 7 through 20 and insert in lieu thereof the following new section:

LIMITATION ON HIRING

SEC. 403. (a) Notwithstanding any other provision of law unless enacted in specific limitation of the provisions of this section, no positions are authorized to be established in the Department in excess of the sum of the number of positions transferred to the Department as a consequence of the provisions of this Act plus the number of positions created by this Act. The limitation contained in the preceding sentence shall expire 5 years after the effective date of this Act.

(b) The President shall prescribe regulations to carry out the purpose of this section, including regulations to ensure that no increase in the procurement of personal services by contract occurs by reason of the enactment of this section.

(c) In administering this section, an individual employed on a part-time career employment basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours such individual's regularly scheduled workweek.

Conform the table of contents accordingly.

—Page 29, line 6, insert "(a)" immediately after "SEC. 435." and after line 21 insert the following new subsection:

(b) The Secretary shall include in each annual report submitted under this section an assessment of the relative performance of the various offices, bureaus, and units of the Department in carrying out their functions. Such report shall rank each such office, bureau, and unit in numerical order from most to least effective (no two such offices, bureaus, or units being given the same numerical rank) in each of the following categories:

(1) Qualitative benefits.

(2) Quantitative benefits.

(3) Agency effectiveness in accomplishing statutory objectives.

(4) Fraud reduction.

(5) Avoidance of unnecessary costs.

(6) Cost of regulations to consumers, businesses, and other units of government.

(7) Program improvements from prior year.

(8) Duplication of services provided by other Federal, State, and local government offices.

(9) Cost of program components.

(10) Innovations in program management, planning, budgeting, administration, and implementation which could be applied to other programs.

(11) Deficiencies in program operations (accompanied by agency plans for improvement).

(c) The assessment required by subsection (b) shall be accompanied by—

(1) an identification of potential areas for personnel and spending reductions;

(2) an explanation of changes in average salary and grade level;

(3) a summary explanation for ranking a particular program better or worse than others; and

(4) other factors which the Secretary may deem appropriate to the consideration of the relative performance of such offices, bureaus, and units.

—Page 89, line 23, insert "(a)" immediately after "SEC. 436." and on page 90, after line 6, insert the following new subsection:

(b)(1) The total amount which may be appropriated to the Department for any fiscal year shall be reduced by the amount by which student loan default payments during the preceding fiscal year exceed student loan default collections during such fiscal year.

(2) For purposes of this subsection—

(A) the term "student loan" means any loan made under parts B or E of the Higher Education Act of 1965 or under subparts I or II of part C of title VII or part B of title VIII of the Public Health Service Act;

(B) the term "default payments" means payments made to an insurance or guarantee beneficiary or to a sudent loan fund depository with respect to a student loan on which the borrower has defaulted;

(C) the term "default collections" means the net of any sums collected by the United States, by subrogation or otherwise, with respect to any loan on which a default payment has been made.

—Page 91, after line 18, insert the following new section:

COMPLIANCE COSTS

SEC. 440. The Secretary shall reimburse States and political subdivisions of States for the costs they incur in complying with (1) provisions of Federal laws which the Secretary administers, and (2) rules and regulations issued under such laws.

Conform the table of contents accordingly.

By Mr. BEARD of Tennessee:

—Page 108, after line 2, insert the following new section and conform the table of contents accordingly:

TERMINATION OF THE DEPARTMENT

SEC. 603. (a) The Department shall terminate six years after the effective date of this Act unless prior to that date a law has been enacted which continues the Department.

(b)(1) If the existence of the Department is not continued by the enactment of an Act not later than six months prior to the termination date specified in subsection (a), the President shall submit a plan to the Congress which transfers the functions of the Department to other departments or agencies unless prior to the termination date of the Department its functions have been so transferred by law. The President may not submit a plan under this subsection which provides for or has the effect of creating a new executive department.

(2)(A) The plan submitted by the President to the Congress pursuant to this subsection shall take effect at the end of the first period of 60 calendar days of continuous session of Congress after the date on which such plan is transmitted to the Congress unless, between the date of transmittal of the plan and the end of the sixty-day period, either House passes a resolution stating that the House does not favor the plan.

(B) The provisions of sections 908, 910, 911, and 912 of title 5, United States Code, shall apply to any resolution considered under this paragraph. For the purposes of the preceding sentence—

(i) all references in such sections to "reorganization plan" shall be treated as referring to a plan submitted under section 603(b) of the Department of Education Organization Act of 1979, and

(ii) all references in such sections to "resolution" shall be treated as referring to a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the does not favor the plan submitted under section 603(b) of the Department of Education Organization Act of 1979 on , 19 ,", the first blank therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled.

(3) If a plan is disapproved in accordance with the provisions of this subsection, within 30 days after the date of disapproval of such plan the President shall submit another plan to the Congress for the transfer of the functions of the Department. Such plan shall take effect at the end of the first period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to the Congress unless the plan is disapproved in accordance with the procedures established in paragraph (2). The President shall continue to submit additional plans for the transfer of the functions of the Department until a plan takes effect.

(4) For the purpose of this subsection—

(1) continuity of session of Congress is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

By Mr. DORNAN:

—Page o4, line 28, strike out "States, localities, and private institutions" and insert in lieu thereof "the family".

—Page 57, after line 7, insert the following new section:

PROHIBITION AGAINST THE WITHHOLDING OF FUNDS TO FORCE RACIAL-ETHNIC QUOTAS BUSING

SEC. 104. The Secretary and the Department may not withhold any funds otherwise authorized to be granted because of the failure to transport students or teachers (or to purchase equipment for such transportation) in order to establish racial or ethnic school attendance quotas or guidelines in any school or school system, or because of the failure to transport students or teachers (or to purchase equipment for such transportation) in order to carry out such a plan in any school or school system.

—Page 89, line 23, insert "(a)" immediately after "SEC. 436." and on page 90, after line 6, insert the following new subsection:

(b)(1) The total amount which may be appropriated to the Department for any fiscal year shall be reduced by the amount by which student loan default payments during the preceding fiscal year exceed student loan default collections during such fiscal year.

(2) For purposes of this subsection—

(A) the term "student loan" means any loan made under parts B or E of the Higher Education Act of 1965 or under subparts I or II of part C of title VII or part B of title VIII of the Public Health Service Act;

(B) the term "default payments" means payments made to an insurance or guarantee beneficiary or to a student loan fund depository with respect to a student loan on which the borrower has defaulted;

(C) the term "default collections" means the net of any sums collected by the United States, by subrogation or otherwise, with respect to any loan on which a default payment has been made.

—Page 90, after line 6, insert the following new section and redesignate the following sections accordingly:

PROHIBITION AGAINST THE USE OF FUNDS TO FORCE RACIAL/ETHIC QUOTA BUSING

SEC. 437. No funds appropriated under the authorization contained in section 436 may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to establish racial or ethnic school attendance quotas or guidelines in any school or school system, or the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out such a plan in any school or school system.

By Mr. ERLENBORN:

—In the following places, insert the word "Public" before the word "Education":

On page 51, in line 20;
On page 53, in lines 4, 5, and 7;
On page 55, in line 19;
On page 57, in lines 12 and 14;
On page 64, in lines 9 and 12;
On page 98, in lines 16 and 24;
On page 99, in lines 6, 10, 19, 20, and 22;
On page 100, in lines 4, 17, and 19;
On page 101, in lines 5, 9, 13, 16, and 23;

On page 102, in lines 13, 15, and 25;
On page 103, in lines 11 and 13; and
On page 104, in line 17.

Amend the title to read, "A bill to establish a Department of Public Education, and for other purposes."

—On page 58, in line 12, strike out the word "five" and insert in its place "four".

Strike out all from line 20 of page 63 to line 2 of page 64, inclusive.

On page 64, in line 4, strike out "210" and insert in its place "209";

In line 8, strike out "211" and insert in its place "210"; and

In line 15, strike out "212" and insert in its place "211".

On page 67, in line 3, strike out "213" and insert in its place "212".

On page 99, in line 3, strike out "14" and insert in its place "13".

On page 100, in line 4, strike out "(5)" and insert in its place "(4)".

On page 52, in the table of contents, strike out "Sec. 209. Functions relating to education of overseas military dependents." and renumber sections 210 through 213 as sections 209 through 212, respectively.

—On page 63, strike out lines 20 through 24, and on page 64, strike out lines 1 and 2.

On page 72, strike out lines 5 through 21 and insert in lieu the following:

"(b) The Secretary shall delegate the operation of schools for overseas dependents of personnel of the Department of Defense to the Secretary of Defense.

"(c) The Secretary shall provide such technical services and assistance to the Secretary of Defense as is required for the thorough and efficient operation of the overseas schools.

"(d) The Secretary shall assure that the resources of the Department are available to the overseas schools without compensation."

—On page 70, in line 16, strike out the word "and";

In line 18, after the semi-colon, insert the word "and"; and

After line 18, insert the following: "(Q) under the Headstart-Follow Through Act;"

—On page 72, in line 23, after "(a)", insert "(1)".

On page 73, in line 5, strike out "(b)" and insert in its place"(2)";

In line 10, strike out "(c)" and insert in its place "(3)";

In line 19, strike out "(d)" and insert in its place "(4)"; and

After line 21, insert the following new subsections:

"(b)" There are hereby transferred to and vested in the Secretary all functions of the Secretary of the Army or the Department of the Army under chapter 403 of title 10, United States Code.

"(c)" There are hereby transferred to and vested in the Secretary all functions of the Secretary of the Navy or the Department of the Navy under chapter 603 of title 10, United States Code.

"(d)" There are hereby transferred to and vested in the Secretary all functions of the Secretary of the Air Force or the Department of the Air Force under chapter 903 of title 10, United States Code."

To eliminate the transfer from the Department of Defense functions relating to the education of overseas dependents of DOD personnel:

—Strike out all from line 22 of page 72 to line 21 of page 73, inclusive.

On page 73, in line 23, strike out "304" and insert in its place "303".

On page 74, in line 23, strike out "305" and insert in its place "304".

On page 75, in line 9, strike out "306" and insert in its place "305"; and

In line 15 strike out "307" and insert in its place "306".

On page 76, in line 16, strike out "308" and insert in its place "307".

On page 79, strike out lines 15 through 25, inclusive.

On page 93, in line 18, after the semicolon, insert the word "and";

In line 21, strike out "; and" and insert in its place a period; and strike out lines 22 and 23.

Strike out all from line 10 of page 102 to line 13 of page 103, inclusive.

On page 103, in line 14, strike out "(1)" and insert in its place "(k)"; and

In line 20, strike out "(m)" and insert in its place "(1)".

On page 52, in the table of contents, strike out "Sec. 303. Transfers from the Department of Defense." and renumber sections 304 through 308 as sections 303 through 307, respectively.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF TRANSPORTATION

"Sec. 308. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Transportation or the Department of Transportation under chapter 9 of title 14, United States Code."; and

In line 16, strike out "308." and insert in its place "309.".

On page 52, in the table of contents, after section 307, insert "Sec. 308. Transfers from the Department of Transportation." and renumber section 308 as section 309.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF COMMERCE

"Sec. 308. There are hereby transferred to and vested in the Secretary all functions relating to the U.S. Merchant Marine Academy vested in the Secretary of Commerce, the Department of Commerce, or the Maritime Administration by the Kings Point Permanency Act (Section 216 of the Merchant Marine Act of 1936, 46 U.S.C.) 1126)."; and

In line 16, strike out "308." and insert in its place "309."

On page 52 in the table of contents, after section 307, insert:

"Sec. 308. Transfers from the Department of Commerce." and renumber section 308 as section 309.

By Mr. JEFFORDS:

—On page 72, strike out lines 9 through 21, inclusive, and insert in lieu thereof the following:

"Sec. 302. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Labor or the Department of Labor under Title II, Title III, and Title IV of the Comprehensive Employment and Training Act, as amended."

By Mr. KRAMER:

—Page 57, immediately after line 7, insert the following new section and conform the table of contents accordingly:

LIMITATION ON FUTURE GROWTH OF BUDGET AUTHORITY

Sec. 104. It is hereby declared to be the intention of the Congress to limit any growth in the total amount of budget authority which is to be provided for all functions and offices transferred to or otherwise established in the Department, including functions and offices transferred or established subsequent to the effective date of this Act, so that the total amount of such budget authority will not exceed the sum of—

(1) the budget authority which is available for the functions and offices transferred by this Act (including functions and offices the transfer of which is delayed to a date subsequent to the effective date of this Act) for the fiscal year in which this Act takes effect, and (2) an amount equal to the product of the amount described in paragraph (1) multiplied by the aggregate percentage increase in the Consumer Price Index for all Urban Consumers between the beginning of the fiscal year in which this Act takes effect and the beginning of each subsequent fiscal year.

By Mr. McCLOSKEY:

—On Page 51, line 19, strike "Department" and insert in lieu thereof "Office".

—On Page 52, Table of Contents, Sec. 207, strike out "Secretary" and insert in lieu thereof "Commissioner"; and

Table of Contents, Sec. 434, strike out "department" and insert in lieu thereof "office".

—On Page 53, line 3, strike "Department" and insert in lieu thereof "Office";

Line 4, strike "Department" and insert in lieu thereof "Office";

Line 5, ". . . "Secretary" means the Secretary" insert in lieu thereof ". . . "Commissioner" means the Commissioner"; and

Line 6, ". . . "Under Secretary" means the Under Secretary" insert in lieu thereof ". . . "Deputy Secretary" means the Deputy Secretary".

—On page 54, strike out lines 14 through 25, and on page 55, strike lines 1 through 16 and insert in their place the following:

"Sec. 101. The Congress of the United States finds that—

"(1) education is fundamental to the development of the individual and to the growth of the Nation;

"(2) the current structure of the executive branch unnecessarily submerges the Office of Education in the large and unwieldy bureaucracy of the Department of Health, Education, and Welfare, which of necessity directs its primary attention to the problems of health and welfare;

"(3) the primary responsibility for education has been and should remain with State and local governments, public and non-public institutions, communities, and families;

"(4) there is a continuing need to ensure equality of educational opportunity and to improve the quality of education and it is appropriate that there be an independent Office of Education in the Federal Government to coordinate assistance to State and local governments; and

"(5) the number, fragmentation, and complexity of Federal education programs has created management problems at the Federal, State, local, and institutional levels, which should be ameliorated by separating, simplifying, and decreasing the size of the U.S. Office of Education."

—On page 55, in line 19, strike "Department" and insert in lieu thereof "Office";

In line 21, strike "Department" and insert in lieu thereof "Office"; and

In line 25, strike "Department" and insert in lieu thereof "Office".

—On page 56, in line 25, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 57, line 9, strike "DEPARTMENT" and insert in lieu thereof "OFFICE";

Line 12, strike "department" and insert in lieu thereof "office";

Line 12, strike "Department" and insert in lieu thereof "Office";

Line 13, strike "Department" and insert in lieu thereof "Office";

Line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 15, strike "Department" and insert in lieu thereof "Office";

Beginning on line 17 and ending on line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 19 and ending on line 20, strike "Department and Under Secretary" and insert in lieu thereof "Office a Deputy Commissioner";

Line 21, strike "Under Secretary" and insert in lieu thereof "Deputy Commissioner";

Line 22, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 23, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 24, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 25, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Beginning on line 25 and ending on line 26, strike "Under Secretary" and insert in lieu thereof "Deputy Commissioner".

—On puage 58, line 2, strike "Department" and insert in lieu thereof "Office";

Line 2, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 5, strike "Secretary and Under Secretary" and insert in lieu thereof "Commissioner and Deputy Commissioner";

Line 8, strike "Department" and insert in lieu thereof "Office";

Line 9, strike "Secretaries" and insert in lieu thereof "Commissioners";

Line 9, strike "Secretary" and insert in lieu thereof "Commissioner';

Line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 18 and ending on line 19, strike "Department" and insert in lieu thereof "Office"; and

Line 19, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 59, line 16, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 17, strike "Department" and insert in lieu thereof "Office";

Line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 21 and ending on line 22, strike "Department" and insert in lieu thereof "Office";

Beginning on line 22 and ending on line 23, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Line 24, strike "Secretaries" and insert in lieu thereof "Commissioners".

—On page 60, line 2, strike "Secretary shall delegate to the Assistant Secretary"; and insert in lieu thereof "Commissioner shall delegate to the Assistant Commissioner";

Line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 7, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 10, after the word "Office", insert "of Civil Rights";

Line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 16, strike "Secretary and the Congress by the Assistant Secretary" and insert in lieu thereof "Commissioner and the Congress by the Assistant Commissioner".

Line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 19, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 21, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 61, line 6, after the word "Office" insert "of Civil Rights";

Line 23, strike "Department" and insert in lieu thereof "Office"; and

Line 25, strike "Secretaries" and insert in lieu thereof "Commissioners".

—On Page 62, line 1, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 1, after the word "Office" insert "of Post Secondary Education";

"Line 3, strike "Secretary" and insert in lieu thereof "Commissioner";

"Line 3, after the word "Office" insert "of Post Secondary Education";

Line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 7, strike "Department" and insert in lieu thereof "Office";

Line 9, strike "Secretaries" and insert in lieu thereof "Commissioners";

Line 10, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 13, after the word "Office" insert "of Post Secondary Education";

Line 16, strike "Department" and insert in lieu thereof "Office";

Line 18, strike "Secretaries" and insert in lieu thereof "Commissioners";

Line 19, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 21, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 21, after the word "Office" insert "of Special Education and Rehabilitation Services"; and

Line 22, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 63, line 1, strike "SECRETARY" and insert in lieu thereof "COMMISSIONER";

Line 3, strike "Department" and insert in lieu thereof "Office";

Line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 5, strike "Secretaries" and insert in lieu thereof "Commissioners";

Line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 8, strike "Secretary shall delegate to the Assistant Secretary"; and insert in lieu thereof "Commissioner shall delegate to the Assistant Commissioner";

Line 9, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 12, strike "Department" and insert in lieu thereof "Office";

Line 14, strike "Secretaries" and insert in lieu thereof "Commissioners";

Line 15, strike "Secretary" and insert in lieu thereof "Commissioner";

"Line 15, after the word "Office" insert "of Educational Research and Improvement";

Line 16, strike "Department" and insert in lieu thereof "Office";

Line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 19, after the word "Office" insert "of Educational Research and Improvement"; and

Line 22, strike "Department" and insert in lieu thereof "Office".

—Page 64, line 4, strike "Department" and insert in lieu thereof "Office"; and

Line 9, strike "Department" and insert in lieu thereof "Office".

—Page 65, line 5, strike "Secretary" and insert in lieu thereof "Commissioner".

—Page 66, line 4, strike "Under Secretary" and insert in lieu thereof "Deputy Commissioner"; and

Line 21, strike "Secretary" and insert in lieu thereof "Commissioner".

—Page 68, line 1, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 11, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Line 14, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 68, line 21, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 71, line 19, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 72, in line 4, strike "Department" and insert in lieu thereof "Office";

In line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 7, strike "Department" and insert in lieu thereof "Office";

In line 10, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 19, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 25, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 73 in line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 8, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 11, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 14, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 20, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 74, in line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 8, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 10, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 75, in line 10, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 16, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 76, in line 2, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 17, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 17, strike "Department" and insert in lieu thereof "Office".

—On page 76, line 23, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 77, in line 1, strike "Secretary and the Department" and insert in lieu thereof "Commissioner and the Office";

In line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 10, strike "Department" and insert in lieu thereof "Office"; and

In line 15, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 78, in line 17, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 79, line 7, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 80, in line 2, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 11, strike "Department" and insert in lieu thereof "Office";

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 25, strike "Department" and insert in lieu thereof "Office".

—On page 81, in line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 7, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 7, strike "Department" and insert in lieu thereof "Office";

In line 8, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 10, strike "Department as the Secretary" and insert in lieu thereof "Office as the Commissioner";

In line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 15, strike "Departments as the Secretary" and insert in lieu thereof "Office as the Commissioner";

In line 22, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 23, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 25, strike "Secretary or the Department" and insert in lieu thereof "Commissioner or the Office".

—On page 82, in line 1, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Beginning on line 12 and ending on line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 19 and ending on line 20, strike "Secretary or the Department" and insert in lieu thereof "Commissioner or the Office";

In line 22, strike "Secretary" and insert in lieu thereof "Commissioner".

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 83, in line 1, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 2, strike "Department" and insert in lieu thereof "Office";

In line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 8, strike "Department" and insert in lieu thereof "Office";

In line 11, strike "Department" and insert in lieu thereof "Office";

In line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 15, strike "Department" and insert in lieu thereof "Office";

In line 19, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 24, strike "Department" and insert in lieu thereof "Office".

—On page 84, in line 2, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 23, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 85, in line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 9, strike "Secretary or in the Department" and insert in lieu thereof "Commissioner or in the Office";

In line 10, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 17 and ending on line 18, strike "Secretary for Department" and insert in lieu thereof "Commissioner for Office"; and

In line 19, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 86, in line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 14, strike "Department" and insert in lieu thereof "Office";

In line 22, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 25, strike "Department" and insert in lieu thereof "Office".

—On page 87, in line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 8, strike "Department" and insert in lieu thereof "Office";

In line 11, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 16, strike "Department" and insert in lieu thereof "Office"; and

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 88, in line 2, strike "Department" and insert in lieu thereof "Office"; and

In line 14, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 89, in line 1, strike "DEPARTMENT" and insert in lieu thereof "OFFICE";

In line 2, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 3, strike "Department" and insert in lieu thereof "Office";

In line 3, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 6, strike "Secretary" and insert in lieu thereof "Commissioner":

In line 9, strike "Department" and insert in lieu thereof "Office";

In line 11, strike "Department" and insert in lieu thereof "Office";

In line 13, strike "Department" and insert in lieu thereof "Office";

Beginning on line 16 and ending on line 17, strike "Department" and insert in lieu thereof "Office"; and

Beginning on line 24 and ending on line 25, strike "Department or the Secretary" and insert thereof "Office or the Commissioner".

—On page 90, beginning on line 2 and ending on line 3, strike "Deparrtment and the Secretary" and insert in lieu thereof "Office and the Commissioner";

In line 4, strike "Department or the Secretary" and insert in lieu thereof "Office or the Commissioner";

In line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 17, strike "Secretary or the Department" and insert in lieu thereof "Commissioner or the Office";

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 20, strike "Secretary or the Department" and insert in lieu thereof "Commissioner or the Office."

—On page 91, in line 8, strike "Department" and insert in lieu thereof "Office"; and

In line 14, strike "Secretary" and insert thereof "Commissioner".

—On page 92, in line 6, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 24, strike "Department" and insert in lieu thereof "Office".

—On page 93, in line 5, strike "Department" and insert in lieu thereof "Office".

—On page 94, beginning on line 4 and ending cn line 5, strike "Department" and insert in lieu thereof "Office";

In line 9, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 10, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 11, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 12, strike "Department" and insert in lieu thereof "Office".

—On page 95, in line 21, strike "Department" and insert in lieu thereof "Office"; and

In line 22, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 96, in line 19, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 21, strike "Department" and insert in lieu thereof "Office".

—On page 97, in line 16, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 98, beginning on line 6 and ending on line 7, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 7, strike "Department" and insert in lieu thereof "Office":

—On page 98, strike out lines 10 through 17 and insert in lieu thereof: "Sec. 508(a) Section 19(d)(1) of title 3 of the United States Code is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

—On page 98, strike out lines 18 through 24.

—On page 99, strike out lines 4 through 6.

—On page 99, in line 10, strike out "Under Secretary" and insert in lieu thereof "Commissioner"; and

In line 19, strike out "Assistant Secretaries of Education (6)" and insert in lieu thereof "Deputy Commissioners".

—On page 100, in line 4, strike "Officers, Department of Education, (5)" and insert in lieu thereof "Assistant Secretaries and principle officers (11)"; and

Beginning on line 16 and ending on line 17, strike "Secretary" and insert thereof "Commissioner"; and

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 101, in line 5, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 9, strike "Department" and insert in lieu thereof "Office".

—On page 101, strike out lines 11 through 13 and insert in lieu thereof (4) in section 314, by striking out "Secretary of Health, Education and Welfare" and inserting in lieu thereof "Commissioner of Education";

—On page 101, strike out lines 16 and 17 and insert in lieu thereof " 'Health and Human Services, the Commissioner of Education,'; and ";

—On page 101, strike out lines 23 and 24 and insert in lieu thereof " 'thereof 'Health and Human Services, the Commissioner of Education,'."

—On page 102, in lien 13, strike "Department" and insert in lieu thereof "Office"; in line 15, strike "Department" and insert in lieu thereof "Office"; in line 17 strike "Secretary" and insert in lieu thereof "Commissioner"; and in line 25, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 103, in line 11, strike "Secretary" and insert in lieu thereof "Commissioner"; in line 13, strike "Secretary" and insert in lieu thereof "Commissioner"; in line 13, strike "Department" and insert in lieu thereof "Office"; and in line 18, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 104, line 14, strike "Secretary" and insert in lieu thereof "Commissioner of the Office of Education".

—On page 104, strike out lines 17 and 18 and insert in lieu thereof " 'thereof Health and Human Services, the Commissioner of Education,'."

—On page 105, in line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 15, strike "Secretary and insert in lieu thereof "Commissioner"; and

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 106, in line 4, strike "Department" and insert in lieu thereof "Office"; and

In line 19, strike "Department" and insert in lieu thereof "Office".

—On page 106, line 25, strike "Secretary" and insert in lieu thereof "Commissioner".

—On page 107, in line 5, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 9, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 14, strike "Department" and insert in lieu thereof "Office".

By Mr. QUAYLE:

—Page 72, line 3, insert the following:

"(9) all functions with respect to and being administered by the Secretary through the Office of Child Development and the Department of Health, Education, and Welfare regarding Headstart;"

—Page 109, line 9, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 308. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Agriculture—

(1) with respect to the operation of the Graduate School, and

(2) under the National School Lunch Act and the Child Nutrition Act of 1966.

By Mr. SIMON:

—Page 64, after line 2, insert the following new section and redesignate the succeeding sections and conform the table of contents accordingly:

ASSISTANT SECRETARY FOR FOREIGN LANGUAGES AND INTERNATIONAL EDUCATION

SEC. 210. There shall be in the Department an Assistant Secretary for Foreign Languages and International Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting international education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting international education.

Page 58, line 8, strike out "six" and insert in lieu thereof "(17)".

—Page 91, beginning on line 1, strike out all of section 439 through line 18 and conform the table of contents accordingly.

—Page 99, line 19, strike out "(6)" and insert in lieu thereof "(17)".

By Mr. SKELTON:

—Page 56, line 22, insert "(a)" immediately after "Sec. 103.", and on page 57, and after line 7, insert the following new subsection:

(b) No funds provided under any program administered by the Secretary or the Department may be suspended, terminated or otherwise withheld from any educational institution, school or school system on the basis of any requirement imposed by the Secretary or the Department relating to curriculum, program of instruction, administration, personnel, the selection of library resources, textbooks or other instructional materials.

By Mr. STANGELAND:

—Page 80, line 20, strike out the period and insert in its place: ", or to any individual employed in a function transferred to the Department under section 307 as a teacher, administrator, clerk, or secretary in a school for the education of Indians, Alaskan Natives, or Aleuts."

By Mr. TAUKE:

—Page 64, after line 2, insert the following new section and redesignate the succeeding sections and conform the table of contents accordingly:

ASSISTANT SECRETARY FOR PRIVATE EDUCATION

SEC. 210. There shall be in the Department an Assistant Secretary for Private Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting private education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting private education.

Page 58, line 8, strike out "six" and insert in lieu thereof "seven".

Page 99, line 19, strike out "(6)" and insert in lieu thereof "(7)".

—Page 66, line 3, insert immediately after the period the following: "Not less than 4 of the members appointed under this paragraph shall be representatives of, or parents of students or students from, private elementary, secondary, or postsecondary education.".

By Mr. WALKER:

—On page 59, after line 19, insert the following new section:

"QUALIFICATIONS OF OFFICERS

"SEC. 203. No individual may be appointed to an office created by section 201 or 202 unless he or she was an elementary, secondary, or postsecondary education teacher or administrator during at least eighteen of the twenty-four months preceding the date on which his or her nomination is submitted to the Senate for confirmation.", and

In line 21, strike out "203" and insert in its place "204".

—On page 61, in line 23, strike out "204" and insert in its place "205".

—On page 62, in line 71, strike out "205" and insert in its place "206"; and

In line 16, strike out "206" and insert in its place "207".

—On page 63, in line 3, strike out "207" and insert in its place "208";

In line 12, strike out "208" and insert in its place "209"; and

In line 22, strike out "209" and insert in its place "210".

—On page 64, in line 4, strike out "210" and insert in its place "211";

In line 8, strike out "211" and insert in its place "212"; and

In line 15, strike out "212" and insert in its place "213".

—On page 67, in line 3, strike out "213" and insert in its place "214".

—On page 52, in the table of contents, after section 202, insert:

"SEC. 203. Qualifications of officers." and renumber sections 203 through 213 as sections 204 through 214, respectively.

—On page 62, in line 4, strike out the word "the" the first time that it appears and insert in its place "a";

After line 13, insert the following new section:

"OFFICE OF PRIVATE SCHOOL EDUCATION"

"SEC. 206. There shall be in the Department an Office of Private School Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions affecting private school education, both elementary and secondary and post-secondary, as the Secretary shall delegate to the Office and shall serve as a principal adviser to the Secretary on matters affecting elementary, secondary, and postsecondary private school education."; and

In line 16, strike out "206" and insert in its place "207".

—On page 63, in line 3, strike out "207" and insert in its place "208";

In line 12, strike out "208" and insert in its place "209"; and

In line 22, strike out "209" and insert in its place "210".

—On page 64, in line 4, strike out "210" and insert in its place "211";

In line 8, strike out "211" and insert in its place "212"; and

In line 15, strike out "212" and insert in its place "213".

—On page 67, in line 3, strike out "213" and insert in its place "214".

—On page 73, in line 7, strike out "209" and insert in its place "210".

—On page 102, in line 14, strike out "209" and insert in its place "210".

—On page 52, in the table of contents, after section 205, insert "Sec. 206. Office of Private School Education." and renumber * * *.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

"SEC. 308. (a) There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Agriculture or the Department of Agriculture under the National School Lunch Act and the Child Nutrition Act of 1966, except functions vested in the Secretary of Agriculture under section 17 of the Child Nutrition Act of 1966 and administrative functions involved in commodity distribution.

"(b) In setting nutrition standards for the programs transferred to and vested in the Secretary by subsection (a) of this section, the Secretary shall consult with other Federal agencies having significant responsibility for nutrition policy.

"(c) The Secretary is authorized and directed to transfer to the Secretary of Agriculture the funds necessary to acquire commodities in support of the functions transferred by subsection (a) of this section. The Secretary shall consult with the Secretary of Agriculture with regard to the preferences of States for and ability of States to use commodities available for distribution."; and

In line 16, strike out "308" and insert in its place "309".

On page 52, in the table of contents, after section 307, insert:

"SEC. 308. Transfers from the Department of Agriculture." and renumber section 308 as section 309.

—On page 77, in line 6, after "(1)", insert "(A)"; and

After line 14, insert the following new subparagraph:

"(B) The Director of the Office of Personnel Management shall not provide for the establishment in each of such grade levels of a greater number of positions in the Department than the number provided for in subparagraph (A) of this paragraph."

—On page 79, strike out lines 4 through 14, inclusive;

In line 15, strike out "(e)" and insert in its place "(D)"; and

In line 21, strike out "(f)" and insert in its place "(e)".

—On page 82, in line 21, strike out "AND FIELD"; and

In line 23, strike out "or other field".

On page 52, in the table of contents, amend the title of section 426 to read "Sec. 426. Regional offices."

—On page 82, strike out lines 1 through 9, inclusive, and insert in their place the following:

"(b) Except to the extent inconsistent with subsection (c)—

"(1) the Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5, United States Code; and

"(2) section 431 of the General Education Provisions Act also shall apply to such rules and regulations to the extent applicable immediately prior to the effective date of this Act, and to rules and regulations promulgated with respect to programs transferred under sections 301(a)(1) and (2), 302, 303, 305, and 306 of this Act.

"(c) In promulgating such rules and regulations, except for rules and regulations to ensure compliance with civil rights laws within the jurisdiction of the Assistant Secretary for Civil Rights, the Secretary shall—

"(1) make all reasonable effort to alert the appropriate officials of the Local Education Authorities as to the purpose and content of a proposed rule or regulation; and

"(2) withdraw such rule or regulation if a majority of Local Education Authorities notify the Secretary in writing of their disapproval within thirty (30) days of the publication of the proposed rule or regulation in the Federal Register."

—On page 89, in line 23, after "436.", insert "(a)".

—On page 90, after line 6, insert the following new subsection:

"(b)(1) No part of any funds appropriated to carry out the provisions of this Act shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office or any voter registration activity, or to pay the salary of any officer or employee of the Department who, in his official capacity as such an officer or employee, engages in any such activity.

"(2) For purposes of this subsection, the terms 'election' and 'Federal office' have the meanings given them in section 301 of the Federal Election Campaign Act of 1971."

—On page 89, in line 23, after "436.", insert "(a)".

—On page 90, after line 6, insert the following new subsection:

"(b) Notwithstanding subsection (a) of this section, no funds may be appropriated for the salaries of personnel on the immediate staffs of officers of the Department who are compensated in accordance with subchapter II of chapter 53 of title 5, United States Code, except insofar as such salaries are specified individually in the reports accompanying legislation appropriating funds for salaries of personnel in the Department."

H.R. 3236

By Mr. GEPHARDT:

—Page 3, line 15: Strike "150" and insert instead "130."

By Mr. SIMON:

—Page 29, line 15, strike out "1980" and insert in lieu thereof "1981".

H.R. 4289

By Mr. COUGHLIN:

—On page 12, strike lines 20 through 25, inclusive.

On page 13, strike lines 1 through 2, inclusive, and lines 14 through 24, inclusive.

SENATE—*Tuesday, June 5, 1979*

(Legislative day of Monday, May 21, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. DAVID H. PRYOR, a Senator from the State of Arkansas.

PRAYER

The Reverend David B. Kidd, Hillsboro Presbyterian Church, Nashville, Tenn., offered the following prayer:

Let us pray.

God, we come to You in this moment of quiet. We come as Your children, forgetting now all differences. We bring a common hurt, a common hope.

We are a burdened people, Lord.

We are faced with decisions that will shape the lives of Your countless children.

We struggle, Lord, with the tangle of detail, with the confusion of conflicting claims upon us, with the desire to do right when what is right is unclear.

And we recognize that our finest flash of insight cannot foresee the final consequences of what we do here.

And yet, our burden is also our greatest privilege.

We thank You that we are called to such high office.

We rejoice in the heritage won for this Nation in the struggles of those who came before us.

We remember the brave who lived and died with the vision of a land of free and equal people.

And so we give thanks for our burdens, that they may yet bring this immense vision into focus.

Come to us, God, when the issues become too confounding and complex, reminding us that Your commandment guides us in unchanging simplicity; that we are to love one another as we ourselves long to be loved.

And, so, as we set about our work, bring before us the living faces of our people: the child who believes, the mother who hopes, the old man who dreams.

And help us to serve them well, for in our deepest moments we want only to be instruments of Your work in this changing world.

We pray in Christ's name, who taught us that the greatest among us would be servant to all. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE.

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The second assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., June 5, 1979.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID H. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.
>
> WARREN G. MAGNUSON,
> *President pro tempore.*

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized at this time.

Mr. ROBERT C. BYRD. I thank the Chair.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ONE MAN'S PILGRIMAGE IN BEHALF OF MANKIND

Mr. ROBERT C. BYRD. Mr. President, during the past several days, the world has been treated to possibly one of the most inspiring and significant phenomena in modern times, as Pope John Paul II has returned to his native Poland for a religious pilgrimage that has become, in fact, a triumphant progress.

Several events in recent years have captured the collective attention of mankind in a special way. But few occurrences in this generation can boast the universal appeal that the Pope's visit does. Against the dramatic setting of Poland, a nation that was obliterated from the map of Europe in the 18th century, and which has survived the heel of the tyrannical ideologies of Nazism and communism in the modern era, Pope John Paul has mobilized the spirits of millions of Polish people in an unforgettable demonstration of the dauntlessness of the deepest yearnings of the human heart.

It is indeed appropriate that Pope John Paul is the central figure in this drama. In John Paul, we are presented with a brilliant and sensitive man whose life has itself been directly etched by all the historical currents of our time. In spite of all that he, the Polish people, and mankind have endured in this century, the Pope is underscoring the fact that certain aspirations can never be extinguished, by tyranny, torture, propaganda, or oppression. Perhaps the outpouring of faith and celebration that we are witnessing in Poland at present are evidence that Pope John Paul and the Polish people share a vision that goes so far beyond the totalitarian and discredited utopianism of Marxism, that even the power of a Communist dictatorship cannot contain it.

One particular aspect of the events in Poland should be emphasized, I believe. Many people with legitimate hopes for progress, social justice, and human rights, especially in the underdeveloped countries of the Third World, have for some time carried on a flirtation with Marxist tyranny, or have surrendered to its embrace. The response of the Polish people, after 30 years of exposure to Marxist life, to the acknowledged leader and symbol of the world's largest single religious body, should raise serious questions in the minds of such conscientious people as to the efficacy of the course on which they would set their lives and the destinies of their countries.

In 1683, the Polish king Jan Sobieski brought a Polish army to the gates of Vienna, and lifted a siege of that city by the hordes of the Ottoman Empire. Some historians claim that that rescue may have saved Western civilization. The Pope's return to his native land is possibly not as crucial, but his call for the spiritual unity of Western man in the face of materialism, statism, and dictatorship will serve, I am confident, to promote spiritual renewal throughout Europe, the Western Hemisphere, and the rest of the world. Once again, Poland, which has given the world Copernicus, Madame Curie, and Chopin, has shared its spiritual legacy with us in the person of a native son. The world is indebted today to Pope John Paul and to Poland.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized at this time.

Mr. BAKER. Mr. President, I thank the Chair.

POPE JOHN PAUL II

Mr. BAKER. Mr. President, I commend the majority leader for his eloquent statement this morning in reference to

Pope John Paul's return to his native land and his salutary remarks about the Pope's country of nativity.

I am sure that the Pope's visit to Poland had the same exhilarating effect on his fellow citizens as it did on those of us in the United States and Western Europe who viewed much of the return visit on television.

It seems to me a shame that much of that visit, shared by us through that electronic medium, was not shared by his countrymen and by others in Eastern Europe.

The Pope is truly a noble figure, a moral leader, and unique and special in this time of great trial and tribulation.

I wish him well.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have a request for a part of my time under the standing order from the distinguished junior Senator from Utah. I will be happy now to yield to him.

Mr. President, is there 10 minutes allocated to the leaders this morning?

The ACTING PRESIDENT pro tempore. The Senator is correct. Ten minutes for each leader.

Mr. BAKER. Does the majority leader have any problem with my yielding at this time the remainder of my time under this order to the Senator from Utah?

Mr. ROBERT C. BYRD. Not at all.

I wonder if the distinguished minority leader will allow me to proceed for 1 minute, if the Senator from Utah would not mind, and if the Senator needs additional time, if I have no request on my side, I will be glad to yield some of my time.

Mr. BAKER. Mr. President, I thank the majority leader. I certainly do not object to that.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, there is one nomination on the calendar that I believe has been cleared. I ask unanimous consent that the Senate go into executive session for not to exceed 1 minute to consider the nomination of Patricia A. Goldman, of the District of Columbia, to be a member of the National Transportation Safety Board.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—I reserve only for the purpose of advising the distinguished majority leader that this item is cleared on our calendar as well, and we have no objection to proceeding to its consideration or the confirmation of the nomination.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will go into executive session, and the nomination will be stated.

NATIONAL TRANSPORTATION SAFETY BOARD

The assistant legislative clerk read the nomination of Patricia A. Goldman, of the District of Columbia, to be a member of the National Transportation Safety Board.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I now yield the remainder of my time under the standing order to the distinguished junior Senator from Utah.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. HATCH. I thank the distinguished minority leader.

SOVIET-CUBAN INVOLVEMENT IN CAMBODIA

Mr. HATCH. Mr. President, exactly 2 weeks ago, I submitted a brief statement of my views on the dangerous situation at the Thai/Cambodian border territory. In this statement I quoted General Kriangsak, the Prime Minister of Thailand, who recently characterized the Cambodian conflict as one that very seriously threatens the security of Thailand. I also called the attention of my colleagues to an entirely new fact in the conflict: Direct Soviet and Cuban military involvement. In an article which appeared in the Frankfurter-Allegmeine Zeitung, one of the leading daily newspapers of the European continent, known and honored for both its objectivity and credibility, Miss Christel Pilz stated that Vietnamese have been acting in concert with Soviet and Cuban combat forces. I contacted Miss Pilz for more information on this subject. Here is her candid reply. And I quote:

> Re your inquiry source of my information on Cuban presence in Cambodia.
>
> 1. Western intelligence sources intercept occasionally air-ground-air-radio communication in Spanish with unmistakable Cuban accent. Intelligence agents who go into Cambodia confirm presence of Russian and Cuban ground personnel within Vietnamese units.
>
> 2. Reports from both Hen Samrin and Red Khmer soldiers interviewed by colleagues and me personally through interpreters on the Thai-Cambodia border speak of Russian and Cuban advisors on the ground. Red Khmer soldiers wanted to display captured Russians in Thailand. Thai authorities, however, refused to allow them into Thailand. This has been confirmed by Western sources.
>
> 3. Thai colleagues of mine report to have seen bearded caucasians on the border. Fleeing Heng Samrin troops said those were Russians and Cubans. I regret I cannot be more specific as to the names of my sources. I hope the foregoing is of assistance.

Let me make it clear at the beginning that I do not consider the presence of Soviet and Cuban military forces as having any direct military significance. The only noteworthy military factor lies in the joint Soviet-Vietnamese intention to gain total control over entire Indochina and thus to complete the encirclement of the People's Republic of China.

However, the political impact of Soviet and Cuban military involvement is more important for two reasons. First, the African-style joint venture of these three Communist countries clearly indicates the consolidation of a qualitatively new Soviet strategy.

The aim of this new strategy is to expand the peripheries of Soviet sphere of influence by using her nuclear potential as a protective umbrella for conventional military actions of her proxies.

Second, active Soviet support introduces a new element of uncertainty into the region and poses an immediate threat to the security of Thailand.

In face of this threat which the United States cannot tolerate, we have the obligation to extend whatever support is necessary to protect an ally and preserve the stability of this region.

In conclusion, I have some words of warning for the Communist countries involved. To the Vietnamese, I have to say that if they continue their expansionist policy and thus further threaten the security of other countries in this region, I do not see any chance for reestablishment of diplomatic relations or American economic aid. On the contrary, I am convinced that countries which still extend financial support to Vietnam will be forced by the aggressive posture of the regime to rethink their generally humanitarian commitments.

It must be made absolutely clear to the Kremlin that expansionism contradicts the spirit of cooperation and good faith which has been so often expressed by Mr. Brezhnev and his colleagues.

Obviously, the Congress of the United States cannot ignore the aggressive posture of Soviet foreign policy during its consideration of the upcoming SALT II agreement.

Finally, turning to Cuba I must warn Mr. Castro that the well-known patience of the United States is not unlimited. We cannot and will not tolerate irresponsible and unwarranted military intervention throughout the world by a small country so close to our own territory. Moreover, in the long run this type of political behavior will prove to be detrimental to the best interests of the Cuban nation.

I believe it is time for the United States to demonstrate its deep concern with overall Soviet performance by plainly declaring that we are no longer willing to accept expansionism clothed in the guise of Communist ideology.

OBSERVATIONS OF DR. PAUL CRAIG ROBERTS

Mr. HATCH. Mr. President, one of the most perceptive intellects of the last decade is now an associate editor of the Wall Street Journal. Fortunately for us, Dr. Paul Craig Roberts also possesses one of this Nation's most effective writing and communications abilities.

I have known Dr. Roberts for approximately 2 years and have read as many of his writings as I could get my hands on. Dr. Roberts always hits the jugular in his understandable, yet brilliant, analytical discussions of economic realities and their problems and solutions.

He has been one of the foremost advocates of tax rate reductions to reward the producers of America with the incentives to save more; invest more; expand more; employ more; produce more, and thereby strengthen their ability to save the American economy from its present static condition by allowing the strengths of our free enterprise economic system to evolve into a dynamic and growing economy.

Dr. Roberts, while working on Capitol Hill, was one of the first (if not the first), to point out that our great Government economists were not considering the supply side of the equation as they worshipped at the shrine of the demand side in the econometric models utilized by the Congressional Budget Office. At first, denials were made by both majority and minority Senate Budget Committee staffs, but ultimately, they had to acknowledge their embarrassing inconsideration of such economic facts of life.

Dr. Roberts heavily influenced me to make the speech on "The Bureaucratization of Natural Resources" on the floor of the Senate on March 29, 1977. I believe we were right then and the concepts of that speech are right today. It is true, in my opinion, that the energy crisis is a crisis of Government and, typically, the Government bureaucracy created and has sustained that so-called energy crisis in order to create more bureaucracy (the new self-born Department of Energy), in order to gain more control over all of us, and I would add parenthetically to the detriment of all Americans.

I ask unanimous consent that my speech entitled "The Bureaucratization of Natural Resources" be printed in the Record at this point.

There being no objection, the speech was ordered to be printed in the Record, as follows:

The Bureaucratization of Natural Resources

Mr. Hatch. Mr. President, a group that seeks to further the power of bureaucrats under the guise of protecting the public interest has issued what it claims is a study. The group is called "Exploratory Project for Economic Alternatives," and its study is called "Public Trusts: A New Approach to Environmental Protection." Its "new approach" is the old reactionary one of expropriating property rights. According to the Washington Post, the group proposes to make nonowners of natural resources the legal beneficiaries of the resources and to make the present owners legally responsible for managing the resources in the interests of others. How could this work? What kind of law would it be that required a dispossessed owner to manage his former property in the interest of those in whose name he has been dispossessed?

If it is a good idea to revoke private property rights in natural resources and place them in the hands of public trustees with legal responsibility to manage them in the interests of the people, why confine the scheme to natural resources? Why not extend it to every other property right? The American people have as much stake in human resources as they do in natural resources. Does that mean that we should deprive people of their property rights in their own labor and place these rights in the hands of public trustees to manage everyone's labor in the public's interest?

Let us look closer at this proposal to hold all natural resources in public trust. How will these public trustees know what is a natural resource and what is not? Will the category include all existing resources with a market value, or will it also include rainwater and wind and energy from the Sun? How will these trustees know to discover new resources and new uses of existing resources? If something like what is being proposed was put into effect a hundred or more years ago, we would have whale oil and wood stoves in the public trust today and be quite ignorant of oil, internal combustion engines, and solar heating.

Let us look at another question, because absurd proposals such as this are continually originating in think-tanks, from which they find their way through bureaucratic interests, or through press and staff, to the Congress. The question is what criterion will the public trustees use as a basis for their decisions. How will they know if the benefits of their actions exceed the cost? It is well known that Government officials neither advocate nor use the net-benefits criterion as a basis for their decisions. The group that sponsored the study wants to move us "away from a future dominated by the values of giant corporate and bureaucratic institutions." In their view bureaucratic institutions must not include the Government, because their proposal, whether intended or not, will serve to expand the self-interest of Government by expanding the demand for the services of Government.

The energy crisis, like most other crises, is just another product of an old political strategy. One hundred and eighty years ago James Madison described the strategy as "the old trick of turning every contingent," into a resource for accumulating force in the Government."

In their advertising campaigns designed to create and market crises, think-tanks, bureaucrats and their political allies have an enormous advantage, because they can claim to represent the public interest. But what is the public interest? It is today what it has always been: the interest of those who speak in the name of the public. For a long time now the public interest has served as a mask for the aggrandizement of Government power.

The public's interest has been greatly served by private property, in energy as in all other fields. Private property in the ownership, production, and consumption of energy has provided Americans with the most abundant and least expensive energy in the world. Today this great achievement is said to be a failure, because private property has provided Americans with too much cheap energy. Now the bureaucratic forces of Government are in action to drive away cheap energy and to confiscate it as a new source of tax revenue for Government.

There was never any energy problem in America until Government got involved in regulating it, in fixing prices, in scheduling extraction rates, in taxing away profits, in blocking energy development in the name of everything that can be invoked. The price of gasoline was always cheap in the United States until the last few years during which Government action at home and abroad began battering the wellhead profits of the oil companies. Crude-oil earnings have been hurt by price controls, by revocation of the depletion allowances, and by confiscation abroad of crude-oil producing properties. All of this was done in the name of protecting people from big oil, and it has all served to build the power and income of Government at the expense of the people's energy pocketbooks. Now that Government has driven up the cost of gasoline, it has set the stage for a new attack on the private property rights of energy owners. The "Exploratory Project for Economic Alternatives" wants to extend this attack to the property rights of all natural resource owners.

Mr. President, as Prof. Douglas North at the University of Washington and other distinguished scholars who have spent their lives in study have discovered it was the development of private property rights that produced the economic growth that gave the peoples of Europe and North America their fabled living standards. Elsewhere in the world the whole idea of progress is to achieve what we have achieved, to catch up with the West. Yet, in the West, the achievement which is the goal of the rest of mankind is said to be a failure. We are said to need more of what the rest of the world is struggling to free itself of—exploitative government.

Human progress has flowed from human action unleashed from the tenacles of Government. Where Government enters, progress declines. Government acquires rights at the expense of the rights of citizens. Every Government program constitutes a threat to private property rights. The revocations and abrogations that accompany every governmental program drive up the cost of production and reduce output below what it otherwise would have been. Furthermore, the added costs of added threats to private property rights reduce the incentive and inclination to invest and reinvest in the acquisition of additional private property. As Prof. Michael Jensen and William Meckling of the University of Rochester have made clear, in deciding how they will invest their assets and use their time and energy, private citizens form expectations about the likelihood of revocation and abrogation of their rights, based on what they see happening to others throughout the system.

As Government continues to exploit productive private producers in order to increase the rate of return earned by political entrepreneurs, individuals will increasingly forego making socially desirable productive investments, because of the threat to their property rights. Because opportunities throughout the country that are not taken are hard for politicians in Washington to see, we fail to consider the negative consequences of numerous Government actions. But there are many signs that the energy industry is in decline directly as a consequence of governmental action.

The corporate form of economic activity was a great advancement, because it allowed resources to be mobilized for productive purposes which otherwise would not have been undertaken. Today the corporate form of ownership is under attack by those who want to redistribute the ownership of resources from the present set of owners to a new set of owners that wants to own without working and saving to acquire ownership. Why work to acquire if it is easier to politically organize and acquire through political confiscation? Government is not adverse to facilitating this process, because it stands to gain the power in a concentrated form that now exists in fragmented form in the individual property rights of numerous owners.

As corporate rights recede, the value of owning such rights will also. The value of any right depends upon how permanent it is. Once in this country we saw the function of Government as protecting private rights.

Today we see the function of Government as revoking and abrogating private rights in the name of the public interest. As this process proceeds, potential investors will become increasingly convinced that the rights of owners to have the assets of corporations managed in their interest are tenuous. As they perceive this, they will stop investing in corporations. The dead hand of Government will have fallen on one of the legal wellsprings of economic progress.

We may be closer to this than we think. A population of people will always contain entrepreneurs. When entrepreneurial behavior no longer pays in productive economic life because economic rights and income claims are dispensed by Government, entrepreneurial skills will cease to be supplied to the private sector. The skills that innovate and renew will not be supplied in the absence of secure private rights to what they produce.

Mr. President, we speak increasingly about Government solving economic problems, but the great economic achievements that we have enjoyed were made possible precisely because they were never problems of Government. Our achievements resulted from private persons and private firms solving problems in which they saw a payoff. The resourcefulness of a Nation resides in its people, not in its government or "public trustees." This resourcefulness still exists in spite of depredation by Government and bureaucratic interests. Just this week I heard the president of Mercedes-Benz of North America decribe his firm's development of a turbo-diesel that will allow passenger cars to travel 75 miles to a gallon. This single private development is a greater contribution to energy conservation than anything that has been done in the past couple of years in Washington.

I want to point out what it means for Government or public trustees to take over the operation of the energy systems upon which the country depends. It means that private activities will be replaced by Government activities in the 10,000 firms that explore for and produce oil and gas, in the 250 domestic companies which refine oil, in the 200,000 gasoline station operations, in the 5,000 coal mines, in the 3,000 utility systems, in the thousands of companies that manufacture energy using products, in the thousands of companies that supply equipment essential to the production of energy from nuclear reactor vessels to drilling rigs to mine roof bolts.

What constitutes responsible management of energy supplies is their use in ways that produce profits. If energy uses do not produce profits, then they do not produce satisfaction for the users or energy, and human welfare is lessened. People will not spend their money in ways that do not produce satisfactions for them, and individuals themselves are the best judges of how to allocate their money between competing desires in order to maximize their satisfaction from their income. Government cannot step into this private process without reducing the satisfactions that people derive from their incomes.

People look best after their own property and their own income. They are notoriously bad about looking after the property of others, as most homeowners who have ever rented their homes know. The interests of Government consist primarily of the interests of those who are in Government. They will use the power that Government acquires over property to transfer that property and the income that it produces to other uses that those in Government see as in their interests.

As Government has become more involved in protecting the public interest and solving society's problems, its claim to the national income has grown. Today Government takes about 40 percent of the goods and services that are produced every year from the private owners who produce them. Today the burden of Government on producers is greater than the burden that feudal lords placed on serfs. Serfs, on the average, only owed one-third of their incomes to their noble masters. Today, the free democrat owes on average 40 percent of his income to masters who are not even noble.

Mr. President, a representative of the people is one who fights to expand private property rights, not to restrict them.

As Prof. Craig Roberts and other noted scholars have shown, there is a lack of coincidence between the public's interests and the interest of government. Behind various moral guises hides the vested interests of government. Private property rights are what protect people from the interests of government. That is why the advance of governmental interests breaks down the property rights of private individuals. This process is reactionary and the antithesis of human progress. For too long statistics have gone unmasked, while skepticism has been applied only to the private sector. It is time to apply the logic of skepticism universally.

In my closing remarks I want to point out that many products of think tanks are more inimical to the public's interests than saccharin and if the Government can ban saccharin in the name of the public's interest, it can ban the products of think tanks as as well. The freedom of ideas does not expand with the expansion of government. Only those ideas that serve the interests of government expand.

Today in the United States the budget of government is larger than the value of the national income of France or Germany. It is six times the size of the GNP of Sweden and 50 percent of the total production of the Soviet Union. In the United States government takes from Americans in taxes a sum greater than the combined value of every marketable good and service that the total population of France can produce in 1 year. Does anyone really believe that the American people receive in return from Government services equal in value to the total production of the French nation? No one believes this. Yet it does not stop us from continually expanding the size of government. That is what shows whose interests are represented in Washington.

Mr. HATCH. Mr. President, recently, Dr. Roberts has written a number of sound and provocative articles which I commend to everyone.

"The Federal Budget Game" is an explicit exposé of the pernicious manipulations of the House and Senate Budget Committees by what Dr. Roberts calls "the liberal big spenders." It is a most provocative article found in the Cato Institute Policy Report, March 1979.

I ask unanimous consent that Dr. Roberts' article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE FEDERAL BUDGET GAME

(By Paul Craig Roberts)

In 1974 Congress passed legislation creating a congressional budget process. The act established House and Senate Budget Committees and a Congressional Budget Office (CBO) charged with providing Congress with detailed budget information and studies of the impact on the economy of alternative spending and revenue levels. The legislative core of the new process is the two Budget Resolutions, the first in the spring and the second in the autumn. The purpose of the Budget Resolutions is to set an expenditure ceiling and revenue floor for each fiscal year. The figures in the first resolution are regarded as targets to guide the appropriations and tax committees, whereas the figures in the second resolution are legally binding. Barring significant changes in the economy or economic outlook during the intervening months, there is not supposed to be much difference between the two resolutions.

With the Budget Act came a more tightly scheduled work year and the greater pressure that comes with tighter schedules. What gain did Congress expect as an offset to the added burden that it imposed on itself?

One possible answer is that Congress had no choice, that it simply had to get control over spending. Such a response implicitly assumes that Congress was concerned about the budget deficits and, in the public's interest, voluntarily imposed a spending discipline on itself in order to achieve a balanced budget.

There are various problems with this response, over and above the fact that the combined deficit for the three years immediately following the Budget Act are three times the size of the deficit for the three years immediately preceding the Budget Act.

One problem is that the Budget Act was supported by many members of Congress who are not opposed to budget deficits. The careers of many politicians are tied to "spending constituencies," and such politicians may feel that it is easier to finance the expansion of these constituencies through deficits than through legislating higher taxes. Also, many politicians believe that budget deficits are necessary to stimulate the economy and maintain full employment. These politicians would not have supported the Budget Act in order to eliminate deficits.

Another problem with this response is that it assumes there is an identifiable "public welfare" that politicians automatically place above their own interests. The behavior of politicians is not usually explained on so heroic an assumption.

Probably we would do best to try to understand the budget Act the way we try to understand other pieces of legislation—in terms of politics. Much legislation is the result of compromises through which each side gets, in varying degrees, something of what it wants. The Budget Act, however, seems to be a product of different sides having different expectations about its consequences. Although the participants shared a common vocabulary about spending being out of control, they were employing two different definitions of budget control.

To fiscal conservatives, getting spending under control meant balancing the budget.[1] They saw the budget process as a way of putting their free-spending opponents on the spot. The lavish spenders appeared to have it too easy, because they could indirectly legislate big deficits by voting in favor of many separate bills. Fiscal conservatives thought that if fiscal liberals had to vote on setting the size of the government's budget and the deficit itself before appropriating money for the individual programs, there would be stricter limits on spending.

Fiscal liberals, however, had a different goal in mind. They wanted to strip deficits of their political image by institutionalizing Keynesian fiscal policy as the definition of budget control. As Senator Edmund Muskie recently stated, "Economists of every respected school agree that increased federal spending on tax cuts producing a deficit may well be the only way to boost employment, generate investment, stimulate demand, accumulate capital, and prevent a downturn from deepening into a depression. A mandated balance would blunt our sharpest fiscal tool."[2]

To Muskie, getting spending under control means explicitly relating the taxing and spending actions of Congress to a fiscal

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Footnotes at end of article.

policy that justified them. He and other fiscal liberals saw the Budget Act as a rationale, in terms of scientific economic policy, for the ongoing political process of building spending constituencies. With the Budget Act, deficits would originate in the economic policy proposals of the experts in the Congressional Budget Office and in the Senate and House Budget Committees, and would be evidence that spending was under control.

The politics of the Budget Act was that each side believed the budget process would redound to its political advantage. Fiscal conservatives hoped to use it to embarrass the chronic spenders, while the latter expected it to take the sting out of deficits by justifying them on economic policy grounds prior to the appropriations process.

Fiscal conservatives seemed to feel that liberals were getting away with something by being able to vote separately in favor of each spending program without having to legislate higher taxes or to accept any responsibility for budget deficits. They thought that liberals would be voted out of office if they had to vote in favor of a deficit (or higher taxes) before they could go on to fund all their spending programs. Their reasoning overlooked the fact that being "liberal" is not just a matter of a person's state of mind; it is also a rational response to political opportunities to build spending constituencies. People receiving handouts are more interested in the amount than in how the handouts are financed.

The new budget process would seem to have weakened the position of fiscal conservatives. Their resistance to deficits can now be portrayed as an attack on "full employment" policy and on the budget process itself. Prodigal spenders can always argue that a deficit is needed this year in order that the budget can be balanced next year. Without economic stimulus (credit expansion to finance a budget deficit), the argument goes, unemployment will rise, thus simultaneously causing the government's expenditures to go up and its tax revenues to go down. Balancing the budget this year, the spenders can say, will mean a bigger deficit next year.

This drive for ever greater deficit spending has continually led to the very problems it was allegedly designed to cure. As Nobel Laureate Friedrich A. Hayek and other "Austrian School" economists have shown, such policies are not only responsible for today's crippling inflation rate, but for the extensive and persistent unemployment problem as well.[3] The monetization of debt through the Federal Reserve System not only results in rising prices as the money supply increases, but also creates enormous distortions in the relative prices of goods and services throughout the economy. These distortions mislead businesses by encouraging investment in less efficient ventures. Since sufficient demands to sustain such ventures does not *actually* exist (without the artificially inflated prices), business failures and unemployment soon result. In addition, instead of any real economic stimulation, a major decline in productivity occurs as government revenues are drawn away from the private sector. Hence, Keynesian deficit spending serves only to fuel the inflationary boom *and* the consequent recession, as well as to cripple economic growth.

The problems of inflation and unemployment can be solved only by ending this debt monetization, cutting spending back to balance the budget, and eliminating the government's regulatory monopoly over money and credit (abolishing legal tender laws, banking regulations, etc.). Fortunately, the forthcoming Cato Institute Policy Study Proposal for a Balanced Budget Amendment (being prepared by *Policy Report* Editor Richard E. Wagner) would be a major step in this direction.

There is no doubt that Keynesian fiscal policy has been institutionalized in the congressional budget process. The Congressional Budget Office's forecasts, macroeconomic analyses, and policy alternatives are derived from the Keynesian view of economic relationships. Although fiscal conservatives were mistaken in their belief that the budget process would be used to balance the budget, there are nevertheless some stumbling blocks to the liberals' use of the process to institutionalize deficits as a way of expanding their spending programs.

The first stumbling block is the Keynesian theory itself, which says that deficits should not be incurred in good times. So far this has not prevented large deficits from occurring in good times. When people want to spend, they will find reasons to justify their expenditures. For example, although Congress had completed action on the fiscal 1977 budget before Carter's election in November 1976, immediately after the election liberal Democrats "discovered" a "spending shortfall" that was threatening the economic recovery. The Ford Administration was accused of having sat on money that Congress had appropriated to be spent. As a result, part of the stimulus to the economy that was needed for recovery was missing. To rectify the problem, Congress proposed and passed a third budget resolution for fiscal 1977, which increased the deficit to provide an assortment of handouts. Our news media, which is supposed to be clever and sophisticated, failed for the most part to note the election payoffs and went along with the charade of "the spending shortfall threat to the economy."

Another argument used is that the unemployment rate is misleading, because it doesn't include all the discouraged workers. This argument allows deficits to be justified in good times on the grounds that we don't really have full employment and that more stimulation is needed to draw the discouraged back into the labor force.

In general, the process seems to work as follows during the course of the business cycle: recessions justify deficits to get the economy moving again; recoveries justify deficits to keep the recoveries going, good times justify deficits to ward off the downturn that is predicted be be around the corner. Signs can be found upon which to predict a recession, just as spending shortfalls can be built into the budget (by overestimating unemployment compensation, for example) as a hedge against having to balance the next one. Looking back, the spending advocates can say that the reason the budget didn't balance on the upturn just before the downturn was that the deficit in the previous year had not been large enough to have us on a full employment budget.

Of course, it gets sticky when the economy is heated up and the inflation rate begins to rise. At such times, the thing to do is to let the President's budget in January be austere—and maybe also the first budget resolution in May. In the meantime, you rely on inflation to pressure the Fed into a tight money policy. Then you can forecast a recession as the consequence of high interest rates, hold hearings on the need to stimulate the economy to fight the recession, and come in with a big deficit in the second budget resolution in September.

So although it is theoretically possible that the spendthrifts could trip on this first stumbling block, in practice they step over it fairly easily.

A second stumbling block is that justifying deficits does not specify their form. The Keynesian theory makes it clear in principle that deficits can be produced by holding taxes constant and increasing government spending, or by holding government spending constant and cutting taxes. Thus, tax cuts are an alternative stimulative policy to increases in government spending.

One way of stepping over this stumbling block is to decide that dollar-for-dollar tax cuts are less stimulative than increases in government spending. This lets you argue, as the Congressional Budget Office does, that "a permanent income tax cut is a relatively expensive way of reducing unemployment in terms of budget dollars per additional job."[4] Dollar for dollar, the Congressional Budget Office finds that government purchases have the greatest impact on GNP, while despite displacement assumptions of 50 percent, public employment is estimated to be more effective, per dollar, than tax cuts in stimulating jobs.

Thus, you eliminate tax cuts as an alternative by estimating them to be a relatively weak, and therefore expensive, way to stimulate the economy. This, of course, requires a certain amount of doing. You manage it by assuming that tax rate reductions affect the economy only by giving people more money to spend, thus increasing demand. You deny that they provide incentives to increase supply. You then say that since part of the tax cut is saved, you get less spending stimulus from a dollar of tax cut than you get from a dollar of government spending.

In 1978 Representative Marjorie Holt, a member of the House Budget Committee, twice offered amendments to the Budget Resolution. Representative Holt's amendment would have brought in a budget with lower spending and lower taxes but just as large a budget deficit. In the spring her amendment received a majority of the votes and would have passed had the Democratic leadership not forced some members of their party to change their votes. In the autumn, her amendment failed by only a few votes.

In 1979 the Democratic leadership came back after elections convinced that the Holt amendment would pass. Determined to spend rather than to reduce taxes, the Democratic leadership got rid of the Holt amendment by changing the Budget Act under the guise of changing some of the rules of the House of Representatives. The Speaker of the House forced through the new rules, and as a result the Holt amendment can be ruled out of order.

Now Representative Holt cannot propose an aggregate expenditure figure lower than the figure proposed by the Budget Committee unless she specifies how much less each spending program will receive if her figure is adopted. This is completely at odds with the 1974 Budget Act, which says that the Budget Resolution is supposed to set a total spending figure and leave it to the Appropriations Committee to allocate the money over the various spending programs. By cleverly changing the rules, the congressional spenders have fixed it so that Representative Holt cannot offer her amendment without infringing on the prerogatives of the Appropriations Committee.

The new rules also mean that any congressman who votes for the Holt amendment has his vote tied to cuts in specific spending programs, thus leaving him at the mercy of infuriated spending lobbies.

It is apparent that the big spenders in the House are willing to use as much power as necessary to guarantee that the Budget Act is not used to cut spending.

Their counterparts in the Senate have an easier time, because the Republicans on the Budget Committee do not offer alternatives to the committee's budget resolution. Senator Bellmon, the ranking Republican on the committee, works closely with the Democratic chairman, Senator Muskie, and so do their staffs. The spenders do not have to worry about Republicans causing trouble, especially after Senators Hayakawa and McClure, known for their tax- and budget-cutting efforts, were forced off the Budget Committee by their own party. The situation between Bellmon and Muskie is so cozy that

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Footnotes at end of article.

Democrats even managed to arrange the dismissal of a Republican staff member who was causing them problems.

In the new Congress the Republican side of the committee consists of Bellmon and (mainly) inexperienced new members who will find it hard to detect the technical manipulation of the budget figures by the Congressional Budget Office and committee staff in order to ensure higher spending. One way this is being done is by beginning with figures that have already adjusted every spending program for inflation, whether or not required by law. The proposal by Senators Muskie and Bellmon of an "austerity measure" to eliminate the staff allowance for the other committee members would make it more difficult for other senators on the committee to catch on to the funny numbers.

In spite of the lengths to which big spenders have gone to ensure that the Budget Act cannot be used to cut spending, some Senators believe that spending would be even greater if it were not for the Budget Act. It is not clear why they believe this. The Budget Act has not changed the incentive to spend. Neither has it added any constraint on Congress's ability to spend. If anything, it has made it easier for Congress to incur large deficits. Congress looked more irresponsible under the old system whereby the deficit resulted from voting yes on too many spending bills. There was simply no excuse for the deficit other than that Congress just wanted to spend. Under the new system, however, the deficit is justified on the grounds that it is necessary to provide economic stimulation, and this happens before there is any voting on spending bills. Under this new system, experts testify that the deficit is necessary, and so the Congress doesn't look as irresponsible as before.

In addition to justifying deficits, the new budget process is likely to increase the government's power over the economy in other ways as well. By running deficits over the entire business cycle, Congress intensifies inflation while at the same time crowding out private investment. Thus, "stagflation" becomes a more permanent fixture of the economic landscape. Stagflation is good for the government's power for a number of reasons. First, the relative shortage of jobs makes it easier for Congress to provide more public service employment, CETA jobs, and public works. Second, the greater difficulty earning increases in real income through market activity and productivity gains causes more people to turn to income redistribution and transfer payments as ways of getting ahead. Third, private wealth diminishes, because stagflation forces people into higher tax brackets and reduces the return to capital. Fourth as different groups try to maintain their position, the government has growing support for credit controls, exchange controls, and wage and price controls. As controls grow, less and less economic activity can take place legally without the government's permission, and government decisions more and more replace private decision-making. A person's relations with government become more important to his success than his market performance. Fifth, as people find it more difficult to save, they become more dependent on transfer payments, and they lose their financial independence.

In short, government hasn't much to gain from a stable, growing economy. In such an economy there is no need for all the government programs and controls that inflation and unemployment justify. When people are enjoying widespread individual success, they don't need the government.

As a result of the Budget Act, the situation on the tax front may get much worse. Advocates of spending may be able to use the budget process to eliminate various tax breaks. Under the Budget Act, tax breaks are defined as "tax expenditures" and are said to be equivalent to expenditures on spending programs. There is already an effort afoot to eliminate tax breaks and, instead, hand the money out through the government agencies. The investment tax credit, for example, would be handed out by the U.S. Department of Commerce as a grant or loan.

To sum up, the Budget Act of 1974 seems to be another case of Congress creating a problem that can then be used as an excuse for legislation enabling further increases in government power. By creating deficits, Congress succeeded in establishing a formal budget process that justifies deficits.

Of course, sometimes success can lead to its own undoing. The large deficits piled up year after year, in spite of protests and promises, have given momentum to the demand from the states for a constitutional amendment to require a balanced federal budget. Forty-three Democrats in the House of Representatives joined this movement in February 1979. Giving up on the congressional budget process, they introduced a Joint Resolution to amend the U.S. Constitution to require a balanced budget—another indication that the budget committees have played the budget game too well.

FOOTNOTES

[1] The term "fiscal conservatives" refers to those political figures adamantly opposed to government growth and deficit spending. Unfortunately, today the term is carelessly used to describe those Republican and Democratic members of Congress who prefer relatively "lower levels" to the massive deficits of the last decade.—ED.

[2] From a speech to the National Press Club, Washington, D.C., February 13, 1979.

[3] See F. A. Hayek, *Unemployment and Monetary Policy: Government as Generator of the "Business Cycle,"* and *A Tiger by the Tail; The Keynesian Legacy of Inflation*, Cato Papers nos. 3 and 7 respectively (San Francisco: Cato Institute, 1979). See also, F. A. Hayek, *Prices and Production* (Clifton, N.J.; Kelley, 1967); M. N. Rothbard, *America's Great Depression* (Kansas City: Sheed and Ward, 1975), and *What Has Government Done to Our Money?* (Novato, Calif.; Libertarian Publishers, 1964); G. P. O'Driscoll, Jr., *Economics as a Coordination Problem; The Contributions of Friedrich A. Hayek* (Kansas City: Sheed Andrews and McMeel, 1977); L. von Mises, *Human Action; A Treatise on Economics*, 3rd rev. ed. (Chicago: Regnery, 1963).

[4] Congressional Budget Office, *Understanding Fiscal Policy* (Washington, D.C.; U.S. Government Printing Office, 1978), p. 38.

Mr. HATCH. Mr. President, Dr. Roberts wrote a most interesting and provocative article entitled: "American Diplomacy and International Business" in which is found some very unique concepts, including some very quotable quotes such as:

> While we have been hiding behind a maginot line of deterrence, the Soviets have been building the force structure of blitzkrieg.
>
> Mesmerized by academic visions of a new world order in which Americans cannot throw their weight around, we are opening up the world to others who are prepared to throw their weight around.
>
> There can be only one result of our policy of accommodating and reassuring our opponents. We have signaled to the whole world that aggressive demands thrown at us earn a very high rate of return. It is, in other words, a good investment to cause the United States trouble.
>
> Just as the Department of Agriculture represents the interests of farmers, the Department of State represents the interests of foreigners.
>
> If we walk away from the exercise of power, others will step in.
>
> By insanely denouncing their own heritage, our intellectuals have prepared the world for the power of others.
>
> Today, many of our foreign policy makers hold the view that the goal of American foreign policy must be to insure the success of Soviet leaders and designs. In the words of a New York Times editorial, "the highest interest of the United States is to insulate its most vital ties with Moscow from all the world's other turmoil". What this means, of course, is that whatever turmoil the Soviets start, we must acquiese. In other words, every one of our remaining allies must expect to be betrayed.

I ask unanimous consent that the article, "American Diplomacy and International Business," be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICAN DIPLOMACY AND INTERNATIONAL BUSINESS

(By Paul Craig Roberts)

The central fact of our time is the collapse of the military and diplomatic positions of the United States. While the government has been accumulating power in Washington over its own people, it has been losing the power to influence events elsewhere in the world. The loss of military and diplomatic power has definite implications for American business abroad.

The erosion of American power has been in many ways a conscious policy. Let me briefly explain ideas that have brought it about.

For many years an influential element in the American foreign policy community has believed that the preeminence of American power is a source of tension, hostility and instability in international affairs. The argument has been advanced in many forms. Too much power, it is said, leads to an overreaching—an arrogance of power—that exhausts the nation's strength in failures. No country can be the world's policeman or provider, much less both simultaneously. It is said that a country with too much power will make too much use of it and that in use there is misuse. The United States, it is said, topples foreign governments, installs rulers it prefers, and otherwise tramples on the legitimate aspirations of powerless people.

In short, American power is believed by some of the people who have their hands on it to be inconsistent with a world community based on international law. If American power were reduced, international law would grow as our ability to throw our weight around and pull strings declines. Thus, the argument goes, our own good and the good of the world requires that we have less economic and military power relative to other countries.

Indeed, the continued existence of the world is said to depend on it. American military might—particularly nuclear superiority—is said to be the cause of Russian feelings of insecurity and inferiority that underly the arms race. Many believe that the deployment of new American strategic weapons systems only fuels Soviet paranoia and hurdles the world closer to destruction.

Whereas a wise statesman would want to take into account the particle of truth in these arguments, he would not want to put the shoe of suspicion only on the American foot. But that is what we have done. The indictments of American power have been total, while the bad behavior of others has been explained away as natural reactions to our alleged misuse of power. Suspicion mainly, if not only, of our own power, we have been busily abandoning it while others have been busily acquiring it, often with our help.

If these enfeebling ideas stayed in the universities in which they originate, they would do little but add to the guilt feelings of white students. But these ideas soon got their hands on the reins of policy.

In the military sphere the decision to allow the Soviets to catch up was deliberate. For years we have deployed no new strategic weapons systems. Those we developed we did not deploy, and those ready for development have been delayed on every possible pretext. While American Secretaries of State and Defense agonized over the meaning of nuclear superiority, and American liberals lectured on its immorality, the Soviets, realizing its value, acted to be sure that they would have it. They caught up and are racing further ahead. Given the present momentums and lead times involved, there seems to be no way to stop the Russians from acquiring nuclear superiority by 1983, or thereabouts, or even before.

Influenced, as you undoubtedly are, by the argument that there are already enough nuclear weapons to blow up the human population twelve times over, "so what?" you may ask. One possible "what" is that once the Soviets hold a decisive superiority, they may regard any catching up on our part as an act of war. In such a situation it could be difficult for us to elect a President who did not have the Russians' approval.

You see, our belief in the irrelevance of superiority is based on a doctrine that the Soviets do not share. We believe that the purpose of nuclear weapons is deterrence. Once each side has a sufficient number, they are both immune to attack, the argument goes, because each can afflict unacceptable damage upon the other. We call this doctrine "mutually assured destruction," otherwise known as MAD, and its message is that there can be no victory in nuclear war.

The Russians disavow our doctrine. Far from believing that the purpose of nuclear weapons is to deter attack, the Russians believe such powerful weapons elevate the offensive to supremacy. He who is committed to the defense, says Soviet war doctrine, "is inevitably doomed to defeat." To the Russians nuclear superiority means "counterforce capability," which means the ability to destroy major elements of an opponents weapons systems, while retaining in reserve enough force to destroy an opponents population centers should he dare to retaliate with any surviving forces. In other words, counterforce capability negates deterrence capability. While we have been hiding behind a maginot line of deterrence, the Soviets have been building the force structure of blitzkrieg.

But of course my lecture today is not about Soviet war doctrine, as frightening and worthy of attention as it may be. Other men such as Paul Nitze, Richard Pipes, and Congressman Jack Kemp (Congressional Record, June 16, 1976) have established in the public record the main outlines of the great danger that we face. I mention it because the loss of nuclear superiority is in every sense a loss of power—a step deliberately taken by a nation that has been invulnerable for so long that it does not know what the loss of power means. Mesmerized by academic visions of a new world order in which Americans cannot throw their weight around, we are opening up the world to others who are prepared to throw their weight around.

The same thing is going on in th eeconomic sphere. We are voluntarily stripping ourselves of the advantages of wealth and comfort. According to testimony before the U.S. Congress, the OPEC oil cartel was set up with the help of the U.S. Department of State. Had the U.S. government been opposed, the cartel could probably never have come into existence. More recently, the steep decline in the exchange value of the dollar was a result of the government's conscious intent, although the Administration may have succeeded more than it intended.

These and other similar actions are the actions of American liberals who feel liberated from the concerns of power and the harsh realities of life. They have fought to get their hands on the reins of power primarily in order that they might drop the reins and let our power decline to a level that is more convenient for the rest of the world. Just as they prefer more equality in domestic matters of income distribution, they prefer more equality in matters of international politics.

There can be only one result of our policy of accommodating and reassuring our opponents. We have signaled to the whole world that aggressive demands thrown at us earn a very high rate of return. It is, in other words, a good investment to cause the United States trouble. Monumental achievements like the Panama Canal that embody symbols of American pride and success are handed over to insignificant states who find that a few insults are sufficient to bully us out of our possessions. Through a similar process, American oil companies have lost their equity in foreign properties that they found and developed, and now they are even losing their rights to market the oil (Wall Street Journal, 3/14/79).

Having established an incentive structure that encourages others to make demands of us, the demands rapidly got out of hand. On March 6 of this year the Assistant Secretary of the Treasury for International Affairs, Fred Bergsten, complained to Congress that foreign governments are using unfair measures to acquire the technology of U.S. firms doing business overseas. Increasingly, he said, foreign governments are requiring that for U.S. firms to do business within their borders, they must agree to transfer their technology. "Although these actions are inconsistent with the spirit of international trade agreements," he said, they nevertheless "are rapidly becoming a pervasive feature of the world economy."

As any Mafia family knows, to let one's power slip is to experience increasingly uncomfortable hard demands. Yet the highly educated men who run our foreign policy are unfamiliar with this elementary principle of human behavior.

Of course, there are other parts to the story in addition to a voluntary discarding of power. Just as the Department of Agriculture represents the interests of farmers, the Department of State represents the interests of foreigners. It is quite natural that desk officers in the State Department identify with the interests of the countries whose desks they sit. In economics this is known as the "agency problem." How do we require our agents to act in our interests? In the case of non-profit activities, there is no known solution to this problem.

The doctrine of "too much power" has implications that bode us ill. If our power derived from theft, we could simply give it back. But as it derives from the superior performance of our system, we cannot get rid of it unless we impose handicaps on our system designed to reduce its success. That means that discarding power is going to cost each one of us economically. And those discarding our power have not consulted us or showed us the price tag. American businessmen who operate abroad and omit from their rate of return calculations the various higher costs that will be imposed on them by foreign governments, which will become more assertive and demanding as American power declines, will lose their shirts and their shareholders' capital.

There is no simple "leaving people free to go their own way" in today's international politics. If we walk away from the exercise of power, others will step in. The rest of the world knows from hard experience that power is an extremely valuable commodity. The more we lose ours, the more we will come to experience it being applied to us by others.

And we are losing it rapidly in big ways and in little ways. Barry Bosworth of the Wage and Price Council complained at the end of last month that the United States "is at the mercy of other countries determining our economic policy" (New York Times, 4/1/79). Egon Zehnder International, an executive search firm based in Switzerland, reports that opportunities abroad for American executives are on the decline. Just as the quality of foreign managerial talent improved to the point that it was a reasonable substitute for American managers, the U.S. government decided to "talk down the dollar" and to advocate tax law changes that are to the disadvantage of Americans working abroad. Both of these actions, of course, make it much more expensive for U.S. firms to maintain American managers overseas.

What does it mean for American managers abroad to be replaced by native ones? For one thing, it means that instead of orders being placed by Americans with American based firms, they will be placed by foreigners with foreign based firms—which will worsen our balance of trade at a time when it is already enough of a problem that we are pressuring our few remaining friends, such as the Japanese, to reduce their exports to us.

For another thing, as Americans return home, our limited knowledge, experience and contacts with other countries diminishes. When American journalists go abroad to report on developments and need to get a feel for the lay of the land, they don't go to the American Embassy. Instead, they search out American executives whose contacts and experience in the foreign country are much broader based. With the CIA essentially destroyed and our embassy personnel employed in public relations work between the two countries, to further reduce our presence by forcing out our managers is to blind an already nearsighted man.

Power goes hand in hand with presence. As our presence abroad declines, so does our power. That influential element in our foreign policy community of which I spoke understands this. But since the decline of American power does not alarm them, they make it all sound part of the moral order. American managers, they say, should not be making the decisions that affect the economic life of foreign countries. But this assertion does not explain why foreign managers should be making the decisions that affect the economic life of American firms. If Americans are not in a position to manage their own firms abroad, they are not in a position to exercise any power. Some people try to cover this up by talking about our "moral leadership," but the world doesn't follow a declining power.

Others see a silver lining in the collapse of our business positions abroad. The labor unions' line that American investment abroad exports jobs has supporters in the government. In the view of many, the only legitimate business of American business is in America. There are Members of Congress who say that American business should never have been allowed to run off in the first place whoring after cheap labor and lax tax codes.

Lewis Lapham, the brilliant and hard-hitting editor of Harper's magazine, recently wrote that "the increasingly dissolute course of American foreign policy makes it difficult to characterize the spectacle of the United States in the world as anything other than a rake's progress" (Harper's, 3/79). Rakes have several characteristics that don't stand them in good stead with others. Generally they are seen as untrustworthy and unstable, and that is the way the United States is viewed today. Senator Moynihan summed it up well when he told the Council on Foreign Relations in New York on February 14 that "there is now no longer any way to predict our behavior."

A country cannot expect to be trusted when it trumps its Asian allies while dealing from the bottom of the deck in the manner described by Michael Ledeen in the March issue of Harper's, or prepares a Presidential Review Memorandum (PRM–10) that says in the event of a Soviet attack on Europe, the United States would fall back, giving up one-third of Germany, and negotiate with the Russians while appealing to world opinion (see Senator Hatch's speech, Congressional Record, August 5, 1977).

Today the Russians openly lobby the West German government with the line that the United States is no longer a dependable ally and that strategic nuclear superiority is shifting toward Moscow (see Evans and Novak, NY Post, March 21, 1979). The Europeans are not going to sit on a limb while we saw it off. They are more sophisticated than South Vietnam and Taiwan. They will strike their own deal with the Russians while they still have a position from which to bargain. They realize that their bargaining position diminishes as our power diminishes and as Middle Eastern instability rises.

The Europeans aren't the only ones losing their confidence in us. Saudi Arabia has not had diplomatic relations with the Soviet Union for more than 40 years. Yet, last month the Washington Post (3/4/79) quoted Saudi Arabian Prime Minister, Prince Faisal, as saying that his country recognizes the Soviet Union's "important role in world politics" and is grateful for "the positive policy adopted by the Societ Union toward Arab issues."

On the same day the Baltimore Sun reported that Moroccan government officials "are voicing one recurring criticism of the Carter administration—that the United States is reluctant to help friendly African states protect themselves from Soviet-inspired aggression." Moroccans say they have difficulty understanding this lack of commitment. When the Russian's Cuban surrogates established a Marxist state in Angola, Moroccans say they felt a sense of betrayal at Washington's lack of action. One government official is quoted as saying that "within the next five years, unless the Americans are willing to take a stand, even the continuing existence of our country is in doubt."

On March 20 the New York Times quoted "a Saudi deputy minister who is a senior spokesman for the government" as follows:

"We have been observing the United States' actions over the past year and at every turn of events asking ourselves, why are they doing this? People are beginning to wonder if the Americans know what they are doing. Why is the U.S. stepping from one fiasco to another? In Ethiopia, in Somalia, in Afghanistan, the U.S. left the field to the Russians without as much as an attempt to stop them. We persuaded the Somalis to kick the Russians out, and we were stunned when the U.S. refused to give them weapons with which they could resist a Soviet-inspired aggression from Ethiopia."

And then there is Iran, the Saudi spokesman said, and now the "separate peace" agreement that they say undercuts their ability to restrain the radical Arab countries. They fear being forced into the other camp in order to avoid being knocked off themselves.

The conventional wisdom answers the Saudis and Moroccans by talking about Soviet Vietnams. But another possibility is that the American foreign policy community believes that Marxist dictatorships are a more advanced form of government than the Iranian, Moroccan, and Saudi monarchies.

The same Soviets that President Carter is prepared to trust with an unverifiable SALT treaty are highly visible in their efforts to rally the Arabs against the Israeli-Egyptian peace. But, the argument goes, we must approve the SALT treaty in order to preserve Brezhnev in power. Today many of our foreign policymakers hold the view that the goal of American foreign policy must be to insure the success of Soviet leaders and designs. In the words of a New York Times editorial, "the highest interest of the United States is to insulate its most vital ties with Moscow from all the world's other turmoil" (2/23/79). What this means, of course, is that whatever turmoil the Soviets start, we must acquiesce. In other words, every one of our remaining allies must expect to be betrayed.

The same characteristics that make us seem unreliable as a military and diplomatic ally make us seem unreliable as a supplier of goods. A U.S. Senator recently told me that the heads of some of our largest corporations have complained that the U.S. government today has such an unpredictable image that it is costing them business abroad. These business leaders have been told by major South American governments that they cannot risk having their development plans tied to American supplied goods, because they never know when the U.S. government is going to accuse them of human rights violations and interfere with their commercial relations with U.S. firms.

In his February 14 address to the Council on Foreign Relations, Senator Moynihan characterized the State Department's "Report on Human Rights Practices in Countries Receiving U.S. Aid," which alarmed many of the countries with which we do business, as follows: "It verges on a protracted libel of the remaining democracies in the world—notably Israel—and shades into increasing defensiveness as the regimes shade towards the repressive." The "true object" of liberal moralism, said Senator Moynihan, "is the withdrawal of American power from the world."

I am afraid that the elites to which Americans have looked for leadership are incapable of leading us anywhere but to destruction. Their greatest achievement at home has been what Kevin Phillips has called the Balkanization of America (Harper's, May 1978). Abroad they have achieved success for the Soviet Union. These are truly prodigious accomplishments, the like of which have never before been seen on earth. The liberal elites have achieved a divisiveness among Americans, an eroding of loyalties that dissolves the nation, while seeking to unify our enemies.

The cultivation of divisiveness is today an exact science that pervades all aspects of our existence. Small school children are taught in the schools that our founding fathers were bad-tempered men who ripped-off the government, owned slaves, and made the country safe for property and inequality. Public television is a conduit for pro-Cuban and anti-South African propaganda films. Commercial television and the theater are no different. On February 21, 1979, for example, the message of Roots II, to which corporate America rushed to buy advertising, was that white Americans are racist and lawless; violence against them is justified; to kill a white person is not only alright, it is a positive thing to do.

The New York play, "Zoot Suit," is about a Chicano who places racial loyalty to fellow Chicanos above cooperation with the law and refuses to tell what he knows about a murder. As a result he suffers a series of humiliating encounters with the white establishment and is the victim of ceaseless prejudice and injustice. In the words of the theater critic, Edwin Wilson: "To a man, the members of the white establishment—policemen, judges, prosecutors—are presented as brutal, insensitive, and sadistic. Some of these characters, such as the judge and prosecuting attorney, are so unremittingly evil that they border on caricatures" (Wall Street Journal, 3/27/79). The only decent non-Hispanic characters in the play are the lawyer who takes the hero's case and a woman reporter for a left-wing paper.

The formenting of racial hatred towards whites is papered over with words about a positive image of Blacks and Chicanos. But the formula is deadly, because it bases a positive image of Blacks and Hispanics on a negative image of whites. This kind of cultivated, fabricated, racial divisiveness is not something that the U.S. can afford, considering the challenges it faces in international politics.

But the folly knows no bounds. It was "capitalist pig" money—$400,000 from the Ford Foundation—that set up a committee to monitor U.S. compliance with the Helsinki human rights agreements. As Professor Stephen Whitfield of Brandeis University observed, this action "must baffle Soviet dissidents and cheer their tormenters. . . . Our government does not violate rights of conscience or expression, nor prevent the reunification of families. It does not jail those who actively and admirably champion those rights" (N.Y. Times, 3/5/79).

It will be interesting to see whether this brash young professor who dared to speak such heresies will be awarded tenure at Brandeis. My own experience in university life tells me that he has outraged at least some of his colleagues by his expression of confidence in his country.

In an atmosphere in which Solzhenitsyn can be unbraided in an anti-communist magazine (Commentary, February 1979) for a lack of "charity and compassion" toward his KGB tormentors, for "venomous polemical attacks" on Soviet apologists, and for "his volcanic hatred of the Soviet regime," Professor Whitfield cannot expect his remarks to be very well received.

What are we to make of the contradiction in our culture that denounces Solzhenitsyn for despising a regime that subjected him, and tens of millions of others, to horrors beyond the imagination of any American Black or Chicano, yet glorifies Blacks and Chicanos for hating white America? How can such a culture resist Soviet pressures when the only enemies Americans perceive are other Americans?

The United States has relied for so long on a self-critical posture as its means of achieving its moral improvement that it fearlessly follows it wherever it may lead, and even adopts this stance in its relations with external enemies. Take a typical member of our intellectual elite. His commitment to our society is conditional upon our adopting the institutional and policy changes that he thinks are necessary to improve it. Therefore, his allegiance at any point in time is weak, because to satisfy his desire for progress he feels he must forever remain an opponent of existing society. His program will not emphasize building on the past achievements and successes of our society, but correcting past failures and righting past wrongs. He will not see his country's gifts of foreign aid as attesting to its moral sense, but the insufficient amount will be evidence of an immoral foreign policy. He will justify foreign nationalization of his fellow citizens' property as a necessary remedy for neocolonial exploitation. He will not see lack of progress in arms limitations as a reflection on the opponents' intentions but, instead, on his own country's lack of good faith. He will not see a strong defense posture as a justifiable response to an external threat, but as "provocative" and the cause of an arms race. On the domestic scene he will champion those who are failures as victims of society, and he will explain the successful in terms of ill-gotten gains. He will not even be a Marxist, but just an ordinary graduate of an ordinary university.

The debunking and unmasking of America negates our achievements, and our successes go unrecorded. But while the intellectuals denounce, the illegal aliens affirm. What other land has absorbed millions of people of such racial and cultural diversity?

But today's immigrants face much rougher sledding. On the grounds of protecting them from "cultural imperialism," our leaders have taken every possible step to ensure that they do not become assimilated. They must be taught in their native tongue in school, and there is every kind of government program to lure them into dependency on government handouts. As the black economist Tom Sowell has said, "the poor are a goldmine for the politicians." Victimized by the misguided programs of the white elites, their lack of progress becomes "evidence" of racial discrimination, and this in turn becomes the basis for the success of a whole new class of government bureaucrats whose careers depend upon proving that "white society" is racist. A society under such intense internal attack cannot have the confidence to ward off external challenges.

The Soviets, on the other hand, do not rely on the denunciation of their own society as their means of achieving progress. They take the inevitability of their success for granted. And they are not bashful about power. Listen to Lenin who laid it on the line: "The scientific concept of dictatorship means neither more nor less than unlimited power, resting directly on force, not limited by anything, not restricted by any laws, nor any absolute rules. Nothing else but that."

There is no evidence that Lenin's followers were shocked by this doctrine or that they discarded it upon his death. Rather, they seem to have taken it for granted. For example, in 1928 Grigori Pyatakov, later a victim of the doctrine, recognized and approved it: "According to Lenin the Communist Party is based on the principle of coercion which doesn't recognize any limitations or inhibitions. And the central idea of this principle of boundless coercion is not coercion by itself but the absence of any limitation whatsoever—moral, political, and even physical."

Today this doctrine has a long tradition, and it has survived its practice by Stalin, Mao, and Pol Pot. The Hungarians ran up against it in 1956 and the Czechoslovakians in 1968. Dissidents in Russia run into it today when they appeal to the Soviet constitution and find that the party, instead, is supreme.

Sooner or later we are going to run up against this doctrine, and it may well shatter our nation. In the meantime, American business abroad is going to find itself under more constraints than it experienced in the past. By insanely denouncing their own heritage, our intellectuals have prepared the world for the power of others.

Mr. HATCH. Mr. President, in an excellent article in the Wall Street Journal, under the byline "Political Economy" and entitled, "Opportunity in Adversity," Dr. Roberts discusses the "gold mine in the OPEC cartel." This is an excellent article on the administration's scramble to acquire more "cheap" revenues and more added ability to redistribute the wealth—effectively laundered through the bureaucracy princes—at the same time.

I ask unanimous consent that the article, "Opportunity in Adversity," be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Opportunity in Adversity

(By Paul Craig Roberts)

Even governments born of idealism learn that there is opportunity in adversity. Once they do, they no longer seek to overcome adversity, but to profit by it. While people in L.A. bed down next to the gas pump and mug each other for a can of gasoline, the men in Washington discovered the gold mine in the OPEC cartel.

The President has succeeded in leading most people to believe that he is giving the oil companies something by decontrolling domestic oil prices. In truth, current law removes price controls completely in 1981 and does not require a new tax as a quid pro quo. But by skillfully playing on the vision of billions of dollars pouring into the pockets of oil barons, the President has created a political constituency for a new oil tax. While Senator Kennedy lays down a smokescreen of sham uproar over "vast new profits" being turned over to big oil, temporary (and soon to expire) price controls are being replaced with a permanent tax.

This permanent tax has a striking feature. It applies to future oil yet to be discovered and brought into production. And it is not a tax on windfall profits or even ordinary profits from new wells, but a tax on the market price of the oil. It works as follows:

A benchmark price for U.S. oil is established in terms of constant dollars at roughly the world price at the time the proposal is enacted. Today that would be about sixteen 1979 dollars. This adjusts the price for inflation, but not for rises in the real or relative price of oil. If the world price of oil rises above the benchmark price, thet government takes half of the difference. For example, if the benchmark price is $16 and the price rises to $18, the government taxes $2 of 50%, which means tax revenues of $1 per barrel.

The higher the world price of oil rises above the U.S. benchmark, the greater the tax bite. As the tax rises as a percentage of the price, there is an increasing disincentive to find and produce new oil in the U.S. The table tells the story.

Year	Bench mark price	World price	Tax	Tax as percent of world price
1980	516	518	$1	6
1990	516	530	7	23
2000	516	540	12	30

Notice that the tax makes the U.S. government a co-beneficiary of OPEC price increases. The higher the price goes above the benchmark, the greater the government's share.

Of course, if the world price of oil doesn't rise any faster than inflation, there is no tax. But Harvard economist Thomas Schelling in a Committee for Economic Development study says that we should expect the real price of oil to rise. Although "the world is not about to run out of fuel," much of the high-grade, cheap-to-produce oil is behind us. Future oil is "going to become progressively more expensive" to find and produce.

Judging by the new national energy plan that he sent to Congress this week, the President also expects the real price of oil to rise. The plan foresees 1990 oil prices of $30 a barrel in constant 1979 dollars—almost twice the benchmark price.

Clearly, the administration has come up with a plan that will produce tax revenues for the government while it discourages U.S. exploration and development and makes us even more dependent on imports. U.S. Representative John Rousselot (R., Calif.) and Bud Brown (R., Ohio) tried to point this out to Energy Secretary Schlesinger and CEA chairman Schultze when they testified before the Joint Economic Committee on April 25 in behalf of the President's tax proposal.

The President's men emphasized that decontrolling existing production now would provide more revenues to the oil industry during the next two years than they would otherwise get. This, they said, would be a big incentive to find new oil. But Rep. Rousselot saw it differently: "Basically, it means that a permanent tax to hold domestic oil prices to our producers below world levels is going to lower U.S. production. The lower U.S. production will raise our imports."

The President's proposal contains no incentive whatsoever to find new wells. But it does contain substantial disincentives, because it reduces the rate of return on new discoveries. Temporary lowering the tax on existing wells now (by letting the price rise sooner) does not compensate for permanently raising the tax on all oil in 1981.

What, in the administration's view, justifies this new tax that will discourage further exploration, development, and exploitation of our own oil reserves? Well, said Mr. Schultze, we don't need just more oil; we also need long-term research and development of alternative energy sources to oil. "The whole concept of the windfall profits tax and its use to finance those longer term developments is, it seems to me, a very good way to deal with that long-term problem. We are taking some of those proceeds for what we desperately need, which is long-term research, development, and exploration of alternative resources."

Mr. Schultze doesn't explain why the government is taking the oil companies' profits to set itself up in the energy business instead of allowing the companies to gradually establish themselves on the basis of new technologies and new energy sources. The tax signals the phaseout of the private energy industry, not energy independence. Of all the big oil companies, only Mobil has understood the message and is fighting for its life.

THE FTC MUSCLES INTO SPAS

Mr. HATCH. Mr. President, the growing intrusion of the Federal Government into the private lives of all American citizens has reached disturbing dimensions in recent years. Many of my constituents have expressed their frustrations in dealing with Federal regulatory agencies which influence virtually every aspect of our society. These greedy Federal agencies have infiltrated traditional State and municipal government functions in their quest to regulate anything that moves or breathes. James J. Kilpatrick has graphically illustrated this alarming trend in an editorial in the Washington Star on May 23, 1979, where he describes recent Federal Trade Commission moves to regulate, of all things, the health spa industry. Mr. Kilpatrick convincingly argues that State and city governments are better equipped to handle local industries such as health spas, and are more responsive to the concerns of their constituents than the mighty Federal Government. The wasteful duplication of resources that results from coercing small local businesses in order to justify a massive Federal bureaucracy is shocking.

Although the bureaucratic excesses of these agencies have been lavishly criticized in recent years, the time has come to do more than just "wring our hands" about their crusade to correct every imagined problem that springs up in this country. Congress must pull in the reins on the Federal bureaucracy and curb the misguided and excessive zeal of these regulatory agencies by restoring the integrity of State and local government functions.

Mr. President, I ask unanimous consent that the article, "The FTC Muscles Into Spas," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The FTC Muscles Into Spas

(By James J. Kilpatrick)

The whole might, majesty and power of the federal government is slowly descending upon a social evil so vast and so grave that only the might, majesty and power of the federal government can put things right.

And what, you may ask, is this terrible wrong? Stand back! The evil is—brace yourself!—the health spa industry. The Federal Trade Commission intends to make it shape up.

Sometimes you wonder, working in Washington, if our federal masters have any sense of priorities. But when it comes to crushing eggshell evils with regulatory steamrollers, the FTC is the unchallenged champion of them all.

Last month's report from Roger J. Fitzpatrick, one of the FTC's presiding officers, provides a case in point. For the past four years—more than four years!—the FTC has been working upon a proposed trade rule regulation to govern health spas, figure salons, physical fitness centers, and other such palaces of perspiration.

The first federal notice appeared in August of 1975 after months of preliminary work by FTC staff. Regional hearings were conducted in Atlanta, San Francisco and New York in 1977. A full-blown formal hearing saw 133 witnesses testifying in 1978. The record now runs to 46,700 pages of material occupying 30 volumes and/or 115 binders, depending upon how you count things up. And the end is not in sight. A revised final draft of a proposed rule must yet be prepared, and this must be commented upon, and the draft and the comments must be further reviewed, and eventually, within the next year or so, or the year after that, the full Federal Trade Commission will enter its order.

What has provoked this massive overkill? It appears (and indeed it cannot be doubted) that some spas in some cities have behaved very badly. They employ high-powered sales artists to con suckers into signing expensive contracts for physical fitness.

It is like the dancing schools that used to fleece old ladies out of their life savings with a promise to make them perfect partners for a tango. Contracts can be canceled only with difficulty, and sometimes not at all. Some really crooked operators sell contracts in spas that never open.

The hearing record overflows with tales of such perfidy. Much of the accusing evidence is six or eight years old, but no matter. It is hard to quarrel with Fitzpatrick's conclusion that the record clearly demonstrates "a persistent, nagging and widespread pattern of abuses." The presiding officer concedes that the situation falls short of a grandiose fraud perpetrated upon the American public, and he acknowledges 10,000 letters from satisfied customers of the spas. Nevertheless, he feels the record supports an FTC rule that at the very least will provide a cooling-off period for cancellations and a schedule of pro rate refunds for those who drop out.

Let us assume that everything the complainants charge is true. The question still arises: How did this situation get to be a federal case? There are 135 million persons in the country between 18 and 64. Only some minute fraction of them are members of the spas, salons, fitness centers and health clubs. A still smaller fraction complain of being bilked. An even more minute fraction would embrace the poor, the ignorant and the non-English-speaking minority for whom special protections might be warranted. The might, majesty and power of the government would here be interposed to succor a relative handful of potbellied dreamers who sign up to shape up—and then discover they have bitten off more exercise than they can chew.

This is not a gross evil in interstate commerce. It is a local problem that the states and cities are entirely capable of handling through their own laws and ordinances. Reputable spas already have done much to police their own industry. Surely the federal muscle could be flexed to better effect somewhere else.

THE DAVIS-BACON ACT: A RACIST LAW

Mr. HATCH. Mr. President, over the many years of its enactment, the Davis-Bacon Act has not been cleansed of its racial taint. According to a 1977 report by the Joint Economic Committee entitled "Youth and Minority Unemployment," the so-called prevailing minimum wage requirements discourage nonunion contractors from bidding on Federal construction work, thus harming minority and young workers who are more likely, if employed at all, to work in the nonunionized sector of the construction industry.

In this same context, one must also consider the March report of the U.S. Comptroller General Elmer Staats which shows how little progress has been made toward integrating minorities into the skilled construction trades unions. Between 1972 and 1976, observes Columnist William Raspberry, and others, minority representation in the skilled-craft construction unions increased only from 7.2 to 8.4 percent with concentration remaining in the lower paying laborers-type crafts.

The discriminatory effect of this law has once again been forcefully exposed by Prof. Walter E. Williams in a recent article appearing in the May 31, 1979, edition of the Wall Street Journal. I ask unanimous consent that the text of this article be printed in full in the Record so my colleagues will have some idea as to why I feel so compelled to repeal this archaic "pre-civil-rights" legislation.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, May 31, 1979]

Political "Saviors" Don't Deliver What Blacks Need

(By Walter E. Williams)

With the approach of the 1980 presidential elections, the murmurings are that the real savior of black people is Sen. Edward Kennedy. These murmurings emanate from the same people who successfully convinced black people that President Carter was the real savior. Mr. Carter's proposed budget cuts and reductions in social programs are viewed as a betrayal of his campaign pledge to help the poor.

This leaves Mr. Carter in the position of being able to confront blacks with the proposition: If you don't help me get reelected you won't even get peanuts.

But this leaves an important question unanswered: Why do blacks need a political savior? Why do they need government largess and paternalism while disadvantaged groups of the past did not? The most unique feature of the U.S. is that we are a nation of minorities. No minority was welcomed to our shores with open arms. All were persecuted in varying degrees. These minorities (Jews, Orientals, Irish, Italians and so on) made it into the mainstream of American society without "social commitment" and often in the face of open hostility. Are blacks mentally incompetent and hence in need of paternal support?

Of course not. Witness the progress of blacks up from slavery in the space of only 100 years. Then what is the problem? Much of the success of earlier disadvantaged minorities—and much of the difference between blacks and earlier minorities—is that when they came to our cities they faced a relatively open economic system.

There were sweatshops, peddlers and all kinds of domestic jobs. There was no minimum wage law; workers could be paid by the piece rate; there were few licensed occupations and businesses. What all of this meant was that one could be unskilled and still get a job and ultimately learn skills. Today's laws that require either federal or union-dictated minimum wages and the numerous occupational licensure laws effectively bar employment to the lowest skilled people.

Justifications for these laws are many: inhumane work, unsafe jobs, exploitative wages and so forth. Whatever the justification for these laws, their effect is to cut off the lower rungs of the economic ladder. The very people who went through these "inhumane" conditions are solidly in the mainstream of American society and the people who are "protected" from these conditions are having the difficulties.

What disadvantaged black people need is not a savior and not leaders; they need the opportunity to be able to compete in the market. Neither the President nor black political representatives show a desire to change laws that restrict competition in ways very costly to blacks. In fact, congressional blacks in discharging their responsibilities to labor unions vote for and support legislation that makes many of the people who voted for them worse off.

The minimum wage law is one such law that receives the unanimous support of black Congressmen. This support comes in spite of the abundance of economic evidence that shows the minimum wage law discriminates against the most disadvantaged worker. The evidence of this is seen in the unprecedented high rates of unemployment among younger blacks. The unemployment rate for young blacks exceeds by multiples, that experienced during the most hostile times of overt discrimination but when there was no minimum wage law.

The Davis-Bacon Act is a law which requires the payment of "prevailing" wages on federally funded or assisted construction projects. Often this means the government pays the going union rate and hires union labor, rather than employing non-union construction workers. But most black construction workers are in the non-union sector. Therefore the Davis-Bacon Act discriminates against black workers and contractors in an indirect fashion. It also directly raises the cost of federally funded or assisted low income housing.

In fact part of the original intent of the Davis-Bacon Act was to get blacks out of federal construction jobs. This is evidenced in much of the floor debate cited in the Congressional Record in 1931. As Congressman Allgood said flatly at one point: "That contractor has cheap colored labor that he transports, and he puts them in cabins, and it is labor of that sort that is in competition with white labor throughout the country."

There are numerous other laws which effectively remove the bottom steps on the economic ladder. None of these laws are more vividly seen than the taxi law in New York City. In 1925 a poor, illiterate, however industrious immigrant could buy a used car and write the word "TAXI" on it and he was thus in business providing a livelihood for his family. Today's poor New Yorker seeking a similar path to upward mobility needs more than industry and a used car. He needs a hack license costing about $60,000.

Basically, then, blacks don't need massive social spending. They need legislative changes that improve economic opportunity, especially in the labor market. Nor do they need politicians who tell them that the enemy is General Motors, U.S. Steel or IBM. For black upward mobility, open entry further down the economic ladder is a bigger problem and a bigger opportunity.

But black political leaders and white "liberals," for reasons of electoral convenience, have formed alliances with the very people in whose interest it is to restrict job entry. Carpenters, plumbers, electricians and the like are far more threatened by those at the bottom of the economic heap than GM or IBM, and it is the liberals who have been quickest to exploit these fears.

No doubt appeals to resurrect the American ideal of open markets will fall on deaf ears. There are a number of people black and white who have a stake in costly social programs and the continued existence of poor and dependent people. These are the same people who cry loudest about limitations on government spending. They are the people who advocate feeding the horses in order to feed the sparrows. Of course, if one is a horse it is the desired means of feeding the sparrows.

Mr. HATCH. Mr. President, few issues have attracted as much attention during the 96th Congress as inflation and the cost of living. An integral part of the analysis of the causes of inflation should focus on the outdated Davis-Bacon Act. According to the latest report of the General Accounting Office (GAO), this Depression-era relic adds billions of dollars to the cost of construction on federally supported projects every year.

I have often found myself at loggerheads with the editorial people of the New York Times. On repeal of Davis-Bacon, however, it is a refreshing experience to find us humming the same tune. The Times' editorial May 2, entitled "Mr. Carter in Concrete" points to the conundrum the White House has allowed itself to fall into. It will do Mr. Carter no good to bemoan the evils of price hikes in the private sector while opposing the billion-dollar blast given the inflationary fires every year by Davis-Bacon. I commend this excellent editorial to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MR. CARTER IN CONCRETE

The current inflation rate of one percent a month can hardly be blamed on the President, for it was caused by uncontrollable explosions of oil and food prices and an unexpected orgy of consumer buying. But some of Mr. Carter's policies do make us gloomy about prices over the long run, and one symbolic spot of gloom is the Administration's refusal to help Congress reduce Federal construction costs.

Speaking recently at a convention of construction union officials, Secretary of Labor Ray Marshall denounced efforts to repeal or ease the inflationary burden of the Davis-Bacon Act. This law, a relic of the Depression, requires private contractors to pay the regional "prevailing wage" to workers on any Federally funded construction project. Enforcement is left to the Labor Department, which often interprets the "prevailing wage" to be the union wage paid in large cities—even if local workers would settle for less.

The General Accounting Office estimates that such regulatory largesse costs the Government more than $700 million a year. Worse, Davis-Bacon forces private builders to raise pay faster to meet the Federal competition. One opponent of the law, Representative Thomas Hagedorn of Minnesota, figures these indirect costs add up to about 3 percent of the nations' $200 billion annual construction bill. He may be exaggerating, but there is no doubt that Davis-Bacon costs us dearly. Most of the 40 states that wrote "little Davis-Bacon acts" are having second thoughts; Florida has repealed its version and repeal is pending in 31 others.

Why, then, does the Secretary of Labor defend the Federal act and allow it to be interpreted so damagingly? Presumably because representing the interests of organized labor is part of his traditional role. But there is no good reason for the White House to do the same. Eliminating Davis-Bacon would not work miracles. But in opposing the repeal of such inflationary legislation, and refusing to alter its interpretation merely to appease the construction unions, the President is working against his own urgent appeals to fight inflation.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. HATCH. Mr. President, I understand that and I, therefore, relinquish the floor.

EMERGENCY ENERGY CONSERVATION ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now proceed to the consideration of S. 1030, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 2, beginning with line 9, strike through and including line 18, and insert in lieu thereof the following:

SEC. 102. As used in this Act, the term—

(1) "energy" with respect to any State:

(A) means fuels consumed at end use or used to generate electricity, and

(B) for purposes of the calculation of energy use under section 202(a)(2) does not mean:

(i) wood, solar energy, bio-mass, or synthetic fuel;

(ii) fuels or electricity used directly in the production, exploration, or transportation of fossil fuels or fissionable material fuel;

(iii) fuels or electricity used for the pumping of water for hydropower storage;

(iv) fuel used directly in the production of electricity exported from the State for consumption outside the State; and

(v) fuels or electricity used for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, crop drying, or as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food, which the Secretary of Agriculture determines is necessary for full food and fiber production.

On page 3, line 20, strike "(B)" and insert "(C)";

On page 4, line 6, strike "(C)" and insert "(D)";

On page 4, beginning with line 11, strike through and including line 12 and insert in lieu thereof the following:

(2) "State" means the several States of the Union, the District of Columbia, Puerto Rico, and the territories and possessions of the United States;

On page 6, line 1, after "economy" insert "by saving an amount of energy equivalent to the projected shortage";

On page 6, beginning with line 4, strike through and including line 8, and insert in lieu thereof the following:

(2) notify the Governor of each State of the State emergency energy conservation target established by the President for such State. The target for each State shall be a uniform national percentage reduction in an adjusted base period energy use. In determining the adjusted base period energy use for each State, the President, in consultation with the Governors, may make appropriate adjustments to reflect—

(A) reduction in energy consumption already achieved by conservation programs;

(B) current trends in population and economic activity;

(C) energy shortages which may be having an effect on energy consumption;

(D) variations in weather from seasonal norms; and

(E) such other factors as the President finds are relevant in such State; and

On page 7, line 14, strike "IMPLEMENTATION" and insert "EMERGENCY CONSERVATION";

On page 7, line 18, strike "implementation" and insert "emergency conservation";

On page 7, line 21, after "be" insert "submitted in advance of such notification and tentatively approved by the President, may be";

On page 8, line 1, strike "implementation" and insert "emergency conservation";

On page 8, line 9, after "those" insert "measures, hereinafter known as Federal";

On page 8, line 10, after "the" insert "plan and contained in a Federal implementation";

On page 8, line 11, strike "hereinafter known as Federal measures,";

On page 8, beginning with line 18, insert the following:

(c) Notwithstanding the exemption described in section 102(1)(b)(v) a Governor may, in order to achieve the State energy conservation target, submit a State conservation plan which results in savings of fuels or electricity used directly in the essential activities described in section 102(1)(B)(v) and the amount of such energy savings shall apply toward the achievement of that State energy conservation target.

On page 9, line 1, strike "IMPLEMENTATION" and insert "EMERGENCY CONSERVATION";

On page 9, line 3, strike "implementation" and insert "emergency conservation";

On page 9, line 14, strike "implementation" and insert "emergency conservation";

On page 9, line 23, strike "implementation" and insert "emergency conservation";

On page 10, line 4, strike "implementation" and insert "emergency conservation";

On page 10, line 6, strike "implementation" and insert "emergency conservation";

On page 10, beginning with line 11, strike through and including line 15, and insert in lieu thereof the following:

SEC. 205(a)(1) The President shall promulgate a proposed Federal implementation plan, and shall complete and announce the plan not later than 90 days after enactment of this Act.

(2) The President may amend such plan from time to time after its completion, but

shall make such amendments public upon their adoption.

(b) If the President finds—

(1) after a reasonable period of operation, as determined by the President, of an approved State emergency conservation plan, that such plan is not achieving the emergency energy conservation target of such State, or

On page 11, line 6, strike "implementation" and insert "emergency conservation";

On page 11, line 11, strike "(b)" and insert "(c)";

On page 11, line 15, strike "(c)" and insert "(d)";

On page 12, line 1, strike "(d)" and insert "(e)";

On page 12, beginning with line 6, insert the following:

(f) Nothing contained herein authorizes the President to restrict the hours of sale of gasoline between Friday noon and Sunday midnight, unless one of those days is included as a part of a plan to close gasoline stations on rotating days of the week, not to include a rotation designed to fall on a regular basis on days of the weekend. The provisions of this section shall not in any way limit the President's authority to transmit any energy conservation contingency plan to the Congress under section 201 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6261).

On page 13, line 10, strike "implementation" and insert "emergency conservation";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Energy Conservation Act of 1979".

PURPOSE

SEC. 101. The purposes of this Act are—

(1) to grant authority to the President to create an emergency program to conserve energy; and

(2) to permit the Governors of the States to identify the most appropriate methods to conserve energy within their respective States.

DEFINITIONS

SEC. 102. As used in this Act, the term—

(1) "energy" with respect to any State:

(A) means fuels consumed at end use or used to generate electricity, and

(B) for purposes of the calculation of energy use under section 202(a)(2) does not mean:

(i) wood, solar energy, bio-mass, or synthetic fuel;

(ii) fuels or electricity used directly in the production, exploration, or transportation of fossil fuels or fissionable material fuel;

(iii) fuels or electricity used for the pumping of water for hydropower storage;

(iv) fuel used directly in the production of electricity exported from the State for consumption outside the State; and

(v) fuels or electricity used for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, crop drying, or as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food, which the Secretary of Agriculture determines is necessary for full food and fiber production.

(C) does include only those fuels which the President determines are in short supply or which he determines are substitute fuels for those in short supply: *Provided,* That upon the request of a State, the President may declare other fuels to be substitute fuels with respect to that State, if he finds that such substitution is consistent with his authorities granted under this Act and will result in significant reduction in demand for the fuel determined by the President to be in short supply; and

(D) may include the use of energy equivalency factors prescribed by the President that weigh substitute fuels against each other so as to result in a common measure of energy consumption.

(2) "State" means the several States of the Union, the District of Columbia, Puerto Rico, and the territories and possessions of the United States;

(3) "Governor" means the Chief Executive Officer of a State;

(4) "severe energy supply interruption" means a national energy supply shortage which the President determines—

(A) is, or is likely to be, of significant scope and duration;

(B) may cause major adverse impact on national security or the national economy; and

(C) results, or is likely to result, from an interruption in the energy supplies of the United States, including but not limited to, supplies of imported petroleum products, or from sabotage or an act of God.

(5) "international energy program" means the same as that term means in section 3(7) of the Energy Policy and Conservation Act (42 U.S.C. 6202).

PRESIDENTIAL FINDING OF EMERGENCY

SEC. 201. (a) Whenever the President finds that a severe energy supply interruption exists or is imminent or that actions to restrain domestic energy demand are required in order to fulfill the obligations of the United States under the international energy program, he may exercise the authorities established by this Act.

(b) Any finding of the President under this section shall be accompanied by such information and analysis as is necessary to provide the basis for such finding, shall be transmitted to the Congress and shall be disseminated to the public.

PRESIDENTIAL ACTIONS

SEC. 202. (a) Upon transmittal to Congress of the finding under section 201, the President shall—

(1) announce a national emergency energy conservation target which if achieved will, to the maximum extent practicable, minimize the impact of anticipated energy shortages on the domestic economy by saving an amount of energy equivalent to the projected shortage;

(2) notify the Governor of each State of the State emergency energy conservation target established by the President for such State. The target for each State shall be a uniform national percentage reduction in an adjusted base period energy use. In determining the adjusted base period energy use for each State, the President, in consultation with the Governors, may make appropriate adjustments to reflect—

(A) reduction in energy consumption already achieved by conservation programs;

(B) current trends in population and economic activity;

(C) energy shortages which may be having an effect on energy consumption;

(D) variations in weather from seasonal norms; and

(E) such other factors as the President finds are relevant in such State; and

(3) notify the Governor of each State of the Federal implementation plan as prescribed in section 205 which would be imposed in that State if such State is determined to be in noncompliance with section 205.

(b)(1) National and State emergency energy conservation targets established under subsection (a) shall be reviewed from time to time by the President and modified as he finds necessary;

(2) Any finding under this subsection and such information and analysis as is necessary to provide the basis therefor shall be available to the Congress and the public.

SUBMISSION OF STATE EMERGENCY CONSERVATION PLANS

SEC. 203. (a) Upon notification under section 202, the Governor of each State shall promptly submit to the President a State emergency conservation plan designed to achieve the State energy conservation target set for such State by the President under paragraph 202(a)(2). Such plan may be submitted in advance of such notification and tentatively approved by the President, may be amended from time to time by such Governor with the approval of the President, and shall contain such information as the President may reasonably require.

(b) Such State emergency conservation plan shall provide for emergency reduction in the public and private use of energy through the application of—

(1) those measures described in the plan, hereinafter known as State measures, which the Governor of that State will invoke pursuant to State law, any enforcement of which will be by enforcement officers of the State pursuant to State law;

(2) those measures, hereinafter known as Federal measures described in the plan and contained in a Federal implementation plan, for which the Governor has no existing authority but which he requests the President to review, approve, and impose pursuant to section 204 as Federal law in that State and which will be enforced by enforcement officers of the Federal Government pursuant to Federal law.

(c) Nothwithstanding the exemption described in section 102(1)(b)(v) a Governor may, in order to achieve the State energy conservation target, submit a State conservation plan which results in savings of fuels or electricity used directly in the essential activities described in section 102(1)(B)(v) and the amount of such energy savings shall apply toward the achievement of that State energy conservation target.

APPROVAL OF STATE EMERGENCY CONSERVATION PLANS

SEC. 204. (a) The President shall review any emergency conservation plan submitted by a Governor, and approve it if the President finds such plan, taken as a whole, is—

(1) likely to achieve the emergency energy conservation target established for that State under section 202(a)(2); and

(2) designed to be carried out in a way which would not impose an unreasonably disproportionate share of such burden on any specific class of business or on any individual segment.

(b) The President may not approve any State emergency conservation plan containing any Federal measure, as described in section 203(b)(2), if he determines that such Federal measure is—

(1) unlikely to conserve energy in that State;

(2) in violation of this Act or any other applicable Federal or State law;

(3) an undue burden on interstate commerce; or

(4) a tax, tariff, or user fee.

(c) Upon approval by the President of a State emergency conservation plan pursuant to this section, the Federal measures contained in such plan shall become effective in that State and the date of effectiveness shall be the date of approval by the President, unless another effective date is specified in such plan.

(d) In order for a State emergency conservation plan to be eligible for approval by the President, the Governor of each State in developing a State emergency conservation plan shall to the maximum extent practicable provide for consultation with affected businesses and an opportunity for public comment on such plan.

FEDERAL IMPLEMENTATION PLAN

SEC. 205. (a)(1) The President shall promulgate a proposed Federal implementation plan, and shall complete and announce the plan not later than 90 days after enactment of this Act.

(2) The President may amend such plan from time to time after its completion, but shall make such amendments public upon their adoption.

(b) If the President finds—

(1) after a reasonable period of operation, as determined by the President, of an approved State emergency conservation plan, that such plan is not achieving the emergency energy conservation target of such State, or

(2) after a reasonable period of time, as determined by the President, that a State has not submitted a State emergency conservation plan which has been approved by the President, then the President shall after consultation with the Governor of such State make effective in such State a Federal implementation plan.

(c) Any finding under subsection (a) shall be accompanied by such information and analysis as is necessary to provide a basis for such a finding and shall be available to the Congress and the public;

(d) For purposes of this section, a Federal implementation plan is one or more measures—

(1) which the President prescribes after a public hearing and opportunity for public comment;

(2) which he determines would achieve the emergency energy conservation target if imposed in that State; and

(3) which meet, as determined by the President, the same four conditions specified in section 204(b) as apply to Federal measures.

(e) The Governor of a State in which a Federal implementation plan is or will be in effect may submit at any time a State implementation plan and if it is approved under section 204, the Federal implementation plan shall be rescinded.

(f) Nothing contained herein authorizes the President to restrict the hours of sale of gasoline between Friday noon and Sunday midnight, unless one of those days is included as a part of a plan to close gasoline stations on rotating days of the week, not to include a rotation designed to fall on a regular basis on days of the weekend. The provisions of this section shall not in any way limit the President's authority to transmit any energy conservation contingency plan to the Congress under section 201 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6261).

PENALTIES AND ENFORCEMENT

SEC. 206. (a) It shall be unlawful for any person to violate or fail to comply with any provision of this Act or any rule, regulation, or order issued pursuant to such provision, including any provision of a Federal measure or Federal implementation plan in effect in a State.

(b)(1) Whoever violates subsection (a) shall be subject to a civil penalty of not more than $5,000 for each violation; and

(2) Whoever willfully violates subsection (a) shall be subject to a civil penalty of not more than $10,000 for each violation.

(c) If there is a basis in State law for any enforcement officer of such State or his designee to do so he may enforce any Federal measure or Federal implementation plan in effect in that State and bring an enforcement action in the appropriate State court.

REPORTS

SEC. 207. (a) The President shall monitor State emergency conservation plans and the Federal implementation plans and make such recommendations to the Governor of such State as he deems appropriate for modification to such plan.

(b) The President shall report annually to the Congress on any activities undertaken pursuant to this Act and include in such report his estimate of the energy saved in each State and the performance of such State in relation to this Act.

EXPIRATION

SEC. 208. (a) No Federal measure or Federal implementation plan may continue in effect in a State for longer than twelve months unless the President finds that the conditions of subsection 201(a) continue in effect and require an extension of such period.

(b) Any finding of the President under this section shall be accompanied by such information and analysis as is necessary to provide a basis for such finding and shall be available to the Congress and the public.

The ACTING PRESIDENT pro tempore. Under the previous order no nongermane amendments shall be in order except two amendments by the Senator from North Carolina (Mr. HELMS) and one amendment by the Senator from Utah (Mr. HATCH).

At this time the Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the following members of the staff of the Senate Committee on Energy and Natural Resources be granted privileges of the floor during the consideration of S. 1030, together with Rick Richard of my staff, Dan Dreyfus, Mike Harvey, Ben Cooper, Jim Bruce, and Marjorie Gordner.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, today the Senate will debate and, I hope, send to the House legislation to authorize a prompt, comprehensive and coherent national energy conservation response to the present petroleum shortage and to future energy shortages. The Emergency Energy Conservation Act of 1979, S. 1030, which was approved by the Committee on Energy and Natural Resources on May 1, 1979, provides the framework for a flexible and effective national effort to restrain energy demand in a time of emergency.

The bill authorizes the President to establish a Federal emergency energy conservation program and encourages the Governor of each State to submit emergency conservation plans to meet the energy conservation target established by the President.

Whenever the President finds that a severe energy supply interruption exists or is imminent or actions to restrain energy demand are required in order to fulfill obligations of the United States under the international energy program, he would announce national and State energy conservation targets and notify each State of the Federal implementation plan which would be made effective in that State if the State target is not achieved.

Each State must submit a State emergency energy conservation plan to the President designed to achieve the State target. If the President approves the State plan, energy conservation measures in the State plan which are also a part of the Federal plan may be enforced in such State by Federal authorities. All other measures would be enforced under State law. Should a State fail to submit an approved plan or meet its target, the President would impose the Federal implementation plan in that State.

This legislation is intended to provide the President with the authority to act to mobilize the Nation to meet the threat posed by a severe national energy shortage. It is also designed to take maximum advantage of the abilities of State government to fashion energy conservation plans which take cognizance of unique local conditions and requirements. The Federal Government defines the national interest in energy conservation during an emergency, but it cannot efficiently determine how best to conserve energy in individual States as diverse as Maine or Louisiana or California.

The legislation explicitly recognizes this fact by assigning to each State the responsibility for preparing an emergency energy conservation plan which will operate most effectively to restrain energy demand in that State. States with insufficient authority to enforce mandatory energy conservation would have the opportunity to request specific Federal measures to be enforced in their State by Federal authority. However, Federal authority for energy conservation would be used in a State pursuant to a plan developed by the State and approved by the President. Only in the event that a State fails to submit a plan or, after a reasonable period of time, a State plan is found not to achieve the level of energy conservation set for such State, would a Federal emergency energy conservation plan devised in Washington be imposed.

The existence of a Federal emergency energy conservation plan for each State provides a powerful incentive for the States to come forward with their own plans. Testimony from the Nation's Governors demonstrates that the States' response will be both timely and genuine. I do not believe that it will be necessary to impose the Federal plan in any State under this bill. This legislation places the Federal Government in the role of assisting States where they need help, not in the undesirable position of overriding the legitimate interests of individual States with overly simplistic federally mandated measures which cannot account for the diversity and variation in the patterns of energy use in the United States.

S. 1030 would not authorize, and should not be confused with, Federal rationing of gasoline by coupon. Coupon rationing is an "ultimate" weapon, the use of which would be necessary only in the event of the most severe petroleum shortage—in the vicinity of or greater than 20 percent of normal demand. Coupon rationing by its very nature must be a national program. There can be no State-by-State alternative.

The essential feature of the Emergency Energy Conservation Act of 1979, on the other hand, is the encouragement of diverse State responses to energy shortages—responses which take into account the differences in energy conservation opportunities and energy consumption needs of different States.

We need a standby rationing plan in the event that a disaster—such as a protracted war in the mideast—results in a drastic reduction in U.S. petroleum supplies. S. 1030 is not the mechanism to provide that standby rationing plan. It is, however, in my opinion, the ideal vehicle for dealing with the kinds of shortages we currently face.

The Emergency Energy Conservation Act of 1979 permits the President and the States to move quickly to meet existing or imminent energy shortages. It does not require time-consuming and divisive congressional review before State plans are put into place.

Thus our present dilemma—which has permitted the President to control thermostat settings in public buildings, but has denied him any authority to address the Nation's most critical problem, the restriction of gasoline demand—would be avoided. The President and the Governor of each State—in cooperation—would arive at the most effective plan for that State and implement it. In this process detailed congressional review would be redundant and also counterproductive, since the main result of such review would be additional and unnecessary delay in the achievement of needed energy savings.

Mr. President, I believe that S. 1030 embodies the proper approach to emergency energy conservation. The President—who is responsible for the national interest—should be given the authority to protect that interest, while relying on the insight and expertise of the States in fashioning programs which will be most effective in restraining energy demand in those States.

I urge prompt passage of this legislation without modification of its basic approach. Subsequent to the defeat by the House of Representatives of all but one of the President's emergency energy conservation and rationing contingency plans, the House has begun to show a promising interest in new initiatives in energy conservation. The present petroleum shortage continues to threaten the orderly functioning of our domestic economy. I believe that if Congress can act soon and act positively, we can provide a significant opportunity for our political system to deal effectively on an emergency basis with the current petroleum shortage—both during this summer's driving season and in the next winter when, unless all knowledgeable observers of the petroleum industry are wrong, we will have severe shortages of middle distillate fuels. These shortages do not, in all probability, will not require the rationing of gasoline. But they do require a coordinated Federal program to restrain demand. For the Congress to deny the President a mechanism to accomplish this would be totally irresponsible. S. 1030 would provide that mechanism.

This legislation was drafted with the assistance of Senator DOMENICI when it became apparent to us that the mechanisms for approval of emergency energy conservation plans under existing law—the Energy Policy and Conservation Act—were not going to provide the Nation with a workable set of emergency energy conservation plans to deal with the present petroleum shortages. The development of this legislation has been a bipartisan effort. I want the record of this debate to include an expression of my deep appreciation for the efforts of Senator DOMENICI in defining both the concepts upon which this legislation is based and in drafting the specific provisions before the Senate today. His contribution has been essential.

Mr. President, I ask unanimous consent that the text of the Background and Need section of the report of the Committee on Energy and Natural Resources on S. 1030 be printed in the RECORD at the conclusion of my statement and urge the prompt adoption of the bill by the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JOHNSTON. Mr. President, the Nation is in deep trouble over energy. We have people being killed waiting in gas lines in California. We have industries beginning to shut down, such as the Winnebago industry in Wisconsin, I believe it is. We have gas lines beginning to form all around the country. We have no prospect for a real lessening of our dependence on foreign oil. We have a $50 billion bill for imported oil now with a likelihood that that figure will increase perhaps to $60 billion by the end of the year as the price of imported crude climbs up to and probably beyond $20 a barrel.

Mr. President, in the midst of this crisis this Congress has tried to cope with the question of conservation.

First, we dealt with the President's standby rationing bill, a bill that was calculated to be put on the shelf to be available to the President in case things got really bad, in case we had a cut off in the neighborhood of 20 percent, and in case we had the kind of situation that would arise from a revolution in Saudi Arabia or otherwise a cut off of oil from other countries other than just Iran.

Mr. President, this Senate dealt with that issue but the House of Representatives rejected it. So we have no standby rationing program.

The President then sent down three additional measures under the Energy Policy and Conservation Act of 1975 under which the President was allowed to send down certain measures to Congress subject to our right to approve or disapprove. He sent down three measures in number.

The first would require in public buildings that thermostats be turned down to 65 degrees in the winter and be turned up to 80 degrees in the summer, with the qualification to lower that 80 degree figure where personal comfort in areas of high humidity so required.

The measure, as we pointed out here in the Chamber, will be very, very difficult to enforce, and it really is sort of an honor system, one might call it, addressing itself almost to the patriotism of Americans to join in the need to conserve energy.

That measure we passed, but the other two measures, dealing with weekend closures of gasoline stations and dealing with outdoor lighting of signs, this Congress, and I think frankly properly so, rejected.

So what do we have, Mr. President? We have four measures dealing with conservation that the President sent to us in this Congress. Three were turned down and the only one remaining was one that admittedly will be not enforceable.

We recognized in the Committee on Energy and Natural Resources, that we could not take the attitude of simply saying no to the President, even though we did not like some of the measures he sent down. We felt and we now feel a strong sense of responsibility to come up with our own measure which will be effective in conserving energy.

So, Mr. President, Senator DOMENICI and I, with the aid of bipartisan staff, confected this bill which was further amended in the Committee on Energy and Natural Resources.

Mr. President, this is not the President's bill. This is a bipartisan bill confected jointly by Democrats and Republicans. I make that point because the amendments to the bill today will come from some of our friends on the other side of the aisle. I am not familiar with all of their amendments, but I emphasize to them that this is a bipartisan bill, and this is all we have. I think it is a very effective measure, but it is all we have. We need it, and it sure beats the alternative of doing without fuel. It sure is better than unemployment, waiting in gas lines, and all the other untoward consequences of not having a plan in place to conserve energy.

Mr. President, what this bill does, I think, is to grant flexible authority to the President, flexible in that the amount of energy to be saved or the target for the energy to be saved can be set by the President depending upon the circumstances.

The first step is for the President to set a target for energy to be saved, a target which he could set at 3 percent, 5 percent, or any other percent that he can justify under the act.

The first step: Declare a national target for the amount of energy to be saved.

The second step: The President would declare a set of measures designed to be implemented to achieve that target in each State.

The third step: The President would determine in consultation with the Governors whether or not the base period, against which the target is measured, should be adjusted and varied for the States. There are certain conditions under which a State could have an adjustment in its base period. For example, if a State had already invoked conservation measures, then that State should not be penalized by having to measure its progress toward meeting its target using the same unadjusted base period as other States that had not so conserved.

So the first step is setting of national targets; the second step is setting of the various implementing measures; and the third step is variation for States.

Now, Mr. President, the measure is also flexible on behalf of the President in that he is nearly unlimited in the things he can choose, the measures he can select for saving energy. The President is affirmatively prohibited from invoking weekend closures. The reason the committee put in a prohibition against weekend closures is that this Senate considered, both in committee and on the floor, the question of weekend closures, and rejected them, by implication, if not by affirmative vote.

The evidence submitted in committee indicated that weekend closures are actually counterproductive; that they simply encourage people to fill up on Fridays instead of during the weekend, and they cause people to fill up jerry cans and keep them in their garage or buy 500-gallon tanks, like we have been reading about in the papers recently.

I might say there has been an ad hoc weekend closure in the Washington area because most service stations seem to be closed during that time. Nevertheless, we have put into this legislation a prohibition against weekend closures.

Second, the President would be in effect prohibited from invoking gasoline rationing by coupon because of the procedures of this bill, S. 1030. Rather since the measure for gasoline rationing is covered in EPCA, the Energy Policy and Conservation Act of 1975, he would have to follow the procedure set forth in that act in order to invoke coupon rationing.

Mr. President, after the President has set the national goals, adjusted base periods of energy use, and declared the set of tools to be used, he would then present the matter to the States, to the Governor of each State. The Governor would then have a right to present to the President or his designee a State plan, an alternative plan, if you will, for the State. That alternative plan could contain any measure under State law that the Governor thought proper, and the Governor could request the President to invoke Federal measures in that State, so as to enable the State to meet its target.

Stated differently, the State plan would stave off the imposition of the national plan, provided that the State plan was approved by the President, and effective in achieving the target.

Mr. President, it is flexible authority; it is broad authority; it recognizes that the States have different situations. that States have different needs, that States have different challenges, and it recognizes the right, the duty, and the ability of States to confect a better plan on their own than can be dictated from Washington.

So, Mr. President, we think this bill is a good one, broad, flexible, providing very strong authority for the President and, I might add, it does not require that every conservation measure invoked by the President be approved in advance in Congress, because we have seen what happens with that. We argue on and on and do not seem to be able to do anything effective when it comes to conservation.

I hope the Senate will approve this measure and approve it without crippling amendments.

Finally, Mr. President, I want to tell the Chair and my colleagues that it has been a great pleasure to work with the Senator from New Mexico (Mr. DOMENICI) in this matter. This bill has been confected in a true bipartisan spirit. It has been a joint effort both on our part and on behalf of the staff, the minority and majority staff, and I hope it signals a recognition, the commencement of a recognition, on behalf of Congress that energy cannot be made a partisan matter; that the need to conserve energy, the need to cope with this crisis is, I believe, the No. 1 problem currently facing this country. It may be the No. 1 problem facing this country in historic terms.

If this country is to be brought to its knees, it may well be because of a lack of energy, and it is much too serious a problem to relegate to partisan bickering. This bill, Mr. President, represents the kind of cooperative effort—and the Senator from New Mexico represents the kind of spirit of cooperation—that is needed to cope with this crisis.

Mr. President, I yield the floor.

EXHIBIT I

II. BACKGROUND AND NEED

The Emergency Energy Conservation Act of 1979 is intended for implementation in the event of a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program ("IEP"). An interruption of a significant portion of the U.S. foreign oil supply could produce an energy crisis of even greater severity than that produced by the 1973–74 oil embargo. At the time of that embargo, the Nation's inability to import sufficient quantities of oil resulted in an estimated $10 to $20 billion decline in gross national product and considerable economic and social disruption. Imports now exceed 8 million barrels per day, and although domestic production increased from 1977–78, it is still lower than in 1973. At the present time the United States imports, at an annual rate, almost 50 percent of domestic petroleum requirements, compared with less than 35 percent just prior to the 1973–74 embargo. Thus, the Nation is in some respects more vulnerable to an interruption in foreign oil supply today than just 6 years ago.

The recent revolution in Iran and subsequent crude oil production and pricing policies of members of the Organization of Petroleum Exporting Countries have resulted in significantly lower availability of crude oil on the world market and sharply increasing world crude oil prices. In response to these events, the President has pledged in concert with all the member nations of the International Energy Agency to reduce petroleum consumption by 5 percent to ease the demand on world oil availability during 1979 and 1980. This action has not been taken in response to a formal implementation of the terms of the IEP. Rather, the member nations are seeking to reduce petroleum demand voluntarily so as to limit to the extent possible, the escalation in world oil prices which has been taking place in the early months of 1979. In the case of the United States this pledge implies a reduction in petroleum consumption of between 900,000 and 1 million barrels per day below levels other than expected during 1979 and 1980.

As a participant in the IEP, the United States has also pledged to comply with its mandatory emergency provisions, whereby each member must have ready a program of contingency demand restraint measures which would be sufficient to reduce demand for oil by 7 percent and 10 percent of normal consumption. These measures would likely be implemented in conjunction with storage drawdown in case of an emergency, although the IEP agreement allows signatory countries to substitute drawdown of storage for use of demand restraint measures.

In the event of a severe petroleum shortage, three types of actions have the potential to alleviate the adverse impact: Actions to increase domestic petroleum supplies and use alternative forms of energy; actions to distribute the available supply in an equitable manner; and actions to reduce public and private demand for energy. The authorities available to the President and other public officials for taking such actions comprise the basis of the country's energy shortfall management program.

Conservation programs seek to reduce energy consumption by promoting greater efficiency and discouraging wasteful energy usage. During an emergency energy shortage, ongoing mandatory and voluntary conservation programs, such as the 55-mile-per-hour speed limit and carpooling, could be intensified, and other steps for the elimination of nonessential energy usage could be taken. Individual States could implement their own conservation contingency plans, as provided for within part C (42 U.S.C. 6321–6326), of title III of the EPCA, and take other actions as appropriate.

During a severe and prolonged shortfall as the current situation may portend, even greater reductions in energy demand might be needed on a national level. When the demand for energy far outweighs the supply, it is impossible to meet normal energy requirements and even with the invocation of the above mandatory and voluntary measures, a large gap between supply and demand would remain. This gap would be narrowed by temporarily curtailing or eliminating normal energy-consuming activities and habits.

The Congress has long recognized the importance of obtaining the cooperation and ingenuity of the States in reaching energy conservation goals of the nation. Part C of Title III of the Energy Policy and Conservation Act (42 U.S.C. 6321) entitled "State Energy Conservation Plans" encouraged the States to submit State energy conservation plans to achieve a 5 percent reduction in the total amount of energy that would otherwise be consumed in the State in 1980. Federal assistance was provided to those States which included in their plans various mandatory standards and programs which were delineated in Section 362 of EPCA.

In addition the EPCA sought to stimulate emergency energy conservation standby programs at the State level, inviting each Governor to submit to the Federal government a State energy conservation plan "which is a standby energy conservation plan to significantly reduce energy demand by regulating the public and private consumption of energy during a severe energy supply interruption . . ."

These elements of the EPCA were in furtherance of the following finding and purpose listed in Part C of Title III of EPCA:

(2) The development and implementation of energy conservation programs by States will most efficiently and effectively minimize any adverse economic or employment impacts of changing patterns of energy use and meet local economic, climatic, geographic and other unique conditions and requirements of each State.

Similarly, in section 432 of the Energy Conservation and Production Act (42 U.S.C. 6326) the Congress invited the States to submit supplemental State energy conservation plans to the Federal Government. These plans, to be eligible for federal financial assistance, must include procedures for carrying out a continuing public education effort to increase public awareness of the importance of energy conservation; procedures for insuring effective coordination among various local, State, and Federal energy conservation programs; and procedures for encouraging and for carrying out energy audits with respect to buildings and industrial plants within each State.

In general the efforts of the Congress to encourage the States to develop energy conservation programs have been successful. As of February 1979, all 50 States have State energy conservation plans in force as prescribed in EPCA and ECPA. However, the inclusion of emergency energy conservation measures in qualifying State plans was only an option.

As of February 1979, there were 19 States which had not provided any specific emergency energy conservation legislation granting State officers the authority to take extraordinary actions during an energy crisis. (See table 1). With respect to the 31 States who do have some emergency statutory authority to reduce energy consumption, there is a wide variation among the States in the extent of those authorities.

States without specific energy emergency legislation,[1] updated February 6, 1979:

Alabama, Alaska, Arizona,[2] Arkansas, Colorado, Indiana,[2] Massachusetts, Michigan, Mississippi, Nebraska.

New Mexico, North Dakota, Oklahoma, Pennsylvania,[2] Rhode Island,[2] South Carolina,[2] Texas, Utah, Wyoming.

This lack of emergency authority at the State level to reduce energy consumption became an important factor in the deliberations of the Committee on Energy and Natural Resources on the President's amended plan (energy conservation contingency plan No. 4) to restrict sales of gasoline on weekends. Although the President may exempt a State from an energy conservation contingency plan that is in effect if a State has a comparable plan to save energy, it may be difficult for a State having no emergency authorities for energy demand restraint to avoid the imposition by the Federal Government of an energy conservation contingency plan approved under EPCA. Furthermore, many State legislatures are not now in session and won't be for many months. If all the States are to have emergency energy conservation measures with which to meet the energy shortfalls which are imminent this summer and possibly next fall, then some form of Federal legislation would appear to be necessary.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. DOMENICI. How is the time assigned for this bill and how is it restricted as to amendments?

The ACTING PRESIDENT pro tempore. The Chair will state there is no time limitation.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. JOHNSTON. I ask unanimous consent that the committee amendments be agreed to en bloc and considered as original text.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, the amendments are considered and agreed to en bloc.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Richard Grundy of the staff of the Committee on Energy and Natural Resources and Bruce Rowen of Senator STONE's staff be granted the privileges of the floor during consideration of S. 1030.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSTON. I thank the Chair.

Mr. DOMENICI. Mr. President, I have submitted a written unanimous-consent request for staff. I failed to include Paul Gillman, of my staff, and I ask unanimous consent that he be granted floor privileges.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Now, Mr. President, I want to say, first, that I greatly appreciate the kind remarks my good friend from Louisiana made with reference to my participation in the preparation of this bill, and I thank him for that.

I want to concur, and concur wholeheartedly and in the best way I can, with his statements regarding the nature of the energy crisis in this country.

I do not believe that we can eliminate some partisan politics when it comes to energy. It is a major issue, and that will be there, but I agree wholeheartedly that for this great country, which has built its growth, its strength, on energy and, in particular, for better or for worse on crude oil for more than 20 years, that when we become 50 percent dependent, as we are, on that energy called crude oil, from which we get so many products, including about 95 percent of our individual mobility energy in this country, we have a crisis of very serious dimensions.

The fact that we use a lot of energy and we have grown strong because we had cheap energy, principally crude oil and natural gas, for many, many years, upon which to build this strength and growth, in and of itself should not make a crisis. But the cartel countries told us a few years ago when they imposed an embargo on this country that we no longer had control over our own destiny, and they told us that unequivocally. Things have not gotten any better. In fact, they have gotten worse.

So we have to make the point going in that since that time when we received that overt, intentional reminder that we could not get along without them, we have increased our use of gasoline—let us just take that product—basically for individual mobility, both the convenience and business type, by a full 12 percent. That does not mean that with the crisis with an embargo, we have sat back and said, "Hey, we have a problem." What we have done is to forget we have a problem, and now we are using 12 percent more crude oil than when they gave us this strenuous reminder that we were hooked on something they owned, almost as addicts are hooked—we continue much like the addicts to buy it in huge quantities and increase our demand on this kind of energy by a full 12 percent.

I am reminded that the other day we had a problem in California. Now, eventually our people are going to understand what the truth of the matter is in California in terms of shortages, but one thing we know: in 1 year California increased its use of gasoline by 7 full percent. That is not insignificant, Mr. President. That is tremendously important. When America was going at its fastest pace, hooked on this tremendous source of energy, crude oil and natural gas, all the way through the Second World War, the victory there, and the great days and years following it, we were not growing in use at 7 full percent a year. It was less than that.

Yet in the middle of a shortage and crisis, our major user State grows at 7 full percent, and then we wonder how come there is a shortage.

As I say, my presentation here today is not to prove or disprove the inventory shortage that apparently or allegedly exists in this country. I happen to believe it does; but my purpose here in my opening remarks is not to attempt to prove or disprove that, but rather to indicate once again that America's dependence on foreign oil has grown, and has grown to the point where our people, sooner, or later, have to understand that we have to drastically change our way of living and find alternative fuels, or our very national security is at stake.

That is not to say that our basic economic well-being is not also in jeopardy, because it is, and we must also emphasize that. In fact, I will go one step further and repeat what the French Foreign Minister said this morning at breakfast: that probably the free world is in jeopardy and the free world's economies are in jeopardy because of our major dependence upon crude oil, and specifically our major dependence on crude oil from the Middle East and the cartel countries.

We are 50 percent dependent, and we do not know what to do about it. Our friends are 60, 70, 80, and in the case of Japan 90 percent dependent.

What this means is that we cannot continue to do business as usual. And I suggest that there are a few people outside of the United States who look in at us and, in a very succinct way, understand our problem much more clearly than we do. They do not sit around and bemoan it, and wonder, and place the blame. I am going to quickly cite a statement made by the oil minister from Kuwait about 2 weeks ago. Incidentally, he, like most of the cartel energy experts and secretaries, happens to have been educated in America. They know our economics and our petroleum picture. They sit off on the sidelines and observe this great country.

That oil minister made these three observations:

First, until the United States decides that it will conserve on crude oil, there will be no supply-demand balance.

Second, until the United States decides to pay the replacement cost of crude oil and put that into the marketplace, there will be no supply-demand equation reached.

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[1] For unfootnoted states, authority for extraordinary powers may possibly be interpreted under a general disaster act, but no test has been made to assure this.

[2] Although these states do not have specific energy emergency provisions, authority for extraordinary powers in an emergency situation has been included under a broad interpretation of a general disaster act either through an opinion by the Office of the Attorney General or by an actual emergency situation in which extraordinary powers were employed.

NOTE: Specific energy emergency legislation is defined for purposes of this report as legislation granting the authority to take extraordinary actions during an energy crisis.

SOURCE: Based on a study by the National Governors' Association, December 1975–January 1979.

Third, until the United States decides to develop indigenous supplies of energy of all types, there will be no balancing of the supply-demand equation internationally.

What he was saying was that we let our inventories go down, our demands are higher, we are not producing any of our own, and they sit on the sidelines and watch, those who have oil for sale, like Kuwait, whose minister was speaking.

What are they saying? They say, "We can turn economics on its head; we will charge more and produce less." And that is what they are doing. We know that the supply internationally is going down, not only because of the Iranian revolution, but the Saudis, who for a given period of time picked up the slack, now are not. Kuwait and some of the others have raised the price and cut the supply, contrary to usual economic expectations, which have usually meant that when the price went up they produced more, because that was an incentive.

So long as the United States remains so dependent, keeps its inventories down, and has such a vital demand for more, the price will continue to rise. In my prepared remarks I have indicated in detail where we get our oil, what the price has been, and where it is going.

It is shocking. It is shocking to watch the spot market. People say it is not very important; it is only a little bit, 2 percent. But who would have believed, when the price of oil on the day of the embargo was $3.25 a barrel, that we would have a spot market price of $34 a barrel?

That is not just 100 percent or 200 percent. Everybody should quickly understand that that is a 1,000-percent increase. I am not saying all the oil in the international market is going to that, but when we see it is all quickly approaching in passing $20, as the contracts are, and they are not very long in duration, and countries seem to be quickly announcing their surcharges, in some cases as high as $3.25 over the base price at the time of the embargo, it is obvious that observer from Kuwait is correct. Unless the United States begins to conserve, produce its own indigenous supplies, and move in the direction of the right price for our basic materials, that is, replacement price for energy, we are not going to get out of this situation.

There is no way to get out of all these problems in one fell swoop, but I believe it is important that we are bringing a bill to the Senate today which will do a couple of things. One is, and there should be no doubt about it, a plan for a rationing system. Our cutting consumption under the AFTA approach, the building temperatures approach, the outdoor lighting approach, are all very cumbersome and difficult procedures. After public hearings, the President proposes them, then both Houses of Congress must approve them or they do not become effective. They cannot be changed once they are up here, and so what we have is the Congress, along with the President, trying to manage some conservation practices in this country. One of them has been approved but obviously for the most part the procedure is too cumbersome and too difficult.

While I do not believe that this President has necessarily addressed the energy crisis adequately in the last 2½ years, I came to the conclusion about 2 months ago that only a President or an executive branch of Government in America could manage a conservation plan, and that only governments of the respective States, working under the laws and with the President, could manage a conservation plan that would be acceptable in this country and to our sovereign States.

Having come to that conclusion, I obviously also concluded that we could not manage a conservation plan out of the Senate, nor could we manage one out of the Senate and the House of Representatives combined, that we are just not equipped, and it is not within the nature of these two free institutions, which are legislative in nature, to agree and to try to manage a conservation program for this country.

Having reached that conclusion, it appeared to me that we had to take a step legislatively that would put the power to come up with mandatory conservation plans where it belongs, in the hands of the President, and then find a way to make sure that our respective States had a significant say in mandatory conservation plans.

I am pleased to say that that is the basis upon which this bill before us started, and that is the way it was drawn.

Obviously many Senators will come to the floor today and through the early evening with their specific approaches to conservation, mandating this, that, or the other, and trying to put them on this bill.

I hope we do not take very many of them, because we are falling right into the trap of trying to balance the respective desires of our States and State needs here on the floor of the Senate.

I say to those in the Senate who are interested in the formality of this bill that our States and our regions are going to have an opportunity under this bill to put in place conservation plans that fit them best. Under this approach the President of the United States will have to find that there is a shortage of a specific fuel. Once he finds the shortage he will declare a national intention to curtail its use. If he sets 5 percent as a national savings, that will be the national approach. Then he will integrate a national plan to do that, whatever it is—mandatory speed limits, alternate days for gasoline station closings, 1 day out of 3 closures, whatever it is. But he will not put that in force across this land. Rather, that will be submitted to the States.

They can disagree with the 5 percent savings as that is the national curtailment required by the finding of short supply through procedures of the APA, and they may submit their own idea and plan, which is enforceable, and they must find it enforceable, or use parts of the President's plan. Then they submit their plan as to how they will save 5 percent.

In a nutshell, that is what this bill attempts to do.

Granted, there is no easy way. I cannot stand before Senators and say it is absolutely going to work, for a certainty. We do not know that. But at least it is following the premise that we better go ahead and give some additional power to a President, the President, this President, and Presidents who will follow him, to do what I have just described in concert with the other managers in this political system, to Governors of the respective States.

I know that in some parts of America, if this becomes a reality, they will do regional plans. Where tourism is important they certainly are not going to come up with weekend closures. But if they have to save 5 percent they have to come up with a plan, and they have to be able to prove that it is going to save. They will enforce it themselves, not the President of the United States.

There is one gap in the reasoning I have just described, and that is if a State does not want to have its own plan, what happens? I will make no bones about it. If States do not want to come up with their own plan in response to the President's target savings and announced plan, they will have the national plan imposed on them. That is the theory of the bill. That is fair enough, it seems to me.

With a reasonable amount of time a State or a region can get together and decide on a savings in a particular shortfall area. If they really cannot, then they deserve to have the national plan imposed on them, unless, as is apparently still believed by many, that we do not have a crisis, that we do not have a shortage. If we do not have a crisis and a shortage, then we are all kidding ourselves here, and the $50 billion a year we are paying to foreign countries to buy that oil is some kind of an economic sham of the most serious proportions.

I repeat that we are not going to solve the energy crisis with conservation. I do not want to leave that impression. I did not say that in my original summary of remarks, and I do not want to leave that impression in stating my enthusiasm for placing power for conservation where I think it belongs, with the President and the Governors of our States.

Obviously, the second part of that statement that I stated earlier, increasing indigenous supplies of energy in this country is equally important. This bill is not going to do that, obviously.

For those who wonder whether this Senator from New Mexico feels that conservation can do it all alone, I want to state unequivocally in my opinion no, America must increase its production of crude oil and natural gas. We must increase our production of coal and find ways to convert it to a more usable form, and proceed on all fronts. There is no way out.

We have to find and establish a new national game plan for synthetics, that is, for making liquid fuels and solid but more mobile fuels from coal, shale, and other fossil based fuels that we have in this country. We are already late at that. We have to get on with it. Again, this bill will not do that.

However, part of that double play that we need is conservation, and, therefore, I hope we will proceed with dispatch, that we will not clutter up this bill too much with specifics because it is not supposed to be very specific. Then I hope the House will see the vision of getting the management of it back on the legislatures and put it on the backs of the Governors where your committee by a rather significant margin feels it belongs in its recommendation to the Senate that this bill be adopted.

Mr. President, this great Nation is paralyzed by two critical national energy problems. The paralysis is real, it is divisive both domestically and internationally and it is destructive of the long-term interests of the entire free world. First of all, the Nation is now in the grips of a serious energy supply crisis. We have gasoline and distillate shortages. There is a shortage of crude oil on the world market and that shortage is being maintained by foreign oil producers' governments to force higher oil prices.

There is no question about this fact. Our committee with bipartisan support, has held exhaustive hearings over the last 5 months to establish that such a conclusion is in fact true. Witnesses from Government, from industry and from the analytic sectors have all been unanimous in recognizing the depth and gravity of our current situation. Because some refuse to believe the obvious, or because some believe the Government is the solution to the problem, we are not able to form a solution to the problem. Policy paralysis has set in. Let me make the following observations.

First. The Rotterdam spot market price for distillate has risen from $18.46 in December 30, 1978, to $47.92 on May 25, 1979. That is over a 134-day period. Measured per year, that is an annual increase of about 300 percent. So far this year distillate has gone up 159 percent. These prices have not been challenged.

Second. The following countries are now selling their oil above $20/barrel:

Increase from January 1, 1979

	Amount	Percent
Algeria	$21.00	42
Nigeria	20.16	41
Libya	21.09	45
Ecuador	20.25	56
Malaysia	20.90	39
Canada	20.42	14

These prices have not been challenged.

Third. Overall the world price of oil is $17.27, an increase of 25 percent since the 1st of January. The cartel is solid: No one has broken ranks and lowered prices.

Fourth. Production of oil by the producing cartel has not kept pace with demand. Crude oil stocks, and stock of refined product are at dangerously low levels. Imports of crude oil to the United States, in spite of the return of some Iranian oil fields in recent weeks, remains below 8 million barrels/day. In early March, imports were 700,000 barrels/day greater than current levels. Stocks of gasoline and distilleries are at the minimum acceptable seasonal levels and crude stocks for March were below seasonal minimum acceptable levels by nearly 4 to 5 million barrels. Unless this situation improves by OPEC releasing more crude oil, we face critical gasoline shortages this summer and we face heating oil and diesel fuel shortages next winter. With the pressure for more supply will come increased upward pressure on price, exacerbating the very real inflationary and monetary instabilities currently plaguing the free world leaders.

From this comes the second paralysis:

In spite of this overwhelming proliferation of evidence, the majority of people in this country remain unconvinced that we have a problem. A recent poll suggests that as many as two out of three Americans believe the shortage is contrived. Somehow the message that we have a problem is not getting across. And the fact that it is not getting across is one of the main reasons this bill is on the floor today.

Early in the year, Members from both sides of the aisle recognized that planning for energy conservation would be critical to managing the longer term effects of the Iranian revolution. We noted that the Energy Policy and Conservation Act required the President to send standby energy conservation contingency plans to the Congress for approval. When needed, the President could then implement those that were appropriate to respond to an energy emergency. We encouraged the President to submit such plans.

The President finally sent the plans to the Congress on the 1st of March for the required 60-day review by the Congress. He sent two weak and ineffective plans to the Congress. Weekend closing of gas stations and restrictions on the use of advertising lighting. They were rejected. He also sent a plan for restricting temperatures in public buildings. That plan was approved. The President has indicated he will implement that plan as soon as the regulations are completed. And finally the House rejected the gasoline rationing after passed by the Senate.

So we are one out of four. Those are not very good odds. In a time when national resolve to conserve energy should have been the driving force, political bickering between and within the White House and the Congress killed most of the conservation we otherwise could have achieved.

From this came the bill before us. The lesson we should have learned by now is twofold. First, the President, acting in an emergency but with the political protection offered by having the Congress available to approve his every recommendation, can and will act less responsibly than if all the responsibility were on his shoulders.

Second, the Congress, acting in a highly political environment and realizing that it may take a long time to convince the public that a problem is real, is hard pressed to respond quickly and adequately in an emergency.

For these reasons the bill before the Senate authorized the President to establish and promulgate a Federal implementation plan to save those fuels which he finds to be in short supply. He does not have to come to the Congress. He does it on his own, acting responsibly in an emergency. When the President finds it necessary to implement the plan, he first must set energy conservation targets for the States. In setting those targets, each State will be required to reduce demand by the same percentage. Critical uses of energy, such as energy used for producing energy and agricultural products, will be exempt from such percentage reduction targets.

If the States find the Federal plan too burdensome, they have time to put their own substitute plans into effect. If the President determines that they will and are working equally well to meeting the national goals, the State plan may be used in lieu of the Federal plan. If not, the President must order the Federal plan into effect in that State.

That is the heart of the bill, Mr. President. It is a good bill. It addresses a significant weakness in our planning for emergencies. And it sets up a much more practical means for assuring that this Nation is able to meet its obligations to itself responsibly. I urge support by my colleagues.

● Mr. **HATFIELD**. Mr. President, I rise to support the senior Senator from New Mexico. I do so as one who did not support his effort in the committee, believing then that standby Presidential emergency plan No. 1 was preferable to S. 1030. Both, it should be noted, would operate by calling forth State responses to conservation targets. They would impose a Federal backup plan in any State which either failed to respond or responded with systems which failed to meet the State's share of the national target.

The principal differences between emergency conservation plan No. 1 and S. 1030 are first, the Federal backup in plan No. 1 was weekend restrictions on gasoline sales, while the backup in S. 1030 is anything but weekend restrictions on gasoline sales; and second, the process for developing and approving emergency measures such as plan No. 1 involves the Congress, while S. 1030 removes Congress from this process.

I did not support S. 1030 in committee because the President's plan would have been ready for implementation in a matter of weeks, while the committee's alternative could not possibly be ready for months—perhaps not until next year—and I did not see the backup of weekend gasoline station closures as odious enough to warrant this kind of delay when oil shortages were already upon us. Indeed, as a former Governor of my State, I saw the weekend closures backup as an effective stimulus to assure State action. Were I Governor today of a State which had no emergency energy authorities, and were I faced with a call from the President to attain my State's share of a national conservation target, I would certainly convene the State legislature for the purpose of enacting authorities which would avoid the Federal weekend closure plan.

As the committee voted to send S. 1030 to the floor instead of plan No. 1, and as the 60 days for congressional review of No. 1 has run out, that plan is no longer at issue. S. 1030 is now the only emergency conversation system of any consequence now pending in the Congress. I am, therefore, prepared to accept it and vote for it. If we cannot approve the Presidential plans, we must provide effective alternatives. It would be irresponsible of this body to deny our Government sufficient authority to deal with energy emergencies, such as disruptions in foreign supply, a full 5 years after the Arab embargo demonstrated to us the need for some serious contingency planning in this country.

I urge my colleagues to consider the dangerously unstable nature of our oil imports as they vote on S. 1030, and I urge their affirmative vote.●

Mr. STEVENS. Mr. President, I would like to state the views I filed on this bill so there can be no misunderstanding concerning my position on it.

The discussion that has taken place on this bill and on all of the energy conservation planning is indicative of the real problem that this Nation faces. This particular policy on conservation is defeatist. We are thinking rationing and energy hardship. Our policy revolves around managing shortages through complicated and burdensome regulatory processes. I feel strongly that this is bad policy. It is not necessary and is not in the best long-term interests of the Nation.

This Nation is blessed with enormous quantities of liquid, gaseous and solid fossil fuels. We have produced nearly all of our inexpensive oil. Because we have refused to allow domestic price levels to rise and tap higher cost resources, we now find ourselves short on domestic supply and totally dependent on the kindness and generosity of an increasingly determined group of international oil producers. Our response must not be to deny the realities of the energy marketplace. We need to gain leverage in international oil markets by increasing our domestic production. Some of the oil that needs to be found to restore our strength is in Alaska. A lot of it is going to be found in the lower 48. It is all American oil and the Nation deserves to get it out of the ground. When it runs out, we can start to convert the vast deposits of coal into oil and gas.

With that kind of determination, this Nation can restore its sense of confidence. This legislation, it seems to me, illustrates a weakening in our resolve and for that reason, I cannot give it my support.

UP AMENDMENT NO. 213

(Purpose: Making technical and clarifying changes in S. 1030)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself and Mr. DOMENICI, proposes an unprinted amendment numbered 213.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 9, replace lines 12 and 13 with the following:

"share of the burden of restrictions on energy use on any specific class of business or individual segment thereof."

On page 11, line 7, start a new paragraph after the comma.

On page 11, replace lines 22 through 24 with the following:

"(3) which, as determined by the President, are not measures which are

"(A) unlikely to conserve energy in that State;

"(B) in violation of this Act or any other applicable Federal law;

"(C) an undue burden on interstate commerce; or

"(D) a tax, tariff or user fee."

On page 12, delete section 206(a) and insert in lieu thereof

"SEC. 206(a). It shall be unlawful for any person to violate or fail to comply with any provision of a Federal measure or of a Federal implementation plan in effect in a State or with any rule, regulation or order issued pursuant to such provision."

On page 13, replace line 4 with the following:

"(c) If there is a basis in State or Federal law for any enforcement"

Mr. JOHNSTON. These are technical amendments, Mr. President, made on behalf of myself and the Senator from New Mexico (Mr. DOMENICI). I move their adoption.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is agreed to.

REGIONAL CONSISTENCY

Mr. DOMENICI. This legislation is silent on the question of regional consistency between State plans. What insurance will we have that one State's plan will not undermine another State's plan, such as would be the case if New York adopted Wednesday gas station closings while Connecticut and New Jersey adopted Thursday closings?

Mr. JOHNSTON. It was the committee's intention that each State plan would address the regional consistency issue. Section 204(b)(3) makes clear that no Federal measure included in a State plan may pose "an undue burden on interstate commerce." Similarly it is the committee's intent that the net effect of several States' plans will not cause an undue burden on interstate commerce by providing consumers with an incentive to cross State lines to get gasoline. The example would be a clear case where such a burden would occur. We would expect DOE to encourage States to develop regionally consistent plans in advance of submission to DOE. While the legislation does not permit rejection of State plans because of regional inconsistencies, it is the committee's intent that DOE would negotiate with Governors to try to avoid conflicts between State plans.

NATURE OF AN EMERGENCY WHICH WOULD TRIGGER THE ACT

Mr. DOMENICI. I have a question for the manager of the bill. Is it his understanding that, should Congress enact the Emergency Energy Conservation Act of 1979 tomorrow, the President would be able to make use of its authorities to deal with the present shortage of petroleum products?

Mr. JOHNSTON. Yes, that is the intention of the committee. The whole purpose of the Emergency Energy Conservation Act of 1979 is to provide a coherent national response mechanism for just such a situation as the one we face today. It is clear that the present shortfall in petroleum supplies, which was initiated by the revolution in Iran, is of significant scope and is causing major adverse impacts. The President has pledged that the United States will restrain energy demand by 5 percent in order to reduce the impact of this shortfall on the domestic economy and to reduce pressure on the world market price of oil due to reduced oil production. It is our intention that this legislation provide the President with the means to fulfill his pledge.

METHODOLOGY FOR DETERMINING THE ADJUSTED BASE PERIOD

Mr. DOMENICI. Section 202(a)(2) deals with adjustments to the base period energy use level to be established for each State. How did the committee intend that such adjustments be carried out?

Mr. JOHNSTON. This section is a key part of the act and the committee spent a significant amount of time on this. It is our intent that DOE would begin negotiations with the Governors immediately to develop a consistent methodology for taking into account each of the factors listed in section 202(a)(2) in developing an adjusted base period level of energy use for a particular State. It is the committee's sense that defining this methodology in advance is most important. Otherwise, much time will be spent in debate over how to establish the base period after the President has declared a severe energy supply interruption. Such a debate can be avoided if the methodology is agreed to in advance. Then once the President declares a severe energy supply interruption and defines the percentage reduction required of all States, each Governor would submit to DOE an estimate of the adjusted base period energy use for his State based on this methodology. DOE could then review the State's estimate and negotiate any differences in the final target. It is also the committee's intent that the President work closely with the Governors in developing a reasonably uniform methodology for carrying out the monitoring required in section 207.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

UP AMENDMENT NO. 214

(Purpose: To amend the Small Business Act to require Federal agencies to reimburse small businesses for certain paperwork costs)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) for himself, Mr. HAYAKAWA, Mr. SCHMITT, and Mr. STEVENS, proposes an unprinted amendment numbered 214.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

TITLE III—PAPERWORK COST REIMBURSEMENT

SEC. 301. This title may be cited as the "Small Business Paperwork Cost Reimbursement Act of 1979".

SEC. 302. The Small Business Act is amended by adding at the end thereof the following:

"SEC. 22. (a) Each department, agency, or instrumentality of the Federal Government shall reimburse small business concerns for the reasonable cost of preparing and submitting forms, reports, data, or information required by such agency. Such reimbursement shall be made promptly upon receipt by a department, agency, or instrumentality of the United States of an invoice from a small business concern setting forth the costs incurred, and shall be made from funds appropriated and available for such purpose.

"(b) If the department, agency, or instrumentality finds that an invoice reflects less than the full reasonable cost of preparing and submitting the material, it may pay such additional amounts as it deems necessary to cover such full cost. Where the department, agency, or instrumentality finds that the amount reflected by an invoice exceeds the reasonable cost of preparing and filing the material, the department, agency, or instrumentality shall obtain a determination of such cost reasonableness from the Administrator, and promptly pay the amount determined.

"(c) Claims for any number of unpaid, partially paid, or contested invoices may be included in a single action at law to enforce the liability established by this section. When the petitioner in such action is awarded judgment of any sum, the court may also include interest, court costs, punitive damages (including, but not limited to, a lack of promptness in payment penalty), and a reasonable attorney's fee. No action may be brought on an invoice remaining unpaid for longer than two years after its submission.

"(d) Any Agency affected by this section shall be required to submit, in its 1981 budget request, and for each subsequent budget request, the specific amount of funds to be used for payments pursuant to this section.

"(e) This section does not apply to any report or return required pursuant to the Internal Revenue Code of 1954."

Mr. HATCH. Mr. President, I also ask unanimous consent that Senators HAYAKAWA, SCHMITT, and STEVENS be added as original cosponsors to the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, the success of the vast majority of small businesses in this country is dependent upon the managerial skill and business foresight of the owner-operator. Usually, the owner-operator is the only decision-maker the business has.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. HATCH. I am delighted to.

Mr. DOMENICI. Do we have a copy of this proposed amendment?

Mr. HATCH. I now hand a copy to the Senator.

Mr. DOMENICI. I thank the Senator.

Mr. HATCH. Now if he had 20 working hours in a day or 8 days in a week, he would have that much more time to devote to his enterprise. And the enterprise would reflect that time factor by greater success. Conversely, if he had only 5 working hours in a day or only 4 work days a week his business would be that much worse off. Now, if every small business in America was in a like manner confined, our economy would also be that much worse off.

Well, our small businesses and our economy are worse off. The Small Business Administration has estimated that small business spends in excess of 130 million man hours in filling out forms. The Commission on Federal Paperwork disagrees with this figure and puts the number at a mere 210 million man hours.

Mr. President, this is uncompensated, nonproductive time. No, it is worse; this is nonrecoverable management time, this is lost potential.

A recent Wall Street Journal article put this lost time in perspective. They have shown that 210 million man-hours is "about equal to the total labor required to produce GM's annual production of Chevrolets. At a minimum then, Federal paperwork imposes on the private sector an annual cost equal to the production of 2.1 million passenger cars."

Mr. President, if this body were serious about the economic recovery of our Nation, we would stimulate the economy at its heart: In the small business community.

The cost to small business has been estimated at $20 billion per year, $20 billion of prime business capital that is withdrawn from business needs. This $20 billion represents an inflated, ballooned paperwork burden. A private study has estimated that at least half the paperwork required is unnecessary.

If there were some way to turn the paperwork burden into a productive and remunerative function for business and concomitantly minimize the paperwork required by the Government, then the private sector would be stimulated and the Government would enjoy greater efficiency. I suggest that these two objectives must go hand-in-hand. But how can we assure these results?

In a thought-provoking article on paperwork, Profs. James Bennett and Manuel Johnson of the University of Virginia have suggested that Government has an incentive structure which spurs paperwork growth. Simply put, the philosophy is this: The resources of the private sector, as provided through paperwork, is viewed as a "free good" or a "costless resource" to Government. Therefore, by the use of this free data, more agency funds can be diverted into office expenses rather than data collection. Thus increasing the real, but more often, imagined output of an agency. Unfortunately, there is no limit to what an agency can require.

Paraphrasing Parkinson's law: "Paperwork expands to fill the level available for its use." Unfortunately, there is no upward limit for use. So the paperwork expands unchecked.

The bureaucrats must be made accountable. If they were limited in the amount of paperwork they could solicit, I have no doubt that American ingenuity, even in the bureaucracy, could find a way more efficiently to solicit the information it truly needs.

This amendment interjects accountability into the paperwork nightmare. This amendment requires an agency to reimburse small business for the cost of submitting a required form.

The reimbursement must come from an agency's current budget, and this amendment requires the agency to specifically "line item," in its budget, the cost of reimbursement.

Mr. President, small business needs the time and money provided by this amendment; the citizens of the United States need the accountability of this amendment; and the bureaucracy needs the efficiency that will result.

I might add, Mr. President, it is time we stimulated the bureaucracy to cut down on the paperwork. The best way to do that, in my opinion—in my humble opinion—is to require the cost of the paperwork required by the bureaucracy to be paid by that bureaucracy. Thus, I think we would have only essential paperwork required of small business in this country. I might add that this amendment only applies to small business.

I am going to bring this amendment up, time and time again, on everything I possibly can, because I am sick and tired of having my little Utah business people come to me and complain that they are being inundated by Federal paperwork, useless forms, that are kept in useless storage cabinets at high cost to Government and high cost to taxpayers all over America. I think that this amendment will do it. I hope my colleagues, the managers of this bill, will give serious consideration to accepting this simple, efficient amendment which would not hurt their bill, which would aid their bill, and, in the final analysis, might send a message through the bureaucracy that will help to stop this approximately $20 billion cost of paperwork to small business every year.

I reserve the remainder of my time.

(Mr. EXON assumed the chair.)

Mr. JOHNSTON. Mr. President, this sounds like the kind of amendment that I would not only vote for, but support enthusiastically. It deals with paperwork, which is one of the plagues of small business. If we can do something to reduce paperwork and the cost of it to the small businessman in this country we can help fight inflation, we can bring down the cost of doing business, we can achieve a much greater degree of efficiency and productivity in this country.

Having said that, Mr. President, I am very reluctant not to accept this amendment forthwith. However, the problem with accepting this kind of amendment is that there have been no hearings, no comments by the administration. We do not know the cost of the amendment; we do not know whether this amendment could be improved in ways to make it more efficient, to save more cost and be more helpful to small business. I think it is always dangerous, Mr. President, to take a far-reaching amendment as a floor amendment to another bill to which it is nongermane. Occasionally, it is done. It is done in those cases where bills are well known, well understood, have been debated in committees, and committees are unwilling to deal with the subject matter.

We could think of a number of examples where committees have dealt, year after year, with a certain subject matter, whether it be abortion or some other question, and Senators feel obliged to bring the matter directly to the floor. In those instances, it has been debated in committee. The costs are well known. The administration has commented. The whole issue is well understood by Senators on the floor of the Senate.

I think this amendment really does have merit, and I would expect to be able to join with the Senator from Utah, when he brings the bill up here on the floor, in support of that bill. But I hope that, at this particular time, in advance of having those hearings, in advance of considering what amendments might be suggested in committee, the Senator might think it better at this point to withhold this amendment. I would hate to have the amendment brought up here and rejected on the floor and make it appear that the amendment is not a good amendment when, in fact, I believe that the amendment, in fact, is a good one.

Does the Senator agree with those comments? Does he not think it might be better to let the matter go to hearings?

Mr. HATCH. In response to my dear colleague from Louisiana, who is a close friend of mine and, I think, along with the distinguished Senator from New Mexico—the two of them are leaders in the field of energy, certainly in the U.S. Senate if not the country, today—he raises a good point.

The only difficulty I have is that this amendment is a very simple amendment. It is not unique—well, it is unique. It is so unique that the Wall Street Journal made an editorial on it saying it is about time that we put some Senators against the upward thrust of paperwork in the Government, and this is one of the best ideas that we have had in a long time, if I may take the liberty of paraphrasing what they said.

Mr. JOHNSTON. I agree with the Wall Street Journal in its comments.

Mr. HATCH. I am very appreciative to have that kind of comment from as distinguished a Senator as the Senator from Louisiana is and as he knows I feel he is.

I happen to feel that this amendment has to be enacted. If we make the regulatory agencies stand behind the paperwork that they require by paying the cost of it—keep in mind, I am limiting it to small business right now. Ultimately, I think we ought to make it across the board so that, once and for all, we find out just who are the offending agencies. There are some which are particularly offensive, whom nobody hears about or knows about, but from that day forward, they will have to list the cost of their required paperwork burden upon the taxpayers and business people of America as line items in their annual budget request. We shall all know who is doing it to us.

I think we, as Senators, pretty well know, anyway. But the people out there do not know except when they get inundated with these forms. I was the person who first told the story, which has become a classic joke around the country, of the poor little Utah businessman who came to me. He was filling out one of these 6,000 forms that the Federal Government calls for, not including tax and banking forms. He came across this one little provision in the form which said:

> List all your employees broken down by sex.

This poor little guy looked at that and thought about that. He did not know what to write in there. Finally, at a point of desperation, he wrote:

> We don't have any employees broken down by sex, but we do have a couple of alcoholics, and it is just killing them.

It is frustrating to our small business people in Utah and to our big business people in Utah, as well.

This amendment would go a long way toward putting a disincentive toward useless paperwork.

I cite the Department of Labor, for instance—and I do not want to prolong this, because I know how important the bill is and the work the Senators have done on this bill—but I cite the Department of Labor. They require millions of pieces of paper every year. I do not think they ever really look at them, at least from one aspect, from one side of the equation. Billions of pieces of paper that really are worthless. They are highly costly to society, costly to consumers.

Where are the consumer groups out there fighting for something like this? Why are they not in here saying, "Hey, it's about time we put some disincentives on the paperwork."

I think it is about time we do. I wish my colleagues would be interested in it today, and they have expressed their interest. But I tend to agree, we will hold hearings in the Small Business Committee on June 23, I believe, and I hope we might be able to get more support here on the floor and from my colleagues at that time.

Mr. DOMENICI. Will the Senator yield for a moment?

Mr. HATCH. I am delighted to.

Mr. DOMENICI. Mr. President, I join with the Senator from Louisiana in complimenting the Senator from Utah.

I think the Senator from Utah remembers the history of a comparable measure—in fact, he helped with it—one that addresses the issue of rules and regulations that are illegal, but being enforced, and our good citizens have to fight their own Government and pay attorney fees.

Mr. HATCH. Right.

Mr. DOMENICI. We have a bill that started like this one on the floor of the Senate which we call equal access to courts.

Mr. HATCH. Right.

Mr. DOMENICI. It says that if a citizen, in particular small businessmen and individuals, beats the Government in terms of fines and rules and regulations that are arbitrary and unenforceable, the Government has to pay the attorney fees.

It has the same motivation as the Senator's. It is a disincentive to this pendulum or arbitrariness in the bureaucracy.

Mr. HATCH. I commend my colleague.

Mr. DOMENICI. We will get that passed one of these days. It started much as the Senator's did here, a floor amendment to a legal services bill. Of course, the House did not accept it. It came back through, and the committee finally, after many hearings.

It, too, is needed. This one, a disincentive to the perpetuation of unneeded paperwork, is a tremendous idea. I commend the Senator for it.

From my standpoint, I say to my friend from Utah, I truly believe that we have to get this conservation bill passed. It is a long way from being law. It still has to go through the House. They have not had hearings on anything as bold as this conservation approach.

I personally join with my friend, the Senator from Louisiana, the majority manager of the conservation bill, in asking that the Senator from Utah not insist on the vote on it, that it not be carried on this bill. If it were to pass, it obviously would have great difficulty becoming law in that manner.

I can say to the Senator that I will cosponsor it. I would love to be on it. I cannot be on it today and then say what I am saying.

I support it, would be glad to. But I think when we are trying to expedite something that I think is long overdue in the energy conservation field, when we are going to have hearings eventually on this, or there will be other bills out of Judiciary or Small Business that fit it more, I would urge the Senator to consider not insisting that we vote on it here.

I believe if we do, we would have to ask it be tabled, in the original, authentic spirit of tabling, not the one that prevents voting. But it really does not belong on this bill. As I see it, that would be an appropriate way for me to say I want to be part of it, but not attached to a conservation measure.

Mr. HATCH. Mr. President, having listened to both of my dear colleagues and, of course, respecting both of them so much, as I have already expressed that I do, I say that I believe I can defeat, with this type of amendment, a motion to table. But I also recognize the importance of the bill and I recognize what the Senators are trying to do.

I have some differences with that and I do have some additional amendments that I hope will aid the Senators in having a good bill come out here today. I hope they will give some consideration to those, although that request is not intermingled with what I am saying here today.

Because of my fondness, admiration, and deep appreciation for the comments for both Senators today, also because of their expressions that they would be interested in cosponsoring this after hearings, and because we are going to have hearings on this on June 23, I defer to the Senators' expertise and wisdom in this matter.

Mr. President, I ask unanimous consent that I may withdraw the amendment at this point.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. JOHNSTON. Mr. President, I very much appreciate the action of the Senator from Utah. For my part, I will look very favorably on this bill as soon as my staff has a chance to check it out.

I hope to join the Senator on the bill. I hope the bill in its precise form, or slightly altered form, if that is necessary, will pass the Senate and the Congress.

We appreciate his spirit of cooperation.

Mr. DOMENICI. I thank my friend. I want to echo that remarks of the floor manager, the Senator from Louisiana, on the majority side on this bill.

I commend the Senator for it. I thank the Senator personally for not insisting that we come to a conclusion on it with reference to this conservation bill. I thank the Senator for that, and as soon as my staff has looked it over I hope I can join the Senator as a cosponsor, and before this year is out we see the Hatch bill on the major disincentive to excessive paperwork become law.

Mr. HATCH. I thank both of my colleagues.

UP AMENDMENT NO. 215

(Purpose: To encourage sales of gasohol)

Mr. HUDDLESTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON), for himself, Mr. BAYH, and Mr. DOLE, proposes an unprinted amendment numbered 215:

On page 3, line 1, insert "motor fuel blends containing no less than 10 percent alcohol," after "bio-mass,".

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Lynn Wanlund of my staff be granted privilege of the floor during discussion and voting on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, this amendment is a redraft of the amendment I introduced prior to the Memorial Day recess. It is intended to assure that the sale of alcohol-gasoline blends, "gasohol," will not be restricted even if it becomes necessary to formally restrict gasoline sales.

In the past year, gasohol has taken off like a shot. Available in only a handful of locations less than a year ago, gasohol is now sold in over 800 stations, and the number is growing every day.

Gasohol is one of the few bright spots in a very dismal energy picture. It offers us a way of conserving gasoline—10 percent of every gallon—without radically changing our way of life or affecting the easy mobility on which our economy is based.

But, the gasohol industry is still in its infancy. To restrict sales now or in the foreseeable future could deal the industry a blow from which it may not recover. It would be penny wise and pound foolish to sacrifice gasohol's potential to displace as much as 10 percent of our future gasoline needs for the sake of the comparatively few gallons of gasoline which might be saved by sales restrictions.

On the other hand, to permit gasohol sales during hours of restricted gasoline sales could be a powerful incentive for increasing its manufacture, availability and use—more powerful, I would expect, than any grant or loan or subsidy program we could devise.

Gasohol is a clean burning fuel; it boosts octane it boosts mileage—and, most important, it is the only viable alternative to pure gasoline we have. This amendment to encourage its use will not cost us a penny, but it could save us a lot in terms of future oil imports.

Mr. President, I believe that this amendment has been reviewed by the committee on both sides of the aisle and has been found acceptable. I ask that we move to its adoption.

Mr. DOMENICI. Mr. President, from the minority's standpoint we have reviewed the amendment; and not only do we support it, but also, we commend the Senator for offering it.

I ask the Senator: It is correct, is it not, that gasohol is defined as being at least 10 percent alcohol?

Mr. HUDDLESTON. That is correct.

Mr. DOMENICI. It could be 20 percent, but it is at least 10 percent?

Mr. HUDDLESTON. At least 10 percent.

Mr. DOMENICI. We are saying that if at any point we were to apply these targets, gasohol, as two or three other fuels, would be eliminated from the base.

Mr. President, we commend the Senator and urge the adoption of the amendment.

Mr. HUDDLESTON. I thank the Senator from New Mexico.

Mr. JOHNSTON. Mr. President, the committee intended to include gasohol as a "synthetic fuel," but our drafting was not precise in this regard. We welcome very much the Huddleston clarification. I think it improves the bill.

We congratulate the Senator for his help and urge the Senate to adopt the amendment.

Mr. HUDDLESTON. I thank the Senator from Louisiana.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Joan Hunzager have the privilege of the floor during the consideration of S. 1030.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 216

(Purpose: To establish a mandatory, non-coupon sticker gasoline conservation program)

Mr. WEICKER. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 216.

Mr. WEICKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, after line 4, add the following:

GASOLINE CONSERVATION

SEC. 209. (a) As used in this section the term—

(1) "conservation sticker" means any sticker, item, or device issued in accordance with the regulation promulgated pursuant to subsection (b) for the purpose of display on a motor vehicle to indicate the time period during which such vehicle is prohibited from using any highway;

(2) "private motor vehicle" means any motor vehicle (including a motorcycle), which is used for other than commercial, agricultural, or public service purposes (as defined by the Secretary by regulation);

(3) "highway" means any street, alley, parkway, highway, avenue, or other roadway; and

(4) "Secretary" means the Secretary of Energy.

(b) Not later than sixty days following the date of the enactment of this section, the Secretary shall, notwithstanding any other provision of law, promulgate regulations for the establishment and carrying out of a program for the rationing of gasoline which shall include, a program which would prohibit the use of private motor vehicles in the United States for at least one twenty-four hour calendar day period in each and every seven calendar day period following the date of the enactment of this section. Such program shall—

(1) prohibit the operation of any private motor vehicle subject to such program on any highway unless such vehicle has attached thereto and displayed in accordance with such regulation, a conservation sticker;

(2) provide means pursuant to which each owner of a motor vehicle subject to such program shall, in accordance with such regulation, be able to obtain a conservation sticker for use on a motor vehicle;

(3) provide that households (as defined by regulation) with more than one private motor vehicle shall designate one such vehicle as the primary vehicle and each other vehicle shall be issued a conservation sticker prohibiting its use for at least one forty-eight hour period in each seven calendar day period.

(c) The program established by the Secretary under this section may provide, subject to their consent, for the use of officers of a State or political subdivision thereof or of State or local boards to handle hardship waivers and appeals and perform other functions, including enforcement, relative to the implementation of the program established by this section.

(d) The Secretary, in consultation with the Postmaster General of the United States and the Secretary of the Treasury, shall promulgate regulations which require all United States Post Offices, and all banks the deposits of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation to distribute conservation stickers in accordance with such regulations.

Mr. WEICKER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The

Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Connecticut.

Mr. WEICKER. Mr. President, I wish to read from the RECORD of September 13, 1977, and I ask unanimous consent that that portion of the RECORD which I quote be printed in its entirety at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I wish to read from that RECORD of September 13, 1977:

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment No. 814.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The RECORD proceeds to outline the amendment in detail.

Mr. WEICKER. Mr. President, as a member of the Energy Committee I have had a chance to both work on and evaluate the bill before the Senate and now work with it on the floor. And in the sense of conservation, it does nothing.

I think the question that has to be asked by everyone in this Chamber and those outside is what would happen if tomorrow the Arabs engage in another boycott or if tomorrow the price of oil were raised 15, 20, or 25 percent by the OPEC nations. I think it is very clear that were that to occur it would throw this country into total economic disarray and, in effect, would result in the most drastic of conservation measures in order to meet that kind of threat. Yet that is exactly the threat that hangs over this Nation, and we find ourselves in a more precarious position in the sense of response today than we were 4 years ago.

Four years ago when the Arab oil boycott went into effect the consequences were both alarming and tragic. I think there is no one here who does not remember the long lines at the gas pumps and the inconveniences that were caused. I think there is no one here who fails to remember the various measures which were taken in order to assure some distribution of fuel.

As soon as the embargo was lifted all such efforts of conservation went out the window, both in the sense of any governmental action and in the sense of individual driving habits.

In a few minutes I shall cite the statistics as to what actually has been the response of this country in terms of fuel consumption since the Arab oil boycott, and those statistics clearly point out that volunteerism is not going to work. But probably the greatest tragedy to evolve during this 4-year period has been the economic disruption or, more specifically put, the joblessness that has been caused by the energy crisis. The rates of unemployment created by that initial Arab oil embargo have not diminished to any great extent and indeed the prospect of their diminishing is not at all bright. Every economic indicator that is presented at this time to the American people shows clearly that we are still in the middle of what I would call an "enercession," a recession brought on by energy, our failure to respond to the crisis that was thrust upon us.

The economic consequence that is most visible at this time has been the dire predictions of a $25 to $30 billion balance-of-payments deficit. In order to bring that term out of the academic clouds and put it right on the ground that is $30 billion that is not being used for American jobs. It is offshore. It is gone. That is $30 billion that is not in American pockets to spend. It is offshore. It is gone.

The prediction is that next year that balance-of-payments deficit will problably exceed $30 billion and with no end in sight as to the upward spiral of the deficit.

There is no way this country can get on its feet economically until that figure is brought within manageable bounds. Indeed, it will probably be as severe a weakening of our stature and our strength as anything that has occurred during the past several decades.

So let us understand that when I talk about rationing, which is what I plan to do with this amendment and those that follow, everyone contemplates the inconvenience that is going to be thrust upon him in the sense of what the amendment demands. Yet, I think that what should really be contemplated is the inconvenience that has been caused over the past 4 years to too many of our citizens and by that I mean the inconvenience of not having a job or the inconvenience that would occur with the type of action that I alluded to at the outset of my remarks, specifically either an embargo or a severe rise in the OPEC oil price.

I remember, when I made my initial proposal of gas station closings as a form of rationing, receiving a great number of letters, correspondence from the tourist industry, calling me every name in the book and suggesting that I was taking the bread out of their mouths, that people would be hampered in their travels, in their vacations.

Has it ever occurred to anyone that if we get into the type of a recession which we are headed for right now with the types of balance-of-payments deficits we have been talking about there will not be any choice? There will be no touring at all.

So what I am saying is that a small amount of inconvenience today is well worth it in the sense of correcting the present economic situation and assuring that that situation will not get worse in the future.

Again to those who object to my form of rationing, I have to point out that there has been rationing during the past 4 years, but it is a rationing that is applied only to the weakest elements of our society, to the poor, to the elderly, to those on fixed incomes, and to less than moderate income families. They have been rationed. Is there one person here who has not heard the pleas of our elderly citizens relative to their utility bills? They cannot pay them, and in many instances they have not been paying them. Or, which is the most common since we are law-abiding people, the thermostat which you and I are asked to turn down to 68° or 65° goes down to 55° and 50°. And what about the pleas of our poorest citizens who cannot afford the price of gasoline, and not in the sense that they cannot go to the supermarket five times and six times on Sunday, but they cannot afford it to put in their cars to get to work?

There is no solution to the energy problem or the crisis that has been thrust upon us that is going to be meaningful that will not require sacrifice and self-discipline.

All I propose here this afternoon is that such self-discipline and such sacrifice be placed on the shoulders of all Americans rather than on the weakest of our fellow citizens, that we all share in the solution as indeed up to this point the solution has been borne by a few.

I made the prediction 4 years ago that, yes, the gas lines would go away, but the unemployment lines would start and would grow. And that has been the history of the past 4 years.

Let us take a look at how well we have done under a system of volunteerism—and that is my principal criticism of this bill. Not that it is weak in its rhetoric. It is great rhetoric.

My observations of President Carter are that his rhetoric is right on target. His alerting of the American people to the dangers has been right on target. But the rhetoric has not been followed up by substance.

It is like one of those comical scenes of a yesteryear's move, where someone pulls a gun, pulls the trigger, and a flag comes out that says "bang." That is just about what the value of this bill is, in the sense of conservation.

The Carter plan, the bill that is before this body, is no more than an extension of the volunteerism of the Ford-Nixon administration. It is still volunteerism.

It is all right to read in the newspapers that we are drawing up a standby plan to effect mandatory rationing. But the fact is that that plan ought to be in existence today.

The response from the other side is, "Well, let's see how it works."

It is not a question that this is a new crisis. We have been seeing how it works for 4 years, and it does not work. Without meaning to place the blame on the American people, I am just telling you the facts. They have not done their job in a voluntary sense; neither has the Congress of the United States done its job. But why continue a poor show, even on an experimental basis?

In 1970, the U.S. foreign oil bill, the bill presented to this Nation the payment of which goes beyond our shores, was $2.9 billion. In 1971, it was $3.6 billion. In 1972, it was $4.6 billion. In 1973, it was $8.1 billion, and that is when the embargo hit us; $8.1 billion in 1973. Now let us see how well we do, with all our voluntarism.

In 1974, it was $26.1 billion; in 1975, $26.7 billion; and in 1976, $34.6 billion.

That figure represents an increase over 1972—we will use that as the base—of 750 percent. If there is anyone who can explain to me how it is that we are going to go ahead and the OPEC nations reduce their prices, when we have become that dependent on their oil, I would like to know what it is we are supposed to do. We are no better than a drunk walking into the whiskey store and turning to the owner and asking him for a discount on a bottle of booze.

The estimate, incidentally, for 1977—the last figure I gave you was for 1976, $34.6 billion—the estimated amount to be paid for imported oil in 1977 is $45 billion.

Now, to depart from the RECORD, I again remind my colleagues that I am reading from the RECORD of September 13, 1977.

I remember when the first oil embargo hit, I made the comment that I would not be too disappointed if the embargo stayed on for a while, because we were just then gearing ourselves up to respond; and I remember getting blasted by several editorials in the local press of my State, saying that that was a terrible thing to wish, and indeed it would amount to a great deal of additional suffering and deprivation.

The problem, and I think each one of us knows it here, as indeed the American people know it themselves, is that we respond fantastically, but we only do so when we are down to the wire. And unfortunately the tragedy has not hit home hard enough, or at least it has not hit home to a majority of Americans. The deprivation which everyone was enjoying became the deprivation of only a few; therefore, the problem had gone away.

What happened? Those figures prove it.

Let us take a look at the balance-of-payments deficit. In 1976, the merchandise trade deficit was $9.2 billion. To track that in quarters, the first quarter was $1.3 billion, the second quarter $1.5 billion, the third quarter $1.7 billion, and the fourth quarter $3.5 billion.

Already in 1977, the first quarter deficit has been $6.9 billion. That is compared to the $1.3 billion of a year ago. The second quarter deficit was $7.9 billion. That is compared to the $1.5 billion of a year ago. In 1977, there will be a 200-percent increase in our balance-of-payments deficit.

Again in terms of statistics, let us take a look at our daily consumption of oil between 1976 and 1977.

In January of 1976—I will read the month of 1976, and then correspond to it the month of 1977.

January: In 1976, 18.5 million barrels; 20.5 million barrels in 1977.

February: 17.4 million barrels in February of 1976, 20.4 million barrels in 1977.

March: 17.2 million barrels of oil in 1976; 18 million barrels in 1977.

April: 16.6 million barrels in 1976; 17.5 million barrels in 1977.

May: 15.9 million barrels in the month of May 1976; 17.1 million barrels this year.

June: 16.8 million barrels per day in 1976; 17.7 million barrels this year.

This is the road to energy independence? This is the effect of the congressional actions of the past several years in the sense of conservation.

I think we all know what the problem is around here. Most of the Members are tied in to philosophical positions on this subject. The Republicans, the great free enterprisers, are against any sort of mandatory conservation, and the Democrats, who try to postpone today's problems until tomorrow, are against anv sort of decontrol.

The net result is that we use more and we are finding less, and we wonder why the situation gets worse.

Maybe we here are floating around in this academic world, but I cannot believe that the man on the street does not know what has happened for 4 years, because for 4 years he has been promised that the prices are going to go down and supplies are going to be sufficient. That man knows exactly what has happened: Prices have gone up, and then he is confronted with the type of shortages in natural gas that we had last winter.

Let me make another prediction on this floor: Whatever disruption in jobs occurred in the winter of 1977, the winter of 1978 is going to be worse.

The only thing this Nation has going for it right now is not the Congress, not the administration, and not the judiciary, but God. That is about where it sits.

Everybody better hope that it will be a mild winter because if it is not, the economic tragedy is going to be two-fold, threefold, what it was last year.

To again put the oil consumption in the context of figures, in 1977 Americans consumed 1.587 million more barrels of imported oil per day than they consumed in 1976. That is roughly a 21-percent increase in barrels of imported oil per day.

Today we import almost 10 million barrels of oil per day as compared to 1 million barrels of oil per day as compared to 1 million barrels of oil per day in the late 1950's and early 1960's. Imported oil now comprises just about 50 percent of the oil that we consume.

Gasoline demand this summer rose to the highest level since the 1973 Arab oil embargo.

I would hope, and I do not expect a very good result out here on the floor, that we start to legislate within the confines of reality, rather than philosophy. I suggest that maybe some of my Republican friends might join with me and insist upon some mandatory conservation in order that all Americans can join the conservation effort, that my Democratic friends not create a fantasy where it does not exist, and that they join the fight to have decontrol so that we will have the capital necessary to go ahead and produce more oil and gas.

We can look around for scapegoats, and we have done a very good job of that in the past 3 or 4 years, but all of a sudden we run out of scapegoats and we are still left with the problems. I am sure there is fault when it comes to the oil companies of this country. I know there is fault when it comes to the Congress. I am sure there is fault when it comes to the lack of initiative on the part of the executive branch of our Government. Certainly, there is fault that has to be shared by the consumers themselves.

It seems to me the time has come to end all this finger pointing and get to the business of a solution which is going to result in lower prices and stable supplies. There is only one road to travel toward that end. It is the road of conservation and it is the road of more production.

No solution that is proposed, either in this bill or the ones to follow, that does not hurt is worth a damn. That is the whole problem: Everybody has been politically afraid to ask for fear that they would go ahead and bear the brunt of such a request at the next election. So we can go on and on into the future with no resolution of the problem. I can guarantee, just as sure as I stand here today, that if we bit that bullet and decontrol, and engage in some mandatory conservation, it will be no more than 2 years before we would be out of the woods. It is already 4 years with the present way of doing things.

Mr. President, let me describe what it is that I have in this amendment. Basically, what I am saying with this amendment is that each American will choose that day of the week when his or her car will not be on the road. It is voluntary to the extent that they can go ahead and choose the day. I do not think it is fair, for example, to insist on Sunday closing of gasoline pumps. That might not fit everybody's business, religious schedule, or whatever. But one day a week that car will stay off the road. Indeed, if there is a second car in the family, there would be the additional day for that vehicle, or any other car, the third, fourth, or fifth car, whatever, to be off the road.

The plan has several merits to it: No. 1, we are all going to be affected. Instead of just a few Americans, all of us are going to have to suffer a little bit. But I should think that would make each one of us feel pretty good. Somehow there is that innate willingness to get down there and to confront the difficulty, to confront the threat, and to do it as one people. I do not think that feeling, in other words, of spreading it around and indeed the better off you are the more you take on your shoulders, has left this country. I honestly do not think most Americans at this stage of the game understand the suffering which has been caused to so many of their fellow citizens. If they did, they would be perfectly willing to take up part of that burden.

No. 2, this does not create any great bureaucratic nightmare, such as a coupon rationing system would involve. For whatever day of the week one chooses to keep their car off the road, they would put a color identifiable sticker on the windshield. If they are out on the road on that day they would be arrested by the local constabulary, the fine to remain in the local community. It does not require the hiring of additional personnel, great printing costs, or any of the front money usually associated with a World War II type of rationing system.

Then, of course, lastly, would be the fact that—and I do not have the exact figures at this stage of the game—the demand for that form of oil which we use the most would clearly drop.

The reason I do not hold out much hope for this plan is that yesterday Senator PERCY offered his amendment to conserve, that we should all go ahead and charge ourselves and our staffs for parking spaces, thus cutting down the number of automobiles that would be driven to the Capitol. Even that was blown out of the water.

It seems to me I would rather take this kind of a step now, which is mild in what it requires, than tomorrow all of a sudden have thrust upon me the tragedies which result from an embargo, and the drastic actions of the Government in response to such a crisis.

Mr. President, I realize that phrases are being thrown around as to the fact that we are free, that we shall continue to have freedom of choice, the less Government the better. But so much of that already is illusory. We are not free when it comes to the price of oil. We are not free when it comes to the price of gasoline. It is not a free market. It is a cartel. That price is thrust upon the United States of America and its people. We do not bargain from our knees, but that is exactly where we are. We can sugarcoat it any way we want to. We can dress it up, we can say it will be voluntarism, we can say not to worry, it will not inconvenience us, but basically we have not gotten off our knees.

The discipline and the difficulties entails have sort of flown out the window, and yet we wonder why we sit with this problem on our hands day after day.

I would hope that we would recognize now, not when it hits us in the face but now, the necessity for mandatory conservation, and would enact this mildest of measures.

I do not think there will be great political consequences to follow. "My constituencies will kill me." I think our constituencies expect us to lead, and they understand that in the task of leadership there are those difficult moments. It is great to be on television, to be at the head of the parade, to sit at the head table during a banquet, to receive all the adulation and attention that politicians receive. But it has its difficult moments.

I remember when I served in the Army. I felt very lucky indeed to be an officer in the U.S. Army. Very frankly, the living style I am sure was far better than that of an enlisted man. But I know one thing, that there came a moment of equalization. When the round did not go off in the 105 Howitzer, it was the executive officer who had to go ahead and clear it for whatever that entailed when that breech was opened. That is the part of the job I am talking about right now.

(Mr. MOYNIHAN assumed the chair.)

Mr. WEICKER. The shell is stuck in the breech and somebody had better open it. What worries me about this legislation is, if we pass it the way it stands, the American people will have every right to believe that this great leadership has provided a conservation ethic for the United States of America.

It has provided nothing. It is a name on a bill. The content does not support the name. So I hope that my colleagues will see fit to pass this first step toward conservation where, indeed, a small sacrifice is required of our people, but the savings would be enormous.

The message it would send to the rest of the world is that, indeed, we do have some steel up our back, that we have been pushed around more than enough; you can take your prices of your oil and do you-know-what with them.

I think that is what is important, rather than have to sit here and accept that which is thrown at us in the way of price increases; rather than sit there and, in effect, have our whole foreign policy, to some extent, dictated by those who are involving themselves in blackmail. These are the matters that are far more important to this Nation than are being pointed out by the leadership.

Mr. Johnston. Mr. President, first I wonder if the Senator wants a record vote. If so, I wonder if we could arrange a time?

Mr. Weicker. Yes, I thank the distinguished Senator from Louisiana (Mr. Johnston). I ask for a record vote, both on this amendment and the one to follow, which will be gas station closings.

I would say, also, that I have no expectation of holding the floor for any great length of time here. I see no reason why we could not have a vote on this amendment within the next quarter of an hour.

Mr. Johnston. Under the agreement of the leadership, no record votes shall occur until 5 p.m. It will be my intention, at the appropriate time, to ask that a record vote on this amendment be set at 5 p.m. and, on the following amendment, to be set immediately thereafter. Since we do not have sufficient Senators for the yeas and nays, I shall withhold that request.

Mr. President, I congratulate the distinguished Senator from Connecticut for bringing to the attention of our Committee on Energy and Natural Resources, as well as the full Senate, and, indeed, the entire American public, the difficulty—more than the difficulty, the crisis—that we are faced with, with a balance of payments deficit predicted at 25 to 30 billion because of imported oil next year, because of rising consumption, because of declining production, and because of an economic and foreign policy situation brought on by the oil prices. These problems cry out for solution.

In that sense, the Senator's amendment, which seeks one way to probe for a solution, to conserve energy, is a welcome addition, because, indeed, we need all the help we can get in the Senate on how best to conserve energy. However, Mr. President, we must oppose this amendment; not because we are against energy conservation, not because we are are unwilling to bite the bullet, but because this simply will not work in practice, in terms of inconvenience and in terms of difficulty for the American public, which so vastly outweigh the amount of energy to be saved.

First, it penalizes people in rural America who depend on automobiles for their transportation. Secondly, the amendment says that those who own more than one vehicle shall not receive an advantage. It refers to the individual owning more than one vehicle. A family with husband and wife that have two vehicles would be exempted, I guess. At least, that is the way the language is drawn. If not, then I submit that the wife who marries the husband would be, then, treated as the husband's chattel and, indeed, in this day of women's liberation, of a woman being treated as an individual, she ought to have the same rights as another individual. I am sure that is the reason this amendment is drawn in terms of an individual.

That suggests the difficulties in trying to make this work. What we would end up with is married couples with two cars proceeding as usual. Those with only one automobile are penalized if they live in the rural areas where they depend on their cars.

There is no provision here for emergency use of automobiles. And what about the working person, who works 5 or 6 days, and, finally, his weekend comes, a time when he is planning to do his shopping, or maybe to take a trip out to the lake? That takes a very small amount of gasoline. He is prohibited from doing that, while nothing is said about the truly energy-profligate people who, all the rest of the week, have wasted energy and, maybe, did not have to work during the week.

The amendment is replete with problems. Its intent we applaud, its purpose we applaud. The initiative, the imagination of the Senator from Connecticut, we applaud, because he is headed in the right direction. We want to encourage him to continue to seek ways to save energy. But with this particular amendment, we cannot agree. We, therefore, reluctantly urge the Senate to reject it.

Again, Mr. President, at the appropriate time, we shall move to have a record vote on this matter at 5 p.m.

Mr. Weicker, Mr. President, let me, if I may, respond to the comments of the distinguished Senator from Louisiana, by stating, No. 1, that commercial, agricultural, and emergency vehicles are excepted from the provisions of this bill. It is not my intention in other words, to slow down the economy of this country any more than it has already been slowed down. I am sure there are going to be problems for the farmer, as, indeed, there are going to be problems for the suburbanite and problems for everybody. I assure you that enough specters of deprivation could be raised in response to this amendment to scare everybody.

Again, I am promising, with this legislation, that we are going to be inconvenienced. I am not even arguing the point. We are going to change our lifestyle. I am not going to argue that point. But is there anybody who has not been inconvenienced already over the past 4 years? We are inconvenienced every time we go up to the pump and pay 70 to 75 cents a gallon for gasoline. We paid 35 or 40 cents a gallon 4 or 5 years ago.

You are inconvenienced when you do not have a job or your relative does not have a job. You are inconvenienced when you have to pay the tab in the form of welfare and all the benefit programs, workmen's compensation, and all the rest, that have been precipitated by our lack of response to that crisis. The only difference is they are slipping it to you sideways from the Congress and I amcoming right up to your face and telling you what it is you have to do.

The price has been something fearful that has been exacted from every American, albeit some more than others. But everybody has paid. It is just that it has been a little more intangible, a little more indirect. I do not know about the rest of you, but, when the water is cold, I dive in; I do not go in 1 inch at a time.

In the matter of ironing out the details of this amendment, the amendment so speaks to those difficulties in the sense that the Administrator is given broad discretion within the confines of what I have discussed as the program. So I have no doubt that the program would work itself out equitably insofar as all the people are concerned.

As I conclude my remarks on this amendment, Mr. President, I get back to the question of whether or not there is a crisis. This is where I think our leadership has failed. I notice that in a very recent CBS-New York Times poll of the attitudes toward the energy crisis, 57 percent of those polled felt things are not as bad as the President says they are. I cannot believe, and I have seen other comments made in news shows, that people believe that the crisis has either been politically structured or it has been structured by the oil companies.

There is no point in kidding ourselves any longer. The fact is that it is very real. The fact is that it has been devastating in its effect on this Nation. But, more importantly, if we want to get back on our economic feet, the two issues are inextricably intertwined.

We saw the energy crisis's effect on a healthy economy. We cannot keep on pumping in subsidies and creating programs in Congress. It does not add any real substance and fiber to this Nation's economic strength.

Those types of programs were never meant as something permanent. Rather, only to take care of temporary illness. But what was once temporary is now becoming a permanent way of life in this country.

Very frankly, I am not turning to my colleagues and asking them to play a little Russian roulette. But what I am saying today I said during my campaign in 1976—political suicide in New England.

So it is not a question that I am elected for 6 years and asking that everyone gets out in front of me while I am safe. This is the platform I ran on, an unusual platform urging people to engage in something.

But that was the case, and far from political penalty, the response on the part of the voters in my State was overwhelming. Really, I suppose, the lesson taught me what it ought to teach all of us, that they are intelligent, smart, and understand the score.

I suppose the leadership should understand the tough parts of this job, as well as the easy parts.

Far from penalizing, they appreciate the truth being told.

So I hope we engage in an act of leadership, telling the American people the truth, not blaming anybody else for our present predicament.

Two quotes come to mind in this instance:

"The fault, dear Brutus, is not in our stars, but in ourselves."

So much for the finger pointing.

The other quote, as to our so far failing to respond to the threat to the Nation, is by John Donne:

"I am mine own executioner."

Indeed, that is exactly the direction in which the United States is running at this time when it comes to its handling of this, the greatest threat aimed at this Nation since World War II.

Mr. President, I urge passage of this amendment.

Now, as I say, Mr. President, this amendment was offered and those words were delivered on September 13, 1977. And if you ask what happened to that amendment on the floor of the Senate, on that day it was defeated, 83 to 7. That's correct, 83 to 7. Of the 7 yeas, there were two Republicans, Senator Percy and Senator Weicker, and five Democrats, Senator Bumpers, Senator Hathaway, Senator Kennedy, Senator Metzenbaum, and Senator Ribicoff. Then 31 Republicans and 52 Democrats voted against it.

I picked up my newspaper several weeks ago, and lo and behold, what did I read, and what did I listen to on the television networks of this Nation? That there was a new plan—a new plan of a 6-day week for the automobile—introduced on the House side by my colleague from Connecticut, Representative Moffett.

A new plan. It is not a question just of the Congress of the United States, the House and the Senate, or the executive branch of the U.S. Government, or the consumers, but we now look upon our whole society, including the media, as not caring at all as to the substance of what is being said during the course of this crisis, or its debate, or its proposals and resolution, but merely to raise constantly the question: Is there a crisis? Is there a problem? We constantly raise this question among ourselves, with various and sundry conscious efforts to respond to that crisis, and always to get on to the next day, hoping we will be able to work our way out of it, or that some magical event will occur somewhere in the world to relieve us of the very tough responsibilities and choices that we face.

Almost 2 years ago, to the letter—the exact same conservation plan that is now being held up as a new plan was considered in this chamber. The amendment at the desk today is almost, with the exception of a few words, identical to that which was rejected by this body 2 years ago.

(Mr. DeCONCINI assumed the chair.)

Mr. WEICKER. Mr. President, do you want to see what has happened in the meantime? Our imported oil bill is now expected to reach $55 billion at current price levels. Those statistics that I cited earlier are now up to $55 billion. Remember, those statistics I cited were that the foreign oil bill was $2.9 billion in 1970, $3.6 billion in 1971, $4.6 billion in 1972, $8.1 billion in 1973, $26.1 billion in 1974, $26.7 billion in 1975, $34.6 billion in 1976, and 1977 figure was $39.6 billion, and the 1978 figure was $43 billion. Now it is going to take over $55 billion. All the comments were made then as to the money going offshore, out of the American pockets, either in the sense of jobs or in the sense of discovery, whatever has happened. But it is now going to take $55 billion.

The figure for oil imports is about 8.5 million barrels per day now, as compared to 1.5 million barrels per day in 1970. I might add, to make it pertinent to this amendment, the transportation sector receives about 52 percent of each of those barrels of oil for gasoline.

Later on I will read some of the responses to that amendment 2 years ago, which ultimately ended in its defeat here on the floor. But let us get to the 1979 verision. Let us have another run at it. Let us also see how some of those responses will sit, such as we will hear, I am sure, in a few minutes.

Mr. PERCY. Will the Senator yield?

Mr. WEICKER. Does my colleague wish to speak for a minute before I get to the 1979 comments on the same bill? I might add, my colleague was the only one to show courage, in 1977 and it was courage for the simple reason, if I am not mistaken, that this was prior to his election. Politicians do not usually like to go running around campaigning on rationing themes. It was a tough election my distinguished colleague from Illinois made. He was the only Republican to stand up 2 years ago for some minimal form of conservation, a 6-day week for the automobile. I will yield as much time as he desires. He deserves it for his courage.

Mr. PERCY. I commend my colleague from Connecticut, a man who has always been known for his forthrightness and courage. I believe that it is imperative that Congress take strong action today to promote energy efficiency, action which will stand up in the future. I think we will be subject to severe criticism in the future if we fail to act firmly now. The country will wonder why we cannot develop an energy policy, why we cannot do something about the energy problem.

It seems that as soon as a serious conservation measure is proposed, whether it is something that affects the Congress, like charging for parking, or whether it is a standby plan for gasoline rationing in the event of a national emergency, or a proposal to give the President the authority to close stations on weekends if we have an emergency condition where we have to somehow rationally balance supply and demand, we say, "We know we have a problem, but we do not want to do this or that because it will somehow inconvenience us."

It was in order to change that attitude that Senator Humphrey and I founded, 2½ years ago, the Alliance to Save Energy, of which my distinguished colleague is a member, and of which now about 170 Members of the House and Senate are members. We founded the Alliance in order to help our Nation understand the severity of the problem, and to accomplish what we are trying to accomplish in a small way condition the Nation to accept the kind of steps which we are discussing here now.

I commend my distinguished colleague for his attempt to strengthen this bill. I also commend the floor managers of this bill for their work on energy conservation. Energy conservation is the most readily available energy source we have in this country. We pride ourselves on efficiency, and yet when it comes to energy consumption we are the most conspicuous consumers in the world.

The world looks at us today in ridicule. "Efficient America" today wastes about 40 percent of the energy we consume. It takes us twice as much energy to heat our homes as the citizens of West Germany use to heat their homes of a comparable type. Our automobiles are less efficient, although mandated by law to become more efficient. But still, up until last year, Americans were exercising their free will and buying energy inefficient automobiles. Now, pellmell, when we are faced with long lines, Americans are beginning to recognize that the best way is to conserve energy is to have an automobile with an engine that gives twice the mileage that the average automobile today gives us. We certainly can and should upgrade much more rapidly the number of cars that we buy which will be energy efficient.

I commend the managers of this bill for attempting to give us a national policy that will put proper emphasis upon conservation, and certainly I pay tribute to my distinguished colleague from Connecticut for his attempts to strengthen it.

I thank my colleague for yielding.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Are we on limited time?

The PRESIDING OFFICER. There is no time limitation.

Mr. METZENBAUM. Mr. President, I rise to commend the Senator from Connecticut, particularly with respect to this amendment which I do expect to support, but also because he has been a voice at times in a wilderness, with a sense of consistency over the period of years since the energy problems arose, ready to bite the bullet, ready to stand up for strong conservation measures, ready to do the thing that sometimes might be unpolitical but with no exception always being ready to be in the forefront of the battle to conserve energy in this country and to provide for a rational and meaningful energy policy for this Nation.

There have been occasions when he and I might disagree on such an issue as decontrol or deregulation of natural gas. But putting aside issues of that kind, when it has come to mandatory conservation measures, when it comes to the matter of the saving of our energy resources, I have no recollection of any single incidence in which his has not been a voice of fairness and equity, when he has not been a voice of strong measures to protect all the people.

He has been one who has been prepared to speak out strongly and effectively, saying that if we are to have a fair energy policy there should be no special distinctions or special exemptions for a privileged few.

I commend him for his efforts in this respect, and not alone today—and this particular amendment does not provide such exemptions—but for his leadership and advocacy over a period of several years. I have felt that his action today is another occasion to show that he continues to stand for effective, mandatory conservation measures in this country.

Mr. WEICKER. I thank my distinguished colleague from Ohio, who, on the other side of the aisle, has led the fight for fair conservation, mandatory conservation. Any package that he has brought forth on this floor I have supported, not because I necessarily agreed with all aspects of it, but because he was trying to bring home a concept of a fair system for everyone—for everyone. He has not been listened to, either in committee or on the floor.

The President comes in here with his plan; he is not listened to. I come up here with amendments; I am not listened to. Nothing is acceptable. One measure—I think one measure—that we have, is to lower the thermostats. That is it. Not outdoor advertising—that was too severe. Not to give the President authority in case an emergency hits—that was too severe. Nothing; absolutely nothing.

I remember, in the last debate we had on conservation, I made the comment that maybe some of our baseball games—I did this on one of the network TV news programs—might go to day games instead of playing them at night. Editorials appeared in the newspaper, "What a spoilsport the Senator from Connecticut is."

I make the suggestion that we all might somehow restrict our personal driving. "What a spoilsport." The tourist industry says, "People cannot take trips." Right down the line. Now we hear truckers, they want to be exempt. People who produce energy want to be exempt; those who like sports want to be exempt; Senators and Congressmen want to be exempt. Everybody wants to be exempt. The result is that we have absolutely no conservation in this country whatsoever and we have no prospect of it.

The Senator from Illinois phrased it very particularly when he said the greatest energy source we have in this country, and the only one, is conservation. No one is going to turn the spigot back on a la 1973 and 1974. Iran is not. They have decreed for themselves a lifestyle that I imagine will be copied, Arab nation by Arab nation. They see themselves and what happened to the Shah; they think, a little less oil to the United States, a little less oil in the palace, a little more in the countryside. Those oil pipelines are not going to be turned back on.

Do we have a production capacity within the United States to overcome that shortfall? Absolutely not. We did not before the crisis struck. We certainly do not now.

Everybody says solar energy. Yes, solar energy. But that will be in the year 2000, by the time solar energy reaches the point where it can contribute materially to our supply of energy. We are all for it, but where can it contribute materially to our supply at the present time?

Geothermal: also the year 2000, not before then, to work, to contribute materially to supply.

The fuel cell: the year 2000 or beyond, to where it can contribute materially to supply. The gasification, as well as liquefication, of coal: the year 2000 before it can contribute materially to supply.

So, where is the supply of energy? Nuclear? Nuclear, certainly, I would say, is in a static condition from now until the year 2000, and will probably be on the decline after that. But not much in the way of additional production.

So we are left with, really, only one source of supply for the years 1979 and 1980 and beyond. That is conservation, the change of our lifestyles to where we use less. And every opportunity that comes before this body is rejected.

I realize that in 1977 it seemed as if we were out from under the Arab oil embargo and we had not yet confronted Iran. So, maybe there was a human excuse not to act. But how can that be the situation today on this floor, when everyone realizes that we are in an economic war? Never mind about the moral equivalent of war, we are at war economically.

The only way I know to go ahead, as long as we are this dependent on imported oil, to bring down the price of that oil and to guarantee supplies, is to say to those exporters, "We don't need your product." Then the price will come down; but not until.

Well, let me get to my speech on behalf of the amendment. This is the 1979 version.

Mr. President, I have today introduced an amendment to establish a mandatory conservation sticker program. This amendment is similar to a bill which I have introduced twice before, in 1975 and 1977. Each time it was soundly defeated. I am hopeful that today the Congress has the courage to act positively on this legislation before it is too late.

I have heard much debate in recent months specifically relating to how we should react to our current energy crisis. I have heard many sound proposals as to what programs we can embark upon in the long range to assure energy self-sufficiency and security for the future. I fully endorse many of the programs that have been suggested as a means of achieving American energy independence in the 1980's. However, I have witnessed little in the way of a positive and equitable response to the crisis that confronts us now—the situation that we must deal with until the time when the long-term programs can yield positive results.

The legislation that I offer today is specifically geared toward policy in the short range, during the next several years, while long-term solutions are being put on the track. There appears to be substantial agreement on what our approach is to be for the long term. But what should our interim response be?

My amendment embodies what I consider to be an equitable and efficacious response to our short-term needs. Clearly, we need to reduce gasoline consumption in the United States. The rate of gasoline consumption in this Nation is at the highest point that it has ever been. This rate of gasoline consumption cannot continue.

In order to immediately reduce gasoline consumption in the United States, and to impress upon the American people the seriousness of the energy crisis presently confronting them, I am proposing a mandatory sticker plan. In accordance with my amendment, the Secretary of the Department of Energy is required to put into effect, within 60 days after the enactment of this bill, a plan to restrict the use of individual motor vehicles to a maximum of 6 days per week. Individuals who own one car would be required to keep that car off the road 1 day per week, while individuals who own a second car would be required to keep that second car off the road 2 days per week. This plan does not intend to give an advantage to individuals who own more than one car. Every motor vehicle would be required to bear a sticker designating that day or days of the week during which travel is prohibited. Owners will have the choice of which day or days they will not operate their vehicles. Vehicles operated for commercial, agricultural, or public service purposes will be exempted from the provisions of this plan.

Mr. President, I realize that such a plan may be distasteful to many individuals. At this point, however, we have no other choice but to conserve gasoline. If conservation entails sacrifice, which I believe it does, then we will have to sacrifice. It is important that the social sacrifice which must be made is equally borne by all Americans. This plan does not impose a greater burden upon any one segment of the population. Rather, each individual will be forced, by law, to refrain from using his car at least 1 day per week.

I ask unanimous consent that the text of this amendment be printed at this point in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

On page 14, after line 4, add the following:

GASOLINE CONSERVATION

SEC. 209. (a) As used in this section the term—

(1) "conservation sticker" means any sticker, item, or device issued in accordance with the regulation promulgated pursuant to subsection (b) for the purpose of display on a motor vehicle to indicate the time period during which such vehicle is prohibited from using any highway;

(2) "private motor vehicle" means any motor vehicle, (including a motorcycle), which is used for other than commercial, agricultural, or public service purposes (as defined by the Secretary by regulation);

(3) "highway" means any street, alley, parkway, highway, avenue, or other roadway; and

(4) "Secretary" means the Secretary of Energy.

(b) Not later than sixty days following the date of the enactment of this section, the Secretary shall, notwithstanding any other provision of law, promulgate regulations for the establishment and carrying out of a program for the rationing of gasoline which shall include, a program which would prohibit the use of private motor vehicles in the United States for at least one twenty-four hour calendar day period in each and every seven calendar day period following the date of the enactment of this section. Such program shall—

(1) prohibit the operation of any private motor vehicle subject to such program on any highway unless such vehicle has attached thereto and displayed in accordance with such regulation, a conservation sticker;

(2) provide means pursuant to which each owner of a motor vehicle subject to such program shall, in accordance with such regulation, be able to obtain a conservation sticker for use on a motor vehicle;

(3) provide that households (as defined by regulation) with more than one private motor vehicle shall designate one such vehicle as the primary vehicle and each other vehicle shall be issued a conservation sticker prohibiting its use for at least one forty-eight hour period in each seven calendar day period.

(c) The program established by the Secretary under this section may provide, subject to their consent, for the use of officers of a State or political subdivision thereof or of State or local boards to handle hardship waivers and appeals and perform other functions, including enforcement, relative to the implementation of the program established by this section.

(d) The Secretary, in consultation with the Postmaster General of the United States and the Secretary of the Treasury, shall promulgate regulations which require all United States Post Offices, and all banks the deposits of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation to distribute conservation stickers in accordance with such regulations.

Mr. WEICKER. I shall be glad to yield the floor to my distinguished colleague from Louisiana, Mr. President, but first, let me emphasize several points of the plan itself.

First of all, let me disabuse my colleagues and the American people of the notion that we do not want to have a rationing plan where none exists today. We have now, and for almost 6 years, rationed by price. That is just as effective a rationing scheme as the World War II stamp method or Senator WEICKER's 6-day week for the automobile. But there is one big difference: it only applies to certain segments of our population.

What kind of thinking is that? Since when have we adopted an attitude in this country that the weakest will bear the greatest burden of the solutions required to resolve the problems of this country?

All this does is to substitute a rationing plan for the present unfair one.

Point No. 2, why does the bill before us not do the job? It does not do the job because it does not have any immediate conservation measures. It is a matter, again, of working with the States, trying to develop some sort of conservation effort.

We cannot wait any longer. The guarantees that came back in 1977 were prolific as to why we should not pass the amendment at that time. I will get to that later.

But I think action is required of each one of us now, today. The bill on the floor does not do that; the amendment does.

There is just no getting around the fact we will all have to participate in this solution. Let me give an example of how we are scapegoating even today, and I mentioned it back in 1977.

Yes, since his nomination to the position, I have been an opponent of Secretary Schlesinger. I have never been an admirer of his. I did not want him on the job in the first place.

But the worst thing that could happen to this Nation is to have him bounced out at this juncture as if it was his fault.

One day it is the oil companies, the next day it is Secretary Schlesinger, the next day it is President Carter, the next day it is the Senate, the next day it is the House. All finger-pointing at each other. But we need each other. We need to get together, not to point the finger of blame and of fault.

How can one man—how preposterous, one man—be responsible for our energy difficulties? You know just as well as I do that those difficulties were born right here in the Senate and the House, in the Nixon administration, in the Ford administration, and now in the Carter administration. It is not the fault of one man.

So, as much as I have been an opponent of Secretary Schlesinger, I hope the President sticks to his guns, because if that man goes then somebody will go next and we will never get to the business of conservation that needs to be done, the business of putting investment into developing alternate sources of energy, of going ahead to get the capital to establish sufficient supplies of fossil fuels.

This is the hard message. It costs money to drill in the Baltimore Canyon. It is not going to be done by some hot air consumer advocate. It costs money and requires capital to go ahead and deep drill, to develop oil shale. It all requires capital.

It means everybody changes his lifestyle when we talk about conservation. So we do not drive the same way we drove before. So we do not become a 7-day-a-week society. We might have to go back to a 6-day-a-week society. It means our entertainment might have to be curtailed to some extent. There is plenty of light out there, we do not have to manufacture at night all the time.

Yes, it will require taxpayer dollars in the sense of the money that is needed by Government to bring us to a technology worthy of the 1980's, the coal liquefication and gasification. We are dealing with a German World War II technology. This same technology, and here it is almost 35 years later. They ran their whole war machine on the technology that is being used today.

Yes, we need the Government to get into that area with taxpayer dollars to advance the technology to the year 1980.

Yes, we need additional funding for our solar energy programs and for the fuel cell.

I had to fight in the Energy Committee to get an additional $10 million for the fuel cell, clearly, most efficient system of all. We need that kind of funding and, yes, it will come out of people's pockets; not by any cutting, not by firing this individual or that individual, and not by raising questions of who is ripping us off. We are ripping each other off. It is as simple as that.

Political gas is no substitute for the real thing coming out of the ground.

If I get exercised about it, Mr. President, I think I have a right when I read in the media of this country about a new plan—a new plan—identical to what was rejected, what was a matter of public routine which nobody cared about—identical. A new plan? Fine. Call it the Moffett plan, but for God's sake, get it passed—get it passed.

Obviously, I do not think this amendment will succeed when, No. 1, it actually imposes conservation; No. 2, it is introduced by a minority U.S. Senator, when, indeed, the plan offered by the President of the United States, the head of the majority party in this body, which did not entail any sacrifice whatsoever, but only the possibility of that, was defeated.

But I will say, if the people of this Nation feel frustrated, there is a way to resolve the problem and it is coming up here in a matter of a year. You can take the politicians that are putting a lollipop in your mouth to the extent that the American people will not be affected by any meaningful solution, kick them out, elect the ones that give you the tough, hard news, because if they had given it to you 6 or 7 years ago the events in Iran would have been a nonhappening insofar as energy is concerned. But now the slightest reduction of crude oil by any nation in the world coming into the United States has this Nation in fear and trembling.

National security. Here we have this Congress of the United States and the President of the United States saying that we have got to toughen our stance toward the Soviet Union. And so have all the entities of government.

That will give them an increase this year in the budget of the Defense Department, and that makes everybody feel good, totally ignoring the fact that our greatest weakness in the sense of national security is energy.

We can buy all the hardware in the world, but if it cannot run, what will we do with it?

Never mind the problems people have with their automobiles or their lifestyle. Let us put it in the terms that will appeal to some of the more conservative of my colleagues on this floor. The most glaring weakness in our national security today is our dependence on foreign oil and our inability to give ourselves the supplies necessary to run this Nation.

There we have it in a national security sense.

Billions for defense? No problem at all on this floor. A little conservation? Oh, a big problem—a big problem.

I hope we get to the most urgent business of this Nation, which is conservation, and that we do it today with no excuses offered.

I imagine something will come up—it means we have to work this out in conference, and that might take a little time.

Let us give a signal that politicians are unafraid to stand up and demand self-discipline of everyone, including themselves.

Believe me, that is the sign of leadership the American people are looking for, that is the sign of self-discipline the world is looking for, and all the commissions and all the planning schemes between Governors and the President, all that is eyewash.

It will not stop the rise in gasoline. I was laughed at 1 year ago—less than 1 year ago, 9 months ago. I predicted $1 a gallon gasoline in this country. That was preposterous.

I will say right now, I will make another prediction: If this body fails to act, if the Congress fails to act, if the Nation fails to respond in the terms of conservation, and I mean conservation in gasoline that affects the American role, and we respond within the next 60 days, we will have $2 a gallon gasoline by the end of 1980.

Then let us see who is going to get elected. Then let them stand up before the voters and explain as to the extraordinary measures individual politicians took to prevent that occurrence. But it will happen.

It seems to me that our job here is to write the policies of this Nation, and I think the policy of the United States of America is very, very simple: to restrict our consumption of gasoline to the point where we can reduce our imports every year below that of the year before. There it is, in its most simple terms.

The United States of America is not in a summer crisis. It is in the first year of a 20-year crisis. Not until after the year 2000 will the exotics give you the supply necessary to assure that this constant escalation, absent conservation, will not continue.

It is not a Fourth of July problem, a Memorial Day problem, nor a Labor Day problem. It is the problem of our generation and the one behind us.

The real question, and the only question, is: Will we clean up our own mess, or will we leave it to someone else?

I yield the floor.

Mr. JOHNSTON. Mr. President, I commend the Senator for setting the proper mood for debate on S. 1030.

The Senator, very accurately and very vividly, has described the situation which is facing this country, which is very serious indeed. He conjures up the attitude of sacrifice, uniform sacrifice, which everyone in this country must be willing to undertake if we are to cope with—not solve, but cope with—this energy difficulty.

I also commend the Senator for thinking in a creative and a positive way and coming up with an idea as to stickers which can be put on cars to prevent their being driven. This may work. It may be a proper thing for the President to implement, or it may be a proper thing not on a national basis but on a State basis.

Mr. President, the difficulty with this amendment is that it apparently requires action regardless of the degree of an emergency.

I ask the Senator: Is it his intent that the regulations—when he says "promulgate regulations"—be put into effect as well, or simply that they be promulgated?

Mr. WEICKER. My response to the Senator from Louisiana is that they should be promulgated and put into effect yesterday.

Mr. JOHNSTON. Mr. President, in addition to the fact that we have the usual problems of ambiguity, problems of unknown costs, and problems of that nature, dealing with floor amendments, we have a situation here in which the Senator is calling on the Senate to enact gasoline rationing—not standby gasoline rationing but gasoline rationing—today.

In the measure previously considered, the President's standby plan, that was to be a standby plan to be put on the shelf and invoked only in the event of a severe emergency, that severe emergency having been defined by the Secretary of Energy and by the President as being a cutoff of 20 percent of supply. The present cutoff is something in the neighborhood of 5 percent of supply.

The reason why the Secretary and the reason why the President stated that they would not invoke rationing except in that extreme emergency of a 20-percent cutoff—the kind of cutoff we would have if the Saudi Arabians had a revolution or their supply was otherwise interdicted—the reason not to invoke gasoline rationing and actually put it into effect is, first, because of extreme expense. The last estimate we had was $1.7 billion. The second reason is the inherent unfairness, because with more than a hundred million automobiles in this Nation, you cannot deal with the multiplicious circumstances of each of those drivers. You cannot accommodate to the fact that one driver must drive 50 miles to commute to work and the other lives across the street from his work. You simply have to deal with a broad brush and broad categories.

Indeed, the categories in the President's plan were to give each driver in each State the same amount of gasoline and to let him go to the white market and purchase additional gasoline at a cost of perhaps $2 a gallon in order to make up the difference.

Mr. President, those are extreme measures. I think the House of Representatives made a grave mistake in not giving the President that standby authority in the event of an emergency. However, to require it under this legislation, and not even to give the President authority to suspend it after it goes into effect, I think would be a very grave mistake, and it would be a very great expense to the people of this Nation.

So far as the idea of the stickers on the cars is concerned, it may be, as I say, a very good thing for either the President or Governors to invoke. It also may prove to be unworkable. It may prove to be a less admirable, a less desirable method to invoke than some other methods, and therefore it may be that it should not be invoked.

For example, the President would have the broad powers to prohibit downtown parking, to provide for special lanes of traffic for car poolers, special lanes for buses, to prohibit the climbing lock rates on electric utilities, to prohibit master metering, to do a whole host of things—in fact, to do virtually anything other than rationing and weekend closings which the President thought was proper.

It gives broad, flexible authority. It gives authority to do not only what the Senator has suggested here but also to do virtually anything else.

So I emphasize to the Senator that S. 1030 is not a restriction upon his bill but a vast enlargement upon his bill, the difference being that the rationing and the sticker plan provided for in the Senator's amendment would be mandatory, would go into effect immediately, and the President could not avoid the effects of these matters even if they proved to be expensive or to be unworkable. They could be repealed or rescinded only by an act of Congress.

Mr. President, having said that, I do commend the Senator, as I say, for the attitude he has shown throughout this measure, for the articulate way he has stated the difficulty of the energy shortage we have, and his exhortations to the American people for their need to conserve. With all of that I agree.

As to the idea with respect to the stickers, to prohibit driving for 1 or 2 days a week, as the case may be, I commend that idea to the administration for consideration, should this bill pass, as one of the measures to be invoked; and it may well be that this amendment would be the trigger which would plant the seed for the idea that ultimately would be invoked.

However, Mr. President, we cannot accept the amendment in its present form. In addition, the amendment, we submit, is nongermane, and I make that point of order.

The PRESIDING OFFICER. The Chair may entertain debate on the point of order if he desires.

Does the Senator from Connecticut wish to debate that?

Mr. WEICKER. Mr. President, I would oppose the point of order as raised by the distinguished Senator from Louisiana.

I have a parliamentary inquiry. Is there any germaneness provision that has been agreed to, relative to this matter before the Senate?

The PRESIDING OFFICER. This bill is being considered under a unanimous-consent agreement that requires germaneness of amendments. That is the only agreement on the bill.

Mr. WEICKER. Since what we are talking about, the entire bill before the Senate deals with conservation, I certainly think that it cannot be argued that the amendment of the Senator from Connecticut does not deal with conservation, and I do not mean conservation of anything other than oil, gasoline, and energy supplies. I cannot think of anything more germane to the subject matter before the Senate.

Mr. JOHNSTON. Mr. President, the amendment is clearly nongermane because it deals with rationing and not conservation.

The PRESIDING OFFICER. Does the Senator from Connecticut care to make any other statement?

Mr. WEICKER. There we have it in a nutshell: conservation without rationing. That is what the United States of America wants, conservation without rationing. How preposterous and ridiculous can we get? There is rationing at the present time, as I pointed out anyway. It is rationing by price which apparently is all right since it does not affect the majority of the voters. How can there be any conservation without rationing in some form?

I find I suppose my argument is a little difficult before the Chair, before you, Mr. President, but it seems to me we are getting into the very substance of the debate, whether it be on the bill or whether it be on the amendment. I think the very nature of what it is I am saying proves the germaneness of what it is I am offering before the Senate.

The PRESIDING OFFICER. The Chair is grateful to the Senator from Connecticut and the Senator from Louisiana for the debate on the issue.

This bill is being considered under a unanimous consent agreement providing for germaneness of all amendments. Although this amendment does deal with the broad subject of energy conservation, the Chair is of the opinion that it is not germane because it directs the Secretary of Energy to promulgate regulations for and implement a rationing plan; whereas, the bill itself deals in a broader way with conservation programs through the Governors of States and the President of the United States.

Therefore, under the Senate precedents requiring strict construction of germaneness, the Chair is constrained to sustain the point of order against the amendment since in its opinion it introduces new subject matter to the pending legislation.

Mr. WEICKER. I, not so respectfully, appeal the ruling of the Chair. I think that is absolutely ridiculous, Mr. President, to go ahead and say we are dealing with energy, we are dealing with conservation, that the Governors, the President, and the Secretary of Energy, which is a part of the executive branch of Government, because somehow they are brought into the amendment, this is not germane. I can understand how this was worked out in the Democratic cloakroom from the way, Mr. President, you read the ruling.

The PRESIDING OFFICER. The Senator from Connecticut is entitled to appeal the ruling of the Chair.

Mr. WEICKER. I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. WEICKER. Then we will just keep on talking until there is a sufficient second.

Mr. JOHNSTON addressed the Chair.

Mr. WEICKER. I have the floor, I believe.

Mr. JOHNSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. Is an appeal from a ruling of the Chair debatable?

The PRESIDING OFFICER. The appeal is debatable.

The Chair has not recognized any Senator.

Who seeks recognition?

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I think again it shows very clearly the unwillingness and the lack of fortitude to have an up-and-down vote on what is the most crucial issue of the day confronting this Nation.

The distinguished Senator from Louisiana said about my plan that it is unworkable, or it may be unworkable. What is so workable about the energy plan that exists in this Nation today? Do you think it is workable? It is grossly unfair to various categories of our citizenry. Do you think it is workable? What has happened to the price of energy? It soared. Do you think it is workable? And does anybody know from day to day what we have in the way of supply? And yet I come up with a simple scheme to assure that every American in his pleasure driving is going to make one small sacrifice, and that might prove to be unworkable. Do you want to hear it all over again? Listen to this. September 13, 1977. The distinguished Senator from Louisiana (Mr. JOHNSTON) is now responding to the Weicker amendment, identical to the one that we have here, but now it is 2 years ago.

Mr. JOHNSTON. Mr. President, will the Senator yield to ask for the yeas and nays? I think there may be sufficient Senators on the floor now.

Mr. WEICKER. Indeed I will.

Mr. JOHNSTON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered on the point of order on the appeal.

Mr. WEICKER. Mr. President, reading from the RECORD of September 15, 1977:

> Mr. JOHNSTON. Under the agreement of the leadership, no record votes shall occur until 5 p.m. It will be my intention, at the appropriate time, to ask that a record vote on this amendment be set at 5 p.m. and, on the following amendment, to be set immediately thereafter. Since we do not have sufficient Senators for the yeas and nays, I shall withhold that request.
>
> Mr. President, I congratulate the distinguished Senator from Connecticut for bringing to the attention of our Committee on Energy and Natural Resources, as well as the full Senate, and, indeed, the entire American public, the difficulty—more than the difficulty, the crisis—that we are faced with, with a balance of payments deficit predicted at 24 to 30 billion because of imported oil next year, because of rising consumption, because of declining production, and because of an economic and foreign policy situation brought on by the oil prices. These problems cry out for solution.

I am reading now 2 years ago the statement of my distinguished colleague from Louisiana in response to an identical amendment. At least that time we did not have a canned ruling from the Chair that the amendment was out of order.

> In that sense, the Senator's amendment, which seeks one way to probe for a solution, to conserve energy, is a welcome addition, because, indeed, we need all the help we can get in the Senate on how best to conserve energy. However, Mr. President, we must oppose this amendment; not because we are against energy conservation, not because we are unwilling to bite the bullet, but because this simply will not work in practice, in terms of inconvenience and in terms of difficulty for the American public, which so vastly outweigh the amount of energy to be saved.

Now, to depart for 1 minute from the RECORD, Mr. President, tell me, has the American public been inconvenienced in the last 2 years? Has it been inconvenienced in price, in supply?

Mr. HELMS. Yes.

Mr. WEICKER. To continue the comments of the distinguished Senator from Louisiana:

> First, it penalizes people in rural America who depend on automobiles for their transportation. Secondly, the amendment says that those who own more than one vehicle shall not receive an advantage. It refers to the individual owning more than one vehicle. A family with husband and wife that have two vehicles would be exempted, I guess. At least, that is the way the language is drawn. If not, then I submit that the wife who marries the husband would be then, treated as the husband's chattel and, indeed, in this day of women's liberation, of a women being treated as an individual, she ought to have the same rights as another individual. I am sure that is the reason this amendment is drawn in terms of an individual.
>
> That suggests the difficulties in trying to make this work. What we would end up with is married couples with two cars proceeding as usual. Those with only one automobile are penalized if they live in the rural areas where they depend on their cars.
>
> There is no provision here for emergency use of automobiles. And what about the working person, who works 5 or 6 days, and, finally, his weekend comes, a time when he is planning to do his shopping, or maybe to take a trip out to the lake? That takes a very small amount of gasoline. He is prohibited from doing that, while nothing is said about the truly energy-profligate people who all the rest of the week, have wasted energy and, maybe, did not have to work during the week.
>
> The amendment is replete with problems. Its intent we applaud, its purpose we applaud. The initiative, the imagination of the Senator from Connecticut, we applaud, because he is headed in the right direction. We want to encourage him to continue to seek ways to save energy. But with this particular amendment, we cannot agree. We, therefore, reluctantly urge the Senate to reject it.

Does that sound familiar? Does it sound familiar? To my colleagues I suggest the following: I supported President Carter here in the Chamber several weeks ago. I did not agree with all the prevision of his plan.

I thought it terribly important that the concept of conservation, mandatory conservation, be established. So I supported it with just as much passion and strength at my command as I support my own amendment.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. WEICKER. What is important is that the concept be established.

Mr. JOHNSTON. Will the Senator yield?

Mr. WEICKER. I will yield in just 1 minute. What is important is that the concepts be established.

We can undo conservation any time we want to. We can change it, we can amend it, we can do anything on the floor. But you have to start from the base, by accepting the idea of conservation.

Right now you have no plan. Two years ago my plan was no good. It needed refinement. We were going to have an energy policy. There is no more policy today or in the bill on the floor than there was 2 years ago. I do not have to argue about that. No eloquence of mine—and probably there is little of that—can be better than the facts of life in America today. You all know what the price of fuel is and how it has gone up. You know about the shortage of supply.

You know about the unfairness that exists. You know there is no end to what we live with today, tomorrow. Why do I have to get out here and argue for the fact that something needs to be done?

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. WEICKER. I yield to my distinguished colleague from Louisiana.

Mr. JOHNSTON. Mr. President, the last thing I would want to do is to appear to be unfair to the Senator, that is No. 1.

No. 2, I would not want to put this bill in jeopardy by extended debate, and I would be inclined, at the urging of the Senator from New Mexico (Mr. DOMENICI), to allow a vote on this by asking for unanimous consent for an immediate vote. Could we vote immediately?

Mr. WEICKER. Sure. Absolutely. I have no intention——

Mr. JOHNSTON. Let me yield to the Senator from New Mexico.

Mr. DOMENICI. I do not intend certainly to do anything that is going to preclude this returning to the Senator from Connecticut. I just want to address a few points that the Senator has made.

I think we ought to have a vote on the Senator's amendment. I believe you could have used the word "conserving" instead of "rationing" because your amendment does not prescribe a rationing scheme. It prescribes a sticker scheme which would preclude the use of a car for a given period of time out of a week or a period of days.

So on that score I do not want to deny you the right to a vote because I think one word changed makes it germane.

On the other hand, I want to make it very clear that I do not think we ought to adopt it in spite of the Senator's insistence that he has a conservation plan and no one else does, because that is the very thing that will preclude us from ever getting a conservation plan for our country.

The point we are making in this bill is that the Senate, through LOWELL WEICKER or PETE DOMENICI or Senator RIBICOFF, cannot devise on the floor of this Senate a conservation plan. In fact, we tried through EPCA to say to the President, "Come up with one and then send it to us."

We were so concerned about Presidential authority that what we said was, "But we have got to approve it," and we get into a fight here of should it help the States that do not use a lot of gas as much as the other ones? You know the history.

Now, the Senate should know after all of that, all of that history, that this bill is a bona fide effort, in the opinion of a majority of the Energy Committee and, hopefully, the Senate, to say, "Individual Senators cannot devise a conservation plan because it is rather a management program that Presidents and Governors should devise."

That is why we elect a President; that is why States have Governors. You can say, "Yes, but we have done nothing," and all the other things, and that is all true. But we have not to this point in history seen fit to address the energy crisis with a forthright bill that says, "Mr. President, you were elected President to come up with a conservation plan that is simple. First, set the targets you want to save in what fuels and put them out to the people. It is yours, Mr. President, and it is in force. Unless a State comes up with its own plan then enforce it and, if not, yours is the plan."

I submit that it is inconsistent and inappropriate for us to build on that LOWELL WEICKER's conservation plan, as much as I respect it, as much as I respect him. It is exactly what a President and Governors should do when this bill becomes law.

The reason I say it is that as many approaches as there are Senators who are concerned can come to this floor and amend this bill and say, "Mine is better, a 55 mile-an-hour mandatory speed limit is what we ought to have here for all America," and then we will get into a filibuster and it will take forever, because some States like it and some do not.

But the President can do it under our bill, and if the Governors have something better they can counter with it, and that is the plan.

So with all due respect to my good friend from Connecticut, a member of the Energy Committee, and his persistence is invaluable, his insistence on reminding us that we have done nothing but consume more is invaluable—but the measure is inconsistent with the approach we are trying to take and is no better than what Senator WEICKER thinks we ought to be doing, to wit, mandating a sticker plan on the automobiles in this country, and basically that is why I cannot support it.

I commend the Senator, and I think we ought to vote. I thank the Senator.

Mr. WEICKER. I intend to yield to my colleague from Connecticut. I do not intend to belabor the point, may I say to the distinguished Senator from Louisiana. I intend to sit down just as soon as I make a couple of points. Whatever time the Senator from Connecticut wants, we will vote after that and get out of here. I just want 1 minute to respond.

This is not in the nature of a substitute to the bill on the floor. This is in the nature of an amendment. What it says is that one small conservation step will be taken. Let the Governors and the President work out their larger plans and schemes.

The problem with this bill on the floor is that there is no time limit to it. The Governors can sit down, evolve their schemes and come back to the President—there is no time limit on it. It might take a year or more. There is absolutely no time limit.

It does establish, I admit, that small conservation step and, believe me, I could care less about Senator WEICKER. I supported President Carter, I support Senator METZENBAUM, I support anybody who has come to this floor with his conservation plan, and I will continue to do so.

I yield to my colleague.

Mr. RIBICOFF. Mr. President, I commend the Energy Committee managers for this bill for giving us this fresh proposal, but I see nothing inconsistent with the sticker plan put forth by my colleague from Connecticut.

The fact is that while the distinguished Senator from New Mexico, the distinguished Senator from the State of Washington and the distinguished Senator from the State of Louisiana have had constructive ideas, and the President of the United States has had ideas, the Congress of the United States as a whole has consistently and continuously frustrated any measure to bring mandatory conservation into effect.

Here we are as the people of this country on a long slide downward as to our power and our ability to live viably in an energy-short world.

What the Senator from Connecticut, my colleague, has proposed is not new. Four years ago he proposed the same idea. It has been picked up by many in Congress and throughout the country, but it was LOWELL WEICKER's idea originally.

What is good about the Weicker plan, the sticker plan, is its very simplicity and effectiveness. Every other proposal is complex, subject to a huge bureaucracy and frustration. Here we have an opportunity with the sticker plan to make a determination that if what you want is to save one-seventh of the amount of energy, the gasoline you use, each person picks his single day, and the law of averages is such that it will average out equally over the 7 days.

If it becomes necessary—and I predict it will become necessary—that we save two-sevenths of the amount of gasoline we consume, then each person will pick 2 days. Not only will we save energy that way but I think the Weicker plan will finally give an impetus to carpooling because the people who have to go to work and who live in the same neighborhood will between them make a determination as to which day they will take their cars out of circulation, and those people who work in the same area, the same factory, will carpool. A plan with such simplicity that will work is an obligation for the United States Senate to try to adopt.

Mr. President, I congratulate the Energy Committee for giving us this proposal at a time when it is clear we need a fresh perspective on national and personal energy goals. Americans have always responded to a call for some sacrifice when they were convinced of the need for it. The cutbacks we see in weekend driving indicate we as a people are starting to accept that we are in an emergency situation, and are ready to do more about it at a personal level.

The problem is that recent events have been so confusing to everyone. We are experiencing sharp price rise, yet we are unsure of the causes of these rises, above and beyond OPEC actions. There are shortages, but rumors abound of hoarding, inadequate refinery runs and middle-man speculation. We read of widespread cheating by various layers in the producing and distribution aspects of the energy business. There is too much name-calling. We all recognize it. It does not befit us.

It is time we all pull together, and the simplest way to do so is to set understandable goals. How much do we need to save, State by State, and even family by family? Given equitable and detailed goals, with the key role to be played by the States, consumers can become energy policymakers. We can have healthy competition among regions and States.

Mr. President, we import some 8 million barrels of crude oil every day. We also consume 7.4 million barrels of gasoline every day. Even a 10 percent nationwide cutback on driving would more than make up for the shortfall experienced due to the Iranian situation.

It would in fact give us more savings than the total projected by the President's decontrol policy. Yet it would mean each family must drive only 3 days less per month than it is now driving. That is not an unreasonable thing to ask for.

I have long thought that a sticker system would work. Each driver would refrain from driving one day a week, and display a sticker indicating what day he keeps his car in the garage. I would do it—my neighbors I know would. This is an understandable system.

The emphasis on positive goal-setting is the laudable thrust of this plan. We can set other goals as well. I was pleased the Senate passed a resolution yesterday authored by Senator Huddleston requesting the President to develop a goal to increase coal use. Coal production is just now returning to the level of the 1940's.

We could set goals for gasohol fuels, gasohol made not just from grains and wood but also from synthetics like methanol extracted from coal. If we wanted to badly enough, we could have total gasoline consumption 10 percent gasohol within 10 years. We can, as well set goals for small scale hydroelectric generation—in my own State of Connecticut we have 659 dam sites capable of generating electricity, but only 18 of them are currently in active use. There are many other examples of measures that could be taken.

We need a more concrete framework of achievable goals. S. 1030 is a positive step in that direction.

I see nothing in it by way of frustration, and I see nothing in the answer to the Senator from Connecticut that a single Senator, if he has an idea, should not try to get the Senate to adopt it. If a Senator has an idea that is worthy, we should adopt it, because the President's ideas and the ideas of Congress have led to complete frustration, economic decline, and a continuation of inflation in this country.

I commend my colleague from Connecticut, and I certainly will support him and vote for his proposal.

Mr. JOHNSTON. Mr. President, I think the senior Senator from Connecticut is perhaps not aware that this amendment calls for gasoline rationing in addition to the sticker plan. It is not a standby gasoline rationing plan, but one that is required to be implemented within 60 days, forthwith, without any direction from Congress as to how it should be implemented, without any right of Congress to take a look at the plan after it is promulgated, but a requirement for a program of gasoline rationing, which program shall stay in effect until repealed by Congress.

Mr. RIBICOFF. If the Senator will yield, I think that is exactly the prescription we need at the present time. I think Congress has fiddled around with this since 1973, and our record is dismal. What I like about the Weicker proposal is that he is putting it into place, and putting it in place at once. I think we have failed to do so, and I congratulate my colleague from Connecticut for having the foresight of trying to cut the Gordian knot, and cut it fast. I think that is the objective of my colleague.

Mr. WEICKER. It certainly is. There is no question about it.

Mr. JOHNSTON. Mr. President, just so the senior Senator from Connecticut understands that this is, in addition to a sticker plan, a plan for immediate implementation, within 60 days, of gasoline rationing.

Mr. President, the present parliamentary situation is that the objection that the amendment is nongermane has been sustained. However, I am willing to let the Senator have his vote on this measure. I would be very surprised if the Senate wants to go into immediate gasoline rationing at a cost of $1.7 billion or more per year, with all of the attendant difficulties. Nevertheless I think that if the Senator wishes a vote, I am willing, for one, particularly at the urging of the Senator from New Mexico, to allow that.

Therefore, Mr. President, I ask unanimous consent that the order for the yeas and nays be recalled, that the amendment of the junior Senator from Connecticut be considered as being reintroduced, that the point of order be recalled, and that a vote on the merits, up or down, on this amendment, proceed forthwith, with the yeas and nays.

Mr. DOMENICI. Mr. President, reserving the right to object——

The PRESIDING OFFICER (Mr. Melcher). The Senator from New Mexico reserves the right to object.

Mr. DOMENICI. I ask my good friend from Louisiana, is it the intention of Senator by that unanimous-consent request to make it such that there has not been a request or a ruling on the germaneness or nongermaneness of this amendment, so that there will be no precedent made that it was a nongermane amendment, that this will remove that from the record?

Mr. JOHNSTON. No, I had no reason to remove the precedent. I simply wanted to give the Senator from Connecticut a right to a vote.

Mr. DOMENICI. I wonder if the Senator would consider adding a statement to his request that would clear the record on the precedent that was established. I do not believe we have to establish that precedent to get on with this matter, and I believe it is serious enough that we should take it off the record. At some later time we can raise it, and in a bona fide manner have a debate and vote on it.

The PRESIDING OFFICER. The Chair would point out that removing the precedent could be done by unanimous consent; it could be expunged, but I wonder if the Senator from New Mexico has thought of the precedent that that would establish.

Mr. DOMENICI. All I am doing is, by unanimous consent, going back to a point in time and withdrawing the request and the ruling and, by unanimous-consent request, agreeing that we will vote.

Mr. JOHNSTON. If the Senator from New Mexico will withhold that request for right now——

The PRESIDING OFFICER. That unanimous-consent request could be agreed to without expunging the ruling.

Mr. JOHNSTON. Mr. President, I would not make that request at this time, but perhaps I can talk to the Senator from New Mexico about the matter.

Mr. DOMENICI. All right, then, I object until we talk a little more about it.

The PRESIDING OFFICER. The Senator from New Mexico objects.

Mr. DOMENICI. Yes, I object. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I reurge my unanimous-consent request, and ask the Chair to restate it.

The PRESIDING OFFICER. The Chair understands that the Senator from Louisiana has asked unanimous consent that the appeal from the ruling of the Chair be withdrawn and that the Senate be permitted to vote on the amendment offered by the Senator from Connecticut, notwithstanding the ruling of the Chair on the point of order, and that the vote be an up or down vote on the amendment.

Mr. JOHNSTON. That is correct, Mr. President, except that the vote proceed forthwith, and be by the yeas and nays.

Mr. DeCONCINI. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from New Mexico suggest the absence of a quorum?

Mr. DOMENICI. I did.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I renew by unanimous-consent request.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Is there a sufficient second for the yeas and nays on the amendment? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from New Hampshire (Mr. Durkin), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), and the Senator from Florida (Mr. Stone) are necessarily absent.

I further announce that the Senator

from Florida (Mr. CHILES) is absent on official business.

I also announce that the Senator from New York (Mr. MOYNIHAN), is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 10, nays 79, as follows:

[Rollcall Vote No. 116 Leg.]

YEAS—10

Hart
Hatfield
Kennedy
McGovern
Metzenbaum
Percy
Ribicoff
Roth
Tsongas
Weicker

NAYS—79

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Leahy
Levin
Lugar
Mathias
Matsunaga
McClure
Melcher
Morgan
Muskie
Nelson
Nunn
Pell
Pressler
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Talmadge
Thurmond
Tower
Wallop
Warner
Williams
Young
Zorinsky

NOT VOTING—11

Chiles
Church
Culver
Durkin
Javits
Laxalt
Long
Magnuson
Moynihan
Packwood
Stone

So Mr. WEICKER's amendment (UP No. 216) was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I simply want to point out to my colleagues that the majority leader and the leadership request that we finish this bill tonight. We still have undisposed of about 10 amendments.

So I simply urge my colleagues to debate fully and thoroughly, but very briefly, all amendments.

I thank the Chair.

UP AMENDMENT NO. 217

(Purpose: to prohibit hoarding of fuel)

Mr. HUDDLESTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. Huddleston) proposes an unprinted amendment numbered 217.

The amendment is as follows:

On page 14, after line 4, add the following:

HOARDING PROHIBITION

SEC. 209. (a) Section 16 of the Emergency Petroleum Allocation Act of 1973 is amended by striking ", during a severe energy supply interruption (as defined in section 3 of the Energy Policy and Conservation Act)".

(b) The President shall amend the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 to reflect the amendment made by this section not later than 30 days after the date of enactment of this section.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Montana (Mr. MELCHER), be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, this amendment is intended to stop the hoarding of gasoline which already has begun in recent weeks, and which I think we can reasonably expect to escalate in the coming months if it is not checked.

All of the impetus you need for hoarding is present—gasoline prices are rising at unprecedented rates; it is often hard to find a gasoline station open, and when you do it probably has a line; and there is a very real threat that the situation is going to get worse before it gets better.

Under these circumstances, there is always going to be a certain group of people who consider their own needs to be unique; a certain group of people who will go to any lengths to be sure that their own needs are met regardless of the effect it has on their neighbors, their friends, and on the Nation as a whole.

It would be bad and potentially disastrous national policy to let this kind of attitude prevail. We have already seen the effect that "topping off" has on overall supply. You could probably magnify that 500 times over if we permit it to become common practice for individuals to bury gasoline storage tanks in their backyards, and hoard enough gas to keep them going for 1, 2, 3, or more years.

The President has the authority to prohibit any person from "willfully accumulating crude oil, residual fuel oil, or any refined petroleum product in inventories, or otherwise, in amounts which are in excess of such person's reasonable needs." But, that authority is only applicable during "severe energy supply interruptions." This amendment would remove that restriction on the President's antihoarding authorities.

Mr. President, we already are in a very tight energy supply situation. Hoarding can only make our situation worse, and it can possibly precipitate a crisis.

I ask unanimous consent that an article from Sunday's Washington Post on hoarding in this area be printed in the RECORD, at this point:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOME FAMILIES BUYING TANKS TO HOARD GAS

(By Blaine Harden)

Former secretary of the Navy J. William Middendorf's solution to the gas crunch is a 4,000-gallon gasoline tank buried in the front yard of his home in McLean.

The tank which cost $3,000 installed and is large enough to supply the average American car with gasoline for more than seven years, is what Middendorf calls "an insurance policy for the future.

"I find myself in a situation where I have to get places," he said. "I'm in constant demand from a business, social and political point of view."

Middendorf is among scores of well-to-do people in the Washington suburbs who are spending between $150 and $3,000 to install gasoline and diesel fuel tanks near their homes. In Montgomery County alone, about 100 permits to install private tanks have been issued this year.

Although installation of the private tanks is perfectly legal, it is officially discouraged and has one major drawback—few, if any, distributors are willing to deliver fuel to a private home.

"You can't get gas for those tanks now", said Harvey Richard, manager of the Fairfax office of Southern States Cooperative Inc., an oil distributor. "If someone calls us and asks about a tank, we say we probably won't be able to fill it. We tell them they are wasting their money."

Middendorf, who was appointed secretary of the Navy in 1974 by President Nixon and who now is president of Financial General Bank Shares Inc., has not yet found a company that will fill his tank, one of the largest at a private home in the Washington area. But he continues to look for a supplier.

Other suburbanites seeking to assure themselves a gas supply include William B. Ingersoll, a prominent Washington lawyer who three weeks ago installed a 560-gallon diesel fuel tank in his Springfield home. The tank, Ingersoll said, will keep his 1978 Oldsmobile Custom Cruiser Wagon running for one year.

"There is a twinge of conscience [about hoarding fuel], but I felt there was no prohibition about doing this," he said.

Alan Hales, a computer marketing expert, bought a 550-gallon gasoline tank for the back yard of his Fairfax County home "because I saw the shortage coming." Hales, an Englishman who said he also keeps 12 loaves of bread in his freezer, said that as a European he is accustomed to shortages.

"I saw a shortage sooner than my contemporaries in America," said Hales, who bought his tank three months ago. "I'd sooner gasoline was hoarded in my back yard than in a tanker off the coast of New Jersey."

William Lasley Jr. and his wife, Joyce, of McLean said they complied with county regulations and invested $235 in a 275-gallon diesel fuel tank because they "cannot afford to be without fuel."

Joyce Lasley works as a nurse anesthetist at Clinton Community Hospital in Clinton, Md., a 45-minute drive from her home. She said she frequently is called at night to come to the hospital for emergencies.

"I can't call the hospital where there is an emergency and tell them that the service station that sells diesel is closed," she said. "I have to be available or I can't have my job."

The Lasleys get their diesel fuel from the Northern Virginia Oil Co. of Vienna, which doesn't guarantee its recent customers a fuel supply. Five oil distributors contacted in Maryland and Virginia said they cannot guarantee gasoline to people who want to install tanks.

"I get several calls every day from people wanting to put in tanks," said Dave Gee at H. P. Kidd Oil Co. in Landover. "I say, 'Don't do it. We don't have the gas.'"

Both tank dealers and officials in Alexandria and Fairfax, Prince William, Prince George's and Montgomery counties report a sharp increase in the past two months in the number of inquiries about where to buy and how to install the tanks.

Montgomery County Chief Fire Marshal John Dalton said, "As soon as the gasoline crisis or whatever you call it hit, the requests for permits rose."

The Department of Energy recommends against hoarding gasoline or diesel fuel in home tanks. DOE spokesman Tom Tatum said, "All this will do is aggravate the international oil situation by reducing the already tight supply."

There are no federal rules against installing gas tanks on private property and anyone has the right to go out and try to find somebody who will sell fuel, according to Will Webb, a spokesman for energy regulations at DOE. But he noted, "We would be very surprised if they [tank owners] could find any distributor willing to sell."

"Most distributors in the country are operating with 80 percent or less of their gasoline allocation from last year," Webb said, adding that they simply are not looking for new customers.

Installing a gasoline tank in most Washington jurisdictions (with the exception of Prince George's County, which does not allow them in residential areas) involves getting both a building permit and a special permit from the local fire marshal's office.

In Fairfax County, where at least six gasoline and diesel tanks have been installed in private homes in the past two months, the bureaucratic complexities of putting in a tank have discouraged many of the hundreds of callers to the county fire marshal's office.

"When they find out what the requirements are, they usually forget about the tanks," said Deputy Chief Fire Marshal Ronald M. Peck. He explained that the tanks must be properly vented, installed on firm foundations and inspected before they can be used.

Montgomery County requires that underground gasoline tanks be at least 15 feet from a house and 50 feet from the nearest property line.

Mr. MATSUNAGA. Will the Senator yield?

Mr. HUDDLESTON. Yes.

Mr. MATSUNAGA. Mr. President, I am happy to join with the Senator from Kentucky in cosponsoring the amendment. I think it is a crying shame that among us presumably upstanding Americans are those who would resort to digging their frontyard and burying a 4,000-gallon tank for the purpose of hoarding gasoline.

If those who are supposed to be leaders of this Nation at one time or another resort to such unconscionable practices, then we certainly do need to legislate to discourage others who might otherwise do likewise.

Unless we adopt the pending amendment, hundreds, if not thousands of others, now in the process of either putting in reserve tanks on their cars or burying storage tanks in their backyard or even in their frontyard, will be encouraged to do so, and I will impress upon my colleagues that these are the ones who can afford to hoard. The poor people, will once again be at a disadvantage, because they do not have the money to buy that extra tank. Indeed, many of them do not even have a backyard or frontyard to dig.

In the light of what panic-stricken consumers are likely to do, I think this is a fair amendment. By adopting the amendment, we will let all Americans know that they are going to be treated fairly in case of an energy emergency.

I congratulate the Senator from Kentucky for his timely and expeditious action in offering a necessary amendment under the present circumstances, and as its cosponsor I urge its adoption.

Mr. HUDDLESTON. I thank the distinguished Senator from Hawaii.

Mr. President, I believe this amendment has been cleared with the committee on both sides.

I yield now to the distinguished manager of the bill.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I congratulate the Senator. I really mean this because but for this amendment it would be possible to bring on a shortage by hoarding.

As the Senator pointed out, people are buying 500- and 300-gallon tanks, putting them in their backyard, and making the possibility of hoarding up everybody else's gasoline and creating the shortage.

But for this amendment, hoarding would not have been prohibited, except in a severe supply interruption.

Mr. President, we accept the amendment with gratitude to its authors and urge the Senate to accept it.

Mr. HUDDLESTON. Mr. President, I move the adoption of the amendment.

Mr. DOMENICI. Mr. President, I join in commending the Senator from Kentucky for presenting us with this amendment and the opportunity to do what is right.

I think it is an asset to put on as an addition to this bill. On my side, we accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 217) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. Are there further amendments?

Mr. JOHNSTON. Mr. President, does the Senator from Utah have an amendment?

Mr. HATCH. I think Senator HELMS is prepared to go ahead with his amendment. Ours is being typed.

Mr. JOHNSTON. Mr. President, I know that Senator HELMS has an amendment, and we are working on an amendment with the Senator from Utah.

I urge all other Senators who have amendments to be ready shortly after Senator HELMS, who advises me that he will be very brief.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 218

(Purpose: To amend the Internal Revenue Code of 1954 to reinstate the nonbusiness deduction for State and local taxes on gasoline and other motor fuels)

Mr. HELMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 218.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

"Section 164(a) of the Internal Revenue Code of 1954 (relating to taxes) is amended by adding at the end thereof the following new paragraph:

"(5) State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels.".

SEC. 2. (a) The heading of paragraph (5) of section 164(b) of such Code (relating to separately stated general sales taxes) is amended by adding "and gasoline taxes" after "general sales taxes".

(b) Paragraph (5) of section 164(b) of such Code (relating to separately stated general sales taxes) is amended by adding "or of any tax on the sale of gasoline, diesel fuel, or other motor fuel" after "any general sales tax".

SEC. 3. The amendments made by the Act shall apply to taxable years beginning after December 31, 1978.

Mr. HELMS. Mr. President, under section 904(b) of the Budget Act, I move to suspend section 311 of the Budget Act for consideration of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. JOHNSTON. Mr. President, will the Chair state the question?

The PRESIDING OFFICER. The motion is debatable.

Mr. JOHNSTON. This is a motion for a budget waiver?

Mr. HELMS. Yes.

Mr. JOHNSTON. Mr. President, I asked the distinguished Senator from Maine (Mr. MUSKIE) if he was aware of this, and I think he is going to check it out. If the Senator will withhold the motion at this time and perhaps debate the body of the amendment, then we can hear from the Senator from Maine.

Mr. HELMS. Just let the motion lie for a moment, Mr. President.

The PRESIDING OFFICER. The motion is debatable.

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, this is a simple amendment. It would restore the itemized deduction for State and local nonbusiness gasoline and motor fuel taxes. This deduction was deleted from the Tax Code by the Revenue Act of 1978, which was enacted into law during the frenzy of the final hours of the 95th Congress. The language of my amendment is identical to that of S. 79, which was introduced at the beginning of this session. Cosponsors of S. 79 include Senators HATCH, TOWER, FORD, MELCHER, STEVENS, RIEGLE, GARN, SCHMITT, and HUMPHREY.

We believe that Congress should restore the deduction for the following reasons:

First. The absence of this deduction will be felt most severely by middle-income taxpayers.

Second. Its elimination will help undermine the incentive for taxpayers to make use of itemized deductions.

Third. Its reenactment will have no perceptible effect on energy consumption.

Fourth. It was deleted without adequate deliberation by Congress.

Beginning this year, individuals who itemize will no longer be allowed to deduct State and local excise taxes imposed on gasoline, diesel, and other motor fuels which are not used for business purposes. If Congress fails to restore this deduction, the middle-income taxpayer will bear the greatest burden in additional taxes. According to U.S. Treasury Department figures, over 70 percent of the revenue raised from the repeal of this deduction will come from taxpayers making less than $30,000 a year. In 1983 alone, the elimination of this deduction will, according to the Treasury, take an additional $2.2 billion from the pockets of the American taxpayer who must also face spiraling fuel prices. At a time when the Government was promising tax relief, it thus used a "backdoor approach"—no other characterization can be made—to impose another new tax on a large segment of American society.

The repeal of this deduction is part of a much larger scenario of tax reform, a scenario that represents a changing attitude within the Treasury Department regarding tax legislation. Congressional approval of the administration's decision to end the gasoline tax deduction amounts to a disguised attack on the class of itemized deductions. By eliminating deductions one by one, value of itemized deductions to all taxpayers will be gradually eroded.

According to the Treasury Department's own figures, taxpayers with incomes under $25,000 accounted for over 65 percent of the itemized returns in 1975. These are middle-income people who work hard for their take-home pay.

It is our opinion that Congress should view itemized deductions as a class when making revisions in the tax law. As each deduction is eliminated, fewer taxpayers are provided the incentive to itemize. As a matter of policy, we suggest that Congress avoid this piecemeal approach and consider the total effect that is created by the repeal of itemized deductions.

Unfortunately, tax reformers have tricked both Houses of Congress into dealing with deductions by following an item-by-item approach. When it comes time to change the Tax Code, all attention is focused on the merits of one narrow issue. Last year it happened to be the gasoline tax. Will the itemized deduction for State income taxes be next? Followed by elimination of the itemized deduction for interest on home mortgages?

Concern about the conservation of energy and the reduction of oil imports has been a primary argument supporting the deletion of the gasoline deduction. In our opinion, the elimination of this deduction will have little effect in assisting our Nation achieve its energy goals. Instead, it will create an unfair tax burden not just for taxpayers in western and rural States who must drive greater distances, but also for suburban commuters who must drive their automobiles to work. We promised our constituents a tax cut and then turned right around and deleted a meaningful deduction. We disguise our actions by claiming that it will somehow help cure our energy crisis. If this measure is designed to save fuel, how can Congress allow business to maintain its fuel deductions? Or will business be next?

When the elimination of this deduction was considered by the Finance Committee last fall, it was added to the tax bill during the final hours of markup. When the tax bill reached the floor of the Senate, an amendment to restore the deduction was ruled "out of order" because it would have lowered projected revenues below the legal limit set by the budget resolution. The Senate, as a whole, was not allowed to vote on the measure. Because of this parliamentary technicality, the Finance Committee's supposed "recommendation" became law without adequate review by the Senate.

In 1977, an amendment to delete this deduction was soundly defeated by a vote of 65 to 12. We believe the outcome last session would have been much the same—had the Senate been allowed to vote. We now have the opportunity to reinstate the deduction and I urge support for the amendment.

Mr. President, I ask unanimous consent that the names of the distinguished Senator from Kansas (Mr. DOLE) and the distinguished Senator from North Carolina (Mr. MORGAN) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. PROXMIRE. Mr. President, the Senator from North Carolina knows of my very great respect and admiration for him. He is a very able Senator and has an excellent imagination and takes a lot of initiative and does a lot of things that do not occur to other people. He also has a lot of courage.

However, I wonder about this amendment. Just off the top of my head, it does not seem to make any sense for us to put into effect now, this year, under the present circumstances, a specific tax deduction that the motorist can take for using gasoline. At a time when we have a shortage of gasoline, to provide a change in the law that would provide an incentive that we do not have now seems to be going precisely in the wrong direction and makes us look ridiculous. That is my impression, and I could be wrong.

The Senator is so thoughtful about these things and so able that I am sure that if I am wrong, he will tell me and explain why.

Mr. HELMS. As I said earlier, it will have no perceptible effect on the consumption of gasoline.

Mr. PROXMIRE. Why not?

Mr. HELMS. Because my amendment basically affects middle-income people who, because of the inflation which the Senator from Wisconsin has talked about so often, are living right up to their cheekbones in trying to make ends meet. This is a matter of equity.

Mr. PROXMIRE. I understand the equity part of it, but it is not an incentive if a person can now subtract what is becoming a larger and larger portion of our income? After all, the gasoline tax that we pay to the State is getting higher. In my State, they are proposing a tax that is not related to the gallonage but to the value of the purchase, which would make the tax higher.

If you are able to subtract that from your income in computing your income tax, it would increase your income the more gas you use.

So it would seem to me that there would be an incentive there. At least, there is less of a disincentive to use gas. The price disincentive we have now would be mitigated somewhat.

Mr. HELMS. Not perceptively to this Senator, particularly when gasoline is roaring upward in cost to as high as $1.50 a gallon, according to predictions I heard on television last Sunday by one of the oil company presidents.

I think that what the Senator is saying, instead of being an argument against my amendment, is really an argument in favor of it; because my amendment returns to the middle-income taxpayer, who bears 65 percent of this burden, some equity which he does not now have. Indeed, I do not believe there is any evidence that the removal of this deduction last year has reduced gasoline consumption. I do not believe the removal of the deduction has provided any real disincentive since the financial penalty is so far removed in time from the purchase of the gasoline.

As I mentioned earlier, this deduction was repealed in the closing hours of the last Congress without any consideration at all. I think there should be hearings on it.

Mr. PROXMIRE. We are told over and over and over again that one clear market disincentive for buying gasoline and traveling is the price. As the price goes up people are just going to find somehow at some level, maybe $1.50 or higher, they will not be able to afford to travel as much.

The Senator's amendment would make it somewhat easier, maybe not really, but somewhat easier because you can subtract the State gasoline tax that you pay on your Federal income tax; therefore, there is less discouragement for traveling. I can see if we can solve the energy situation and the gasoline prices begin to go the other way and we have a surplus, then I think the Senator would have a very strong argument. Under the present circumstances it seems just the facts of economic life would overwhelmingly argue against his amendment.

Mr. HELMS. I thank the Senator. It is one of the few times I differ with him.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. JOHNSTON. I am advised that the amendment is subject to two points of order. One has to do with the Budget Act with which the Senator is probably familiar.

Mr. HELMS. I am.

Mr. JOHNSTON. I am also advised

this is subject to a constitutional point of order, and that is a revenue measure which under the Constitution must originate in the House of Representatives. The Parliamentarian advises that if the point of order were raised he would then submit the matter to the Senate to vote on. If the Senate, nevertheless, went along with the Senator from North Carolina and attached this amendment, then any single representative in the House of Representatives could raise the point of order and send it back to the Senate with what they call the blue slip. In other words, without even any consideration, the matter would be sent back to us.

It seems to me, first of all, I know the Senator from North Carolina does not want to kill this bill and recognizes this is a bipartisan effort at energy conservation. And in view of that fact I wonder if the Senator would be prepared to withdraw the amendment and have it considered in the Finance Committee where it properly belongs, because otherwise we are accomplishing nothing. If the Senator wins here in the Chamber, then it will be sent right back to us with a blue slip and all we have done is either kill or delay the measure. And I know the Senator does not want to do that.

Mr. HELMS. I do not believe that one Member of the House of Representatives could blue slip the bill and send it back. I differ with the Senator in his interpretation of the Rules of the House of Representatives. But I do not think I alone can make the judgment of withdrawing the amendment, because there are so many cosponsors of it. I am going to add another one right now, the distinguished Senator from Alaska (Mr. STEVENS). I ask unanimous consent for Mr. STEVENS to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. LONG. All it takes is one person who might for any reason see fit to make the point of order in the House of Representatives and the Parliamentarian would have to rule that this is a revenue measure.

We have had these debates out here where some have contended that the revenue aspects of a bill were only incidental to other purposes and that the courts would sustain it, but the heck of it is where that type of argument is made it does not do any good in the House of Representatives, because those people are jealous of their prerogatives and they simply insist that if there is a revenue aspect of the bill that makes it a revenue bill and all it takes is one person to make the point of order and the judgment of the Parliamentarian and back it comes. And under those circumstances all that would happen would be, if the Senator were successful, they would send the bill back to us.

I am not here seeking the Senator to offer his amendment on one of the bills I will be bringing out here from the Finance Committee, but that is what he should do. If he wants to offer it he should offer it on a revenue bill.

Mr. HELMS. My amendment is identical to a bill I introduced earlier which is before the Senator's committee.

Mr. LONG. The point is that we will have revenue bills out here and that would be the appropriate vehicle on which the amendment should be offered. It should be offered on a revenue bill, and I am not particular. The Senator can offer it on whatever revenue bill he wants to offer it on. I never object to someone doing what he has a right to do anyway.

Mr. HELMS. I understand the Senator is always most patient.

Mr. LONG. I might not stay with the amendment but I would have to recognize the Senator's right to offer it and have a vote on it, and I respect that. But I think he should offer it on a revenue bill, because otherwise this bill is not going anywhere. It is just going over there and will come right back to us. We may have a revenue bill here on the calendar about now that in due course the Senator can offer the amendment on. I am not here to pass judgment on it one way or the other. But I suspect we may have a revenue bill here on the calendar to which perhaps it could be offered now, but there will be others out here, I say to the Senator, because we are rather hopeful we will be able to cut some taxes this year and if we do not do that we are going to have to extend the debt limit anyway, so he could offer the amendment on one of those and it would be completely in order.

Mr. HELMS. I will ponder the Senator's suggestion. Meanwhile I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I am pleased to join the Senator from North Carolina in proposing his amendment to deal with this Federal tax deduction for State and local nonbusiness gasoline and motor fuel taxes.

I am pleased not only because I favor the amendment, but also because I feel it is important that Senators have the opportunity to vote on this issue. The Senate should recall that this deduction was eliminated in the Revenue Act of 1978 when, due to a parliamentary technicality, the Senate was restricted from voting on the elimination. I am convinced that, had this body been permitted a vote, the deduction would have been retained and we would not have had a situation where a Finance Committee recommendation to change existing law became binding on the Senate. Over the past several years when this issue has come up the Senate has continually voted to retain this deduction. I strongly believe that the issue should be raised again so that the deduction can be given consideration by the full Senate of the 96th Congress.

I found it ironic that, during consideration of the 1978 Revenue Act, which was technically a tax cut bill, we effectively increased taxes paid by many Americans by virtue of the elimination of the deduction for gasoline taxes. We were telling people that their individual income taxes would be reduced, thereby providing a $7.3 billion tax cut. But we were not telling them that, with the other hand, we were eliminating this gas tax deduction and effectively increasing their taxes by $3 billion. It should be noted that the gasoline tax deduction is not a rich man's loophole. It primarily benefits those taxpayers with adjusted gross incomes of between $10,000 and $50,000, the very income group which is rightfully labeled the "overburdened middle-class taxpayer." In addition and fundamental to the call for reinstatement of this deduction is the tenet that income should not be taxed twice. In other words, income upon which a State gasoline tax has been imposed should not be taxed at the Federal level. It is the same rationale used for the deduction of State and local income taxes, and I strongly doubt that this body would be willing to eliminate that deduction.

Again, Mr. President, I commend the Senator from North Carolina for proposing this amendment and hope the Senate will vote, as it has in the past, in favor of the Federal tax deduction for State and local gasoline taxes.

Let me say to my good friends one of the reasons I commend the Senator from North Carolina for bringing this up now is that this Senator, for one, is getting very tired of the other body establishing rules that we automatically genuflect to.

Let me explain to the Senate what the House did just 2 weeks ago with regard to the oceans resolution that annually we pass. This resolution to observe Oceans Week has traditionally been a nonpartisan, noncontroversial item.

This year, however, someone in the House of Representatives has decided that in order to get one of those resolutions before that body there must be the signatures of one more than one-half of the Members of the House of Representatives. We had only 2 days to get those signatures so obviously it was not done and as a result the oceans resolution did not pass this year.

I give notice and I hope my good friend, the majority leader, is listening, that so long as I am capable of doing so I am going to object to the consideration of any resolution from the House of Representatives that tries to establish a day or a week for national observance, unless and until it has been voted upon bringing it up on the floor of this body.

It is time that the Senate stood as a body and demanded full rights with the House of Representatives. We have their points of order rules. We have their new rules of nongermaneness that they apply to Senate bills. And now we have their new rules considering the consideration of Senate resolutions. The reason I join the Senator from North Carolina in this effort is that what he is doing is absolutely in accordance with our rules.

It is not subject to a point of order and so far as this Senator is concerned it is not unconstitutional. Now is a good time for the Senate to decide to show the House of Representatives that legislation is a two-way street in Congress.

Unless we do this, unless we restore as far as I am concerned the dignity, the power, and the equality of the Senate, we are going to continue to go to conference committees, try to work something out, and come back and find that one or two people in the House of Representatives can frustrate the will of Congress as a whole.

To say that I am disturbed about what is happening in terms of the continued deterioration of the relationship between the House of Representatives and the Senate is an understatement. I understand that the Senator from Louisiana, as chairman of the committee, would like to see this matter brought up during consideration of a revenue bill, and I understand why the sponsors of the bill would like to see it brought up in relation to another matter, because it is going to be a vexatious matter in conference, but it is time the Senate had some guts. And I am really serious in saying that we have to stand up for our rights, and one of the rights that a Senator has is to offer an amendment and, if the majority of this Senate will support it, it should receive full consideration by Congress as a whole without regard to some blue slip treatment.

Back when I first went to the territory of Alaska, I learned what a blue slip was. It was a slip they gave to someone who was considered undesirable that entitled them to get on the next plane leaving the territory. It was one of the most unconstitutional things I ever heard of, and that procedure ended when I became the U.S. attorney for Alaska.

As far as I am concerned, the proprocedure of a blue slip with regard to any amendment of any Senator of the United States in the House of Representatives is going to end sometime during my tenure as a U.S. Senator, and I put the other body on notice at this time.

Mr. LONG. Mr. President, let me just read from page 721 of the Senate Manual. I am reading from the Constitution of the United States. This is on page 721. It is section 7 of the Constitution of the United States:

> All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Now, under that provision the House of Representatives has consistently held that even appropriation bills are revenue bills, and they must originate in the House, and when we have undertaken to send appropriation bills over to them, the House will not even consider them.

I have talked to distinguished members of the Appropriations Committee, Senators like the late Richard Russell, who would make the point to me that he did not feel an appropriation bill was properly a revenue bill. But he said:

> The heck of it is we cannot get into court to decide it because the House will not consider an appropriation bill that originates in the Senate. They just will not consider it at all.

They look upon a bill to cut taxes, like one to raise taxes, as a revenue bill, and they say that under the Constitution revenue bills must originate in the House.

The intent clearly was that it must be a revenue bill when it originates in the House. It cannot be a bill to authorize something and then become a revenue bill over here. It has to be a revenue bill that originates in the House of Representatives.

Anyone who does not like the amendment the Senator has merely has to contact a friend over in the House and make the point that we are sending a revenue amendment over there, and this is a revenue bill that originated in the Senate, and a point of order should be made. Someone will make the point of order, and the parliamentarian will advise the presiding officer that is exactly correct, and back the bill comes. So anybody under his oath to uphold the Constitution if he feels that way about it is under a duty to make the point of order.

I will be glad, Mr. President, to vote on a measure which is attached to a revenue bill, and if the Senator would like to appear before us and then discuss his amendment I would be happy to hear him before the committee, and he can make his case and, in due course, we will vote on it either in the committee or on the floor, however the Senator would like to do.

But I will make the point that it should be a revenue bill and not a bill that is not a revenue bill.

Mr. HELMS. How about my bill, S. 79, could we get a hearing one morning on it?

Mr. LONG. I would be happy to have the Senator come and testify on the bill or on an amendment. So far as I am concerned, may I say, I would be happy to hear the testimony with regard to any bill he would offer. This could be offered on a social security bill, on a trade bill, on a tariff bill, anything, as long as it falls in the general category of being a revenue bill.

Mr. HELMS. It could be offered on anything that qualified.

Mr. LONG. We have a lot of bills in the Committee on Finance to which the bill could properly be offered. I would urge the Senator to offer it on one of those. If he would like to come before the committee I would be happy to invite him to come before the committee.

Mr. HELMS. Mr. President, while we check a couple of Senators who are cosponsors of this amendment, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold?

Mr. HELMS. Surely.

Mr. ROBERT C. BYRD. Mr. President, I would hope the distinguished Senator would be able to withdraw his amendment. I discussed it with him and he has considered that, the reason being that the Constitution has been quoted here, article I, section 7, I believe, which clearly rules out the raising of revenue measures in the Senate. The Senate can add amendments to those revenue measures, but no revenue measures can originate here, even though it qualifies under a time agreement. A point of order could not be made against it, would not be upheld I should think on the question of germaneness, but there is a deeper question than that, and that is a constitutional question.

I would hope—and I would have to support the Senator from Louisiana or any other Senator who would make the constitutional point against this—not because of what the House will do, and I do not doubt that they will raise a point of order, too, not because of that, so much as we are flying in the face of the Constitution here, in my judgment.

I would have to support the constitutional point. I hope the Senator will withdraw it and thus save us from going through that useless procedure.

Mr. HELMS. Mr. President, will the Senator take a look at that list and indicate what he thinks the appropriate vehicle might be for my amendment and when it might come up in the Senate?

Mr. ROBERT C. BYRD. Oh, yes, and the Senator from Louisiana really is the Senator to whom that question should be addressed, because his committee has jurisdiction. As I look hurriedly over this, I see several here: the debt ceiling——

Mr. HELMS. Are those measures on the calendar?

Mr. LONG. Not on the calendar.

Mr. MATHIAS. Mr. President, while the majority leader is looking at the list, I wonder if he would yield to me temporarily so that I can ask a question of the manager of the bill?

Mr. ROBERT C. BYRD. The Senator from Louisiana can inform the distinguished Senator from North Carolina as to when other legislation will be before his committee. He has named various measures which would be appropriate vehicles.

Mr. LONG. May I say to the Senator from North Carolina, we are going to have, among many others, the windfall profits tax bill to vote on; I hope we are going to have a social security bill that is a bill that would have to do with health care, to amend the social security laws; we are going to have a hospital cost containment bill, and that would be in the social security area, but I think that would fall in the category of a revenue bill.

In addition to that, the House always sends us, once they are cranked up and get going, a whole lot of less significant revenue bills which, of course, would all qualify as a vehice on which the Senator could attach his bill as a rider. He is not going to find a shortage of opportunities to offer that amendment in the latter part of the session if the House gets their bills over here.

I complained and I have been complaining, and I always complain, about the progress in the House which is slow in getting revenue bills to us. But in the last half of the session there are a lot of them that they send over here, and many of those would be appropriate vehicles.

Mr. HELMS. Let me check. I will need 2 or 3 minutes.

Mr. LONG. Many of those will be appropriate vehicles to attach his amendment to.

(Mr. HEFLIN assumed the chair.)

Mr. ROBERT C. BYRD. The Senator wants to address some questions.

Mr. MATHIAS. To the managers of the bill.

If the Senator from North Carolina will be so kind as to let me just ask a couple of questions.

Mr. President, I notice that on page 13, line 20, there is a provision for the expiration of the emergency program to conserve energy which provides that—

> No plan would continue in effect in a State for longer than 12 months unless the President finds conditions continue and require

an extension and that any finding of the President under this section shall be accompanied by such information and analysis as is necessary to provide a basis for such finding, and shall be available to the Congress and to the public.

I think the committee is very right in focusing attention on expiration. I suppose I have two questions to ask. One is, does that provision not permit the President to continue a plan almost indefinitely by annual extensions, and that although he has to expose the reasons for it he does not require any additional authority to extend it? I just raise a public policy question as to whether we want to set a ball like that in motion and let it roll downhill forever.

Second, is this in conflict with the legislation we have adopted which provides an orderly means for limiting the duration of emergencies which may be proclaimed from time to time, and whether this would fall within the purview of that legislation?

Mr. JOHNSTON. Mr. President, I say to my good friend from Maryland that the President may not invoke the authority herein provided unless one of three conditions occurs: Unless there is a severe supply interruption; or unless a severe supply interruption is imminent; or unless it is necessary to meet the requirements of the international energy program which calls for, in turn, an international burden sharing or international conservation program. In order for the President to invoke any authority under this act, he must make findings relative to one of those three conditions.

Under section 208(a), at the end of 12 months, for any Federal program implemented under this act to continue for more than 12 months, the President must make new findings that one of the three conditions I have just quoted—and those conditions are found in section 201(a)—still exists; so that, while he may renew at the end of 12 months, he may renew conditionally only, upon finding those conditions still to exist.

I might also point out that there is a requirement that the President review from time to time, not just every 12 months but from time to time, the conditions of section 201(a) to determine whether it is still appropriate to invoke those provisions.

So I think there is more than adequate protection to insure that the matter not be extended indefinitely without good reason.

Mr. MATHIAS. I would hope the distinguished Senator is right, and I hope that I do not take too gloomy a view of the years immediately ahead; but I apprehend that one of those conditions may be in effect in every year of the rest of this century.

Mr. JOHNSTON. I fear that the Senator is correct, and his question may be wholly academic.

Mr. MATHIAS. So we would then be giving the President the power to put into effect what is an emergency program on an almost permanent basis, by just doing a little paperwork on each anniversary.

Maybe that is all right. If we do it, though, I think we ought to do it with our minds open to the fact that that is the case.

I do not know whether the Senator has had an opportunity to see how it relates, if it does, to the National Emergencies Act. Perhaps it does not. I personally have not had a chance to study that question. But perhaps the managers of the bill could have committee counsel look at that question and advise the Senate before we reach final passage on this measure.

Mr. JOHNSTON. I think the Senator is bringing up a very interesting question. I do not believe it is inconsistent with those provisions, but we will have counsel look at it nonetheless.

Mr. MATHIAS. I thank the Senator.

Mr. DOMENICI. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. Surely.

Mr. DOMENICI. Let me say to my good friend the senior Senator from Maryland that I, too, join in thanking him for raising the point, and I would like to just add my observation; it will be brief but twofold.

In addition to the points raised by the Senator from Louisiana as to the findings, I would call the Senate's attention to section 102(c) on page 3, where it is made clear that the President would have to find a fuel in short supply, that as a matter of fact he would find that fact in addition to the other findings.

That may, as the Senator indicates, with the passage of time and the problems we will have, be a recurring event, and be there for a number of years.

But in addition, before we complete this bill, we are going to agree to an amendment that the Senator from Utah (Mr. Hatch) will offer, which will clearly provide for an expedited judicial review of that fact.

That does not satisfy the question as to termination——

Mr. MATHIAS. I am not sure we can——

Mr. DOMENICI. Nor am I.

Mr. MATHIAS. I agree with that. I can delegate to the judges authority that really rests on our shoulders.

Mr. DOMENICI. I understand. I only say that would be a check on the President's merely doing it arbitrarily.

Mr. MATHIAS. I agree with that. I think that is good. Of course, I think when the President has to make findings that the fuel is in short supply, he could probably have photographs taken, one in California, one in New Mexico, and one in Maryland, of some people waiting in line at filling stations, and he would have photographic evidence that fuel is in short supply at various places in the United States; so I do not think he will have much difficulty in making that finding, and I think we ought to approach this question of termination with our eyes open.

Mr. JOHNSTON. I thank the Senator from Maryland.

Mr. HELMS. Mr. President, I wonder if I could pursue further for a moment the discussion with the distinguished Senator from Louisiana (Mr. Long) with reference to the pending amendment.

My problem in the past has been that my amendments have been at the end of the line when this type of bill has been considered and all manner of tax cuts have been considered by this Chamber.

Could I have the assurance from my friend, or a gentleman's agreement, that this amendment or one similar to it will be among the first considered when his tax bill comes up in the Senate?

Mr. LONG. If the Senator would like to offer it on the revenue measure, that would be fine so far as this Senator is concerned. In fairness, I think we have a right to ask that the committee amendments be voted on first.

Mr. HELMS. I understand.

Mr. LONG. But aside from that, fine, go right ahead. I will be glad to cooperate with the Senator in seeing that his amendment is one of the early ones offered.

About all you have to do, Senator, is be here and offer it. But I will be glad to ask the leadership that when we have amendments offered, his amendment be one of the first considered.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to ask unanimous consent that when the revenue bill comes up in the Senate, my amendment be considered immediately after the committee amendments.

Mr. ROBERT C. BYRD. Mr. President, I would hope the Senator would not press that request. He has a gentleman's agreement with the Senator from Louisiana.

Mr. HELMS. I did it simply because he suggested it.

Mr. ROBERT C. BYRD. I think he meant at the time the bill was called up.

Mr. HELMS. Oh, I see. Well, the word of the Senator from Louisiana is good as gold to me; and, Mr. President, with that assurance from Senator Long and the understanding of the distinguished majority leader, I am delighted to withdraw the amendment.

Mr. LONG. I thank the Senator.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator. He has displayed his usual reasonableness and courtesy, and I commend him.

On the next amendment which he will call up, as soon as he calls it up, I would like to get a time agreement.

Mr. HELMS. Mr. President, I need a short quorum call, and then I will be prepared to call up the other amendment. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the amendment Mr. Helms will call up next, which deals with busing, there be a 40-minute time limitation, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HELMS. Now I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 219

(Purpose: To promote energy conservation and school transportation safety)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 219.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

"Section 217 of the Equal Educational Opportunities Act of 1974 (20 U.S.C. 1716) is amended by striking out "Nothing" and inserting in lieu thereof the following: "Except during a period of national energy emergency as declared by the President under the terms of the Emergency Energy Conservation Act of 1979, nothing"."

Mr. HELMS. Mr. President, the legislation we are considering today, S. 1030, would authorize the President to create an emergency program to conserve energy.

Educators all across this country have frequently noted the serious financial impact which forced school busing has had upon education in the United States. But its impact upon our energy supply has gone almost unmentioned and unnoticed. In developing pupil assignment plans, Federal courts and bureaucracies have been as heedless of the energy drain created by unnecessary busing as they are of the other burdens these plans impose upon American society.

At the time when many busing plans were put into effect, the availability of fuel was not a factor. But circumstances have drastically changed since that time, and what may have appeared reasonable to some in a period of energy abundance, can no longer be tolerated during a time of national emergency.

It is entirely appropriate that this legislation also consider ways in which schools can reduce the unnecessary use of fuel while it provides means for those very same schools to withstand any fuel shortage.

During the 95th Congress I introduced the Energy Conservation and School Transportation Safety Act, S. 1567, to reduce fuel consumption by schools by restricting the unnecessary transportation of students.

President Carter has reported to the Nation that the energy crisis, with the exception of preventing war, is the greatest challenge our country will face during our lifetimes. The amendment I am introducing today recognizes that we are in a national energy emergency regarding our petroleum consumption. It further provides that, in this emergency, an adjustment must be made to accommodate services which are most essential and which require the least consumption of fuel.

We have reached a point where the various uses of busing must be ranked on a priority scale. Busing is needed only where the distances are too far for a child to walk to school. When these distances are artifically created, either by a Federal bureaucrat or a Federal judge, then busing can no longer be considered essential. We simply do not have the fuel left to transport pupils beyond their neighborhood schools. Under the emergency conditions President Carter has described, it is certainly proper to set up energy conservation by limiting unnecessary busing.

Indeed, I believe our determination to stop unnecessary busing will provide a very significant test of our determination to meet what the President has said is the greatest challenge our country will face during our lifetimes.

We cannot seriously propose to our fellow citizens that they may face the loss of their jobs and the inability to heat their homes and still insist upon needless and wasteful schoolbusing.

Mr. President, the amount of gasoline consumption involved in schoolbusing today is substantial. Based upon a study of gasoline used for busing in several of the major metropolitan areas in the State of North Carolina, I would estimate that the use of gasoline for busing has more than doubled wherever widespread busing has been introduced under pressure from HEW guidelines or court orders.

Let me give some examples.

The Charlotte-Mecklenburg school system used 478,343 gallons of gasoline in 1968–69 to travel 1,908,842 miles. Then, in April of 1971, the Supreme Court affirmed a busing plan in the famous case known as Swann against Charlotte-Mecklenburg County Board of Education.

In 1971–72, Charlotte used 865,733 gallons of gasoline to travel 3,914,215 miles. Last year, 1977–78, Charlotte used 1,119,956 gallons to travel 5,954,587 miles. And that is not even the whole story. These Charlotte figures do not include the miles traveled or the gas used by the 50 service vehicles which are used to bus a substantial number of students. The cost of gasoline alone to the taxpayers increased from $47,488 in 1969 to $456,718 in 1978—almost an eightfold increase in cost since court-ordered busing.

In 1969–70, my hometown, the city of Raleigh and Wake County used 332,855 gallons of gasoline to travel 1,676,925 miles. Last year, Raleigh-Wake County used 999,123 gallons to travel 4,532,098 miles.

Mr. President, this business of artificially hauling innocent schoolchildren across cities and counties to satisfy the whim and caprice of some Federal judge or bureaucrat has to stop.

The cost to the taxpayers for gasoline alone increased during this time from $43,079 in 1969 to $405,928 in 1978.

Similarly, during the 1969–70 school year, Winston-Salem used 305,307 gallons of gasoline for its buses to travel 1,239,300 miles; during the 1977–78 school year it used 865,757 gallons to travel 4,480,991 miles. Here, too, the cost to the taxpayers made a stunning increase from $37,089 in 1969 to $350,530 in 1978 for gasoline alone.

In 1970–71, Greensboro buses traveled 593,176 miles and consumed 131,817 gallons of gasoline, but by 1977–78 Greensboro buses traveled 4,100,110 miles to consume 847,293 gallons of gasoline. The cost to the taxpayers for gasoline increased from $20,596 in 1970–71 to $341,969 in 1977–78.

Mr. President, I ask unanimous consent that a table setting forth the statistics I have just cited be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

	1969–70	1977–78
Charlotte, Mecklenburg County:		
Buses	267	[1] 591
Bus miles	1,908,842	5,954,587
Service vehicle miles		572,377
Gallons/gas	478,343	1,119,956.5
Cost/gas	$47,448	$456,718.28
Raleigh, Wake County:		
Buses	254	525
Miles	1,676,925	4,532,095
Gallons/gas	332,855	999,123
Cost/gas	$43,079	$405,928
Winston-Salem, Forsyth County:		
Buses	208	408
Miles	1,239,300	4,480,991
Gallons/gas	305,307	865,757.9
Cost/gas	$37,089	$350,530.99
Greensboro, High Point, Guilford County:		
Buses	107	567
Miles	[2] 593,176	4,100,110.1
Gallons/gas	131,817	847,293.6
Cost/gas	[2] $20,596	$341,969.44

[1] Plus 50 service vehicles.

[2] Estimate based on averages from other school districts.

Mr. HELMS. Now, I realize that not all of this increase is attributable to unnecessary busing, but the fact remains that the average school bus only gets a mere 5 miles to the gallon in gasoline consumption.

Paul Harvey reported in his news commentary some time back that we will continue to waste 342 million gallons of gasoline each year busing school children. Mr. Harvey went on to point out that nationally this wastes the total output of 600 average producing oil wells each year.

Mr. President, there is one further dimension to this problem which is more serious than the misguided use of tax dollars and the ill-contrived consumption of energy. It is the tragic cost paid by the children themselves as a result of school bus accidents; 23,000 of them in 1 year—resulting in 8,500 injuries and 185 fatal injuries.

The U.S. Department of Transportation reports that, in North Carolina for the 1977–78 school year alone, there were 1,292 school bus crashes in which 1,020 school children and bus drivers were injured and 263 other passengers and other drivers were injured, for a total of 1,283 injuries. That is more than 8.5 bus crashes per school day. It is an increase of over 30 percent in the number of accidents and almost 50 percent in the number of injuries than before widespread busing beyond neighborhood schools.

Mr. President, I do not know how many of these injuries occurred during the unnecessary transportation of students to achieve the social engineering of some Federal bureaucrat or judge. But even one crippled or dead child is far too high a price.

Mr. President, there are of course some who will not accept the fact that there are many people in this country who oppose court-ordered busing because it is wasteful of our resources, or because it increases the risk of accident and injury to our children, or because it simply does not work. They will be quick to ascribe a sinister motive to anyone who does not share their enthusiasm for busing. I sincerely wish that these people would have seen the telecast of Black Journal by the Public Broadcasting Service on the subject of school busing a year or so ago. This weekly television commentary on the black experience in the United States concluded:

> Equality—not integration—should be our national objective. Integration cannot lead to equality, but equality can lead to integration. . . . Whites who oppose busing must lose their fear of being called racists and Blacks must stop the automatic adoption of integration as a cure-all for the problems of Black children. Both must embrace a higher principle of truth: It is not necessarily good or bad because it is Black or White. It is good or bad because it does or does not work.

The producer of Black Journal, Tony Brown, believes further that "there is a significant silent black majority view on busing that is virtually never heard."

According to a poll of 100 black leaders selected by Black Journal, 58 percent of those asked did not want children bused to schools outside their neighborhoods to achieve desegregation, while a recent Lou Harris poll shows that only 38 percent of black Americans favor such busing. Asked whether busing will improve the quality of education for all students, 74 percent of the black leaders responding to the Black Journal poll said, "No."

The program also found that there is mounting evidence questioning the effectiveness of busing. The U.S. Civil Rights Commission, in a report costing more than a million dollars, could not substantiate the success of busing for desegregation purposes. Scholars who once supported busing after extensive research have now documented its failure and point instead to a deterioration of educational achievement and race relations. "Everyone agrees that the findings to support the success of busing for desegregation purposes are inconclusive." says Black Journal producer Brown, "This is really a polite way of saying that it does not work."

The program discussed a 10-year study of busing by two noted social psychologists, Dr. Norman Miller of the University of Southern California and Dr. Harold Gerard of the University of California at Los Angeles found from a study of a large-scale voluntary busing program in Riverside, Calif., that even under the most favorable conditions, busing would fail to achieve any increased educational benefits for the minority students involved.

Some of my colleagues may remember that I discussed this study at length on the floor of the Senate during consideration of the 1977 Labor/HEW Appropriations Act on June 29, 1976.

Mr. President, the amendment I am introducing today simply closes a loophole in the present Federal prohibition of forced busing. Today, title 20, section 1714, of the United States Code, prohibits any court, department, or agency of the United States from ordering the implementation of a plan that requires the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education. Section 1716 of title 20 permits such busing plans which have not been so ordered.

My amendment would make inoperative this provision during the period of a national energy emergency.

The point is this, Mr. President: Children today are being denied the right to walk to school in neighborhoods where thousands of children have walked to school in previous generations. From kindergarten age on up, they are now being conditioned to accept vehicular transportation as the normal and expected mode of getting from one place to another. They are being denied the experience of walking, and the opportunity of forming healthful habits which would persist throughout their lives. They are, on the contrary, forming an unhealthy attitude toward the prudent use of our energy resources in the future.

That is the point of this amendment. If we are serious about wanting to save gasoline, Mr. President, let us stop or diminish the worst gas guzzlers of all, schoolbuses used for forced busing of schoolchildren.

Our children are growing up in an age when they will be faced with chronic energy shortages at least over the next decade or so. We should be educating them to live in the world of today and tomorrow, not the world of yesterday when we had all the gasoline we wanted. Instead, we are training them to accept the idea that it is normal for healthy individuals to have free transportation even when they could and should walk. Much of the busing today is completely unneeded and detrimental to the formation of sound attitudes about energy conservation. We can no longer afford the luxury of training our children to waste our energy supplies.

Mr. President, I urge the adoption of this amendment.

I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, the Senator from North Carolina has been a leader in the Senate in seeking to have passed measures which prevent the unnecessary busing of schoolchildren. I have, I believe, virtually a 100 percent record of voting against unnecessary busing. I think the Senator makes the case well. It is wasteful of energy; it is counterproductive educationally; and it is disapproved by parents of both white and black children, as shown by almost any poll that has come out, whether it be in my State or nationwide. I think the case is very clear. For that reason, I have voted with the Senator from North Carolina and other Senators who have brought up similar measures.

My only objection to this measure, Mr. President, is that it is not properly a part of this bill. The bill deals with a set of presidential powers meant to save energy. While this measure does deal with energy conservation, it is a separate and distinct measure which is also very controversial and would tend to defeat this bill.

This bill, S. 1030, is all we have. It is a bipartisan measure which we have put together as being the only response of the Congress to energy conservation. Really, the only thing important that we have done is this bill. While I agree with the Senator that busing ought to be prohibited, and if he will bring it up on another measure, I shall vote with him again, I hope that we can keep it off this particular measure and let this measure be sort of pure and unadulterated, so we can get it passed and passed quickly.

Frankly, if we do not, whichever way we go—if we attach this, there will be a lot of our colleagues who will have to vote against the measure simply because it deals with busing. When it gets to the House side, we shall have monumental debates on the question of busing, which I hope we shall have and I hope we shall win, but on another measure.

I wonder if the Senator would consider keeping this measure for another day when I can join him as a coauthor and help him pass it.

Mr. DOMENICI. Mr. President, will the Senator from Louisiana yield to me?

Mr. JOHNSTON. Yes, I certainly do yield to my friend.

Mr. DOMENICI. How much time do we have remaining in opposition and how much time on the amendment?

The PRESIDING OFFICER. There are 17 minutes.

Mr. DOMENICI. I thank the Chair. Let me ask a couple of questions of Senator HELMS.

Do I understand correctly that what his amendment, effectively, would do is preclude busing of schoolchildren where it is being done, not under a court order but otherwise, during the period of time when we might be implementing, in the Nation or the State, a fuel conservation plan? Is that what it does?

Mr. HELMS. Well, I say to the Senator that this amendment would limit voluntary plans during the time of a national emergency to the requirements of those plans which could be ordered by HEW.

Mr. DOMENICI. Right. So it is the voluntary plans, not court-ordered plans, the voluntary plans that might be carried out during that period of time when we have the emergency prescribed here and we are conserving fuel?

Mr. HELMS. The Senator is right.

Mr. DOMENICI. I ask a second question: Does the Senator think that, under existing law, a State would have the authority to curtail that kind of busing as part of a conservation plan?

Mr. HELMS. I do not believe there can be a single answer to that. Under present law the decision would probably be made on a case-by-case basis. But I do know that the school boards, all across the country, have been so intimidated by the Department of Health, Education, and Welfare and the Federal courts, that I do not believe they are going to limit such busing unless they have some expression from the U.S. Senate and, I hope, the House of Representatives, saying, "We recognize, at long last, that forced busing is the worst waste of gasoline in this country." I think we will be sending a signal to the school boards they will gladly receive.

Mr. DOMENICI. I do not know if we are doing more than sending a signal; that is why I asked the question. We are mandating the discontinuance of that kind of voluntary busing during the emergency. I am wondering if they have authority to discontinue that kind of busing that the Senator has just described—the limited kind, voluntary—during an emergency when we are asking the States to send their plans up.

This bill has, as the Senator knows—provision for the President, to take an example, to set a 5-percent saving on gasoline. He would say, we are going to do it nationally this way, A, B, C, or D. But he must ask the Senator's State or mine, "How would you like to do it?" Could the Senator's State or mine do it voluntarily?

Mr. HELMS. It is not that simple, because these "voluntary" plans in many cases have to be approved by the courts.

Mr. DOMENICI. As the Senator knows, in the past, I have supported his efforts and efforts of this type on this approach. I do think that, during emergencies, it is kind of inpropitious on our part as a nation not to at least take a look at these kinds of busing plans to see if there is a better way to do it from the standpoint of conservation. I agree with the Senator. I just wonder, in a bill of the type, with the kind of philosophy that this bill has, to leave it up to the respective States to come up wih their own plan, aimed at a national target, I wonder if it is an appropriate bill to put his amendment on. I join the Senator from Louisiana in encouraging the good Senator not to insist that we vote on it and carry it forth on this first effort of a serious type at conservation.

I say all this, the Senator knows, in full respect for his strong conviction and dedication in this area.

Mr. HELMS. I understand that, and I understand my friend from Louisiana. He is absolutely correct, he has stood with the Senator from North Carolina on legislation of this type and so has the Senator from New Mexico.

I simply feel, I say to both my friends, that we need to test to what extent we are willing to act and whether we really want to conserve and save energy.

Here we have an example of incredible waste for a busing system which is disavowed and disliked by the majority of parents and children—both black and white. I think it is time to cut out this waste of gasoline. If we are serious about saving gasoline, let us do it. We shall make milions of people happy in the process.

I should like to accommodate my friends by withdrawing this amendment, but, frankly, this is the sort of proposal I get every time I bring up a somewhat controversial proposal. The sponsor or the managers of the bill say, "Oh, well, how about putting it on something else?" I think we are running out of something else to put it on.

With all due respect and the utmost friendship for both of my friends, I think I want to vote on this. If I am defeated, I am defeated and the record will show how each Senator voted. But the fact of the matter is that forced busing is a failure in this country. It is possibly the most costly, disruptive failure ever imposed by the Federal Government in its effect on the lives of the average Americans and their children. I think it is time to put an end to it and, in the process, save the gasoline that is so needed.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. HELMS. Certainly.

Mr. JOHNSTON. The reason is to ask that the Senator withdraw the amendment.

Of course, we all know that busing is one of the most controversial measures to come before this Senate.

Mr. HELMS. I am not sure any longer. The Senator may be right.

Mr. JOHNSTON. Well, it is among the top.

I really do not think it is fair to put people on the record as voting for or against busing on a measure when Senators like myself have supported it 100 percent, supported the position of the Senator from North Carolina 100 percent, and yet would be asked to explain to the people back home why they voted against busing when there are other good and sufficient reasons, which I have explained. That is all I ask.

I know the Senator from North Carolina is fair. I wish he would reconsider putting his colleagues, in effect, on the spot. I am reelected and I will survive that, but there are others who would not like to have to explain why they voted against busing.

That is the whole thing here. I wish he would withdraw it and put it on another measure.

Mr. HELMS. Let me read the title of this bill on which I would add this amendment.

This is a bill to authorize the President to create an emergency program to conserve energy.

Now, I think that is an excellent title and I think my amendment is an excellent suggestion in this regard.

Mr. JOHNSTON. The Senator understands that my opposition to the amendment has nothing to do with the fact that I oppose busing, to the contrary.

Mr. HELMS. I understand that.

The Senator feels that he may lose votes for the pending bill if this amendment is adopted. I happen to feel differently. I think he will get additional votes for the bill.

I will say this, if this bill goes over to the House of Representatives, I think he will find the Members of the House of Representatives leaping with alacrity to vote for this amendment.

I think the amendment will help the bill in its enactment rather than adversely affect it.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. DOMENICI. Mr. President, will the Senator yield 2 minutes?

Mr. JOHNSTON. Yes.

Mr. DOMENICI. Let me say to my good friend (Mr. HELMS) that while I have supported this effort in the past, I genuinely feel that this is not the proper bill for this amendment. I said that in a rather general way before. I will be more specific now.

Mr. HELMS. Let me say to the Senator, I have never known him—we came to the Senate together—to be insincere about anything.

Mr. DOMENICI. I thank the Senator.

Mr. HELMS. I know his judgments are genuine judgments.

Mr. DOMENICI. I suggest to the Senator that while he genuinely wants to eliminate the kind of busing that he feels, and many of us feel, is doing no good, in fact doing harm, and in the process is wasting substantial amounts of energy, I really do not think he would want to have an antibusing measure that got turned off and on as we had emergencies.

With what we have here, the period of nonbusing could be only 6 or 8 months under Senator HELMS' amendment, but after 6 or 8 months are up and now our conservation plan is in abeyance we can bus again.

I do not think this is the kind of bill the Senator would want his amendment on. That is what this bill provides. It may not be that way, but it can be.

In fact, it can be 12 months at a time, no longer, for any conservation plan and they have to get reinstated.

I do not think the Senator wants the kind of commotion that that management approach will bring just so we can say we did pass an amendment here that prevents this action we do not like, because I think we are inventing another action that will be on and off. I do not think we ought to be part of that. So I cannot support it.

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. I yield myself an additional minute.

I do not believe that when the Senate understands we are putting the Senator's amendment on this kind of a bill, a bill that has time constraints of 12 months and no longer unless reinstated, that will be turning busing off and on during those periods, that they would agree it is right.

Mr. HELMS. I wish I were optimistic enough to feel there will be any up and down in this emergency. I think the emergency will grow. We have an emergency any time the people have to pay $1 for gasoline. When a leading oil company's president says on TV that it will be $1.50, that is an emergency.

Mr. DOMENICI. Let me say, that is true. But it is not true under this law. Every 12 months, any emergency arrangement, by the President or the Governors implementing it, has to be reinstated. If it has not been reinstated, it can be amended or changed.

I would hate to put our schoolchildren through that for the sake of saying we got rid of busing.

Mr. HELMS. The long-reaching effect of the present energy shortage suggests to me that if the pending amendment is enacted school boards will have to change their plans only once. It will also be a message to the courts that the times have changed and future plans must take into account the new energy realities.

Mr. JAVITS. Will the Senator yield some time in opposition?

Mr. DOMENICI. How much time do we have remaining?

The PRESIDING OFFICER. Seven and one-half minutes.

Mr. JAVITS. Will the Senator yield 4 minutes so Senator Exon can have some time?

Mr. JOHNSTON. I yield 4 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I oppose this amendment. I shall move to table it unless the managers do.

My reason is this. This is not, Mr. President, just a somewhat controversial amendment, as my colleague and friend from North Carolina has said. This is an extremely controversial amendment which, at a moment when we can afford it least, will drive this country and important segments of it, that doubt and challenge our validity anyhow, apart.

Mr. President, we fought battles here for the civil rights of our Nation on this very floor for years, and we finally have arrived on this matter of school desegregation, school busing, and other civil rights problems at a fair degree of balance.

We are now striving to bind up the Nation's wounds, as it were, in respect of the civil rights struggle, as well as we can within generally accepted rules which have been pretty much allowed to remain as they are, at least for the last 5 years.

Mr. President, to enact a measure of this kind under the guise of gasoline conservation when the law of the land, the Constitution, is entitled to as high a priority as any exists, a lot higher priority than Americans who ride 50 miles to get an ice cream cone, or visit a neighbor, or just to take a ride late in the afternoon—not that I begrudge it, it is great—but, Mr. Prseident, to compare that to the right of the courts to have some modicum of enforcement for a basic constitutional right like desegregated education, I think is really comparing rabbits with elephants.

Mr. President, one of the great strengths of this Senate is that it does allow amendments like this to almost any bill, this one or any other. And, Mr. President, one of the great weaknesses of the Senate is that major and vast questions of public policy that will determine the commercial and the order and tranquillity of this country, Mr. President, can be called up, whether anybody has notice of it or not, or whether anybody is in the Chamber or not.

I just heard this on the loudspeaker and came dashing over.

Mr. President, the tabling motion is the only way to deal with matters of this kind so that there may be deliberation and evidence.

What is the evidence of the Senator from North Carolina that this is a vicious waste of tons and tons of gasoline as compared with other priorities? Where is the record? Where are the hearings? Where are the facts? Where are the reports with the opinions he gives us as authority that the American people are for or the American people are against?

Mr. President, my colleague is a very responsible Senator, and I have enormous joy right now in serving next to him on the Committee on Foreign Relations. I really do. It is a great pleasure. But that does not mean that we cannot have a square and even a tough fight. Let us have it on this issue, but let us have it with deliberation, with a little notice. Let us have it based on facts and evidence.

So, Mr. President, I urge the defeat of this amendment, and I shall move to table it unless the managers do.

Mr. JOHNSTON. I yield myself 2 minutes.

Mr. President, in the interim from the time we started debating this matter to the present time, I have read this amendment, and I find that it has some flaws.

No. 1, it does not deal with busing but, rather, it deals with desegregation plans, for whatever reason, whether they include busing or do not include busing.

Second, section 1716 of chapter 20 of the United States Code makes reference to other matters in the subchapter which includes section 1713. Section 1713 is actually a restriction on the right of courts or HEW to order busing. For example, it states that you should first seek to assign students to the schools closest to their homes, provide the appropriate grade level, permit students to transfer, and so forth. So it appears to be a restriction on the right to order busing.

What the amendment would suggest is that the restrictions in section 1713, if I read the amendment correctly, would be taken out by this amendment. So that it may well be that the effect of the amendment would be to prohibit school boards from voluntarily proposing or considering a plan of desegregation that might or might not include busing, might be an alternative to busing, and that, in any event, the restrictions in section 1713 on busing would appear to not apply in the event of a national energy emergency.

The PRESIDING OFFICER. The 2 minutes of the Senator have expired.

Mr. JOHNSTON. I yield myself 1 additional minute.

I must say that my arguments in this respect are an afterthought, because I have only read the matter recently. I say that in absolute good faith. Perhaps the Senator can explain what the intent is.

Mr. HELMS. The effect of the pending amendment is simple. As the Senator has mentioned section 1713 of title 20 restricts what courts and departments of the United States can order regarding the transportation of students. For example, no court or department can order the transportation of a student farther than the school next closest to his home. However, section 1716—the section my amendment affects—allows so-called voluntary plans to bus students farther distances than what can be legally ordered. My amendment allows this loophole to exist except during an energy emergency.

Mr. President, I yield 5 minutes to the distinguished Senator from Nebraska.

Mr. EXON. I thank the Senator from North Carolina.

Mr. President, I support the amendment that has been offered by the distinguished Senator from North Carolina. It seems to me that if we are going to be serious about the energy problems that face America, we have to recognize all the energy problems that face America.

I do not know whether we need some further amendments to straighten out this matter, as has been raised by my colleague from Louisiana. Nevertheless, I think we all understand the thrust and the intent of the amendment that has been offered, and possibly we can have another unprinted amendment, if necessary, to straighten out the concerns, but probably that is not necessary.

In any event, I say to the Members of the Senate that one of the real problems we have today—and that includes all of us—is indicated by the fact that in a recent poll, some 77 percent of Americans did not believe there was, indeed, an energy crisis in America. One of the reasons for that is the fact that Americans in general are fundamentally opposed to the matter of busing, and they do not believe that we have an energy crisis, if the U.S. Senate will not stand up and say this is one of the things in which we need to make a change if we are going to attack our energy problem on all fronts.

Therefore, it seems to me that the amendment that is offered is one that will help show the people of the United States not only that we do have an energy crisis, but also, that the U.S. Senate is sending a signal—or perhaps something even stronger—to the end that it is time we recognize that we must conserve.

Since busing is so unpopular and since busing is so wasteful of gasoline, it seems to me that this would strengthen the act we are going to pass in some form, perhaps make it truly meaningful, and send the message very loud and very clear that we in Washington are concerned about this.

I thank my friend from North Carolina.

I yield back the remainder of my time.

Mr. HELMS. I thank the Senator from Nebraska.

Mr. JOHNSTON. Mr. President, at the very least, this is a very vague and ambiguous provision, the effect of which is not too clear. It may well be that what the Senator intends to do—and I support him in what he intends to do with this amendment.

I know the Senator has made the decision that he wants to vote. I make these arguments, I want him to know, in perfectly good faith. I am not trying to raise a red herring, but I am not sure the amendment would achieve what he wishes to achieve. In addition to the fact that we wish to keep this conservation measure clean and free of controversial measures, I point out that the amendment simply may not achieve what the Senator wants to do.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. HELMS. I yield further time to the Senator.

Mr. JOHNSTON. I appreciate the Senator's offer

The two reasons why we oppose the amendment are these:

First, it is controversial and would be likely to kill this measure, the only conservation measure we have in the Senate.

Second, I am not sure it would achieve what the Senator wants to achieve—a goal in which I support him.

So I wish he would reconsider. I know he has made his decision, but I wish he would reconsider.

Mr. HELMS. I thank my friend for his comments. I know his record with respect to forced busing.

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. HELMS. First, let me say that I appreciate the comments of the Senator from New York. He and I have differed on this proposition since the day I walked into the Senate.

Mr. JAVITS. That is right—and from the day I walked in.

Mr. HELMS. He has always been a gentleman about it, and I have tried to be.

Mr. JAVITS. I just want to ask the Senator this: The Congressional Research Service has made some findings as to what we would save. I ask the Senator if he has the facts; if not, if he will allow me to do so, I will refer to them.

How much would we save if we did what the Senator wanted?

Mr. HELMS. The Senator was not in the Chamber when I cited figures from North Carolina, which are the most immediately available to me.

Mr. JAVITS. I say to the Senator—and I will put this in the RECORD—that the Congressional Research Service estimates that we would save less than 2,000 barrels of oil per day, which are consumed by busing under court-ordered desegregation plans, and that is 300ths of 1 percent of the total school bus gasoline consumption of 7.2 million barrels per day. I might add that this is only a rough estimate. The CRS analysis spells out the difficulties in making estimates of increased fuel consumption attributable to busing for desegregation. But I believe my colleagues should have the information that is presently available.

Mr. President, I ask unanimous consent to have printed in the RECORD the congressional research analysis to which I have referred.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS

Congressional Research Service frequently is asked how much gasoline is used to bus students for school desegregation. Unfortunately, adequate data are not available with which to answer this question. In particular, no adequate data are available on either the total number of students bused for desegregation or the total number of miles they travel. While relevant information about this issue is available for particular school districts, we do not know how this information was derived, nor do we know whether the districts can be considered representative of all districts in the country.

I

Data on the total number of students transported and the total number of miles they travel are collected annually by the National Center for Education Statistics of the Department of HEW, the Office of Driver and Pedestrian Programs of the National Highway Traffic Safety Administration (part of the Department of Transportation), and a private organization, the National Association, State Directors of Pupil Transportation Services.[1] However, these data are for all students who are bused, not just for those bused for purposes of school desegregation. The following reasons, the number of the latter students generally is difficult to calculate for a single school district, let alone for all the districts in a State or in the nation.

To begin with, it is not always clear which school districts have desegregation plans. Of course a plan would be obvious if there were a court order to desegregate or a contested HEW Office for Civil Rights ruling to satisfy the non-discrimination requirements of Title VI of the Civil Rights Act of 1964. But when school districts desegregate voluntarily, it often is not readily apparent whether there is a plan or not. New schools get built, attendance boundaries get shifted, and bus routes get altered without school officials labeling, let alone publicizing, any of the changes as part of a "desegregation plan." In addition, sometimes desegregation is brought about by policies which school officials adopt for other reasons, such as shifting a district from a K–6 and 7–12 grade organization to a K–4, 5–8, and 9–12 grade organization (the latter division, which creates so-called "middle schools", would be likely to result in more desegregation since children would be assigned to schools covering wider geographical areas at an earlier age).

In school districts with desegregation plans, it is not always clear which students are participating in them. For example, if students freely choose to attend a "magnet school" (that is, a school with a special curriculum capable of attracting students from a variety of racial backgrounds), rather than the school to which they would otherwise be assigned, should they be counted? What about students in districts that have open enrollment plans? What about those assigned to the one high school in a district, where formerly there were two segregated schools?

Finally, it is not always clear which students get bused just for desegregation and which are bused for safety or convenience. Many students would ride a bus to school whether there is a desegregation plan or not; should they be counted just because the school to which they are assigned becomes desegregated? To complicate matters further, when desegregation plans are implemented, school officials sometimes change the rules about who is eligible for transportation services. Thus, it is not always possible to measure the impact of a desegregation plan simply by calculating the difference between the number of students bused before the plan was implemented with the number transported afterwards.

Some of these problems also make it difficult to calculate the number of miles students are bused for desegregation. For example, under a desegregation plan some students might be bused to a school located beyond the school to which they were formerly assigned, while others might be bused to a nearer school. Should the total mileage for both groups be taken into consideration? Alternatively, should the mileage for the former group be counted, but the mileage for the latter be excluded? Should only the increase in mileage for the former group be added, while the mileage the latter group no longer has to travel is subtracted? Should the portion attributable primarily to safety or convenience be deleted as well?

It should be emphasized that none of the problems mentioned so far necessarily would preclude obtaining data on the number of students bused for desegregation and the number of miles they travel. The problems only indicate that a survey to obtain such data would have to be carefully designed, particularly to ensure that definitions and measures used in one district were also used in the others.

If one did obtain reliable national data on students bused for desegregation and the mileage they travel, it would still be necessary to calculate the amount of gasoline consumed. To do this accurately may be difficult, for the gasoline mileage school buses get varies not only with such things as the size of bus and type of engine, but also with the number of stops per route, traffic, and terrain and road conditions. Nonetheless for most purposes, it probably would be defensible to use either an assumed average miles-per-gallon figure or an assumed proportion of total school bus gasoline consumption.

II

One statistic that is sometimes cited on the number of school children bused for school desegregation comes from a report issued by the U.S. Commission on Civil Rights, *Fulfilling the Letter and Spirit of the Law: Desegregation of the Nation's Public Schools:*[2]

"Restructuring [of school districts] often requires additional busing of students, but the increase is substantially less than is popularly believed. Nationally, slightly more than 50 percent of all school children are bused to school, and of this percentage less than 7 percent are bused for the purpose of school desegregation."

To substantiate the "less than 7 percent" figure, the report cites a paper prepared by the National Institute of Education. To the best of our knowledge, however, the NIE paper relies upon a methodology which might be thought questionable (the paper itself states that "these data are soft"). Essentially, the NIE paper subtracts the total number of students bused in the 1969–1970 school year (which it assumes is the year just before the period when most court orders for busing were issued) from the total number of those bused in the 1974–1975 school year (the most recent then available). If all of the increased busing during this period were attributed to school desegregation, then the maximum percentage of students bused "only for purposes of court-ordered desegregation" would turn out to be 6.3 percent (that is, the "less than 7 percent" figure cited above). The paper then goes on to estimate that approximately half of this 6.3 percent might actually be attributable to other factors such as school consolidation. It should be noted that the NIE estimate explicitly includes only court-ordered desegregation, that it does not measure any desegregation which occurred before 1969–1970, and that it does not take into consideration the number of students who were transported prior to 1970 but then, perhaps because of desegregation, enrolled in private schools.

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[1] The agencies and the organization mentioned also collect a variety of other data on student transportation, including the number of buses used, the cost of purchasing and operating buses, the number of accidents, injuries, and fatalities, etc. The Office of Driver and Pedestrian Programs has some data on student transportation for desegregation in certain school districts.

[2] (August 1976) p. 202.

Calculating the gasoline consumption which might be attributed to the "less than 7 percent" figure is difficult without some indication as to the additional miles those students traveled. The NIE estimates do not contain data on mileage, and no reliable correlation between the number of additional students bused and incremental vehicle miles traveled can be assumed. However, for present purposes we might simply assume that the "less than 7 percent" proportion is also the proportion of the total school bus gasoline consumption which can be attributed to court-ordered desegregation. According to the Federal Highway Administration, in 1977 school buses consumed an estimated 401 million gallons of gasoline, for an average of roughly 26,200 barrels of oil daily (while this daily figure might seem low, it must be remembered that school buses are in service roughly only half the days of a calendar year; consequently, consumption on any given school day probably would be around 50,000 barrels). Seven percent of these 26,200 daily barrels is less than 2,000 barrels. Given total motor gasoline consumption in calendar year 1977 of 7.2 million barrels daily, the average daily consumption for court-ordered desegregation would represent less than .0003 of the total, or less than three one-hundredths of one percent.

Mr. HELMS. I wish those figures were applicable to North Carolina. The information I have received directly from the transportation offices in North Carolina which I have mentioned indicate they are not. I am sure that the other States experiencing forced busing may have figures more consistent with North Carolina.

Mr. President, I see no point in prolonging the debate.

Let me say this to the Senator from New York: I understand the need for a tabling motion to shut off debate, but I have never moved to table an amendment or any other legislation which was under a time agreement. I hope that he will reconsider his decision to move to table because I think Senators should vote up or down on these propositions.

I do not mind doing it. Generally speaking, I am often on the unpopular side, and I wish to have an up or down vote. But if the Senator really wants to move to table I understand his decision. But I hope that he will not.

Mr. JAVITS. Mr. President, if the Senator will yield, where we have a confluence of opposition and the pleas of the managers of the bill that it is highly impolitic for such an amendment to go on this bill, it seems to me there is no other way but a tabling motion. The Senator was gracious enough to say that I have always been a gentleman. So has he. And I always will be. I know he will. So there is no question of personality involved. But it seems to me that if ever a tabling motion is required, it is as in this confluence of circumstances.

Mr. HELMS. Mr. President, if the distinguished managers of the bill wish to yield back their time, I will yield back the remainder of my time.

Mr. JAVITS. Mr. President, I move to table the amendment and ask for the yeas and nays.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

● Mr. BIDEN. Mr. President, it is a mark of my personal frustration with the continued inaction of the Senate on the busing issue that today, as I did previously in 1977, I voted against tabling the Helms amendment. And I will continue to oppose the tabling of any antibusing legislation that comes before this body, no matter how little sense it may make, until the Senate is willing to consider seriously sensible alternatives, like the bill my Delaware colleague, Senator Roth, and I have again introduced this year.

I do not enjoy casting a vote such as the one I cast today on the Helms amendment. I regard the Senate of the United States as a serious forum for the conduct of serious public business. I do not believe that having our time taken up here by frivolous proposals adds anything to the dignity of this body. I do not believe the Helms amendment, if it passed, would have any effect on the real issues involved in the busing of public schoolchildren in this country.

All of us who voted on this amendment today, whether we voted to table it or not, knew full well that it does not represent a seriously conceived effort to end busing. It would have effect only during a period of national energy emergency as declared by the President and would create great confusion in the schools as such emergencies were declared and terminated. It would apply only to voluntary or administratively ordered busing programs and would have no effect whatever on the kind of court-ordered busing that has disrupted and threatens further to disrupt the lives of schoolchildren and their families in my State of Delaware and in other communities throughout the Nation. This amendment simply would not stop busing, and we all knew it.

But, Mr. President, a true end to busing—a serious intent to end this nightmare that has been haunting our schools—is on our agenda whether we are prepared to admit it or not, because it is clear beyond any possible misunderstanding that it is on the Nation's agenda. Sometime the Senate is going to have to face that fact. Until it does, we will be faced with fictitious proposals, such as the one we had to vote on today and, little as I like it, I will continue to support those proposals.

I would much prefer to see the Senate focus its energies on truly meaningful antibusing legislation, and I believe the Roth-Biden bill which is now pending in the Judiciary Committee is just such legislation. We held hearings on it last year, it was debated on the floor of the Senate, and it came within two votes of passage. The issue has been fully explored here, the people of this country have made their wishes unmistakably known—it only remains for the Senate to buckle down to its responsibility and pass the bill, which will mean the end of court-ordered busing.●

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CANNON (after having voted in the negative). On this vote I have a pair with the senior Senator from Washington (Mr. Magnuson). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from New Hampshire (Mr. Durkin), the Senator from Washington (Mr. Magnuson), and the Senator from Florida (Mr. Stone) are necessarily absent.

I further announce that the Senator from Florida (Mr. Chiles) is absent on official business.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. Laxalt) and the Senator from Oregon (Mr. Packwood) are necessarily absent.

The PRESIDING OFFICER (Mr. Baucus). Are there any Senators wishing to vote?

The result was announced—yeas 52, nays 39, as follows:

[Rollcall Vote No. 117 Leg.]

YEAS—52

Baucus
Bayh
Bellmon
Bentsen
Boschwitz
Bradley
Bumpers
Burdick
Chafee
Cohen
Cranston
Domenici
Durenberger
Eagleton
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Schmitt
Stafford
Stevens
Stevenson
Tsongas
Weicker
Williams

NAYS—39

Armstrong
Baker
Biden
Boren
Byrd, Harry F., Jr.
Byrd, Robert C.
Cochran
Danforth
DeConcini
Dole
Exon
Ford
Garn
Goldwater
Hatch
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Long
Lugar
McClure
Morgan
Nunn
Proxmire
Roth
Sasser
Schweiker
Simpson
Stennis
Stewart
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Cannon, against.

NOT VOTING—8

Chiles
Church
Culver
Durkin
Laxalt
Magnuson
Packwood
Stone

So the motion to lay on the table Mr. Helms' UP amendment No. 219 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, in order to ascertain how much time will be required to complete this measure—and the leadership hopes it can be done today—I would inquire as to what Senators have amendments, and as to whether there might be time agreements on them.

Mr. HATCH. Mr. President, I have an amendment on judicial review for States. I do not think I will need much more than 2½ minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on that amendment of 5 minutes, to be equally divided.

Mr. DOMENICI. Fine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Senator METZENBAUM has an amendment.

Mr. ROBERT C. BYRD. Will the Senator from Ohio agree to a time limitation at this time?

Mr. METZENBAUM. Mr. President, we are trying to work out an agreement on the amendments. With respect to one of them I think there is an agreement. We are trying to work out an agreement on the other one, but I would rather not be committed on it at this moment. We are attempting to work it out.

Mr. ROBERT C. BYRD. Very well. Are there other amendments?

Mr. DOMENICI. Senator BRADLEY.

Mr. JOHNSTON. Senator BRADLEY has one that we have agreed to take.

Mr. DOMENICI. On Senator BRADLEY, I think we have worked it out.

Mr. MORGAN. Mr. President——

Mr. NELSON. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senator will suspend until order is restored. The Senate will be in order. Senators who wish to converse will retire to the cloakrooms.

The Senator from North Carolina.

Mr. MORGAN. Mr. President, I was not sure which amendment Senator METZENBAUM might have worked out something on. I do not want him to work out something on one I am interested in, the one I just get a letter on a few minutes ago about eliminating gas to manufacture candy, and whiskey, and things of that sort.

Mr. METZENBAUM. If that is the amendment the Senator is talking about, I want to make it clear that there is nothing in the proposal that would eliminate gas for those purposes. It would provide that they do not get special treatment.

Mr. MORGAN. I thought that was the amendment you might be working on. Mr. President, before we come to any agreement on this, I would like to be heard on it.

Mr. ROBERT C. BYRD. The Senator will be heard.

Mr. President, are there any other amendments?

I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 220

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 220.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following:

Sec. 209. (a) Except to the extent inconsistent with the provisions of subsection (b) the provisions of the Administrative Procedures Act (5 USC 551 et seq.) shall apply to this Act for purposes of judicial review.

(b) (1) Any State may institute an action in the appropriate district court of the United States, including actions for declaratory judgment, for judicial review of the

(A) target for the State established by the President,

(B) determination by the President that the State emergency conservation plan is not achieving the emergency energy conservation target of such State, or

(C) determination that the State plan submitted to the President for approval as a State emergency conservation plan does not comply with the provisions of section 204 of this Act, including section 204(a) (2) regarding the share of the burden imposed on any specific class or on any individual segment thereof.

(2) The district court shall determine the questions of law and upon such determination certify such questions immediately to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(3) Any decision by such court of appeals on a matter certified under paragraph (2) shall be reviewable by the Supreme Court upon attainment of a writ of certiorari. Any petition for such a writ shall be filed no later than twenty days after the decision of the court of appeals.

(4) It shall be the duty of the court of appeals to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under this subsection.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct, the Senate is not in order. The Senator will suspend until order is restored. The Senate will be in order.

The Senator from Utah.

Mr. HATCH. Mr. President, my amendment is designed to protect the citizens of each State from hasty action on the part of an administration. Simply, it allows the States their constitutional right for equal protection. It assures that no one State or region will be unduly forced to sacrifice during the supply shortage. My amendment will give a State that to which it is justly entitled: Judicial recourse when it feels it is being asked to absorb an unacceptable hardship under this act.

Under the present bill, a State cannot contest the validity of the target for that State established by the President. Also, the President may arbitrarily determine that the State is not achieving the emergncy energy conservation target of that State. If this happens, what recourse does the State have short of yielding to the decision of the President? The answer is that the State has no recourse and is simply left to comply with the President's decision, regardless of the reasons for which the decision was made.

Under my amendment, States will be better protected against a President, be he Republican or Democrat, for political reasons, singling out "unfriendly" States to bear the brunt of a national energy shortage. My amendment will also provide that a State may institute action in the appropriate district court if the State feels that the President was wrong in rejecting the State plan because it did not comply with the provision established by this act. I believe the States must be provided with the right of judicial review.

In addition, my amendment will provide that any decision by a court of appeals will be reviewable directly by the Supreme Court of the United States.

Mr. President, I strongly believe that the States can solve any problem with energy conservation if given a fair chance. Each State is unique, and will therefore conserve in different ways but the objective is always the same—to share the burden of a reduced supply of energy. To do this effectively the States must be able to petition through judicial review. I urge my colleagues to support my amendment to provide States with this right.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I would like to urge, in the strongest possible terms, that the Senate promptly adopt the Emergency Energy Conservation Act of 1979.

The PRESIDING OFFICER. Who yields time to the Senator from Washington?

Mr. DOMENICI. Mr. President, we will be pleased to yield on the bill, but we were considering an amendment on which we have 2 minutes.

Mr. JACKSON. Oh, I am sorry.

Mr. JOHNSTON. Mr. President, we congratulate the distinguished Senator from Utah. This amendment has been worked out with him and with our staff and his staff. It does give a proper amount of judicial review to a State, which must bear the burden of proving any of the three circumstances set forth in section 209(b) (1) (A), (B), and (C), as set forth in his amendment.

It is a good amendment; we congratulate him on working out more protection for the States, and we are prepared to accept the amendment.

Mr. DOMENICI. Mr. President, will the Senator yield me a minute?

Mr. JOHNSTON. Yes; I yield a minute to the Senator from New Mexico.

Mr. DOMENICI. Let me join in commending the Senator from Utah. Since the philosophy of this bill is a national proposal that can be taken over by individual States if they come up with their own plan, it is imperative that they not be dealt with arbitrarily by the National

Government. This amendment will permit them to seek judicial review in a manner that will not delay the national discretion, but will insure that their rights are preserved.

Mr. HATCH. I thank my colleagues.

Mr. President, I urge the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 220) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I would like to urge, in the strongest possible terms, that the Senate promptly adopt the bill now before us. This legislation was developed on a bipartisan basis by Senator JOHNSTON and Senator DOMENICI. This bill offers the first real opportunity for an effective, national energy conservation response to the skyrocketing prices and shortages of petroleum products we are seeing all around this country.

Let me say to my colleagues that these shortages and the price increases that accompany them are not going away. We must take effective action to meet them. Certainly the public demands it.

We are entering a long period in which available supplies will not match the demands which our economy makes. We have spent valuable time studying this situation, trying to examine the details of its underlying causes. Some have searched for villains upon whom to place the blame. Perhaps this is necessary. Surely, public skepticism is at an all-time high.

However, we must not let the controversy and the confusion over details obscure the essential fact that the world's major producers of petroleum—the members of the OPEC cartel—are going to produce less oil and sell it for higher prices. And in the short run unless we want economic recession our only option is to conserve. That is the issue.

We will not achieve sufficient conservation by simply allocating this shortage on a piecemeal basis. The President has offered allocation authority to the Nation's Governors, but he rightly points out that allocation cannot produce energy conservation.

Effective energy conservation requires a national effort. S. 1030 provides the framework for that effort.

Mr. President, the United States, the President, the Congress, indeed our whole system of representative government, have been under attack for an alleged failure to respond constructively to the challenges of energy scarcity and the economic dislocations this scarcity produces. I believe that our system has responded and will continue to respond to these challenges. I believe that this legislation provides the essential mechanisms for the energy conservation effort needed to deal with the emergency we face today.

I expect that the messages my colleagues received from their constituents during their recent visits home were much like those I received. The people want constructive, effective action.

This bill is not complex. It can be implemented rapidly. It will get us action. I urge its adoption by the Senate.

Mr. President, I commend my colleagues on both sides of the aisle for the statesmanlike way in which they have handled this bill. I feel very strongly that the action we will take here is a responsible act in light of the failure of the House to act on the rationing plan in contrast to the fact that we approved the President's rationing plan.

So, Mr. President, the legislation here delegating authority to the Governors, I believe, can be a very, very good beginning on a long-range conservation effort.

I commend my colleagues on the committee in particular for the fine job they have done in handling this bill on a truly bipartisan basis.

The PRESIDING OFFICER. The Senator from New Jersey

UP AMENDMENT NO. 221

(Purpose: To impose similar conditions relating to the distribution of burden on Federal and State plans)

Mr. BRADLEY. Mr. President, I send an amendment to the desk on behalf of Senator STONE and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY), for himself and Mr. STONE, proposes an unprinted amendment numbered 221.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, delete lines 15 through 24 and insert in lieu thereof the following:

"(d)(1) Any Federal implementation plan promulgated under subsection (a) shall be prescribed after a public hearing and opportunity for public comment;

(2) Any such plan, taken as a whole, shall, as determined by the President, be designed—

(A) to achieve the emergency energy conservation target established for the State in which such plan is intended to be implemented; and

(B) to be carried out in a way which would not impose an unreasonably disproportionate share of the burden of restrictions on energy use on any specific class of business or any individual segment thereof,

(3) No Federal implementation plan shall contain any measure which the President determines is—

(A) unlikely to conserve energy in the State in which such measure is intended to be implemented;

(B) in violation of this Act or any other applicable Federal law;

(C) an undue burden on interstate commerce; or

(D) a tax, tariff or user fee.

Mr. BRADLEY. Mr. President, this is a technical amendment which would simply define noninterference with interstate commerce by any Federal plan as applied to a State plan. The committee knows of this amendment. I believe the majority and minority managers of the bill will accept it.

I believe it would simply formalize one part of the language in the bill with the language in another part of the bill.

Mr. JOHNSTON. Mr. President, I commend the distinguished Senator from New Jersey who has been very helpful not only here in the Chamber but also in the committee in making this a better bill.

This amendment would guarantee that whether or not the proposed plan was Federal or State in nature, it cannot constitute a burden on interstate commerce and it must be carried out in a way so as not to impose an unreasonably disproportionate share of the burden of the restrictions of energy use on any particular class of business or individual.

It is a very helpful amendment, Mr. President, and we accept it for the majority.

Mr. BRADLEY. Senator STONE and I are concerned that motorists traveling through several States might find that the State emergency conservation plans and Federal implementation plans in force in several States on the travel route might combine so as to effectively prohibit travel or severely impede it. Did the committee intend to prevent a combination of plans in several States having that effect?

Mr. JOHNSTON. The Senators are correct. In section 204(b)(3) the act states that the President may not approve any State emergency conservation plan that contains a Federal measure which is a burden on interstate commerce. Similarly, section 205(d)(3) provides that the Federal implementation plan may not create an undue burden on interstate commerce.

We intend by this to mean that in approving State plans and in establishing a Federal implementation plan, the President, or his delegate, will strive to, in effect, coordinate the measures in effect in the States. This coordination is intended to result in consistency, in State and Federal plans so that travel and other forms of interstate commerce are not unduly impeded.

Mr. DOMENICI. Mr. President, I commend the Senator from New Jersey not only for the proposal contained in this amendment, but for his diligent work in this whole conservation area. It is a difficult area and we know he is present and working at it regularly.

I understand this amendment requires that the Federal Government be as careful in designing a Federal plan as a State will be in designing their plan. I believe that is something we should certainly expect of the Federal Government, and we commend the Senator for offering this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 222

(Purpose: To require the President to announce a plan to conserve energy in the Federal establishment)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 222.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7 insert the following between lines 6 and 7:

(4) announce an emergency energy conservation plan for the Federal Government, which plan shall be designed to achieve or exceed the national percentage reduction in energy use established under paragraph (2) and shall contain measures which the President will implement under authority available in other law to reduce the consumption of energy by the Federal Government on an emergency basis. In developing such plan the President shall consider the potential for emergency reductions in energy consumption

(A) by buildings, facilities and equipment owned, leased or under contract by the Federal Government;

(B) by Federal employees through increased use of car and van pooling, preferential parking for multipassenger vehicles and greater use of mass transit; and

(C) by executive agencies and departments as a result of modifications in Federal procurement policies.

Mr. METZENBAUM. Mr. President, in the bill we are considering today, congress is requiring the States to come up with energy emergency conservation plans which can be put into effect in the event of a general energy emergency. But there is much that the Federal Government can do in its own home to alleviate an energy shortage. The Federal Government is the largest single user of energy in the Nation. Energy is used in the Federal sector by almost 6 million people, in more than 400,000 buildings, and in operating more than 650,000 vehicles of all types. The potential for saving energy of all kinds, especially in the field of transportation, is tremendous. Yet despite this high potential for energy savings in the Federal sector, the Federal Government has done very little to set a national example. While the Government, though its different agencies, tells the American public it is time to save gasoline, diesel fuel, and other forms of energy, it goes on its merry way without changing its habits. The amendment I am offering here today is an attempt to change that.

This amendment requires the President to implement an energy conservation plan in the Federal sector when he declares an energy emergency under this bill. It says simply that the Federal Government should be a model employer. It should set the example in this country for other employers and for individuals when it comes to saving energy. And it says that the Federal Government and its employees should not ask Americans to sacrifice when their own Government is not prepared to make a similar sacrifice.

Unfortunately, the Department of Energy has failed to provide the active leadership for developing a comprehensive and effective energy conservation program in the Federal sector. In November, 1976, President Ford issued a presidential memorandum directing DOE to promote energy conservation, especially in the area of transportation, for Federal agencies and employees, both on the job and in the consumption of energy by Federal employees when they are off the job. But the DOE has failed to follow through on that mandate. As the GAO stated in a report issued in January, 1979:

> DOE has not provided program guidance, specific goals have not been established, and department and agency plans have not been developed. Moreover, DOE is not actively monitoring, evaluating, or promoting conservation activities within the Federal sector, such as driver training, electric vehicles, and ridesharing for Federal employees which, in our opinion, are potential conservation techniques warranting wider application.

Mr. President, what this proposal says is that it is time for the Government itself to get tough. It is time for the President to add to the effective speeches that he makes on the subjects of conservation, and to look at the Federal Government itself to determine where we can save more energy than we are presently doing.

It makes it possible, with this legislation, for the Government to do that which it has not been doing. It has talked about it. The GAO says it has not done its job. Under this proposal it would require the President not alone to have an energy plan for the States, but an energy plan for the Federal Government as well.

The fact is, Mr. President, that the Federal Government can save energy in numerous ways. The GAO has estimated that the Postal Service could save 20 percent of the total energy required by conventional gasoline powered vehicles by purchasing electric vehicles which do the job equally well. The Department of Defense has already attempted to save energy by using aircraft, ship, and vehicle simulators during training procedures. The Department of Interior has found that compact pickup trucks can be used for most of the jobs at considerable energy savings. This is just a small sample of what can be accomplished by the Federal Government if it puts its mind to the job of saving energy. But that job must be done agency by agency.

In recent weeks, we were called upon to pass legislation providing that buildings would not be heated to a higher rate than 65 degrees in the wintertime and they would not use air-conditioning to lower their temperatures to less than 80 degrees in the summertime.

The fact is that that could have been done and should have been done by the Federal Government without the need for any Federal legislation on the subject.

Federal employees are prohibited by Federal law from using federally owned vehicles for their private use, but the Federal Government should take the same steps as private employers to assist employees in saving energy. As just one example, the Tennessee Valley Authority has worked through its local credit union to develop the largest van-pooling program in the country. The program began in 1974 and has since been expanded to a total of 226 vanpools at 10 sites in two States. Based on estimated savings of 5,000 gallons of gasoline each year per can, TVA employees are saving more than 1 million gallons of gasoline per year.

In contrast to the TVA example, employees at the Wright-Patterson Air Force Base in Dayton, Ohio, no longer have an ongoing ride-sharing program in operation. During the 1973–74 energy shortage, the Air Force sponsored a carpool program which included a computer matching service. As a result, there were more than 2,800 active carpools at the base as of July 1974. But as the energy crisis of that time was alleviated, the carpool program was given a lower profile, and it was finally discontinued. This program and many others like it should be rejuvenated now to achieve long-term energy savings and to protect our citizens and employees in the time of another energy shortage.

I believe the American people will conserve gasoline, diesel fuel, and other energy supplies, but conservation efforts must be fair and equitable. The Federal Government must do its fair share to save energy. This amendment is a signal to the American people that the Federal Government is doing its part to save energy when we ask them to make a similar sacrifice during an emergency. But we should not wait for an emergency to occur. Let us get on with the business of saving energy in the Federal establishment, and let us do it now.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. METZENBAUM. Yes.

Mr. JOHNSTON. Mr. President, the Senator's amendment says that the President shall announce an energy conservation plan for the Federal Government which shall be designed to exceed or equal the plan otherwise announced. If the President has already taken some steps or takes additional steps between now and the time that this bill becomes effective, can those steps that are taken be considered as part of his energy conservation program? I ask the question because, otherwise, it might tend to discourage the President from announcing a stiff conservation program between now and the time that the bill becomes effective.

Mr. METZENBAUM. It certainly is the intent of the author that any steps that the President takes between now and the time he announces an emergency energy plan, would be considered as a part of those steps that would be taken thereafter.

I appreciate the concern of the distinguished Senator from Louisiana, the chairman of the Energy Conservation Subcommittee of the Energy Committee, in raising the question, because the whole thrust of this amendment is to urge upon the President that he move with dispatch to implement programs that can effectuate energy savings. Certainly, there is nothing in the amendment that would suggest—certainly, I do not intend it that way—that he would await such time as there is an energy emergency declaration.

Mr. JOHNSTON. Would it be true that the same flexibility would apply to the Federal Government, in the case of presidentially ordered plans, as applies to the State in the case of State effective plans?

Mr. METZENBAUM. Although I did not draft that portion of the legislation, and I believe that would be in the legislation as submitted by the Energy Committee, I do believe that it was the intent of the committee—at least it was the intent of this member of the committee—that such efforts as States may take prior to the implementation of the energy implementation plan, they would be given credit for those steps and it would not do harm for them to have taken action prior to the Federal Government having moved into the picture.

Mr. JOHNSTON. What I really had reference to is that in considering a State plan and considering a State target, the President has authority to vary that State target, based upon particular needs of a State, and based upon efforts made by a State previous to that time, to conserve energy.

I am wondering whether the President, with respect to the Federal target, would have that same kind of flexibility and whether he might be able to effectuate rules flexibly in different parts of the country to accommodate the different needs in the different parts of the country.

Mr. METZENBAUM. With respect to the Federal part of the program?

Mr. JOHNSTON. Yes.

Mr. METZENBAUM. I cannot say with certainty that the language provides for that, but it certainly would not be something that I would be opposed to. If it would be necessary to provide some clarifying language with respect to that aspect of it, I would have no objection to doing so.

Mr. JOHNSTON. Mr. President, in view of the Senator's explanation, we shall be glad to accept this amendment, and I commend the Senator for offering it.

Mr. METZENBAUM. I appreciate the indication of willingness to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 223

(Purpose: To eliminate non-essential foodstuffs from the list of commodities receiving exemptions)

Mr. METZENBAUM. Mr. President, I have another amendment at the desk which I call up at this time.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 223.

On page 3 insert the following between lines 19 and 20:

(vi) For the purposes of this section, agricultural production and food shall not be defined to include chewing gum, malt beverages, distilled, blended, and rectified liquors, tobacco, ornamental horticulture, confectionery, or pet food.

Mr. METZENBAUM. Mr. President, this amendment is introduced as an amendment having to do with the definition of agricultural products, which are exempt from any program that is to be implemented. In order that there be no question about the thrust of this amendment, its purpose is to say that those who are involved in the manufacture or production of chewing gum; malt beverages; distilled, blended, and rectified liquors; tobacco; ornamental horticulture; confectionery; candies; and pet food will not be given a special priority, a special consideration, with respect to any energy plan adopted by Congress and signed by the President. It is not, of course, to suggest in any way whatsoever that there would be any shortfall for any of those particular groups. It is not to suggest that they would be discriminated against.

The purpose of the amendment is to see to it that we do not make a discrimination, an exemption, a special category, for the energy which has to do with the production of liquor, tobacco products, and candies, pet food, and various other items mentioned in this amendment.

Mr. President and Members of the Senate, when this subject was brought up, it was proposed that there be an amendment for agriculture, and I had some reservations about that, even though I have a susbtantial amount of agriculture in my State. But I did feel that there is merit to that proposal and I do not take issue with it. This amendment does not challenge the matter of providing priority for agriculture, for the growing of foodstuffs. That is not the question that is involved in this amendment. Agriculture will still be given a special priority.

The reason for this amendment is that, under the NGPA, the act having to do with natural gas, it was provided that the Secretary of Agriculture could inject or make definitions as to what constituted agriculture. He thereafter went on to define agriculture to include each of the items that are mentioned in this amendment.

Mr. President, certainly, those who are engaged in these particular industries need energy for their production. Nobody takes issue with that. But the steel mills in Cleveland also need energy. We cannot operate this country without steel. The automobile manufacturers in Detroit need energy. We cannot operate this country without that. The airplane manufacturers in Seattle need energy. We cannot operate this country without airplanes.

Across the Nation, whether it has to do with clothing or housing or health needs, or whatever the case may be, what this amendment says is that everybody ought to be treated equally except for those few for which we are providing an exemption, who are truly in agriculture with respect to the production of food. This amendment says that—let us assume we have a 20-percent cutback in energy availability of this country. What you would first do is take out that amount that is needed for agriculture as defined, and including these items. If you said that, for those purposes, you would have to have 15 percent of the energy needs of the country, then the balance of the 85 percent would not suffer a 15-percent cutback on their energy availability; they would have to suffer the entire 20 percent cutback that the Nation would be required to meet.

This amendment might be called the equity amendment, the fairness amendment, because it does not say that those who produce liquor should not get their fair share. It does not say that those who produce tobacco should not get their fair share, or those who produce pet food should not get their fair share. It says that they should not be given a special kind of exemption, a special kind of priority.

Mr. President, it seems to me that we want to be fair. If you want to start providing exemptions, then you can provide a thousand and one exemptions and make a good case out for the doctors, make a good case out for the nurses, make a good case out for those who are engaged in the supplying of medical products, make a good case for all these areas. All this amendment says is that agriculture will be agriculture and it will not be pet food, it will not be liquor, it will not be tobacco, it will not be beer, it will not be flowers, it will not be chewing gum, and it will not be candy.

Now, that is all we are saying.

Mr. President, it seems to me that fairness and equity dictate that if we are going to have some cutback on the energy availability for the people of this Nation we ought to be very limited and very restrictive on the exemptions that we provide.

All I am saying is to provide the exemption for those who produce food, but do not go beyond that. That is far enough.

I think the American people can understand that. They cannot understand special priorities for liquor, special priorities for tobacco, or chewing gum, or pet food.

Mr. HUDDLESTON addressed the Chair.

The PRESIDING OFFICER. The senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Ohio primarily because it seems to me that what he is suggesting would open a can of worms as far as trying to allocate what fuels ought to be available to what particular industries.

The Senator from Ohio has listed a number of products here which apparently he takes to be frivolous or unnecessary. Every other Senator may have a different list and, indeed, every citizen may have a different list.

But the real problem is, how does the producer of grain know for what purpose his grain is going? It is taken off his farm to an elevator, and from there sent throughout the country, how does he know whether some of it might be used for the production of distilled spirits, beer or liquor?

Mr. HELMS. If the Senator will yield, or gasohol.

Mr. HUDDLESTON. Or gasohol.

How does the sugar producer know what part of his production is going to make candy, rather than going to sweeten our coffee, which is still listed as an essential purpose?

So I just do not see how it is physically possible to make a determination as to how the division would be made in the allocation of fuel for the production of food and fiber by designating the end product for which this fuel may go.

The crucial point is that they are undoubtedly the products of agriculture in this country. What we are trying to do is maintain a viable agriculture production capacity. In order to do that, we have to have essential fuel.

If we get into the question of trying to determine just exactly where each bushel of wheat, each bushel of corn, each sugar beet, goes and what the final disposition of it is, then I think we are in a quagmire that will make it virtually impossible to administer this kind of an allocation.

I would say that while the intention of the Senator to narrow down priorities to an essential category is laudable, I would say further that it is virtually impossible. A farmer who is producing tobacco is also producing corn and wheat and other, what might be termed essential, products. Farmers that are producing it for the general market and they have no determination themselves as to what the final purpose or use of it might be.

It is a very difficult situation to try to impose upon the agriculture segment, for the producer himself, the farmer, to be responsible for the end product of his labor.

I think for that reason and for the fact that we are getting into an area where everybody might have a product they might determine is not essential and should not be included, so we break down the agriculture priority. That priority has been determined by this body, and by the administration to be very important to the interests of this country, to keep our farmers operating, to keep food and fiber coming, and to avoid the shortages that might occur, that would increase the prices of our foodstuffs, and that would eliminate our ability to serve the rest of the world as we do.

I think that the real result of this kind of an amendment could be very detrimental to the food production capacity of these United States.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the language in the bill on page 3, dealing with agriculture production and so forth, is language that was worked out as part of the Natural Gas Policy Act.

I happen to have been involved in that bill at every stage, the committee, on the floor of the Senate, in the conference committee, I can say that there was no provision of that bill that received longer and more protracted debate than the provision on the priority for agricultural production, natural fiber production, and so forth.

If I may, I would like to read this section into the RECORD at this point. It is very short. It says:

> Energy, for purposes of the calculation of energy use under section 202(a)(2) does not mean:
>
> * * * * *
>
> (v) fuels or electricity used for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, crop drying, or as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food, which the Secretary of Agriculture determines is necessary for full food and fiber production.

Mr. President, I read those words because I want to make it clear there is not a word in that definition that deals with chewing gum, malt beverages, distilled, blended and rectified liquors, tobacco, ornamental horticulture, confectionaries, or pet food.

I would tend to think the Secretary of Agriculture would be going beyond the limits of that language if he included some of those things as part of agriculture.

Mr. METZENBAUM. Will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. Yes.

Mr. METZENBAUM. Is the Senator from Louisiana aware of the fact that the Secretary of Agriculture has already defined under that identical language the very items that I have talked about, that I have addressed in this amendment?

I did not imagine these definitions. These are the definitions that the Secretary of Agriculture has already made under NGPA.

I will give the Senator the specific language and refer to it in the Register. I have it here. It is page 11518 of the Rules and Regulations of the Federal Register dated Thursday, March 1, 1979. If the Senator will just give me a moment or two while he finishes his presentation, I will spell out to him the specific language.

I did do that very thing.

Mr. JOHNSTON. Does it deal with the NGPA?

Mr. METZENBAUM. Yes, it does.

Mr. JOHNSTON. The Natural Gas Policy Act?

Mr. METZENBAUM. Yes.

Mr. JOHNSTON. Is it a final rule, does the Senator know?

Mr. METZENBAUM. I cannot say to the Senator that I can answer that specifically. I do know it is described as the interim final rule.

It was on March 8, and I brought this subject up at the time the bill was before our committee. At that time I referred to it and spoke to it at some length, and I have not been challenged that they have been changed.

Mr. FORD. It is the final rule for the interim. It is not the final rule. It is a rule for the interim. This is not a final rule, by any stretch of the imagination. It is a rule for the interim. It is not a final rule. The Senator is arguing an interim rule, not a final rule.

Mr. METZENBAUM. The rules and regulations, one part of it——

Mr. FORD. Read it all, not just the part that fits the Senator's piece.

Mr. METZENBAUM. If the Senator wants me to do that, I will be happy to do it. It seems to me that that would only be an imposition on the Senate, and I do not intend to read it all. If the Senator from Kentucky wants me to read it all, that would be in the nature of a filibuster. I do not intend to get into that.

I read from the rules and regulations, page 11521:

> The processing of malt (SIC 2082), malt beverages (SIC 2083) and distilled, blended and rectified liquors (SIC 2085) has been added to the final certification list.

Under "Food Processing," on the same page:

> Chewing gum has been added to the final certification list.

As to tobacco—

Mr. JOHNSTON. Mr. President, will the Senator let me finish a brief statement?

Mr. METZENBAUM. I did not mean to interrupt the Senator.

Mr. JOHNSTON. The Senator asked a very appropriate question.

Mr. President, what I was going to say is that this language has been worked out very carefully with the House, with all the committees involved. I was not aware of the particular status of this rule. Frankly, it makes my case less strong if there is a final rule or even, indeed, if there is an interim rule. However, the same thrust of the argument applies, and it is that these are words of art worked out between the House and the Senate.

I am not here to defend including chewing gum; but I know that if we try to redefine all of these items, it is another of these endless processes in which we take every agricultural product under the sun and rate its relative worth and rate its relative contribution to the economy. We do not have the time to do that. That is why we have used some words of art already in the statute, worked out after very laborious and time-consuming hearings.

As I say, I am not here to defend liquor or chewing gum or tobacco or anything else. I simply hope that we can accept this language because it has been agreed upon.

I yield the floor.

Mr. METZENBAUM. Is the Senator suggesting accepting the language of the amendment?

Mr. TALMADGE. No.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. TALMADGE. Mr. President, I have just come to the Senate floor. I was alerted that this amendment was pending; and as chairman of the Committee on Agriculture, Nutrition, and Forestry, I have a very keen interest in it.

I have labored for many years to get a high priority for farmers in the production of food and fiber, for a very simple reason: Without food, we do not eat; and without diesel fuel and petroleum, farmers cannot farm. So the highest priority we possibly can have in this Nation, in my judgment, in terms of shortages of petroleum, would be for agriculture.

I read from the amendment:

> For the purposes of this section, agricultural production of food shall not be defined to include chewing gum, malt beverages, distilled, blended and rectified liquors, tobacco, ornamental horticulture, confectionaries, or pet food.

On the face of it that seems relatively simple, but it has a very serious flaw.

No. 1, a farmer does not produce one crop and one crop alone. A farmer, as a general rule, produces a multiplicity of crops. It would be absolutely impossible to determine the amount of petroleum that went for one particular crop to the exclusion of all other crops. That is No. 1.

Now let us look at No. 2: "Agricultural production shall not be defined to include chewing gum."

I do not know what chewing gum is made of, frankly, so I do not know what particular crops that would hit.

However, let us go to malt beverages. I do know what malt beverages are made from. They are made from barley; they are made from corn; they are made from wheat. So that would eliminate barley farmers; it would eliminate wheat farmers; it would eliminate other farmers who produce grain.

Now let us go on. I know what distilled liquor is made of. It is made from grains, also. That would absolutely eliminate every farmer in the United States of America who produces corn. He would be out of business. He could not get any petroleum.

If you could not produce corn, you not only would eliminate liquor, but also, you would eliminate the dairy industry, you would eliminate the poultry industry, you would eliminate the swine industry, and you would eliminate the beef cattle industry.

Let us go to tobacco. Tobacco has become the whipping boy for some people in the United States in recent years. However, I point out that tobacco is the principal income for 600,000 farm families, largely in Appalachia. If they were not producing tobacco, they would be forced off the land. They would be forced on welfare, the welfare rolls would increase, but it would not stop people from using tobacco.

We saw what happened during the prohibition era. People kept on producing whisky, even though that was outlawed and serious penalties were imposed for violations. Prohibition created the organized crime element in this country. People were slaughtered daily because they produced and sold whisky.

In addition to producing a livelihood for 600,000 farm families, tobacco produced in excess of $6 billion in taxes in this country last year—Federal, State, and local.

What else, Mr. President? We exported tobacco to the extent of about $1.5 billion. We have an international trade deficit in this country of billions and billions of dollars. Last month, as I read the statistics, it was approaching $3 billion, in 1 month alone. Yet tobacco earns a surplus of about $1.5 billion a year.

What is the next item to be excluded under the Senator's amendment ornamental horticulture. That means that you could not send flowers to dead friends because of the petroleum situation. You could not produce flowers in this country. This amendment would outlaw petroleum for the production of flowers. If one of your friends died, you would have to call him on the telephone or send him a note and say, "I am sorry but I cannot send you any flowers, because that was outlawed by law on the floor of the U.S. Senate." How ridiculous can you get?

Next the amendment would apply to confectionaries. "Confectionaries" includes a multiplicity of products. It includes avocadoes from California. It includes peanuts from Georgia. It includes pecans where they produce pecans. It includes sugar from all the sugar beet States of this Union. It includes sugar from all the sugarcane States of this Union. And so forth. So it would outlaw the petroleum for all of them.

Now let us go to pet food.

Mr. METZENBAUM. Mr. President, will the Senator from Georgia yield?

Mr. TALMADGE. In one moment I will be delighted to yield to my friend from Ohio.

What is pet food made of? It is made from hogs; it is made from cattle; it is made from fish; it is made from a multiplicity of livestock. Yet, petroleum would be outlawed for all of them.

The sum and substance of this amendment, Mr. President, is that it would absolutely gut the agricultural priority that is now in the law. I do not believe the people of this country want to go hungry because they cannot get petroleum.

In due course, I will move to table this amendment, and I hope the Senate will do so by a resounding majority.

I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have great respect for the distinguished Senator from Georgia, who is the extremely able chairman of the Committee on Agriculture, Nutrition, and Forestry. Unfortunately, I do not think he was in the Chamber when I was explaining the amendment.

Mr. TALMADGE. I read the amendment. The Senator does not have to explain it. I read it to the Senate.

Mr. METZENBAUM. If the Senator will let me finish, there is nothing in this amendment that would allow petroleum for any of those items.

There is nothing in this amendment that outlaws any kind of petroleum or any group. All it says is that because you produce tobacco, which is an important industry in this country, because you produce candy, because you produce liquor, because you produce any one of the other items on this list, you are not supposed to get a priority, that you are not exempt, that you should be treated the same as everyone else in this country, and that is all I am saying. Treat those industries the same as everyone else, not outlaw you; just do not give you a special priority. Who are you that because you produce tobacco you think you have some special right that those of us who come from steel-producing States do not have and those who are involved in hospital care do not have?

Mr. TALMADGE. You cannot eat steel, I say to my friend.

Mr. METZENBAUM. True. You cannot eat steel but you cannot run this country without steel either.

Mr. TALMADGE. I agree with that.

Mr. METZENBAUM. There is nothing in this amendment that outlaws any amount of energy for any of these industries. It just says you are not entitled to special treatment, you are not supposed to be exempt from the law. If we are all going to sacrifice, let us do it equally across the board. The farmers in Ohio should sacrifice equally with the farmers in Georgia. There should not be any kind of special kind of consideration. I did not provide the exemptions. Under the Natural Gas Production Act it was the Secretary of Agriculture who made these definitions. I do not know how he figured out that chewing gum is an agricultural product. I do not know how he figured out that some of these other items are agricultural products. All I am asking for is equity. I am asking for fairness. I am asking for equality of treatment, and I am saying OK, you in agriculture, that is fine, you have a priority to produce, but you should not have a priority to produce tobacco, a priority to produce liquor, a priority to produce chewing gum, and a priority to produce horticulture. Yes, we want to send flowers to the dead. We do not want to treat that as a special kind of priority.

I yield to my good friend over there.

Mr. TALMADGE. Mr. President, do I have the floor?

Mr. METZENBAUM. I do not know.

Mr. TALMADGE. Mr. President, do I have the floor?

Mr. President, unless some Senator desires to speak, I move to table the Metzenbaum——

Mr. THURMOND. Mr. President, I wish to say a few words.

Mr. TALMADGE. Mr. President, I withhold my motion to table at this time. I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment offered by the Senator from Ohio. I commend the able Senator from Georgia for his excellent remarks on this subject.

I simply wish to say that while personally I do not smoke, millions of people in this country do smoke. People get great enjoyment, great relaxation, and great satisfaction from smoking. There is no law against smoking. If we do not grow tobacco in this country, it will be grown in other countries and shipped to the United States.

Tobacco is the leading crop in South Carolina, North Carolina, and Kentucky, and it ranks very high in Virginia, Georgia, and Tennessee. Think of what it means to the economy of these tobacco-producing States.

Some 1.3 million people are employed full or part time in the growing, manufacturing, and distributing of tobacco products. They work in every State and earn from $11 to $12 or more billion a year. Americans spend $17 billion for tobacco products. Mr. President, the farm value of tobacco products in this country amounts to around $2.3 to $2.5 billion. Think of what that means to the economy.

If the farmers cannot get fuel, they simply cannot grow tobacco.

Do we want tobacco to remain as a strong crop in the economy of this Nation, or do we wish to wipe it off the books and eliminate it?

I think the answer is self-evident. Tobacco exports in this country rank very high, averaging between $1.75 to $2 billion annually.

We are now running a deficit in our balance of trade. We have been doing it for years. Tobacco has made a positive contribution to our balance of trade to the extent of between $1.75 and $2 billion a year, and that should not be changed.

Mr. President, I say, also, that it is not only the leading money crop in my State, but many small family-type farmers make their living on this crop. What is going to happen to these thousands of little farmers? They are little farmers. They are not big farmers. What is going to happen to them if they cannot get fuel to grow tobacco? It is just that simple.

Mr. President, I think this amendment is completely unreasonable. I think it is unfair, and I hope the Senate will see fit to table this amendment.

Every year we have a fight in the Senate about tobacco. Tobacco is essential to the economy of this country. It is essential to giving employment to thousands of people. It is essential to our balance of payments. I urge my colleagues to soundly defeat this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, the amendment of the Senator from Ohio may be well intended, but its impact upon family farming would be very adverse, indeed.

There is just no way to differentiate what amounts of fuel a farmer may use for the production of one crop or another. There are 150,000 tobacco farmers in North Carolina alone and as many as 600,000 nationwide.

All of these farmers are not engaged in growing just tobacco. They grow virtually every other crop and produce every sort of livestock used to feed the people of this country.

As proof of what I say let me point out that North Carolina, the largest tobacco State, is also the largest producer of pickles and farm forestry products. Our farmers are No. 2 in the production of turkeys and sweet potatoes. They are No. 3 in chickens and eggs and in peanuts; No. 6 in pork and apples; No. 10 in soybeans; and No. 12 in wheat and corn.

The point is, Mr. President, that almost all tobacco farmers are actively involved in growing other crops. And, if this Nation is going to continue to feed our people—and to export one-third of our agricultural produce abroad—it is vital that 100 percent of current agricultural needs of all kinds requiring the use of all kinds of fuel be maintained without exception.

There is no practical way to differentiate specific uses by farmers that are engaged in a diversified agriculture.

And, even if this were possible the disruption of the lives of hundreds of thousands of farm families who depend upon tobacco for a base income—for income they need to remain in farming—imposed by this amendment would be catastrophic.

And, Mr. President, I might add that there have been recent dramatic developments in the commercial exploitation of the protein found in the tobacco leaf. We cannot abandon tobacco now, just as it is about to become the wonder food crop of the 1980's.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, my distinguished colleagues have already eloquently argued the facts against the adoption of this amendment. But let me simply say that this amendment may not have been conceived in haste, but it certainly was brought to the attention of the Senate in haste. I had the first notice of this amendment at about a quarter of 4.

Mr. President, this amendment would be an administrative nightmare. I can see considerable merit to the argument, in theory, of the Senator from Ohio. If it were possible to separate liquor, beer, and tobacco from other so-called food crops and separate them, I would consider doing so. But we are talking about a diversified agriculture, a system of farms that is the backbone of this country.

As William Jennings Bryan said many years ago, and I still think it is applicable, "Destroy the cities and we will rebuild them, but destroy our farms and grass will grow in the streets of every city."

In North Carolina we have as many small farmers as almost any other State in the Nation and, as the Senator from Georgia pointed out, our farmers are not dedicated just to growing tobacco. They are not dedicated to growing grains only for the purpose of making beer or liquor. Neither are they growing pork or beef for the purpose of making dog food. Our farmers grow a combination of all of these products, without knowledge of their ultimate use.

How are you going to say that the barley and the rice that are grown on farms are not going to be used for liquor or for wine? How are you going to say that the cattle, the poultry or the pork that is grown in North Carolina is not going to be used in dog food?

The same tractor that cultivates tobacco also cultivates grains and soybeans.

I just think that this amendment is something that would be unmanageable. It could not be administered. It would create a nightmare and certainly if it were going to be adopted before the Senate it should in my opinion be offered before a committee where hearings could be held and where administrative procedures could be devised to try to determine methods of making it work. This amendment should not be adopted here, late in the afternoon, with almost no notice to the Members of the Senate. Likewise, there is not a single Member of this Senate whose State would not be adversely affected by this amendment.

Mr. President, I join with my distinguished colleagues from Georgia, Kentucky, South Carolina, and other States in opposing this amendment. If it has merit let it be offered in the committee or in the form of a bill where hearings can be held and testimony can be taken. Otherwise, let us not encumber what appears to be the best bill we have been able to come forward with with an amendment that is completely unmanageable.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I join in opposition to this amendment. Let me say to my friend from North Carolina that the amendment was offered in committee where it received, I believe, two votes for and the other votes were against. The amendment was not exactly in this form, but it was to accomplish the same purpose.

Mr. METZENBAUM. Mr. President, if the Senator from Oklahoma would yield——

Mr. BELLMON. I will when I finish my statement.

Mr. President, the problem here which, I think, the Senator from Ohio misses, is this: There is simply no way for the farmer to know what the end purposes of his product will be. For instance, take the peanut grower in Alabama, Georgia, North Carolina. He has an acre of peanuts. Some of those will undoubtedly go into confections. There is no way for the farmer to know where the rest may go. It may go into more normal food products.

If we say to that farmer that he can have fuel for that part of his crop that is going to be used for eating peanuts or peanut butter, but he cannot have any fuel for that part of his product which goes into confections, we put him in an impossible situation.

The same is true of other agricultural commodities. Take soybeans, for example. The farmer will not know whether some of the soybeans he produces will go into pet foods or not, so we put him in an impossible situation. The same with those who grow pecans or a good many other nuts. A good part goes into confections, so these producers would be expected to let their groves run down, let the weevils eat up their crop and not produce any kind of those commodities at all.

Another point the Senator from Ohio misses is the fact that an industry may be short of fuel for 1 day or 1 week and it may miss a small part of its production. But if an agricultural producer runs out of fuel for an irrigation pump along in the hot summer and has to shut down his water operation for a week, he will lose an entire year's production. So it is essential that this provision which we put into the bill providing special provisions to allow fuel for agricultural production and for these other purposes be left in and be left unchanged.

All this amendment would do would be to create an impossible administrative nightmare. It would make it so that no producer of these commodities would know—based upon the language in the amendment I am not sure anyone would know—just how many commodities are covered, because grains go into liquors, into beer, into confections, into pet foods and, of course, grains are the main commodity for agricultural producers.

So this amendment would create at least serious mischief, and I feel it would create havoc in trying to administer the provisions of S. 1030, and I join others who have expressed their opposition to this amendment and urge its defeat.

Mr. METZENBAUM. Mr. President, let me address just a few comments on the subject with respect to the amendment that was offered in committee. That amendment was to eliminate the agricultural priority entirely, which is far different from the amendment that is under consideration at the present time.

With respect to the matter of coming up at a later moment, I advised the author of the bill some time ago that we intended to proceed along this line, so there is no element of surprise, although I am sorry, Senator MORGAN, that I did not have an opportunity to advise you to that effect.

Now, as to the matter being an administrative nightmare, I would like to point out that I am really not suggesting much different from that which is the law at the present time under the Emergency Petroleum Allocation Act.

Under the Emergency Petroleum Allocation Act, the definition of agriculture is not nearly as broad as it is under the Natural Gas Production Act, and it is because of the definitions that were made by the Secretary of Agriculture under the NGPA that this problem has arisen. As a matter of fact, under the Emergency Petroleum Allocation Act I would like to point out some items that are specifically exempted. There is a whole list of them, and one of them excluded from the definition is activities such as landscape counseling and planning, and garden services which certainly relate to horticulture; dog, cat, and other pet food is excluded from the definition; chewing gum is excluded from the definition; distilled, rectified, and blended liquors are excluded from the Emergency Petroleum Allocation Act, and the whole world has not fallen apart and all of the farmers have not been plowed under.

That is the law at the present time. The only reason we are in this situation is because the Secretary of Agriculture made these definitions under the NGPA, and all I am trying to say is let us treat everybody fairly and equally. Let us retain the agricultural priority, but let us not make it possible for the Secretary of Agriculture to again give these kinds of broad definitions he has under the NGPA. Let us go back to the language of the Emergency Petroleum Allocation Act.

Mr. FORD. Mr. President, I do want to take but a minute and then I will yield to my good friend from Georgia to make a motion.

I think what we are seeing here is something that gives on its face an emotional issue but that when you dig into the fact "ain't necessarily so."

It seems strange that the Senator from Ohio would take those items submitted after March 1 and not go back and look at those items that were included before March 1.

The Senator from Ohio has no objection to soft drinks. Why, the Senator from Ohio does not have any objection to vineyards and would allow them to make wine and ship the wine. He does not object to that.

Why not coffee? Why not tea? I think the Senator from Oklahoma recognized the fact and was correct, because I have kidded the Senator from Ohio as being a hater of dogs and cats because he is opposed to dog and cat food. This is nothing new. This is something he has been trying to do for some time and, as I say, in committee he only received two votes. That indicates, I think, and should indicate that, to the Members of the Senate the depth of concern, the depth of knowledge, the understanding of the Committee on Energy and Natural Resources as to what this amendment would do.

Now, Mr. President, I want to make one further statement and then I will yield. This is what we are talking about, and there is no way for the farmer to divide what portion of his labor is going in what direction. Agriculture is not only important to our domestic economy but it also plays a vital role in our Nation's balance of trade by providing agricultural exports.

High levels of agricultural production are essential because the revenues from our farm exports pay for almost one-half of our crude oil import bill. In other words, America's agriculture pays for 18 times as much energy as it uses, and no other industry can show such a return on its energy investment.

Therefore, priorities for fuels for essential agricultural uses throughout the food system should be maintained under any and all circumstances.

So, Mr. President, I say to my colleagues we have uncovered the smokescreen that has been attempted by this amendment, and allowed the facts as they are to come forth. I am delighted with those who have seen that this is a smokescreen. It is something to attempt to be emotional, get in on the energy legislation, and I am glad we have had the strong voice, a voice such as the distinguished Senator from Georgia, who was no more eloquent at any time, in my opinion, than he was a few moments ago as he defended the agricultural community in this country.

I yield to the Senator from Georgia.

Mr. TALMADGE. I believe the distinguished Senator from Virginia wanted to make a statement, and I yield to him at this point, without losing my right to the floor.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Georgia.

The voice of Virginia should be heard on this matter in opposition to this amendment.

We pride ourselves as a State of family farmers. As has been pointed out by the distinguished Senator from North Carolina, this is a vote that affects the family farmer, and the family farmer is the vanishing breed in America.

We look back in our history, and those who tilled the land developed the character of this country, and today we watch hour by hour as they disappear from our horizon.

A vote against this amendment is a vote for the family farmer.

I thank the Chair.

Mr. TALMADGE. Mr. President, I move to lay on the table the Metzenbaum amendment and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. TSONGAS). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Washington (Mr. MAGNUSON), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) is absent on official business.

Mr. STEVENS. I announce that the Senator from Neveda (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The result was announced—yeas 75, nays 14, as follows:

[Rollcall Vote No. 118 Leg.]

YEAS—75

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Cannon
Chafee
Cochran
Cohen
Cranston
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Javits
Jepsen
Johnston
Kassebaum
Leahy
Long
Lugar
Mathias
Matsunaga
McClure
McGovern
Melcher
Morgan
Moynihan
Muskie
Nelson
Nunn
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Talmadge
Thurmond
Tower
Warner
Young
Zorinsky

NAYS—14

Bradley
Byrd, Robert C.
Hart
Hatfield
Jackson
Kennedy
Levin
Metzenbaum
Pell
Ribicoff
Schweiker
Tsongas
Weicker
Williams

ANSWERED "PRESENT"—2

Danforth
Heinz

NOT VOTING—9

Chiles
Church
Culver
Durkin
Laxalt
Magnuson
Packwood
Stone
Wallop

So the motion to lay on the table Mr. METZENBAUM's amendment UP No. 223 was agreed to.

The PRESIDING OFFICER. Are there further amendments?

UP AMENDMENT NO. 224

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes unprinted amendment No. 224:

On page 3, line 14 after the word "maintenance," add the following:

"Transportation of perishable foods to retail market,"

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. HAYAKAWA. Yes.

Mr. ROBERT C. BYRD. Is it possible to get a time agreement on this amendment?

Mr. HAYAKAWA. Yes, it is, indeed. I do not know how much opposition there is to this amendment. I have cleared it, Mr. President. A very short time is all that is necessary.

Mr. JOHNSTON. Mr. President, I am prepared to accept this amendment. It is totally within the intent of the committee. The only reason it is not in the language is that natural gas is not used to transport perishable foods to market. Therefore, it was not included in the language from the Natural Gas Policy Act which was incorporated, in turn, in this bill. It is entirely consistent with what we are trying to accomplish, and we shall accept it.

Mr. HAYAKAWA. Basically, of course, what I am concerned with is the supplying of food to rural areas during food shortages and energy shortages.

Mr. JOHNSTON. Has the amendment been read yet?

Mr. HAYAKAWA. It has.

Mr. JOHNSTON. We accept it, Mr. President.

Mr. DOMENICI. On our side, we are pleased to accept it. We think it is a good amendment.

Mr. HAYAKAWA. I thank the Senators. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

TIME-LIMITATION AGREEMENT

Mr. JOHNSTON. Mr. President, I know of only one other amendment which will take a record vote. That is that of Senator ARMSTRONG. Are there any other amendments? This will be, I think, the last amendment.

Mr. ARMSTRONG. Mr. President, for the information of the Senators, I may have two amendments to offer, one or both of which may need a record vote.

Mr. ROBERT C. BYRD. Will the Senator and the managers of the bill be willing to enter into a time agreement on the two amendments?

Mr. ARMSTRONG. I should certainly be willing to enter into such an agreement.

Mr. ROBERT C. BYRD. What would be the least amount of time the Senator would be willing to agree to?

Mr. ARMSTRONG. If I could have 15 minutes on my side for each amendment, that would be plenty of time. It is not my purpose to draw out the discussion, but only to raise the issues.

Mr. JOHNSTON. Mr. President, the shorter the better, as far as we are concerned.

Mr. DOMENICI. I think we should reserve 15.

Let me ask the Senator, those two amendments would be on a congressional veto and the expiration date?

Mr. ARMSTRONG. The Senator is correct.

Mr. DOMENICI. I think we ought at least to reserve the same amount of time he has. We may not need it.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on each of the amendments by Mr. ARMSTRONG of 30 minutes, equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ARMSTRONG. I wonder if I could engage the Senator from Louisiana, in a brief colloquy to be sure I understand clearly the purpose of the bill. I must confess I have not been tracking perfectly the progress of this legislation. When I came on the floor an hour or so ago and began to study the bill report, I was quite surprised—indeed, somewhat distressed—by the apparent content of the bill. I should like to have the presiding officer call the Senate to order so I may ask some questions.

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mr. JOHNSTON. Mr. President, may I ask what amendment we are considering at this time?

The PRESIDING OFFICER. There is no amendment before the Senate.

Mr. JOHNSTON. May we have the amendment before us?

Mr. ARMSTRONG. I am reluctant to offer the amendment until I have had a chance to clarify a couple of provisions of the bill. Though I think I understand it correctly, I am reluctant to offer my amendment until I am sure it has served its original purpose.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ARMSTRONG. I wonder if the general purpose of the bill, as I understand it, can be summed up in this way: Under certain circumstances defined in the bill, the President of the United States is permitted to declare an emergency, then to call upon the States to provide a State plan—that is, call upon the Governor of the State to submit a State plan—which the President may then approve or disapprove.

In any event, the President of the United States is authorized, under certain rather loosely drawn conditions, as I understand it, to promulgate a national plan, which, in some circumstances, may be imposed.

My first question is this: Under the terms of the national plan, it is my understanding from informal discussions that the President could not impose coupon rationing. Is that correct?

Mr. JOHNSTON. That is correct, and I so stated in my opening statement.

Mr. ARMSTRONG. I also understand that this bill would not permit the President of the United States to prescribe closing for gasoline stations.

Mr. JOHNSTON. On weekends, that is correct.

Mr. ARMSTRONG. He could mandate the closing of service stations on days other than weekend days?

Mr. JOHNSTON. He could mandate closing on a series of days, some of which might fall on weekends, but he could not implement a weekend closing in the terms of the proposed standby energy conservation contingency plan which he sent to us several weeks ago.

Mr. ARMSTRONG. He could, however, provide for the closing of service stations on Sundays, some of which might be weekends or might not be?

Mr. JOHNSTON. That is correct, so long as he did not select weekends alone.

Mr. ARMSTRONG. Could the President, under the terms of this legislation, mandate speed limits for automobiles and trucks on the highways?

Mr. JOHNSTON. Yes, he could.

Mr. ARMSTRONG. Could he do that without coming back to Congress for additional authority?

Mr. JOHNSTON. That is correct.

Mr. ARMSTRONG. Could the President mandate odd-even driving days?

Mr. JOHNSTON. Yes.

Mr. ARMSTRONG. Could the President mandate mileage limits for individual drivers, households, or firms?

Mr. JOHNSTON. What does the Senator mean by mileage limits?

Mr. ARMSTRONG. Nobody shall drive more than x miles per day, per week, per month, per year?

Mr. JOHNSTON. I expect that would be an undue burden on interstate commerce, which is specifically outlawed in the bill. My answer would be, no, he could not.

Mr. ARMSTRONG. Could the President define classes of vehicles or drivers and prescribe limits within those classes?

Mr. JOHNSTON. Miles per automobile?

Mr. ARMSTRONG. Mileage limitations based upon the character of the driver or the character of the vehicle.

Mr. JOHNSTON. I believe, for the same reason as in the previous question, he could not do so.

Mr. ARMSTRONG. Let me pin that down carefully. The Senator is saying the President could not distinguish as among classes of drivers and prescribe different mileage limitations?

Mr. JOHNSTON. I am saying that, in my opinion, the language of the bill would not permit the President to set mileage limitations for anyone, because that would be an undue burden on interstate commerce. It does not, in my opinion, matter whether or not he does it for all equally or for different classes in different ways. I do not believe he could set mileage limitations.

Mr. ARMSTRONG. Is it the Senator's opinion that the President, under the terms of this legislation, could forbid certain types of travel altogether?

Mr. JOHNSTON. What kinds of travel?

Mr. ARMSTRONG. The thing that immediately occurs to me is, say, travel for recreational purposes. I have not been reflecting on this bill except in the last few minutes and I do not know how many different ways travel would be defined.

Mr. JOHNSTON. I believe a prohibition against recreational travel would fly directly in the face of section 204(a)(2), which prohibits the President from implementing a plan unless it is designed to be carried out in a way which will not impose an unreasonably disproportionate share of such burden on any specific class of business or any individual segment. That was meant specifically to cover such things as the recreation industry or such things as the outdoor advertising industry. The Senator will recall that the Senate previously rejected the outdoor advertising sign restrictions proposed by the President.

What we want to do is have a broad burden sharing. Any of these measures which would be designed to impact on one segment or section of society would be specifically prohibited under the terms of the bill.

Mr. ARMSTRONG. I think the Senator has already answered my next question which was: Could the President under the terms of this forbid the production of some of certain kinds of goods? I will ask it so that we have it in the RECORD. I assume the Senator's answer would be that he could not.

Mr. JOHNSTON. That would be my opinion.

Mr. ARMSTRONG. Could the President under the terms of this set standards for insulation of buildings, that is to say, no new buildings may be built or continued to operate unless it meets certain standards for insulation?

Mr. JOHNSTON. It is my judgment that the Department of Energy has that authority under other provisions of law.

Mr. ARMSTRONG. The same on thermostat settings?

Mr. JOHNSTON. The President already is empowered with thermostat responsibility.

Mr. ARMSTRONG. How about allocation of fuel as among users, by the purpose for which the fuel would ultimately be used?

I was somewhat confused during the discussion of the amendment by the Senator from Ohio. Does the President under the terms of this have authority to allocate among users?

Mr. JOHNSTON. The Emergency Petroleum Allocation Act, which the Senator pointed out is soon to expire, provides specific authority for allocation. This does not deal specifically with allocation. Therefore, in my opinion, this act would not supersede EPAA. So allocation would be governed wholly and totally by EPPA, in my judgment.

Mr. ARMSTRONG. And in that event, if EPAA expires and this act does not, would then the President possess such power under this act?

Mr. JOHNSTON. Not in my judgment.

Mr. ARMSTRONG. May I ask, would the President have authority under this legislation to prescribe or limit factory hours or workweeks?

Mr. DOMENICI. Would the Senator repeat that?

Mr. ARMSTRONG. Yes. It was whether or not this legislation would permit the President to prescribe the hours of operation for factories or limit in some way employee workweeks?

Mr. JOHNSTON. I believe he would be able to do that, again provided that it meets the test of section 204(a) (1) and (2).

That is, that it equally distributes the burden and that it is likely to achieve the energy conservation target.

It is difficult to give a judgment on each specific fact situation, but, in my opinion, the language of the bill would permit that kind of action by the President so long as it is shared equally across the board with all industry.

Mr. ARMSTRONG. The same answer, I presume, on closing schools, that if they close all schools of the same class, say all grade schools, he would have authority to do that or to limit the hours of schools?

Mr. JOHNSTON. Again, it is a question of reasonableness, but I believe he could.

Mr. DOMENICI. Will the Senator yield?

Mr. ARMSTRONG. Of course.

Mr. DOMENICI. I want to say to the Senator from Colorado, to this point, as the minority member, I agree with all the answers that have been given. However, I would add that this bill also says that none of the President's proposals are effective unless and until a State has been given an opportunity to submit its own plan and if its own will do the same or have the same effect in terms of savings as the President's, and they have the same protection in terms of judicial review, then the State's plan supersedes.

Mr. ARMSTRONG. I am relieved to hear the Senator's explanation of that because that is one of my questions.

I have been reading on pages 10 and 11 of the bill and I will simply accept the Senator's statement.

In my reading of the bill and in my discussion of it with staff, it is not clear to me from the text of the bill itself that the President would not have authority to provide and implement a national plan except in the case where an unacceptable State plan had been submitted.

As a matter of fact, that is somewhat, although not totally, reassuring since he retains the option of announcing in advance of it he would accept and reject anything that does not measure up to his specifications. But it is a good principle for us to keep in mind.

Mr. DOMENICI. Yes.

I must disclose, first, before the States are asked to give theirs, he must have his out on the table, before the States.

Mr. ARMSTRONG. I have two more questions to address to the managers of the bill and then I will offer my amendment.

Under the terms of this legislation, would the President be empowered to override provisions of the Environmental Policy Act or the environmental protection provisions in order to conserve energy?

Mr. JOHNSTON. Under the provisions of 104(b)(2) he would not be able to do that if it was "in violation of this act or any other applicable Federal law."

So I believe that would prevent him from overriding both Federal statutes.

Mr. ARMSTRONG. I thank the Senator.

I appreciate the Senator's courtesy and the explanation.

UP AMENDMENT NO. 225

Mr. ARMSTRONG. Mr. President, I now send to the desk an amendment.

The PRESIDING OFFICER (Mr. MATSUNAGA). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 225:

On page 14, line 4, insert new section 209, which reads as follows:

"SEC. 209. CONGRESSIONAL REVIEW. (a) The Presidential finding of emergency pursuant to Section 201, the Presidential actions pursuant to Section 202, and the Federal Implementation Plan pursuant to Section 205 shall not be effective if either House of Congress passes a resolution stating in substance that such House does not favor such actions and such plan.

"(b) The procedures for this Congressional review and associated consideration of any resolution under subsection (a) shall be the same as the procedures specified in Section 551 of the Energy Policy and Conservation Act (42 USC 6421) for consideration of an 'energy action' pursuant to that Act."

The PRESIDING OFFICER. The Senator from Colorado is recognized for 15 minutes in support of his amendment.

Mr. ARMSTRONG. Mr. President, although I am somewhat reassured by the statements of the distinguished Senator from Louisiana and the distinguished Senator from New Mexico, and I am pleased that at least some of the immediate problems that appear on the surface of this are not as serious as they might seem at first glance, it is nonetheless very clear this legislation is of broad and almost totally unguided grant of power to the President of the United States to make some decisions which have been previously made by individuals acting in their private capacity.

One of the distinctive features of the American system of government is that we are a nation of laws rather than of men. On a few occasions in the past we have adopted legislation such as this where we have simply said that the problem is too tough for Congress to handle, we cannot write the bill, or come to terms with it, or come to an agreement, as if we just said, "Mr. President, we can't solve the problem, you've got to make the decision."

It seems to me every time we do that we undermine, to a large degree, the proper role of the legislative branch. I think that is serious.

What is even more serious, in my judgment, is that we undermine the rule of law itself.

For one man to have the kind of authority that is contemplated in this bill is unwholesome. It is inconsistent, it seems to me, with the traditions of our country.

We have done it a few times before. Mention has been made of the Emergency Petroleum Allocation Act, and I will suggest that is exhibit A of why we should not do it again.

Anybody who thinks that is a success, perhaps might want to vote for a bill like this. But it seems to me that a broad, unrestricted grant of authority to the President is just bad policy.

This body did it and the House did it in the Gulf of Tonkin situation. We did it back in the early 1970's, when we gave the President of the United States the power to impose wage and price controls. I think that is one exhibit that shows it is not good policy.

If a decision has to be made on conservation, and I think it does, the proper policymaking body of the United States Government is the Senate and our colleagues in the other body.

We should not ever delegate that kind of responsibility or authority. It just is not consistent, in my view, with the traditions of our country.

Second, concentrating that kind of economic decisionmaking in any one person's hands or in the hands of only a few people who are not elected representatives but who are advisers to the executive branch is an invitation to further politicize the Nation's problems. I say this not as a reflection on any individual or on the executive branch.

Somebody observed that if there is one thing that is sure it is that there is not going to be any shortage of fuel oil in New Hampshire, and I think that is true.

I believe it is just a political fact of life that when big decisions are put in the hands of a small number of people or just one man, the President of the United States, as in this bill, it puts him under tremendous pressure, pressure which I think we should impose on no man, and it gives him power which no person should have.

Finally, and I suggest this cautiously, but I would feel uncomfortable if I did not raise the issue, it seems to me that this kind of legislation—not particularly in this bill, but any time we give these broad, unguided grants of discretion—is an invitation to corruption. If we look back at the history of government at every level, whenever you have people who are empowered to pass out economic favors, whether we are talking about bank charters or broadcasting licenses or permission for zoning of real estate at the local level, or anything that involves big economic consequences—when you concentrate that in a small number of hands, it is a temptation for wrongdoing. That is another reason why policy decisions should be made in the legislative branch and should not be delegated to the President. So I do not like the theory of this bill.

What does my amendment do? It simply says that whatever the President comes up with, at least the Congress of the United States should have a shot at it, should have a chance to veto it.

My amendment simply references a procedure that is already familiar in the law. It does not restate it, but it is simply the procedure which exists under the Energy Policy and Conservation Act. It says that if the President comes up with a plan and we do not like it—if we think it is unfair, if we think it discriminates against our States, if we think it violates the traditions of fair play—we have a chance to veto it.

That is the explanation of why I think the amendment is necessary. I hope my colleagues will support it.

I will be pleased to answer any questions. Except to ask for the yeas and nays on the amendment, I will be prepared to yield the floor.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Mr. President, a parliamentary inquiry, before I yield, or perhaps for the benefit of the managers. I just want to expedite this. My purpose, after the adoption of this amendment, would be to take up the other amendment I would like to offer. Regardless of the outcome of this amendment, I urge that we take up that amendment and adopt it by a voice vote, or perhaps the managers would be interested in accepting the amendment.

Mr. JOHNSTON. It may be possible to agree on a termination date.

Mr. ARMSTRONG. I yield back my time.

Mr. JOHNSTON. Mr. President, I am reminded of the story of the football coach whose team was behind. They were getting battered and beaten very badly by a team that was bigger and meaner. The coach sent in a substitute with a play and said, "Give the ball to George." The substitute came running out after a while and said, "George don't want the ball."

[Laughter.]

Mr. President, Congress was given the ball four times by the President of the United States, under the terms of EPCA: the President proposed gasoline rationing, weekend closures, restrictions on lighted outdoor advertising signs, and restrictions on thermostat settings in public buildings. Not only did Congress take more than 60 days to make up its mind, but it also turned down the President three out of four times.

In the process of that consideration, it became perfectly clear to us on the committee that the thing to do in this kind of legislation is to proscribe carefully the authority the President shall have, to make sure that he does not impact on any State unfairly or any segment of the economy or any geographic section of the country; that he be directed to do certain things, such as preserve the priority for agriculture. However, having made those proscriptions, those parameters, for the exercise of his power, we proposed to let the President act, and that is necessary for several reasons.

It is necessary because Congress—let us face it—really does not want the ball, when it comes to the detailed consideration of these kinds of plans. Frankly, I think Congress would rather have the plans imposed by the President and have the luxury of being able to criticize the action of the President and not have to take the blame for it. That is a very candid but, I believe, a very true statement of the position of Congress.

Second, we need to act; we need to act now; we need to save energy.

Under EPCA, the 1975 act, it takes at least 60 days to invoke any of these measures after the President submits them. That is more like 3 months, if the President has to hold the hearings, make the findings, and submit them, and perhaps that is more than 3 months. The fact is that if we are going to get anything done, we have to do it in this act and without a hearing.

The one group that has asked for the bill, in effect, is the Governors of the States. The National Governors' Conference, represented by Gov. Dick Lamm of Colorado, testified before our committee. He said that they want the authority to come up with State plans. They want the discretion and the flexibility to be able to avoid a Federal plan by promulgating and confecting their own State plan.

In effect, we have given the Governors of the States the ball in this measure. The one central theme of this measure is flexibility to the States to meet the multitudinous and differing needs of differing geographic areas, of different economic groups within the States. So this more than anything else gives to the Governors the right of flexibility.

It is not an overwhelming grant of authority to the President. Frankly, I believe that we probably will end up with 50 different State plans, each a little different, each agreed to and submitted by the Governor of each State, and we will not even find it necessary to invoke a Federal plan. I hope it is that way. That is the intent of the Governors, as reflected by Governor Lamm of Colorado, speaking for the National Governors Conference.

Mr. ARMSTRONG. Mr. President, will the Senator yield on that point?

Mr. JOHNSTON. I yield.

Mr. ARMSTRONG. I point out that my amendment referred specifically to the Federal implementation plan and the findings of the President. I think my amendment in no way would affect the well-intentioned and, in my view, wise purpose of the bill to involve the Governors. In other words, my amendment would bring before the Senate only the Federal plan and the President's actions, not those of the Governors.

Mr. JOHNSTON. I understand that, but we would not get to the State part of it so long as the President was prohibited from promulgating his plan by virtue of a congressional veto. We want to get to the point where the State is given the target and given the Federal plan and invited to submit the alternative plan. You do not get to that point so long as Congress has the right to veto.

Mr. President, we have had the experience of the special interest groups coming in to plead because of their particular circumstance. It is formidable, and it really does prevent Congress from acting.

So I hope that, given the broad flexibility of the States, we can improve the bill.

Mr. DOMENICI. Mr. President, will the Senator yield me 5 minutes?

Mr. JOHNSTON. I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. DOMENICI. Mr. President, I say to my good friend from Colorado that, while I disagree today on this amendment, I hope he knows that I hold him in great respect, and I am certain that on many more times we will be together rather than opposed.

Let me share my feelings about this measure with him and with the Senate.

I truly believe that the United States is right on the brink of national disaster. In fact, I hate to say it, but I am not sure this bill, even if it ever becomes law—and by the time the House of Representatives gets through with it it may never become law—I am not sure with it and many other things that we might be able to do in this body that we can protect the American economy from disaster. Disaster brought on by fiscal problems in the past and fiscal irresponsibility which was then aggravated by an energy crisis, with oil up from $3.25 prior to the embargo date to where I believe it will be $25 and $30 on the world market within 6 to 8 months. We are consuming 19 million barrels of oil a day, 19 million barrels a day, a half of which is ours, and for a half of which we send $50 billion a year to the cartel countries.

Vice President Rockefeller testified before the Finance Committee here 3 years and a few months ago with a plan for synthetic fuel development. He predicted that if America within 10 years got to the point we are today, just 3 years and 4 months after his testimony we would have economic chaos.

The only thing I can say is our economy is a little bit stronger than he thought but on the brink.

He narrowed down that gap of $50 billion for oil from the 10-year prediction to 3 years and 4 months; $20 oil from 10 years to 3 years and 4 months, and on and on. We have had increased use rather than decreased, 11 percent more gasoline being used since the embargo by an America which is hooked on gasoline. We are hooked like those who are really hooked on drugs and we cannot give it up. The higher the price the more we want, and the cartel sees it and on they go raising prices and cutting supplies.

Now that is one side.

The other side is the Senator is justifiably concerned about arbitrary action by politicians, be they Presidents or the collective Congress, and he has a little more confidence that collective groups like this will not act so arbitrary. Let me tell him there is another part to it. Collective representation, like this Congress with its parochial interests, is paralyzed today when it comes to the energy crisis. We cannot act. We cannot decide on weekend closings, rationing, any of those things because we, like our constituents, really do not believe that we have to suffer any.

We are not ready to suffer politically. So while we talk about the President doing things wrong, we all go home and we say, "Who is going to be mad at us when we tell a little restaurant they cannot be open 24 hours a day?" That may end up being the case in America, and there may be a lot of other things. It may be that high school students will not drive to schools in a few years. Who is going to have the courage to tell them that, when you drive by a high school lot and there are thousands of cars out there? I do not know if you are. I do not know if the President is. But let me tell you the President and Governors have more of a chance of coming up with a managed conservation plan than we do. And I am willing to give them the authority, and I am willing to put a sunset on as the Senator is recommending. We will need 3 or 4 years to try this. But there are other checks. In addition the President needs money to run the Federal program. So it will come regularly before our Appropriations Committee. The States will submit their own which is a check on the President. Also, the bill specifies that plans must be applied equally across the land. That will prevent unfair actions against certain States. It cannot discriminate. We provide judicial review. If a President says, "Your State plan does not save," they can take it to court and ask a judge if he is being arbitrary.

I do not know what more we can do unless we want more stagnation when it comes to conservation or unless we do not believe it is possible. And if it is not possible, let me suggest that the crisis will grow because while we need to increase supply and that is the second part of this, the doubleplay. This bill is the first part, conservation, and this does not direct its attention to supply. But we need to do both. And all I am saying is that whether we like the activities of this President or the one that will follow him or the one that preceded him, we arrive at certain times in American history when we have to face the facts that we have to trust someone.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DOMENICI. Will the Senator yield me 1 additional minute?

Mr. JOHNSTON. Mr. President, I yield 1 additional minute to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is yielded 1 additional minute.

Mr. DOMENICI. We have to trust someone, and I am suggesting that to trust only Congress when obviously it cannot act in these kinds of measures is to end up saying we are not going to do anything, and I do not think the Senator from Colorado wants that.

We just basically disagree on how we should get a conservation plan, but I think the Senator agrees we should get one. I do not think he thinks we should increase consumption of gasoline 6 or 7 percent a year as we have been, at least until we decide where we are going to get additional fuels to burn in our automobiles.

So I say, it is asking the Senate a lot to admit that this is one of those kinds of activities when we just cannot do the job and when the House of Representatives cannot do the job. We do say however, "We will be good watchdogs and we will use every power we can to make sure they are not arbitrary." If they are not in this bill we will put them in at different times in history in the process.

The PRESIDING OFFICER. The Senator's additional 1 minute has expired.

Mr. DOMENICI. I thank the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I am prepared to yield back the remainder of my time if the Senator from Colorado is.

Mr. HART. Mr. President, will the Senator from Louisiana yield me 2 minutes?

Mr. JOHNSTON. I yield 2 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 2 minutes.

Mr. HART. I think the Senator from New Mexico is absolutely right. The Senator, my colleague from Colorado, has proposed a situation here which is an institutional issue. There is no question that in our form of government Congress should fulfill the function which my colleague from Colorado is proposing that we fulfill. From an institutional, constitutional, and structural point of view I think he is absolutely right. The problem is, as the Senator from New Mexico has said, in this era of checks and balances, the checks and balances are working against Congress because we are not fulfilling our function. I think we can address the energy issue but we are not, and I am afraid we will not and when the tide is running that way, when Congress or any other leg of the three legs will not fulfill its function, then the two other legs have to take over.

I am afraid the Executive in this country is going to gain back power because this Congress, both Houses of Congress, will not fulfill the constitutional function that we are supposed to.

People say Congress is not responsive. I think we are too responsive, and the problem is we are responding too closely to our constituents and we will not solve the problem like rationing, and that is why the President is going to have to do this, I am afraid. I am just afraid based on the votes we have seen in the last few weeks in one House or the other that Congress will not bite the bullet and will not accept the hard message, and I think from the structural and constitutional point of view my colleague from Colorado is absolutely right.

I just do not think we have demonstrated the willingness or the will to take over this kind of responsibility.

Mr. JOHNSTON. Mr. President, I wonder if the Senator from Colorado and I could agree on an expiration date so that after this vote we can tell Senators that we will go immediately to third reading. I think the Senator wanted 1981 as an expiration date. Is he willing to go with September 30, 1985?

Mr. ARMSTRONG. Mr. President, I am not prepared to accept the different date, and it will be my purpose to expedite the consideration of it, but I say to the Senator that I am hopeful the Senate will see fit to adopt the amendment which is now pending. Whether or not that is agreed to it seems to me it would be well for this act to be coterminous with the EPAA. All the regulatory authorities, price controls, and regulations on the supply side which were contained in that act expire on September 30, 1981. Therefore, it was my thought that the right date for the conservation controls if this act is to be enacted into law should expire on the same date so that Congress will have a package to look at at that time. I did not pick the date for any other reason than that.

Mr. JOHNSTON. These are really two different subjects. Oil regulations and this conservation are totally different.

I might also point out that the President must renew his authority, must make new findings after each 12 months anyway. I am trying to get a date. I think 1981 is just too short. Can the Senator agree on another date?

Mr. JACKSON. What about 1983?

Mr. JOHNSTON. The Senator from Washington suggested September 30, 1983.

Mr. ARMSTRONG. I will say to the Senator that this is uncomfortable for me because I think it is important that there be some date on which this extraordinary authority, if it is to be granted at all, expire.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

The Senator from Colorado has 8½ minutes.

Mr. ARMSTRONG. Mr. President, I think we can wrap it up a good deal faster than that. How about this?

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ARMSTRONG. Suppose we just split the difference? I do not like going as far as 1983, and 1981 seems too close for you, so suppose we settle as a date September 30, 1982?

Mr. JOHNSTON. 1983 was splitting the difference. I had an amendment for September 30, 1985, so 1983 was splitting the difference.

Mr. ARMSTRONG. I will be happy to accept that.

I think the principle of getting some kind of an expiration date is important. I guess I should inquire from the Chair will that require other than just a simple motion to do that?

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. ARMSTRONG. Yes, of course.

Mr. JACKSON. I would suggest, and I——

The PRESIDING OFFICER. Will the Senator take the mike?

Mr. JACKSON. First, I want to thank the Senator from Colorado. All you need to do is to perfect the amendment and make that revision and there will not be any trouble on it.

Mr. JOHNSTON. We have one drawn if it is agreeable to the Senator from Colorado.

Mr. ARMSTRONG. All right.

Mr. DOMENICI. The Senator will have to submit the amendment right after we agree on it.

Mr. JOHNSTON. Mr. President, I do not have any time left.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, was it your desire to dispose of this ahead of the vote on the other amendment?

The PRESIDING OFFICER. Does the Senator from Colorado——

Mr. JOHNSTON. I merely want to tell Senators that we will go immediately to final passage if no other Senator has an amendment.

The PRESIDING OFFICER. I want to remind the Senator from Colorado that he has yielded to the Senator from Louisiana, and there is an amendment pending, and unless it is by unanimous consent set aside temporarily to consider the amendment dealing with the new date, we cannot act upon the second amendment.

Mr. JOHNSTON. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. ARMSTRONG. I would be pleased to yield.

Mr. JOHNSTON. I ask unanimous consent that it be in order for the Senator from Colorado to submit and for the Senate to consider the amendment just discussed relative to the termination date.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 226

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 226:

At the end of the bill insert:

Notwithstanding any other provision of this act, the authority granted the President under this act to promulgate or make effective Federal measures or Federal implementation plans in any state will terminate on September 30, 1983, but such expiration shall not affect any administrative, or civil proceeding, whether or not pending, based upon any act committed prior to such expiration date.

Mr. JOHNSTON. Mr. President, we will accept the amendment.

The PRESIDING OFFICER. Do the Senators yield back their time? Does the Senator from Colorado yield back his time?

Mr. ARMSTRONG. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. JACKSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 225

The PRESIDING OFFICER. The question now recurs on agreeing to the Senator from Colorado's amendment No. 225. Does the Senator still insist upon his debate? The Senator has 6 minutes remaining.

Mr. ARMSTRONG. Mr. President, I will take just a moment. I think we have said what needs to be said. It seems to me the Senator from Louisiana and the Senator from New Mexico and my colleague from Colorado have framed the issue very well.

We all agree as to the seriousness of the problem. We know this Nation must come to grips with the energy shortage which we face both from the supply side and the conservation side.

It really comes down not to a question of who believes it is a serious problem but who do we think ought to make the decision. As my colleague from New Mexico put it so well, you have got to trust somebody, and it is a judgment call of whether it is better to trust one man, the President of the United States, or to put your faith in the traditional decisionmaking process, which is within the Congress of the United States.

I understand the urgency of the situation. I am just more optimistic, I guess, that the Senate and the House can cope with this problem, and I particularly say to my colleague who has raised the issue of whether we are paralyzed, whether or not we can act, whether or not we can come to grips with this problem, that there have been many similar problems, knotty and difficult questions, facing the Nation, such as tax policy, the environment, and those are problems that we have to act upon and actions we have to take. We have been elected to make those tough decisions. We can adopt conservation measures. We do not have to delegate the power to make the laws in this country to the President or anybody else.

I think this amendment is a moderate one, and simply a procedure we have used before, and I urge its adoption.

I yield back my time.

The PRESIDING OFFICER. Is all time yielded back? All time having been yielded back, and the yeas and nays having been ordered, the question is on agreeing to the amendment of the Senator from Colorado. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DECONCINI (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Washington (Mr. MAGNUSON). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from North Carolina (Mr. MORGAN) and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) is absent on official business.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The result was announced—yeas 37, nays 51, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—37

Armstrong
Baker
Bayh
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Cochran
Cohen
Dole
Durenberger
Garn
Goldwater
Gravel
Hatch
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Lugar
Mathias
McClure
Pressler
Proxmire
Pryor
Riegle
Roth
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Warner
Zorinsky

NAYS—51

Baucus
Bellmon
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Cranston
Danforth
Domenici
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Leahy
Levin
Long
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Randolph
Ribicoff
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stewart
Talmadge
Tsongas
Weicker
Williams
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

DeConcini, for.

NOT VOTING—11

Chiles
Church
Culver
Durkin
Kennedy
Laxalt
Magnuson
Morgan
Packwood
Stone
Wallop

So Mr. ARMSTRONG's amendment (No. UP 225) was rejected.

The PRESIDING OFFICER. Are there further amendments?

Mr. JOHNSTON. Mr. President, if we can stand at ease for just a moment, I think the senior Senator from Louisiana is working on an amendment which we hope to be able to accept. It will be ready momentarily.

Mr. MATHIAS. Mr. President——

The PRESIDING OFFICER. The Senate will be in order.

Mr. JOHNSTON. I yield to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President——

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Maryland.

Mr. MATHIAS. Mr. President, at an earlier point in this debate, I addressed a question to the managers of the bill as to whether or not this legislation would be in conflict with, or how it would relate to, the National Emergencies Act, Public Law 94-412. The Members of the Senate will recall that legislation provided both for termination of existing states of national emergency and a means for terminating future states of national emergency.

We have since had the opportunity to view S. 1030 in light of the National Emergency Act. I am in agreement with the distinguished Senator from Louisiana that S. 1030 in no way conflicts with the National Emergencies Act. S. 1030 is not a kind of shotgun legislation by which a Presidential finding will trigger a whole array of emergency provisions. It provides for rather narrow findings with a rather confined result. S. 1030 contains a requirement for positive findings, and is also a provision for reporting and other procedures which will keep Congress and the American people fully informed of the Presidential actions which are taken under this bill. That was the purpose of the National Emergencies Act. S. 1030 follows in that tradition.

The PRESIDING OFFICER. Will the Senator cease? The Senate is not in order. The Senate will be in order.

UP AMENDMENT NO. 227

Mr. LONG. Mr. President. I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 227.

At the end of the bill insert the following—

SEC. . The President shall within 60 days after enactment of this section make effective an amendment to the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973, which provides to the maximum extent practicable, for the equal percentage allocation of motor gasoline among the States on the basis of the most current accurate measure of historical consumption.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, the purpose of this amendment is not to quarrel at all with how the Secretary of Energy or the President determines the amount of gas any State ought to receive. It is just to say that when they determine that a State ought to get that amount of gas they will use their powers to see that they get it. Otherwise, we are left in the position that the companies are supposed to try to see that the States get the amount of energy they are supposed to have.

If some company does not have the amount of energy they had last year so they cannot fulfill on their commitments, there is no provision anywhere to call upon anybody else to make up the shortfall.

I would hope that the managers of the bill could take this amendment to conference and perfect it if need be. It says to the maximum extent practicable the Secretary of Energy and the President will try to see that the people get the amount of gas they are supposed to be getting under whatever formula is worked out.

Several Senators addressed the Chair.

Mr. WEICKER. Point of order, Mr. President.

The PRESIDING OFFICER. The Chair will advise the Senator from Louisiana that——

Mr. WEICKER. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. Mr. President, I raise the point of order that the amendment of the distinguished Senator from Louisiana is not germane.

The PRESIDING OFFICER. The Chair will advise the Senator from Louisiana that the bill is being considered under a previous order where nongermane amendments shall not be in order.

Mr. LONG. Mr. President, I do not quarrel——

The PRESIDING OFFICER. If the Senator from Louisiana will permit the Chair to complete his statement, the bill deals with an emergency program to conserve energy and does not deal with allocation. Therefore, the amendment introduces new subject matter and under the precedents of the Senate is not germane, and the Chair rules that the point of order is well taken.

Mr. LONG. Mr. President, let me make this point to the Senate. I know of no reason why anyone would want to object to this. All we are simply asking is that States get the amount of gas they are supposed to get. That is all that is involved here. If a company is not able to deliver what it is supposed to deliver to a State, the Secretary of Energy and the President ought to see that somebody else makes some gas available to them. Otherwise, we will continue to have this hiatus that State is supposed to get a certain amount of energy and they do not get it.

Well, it is bad enough to quarrel about why the regulation does not let a State have the amount of gasoline it ought to have, but when it is agreed that they ought to have a certain amount of energy, it would seem to me that that being the case they ought to try to make it available. It seems to me, Mr. President, that this is really not an allocation. It is really just an expression of policy, but the President and the Secretary of Energy ought to use the powers available to them to see that each State gets what it is supposed to get.

May I ask the Senator from Connecticut, does he object to the amendment as such, or does he object to the unanimous-consent request that we might consider the amendment?

Mr. WEICKER. Mr. President, no, I have raised the point of order, which has been sustained by the Chair, and I insist on the point of order.

Mr. LONG. Mr. President, I ask unanimous consent that the amendment might be considered.

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. I respect the Senator's right to object, Mr. President. I shall offer the amendment on some other measure.

Mr. JOHNSTON. I ask for third reading, Mr. President.

The PRESIDING OFFICER (Mr. METZENBAUM). Are there further amendments? If there be no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. THURMOND. Mr. President, I rise in support of S. 1030, the Emergency Energy Conservation Act of 1979. This measure directs the President to draw up a standby energy conservation program for use in case of an energy supply crisis. In such time of crisis, the President would set a national target for reducing fuel consumption and ask each State to submit a plan to meet its share of that goal.

This measure is intended for implementation in the event of a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program.

As energy prices continue to rise, the case for using energy more efficiently becomes increasingly compelling. During the past decades of low energy prices, our Nation could afford to use energy inefficiently. However, the time of cheap energy is gone forever. This is evidenced by the high prices now found on our Nation's gasoline pumps.

We in Congress cannot expect our energy problems to solve themselves. We cannot expect the American people to accept the fact of higher prices for tighter supplies unless we, the Congress, accept some of the responsibility to find a solution. Today we can demonstrate an acceptance of responsibility by supporting S. 1030.

Mr. President, I urge my colleagues to join me in supporting the Emergency Energy Conservation Act of 1979.

Mr. ROBERT C. BYRD. Mr. President, frustration and uncertainty are, at present, the only common strains in the debate on energy policy. While the energy question is now the foremost concern of most Americans, there is little or no agreement on what steps to take to ease the current shortage or to secure our energy future.

There is, however, one course of action which should not be disputed—we must learn to practice serious energy conservation. We must curb the consumption of gasoline and stop wasting our finite petroleum resources. We must implement economically feasible measures to reduce industrial energy use. We must educate the American public that energy conservation is the most cost effective and readily available alternative energy source.

The Emergency Energy Conservation Act of 1979, S. 1030, is a good start in this direction. The bill was drafted by the distinguished Senator from Louisiana, Senator JOHNSTON, after careful consideration of other alternatives, including weekend gas station closings, which were regarded as unnecessarily disruptive to this Nation's economy. The bill represents a responsible balance between the need to implement effective and immediate conservation measures in the event of an energy emergency and concern for the interests and problems of each individual State.

The measure allows for the formulation by each State of a standby energy conservation plan designed to achieve specific conservation targets set by the President. Such plans must allow for reduction in both private and public energy use. In addition, the bill requires the President to devise a Federal conservation scheme, to be implemented in the event that a State cannot or does not take proper action. This is a fair and reasonable approach which will allow each State to adopt conservation measures tailor made to suit their unique needs and conditions.

I commend the distinguished members of the Senate Energy Committee and especially Senator JOHNSTON, for their efforts to devise a fair and balanced conservation approach. It is imperative that we put aside divisiveness and parochialism in an effort to find a common ground on these critical energy issues. Conservation demands sacrifice from each of us, and it will require adjustment and change in our daily lives. It will not be possible to satisfy or accommodate all the diverse interests and needs of the American people in the event of a severe energy supply shortage. But, Mr. President, I believe this bill goes a long way toward establishing the framework for careful consideration and attention to those needs. For these reasons, I urge the Senate's adoption of this bill.

Mr. JACKSON. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) is absent on official business.

I further announce that, if present and voting, the Senator from Iowa (Mr. CULVER) and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. WALLOP) would vote "yea."

The PRESIDING OFFICER. Have all Members voted?

The result was announced—yeas 77, nays 13, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—77

Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Leahy
Levin
Long
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stewart
Talmadge
Thurmond
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—13

Armstrong
Boschwitz
Cochran
Goldwater
Gravel
Helms
Humphrey
Jepsen
Lugar
McClure
Roth
Stevens
Tower

NOT VOTING—10

Chiles
Church
Culver
Durkin
Kennedy
Laxalt
Magnuson
Packwood
Stone
Wallop

So the bill (S. 1030), as amended, was passed, as follows:

S. 1030

Be it enacted by the Senate and House of Rpresentatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Energy Conservation Act of 1979".

PURPOSE

SEC. 101. The purposes of this Act are—

(1) to grant authority to the President to create an emergency program to conserve energy; and

(2) to permit the Governors of the States to identify the most appropriate methods to conserve energy within their respective States.

DEFINITIONS

SEC. 102. As used in this Act, the term—

(1) "energy" with respect to any State:

(A) means fuels consumed at end use or used to generate electricity, and

(B) for purposes of the calculation of energy use under section 202(a)(2) does not mean:

(i) wood, solar energy, bio-mass, motor fuel blends containing no less than 10 percent alcohol, or synthetic fuel;

(ii) fuels or electricity used directly in the production, exploration, or transportation of fossil fuels or fissionable material fuel;

(iii) fuels or electricity used for the pumping of water for hydropower storage;

(iv) fuel used directly in the production of electricity exported from the State for consumption outside the State; and

(v) fuels or electricity used for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, transportation of perishable foods to retail market, irrigation pumping, crop drying, or as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food, which the Secretary of Agriculture determines is necessary for full food and fiber production.

(C) does include only those fuels which the President determines are in short supply or which he determines are substitute fuels for those in short supply: *Provided,* That upon the request of a State, the President may declare other fuels to be substitute fuels with respect to that State, if he finds that such substitution is consistent with his authorities granted under this Act and will result in significant reduction in demand for the fuel determined by the President to be in short supply; and

(D) may include the use of energy equivalency factors prescribed by the President that weigh substitute fuels against each other so as to result in a common measure of energy consumption.

(2) "State" means the several States of the Union, the District of Columbia, Puerto Rico, and the territories and possessions of the United States;

(3) "Governor" means the Chief Executive Officer of a State;

(4) "severe energy supply interruption" means a national energy supply shortage which the President determines—

(A) is, or is likely to be, of significant scope and duration;

(B) may cause major adverse impact on national security or the national economy; and

(C) results, or is likely to result, from an interruption in the energy supplies of the United States, including but not limited to, supplies of imported petroleum products, or from sabotage or an act of God.

(5) "international energy program" means the same as that term means in section 3(7) of the Energy Policy and Conservation Act (42 U.S.C. 6202).

PRESIDENTIAL FINDING OF EMERGENCY

SEC. 201. (a) Whenever the President finds that a severe energy supply interruption exists or is imminent or that actions to restrain domestic energy demand are required in order to fulfill the obligations of the United States under the international energy program, he may exercise the authorities established by this Act.

(b) Any finding of the President under this section shall be accompanied by such information and analysis as is necessary to provide the basis for such finding, shall be transmitted to the Congress and shall be disseminated to the public.

PRESIDENTIAL ACTIONS

SEC. 202. (a) Upon transmittal to Congress of the finding under section 201, the President shall—

(1) announce a national emergency energy conservation target which if achieved will, to the maximum extent practicable, minimize the impact of anticipated energy shortages on the domestic economy by saving an amount of energy equivalent to the projected shortage;

(2) notify the Governor of each State of the State emergency energy conservation target established by the President for such State. The target for each State shall be a uniform national percentage reduction in an adjusted base period energy use. In determining the adjusted base period energy use for each State, the President, in consultation with the Governors, may make appropriate adjustments to reflect—

(A) reduction in energy consumption already achieved by conservation programs;

(B) current trends in population and economic activity;

(C) energy shortages which may be having an effect on energy consumption;

(D) variations in weather from seasonal norms; and

(E) such other factors as the President finds are relevant in such State;

(3) notify the Governor of each State of the Federal implementation plan as prescribed in section 205 which would be imposed in that State if such State is determined to be in noncompliance with section 205; and

(4) Announce an emergency energy conservation plan for the Federal Government, which plan shall be designed to achieve or exceed the national percentage reduction in energy use established under paragraph (2) and shall contain measures which the President will implement under authority available in other law to reduce the consumption of energy by the Federal Government on an emergency basis. In developing such plan the President shall consider the potential for emergency reductions in energy consumption—

(A) by buildings, facilities and equipment owned, leased or under contract by the Federal Government;

(B) by Federal employees through increased use of car and van pooling, preferential parking for multipassenger vehicles and greater use of mass transit; and

(C) by executive agencies and departments as a result of modifications in Federal procurement policies.

(b)(1) National and State emergency energy conservation targets established under subsection (a) shall be reviewed from time to time by the President and modified as he finds necessary;

(2) Any finding under this subsection and such information and analysis as is necessary to provide the basis therefor shall be available to the Congress and the public.

SUBMISSION OF STATE EMERGENCY CONSERVATION PLANS

SEC. 203. (a) Upon notification under section 202, the Governor of each State shall promptly submit to the President a State emergency conservation plan designed to achieve the State energy conservation target set for such State by the President under paragraph 202(a)(2). Such plan may be submitted in advance of such notification and tentatively approved by the President, may be amended from time to time by such Governor with the approval of the President, and shall contain such information as the President may reasonably require.

(b) Such State emergency conservation plan shall provide for emergency reduction in the public and private use of energy through the application of—

(1) those measures described in the plan, hereinafter known as State measures, which the Governor of that State will invoke pursuant to State law, any enforcement of which will be by enforcement officers of the State pursuant to State law;

(2) those measures, hereinafter known as Federal measures described in the plan and contained in a Federal implementation plan, for which the Governor has no existing authority but which he requests the President to review, approve, and impose pursuant to section 204 as Federal law in that State and which will be enforced by enforcement officers of the Federal Government pursuant to Federal law.

(c) Notwithstanding the exemption described in section 102(1)(b)(v) a Governor may, in order to achieve the State energy conservation target, submit a State conservation plan which results in savings of fuels or electricity used directly in the essential activities described in section 102(1)(B)(v) and the amount of such energy savings shall apply toward the achievement of that State energy conservation target.

APPROVAL OF STATE EMERGENCY CONSERVATION PLANS

SEC. 204. (a) The President shall review any emergency conservation plan submitted by a Governor, and approve it if the President finds such plan, taken as a whole, is—

(1) likely to achieve the emergency energy conservation target established for that State under section 202(a)(2); and

(2) designed to be carried out in a way which would not impose an unreasonably disproportionate share of the burden of restrictions on energy use on any specific class of business or individual segment thereof.

(b) The President may not approve any State emergency conservation plan containing any Federal measure, as described in section 203(b)(2), if he determines that such Federal measure is—

(1) unlikely to conserve energy in that State;

(2) in violation of this Act or any other applicable Federal or State law;

(3) an undue burden on interstate commerce; or

(4) a tax, tariff, or user fee.

(c) Upon approval by the President of a State emergency conservation plan pursuant to this section, the Federal measures contained in such plan shall become effective in that State and the date of effectiveness shall be the date of approval by the President, unless another effective date is specified in such plan.

(d) In order for a State emergency conservation plan to be eligible for approval by the President, the Governor of each State in developing a State emergency conservation plan shall to the maximum extent practicable provide for consultation with affected businesses and an opportunity for public comment on such plan.

FEDERAL IMPLEMENTATION PLAN

SEC. 205. (a)(1) The President shall promulgate a proposed Federal implementation plan, and shall complete and announce the plan not later than 90 days after enactment of this Act.

(2) The President may amend such plan from time to time after its completion, but shall make such amendments public upon their adoption.

(b) If the President finds—

(1) after a reasonable period of operation, as determined by the President, of an approved State emergency conservation plan, that such plan is not achieving the emergency energy conservation target of such State, or

(2) after a reasonable period of time, as determined by the President, that a State has not submitted a State emergency conservation plan which has been approved by the President, then the President shall after consultation with the Governor of such State make effective in such State a Federal implementation plan.

(c) Any finding under subsection (a) shall be accompanied by such information and analysis as is necessary to provide a basis for such a finding and shall be available to the Congress and the public;

(d)(1) Any Federal implementation plan promulgated under subsection (a) shall be prescribed after a public hearing and opportunity for public comment.

(2) Any such plan, taken as a whole, shall, as determined by the President, be designed—

(A) to achieve the emergency energy conservation target established for the State in which such plan is intended to be implemented; and

(B) to be carried out in a way which would not impose an unreasonably disproportionate share of the burden of restrictions on energy use on any specific class of business or any individual segment thereof.

(3) No Federal implementation plan shall contain any measure which the President determines is—

(A) unlikely to conserve energy in the State in which such measure is intended to be implemented;

(B) in violation of this Act or any other applicable Federal law;

(C) an undue burden on interstate commerce; or

(D) a tax, tariff or user fee.

(e) The Governor of a State in which a Federal implementation plan is or will be in effect may submit at any time a State implementation plan and if it is approved under section 204, the Federal implementation plan shall be rescinded.

(f) Nothing contained herein authorizes the President to restrict the hours of sale of gasoline between Friday noon and Sunday midnight, unless one of those days is included as a part of a plan to close gasoline stations on rotating days of the week, not to include a rotation designed to fall on a regular basis on days of the weekend. The provisions of this section shall not in any way limit the President's authority to transmit any energy conservation contingency plan to the Congress under section 201 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6261).

PENALTIES AND ENFORCEMENT

SEC. 206. (a). It shall be unlawful for any person to violate or fail to comply with any provision of a Federal measure or of a Federal implementation plan in effect in a State or with any rule, regulation or order issued pursuant to such provision.

(b)(1) Whoever violates subsection (a) shall be subject to a civil penalty of not more than $5,000 for each violation; and

(2) Whoever willfully violates subsection (a) shall be subject to a civil penalty of not more than $10,000 for each violation.

(c) If there is a basis in State or Federal law for any enforcement officer of such State or his designee to do so he may enforce any Federal measure or Federal implementation plan in effect in that State and bring an enforcement action in the appropriate State court.

REPORTS

SEC. 207. (a) The President shall monitor State emergency conservation plans and the Federal implementation plans and make such recommendations to the Governor of such State as he deems appropriate for modification to such plan.

(b) The President shall report annually to the Congress on any activities undertaken pursuant to this Act and include in such report his estimate of the energy saved in each State and the performance of such State in relation to this Act.

EXPIRATION

SEC. 208. (a) No Federal measure or Federal implementation plan may continue in effect in a State for longer than twelve months unless the President finds that the conditions of subsection 201(a) continue in effect and require an extension of such period.

(b) Any finding of the President under this section shall be accompanied by such information and analysis as is necessary to provide a basis for such finding and shall be available to the Congress and the public.

HOARDING PROHIBITION

SEC. 209. (a) Section 16 of the Emergency Petroleum Allocation Act of 1973 is amended by striking ", during a severe energy supply interruption (as defined in section 3 of the Energy Policy and Conservation Act)".

(b) The President shall amend the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 to reflect the amendment made by this section not later than 30 days after the date of enactment of this section.

JUDICIAL REVIEW

SEC. 210. (a) Except to the extent inconsistent with the provisions of subsection (b), the provisions of the Administrative Procedures Act (15 U.S.C. 551 et seq.) shall apply to this Act for purposes of judicial review.

(b)(1) Any State may institute an action in the appropriate District Court of the United States, including actions for declaratory judgment, for judicial review of the—

(A) target for the State established by the President,

(B) determination by the President that the State emergency conservation plan is not achieving the emergency energy conservation target of such State, or

(C) determination that the State plan submitted to the President for approval as a State emergency conservation plan does not comply with the provisions of section 204 of this Act, including section 204(a)(2) regarding the share of the burden imposed on any specific class or on any individual segment thereof.

(2) The district court shall determine the questions of law and upon such determination certify such questions immediately to the United States Court of Appeals for the circuit involved, which shall hear the matter sitting en banc.

(3) Any decision by such Court of Appeals on a matter certified under paragraph (2) shall be reviewable by the Supreme Court upon attainment of a writ of certiorari. Any petition for such a writ shall be filed no later than 20 days after the decision of the Court of Appeals.

(4) It shall be the duty of the Court of Appeals to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under this subsection.

TERMINATION OF AUTHORITY

SEC. 211. Notwithstanding any other provision of this Act the authority granted the President under this Act to promulgate or make effective Federal measures or Federal implementation plans in any State will terminate on September 30, 1983, but such expiration shall not affect any administrative or civil proceeding, whether or not pending, based upon any Act committed prior to such expiration date.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 1030.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I want to pay special commendation to the Senator from New Mexico (Mr. DOMENICI) who has done an absolutely outstanding job on this bill.

It is a very far-reaching bill, one that authorizes some rather drastic powers to the President, but those powers are well confined, well defined, and I think it is the kind of strong action that we need.

The Senator from New Mexico has been extremely helpful, not only in debate on the floor, but in perfecting the terms of the bill when it was being drafted by the joint staffs.

Mr. President, I also commend the majority staff, Ben Cooper, Jim Bruce, my staff man, Rick Richard, as well as Dave Swanson on the minority side, who have worked in absolute harmony, worked very diligently and very hard.

I think they all deserve great commendation.

Mr. President, I think this bill could not have passed without that kind of bipartisan spirit.

Mr. DOMENICI. Mr. President, I am most grateful for the kind words my good friend from Louisiana has just stated. I state unequivocally that it has been a pleasure working with him on this matter.

I think we have both taken a challenge. We hear so much about it is time to do something, but nobody is acting. We hear so much about Congress can or cannot act, the President will or will not act. It all seems to be encapsulated in a huge map of regulatory bureaucracy, findings, hearings, and while Rome burns we worry about all those things.

Mr. President, I am most pleased to have worked with the good Senator from Louisiana, who deserves great commendation for bringing this far-reaching bill to the floor and to culmination. It will be a challenge to the House, too. They also have to get some things done. I hope they will consider this as an approach quickly to give our President and our Governors some management and some political muscle and some power to effect conservation in this country.

I am most grateful to the staff. They did a wonderful job. This is not an easy area. I am most appreciative to the Democratic and Republican staffs.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from New Mexico for his kind remarks.

Mr. ROBERT C. BYRD. Mr. President, I compliment Mr. DOMENICI and Mr. JOHNSTON for the excellent leadership they have shown in connection with the bill we have just passed.

The bill was drafted by that very distinguished Senator from Louisiana, Mr. JOHNSTON, after careful consideration of all their alternatives, including weekend gas station closings, which were regarded as unnecessarily disruptive of this Nation's economy.

I also commend the equally distinguished Senator from New Mexico (Mr. DOMENICI) on the fine cooperation he has given in the committee and on the floor in the course of the handling of this bill.

Excellent leadership has been demonstrated by both Senators and the other members of the committee, and I commend them and thank them.

Mr. JOHNSTON. Mr. President, I appreciate the remarks of the distinguished majority leader.

I only add that the distinguished Senator from New Mexico did more than simply cooperate. He was a joint participator, a joint drafter, and, as everyone has seen, he jointly handled this bill on the floor. I hope this is the first of a number of bills on which we will be able to work together.

Mr. BAKER. Mr. President, I join the majority leader in extending my congratulations to Senator DOMENICI and Senator JOHNSTON for a job well done.

Those of us in the Senate who serve with them daily have come to expect no less than that. They are both diligent. They are valuable Members of the Senate. But more especially, they are entirely dependable in the responsible management of legislation that comes to them for management on the floor of this body.

I especially pay my tribute to the Senator from New Mexico for his efforts to advise those on this side of the aisle as to his points of view and attitudes toward the floor amendments that have been proposed and his advice on the final passage of the bill.

The distinguished Senator from Louisiana and the distinguished Senator from New Mexico have set a good example for all of us in bipartisan cooperation and effectiveness.

Mr. DOMENICI. Mr. President, I thank the distinguished minority leader for his kind remarks. I am most appreciative.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may be permitted to speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRAGEDY OF THE HONORABLE JOHN H. WOOD, JR.

Mr. TOWER. Mr. President, I am deeply shocked and saddened and, indeed, outraged by last week's assassination of my close friend, a distinguished member of the Federal judiciary, John H. Wood, Jr. I must express my tremendous grief and a sense of personal loss at John Wood's death.

Judge Wood served the legal profession with distinction throughout his career, culminating in his appointment in 1970 as a Federal district judge in San Antonio, Tex. He performed his duties diligently and responsibly and earned the admiration and professional respect of his colleagues on the bench. He believed deeply in the integrity and fairness of our judicial system and always approached his cases with a dual commitment to see that justice was done while protecting carefully the legal and constitutional rights of the defendants before his court. I mourn Judge Wood's passing and wish to express to my colleagues that his death is not only a personal loss, but a tremendous loss to the Federal judiciary which he so devotedly served.

Mr. President, John H. Wood had the dubious distinction of being the first Federal judge in the United States to be assassinated. Although it cannot be proved at this point, the fact is that there is strong indication that his assassination was related to the fact that he was known as "Maximum John" because he handled all the tough narcotics cases in Texas.

As Senators know, Texas borders on Mexico, and the western-southern district of Texas has a number of drug cases. He worked in a district that extended from San Antonio to Del Rio-El Paso.

There had been threats on his life. Last December, the prosecuting attorney for the western district of Texas had 19 shots fired into his automobile. He narrowly escaped that.

So it appears that the criminal element is emboldened even to dispense with Federal judges if they do not care for the kind of justice those judges mete out.

John Wood was a tough-minded judge. I know that he was very concerned about the drug traffic in this country, and he meted out the toughest sentences possible. I wish there were more like him.

I can only express the hope that the President of the United States will appoint an equally tough-minded man to succeed Judge Wood on that bench; because if he fails to do that, the assassin's purpose will have been accomplished.

S. 1284—CRITERIA FOR THE IMPOSITION OF THE SENTENCE OF DEATH

Mr. TOWER. Mr. President, today I introduce a bill the substance of which has been submitted to the Senate in each of the last two Congresses, but on which no significant action was taken prior to adjournment. The purpose of this initiative is to remind my colleagues of the need to rid certain provisions of the Federal Criminal Code that have been adjudged by the courts as constitutionally defective, thus denying the judicial system the opportunity of carrying out, under certain circumstances, the imposition of the death penalty according to congressional intent. Is is indeed regrettable that the absence of corrective legislation in the past makes itself apparent only after we witness an gregiously brutal act, such as the wanton, gratuitous assassination last week of a Federal official—the Honorable John H. Wood, Jr., Federal district court judge in San Antonio, Tex.

While my primary concern is that of assuring appropriate punishment for the murder of a Federal judge, the legislation which I now offer is much broader in scope to run parallel with legislation introduced earlier this session by Senators DECONCINI and THURMOND.

Their bill, S. 114, provides a comprehensive approach to amend the U.S. Criminal Code to establish rational criteria for the imposition of the death sentence, consistent with recent judicial pronouncements on this subject. This approach is to be commended for its comprehensiveness, and I applaud their diligent efforts in proposing part of an overall solution to our persistent crime problem.

I would like to make clear, however, that should the Senate Judiciary Committee in its wisdom recommend that the legislative remedy with which I am concerned be addressed in substantially different form than my bill, I stand ready to defer to the wisdom of the majority and minority sides of the committee in designing an appropriate solution to the problem that is constitutionally sound, but nevertheless reflective of congressional intent that the death penalty be a viable alternative that a judge or jury may recommend under certain circumstances.

While I considered offering this legislation as an amendment to the Justice Department authorization bill, I realize that separate consideration of this proposal may be more appropriate. In any event, however, I express my hope that members of the Judiciary Committee proceed expeditiously on this matter so that tragic events in the future will not be without an effective punishment for a defendant for his crime.

The primary purpose of the legislation which I now offer is to cure the constitutional infirmities that now beset section 1111 of the Criminal Code regarding the imposition of the death penalty under certain circumstances. Last week's outrageous assassination of a Federal district judge in Texas reminds us that it is possible to have neither a State nor Federal law that will permit the imposition of the death penalty.

The jurisdiction of the Federal Government in law enforcement is limited. In our system, law enforcement is primarily a local and State responsibility.

Murder for instance, is a crime triable in State courts only where the crime is not committed on Government property and where there are no other circumstances that would give Federal court jurisdiction. Where both Federal and State laws calling for capital punishment are constitutionally defective, the legislative intent that certain crimes be punishable by death can be defeated.

In Furman against Georgia, the court held that the 8th and 14th amendments forbid the use of the death penalty under statutes which leave a jury with undirected discretion in its imposition and thus allow it to be imposed arbitrarily and capriciously. Following this landmark case in 1972, the court clarified the conditions under which a statute imposing the death penalty for the crime of murder will be found constitutional by deciding five cases involving statutes enacted in response to Furman. In Gregg against Georgia, Proffitt against Florida, and Jurek against Texas, it upheld statutes that guide the exercise of discretion by a judge or jury in the imposition of the death penalty, while in Woodson against North Carolina and Roberts against Louisiana, it held that certain mandatory death sentence statutes violated the eighth amendment's prohibition of cruel and unusual punishment. The court will henceforth demand that death sentence statutes require the sentencing body to take into account mitigating as well as aggravating factors concerning both the offense and the defendant, and provide some direction in the consideration of such factors.

In light of the Supreme Court's decision in Furman, it appears that the death penalty provision of 18 U.S.C.A., section 1111(A) is unconstitutional, the fifth circuit court of appeals in United States against Kaiser, made it clear that the imposition of capital punishment even for narrow categoriess of murder, absent clearly defined channels of sentence discretion focusing on the particularized circumstances of the crime and the offender, violates the prohibition against cruel and unusual punishment under the eighth amendment. While the precise rationales for Furman and related opinions were most unclear, the practical impact was not. The decisions invalidated the capital punishment laws of 39 States and the District of Columbia. The post-Furman understanding of Federal courts, Federal prosecutors, and Congress, appears to be that the death penalty cannot constitutionally be imposed under section 1111.

Congress has recognized that any death penalty imposed under section 1111 would be void. The legislative history of the Anti-Hijacking Act reveals Congress understanding that Furman has invalidated the various discretionary death penalty provisions of the Federal Criminal Code, including specifically that of section 1111. The Congress attempted to meet the demands of Furman in the Anti-Hijacking Act, see 49 U.S.C., section 1473(C), but made no similar effort to resuscitate section 1111.

However, it is equally clear, of course, that the Supreme Court does not regard capital punishment as "cruel and unusual," and thus unconstitutional per se. As stated in *Coker* v. *Georgia,* 97 S. Ct. 2861, (1977):

> It is now settled that the death penalty is not invariably cruel and unusual punishment within the meaning of the Eighth Amendment; it is not inherently barbaric or an unacceptable mode of punishment for crime; neither is it always disproportionate to the crime for which it is imposed. 97 S. Ct. at 2865.

The interplay of opinions and rationales in Furman, Gregg, Jurek, Proffitt, Woodson, and Roberts is complex, if not confounding. The Court has imposed a heightened scrutiny of the process under which the death penalty is imposed on a particular defendant. Furman requires that standardless jury discretion be replaced by procedures that safeguard against the arbitrary and capricious imposition of death sentences.

Mr. President, the bill I introduce today is designed to meet the constitutional concerns reflected in the latest Supreme Court cases. At the time that the late Senator McClellan introduced this bill in 1977, the Department of Justice examined the legislation and concluded that it does in fact meet all constitutional requirements. In a letter to Senator McClellan, the Attorney General stated that the bill provides a firm foundation for congressional consideration of a death penalty for a limited number of Federal crimes.

Briefly, the bill would provide that after a conviction of an offense for which a penalty of death is authorized, the Court must hold a separate hearing on whether to impose the death penalty. The hearing would normally be before the same jury which sat for trial, or, if both parties agree, before the judge. After both sides have an opportunity to present all relevant evidence, the jury would be asked to make special findings as to whether any of a list of mitigating or aggravating factors exist. The mitigating factors listed include such things as the youthfulness of the defendant. The extent of his involvement in the offense, any emotional problems or pressures, and the unforeseen nature of a resulting death. The aggravating factors would vary depending on whether the offense is one relating to treason or to murder.

After determining by unanimous vote whether any of these factors exist, the jury would be required to determine "whether or not any aggravating factors found to exist, when taken in conjunction with all the evidence, outweigh any mitigating factors found to exist, and, based upon this determination, shall return a finding as to whether or not a sentence of death should be imposed."

The bill further provides that the defendant shall have a right to appeal the sentence and that such review shall have priority over all other cases. In order to affirm the sentence, the appellate court must determine that the sentenc of death was not imposed under the influence of passion, prejudice, or other arbitrary factors; that the evidence supports the special findings; and that the sentence of death is not excessive considering both the crime and the defendant.

Mr. President, this bill clearly meets the requirements recently laid down by the Supreme Court for the restoration of the death penalty, and applies such a sentence to only a small number of the most serious criminal acts. I recognize, however, that we are not only faced with the qeustion of whether legislation can be drafted that will meet constitutional restrictions, but with a much more basic question as well—whether, even assuming its constitutionality, the Federal criminal justice system should have a death penalty at all.

The answer to that question becomes clearer and clearer with every new murder, particularly those whose victims are Federal officials. The death penalty must be restored if our criminal justice system is to combat effectively the ever-increasing tide of violent crimes that threaten to ravage the Nation, and if the confidence of the American people in our system of justice is to be restored.

I feel strongly that an amendment to title 18 is appropriate for the protection of Federal judges, and others, in the future. The Federal judicial system must be protected as fully as possible from future attacks of violence.

I acknowledge that the temptation to read personal preference into the Constitution is understandably great. This problem is compounded by the fact that the Supreme Court's decisions requiring the presence of some guided discretion lay out only a murky route in arriving at a legislative remedy that comports with the guidelines deemed constitutionally appropriate.

The legislation which I introduce today conforms to the constitutional requirements set forth by the Supreme Court and insures that any decision to impose death will be made in the principled manner required by "the basic concept of human dignity" underlying the eighth amendment.

But once the court has held, as it has, that "the punishment of death does not invariably violate the constitution," Gregg against Georgia, it seriously impinges upon a legislative body's judgment to hold that it may not impose such sentence upon an individual who has shown total and repeated disregard for the human worth of others, and who seemingly cannot be deterred from continuing such conduct.

I urge the Judiciary Committee to give this legislative proposal, or a modification thereof, its earliest attention. It would be unfortunate indeed if Congress omission in this regard were to inhibit States and the Federal Government from experimenting with various remedies—including possibly the imposition of the penalty of death—to prevent and deter certain reprehensible acts that are deserving of capital punishment when determined in a constitutionally sound manner.

Mr. President, the tragedy that surrounds last week's assassination of Judge John Wood in San Antonio reminds the Congress once again of a glaring omission in the Federal Criminal Code regarding the proper punishment for the murder of certain Federal officals.

Unfortunately, the provision under Federal law that was intended to permit capital punishment as a possible sanction against a defendant convicted of murdering Federal judges, and certain other public officials, has been held unconstitutional by the courts. If, of course, the State law intending to allow capital punishment as a possible sentencing alternative is similarly voided on constitutional grounds. Then the penalty of death for certain outrageous offenses is no longer a viable option for the jury or judge to consider in meting out an appropriate punishment. In my view, this result subverts the will of Congress, several State legislatures, and, I might add, society as a whole, which has a right to express its consideration for the victims of capital crimes and its moral outrage at particularly offensive conduct.

Today I am introducing a bill the substance of which has been submitted earlier this year by my distinguished colleagues, Senators DECONCINI and THURMOND, as well as in each of the last two Congresses, though without final approval by both Houses prior to adjournment.

While my primary concern is that of assuring appropriate punishment for the murder of Federal judges, the legislation which I now offer is broader in scope to run parallel to similar legislation on this important subject already before the Senate.

At the conclusion of my remarks, I request that a more extensive statement fully describing the constitutional issues at hand be printed in the RECORD. At this time, however, I would like to mention briefly the particular provisions of my bill that overcome the constitutional infirmities that have crippled other statutes in the past, and which meet with the standards now laid down by the Supreme Court of the United States in requiring certain procedural safeguards before capital punishment may prevail as an available sanction against heinous crimes.

POINT PAPER

The bill would provide that:

After a conviction for an offense for which a penalty of death is authorized, the court must hold a separate hearing on whether to impose the death penalty.

The hearing would normally be before the same jury which sat for trial, or, if both parties agree, before the judge.

After both sides have an opportunity to present all relevant evidence, the jury would be asked to make special findings as to whether any of a list of mitigating or aggravating factors exist.

The mitigating factors listed include:

The youthfulness of the defendant;

The extent of his involvement in the offense;

Any emotional problems or pressures; and

The unforeseen nature of a resulting death.

The aggravating factors would vary depending on whether the offense is one relating to treason or to murder.

After determining by unanimous vote whether any of these factors exist, the jury would be required to determine "whether or not any aggravating factors found to exist, when taken in conjunction with all the evidence, outweigh any mitigating factors found to exist, and, based upon this determination, shall return a finding as to whether or not a sentence of death should be imposed."

The bill further provides that the defendant shall have a right to appeal the sentence and that such review shall have priority over all other cases.

In order to affirm the sentence, the appellate court must determine that the sentence of death was not imposed under the influence of passion, prejudice, or other arbitrary factors; that the evidence supports the special findings; and that the sentence of death is not excessive considering both the crime and the defendant.

Mr. President, this bill meets the requirements recently laid down by the Supreme Court for the restoration of the death penalty, and applies such a sentence to only a small number of the most serious criminal acts.

I hope that members of the Judiciary Committee give their early attention to this or comparable legislation, and I look forward to its prompt approval by the Senate.

Mr. President, this bill provides that after a conviction for an offense for which a penalty of death is authorized, the court must hold a separate hearing on whether to impose the death penalty. The hearing normally would be before the same jury which sat for the trial or, if both parties agree, before the judge. After both sides have an opportunity to present all relative evidence, the jury would be asked to make special findings as to whether any of the list of mitigating or aggravating factors exist.

Mitigating factors include the youthfulness of the defendant, the extent of his involvement in the offense, any emotional problems or pressures, and the unforeseen nature of resulting death. The aggravating factors would vary, depending on whether the offense is one related to treason or murder.

The thrust of the measure is to correct the defect in the current Penal Code which does not permit the passing of a death sentence on anyone convicted of assassinating a Federal judge.

Under the law of Texas, which meets the constitutional requirements as defined by the Supreme Court of the United States, the assassin could be given the death penalty; but, of course, Federal jurisdiction preempts, I believe, in these cases. I hope this measure will be adopted, so that the death penalty will serve as a deterrent to crimes of this type.

I considered offering this as an amendment to the Justice authorization bill. I thought better of that. I am prepared to see it go to the Judiciary Committee. I hope that they will give it timely consideration.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TOWER. Mr. President, I ask unanimous consent that I may be permitted to proceed for 2 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. PROXMIRE. Mr. President, let me yield time to the Senator from Texas. I understand the majority leader prefers to have it done that way. If I am recognized, then I will yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. I yield to the Senator from Texas.

Mr. TOWER. I thank my colleague from Wisconsin for his generosity. I am delighted to note he is not quite so generous with the taxpayers' money.

Mr. President, I offer this legislation not just out of grief for a friend who has been struck down by a criminal element, but I offer it because I did not realize the serious deficiency in the Penal Code until this happened. I was appalled to find that criminals of this type cannot be given the death penalty even though it is in the statute. Because of the way the statutory language is couched, it does not meet the constitutional requirements laid down by the court.

Therefore, I hope that this will be given timely consideration. It will not apply in this case, of course, in the Wood case, but it will apply in future cases, and I hope will serve as a deterrent to those who would thwart justice, who would attempt to intimidate the judiciary through assassination.

Mr. President, I ask unanimous consent that my bill be permitted to lie on the table until the close of business tomorrow for additional cosponsors prior to its being referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. I thank my friend from Wisconsin again.

Mr. President, I ask unanimous consent that the text of the bill I have introduced be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 227 of title 18 of the United States Code is amended by adding after section 3562 a new section 3562A, to read as follows:

"§ 3562A. Sentencing for capital offenses

"(a) A person shall be subjected to the penalty of death for any offense prohibited by the laws of the United States only if a hearing is held in accordance with this section.

"(b) When a defendant is found guilty of or pleads guilty to an offense for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at trial or before whom the guilty pleas was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury which determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury which determined the defendant's guilt has been discharged for good cause; or

"(D) appeal of the original imposition of the death penalty has resulted in a remand for redetermination of sentence under this section; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the court and of the government.

A jury impaneled pursuant to paragraph (2) of this subsection shall consist of twelve members, but, at any time before any conclusion of the hearing, the parties may stipulate in writing with the approval of the court that it shall consist of any number less than twelve.

"(c) In the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report, if one has been prepared, except such material as the court determines is required to be withheld for the protection of human life or for the protection of the national security. Any presentence information withheld from the defendant shall not be considered in the determination of the sentence of death. In the sentencing hearing, evidence may be presented as to any matter relevant to sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (f), (g), (h). Any information relevant to any mitigating factors, including those set forth in subsection (f), may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials; but the admissibility of information relevant to any aggravating factors, including those set forth in subsections (g) and (h), shall be governed by the rules governing the admission of evidence at criminal trials. The government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the evidence to establish the existence of any of the aggravating or mitigating factors, and as to the appropriateness in that case of imposing a sentence of death. The burden of establishing the existence of any aggravating factors is on the government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factors is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

"(d) After hearing all the evidence, the jury, by unanimous vote, of if there is no jury, the court, shall return special findings setting forth the aggravating and mitigating factors, set out in subsections (f), (g), and (h), found to exist. The jury, or if there is no jury, the court, shall then determine whether or not any aggravating factors found to exist, when taken in conjunction with all the evidence, outweigh any mitigating factors found to exist, and, based upon this determination, shall return a finding as to whether or not a sentence of death should be imposed.

"(e) Upon the unanimous finding of the jury, or if there is no jury, upon a finding by the court, that a sentence of death should be imposed, the court shall sentence the defendant to death. In all other cases, the court may impose a sentence of life imprisonment or any term of years.

"(f) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered:

"(1) the youthfulness of the defendant at the time of the crime;

"(2) the defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge;

"(3) the defendant was under unusual and substantial duress, although not such a duress as to constitute a defense to prosecution;

"(4) the defendant is punishable as a principal for aiding and abetting the offense, under section 2(a) of this title, but his participation was relatively minor; or

"(5) the defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which he was convicted, would cause, or would create a grave risk of causing, death to any person.

"(g) If the defendant is found guilty of or pleads guilty to an offense under section 794 or section 2381 of this title the following aggravating factors shall be considered:

"(1) the defendant has been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; or

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

Provided, That if the charge is under section 794(a) of this title, the sentence of death shall not be imposed unless the jury or, if there is no jury, the court further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.

"(h) If the defendant is found guilty of or pleads guilty to any other offense for which the death penalty is available, the following aggravating factors shall be considered:

"(1) the death or injury resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission or attempted commission of, an offense under section 751 (Prisoners in custody of institution or officer), section 794 (Gathering or delivering defense information to aid foreign government), section 844(d) (Transportation of explosives in interstate commerce for certain purposes), section 844(f) (Destruction of government property by explosives), section 844(i) (Destruction of property in interstate commerce by explosives), section 1201 (Kidnaping), or section 2381 (Treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i), (n)) (Aircraft piracy);

"(2) the defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of serious bodily injury upon another person.

"(4) in the commission of the offense the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of any thing of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value; or

"(8) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent of a foreign nation;

"(C) a foreign official listed in section 1116 (b)(1) of this title, if he is in the United States because of his official duties; or

"(D) a Justice of the Supreme Court, a Federal law-enforcement officer, or an employee of a United States penal or correctional institution, while performing his official duties or because of his status as a public servant. For purposes of this subsection a 'law-enforcement officer' is a public servant authorized by law or by a government agency to conduct or engage in the prevention, investigation, or prosecution of an offense."

Sec. 2. Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

Sec. 3. Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

Sec. 4. Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

Sec. 5. Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

Sec. 6. The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;"

Sec. 7. Section 1116(a) of title 18 of the United States Code is amended by striking the words ", except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life".

Sec. 8. Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and if the death of any person results, shall be punished by death or life imprisonment".

Sec. 9. The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

Sec. 10. The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

Sec. 11. Section 2031 of title 18 of the United States Code is amended by deleting the words "death, or".

Sec. 12. Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or if death results shall be punished by death or life imprisonment".

Sec. 13. Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

Sec. 14. The analysis of chapter 227 of title 18 of the United States Code is amended by inserting after item 3562 the following new item: "3562A. Sentencing for capital offenses.".

Sec. 15. Section 3566 of title 18 of the United States Code is amended by adding a second paragraph as follows:

"In no event shall a sentence of death be carried out upon a pregnant woman".

Sec. 16. Chapter 235 of title 18 of the United States Code is amended by inserting immediately after section 3741 the following new section:

"§ 3742. Appeal from sentence of death

"In any case in which the sentence of death is imposed after a proceeding under section 3562A of chapter 227 of this title, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Such review shall have priority over all other cases. On review of the sentence, the court of appeals shall consider the record, including the entire presentence report, if any, the evidence submitted during the trial, the information submitted during tho sentencing hearing, the procedures employed in the sentencing hearing, and the special findings under section 3562A(d). The court shall affirm the sentence if it determines that: (1) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; (2) the evidence supports the jury's or the court's special finding of the existence of any aggravating factor or the failure to find any mitigating factors, as enumerated in section 3562A; and (3) the sentence of death is not excessive, considering both the crime and the defendant. In all other cases the court shall remand the case for reconsideration under the provisions of section 3562A of this title. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.

Sec. 17. The analysis of chapter 235 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3742. Appeal from sentence of death.".

Sec. 18. The provisions of sections 3562A and 3742 of title 18 of the United States Code, as added by this Act, shall not apply to prosecution under the Uniform Code of Military Justice (10 U.S.C. 801).

THE GENOCIDE CONVENTION: RIGHT VERSUS MIGHT

Mr. PROXMIRE. Mr. President, history has offered us both abundant evidence and conclusive proof that there exist two major means of settling disputes between individuals and nations:

law or force. We have also learned that in most significant human situations, where law is not firmly established, force becomes the absolute arbiter of men's differences.

The Genocide Convention is an honest and hopeful effort to assert the rule of law throughout the world. Implicit in the Convention is the clear recognition by civlized men that peace can only exist when men are willing to settle their controversies by agreement instead of by violence.

The Genocide Convention is admittedly a small step away from force and toward law as the arbiter of human disputes. The Convention, for example, would not wholly protect a nation's citizens from the dealings of a cruel and inhuman tyrant. But the existence of any law does not guarantee that the law will not be broken. Our own Bill of Rights has not meant that our civil rights are not at times violated. But their inclusion in our Constitution gives them legal status and provides the means for enforcement. So would it be with the Genocide Convention.

Mr. President, we must let every nation know just where we stand. We must let them know that we support the rule of law and not the recourse to violence in the settling of international, as well as national, disputes. We can give full endorsement to this principle by ratifying the Genocide Convention.

HEARINGS EXPLORE MANAGEMENT DEFICIENCIES AND POSSIBLE CONFLICT OF INTEREST AT BUREAU OF ENGRAVING AND PRINTING

Mr. PERCY. Mr. President, last month the Permament Subcommittee on Investigations of the Governmental Affairs Committee held 3 days of public hearings concerning the Bureau of Engraving and Printing (BEP). These hearings examined allegations of mismanagement, improper practices, and a possible conflict of interest by the Bureau's former Director.

During the course of the hearings, the subcommittee heard testimony from Under Secretary of the Treasury, Bette Anderson, concerning severe management deficiencies at the Bureau. Throughout the past several years, costs have risen dramatically at the Bureau; efficiency and productivity have fallen. The cost of printing currency has risen 200 percent since 1971. Printing capacity has not kept up with the demand; as a result, the Bureau is forced to farm out a good number of its contracts.

A critical shortage of skilled craftsmen has hindered efficiency and driven up costs. Some printers must work up to 12 hours a day, 7 days a week. The Bureau pays these printers up to $25,000 each, annually, just in overtime.

The subcommittee also explored the adequacy of 18 U.S.C. section 208 which governs conflict of interest during a Federal official's term in office.

This provision prohibits any Federal official from playing a personal and substantial role in any matter involving a company or organization with whom he has accepted, or is negotiating for, employment.

Our inquiry in this regard focused primarily upon James A. Conlon, Director of BEP from 1967 to 1977. Immediately upon his retirement from Government service in July 1977, Mr. Conlon became the President of the American Bank Note Development Corp. ABN development is a wholly-owned subsidiary of the American Bank Note Co. (ABN), the largest private printer of financial documents in the United States and a firm having an outstanding national and worldwide reputation. ABN prints food coupons, securities, and personal checks, as well as currency for over 40 countries around the world.

For many years, ABN and the Bureau of Engraving and Printing have maintained close ties. As the two largest intaglio printers in the country, they share many of the same concerns, including labor relations and the development of sophisticated printing technology. ABN has sold four printing presses to BEP for more than a million dollars each, as well as other technology and machines. Currently, ABN is attempting to sell a $20 million anticounterfeiting system to the Federal Reserve System.

In addition, since 1971 ABN has contracted with the BEP to print food stamp coupons for the Department of Agriculture. To date, these contracts have totaled almost $130 million. During the course of the hearings the subcommittee heard evidence that, due to intolerably lax auditing procedures at the BEP, ABN was earning extremely high profits on these contracts. In one case, profits totaled nearly 35 percent of gross sales, far higher than the industry standard. Until 1977 these contracts were never audited. It is now evident that slipshod cost accounting at the BEP may have cost the Government millions of dollars.

During the hearings, the subcommittee heard evidence that, from September 1976 to June 1977, Mr. Conlon, as Director of BEP, was actively involved in ABN's attempts to sell its anticounterfeiting system to the Federal Reserve. On June 24, 1977, Mr. Conlon wrote a letter to a member of the Board of Governors of the Federal Reserve. In this letter, Conlon urged the Fed to forward approximately $14 million to BEP for the purchase of ABN's anticounterfeiting system. Prior to sending this letter Mr. Conlon had already received a job offer from ABN and was in fact actively negotiating the terms of that employment. Mr. Conlon admitted that, just a few days before June 24, he purchased, on behalf of ABN, furniture for what were to be his new ABN offices in Crystal City, Va.

Mr. Conlon was first offered the presidency of ABN in November 1976 by Edward Weitzen, chairman of the board. According to the testimony of Mr. Conlon and Mr. Weitzen, Mr. Conlon declined the offer at that time, claiming there were things he still wished to accomplish at the Bureau and stating that he was not yet prepared to retire. However, by June 10, 1977, Mr. Weitzen made another offer of employment to Mr. Conlon.

This time, Mr. Conlon accepted the presidency of ABN Development Corp., which had been incorporated just 3 months before. This job carried a salary of $85,000 per year plus generous fringe benefits. Mr. Conlon resigned as Director of BEP on July 1, 1977, and immediately took over his new duties. He had not informed any of his superiors in the Treasury Department of his new position.

Further, the subcommittee learned that prior to this, from November 1976 to February 1977, Mr. Conlon gave active assistance to ABN in the leasing of a suite of offices in Crystal City, Va. These very offices subsequently became Mr. Conlon's when he became president of ABN Development. Mr. Conlon and Mr. Weitzen both testified that Mr. Conlon's involvement in the selection, design, and leasing of these offices was merely a favor to Mr. Weitzen.

However, Gary Transtrum, then a real estate agent for the Charles E. Smith Co., gave sworn testimony that Mr. Conlon, in looking over potential office space, told Transtrum as early as November 1976 that he would be going to work for ABN.

Mr. President, the Justice Department is now presenting this matter to a Federal grand jury. It is the responsibility of the grand jury, and not this subcommittee, to resolve these conflicts of testimony and determine if there is enough evidence to charge that Mr. Conlon's actions in this regard constituted a criminal violation of the Federal conflict-of-interest statute. But there is no doubt that this kind of close relationship produced the appearance of a conflict of interest on Mr. Conlon's part.

Million-dollar contracts should not be decided on the basis of past friendship or future employment. When business deals cease to be arms-length transactions, we must carefully scrutinize what is going on.

Mr. Weitzen, the chairman of the board of ABN, stated very forthrightly that, while he felt that neither he nor Mr. Conlon did anything improper, he now regrets the unfortunate appearance of conflict of interest which was created by this sequence of events. In fact, Mr. Weitzen stated that, were he to do it over again, he probably would not hire Mr. Conlon in the first place.

I was very much heartened by this testimony. ABN did not seek the publicity and notoriety of this investigation. Indeed, its business may suffer somewhat as a result. Nevertheless, Mr. Weitzen recognized the necessity for the Congress to probe this set of facts to find out if the American taxpayer was getting his money's worth at BEP.

Mr. President, the confidence of the American people in this Government is at a low ebb. It is, therefore, imperative that we establish, and vigorously enforce high ethical standards in Government.

We have heard a great deal of debate in recent months concerning potential problems with the prohibitions on post-Government employment contained in the Ethics in Government Act, Public Law 95-521. Indeed, we must take care that overly strict proscriptions do not discourage ably qualified individuals from rendering valuable service to the Government.

On the other hand, as this investigation has amply demonstrated, the "revolving door" can have serious consequences for those involved and for the Government itself. The possibility of future employment in the private sector may compromise the independence, impartiality, and good judgment of Federal officials. This "revolving door" must be shut.

In order to combat this problem, this Congress must carefully scrutinize the consequences of overly-close relationships between those who let Government contracts and those who bid on them. Even the slightest appearance of impropriety is enough to erode the confidence of the public in the integrity of its Government.

Mr. President, this Congress has a mandate from the American people and from its own leadership to exercise vigorous oversight of Government agencies and Government programs. American taxpayers demand that their tax money be spent wisely and efficiently.

The documented waste and inefficiency at the Bureau of Engraving and Printing is appalling. Such a sad state of affairs will no longer be tolerated.

Under Secretary Anderson testified at last month's hearings that concerted steps are being taken to solve these problems at BEP. A new Acting Director of BEP, Harry Clements, has been appointed and he pledges to crack down on BEP's deficient procurement practices, incredibly lax auditing procedures, and manpower deficiencies.

These are promising signs. This Congress will fix a watchful eye to insure that long-overdue reforms at the Bureau of Engraving and Printing are now carried out effectively and efficiently. For too long the watchdog of the Treasury has been napping. It is long past time to wake him up.

Mr. President, in addition I would like to commend publicly Mr. Curt Matthews, a reporter for the Baltimore Sun, for the outstanding job he did in investigating this matter. His probing, insightful stories unearthed a good deal of evidence pertinent to our own investigation. I ask unanimous consent that the series of articles which Mr. Matthews wrote on mismanagement and conflict of interest at the BEP and which appeared in the Sun this year be inserted in the Record at this point.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Food Stamp Printing Probe Asked: Conflict of Interest Alleged in Awarding of U.S. Contracts

(By Curt Matthews and Peter Behr)

Washington.—The Department of Justice has been asked to investigate "possible criminal violations" in the awarding and supervision of more than $154 million in contracts to print and distribute government food stamps, a Treasury Department spokesman confirmed yesterday.

Senate investigators said that serious conflicts of interest may have occurred involving senior personnel at the government's Bureau of Engraving and Printing, which handles the food stamp contracts.

The investigation was initiated by the Senate permanent subcommittee on investigations last May, focusing on two companies that print and distribute the nation's entire supply of food stamps. More than 2.3 billion coupons were distributed in 1978 to needy families for use in place of cash to purchase food.

The subcommittee said that one of the companies, which it did not name, may have made profits far above those called for in the contracts, according to a letter obtained by *The Sun*.

According to congressional sources, about 80 per cent of the stamps are printed by American Bank Note Company of New York. The remaining 20 per cent are printed by United States Bank Note Company of New York.

The contracts covering the period between November, 1971, and September, 1979, totaled more than $154 million. Contracts for 1978 exceed $38 million.

Information about the investigation was outlined in a letter sent last week by senior members of the subcommittee to Senator Abraham A. Ribicoff (D., Conn.), chairman of the Senate Committee on Government Affairs.

The letter to Senator Ribicoff was sent by Senators Sam Nunn (D., Ga.), chairman of the investigations subcommittee, and Charles H. Percy (R., Ill.), the ranking Republican.

The letter states, "The subcommittee inquiry is based on information indicating that one of the Bureau's food coupon contractors may have realized profits substantially in excess of profits called for in its contracts."

The letter notes that until September, 1977, the Bureau of Engraving and Printing failed to perform audits on the costs involved in printing the food stamps. Also, high-level officials at the bureau failed to take appropriate action when subsequent audits revealed the possibility of excessive profits by one of the firms printing the stamps, according to the letter.

As a result of the Senate subcommittee's investigation, the office of the inspector general at the Department of Treasury and the General Accounting Office began to probe the circumstances of the food coupon printing contracts awarded by the bureau.

The letter sent to Senator Ribicoff notes that last June, the GAO found that documentation of the food stamp contracts was "seriously deficient." The Treasury Department auditors, following up on the GAO probe, found similar shortcomings in other printing contracts awarded by personnel at the Bureau of Engraving and Printing, according to Senate investigators.

Joseph Laitin, press officer for the Department of the Treasury, confirmed that the department's inspector general has reviewed the Senate subcommittee's initial investigation and referred the matter to the Criminal Division at the Department of Justice for further evaluation.

In a carefully worded statement, Mr. Laitin said, "Our investigation indicated sufficient evidence of possible criminal violations that we felt the Department of Justice ought to review the matter."

The Treasury Department is the parent agency for the Bureau of Engraving and Printing, the government operation that prints all the nation's paper currency, stamps and official documents such as bonds, bills, notes and revenue stamps.

Until early last year, the director of the Bureau of Engraving and Printing was James A. Conlon. Mr. Conlon, who lives in Burke, Va., near Washington, is now employed by the American Bank Note Company, according to government and company sources.

Mr. Conlon was replaced by Seymour Berry, the current director of the bureau.

Mr. Laitin refused to discuss the investigation because he said it was still under consideration by the Department of Justice.

A spokesman at the Department of Justice said late yesterday that he was unaware that the matter had been referred to the department.

Efforts to reach officials of the two companies last night were unsuccessful.

Ex-Director of Engraving Faces Probe

(By Curt Matthews)

Washington.—The former director of the Bureau of Engraving and Printing, who quit in 1977 to work for a company that had been given more than $100 million in printing contracts by the bureau, is the focus of a conflict-of-interest investigation, a spokesman for the company confirmed yesterday.

William Ivey, legal counsel for the American Bank Note Company, of New York, said Senate and Treasury Department investigators are concerned that the job change by James A. Conlon, former head of the Bureau of Engraving and Printing, may have violated federal law.

However, Mr. Ivey and Salvators F. D'Amato, the president of American Bank Note, said yesterday that they believed Mr. Conlon acted properly in making the job change.

They also denied allegations by Senate staff investigators that the company may have made "unusually high profits" off the contracts it received from the Bureau of Engraving and Printing to print government food stamps.

Mr. D'Amato issued a statement saying: "We have cooperated fully with Senate and Treasury Department investigators and have given them information which we believe establishes that our profits on work for the Bureau of Engraving and Printing were not excessive and that there was no illegality or impropriety in our dealings with bureau personnel."

An investigation of the Bureau of Engraving and Printing was initiated last May by members of the Senate's Permanent Subcommittee on Investigations. Information about the investigation was outlined in a letter sent January 19 by senior members of the subcommittee to Senator Abraam A. Ribicoff (D., Conn.), chairman of the Senate Committee on Government Affairs.

The letter, sent to Mr. Ribicoff by Senator Sam Nunn (D., Ga.) and Senator Charles H. Percy (R., Ill.) notes that one of two companies given contracts to print food stamps "may have realized profits substantially in excess of profits called for in its contracts." Mr. Nunn is chairman of the subcommittee on investigations, and Mr. Percy is its ranking minority member.

The letter did not mention the American Bank Note Company by name as the target of its investigation. However, Treasury Department figures indicate that the company has printed nearly 80 per cent of the food stamps needed by the government over the last eight years.

Another New York firm, the United States Bank Note Company, produces the rest under contracts awarded by the Bureau of Engraving and Printing. Since 1971, the two New York companies have been given food stamp printing contracts totaling more than $1.54 million.

A source close to the Senate investigation said yesterday that the subcommittee is continuing its inquiry and public hearings may be scheduled soon to review management and contracting procedures at the Bureau of Engraving and Printing.

In the letter to Senator Ribicoff, it was noted that a recent Government Accounting Office audit of the government printing operation found "procurement files and procedures seriously deficient regarding the negotiation of . . . contracts."

The GAO report went on to say that the lack of proper documentation for contracts awarded by the Bureau of Engraving and Printing was not limited to the food stamp procurements.

The Bureau of Engraving and Printing produces all of the nations' paper currency, postage stamps and official documents such as bonds, treasury bills and revenue stamps. The only major printing contracts awarded by the agency are those for food stamps and, a few years ago, one for four billion gas rationing stamps.

Upon retiring from the Bureau of Printing and Engraving in June, 1977, Mr. Conlon, who had been with the bureau for more than 35 years, accepted employment as president of the ABN Development Corporation, a wholly owned subsidiary of American Bank Note Company with offices in Washington's Virginia suburbs.

Mr. Ivey said ABN Develpoment is concerned with "developing new products and new business" for American Bank Note, concentrating primarily on business from foreign countries. He added that ABN Development is not involved in developing business within the U.S. government.

Mr. Conlon was not available for comment yesterday regarding the circumstances of his decision to accept employment with American Bank Note.

ENGRAVING BUREAU LOSES ON CONTRACTS

(By Curt Matthews)

WASHINGTON—W. Michael Blumenthal, the Secretary of the Treasury, has removed the power to award purchasing contracts from officials of the Bureau of Engraving and Printing pending investigations into the awarding of $154 million in contracts to print government food stamps, a Treasury Department spokesman said yesterday.

Joseph Laitin, the department spokesman, said Mr. Blumenthal had acted January 19 to take personal control of the bureau's buying operations. A notice of the formal transfer of purchasing authority to the Treasury secretary's office is scheduled to appear in today's Federal Register.

Meanwhile, the former director of the Bureau of Engraving and Printing acknowledged that he had discussed the food stamp contracts and other bureau purchases with Senate investigators and, he said, established that there was no violation of federal laws.

The Treasury Department is the parent agency for the Bureau of Engraving and Printing, the government operation that produces all the nation's paper currency postage and revenue stamps and official securities such as bonds, bills and notes.

In a prepared statement, James A. Conlon, director of the bureau until his retirement in June, 1977, said:

"I have been interviewed by the staff of the Senate subcommittee [on permanent investigations] regarding the Bureau of Printing and Engraving contracts with private sector firms during my tenure as director. I believe I have provided the subcommittee with documented information which clarifies that all such contracts were properly made in accordance with federal procurement regulations."

However, sources close to the Senate's investigation said yesterday that the probe was continuing and that public hearings on alleged irregularities at the bureau may be scheduled soon.

Two senior members of the Senate subcommittee noted in a recent report to Senator Abraham Ribicoff (D., Conn.) that the investigation "is based on information indicating that one of the bureau's food coupon contractors may have realized profits substantially in excess of profits called for in its contracts."

Since 1971, the Bureau of Engraving and Printing has awarded contracts in excess of $154 million for printing food stamps. The nation's entire supply of such stamps is produced by only two firms, American Bank Note Company and United States Bank Note Company, both in New York. The major share of the work, about 80 per cent, has been done by American Bank Note Company.

When Mr. Conlon retired as director of the bureau, where he started as an apprentice printer in 1941, he joined American Bank Note as president of a wholly owned subsidiary in Washington called ABN Development Company.

Although Senate investigators are known to be looking into possible conflicts of interest on the part of Mr. Conlon, executives at American Bank Note insist that his decision to join the company was totally unrelated to the firm's business relationship with the bureau.

"There was no illegality or impropriety in our dealings with bureau personnel," Salvatore F. D'Amato, president of American Bank Note, said last Monday.

A Treasury Department official confirmed last Friday that the newly appointed inspector general at the department began probing operations at the bureau late last year and has forwarded the results of that investigation to the Criminal Division of the Justice Department.

A spokesman at the Justice Department acknowledged that the department has been called upon to review the matter, but refused to comment upon it.

According to Mr. Laitin at the Treasury Department, the investigation at Treasury "indicated sufficient evidence of possible criminal violations" to warrant consideration by the Justice Department. However, he refused to elaborate.

Under Mr. Conlon's tenure as director of the Bureau of Engraving and Printing, some major printing operations that formally were done by the government in Washington have been subcontracted to private firms, primarily American Bank Note Company.

According to a still-secret government report, the files and documentation for some of these contracts are "seriously deficient."

SALES OF PRESSES BY FIRM IN STAMP PROBE QUESTIONED

(By Curt Matthews)

WASHINGTON—A New York firm, already under investigation regarding contracts to print government food stamps, is being questioned about its sale of four printing presses, each costing more than $1 million, to the Bureau of Engraving and Printing, a spokesman for the company said yesterday.

The company, American Bank Note, is one of two firms that entered into a questionable $13.5 million "lease-purchase" agreement four years ago that drove up the cost of printing currency, postage stamps and government securities, the General Accounting Office has charged.

The bureau entered into the agreement, the GAO reported, even though Congress had appropriated only $3 million for new equipment that year.

The GAO said that the purchasing arrangement resulted in a sub-agency of the Treasury paying the equivalent of 11.6 per cent annual interest on funds to buy the new equipment.

American Bank Note is the subject of federal investigations into the awarding of $154 million in contracts to print the nation's supply of food stamps.

James A. Conlon, former director of the Bureau of Engraving and Printing, and now head of a wholly-owned subsidiary of American Bank Note, is under investigation for possible conflict of interest in negotiating $125 million in contracts with American Bank Note to print food stamps prior to his retirement in June, 1977.

The lease-purchase arrangements were negotiated with American Bank Note and DeLaRue-Giori, of Switzerland, for seven printing presses and six pieces of related equipment. The payments were to begin in 1976 when the equipment was delivered and end in 1981 with the bureau of engraving taking title, according to a Treasury Department spokesman.

The bureau of engraving imposed a surcharge on the costs to other government agencies—the treasury and agriculture departments, and the United States Postal Service—for printing currency, food stamps, postage and similar items, to recover the extra $3,401,649 charge under the lease-purchase agreement.

According to a Treasury Department spokesman, the lease-purchase agreement for the four presses obtained from American Bank Note amounted to $5,172,000. However, the bureau of engraving recently negotiated a settlement of the contract under which it purchased the equipment outright for "something less" than the full amount of the agreement, the spokesman said.

The only printing presses ever produced and sold by American Bank Note were those purchased by the bureau, according to a company spokesman, who asked not to be identified. He said an American Bank Note subsidiary in England uses similar presses and the company has been trying, so far unsuccessfully, to find other customers.

The presses sold to the Bureau of Engraving and Printing actually were made under contract by the American Can Company, in Geneva, N.Y.

Although the spokesman said the presses delivered to the bureau were "now operating very satisfactorily," sources close to the bureau contend they have never reached their projected capacity.

The presses reportedly were designed to produce 40,000 sheets of printed material in a regular eight-hour work period, but so far have been averaging only about 30,000 sheets according to sources.

There reportedly are no problems with the equipment acquired from DeLaRue-Giori under the lease-purchase agreements negotiated in 1974 and still in effect, according to a Treasury Department spokesman. The department is the parent agency for the Bureau of Engraving and Printing.

In its report criticizing the way the presses were acquired from American Bank Note, the General Accounting Office urged Congress to consider legislation that would allow the Bureau of Engraving and Printing to borrow from the Treasury when buying expensive new equipment.

The GAO report notes that the additional charges incurred by the bureau under the lease-purchase agreements were equivalent to an average annual interest rate of 11.6 per cent on the equipments' outright purchase price of $10,100,307.

According to Senate staff investigators reviewing contracts negotiated by Mr. Conlon with Amercan Bank Note to print food stamps for the bureau, the company "may have realized profits substantially in excess of profits called for in its contracts."

The investigators also are looking at what they describe as "certain conflict of interest allegations involving senior personnel" at the bureau.

Mr. Conlon, who was with the engraving bureau for more than 35 years, said earlier this week that he has been questioned by members of the Senate permanent subcommittee on investigations and provided information that he says clears him of any wrongdoing.

2 Aides Tied to Inquiry Figure Retire

(By Curt Matthews)

Washington.—Two top officials at the Bureau of Engraving and Printing, both close associates of a former director of the bureau now under investigation for possible conflict of interest in awarding government contracts, said yesterday they were leaving government service.

Seymour Berry, director of the Bureau of Engraving and Printing since July, 1977, sent a letter Monday to W. Michael Blumenthal, Secretary of the Treasury, stating his intention to retire effective April 7. A treasury spokesman announced yesterday that Mr. Blumenthal approved the retirement.

Everett J. Prescott, one of three assistant directors at the bureau working directly under Mr. Berry, confirmed yesterday in a telephone interview that before the end of the month he also intends to submit notice of his intention to retire.

Both Mr. Berry and Mr. Prescott have more than 37 years of service with the Bureau of Engraving and throughout that time have been closely associated with James A. Conlon, the former director who is the principal figure in the conflict-of-interest investigations referred to the Department of Justice by the Treasury Department. It was initiated last May by the Senate Permanent Subcommittee on Investigations.

All three men came to the Bureau of Engraving and Printing in late 1941 or early 1942 under a special apprentice program that drew young men from throughout the United States.

Mr. Conlon, who served 10 years as director of the bureau beginning in 1967, was the first to leave, taking employment in June, 1977, with the American Bank Note Company. It is Mr. Conlon's relationship with American Bank Note, a company that received more than $125 million in printing business from the bureau between 1971 and early this year, that is the source of the possible conflict of interest, according to government investigators.

Upon retiring as director of the bureau, Mr. Conlon recommended Mr. Berry as his successor. According to Treasury Department records, several of the most lucrative contracts given to American Bank Note—including one for $17.8 million and another for $9.1 million—were awarded by the Bureau of Engraving after Mr. Conlon went to work for the firm.

Mr. Berry, 56, was in his office yesterday but refused to comment on his decision to retire or the investigations focused on the Bureau he directs. His secretary said he was referring all press inquiries to the Department of the Treasury, the parent agency that oversees Bureau of Engraving operations.

In his letter to Mr. Blumenthal, Mr. Berry said he was retiring to accept a job with Sam H. Jaffee, a certified labor arbitrator in Washington.

Noting that he has been involved in labor negotiations as part of his duties at the Bureau of Engraving, Mr. Berry said, "This is a field which I find interesting, challenging, and one I have long planned as a post-retirement career."

Regarding his pending retirement, Mr. Prescott said yesterday that he had planned for more than a year to terminate his career at the Bureau of Engraving. He said he had delayed doing so since 1977 only because a number of top positions at the bureau were unfilled.

When Mr. Conlon left to accept employment as president of an American Bank Note subsidiary in Washington, ABN Development Company, he took with him Richard C. Sennett, another of the three assistant directors of the bureau in 1977.

Mr. Sennett, like Mr. Conlon, Mr. Berry and Mr. Prescott, was one of the 35 young apprentices brought to the Bureau under the special apprenticeship program in 1941.

Ranking members of the Senate investigation panel said in a report last month that the subcommittee staff was "exploring certain conflict-of-interest allegations involving senior Bureau of Engraving and Printing personnel."

A Treasury Department spokesman said later that its own independent investigation of the Bureau "indicated sufficient evidence of possible criminal violations that we felt the Department of Justice ought to review the matter." The Justice Department refuses to comment on the probe.

The Bureau of Engraving and Printing produces all the nation's paper currency, food stamps, postage stamps and government securities.

American Bank Note Defends Sale

(By Curt Matthews)

Washington.—The president of American Bank Note Company of New York has defended the firm's controversial sale of printing presses to the Bureau of Engraving and Printing in 1975 and challenged a General Accounting Office finding that the deal pushed up the bureau's operating costs.

In a prepared statement released yesterday, Salvatore F. D'Amato, president of American Bank Note, said a lease-purchase agreement with the Bureau of Engraving and Printing for four presses was consistent with equipment-purchasing procedures established by Congress and the Department of the Treasury, parent agency for the bureau.

The lease-purchase agreements with American Bank Note were approved by James A. Conlon, former director of the Bureau of Engraving and Printing and a key figure in a conflict-of-interest investigation that has been referred to the Department of Justice.

Mr. Conlon retired as director of the bureau in June, 1977, to accept employment as president of ABN Development Company, a wholly owned American Bank Note subsidiary in Washington.

American Bank Note Company also figures in a probe under way by the Senate permanent subcommittee on investigations that was prompted by a GAO report indicating the firm may have gained "unusually high profits" on $125 million in contracts to print food stamps.

The GAO criticized the lease-purchase arrangement in a report last July, saying that it resulted in a sub-agency of the Treasury Department paying the equivalent of 11.6 percent interest on the expenditures for the new equipment.

"We believe that borrowing from the Treasury's general fund to purchase this equipment would be less expensive and result in lower costs to the bureau's customers," the GAO said of the press-purchase arrangement with American Bank Note.

The "customers" of the Bureau of Engraving and Printing are other government agencies such as the Treasury Department, the Department of Agriculture and the Postal Service, which use printing items such as currency, food stamps and postage stamps.

Mr. D'Amato said he was issuing the statement regarding the lease-purchase agreements "to clarify and correct certain statements made in *The Baltimore Sun's* article of February 3 concerning the sale of American Bank Note printing presses to the Bureau of Engraving and Printing." He refused to answer questions raised by the statement or to elaborate upon it.

He noted in the statement that a surcharge imposed by the Bureau of Engraving and Printing for the cost of printing done for other government agencies was intended to recover all costs related to the acquisition of new equipment and not just the added costs from the lease-purchase arrangement.

He said also that, contrary to allegations by personnel at the Bureau of Engraving and Printing, the presses sold to the bureau have performed well, as was proven in an "extensive seven-day trial period" when the presses were delivered.

Mr. D'Amato added that if the presses are not now performing up to specifications, it is because they are being misused.

"We cannot be responsible for the present level of productivity," he said. "We have no control over operating procedures used by the bureau."

The four presses acquired by the Bureau of Engraving and Printing under the lease-purchase deal cost $5,172,000 according to figures supplied by the Treasury Department. However, the bureau negotiated a settlement of the agreement before the end of a five-year payout period and purchased the presses outright for less than the full amount of the initial contract.

Mr. D'Amato also said it was not correct, as had been reported in *The Sun*, that the Bureau of Engraving and Printing was the only customer his firm ever found for the presses it produced under contract.

U.S. Grand Jury Probing Food Stamp Printing Pacts

(By Curt Matthews)

Washington.—A federal grand jury here, convened in secret and as yet not acknowledged by the Department of Justice, is investigating charges of "possible criminal violations" at the Bureau of Engraving and Printing, particularly in the award of contracts worth $154 million to print food stamps.

Sources knowledgeable about the investigation said yesterday that the probe centers on James A. Conlon, former director of the bureau, and his role in the food stamp printing contracts.

Mr. Conlon, who for 10 years was director of the Bureau of Engraving and Printing prior to his retirement in June, 1977, reportedly has hired Plato Cacheris, a prominent criminal lawyer in Washington, to represent him.

Mr. Cacheris is a partner in the firm of Hundley & Cacheris, which in recent years has built a reputation for defending former government officials and their friends, including John N. Mitchell, the former attorney general, and many of those involved in the Maryland political corruption probes.

The Department of Justice was asked two months ago to investigate "possible criminal violations" in the awarding of food stamp printing contracts by the Bureau of Engraving and Printing.

The investigation was requested by the Treasury Department, parent agency for the bureau, which late last year conducted an internal probe of charges that some top officials may have personally profited from food stamp printing contracts awarded to the American Bank Note Company of New York.

Mr. Conlon, who worked at the bureau for more than 36 years, was hired upon his retirement by American Bank Note as president of a newly created business development subsidiary in Alexandria, Va., known as ABN Development Company.

According to sources familiar with the Justice Department investigation, the grand jury is exploring the possibility that Mr. Conlon's employment after retirement was related to the various contracts awarded to American Bank Note.

The sources, some within the government have asked not to be identified so they can avoid criticism for breaking government secrecy surrounding the investigation.

The probe has been expanded to include an inquiry into the circumstances surrounding the controversial sale of $5 million in printing equipment to the bureau by American Bank Note.

The sources said the grand jury met for two days last week and is expected to resume taking testimony this week. A number of present and former employees at the bureau, including some directly involved with contracting and procurement, have been subpoenaed to appear.

Information is being presented to members of the grand jury by lawyers assigned to the public integrity section of the Criminal Division at the Justice Department. The section was established in the wake of the Watergate scandals to probe allegations of misconduct by public officials.

A spokesman at the Department of Justice refused to comment on the investigation or even acknowledge that the grand jury had been convened.

Neither Mr. Conlon nor Salvatore F. D'Amato, president of American Bank Note, would comment on the investigation, and all employees of the firm have been instructed not to respond to reporters' inquiries. Mr. Cacheris also was not immediately available for comment.

Mr. Conlon and Mr. D'Amato both have issued statements denying any impropriety in Mr. Conlon's decision to leave the bureau and accept employment with the American Bank Note subsidiary.

The investigation into possible conflicts of interest at high levels of management at the bureau was initiated in May by the staff of the Senate's permanent subcommittee on investigations. That probe has been stalled temporarily because some key individuals are now under subpoena by the federal grand jury and on advice of their lawyers are withholding testimony until after their grand jury appearances.

Last month, Seymour Berry, director of the Bureau of Engraving and Printing, and Everett J. Prescott, one of three assistant directors working directly under Mr. Berry, announced their intentions to retire. Both Mr. Berry and Mr. Prescott have been employed for more than 37 years at the bureau and throughout most of that time were close working associates of Mr. Conlon.

Upon his retirement in 1977, Mr. Conlon recommended that Mr. Berry be named director of the bureau.

Treasury officials say 80 per cent of all food stamps printed since 1971 were produced under contacts awarded to American Bank Note. The remaining 20 per cent were printed by United States Bank Note Company, also of New York. About two billion food stamps are distributed each year to needy families for use in place of cash to purchase food.

According to Senate investigators, one of the two companies printing food stamps for the Bureau of Engraving and Printing may have realized "profits substantially in excess of profits called for in its contracts."

An audit of the bureau's operations by the Government Accounting Office last year reported that documentation related to the award of food stamp printing contracts was "seriously deficient" and that the bureau had failed to perform proper audits on the costs involved.

The Bureau of Engraving and Printing is the government agency that prints all the nation's paper currency, stamps and other high-quality government documents such as treasury bonds, bills and notes.

Firm Admits Error in Hiring Bureau of Printing Chief

(By Curt Matthews)

Washington.—The chairman of the board of American Bank Note Company of New York said yesterday that his employment of James A. Conlon, former director of the Bureau of Engraving and Printing, created the appearance of a conflict of interest and in retrospect it was a mistake.

Testifying before the Senate permanent subcommittee on investigations, Edward H. Weitzen, the senior executive at American Bank Note, said, "If I knew in 1977 what I know today . . . I doubt if I would have hired Mr. Conlon."

Under questioning by Senator Charles H. Percy (R., Ill.), the ranking minority member of the subcommitee, Mr. Weitzen agreed that his firm's job offer and subsequent hiring of Mr. Conlon raised questions of conflict of interest and was "a horrible embarrassment."

He said he miscalculated the impact of the appearance of impropriety even when, in fact, there has been none.

Mr. Conlon went to work for American Bank Note in July, 1977, upon retirement as director of the Bureau of Engraving and Printing. The circumstances of his decision to take employment with the firm that in recent years has been awarded more contracts by the bureau than any other private company is under investigation by both the Senate subcommittee and a federal grand jury in Washington.

After an internal investigation last year by the Treasury Department, the parent agency of the Bureau of Engraving and Printing, the circumstances of Mr. Conlon's job change were referred to the Department of Justice for further review of "possible criminal activity" and serious conflicts of interest.

Testimony at yesterday's Senate hearing by Mr. Conlon and Mary Catherine Kirk, his secretary for the last 11 years, was sharply at odds with sworn statements of another witness who testified before the subcommittee Tuesday.

The conflicting statements relate to the timing of Mr. Conlon's decision to retire from the Bureau of Engraving and Printing and accept employment with American Bank Note.

Both Mr. Conlon and Mrs. Kirk insisted under oath yesterday that it was not until early June, 1977, that he made the decision to retire and become president of ABN Development Corporation, a wholly-owned subsidiary of American Bank Note with offices in Alexandria, Va.

However, another witness before the subcommittee Tuesday, a former real estate salesman named Gary R. Transtrum, testified that in November, 1976, Mr. Conlon and Mrs. Kirk were shown office space in Alexandria that eventually became the executive headquarters for ABN Development.

Mr. Transtrum testified that Mr. Conlon told him as they discussed a lease for the office space that he had decided to go to work for a private company. Later in their negotiations the firm was identified as American Bank Note Company, he said.

"Mr. Conlon showed me the area where he said he wanted his personal office to be located," Mr. Transtrum said of his November, 1976, encounter with Mr. Conlon and Mrs. Kirk. "He told me that he would be working for the American Bank Note Company as a vice president and that the American Bank Note Company would be signing the lease for the office space."

Mr. Conlon told the subcommittee that he agreed to shop for office space in the Washington area at the suggestion of Mr. Weitzen, but at the time he had not decided to retire or to accept a job with American Bank Note.

The timing of Mr. Conlon's decision to go to work for American Bank Note Company is considered crucial to sustaining the allegations that he acted improperly. Treasury Department regulations prohibit any employee from participating in any matters that might involve a "prospective" employer.

Early in 1977, and subsequent to his inspection of office space in Alexandria, Mr. Conlon was involved in evaluating an anti-counterfeiting device being developed by American Bank Note.

Shortly after his formal announcement June 2, 1977, of his intention to retire, he wrote letters to officials at the Treasury Department and the Federal Reserve Board urging that a $19 million contract be negotiated with American Bank Note to purchase the anti-counterfeiting device.

The testimony yesterday by Mr. Conlon, Mrs. Kirk and executives of American Bank Note concluded three days of subcommittee inquiry into allegations of mismanagement and inefficiency at the Bureau of Engraving and Printing.

At the start of the final session yesterday, Senator Sam Nunn (D., Ga.) noted that the evidence gathered by the subcommittee indicates there have been problems in the operation of the bureau.

Regarding the allegations of impropriety on the part of Mr. Conlon, Senator Nunn said, "I wish to caution my colleagues and the public against drawing any hasty conclusions." He added that documents and testimony gathered by the subcommittee would be carefully reviewed.

Probe Told of '77 Shuffle of Printing Unit's Chief

(By Curt Matthews)

Washington.—The Bureau of Engraving and Printing has been operated in recent years by a small group of individuals who lacked broad management skills and carefully guarded their bureaucratic fiefdom within the federal government, a high-level Treasury Department official told a Senate subcommittee yesterday.

Bette B. Anderson, the Treasury undersecretary responsible for the bureau, said that when the Carter administration took office early in 1977, "It was . . . clear that the bureau was managed by a small group of individuals, a majority of whom had spent over 30 years within the bureau and were accustomed to their own particular ways of doing things."

She said that when she began to draw management responsibility away from the bureau and into its parent agency, the Treasury Department, it resulted in a rapid turnover of top personnel, including the retirement fo James A. Conlon, bureau director from 1967 to 1977.

Mr. Conlon and his relationship with American Bank Note Company of New York, the largest single private firm doing business with the Bureau of Engraving and Printing, are presently under investigation by both the Senate's Permanent Subcommittee on Investigations and a federal grand jury in Washington.

Upon his retirement, Mr. Conlon accepted a job as president of ABN Development Corporation, a wholly owned subsidiary of American Bank Note, with offices in Alexandria, Va. The job-switch boosted Mr. Conlon's annual salary from $47,000 at the Bureau of Engraving and Printing to more than $85,000.

Earlier this year, a Treasury Department internal investigation turned up "possible criminal activity" and conflicts of interest among Bureau of Printing and Engraving management. The results were referred to the Department of Justice.

In her testimony yesterday before the subcommittee, Mrs. Anderson said that a decision by bureau management in 1974 to buy four presses manufactured by American Bank Note was a major factor in the rising costs for producing postage, printed currency, food stamps and government securities.

She said that the presses ". . . failed to function much of the time, produced a high spoilage rate, forced the use of additional overtime and required substantial corrective maintenance."

Since 1971, the cost of printing currency has risen from about $7 for each 1,000 bills to nearly $19 for the same number.

Mrs. Anderson also testified that although Mr. Conlon had apparently decided to accept a standing $85,000-a-year job offer from

American Bank Note early in 1977, she did not learn of this until late May of that year.

The timing of Mr. Conlon's notification of his superiors is considered important by Senate investigators, because in the months just prior to his retirement he was involved in negotiating with American Bank Note a $19 million contract to develop a counterfeit bill detector.

Six months after Mr. Conlon first indicated privately to a business associate that he had a job offer from American Bank Note, he wrote letters to officials at the Federal Reserve System and the Treasury recommending that the American Bank Note device be acquired and that currency modifications be made to assist in automatic authentication.

Under the 1963 law, government officials are barred from participating in any decisions that involve the financial interests of "an employer or prospective employer."

The same law prohibits a government employee from acting as an agent for any party or business in which he or she has a "direct or substantial interest."

Mr. Conlon appeared yesterday before the Senate subcommittee and read a 28-page statement denying any wrongdoing in his more than 35 years with the Bureau of Engraving and Printing, specifically in his relationship with American Bank Note.

"My relationship with the American Bank Note Company and other private sector firms, and my activities as an employee and as director of the Bureau of Engraving and Printing were not only free of any impropriety, but were motivated by and predicated on the best interests of the government and the bureau," Mr. Conlon said.

He specifically challenged the staff of the Senate subcommittee regarding allegations that more than $100 million in contracts for the printing of food stamps went to American Bank Note because of his personal influence.

Printing Bureau Chief Said To Give Firm Money Paper

(By Curt Matthews)

Washington.—A quantity of the distinctive and tightly controlled paper that the Bureau of Engraving and Printing uses to print money was given to a New York firm that has the capability of printing currency, a Senate subcommittee was told yesterday.

James A. Conlon, director of the Bureau of Engraving and Printing from 1967 until 1977, provided enough of the paper to American Bank Note Company in New York to print 424 individual bills, according to Harry A. Clements, acting director of the bureau.

Mr. Conlon also attempted to steer a $19 million contract to American Bank Note, which later picked Mr. Conlon to run a subsidiary firm, according to congressional investigators yesterday.

Mr. Conlon and his relationship with American Bank Note Company are matters under investigation both by the Senate Permanent Subcommittee on Investigations and a federal grand jury in Washington.

Earlier this year, the Treasury Department, parent agency of the Bureau of Engraving and Printing, conducted an internal investigation that suggested "possible criminal activity" and "serious conflicts of interest" within the top management of the bureau.

Philip R. Manuel, a staff investigator for the Senate subcommittee, said yesterday that Mr. Conlon furnished the distinctive currency paper to American Bank Note (ABN) early in 1977.

"Our investigation shows that efforts to account for this paper in ABN's hands were not made until February, 1979, and that not all of the paper furnished ABN can be accounted for at the present time," Mr. Manuel said.

However, Mr. Clements said that the Bureau of Engraving has accounted for all the paper and that in his opinion there was no serious breach in the government's system to guard against counterfeit money.

Other testimony offered yesterday during the first of a scheduled three days of hearings regarding the management of the Bureau of Engraving and Printing revealed:

That Mr. Conlon, who became president of an ABN subsidiary when he retired as director of the bureau, in June, 1977, tried in the year before his retirement to steer a $19 million contract for automatic currency handling and counterfeit detection devices to American Bank Note.

That throughout the time Mr. Conlon was involved in evaluating the relative merits of anti-counterfeiting devices sought by the Federal Reserve System, he had a standing offer of an $85,000-a-year job with American Bank Note. His government salary during the period was never more than $47,000.

That six months before his retirement, Mr. Conlon began looking for a Washington-area office in which he later established the headquarters for the ABN subsidiary he now directs. He did not, however, inform his working associates or superiors that he had decided to take employment with ABN.

That a General Accounting Office investigation into food stamp printing contracts awarded by the bureau to American Bank Note shows the firm realized an average profit of 26.5 percent on more than $100 million in contracts between 1972 and late 1978—more than three times the normal operating profit for financial printers, according to industry sources.

A Treasury Department management study released yesterday during the hearings states that the accounting and control deficiencies at the Bureau of Engraving and Printing are so inadequate that the extent of inaccuracies cannot be determined.

In discussing Mr. Conlon's transfer of currency paper to American Bank Note, Mr. Clements said that it was not uncommon to give private firms access to the paper under tightly controlled circumstances for purposes of testing or product development. He acknowledged, however, that the quantity Mr. Conlon delivered to ABN seemed "somewhat high" in terms of the company's needs.

According to Senate investigators, it was Mr. Conlon who suggested that the paper be sent to ABN so the company could use it in developing its anti-counterfeiting device, a piece of equipment that could automatically determine if a piece of paper currency was authentic.

Two companies, American Bank Note and General Telephone and Electronics Corporation, were actively engaged in developing such devices in 1976 with the aim of selling them to member banks of the Federal Reserve system.

However, on December 22, 1976, a month after he had been offered the $85,000-a-year-job with American Bank Note, Mr. Conlon wrote to the firm suggesting a plan that would "abort" GTE's anti-counterfeiting project. The plan included a "convincing demonstration" of the ABN device that could be developed with the help of the distinctive paper used in the printing of U.S. currency.

Less than three months after Mr. Conlon began supplying the paper to ABN, the company demonstrated an anti-counterfeit device for Thomas E. Gainor, senior vice president of the Federal Reserve Bank in Minneapolis and then chairman of the Federal Reserve's subcommittee on currency and coin.

A month after the device was demonstrated, Mr. Conlon wrote to Mr. Gainor and recommended purchase of the ABN device.

"We have determined," Mr. Conlon wrote, "that the Security Signature System proposed by the American Bank Note Company is significantly superior in the best interest of the Government."

Mr. Gainor, who also testified at yesterday's hearing, said that the Federal Reserve System relied heavily on Mr. Conlon to recommend the best anti-counterfeit device to adopt as the standard mechanism to speed up counting and authenticating of paper currency.

He added that he did not know Mr. Conlon had accepted the job with ABN before his departure from the Bureau of Engraving and while he was involved in evaluating the ABN anti-counterfeit device. He called Mr. Conlon "a man of integrity" but said it was wrong for him to be so deeply involved with ABN at a time when he could influence a government decision in favor of the company.

Mr. Conlon is scheduled to appear today before the Senate subcommittee.

The investigation into management at the Bureau of Engraving and Printing was initiated last May by the Senate subcommittee after some employees at the bureau said such a probe was warranted.

Hearings May Disclose Printing Bureau Abuses

(By Curt Matthews)

Washington.—A smoldering scandal of bureaucratic mismanagement and "possible criminal violations" at the Bureau of Engraving and Printing will begin to unfold in public tomorrow when a Senate subcommittee opens three days of hearings.

The Senate investigation may officially reveal for the first time matters that for several weeks have been the focus of a federal grand jury investigation in Washington. The taint of scandal at the Bureau of Engraving and Printing is of particular concern to members of Congress and officials at the Department of Justice because of the sensitive nature of the bureau's operations: Printing the nation's currency, postage and other negotiable goverment documents.

Sources close to the grand jury investigation in Washington say that a key figure in the probe and a likely witness during the Senate subcommittee hearings is James A. Conlon, for 10 years the director of the Bureau of Engraving and Printing prior to his retirement in June, 1977.

Upon retirement, Mr. Conlon was hired by American Bank Note Company, a New York firm that has been given more than $125 million in food stamp printing contracts over the last eight years and in 1975 sold four printing presses to the bureau each costing more than $1 million.

According to sources close to the grand jury investigation and documents obtained by The Sun in response to a Freedom of Information Act request, government officials are concerned about a variety of management problems at the bureau:

Staff investigators of the Senate permanent subcommittee on investigations have "information indicating that one of the bureau's food coupon [printing] contractors may have realized profits substantially in excess of profits called for in its contracts."

The committee staff has not said which of two firms that print food stamps may have realized the excess profits. American Bank Note Company prints about 80 percent of the two billion stamps distributed each year by the federal government. The remaining 20 percent are printed for the bureau by United States Bank Note Company, of New York.

Internal documents and memoranda at the Bureau of Engraving and Printing indicate that the four presses purchased from American Bank Note Company—the only presses ever produced and sold by the company—have been a key factor in the bureau's nagging production problems.

Ironically, because the bureau has had difficulty in meeting the printing demands of government agencies such as the Treasury Department. Postal Service and Department of Agriculture, more printing business has gone to private firms, including American Bank Note.

Throughout most of the time Mr. Conlon directed the Bureau of Engraving and Printing and the bulk of the food stamp printing contracts were being awarded to American Bank Note Company, inadequate records were maintained regarding costs and control audits were not made, according to a Government Accounting Office report last year.

Worker safety at the bureau is seriously deficient, according to recently released accident reports. Safety experts say that accidents resulting lost work days are costing the bureau more than $1 million a year in added operating costs. Among the bureau's 3,000 employees there were 189 disabling injuries last year and 242 in 1977.

The management problems at the Bureau of Engraving and Printing have been a factor in the bureau's inability to fully meet the Federal Reserve System's annual request for new printed currency. In each of the last three years, the Fed has had to trim back its initial request for currency.

In addition, due at least partially to production inefficiencies at the bureau, according to sources within the agency, the cost of providing printed money has risen considerably in recent years. In 1977, the Federal Reserve Board ordered about three billion printed notes at a cost of $47,715,000. This year, the number of notes ordered increased to about four billion, but the cost of producing the currency has nearly doubled to an estimated $75 million.

In announcing the hearings, Senator Sam Nunn (D., Ga.), chairman of the investigations subcommittee, said that a "potential conflict of interest" on the part of Mr. Conlon and management problems that have resulted in increased costs at the Bureau of Engraving and Printing will be the two main points of focus during the inquiry.

Hearings To Probe Bureau of Engraving

(By Curt Matthews)

Washington.—A Senate subcommittee has scheduled three days of public hearings next week to look into improprieties and management inefficiencies at the Bureau of Engraving and Printing, congressional sources said yesterday.

A federal grand jury in Washington is already looking into charges of "possible criminal activities" and "serious conflicts of interest among officials at the Bureau of Engraving and Printing, the agency that produces all the nations printed currency.

The Senate hearings reportedly will focus on the awarding of more than $154 million in food-stamp printing contracts, the purchase of faulty printing presses and related matters at the Bureau of Engraving and Printing. These and other problems have sharply increased the cost of providing food stamps, currency and postage to various government agencies, according to government sources.

A central figure in the hearings is expected to be James A. Conlon, a former director of the bureau who retired two years ago to take a job with American Bank Note Company of New York, a firm that received more than $125 million in food-stamp printing business since 1971.

Mr. Conlon, who served 10 years as director of the bureau, accepted post-retirement employment as president of ABN Development Corporation, a subsidiary of American Bank Note.

In February, the inspector general's office of the Treasury Department, parent agency of the Bureau of Engraving and Printing, asked the Justice Department to investigate "possible criminal activities among top officials at the bureau.

Although the Justice Department has refused to comment on the status of its investigation, other sources have confirmed that a federal grand jury has been convened in Washington to review procurement practices at the agency in recent years.

In addition to the food stamp contracts awarded to American Bank Note, the federal grand jury reportedly has shown interest in the companys sale to the bureau of four printing presses, each of which cost more than $1 million. The presses have failed to perform as called for in the purchase contract and have increased significantly the cost of printing currency, according to internal government documents.

Senator Sam Nunn (D., Ga.), chairman of the permanent subcommittee on investigations, will conduct the hearings, which have been scheduled for morning and afternoon sessions Tuesday through Thursday. Formal announcement of the hearings is expected today or tomorrow.

Members of the committee already have been notified of the hearings and told that they will deal with inefficiencies at the Bureau of Engraving and Printing as reflected in higher costs and impaired production capabilities.

Bureau of Engraving Found To Be Perilous to Workers

(By Curt Matthews)

Washington.—One of Washington's foremost tourist attractions—the Bureau of Engraving and Printing—is also one of the city's most dangerous places to work, according to safety reports released yesterday.

Accidents resulting in lost work days are costing the bureau more than $1 million a year in increased operating expenditures, safety experts estimate.

In addition, some sources say that the numerous accidents are a factor in the bureau's recent difficulty in meeting the annual requests by the Federal Reserve System for new printed currency.

Industrial analysts say that work safety records are a clear reflection of the importance given to employee protection by top management. At the Bureau of Engraving and Printing, the top management post directly responsible for safety—assistant director for administration—has been vacant for nearly a year.

Meanwhile, a number of top officials at the bureau, including Seymour Berry, who retired last Friday as director, have been drawn into a Justice Department investigation involving "possible criminal activity" in awarding $154 million in food stamp printing contracts and in purchasing printing presses costing $5 million.

Last year, safety reports showed 189 disabling work injuries at the bureau, resulting in a total of 8,910 lost work days. In 1977, there were 242 disabling injuries among the bureau's approximately 3,000 employees, resulting in 10,950 lost work days.

By comparison, the Government Printing Office, with twice as many employees, lost 1,000 fewer work days because of accidents or job-related illnesses. The GPO, an independent federal agency here, has work routines similar to those at the Bureau of Engraving and Printing.

(At the *Sunpapers* in Baltimore, the nearly 1,800 employees had 97 "lost-time" accidents and a total of 1,281 lost work days in 1978, according to Charles W. Duvall, Sr., principal clerk in the newspapers' insurance department.)

Measured against the printing industry as a whole, the safety record of the bureau is even less favorable. In 1977, the latest year for which figures are available, the industry reported only 40 lost work days for each 100 workers. In that same year, the Bureau of Engraving and Printing's rate was 9 times higher—365 work days were lost for each 100 workers.

In addition to the lost-time injuries reported at the Bureau of Engraving and Printing in 1977 and 1978, there were about 800 minor injuries in each of those years that required first-aid but did not result in lost work days, according to the bureau's safety records.

Each accident that causes an employee to miss one or more days of work adds $7,041 to the operating costs of the bureau, according to an internal study prepared several months ago by the bureau's Division of Safety. The National Safety Council, which analyzes a broader range of work-injury cost data, estimates that employer costs average $9,000 for each work-lost accident.

Factors that contribute to the costs associated with work-lost accidents are medical care, continuation of pay for disabled workers, lost production, insurance, interruption of the work routine, hiring temporary employees, administrative costs and accident investigation.

According to sources within the bureau who asked not to be identified, the high accident rate of recent years has made it difficult to maintain the steady rate of production needed to keep up with the demand for printed currency, government securities, stamps and other documents produced at the Bureau of Engraving and Printing.

Currency printing accounts for the bulk of the bureau's operation. Last week a spokesman at the Federal Reserve said that in each of the last three years, the bureau has been unable to fully meet the agency's annual request for new bills.

Joseph R. Coyne, assistant to the Board of Governors of the Federal Reserve System, says that the agency's annual request for printed bills has gone from three billion in 1977 to about four billion this year. However, the costs for currency have risen more sharply, from $47,715,000 in 1977 to about $75 million this year.

"Over the last three years, production capacity at the Bureau of Engraving just hasn't been able to meet our initial annual request for currency, and so we've had to pare down our orders," Mr. Coyne said.

He added, however, that there has been no shortage of printed currency: "We get what we need."

The rising production costs at the Bureau of Engraving and Printing were cited earlier this year as the reason behind a decision by the Postal Service to contract with a private firm, American Bank Note Company of New York, rather than the bureau, for the printing of 640 million postage stamps.

It was the first time since 1894 that U.S. postage had been ordered from a private firm.

American Bank Note is also a focal point in the Justice Department investigation of recent management at the bureau. The company has received more than $125 million in food stamp printing contracts since 1971 and in 1975 sold four printing presses to the bureau under a deal that was criticized by the Government Accounting Office last year.

Presses Bought in Deal Under Probe Raised U.S. Money-Printing Costs

(By Curt Matthews)

Washington.—The cost of printing the nation's paper currency has been increased significantly in recent years because the Bureau of Engraving and Printing has been burdened with four troublesome printing presses obtained under controversial circumstances, according to documents released yesterday.

The sale of the four presses to the bureau by American Bank Note Company of New York and $125 million in food stamp printing contracts awarded to the same company are being investigated by a federal grand jury in Washington.

The grand jury was convened by the Department of Justice to look into allegations of "possible criminal violations" at the Bureau of Engraving and Printing.

The documents, obtained by *The Sun* through a Freedom of Information request, show that from 1975 through the early part of 1977, currency printed on the American Bank Note presses cost 41 per cent more to produce than the currency printed on other Bureau of Engraving and Printing equipment acquired at the same time.

Late in 1977, nearly two years after the first of the American Bank Note presses were delivered to the bureau, a "position paper" was prepared by top operating officials at the bureau regarding the problems related to the presses. The "position paper" made these points:

Although the contract for purchase of the presses specified that they were to be capable of producing 40,000 sheets of printed currency during a normal 6½-hour work shift, the American Bank Note presses had an average production rate of only 26,000 sheets.

The presses "consistently had the poorest quality record of all bureau currency presses in operation."

American Bank Note was without sufficient organizational resources to install modifications needed to make the presses meet production standards called for in the contract.

According to a company source, the only printing presses ever produced and sold by American Bank Note were those purchased by the bureau. The presses were actually manufactured for American Bank Note under a subcontract awarded to American Can Company of Geneva, N.Y.

Despite a multitude of mechanical problems with the American Bank Note presses, the top management of the Bureau of Engraving and Printing decided late in 1977 to terminate a lease-purchase agreement with American Bank Note and buy the presses outright for $5,424,000.

According to the documents released yesterday by the Treasury Department, this decision was made because the bureau needed the production capacity of the presses to meet the Federal Reserve System's demand for newly printed curreny. The Federal Reserve requested 3.6 billion bills of various denominations last year and more than 4 billion in the current fiscal year.

The documents released by the Treasury Department contradict a statement released February 9 by Salvatore F D'Amato, president of American Bank Note, contending that the presses his firm sold to the Bureau of Engraving and Printing have performed well and in accordance with the agreed upon specifications.

Numerous internal documents prepared by various officials at the bureau express the view that the presses acquired from American Bank Note "are not satisfactory from a production standpoint" and have "major operational deficiencies."

The grand jury investigation, as yet not acknowledged by the Department of Justice, centers on the relationship of James A. Conlon, former director of the Bureau of Engraving and Printing, and the management of American Bank Note.

Mr. Conlon, who retired from the bureau in 1977 after 10 years as director, was hired upon his retirement by American Bank Note and named president of a newly created business development subsidiary known as ABN Development Company.

Last July, the General Accounting Office issued a report critical of the Bureau of Engraving and Printing for entering into "lease-purchase" agreements to acquire $13.5 million in printing equipment, including the $5 million in presses purchased from American Bank Note.

The GAO noted that the agreements came shortly after Congress had considered—and turned down—a bureau request for additional funds to buy more printing equipment. By turning to the least-purchase arrangement, the bureau was able to get the equipment it wanted but was required to pay the equivalent of 11.6 per cent annual interest to finance the deal over five years.

In its report, the GAO urged Congress to consider legislation that would allow the bureau to borrow from the treasury when buying expensive new equipment rather than paying a high premium to a private firm under lease-purchase arrangements. The investigation into management practices and possible conflict of interest at the Bureau of Engraving and Printing was initiated last spring by the staff of the Senate Permanent Subcommittee on Investigations.

Later the inspector general's office at the Department of Treasury began an investigation and early this year referred its findings to the Department of Justice for review.

Although Justice Department officials refused to comment on the status of their investigations, a number of present and former officials with the printing bureau have confirmed that they have testified before the grand jury.

ENGRAVING PANEL CALLED SLOPPY IN FOOD STAMP, CURRENCY WORK

(By Curt Matthews)

WASHINGTON—The Bureau of Engraving and Printing has been sloppy in recordkeeping and security procedures in the production of printed currency and food stamps, according to documents presented to a Senate subcommittee.

The most serious failures of security revealed to the Senate's permanent subcommittee on investigations occurred at the American Bank Note Company in New York, which produces about 80 per cent of the $6 billion in food stamps distributed annually by the Department of Agriculture.

According to an internal Treasury Department investigation, the office of security within the Bureau of Engraving and Printing failed to conduct regular audits of food stamp production and did not properly supervise the destruction of spoiled or damaged stamps.

"The warehouses were severely overstocked and the inventory was out of balance when compared with levels of demand for various books" of food stamps, the Treasury report says of the stamps at the American Bank Note Company.

Food stamps can be converted to cash easily, according to officials at the Department of Agriculture, which administers the program.

Andrew Hornsby, a spokesman for the department's Food and Nutrition Service, said there are more than 265,000 retail food outlets throughout the United States that accept food stamps, and that the Agriculture Department investigates about 4,500 cases each year of merchants who abuse the program by exchanging the stamps for cash rather than food.

Last year about 2.3 billion food stamps were distributed to needy families for use in place of cash to purchase food.

According to the Treasury report, the Bureau of Engraving and Printing is responsible for quarterly audits of the two companies that produce food stamps under contracts awarded by the bureau.

However such audits were done irregularly, and sometimes as infrequently as 10 months apart. A preliminary study of food stamp record keeping and accountability "raised the level of concern" at the bureau, and touched off an intensive audit and inspection effort in February.

That probe revealed that 2 million books of food stamps that had been rejected as spoiled or misprinted were being held in storage at the American Bank Note Company, but not marked for destruction.

In addition, the investigators found "large amounts of materials" (food stamps) awaiting destruction, and inadequate company facilities to deal with the flow of rejected food stamps.

According to the Treasury report, at least some of the oversupply of food stamps in storage was caused early this year when the Department of Agriculture miscalculated the demand for the stamps.

However, the Treasury report notes elsewhere that the Bureau of Engraving and Printing's records on the food stamp printing contracts awarded to the American Bank Note Company from 1971 to 1978 are in "disarray" and difficult to reconstruct.

Philip R. Manuel, a staff investigator with the Senate subcommittee, said Tuesday in a statement opening three days of hearings into the operation of the bureau, that the agency's record keeping on the food stamp contracts was so bad it was impossible to verify details on the contracts.

Treasury documents presented to the subcommittee during the hearings indicate that bureau personnel also were lax in accounting for the distinctive and tightly controlled paper that the bureau uses to print currency.

Early in 1977, a quantity of the paper was sent to American Bank Note by the former director, James A. Conlon, to help the firm develop an anti-counterfeiting device. However, it was not until early this year, as investigators descended on the bureau, that an effort was made to account for the paper, and not until late in April that all of it was accounted for.

The paper is a key element in protecting the security of United States currency. According to officials at the bureau, every sheet is supposed to be accounted for rigidly from initial production through final printing and delivery to the Federal Reserve System as currency.

Although Mr. Conlon sent some of the paper to American Bank Note in 1977—the only time in recent years that a private firm has had access to the paper outside the bureau—investigators can find no documentation establishing that Mr. Conlon or anyone else actually ordered the paper sent to the company.

Mr. Conlon, who in July of 1977 retired and accepted an $85,000-a-year job with American Bank Note, currently is under investigation by a federal grand jury in Washington for possible violation of conflict-of-interest laws.

PERCY CALLS FOR FULL INVESTIGATION OF AGENT ORANGE

Mr. PERCY. Mr. President, as we all know, we honored our Vietnam veterans last week. Yet it is not enough to devote 1 week a year to speeches, parades, and picture-taking; we must meet our full 365-day a year commitment to those men who served our country. We cannot permit them to become mired in a morass of benign neglect. We must work to insure that they are not forgotten by the American people or the American Government.

One area of neglect which particularly concerns me is the "Agent Orange" controversy.

Agent Orange was a defoliant used by the American Armed Forces in Vietnam until 1970. Unluckily for the men serving in Vietnam, Agent Orange was contaminated by a chemical known as dioxin—one of the most deadly chemicals known to man. Dioxin is so dangerous that in laboratory tests it has been shown to cause cancer in concentrations as low as five parts per trillion.

Today, thousands of Vietnam veterans who claim that they were exposed to Agent Orange while in Vietnam are reporting serious and strikingly similar medical problems.

These health problems include recurring dermatological disorders, a suspiciously high rate of genetically defective and still-born children, impotency, various forms of cancer, neurological disfunctions, and a host of psychological abnormalities.

Mr. President, this is a serious problem. Veterans have contacted me and my staff complaining that the Government has failed to address their needs. On April 9 of this year, I wrote to Max Cleland, the Administrator of the Veterans' Administration, expressing my concern about Agent Orange and inquiring about the program his agency had instituted to explore the correlation between Agent Orange and these reported health problems. On May 21, Mr. Cleland responded to my letter and delineated his agency's response.

I must emphasize that I am not impressed by the steps the VA has implemented. While the system set up to monitor patient examination and diagnosis seems adequate, the research efforts of the VA are minimal at best.

However, I was gratified to learn last week that the Air Force plans to conduct a major epidemiological study on the Vietnam veterans most likely to have been exposed to Agent Orange. This study, which is precisely the type of study that I have advocated, promises to lay to rest some of the most perplexing aspects of the Agent Orange dilemma.

I fully support this type of study; in order to make certain this study moves forward expeditiously, I plan to monitor its progress very closely. This report is already long overdue—it would be inexcusable to permit bureaucratic procrastination to delay it any further. However, this study in and of itself will not answer all the outstanding questions.

Last fall, the Deputy Surgeon General of the Air Force testified at a House hearing that only 499 participants from the herbicide sprayings could be identified. Last week, the Air Force claimed that it now knows of 1,200 men who served in Operation Ranch Hand—the code name for the herbicide missions. Yet there is no guarantee that even this most recent figure accurately represents the full count.

We still do not even know how many men were actually exposed to Agent Orange while in Vietnam. Thus, I have asked the General Accounting Office to study the procedures involved in the herbicide spraying in order to help determine the scope of this problem. Rumors abound that American ground troops were inadvertently sprayed with the potentially lethal herbicide—we must find out whether there is any truth to these allegations.

Mr. President, I would like to stress my personal conviction that this controversial matter demands an immediate response from the Federal Government. I do not call for Federal action lightly; however, I believe the question of the health effects of Agent Orange on our Vietnam veterans is of such magnitude and such complexity that it requires a prompt and complete answer from the American Government.

In addition to the research project about to be undertaken by the Air Force, we must insure that the Veterans' Administration lives up to its mandate and vigorously pursues the causes of these health problems. Inadequate or insensitive medical treatment for our veterans is something we cannot tolerate.

Finally, Mr. President, I would like to commend Richard Severo of the New York Times for his recent three-part series on Agent Orange. In addition I would like to commend Bill Kurtis, of WBBM-TV in Chicago, who has spent long hours researching this problem. Recently Mr. Kurtis aired an hour-long documentary on the health effects of Agent Orange and the problems that Vietnam veterans face when trying to discover the causes of their symptoms.

If the problems associated with Agent Orange are to be resolved, it is imperative that it receive nationwide press attention. For many veterans, the only way that they even suspected that their health problems might be related to their Vietnam experience was a result of the media—the Veterans' Administration has no outreach program designed to warn those who might have been exposed.

Mr. President, I ask unanimous consent to have printed in the RECORD copies of my correspondence with the Veterans' Administration as well as my letter to Comptroller General Elmer Staats. In addition, Mr. Severo's series entitled "Agent Orange: A Legacy of Suspicion" and a transcript of Mr. Kurtis' documentary entitled "Agent Orange: The Human Harvest."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., April 9, 1979.

Hon. MAX CLELAND
Administrator,
Veterans Administration,
Washington, D.C.

DEAR MR. CLELAND: I know that you share my feeling that the American government has a clear moral and legal obligation to care for those men who have been injured while serving in the United States Armed Forces. Indeed, I believe that Abraham Lincoln's description of this obligation—"To care for him who shall have borne the battle, and for his widow and his orphan"—captures this sentiment better than any I know.

Today, as warfare has become increasingly more sophisticated and deadly, the problems of the veteran have grown in number and complexity far beyond what they were in Lincoln's day. Historically, the Veterans Administration has eagerly assisted those veterans whose afflictions stemmed from their participation in the service. Understandably, the Veterans Administration did not apply the label 'service-connected' capriciously, but did so when the situation warranted. But today, as a result of changes in the style of warfare and particularly in the increasingly insidious types of weapons in use, the parameters of 'service connection' seem more difficult than ever to define precisely.

I am seriously concerned about the long-term health problems of those men that served in Vietnam. As we all know, the psychological problems that confronted these men when they returned to the United States were immense. However, what particularly troubles me at this time are the long-term health problems of those men who participated in, or were affected by, the Army's defoliation program. I understand that the VA has studied what was commonly known in Vietnam as "Agent Orange." However, I must stress to you that I am troubled by what I perceive to be the VA response to date.

For example, according to an undated VA memo entitled "Biological Action of Herbicides Used During the Vietnam War," (supplied to me by a VA Congressional liaison officer) your agency makes the following assertion:

Every veteran who presents a claim that he has some form of illness which he believes may have its origin in an exposure to herbicides will receive careful and sympathetic consideration, and full documentation will be established of all facts.

Unfortunately, from personal accounts related to my office, it does not appear that "every veteran" who suspects he may have been exposed to Agent Orange has received "careful and sympathetic consideration." In fact, such consideration would seem to be the exception. Veterans from all over the country have claimed that the examinations they actually received were frequently hasty and superficial.

Let me reemphasize my belief that you and I share the desire to help these men in any manner that would be appropriate. In an attempt to more fully understand the policy and actual practice of the VA regarding this problem, I would like to address the following questions to you:

(1) What type of monitoring exists to ensure that the local hospitals follow the overall VA policy on Agent Orange? What steps have been taken, by the VA and by you personally, to ensure implementation of the model medical examination for VA circular 10-78-219?

(2) What research has the VA undertaken on the long-term effects of dioxin poisoning? Are further research steps planned, and if so, what are they?

(3) What type of 'outreach program' has the VA established to contact Vietnam veterans who might have been unwittingly exposed to Agent Orange?

(4) What impact has the Environmental Protection Agency's recent ban on the domestic use of 2,4,5-T had on the VA's policy on Agent Orange? Does the VA still contend that there is no proof that this type of herbicide has ever been shown to have an adverse long-term health impact?

Let me underscore to you my personal conviction that the U.S. government has a special obligation to these men. If five or ten years after their service in Vietnam, a suspicious and strikingly similar pattern of symptoms emerges, the Veterans Administration has a clear obligation to take the lead in actively investigating and seeking prompt answers to the troublesome concerns of a large number of veterans.

I look forward to hearing from you at your earliest convenience on this matter. Should any questions arise in this regard, please have your staff contact Jeffrey Stone of my staff at 224–2172.

Sincerely,

Charles H. Percy,
Ranking Minority Member.

Veterans Administration,
Washington, D.C., May 21, 1979.

Hon. Charles. H. Percy,
Ranking Minority Member, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

Dear Senator Percy: Thank you for your recent letter concerning the long-term health problems of veterans who served in Vietnam. Let me first respond to the four specific questions you posed.

Complete and constant monitoring of the professional work of physicians is indeed difficult at times, especially in a large health care delivery system such as the Veterans Administration. However, we believe we do have a measure of control over the examinations of veterans for possible health-related effects of herbicides. Medical reports prepared at VA medical centers on these cases are sent to VA Central Office where they are reviewed by a committee of specialists in medicine, surgery, psychiatry, neurology, pathology, and administration. Any incomplete reports are returned to the examining physician, through the Center Director, for completion. This arrangement has greatly improved the quality of the reports over the past six months and appears effective and satisfactory. A copy of our revised administrative Circular 10–79–83 pertaining to medical examinations for herbicide exposure is enclosed.

With respect to research, our first endeavor is to review our existing treatment files for evidence of cancer increases in the veterans who served in Vietnam as compared with other veterans who served elsewhere or in former wars. Cancer has been mentioned as one of the possible after effects of exposure to herbicides. The VA admits approximately one million veterans to its 172 hospitals each year. The diagnoses resulting from these admissions are recorded on computer tapes from which information, such as cancer statistics, can be retrieved. Secondly, we are reviewing the tapes on chloracne, which is another condition linked to exposure to some of the herbicides. The third avenue of research is a study of the dioxin levels in fatty tissue of Vietnam veterans as compared with the veterans of the same age group who did not serve in Vietnam. We have also requested the Department of Health, Education, and Welfare to review past industrial accidents involving dioxin, such as the incident at Nitro, West Virginia.

While the VA has not conducted an "outreach program" of the kind suggested in your third question, the possible health-related effects of herbicides have received attention in the media and among veterans' organizations. The current VA program evaluates veterans who claim exposure to herbicides in Vietnam, comparing them with other VA patients. This broad program should provide the medical information required to evaluate any health-related disease that may have resulted from servicemen's exposure to herbicides in Vietnam. Should a distinct clinical pattern be established, then an "outreach program" would be justified.

While we have carefully studied the EPA's three-month ban on the use of 2-4-5-T in forested areas of the United States, this EPA action will have no immediate effect on the VA policy. We will continue the evaluation of Vietnam veterans exposed to herbicides in an effort to establish any health-related effects. To date, such a relationship has not been established. There is a difference between the type of exposure utilized in animal studies or experienced in industrial accidents and the lesser exposure experienced by most Vietnam veterans. The VA staff is knowledgeable regarding the medical literature on the subject and will consider all facets when recommending a policy in this matter.

The VA policy on service-connected disability resulting from exposure to herbicides is the same as our policy pertaining to the toxic effects of any other wartime chemicals to which veterans may have been exposed. There appears to be some misunderstanding among veterans and their representatives on this matter. Ample authority exists under the law to grant compensation for disabilities incurred in Vietnam as a result of herbicide exposure. I have asked my staff to interpret these provisions of the law in the most generous manner and to search for all other indications of war-incurred disability, whether these are due to herbicides or not. It must be emphasized that if a veteran has a disability adjudicated as service-connected, regardless of the etiology, that veteran will receive appropriate compensation and treatment.

You refer to veterans who believe that they were not properly examined by VA staff. I would appreciate receiving the names of these veterans so that we can evaluate their medical records for completeness. If any pertinent details are missing, the hospital will be required to supplement the examinations. There is a need for understanding in the matter of laboratory studies, however. When a veteran requests examinations which are not clinically indicated, he may feel that he has been provided incomplete care whereas this would not be the case. Professional judgment must play a part in any health care delivery system. In the case of dioxin, there is at this time no routine laboratory test to determine presence of, or damage from, this chemical. As I mentioned earlier, research is underway to evaluate dioxin levels in fat tissue in an effort to resolve this issue.

We share your conviction regarding the U.S. government's obligation to the veteran. The medical staff of the VA is highly professional and possesses a strong sense of intellectual curiosity. New patterns of disease are constantly under evaluation. The current VA program directed toward identifying any long range health-related effects of exposure to herbicides, as experienced by a Vietnam veteran, is based on a scientific effort to resolve this issue.

Your interest in veterans, and particularly Vietnam veterans, is deeply appreciated.

Sincerely,

Max Cleland,
Administrator.

U.S. Senate,
Washington, D.C., May 21, 1979.

Hon. Elmer B. Staats,
Comptroller General of the United States,
General Accounting Office,
Washington, D.C.

Dear Mr. Staats: I would like to commend you on the fine report prepared by the General Accounting Office entitled "Health Effects Of Exposure To Herbicide Orange In South Vietnam Should Be Resolved." As usual, the GAO has addressed a very difficult problem and, in my opinion, the proposals advanced in the report are very reasonable.

Further, I welcome GAO's recommendation that the Department of Defense "should commence a survey of any long-term medical effects on military personnel who were likely to have been exposed to herbicides in South Vietnam." A major epidemiological study is long overdue. From everything I have been able to learn, scientific literature currently available is wholly unsatisfactory since it does not definitively answer the questions that many Vietnam veterans are now raising. As a result, these veterans are confused and uncertain, living their own peace-time hell for want of reliable data. It is my hope that a properly conducted epidemiological study may finally resolve some of the complex aspects of this issue.

It is clear that the scientific research and study to date has failed to address the problem of dioxin poisoning. Many of the studies of long-term health effects discussed in the literature are based upon industrial accidents. As you suggest in your report, this industrially-based data may not be applicable to men unwittingly exposed to harmful chemicals in Vietnam. There is a need scientifically to study the clinical problems (ranging from nervous disorders to suspected tumors) that many Vietnam veterans are now reporting and linking to their suspected exposure to Herbicide Orange. Vietnam veterans have cited a long litany of serious medical problems to me and to my staff. These men have complained of suspected tumors, birth defects in offspring, skin problems, loss of sensation in their extremities, loss of libido, insomnia, and a host of related problems. Perhaps the most frightening aspect of their medical symptomatology is that these men and their examining physicians do not know what is causing their problems. Clearly, in order to provide some constructive assistance to these men, further research must be conducted.

The proposal for an objective epidemiological study may encounter some criticism on the grounds that the Department of Defense has only identified 500 men who served as herbicide handlers in Vietnam. But it is not at all clear that these are the only men who could have been exposed to Herbicide Orange.

In fact, research conducted by my own staff indicates that servicemen who were not herbicide handlers could have been exposed to Herbicide Orange. Infantrymen who believe they were sprayed while on patrol, soldiers who guarded the defoliated perimeters of base camps, and members of the Corps of Engineers who were sent into recently defoliated areas to build new camps and landing zones all appear to be involved, also.

Thus, there is the distinct possibility that the adverse effects of Herbicide Orange may be present in soldiers as yet unidentified by the Department of Defense. Consequently, I ask the GAO to continue its study of Herbicide Orange, addressing the following questions:

What precautions did DOD take to protect herbicide handlers from exposure to Herbicide Orange?

What steps did DOD take to protect U.S. ground troops, Corps of Engineers personnel and others who may have been exposed, from inadvertent exposure to Herbicide Orange?

Were such U.S. ground troops or others exposed to Herbicide Orange? If so, in what degree and manner, and how many?

What were the military guidelines concerning the entry of U.S. troops and personnel into defoliated areas? What was the standard operating procedure concerning reentry? If guidelines existed, how did the military monitor their implementation, and what reports are available?

Finally, what steps has the Department of Defense taken to comply with the recommendations made in the initial GAO study? Has an effort to initiate an epidemiological report begun?

I believe that this is an important area and one which deserves further study. It will be of significant assistance in understanding long-term ramifications of this problem. If you should need further assistance, please feel free to have your staff contact Jeffrey Stone of my staff (224–2172).

Sincerely,

Charles H. Percy,
Ranking Minority Member.

[From the New York Times, May 27, 1979]

Two Crippled Lives Mirror Disputes on Herbicides

(By Richard Severo)

Julio Martinez is a former Marine Corps machine gunner in Vietnam; Bob Ralston is a former cattle rancher in the foothills of the Ozarks. The two men live 500 miles from each other. They have never met, never heard of each other, are a generation apart; they come from different backgrounds, different worlds. All they have in common, they say, is their poison.

They say it is a poison that fell from the sky, a herbicide that was supposed to kill only unwanted plants. Instead, they insist, it has made them sick and changed their lives, and even though many years have passed since their exposure to it, they fear it still. They fear it has started processes within them that will make them sick again and perhaps even kill them.

LACK OF PROOF ON BOTH SIDES

Their charges are by no means accepted by everyone; in fact, the chemical makers dispute them hotly. Scientists say that as yet there is no way to tell whether herbicides do anything other than fulfilll the claims that chemical companies make for them.

Herbicides are blamed for strange and ugly symptoms. But medical studies that would either prove or refute those charges to the satisfaction of all parties have never been done. So the accusations and the denials continue, with each side accusing the other of not having the science to prove its point.

The herbicides now the object of fear were once the building blocks of the so-called Green Revolution. They increased crop yields on marginal farms in the Southwest and chased dandelions and clover from suburban lawns in New England.

But now, more than three decades after their widespread introduction, there are questions about them that elude easy answers, and the Green Revolution shows signs of giving way to another kind of revolution, one that could set legal precedents and make both the Government and the chemical industry vulnerable to massive claims for damages done to animals and people, as well as to crops sprayed by accident.

There are thousands of frightened people like Julio Martinez and Bob Ralston, telling of an eerie spectrum of evidence of their asserted poisoning: cancer, deformed children, stillbirths, miscarriages, loss of sex drive, low sperm counts, strange aches and weaknesses all over the body, lumps and festering sores that doctors sometimes cannot identify and sometimes classify as "precancerous"; weird, abrupt, almost Jekyll-and-Hyde changes in personality.

It is a mystery in two parts: one for the men like Mr. Martinez, who fought in Vietnam; the other for civilians like the Ralstons, who have lived near agricultural areas that have been sprayed by airplanes and wondered what the gentle mist might be doing to them.

The soldiers call their mystery Agent Orange, for that was the code name of the herbicide used most extensively by the Air Force over Vietnam a decade ago. There were others: Agent White, Agent Blue, Agent Purple, Agent Pink, Agent Green—concoctions sprayed on thick jungles so that snipers would have fewer places to hide, and on crops, so that the enemy would have less to eat.

Civilians use the terminology of chemistry books—2,4-D and 2,4,5-T, two phenoxy herbicides, the components of Agent Orange.

WIDE USES FOR SUBSTANCES

These herbicides have been used together and separately, along roadways and rail lines and under the rights-of-way of power lines; in forests to kill hardwood trees unwanted in softwood commerce, in rangelands to give cattle more grass, and in rice fields to kill a weed called curly indigo.

But after so many years of controversy, there still is no agreement on what the herbicides really do.

"The chemical weed killers are a bright new toy," Rachel Carson wrote in "Silent Spring" 17 years ago. "They work in a spectacular way; they give a giddy sense of power over nature to those who wield them, and as for the long-range and less-obvious effects—these are easily brushed aside as the baseless imaginings of pessimists."

Miss Carson reported that 2,4-D "has been shown experimentally to disturb the toxic physiological processes of respiration in the cell and to imitate X-rays in damaging the chromosomes." The toxicity of 2,4,5-T, she said, was "a matter of controversy." And she said questioned the prudence of a world that was being urged "to beat its plowshares into spray guns."

SUBJECT OF INTENSE DEBATE

Neither science for jurisprudence can decide, even now, if her warnings were all justified, although, according to the Dow Chemical Company, 30,000 to 40,000 scientific papers have been written about 2,4,5-T alone.

But 2,4,5-T remains highly suspect because it contains varying amounts of a contaminant that is created in the manufacturing process. That contaminant is 2,3,7,8-Tetrachlorodibenzo-p-dioxin, commonly called TCDD, or simply dioxin.

Dr. James Allen, a professor in the department of pathology at the University of Wisconsin Medical School and an internationally known researcher in the properties of dioxin, began his research in this area 20 years ago.

He says there is no question about the cancer-causing properties of dioxin. "It produces tumors in rats down to levels of as little as five parts per trillion," he says, and is "at least a million times more toxic than PCB's."

PCB's, or polychlorinated biphenyls, are man-made, cancer-causing compounds that have been discharged by industry into the environment for many years. They have been found in a variety of foods, most notably fish, and are of great concern to the Food and Drug Administration.

But dioxins make PCB's look almost mild, say the leading researchers.

TOXICITY CALLED INARGUABLE

Dr. Matthew Meselson, a professor of biochemistry at Harvard University, calls dioxin "the most powerful small molecule known and it is now beginning to appear that it is the most powerful carcinogen known. Nobody argues about the toxicity of this poison."

But there is great argument over how much dioxin may be contained in 2,4,5-T; how much, if any, has gotten into the food chain, and whether people can rightfully say it is a source of various health problems.

In the midst of this argument, the people who believe they are the victims of herbicides say the circumstantial evidence already at hand clearly indicates the chemicals are a menace.

A DREAM SNATCHED AWAY

One such person is Bob Ralston. Twenty-two years ago, he left his native Dodge City, Kan., because he had found some good land in the foothills of the Ozarks where, he thought, he could realize his dream of becoming a cattle rancher.

Land was cheaper in Arkansas than it had been in Kansas, so Mr. Ralston bought 218 acres, nine miles east of Greenbrier and 11 miles north of Conway. For the next 12 years, he saw his Black Angus stock take prizes not just in Faulkner County, but at the Arkansas State Fair in Little Rock. In 1966, one of Mr. Ralston's Angus bulls was designated grand champion of the state.

When Bob Ralston had his checks printed, the printer was asked to include the legend, "Good Cattle Is No Accident." His son, Bob Jr., became president of the Arkansas Junior Angus Association. His daughter, Ruth, became secretary. They built up their herd to more than 100 head, and they were happy in the hills of rich pastures and of sweetgum, oak, silver maple and persimmon, where the spring wind was always sweet. At least, it was until the spring of 1969.

On May 18 and 19, a small plane flew over the Ralston ranch. Its pilot was supposed to spray 2,4,5–T on an adjacent 40-acre plot owned by a man who did not live there. On the 18th, there was a brisk wind in the hills and, Mr. Ralston said, the cloud of herbicide drifted over his land. On the 19th, the pilot apparently made a navigation error and directly sprayed the Ralston ranch.

BIZARRE EFFECTS BEGIN

Within a day after spraying, the people and animals on the Ralston property acted like they had sore throats. "Bulls and hogs couldn't swallow and neither could we," Mr. Ralston said.

The most seriously ill in those first days was Tim Ralston, then only 6, who was outside playing when the plane sprayed on the second day. He developed a high fever and nausea. Within a week, the Ralstons began to feel better. But then the world around them began to die.

"The cattle began to chew at their hoofs," Mr. Ralston said. "They would stand in water for hours, their bellies as hard as concrete, and sometimes they would walk backwards. Their joints stiffened and pained them. The meadows and pastures began to wither."

Veterinarians kept referring him to other veterinarians. The trees turned yellow, not the vivid yellow of autumn but the tepid yellow of death. No heifer went into heat after May 19, according to Mr. Ralston's records. Calves conceived before but born after May 19 were born sickly, deformed or dead. The family dog became vicious and had to be destroyed. The cat withered and died. Wrens, pigeons and crows fell dead from their perches. Frogs, catfish, bass and perch floated to the tops of little ponds. Next door, Ted Johnson and his family also got sick, and the Johnsons' stock of dairy cattle began to show the same symptoms as the Ralston stock.

DETAILS OF THE IMPACT

Mr. Ralston's wife, Merrell, began to keep a diary. Sometime in July, she made this entry about a big bull:

"I watched him take water into his mouth. At the same time he pulled the water in, it ran out the side of his mouth. I would like to tell you how it hurt. I cried as I have so much this month. You probably think this was foolish. He used to be so nice and good-natured."

In August, she wrote: "You have to raise an Angus to know what a beautiful little black baby Angus curled up near his mama means. Surely God will see to it for the Ralston family to have our Angus again."

Soon thereafter, Mrs. Ralston could no longer write in her diary. She went blind. The woman remembered as "full of fire and vinegar," who never got depressed at anything, suddenly became hostile, suspicious. She began to see a psychiatrist. It did no good.

Bob Ralston, a burly, vigorous man, saw her change and found there were changes in him, too. He lost his sex drive. Seven years later, in 1976, Merrell Ralston was dead of cancer at the age of 41.

The ranch died and the First National Bank of Conway, Ark., foreclosed. The Ralston family now lives in a couple of trailers near Conway. Ruth, now married, has miscarried twins. Two other children are normal. Mr. Ralston occasionally gets bumps on his hands.

The dairy farm owned by Ted Johnson has been sold three times since 1969, changing hands because cows graze on what seems to be perfectly good pasture and die. Mr. Johnson now has a condition he calls "arthritis all over the body." One of his daughters has developed a skin condition, of unknown cause, that her doctor has described as "precancerous."

VETERAN'S FRUSTRATIONS AND ANGER

The Johnsons and their successors have never gone to court because they are not sure what has caused their bad luck. The Ralstons are trying to sue and have a lawyer, their second. The case—which was against the adjacent landowner, the sprayer and the manufacturer—has never been heard in court. Neither the Ralston nor their lawyer can say why.

Far north of the Ozarks, in a modest apartment in Wheeling, Ill., a suburb of Chicago, Julio Martinez shares many of the feelings, as well as the symptoms, of the Ralstons.

As a boy growing up in Chicago, all he ever really wanted to do was play left field for the Cubs. He could hit the long ball, he could throw well and he could run very fast.

He served in Vietnam, as a lance corporal in the Marine Corps, in 1970 and 1971, and now has problems that are uncommon for a man only 26 years old.

He looks in fear and disgust at the little breasts that seem to be emerging from what was once the chest of a strong, active man, and at the small, fatty tumors on his hands.

He is ashamed that his emotional state makes it impossible for him to hold a job, ashamed at the weakness he feels in his wrists and hands and legs, ashamed that it is profoundly difficult for him to have sexual relations with his wife, Marta.

"I have not made love to her for three weeks," he said recently. "I tell her I love her but I just don't feel like it. If we make love, I feel as though I have run five miles."

MULTIPLE PHYSICAL EFFECTS

He wonders about his once-strong arms, now weak; about his hair that falls out in huge clumps in the shower; about the anger that overwhelms him unexpectedly; about the four children who were born dead or deformed, or lived but became emotionally disturbed.

He lied about his age to enlist, he said, and he picked the Marines because be felt they were the very best and their pride became his pride.

He remembers being sprayed with something but he does not know what it was. "They told us to cover our mouth and watch for the enemy," he said.

After being sprayed, he got a skin rash on his back, a tumor on his leg and his feet became swollen. But most of the problems started a year or so after he left the service.

The Marines gave him an honorable discharge and the Veterans Administration gave him partial disability status, which entitles him to $154 a month for a condition diagnosed as a rheumatic heart and adjudged "a service-connected disability."

But the Veterans Administration has told him it can find no service connection in his other symptoms. Indeed, nobody can offer him any explanation for them.

"I wanted to be a baseball star with a car and money," said Mr. Martinez. "Now I have to ask for charity. I yell at my wife and I love her. I yell at my kids and I love them." And so the young man who wanted to be the pride of the Marines has become something of a shadow, going to churches outside his neighborhood and asking priests if he can do odd jobs for $5 or $10.

"I thought the Marines would take care of me," he said, "but I guess they are not interested. If I had only known this would happen I would have been a draft-dodger. I would have gone to Canada with the rest of them."

[From the New York Times, May 28, 1979]

U.S., Despite Claims of Veterans, Says None Are Herbicide Victims

(By Richard Severo)

At various times since 1967, physicians trying to diagnose a single, persistent illness have told Kenneth Pullen that he has possible jungle rot, possible trench foot, possible gangrene, possible vasculitis of the lower extremities, possible vein thrombosis, possible Buerger's disease, possible arthritis, possible thrombophlebitis and probable cutaneous polyarteritis nodosa.

His doctors, most of them employees of the Veterans Administration, still cannot agree on the diagnosis and the former Marine lance corporal, now 32 years old, has been largely confined to his home in Marrero, La., in the nearly 11 years since his honorable discharge. He has known intense pain.

His feet are frequently swollen and covered with painful red sores. On May 9, he had surgery on his toes to remove rot-like scabs. He has had sympathetic nerves severed to increase the flow of blood to his feet. His doctors have suggested amputation of his feet, but Mr. Pullen has refused because he is a barber by trade and he still wants to work.

Kenneth Pullen is one of thousands of veterans who suspect that a strange variety of illnesses, diagnosable and otherwise, have been caused by their direct or indirect exposure to Agent Orange or one of the other herbicides used by Americans in Vietnam.

Other veterans' complaints include changes in skin color, sensitivity to light, paranoia, loss of hair, hyperactivity, fatty tumors, reduced ability to have sexual intercourse, a lack of tolerance for alcoholic beverages and pain in the ankles, wrists, elbows and shoulders.

But of the approximately 500 veterans who have filed claims citing Agent Orange with the Veterans Administration, none has been classified as a herbicide victim, because officially, Agent Orange poisoning does not exist.

The Government says there is no scientific evidence that Agent Orange ever did anything but kill plants. The veterans counter by saying that the scientific evidence does not exonerate Agent Orange, either, and they are growing more vocal. Medical studies that would prove or refute their charges to the satisfaction of all parties have never been conducted.

However, White House and Veterans Administration officials said yesterday that Max Cleland, the V.A. Administrator, would disclose today that a large-scale Government investigation would be undertaken shortly, probably under the auspices of the Air Force, into the effects of exposure to Agent Orange and other herbicides used in Vietnam.

It was unclear last night what the study would entail. A month ago, the Air Force indicated that all it expected to do this year was to draw up scientific parameters to determine if a study was possible.

And a Veterans Administration spokesman said recently that widespread testing had been ruled out for the present because it might needlessly "alarm people."

12 MILLION GALLONS USED

The Air Force sprayed around 12 million gallons of Agent Orange, the most widely used of the various herbicides, on five million acres of Vetnamese countryside. The spraying program was halted in 1970, largely because of widespread reports in South Vietnamese newspapers that the defoliants were strongly suspected of causing stillbirths and birth defects.

The veterans like Ken Pullen are the children of the 60's who did not stay behind to protest the war but who went out to fight it. Now they have become protesters and they are central to a massive struggle for recognition. They contend that they are the victims of an uncaring bureaucracy that has violated the very tenet of the V.A., the words of Abraham Lincoln: "To care for him who shall have borne the battle, and for his widow and his orphan."

In Mr. Pullen's case, the time the V.A. came closest to making a diagnosis of Agent Orange poisoning was on Oct. 16, when a doctor reported finding vasculitis (a general term that describes inflammation of blood vessels) of the legs and feet, contracted during a tour of duty in Vietnam, "possibly related to defoliants." No V.A. doctor has made the connection since.

PROBLEMS BEGAN IN MARINES

Mr. Pullen has a partial Government disability because his ailments are said to be "service-related," but no official documents ascribe them to herbicides. The documents say only that his problems started while he was in the Marines.

In Washington, there would appear to be a division between branches of Government over what the herbicides may do to people.

Last Feb. 28, the Environmental Protection Agency issues a partial ban on the use of 2,4,5–T, a herbicide widely used in the United States and one of the two components of Agent Orange. The E.P.A. believes that 2,4,5–T, which is contaminated with cancer-causing dioxin in the manufacturing process, may be hazardous to humans. The agency acted because of widespread report of stillbirths in Alsea, Oreg., the scene of much spraying.

But officials at the Veterans Administration have indicated in circulars and in interviews that the furor over Agent Orange may be due to the publicity it has received. At present, there is no formal program within the V.A. that sends questionnaires to all Vietnam veterans, alerting them to the possibility that Agent Orange poisoning may be a latent reality and asking them to come in for special checkups. The V.A. has instructed its regional hospitals to take seriously those claimants who come in on their own, however.

ADMINISTRATOR EXPRESSES CONCERN

The V.A. administrator, Mr. Cleland, said recently that he was "vitally concerned" about the Agent Orange claims and that he had given the "highest priority" to a directive asking V.A. officials to find out what it was all about.

But the officials' probing so far has not entailed efforts to reach out to veterans who may have some symptoms. A Veterans Administration spokesman said that the kind of widespread testing of veterans being demanded by activist veterans organizations had been ruled out for now because "it would only alarm people, perhaps needlessly."

In a recent check of dozens of agencies and individuals, The New York Times was unable to find any in Washington who did not want to get to the bottom of the Agent Orange mystery. The hesitation seemed to be over precisely which arm of the Government would undertake the studies that are necessary to obtain the data and resolve the problem.

One V.A. official said he thought the E.P.A. should do it; a spokesman for the agency said he thought the Department of Health, Education and Welfare should do it; the General Accounting Office has recommended that the Department of Defense do it; Victor Yannacone, a Long Island lawyer representing a group of veterans in a class action against six chemical companies who made the Agent Orange, said the chemical industry should pay for it but that the study should be done by an impartial scientific panel; a scientist at Dow Chemical said he would be pleased if the V.A. did it; the Air Force Surgeon General's Office said he was trying to figure out what the protocol for such a study might be but would not know anything before the end of the year; and nobody in the Army, Navy or Marines is volunteering for anything.

LINK TO VIETNAM SYNDROME SEEN

Meanwhile, Dr. Gilbert Bogen, who formerly worked for a Veterans Administration hospital in Chicago and now is setting up a veterans' hotline, said he believed that much of the so-called Vietnam veterans' syndrome—characterized by withdrawal, hostility and paranoia—may be attributable to direct or indirect exposure to Agent Orange.

Dr. Bogen also said that the V.A. had already ordered the destruction of irreplaceable records indicating instances of cancer among soldiers who served in both Korea and Vietnam. He said he believed that the V.A. was trying to cover up the evidence of what may be a medical tragedy of gigantic proportions, a tragedy that could cost the Government hundreds of millions of dollars in claims.

"That is nonsense," said Dr. Paul A. L. Haber, Assistant Chief Medical Director for Professional Services at the V.A. "We have no desire at all to cover up or hide behind bureaucracy to negate any possible relationship between illness and Agent Orange." But Dr. Haber said the issue had been clouded by "a swirl of emotions."

"This problem of Agent Orange," he said, "is the focus of a lot of disparate interests. There are people who want to help the Vietnam veterans, there are people interested in the environment and there are people interested in the deprivations we made on the Vietnamese people, people who want the U.S. Government to take a hand in making a better world. There are prodigious forces. . ."

REBUTTALS BY OPPONENTS

The people who compose those forces do not see themselves as quite the formidable opponents described by Dr. Haber.

Activist veterans groups such as Agent Orange Victims International, Citizen Soldier and the Vietnam Veterans of America discount the V.A.'s suggestion that complaints have been encouraged largely by the press. They charged that the V.A. was not doing enough to determine if the claims had medical or scientific validity.

"If all of these problems are not the result of exposure to Agent Orange, then the Government has the responsibility to tell us just what the cause is," said Frank McCarthy, president of Agent Orange Victims International. "These strange symptoms are very real and it is unconscionable for the Government to say, in effect, 'That's too bad and one of these days we'll have to find out what it's all about.' "

Lewis Milford, deputy director of the National Veterans Law Center in Washington, D.C., said: "The most serious problem is the failure of the Veterans Administration to conduct any outreach. All they are really doing is waiting for people to present themselves at V.A. hospitals." The law center is a joint project of the Public Interest Law Clinic at American University and the American Civil Liberties Union and has the funding to represent a few veterans who wish to press their claims against the V.A.

RECORDS SOUGHT FOR STUDY

Moreover, the center has used the Freedom of Information Act in an effort to compel the V.A. to disclose the records of all servicemen in the New York-New Jersey-Connecticut area so that the two research groups can try to acquire a data base for a random sampling of veterans, rather than just those who have already filed complaints or made inquiries about Agent Orange.

The two groups are the Center for Biology of Human Systems at Washington University in St. Louis; and the American Health Foundation in New York City.

The American Health Foundation has already begun an effort to evaluate the health of Vietnam veterans, using 1,500 names supplied by Citizen Soldier, a New York-based outgrowth of the antiwar movement, which has been trying to publicize the Agent Orange issue and encourage research.

Dr. Steven Stellman, who is chief of the division of computing and biostatistics, and his wife, Dr. Jean M. Stellman, who is chief of the division of occupational health and toxicology, created a questionnaire to mail to veterans who contacted Citizen Soldier.

RARE KIDNEY CANCER FOUND

Their results have not been made public but among the first group of 536 questionnaires analyzed, there were 35 cases of cancer, including three cases of kidney cancer, which is very rare for men in their late 20's or early 30's.

In addition, the initial survey found testicular cancer cases, other cancers of the lymphatic system and the Vietnam veterans participating had fathered 77 children born with defects. Those problems included missing or deformed fingers, heart defects and unusual skin disorders.

In a letter sent to participants, the Stellmans reported, "One of the most unexpected findings was the large number of veterans who complained of changes in skin color and sensitivity to light, as well as nervous system difficulties."

The Stellmans have no illusions that their study will end the debate over the safety of herbicides. As they pointed out in their letter, all the veterans who filled out questionnaires were "self-selected." In studies more acceptable to most scientific researchers, participants are selected at random.

SCIENTIFIC PROOF NEEDED

It is clear that, without nationally accepted scientific proof, the V.A. will continue to assert that it cannot compensate former servicemen who say their problems were caused by Agent Orange.

Data available as of late March indicated that of the first 434 decisions made on Agent Orange claims, only one man was awarded anything that might be considered linked to illness caused by herbicides. He received a 10 percent disability—$44 a month—because he was adjudged to have chlorance while in Vietnam. These skin lesions are associated by experts with exposure to herbicides.

J. Charles Peckarsky, the V.A.'s Director of Compensation and Pension Service, said that Veterans Administration officials were not sure that the claimant really had chloracne," but when in doubt, we favor the veteran."

Another 12 Agent Orange claimants got disability ratings not because of Agent Orange but because their symptoms were declared to be "service-related." Nine of them had skin conditions, one suffered from hypertension and three had cancer.

Mr. Peckarsky explained that the cancer victims received disability payments because "of evidence that the blood was changing while in service."

He said that everyone in the Veterans Administration wanted to resolve the Agent Orange mystery but that the agency should not pay for illnesses that might not have been incurred during military service.

Of the veterans who say they were harmed by Agent Orange, he said, "It is natural for them to look for something to hang their ailments on."

[From the New York Times, May 29, 1979]

Herbicides Pose a Bitter Mystery In U.S. Decades After Discovery

(By Richard Severo)

Forty years after the concept of "plant growth regulators" began to appear in scientific journals, herbicide use remains the subject of bitter debate and of lawsuits involving potentially hundreds of millions of dollars, and the center of a great mystery.

It is a mystery in which both the accusers and the accused say they have answered the question of what herbicides do to and for people—but they do not agree on what those answers are.

For the chemical industry, it is a controversy that challenges the traditional manner of testing chemical compounds before they are marketed, and thus the very profit structure of the industry.

For scientists striving to retain their objectivity, the question of herbicides easily rivals nuclear energy as an issue that threatens to divide and polarize them.

For the veterans of the Vietnam War and the civilians who suspect they have been made sick by herbicides, it is pain and suffering gone unacknowledged, unexplained, uncompensated, unalleviated.

And for the Federal Government, it is a source of public embarrassment, with various public agencies arriving at different conclusions or none at all.

Now, the Government is trying again to pin down answers. Max Cleland, head of the Veterans Administration, said yesterday that the Air Force, the Department of Health, Education and Welfare and the V.A. itself would be carrying out separate studies on the possible effects of herbicides.

At what point, scientists have asked, can questions be raised about the safety of chemicals and what should the rules be about how much evidence is required before a chemical is declared hazardous?

"The nice democratic idea is that one is innocent until proven guilty," said Dr. Charles F. Wurster, visiting scientist at the National Cancer Institute in Washington, D.C.

"The fallacy in the argument is that these are chemicals, not humans," he said. "Chemicals are not innocent until proven guilty, because if you consider the chemical innocent until proven guilty, then the people are going to have to get tumors to prove it guilty—and they, thereby, lose their rights. In other words, if you confer human rights on chemicals, you can only do so by taking them away from humans."

At the heart of the dispute are the phenoxy herbicides, most specifically a substance called 2,4,5–T. For more than 30 years, it has had a wide variety of uses because when applied, it will kill certain plants and allow others to live. Its natural victims are broadleafed plants.

But critics insist that it has caused stillbirths, birth deformities, cancer and a host of other maladies in humans and animals. It was a major component of Agent Orange, a herbicide widely used by the United States during the Vietnam War, but withdrawn when South Vietnamese newspapers began to report medical problems attributed to the herbicides. Currently there is a partial ban on the use of 2,4,5–T in the United States.

The Dow Chemical Company, the largest single maker, said that thousands of scientific studies of 2,4,5–T so far had not produced a single documented case of human injury. Dow spokesmen said they were unaware of even a complaint about the phenoxy herbicides prior to the Vietnam War and regard the current controversy as fueled "largely by Vietnamese propagandists."

Some officials of the Veterans Administration agree at least in part wtih Dow. Dr. Paul A. L. Haber, assistant chief medical director for professional services at the V.A., said that "there is no clearly defined body of symptoms that anybody can ascribe to Agent Orange" and added that he wanted to establish whether there is or is not a casual relationship between Agent Orange and the complaints of veterans.

At present, the only illness that both sides agree may be attributed to herbicide exposure is chloracne, a temporary skin condition that closely resembles ordinary acne. Chloracne can be caused by other industrial chemicals, too.

Until the partial ban announced last Feb. 28 by the Environmental Protection Agency, the United States was using about seven million pounds of 2,4,5-T each year, of which Dow made between 50 and 60 percent. Dow estimated that sales of 2,4,5-T had yielded $12 million, only two-tenths of 1 percent of the company's annual gross sales of $6 billion.

A Dow spokesman said that the money was not important to the company, but rather that environmentalists, veterans and public health advocates were attempting to restrict a product on the basis of scientific assertions that were either untrue or imprudent. But Dow's critics countered by saying that the company's own science was faulty.

POINTS AT ISSUE

Among the points in conflict are the following:

At the Veterans Administration, Dr. Haber said he discussed charges from veterans that they had suffered damage through their reproductive systems from Agent Orange and that, as a result, they were having deformed children. Dr. Haber said there was no evidence that males could actually suffer such damage through the productive systems and thus produce deformed children.

Dr. Jeanne M. Stellman, a physical chemist on the medical faculty at the University of Pennsylvania and chief of the division of toxicology at the American Health Foundation, disagreed with Dr. Haber. She said there was good evidence that males and females alike could be so damaged. Males, she said, can transmit this damage when they father children. She cited the work of Dr. Cecilia Lutwak-Mann of Cambridge University in England, who reported in the British Medical Journal that harmful effects of Thalidomide were transmitted through the semen of male rabbits so that the offspring suffered skeletal malformations.

John Davidson, technical adviser with Dow Chemical since 1936, said that although the type of dioxin found in 2,4,5-T "has been demonstrated to be quite a toxic chemical . . . there are safe levels" that present no hazard to people.

But Dr. James Allen, professor of pathology at the University of Wisconsin Medical School who has spent 20 years researching dioxins, said he had been unable to determine what a "safe level" might be in his experiments with monkeys and rats.

Patricia Bragg, special assistant for information at the United States Air Force Surgeon General's Office, said that of the 1,000 men who originally served in Operation Ranchhand, the group that sprayed Agent Orange, more than 100 remain on active duty. She added that of the original group, only one person made a claim asserting damage from Agent Orange—a claim that was declared invalid. As far as she knew, Mrs. Bragg said, everybody else who served in Operation Ranchhand is in good health.

But spokesmen for Agent Orange Victims International and Citizen Soldier in New York, and the National Veterans Law Center in Washington, D.C., said that between them, they know of two to three dozen men who served in Operation Ranchhand who now say they are sick.

Dr. Haber of the Veterans Administration said he could not yet accept the idea that dioxin, which was a contaminant in Agent Orange and is a contaminant in current batches of 2,4,5-T has been harmful to humans because the research has thus far been done only on laboratory animals. "All the studies you can read concern rats, mice, baboons, but nothing about men," Dr. Haber said.

Dr. Wurster of the National Cancer Institute said: "Unless we can establish in law and in practice that the capacity of a chemical to cause cancer in animals is presumptive evidence of the human situation, we can never win. We can only prevent human exposure to chemicals that cause cancer in laboratory animals. If we do it, we can protect ourselves to some significant degree. If we don't do it, the incidence of cancer will go up and we won't be able to pin down where it comes from."

Dr. Haber also said there was no proof, as yet, that people exposed to dioxin in herbicides could manifest symptoms five years later, thereby suggesting that dioxin might be stored in body tissue and released at some subsequent time.

Harvard's Dr. Matthew Meselson agreed that data were lacking to make a definitive statement but added that there was evidence "that makes us think very seriously about delayed and cumulative action as a possibility." He said that monkeys given tiny doses of dioxin in their food—doses measured in parts per trillion—begin to develop tumors and show other symptoms after long periods of time.

Dr. Meselson emphasized that he was not a partisan in the debate but he was upset that "the extremists have taken over and have interfered with finding out if there is a hazard. It should have been done years ago."

But at the Dow Chemical Company, there is doubt that more scientific research will accomplish anything.

"How much proof do you think it's going to take to take the heat off 2,4,5-T?" asked Gary G. Jones, public affairs manager for Dow at Midland, Mich. "There are 40,000 technical reports. We know more about 2,4,5-T than we know about aspirin. How long do you want the chemical industry to continue to prove that nothing has happened?"

Agent Orange: The Human Harvest

Bill Kurtis. Between 1962 and 1969, the United States sprayed 10 million gallons of Agent Orange over the jungles of Vietnam. They used it as a weapon of war, to reduce cover for the enemy. It was a combination of two chemical herbicides that had been used by farmers in the United States for years . . . 24D and 245T.

But the military use was in far greater concentration than ever before. The spraying was restricted after a contaminant in 245T called dioxin, was found to cause birth defects in laboratory animals.

That was 1970. It became an emotional issue of the war . . . but in the controversial climate of charges the defoliant had caused birth defects among the Vietnamese . . . No one thought about the effect it might be having on our own veterans, who also were being exposed.

On March 23, 1978, we broadcast an hour long report about 40 cases that had been filed with the Chicago office of the Veterans' Administration.

Veterans complaining of cancer . . . nervous, and respiratory problems . . . diminished sex drive . . . changed personality and birth defects. They didn't know for sure but they thought maybe the problems were caused by our own chemical warfare . . . exposure to Agent Orange.

This report is about what has happened in the year that has followed that documentary . . . of thousands of veterans complaining of similar problems. Within the last year, the controversy of 245T and its use in the United States has become the hottest environmental issue in the country—the veterans are part of that . . . for both environmentalists and veterans are looking for the direct link between herbicides and humans.

A year ago we were searching for that link too . . . in this report, we have found it. Links between our own chemical defoliation and what appears to be an epidemic among our veterans.

In our efforts to take the leaves off the trees in Vietnam, we have reaped a terrible human harvest.

Mike Belcher is one of thousands of veterans who have reported symptoms since our documentary of a year ago . . . symptoms the Veterans Administration is categorizing under the heading—Agent Orange.

1st VA Clerk—to Mike Belcher. "Have you ever come in contact with the chemical defoliant?"

Belcher. "Yes."

Clerk (1). "And you want to go through the procedure for Agent Orange?"

Belcher. "Yes."

2nd VA Clerk. "How many times do you think you've been exposed to these chemicals? Like when you were in the jungle and a helicopter came over . . ."

Belcher. "I would say, 30. At least."

Kurtis. He is twenty-nine . . . working for a social welfare agency in Chicago. He is nervous, his legs go numb periodically . . . tumors have been removed from his feet and breast—non-malignant, so far. But, at this moment, during the examination, doctors discovered more lumps in the area of his left breast.

Doctor. "Does the pain feel like it's inside?"

Belcher. "Yeah, it's inside."

Doctor. "Does it hurt when you take a deep breath or anything?"

Belcher. "Yeah, I thought it was my heart but it's not."

Doctor. "O.K. It's like it's inside?"

Belcher. "Yeah."

Doctor. "Would you describe it as an ache . . . or is it sharp? Does it come and go?"

Belcher. "It's sharp . . . it comes and goes."

Doctor. "How long does it last when it comes?"

Belcher. "It can last a couple of hours."

Kurtis. Mike Belcher will return to the hospital for further examinations. It is not good news. He supervised Vietnamese prisoners of war as they sprayed the perimeter of their camp with herbicides to clear a field of fire.

Peter Kirk was a perimeter guard in 1969. He watched the defoliant sprayed around his area and developed a rash about his neck. Seven years later, a malignancy developed right under that rash.

Kirk. "Having cancer was such a shock to me that, at first, I just couldn't believe it.

"I was treated for Hodgkins disease . . . had major surgery twice. Had 26 radiation treatments . . . lost all the hair on the back of my head. Was out of work for well over a year. I was in the hospital for close to six months, returning as an outpatient for three or four months . . . everyday for radiation treatments. And subsequently I've been returning to the hospital ever since on a regular basis."

Kurtis. Did Agent Orange cause his problems? Realistically he may never find out for sure. Scientists have found no way to look at a malignant tumor and figure out which carcinogen caused it 10 to 20 years before. So they reason from animal studies primarily, that if a chemical causes tumors and cancer in a laboratory animal, it must be carcinogenic to humans as well. There are other tests, but animal studies are accepted as the best evidence.

Since our last report there have been new studies which indicate that dioxin is carcinogenic at microscopically low levels . . . almost incomprehensible. Preliminary data from a National Cancer Institute experiment with several hundred rats and mice indicates a significant increase of tumors at levels as low as 5 parts per trillion dioxin rubbed on the skin. It might be easier to imagine the extremely small size of 5 parts per trillion by converting it to time. 5 parts per trillion would be the equivalent of one second every 6,342 years.

Two pathologists have read some 10,000

slides and 20,000 tissue samples already. The Institute is asking other members of its team to compare their findings before a final report is issued. They realize the importance of this study, that it may be regarded as the definitive word of the cancer-causing potential of dioxin.

Five parts per trillion to produce cancer in laboratory animals compares with concentrations of dioxin in Vietnam's agent orange as high as 50 parts per million—10 million times greater. In a soon-to-be-published study for Sweden, Dr. Lennart Hardell reports a finding of cancer among workers who had been sprayed by 245T from tractors clearing brush along rights of way.

It's the kind of study Harold Carlton hoped would give him an answer about his rare skin cancer that appeared after he returned from Vietnam.

Kurtis. "What kind of cancer do you think you have?"

Carlton. "Well they're not really sure. They call it A-melanonic melanoma . . . they're calling a undifferentiated carcinoma, also because they are not sure. But it tends to be A-melanonic melanoma.

Kurtis. The Chicago veteran told us of his symptoms a year ago. He died in May, 1978. He was 27. Was his cancer and that of the other veterans caused by Agent Orange? From the cancer data we see that it's potent enough. But only a full scale survey of the veterans exposed to it will provide the answer. No government agency is making the kind of search and evaluation necessary to find out. Veterans have had to go elsewhere.

Maude de Victor. "You have melanoma—which is a skin cancer. O.K., sir, when were you in Vietnam?"

Kurtis. During the past year thousands of veterans have asked if their symptoms were caused by Agent Orange. Some went to the Veterans Administration, others went to local veterans' groups that have sprung up in reaction to the Agent Orange issue.

Ron de Young. "One of the ways that we've tried to deal with this is through some national publicity and through some specific suggestions of program—but we're getting stone-walled."

Kurtis. A seminar at the college of Du Page, west of Chicago, where a veterans group known as Caveat has brought scientists together with the veterans to help them understand whether Agent Orange could have caused their symptoms.

De Young. "Those people who know what I'm talking about, and think they already have this problem . . . let me let you take this for a minute. What kind of things are we talking about? What are your medical problems?"

Veteran. "Rashes, stomach problems, respiratory problems, joint problems."

Kurtis. The scientists in the group learned there were no easy answers. But they thought if they studied the effect of 245T sprayed on animals and humans in the United States they might find a link between Agent Orange and veterans sprayed in Vietnam. So they went to Wisconsin and the scene of a 245T accident.

Kurtis. In 1971 a helicopter was spraying 245T just at that row of trees . . . the wind was blowing about 8 to 15 mph in this direction . . . toward the farm of Harold Freedlund. Clumps of the spray drifted onto this farm . . . animals were sick . . . Freedland and his family became ill . . . and for years he complained of animal deformities . . . illness that seemed never to go away.

Harold Freedlund. We've had pigs born with no legs . . . extra legs . . . no anal openings. Calves born with their hearts on the outside and their legs all twisted out of shape. It seems that both the pigs and calves necks are kind of twisted.

Nettie Freelund. This is the dog that was born dead.

Kurtis. Harold and Nettie Freedlund knew the importance of what was happening. And tried to keep as many of the sick and deformed animals as they could in a basement freezer.

Nettie Freedlund. This is Chester's tail. I just was showing him a pig that was grossly deformed. And this is his right foot . . .

Kurtis. So normal is just two of these.

Nettie Freedlund. . . . just two of these. But his spine was deformed and his tail was deformed and then of course the feet were deformed.

Kurtis. The same . . .?

Nettie Freedlund. This is of the same hog—yes.

Kurtis. The freezer contained still-born dogs and cats . . . a calf . . . even the liver of a cow that died. An analysis of the animals' blood showed the presence of 245T.

Most isolated cases like this prove little, if chemical exposure can be established, it usually has done its damage and vanished by the time reliable scientific data can be gathered. But the Freedland case may be different.

Eight years ago the spraying affected a group of chickens . . . caused their toes to curl inward and they died. Dr. John Bederka of the University of Illinois medical laboratories wanted to test complaints there were still chemical problems on the farm. So he put 150 chickens on the property, 50 others in a control group. In a matter of weeks, the toes began to curl inward and distort.

Dr. Bederka. We found defects in the legs, paralysis of the birds . . . and deaths . . . an unexplained number of deaths . . . and no obvious diseases.

Kurtis. Something was causing problems. Was it dioxin? Professor Bederka called in veterinary pathologist Dr. Ward Richter of the University of Chicago, who began to study the tissues of the birds.

Dr. Richter. "It's very difficult to prove in a case like this that there is a chemical involved in the disease process and the most valuable thing that we can offer in this situation is to demonstrate that no other diseases are involved. The things that we've been doing is to rule out these other causes. At least this far we haven't discovered any natural or spontaneous diseases of chickens that are causing this."

Kurtis. But in the course of his study, Dr. Richter made a significant find . . . lesions in the liver of the deformed chickens compatible with lesions he had seen in laboratory rats fed dioxin in their diet.

It is the closest any pathologist could come to establishing dioxin as the cause of the symptoms. It could mean dioxin stays in the soil and can be transmitted with terrible effects to living things . . . perhaps even combat soldiers. While Bederka and Richter have been looking for the effects of dioxin . . . other scientists think they have found them among the veterans. We'll have that in a moment.

Kurtis. Among the veterans who have responded to the agent orange issue during the last year are those who are most directly involved . . . those who loaded it and sprayed it. They provide a clearer picture of how it was used in Vietnam.

James Wilcox was given a medal for his spraying missions. In 1967 the Army's 184th chemical platoon was working in the Bong Son plain and Northern Province areas.

Wilcox. "See I was under the impression we were flying these missions to kill the enemy's rice paddies, you know? Not necessarily just to kill ground cover. We were told that we were wiping out their means of survival by—you know—the way they ate. They were eating rice—and we were killing it before they could harvest. So it was, I guess, a biological means of winning the war, more or less. Starve them to death!"

Kurtis. Today, James Wilcox has blinding headaches and he has been admitted to a Veterans Administration hospital three times for emotional problems.

Kurtis. Roland Correa was a door gunner on a helicopter that sprayed herbicides. Since returning from Vietnam he has had health problems.

Correa. "You know it's funny, I never had acne after a certain age and when I went in the service I had very, very clear skin. I never had any sort of acne at all and now I'm 28 years old and all of a sudden after all these years I've been getting acne and skin problems and soforth.

Kurtis. But what bothers the former athlete most is his right breast. It secretes fluid and sometimes blood. A VA physician has said it was normal . . . but other doctors indicate it could be a pre-cancerous condition.

Correa asks—was it caused by Agent Orange? Scientists have said it could be, but there has been no definite link . . . no magic bullet to trace the course of dioxin from use as a herbicide to a human body.

Kurtis. We've seen the response of one group of veterans to find that direct link. Another group was also watching our report . . . citizen solder in New York City. They set up an outreach program, providing information for veterans with questions . . . and the veterans responded—bringing in their symptoms from cancer to skin rashes for inspection.

They also asked a highly reputable medical research organization to conduct a study of the veterans to see if they did have more than their share of symptoms.

600 veterans sent back questionnaires about their exposure to agent orange and symptoms they are feeling even 10 years after their war experience.

The questionnaires provided some dramatic answers.

The doctors found what appeared to be a significant increase in soft tissue cancers and an increase of birth defects among the veterans.

It is not to be offered as an epidemiological study . . . but the doctors feel there is enough information to conclude the veterans are showing these special problems.

Kurtis. The definite link between dioxin and the Vietnam veterans is corroborated by Dr. Barry Commoner of Washington University here in St. Louis. After studying the latest data issued by the Italian Parliament . . . the final report on the accidental dioxin explosion in Seveso, Italy.

Commoner. "It just hits you right in the eye—that of 38 malformations reported in 1977, 13 are defects in the extremities, toes and fingers, and 8 are heart defects. That is exactly a pattern that has been reported, at least so far, in the survey done of the veterans in the United States."

Kurtis. We also travelled to Seveso, Italy because it's become a key subject of debate in the Dioxin arguments. Each side has used it to support views for and against the effects of dioxin.

The yellow fence has become symbolic of what dioxin has done to one suburb in the world. The man-made chemical has created a no man's land . . . A modern ghost town where homes have been abandoned and no human being is allowed to set foot.

A cloud had been released from a manufacturing plant and drifted over a suburb of Milan. Birds and animals died. Children were affected by chloracne.

Italian authorities were caught up in studies that were questioned at every turn because of competing political interests and the painful job of moving families out of their homes to protect them.

In most cases, it was too early for any accurate report on health problems caused by the dioxin exposure.

But the raw data comparing defects among births of the years 1976 and 1977 is as free from politics and emotion as any report out of Seveso. And the figures are dramatic.

COMMONER. "You could use this frequency of appearance of missing toes and fingers and heart defects as a kind of a fingerprint of the way in which dioxin affects birth defects. Now, with that information at hand, you then look at the results of the Citizen Soldier's survey on the American Veterans, and see that same unusual predominance of two kinds of birth defects. I think that's pretty strong evidence that what the Citizen Soldier's survey is reporting, is the effect of dioxin."

KURTIS. If Dr. Commoner has established a connection between dioxin and birth defects . . . Marcy Jean Smith could become a unique exhibit.

She was born 18 months after her father returned from Vietnam. There were multiple deformities at birth: a deformed spine; a cleft palate; she had a deformed and blind right eye; no right ear; the right side of her face was paralyzed; she was born with a deformed jaw; a heart murmur; and club foot.

Her parents began years of tedious medical examinations and a search for the reason why.

RONALD SMITH. "About a year after Marcy was born, I took Marcy to the Naval Hospital in Philadelphia and I was told by a Dr. Miller there at the hospital, he was a plastic surgeon, and also an internist . . . and he told me that he had other children that had been born by military wives, and the children were born deformed . . . and a lot of them lived just a short while, maybe a few hours after they were born and then they'd die because they were so deformed. Other women . . . he told us of seven women that had had miscarriages. And all of these women had conceived after their husbands had returned from Vietnam."

MRS. SMITH. "It's an awful shame that these children had to be afflicted—unnecessarily. You know, it's just a shame. It hurts the children, it hurts the parents, it hurts society. We love the children, we want them but if they're damaged unnecessarily, it hurts all the more."

KURTIS. Marcy's parents have lived with her problems since 1967. It was as far back as 1968 when Ronald Smith was told by Dr. Miller that agent orange might have caused her deformities. We have been unable to locate the doctor.

* * * * *

KURTIS. Among the men working to link Dioxin with problems like Marcy Jean's is her lawyer . . . New York environmental lawyer—Victor Yannacone. He fought the legal battle against DDT. And now he's fighting against Dioxin.

YANNACONE. "We're going to establish first, that the compound itself—dioxin—is one of the most toxic substances known to man. We'll then proceed to move from the laboratory studies to specific examples of human beings who have manifested symptoms very similar to those found in laboratory animals who were, in fact, exposed to dioxin contaminated herbicides—generally in Vietnam."

KURTIS. Yannacone is also asking that damages totaling a 4½ billion dollars be paid by the firms that manufactured herbicides for agent orange . . . into a welfare fund to benefit all the veterans who suffer problems caused by agent orange.

But the veterans' story of complaints has grown into a much larger issue . . . concerning the current use of agent orange ingredients in the United States today. They are separate cases because agent orange was a much more powerful concentration of the herbicide than anything in use today. But their effects on humans could be related. That part of the story, in a moment.

* * * * *

KURTIS. In the year since our report on the veterans' problems, the use of 245T in the United Sttaes has developed into the most controversial environmental issue in the country.

Agent Orange was, of course, more potent than anything being used by farmers and foresters in this country today.

Dioxin was applied to a Vietnam acre in amounts 30,000 times greater than current use. But environmentalists and spray victims argue their symptoms are similar to those of the veterans. And, they say, Dioxin is so toxic . . . so powerful . . . even at the low levels found in commercial 245T . . . it should be banned!

* * * * *

KURTIS. In the heavy timber country of Allegheny, Oregon, near the coast, forest companies have been using 24D and 245T for 20 years—and more.

They spray it on the young Douglas fir to kill broadleaf plants that would hinder early growth

But the people who live in the timber country have become concerned that the herbicides, with Dioxin, have been sprayed so heavily . . . it drifts onto the valleys or runs off the steep hills into the rivers.

They drink right out of the streams and rivers and a group against spraying has collected cases of cancer and other problems it is trying to connect with the spraying.

Among the stories we heard was a woman who saw a helicopter spray over her farm. She became ill . . . her farm animals were stricken.

A young calf, born with hair loss on its face, looked very much like the subject of a Dioxin experiment at the University of Wisconsin Medical School . . . also with facial hair loss.

Eight Rhesus monkeys died after being fed diets with Dioxin as low as 500 parts per trillion.

Dr. James Allen found problems affecting their immunological system . . . spontaneous abortions . . . and a rare blood disease called panacytopenia.

It reduces the ability of the blood to clot. The monkey bled to death.

This strange sounding disease in a far away medical experiment may become an important link between Dioxin and human problems.

For this young girl, who lives with her mother, along the Allegheny River had 245T in her blood and she was diagnosed with the same form of blood disease that was found in Dr. Allen's monkey.

ALLEN. "The panacytopenia; the decrease in red blood cells; the decrease in white blood cells; the decrease in blood platelets . . . is one of the more classical examples of DCDD intoxication. Dioxin intoxication . . . in non-human primates. This is why they die. In fact, in many instances, these animals bleed to death because their blood cannot clot. They have a decreased resistance because there are no white blood cells. They are anemic, they can't . . . there's not enough red blood cells to carry oxygen to the body."

KURTIS. Each case in which dioxin plays a role seems to eventually become controversial. Angie Lee is no exception.

Doctors differ on what caused the disease. Industrial toxins or viruses?

But it could be one step closer to the link between dioxin and human problems.

The monkeys in Wisconsin were studied because their systems are closer to a human being's than any other. And there were other disturbing results.

At 500 parts per trillion dioxin in the diet . . . most of the monkeys died before they could breed.

But, at doses one tenth as strong . . . 2 of the 8 monkeys couldn't get pregnant . . . 3 suffered abortions. There were two live births and one stillbirth. Ovulation stopped altogether.

It is important when seen against the EPA's recent action in Alsea, Oregon. Spray victims there complained or miscarriages immediately following a period of 245T spraying. The EPA agreed that after a study and confirmation of the miscarriage pattern, temporarily banned the spraying of 245T during the spring season.

BARBARA BLUM. "This really alarming correlation comes at a time when 7 million pounds of 245T are to be used across the Nation, to control weeds on power line right-of-ways; to manage forests; and to control weeds in pastures. The emergency suspension action that we're taking today will protect the nearly 4 million people who may be unknowingly and involuntarily exposed."

KURTIS. The EPA invoked its emergency powers for only the second time in its history in the Alsea case, and it set the stage for a key battle in the herbicide controversy.

A Federal court hearing between the EPA and Dow Chemical Company, one of the manufacturers of 245T.

We'll hear their side of the story in a moment.

* * * * *

KURTIS. Ten years ago, Dow Chemical was the target of emotional anti-war protests . . . Because it manufactured the ingredients of Agent Orange—herbicides 24D and 245T.

It is facing challenges to those products again on two fronts:

From veterans in class action suits charging the makers should have known the danger of dioxin and warned of it. And from those who are battling against the current use of 245T.

After the EPA invoked the temporary ban as a result of the Alsea, Oregon, study of miscarriages, Dow leveled its biggest guns, saying the EPA was guilty of bad science . . . prejudice . . . and a kangaroo court.

Dow president, David L. Rooke, was asked about the veterans complaints.

ROOKE. This product has been used for 30 years. It has yet to have one single case of confirmed documented health incident in the agricultural use and if you can have an emergency suspension . . . a unique first action they've taken on a product that has this much proven fatal and wipe it off the market place, it's time to take the stand.

KURTIS. He was asked about veterans complaints.

ROOKE. Well, of course, we are confronted with a number of lawsuits these days, so we are actively involved in that issue. There has been so much work done on 245T, it probably has been studied scientifically more than any chemical in agriculture. We believe now, and we have believed for many years, that this is not a hazard and it is this reason we are making this much of an issue out of it. This is not a chemical that can be capriciously wiped off the market just because some people have made allegations and charges.

KURTIS. Dow Chemical has become the most visible of the manufacturers of 24D and 245T and has locked horns with the EPA in the battle over dioxin.

It's had years to prepare its case to meet objections from local communities around the country.

With the other chemical companies, it argues they made agent orange to the specifications of the U.S. government for use as a weapon in the Vietnam war and liability should not extend to them.

As for the current use, the companies can show 30 years of studies and reports which claim the herbicides are harmless to humans. And, while Dow's own animal studies show it causes cancer in laboratory animals at levels as low as 200 parts per trillion, it maintains current products have so little dioxin in them, humans would never get enough to cause problems.

That's also the position of the forest industry.

WILLIAM H. MCCREDIE, National Forest Products. Our experience for the use of 245T in forestry has been all good. We have not had any experience of accidents that acquires human health problems during the normal application. Yes, there are some spills once in a while and people get into it and maybe get a little hysterical but that is not the normal situation and this application exposure study has borne that out. We are very concerned about human health because it's our own people that are underneath the spray.

Kurtis. 10 million pounds of 24D and 245T are spread over 3.8 million acres in the United States every year. They use it in forestry, in grazing lands, over rice and rights-of-way.

In the State of Oregon alone, if 245T were not available, it's estimated the forestry industry would lose 1.1 billion dollars in the next 50 years . . . along with 20,000 jobs.

The stakes of this controversy are high.

The Veterans Administration is not involved with current use . . . just with the symptoms of veterans.

After our report last year, it alerted all V.A. hospitals to treat symptoms and file cases connected with Agent Orange into a central computer bank for a larger study.

John Gill. They look at the sores on me and they give me a complete examination all over. The doctor told me he never seen anyone like this before. He had no cure for it. He told me it was Orange Agent.

Kurtis. The V.A. doctor identified John Gill from a central file. It doesn't mean a connection has officially been recognized—only that symptoms can't be explained otherwise. He has skin problems, cancer of the bone and a low sperm count.

The file will be used later, presumably to study the veterans, but the V.A. has been criticized for taking to long to set up a scientific study committee which will give direction for handling the veterans. There also has been no effort to track down known cases of exposure in a full scale study. For the men at the other end of the bureaucracy, time is running out.

Among the men who have come to the V.A. with Agent Orange symptoms is Mike Toppel. He is 29. He has consented to become the first Vietnam veteran to undergo a fat biopsy, part of a new test of Agent Orange victims to determine if the chemical dioxin could be stored in the fatty tissues of the veterans.

It's early in the morning, March 23 at Hines Veterans Hospital outside Chicago. For Mike Toppel, this is very minor surgery . . . he's already had a malignant brain tumor removed and must get radiation treatment for the cancer.

With those problems, why would he want a fat biopsy?

Toppel. "Because I wanted to find out what caused my cancer. I don't know if Agent Orange caused it, but I want to find out, and there's no other way I know than this to find out."

Kurtis. Other veterans will be tested at V.A. hospitals around the country. If dioxin is found in the tissue of even one man, it would be a clear link between Agent Orange and those men exposed to it in Vietnam.

If no dioxin is found, it doesn't necessarily prove the opposite. A chemical could have done its damage and left the body in the eight to ten years since the men were in Vietnam.

Dr. Herbert Greenlee, chief of surgery at Hines, has taken a strip of fatty tissue from Toppel's stomach area.

Greenlee. "They're going to divide that into three pieces and test the first piece and have another one for backup and save the third one in case there are any other questions."

Kurtis. The tests will be able to detect dioxin as low as five parts per trillion.

Despite the year it's taken to begin the study, it's a beginning for men like Mike Toppel and men like Mike Belcher.

His first examination at Hines Veterans Hospital, outside Chicago, turned up a suspicious lump in his breast. This would be his second visit. After routine analysis of blood, some X-rays, two physicans made another examination.

Surgeon. "You have what we call a node in the axillary area here that both Dr. Cummings and I can feel, and you can feel it yourself. Depending on what was done here, we can either watch that or recommend you have that node out to find out what's there. And that's basically what we think."

Kurtis. The exam is inconclusive. The doctors will need to see records from a previous operation which removed his left breast. Then perhaps a biopsy will be taken if the lump can't be explained. This time the physician is more reassuring. It's not an all-clear, but the nodule could be something else. Mike Belcher can calm down a bit and get back to work. He is a child care worker in Chicago's uptown. The health problems he faces are similar to what many, many veterans are going through.

Belcher. "What they were saying to me was, don't worry about it. It happens to anybody. I can't believe that. I'm worried now. It can happen to anybody. I'm going to be worried, but I'm going to go on to school, and I'm going to try to keep working, but I don't know. Right now, the work: I don't know. The tests they want me to go through and the operation, I don't know how I can work and do them. But I'll try.

"Just the scare of having cancer. You don't know how long you'll have to go on. Will I have five years, will I have ten years, will I have a full life to raise my children? I don't know. I want to leave something for them. I guess a father, his time is worth more than anything, money, anything. I'm scared."

Kurtis. Some final thoughts, in a moment.

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Kurtis. We've seen new evidence of dioxin's affect on humans, scientists linking it to the Vietnam veterans. There is one other link to talk about. The symptoms.

Veterans weren't the first to complain about the effects of herbicide spraying. There have been isolated cases on record for years, always seemingly surrounded by controversy and questions. But one thing stood out. The symptoms.

In compiling these two reports, we were in the unique position to see many cases, totally separate, thousands of miles apart, and we were struck by the similarity of complaints.

Horses that died from dioxin poisoning in Missouri, showed the same kind of skin reaction we found in laboratory monkeys that were fed dioxin in their diet. We saw animal defects. Ducks born with twisted wings in Arizona. Chickens with twisted feet in Wisconsin. A cat born with loss of hair on its face . . . its legs weak . . . looking so much like similar affects on a monkey fed dioxin in Wisconsin.

Dr. Allen. "What it means is that low level exposure to these compounds, extremely low level, levels below what the majority of the laboratories can detect, causes toxic manifestations. These may not be severe symptoms or signs. They may be very subtle effects, such as reproductive abnormalities. Inability to conceive. Inability to maintain pregnancy. High instance of early abortions. These are some of the complications that may not be tied in directly unless you are really conscious of dioxin exposure."

Kurtis. Dr. Allen's monkeys also came down with a blood disease, almost identical to one found in the little girl in Oregon with 245T in her blood. There were complaints from victims of known Dioxin exposure so similar to complaints from the veterans. Together they present a disturbing picture.

Roland Correa. "When I went in the service, I had very clear skin. I never had any sort of acne, in fact. Even now I'm 28 years old, and all of a sudden, all these years, I've been getting acne and skin problems."

Peter Kirk. "The three malignant lymph nodes that were initially removed from my neck were removed right here where I had the worst of that rash."

John Gill. "I figured that I was set somewhere like on death row, just to die."

Kurtis. There are some things that still should be done. There should be an outreach program to identify and compensate men who must carry the chemical legacy of Vietnam for the rest of their lives . . . and for the children also affected.

There should be an international exchange of information with Vietnam to find out how the defoliant affected people there. As for the current use, we feel there should be severe restrictions of the use of all chemicals containing Dioxin.

Its human harvest must be stopped, now.

CHICAGO AIRLINE ACCIDENT

Mr. PERCY. Mr. President, I wish to commend the Federal Aviation Administration and Mr. Elwood T. Driver, vice chairman of the National Transportation Safety Board, for their conduct following the tragic airline accident that occurred near O'Hare Airport on May 25.

In addition I wish to commend American Airlines, which cooperated fully in every aspect of the investigation. The Chicago Police Department, local fire departments, and citizenry should be commended for the way in which they responded to the accident.

Tragedy always comes closer when it has struck those one knows, admires, and respects. Such was my case with the loss of Henry Regnery, a highly respected publisher, and Sheldon and Judy Wax, a gifted couple. I felt the tragedy even more closely because Wilmette, Ill., my hometown, lost an entire family; Steve Sutton, age 38, his wife Carolyn, and their sons, Colin, 9, and Christopher, 7.

I ask unanimous consent to have printed at this point in the Record three articles from the Chicago Sun-Times and one from the New York Times that depict the heroism of many of those involved, including the clergy led by Cardinal Cody.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Chicago Sun-Times, May 27, 1979]

A Wilmette Family's Dog Waited at Home—in Vain

(By Peggy Constantine)

Stephen Sutton, 38, of Wilmette, planned a long time ago to take his wife, Carolyn, also 38, and their sons, Colin, 9, and Christopher, 7, to Los Angeles over the Memorial Day weekend for business and a family reunion.

He was a senior editor for Rand-McNally's adult-nonfiction books. He had edited Jeannie Morris' book, "A Short Season," about Bears running back Brian Piccolo.

Sutton never had been to an American Booksellers Assn. convention before. But this year, his wife's parents were in California, visiting her brother. Mrs. Sutton had time off from her job as secretary at the Heritage Congregational Church of Winnetka. His sons had Monday off from school.

Neighbors near the Suttons' home at 1405 Forest knew the family was going on the trip. They talked about it.

"They were quite excited about the trip," said Judith Wilmer. "They were hard-working, beautiful people. They were active in the community. The boys were just gorgeous. The family left about 1:15 or 1:30 p.m. Friday in an airport limousine.

"We're all having a bad time out here.

We're a little numb. This kind of thing happens to other people."

Several other Rand-McNally employes flew to the booksellers convention Friday afternoon, too. They were booked by the company, said Conroy Erickson, public relations director for the publishing company.

Mrs. Sutton made her family's travel plans—booking them on American Airlines Flight 191.

"We were able to establish early that the other people made it with the exception of Steve [Sutton]. . . . We learned for sure this morning," said Erickson.

Sutton's parents were in their summer home in Ludington, Mich., when they heard about the plane crash that killed all aboard.

They knew their son and his family were leaving for California Friday, but did not know when. When they learned their son, daughter-in-law and grandchildren were victims of the nation's worst air disaster, they got in their car to drive to Chicago, Erickson said.

Mrs. Sutton's parents, expecting to see their daughter and grandchildren in Los Angeles, flew to Chicago Saturday to meet the senior Suttons in the empty Wilmette house.

At home, Charlie, the family dog, a border collie, was waiting.

[From the Chicago Sun-Times, May 27, 1979]

Shelly, Judy—'He Adored Her'

(By Tom Fitzpatrick)

This was the kind of husband Sheldon Wax was to his wife, Judy:

During the Cuban missile crisis in 1962 he rushed Judy and their two children, Paul and Claudia, to Winnipeg, Manitoba, to save them from what he feared might be an impending missile crisis.

In 27 years of marriage, Shelly, as his friends called him, never bought Judy a nightgown for its warmth.

Helen Stern, a longtime friend of the Waxes, recalled:

"Shelly adored Judy. He laughed at her. He deferred to her. He was not threatened by her success as a writer and helped her as much as he could."

Judy herself recalled one of Shelly's premier marital achievements in her book, "Starting in the Middle":

". . . When I say ever-so-casually, 'If I should die, Shel, would you marry again?' he knows how to make a face that conveys horror beyond holocaust."

Wax was 51 years old. He was born and raised in Brooklyn. He and Judy had met while both were students at Syracuse University.

Judy wrote a postcard home to her mother the morning after their first date in 1949. It read:

"Went out with someone Wonderful! His name is Sheldon Wax and we talked about Khafke all evening!"

Judy was a freshman at the time. Wax was a senior. In the ensuing years, she learned how to spell Franz Kafka, but her husband, she wrote, never stopped singing "The Carioca" every morning and the only change in him was that, of late, his snoring had grown louder and developed a little whistle.

Wax had been with Playboy magazine since 1960 and had been managing editor since 1972.

Arthur Kretchmer, Playboy's editor, recalled an editorial meeting with Wax on Friday only hours before the couple boarded American Airlines Flight 191 bound for Los Angeles.

"As usual in those kinds of meetings," Kretchmer said, "there was a give-and-take about how things should be handled. I remember the last words Shel said before leaving:

" 'This layout will work,' he said, 'and I can make the word Philadelphia fit.'

"Shelly was a serene, calm, phlegmatic and funny man with a pixyish sense of humor," Kretchmer added. "People say he was the nuts and bolts of this magazine. But he was also the spice and spirit of it, too. There were no skills in this business he didn't have. On top of that he was a good and gentleman."

The Waxes were heading for Los Angeles to attend the American Booksellers Assn. convention where they would be taking part in activities connected with the promotion of Judy's best-selling book, which was published only recently.

People magazine was preparing a profile on the couple and had planned on taking photographs in Los Angeles and in Chicago upon their return.

Judy was ecstatic about recent developments of their lives.

Hours before leaving for the airport, Judy had discussed this with Linda Witt, a writer for the magazine.

"We've come through a hell of a lot," Judy had said. "It just shows that the blacker the cloud the brighter the silver lining. Our son, Paul, who was in the Krishna movement is wearing suits again and today, at 25, he's enrolling in the University of Chicago.

"This week, our daughter, Claudia, won a fellowship from the Art Institute of Chicago."

"This is the absolute highpoint of our lives," Judy said.

Judy Wax was 47 years old when she died. It was not until she was 42 that she undertook a full-time writing career following the success of a long Chaucerian takeoff on Watergate called "The Waterbury Tales."

Joan Zucker, a close friend, recalled the excitement Judy felt upon completing the poem.

"We were both absolute Watergate junkies," Zucker said, "and when Judy finished it she told me with delight that she actually felt that it was very funny and that she kind of loved it."

Judy sent the poem to Roby McCauley, then the fiction editor of Playboy, with instructions to deep-six it if he didn't think it was good.

McCauley sent it to the New Republic, which printed the piece and, suddenly, publishers from all over were calling, asking for the right to reprint "The Waterbury Tales."

"What happened next to Judy was a freelance writer's dream," Zucker said. "Editors from all over were calling her asking for things. She did a profile of Ann Landers for the New York Times magazine. Everything she wrote was being accepted.

"Here was this nice, middle-class, Jewish girl who had grown up in the '50s wearing Jackie Kennedy pillbox hats who was so pretty, who looked so perfect and who now was such a success in her own right."

Then came the publication of "Starting in the Middle" and its success.

"Judy had been very shy about going around the country doing interviews," Zucker recalled. "But when she came back from an interviewing tour to Minneapolis, Cleveland and Detroit, she called me excitedly and said: "I loved it, Joan. I loved talking to those people so much that I'd like to do 500 more interviews.' "

As part of the People magazine profile, Judy had planned to hold a book autographing party in her favorite restaurant. The Belden Corned Beef Center on N. Clark.

Judy wanted to have all of the friends she normally met in the restaurant for lunch or coffee each day with her in the pictures.

"Shelly loved what was happening to Judy," Zucker said. "He loved his own work at Playboy. He was secure about himself. That's why he went with Judy wherever she went to promote the book. They were having such a great time. They always laughed a lot together, but now it was even better. This was absolutely the best time of their lives."

[From the New York Times, May 26, 1979]

Literary Couple Reported on Jet

Sheldon Wax, the managing editor of Playboy magazine, and Judith Wax, a Chicago-based freelance writer and humorist, were among the passengers booked on the American Airlines flight that crashed in Chicago yesterday, officials of the publication reported last night.

The couple had planned to attend a booksellers' convention in Los Angeles, a Playboy spokesman said.

Mr. Wax, 52 years old, became managing editor of the magazine in 1972 after 12 years as an associate editor.

Mrs. Wax, 47, began writing poetry and articles chiefly humorous, when she was 42. She became nationally known almost immediately with the publication in The New Republic of her "Waterbury Tales," a parody on the Watergate scandals written in Chaucerian style. Time magazine picked it up, giving it a far wider audience.

For several years she also wrote New Year's poems for Playboy.

Her prose and poetry were carried by several periodicals, including The New York Times Magazine, for which she wrote a Guest Observer column last month.

Although most of her writing was in a light vein, Mrs. Wax also wrote feelingly of the couple's son, Paul, who became a convert from Judaism to the International Society for Krishna Consciousness in the early 1970's. An autobiographical work of hers, "Starting in the Middle," was published by Holt, Rinehradt & Winston this year.

Mr. Wax was born in Brooklyn and served in the United States Navy in World War II. After his discharge, he enrolled at the University of Rochester and graduated with a fine arts degree in 1950.

He was editorial director of Great American Publications and managing editor of special projects for Popular Library before moving to Playboy in 1960.

The couple also had a daughter named Claudia.

[From the Chicago Sun-Times, May 26, 1979]

A Priest's Futile Hopes, 2d Tragedy

(By James Warren)

The elderly Irish priest fought back tears as he left, recalling his futile hopes of several hours earlier.

"You walked around just hoping somebody would move," said the Rev. Ward Morrison, chaplain for the Elk Grove Village Fire Department and one of the first to arrive at the smoldering site of the DC–10 crash Friday afternoon.

"But there was absolutely nothing to be done. It was terrible, so very terrible. There was tremendous amounts of smoke, everybody [passengers] was scattered all over the place. I looked around, but there wasn't really much to do."

It was not the first time Father Morrison has witnessed tragedy. He was at the fire at Our Lady of the Angels School in 1958, when 92 children and 3 nuns lost their lives.

Hunched with fatigue, Father Morrison was escorted to a fire vehicle. Then he turned.

"What could one do?" he asked again.

He was 1 of about 10 clergymen who helplessly walked through the smoking scattered debris northwest of O'Hare Airport. They could offer prayers, but no one could provide comfort.

John Cardinal Cody arrived in a Chicago police car after 5 p.m.

"Praise the Lord, have mercy," he said, looking in quiet horror at the devastation.

"There is not much I can do except offer a short prayer. This is a very, very tragic event," he said.

He offered a brief requiem service at the crash site.

"I don't know who perished in the accident, but we'll remember them all—Protestants, Catholics, Jews—in our prayers and offer consolation and sympathy to their families," he said.

The Chicago Fire Department's Roman Catholic chaplain, the Rev. Mathew McDonald, said: "This is the worst disaster I've ever seen in my 11 years as chaplain. There were bodies everywhere. Practically everybody was burned badly.

"I guess probably the only good thing is that none of them suffered. It must have been awfully quick. They must have died instantly."

Then he added: "May the Good Lord look after them."

HOW TO UNDERCUT PEACE IN THE MIDDLE EAST

Mr. PERCY. Mr. President, the recent decision of the Israeli Government to establish a new civilian settlement on the West Bank is a matter of grave concern for all of us who yearn for the day when peace in the Middle East will be a permanent reality.

As negotiations between Israel and Egypt enter a crucial new phase, approved now of yet additional settlements can only serve to undermine the talks, further hurt President Sadat, and strengthen the hand of his Arab detractors. President Sadat has become increasingly isolated by Arab leaders who fear that he has sold them down the river by signing a peace treaty with Israel.

Prime Minister Begin and President Sadat have agreed to be partners in the pursuit of peace, and the actions of either of them should take into account the effect on his partner. If it were possible for me to personally talk to Prime Minister Begin today, whom I respect and who I feel reciprocates my feelings of friendship, I would make this point as strongly as I could. If the internal policies of Prime Minister Begin's government do not take the sweep of recent events and their impact on President Sadat's position into account, I am deeply concerned that the spirit of Camp David and the momentum of the peace process could be lost.

I have the hope that the Government of Israel will reconsider its settlement policy for these reasons, and I strongly urge such reconsideration.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal, which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States stated that on May 24, 1979, he had approved and signed the following act and joint resolution:

S. 532. An act to continue the work of the President's Commission on Pension Policy to develop a national retirement income policy in the United States, and for other purposes; and

S.J. Res. 71. A joint resolution to authorize and request the President to proclaim the week of May 6 through 12, 1979, as "National Historic Preservation Week".

The message also stated that on May 26, 1979, he had approved and signed the following act:

S. 631. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to John Wayne.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:48 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 7. An act to amend title 38, United States Code, to revise and improve certain health-care programs of the Veterans' Administration, to authorize the construction, alteration, and acquisition of certain medical facilities, and to expand certain benefits for disabled veterans, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. PRYOR).

At 1:27 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3915. An act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 10 months the date on which the corporation must pay benefits under terminated multiemployer plans.

The message also announced that the House has passed the following bills, each with an amendment in which it requests the concurrence of the Senate:

S. 199. An act to amend the Shipping Act, 1916, to strengthen the provisions prohibiting rebating practices in the United States foreign trades; and

S. 1160. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes.

The message further announced that the House has passed the following bills, each with amendments in which it requests the concurrence of the Senate:

S. 348. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ben Abruzzo, Maxie Anderson, and Larry Newman; and

S. 613. An act authorizing the President of the United States to present a gold medal to the widow of Hubert H. Humphrey.

HOUSE BILL ORDERED HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 3915, an act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 10 months the date on which the corporation must pay benefits under terminated multiemployer plans, be held at the desk until the close of business tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, that item has been cleared on our side. We have no objection to the request of the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 5, 1979, he presented to the President of the United States the following enrolled bill:

S. 7. An act to amend title 38, United States Code, to revise and improve certain health-care programs of the Veterans' Administration, to authorize the construction, alteration, and acquisition of certain medical facilities, and to expand certain benefits for disabled veterans, and for other purposes.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-1507. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the second revision to the regulations governing operations under Title I of the Agricultural Trade Development and Assistance Act; referred to the Committee on Agriculture, Nutrition, and Forestry.

EC-1508. A communication from the Assistant Secretary of the Navy (Manpower, Reserve Affairs and Logistics), transmitting, pursuant to law, a report on the proposed transfer of the obsolete submarine Ex-Clamagore (ex SS-343) to the State of South Carolina, Patriots Point Development Authority, Charleston, South Carolina; referred to the Committee on Armed Services.

EC-1509. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Military Child Advocacy Programs—Victims of Neglect"; referred to the Committee on Armed Services.

EC-1510. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report stating that the Department of Defense intends to exercise the provisions of 10 U.S.C. 2313(c), for the exclusion of the clause concerning the examination of certain records by the Comptroller General; to the Committee on Armed Services.

EC-1511. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examintion Of Financial Statements Of The National Flood Insurance Program As Of December 31, 1977."; referred to the Committee on Banking, Housing, and Urban Affairs.

EC-1512. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Pacific Tuna Development Foundation for calendar year 1978; referred to the Committee on Commerce, Science, and Transportation.

EC-1513. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "How Effective Is The Coast Guard In Carrying Out Its Commercial Vessel Safety Responsibilities?"; referred to the Committee on Commerce, Science, and Transportation.

EC–1514. A communication from the Vice President for Governmental Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on total itemized revenues and expenses and the revenues and expenses of each train operated by the Corporation for the month of February 1979; referred to the Committee on Commerce, Science, and Transportation.

EC–1515. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to extend the appropriations authorization for reporting of weather modification activities; referred to the Committee on Commerce, Science, and Transportation.

EC–1516. A communication from the Acting Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend section 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) to extend authorizations for appropriations, and for other purposes; referred to the Committee on Commerce, Science and Transportation.

EC–1517. A communication from the Secretary of the Interior, transmitting, pursuant to law, notice on leasing systems for the oil and gas lease sale No. 48, Southern California, scheduled to be held on June 29, 1979; referred to the Committee on Energy and Natural Resources.

EC–1518. A communication from the Chairman of the United States Nuclear Regulatory Commission, transmitting a draft of proposed legislation to add clarifying amendments to the Uranium Mill Tailings Radiation Control Act of 1978, and for other purposes.

EC–1519. A communication from the Secretary of the Interior, transmitting, pursuant to law, an application for repayment of excess oil royalties totaling $47,078.65 for the Eugene Island Block, Louisiana; referred to the Committee on Energy and Natural Resources.

EC–1520. A communication from the Comptroller General of the United States, transmitting, a report entitled "Nuclear Reactor Options To Reduce The Risk of Proliferation and To Succeed Current Light Water Reactor Technology"; referred to the Committee on Energy and Natural Resources.

EC–1521. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; referred to the Committee on Energy and Natural Resources.

EC–1522. A communication from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, a copy of a proposed contract with Southwest Research Institute, San Antonio, Texas, for a research project entitled "Production Engineering Development and Demonstration of the Draft Power Sensor"; referred to the Committee on Energy and Natural Resources.

EC–1523. A communication from the Chairman of the Advisory Council on Historic Preservation, transmitting a draft of proposed legislation to amend the Act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes; referred to the Committee on Energy and Natural Resources.

EC–1524. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of the U.S. Virgin Islands Comptroller's audit of the procurement of desalination plants; referred to the Committee on Energy and Natural Resources.

EC–1525. A communication from the Assistant Attorney General of the United States (Antitrust Division), transmitting, pursuant to law, a report on competition in the coal industry; referred to the Committee on Energy and Natural Resources.

EC–1526. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a final environmental impact statement and supplemental information on the Davenport, Iowa, project; referred to the Committee on Environment and Public Works.

EC–1527. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a final environmental impact statement on the Gulf Intracoastal Waterway, Chocolate Bayou, Texas, project; referred to the Committee on Environment and Public Works.

EC–1528. A communication from the Secretary of the Interior as Chairman of the United States Water Resources Council, transmitting a draft of proposed legislation to amend the Water Resources Planning Act; referred to the Committee on Environment and Public Works.

EC–1529. A communication from the Assistant Secretary of the Interior (Legislative Affairs), transmitting, pursuant to law, additional reports in the series prepared by the International Bank for Reconstruction and Development, the Group of Controller's evaluation reports by the Inter-American Development Act and post-evaluation reports by the Asian Development Bank; referred to the Committee on Foreign Relations.

EC–1530. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, reports on international agreements, other than treaties, entered into by the United States in the sixty day period prior to May 24, 1979; referred to the Committee on Foreign Relations.

EC–1531. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to May 31, 1979; referred to the Committee on Foreign Relations.

EC–1532. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Meeting U.S. Political Objectives Through Economic Aid in the Middle East and Southern Africa," May 31, 1979; to the Committee on Foreign Relations.

EC–1533. A communication from the Acting Assistant Secretary (Administration), Department of the Treasury, transmitting, pursuant to law, on a revised system of records; to the Committee on Governmental Affairs.

EC–1534. A communication from the Director, Central Intelligence Agency, transmitting a draft of proposed legislation to amend paragraph 5924(4)(B) of Title 5, United States Code; to the Committee on Governmental Affairs.

EC–1535. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "After Six Years, Legal Obstacles Continue to Restrict Government Use of the Standard Statistical Establishment List," May 25, 1979; to the Committee on Governmental Affairs.

EC–1536. A communication from the Assistant Secretary for Management and Budget, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report of a new system of records; to the Committee on Governmental Affairs.

EC–1537. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improvements Needed in the Enforcement of Crude Oil Reseller Price Controls," May 29, 1979; to the Committee on Governmental Affairs.

EC–1538. A communication from the Assistant Secretary for Administration, Department of Housing and Urban Development, transmitting, pursuant to law, a report of a new system of records; to the Committee on Governmental Affairs.

EC–1539. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Recommendations of the Commission on Government Procurement: A Final Assessment," May 31, 1979; to the Committee on Governmental Affairs.

EC–1540. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the Federal Crop Insurance Corporation, Fiscal Year 1978," May 31, 1979; to the Committee on Governmental Affairs.

EC–1541. A communication from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a report on a proposed Presidential archival depository to be known as the Gerald R. Ford Library; to the Committee on Governmental Affairs.

EC–1542. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, the first semiannual report of the Inspector General of the Veterans Administration; to the Committee on Governmental Affairs.

EC–1543. A communication from the Secretary of Labor, transmitting, pursuant to law, the first semiannual report of the Inspector General of the Department of Labor; to the Committee on Governmental Affairs.

EC–1544. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, an initial semiannual report summarizing the activities of the audit, inspection and investigative units of the Department of Defense for the six-month period ended March 31, 1979; to the Committee on Governmental Affairs.

EC–1545. A communication from the Secretary of Housing and Urban Affairs, transmitting, pursuant to law, an initial report on the activities of the Office of Inspector General, Department of Housing and Urban Development, for the six-month period October 1, 1978 to March 31, 1979; to the Committee on Governmental Affairs.

EC–1546. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report covering the activities of the Inspector General's Office during the period October 1, 1978 to March 31, 1979; to the Committee on Governmental Affairs.

EC–1547. A communication from the Deputy Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, a proposed plant for the use and distribution of Caddo judgment funds awarded in Docket 226 before the Indian Claims Commission; to the Select Committee on Indian Affairs.

EC–1548. A communication from the Chairman, Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, a report on the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–1549. A communication from the General Counsel, Council on Wage and Price Stability, Executive Office of the President, transmitting, pursuant to law, a report on the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–1550. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders suspending deportation, as well as a list of the persons involved; to the Committee on the Judiciary.

EC–1551. A communication from the Director, National Legislative Commission, The American Legion, transmitting, pursuant to law, a report of financial condition of The American Legion as of December 31, 1978, together with supplementary data and opinion; to the Committee on the Judiciary.

EC-1552. A communication from the Secretary of Labor, transmitting a draft of proposed legislation to amend the Comprehensive Employment and Training Act to provide work and training opportunities to assist families to become economically self-sufficient, and for other purposes; to the Committee on Labor and Human Resources.

EC-1553. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the fifth annual report of the Emergency Medical Services Program; to the Committee on Labor and Human Resources.

EC-1554. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on Drug Abuse in Rural Communities; to the Committee on Labor and Human Resources.

EC-1555. A communication from the Comptroller General of the United States, reporting, pursuant to law, the release of budget authority required to be made available for obligation pursuant to section 1012(b) of the Impoundment Control Act of 1974 and provides the Congress with comments on the President's 9th special message that was sent to the Congress on April 26, 1979; to the Committee on Appropriations, the Committee on the Budget, the Committee on Energy and Natural Resources, and the Committee on Foreign Relations, jointly, pursuant to order of January 30, 1975.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-260. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"ASSEMBLY JOINT RESOLUTION No. 35

"Whereas, The availability of gasoline to California motorists has deteriorated severely in recent months; and

"Whereas, The State of California's largest supplier of gasoline has reduced fuel allocations to 80 percent of the amount apportioned during this same period in 1978; and

"Whereas, The demand for gasoline in the first quarter of 1979 is up by five percent over the first quarter of 1978 in California; and

"Whereas, Proved reserves of crude oil in the United States decreased an estimated 1.7 billion barrels in 1978 in the face of increased domestic crude oil production for a second consecutive year; and

"Whereas, Retail gasoline outlets have resorted to the sharp curtailment of business hours in response to reduced fuel allotments; and

"Whereas, Numerous incidents of retail and wholesale price gouging in the area of fuel sales have been cited by the Federal Economic Regulatory Administration of the Federal Department of Energy; and

"Whereas, Gasoline pricing formulas established by the Federal Department of Energy are ludicrously complex at both wholesale and retail levels; and

"Whereas, Approximately 6.7 million automobiles in California operate on unleaded fuel; and

"Whereas, There is an apparent acute shortfall of unleaded fuel to meet California motorists' driving needs; and

"Whereas, A growing number of citizens of California do not believe a true shortage exists; and

"Whereas, The State of Califorina is in need of swift, positive action aimed at meeting its fuel requirements; now, therefore, be it

"Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully proposes that the Congress of the United States immediately hold joint investigative hearings in the State of California concerning the fuel shortage crisis, including the issuance of subpoena power to the investigative committee; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-261. A concurrent resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Environment and Public Works:

"RESOLUTION

"Whereas, the U.S. Army Corps of Engineers determined dredging and widening of the Piscataqua River for the construction of a turning basin should be based on cost effectiveness; and

"Whereas, safety measures taken into consideration of the siting of a turning basin causing increased costs have been ignored; and

"Whereas, on an occasion when a vessel carrying gasoline, fuel oil or liquified petroleum gas to terminals along the river may be subject to an emergency action; now, therefore, be it

"Resolved by the House of Representatives, the Senate concurring:

"That this body proposes to the Congress of the United States that it review the manner in which the U.S. Army Corps of Engineers made the decision to dredge and widen the Piscataqua River; and

"That this body respectfully requests that the Congress cause the U.S. Army Corps of Engineers to make its determinations as to constructing a turning basin relative to safeguarding the lives of New Hampshire citizens rather than relative to economical considerations; and

"That copies of this resolution be sent to the Speaker and Clerk of the United States House of Representatives, the President and the Secretary of the United States Senate, and to each member of the New Hampshire Congressional delegation."

POM-262. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on Veterans' Affairs:

"RESOLUTIONS DECLARING VIETNAM VETERANS WEEK

"Whereas, President Jimmy Carter has declared May twenty-eighth through June third, nineteen hundred and seventy-nine as Vietnam Veterans Week; and

"Whereas, thousands of citizens of the commonwealth served honorably in Southeast Asia defending the commitment made by President John F. Kennedy; and

"Whereas, hundreds of young men from Massachusetts gave their lives trying to prevent the spread of communist terror in Southeast Asia, currently being manifested by the genocide in Cambodia, and the tens of thousands of "boat people", who have preferred death to slavery; and

"Whereas, these citizens nobly answered their country's call at a time when so many Americans were placing self above all; and

"Whereas, these veterans have suffered neglect, abuse, disdain, unemployment, and the problems of physical and psychological wounds in a society determined to forget the sacrifice it asked of them; and

"Whereas, these veterans represent the highest concepts of honor and duty, without which no society can survive, at a time when our Nation seems to put self-aggrandizement and hedonistic rewards above all; and

"Whereas, Vietnam veterans are rightly deserving of honor and help from the Nation to which they gave so much; therefore, be it

"Resolved, that the Massachusetts Senate recognizes May Twenty-Eighth through June Third, Nineteen Hundred and Seventy-Nine as Vietnam Veterans Week and extends the thanks of a grateful people to Vietnam veterans for their sacrifices in our behalf; and be it further

"Resolved, that the Senate, recognizing the outstanding nature of these citizens and further recognizing the obligation of the Commonwealth to extend special consideration to them in employment, education, housing aid, and all other programs, urges all employers to extend special preference to hiring Vietnam veterans, particularly disabled veterans; and be it further

"Resolved, that copies of these resolutions be transmitted by the Clerk of the Senate to the President of the United States of America, the Administrator of the Veterans Administration, the Massachusetts Congressional Delegation, and the Governor of the Commonwealth."

POM-263. A joint memorial adopted by the Legislature of the State of Colorado; to the Committee on Agriculture, Nutrition, and Forestry:

"SENATE JOINT MEMORIAL No. 5.

"Whereas, Agriculture is one of the leading industries in the state of Colorado and its financial well-being is essential to the economy of this state; and

"Whereas, The production of food and fiber in this state through efficient utilization of land, water, and the climate by farm families provides food and clothing for the citizens of this nation as well as for export; and

"Whereas, The low price-raw product policy of the federal government is a major factor in the continuing low prices paid to producers of food and fiber, resulting in the steady decay of the financial base of America's farmers; and

"Whereas, Productive land, America's most valued and cherished asset, which thousands of the country's young men and women have fought and died protecting, is now being lost by family farmers and ranchers through bankruptcy and forced liquidation; and

"Whereas, A financially healthy agricultural industry, earning fair and equitable prices for its products, does not cause inflation or unemployment but rather stimulates the entire economy by creating continuing wealth for the nation; now, therefore,

"Be it Resolved by the Senate of the Fifty-second General Assembly of the State of Colorado, the House of Representatives concurring herein:

"That the Congress of the United States is hereby memorialized to end the decline in the nation's farm economy by providing for full implementation of federal law relating to farming, thereby assuring the continued existence of America's family farms.

"Be It Further Resolved, That Congress be further memorialized to pass, and the President of the United States sign into law, legislation regarding the import of agricultural products, including, but not limited to, beef and other meat products, wool, sugar, and grain products, utilizing the countercyclical formula to help bring much-needed price stability at profitable levels to bring the cattle, sheep, sugar, grain, and other agricultural industries into balance for the well-being of producers and consumers alike.

"Be It Further Resolved, That copies of this memorial be transmitted to the President

dent and Vice President of the United States, the Secretary of the United States Department of Agriculture, the United States House and Senate Agriculture committees, each member of the Colorado congressional delegation, and to the President of the Senate and Speaker of the House of Representatives of each of the states of Alaska, Arizona, California, Hawaii, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming."

POM-264. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Foreign Relations:

"JOINT RESOLUTION RECOGNIZING INTERNATIONAL HUNGER PROJECT WEEK

"Whereas, starvation is responsible for the deaths of more than 15 million people every year and some 21 children every minute; and

"Whereas, there is a sufficient amount of food to feed the world's population and workable solutions to the problem of hunger do exist; and

"Whereas, all citizens have an opportunity to assume some responsibility for solving the perennial world hunger problem; and

"Whereas, the Hunger Project, an international nonprofit organization, is sponsoring International Hunger Project Week, May 13 through May 20, 1979, with appropriate ceremonies and activities; now, therefore, be it

"*Resolved:* That we, the members of the 109th Legislature of the State of Maine, respectfully recognize the observance of International Hunger Project Week and encourage all citizens to commit themselves to the elimination of starvation in the world; and be it further

"*Resolved:* That duly attested copies of this resolution be transmitted forthwith to the Honorable Jimmy Carter, President of the United States, to the Honorable Joseph Brennan, Governor of the State of Maine, to the President of the Senate and Speaker of the House of Representatives of the United States Congress and to the Hunger Project."

POM-265. A resolution adopted by the Legislature of the State of Nebraska; to the Committee on Foreign Relations:

"LEGISLATIVE RESOLUTION 67

"Whereas, we as Americans have an interest in the human rights of all people; and

"Whereas, the Soviet Union endorsed the United Nations declaration of human rights in 1966, which allowed for immigration to the country of origin of any of its citizens; and

"Whereas, Soviet citizens of Greek extraction were allowed to return to Greece, of Polish extraction to Poland, of Korean extraction to Korea, of Spanish extraction to Spain and many other nationalities to their homelands; and

"Whereas, the U.S.S.R. was a party to the Helsinki Agreement (1975) which, among other things, allowed for the human rights of all people; and

"Whereas, Anataloly Shcharanski is being held on unspecified charges without adducing any evidence that might indicate complicity and criminal acts, and without access to legal counsel and without trial; and

"Whereas, the Jewish people of the U.S.S.R. have not been allowed to return to their homeland; and

"Whereas, the Jewish people in Nebraska, and the Jewish population throughout the United States, have demonstrated their good faith to the United States Constitution and have formed public opinion which has been for the well-being of our country in the eyes of the world.

"Now, therefore, be it resolved by the members of the Eighty-sixth Legislature of Nebraska, first session:

"1. That the Congress of the United States is requested to use all available peaceful means to seek the freedom of Jews being held against their will in the U.S.S.R. and that Anataloly Shcharanski be granted immediate freedom and that he be granted the right to emigrate and be united with his wife as guaranteed by the Helsinki Accord 1975.

"2. That copies of this resolution be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Nebraska delegation to the United States Congress."

POM-266. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Energy and Natural Resources:

"RESOLUTION NO. 236

"Be it resolved by the legislature of the territory of Guam:

"Whereas, the 88th U.S. Congress did pass an Act known as the Guam Rehabilitation Act to provide funds for the post war rehabilitation of Guam and to assist in the post-Typhoon Karen reconstruction; and

"Whereas, said Act did provide an interest payment schedule; and

"Whereas, the Government of Guam has been dutifully making the requisite interest and principal payments; and

"Whereas, fiscal condition of our government's coffers was being unduly taxed by the interest payments; and

"Whereas, the Fourteenth Guam Legislature did commission a study to evidence and explain Guam's financial predicament and her inability to continue said payments; and

"Whereas, the Fourtenth Guam Legislature through said study did recommend that interest payments already paid be applied to the principal; and

"Whereas, said study did recommend that funds that would have gone towards the interest could be better utilized to construct much needed infrastructure and other capital improvement projects on Guam; and

"Whereas, the Fourteenth Guam Legislature did adopt Resolution No. 248 expressing the aforestated recommendations; and

"Whereas, Congressman Phillip Burton and Congressman Won Pat and other friends of the people of Guam in the U.S. Congress did introduce a Bill H.R. 3756; and

"Whereas, Section 302 of said Bill does propose an amendment to the interest payment schedule of the Guam Rehabilitation Act by deleting the interest payment schedule and in lieu thereof inserting the following:

" 'All amounts heretofore withheld from sums collected pursuant to Section 30 of said Organic Act as interest on the amounts made available to the government of Guam pursuant to this Act shall be credited as reimbursement payments by Guam on the principal amount advanced by the United States under this Act'; and

"Whereas, said amendment fulfills the intent of the Fourteenth Guam Legislature's Resolution 248; and

"Whereas, said amendment would be in the best interest of the people of Guam; now, therefore, be it

"Resolved, that the Fifteenth Guam Legislature does hereby reaffirm the resolve of the previous Legislature to request a "forgiveness" of the interest payments of the Guam Rehabilitation Loan; and be it further

"Resolved, that the Fifteenth Guam Legislature does hereby express its endorsement of Section 302 of H.R. 3756 and respectfully petitions the support of all the members of the U.S. Congress for said section; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest to the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States; to Vice President Mondale; to Speaker O'Neill; to Congressman Phillip Burton; to Congressman Antonio B. Won Pat; to the Secretary of Interior; to the Secretary of the Treasury; and to the Governor of Guam."

POM-267. A joint resolution adopted by the Legislature of the Territory of Palau; to the Committee on Appropriations:

"RESOLUTION NO. 1003

"Whereas, Palau District of the Trust Territory of the Pacific Islands is on the verge of becoming the Republic of Palau and entering the international arena; and

"Whereas, the emerging nation of Palau is virtually cut off from the rest of the world by lack of a modern system of communication; and

"Whereas, communication is the key to political and economic stability in an ever-changing world; and

"Whereas, Palau's Trustee, the United States of America, is committed to the smooth and orderly transition of Palau from trusteeship to self government; and

"Whereas, Palau's fledgling economy is unable to support the cost of a global communication system yet requires a global communication system in order to develop and remain stable in the modern world; and

"Whereas, Palau's aim is to achieve a degree of self sufficiency as soon as possible; now therefore,

"Be it resolved, by the Sixth Palau Legislature, Eighth Regular Session that the United States, as Administering Authority of the Trust Territory of the Pacific Islands, be respectfully requested to appropriate $1 million for the purchase by Palau of a global telecommunications system; and

"Be it further resolved, that certified copies of this joint resolution be transmitted to the Speaker of the United States House of Representatives, the President of the United States Senate, the Secretary of the Department of Interior, the Director of the Office of Territorial Affairs, Ambassador Peter R. Rosenblatt, and the High Commissioner of the Trust Territory."

POM-268. A resolution adopted by the Long Island Federation of Women's Clubs, Long Island, New York, relating to benefits for Vietnam Veterans; to the Committee on Veterans' Affairs.

POM-269. A resolution adopted by the Board of Directors of the South Coast County Water District, South Laguna, California, urging review and revision of Environmental Protection Agency policy which would deny construction grant funding for water reclamation projects; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on Environment and Public Works, with an amendment and an amendment to the title:

S. 901. A bill to amend section 204 of the Clean Water Act to repeal certain grant conditions, and for other purposes (Rept. No. 96-200).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ARMSTRONG (for himself and Mr. MORGAN):

S. 1272. A bill to correct certain inequities in entitlement to subsistence allowances by officers and enlisted personnel of the uniformed services; to the Committee on Armed Services.

By Mr. HATCH:

S. 1273. A bill to restore the Shivwits, Kanosh, Koosharem and Indian Peaks Bands of Paiute Indians of Utah as a federally recognized sovereign Indian tribe, to restore to the Cedar City, Shivwits, Kanosh, Koosharem and Indian Peaks Bands of Paiute Indians of Utah and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. PRESSLER:

S. 1274. A bill to make post secondary vocational institutions offering six-month programs of training to prepare students for gainful employment eligible for certain Federal student assistance programs; to the Committee on Labor and Human Resources.

By Mr. BAYH (for himself, Mr. Randolph, and Mr. Heinz):

S. 1275. A bill to amend the Tariff Schedules of the United States to provide for the proper classification of cold finished steel bars, and for other purposes; to the Committee on Finance.

By Mr. MATHIAS:

S. 1276. A bill for the relief of John M. Mahali; to the Committee on the Judiciary.

By Mr. METZENBAUM:

S. 1277. A bill to clarify the military status of persons who fraudulently enlist in the armed forces of the United States; to the Committee on Armed Services.

By Mr. TALMADGE (by request).

S. 1278. A bill to authorize the establishment of a food security reserve of wheat; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRESSLER:

S. 1279. A bill to amend the Internal Revenue Code of 1954 to provide that the payment of certain dividends by a cemetery corporation shall not deny such corporation its exemption under section 501(c)(13) of such Code; to the Committee on Finance.

By Mr. JACKSON (by request):

S. 1280. A bill to amend the Energy Policy and Conservation Act, as amended, to provide assistance to States and to political subdivisions within States to promote national energy objectives, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INOUYE (for himself and Mr. Matsunaga):

S. 1281. A bill to clarify that the S.S. *United States* may operate in the domestic and/or foreign commerce of the United States and/or between foreign ports; to the Committee on Commerce, Science, and Transportation.

By Mr. WILLIAMS:

S. 1282. A bill to provide for the cleanup of hazardous waste dump sites that present an imminent threat to human health or safety; to the Committee on Environment and Public Works.

By Mr. HEINZ:

S. 1283. A bill to authorize construction of a channel improvement project for the Saw Mill Run at Pittsburgh, Pennsylvania, and for other purposes; to the Committee on Environment and Public Works.

By Mr. TOWER (for himself, Mr. Thurmond, Mr. Heinz, Mr. Hatch, Mr. Stevens, Mr. Dole, and Mr. Garn):

S. 1284. A bill to revise title 18 of the U.S. Code; ordered held at the desk.

By Mr. MELCHER:

S. 1285. A bill to reduce the impact of the reduction of energy resources resulting from bankruptcy or abandonment; to the Committee on Banking, Housing, and Urban Affairs.

S. 1286. A bill to amend section 3 of the Emergency Rail Services Act of 1970, relating to rail emergency service assistance, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ARMSTRONG (for himself and Mr. Morgan):

S. 1272. A bill to correct certain inequities in entitlement to subsistence allowances by officers and enlisted personnel of the uniformed services; to the Committee on Armed Services.

FAIRNESS IN PER DIEM PAY

● Mr. ARMSTRONG. Mr. President, I am proposing today legislation to put an end to an unfair discrimination against enlisted personnel in the payment of military per diem pay.

Per diem is normally paid when members of the armed forces are transferred away from their home duty stations on a temporary basis. There is a basic injustice in the way current per diem regulations are written.

When an officer goes on temporary duty, he continues to receive his basic allowance for subsistence (BAS). All officers receive BAS each month. Enlisted personnel, however, do not automatically receive BAS. Usually, BAS is paid to enlisted personnel only when they do not have access to a Government mess and live off base. The vast majority of enlisted personnel who receive BAS are married.

Under current regulations, an officer on temporary duty receives both his per diem pay and his basic allowance for subsistence. But enlisted personnel are prohibited from receiving both. This puts an unfair burden on the families of enlisted personnel.

The legislation I am proposing today would remedy this inequity by permitting enlisted personnel authorized to draw BAS to continue to draw BAS while on temporary duty. It is a small reform which will put an end to what, for some military families, has been a big injustice.●

● Mr. MORGAN. Mr. President, I am pleased to sponsor, with Senator Armstrong, legislation to end discrimination against enlisted personnel in the payment of military per diem pay.

Currently, the situation is that when an officer is on temporary duty away from his home station, he continues to draw his basic allowance for subsistence (BAS) and the per diem allowance for the area in which he performs the temporary duty.

In other words, an officer receives both his BAS and per diem amount, but an enlisted man can only receive per diem or BAS but not both.

Let me provide an example. Lieutenant Smith and Sergeant Jones are crew members on the same aircraft and are based at Seymour-Johnson Air Force Base, N.C. They fly a mission to Barksdale Air Force Base, La., where they must remain overnight. There are no quarters available on the base at Barksdale, so they must stay in a motel. By the time Sergeant Jones finishes unloading the aircraft and securing it, the mess hall is closed. Therefore, he must take his meals on the economy with Lieutenant Smith. For that day Lieutenant Smith draws $13.50 for three meals, plus his BAS. Sergeant Jones will draw $13.50, but have his $3 BAS collected back from him out of his per diem voucher at his home station, thus drawing a net amount of $10.50.

If the mess hall had been available to Sergeant Jones, he would have retained his $3 BAS, been charged $3.25 for three meals there, and would not have been eligible for any part of the $13.50 subsistence portion of his per diem.

In a time when we are desperately trying to attract and retain quality enlisted people into the military, such blatant discrimination, having no rational military purpose, is exactly the sort of situation we want to avoid: If we are to make the All Volunteer Force work, we must treat our military personnel fairly. The situation I have outlined here is one of those irritants which are responsible for driving good people out of the military.●

By Mr. HATCH:

S. 1273. A bill to restore the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah as a federally recognized sovereign Indian tribe, to restore to the Cedar City, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for for other purposes; to the Select Committee on Indian Affairs.

PAIUTE INDIAN TRIBE OF UTAH RESTORATION ACT

Mr. HATCH. Mr. President, I introduce today the Paiute Indian Tribe of Utah Restoration Act.

I send the bill to the desk and ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Paiute Indian Tribe of Utah Restoration Act".

Sec. 2. For the purposes of this Act—

(1) the term "tribe" means the Cedar City, Shivwits, Kanosh, Koosharem and Indian Peaks Bands of Paiute Indians of Utah;

(2) the term "Secretary" means the Secretary of the Interior or his authorized representative;

(3) the term "Interim Council" means the council elected pursuant to section 5;

(4) the term "member", when used with respect to the tribe, means a person enrolled on the membership roll of the tribe, as provided in section 4 of this Act; and

(5) the term "final membership roll" means the final membership roll of the tribe published on April 15, 1955, on pages 2499–2503 of volume 20 of the Federal Register and on April 14, 1956, on pages 2453–2456 of volume 21 of the Federal Register.

Sec. 3. (a) Federal recognition is hereby extended to the tribe, and the provisions of the Act of June 18, 1934 (48 Stat. 984) as amended, except as inconsistent with specific provisions of this Act, are made applicable to the tribe and the members of the tribe. The tribe and the members of the tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes. Notwithstanding any provision to the contrary in any law establishing such services or benefits, eligibility of the tribe and its members for such Federal services and benefits shall become effective upon enactment of this Act without regard to the existence of a reservation for the tribe or the residence of members of the tribe on a reservation.

(b) Except as provided in subsection (c), all rights and privileges of the tribe and of members of the tribe under any Federal treaty, Executive order, agreement, or statute, or under any other authority, which were diminished or lost under the Act of September 1, 1954 (68 Stat. 1099), are hereby restored, and such Act shall be inapplicable to the tribe and to members of the tribe after the date of enactment of this Act.

(c) This Act shall not grant or restore any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, to the tribe or any member of the tribe, nor shall it be construed as granting, establishing, or restoring a reservation for the tribe.

(d) Except as specifically provided in this Act, nothing in this Act shall alter any property right or obligation, any contractual right or obligations, or any obligation for taxes already levied.

SEC. 4. (a) The final membership roll is declared open. The Secretary, the Interim Council, and tribal officials under the tribal constitution and bylaws shall take such measures as will insure the continuing accuracy of the membership roll.

(b)(1) Until after the initial election of tribal officers under the tribal constitution and bylaws, a person shall be a member of the tribe and his name shall be placed on the membership roll if he is living and if—

(A) his name is listed on the final membership roll;

(B) he was entitled on September 1, 1954, to be on the final membership roll but his name was not listed on that roll; or

(C) he is a descendant of a person specified in subparagraph (A) or (B) and possesses at least one-fourth degree of blood of members of the tribe or their Paiute Indian ancestors.

(2) After the initial election of tribal officials under the tribal constitution and bylaws, the provisions of the tribal constitution and bylaws shall govern membership in the tribe.

(c)(1) Before election of the Interim Council, verification of descendancy, age, and blood shall be made upon oath before the Secretary and his determination thereon shall be final.

(2) After election of the Interim Council and before the initial election of the tribal officials, verification of descendancy, age, and blood shall be made upon oath before the Interim Council, or its authorized representative. A member of the tribe, with respect to the inclusion of any name, and any person, with respect to the exclusion of his name, may appeal to the Secretary, who shall make a final determination of each such appeal within ninety days after an appeal has been filed with him. The determination of the Secretary with respect to an appeal under this paragraph shall be final.

(3) After the initial election of tribal officials, the provisions of the tribal constitution and bylaws shall govern the verification of any requirements for membership in the tribe, and the Secretary and the Interim Council shall deliver their records and files, and other material relating to enrollment matters, to the tribal governing body.

(d) For purposes of section 5 and 6, a member who is eighteen years of age or older is entitled and eligible to be given notice of, attend, participate in, and vote at, general council meetings and to nominate candidates for, to run for any office in, and to vote in, elections of members to the Interim Council and to other tribal councils.

SEC. 5 (a) Within forty-five days after the date of the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Interim Council. Such general council meeting shall be held within sixty days after the date of the enactment of this Act. Within forty-five days after such general council meeting the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect six members of the tribe to the Interim Council from among the nominees submitted to him from such general council meeting. The Secretary shall assure that notice of the time, place, and purpose of such meeting and election shall be provided to members described in section 4(d) at least fifteen days before such general meeting and election. The ballot shall provide for write-in votes. The Secretary shall approve the Interim Council elected pursuant to this section relating to the nominating and election process have been met. If he is not so satisfied, he shall hold another election under this section, with the general council meeting to nominate candidates for election to the Interim Council to be held within sixty days after such election.

(b) The Interim Council shall represent the tribe and its members in the implementation of this Act and shall be the acting tribal governing body until tribal officials are elected pursuant to section 6(c) and shall have no powers other than those given to it in accordance with this Act. The Interim Council shall have full authority and capacity to receive grants from and to make contracts with the Secretary and the Secretary of Health, Education, and Welfare with respect to Federal services and benefits for the tribe and its members and to bind the tribal governing body as the successor in interest to the Interim Council for a period extending not more than six months after the date on which the tribal governing body takes office. Except as provided in the preceding sentence, the Interim Council shall have no power or authority after the time when the duly-elected tribal governing body takes office: *Provided*, that no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Within thirty days after receiving notice of a vacancy on the Interim Council, the Interim Council shall hold a general council meeting for the purpose of electing a person to fill such vacancy. The Interim Council shall provide notice of the time, place, and purpose of such meeting and election to members described in section 4 (d) at least ten days before such general meeting and election. The person nominated to fill such vacancy at the general council meeting who received the highest number of votes in the election shall fill such vacancy.

SEC. 6. (a) Upon the written request of the Interim Council, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of section 16 of the Act of June 18, 1934 (48 Stat. 987), for the purpose of adopting a constitution and bylaws for the tribes. The election shall be held within sixty days after the Secretary has—

(1) review and updated the final membership roll for accuracy, in accordance with sections 4(a), 4(b)(1), and 4(c)(1),

(2) made a final determination of all appeals filed under section 4(c)(2), and

(3) published in the Federal Register a certification copy of the membership roll of the tribe.

(b) The Interim Council shall draft and distribute to each member described in section 4(d), no later than thirty days before the election under subsection (a), a copy of the proposed constitution and bylaws of the tribe, as drafted by the Interim Council, along with a brief, impartial description of the proposed constitution and bylaws, except that such consultation may not be carried on within fifty feet of the polling places on the date of the election.

(c) In any election held pursuant to subsection (a), a vote of a majority of those actually voting shall be necessary and sufficient for the adoption of a tribal constitution and bylaws,

(d) Not later than one hundred and twenty days after the tribe adopts a constitution and bylaws, the Interim Council shall conduct an election by secret ballot for the purpose of electing the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted.

SEC. 7. The Secretary may make such rules and regulations as are necessary to carry out the purposes of the Act.

Approved

By Mr. PRESSLER:

S. 1274. A bill to make postsecondary vocational institutions offering 6-month programs of training to prepare students for gainful employment eligible for certain Federal student assistance programs; to the Committee on Labor and Human Resources.

● Mr. PRESSLER. Mr. President. I am introducing legislation today which would insure equal treatment of students in public postsecondary vocational education schools and in proprietary institutions of higher education under the basic educational opportunity grant program.

New regulations written as a result of the Middle Income Student Assistance Act, which I cosponsored last Congress, have called for different treatment of students enrolled in classes at public postsecondary voc-ed schools than students enrolled at private proprietary schools of higher education.

In order to be eligible to participate in the BEOG program, a student at a public voc-ed school must be enrolled in a 1-year, or 900 clock hour program. However, a student at a private proprietary voc-ed school need only be enrolled in a 6-month, or 600 clock hour course. The course content during a 6-month period at either type of institution might be identical and similarly taught. However, the students at the public school will not be able to get the student financial assistance they need from the BEOG program. This was not the intent of Congress, and I believe this discrepancy should be changed before we enter the 1979–80 school year.

The bill I am introducing today provides that any student who is enrolled in either an eligible proprietary or public postsecondary voc-ed school may participate in the basic educational opportunity grant program if he or she is taking "not less than a 6-month program of training to prepare students for gainful employment in a recognized occupation."

In the past, the Office of Education has been able to provide much needed student financial assistance to students enrolled in 6-month courses at both private proprietary and public postsecondary vocational education institutions. Therefore, my legislation would require no additional appropriations. Enactment of this bill would simply eliminate the unequal treatment of students, enrolled in these postsecondary vocational education schools providing nearly identical training. I respectfully urge favorable consideration of this proposal.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 491(b) (1) of the Higher Education Act of 1965 is amended by striking out "and any proprietary institution of higher education" and inserting in lieu thereof "any postsecondary vocational institution; and any proprietary institution of higher education".

(b) Section 491(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) For the purposes of this subsection, the term 'postsecondary vocational institution' means a school (A) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (B) which meets the requirements of clauses (1), (2), and (4) of section 1201(a), (C) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, and (D) has been in existence for at least 2 years. For the purpose of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authorities to the quality of training offered.".

(c) The amendments made by this Act shall take effect with respect to grants, loans, and other financial assistance made available to students for the academic year 1979–1980 and for academic years thereafter.●

By Mr. BAYH (for himself, Mr. RANDOLPH, and Mr. HEINZ):

S. 1275. A bill to amend the Tariff Schedules of the United States to provide for the proper classification of cold finished steel bars, and for other purposes; to the Committee on Finance.

TARIFF RECLASSIFICATION OF COLD FINISHED STEEL BARS

● Mr. BAYH. Mr. President, today I am proposing legislation which would make a technical change in the U.S. tariff schedule by deleting the words "or cut to length" in headnote 3(i) to subpart B of part 2 of schedule 6 of the Tariff Schedules of the United States.

The purpose of this legislation is to achieve proper classification of cold finished steel bars and differentiate this item from "wire" products which are invariably sold in coil form. The users of cold finished steel bars recognize, of course, that while this product might have a smaller diameter than some wire products, it possesses qualities of extreme straightness, and therefore, must be sold in cut lengths to protect this characteristic in storage and shipment. CFSB's are used principally as shafting or feedstock for the production of screw machine products.

Despite this disparity of function and form, the Tariff Schedules of the United States do not now adequately differentiate between cold finished bars and wire. Instead, any drawn product having a maximum cross-sectional dimension of at least 0.703 inch is considered "wire," whether it is in coiled form or cut to length. What this means is that the Tariff Schedules do not recognize that cold finished steel bars exist with a diameter of 0.703 inch or less. Clearly, however, such products account for a substantial portion of the U.S. market and about 20 to 25 percent of total imports of CFSB's.

Mr. President, I think it is important to note that the U.S. Department of Commerce and the staff of the U.S. International Trade Commission have already recognized this present anomaly in failing to differentiate between "wire" and CFSB products. In this connection, the Commerce Department has modified the Export Schedule B so that the definition of "wire" is limited to coiled products. The USITC staff is recommending a similar change in tariff nomenclature. The European Community is also considering such a change through limitation of the definition of "wire" in the Brussels tariff nomenclature. The American Iron and Steel Institute is also supportive of such a change.

The legislation being introduced today would make it clear that "wire" is a product sold in coil form only. Any drawn product otherwise meeting the definitional requirements of "bar" would be considered a cold finished steel bar.

Mr. President, I ask unanimous consent that the text of the proposed legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1; That headnote 3(i) to subpart B of part 2 of schedule 6 of the Tariff Schedules of the United States is amended by deleting the words "or cut to length" whereever they appear therein.

SEC. 2; The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.●

By Mr. METZENBAUM:

S. 1277. A bill to clarify the military status of persons who fraudulently enlist in the Armed Forces of the United States; to the Committee on Armed Services.

● Mr. METZENBAUM. Mr. President, I rise to introduce a bill to clarify the status of persons who fraudulently enlist in the Armed Forces of the United States.

This legislation is the product of hearings held by the Senate Armed Services Subcommittee on Manpower and Personnel last October 10 and 12, on the subject of fraudulent enlistments in the Marine Corps. These hearings, which were initiated after extensive Marine Corps recruiting violations in the Cleveland area were brought to my attention, determined that Marine recruiters all over the country were breaking the law in order to meet their recruiting quotas. Although I am not a member of the Armed Services Committee, I was privileged to participate in the hearings because of the widespread nature of recruiting violations in Ohio.

Among the significant problems the hearings uncovered was the fact that any ineligible person inducted into the military with the complicity of the recruiter cannot be tried in a military court for offenses committed during that enlistment. While civilian courts may assume jurisdiction, they usually decline to hear these cases because of already overcrowded dockets. The problem not only applies to the Marine Corps but to other services as well.

The doctrine that places these offenses beyond the jurisdiction of military courts emanates from a series of recent decisions by the U.S. Court of Military Appeals. The most significant of these are the *United States* v. *Catlow* (23 U.S.M.C.A. 142, 48 C.M.R. 758 (1974)), and *United States* v. *Russo* (1 M.J. 134 (C.M.A. 1975)).

In the Russo case, the court held that a military court-martial has no personal jurisdiction over the accused, regardless of the type or gravity of his offenses, if his enlistment is tainted by misconduct on the part of the recruiting officials. It is as though the recruit was never a part of the Armed Services. He cannot be tried for offenses committed while in uniform, even though he has performed military duties and accepted military pay. If a civilian court refuses to hear the case, the recruit will escape punishment.

The Catlow decision makes the fraudulent recruit equally untouchable when that recruit was coerced into the military in lieu of being tried or sentenced in a civilian court for civilian offenses. The Armed Services Committee hearings documented numerous instances in which a judge gives a young defendant the option of going to jail or entering the military.

The result of this doctrine, Mr. President, is a serious undermining of the military judicial system.

During last fall's hearings, the Armed Services Manpower Subcommittee heard of case after case of robberies, assaults, and other crimes that went unpunished or even untried because of successful Catlow-Russo defenses. Here are a few examples:

One marine recruit at Parris Island was convicted and given the maximum sentence for forcibly sodomizing an enlisted woman marine. But the conviction was set aside after the offender revealed that his enlistment was fraudulent. A marine facing attempted murder charges was able to get his case dismissed when he told the judge that his recruiter had known of his prior involvement with marihuana and of two attempts to commit suicide.

Another marine, charged with unauthorized possession of explosives and larceny of these explosives from his unit, also raised a Catlow-Russo defense. Within several days after his case had been dismissed, he broke into his sergeant's locker and ceremoniously burned the sergeant's dress uniforms. Again, there was no disciplinary action. In view of these and other horror stories, it is no wonder that one Marine Corps legal officer, in an interview with the Washington Star, characterized the fraudulent enlistee as a "ticking time bomb." This officer continued, and I quote:

> Once a judge says the Marines do not have the jurisdiction to try him, he becomes hell on wheels. As the senior legal officer on the base, you begin to worry about people's health and safety when you see this sort of thing operating.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Sept. 2, 1978]

MARINES CAN'T CONTROL FRAUDULENT RECRUITS

(By John J. Fialka)

Marine Corps recruiting fraud, which apparently is widespread, is creating a class of "untouchable" enlisted men who cannot be disciplined by the military legal system.

Instead, they are being separated from the Corps with non-punitive discharges and often with full veterans benefits.

From February 1976 to June 1978, according to Marine Corps headquarters, 790 Marines were separated in this fashion from the Corps because they had been enlisted with forged diplomas, concealed criminal records, drug problems, mental illness or other problems which would have made them unfit for service.

In nearly all of these cases, the fraud was discovered after it had been raised as an absolute defense to charges brought against enlisted men for a wide variety of infractions ranging from unauthorized absence (AWOL) to heroin dealing and attempted murder.

Under two recent cases handed down by the U.S. Court of Military Appeals in an attempt to stop fraudulent recruiting practices, once the fraud is established the service loses all jurisdiction to discipline soldiers.

In the Marines, however, instead of stopping fraudulent enlistment the cases are now acting as a major loophole in the Corp's criminal justice system.

According to several Marine Corps lawyers and judges interviewed, the process is now causing severe morale problems in line units, where commanders are becoming reluctant to press disciplinary charges if they know it is likely that a recruiter fraud defense can be made. It is also costing the government millions in wasted training, rehabilitation and legal costs and veterans benefits, but the (Corps still appears to be extremely reluctant to discipline its recruiters.)

In one case, believed to be the largest single recruiting fraud case in Marine history, four New York recruiters were charged with bringing 281 Panamanian aliens into the Corps using a variety of ruses including fraudulent birth certificates and high school diplomas.

Last week at Parris Island, S.C., the military trials of the four were completed. Marine juries have acquitted three of them. A fourth, Staff Sgt. Jon G. Funk, was demoted to sergeant and fined $1,395.

According to the Marines, the recruiter is identified in each "untouchable case." Asked how many recruiters had been disciplined in connection with the 790 recorded separations, a Corps spokesman said that it is having difficulty finding the exact number despite researching the matter for four days at the request of The Washington Star.

"We have a number," he said, "but it's very rough. We want to refine it a little."

Meanwhile, the Corps' system of justice is groaning under a heavy load of cases involving men who "simply walk out," as one Marine lawyer put it. According to Marine statistics, an average of 50 "untouchables" are now leaving the Corps each month, a number which is slightly less than one fourth of the average number of men brought before court martials each month.

Even Marine defense lawyers, who have had a legal field day raising the recruiting fraud defense, find the process unnerving.

"You have an individual who is a ticking time bomb," explained Capt. John Atkinson, an attorney in the Judge Advocate's Office at Kaneohe Marine Corps Air Station in Hawaii. "Once a judge says the Marines don't have the jurisdiction to try him, he becomes hell on wheels, disobedient and disrespectful."

Atkinson said he just finished a case where a Marine, charged with trying to smuggle TNT off the base, proved that his recruiter had forged his high school diploma. That stopped the trial, but before the Corps had completed the paperwork to separate him from the service, the Marine had broken into the locker of the senior sergeant in his rifle battalion and burned his dress uniform. Again, the Corps could not touch him.

[According to Atkinson, the untouchables often escape prosecution altogether because state and federal prosecutors are loath to take cases that occur on military bases.]

"As the senior legal officer on the base, you begin to worry about people's health and safety when you see this sort of thing operating," Atkinson said.

Capt. William Maxey, another Marine attorney, recently completed a year as a defense counsel at Camp Pendleton. "I would say the fraud matter came up in about 75 percent of my cases. In about 60 percent of those it held up.

"For a defense counsel, it's great. It gets down to the nitty-gritty, and the government has to prove jurisdiction and it can't. . . . I had a big drug sale, a heroin case where the guy sold drugs to an undercover man. It was just locked in. In theory they had him. In fact, he walked out with a general discharge."

Another Pendleton defense attorney, who asked that his name be withheld, estimated that he has "walked" at least 75 untouchables in 13 months, many of them with criminal records that had been concealed by the recruiter.

"Some cases are very simple. I call the guys probation officer and he is startled. 'You mean to tell me that so-and-so is in the military?' he will say, 'How the hell did he get in? That guy should be locked up.'

"What bugs me is that these people are so clearly predictable as disciplinary problems that they're of no value to the Marine Corps in the first place," he added.

In Marine legal jargon, the untouchables are called "Catlow-Russo" cases after a case involving Marine Pvt. Thomas Catlow, who, facing criminal charges, was coerced into enlisting through the connivance of a judge and a local recruiter; and Louis W. Russo, an illiterate who was able to join the Army after his recruiter taught him the answers to the Armed Forces intelligence test.

In the Russo case, decided by the U.S. Court of Military Appeals in August 1975, the court said that by finding a lack of jurisdiction to try Russo, the case "will have the salutary effect of encouraging recruiters to observe applicable recruiting regulations while also assisting the armed forces in their drive to eliminate fraudulent recruiting practices."

What happened, according to Navy Cmdr. Sebastian Gaeta, head of the Navy's Appellate Division in Washington, which handles Marine cases on Appeal, was that "there was an almost immediate groundswell (of Catlow-Russo cases) that built from that day on."

"We know that some of these claims are unfounded but sometimes the government can't rebut them. There are many cases in which it is absolutely, patently clear that the kid was fraudulently enlisted." Gaeta added.

"It's a particular problem in Japan where, we are told, the Japanese can't understand that people are in the Marine Corps but that the Marine Corps can't touch them."

Freeing people on Catlow-Russo defenses is clearly a painful decision for many military judges. Recently Capt. O. L. Cedarburg, chief judge on a panel of the Navy Court of Military Review here, wrote a decision freeing a Marine who had committed a forcible sodomy on a fellow Marine at Parris Island. The defense was that a recruiter had failed to note what he knew about the defendant's use of marijuana.

Cedarburg's decision concluded that the ruling, while in conformance with the Russo case, would only "erode" respect for military law.

"Who will vindicate these victims for the degradation they have suffered if the military justice system cannot?" Cedarburg added.

One high-ranking military judge admitted he has "grave doubts" about the wisdom of Russo.

"It's getting out of hand. We recently saw a case where a guy was committing larcenies in the barracks, so the men invited him out for a jog and then beat the hell out of him. They were charged with criminal assault. This thing just invites vigilanteeism."

One Marine defense attorney admitted that he had found his own way out of the problem: "In serious cases I try not to find Russo problems."

The issue of Marine recruiter fraud was raised in July when several young recruiters in Cleveland admitted to an investigator on the staff of Sen. Howard M. Metzenbaum, D-Ohio, that "unrealistic" recruitment quotas imposed by superiors forced them to resort to a wide range of fraud including even the concocting of non-existant "phantom" recruits through the use of "ringers" to take the necessary tests.

At the time the Marine Corps insisted that the affair was a "very local matter." Since then, at the request of the Senate Armed Services Committee, Marine Commandant Gen. Louis Wilson has ordered a nationwide investigation of recruiting activities.

According to a Marine spokesman, the investigation has been completed and the results may be known sometime next week.

Mr. METZENBAUM. Mr. President, my bill would overturn the Catlow and Russo decisions. It would bring every member of the armed services under the Uniform Code of Military Justice, regardless of the circumstances that existed at the time of recruitment. The only exception to this rule would be in cases where the recruit is not deemed to have the mental capacity to understand the consequences of enlisting in the armed services. Enlistments prior to the bill's enactment would be covered. However, a Catlow-Russo defense still might be possible with respect to crimes committed prior to enactment because of the prohibition of article 1, section 9 of the Constitution against passage of an ex post facto law.

Mr. President, the Catlow-Russo doctrine is unfair. It is unfair to the legally qualified recruit who must serve alongside persons who know they can rob him or physically assault him with impunity because of this quirk in the military judicial system.

This problem is exacerbated because many fraudulent recruits have criminal records, including assaults and robberies, which were covered up by quota-conscious recruiters. They may be tempted to repeat those crimes while in uniform, particularly if they know they stand a good chance of getting away with it.

Those servicemen and women protected under the Catlow-Russo doctrine are a menace to military discipline, Mr. President. They dampen the morale of the good soldier, sailor or airman. It is high time legally qualified recruits got the same degree of protection—that is, protection against the wanton acts of the Catlow-Russo untouchables.

This bill would give them that protection. It would strengthen morale. It would stop the erosion of discipline. And it would strengthen our military. I urge its speedy passage.●

By Mr. TALMADGE (by request):

S. 1278. A bill to authorize the establishment of a food security reserve of wheat; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD SECURITY ACT OF 1979

● Mr. TALMADGE. Mr. President, I am introducing today, at the request of the administration, a bill to authorize the President to establish a food security reserve of wheat to insure that stocks will be available for the Public Law 480 food aid program even in a period of tight supplies.

The bill would establish a reserve stock of wheat of up to 4 million metric tons. Unlike the legislation submitted to Congress last year by the administration, the reserve would not be linked to an internationally negotiated reserve system. Wheat from the reserve could only be released through the Public Law 480 program and only when the domestic supply of wheat in the United States is so limited that quantities of the commodity cannot be made available under the "short supply" criteria of section 401(a) of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480). In addition, up to 300,000 tons of the reserve could be released in any fiscal year for urgent humanitarian relief. Funds for the establishment of this reserve are included in the President's 1980 budget.

I ask unanimous consent that there be printed in the RECORD the text of the bill and the letter from the Secretary of Agriculture.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 1278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food Security Act of 1979".

SEC. 2. Congress hereby declares it to be the policy of the United States to develop a wheat reserve solely to provide for emergency food needs in developing countries.

SEC. 3. In order to carry out the policy and accomplish the objective set forth in section 2 of this Act, the President shall establish a reserve stock of wheat of up to four million metric tons for the purposes specified in section 5 of this Act.

SEC. 4. Stocks of wheat for such reserve may be acquired (1) through purchases from producers or in the market if the Secretary of Agriculture (hereinafter referred to as the "Secretary") determines that such purchases will not unduly disrupt the market; and (2) by designation by the Secretary of stocks of wheat acquired by the Commodity Credit Corporation.

SEC. 5. Notwithstanding any other provision of law, stocks of wheat designated or acquired for the wheat reserve under this Act may be released by the President to provide on a donation or sale basis emergency food assistance to developing countries at any time that the domestic supply of wheat in the United States is so limited that quantities of the commodity cannot be made available under the criteria of section 401(a) of the Agricultural Trade Development and Assistance Act of 1954 for disposition under that Act, except for urgent humanitarian purposes: *Provided,* That up to 300,000 tons of wheat may be released from the reserve in any fiscal year to provide urgent humanitarian relief in a developing country (or countries) suffering a major disaster as determined by the President.

SEC. 6. Wheat released from the reserve for the purposes of section 5 shall be made available under the Agricultural Trade Development and Assistance Act of 1954, except that section 401(a) of that Act, with respect to determinations of availability, shall not be applicable thereto.

SEC. 7. The Secretary shall provide for the management of stocks of wheat in the reserve as to location and class of wheat needed to meet emergency situations and for the periodic rotation of stocks of wheat in the reserve to avoid spoilage and deterioration of such stocks, using programs authorized by the Agricultural Trade Development and Assistance Act of 1954 and any other provision of law, but any quantity removed from the wheat reserve for the purposes of this section shall be promptly replaced with an equivalent quantity.

SEC. 8. Stocks of wheat in the reserve shall not be considered a part of the total domestic supply (including carryover) for the purposes of section 5 or for the purpose of administering the Agricultural Trade Development and Assistance Act of 1954 and shall not be subject to any quantitative limitations on export that may be imposed under section 3(2)(A) of the Export Administration Act of 1969.

SEC. 9. (a) The funds and authorities of the Commodity Credit Corporation shall be utilized by the Secretary in carrying out this Act, except that any restriction applicable to the acquisition, storage or disposition of Commodity Credit Corporation owned or controlled commodities shall not apply with respect to the acquisition, storage, or disposal of wheat for or in the reserve.

(b) The Commodity Credit Corporation shall be reimbursed from funds made available for carrying out the Agricultural Trade Development and Assistance Act of 1954 for wheat released from the reserve that is made available under that Act, such reimbursement to be made on the basis of actual costs incurred by the Commodity Credit Corporation with respect to such wheat. Such reimbursement may be made from funds appropriated for that purpose in subsequent years.

SEC. 10. Any determination by the President or the Secretary under this Act shall be final.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., May 8, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for the consideration of Congress is a draft bill "To authorize the establishment of a food security reserve of wheat and for other related purposes." This proposal will authorize the President to establish and maintain a wheat reserve to ensure that stocks will be available for the P.L. 480 food aid program even in a period of tight supplies.

This Department recommends that the bill be enacted.

This bill is nearly identical to H.R. 13835 as reported last year by the House Committees on Agriculture and International Relations but has three noteworthy changes. First, the title has been changed from the International Emergency Wheat Reserve Act to the Food Security Act. This has been done to make clear that, unlike the legislation sent to Congress by the Administration last year, this reserve would be used only for food aid and would not be linked to an internationally negotiated reserve system as the previous bill was. Second, this bill would authorize a reserve up to four million metric tons of wheat. The House Agriculture Committee had authorized up to three million tons; and the House International Relations Committee, up to six. Third, the bill includes a provision in Section 5 which would allow release of a small portion of the reserve for urgent humanitarian relief in any fiscal year. Such release would be warranted only when the United States could not respond quickly to a localized emergency through reallocation of existing P.L. 480 resources or through a supplemental appropriation.

Since announcing its comprehensive reserve stock program in August 1977, the Administration has indicated its intention to create a special reserve stock of wheat which would be used to ensure that the U.S could meet its food aid commitments to developing countries during periods of tight supplies. During 1978 we worked closely with Congress to develop legislation which would serve this purpose. The House Agriculture and International Relations Committees approved H.R. 13835, which had the support of the Administration, producers, and others concerned about the U.S. food aid program.

This bill would authorize stocks of wheat for the food security reserve to be acquired by designating wheat in the Commodity Credit Corporation (CCC) inventory to be part of the reserve and by purchasing wheat in the market or directly from farmers when the Secretary determines such purchases will not unduly disrupt the market. Wheat from the reserve could only be released through the P.L. 480 program and only when the domestic supply of wheat in the United States is so limited that quantities of the commodity cannot be made available under the criteria of section 401(a) of P.L. 480.

If enacted, it is intended that this authority will be used to purchase 85 million bushels (2.3 mmt.) for the reserve. The 50 million bushels (1.37 mmt.) now under CCC ownership would also be designated as part of the reserve. Together with the 415 million bushels (11.4 mmt.) in the Farmer-Owned Reserve, this would bring the total reserves of wheat (both Farmer-Owned Reserves and the Food Security Reserve) to the 550 million bushels (15 mmt.) target established by the Administration.

The President's 1980 Budget includes funds for the establishment of such a reserve. As estimated in that Budget, establishment of the reserve would involve direct outlays of $271 million for purchase and storage in FY79 and $48 million for storage in FY80. There would be offsetting savings for loan activities and deficiency payments as reflected in the President's Budget. It is estimated that the establishment of this reserve in the 1979 marketing year would increase the season average price of wheat by about 10¢ per bushel.

An identical letter has been sent to the Speaker of the House.

The Office of Management and Budget advises that there is no objection to the presentation of this report and that enactment of his proposed legislation would be in accord with the President's program.

Sincerely,

BOB BERGLAND.●

By Mr. PRESSLER:

S. 1279. A bill to amend the Internal Revenue Code of 1954 to provide that the payment of certain dividends by a cemetery corporation shall not deny such corporation its exemption under section 501(c)(13) of such Code; to the Committee on Finance.

● Mr. PRESSLER. Mr. President, today I am introducing legislation which will amend section 501(c)(13) of the Internal Revenue Code of 1954 relating to tax-exempt cemetery corporations. The amendment would authorize tax-exempt cemeteries to issue a form of preferred stock which pays dividends. The amendment is very similar to section 501(c)(16) of the Code concerning tax-exempt farmer's cooperatives.

Mr. President, the legislation that I am introducing today seeks to codify certain IRS regulations which have been on the books since 1918. These regulations were designed to permit tax-exempt cemetery corporations to issue preferred stock as a form of financing vehicle to acquire property. These regulations have been in operation for years. They have been relied upon by many organizations in structuring their finances. On November 28, 1978, the IRS proposed new regulations which would eliminate the use of preferred stock by tax-exempt cemetery corporations.

This action by the IRS was not called for by any evidence of substantial abuse of the present provisions by cemetery organizations. Also, there have been no judicial developments which would make this regulatory change necessary.

Mr. President, these new regulations would place an undue hardship on a great many cemeteries. The unusual nature of cemetery corporations has long made it difficult to finance the acquisition of the land necessary for their operation. The issuance of preferred stock has been relied upon for financing because of this. At this point in time, it seems unfair to change what has been relied upon in the industry for decades, with no apparent reason whatsoever.

If, in fact, this change is necessary, it should be enacted through Congress, where we can hold hearings, not through a change in regulations by the IRS. During the 61 years that this law has been in existence, there have been no suggestions by the IRS or the courts that the income tax regulations allowing preferred stock to be issued by tax-exempt cemetery corporations were inconsistent with any part of the tax code.

Although this issue is a complicated one, it stands to reason that substantial policy changes should not be made without some real need for those changes.

It is by far more beneficial to everyone involved to leave this part of the Internal Revenue Code the way it existed prior to the new regulations issued in November of 1978.

For these reasons, Mr. President, I ask that my colleagues give favorable consideration to cosponsorship of this legislation. It is my hope that the Finance Committee will be able to take affirmative action on the bill.

I ask, Mr. President, that the proposed bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 501 of the Internal Revenue Code of 1954 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (j) as subsection (k) and by adding after subsection (i) the following new subsection:

"(j) DIVIDENDS AND RESERVES OF CEMETERY CORPORATIONS.—For purposes of paragraph (13) of subsection (c), a corporation shall be treated as a corporation described in such paragraph notwithstanding the fact that such corporation—

"(1) has outstanding, on issues, preferred stock entitling the holders to dividends at a fixed rate (not exceeding the legal rate of interest in the State of incorporation or 8 percent per year, whichever is greater) on the value of the consideration for which the stock was issued, if the articles of incorporation of such corporation require that—

"(A) the preferred stock be retired at par, as soon as sufficient funds available are realized from the sales; and

"(B) all funds not required for the payment of dividends upon or for the retirement of the preferred stock be used by the company for the care and improvement of the cemetery property; or

"(2) accumulates and maintains any reserve required by State law or any other reasonable reserve required for any necessary purpose.".

(b) The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1978.●

By Mr. JACKSON (by request):

S. 1280. A bill to amend the Energy Policy and Conservation Act, as amended, to provide assistance to States and to political subdivisions within States to promote national energy objectives, and for other purposes; to the Committee on Energy and Natural Resources.

ENERGY MANAGEMENT PARTNERSHIP ACT OF 1979

● Mr. JACKSON. Mr. President, I introduce, at the request of the administration, the Energy Management Partnership Act of 1979. This measure, which was transmitted to the Congress on May 18, 1979, has been requested by the President in the furtherance of national energy objectives. Expanded Federal financial and technical assistance would be authorized to assist the States in developing an ongoing energy planning and management capability and assist local governments in expanding their energy-related activities.

Mr. President, in July 1977, the National Governors Task Force on Energy recommended to the President that a total energy management program should be developed at the State level with full and matching Federal funding programs to manager and implement an overall State energy plan. Subsequently, in July 1978, the President proposed the State Energy Management and Planning Act on which hearings were held by the Committee on Energy and Natural Resources; however, time did not permit full consideration before the 95th Congress adjourned.

The proposed Energy Management Partnership Act would, as did the earlier proposal, expand the role of States and local governments in achieving national energy goals. As such the measure raises such issues as, first, the scope of Federal energy policies impacting on State programs and activities; second, the present State capabilities for planning and managing energy programs; third, coordination with local government and regional bodies as well as other States; fourth, energy facility siting; and fifth, energy impact assistance. In addition there are the issues attendant to emergency planning, addressed in S. 1030, the Emergency Energy Conservation Act of 1979, which is being considered by the Senate today.

Mr. President, these issues and others need to be considered during deliberations on this measure if a comprehensive Federal-State partnership is to be formulated which is responsive to national energy problems. In the interim, existing Federal support for ongoing programs needs to be continued through fiscal year 1979 and into fiscal year 1980 while this legislation is reviewed by the Congress.

I ask unanimous consent that the bill be printed in the RECORD, together with the letter from President Carter to the President of the Senate and the accompanying section-by-section analysis.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Management Partnership Act of 1979."

AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT

SEC. 2. (a) The table of contents of the Energy Policy and Conservation Act, Pub. L. 94–163 (42 U.S.C. § 6201) is amended by deleting Part C of Title III and substituting therefore the following:

"PART C—STATE BASIC ENERGY PROGRAM AND SPECIAL ENERGY PROJECTS

"TABLE OF CONTENTS

"Sec. 351. Findings and Purposes.
"Sec. 352. Definitions.

"Sub-Part A—State Basic Energy Programs

"Sec. 353. Program Authorizations.
"Sec. 354. Application for Financial Assistance.
"Sec. 355. Requirements for State Energy Plans.
"Sec. 356. Energy Conservation.
"Sec. 357. Renewable Resources Development.
"Sec. 358. Assistance to Local Governments.
"Sec. 359. Administrative Provisions.
"Sec. 360. Approval of State Energy Plans.
"Sec. 361. Allocation of Funds; State Share.

"Sec. 362. Transition to State Basic Energy Program.
"Sec. 363. Termination of Financial Assistance.
"Sec. 364. Recordkeeping and Reporting.
"Sec. 365. Annual Report.
"Sec. 366. Authorization of Appropriations.

"Sub-Part B—Consolidated Applications and Administration

"Sec. 367. Application Process and Administration.

"Sub-Part C—Assistance for Special Energy Projects

"Sec. 368. Special Energy Projects.
"Sec. 369. Authorization of Appropriations.".

(b) Title III of the Energy Policy and Conservation Act, Pub. L. 94-163 (42 U.S.C. § 6201) is amended by deleting Part C thereof and substituting therefor the following:

"PART C—STATE BASIC ENERGY PROGRAM AND SPECIAL ENERGY PROJECTS

FINDINGS AND PURPOSES

"SEC. 351. (a) The Congress finds and declares that—

"(1) In recent years, States have administered a growing number of Federal energy programs and assumed increased energy-related responsibilities, and should be provided financial resources to carry out these activities and to address energy needs of the State through a unified energy management program;

"(2) States and units of local government have unique opportunities to achieve energy savings, widen the use of coal and renewable energy resources; and

"(3) States and units of local government should have financial resources and flexibility to develop their own program measures and activities—through careful assessment of their respective energy situations—to ensure effective implementation of national energy policy objectives, especially for conservation activities, renewable resources use, and emergency planning.

"(b) The purposes of this part are—

"(1) To provide assistance to States and units of local government for development and effective implementation of national energy policy objectives, as set forth in the energy policies and programs established by Congress;

"(2) To provide States with greater flexibility in energy program design and implementation, so that States might meet their particular reponsibilities and respond to particular State and local problems in key national energy areas;

"(3) To promote coordination of Federal and State activities during periods of energy emergency;

"(4) To reduce and simplify the administrative requirements imposed on States to obtain Federal financial assistance for State energy programs.

"DEFINITIONS

"SEC. 352. As used in this title—

"(1) 'Conservation program' means any program or activity carried out by a State or unit of local government intended to reduce energy consumption, increase efficiency of energy use, or increase the use of renewable resources.

"(2) 'Governor' means the chief executive officer, elected or appointed, or his designee, of a State, including the Mayor of the District of Columbia.

"(3) 'Renewable resource' means any source of energy that is regenerative or essentially inexhaustible, including solar, geothermal, wind, low-head hydroelectric, biomass and oceans systems energy.

"(4) 'Secretary' means the Secretary of Energy.

"(5) 'State' means a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Government of the Northern Mariana Islands.

"(6) 'State energy plan' means a plan developed by a State which complies with the requirements of sections 355, 356, 357, 358, and 359 of this part.

"(7) 'State energy program' means any program of the Department of Energy which provides financial assistance to States pursuant to an allocation formula established by or pursuant to Federal law.

"(8) 'Unit of local government' means any city, county, town, municipality, or any other political subdivision which is a unit of general purpose local government of a State.

"(9) 'Indian Tribe' means any Indian Tribe or Tribal Organization as defined by subsection (b) of section 602 of the Older Americans Act of 1965, as amended.

"PART A—STATE BASIC ENERGY PROGRAMS

PROGRAM AUTHORIZATION

"SEC. 353. (a) The Secretary is authorized, subject to the availability of funds—

"(1) to provide financial assistance to assist States in the development, implementation or modification of a State energy plan or portion thereof submitted pursuant to this part;

"(2) to provide financial assistance to assist units of local government or Indian tribes in the development or implementation of special energy projects under section 367 of this title; and

"(3) to provide technical assistance to States, units of local government and Indian tribes for energy planning and management.

"APPLICATION FOR FINANCIAL ASSISTANCE

"SEC. 354. (a) The Secretary shall, by rule, prescribe guidelines for initial applications for financial assistance authorized by section 353(a)(1) of this part.

"(b) After publication of the guidelines prescribed pursuant to subsection (a) of this section, the Secretary shall invite each Governor to submit an initial application for financial assistance for the development of a State energy plan and for continuation of programs developed pursuant to the Energy Policy and Conservation Act (Public Law 94-163), Energy Conservation and Production Act (Public Law 94-385) or the Energy Extension Service Act (Public Law 95-39) until such time as the State energy plan is approved or for one year, whichever is shorter; provided, that the guidelines established for such programs shall remain in effect until such time as guidelines established pursuant to this Act take effect. Such initial application shall include—

"(1) a designation by the Governor of the State energy agency which will be responsible for the coordination of the development, management and implementation of the State energy plan;

"(2) assurance that the State has obtained or will seek within the next State legislative session such authority as may be necessary to carry out the requirements of this part;

"(3) a description of which State energy programs the Governor seeks to continue, pending approval of the State energy plan; and

"(4) such other information as the Secretary may reasonably require.

"(c) A State which receives financial assistance under this part pursuant to such initial application shall, within nine months after the date such assistance was provided or such longer period as the Secretary for good cause may allow, submit a State energy plan for approval of the Secretary under this part.

"(d) Prior to the first fiscal year for which the State seeks financial assistance to develop and implement a State energy plan, or after the Secretary has approved a State energy plan for which the State has sought financial assistance pursuant to subsection (b), the Governor of a State may make annual application for financial assistance under this part. Such application shall include—

"(1) assurance that the State will use such financial assistance to implement the activities described in a State energy plan which the Secretary has approved under section 360 of this part, or which the State anticipates that the Secretary will approve, for the fiscal year in which assistance is sought;

"(2) a description of planning activities the State will undertake to develop or modify a State energy plan; and

"(3) such other information as the Secretary may reasonably require.

"(e) Each applicant submitted in any fiscal year for financial assistance under this part shall be reviewed and approved or disapproved by the Secretary. Such application shall be approved if the Secretary determines that—

"(1) the application meets the requirements of subsection (b) or (d), as appropriate;

"(2) in the case of an application under subsection (d), an approved State energy plan pursuant to this part will be in effect during the fiscal year for which such financial assistance is sought.

"(f) If the Secretary determines that the application fails to comply with the provisions of subsections (b) and (c), or (c) and (d), as appropriate, he shall disapprove the application in whole or in part, and give the Governor of that State timely written notice of such disapproval. Upon receiving notice of disapproval, the Governor may submit a new or amended application for such fiscal year within such period as may be prescribed by the Secretary.

"REQUIREMENTS FOR STATE ENERGY PLANS

"SEC. 355. (a) The Secretary shall, by rule, prescribe guidelines for State energy plans, which plans shall contain—

"(1) a description of State energy supply and demand and of its energy goals and policies. This description shall include, to the extent such information is available or practicably obtainable—

"(A) a forecast of future energy consumption patterns in the State, categorized by type of energy source and end-use, and where practicable disaggregated by region within the State;

"(B) a description of any data systems the State will use in the development, modification or implementation of a State energy plan;

"(C) a description of the likely sources, including price assumptions, for energy supply, categorized by type of fuel, which sources the State anticipates will be available to meet the future energy consumption forecasted by the State pursuant to subsection (a)(1)(A) of this section, including any alternatives to such energy sources of conservation measures under consideration by the State;

"(D) a projection of the sources and amounts of energy supply, categorized by type of fuel, produced in the State which will be used in other States;

"(E) a projection of the need for electric power generation facilities and a description of the major actions, together with a schedule for such actions, which the State anticipates will be required to make available such facilities and assure timely selection of sites for such facilities; and

"(F) a projection of the need for other major energy supply facilities deemed appropriate by the State for consideration in the State energy plan;

"(2) a management plan for, and a description of, planned uses of funds provided pursuant to this part and under any other Federal financial assistance program that the State intends to use to implement the State energy plan. Such management plan shall include—

"(A) an identification of those major energy consumption sectors in which the State has the greatest opportunity to affect significant additional energy conservation, and a description of the State goals and objectives for energy conservation in such sectors;

"(B) a description of the programs the State will carry out to achieve its energy goals and objectives, and the relationship between such programs and (i) the energy forecasts pursuant to subsection (a)(1) of this section; (ii) the State's goals and objectives for energy conservation;

"(C) program objectives by which the State will periodically monitor and assess its success in implementing the State energy plan;

"(3) a description of how the State plans to implement the energy conservation and the renewable resources programs required by sections 356 and 357 of this part;

"(4) an energy emergency plan which is coordinated with the plans of the Department of Energy in the event of a severe energy supply interruption or other energy emergency and which provides for the—

"(A) administration of State programs for set-aside of petroleum products and other energy supplies during a period of energy supply disruption, consistent with regulations prescribed pursuant to the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159);

"(B) administration of a State program for the allocation of fuels in short supply and for restraining demand for such fuels in a period of energy supply disruption;

"(C) monitoring of the energy supply and consumption in the State during a period of severe energy supply interruption in coordination with any emergency management information system maintained by the Secretary;

"(D) administration, enforcement and implementation, upon direction of the Secretary, of Federal mandatory energy emergency plans and measures, including those approved pursuant to sections 202 and 203 of the Energy and Conservation Act (Pub. L. 94–163) to the extent such measures require State participation or action; and

"(E) development and implementation of other emergency measures which are responsive to State needs;

"(5) a description of the provisions for participation—

"(A) by units of local government;

"(B) by Indian tribes; and

"(C) by the public, which provisions shall include one or more public hearings, regarding the development, modification, and implementation of the State energy plan;

"(6) a description of the means by which the preparation and implementation of the State energy plan will be coordinated with plans and programs of State agencies and units of local government for economic development, transportation, environmental protection, coastal management, and other energy-related purposes, and assurance that due regard will be given to the needs of the poor, the handicapped, and the elderly.

"(b) Upon written request by the Governor, the Secretary may for good cause—

"(1) waive any requirements under subsection (a)(1) of this section, and where practicable provide the necessary information called for by such requirement for use by the State in developing, modifying, or implementing a State energy plan; or

"(2) grant an extension of time for compliance with any provision of this section.

"(c) If a State so requests, such department, agency, or instrumentality of the executive branch of the Federal Government that either produces or consumes significant quantities of energy within that State shall, consistent with applicable law, provide such available energy-related information as necessary and practicable to assist the State in the preparation of the State energy plan under this section.

"(d) A State receiving financial assistance under this part and which is participating in an energy impact assistance program, or in a coastal zone management program established pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended, shall ensure that the State energy plan established under this part is consistent with any plan prepared or information provided pursuant to such energy impact assistance program, or with such coastal zone management program.

"ENERGY CONSERVATION

"SEC. 356. Each State receiving financial assistance under this part in any fiscal year shall provide for the following energy conservation programs and measures:

"(a) energy extension service activities as described in section 504(a) of the National Energy Extension Service Act, Pub. L. 95–39 (42 U.S.C. § 7003) as amended, which shall—

"(1) disseminate information and provide advice and assistance to individuals, groups and units of local governments and States by means of:

"(A) specific studies and recommendations applicable to individual residences, small business, and agricultural or commercial establishments,

"(B) demonstration projects,

"(C) distribution of studies and instructional materials,

"(D) seminars and other training sessions for State and local government officials and the public, or

"(E) other public outreach programs;

"(2) provide, to the extent practicable, that energy evaluations or audits will be made available to commercial, residential and agricultural energy users; and

"(3) make use of existing outreach delivery mechanisms or programs in the State and avoid duplication of existing services.

"(b) implementation of the Building Energy Performance Standards program pursuant to Title III of the Energy Conservation and Production Act (Pub. L. 94–385) as amended; and

"(c) a traffic law or regulation which permits the operator of a motor vehicle to turn such vehicle right at a red stop light after stopping;

"(d) consideration by the State of implementing the following measures:

"(1) mandatory lighting efficiency standards for existing State and local government buildings;

"(2) programs to promote the availability and use of carpools, vanpools, and public transportation;

"(3) mandatory standards and policies relating to energy efficiency to govern the procurement practices of such State and its political subdivisions;

"(4) other appropriate measures to increase conservation of energy consistent with the purposes of this part.

"RENEWABLE RESOURCE PROGRAM

"SEC. 357. (a) Each State shall include in any State energy plan submitted under this part reasonable steps the State deems appropriate and intends to take to remove technical, economic, and institutional barriers to the use of renewable energy resources in the State.

"(b) In meeting the requirements of this section, each State shall consider—

"(1) actions to increase participation by financial institutions in the financing of activities for renewable resource utilization;

"(2) a program which provides for intervention by the State in electrical and State gas utility regulatory proceedings, where appropriate, to ensure that any proposed rate schedule, rule, regulation or additions to generation capacity does not discriminate unfairly against use of renewable resources. As used in this section, 'rate schedule' means the designation of the rates which an electric or gas utility charges for use of electric energy;

"(3) a program to assess the applicability of renewable energy resource technologies in buildings and other facilities owned by the State and units of local government;

"(4) actions to encourage application of renewable resource systems and techniques for the following groups in the State—

"(A) low-income families

"(B) rural residents

"(C) agricultural uses;

"(5) information activities to promote consumer protection; or

"(6) other measures which the State determines to be appropriate.

"ASSISTANCE TO LOCAL GOVERNMENTS

SEC. 358. (a) A State receiving financial assistance under this part in any fiscal year shall provide to units of local government appropriate financial assistance in amounts commensurate with the relative responsibilities shared between units of local government and the State in the implementation of the State energy plan; Provided, That, in order to promote local energy-related activities, no State may make a direct allocation to units of local government of more than ten per centum of the funds allocated to the State under this part in excess of the funds provided by a State to units of local government to carry out their responsibilities in the implementation of the State energy plan.

"(b) A State receiving assistance under this part shall provide for a satisfactory process for consultation with units of local government, Indian tribes, if applicable, and the public in the development and modification of the State energy plan.

"ADMINISTRATIVE PROVISIONS

"SEC. 359. (a) A State or unit of local government receiving financial assistance under this part in any fiscal year shall provide that at least sixty per centum of such assistance will be expended by the State or unit of local government for the development and implementation of programs for energy conservation, renewable resources, and energy emergency measures.

"(b) A State may participate in interstate or multi-State regional organizations which provide for the coordination of the State's energy plan with the State energy plans of other States participating in such interstate of multi-State regional organization. Each State may make available directly to such interstate or multi-State regional organization some portion of the financial assistance provided under this subpart for any use consistent with the purposes of this part.

"(c) A State may elect to participate with another State or States to develop, modify or implement a State energy plan which is consistent with the requirements of this part.

"(d) The Federal Trade Commission shall (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate the implementation of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable resource energy measures, and (2) undertake its own program, pursuant to the Federal Trade Commission Act to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of any such measures.

"APPROVAL OF STATE ENERGY PLANS

"SEC. 360. (a) Each State energy plan shall be submitted biennially to the Secretary. Each may submit annually to the Secretary.

Each State may submit annually to the State energy plan. The Secretary shall approve a State energy plan or modifications thereto unless he determines that such plan or modification fails to comply with the provisions of sections 355, 356, 357, 358, and 359 of this part;

"(b)(1) If the Secretary determines that a State energy plan or modification thereto fails under subsection (a) of this section or otherwise violates Federal law, the Secretary shall provide the State written notice of intention to disapprove and a statement of the reasons therefor.

"(2) If the Secretary, after affording the State notice and opportunity to present views or take corrective action, finds that the State energy plan or modification thereto is not in compliance with the requirements of subsection (a) of this section, the Secretary shall notify the State that the State energy plan is disapproved in whole or in part and that the State is no longer eligible to receive all or a portion of the financial assistance allocated to the State under this part, until the Secretary is staisfied that there is no longer any such failure to comply.

"(c) Approval of a State energy plan or modification thereto pursuant to this section shall constitute approval solely for the purpose of certifying the eligibility of a State for financial assistance under this part.

"ALLOCATION OF FUNDS; STATE SHARE

"Sec. 361. (a) For the purpose of providing the financial assistance authorized by section 353(a)(1) of this part, the Secretary shall annually allocate the sums available for financial assistance pursuant to this title among the States in the following manner—

"(1) seventy-five per centum shall be allocated on the basis of the resident population of the States, as reported in the most current population reports prepared by the Bureau of Census, Department of Commerce, for general statistical purposes;

"(2) twenty-five per centum shall be allocated equally among the States.

"(b) A State receiving financial assistance under this part shall be required to provide funds from non-Federal sources for the development, modification, or implementation of the State energy plan and other programs or measures administered by the State under this part in an amount equal to twenty per centum of the amount allocated to such State under subsection (a) of this section during each of such plan or programs.

"(c) Funds allocated to any State for any of the first four fiscal years under this part but not obligated by the Secretary in such fiscal year may at the option of the Secretary be reallocated among the States for the following fiscal year.

"(d) Notwithstanding the provisions of subsection (a) of this section, the Secretary may prescribe a maximum allocation for the Virgin Islands, Guam, American Samoa, and the Government of the Northern Mariana Islands.

"(e) Notwithstanding the provisions of subsection (a) of this section, the Secretary shall annually reserve for the benefit of Indian tribes some portion of the sums available for financial assistance pursuant to this subpart and shall, by rule, prescribe guidelines for the allocation and use of such reserved portion to carry out the provisions of this subsection. The Secretary may, after affording reasonable opportunity for comment by the State, provide financial assistance to an Indian tribe if he finds that—

"(1) such Indian tribe has demonstrated the need for direct Federal financial assistance for such uses as are deemed consistent with the purposes of this title;

"(2) Federal assistance provided under this part will not be used to duplicate or substitute for any energy-related program or activity established by a State or unit of local government for use or benefit of Indian tribes; and

"(3) such Indian tribal government is capable of performing all requirements of this part, including matching requirements under subsection (b) of this section. The Secretary shall ensure that any Indian tribe which receives direct Federal financial assistance under this subsection shall consult with the State or States in which it is located in the development, modification, or implementation of any energy plan prepared for such Indian tribe. Funds provided under this subsection which are not obligated by the Secretary in any fiscal year shall be reallocated to the States for the following fiscal year in accordance with provisions of subsection (a) of this section.

"(f) Financial assistance provided under this part shall be expended for the development, modification or implementation of the State energy plan in development or implementation of the programs and activities required under this part.

"(g) No funds provided to a State under this part shall be expended—

"(1) to pay the costs of any construction or the purchase of real property;

"(2) to pay all or any portion of the purchase price of equipment, except office equipment;

"(3) to subsidize fares for public transportation; or

"(4) for such other purposes as the Secretary may proscribe.

"TRANSITION TO STATE BASIC ENERGY PROGRAM

"Sec. 362. (a) After approval of a State energy plan pursuant to section 360 of this title, the Secretary may amend any existing agreement for financial assistance with a State pursuant to the program for State Energy Conservation Plans pursuant to Title III, as amended, of the Energy Policy and Conservation Act, Pub. L. 94–163 (42 U.S.C. § 6201, *et seq.*), or the program for State energy extension service plans pursuant to Title V of the National Energy Extension Service Act, Pub. L. 96–39 (42 U.S.C. § 7001, *et seq.*) to transfer any available balance of funds under any such financial assistance program or other financial arrangement to develop or implement the State energy plan.

"(b) Except as provided in subsection (a) of this section, nothing in this title shall be deemed to affect any program of Federal financial assistance or other financial arrangement made or entered into by the Secretary prior to the enactment of this title.

"TERMINATION OF FINANCIAL ASSISTANCE

"Sec. 363. (a) Whenever the Secretary, after affording the State reasonable notice and opportunity to present views, finds that a State receiving financial assistance under this title has failed to comply with the provisions thereof or with any regulation issued pursuant thereto, the Secretary shall notify the State that such State is no longer eligible to receive all or a portion of the financial assistance provided under this title until the Secretary is satisfied that there is no longer any such failure to comply. The Secretary may withhold all or part of further financial assistance under this title for so long as such State is deemed by the Secretary not to comply.

"(b) Whenever the Secretary, after affording the State reasonable notice and opportunity to present views, finds that a State receiving financial assistance under an approved consolidated application has failed to comply with an applicable statute establishing a State energy program or with any regulation issued pursuant to any statute establishing a State energy program, the Secretary shall notify the State that such State is no longer eligible to receive all or a portion of the financial assistance for such State energy program until the Secretary is satisfied that here is no longer any such failure to comply. The Secretary may withhold all or part of further financial assistance to a State energy program for so long as such program is deemed not to comply.

"RECORDKEEPING AND REPORTING

"Sec. 364. Each State, unit of local government or Indian tribe receiving financial assistance under this title or under a State energy program shall keep records and shall make reports to the Secreary, which shall include such information as the Secretary may deem necessary to prepare the annual report pursuant to section 365 and to facilitate an effective audit and performance evaluation. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination at reasonable times and under reasonable conditions, to any pertinent books, documents, papers, records and reports of any recipients of financial assistance under this Act or under a State energy program.

"ANNUAL REPORT

"Sec. 365. The Secretary shall include in the annual report required by section 657 of the Department of Energy Organization Act, Pub. L. 95–91, a report of the actions taken under this Act by States in the preceding fiscal year and an evaluation of their accomplishments and effectiveness.

"AUTHORIZATIONS OF APPROPRIATIONS

"Sec. 366. (a) For the purpose of providing financial assistance to the States pursuant to section 353(a)(1) of this part, and for technical assistance and administration of this part, there is hereby authorized to be appropriated to the Secretary for each of the fiscal years ending September 30, 1980 to 1984, $105,000,000, which may remain available until expended.

"SUBPART B—CONSOLIDATED APPLICATIONS AND ADMINISTRATION

"APPLICATION PROCESS AND ADMINISTRATION

"Sec. 367. (a) Notwithstanding any other provision of law, a State may make an annual consolidated application for financial assistance authorized under this part and under any State energy program or programs; *Provided*, That, the portion of the consolidated application for each program is approved by the State official or State agency specifically authorized to implement such program under State law.

(b) The Secretary is authorized to prescribe rules providing for the orderly transition from multiple applications for financial assistance under State energy programs to the consolidated application described in subsection (a) of this section. To enable a State to submit a consolidated application for a uniform program period, the Secretary and the appropriate State official or State agency may, by mutual agreement, amend the term and any other administrative provision of any financial assistance awarded prior to the approval of the consolidated application, and may agree that the unexpended balance of any funds made available under such program may continue to be available for the purposes for which such funds were appropriated.

"(c) Notwithstanding any other provision of law, a State may elect, through its consolidated application under subsection (a) of this section, to use a portion of the financial assistance provided by the Secretary for administrative costs for any other State energy program for activities which the State is authorized to undertake, pursuant to this part.

"(d) Financial assistance provided by the Secretary under this part may be used by a State to administer other State energy programs as defined by this part, and to administer the utility program established pursuant to Title II, Part 1, of the National Energy Conservation Policy Act (Pub. L. 95–619).

"SUBPART C—ASSISTANCE FOR SPECIAL ENERGY PROJECTS

"SPECIAL ENERGY PROJECTS

"SEC. 368. (a) The Secretary shall provide financial assistance to units of local government and Indian tribes to assist in developing and implementing special energy projects and shall, by rule, prescribe guidelines for implementing this part which shall—

"(1) require that proposals approved by the Secretary not be inconsistent with the goals and policies of a State energy plan if such plan is in effect, except when an otherwise eligible project is in two or more States;

"(2) provide financial assistance to units of local government and Indian tribes for special energy projects which seek to encourage energy conservation or to improve energy supply or distribution;

"(3) give preference to those proposals which are directly related to the achievement of national energy goals and objectives and which have potential national applicability; and

"(4) proscribe the use of funds provided under this part—

"(A) to pay for all or a portion of the purchase price of equipment, except office equipment;

"(B) to pay the cost of any construction or the purchase of real property; and

"(C) to subsidize fares for public transportation; or

"(D) for such other purposes as the Secretary may proscribe.

"(b) A unit of local government or Indian tribe receiving financial assistance under this part shall be required to provide funds in an amount equal to twenty per centum of the amount provided by the Secretary under this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 369. For the purpose of providing financial assistance in accordance with section 368 of this part, there is hereby authorized to be appropriated to the Secretary for each of the fiscal years ending September 30, 1980 to 1984, $5,000,000, which may remain available until expended."

AMENDMENT TO THE NATIONAL ENERGY EXTENSION SERVICE ACT

SEC. 3. The National Energy Extension Service Act, Pub. L. 95–39, is amended by deleting sections 503, 504(b) through 504 (d), 505, 506, 507, 508, 509, 510, 511, 512 and 513.

THE WHITE HOUSE,
Washington, May 18, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: In furtherance of my energy program announced on April 5, 1979, I am transmitting herewith the proposed "Energy Management Partnership Act of 1979" (EMPA), a measure designed to assist the States in developing an ongoing energy planning and managing capability and assist local governments in expanding their energy-related activities.

As you know, Congress in recent years has established a number of energy programs designed to assist States and local governments in achieving more efficient use of energy. Two State conservation planning programs were separately established by the Energy Policy and Conservation Act enacted in late 1975 and the Energy Conservation and Production Act adopted in 1976. With enactment of the National Energy Act (NEA), still other responsibilities must be assumed by States and local governments although Federal funding for some NEA programs is not provided.

Experience strongly suggests that these programs could be made more effective if they, as well as other State energy-related initiatives, were carried out as part of an overall State energy plan. The effectiveness of these programs could be increased by assisting States in establishing a mechanism for their integration at the State level.

This legislation addresses the concerns which Governors, local officials and others have raised regarding the need for better coordination in energy activities carried on at every level of government. Much more can be done if State and local energy agencies, working in partnership with the Federal government, are permitted to seek their own solutions to their energy problems.

The bill I am transmitting contains the following principal features:

1. State energy plan. Participation in the State energy plan program under EMPA would be voluntary. A participating State would receive an initial grant for planning activities in addition to assistance it receives to continue activities under existing Federal energy programs pending approval of the State energy plan. After the Secretary has approved the plan, these programs would be managed and monitored by the State according to the requirements and objectives of the State energy plan. The plan would provide a framework in which a State, working with local governments, would develop and implement its own strategies and programs.

2. Energy emergency planning. EMPA would provide support for State energy emergency planning. Some of the activities included in such planning are State plans for set-aside of petroleum products and other energy supplies, allocation of fuels in short supply during a period of supply disruption, monitoring of supply and consumption, and developing and implementing other emergency energy measures which are responsive to State needs.

3. Special energy projects. EMPA would authorize the Secretary of Energy to make grants to local governments and Indian tribes to develop and implement special energy projects. This feature of the bill would provide the flexibility necessary to support innovative projects which may not qualify under existing categorical programs but which are nevertheless worthy of Federal support. Projects having national applicability are given preference under this program.

4. Funding for programs not now funded. No Federal assistance to States is provided for some energy functions, including renewable resource development and removal of technical, economic and institutional barriers to energy production. EMPA would help fill these financial gaps.

5. Coordination of Federal energy assistance. EMPA would permit States to consolidate applications for assistance programs administered by the Department of Energy and would provide States flexibility in the use of administration funds under such programs.

I believe that to meet our national energy requirements requires concerted action with all levels of government working in partnership. Enactment of this bill would make a significant contribution toward that end. For these reasons, I urge prompt consideration of this proposed legislation.

Sincerely,

JIMMY CARTER.

SECTION-BY-SECTION ANALYSIS

ENERGY MANAGEMENT PARTNERSHIP ACT OF 1979

Section 2 of the bill would delete Part C of the Energy Policy and Conservation Act, Public Law 94–163 (42 U.S.C. § 6201) and insert a new part which establishes authority for State Basic Energy Programs and Special Energy Projects.

Section 3 would delete provisions of the National Energy Extension Service Act, Public Law 95–39 (42 U.S.C. § 7001).

Section 351. Findings and Purposes:

This section states that States and local governments have unique opportunities to develop and implement programs to achieve more efficient use of energy and develop new energy resources. Their expanded roles could help ensure effective implementation of national energy objectives, especially for conservation activities, renewable resource use, and emergency planning.

Energy-related programs at each level of government—Federal, State and local—could be made more effective if they were carried out in a coordinated manner under Statewide energy management strategy.

Section 352. Definitions:

This section defines "conservation program" to include programs to expand the use of renewable resources as well as conserve depletable resources. A conservation program carried out by an energy extension service, for example, is intended to include such activities as distribution of information related to solar energy.

Section 353. State Basic Energy Programs:

This section authorizes the Secretary (1) to provide financial assistance to States to develop, implement or modify its State energy plan, (2) to provide financial assistance directly to Indian tribes and local governments for special energy projects as described in section 367; and (3) to provide technical assistance for energy planning and management.

Section 354. Application for Financial Assistance:

This section sets forth the basic requirements for financial assistance to assist a State in developing its initial State energy plan.

The requirements include—

(1) designation by the Governor of the State agency which will be responsible for the State energy plan;

(2) assurance that the State has obtained or will seek within the next legislative session such authority as may be necessary to develop and carry out its State energy plan;

(3) a description of the State energy programs the Governor intends to continue, pending approval of the State energy plan; and

(4) such other information as the Secretary may reasonably require.

A State receiving planning assistance would be required to submit its plan for approval to the Secretary within 9 months, unless he grants an extension for good cause.

Guidelines established under the Energy Policy and Conservation Act, Energy Conservation and Production Act, and the National Energy Extension Service Act would remain in effect until new guidelines have replaced them under this Act.

Either prior to or after the Secretary has approved a State's energy plan, the Governor could submit an application for financial assistance to implement the activities described in the plan. The application would require—

(1) assurance that the funds will be used to implement the State energy plan;

(2) a description of planning activities the State intends to undertake; and

(3) such other information as the Secretary may reasonably require.

The Secretary would have flexibility to approve all or only part of these applications in order to avoid unnecessary delay in allocating at least a portion of the planning funds to the States while deficiencies in any such application are resolved.

Section 355. Requirements for State Energy Plans:

This section sets forth the basic elements which any State energy plan would be required to contain—

(1) a description of the State's current supply/demand situation, including (a) a State forecast of energy consumption patterns; (b) a description of any data systems the State will use or intends to use; and (c) a description of the likely sources of the State's future energy supply.

(2) a management plan which, among other elements, would include an identification of the energy sectors in which the State can achieve the greatest energy savings and a description of how the State intends to achieve its energy goals and objectives.

(3) a description of how the State plans to implement the mandatory energy conservation and the renewable resource programs required by this part;

(4) an energy emergency plan which is coordinated with the plans of the Department of Energy;

(5) a description of the provisions for participation by units of local government, Indian tribes and the public in the development, modification or implementation of the State energy plan; and

(6) a description of how the State will coordinate its plan with plans and programs of State agencies and local governments, and assurance that due regard will be given in the plan to the needs of the poor, the handicapped, and the elderly.

The Secretary would be authorized to waive certain planning of the State energy plan and to grant extensions of time for compliance with all requirements. The waiver provision is intended to provide flexibility for States which would have difficulty meeting the requirements of the plan to qualify for EMPA assistance.

Section 356. Energy Conservation:

This section would require each State receiving funds under this Act to provide for certain energy conservation programs and measures. These include—

(1) establishment of an energy extension service or other public outreach program;

(2) implementation of the Building Energy Performance Standards program developed under Title III of the Energy Conservation and Production Act;

(3) a traffic law or regulation which permits right-turn-on-red;

(4) consideration by the State of implementing mandatory lighting efficiency standards for existing State and local government buildings; programs to promote the use of carpools, vanpools and public transportation; and mandatory State procurement standards which promote energy efficiency; and

(5) any other measures the State deems appropriate to increase energy conservation.

Section 357. Renewable Resource Program:

This section would require each State submitting a State energy plan to include in the plan reasonable steps which the State deems appropriate and intends to take to remove existing technical, economic, and institutional barriers to the use of renewable energy resources. Subsection (b) illustrates some of the steps which the State should consider. These include—

(1) seeking increased participation by financial institutions;

(2) State intervention activities to help ensure that electric utility rate schedules do not discriminate unfairly against the use of renewable energy resources;

(3) assessment of government buildings and their applicability for conversion to renewable energy;

(4) application of renewable energy for low-income families, rural residents, and agriculture;

(5) consumer information; or

(6) other measures deemed appropriate by the State.

Section 358. Assistance to Local Governments:

This section would require a State to provide a proportion of the State's total allocation to local government. The amount would reflect the relative responsibilities of the two levels of government in carrying out the activities required by this Act. The State would also be authorized to pass directly on to local governments an additional amount of up to 10 percent of the EMPA funds it receives to promote energy-related activities which are carried on by such local governments. In subsection (b), a State is required to provide for a "satisfactory process for consultation" with local governments and Indian tribes. This provision is intended to ensure that each State establish a means by which these entities will participate effectively in the development and implementation of the State energy plan.

Section 359. Administrative Provisions:

This section would require that a State receiving EMPA funds must use at least 60 percent of the funds for energy conservation, renewable resource and energy emergency activities in any given fiscal year.

Subsection (b) would authorize a State to participate in multi-State or regional planning activities and may provide EMPA funds for that purpose. States could also elect to participate with other States to develop, modify or implement their respective plans.

Subsection (d) would retain the current language contained in Part C, Title III, of the Energy Policy and Conservation Act respecting consumer protection. The Federal Trade Commission would continue to assist State energy agencies in protecting consumers against unfair or deceptive practices affecting commerce which relate to the implementation of State energy measures.

Section 360. Approval of State Energy Plan:

This section provides that participating States would submit their State energy plans every other year to the Secretary while any modification would be submitted annually.

The Secretary would be authorized to withhold all or part of a State's allocation until the State has met the requirements of sections 355, 356, 357, 358 and 359.

Section 361. Allocation of Funds; State Share:

This section provides for allocation of available funds under EMPA as follows—

75 percent allocated by population; and 25 percent allocated equally among the States.

States would be required to provide 20 percent of its Federal allocation in each fiscal year.

Funds would be reserved by the Secretary each year for assistance to Indian tribes, if needed, according to guidelines to be prescribed. Such assistance would be subject to certain spending restrictions as well as the 20 percent matching requirement. The Secretary would be authorized to prescribe a maximum allocation of funds for the Virgin Islands, Guam, American Samoa, and the Government of the Northern Mariana Islands.

Section 362. Transition to State Basic Energy Program:

This section would provide for orderly transition of certain current conservation programs into a simple program under EMPA. The section is intended to ensure that funds provided under existing programs would remain available to the recipient State.

Section 363. Termination of Financial Assistance:

This section would authorize the Secretary to withhold or terminate financial assistance under EMPA following reasonable notice to the State of its failure to comply with any requirement.

Section 364. Recordkeeping and Reporting:

This section would require States to keep records and report on the progress of its energy programs to the Secretary.

Section 365. Annual Report:

This section would require annual reports to be filed by the Secretary with respect to actions taken under this Act, including annual reports required of States by existing law.

Section 366. Authorization of Appropriations:

This section would authorize $105 million for each of 5 fiscal years beginning in fiscal year 1980.

SUBPART B—CONSOLIDATED APPLICATION AND ADMINISTRATION

Section 367. Application Process and Administration:

This section would authorize States to make consolidated application for financial assistance for this or any other State energy program administered by the Department of Energy.

This section would also permit States to use EMPA funds to help cover administrative costs to carry out any State energy program activities which further the purposes of this Act.

SUBPART B—ASSISTANCE FOR SPECIAL ENERGY PROJECTS

Section 368. Special Energy Projects:

This section would authorize the Secretary to make direct grants to local governments and Indian tribes to support energy projects which the Secretary determines to be worthy of special assistance. This program is designed to give the Secretary flexibility in assisting projects which show special merit or innovation and would give preference to projects which could have national applicability.

Section 369. Authorization of Appropriations:

This section would authorize $5 million annually for 5 years beginning in fiscal year 1980 to support special energy projects.

Section 3. Amendment to the National Energy Extension Service Act:

This section would abolish provisions of the National Energy Extension Service Act in order that this function can be continued and coordinated with a State energy plan established under EMPA.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 1281. A bill to clarify that the SS *United States* may operate in the domestic and/or foreign commerce of the United States and/or between foreign ports; to the Committee on Commerce, Science, and Transportation.

● Mr. INOUYE. Mr. President, almost 25 years ago, the eminent authority on the maritime history of the United States, Frank O. Braynard, said the following about the SS *United States* in his book "Famous American Ships:"

> By whatever yardstick you select, the *United States* is America's greatest maritime achievement since the days of the clippers, perhaps in all time. She is probably the most remarkable single moving unit ever designed by man. For a nation that had so long turned its back on the deep blue ocean, her construction and achievements are truly indicative of a return to at least potential maritime leadership.

Mr. Braynard went on to say:

> Just as a song was written to commemorate the Atlantic flight of Lindbergh, and Gertrude Ederle's swimming the Channel, not to mention the death of Rudolph Valentino and the double-crossing of Jesse James,

a ballad was born honoring the new superliner. The chorus goes in part as follows:

> "She's got New York's style,
> California's grace
> The Mid-west's strength,
> And Texas' space,
> The South-land's charm,
> And the Nation's pace,
> She's got Freedom's form and
> Liberty's face
> So salute the *United States.*"

In 1978, however, in an update of his book, Frank Braynard wrote:

> The saddest postscript of all must be added to this ship's story. The magnificent *United States* was laid up in 1969, and has remained idle in Norfolk, Virginia, up until this writing. Her sales price dropped repeatedly until in 1977, it was only $5,000,000. Many schemes were proposed to restore her to service, . . . She remains in excellent condition and it is hoped that her career is not really over.

The doleful fate of the SS *United States* is representative of what has happened to domestic passenger liner and domestic cruise services by U.S.-flags. They are for all practical purposes nonexistent.

Last fall, U.S. Cruises, Inc. (USCI) entered into a contract of sale with the Maritime Administration (MarAd) for the purchase of the SS *United States* with plans to refit the vessel for operation primarily in the cruise trade between the Hawaiian Islands and the mainland. The company's decision to purchase the vessel was based on considerable background research, market studies, and other analysis centering on its proposed operation in the domestic Pacific cruise market. As the only remaining American-flag passenger liner, the Jones Act Trade is the logical choice for the ship's renewed operation. Since signing the contract of sale, USCI has engaged numerous consultants and undertaken extensive preparations for refitting the ship, which include developing vessel specifications and reconstruction plans, analyzing the market and marketing strategy, pursuing financing, obtaining necessary clearances and in other ways incurring substantial front-end costs in order to develop the project.

A recent appellate court decision has the potential to undermine the company's proposed plan of operation. The specific case to which I refer is the U.S. Court of Appeals decision in *Alaska Bulk Carriers, Inc.*, v. *Kreps, et al.*, No. 77–2080 (D.C. Cir. February 6, 1979), a decision which raises some question about the ability of a vessel built with construction differential subsidy, as was the SS *United States*, to operate permanently in the domestic trades, even after expiration of the vessel's statutory life. Because of the uncertainty created by the court's decision, USCI has said that the only timely course of action which could assure permissible operation of the ship in domestic Pacific cruise service as planned is special legislation clarifying the vessel's status.

I should note that the inherent delay involved in resolving this uncertainty has been the basis for the company's request for an extension of the delivery date of the vessel under the contract of sale.

Apparently neither MarAd nor USCI contemplated, at the time the contract was signed, that the vessel would be ineligible for operation between U.S. ports. Nevertheless, the court's decision in Alaska Bulk Carriers casts enough doubt on the proposed plan of operation that USCI feels that the only prudent course, in an undertaking of this magnitude, is to seek absolute clarification, through legislation of the vessel's ability to operate in the proposed trades.

Consistent with the objectives of our national maritime policy I believe every effort should be made to encourage a resuscitation of the American-flag domestic cruise trade.

Accordingly, the legislation I am introducing today is intended to clarify the ability of the SS *United States* to operate in our domestic cruise trades.

Should the SS *United States* become operational once again, it will not only be a first step in the revitalization of the U.S. passenger fleet, it will also increase the tourism revenues at the various domestic destinations she calls in.

My subcommittee expects to hold early hearings on the legislation, with the possibility of field hearings in Hawaii and the mainland.●

By Mr. WILLIAMS:

S. 1282. A bill to provide for the cleanup of hazardous waste dump sites that present an imminent threat to human health or safety; to the Committee on Environment and Public Works.

HAZARDOUS WASTE EMERGENCY CLEANUP ACT

● Mr. WILLIAMS. Mr. President, the names Love Canal; Toone, Tenn.; "Valley of the Drums"; Kin-Buc; are now well known throughout our country. These are perhaps the most infamous of the estimated 32,000 hazardous waste sites in the country. No incident has made us more aware of the serious problems hazardous wastes pose than the discovery of the poisonous canal in Niagara Falls, N.Y. Love Canal has become synonymous with this plague that infects our Nation. This tragic example of our country's practice of inappropriately and haphazardly disposing of toxic chemical wastes may have one positive aspect, however, in that it has focused needed attention on this most serious problem.

Of the estimated 40 million tons of hazardous wastes being produced each year, 80 to 90 percent of this is disposed of improperly. The practice has gone on for several decades and, contrary to existing law, continues to do so. The Environmental Protection Agency has listed over 600 sites which are known to pose a threat to human health. These sites are located throughout our country in some 33 States. The total amount for the effective cleanup of all the existing hazardous waste sites is estimated at over $50 billion.

The EPA believes there exists a potential for at least 100 problem sites in New Jersey alone. A number of the known sites are already considered the worst in the country. Of these sites, Kin-Buc, and Chemical Control in Elizabeth are the most prominent. The first legal action taken against a waste disposal operation under the Resource Conservation and Recovery Act was the Kin-Buc landfill in Edison. Kin-Buc is a 220-acre dumping ground which, though it has been closed for over 2 years, continues to leak toxins into New Jersey's waterways. However, it is the somewhat lesser known site in Elizabeth which is of greatest concern to the citizens of New Jersey at this moment.

My State has recently been shocked by the findings at the Chemical Control Corp. site in Elizabeth. Long known as a very dangerous site, Chemical Control became a "ticking time bomb" with the discovery of over 150 pounds of unstable explosives and significant amounts of radioactive wastes. A 3-acre waste disposal site where some 40,000 55-gallon drums containing 4,000 different varieties of hazardous chemical wastes have been indiscriminately stacked, this site has been labeled a "chemical nightmare" by experts at the scene. The cost estimate for the complete cleanup of this site ranges from $10 to $25 million according to the EPA.

The State of New Jersey has already begun the very difficult task of securing and disposing of this deadly waste which will take at least 6 months to complete. Federal officials are working closely with State and local officials by providing technical assistance and aiding in the removal of explosive materials. But, Mr. President, no Federal financial assistance is available to the State for this cleanup process. The situation is extremely serious, and the work must proceed without delays. Clearly, the situation at Elizabeth and several other sites throughout our country require immediate action on the part of the Federal Government.

The Resource Conservation and Recovery Act authorizes EPA to seek injunctive relief to stop improper waste handling where it presents an "imminent and susbtantial endangerment to health and environment," but it does not now provide the necessary funds for the cleanup of these sites. While it is a significant step in controlling this problem, it does not solve it.

Therefore, Mr. President, I am proposing legislation to provide Federal assistance for the cleanup of those sites throughout our country which pose an imminent threat to human health and safety, such as the site in Elizabeth where the immediate removal of this waste is a necessity. The bill will establish an emergency fund to be administered by the EPA to either proceed with their own program or grant assistance to State and local governments for the cleanup of those sites which the Administrator has determined pose an immediate threat to our Nation's citizens. This measure will not entail additional expenditures on the part of the Federal Government, but will authorize that $65 million, or approximately 5 percent, of those funds appropriated for the EPA be reserved for this program. In addition, the EPA shall pursue any remedy available for the recovery of the amounts expended under this act from any person who may be held liable.

This is a stopgap measure which will deal with those most dangerous dump sites to insure that all steps are taken to handle any existing or potential crisis. This legislation is not intended to be a cure-all or a substitute for more comprehensive legislation which is being prepared to deal with this serious problem. It is simply my intention to provide emergency funding for cleanup procedures at any hazardous waste site which presents a real threat to human safety.

Mr. President, I am hopeful that the Congress will act expeditiously on this measure and I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Hazardous Waste Emergency Cleanup Act".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency; and

(2) the term "hazardous waste" has the same meaning as in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

FUNDING

SEC. 3. Of the amounts appropriated to the Environmental Protection Agency for the fiscal year 1980, $65 million shall be reserved by the Administrator for purposes of carrying out the provisions of this Act. Any amounts reserved under this section shall remain available until expended.

EPA CLEANUP PROGRAM

SEC. 4. (a) The Administrator shall establish a program for the cleanup of any hazardous waste disposal site that poses an imminent threat to human health or safety (as determined by the Administrator) if the owner of such site is unable or unwilling to properly carry out such a cleanup, or if the owner of such site cannot be found.

(b) The cleanup program authorized under this section shall include all measures that the Administrator determines are necessary to remove any imminent threat to human health or safety, including removal of hazardous wastes to proper treatment, storage, or disposal facilities meeting the standards determined under section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924).

(c) In carrying out such cleanup program, the Administrator shall cooperate with State and local agencies and private owners of disposal sites, to the extent feasible, in order to insure rapid removal of any imminent threat to human health or safety.

STATE CLEANUP PROGRAMS

SEC. 5. (a) If the Administrator determines that a State has a program for the cleanup of hazardous waste disposal sites that is equivalent to or more thorough than the program established under section 4 of this Act, the Administrator shall, instead of carrying out a cleanup program in such State, make funds available to such State for carrying out such State program. The amount of the funds made available to a State shall be equal to the amount that the Administrator estimates would be expended in carrying out a cleanup program under section 4 in such State.

(b) If the Administrator determines that a State cleanup program receiving funds under this section ceases to meet the requirements of subsection (a), he shall discontinue funding under this section and shall carry out a cleanup program in such State as provided in section 4.

RECOVERY OF COSTS INCURRED

SEC. 6. (a) The Administrator shall pursue any remedy available for the recovery of amounts expended under this Act from any person who may be liable for payment of the costs incurred in alleviating the threat to human health or safety that necessitated such expenditure under this Act.

(b) Any State receiving funds under this Act must agree to pursue any such remedy in the same manner as is required of the Administrator under subsection (a), and shall repay to the Administrator a pro rata share of any such amounts recovered, based upon the portion of the costs of the State cleanup program that was paid for from funds made available under section 5.

EFFECT ON OTHER LAWS

SEC. 7. Nothing in this Act shall be construed as removing or reducing any duty or liability imposed under law on the part of any person with respect to the generation, transportation, treatment, storage, or disposal of hazardous waste.●

By Mr. HEINZ:

S. 1283. A bill to authorize construction of a channel improvement project for the Saw Mill Run at Pittsburgh, Pa., and for other purposes; to the Committee on Environment and Public Works.

SAW MILL RUN

● Mr. HEINZ. Mr. President, the legislation I am introducing today authorizes the Corps of Engineers to construct a sorely needed channel improvement project in the west end of Pittsburgh, Pa.

For years, the citizens of the West End Valley have contended with flash flooding and facilities which are inadequate to deal with effluent runoff. This situation has worsened in recent years as development upstream has aggravated the original problems. The families who reside in the west end are constantly threatened with health hazards, communications cutoffs, property damage and loss of utility service.

Ever since my election to Congress in 1971, I have been deeply involved with the efforts to correct this situation. These efforts have been marked by frequent frustration, as one level or another in the review process overturned a lower level's recommendation that the project be constructed. For example, in 1974 the U.S. Army Corps of Engineers recommended approval of the Saw Mill Run channel improvement project only to have the decision by the Secretary of the Army postponed pending the city of Pittsburgh's commitment of redevelopment funds to the West End Valley. To date, the city has committed over $3 million to projects in the area which include construction of a new sewer line, a maintenance building and a baseball diamond for local recreational use. The interest the city has demonstrated has encouraged investment by private interests as well.

However, the commitments made by the city of Pittsburgh were in anticipation of the construction of the channel improvement project. Unless the project is completed as proposed by the Corps of Engineers more than 10 years ago, the interest in the area's redevelopment will die and the residents of the west end will continue to be subjected unnecessarily to the health and safety dangers posed by flash flooding. It is imperative that the Senate take prompt action to authorize this important project.●

By Mr. TOWER (for himself, Mr. THURMOND, Mr. HEINZ, Mr. HATCH, Mr. STEVENS, Mr. DOLE, and Mr. GARN):

S. 1284. A bill to revise title 18 of the United States Code; ordered held at the desk.

(The remarks of Mr. TOWER when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. MELCHER:

S. 1285. A bill to reduce the impact of the reduction of energy resources resulting from bankruptcy or abandonment; to the Committee on Banking, Housing, and Urban Affairs.

S. 1286. A bill to amend section 3 of the Emergency Rail Services Act of 1970, relating to rail emergency service assistance, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MELCHER. Mr. President, last Friday in the U.S. District Court in Chicago, Judge Thomas R. McMillen denied the petition of his trustee in bankruptcy, Stanley Hillman, for an embargo of 7,000 miles of Milwaukee Railroad. The judge determined that lawfully any discontinuance of Milwaukee Railroad service on a portion of its lines must be considered by the Interstate Commerce Commission.

I am pleased to bring to the attention of the Senate this decision by Judge McMillen. On two separate occasions, in appearing before Judge McMillen's court, argued that the trustee's petition for Milwaukee discontinuance would jeopardize rail service for coal, grain, and other products and would make our Nation's rail transportation inadequate. I asked that the court grant Congress sufficient time to deal with the Milwaukee's situation and pointed out on both May 4 and May 15 that the court should take note of congressional action to help the Milwaukee.

On May 3, the Senate unanimously passed my bill S. 967, the "Railroad Reorganization Energy Impact Reduction Act of 1979." On May 23, the Senate also unanimously passed Senate Joint Resolution 81 required continuation of the Milwaukee Railroad for 60 days. The House Commerce Committee reported out House Joint Resolution 341 on May 30, containing provisions of both S. 967 and Senate Joint Resolution 81. House Joint Resolution 341 is pending before the House Rules Committee.

Judge McMillen recognizes the very weakened Milwaukee financial condition comparing it to a patient with massive loss of blood. His order provides a short reprieve of a very limited time during which Congress must continue to provide the opportunity for the Milwaukee to receive additional financial aid. I appreciate the diligence and efforts that my colleagues here in the Senate have already provided to assist the Milwaukee.

We have to do more to assure continued service on this railroad.

Judge McMillen noted in his decision the need for congressional action by saying:

> In finding that the Milwaukee Road is not "cashless" on the record in this case, and that its continued operation is not "impossible," we are painfully aware that the Trustee will be confronted by these conditions in the foreseeable future. They can be temporarily avoided by the pending petition opinion, we call attention particularly to the priority basis (the decision on which has not yet been reached), but they can be avoided even longer by the United States Congress as evidenced by Senate Resolution 81 (and House Resolution 341). We have been advised by the distinguished Senators from Montana, Senators Melcher and Baucus, that passage of this ameliorative legislation is imminent.
>
> While we as well as the Senators are aware of the unpredictability of the fate of emergency legislation of this sort, we must advert to the fact that continued operation of the Milwaukee Road for any length of time is almost entirely dependent upon financial relief from Congress. The findings of fact by Master Gray which we have approved make this crystal clear, particularly when the long-term operating deficits and substantial amounts of deferred maintenance are taken note of. Without summarizing these in this opinion, we call attention particularly to the findings on pp. 12 through 17 of the Master's report, most of which findings are incontrovertible on the record.
>
> Congressional action is the only foreseeable alternative. We were advised in the hearing by representatives of the Interstate Commerce Commission that a petition for abandonment, if filed by the Trustee under § 10903, would necessarily consume several months before it could be acted upon, even then subject to appeal. The alternatives offered by § 11125 in its present form are certainly not in the public interest nor are they in the interest of the creditors. We have little doubt, however, that the Trustee will find continuing operation impossible or will be forced to discontinue transportation without obtaining a certificate under § 10903 in the foreseeable future, absent a release from the strictures of § 11125 or substantial and continued infusion of funds by the United States Government.

I am today introducing two appropriate bills to deal with the Milwaukee crisis.

Both of these bills are absolutely essential to finding a remedy for the Milwaukee situation.

The first bill will require that:

First. When a railroad is in bankruptcy or seeks to abandon a line, either the trustee in bankruptcy or the chairman of the ICC must notify the Secretary of Energy.

Second. The Secretary of Energy must study the abandonment or reorganization regarding its impact on coal transportation and report his findings to Congress within 60 days.

Third. If his findings show a negative impact on coal transportation, he must enter the proceedings and oppose the reduction in coal transportation.

Fourth. The Secretary is authorized to provide grants and loans to certain railroads for coal hauling rolling stock.

Fifth. The Secretary is also authorized to provide at his discretion assistance to certain electric generating utilities to acquire or lease coal cars.

The second bill provides:

First. Moves the date for removal of both the highest lien requirement and priority in payment clause of section 3 of the Emergency Rail Services Act from October 1, 1979—as was set by Public Law 95-598—to the date of enactment of this legislation.

Second. Provides that under a directed service order by the ICC, the bankrupt carrier may be the directed carrier, but cannot receive the 6 percent profit that would otherwise be required to be paid the directed carrier providing the service. However, the payments to the bankrupt carrier, if it is also the directed carrier, must assure no erosion of the assets of the estate of the bankrupt carrier. Also, title II provides that during the first 60 days of a directed service order the entire system of the bankrupt carrier be provided service.

Third. Removes present statutory language interpreted by the Federal Railroad Administration as precluding FRA from using title V, section 505 rehabilitation and improvement funds to assist bankrupt carriers in purchasing equipment and repairing track.

For additional information on the Milwaukee situation and its impact on the Nation's energy demands, earlier statements appear April 25, 1979, page 8632, and May 3, 1979, page 9770.

S. 1285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Impact Reduction of Energy Resources Act of 1979".

Sec. 2. The trustee of a railroad or rail carrier which (1) is under reorganization under section 77 of the Bankruptcy Act, or (2) has filed an application for abandonment pursuant to section 10903 of title 49, United States Code, on the date of enactment of this Act, shall notify the Secretary of Energy of the status of such reorganization or application.

Sec. 3. Within sixty days after (1) the filing of a petition for reorganization by an applicant under subchapter IV of chapter 11 of title 11, United States Code, or (2) the filing of an application for abandonment pursuant to section 10903 of title 49, United States Code, the trustee or the Chairman of the Interstate Commerce Commission (as appropriate) shall notify the Secretary of Energy of such application.

Sec. 4. (a) The Secretary of Energy, upon receipt of a notice described in section 2 or 3, shall conduct a study of the impact of such application on the transportation of coal. Such study shall include—

(1) a finding with regard to present coal shipments, by tonnage,

(2) a projection of coal shipments by year for the next fifteen years,

(3) a determination if present and future needs for rail coal shipments would be insufficient for meeting the needs of coal shippers, and

(4) the existence of and impact on the intermodal connections between the applicant and other transportation modes.

(b) The Secretary of Energy shall submit to the Congress a report on the study conducted pursuant to subsection (a) not later than sixty days after receipt of notice described in section 2 or 3.

Sec. 5. In the event that the Secretary of Energy determines that present or future coal shipments will be reduced or curtailed by a partial or complete discontinuation of service or by an abandonment under a reorganization plan the Secretary shall oppose such action in a hearing described in section 1170(a)(2) of title 11, United States Code, as being inconsistent with the public interest.

Sec. 6. The Secretary of Energy, after making the findings by section 4(a) and after or during the proceedings required by section 5, shall make loans or grants to a coal hauling railroad or rail carrier for rolling stock if such railroad or rail carrier—

(1) has filed for reorganization under section 77 of the Bankruptcy Act; or

(2) has filed a plan for reorganization under subchapter IV of chapter 11 of title 11, United States Code; or

(3) has filed an application for abandonment pursuant to section 10903 of title 49, United States Code.

Sec. 7. The Secretary shall provide temporary assistance to coal fired electric generating utilities when such utility(ies) is partially or completely serviced by a railroad or a rail carrier as described in section 6 (1), (2), or (3) above. The assistance provided must be used to lease or purchase, in the Secretary's discretion, coal cars which are to be used to the greatest extent possible on the lines of the railroad or rail carrier described above in section 6 to assist the railroad or rail carrier in the maintenance of its service and which service contributes to meeting a balanced overall utilization of domestic energy supplies.

Sec. 8. (a) Loans and grants under sections 6 and 7 above shall be made by the Secretary in accordance with such conditions as may be prescribed by regulation and shall not be contingent on the outcome of proceedings entered into under section 5.

(b) There are authorized to be appropriated to carry out the purposes of sections 6 and 7 such sums as may be necessary.

Sec. 9. For the purposes of this Act, the term "applicant" means a rail carrier or a railroad as defined in section 10102 (17) and (18) of subtitle IV of title 49, United States Code.

Sec. 10. (a) The second sentence of section 502(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(b)) is amended by inserting "(including a railroad eligible for assistance under the Impact Reduction of Energy Resources Act of 1979)" after "railroads".

(b) The second sentence of section 803 (b) of the Powerplant and Industrial Fuel Use Act of 1978 is amended by inserting "(including a railroad eligible for assistance under the Impact Reduction of Energy Resources Act of 1979)" after "railroad".

S. 1286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Rail Assistance Act of 1979."

TITLE I—EMERGENCY RAIL SERVICES FINANCIAL ASSISTANCE

Sec. 101. The provisions of section 3(c) of the Emergency Rail Services Act of 1970 shall not apply to any rail carrier or railroad (as defined in section 10102 of title 49, United States Code) which filed for bankruptcy after October 1, 1977 under section 77, of the Bankruptcy Act.

TITLE II—DIRECTED SERVICE

Sec. 201. Section 11125 of title 49, United States Code, is amended by—

(1) inserting "or that carrier" after "another carrier"

(2) adding at the end thereof the following:

"(c) In the event that the Commission directs the discontinuing carrier to continue service under subsection (a) the amount payable to such carrier under paragraph (5) of subsection (b) shall not include a profit margin. The Commission in determining the amount of payments under the preceding sentence shall assure that there is no erosion of the assets of the directed carrier as a result of such directed service.

"(d) Any action by the Commission directly serviced under this section shall cover the entire system of the discontinuing carrier for the first 60 days of such directed service.".

TITLE III—REHABILITATION AND IMPROVEMENT FINANCING

SEC. 301. Section 505 of Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended by striking subsection (b)(2)(C) and inserting in lien thereof the following new subsection:

"(C) the public benefits to be realized from the project to be financed in relation to the public costs of such financing."

and by striking subsections (c)(2)(B) (ii) and (iii).

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. DOLE, the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 12, a bill to allow for cost of living adjustments.

S. 43

At the request of Mr. HATCH, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 43, the National Ski Patrol System Recognition Act.

S. 102

At the request of Mr. TOWER, the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 102, a bill to postpone scheduled increases in the minimum wage rate.

S. 238

At the request of Mr. TOWER, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 238, a bill to establish a Citizens Commission on Economic Regulatory Oversight.

S. 344

At the request of Mr. STAFFORD, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 344, a bill to amend the Federal highway billboard control law.

S. 464

At the request of Mr. INOUYE, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 464, a bill to amend the Internal Revenue Code of 1954 to expand the category of targeted groups, for whom new employee credit is available, to include displaced homemakers.

S. 575

At the request of Mr. HATCH, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 575 the Freedom From Quotas Act of 1979.

S. 598

At the request of Mr. BAYH, the Senator from Arkansas, (Mr. BUMPERS) was added as a cosponsor of S. 598, the Soft Drink Interbrand Competition Act.

S. 742

At the request of Mr. PERCY, the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 742, the Nuclear Waste Management Reorganization Act.

S. 931

At the request of Mr. PERCY, the Senator from Maine (Mr. COHEN) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 931, the Local Energy Management Act.

S. 955

At the request of Mr. HELMS, the Senator from Utah (Mr. GARN) and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 955, the Taxpayer Bill of Rights Act.

S. 965

At the request of Mr. JAVITS, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 965, a bill to amend title IV of the Social Security Act to improve the aid to families with dependent children program and provide fiscal relief for States and localities.

S. 1032

At the request of Mr. HATCH, the Senator from Utah (Mr. GARN) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 1032, a bill to provide that the Internal Revenue may not implement certain rules relating to the determination of whether private schools have discriminatory policies until Congress provides specific guidelines for such determinations.

S. 1110

At the request of Mr. JAVITS, the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1110, a bill to include home delivery of children's publications in the existing rates for children's publications sent to schools.

S. 1112

At the request of Mr. LEAHY, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 1112, to eliminate the exemption for Congress or the United States from the application of certain provisions of Federal law relating to employment, privacy, and social security, and for other purposes.

SENATE CONCURRENT RESOLUTION 27

At the request of Mr. DOLE, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of Senate Concurrent Resolution 27, calling for closer cooperation between the United States, Mexico, and Canada in energy matters.

AMENDMENT NO. 210

At the request of Mr. SASSER, the Senator from Michigan (Mr. RIEGLE), the Senator from North Dakota (Mr. BURDICK), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of amendment No. 210, intended to be proposed to S. 712, the rail passenger service authorization bill.

AMENDMENTS SUBMITTED FOR PRINTING

INTERNATIONAL DEVELOPMENT ASSISTANCE ACT OF 1979—S. 588

AMENDMENT NO. 216

(Ordered to be printed and to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to S. 588, a bill to amend the Foreign Assistance Act of 1961 to authorize development assistance programs for fiscal years 1980 and 1981, to make certain changes in the authorities of that act, to authorize the establishment of an Institute for Technological Cooperation, and for other purposes.

AMENDMENTS NOS. 217 AND 218

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON (for himself, Mr. CANNON, Mr. SCHMITT, Mr. HATFIELD, and Mr. TSONGAS) submitted two amendments intended to be proposed by them, jointly, to S. 588, supra.

AMTRAK AUTHORIZATIONS—S. 712

AMENDMENT NO. 219

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to S. 712, a bill to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes.

● Mr. WEICKER. Mr. President, I am submitting today an amendment to S. 712, the Amtrak authorization bill, to increase the authorization levels for Amtrak capital acquisitions and improvements by $100 million in both fiscal year 1980 and fiscal year 1981.

In discussions of DOT's proposal to eliminate 43 percent of the present Amtrak rail services, a great deal of attention has been given to the ridership figures of Amtrak. An article in today's Wall Street Journal indicates that ridership rose 7 percent in this year's January–April period, with "a rise of perhaps 20 percent in May."

This increase in Amtrak ridership has occurred despite the fact that Amtrak has only 1,400 serviceable cars, down from nearly 2,000 cars when Amtrak took over passenger-train operations in 1971. Of its car-fleet, nearly two-thirds of the cars average more than 29 years ago. Mr. Alan Boyd, Amtrak president, is quoted in the Wall Street Journal article as saying the Amtrak fleet is mainly "traveling antique museums."

Mr. President, the article entitled "Amtrak Is Entering Its Busiest Summer With an Aging and Deteriorating Fleet," which appears in today's Wall Street Journal, poignantly discribes the effect of the shortsightedness of the Federal Government in its failure to act to improve our Nation's rail systems. I commend this article to the careful consideration of my colleagues.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 5, 1979]

AMTRAK IS ENTERING ITS BUSIEST SUMMER WITH AN AGING AND DETERIORATING FLEET

(By Albert R. Karr)

WASHINGTON.—Amtrak is heading into what's clearly going to be its busiest summer with aging trains that are falling apart at an accelerating pace.

The National Railroad Passenger Corp., as Amtrak is formally known, is experiencing a sudden climb in demand from energy-conscious customers. Ridership is spurting and would-be passengers are besieging Amtrak reservations offices with unprecedented bids to book space on trains well through the summer.

But Amtrak also is beset by a rapidly shrinking fleet of passenger cars as the busy equipment wears out faster than before. Besides getting older, cars are suffering from lack of maintenance by Amtrak, which is reluctant to upgrade many cars it probably won't be using once a Carter administration dictated cutback in the train system takes effect this fall.

So sleeper space will be more difficult to reserve this summer; thousands of hungry travelers will have a tough time finding a dining-car table because there won't be many dining cars, and a rising number of people won't even be able to board the train at all. Amtrak warns. "This is as tight a situation as Amtrak has had in its (eight-year) life, and the further we go into the summer the worse it's going to get," says Robert Gall, Amtrak's director of market research.

FLEET HAS SHRUNK

Although Amtrak has replaced roughly a third of its equipment with new "Amfleet" and other cars in recent years, the Amtrak fleet has shrunk to about 1,400 serviceable cars from nearly 2,000 when Amtrak took over passenger-train operations in 1971.

That's an annual drop of about 75 cars. But the pace is speeding up; this summer alone, Amtrak expects to lose 125 cars. Rather than put about $225,000 apiece into rehabilitating cars that won't be needed when the route-slashing plan takes effect Oct. 1, Amtrak will send these cars to the scrap heap. Indeed, Amtrak backed the administration's route-cutting plan, arguing that the line lacks good equipment to operate its existing 27,500-mile system.

In the current pinch, Amtrak will make limited repairs to about 85 old cars—getting wheels and axles in shape for safety reasons and trying to fix the air conditioning for comfort.

But that will be of only modest help. By Labor Day, Amtrak expects to have only 379 coaches in service, down from 401 at the start of summer in 1978; its diner fleet has fallen to 72 units from 92 a year ago, and sleepers to 135 from 191 last year. Amtrak doesn't have enough diners or sleepers for the usual make-up of such long-haul trains as those between New York and Florida and between Chicago and the West Coast.

ANTIQUE MUSEUMS

"There are days when we operate trains for which sleeper service is advertised, and we end up without any sleepers for them," concedes Alan Boyd, Amtrak president. About two-thirds of Amtrak's car fleet is the old equipment it took over from railroads in 1971, and those cars' average more than 29 years of age. Mr. Boyd says his fleet is mainly "traveling antique museums." Amtrak's requests for funds to buy more new cars for short and medium-distance routes have repeatedly been rejected by administration budgetmakers.

Amtrak has been counting on having 285 new bilevel "Superliner" cars to upgrade its fleet, but their delivery has been delayed for two years, largely by a strike last year at Pullman Inc., the supplier. Amtrak currently has only 17 of the new cars, and expects to have only 47 by September.

That will be too late. About 20 days during July and August are usually busy for Amtrak, but this year many trains have been jammed for several weeks. Over the Memorial Day holiday weekend, 39 trains—about 15 percent of the system—had standees, up to nearly 300 on some trains. Usually, only 10 or 15 trains have any standees during that holiday.

TIGHT BOOKING

Service on the tightest routes, the Chicago-San Francisco "Zephyr," the Chicago-Los Angeles "Southwest Limited," the New Orleans-Los Angeles "Sunset Limited," and the Chicago-Seattle "Empire Builder" and "North Coast Hiawatha," are 100 percent booked, or nearly so, for the next two weeks. And some of those trains are close to being fully booked for the four weeks after that.

After a ridership decline of 1 percent last year, Amtrak system ridership rose about 7 percent in this year's January-April period. Early counts indicate a rise of perhaps 20 percent in May.

Amtrak reservations people have been losing calls by the droves, they're coming in so fast. When Amtrak asked about 250 new customers why they were calling, 90 percent said they're worried that they might be unable to complete summertime trips by auto because gasoline might run out.

Mr. WEICKER. Mr. President, this amendment will authorize sufficient funds to enable Amtrak to purchase the new equipment that it needs. People are now turning to Amtrak in increasing numbers as a result of the gasoline shortage. As the people of our nation get out of their cars, which they are going to have to do, they must have an alternative method of transportation. Amtrak provides an energy-efficient alternative, and we must make sure that Amtrak has the equipment it will need to accommodate its increased ridership.

Mr. President, I ask unanimous consent that the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 219

On page 8, line 13, strike "122,000,000" and insert "220,000,000".

On page 18, line 14, strike "223,000,000" and insert "323,000,000".●

EXECUTIVE AMENDMENT SUBMITTED FOR PRINTING

TREATY ON THE LIMITATION ON STRATEGIC OFFENSIVE ARMS

EX. AMENDMENT NO. 1

(Ordered to be printed and to lie on the table.)

Mr. GOLDWATER, as in executive session, submitted an amendment intended to be proposed by him to the resolution of ratification of the Treaty on the Limitation of Strategic Offensive Arms between the United States of America and the Union of Soviet Socialist Republics.

● Mr. GOLDWATER. Mr. President, the supersonic Backfire has a demonstrated capability to attack the continental United States. It has an air-to-air refueling system.

The Soviet promise in the form of a letter not to use the Backfire against the United States would be essentially meaningless.

The United States has agreed to count all of its aging B–52 fleet, part of which is in standby storage and part of which does not have penetrating capabilities.

Mr. Carter's decision to cancel the B–1 bomber coupled with the exclusion of the Backfire from SALT II will eventually negate the strategic bomber leg of the U.S. nuclear Triad while significantly enhancing the bomber leg of the Soviet Triad. It is ironic that at a time when the Soviets strongly believe in a strategic supersonic bomber, including the Backfire and a followon bomber equal in capability to the canceled B–1, the Carter administration has killed the American supersonic bomber.

By excluding the Soviet Backfire—there are now about 150 deployed, give or take a few—the air defense of the continental United States is seriously jeopardized because at the present time, the United States does not have an air defense system of any consequence.

Mr. President, as in executive session, I submit an amendment to the resolution of ratification of the SALT II Treaty and I ask unanimous consent that the text of the amendment, together with an article published in the March 1977 issue of Air Force magazine, be printed at this point in the Record.

There being no objection, the amendment and article were ordered to be printed in the Record, as follows:

Ex. Amendment No. 1

(Purpose: To count the Backfire Bomber as a nuclear launch vehicle)

At the end of article insert the following:

For purposes of this article, the supersonic Soviet variable-geometry bomber (NATO designation Backfire) shall be included and counted in the aggregate limitation imposed by this treaty on the U.S.S.R. of 2,400 strategic nuclear launch vehicles to be reached by six months after ratification of this treaty and 2,250 strategic nuclear launch vehicles to be reached by December of 1982.

Tupolev Variable-Geometry Bomber (NATO "Backfire")

This elegant twin-jet bomber is currently the subject of considerable controversy. Anxious to exclude it from SALT limitations, the Soviet Union insists that it is a short-range, purely tactical aircraft. Former US Defense Secretary Donald H. Rumsfeld stated last year: "Even without aerial refueling or staging from bases in the Arctic, 'Backfire' bombers could cover virtually all of the US on one-way missions, with recovery in third countries. Using Arctic staging and refuelling, they could achieve a similar target coverage and still return to their staging bases in the Soviet Union". Air Force Secretary Thomas Reed repeated the warning last July, and the RAF's former Chief of Air Staff added that: "Russian fast, wide-ranging, and high-performance aircraft like 'Backfire', armed with standoff missiles, may soon become an even greater danger to allied shipping than the relatively slow-moving Russion submarines".

Development of "Backfire" is believed to have been started when the shortcomings of the Tu–22 became apparent. A prototype of the initial version was observed on the ground near the production factory at Kazan, in Central Asia, in July 1970. Up to twelve pre-production models were tested subsequently, and one early "Backfire" remained airborne for a further ten hours after an in-flight refuelling. Two versions have been identified by non-classified NATO reporting names:

Backfire-A. Initial version, with large landing gear fairing pods on wing trailing-edges. Production limited to sufficient aircraft for a single Dalnaya Aviatsiya squadron.

Backfire-B. Extensively redesigned operational version, overcoming range deficiency of "Backfire-A". Increased span. Landing gear pods eliminated except for shallow underwing fairings which do not protrude beyond trailing-edge. Entire fixed portion of wings believed to form integral fuel tankage; outer panels have thin section and flex considerably in flight. Engine air intakes are fitted with splitter plates and embody complex internal variable geometry. By early 1977, equip a single Dalnaya Aviatsiya squadron, with a similar number in Naval Air Force service, operating as far south as the Azores from Northern Russia. Protection continuing at rate reported as fifteen per year. (Data for "Backfire-B" follow.)

Power Plant: two unidentified engines, reported to be uprated versions of the 44,090 lb st Kuznetsov NK-144 afterburning turbofans used in the Tu-144 supersonic transport.

Dimensions: span 113 ft spread, 86 ft swept, length 132 ft, height 33 ft.

Weight: gross 270,000 lb.

Performance: max speed Mach 2.25 to 2.5 at high altitude, supersonic at low altitude, max unrefuelled combat radius 3,570 miles.

Armament: may have single gun in radar-directed tail mounting. Nominal weapon load 17,500 lb. Pylon under fixed portion of wing for "Kitchen" or new missile known in the West as AS-6. Soviet development of decoy missiles has been reported. "Backfire" can also carry the full range of Soviet free-fall weapons.●

NOTICES OF HEARINGS

OVERSIGHT HEARINGS ON PUBLIC LAW 94–142, EDUCATION FOR ALL HANDICAPPED CHILDREN ACT OF 1975

● Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on the Handicapped, I announce that our subcommittee has scheduled oversight hearings on Public Law 94–142, the Education for All Handicapped Children Act of 1975. The hearings will be held on Thursday, July 19, 1979, Thursday, July 26, 1979, and Tuesday, July 31, 1979 in room 4232 Dirksen Senate Office Building starting at 9:30 a.m.

Persons wishing to testify should contact Mrs. Patria Forsythe, staff director, 10–B Russell Senate Office Building (202) 224–9075.●

VETERANS' CLAIMS FOR DISABILITIES FROM NUCLEAR WEAPONS TESTING

● Mr. CRANSTON. Mr. President, from 1945 until the Limited Test Ban Treaty in 1963, an estimated 200,000 to 400,000 service personnel participated in 181 above-ground nuclear weapons tests in the Southwest United States and in various Pacific islands. On June 20, 1979, the Committee on Veterans' Affairs will hold hearings on the difficulties that veterans and survivors are experiencing in presenting and proving claims for veterans' benefits for disabilities alleged to have been caused by exposure to low levels of ionizing radiation during those weapons tests.

In view of the testimony of administration officials at recent congressional hearings regarding the withholding of health-risk information from test participants and the public and the lack of systematic followup studies of veterans who were nuclear test participants, there can be no doubt that the Federal Government has a moral responsibility to do everything possible to facilitate claims of veterans related to nuclear weapons testing.

Too many veterans who were ordered to participate in atmospheric nuclear tests are now being left without the slightest acknowledgment that the Government might bear some responsibility for their misfortune. The committee's hearings on June 20 will focus on how the Government can responsibly offer a greater measure of justice to these veterans. The Veterans' Administration, and the Departments of Defense, Energy, and Health, Education, and Welfare have been asked to testify as have other interested individuals.

Mr. President, in recent years the Veterans' Administration has received more than 600 claims for benefits from veteran nuclear test participants and their survivors, but less than 20 claims have been granted for radiation-induced illness related to weapons tests. These claims generally involve very complex factual issues regarding the amount of radiation to which the individual may have been exposed as well as difficult medical issues regarding the likelihood that the exposure to radiation actually caused the veteran's death or disability.

It seems clear that many veterans have little or no chance to prove claims for compensation because their records are often incomplete or nonexistent due to poor recordkeeping by the service concerned or the old Atomic Energy Commission or both. Many pertinent records also were destroyed in a 1973 fire at the St. Louis National Personnel Records Center. Further, many claimants have experienced great difficulties in attempting to obtain the precise documents that relate to troop participation in nuclear weapons testing that might be helpful in sustaining these claims.

Mr. President, the fact is that with respect to these claims, the Government now holds all the cards. Without access to all possible official records, veterans and survivors will continue to have great difficulty in presenting sound claims for service-connected disability compensation and dependency and indemnity compensation benefits to which they may be entitled.

Mr. President, in response to a request I made on May 6, 1979, the Defense Nuclear Agency, which is responsible for consolidated management and direction of the Defense Department's nuclear weapons, nuclear weapons effects research, and the nuclear weapons test program, moved quickly to declassify eight documents relating to service personnel at nuclear weapons tests. Some of these documents show that in the 1950's DOD recommended less stringent safety standards than those promulgated by the AEC. Other documents have shown that when safety standards for atomic tests were left up to DOD, greater radiation exposure was allowed than when AEC standards were employed. It is understandable that some Government officials consider such records to be of a "sensitive nature," but that does not mean that their declassification would jeopardize national security.

I am convinced that there are hundreds of documents similar to those I recently received that contain no critical national security information; those documents should be made available to veterans and survivors making claims for veterans' benefits.

Accordingly, I have written Defense Secretary Harold Brown, Energy Secretary James Schlesinger, Administrator of Veterans' Affairs Max Cleland, and Secretary of Health, Education, and Welfare Joseph Califano, on May 16, 1979, specifically requesting the following:

First, that Secretaries Brown and Schlesinger begin an immediate, systematic review of all records spanning the 18 years of atmospheric nuclear weapons tests. I ask that, in every case where declassification will not jeopardize national security, this information be made available to veterans who were ordered to participate in nuclear weapons tests and now suffer disabilities that might be related to that participation.

Second, that Max Cleland direct the VA to adopt and publish claims processing standards that would facilitate presentation of this type of claim, and to request records from DOE and DOD that might be helpful to a claimant but are unavailable to individual veterans. Such records include radiation exposure records maintained by a DOE contractor, Reynolds Electrical and Engineering Co.—REECO—and records currently being reconstructed by DOD of each weapons test indicating the dose of radiation an individual probably received.

Third, that DOD initiate a new project to reconstruct each weapons test to provide an estimate of radiation exposure based on general geographic areas rather than the apparent precise location of the participant at the site. The geographic reconstruction is an attempt to minimize some of the errors created by using imprecise data to perfrom what purports to be a precise, individual reconstruction.

Fourth, that the VA make routine use of these geographic reconstruction records as well as REECO records and individual exposure estimates to gain the exposure estimate most favorable to the claimant's case.

Fifth, that HEW do everything possible to expedite the crucial follow-up study by the Center for Disease Control (CDC) in Atlanta, Ga., of approximately 3,300 service personnel who participated in the 1957 Smoky test in Nevada and to cooperate with and support the follow-up study on participants being conducted by the National Academy of Sciences.

Mr. President, I ask unanimous consent that the texts of these four letters be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibits 1, 2, 3, and 4.)

Mr. CRANSTON. Mr. President, I have been working with veterans and their survivors for the past 2 years to try to help them obtain equitable treatment from the Federal Government regarding their claims based on atomic test participation. This experience has convinced me that there are significant improvements that can and should be made in the process for handling these claims. It is my hope that these hearings will provide the committee with valuable information about the problems experienced by veteran nuclear test participants and their survivors in making these claims and about the ways in which the VA can better fulfill its obligation as required by VA regulations—38 CFR 3.103 (a) and (c)—to assist claimants in developing and presenting their claims. I think we have a moral obligation to make sure these individuals have a full and fair chance to secure entitlement to all benefits that they may be owed.

Anyone interested in testifying at the June 20 hearing should contact Dr. Gerald Charles at the Committee on Veterans' Affairs at 224-9126.

EXHIBIT 1

COMMITTEE ON VETERANS AFFAIRS,
Washington, D.C., May 16, 1979.

Hon. MAX CLELAND,
Administrator of Veterans' Affairs,
Washington, D.C.

DEAR MAX: I have serious concerns about the adjudication of claims from veterans who allege they suffer from problems resulting from exposure during service to ionizing radiation released by the testing of nuclear weapons. I'm particularly concerned that those veterans not experience undue difficulties in presenting their claims because records regarding their participation in weapons testing are not available to them.

In view of the testimony of Administration officials at recent Congressional hearings regarding the withholding of health risk information from test participants and the public and the lack of systematic follow-up studies of veteran nuclear weapons test participants, there can be no doubt that the Federal government has a moral obligation now to do everything possible to facilitate the claims of veterans alleging radiation exposure from nuclear weapons testing.

In this regard, I've written to Secretary of Defense Brown and Secretary of Energy Schlesinger urging them to direct that a search be made for any documents relating to Service personnel participating in weapons testing with the view of declassifying those documents or parts thereof that no longer are vital to preserve national security. I've also urged them to review, for possible declassification, any documents that are currently classified that may help in reconstructing weapons tests and thus allow better judgments to be made about a veteran's claim when that individual's Service medical or personnel records are either lost or destroyed. I feel that these actions would measurably improve the adjudication process in circumstances where incomplete data hamper the claimant's presentation of a claim for disability. I've also written to Secretary of Health, Education, and Welfare Califano regarding the need for top priority to be assigned to completion of studies of the effects of radiation exposures during weapons tests.

The purpose of this letter is to urge that, when each claim based on radiation from nuclear weapons testing is submitted to the Veterans' Administration, you direct that everything humanly possible be done by the VA to gather data from sources that may be unavailable to an individual veteran that would serve to document or refute that veteran's claim of participation in and radiation exposure from the weapons testing program. Part of this, routinely, should be a VA request to the appropriate Service of the Defense Department or appropriate agency of the Department of Energy, including its contractor Reynolds Electrical and Engineering Company (REECO), for pertinent participation and radiation exposure records in each case that alleges disability due to radiation exposure.

At the same time, I think it important to keep in mind that there are many instances where a veteran submitting a claim may, in fact, have participated in weapons tests yet may not have been issued an individual film badge or dosimeter and thus not have an individual record available. In addition, there is the problem created by the loss or destruction of individual exposure records. Thus, I also urge you to reaffirm the premise that claims by veterans be granted in cases where there is reasonable doubt. I think that this criterion should be particularly applicable in deciding the issues of participation and exposure level.

In this connection, I urge the VA to adopt and publish the following standards with respect to these issues:

1. On the question of participation, an absence of Service record or even a Service record explicitly placing the veteran elsewhere will not be conclusive. Rather, affidavits from known paricipants will be encouraged and may, in individual cases, be sufficient to rebut the presumption created by the records.

2. On the question of radiation exposure level, as set forth in my letter to Secretary Brown, the presence or lack of concrete records should be the beginning rather than the end of inquiry. If there is no concrete exposure reading or even if there is one, since there is substantial scientific doubt about the validity of many readings, the veteran should, at the veteran's option, receive the benefit of the doubt in terms of all available estimates of possible exposure levels; that is, whichever is highest should prevail—a dosimeter or badge reading; a specific individualized reconstruction when no specific such reading is available; or a generalized geographical reconstruction.

In view of the reasonable doubts about the accuracy of participant records and individual exposure records as well as the efforts to reconstruct specific exposures from records whose very accuracy is open to question, I believe strongly that such policies are dictated by the Government's moral obligation to those who were deliberately placed in an unknown peril without later efforts to determine or mitigate the risk.

I know you share my concern that we work together to provide veterans the benefits to which they are entitled, and I know you will likewise give your full consideration to the matters discussed above.

In this connection, I have scheduled a hearing before the Committee on Veterans' Affairs for June 20, 1979, on the subject of veterans' exposure to radiation related to weapons testing. Because of the importance of this subject, I am asking that you be personally available to testify at that hearing. (The hearing previously scheduled for June 20 on S. 759, reimbursement to the VA from private health insurers, has been rescheduled for July 25.)

With warm regards,
Cordially,

ALAN CRANSTON,
Chairman.

EXHIBIT 2

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., May 16, 1979.

Hon. JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare,
Washington, D.C.

DEAR JOE: As Chairman of the Senate Committee on Veterans' Affairs, I have serious concerns, as I know you do, about the adjudication of claims from veterans who allege they suffer from problems resulting from exposure during service to ionizing radiation released by the testing of nuclear weapons. I'm particularly concerned that those veterans not experience undue difficulties in presenting their claims because of avoidable delays in completing studies investigating the long-term health effects of exposure to ionizing radiation.

In view of the testimony of Administration officials at recent Congressional hearings regarding the withholding of health risk information from test participants and the public and the lack of systematic follow-up studies of veteran nuclear weapons test participants, there can be no doubt that the Federal government has a moral obligation now to do everything possible to facilitate the claims of veterans alleging radiation exposure from nuclear weapons testing. As you know, the President will soon receive recommendations from the Interagency Task Force on Ionizing Radiation. Included in those recommendations will be those from the Science Work Group on Biologic Effects of Ionizing Radiation, stating that epidemiologic follow-up of groups exposed to ionizing radiation (especially veterans exposed to radiation incident to the testing of nuclear weapons) needs to be completed. Also included will be recommendations from the Work Group on Care and Benefits calling for improving the sources of data available to claimants in developing their cases.

I strongly support the efforts of the Department of Health, Education, and Welfare in carrying out the epidemiologic studies required to try to answer the questions about the long-term health effects of exposure to ionizing radiation due to the testing of nuclear weapons. The study begun by Dr. Glyn Caldwell of the Center for Disease Control on the follow-up of participants at the SMOKY test is, obviously, exactly the type of study that needs to be done in the most expeditious manner in order for rational and just decisions to be made about veterans' claims for atomic radiation-related disability. I urge you to give this study the highest priority to allow for its completion at the earliest possible time.

I also urge you to direct that the highest priority be given to the collaborative efforts that may be required between HEW and the Medical Follow-Up Agency of the National Academy of Sciences (NAS) to allow the timely completion of the large-scale NAS follow-up study now underway—jointly supported by the Departments of Defense and Energy—of weapons test participants. This study promises to provide sorely needed data in relationship to the pioneering work begun by Dr. Caldwell.

I appreciate the Department's initiative in undertaking the crucial SMOKY study. Your strong, continuing support of that study and cooperation with the NAS study will be a significant contribution to solving some of the difficult and complex problems that have accompanied our entry into the nuclear age.

Enclosed, for your information, are copies of letters I have today written to Secretary Brown and Secretary Schlesinger on the subject of veterans' claims for alleged radiation-induced disabilities due to weapons testing and requests for information about safety standards and practices currently employed in the underground weapons testing program as well as a copy of my letter to Administrator Cleland on the subject of veterans' claims for alleged radiation-induced disabilities.

In this connection, I've scheduled hearings before the Committee on Veterans' Affairs for June 20, 1979, on the subject of veterans' exposure to radiation because of weapons testing. I am asking that you be available to testify at that hearing.

With warm regards,
Cordially,
Alan Cranston,
Chairman.

Committee on Veterans' Affairs,
Washington, D.C., May 16, 1979.
Hon. James R. Schlesinger,
Secretary of Energy,
Washington, D.C.

Dear Jim. As Chairman of the Senate Committee on Veterans' Affairs, I have serious concerns about the adjudication of claims from veterans who allege that they suffer from problems resulting from exposure during service to ionizing radiation released by the testing of nuclear weapons. I'm particularly concerned that those veterans not experience undue difficulties in presenting their claims because documents relating to radiation remains classified far beyond the point dictated by the interests of national security.

In view of the testimony of Administration officials at recent Congressional hearings regarding the withholding of health risk information from test participants and the public and the lack of systematic follow-up studies of veteran nuclear weapons test participants, there can be no doubt that the Federal government has a moral obligation now to do everything possible to facilitate the claims of veterans alleging radiation exposure from nuclear weapons testing. As you know, the President will soon receive the recommendations from the Interagency Task Force on Ionizing Radiation. Included in those recommendations will be some from the Work Group on Care and Benefits calling for improving the sources of data available to claimants in developing their cases. In this regard, I am gratified to learn that on May 7, 1979, the Defense Nuclear Agency informed the staff of the Veterans' Affairs Committee that eight documents that I requested be reviewed for declassification would, in fact, be declassified completely or with minor deletions.

I am writing now on three issues. First, I urge you to direct that a complete review be undertaken of all classified documents under your control that describe radiation monitoring procedures, that relate to radiation exposure of participating personnel, or that relate to participation of Service personnel in nuclear weapons tests, with a view toward maximum possible declassification. I'm particularly concerned about those documents that would allow the reconstruction of a veteran's role in the project that led to radiation exposure even if individual dosimetry records were not available for that veteran. I feel it would be tragic for a veteran (or survivor) to have a possibly legitimate claim for compensation denied because records which might elucidate the veteran's participation and possible exposure remain unnecessarily classified.

Second, I'm also concerned that available data be used to reconstruct weapons tests so that the participation of Service personnel in those tests may be ascertained. This reconstruction would be particularly important in the instance where a person either was not provided with an individual film badge or dosimeter (as was the case in a number of weapons tests) or where a person's Service medical or personnel records were lost or destroyed. On January 26, 1978, Dr. Donald M. Kerr, then Acting Assistant Secretary for Defense Programs, Department of Energy, testified before the Subcommittee on Health and the Environment of the House Committee on Interstate and Foreign Commerce that the Department of Energy had funded a program to improve the capability of the Reynolds Electrical and Engineering Company (REECO) system of radiation exposure records to store and provide better access to needed information. Dr. Kerr indicated that this program to improve storage and accessibility of the REECO system would aid the follow-up studies of the Center for Disease Control and of the Medical Follow-Up Agency of the National Academy of Sciences. Since I am convinced that these studies should be given the highest priority, I would like you to provide me with a report on the status of the program to improve the REECO system, whether that program is now complete—or if not, when completion is expected, and the amount of funding you have provided to this improvement program. Please include in this report an assessment of the frequency of finding multiple entries for the same individual and what steps are taken by REECO to insure that the exposure readings reported to the VA are, in fact, inclusive of all radiation exposure received by that individual.

Unless you have succeeded in fully consolidating the REECO system and eliminating the possibility of incomplete reporting of exposure readings, I strongly urge you to add to all exposure reports provided to the VA a disclaimer that specifically addresses the limitations in the REECO system. This disclaimer should state what types of ionizing radiation were measured by the techniques used to produce the record (and state what types of ionizing radiation were not measured) and also state whether or not there exists a possibility of multiple exposure readings for this individual.

I've also written to the Administrator of Veterans' Affairs, Max Cleland, to urge him to direct that the VA routinely submit requests to DOE, through its contractor REECO, for information about radiation exposure pertinent to each claim submitted by a veteran alleging disability resulting from radiation exposure due to nuclear weapons testing. A copy of this letter is enclosed. I urge you to direct REECO to respond promptly and completely to these requests for information.

Also enclosed are copies of letters to Secretary of Defense Brown and Secretary of Health, Education, and Welfare Califano on the subject of veterans' claims for alleged radiation-induced disabilities due to weapons testing. The letter to Secretary Brown also requests information about safety standards and practices currently employed in the underground weapons testing program.

Since I'm sure you share my concern about appropriate and just handling of claims in this difficult area, I trust you will direct that a systematic declassification review be undertaken and that you will direct that every effort be made by all parts of the Department to increase the data available to veterans engaged in the claims process.

In this connection, I've scheduled hearings before the Committee on Veterans' Affairs for June 20, 1979, on the subject of veterans' exposure to radiation incident to nuclear weapons testing. I ask that you be available to testify at that hearing.

Third, on a related issue, I wish to express my belief that we must follow only the most conservative course for safety standards and practices employed in our current underground weapons testing program. I believe that your Department must make every effort to promulgate and enforce safety regulations and testing procedures that will minimize the danger of radiation exposure to Service personnel and Federal government employees and contractor employees involved in the present weapons testing program and to inhabitants around the Nevada Test Site who might be exposed to ionizing radiation through inadvertent venting from underground detonations. I'm sure we are in full agreement that there be no repetition of the experience of exposing individuals to ionizing radiation when such exposure could possibly be avoided.

Thus, I am asking you and Secretary Brown for a report on what safety standards and practices currently are employed to minimize the risk of inadvertent venting of radioactive materials at the time of underground weapons testing. In particular, I'd like to know what procedures have been adopted to prevent venting from the Line-Of-Site (LOS) pipe such as happened in the Eagle, Parrot, Diluted Waters, Derringer, Umber, and Hupmobile tests. I would also like to know what safety standards and procedures exist to prevent leaks in the stemming material in the emplacement shaft (as in the Snubber test) and to prevent leaks emanating from the tunnel portal such as happened in the RED HOT, DOUBLE PLAY, and Door Mist tests. Finally, I would like to know what precautions are used to minimize unexpected fissuring of the surface zero area such as happened in the Pike, Alpaca, Tee, Pin Stripe, and Nash tests.

I would appreciate your response at your earliest convenience to all of the above points and requests.

Best personal regards,
Cordially,
Alan Cranston,
Chairman.

Exhibit 4

Committee on Veterans' Affairs,
Washington, D.C., May 16, 1979.
Hon. Harold Brown,
Secretary of Defense,
Washington, D.C.

Dear Harold: As Chairman of the Senate Committee on Veterans' Affairs, I have serious concerns about the adjudication of claims from veterans who allege that they suffer from problems resulting from exposure during service to ionizing radiation released by the testing of nuclear weapons. I'm particularly concerned that those veterans not experience undue difficulties in presenting their claims because documents relating to radiation exposure or an individual's participation in the weapons testing program remain classified far beyond the point dictated by the interests of national security.

In view of the testimony of Administration officials at recent Congressional hearings regarding the withholding of health risk information from test participants and the public and the lack of systematic follow-up studies of veteran nuclear weapons test participants, there can be no doubt that the Federal government has a moral obligation now to do everything possible to facilitate the claims of veterans alleging radiation exposure from nuclear weapons testing. As you know, the President will soon receive the recommendations from the Interagency Task Force on Ionizing Radiation. Included in those recommendations will be some from the Work Group on Care and Benefits calling for improving the sources of data available to claimants in developing their cases. I am gratified to learn that on May 7, 1979, the Defense Nuclear Agency notified the staff of the Veterans' Affairs Committee that all or most of eight documents I had requested be reviewed for declassification purposes would, in fact, be declassified.

I am writing now on three issues. First, I urge you to direct that a complete review be undertaken of all classified documents under your control that describe radiation monitoring procedures, that relate to radiation exposure of participating personnel, or that relate to participation of Service personnel in nuclear weapons tests, with a view toward maximum possible declassification I'm particularly concerned about those documents that would allow the reconstruction of a veteran's role in the project that led to radiation exposure even if individual dosimetry records were not available for that veteran. I feel it would be tragic for a veteran (or survivor) to have a possibly legitimate claim for compensation denied because records which might elucidate the veteran's participation and possible exposure remain unnecessarily classified.

Second, I am concerned that available data be used to reconstruct weapons tests so that the participation of Service personnel in those tests could be ascertained. This reconstruction would be particularly important in the instance where a person either was not provided with an individual film badge or dosimeter (as was the case in a number of weapons tests) or where a person's Service medical or personnel records were lost or destroyed. On February 14, 1978, Vice Admiral Robert Monroe, Director of the Defense Nuclear Agency, testified before the Subcommittee on Health and the Environment of the House Committee on Interstate and Foreign Commerce that you had ordered the various Services to begin working on such reconstructions on January 28, 1978.

It is my understanding that such reconstructions will be used by the Medical Follow-Up Agency of the National Academy of Sciences in the large-scale epidemiologic study jointly funded by DOD and DOE. Since I am convinced that this study should have the highest priority, I would like you to provide me with a report on the progress of these reconstructions. In particular, I would like to know the status of each Service's efforts to reconstruct personnel rosters and when each Service will complete the reconstruction of the personnel rosters required for the Medical Follow-Up Agency's study.

I've also written to the Administrator of Veterans Affairs, Max Cleland, to urge him to direct that the VA routinely submit requests to the appropriate Service of the Defense Department for reconstruction data pertinent to each claim submitted by a veteran alleging disability resulting from radiation exposure due to nuclear weapons testing. A copy of this letter is enclosed. I urge you to direct each Service to respond promptly and completely to those requests for information. In addition, I would like to know what difficulties, if any, would be entailed in the Defense Department's completing and transmitting to the VA, upon such a request, an individual reconstruction of the veteran's likely exposure (where no concrete exposure record is available). I assume that this would entail a deviation from the sequential reconstruction process. Moreover, I strongly suggest consideration of developing a methodology immediately for the assignment of general geographic exposure possibility levels for large geographic areas, derived from the best available concrete records in connection with each weapons test. Each veteran would thereby have available a generalized reconstruction which the VA would, as part of this suggestion, at the veteran's request, treat as conclusive evidence of the level of exposure—whether or not a more specific exposure reading or reconstruction were available.

Also enclosed are copies of letters to Secretary of Energy Schlesinger and Secretary of Health, Education, and Welfare Califano on the subject of veterans' claims for alleged radiation-induced disabilities due to weapons testing. The letter to Secretary Schlesinger also requests information about safety standards and practices currently employed in the underground weapons testing program.

Since I'm sure you share my concern about appropriate and just handling of claims in this difficult area, I trust you will direct that a systematic declassification review be undertaken and that you will direct that every effort be made by all parts of the Department to increase the data available to veterans engaged in the claims process.

In this connection, I've scheduled hearings before the Committee on Veterans' Affairs for June 20, 1979, on the subject of veterans' exposure to radiation incident to nuclear weapons testing. I am asking that you be available to testify at that hearing.

Third, on a related issue, I wish to express my belief that we must follow only the most conservative course for safety standards and practices employed in our current underground weapons testing program. I believe that your Department must make every effort to promulgate and enforce safety regulations and testing procedures that will minimize the danger of radiation exposure to Service personnel and Federal government employees and contractor employees involved in the present weapons testing program and to inhabitants around the Nevada Test Site who might be exposed to ionizing radiation through inadvertent venting from underground detonations. I'm sure we are in full agreement that there be no repetition of the experience of exposing individuals to ionizing radiation when such exposure could possibly be avoided.

Thus, I am asking you and Secretary Schlesinger for a report on what safety standards and practices currently are employed to minimize the risk of inadvertent venting of radioactive materials at the time of underground weapons testing. In particular, I'd like to know what procedures have been adopted to prevent venting from the Line-Of-Site (LOS) pipe such as happened in the Eagle, Parrot, Diluted Waters, Derringer, Umber, and Hupmobile tests. I would also like to know what safety standards and procedures exist to prevent leaks in the stemming material in the emplacement shaft (as in the SNUBBER test) and to prevent leaks emanating from the tunnel portal such as happened in the Red Hot, Double Play, and Door Mist tests. Finally, I would like to know what precautions are used to minimize unexpected fissuring of the surface zero area such as happened in the Pike, Alpaca, Tee, Pin Stripe, and Nash tests.

I would appreciate your response at your earliest convenience to all the above points and requests.

Best personal regards,
Cordially,

ALAN CRANSTON,
Chairman. ●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON HEALTH AND SCIENTIFIC RESEARCH

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Health and Scientific Research of the Committee of Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, June 2, to consider drug reform legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUTRITION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Nutrition Subcommittee of the Committee on Agriculture, Nutrition and Forestry be authorized to meet during the session of the Senate on Thursday, June 14, 1979 beginning at 2 p.m. to hold a hearing on the increase of funding for the food stamp program for fiscal year 1979.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE NEED FOR NUCLEAR POWER

● Mr. JEPSEN. Mr. President, Mr. Horace Webb of Cedar Rapids, Iowa, recently wrote an article for the Cedar Rapids Gazette on the issue of nuclear power. Mr. Webb points out that the Iowa Utility Association has done a study projecting Iowa's energy needs through the year 2000. This study strongly supports the view that nuclear power is the most economical means of generating the electricity that Iowa needs. For example, the fuel cost of generating electricity from Iowa Electric's nuclear plant is approximately three-tenths of a cent per kilowatt hour as compared to a fuel cost of electricity produced from coal of 1.85 cents per kilowatt hour.

Mr. President, in my mind there is no doubt that the United States will have to expand the use of nuclear power, and the longer we put off the commitment the more serious the power shortages will be in the 1980's and 1990's. We are almost at the limit to coal use for electricity-generation; there is just no way of physically moving the enormous quantities of coal needed. Transportation costs already add close to 25 percent to the cost of coal to utilities and our railroads are being stretched to their limits delivering this coal. Furthermore, environmental regulations are adding so substantially to the cost of building new coal-fired generating plants that they cost about as much as a nuclear plan.

There is one last point I would also like to raise: I agree with the critics of nuclear power that it makes no sense to expand nuclear power until the waste problem is solved. This is why I support the breeder reactor. The breeder reactor, combined with reprocessing plants, can use up the vast bulk of what today is called nuclear waste. Most of this so-called waste is actually usable fuel if reprocessed and used in a breeder reactor. Thus the breeder would reduce the physical quantity of waste requiring permanent disposal by about 97 percent. Moreover, the breeder increases the quantity of energy which can be obtained from a given amount of uranium by more than 70 percent.

Mr. President, I ask that an article by Mr. Horace Webb regarding the risks and benefits of nuclear power be printed in the RECORD.

The article follows:

[From the Cedar Rapids Gazette, May 23, 1979]

Nuclear Power: A Pocketbook Issue of Benefit Exceeding Risk

(By Horace S. Webb)

Even before all the facts are known, the recent accident at the Three Mile Island nuclear generating station near Middletown, Pa., has caused a loss of confidence in nuclear power. With impressive speed, anti-nuclear activists staged a massive demonstration in Washington, D.C., which was immediately compared in size and magnitude to the demonstrations of the Vietnam War era. At least three such demonstrations have been held in Cedar Rapids.

The polls, however, show that a majority of Americans still support nuclear power, and with good reason. Coal and nuclear are the only fuels that will be available to supply projected electricity needs for the next 20 years.

The demonstrators called for the government to close all nuclear power plants. President Carter was swift in responding the day following the rally by telling protest leaders that it was out of the question to peremptorily shut down all nuclear power plants in the country. He cited the city of Chicago as receiving one-half of its energy from nuclear sources, but he could just as easily have pointed out that customers of Iowa Electric Light and Power Company receive 48 percent of their electricity from the Duane Arnold Energy Center at Palo.

One of the protest leaders told Mr. Carter that the demonstrators were not interested in shutting down Chicago, or presumably, a significant portion of the state of Iowa. This causes one to pause and wonder whether those who advocate the closing of nuclear power plants have taken the time to consider the consequences if their demands were granted.

The Iowa Utility Association (a group composed of all the investor-owned municipals and rural electric cooperatives in the state) recently commissioned a study of the electric power needs by Iowans between now and the year 2000. The study results are worthy of consideration when taking a position on the nuclear issue.

The study determined that electric generating capacity will need to be tripled in the next 20 years if electric utilities are going to meet the needs of the people of this state. Total capacity presently stands at approximately 6,900 megawatts, and it is projected electric generating capacity will need to be increased to 20,600 megawatts by the year 2000.

The study also showed that in order to meet these needs by a means that would result in the least cost to the consumer, 53 percent of that capacity would have to be derived from nuclear power, 31 percent from coal and 16 percent from oil. Currently only about 19 percent of the state's electricity comes from nuclear sources.

It is all but impossible to expand Iowa's ability to produce electricity from nuclear sources by 34 percent by the year 2000. It takes 12 to 14 years to put a nuclear plant in operation. Since utilities are currently required by the state to meet projected energy needs, more power plants will have to be built using coal than the Generation Study's computer model calls for. The result: Iowans will pay escalating costs for electricity in the future.

One can see why by looking at fuel costs. The fuel cost of generating electricity from Iowa Electric's nuclear plant is approximately three-tenths of a cent per kilowatt hour, while the fuel cost of electricity produced from coal is 1.85 cents per killowatt hour. Since the fuel cost represents about one-third of an electric bill, it is not difficult to figure out that if more coal is used to generate electricity, there will be a significant effect on cost.

The nuclear debate will go on for a while. Governor Brown of California has promised to make it an issue in the 1980 presidential election campaign. But caution should be his byword because Americans are becoming more knowledgeable on the nuclear issue. Three Mile Island has seen to that. And the first lesson that a politician should learn is that an informed public will not fall for empty rhetoric.

Americans now know: That electricity does not just happen; machines make it. That as complicated as it may be, a nuclear power plant simply boils water to make steam which is used to turn a turbine to make electricity. That there is a fair understanding of the difference between a pressurized water reactor where the water does not boil above the reactor core and a boiling water reactor where it does. That the reactor is contained in a steel vessel with walls up to eight inches thick. And that to further contain radioactivity caused by the nuclear reaction, the reactor is contained in a shell whose concrete walls are up to eight feet thick.

Americans are also learning something about radiation. Amid the knowledge that uncontrolled exposure to radiation can cause cancer and death comes the realization that we live with radiation each day. Persons living the state of Iowa receive 150 to 200 millirems of radiation each year. This radiation comes from the ground, from buildings and directly from the sun. The same radiation that many fear is used to prolong the life of cancer victims and to successfully treat patients with maladies of the thyroid.

Americans are also learning that there is a risk in not having enough electric energy since there is a direct correlation between energy and jobs. A look at the economic indicators between 1973 and 1975 will bear this out.

In 1973 the industrial production index stood at 125.6. At the end of 1975 it dropped to 113.8. During the same period total energy consumption in trillions of BTUs fell to 71,078 from 1973's high of 74,743. Total unemployment followed right along, increasing from 4.9 percent in 1973 to 8.5 percent at the end of 1975.

The politicians who would take advantage of the current fear of nuclear power should take heed. They should learn that the benefits of providing abundant electric energy from nuclear fuel to a growing America far outweigh the risks.

The nuclear debate will have to be resolved within the next year or so. The streets of Washington, D.C., and cities across the country will be active with those on both sides of the issue, as will the halls of Congress and the state legislatures. But in the final analysis, the debate will be resolved in the pocketbooks of the people.●

GASOLINE SHORTAGE AFFECTING TOURISM

● Mr. STEWART. Mr. President, each of us is painfully aware of the gasoline shortage. We are devoting a great deal of time and energy to ascertaining the reasons for this shortage. While Congress is arguing and fighting with the administration over the problem, the impact continues to be severe. A recent letter from one of my constituents, Mr. John Kettenhofen, does an excellent job of illustrating how the shortage is hurting the tourism industry in Mobile, Ala. Tourism, a major part of the economy of Alabama as well as other States, is feeling the initial thrust of the fuel shortage. If this Government and this Nation cannot come together to resolve the energy crisis, many other segments of our economy will also begin to suffer.

Mr. President, I ask that this letter be printed in the RECORD.

The letter follows:

RODEWAY INN,
Mobile, Ala., May 16, 1979.

Senator DONALD STEWART,
Russell Building,
Washington, D.C.

DEAR SENATOR STEWART: As a concerned manager of a motel in Mobile, Alabama I would like to submit the following information.

1. Motel occupancy in Mobile is down 10–20% from this period last year and appears to be on a continuing downward spiral.
2. Food and beverage sales are also down with a like percentage decrease.
3. Tax monies generated through sales are down.
4. Employment due to decreased sales is lower than last year.

Through my personal conversations with managers in Alabama, Georgia, Florida, Texas and Missouri it would appear to be applicable to other areas as well.

It would seem that we are rapidly approaching another catastrophe such as occurred in 1973–74 with respect to the hospitality industry when many motels and hotels closed due to lack of business.

As the travel industry in Alabama generated in excess of 1.73 billion dollars in revenue for 1978, with direct tax collections in excess of 66 million dollars a potential loss of tax revenue of $9,900,000 can be expected due to a 15 percent reduction in business, which has already occurred.

The 1.73 billion dollars brought into our state amounts to the annual wages of 288,000 service workers or slightly less than the population of Mobile County, the second largest county in Alabama.

As the report prepared by the University of Auburn is based on automobile traffic only, these figures are below the actual revenues generated.

Consideration must also be made for the increase in unemployment benefits and public assistance payments, for those out of work, when you consider loss of revenues.

While I do not attribute this to the gas problem in total, I do believe that the gas situation coupled with the inflation could lead to a tremendous problem this summer that would affect our community and state.

It is my understanding that the decrease or dropping of government controls, as they pertain to the oil industry, is under consideration. I would like to support the deregulation and oppose rationing as it appears they would not offer any solution to the problem, but rather contribute to it.

In discussing this issue with my fellow managers throughout the industry they are in agreement with this.

I would like to thank you in advance for your consideration in this matter and also for taking your time to discuss same.

Respectfully yours,
JOHN KETTENHOFEN,
General Manager.●

ECONOMIC DEVELOPMENT OF MEXICO

● Mr. GOLDWATER. Mr. President, those of us from Arizona have long recognized the importance of industrialization and economic development of Mexico. To this end we have long urged the Government of the United States to facilitate this development through international cooperation with our good neighbor. Now that Mexico is on the verge of becoming an important exporter of petroleum, a new understanding between our two countries is more urgently needed than ever before. Recently an excellent speech on the subject of Mexican development was delivered by Mr. Gilbert F. Bradley, chairman of the board of the Valley National Bank of Arizona.

I ask that Mr. Bradley's remarks be printed in the RECORD.

The remarks follow:

REMARKS ON MEXICO

(By Gilbert F. Bradley)

The high profit level you just heard about in our bank is a result of all of us working together in a state economy that has been very prosperous. We tell that story frequently—the story of Arizona's growth, its strong economy and many natural attractions.

Rather than centering our entire attention on Arizona this year, we decided to do something a little different. Valley Bank and our state have enjoyed a profitable relationship and good neighbor policy with Mexico for years.

Since Mexico has been in the headlines lately, we thought it would be timely to talk a little about our neighbor. In Arizona, we've long been aware of that country's importance to us, but recent events there have brought it forcefully to the attention of the rest of the country and to the entire world.

Everyone in this country now knows, or should know, that Mexico will have a strong influence on our future. All along the border, our attention is turning more and more toward our neighbor to the south. Mexico's economy is bursting into an expansionary phase that their government will try to keep within the bounds of the two-year consolidation period written into its economic game plan.

President Jose Lopez Portillo is a strong leader and he will be faced with many challenges. It will be necessary for him to focus on the pace and distribution of his country's burgeoning growth. So far, the President seems to be emphasizing judicious public spending and private sector incentive to strengthen the industrial base and boost agriculture, thus creating new jobs.

The hallmark of the present administration appears to be a conservative pro-business stance.

The rest of this century will see Mexico emerge, not just as a leader of Latin America, but very probably as one of the world's most progressive and influential countries. As that happens, its influence on our state, our economy and our bank is sure to grow.

Your management felt that you, as stockholders of Valley Bank, would be interested in some remarks about Mexico for at least three reasons. First, Arizona was once a part of that country and much of our history and culture comes from there. A significant number of Arizonans have their roots in Mexico. There is a daily flow of people and ideas across our common border.

Second, strong economic ties have always existed between Mexico and Arizona and many Arizona businesses conduct an important share of their business activities within that country.

And third, it is appropriate to discuss Mexico here today because this bank, for over thirty years, every day and as a matter of normal routine, has transacted business with Mexican bankers and businessmen. In the process, our bankers have accumulated a depth of knowledge which we think entitles us to make some observations that may prove useful to others.

I was personally involved in our Mexican business over a long period, first as manager of our border branch at Nogales, and later, when I was in Tucson for many years. Tucson is an important center of Mexican relations.

During the past couple of years I have also had the opportunity to renew old acquaintances at Mexico City during the inauguration ceremonies for President Lopez Portillo and a little later in Mexicali at the inauguration ceremonies for Governor Roberto de la Madrid—Governor of Baja California.

In visits into Mexico you pick up a feeling of enthusiasm and optimism.

Something should be said about the nature of our bank's business with Mexico. Our lending policies there have never been restrictive. We lend money in Mexico much as we do in Arizona. For many years, we have loaned to Mexican industry and agriculture, to commercial activities of many types, to the public and private sectors, to commercial banks and to government agencies.

If it is a sound loan for a constructive business purpose and within the regulations and policies of the Mexican banking and financial authorities, it is of interest to the Valley Bank. Our Mexican loans are both big and small. Our customers are located in industrial centers such as Monterrey, Guadalajara and Mexico City and in smaller cities like Cd. Obregon, Hermosillo and Culiacan. Our officers call on their Mexican colleagues in the small towns and at the central bank, and can be found examining produce fields in Sinaloa and cattle ranches in Sonora.

Our border branches have traditionally looked at the cities on both sides of the line as one large market area and have proceeded to develop the market accordingly. Those branches make consumer loans to customers in Mexico and I am sure you will all be interested to know that the delinquency record for these loans is excellent—as is the bank's entire portfolio.

By far, the largest share of our activity is in commercial loans, and here again our experience in Mexico has been outstanding.

Your bank has loaned money over the years directly to the Mexican Government Agencies. These lines of credit have been set up to finance agriculture, public works and foreign trade. We were lending to Pemex, the Mexican oil company, long before it became fashionable to do so and we are actively involved at the moment in financing the development of the Mexican oil industry, through both supplier credit and direct loans.

This business, plus our normal commercial and border business, generates substantial deposit activity and serves to fund the lending activities I have referred to. The reputation of your bank attracts customers from far beyond the borders of Arizona, and our many years of doing business with Mexico makes us widely-known there.

We think the variety of our experience with Mexico gives us an insight into its economic and financial affairs that is shared by few foreign bankers.

In an effort to provide a broad overview, I'll mention some highlights and give you a few figures to support my statements regarding Mexico's growing influence and importance.

The basic fact about Mexico that must come at the beginning of any discussion of that country is the sheer weight of its young and rapidly growing population. It is now about 68 million and will be 100 million well before the turn of the century. The annual growth rate is approximately 3.2% compared to .8% in the U.S.

For a number of years before the mid-seventies the Mexican gross domestic product had been expanding at a percentage rate more than double the population growth rate, and at a higher percentage than the U.S. economy.

The annual increase began to drop noticeably in 1974. It reached a low point of 2% in real terms in 1976, which meant a decline in the per capita gross domestic product for that year. In 1978, the growth rate was back up to 6% and will probably be higher this year. The government is planning an annual growth rate of 8 to 10% over the next several years.

So, Mexico's economic growth has been very good, but the rapid population increase has kept unemployment and underemployment extremely high. It would not appear that this is going to change very soon. Even the ambitious government goals indicate that the labor force will grow faster than employment for at least several years, so it is imperative that steps are taken internally in Mexico to generate and encourage the necessary capital investments to make available more jobs to more people.

It is clear now that Mexico's recent dramatic announcements of huge oil and gas discoveries will not change these prospects in the immediate future. The government there has very wisely decided to limit the pace of petroleum development to the absorptive capacity of the economy, something Iran failed to do. There is no question but that these discoveries have immensely improved Mexico's long term prospects.

By 1950, many years before Mexico was thought to have more than a modest amount of oil, this bank had begun its participation in Mexico's development through some of its most important industrial groups. We were impressed by the Mexicans' ability to intelligently manage growth in a pre-industrial, developing economy.

There is little likelihood that sudden riches will change their progressive businesslike policies. Without oil, Mexico was faced with very serious problems. With it, other problems arise that are still serious, but they are manageable and of a happier sort.

Two-way trade between Mexico and the U.S. already totals $9 billion. Mexico's oil revenues should help make that increase sharply in coming years. Mexico has understandably been making efforts to diversify its foreign trade, but about 80% of its exports go to the U.S. and around 70% of its imports come from here. Nothing can override the fact that the two countries are neighbors. U.S. and Arizona businessmen and consumers can look to the south with confidence to a growing market and source of supply.

The heavy concentration of Mexican foreign trade between our two countries has had a predictable result. The Mexicans have had compelling reasons to study and understand us. Very recent events have demonstrated the shortcomings of certain segments of the U.S. in understanding them. That is clearly about to change. With the growing shortage of energy in this country, and the probability that Mexico is one of the world's greatest repositories of energy, the balance of dependency will be shifting. There can be no question but that our consciousness of Mexico has already been sharply raised. The present flurry of activity in our government on Mexican matters is proof enough of that.

Certainly, problems exist between the two countries which will continue to exist.

Such matters as illegal immigration and the pricing of natural gas are not easily solved. Reconciling the interests of two countries as diverse as the U.S. and Mexico will take some time.

However, based on our own experience, we know that negotiations can resolve differences to the advantage of both parties if each will make an effort to understand the other's objectives and problems. I am not prepared today to offer solutions to complex problems that have been building for years, but I would like to make a few observations.

1. The industrialization of Mexico is to our benefit as well as theirs. Experience shows that prosperous countries are better customers than poor countries.

Hopefully our government agencies will not erect barriers of the type that might limit the trade now flowing between two countries.

The majority of Mexican industrialists are extremely capable and have proven their ability to attract and generate new capital. This new capital is needed to create employment opportunities.

2. Should certain labor-intensive types of activities lose their importance in this country and begin to put down roots elsewhere, it is greatly to our advantage to have them develop in Mexico rather than in more distant countries.

Our dominant position as Mexico's supplier gives us the advantage in having funds that we spend there largely returned to the United States in payment for Mexican imports—to the mutual advantage of both countries.

3. The export needs of Mexican agriculture must be understood and accommodated. Their growing season is different from ours, and their production can be effectively integrated into our production and consumption patterns.

4. The great attractions of Mexican tourism should be more widely known in this country. In Arizona, many of us have relied on Mexico for some of our recreation for many years. Many U.S. citizens have arranged for second homes along the West Coast of Mexico. However, the proportion of Americans who travel there is still very small. This is particularly important to us in this state. Their attractions complement ours. As their Pacific Coast becomes more developed, economically, agriculturally, and recreationally, Arizona's position as a gateway to Mexico is sure to grow.

5. Arizona has a long history of joint efforts with Mexico. Our schools, professional businesses, cultural and social groups have on-going programs with Mexico. The Governor's Arizona-Mexico Commission is a model with 20 years of experience that has much to offer other states.

Governments and private groups in both countries should work to expand these programs.

6. Specifically on energy, Mexico will become a major supplier of oil and gas, and the U.S. will continue to be the world's biggest consumer of energy for years to come. This remarkable circumstance is obviously to the benefit of both countries. Mexico does not have to sell its energy resources to us, or to anyone. We could continue to get along, one way or another, without their gas and oil. But we most certainly are going to need gas and oil—and they most certainly are going to need some income to finance the things they want to do.

It would appear that every attempt should be made by both countries to negotiate agreements that will be beneficial to both—the U.S. and Mexico.

Not too many years ago, Arizona was a relatively isolated state and our economy was, to a considerable extent, independent of the national economy. That is no longer true. Distance is no longer much of a factor. Our economy has become integrated into the national and international economies. That same process of integration has been taking place in regard to Mexico. Our great growth and prosperity has benefited them as theirs has us.

Mexico has the resources to build a strong and truly modern industrial economy. As that process moves forward, it will spread increasingly into those areas close to Arizona with great effect on us.

We welcome that prospect, and join our Mexican friends and associates in viewing the future of their great country with excitement and confidence. The border that runs along southern Arizona is not a barrier to better understanding. Developments in Mexico are of great importance to our country, and especially to those areas, such as Arizona, that have the strong ties that come from being a neighbor. Those ties will strengthen in the future. Your bank will continue to take part in that process, and further we welcome others who want to join us in reaching that goal.

Hopefully these remarks will give you the feeling that we believe in the future of Mexico—and as Mexico progresses—we hope to share in that progress.

However—Let me emphasize—

First and foremost at the Valley National Bank—we are dedicated to sustaining the growth and progress of our state of Arizona, and the people who live here.

As our state grows and as our bank grows with it, our horizons broaden—and naturally we become increasingly involved with the areas that surround us.

Thank you for allowing me to share a few thoughts with you.●

NATIONAL CHAMPIONS

● Mr. TALMADGE. Mr. President, I call to the attention of my colleagues two outstanding achievements recently earned by the Valdosta (Ga.) State College Blazers baseball team and the Middle Georgia College Warriors baseball team of Cochran, Ga. These teams won national championships in their respective divisions.

We in Georgia are extremely proud of our institutions of higher learning, both academically and athletically. These latest accomplishments by Valdosta State College and Middle Georgia College on the field of nationwide athletic competition make us even prouder.

Coach Tommy Thomas' Valdosta State College Blazers compiled a 47-to-12 record on their way to the National Collegiate Athletic Association Division II Championship. It represents the first national championship team Valdosta State has ever had. Several team members were selected to the all national tournament team, including left fielder Frank DeGennaro, who was named the national tournament's outstanding player.

The Middle Georgia College Warriors at Cochran, under the leadership of Coach Robert Sapp, finished their season with a 47-to-9 record. The Warriors capped it off by winning the National Junior College Athletic Association Championship in Grand Junction, Colo. It should be pointed out that donations from local supporters provided the financial assistance that sent the Warriors to the national playoffs. Coach Sapp was selected as the NJCAA Coach of the Year for 1979.

The cities from which these two teams hail, Valdosta and Cochran, as well as the entire State of Georgia, are extremely proud of these two national championship teams. I commend the players, the coaches, and the supporters in helping to make these honors possible. Also, I wish Valdosta State College and Middle Georgia College continued success in their strong athletic and academic programs.●

S. 344: KENTUCKY ADDS ITS ENDORSEMENT

● Mr. STAFFORD. Mr. President, Calvin G. Grayson, the secretary of the Kentucky Department of Transportation, recently wrote to Members of the Senate expressing that State's strong support for S. 344, my bill to grant greater flexibility in the billboard control effort. Mr. Grayson urged "your wholehearted support for Senator STAFFORD's proposal. This Department stands ready to offer any assistance which may be helpful in insuring the proposal's speedy passage and enactment into law." I ask that a copy of this letter be printed in the RECORD.

The letter is as follows:

DEAR SENATOR ——: My staff and I have reviewed legislation introduced by Senator Robert T. Stafford which would amend 23 USC 131, "Control of Outdoor Advertising." Senator Stafford's proposal, entitled the "Federal Highway Beautification Assistance Act of 1979" (S. 344), would create a voluntary program of federally-assisted highway billboard removal. States could remain or withdraw from participation in this Highway Beautification Act program.

The present mandatory billboard removal program, due to statutory and regulatory misinterpretation and special interest group pressure, has become unworkable and totally ineffective. President Carter's FY80 budget recommendation has, in fact, included no appropriation request for the program. Senator Stafford should be applauded for his effort to make the program flexible enough to meet the varying needs of the individual states, and effective in achieving the goals for which it was created.

I would encourage your wholehearted support for Senator Stafford's proposal. This Department stands ready to offer any assistance which may be helpful in insuring the proposal's speedy passage and enactment into law.

Very truly yours,
CALVIN G. GRAYSON, P.E.,
Secretary.●

DIRECT ELECTION

● Mr. BAYH. Mr. President, on April 9 of this year the Subcommittee on the Constitution concluded 4 days of hearings on Senate Joint Resolution 28, the proposed direct election amendment to the Constitution, thereby fulfilling the instructions of a unanimous consent agreement reached in the Senate in mid-March. Several times during these hearings, we heard from opponents of the measure that the chances of an electoral college misfire were very remote, and even if a President were elected without the most popular votes, or the House were forced to decide who should be President, it would not seriously disturb the Nation. I believe that recent history speaks to the contrary.

Mr. President, I would like to place before the Senate an article from Time magazine whose headlines reads, "What If the House Decides?" The article is dated October 11, 1968, and it discusses at some length the different speculative scenarios for selecting the President of the United States should George Wallace have succeeded in winning enough electoral votes to prevent either Nixon or Humphrey from attaining a majority of the electoral votes.

> The outcome could foil most voters' wishes and upset the two-party system * * * A popular vote cliffhanger such as 1960 might well send the election to Capitol Hill—resulting in all sorts of weird possibilities and permutations.

I believe my colleagues will find it interesting to be reminded of the choices and combinations of President and Vice President which were being contemplated by all of us as real possibilities just 11 years ago.

Mr. President, another Presidential election is drawing close. It will be conducted of course, under the electoral college system. Therefore, there are again the possibilities that it will result in the electoral college majority of a President who did not receive the most popular votes, or in the selection of the President by the House of Representatives. Only direct popular election would erase those possibilities.

The Members of the Senate should not forget that the Time headline was not an uncommon one in the media in the late fall of 1968. The chances of an electoral college misfire did not appear to be at all remote, and they caused widespread, serious concern. The Time article ended,

> (T)here is an uneasy feeling that none of these speculations can be totally dismissed. The American electoral system is so archaic and complex that in uncertain times, it is bound to stimulate fantasy and even fear.

Similar articles may be written in October and November of 1980.

Our attitude in the Congress on this issue has been somewhat like the rain soaked fiddler of long ago who spurned the advice of the Arkansas Traveler that he fix his cabin roof when the sun was shining. His disputable logic for doing nothing was that "my cabin never leaks when it doesn't rain." As Harvey Zeidenstein, a professor of political science from the Illinois State University wrote several years ago:

> The Senate must be convinced that its duty is to prevent a potential threat from becoming an electoral disaster. For although the Senate will surely act after the disaster, neither party in the Senate will escape the onus of not voting on a direct election amendment when it should have.

Mr. President, I ask that the Time article be printed in the RECORD.

The article follows:

WHAT IF THE HOUSE DECIDES?

Archaic laws and institutions are often dangerous—a truism that Americans are rediscovering in a rather special sense during the 1968 presidential campaign. They are doing so with the help of George Wallace. The Alabamian is gaining so many votes, says one happy Southern Congressman, that he is now as strong as "50 acres of horseradish." Other Congressmen are appalled at the possible result: the Wallace phenomenon may throw the election into the House of Representatives. The outcome could foil most voters' wishes and upset the two-party system in Congress. To House Majority Whip Hale Boggs, "the idea is absolute anarchy."

The problem is that a presidential candidate needs more than a popular plurality to win the election—he must also gain a clear majority in the Electoral College, which now has 538 electors. The Twelfth Amendment (1804) requires separate electoral votes for President and Vice President. But this originally clarifying rule has long been a potential source of confusion. If the popular winners lack electoral majorities, the House selects a President from among the three candidates who have received the most votes in the Electoral College. The Senate picks a Vice President in the same fashion, but considers only the leading two candidates for that office. Deadlocks are less likely in the Senate, with only two men at issue, than in the House with three. Under the entire system, however, incredible deals and pressures become possible.

The decision has not been referred to Congress since 1824, when Andrew Jackson lost the presidency (he later won it twice) despite having collected 42.2 percent of the popular vote, against 31.9 percent for John Quincy Adams and 13 percent each for House Speaker Henry Clay and Georgia's William H. Crawford. In the Electoral College, Jackson's three opponents denied him a majority. In the House, Clay threw his support to Adams, who thus became President. Though Clay hotly denied Jacksonian charges that he had made a deal, he was soon appointed Secretary of State by Adams. Tempers ran so high that Clay fought a duel with John Randolph, who had publicly vilified the Clay-Adams alliance as "the combination of the Puritan and the blackleg."

UNEASY CONTROL

A similar set-to, if not a duel, could possibly recur this year if Wallace won say, the 47 electoral votes of Alabama, Georgia, Louisiana, Mississippi, and South Carolina. In that case, either Richard Nixon or Humphrey would need 55 percent of the remaining electoral vote to take the election. A popular-vote cliffhanger such as 1960 might well send the election to Capitol Hill—resulting in all sorts of weird possibilities and permutations.

In the House, each state's delegation in a presidential showdown has just one vote—to be determined by a simple majority of the delegation. There are now 29 Democratic-controlled delegations in the House, with 18 controlled by Republicans, and three evenly split (a tied vote in a delegation neutralizes it). Yet 30 delegations are so closely divided that the shift of a single seat in November could change their makeup to Democratic, Republican or neutral. With the votes of 26 of the 50 House delegations needed to choose a President, the G.O.P. could increase its present control from 18 delegations to the required majority by simply electing one new Congressman in each of seven close states and two in another state.

Predicting a House decision is obviously impossible at this point. Even if the Democrats retained control of a majority of the delegations, some individual Congressmen, under pressure from constituencies or conscience, might bolt the party. Many Southern Democrats, whether pro- or anti-Wallace, might turn against the Administration leadership and vote the way their districts did—presumably for the Alabamian.

Speaker John McCormick and Majority Leader Carl Albert insist that House Democrats must stick to the party line, and they are preparing to discipline renegades severely by stripping them of seniority and desirable committee assignments if they fail to vote for Humphrey. House Republican Leader Jerry Ford has cannily avoided making any such threats to G.O.P. Congressmen. For one thing, he knows how much easier it will be for Republicans to pledge their support to Nixon than it will be for all Democrats—particularly Southerners—to promise in advance to back Humphrey. In fact, Ford is prepared to welcome defecting Democrats into the G.O.P. and assign them to new committee posts befitting their talents and seniority. If Ford gets many takers, both liberal Democrats and liberal Republicans may face a new majority of G.O.P. conservatives, many of them Wallacites.

Democrats, Republicans and Wallace partisans are all thinking up speculative election scenarios. One possibility is that neither Nixon nor Humphrey might win an apparent majority of electoral votes in November. Then, between the election and the official balloting of the Electoral College on December 16, Wallace would try to bargain his electoral votes for such concessions as a voice in selecting Cabinet members or Supreme Court Justices. If that fell through, Wallace could still throw his electors to one of the candidates—and loudly claim to have elected that man President.

Another possibility is that Nixon or Humphrey might win the presidency in the House—and then find himself with a Vice President of the opposite party after the Senate has acted. One scenario now current in Washington:

On Nov. 5, Nixon emerges with the most votes, popular and electoral, in the three-man race. Humphrey follows, but Wallace has amassed enough electoral strength to deny both men the presidency. Nixon and Humphrey refuse to bargain for Wallace's electoral votes. The election therefore goes to the House, where the Democrats have retained control of 27 state delegations. At the same time, the Senate meets to name a Vice President. There, the Democrats have retained control, 53 to 47. The rules eliminate the No. 3 candidate—out goes Curtis LeMay, the Wallace running mate. And enough Southern Democrats follow party discipline to elect Edmund Muskie as Vice President. In the House, however, all three presidential candidates are eligible. Southern Democrats, enraged by Humphrey's attacks on Wallace during the bitter campaign, refuse to fall in behind the Minnesotan. Some cross party lines to vote for Nixon, but for days the House remains deadlocked. Thus, in accordance with the 20th Amendment, Muskie is sworn in as Acting President on Jan. 20 and serves "until a President shall have qualified"—conceivably as long as four years, if the House impasse continues.

BIZARRE PLAUSIBILITY

There are other odd—and rather chilling—possibilities. A sample fantasy: The Wallace-LeMay ticket runs second in electoral votes behind Nixon-Agnew. On New Year's Day, the Communist Chinese strike the U.S. in Asia, perhaps in Viet Nam; a tide of reaction floods the nation. The House remains deadlocked on a presidential choice after days of belligerent debate. Wallace supporters scent victory and refuse to bolt to Nixon.

The Senate, meantime, bows to the nation's angry mood and by two votes names Curtis LeMay to be Vice President. With the House still deadlocked on Jan. 20, LeMay becomes Acting President. (If the Senate tied before Jan. 20, Vice President Humphrey's vote would be decisive.)

Should both the House and the Senate remain deadlocked, of course, then, according to the rules of succession laid down in 1947, the Acting President would be 77-year-old John McCormack—assuming that he wins a fifth term as House Speaker.

One New York lawyer argues that even Nelson Rockefeller could wind up in the White House. This theory has a bizarre plausibility. Assume that Wallace carries only four Deep South states with a combined total of less than 43 electoral votes. As one result, both Nixon and Humphrey fail to gain the needed 270 majority in the Electoral College. As another, New York's 43 electors—chosen under Nixon's G.O.P. banner but not constitutionally bound to vote for him—revive old loyalties, cast their ballots for Rockefeller. Heeding the Constitution, the Electoral College sends the names of Nixon, Humphrey and Rockefeller to the House as the three top electoral vote getters. The House, unable to resolve a deadlock between Nixon and Humphrey, turns to a compromise choice—President Nelson Rockefeller.

Impossible? No, but highly improbable. And yet there is an uneasy feeling that none of these speculations can be totally dismissed. The American electoral system is so archaic and complex that, in uncertain times, it is bound to stimulate fantasy and even fear.●

AMTRAK

● Mr. WEICKER. Mr. President, last week, this Congress failed to vote on the proposed Amtrak systems plan which, if fully implemented, will reduce the intercity rail passenger network by 43 percent. The plan, drafted by the Department of Transportation at the request of Congress, was begun and has been carried out during a period when the supply of oil was relatively stable.

Since January 1979, with the collapse of the Shah of Iran, the cutback in Saudi Arabia and the dramatic price increases imposed by OPEC, the energy situation in this country has changed dramatically. I hope we have all begun to realize that this oil shortage is not just a temporary problem. I can assure you that no one is going to just turn on the spigot again and all our problems will disappear.

We are in for a 20-year energy crunch and, like it or not, we are being kicked out of our automobiles. There are not many alternatives available to move people from city to city and into the city centers from suburban areas. Now is not the time to rationalize our intercity rail network. We need no other proof of the increase in public demand for rail service than the ridership figures and the number of inquiries that Amtrak has had over the last 2 months and in particular over the recent Memorial Day holiday. In the Washington Post, Thursday, May 31, 1979, I refer to an article entitled "Travel Record Nationwide on Amtrak Rails" which lays out the statistics: Los Angeles to San Diego service—128,037 riders during May, the all-time record number of passengers carried in 1 month on one line (previous record, during World War II); standing room only on almost all trains in the system; a backlog of inquiries for future reservations of over 1 million. I ask that the article be printed in its entirety in the Record.

Mr. President, now is not the time to dismantle our rail passenger system, and I urge my colleagues to reconsider the need for intercity rail service as one viable alternative to the automobile.

The article follows:

Travel Record Nationwide on Amtrak Rails

(By William H. Jones)

According to conventional wisdom, Americans have given up on passenger trains to such an extent that the rails never again will rival highways for intercity travel.

But this month—not counting Memorial Day—Amtrak carried more passengers between Los Angeles and San Diego than in previous rail history.

Amtrak's San Diegans carried 128,037 riders from May 1 to May 27, breaking an all-time record of 125,000 passengsr carried during the month by the Atchison, Topeka & Santa Fe Railroad during World War II, when rail travel was at the peak.

More, on the 8:30 a.m. departure for San Diego on May 27, all seats were occupied and there were 280 standing passengers, even though Amtrak had attached 12 passenger cars instead of the normal 5.

These new figures, distributed to Amtrak's employes on Tuesday night, point to an unusual situation that has developed in California because of gasoline shortages.

But the new statistics also show a nationwide pattern of sharp increases in rail passenger business in the wake of congressional decisions to permit the Carter administration to begin planning for a 43 percent cutback in Amtrak routes on Oct 1.

According to the ridership figures:

The Memorial Day weekend was one of the biggest on record for Amtrak, although exact data has not been compiled. Standees were reported on 39 trains, and such key stations as the rail hub at Chicago and Union Station here reported heavy loadings on virtually all trains.

Trains with standing space only included Boston-Washington routes and the Hilltopper south of Washington, because of heavy travel to the Kings Dominion amusement park near Richmond.

Last Friday, the Amtrak reservation system contained the names of 200,000 persons seeking future space—90 percent higher than advanced reservations at this time last year. Dollar volume of sales at the five main reservations centers now exceeds $1 million a day compared with $600,000 a year ago, and ticket sales through automatic machines are up 18½ percent.

Amtrak had expected the reservations overload to ease a bit after United Air Lines resumed some of its services Monday but spokesman Joseph Vranich said yesterday that the reverse has happened: Phone volume still is on the increase. Of callers to Amtrak reservation centers last week, 1.4 million got busy signals—a situation expected to be helped this week as 100 new reservations clerks started their jobs after several weeks in training.

Meanwhile, there is no clear indication about the future of Amtrak. Members of the House and Senate are preparing various amendments to Amtrak authorizations bills—all of which plan to keep some trains in business that now are scheduled to be halted after Sept. 30. Final decisions may not be made until late in the summer because pro-Amtrak legislators are counting on a strategy of allowing the energy crisis to demonstrate Amtrak's advantages, especially if gasoline remains in short supply during coming weeks.

According to the Carter administration plan, two dozen trains are due to be stopped and Amtrak plans to post notices on such routes 30 days before discontinuance.

Typical of the support for specific trains now building on Capitol Hill, an aide to Rep. Richardson Preyer (D-N.C.) said this week that Amtrak's Crescent between Union Station and New Orleans may still have a chance for survival if ridership gains continue. The Crescent is among trains due to be stopped under the administration plan.●

THE SPACE TELESCOPE

● Mr. GOLDWATER. Mr. President, we are now on the verge of a completely new development that will change the face of astronomy as we know it and enable our scientists to vastly expand their ability to study and learn about our home galaxy, the Milky Way system and the universal galaxies. I refer to the development of the space telescope which will be positioned in space, hopefully, in 1983 or 1984.

The space telescope, it is estimated, will increase our ability to explore the heavens by a factor of 10 and will greatly enlarge our understanding of the universe about us. This subject was the topic of an unusual commencement address delivered May 19 at the University of Nevada at Las Vegas by Bart J. Bok, professor emeritus of astronomy at the University of Arizona.

Because of its vital interest to the future of space exploration I ask that the address by Professor Bok be printed at this point in the Record.

The address follows:

The Promise of the Space Telescope

With the coming of SPUTNIK and the first manned trips to the moon, astronomy and astrophysics became one of the major new frontiers of physics. In the nineteen sixties the discoveries of quasars and of pulsars were of epoch-making significance. Research work made possible by half a dozen great new telescopes, fitted with the best of sophisicated auxiliary equipment, brought new and remote parts of the universe within our reach. Radio astronomy flourished, X-ray astronomy became a powerful new tool for space research, infrared astronomy and ultraviolet astronomy blossomed forth and gamma ray astronomy made its appearance. Physicists and astrophysicists were presented with lots of fresh evidence regarding the behavior of matter under conditions so extreme that no laboratory on earth could ever hope to realize them. Our cosmic experiments, which we can neither initiate nor control, are carried out on the vast scales of galactic and inter-galactic space. Dying stars do not only produce the super-dense white dwarfs, known since the 1920's, but to them are now added the dense neutron stars, objects with diameters of 40 miles or so, yet with masses 2 or 3 times that of our sun. Black holes are hypothesized as being the cinders of ultimate collapse of dying stars with masses 10 to 50 times the mass of our Sun. Mysterious side effects are observed from gigantic explosions in the nuclei of galaxies. Jets and other by-products of such explosions are observed emanating from galaxies which hitherto had seemed normal, peaceful and quiescent. Small wonder that many physicists became astrophysicists—some of them almost overnight, it now seems.

We are now on the verge of a completely new development that will change the face of astronomy, the Space Telescope. During the closing twenty years of our century, the combination of the Space Shuttle and the Space Telescope promises to produce a revolution of unheard-of magnitude in our knowledge of the universe.

In appearance, the Space Telescope will not be unlike the 90-inch reflecting telescope that was built for Steward Observatory of the University of Arizona during the years 1966 to 1972 when I had the pleasure of serving as its Director. The Space Telescope will be truly the telescope of the future. No astronomer will be at hand on or near the telescope to guide it. Commands will be issued from a ground-based operations control center, which will be in direct communication by radio with a satellite system in space, which will in turn transmit the commands to the telescope's control system. The astronomer, who has been assigned observing time on the Space Telescope will watch what is going on way up there via a complex television system. He will be watching a couple of television screens at a science institute somewhere in the United States. If there is a good-sized Jupiter—like planet orbiting one of the forty-or-so nearest stars, then he may possibly see the little fellow on his television screen and—with luck—so may you all on your television screen at home.

How will the Space Telescope be positioned in space? It will be brought there by one of the five available shuttles—hopefully in 1983 or 1984. The shuttle flying machine has a cargo bay, constructed so that the Space Telescope will fit snugly in it. Then the shuttle—blazing away from earth with its powerful rockets—will go to the appointed spot in space and the Space Telescope will be gently released from the cargo bay to take its place in an orbit about 500 kilometers above the surface of the earth. The screwdriver boys and electronic engineers, who will be on board the shuttle, will check everything and return to earth—leaving the Space Telescope, with its solar panels extended, out in space. The communications satellite will point it in the right direction and give the commands that will place into operation one of the five instruments that will record the light from the stars. These will include a specially designed camera, which by electronic techniques, will take the equivalent of the photographs of distant celestial objects that are produced with the great telescopes on earth, like the ones on Palomar Mountain, or on Mount Hamilton in California, or on Kitt Peak in Arizona. There will also be a spectrograph permanently mounted to record the spectra of the standard galaxies of interest to the astronomers. A special photometer will be installed that will obtain measurements of the brightnesses and colors of these stars and galaxies. All of these instruments will be permanently mounted back of the primary mirror. The telescope can be directed to center the star or galaxy properly either by directing the light to the field camera, which will be at the center of the focal field, or to one of the other instruments a little off to the side. Only one single instrument will generally be used at one time.

Back of the primary mirror, there will also be enough room to house, slightly off-axis, the Fine Guidance System, which will keep the telescope pointing for as long as is needed in the direction of a pre-selected pair of guide stars. Thus it will be possible to compensate for the motion in orbit of the Space Telescope. The Fine Guidance Sensors are a design engineered by the European Space Agency—which collaborates beautifully with our U.S. National Aeronautics and Space Agency (NASA) in many matters relating to the Space Telescope. The Guidance Sensors will keep the Space Telescope locked on the pair of pre-selected guide stars with the almost incredible precision of seven one-thousandths of a second arc—to keep it up, if need be, for ten solid hours!

I could go on and on and tell you about the design and operation of the field camera, the spectrograph, the photometer and their recorders. That would get me into too deep technical matters. However, you may like to know that the information to be gathered will be sent to earth in digital form via the radio communications satellite. Upon arrival of the signals on earth, the digital information will be transformed into pictures that will appear on the TV screens at the earthbound science institute. But rather than lose you all in technicalities, I want to take the few remaining minutes to answer a couple of astronomical questions: The first is: what can a Space Telescope do that a comparable telescope on earth cannot do? And the second is: what sort of new things can we hope to learn about our home galaxy, the Milky Way System, and the universe of galaxies?

To begin, I shall answer the first question. Our atmosphere on earth is a constant source of confusion for the astronomers who use earth-bound telescopes. Even though we may observe from high mountains, 14 to 15 thousand feet above sea level, the atmosphere blurs our telescopic images. There is no atmosphere to bother us when we are 500 kilometers above the surface of the earth. Hence the plan for the Space Telescope is to construct sufficiently precise mirror surfaces so that we may obtain a definition ten times better than the best attainable from earth; the Space Telescope should produce images at focus one-twentieth of a second of arc in diameter! Because of lack of definition, that is lack of sharpness of the images in the focal plane, an earth-bound telescope cannot hope to go beyond resolving stars and the like to better than half a second of arc. With the Space Telescope we should be able to go ten times better, that is reach a definition of one-twentieth of a second of arc. Planets like Jupiter that may orbit nearby star-suns may just come through on our television screens. Or, they should at least become detectable through measurable tell-tale wiggles in the motion of the parent star.

Apart from increased sharpness of definition, there is one further dividend. With the largest earth-bound telescopes now in operation we can record stars as faint as twenty-third magnitude, stars with an apparent brightness one-one hundred thousandths the apparent brightness of the faintest star that we can see with the naked eye on a really dark night in the desert. Since the Space Telescope will squeeze the light from the stars inside a circle with dimensions of the order of one-tenth that observed through our turbulent atmosphere, we may expect to gain up to five additional magnitudes—a factor of one hundred—in the limit of apparent brightness within reach of the Space Telescope. Twenty-seventh, or twenty-eighth apparent magnitude should become observable. Basically we may look forward to observing stars ten times farther out than we can reach from earth.

What sort of new types of research will the Space Telescope make possible? Here is an example: You may have heard that astronomers apply techniques very much like those used by surveyors, who, by measuring from the two ends of a baseline, can find the distance to a church tower on the other side of a river. This sort of technique, in which the astronomer's baseline is twice the distance from the earth to the sun, has given us distances of good precision for stars up to 200 or 250 light years from the sun. The catalog of distances for the stars within 250 light years of the sun and earth represents the foundation for distance measurements of remote stars and galaxies. With the Space Telescope we may look forward to go out ten times further, which means that we shall be able to obtain distances with comparable percentage errors for stars to 2000 or 2500 light years. Our radius of exploration is increased by a factor ten, and, since the volume and number of objects within reach go up like the cube of that radius, we can obtain basic precision distances from space for a thousand times as many objects as we can today from earth. Our catalog of basic precision distances will contain ultimately one thousand times as many stars as it has today.

We can obviously go on and on and on listing projects through which the Space Telescope will enlarge our horizions. This is not the time nor the place to do so. For the final couple of minutes of my address, I shall indicate how the Space Telescope may be expected to contribute to the gathering of new information regarding the universe of galaxies.

Most of you will have heard about some of the famous galaxies, like the Andromeda galaxy, which populate the nearer parts of our universe. Their distances are found by detecting in each of half a dozen of these galaxies cepheid variable stars of known calibrated intrinsic brightness. This technique now enables us to find distances to galaxies at distances of the order of two or three million light years from the sun and earth; the Andromeda Galaxy is at about 2 million light years from sun and earth. The Space Telescope is designed to reach these cepheid standard lamps in galaxies ten times as far away as the Andromeda galaxy, that is to distances of the order of 20 million light years. Whereas today we can obtain reliable distances for galaxies 3 million light years from the sun and earth—and somewhat more uncertain distances for galaxies up to 25 million light years away, we shall with the Space Telescope go ten times as far out. Hence we may expect precise distances to 30 million light years and still reasonably dependable ones for galaxies to 250 million light years from the sun and earth.

All of you here today have probably heard about the Big Bang that probably started our universe of galaxies and quasars on its way. As a result of the Big Bang all galaxies are found to be receding from us and from each other. The velocities of recession are measured by the redshifts shown by the spectrum lines observed in the spectra of these galaxies, an approach suggested at the beginning of our century by E. C. Slipher—the First Director of Lowell Observatory in Flagstaff, Arizona. Edwin Hubble and Milton Humason of Pasadena, California extended Slipher's work to more remote galaxies and established the so-called "Hubble Law" of redshift versus distance. At present, we are facing great uncertainty in the value of the "Hubble Constant", which measures the redshift velocity in kilometers per second for a distance of, say, 10 million light years. Most astronomers today would say that 150 to 160 kilometers per second is a good value for the redshift velocity at a distance of 10 million light years from the sun. But I should mention that there are also several reputable astronomers who favor a value twice as large—in the range 250 to 300 kilometers per second. Uncertainties in the distances lies at the bottom of it all. At present we cannot resolve the dilemma, for we have no way of fixing the distances of remote galaxies with precision. The Space Telescope will fix that—we hope—and we firmly expect.

One of the big questions we are facing today is whether the universe will continue indefinitely to expand, or whether, perhaps, the expansion will gradually slow down sufficiently to make the universe ultimately collapse on itself. The Space Telescope, with its unbelievable reach into space, should provide the basic observational data needed to give a firm decision between an ever expanding and an oscillating universe. A well-determined distance scale should do the trick!

And now we turn finally to the most distant objects, faint galaxies, quasars and the like. At present we can detect and study such objects to distances as great as ten billion light years from the sun. We observe these galaxies as they were ten billion years ago. Since the estimated age of the universe since the occurrence of the Big Bang is about 13 billion years, we observe these objects as they must have appeared only three billion years or so after the Big Bang took place. With the Space Telescope, we can look forward to observing with comparable accuracy galaxies that are 20 to 25 billion light years away. What shall we find? Frankly, I do not know and I do not care to speculate at this stage. But it surely will be nice to sit at our television sets and watch the messages from outer space roll in. Brothers and sisters, you ain't seen nothing yet! ●

HUMAN RIGHTS AND U.S. FOREIGN POLICY

● Mr. KENNEDY. Mr. President, the Carter administration deserves continuing support and encouragement for its efforts to advance the cause of human rights around the world. There have been few more challenging tasks in recent years than the effective integration of our human rights policies with our other political, economic, and security interests.

In a recent speech before the Morgan Institute of Human Rights at the University of Cincinnati Law School, Deputy Assistant Secretary of State Mark L. Schneider reviews the progress achieved and the challenges still ahead of his Bureau of Human Rights and Humanitarian Affairs. He underlines the continuing necessity of our human rights efforts, through bilateral and multilateral channels. He observes, and rightly so. that "we can work for an international environment that rejects repression and the denial of human rights. Our advocacy of greater respect for human rights combines our national ideals and our national interest."

I request that this thoughtful and comprehensive statement by Mr. Schneider on our human rights policies be printed in the Record.

The address follows:

ADDRESS BY MARK L. SCHNEIDER

It is a pleasure to be here this evening to participate in the inaugural event of the Morgan Institute on International Human Rights. I have little doubt that this new Institute will complement and enhance the distinguished tradition of the University of Cincinnati College of Law.

I want to thank Professor Jorge L. Carro and your new dean Gordon Christenson, for the opportunity to participate in this event. Also let me express a special word of appreciation to Bill Butler for asking me to participate in the discussions of the future role and work of the institute. Mr. Butler has been a prodding, thought-provoking and dedicated advocate of international human rights for many years. As a former executive committee chairman of the International Commission of Jurists and as President of the American Association of the ICJ, his leadership has earned him the respect of those who work in this field and the gratitude of far more important people, those who are the victims of human rights abuse.

I have no doubt that the Morgan Institute will be an impressive memorial to Urban Morgan and to his father Arthur Morgan. It is especially fitting that the Morgan Institute be affiliated with the University's College of Law. For the law is the most critical tool available to us in pursuing greater respect for the rights of individuals across the globe.

William Spann, the distinguished former President of the American Bar Association stated, "The best and most lasting solution to the abuse of human rights comes from constant unrelenting pressure by lawyers working with media, academics, jurists, clerics and those who for want of a better word, can be called the people."

Legal protection for the rights of the individual against the power of the state is not a new concept. The history of the past several hundred years has seen that concept appear, disappear, and then re-appear in the constitutions of countless nations. The words of Jefferson, "we hold these truths to be self-evident," have been translated into a multitude of languages and awakened others to demand governments which recognized and respected their rights. Yet it is a revolutionary concept.

It is revolutionary as well because for the first time, it is a concept built into a growing fabric of accepted international legal practice. For the past 30 years, a foundation of international law has been constructed which asserts the revolutionary notion that all governments owe basic obligations to their citizens, obligations to respect not only fundamental civil and political liberties but also to pursue minimum economic and social standards as well.

Out of the cauldron of Europe and the Holocaust came a conviction that nations must be held to account and that the silence of the international community could never again be tolerated. A treaty obligation was set forth in the Charter of the United Nations, a structure of law was elaborated in the International Covenants, and an attempt made to establish a network of international monitoring commissions.

Eleanor Roosevelt said of the Universal Declaration of Human Rights that it would "serve as a common standard of achievement for all peoples of all nations." It was the first effort to outline what was meant when the member states ratifying the charter of the United Nations had agreed, jointly and separately, to observe and respect human rights and fundamental freedoms.

The Declaration was the first elaboration of standards. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights followed. In more precise terms, they asserted the right of the international community to be concerned with violations of those standards by individual states. Taken together they comprise an international Bill of Rights whose vitality is increasing with each passing year. President Carter signed those covenants and submitted them to the Senate for ratification.

Side by side with these core covenants, are the Genocide Treaty, the Convention against racial discrimination, the American Convention on Human Rights, and the Helsinki Final Act, documents which again enunciate the legitimacy of international inquiry into governmental respect for individual rights.

No government can flourish any longer a cloak of sovereignty to hide gross and consistent abuses of human rights. That is the revolutionary concept which has been at the heart of the international human rights movement for three decades.

The human rights policy of this Administration rests to a significant degree on the toil and tears of those who have pressed that movement forward, and on the resulting base of international legal norms.

Strengthening these norms and the realization of the rights they define remains a continuing responsibility of the world community.

The human rights policy of this Administration rests on our acceptance of these obligations.

The Carter Administration came to office with determination to raise the priority accorded to human rights concerns in American foreign policy. It was a determination born of our experience over recent years when the Congress and American public opinion press for greater reflection of our domestic values in our foreign policies.

Few can challenge the assertion that this original determination has yielded both a new rhetoric and a new reality to our foreign policy. Human Rights issues have a far higher priority in the design and implementation of American foreign policy than before.

Critics can have legitimate grounds to challenge particular decisions, the tactics chosen in a specific country or the balance accorded to other U.S. interests in a policy review.

But no one can fail to recognize fundamental differences in the visibility of human rights concerns in American foreign policy today.

Instead of funneling support blindly to regimes which have drawn consistent international criticism for human rights abuses, we have a clear record of pressing for democratic values in these countries.

Instead of being identified with minority regimes and opposition to change in Southern Africa, we are today a central player in a difficult effort to promote racial and political justice in that region.

Instead of silently observing the consistent violation of human rights in Eastern Europe and the Soviet Union, we are working for fuller implementation of the Helsinki Accords.

The rights we have promoted are not parochial American values we are foisting on others. They speak to the basic dignity of human beings and are the product of international consensus. Briefly stated, they are:

The right to be free from governmental violation of the integrity of the person;

The right to fulfillment of such vital needs as food, shelter, health care and education; and finally,

The right to enjoy civil and political liberties, freedom of thought, religion, assembly, speech and the press, freedom of movement and freedom to take part in the government.

We view each set as important and have rejected the notion of trading one against the other.

Some have argued that economic development must be the first priority. They assert that political repression is an unfortunate but acceptable pre-condition. President Carter has given our response in his address to the Parliament of India, a nation which has accepted the challenge of both development and democracy.

The President said, "There are those who say that democracy is a kind of rich man's plaything and that the poor are too preoccupied with survival to care about the luxury of freedom and the right to choose their own government."

Others assert that we cannot implement a human rights policy in our foreign affairs until we have resolved the flaws in our domestic performance. We acknowledge those gaps between the promise of our own laws and Constitution and the reality for too many Black Americans, Chicanos, aged and poor among us. For them the gaps that remain loom far more visible than the distance we have traveled to close them. Yet, we admit our shortcomings and are determined to continue the struggle for full justice for all our citizens here at home.

Yet we cannot deny our own role in international affairs while we improve our performance at home. The only question is how we act in the international arena and with what objectives. We believe that we should seek ways to support human rights and democratic principles.

We do so because we have international obligations that demand it of us. We do so because it is in the interest of the United States. And we do so because it is right.

Those who question the standards we apply rarely are interested in a change of definition. What they really want is for the U.S. to stop asking questions about torture and arbitrary imprisonment and denial of freedom. What they want is for the international human rights covenants to remain on library shelves and not on the desks of State Department decision-makers.

We are not going to yield to those demands. We are going to continue to pursue Human Rights as a fundamental aspect of foreign policy. Where there is progress, we are going to try to respond with more cooperative relations. Where there is a failure to progress, we are going to continue to demonstrate that there will be costs in our bilateral relations.

To understand the way we have implemented the human rights policy, I would suggest that there have been three underlying principles.

First, the policy is global, not aimed at a particular country or directed with an ideological motive, but aimed at advancing the cause of human rights in all countries. Second, the policy will not be implemented rigidly or through automatic formulae. The assessment of short-term and long-term objectives and the choice of tactics must reflect the political, social and cultural reality of each country. Third, human rights objectives in U.S. foreign policy are flanked by other fundamental interests as well. Some such as the avoidance of nuclear war go to the very core of our security and the security of all peoples. However, the fundamental change in our analysis is that human rights concerns no longer are at the margins of discussion. They have moved to the center of debate.

There have been a series of concerns expressed about the policy. These concerns are understandable. They have been the subject of some discussion in the press and public. But I believe that the record demonstrates they are largely unwarranted. And so, I would like to address them, one by one.

First, there is a mistaken belief that the policy has been applied selectively and has been directed at some countries while others are ignored. The record demonstrates beyond question that the human rights policy is applied globally. We have raised human rights issues with the Soviet Union and Eastern European countries under the Helsinki Final Act, with Latin American neighbors in the OAS, with our East Asian allies in direct bilateral discussions and in other international forums. We have, in addition, raised the human rights issue on a regular basis with every country with which we maintain diplomatic relations. The best evidence comes from the countries themselves. Both dissidents and governments have acknowledged—the former favorably and the latter at times less so—our inclusion of human rights issues into U.S. foreign policy. The statements of Sakharov and others, and the declarations of groups concerned with political prisoners in Asia, Africa, and Latin America, demonstrate that the U.S. human rights policy is a constant reality. While some governments might prefer that we be less active, the victims of repression urge upon us even more vigorous advocacy.

Second, I would like to mention the problem of consistency. When there are two countries with practically identical human rights situations, the U.S. may not adopt precisely the same tactics. Even in principle, perfect consistency as a goal is neither desirable nor achievable. We must consider the historical and cultural differences among nations in deciding on immediate objectives and the best tactics to obtain them. Besides, human rights, we have other foreign policy objectives. Among them are arms control, including limiting the proliferation of nuclear weapons. These other foreign policy goals are taken into account. The difference from the past is that human rights also are fundamental objectives of our policy. For all of these reasons, some inconsistency is inevitable, if there is to be an effective human rights policy, sensitive to the differences among nations. And I view the alternative to inconsistency—not to take human rights into account at all—as unacceptable.

Failure to take human rights into account not only would be contrary to our values and to our international obligations, it also would be illegal. Congress has enacted a network of laws over the past several years requiring us to take into account of human rights concerns. Therefore, both in our direct bilateral dealings with other nations and in the multilateral fora of the UN and other international organizations, we have raised a little higher the flag of human rights.

In the bilateral sphere, we have used the full range of diplomatic instruments available to us in a graduated and sequential order.

Our preferred method of approach involves private communications from our government to another It is the classic method of "quiet" diplomacy. However, it is not "silent" diplomacy. We have placed human rights issues on the agenda of discussions with Presidents and Prime Ministers. We have made it a matter of priority in conversations with all countries, not a selective few. By raising the level of diplomatic discussion, other governments inevitably reexamine their own practices and calculate anew the costs and benefits, knowing that continued repression will affect adversely the character of relations with the United States.

A second stage may involve symbolic affirmations of our concern through our meeting with opposition political figures or exiled victims of human rights abuses. When Administration officials visit a country, we have insured that there would be visible evidence of our human rights concerns. These officials did not meet only with government officials; they met as well with political opposition leaders and with those who have dared to champion human rights causes in those countries.

A third instrument involves our assistance relationships. Where there is no response to our human rights concerns, both our laws and our policy demand that we examine our aid programs in light of how best to promote human rights improvements. We are required to consider both restrictions on the flow of military and economic resources to governments that violate international standards and incentives to countries which combine the pursuit of development and democracy. Over the course of the past two years, we have halted the transfer of equipment and aid to police forces in several countries. We have reduced aspects of our security assistance program to the armed forces in other countries where they continue to be brutal violations of the integrity of the person.

With regard to economic assistance programs, we recognize that scarce resources are available. Therefore, we examine the allocation of those resources and attempt to channel larger shares of aid to those developing nations that are pursuing human rights improvements. A second element in the review is to insure that, where aid remains in a country with a repressive government, the funds, to the extent possible, go through private voluntary organizations. All other assistance will be directed solely at serving the poorest sectors of those populations, helping to satisfy the most basic human needs.

In the Multilateral Development Banks, reflecting again the law and our own view, we take into account human rights concerns. We have opposed some 52 loans in the international financial institutions to 15 countries that engage in serious and persistent violations of human rights and told other countries that if they brought the loans to a vote we would oppose them.

Each of these decisions is difficult. They are made considerably more complicated by the necessity to be aware of other fundamental interests of the United States. The diversity of history and culture and the different stages of development of individual countries makes the choice of the best approach even more complex. Full intra-departmental and inter-agency discussion and debate precedes these decisions.

As I stated, we have conducted our policy both through bilateral channels and through multilateral efforts.

Part of our multilateral efforts is in the Helsinki process itself. We joined with other Western governments at a review conference on the Helsinki Final Act to outline fully and unmistakably the record of very limited compliance by Soviet and East European countries with the human rights provisions of Final Act and we are now preparing for the Madrid review session with our allies.

At the United Nations, we have pressed for more evenhanded and more active concern for human rights. Although little known publicly, UNESCO has adopted a new complaint procedure which enables individuals to file complaints of violations of their rights in the areas under UNESCO's jurisdiction. Where governments deny their citizens' rights in education and science they are called upon to respond.

At the UN Human Rights Commission which recently concluded its session in Geneva, inquiries were pressed into gross violations of human rights by more governments than ever before, including Nicaragua, South Africa, Chile and Equatorial Guinea, and the first UN report criticizing human rights violations in Cambodia was presented. For the second year in a row, there was consensus to take action under procedures providing for confidential review of complaints alleging systematic violations. Some 10 countries were affected, spanning the ideological spectrum. There also was significant progress toward development of an international convention against torture. Although we have not obtained approval for a proposed UN High Commissioner for Human Rights, we are continuing to press for its creation and the idea is no longer gathering dust.

Our actions at the UN and other multilateral fora reflect our support for concerted international action to press for increased observance of human rights standards. On signing the International Human Rights

Covenants and submitting them, together with the Racial Discrimination Convention, to the Senate for ratification, President Carter emphasized the ultimate goal of an international system of legal standards and enforcement mechanisms to monitor and protect human rights. On December 6 last year the President urged the Senate to ratify the Genocide Convention at the earliest possible date as the first step toward ratification of the other human rights instruments. It is our fervent hope that within the next few months the United States will be able to stand alongside the 83 other nations which have joined in condemning the massive destruction of life which occurred in the Holocaust.

Here let me note there is no more important work in the human rights area than foregoing the political consensus and mobilizing the national will necessary to ratify the Genocide Convention and the Covenants. I am hopeful that the new Morgan Institute on International Human Rights can help in this effort.

Finally, our multilateral efforts in the hemisphere have been aimed at strengthening the work of the Inter-American Human Rights Commission. Its issuance of serious and documented reports on human rights violations in Chile, Paraguay and Uruguay last year were endorsed by overwhelming majority votes of the OAS General Assembly. The Commission itself conducted onsite investigations in El Salvador, Haiti, Nicaragua and Panama. It will conduct a similar visit to Argentina in May.

These actions in the multilateral arena reflect our support for concerted international action to press for increased observance of human rights standards.

We are convinced that the Administration's human rights policy has had a series of positive results over the course of the past two years. First, it has raised international conciousness to the issue itself. Second, it has brought our foreign policy more in line with our own values as a nation, and in so doing, improved our standing throughout the world. Finally, as we noted in the introduction to the Human Rights Report on 115 countries we submitted to the Congress on January 31st, we believe our policy has contributed to an environment that encourages change toward less repressive societies. There is tangible evidence of an increase in world awareness of human rights—from a growing number of governments willing to permit investigations by international human rights groups to the wall posters in Beijing questioning why human rights should be a slogan belonging only to the West.

The past year has seen positive developments in several countries. In Ghana, Nigeria and Thailand significant steps toward the transfer of power from military to civilian democratic institutions were taken. In Bangladesh, Sudan, Indonesia and Nepal, substantial numbers of political prisoners were released. Some releases also occurred in Cuba, Guinea and the Republic of Korea. In Bangladesh, Bolivia, Brazil and Thailand more freedom was extended to the press, to labor organzations and to political parties.

Even in Eastern Europe, despite deplorable human rights conditions in several countries, there have been some developments which can be characterized as favorable. In 1978, for example, the Soviet Union permitted the emigration of more than 30,000 Jews, the highest figure since 1973. Some more forthcoming attitudes from certain other states of Eastern Europe also have produced a growing number of family reunifications.

Having said that, however, one cannot mistake the evidence of repression that degrades the lives of countless human beings in countries across the globe. We know that each dawn brings another day of silence, another day of fear, for millions of human beings.

Our policy and our efforts will never be capable of changing directly those conditions in any given country. But in some countries, at some times, we can encourage the process of change. We can let other governments know that relations with the United States will be affected by what they do. We can stand alongside those individuals who face prison and torture and death when they speak out in search of freedom. We can work for an international environment that rejects repression and the denial of human rights. Our advocacy of greater respect for human rights combines our national ideals and our national interest. We intend to continue that advocacy and are hopeful that these efforts will benefit from the sympathy, support and contribution of the Morgan Institute.

Albert Einstein once wrote, "A large part of history is replete with the struggle for those human rights, an eternal struggle in which a final victory can never be won. But to tire in that struggle would mean the ruin of society."

The struggle goes on. And we are part of it. And I am convinced that the Morgan Institute also will be part of that struggle.●

NATO

Mr. WEICKER. Mr. President, there may be some in this Chamber and outside of it who are unaware that April 18 marked the 30th anniversary of the establishment of NATO.

The George C. Marshall Research Foundation commemorated this occasion with a program of distinguished speakers discussing the historic importance and future rule of NATO.

General Marshall, when serving as Secretary of State, 1947–49, not only launched the plan for European reconstruction which bears his name, but also initiated the efforts which led to signing the North Atlantic Treaty in 1949. This effort, moreover, was genuinely bipartisan in origin, for it was the Republican Senator, Arthur Vandenberg of Michigan, who publicly initiated the discussion by his Senate resolution of June 11, 1948, and it was such notable figures as Robert Lovett, then Under Secretary of State, and Dean Acheson, later Secretary of State, who worked with both parties of the Senate to achieve the final treaty.

NATO has been the cornerstone of our European policy for three decades—a long time in the history of alliances and fruitful cooperation. It still commands the respect and support of Americans in all walks of life and in both parties. It is, therefore, appropriate that the Senate take note of this 30th anniversary commemoration. I ask that remarks made by the distinguished Americans at this occasion be printed in the RECORD.

The remarks follow:

THE GEORGE C. MARSHALL ASSOCIATES DINNER

Chairman: Governor W. Averell Harriman, Trustee, The George C. Marshall Research Foundation.

Speakers: Lieutenant General (Ret.) Marshall S. Carter, President, The George C. Marshall Research Foundation.

The Honorable Lucius D. Battle, Senior Vice President, Communications Satellite Corporation.

Lieutenant General Andrew J. Goodpaster, Superintendent, U.S. Military Academy.

Chairman, Governor HARRIMAN. As we open the program of this dinner commemorating the establishment of NATO, thirty years ago I would like to read from a letter to me from one who wished very much to be with us but whose absence from Washington prevented him from joining this dinner. I refer to the Secretary of State, Cy Vance. After expressing his regrets he then says:

"When Dean Acheson signed the North Atlantic Treaty 30 years ago this month, he put into place what has been the cornerstone of our military and foreign policy since then. It remains the strongest alliance on the face of the globe because it embodies the shared commitment of its members to preserve our freedom and to build a strong peace." In conclusion, he gives us this message: "I can think of no more fitting manner for the Marshall Foundation to honor the memory of General of the Army, George C. Marshall, than to bring together this illustrious group which has contributed so importantly to bringing his dream to reality. With his regards to all."

(Applause.)

I too, if I may, wish to thank you for coming. The Associates have given this dinner now for the fourth year in honor of General Marshall, and we are grateful for your being here and for the support that you have given—not only as Associates but as corporate officers, and in being engaged in the detailed activities, important activities, of the Foundation. Speaking for the Trustees, I want to thank you for being here. We take it as an expression of your continued support, and it gives us heart.

Some of you perhaps remember that in 1959 Sir Winston Churchill, in his eulogy of General Marshall, said: "Succeeding generations must not be allowed to forget his achievement and his example." I can tell you from my intimacy with Sir Winston that there was no American—except, of course, Roosevelt—whom he held more highly in his esteem, whom he admired so greatly, and I think his words give us inspiration. It is for all of us to carry out what he has laid before us. I think all of you are doing well; and as I said, we are grateful.

In addition, we are here today to commemorate, as Cy Vance pointed out, the thirtieth anniversary of the signing of the North Atlantic Alliance, NATO. General Marshall and his Deputy, Robert Lovett, who, of course, is Chairman of the Foundation, were at the very heart of the origination of that conception and, between them, gave a great deal to the early development of NATO.

I am not going to go beyond 1948, because we are going to hear from one of our friends about what happened in NATO from 1949 on.

Of course, it was Dean Acheson who signed the agreement, with the full support of President Truman, and completed the arrangements which have become so important.

There are many here who were vital supporters of the Treaty. And in particular, Senator Arthur Vandenberg, who is, of course, not with us, the Republican from Michigan, who contributed greatly to its origination.

Events were moving rather rapidly in the spring of 1948. You all remember the Czech coup. And then you remember the organization of the Brussels Pact—Britain, France, the Benelux countries, and Italy. They got together for their own self-defense. But, looking from here, we admired their spirit, but we wondered about their strength and ability to defend themselves. And so the idea of our joining an alliance was considered in that spring of 1948. It was agreed that Senator Vandenberg should be the one to announce the idea first, and he introduced in the Senate a resolution, on June 11th, endorsing cooperation between the United States and the Western European countries in matters affecting our mutual security.

Senator Vandenberg, of course, I knew well; and so did General Marshall and Bob Lovett, and worked together with him. He coined an expression which I think we should remember today. We have often talked about bipartisanship in foreign policy, but as I recall it, he said it should be unpartisan. Others say he said nonpartisan. You can have your choice. The point is that partisanship should not be involved at all in considering the security of our nation, which is involved in our foreign affairs and in related questions.

We remember the Berlin Blockade occurred towards the end of June 1948, and that stimulated those who were somewhat doubtful. It was remarkable that by the spring of 1949 the Treaty was signed. But this I will leave to our subsequent speaker to tell us about.

It is also remarkable that after 30 years there still is strong support in America for NATO. I remember at Teheran President Roosevelt told Stalin frankly that he doubted whether Americans would keep troops in Europe more than two or three years. It is now 30 years, and I believe the American people are giving it greater support today than at any time. And the President of the United States has called for an increase in our budget in order to make a greater contribution and we have asked the NATO partners to do the same.

Finally, I want to acknowledge the presence here of certain individuals. There are many that I would like to speak of. First of all I think it is appropriate for me to call attention to the fact that we are honored by the presence of Mrs. Dean Acheson.

(Applause.)

We will hear about Dean's great leadership in a few minutes. But I can tell all of you that she was the one who was standing back of him and was helping at every turn.

And then we are fortunate to have Mrs. Christian Herter. Christian Herter was active in Congress at that time. She too played a role with her husband as few wives have.

(Applause.)

And then we are fortunate in having Mrs. Lucius Clay here tonight.

(Applause.)

She tells me that she is going to Germany where there is to be a thirtieth anniversary on the 12th of May. Remember that day. That was the day when the Blockade was broken by the airlift. And she is going to celebrate with those who participated in that extraordinary event. As American military governor in Germany, General Clay showed courage and determination as few men have in our history in a most difficult situation.

(Applause.)

With his usual energy and determination, he wanted to drive our tanks through to beleaguered Berlin. People forget that we had a monopoly of the nuclear bomb. But Truman never wanted to see that bomb used again and he said No. And so Lucius had the extraordinary imagination of the airlift, and, with considerable British help, Berlin was saved. Stalin didn't dare attack when he found that his bluff didn't work. Lucius called it, and he will be ever famous for that extraordinary achievement.

And then we are very fortunate in having with us three previous NATO Commanders, and I would like to mention them to you.

The first, of course, is General Alfred E. Gruenther.

(Applause.)

Now, I have never served under General Gruenther, so I can't tell you about his abilities. But so many people have told me that he is one of our finest generals that I have come to believe it.

I can say that there are few men for whom I have such deep affection.

And next, of course, is General Lemnitzer.

(Applause.)

As a colonel, General Lemnitzer walked into my office in Paris during the early days of the Marshall Plan. He had been sent to Europe in order to find out what economic ability the European countries had to support a military force, if we were to join. And he was told that if he came to me, I might be able to help him. Well, of course, at that time my office knew more about the economic affairs of the European countries almost than they did themselves. And so I think he spent a good deal of time there. In any event, he was very courteous and he thanked us for it.

And the last one, of course, is General Goodpaster, but I am going to introduce him and I will hold my comments about him until that comes. But needless to say, I knew him when he was a younger officer.

(Laughter.)

And, lastly, we are very fortunate to have the present Chief of Staff of the Army, General Bernard Rogers with us.

(Applause.)

I have had the privilege of talking to him this evening, and he is looking forward to his assignment as head of NATO forces in Europe. He has got a tough job ahead as the Supreme Allied Commander in Europe, and we wish him well. We believe that NATO now continues to be in good hands.

(Applause.)

I want to salute also the Ambassadors who are here of the member countries and other representatives of the NATO allies. We want to wish you a warm welcome and to hope that you will carry the message to your governments that there are many Americans who care deeply about NATO. We are ready to do all we can to support it.

And then we have members of Congress, and particularly I would like to call attention to the fact that we have the Chairman of the House Committee on Internal Relations, my good friend Clem Zablocki. Where are you, Clem? Will you stand up so we can give you a hand.

(Mr Zablocki rose; applause)

I don't think there has ever been a man on the Hill who has given NATO more support than he has, and we respect him for it.

Finally, may I present Lieutenant General Marshall S. Carter. He was one of the closest and more loyal colleagues of all the assistants and admirers of General Marshall. Moreover, he has been determined in support of this Foundation. We all owe him a lot in what he has done to bring the Foundation to its present state of usefulness and activity. He has indeed inspired us.

I am going to ask you, Pat, if you will introduce the ROTC winners who are here tonight.

(Applause.)

Lieutenant General MARSHALL S. CARTER (President, George C. Marshall Research Foundation). Your Program confirms in considerable detail the joint participation of the Marshall Foundation and the United States Army in the George C. Marshall ROTC Award. General Marshall was deeply concerned about the qualities which this award reflects. His dedication to professional excellence was characterized by his insistence on the highest levels of total competence, and this was particularly noteworthy in the leadership that he selected for World War II, many of whom are in this room now, either as General Officers, former officers, or civilians.

His dedication to the quality of leadership was even more profound. His own lifelong, totally selfless service to our nation and to the task at hand certainly must be a shining example for all of us.

He attached great importance to the Reserves, especially during those lean years of neglect prior to World War II when he became Chief of Staff. A substantial part of his career was given to the training of the Reserves. In documents which are still unpublished in the Marshall Foundation Archives there are scores of references to this very personal concern of his, even before he became Chief of Staff. And early in the war, he proudly proclaimed the debt that this country owed to the Reserves, without which we could never have met our national and international responsibilities. Were he alive today, I am sure he would be leading the resurgence of the Reserves, which is so necessary and so essential to this nation right now.

These three military elements—excellence, leadership, and the importance of the Reserves—were brought together in the thinking of the Marshall Foundation and General Bernard Rogers, the Chief of Staff of the Army, to establish the Marshall ROTC Award.

This year we will have our second Marshall Award Conference at Lexington, Virginia, starting tomorrow. The Conference could not be held without the all-out support of the Virginia Military Institute and Washington and Lee University, which, of course, are located in Lexington, Virginia, along with the Marshall Foundation. I would invite all of you, when you have an opportunity, to come to see these fine colleges and to visit the Marshall Foundation.

We are fortunate in having with us this evening the top ten percent of the Marshall Award Winners. Each is the outstanding senior in the Army ROTC detachment of his or her college or university. These young men and women are indicative of the high quality of our cadets in the Army's program in 276 institutions throughout the United States. I would like to ask them and their commanding officer, Deputy Chief for ROTC Affairs, General Daniel W. French, to rise and be recognized by this audience.

(The winners of the Marshall ROTC Awards rose; applause.)

Thank you. The congratulations of the Army and the congratulations of the Marshall Foundation go to each of you. We are delighted you could join us tonight. We wish you every success in the future. (Applause.)

Chairman HARRIMAN. Now we have come to the speeches. And it was decided by the highest authority, Mr. Hadsel, that there should be two this year—since NATO has lasted over a long period. It seemed a very wise thing to have one speaker deal with the early days and the foundation of NATO, and the other speaking about NATO as it exists today and its future.

I have spoken of the year 1948, and it was a turbulent year, as I have described. But back of it was very solid progress that was being made by the Marshall Plan, and so when '49 came, there were the beginnings of a foundation of some economic order in Europe on which to move in the direction of security.

I don't know who was the luckiest or the most fortunate, whether it was Dean Acheson or whether it was our speaker, Lucius Battle. Lucius was Dean's righthand man and contributed greatly to helping that man of great concepts and ideas carry them through. At the same time, I think that Lucius was very lucky to have worked for Dean Acheson, and of course it has been an inspiration for him throughout his life.

But Lucius has his own unusual qualities. He has a certain graciousness which one doesn't always find in Washington, and it gives him an ability to get other people to do what he ask them to do. Not only because of his graciousness, but because of the wisdom of what he says. And that is why I think that Dean was fortunate in having him as his right hand.

Lucius, I have spoken about 1948. I understand that you are going to begin with your remarks in '49. You may go back to '48, if you wish, if I have left out something important. But tell us of those exciting days when NATO was formed.

(Applause.)

The Honorable Lucius D. Battle (Senior Vice President, Corporate Affairs, Communications Satellite Corporation). Thank you very much, Averell.

The last time he and I shared a platform was at the Truman Library several years ago. We were observing on a panel the 25th anniversary of the Korean War. At the conclusion of the panel, a very young journalist came up to me and he said: Are you and Governor Harriman really of the same generation? I said: "Well, in a manner of speaking we are. I reached maturity under him and Dean Acheson. But I think what confuses you is that he looks younger than I do."

(Laughter.)

You are remarkable. You are remarkable.

(Applause.)

It is difficult to look backward and to be sure of objectivity in reviewing issues on which one has taken positions and participated vigorously years ago. One's own perspective is also challenged by the revisionists of history, and they have been busily at work on the Truman-Marshall-Acheson era in recent years. Were we too rigid with the Russians? Did we create the Cold War? Was it necessary for domestic reasons? Such questions are being asked, and rather frequently. The view of many in this room is tarnished with the impact of involvement, and responses are virtually kneejerk, even defensive at times.

NATO itself has received less revisionist attention than the more sweeping general issues surrounding it, but those issues that led to it are surer and therefore more constant targets.

I began work as Special Assistant to Secretary of State Dean Acheson on March 1, 1949, stepping into the shoes left—and very difficult to fill—by Pat Carter. It was a great day in my life. The drafting of the North Atlantic Treaty was well along. Superb work had been done by General Marshall and Bob Lovett, and a very select group of Department of State officers and European Ambassadors was meeting regularly to frame a treaty which countries would then be invited to join. In other words, we did not start with country membership; we started with substance.

The original group of ambassadors was small, including names all of you will remember—Oliver Franks of the UK, Hume Wrong of Canada, Henri Bonnet of France. And these were all very close friends of Dean Acheson and of each other. As we say in diplomacy, the climate of the negotiations was conducive to progress.

I sat in on some of these meetings and I was amazed at the ease and the frankness of the negotiations among the ambassadors and Secretary Acheson, who had become Secretary of State only six weeks earlier. Representatives of Belgium, Canada, France, Luxembourg, the Netherlands, the UK and the US were to work out a text and then consider the question of what countries might be asked to adhere to the Treaty. I will not attempt to explain how invitations to join this organization were finally issued. It would require explanation as to how we discovered that Greece and Turkey and Italy were indeed in the North Atlantic, that West Germans were not so bad after all, that Salazar would make a reliable colleague but Franco would not. All this took time to evolve and would take time to explain now.

Suffice it to say that an initial group was assembled, later joined after lengthy and often inconsistent debate by others, for a total membership of 15 stalwart allies.

Considering its far-reaching importance and perhaps based on the fact that the groundwork had been so well laid, the Treaty progressed rapidly. It was signed by Dean Acheson on April 5, 1949. President Truman, in his typical generosity, insisted that Dean sign the Treaty. There was great fanfare, the Marine Band played. Among other things, it played "I got Plenty of Nothing"—

(Laughter.)

—and "It Ain't Necessarily So."

Neither could have been considered very attractive omens, but the negative quality of these tunes was not borne out by subsequent developments. The Treaty worked, it has survived, its record is strong and sound.

What makes permanence in international relationships? The treaties that have survived and become cornerstones of policies among participating nations are those that reflect realities of interest and realities of intentions. A CENTO or a SEATO or other arrangements can come and go. One must ask whether the basis on which they existed was a fixed one, or whether the need, if any, that they met might be transitory or the policy they represented illusory.

Diplomatic arrangements are rarely eternal. The forces at loose in the world today are designed to limit the life expectancy of most arrangements between nations. There is too much political awakening, wide upheaval, change and difficulty to permit long survival. Any agreement between nations is subject to next year's revolution, a new parliament or a major economic shift.

In this context, the 30 years of NATO's existence look even more remarkable. Revisionism, and various political, economic and military upheavals within the relatively stable NATO countries, have been attended by rather wide swings of attitudes and opinion, and yet NATO goes on.

It is not my task here tonight to look at the future. Andy Goodpaster will do that. My function is to review, with perhaps a touch of nostalgia which many in this room can share, the days of our efforts at creation of as fundamental a structure as was possible in a fragile world. Some of us here were the architects of the edifice. Many of us put bricks and mortar on a new framework. The result, perhaps imperfect, is still about the best thing going as far as U.S. interests are concerned and has certainly helped in preserving a concept of civilization which most Americans would share.

The NATO nations have maintained a common goal and purpose, even with the diversity of cultural and political backgrounds represented by Southern Europe, for example, and the northern tier of Europe. In fact, one of the more interesting struggles that went on in the early days of NATO—and, for all I know still continues—was the question of Article II of the Treaty. Article II deals with the obligation of member nations to cooperate in economic, cultural and informational fields.

During the course of the drafting of the Treaty, there was considerable discussion of even broader terms than those that finally resulted. Led by Lester V. Pearson of Canada, the discussion took on a kind of early Andrew Young atmosphere—with calls for agreement for the preservation of proper human conditions, coordinated attitudes towards dispensing of justice, and similar questions.

These goals appeared relatively easy to attain prior to the decision on the ultimate membership. As membership grew, it became hard to see how the judicial processes of some of the member states could ever have been reconciled. Legal procedure in Turkey, for example, is a far cry from that of the United Kingdom. Greece and Denmark have shared common royalty, but little else. What remained after lengthy negotiation was an Article II that is—Praise God—general and lacking in specificity. It asks to strengthen free institution but does not say how to do so; it voices the hope of stability, but not in mandatory terms. Even that text brought more anguish and sense of guilt than action.

My own days in NATO ended in 1956 with a final study I did for my good friend Lord Ismay on what to do about Article II and the absence of cultural and educational cooperation or at least any organized program for it.

The conclusion of my paper, which is probably long since shredded, was that the best thing to do was not to worry about it, that the essential ties of NATO nations were sufficiently strong and the purposes of the Treaty sufficiently real to assure that the main goals of the Treaty were accomplished; cultural and educational exchange and activity had occurred and would occur when they reflect natural inclinations. There was, in my opinion, enough going on through voluntary private activity to remove any need for artificial insemination by governments.

(Laughter.)

During the negotiations and ratification process, the meaning of the all-important Article V was widely debated. That is the operative section of the Treaty and deals with the obligations of the member nations when an attack occurs on any one of them. This is the fundamental provision of the Treaty. It is masterfully worded. It says that member nations will regard an attack on one as an attack on all and will take such action as each deems necessary, including the use of armed force.

Another article states that the revision of the Treaty shall be carried out by parties in accordance with their respective constitutional processes. This combination leaves slightly vague the question of whether there is automatic U.S. involvement. The clear contemplation of the use of force is still subject to the congressional right to declare war. Fortunately, there has been no test requiring clarification. The phraseology is and has been taken as sufficiently strong and meaningful to satisfy international requirements for solidarity and resolve.

Article V did not sail through the Senate without vigorous debate, but it went through and has served nobly in the 30 years since. Whether it would get through the Congress today, after Korea, Viet Nam and the Middle East have shaken our national nervous system, I cannot say. But NATO coalesced the member nations in a solemn commitment which has survived for 30 years, a long time in this troubled and ever-changing world of ours.

Those who participated in the drafting of the Treaty and those who have supported it over the years can take pride in the accomplishment and in the partnership for peace that NATO represents.

Thank you very much.

(Applause.)

Chairman Harriman. Thank you, Lucius.

Now we come to the last speaker, General Goodpaster. I did know him when he was a colonel. I had six jobs under Truman, and one of them was a kind of pre-Kissinger Kissinger job in the White House. I viewed it somewhat differently, but I was an assistant on international affairs. And I think perhaps my good friend Dean Acheson wanted to get me out of Washington; so he sent me over as Chairman of the Three Wise Men to analyze NATO capabilities. It was a very penetrating analysis and it led to the meeting in Lisbon, which was one of the high points in the early years of NATO.

Of course, the first thing I did when I got to Paris was to report to General Eisenhower, who was then Supreme Commander, and ask his help and advice. He did a great service to us. He appointed a young officer who was his aide, Andy Goodpaster, then

Colonel Goodpaster, to represent him, and he was of immeasurable help in everything we did when we analyzed the capabilities of what each of the nations of NATO should do. And I have always had the most tremendous respect for his capabilities and his ability to help get things done.

No one could be more fitting to speak about the present NATO. He has only recently left NATO in order to become Superintendent of West Point, and no one is more capable than he is to look forward, because he was in on many phases of NATO.

It is a great pleasure for me to introduce you, Andy, and we look forward to hearing from you.

(Applause.)

Lieutenant General Andrew J. Goodpaster (Superintendent, United States Military Academy): Many, many thanks, Averell.

May I take just a moment to say what a tremendous pleasure, what a nostalgia trip, it is to be here, to stand here and to see in this gathering so many friends, so many colleagues, engaged in so many enterprises over the past. And, John, you can now start your timer working. John Eisenhower is going to check me to see whether I follow Fred Hadsel's very strong instructions. I interpreted Fred's instructions as "It doesn't matter so much what you say, but you have got to keep it short."

(Laughter.)

I am going to begin with a brief story from late 1953. It is a story that gives us an interesting sidelight to General Marshall's association with NATO and at the same time, I think, a useful basis for appraising NATO today.

In December of that year, 1953, 25-plus years ago as we join here this evening, he traveled to Europe to receive the Nobel Prize. He chose to go by ship, with the idea that he would complete the preparation of his remarks en route and get some rest. This decision proved to be a tactical error on his part—rare indeed, because he didn't make very many tactical errors. The crossing was extremely rough and, far from getting any rest, he ended the trip exhausted from an attack of the flu and more than a touch of seasickness, and with his speech still not complete.

It was at this point that General Gruenther, then NATO Supreme Commander in Europe, SACEUR, heard of General Marshall's plight, brought him to his quarters at Marne La Coquette to rest and recover, and arranged some assistance for him on the speech. Along with another of General Gruenther's hardworking staff officers—and that is almost a redundant phrase—

(Laughter.)

—for those who know General Gruenther—I had the opportunity to see and assist General Marshall at that time.

Despite his illness, as General Gruenther well recalls, General Marshall took a tremendous interest in the progress that NATO was making and in the development of SHAPE, the hearquarters, and the Allied military forces that were assigned to us.

The story has a happy ending. General Marshall recovered, went on to Oslo, received the prize, gave the speech. In so doing, he included several themes that I would like to use to help us to appraise NATO today and for the future.

He spoke in support of the cause of peace, and in doing so he emphasized how the study of history can contribute to an understanding of the prerequisites of peace. He made note that the maintenance of peace depended on military power, though military power alone in the long term would not be a practical or a promising basis for peace. A stable and secure peace would depend also on Allied cohesion, standing together strongly. But even that would not suffice. A further solution would be required, aimed at building an improved international environment: good will, understanding, economic improvement and cooperation, and wise leadership among nations. He felt that education in the failures that had led to past wars, a greater readiness to cooperate among the nations of the world, a commitment to a better and richer life through democracy as a force holding within it the seeds of unlimited progress, these were the avenues to which he called his listeners.

In some of these lines of policy and action NATO filled and still fills a key role. I myself as the later successor to General Gruenther in the post of Supreme Allied Commander for Europe, identified some four or five objectives that NATO, in my opinion, exists to fulfill in behalf of the purposes and the processes that General Marshall had so well defined. These objectives I name as deterrence, defense, solidarity, detente, and equity, a fair sharing of the burden.

Deterrence is the primary aim, the safeguarding of stable security for our countries without recourse to war. A statement attributed to General Marshall tells the story: The way to win a war is to prevent it. A statement truer today than even in his time.

Against this standard NATO has been, and I venture to say can continue to be, a tremendous success, for there has been 30 years of peace in historically war-ravaged Europe. The only uses of force in that time, you may recall, have been by the Soviet Union against its allies, Hungary and Czechoslovakia in particular, not against the free nations of the West. And that is a tremendous achievement.

But one indispensable requirement for deterrence is defense, a real capability for defense if war should nevertheless come. Here the NATO picture has not been so reassuring. As the years of peace lengthened, the willingness flagged on the part of the nations of NATO to continue to make the needed sacrifices, modest as they are in relation to the stakes, in order to keep our military forces sufficiently strong and secure.

A succession of Supreme Commanders—General Gruenther, General Lemnitzer, myself among them—pointed out what was needed and opposed the unwarranted efforts at erosion or drawdown of our forces. Instead, we called for force modernization and improvement. Fortunately, some steps in this direction have now been taken, particularly by the major force contributors, the United States included. More are needed, and I hope that under General Rogers' leadership more will be taken. One must hope that this effort on our side will continue as the Soviet Union, for its part, continues to modernize and upgrade the forces and weapons of the Warsaw Pact.

The third NATO objective that I have always identified is solidarity. And here the Allied record, though flawed, is still impressive. General Eisenhower said on many occasions and in many ways that the many working together could achieve a result which would be beyond the reach of any or of all if they acted separately. But the lapses have been costly. The Greek-Turkish dispute over Cyprus continues to weaken the Mediterranean flank of NATO, and we must hope that this dispute can and will be resolved. The withdrawal of French forces in the mid 1960s still detracts from Allied strength in the central region.

The fourth objective that I have mentioned—détente—may seem a little curious. I refer here to a readiness to negotiate carefully balanced agreements with the Communist countries. This continues also as an important avenue, as General Marshall himself had foreseen. The process itself, the process of negotiation, if wisely pursued, helps to drain off some of the virulence and the venom that could otherwise endanger stability, security, and peace. If NATO is strong, such negotiations are a support and not a risk to security and peace, but only if NATO is strong.

And the fifth objective, equity, the sharing of the burden, though always an area of contention, has over the years been achieved sufficiently to maintain mutual confidence and commitment.

Averell Harriman himself, as he recalled, along with Jean Monnet and Edwin Plowden, had a key role in finding a workable solution to this issue in NATO's early days through the work of the Three Wise Men in 1951 and 1952, which established the process of annual program review and mutual commitment that has endured to this day.

General Marshall's commitment to NATO was well shown in a simple instance of support for General Eisenhower as he established SHAPE. Told of resistance to the reassignment of a needed officer to help create the new staff, he said, with the incisiveness and the decisiveness and the sense of priorities that we remember him for, "It is my policy to give General Eisenhower anyone he needs."

Many of General Marshall's successors have given the same kind of backing to the Allied Command.

As we look to the past and to the future, we recall General Marshall's insistence in late 1950 on bringing West Germany into healthy and harmonious association with its fellow nations of Western Europe and the North Atlantic. This historic aim, now so well and irreversibly realized, would bring undoubted gratification to General Marshall today.

Elsewhere, NATO's self-imposed constraints have limited what it does to improve or even maintain a healthy international environment. The reluctance to look beyond the NATO area, and specifically to look south of the Tropic of Cancer, leaves problems neglected and unattended that are potentially important and are within the power of NATO members to influence constructively. But within its limits, NATO, made a reality by the building of its integrated military commands and its institutions, its political institutions for consultation and policy formulation, remains a cornerstone of peace and security for all its members. Its burdens, measured against its value for a stable peace in a thermonuclear world, are moderate indeed. Its challenges to maintain harmony and mutual support of its members, to foresee and adapt to new international tasks, to seek improved relations with the Warsaw Pact nations should certainly be well within the wit and the power of the West to meet, inspired by the example and the principles of General Marshall, the man whose memory we meet to honor tonight.

Thank you very much.

(Applause.)

Chairman Harriman. This concludes the program on this brilliant note. May we all meet again next year.

Voices. Hear, hear.

Chairman Harriman. The meeting is adjourned.

ISAAC D. LEVY MEMORIAL PARK

• Mr. RIBICOFF. Mr. President, on May 31, 1979, the Fairmount Park Commission of the city of Philadelphia, dedicated the Isaac D. Levy Memorial Park.

Mr. Levy was an outstanding resident of Philadelphia. Throughout his life he contributed so much to his city, State, and country. His daughter, Mrs. Herbert J. Siegel, accepted the Isaac D. Levy Memorial Park in memory of her distinguished father. I ask that the description of the park and the Isaac D.

Levy Memorial Park Program be printed in the Record.

The material follows:

Isaac D. Levy Memorial Park

The Benjamin Franklin Parkway was created in the 1920s to connect Center City Philadelphia with Fairmount Park. It was patterned after the Champs Elysees in Paris and was designed to serve as the site of many of the city's famous cultural institutions including: the Art Museum, the Rodin Museum, the Franklin Institute, the Academy of Natural Sciences, the Free Library and others.

A large number of old, dilapidated buildings had to be torn down for the Parkway construction. Thus, it was one of the earliest urban renewal projects ever undertaken in this country. In time, as the hundreds of newly planted trees matured and other landscaping developed, and fountains, statues and other art works were added, the Parkway became one of the most beautiful thoroughfares in the nation and the world.

The triangular parcel of land on the south side of the Parkway at 16th Street was part of the original development. However, one of the lone commercial structures remaining on the Parkway abutted the parcel, and the building, particularly when vacated several years ago, and the adjoining parkland became an eyesore on the otherwise beautiful Parkway.

After long negotiations, the City purchased and demolished the old building. Then through the considerable genorosity of Dr. Leon Levy, in the name of his late brother Isaac D. Levy, the parcel was fully landscaped, a new pedestal and setting were created for the Jewish Martyrs Monument, and the building wall at the end of the parcel was covered with a beautiful stone facing.

Today we officially dedicate this now beautiful area of the Benjamin Franklin Parkway as the Isaac D. Levy Memorial Park. Mr. Levy was a business and civic leader in Philadelphia for more than a half century until his death in 1976. For fully 27 of those years Mr. Levy served as one of the most active and dedicated members of the Fairmount Park Commission. So it is most fitting that his family should see fit to honor him by beautifying this gateway to the park he loved and labored for so many years.●

METHANOL

● Mr. YOUNG. Mr. President, as our energy crisis worsens, increasing attention is being paid to the development of new sources of energy. North Dakota has the Nation's largest supplies of lignite coal. At the present time, as a result of the pioneering work of North Dakota's rural electric generation and transmission cooperatives, particularly Minnkota Power Cooperative, there are three huge mine-mouth lignite steam generating plants located in the lignite coal fields of western North Dakota.

The same rural electric generation and transmission cooperative that pioneered the development of these huge plants is now involved with a group of investor-owned utilities and other cooperatives in promoting the establishment of a plant in the coal fields of western North Dakota which would convert lignite to methanol. Considerable funds and effort have already been devoted to this study which indicates that such a plant is feasible. The problem at the present time is arranging the financing for the construction of such a plant, which is estimated to cost $2 billion.

While a number of industries have expressed a willingness to sign contracts for the methanol produced by the proposed plant, at this time at least, the total production of 7.5 million gallons per day of methanol is not committed. The promoters of the plant are proposing that the Government agree to guarantee the purchase of any unsold output of such a plant for a short initial period. The promotors feel that such a guarantee would enable them to obtain from the private money market the financing for such a plant, and as there is virtually no risk to the Federal Government, they are convinced that with the growing energy crisis by the time the plant is completed, which involves a 4-year construction period, all of the plant's output would be sold, thus relieving the Government of its obligation.

In the May 1979 issue of Electric Light & Power there appeared an excellent editorial concerning this proposal. I shall submit this editorial for the Record as a part of my remarks.

Mr. President, I think it is important that everything possible be done to develop all of our sources of energy. Methanol could be used in virtually every situation where gasoline or natural gas is used today. The production of 7.5 million gallons of methanol a day from just one plant would certainly contribute greatly to easing our energy shortage. This plant, too, would demonstrate the feasibility of converting coal to methanol and I am confident would result in the construction of other methanol plants in other coal fields of the country. A group of business people from my area will be meeting with Energy Department officials next week to discuss the proposed Government purchase guarantee. I sincerely hope that such a program can be developed. In this manner, the Government can encourage the development of this source of energy at a minimum risk.

If the Federal Government continues to pursue its present course, we will have at least $1.50 a gallon gasoline and continued short supplies. By pursuing every new source of energy, the cost may be high, but at least we will have an adequate supply.

The article follows:

Methanol Production Could Reduce Petroleum Imports

The increasing problem of petroleum import may mean little more to the average man-on-the-street than a pinch in the wallet every time he fills up at the gas pump, but it is of great concern to those of us in the power business. It is therefore of considerable interest that we note a positive step some two-dozen midwest power suppliers and industrial firms want to take to reduce the problem if given a small assist by the federal government.

This group, which includes Northern States Power, Otter Tail Power, Union Electric and Dairyland Power Cooperative, among others, proposes to build a plant that would convert some 68,000 tons of Upper Midwestern lignite into 7.5 million gallons of methanol per day. The methanol could be used for home heating, to power gas turbines, fire boilers, power tractors and automobiles. It could be converted into gasoline or natural gas, if desired.

The main problem, at this point, is financial; how to raise the needed capital to construct the plant, a 22-inch pipeline to Duluth and a stub line to Minneapolis, where the methanol would be loaded onto barges for delivery to Great Lakes and Mississippi River customers. The cost is estimated at a cool $2 billion, which is one whale of a lot of money.

According to a study of the proposed plant's economic feasibility, performed by the Cincinnati engineering firm of Wentworth Bros., Inc., the methanol output of the plant would be competitive with OPEC oil prices *currently*.

The financial difficulties involve a version of the chicken-or-the-egg syndrome. Banks, insurance companies and other institutional investors are unwilling to risk their capital in such a new technology without assurances . . . actual contracts . . . that the output of the plant will be purchased, and at prices that will ensure an adequate return. And customers who will sign "take and pay" contracts for a product to be produced in a still non-existent plant and delivered some 4–5 years out in the future are hard to find in this apathetic, short-term profit climate. The proposal is stalemated at ground zero.

One way to get the project moving . . . to get action, not more words . . . would be for the federal government to guarantee to purchase any unsold output of the plant. Participants already are committed to buying 2-3 million gal/day and foresee little difficulty in selling off the balance during the 4-year construction period. So the government's potential risk would appear small and, contrasted to most government energy development proposals, would involve a little front-end investment.

It seems to us that this is an ideal way for the federal government to participate in solutions to our national energy problems. First, it would enable us to use more of our most abundant domestic energy resource—coal. Second, use of federal funds would be minimal, and most probably totally unnecessary. Third, it would demonstrate an ideal relationship between the government and industry, where the strength of the federal government would be applied to foster the growth of the private sector, not compete with it as developer-producer. This latter point can't be overstressed, for by helping industry develop this new energy resource, a productive new industry would be launched, with resultant benefits in added G.N.P. and jobs with little or no additional inflationary government spending.

Congress flirted with the idea of government guarantees of loans for energy development through the Energy Research and Development Administration during the Ford Administration but turned it down for direct grants and therefore greater control. The concept of purchase guarantees advocated here is new. Instead of having to make good on loan defaults, which leaves the government nothing but financial loss, the *worst-possible situation* would be that the government would take possession of a valuable fuel, which it could sell off or use in government facilities and equipment.

We urge all EL&P readers to support this project. Letters to the President, members of Congress and the Department of Energy would help.

Robert A. Lincicome,
Editor-in-Chief.●

ALYESKA TERMINAL OPERATIONS

● Mr. GRAVEL. Mr. President, this past February severe weather conditions slowed oil-loading operations at the Valdez terminus of the trans-Alaska pipeline for a number of days. In the May 1979 edition of Alaska magazine Randy Bayliss, supervisor of the Prince William Sound Regional Office of the Alaska Department of Environmental Conservation, descriptively recounts the events of those days last winter. His article vividly reveals the difficult operating conditions so often encountered in energy production operations in Alaska. I believe my colleagues will find "Oil Tankers Versus the Wind" fascinating reading, and I ask that it be printed in the RECORD.

The article follows:

OIL TANKERS VERSUS THE WIND: A FEBRUARY BATTLE AT VALDEZ

(By Randy Bayliss)

Violent winds stopped oil tanker traffic for days and curtailed terminal loading operations at the Valdez trans-Alaska pipeline terminal in early February. It was the first time weather had severely hampered oil flow through the pipeline since it began operation in July 1977. As many as 10 large tankers took shelter by anchoring near Knowles Head in eastern Prince William Sound or remained in a holding pattern in open ocean outside nearby Hinchinbrook Entrance, which connects Prince William Sound and the Gulf of Alaska. Pipeline oil flow was reduced to one-fifth normal as storage tanks at the terminal, on the south side of the body of water called Port Valdez, filled up.

The storm hit the Southcentral Alaska port when an intense high-pressure area built up in Interior Alaska and clear, penetrating arctic air cascaded over mountain passes and funneled from the east into glacial valleys toward a low-pressure area in the gulf. Valdez Airport reported winds peaking at 97 miles per hour. Small airplanes "flew" while still tied down. At 6°F, the chill factor was −50°F, and the risk of frostbite to exposed skin was great.

On February 6, the tanker *Overseas Ohio*, heavily laden and low in the water, reported 80 knots from astern as it sailed out of Valdez Narrows. It was the last outbound tanker for 3 days. Normal traffic is about 1.5 tankers a day and the capacities of storage tanks at the tank farm were already near their limits, with less than 2 more days storage capacity at normal pipeline flow.

Later that same day, the *EXXON San Francisco* approached to within a mile of Berth 5 before aborting in 50- to 70-knot winds; the tanker was forced back to sanctuary at Knowles Head. It tried again the next day, however, and, in the eye of bitter 50-knot winds, was piloted perfectly up to Berth 4, though frozen lines and frostbitten fingers delayed mooring. But it was another day before winds subsided enough so that oil cargo loading could safely begin. It finally deberthed in darkness on February 9, during the winds that had moderated to near-gale force.

Meanwhile other tankers queued up at Knowles Head. Several others attempted to sneak into the terminal, but turned back in the face of 60- to 70-knot winds in the narrows. The *Beaver State*, without pilotage aboard, steamed about in the gulf outside Hinchinbrook Entrance for 2 days until severe sea conditions slackened enough so that a pilot could board the ship via a ladder hanging over the side of the tanker, a hazardous procedure even in mild weather. During the wait, frigid winds off the Copper River Flats pegged the tanker's meter at 100 knots.

By February 8, pipeline throughput, normally 1.2 million barrels a day, had been cut to 226,000 barrels per day. At that rate, pipeline technicians had until noon Saturday, February 10, before the pipeline would have to be shut down because of the filling of all the storage tanks. Then the exodus of the relatively small tanker, the *EXXON San Francisco*, gave them another day's grace, and the *ARCO Anchorage* began loading on the 9th. More tankers, the *Brooks Range* (a heavy middleweight), the *Beaver State* and the *EXXON New Orleans* came in on February 10 and, with the winds holding at a mere fresh breeze, a pipeline shutdown was avoided. Everyone breathed a sigh of relief.

Prematurely.

Winds abated for a few days, but then, on February 13, increased back to 50 to 70 knots. This time, however, the gales blew from the north, meaning the tankers would have to try to dock at the terminal (on the south shore of Port Valdez) with the force of the wind hitting the huge ships broadside. The 265,000-DWT *American Spirit*, one of the few actual "supertankers" in the trans-Alaska pipeline trade, approached the terminal shortly after midnight February 14 and was blasted by the winds into relatively shallow waters near the shore of the mainland just south of Saw Island. About 9 a.m., during extreme high winds, it tried again and aborted again. After lunch, a third attempt in 85-knot gusts and 12-foot seas was aborted and the tanker retreated to Knowles Head. A smaller tanker followed, failed and retreated.

Shoreside, things were touch and go. Because of heavy seas, incoming tankers had taken on extra sea water ballast for stability. Before cargo loading, the contaminated, oil-sea water must be pumped ashore for treatment (and recovery of oil otherwise dumped at sea). Thus deballasting time increased and the ballast water treatment works had its hands—and storage tanks—full. Cargo loading was subsequently hindered.

Meanwhile, back at the Knowles Head anchorage, four more tankers had arrived and dropped their hooks. But it was about 2 weeks before things were normal again.●

LEN HALL

● Mr. DOLE. Mr. President, national party chairmen are prone to be labeled as partisans. I know of what I speak. So did Len Hall.

"Thank God for partisanship," in the words of the late Adlai Stevenson, "For it is the lifeblood of democracy."

Like Stevenson, Len Hall, who died on Long Island a few days ago after a lifetime of distinguished service to his community, State and Nation, was a partisan in the highest sense of the word. Len was more than an expert political technician, although he was certainly that. He was a practitioner of politics, a man who served 12 years in the House of Representatives and who never lost sight of the critical link between service to a party and service to people.

There are not many like Len around nowadays, and we are all poorer for his loss. For 40 years, he gave unselfishly so that America's two-party system, upon which our most precious freedoms rest, could be strengthened and preserved. Without him, it is safe to say, my party might have faced a far bleaker time in the 1940's, 1950's, and 1960's. As a close associate of Dwight Eisenhower, he helped to institutionalize a brand of Republicanism which accepted and expanded upon the social reforms of the 1930's, without sacrificing for a moment any of our traditional commitments to responsible fiscal policy and maximum individual freedom.

As such, he bridged the gaps between Republicans. He banished differences and extinguished labels themselves. He believed that good government was good politics, and far more important than words like liberal or conservative.

He will be missed, not only by his friends and admirers in New York, but by all Republicans, all Americans who share his conviction that modern government must serve people, and not the other way around. To his wife and family, I extend my deepest sympathy, as well as my tribute. We were all privileged to know Len; you were the most privileged of all.●

COMMONSENSE ON REGULATION

● Mr. METZENBAUM. Mr. President, we have heard a great deal from the business community in recent years on the subject of Federal regulation.

Time and again all of us have heard complaints from businessmen about arrogant bureaucrats, petty regulations, and cumbersome paperwork requirements. And we have heard as well that excessive regulation threatens to strangle business enterprise in this country.

There is substance to these complaints. And there are agencies and procedures that are in urgent need of reform.

But the fact is that in the past 10 years, this Nation has reached a broad consensus that regulation of certain kinds of business activities is necessary in order to achieve goals that we have as a Nation set for ourselves.

We have decided that the working men and women of this country must be entitled to safe and healthy working conditions. And so we have enacted legislation to require business to provide those conditions.

We have decided that all the people of this country have a right to clean air and clean water. And so we have required business and industry to take steps to protect the environment.

We have decided that harmful substances and dangerous products must be kept from the market. And so we have established procedures to protect the Nation's consumers from needless risks.

In a thoughtful and carefully documented article that appeared in the November 25, 1978, edition of the New Republic, Prof. Steven Kelman of Harvard's Kennedy School of Government points to the vital distinction between the traditional regulatory agencies that govern particular industries and the new-style agencies that have as their mandate the attainment of larger social goals. Professor Kelman observes that social regulation has, in fact, worked to an impressive degree. And he concludes his article by observing that—

> The thrust of the current movement against social regulation in the United States is a wish by the strong to regain prerogatives whose disappearance, for the most part, is one of the most welcome events of the past decade.

Professor Kelman wrote:

> Individual regulations can and should be criticized. But the assault on the concept of regulation must be resisted if we are to continue to be a decent people living in a decent society.

Mr. President, I believe that Professor Kelman has made an important contribution to the continuing national debate on regulation. I ask that his article be printed in the RECORD.

The article follows:

Regulation That Works

(By Steven Kelman)

The last decade has seen dramatic restrictions in the freedom of action society chooses to allow to business firms. A series of laws in areas like environmental protection, occupational safety and health, consumer product safety and equal opportunity has restricted the prerogatives of business firms to pursue production, hiring and marketing practices that would have continued without these laws. Business and conservatives have now launched a counterattack against these changes. Cleverly exploiting various popular resentments, the counterattacking forces seek to lump "excessive government regulation" together with themes as diverse as high taxes and school busing to generate an all-embracing demand to "get the government out of our hair." To hear the critics of the new government regulatory programs tell it, nothing less fundamental than our very freedom is at stake in the battle against meddlesome bureaucrats. And now, with national concern over inflation growing, we are being told that the new regulatory programs are an important cause of the increased cost of living, and must be reduced for that reason as well.

On fact it is important to get clear from the beginning is that the alleged popular ground swell against government regulation of business does not exist. A recent Louis Harris survey asked Americans, "In the future, do you think there should be more government regulation of business, less government regulation, or the same amount there is now?" By 53 percent to 30 percent, those polled favored either more regulation or the same amount as now, over less regulation. In fact, almost as many respondents (24 percent) favored more regulation as favored less regulation (30 percent). Repeated polls have shown wide popular support for measures to make workplaces safe, and to clean up the environment.

This absence of any ground swell against the new regulatory thrust of the last decade is reassuring, because the conservative and business counterattack is, I believe, largely wrong. New regulatory programs neither threaten freedom nor contribute significantly to inflation. On the whole, the new regulation is a good thing. Certainly there have been excesses by bureaucrats, but what is more impressive than these excesses is the unfinished work the new agencies still have before them to deal with the injustices that prompted their creation in the first place.

There are two kinds of activities often lumped together as "government regulation." When denouncing the "costs of government regulation," opponents of the new regulatory agencies tend to forget this distinction. An older generation of liberals, fond of asserting that regulatory agencies always get captured by those they regulate, also ignore this distinction.

Most of the regulatory agencies established before the last decade were set up to regulate prices and conditions of entry in various industries. The grandfather of such agencies was the Interstate Commerce Commission, established in 1887 to regulate railroads. There is a lively dispute among historians about whether the ICC when it was established, was an attempt to tame a powerful and oppressive industry, or a government-sanctioned effort by the railroads themselves to set up a cartel to avoid price competition. It is much clearer, however, that other agencies regulating market conditions in various industries, such as the Civil Aeronautics Board and the Federal Communications Commission, were originally established at the behest of industries seeking to avoid "excessive" competition. These agencies, by maintaining artificially high prices in various industries, have been very costly to consumers and to the economy as a whole. But you do not hear the voices of business complaining about them. Indeed, when proposals are made to deregulate surface transportation, airlines, or television, the main opponents of such proposals have been the industriels being "regulated."

The situation is very different, both politically and conceptually, for the regulatory agencies—which have blossomed especially during the last decade—intended to regulate non-market behavior by business firms. Usually they regulate acts that injure third parties. These "social" regulatory agencies include the Environmental Protection Agency, the Occupational Safety and Health Administration, the National Highway Transportation Safety Board, the Consumer Product Safety Commission, and the Equal Employment Opportunity Commission. These agencies generally came into being despite genuine business resistance. Business representatives certainly have ample opportunity to participate in developing the regulations these agencies promulgate, but there are other organized constituencies interested in their work as well (environmentalists at EPA, trade unions at OSHA, civil rights and women's groups at EEOC, for instance). Few reasonable people believe the social regulatory agencies have been "captured" by business—least of all, as the current attacks demonstrate, business itself.

The conceptual basis for the social regulatory agencies also is different from that of agencies intended to limit or replace the free market. In any society, one of the basic tasks of government and the legal system is to decide which acts of individuals are so harmful to others that they cannot be freely permitted (and which harmful acts may rightfully be performed, even though others are indeed harmed). A common dictum has been that people may act freely as long as their actions concern only themselves: "My freedom to move my arm ends where your face begins." But clearly this dictum is unsatisfying. Virtually everything we do affects others. Even acts as trivial as appearing at work with a blue shirt, or consuming a bottle of Perrier water in a public place, injure the person who despises the color blue, or who is offended to see people buy products from France. Anything we do that damages our own welfare hurts those who hold us dear. What the legal system must do is to determine *which* acts affecting others should be allowed, and which should be proscribed The social regulatory agencies are engaged in this age-old task. There is nothing conceptually new about their activities. What *is* new is that they have redefined certain acts by business firms previously regarded as acceptable, and determined that they are henceforth unacceptable.

Government has never left businessmen "unregulated," as business spokesmen now wistfully, but erroneously, imagine. The voluminous case and statute law of property, contracts and torts along with large chunks of the criminal law, comprise an elaborate system—far more complex and intricate than any OSHA standard—regulating acts that injure property holders, as well as acts by property holders that injure others. A starving person does not have the freedom to injure a rich man by appropriating the rich man's money in order to buy food. People do not have the freedom to injure a landowner by trespassing on his land. (Richard Posner, a professor of law at the University of Chicago. argues that traditional common-law rules merely reproduce what would have occurred through market transactions, if the costs of negotiating such transactions were not too high, and that modern social regulations, by contrast, subvert expected market outcomes. Even if this statement were true, and it is subject to much debate, it is still not obvious why legal rules *ought* to mimic the outcomes of market transactions.) Furthermore, the process by which these older rules were elucidated and enforced through litigation was much more cumbersome and arbitrary than the rulemaking of today's regulatory agencies.

The plethora of regulations regarding property that has grown up over the centuries is not some sort of natural order, onto which new regulations of business behavior in areas like safety, health, environmental protection, consumer fraud, and discrimination represent an unnatural intrusion. As long as the regulations were restricting the freedom of non-property-holders to injure them, businessmen raised no chorus of complaints about an oppressive government stifling freedom. The chorus of complaints from business has begun only as regulations have begun increasingly to restrict the freedom of business firms to injure others.

The harms that social regulations of the last decade were intended to curb were not insignificant. Urban air had become unhealthy as well as unpleasant to breathe. Rivers were catching on fire. Many working people were dying from exposure to chemicals on their jobs. Firms were selling products of whose hazards consumers were ignorant. And the nation faced a legacy of racial and sexual discrimination. Frequently the harm was borne disproportionately by the more disadvantaged members of society, while the more advantaged produced the harm. The social regulation of the past decade grew largely, then, out of a sense of fairness—a view that people, frequently disadvantaged people, were being victimized by others in unacceptable ways.

The impact of the new agencies in alleviating these injuries has begun to be felt. Racial and sexual discrimination have decreased, partly thanks to broader social trends, but partly thanks to government efforts. There has been a vast increase in the amount of information manufacturers are required to tell consumers about their products, and surveys indicate that many consumers use this information in making purchasing decisions.

Since the much-maligned OSHA and its sister agency regulating coal mining safety have come into existence, the number of accidental workplace deaths has been cut almost in half. Worker exposures to harmful amounts of coal dust and chemicals like vinyl chloride, asbestos and lead have been reduced, and this will reduce the toll of occupational sickness and death in the years to come. Improvements in emergency medical care and some changes in workforce composition since 1970 may be partially responsible for the dramatic reduction in workplace deaths. But today's figures don't even reflect the reduction in deaths due to occupational disease, which will be felt mainly in future years because of the frequently lengthy period separating exposure to harmful levels of a chemical and death or illness due to that exposure.

Environmental regulation has produced significant improvements in the quality of air in the United States. (Without regulation the situation would have gotten worse because economic growth tends to increase the level of pollution. Carbon monoxide levels in eight representative cities declined 46 percent between 1972 and 1976. Carbon monoxide levels that had been found in urban air were enough to increase the incidence of heart attacks and of painful angina attacks among people with heart disease. There has been a major decline in heart attack deaths in the United States during the 1970's. No one yet knows why, but I predict that studies will show that improvement in air quality has played a role in this decline. Another common air pollutant, sulfur dioxide, which definitely causes respiratory illness and death and is suspected of causing cancer, has now declined to a point where almost every place in the country is in compliance with EPA standards.

Water pollution has been reduced as well. There are rivers and lakes around the country—from the Pemigewasset River in New Hampshire through the Mohawk River in New York to the Willamette River in Oregon—previously badly polluted, that are now opened in parts for fishing and swimming. Levels of various pesticides in streams and rivers, as well as of phenol—an organic waste considered a good indicator of the presence of toxic industrial wastes—have declined dramatically during the 1970s.

Lives have been saved by other regulatory actions. The introduction of childproof containers on household poisons appears to have reduced accidental poisoning significantly. Highway deaths declined by almost 15 percent between 1965 and 1972, even before the post-OPEC speed limit reductions. Some of this decline may be due to factors other than new auto safety regulations, such as fewer teenagers on the roads. But the decline in traffic fatalities has occurred despite an enormous increase in the number of bicycle and motorcycle fatalities caused by the new popularity of these vehicles.

The critics ask: have the benefits outweighed the costs? Are they feeding inflation, for example? Allegations that health, safety, environmental and antidiscrimination regulations are a major cause of inflation are little short of grotesque. Much of the business thunder about regulation begins by citing some overall figure for the "cost of regulation," and then goes on to zero in on agencies like OSHA and EPA. These agencies are chosen, however, only because business dislikes them especially, not because they are major contributors to the "cost of regulation." Most of the cost of regulation is imposed by the market-fixing agencies, like the ICC, that the business world likes. Murray Weidenbaum, director of the Center for the Study of American Business and an adjunct scholar at the American Enterprise Institute, estimated that in 1976 federal regulation in the areas he examined cost $62.3 billion to comply with. But of this sum, approximately $26 billion—or 42 percent—was the estimated impact on consumer prices of tariff protection against imports and of price and entry regulations by the ICC, CAB and FCC. (The largest figures in this category was the cost of ICC regulation of transportation.) Another $18 billion—29 percent of the estimated total cost—represented the alleged cost of federal paperwork. Certainly there are plenty of pointless federal paperwork requirements. But few of these relate to what would normally be thought of as "government regulation." Much federal paperwork takes the form of reports for statistical purposes and of requirements for federal contractors or other citizens receiving federal benefits.

Only five percent of Weidenbaum's estimated total—$3.2 billion in 1976—was spent on complying with OSHA regulations. Another $7.8 billion allegedly was spent to comply with EPA regulations—less than 13 percent of the total. (Weidenbaum also estimated a $3.7 billion retail cost for auto safety and emissions requirements.)

Even these modest figures do not reflect the direct savings that result from some of these regulations. The actual monetary cost of pollution abatement measures, for example, is the cost to firms of capital equipment, energy and maintenance, *minus* the savings in medical bills, damaged crops, premature corrosion of property, laundering expenses, and so forth, that would otherwise be borne by victims of pollution. Most accounts of the "inflationary impact" of government regulation do not calculate such savings.

More fundamentally, these estimates of the "cost" of regulation ignore widespread benefits that do not have a direct monetary value, but are real nonetheless. In the case of pollution control, for example, the air smells a bit better for five million people; 100,000 people get to see mountains in the distance which they would not have seen had the air not been as clean; and 50 lives are saved. There is no way of objectively determining whether these non-priced benefits justify the net monetary costs. Economists have come up with different ways to assign dollar values to benefits like clean air that are not traded on markets, which would then allow us to weigh all the benefits against all the more concrete costs. But there are philosophical difficulties, as well as technical ones, with these efforts.

In deciding whether a given act that injures a third party should be allowed, one relevant factor is how much a third party suffers as a result of the behavior, as compared to the benefits the perpetrator gains from the behavior. The greater the benefit, and the more inconsequential the injury suffered by the third party, the stronger the case is to allow the behavior to be exercised freely.

But since the costs of injury are borne by its victims, while its benefits are reaped by its perpetrators, simple cost-benefit calculations may be less important than more abstract conceptions of justice, fairness and human dignity. We would not condone a rape even if it could be demonstrated that the rapist derived enormous pleasure from his actions, while the victim suffered in only small ways. Behind the conception of "rights" is the notion that some concept of justice, fairness or human dignity demands that individuals ought to be able to perform certain acts, despite the harm to others, and ought to be protected against certain acts, despite the loss this causes to the would-be perpetrators. Thus we undertake no cost-benefit analysis of the effects of freedom of speech or trial by jury before allowing them to continue. As the steelworkers union noted in commenting on an OSHA regulation of coke oven emissions, no analysis of its inflationary impact was performed before the Emancipation Proclamation was issued. This notion of individual rights that supercedes a neutral cost-benefit analysis is ordinarily dear to the hearts of American conservatives. Yet when it comes to the regulation of business activities that intrude on the lives of individual consumers or workers, they perversely see the government regulation itself as an intrusion on individual rights.

The costs and benefits of the business behavior now coming under regulation have not been distributed randomly. Much of the new social regulation benefits more disadvantaged groups in society. To put it somewhat simply—but not, in my view, unfairly—those who argue, say, that OSHA should "go soft" on its health regulations in order to spare the country the burden of additional costs, are saying that some workers should die so that consumers can pay a few bucks less for the products they purchase, and stockholders can make a somewhat higher return on their investments. It is hard to to see why workers exposed to health hazards should be at the front line of the battle against inflation, however the overall costs and benefits tally up.

There are, to be sure, those sudden friends of the poor who allege that environmental regulation has significantly added to unemployment, or who point out that regulation-induced price increases weigh most heavily on the poor. But studies have concluded that, on balance, environmental legislation has probably created many more jobs than it has cost. And one must wonder whether there aren't more direct ways to help the poor than to eliminate the health, safety, and environmental regulations that slightly increase the cost of goods they buy.

(Some economists argue that workers are compensated for working at risky jobs by receiving risk premiums [higher pay]. To the extent this is true, occupational safety and health regulation amounts to in-kind benefits redistributed to workers, over and above what they are able to bargain for on the market. Some economists argue that workers themselves bear the primary cost of such regulations, in foregone wage increases in the long run. There is no real empirical evidence that safety regulations actually have this effect. But even if this *were* true, it would reduce the cost burden such regulations imposed on the economy, because the cost of the regulations would be counteracted by lower wages paid to workers.)

There is a final reason to doubt the calls to subject everything to cost-benefit analyses. Many of the benefits of social regulation, as noted earlier, have no ready dollar value because they are not traded on markets. To economists this is an unfortunate obstacle to analysis, and economists are forever scurrying around, trying to come up with measures of people's "willingness to pay" for clean-smelling air, living in a quiet environment, recreational benefits, or reduced risks of premature death. But the very fact that there is no dollar value assigned to those benefits is one reason many people celebrate them in a special way. Most reasonable people agree that there is a place for markets in society, but most reasonable people also agree that market relationships have their costs as well. Dealings in the market promote certain undesirable personal attitudes and interpersonal relationships. Few are even the economists (although there are some!) who would wish market relationships to dominate within families, or among friends. An obsession with the calculative mindset of market relationships and cost-benefit analyses would itself remove something of what is special about the social regulatory agencies as expressions of a desire to keep market relationships in their place.

None of this means that every regulation promulgated by social regulatory agencies in the last few years is justified. In some instances, as with some affirmative action requirements, regulations may have gone beyond their conceptual justifications. Affirmative action requirements may be an example. In other instances the administrative burden, the paperwork requirements or the monetary costs of regulating may be too great to justify the benefits, however real, received by those whom the regulations are intended to protect. Offhand, for example, it appears to me that the costs of retrofitting older urban subway systems to accommodate the handicapped, only a small number of whom could be expected to use these systems anyway, appear unjustified, even though failure to retrofit does indeed injure some disadvantaged people. Questions like this should be considered case-by-case, but with sympathy for those people injured by the failure to regulate.

The thrust of the current movement against social regulation in the United States is a wish by the strong to regain prerogatives whose disappearance, for the most part, is one of the most welcome events of the past decade. Individual regulations can and should be criticized. But the assault on the concept of regulation must be resisted if we are to continue to be a decent people living in a decent society.●

TRUTH IN LENDING SIMPLIFICATION URGENTLY NEEDED

● Mr. TOWER. Mr. President, a Texas banker recently wrote me that it is difficult to imagine any major industry that has been the object of as much regulatory legislation as the banking industry. He points out that in the last decade

Congress has enacted approximately 15 major laws, all of which impose regulatory obligations on banks.

Perhaps the law that has caused the most difficulty and the largest amount of paperwork is the Truth in Lending Act. By way of illustration, the Texas banker encloses a note that was used prior to the enactment of the Truth in Lending Act which measures a mere 4 inches. The present note now is over 2 feet long.

The banker further laments that the expense generated by this regulation is passed on to the consumer. A number of complaints received from customers complain that the truth in lending disclosure statement was of no benefit to them and its completion a waste of time.

Mr. President, the Senate Banking Committee and this body have not been unaware of the problems created by the Truth in Lending Act. For several years, Senators of both parties on the Senate Banking Committee including Senators Proxmire, Riegle, Garn, Schmitt, and myself have cooperated in the reporting of the Truth in Lending Simplification and Reform Act which would facilitate compliance by simplifying the requirements imposed under the act.

On May 1, 1979, this body passed that badly needed regulatory reform measure without a dissenting vote. This legislation now rests in the House Banking Committee, and I urge that that committee and the Members of the House act promptly to send this badly needed reform measure to the President for signature.

Mr. President, it is requested that pertinent parts of the banker's letter, the consumer's statements, and the installment notes be printed in the Record.

The material follows:

Hon. John G. Tower,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Tower: In our area, the number one public issue at the present time is the economy. Our people are uneasy over the prospects of recession. They are concerned about the dollar, and most of all, they are outraged by our spiraling inflation and excess government regulation. In fact, we believe excess government regulation is one of the major causes of our inflationary spiral. That is because government regulation is, itself, spiraling. And, if something isn't done in the near future, it may just be out of control.

It is difficult to imagine any major industry that has been the object of as much regulatory legislation as has our banking industry. Since 1966, Congress has enacted 15 major laws, all of which impose regulatory obligation on banks. In addition, we witnessed a relatively undistinguished banker from a small town in Georgia conduct some equally undistinguished banking transactions that resulted in the Financial Institutions Regulatory Act of 1978. Of course, it gives regulators greater enforcement powers, and in addition to concerning itself with bank overdrafts, which was the prime irregularity, the act deals with such matters as interlocking management relationships, changes in control of banks, use of correspondent accounts, and conflicts of interest. I guess we are fortunate that Congress did not pass the original bill which would have been called the Safe Banking Act.

More and more, the regulators are telling us what to do rather than what not to do. We are swiftly and surely being told how to run our businesses. This seems to me very much related to social and political goals as opposed to the economic goals of the past.

It appears that Congress gives very little consideration to the increased costs associated with regulations vis a vis the so called benefits to the recipients. Also, in most instances, Congress has no idea, and seldom looks at the finished product after the bureaucrats spend thousands of hours and millions of dollars interpreting and implementing the new legislation. The Truth in Lending Act (Regulation Z) and The Equal Opportunity Act (Regulation B) are, in my opinion, prime examples. Enclosed are some forms prepared by our attorney, which we hope will comply with Regulation Z, Regulation B, and the Texas Deceptive Trade Act.

I use the word "hope" advisedly because the regulations are so confusing that even the supervisory authorities do not agree. Needless to say, the preparation of these forms was very expensive and it is even more expensive to complete them on each transaction. If this additional expenses is to be recovered by the bank, it must be passed on to the consumer. In addition, it is very time consuming and irritating to the customer, secretary, and loan officer. To sum it up, the customers are having to pay for legislation and regulation that is not wanted and not needed.

To emphasize our point, we have also enclosed some of the comments customers made to our loan officers about Regulation Z and Regulation B, along with pictures of "Federal Reserve Regulations and Bulletins", "Texas Banking Code", "Compliance Handbook", "Consumer Compliance", and the "Guide to Consumer Compliance", which can be made available to you should you desire to have a copy.

Sincerely yours,

Customers' Complaints

It is my opinion that the disclosure form in question is an insult to the basic intelligence of the American Consumer and a flagrant insult to the integrity of any responsible lending institution. It is a ridiculous waste of time and energy for both parties involved—wasted time that only adds to the already overinflated cost of doing business.

It is one more flagrant example of a governmental agency attempting to regulate a business it has no knowledge of or experience in.

I am not in favor of the General Truth-in-Lending Disclosure statement, we are up to our ears in paper work as it is, this will involve more paper work and time, much less the extra money involved.

Forms required with regard to Regulation "Z" which I have to sign before I sign the notes, etc., do not disclose any additional information that wouldn't regularly appear on the face of a note. In my opinion, this is a complete waste of time and is a statute that definitely needs to be changed.

I don't have time to read and wouldn't understand what the documentation said without the interpretation from a lawyer with regard to the regulations on the installment notes. They have printing both on the front and back and require my signature stating that I understand everything that is in it. My copies are thrown away.

Installment Notes

This note was used prior to the Truth in lending and Disclosure Acts.

Name——— Due—— Amount $——.

Texas,——— 19—.

For value received, I, we, or either of us promise to pay to the order of ——— at its office in ——— Texas ——— in —— installments payable as follows, to-wit:——Dollars on the — day of ———, 19— and a like amount on the — day of each succeeding month thereafter, until paid in full, excepting the final payment which is in the amount of $——, together with interest thereon at 10 percent per annum after maturity.

If any installment of this note is not paid at maturity the undersigned and each of them agree to pay expense of collection, including a 10% attorney's fee. All parties to this note including sureties, endorsers and guarantors hereby severally waive presentment of payment, notice of non-payment, protest, notice of protest and diligence in bringing suit against any party hereto and all endorsers and guarantors hereon hereby consent that time of payment may be extended after maturity from time to time without notice thereof. If any installment of this note be not paid when due, then all installments hereof remaining unpaid shall immediately become due and payable at the option of the legal holder hereof, without notice or demand, said notice and demand being hereby expressly waived.

Address———.

This is the note we now use.

Installment Note and Security Agreement: Disclosure Statement Made in Compliance With Federal Law.

Name and Address of Debtor.

Name and Address Secured Party.

Bank.

Home Telephone No. ———.

Business Telephone No. ———.

1. For value receiver, I, We, or either of us, hereinafter called Debtor (whether one or more), promise to pay to the order of ——— Bank, ——, Texas, hereinafter called Secured Party, in —— Texas, where this instrument is executed, the sum of ——— Dollars (reflected above as Total of Payments), in — consecutive monthly installments of —— Dollars each, except as shown in Paragraph No. 2, beginning on the —— day of ———, 19— and maturing on the —— day of ———, 19—. Provided, however, that if the last payment due hereunder is not equal to the other payments provided for herein, it is disclosed that the last payment due hereunder on the —— day of ———, 19—, is in the amount of $———.

2. Balloon payment(s): This contract is not payable in installments of equal amounts.

An installment of $——— will be due on the —— day of ———, 19—. Larger installment(s) will be due as follows:

The balloon payment(s) may be refinanced under the following conditions:

3. The finance charge begins to accrue on the —— day of ———, 19— if different from date of execution; provided, however, that in the event of prepayment in full prior to the first installment date, finance charge shall begin to accrue on the date of execution.

4. To secure payment of the foregoing promise to pay or any renewal of same and to likewise secure payment of any other indebtedness now or hereafter owed Secured Party by Debtor, Debtor hereby grants to Secured Party a security interest, subject to the terms and conditions stated on the reverse side hereof, in the personal property described hereinafter, together with any and all additions and accessions thereto and proceeds therefrom, all hereinafter collectively called "Collateral":

This Security Agreement covers future advances, including a sum or sums loaned by the Secured Party to Debtor at any time after the execution of this instrument. This Security Agreement shall cover accessions and other after acquired property as follows:

Security ---- If this box is marked, the loan is secured by a ---- Uniform Commercial Code security interest, Deed of Trust Lien, purchase money security interest, other (describe):

Security interest (securing payment of "Total of Payments" and any future advances and covering after acquired property): Debtor grants to Secured Party, its successors and assigns, a security interest (in accordance with the terms herein, including those on the reverse side hereof) under the Texas Business and Commerce Code (including a purchase money security interest, where applicable) in the collateral described above, and in all insurance policies now or hereafter covering such collateral, including rights to return of unearned premiums, together with all equipment and accessories thereon, or hereafter added thereto, all substitutions therefore and replacements thereof, and all additions, accessions and parts now or hereafter affixed thereto or used in connection therewith (including, but not limited to, tires, heaters, air conditioners, radios, furniture, appliances and other such items) and also the proceeds thereof; provided, however, that if the Collateral be Consumer Goods as defined by the Texas Business and Commerce Code, this Security Interest shall not attach to any after-acquired property except accessions unless Debtor shall have acquired his rights in such after-acquired property within 10 days after Secured Party last gave value hereunder. Such security interest shall secure payment of the "Total of Payments," the performance of the agreements set forth herein, and the payment of an advance made by Secured Party, its successors and assigns. Pursuant to the terms of this instrument, such security interest shall also secure payment of any other obligations of Debtor to Secured Party, its successors and assigns, whether now existing or hereafter created or incurred, which other obligations are hereby declared to within the obligations secured hereby declared to be within the comtemplation of the parties hereto; provided, however, that if by reason of the generality of the description of the obligation secured hereby there is now or may hereafter be included within the obligation any portion thereof with respect to which portion the taking or retention of this Security interest would result in either the obligation itself or this Security Interest being or becoming in violation of any law or regulation, then the Security Interest herein granted is expressly declared not to secure, and not intended to secure, that portion of the obligation, notwithstanding anything herein stated to contrary. The inclusion of proceeds does not authorize Debtor to, and Debtor agrees that he will not sell, exchange, lease, encumber, waste, dispose of or otherwise use the Collateral or any of Debtor's rights therein in any manner not specifically authorized by this instrument, without first obtaining the written consent of Secured Party. Without limitation upon any other rights of offset, however arising, and in addition to all other security for the payment thereof. Debtor grants to secured party, its successors and assigns, an express contractual right of offset in any type of deposit of undersigned held by secured party.

Purpose:

5. Statement of loan:

A. Amount financed on date hereof_____ $

B. Computation of amount financed to be disclosed, but excluded from the finance charge:

1. Credit life insurance premium_____
2. Credit health and accident insurance premium__________________
3. Amount of basic loan (including Sales Tax, if any)______________
4. Official filing or termination fees__
5. Physical damage insurance premium ___________________________
6. Certificate of Title fee___________
7. Taxes_________________________
8. Other_________________________
9. Amount financed (Items 1 Through 8) ____________________________

C. Computation of finance charge:

1. Interest_______________________
2. Other charges__________________

(a). ____________________________

(b). ____________________________

3. Finance charge/(C1 + C2)________

D. Total of Payments (B(9) + C(3))___

E. Annual percentage rate____________

RENEWAL DISCLOSURE

1. —— Bank Note No. —— extended.

(a) Balance_______________________ $

(b) Interest Rebate________________

(c) Insurance Rebate_______________

(d) Late Charges Due______________

2. Net amount refinanced (included in amount financed in 4A)___________

6. Insurance disclosures:

(1) Credit Life or Credit accident and health insurance is not requested or required in connection with this loan.

(2) Liability insurance covering personal injury and property damage is not required.

(3) Property or physical damage insurance (——) is (——) is not requested or required in connection with this loan.

(4) Debtor has the option of furnishing the insurance requested or required hereunder, either through existing policies of insurance owned or controlled by Debtor, or Debtor may procure and furnish equivalent insurance coverages through any insurance company authorized to transact business in Texas.

Debtor may choose the person through whom the property damage insurance required hereunder is to be obtained.

(5) insurance sold or produced by Secured Party provides for premiums or rate of charge not fixed or approved by the State Board of Insurance. Debtor has the option, for a period of 5 days from the date of this loan, to furnish the insurance requested or required hereunder, either through existing policies of insurance owned or controlled by Debtor, or Debtor may procure and furnish equivalent insurance coverage through any insurance company authorized to transact business in Texas.

(6) If property or physical damage insurance is required hereunder, the premium cost therefore shall be $——— for coverage of $——— for a term of ———.

(7) Type of insurance, coverage, premium-cost, and term:

(a) Single credit life insurance;

(b) Single credit life and accident and health;

(c) Joint credit life insurance; and

(d) Joint credit life and single accident and health.

I desire Credit Life Insurance as indicated above.

I desire Accident and Health Insurance as indicated above.

I do not desire any Credit insurance.

____

Date Debtor Age

____

Date Debtor Age

7. Default and deferment Charges: (See Promissory Note above for payment dates) If any installment remains unpaid for a period of more than 10 days following this due date, debtor agrees to pay a default charge on such installment of an amount not to exceed 5 cents for each $1.00 thereof, but such default shall not be collected more than once in the same installment. If the payment date of each wholly unpaid installment on which no default interest has been collected, is deferred as of an installment date, for one or more full months and the maturity of this contract is extended for a corresponding period of time, Secured Party may charge additional interest for such deferment equal to the difference between the refund which would be required for prepayment in full as of the date of deferment and the refund which would be required for prepayment in full as of one month prior to such date, multiplied by the number of months in the deferment period, such deferment period being defined as that period beginning with the day following the date of the scheduled installment preceding the first installment being deferred, and during which no payment is made or required by reason of such deferment. In the event this contract is in default and is referred to an attorney, not a salaried employee of holder, Debtor shall pay, in addition a reasonable attorney's fee assessed by a court, as well as court costs and disbursements.

8. Prepayment Refund: Any unpaid balance may be paid in full at any time before maturity, without penalty. Upon such prepayment in full, a portion of the finance charge shall be refunded to Debtor if originally payable in substantial equal successive monthly installments, such refund shall be computed by the "sum of the periodic balances method"; otherwise, such refund shall be computed in a manner proportionate to the "sum of the periodic balances method" giving due regard to the amount of each installment and to the regularity of each installment. No refund shall be required hereunder of any amount less than $1.00.

9. Acceleration Upon Default:

Should Debtor fail to pay promptly when due any sum or sums owned hereunder or secured hereby, or default in the timely performance of any of his obligations under this contract (including the failure of Debtor to fully insure the collateral against physical damage, or the failure of Debtor to maintain such physical damage insurance during the full term of the obligation set forth herein) or if Secured Party or holder, in good faith believes that the prospect of payment or payments is impaired, Secured Party may at its option, accelerate the maturity and declare immediately due and payable any part or all of the amount owing hereunder, less unearned finance charge, if any, in excess of the maximum permitted to be retained by Secured Party. Debtor and all co-makers, endorses, guarantors and others liable hereon expressly waive demand for payment, notice of nonpayment of any past due installment, notice of intent to accelerate, notice of acceleration, demand, presentment for payment (prior to or after acceleration), notice of nonpayment, notice of dishonor, protest, notice of protest, and diligence in bringing suit against any party hereto, and do hereby expressly consent to as many extensions of time, and for such periods of time as may be made, without notice and without releasing any of their liability hereon.

Inconsistent State disclosures. The disclosures set forth above are made in compliance with the Federal Truth-in-Lending Act, as well as the Texas Consumer Credit Code; however, the term "cash advance", as used in the Texas law, is the same as the term "amount financed" set forth above.

NOTICE TO DEBTOR

Do not sign this instrument before you read it or if it contains blank spaces. You are entitled to a copy of this instrument. Keep a copy of this instrument to protect your legal rights.

ACKNOWLEDGEMENT BY DEBTOR

Debtor hereby acknowledges that this instrument was completed before it was signed by debtor and that a copy was delivered to debtor at the time this instrument was signed, this —— day of ———, 19—— in —— ——, Texas.

Secured party:

Debtor:

OPERATION DRIVER EXCELLENCE

● Mr. HEINZ. Mr. President, on May 12–14, Harrisburg, the capital city of the Commonwealth of Pennsylvania, hosted the 13th annual national finals of Operation Driver Excellence, a teen safe driving competition sponsored by the American Veterans of World War II, Korea, and Vietnam (AMVETS) and the Dodge Division of Chrysler Corp.

A record field of 36 State driving champions took part in the actual competition at Hershey Park, the famed central

Pennsylvania amusement park just outside Harrisburg. The State champions competed in three critical areas of safe driving: a written examination to test their knowledge of driving theory and traffic laws; an over-the-road test to measure their ability to operate a motor vehicle in actual traffic conditions; and a skill course to test their capability to respond to simulated highway emergencies, all for top honors as National Teenage Safe Driver.

AMVETS National Commander Ted Leszkiewicz, a program cofounder, and Leon Sanchez, AMVETS national executive director, officially represented their organization at the event. James R. Ramsburg, AMVETS national program director, organized the 13th national finals with able assistance from home State Representative Kenneth J. Martin and the Department of Pennsylvania AMVETS.

The program was supervised by AMVETS National Traffic Safety Commission, chaired by Roger L. Christ, of Michigan. Other members of the National Traffic Safety Commission include Donald Fournier, Illinois; Jerry Hartman, Ohio; Robert Mediros, Massachusetts; William Staudte, Missouri; and Joseph Viola, New Jersey.

Dodge was represented by Mr. Al Imber, general sales manager-West, Chrysler Corp. Judging on the over-the-road test and on the skill course was done by the Pennsylvania State Police and by police officers from Harrisburg and surrounding jurisdictions.

Mr. President, I am impressed with the operation driver excellence program. In just 13 years the program has gone a very long way toward accomplishing its goal—promoting public awareness of the pressing need for safer drivers on this country's roads and highways.

AMVETS and Dodge have created a program which emphasizes the need for skillful drivers and recognizes those most skillful. From high schools around the country, driver education students are selected to participate in State D.E. finals. Each State champion and one chaperon of the student's choice, is awarded a weekend trip to the national finals. The three-phase competition: Written test, over-the-road test and emergency skills test, is conducted at the national finals under the strictest supervision. The winner, who successfully tops this stiff competition is awarded a new Dodge automobile, as well as a scholarship and trophy. The top four runners-up are awarded scholarships and trophies. No participant at the national finals is neglected, they all receive plaques, handsome D.E. wristwatches, and other gifts such as a D.E. jacket.

The winner of the 1979 program was Vincent J. Ruggiero, 18, a student at St. Aloysius High School in Jersey City, N.J. He was awarded a new Dodge automobile of his choice and a $2,000 scholarship. His driver education instructor received the free use of a Dodge automobile for a year, resulting from his prize winning performance. The New Jersey AMVETS State driver excellence chairman is Arnold Caslin.

Second place was awarded to Larry Hughes, a 17-year-old student at Gladstone Area High School in Gladstone, Mich. He won the top runner-up award of a $1,500 scholarship. The State driver excellence chairman from Michigan is Donald Green.

Third place and a $1,000 scholarship went to 16-year-old Lester Syren, a student at Service-Hanshew Secondary School in Anchorage, Alaska. The Alaska State D.E. chairman is Robert Lewis. Betsy L. Abernathy, 18, a student at Carter High School in Knoxville, Tenn., captured fourth place and a $500 scholarship. The D.E. chairman from Tennessee is C. F. Cope. Seventeen-year-old Ronald Morander from Conrad High School in West Hartford, Conn., placed fifth and also received a $500 scholarship. The D.E. chairman for Connecticut is Donald Erickson. Each of the other 30 competitors received plaques and citations commemorating their participation.

I am pleased to present to this body the names of each participant in State alphabetical order:

Alaska, Lester Syren, Anchorage; Arizona, Steve Workman, Phoenix; California, David Anderson, Tulare; Connecticut, Ronald Morander, West Hartford; Washington, D.C., Richard Moore; Florida, Jose Nordelo, Orlando; Georgia, Gregory McGee, Toccor; Illinois, Joseph Fajdich, Countryside; Indiana, Shawn Malone, Huntington; Iowa, Barbara Holly, Momona; Kansas, James Schlickaur, Haven; Kentucky, David Goatley, Eminence; Louisiana, Catriona Higgs, New Orleans; Maine, Michele Tatusko, Waterboro; Maryland, Thomas Moler, Jr., Jefferson; Massachusetts, Brian Wilder, Framingham; Michigan, Larry Hughes, Gladstone; Minnesota, Paul Meyer, St. Paul; Missouri, Jack Burrell, Humansville; New Jersey, Vincent Ruggiero, Jersey City; New York, John Andes, Riverhead; North Carolina, Tammie Ward, Ramseur; North Dakota, Steve Cavett, Lisbon; Ohio, Matthew Baker, Bacyrus; Oklahoma, Phil Rudy, Tulsa; Oregon, Joe Hargitt, Willamina; Pennsylvania, Bradley Geiter, Lancaster; Rhode Island, Susan Prescott, Pawtucket; South Carolina, Garry Collins, Effingham; South Dakota, Bill Huffman, Belle Fourche; Tennessee, Betsy Abernathy, Knoxville; Texas, Bill Porter, Elless; Virginia, Mike O'Bey, Hampton; West Virginia, Thomas Bowers, Parkersburg; Wisconsin, Marshall L. McMurrink, Milwaukee.

Mr. President, as I have said, I am impressed with the Operation Driver Excellence program because of its noble objective and the caliber of the participants. I believe this program warrants the attention of Congress as it offers concrete evidence of citizens working on their own to address a serious national problem.

Mr. President, I am confident that all who attended and those who participated in the Operation Driver Excellence whether at local, State or national level, have received a clearer understanding of safe driving practices and techniques. This program is certainly a worthwhile project, and, therefore, I urge both AMVETS and Dodge to continue their partnership in this unique Operation Driver Excellence Program.●

S. 1214—MOTOR VEHICLE THEFT PREVENTION ACT OF 1979

● Mr. BIDEN. Mr. President, on May 22, 1979, I introduced, together with the Senator from Illinois (Mr. PERCY), S. 1214, the Motor Vehicle Theft Prevention Act of 1979. It was my intention at the time to ask that the text of the bill be printed in the RECORD following my remarks.

I therefore ask unanimous consent that the text of S. 1214 be printed in the RECORD and that the permanent record be so corrected.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Motor Vehicle Theft Prevention Act of 1979".

TITLE I—FINDINGS AND PURPOSES

SEC. 101. The Congress finds and declares the following:

(a) The annual number of reported motor vehicle thefts is approaching one million vehicles. Approximately 50 percent of all larcenies reported to law enforcement authorities in the United States are directed against the motor vehicle, its accessories, or its contents. The recovery rate of stolen vehicles has significantly decreased over the past decade.

(b) The theft and disposition of stolen motor vehicles and their parts is becoming more professional in nature. It has also attracted elements of organized crime which have used intimidation and violence as a means of obtaining increased control of "chop shop" operations. These activities are having a serious effect on interstate and foreign commerce. There is indication that organized crime is using auto theft proceeds to purchase addictive and illegal drugs for resale and for other illicit activities that are extremely harmful to our society.

(c) The theft of motor vehicles has brought increased and unnecessary burdens to automobile users and to American taxpayers as the national financial cost of motor vehicle-related theft offenses now approaches $4,000,000,000 annually. This has had an impact on the overall rate of inflation through higher insurance rates.

(d) National and international uniformity on certain standards such as vehicle identification and titling would further facilitate commerce and prevent criminal abuse.

(e) A cooperative partnership between the States and the Federal Government is required to devise appropriate interrelated systems in the area of motor vehicle titling and registration in order to help curb motor vehicle theft.

(f) Farm and industrial users are concerned with the theft of their self-propelled vehicles. Due to a lack of meaningful data in this area, a need exists to study this problem.

(g) The theft of motor vehicles and their parts and their unlawful disposition can be significantly curtailed through the more effective use of the facilities of the National Crime Information Center by both law enforcement authorities and the State motor vehicle registrars.

(h) The cooperation and assistance of the automobile insurance industry is needed to curb the growing problem of insurance fraud through improvements in their procedures for their claim processes, disposition of salvage vehicles, and issuance of policies.

(i) Automobile antitheft campaigns at the local level which have increased citizen involvement and have been sponsored by the insurance industry have been effective in reducing motor vehicle theft.

(j) An increased vigilance by used motor vehicle dealers, motor vehicle dismantlers, recyclers, and salvage dealers, and by motor vehicle repair and body shops is crucial to curtail their important industries from being used to facilitate crime through the disposition of stolen motor vehicles and their parts.

(k) The shipment of stolen motor vehicles and their parts as well as farm and industial equipment outside the United States is a serious problem. The cooperation of shippers and operators of the Nation's vessels, railroads, and aircraft is necessary to hinder such illicit exportation.

(l) The continued assistance and cooperation of our sovereign neighbors, Canada and Mexico, are key ingredients necessary to aid us in our efforts to protect our citizens' property by limiting the opportunity for stolen motor vehicles to enter their respective countries from the United States.

(m) An increased prosecutive emphasis must be given by Federal, State, and local prosecutors to motor vehicle theft violations with particular emphasis being given to professional theft rings and "chop shops".

(n) The commendable and constructive efforts of the Attorney General, Secretary of Transportation, Secretary of the Treasury, Secretary of State, and Secretary of Commerce in the formation of the Interagency Committee on Auto Theft Prevention, with the cooperation from the private sector, should be continued and expanded upon.

Sec. 102. The purposes of this Act are to—

(a) improve the standards for security devices for motor vehicles;

(b) improve the identification numbering systems for motor vehicles and their major components;

(c) increase the Federal criminal penalties for those persons trafficking in stolen motor vehicles and their parts; and

(d) establishing procedures to reduce opportunities for exporting stolen motor vehicles.

TITLE II—IMPROVED SECURITY FOR MOTOR VEHICLES AND MOTOR VEHICLE PARTS

Sec. 201. Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following new subsection:

"(j) Standards established by the Secretary under this section shall include standards to reduce the theft of the motor vehicle and its parts, taking into account—

"(1) the cost of implementing the standard and the benefits attainable as a result of the implementation of the standard;

"(2) the effect of implementation of the standard on the cost of automobile insurance;

"(3) savings in terms of consumer time and inconvenience; and

"(4) considerations of safety.".

Sec. 202. (a) In exercising the authority given to the Secretary of Transportation under section 103(j) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392), as added by section 201 of this Act, the Secretary shall consult closely with the Attorney General, the International Association of Chiefs of Police, the International Association of Auto Theft Investigators, the National Automobile Theft Bureau, and other groups and individuals interested in or affected by the motor vehicle theft problem.

(b)(1) Within twelve months after the date of enactment of this Act, the Secretary of Transportation shall issue proposed notices of rulemaking covering the areas of unauthorized starting of the motor vehicle and major component identification.

(2) The proposed rule covering the prevention of the unauthorized starting of the motor vehicle shall take into consideration ongoing technological developments relating to the utilization of the microelectronics in the motor vehicle, automatic activation of the security system, and possible elimination of the existing metallic mechanical key system presently used to activate the motor vehicle.

(3) The proposed rule relating to the theft of motor vehicle parts shall take into consideration ongoing technological developments, including laser marking machines, to place identification numbers on those major components which are the primary target of the "chop shops".

(4) After an appropriate comment period and the analysis thereof, the Secretary of Transportation shall issue final rules as soon as possible, but not later than twenty-four months after the date of enactment of this Act. The initial effective date of such final rules shall be as soon as practicable but before the introduction of two model years or two calendar years, whichever is shorter, following the issuance of any final rule. Any final rule shall encourage and permit the manufacturer to conform to its requirements before the rule's mandatory effective date.

Sec. 203. Whenever there is in effect a Federal motor vehicle security standard relating to a motor vehicle's starting system, the locking systems for the engine, passenger, and trunk compartments, and component part identification established under this title, no State or political subdivision of a State shall have any authority to establish or to continue in effect, with respect to any motor vehicle or motor vehicle part, any security standard relating to those same systems which is not identical to such Federal standard.

TITLE III—ANTIFENCING MEASURES

Sec. 301. (a) Chapter 25 of title 18, United States Code, is amended by adding after section 509 the following new sections:

"§ 510. Altering or removing motor vehicles identification numbers

"Whoever knowingly removes, obliterates, tampers with, or alters any identification number for any motor vehicle or part thereof required under regulations issued by the Secretary of Transportation shall be fined not more than $5,000, imprisoned not more than five years, or both.

"§ 511. Forfeiture of motor vehicles and their parts which have had identification numbers altered or removed

"(a) Property Subject to Forfeiture.—Any motor vehicle or motor vehicle part required to have an identification number pursuant to regulations issued by the Secretary of Transportation which has had such number removed, obliterated, tampered with, or altered shall be subject to seizure and forfeiture to the United States unless—

"(1) such motor vehicle part has been attached to a motor vehicle owned by an innocent purchaser of such part; or

"(2) such motor vehicle or motor vehicle part has a replacement identification number which is authorized by the Secretary of Transportation or is in conformity with the applicable law of the State where such motor vehicle or motor vehicle part was seized.

"(b) Forfeiture Procedures.—All provisions of law relating to the seizures, summary and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of customs laws; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forefeitures incurred or alleged to have incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person in respect to the seizure and forfeiture of vessels, vehicles, merchandise and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.".

(b) The table of sections for chapter 25 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"510. Altering or removing motor vehicle identification numbers.

"511. Forfeiture of motor vehicles and their parts which have had identification numbers altered or removed.".

Sec. 302. Section 2311 of title 18, United States Code, is amended in the definition of "Securities" by inserting immediately after "voting trust certificate;" the following: "motor vehicle title until it is cancelled by the State indicated thereon or blank motor vehicle title;".

Sec. 303. Section 2313 of title 18, United States Code, is amended—

(1) by striking out "moving as, or which is a part of, or which constitutes interstate or foreign commerce," and inserting in lieu thereof "which has crossed a State or United States boundary after being stolen,"; and

(2) by inserting "possesses," immediately after "receives,".

Sec. 304. (a) Chapter 113 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2319. Trafficking in motor vehicles or their parts which have had identification numbers altered or removed

"Whoever buys, receives, possesses, or obtains control of, with intent to sell, transfer, distribute, dispense, or otherwise dispose of, any motor vehicle or motor vehicle part, knowing that an identification number required pursuant to regulations issued by the Secretary of Transportation has been removed, obliterated, tampered with, or altered, shall be fined not more than $25,000, imprisoned not more than ten years, or both.".

(b) The table of sections for chapter 113 of title 18, United States Code, is amended by adding at the end thereof the following:

"2319. Trafficking in motor vehicles or their parts which have had identification numbers altered or removed.".

Sec. 305. Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting "sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles)," immediately after "section 1955 (relating to the prohibition of illegal gambling business),"; and

(2) by inserting "section 2319 (relating to the trafficking in motor vehicles or their parts with altered or removed identification numbers)," immediately after "sections 2314 and 2315 (relating to the interstate transportation of stolen property),".

Sec. 306. (a) Section 3002 of title 39, United States Code, is amended—

(1) in the section heading, by inserting "and manipulative devices" after "keys";

(2) in subsection (a), by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)";

(3) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(4) in subsection (c), as redesignated by paragraph (3) of this section, by inserting "and subsection (b)" immediately after "subsection (a)";

(5) by inserting after subsection (a) a new subsection (b) to read as follows:

"(b) Except as provided in subsection (c) of this section, any manipulative type device which is designed or adapted to operate, circumvent, remove, or render inoperable the ignition switch, ignition lock, door lock, or trunk lock of two or more motor vehicles, or any advertisement for the sale of any such manipulative type device is nonmailable matter and shall not be carried or delivered by mail."; and

(6) by adding at the end a new subsection (e) to read as follows:

"(e) Upon evidence satisfactory to the Postal Service that any person is engaged in a scheme or device for obtaining money or property through the mail by advertising or offering for sale any motor vehicle master key or manipulation device made nonmailable by this section, the Postal Service may issue an order of the same kind and with the same incidents as that authorized by section 3005 of this title.".

(b) The table of sections for chapter 30 of title 39, United States Code, is amended in the item relating to section 3002 by inserting "and manipulative devices" after "keys".

SEC. 307. (a) Section 1716A of title 18, United States Code, is amended in the section heading by inserting "and manipulative devices" after "keys".

(b) The table of sections for chapter 83 of title 18, United States Code, is amended in the item relating to section 1716A by inserting "and manipulative devices" after "keys".

TITLE IV—IMPORTATION AND EXPORTATION MEASURES

SEC. 401. (a) Chapter 27 of title 18, United States Code, is amended by adding after section 552 the following new section:

"§ 553. Unlawful importation or exportation of stolen self-propelled vehicles, vessels, or aircraft

"(a) Whoever imports, exports, or attempts to import or export (1) any self-propelled vehicle, or part of a self-propelled vehicle, vessel, or aircraft, knowing the same to have been stolen, or (2) any self-propelled vehicle or part of a self-propelled vehicle, knowing that its identification number has been removed, obliterated, tampered with, or altered, shall be fined not more than $10,000, imprisoned not more than five years, or both.

"(b) For purposes of this section, the term—

"(1) 'self-propelled vehicle' includes any automobile, truck, tractor, bus, motorcycle, motor home, and any self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail;

"(2) 'vessel' has the meaning given to it in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401); and

"(3) 'aircraft' has the meaning given to it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5)).".

(b) The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end thereof the following:

"553. Unlawful importation or exportation of stolen self-propelled vehicles, vessels, or aircraft.".

SEC. 402. The Tariff Act of 1930 is amended by adding after section 624 (19 U.S.C. 1624) the following new sections:

"SEC. 625. UNLAWFUL IMPORTATION OR EXPORTATION OF STOLEN SELF-PROPELLED VEHICLES, VESSELS, OR AIRCRAFT; CIVIL PENALTY.

"(a) Whoever knowingly imports, exports, or attempts to import or export (1) any stolen self-propelled vehicle, vessel, aircraft, or part of a self-propelled vehicle, vessel, or aircraft, or (2) any self-propelled vehicle or part of self-propelled vehicle from which the identification number has been removed, obliterated, tampered with, or altered, shall be subject to a civil penalty in an amount determined by the Secretary, not to exceed $10,000 for each violation.

"(b) Any violation of this section shall make such self-propelled vehicle, vessel, aircraft, or part thereof subject to seizure and forfeiture under this Act.

"SEC. 626. INSPECTION OF USED SELF-PROPELLED VEHICLES TO BE EXPORTED; DEFINITIONS.

"(a) A person attempting to export a used self-propelled vehicle shall present, pursuant to regulations prescribed by the Secretary, to the appropriate customs officer both the vehicle and a document describing that vehicle which includes the vehicle identification number, before lading if the vehicle is to be transported by vessel or aircraft, or prior to export if the vehicle is to be transported by rail, highway, or under its own power. Failure to comply with the regulations of the Secretary shall subject the exporter to a penalty of not more than $500 for each violation.

"(b) For purposes of this section and section 625, the term—

"(1) 'self-propelled vehicle' includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail;

"(2) 'aircraft has the meaning given to it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5)); and

"(3) 'used' refers to any self-propelled vehicle other than a new self-propelled vehicle which is exported by the original manufacturer or by such manufacturer's authorized agent.".

SEC. 403. The Tariff Act of 1930 is further amended by adding after section 588 (19 U.S.C. 1588) the following new section:

"SEC. 589. ADDITIONAL AUTHORITY FOR UNITED STATES CUSTOMS SERVICE.

"A customs officer, as defined in section 401(1) of this Act, may (1) carry firearms, execute and serve search warrants and arrest warrants, and serve subpenas and summonses issued under the authority of the United States, and (2) make arrests without warrant for any offense against the United States committed in his presence or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such a felony.".

SEC. 404. (a)(1) Section 7607 of the Internal Revenue Code of 1954 (26 U.S.C. 7607) is repealed.

(2) The table of sections for subchapter A of chapter 78 is amended in the item relating to section 7607 by striking out "Additional authority for Bureau of Customs" and inserting in lieu thereof "Repealed".

(b) A prosecution under section 7607 of the Internal Revenue Code of 1954 (26 U.S.C. 7607) for any violation of law occurring before the effective date of subsection (a) of this section shall not be affected by the repeal made by such subsection or abated by reason thereof.

(c) Civil seizure, forfeiture, and injunctive proceedings commenced under section 7607 of the Internal Revenue Code of 1954 (26 U.S.C. 7607) before the effective date of subsection (a) of this section shall not be affected by the repeal made by such subsection or abated by reason thereof.

TITLE V—REPORTING REQUIREMENTS

SEC. 501. (a) Within eighteen months, after the date of the enactment of this Act the Attorney General, after consultation with the Secretaries of Agriculture, Commerce, Transportation, and the Treasury, shall submit to the Congress a report on the developments in the area of the theft of off-highway vehicles and the steps being taken to help prevent their theft as well as hinder their subsequent disposition, and facilitate their recovery. Included in the report shall be—

(1) the progress being made by the various manufacturers of off-highway vehicles to develop identification numbering systems effective in identifying such vehicles;

(2) the effectiveness of the location and manner by which such identification numbers are affixed to the off-highway vehicle by the manufacturer, including the affixing of such number in a confidential location;

(3) the degree to which the various manufacturers are reporting the characteristics of their numbering identification systems for off-highway vehicles to the National Crime Information Center (NCIC) so that appropriate edit controls over entries and inquiries can be established by NCIC;

(4) the progress being made toward the establishment within the off-highway vehicle industry of an industrywide unique identification numbering system;

(5) the degree to which manufacturers of off-highway vehicles have affixed unique identification numbers to the major components of the vehicle;

(6) the degree to which manufacturers of off-highway vehicles have established record systems which permit a cross-referencing between the identification number of the vehicle and those of the major components;

(7) changes being made to the format and procedures of the NCIC to better deal with the theft of off-highway vehicles and their major components;

(8) the degree of cooperation of the various manufacturers of such off-highway vehicles with the Nation's law enforcement community to reduce the theft problem in this area;

(9) the efforts being made by the owners of existing off-highway vehicles to affix an owner applied number (OAN) to such vehicles and the major components thereof;

(10) the passage of any State laws relating to the titling or deeding of off-highway vehicles;

(11) the passage of any State laws which make it a State crime to remove, obliterate, tamper with, or alter the identification number affixed by the manufacturers to any off-highway vehicle or major component of such vehicle;

(12) the passage of any State laws permitting the seizure by law enforcement for investigative purposes and possible forfeiture of any off-highway vehicle or major component thereof which has had its manufacturer's affixed identification number removed, obliterated, tampered with, or altered.

(13) the degree to which manufacturers of off-highway vehicles have developed a manufacturer's certificate of origin which contains adequate internal security features to guard against forgery, alteration, and counterfeiting, lists the serial number of the vehicle itself as well as the serial numbers of any major components, and can serve as a de facto title for such vehicle by assignment to subsequent purchasers;

(14) the steps being taken by those elements of the private sector which auction off, make loans on, and insure off-highway vehicles to help deter stolen off-highway vehicles from being reintroduced into the channels of legitimate commerce; and

(15) any assessments of the scope of the problem as well as any recommendations the Attorney General may deem appropriate.

(b) For purposes of this section, the term "off-highway vehicle" means a vehicle or work machine that is self-propelled or pushed or towed by a self-propelled vehicle and the primary function of which is off-highway in application. Any on-highway operation is incidental to the vehicle's primary function. This includes self-propelled agricultural, forestry, industrial, construction, and any other non-transportation special use equipment.

SEC. 502. On or before the first June 30 which occurs at least fifteen months after the date of enactment of this Act, and on or before each June 30 thereafter for the following nine successive years, the Attorney General, in consultation with the Secretary of Transportation, the Secretary of the Treasury, and the Postmaster General, shall submit to the Congress a report on the implementation and development of the provisions of titles II, III, and IV of this Act and the effectiveness of such provisions in helping to prevent and reduce motor vehicle-related theft.

CONFERENCE REPORT ON S. 7, THE VETERANS HEALTH CARE AMENDMENTS OF 1979

● Mr. **HEINZ**. Mr. President, on this historic occasion, I commend my colleagues for passing and sending to the President the Veterans Health Care Amendments of 1979. This occasion is historic because after four previous attempts and 8 long years, the Congress has finally passed a readjustment counseling program.

The problems Vietnam veterans have had readjusting to civilian life, the high suicide rate experienced by Vietnam veterans, and the alcohol and drug abuse incidence is well known and documented. Only now are we as a Nation coming to grips with these problems and trying to do something for those many who serve when their country called.

For the first time, the Veterans' Administration will have the authority to counsel Vietnam veterans whose marriages have suffered, or who have trouble relating to a society which has long ignored them, or who have been unable to obtain and hold a decent job because of an inability to come to terms with their military service.

I am particularly pleased that the conferees have provided the Veterans' Administration with the authority to contract for readjustment counseling when the VA cannot effectively meet the needs of veterans. I fought long and hard for this authority and share the concern of the conferees that three "are veterans who would be made eligible for readjustment counseling and related mental health services under the conference agreement who might not be served effectively if services under this provision were available only directly from the VA."

In view of this concern, I support the report of the managers, which states that if the VA facility cannot "effectively furnish counseling or services to meet the needs" of veterans, the Administrator "should contract with a private facility to provide such services." I urge the Veterans' Administration to broadly interpret this language to establish a program of readjustment counseling that melds the best of the VA with the best in the private sector to provide the most effective counseling to all those veterans in need.

This language represents a victory in providing the veteran with some of the health care he needs and deserves. While I am happy to have had a role in this victory, there remains much we must still do. I will continue to work on the behalf of the Vietnam veteran, to help with the employment and health needs that so many veterans have.

I urge President Carter to sign this legislation as soon as possible—the Vietnam veteran has already waited too long to be welcomed home.●

THE COUNTRY JOURNAL

● Mr. **LEAHY**. Mr. President, I am always pleased to salute craftsmanship. Today I want to recognize the excellence of a magazine published with care in Vermont that communicates through subscription across the country the special qualities of life in the rural areas.

Blair & Ketchum's Country Journal, published by William Blair and Richard Ketchum, comes from modest surroundings in Brattleboro and Manchester, Vt. But the product created by my two friends is a tribute to their own striving for excellence. The writing is crisp and at times lyrical. The photos and graphics are always rich and exemplary. The information contained in the monthly is entertaining and enlightening about the traditional ways of country living and how they are applied to our new awareness of traditional country customs and values.

Country Journal is on the forefront of that new awareness.

I submit the following article from the Brattleboro Reformer by Terry Sprague to be printed in today's RECORD in recognition of Country Journal's fifth anniversary.

BLAIR & KETCHUM'S COUNTRY JOURNAL—A VERMONT SUCCESS STORY

(By Terry Sprague)

"At times it seems like more than five years," said publisher William Blair, as he sat, precariously tipped back in his chair, and reflected over the five years since the birth of Blair and Ketchum's Country Journal.

The May issue marks the fifth anniversary of the Brattleboro and Manchester-based magazine whose original object was to help people get the most out of life in rural New England. However, Country Journal is rapidly gaining recognition all over the country and the content is not exclusively New England.

Blair points out that now, with the magazine's acceptance in the mid Atlantic states, the midwest and places as far away as Oregon, "we are more regional than most national magazines and more national than most regionals."

The first issue in May 1974, sold 36,000 copies—all of them in New England. The circulation as of May, 1979, is well over 200,000 and more than half of those are outside of New England. In fact readers are located in all 50 states and in 55 foreign countries. And Blair sees a potential half million circulation in the next two or three years.

BIGGER THAN PLANNED

"We have grown somewhat bigger than I thought we would," Blair said. "I underestimated the interest in the magazine outside of New England, but not in New England."

According to research, most of the magazine's readers live in the country; a small minority are full-time city dwellers; some of them have vacation homes and the income and education levels are considerably above the national average.

The readers, although sophisticated in many ways, enjoy splitting their own wood and raising their own vegetables, prefer cross country skiing to downhill, tennis to golf and birdwatching to traveling abroad.

Part of the secret of the magazine's success, Blair said, is in the writers who are able to write in a way that is interesting, even if they—and the readers—are not interested in the subject matter.

"I loved the story about geese, but I wouldn't want to raise them," the publisher said.

In a field where as many as about a hundred new magazines are started each year and about 90 percent of them fail, Country Journal can be deemed successful. The average issue of Country Journal now earns as much advertising revenue as the entire first year of publication. Where most new magazines require additional financing after they start up, Country Journal has not needed more than its original capital investment of $260,000, Blair said.

SUBSCRIPTION RENEWALS

One of the first signs of a successful magazine, he said, is how many renew their subscriptions.

"Our renewals were very satisfactory," Blair said, "and once you know that you can be successful."

Another question, however, is how big is the market? Blair said Time Inc. spent $10 million in promoting its highly successful People magazine. Country Journal did not have that kind of money to find out what its market is, he added with a wry smile.

Instead of the millions in publicity, Country Journal sends out letters to names on lists which the magazine rents. Blair also uses a personal touch. While browsing recently at a Brattleboro store, not too far from his office on the third floor of 139 Main Street, Blair mentioned to the clerk that the store's array of newspapers and magazines did not include the Country Journal.

The puzzled clerk replied, "Country? Country? country what? I think we carry a country something."

There is still some promoting to be done before the magazine reaches the saturation point, he noted.

The success of the magazine also has been recognized with a National Magazine Award, and it has been featured in Forbes, Time, Boston and other magazines. It also has been discussed on NBC television's Today Show.

"We have been successful, but if we had failed, then the effect on the ego would have been quite different," Blair reflected. "Henry Ford failed three or four times but he kept on trying. I don't know if I could have."

Blair's biggest mistake, he said, was in not allowing enough room for inflation. The cost of paper on which the magazine is printed has more than doubled and the postage has increased five times, he noted. The cost of the magazine also has increased, as have most magazines. The original yearly subscriptions sold for $10. They increased twice from $12 to the current cost of $13.50 in the five year span.

But the magazine didn't fail and Blair can enjoy the success.

"There is a great sense of freedom in doing your own thing," the publisher said.

THE VERMONT CONNECTION

It was that search for freedom and a desire to live full time in their country homes that brought Blair and Ketchum together in the first place. Country Journal's editor, Richard M. Ketchum, was editor-in-chief of American Heritage books in New York City. Blair was president and publisher of Harper's Magazine, also in New York City.

Both men had Vermont summer homes—Ketchum's was in Dorset and Blair's home for 15 years was in Guilford. Both men wanted to move to the country on a full-time basis. Both questioned what they could find as a job in the country. But, while their backgrounds and desires were similar, neither man knew the other.

It took Walter Hard, former editor of Vermont Life, to serve as the catalyst for the two men and the budding idea for a New England magazine.

"He knew both of us and brought us together," Blair said.

Once the men and the ideas got together, the vision which had to do with understanding the country better began to take shape.

Neither Blair nor Ketchum wanted to move from their Vermont homes to a mutual area for their joint office. Therefore they made a natural choice—Blair would run the business office from Brattleboro and Ketchum would handle the editorial office from Manchester.

"It is not unusual to have separate business and editorial offices," Blair said of the arrangement. "It works well—Ketchum and I tend to agree most of the time. But there are times I wish we were closer together."

FAR FROM THE CITIES

And what of the location of a "major" (Blair questions the description) magazine being located far from a major city?

"It's less of a problem than it used to be, mainly because of modern technology," Blair said.

He cited as an example the magazine "Fly Fisherman" that was recently sold. The editorial portion remained in Manchester, Vt., "where the action is" while the business end was relocated in New York City.

Air transportation plays a major role in putting together the publication. It is as easy to send out the film from Brattleboro as from New York City, the publisher notes. The magazine is printed in Washington, D.C., as is Yankee magazine.

Some of the fine color work used in the magazine is completed in Switzerland because of the quality of the Swiss product, he adds. And it is no problem to transport the film by plane.

Other modern technological advances, such as computer programming with a telephone hook up, also add to the ease of publishing a magazine in the country. Circulation records, for example, also used by a whole list of other magazines, are located in Boulder, Colo.

The staff of the two Country Journal offices has stayed at about a dozen each, most of whom began with Blair and Ketchum. But a move is planned for the Brattleboro office. The lack of stretching out space in the office at 139 Main Street, adjacent to the Windham Regional Commission, has led to a planned move to the new Catamount Bank building between Main Street and the Connecticut River that is not yet completed.

SUBJECT MATTER UNCHANGED

The subject matter in the magazine has not changed much in five years. There is a broader area covered than when it began.

"There is an incredible interest in wood heat," Blair notes. "We did two fairly ambitious stories on the selection and the drying of wood and another on stoves. The newstand sales went way up."

The Country Journal did not set out to be a magazine that "tells people what they should think."

"We don't preach. But to an extent the kind of material we select would betray a bias," Blair said.

In the fifth anniversary issue of Country Journal, Ketchum sums up many of the feelings of the two men. He said in an editorial,

"We have tried to include a variety of voices—different shades of opinion—in the magazine, on the theory that fresh air and light enter when the windows are open. Yet there is probably no concealing our biases, since some of them appear frequently in these pages. It may have been noticed that we defend the small family farm, despite all its purported inefficiencies, that we are concerned about our environment, and that we are on the side of open land and the wild creatures. We think we should struggle to hold on to our communities. We believe in freedom and in work. We are naturally curious. We are against waste, and the use of the word 'contact' as a verb. When necessary we believe in miracles."●

SNOWMOBILES AND MOTORBOATS

● Mr. GARN. Mr. President, during consideration of the last gas rationing plan, the Senate completely overlooked a significant element of American life. I refer to the snowmobiling and motorboat industry.

President Carter has recently emphasized to the Nation how important recreation is. In the midst of his rhetoric about the moral equivalent of war, the President took time out from skirmishes with energy demons to go fishing, on a boat. His example, I fear, was far more potent than his precept, but never mind that. The point is that recreation is important to the soul of man, and there is nothing wrong with it.

Of course, there are circumstances under which play may be inexcusable. When the war is a real one, rather than the moral equivalent of one, it may well be that there would be a compelling social interest in eliminating, or sharply restricting, all forms of recreation. No one would object to that, since the restrictions would apply equitably.

But in the last rationing plan, which the House of Representatives had the good sense to defeat, all forms of recreation were not treated equally. Under the plan, motorhomes, campers, motorcycles, and other recreational vehicles which require road licenses received some allocation of fuel. But motorboats and snowmobiles, which do not require road licenses, were not provided any allocation. I do not know whether that was an oversight by the Department of Energy (though I suspect not), or what exactly did happen. I do know that the original legislation which asked for the rationing plan specifically required that one sector of our economy not be sacrificed to others.

And the nonroad-related recreation industry is significant in the American economy. Snowmobiliers alone spend more than $2.6 billion on their sport in the United States and Canada, $85 million in sales and gas tax revenues are generated annually at the local level alone.

Again, I repeat: In a true crisis, where every drop counts, no one is asking for a special allocation for snowmobiles, or for any other kind of recreational vehicle. But that is not the situation contemplated under the last rationing plan. At that time we were considering some shortfall far short of absolute crisis, a shortfall which would require some sharing of burdens, but no prohibition on any specific activity.

Under those conditions, it is unfair not to provide any allocation at all to a significant segment of the recreation industry, and I certainly hope that any plan devised under the legislation we are considering today will retain the element of fairness asked for in the original act. Some allocation will have to be made for snowmobiles, motorboats, and any other vehicles which do not require road licenses.

Thank you, Mr. President.●

FEDERAL ASSISTANCE TO MASS TRANSIT

● Mr. WILLIAMS. Mr. President, as the current energy crisis continues, it becomes more important than ever that we focus on the need to improve our mass transportation systems. Many of us in Congress have been calling on our colleagues and upon the administration to assure adequate funding to continue improving and expanding our mass transit capacity. Last year, Congress voted an authorization of $3.2 billion for mass transit—after 2 years of careful debate and analysis. This year, despite looming energy shortages which portend long-range problems, the administration has proposed funding levels falling far short of last years' authorizing legislation.

The current focus of the fight for adequate transit funding is now in the Appropriations Committee. Last week my distinguished colleague from Pennsylvania (Mr. Heinz) showed his concern for and understanding of our energy and transportation problems in testifying before the Appropriations Subcommittee on Transportation. His statement was a clear and forceful discussion of the need to adequately fund our transit programs.

Mr. President, I ask that Senator Heinz's statement be printed in the Record.

His statement follows:

Statement of Sen. John Heinz Before the Appropriations Subcommittee on Transportation

Mr. Chairman, I appreciate the opportunity to appear before your committee this morning to express my concern about federal assistance to mass transit. I appear this morning not just in behalf of the 1.7 million daily passengers who rely on Federally assisted mass transportation in the State of Pennsylvania, but for transit riders and commuters through this nation. In Pennsylvania, those passengers rely on a fleet of 3000 buses and 1500 electrical vehicles, reflecting only a portion of the nation's 22.3 million bus passengers and 7.6 million transit and 890,000 commuter riders.

Our gasoline shortages of the past few weeks have reaffirmed my concern about the potential limitations of our shortsighted policy with regard to mass transit assistance. While the other industrialized nations of the West have kept energy consumption constant since 1973, our country has increased its usage each and every year. Only now are we beginning to realize the impact of our increasing reliance on foreign energy resources. This impact is most dramatically felt in California, but there is almost no portion of the country untouched. Factories empty because people cannot get to them and cold homes next winter will become a very real part of our lives until government is able to move positively on this issue.

It will be our responsibility to develop new energy policies and new resources which are not dependent on foreign and, often, inimical interests. Such alternate sources are some time away, however, and will be further delayed by the events in my state at Three Mile Island. In the meantime, we have only one choice if we are to preserve and protect the most important and basic needs of our society, and that is to conserve.

Mr. Chairman, I am pleased to note that an increasing number of Americans are realizing that one means of conservation is mass transit. Last year, again, there was an increase in bus ridership, making the longest sustained increase in ridership since WWII. Last Friday, the New York Times had an article on its front page citing the difficulty for commuters of finding space on mass transit vehicles. This turn to transit is not, I might add, limited to the Northeast and those cities which have traditionally relied on transit systems. Last year, the voters of Houston decided to provide an added municipal sales tax to provide a billion dollars for mass transit in Houston over the next ten years.

The recognition, Mr. Chairman, is there. People realize that there is an alternative. But what few people realize is that a few years from now, there might not be any mass transit systems. Our policies of providing bare budgets today could spell bankruptcy for these very systems upon which our futures could, in large part depend.

Let me provide the committee with a specific example of why I am so concerned. State and local aid for the Philadelphia and Pittsburgh transit systems are programmed to increase by 10 to 20 percent in fiscal year 1980.

Farebox revenue is slated to increase. One would assume from these figures that the system would prosper with these increases with the federal contribution remaining constant or decreasing only slightly.

But the figures belie the true story. Last year, both the Pittsburgh and Philadelphia transmit systems reduced their service by approximately 14 to 15 percent, just to keep their heads above the water. 83 percent of the Pittsburgh Transit Authority's costs are manpower—failure to keep pace with rising costs forces a reduction in service. There is only so long that such reductions can continue.

In looking at the fiscal year 1979 supplemental and the fiscal year 1980 budget, Philadelphia loses $20.6 million in Section 5 assistance alone, Pittsburgh $6.4 million. The state and local commitment are there. Even the willingness of commuters to accept necessary fare increases is there. The federal government has made two responses, however: the Council on wage and Price Stability has harassed the Southeastern Pennsylvania Transit Authority that its fare increases are not within the voluntary guidelines, and the Department of Transportation has been unwilling to make the minimum necessary commitment just to retain the existing level of service.

The plain truth, Mr. Chairman, is that without some leadership in the Congress, there will be no mass transit in Philadelphia nor in many metropolitan areas 5 years from now. What will remain will be a crumbling system, not only unable to serve the new ridership generated by our energy shortages, but no longer able to serve those who rely on the system today.

My concern, Mr. Chairman, is that we not discourage one of the most successful energy conservation programs we have. Mass transit is unique in that it contributes to the citizens of this nation in many ways—in energy conservation, in greater access to job opportunities, in a cleaner environment, in revitalization of our urban areas, and most importantly, in providing mobility to millions of our citizens who have no alternative means of transportation: the young, the old, and the economically disadvantaged.

Unfortunately, instead of encouraging mass transit, the Fiscal 1979 and 1980 appropriations proposed by the Administration do everything to discourage it. The proposed total appropriation of $2.8 billion for fiscal year 1980 is the same as for fiscal year 1979. In the face of inflation this represents a decrease of some $300 million. In absolute dollars, the proposed appropriation level is $454 million below the levels authorized. In my own state, this will result in operating assistance shortfalls of $13 million in Philadelphia and $4 million in Pittsburgh. In addition, Pennsylvania's smaller urbanized and rural areas such as Scranton, will be shortchanged by nearly $3 million. Clearly, a reduction in federal aid of this magnitude can only result in drastic fare increases and reduced services at a time when transit systems should be increasing services and maintaining fares to encourage transit usage.

I am also concerned with the way UMTA has proposed to divide up the Section 3 capital funds. Pennsylvania has two of the eight cities in the country with old rail systems. Yet UMTA has set "marks" of only $40 million per year for Pittsburgh and $80 million per year for Philadelphia for modernization. UMTA has further told Philadelphia that funding for major construction including the Airport High Speed Line and the Commuter Connection (projects approved by UMTA in 1974 and in 1977 and now under construction, costing nearly $400 million) must come out of the $80 million per year "mark". This leaves virtually nothing for the rest of the system, despite modernization needs estimated at over $400 million.

In summary, Mr. Chairman, I strongly encourage this Committee to fund a fiscal year 1979 supplemental appropriation to provide full funding for Section 3 and Section 5 of the bill we passed last year, as well as to provide full funding for the fiscal year 1980 bill. At the same time, I would strongly encourage the Committee to provide full funding in both bills for the Section 18 rural transportation assistance programs.

We have an opportunity, after all, to shorten gas lines, to reduce the number of OPEC tankers. But being penny wise now, will surely prove pound foolish later. It is my hope that this Committee will give this issue its highest priority.●

ABRAHAM LINCOLN

Mr. HATFIELD. Mr. President, many times during reflective moments I, like many of my colleagues, turn to the thoughts and contributions of Abraham Lincoln for hope and inspiration. Certainly no American has been greater in capturing the spirit of our Nation and the longing of mankind for essential freedoms.

Recently an address before the Lincoln Commission by Dr. Samuel Iftikhar has come to my attention. It is entitled, "What I Didn't Know About President Abraham Lincoln—The Secret of His Greatness." The article reveals the great depth of his spiritual resource and I trust it will be a source of increased appreciation for the magnitude of the man and his contribution to our national character.

I ask that this address be printed in the RECORD.

The address follows:

WHAT I DIDN'T KNOW ABOUT PRESIDENT ABRAHAM LINCOLN—THE SECRET OF HIS GREATNESS

INTRODUCTION

For a number of years I have been a great admirer of President Abraham Lincoln and his extraordinary achievements—his humble beginning, high ideals, diligence, election as President of the United States and unselfish love for his fellow human beings. It was only recently, however, that I began seriously considering the source of nourishment of the marvelous personality and character of this towering political giant of our planet. President Lincoln once said:

"All that I am, or hope to be, I owe to my angel mother."

His angel mother died when he was only nine years old. But her influence in moulding his character and inspiring his thoughts was tremendous. She directed his attention to the great spiritual treasure in the Bible—treasure which inspired and uplifted him and sustained him during the most crucial period of the Civil War. His Christian faith was the secret of his greatness.

Dr. Roy P. Basler, a renowned Lincoln scholar, states in his book, The Lincoln Legend, that:

"The religion of the ordinary citizen is, more or less a private affair, but the religion of a popular hero is everybody's business. Sectarians have seized upon him as their own. He was a Baptist, a Methodist, a Presbyterian, a Spiritualist, a Universalist, a Catholic, and an infidel, and there is evidence to support any one of the claims."

Through misinterpretation of several of Lincoln's recorded observations, his critics have from time to time accused him of being an atheist and an infidel. Serious students and admirers of Lincoln around the globe have been astonished by this contention. The testimony of many persons closely associated with Lincoln during his lifetime provides conclusive evidence to the contrary; that the charges were mostly the result of misunderstanding and misinterpretation, as in the well known case of a paper destroyed by Major Samuel Hill—Lincoln's friend and employer—concerning another of Lincoln's friends, Ann Rutledge. Although for years regarded as Lincoln's handwriting, the Rutledge letter turns out to be that of Major Hill. According to the testimony of Mr. Mentor Graham, a close associate of Lincoln for two years at Salem, the Major's letter had been picked up by school children and handed over to Lincoln. That is how he obtained it, and the opinions expounded in it were simply not his.

It has been alleged that Lincoln wrote an essay criticizing Christianity. Speaking to this point, Mentor Graham provides evidence from personal knowledge that the essay in question was a defense of universal salvation. Lincoln's argument in that essay was based on the passage: "As in Adam all die even so in Christ shall all be made alive"; he followed it with the proposition that whatever the breach or injury of Adam's transgression against the human race, which no doubt was very great, it was rendered just and right by the atonement of Christ.

Thus the charge that Lincoln criticized Christianity, turns out to be unfounded.

Then there is the matter of Lincoln's close friend, William Henry Herndon, who claimed that both he and Lincoln were infidels. The weight of this contention is lessened by Herndon's definition of the word "infidel", which is very unusual. As he explained it:

"You know by Religion, my Philosophy: that the highest thoughts and acts of the human soul and its religious sphere are to think, love, obey, and to worship God, by thinking freely, by loving, teaching, doing good to, and elevating mankind. My first duty is to God, then to mankind, and then to the individual man or woman."

So it would appear that Herndon was not really an infidel by any interpretation other than his own.

These misunderstandings or confusing interpretations are beautifully explained by John T. Morse Jr., who stated:

"Lincoln means different things to different persons, and the aspect which he represents depends to an unusual degree upon the moral and mental individuality of the observer."

The topic of my talk is: What I didn't know about Lincoln—the secret of his greatness.

1. Reverence for the Bible:

I knew that in his early life Lincoln read the Bible in his home and at school, like many other children do; but I didn't know that his pious mother had inculcated in him a love and reverence for the Bible to such an extent that he faithfully continued to seek guidance from it till he completed his mission and fulfilled the purpose of his life. I have seen an overwhelming and convincing evidence regarding his love for the Bible which he described as "the best gift God had given to man" and as an "excellent and perfect moral code . . . suited to men in all conditions of life. . . ." According to John G. Nicolay, one of his secretaries at the White House, Lincoln was "a constant reader of the Bible and had great faith in it."

His extensive use and thorough knowledge of the Bible is evidenced in his state papers, letters, recorded conversations, debates and speeches. It has been discovered that there appear in his collected works some "seventy-seven quotations from or references to the Bible", mostly from the four Gospels, Genesis, psalms and the Book of Exodus. In his Second Inaugural 266 words out of a total of 702, "were either quoted directly from the Bible or used in expounding the quoted passages."

President Theodore Roosevelt, in his address before the American Bible Society in 1901, pointed out that Abraham Lincoln read and mastered the Bible and "instinctively put into practice what he had been taught therein. . . ." To those who sought to lead a fruitful life, Lincoln proposed the study of the Bible, which he described as a source of superior living. To his intimate friend, Joshua F. Speed, Lincoln wrote:

"I am profitably engaged in reading the Bible. Take all of this Book upon reason that you can, and the balance on faith, and you will live and die a better man."

Lincoln's reverence for and reliance on the Bible were not kept secret from those who came into contact with him. Shortly following his election to the Presidency, he said to Judge Joseph Gillespie:

"I have read on my knees the story of Gethsemane, where the Son of God prayed in vain that the cup of bitterness might pass from Him."

2. Prayerful life:

I knew that Lincoln believed in the power of prayer because he requested his countrymen, ministers, friends and admirers to invoke God's wisdom and guidance for him; but I didn't know that he often kneeled down before God Almighty to know His will and to request His blessings. Lincoln's prayerful life was initiated by his mother. Speaking in the presence of his client, Father Chiniquy, Lincoln observed that "my mother often told me when young—that our God is a prayer-hearing God."

That her prayers made a lifelong impression upon Lincoln's young mind, is confirmed by his confession when he became President: "I remember her prayers, and they have always followed me." During his years in the White House, Lincoln was well known as a man dedicated to prayer. His private secretary John G. Nicolay stated that "Mr. Lincoln was a praying man; I know that to be a fact. And I have heard him request people to pray for him—I have heard him say that he prayed."

Bishop Simpson, Bishop Janes, and many others who visited with him at the White House knew of Lincoln's reliance on prayer. The congregation at the New York Avenue Presbyterian Church observed that, in attendance at the Sunday services and as a member of their weekly prayer meeting, "his attitude was always that of an earnest and devout worshiper." Lincoln told his minister Dr. Phineas D. Gurley, on several occasions that "he had received great comfort from the meetings."

Lincoln confided to his friend Judge Henry C. Whitney of his need to kneel down before the Most High:

"I have been driven many times upon my knees, by overwhelming conviction that I had nowhere else to go. My own wisdom, and that of all about me, seemed insufficient for that day."

3. Faith in God:

I knew that Lincoln had faith in God which became stronger and more real with every passing year of his life; but I didn't know the extent of his commitment to God. There is voluminous evidence in the form of his direct statements on the subject, revealing that a total commitment to the purposes of God was the very center of his life. All his plans and actions, policies and practices, decisions and their implementation were guided by his abiding trust in and "absolute dependence upon the power and mercy of God." In his farewell address to his friends and neighbors at Springfield on February 11, 1861 Lincoln made it very clear that his success or failure as President of the United States depended entirely upon the wisdom and guidance to be given to him by the Heavenly Power which was higher and wiser than himself. In prayerful tones, he declared in his Second Inaugural address the intention to proceed "with malice toward none, with charity for all, with firmness in the right, as God gives us to see the right, let us finish the work we are in . . .". Lincoln was convinced that God was the final Judge and the Final Court of Appeal. It was not enough to know His Will; we must pray for insight to understand His Will also.

In his letter to Eliza P. Gurney, Lincoln stated this belief:

"The purposes of the Almighty are perfect and must prevail, though we erring mortals may fail to accurately perceive them in advance . . .".

4. Follower of Christ:

I knew that Lincoln believed in the divinity of Christ and had made a confession before Newton Bateman that "Christ is God"; but I didn't know that he had accepted Jesus Christ as his Lord and Saviour. In his letters, speeches and conversations Lincoln often used the words of Jesus from the four Gospels. These quotations included:

"Whatsoever ye would that men should do to you, do ye even so unto them;

"Inasmuch as ye have done it unto one of the least of these, ye have done it unto me; and

"Be ye perfect even as your Father which is in heaven is perfect."

According to Mentor Graham's testimony, Mr. Lincoln wrote an essay on universal salvation through Christ, and he chose his text: "As in Adam all die, even in Christ shall all be made alive."

Isaac Cogsdale of Illinois was convinced that Lincoln believed in the atonement of Christ because he (Lincoln) had told Cogsdale: "All that was lost by the Fall was made good by the Sacrifice."

It is true that Lincoln did not join any Church, but it is also true that two days before the assassin's bullet put an end to his life, he was scheduled to have made a public confession of his faith in Christ and join the New York Avenue Presbyterian Church which he attended with stern regularity.

5. Guided by Holy Spirit:

I knew that Lincoln led a well-disciplined life which was directed from above; but I didn't know that his Guide and Helper was none other than the Holy Spirit. Lincoln could feel and recognize this "power outside and beyond himself, which could be none other than the Spirit of God." Lincoln made a confession during his conversation with L. E. Chittenden, register of the treasury by stating that there had been "many instances when I have been controlled by some other power than my own will, that I cannot doubt that this power comes from above. I frequently see my way clear to a decision when I am conscious that I have no sufficient facts upon which to found it . . . I am satisfied that when the Almighty wants me to do or not to do a particular thing, He finds a way of letting me know."

Again, during his conversations with Robert Browne, Lincoln revealed that he has often been led to a decision by something stronger than his own spirit. For example, in the selection of Mr. Fessenden as Secretary of the Treasury, Lincoln professed to have been helped by a "spirit higher than his own".

He made it very clear to Fessenden that the decision to appoint him was directed from above. Addressing Fessenden on the subject, Lincoln stated: "Last night I saw my way clear to appoint you Secretary of the Treasury. I do not think you have any right to tell me you will not accept the place. I believe that the suppression of the Rebellion has been decreed by a Higher Power than any represented by us, and that the Almighty is using His means to that end. You are one of them. It is as much your duty to accept as it is mine to appoint. Your nomination is now on the way from the State Department and in a few minutes it will be here. It will be in the Senate at noon, you will be immediately and unanimously confirmed and by one o'clock today you must be signing warrants in the Treasury." Fessenden accepted the appointment and performed his duties in a way that justified Lincoln's belief in the holy origins of his service.

6. Man of new birth:

I knew that Lincoln valued both faith and the rational understanding of religious beliefs; but I didn't know he had attained the highest stage, that of discovery or personal experience, which leads to the strengthening of one's faith and forms the basis for new birth. Mr. William O. Stoddard, private secretary of Mr. Lincoln, testified to the effect: "the life of Abraham Lincoln presents a deep and priceless teaching concerning the reality of that inner birth, growth, development, whose richest treasures are, nevertheless, hidden from all eyes but those of God Himself." While explaining his "extreme optimism concerning the outcome of the War," to Mr. L. E. Chittenden, register of the treasury, Lincoln stated that "there is the element of personal experience." Let me give an illustration from Six Months in the White House by Carpenter, to show that Lincoln was a born again Christian. Lincoln once asked an elderly lady of high Christian character, her opinion as to "what constitutes a religious experience". In reply, she said that "it consisted in a conviction of one's own sinfulness and weakness and personal need of the Savior for strength and support; and though doctrinal views might differ, if one felt his need of Divine help and sought the aid of the Holy Spirit, it was evidence of having been born again. After a thoughtful pause Mr. Lincoln said earnestly: 'If what you have told me is really a correct view of this great subject, I think I can say with sincerity that I hope I am a Christian.' " This statement is confirmed by the testimony of Professor Murdock, who was a frequent guest at the White House. On one such visit, Murdock saw the President kneeling beside an open window and praying. His words were simply: "I cannot guide the affairs of this nation without Thy help. I am poor and weak and sinful. O' God who didst hear Solomon when he cried for wisdom, hear me and save this nation."

7. Practicing Christian:

I knew that Lincoln was known as "Honest Abe", but I didn't know that he took the Christian virtues literally and practiced them faithfully during his life time. There is an authentic record of the testimony of

Stephen A. Douglas, Lincoln's adversary, who called him "The honestest man I ever knew"; of William Stoddard, Lincoln's private secretary, who talked about Lincoln's "all-pervading love of truth, of righteousness, of justice"; and many others who saw him as a patient, forgiving, humble, sympathetic and honest person. Some appropriate illustrations may be in order:

Honesty: Lord Charnwood records in his biography of Lincoln that Lincoln once said to a client: "I can win your case; I can get you $600. I can also make an honest family miserable. But I shall not take your case, and I shall not take your fee. One piece of advice I will give you gratis: 'Go home and think seriously whether you cannot make $600 in some honest way.' "

Compassion: Lincoln saved the life of a young soldier by sending a telegram to General Butler asking him to suspend the execution; then, turning to the father of the soldier, he said "Tell his mother that I said, 'If your son lives until they get further orders from me, when he does die, people will say that old Methuselah was a baby compared to him.' "

Sympathy: Lincoln wrote a letter to Mrs. Bixby of Boston, Massachusetts, who lost her five sons in the Civil War: "I feel how weak and fruitless must be any words of mine which should attempt to beguile you from the grief of a loss so overwhelming; but I cannot refrain from tendering to you the consolation that may be found in the thanks of the Republic they died to save. I pray that our Heavenly Father may assuage the anguish of your bereavement and leave you only the cherished memory of the loved and lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom."

Forgiveness: After hearing some bitter remarks, against the public servants, made by Lincoln's jubilant supporters gathered in the War Department to see the results of his Second Presidential election, President Lincoln remarked: "A man has not the time to spend half of his life in quarrels. If any man ceases to attack me, I never remember the past against him."

Humility: Lincoln once wrote to Thurlow Weed: I have never entertained an unkind feeling or a disparaging thought toward you, and if I have said, or done anything which has been construed into such unkindness or disparagement, it has been misconstrued. I am sure if we could meet we would not part with any unpleasant impression on either side."

Patience: To Reverdy Johnson he wrote: "I am a patient man, always willing to forgive on the Christian terms of repentance, and also to give ample time for repentance."

Love: Lincoln bought new clothes and shoes for a poor boy who had been ridiculed by his classmates because of his clothes, in a school behind the White House. Later Lincoln visited the school and wrote on the blackboard: "Inasmuch as ye have done it unto one of the least of these my brethren, you have done it unto me." "It is more blessed to give than to receive."

Love: Regarding his membership in a Church, Lincoln said: "When any Church will inscribe over its altar as its sole qualification for membership 'Thou shalt love the Lord thy God with all thy heart and thy neighbor as thyself'—that Church will I join with all my heart."

(There is ample evidence to show that Lincoln had decided to join the New York Avenue Presbyterian Church, the Church he attended regularly.)

8. Commitment to social justice:

I knew that Lincoln hated slavery; but I didn't know about his dedication to the cause of social justice. In 1831, at the age of twenty-two, Lincoln saw in New Orleans, the sale of slaves for the first time, and his compassion for them made him say to his companions: "Boys, by the Eternal God, if ever I get a chance to hit that thing (slavery), I will hit it hard." Thirty years later, just before his election as President, he said to Mr. Bateman: "I know there is God, and that He hates injustice and slavery. I see the storm coming, and I know that His hand is in it. If he has a place for me—and I think He has—I believe I am ready. I know I am right, for Christ teaches it, and Christ is God."

Lincoln's inborn sense of natural justice led him to revolt against the institution of slavery. He had no sympathy for those who stretched their reasoning to justify or defend it. There were those who argued that slavery had been forced upon the White man. On the other hand, Lincoln observed, the Whites were very busy, ". . . going many thousand miles, seizing a set of savages, bringing them here, and making slaves of them." Under the circumstances, he said, the contention that slavery should be regarded as "a necessity imposed on us by them, involves a species of logic to which my mind will scarcely assent."

Lincoln rejected any advice that tended to compromise his moral and religious beliefs. And he criticized those who ignored the problem of social juctice. In September 1859, he answered Douglas at Columbus, Ohio.

"I suppose the institution of slavery really looks very small to him. He is so put up by nature that a lash upon his back would hurt him, but a lash upon anybody else's back does not hurt him."

On another occasion he stated that, "God Almighty never made a man good enough to keep his fellow man in subjection."

Lincoln's conception of social justice applies to all human beings, rich as well as the poor and down-trodden. Everyone should do for others what he expects others to do for him. Like an ancient Psalmist he warned:

"Let not him who is houseless pull down the house of another, but let him work diligently and build one for himself, thus by example assuring that his own shall be safe from violence when built."

9. Love of mankind:

I knew Lincoln believed that "all men are created equal"; but I didn't know that he served all human beings by promoting the cause of equality and freedom through democracy.

In a letter to Joshua Speed, he stated: "As a nation we began by declaring that 'all men are created equal.' When the Know-Nothings get control, it will be read 'all men are created equal except Negroes, and foreigners, and Catholics.' When it comes to this I shall prefer emigrating to some country where they make no pretense of loving liberty."

Lincoln was convinced that genuine democracy serves humanity much better than any other form of government because it protects the rights of common people. He once said: "Lord loves plain people because he made so many of them." All through his speeches and writings appears the feeling that Lincoln was espousing the cause of mankind. In writing to Henry L. Pierce of Boston, he said that, "Those who deny freedom to others, deserve it not for themselves, and under a just God, cannot."

His speech at Springfield, Illinois, on June 26, 1857, confirms that his vision of a free society encompassed the whole world and that the democratic experiment was to serve as a standard for other freedom loving people to follow. He gave his interpretation of that portion of the Declaration of Independence which declares that "all men are created equal" by stating that the authors of that noble declaration intended "to set up a standard for a free society, which should be familiar to all, and revered by all; constantly looked to, constantly labored for, and even though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence and augumenting the happiness and value of life to all people of all colors everywhere."

His Gettysburg address is a further proof that his vision circled the globe. He didn't say that the "government of the people, by the people, and for the people shall not perish from the United States", he broadened the horizons of democracy by saying "from the earth".

While criticizing those governments which deny equal rights to their citizens, Lincoln expounded the superiority of the democratic form of government. He stated in 1854:

"Most governments have been based. practically, on the denial of equal rights of men . . . ; ours began by affirming those rights. They said some men are too ignorant and vicious, to share in government. Possibly so, said we, by your system, you would always keep them ignorant and vicious. We proposed to gave them a chance; and we expected the weak to grow stronger, the ignorant, wiser, and all better and happier together. We made the experiment; and the fruit is before us. Look at it, think of it."

Lincoln's deep concern for human rights was based on his religious convictions. For him, serving God was to serve humanity. And he genuinely loved and served humanity because he loved God.

10. Fair treatment to his adversaries:

I knew that Lincoln was a kind and compassionate person; but I didn't know that he treated his enemies with remarkable fairness and justice. He differed with his colleagues who wanted him to deny the position of Chief Justice to Salmon P. Chase because he had so zealously competed with Mr. Lincoln for the Republican presidential nomination in 1864. Lincoln's magnanimity led him to forgive his adversary on this occasion as on others. Despite the bitter criticisms cast against him by some of Chase's most ardent supporters, he was ready to forgive, declaring, "That would not make him less fit for the place. And I think I have Scriptural authority for appointing him. You remember, when the Lord was on Mt. Sinai getting out a commission for Aaron, that same Aaron was at the foot of the mountain, making a false god for the people to worship. Yet Aaron got the commission."

Similarly, in his Second Inaugural address Lincoln demonstrated the same magnanimity by saying: "With malice toward none, with charity for all."

Lincoln's religion was without hate and prejudice because his Master had taught him to love his enemies. His magnanimity, thus displayed, well continue to inspire people everywhere because he never willingly "planted a thorn in any man's bosom" and he did nothing through malice because he declared: "What I deal with is too vast for malice."

CONCLUDING STATEMENT

Lincoln took a firm stand for the right; he pleaded forcefully the cause of the downtrodden; he displayed his creed through his deeds; and he served all human-beings, friends as well as foes, with magnanimity. His greatness, well-deserved, was bestowed from above because, he, as an instrument of God, led by the Spirit of God, fulfilled the purposes of God. He, like the Apostle Paul, could have said: "I have run the great race, I have finished the course, I have kept the faith."

This great American is adored around the globe because he inspires those who are engaged in the promotion of just causes, and provides hope to those who are weak.

Could such a sublime character deny the existence of God who was his Master and Saviour, and before whom he kneeled for wisdom and direction?

There are still those who would continue to call him an atheist or infidel. For such people Lincoln would pray: "God Almighty, forgive them because they do not know what they are saying."

I am thrilled to know many things I didn't know before about Mr. Lincoln. Something I still do not know is why his birthday is not a national holiday in this country, whose prestige he enhanced throughout the world. So great were his services to humanity, surely his birthday deserves national, if not international, recognition.

Dr. Samuel Iftikhar: A Profile

Dr. Samuel Iftikhar was ordained as an Elder in the United Presbyterian Church in Pakistan and he served as Adult Education Director in the Christian Council of Pakistan before coming to the United States on a UNESCO Fellowship. Later his friend, Late Dr. Frank C. Laubach, arranged a scholarship for Dr. Iftikhar to enable him to continue his studies.

Dr. Iftikhar obtained a Masters degree in Oriental History from the Punjab University of India, and a Master's and a Doctor's degree from Syracuse University, New York State. Since April 1963 he has served in the Asian Division of the Library of Congress. He has presented research papers on Asian affairs in the national and international scholarly conferences.

Dr. Iftikhar is Vice President of the Lincoln Commission, an Elder and Sunday School teacher in the New York Avenue Presbyterian Church; President of the Pakistan League of America and Canada; and First Vice President of the Association for Pakistan and Indic Islamic Studies.

Dr. Iftikhar is actively involved in Christian Fellowships, conducting prayer meetings and organizing several prayer groups. He started an International Prayer Fellowship for the Library of Congress staff.

Dr. Iftikhar and Shamim Iftikhar were married at the New York Avenue Presbyterian Church in 1964. They live with their three children, Irfan Martin, Nasim Nancy and Nasreen Elizabeth in Hyattsville, Maryland. The Iftikhars are American citizens.

DR. WALTER L. PANNELL—SERVING HIS COMMUNITY AT AGE 100

● Mr. WILLIAMS. Mr. President, it is my great pleasure to call a remarkable occasion to the attention of my colleagues.

In July of this year, Dr. Walter L. Pannell, a renowned resident of East Orange, N.J., will celebrate his 100th birthday. While this in itself is a most noteworthy anniversary, that month will also mark the beginning of Dr. Pannell's 75th continuous year of providing medical care. He may well be the oldest active practicing physician in the United States.

Walter Pannell was born in July 1879, in Kingston, Ontario. He received his undergraduate degree from Kingston Collegiate Institute in 1899, and completed his medical training in 1903 at Queens Medical College, also in Kingston. Following graduation, he traveled to Rochester, N.Y. and served an internship during 1905 at St. Mary's Hospital. The following year, he continued his training at the New Amsterdam Eye and Ear Hospital in New York City.

On July 3, 1906, Dr. Pannell received his license to practice medicine. From 1912 through 1920 he served as an assistant at Manhattan Eye and Ear Hospital. And, in 1914, he became a member of the clinical assistant staff of the Hospital Center at Orange, N.J. He has continued his association with that distinguished institution for the subsequent 65 years, and now is a member of the emeritus staff, department of surgery, section of otorhinolaryngology.

Dr. Pannell also holds a number of other professional distinctions and honors. He was certified by the American Board of Otolaryngology in April 1926; he is a diplomat of the American Board of Otolaryngology; and he was a fellow of the American Board of Surgeons. He is also an honorary member of the Orange Mountain Medical Society, which is itself the oldest continually active medical society in the United States.

On June 27, Dr. Pannell will be honored at a dinner sponsored by the Orange Mountain Medical Society and the Clinical Society of Montclair; to be held at the Rock Spring Country Club in West Orange, N.J. More than 200 of his colleagues will attend in celebration of this momentous milestone.

Mr. President, I know that my colleagues will agree that Walter L. Pannell's unbroken record of service to his fellow men and women is an achievement which merits the notice and commendation of the entire Nation. In an era when our society is still struggling to free itself of the prejudice of discrimination based on age, Walter Pannell's dedication and distinction will serve as a vivid reminder that the passing years need in no way diminish the ability or the willingness to participate fully in the life of the community. When that example is added to the thousands of patients who he has served so well, Dr. Walter L. Pannell will have ample reason to feel a unique sense of achievement which is so deservedly his. I am proud to join in honoring him for his remarkable record of accomplishments.●

MAESTRO MAURICE ABRAVANEL

● Mr. GARN. Mr. President, I would like to honor Maestro Maurice Abravanel, who has recently retired after 32 years as music director and conductor of the Utah Symphony. Maestro Abravanel looks back on the longest tenure of any conductor with a major U.S. orchestra with the exception of Eugene Ormandy in Philadelphia.

Under Maestro Abravanel's leadership the Utah Symphony has become one of America's most recorded symphony orchestras. Since the Utah Symphony began making commercial recordings in 1957, Maestro Abravanel and the Utah Symphony have produced over 100 major releases, including recordings of 169 works by over 45 composers. Two million discs recorded on Angel, Columbia, Vanguard, and Vox have been sold around the world.

Maestro Abravanel's recording program has emphasized the great early 20th century works, notably those of Aaron Copland, George Gershwin, Ralph Vaughn Williams, and Gustave Mahler. The symphony has also recorded transcriptions of Bach by Stravinsky and Schoenberg. The recording program has been given additional distinction by works of composers who have been strongly influenced by folk music of their own countries and whose music is not dispassionate—music that touches the soul of the "common man."

The Utah Symphony's recordings of Mahler works have attracted international attention and brought Abravanel both the Bruckner Medal and the plaudits of the Internationale Gustav Mahler Gesellschaft in Vienna, as well as the 1975 Mahler Society Award. In the same year, the distinguished "Ex Libris" Book-of-the-Month Club of Switzerland and Germany offered a complete set of the Utah Symphony's Mahler recordings as a bonus to its subscribers. The Utah Symphony is the first American orchestra to have recorded all the Mahler symphonies, and Maestro Abravanel has been established as a leading Mahler authority, because of his beautiful interpretations of the works of Mahler.

The Utah Symphony has made four international tours. In 1977, Maurice Abravanel and his musicians went to Greece, Austria, Germany, and Spain. They performed 19 concerts to "standing room only" audiences, one with a record-breaking seven curtain calls, and others with 12-minute ovations. The Utah Symphony also toured Latin America to "bravos" and superior reviews in 1971. The symphony performed in New York's Carnegie Hall and at the Kennedy Center and Constitution Hall in Washington, D.C., on their way to a 2-week concert tour of England in 1975, which included a concert at London's famed Royal Festival Hall.

The orchestra has made several major tours of the West coast, one to Hawaii, and a 3-week concert tour of the Central and Midwestern States. They make several tours throughout the Rocky Mountain States each season. The people of Utah have known years of great music thanks to Maestro Abravanel. The Utah Symphony presents over 200 concerts each season, including 15 subscription series concerts in Salt Lake City, 8 in Ogden, 3 subscription concerts in Logan along with approximately 75 school concerts performed throughout Utah. Maestro Maurice Abravanel is a musician, a teacher, a concerned citizen, and a beloved leader. The entire Utah community joins in thanking him for his years of leadership.●

A TRIBUTE TO EDWARD V. MOLNER

● Mr. WILLIAMS. Mr. President, on June 1 of this year, after nearly 38 years of Federal service, Edward V. Molner retired from a truly remarkable career at the Department of Labor.

Ed Molner never served in a position of public prominence, but to the many hundreds of officials at all levels with whom he has worked over the years, his name was a household word. Ed Molner never held a position of great power, but his influence can be found in some of the most important pieces of legislation which have been supported by the Department of Labor and enacted by the Congress. Ed Molner never had any legal training, but in his long and noteworthy career he has contributed to the education of several generations of young lawyers who have aspired to develop their skills as legislative attorneys.

Ed Molner began his Labor Department career in 1941 as a junior stenographer in the typing pool. Interrupting his career to serve in World War II, he was wounded in the service of his country.

After his return, he came to head a small legislative reference unit within the Division of Legislation and Legal Counsel, Office of the Solicitor. He successfully managed an extraordinarily large flow of legislative materials.

But, it was his unstinting spirit of cooperation and dedication, his pervasive interest in legislative developments, and his encyclopedic memory that made Ed Molner the remarkable civil servant that he was. For many years, the best advice that could be given to anyone seeking information about legislative matters was, "ask Eddie Molner." Over the years this advice has been followed to great advantage by countless officials in every part of the Department of Labor, and Ed Molner always came through.

By a few words of advice or by identifying an ancient document from his bottomless memory, Ed Molner saved innumerable hours of research for those working on urgent projects. His help contributed greatly to the accuracy of the department's legislative activities and frequently served to place important contemporary initiatives in proper historical perspective.

Ed Molner is a quiet man, but his competence and dedication speak loudly. He never sought recognition, but his efforts have often been honored. In the memory of the Department of Labor officials, he is the only employee ever to have twice received the Department's prestigious "distinguished career service award."

Ed Molner is truly one of a kind, but he epitomizes what is best in the Federal bureaucracy.

On the occasion of his retirement, it is appropriate that we accord fitting recognition to this outstanding civil servant.●

LIQUEFYING OF COAL WAS SUCCESSFUL MORE THAN 50 YEARS AGO: WHEN WILL WE LEARN?

● Mr. RANDOLPH. Mr. President, 50 years ago the following item appeared in the popular technology journal, "Scientific American." Its implications were largely ignored:

> April, 1929: Two years ago I. G. Farbenindustrie, the great German chemical combine, undertook to erect a commercial plant for liquefying coal on a large scale. This plant, which at present produces 70,000 tons of gasoline per year, is being enlarged to a capacity of about 250,000 tons per year. Dr. Friedrich Bergius has also published some details of the yields from one metric ton of bituminous coal by his process of liquefaction. With the necessary hydrogen and ferric oxide the coal yields 525 kilograms of oil, which in turn yields 150 kilograms of motor spirit, 200 kilograms of Diesel oil and creosote oil, 60 kilograms of lubricating oil and 80 kilograms of fuel oil.

When will we learn?

I request that the following article be printed in the RECORD.

The article follows:

FIFTY AND ONE HUNDRED YEARS AGO

April, 1929: "Two years ago I. G. Farbenindustrie, the great German chemical combine, undertook to erect a commercial plant for liquefying coal on a large scale. This plant, which at present produces 70,000 tons of gasoline per year, is being enlarged to a capacity of about 250,000 tons per year. Dr. Friedrich Bergius has also published some details of the yields from one metric ton of bituminous coal by his process of liquefaction. With the necessary hydrogen and ferric oxide the coal yields 525 kilograms of oil, which in turn yields 150 kilograms of motor spirit, 200 kilograms of Diesel oil and creosote oil, 60 kilograms of lubricating oil and 80 kilograms of fuel oil." ●

WE HAVE AN ENERGY PROBLEM—UTILIZATION OF COAL IS NECESSARY—GOV. JOHN D. ROCKEFELLER OF WEST VIRGINIA URGES ACTION

● Mr. RANDOLPH. Mr. President, our energy problem is not going to go away. Several administrations, halfheartedly, have tried to solve America's energy problems by promoting increased domestic production of various fossil fuels. These actions, however, have fallen short of what the situation demands. While imports continue to rise, domestic oil and gas production shows very slight increases. The failure of supply expansion efforts, I believe, is because of our lack of commitment to increased coal utilization.

This failure is causing the majority of the public, 77 percent according to a recent Gallup poll, to believe our real energy shortfall is nothing but a hoax. As a Government and a Nation we must be willing to renew our commitment to a fuel which was and still has the capability to be the backbone of this industrialized Nation.

The Congress has been attempting to increase coal utilization through passage of such laws as the Powerplant Fuel Use Act of 1978 which calls for all new utility plants to have complete coal-burning capacity. In certain instances Government agencies and the private sector are cooperating to increase coal use.

The Environmental Protection Agency recently reached an agreement which would allow a large New England electrical plant to start burning coal instead of oil. The Brayton Point plant located in Somerset, Mass., currently burns between 12 and 14 million barrels of oil per year, most of which is imported. EPA has revised its clean air plans for Massachusetts to let the plant, operated by New England Power Co., to begin switching to coal by 1982. By 1984, oil generated electricity can be reduced by 17 percent through increased coal utilization.

We must reverse the pattern of exclusive use of oil for generation of electricity in the Northeast. Several years ago, 12 percent of electrical power in New England came from coal. Now coal accounts for only 2 percent, with imported oil making up the difference.

Mr. President, in the June 4 issue of U.S. News & World Report, Gov. John D. Rockefeller IV of West Virginia, also chairman of the President's Coal Commission, gives a clear and concise summary of problems which present obstacles to establishing a clear policy for switching back to coal.

I ask my colleagues to read and reflect on Governor Rockefeller's comments which I believe outline positive and coherent action which must be taken now for increased coal production and utilization to assure our future energy independence.

I ask that the interview be printed in the RECORD.

The interview follows:

WHAT'S HOLDING UP THE SWITCH TO COAL

Q. Governor Rockefeller, do the nation's problems with oil and nuclear energy seem to be brightening the future for the coal industry?

A. Yes, the prospects for coal are better. I don't think you can avoid the conclusion that the recent Three Mile Island incident is going to make the American people back off a bit on nuclear energy. The current oil shortage is clear evidence that our dependency on imported oil has reached a dangerous level.

But whether this will actually lead to increased coal production is another thing. A lot will depend on government decisions, investor confidence and public willingness to accept coal as part of the solution to the nation's energy problems. In West Virginia, for example, there are plans to open about 50 new mines, but the go-ahead decision is waiting for coal demand to improve.

Q. Just what is the situation in the coal fields?

A. Many mines have closed down in the past year, and thousands of miners are out of work. In West Virginia alone, there are about 7,500 miners who either are out of work or are working shorter hours.

Coal companies could mine about 100 million tons a year more than they are now producing. There's a lot of coal just sitting on the ground. All this is happening at a time when the country is going through the agony of a severe oil shortage and the high cost of foreign oil is a major cause of inflation and is weakening the American dollar.

Q. Would you say the United States can meet the Carter administration's goal of producing 1.2 billion tons of coal a year by 1985?

A. Perhaps by 1990. There's no way to mine that much coal by 1985 under current restraints. The demand for electricity—and the coal to generate it—is not going up as fast as the experts once figured. Instead of a 7 percent annual growth in electric power, they're now talking about 4 percent.

Coal producers and their investors were burned once by the failure of government to retain its enthusiasm about coal. At the moment, we're producing more coal than we're using. Now the industry is reluctant to make the financial commitment until it knows for sure that the country has a rational energy policy that resolves some of the problems confronting the industry.

Q. Who gets the most blame for this situation?

A. There's blame enough for everyone. Congress has not come through with a comprehensive policy on coal use. The public is not too receptive to the idea of burning a lot of coal. There are too many inconsistencies in government policy toward coal.

While the government wants to expand the use of coal, this goal often is in conflict with the duties of the Environmental Protection Agency. Air-pollution regulations make it almost impossible to burn coal in parts of the country. Utilities in the Northeast, for example, used to get 12 percent of their fuel from coal. It's now down to 2 percent, with imported oil taking up the difference. Some utilities would like to switch back to coal, but without EPA cooperation, these conversions won't happen.

In some cases, the Interstate Commerce Commission has allowed railroads to raise freight rates to the detriment of coal. In one case, rail rates for Wyoming coal have gone from $11 to about $17 a ton in the past year. Another example: The cost of shipping metallurgical coal from West Virginia to Japan is $9 a ton to get it from the mine to the nearest port and $13 a ton to ship it to Japan. That's a bunch of money, especially when Australian coal is getting there about $10 to $15 cheaper.

Q. Is the nation's rail system adequate to handle massive transportation of coal?

A. The rail network is in place in the East and the Appalachia region; this is not to say that the rails and rail beds are what they should be. But out West you have big problems with the railroad system, and you don't have a nearby Western port.

Q. Is productivity in the mines still slipping?

A. Instead of slipping, it's increasing in some instances. For the first time, you hear miners talking about competing with other miners to see who can mine the most coal. That's a healthy sign.

Still, the productivity of American miners is not what it used to be. It's now about 7 tons per man per day in deep mines in West Virginia. That's down from about 15 tons per miner per day in 1967.

Q. How does the productivity of American miners compare with that of miners in other countries?

A. The productivity of the American miner is superb compared to miners virtually anywhere else in the world. In England, productivity is 3 tons per man per day, or less. Part of the loss in U.S. productivity came after the Federal Coal Mine Health and Safety Act of 1969. It was a productivity loss that had to come in the interest of the health and safety of the miner.

Currently, the Coal Commission and other groups are looking at rules and regulations to see where they can be improved or eliminated. We don't plan to touch any rules that are necessary to health and safety in the mines. But some miners will tell you that some regulations are not necessary and, in fact, are a nuisance.

Q. Are miners still staging wildcat strikes?

A. Wildcat strikes are not the problem they were a year ago. In fact, the nation is entering a new era of stability in the coal fields.

Last year, the coal industry, which had the worst labor relations of all industries, went through the worst strike in its history. Both sides learned from the strike. The United Mine Workers learned it was rapidly losing ground to non-union operations, with its share of production dropping from around 70 percent to about 48 percent. The union also learned that the strike did not make a very big difference to the rest of the nation. The miners thought everything was going to close down. Operators lost a lot of money, but the nation survived.

Today, the miners have a new attitude. The *United Mine Workers Journal* is talking more about cooperation between labor and management. The 1978 contract will create more stability in the coal fields. It includes bonus incentives for increased production. It allows grievances to be settled at a lower level, thus reducing arbitration.

More importantly, a new generation of young miners is maturing. By 1981, they're going to be making $21,000 a year. That's pretty good money. They're buying houses and getting into mortgage payments. The sense of isolation that produced radicalism in the coal fields is diminishing.

Q. Will the union be able to survive under these conditions?

A. I think so. The Eastern coal fields are essentially union, and they're going to stay that way. The big coal companies know that, and they're not trying to get away from that fact.

The union is becoming more aggressive about organizing new mines and more aggressive about disciplining local leaders who encourage wildcat strikes and work stoppages.

Q. But isn't the biggest increase in coal production going to come out West, where the UMW is weakest?

A. True, there's going to be a tremendous increase in coal production in the Western states, and there are only about 6,000 UMW members west of the Mississippi.

But even if the growth in electric power is only 4.5 percent annually over a 15-to-20-year period, it will require an enormous new supply of coal. The UMW is going to get a large chunk of that coal—but the union realizes that it will have to compete for it. That's a healthy situation.

Q. Coal is dirty. Can this country burn upwards of a billion tons of coal a year without mucking up the environment?

A. Obviously there are environmental trade-offs if you burn that much coal. The same is true for any other kind of fossil fuel and for nuclear, too. But the main question is: Is it in the interest of the country to decrease reliance upon imported oil?

The U.S. is sitting on a 300-to-400-year supply of coal. For one reason or another, we're not using this coal; yet we are using approximately 9 million barrels per day of foreign oil. Not only is this inflationary; it has very deep strategic national security consequences for this country.

Q. Should environmental laws be weakened to permit the burning of more coal?

A. They shouldn't be weakened, but some need a more reasonable and flexible interpretation.

EPA's rule limiting sulfur-dioxide emissions to 1.2 pounds per million B.t.u.'s is a reasonable and fair standard. If the standard is made tougher, then coal would have an economic disadvantage in competing with oil and other forms of energy. If you put your emissions of sulfur dioxides down to 0.8 pounds per million B.t.u.'s, the air gets cleaner but you also put thousands and thousands of people out of work because of energy shortages.

Even with the 1.2 standard, the air's been getting a lot cleaner in America in recent years. Charleston, W. Va., is a very different place than it was 10 years ago.

Q. Have there been any technological breakthroughs that will allow coal to be burned cleanly?

A. Some promising developments are changing the way people think about coal. Coal is not just coal any longer: Coal can be burned without dirty smokestack emissions through a process known as fluidized-bed combustion; gasification can turn coal into a natural-gas-type fuel; with liquefaction, coal becomes oil.

Consolidated Edison Company in New York has successfully burned coal that was first converted into an oil-like liquid through a process known as solvent refining. The solvent was used to remove sulfur and other impurities. The air came out the smokestack clean as a whistle, meeting all EPA standards.

Q. How much would this type of fuel cost?

A. No one knows for sure, since there is no commercial-size plant to produce solvent-refined coal. The best estimate is about $22 a barrel.

Imported oil is selling at $14.54 a barrel, and it's going up. By the time solvent-refined coal comes on line in the late 1980s, it could be competitive with foreign oil. That's the real enemy: Imported oil.

Q. Are the new federal rules on surface mining too harsh?

A. In some instances, yes—but one of the biggest problems is inconsistency. Congress approved one law for the whole country. Unfortunately, the Office of Surface Mining is not using a lot of flexibility in interpreting the law. You can't reclaim mined land in Wyoming and Montana the same way you do in West Virginia and Eastern Kentucky.

Some of the regulations are simply unreasonable. To give one example: Sediment control. On steep slopes and mountain areas, the government is requiring big sediment ponds to collect the runoff. The only problem is that there isn't enough land for big sediment ponds in Eastern Kentucky and West Virginia, where the land is only about 2 or 3 percent flat. There are other ways of accomplishing the same thing—ways that have worked extremely well in West Virginia—but the government insists on certain types of sediment-control ponds.

Q. With the spread of coal mining out West, is there a danger of creating another Appalachia there?

A. The word *Appalachia* is not a bad word.

West Virginia, for example—if I may be a little biased— has a per capita income that is exceeded in its rate of increase by only two other states in the Union: Wyoming and Alaska. Our base is lower, but we're growing at a faster rate economically than the nation. We have been for some time, and we will for a long time in the future.

One of the big problems in Appalachia is that the facilities have been there for a long time and the housing stock is declining. But there's a lot of new housing being built to replace it. Out West, you've just got to start everything from scratch: New towns, new railroads, new everything—and not much water. And do the people want all that coal mining out there? That's a question that will have to be settled if this country is going to make the big switch from imported oil to coal.●

ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS BELLMON, DANFORTH, AND WALLOP ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Messrs. BELLMON, DANFORTH, and WALLOP be recognized each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MUTUAL DEFENSE TREATIES—SENATE RESOLUTION 15—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I do not think I need unanimous consent for this request because I think that under the order I am authorized to call it up no later than tomorrow and it would have to be done tomorrow. But I ask unanimous consent just in any event that, upon the conclusion of the orders for the recognition of Senators tomorrow, the Senate proceed to the consideration of Calendar Order No. 113, Senate Resolution 15.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object just for a moment, has the majority leader finished his request?

Mr. ROBERT C. BYRD. I thank the minority leader.

Mr. President, temporarily I withdraw my request and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request I made earlier.

Mr. President, I ask unanimous consent that I be recognized, after the orders for the recognition of Senators have been consummated, for the purpose only of calling up, after consultation with Mr. HARRY F. BYRD, JR., Mr. CHURCH, and Mr. JAVITS, the ranking managers of the measure, one Calendar Order No. 113, Senate Resolution 15. I would want to consult with them first as to the procedures which will allow Mr. HARRY F. BYRD, JR., to have the vote on his amendment that he wanted and under the order is guaranteed, but I would hesitate at the moment to ask consent that Senate Resolution 15 be laid down at that point.

I merely ask for recognition so that after this consultation we will all know best how to proceed in accordance with the wishes of the committee and in accordance with the guarantee given to Mr. HARRY F. BYRD, JR.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I do not plan to object, I reserve for the purpose of pointing out, as my friend the majority leader knows, that we have a great interest in this measure on the part of the distinguished senior Senator from Arizona (Mr. GOLDWATER). It is my understanding that he and the distinguished Senator from Virginia have conferred on this procedure and the disposition of this resolution.

I believe the Senator from Arizona is not presently in the Chamber and I would hope that I might be reassured on that point by the Senator from Virginia or by the majority leader if that is possible.

Mr. HARRY F. BYRD, JR. Mr. President, may I say to the distinguished minority leader that the Senator from Virginia and the Senator from Arizona have conferred, along with the distinguished minority leader. The Senator from Arizona is in agreement, I think it is accurate to say, with the Senator from Virginia with one possible proviso—there is the proviso that the Senator from Virginia had—as to procedure once the matter is called up. Now I did not realize until today there was any question about that procedure, and there may not be.

But to answer the Senator from Tennessee, yes, the Senator from Virginia and the Senator from Arizona have conferred. The Senator from Arizona left it, I guess it would be most accurate to say, in the hands of the Senator from West Virginia and the Senator from Virginia. The Senator from Virginia is prepared to proceed. I do have some question as to procedures after the measure is called up. I had not had that concern prior to 2 hours ago. At the moment I do. But as I understand the request being made by the distinguished majority leader, he will have the right to call up the proposal tomorrow, which right he has anyway.

He will, before calling it up, confer with the Senator from Idaho, the Senator from New York (Mr. JAVITS), and the Senator from Virginia, and I hope at that time the Senator from Virginia's concern about procedure will no longer exist.

Mr. ROBERT C. BYRD. And it may very well not.

Mr. BAKER. Further on my reservation, if I may, for a moment, I gather from that that the Senator from Virginia and the majority leader both feel the procedure that has been outlined, that is to say, the request that the majority leader be recognized for the purpose of calling up this issue, is an agreeable procedure to the Senator from Arizona?

Mr. HARRY F. BYRD, JR. Yes. The Senator from Arizona also said he will be involved tomorrow morning in a very important committee meeting, that he will get to the floor at the earliest opportunity tomorrow because he wants to be here when the measure is being called up.

Mr. BAKER. I thank the Senator.

If the Chair will permit me, and further on my reservation, is it the understanding of the majority leader that we will try to finish this mattor on tomorrow and have a vote on final passage?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. It has come to my attention that the distinguished Senator from New York (Mr. JAVITS), who is the ranking member of the Committee on Foreign Relations, the ranking minority member of the Committee on Foreign Relations, will be necessarily absent tomorrow to attend a funeral of a longtime friend and associate.

I made some effort to ascertain whether the Senator from New York is still here.

Mr. ROBERT C. BYRD. May I enlighten the minority leader on that point?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. I discussed this with the distinguished Senator from New York, and he indicated that if we started on the hour I suggest he will be here to open the debate on the measure. I told him that if it was at all convenient with the Senate, and should a final decision be reached about 5:15 p.m. tomorrow, that we would try to delay the vote if an agreement could be reached to delay a final vote until 5:15 so that he could be here. He said not to hold it up, but he said, "I would like to be here at some point to make a statement on the bill."

Mr. BAKER. Mr. President, I thank the majority leader and I appreciate the consideration. The Senator from New York had indicated his concern in this respect, and I think this satisfies his concern. It is my information that he will be back in the Senate Chamber in the late afternoon.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, with those understandings and with my thanks to the Senator from Virginia and the Senator from West Virginia, the majority leader, I have no objection to the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader and the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Again it is my understanding, may I say, that Mr. JAVITS will be here at the beginning so that he can make whatever statement he feels he needs to make before departing. I hope we will be able to resolve the procedural question at the very beginning. Under the order this measure has to be made the pending business no later than tomorrow, and I think the request that has now been granted will allow us to seek to arrive at a modus operandi that will satisfy, I hope, the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the Senator from West Virginia. I would like to clarify one point. I indicated, I feel I indicated, in my remarks that the Senator from Arizona—that I alone was concerned about procedure, but the Senator from Arizona is also concerned about procedure.

Mr. ROBERT C. BYRD. I thank the Senator.

SHIPPING ACT AMENDMENTS OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 199.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 199) entitled "An Act to amend the Shipping Act, 1916, to strengthen the provisions prohibiting rebating practices in the United States foreign trades", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Shipping Act Amendments of 1979".

SEC. 2. Section 16 of the Shipping Act, 1916, is amended by striking "$5,000" in the sixth paragraph, and inserting, in lieu thereof, "$25,000".

SEC. 3. Section 18(b) of the Shipping Act, 1916, is amended by deleting subsection (6) thereof and by adding the following new language in lieu thereof:

"(6) Whoever violates any provision of this section, other than subsection (b)(3) hereof involving rebates or refunds shall be subject to a civil penalty of not more than $5,000 for each day such violation continues.

"(7) Whoever violates subsection (b)(3) hereof by means of rebates or refunds, shall be subject to a civil penalty of not more than $25,000 for each shipment on which a rebate or refund was paid and to suspension by the Commission of any or all tariffs filed by or on behalf of such carrier, or suspension of that carrier's right to utilize any or all tariffs of conferences of which that carrier may be a member, for a period not to exceed twelve months. Any carrier whose tariffs or rights of use thereof have been suspended pursuant to this paragraph and who accepts cargo for carriage during the suspension period which cargo otherwise would have been governed by the provisions of the suspended tariff(s) shall be subject to a civil penalty of not more than $50,000 for each shipment so accepted.

"For purposes of this subsection and section 22(c) of this Act, a shipment shall mean all of that cargo, the carriage of which is evidenced by a single bill of lading.".

SEC. 4. Section 21 of the Shipping Act, 1916, is amended by designating the existing two paragraphs as subsection "(a)" and by adding a new subsection (b) as follows:

"(b) The Commission shall require the chief executive officer of every vessel operating common carrier by water in foreign commerce and to the extent it deems feasible, may require any shipper, consignor, consignee, forwarder, broker, other carrier or other person subject to this Act, to file a periodic, written certification under oath with the Commission attesting to—

"(1) a policy prohibiting the payment, solicitation, or receipt of any rebate which is unlawful under the provisions of this Act;

"(2) the fact that such policy has been promulgated recently to each owner, officer, employee, and agent thereof;

"(3) the details of the efforts made, within the company or otherwise, to prevent or correct illegal rebating; and

"(4) full cooperation with the Commission in its investigation of illegal rebating or refunds in United States foreign trades, and in its efforts to end such illegal practices.

The Commission may by regulation prescribe the form and content of any certification required under the authority of this subsection. Failure to file any such certification shall result in a civil penalty of not more than $5,000 for each day such violation continues.".

SEC. 5. Section 22 of the Shipping Act, 1916, is amended as follows:

(a) designate the two existing paragraphs as "(a)" and "(b)", respectively;

(b) amend subsection (b), as designated by this Act, by deleting therefrom the phrase "except as to orders for the payment of money,"; and

(c) immediately after subsection (b), as designated by this Act, insert the following:

"(c)(1) In addition to, and without limiting the authority granted to the Commission by subsections (a) and (b) hereof, the Commission may, on its own motion, institute an adjudicatory investigation into possible violations of section 16 (other than paragraphs First and Third) involving rebates or refunds in foreign commerce or violations of section 18(b)(3) involving rebates or refunds, with the powers set forth in subsection (c)(2) hereof in addition to those already contained in sections 27, 43, and other sections of this Act.

"(2) Failure on the part of any common carrier, respondent to a proceeding instituted pursuant to subsection (c)(1), or any other person directly or indirectly controlling, controlled by, or under common control with such respondent carrier, to comply with any subpena or any duly issued order compelling an answer to interrogatories or to designated questions propounded by deposition or compelling production of documents in relation to any investigation conducted under subsection (c)(1), shall authorize the Commission to issue an order to show cause why any or all tariffs filed pursuant to section 18(b) of this Act, by or on behalf of the respondent carrier, or any or all rights of the respondent carrier to utilize such tariffs in the case of conference tariffs, should not be suspended until that carrier or any person directly or indirectly controlling, controlled by, or under common control with such carrier, has fully responded to the pertinent deposition, interrogatory, production request or motion, or subpena, and after such proceeding, to so suspend those tariffs or the respondent carrier's rights to utilize such tariffs. Any carrier whose tariff(s) or rights of use thereof have been suspended pursuant to this subparagraph and who accepts cargo for carriage during the suspension period which cargo otherwise would have been governed by the provisions of the suspended tariff(s) shall be subject to a civil penalty of not more than $50,000 for each shipment so accepted.

"(3) If, in defense of its failure to comply with a subpena or discovery order issued in relation to any investigation conducted under subsection (c)(1), a common carrier alleges documents or information are located in a foreign country and cannot be produced because of the laws of that country, the Commission shall immediately notify the Secretary of State of such failure to comply and of the allegation relating to foreign laws. Upon receiving such notification, the Secretary of State shall promptly consult with the government of the nation within which the documents or information are alleged to be located for the purpose of assisting the Commission in obtaining the documents or information sought.

"(4) Before any tariff suspension ordered pursuant to subsection (c)(2), or section 18(b)(7) of this Act, becomes effective, it shall be immediately submitted to the President who may, within ten days after receiving it, disapprove any such order if he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.".

SEC. 6. Section 23 of the Shipping Act, 1916, is amended by deleting therefrom the language ", other than for the payment of money,".

SEC. 7. Section 27 of the Shipping Act, 1916, is amended by deleting from subsection (b) thereof the phrase "other than for the payment of money".

SEC. 8. Section 29 of the Shipping Act, 1916, is amended by deleting therefrom the phrase "other than an order for the payment of money,".

SEC. 9. Section 30 of the Shipping Act, 1916, is amended in the initial and final paragraphs thereof by deleting the phrase "for the payment of money" and by inserting, in lieu thereof, the phrase "for the payment of reparation".

SEC. 10. Section 32 of the Shipping Act, 1916, is amended by inserting at the end thereof the following new subsections:

"(d) No penalty shall be imposed on any person for conspiracy after August 29, 1972: (1) to rebate or refund in violation of the initial paragraph or paragraph Second of section 16, or under section 18(b)(3) of this Act; or (2) to defraud the Commission by concealment of such rebates or refunds in any manner.

"(e) Notwithstanding any other provision of law, the Commission shall have authority to assess or compromise all civil penalties provided in this Act: *Provided, however*, That, in order to assess such penalties a formal proceeding under section 22 of this Act shall be commenced within five years from the date when the violation occurred.".

SEC. 11. The provisions of this Act, including the amendments made by this Act, shall become effective immediately upon its date of enactment.

Mr. ROBERT C. BYRD. Mr. President, I move the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

GOLD MEDAL FOR WIDOW OF HUBERT H. HUMPHREY

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 613.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 613) entitled "An Act authorizing the President of the United States to present a gold medal to the widow of Hubert H. Humphrey", do pass with the following amendments:

Page 2, line 8, strike out "and" the first time it appears.

Page 2, line 8, after "expenses,", insert: and the cost of the gold medal,

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

MEDAL FOR TRANSATLANTIC BALLOONISTS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 348.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 348) entitled "An Act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ben Abruzzo, Maxie Anderson, and Larry Newman", do pass with the following amendments:

Page 2, line 12, strike out "and" the first time it appears.

Page 2, line 12, after "expenses,", insert: "and the cost of the gold medals,".

Mr. ROBERT C. BYRD. Mr. President, incidentally, 348 is the license number of Andy Gump, in case any Senator needs to remember at any future time. [Laughter.]

Mr. BAKER. I wonder how the Senator from West Virginia would respond if he is asked how he remembers it?

Mr. ROBERT C. BYRD. I do not know. I always enjoyed reading that bit of the funny papers a long time ago, and I remember that license number.

Incidentally, I checked with the Library of Congress a half dozen years ago to make sure my recollection had not failed me, and it is on target.

Mr. BAKER. It is a matter of great satisfaction to me to find that the Library of Congress keeps that information.

The PRESIDING OFFICER. The Chair is very impressed with the profundities that have been uttered at 7:48 in the evening while presiding.

Mr. ROBERT C. BYRD. Mr. President, the Chair is using some mighty big words at this hour of the evening.

Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of George C. Eads.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the purpose of my reservation is to advise the distinguished majority leader that this item is clear on our Executive Calendar and we have no objection to proceeding to its consideration and his confirmation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COUNCIL OF ECONOMIC ADVISERS

The assistant legislative clerk read the nomination of George C. Eads, of California, to be a member of the Council of Economic Advisers, vice William D. Nordhaus, resigned.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEADING A FILIBUSTER AGAINST EXTENDING CONTROLS ON OIL

Mr. ROBERT C. BYRD. Mr. President, this morning at my daily news conference at the well I was asked to confirm a second-hand report that I would "lead" a filibuster against extending controls on oil.

I feel it necessary, in the interest of clarification and keeping the record straight, to reiterate the outline of my comments to newsmen in response to a question, lest there be any misunderstanding.

As background, there was a statement last Friday to newsmen, apparently made by one of several visitors to the White House, that the President said I said I would lead such a filibuster.

I do not know what the President said, or did not say, on this matter. It is not my practice to comment on such second-hand reports, and I stated such this morning.

However, I did indicate to the newsmen what I did say to the President. That is, if—and I repeat, if—a filibuster should develop on the issue, I would not vote for cloture. And that would be the first time during my tenure as majority leader that I will not have voted for cloture—in such an event, if it occurs.

I also indicated that I would not work to break such a filibuster, if one should occur, but I did not say I would "lead" any filibuster.

I personally believe the President made the right decision, and I told him so; and I hope he sticks to it. On previous occasions, I have indicated that I support the President's decision, and I reiterate that here and now.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9:45 a.m. tomorrow.

The motion was agreed to; and 7:51 p.m. the Senate recessed until tomorrow, Wednesday, June 6, 1979, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate June 5, 1979:

Department of the Treasury

Walter J. McDonald, of the District of Columbia, to be an Assistant Secretary of the Treasury, vice William J. Beckham, Jr., resigned.

The Judiciary

Boyce F. Martin, Jr., of Kentucky, to be U.S. circuit judge for the sixth circuit, vice a new position created by Public Law 95–486, approved October 20, 1978.

Richard M. Bilby, of Arizona, to be U.S. district judge for the district of Arizona, vice William C. Frey, deceased.

Lawrence K. Karlton, of California, to be U.S. district judge for the eastern district of California, vice Thomas J. MacBride, retired.

Warren W. Eginton, of Connecticut, to be U.S. district judge for the district of Connecticut, vice a new position created by Public Law 95–486, approved October 20, 1978.

William J. Castagna, of Florida, to be U.S. district judge for the middle district of Florida, vice a new position created by Public Law 95–486, approved October 20, 1978.

Orinda D. Evans, of Georgia, to be U.S. district judge for the northern district of Georgia, vice Albert J. Henderson, resigning.

Marvin H. Shoob, of Georgia, to be U.S. district judge for the northern district of Georgia, vice a new position created by Public Law 95–486, approved October 20, 1978.

G. Ernest Tidwell, of Georgia, to be U.S. district judge for the northern district of Georgia, vice a new position created by Public Law 95–486, approved October 20, 1978.

Veronica D. Wicker, of Louisiana, to be U.S. district judge for the eastern district of Louisiana, vice a new position created by Public Law 95–486, approved October 20, 1978.

John M. Shaw, of Louisiana, to be U.S. district judge for the western district of Louisiana, vice a new position created by Public Law 95–486, approved October 20, 1978.

Falcon B. Hawkins, of South Carolina, to be U.S. district judge for the district of South Carolina, vice a new position created by Public Law 95–486, approved October 20, 1978.

C. Weston Houck, of South Carolina, to be U.S. district judge for the district of South Carolina, vice a new position created by public Law 95–486, approved October 20, 1978.

Bureau of the Census

Vincent P. Barabba, of New York, to be Director of the Census, vice Manuel D. Plotkin, resigned.

Department of Health, Education, and Welfare

Richard I. Beattie, of the District of Columbia, to be General Counsel of the Department of Health, Education, and Welfare, vice Frank Peter S. Libassi, resigned.

Corporation for Public Broadcasting

Michael R. Kelley, of Virginia, to be a member of the board of directors of the Corporation for Public Broadcasting for a term expiring March 26, 1982, vice Virginia Bauer Duncan, term expired.

In the Army

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Charles Robert Myer, [redacted], U.S. Army.

In the Navy

Vice Adm. James B. Stockdale, U.S. Navy, (age 55) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Vincent A. Lascara, Supply Corps, U.S. Navy, (age 59) for appointment to the grade of vice admiral on the retired list, pursuant to the provisions of title 10, United States Code, section 5233.

Merit Systems Protection Board

Ruth T. Prokop, of the District of Columbia, to be a member of the Merit Systems Protection Board for the term of 7 years expiring March 1, 1986, vice Alan K. Campbell.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 5, 1979:

National Transportation Safety Board

Patricia A. Goldman, of the District of Columbia, to be a member of the National Transportation Safety Board for the term expiring December 31, 1983.

Council of Economic Advisers

George C. Eads, of California, to be a member of the Council of Economic Advisers.

The above nominations were approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

WITHDRAWAL

Executive nomination withdrawn from the Senate June 5, 1979:

Ruth T. Prokop, of the District of Columbia, to be a member of the Merit Systems Protection Board for the remainder of the term expiring March 1, 1981, which was sent to the Senate on January 18, 1979.

EXTENSIONS OF REMARKS

SPECIAL OLYMPICS ACTIVITY FEATURED IN COLMAN McCARTHY ARTICLE

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, June 5, 1979

● Mr. RANDOLPH. Mr. President, the Washington Post recently published an article by Colman McCarthy on the Special Olympics program. Special Olympics provides to more than a million retarded children and adults an opportunity to participate in sports activities. I have had the privilege of organizing Special Olympics programs and have been impressed by the joyful participation of these special athletes in these games.

I know that all Members of the Congress understand the value of such unique competition. It has been my responsibility, as chairman of the Senate Subcommittee on the Handicapped, to cooperate with the Kennedy family in this worthwhile endeavor.

Special Olympics began in 1968 when Eunice Kennedy Shriver initiated a modest program for a few children. This year 21 countries will send athletes to Brockport, N.Y. for the international games.

I submit the following article for printing in the RECORD:

SPECIAL OLYMPICS: "A SPIRIT OF PLAYFULNESS"

(By Colman McCarthy)

As with most other males who were conditioned early to believe that success in sports meant playing for big money in big arenas, I learned only slowly that that was false. My teachers in the lessons of true athletics have been some mentally retarded youngsters, children who are part of the Special Olympics program.

This month and the next is the height of their summer season. More than a million retarded children, with a mix of adults too, are participating in one or more of the 14 sports offered in the Special Olympic games in every state and nearly every county of the country. Over 250,000 volunteers are involved. Winter games are held in 42 states, with international games held every four years. In mid-August, 3,500 competitors from the United States and 20 countries will turn Brockport, N.Y., into the center of the sports world.

Thanks to the bustle of Eunice Kennedy Shriver, who herself is a one-woman track meet of sprinting energy and high-hurdle push, what began in 1968 as a modest effort to fill the time of a few children for whom time and a lot else hung heavily, has become a stirring success story. More than any other movement in American sports in the past decade, Special Olympics has gone into communities, neighborhoods and families to spread a spirit of playfulness that is, or should be, the essential vibrancy of sports.

I have been to enough of the meets to know exactly what in American sports is worth celebrating and what isn't. If given a choice of watching a World Series Game or a Special Olympics competition, I would take the latter. If I could have an hour to spend talking with Elvin Hayes of the Washington Bullets or a Special Olympian who takes two minutes for the 100-yard dash, I would go with the young sprinter. Last year, I ran a few miles with Bill Rodgers, the distance man who has won three Boston marathons; but I had more of a thrill when I did a lap with a retarded child.

I call him retarded, which is the label most of us use, only because his limitations are conveniently definable. The IQ scores and reports of "the child experts" categorize the flaws and so let us, the seemingly healthy, go on about our business of normalcy.

But if the poet Wallace Stevens is right, that "We are all hot with the imperfect," then what has been happening through the Special Olympics is unique: The mentally retarded are helping the intellectually retarded.

The latter are those of us whose minds build shelves for the handicapped and then stash them away like undusted bric-a-brac to be forgotten. Or those who hire zoning lawyers to defend the purity of the neighborhood when the retarded dare move into a half-way house. Or those who read the latest newspaper expose about the filthy conditions in the state home for the retarded and murmur that "Something should be done." By someone else.

One of the beauties of the Special Olympics is that it has attracted the someone elses in amazingly large numbers—the quarter of a million volunteers. Few national programs are receiving the unsalaried energies of more groups, from amateurs like the American Legion and the Road Runners Club of America to the National Basketball Association.

As for those volunteers who do more for the retarded than any outsider can imagine—the fathers and mothers of the children—they report that Special Olympics can enhance family life in the most uplifting of ways.

I have seen this in my own neighborhood, in Angela Mann, a 15-year-old who has Down's syndrome and who won two medals in the District of Columbia Special Olympics earlier this month.

Her father, Dr. Jesse Mann, a professor of philosophy at Georgetown University and the only person I know who can discuss Heidegger while mowing his lawn, tells of Angela's new sense of her abilities. Now that she has seen herself excel in the 50-yard dash, she has become open to finding more occasions to excel.

Other families around the country report the same, according to Mrs. Shriver: "Special Olympics, through its teaching clinics and the Let's Play To Grow Program, is helping parents gain knowledge and confidence in working with their retarded children."

Not every retarded child is in Special Olympics and not all parents are blessed with the spiritual strength to keep nurturing their child despite the seemingly slow progress. But in only a decade, Special Olympics has become a world-class example of what can be done if a few people put their minds—and their bodies—to it.●

TRIBUTE TO FRED V. PANKOW

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. BONIOR of Michigan. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues the impending retirement from education of Fred V. Pankow, superintendent of Lanse Creuse School District for the past 20 years.

Having spent the last 30 years involved in teaching and education, Mr. Pankow will typically remain in education, retiring to continue work on his doctorate degree at Wayne State University.

Mr. Pankow's dedication to his work, the school district, its parents and teachers is legendary. His name is considered synonymous with education in Lanse Creuse and has been for years. During the span of his leadership at Lanse Creuse, the size and scope of education in the district has grown, preparing thousands of young people for adult responsibilities.

The community in which Fred Pankow served is better off for having had a man of his dedication and leadership at the head of its most important service, the education of its children. Because of his influence, Lanse Creuse has produced many successful men and women, who in turn, contribute to the community, State and Nation.

Mr. Speaker, for his part in the important process of education. I would like to congratulate Fred V. Pankow on his service to Lanse Creuse and extend to him and his family the best of wishes for the future.●

TRIBUTE TO MERVIN WINEBERG

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. CONTE. Mr. Speaker, the small community of Adams in my congressional distrct, and the larger community of Berkshire County, were saddened recently at the untimely passing of a business and civic leader of great humanity and conscience. Mr. Mervin Wineberg, president of the Adams Super Markets, Inc., died on May 18.

I had been privileged to call Mervin Wineberg a friend for a good many years. A native and life-long resident of Adams, he was always looking out for the welfare of his neighbors. Often times, when people of his acquaintance had some difficulty, it was to Mr. Wineberg that they would turn. He always did his best to help them. I can remember many, many times when he would write to me seeking the assistance of my office on behalf of someone who had come to him for guidance.

It was not only private individuals who knew they had a friend in Mr. Wineberg. Community leaders also sought his counsel and aid. An astute and successful businessman, Mr. Wineberg was able to compliment the needs of the communities of Berkshire County with good financial sense.

Adams Super Markets, Inc., a family-run business, thrived under Mr. Wineberg's direction. Today, it is an eight-store chain with three of the stores located in urban renewal areas in Adams, North Adams, and Pittsfield.

Mr. Wineberg was also active in other business ventures and was instrumental in preventing the closing of the Arnold Print Works in Adams, and, in so doing, in salvaging 750 jobs.

Mr. Wineberg also generally lent his time, energy, and talent to educational and religious concerns. He served as chairman of the Adams-Cheshire Regional School Committee and was a director of the Francis Ouimet Scholarship Fund. His company also offered scholarship aid to worthy students throughout the county.

He was a former president of Temple Anshe Amunim, and was chosen as the temple's "Man of the Year" in 1971. He was also a member of the Congregation Beth Israel. He was a leader in the United Jewish Appeal and Israel bond drive efforts.

Mervin Wineberg was a dedicated and devoted family man, the father of three children. At this time, I would like to express my heartfelt sympathy to his wife, Florence, and the entire Wineberg family at the passing of this good man and good friend.●

BILL TO IMPROVE FOOD STAMP PROGRAM

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. FOLEY. Mr. Speaker, I am offering for introduction a bill to amend the Food Stamp Act of 1977, as amended, to improve food stamp program fiscal accountability through reductions in inaccurate eligibility and benefit determinations and intensified fraud detection and recovery procedures; and to remove specific dollar limitations on appropriations while continuing to limit expenditures to available funds; and for other purposes.

This bill contains all of the provisions (with some revisions) in the suggested legislation transmitted to the Congress by the Secretary of Agriculture on May 21, 1979, plus two rather important sections that were not included in the administration's version even though the administration "strongly supports" them, because the administration preferred not to draft the actual language to be used in light of potential jurisdictional problems. The two new provisions—providing access for departmental and State officials to Social Security Administration and State unemployment compensation agency records in order to verify and audit food stamp eligibility subject to various safeguards against abuse of such information—would considerably enhance the integrity of the food stamp program.●

A PROFIT OF WINDFALL TAXES

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. PAUL. Mr. Speaker, in his syndicated column, Patrick Buchanan recently asked: "Who gets the windfall profits?" The answer, under the President's proposal, is big government.

If our country is to have the gasoline and heating oil it needs, the profits generated by decontrol must be invested in more energy production, not in more bureaucrats.

Mr. Buchanan makes this point eloquently. I would like to bring his column to my colleagues' attention.

The article follows:

WHO GETS THE WINDFALL PROFITS?

(By Patrick Buchanan)

WASHINGTON.—Like the man said, it took Mr. Carter's energy team two years to master Economics 101, and they still have not got it quite right.

The decontrol of oil prices was necessary, courageous and correct. Had the decision been taken two years ago, instead of all that claptrap about the "moral equivalent of war," we would be that much further along toward regaining energy independence.

Not all the fault lies with Carter. In truth, the United States has lost almost six years since 1973, deluding ourselves, refusing to confront the reality of higher oil prices mandated by the OPEC cartel. As a consequence, invaluable time has been wasted, and our economic and political dependence upon the Persian Gulf has grown ominously.

But, having taken the tough decision, the President is now working feverishly to deny himself and the country the economic benefit that could result from it.

First, the price controls on old oil will not be wholly phased out for almost two and a half years. As one critic notes, an oil producer of even average intelligence will ask himself: "Why produce oil now at $6 a barrel, when in 28 months, (we) can get $15 to $20 a barrel?"

Second, the President has coupled decontrol with demagogic attacks upon the oil companies and their lobbyists for wanting to keep their customary share of the profits that will accrue as a consequence of Mr. Carter's decision.

Well, let us put this windfall profits picture in perspective.

Under existing tax laws, local, state and federal governments will take some 60 cents of every dollar in "windfall profits." So, who is ripping off whom?

Not only does the President and his staff want the right to spend half of the oil companies' profits—their customary rake-off—but they also want to collect and allocate another half of the oil companies' share.

By what right?

At least it may be said of the boys at Exxon, Mobil, Texaco and Shell that they have explored, drilled, produced, refined and marketed oil and gas—as their contribution toward solving the energy crisis.

Why should three of every four dollars in new profits we turned over to Big Government, whose politicians created the energy crisis with the idiotic rules, regulations and controls they themselves are now abandoning?

Whose profits are truly "unearned?" Big Oil's or Big Government's?

Of late, Mr. Carter and his crew have exhibited a schizophrenia about the whole question of profits. In a "Dear Friend" fund-raising letter, sent out on White House stationery, Mr. Carter boasted that, under his regime, "corporate profits are up 37 percent." In his 1979 Economic Report, he claimed that "business profits rose more than 10 percent in 1978."

When the statistics came, however, to confirm Mr. Carter's claims, Hamilton Jordan denounced the same profits as "unnecessarily high," and the President's inflation fighter, Fred Kahn, called them a "catastrophe" which has "put business on trial in the eyes of the American people."

Now, given recent revelations about the financing of the peanut warehouse, perhaps Mr. Carter does NOT appreciate the role of profits.

But his re-election, and perhaps his renomination, may depend upon them—as does the performance of the American economy, matter of considerably higher importance to the Western world.

Profits are the seed corn of the economy. They provide the investment capital which means productivity growth—the antidote to inflation. When they are high and rising, so is the stock market, and the equity and spirits of 25 million investors. When profit margins are strong, more money is available for workers' pay hikes and increases in benefits. When the profit picture improves, local and state treasuries fatten; and there is a reduced federal deficit, since taxes at all levels of government customarily tax more than half the profit of every corporation of other than minuscule size.

And if it is true, as Mr. Kahn suggests, that there have been corporate price-gouging and obscene profits of late, why is the stock market lower today than it was 10 years ago?●

OSHA REGULATIONS—THE COSTS ARE TOO HIGH

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. ROTH. Mr. Speaker, I am sure that many of our colleagues frequently hear complaints about the cost of compliance with myriad Federal regulations. These Federal requirements are often inflationary and counterproductive. They do not add to our manufacturing capability and cost thousands of manhours and millions of dollars.

We must strike a sensible balance between the costs of regulation and the benefits our society garners from such compliance.

The nub of the problem is that our Federal regulatory agencies are not mandated to consider the cost of compliance when promulgating their rules.

The upshot is that these costs are hurting our ability to compete with foreign industries.

That is why I am cosponsoring H.R. 3156. This bill will require the Secretary of Labor to prepare an economic analysis of the costs of OSHA regulations. The analysis would cover six aspects of compliance:

1. Potential inflationary or recessionary impact.

2. Direct or indirect costs incurred by businesses.

3. Effects of competition in businesses and industries with particular attention to the impact on small business.

4. Direct or indirect costs on employment.

5. The impact on our balance of trade between United States and foreign industries.

6. Impact on productivity in enterprises affected by the proposed regulations,

If America is to continue as an economic power, it must free itself from unnecessary Government regulation. This bill provides a starting point.

I urge my colleagues to join me in this effort to make a new beginning for the American small businessman.●

OLYMPIC NATIONAL PARK SUPERINTENDENT

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. BONKER. Mr. Speaker, without question the National Park Service is one of our most cherished agencies, working to preserve and protect millions of acres of public lands and providing important services to vast numbers of citizens who enjoy our national parks.

The Olympic National Park in my district is one of the largest in the country—the boundaries of which now include almost a million acres. In addition to its size, the Olympic National Park is the most spectacular in terms of rugged scenic beauty—including even Washington's substantial upper coastline and the amazing Olympics. It is, indeed, a national treasure.

But to local residents the park represents some unique problems. Its sheer size makes the Government an imposing landowner in the area, denying the local government of a needed tax base. Park policy also disallows harvesting of timber which is critical to the commodity productions' interests. Park policies and regulations affect many local citizens, particularly with respect to inholders in and around Lake Crescent who face an uncertain future there.

The Olympic National Park has been viewed with suspicion and hostility in past years. This is due to its size, past policies, and management activities. When I was elected to represent this area in 1975, the Park Service was the target of much criticism. Both its management and policies were controversial and, frankly speaking, the agency had little public support in the area.

All that changed in 2 short years with the arrival of Jim Coleman as the new superintendent. Sensing the need to build public confidence in the Park Service, Jim Coleman devoted himself to working with local residents on issues and, without changing significantly Park Service policies and standards, gained public respect for his agency. His accomplishments were extraordinary considering the short period with which he had to work, and were based on the historic ideals of public service—ability, dedication, hard work, patience, and a true commitment to the public.

That is why many of my constituents are dismayed and distressed over the unexpected transfer of this exceptional public servant. While it represents a promotion, it also is unusual for such a transfer to occur within a short period. It raises suspicions in the upper peninsula as to the motives of the National Park Service and some concern over the future management and policy of the Olympic National Park.

Mr. Speaker, the Port Angeles Daily News and Forks Forum have editorialized on this matter and, I believe, accurately reflect the views of my constituents. I would like to include the two articles in the RECORD:

[From the Daily News, May 3, 1979]

RUNNING THE PARK

Ordinarily we would wish the departing Olympic National Park superintendent good luck in his next assignment. But that is not what must be written about Jim Coleman.

Coleman, who has held the superintendent's post since May of 1977, deserves more than a pat on the back. The Olympic Peninsula should go to bat for him as he has for it during the last two years. Those who have seen his contributions so far, and can see that his work is not yet finished, should speak out.

The National Park Service is wrong in transferring Coleman against his wishes after an unusually short stay. It is not just that superintendents traditionally stay much longer; Coleman should stay because Olympic National Park and the people of the Peninsula need him. It would be in the best interests of both if the decision to move him now were reversed.

For years the park and Peninsula residents had feuded. Sometimes it was over small issues, sometimes very important ones. Much of the misunderstanding and distrust stemmed from policies set in Washington, D.C., and enforced by local park officials. Those park officials have been seen locally as mere extensions of a federal bureaucracy some 2,500 miles away. Sadly, that perception has all too often been true in recent years.

Coleman has spent his time here changing that perception. He has convinced nearly everyone with whom he has worked that his interest lay in the Olympic Peninsula, its park and its people. While it has taken a lot of work on his part to get this far, he is not yet finished. Here are several instances:

—The dispute between in-holders and the park is moving toward a solution, thanks in large degree to Coleman. But the issue is not completely resolved. His help is still needed to set the tone for administering the new park policy.

—The oil port issue is really just coming to a head. Coleman's expertise on air quality, acquired by attending a school in Arizona in January, is still needed. The park's chief concern about a port here is that park air might be polluted. Air pollution, of course, also is a concern of the people who live on the Peninsula. We would breathe easier if Coleman were here to help fight the battle for clean air.

—Lastly, Coleman is needed to finish his polishing of the park's image. Park relations with residents since 1977 have improved dramatically. But no man can undo in two years what some have seemingly spent careers doing. Coleman just needs more time. The Peninsula needs to get along well with a neighbor as large as the park. A state of constant strife is unhealthy for us all.

All of these comments are of a selfish nature. Our main considerations have been of the needs of the park and the Olympic Peninsula. What of Jim Coleman's needs? They tell us he likes living here. In other words, he shares something with us.

If he is so good for the park and so good for the Peninsula and he likes living here, why is the National Park Service moving him? Because, we surmise, it is good for the bureaucracy to move him. That reasoning does not wash. The federal government should be managed for the benefit of the people. Yet here we have a case which proves the very point Coleman has tried to disprove during the last two years: The National Park Service is run for the National Park Service not the people.

[From the Forks Forum-Peninsula Herald, May 3, 1979]

PARK SUPERINTENDENT SHOULD BE RETAINED

(By Lorraine Berg)

He says he doesn't want to go, his workers don't want him to go, and those of us who have worked with him don't want him to go, and if he goes, you'll probably notice it right away. Who is going?

Jim Coleman, Superintendent of the Olympic National Park, that is who.

After two years here, Coleman's work has started to show, for a park superintendent has lots of power locally.

The road around Lake Crescent, for instance, has directional signs, reflectors, and more patrol cars (or at least more visible ones). Accidents have been cut dramatically. Also the road has been more pleasant to use, certainly not detracting from the tourism angle either. Happy tourists stay longer and come back, both boosting the economy locally.

Rialto Bridge is being built. We can thank Coleman at least in part, for that. It is slow in being built, but he gave his word that it would be built, and Coleman has proven to be a man of his word.

Shelters in the park were slated to be destroyed. Many had been torn down. Many more were slated for the fire, but Coleman listened to local woodsmen and left them standing. That made the park a little safer for the back-country hiker who might get caught in untimely cold weather.

ByPass: Coleman worked for the ByPass, and had spoken out publicly for it. Meanwhile, the road around the lake has been improved.

Hurricane Ridge has been kept open during the week, instead of just the weekend, bringing happiness to many local skiers, instead of just catering to out of area visitors on the weekend.

Coleman has been instrumental in the retention of Kalaloch, because prior to his arrival, it was scheduled to be phased out. Now, extensive remodeling and rebuilding is being done.

Soleduck Hot Springs is still running, doing a land-office business last year.

And last but not least, Coleman has made it okay to be part of the U.S. Park Service again. He listens and acts on local citizen ideas and complaints.

He has imported a crew of rangers, aides, naturalists, and others who just have a great attitude toward the people who live here. Rangers and naturalists have presented slides, movies, and talks at schools and clubs, turning local attitudes around.

Have you noticed, that for the first time in years, U.S. Park personnel appear in Forks in their uniforms? And did you notice, the park service has an office in Forks, with two rangers, Marty Ott and Keith Hoofnagle living here?

That was no accident that it happened when it did. That was Jim Coleman's fine diplomatic handiwork.

Senator Henry Jackson, when we called him about this so-called promotional transfer, said he has seldom had more calls about any particular person, than he has about this superintendent.

"Just two years ago, we were wondering what we could do to turn the situation around about the Park," Jackson's aide, Bob

Turner says, "and now we're getting calls in favor of a superintendent."

The aide said letters from local people would probably carry more weight than phone calls, although the phone calls are not being ignored, either.

He said the reason Coleman was being transferred to Pennsylvania was because Coleman has a background in histroy, which is needed in the Valley Forge, Gettysburg Shenandoah National Park, and Assateague National Seashore, which are all part of the National Park Service Mid-Atlantic Region that Coleman has been named deputy-director of.

Turner said some callers believe Coleman is being transferred because he was "too helpful" to the inholders around Lake Crescent. He said Jackson's office is very concerned about the whole matter.

Jackson will have some say in the replacement of Coleman, too, and is very concerned that the replacement, if Coleman is transferred, be some one with the same good attitude that Coleman has.

Senator Warren Magnuson's aide Gretchen Kienan, said the Senator, like Jackson, is "aware of the problem," but he has received no letters.

"We have not been asked formally to investigate the situation," she said, "and some letters would help."

Coleman has said in an interview with the Daily News executive editor Don Paxson that the appointment in Pennsylvania is, "an honor to me but I really wanted to stay here longer."●

THE 61ST ANNIVERSARY OF ARMENIAN INDEPENDENCE

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. HOLLENBECK. Mr. Speaker, Monday, May 28 marked the 61st anniversary of Armenian independence. On this day each year, people of an Armenian ancestry contemplate their past and redouble their efforts to secure freedom and independence for all Armenians.

This anniversary should encourage sober reflection. On May 28, 1918, spurned by Woodrow Wilson's 14 points and motivated by their respect for human rights, the people of Armenia declared their independence. This action demonstrated how relentless struggle can surmount oppression and secure liberty. In our contemporary society, where human rights is a prominent issue, we would be wise to remember the struggle for Armenian independence and learn from their spirited determination. Like our Armenian friends, we should share their remembrance and rededicate ourselves to the ideals in which they believe.

Because of the persecution they have experienced, Armenians possess an inherent respect for freedom and human dignity. Armenian Americans have been second to none in their support of this country and the ideals upon which it was built. Their unselfish motivation drives them to seek the implementation of these values throughout the world.

Despite suffering centuries of persecution, the Armenians continue to nurture and augment their religious, cultural, and linguistic identity. This in itself is a testimony to their national character. Hopefully this persistent dedication to national self-determination will reward them with the satisfaction of restoring freedom to the people of Armenia and to the land which is their historic birthright.

Armenians worldwide have suffered the depths of human cruelty and I believe it is time that we recognize their right to independence. I only hope that their courage persists until justice prevails and independence arrives with the guarantee of freedom for their people.●

IN HONOR OF GEORGE H. BEAUBIAN III

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. DIXON. Mr. Speaker, the son of Mr. and Mrs. George Beaubian was taken from us on May 26, 1979. I had the honor to deliver his eulogy, and I would like to share it with my colleagues:

Eulogy

George H. Beaubian, III, affectionately known and remembered as Tres Beaubian, was born on April 11, 1960, and was taken from this life on May 26, 1979.

Death in youth seems so unnatural. We somehow expect death to visit only the old, for in them life has run its course. The old have tasted all that life has to offer: The meaning of childhood dreams and yearnings; the Noon day of keen youth's discerning; the afternoon of middle age with its harvest whether great or small; and finally, the evening of old age when the body is warmed by the memories of years gone by, but chilled by the waning of its physical strength. We expect death then.

But that a life should be cut off in the budding of youth or ripening manhood before it has run its course or tasted its wonders fully, seems so unnatural. But its like that. Death visits us at all seasons. It visits the infant of a few days, the man or woman of many years, and sometimes, sometimes as with Jesus of Nazareth on Calvary, so with our own "Tres" Beaubian—the sun goes down as it rises.

For those who measure life in conventional terms, Tres had a short life. But, those who knew and loved him recognize that the quality of Tres' life far exceeds the number of years he shared with us.

Tres was a loving and gifted young man. Throughout his life, he seemed to gain the greatest measure of happiness when he was giving of his time and talents to others.

With his innate mechanical talents, he could fix anything. Often you would find Tres up to his elbows in grease and spare parts as he labored to fix something for a friend, or a relative.

His sense of wonder about and love for animals was equally as intense as his desire to be of service to his friends and family.

We can take a measure of consolation, however, in the fact that Tres, in his short years, lived a full and eventful life and through those of us whose lives he touched, his life continues.

Some people seek to amass riches and power in their lifetimes. Tres Beaubian only had the opportunity to seek beauty. Riches and power always pass but, beauty remains

Tres' life was dedicated to love, to family and to friends—because his was a beautiful life, Tres Beaubian remains with each of us forever.●

CONGRESSMAN FRANK ANNUNZIO ANNOUNCES RESULTS OF 1979 LEGISLATIVE QUESTIONNAIRE

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. ANNUNZIO. Mr. Speaker, I would like to announce the results of a legislative poll which I conducted recently to obtain the opinions of citizens residing in the 11th Congressional District of Illinois which I am privileged to represent.

More than 12,000 questionnaires were completed and returned, and I want to express my appreciation to my constituents who involved themselves in the decisionmaking process by responding to this survey.

Eighteen broad questions were asked relating to both domestic and foreign policy issues, and the responses on the questionnaires were tabulated by computer. Before listing a numercial summary of the tabulation, I want to point out some significant reactions to several important issues.

The strongest response on the 18 questions was on crime, with 96 percent favoring the imposition of extra penalties on persons found guilty of committing crimes with guns or other deadly weapons. I strongly feel that tougher penalties can serve as a forceful deterrent to serious crimes and, therefore, I have sponsored legislation severely increasing prison terms and making these prison terms mandatory, with absolutely no probation or parole, for those who commit felonies with a firearm or other deadly weapon.

The second strongest response was on sunset legislation, with 90 percent favoring periodic evaluation of Government programs and the setting of automatic termination dates for those not specifically reauthorized. I have cosponsored sunset legislation in the 96th Congress and shall continue to push for passage of this legislation in order to assure that our budget resources are used efficiently in meeting national needs.

The third strongest response was on forced busing of schoolchildren, with 88 percent expressing opposition to forced busing. My own position on this issue has been consistently against forced busing. Despite the fact that Congress has voted time and again against forced busing, various court decisions have held that busing is constitutional. I feel the only way to resolve the busing question once and for all is through a constitutional amendment. I have sponsored legislation to provide for such an amendment and shall continue to work vigorously toward its enactment.

Also receiving an 88-percent affirmative vote was the proposal to provide a $5,000 tax exclusion from gross income for any amount received as an annuity, pension, or as other retirement benefits. I have consistently supported a $5,000 tax exclusion for retirees and am convinced it is needed now more than ever, because of the galloping rate of inflation. In earlier Congresses we have been successful in increasing existing tax credits for the elderly. But these increases have not gone far enough, and consequently, I reintroduced my $5,000 tax exclusion bill in the 96th Congress and I shall continue to work for its early approval.

A total of 87 percent of those who responded expressed their support for legislation that would require our Nation's hospitals to hold their average annual increase in charges below a fixed limit. Hearings have been completed in the House Interstate and Foreign Commerce Committee and the House Ways and Means Committee on legislation to impose mandatory limits on yearly increases in the skyrocketing costs of hospital care, and this legislation is now awaiting further congressional action.

Finally, Mr. Speaker, 85 percent of those who responded to my survey indicated they felt that the employment of persons illegally in the United States should be made unlawful. In the past I have strongly supported legislation to penalize employers who hire illegal aliens, and although such legislation has passed the House of Representatives twice, it has died in the Senate both times. During the 96th Congress, I shall continue to extend my support to bills penalizing employers who knowingly hire illegal aliens.

It is also interesting to note that of those who returned the questionnaire, the largest number—46 percent—were in the 45- to 64-age category, while the smallest number—12 percent—were in the 18- to 29-age category.

Mr. Speaker, the following is the completed questionnaire tabulation according to percentages:

THE 1979 LEGISLATIVE QUESTIONNAIRE

(Figues in percent)

1. Congressional campaign financing: Do you favor public financing of election campaigns for the U.S. House of Representatives and the U.S. Senate?

Yes	35
No	52
Undecided	13

2. Balanced budget: Do you favor a Constitutional Amendment to eliminate deficit spending and to require an annual balanced Federal budget unless a national emergency were declared by the President and the Congress?

Yes	82
No	12
Undecided	6

3. Hospital cost containment: Do you favor legislation to require the nation's hospitals to hold their average annual increase in charges below a fixed limit?

Yes	87
No	9
Undecided	4

4. Illegal alien labor: Do you favor legislation:

(a) to make unlawful the employment of illegal aliens?

Yes	85
No	11
Undecided	4

(b) to adjust the status of illegal aliens now in the United States to permit them to remain here legally?

Yes	26
No	65
Undecided	9

5. Health insurance: Do you favor legislation to provide all Americans with national health insurance?

Yes	54
No	36
Undecided	10

6. Social Security financing: Do you favor balancing the social security budget by:

(a) raising tax rates equally on employer, employee, and the self-employed whenever additional revenues are needed;

Yes	38
No	51
Undecided	11

(b) raising taxable wage base ceilings;

Yes	39
No	48
Undecided	13

(c) using general revenues as a supplementary source of funds;

Yes	57
No	33
Undecided	10

(d) making selective cuts in benefits such as payments for dependent children in college, lump-sum death benefits, etc.;

Yes	49
No	42
Undecided	9

(e) bringing Federal, State, and local government employees under the Social Security System?

Yes	57
No	33
Undecided	10

7. Sunset legislation: Do you favor sunset legislation which would require periodic evaluation of government programs and set automatic termination dates for those not specifically reauthorized?

Yes	90
No	3
Undecided	7

8. SALT II: Do you favor a second strategic arms limitation agreement with the Soviet Union as a means of enhancing U.S. security and reducing chances for a nuclear war?

Yes	67
No	21
Undecided	12

9. Defense: Do you favor a boost in defense spending by three percent a year in real terms (after inflation) for the next five years as pledged to our NATO allies by the Administration?

Yes	55
No	33
Undecided	12

10. Relations with China: Do you favor:

(a) continuation of diplomatic relations with the Peoples Republic of China?

Yes	83
No	9
Undecided	8

(b) cutting of relations with the Chinese government in Taiwan?

Yes	11
No	79
Undecided	10

(c) a two-China policy by recognizing Taiwan as a separate sovereign state?

Yes	78
No	11
Undecided	11

11. Draft law: Do you favor reinstatement of peacetime registration for the draft in order to insure U.S. defense preparedness?

Yes	66
No	26
Undecided	8

12. Abortion: Do you favor the use of Federal funds for the purpose of performing abortions?

Yes	24
No	71
Undecided	5

13. Busing: Do you favor a constitutional amendment to end forced busing while at the same time assuring equal educational opportunities for all students wherever they are located?

Yes	88
No	10
Undecided	2

14. Education department: Do you favor creation of a separate Department of Education designed to consolidate all Federally funded and administered educational programs?

Yes	55
No	30
Undecided	15

15. Inflation: Do you favor anti-inflation legislation recommended by the President for:

(a) a two-year extension of the Council on Wage and Price Stability?

Yes	57
No	22
Undecided	21

(b) "real wage insurance" to underwrite the wages of workers whose companies comply with voluntary wage-price guidelines?

Yes	47
No	30
Undecided	23

16. Oil shortages: Do you favor resolving possible oil shortage problems caused by Iran's oil strike through:

(a) restrictions on weekend gasoline sales?

Yes	40
No	52
Undecided	8

(b) parking restrictions for commuters?

Yes	38
No	46
Undecided	16

(c) controls on lighted advertisements?

Yes	81
No	13
Undecided	6

(d) decontrolling of oil prices?

Yes	36
No	49
Undecided	15

(e) rationing?

Yes	29
No	59
Undecided	12

17. Crime: Do you favor:

(a) imposition of extra penalties on persons found guilty of commiting crimes with guns or other deadly weapons?

Yes	96
No	3
Undecided	1

(b) making it illegal to possess a handgun?

Yes	57
No	38
Undecided	5

18. Retirees: Do you believe there should be a $5,000 tax exclusion from gross income for any amount received as an annuity, pension, or other retirement benefits?

Yes	88
No	7
Undecided	5

Age: To help me analyze results of this poll, please indicate: (circle the appropriate answer) (optional):

(a)	18–29	12
(b)	30–44	22
(c)	45–64	46
(d)	65-and-over	20●

MASS TRANSIT, ENERGY, AND THE CITIES

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. EDGAR. Mr. Speaker, the May issue of Modern Railroads magazine features an excellent article on mass transit and its role in promoting energy conservation and urban revitalization. Transit is no cure-all to the energy crisis—not by a long shot—nor is it the saviour of our cities. Investments in rail transit systems, however, can play a valuable role in promoting both goals.

The great cities of the world have long recognized the importance of efficient public transportation. During the past decade, Canada in particular has made great strides in this field, with new transit systems or extensions built in Montreal, Toronto, and Edmonton. More transit lines are planned for other Canadian cities, cities whose population size would effectively disqualify them for similar grants from the U.S. Urban Mass Transportation Administration.

The Canadians and others are succeeding, while we are failing. We do not like to hear talk like that, but it is indisputable in this case. If you would like to learn more, I urge you to read this timely article entitled, "Will it Take a Crisis?":

WILL IT TAKE A CRISIS?

(By Terry Breen)

Many uncertainties cloud the future of rail transit, but the mode's major roles are not among them. As largest capacity hauler of all transit modes, as efficient user of alternative sources of fuel, and as shaper of quickly growing cities and re-shaper of mature ones, rail transit will be a welcome asset in cities faced with diminishing petroleum supplies, a possible stabilization in automobile use, and an evergrowing population.

Among the major uncertainties in rail transit's future are the stances concerning public policy and funding to be taken in Washington. It shouldn't require a severe crisis of some sort to propel the federal government into increasing significantly its financial stake in rail transit—but, regrettably, it may.

For years, industry officials, planners, and scholars have recognized the necessity of rail transit in our future, and now our political leaders show signs of being interested as well. So the question is not whether rail transit will play a big part in the future of our urban areas, but how and when.

URBAN SURVIVAL?

It almost goes without saying that, unless our central cities continue to serve a purpose, there would be little need for rail transit systems. The transit professionals we contacted for this article give the cities a vote of confidence.

"American cities have turned a corner," says Frank Herringer, a former UMTA administrator and BART general manager, and now a vice president with Trans-America Corporation. "Basically, they're either stabilizing or improving—I don't see them decaying any more. The country generally recognizes the need for urban centers and is willing to invest in them."

John E. Hirten, a planner currently working as a consultant with the Office of Management and Budget, sees the cities as holding up in the future "because they'll have to." Says he: "The viability of our cities depends on public policies which will have to recognize that it's less wasteful and more efficient from an energy point of view to intensify development in the urban cores that already exist than it is to continue to spread our utilities and facilities out in low density development."

Ronald J. Hartman, senior transportation planner with APTA's Office of Planning and Policy Analysis, believes that "everything points to a tremendous renaissance in the central cities. Issues that 10 years ago were not big—like energy supplies, environmental concerns, and land use—have suddenly become so, and they all point back to the efficiencies of the central city."

Louis J. Gambaccini, commissioner of transportation in New Jersey, and former general manager of PATH, is not convinced that a full scale "renaissance" is on the way in our cities, but is certain that development on the outlying areas of cities has run its course.

"As a country," he says, "we've grown up with an addiction to the automobile—the convenience of point-to-point coverage, the speed, and that sort of thing—but all of that is changing. Government funding policies are moving away from feeding the appetite of the automobile—the highways, the parking lots, the suburban and exurban development."

REVITALIZATION

If it's agreed that the central city is vital to metropolitan life, then it's important that rail transit systems be around to strengthen the central city and tie it to the rest of the metropolitan area.

"There's a direct relationship between a rail transit system that makes a number of stops within a downtown area and the viability of the downtown," says Dr. John A. Bailey, a noted engineer and planner with the Philadelphia firm of Louis T. Klauder & Associates. "For instance, the most livable and culturally active cities—such as San Francisco, Philadelphia, Chicago, Boston, and New York—all have extensive rail transit systems. The cities in the greatest disrepair, like Detroit and Cleveland, lack adequate rail transit service in their downtown areas. Detroit has no system at all, and Cleveland's system has very few stops downtown."

Mr. Hirten strikes a similar note: "One might say that most of our cities are already developed, or framed at least, in terms of structure. But rail transit could have, and should have, a lot to do with shaping the next generation of development. We should keep in mind that San Francisco was in the doldrums until after BART was approved and a surge of building began downtown. And now, in Washington, D.C., new building is starting to happen due in large part to Metro's success. It's clear that, in the future, electric rail systems in the variety of forms—commuter, rapid transit, so-called light rail, and maybe even electric trolley buses—will be rediscovered because of the energy problem, but people will soon realize that these systems serve a very fundamental purpose in urban development."

Mr. Herringer agrees. Says he: "Rail transit enables a city to function and grow without adding highway capacity, which means without affecting the environment in the city, without increasing pollution, and without increasing dependence on the automobile. Rail transit has good prospects for the future because of this ability, and also because the era of building highways is over. Combine the continued pressure from an ever-growing population and economy with a leveling off of new highway capacity and you find that you need some outlet for transporting people—and that outlet is rail transit."

But what kind of system will be best suited to serving the needs of the future?

From most of the people we've talked to, the answer comes ringing in: an integrated, perhaps balanced, system that takes the rider from as close to his home as possible to his destination while giving him the feeling that he is being moved by a single system rather than by a bunch of fragments. Such a system might combine basic rail service wherever possible with feeder bus service and perhaps commuter rail service.

Of all the cities in North America, Toronto emerges as the leading model of integrated mass transportation.

"Toronto is an excellent example of building and expanding incrementally as you also vary feeder bus services and try to guide related development around stations," says Mr. Gambaccini. "What we should be after in our systems is a family of services. The art form, of course, involves blending these services together in the most creative way so that each works at its optimum level."

Dr. Bailey is another of the city's admirers: "Thirty years ago Toronto was merely a sort of Midwestern distribution center in U.S. terms, but now it is the most exciting metropolis in the continent because of its investment in rail transit. The government there has achieved a logical reinforcement of transit decisions with all other kinds of development decisions. Unless we in the U.S. achieve this, it will be nearly impossible to bring rail transit to the point of serving substantially more riders than it does now."

MOSTLY EXTENSIONS

Investment in major new heavy rail systems in the next decade, it seems, will be the exception rather than the rule. The rule will be investment in improvements and extensions to existing systems. New starts in light rail, however, may be more likely, unless costs escalate at an increasingly quicker pace and put the price of building a system out of sight.

The investment policy of rail transit's primary financier, UMTA, is of paramount importance. Curernt UMTA policy is that the agency "will continue to finance the construction of new rail lines and extensions to existing rail systems in those urban corridors whose population densities, travel volumes, and growth patterns indicate a need for high-capacity, high performance mass transportation service."

In deciding which new rail segments to fund, UMTA says it will give preference "to corridors serving densely populated central portions of metropolitan areas, including central cities and close-in suburbs, as well as to "metropolitan areas which view rail transit investment as part of a long-term regional strategy to protect the environment, conserve energy, promote urban economic developments, and support orderly patterns of metropolitan growth."

Certainly, there is much speculation and debate about cities which would be good candidates for both heavy rail and light rail. One of the more interesting lists of likely candidates is contained in a study done recently by a New York firm known as the Reigonal Plan Association.

As likely candidates for new heavy rail systems (excluding Baltimore, Atlanta, and Miami, which are building systems) the study lists Los Angeles, Honolulu, Houston, Detroit, Dallas, and Seattle.

And, for light rail systems (excluding Buffalo, which is building a system) it lists St. Louis, Milwaukee, Providence, Minneapolis-St. Paul, San Diego, Indianapolis, Louisville, Denver, Cincinnati, Portland, and Columbus.

We at *Modern Railroads* agree that these cities appear to be likely candidates, but consider it a long shot indeed for more than an handful of them to get either light rail or heavy rail systems underway within the next 10 years. It would take a substantial increase in federal commitment to do more.

In the next 10 years, we believe that Detroit, Honolulu, and Los Angeles will be the best bets for heavy rail systems, and Portland and San Diego the best bets for light rail systems.

Also in the next decade, we see much activity in extensions to systems, especially in Eastern cities, and perhaps on BART in Oakland or San Francisco. Extensions to airports we see as constituting a major push in the 1980s. Outside of Europe, only Cleveland's rapid transit system directly ties downtown to airport. The Metro in Washington brings the rider within a long walk of the terminal at National Airport, but this is certainly better than nothing. We consider likely candidates for airport extensions to be Chicago, New York, Newark, Philadelphia, and San Francisco.

MONEY, MONEY, MONEY

When the Surface Transportation Assistance Act of 1978 came into being, transit supporters applauded Congress for legislating a modest increase in the funding authorization for mass transit. But the total authorization—$15.66 billion between fiscal years 1979 and 1983—is, of course, a ceiling limit, which may, and probably will, be undercut by Congress in its appropriations. Already, things are headed in that direction: Congress' mass transit appropriation for fiscal 1979 was $239.5 million below the authorization.

Despite this shortfall for fiscal 1979, the Carter administration, in its fiscal 1980 budget proposal, calls for Congress to appropriate just $2.82 billion of the $3.27 billion authorized to be spent on mass transit in fiscal 1980. APTA, with due cause, has beseiged Capitol Hill with demands that Congress close the shortfall gap for fiscal 1979 with a supplemental appropriation and bring the appropriation for fiscal 1980 up to the amount authorized.

We view, on one hand, the Carter administration's pleas to the public to cut gasoline consumption in the face of uncertainties in Iran and, on the other, its slim budget requests for mass transportation, as highly inconsistent, if not downright ludicrous. We can only hope that Congress will come to the rescue for fiscal years 1979 and 1980, and, if it needs to, in the years beyond.

Dr. Bailey sees more and more federal money becoming available in the years ahead for rail transit, but believes that the money will "lag the need until we have a major petroleum crisis." But all will not be sweetness and light at that point because a response to such a crisis might beget another crisis in cities with little or no rail transit capability: that of discovering, almost overnight, that "the physical barriers of engineering, land acquisition, transit car acquisition, and the like, will make it very difficult to provide anything as fast as we need it."

Even in cities with considerable mass transit capacity, another crisis of sorts could crop up. John Hirten describes the scene: "If everyone starts taking transit very suddenly in a city, say, like Washington, transit would become overcrowded and dirty and hot and messy, and transit's role would be pretty much defeated. So, very simply, as a country, we must have the foresight to prepare for any crunch."●

THE SUGAR SUBSIDY: THE SWEETEST DEAL

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, the issue of subsidizing the sugar industry will soon be considered by the House. I do not see a single reason why, in light of skyrocketing prices, the American taxpayer should continue to subsidize the sugar grower.

I know of no reason why the United States should maintain a program whose goal is to keep the price of sugar artificially high by limiting total supply to a level sufficient to achieve a domestic producer's price as determined by a political formula rather than the free market. Because we have such a program, we have seen over the course of the past 40 years price fixing, quotas, Government decrees, international trade barriers, uneconomical production, subsidies, and total bureaucracy as hallmarks of a plan that long ago outlived its usefulness.

The program has not kept prices from running wild, nor has it always assured adequate supplies at stable prices. In fact, by providing some foreign nations with privileged and arbitrary access to the U.S. market, it has been to some degree responsible for the volatile world price of sugar.

In the June 4, 1979, issue of Time magazine, there is an informative article on this matter entitled "Going Sour on Sugar Payoffs." In it, Time observes that for every 1 cent increase in sugar price supports, $500 million a year is added to Americans' grocery expenses. At a time when we are supposed to be fighting inflation, I think it is reprehensible that there is a program which unnecessarily costs the American consumer extra dollars and causes artificially high retail prices.

I would urge my colleagues to give serious consideration to the article from Time. It is hereby inserted into the RECORD for their review:

GOING SOUR ON SUGAR PAYOFFS—SOME LUMPS ON CAPITOL HILL

When it comes to protectionism, the sugar industry has been given some of the U.S.'s sweetest deals. For 40 years cane and beet growers were shielded by import quotas that not only helped keep domestic prices at twice the world level, but also fostered corruption and bribery and made Congressmen like the late Harold Cooley, Democratic chairman of the House Agriculture Committee, virtual Secretaries of State for Sugar.

Congress scrapped the quotas in 1974, but the sweetheart spirit survives. Under a four-year-old program of Government subsidies and price supports, growers still get twice the world level, or at least 15¢ per lb. Now they are pushing legislation to add another eight-tenths of 1¢ to supports, and to keep the price rising by a full 7% annually until 1981. The raise may not seem like much, but each one-penny increase adds $500 million a year to Americans' grocery expenses.

Sugar growers claim that they need the increase to cover their rising costs, but for the first time in memory Congress does not seem so ready to swallow their sweet talk. With voters fuming over sky-high food prices, many Congressmen would just as soon see the bill never come to a vote. Says Massachusetts Republican Margaret Heckler, a member of the House Agriculture Committee: "Inflation is the nation's No. 1 enemy, and things just cannot stay the same for easy subsidies. The sugar bill represents the legislative process at its worst."

The U.S.'s 19,000 growers constitute a mere one-half of 1% of all farm families, but propping up their prices last year cost taxpayers and consumers $2.6 billion in support payments and artificially high retail prices for the sweetener: The subsidy system has also created an ever growing Government stockpile of sugar, currently 193,000 tons, that now lies rotting in Florida and Texas warehouses.

The struggle over sugar is an embarrassment for Jimmy Carter. Eager to slow the rising cost of food, the Administration condemned the bill when it was introduced in the House last February by a coalition of farm-state legislators. But when sugar industry supporters in Congress threatened to retaliate by blocking approval of the international trade agreement that was endorsed last month in Geneva, the White House abruptly switched signals and said the President would support the bill. The turnabout left White House Inflation Adviser Alfred Kahn in an impossible situation. Asked during House Agriculture Committee hearings if he considered the bill inflationary, Kahn replied: "Let the record show an embarrassed silence."

The industry itself is split on the legislation. The bill puts a limit of $50,000 in total direct payments to any grower, and that is welcomed by small farmers such as Idaho sugar-beet growers but bitterly opposed by plantation-scale growers in Hawaii and Louisiana. Another of the bill's clauses raises the minimum wage for field hands from $3 to $3.30 an hour, and Democratic Senator Russell Long of Louisiana argues that the provision would require an even higher level of price supports for growers. With that in mind, Idaho Democratic Senator Frank Church is pushing for a rise to 17¢ per lb. Frets one industry lobbyist in Washington: "All this agitation for more subsidy is going to kill the goose that laid the golden egg." If so, it is about time.●

PROBLEMS OF RECOGNITION OF RHODESIA

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. WOLPE. Mr. Speaker, I wish to draw the attention of my colleagues to an article concerning Zimbabwe-Rhodesia which appeared in the May 31 edition of the Washington Post. This article offers an important reminder that America has vital economic and strategic interests not only in the southern African region but throughout sub-Saharan Africa, and that a precipitous decision by the United States to lift sanctions against Rhodesia will have the most negative repercussions not only in Rhodesia but throughout the African continent. The carefully nurtured relationships which we have developed only recently with many African nations will be directly undermined by a premature initiative on our part. Countries such as Nigeria, Botswana, Liberia, Ivory Coast, Senegal, Gabon, Cameroon, Sudan, Mali, and Kenya—which we regard as moderate and friendly toward the United States—would clearly regard a unilateral initiative by the United States to lift sanctions at this time as a deep affront and as tantamount to an American decision to oppose majority rule in southern Africa. To decide to lift sanctions against Rhodesia without the support of our friends in Africa—indeed, without even serious consultation—will only mean our isolation in a continent in which the United States has vital economic and strategic interests. The article follows:

Nigerians Warn West on Recognition of Rhodesia—Lagos a Major Supplier of Oil to United States

(By David B. Ottaway)

LUSAKA, ZAMBIA, May 30—Nigeria, black Africa's major oil exporting nation, has sent warning signals to the United States and Britain that it will retaliate if they recognize the new black-led government under Bishop Abel Muzorewa in Rhodesia.

The signals are regarded as significant since Nigeria now is the second-ranking exporter of oil to the United States, a role that is given added weight as a result of gasoline shortages.

The United States currently imports approximately 1 million barrels of oil daily from Nigeria, or about 15 percent of its total imports, at a cost in excess of $5 billion yearly.

Although the Nigerians have not yet specifically threatened an oil embargo, they sent a statement to all embassies here in Lusaka early this month assuring African and Western nations that they will make an "appropriate response" to any American or British steps toward recognition.

In addition, they have told U.S. Embassy officials in Lagos privately that this response may be far stronger than Washington now anticipates, according to diplomatic sources here.

Nigeria already has given a bite to its warning by excluding British companies last week from bidding on a $200 million port construction contract despite a British loan for the project. It also told the British they may be shut out from all federal government contracts if Margaret Thatcher's new conservative government recognizes the Muzorewa government, according to British commercial and diplomatic sources here.

The Nigerian action reportedly has sent British officials scurrying to reassure Lagos that London has no intention of "rushing" to recognize the Muzorewa government.

But the Nigerians have made their point, namely that they are serious in their stated intention of using their economic weight to halt what one British newspaper has called "creeping Western recognition" of the new black-led government in Zimbabwe-Rhodesia.

Nigerian civilian and military leaders are reported to be discussing such retaliatory measures as nationalization of British or American companies, an oil embargo, withdrawal from the British Commonwealth and a ban on, British and American companies bidding on Nigerian contracts.

U.S. investments in Nigeria amount to about $1.2 billion, most of it in the oil and gas industry, according to the U.S. Embassy in Lagos.

In addition, Nigeria slowly has been displacing South Africa as the biggest market for U.S. goods in sub-Sahara Africa. In 1977, U.S. exports to Nigeria were just under $1 billion while those to South Africa slightly above.

While figures for 1978 were not available here, it seems likely Nigeria has surged ahead by now given the upward trend in economic trading between the two countries.

Nigeria is coming under increasing pressure from the so called front-line states involved in the Rhodesia conflict to use its economic influence with Washington and London as a last resort to halt Western moves toward recognition. These states are holding fast in their support for the Patriotic Front, the alliance of black nationalist guerrillas seeking to overthrow the Muzorewa government.

Presently, the five front-line leaders are trying to arrange a summit meeting that would include both Nigeria and Ethiopia to draw up a concrete military and political plan to counter the new black-led Zimbabwe-Rhodesia government. This would presumably include economic retaliation from Nigeria and military assistance from both Nigeria and Ethiopia for the guerrillas and their front-line backers.

Western observers here are still uncertain just how far Nigeria is willing to go in using its economic weight with either London or Washington. It has never shown much interest in an oil embargo before, although it has made known its special concern for the wars of liberation being fought by black nationalists against the white-dominated governments of south Africa.

A 1977 attempt to punish the British-owned Barclays Bank for its investments in South Africa by throwing it out of Nigeria backfired and ended in hurting Nigerian interests more than British ones.

The Nigerian government has made it clear it does not regard the Muzorewa government as legitimate. The Nigerian chief of state. Gen. Olusegun Obasanjo, said Friday that Nigeria regarded the April elections in Rhodesia as "a mockery of democracy" and had no intention of recognizing the results.

Meanwhile, the government-owned Daily Times had warned in an editorial that the Carter administration would be making a "serious mistake" if it decided to build its relations with black Africa on the "political fraud" being perpetrated today in Zimbabwe-Rhodesia. Other Nigerian newspapers have said Washington's credibility in black Africa would be badly shaken and Nigeria would be obliged to take action against it.●

MORTGAGE REVENUE BONDS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, the construction season in Alaska has begun. Unless bond sales are finalized, housing projects in many areas of Alaska will not begin this season. The potential effects of this situation would be devastating for there will be even higher unemployment than that which currently exists, and many Alaskans will not have homes this year. Passage of the Udall-Anderson bill severely dimmed the future economic situation for Alaska and I do not feel that Alaskans are willing to accept another blow to the economy. I commend to you and my colleagues, an article that recently appeared in the Anchorage Daily News concerning the need for tax exempt mortgage revenue bonds:

Threat to Home Loans

(By Brian A. Huntley)

Alaska residents will pay thousands of dollars more for home loans if a proposed freeze on loan applications by the Alaska Housing Finance Corp. becomes a reality next week.

The AHFC, threatened by a U.S. House bill (HR 3712) that would eliminate the tax-exempt status of its bonds, reported it will stop accepting loan applications from banks next Friday.

If the tax-exempt status on the bonds which AHFC sells to raise its mortgage money is eliminated, interest rates for homeowners forced to turn to commercial banks would jump by three percent.

For a borrower of $65,000, the hike in interest rates would mean monthly payments of about $135 more.

The Ways and Means Committee is considering a transitional ruling which would allow state housing corporations to sell bonds approved prior to the bill's introduction on April 24 (this year).

Jack Linton, AHFC executive director, noted a $105 million bond issue set for June 21 is covered by the Ullman bill. If an amendment is not passed, Linton added, AHFC will not process any more mortgage loan applications after June 8. "After that," Linton noted, "we'll be out of money."

More than 850 loans totalling $57 million are currently being processed by AHFC. These loans will not be terminated if the compromise amendment fails.

Alaska Housing Finance Corp., a state-managed mortgage financer, serves as the largest source of home mortgage loan funding in the state. More than 27 percent of home loan funding in Anchorage and 65 percent outside of Anchorage are provided by AHFC.

AFHC sells housing bonds on national markets, financing low-cost mortgages with the sale funds. Commercial banks currently are charging 11¾ percent interest on home mortgages, but through the discounting process, AHFC is charging only 8¾ percent.

The AHFC program has offered more than $500 million in Alaska loans since 1971. In 1978, it generated $138 million worth of home mortgages.

But the Internal Revenue Service and the U.S. Treasury Dept. have been lobbying heavily against tax-exempt bond funding, because it reduces tax revenues.

David A. Rose, executive director of the Alaska Municipal Bond Bank, blasted the Treasury's involvement in the Ullman bill as "insidious. . . . It constitutes control of the bond market without law—just by introduction of a bill."

Rose added, "Making the bill retroactive to its introduction date is unacceptable. No bond counsel in America is going to issue an opinion on these tax-exempt bonds. The Treasury has manipulated the market and effectively locked it up with the bill."

But Rose is optimistic about the passage of an amendment (or rider) to the Ullman legislation. "I am reasonably confident that some compromise will go through—there should be considerable pressures from the housing and investment industries."

If a compromise action fails, however, Rose acknowledged Alaska will be hard hit.

"We knew there was debate over tax-exempt bonds, but we didn't expect legislation would target state mortgage agencies," he said. "And if the AHFC is forced to close in June, more and more demand will be placed on a finite amount of money in the state."

"That means less money for business loans and commercial economic development. And with that problem, a limited pot of funds, we can't sustain both housing and industry in Alaska. It will definitely hurt the economy." Rose said.

Perry Eaton, AHFC chairman, blamed "the greed of underwriters" for precipitating congressional action. "They erected a new market for municipalities selling bonds—then the pressures from the Treasury and IRS grew. Now we're all faced with imminent disaster," he added.

Eaton shares Rose's view that the pending congressional action "is a law without a bill. . . . It is a de facto limitation of bond sales—a moratorium on any tax-exempt mortgage bonding," he said.

Eric Wohlforth, AHFC's bond counsel, said he plans to continue lobbying in Washington next week.

Wohlforth urged additional efforts by Alaska residents to press Congress for a compromise. "Our economy will be dealt a severe blow," he added, "and unless we get an immediate exemption our service to the state will be irreparably damaged." ●

GREAT PLAINS CONSERVATION PROGRAM AMENDMENT

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. DASCHLE. Mr. Speaker, today I am introducing legislation that will extend the Great Plains conservation program. My amendment to the Soil Conservation and Domestic Allotment Act is simple. It will basically extend the program until 1991 and raise the annual and program funding authorizations to $50 and $500 million respectively.

The intent of this legislation is twofold. One is that a 10-year extension will insure proper and necessary oversight of the program. Second, the program has been successful and so well received that presently there are over 5,000 persons waiting to participate in the 10 Great Plains States alone. This, in fact, is the only major problem the program has encountered. Due to a shortage of funds, these people are unable to participate. My amendment would alleviate this problem by increasing the annual and program authorization limits. In addition, by raising these caps, the program should be better able to compensate for inflationary pressures.

I would like to emphasize at this time that I do not feel this program should be expanded beyond the original 10 Great Plains States. These States are uniquely susceptible to wind and water erosion due to their geographic location and physical terrain. Considering the present waiting list of 5,000 and the fact that only 1,700 new persons were able to participate last year, it seems inconceivable to further dilute the available funding to persons outside the Great Plains States. Furthermore, at the program's inception it was determined by the Agriculture Department that 180 million acres in these 10 States needed some form of conservation. To date, only 104 million have been contracted, and many of those are in need of further assistance since their original contract expired. Again, I would like to emphasize that we should take care of those in the original 10 States before even considering expanding the program beyond the Great Plains region.

The need for the continuation of this program is immediate. Several hundred million tons of topsoil are lost annually in these States. The GPCP saves an estimated 240 million tons annually. Although GPCP cannot preserve all of this topsoil, it does slow down the erosion process and reduces the immediate impact on landowners.

In my home State of South Dakota, a survey was conducted after the drought years of 1975–76 of 418 farmers and ranchers, one-half of whom were participating in the program and one-half of whom were not. Their findings concluded that 37 percent of those who were not participating had experienced overgrazing or moderate-to-severe wind erosion. Thirty-five percent of those participating were substantially better off than their counterparts in these same two areas.

In conclusion, Mr. Speaker, the Great Plains conservation program does work. It is not a cure-all, but it does respond to a significant problem that has faced and will continue to face the farmers and ranchers of this region. Considering the enormous amount of land lost every year to urbanization and the fact that the world's population is expected to increase to 6 or 7 billion by the year 2000 should impress upon us the need to facilitate food production in America, a resource that has produced over $20 billion annually in exports and given its producer the deserved reputation as the most efficient and productive worker in the world. There is no doubt in my mind that the GPCP has been an effective formula for preserving our precious heartland's agricultural topsoil. The continuation of this program is the obvious and logical step in easing the potential disruptions posed by another drought or some other inclement weather conditions.●

A PROPER PLACE FOR THE PRESIDENT'S PAPERS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. PICKLE. Mr. Speaker, in the course of the past several years we have observed some controversy over the rightful ownership of Presidential papers. That issue has been settled by action of this Chamber. Presidential papers belong to the American people. However, we have hit a hurdle in making a final determination over how to provide maximum access to the papers.

In a recent issue of the New York Times, Robert L. Hardesty of Austin, Tex., hit upon this problem. Many of you may be familiar with Bob from his distinguished Government service with the Johnson administration to his present service as a member of the Board of Governors of the U.S. Postal Service. In our central Texas area, Bob Hardesty has been a grassroots organizer for the Lyndon Baines Johnson Library in Austin, and is now vice chancellor for administration of the University of Texas system.

Having served as speechwriter for President Lyndon Johnson and in other ways having worked with Presidential papers in trying to make them available for public research and consumption, Mr. Hardesty has hit upon some practical suggestions for improvement. I am glad to bring to my colleagues' attention a reprint of his article from the New York Times entitled "The President's Papers," and I insert it herewith for the RECORD:

[From the New York Times, Apr. 29, 1979]

THE PRESIDENTS' PAPERS

(By Robert L. Hardesty)

AUSTIN, Tex.—After two centuries of confused tradition, culminating in trauma, we have finally settled the issue of who owns the papers accumulated by a President during his Administration. From George Washington's time on, it was assumed that they belonged to the President himself. Watergate threw that tradition into sharp question.

Last year, Congress finally reversed that tradition and, in legislation signed by President Carter in November, declared that those papers belong to the people. That was welcome news. The papers of any President, for better or worse, are part of the historic record of the nation. Unfortunately, last year's legislation only went halfway toward assuring the safety and integrity of those Presidential papers.

The disturbing fact is that the Presidential papers—and indeed most of our national documents—are still under the control of the General Services Administration, the parent organization of the National Archives. I suppose that the scandal-ridden G.S.A. has had enough criticism without my adding to it. But the scandals are not what bother me, in this particular case. It is the heavy-handed *partisan* nature of the G.S.A. that disturbs me most—along with the agency's basic insensitivity to the needs of the National Archives.

This uneasy relationship between the two agencies has existed since the days of the Truman Administration when, in an effort to streamline the executive branch, the number of persons reporting directly to the President was greatly reduced. It was then that the National Archives was placed under the supervision of the politically-oriented G.S.A. It would have made as much sense if someone had decided to place the Smithsonian Institution under the supervision of the Corps of Engineers. Historians warned of the potential for mischief that the move created. It took 30 years for those warnings to bear their bitter fruit.

In the waning days of the Nixon Administration, we finally saw how a political deal between a President and one of his appointees threatened the integrity of the National Archives and nearly resulted in the loss of the documents of a critical time of our history. That was when Mr. Nixon and his Administrator of the G.S.A., Arthur Sampson, entered into an agreement that would have given Mr. Nixon the right to destroy the materials that gathered in his White House.

That must not be allowed to happen again. But as long as Presidential documents are under the control of a politically-oriented G.S.A., what happened in the Nixon period can certainly happen again.

The General Services Administration is the Government's landlord. It constructs the buildings that house the Federal bureauracy, cleans the halls inside those buildings, clips the shrubs outside, and supplies the pencils for those who work there. Admittedly, the landlord is an important functionary in the Government's operations. But this custodian of the nation's brooms has no particular qualifications for handling Presidential papers—much less all of the rest of the priceless official documents of the executive branch.

Now that the issue of the ownership of Presidential papers has been settled, the time has come to complete the task and determine where those papers should be kept to assure their integrity. The Archivist of the United States, traditionally a nonpolitical scholar, is the official who has day-to-day control over the documents of our history. His independence must be protected. One solution might be the creation of an independent National Archives, with the Archivist accountable to Congress. Another answer might be the alignment of the Archives with a more congenial agency than the G.S.A., such as the Smithsonian Institution. Still another answer might be to place the Archives in the proposed new Department of Education (assuming that department ever comes into being).

It should not be too difficult to find an answer, and with it a proper home for the documents of our history. A committee composed of both scholars and representatives of government helped illuminate the issue of ownership of White House papers, on which the Congress acted last year. A similar committee could now help complete the task. Either the President or the Congress should appoint such a committee. It is time to put our records under lock and key—and turn the key over to someone who truly understands what the National Archives is all about.●

FOREIGN TRADE: ARE WE LOSING A BATTLE?

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. VENTO. Mr. Speaker, foreign trade is one of those arcane economic activities about which much is written and discussed, but of which little is generally understood. It is gratifying then when an expert in the field sets forth dearly and cogently some truths about the U.S. performance since World War II and puts in perspective the tremendous international economic strength of our country.

Burton Joseph, a highly respected Twin Cities businessman and leader in civic, cultural, and religious affairs, has written an excellent analysis of foreign trade which was reprinted in the St. Paul Sunday Pioneer-Press for June 3, 1979. I recommend it highly to my colleagues.

The article follows:

FOREIGN TRADE: ARE WE LOSING A BATTLE?

(By Burton M. Joseph)

To take a contrary position on American export potential in 1979 is a sacrilege of the highest order. The standard line as fashioned by the Western European leaders (President Valery Giscard d'Estaing of France and Chancellor Helmut Schmidt of Germany) is that the United States refuses to discipline itself enough to correct its budgetary deficit or to become productive enough in its manufacture for export markets to reduce or to eliminate the huge balance of payments deficit.

I think the theory is hogwash and I believe the U.S. is about to reemerge as an efficient, competitive exporter as a result of the enormous devaluation of the dollar to the level that makes American labor once again, after 10 to 15 years of a punishing negative trade interregnum, competitive in world markets. Sounds crazy? Let's trace a little history to see if the world trade pendulum is cycling back to the U.S.

FOREIGN CURRENCY DEVALUATIONS

Following World War II, the superb American manufacturing, marketing and economic apparatus had the world trade markets pretty much to itself. Both Western Europe and Japan, today's giants, were clearing the rubble and reassembling their manufacturing and financial base. One by one, following the lead of Germany and England, most of the countries around the world conducted a series of devaluations against a continually stronger dollar.

We tend to forget that in 1948 the Germans replaced the reichsmark with a brand new unit, the deutsche mark. In effect, the Germans started over. And, after the war, the British took the $6 pound sterling and let it go down step-by-step to where it bottomed out at $1.77. Even more dramatic, DeGaulle exchanged one new French franc for 100 old French francs.

These were necessary vital steps taken to make German, English, French (and other) labor and industry competitive in world markets. By the mid-1960s, the balance of the world's manufacturing and selling structure outside of the U.S. was tooled up and ready to exert export trade superiority.

U.S. LOSES MARKET DOMINANCE

That is precisely what happened. American industry group after industry group lost its competitive place—not only in world export markets, but in the U.S. as well. It has been quite a shock to our economic well-being and our national pride to see us lose markets overseas and within the U.S. to foreign textiles, shoes, TVs and radios, typewriters, steel, autos—the list is long and infamous—to countries whose labor costs and productivity made them a better and cheaper source of supplies.

World trade now exceeds $1 trillion per year. This staggering figure, reduced to more understandable proportions means that one-sixth of everything made, grown or mined on earth is traded between nations.

To lose in this dynamic and crucial activity is bad enough, but in 1973–1974 we were forced to accept a five-fold increase in petroleum import costs which forced competing energy sources in the U.S. to move up nearly as fast. As the prime energy user of the world, the entire cost base of our economy—particularly industries that are labor-intensive or have high energy requirements—became badly skewed against those in competing countries with lower per unit labor costs and lower per unit energy inputs. Small wonder the sudden reversal of our trade balance and the enormous trade deficits ($20–$30 billion per year) of 1977, 1978 and apparently 1979.

TURNAROUND PREDICTED

In my opinion, this abysmal record is finished. We have a new scenario, I am convinced that the for-the-record statements from Washington's political leaders that the American government is doing everything within its power to stop the decline of the American dollar against foreign currencies are just that—statements for the record. In truth, our governmental leadership is satisfied to permit the dollar to float down in value against the world's other major currencies until American labor is once again competitive with other world labor.

No wonder German and French political leaders, their banks and businesses are calling for the Americans to do something to check the decline of the dollar. Believe me, it's not because they view the dollar as so important to their own economic stability, but because the cheap dollar guarantees competition for their goods in world markets. They unfortunately forget our willingness to stand by in the late 1940s and 1950s when they devalued, became competitive against us and took over many of our markets. Now it will be their turn to see us regain some of those markets.

When American goods, other than our low labor input items such as raw grains or high technical input items as commercial aircraft, start to sell once again in world markets, we will have reversed the trade cycle and find ourselves as increasingly effective exporters and less interested importers. The decline of the dollar's value against the currency of our competitors gives us the prime weapon to win back our overseas markets.

EVERYONE 'BUYING AMERICAN'

Do you know that American manufactured cars are a hot item in Germany? General Motors' Oldsmobile will sell for about $11,000 in Frankfurt compared to a similar model Mercedes at $18,000. American real estate properties and U.S. commercial enterprises are on the target "buy" list of every important foreign business group. To the foreign businessman, the bargains that abound in the American economy are unbelievable and become better each day as the dollar declines in value against the currency of the foreigner's country.

Why then, with all these bargains, does the dollar still show weakness? It won't for long and a major rebound is just ahead of us as our trade figures improve dramatically in 1979 and 1980, and as we finally reduce our energy imports. You can own the dollar in 1979, feel safe with it and begin to make some money with a long position in dollars in 1979, and surely by early 1980.

With American labor and American products competitive and selling once again in world markets because the decline in the dollar's value has made it so, our export trade will lead the U.S. to a major industrial boom—a boom that has great implications for our position in world political and commercial leadership.●

RHODESIA NEEDS AMERICA'S HELP

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. LAGOMARSINO. Mr. Speaker, the following editorial, by William Randolph Hearst, concerns the new relationship that the United States should now establish with Zimbabwe-Rhodesia.

I share Mr. Hearst's hope that the United States and Great Britain will act quickly to establish formal relations with the constitutionally elected Rhodesian Government. To continue to impose sanctions is to encourage more bloodshed from the terrorist leaders, who refused to participate in the recent elections.

The editorial follows:

RHODESIA NEEDS AMERICA'S HELP

(By William Randolph Hearst Jr.)

NEW YORK.—Rhodesia has arrived at a turning point in its history. This coming Friday its name will be changed to Zimbabwe-Rhodesia, it will install its first black prime minister, and for the first time in 90 years its doors will be open to a free and representative biracial government.

Rhodesia's future of freedom is anything but certain, however. How far it will turn in that direction depends a lot on the help and understanding it receives from Great Britain and the United States. Despite the dramatic changes to take place five days hence, the struggling African nation needs Anglo-

American assistance in the form of lifting trade sanctions, and a lifting of the West's insistence that two guerrilla leaders participate in the new government.

It is my hope that such assistance will be forthcoming, quickly and willingly, from a United States and Great Britain that have always championed both the principle and practice of popular government. The absence of such help could mean that Rhodesia will be forced to go it alone, its economy hamstrung by trade barriers and its transition regime choked—if not killed—by the two terrorist leaders, Joshua Nkomo and Robert Mugabe.

The elections that brought Margaret Thatcher to power in Britain brought hope to us all that Rhodesia's moment had indeed come, and that Friday's turning point would be permanent, not just a gap between two periods of turmoil.

That hope was renewed last week by Secretary of State Cyrus Vance's three-day visit in London, and his talks with leaders of the new Conservative government. There are signs both nations may be pulling away from outmoded policies, and the negative attitudes articulated by our ambassador to the United Nations, Andrew Young.

The stakes are high. Rhodesia's future hangs in the balance. An opportunity for Rhodesia to make a beginning toward a truly representative government may not come again in your lifetime or mine.

Prime Minister Thatcher, as candidate Thatcher, spoke convincingly of her wish to recognize Rhodesia as soon as free and fair elections were held, and in other ways to help it along its independent way. She embodied the Conservative Party's liberal attitude toward Rhodesia, as compared with the Liberal Partys more rigid stance.

She extended that theme in her first appearance before the British Parliament, when like all prime ministers she submitted herself to a rugged question-and-answer period. When asked, "What about Rhodesia?" she said she was sending a special envoy to Africa to sound out the views of governments in the area. She said she hoped the day would soon come when her country would be satisfied with Rhodesia's progress toward a black-majority regime, and would recognize Rhodesia as a legal entity.

The Carter administration was wise to respond to the British elections by sending Mr. Vance to London. It could hasten the day Rhodesia, like Kenya, could become a showcase of democratic experimentation, an example of how blacks and whites can live peacefully in Africa under the same roof.

Lord Carrington, Britain's new foreign secretary, took an extremely enlightened view of developments in Rhodesia. He seems to understand, better than our state department, the revolutionary nature of what has been taking place there. He told Secretary Vance:

"It is our responsibility to try to bring Rhodesia to legal independence in conditions which will afford that country the prospect of a more peaceful future. To that end it will be our objective to achieve a return to legality in conditions of the widest possible international recognition.

He praised their elections as fair, emphasizing that every man and woman, black or white, was allowed to vote.

"There is now an African majority in Parliament," he said, and then looking ahead to this Friday he added, ". . . and there is soon to be an African majority in government also. It would be morally wrong to brush aside an election in which 64 percent of the people cast their vote."

Brushing aside is something President Carter has been adept at, so far. The world will be watching to see whether he continues this policy on June 15, the deadline for a presidential decision on the fairness of Rhodesia's elections and the lifting of sanctions.

No election ever took place without a little laxity on someone's part. But the balloting in Rhodesia was monitored by dozens of impartial observers, despite the stubborn refusal of Washington and London to dispatch their own professional monitors. Among the most diligent watchdogs were representatives of Freedom House, a private New York organization many of us respect because of its independence and its concern for human rights and civil liberties throughout the world.

Freedom House didn't just take a quick look and dash off a press release. It took the pains to write a 72-page report, full of documentation and recommendations. Its documents led to the conclusion the elections in Rhodesia were a "relatively free expression of the will of the people," which in turn led to the recommendation the United States ought to change its policy.

This report, as well as those of other impartial observers, convince me Lord Carrington is correct to say it would be "morally wrong" to ignore the free voice of Rhodesia, a solid majority of whose citizens went to the polls in an effort to change the course of history. The "morally right" thing for Carter to do is to change the course of our own diplomatic history, and recognize that Rhodesia's moment has come.

The Carter-Young-Vance policy argues that recognizing Rhodesia's transition government without including the guerrillas would prolong the war. That's what I call a policy of fear, and we should have no part of it. If Rhodesians want representative government, however difficult and imperfect the transition will be for the next 10 years, the United States should help them.

The Carrington-Vance conversations may be a good omen as Rhodesia prepares to launch its first black-white government on Friday. Difficulties lie ahead, but there is great hope for the nation's future when the British government talks about legal independence, and the "widest possible international recognition."

What's needed on this side of the Atlantic is for Carter to demonstrate the kind of flexibility, ingeniuty and resourcefulness that made him the creator of peace in the Middle East.

The result could be a free and responsible Rhodesia, dedicated to a spirit of liberty of which all free nations could be proud.●

TAX-EXEMPT MORTGAGE REVENUE BONDS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, I would like to direct your attention to legislation pending before the House Ways and Means Committee regarding tax-exempt mortgage revenue bonds. These types of bonds are used to finance a large portion of housing units in my State. Although I realize the measure proposed by my distinguished colleague and chairman of the Ways and Means Committee, Mr. ULLMAN of Oregon, is designed to correct a misuse of these bonds, unique circumstances in Alaska create a real need for tax exempt mortgage revenue bonds. I am including in the RECORD, an editorial that appeared in the Anchorage Daily News of June 1, 1979, addressing this important issue. I strongly commend this to my colleagues so they may better understand the specific housing problems of Alaska.

The editorial follows:

OUR HOUSING MARKET FACES A THREAT

Alaska Housing Finance Corporation isn't exactly a household word in Alaska, but thousands of residents know the agency well. It has been the key ingredient in almost 40 percent of the home mortgages in our state in the last nine years.

Now that program is in danger of immediate collapse, the potential victim of legislation under consideration in the U.S. Congress that could gut the housing loan program in the state by removing AHFC's tax exempt status. A June 8 deadline looms for decisions affecting this summer's construction season, and the odds for favorable resolution are estimated at no better than 50–50 today.

Alaskans are accustomed to the unpopular fact that federal legislation can have dramatic impact on their lives, but this case is even more serious than most. This time, it's the mere threat of legislation that raises danger.

AHFC can purchase mortgages from low and middle income home buyers at rates considerably below conventional financing because it can sell bonds at low, tax-exempt rates. The difference in interest rates triggered by the tax exempt status can mean mortgage payments 2½ percent under other loans—a difference of about $140 in monthly house payments. For many Alaskans, it's the only hope for home ownership.

Since 1970, thousands have used that advantage to buy homes. Some 27 percent of home loans in Anchorage came under the plan, and fully 65 percent of the mortgages in other regions of the state are held by AHFC. That accounts for four of every 10 home loans in the state, a major percentage of the market and a crucial factor in the entire state economy.

The agency needs to sell $105 million in tax exempt bonds June 21 to finance the 1979 construction season. Because of the seasonal nature of construction in the north—and because AHFC has operated so efficiently in the past—builders, lenders and buyers have already proceeded on the assumption that the money would be available. If it isn't, the results could be calamitous.

A total of 863 applications for the AHFC mortage money are already pending for this season. Builders have embarked on projects financed by credit from suppliers on the expectation that the June 21 sale would make money available. The bond markets, as always, would be ready and eager to buy the AHFC bonds except for one fact.

That fact is that the proposed federal legislation would prohibit the sale of such bonds to finance mortgages. Even though it is only a proposal at this time, the possible consequences are so severe that bond buyers won't touch the offerings unless something changes.

Alaskans must labor mightily to win concessions from the legislation immediately. Unless mark-up of the proposal—which could begin any day now—includes recognition that programs like AHFC should be allowed to proceed, the June 21 sale is dead. "We're out of business June 8 if that happens," AHFC officials say, and if they are, so are lots of others.

Bankruptcies of builders, unemployment for construction workers and lack of financing for buyers all loom as immediate impacts. Through the "ripple effect," that impact would translate into disastrous effects for supply firms, service industries and the state's economy in general.

It won't be easy to focus attention on Alaska in this debate, but it's an effort that must be made. AHFC and some other officials have pulled out the stops in trying to lobby the Ways and Means Committee, but they need all the help they can get. Alaska's senators, state liaison personnel in Washington and Alaskans with contacts in the Congress all should move with speed to make sure the message reaches the Congress.

There have been some abuses nationally in use of the tax exempt bonds. Additionally, there are millions of dollars involved from short-term issues of eastern cities that may overshadow the Alaska stake in this question. Legislative strategy also may hurt the state, because opponents of the proposed bill don't want to make accommodations, on the theory that if the bill is more hurtful, it will have less chance of eventual passage.

Those factors and others combine to make the Alaska struggle an uphill one. Capturing the attention of the powerful Ways and Means Committee, the IRS and other interested parties will be difficult, but must be done.

Whatever the eventual outcome of the bill, Alaskans must at least win authority to hold the June 21 sale that was scheduled and approved before the legislation was introduced. A whole construction season, the welfare of thousands of Alaskans and much of the economy of the state hangs in that delicate balance.●

TRAINS ARE BACK

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. PEASE. Mr. Speaker, public transportation in this country has undergone a significant turn-around in recent weeks. Tracks are back. During the Memorial Day weekend, more people rode the train than during that same weekend at the height of World War II—the peak U.S. passenger trains. Amtrak has had to reject any further requests for United States of America rail because all passages have been booked for this summer.

It has long been speculated whether people would really turn to the trains when the price of gas and the supply of gas became near prohibitive for vacation and business travel. Now we know. The public depends on the trains to be there—to meet their transportation needs when the private car can no longer be used.

The following is an article from the business section of the Washington Post (June 1, 1979) remarking on the sudden boom in passenger rail. Surely the Congress will recognize this signal and vote for the Amtrak authorization for fiscal year 1980—H.R. 3996.

The article follows:

TRAVEL RECORD NATIONWIDE ON AMTRAK RAILS

(By William H. Jones)

According to conventional wisdom, Americans have given up on passenger trains to such an extent that the rails never again will rival highways for intercity travel.

But this month—not counting Memorial Day—Amtrak carried more passengers between Los Angeles and San Diego than in previous rail history.

Amtrak's San Diegans carried 128,037 riders from May 1 to May 27, breaking an all-time record of 125,000 passengers carried during the month by the Atchison, Topeka & Santa Fe Railroad during World War II, when rail travel was at a peak.

Moreover, on the 8:30 a.m. departure for San Diego on May 27, all seats were occupied and there were 280 standing passengers, even though Amtrak had attached 12 passenger cars instead of the normal 5.

These new figures, distributed to Amtrak's employes on Tuesday night, point to an unusual situation that has developed in California because of gasoline shortages.

But the new statistics also show a nationwide pattern of sharp increases in rail passenger business in the wake of congressional decisions to permit the Carter administration to begin planning for a 43 percent cutback in Amtrak routes on Oct. 1.

According to the ridership figures:

The Memorial Day weekend was one of the biggest on record for Amtrak, although exact data has not been compiled. Standees were reported on 39 trains, and such key stations as the railhub at Chicago and Union Station here reported heavy loadings on virtually all trains.

Trains with standing space only included Boston-Washington routes and the Hilltopper south of Washington, because of heavy travel to the Kings Dominion amusement park near Richmond.

Last Friday, the Amtrak reservation system contained the names of 200,000 persons seeking future space—90 percent higher than advanced reservations at this time last year. Dollar volume of sales at the five main reservation centers now exceeds $1 million a day compared with $600,000 a year ago, and ticket sales through automatic machines are up 18½ percent.

Amtrak had expected the reservation overload to ease a bit after United Air Lines resumed some of its services Monday but spokesman Joseph Vranch said yesterday that the reverse has happened. Phone volume still is on the increase. Of callers to Amtrak reservation centers last week, 1.4 million got busy signals—a situation expected to be helped this week as 100 new reservations clerks started their jobs after several weeks in training.

Meanwhile, there is no clear indication about the future of Amtrak. Members of the House and Senate are preparing various amendments to Amtrak authorizations bills—all of which plan to keep some trains in business that now are scheduled to be halted after Sept. 30. Final decisions may not be made until late in the summer because pro-Amtrak legislators are counting on a strategy of allowing the energy crisis to demonstrate Amtrak's advantages, especially if gasoline remains in short supply during coming weeks.

According to the Carter Administration plan, two dozen trains are due to be stopped and Amtrak plans to post notices on such routes 30 days before discontinuance.

Typical of the support for specific trains now building on Capitol Hill, an aide to Rep. Richardson Preyer (D-N.C.) said this week that Amtrak's Crescent between Union Station and New Orleans may still have a chance for survival if ridership gains continue. The Crescent is among trains due to be stopped under the administration plan.●

POLISH AMERICAN WOMEN TO BE HONORED

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Ms. OAKAR. Mr. Speaker, on June 9, 1979, three outstanding Polish American women will be honored for their achievements by the Polonia Media Conference VI, at Marymount College of Virginia. These three women are: Stella Walsh, an athlete who starred in the Olympic Games of 1932 and 1936, winning several gold medals; Virginia Luty, an enterprising housewife who originated her own "Polish Art and Crafts Import Parties" to distribute authentic Polish-made craft items such as wooden figurines, music boxes, ethnic dolls, and ceramic pieces; and Dr. Mary Kuburczyk, who teaches at Kent State University in Ohio where she has established a formidable reputation as a professor who derives enjoyment from her teaching and demands excellence from her students.

While all three of these women deserve the high honor bestowed on them, I would like to tell you a little bit about one of my constituents, Stella Walsh, who is, indeed, a world-famous track star of legendary name.

Stanislawa Walasiewicz was born in Poland in 1911 and then came to the United States at a very young age when she became Stella Walsh. Stella grew up in Cleveland, Ohio, and attended South High School where she showed a flair for athletics, winning her first track medal in the Cleveland Junior Olympics, in 1927, at the age of 16. This would mark the beginning of a long and auspicious career in track on a national and international scale. I am proud to say that Cleveland was the starting-point of Stella's rise to world fame as an athlete. An incredible success story was born in Cleveland in 1927, when Stella Walsh sprinted to her very first track medal.

Stella Walsh qualified for the U.S. Olympic team in 1928 but was not permitted to compete because she had never been naturalized as a U.S. citizen. But she became U.S. champion in 1930 in the 100-yard dash, blazing to the finish line in such a flash that she was nicknamed the "20th Century Flash." In 1932, to make up for her disappointment at not being able to compete for the United States in the 1928 Olympics, Stella accepted an invitation to run for Poland in the Olympic games. She raced to a gold medal in the 100-yard dash, setting a world record of 11.9 seconds.

The Polish Government honored her with lavish praise and held a public celebration in her name. Stella toured Europe and the Far East in 1934 as a representative of Poland. In the 1936 Olympic games, Stella ran a strong race but finished second to an American sprinter named Helen Stephens. However, not winning this race did nothing to diminish the brilliant track record Stella would achieve, a record including 65 different world and national track titles, some of which have never been broken. Before she hung up her spikes, Stella Walsh had won 5,000 track and field medals and trophies.

Stella Walsh has been inducted into the Ohio Women's Hall of Fame and into six others as well. She stands proudly beside Jesse Owens and Harrison Dillard as Cleveland's all-time top track performers. Stella Walsh may well be the greatest woman track and field athlete not only of this century but of all time. It is a privilege and an honor to extend personal congratulations to a fellow Clevelander, Stella Walsh, and to the other recipients, Virginia Luty, and Dr. Mary Kuburczyk.

The Polonia Media Conference members are to be congratulated for their awareness of these outstanding women whom they are honoring.●

CONGRESSIONAL PUBLIC FINANCING

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. ANDERSON of Illinois. Mr. Speaker, the Los Angeles Times recently editorialized in favor of congressional public financing. Although the House Administration Committee has dealt the idea a setback, I remain convinced that public financing would improve the way House and Senate campaigns are conducted. The Times editorial points out that public financing would increase the number of viable challenges to incumbents, the major reason why Congress has rejected congressional public financing so far. They also note that the influence of special interests will be reduced by public financing. As the role of political action committees increases, public financing will be a more acceptable alternative. The editorial follows:

A CLEARLY CORRUPTING SYSTEM

We were early supporters of partial public financing of presidential elections, first tried in 1976, and we now think the time has come to fund elections for the Senate and the House of Representatives in the same way.

Our reason for favoring public subsidies for presidential candidates was their increasing dependence on massive contributions from special interests. Candidates from both major parties had become too beholden to their biggest bankrollers, ranging from labor unions to corporations.

Until now, however, we have been against extending public financing to congressional candidates. It was our opinion that full disclosure of political contributions was an adequate safeguard against corrupting influences. We also thought that public financing and its concomitant spending limits would work unfairly in favor of incumbents.

But it has become evident that candidates for the House and the Senate have also become dangerously dependent on special-interest money. It is just as apparent that the booming costs of running for congressional office have become a deterrent to challengers who might otherwise oppose incumbents.

Those changing realities compel a change in our view.

Spending by congressional candidates in 1978 was almost 150 percent higher than in 1976, and too much of the additional money came from political-action committees (PACs), representing the most powerful lobbies in Washington.

Last year, the PACs gave House and Senate candidates $35.1 million, eight times the $4.4 million spent on congressional races by the Democratic and Republican parties.

There has also been a tremendous increase in the number of political-action committees—from 600 in 1975 to more than 1,900 in 1978. The largest gain has been in committees representing corporations—from 89 in 1975 to more than 800 in 1978.

Until recent years, the political-action committees gave most of their money to powerful incumbents whose committee positions gave them life-and-death control over important legislation. But now the committees are spreading their largesse to larger numbers of senators and representatives and, for the first time, are investing heavily in new members of Congress.

Last year, the PACs gave an average of $43,000 to candidates now serving their first term. Two of them—Democrats from Texas—got more than $110,000 each from the committees, and found themselves under obligation to their benefactors before they even took the oath of office.

One of the post-Watergate political reforms was a $10,000 limit on the amount that a PAC could contribute to a single candidate—$5,000 in both the primary and general elections. The rationale was that $10,000 could not buy too much influence. But the recent proliferation of committees representing the same economic interests destroys that presumption. One of the winning freshman Democrats from Texas acknowledges that most of the more than $110,000 that he got from the PACs came from a number of committees representing different aerospace companies.

In the same way, PACs representing unions or trade or professional associations can pool their contributions to become the major contributor to candidates and, more often than not, the major influence on their voting record.

We believe that the growing power and resources of the political-action committees, which all but negate the importance of the political parties and which diminish to a nullity the importance of the small contributor, call for a public system of financing Senate and House elections.

S. 623, now awaiting its first committee test in the Senate, and HR 1, which is in serious difficulty in the House, would fund congressional races in much the same way as presidential elections. HR 1 was struck down by the House Administration Committee late last week by a 17–8 vote, but Common Cause and other advocates of public financing will attempt to force a floor vote through the Rules Committee.

Both the House and Senate measures would cover only general elections, and would become effective next year. To be eligible for matching funds from the $1 voluntary income-tax checkoff, House nominees would have to show a broad base of support by raising $10,000 in contributions of $100 or less—and 80 percent of the amount would have to come from the candidates' own states. As a condition of receiving federal funds up to a limit of $60,000, House contenders would have to accept an overall spending limit of approximately $195,000.

In Senate races, the fund-raising necessary to qualify, the limit on matching funds and the spending ceiling would depend on the population of the state.

The matching dollars would amount to approximately $30 million for House contenders and $18 million for Senate nominees every two years.

Both the House and Senate measures also restrict the amount that candidates can contribute to themselves—$25,000 and $35,000, respectively. The limits now in effect for outside contributions—$1,000 from individuals and $5,000 from PACs—would remain the same. As in presidential elections, a party's nominee could reject public financing and the spending limits, but their opponents who did accept the subsidies would receive additional matching funds.

One of our objections to the new legislation and to the present mode of funding presidential elections is the binding limit on overall spending and on the expenditure of a candidate's own money. It strikes us that such controls impair a candidate's ability to communicate with the voters, and thus restrict the First Amendment guarantee of freedom of expression.

But the fact that nominees can choose not to accept public financing and its limits answers that objection, if not fully.

We are still convinced, however, that public financing will favor incumbents. Most successful challengers have had to outspend their opponents, and by a considerable amount, but they will not be able to do that if they accept the public subsidy. More than 90 percent of incumbents win reelection because they receive most of the political-action money and because they begin the race with a giant head start: office slush funds, the franking privilege, newsletters to their constituents, aides who specialize in public relations and many more advantages—all paid for with taxpayers' funds.

But we urge the enactment of HR 1 and S 623 because the availability of public money would at least encourage more frequent and more credible challenges to incumbents in districts that are marginal because the incumbents' performance has been marginal.

More important, public financing would all but eliminate a clearly corrupting system in which national legislators owe too much to the special interests and too little to their constituents.●

THE SUGAR STABILIZATION ACT OF 1979

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. BREAUX. Mr. Speaker, American sugar producers face serious economic problems today which threaten their existence. Indeed, in recent years, Louisiana sugar mills as well as sugar factories elsewhere in the Nation have had to shut down due to severe economic loss. Historically, once these facilities close, they do not reopen. And, as the mills and factories go, producers dependent on them must either close operations or face higher costs of transporting commodities to more distant facilities. America needs a strong domestic sugar producing industry. To accomplish this, we must adopt a national sugar program as proposed in the Sugar Stabilization Act of 1979. Only then will this Nation have the stability in supply and price so necessary for both consumer and producer. For this reason, I submit for my colleagues the following:

SUGAR LEGISLATION: WHAT'S AT ISSUE AND AT STAKE FOR U.S. PRODUCERS AND CONSUMERS

The issue in brief: Without a national sugar policy such as contained in The Sugar Stabilization Act of 1979, the U.S. sugar industry faces likely collapse—leaving U.S. citizens in the clutches of a new worldwide cartel—this one keyed to food.

SOME COMMONLY ASKED QUESTIONS

How much would this proposed program raise the price paid by U.S. consumers for sugar?

Very little. In fact, the Carter Administration's plan to raise the price less than one cent per pound—from 15 to 15.8 cents—which, based on current consumption, would mean no more than $3.00 per year more for a family of four. This modest increase would enable most U.S. growers to stay in business.

Is legislation really necessary?

Sugar is grown in the U.S. (see box on other side) by nearly 20,000 farm families, who employ with sugar processors approximately 100,000 workers. For most U.S. producers who supply American consumers with about 55 percent of the sugar they use, it has been a constant struggle to stay in business. In fact, of the nearly 100 cane and sugar beet processing plants which existed just a year ago, ten have been forced out of business.

Why is it in the interest of U.S. consumers to maintain a viable domestic sugar industry?

If recent past history tells us anything at all, it's that only a domestic industry can assure U.S. consumers adequate supplies at reasonable prices. Put another way, allowing the U.S. to become totally dependent on foreign producers would mean that U.S. consumers would have to suffer the consequences of the wildly fluctuating prices and supplies which characterize the world market—as we saw happen in 1974, when the price of sugar shot up from 12 to 65 cents in less than six months.

What is the so-called world sugar market and how does it work?

The world sugar market is an international dumping market with very little free trade and no "fair trade" at all. Some 85 percent of the sugar produced around the world is consumed in the country of origin. Five-sixths of all sugar, and over half of that amount traded internationally, is subject to government controls and protected by such trade agreements as Cuba's pact with the USSR, the European Economic Community's agreement with Africa, Caribbean and Pacific countries and Australia's pact with Japan. What's left over—if there is any—is dumped in the world marketplace with no commitment for buyers or sellers. If supplies are scarce, as they were in the early 1970's, prices are high. But, if there's a surplus, as is currently the case, prices are well below the cost of production any place in the world. The U.S. is virtually the only major importer with no long-term policy to protect its own sugar producers and consumers from this unreliable, residual world sugar market.

Can you give a concrete example?

Well, if the U.S. had produced no sugar in 1978, and relied exclusively on imports for the 10.9 million short tons we consumed, the impact on world prices would have been dramatic. Initially, it would have meant a 6.4 million short ton increase in U.S. demand for sugar imports—almost a 50 percent increase in the demand for world free sugar. That probably would have meant an increase in the world price of sugar of several hundred percent—perhaps reaching the record highs, or surpassing the record highs, of 1974.

Besides making sure U.S. consumers have all the sugar they want, at reasonable prices, what other benefits would the proposed legislation have?

Because the desired price level would be accomplished through a combination of import fees and back-up import quotas, it would mean a sizeable income for the U.S. Treasury. Based on a world price of ten cents per pound—which is well above the present level of 7–8 cents per pound—the U.S. Treasury would realize an additional $490 million from tariffs and fees if we import five million tons of foreign produced sugar. Any direct payment to growers to especially assist small, family farmers would not exceed a half cent per pound (this is consistent with existing commodity programs). Thus there would be an outlay of only $45 million but the end result would be a $445 million net gain to the Treasury.

What are the major provisions of the proposal?

The proposed sugar price stabilization act would do the following:

1. It would authorize U.S. participation in the International Sugar Agreement.

2. It would support the domestic price of raw sugar near the cost-of-production level of crop years 1978–81.

3. The price would be supported primarily through the use of import fees, with back-up import quotas. A maximum ½ cent per pound direct payment would be made to producers to assure a return tied to cost-of-production increase.

4. Field workers would be guaranteed wages set at levels above Fair Labor Standards Act minimum.

THE U.S. SUGAR INDUSTRY

Nearly 14,000 farm families in 18 states grow sugar beets and more than 5,000 farmers are involved in sugarcane production in Florida, Texas, Hawaii and Louisiana. This production accounts for approximately 55 percent of sugar used domestically. The remaining 45 percent must be imported.

Approximately 100,000 employees work on these farms and in 44 beet processing plants and 48 cane processing plants. However, 7 beet plants and 3 cane plants have closed in the past year because of low sugar prices.

There were 5,894,000 short tons, raw value, of U.S. sugar produced in 1978 eliminating the need to be totally dependent on foreign producers.

SUGAR PRODUCERS SOUR

(By Jack Anderson)

WASHINGTON.—Jimmy Carter's protestations of concern for the little man have failed to worry Big Business—and with good reason. Many big corporations are booming under the Carter administration.

Oil profits are soaring; the nation's bankers are in clover. Prices the consumer pays forge steadily upward.

There is one exception to the inflationary spiral that every grocery shopper has noticed: The price of sugar has plummeted in the last five years.

Carter can take credit for keeping sugar prices low. Last year, in a bitter congressional battle, the administration succeeded in blocking legislation that would have raised the tariffs on imported sugar.

A victory for the consumer? In a modest way, yes. But an even bigger victory for Big Business—and one firm in particular: Jimmy Carter's old corporate angel, Coca-Cola. The 2.3 cents-a-pound tariff would have made a barely perceptible dent in the average family's food budget; but it would have cost Coke and other commercial users millions of dollars.

Coca-Cola is the nation's biggest sugar consumer. World sugar prices dropped from a peak of 60 cents a pound in 1974 to less than 10 cents a pound today. Meanwhile, Coke's net profits in the United States rose from $203 million in 1974 to $374.6 million last year.

The Atlanta-based soft drink colossus was understandably in the forefront of the three-year fight against the sugar tariff increase. At one point, according to Time magazine, Coca-Cola's chief purchaser, John Mount, threatened to "call in a few chits and have the president veto the farm bill" that contained the sugar price hike.

Mount says he can't remember making such a statement, but the "chits"—or IOU's—could reasonably be construed as the result of financial and political help Coke and it executives gave Jimmy Carter in his gubernatorial campaigns and his run for the White House.

Not surprisingly, the White House vehemently denies any "Coke connection" was involved in its campaign against the sugar tariff increase.

The harsh impact of the cheap-sugar policy is being felt, meanwhile, in the domestic sugar cane and beet industry. In the past three years, 10 major refineries in Louisiana have folded; nine of the 26 remaining are financially shaky, our sources report. In the Northwest, four major sugar beet refineries have shut down.

The General Accounting Office reports that "substantial defaults on government loans (to domestic sugar producers) are occurring as a result of low-cost sugar imports." The Labor Department reports that 4,500 sugar workers have been laid off in the past three years.

From Louisiana to Idaho to Hawaii, the U.S. sugar industry is paying through the nose for the soft drink industry's bubbling profits. The higher tariff was considered vital to domestic sugar producers, and one government study concluded that it was "unlikely any significant quantities of sugar would be grown in the United States if American producers had to compete on the open world market with sugar produced with cheap tropical labor under subsidy in other countries."

If the domestic sugar industry does indeed collapse, as it is showing alarming signs of doing, it would throw thousands out of work and add more than $500 million to our trade deficit.

Ironically, the depression in the industry is occurring at the very time the government is calling on sugar producers to begin making alcohol fuels. Raw sugar is one of the finest possible materials with which to manufacture alcohol fuel, which could help reduce our oil imports.

In fact, the Louisiana state government is considering a massive program to convert some of the state's sugar industry to alcohol production. The 10 refineries that have shut down because of foreign competition would cost more than $400 million to replace.

The crisis in our sugar industry is not imaginary; it's the real thing.

Footnote: A few months ago, the Carter White House partially backed down and announced it would support a 5 percent increase in U.S. sugar prices.

Press probe: Richard Nixon's White House investigators were as notorious for their incompetence as their boss was for his detestation of the press. Thus there is a certain pathetic humor in a memo that was recently shown to us.●

JUSTICE AND PEACE COMMISSION OF THE ARCHDIOCESE OF BOSTON DENOUNCES THE PROPOSED REVIVAL OF SELECTIVE SERVICE REGISTRATION

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. DRINAN. Mr. Speaker, in a recent action taken by the House Armed Services Committee, a provision was included to authorize mandatory registration for the draft by all males turning 18 after December 31, 1980. I have a number of objections to this move, and bring two of them to the attention of my colleagues at this time.

Fundamentally, there has been no demonstrated need for a return to registration for the draft. The latest Department of Defense statistics indicate that the All-Volunteer Force has reached all-time records in such areas as troop morale, intelligence, discipline, and personnel retention. The Acting Director of the Selective Service System has stated publicly that the All-Volunteer Force can meet Department of Defense induction requirements with the current budget request for the system. Further, the Secretary of the Army has stated publicly that we do not need a return of the draft. As proponents of registration point out, a return to some degree of actual induction is a natural next step after registration.

The second item of concern is the manner in which the Armed Services Committee has chosen to address the registration issue. By attaching the authorizing language to the Department of

Defense Authorization Act, the provision's sponsors have acted to avoid the public debate that this issue demands. The registration language, as it stands, is a major revamping of the 1975 Selective Service Act, and should, therefore, be debated as a bill by itself—not as an addendum to a major authorization bill.

With this in mind, I am attaching for the benefit of my colleagues a letter from the Father Michael F. Groden, chairman of the Justice and Peace Commission of the archdiocese of Boston. Father Groden succinctly argues that the Armed Services Committee action to include authorization for the registration of 18-year-old males requires further debate. The letter follows:

BOSTON, MASS.,
May 23, 1979.

Hon. ROBERT DRINAN,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. DRINAN. The Justice and Peace Commission of the Archdiocese of Boston, at its most recent meeting, on May 19, 1979, asked that I write you to express the members' concern about the inappropriately hasty and virtually hidden manner in which legislation to restore registration for the draft is taking shape.

We view with regret the impending House vote on four Selective Service provisions, which the House Armed Services Committee is sending to the floor as an amendment to the Department of Defense authorization bill, a form which promises to guarantee less than desirable Congressional deliberation on so momentous a change in public policy. It seems particularly unfortunate that the issue apparently will not be debated at all in the Senate, since the proponents of registration appear to be avoiding the exposure that a floor discussion would bring in favor of Conference Committee adoption of a House-passed amendment.

Further, this "back door" strategy seems to contradict the spirit of the final section of the amendment itself, which specifies that "the Selective Service System should remain administratively independent of any other agency, including the Department of Defense.

If this legislative method is the clear maneuver it seems to be, we feel that it does a disservice to our need as a nation for full public and Congressional deliberation over the taking of a first step towards the restoration of peace-time conscription. In its own right, too, registration may be seen as potentially affecting rights of privacy and thus deserves full debate.

Consequently, we urge you to reject the precipitous inclusion of the amendment restoring Selective Service Registration when it reaches the House floor as part of the Department of Defense authorization bill. We encourage you to call for the full debate the issue deserves in both houses of Congress, which only a separate legislative vehicle can assure.

Sincerely yours,
Rev. MICHAEL F. GRODEN,
Chairman.●

INFLATION'S IMPACT ON SMALL BUSINESS

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. DASCHLE. Mr. Speaker, I am deeply concerned about the future of the American economy. Inflation continues to ravage the pocketbooks of working class America, productivity is at its lowest point in years, and our Nation still lacks an acceptable and effective energy policy to combat rising energy prices.

Those problems probably have more of an impact on small businesses than anybody. Inflation works quickly on 50 percent of those small businesses who must regularly borrow. According to James McKevitt of the National Federation of Independent Businessmen:

> . . . inflation not only heightens the extent of cash needed, but also requires its financing at higher rates. This situation is particularly devastating in firms with relatively high inventory and low turnover.

Consequently, over 10,000 small business concerns fail each year, a lot of them, because of their inability to meet capital needs.

Clearly there is a need to help those small businesses struggling to survive. In the past, small businesses have shown their excellence in the areas of innovation and inventions. Despite receiving barely 3.5 percent of Federal research and development grants, small businesses have produced 4 times as many innovations per research dollar as medium firms and 24 times as many as large firms.

For this reason, I have become a cosponsor of the Small Business Procurement Reform Act (H.R. 2447), which will give small businesses a better opportunity to bid on Government contracts through reforms and simplification of the Federal procurement policy.

This bill will do many things. It will assist small companies by:

Guaranteeing that firms have at least 30 days to bid on each contract, thus protecting small companies which are often the last to hear of new contract opportunities;

Requiring that each Federal agency work toward at least 20 percent small business participation in its procurement activities;

Directing each agency to break its large systems procurements into smaller components (to the extent practicable), so that small businesses have greater opportunity to submit bids;

Requiring that each agency provide small businesses, on request, a copy and summary of each Federal law and regulation which must be complied with in the performance of any contract under $100,000;

Requiring Federal agencies to justify every instance in which goods or services are procured without competitive bidding;

Requiring that materials needed to prepare bids on Federal contracts be available in as many locations as possible, rather than just in Washington; and

Authorizing the Small Business Administration to establish "arbitration panels" to resolve minor contract disputes without the time and expense of litigation.

I feel this bill will go far toward stimulating the small business sector of our economy that has been neglected over the years, especially in procuring Government contracts. Opening up our economy to these people will benefit everyone and signal an end to the marriage the U.S. Government has had with large corporations only. I am absolutely convinced that much of our governmental business would be better handled by local business and industry.●

NO. 1 GRADUATE OF THE NAVAL ACADEMY

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. FOUNTAIN. Mr. Speaker, one of the privileges of serving in Congress is the opportunity it gives to get to know some of the best of America's youth—those who seek and receive nominations to the various service academies.

I rise today to recognize and honor one of those young men, Almond J. Drake III, of Pinetops, N.C., in my district. This young man has just graduated from the Naval Academy at Annapolis with a perfect 4.0 average, first in his class of 1,330. Given the rigorous nature of this academies program at the Naval Academy, a "straight A" average would be a remarkable feat in itself, but Al has accomplished this while serving as a battalion lieutenant commander and as manager of the varsity basketball program. It gives me a great deal of pride to have nominated this young man to Annapolis, and I look forward to his continued superlative academic record and outstanding service to the Nation as he enters medical school in the fall.

I would like to direct the attention of my colleagues to an article by Steve Levin, which appeared in the Raleigh, N.C., News and Observer on June 1, 1979, recognizing the accomplishments of this outstanding midshipman:

PERSEVERANCE PAYS OFF FOR TOP MIDSHIPMAN

(By Steve Levin)

PINETOPS.—Almond J. Drake III readily admits that during his first two weeks at the U.S. Naval Academy in Annapolis, Md., he couldn't find the barbershop without getting lost.

But once the Edgecomb County native got situated, there was no stopping him.

At graduation ceremonies Wednesday, Drake was first to receive a diploma as the No. 1 graduate in his class of 1,330. He finished with a perfect 4.0 grade point average—a straight "A" student.

"Everybody likes to be successful at something," the 22-year-old ensign said Thursday at the home of his parents, A. J. and Sally Drake.

PERSONAL DESIRE

I had a desire to prove to myself that I could do it," he said. "It was kind of my desire to prove that somebody from a rural Southern area could do as well as anybody else."

Drake's story has all the ingredients of a "hometown boy makes good" saga: dedication, hard work and perseverance.

He decided in the ninth grade that he wanted to go to the Naval Academy, but it wasn't easy getting there.

Although he was nominated for the academy near the end of his junior year in high school by U.S. Rep. L. H. Fountain, D-N.C. the application was rejected after a physical examination disclosed that Drake's vision was slightly impaired.

After an eye operation, Drake wrote the Armed Forces Medical Review Board in Denver, asking that his application be reconsidered.

LATE NOTICE

The letter was lost in the mail and it was mid-May of Drake's senior year at South Edgecombe High School before his second letter was received and he was notified of his acceptance—just one month before the academy's year began.

Drake's beginnings at the academy tracked the same course as his attempts to get there: bumpy.

During the first part of his freshman, or "plebe" year, Drake said, officers wrote on his records that he "seems lost, disoriented; a bit slow to make the transition from civilian life."

"Plebe year" was preceded by "plebe summer." Drake likened the plebe summer program to a boot camp.

INDOCTRINATION

"The idea is to indoctrinate you to the military, to get you through the conversion from civilian to military life," he said. "Everything is structured to train you to react with confidence and get used to the military way of doing things."

Since he was used to living on his father's hog and tobacco farm, Drake said he had a hard time adjusting to academy rules that prohibited him from leaving base. That was also the last year of the all-male academy.

And then there was harassment from upperclassmen, who would order plebes to recite naval history and minutiae from a booklet called "Reef Points."

"It really makes you step back and decide, 'Is this really what I want to do?'" Drake said, "Do I really want to go into the Navy or not? Everybody thinks about quitting and going back home, but because we're in a group, nobody wants to say he couldn't take it.

CHANGES COURSE

"Apprehension and fear of not being able to make it caused me to work hard my plebe year. I decided that when I think back 10 years from now, I would have wanted to graduate from the Naval Academy. What I was getting was a lot more than I was giving up."

Midway through his four years at the academy, Drake decided to change his major from oceanography to medicine. He will enter Duke University Medical School this fall, after which he will fulfill his naval commitment by serving nine years as a Navy doctor.

"Don't think I didn't think about doing that for a while," Drake said of the time he will be giving the Navy. "It wasn't a decision off the top of my head. I see part of that time at least as a good way to get some background and training.

"Medicine is something I'm really interested in. I kind of feel like the preparation and training I got at the academy is going to help me out."●

MOYNIHAN AND THE COURT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. MAZZOLI. Mr. Speaker, I submit for inclusion the RECORD an article by James Reston which appeared in the June 3, 1979, New York Times.

The question posed in the article is clear: Will Congress debate and decide the public policy issue of governmentally supplied financial aid to the Nation's nonpublic and religious elementary schools.

By avoiding a debate on the controversial issue, Congress does not lay an issue to rest. It only delays a coming to grips with one of the overriding issues in our contemporary society. I agree with Mr. Reston that Senator DANIEL PATRICK MOYNIHAN should be commended for having the courage and the insight to address this vital issue.

The article follows:

MOYNIHAN AND THE COURT

(By James Reston)

WASHINGTON, June 2.—In the last few days, the Supreme Court of the United States has ruled that the State of New Jersey cannot constitutionally provide a special income tax deduction for parents who send their children to religious or other private schools.

The court did not exhaust itself over this fundamental question. In a one-sentence order, without going over the argument it has heard many times before, it simply affirmed a Federal Appeals Court ruling that the proposed New Jersey tax deduction had the primary effect of advancing religion and thus violated the First Amendment.

Accordingly, we come to the end of another school year with one of the fundamental philosophic questions of public policy unresolved, ignored by our most religious President despite his campaign promises, not even debated seriously in the Congress, and therefore left to the Court's interpretation of the Constitution.

The issue here is not the Supreme Court's order—that was expected. The issue is whether the constitutional question should block debate on the wider philosophic question of public policy: Is it in the public interest or not to provide tax relief to rescue private schools, now in deep financial trouble, and maintain the diversity of our educational system? Or should this threshold question of public policy be evaded in advance by a constitutional decision of the courts?

Senator Moynihan of New York has raised this question in a carefully, even brilliantly, argued speech in Staten Island. He made the following points:

The nonpublic schools in the United States are declining in numbers. In 1965, there were 13,292 enrolling 5.6 million. In 1977, this had dropped to 9,797 private schools with an enrollment of 3.3 million.

An argument could be made, he said—though he wouldn't agree with it—that this decline in private and religion-oriented schools was a good thing, but this question of public policy has not only been evaded but confused by contradictory statements by the executive and judicial branches of the Government.

For example, he said, in the 1976 Presidential election campaign, both party platforms promised aid to nonpublic education, and Mr. Carter was especially eloquent in his support. "Yet here we are," he went on, "two and a half years later, and once again nothing has happened."

Vice President Mondale has tried to get aid to the private schools but the Administration he represents has consistently opposed tax credits for families with children in private schools.

"In the years since 1947 * * *" Moynihan said, "the Court's decisions have become evermore confused and contradictory." It has agreed to provide Federal aid to church-related colleges but not to parochial schools. It has decided that it is constitutional to provide nonpublic school pupils with "books" but not with "instructional materials and equipment."

This violates Moynihan's sense of logic and provokes his sense of humor and Irish temper, which are considerable. But he objects mainly to putting the constitutional questions in the courts before the public policy question in the Congress and keeps coming back to this point. What he is arguing for is that the public policy question be debated before the courts act.

"There has arisen in the course of recent generations," he says, "a body of opinion in our society which is sincerely opposed to the influence of religious belief and religious institutions in the secular activities of the society. * * *

"I would wish to stress that in my view it is entirely legitimate to raise this proposition. There is a clear argument to be made for a single secular school system, just as an equally clear argument can be made for a plural school system. My objection is to the use of the constitutional issue to prevent resolution of the issue of public policy."

Back of this question of what comes first—public policy or constitutional decision—there is, however, another question ignored by both Moynihan and the Supreme Court.

This is whether this nation, in this secular and permissive age, is somehow threatened by helping finance the instruction and practice of religion, or whether it is in trouble for lack of religion.

Nevertheless, the junior Senator from New York has developed the habit here in his first term of raising fundamental questions and defining them in clear and even eloquent language. It is a rare and troubling habit in these parts, and occasionally some people listen.●

THE FAILURE OF BUSING

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. NEDZI. Mr. Speaker, the large-scale busing of school children in pursuit of racial balance has turned out to be a dismal failure in Detroit and elsewhere.

Accordingly, one might expect that this misguided idea would slowly be allowed to sink into oblivion. But no, some Federa bureaucrats and private organizations are persisting in pushing this unpopular and unwise remedy—and on a massive scale.

The Detroit News, in a May 23, 1979, editorial, reviewed the latest twist of the busing story, and presented an excellent and damaging analysis on why busing makes less and less sense as time goes on.

Under leave to extend my remarks in the RECORD, the editorial is set forth below:

BUSING

Considering the questionable results of the nation's experiment with forced busing of school children, it is discouraging to read that neither the NAACP nor the Justice Department has abandoned the possibility of massive busing between Detroit and its suburbs.

At the behest of the NAACP, which has never been satisfied with the Detroit-only concept of forced busing, the Justice Department recently sent investigators here to look for evidence that might support a lawsuit in behalf of a metropolitan plan.

True, this expenditure of time, money, and energy may be justified on a strictly legalistic basis. Though the U.S. Supreme Court in 1974 rejected cross-district busing for Detroit and 53 surrounding communities, the court said such a remedy might be applied under certain conditions.

"An inter-district remedy might be in order," wrote Chief Justice Warren E. Burger, "where the racially discriminatory acts of one or more school districts caused racial segregation in an adjacent district or where district lines have been deliberately drawn on the basis of race."

In the four years since the court handed down that ruling, nobody has found evidence on which to build a credible case for cross-district busing in the Detroit area. Putting that point aside, however, why should anyone feel compelled to use a badly-flawed remedy merely because it would be legal? Surely the community and its educators are more imaginative than that.

The only real justification for busing would be its ability to provide enduring educational benefits for blacks without in any way lowering the quality of education for anybody. Educators and other social scientists cannot agree that forced busing has actually improved student achievement.

Nor does the busing of students in the cause of desegregation seem to improve the self-esteem of black boys and girls. Indeed, many blacks resent the suggestion that the esteem of a black child or his ability to learn depend on his sitting next to a white child on a bus and in the classroom.

Forced busing takes children away from their own neighborhoods at enormous expense, inconvenience, and anxiety to parents and taxpayers. When buses cross district lines, the important concept of local control of schools goes down the drain. When society buys buses, it has just that much less money for teachers, books, test tubes, and classrooms. A desegregation device which exacts such sacrifices from the community should offer something of apparent and overriding value in return. Forced busing doesn't.

Though the NAACP happens to be the most assertive proponent of massive cross-district busing, one would err to assume that blacks universally embrace the proposal. Polls have shown that substantial numbers of blacks share the misgivings of the whole community with regard to forced busing.

Busing is not an issue between blacks and whites, conservatives and liberals, Republicans and Democrats, or suburbanites and city dwellers. With the passage of time, forced busing makes less and less sense to any of these. Isn't it time the NAACP and the Justice Department caught on, too?●

AMTRAK DILEMMA

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. RAHALL. Mr. Speaker, as the American people turn to Amtrak as their major form of transportation this summer, they face a system with antiquated, deteriorating cars whose continuation is in desperate need of capital to rebuild and refurbish the system. I hope all my fellow colleagues will read this article explaining the dilemma Amtrak faces and support efforts to restore it to a workable, available alternative to our current energy situation:

AMTRAK IS ENTERING ITS BUSIEST SUMMER WITH AN AGING AND DETERIORATING FLEET

(By Albert R. Karr)

WASHINGTON.—Amtrak is heading into what's clearly going to be its busiest summer with aging trains that are falling apart at an accelerating pace.

The National Railroad Passenger Corp., as Amtrak is formally known, is experiencing a sudden climb in demand from energy-conscious customers. Ridership is spurting and would-be passengers are besieging Amtrak reservations offices with unprecedented bids to book space on trains well through the summer.

But Amtrak also is beset by a rapidly shrinking fleet of passenger cars as the busy equipment wears out faster than before. Besides getting older, cars are suffering from lack of maintenance by Amtrak, which is reluctant to upgrade many cars it probably won't be using once a Carter administration-dictated cutback in the train system takes effect this fall.

So sleeper space will be more difficult to reserve this summer; thousands of hungry travelers will have a tough time finding a dining-car table because there won't be many dining cars, and a rising number of people won't even be able to board the train at all, Amtrak warns. "This is as tight a situation as Amtrak has had in its (eight-year) life, and the further we go into the summer the worse it's going to get," says Robert Gall, Amtrak's director of market research.

FLEET HAS SHRUNK

Although Amtrak has replaced roughly a third of its equipment with new "Amfleet" and other cars in recent years, the Amtrak fleet has shrunk to about 1,400 serviceable cars from nearly 2,000 when Amtrak took over passenger-train operations in 1971.

That's an annual drop of about 75 cars. But the pace is speeding up; this summer alone, Amtrak expects to lose 125 cars. Rather than put about $225,000 apiece into rehabilitating cars that won't be needed when the route-slashing plan takes effect Oct. 1, Amtrak will send those cars to the scrap heap. Indeed, Amtrak backed the administration's route-cutting plan, arguing that the line lacks good equipment to operate its exising 27,500-mile system.

In the current pinch, Amtrak will make limited repairs to about 85 old cars—getting wheels and axles in shape for safety reasons and trying to fix the air conditioning for comfort.

But that will be of only modest help. By Labor Day, Amtrak expects to have only 379 coaches in service, down from 401 at the start of summer in 1978; its diner fleet has fallen to 72 units from 92 a year ago, and sleepers to 135 from 191 last year. Amtrak doesn't have enough diners or sleepers for the usual makeup of such long-haul trains as those between New York and Florida and between Chicago and the West Coast.

"ANTIQUE MUSEUMS"

"There are days when we operate trains for which sleeper service is advertised, and we end up without any sleepers for them,' concedes Alan Boyd, Amtrak president. About two-thirds of Amtrak's car fleet is the old equipment it took over from railroads in 1971, and those cars average more than 29 years of age. Mr. Boyd says his fleet is mainly "traveling antique museums." Amtrak's requests for funds to buy more new cars for short and medium-distance routes have repeatedly been rejected by administration budgetmakers.

Amtrak has been counting on having 285 new bilevel "Superliner" cars to upgrade its fleet, but their delivery has been delayed for two years, largely by a strike last year at Pullman Inc., the supplier. Amtrak currently has only 17 of the new cars, and expects to have only 47 by September.

That will be too late. About 20 days during July and August are usually busy for Amtrak, but this year many trains have been jammed for several weeks. Over the Memorial Day holiday weekend, 39 trains—about 15 percent of the system—had standees, up to nearly 300 on some trains. Usually, only 10 or 15 trains have any standees during that holiday.

TIGHT BOOKING

Service on the tightest routes, the Chicago-San Francisco "Zephyr," the Chicago-Los Angeles "Southwest Limited," the New Orleans-Los Angeles "Sunset Limited," and the Chicago-Seattle "Empire Builder" and "North Coast Hiawatha," are 100 percent booked, or nearly so, for the next two weeks. And some of those trains are close to being fully booked for the four weeks after that.

After a ridership decline of 1 percent last year, Amtrak system ridership rose about 7 percent in this year's January-April period. Early counts indicate a rise of perhaps 20 percent in May.

Amtrak reservations people have been losing calls by the droves, they're coming in so fast. When Amtrak asked about 250 new customers why they were calling, 90 percent said they're worried that they might be unable to complete summertime trips by auto because gasoline might run out.●

LIBERTY, ACHIEVEMENT, AND HOSPITALITY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. PAUL. Mr. Speaker, Henry Fairlie, because he was born and raised in England, often sees clearly what native Americans overlook.

In last Sunday's "Outlook" section of the Washington Post, he discussed the "zest and brawn" of Texas, as contrasted with the decadence of the East.

The spirit of individual liberty, of achievement, and of hospitality that Mr. Fairlie finds in the West, especially in Texas, was once as prevalent in Boston and New York as in Houston. But Government has changed all that.

Freedom—political and economic (and the two are inseparable)—makes life worth living. Bureaucracy, big government and regulation have about them the stench of decay.

I would like to bring Mr. Fairlie's excellent article to my colleagues' attention:

BEYOND THE ALLEGHENIES, AMERICA STILL HOPES

(By Henry Fairlie)

Wherever I go west of the Alleghenies for a while, I feel refreshed almost on my first morning, as if there the real life of America is still coursing. I look back at this Northeast that boasts so much of itself, and in comparison it seems forlorn and nailbiting and fretful.

It used to be only a cliché to say this, but now its truth has the force of revelation. What was said some 60 years ago by Randolph Bourne, the American critic who died, so tragically young, seems more clear and urgent even than when he wrote it: "No Easterner can pass very far beyond the Alleghenies without feeling that American civilization is here found in the full tide of believing in itself"; in the East "no one really believes that anything startling will be done to bring about a new heaven and a new earth"; "Hope has not vanished from the East, but it has long since ceased to be our daily diet."

If we no longer believe that this full tide is still flowing, is it not because the East has ceased to look to the West? The only real work of Boston and New York and Washington, after all, is to draw a map of America from which most of America is eliminated.

The annual migration of our eastern intellectuals is about to begin. And where do they go? They go to Martha's Vineyard and the Hamptons and Cape Code. Squeezed for the rest of the year into this narrow corridor of the Northeast, they now squeeze themselves for the summer into even narrower corners of it. Having talked to each other for the past ten months, they now pack their bags, and flock to where they may still talk to each other.

Then they come back again, to redraw their baleful maps, refreshed by their own dejection. Yet it is not very long since the East was willing to look to the West for inspiration, when it responded eagerly to the flowering of new life in the Great Valley.

It is zest and brawn that I find in the West, and it should at once be clear that I am not talking of California, for these are hardly the words that it pricks in one's mind. Nothing was more invigorating on a recent visit to Texas than to find that the Texan's mild amusement at California has hardened into contempt. He feels that he has no more in common with it than with Florida. An oil man in Houston, still with something of the wildcatter in him, said dismissively to me: "Florida is where the old go to die—yes? Well, California is where the young go to die."

West of the Alleghenies, then, but east of the Sierra Nevada. And how does one encounter its zest? First, in its hospitableness. There is no other hospitality like it in the world. It is as if every table has been laid in the expectation that a stranger will pass through town. And not only for the stranger, but for the neighbor as well.

I do not know the origins of the phrase—so felicitous and so American—to "visit with" instead of to "visit". But it is only in the West that I hear it, or from Westerners transplanted to the East. A friend in Colorado who was trying to explain it to me said: "You can visit with someone with whom you just stop to chat on the street." It is a concept that alters the way in which a neighbor may just drop in. Not only does a place seem always to be laid, but the time seems always to be made available. Yet these are people busy with making and producing.

But this hospitableness tells of something else. There were no servants in the West, as it grew, in the sense that there were in the East and in Europe. Hired hands and hired help, of course, but no idea of the servant. There was no work that only the servant was able to do. That is why the millionaire and even the multimillionaire in the West is as likely as not to be found in the kitchen; not peering at a few pebbles of charcoal on a gril, but moving quite naturally among all the modern gadgets, drinking and talking as he whips something up or takes it suddenly into his head to roast a whole ox.

There is democracy in this; and there is zest in it. Everyone is able to take part in every activity. The open-plan house is quite natural to the West. Everything that makes the liveliness of a home is there done in front of one.

Then there is the land. To believe that the land is the source of virtue and strength in a people is now regarded as sentimental. Yet close one's eyes as one leaves the West, and one sees these people in their great land. Talk of Texas to those who do not know it, and they think only of its oil. But leave to Texas all its oil, all its refining, all the petrochemical industries built on them, and Texas would die without its agriculture.

No Texan ever forgets it. But then neither does anyone in Chicago. Walk down Michigan Avenue in Chicago, and still you feel the prairie at your back. Stand in the now cosmopolitan heart of Houston, and someone will soon remind you that Texas is wheat; that it is cotton and rice and sorghum and cattle; that it is tomatoes and peanuts and even goats. Name whatever grows from the earth, and Texas (of course) has it!

This presence of the land in the West is quite different from that of the countryside in the East. The industrial towns of New England seem disfigurements of the countryside; but the huge new cities of the West seem to rise out of the plains. As one drives toward them, what is more, that is in fact what they do.

W. H. Auden once said that the last time that the town and the countryside were in a harmonious relationship with each other was in the 18th century. But he was thinking, of course, of Europe, and he might have been thinking of Europe's extension in New England. When one gets into the West, the metropolis falls in place, against the vastness of the Great Valley; and since the Westerner thinks nothing of getting into his car and driving 200 miles to go to a cocktail party or a drive-in movie, the hugeness of the prairie with all its changes of seasons is at least as accessible to him as the fenced-off countryside of New England.

When the presence of the land is so strong, work is something that is meant to produce. Out in the West, they still produce. One of the reasons why wealth in the West is less offensive than it is in the East is that it at least comes from producing and making. All that Boston and New York and Washington make are images of the rest of the Americans who are making things. Wealth here is paper; out there it is products.

It is typical that Houston in recent years should have had a chic restaurant for the young with the name of "Daddy's Money." There is still in that the edge of contempt for a younger generation that will not go out and make its own way in the world by itself making and producing. The West should tighten its laws of inheritance.

There is still the space to make—but time also is different. It is unnerving to look at the holes of the worked-out mines in the sides of the Rockies, and realize that it was only yesterday that men and women clawed and grubbed in them with their hands. It is awesome to stand in the emptiness of the great railroad station at Cheyenne, and realize that its whole legendary story took place in little more than a lifetime. It is strange to sit with an international oil banker in Texas and realize that the memory of the republic is still actual to him.

This time-scale is now as lost to the East as it is to Europe. It is so compressed and, for that reason, still so open. The West is still making. That is why its deserted towns and villages tell so much. They grew and boomed and died, all in so short a span, and there has not been the time, perhaps there will never be, to clean them up or trick them out with boutiques. The history of the West does not need to be preserved, because its history is still in the process of decay and growth. The West is for this reason strangely a place of ruins among the new.

I sometimes have the feeling that the East is now closing down America, that it is putting up the shutters, to share the fear and failure that live at the heart of the Old World. It is true that much of the new in the West is ramshackle and tawdry, especially in the smaller towns that still spring up, but one turns back to Randolph Bourne as he wrote of the West: "It is a litter of aspiring order, a chaos which the people are insensitive to because they are living in the light of a hopeful future." So it once was of Venice or Amsterdam as they grew . . .

So it still is west of the Alleghenies . . . And few things seem more important to me than that Texas, with its zest and brawn, thrusts not east and west, but north and then out into the Great Valley, into the prairie where time and space are different.●

EARLY SIGNS FROM NEW BRITISH GOVERNMENT SHOW LITTLE IN TERMS OF NEW INITIATIVES FOR PEACE IN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. BIAGGI. Mr. Speaker, as chairman of the 128-member Ad Hoc Congressional Committee for Irish Affairs I have been actively watching the developments in Great Britain following the election of Prime Minister Margaret Thatcher. What has not emerged as of yet is any sign of a new initiative by her government to advance the cause of peace and justice in the troubled nation of Ireland.

The large 43-seat majority which Prime Minister Thatcher enjoys in Parliament should remove one of the main obstacles which hamstrung her predecessor, Mr. Callaghan, in substantively addressing the Irish question. Further, the unprecedented level of American interest in seeing peace in Ireland should be a further incentive for action by the new British Government which is traditionally sensitive to American concerns.

Yet, as in today's article in the New York Times entitled "British Vote Brings No Hope for Ulster" indicates, things at this stage do not look promising. If anything, the potential for a widening of differences and the ensuing conflict seems more direct than a new peace initiative.

In the spirit of peace, I have introduced House Concurrent Resolution 122 which calls upon Great Britain to embark upon a new initiative for Ireland—one which restores all human rights and promotes self-determination. The measure which I introduced on May 17, 1979, has 53 cosponsors and I am confident of many others. The United States seeks not to impose its will in the Irish question, but rather assist in breaking the stalemate in Ireland which has crippled the nation in recent years.

At this point in the RECORD, I wish to insert in the following order, the aforementioned New York Times article, the text of House Concurrent Resolution 122, and the list of cosponsors.

The material follows:

BRITISH VOTE BRINGS NO HOPE FOR ULSTER

(By William Borders)

BELFAST, NORTHERN IRELAND, May 30.—Although Britain's general election earlier this month brought signs of some major change to the rest of the country, it brought this sorely troubled province almost nothing to relieve the prospect of more confrontation and more violence.

In the view of knowledgeable people in Belfast, a battle-weary capital still patrolled by the army and still in a state of siege, the advent of a Conservative Government under Prime Minister Margaret Thatcher is likely to make little difference in Northern Ireland's quest for peace.

"Everything here tends to be measured in terms of its relation to our basic constitutional question," a professor explained. "On that, there is no sign that Maggie Thatcher has any particularly new ideas."

In the election of the 12 Northern Ireland members of Parliament, the only gain was made by the Rev. Ian Paisley, leader of the most militant of the several Protestant factions, an outcome that distressed moderates in both the Roman Catholic and Protestant communities.

PAISLEY'S GAINS AMBIGUOUS

Mr. Paisley's Democratic Unionist Party, of which he was the only member in the last Parliament, took two seats away from the official Unionists, giving it three seats in the new Parliament. In all the other races, the incumbents were reelected.

But in the kaleidoscope of Ulster politics, with its overlapping parties and its shifting alliances, even Mr. Paisley concedes that his party's gains were ambiguous. Its two new members of the Parliament won by extremely narrow margins and Mr. Paisley's own margin was down sharply.

A fiery and magnetic orator who favors cracking down harder on the Irish Republican Army guerrillas who are trying to drive the British out of Northern Ireland, Mr. Paisley said in an interview that "the real test of the popularity of our ideas" will be in the elections next month for the European Parliament, for which he is also a candidate.

"All we want in Northern Ireland is the rule of the ballot box—that is, simple democracy," Mr. Paisley said as a highschool marching band tuned up for a campaign parade that he was to lead through Armagh, a tense and bitterly divided town near the border with the Irish Republic. "The People who are in the majority should rule."

OPPOSED TO COMMON MARKET

Mr. Paisley, who is thought to have a good chance of winning one of Northern Ireland's three seats in the European Parliament, opposes Britain's membership in the European Economic Community. He thinks it is a bad deal economically for the country and believes the Common Market is dominated by Roman Catholics.

The best-known candidate at the other end of Ulster's ideological spectrum, Bernadette Devlin McAliskey, is also using the European election as a referendum on domestic issues. She is demanding immediate British withdrawal from Ireland and "self-determination for the Irish people."

Mrs. McAliskey, who is now 32 years old and the mother of three, has lost little of the fierce determination that brought her international attention 10 years ago when, as Bernadette Devlin, she was waging the struggle for Irish nationalism from the House of Commons.

Although she is given little chance of winning in the European election, some people think Mrs. McAliskey, who lost her seat in Parliament in 1974, will take enough votes away from John Hume, the other leading Roman Catholic candidate, to insure that all three seats go to Protestants. But to her, "the campaign is more important than the outcome."

"NO BRITISH SOLUTION"

"The parliamentary campaign that just ended showed that there is no British solution to our problems here in Northern Ireland," she said over a cup of coffee. "The only course is for the Brits to get out and let us solve our own problems."

Mrs. Thatcher and former Prime Minister James Callaghan both declared during the election campaign that London's approach to Ulster's problems was not an issue between them. Humphrey Atkins, the new Secretary of State for Northern Ireland, in his only public statement so far, has given no indication of any significant shift in this policy.

But there are two areas of possible change under the Conservatives that concern people here. One is the prospect that Mrs. Thatcher's Government might bring back capital punishment. In a land where terrorist murders are routine, many Protestants would welcome the reimposition of the death penalty. But many Catholics fear it would lead to greater division.

"It's bad enough having hundreds of Catholic political prisoners," a member of the Catholic minority said. "But imagine the reaction in the streets if instead of being simply jailed they were being hanged at the rate of one or two a week."

Another change in the national political situation, as viewed from here, is that unlike Mr. Callaghan, Mrs. Thatcher has a solid majority in the Commons. She therefore has no need of the voting support of any of the minor party members, such as the ones from Northern Ireland.

"I am afraid that might make her tend to ignore us," an Ulster Unionist Member of Parliament said. "At least, we have certainly lost some of the bargaining power we used to have."

H. CON. RES. 122

Whereas the cornerstone of United States foreign policy is respect for human rights; and

Whereas part I, article I of the International Covenant on Civil and Political Rights, to which both the United States and the United Kingdom are signatories, states that all people have the right of self-determination; and

Whereas the United States Congress is deeply concerned over the tragic situation in Ireland; and

Whereas the United States has a meaningful role to play in the search for a just and lasting peace in Ireland: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the United States Congress calls upon the Government of Great Britain to embark upon a new initiative for Ireland that ends all violations of human rights and promotes self-determination.

SPONSORS

Pursuant to Clause 4 of rule XXII of the rules of the House of Representatives, the following sponsors are hereby added to House Concurrent Resolution 122:

Mr. Lederer of Pennsylvania, Mr. Walgren of Pennsylvania, Mr. Lent of New York, Mr. Richmond of New York, Mr. Won Pat of Guam, Mr. Lee of New York, Mr. Guarini of New Jersey, Mr. Rangel of New York, Mr. Addabbo of New York, and Mr. Vento of Minnesota.

Mr. Downey of New York, Mr. Gilman of New York, Ms. Oakar of Ohio, Mr. Michael Myers of Pennsylvania, Mr. Mavroules of Massachusetts, Mr. Mottl of Ohio, Mr. Barnes of Maryland, Mr. Dellums of California, Mr. Conte of Massachusetts, and Mr. Yatron of Pennsylvania.

Mr. Carney of New York, Mr. Wolpe of Michigan, Mr. Stratton of New York, Mr. Hollenbeck of New Jersey, Mr. McKinney of Connecticut, Mr. Peyser of New York, and Mr. Weiss of New York.●

THE GREAT OIL AND GAS SHORTAGE OF 1979: WE HAVE BEEN HAD

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mr. WEISS. Mr. Speaker, the American people are suffering from the most organized campaign of deception by the oil industry in the history of our Nation. Unfortunately, this program is being fostered by the present administration when, on June 1, the decontrol of domestic oil prices was put into motion.

I believe the following article by Michael Kramer and Dave Marsh reprinted from New York magazine June 4, 1979, presents an extremely persuasive picture of the true nature of the present gas shortage.

I once again urge the President and the Congress to put an end to this consumer fraud by taking immediate action to replace oil price controls, rollback of gas and oil price to pre-1979 levels, and creation of a federally controlled agency to oversee the importation and distribution of oil products.

[The article follows:]

BIRTH OF THE GAS-PUMP BLUES—CELEBRATING A BLESSED EVENT

If you're one of those people who think Jimmy Carter is whistling "Dixie" when he moans about the oil crisis, take heart. You're right: We've been screwed. The Great Oil and Gas Shortage of 1979 is a bastard child, the product of government bungling and industry greed.

You don't have to be a Nobel laureate in economics to follow the story. Simply accept this premise: The oil business is in business to make money.

SUPPLY

The next time an oil-company heavyweight blasts the ayatollah, consider this—the Iranian revolution has been a godsend for the oil industry, the best thing to happen since the embargo of five years ago. Just as the embargo turned out to be an excuse for the last big jump in oil prices, so this time is the Iranian uprising.

Behind every scam are accommodating statistics, so perhaps it should come as no surprise that the oil-industry data trotted out by government and company spokesmen alike all come from one source: the oil industry itself. What may come as a surprise however, is the fact that those very same statistics, when carefully examined, exonerate Iran and implicate the industry and the American government.

For every single month since the Iranians turned off the spigot, America has actually imported more oil than during the comparable month in 1978. That's right. More.

This past December, when Iranian oil flowed smoothly, United States petroleum imports stood at 8.9 million barrels a day. In January, without Iran's contribution, imports fell to 8.5-million barrels a day. But this was still 450,000 barrels a day more than had been imported during the same month a year earlier. On a quarterly basis, America took in 40 million barrels of oil more during the first quarter of this year than was imported during the same period a year ago.

Where did all this oil come from? From the rest of the oil-producing world, which did, in fact, increase its production.

DEMAND

The reason for our current crisis, says the government, is insatiable demand—even increased imports can't quench our thirst.

True enough—January demand was up 8 percent over a year ago, and February showed a 5 percent jump. But then the graph lines even out. In March, American demand for gasoline was just 1.5 percent higher than in March of 1978. In April, when the trees and meadows turn green and driving becomes a pleasure, gasoline demand actually fell to a level equal to that of April 1978 and a full 2 percent below the April 1977 consumption, a year the industry considers normal.

Given these supply-and-demand numbers, how do we explain the present pump panic? One answer comes from John O'Leary, the deputy secretary of energy. He calls the oil industry's performance "prudent" management. Four decisions help define O'Leary's version of "prudent" management. Two were made in the boardrooms of Big Oil, two at the White House.

Nineteen seventy-eight was a year of stable oil supplies and slightly depressed prices. As described by Exxon board chairman Clifton Garvin, "Last year and the year before, there was a surplus in production capability around the world of about 10 percent, and those in the media came to refer to this as a glut. It's not a glut." Okay. When does 10 percent overproduction not lead to a glut—and the natural corollary, cheaper oil and gas? When you keep the stuff off the market.

Rather than take advantage of the increased supplies and bargain-basement prices, American oil refineries did just the reverse: They spent the year of 1978 running down their stocks of crude oil and gasoline. Imports were held below the levels considered normal, and crude reserves were taken from the storage tank, converted into gasoline, and sold. When prices are cheap and supplies seem stable, there's no profit in holding on to a commodity. So, in 1978, American oil men didn't.

Since the oil business never misses a chance to carp about the instability of its supply sources, one wonders why the industry operates on just a two-week inventory. The answer seems to be that a low margin of supply provides greater opportunity for market manipulations—like the contrived panic that peaked at the lead-free pumps in California this month.

As the industry ran down its stocks of crude oil in 1978, the supplies of motor gas were run down even further. By August of 1978, crude had been depleted to 7 percent below the levels of a year earlier, but gasoline had run down a whopping 18 percent. This pattern continued throughout the year—well before the Iranian cutoff.

Since the beginning of this year (after the Iranian shutdown), American crude-oil stocks have been rebuilt, from 297 million barrels on hand in January to 322 million barrels in April. Meanwhile, gasoline supplies have gotten shallower. In other words, since January, supplies of crude oil have been building up in American storage tanks faster than the industry has been willing to turn them into gasoline for our cars. Or, as John O'Leary so mildly put it to a congressional hearing: "Refiners appear to have been somewhat conservative in their use of available crude oil and gas stocks."

It's not our fault, says the industry. "We just don't have enough equipment in place to supply the demand," says John Simmons, president of ARCO petroleum products. "Our refineries are producing at their maximum," echoes board chairman Fred Hartley of Union Oil of California. "Actually," adds Exxon's Garvin, "in the first four months of this year, the refineries in this country are operating 3 or 4 percent above what they were a year ago." Actually, the industry's own data say otherwise: For the first four months of this year, according to the American Petroleum Institute's figures, the nation's refineries worked at just 85 percent of capacity, about the same rate as in 1978, at which time, the industry itself has admitted, the policy was to underproduce in order to reduce inventories. Is it any wonder that demand—and prices—soar?

Into this situation—low crude supplies due to industry sell-offs and a demonstrated reluctance to convert what crude there is into gasoline—comes the Carter administration with two apparently important moves.

The first federal step to "correct" the the problem involved the re-allocation of gasoline supplies to retail dealers scheduled for May 1. Says Samuel Van Vactor, Oregon's chief energy planner: "The Energy Department screwed up. . . . The new regulations encourage companies to cut back" on their allocations, so again a product of quickly rising value stayed in the storage tank—and became more valuable. Of course the industry calls this "prudence." "We had no idea how the new federal allocations would work," says one industry source, "so we felt we had to reduce our May shipments to dealers just to let things sort themselves out." In effect, things sorted themselves out in motorists' panic.

Since more and more drivers need the lead-free stuff, the panic was worse there, and again the Carter administration seems to have helped the worst to happen.

As the Iranian situation began to affect the price, but not the supply, of crude oil, the administration advised the oil companies to help moderate the OPEC price rise by avoiding the lighter-weight, higher-priced kinds of crude. The industry cooperated—but it did not leave the market entirely. American purchasers bought the less expensive, heavier crude, leaving the lighterweight oil to the Europeans and Japanese. The net effect of the administration's recommended "boycott" was no real boycott at all, and the price of all types of oil fell not one cent. Worse still, American gasoline consumers were severely penalized by this action since the unleaded gasoline we are required to use in our cars in order to comply with governmental regulations is made mostly from the very same lightweight crude our government was telling our oil companies not to buy.

A Chevron spokesman sums up the situation best: "Had we the same [lighterweight] crude available this year as we had last year, we could make 3 percent more gas right now and 7 percent more for the summer." Which would obliterate the shortage.

The future? The administration is finally encouraging the oil companies to buy lightweight crude, so supplies of lead-free gasoline should be plentiful before long. The prices will be higher, undoubtedly—but not, as the evidence suggests, inevitably.●

LLOYD WESTON'S "TIP-OFF"

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. HYDE. Mr. Speaker, one of the important newspapers in my district is the Addition Leader. The publisher and editor, Lloyd H. Weston, is one of the most widely read and influential journalists in the Chicago area. In his recent column, "Tip Off," he addressed the serious issue of our energy crunch. I am pleased to share his comments with my colleagues:

TIP-OFF

(By Lloyd H. Weston)

PUT THAT IN YOUR HOOKAH

"If Americans don't cut consumption (of oil), OPEC will raise prices. If you don't help . . . then God help you."

Supposedly America's best friend in OPEC, Oil Minister Sheik Yamani of Saudi Arabia, issued that blatant threat to Americans in a CBS interview over the weekend.

Yamani—who took time out for the interview from celebrating his daughter's graduation from an American university Sunday—was dapper in his Brook's Brothers suit, his luxury limousine, his entourage of servants, his polished fingernails, his neatly trimmed Van Dyke and diplomatic immunity.

America, he said "you will have to reconsider your life style."

With friends like that, America needs no enemies in OPEC. Such pomposity from a diplomat—a guest in our country—is unthinkable, and should be answered in kind. It makes us wonder if maybe colonialism wasn't so bad, after all.

The President and Congress of these United States have no business even considering stand-by rationing of gasoline until America considers rationing of exports of wheat and other food stuffs to our high-living "friends" in the Arab world. Indeed let's consider pegging the price of an exported bushel of wheat to our cost for a barrel of oil.

Who are these insolent foreigners to dictate "lifestyle" to America while whole populations in their homelands live in abject poverty?

Get off your high camel, Yamani! Americans will tolerate gas lines, if they have to, but don't rub our faces in your oil. If you are truly our friend, then show it. If you are not, then Allah help you!●

REMARKS OF PRESIDENT CARTER AND HON. JOHN BRADEMAS AT INDIANAPOLIS JEFFERSON-JACKSON DAY DINNER

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. HAMILTON. Mr. Speaker, this past weekend I had the pleasure of attending the annual Jefferson-Jackson Day dinner held in Indianapolis, on Saturday, June 2, 1979. The theme of the dinner was "From City Hall to the White House" and the honored guest and keynote speaker was President Jimmy Carter. The speeches given at this dinner by President Carter and my distinguished colleague and majority whip, the Honorable JOHN BRADEMAS, were both illuminating and inspirational. I would like to share their words with the rest of my colleagues and insert them now into the RECORD:

REMARKS OF CONGRESSMAN JOHN BRADEMAS

Mr. Chairman; our most distinguished visitor in Indiana tonight, President Carter; my distinguished colleagues in Congress, Senator Bayh and Congressmen Hamilton, Jacobs, Evans, Fithian, Sharp and Benjamin; friends, fellow Democrats and Republicans who've come in search of salvation, I am honored to have been invited to speak to you briefly this evening.

Mr. President, the enthusiasm and the numbers you see here tonight clearly show the vitality of the Democratic Party in Indiana. This extraordinary turnout is an encouraging harbinger of Democratic victory in 1980.

So let me here congratulate our State Chairman, Don Michael; State Vice Chairman, Patty Evans; Treasurer, Claude Magnuson; Secretary, State Senator Katie Hall; and all the State Committee staff and volunteers who have helped make this the most successful Jefferson-Jackson Day Dinner ever held in Indiana.

Now, Mr. Chairman, I understand that I have two or three assignments tonight.

First, I have the privilege of presenting to all of you my Democratic colleagues in the House of Representatives. When I speak of the Hoosier Democrats in the House, I speak from personal knowledge. They are as able a group as represents any state in the nation.

From the Ninth District is a man who serves as an Assistant Whip and who is widely respected for his ability in several fields. He is a member of the Foreign Affairs Committee and Chairman of its Europe and Middle East Subcommittee. He also serves on the Ethics Committee and the Joint Economic Committee—Lee Hamilton!

From here in the Eleventh District is one of the wittiest and most popular Members of the House and a member of the important Ways and Means Committee, a man well known to all of you—Indianapolis' own Andy Jacobs!

From the First District, a member of the Appropriations Committee, another key position for our state, in his second term and already Chairman of the Legislative Appropriations Subcommittee, where he is a careful watchdog of the public purse—Adam Benjamin!

From the Second District, an influential member of the Agriculture Committee, vital to the economy of Indiana, also a member of the Foreign Affairs and Government Operations Committee and one of the hardest-working Members of the House—Floyd Fithian!

From the Tenth District, a man who has the difficult task of being Indiana's voice on energy in the House—a man who serves on both the Commerce and Interior Committees and who in the last Congress was chosen by Speaker O'Neill to sit on the special committee that produced the first comprehensive energy bill in generations—from Muncie, Phil Sharp!

From the Sixth District—also your neighbor, this Representative sits on the Banking, Finance and Urban Affairs Committee, the Government Operations Committee and the Select Committee on Aging—all seats that help him assure that Indiana properly benefits from the legislation these committees write—Dave Evans!

So, ladies and gentlemen, our state is fortunate in having a Democratic delegation in the House of Representatives composed of Members who serve on nearly every key committee there.

Mr. President, Indiana is well served by its Democrats in the House.

And Indiana and you, Mr. President, are also well served by three members of your staff who have returned to their home state tonight to demonstrate that some people in Georgia White House speak with a Hoosier accent.

Well known to all of us here is the President's Deputy Appointment Secretary, a young woman whose late father was the beloved mayor of my hometown of South Bend, and who, I am proud to say, was a former student of mine when she was in college, Fran Voorde.

The Assistant to the President for Political Affairs and Personnel is the person whose efforts in Iowa in 1976 helped Jimmy Carter become a viable candidate for the Democratic nomination for the Presidency—Tim Kraft of Noblesville.

And working closely with us in the House is another able young man, whom I have known since his days as President of College Young Democrats in Indiana, the President's Special Assistant for Congressional Liaison, Terry Straub of Indianapolis.

All these Hoosiers, Mr. President, the Members of the House and of your staff, are proud to welcome you to Indiana tonight.

I may say to my fellow Democrats from our State that, as Majority Whip of the House, I have the privilege every other week of joining Speaker O'Neill and the other Members of the House and Senate Democratic Leadership for breakfast at the White House with our distinguished guest. Indeed, only yesterday and earlier today my wife and I had the honor, together with several other members of Congress, of being guests of President and Mrs. Carter at Camp David.

So I can say to all of you that I know from these several meetings as well as from others the remarkable intelligence, the integrity of purpose and the profound dedication to the best interests of our country of the President of the United States.

Let me remind all of you here, at a time when we hear a stirring of criticism in the country, that President Carter undertook the leadership of this Nation some twenty-nine months ago. While it may not have been the worst of times, it was far from the best of times. His Republican predecessors—Presidents Nixon and Ford—bequethed him a deficit-plagued economy deep in the throes of recession and a foreign policy that was like unraveled string—lots of dangling ends that were not tied down.

Today, instead of the $66 billion deficit left by President Ford, Congress has just adopted a target budget resolution that brings that deficit down to $23 billion next year, with a real prospect of a balanced budget in the following year.

Today, rather than an unemployment rate over 8 percent, the figure is below 6, and in the less than 30 months of the Carter Presidency, we have created some 8 million new jobs—a record unsurpassed in our history.

In the field of foreign affairs, too little, in my view, has been made of President Carter's achievements.

He has normalized relations with the world's most populous country, the Peoples Republic of China, without jeopardizing the freedom of the people of Taiwan.

He has won ratification of the Panama Canal treaties, an accomplishment which while not earning him much political popularity has reflected this Nation's commitment to justice in world affairs.

In two weeks, he will be in Vienna to sign a SALT Treaty—the product of seven years of negotiations by three Presidents to find a way to diminish the danger of nuclear war between the United States and the Soviet Union.

And during President Carter's Administration, no American fighting man or woman has lost his life in war.

As a nation, we face many difficult challenges still—inflation and energy are but the two most dramatic—but working together, President Carter and the Democratic Congress, I assure you, will not flinch from continuing the search for solutions to those challenges.

So, Mr. President, we welcome you warmly tonight to Indiana. You are among friends.

And now, as I conclude, I have the further privilege of being able to present to you one of Indiana's most distinguished sons and one of our greatest public servants, a man with whom I have had the honor of serving in Congress for sixteen years. The distinguished senior Senator from Indiana, the honorable Birch Bayh.

There is little that I can say about him that others have not said many times before. His attributes and accomplishments are well known to you all.

He is a man of commitment, of conviction, of courage.

Few Senators of the United States have pursued their goals with such tenacity as has he, and fewer still have achieved the success in the pursuit of those objectives that he has enjoyed.

But it is hard work and vigorous effort, not accident, that have brought him the respect of his colleagues and the influence that has enabled him to do so much for Indiana and the nation.

Chairman of the Senate Select Intelligence Committee, Chairman of the Transportation Appropriations Subcommittee and also of the Constitutional Amendments Subcommittee of the Senate Judiciary Committee, he will next year, as you are all aware, be seeking a fourth term in the Senate, something no previous Hoosier has ever accomplished.

But this Hoosier will, because his work on behalf of Indiana and the nation deserves it.

I want to say one more thing before I present him and that is to voice to him for all of us the deep sorrow we feel at the loss of his wonderful and courageous wife.

Marvella Bayh was a remarkable person, a warm, outgoing gracious woman whose faith and courage continue to inspire us all.

She has set an example to us for which we shall always be grateful.

Remarks of President Carter at the Jefferson-Jackson Day Dinner

It is a pleasure to be back home in Indiana—it's like coming home because of all the wonderful Democratic friends my family made here. You gave us a warm Hoosier welcome when we were still strangers knocking at your doors.

One of the first people to invite us in and offer his support was Andy Jacobs—I'll never forget that, Andy, and I thank you.

During my campaign for President I used to wonder why no matter where I started out, I always ended up in Indiana. Then I realized the Indiana mafia on my staff was doing it. Sometimes it seems that we have more people in the White House from Indiana than we do from Georgia. I can understand your pride in Tim and Terry and Fran. But I hope these honors don't go to their heads and make them ask for pay raises.

We don't just have Hoosiers in the White House. I appointed Bill Schreiber to the U.S.-Canada Boundary Commission and he's doing a good job. We have only ceded a small portion of our territory to Canada during his tenure.

Back here in Indiana Don Michael is building up the party from the precinct level. You have a strong group of mayoral candidates that can win this fall, and next year you can elect a Democratic governor in the tradition of Governors Henry Schricker, Roger Branigin and Matt Welsh.

STRONG INDIANA DELEGATION

Next year, too, I want you to remember when it comes to electing Democrats to the U.S. House of Representatives that seven is not as good as eleven. With the support of stalwart Democrats like Dallas Sells (UAW) and Willis Zagrovich (AFL–CIO)—and all of you here—you can elect 11 Indiana Democrats to join Birch Bayh in Washington.

Indiana already has an outstanding Democratic Congressional delegation: Lee Hamilton's support has been a key factor in crucial votes on foreign affairs. Phil Sharp is making sure our energy resources are fairly shared, Floyd Fithian knows what farmers need and Adam Benjamin helped us kept the budget deficit down.

The Republicans spent a lot of money to put a third Crane in Congress, but the people of Indiana wisely decided to keep David Evans.

As Democratic whip, John Brademas has shown the kind of leadership that causes the American people to keep a solid Democratic majority in both houses of Congress.

In three terms Birch Bayh has come to symbolize the kind of courageous action which molds the direction of the United States Senate.

We all share in his loss. Marvella Bayh's spirit and courage were an inspiration to the nation. She was able in a wonderful way to share her faith and to instill some of her courage in the lives of others who suffer. We miss her radiant presence.

The last time I was in Indiana I spoke at Notre Dame about our foreign policy aims and our intention to support human rights throughout the world. In the two years since then, much has happened. It has been a time of rebuilding. We have accomplished a great deal. We have much more to do.

PROSPERITY, VISION, TRUSTS, PEACE

When they write the history of these years, I hope they will say four things about what you and I have done together.

I want them to say that we have made America prosperous again, that we believe—as Democrats—in hard work and that we have put our people back to work.

I want them to say that we were not afraid to tackle difficult and controversial issues and that above the short-term political advantages we might have gotten, we always placed the long-term good of our nation.

I want them to say we restored the trust and confidence of the American people in our own government. Most of all, I want them to be able to say that America has been at peace, and that we helped lead the world away from war.

If we can build on this New Foundation of peace, trust and prosperity, we will have kept faith with our party and with the American people. We will enter the 1980s as a proud, confident, strong and unified nation. We will bring our nation—and the world—closer to a time when war, hunger, poverty, injustice and oppression will be no more. This is what you and I can do. This is what you and I will do—together.

It is sobering to remember the cynicism and distrust of those in power a few years ago, to remember the disappointment and sense of betrayal that clouded our land. Great changes have taken place. We have demanded a government that does not need to cover up, that deserves the loyalty and trust of the people.

There are no more government lies, no more enemies lists, no more sell-outs.

President Andrew Jackson summed up my own beliefs when he said, "There are no necessary evils in government. Its evils exist only in its abuses."

One way we end the abuses is to put good people in government, like Jim Joseph and Leo Krulitz at the Interior Department and Bob McKinney at the Federal Home Loan Bank Board.

DEMOCRATIC PARTY ACHIEVEMENTS

When I took office in January 1977 more than one worker in ten in Gary was out of a job. Republican economics said we had to tighten our belts, and you know whose belt got tightened. Democratic economics have taken people off the unemployment rolls by giving them jobs—more than 8 million new jobs since I took office.

Republicans talk about the dignity of work—Democrats create jobs so people can work.

Republicans also talk a lot about balanced budgets, but in the eight years they were in the White House the budget deficits were greater than the total for all the other 192 years of our nation's history combined.

Republicans talk about cutting deficits—Democrats cut them. By 1980 we will have cut the deficit by more than half. At the same time we have substantially increased aid to the old, the sick and the poor. We have made unprecedented commitments to teach youngsters basic skills and to enable young people to get a college education.

Farm families have been strengthened, net farm income raised, and agricultural exports set new records every year. You have certainly not seen any grain embargoes during this administration.

We have accomplished a lot, but crucial questions still face us—on energy, on inflation, on keeping the peace in a dangerous world.

A Senator jokingly said awhile back that I had tackled every unpopular issue that was before our nation and when there were none left, I went out and looked for one. There have always been some left.

HARD CHOICES, POSITIVE SOLUTIONS

I did not go out and look for tough issues—they were around long before I got here, but the Republicans before me were too busy doing other things to tackle them.

The Democratic Party is the party of the people because the people trust us to make the hard choices on these questions for the good of the whole nation and all its people.

They gave us a majority in both houses of Congress so we could find positive solutions. They did not give us majorities so we could vote down every solution offered, complaining that they were not perfect. There are no perfect solution, but I believe the people are willing to follow us if we meet our responsibilities and devise the best solutions we can.

One of the most immobilizing fears in our nation today is the fear of being misled and cheated. As much as anything else, this keeps our people from conserving energy and doing our part to hold down inflation. I believe Americans are willing to do their part as long as they feel everyone else will.

When governors and Congressmen and local leaders demand special treatment for their constituents, they do them no favors. Instead, they breed an attitude of "me first—others last."

In the long run we will all suffer if we delay and dally in the mistaken belief that our problems will miraculously disappear. The choice is between temporary inconvenience now or real hardship later.

There are no magic cures. We can't plan and harvest our crops with mules. We can't fuel our factories with fireplaces.

The times require plain talk and political courage—from Democrats. The people have entrusted Democrats with governing this country. They will again entrust Democrats with governing Indiana. But I don't believe they will again accept lame excuses from anyone who says that "this is a no-win situation, so we won't play."

That is a cop-out, and we were not elected to hide or withdraw from a fight.

ENERGY SECURITY

There will be strong pressures in the coming weeks to continue government controls on oil. As you know, the controls are not working. You have seen what has happened to prices. These controls encourage waste, discourage production of oil in the United States and subsidize oil imports. We are in this mess today in part because we insisted too long on that course. We must cut our dependence on foreign oil. Our OPEC suppliers warn that we must conserve. Our Allies warn that we must conserve. The message must be clear to all Americans—we cannot continue to increase our use of oil and gasoline in the face of reduced supplies.

The windfall profits tax will let the oil companies keep 29 cents of each dollar which should increase exploration and production of domestic oil. We estimate that through increased production and conservation, decontrol will reduce imports by one million barrels of oil per day.

The tax will finance a new Energy Security Fund which will ease the burden on those least able to pay higher fuel costs and will pay for improved mass transportation and additional research and development of alternative energy sources such as gasohol and the power of the wind and sun. It will mean that such concepts as coal liquefaction and gasification will become realities, so we can make use of more Indiana coal.

We have a great nation which can meet any challenge if we work together. We can solve the energy problem with the same courage and pioneer spirit and a sense of partnership which is exemplified by the people of Indiana.

Our economic, military and political strength are unsurpassed by any other nation on earth. We are at peace.

The founder of our party, Thomas Jefferson, looked back on his long years of service to the nation and said with pride, "During the period of my Administration, not a drop of the blood of a single fellow citizen was shed by the sword of war."

I am also proud that not a single drop of American blood has been shed in war during my own Administration, and I pray to God every day that when my years as President are over I can still share Jefferson's achievement.

SALT II

The SALT II Treaty is a part of our efforts to wage peace.

There is no doubt in my mind that the treaty enhances our nation's security and the prospects for sustained world peace. There is no doubt that the treaty, when ratified, will contribute to continued detente and will greatly reduce the possibility of nuclear war.

There is no doubt that the treaty will contribute to increased control over the future development and deployment of nuclear weapons. There is no doubt that it will improve our chances of getting other nations to restrain the proliferation of nuclear weapons capabilities if the United States and the Soviet Union can demonstrate that we can constrain ourselves.

SALT II is part of a process that began when Eisenhower was President. He said the greatest disappointment of his Presidency was that more progress was not made toward nuclear arms limitations. If SALT II is not ratified—if, after seven years of negotiations under three Presidents, a carefully balanced agreement in our own country's interests is rejected—the process of controlling nuclear weapons would be difficult to resurrect.

This treaty does not depend on trust in the Soviet Union. We can verify it. Our national security is enhanced, not endangered by SALT II.

Failure to ratify this treaty would not only add unnecessary billions to our defense budget—it would add to global instability and the threat of a catastrophic war.

During my campaign I promised you here in Indiana that we could have a government as good as our people. Some critics dismissed this as empty rhetoric, but you understood what I was saying.

Our foreign policy is as good as our people when we speak out for human rights around the world—and we will continue to protect human rights as long as I am President.

MIDDLE EAST PEACE

Our foreign policy is as good as the American people when we work to bring peace not only to our own shores, but to ancient enemies. We will continue to work for peace around the world.

We won a victory of this kind when a peace treaty was signed two months ago between Egypt and Israel. We saw the first fruits of that when Israeli ships sailed through the Suez Canal and when occupied territory was returned to Egypt and the borders between Israel and Egypt were open last weekend.

That treaty was possible because of two courageous leaders, President Sadat and Prime Minister Begin. We were able to help at a crucial point because of the moral strength, the moral leadership of our nation. That treaty was not a personal accomplishment, though I was proud and grateful to be a part of it. Whatever I was able to contribute was possible only because those two nations recognize that the American people—not just one particular American

President, but the American people—will always support those who seek freedom and justice and peace.

That is what the United States government must stand for in the world—not just during one Administration, but for as long as we call ourselves a free people.

Freedom, justice and peace—these are the sources of our true power on which all else must rest. These are the principles which have made America great.

STRONGEST COUNTRY ON EARTH

One of our finest blessings as Americans is that we have the right to speak our minds, to complain and debate and resolve issues in the political arena.

In our eagerness to do that, sometimes we forget how much we have accomplished—the extent of our material abundance—and the wonderful treasure of our freedom. We cannot afford to forget our blessings. To lose sight of our basic strength would be even more unrealistic than to ignore our present problems.

Our land is broad, our people diverse, and many are frightened by a future they see as very different from the past we have known. It will be very different just as our world is very different from that of our ancestors, but this should not be a cause of fear. The problems are real and they are serious, but they are manageable if we have the courage and the will to face them together. There is no doubt that we have the strength.

We have a degree of freedom and respect for the individual, and a commitment to providing the greatest possible opportunity for all of our people that is unmatched through most of human history. We do indeed live in the strongest country on earth.

We cannot let all that strength, all the innate power of our natural and human resources, be frittered away in fear and futility. Franklin Roosevelt understood how fear can immobilize people, and in a much more desperate moment he warned us of the power of fear to destroy. We cannot let fear of change, of uncertainty or the fear of some manageable limit on material goods immobilize our mighty nation.

I am very proud to be a part of you, proud to be the leader of our party and of our nation. In difficult periods we Democrats have always seen—not doubt, but hope, not divisiveness, but unity—growing out of a respect and understanding of our diversity and our human strength. We have never failed our country and we will not fail it now.

A BRIGHTER FUTURE

We do have problems.

We can solve these problems. We can be strong and at peace. We can make our economy work, but we cannot do it with slogans or gimmicks or magic.

America must solve her problems the same way each of us solves our own problems—with hard work and persistence, and occasionally, some pain and sacrifice.

We must not confuse difficulty with defeat.

The actions we take to get through our current problems will enhance our strength for a future that will be even brighter than our past. I look forward to those years—next year, the next decade, the next century—because I know our people have the will and the strength of character to make them better.●

SURFACE EFFECTS SHIP

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. BOB WILSON. Mr. Speaker, for years, I have been an ardent and an outspoken fan of the Navy's surface effects ship. I have seen it through design. I have driven the 100-ton prototype. I know what it can do. And I fail to see why each year, we go through the same problems with funding a 3,000-ton version.

This ship is the most revolutionary concept in seapower to come before us since the Navy converted from coal-fired powerplants to oil. Its applications are limitless. But we must build to find out just what the SES can do. This continual dragging of feet on funding is ridiculous. If the attitude toward this new concept had existed at the dawn of time, it is doubtful that the wheel would have ever been invented.

The following editorial that appeared in the May issue of Government Executive calls attention to the potential of the surface effects ship and sets out clearly and logically what it is and where it is going.

THE 100-KNOT NAVY

LIKE CANCELLING AVIATION AFTER KITTY HAWK

(By John F. Judge)

The program is the Navy's Surface Effect Ships(SES)—vessels that operate on a cushion of air. Because of the resultant reduction in drag, such designs are capable of over-the-water speeds of up to 100 knots.

This is roughly more than twice the ability of conventional surface ships whose top speeds are limited by a number of factors.

But the potential of a surface ship capable of twice the speed of a torpedo, three times the speed of the latest displacement ships and available in military sizes would completely rewrite the rules of warfare at sea—particularly by the other side who has a growing conventional fleet of substantial size.

The SES quick reaction time, relative invulnerability to mines and torpedos and a reduced suceptibility to missile attack due to its high speed maneuverability—and the ability to loiter, on or off cushion—combine to provide the potential for improved effectiveness in tasks currently assigned to surface combat ships of comparable size.

Recent Confusion—SES development was started in the U.S. by the Navy in 1961—that is nineteen years ago—and has been under relatively steady progression since that time.

The current status starts with the position as stated by Secretary of the Navy W. Graham Claytor, Jr., in part that . . . "The Navy considers (the Surface Effect Ship) one of the most important ship development programs now under way or contemplated. The near term military value and the long term potential of this technology have been confirmed and reconfirmed. . . ."

Contrast this statement with the following taken from testimony of Dr. W. J. Perry, Defense Research & Engineering on the 1980 budget last February.

"After a thorough examination of all the issues involved, the Navy recommended against continuing with the development of the 3000-ton SES test ship in this budget. The Navy's analysis showed that the payoff from this program was distant and very uncertain, and that SES's of the type being developed were unlikely to have a significant impact of our naval posture. After conducting my own review, I concurred in the Navy's recommendation. We plan to request that the balance of the funds appropriated in fiscal year 1979 be used to pursue vigorous development of the technology and system concepts leading to an advanced ship program which will achieve some of the performance advantages of the SES without suffering its penalties in payload, cost and fuel consumption."

Much has been written over the years in many publications about the tremendous impact of the 100-knot Navy on blue water operations. One solid-point, often ignored, is the equally, if not larger, effect the strong development of such a fleet has on the opposition—who is now well embarked on a major ship building program. The speed and other attributes of the SES designs profoundly affect the operational tactics of opposing conventional forces—including nuclear subs. And naval vessels, no matter which country builds them, are built according to carefully defined mission needs which, in major part, evolve from the ability of the opposition's combatant ships.

So the potential of the SES has ramifications far beyond mere combat scenarios. It goes to high speed logistics which by itself wipes out certain advantages accruing to high speed nuclear submarines. Even beyond this, there is a potential in a lessening need for conventional foreign naval bases.

In anti-submarine warfare aspects (the one area that DOD feels worth concentrating on in the so-called proof level of SES) the SES in combination with both tactics and the newer aircraft provide a major disruptive influence on the deployment and activity of opposing submarine forces.

So there are many positive aspects. There is no real major technological challenge in finishing out the program to the launching of a 3000-ton SES prototype.

The program is not in the Fiscal 1980 budget. It has already slipped, which increases the offing.

So what is happening is that the ball has arrived in Congress' court. And it looks like the U.S. nuclear sub developmental history may be in the process of repeating itself.

Team concepts?—The Subcommittee on Research & Development of the House Committee on Armed Services is positive on the SES. They asked the military if the SES was in the fiscal year 1980 budget and, "if not, which activity terminated it and why?"

The answer: "It is not in the budget. It was not included due to lack of affordability in the light of higher priority items."

Note that the answer avoided the question. The subcommittee also noted this. The explanation moves into budget gamesmanship. The Navy found, in the 1979 budget exercise, that the Office of the Secretary of Defense (OSD) removed that program after the Navy had included funding in its request to OSD—along with the funding. So, in working up the 1980 budget, the Navy took the view that it could not afford to lose both the program and the funding. In the course of the development of the 1980 DOD budget, the Navy did include, at a meeting, the levels of priority for the SES.

Confusing?

Not to the experienced Congressmen on the Subcommittee. They knew what they were hearing. Said one Representative. . . . "does anybody over there (at DOD) have any courage to get the message up to Secretary of Defense Brown and to the President by saying 'Look, you people, you're not being honest with the American people. We have some really big needs in the Navy and especially in our Armed Forces' . . . This three percent increase is going to wind up about 1.5 percent, if we are lucky and there's HUD getting something like a 10 percent increase and nobody says anything about that. My point is—when is anybody going to get tough and get the word up to the president.

". . . It makes our job very difficult coming out with a program that inevitably, as soon as it looks good, it gets cancelled. If the Soviets ran our system they couldn't be doing a better job . . ."

Another Member of the subcommittee succintly outlined the problem. Said he, in part . . . "When the Chief of Naval Operations says we can fulfill our mission as long as it is peacetime, it's about like somebody in the volunteer Army saying that as long as our job is to show up for Memorial

Day parades, the Army can foot the bill—but, in terms of going to war, we have problems.

". . . I remember asking General Brown before his death about the B-1 decision and I said that you know if the Public is not getting the truth on this, when is it that some of you top people are going to say 'Look Mr. President, we can't go with you on this. In our judgment, if you do down this road we are resigning and we are coming out and telling the Public why.'

"General Brown said that the time may come when we have to do that but the B-1 is not that time. And when the military was organized to line up behind the Panama Canal issue, I think it was General Brown or General Jones who said, at the time, that this is not the point to fall on our swords.

"Well, maybe the SES is not the time either . . . maybe this is not the decision to fall on your swords—but somebody has to tell the Public and the only voices that are coming out are dissidents in Congress who say the experts are wrong.

"We have some serious deficiencies and they are not being addressed—and you are not going to address them with more food stamps or bigger regulatory agencies, because these are the only programs that seem to be growing up here by the Administration's selection.

"You know, if you walk to the White House and flop a sweaty brassiere on the streets and scream ERA, the TV cameras are stacked up all along Pennsylvania Avenue.

"But if you come up here and say we need something for the national defense and you have a hundred Congressmen to back it up, you cannot even get the networks to show up.

". . . At what point do we come out and go Public? Maybe this (SES) is not the issue—but when is the issue? The trends are bad. The State Department says that in three or four years we will have to knuckle under because we won't have the equipment to stand up. Why don't we have the equipment? It is because of days like today."

Affordability—The amount the Navy initially requested for the SES in the 1980 budget exercise was $106.8 million. To date, the SES program has been funded to the tune of approximately $338 million. It is estimated that putting a 3000-ton prototype SES in the water could cost more than an additional $400 million—which would make the SES to the prototype state a total investment exceeding one billion dollars.

Contracts have been let—in 1976—for the design, subsystems verification and long lead procurement with an option to construct the 3000-ton prototype.

And to partially offset program cost increases due to stretchoutsand the larger ship size (the initial moves were to a 2000-ton vessel) the combat element of the prototype has been limited to anti-submarine warfare features only. Provisions to later install anti-air and anti-surface combat systems have been made.

There is little visible support for the SES at the DOD level and the reason for the elimination of the program in the budget is due to a combination of things. But basically, the idea is that the cost of carrying the SES to prototype stage—at which time the DOD claims the proof of the potential can be demonstrated—is simply not affordable in the light of the current overall R&D allocations. Thus a set of priorities.

So the R&D element of the DOD budget is the problem and it is this entire area of national defense that worries many on and off Capitol Hill. It is this element of defense funding that paves the way for a strong and credible defense five to fifteen years from now.

The DOD budget has, in spite of the totally misinformed clamor of its critics, been a very tight exercise for the past several years. And the R&D portion have felt the pressure the most because many of the other elements in military appropriations are as fixed as the Social Security system.

The concern is growing that, in the face of Soviet expenditure in this area over the same time period, the posture of the U.S. in the near future may not be as strong as it might have been had R&D received more attention in the past.

The SES may not be the battleground over which the larger issue of effective R&D findings will be fought. But it could be that the surface effect ship program is the final straw between political expendiency and the complex price of liberty.

The method for avoiding that issue is already in progress. The House Armed Services Committee will probably insert the SES back into the Navy's appropriation and do so on a line item basis—which gives the program high visibility to oversight.

But the larger issue, R&D, is still smoldering and getting warmer.●

PROF. RAUL S. MANGLAPUS SPEAKS ON INTERNATIONAL DEMOCRACY VERSUS RACISM

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. HALL of Ohio. Mr. Speaker, Prof. Raul S. Manglapus of American University recently spoke on "International Democracy versus Racism" at the Conference of Democracy International. Professor Manglapus, former Foreign Minister and Senator in the Philippines, is cochairman of the organizing committee of Democracy International. He also is president of the Movement for a Free Philippines (MFP).

I commend his timely and thought-provoking comments to the attention of my colleagues:

INTERNATIONAL DEMOCRACY VERSUS RACISM

(By Raul S. Manglapus)

This human gathering committed to liberty is fortunate to be born with ready allies, visible, strong and irreplaceable. They are the international groups that labor to protect prisoners of conscience, to investigate practices in the administration of justice, to evaluate the status of universal freedom. We seek to assist them by uniting for the restoration or for the strengthening of the political system that we believe to be the only guarantee for conscience, justice and freedom. That system is pluralist democracy.

Our main antagonist is not so visible. But it is there. We call it Stability International the unseen but living alliance of those who have made a god of stability, placed it on an incensed altar, and offered it all forms of homage—money, arms, planes, tanks, credits, and security guarantees.

Stability International is our principal enemy not because democracy is the antithesis of stability but because they have disfigured the image of true stability, giving it the shape of authority without consent, public order by the gun, and participation by coercion, clothing it with the illusion of an uncorrupt and crimeless society by the quick expedient of banning the publication of corruption and crime, the semblance of industrial peace by imprisoning strikers, the appearance of popular support by the regimentation of the young and the prostitution of the civil servant.

This was Greece under Papadopoulos, Thailand under Thanom, and Iran under the Shah. This is Nicaragua under Somoza, South Korea under Park, the Philippines under Marcos.

In Iran, the democratic National Front fought in isolation as the American ambassador cuddled up to the Shah. In Nicaragua, the United States thought of withdrawing military aid from Somoza only after guerilla action had begun to tell, after even urban moderates had declared a strike, and after the blood of hundreds of Nicaraguans had been copiously shed.

Even where democracy had been regained with the blood of peaceful marchers shouting Jeffersonian slogans, U.S. policy remained devoted to its deceptive god. In the spring of Thai democracy, which began in late 1973, U.S. economic and military assistance programs were cut, instead of being increased, contributing, in the view of experts, to its collapse in 1977. U.S. policy makers appeared to doubt the capacity of the Thais to sustain a stable democracy and preferred to await the pleasure of the Thai generals behind the scenes.

No official word of encouragement was heard from Washington to animate the struggling Thai democrats. Yet, when Spain and Portugal returned to constitutional freedoms, the United States, along with the Western democracies, rushed to fortify the two renewed democracies with moral and material aid.

Are we correct if we here discern a hint of racism? I think we are. Spaniards and Portuguese are, after all, white caucasians. But Latin Americans? Most of them, like the Nicaraguans and the Brazilians, are of mixed blood. As for Iranians, Koreans, and Southeast Asians—they are all so terribly non-white.

This is the racism of George F. Kennan who, confusing form for susbtance, preaches that democracy is an Anglo-Saxon invention whose values should not be imposed outside of Europe and the U.S., of William F. Buckley, Jr., who denounces President Carter for applying his "collected opera" of human rights" to non-Western societies, and of William Randolph Hearst, Jr., who, ignoring the identical Chinese, Korean and Japanese characters for minzhu or democracy, the Malay merdeka, the Tagalog kalayaan, has made the astounding scholarly revelation that there are no Asian words for democracy or rights—only for duties.

This is the reluctantly yielding racism of Ian Smith in Rhodesia, of Vorster in South Africa—indeed of those who in their passion for ideological totalitarianism would deny that the peoples of Eastern Europe and Central Asia are capable of democracy.

Do not look for democracy in the superficial accounts of history—of Russian Czars, of Ming Emperors, of Mogul despots, of British and European royalty, of Southeast Asian kings. Look for it in the traditions of the villages everywhere—in Asia, Europe, Africa and Latin America, where in spite of centralized monarchies that could not, even with improved communications, come down to run the daily lives of the people, customary laws of democratic consensus were highly developed—the adat among the Malays, the wergeld among the Germanic peoples, the common law among the British—all providing the hedge against centralized repression and the future substance of institutionalized democracy.

This substance, in Asia and Africa, took on forms borrowed from Western colonials, but the substance was indigenous—always—for freedom knows no culture or color.

Buckley is good at words, but in calling President Carter's policy on human rights a "collected opera" he has shown how semantic cleverness can not disguise a biased and shallow perception. For other Presidents may have stood for it before him, the U.S. Congress may have in fact anticipated him by enshrining it in legislation, but President Carter is the first Chief of State of a world power to come forward with an unabashed policy on human rights.

What need have we then of a union of democrats like this, if the President of the strongest nation on earth has already proposed to promote human rights all over the world?

Because this nation, no matter how powerful, must face its dilemmas, its moments of hesitation. It can yield, as it has yielded, to the temptation of choosing the comfortable option of "not rocking the boat," of falling on its knees before the false idol of stability.

This nation must be reminded that its own founding premises are universal, not just American, that stability is not in one man but in all the people, and that dictators, with or without U.S. help will fall, but the return to freedom is bloodier and more damaging to the American image when U.S. support for the repression is stubbornly maintained.

And there are many, in this country and elsewhere, who must also be reminded that political, economic, and social rights are indivisible—that the dignity of the poor, the racially discriminated, the dispossessed minorities, can only be satisfied when they are given the political rights with which to fight like Martin Luther King, for economic and social equality in a pluralist society and not when some self-appointed autocrat proceeds to redistribute goods at the expense of liberty. Marcos, Park and the Shah have said "development comes before political rights." B. P. Koirala, the Nepalese patriot, has responded "No. Development begins with political rights!"

We agree with King and Koirala and raise the banner of Democracy International. We shall make the chancelleries of the world resound with our cry of freedom. It shall not be an artificial cry. For it is in fact an echo. We are but the echo of the millions of our compatriots in our homelands, whose cries are stifled and who look to us, as we here enjoy freedom, to use that freedom to unite and act to restore democracy where it has been lost, and to vitalize it where it has returned.

We now expose our antagonism for the brittle pretension that it is. Democracy and stability are one. The world can ignore that truth only at the peril of losing liberty forever.●

STRONGER CIVIL DEFENSE NEEDED

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. IRELAND. Mr. Speaker, a recent editorial from the Sedalia Democrat, of Sedalia, Mo., points out the need for stronger consideration of civil defense.

I include herewith a copy of an editorial by F. D. Kneibert, editor:

CIVIL DEFENSE NEED CLEAR FROM REPORT

Thanks to Rep. Ike Skelton, increasing attention is being paid to civil defense preparedness, especially as it affects certain high-risk areas of the country.

One of those areas includes 15 counties in west-central Missouri that contain Minuteman missiles assigned to Whiteman Air Force Base. These missiles are sure targets in any Soviet attack scenario. And all of our land-based missiles will become vulnerable in the early '80s to a Soviet strike, the result of the steady Russian strategic build-up and our accompanying apathy.

A report from the Defense Civil Preparedness Agency, written as a result of Skelton's amendment to last year's defense authorization bill, makes sobering reading. It describes in detail the human casualties and materiel damage that would result from a Soviet attack. A summary of the report is to be found elsewhere in today's paper.

In Pettis County, there would be virtually no survivors with 15–30 minutes warning and current civil defense capabilities. About 20 percent of the population would be blast fatalities, with the remainder succumbing to fallout. Forty-one percent of housing in the county would be severely damaged, with the rest suffering moderate damage.

The remaining counties in the high-risk zone would suffer to varying degrees in an attack, depending upon their location. Of the nearly 300,000 people living in this area, an estimated 191,000 would become casualties with current civil defense protection and 24 hours warning.

Obviously, Skelton is correct in calling this situation unacceptable. We are certain he has the support of his constituents in seeking to upgrade the nation's civil defense to where it can even remotely begin to meet the need.

Unfortunately, it's an open question whether our leaders, whose disastrously poor judgment allowed us to get in this fix in the first place, can take the necessary steps to help us get out of it.●

TIMELY WARNING ON INFLATION

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. McCLOSKEY. Mr. Speaker, I commend to my colleagues the following article on inflation, which appeared in the San Diego Union on April 29, and was written by George Marotta, public affairs coordinator of the Hoover Institution of War, Revolution, and Peace.

Mr. Marotta's comments give us an excellent and timely warning we should all heed.

[From the San Diego Union, Apr. 29, 1979]

ALONG WITH MOTHERHOOD, APPLE PIE? CAN INFLATION BECOME OUR WAY OF LIFE?

(By George Marotta)

Now that inflation has been with us for over a decade many Americans are beginning to learn how to live with it. Furthermore, they are becoming wise in the ways of protecting themselves against its adverse effects. As it continues to persist, a growing number of individuals are even actually learning how to profit from inflation.

Herein lies a growing menace: the more we learn to hedge against, or profit from, inflation the less effort will be exerted to try to stop it. Each unsuccessful bout we have with this problem leaves us at a higher level than before.

The danger exists that it could become so ingrained in our decisions that it will rise beyond our control. The horror stories about the hyper-inflation of some of the Latin American countries and the inflation in Germany following World War I should remind us that it could happen here.

Inflation is already more of a divisive element in our society than we realize. Because most people equate inflation with increase price levels, business is blamed for causing the problem. Labor demands higher wages to keep up with the increased prices. Business raises prices because it anticipates higher wages and controls.

Each element of society is more interested in keeping up with or getting ahead of the problem than in looking for ways of eliminating it. Those who have cost-of-living escalators in their work contracts complain that their increases lag behind inflation. Those without these wage adjusting benefits seek them. These adjustments give people the illusion that they are keeping up with innflation and they are somewhat pacified.

Inflation is destructive to our basic values. It encourages spending beyond our means. Our spending and borrowing accelerates as we try to get out of dollars which decline, into properties that will retain or gain in value. People who splurged years ago on gold jewelry, diamonds, Persian rugs, antique furniture and fine art have seen their value steadily mount. Our tax laws encourage borrowing with its interest deduction allowance.

While "spenders" are rewarded, savers who try to provide for future needs are penalized. Prudent savers who put their money in U.S. Savings bonds have taken a beating. Every $100 invested in such bonds 10 years ago is worth only $89 now. Bank savings last year lost 3.5 percent (the passbook savings rate was 5.5 percent, but inflation ate up 9 percent). Furthermore, the loss increased as a result of federal and state taxes imposed on the interest.

The middle classes who find their savings eroded and their lifestyles deteriorating feel that the rich can protect themselves, while some of the poor are protected by government welfare programs.

The eroding value of the dollar reduces respect both here and abroad. It also affects our other values by turning our world upside down. Saving and investing, previously a virtue, became gambling while spending and borrowing became investing.

A society cannot debase its currency without affecting also its other values. The work ethic diminishes in direct proportion to the instability of the value of wages. Individual responsibility is eroded by uncertainty regarding the future value of the currency.

Uncertainty over the value of purchases causes confusion and mitigates against careful spending. The current boom and spread of gambling from Nevada to Atlantic City reflects a desire by people to reap pleasure from the national currency before it completely loses value.

The growing contempt by people toward the cost of government is reflected in the overwhelming passage of Proposition 13 in California. This was a vote by people against inflation—not against local government. Most realized that the high property taxes were caused by the inflated value of property.

"Substantial deficits in federal finances is mainly responsible for the serious inflation that got under way in our country in the mid-1960s," according to former Federal Reserve Board chairman Arthur Burns. Trying to use Keynesian fiscal policies to limit unemployment has resulted in federal deficits in 23 out of the last 28 years. However, the claim that deficits promote full employment is refuted by the continuing decline in productivity and investment which is the only true base of long-term employment.

It is especially ironic that government, the main cause of inflation, should also be one of its major beneficiaries. This is because government revenues automatically rise faster than inflation because people are pushed into higher tax brackets. A 10 percent price rise results in a 16 percent increase in government revenues.

The disillusionment of the people increases as it watches the government tinker around the edges of the problem it created to enhance its power by instituting wage and price guidelines. Everyone knows that wage and price increases are the symptoms—not the cause—of inflation. It appears that the guidelines have served only to accelerate wage and price increases by business and labor which anticipate the imposition of actual controls.

Respect for government decreases further as one observes the federal officials "jawboning" business, labor, and the hospitals. These are futile attempts to divert the public's attention from the main cause of inflation, government deficit-financing.

Inflation hits many of the poor and elderly especially hard and breeds discontent. It creates bitterness between economic classes as the poor perceive their helplessness and lack of sophistication in developing hedges against, or profiting from, inflation.

The elderly, especially those on fixed incomes, realizing the folly of their previous attempt to provide for their own futures, are turning to government more and more for their needs, and passing the bill to youth. The more politicians rush to fill their health and welfare needs, the less will people save in the future to provide for themselves.

The problem of inflation enhances the power of union leaders as they mount more frequent wage increase campaigns on behalf of their memberships.

Asset-rich companies have less incentive to develop and exploit resources in the face of possible higher returns in the future.

Inflation spreads doubts about the free enterprise system itself. The high interest rates imposed to slow inflation divert funds from the long-term investments which create future profits and jobs. The uncertainty regarding the future rate of inflation and possible government remedial actions hampers business planning.

American companies seem to be merging because inflation prevents them from entering new markets on their own or starting new long-term projects. In addition, the weak U.S. dollar has contributed to a 23 percent increase in acquisitions of American companies by foreign companies.

More and more people feel that they are constantly having to work harder and harder just to maintain their present standard of living. This general frustration and resentment could have serious social consequences. If enough people give up believing that inflation can be checked, we will surely have hyperinflation with all sorts of unpredictable consequences.

Those who try to benefit from it will find that inflation is like a chain letter scheme—the earlier participants will reap large returns, later players will benefit less, and the most recent will lose heavily. If more people try to accommodate to inflation and even benefit from it, we will have a harder time bringing this problem under control.

Some believe it would take a 20 percent annual inflation rate for things to get out of control in the United States. Slowly, but steadily, we are approaching that level. The price rise in February was 1.2 percent. If that rate were to continue, it would amount to 14.5 percent for 1979.

It may be later than we think.●

FEDERAL GOVERNMENT SHOULD STAY OUT OF EDUCATION

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. PAUL. Mr. Speaker, the Federal Government's interference in education is already at a high level, as demonstrated by George Will's recent article on the attack on Grove City College.

If we establish a separate Department of Education, control will be centralized and strengthened even more.

Constitutionally, the Federal Government has no business involving itself in local education. When it does get involved, the results are stultifying.

HEW's Grip on Grove City

(By George F. Will)

Grove City College's troubles began, as many American's troubles do, with a letter from the Department of Health, Education, and Welfare. It began "Dear Recipient" and ordered the college to sign forms confirming compliance with Title IX regulations against sex discrimination.

Such confirmation is required of institutions receiving federal aid. But Grove City insists that it neither seeks nor receives any aid, and it assumed the letter was a simple mistake. Alas, HEW's mistakes rarely have the virtue of simplicity.

The college president says: "I was told in strong terms that they would 'bring us into compliance one way or another.' " And he began receiving "insistent, harassing and threatening" calls from HEW.

The college, a small institution in western Pennsylvania, considers itself independent and is determined to remain so. HEW claims the college has forfeited its claim to independence. When HEW acted, about 140 Grove City students were receiving federal tuition grants. HEW argues that such aid to students who choose to use it at Grove City constitutes aid to the college.

The college argues that this is a petty justification for extending HEW's jurisdiction to an institution that has made substantial sacrifices—in terms of direct aid it has not sought—to remain outside such federal jurisdiction. The college says tuition grants establish a relationship only between the government and the student, and the college's only role is in certifying to the government that the student has matriculated.

HEW replies that tuition grants enlarge the number of young people who can consider attending college, so Grove City "benefits by having its pool of potential students increased." HEW's position has a certain chilly logic. And it calls to mind G. K. Chesterton's theory that a madman is not someone who has lost his reason, but rather someone who has lost everything but his reason.

The college has no quarrel with Title IX: "As a matter of Christian belief, it has treated males and females equitably since long before HEW was created." The administrative law judge who ruled that he is powerless to overturn HEW's claim of jurisdiction also emphasized that "There was not the slightest hint of any failure to comply with Title IX, save the refusal to submit an executed assurance of compliance. . . . This refusal is obviously a matter of conscience and belief." Indeed it is: The college believes, reasonably, that signing the form would acknowledge HEW's jurisdiction, and that no good can come of that.

The judge held that HEW was "total and unbridled discretion" in requiring compliance forms. The college is challenging this in court, although Congress, the ultimate source of such discretion, should have the sense to slip a bridle on HEW's imperial bureaucracy.

This latest example of HEW's territorial imperative comes as the dust is still settling in Washington from the splendid Jefferson Lectures delivered by Edward Shils of the University of Chicago. Shils argued that government has come to regard universities as instruments of public policy, and the universities have been eager to be used as such.

After 1945, academic ideology favored a society in which government is "ubiquitously active and omnipotent," and government took responsibility for ensuring the supply of the educated manpower needed for a "knowledge-based economy." The economists who argued the need for such manpower, and the scientists who were elevated in social standing by their argument, were academics. The logic of their argument was that academics had an enormous claim on society's resources.

In the 1960s, government's goal became the promotion of equality. Rather than recognize that universities are meritocracies, and inherently unsuited to be instruments for that policy, government set about subverting the essence of universities—the rule of merit. It diluted intellectual criteria with sexual and racial criteria in the admission of students and selection of faculty.

Many academics did not resist the saddles and bridles of regulations that came with government aid and enabled government to treat universities as broken horses. Grove City is suffering, in part, the consequences of this "treason of the clerks," the selling-out of fragile, subtle values. But surely HEW has enough tame horses to ride, and can leave alone the spirited, endangered species represented by Grove City.●

SHOWDOWN APPROACHING FOR DEPARTMENT OF EDUCATION

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. MATSUI. Mr. Speaker, I understand that the House of Representatives may very shortly undertake consideration of H.R. 2444, the bill to create a Federal Department of Education. I believe it is one of the most important pieces of legislation which will be acted upon by the 96th Congress.

I am proud to have been one of the 72 original sponsors of H.R. 2444, which was introduced by the distinguished chairman of the Committee on Government Operations, Mr. Brooks. I have participated fully in the deliberations of the committee on this legislation, and I believe that the bill we are recommending to the House will achieve much-needed improvement in the administration of the Federal education programs, will produce substantial savings in costs, and will provide national leadership which is sorely needed in American education.

I have just seen an excellent article stating the pros and cons concerning the proposed Department written by George Neill, assistant superintendent of our California State Department of Education in Sacramento. This article appeared in the June 1979 issue of the Phi Delta Kappan, a highly respected professional journal in education. Because I know many of my colleagues are interested in the facts on this matter, I include Mr. Neill's article in the Record at this point:

[From the Phi Delta Kappan, June 1979]

Department of Education Nears Showdown in House

(By George Neill)

The proposed Department of Education, the hottest education issue in Washington for the past two years, teeters at this moment in a "to be or not to be" status.

The final verdict is now in the hands of the House of Representatives, the point where the department was derailed last fall. A vote of yea or nay is expected by the end of this month.

The outcome at press time is highly uncertain. Odds are no better than 50–50, even with unquestionably strong support from the

Carter administration. If similar support had been forthcoming last year, insiders say, success would have been assured. It is much tougher now. By delaying the decision until this year, the opposition won needed time to build a stronger attack.

Opponents are tossing an ingenious array of boobytraps and roadblocks in the path of the bill. Almost certain death was averted when skilled Senate leadership managed to detach an amendment by Senator Jesse Helms (R-N.C.) that called for restoration of voluntary prayer in public schools. Another killer amendment—proposed with undoubted devilish intent by Senator Daniel Moynihan (D-N.Y.)—called for bringing all education activities in the federal government into the new department, thus upsetting careful administration efforts to leave out functions that would upset powerful special interests. The administration wants to avoid unnecessary opposition; Moynihan seeks to stir it up. One wants to pass the bill; the other wants to sabotage it.

Surprisingly, the attacks against the proposed department are increasingly vehement. Arguments first voiced by the American Federation of Teachers are now repeated in shrill tones from both the left and the right.

Much of the attack is based on scare tactics hardly worthy of a serious discussion of an important policy issue, in the view of many informed observers. "Demagogic" may not be too strong a term to describe some of the fears being spread by supposedly responsible voices.

For example, who really believes that the National Education Association could dictate the directions of the new federal department? To those who know the Washington scene, that's laughable. If the NEA has so much influence over federal bureaucrats, why doesn't it have more of a voice in the happenings at the U.S. Office of Education and the National Institute of Education?

Besides offering the NEA red herring, opponents are playing up abhorrence of bureaucracy, which had much to do with the success of Proposition 13. The cry goes something like this: "Now they are at it again. creating a whole new agency, spending more money and concentrating more power in Washington."

It sounds like the George Wallace of the early 1970s, but this time it's being said by people like Albert Shanker, president of the AFT; the Washington Post; and the New York Times.

Unfortunately for those who would like to see education have a stronger voice in the executive branch, these attacks against more bureaucracy, more spending, and more federal control are having a damaging effect on the department's prospects in the climate of today's Washington.

Proponents of the measure believe these charges are ridiculous. They find it hard to see how bringing together already functioning government units from six different departments adds to the bureaucracy, increases costs, or strengthens federal control of education.

If the President is successful, he will, in forming the department, remove education units from the bureaucratic nightmare of HEW and five other departments. A secretary of education would report directly to the President. At present the education units report to department secretaries who usually have "more important" things than education to worry about.

The current weak voice of education in the federal establishment is one of the reasons given by First Lady Rosalynn Carter for favoring the new department. She told a press conference that she has "lobbied Jimmy" about the department because education does not get enough attention in the present scheme of things. She said it is rarely mentioned at cabinet meetings. "It's lost in HEW . . . It's never brought to the forefront and never discussed. I think we need the Department of Education," she added, "to give visibility to it and to be concerned about the quality of education in our country."

A contrary view was expressed by former President Gerald Ford at a news conference held in New Orleans by the American Association of School Administrators. When asked by this reporter if he thought education already had an appropriately strong voice in the federal government, Ford replied with a most positive "yes." His reason: Strong appointees as U.S. commissioner of education and assistant secretary of HEW for * * * and were heard at the top levels of government. After Ford left, a wag in the back of the room asked: "I wonder if he was talking about Virginia Trotter (Ford's assistant secretary of HEW for education) or Ed Aguirre (Ford appointee as U.S. commissioner of education)?"

Another negative force cited by pro-department forces is the role of Joseph Califano, HEW secretary. Before the administration was firmly committed to the department, Califano was outspoken in his opposition. Recently, he has been quiet. A powerful influence in official Washington, Califano has discreetly let people know he is against the bill. No one can prove, as some have charged, that he has been fighting a quiet but firm rear guard action throughout the debate to undermine any effort to take the E out of HEW and thus diminish his turf. On the surface, at least, Califano must appear to be a good team man.

Two of the most effective spokesmen for the administration's position are James T. McIntyre, Jr., director of the Office of Management and Budget, and Ernest L. Boyer, U.S. commissioner of education.

McIntyre makes a strong case when he points out that the commissioner has little authority or flexibility to manage the programs for which he is responsible. Another problem he cites is the lack of coordination among federal education and related programs. Both of these problems would be solved with the creation of the new department, McIntyre claims.

When asked how much it will cost to set up the new department, McIntyre said it would be $10 million during the first year of operation. But this will be offset by "the savings that result from the elimination of unnecessary overhead and duplicative staff functions in the Office of the Secretary of HEW and in the HEW Education Division," he said. "In the long run, we expect additional savings through improved financial management systems geared specifically to education programs and more efficient program administration."

Boyer speaks bluntly about the need for change. "To put the matter as pointedly as I can," he told the Senate Committee for Governmental Affairs, "the current organization is indefensible." He points to unclear line/staff relationships between the education units in HEW and concludes that "administrative effectiveness is inevitably diminished." Continuing his attack on the current system, Boyer said "it's sometimes hard for outsiders to decide who's in charge and where responsibility should be fixed; actions are taken by unknown people who cannot be located in a fragmented, overlapping structure." A secretary of education administering a single department "would be more visible and more accountable to the people," Boyer concluded.

The pros and cons are being weighed by members of the House as they approach their day of decision. Meanwhile, in keeping with our times, President Carter's National Advisory Committee for Women has met and asked the White House to name a woman as the first head of the still-to-be-formed department.●

PANGRATZIO CLEARS THE AIR

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. PAUL. Mr. Speaker, a letter that appeared in Industry Week a year ago, May 15, 1978, becomes more and more relevant as our economy is slowed to a halt by the coercive utopians whose purpose is to reduce the American people to poverty.

Recently reprinted by the International Institute for Economic Research, "Pangratzio Clears the Air" is a parable for our time. It demonstrates the utter folly of this Congress in enacting the laws it has, in giving enormous and unconstitutional powers to irresponsible bureaucrats, and in sustaining those laws and those bureaucrats by endlessly handing over billions of the taxpayers' money.

We have embarked upon a course to disaster. The longer we persist in maintaining this course, the worse the approaching disaster will be. July 1, 1979, is the date on which all further development in most of this Nation will stop, unless Congress acts quickly. It is unbelievable that this body gave the Environmental Protection Agency the power to shut down an entire State if that State does not have an implementation plan approved by the EPA. The threat of no growth is about to be executed. The victims will be the American people. I hope that we, as representatives of those people, will act before it is too late.

The article follows:

PANGRATZIO CLEARS THE AIR

Dear Mr. Editor: Maybe you never heard of me. My name is Pangratzio Squiza. I am writing to tell you about me and the Environmental Police.

I see from your magazine that they are trying to put lots of steel mills out of business. But my story is different. They won't let me go into business.

About ten years ago, I decided to build one day a shoe factory. It took me over eight years to save enough money to be able to get a loan from the bank. About a year and a half ago, I hired an engineer fellow to make designs for my factory. That cost me lots of money, but I paid it, because I don't know how to make designs for a shoe factory. What I know is how to sell shoes.

Well, this engineer fellow designed for me a factory that has a boiler that burns up coal to make steam. He tells me I got to have steam and I got to burn coal. So I took the plans he made for me to my lawyer friend. He wasn't too good a friend, because he charged me a lot of money to explain about the Environmental Police. He said to me that if I am going to burn coal, I have got to get somebody from the Environmental Police to give me a permit.

So I asked him, how do I get a permit?

First, he says, I got to have an *environmental impact statement*. To get one, I had to go and hire some fellows who make these environmental impact studies, which tell you all about how a factory will make new pollution problems. And they charge a pretty good buck to do it. It took them almost a year to write up my study. Then I took the study to the man at the Environmental Police and I told him where I was going to build my shoe factory. He told me I had a pretty good study there, but I got a pretty bad location.

I asked him, "What do you mean, a bad location? It is right in the city. There are lots of good workers there. Lots of them are out of work and I'll be able to give them a job. There are highways, banks, and railroads close by. I got a good location!"

He says to me, "For you, maybe. But not for the environment. Your factory will make air pollution. And you are in a *non-attainment* area."

So I asked him, "What is a non-attainment area?" And he tells me it is a place where they already got too much air pollution. And they don't want to let anybody else in.

Well, I asked him, isn't there any way they can let me build my shoe factory in the city? And that is when he told me about *offsets*.

You see, the Environmental Police have what they call an *offsets policy*, which is a thing somebody figured out would get new factories into dirty cities. They will let in a new factory if somebody does something about an old factory.

So I asked him what I got to do.

He told me there was a bunch of things I could maybe do. First, he said, maybe I could clean up one of my other factories in that city. But I told him I don't have no other factories in that city.

Then he said maybe I could buy somebody else's factory and shut it down. But I told him I haven't got enough money to buy somebody else's factory. I barely got enough to pay for my factory that I want to build.

Then the man at the Environmental Police said maybe I could make a deal with somebody who already has a factory and get them to clean up their pollution to make room for my pollution. That is what they call an *offset*.

So I went home and I called a few people I know who know people who have factories. And then they called those other people to ask if they would put in pollution controls to help out Old Pangratzio.

Then they called me back.

The news wasn't very good. Most of the people they called just laughed. One man thought maybe he could help me, but then he talked to his lawyer and the lawyer told him that if he worked out a deal like that for me, maybe somebody else who wanted to build a factory would say it was a conspiracy. And that might make a big problem with the Antitrust People.

I was getting pretty sick of all the excuses until finally one of my friends found a factory that would help to get me an offset. And I went back to the Environmental Police and told them I found an offset.

They wanted to know the name of the other factory. And when I told them, they said, "No deal!"

I asked why and they said it was because the other factory was dirty. I said, "Of course it's dirty. How you gonna get an offset at a clean factory where they already got stuff to get rid of air pollution?" But the man at the Environmental Police told me the rules said I had to find an offset at a clean factory where they already got the pollution machines the state told them to get.

Well, while I was out looking for a clean factory to clean up, the Congress—they changed the rules. They call them the Clean Air Amendments. These new rules tell the Environmental Police how to work their offsets policy.

Before they voted on the new rules, I called up my congressman and told him about my problem. He told me they would fix me up good with new rules for offsets.

Well, maybe they tried. They wrote something that sounded pretty good, if you could understand it. These new rules say a state can give a permit for a new factory, sometimes, even if the new factory can't find an offset. They call this a waiver.

So I called a man at the State Capitol to ask him if they would give me a permit without getting an offset by using the waiver. The man told me that maybe they could give me a waiver, but first they had to figure out what they had to do to get permission from the Environmental Police in Washington to give out waivers. He said he thought they had to make a plan so that by 1982 there wouldn't be any more non-attainment areas. They needed to clean up everyplace fine, so that nobody lived in a dirty area.

I asked him how long it would take them to make that plan. He said about two years. I told him I couldn't wait two years to get a permit. The bank said it would lend me the money now for my factory, but in two years it might not want to.

They then told me there is something else in the new clean air rules that might let them give me a waiver before they make their new plan—if they make up an inventory list of all the pollution that is coming out of all the smokestacks and if they draw up a quickie plan to start getting rid of some of it. The quickie plan has to be better than their old plan—he called it a State Implementation Plan—but maybe not as good as the new Attainment Plan.

But the man at the State Capitol said that if they do all this for me and give me a waiver now, there is something I gotta do for them. I got to put in what he calls L.A.E.R. That means pollution controls to get the lowest achievable emission rate.

How low is the lowest achievable emission rate? I asked him.

He said he wasn't sure, because Congress told the Environmental Police they could have nine months to figure that out. He said something about a lot of fine print in the new law, something that said L.A.E.R. was as low as the lowest amount allowed by the toughest state, unless it was not achievable.

I asked him: "How do you know if it is achievable?" He said that if it is not achievable, it would be up to me to prove it. He said he could not give me a number because he did not know if anybody proved how low you can go.

Well, I went back and called the fellows who wrote my environmental impact statement to ask them if they knew how low you can go. They weren't too sure, but they thought if I did four things I could get my sulfur emissions pretty low. First, I should buy low-sulfur coal. Then I should use a coal-cleaning process to get out more sulfur. Then I could burn it on a fluidized bed—which is a thing that grabs the sulfur while the coal is burning. And after all that, I could put on a scrubber to get out any sulfur that is still left when the smoke comes up the smokestack.

"If I do all those things, would that be L.A.E.R.?" I asked.

They said maybe.

"How much it's gonna cost?" I asked.

They said it maybe would cost about twice as much as it would cost me to build my factory.

That's when I decided the man at the State Capitol was nuts. So I'd build my factory in another state. But when I called this other state, they told me to forget it, because no matter what the Congress and the Environmental Police did, they weren't going to give any waivers to their offsets policy. They said the people in their state want them to be tough with polluters.

So I decided to stay in my own state, but build my shoe factory out in the country because the air is clean out there and it wouldn't be a non-attainment area. And I wouldn't need an offset or a waiver.

That's when the man at the State Capitol told me about non-degradation, which means an area is so clean already that they want to keep it that way. He said there are three kinds of nondegradation areas. The best kind, he said, is Class 1, which is like a national park and nobody is going to build a factory there. But I was O.K., because my new property was in a Class 2 area, which is a place where they will let in only a little bit more air pollution.

I told him my factory would only make a little bit more air pollution.

He wanted to know how much more. I said I would have to ask the man who made up my plans. So I went to the engineer fellow and he told me how much sulfur and particles my factory would make every day.

I went back to see the man in the State Capitol and I told him what the engineer fellow said. He tol me to hurry up and get my application for a permit in, because somebody else might come in with an application before me, and his factory might use up a thing they called the allowable increment—and then they wouldn't be able to let me come in with my factory.

So I hurried up and filled out my application for the Class 2 area. And I was lucky because when I came back the man told me I was the first one and so there shouldn't be any problem.

But then he told me there was something wrong with my application. He said it didn't explain how the smoke from my factory would be blown around by the wind—and they had to know about that because not too far away is a Class 1 non-degradation area. He told me that before I could get a permit to build my shoe factory in the Class 2 area, I had to prove that my smoke wouldn't blow into the national park.

"You mean ever?" I asked him.

He said no, but it couldn't blow into the national park more than 18 days every year. The Congress decided that a Class 1 area has to be clean only 347 days every year—but only if somebody asks for a permit and gets turned down and the governor decides to give him a variance and the President goes along with it. If you don't get a variance from the governor, then the Class 1 area has to be clean 364 days every year.

So I asked the man at the State Capitol how I could find out if the smoke from my factory would make a problem for the national park. He said I had to get an air modeling study.

I found some new experts who know about air modeling and they did a study for me. They did a pretty good job. But I had to pay them a fat buck. They told me that my air pollution wasn't too bad and it wouldn't make a violation of the *allowable increment* in the Class 1 area more than about five or six days every year.

I said, fine, that should make the Congress and the man at the State Capitol very happy.

But when I went back to the State Capitol with my engineering plans, my environmental impact study, and my air modeling study—that's when the man told me I was too late. He said somebody came in two days before me with all that stuff and they gave him a permit. And they couldn't give me one, too, because if they let in two factories, then the allowable increment would be violated.

So now I can't build my shoe factory. But that's all right. Because I took a look at my savings account the other day and I discovered that the money that I was going to put into the business I have already spent on the engineering plans, the lawyer's fee, the environmental impact study, and the air modeling study.

Even if the fellows at the Environmental Police would give me a permit for my factory now, I couldn't afford to build it.

So if you know of anybody who would like a good set of plans, please let me know.●

THE MOVE TO SABOTAGE THE CANAL TREATIES

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. McCLOSKEY. Mr. Speaker, Sunday's Washington Star published an article by William F. Buckley which challenges the House to consider well our prospective actions to implement the Panama Canal Treaty of 1977. I think Mr. Buckley is right when he suggests that the House has an obligation to accept the treaty as the law of the land and to refrain from an unwise call on the U.S. Marines.

The article follows:

[From the Washington Star, June 3, 1979]

THE MOVE TO SABOTAGE THE CANAL TREATIES

(By William F. Buckley, Jr.)

Concerning the effort by members of the House of Representatives to derail the Panama treaties, a few observations:

(1) There is only one discipline indispensable to self-government. That is acquiescence in a political fait accompli. The reason democracy doesn't work in most countries in the world is that corporate political decisions are not accepted as binding by the whole of the population. Vice President Richard Nixon had very good reason to believe, in November 1960, that he had in fact won the election. It is the most statesmanlike act of his career that he failed to press his claim. Because if he had done so, the country would have been thrown into chaos. Better, in other words, to have permitted Mayor Daley to steal votes in Chicago, than to dismantle the Republic.

(2) The current effort by a few congressmen to draft legislation implementing the Panama treaties isn't, in the proposals of Congressman Hansen, an effort at devising harmonious legislative devices to implement a treaty passed by two-thirds of the U.S. Senate. It is, really, an effort to repeal that treaty. None can, in clear conscience, recognize it as anything but that.

Another way to put it is this: if the Hansen proposals were written into law, the resulting situation would be one that Panama would never have agreed to during the decade of negotiations that led to the 1977 treaties. Moreover, the Hansen proposals ask for more than United States negotiators ever asked for under four presidents, two of them Democrats, two of them Republicans.

Among other things, Mr. Hansen is asking the Panamanians to pay to the U.S. the cost of constructing the canal, plus interest. One wonders why, while he is at it, Mr. Hansen hasn't proposed that Panama also reimburse Congress for the time it has spent in discussing the Panama problem.

The fact of it is that the Hansen proposals are parliamentary exploitation of an unseemly sort. They are the equivalent of a Democratic Congress refusing to pay the cost of the inaugural ceremonies of a Republican president.

(3) Any discussion of money, in the Panama treaty situation, is easily confused if one doesn't take carefully into account that revenues from the operation of the canal aren't infinitely expansible. It is all very well to say, blithely, that the Panama Canal Commission should raise the toll charges 20, 30, 50, 100 per cent. But the demand for the canal is highly elastic. As matters now stand, a freighter traveling from Osaka to New York will flip a coin in deciding whether to use the Panama Canal or the Suez Canal.

The United States has a clear interest in keeping the cost of the canal down. And, under the treaty, a commission the majority of whose members are U.S. citizens would set the toll charges. To impose on Panama economic burdens that could only be discharged by raising those toll charges would result in heavy impositions on shipping, and higher costs to importers and consumers; and, at the margin, to diminished gross revenues as a result of unbearable costs. Thus the Hansen proposals, viewed economically, are an invitation to make the Panama Canal obsolete.

(4) Assuming the Hansen proposals carried in the House, what would the situation then be? Well, the Senate obviously would decline to go along. A majority of the Senate is hardly going to vote to undo what two-thirds of the Senate voted to do last year after the most prolonged debate since the Missouri Compromise. Under the circumstances, the treaty, scheduled to go into effect on October 1, 1979, would be frozen for lack of funds required for its implementation.

This would leave us with what? Not with the Treaty of 1903. That treaty was formally repealed by the Senate when the fresh treaties were enacted. There is no way that Congressman Hansen can bring back the old treaty. We would be left without an operative arrangement with Panama. In legal Limbo, so to speak. Panama could then legally seize the canal, withdrawing its commitments under the 1977 Treaty on the grounds that the partner to that treaty had not acted in good faith. And we would then be left with—the United States Marines. Period. We would have cut ourselves off from juridical and moral and military rights we now formally have, but which some people are prepared to give away for one round of applause at an American Legion rally.●

HEROISM AWARD TO BRANISLAV "BRANKO" ILIC

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. BENJAMIN. Mr. Speaker, allow me to take this opportunity to ask my colleagues to join with me in commending and congratulating Branislav "Branko" Ilic of Whiting, Ind., who on June 12, 1979, will be the recipient of a special heroism award given by the Whiting community in appreciation of his valiant lifesaving efforts while a tragic fire blazed through an apartment building on the south side of Chicago on March 28, 1979.

Mr. Ilic was driving by the scene when he noticed smoke coming from the building. He immediately jumped from his car and, with no regard but for those entrapped, ran into the building to alert the residents and assist in their evacuation. In this attempt, he subsequently required hospitalization. Whereas others might have chosen to ignore the situation, Mr. Ilic cared enough to get involved. The survivors of this tragedy can indeed be grateful that a man of Mr. Ilic's character arrived upon the scene.

His heroics, however, are of little surprise to those who grew up with him. Following his emigration from Yugoslavia to the United States as a young boy, "Branko" quickly rose through the ranks of the Boy Scouts, earning many badges and honors.

A Whiting (Ind.) High School graduate, "Branko" continued his education at Ball State University where he graduated from the School of Education and excelled in soccer. He has since become very active in the recent soccer movement in Indiana and Illinois. He has also served as a court bailiff for Whiting City Court Judge William J. Obermiller.

The appreciative citizens of Whiting have chosen to honor Branislav Ilic by the presentation of the heroism award. I proudly join them in saluting this outstanding man.

Mr. Ilic is presently planning the opening of a sporting goods-soccer store and I'm sure my colleagues join me in wishing "Branko" Ilic and his family every success.●

AWASH IN OIL AND OUT OF GASOLINE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. McDONALD. Mr. Speaker, what we are now witnessing in the current gasoline shortage is the cumulation of things that have been going on for years. We are seeing the cumulation of years of agitation by the environmentalists and others against new refineries. We are seeing the cumulation of the blocking of the Alaskan pipeline for years. We are seeing the results of the years of delay in building a pipeline across the West to bring the Alaskan crude to the rest of the Nation. The newsletter "Access to Energy" for June 1, 1979 recently summed up this situation very well. It pointed out who should be sharing the blame in California. The article follows:

AWASH IN OIL AND OUT OF GASOLINE

What has happened to California will soon happen to the rest of the country. In California government regulation was merely wedded to de-industrialization earlier and with a heavier dose of insanity.

When the sham-environmentalists lost their battle against the Alaskan pipeline, they were quick to man the second lines of defense: Legal prohibition of exporting Alaskan crude to Japan (and trading it for oil from Japan's present suppliers such as Mexico); no refineries; and no pipelines.

When, in 1975, Dow Chemical tried to build the world's cleanest refinery—a $1 billion, 1,000-job plant—Jerry Brown-out's de-industrializers so obstructed Dow with red tape, permits and environmental impact reports that some 40 permits and more than $1 million later the company gave up.

When Sohio tried to build a crude terminal at Long Beach with 200 miles of pipeline across California to connect with the existing system that would have brought Alaskan crude to the rest of the country, Brown-out and Tom Quinn, chief of one of his wrecking crews, beat the life out of this project, as they had beaten it out of the Sundesert project and all other energy facilities threatening to give California what it desperately needed.

All of this went on behind a nightmarish smokescreen of eyewash and hypocrisy. California did not need any power plants, claimed Brown-out, because he was going to generate electricity by windmills, burning corn husks, and by introducing solar power with the help of such renowned scientists as Solarcal's director Tom Hayden. His "scientific" adviser R. Schweikart discusses the future of nuclear energy in a public meeting with a metallic star pasted to his forehead and dancers beating drums circling the panel of "energy experts" around him.*

It is, of course, not possible to dupe the gullible forever with baloney about Californian current from corn husks and wonderful warmth from wood waste, and Brown-out's cronies have now quietly taken action to ease the construction of coal-fired plants and have requested permision to be exempted from the federal ban of building more oil-fired power plants. With the mental acrobatics of one who explains why your local fire department's water hoses should prudently be replaced by gasoline sprays, R. Maullin (heading another of Brown-out's wrecking crews) claims that oil-fired power plants will result in burning less foreign oil.

Meanwhile Brown-out himself takes to the streets of Washington, D.C., to rave against nuclear power on the very day that the gasoline lines in California grow up to 8 miles long, as he prepares for next year's campaign, in which he may run for Queen of the USA.

Few things could be more typical for the abyss between those who want to produce wealth and those who want to redistribute it than the gasoline lines. The cause, say the redistributors, is the oil companies' greed for profits; the cure is rationing the shortages and post-officizing the oil industry.

No, say the producers: Get the regulators and deindustrializers out of the way, and let us freely produce America's hamstrung energy resources.●

NATIONAL GRAIN BOARD

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. WEAVER. Mr. Speaker, I would like to call attention to the testimony I delivered today before the House Subcommittee on Livestock and Grains, concerning the potential benefits of the establishment of a national grain board, as proposed in my bill, H.R. 4237.

The testimony follows:

TESTIMONY ON H.R. 4237

(By Jim Weaver)

Chairman Rose, gentleman of the Subcommittee on Livestock and Grains, I am honored to come before you today to speak on behalf of H.R. 4237, the National Grain Board Bill of 1979. I will seek to show the great need which currently exists for a strong, forward-looking American grain export policy, and to demonstrate how the creation of a National Grain Board would benefit American farmers and consumers, as well as the people of other nations.

Since the dust storms of the depression years, the United States has truly become the world's granary. In 1978, we exported over 3.3 billion bushels of wheat, corn, and other grains. Each year, we export over two-thirds of our total wheat harvest. Over half the grain in international markets comes from the United States.

In a world in which the total demand for food is steadily increasing at the rate of over 3 percent per year, any nation with such a tremendous agricultural resource should be expected to boast a healthy farm economy and an enviable balance of trade.

Yet the American people can boast of neither of these benefits. Our farm economy is, by any rational measure, disintegrating yearly, and our balance of payments is in the worst shape in the history of the republic.

From the point of view of the American public, not just farmers, but consumers as well, our national grain policy is every bit as bankrupt as our national oil policy.

Since the 1930's, four million family farms have disappeared from the American agricultural scene. 27,000 more are expected to go under this year. Corporate farms administered by huge, vertically integrated agribusiness corporations annually take over and dominate an increasingly large portion of the farm economy.

The corporate take-over of American farming has not profited consumers either. Food prices are rising at unprecedented rates. Earlier this winter, food prices rising at an annual rate of over 16 percent accounted for more than a third of the rise in the Consumer Price Index as a whole.

Every American citizen suffers under the long siege of our balance of payments deficit. In relationship to Japan alone, we face a deficit of over $11 billion. Our total balance of payments deficit is over $30 billion. Last year our imports increased by $28 billion, while the value of our exports rose by only $6 billion.

What all these figures prove is that we have yet to learn, as a country, the hard-nosed facts of the game of international trade. In a recent article in the Atlantic, economist Eliot Janeway put the matter very well:

"The United States is suffering from an antiquated and amateurish willingness to muddle along, paying more cash out of one pocket for oil imports, collecting less cash in another pocket from exports, and wasting dollars to settle its disastrous deficits. The price every American is paying for the politics of gullibility and the economics of appeasement is intolerable interest rates . . . They are both a consequence and cause of inflation."

There is little doubt that this intolerable inflation is caused, at least in part, by our seeming unwillingness to trade aggressively in the international market where we enjoy a natural advantage.

In 1970, oil and grain brought virtually the same price on the international market—$2 for a bushel of wheat, $2 for a barrel of oil. Since then, we have watched as the OPEC nations, through concerted political action, have successfully hiked the price of oil to almost nine times what they were getting then.

Mr. Chairman, grain is to the United States what oil is to the Arabs—it is our greatest potential trade resource. Yet we have not managed to turn this great resource to the benefit of the American farmer, or the American public. While oil is now selling in the international spot market for $30 a barrel, and with the OPEC price hovering between $16 and $18 and threatening to go up, we are still getting only about $3 for a bushel of wheat.

This stunning discrepancy simply emphasizes the misguided nature of our national grain export policy. The National Grain Board Bill of 1979 is designed to change that situation.

It is designed to give the United States the means by which to cooperate with the grain boards of Canada and Australia to raise the international market price for grain.

It is designed to allow the federal government to barter grain for foreign oil.

It is intended to provide a better return for American farmers.

It will provide us with the ability to monitor effectively the purchases of American grain made by foreign governments and prevent further reenactment of the great grain robberies of 1972 and 1975.

It will not require the creation of any new bureaucracy, as the Grain Board would be the existing Commodity Credit Corporation.

A properly managed Grain Board would have a significant impact on our national balance of payments problem.

It would stabilize world grain prices and encourage Third World countries to develop their own agricultural resources.

And it would not cost the American taxpayer a penny.

Mr. Chairman, when I say, "Let's start getting a barrel for a bushel once again," I don't mean that a National Grain Board should be expected to immediately raise the price of wheat to $16 a bushel. I think only our own Department of Agriculture has chosen to take that phrase so literally. What I mean is, it's time we started using our grain resource in a rational way to benefit the people of the United States, it is time we began to close the gap between grain prices and oil prices, instead of letting the difference grow continually larger and larger.

If a well-managed grain board were able to raise the average price of American grain in the world market by even $1 a bushel, (and there is every reason to assume that it could do so), we could reduce our balance of payments deficit by $3.3 billion. And judging by the response which people have been giving to the "barrel for bushel" slogan, the vast majority of the American public thinks that would not be such a bad idea.

Yet, without a Grain Board, such an improvement is most certainly impossible. Because our national grain policy now caters to the needs of the huge grain companies and agri-businesses, just as our oil policy is catered to the needs of the energy industry.

In fact, there are many parallels between the world grain trade and the world oil trade. Grain is a necessity worldwide, as is oil. In international trade, grain is almost totally controlled by five enormous multinational corporations. In oil the number is seven. These corporations do not report to the American people, nor do they owe us any particular allegiance. The grain corporations—Cargill, Continental, Louis-Dreyfus, Bunge, Andre, are even more secretive in their operations than the giants of oil. They are family owned, and are not required to make annual public reports to their stockholders. As a result, we know very little about them. What we do know is the result of some very fine investigative work on the part of a few journalists and Congressional committees.

We do know that these giant grain companies, once again paralleling the energy industry, are using their enormous profits to diversify their control of U.S. agriculture. And they do make enormous profits: In 1972, Cargill had net sales of $5.2 billion, and enjoyed profits of $107.8 million on a net worth of $352.4 million. In 1979, Cargill has projected sales of $12.6 billion and profits of over $150 million.

Evidence accumulated in Dan Morgan's recently published Merchants of Grain indicates that Cargill is using its grain profits in a successful effort to exercise a dominant influence in other areas of agriculture as well. According to Morgan:

"Between 1970 and 1978, Cargill bought two steel companies, Ralston Purina's nationwide turkey processing and marketing facilities, Texas and Kansas based flour companies with their own lines of grain elevators, 137 grain elevators in Canada, a solid waste disposal plant in Delaware, a Memphis cotton company, and a Nevada life insurance firm. The bill for all this was in excess of $300 million."

Cargill has since acquired MBPXL, the nation's second largest beef packing house. As Morgan says: "(it is now) possible to say that Americans eat steak cut from animals fattened on Cargill grain in Cargill feedlots and slaughtered in a Cargill packing house."

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*Los Angeles Times, 4/15/79.

Mr. Chairman, this economic concentration has been disastrous for consumers and producers alike. We know that these vertically integrated conglomerates are able to use their dominance of the agricultural chain of production and distribution to make enormous profits. They are also known to use their extensive networks of foreign subsidiaries to avoid paying U.S. taxes, and to avoid federal reporting regulations which they find onerous. They can and do manipulate market instabilities for their own benefit, and to the detriment of their customers both here and in Third World countries. And their ever-increasing profits stand in stark contrast to the economic difficulties faced by farmers here at home.

But the grain companies are not the sole beneficiaries of the current grain policy of the Department of Agriculture. It also benefits foreign governments. As Senator McGovern pointed out in the debate on the Senate resolution urging President Carter to work toward the possibility of American participation in a wheat-exporter's cartel, many of the largest importers of American wheat are currently reaping double profits from our low prices. The Japanese Government, for instance, buys our wheat at the going price, around $3 a bushel, and then adds an import tariff of almost double the original price before turning around and selling it to their own millers for between $9 and $11 a bushel.

This is not an isolated instance. It has been estimated by authorities in the field that over 80 percent of all American grain exports are purchased by countries with central purchasing commissions. The National Farmers Union has published a list of the various internal price support levels established in over 40 countries to which the U.S. exports wheat, ranging from $4.08 in Chile to an astonishing $22.97 in Japan.

In this situation, for representatives of the USDA, or the grain trade, to claim that the establishment of a National Grain Board would disturb the delicate balance of the free market, borders on the ridiculous. There is no free market in the international grain trade—and the only nation which has not yet faced up to that fact is the United States.

Mr. Chairman, this is not just a theoretical question. The naivete of the Department of Agriculture in dealing with the giant grain conglomerates and with the purchasing commissions of foreign governments has cost American taxpayers millions of dollars. The record of the great Soviet grain robbery of 1972 speaks for itself. That disaster, in which the Soviets were able to buy 18 million tons of American grain at artifically low prices, and without the knowledge of the USDA, caused U.S. food prices to jump almost 20% in a single year. After that, Congress amended the Agriculture Act to institute, for the first time, very minimal reporting requirements for export grain sales. Representatives of the Department of Agriculture lobbied against even these reporting requirements, although they were proved inadequate only three years later, in 1975. In that year the Soviet purchasing commission again made off with over 10 million tons of U.S. grain, once again spot purchased at conveniently low prices, once again under the nose of the Department of Agriculture.

Representatives of the Department of Agriculture have made many statements in opposition to the establishment of a National Grain Board. But basically, they all boil down to the same tired phrase: "We just can't get any better price for our wheat than we are getting now."

Yet it is clear that foreign customers will pay more than $3/bushel for American wheat. In Japan, millers are already paying $11. In the common market countries, they pay $7. In Korea and Switzerland, over $10. In Taiwan, $7.50. In fact, the United States currently sets the world price floor for wheat, by underpricing every other exporter and sweeping the bottom of the market.

And it is also clear that the other major grain exporting nations, Canada and Australia, are more than willing to consider the possibility of international cooperation to raise world grain prices. When Senators McGovern, Melcher, and Bellmon met with representatives of the Canadian Wheat Board last year, they were assured that the Canadians were interested in ending price competition between the two nations and at arriving at a "reasonable price that Canadian and U.S. wheat could be sold for in international markets." And the senators received written assurance of the same kind from the Australian grain board, and from representatives of the Argentine government.

Mr. Chairman, the National Grain Board set up under this bill could indeed raise the international price of grain. By cooperating with the Canadian Wheat Board and Australian Grain Board, and by offering long term contracts to the purchasing commissions of foreign governments, it could completely alter the structure of the international grain market.

Curiously, the same people who object to the establishment of a National Grain Board on the grounds that it could not effectively raise the international market price of grain, claim in the same breath that it would raise consumer prices here at home. Now it is hard to see how those two claims can both be true, and in fact, neither one is supported by the evidence.

According to studies undertaken by two well-known agricultural specialists at the Library of Congress, Mr. Walter Wilcox and Mr. Barry Carr, a grain board could effectively raise the international price of American grain and bring a better return to American producers. I would like to quote from Mr. Wilcox' report:

"The U.S. National Grain Board might announce minimum prices for key grades of wheat at the main ports. It is probable that the Board would set minimum prices slightly higher than the current levels, expecting other major exporters, especially Canada, to adopt similar price policies. . . . If several of the major exporters, especially Canada and Australia, adopt similar export price policies there could be some short run gain to the producers in the exporting countries with only a small reduction in exports from the potential that might have been sold at somewhat lower prices."

Mr. Carr investigated the relationship between raw wheat and the retail price of bread on the domestic market. The raw wheat component in the final retail price of bread is surprisingly low: consistently less than the cost of the plastic in which the bread is wrapped. Current estimates show that at the existing price of $3/bushel, raw wheat cost contributes less than 3¢ to the price of a loaf of bread. To quote from Mr. Carr's report:

"A substantial increase in farm value may have little or no impact on the retail price when the farm value of a product represents a small percentage of the retail price, as is the case of products requiring a high degree of processing . . . An increase in the wheat price from the current level of $3.00 to $3.60 would add less than one cent to the raw material cost of a loaf of bread."

But aside from getting a better price on cash sales, the Board could also barter grain for oil or other strategic materials.

The current cost of production for a bushel of wheat is estimated between $4 and $5, depending on the region of the country and exactly what cost factors are included. Either way, at the current export sale price of about $3.10/bushel, American farmers are losing over $1 billion a year in equity through overseas sales.

That is the reason why this bill contains a minimum export price equal to the target price of each crop handled by the board. And that is also why the revenues which come to the board, in excess of the cost of purchasing, storing, and handling the grain, are to be returned to the farmers.

The National Grain Board is explicitly intended to bring a more just return to the American farmer. Still, we must insure that farmers are adequately represented in the policy-making process by which the board forms its long range goals and also its day to day operations.

In response to this need, the National Grain Board Bill would establish a farmers' advisory commission to work closely with the Board of Directors of the Grain Board. The advisory commission would give farmers a much needed voice in grain board operations, and would also tend to direct the board away from the kind of policy, practiced by the Commodity Credit Corporation at times in the past, which damages the interests of producers. This advisory voice given to farmers, added to the established minimum export price, will prevent "dumping" grain at prices injurious to the farm community.

The grain board is also explicitly directed to get the highest possible international price for American grain. It is my belief that this policy will benefit not only the citizens of this country, but also the people of other nations, including third world countries.

The grain board's export policies would be controlling in the area of commercial sales. The concessional sales programs currently administered under P.L. 480 could be expected to go on much as they do now. Yet the actions of the board would tend to alleviate some of the problems experienced by grain-dependent third world countries.

Currently, price fluctuations in the international grain market, over which developing nations have very little control, cause these nations great hardship. A grain board would act to stabilize prices over the long term, providing a benchmark for agricultural policy for third world nations.

The gradual rise in export prices which a grain board could achieve would encourage agricultural investment in nations which currently have no incentive for such investment because of the artificially low price of American grain.

Mr. Chairman, gentlemen of the Subcommittee: as you know, I have introduced a National Grain Board Bill in each session I have been in Congress. I am dedicated to the idea that the American government should act on behalf of all Americans to establish a National Grain Board and transform our grain export policy. Grain is our greatest trade resource, and it is time the American people and the American farmer reaped a just reward for being the world's granary. A just reward for providing Russia with wheat, Japan with soybeans, Europe with corn.

But I am not so dedicated to the present form of this idea as to be inflexible. You gentlemen have a great store of knowledge concerning these matters. I ask you to look at this bill with an open mind and to give it the full benefit of your expertise. Where you find sections which you consider awkward or capable of improvement—amend them, improve the idea. But do not deny this possibility to the American people or to American farmers.

We can no longer afford to tolerate a situation in which foreign countries buy our grain at bargain-basement prices while we are paying out billions for exorbitantly expensive foreign oil.

Thank you again for the opportunity to testify before you today.●

ZIMBABWE RHODESIA: "LITTLE HAS CHANGED"

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. MAGUIRE. Mr. Speaker, I would like to insert a column by William Raspberry from the Washington Post of June 1, 1979 into the RECORD. In this article, the author argues convincingly for the retention of sanctions against Zimbabwe-Rhodesia. By using the analogy of the suspension of a National Collegiate Athletic Association member college for recruiting violations, he points out that once sanctions had been initiated, the burden of proof rests with any new government to prove that all past grievances had been resolved. Mr. Raspberry shows that this has not occurred, as most of the changes in the Governmnet have been superficial.

Mr. Raspberry further discusses the geopolitical implications of the United States lifting sanctions. Not only would we aline ourselves with the white racist regime of South Africa, but we would find ourselves and the Soviet Union backing opposing sides in another war of liberation.

Finally, of course, there is the whole issue of Nigeria's reaction—Nigeria being our second biggest supplier of foreign oil.

The question of whether or not to lift sanctions in Zimbabwe-Rhodesia involves more than comparing the legitimacy of Zimbabwe-Rhodesia's elections with those in other countries; it also involves consideration of Rhodesia's past performance, the structure of its new government, and the implications of such action in our own country.

The column follows:

ZIMBABWE RHODESIA: 'LITTLE HAS CHANGED'

(By William Raspberry)

If it were proposed today that the United Nations Security Council impose mandatory sanctions against Zimbabwe Rhodesia, the proposition would fail.

After all, the country now has an interracial government in whose election the black majority participated. Ian Smith, the long-standing symbol of minority rule, has been replaced by a black prime minister. The country is a long way from one-man-one-vote democracy, but it no longer is the world's worst example of racist rule.

If enough has changed so that sanctions wouldn't be imposed today, doesn't it follow that the previously imposed sanctions should be lifted?

Not necessarily. A useful analogy might be to a National Collegiate Athletic Association suspension of a member college for recruiting violations. The NCAA wouldn't dream of lifting the suspension after the offending college had improved only to the point where its recruiting violations were no more egregious than those of several other members. Once the penalty is imposed, perfunctory reform is insufficient for a return to good standing.

The reform in Rhodesia has been perfunctory at best. The refusal of the white minority to relinquish control, which led to the imposition of sanctions 15 years ago, remains the essential fact of life there, the recent cosmetic changes notwithstanding.

A cursory review of the new constitution, adopted without any black participation whatever, reveals how little has changed.

To take one example of dozens available, the constitution's Declaration of Rights provides that, "No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offense of which he has been convicted."

On the surface, that is a significant reform. But look beneath the surface at the exceptions. "A person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use . . . of such force as is reasonably justifiable:

"a) For the defense of any person from violence or for the defense of property; or

"b) In order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or

"c) For the purpose of suppressing a riot, insurrection or mutiny; or of dispersing an unlawful gathering, or

"d) In order to prevent the commission by that person of a criminal offense . . ."

Then:

"It shall be deemed sufficient justification for the purpose of [this] subsection . . . if it is shown that the force used did not exceed that which might lawfully have been used in the circumstances of that case *under the law in force immediately before the fixed date*" (italics added).

In other words, the constitution prohibits the use of deadly force, except under virtually any circumstance imaginable—including circumstances under which it would have been legal under the *old* Rhodesian law.

But the sham of constitutional and electoral reform is not the only problem with the lifting of the sanctions.

Of more practical concern to the United States are the geopolitical implications of removing the sanctions.

A precipitous American move to support the government of the new prime minister, Bishop Abel Muzorewa—even to the extent of lifting the sanctions—would have the effect of placing the United States in the pro-white-minority camp of South Africa, against the whole of black Africa and most of the Third World.

Once the decision is reached that the Muzorewa government is okay, how could we say no to a request for military aid in the continuing guerrilla war? If we wind up supporting the white minority, along with South Africa, against the Patriotic Front, the result could be politically disastrous, here and around the world.

We would lose our still-considerable influence with such Front Line states as Zambia, which would almost certainly come under increasing military attacks by Rhodesia. The Soviet Union would increase its support for the guerrillas, making them the good guys in yet another war of liberation.

Then there is the pragmatic question of the likely reaction of Nigeria, our second biggest supplier (behind Saudi Arabia) of foreign oil.

If lifting the sanctions were clearly the right thing to do, we might be prepared to live with the consequences of that choice. But it isn't that clearly right, and the United States would be well-advised to move with extreme caution.

We have disasters enough already.●

POPE JOHN PAUL II

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mrs. HOLT. Mr. Speaker, many of us have spiritually shared the trip of Pope John Paul II to his native Poland. We have praised God for his defense of human rights and the Christian faith in a region of the world where freedom and religion are cruelly oppressed.

Massive assemblies of the people of Poland prayed with the Pope and were elated by his words of faith and hope. The spirit of these people for their national independence and their faith can never be stilled by the oppressive forces of Soviet power. They are an example for the whole world. Pope John Paul II is a great pastor, and we should be thankful for the presence of this wonderful Christian leader on the world scene.●

DEPARTMENT OF EDUCATION AMENDMENT

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. McCLOSKEY. Mr. Speaker, two of Carter's worst campaign promises were cargo preference and a Cabinet Department of Education.

Both were made to well-heeled labor organizations.

There is a valid argument, however, for taking the present collection of minor offices in the educational field out from under the vast complexity of HEW. While the present Office of Education has few responsibilities other than writing checks or selecting grant recipients, it is hard to even find their offices, let alone have one of their minor functionaries be able to get the attention of Secretary Califano.

As a separate office, Education would undoubtedly do better work than it presently is doing, and it would also be more accountable to the States and local school systems whom it allegedly serves.

Therefore, when H.R. 2444 to create the Cabinet-level Department reaches the floor, I will offer a simple amendment to make the proposed new agency independent from HEW, while not assigning it the dignity of Cabinet status and the inherent powers of policy making which cabinet status infers.

The findings section of H.R. 2444 will then read as follows:

SEC. 101. The Congress of the United States finds that—

(1) education is fundamental to the development of the individual and to the growth of the Nation;

(2) the current structure of the executive branch unnecessarily submerges the Office of Education in the large and unwieldy bureaucracy of the Department of Health, Education, and Welfare, which of necessity directs its primary attention to the problems of health and welfare;

(3) the primary responsibility for education has been and should remain with State and local governments, public and nonpublic institutions, communities, and families;

(4) there is a continuing need to ensure equality of educational opportunity and to improve the quality of education and it is appropriate that there be an independent Office of Education in the Federal government to coordinate assistance to State and local governments; and

(5) the number, fragmentation, and complexity of Federal education programs has created management problems at the Federal, State, local, and institutional levels, which should be ameliorated by separating, simplifying, and decreasing the size of the U.S. Office of Education.●

THE LOMITA LIBRARY—65 YEARS OF SERVICE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. ANDERSON of California. Mr. Speaker, on June 9, 1979, the Friends of the Lomita Library, library officials, and patrons will join in celebrating the 65th anniversary of the Lomita Library. And, rightfully so. The people of Lomita can well be proud of their library and the community members who have worked so hard throughout these past 65 years to promote its growth.

It is hard to believe that this fine community library started, in 1914, in a small local clubhouse. They had only 232 books—mostly donated—and a volunteer custodian. When they first opened the door there were only 14 library cardholders registered.

The library did not remain long in these makeshift quarters. In 1918, it was moved to a storefront room in the Smith Building, located at Lomita Boulevard and Narbonne Avenue. This was the library's home for the next 10 years. Both patronage and the library's collection grew modestly during these years. By 1927, 857 people were using its 1,973 volumes and 12 magazines.

In 1928, the Lomita Library again moved to larger quarters. This time to 24704 Narbonne. It stayed in this 1,000-square-foot building for the next 32 years.

By 1960, the library's collection had tripled and it moved to the building which formerly housed the Lomita Pioneer Press at 24648 Narbonne Avenue.

The 1970's brought on greater growth and demand for library services. Citizen interest led to the formation of the Friends of the Lomita Library organization. With Linda Croyts as its first president, "The Friends" supported a number of library improvement programs. Their hard work and fundraisers made possible the purchase of new equipment, books, and magazine subscriptions.

It was in 1976 that the Lomita Library became permanently established in the community. After months of planning and construction, the Lomita Library was dedicated on April 10, 1976, as part of the new city civic center.

Today, the Lomita Library offers its many resources—including over 20,000 volumes—not only to students and citizens of Lomita, but to the whole area. The library's services provide countless hours of education, relaxation, and pleasure for those who enter the doors.

Mr. Speaker, America's free public libraries are one of our most valuable resources. They do not "grow overnight." They only come about because of the people in the communities across our Nation who care. People who care enough to donate their time, energy, and money for the good of the fellow citizens.

The Lomita Library exists today just because of these people who cared, who gave willingly of their time, energy, and funds. Their concern, interest, and efforts have built an everlasting contribution to the community.

My wife, Lee, joins me in congratulating and thanking everyone who has supported the Lomita Library during these past 65 years. A very fine job, indeed.●

FATHER JOHN SERVODIDIO

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. MURPHY of New York. Mr. Speaker, the five boroughs of New York City include my own district of Staten Island, which has too often been forgotten by those who think of the boundaries of New York as stopping at the edges of Manhattan. Fortunately, however, the Borough of Staten Island has never been forgotten by men like Father John Servodidio.

Father Servodidio is one of those unique people who seems to be everywhere, and particularly where he is needed the most. His service to the community is now celebrated by the city with the observation of the silver anniversary of Father Servodidio's ordination to the priesthood. It is hard for us who know him to believe, because Father John is as youthful, as energetic, and as thoroughly concerned with our community in 1979 as he was in 1954. He certainly could have been successful in any field he might have chosen, but we are most fortunate that the one he finally chose was to be of vital service to all people.

His extensive background includes virtually every position in which he could be considered to be directly helping those in need: since 1967, he has been district director of the Catholic charities of New York, and the family and community service of Staten Island; he is chairman of chaplains of the drug abuse control commission, Arthur Kill Rehabilitation Center of Staten Island; and he has held numerous similar positions of responsibility. He is a member in good standing of literally dozens of organizations devoted to community service, ranging from the American Legion, Kiwanis, and Boy Scouts, to the Youth Council, the Urban League, Catholic Youth Organization, and on to such specialized groups as the Staten Island Community Corporation, the Regional Mental Retardation Program, the Community Health Council, and other health-related organizations. The list is almost too long to include here, but the point, quite obviously, is that Father Servodidio is a man whose interest in the welfare of the community is matched only by the endless devotion of his efforts to see that those interests of the people of the community are well served.

And in those areas where he is well known for his expertise, none exceeds his special attention to the problem of drug addiction, particularly among children. He is well known and respected for his presentations regarding such addiction, the rehabilitation of the addict and his family, and the role of religion in the process of rehabilitation. He is frequently sought for media appearances in this field.

The people of New York will celebrate Father Servodidio's quarter century of service with a Silver Jubilee dinner in his honor on June 13th. It is a true opportunity for us to show our appreciation for the years of love and commitment that he has shared with us. It is now time for we New Yorkers, and especially we Staten Islanders, to return that love and devotion.●

REPORT ON 15TH MEETING WITH EUROPEAN PARLIAMENT DELEGATION

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. PEASE. Mr. Speaker, during the Easter congressional recess, I had the honor of leading a study mission to Paris to meet with a delegation of the European Parliament. This meeting was the 15th in a series of regular semiannual exchanges which has been in existence since 1972.

Our delegation was cochaired by my distinguished colleagues, the gentleman from Florida (Mr. GIBBONS) and the gentleman from Kansas (Mr. WINN). It also included: the gentleman from Indiana (Mr. FITHIAN), the gentleman from Pennsylvania (Mr. GRAY), the gentleman from Illinois (Mr. MADIGAN), the gentleman from New York (Mr. GILMAN), and the gentleman from Ohio (Mr. STANTON).

All of these Members were active participants in the discussions with our European colleagues on a number of agenda topics of vital concern to our respective governments. I am grateful to all of them for their individual contributions and for their assistance to me on my first assignment as chairman of the U.S. delegation.

Mr. Speaker, we live in an era in which much media attention is devoted to other, perhaps more exotic and remote areas of the world. Without in any way denigrating the importance of developments in those regions, I have the impression that we tend to overlook some of the significant events occurring in Western Europe, where we have so much at stake and where developments in trade and mutual security affect us so directly.

The year 1979 is, in fact, an important year for Europe: The nine member-nations of the European Communities will be holding their first direct elections to the European Parliament on June 7 and 10, an event which is of considerable consequence in the movement toward European unity. It is, in fact, an unprecedented undertaking which merits our collective recognition and support.

Moreover, the multilateral trade negotiations have recently been concluded and now await congressional action, while NATO has just celebrated its 30th anniversary—April 4.

It is for these reasons, among others, that I include in the Record at this time a detailed report I have just submitted to the chairman of the Committee on Foreign Affairs (Mr. Zablocki) on the purpose of our mission, the policy questions reviewed and discussed, and the information received and imparted. I believe that anyone who reads this material in its entirety will conclude that in Paris we were engaged in serious business which is directly related to our legislative responsibilities. I also believe that the issues we discussed are of crucial importance to all Americans, who will be affected, in one way or another, by their outcome.

As a former member of the fourth estate, I also commend this report to our friends in the press gallery and ask them to give its substance the same careful scrutiny which is normally accorded to the administrative aspects of congressional travel.

The letter follows:

Congress of the United States,
Committee on Foreign Affairs,
House of Representatives,
Washington, D.C., June 4, 1979.

Hon. Clement J. Zablocki,
Chairman, Committee on Foreign Affairs, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: During last April's Easter recess, I had the distinct privilege of leading a study mission to Paris. The primary purpose of this trip was to meet with a delegation of the European Parliament in the context of a semi-annual parliamentary exchange that has been in existence since 1972. This was, in fact, the 15th meeting of the two delegations and was, in my judgment, a highly informative and successful one which I would like to report on in some detail. This meeting was also the last one with members of an appointed European Parliament. Our next encounter, in October of this year, will be with members of a directly elected body.

Let me record at the outset that my distinguished colleagues, Representatives Sam Gibbons and Larry Winn., Jr., who served as co-chairmen of the delegation, were particularly helpful to me in my first assignment as chairman of the U.S. group. Other members of the delegation, which included Representatives Floyd Fithian, Benjamin Gilman, William Gray, Bill Frenzel, Edward Madigan and J. William Stanton, all performed with distinction and made important individual contributions to the substantive discussions. I am grateful, indeed, for their participation and support.

1979 is a particularly important year in the history of Western Europe and its relationship with the United States: At this moment, the nine member-nations of the European Communities (EC) are praparing for the first direct elections to the European Parliament, to be held June 7 and June 10—an event which marks a significant milestone in the movement toward European unity. Just prior to our arrival in Paris, the Multilateral Trade Negotiations had been concluded and are presently awaiting action by the Congress. The NATO alliance celebrated its 30th anniversary on April 4 of this year and is now undergoing an intensive effort to strengthen its combat effectiveness. Europeans, like Americans, are concerned over the future availability of energy supplies and are paying considerably higher prices for gasoline. The eventual outcome of SALT II and its implications for Western Europe is also a subject of widespread interest and concern.

Since France holds the rotating presidency of the Council of Ministers of the European Communities during the first six months of 1979, it was fitting that the French capital was selected by our European hosts as the site of our meeting. During our stay in Paris, we had the opportunity to meet with a variety of U.S. and French government officials to review U.S.-French bilateral relations and assess France's political and economic situation. We also conferred with representatives of the Organization for Economic Cooperation and Development (OECD) and the International Energy Agency (IEA) and discussed a number of macro-economic issues of concern to industrialized countries.

Upon arrival in Paris, the delegation was briefed, on April 14, by two political officers from the U.S. Embassy in Paris on French defense and nuclear policies and on French internal politics.

A consensus exists among all of France's major political forces regarding defense policy, including the existence of a French independent nuclear force. Although controversial for many years, the French nuclear force is now supported by all the major political parties in France, including the Socialist and Communist parties.

Under a five-year defense plan initiated in 1976, French defense expenditures will grow from 14 to 20 percent of its total national budget. France has been increasing its defense outlays by over four percent annually in real terms. This trend preceded the decision taken at the London Summit in May 1977 by the United States and its allies to increase real defense spending by three percent annually.

France has a twelve-month universal conscription system, which drafts approximately 500,000 men per year. However, the pool of available draftees is much larger than necessary to meet annual quotas so that many young men are not actually inducted into the armed forces. Draftees have the option of serving 16 months of alternate service in such areas as health or the French equivalent of the Peace Corps (Coopération).

France has been a member of NATO since its creation in 1949. In 1966, however, France withdrew from the integrated command, and NATO installations were removed from French soil. While there is little likelihood that France will ever again participate in NATO's integrated command, France has cooperated, in a low-profile fashion, in some NATO military-related projects. Government leaders remain skeptical, however, about the concept of weapons standardization. France herself produces the entire gamut of weapons, from small arms to nuclear weapons, and values her ability to do so in the face of American domination of the arms market.

With regard to nuclear proliferation, France, while not a signatory of the Non-Proliferation Treaty, has pledged to act as if she were a signatory. France has asked Pakistan to renegotiate the terms of their contract for the provision of a nuclear power plant. Overall, there has been an increased awareness in France of the hazards of nuclear proliferation and the government has made serious attempts to control the problem.

Following this assessment of French nuclear and defense policies, the delegation was briefed on the current political situation in France. The Fifth Republic Constitution established a strong President, as well as an active prime minister and cabinet which presently carry out the day-to-day responsibilities of government.

There are four major political groups in France today. The Union pour la Democratie Francaise (UDF) is a coalition of centrist parties, including President Valery Giscard d'Estaing's own Republican Party. The Rassemblement pour la République (RPR), or Gaullist party, forms the Presidential majority with the UDF, although it frequently bickers with its ally and disagrees on such issues as economic policy and the future of Europe. On the left, the Parti Socialiste (PS), often perceived as the largest and most dynamic party in France, encompasses a wide array of political elements, ranging from moderate social-democrats to avowed Marxists. Finally, the Parti Communiste (PC), which commands about 20 percent of the electorate in France, remains a highly disciplined and uncompromising party. Both leftist parties are constantly at odds with each other and their erstwhile alliance has disintegrated.

Evenly divided between the forces of the right and the left, France is the scene of bitter in-fighting between and within the two ideological components of French political life. On the right, Gaullist leader Jacques Chirac does not hesitate to criticize the policies of President Giscard d'Estaing and his Prime Minister Raymond Barre, while he continues to support the government in Parliament. He clearly recognizes that any effort to bring the government down would merely result in new parliamentary elections, in which the left would have a new chance to gain power—a chance which they lost in the last parliamentary elections of March 1978. Although in disagreement with the government on many issues, the Gaullists support the government's programs because there seems to be no realistic alternative to its continuance in office at the present time.

On the left, the Socialists and the Communists continue to attack one another in the aftermath of the March 1978 elections. The split between the two coalition partners of the left in September 1977 appears to be the primary reason for the failure of the left to win a majority of seats in the National Assembly. Faced with the prospect of becoming the junior partner in a leftist coalition, the Communist Party terminated its alliance with the Socialists. The split persists today. According to recent press accounts, the May Congress of the Communist Party has confirmed the position and strategy of Secretary-General George Marchais. The congress of the Socialist Party, held in early April saw First Secretary Francois Mitterrand retain administrative control of the party, following a challenge to his leadership from Michel Rocard, who is widely believed to be Mitterrand's eventual successor.

On April 16, at the U.S. Embassy in Paris, the delegation met with the Country Team to discuss France's political and economic position in the world, the political dimension of NATO, and key issues facing Europe.

Deputy Chief of Mission Christian Chapman provided an overview of France's position in the world. Despite the vagaries of her politics, he observed, France remains a very stable society. The development of an extensive social security system that has eliminated the most flagrant pockets of rural and city poverty and offers substantial welfare and health protection to all segments of the population; the strong cultural attachment that Frenchmen have to their country ("patrie"); and the highly centralized political system, characterized by an effective and extensive government presence throughout France and by the existence of an elite group of national bureaucrats who have traditionally run the affairs of the state—all these factors have ensured a relatively stable French social and political system, so that governmental change at the national level would most likely have little impact on the broad outline of French domestic and foreign policy.

French foreign policy is still very much influenced by the ideas of independence and freedom of action espoused by General Charles De Gaulle. France adopted a special stance within the Atlantic Alliance; took the initiative in opening relations with the Soviet Union, Eastern Europe and the People's Republic of China; and maintains a special relationship with the Arab and African states.

The French economy, at the present time, while afflicted with many trouble spots (particularly unemployment and inflation), remains essentially strong. The central government has a great deal of influence on the economy (large public sector) and has a direct role in determining the directions to be taken by many sectors of the economy. In the past year, the current government has taken bold steps to decontrol certain industrial prices and the prices of some social services, in order to allow market forces to play a greater role than they have in the past in the French economy. In order to maintain its balance-of-payments surplus, France has adopted, as a major economic priority, the promotion of exports (particularly in high-technology items).

Representatives from the U.S. Mission to NATO in Brussels reviewed the role and importance of NATO in the current international political and military scene. As I noted earlier, NATO celebrated its 30th anniversary on April 4, 1979, and is now in the midst of an intense effort to restrengthen and restructure itself to meet what is perceived to be a continuing and growing threat from the Soviet Union and its Warsaw Pact allies.

Recent decisions and current efforts to strengthen NATO are based on the perception of a Soviet military buildup in central Europe and increase Soviet activity in the rest of the world. NATO nations have decided to increase their defense spending by 3 percent in real terms annually and to carry out a "longterm defense plan" which identifies areas in which NATO needs improvement. One such initiative is the creation of a committee of national armaments directors, whose task is to promote better cooperation in the area of weapons research, development and procurement.

While our European allies have taken a more active role in NATO, the strong U.S. participation in the organization remains a necessity.

A representative from the U.S. Mission to the European Communities in Brussels outlined the major issues before the European Communities in the next several years. The most important event of the year, of course, is the direct election to the European Parliament. The election is serving to further sensitize the nations and peoples of Europe to the concept of European unity. Several transnational parties (the Socialists, Liberals, Christian Democrats) have been formed and their candidates are running on common platforms. Whether direct elections will enhance the influence and effective powers of the European Parliament is unclear. However, it appears certain that the higher profile given to the Parliament as a result of these elections, the mandate assigned the new parliamentarians by the electorate, and the presence of figures of national stature in the assembly, may give the Parliament greater political "clout" and accord it greater influence in EC decisions, particularly in the budgetary field.

An important issue facing the EC, which will preoccupy it for several years to come, is that of enlargement, with the prospective entry of Greece, Portugal and Spain in the 1980s. Negotiations with Greece have been concluded and Greece, after signing its treaty of accession to the EC on May 28, 1979, will enter the EC in January 1981 as a full-fledged member. However, Greece will be undergoing a five-year transition period before it is fully economically integrated into the EC.

The European Monetary System, originally agreed to in late 1978, began operating in late March 1979. This system is expected to create greater monetary stability in Europe and is perceived to be an important step towards full economic and monetary unity in Europe. The United Kingdom, however, has not joined.

How to assist Turkey will also be an important concern for the EC in 1979 and thereafter. The EC has provided several billion dollars in long-term economic assistance over the past several years to Turkey, an associated member of the EC. (This allows Turkey to benefit from some trade concessions.) While the EC is receptive to Turkey's need for aid, it does not have the mechanisms to provide short-term assistance, which is Turkey's most immediate requirement.

Finally, another immediate issue facing the EC is the renegotiation of its trade agreement with Yugoslavia because of recent Yugoslav dissatisfaction with some of its terms.

On April 17, 18 and 19, the delegation engaged in three plenary sessions with its counterpart from the European Parliament. As mentioned earlier, this was the fifteenth time that our two institutions have met to discuss issues of mutual concern.

The first plenary session was devoted to a "question time," in which each delegation asked two questions of the other delegation on topics of current interest. The U.S. delegation led off with a question on trade, which Mr. Frenzel presented:

"The United States Congress is concerned that the provisions establishing new international codes of conduct, emerging out of the Multilateral Trade Negotiations (MTN) be forcefully and effectively implemented, and is making efforts to ensure that the United States government is properly organized to carry out the implementation of the codes in an effective manner. What plans are European Communities making and what steps are being taken in Europe with respect to the effective implementation of these new codes?"

Mr. Jan Baas responded for the Europeans by stating that the necessary structures for implementing the agreement emerging out of the MTN and its codes are already in existence. Once these agreements become part of the body of law of the European Communities, the agreements will be complied with. The Europeans expressed some concern that the U.S. Congress might delay approval of the trade agreements and attempt to modify them in response to domestic constituent and interest group pressures. Both delegations, however, agreed that these agreements were a significant step towards promoting greater and freer trade for all nations and that it was important that the interests of the nations themselves should be given priority over local and regional interests, although these needed to be taken into consideration.

Another concern, however, was the growing competition from the developing world, with which all the industrialized nations will be increasingly confronted. No Third World nation has as yet signed the agreements regulating world trade. The results of the UNCTAD conference in Manila would give an indication of the future nature of trade relations between the industrialized and the developing nations.

The European delegation, through Mr. Hans Edgar Jahn, then addressed its two, related, questions on detente:

"In the view of the U.S. Congressional delegation, will there be a significant move towards detente in the world in the next two years, in particular in the 'crisis-ridden crescent' and in multilateral fora and negotiations?"

"What specific actions, if any, can the United States and the European Community take in the next few years to encourage further detente in the world?"

Messrs. Madigan and Stanton made the initial responses for the U.S. delegation. Mr. Madigan stated that if by detente one meant the avoidance of conflict, the alleviation of tension, and the enhancement of stability without jeopardy to the autonomy or freedom of choice enjoyed by countries in the Middle East and the Persian Gulf, then the success of detente is likely to depend on such factors as: (1) whether the conditions for detente actually exist or can be brought about by thoughtful diplomacy and concerted action; (2) the way in which the West responds to future events in the sensitive region, known as the "crisis-ridden crescent," extending from Turkey to Somalia (avoiding erratic fluctuations in policy formulation and implementation); and (3) the character and momentum of what is now called the Islamic revival.

Mr. Stanton then identified three elements in U.S. detente policy: military-security; economic; and scientific-cultural.

Political and military competition will continue both in Europe and in the Third World. A key question, therefore, is the validity of linkage. The previous two Administrations linked their willingness to relax tensions with the U.S.S.R. to Soviet activities worldwide. Soviet aggression in Africa or Asia would adversely affect the United States' pursuit of SALT and increased trade. President Carter and Secretary of State Vance have disavowed linkage. They have repeatedly stressed that they see the SALT talks as completely separate from what the Soviets do in Ethiopia or Cuba, for example. U.S. relations with the Soviets are now pursued on different levels.

The strategic arms limitation talks, the mutual and balanced force reduction negotiations, and the conventional arms transfer talks provide indispensible fora, which have become an integral part of the process of detente.

In the trade area, reconsideration could be given to the Jackson-Vanik amendment in the Trade Reform Act of 1974, linking liberalized emigration from the Soviet Union to trade concessions by the United States. A straight repeal of the Jackson-Vanik amendment may be difficult at this time, but some modification of the provisions may be advisable.

Another area of importance is that of scientific, academic and cultural exchanges. Not only do these exchanges promote cooperation in key areas of academic and scientific research, but they also contribute to improved mutual understanding between our two nations over the long term.

Through such exchanges, Americans have access to and can better understand the Soviet system; the Russians as well have an opportunity to learn more about the American people and their political system. Personal contacts are established that facilitate informal communication outside normal governmental channels.

One must stress, however, that the pursuance of detente in the ways just mentioned must be complemented by firm actions or the willingness to take firm actions, whenever U.S. and Western interests are jeopardized in the world.

During the subsequent discussion on prospects for detente, the participants stressed the need to pursue detente and the reduction of tensions. However, the pursuance of such a policy should not signify abandoning military means to achieve political objectives, if necessary. An effective and continuing human rights policy towards the Soviet Union should also be part of the detente policy.

The process of detente would be aided by the conclusion of a SALT II agreement, the successful completion of the Middle East peace process, and forceful steps to impede the further proliferation of nuclear weapons. All agreed that cooperation between the United States and its European allies was an essential ingredient in successful implementation of a policy of detente.

Finally, Mr. Maurice Faure, of the European Parliament delegation, answered the second question from the American delegation, presented by Mr. Gilman:

"What are the domestic political implications of the direct elections to the European Parliament, and what consequences will they have on the process of European integration."

The direct elections to the European Parliament are part of a long gradual process towards integration that began with the signing of the Treaty of Rome in 1957. In assessing the putative power of the European Parliament, Mr. Faure stressed that the Commission of the EC, the only EC institution in any way responsible to the Parliament, did not actually acquire all of the powers it was expected to under the Treaty of Rome. Thus the Parliament has been engaging in a dialogue with an institution which has little ultimate executive responsibility for the affairs of the EC. In effect, the Council of Ministers, which is an institution based on the representation of national governments and interests, has acquired almost all of the executive powers of the EC.

The European Parliament has three major roles at the present time. The Parliament can give advice to the Commission, but the Commission need not take it; it can also question the Commission and the Council on policy issues, although nothing can be done if the Parliament receives what it considers to be inadequate answers; and finally, the Parliament has begun to acquire some budgetary powers of its own (over about 10 percent of the EC budget).

While the directly elected European Parliament may not acquire any more specific powers, direct elections should have the salutary effect of permitting a full-fledged debate on the issue of Europe and Europe's future in all the nations of the EC. In many cases, however, the elections have become a test of strength of the political forces within some member-states and are being contested on the basis of internal political considerations. Although this may seem an unfortunate development, it does have the merit of mobilizing the interests of many elements of the European electorate into participation in a European election.

The European Communities and their Parliament have been integral elements in the development of Western European unity in the post-World War II era. The idea was to create European-wide institutions that would accomplish concrete actions to facilitate intercourse among all the nations of Europe, through the free movement of goods, people, and capital, the stimulation of competition, and industrial and agricultural development.

How Europe and its parliament will develop in the future remains unclear. Further moves toward European unification must stem from a political decision. European unity cannot and will not evolve solely via economic integration, but only because there is a political will to move in that direction.

The second plenary session was devoted to a consideration of the issue of United States and EC relations with what have come to be called the Advanced Developing Countries (ADCs). I presented a paper at this session entitled "The United States and the Advanced Developing Countries." Mr. Winn also presented a paper, entitled "New Policies Toward the Advanced Developing World," as did Mr. Jahn from the European delegation, entitled, "The European Community's relations with certain developing countries emerging on the international political scene."

The papers and subsequent discussion centered on the growing importance, both political and economic, of the ADCs, and on the extent to which both the U.S. and the EC were developing their relations with them. In many ways, these nations remain underdeveloped; yet, in other ways, they have achieved a degree of economic and political development that makes them potent actors on the world scene. The ADCs present many challenges for policymakers in the Western world. Many of these ADCs are of crucial importance because of the natural resources or the strategic positions they enjoy. Many ADCs still face tremendous development problems and require various types of assistance, including increased trade access to Western markets and programs promoting technology transfer.

At the same time, ADCs, particularly the wealthier ones, must realize, as they move up the development ladder, that they should assume some of the responsibilities commensurate with their increasing importance and strength in the developing world.

Many of these nations, however, are facing grave social problems and some, like Iran and Turkey, are beset by the dislocations caused by the Islamic revival. Our relations with these nations must be such that some attention is paid to the needs of the people of these countries which are experiencing severe social and economic dislocations. The management of relations with this category of developing nations is difficult, because, although they may be emerging regional powers in their own right and have relatively good infrastructural capacities, they remain in need of some type of assistance, whether technical or commercial.

Both delegations seemed to agree, however, that our current efforts needed to be improved and perhaps coordinated. A unified approach to these and other developing countries might be the most effective way of demonstrating our concern about the fate of these nations and their peoples. The UNCTAD conference in Manila should be closely monitored for Third World views on the trade policies and development aid strategies of the industrialized world.

Mr. Gilman made a brief presentation on behalf of the American delegation on the importance of helping Third World nations in the area of narcotics interdiction. In the light of the dramatic increase of narcotics trafficking in Western Europe and the United States, he urged the European nations to contribute more to international mechanisms charged with combating drug trafficking. He suggested that perhaps a coordinated effort could be undertaken by both the EC and the United States in this area.

The second plenary session also included a brief discussion of proposals submitted by Representative Christopher Dodd (who was unable to attend the meetings) on better methods of coordinating the human rights activities of the United States Congress and the European Parliament. Mr. Dodd had suggested the possible designation of staff members of appropriate committees as "human rights liaison officers" who would keep each body informed of the human rights activities of the other; the presentation of written or oral testimony by parliamentarians before committees of the other legislatures; and the writing of a joint report outlining the human rights concerns of both bodies.

Mr. John Prescott, a member of the European delegation, after describing the European Parliament's activities and the work of the U.S.-European Parliament interparliamentary group in the field of human rights, concurred with Mr. Dodd's suggestions and expressed the hope that the institutionalization of human rights monitoring by both institutions would come about. Both delegations then agreed that the staff of the delegations should prepare suggestions for the next meeting on ways to implement these proposals.

At our third and final plenary session, we took up the related issues of atomic energy and nuclear proliferation, thereby continuing a dialogue first initiated two years ago in conjunction with the enactment of the U.S. Nuclear Non-Proliferation Act. Mr. Fithian and European Parliamentarian Ronald Brown both introduced draft resolutions on the nuclear issue, which helped to provide a useful focus for discussion and debate. Brown's resolution set forth a number of areas where U.S. and European views seemed to coincide, and it identified other issues upon which further consultation and collaboration would be required. The Fithian resolution augmented the Brown proposal by specifying the need for U.S.-European cooperation in the International Nuclear Fuel Cycle Evaluation (INFCE) on special safeguard improvements, and in devising common policies of response in the event of nuclear violations. Both resolutions were combined into a single resolution expressing a consensus of views on the nuclear issue by all of the parliamentarians present.

It is significant, in our view, that the European delegates agreed unanimously to endorse the correction of safeguard implementation deficiencies which were identified in 1977 by the International Atomic Energy Agency (IAEA). Gaining European support for such reforms has long been an important objective of U.S. non-proliferation policy. It should also be noted that the Brown and Fithian proposals led to the first such resolution ever to be considered, amended, and approved by a meeting between the U.S. Congress and the European Parliament.

Understandably enough, the delegates spent a large portion of their time in this third session speculating on the cause and implications of the recent nuclear accident at Three Mile Island. Widely divergent views were expressed on this subject by various members of the two delegations.

Mr. Fithian argued that while it was impossible to speak authoritatively on this matter, deep concern existed about the disturbingly large gaps affecting our understanding of currently deployed—not to mention the more advanced—fission reactor systems.

While in Paris, the delegation also met with Jean Francois-Poncet, the French Minister of Foreign Affairs Dr. Ulf Lantzke, Executive Director of the International Energy Agency (IEA); and Ambassador Herbert Salzman, U.S. Ambassador to the Organization for Economic Cooperation and Development. Brief visits were also made to the two chambers of the French Parliament, the National Assembly and the Senate.

In our meeting with Mr. Jean Francois-Poncet, who for the first six months of 1979 is the president-in-office of the Council of Ministers of the EC, we discussed a series of foreign policy issues, including the upcoming direct elections to the European Parliament, French nuclear export policies, the situation in the Middle East, the negotiations on a Lomé II convention, and the prospects for detente.

In his meeting with us, Dr. Lantzke reviewed the world energy situation in the wake of the events in Iran and the nuclear accident at Harrisburg. He presented a rather gloomy picture of energy (particularly oil) availability in the coming years. Although the oil supply situation in the first quarter of 1979 had been manageable, there would be a 5 percent shortfall in oil supplies in 1979, even with a resumption of Iranian production. However, the 1979 shortfall, with education of the public and conservation measurers, could be dealt with.

Even before the events in Iran, it had been forecast that the market for oil would be tight in the coming years. Assuming levels of production in Saudi Arabia of 12 million barrels per day (bpd), in Iran of 4 million bpd, and assuming that current solar power production is increased fivefold and nuclear power production twelvefold, there would still be an energy "gap" equivalent to 10 million bpd by 1990. Dr. Lantzke emphasized the need to increase nuclear power and coal production.

He also suggested several initiatives that the United States could undertake to deal with its growing energy problem: the public needs to be informed that a serious energy problem exists and educated about the objectives of U.S. energy policy; domestic oil prices should be raised to world levels; regulatory processes need to be clarified so that production will not be impeded; nuclear production should be expanded. Although there is not as great a need to make the public aware of the energy problem in Europe, he recommended a greater conservation effort there.

Dr. Lantzke reemphasized that there would be serious energy shortfalls in the 1990s and that this energy shortage could seriously limit economic development. In order to meet the energy gap caused by declining availability of oil resources, coal and nuclear power production would have to be substantially increased in the coming years. Since it was unlikely that international organizations could do much to affect national energy programs, including the development of nuclcar power, national governments would have to convince their publics about the need for conservation and for increased energy development.

Our final meeting in Paris was with officials of the OECD. The U.S. Ambassador to the OECD, Mr. Salzman, and members of his staff, as well as a representative of the OECD Secretariat, outlined for us the many important functions performed by the organization. Its most important role lies in the fact that it provides an indispensable forum for the discussion of common economic problems among the 24 industrialized nations that compose its membership as well as a focus for economic policy coordination and for seeking possible solutions to the interrelated economic problems facing the industrialized democracies.

Organizationally, the OECD comprises a number of decision-making bodies, including the OECD Council which is at the apex of the decision-making process and on which the Permanent Representatives of the 24 member-nations sit; the Development Assistance Committee (DAC), which oversees the development assistance activities of the members; and a variety of other consultative bodies, permanent and ad hoc, which are responsible for examining many of the multinational technical and economic issues facing the industrialized world.

The OECD is also active in the North-South dialogue. It has a positive image in the developing world. Through its DAC, it discusses the types and amounts of aid that each nation should be providing to the developing world. The DAC has established that developed nations should attempt to provide an amount of governmental assistance equal to 0.7 percent of the GNP. The United States provides approximately 0.22 percent of its GNP in official economic assistance to developing nations. (The Federal Republic of Germany provides comparable levels.)

However, there is a growing consensus that private capital flows to developing nations, especially those considered as ADCs, will become increasingly necessary in the years ahead. Expansion of exports from these nations, including those which may directly compete with goods produced in developed nations, will also be required if the less developed countries are to get their balance-of-payments into equilibrium.

At the end of the week, two of our members, Mr. Fithian and Mr. Madigan, spent two days in West Germany conferring with business and governmental officials. Meanwhile, I journeyed to Luxembourg for a brief visit to the headquarters of the European Parliament.

In conclusion, Mr. Chairman, I would like to state that this study mission was valuable to me as an educational opportunity: It enabled me to learn more about our European allies, the European Communities, and some of the problems which confront them. I know that my colleagues who accompanied me benefited equally from the experience.

In a broader context, however, I am convinced that the issues we considered are of vital importance not only to members of our delegation, but to all Americans who will be affected, in one way or another, by their eventual resolution.

This parliamentary exchange provides a unique and invaluable forum for the discussion of common problems that are of concern to legislators on both sides of the Atlantic. I look forward to its further development, as the European Parliament enters a new era in its history following the elections in June.

Once again, Mr. Chairman, I want to express my appreciation to you for having appointed me chairman of a delegation with which I am proud and honored to have been associated.

Sincerely,

DONALD J. PEASE, M.C.●

CSUN MATADORS NATIONAL CHAMPS

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. CORMAN. Mr. Speaker, the 1978–79 academic year was a highpoint for the California State University at Northridge Matadors who captured this year's cross-examination debate championship. This is the second time in 3 years that the Mats have placed first in national competition. Dr. Raymond Zeuschner, associate professor and director of forensics at the university led the team to this high honor. His continued dedication to the team and encouragement to the students helped bring the Matadors to the national finals.

The Matadors spent 28 weekends of the academic year traveling to tournaments where they faced stiff competition in Seattle, Denver, Chicago, San Francisco, and Phoenix. Each member of the team is to be commended for his or her hours of preparation and outstanding performance. Those individuals who participated in and won the national finals deserve special recognition—Paul Boylan, Fran Smallsom, Rich Simon, Gina Liudzius, Tracy Lait, Jeff Jacobson, and Steve Stollenwerk.

The difficult and challenging competition these students faced extends far beyond a "club" activity. They have studied in depth a timely topic of global importance—Human Rights and U.S. Foreign Policy. They learned the pros and cons of the issue and mastered the art of public discussion. Fair and free debate is the key to our representative form of government. Each day in the House Chamber men and women from diverse areas of the country and backgrounds debate legislation which will best meet the needs and provide the most security for every American. The freedom always provides a far better understanding of any issue. I am sure that the San Fernando Valley communities share in the Matadors great moment of pride. I extend to the team my heartiest congratulations and wish them continued success in the future.●

ANTINUCLEAR HYSTERIA

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. PAUL. Mr. Speaker, recently, I received a letter from Mr. Walter P. Peeples, Jr., President of Gulf Nuclear, Inc., of Houston, Tex.

Amid all the antinuclear hysteria, Mr. Peeples is a voice of reason.

I would like to bring excerpts from his excellent letter to my colleagues attention, by inserting it in the RECORD:

ANTINUCLEAR HYSTERIA

Nuclear power is a remarkable scientific achievement brought on by necessity in an energy hungry environment. . . . Our Congress should approach the issue in a very sane and logical manner, looking at facts and attempting to avoid fiction.

The highly skilled scientific community has always worked very diligently to develop its charged responsibility, carefully weighing the basic effects of its results. Nuclear power has become a political issue because our leaders have permitted it to become a political issue, and like most of our citizens, have failed in their responsibility to understand why it is that we must have power alternatives. In sifting through responsible publications and carefully avoiding fiction, it appears that in nuclear power we have achieved the utmost in technological advancement. To fail to recognize its worth because a clear minority feel that this valuable tool is a possible health hazard, seems to say the least, irresponsible.

We speak of generating power by controlling a nuclear reaction, something entirely different than the nuclear weapon that was dropped to stop a war in 1945. As a citizen and a scientist, I feel that this country should be proud of its achievement in the overall harnessing of nuclear power. . . . Besides, you do not equate nuclear power with nuclear weapons. If you fail to understand the difference, then Congress should be educated by those who understand and carry proper credentials. Should Congress fail to educate itself in gaining understanding, then Congress alone will bear the responsibility for making America a second rate nation. . . .

Far too many arguments are decided by biased news reporting that assumes a know-it-all posture for almost everything presented to mankind. The Three Mile Island incident has brought this issue of nuclear power to a premature problem because of the timing with Hollywood fiction, that, of course, the "China Syndrome". We are now to assume that Jane Fonda is a tried and true experienced scientist that knows everything about nuclear power. . . . Accuracy in Media shows beyond a reasonable doubt that not only can the news media be caught in a lie, but that they refuse to refute the lies they're caught in.

We, the people, have succumbed to a power that is not elected nor is it even attached to our federal government. This power, when wrong, will try to hide behind the freedom of the press. They run our government and if permitted, guide our attitudes. These people, the news media, for whatever their reasons, are far more concerned with sensationalism and their personal causes, which are not press or news, but personal political convictions. . . .

Concerning nuclear control, it would appear that Congress would pay attention to appointees in the Commissioner's group to be sure that each and every member of that group had proper credentials to qualify a safe and educated decision if a problem should occur.

The original movements to strengthen reactor safety were certainly organized by qualified people and the intent was a very good one. Unfortunately, information such as that provided by the original group is seized upon to make politics out of worthy ventures.

I am sure that our Congress is blessed with enough good sense to listen to factual information, inspect the credentials of their witnesses, and understand that subversion by far left groups controlled by foreign governments that realize industrial nations like ours are brought to a standstill without energy.

This, of course, brings me to my credentials. I hold a Bachelor of Science degree in chemistry with minors in physical science and mathematics. I have also had extensive work toward advanced degrees in chemistry. I have been actively employed in the field of science for twenty-five years, a great deal of that time engaged in industrial research. For over nineteen years, I have been employed in the nuclear field.

My primary efforts have been in manufacturing and developing radioisotopes for oil field applications. Other efforts include the manufacture of all types of sealed radioactive sources for gauging devices, industrial radiography, space orientation and medical efforts. I have, through a former employer, had a great deal of experience in reactor safety, primarily as related to the U.S. Navy Submarine program and with the N.S. Savannah. I do not present myself as a power reactor expert, but I feel that I have a basic fundamental understanding of radioactive materials. I am a member of the Health Physics Society, American Nuclear Society, American Society for Testing and Materials, American Society of Non Destructive Testing, formerly two term President and presently a board member of the Non Destructive Testing Management Association and a member of the International Radiation Protection Association.

I have served as an active Health Physicist (Radiation Safety Officer) for more than sixteen years.

In closing, I feel it is imperative to point out that in all of U.S. Industry, the most astounding safety record is held by the Nuclear Industry. This record belongs to the efforts of NRC and its predecessor, the U.S. Atomic Energy Commission. My interest, like those of all of us, is to see an energy independent nation with the safest possible protection for our citizens. I feel that nuclear is a positive approach and within our scope. I only ask that you, the Congress, make your own decisions based on fact and not let the news media make your decisions for you.●

SIMON C. PADILLA—A GREAT AMERICAN

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. LUJAN. Mr. Speaker, may I take this opportunity to pay tribute to a great American from my district in New Mexico who passed away a few days ago at the age of 90. His name was Simon C. Padilla. He never built great structures or wrote great words. Never was his voice heard in great halls, but in his own quiet way, he moved mountains.

Mr. Padilla was born in Silver City, N. Mex., the son of Mexican immigrant parents. He worked as a cook and waiter at an Albuquerque hotel until the coming of World War I, when he enlisted in the U.S. Army. Then came his finest and proudest hour. In the service of his beloved country he suffered injuries that were to limit his activities for the rest of his life.

Physically disabled, but spiritually unquenchable, he spent the rest of his days extolling the virtues of his country. He was a proud citizen, a fine man, a great American. And finally, may we mark him down as a man who loved his God. ●

BIAGGI ENDORSES H.R. 4015

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. BIAGGI. Mr. Speaker, as a ranking member of the House Select Committee on Aging I wish to lend my full support to H.R. 4015 which the House is voting on today. It is legislation which gives long overdue recognition to the rapidly aging veterans population in this Nation and the need to have the VA medical system adapt itself by expansion of geriatric medical programs and services.

For the past 18 months the Subcommittee on Human Services which I chair has been conducting foresight hearings into the greying America and nowhere do the demographics that we have accumulated show a more dramatic increase than among the veteran population of this Nation. Today there are 6 million veterans over the age of 60. By 1985 we will be looking at at least 9 million and then jump to over 11 million by the end of the century. The World War I veteran population in this Nation is 650,000 many of whom are over the age of 75.

The legislation establishes a geriatrics and extended care task force within the Veterans' Administration. The purpose will be to elevate geriatic medicine into a position of higher visibility within the VA.

The VA medical system has come up fire in recent years in a host of areas ranging from poor pay of its medical personnel to a lack of sufficient nursing beds. Traditionally, the VA medical system has been unable to keep up with the demands of the service population. The reality of aging among veterans is very clear. How the VA is able to cope with this situation is not so clear. H.R. 4035 is an important step. Let us demonstrate a little foresight in our planning. Let our policies reflect reasoning and not belated reactions to crises.

The House Select Committee on Aging believes it is in our Nation's best interest to plan ahead for the future. The future will see the senior boom replace the baby boom. Our policies should reflect the transition.●

RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT ACT OF 1979

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. BIAGGI. Mr. Speaker, today I introduce the Recreational Boating Safety and Facilities Improvement Act of 1979—similar to H.R. 13911 considered in the last Congress. It represents the first significant benchmark in recreational boating law since the Federal Boat Safety Act of 1971 (Public Law 92–75). It reflects the continuing evolution of Federal and State roles in recreational boating safety and promotion—in response to changing patterns of recreational boating activity and in increasing recreational use of the Nation's waterways.

Contrary to public belief, recreational boating is not a rich man's pastime. For example, a recent survey—taken in my home State of New York—indicates that the average boater is 46 years old—makes just over $18,000 a year—and owns a 16-foot outboard, using it on an average of 40 days annually—typically on an inland lake or navigable waterway.

The recreational boating population has grown and changed significantly in numbers and character since 1900 when privately owned boats in the United States numbered only 15,000. Fifty million Americans now take to the 25 million miles of waterways in the United States, in over 14 million private boats. Eight million of these are numbered under the Federal Boat Safety Act—either by the States or, in some instances, by the Coast Guard.

The States began to legislate on the subject of recreational boating in 1910, but it was not until 1940—with the passage of the Motorboat Act—that the Federal Government, through the Coast Guard, became directly involved in boating safety through the promulgation of safety equipment standards for motorboats.

In 1958, Congress passed the Federal Boating Act—the first comprehensive legislation involving the States in boating safety through the authorization and encouragement of State vessel numbering systems. The focus of this legislation was the skill of the vessel operator, traditionally the cause of one-half of boating accidents.

In 1971, in response to increasing public concern over public safety, the most significant piece of boating safety legislation to date was passed—the Federal Boat Safety Act. In enacting this legislation, superseding the 1958 act, Congress established specific policy objectives with respect to recreational boating.

The objectives of the 1971 act are:

To reduce recreational boating fatalities and accidents by encouraging boating safety, and to foster greater use and enjoyment of the Nation's waterways.

The mechanism for achieving these objectives was the fostering of a Fed-in national boating safety. This in- eral and State cooperative partnership cluded the expansion of Coast Guard authority to set construction and performance standards for new boats and associated equipment—and the establishment of a Federal assistance program to States to encourage them to assume greater responsibility for boating safety programs, including assistance, education, and enforcement efforts; and to undertake State vessel numbering systems.

By any measure, the accomplishments of that program have been singularly successful. They reflect an evolution in emphasis in the Coast Guard's approach to recreational boating safety by focusing, for the first time, upon the safety of boat and equipment manufacturing and construction.

This shift in approach reflects the dramatic growth of the recreational boating industry. Recreational boating today is big business. The 2,500-odd boat and equipment manufacturing companies—employing some 550,000 persons—generate $6.5 billion in sales through the manufacture of over 600,000 boats annually.

The joint Federal and State complementary role in boating safety education, enforcement, and assistance grows proportionately with that of the boating public. Boating accidents now account for over 76 percent of all search and rescue cases nationally—including all of the steady 6 percent annual rise in SAR incidents—94 percent of these incidents occur within 25 miles of the U.S. coastline.

Through these combined Federal and State efforts initiated by the Federal Boat Safety Act, the actual number of boating fatalities annually has been reduced from 1,582 in 1971 to only 1,321 in 1978. More importantly, the fatality rate per number of vessels has actually decreased by more than half during the same period. It is estimated that only 4 to 10 percent of nonfatal accidents are reported to the Coast Guard. Still, in 1978, 6,529 accidents were reported—resulting in $12.3 million in property damage.

Despite the continuing and increasing need for Coast Guard boating safety efforts, the administration's austere 1980 budget contains no additional resources for Coast Guard boating safety programs.

The need for a mixed strategy of insuring the safety of boats and equipment through the promulgation of Coast Guard standards—enforced through Coast Guard factory visits—as well as for additional boating safety education and enforcement efforts is well documented. Analysis of boating safety accident statistics reveals that approximately one-half of those accidents were attributable to operational error and, of those, only 12 percent of the operators involved on the average have had formal boating safety education—and many of the remaining incidents were caused by manufacturing defects or mechanical failure.

The landmark program of Federal assistance to States has been the primary means of facilitating and encouraging States to assume greater responsibility for boating safety. This program has been similarly successful in leveraging Federal boating safety resources and efforts.

In 1971, only 20 States had organized boating safety programs. By 1978, 51 of 55 eligible jurisdictions had, with Federal assistance, implemented boating safety programs. Thus, the relatively modest expenditure of Federal funds has been multiplied many times over in both tangible accomplishments in the reduction of boating accidents—and in stimulating the increased expenditure of comparable State funds for boating safety education and marine law enforcement efforts.

The grants to States program—the central feature of the 1971 act—will terminate in fiscal year 1980. Anticipating this event—and concurring with the administration's position that the objectives of the original Federal Boat Safety Act to encourage the development of State boating safety programs have been accomplished—I embarked upon a search for a suitable successor program to continue and expand upon the existing Federal/State partnership in promoting boating safety. I sought an approach that properly reflects the national interests in boating safety and in promoting the use and enjoyment of all the waters of the Nation—and one that recognizes other Coast Guard national priorities and responsibilities—and the requisite need for uniformity and consistency in State boating safety efforts.

For these reasons I introduced H.R. 13911 for comment in the last Congress.

Since that time, I have heard from the Governors of the States of Missouri and Alabama—urban and rural city mayors—the National Association of State Parks Directors—local yacht clubs—members of the boating public—representatives of the boating and marine insurance industries—and from a number of my colleagues in the Congress, supporting this legislation.

In addition, resolutions of support have been received from State boating councils—marine trade associations—the National Association of State Boating Law Administrators—the National Boating Federation—and the National Boating Safety Advisory Committee. The Virginia House of Delegates has recently memorialized the Congress to pass legislation similar to H.R. 13911.

During this period of exploration of alternative mechanisms to continue and further the broad objectives of the original Boating Safety Act, it became apparent to me that the phenomenal numerical increase in recreational boats plying our Nation's waterways—now estimated to exceed 14 million, more than double the number in 1971—has led to significant overcrowding and congestion of those waterways—particularly in urban and coastal waters. There is now 1 privately owned boat in the United States for every 10 automobiles, buses, and trucks on the Nation's highways.

Recent surveys of the boating public indicate that their greatest complaints and concerns—and corresponding priorities for the expenditure of public funds—are for:

Additional boat launching sites and dockage space, despite the existence of nearly 5,000 marinas and 1,300 private yacht clubs in the United States;

Education and licensing programs for boat owners and operators; and

Better policing of the Nation's waterways.

A major factor affecting the congestion of recreational waters is the critical and growing shortfall in the availability and distribution of safe, adequate boating facilities—including ancillary safety-related facilities.

The Highway Revenue Act of 1956 was designed to promote safe, efficient surface transportation. This example was emulated in the equally successful airport and Airway Development act of 1970 enacted to insure the promotion and development of safe, adequate facilities in support of aviation.

The Recreational Boating Safety and Facilities Improvement Act of 1979, which I am introducing today, is designed in similar fashion to promote the safety and development objectives of the original Federal Boat Safety Act of 1971.

Utilizing the existing Federal/State partnership in the promotion of boating safety, it perpetuates those earlier efforts while promoting the safe use and enjoyment of the Nation's waterways by encompassing the provision of safe, adequate boating facilities as well.

It takes a further evolutionary step in a systematic approach to recreational boating safety that now includes the concept of the safety of the medium itself—the Nation's waterways. This is analogous to the systematic approach taken by Congress with respect to commercial vessel safety in the Ports and Waterways Safety Act of 1972.

The proven mechanism I have chosen to accomplish these objectives is adopted from the revolving trust fund concept utilized so successfully in both surface and air transportation settings. It is predicated upon the equitable principal that only those who benefit from a particular service should pay for the cost of providing that service in proportion to their participation in that activity. In this instance, as with ground and air transportation, individual contribution is in proportion to fuel consumption.

Until Public Law 95-618 was enacted by the Congress last year, one-half of the 4-cent-per-gallon marine fuels tax paid by boats was susceptible to being rebated to them by the U.S. Treasury. Now, in the interest of conservation, that option has been terminated. Despite this, surveys have shown that two-thirds of recreational boaters will continue to participate in that activity—notwithstanding the national energy crisis—fuel availability permitting.

The central feature of this bill is, therefore, the returning of Federal marine fuels tax revenue to the States on a matching basis—to be utilized by States for recreational boating safety and facilities improvement programs.

Already over 50 States have adopted a similar provision in their law, earmarking State marine fuels tax revenue for these purposes. Some States, like Washington, have even anticipated the eventual adoption of a like provision in Federal law by providing that State-collected marine fuels tax revenue will be utilized on a matching basis with Federal revenue for the conduct of State recreational boating safety and facilities improvement programs.

Hopefully, with the enactment of this legislation, well before the end of its first decade of implementation, all 55 eligible jurisdictions will initiate comprehensive recreational boating safety and facilities improvement programs—in financial and operational partnership with the Coast Guard.

Given the experience of that Agency in implementing the original Federal Boat Safety Act, the Coast Guard is the logical entity to undertake this expanded program. As envisioned in the proposed legislation, no additional effort will be required by the Coast Guard to be expended in the review and acceptance of State programs beyond those mechanisms already in place by virtue of the implementation of the original Federal assistance to States program.

Moreover, this program will permit the Coast Guard—already overburdened by a plethora of requirements and responsibilities thrust upon it during the past decade—but whose manpower complement has not increased proportionately to these added responsibilities—to commit its resources most efficiently and effectively in insuring the safety of recreational boats and equipment. This will be accomplished by permitting the States to assume a still greater share of the burden of the development and administration of boating safety education, assistance, and enforcement programs, with a degree of financial security previously nonexistent.

Under the provisions of this bill, $30 million is provided annually on a matching basis with the States in proportion to the nationwide distribution of numbered vessels. A third of the funds available from the fund established in this bill will be allocated and distributed to States for conducting boating safety programs, while the remaining two-thirds of the funds will be devoted to boating facilities improvement.

In proposing this national program of recreational boating safety and facilities improvement, I hope to provide new impetus to the momentum generated by the original Federal Boat Safety Act in 1971. I believe a unique opportunity exists to replicate the demonstrated success of that act, resulting in a remarkable record of accomplishment, given the modest expenditure of public funds for this purpose.

Most importantly, I want to insure the safety of the boating public by educating operators and improving their skills—by maintaining and improving boating safety enforcement and assistance efforts—and by providing safe, adequate facilities to alleviate the increasing congestion of the Nation's waterways.

I want to make 1979 another watershed year for recreational boating—and I invite your support and cosponsorship of this effort.●

WHAT HAPPENED IN CALIFORNIA GASOLINE SHORTAGE?

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. BOB WILSON. Mr. Speaker, during all this recent outcry over California's gasoline problems, together with the attendant finger-pointing and scapegoating, I have not read anything that expresses the root cause of my State's gas crunch as succinctly and accurately as the following editorial from the May 16 Wall Street Journal. A short summary of the editorial is, as Pogo said, "We have met the enemy and he is us." I commend it to my colleagues as at last a reasonable answer to the question, "What happened?"

The editorial follows:

[From the Wall Street Journal, May 16, 1979]

ECONOMIC ACUPUNCTURE

Conceive, if you can, the great Rhode Island apple shortage. One fine morning everyone in Providence wakes up, decides to buy a dozen apples and joins the growing lines at the apple stands. As supplies dwindle, enterprising apple merchants discover they can boost the price of premium apples to 50 cents from 25 cents. Apple wholesalers in Brockton, Mass., quickly learn of this lush price and ship their apples to Providence. In Boston, where the supplies otherwise would have gone, the price of premium apples rises to 35 cents, drawing apple supplies from New York, where the price rises to 30 cents, drawing apples from Philadelphia. As the Brockton apples flood into Providence, the price there starts to fall. By the end of the day, East Coast premium apples cost 26 cents, an infinitesimal number of consumers everywhere has decided to buy oranges instead, and everyone in Providence has his dozen apples. Which is why, dear reader, you have never heard of the great Rhode Island apple shortage.

* * * * *

You have heard of the great California gasoline shortage. Through some kind of economic acupuncture, the symptoms of a revolution in Iran have broken out along the San Andreas fault. If you can't have a shortage of apples just in Rhode Island, how come you can have a shortage of gasoline just in California? Indeed, we hear of Californians driving to Tijuana, to tank up on diesel fuel provided by efficient Mexicans, or planing their transcontinental motoring vacation along the Canadian route. Why is it that only the United States has a gasoline shortage? The answer seems to be that only the United States has the Department of Energy.

California itself has about 66,500 oil wells. But about 23,000 of them are closed down. The problem is that California oil is heavy crude, which takes more expensive equipment to refine, and therefore needs to sell at a lower price to compete with lighter imported crudes. These price calculations were once made smoothly and routinely, but the Department of Energy and its forebears have been fiddling with the "gravity differential" issue since 1973 and still can't get it right. So if a well is sanded in or a pump breaks down, it's often not worthwhile to put the well back in operation. The California independents estimate that 15,000 of the closed down wells could be quickly redrilled or fixed if only DOE went away and let the price mechanism work.

* * * * *

The heavy crude problem was exacerbated when Alaskan crude started flowing into California, creating a "glut" of at least certain types of oil. This is relatively high sulphur crude that also requires special refinery equipment. Much of California's refinery capacity was built to handle sweet crudes from Indonesia and other foreign sources. The Alaskan crude would work very nicely in Japanese refineries, and one solution would be to sell Alaskan crude to Japan and use the proceeds to buy crude more suitable to California refineries. But Congress in its wisdom has outlawed the sale of Alaskan crude abroad.

* * * * *

Alternatively, another solution would be to build new or remodeled refineries in California to handle the available crudes. But if you build a refinery you have to pay for it, and DOE has rules on how this must be done. You must pass through capital costs evenly across your product mix. So if you invest in new gasoline equipment, you have to raise your price for fuel oil, even if fuel oil is a drag on the market and consumers are crying for gasoline. Naturally, few refineries were built under these rules. A few months ago DOE figured this might be a problem and introduced something called the "tilt" rule to cure it. It takes more than a few months to build a refinery, but the tilt rule is an open admission by DOE that for six years it has inhibited modernization of refineries in California. Chiefly due to the mismatch of crudes and refineries, refineries in California have been operating at about 80% of capacity during the great gasoline shortage.

* * * * *

Now, back to the subject of why DOE is to blame for the California gasoline lines. Forget the closed down wells and the unusable refineries, gasoline itself is still under DOE's price control thumb. As with the tilt rule on refineries, DOE itself has made furtive moves toward ending gasoline price controls.

But gasoline decontrol has been overruled at the White House because it would be a (yet another) public-relations black eye for the administration's price controllers. Only yesterday DOE said it wanted to fiddle more trying to get the "right" mark-up for gasoline retailers, and also "consider" ways to simplify the entire price control system.

The net effect is that while DOE doesn't change, it in effect admits it is administering a destructive policy. And little wonder, with price controls a gasoline dealer in California can't capitalize on and solve the current shortage by going to Phoenix and bidding away a little of its supply. It is against the law for the guy in Phoenix to take a bid that exceeds the price DOE's rules say he should receive.

Worse, if you have price controls you have to figure out who gets to buy how much at the controlled price. So you have gasoline "allocations." A seller is required to supply his list of dealers certain amounts at a certain price. The guy in Phoenix cannot sell in California unless he can first fill his allocations in Phoenix. For many years his list was whoever bought from him in 1972. Now this has been updated to last year. This makes the pattern more up-to-date but also reduces the spot market that consisted of the 1972 allocations for dealers who had closed. So there is less flexibility to meet changing conditions.

California has been enjoying an economic boom, perhaps due to the passage of Proposition 13 last year. Economic booms take more gasoline. California also has especially stringent air pollution requirements, which add perhaps 6 percent to gasoline demand in the state. Since the base period on which the allocations depend, California's gasoline consumption has expanded at about twice the national average of 3.9 percent. Within California, the urban areas have expanded faster than rural ones. And one fine morning everyone in Los Angeles woke up and decided to buy a tank of gasoline, setting off a pattern of panic buying.

Even given that bit of luck, it was not easy to stage a one-state shortage. But with DOE anything's possible.●

SALUTE TO CONNECTICUT FALCONS

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. RATCHFORD. Mr. Speaker, I rise to ask my colleagues to join me in saluting a major achievement by a group of American women both in the world of sport and the world of diplomacy.

On May 14, the Women's professional softball league champion Connecticut Falcons embarked on an historical trip to the People's Republic of China. This was the first time that an American professional sport team had been invited to the mainland. It represented one of the first steps in the major commitment made by both nations, in the wake of U.S. recognition, to greatly expand trade and cultural ties. That our team members were received so warmly is a testament to the worth of such exchanges, and the increasingly open relations between two great nations.

I am especially proud of this group, Mr. Speaker, because they represent the city of Meriden in my congressional district. During the six-game tour, the Falcons consistently played before sold-out stadium crowds of 20 to 30,000 people each game. This team completed its highly successful undefeated tour with a dazzling no-hit performance by team captain and pitcher Joan Joyce.

In the many years that I have known Joan, I have always found her athletic ability and leadership qualities of the highest caliber. A native of Waterbury, Conn., Joan had coached at Mattatuck Community College prior to her great career with the reknown Stratford Raybestos Brakettes, the many-time world champion women's amateur softball team. Since that time, Joan has led the Falcons on to great achievement which has done so much for the city of Meriden and for women's sports.

Special recognition must also be given to league administrator and Falcon general manager, John Salerno. In just 6 weeks time, John successfully organized this 26 person journey, which covered 28,000 miles in just 14 days. John has been the athletic director at Mattatuck Community College in Waterbury for 11 years, and has made a great contribution to the success of the league for which we are all grateful.

Mr. Speaker, I am proud of this team and its organization, and certainly look forward to the continued expansion of cultural exchanges that so enrich these two nations. Thank you.●

IMPORTANT AMENDMENT TO DEPARTMENT OF EDUCATION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. SIMON. Mr. Speaker, in a short time, the House of Representatives will take up H.R. 2444, the Department of Education Organization Act.

At that time, I intend to offer two amendments to H.R. 2444, one of which would delete a provision which seriously troubles me, a provision which has serious implications for the programs in the proposed Department of Education.

Specifically, section 439 of H.R. 2444 would give the Secretary of Education discretionary authority to waive Federal statutory requirements mandating State and local organization structures for programs administered by the new department.

Mr. Speaker, section 439 has broad application. It infringes on the policy of scores of programs. Indeed, a survey prepared for me recently by the Library of Congress identifies some 60 programs which would potentially be affected by this provision. For example, the impact of section 439 would reach the three largest formula grant programs in education—basic grants for the education of low-income children, impact aid, and State grants for the education of handicapped children. Section 439 would affect, too, the basic State grant program in vocational rehabilitation. It would mean, in essence, a lack of identity for categorical programs at the State and local level.

The House report accompanying H.R 2444 attempts to rationalize section 439 by claiming that, without the waiver, State and local education agencies would not be able to consolidate authority over their vocational education and vocational rehabilitation programs. This is inaccurate and shows a serious lack of understanding. As pointed out by the Senate report accompanying a companion bill, a significant number of States already operate their vocational rehabilitation programs out of their education agencies.

In fact, section 439 is intended to provide relief to a specific State, Florida, whose organizational structure for vocational rehabilitation is in violation of Federal law. Indeed, in April of this year, the U.S. Supreme Court denied review of a lower court's decision that Florida's plan for vocational rehabilitation is not in compliance with Federal requirements.

Mr. Speaker, I am opposed to accommodating the Florida plan through the waiver authority proposed by section 439, and my opposition is bolstered by the findings of a recent audit prepared by the Department of Health, Education, and Welfare. The audit shows that, since the Florida plan took effect, the vocational rehabilitation program has decreased significantly in the relative number compared to other States of clients accepted and rehabilitated, that vocational rehabilitation funds were channeled to other programs, that unobligated funds were not properly recorded or reported, and that services to clients in some districts in Florida were reduced or restricted.

Because of the potential for abuse and the broad implications of section 439, I believe that such a proposal should have been the subject of hearings, as was not the case here, and should not be a part of the legislation to organize a Department of Education. I believe strongly that the waiver authority provided by section 439 would be particularly harmful to handicapped people. I am entering in the RECORD a list of national organizations of disabled individuals opposed to section 439. I hope that my colleagues in the House of Representatives will join with them to support my amendment to delete section 439 from the Department of Education Act.

Mr. Speaker, I am also inserting at this point in the RECORD a summary of the preliminary findings of the audit conducted by the HEW Inspector General on the vocational rehabilitation program in Florida:

ORGANIZATIONS OPPOSING SECTION 439 OF H.R. 2444

American Academy of Physical Medicine and Rehabilitation.

American Association of Workers for the Blind.

American Coalition of Citizens with Disabilities.

American Congress of Rehabilitation Medicine.

American Council of the Blind.

American Deafness and Rehabilitation Association.

American Foundation for the Blind.

Conference of American Instructors for the Deaf.

Conference of Executives of American Schools for the Deaf.

Council of State Administrators of Vocational Rehabilitation.

Council for Exceptional Children.

Gallaudet College.

Goodwill Industries.

International Association of Parents of the Deaf.

National Association of the Deaf.

National Association of Retarded Citizens.

National Council of State Agencies for the Blind.

National Easter Seal Society.

National Multiple Sclerosis Society.

National Rehabilitation Association.

PRELIMINARY AUDIT FINDINGS

Following are some of the preliminary findings of the audit of the vocational rehabilitation program in Florida conducted by the Office of the Inspector General, Department of Health, Education, and Welfare:

The VR program in Florida has decreased significantly in the number of clients accepted and rehabilitated. Florida ranks 44th in these two categories where prior to reorganization they ranked 20th and 29th respectively.

Financial deficiencies confirmed those reported by the Florida Auditor General in FY 1977. Almost 10% of VR funds were temporarily used for other purposes. Two examples:

Salary costs of $1.9 million were charged to VR even though the employees worked on other programs (this was subsequently adjusted).

Disability Determination program expenses of $33,000 and other improperly coded expenses of $221,000 were incorrectly charged (not yet adjusted).

Lack of a centralized financial management system prevented fund transfers among districts to meet program objectives; thus, services to clients in some districts were reduced or restricted.

Refunds, credits and third-party reimbursements have not been accounted for properly. More than $357,000 have not been credited to the Federal government for fiscal years 1977 and 1978.

Unliquidated obligations were not properly recorded and reported, as a result, Florida had remaining balances of $800,000 in FY 1977 and $1.1 million in FY 1978 even though they reported these funds obligated.●

STATEMENT OF CONGRESSMAN JOSEPH L. FISHER ON PRESERVING SHORT HILL IN LOUDOUN COUNTY, VA.

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. FISHER. Mr. Speaker, I am introducing a bill today that will enlarge the boundary of Harpers Ferry National Historical Park to include Short Hill in Loudoun County, Va. Short Hill is one of several properties which the National Park Service wants to protect in the area around the existing park. The main part of the park is in West Virginia, but the boundary already extends into neighboring Virginia.

Visitors to Harpers Ferry Park are already familiar with Short Hill if they have climbed to Jefferson Rock to survey the famous view. Thomas Jefferson is said to have called the view from that point "stupendous" and "worth a voyage across the Atlantic." Looking downriver from the rock, one sees Short Hill as a prominent part of the panorama. Short Hill is also part of the backdrop to the C. & O. Canal National Historic Park and the Appalachian Trail.

The Short Hill property that will be within the Harpers Ferry boundary has about 2 miles of Potomac River frontage. The 475-acre tract extends back from the river in a wedge shape, rising to a 1,200-foot elevation. The woods on the ridgetop are typical of the Piedmont region, broken by a quartz outcropping called White Rock and a granite cliff known as Buzzard Rock, both of which afford a magnificent view upstream to Harpers Ferry. Lower down the hill one finds an old lime kiln, the remains of a mill and the miller's house, as well as an old still.

On a recent Saturday afternoon I explored Short Hill, which is located in my congressional district. The hill offers a delightful hike. At several points along the ridge, I suddenly found myself in the clear with a magnificent vista opening before me. Looking up the Potomac toward the town of Harpers Ferry in one direction and across the river to the hills of Maryland in the other, and with the sunlight sparkling off the river, I found the view quite impressive.

The need for preserving the Short Hill property, both for its importance to the view from Harpers Ferry and for its potential as an unspoiled hiking and nature area is clear. The National Park Service wants the property and the owner is willing to sell it for a park or similar purpose that would preserve its natural state. This conjunction of willing seller and interested buyer should not be lost. I hope that the boundary of Harpers Ferry National Historical Park can be expanded to accommodate the preservation of Short Hill.●

POPE JOHN PAUL II RETURNS TO HIS BELOVED POLAND AND ENCOURAGES RELIGIOUS FREEDOM FOR EASTERN AND CENTRAL EUROPEANS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. KEMP. Mr. Speaker, the eyes of the world are riveted on Pope John Paul II's triumphal reutrn to Poland, his native land which he has not seen since 111 Cardinals of the Roman Catholic Church elected him to be the successor of Peter last October 16.

Since his election, John Paul has been world leader for east and west. A brillant scholar with a deep devotion to the church combined with a strong love for children and the oppressed peoples of the world, John Paul has quickly developed into one of the world's foremost leaders.

But the thing that arrested the world's attention was that, for the first time, the Pope was a native of Communist Poland.

As Karol Cardinal Wojtyla, Pope John Paul II had led his nation of 35 million Poles, 90 percent of whom are Roman Catholics, in a strong devotion to their faith in spite of the official Polish Government policy of atheism. Despite numerous official Communist roadblocks, Cardinal Wojtyla succeeded in building a major new church for the Polish people before he came to Rome.

When Cardinal Wojtyla was elected Pope, millions of Catholics around the world wondered whether he would continue in his fight against Communist tyranny from the Vatican. This week, their questions have been answered.

Greeted by an estimated quarter of a million people along the streets of Warsaw and in Warsaw's Victory Square where the Pope said his first Mass of the journey, Pope John Paul II departed from the prepared text of his homily to declare, "Christ cannot be kept out of the history of man in any part of the globe." His words touched off chants of "We want God," which reports said "resounded in the cavernous square."

Later, in a face-to-face meeting with Polish Communist Party leader Edward Gierek, the Pope said the task of the church is "to make people more confident, more courageous, conscious of their rights and duties, socially responsible, creative and useful. . . . For this activity the church does not desire privileges but only an exclusively what is essential to the accomplishment of her mission."

The bluntness of his confrontation with official Communist Party anti-Catholicism has taken the Polish Government off guard. Having already delayed the prelate's trip to avoid any coincidence with the 900th anniversary of the death of Saint Stanislaw, the Polish Government has been forced to allow the Polish Pope to visit the country with all the pomp and circumstance of a visiting head of state. The Washington Post acknowledged the impact of the Pope's visit with these words, "What is happening now in Poland is fantastic. Pope John Paul II, conducting a 'religious pilgrimage' to his native land, is demonstrating a command of the loyalties of the people which in a democratic country would entitle him to be their secular as well as their religious leader." The lesson on the Eastern Communist bloc nations has not been lost, and party leaders are understandably nervous about this turn of events.

The Polish people have waited many long years for the world to remember that they have suffered under tyranny and religious oppression since their country was divided up at the beginning in World War II.

Pope John Paul II has brought with him a direct challenge to that tyranny and spiritual oppression. The prayers of all the free people in the world are with him as he continues this delicate mission.●

MEDAL TO NEW MEXICO BALLOONISTS

HON. HAROLD RUNNELS

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. RUNNELS. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

I would like to speak in behalf of S. 348, a bill to authorize the President to present on behalf of the Congress a specially struck gold medal to Ben Abruzzo, Maxie Anderson, and Larry Newman.

These three men from New Mexico captured the imagination of the world last fall when they became the first persons, and so far the only persons, to cross the Atlantic Ocean by balloon. Ben Abruzzo, Maxie Anderson, and Larry Newman became heroes in the Lindbergh tradition, and have brought recognition and prestige to their hometown of Albuquerque, the State of New Mexico, and the United States.

After their successful crossing from Presque Isle, Maine, to Miserey, France, the men explained their flight better than anyone else can. Abruzzo said:

> I believe that unless frontiers are challenged and men try the impossible—and flying the Atlantic borders on the impossible—if these challenges are not met from time to time, then we are not moving forward as a society.

Anderson added,

> What we've accomplished is really not to make history, but to complete it. Ballooning started in France in 1783 and since 1873 men have tried to fly the Atlantic. With

good luck and good fortune, we've managed to finish that story.

Newman, the youngest, who joined Abruzzo and Anderson after their first trans-Atlantic balloon crossing ended in failure, was the briefest. "We did it, we did it," was his jubilant cry that said it all.

Although the three balloonists are not constituents of mine, all of us in New Mexico felt a special kinship with them during their flight and are very proud of them. I urge support of the measure to recognize their grand achievement.●

REASONED OPPOSITION TO THE DEPARTMENT OF EDUCATION

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. ASHBROOK. Mr. Speaker, according to all surveys there are still about 50 or 60 undecided among my colleagues in the House on the issue of the Department of Education, H.R. 2444. This is an issue that has been lurking in the wings of this Chamber for almost 2 years. About all that can be said about DOE II has been said in the numerous editorials and dear colleagues that have poured into our offices. Before this House considers the DOE bill and all its implications I want to share one set of thoughts on this issue. Dr. David W. Breneman, a senior fellow at the Brookings Institute, testified before the House Government Operations Committee on DOE earlier this year. His remarks, which are opposed to the Department, provide an excellent critique of many of the concerns those of us in opposition have to creating a new national educational agency.

I have never been much of a supporter of the Brookings Institute, but the fact that such a solid commentary on education can come out of its staff goes to show that there is still hope for reason to win out on this vitally important issue.

The statement follows:

STATEMENT OF DAVID W. BRENEMAN

(The views expressed herein are solely those of the author and should not be attributed to the trustees, officers, or staff members of the Institution)

Mr. Chairman and Members of the Committee: I appreciate the opportunity to appear before this Subcommittee as the members consider legislation to create a federal Department of Education.

Last year as the public discussion of the Department of Education progressed, it became clear that the issues receiving most attention concerned which agencies would be folded into the new department and which would be left out. While such debate was of interest to a Washington audience, it did not come to grips with the more fundamental issue of a cabinet department's likely impact on the governance of education in this country. In order to raise that issue, Noel Epstein and I argued in a Washington Post article last summer that creating a department was a backdoor way of expanding the federal government's influence over education. (A copy of that article is attached, together with the text of a debate on the topic held at the Brookings Institute in December.)

We hoped that our article would redirect debate to the important questions surrounding the federal role in education, and would prompt those who propose this legislation to explain more clearly why a federal department of education is needed. In my view, a convincing justification has not yet been made.

In recent testimony before this committee, James T. McIntyre, Jr., Director of the Office of Management and Budget, argued that improved management of federal education programs was the primary goal of the legislation. There is no doubt that the organization of HEW's Education Division needs to be improved; the functions now split between the Assistant Secretary of Education and the Commisioner of Education should be lodged in a single office. That step would clarify who is in charge of the Education Division, and would eliminate several of the overlapping or redundant functions outlined in the testimony. Eliminating the separate checks currently provided by the Office of the Secretary would not be a clear gain, however; legislative and budgetary proposals initiated in the Education Division are often improved by the reviews of the Assistant Secretary for Planning and Evaluation and other central staffs. My main point, however, is not to disagree with the views that better management is needed, but to question the assumption that a cabinet-level department is required to achieve it. Before that significant and essentially irreversible step is taken, it would be more prudent to allow Secretary Joseph Califano and Under Secretary Hale Champion to reorganize the Education Division in the obvious ways, reserving a decision on more drastic action until the effectiveness of those reforms can be judged.

If the management case for a department is, at best, debatable, then what of the argument for coordinating the hundreds of "education" programs scattered throughout the federal government? The presumed need to bring together many of these programs was the principal justification given last year for creating a new department. That argument, however, has become something of an embarrassment for departmental advocates, for if last year's debate settled nothing else, it at least made clear that a politically acceptable department would amount to little more than HEW's Education Division elevated to cabinet status. The reorganizers discovered that there are good and compelling reasons for leaving most of the programs that impinge on education in the various agencies where they are currently housed. Most of these programs were not created primarily for educational reasons, but rather were designed to use the educational system to achieve more fundamental federal purposes, such as reducing poverty, securing civil rights, strengthening national defense, or pursuing full employment. What is left of the coordination rationale, therefore, is Section 211 of the bill, the Interdepartmental Education Coordinating Committee. While noble in purpose, it is hardly worth creating a department in order to gain the services of this committee.

The remaining argument is the alleged need to elevate the status of educational issues and concerns in Washington. Much is made of the symbolic importance of having an education secretary at the Cabinet table. Vice President Mondale noted recently that the United States is the only major industrial democracy that does not have a Department or Ministry of Education. Others have pointed out that the Commissioner of Education lacks the clout to be seen regularly on Meet the Press or to be recognized by security guards at the White House.

Although it would be tempting to dismiss some of these concerns as unworthy of serious discussion, that would be a mistake, for they get at the fundamental issue that concerns many of us who oppose the department. Do we want education to become more of a federal responsibility? Do we want students, teachers, parents, administrators, local school board members, and state officials turning more and more to Washington for leadership and guidance—not to mention increased financial support—for education? Do we want to risk diluting the federal emphasis on aid to the poor and disadvantaged by broadening the areas of federal concern for education? Do we want to politicize education at the national level by creating an office that will become the focal point for partisan efforts, with the ideological course shifting with every change of Presidents? Regardless of the qualifying and limiting language built into the legislation, a vote for the department is to answer each of these questions implicitly with a "Yes".

I should hasten to add that I do not believe that the administration and those members of Congress who support the bill intend to expand federal influence or control over education. Indeed, it is but another of the ironies of this legislation that so little change is seemingly intended. If creating a department does not herald a substantial increase in federal financing of education, nor a decisive shift in the purposes for which current expenditures are made, then exactly what purpose *is* being served? For so little benefit, why run the risk of misleading people? For it is inevitable that creating a federal Department of Education and a full-time Education Secretary will lead to sharply increased pressures for expanded federal aid to education, and perhaps for the direct involvement in educational content that one associates with an education ministry. To arouse such expectations (or such fears) through the symbolic act of reorganization seems to me a positive disservice to education, for efforts and energy that are better spent at the state, local, and private levels will be deflected to Washington, attracted by the potential for larger sums of money and by the visibility and prominence that a Cabinet Secretary will have.

The contradictions inherent in this legislation are so numerous the alleged benefits so marginal, and the risks so substantial, that I urge you to weigh your vote with the utmost care and to reject this proposal decisively.

Thank you.●

PHIL BARDOS—A GREAT SERVANT OF THE PUBLIC

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. GOLDWATER. Mr. Speaker, it is with a great deal of pride that I take this opportunity to salute Phillip G. Bardos, a retiring member of the school board for the city of Los Angeles. His service to the education community and the people of Los Angeles is deserving of our recognition for his many contributions to the board.

Phil Bardos was first elected to the board of education for the city of Los Angeles in 1971. He was reelected in 1975 and had the distinction of serving as board president in 1973 and 1974. Mr. Bardos will retire from the board at the end of the month, and he will be missed by the many who have had the privilege of working with him.

A graduate of West Point, a combat veteran of the Korean conflict, and presently a lieutenant colonel in the U.S. Army Reserves, Phil has demonstrated his citizenship in a variety of ways. He has been affiliated with the Boy Scouts of America and served as president of the Great Western Council. In 1976, he received the coveted Silver Beaver Award.

As an honorary life member of the Parent-Teachers Association, an active member of the Association of California Urban School Districts, the Recreation and Youth Services Planning Council, and the Red Cross, Phil Bardos is worthy of our tribute for his commitment to these many worthwhile activities.

The California State Legislature is soon expected to pass a resolution commending Phillip G. Bardos for a job well done. We wish him every success for the future. On behalf of my colleagues in this House, I would like to extend to Phil a very special thank you.●

NO WINDOWDRESSING FOR THE PEACE CORPS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. BONKER. Mr. Speaker, the administration has recently released an Executive order which would leave the Peace Corps in ACTION, with what is being called "greater autonomy." A careful reading of the Executive order reveals it to be merely a cosmetic solution to the persistent problems of the Peace Corps/ACTION alliance.

The plan which the House passed by an overwhelming margin—276 to 116 on April 9—is not being taken seriously by the administration. The fact of the matter is that only the protection of law, or the work of the Congress, will preserve the Peace Corps' autonomy over time. Without that protection the Peace Corps will continue to be vulnerable to the whims of future administrations, facing the prospect of Executive orders like the one which lumped it into ACTION, or total dissolution altogether.

I would invite my colleagues to consider the excellent letter to the editor of the Washington Post on the subject of Peace Corps independence. I think it puts the political gerrymandering of the administration in its proper perspective.

The letter follows:

[From the Washington Post, May 17, 1979]

WILL THE PEACE CORPS SURVIVE?

I would like to comment on the May 5 editorial that likened the Peace Corps to a "rare bird that deserves and needs a special kind of open cage." As a former volunteer who has followed Peace Corps matters closely over the past 18 years, I had expected that The Post would give a clearer and more serious recommendation on an important public-administration issue that may well decide whether the Peace Corps survives during the 1980s.

The facts of the situation are as follows:

1) The Nixon administration placed the Peace Corps under ACTION in a deliberate attempt to reduce the visibility and feisty independence that had been the key to its success during the Kennedy and Johnson years.

2) The Carter administration did nothing to undo this damage, despite the urgings of many of its own supporters who were close to the Peace Corps in its early days.

3) The administration proposal to place the Peace Corps in an "open cage" within ACTION is essentially a non-proposal. That idea was jerry-built at the last moment to save face for ACTION officials after the House voted overwhelmingly to take the Peace Corps out of ACTION.

4) The House has held two years of hearings on the future of the Peace Corps during which ACTION officials staunchly defended the status quo—the closed cage.

5) The House Bill (HR 3324) creates the Peace Corps as an autonomous entity with complete policy and budgetary control residing in a board of directors. The Peace Corps will not be a box on any organization chart (as it now is).

The best hope for the long-term political survival and public visibility of the Peace Corps—and for its chance to pursue its idealistic goals—lies in the process of public hearings and public law, which is now at work. Short-term political solutions by the administration and strange and confused images about cages for the Peace Corps by The Post are of no help.

THOMAS J. SCANLON.

WASHINGTON.●

THE LEGACY OF ALICE AUSTEN, PHOTOGRAPHER

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. MURPHY of New York. Mr. Speaker, America's first important woman photographer was born, as I was, on Staten Island, N.Y., and she devoted her entire lifetime to the chronicling of the people and lifestyles of that unique borough of the city of New York. Her very special home, "Clear Comfort," overlooking the Narrows at the end of Staten Island's Hylan Boulevard, was saved from demolition about 12 years ago, and presented to the city of New York. In turn, the Friends of Alice Austen House have devoted themselves to the preservation and development of the house as a museum dedicated to the life and work of Miss Austen.

Alice Austen, born to affluence and social standing on New York's Staten Island, began her lifelong devotion to the camera at the age of 10, in 1876. Though within the confines of the Victorian era, her early life was not entirely consistent with the stereotype of the age. There is more than a hint of her own feelings toward prevailing prim rigidity in the amusing mockery to be found in many of the pictures. Alice was energetic, intelligent, and well-traveled, always surrounded by friends and family in a seemingly endless, carefree pursuit of good times.

We see the parties, the jolly picnics and the beginning of tennis in America. From her special vantage point of the family home at the edge of Staten Island, we watch the grand parade of passenger, cargo and naval shipping in and out of New York harbor. She has captured the street vendors, policemen and early taxis of Manhattan. There are also views from frequent travels well beyond New York that are further evidence of an active, inquisitive life that might seemingly go on forever.

This era, however, did not last for Alice Austen or for America. Progressively more destitute and helpless after the crash of 1929, Miss Austen spent the latter part of her life far from the comforts and joyful vitality that had characterized her youth.

A year before her death in 1952, the first of Alice's photographs to be seen by modern contemporaries were published in the New York News through the efforts of the Staten Island Historical Society, which had rescued, housed and valued her magnificent collection of over 4,000 glass negatives. When Oliver Jensen, now a senior executive at American Heritage, discovered the collection in the course of his own research for a book, he dedicated his efforts to having many pages of her photographs published in Life, Holiday and other magazines. Funds were raised from these sales, and Alice Austen, an inmate of the City Farm Colony at the age of 84, was rescued from obscurity and poverty for 1 last year of dignity and acclaim.

Her house, "Clear Comfort," is a property of the Department of Parks and Recreation of the city of New York, and is a registered national historic landmark.

From the front lawn a visitor will see the southern tip of Manhattan Island to the north and the soaring towers of the Verrazano Narrows Bridge to the south. Brooklyn Bay Bridge is opposite—and the shipping moving between New York's City's lower harbor and upper bay provides a constantly changing aspect on the Narrows in front of the property. The building stands on a 6-acre plot at No. 2 Hylan Boulevard. Presently horses are allowed to graze on the surrounding land and a second structure, the former New York Yacht Club, also known as the Bredt House also stands on the acreage, the last open piece of Narrows shorefront between St. George and Fort Wadsworth.

Alice's grandfather, John H. Austen, purchased the original farmhouse in 1844 for the sum of $2,500. A portion of the structure is believed to date from the late 17th century. However, the place reached its picturesque apex when the house was remodelled into a Victorian Gothic cottage set into handsomely landscaped surroundings by the time of Alice's childhood. That the remodeled Austen House was one of the sights of its day is revealed in the letters of John Austen.

In June of 1867 he wrote his wife from London:

> I shall never forget the day I passed out of the narrows how lovely the old cottage looked. It was much admired by the passengers who stood near me. The Captain ordered the ship to run close to our side when I told him I wished to make a signal to you.

An American tourist, whom he met while traveling through Switzerland, told him that it was "without any exception the most lovely place on the Island."

Alice and her mother moved into the Austen house around 1868 and Alice remained there until the mid-1940's. Because she lost almost all of her money in the stock market crash, she was forced to mortgage her home and to auction off many of her heirlooms. When the money ran out in the early 1940's she and a close friend, Gertrude Tate, opened a restaurant at the old home called "The Tea Room." This was but a temporary help, however, and finally, in 1945, after the mortgage had been foreclosed, Alice Austen sold her remaining possessions and left the old home forever. When she revisited the place, shortly before her death, Alfred Eisenstadt of Life took her picture in front of the sadly deteriorated building. And she took a picture of Mr. Eisenstadt—her last photograph.

The house has suffered continuous decay since then. A blizzard has destroyed a portion of the north end of the house dating from the 1880's. This year a large section of the living room ceiling fell due to the leaky roof. In the fall of 1978 the city determined that emergency repairs would be required to enable the house to survive another winter. However, even this plan has been delayed as the property has been transferred from the Department of Real Estate to the Department of Housing Preservation and Development.

That the building stands at all is the result of a citizen effort mounted in 1968 to prevent razing of the house by an apartment development scheme. Many prominent citizens from Staten Island and greater New York came to the aid of the cause. However, the organization was never incorporated after accomplishing its task and the friends were not active until after the 1976 Bicentennial brought renewed interest in historic structures. In addtion a television documentary produced and written by Stuart Hersh for WNET/13 and a biography of Alice Austen written by Ann Novotny have helped to call attention to the house and to the accomplishments of Alice Austen's photography.

THE GARDEN AT "CLEAR COMFORT"

When "Clear Comfort" was remodeled from modest farmhouse into elegant cottage of Gothic revival style, probably in the 1870's, the grounds and gardens around the house were also landscaped in high, Victorian style. By 1890 the house and grounds were made to compliment one another with exquisite charm and beauty. With the record of Alice Austen's own photographs, it is possible to restore—with precise detail—the exterior surroundings as they appeared. It is the goal of the "Friends of Alice Austen House" both to restore the home and to recreate the gardens and landscape.

The restoration of the grounds is attainable with but one major adjustment. What had once been a gracious sweep of lawn, slope, rocks and beach has slowly eroded so that today only about two-thirds of the front lawn remains of the 30 or so yards that existed in 1890. To preserve this the shoreline must be stabilized by building a substantial rip-rapped seawall across the property's waterfront and by providing stone jetties perpendicular to the shore to reduce the destructive effects of violent winter storms and hurricanes. Between this seawall and the restored front lawn a pedestrian esplanade and bikeway is planned which, ultimately, will connect with the boardwalk at South Beach.

As the esplanade passes in front of the Austen house it should be depressed sufficiently to permit a clear view of the Narrows from the piazza of the house. This view is essential to recreate the mood of the 1890's.

The garden's layout in 1890 began with a straight, wide walk of crushed seashells extended the axis of the main floor hallway to steps which led down to a small gate in a low picket fence. Through this gate one descended to the rocky "shingle" beach strewn with granite boulders. Flanking the top of the steps were two identical cast iron urns planted with Spanish bayonet plants. The depressed ground between the lawn and the picket fence was densely planted with low shrubbery (probably Weigela or Forsythia). At the end of the front lawn stood one large specimen tree, a honeylocust, approximately 20 feet north of the axial walk, supported on the oceanside by a stone retaining wall. Several of Miss Austen's photographs show her grandfather and others sitting on the circular bench which surrounded the base of the tree. The seat gave a good view of the shipping in the Narrows.

In the tradition of the 19th century style, "Clear Comfort's" 4 acres held many of the incongruous elements traditional to Victorian practices. There was chinoiserie to be found in the enameled bases which Alice's Uncle Oscar had brought back from his Far Eastern travels. These were scattered about the lawn in the shade of the sugar maple on the north side of the house. Also typical were narrow gravel walks and an elaborate entrance gate of rustic cedar. Extending from the gateway along the north property line was a solid board-and-batten fence, faced on the garden side with hedging plants and a perennial border. Outside stood a cast-iron hitching post near the bluestone sidewalk.

At the rear corner of the house grew an ancient Wisteria which spread its garlands of purple flowers over the brick walk to the back door. Climbing up the front piazza roof supports was a series of vines, including Dutchmen's-pipe, bittersweet, Boston ivy and honeysuckle vine. Mockorange, Canterbury-bells, iris, and tulips also grew around "Clear Comfort." Alice's grandfather was an ardent gardener, developing and maintaining not only his own grounds but also those of the yacht club next door. After John Austen's death Alice continued the care of the gardens, and in 1914 she was instrumental in establishing the Staten Island Garden Club.

Staten Island has the unique distinction of having been home to two outstanding Victorian-era photographers: Alice Austen and Timothy O'Sullivan.

The latter was the principal field photographer for Matthew Brady, whose organization provides the outstanding source of photographs of the Civil War in America. That Staten Island produced two individuals in the same era with major photographic talent (and the technical skills to manage the cumbersome set-plate technology) is in itself unusual.

Of course, Mr. O'Sullivan worked as a recognized and paid professional, whereas Ms. Austen worked as an unrecognized and little-known amateur. Alice Austen simply took remarkable photographs as a matter of course without ever realizing that she was producing a unique body of work, a sweeping portrait of her contemporary society.

This legacy of her work, together with the house, affords modern visitors a unique glimpse of life in close proximity to Manhattan during the period of enormous social and technical change.

Ms. Austen's photographs of dog-carts and Queen Anne style houses show us an exurban lifestyle that was in transition; her pictures of early automobiles, steam ferries, and burgeoning city streets illustrate the suburban way of life that was beginning its rise throughout the first decades of the 20th century.

Alice Austen's work was a true product of her times. Before her lifetime the science of photography was not available to document life in America and because of the social period in which she lived her talent was well guarded from bursting into public attention—exhibitions of the work of lady photographers were simply unheard of at the time.

Therefore the fame that will doubtless continue to redound to Alice Austen was preordained to be posthumous, to be a legacy for the next generations, from its very beginnings.●

SALT AND THE MASS TV MEDIA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. DORNAN. Mr. Speaker, this morning I came across an article in TV Guide, the largest single mass circulation magazine in the world. The article was authored by Dr. Robert Strausz-Hupé, diplomat and scholar, and one of the leading authorities among academic specialists on international relations and SALT. What an interesting combination. Strausz-Hupé and TV Guide. A natural team and what is more, the most powerful single medium in the world should carry his critically important message. Millions of Americans in the television audience ought to have the opportunity to learn about the details of the most important international agreement that the United States has ever faced in our history of international law. SALT is a matter for scholars, legislators, arms specialists, and diplomats. But, more than that, it is a matter of life and death for every American citizen: Life and death issue for millions of television viewers from coast to coast. An issue for prime time.

I submit this brief but excellent article by Dr. Strausz-Hupé, "Television Should Alert Us to the Perils of SALT," for the edification of my colleagues:

TELEVISION SHOULD ALERT US TO THE PERILS OF SALT

(By Robert Strausz-Hupé)

According to published statements of the Carter Administration, it is the purpose of the ongoing Strategic Arms Limitation Talks to achieve a treaty that will stabilize the balance of U.S.-Soviet strategic forces and open the way to future progress in strategic-arms control. The Administration has also implied that the treaty it seeks will further its goal of keeping nuclear weapons out of the hands of states other than those now possessing them (nuclear nonproliferation), and for improving U.S.-Soviet relations.

Here, I do not propose to judge the logic of the expectation that the Administration avowedly pins on a SALT II treaty—as to whether, for example, it will make our strategic future more predictable and, hence, safer, or relax U.S.-Soviet tensions. Suffice it to say here that, during the long years of the SALT negotiations, the international political and strategic climate has changed so drastically as to render any now likely SALT treaty, at best, a marginal contribution to international stability and, at worst, another step on the road to disaster paved by the Western democracies' abiding susceptibility to wishful thinking.

Chairman Brezhnev's vocal insistence on a SALT treaty now—never mind the mounting U.S.-Soviet tensions that he has done so much to exacerbate!—allows for a good many explanations. None of them can be advanced confidently, the Kremlin playing its cards face down, except for one: Chairman Brezhnev deems the present strategic balance to be to the Soviet Union's advantage, its immense effort to overtake the U.S. in quantity and quality of weaponry having paid off. In brief, he expects the SALT II treaty to cement in that advantage.

For the Kremlin, it would be out of character not to view the SALT negotiations as a means of conditioning the psychology of the Western democracies, ever hopeful for peace and none too eager to pay the price of peace—that is, to pay for an adequate defense. Does anyone seriously expect that a SALT II treaty will increase the sense of urgency with which Western governments and publics will contemplate the requirements of national defense? For a certainty, the Soviet leaders, well briefed on the trends of Western public opinion, expect nothing of the kind. Indeed, the protracted SALT negotiations have already slowed down our defense effort. While the Administration has canceled or stretched out several weapons programs—the B-1 supersonic bomber, the MX missiles, the cruise missiles and the enhanced-radiation bomb—these conciliatory gestures have apparently not been rewarded by commensurate Soviet concessions. All the while, the Soviet armament effort has been going full blast, widening the gap between U.S. and Soviet strategic as well as conventional capabilities. Thus, negotiation itself has been a "weapon" that the Soviets have wielded with damaging effect against us.

Exploiting the bilateralism of "the SALT"—a U.S.-Soviet huddle from which all allies are excluded—Soviet diplomacy and propaganda have been fueling our NATO allies' fears and doubts about the reliability of the U.S. commitment to European defense. Indeed, Chairman Brezhnev, stepping up his campaign against the solidarity of the Atlantic Alliance, has issued a series of warnings, addressed directly to our European allies—and, obliquely, to us. Having hectored the U.K. about the unseemliness of selling military aircraft to China, Chairman Brezhnev admonished the Federal Republic of Germany not to station American-built rockets, designed to partially offset the Soviet Union's long-standing massive superiority in medium-range missiles zeroed in on Western Europe, on German soil.

Even if we disregard the insolence of these interventions in the internal affairs of the Alliance and the national sovereignty of the U.K. and the German Federal Republic, we cannot pass over their implications for those future arms-control agreements that, so the Administration hopes, will issue from a SALT II treaty and limit precisely those "gray area" weapons such as the SS-20, the new MIRVed Soviet "intermediate" rocket capable of hitting any target in Europe and well beyond. It is as if the Soviet player means to sweep the opposing pawns from the chessboard even before he sits down to the next game.

The Soviet Union's unflagging attempts at meddling in the internal affairs of the Atlantic Alliance and its member states have been enlivened by the Soviet Union's deepening concern about the Washington-Peking connection. This concern is real—as real as the Russian people's age-old fear of the threat from the Mongol East. Now, this fear is compounded by the dread of "encirclement," to wit, a simultaneous attack from the East and the West. We might be easy in our conscience that we will never play the "China Card" in such an aggressive way, and we might contend, quite rightly, that the Soviets are seeking to encircle us by their interventions in Asia and Africa and by deployment of the world's largest navy. But the Soviet rulers have been haunted by the specter of a two-front war ever since the founding of the Bolshevik state when the Red Army fought off, to the East and to the West, conterrevolutionary forces backed by Western troops.

The U.S. recognition of Peking is now history. It must suffice to say here that it has given another push to an increasingly unstable world order. Even the best imaginable arms-control agreements—equitable for both the U.S. and the Soviet Union—cannot glue together an international system that is plainly falling apart. U.S. foreign and security policies need to be adjusted to new realities nearly all of them fraught with great uncertainties and risks. These adjustments will not come cheap. They will call for heavy national sacrifices. These will be brought only at the behest of purposeful and candid leadership and with the support of an informed public. With respect to the latter, American TV has a job cut out for itself: to lay out for its public the problems of the U.S. in the world and seek to explain their meaning, however troubling.●

REPRESENTATIVE CORCORAN COMMENTS ON POSTAL SITUATION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. SIMON. Mr. Speaker, recently the Chicago Sun-Times carried an article by our respected colleague TOM CORCORAN about Postal Service.

While I do not agree with TOM CORCORAN on all matters in connection with the Postal Service, he has been one of those who has recognized the problem and has been willing to come to grips with it in realistic terms.

One of the considerations, as we approach the Postal Service legislation, has to be the question of inflation that my colleague from Illinois, TOM CORCORAN, touches on. Rather than restraining inflation the Postal Service is a cause of inflation. That has to change. The U.S. Government can hardly ask the private sector to restrain price hikes when the No. 1 commodity we sell, postage, increases its prices twice as fast as the Consumer Price Index.

I commend my colleague for the initiative and leadership he has taken and I hope that my colleagues in the House and Senate will take the time to read the article I am inserting in the RECORD:

LET'S MAKE POSTAL SERVICE REALLY FIRST-CLASS

(By TOM CORCORAN)

Several years ago Congress attempted to remove itself and the President of the United States from mail problems. After a debate, which included Democratic and Republican administrations, Congress passed the Postal Reorganization Act of 1970, which was designed to make the new U.S. Postal Service independent. The thought was that by removing it from politics and running it "like a business," mail costs would go down and services would go up.

Just the opposite has happened, and that's why the House of Representatives last year, and again this year, is raising the question of another postal reorganization. While I realize some people think we want this for reasons of patronage, or to satisfy the postal unions, the concern goes deeper.

Since 1971, first-class rates have risen 150 per cent, compared with an 87.5 per cent rise in the Consumer Price Index. The Postal "Service" no longer extends door-to-door delivery to new neighborhoods, many small post offices have been closed, hours have been shortened, the Postal Service has been toying with the idea of eliminating the six-day delivery, and we all have horror stories about the type of service we get.

Had I been a congressman in 1970, my vote would have been cast for reorganization. It was worth a try, and much good has come from it. For one thing, the labor force has been reduced through attrition by 10 per cent. Considering that labor costs are 85 per cent of the postal budget, taking politics out of the rate-making process and giving that responsibility to an independent Postal Rate Commission continues to make good sense.

However, the issue now is: What kind of postal service do we want next year and beyond?

First, what about rates for letter mail? If first-class stamps (15 cents) keep rising at the present rate, another eight years like the last eight will lead to a 38-cent first-class stamp. However, unless Congress changes the law beginning in fiscal 1980, the subsidy starts dropping 10 per cent a year, thus leading more likely to a 50-cent stamp by 1987.

Second, how will postal services to the public fare? As I mentioned, the Postal Service is a labor-intensive industry, with 85 percent of its cost attributed to personnel. Having eliminated 10 percent of the jobs during the last eight years, can USPS cut costs further without more and more cuts in service? Unless we get machines that go door to door, I do not believe USPS can absorb more personnel losses without reducing services.

In testimony before Congress, Postmaster General William Bolger stated that there are three ways to finance USPS: (1) raise rates; (2) cut services; (3) increase government subsidies. He's right, and Congress must make the choice by our action or inaction this year, because, as indicated earlier, existing subsidies are reduced next year.

These choices get to basic decisions about the mails because raising rates along the lines of the last eight years will drive many people to other forms of communication, especially business, which accounts for 80 percent of first-class mail volume. Without further subsidies, this would lead to ever higher rates for individuals. Reducing services would continue the current trend of volume losses, especially from a market share standpoint. Now is the time to raise the question of whether we really need good universal mail service for every American at reasonable rates. The issue should be decided now—not when it's too late to recover without tremendous start-up or, at best, renewal costs.

It was with these thoughts in mind that I authored amendments in the pending legislation that abolish the Board of Governors, require presidential appointment of the postmaster general, eliminate the present automatic billion-dollar subsidy in favor of subsidies based on justified need, and dedicate any increases in the current subsidy level to holding down first-class rates.

The legislation, which will soon be considered by the full House, is not a return to postal politics as usual. We keep many of the good features of the 1970 Postal Act. It was not a bad experiment; we can keep its strong features, but we've learned some lessons, too.

Since 1979, ever-increasing rates and reduced services have hurt USPS and clouded its future. This has occurred despite billion-dollar subsidies every year. Thus, I think subsidies need to be continued, although this time there should be strings attached and realistic goals.

The 96th Congress should recognize that postal independence is a political pipe dream incompatible with good postal service for every American.●

THE GRAIN BOARD BILL

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. NOLAN. Mr. Speaker, today, the House Agriculture Subcommittees on Livestock and Grains and Operations and Oversight held joint hearings on H.R. 4237—the Grain Board bill introduced by Congressman WEAVER. I have cosponsored H.R. 4237 as a means to raise farm income and to improve our trade balance.

During the past decade, the volume of agricultural exports has increased by about two-thirds. For this year's crop, according to projections, 64 percent of the wheat produced domestically will be exported, as will 26 percent of the feed grains, 42 percent of the soybeans, and 48 percent of the rice. In 1978, the value of farm exports exceeded the value of farm imports by $13 billion, which helped offset the U.S. trade deficit of more than $43 billion—a trade deficit which continues to grow because of high-means little, however, unless the value priced imported oil.

The high volume of farm exports at which agricultural commodities are exported also is considered. Unfortunately, the current volume of farm exports has been achieved at the expense of U.S. farmers and the Nation's balance of payments.

In order to make up the shortfalls in grain production in other countries in 1972 and 1973, U.S. farmers were encouraged by the Government to expand their production. But the new export markets were not sustained at a level sufficient to absorb our increased production. Since the United States did not have an adequate grain reserve or commodity loan program, the prices received by farmers dropped below production costs, creating economic havoc in grain producing regions of the country. The unstable prices also threw the cattle cycle out of kilter as the livestock industry was confronted by wide swings in feeding costs.

The United States now has experienced several years of low farm commodity prices. Net farm income in 1976 and 1977 dropped to the lowest point since the Depression. Although higher, last year's net farm income, when expressed in real purchasing power, was nearly 40 percent less than in 1973 and thus has not begun to make up for the lean years.

The low price levels mean that we are still exporting our grain for less than it costs to produce it. The low prices led farmers to mine their soil in order to increase their volume of production and marginal returns. But productivity has its limits and commodity prices have failed to keep pace with inflation, particularly as energy costs continue to skyrocket. As Agriculture Secretary Bergland said, it takes about 80 gallons of fuel (directly and indirectly) to work an acre of land, and fuel costs keep going up and up. When farmers cannot recover their production costs for their commodities, they are forced to sell at a loss and to export their equity abroad.

Since the United States is the dominant exporter of agricultural commodities in the world, world grain prices generally follow U.S. prices. The low price supports for U.S. grain forces other exporting nations to lower their grain export prices, thus weakening their farmers and their economies as well. For developing nations, low or fluctuating world prices mean economic instability which will inhibit agricultural development and reduce the incentive for farmers to increase food production. Clearly, the recent history of low or widely fluctuating prices for U.S. grain exports have threatened economic stability and the ability to sustain food production at home and abroad.

Existing U.S. farm and agricultural trade policies are not adequate to raise and stabilize the price of grain. U.S. farmers, therefore, are in a more vulnerable position than ever before. They must depend on the uncertain availability of export markets in order to sustain their income. As the General Accounting Office has pointed out:

> The increased role of agriculture in foreign trade adds to the uncertainties with which the farmer must contend. In addition to the uncontrollable factors which normally affect farming, the farmers now must deal with the unexpected, changing trends of other countries' agricultural sectors, due to natural causes as well as political manipulations.

Instead of formulating a trade policy to raise and stabilize farm income, the White House (and the grain trade) still embrace the romantic notion that we live in a world of free markets and free trade. Nothing could be further from the truth. It has been estimated that over 80 percent of U.S. wheat exports are purchased by state trading corporations of the importing countries. In addition, imports of U.S. farm commodities often are subjected to levies which exceed the original cost of the product itself. The income generated by such import "taxes" does not go to U.S. farmers but to the importing countries which will use the revenue to subsidize their economies and exports.

Free trade obviously is a myth insofar as the trade of grain is concerned. Prof. Willard Cochrane of the University of Minnesota has noted the danger in continuing to believe such a myth. In a world dominated by state trading, Cochrane stated:

> The unilateral adoption of a free-market, free-trade policy by the United States would have resulted in considerable damage to the agricultural industry from increased imports and produced few, if any, benefits in the way of increased exports.

The Russian wheat deal of the early 1970's vividly demonstrated the competitive advantage state traders enjoy over private grain traders in the world commodity market. From the perspective of international commerce, U.S. grain exporting firms represent an atomized industry whose bargaining power and resources are inferior to those of state traders (whether U.S.S.R., European Community, Japan, and so forth).

The structure of the grain trade in the United States also belies any notion that free markets or free trade exist. According to the Department of Agriculture, the four companies with the largest amounts of grain sales between 1974 and 1977 accounted for nearly 50 percent of the total sales reported. The next leading four companies accounted for an additional 20 percent of the sales. According to Business Week, Cargill alone accounts for 25 percent of the grain trading business and Continental is next with about 20 percent. Competition among a few big firms which dominate the grain trade, "oligopoly" in the economist's words, is a far cry from free trade.

Farmers, therefore, have two strikes against them as long as the private grain trade dominates our exporting of grain. First, the grain companies are interested in buying grain as cheaply as possible. There is no incentive to share profits of the trade with farmers. And, since the top grain trading companies are privately held, little information exists regarding their profits and methods of operation. Second, the private grain traders do not have a competitive market advantage in a world where our agricultural exports are bought primarily by state traders. What little competition there is among the few big grain traders would lead to bidding prices down in order to obtain sales. The cheap exports have eroded both farm income and the Nation's balance of payments.

Neither U.S. farmers nor the Nation can afford our current grain exporting policy—particularly as imported oil costs continue to rise. By increasing the value of our grain exports our agricultural trade surplus will vastly exceed the 1978 surplus of $13 billion—which is a meager amount when compared to what it should be. It is time for the United States to recognize economic reality and to establish a grain export policy which will substantially increase the grain export prices. I believe the Grain Board authorized under H.R. 4237 is the best means to carry out such a policy.

Congressman WEAVER's proposal for a Grain Board may not be perfect, but it establishes a framework for exporting our grain in a manner which better serves the economic interests of the United States rather than the interests of the private grain trade.

Although the Grain Board bill establishes minimum export prices equal to the current target prices, I believe the minimum export price should not be less than the cost of production. Since the target prices now on the books do not adequately cover production costs my suggestion would, in effect, raise the minimum export prices above the target prices. In determining the price at which U.S. grain may be exported to a particular country, the Grain Board also should take into account the price support levels in the country purchasing our grain and the price at which imported grain typically has been sold to millers in that country.

While the Grain Board proposal has many opponents among free trade economists, administration officials and the grain trade, I believe the momentum in favor of the Board is increasing as more people become aware of what is at stake and what the Grain Board will be able to achieve.

First. The Grain Board will increase substantially the value of our grain exports. While prophets of doom and gloom cry that we will lose our export markets if prices are raised, they fail to understand that exporting grain at less than it costs to produce it is foolish and destructive. The volume of our grain exports could be cut in half before our export earnings would be diminished. The prospect of halfing our grain exports is not realistic, but it indicates that with a substantial increase in the value of our exports we could afford to reduce the volume of our exports.

Second. Other grain exporting countries including Canada, Australia, and Argentina will raise their grain export prices when the United States does so. They have been forced to cut their export prices in order to compete with the low U.S. prices. The discussions which Senators McGOVERN, BELLMON, and MELCHER have had with representatives from the other grain exporting countries make it clear that the others are willing to follow the U.S. lead in raising their grain export prices.

Third. The establishment of a Grain Board will increase the leverage of the United States in the grain export market, thus providing a positive incentive for reopening negotiations for an International Wheat Agreement and for establishing an international cooperative marketing arrangement in the world trade of grains.

Fourth. Although the Grain Board would increase the export price of U.S. grain (and lead to a similar increase in grain prices by other exporting nations), this will not lead to a massive increase in the price of grain for consumers in other nations. The prevalence of import levies and taxes already have pegged consumer prices in other countries well above current world prices. Wheat sells for over $6 per bushel in the European Community and for around $11 per bushel in Japan.

Fifth. Developing nations which rely on grain imports but do not have the money to purchase their requirements, even at today's depressed prices, would still have access to grain through the donation and concessional sales programs under Public Law 480. Higher grain prices actually will reduce the dependence of developing nations on imported grain because their farmers at last will have the financial incentive to grow their own food. The United States cannot feed the world and increased self-sufficiency or self-reliance in developing nations is necessary in order to feed larger populations.

Sixth. Finally, by raising and stabilizing the export price of grains, the Board will substantially improve farm income above the current depressed levels. Whatever modest increase in U.S. consumer food prices might be attributable to higher grain export prices would be more than offset by reducing our trade deficit and by easing inflation.

The economic case for the Grain Board is a strong one. Almost all of us are aware that current farm policy has been a dismal failure. Most recently, Agriculture Secretary Bergland and Senate Agriculture Committee Chairman TALMADGE have joined in urging a sweeping evaluation of U.S. farm policy. Any such endeavor must include an analysis of our agricultural export policy. More of us are becoming aware that our grain export policy not only has sold out our farmers but also is making our trade deficit worse. The Grain Board offers farmers, consumers and taxpayers a way out of our inflationary economic shambles. I urge my colleagues to give the Grain Board the serious attention it deserves.●

COLD FINISHED STEEL BAR LEGISLATION

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. BENJAMIN. Mr. Speaker, for several years, the cold finished steel bar industry has been grappling with a problem caused by an anomaly in our Tariff Schedules. Briefly, this anomaly has resulted in the misclassification of about 20–25 percent of our total imports of cold finished steel bars (CFSB). Instead of properly being classified as "bar," these products are considered as "wire." In addition to the distortion of our import statistics, the anomaly results in a substantial loss of revenue to the United States, since the products in question are dutied at $6 per ton as against the over $40 per ton ordinarily applicable to CFSB imports.

The Tariff Schedules of the United States do not now adequately differentiate between cold finished bars and wire. Other Government entities have already corrected the anomaly. The Commerce Department has modified the export schedule B so that the definition of "wire" is limited to coiled products. In addition, representatives of the European Communities and the Government of Japan have proposed a similar limitation to the definition of "wire" in the Brussels Tariff Nomenclature.

Today, we ask for the support of our colleagues, Representatives JOSEPH M. GAYDOS, JOHN BUCHANAN, BARBARA A. MIKULSKI, DAN QUAYLE, RALPH S. REGULA, and this Member are introducing a bill which would eliminate the present anomaly by making clear that "wire" is a product sold in coil form only. Any drawn product otherwise meeting the definitional requirement of "bar" would be considered a cold finished steel bar.●

NATIONAL COMMISSION ON INFORMATION TECHNOLOGY IN EDUCATION

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. SCHEUER. Mr. Speaker, today I have introduced a bill to establish a national commission to study the scientific and technological implications of information technology in education. There are two major reasons for this action:

First, our Nation must critically assess how it will prepare our young people for a developing information-based society—a future society where computer literacy may be as critical as reading literacy is today.

Second, we must take full advantage of the marvelous potential being offered by what is termed the microelectronic revolution in the computer industry. This revolution will make computers affordable by every school and virtually every home. The educational potential of this occurrence cannot go ignored.

The idea behind this commission and the specific tasks it should undertake grew out of a 6-day oversight review of House Science and Technology Subcommittee during the fall of 1977. Witnesses at those hearings were convinced by the subcommittee that such a commission is necessary to put our country on the correct course of computer usage.

Specific tasks assigned to this commission will lay the groundwork for an appropriate national policy on computers in education. Items to be addressed include:

First. A forecast of changes in information technology during the period from 1981 to 2000, with emphasis on the effect of such technology on education and lifestyles;

Second. A forecast of the need for individuals with computer skills during the period from 1981 to 2000, with emphasis on the need in the service sector of the Nation's economy for individuals skilled in information processing;

Third. A forecast of the effect of increased use of computers in education on school financing and local taxation during the period from 1981 to 2000;

Fourth. An investigation of incentives for increasing private sector involvement in the research and development, demonstration, dissemination, and utilization of computers for education purposes;

Fifth. An investigation of the costs and benefits of alternative methods of training teachers in the use and application of information technologies and computer-based instructional materials;

Sixth. An investigation of the status and effectiveness of eristing computer-based instructional techniques;

Seventh. An investigation of research in the application of cognitive psychology and artificial intelligence to computer-based learning; and

Eighth. An investigation of institutional mechanisms for development of exemplary computer-based learning techniques.

To assure proper understanding of these collected bodies of information, the Commission will be composed of individuals who are critically affected by, as well as critically affecting, our Nation's technological progress in this field.

The Commission shall consist of 12 members appointed by the President with the advice and consent of the Senate.

At least one member of the Commission shall be appointed from each of the following three categories:

First. Individuals who are engaged in the professions of teaching, education administration, or education research.

Second. Individuals who are nationally recognized technical experts in computer-based instructional materials and computer equipment.

Third. Individuals who are enrolled in school or parents of such individuals.

Not more than three members of the Commission shall be officers or employees of the United States.

Mr. Speaker, I urge passage of this act. In looking at the use of computers in improving our Nation's educational system, we can see that "the problems loom large, but the promise is great." ●

YOSEF MENDELEVICH, PRISONER OF CONSCIENCE

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. ZEFERETTI. Mr. Speaker, as part of our continuing effort to let citizens around the world enjoy internationally recognized human rights, I would like to take this opportunity to inform my distinguished colleagues of the plight of Yosef Mendelevich. Mr. Mendelevich is a young Soviet Jewish engineer presently incarcerated in a Moscow prison suffering severe hardship and extremely poor health.

Following repeated denials of his requests for permission to emigrate to Israel, Mr. Mendelevich was arrested in 1970 for allegedly attempting to hijack a Soviet airliner and was sentenced to 12 years in prison. His original sentence has been extended 3 additional years for his observance of the Jewish faith, which has been termed "a defiance of orders and having a bad influence on others" by Soviet authorities.

In recent days, seven of Mr. Mendelevich's codefendants have been pardoned, released from confinement and allowed to leave the Soviet Union. Those released included Eduard Kuznetsov and Mark Dymshits, leaders of the alleged hijacking group who had originally been sentenced to death and whose commuted sentences of 15 years were more severe than the 12-year sentence given to Mendelevich. Why should the Soviet Union release prisoners with more severe sentences than Mr. Mendelevich? The explanation, I believe, as do members of his family, is because he insists on observing his religious beliefs vigorously.

Since Mr. Mendelevich has not yet been released, my distinguished colleague from Massachusetts, Mr. DRINAN, and I, along with 55 other Members of Congress, have cosigned letters to General Secretary Brezhnev and President Carter asking them to expedite the release of Yosef Mendelevich. For the benefit of my colleagues, I commend the following to their attention:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 4, 1979.

Hon. JIMMY CARTER
President of the United States,
Washington, D.C.

DEAR MR. PRESIDENT: Our request is one which we, as members of the United States Congress, regard as a matter of paramount importance. We urge you to expedite the release and free immigration to Israel of Yosef Mendelevich.

Currently, Mr. Mendelevich is incarcerated at Camp Chistophol, Uchr. 5110/1–UE 148–CT/4 Moscow, in very poor health. Following repeated denials of his requests for permission to emigrate to Israel, Mr. Mendelevich was arrested in 1970 for allegedly attempting to hijack a Soviet airliner and was sentenced to twelve years in prison. His original sentence has been extended three additional years for his observance of the Jewish faith, which has been termed a "defiance of orders and having a bad influence on others" by Soviet authorities.

As you may know, seven of Mr. Mendelevich's co-defendants with more severe sentences have been pardoned, released from confinement, and allowed to leave the Soviet Union. Why then hasn't Yosef Mendelevich been released? We believe, as do members of his family, it is because of his insistence upon practicing his religion faithfully.

As a signatory of the United Nations Declaration of Human Rights and a party to the Helsinki Agreement of 1975, the Soviet Union has advised the world of its commitment to let Soviet citizens enjoy internationally recognized human rights. However, the recent events concerning Yosef Mendelevich indicate that the provisions of the Helsinki Agreement continue to be violated everyday by the Soviet Union.

Thus, we ask you, Mr. President, to do all in your power to secure the release and free emigration to Israel of Yosef Mendelevich.

With kind regards,

Sincerely,

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 4, 1979.

His Excellency, LEONID BREZHNEV,
General Secretary of the Central Committee of the Communist Party of the Soviet Union, The Kremlin, Moscow, U.S.S.R.

DEAR MR. GENERAL SECRETARY: Our request is one which we, as members of the United States Congress, regard as a matter of paramount importance. We urge you to expedite the release and free emigration to Israel of Yosef Mendelevich.

Currently, Mr. Mendelevich is incarcerated at Camp Chistophol, Uchr. 5110/1–UE 148–CT/4 Moscow, in very poor health. His original twelve year sentence has been extended three additional years for his observance of his faith, which has been termed by your government as a "defiance of orders and having a bad influence on others."

As you may know, seven of Mr. Mendelevich's co-defendants with more severe sentences have been pardoned, released from confinement, and allowed to leave the Soviet Union. We would therefore appreciate any update on the condition of Yosef Mendelevich and on the proceedings that will lead to his release. The future of this young man is of the utmost importance to us.

As a signatory of the United Nations Declaration of Human Rights and as a party to the Helsinki Agreement of 1975, the Soviet Union has advised the world of its commitment to let Soviet citizens enjoy internationally recognized human rights. The world's regard for Soviet attitudes on human rights can only be hurt by the unjust imprisonment of Yosef Mendelevich. In the spirit of these important agreements, it is our sincere hope that Yosef Mendelevich will be accorded the rights he so desperately deserves.

Sincerely,

Leo C. Zeferetti, Antonio Borja Won Pat, William Lehman, Jerome A. Ambro, Norman F. Lent, Bill Frenzel, Henry A. Waxman, Raymond F. Lederer, Baltasar Corrada, Ted Weiss, Joe Moakley, Howard Wolpe, Martin Frost, Melvin H. Evans, Norman Y. Mineta, Joseph P. Addabbo, Jack F. Kemp, Jonathan B. Bingham, John W. Wydler, Benjamin S. Rosenthal, Parren J. Mitchell, Frederick W. Richmond, James H. Scheuer, Richard L. Ottinger, James J. Blanchard, Don Edwards, Harold C. Hollenbeck, Silvio Conte, Hamilton Fish, Jr., Robert F. Drinan, Christopher J. Dodd, William M. Brodhead, Peter A. Peyser, Clarence D. Long, Claude Pepper, Michael D. Barnes, William J. Hughes, Elizabeth Holtzman, Andrew Maguire, Michael O. Myers, Paul Simon, Frank Thompson, Jr., David E. Bonior, Allen E. Ertel, Robert J. Lagomarsino, Benjamin A. Gilman, Millicent Fenwick, Austin J. Murphy, Stephen J. Solarz, John M. Murphy, Robert W. Edgar, Thomas J. Downey, Robert Garcia, Sidney R. Yates, William R. Cotter, Tom Harkin, Dan Glickman.●

RUSSIA DEFIES RHODESIA TRADE BOYCOTT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. McDONALD. Mr. Speaker, to no one's great surprise, the London Daily Telegraph of Sunday, May 27, 1979 revealed that not only has the Soviet Union been buying Rhodesian chrome and reselling it at a profit to the West, but it has also been buying Rhodesian tobacco and reselling to in order to turn a fast buck. Of course, the Soviet Union is not the only country that engaged in trade with Rhodesia in violation of the U.N. sanctions, but it does show how futile U.S. policy has been in this regard. By observing the sanctions, we not only strengthened the Soviet economy but we indirectly backed the forces of terrorism and Marxism at work in Africa. Just whose side are we on State Department? The article from the Daily Telegraph follows:

Russia Defies Rhodesia Trade Boycott

(By Norman Kirkham)

Russia has been buying chrome and tobacco worth many millions of pounds from Rhodesia in contravention of United Nations sanctions, while arming and financing the guerrilla war against the Salisbury Government.

A report compiled from Western diplomatic sources for the United Nations Sanctions Committee says clandestine trade between Salisbury and Moscow is being conducted through Swiss "front" companies.

Much high-grade chrome supplied to Russia has been resold at a handsome profit to America. Secret chemical tests have given evidence of its origins.

GUNS FOR GUERRILLAS

According to the well-documented report, Russia first began dealing with the Smith Government in Salisbury at least eight years ago. The trade has remained consistent in recent times.

While shipments of chrome, tobacco and maize have continued to flow to Europe from Southern Africa, Russia has poured guns, ammunition and missiles into Zambia for Mr. Joshua Nkomo's 10,000-strong Rhodesian guerrilla army.

More weapons from Russia and Eastern Europe have gone to Mozambique to equip Mr. Robert Mugabe's forces, and Russian aid here is now increasing rapidly.

The report says that the captain of one, Soviet cargo ship, asked in Mozambique how he reconciled the secret trade with his country's ideology, replied: "Russia is interested only in doing business."

Many of the exports to Russia were channelled through Mozambique in the earlier years of the economic blockade of Rhodesia. More recently, ports in South Africa are believed to have been used.

Rhodesian exports have gone to Rumania, Bulgaria and Czechoslovakia also in the last few years.

The report says that as long ago as 1970, Rhodesian chrome ore was being sold to Moscow and then passed on to America at a profit.

CHEMICAL TESTS

Colt Industries of Pittsburgh who carried out chemical tests on "Russian" chrome had informed the American State Department that their results suggested strongly that some of the ore had come from Rhodesia.

The report to the United Nations gives information on exports of tobacco and maize through Mozambique to Russia which continued even after President Machel closed his frontier with Rhodesia.

On March 23, 1976 the 6,555-ton Soviet vessel Mikhail Kedrov loaded 2,100 tons of Rhodesian tobacco at Maputo. The ship sailed on April 1 just after the border was closed.

Later, that year more tobacco and maize from Salisbury were loaded on Russian ships at Maputo, and the freighter Grekov became a regular caller there. Agents in Maputo were acting for the Russian Besta Line.

The sanctions breaking traffic was not handled at the usual cargo berth in Maputo. Pontoons at nearby Matola were used.

TOBACCO SALES

Representatives of a Swiss company acting for Rhodesian exporters are reported to have visited Sofia and Moscow in 1977 to arrange the sale of tobacco to Bulgartabac, the Bulgarian State monopoly, and Razndexport, the Soviet Corporation.

The revelations of the continuing Russian trade with Rhodesia will fuel calls in Britain and America for an early end to the United Nations blockade.

The report will also embarrass African countries which turn to Moscow for military support while criticising British policy on Rhodesia.●

PELHAM PARKWAY J.W.V. OUTRAGED OVER IRANIAN EXECUTIONS

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. BINGHAM. Mr. Speaker, the recent execution of Habib Elghanian, an Iranian Jew, must be protested by free men and women everywhere. On May 16th I, along with Representatives Solarz, Rosenthal, Wolff, and Fenwick, introduced House Concurrent Resolution 121, which condemns the execution and calls on the Iranian Government to protect all minorities in Iran. The resolution also urges the President to vigorously apply his human rights policy to Iran and to work with other nations to "insure the rights and survival" of religious minorities in that country. I hope that the Congress will move swiftly in approving this measure as a demonstration of concern and outrage by the people of the United States of America.

One group which has expressed concern to me over developments in Iran is the Jewish War Veterans of America. I have been contacted by Commander Al Levine of Pelham Parkway Post. No. 769 in the Bronx. Commander Levine expresses the views of all the members of the Pelham Parkway Post in a letter I would like to share with my colleagues. I have also been contacted by Lillian Perl and Grace Rapkin Pap of the Pelham Parkway Ladies Auxiliary No. 769 and would like to share their letter as well.

The letters follow:

Pelham Parkway Post No. 769,
Bronx, N.Y., May 12, 1979.

Hon. Jonathan Bingham,
Rayburn House Office Building,
Washington, D.C.

Dear Congressman Jonathan Bingham: The members of Pelham Parkway Post No. 769, Jewish War Veterans of the U.S.A., numbering over 200 members, are outraged at the recent execution of Habib Elghanian, Iranian Jewish philanthropist.

He was executed because he was a Zionist, because of his love and help for Jewish people and for his aid to the State of Israel.

The new Iranian Government of Ayatollah Ruhollah Khomeni and the revolutionary courts have vowed to continue their "cleansing of society".

This action by the Iranian Government cannot and should not be tolerated by a democratic society. Must we wait for another Holocaust where Jews and other minorities will be executed for their religious beliefs before any protest is made?

We urge the United States Government and the rest of the "silent world" to raise their voices and speak out in protest against this regime of blood and murder so that the human rights of the Iranian Jewish people will not be violated merely because they are of the Jewish faith.

Respectfully yours,
Al Levine, *Commander.*

Pelham Parkway
Ladies Auxiliary No. 769,
Bronx, N.Y., May 12, 1979.

Hon. Jonathan Bingham,
Rayburn House Office Building,
Washington, D.C.

Dear Congressman Jonathan Bingham: We, the members of the Pelham Parkway Ladies Auxiliary No. 769, Jewish War Veterans of the U.S.A. are outraged at the recent execution of Iranian Jewish philanthropist Habib Elghanian.

He was executed because he was a Zionist, because of his love and help for Jewish people and for his aid to the State of Israel.

The new Iranian Government and the revolutionary courts have vowed to continue their "cleansing of society". This action by the Iranian Government cannot and should not be tolerated by a democratic society. Must we wait for another Holocaust where Jews and other minorities will be executed for their religious beliefs before any protest is made?

We urge the United States Government and the rest of the "Silent World" to raise their voices and speak out in protest against this regime of blood and murder so that the human rights of the Iranian Jewish people will not be violated merely because they are of the Jewish faith.

Respectfully yours,
Lillian Perl, *President.*●

ENERGY, COAL, AND OUR ENVIRONMENT

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. CORCORAN. Mr. Speaker, fortunately for the State of Illinois and the entire United States, the Environmental Protection Agency announced on May 25, that it would not institute the sulfur dioxide emission ceiling of 0.55 pounds per million Btu as it had originally recommended. This proposed standard, which I ardently opposed along with Illinois Gov. James Thompson and my Illinois colleague Edward J. Derwinski, would have locked out up to 81 percent of Illinois coal and 20 percent of the Nation's coal. We can only speculate as to the adverse economic impact this proposed regulation would have had on the $15 billion a year U.S. coal industry, of which Illinois alone accounts for nearly $1 billion. In turn, thousands of Illinois' approximately 17,000 coal industry employees and additional thousands of the over 200,000 employees across the United States would have been in danger of losing their jobs. This does not even take into account the damage this regressive standard would have meant for our diminishing fuel supplies at a time when coal shows much promise of being a crucial part of the answer to many of our problems.

My strong support for the future of coal as a major fuel source does not mean I have forgotten our environment. We have all heard the horror stories of what the unrestricted burning of coal once did to our air, land, and water. It is, therefore, necessary that we couple this abundant fuel with our modern technology in order to free ourselves from the tightening grip of the OPEC nations in a clean, safe manner.

This ideal is entirely feasible today.

The new EPA regulations call for the use of scrubbers in all new plants to reduce uncontrollable sulfur emissions by 70 to 90 percent. In plants where uncontrolled emissions are more than 0.6 pounds of sulfur dioxide per million Btu, the 90 percent standard will apply. Those plants with a controlled emission level of 0.6 pounds or less may reduce sulfur dioxide by a minimum 70 percent. Monitoring of these emissions will be carried on continuously. Nationwide, this will mean a sulfur dioxide emission reduction of 50 percent of the current emission level standards.

In addition, particulate emissions from new plants will be reduced to only one-third of the level allowed by the current standards. Nitrogen oxide emissions will also be reduced by 20 percent.

Scrubbers are not the only technology being employed in this promising energy field. Illinois is quickly becoming the leader in coal gasification. This process removes the harmful pollutants in coal and turns it into clean-burning methane, the main component of natural gas. With slightly different steps, coal can even be made into high-octane gasoline.

Already the Institute of Gas Technology, located in Illinois, has produced Hygas, an economically feasible home heating fuel. By 1982, another coal gasification plant is expected to be in operation at the Illinois Power Co.'s Wood River generating station. This plant will utilize a new development of the Illinois-based Allis-Chalmers Corp. called "Kiln-Gas." In Perry County, Ill., a coal gasification project is only awaiting the go-ahead from the U.S. Department of Energy.

Along with gasification, Illinois is also supporting the development of fluidized-bed combustion. This process is less expensive and more efficient than scrubbers in preventing the release of pollutants. At the Great Lakes Naval Base near Waukegan, Ill., a boiler is being installed which will use this process to heat the medical center, houses, and other buildings on the base.

Scrubbers, coal gasification, and fluidized-bed combustion are all promising developments in making coal a clean, safe fuel source. With a national coal reserve of over 438 billion tons, or in other words approximately 300 years worth of energy, we must now push even harder toward the utilization of this secure source of fuel.

The research of the Southern Illinois University Coal Extraction and Utilization Research Center and the Congressional Office of Technology Assessment is furthering our knowledge in this field and helping us to achieve energy independence. We simply must work toward homogeneously integrating the use of coal with our environment.

With this in mind, I would like to insert for the benefit of my colleagues a related editorial from the May 30 Washington Post:

> MORE COAL, CLEANER AIR
>
> That was a good balance the Environmental Protection Agency struck in its rules for new power plants, though you wouldn't know it from the uproar. The rules, culminating six months of heated debate, are crucial to the expanded use of coal in this country through the rest of the century. Coal smoke is highly toxic and, in the absence of strict regulation, wider reliance on coal would represent a reckless threat to public health. A number of environmental organizations have attacked the EPA's decision as a sell-out to narrow industrial interests.
>
> That's an adversary's view of the choice. The most dangerous of the pollutants in coal is sulfur, and two-thirds of the sulfur in the atmosphere comes from the utilities' huge coal-fired generators. The ideal way to reduce these sulfur emissions is to do it directly, setting a limit at the smokestack and leaving it up to the utilities to get down under that limit. But that, Congress feared, would shift the utilities onto low-sulfur Western coal and create unemployment in the Eastern mines where sulfur content runs much higher. To protect jobs, Congress decreed that all new plants must have sulfur-removal devices called scrubbers. It left to the EPA the next question—whether to require utilities to remove a uniform 90 percent of sulfur regardless of any other circumstances or, alternatively, to build some flexibility into the system. Environmental organizations argued for a flat 90 percent requirement.
>
> Instead, EPA administrator Douglas Costle wisely chose a sliding scale. If a plant can get its emissions down below a certain level by any other means, it will be required to scrub only 70 percent of the sulfur out of the smoke.
>
> Mr. Costle's decision gives utilities an incentive to use clean coal. As for the Eastern miners, they don't have to fear for their jobs; the soaring costs of transporting coal will protect them from Western competition. Even more important, the decision encourages utilities to introduce new technologies that, with time and further development, may prove more effective than the present scrubbing equipment. And then there is the matter of obsolescence. These rules apply only to plants built in the future. If they were to make new plants unnecessarily expensive, utilities would have reason to delay them and to keep patching up and nursing along the older plants to which only a looser and cheaper pollution standard applies.
>
> The principle of government regulation is not currently fashionable. But EPA's new power-plant rules are an example of intelligent policy in a field where regulation is essential to protect the public health.●

NEED FOR SYNTHETIC FUELS

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mrs. HOLT. Mr. Speaker, for too long, the Federal Government's approach to the energy problem has been characterized by inept bungling.

The policy of oil price controls has been matched by platitudes about conservation, and any sane person knows they are contradictory.

The enormous and complicated regulatory maze affecting production, price, and distribution has produced a dismal swamp of paperwork and litigation, but no energy.

The situation is such that people begin to wonder whether the Federal Government could run even a three-car funeral without creating a traffic jam.

We slide toward energy shortages that could cripple the economy and our national defenses. The long-term outlook is for depletion of world reserves of crude oil, but we face a more immediate threat—the interruption of oil imports on which we rely much too heavily.

We import almost half the oil we consume, and much of that supply comes from politically unstable regions of the world. There is doubt about how much new oil can be discovered in the United States and our offshore territory.

We are extremely vulnerable to pressures from foreign oil-producing nations; we are risking potential catastrophe through a cutoff of supply from those regions. The situation can be described in terms of both immediate and long-term threat to our national security

Therefore, Mr. Speaker, I endorse the approach set forth in H.R. 3930, which would promote the production of synthetic fuels to reduce our dependence on crude oil.

The cost of producing synthetic fuels from coal, shale, lignite, peat, solid waste, and organic materials is currently too high for these substitutes to compete with crude oil in the market place. In the years ahead, the price of crude oil is likely to rise so rapidly that the synthetic fuels will become competitive, but we dare not wait.

However, I believe that national security requires that we get a head start on the production of synthetic fuels, and I am pleased that the House Banking Committee has recognized the critical need by approving H.R. 3930.

This legislation authorizes the Government to purchase synthetic fuels for defense needs, even though the prices of such fuels are higher than the prices of crude oil and its products. The financial incentive is price guarantees through contracts that should encourage development of synthetic fuel production plants. The authorized appropriations for this purpose would be $2 billion spread over several years.

The legislation directs the President to attempt to achieve a national production goal of at least 500,000 barrels per day of synthetic fuels and synthetic chemical feedstocks within 5 years.

It is reasoned that this production for defense needs would relieve the shortage of fuels for civilian needs. Even more importantly, the Government would be simulating the development of a whole new industry that we critically need, and it would become economically competitive and self-supporting at the time when crude oil prices rise to their expected heights.

The legislation also has very important provisions to enable us to cope with the crisis caused by international problems. The President is given standby authority to order the construction of Government-owned plants which would be leased to and operated by private industry to produce synthetic fuels and chemical feedstocks. Congress would have one-House veto power over this authority to prevent abuse.

The very idea of Government-owned industry is repugnant to me, but this particular kind of Government venture may become necessary in some future national emergency. I hope this authority is never needed and never used.

The House Banking Committee correctly asserts that "assured and reliable domestic energy supplies are just as important to a strong national defense as the ability to produce armaments."

It is time for all of us and all Americans to realize that our struggle to cope with the energy problem is really a struggle for national survival. A great industrial nation can collapse for want of energy.

We must make whatever sacrifices are necessary today to insure the future of America.●

STRONG GRASSROOTS SUPPORT FOR U.N.

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. BONKER. Mr. Speaker, there seems to be a common misconception among Members of Congress that the American people do not support the work of the United Nations and that they would prefer the United States to become less involved in United Nations matters.

I would ask my colleagues to consider the results of three respected public opinion polls which reveal not only significant public interest in the affairs of the U.N., but illustrate strong support for strengthening the U.N. system.

In a Gallup poll, conducted in November 1978, 78 percent of those interviewed felt that strengthening the U.N. was either very important or somewhat important, while only 13 percent felt it was not important. Interestingly, of national leaders asked the same question, 74 percent answered that strengthening the U.N. was either very important or somewhat important.

In another poll, conducted by the Foreign Policy Association, 69 percent of respondents felt that the U.N. should be strengthened and made a major instrument of U.S. foreign policy. Only 19 percent felt that it should not, and 12 percent had no response.

In a 1974 Harris poll, respondents overwhelmingly supported an increased role for the U.N. in solving major global problems.

The results of these polls are compelling: the American people not only support the work of the U.N., they would like to see the U.N.'s presence as an international arbiter and problem solver expanded, even if those expanded powers were to impinge upon our sovereign prerogatives.

The message the American people are giving us should not go unheeded; we need the U.N. as much as it needs us, and only through strengthening and reforming it, will it better solve the problems of our planet.

NOVEMBER 1978 POLL BY GALLUP ORGANIZATION OF 1,546 AMERICAN MEN AND WOMEN FOR CHICAGO COUNCIL ON FOREIGN RELATIONS

[In peicent]

	Public				Leaders			
	Very important	Somewhat important	Not important	Not sure	Very important	Somewhat important	Not important	Not sure
1. Keeping up the value of the dollar	86	8	2	4	73	25	2	
2. Securing adequate supplies of energy	78	15	2	5	88	12	1	
3. Protecting jobs of American workers	78	15	3	4	34	57	7	2
4. Worldwide arms control	64	23	5	8	81	16	3	
5. Containing Communism	60	24	10	6	45	47	8	1
6. Combating world hunger	59	32	5	5	66	31	2	
7. Defending our allies' security	50	35	7	8	77	21	1	1
8. Strengthening the U.N	47	31	13	8	25	49	25	
9. Protecting interests of American business abroad	45	40	9	6	27	64	9	1
10. Promoting and defending human rights in other countries	39	40	14	7	36	56	8	1
11. Helping to improve the standard of living in less developed countries	35	47	12	6	64	33	3	
12. Protecting weaker nations against foreign aggression	34	47	10	9	30	63	5	1
13. Helping to bring democratic forms of government to other nations	26	44	21	9	15	62	23	2

BALLOTS FROM PARTICIPANTS GREAT DECISIONS PROGRAM OF FOREIGN POLICY ASSOCIATION, 1976

TOPIC 8.—RETHINKING U.S. FOREIGN POLICY

[Total number of ballots: 5,128]

	Pro	Con	No response
(a) Continue to pursue the administration's policy of detente with the Soviet Union	3,627	807	694
(b) Maintain present commitments to NATO	3,395	835	898
(c) Press European allies to work for a united Western Europe	3,395	746	987
(d) Seek to strengthen the U.N. and make it a major instrument of U.S. foreign policy	3,535	953	640
(e) Downgrade the U.N. as an instrument of U.S. foreign policy	694	3,147	1,287
(f) In order to resolve specific global problems like nuclear proliferation, be willing, where necessary, to surrender limited amounts of sovereignty:			
1. Temporarily	2,258	1,212	1,658
2. Pe manently	1,126	1,902	2,100
(g) Strive for supranational world government as only effective way of dealing with global problems	2,106	1,898	1,124

THE HARRIS SURVEY, RELEASED JULY 1974

MANDATE FOR U.N. ACTIVITY

	More	Less	About same	Not sure
Solving the world food supply problem	71	7	16	6
Setting up peace keeping forces	68	5	21	6
Solving world's energy problem	68	7	17	8
Helping clean up air and water pollution in the world	67	7	19	7
Providing aid to developing nations	54	15	22	9

Note: It is evident from these results that the American people would like to vest more authority and responsibility in the United Nations. Yet, the U.N., most feel, must first learn to do its current job better, especially in the area of keeping the peace. ●

COMMUNICATIONS TECHNOLOGY

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 5, 1979

● Mr. WIRTH. Mr. Speaker, the House Subcommittee on Communications, chaired by the able Mr. VAN DEERLIN, is presently working on redrafting the Communications Act of 1934. This act was written 45 years ago, when telecommunications as we know it today was but an infant industry. At that time the common carrier industry (telephones) was characterized by the familiar voice of the operator ("Central"), radio had just become national in its coverage, and television was but a gleam in the eye of a few professors.

Since 1934 the communications industry has exploded: Universal television, cable, satellite communications, the computer revolution are all now familiar to all Americans. And the revolution in telecommunications continues unabated.

I recommend to my colleagues the following article on digital circuits, a new technology that is further accelerating the pace of change in information handling. This is but another of the exciting developments that further emphasizes the need for the country to develop policy and legislation as modern and forward looking as the technology itself.

DIGITAL CIRCUITS HERALD GOLDEN AGE OF ELECTRONICS

(By Liz Roman Gallese)

Picture the surreal products of tomorrow.

At home, your telephone will dial numbers at the touch of a single button, your stereo will play music of concert-hall quality, your television set will flash pictures of lifelike color. In your automobile, the engine will automatically keep emissions of pollutants to a minimum and fuel economy to a maximum. Your dashboard will spew forth facts and figures about how long it will take to reach your destination. At work, your telephone will keep your appointments, and your facsimile machine will transmit documents in seconds rather than in minutes.

Products such as these, some of them already appearing on the market, will be the staples of the future because of an important change in electronic technology: A change to what engineers call digital circuits from analog circuits.

Digital circuits, which use on-off pulses of electricity, are the heart of modern computers. Most other electronic devices, such as radios and television sets, rely on the other type of circuit, analog, in which electricity varies continuously in strength and amount. As the computer-type circuits become cheaper and smaller—some are about the size of a thumbnail and cost less than $1—they are beginning to invade many aspects of the electronics world that, at first, wouldn't seem to involve much computing.

Indeed, electronics is going digital in "a tidal wave that will have a momentous impact on many industries," says Herbert Kleiman, managing consultant at Booz, Allen & Hamilton Inc., the consulting company. "What's happening now is peanuts compared with what will happen in the next decade," he says.

In the last five years, sales of digital circuits have risen by about $275 million a year—three times the sales growth of analog circuits. Last year digital-circuits sales totaled $2.5 billion, more than half the amount for all solid-state circuits, says the Semiconductor Industry Association, a trade group.

By 1987, sales of products using one type of digital circuit, the microprocessor, or so-called computer on a chip, will surpass $30 billion annually, says Arthur D. Little Inc., another consulting concern. That will be a fivefold increase in 10 years.

The company also says that besides turning up in the telephones, typewriters, cars and factory equipment counted in its sales estimate, the microprocessor will be used in another 380 million items—about 10 times today's number. The dollar value of those sales can't even be estimated, Little says. What's more, scientists now are developing extremely powerful circuits, known as "superchips," which promise a wide new range of applications.

This conversion from analog to digital is technological change. Analog circuits will be around for a long time to come, largely because so much analog-based communications equipment is already in place. Some 91 percent of American Telephone & Telegraph Co.'s $39 billion investment in its giant network is in analog equipment.

"It will be at least the year 2000 before communications even approaches an all-digital world," says Harvey Poppel, a senior vice president of Booz, Allen & Hamilton. Already, though, the change is starting to transform the communications, automotive and consumer-goods industries. It also is placing a growing share of the electronics business on the books of the semiconductor companies that make digital circuits—including Texas Instruments Inc., National Semiconductor Corp., Intel Corp., Mostek Corp. and Motorola Inc.

Circuits are paths through which electricity travels, and the arrangement and the design of circuits are what allow electronic devices to do many things. Digital and analog circuits, however, are quite different.

Digital circuits are switches. They turn electricity on and off. Analog circuits are amplifiers. They modify electricity, making a current either greater or smaller. Digital circuits send or store information by the presence or absence of electric pulses. Analog circuits, in contrast, convey information not through the presence or absence of current, but through its variations.

Consider, for example, the difference between an analog and a digital telephone. In the standard telephone, which is analog, a microphone converts the sound wave of the voice into a wavering electrical current that is sent to a receiver, where a small speaker changes it again into sound.

A digital telephone, however, involves two more steps. In it, the current from the microphone is sampled, or measured, many times a second. Then these measurements, not the current itself, are sent to the receiver in a code-like series of pulses. At the receiver, the pulses are decoded before being converted into sound.

As the telephone example illustrates, analog circuits can do the same things that digital circuits can do. In fact, because analog circuits don't encode and decode, they generally require fewer parts than digital circuits to do the same job.

But analog circuits depend on parts—such as capacitors, resistors and inductors—that are expensive and nearly impossible to build in the form of compact integrated circuits. So when manufacturing costs and design efficiencies are taken into account, digital circuits have a decided advantage for many uses. Digital circuits also are more reliable than analog circuits because, by sending and storing information in coded form, they eliminate imperfections in transmission.

Their low cost and reliability make digital circuits particularly attractive to the communications industry. AT&T installed its first digital equipment in 1962. More recently, the company has been gradually installing more solid-state digital circuits to replace the electromechanical switches that now do most routing of phone calls. Northern Telecom Inc., the Nashville-based subsidiary of Northern Telecom Ltd., has begun installing digital switches for routing local calls for its customers, which are independent telephone companies.

Eventually, the lower cost of digital equipment should show up in consumers' telephone bills. "Digital switches do the job cheaper, so they will help keep down the cost of telephone calls," says John Seaholtz, AT&T's director of systems design.

Sending voice digitally is crucial to the large, private communications networks planned by several companies, including Xerox Corp. and International Business Machines Corp. IBM's planned system, a joint venture with two other concerns, will offer such futuristic services as electronic mail, ultra-high-speed copying and the ability of computers to talk to one another via satellite. But the economic success of the venture will depend on the ability to use the same equipment to carry both the exotic traffic and ordinary conversations, which will pay most of the bill.

Those networks won't be operating for another few years, but already digital circuits are promising to make the telephone a hot consumer gadget instead of the hohum home appliance. Many companies are at work on telephones that replace the electromechanical insides of standard phones with solid-state computers.

These tiny computers are opening the door to lightweight, fairly inexpensive telephones that offer convenience once found only on much larger, costly systems designed for business use. Some phones can remember dozens of frequently called numbers and dial any one of them at the touch of a single button. Others alert the user that a number that was busy when called now is free.

Last January, General Telephone & Electronics Corp. introduced a $59.95 telephone with a digital circuit for dialing. Called the Flip-Phone, it weighs less than the handset of conventional telephones and features, among other things, push-button dialing even in areas where the service isn't available. GTE expects consumer telephones with digital circuits to bring in sales of $100 million by 1983.

Some other digital consumer products already are at hand. Last year, Texas Instruments Inc. introduced Speak & Spell, a $55 spelling-aid toy that talks. Unlike other talking toys, Speak & Spell hasn't any moving parts. It stores its vocabulary of about 200 commonly misspelled words in a solid-state memory.

The machine picks words at random. "Spell 'yolk' as in egg," it might say. If the child spells the work "y-o-k-e" by pressing keys on the machine, the toy says, "Wrong. Try again." Such toys couldn't be made at a mass-market price without digital technology, Texas Instruments says.

Digital circuits also are giving rise to improved versions of products that have used analog circuits. General Electric Co. introduced in 1976 a color-television set with a digital part that permits the color of the home set to correspond exactly to that transmitted by the local television station. Industry experts say GE's so-called VIR sets have more lifelike color than TV sets without that feature. Television Digest, a trade journal, says other TV makers are starting to build such circuits into their sets.

"We could have done this technically with analog circuits," says Albert Belle Isle, a manager of GE's electronics-laboratory division. "But the sets would have been so expensive we couldn't have put them on the market." The company adds that digital technology now is affecting many of its products.

Even the family car is going digital. General Motors Corp. will put under the hood of most 1981 models digital engine-control equipment that makes the engine emit the least amount of pollutants and conserve the most amount of fuel. The equipment will permit the company to meet tougher air-pollution standards for the 1980s, standards that wouldn't have been met at acceptable prices with conventional analog equipment, says Martin Caserio, a GM vice president.

Although automotive experts say most car manufacturers in the near future will incorporate similar digital devices, the switch to computer technology in this and other fields won't happen overnight.

One reason is that some of the most glamorous applications are still far too expensive, because digital technology is still fairly new. Several companies, for example, are working on a digital recording technique known as pulse-code modulation, or PCM, that will all but eliminate the distortion common to records and home stereos today. But one typical prototype, made by Sony Corp., costs $4,000.

Price also is a barrier to acceptance of the so-called trip computer a $920 option on the Cadillac Seville. It permits motorists to compute such information as the time it will take to reach a certain destination driving at varying speeds. Someday, the dashboard computer may do a host of other things such as spit forth road maps, play games with restless children and control seat positions. But it isn't yet possible to produce such a computer at a feasible price, says GM's Caserio.

Whatever the timetable, the switch to digital circuits will have a substantial effect on the companies that make them. Benjamin M. Rosen, electronics analyst with the investment firm of Morgan Stanley & Co., sees major growth during the next decade for companies that make advanced digital circuits, such as microprocessors. Digital circuits, he says, "will make the 1980s the golden age of electronics."●

HOUSE OF REPRESENTATIVES—*Wednesday, June 6, 1979*

The House met at 10 a.m.

The Right Reverend Ross Sydney Hook, bishop of Bradford, West Yorkshire, England, offered the following prayer:

O God, the Father of mankind, we pray Thee for all nations and men, that Thou wouldest be pleased to make Thy ways known unto them; and grant that we, setting aside all partial affections and prejudice, may have Thee always in remembrance.

O Christ, the Master Carpenter, wield well Thy tools among the workshop of mankind, that we who come rough hewn

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

may be fashioned to a truer beauty by Thy hand.

O Holy Spirit, who alone showeth men the truth that sets them free, grant us both knowledge of that truth and courage to pursue it this day in word and deed.

These our prayers we offer to Thee, our Creator, Redeemer, Sustainer, one God forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on June 4, 1979, the President approved and signed bills of the House of the following titles:

H.R. 1787. An act to authorize a supplemental appropriation to the National Aeronautics and Space Administration for research and development; and

H.R. 2520. An act to amend the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 to authorize appropriations to carry out the provisions of such act for fiscal year 1980.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 199. An act to amend the Shipping Act, 1916, to strengthen the provisions prohibiting rebating practices in the United States foreign trades;

S. 348. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ben Abruzzo, Maxie Anderson, and Larry Newman; and

S. 613. An act authorizing the President of the United States to present a gold medal to the widow of Hubert H. Humphrey.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1156. An act to amend and reauthorize the Solid Waste Disposal Act; and

S. 1157. An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes.

THE RIGHT REVEREND ROSS SYDNEY HOOK

(Mr. BUTLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUTLER. Mr. Speaker, the gentleman from Virginia (Mr. WAMPLER) and I have the pleasure to welcome Bishop Ross Sydney Hook, bishop of the Diocese of Bradford, England, as our visiting chaplain.

We thank him for his blessings and inspirational words this morning. Bishop Hook has brought spiritual guidance to many through his years in the ministry.

He served his country during World War II in the British Navy as chaplain, and later became a college chaplain.

He then served as clergyman in Manchester, then Chelsea, and in 1965 became bishop of Grantham, and in 1972, bishop of Bradford.

The bishop is presently leading a 20-person delegation from the Church of England to the Diocese of Southwestern Virginia of the Protestant Episcopal Church of the United States. During his visit, he has also participated in the consecration of the Right Reverend Arthur Heath Light as the fourth bishop of the Episcopal Diocese of Southwestern Virginia.

The Diocese of Bradford and the Diocese of Southwestern Virginia, share a special relationship. As companion dioceses, they have carried on a religious and cultural exchange for 2 years, and we are hopeful it will continue for many more.

Bishop Hook is accompanied on his visit to Washington by his wife and Bishop William H. Marmion, who recently retired after 25 years of service as bishop of the Diocese of Southwestern Virginia, and his wife.

I express the appreciation of my colleagues to Bishop Hook for being with us this morning, and wish him a most pleasant visit in our country.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman.

Mr. WAMPLER. I thank my distinguished colleague for yielding.

Mr. Speaker, I want to join my distinguished colleague, the gentleman from Virginia (Mr. BUTLER) and all Members of the House, in extending a very cordial and sincere welcome to Bishop Hook. He graces and honors us with his presence.

PERMISSION FOR SUBCOMMITTEE ON SURFACE TRANSPORTATION OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING HOUSE SESSION

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation be permitted to meet while the House is in session today.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON WATER RESOURCES OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING HOUSE SESSION

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Water Resources of the Committee on Public Works and Transportation, which is just holding hearings, with no markup, be permitted to meet while the House is in session today.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

THIRTY-FIFTH ANNIVERSARY OF THE INVASION OF NORMANDY

(Mr. BEARD of Rhode Island asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEARD of Rhode Island. Mr. Speaker, I just want to reflect that today is the 35th anniversary of the invasion of Normandy. While, of course, I was just a little boy at that time, there are many Members of this Chamber who remember that very historical event.

Thirty-five years ago today one of the greatest military invasions the world has ever known took place on the beaches of Juno, Utah, and Omaha Beach. That invasion was carried out under the instructions of the late Gen. Dwight D. Eisenhower. Many of the servicemen throughout America will always remember that invasion, because that was the invasion that really broke the back of Nazi Germany.

So I just want to pause for a second and remember the millions of servicemen who fought and died in World War II, but especially those men who sacrificed and lost their lives on that terrible day 35 years ago.

PERMISSION FOR SUBCOMMITTEE ON PANAMA CANAL OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT WHILE HOUSE IS IN SESSION TODAY

Mr. HUBBARD. Mr. Speaker, I ask unanimous consent that the Subcommittee on Panama Canal of the Committee on Merchant Marine and Fisheries be allowed to sit while the House is in session under the 5-minute rule on today, Wednesday, June 6, 1979.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

GASOLINE PRICES ON CAPITOL HILL

(Mr. SHUMWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUMWAY. Mr. Speaker, perhaps the greatest responsibility of those in leadership position is to set positive examples. However, when one considers the "leadership examples" depicted in news stories such as one which appeared in this morning's Post, it is no wonder to me that the citizenry is losing faith. I am referring to the item headlined "Gas Pumps on Hill Cater to Wheels"; this article revealed the fact that congressional leadership, as well as some surprising high-level Capitol employees, enjoy the use of gasoline at 67 cents per gallon. In truth, it is the taxpayers who pay that 67 cents per gallon; the privileged group in question incurs no real cost at all.

Now, I would not presume to quarrel with any legitimate performance of leadership duty which is aided by free-flowing gas at taxpayers expense. However, if I were the average citizen sitting in a long gas line to acquire limited fuel at 90-plus cents per gallon, I would probably be more than a little smoked by this article. Not only would I be paying my 90-plus cents for my own gas—I would also be subsidizing our leadership's 67 cents per gallon fuel. I would also know full well that the leadership was not sitting in line reading about my problems.

Additionally, I am reminded of the impassioned speech delivered by our Speaker at the conclusion of debate on standby gasoline rationing on May 10. He chided us for our parochial interests, urged us to cast aside the needs of our respective districts and States, and have the courage to support an unpopular plan which would impact virtually all Americans. It is now clear why the leadership could take this position: With a guaranteed supply of taxpayer-subsidized gasoline, our leadership would not be impacted at all.

I sincerely doubt that my California constituency will understand the logic of cut-rate Capitol Hill gas pumps as they hand out high prices for scarce fuel. I further doubt that they will consider this a positive leadership example.

COUPONS DISTRIBUTED BY AIRLINES

(Mr. SAWYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAWYER. Mr. Speaker, we are all acquainted now with these coupons being given out by American Airlines and United Airlines. Obviously, to the extent those are the result of taxpayer-supported travel back and forth to our congressional districts they should certainly be used for the benefit of the taxpayer in offsetting fares. Certainly no business paying for business trips would allow an unaccountability for those tickets which are freely transferable.

It seems to me we have an ideal opportunity to take them in, reallocate them on the longer trips to California, Washington, Oregon, and so forth, and get a really significant saving on behalf of the taxpayers. Certainly they are not the property of the individual Congressman who makes the trip. It seems to me we are capable of setting up a businesslike transaction to broker those tickets as credits for those going on the longer trips and save some significant money that really belongs to the American taxpayer.

PERSONAL EXPLANATION

Mr. HYDE. Mr. Speaker, on Wednesday, May 30, 1979, I missed rollcall No. 175, having to do with passage of H.R. 4035.

I was necessarily absent. This was the Supplemental International Security Assistance Act for fiscal 1979 in support of the peace treaty between Egypt and Israel.

Had I been here, I would have voted in support of this legislation.

UNITED ISRAEL APPEAL COMMENDED

(Mr. McHUGH asked and was given permission to address the House for 1 minute and revise and extend his remarks.)

Mr. McHUGH. Mr. Speaker, for the last 2 months the State Department has been engaged in a desperate financial juggling act designed to keep our refugee programs operating and to allow for the continued movement of refugees to the United States.

This financial crisis has resulted primarily from dramatic increases in the refugee population in recent months, increases on a scale that are virtually unprecedented and that none of us could have anticipated.

For example, our long effort to persuade the U.S.S.R. to adopt a freer emigration policy now appears to be meeting with some success. Whereas emigration from the U.S.S.R. had been running at a rate of approximately 2,100 per month in recent years, this figure has increased steadily since the summer of 1978. By March of this year the figure had reached 4,400 per month and there is every indication that this high level will continue. Similarly, the continuing conflicts and tensions in Southeast Asia have resulted in very sharp increases in the number of both land and boat cases.

These developments have resulted in the rapid expenditure of funds appropriated by Congress to meet the problems of refugees. As a result, the State Department has been forced to juggle funds in an effort to keep our programs from grinding to a halt until Congress passes a supplemental appropriation to meet the demands that have been placed on the Department. Later this afternoon the House will consider that bill. I am hopeful that it will pass and that the Senate will act rapidly to meet this emergency.

In spite of our best efforts, however, funds to keep our refugee programs operating will be exhausted by June 15. Funds have been stretched to that date only because the many voluntary agencies which resettle refugees have agreed to do so without receiving the reception and placement grants to which they are entitled. All of these agencies deserve our gratitude, Mr. Speaker. However, I believe that special thanks are in order to the United Irasel Appeal.

On May 17 Ambassador Dick Clark asked whether United Israel Appeal would be willing to forgo receipt of a $5 million payment due on July 16. These funds represent a part of the U.S. contribution to United Israel Appeal for help in resettling refugees in Israel.

I am very pleased to inform the House that United Israel Appeal has agreed to forgo this payment. As a result, the State Department will be able to reprogram these funds to keep our refugee programs in operation. Once the supplemental appropriation that we will consider this afternoon is signed into law, United Israel Appeal will be reimbursed the $5 million.

Mr. Speaker, I would like to take this opportunity to commend United Israel Appeal for its very generous and forthright contribution to helping solve this present crisis that we face. Given the very serious consequences that would have resulted, its willingness to forego payment temporarily is a humanitarian gesture that deserves the thanks of all of us who are concerned about the refugee problem.

☐ 1020

NOW WE WILL LEGISLATE FOR US AS WELL, NOT JUST FOR THEM

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, I take note on yesterday the Supreme Court decided that the Congress may be subject to sex discrimination laws just as the rest of American employers are. While this may be an unconstitutional violation of the separation of powers of co-equal branches of government, I think nonetheless it will have a very salutory effect, not only in the specific instance of sex discrimination, but also it will make those of us in Congress well aware of the fact that when we pass laws that affect the American people, they also affect us and it may give us some pause before we continue the outpouring of interference in the lives and business of American citizens, once we realize we are legislating about us and not just about them.

When we pass well intentioned laws, followed by a flood of regulations, now we will—or we should—make them apply to us. Remember this when we consider new regulatory programs. Reflect on this when you consider Congress past actions in such matters as wage and hour policies, minimum wages, health and safety requirements, ERISA, social security, equal pay, National Labor Relations, as well as nondiscrimination and others.

Since we know now we are legislating for ourselves as well as for them, we might become more sensitive, reasonable and accountable for what we are doing. I think it is high time that Congress makes itself subject to the same legal and regulatory requirements it imposes on the public.

SUPPLEMENTAL SECURITY INCOME DISABILITY AMENDMENTS OF 1979

Mr. CORMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3464) to amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. CORMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3464, with Mr. BENNETT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, June 4, all time for general debate on the bill had expired. Pursuant to the rule, the bill is considered as having been read for amendment. No amendments to the bill are in order, except amendments recommended by the Committee on Ways and Means and said amendments shall not be subject to amendment.

The text of the bill reads as follows:

H.R. 3464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Supplemental Security Income Disability Amendments of 1979".

EARNINGS LEVEL FOR DETERMINING SUBSTANTIAL GAINFUL ACTIVITY

SEC. 2. (a) Section 1614(a)(3)(D) of the Social Security Act is amended by inserting immediately after the first sentence thereof the following new sentence: "Such criteria must in any event provide that an individual engaged in gainful activity shall not, by reason of his or her earnings from such activity, be considered able to engage in substantial gainful activity unless the total amount of such earnings for the period involved exceeds the level at which the portion thereof not excluded (in determining such individual's income) under clauses (i) and (iv) of section 1612(b)(4)(B), reduced by the sum of the amounts (if any) excluded for such period under clauses (ii) and (iii) of such section 1612(b)(4)(B), equals the amount of the benefit or benefits that would be payable to such individual for such period under section 1611(b)(1) or 1611(b)(2) (whichever is applicable to such individual) if he or she had no income of any kind. For purposes of the preceding sentence, the term 'amounts (if any) excluded for such period under clauses (ii) and (iii) of such section 1612(b)(4)(B)' shall include, as amounts so excluded with respect to any of the care, services, or items referred to in clause (iii) of such section 1612(b)(4)(B) which were furnished without cost to the individual, such amounts as the Secretary may prescribe.".

(b) The amendment made by subsection (a) shall apply with respect to activities in which individuals engage on and after July 1, 1980.

EXCLUSION OF WORK-RELATED EXPENSES, AND CERTAIN COSTS OF IMPAIRMENT-RELATED WORK EXPENSES, FOR THE DISABLED (AND FOR THE BLIND)

SEC. 3. (a) Section 1612(b)(4)(B) of the Social Security Act is amended by striking out "plus one-half of the remainder thereof, and (ii)" and inserting in lieu thereof the following: "(ii) an amount equal to 20 percent of such individual's gross earned income for the period involved, representing expenses attributable to the earning of such income, (iii) such additional amounts of earned income of such individual, if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, (iv) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (v)".

(b) Section 1612(b)(4)(A) of such Act is amended by striking out "plus one-half of the remainder thereof," in clause (i), and by striking out "and (iii)" and inserting in lieu thereof the following: "(iii) such additional amounts of earned income of such individual, if such individual's blindness results in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services which are necessary for that purpose, whether or not such services are also needed to enable him to carryout his normal daily functions, (iv) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, (v) such additional amounts of earned income of such individual, if such individual's blindness results in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of medical devices, equipment, prosthesis, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, and (vi)".

(c) The amendments made by this section shall apply with respect to expenses incurred on and after July 1, 1980.

EXTENSION OF TRIAL WORK PERIOD; PRESUMPTIVE DISABILITY

SEC. 4. (a)(1)(A) Section 1614(a)(3) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall nonetheless be considered to be disabled through the end of the month preceding the month in which such individual's disability ceases or, if later (and subject to section 1611(e)(4)), the fifteenth month following the end of such individual's trial work period.".

(B) Section 1614(a)(3)(D) of such Act is amended by striking out "paragraph (4)" and inserting in lieu thereof "subparagraph (F) or paragraph (4)".

(2) Section 1611(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) No benefit shall be payable under this title with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by applcation of section 1614(a)(3)(F) for any month after the third month in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).".

(b) Section 1614(a)(3) of such Act (as amended by subsection (a)(1)(A) of this section) is further amended by adding at the end thereof the following new subparagraph:

"(G) An individual applying for benefits under this title as a disabled individual (or as an eligible spouse on the basis of disability) shall be considered presumptively disabled if, within the four years preceding the date of the application, he was treated for purposes of this title or title II as a disabled individual but ceased to be so treated because of his performance of substantial gainful activity; but nothing in this paragraph shall prevent his performance of such gainful activity from being taken into account in determining whether he is currently disabled in fact.".

(c) The amendments made by this section shall be effective July 1, 1980, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to that date.

RESEARCH AND DEMONSTRATION PROJECTS PERTAINING TO SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 5. Section 1110 of the Social Security Act is amended—

(1) by inserting "(1)" after "Sec. 1110. (a)";

(2) by striking out "for (1)" and "(2)" and inserting in lieu thereof "for (A)" and "(B)", respectively;

(3) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively;

(4) by striking out "under subsection (a)" each place it appears and inserting in lieu thereof "under paragraph (1)";

(5) by striking out "purposes of this section" and inserting in lieu thereof "purposes of this subsection"; and

(6) by adding at the end thereof the following new subsection:

"(b)(1) The Secretary is authorized to waive any of the requirements, conditions, or limitations of title XVI (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such period as he finds necessary to carry out one or more experimental, pilot, or demonstration projects which, in his judgment, are likely to assist in promoting the objectives or facilitate the administration of such title. Any costs for benefits under or administration of any such project (including planning for the project and the review and evaluation of the project and its results), in excess of those that would have been incurred without regard to the project, shall be met by the Secretary from amounts available to him for this purpose from appropriations made to carry out such title. The costs of any such project which is carried out in coordination with one or more related projects under other titles of this Act shall be allocated among the appropriations available for such projects and any Trust Funds involved, in a manner determined by the Secretary, taking into consideration the programs (or types of benefit) to which the project (or part of a project) is most closely related or which the project (or part of a project) is intended to benefit. If, in order to carry out a project under this subsection, the Secretary requests a State to make supplementary payments (or makes them himself pursuant to an agreement under section 1616) or to provide medical assistance under its plan approved under title XIX, to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments or provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such payments or assistance from amounts appropriated to carry out title XVI.

"(2) With respect to the participation of recipients of supplemental security income benefits in experimental, pilot, or demonstration projects under this subsection—

"(A) the Secretary is not authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his or her participation in the project;

"(B) the Secretary may not require any individual to participate in a project; and he shall assure (i) that the voluntary participation of individuals in any project is obtained through informed written consent which satisfies the requirements for informed consent established by the Secretary for use in any experimental, pilot, or demonstration project in which human subjects are at risk, and (ii) that any individual's voluntary agreement to participate in any project may be revoked by such individual at any time;

"(C) the Secretary shall, to the extent feasible and appropriate, include recipients who are under age 18 as well as adult recipients; and

"(D) the Secretary shall include in the projects carried out under this section such experimental, pilot, or demonstration projects as may be necessary to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions which may result in permanent disability, including programs in residential care treatment centers.".

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN CHILD ATTAINS AGE 18

SEC. 6. (a) Section 1614(f)(2) of the Social Security Act is amended by striking out "under age 21" and inserting in lieu thereof "under age 18".

(b) The amendment made by subsection (a) shall be effective July 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child age 18 or over who receives a supplemental security income benefit for June 1980, during any period for which such benefit would be greater without the application of such amendment.

FEDERAL REVIEW OF STATE AGENCY DISABILITY ALLOWANCES

SEC. 7. Notwithstanding any other provision of law, any requirement under section 221 of the Social Security Act that the Secretary of Health, Education, and Welfare review specific percentages of all determinations of disability made by State agencies pursuant to that section shall not be applicable to determinations made for purposes of the supplemental security income program.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANT'S RIGHTS

SEC. 8. (a) Section 1631(c)(1) of the Social Security Act is amended by inserting after the first sentence the following new sentences: "Any such decision by the Secretary shall contain a statement of the case setting forth (A) a citation and discussion of the pertinent law and regulation, (B) a list of evidence of record and a summary of the evidence, and (C) the Secretary's determination and the reason or reasons upon which it is based. The statement of the case shall not include matters the disclosure of which (as indicated by the source of the information involved) would be harmful to the claimant, but if there is any such matter the claimant shall be informed of its existence, and it may be disclosed to the claimant's representative unless the latter's relationship with the claimant is such that disclosure would be as harmful as if made to the claimant.".

(b) The amendment made by subsection (a) shall apply with respect to decisions made on and after July 1, 1980.

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 9. (a) Section 1631(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment on which the individual's eligibility for such benefit is based has or may have ceased if—

"(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(B) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(b) The amendment made by subsection (a) shall be effective July 1, 1980, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to that date.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 2, line 16, strike out "clauses (ii) and (iii)" and insert in lieu thereof "clause (iii)".

Page 2, line 22, strike out "clauses (ii) and (iii)" and insert in lieu thereof "clause (iii)".

Page 3, line 8, strike out "(AND FOR THE BLIND)".

Page 4, strike out lines 3 through 25.

Page 5, line 1, strike out "(c) The amendments made by this section" and insert in lieu thereof "(b) The amendment made by subsection (a)".

Page 10, line 8, after "child" insert "age 18 or over".

Page 10, strike out lines 13 through 21.

Page 10 line 24, strike out "Sec. 8." and insert in lieu thereof "Sec. 7.".

Page 11, strike out the sentence beginning in line 6.

Page 11, line 18, strike out "Sec. 9." and insert in lieu thereof "Sec. 8.".

Mr. CORMAN (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read, printed in the RECORD, and that they be considered en bloc. These are all technical amendments.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CONABLE. Mr. Chairman, the minority has no opposition to these amendments.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BENNETT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3464) to amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program, and for other purposes, pursuant to House Resolution 259, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appear to have it.

Mr. CONABLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 374, nays 3, not voting 57, as follows:

[Roll No. 183]

YEAS—374

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Diggs
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent

Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wirth
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Young, Alaska
Zablocki
Zeferetti

NAYS—3

Collins, Tex.
Crane, Daniel
Pickle

NOT VOTING—57

Albosta
Anderson, Ill.
Beilenson
Bouquard
Brademas
Breaux
Brown, Calif.
Burton, John
Butler
Clay
Conyers
Coughlin
Dickinson
Dixon
Dodd
Edwards, Okla.
Evans, Ind.
Fascell
Fish
Flood
Florio
Forsythe
Fuqua
Giaimo
Gilman
Goldwater
Hammerschmidt
Hawkins
Hillis
Holtzman
Johnson, Calif.
Jones, Okla.
Kemp
Long, Md.
McClory
McDonald
Marlenee
Martin
Mineta
Mitchell, Md.
Murphy, N.Y.
Myers, Ind.
Nolan
O'Brien
Ottinger
Roe
Rose
Santini
Scheuer
Spellman
Van Deerlin
Wilson, C. H.
Wilson, Tex.
Wyatt
Wydler
Young, Fla.
Young, Mo.

☐ 1030

The Clerk announced the following pairs:

Mr. Fuqua with Mr. McDonald.

Mr. Mineta with Mr. Forsythe.

Mr. Rose with Mr. O'Brien.

Mr. Mitchell of Maryland with Mr. Wyatt.

Mr. Brademas with Mr. McClory.

Mr. Dodd with Mr. Martin.

Mrs. Spellman with Mr. Hillis.

Mr. Santini with Mr. Hammerschmidt.

Mr. Murphy of New York with Mr. Gilman.

Mr. Florio with Mr. Goldwater.

Mrs. Bouquard with Mr. Anderson of Illinois.

Mr. Evans of Indiana with Mr. Butler.

Mr. Fascell with Mr. Coughlin.

Mr. Van Deerlin with Mr. Dickinson.

Mr. Charles H. Wilson of California with Mr. Wydler.

Mr. Giaimo with Mr. Young of Florida.

Mr. Breaux with Mr. Kemp.

Mr. John L. Burton with Mr. Clay.

Mr. Johnson of California with Mr. Conyers.

Mr. Ottinger with Mr. Flood.

Mr. Albosta with Mr. Jones of Oklahoma.

Mr. Hawkins with Mr. Marlenee.

Mr. Roe with Mr. Long of Maryland.

Mr. Young of Missouri with Mr. Charles Wilson of Texas.

Mr. Nolan with Mr. Scheuer.

Mr. Brown of California with Mr. Myers of Indiana.

Mr. Dixon with Mr. Edwards of Oklahoma.

Mr. Beilenson with Ms. Holtzman.

Mr. HAGEDORN changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1040

Mr. PICKLE. Mr. Speaker, there is much good in H.R. 3464, much that should be approved by this body. This legislation contains many sections which will be of inestimable value to a disabled welfare recipient trying to get back into the work force. The bill would allow deductions for work expenses a handicapped person might face that would not be faced by the average worker—expenses such as wheel chairs and special work aids or medicines to control disabling conditions. This is a good provision and parallels a similar provision in H.R. 3236, the Social Security Disability Amendments of 1979. The SSI legislation also includes an extension of the trial work period and a requirement that claimants be given an individual and clear explanation of the decision in their case. These, too, are sound provisions which parallel similar provisions in the proposed social security legislation. I commend the committee for its work in this area and for keeping these two programs, which often serve people simultaneously, in coordination with each other.

However, there is one area where this bill has gone far afield—one provision which is basically and intrinsically wrong and which will put the social security disability and the welfare disability programs at odds with each other.

While including sections which will help a disabled welfare recipient to move back into the work force, this bill also makes it almost impossible for that person ever to get off the welfare rolls.

H.R. 3464 would award Federal welfare benefits to persons who supposedly cannot work at all but who actually have a wage level that exceeds the Federal minimum wage, and that in some cases could exceed $10,000 per year. The bill in essence changes the supplemental security income disability program to a partial disability program, and in so doing, it will have significant and unwelcome effects on the social security disability program.

Let me explain how this happens. Under the Corman legislation a single welfare recipient will be able to earn up to $479 a month—based on a Federal nonsupplemented SSI benefit of $207 per month—and still be eligiblle for welfare and all its attendant programs—while also still being classified as totally disabled and unable to work. In the case of a married person, the allowable earnings increase to $686 a month. This, again, means a totally disabled welfare recipient who supposedly cannot work at all, will be able to earn $686 a month and still qualify for welfare.

I am not at all sure this country is really prepared to pay SSI benefits originally intended for the totally disabled to persons who earn $500 or more a month.

But that is not all: If this same welfare recipient has extraordinary work expenses such as a wheelchair, then he or she can earn even beyond those figures.

I do not object to this very liberal allowance for work expenses if we are dealing with a program for the totally disabled. But in the context of a partial disability program such as this bill envisions, I think we should be very cautious and very careful about what we are doing.

Not only is this provision dangerous in itself, it has a bad effect on the social security program.

Let me explain.

The first effect is cost. This unwarranted liberalization of welfare benefits will cost social security taxpayers $211 million in the first 5 years, moving on up to $2 billion annually by the year 2000.

Second, this change will place these two programs in complete disparity with each other as far as the definition of disability is concerned, even though they are still governed by the same terminology. Both the social security and the supplemental security income disability programs were established to pay benefits to those who are totally disabled and cannot work. I emphasize the words "totally" disabled and "cannot" work. The definition of disability that is used for both programs in fact states that to be considered disabled, a person must be unable "to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment."

The dollar amount of earnings set by the Social Security Administration to define "substantial gainful activity" is currently $280 per month. This test is used to tell whether someone is actually unable to work to any significant degree because of their impairment.

H.R. 3464, however, would raise this amount for SSI recipients far above what is available under the social security program: to $479 for a single person and $686 for a married couple. Meanwhile, the social security recipient is still "not disabled" at the $280 level.

This change amounts to transforming the SSI program into a partial disability program—but leaves the social security program as a total disability benefit—all while the public assumes the same ground rules apply to both.

H.R. 3464 includes good provisions. The deduction of extraordinary work expenses, extension of the trial work period, new research and demonstration authority, and more explicit reports to claimants on the reasons for decisions made all parallel provisions in the social security disability amendments, H.R. 3236. These provisions grow out of extensive research by the Social Security Subcommittee over the past several years and I am glad to see them included in this bill. However, the change in the allowed earnings is both unwise and is an uncertain gamble. Our bill includes provisions for research to be done in this field to see if raising the SGA level really does help disabled people move back into the work force. H.R. 3464 assumes as a certainty something for which there is very little research or information. We should not take this step now.

It is with reluctance—but with firm conviction, therefore, that I must vote against this bill. I think it is unwise, not fair, and not right to place social security and SSI disabled persons under the same ground rules, but allow the welfare person to earn twice as much money.

PERSONAL EXPLANATION

Mr. BUTLER. Mr. Speaker, I was unavoidably detained when the vote was taken on the bill, H.R. 3464, SSI Disability Amendments of 1979. Had I been present and not had the benefit of the advice of the gentleman from Texas (Mr. PICKLE), I would have voted in the affirmative on that bill.

SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1979

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 298 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 298

Resolved, That during the consideration of the bill (H.R. 4289) making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clauses 2 and 6 of rule XXI, are hereby waived: beginning on page 4, line 18, through page 6, line 5; beginning on page 8, line 2 through line 19; beginning on page 9, line 18, through page 10, line 16; beginning on page 10, line 23, through page 11, line 7; beginning on page 12, line 10, through line 14; beginning on page 25, line 17 through line 24; beginning on page 32, line 5 through line 11; beginning with the proviso on page 33, line 2 through line 13; beginning on page 34, line 5 through line 15; and beginning on page 41, line 1, through page 44, line 5.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 298 provides for the consideration of H.R. 4289, a bill making supplemental appropriations of $11.3 billion for fiscal year 1979.

The rule grants waivers of points of order against H.R. 4289 for failure to comply with clauses 2 and 6 of rule XXI of the Rules of the House for specific paragraphs in chapters II, III, IV, V, IX, X, and congressional items in title II of the bill.

Clause 2 prohibits the inclusion of provisions in an appropriations bill unless an authorization has been enacted into law. In all cases where waivers have been requested under clause 2 for lack of an authorization, authorizations have been reported to the House, passed by the House, or passed by the Senate. Further, clause 2 prohibits legislation in an appropriations bill. In some instances, but not all, the paragraphs for which waivers are sought have provisions which might be technically classified as legislation in an appropriations bill.

Clause 6 of rule XXI prohibits the inclusion in appropriations bills of reappropriations of unexpended balances of appropriations. Transfers of funds are technically considered reappropriations and in the paragraphs for which waivers have been requested under clause 6, the reappropriations are in all instances transfers or reuse of funds.

Mr. Speaker, H.R. 4289 is a supplemental appropriation of $11.3 billion for the remainder of this fiscal year. This represents $3.8 billion, or 25 percent, less than what the administration originally requested for the supplemental. According to the Committee on Appropriations, this is one of the largest percentage reductions made in a general appropriation bill in recent years.

Included in the committee recommendation are $1 billion in funds for SBA disaster loans, $185 million for NASA research and development, $1.1 billion for Veterans' Administration compensation and pensions and $1.4 billion for the Middle East peace treaty. There are also funds for increased pay costs for military and civilian personnel, grants to States for social and child welfare services and funds for Amtrak and ConRail.

Mr. Speaker, I would urge my colleagues to adopt this rule so that the House may proceed to consideration of this supplemental appropriation for fiscal year 1979.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule waives points of order against the supplemental appropriations bill for failure to comply with two separate requirements in the House Rules.

First points of order are waived for failure to comply with clause 2 of rule XXI, which prohibits unauthorized appropriations and legislation on general appropriation bills.

There are provisions which violate this rule in chapter II, dealing with defense; in chapter IV, dealing with foreign assistance; in chapter V, dealing with HUD and independent agencies; in chapter X, dealing with transportation; and in title II, dealing with increased pay costs.

In addition, this rule waives points of order for failure to comply with clause 6, rule XXI, which prohibits reappropriations. This waiver is necessary because there are provisions for transferring funds, which technically constitute a reappropriation.

Mr. Speaker, most of these waivers are relatively noncontroversial. However, there is one that some Members may have a special interest in. One of the parts of this bill which is protected by the rule appropriates funds for the Panama Canal. The waiver is necessary because the authorization for this item is contained in H.R. 111, the Panama Canal Treaty implementing legislation, which has not yet been scheduled for floor action.

Mr. Speaker, the supplemental appropriation bill appropriates a total of $11.3 billion for the rest of this fiscal year, which ends on September 30, 1979. The bill includes $2.3 billion for pay raises, $1.5 billion as the price of an Israeli-Egypt peace settlement, $1 billion in small business disaster loans, and $628 million to buy two destroyers cancelled by the new government in Iran.

The administration had requested $15.1 billion in budget authority, and the Committee on Appropriations reduced this by $3.8 billion before reporting this bill. I commend them for that.

Mr. Speaker, for the information of interested Members, the following is a more specific list of the major waivers provided in the rule for this supplemental appropriation bill:

LIST OF MAJOR WAIVERS

(1) Chapter II (Defense):

The appropriations under the paragraphs for Shipbuilding and Conversion, Research, Development, Test and Evaluation, Navy, and Research, Development, Test and Evaluation, Air Force, are not authorized. Authorization for these items is contained in both H.R. 2575 which has passed the House and S. 429 which has passed the Senate.

(2) Chapter IV (Foreign Assistance):

The appropriation for Economic Support Fund for Turkey ($100,000,000) requires authorization. H.R. 3173 contains authorization for this item in the Senate passed version of the bill but is not included in the House passed version. The Senate language does authorize the funds to remain available until expended.

Appropriations for the items Economic Support Fund for Egypt, Assistance for Relocation of Facilities in Israel, and Foreign Military Credit Sales for Egypt and Israel all require authorization. Authorization is contained in both H.R. 4035 which has passed the House and in S. 1007 which has passed the Senate. Both bills authorize funds to remain available until expended.

Appropriations for Migration and Refugee Assistance requires authorization. H.R. 3363 which contains the authorization for this item has passed both the House and Senate. In addition, this paragraph contains two provisions that are considered legislation in an appropriation bill.

(3) Chapter V (HUD-Independent Agencies):

The appropriation for National Aeronautics and Space Administration, Research and Development requires authorization. H.R. 1786 which contains authorization for this item has passed the House.

(4) Chapter X (Transportation):

The appropriation for "The Panama Canal, Canal Zone Government, Operating Expenses" requires authorization. Authorization for this item is contained in H.R. 111 which has been reported to the House.

Part of the appropriation for interest payments for the Washington Metropolitan Area Transit Authority is not authorized. Additional authorization to increase the federal share is contained in H.R. 3951; however, the effective date for this additional authorization is October 1, 1979.

Title II (Increased pay costs):

The bill also includes several appropriations which require the release of funds (including transfers) reserved under Section 311, P.L. 95–391, the Legislative Branch Appropriations Act, 1979. This is considered as legislation in an appropriation bill. The following are those items included under Title II, Increased Pay Costs:

1. Under Joint Items, the appropriations entitled Joint Economic Committee; and Joint Committee on Taxation
2. Congressional Budget Office
3. Architect of the Capitol, all items
4. Botanic Garden
5. Library of Congress, all items
6. General Accounting Office

☐ 1050

Mr. Speaker, I yield 2 minutes to the gentleman from Idaho (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I rise to make a comment regarding the Panama Canal funds contained in this legislation. Several Members have inquired as to what might be done regarding this, and I have also talked to some members of the Panama Canal Subcommittee of the Merchant Marine Committee, regarding it.

We feel that, under the circumstances, since this is money which is being used for the benefit and convenience of U.S. personnel, that there should be no issue made in this legislation today.

However, I might mention, for some of you who are not privy to what is going on, that there are hearings being conducted at this time by the Merchant Marine Committee Panama Canal Subcommittee regarding gunrunning by the Government of Panama in the Caribbean, including an impressive display of weapons. Evidence makes it apparent that it is pretty much an open-and-shut case.

If you want to see what has been going on regarding our participation in the treaties, you might might want to go take a look at what is happening at the subcommittee hearing and listen to the testimony being given by the State Department, military personnel, Bureau of Alcohol, Tobacco, and Firearms, and by many others involved in the Caribbean revolutionary situation.

I might also mention with regard to these funds in the bill before us that when the Panama Canal implementing legislation does come before the House, there will be an honesty amendment which will relieve U.S. taxpayers and consumers from having to pay costs such as those listed in this legislation by providing that they be paid by the Government of Panama. In this way we can keep the promises made to all parties when the treaties were approved.

I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4289) making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Massachusetts (Mr. CONTE) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4289, with Mr. KAZEN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill before the House is the supplemental appropriation bill that the committee has reported out at the insistence of the Office of Management and Budget and the President. In line with our obligations to carry on to the conclusion of the present year, the programs which have been authorized and approved up until this point, our committee has taken into consideration the financial plight of the country and has made a substantial reduction in the request submitted to us by the administration.

In summary, the budget estimates were $15.1 billion. The bill recommends $11.3 billion, a reduction from the budget request of $3.8 billion and a reduction in outlays of $1.6 billion. This is a reduction of some 25 percent and represents the largest percentage reductions of any recent appropriation bill.

The recommendations which we make, compared with the revised fiscal year 1979 budget resolution, are $1.8 billion under the budget ceiling and nine-tenths of a billion dollars under the budget outlay ceilings.

Mr. Chairman, we are learning to live with some of the legislation which we in Congress have passed. I personally am hopeful that with time we can make some changes, but not lose sight of the object which we have in mind in the congressional budgeting process.

As some of the Members know, I was on the study committee that made a study before recommending to the Rules Committee the change that set up the congressional budget process.

I was one of the strong believers that we needed at the outset to set up a target. It was my belief that at the beginning of the session before hearings are held, before we have the detailed testimony of our colleagues in the Congress, that it would be impossible to set a budget, a fixed budget.

☐ 1100

So what we wrangled over for some several weeks here during consideration of the budget resolution was fixing a target. While the debate largely centered around line items, it was really not binding on that line item, even though it was a target. But, it went to the functional category which covered a wide variety of programs which came under the same general heading, such as income security, defense, or what have you.

But, I am afraid the press and Members of Congress, to a great degree, mistook the debate here. While line items were the subject of discussion, and the Members' feeling about such line items in debate, that they overlooked the fact that it was a target in the first instance, and that the target itself was not bound by whatever action we may have taken on that particular item, because the item was only part of a broad functional category.

In the bill before us we did have to go to the Rules Committee. Here is an area where I think time is going to require us to reconsider some of the things in the existing law. We are required on the Appropriations Committee to have our bills in order on or before a certain date. We in turn on supplementals cannot, regardless of the urgency, bring them up until or unless there is adequate ceiling. As the Members will recall; the target resolution that also contained the new fiscal 1979 ceilings ran over about a week because of the debate here on the individual items, which were not binding, as I have pointed out. But, it meant that we could not move until that was over.

Although authorizing legislation for fiscal year 1979 should have been in place by now, in many cases it was not. When we were confronted with the necessity of moving because of the urgency, and because of the critical situation with regard to many items in the bill, we found that we did not have those authorizations. This is not said in criticism, it is just very difficult to bring so many diverse views together to do all of the work required to get authorizing legislation through in a timely fashion.

I wish to say when we went before the Rules Committee we spelled out what was involved and went into great detail. I appreciate the courteous way in which our problems were handled, and I appreciate the Rules Committee's understanding that we were trying to do our best, as had our colleagues in other areas. So, we do come here under a rule. As was pointed out by the gentleman from Texas and the gentleman from Ohio, and we pointed out before the committee, the areas in which we had to ask that the rules be waived were so that we could proceed because the legislative committees have not had a chance to move.

I say again that in this bill this is one of the largest decreases that I have seen in my experience here in a request for a supplemental.

Mr. Chairman, before we begin the actual consideration of H.R. 4289, the supplemental appropriations bill for fiscal year 1979, I believe it might be useful to Members if we took a moment to review the budget situation.

Our country is in a serious financial situation. Inflation is eating away the very strength of our country. The dollar continues to depreciate. The energy situation gets worse rather than better.

In the midst of all of this, the Federal Government plays a key role. It cannot take the place of the productive part of the Nation, but it can keep from putting up obstacles that prevent the productive part from doing its job.

The Federal Government must also keep its own house in order. Obviously, if we are ever to have a healthy economy, the Government must slow its spending rate and, as economic conditions allow, produce a balanced budget. We cannot do it all at once, but steady determined steps must be continually taken.

On the surface progress seems to be being made. The numbers suggest getting closer to a balanced budget, but in part this is mainly a result of inflation driving up tax revenues and not a decrease in the rate of Federal spending.

For fiscal year 1979, the Congress has adopted a budget resolution that proposes budget authority of $559.2 billion and actual spending or outlays of $494.5 billion.

The unified deficit that will result from this spending is $33.5 billion for fiscal year 1979.

However, the actual amount of money that the Government will spend and borrow, that it does not have, and this is the real measure of deficit spending, will be $61.5 billion. The figure of $61.5 billion will be the amount by which the debt subject to limit will increase.

The difference between the unified deficit figure of $33.5 billion and the increase in the debt of $61.5 billion is accounted for mainly by borrowings from surplus trust funds of $17.7 billion (primarily from the Social Security Trust Fund) which are used to reduce the deficit but which must be eventually paid back like any loan and the additional deficit of $12 billion of the so-called off-budget agencies (primarily the Federal Financing Bank) which are not counted in the unified deficit total.

For fiscal year 1980 the budget resolution proposes a unified deficit of $23 billion but with a true deficit increase or increase in the debt of $53 billion.

It is clear from these figures that the progress toward a truly balanced budget is not very great, especially between 1979 and 1980.

One of the significant features of such large Federal deficit spending is that in a time of economic growth and high inflation, the Federal Government is continuing to stimulate the economy with its fiscal policy. The dangers of such a course should be obvious.

INFLATION

The situation is even worse when inflation is considered in connection with the deficit of the Federal Government, for there can be little doubt but that to some degree the largest deficits experienced by the Government have contributed to the problem of inflation.

In the first 4 months of 1979 the Consumer Price Index has increased at an annual rate of 13.2 percent. This is on top of a 9 percent increase in 1978. And these figures are just averages—in areas such as food and energy the increases have been even greater.

We all realize that what happens in private industry, such as built-in wage increases, and so forth, far exceeds what happens in government so far as increased inflation is concerned. However, government should set the example in holding back. Since 1970, during which inflation increased by some 130 per cent, the debt increased some $530 billion—that is the Government spent some $530 billion that it did not have. By any measurement this had to contribute to inflation. This does not include the $412 billion in guarantees—which history shows, is the direction other countries have turned when they were in financial trouble and at present there is no ceiling on this approach.

Thus the efforts to control Federal spending have become more important than ever and unfortunately during these same years of high deficit spending and high inflation our ability to control has diminished.

The budget submitted by the President in January indicates that 76 percent of the budget outlays for fiscal year 1980 are relatively uncontrollable under present law. In 1967, the comparable figure was 59 percent; in 1969 it was 63 percent; in 1971, 66 percent; 1973, 70 percent; 1977, 73 percent.

Two phenomena have been the primary cause of this—entitlement provisions and legislation containing escalator clauses. These have contributed to a situation whereby most of the budget effectively escapes annual competition with other programs for the Federal dollar. This renders the budget virtually uncontrollable—especially from the standpoint of outlays in the budget year.

It is my personal view that a change in these laws and regulations—and a follow up along the same lines by industry are absolutely necessary if we are to stop this galloping inflation—which can only lead to financial disaster.

ENTITLEMENTS ESCAPE CONTROL

If the Congress is ever going to exercise adequate control over the spending side of the budget, it will have to come to grips with what are known as entitlements. Entitlement authority is defined in the Congressional Budget Act as spending authority "to make payments, including loans and grants, the budget authority for which is not provided for in advance by appropriation acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law."

Involving primarily payments for individuals, entitlement programs have escalated in the past decade to the point where this year they constitute over 75 percent of the uncontrollable outlays and 55 percent of the total gross budget outlays. The growth in entitlement programs is evident when compared with 10 years ago when they constituted 64 percent of the uncontrollable outlays and only 40 percent of the total budget.

ESCALATOR CLAUSES ESCAPE CONTROL

In recent years, the enactment of legislative provisions providing for benefits under entitlement programs to increase automatically as the various inflation indexes increase has had an enormous adverse impact on the ability of both the Congress and the Executive to control the budget. With the exception of Federal pay, all such adjustments become effective automatically without the requirement of any current action by Congress.

All major entitlement programs involving payments for individuals are now affected by price indexes. About 58 percent of the budget authority this year involves programs which are adjusted automatically by price indexes. Such programs include food stamps, school lunch, veterans and survivors pensions, civil service retirement, railroad retirement, social security, supplemental security income, black lung benefits, older Americans and child nutrition.

The impact of escalator clause adjustments in any one fiscal year differs by program because of variances in effective dates and escalation percentages. However, a recent study by the Appropriations Committee found that, if it is assumed, for example, that a 7-percent adjustment was in effect for all the subject programs uniformly over a 12-month period, the increased cost would be in excess of $20 billion. In other words, through these escalator clauses, additional inflation is added to match inflation through devices over which Congress exercises no effective annual review and control.

The committee is concerned that the Congress will never achieve adequate and equitable control of the budget if massive spending features and large segments of the budget are ignored. All Federal programs must compete on the same basis whereby choices can be made and priorities determined on the whole budget not just on a smaller and smaller number of controllable items. Efforts directed at improved congressional control cannot be isolated to that shrinking portion of the budget presently classified as controllable.

From the standpoint of those concerned about the effectiveness of Federal budget mechanics, perhaps the most important objective of the Congressional Budget Act was to eliminate the fragmentation in the congressional budget decisionmaking process. Noting the proliferation of the so-called backdoor spending devices—contract authority, borrowing authority, and entitlement provisions—the authors of the act included in title IV certain reforms designed to reduce fragmentation in the congressional budget process. While these procedures have been helpful, the fact remains that those programs not subject to annual review in the regular authorization and appropriation process tend to remain virtually uncontrollable and continue to grow at a much faster rate than those programs which the Congress controls in the appropriation bills. As has been discussed, a growing percentage of the budget is classified as relatively uncontrollable under present law.

Mr. Chairman, the supplemental appropriations bill before the House today responds to the effort to reduce Federal spending. It contains the largest percentage reduction in any recent general appropriations bill.

Of the $15.1 billion in budget authority that has been requested by the administration, only $11.3 billion is being recommended. This is a reduction of $3.8 billion or 25 percent.

In regard to the budget resolution for fiscal year 1979, the bill is within the overall ceiling of the resolution. If the bill is adopted as reported there will remain some $1.8 billion in budget authority and $0.9 billion in the resolution.

Some of the major items in the bill include the following:

	Recommended in bill
Increased pay costs for military and civilian personnel	$2,360,709,100
Food Stamp Program	379,700,000
Veterans Administration:	
Compensation and pensions	1,129,400,000
Veterans Administration:	
Readjustment benefits	301,700,000
Middle East Peace Treaty	1,470,000,000
Migration and Refugee Assistance	104,910,000
Disaster relief	194,000,000
NASA: Research and development	185,000,000
Elementary and secondary education	200,000,000
Grants to States for social and child welfare services	188,548,000
Medicaid	554,429,000
Corporation for Public Broadcasting	162,000,000
Student loan insurance fund	243,189,000
Small Business Administration:	
Disaster loans	1,018,000,000
Amtrak	119,000,000
Conrail	239,000,000
Civil Service retirement and disability fund	335,355,000
Retired pay, Defense	133,632,000
Purchase of two destroyers due to Iranian cancellations	628,000,000
MX missile	190,000,000

Mr. Chairman, this bill was developed by 11 of the 13 subcommittees of the Appropriations Committee through lengthy hearings, detailed markups and deliberations by the full committee. I want to express my appreciation to the chairmen and ranking minority members of these subcommittees as well as all of the members of the committee who worked so hard and diligently on this bill. The members of this committee have done a good job on this bill.

I would urge its support by the House.

AGRICULTURAL, RURAL DEVELOPMENT AND RELATED AGENCIES

Mr. Chairman, I would now like to discuss chapter I of the bill which covers funds for agriculture, rural development and related agencies. For chapter I the committee recommends an appropriation of $1,042,111,000 which is $507,450,000 less than the budget request.

The bill raises by $100 million the limitation on insured operating loans to meet the urgent needs which have become evident during the last few weeks. In view of the budgetary ceiling, the committee did not include funds requested for a homeownership assistance program.

Language is included for the Office of the Inspector General to meet the requirements of the Inspector General Act of 1978, and also for agricultural research to allow for the conversion of an existing building into an insect rearing facility.

FOOD STAMP PROGRAM

Mr. Chairman, we are all aware of the rapidly escalating costs of the food stamp program due to higher food prices and increased participation resulting from the implementation of the Food Stamp Act of 1977. That act limits appropriations for fiscal 1979 to $6,158,900,000. This bill includes $379.7 million for food stamps to bring the appropriation amount up to the maximum that is allowed under existing law. We understand that legislation is pending which would increase the authorized "cap," and we would give consideration to funding additional needs once the way is clear for us to do so.

ELDERLY FEEDING PROGRAM

Also included in this chapter of the bill is $27 million to allow for the continuation of the elderly feeding program. This is the same amount as the supplemental budget request.

This program was not included in the Labor-HEW appropriation bill last year. Funding in prior years had been under this heading in USDA. The fiscal 1979 budget estimate for this entitlement program was $45,000,000, however, under the continuing resolution only $30,000,000 is available. The $27 million is in addition to the $30 million provided in the continuing resolution.

MEAT AND POULTRY INSPECTION

Mr. Chairman, we have included $750,000 for State grants for meat and poultry inspection in light of revised estimates of need and following an analytic review of those needs by the Department.

CHILD NUTRITION PROGRAMS

The bill provides $100 million to fund the increased reimbursement rates for school meals, summer and child care meals to purchase commodities for donation to feeding programs, and to provide for State administrative expenses.

INCREASED PAY COSTS

For increased pay costs for Agriculture and the related agencies covered under title II of the bill we have recommended a total appropriation of $44,665,000 which is $14,239,000 less than the budget request.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I commend the gentleman for his statement.

The Defense subsection, chapter II, needed a rule. The bill had not gone to conference or been passed. All matters have been authorized and the committee is supporting the chapter as reported.

Mr. Chairman, the committee has tried to provide only those funds absolutely essential for the remainder of this fiscal year in the supplemental for the Department of Defense. The total sum recommended of $2,884,300,000 is $1,376,534,000 less than the $4,260,834,000 requested in titles I and II of the bill. Of the $2.9 billion recommended, $1.8 billion is for pay increase costs and $1.1 billion is for various programs.

The principal amounts recommended in the program area include $628 million for two DDG-993 destroyers, $190 million for development of the M-X intercontinental ballistic missile, $132 million for various military personnel program costs, $133 million for retired pay costs, and $20 million for development of the Trident II submarine-launched ballistic missile. In addition, $80.1 million is provided by transfer from unobligated balances for the NATO AWACS program.

There are several reasons for the reduction recommended. The committee paid close attention to House action on the third budget resolution for fiscal year 1979 and noted the consistent refusal in the House to increase the funds for the Department of Defense. While the committee has recommended more money than was included in the House budget resolution, the sum recommended is, I believe, consistent with the views of the House in regard to this matter.

The required supplemental authorizations have not yet been enacted. While both Houses have completed action on the supplemental authorization, the House only did so late last week and no final conference action has been taken. At this time there are a number of programs which have been deleted by one or the other of the authorizing committees. We do not know at this time whether or not those programs will be ultimately authorized. The committee thought it prudent to delete such funds at this time.

Further, this supplemental appropriation bill will not be enacted until the last quarter of fiscal year 1979. It will not precede the fiscal year 1980 appropriation bill for the Department of Defense by more than a few months. It makes very little difference in many instances whether or not funds are made available for harware programs late in fiscal year 1979 or early in fiscal year 1980. If it had been possible to enact the supplemental soon after Congress met this year, some significant time advantages might have been possible, but it is too late now.

I might point out to the House that the defense program supplemental has had a long and checkered life. It grew out of the veto of the defense authorization bill last year and the rejection of the aircraft carrier. Defense spending advocates wanted the money saved by denying the carrier to be spent on other defense programs. The supplemental request was sent to Congress last fall for this basic purpose but it was not acted on.

The supplemental was extensively revised and resubmitted in January. A number of programs were chopped out and other new programs added. The thrust seemed to be a request for a certain level of defense money and to replace the funds the Pentagon lost on the aircraft carrier without much regard for the urgency of requirement for the specific programs. Of course, program supplementals are supposed to be under the Budget Control Act, limited to urgent requirements.

We should pass this bill in the House as it was recommended by the committee. If additional programs are authorized and if the Senate includes them in the supplemental appropriations bill, we can consider those items in the conference. I think at this time we should follow what has been the will of the House as expressed during the consideration of the budget resolution and follow the recommendations of the Appropriations Committee as set forth in the committee report. As the committee stated, if there are other urgently required funds here at the end of the fiscal year, they can be made available from unobligated balances already on hand through transfers and the reprograming process. We do not need to provide further new appropriations at this time.

Mr. WHITTEN. Mr. Chairman, I thank the gentleman very much.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to join Chairman Whitten in presenting to my colleagues in the House H.R. 4289, a bill to make supplemental appropriations for the fiscal year ending September 30, 1979. The Appropriations Committee has worked long and hard on all aspects of the bill, and the finished product is one the committee can support in general terms. I am certain that the House as a whole can support this bill and I urge my colleagues to move expeditiously. It hardly seems necessary to point out to my colleagues that budgetary considerations have preoccupied a great deal of our time this year. Our deliberations in the matter of the fiscal year 1979 were no exception. In the hearings that the various subcommittees held, the theme of fiscal responsibility was heard over and over. The departments, independent agencies, and corporations, were in many cases required to go beyond their formal justifications to assure the committee that past appropriations had been used wisely, and that any requested supplemental increases were justified. The budget request submitted by the administration was an austere one. Of the $15.1 billion in budget authority that was requested, only $11.3 billion has been provided by this committee. This amounts to a reduction of $3.8 billion or 25 percent. This is one of the largest percentage reductions made in a general appropriations bill in recent years. As you can see, the Appropriations Committee has been very tough.

The committee, in addition to the new budget authority contained in the bill, recommends transfers of $218 million between various accounts. In many cases this was recommended in lieu of providing new budget authority where unobligated balances have been determined to be in excess of present needs. This is part of the committee's continuing program of reducing unobligated balances whenever possible.

All in all, the final total is modest enough to merit your support. Several of the specific chapters of the bill warrant some discussion. In the chapter on Agriculture, the committee included a total of $507 million in budget authority, a cut of $1 billion from the administration's request. The bill contains $380 million for the food stamp program. The cost of this program has grown tremendously over the last few years. The budget request is for a total of $1 billion in additional funds for fiscal year 1979, however, $380 million is all we are able to appropriate under the current authorization. This latest increase is due primarily to growth in participation since the amendments to the Food Stamp Act of 1977 were implemented. The President requested $985 million as a supplemental to start the new homeownership assurance program which would help the rural poor purchase homes. The committee felt that in view of the present budget constraints it is not wise to start a new program of this type at this time.

In the chapter on defense, the bill totals $2.9 billion which is $1.4 billion less than was requested. Of this amount $1.8 billion is for pay increase costs. Only $1.1 billion is for discretionary spending, including $628 million for two destroyers, $190 million for MX missile research, $20 million for Trident II missile research and $132 million for other military personnel costs. Also included is $80.1 million in transfer authority from certain unobligated balances for the NATO AWACS program.

There is no doubt that the funds contained in the defense portion of the bill are needed. The committee has not only held the line on Defense requests, but has recommended approval of only those programs which could be considered time critical. That, I believe, is the purpose of a supplemental appropriation and, in that sense, Defense recommendations meet the test.

In the chapter on energy and water development, the committee has recommended $165 million, which is $108 million below the administration's request. Included is $12.8 million, the full budget request, to fund the testing of two nuclear warheads—the Minuteman III and Poseidon—which are vital components of the Nation's strategic deterrent.

In the chapter on foreign operations, the committee included a cut of $11.7 million in budget authority, the administration having requested $1.7 billion. Included here is $1.47 billion as requested by the President for the costs of the Middle East peace settlement.

I support that settlement, and I must therefore support the enabling appropriation.

For migration and refugee assistance, the committee has included the total supplemental request of $105 million.

In the chapter on housing and urban development, out of a request of $2 billion the committee included $1.9 billion in its recommendation. Included in this recommendation is $185 million for NASA research and development and $1.4 billion in veterans compensation, pensions, and readjustment benefits.

In the Department of Interior chapter, we cut $123 million from the administration's budget.

In the chapter on labor, health, education and welfare, the committee provides a cut of $672 million (30 percent) for a total recommendation of $1.6 billion.

In the chapter on State, Justice, and Commerce, the judiciary and related agencies, the committee has included $1 billion for the Small Business Administration's disaster loan fund. As you are well aware, the weather has brought severe hardship to the citizens of many parts of our country. There have been violent winter storms in the Northeast and Midwest, droughts in Texas and Oklahoma, severe flooding in Mississippi, Alabama, Louisiana, Missouri, Minnesota, and North Dakota and tornadoes in Texas, Arkansas, and Oklahoma. The funds included in this bill are to help the people of these States recover from these natural disasters.

The committee cut 74 percent out of the legislative supplemental request.

In the chapter on transportation, the committee includes $451 million, a cut of $6.2 million below the President's budget. This includes $119 million for Amtrak and $239 million for ConRail. I serve as ranking minority member on the Transportation Subcommittee, and I assure you this budget is indeed lean and austere. Transportation is an integral aspect of every phase of the American way of life. We can ill afford to neglect this area.

And finally in the chapter on Treasury, Postal Service, and general government, the committee included $413 million, a cut of $155 million from the President's request.

Mr. Chairman, I express my concern that my colleagues consider the dilemma faced by the committee in making these recommendations.

In closing I express my appreciation to the able chairman of the committee, Mr. Whitten, and other subcommittee chairmen for their leadership and cooperation provided in the preparation of this important bill.

I especially express my appreciation to the members of the minority for their splendid work and minority staffs for their dedication to duty and the fine job they do.

Mr. EDWARDS of Alabama. Would the gentleman yield?

Mr. CONTE. I will be glad to yield to my good friend from Alabama, the ranking minority member of the Defense Appropriations Subcommittee.

Mr. EDWARDS of Alabama. Mr. Chairman, I asked the gentleman to yield for the purpose of saying to the House that with a new chairman of the Appropriations and a new ranking minority member of the Appropriations Committee that I personally think we have functioned very well. I want to commend the gentleman in the well for the manner in which he has assumed his new responsibilities. It is not an easy task. But I think that the gentleman from Massachusetts has done an exceptional job and it has been a pleasure for me to have had the opportunity to work with him.

Mr. CONTE. I want to thank the gentleman from Alabama for those kind words.

I want to compliment my subcommittee chairman, Mr. NATCHER, who did such a magnificent job, I think one of the best jobs on one of the most vexing issues. The HEW-Labor Committee is one of the toughest committees to handle in the Congress. He was a master in the way he handled the myriad of problems before our committee and brought out a responsible supplemental and a good bill for 1980.

And I want to thank all of the other subcommittee chairmen and all of the members for all of the work they did.

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I especially express my appreciation to the members of the minority, my whip and my good friend, the gentlemen from Illinois (Mr. MICHEL) — who could have had this job but who stepped aside and let me have it; I do not know whether I should thank him or have sympathy for myself at this point—for the splendid work that he did, and the other minority Members and minority staff, as well as the majority staff, for their dedication and duty to a fine job.

Mr. WHITTEN. Mr. Chairman, I have no requests for time on this side.

Mr. CONTE. Mr. Chairman, I yield such time as he may consume to my good friend, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. I thank my ranking Member.

Mr. Chairman, the Members will note that in our supplemental report here we talk about the $15 billion in budget authority that has been requested and only $10.9 billion being provided, a reduction of $4.1 billion. I would like to address myself, if I might just for a moment or two, to that chapter having to do with HEW for which we are responsible.

In that chapter we have $1,577,000,000, ostensibly a decrease of some $671 million below the budget request. In a general sense, what the subcommittee did was to provide mandatory increases and provide funds where necessary to maintain programs at current levels, but to defer requested program expansions until 1980. This was most notable in the health field where with the exception of medicaid, we have approved only $27 million of the $159 million the administration requested. In part this was due to a tight budget resolution level in the area, but also was due to the fact that most of this request was to expand old programs or launch new ones. In this regard, budget requests for community health centers, family planning, influenza immunization, and adolescent pregnancy services, among others, were not approved in the supplemental.

The committee report shows a decrease of $400 million in CETA due to a decision not to launch the new private sector initiative program with a supplemental appropriation as originally requested by the administration. Rather, we have provided start-up funding of $75 million in 1979 through a reprograming and have included the remainder in the 1980 Labor-HEW bill we will be considering later this month.

The administration requested this action, so the report in reality probably should not show the $400 million as still being a budget request. We have not, in other words, cut the budget by as much as appears on the surface.

Then if I might make mention, too, of the medicaid item, we are including in here over a half billion dollars again for a shortfall in medicaid, and even that amount might be underestimated by $194 million by latest departmental estimates. Most of the increase is due to the fact that Congress last year in the 1979 Labor-HEW bill cut the President's budget request for medicaid by $353 million. When we go through this charade of cutting these statutorily required items with fictitious cuts and then have to come back in with a supplemental like this, we are really only kidding ourselves, and it is just another case of gamesmanship being played with figures like this to make the bill look smaller.

I am going to leave other comments with regard to specific items on HEW until we get to that particular chapter, but I would like at this juncture to make mention of one item, the regional rail transportation protective account in which we have included $18.8 million to reimburse ConRail for the cost of making protective payments to employees protected under the Regional Rail Reorganization Act of 1973. I want to make these comments at this point to highlight for that legislative committee that eventually will be considering this matter, and ask them to take note of some of the things I intend to say.

This item in the supplemental brings the total for protective payments up to the authorized ceiling of $250 million. The authorizing law covering the program is so liberal and so loosely drawn that benefits under the program may ultimately cost us $1.5 billion or more before we are finished. Let me just cite a couple of examples to make my point:

All employees covered by the act with 5 years of experience in 1974 are guaranteed wages for life. Thirty-five thousand employees have received benefits to date. Most of the recipients are still working for ConRail receiving Federal monthly protective payments over and above their regular monthly wages.

In one case an employee earned $13,000 in regular wages and received $20,000 in Federal protective payments, for a total yearly wage of $33,000.

Monthly protective payments are based on wages earned in 1974, and that was an abnormally high overtime year, a year of abnormally high overtime, so it results in an abnormally high wage base and an abnormally high protective payment.

The law requires that the wage base be increased every year at the same rate regular wages go up, and under this provision, from 1974 to 1977 the wage base rose by 35 percent, which meant that the monthly protective payments rose by that amount for each worker, even though that worker received the regular 35-percent wage increase. Previous railroad mergers did not inflate the base, and, thus, employee earnings usually surpassed the base through regular pay raises and seniority jobs within about 6 years, but the inflatable base in this program has the effect of perpetuating the payment of benefits over the lifetime of the worker.

If I might just make one other comment here, the law provides that monthly protective payments shall be reduced by only 50 percent of earnings received by former employees who took nonrailroad jobs. The result is that some former Pennsylvania truck employees went to work for other trucking firms and are earning upward of $28,000 in wages, while at the same time they are receiving some $18,000 in monthly protective payments and $5,000 in fringe benefits, for a total of $51,000 a year. All told, 99 Penn truck employees are receiving these 50-percent benefits, while another 238 are receiving full benefits.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I am happy to yield to my friend, the gentleman from Oregon. We had a short dialog in the full committee on this item, and I was happy to hear the kind of comments he made at the time. I would expect for legislative history he might make those same comments now.

Mr. DUNCAN of Oregon. I think the gentleman is quite correctly pointing out some abuses, some unintended results, perhaps I should say, because I think the payments are being made according to law and in that sense they are not abuses. But I think there are some unintended results which the gentleman is quite correctly pointing out to the House.

We have been in conversation with the authorizing committee, and we are advised that they are working on this matter from the standpoint of changing the law to make the results such that those whose jobs have been taken away as a result of the reorganization, who are not reemployed at roughly the same as they were before the reorganization, will be taken care of, but the other unintended results are eliminated. In our 1980 appropriation bill the Members will see language that will prohibit any Federal funds from being used by Conrail for this purpose after, I believe, December 31, 1979, which will give the authorizing committee an opportunity to address and solve this problem.

Mr. MICHEL. I thank the gentleman for his very valuable contribution. It just points up one of the functions or responsibilities I think we on the Committee on Appropriations have in our oversight of some of these programs, having to ante up the money to fund them in a regular bill or supplemental, notwithstanding that we can see deficiencies in that regular area of oversight that the authorizing committee does not pay close attention to. It seems to me a valid opportunity then for us to point these cases out so that the authorizing committee might take appropriate action.

Mr. Chairman, I yield back the remainder of my time.

Mr. CONTE. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, last year during a conference committee meeting on H.R. 15, the Education Amendments of 1978, the conferees agreed that title IV, parts B, C, and D of ESEA would be implemented beginning with the 1979-80 school year. Congress subsequently passed and the President signed this legislation which became Public Law 95-561.

You may recall, that in 1979, the Education and Labor Committee specifically decided that the title IV consolidated programs enacted in 1974 had not achieved the intent of simplification in the administration of Federal education programs. The actual task of combining such diverse authorities as Library Resources and Guidance, Counseling, and Testing into a single, smoothly running administrative mechanism created severe difficulties at the Federal, State, and local levels. The merger of "people" and "things" caused keen competition which often forced local officials to make decisions at the expense of one or the other activity.

After careful deliberation, both the House and Senate agreed that funding for Guidance, Counseling and Testing (part D of ESEA, title IV) should be separate from funding for Library Resources and Instructional Materials (part B, ESEA title IV).

I see this provision was not addressed in the supplemental appropriations bill which we are considering here today. The Appropriations Committee report noted that the committee found "no compelling reason to amend the 1979 appropriation bill to conform" to what only can be interpreted as the specific intent of the authorizing legislation passed by the 95th Congress and signed into law by the President of the United States. I call this to your attention so that the fiscal year 1980 appropriation reflects the intention of the Congress in this matter.

● Mr. GRASSLEY. Mr. Chairman, while the Conte amendment is being discussed, I will be in the Agriculture Committee voting on food stamp legislation, consequently I must take this method of supporting the proposed amendment to increase the funding for the nutrition program under the Older Americans Act.

Approval of the Conte amendment will not increase this much-needed service to elderly persons who benefit from the existing congregate meal program. It will merely forestall the necessity of terminiating the provision of nutritional meals to thousands of elderly persons who depend on this program. For far too many of them, the Older Americans Act nutrition program is their sole source of meals that combine both caloric and nutritional adequacy.

The amendment will, in addition, permit a token startup of the home delivered meal program which was a key part of the 1978 amended Older Americans Act. By extending nutritional services to the isolated and the homebound, this provision should reduce the frequency of institutionalization and effect an overall savings of money.

At present the nutrition program is running on a continuing resolution at the fiscal year 1978 funding level. Both the President's fiscal year 1979 supplemental budget and the House Appropriations Committee recognized that increases were necessary to prevent a cutback in the program. On May 1, the House recognized that prior actions were still insufficient to prevent program reductions in many States and agreed to a fiscal year 1979 budget amendment proposed by Mr. BIAGGI which increased the budget authority for this program by $75 million and established an outlay level of $30 million.

Our object today is to confirm that floor action and to fulfill our commitment to the Nation's elderly who are dependent on the benefits of the Older Americans Act nutrition program. I urge your support for this amendment, when it is discussed and do so now because I will be in the Agriculture Committee meeting.●

● Mr. DODD. Mr. Chairman, I am rising in support of the Conte-Biaggi-Roybal amendment to provide an additional $15 million in supplemental funds for the 1979 nutrition programs for the elderly.

The issue before us is providing sufficient funds to insure the health of our elderly citizens, those residents of Connecticut along with thousands of senior citizens across the country who depend on these programs to provide them with a nutritious daily diet. If Congress fails to provide sufficient operating funds for these programs, it is the elderly who will suffer. As the situation stands now, cutbacks in programs are imminent unless adequate funds are approved.

My own State of Connecticut has a deficit of $118,000 for 1979. Using the $2.66 as the figure for the average cost of one meal, we are talking about the price of 44,360 meals for the deserving and needy in Connecticut alone. There are several other States experiencing deficits for 1979 that, like Connecticut, do not fall into the category of the 14 States experiencing shortfalls which will receive relief by the $7.5 million in supplemental funds recommended by the Appropriations Committee.

It is clear that in the State of Connecticut and around the country that there are successful, much needed nutrition programs for the elderly that will not have the wherewithall to stave off service cutbacks and compensate for inflation for the remainder of 1979 with a total supplemental of only $12 million. The amendment offered by my colleagues Mr. CONTE, Mr. BIAGGI, and Mr. ROYBAL appears to provide sufficient funds to allow program directors to continue providing this essential service to the elderly and to meet the rising costs of serving and delivering meals.

These nutrition programs enable many people to be independent and avoid being placed unnecessarily in nursing homes. The action proposed in this amendment is morally and fiscally responsible, and I strongly urge my colleagues to join me in supporting this amendment.●

● Mr. MYERS of Pennsylvania. Mr. Chairman, I rise in support of the Conte-Biaggi-Roybal amendment to the fiscal year 1979 supplemental appropriations bill. This amendment will increase by $15 million the appropriation for nutrition programs for the elderly under the Older Americans Act. By passing this amendment, the appropriation level would be increased by $22.5 million over the administration's request, bringing the total appropriation level for nutrition programs to $277 million.

The additional funds appropriated by the amendment being considered will offset increased costs in the program brought about by inflation and rising food prices. Without this amendment the program will have to be cut back in 36 States causing more of our Nation's senior citizens to suffer from a lack of healthy, well-balanced meals on a daily basis. Although this amendment will not eliminate nutritional deficiencies for all senior citizens, it will keep us from decreasing a program that is now only reaching 50 percent of the eligible elderly.

There are 800,000 senior citizens who are eligible to participate in this nutrition program and yet the program can only accommodate some 400,000 people at this time. This is an important and necessary program that should be expanded in the future through greater funding. In the meantime, however, the amendment before us will stave off severe cutbacks in the program and demonstrate our commitment to improving the health and well-being of the senior citizens of this country.

I ask my colleagues to support this amendment today and to support any future appropriation increases for this vital program for our elderly.

Thank you, Mr. Chairman.●

Mr. CONTE. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PROCUREMENT

SHIPBUILDING AND CONVERSION, NAVY

For an additional amount for "Shipbuilding and Conversion, Navy", $628,000,000, to remain available for obligation until September 30, 1983. During the current fiscal year, subject to the notification and approval procedures specified in section 834 of the Department of Defense Appropriation Act, 1979, appropriations available to the Department of Defense for "Shipbuilding and Conversion, Navy" may be transferred between such appropriations or any subdivisions thereof, to be merged with and to be available for the same purposes, and for the same period, as the appropriation or subdivision to which transferred.

AMENDMENT OFFERED BY MR. LUNGREN

Mr. LUNGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUNGREN: On page 4, line 2, strike the period after 1983, insert the following, and redesignate the succeeding lines accordingly:

"Provided, that no funds made available in this section shall be paid directly or indirectly through the Iranian Foreign Military Sales Trust Fund to the Government of Iran."

☐ 1130

Mr. ADDABBO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there is a memorandum of understanding with the Iranian Government. Under current arrangements, if there is a cancellation of a contract, the money does not go back to the Iranian

Government. It is placed in a trust account, which is controlled by the U.S. Government. These funds will only be used to pay off other claims that the U.S. Government has against defense-related contracts for the Iranian Government.

This money will not evolve to the Iranian Government, if there is any balance, for years maybe 15 or 20 years. We do not know what government we will be dealing with at that time. As the gentlewoman from New Jersey just pointed out, this is a very tenuous time in our relationship with the Iranian Government. We are trying to establish friendly relationships with the Iranian Government. This amendment could easily tip the scale against us.

As I mentioned, the moneys that will derive from this takeover by the U.S. Navy of these two ships will be placed in a trust fund. They will not go to the Iranian Government. They cannot go to the Iranian Government until all claims have been settled and those settlements, as I said before, will take many years and in all probability there will be no balance.

So I do hope the Committee will vote down this amendment.

Mr. SOLOMON. Mr. Chairman, will the gentleman from New York yield?

Mr. ADDABBO. I yield to the gentleman.

Mr. SOLOMON. Mr. Chairman, if that is the case, then what is wrong with this amendment, if no money is going to Iran?

Mr. ADDABBO. Technically there may not be anything wrong with it, but again we are now delving into the question of state relationships. Therefore, I believe in keeping with our present negotiations with the Iranian Government I do not believe we need this amendment or should pass it.

Mr. SOLOMON. Mr. Chairman, if the gentleman will just yield further, I believe if we are not going to pay out any money to Iran for maybe 15 or 20 years, I think it is time we sent the Iranian Government, the ayatollah, a message. If they are not going to approve our Ambassador, it is time we put down our foot. Let us just send them a message, we can correct this legislation at a future date; so let us pass this amendment and show them we mean business in this country.

Mr. ADDABBO. This is not the time nor the place for such an amendment.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I shall not take the 5 minutes, but I must echo what the chairman of our subcommittee has said. The truth is that the day that these kinds of decisions will have to be made will probably not find many of us still here in the Chamber. If you think that the Iranian Government is now established and that this is the government we will be dealing with, I think you are wrong. I think we have only seen the tip of the iceberg as to where the Iranian Government will ultimately end up, on what side it will come down, and all the rest.

We are looking at 10 or 15 years from now. We are looking at a multitude of transactions that we will be entering into for the benefit of our own defense, not for the benefit of the Iranian Government, or the ayatollah, or anybody else.

We will buy these two destroyers in this bill. Hopefully, we will buy two other destroyers in the fiscal year 1980 bill. We will no doubt be buying some Harpoon missiles, some standard missiles, the F-16's have been involved. They are going to Israel. There are all kinds of items of equipment involved in this trust fund. What we are doing in the case of the two destroyers, very simply, is to put back into the trust fund that part that has come out of the trust fund for these destroyers. We will then pick up the contract and pay the balance of that contract directly to the shipbuilder.

So it is unwise, in my view, to take this kind of position at this time simply because we may be mad with the group that is running Iran at this time. The time will come much later. In all probability, there will be no money left in the trust fund to go to anybody. It will involve itself in all kinds of claims which have nothing to do with the military.

I think that this House will be making the wrong decision just to try to prove a point. In the long run it would be to our benefit not to pass this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LUNGREN).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to this paragraph? If not, the Clerk will read.

The Clerk read as follows:

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE AND NON-ADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

The limitation on administrative expenses of the Federal Home Loan Bank Board is increased by $50,000.

● Mr. BOLAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, chapter V includes funding for the Department of Housing and Urban Development, Disaster Relief, the Consumer Product Safety Commission, the National Aeronautics and Space Administration, the National Consumer Cooperative Bank, the Selective Service System, the Veterans' Administration, and the Federal Home Loan Bank Board.

Supplemental budget requests totaled $2,115,150,000 and the committee is recommending $1,995,366,000. That is a reduction of $119,784,000.

For HUD, we are recommending $5 million of the $15 million requested for a new neighborhood self-help development program.

The bill includes $194 million for disaster relief. The need for these additional funds comes from the severe weather conditions recently experienced in many areas of the Nation.

For the National Aeronautics and Space Administration the committee is recommending the budget request of $185 million. The additional requirements result from problems encountered in developing, manufacturing, and testing of the Space Shuttle.

Initial funding for the National Consumer Cooperative Bank is provided in the bill. Because these funds will be available with only 3 months remaining in the fiscal year and because none of the bank's 13-member board has been nominated, the committee has made significant reductions in the three accounts that fund the bank. But the amount provided is sufficient to get the National Consumer Cooperative Bank underway—and I strongly support its objectives.

For the Selective Service System we are recommending $600,000 of the $1,735,000 requested. The funds provided are targeted at permitting the SSS to upgrade its computers. We have denied the moneys requested for additional positions to increase the number of field offices from 6 to 10.

Finally, all of the program funds requested for the Veterans' Administration have been approved. Those requirements total $1,492,159,000 and are largely required to support higher benefit payments made pursuant to law.●

□ 1140

The CHAIRMAN. The clerk will read.

The Clerk read as follows:

PUBLIC DEVELOPMENT

For an additional amount for "Public development", $17,900,000, to remain available for obligation until September 30, 1990.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the Subcommittee on Interior and Related Agencies considered requests for supplementals of $301,492,000 and pay supplementals of $94,584,000, for a total of $396,076,000. The amounts recommended for program items of $178,296,000 and $76,501,000 for pay total $254,797,000. This is a reduction of $141,279,000.

The amount recommended includes $113,577,000 for costs of forest fire fighting on public lands, national forests, national parks, and Indian reservations. Other amounts recommended include $20,000,000 to inaugurate the recently authorized (November 1978) urban park recovery and rehabilitation program, $37,500,000 to continue the land acquisition and development of the Pennsylvania Avenue development plan without interruption.

The request for the Department of Energy in the supplemental totalled $103 million, of which the subcommittee only recommended $5.6 million for appropriation. The bulk of the requests are for funds which could not be expended until fiscal year 1980 and for programs which are fully funded in the budget request. There are two exceptions: One is $24.6 million for preparations for rationing. Since the Congress did not approve this plan, no funds are required for its implementation. If Congress at a later date approves a plan which would involve a complex rationing system such as that suggested by the administration, funds would need to be provided at that time.

The second exception is $22.5 million for energy audits and technical assistance for State and local government buildings. Funding for this program does not continue fiscal year 1980.

However, $32 million has previously been appropriated for the program and only $7.5 million will have been expended in fiscal year 1979. The remaining funds would be expended in fiscal year 1980 and are sufficient to do the bulk of the energy audit work required in this program. In addition, some $300 million will be available in fiscal year 1980 for other State grant programs with similar goals.

The subcommittee believes that $3 million requested for studies in the energy production, demonstration, and distribution account, some $12 million in the Economic Regulatory Administration, and some $15 million in the Energy Information Administration are not necessary because currently available funds are sufficient to carry these programs through the end of the fiscal year without delays.

Therefore the committee recommends only $5.6 million out of the $103 million requested. The $5.6 million is for auditing activities to assure that major oil refineries are complying with oil pricing regulations. The $5.6 million is provided to replace funds reprogramed from grants to utility regulatory commissions on an emergency basis so that auditing contracts would not lapse. This will allow grants to be made to the utility commissions as provided in the fiscal year 1978 supplemental and regular fiscal year 1979 appropriation.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

CENTER FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

For an additional amount for "Preventive health services", $12,000,000.

● Mr. MICHEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I said during general debate, we would have some further remarks to make relative to this chapter of the bill. This bill provides $200 million for the new title I concentration grant program. This represents a reduction of $58 million below the budget request, but still involves the startup of a new program of very dubious merit.

We have already provided a $343 million increase for title I in 1979 through the regular Labor-HEW bill, and now we are adding another $200 million on top of that. The result will be a nearly 20 percent increase in this program in just 1 year. This represents another example of the prevailing attitude in Congress that simply pouring money into a problem area is the way to cure it. Well, we have poured over $25 billion into title I over the past decade, and we know by the declining test scores how well that theory has worked.

If the concentration grant program represented a new approach with new standards, it might be worth trying. Unfortunately, it is not. The only thing new is a different formula for allocating funds, and even this change is not what the title implies. When over 50 percent of the counties in the Nation are eligible for funding, that hardly represents a concentrated focus on the areas in need.

Let me just quickly run through and list some of the other major items in this chapter.

Community service employment for older Americans—$8,900,000—To pay the minimum wage increase.

Childhood immunization—$12,000,000—To continue and slightly expand the program.

Population research—$5,000,000—To continue this research under the Child Health Institute.

HMO's—$10,000,000—To fund planning and initial development grants, most of which are in the pipeline.

Medicaid—$554,429,000—To make up a shortfall, which I referred to earlier.

Guaranteed student loans—$243,189,000—To cover primarily increased interest payments resulting both from expansion of the program under the Middle Income Student Assistance Act and from higher overall interest rates. There has also been a threefold increase in bankruptcy claims due to congressional liberalization of that standard.

Refugee assistance—$59,964,000—To cover services to an estimated 65,000 additional Indochinese refugees and 36,000 Eastern European refugees.

Social services title XX—$188,548,000—To cover mandatory increases under the entitlement provisions, bring allocations up to the ceiling.

Head Start—$20,000,000—To provide an inflationary increase.

Aging area aging services—$3,970,000—To maintain current levels.

Aging nutrition—$12,046,000—To maintain current operating levels in States with deficits and to prevent reductions in State allotments under a new formula.

Rehabilitation services—$59,012,000—To cover inflationary increases in the State grant program and to start new program of comprehensive services for independent living.

White House Conference on Aging—$3,000,000—To fund the conference, scheduled for 1981.

Public broadcasting—$162,000,000—To provide advanced funding for fiscal year 1981.●

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

HUMAN DEVELOPMENT SERVICES

For an additional amount for "Human development services", $101,528,000, of which $47,528,000 shall be for activities under section 100(b)(1) of the Rehabilitation Act of 1973, as amended; $9,484,000 shall be for section 110(b)(3), and $2,000,000 for section 711 of such Act; $7,500,000 shall be for meeting State requirements to maintain operating levels for activities under part C of title III of the Older Americans Act during fiscal year 1979; and $3,000,000, to remain available until expended, shall be for carrying out the 1981 White House Conference on Aging Act.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONTE: On page 20, line 25, strike the figure "$101,528,000" and insert in lieu thereof "$151,528,000".

On page 21, line 3, strike the figure, "$7,500,000" and insert in lieu thereof "$22,500,000".

Mr. CONTE. Mr. Chairman, I rise in support of this amendment which I have offered to increase the money and the funding for the Head Start programs and for the elderly nutrition program by a total of $50 million. Head Start will increase by $35 million over the Labor-HEW Subcommittee's figure.

Mr. Chairman, I will say to the Members of the House that I offer the elderly nutrition program amendment, which will increase it by $15 million, and that will make it a total, which I will explain, of $22.5 million over and above what the President asked for in the supplemental. I offer the amendment with my good friend, the gentleman from New York, MARIO BIAGGI, who is a cosponsor of the amendment.

I want the House to know that the gentleman from New York and I worked together and in close concert in arriving at this figure.

I also wish to say that I offer the amendment with the chairman of my subcommittee, the gentleman from Kentucky (Mr. NATCHER), who was very cooperative in this matter, along with all the members of the Subcommittee on Labor-HEW.

Mr. Chairman, Head Start funding, as I said, will increase by $35 million over the Labor-HEW Subcommittee's figure of $645 million to a new total of $680 million for fiscal year 1979. Funding for the elderly nutrition program would increase to $277,046,000—an increase of $15 million over the subcommittee's original recommendation of $262 million.

Mr. Chairman, I want to make clear from the start that I am offering this amendment with the full support and approval of the Labor-HEW Subcommittee. The subcommittee regrets the fact that we have to offer these revised figures on the floor, but we have been trying for a long time to obtain hard, reliable figures from HEW about these two programs, and even today the subcommittee is not completely satisfied with the information provided it.

The subcommittee wants to be sure that the Head Start program, which is a forward-funded program, will have enough money to continue to provide the best services to the largest possible number of eligible youngsters. The subcommittee was unsure how much money this would require, and HEW was fairly unclear on this at hearings. Only recently has it come to the subcommittee's attention that failure to provide the full amount requested by the administration in the original budget would result in a loss of services to many deserving children. The subcommittee feels safe in urging that the Members will be providing adequate Head Start services nationwide by appropriating these funds.

Regarding the elderly nutrition program, I personally have felt a great sense of frustration over the impossibility of obtaining hard figures on which to base our appropriations decisions. Our subcommittee requested figures on potential funding shortfall for this program from the Administration on Aging in HEW. AOA did provide us with an estimate that there will be a $7.5 million shortfall for fiscal year 1979 which our subcommittee added to this budget. This figure, however, was based on an assumed 8-percent inflation rate. Last year the inflation rate was 9.2 percent and inflation in food prices was 12.5 percent.

The Administration on Aging recently revised its estimate based on an assumption of 12-percent inflation and calculated the funding shortfall to be $10.25 million.

But, Mr. Chairman, the subcommittee and I do not feel we can trust even these figures. I have made inquiries on a State-by-State basis, asking State administrators for their funding estimates. I will cite merely a few examples. Indiana, which the Administration on Aging calculates will have a surplus, told Congressman MYERS office they expect a $1.5 million deficit. The State of Maine has reduced meal service from five to three meals per week, according to Congressman DAVE EMERY's office. My own State of Massachusetts has reduced meals from 21,000 meals per day in October 1978 to 17,980 meals per day now. I do not know, and do not trust the Administration on Aging to have taken into account these facts.

I also doubt whether AOA calculated increased costs for related services for the elderly, particularly transportation. I know that I do not need to tell the Members here of the increase in gasoline prices in recent months, and many of the elderly absolutely require transportation to arrive at the meal site.

The Labor-HEW Subcommittee therefore estimates that an additional $15 million will meet the needs of those States with a funding shortfall. This increase will provide a total of $22.5 million more than the President had requested.

Mr. Chairman, I urge my colleagues to support these reasonable increases so that the needs of our children and elderly may be met.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. CONTE) has expired.

(By unanimous consent, Mr. CONTE was allowed to proceed for 5 additional minutes.)

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding.

I wish to indicate that it has been my pleasure to work with the gentleman from Massachusetts (Mr. CONTE) and introduce this amendment in a cosponsorship position. I am grateful for the gentleman's efforts and his commitment, as well as to the chairman of the subcommittee, the gentleman from Kentucky (Mr. NATCHER), and the entire Committee on Appropriations dealing with this problem. They have all clearly manifested a genuine, sincere commitment and concern for the elderly of this Nation.

□ 1150

I had originally intended to introduce an amendment to increase the overall funding level for title III, part C, by $30 million. It was similar to an amendment which passed this House to the budget resolution providing $75 million in authority and $30 million in outlay. However, in the light of reality, in the light of the substantial and convincing figures, the action of the committee, in my judgement, is warranted. The amendment that we offer today should provide for this relief. The burden, obviously, rests with the Administration on Aging to get its act together and to present to us for our consumption and guidance accurate figures.

I would like to ask the gentleman from Massachusetts (Mr. CONTE) a number of questions, more for the record, and establish this colloquy:

The $4.5 million which was the President's supplemental request, was that for all of the States for distribution by formula?

Mr. CONTE. The request for $4.5 million was for all of the States.

Mr. BIAGGI. All of the States.

Mr. CONTE. Then we increased it to take care of the shortfall States.

Mr. BIAGGI. My understanding then is that there is another $7.5 million, which is to deal with the 14 shortfall States?

Mr. CONTE. Exactly right.

Mr. BIAGGI. And then we were able to negotiate with the administration and the committee an additional $15 million which would provide for the additional shortfall States, some 21, I understand, at this point; is that a fact?

Mr. CONTE. That is a fact. I only have one correction. We were not able to negotiate with the administration. The administration sent up a letter, and they said all we need is $3 million. We went to an additional $15 million with the help of my chairman and members of the committee, the gentleman from California (Mr. ROYBAL), and others.

Mr. BIAGGI. At this point I would like to congratulate the gentleman from California (Mr. ROYBAL), as well as the gentleman from Kentucky (Mr. NATCHER), for their expressions of support that they clearly indicated.

It is my understanding that that $15 million can also be used for home-delivered meals; is that correct?

Mr. CONTE. It is my understanding that the agency certainly has that discretionary power.

Mr. BIAGGI. That is consistent with the authorization bill and the 1978 Older Americans Act which mandated a separate national home delivered meals program.

Mr. CONTE. The gentleman is absolutely right on target.

Mr. BIAGGI. Now, I would like to get a little parochial. As far as the shortfall States, is New York State included among those shortfall States?

Mr. CONTE. It is my understanding that New York has a shortfall of some little over $1 million.

Mr. BIAGGI. $1.2 million.

Mr. CONTE. $1.2 million, to be exact.

Mr. BIAGGI. Mr. Chairman, I want to thank the gentleman for his informative responses but, more importantly, for his genuine cooperation and his demonstrated concern for the elderly.

The adoption of the Conte, Biaggi, Roybal amendment will be a major victory in a protracted struggle to insure that vitally important nutrition services for seniors are not ended. The history of the Older Americans Act nutrition program has been a good one—it has performed. Today it can point to the fact that it serves some 563,000 senior citizens in all 50 States with one meal a day, 5 days a week. It can point to the fact it serves some 40,000 to 60,000 homebound elderly with meals that keep them out of costlier institutions.

What we will achieve with the passage of this amendment is the averting of the dreaded loss of upward of 9,000 meals a day for seniors. This would have occurred absent an increase in the original supplemental appropriations request of the President. What was originally being offered represented an increase of just under 2 percent. Meanwhile inflation in 1978 alone exceeded 9 percent, and thus far in 1979 food prices are rising at an annualized rate of over 15 percent.

However, our concern was with those States that have expended all their funds to provide nutrition services. Four months ago the Department of Health, Education, and Welfare identified 14 States in need of a supplemental appropriations just to maintain services. These calculations proved totally erroneous from two standpoints—the first dealt with the total number of States, the second with respect to the rate of inflation.

I always had doubts about these figures. I was aware that my home State of New York, with the second largest elderly population, was not listed in the original list as a deficit State. However, the State was facing a cut of 2,000 meals a day by summer because they had exhausted their funds. Other States were in similar plights.

Consequently, I offered an amendment on May 1 to the House budget resolution providing $75 million in new budget authority and $30 million in outlays for the nutrition program. The amendment passed and was included in the final conference report on the budget resolution.

The House Appropriations Committee reported to us this supplemental appropriations request which embodied the President's $4.5 million, and to that they added an additional $7.5 million for those 14 States with deficits.

Since the time this bill was reported, information has surfaced which has led to an additional seven States including New York being designated as deficit States. Obviously the $7.5 million was inadequate to cover these additional States, considering New York State's deficit alone was $1.2 million.

My amendment would have provided $30 million for all States under the existing formula. According to charts I had compiled all States would have received additional funds. However, in this era of determining fiscal priorities it seems obvious that our attention must be solely directed at those States with deficits—those States who would have to turn senior citizens away from their only sources of daily nutrition—those States who had performed under the program only to be rewarded by an operating deficit. Thus we arrive at the point of the compromise amendment being offered by myself, Mr. CONTE, and Mr. ROYBAL.

It is unfortunate that we have reached this level of a crisis. When Congress passed the Older Americans Act Amendments of 1978, great hopes emanated throughout the aging community. We authorized vast increases in the nutrition program, only to have the 95th Congress adjourn before an appropriations bill could be passed.

The 96th Congress convened and the Older Americans Act found itself operating at 1978 levels despite 1978 and 1979 inflation rates. Nowhere was the impact of inflation felt more than in nutrition services—food prices skyrocketing, transportation costs skyrocketing.

Even with this amendment the total appropriations request for the program would be $277.5 million almost identical to what the President has proposed for 1980. It still falls far below the recent ratio of authorization/appropriations which has been 86 percent. The $277 million represents just over 65 percent.

I have been involved with the 1978 Older Americans Act from the outset. I conducted hearings in my capacity as a member of the House Select Committee on Aging. I developed from testimony around the Nation suggested reforms in the program. As a member of the House Select Education Subcommittee I participated in the drafting of the legislation and offered a host of amendments during committee consideration. Yet, paramount above all other problems affecting the Older Americans Act was inadequate funding. I offered amendments increasing the authorization figures to have them reflect realistic levels.

Here again today I am sponsoring an amendment dealing with the fundamental issue of money. Yet unlike 1978 when I offered amendments to expand the program—today we are seeking to save the program from being reduced. It is a major difference, the significance of which should not be lost on any member here today.

I urge support for this amendment. It is reasonable, it is defensible.

Mr. NATCHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment just presented to the Committee by our distinguished friend and colleague, the gentleman from Massachusetts (Mr. CONTE), was presented on behalf of the subcommittee making appropriations for the Departments of Labor and Health, Education, and Welfare.

This amendment, Mr. Chairman, can be designated as the Conte-Roybal-Biaggi amendment. The distinguished gentleman who has just left the well, the gentleman from Massachusetts (Mr. CONTE), and the gentleman from New York (Mr. BIAGGI), along with the g entleman from California (Mr. ROYBAL), and all of the other members of the subcommittee, have worked on this matter now for several days, Mr. Chairman, so that we could reach the proper figure, the most accurate figure, so far as the supplemental request is concerned, for the Head Start program and for the nutrition program for the aged.

We had this matter before the subcommittee, and during the hearings the supplemental amount requested was $55 million for Head Start. After the hearings, we agreed to recommend an amount of $20 million. This amendment increases the amount to $55 million. As far as the program that is also covered by the amendment which has just been offered, Mr. Chairman, we recommended an increase of $7.5 million for the nutrition program.

For 1979, available under the continuing resolution we have $250 million for the nutrition program. The additional amount requested in the budget was $4,546,000. This made a total budget request of $254,546,000.

The amount added by our subcommittee and the Committee on Appropriations was $7,500,000, bringing the total, Mr. Chairman, to $262,046,000.

The amendment now offered by the distinguished gentleman from Massachusetts (Mr. CONTE), on behalf of the gentleman from California (Mr. ROYBAL) and the gentleman from New York (Mr. BIAGGI) and the members of the subcommitee, increases that amount $15 million, bringing the overall total up to $277,046,000.

Mr. Chairman, in order to make sure that we were correct about this matter, we directed a letter to the Secretary of HEW, Mr. Califano, asking him to give us the exact amounts that were necessary. Based on the justification and the hearings, we were not certain that the amounts that we had recommended in the bill would be sufficient to carry out the intent of the committee. Yesterday, on June 5, as my friend, the gentleman from Massachusetts (Mr. CONTE), has pointed out to the Members, we received a letter from the Secretary of HEW confirming the fact that the figures that we have added to this bill and under the amendment, we now know, Mr. Chairman, are correct.

I want to commend my friend, the gentleman from New York (Mr. BIAGGI), who, as I said, serves on the Select Committee on Aging. He and the other Members, our friend, the distinguished gentleman from Florida, Mr. CLAUDE PEPPER, the chairman, down through the years, Mr. Chairman, have all worked with us on these matters.

If you will pardon me for digressing for just a moment, I want the chairman to know that it is a distinct honor and a privilege for me to serve on this committee with our new chairman, the distinguished gentleman from Mississippi, the dean of the House, my friend, JAMIE WHITTEN and the ranking minority member on the committee, the distinguished gentleman from Massachusetts (Mr. CONTE) who served in his capacity so ably all during the recent months on all of these appropriation bills.

Mr. Chairman, on behalf of the subcommittee, all of the members on the Subcommittee on Labor-HEW, we concur in this amendment. This amendment should be adopted.

Mr. PEPPER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, there are some parts of our legislative experience about which all of us have particular pride. Nationally, I recall with some measure of pride that I was the first introducer in this House a good many years ago of this legislation to provide nutritional provisions for the elderly people of this country who need additional supplements to their daily diet.

I am very grateful to the able gentleman from Kentucky (Mr. NATCHER) the distinguished chairman of the subcommittee handling this measure, the appropriation that we are now considering, for his kind words in reference to me and to my colleagues here, and especially for the kind consideration and compassionate attitude that he and the distinguished chairman of the committee, the gentleman from Mississippi (Mr. WHITTEN), and their colleagues on the Appropriations Committee have taken on this matter.

This is not going to solve all of the problems of nutritional matters for the elderly people of this country. There are 800,000 people in America eligible for assistance under this program. Even with the assistance that would be made available by the adoption of this amendment today, only 400,000 have been provided the nutritional assistance that they should have. I am sure that all of us regret to say that there are 400,000 people in America who do not get a sufficient nutrition every day. But at least we are proud to be making some progress toward meeting their needs. It is because of the enlightened attitude of my colleagues, who are the prime sponsors of this amendment, and such Members as the distinguished gentleman from Kentucky (Mr. NATCHER), the distinguished gentleman from Massachusetts (Mr. CONTE), the distinguished gentleman from New York (Mr. BIAGGI), the distinguished gentleman from California (Mr. ROYBAL), and their colleagues, who are making such a meaningful contribution, that the people in this great America can get a better diet than they were able to get before.

Mr. Chairman, I want to give my warmest commendation to a member of our Select Committee on Aging, the gentleman from New York (Mr. BIAGGI), for his continuing and effective leadership of this great humanitarian need.

Mr. Chairman, as chairman of the House Select Committee on Aging, I am convinced that these funds are badly needed to insure that nutrition programs are not subjected to severe cutbacks in 36 States, including my own State of Florida.

The continuing resolution setting the terms under which the program is funded locks the operating budget at the $250 million level that was set 2 years ago. The supplemental appropriation of $7.5 million approved by the Appropriations Committee merely maintains current operating levels in States with projected deficits in nutrition funds, according to the language in the committee report. This means that the majority of other States will be forced to reduce critically needed services even with the already approved supplemental appropriations.

The current funding levels are grossly inadequate. No Members of this body can ignore the fact that there are more impoverished elderly persons on the waiting list than those actually served by the program.

The strong support in this House for the nutrition program was evident just last month when we adopted an amendment to the budget resolution providing $7.5 million in new budget authority for the nutrition program in fiscal year 1979. Let us reaffirm that support by backing it up with the requisite dollars.

Mr. Chairman, the Biaggi amendment demonstrates that this body has more than a rhetorical commitment to the senior citizens whose very existence depends upon the adequate operation of the nutrition program.

Mr. RATCHFORD. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I served as Connecticut's full-time commissioner on aging for the better part of 2 years. I can tell the Members as a result of a survey of our State, that the State of Connecticut is experiencing a shortfall today in its funding for the elderly nutrition program.

☐ 1200

We have better information from the States, the 50 States regrettably, than we have from the Administration on Aging. I, too, would applaud the gentleman from Kentucky (Mr. NATCHER), and the work of the gentleman from New York (Mr. BIAGGI) and the gentleman from Massachusetts (Mr. CONTE) and the gentleman from Florida (Mr. PEPPER) because of the sensitivity and concern that they have shown for the legitimate needs of the elderly in the nutrition area. But in spite of this recognition, a funding shortfall still exists.

It exists for several reasons: First of all, the cruel impact of inflation; second, energy costs at the meal site are going up sadly each and every day; third, the cost of transportation, again impacted by the energy crisis in America that exists in 1979.

There is a fourth cruel factor, Mr. Chairman, and that is the factor that the elderly themselves, those over the age of 60, at the meal sites, are no longer able to contribute to the degree that they formerly did. As a result, the collections at the meal sites are down, a sad recognition again of what inflation is doing in a cruel fashion to those over the age of 60.

The sensitivity shown today by this committee, on the whole, the sensitivity shown by the Appropriations Committee, the recognition shown by people like Chairman NATCHER and the work done by the gentleman from New York (Mr. BIAGGI), tells me that in America today we still care for those over the age of 60. It does not go all the way, but I applaud the committee. I applaud the bipartisan effort to say to those over the age of 60, America still cares, cares to the degree we will spend in a very sensitive and important area, the whole area of the elderly nutrition program.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. RATCHFORD. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, may I take just a moment to express my admiration and appreciation for the willingness of the Labor-HEW Appropriations Subcommittee to accept this amendment. I am particularly pleased with the additional $35 million for the Head Start program. I want to especially compliment my good friend and colleague from Kentucky—the distinguished chairman of the subcommittee—for his leadership in making sure that Head Start programs across the Nation can continue to provide needed and quality service and programs for those young children in greatest need.

I know there has been some misunderstanding as to whether this money can be effectively used because of a complicated statutory formula and the lateness of the supplemental bill. I know personally that Chairman NATCHER has diligently worked to ascertain the facts because of his determination to make sure that programs would not suffer.

We can now see that this additional amount is greatly needed. We will, with the addition of these moneys, lessen the terrible impact inflation is having on a program which this Congress has consistently supported over the years. I only wish that we could get even more money for Head Start.

With respect to the nutrition program for the elderly, we also need more money. I came to the floor prepared to support an amendment which would have added $30 million to the program rather than $15 million. Certainly I support the addition of $15 million, for in every State in the Nation and in every congressional district there is a desperate need for additional Federal support of nutrition projects. I understand there is a concern over States where there appears to be a deficit, and I share that concern, but I am concerned also for all nutrition programs.

As my colleagues know, the authorizing statute provides for an allocation to the States of all moneys appropriated for the nutrition programs. This additional money must be distributed on a formula basis and therefore all areas of the country will benefit from the supplemental. Accordingly, I believe every Member of the House can and should support the amendment.

Mr. OBEY. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I am very pleased with this amendment, but I do think a cautionary note ought to be sent out from this floor to all the State aging commissions in the 50 States of this country. I am for whatever it takes in order to provide decent meals for people. I think this is a superb program. I endorse it wholeheartedly. I would caution them to be aware of the language which is in the record which says that this money, in effect, is not for expansion of the programs in this fiscal year, because that is after all a supplemental appropriation.

The language makes it quite clear that what we are trying to do is to maintain the program and take care of the shortfall. I know what is going on in some of the States right now. It is done for good, sentimental reasons, but the fact is that if the States do not play it straight with the Congress, we are going to have a tough time on the 1980 bill, which we will be dealing with in just a week or two week's time; because what will happen is that I think there will be the temptation out there on the part of the different State aging commissions to say to their local people, "Push ahead. Get as many meals on as you can, so that we can show a high level for fiscal 1979." So when the question is asked by HEW, "What do you need in order to meet your same program level for 1980?" that they will be in a position to say, "Well, we are going to need blank amount of dollars," which will be a higher amount of dollars than they would need if the States, in fact, play it straight.

In my judgment, while this Congress is certainly willing to meet its obligations in this area and, in fact, provide some program increase in the 1980 budget, I do not think they are going to appreciate it, if they are jockeyed around by these State agencies who are using this money as an excuse to artificially inflate on a very short-range basis the number of meals provided.

If they do that, they run the danger of seeing their program cut from the 1979 level in the 1980 bill, which is not going to do the elderly any good. It is not going to do anybody any good.

I want them to be on record they should not be playing those kinds of games.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding.

I want to commend him for the kind of statement he has just made. Over and above that, I would like to make an observation here, too, that a number of years ago before we wrote in the escalator clause on social security, we were playing one upmanship around here on how much we could do for the elderly by increasing social security benefits.

I am inclined to think in these programs for feeding the elderly that we are getting into that same kind of syndrome here where before long we are going to have unconscionable sums that could be spent in this category, as laudable a program as it is, but I would agree with the gentleman, it has got to be kept within some limitations and some check and not openended, as some of the States seem to think it is.

Mr. OBEY. I thank the gentleman.

The point I am simply trying to make is I am for expansion of this program just as fast as we can expand it, but I think Congress has the right to expect that the State agencies are going to level with us and give us straight information and are not going to use this very generous approach by this committee in order to lever us into a position which we cannot defend on the floor.

Mr. ANDREWS of North Carolina. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am pleased to be the chairman of the Subcommittee on Human Resources, which has jurisdiction of the nutritional program for the elderly, as well as the Head Start program, and I would just like to most sincerely, but briefly, endorse what has been said here.

These are, in my opinion, excellent programs. They are tremendously underfunded at the present time. Head Start is reaching considerably less than 20 percent of the eligible children within the country, and I agree with my full committee chairman, the distinguished gentleman from Kentucky (Mr. PERKINS), that the moneys provided for here will in fact not expand either the Head Start nor the nutritional program for the elderly, but will only help significantly and importantly in making up a portion of the deficit that has been caused by increased cost. I urge us all to support enthusiastically the amendment.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CONTE

Mr. MILLER of California. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. MILLER of California as a substitute for the amendment offered by Mr. CONTE: Page 20, line 25, strike out "$101,528,000" and insert in lieu thereof "$161,528,000".
>
> Page 21, line 3, strike out "$2,000,000" and insert in lieu thereof "$12,000,000", and strike out "$7,500,000" and insert "$22,500,000".

Mr. MILLER of California. Mr. Chairman, the 1979 supplemental appropriations bill includes $2 million for section 711. This amendment would increase that appropriation from $2 million to $12 million. Thus, my amendment would be for the purpose of establishing and operating independent living centers which would provide the designated range of services to assist severely disabled individuals to live and function more independently with their families and in the community.

Funds would go to State agencies for this purpose, unless they do not apply for the funds within the 6-month time limit. After that time limit, if a State has not applied, then local public agencies and private nonprofits can apply directly.

The difference between my approach and the approach of the Appropriations Committee report is that the report indicates the money should be used for 10 demonstration projects, with an eye toward reviewing past experience and developing additional prototype models for independent living programs. We do not need new models or demonstrations; the 1973 amendments authorized a comprehensive needs study and demonstrations which have been carried out, evaluated, and deemed successful. What we need now is to get the services out to people who can benefit from them.

Last year, the Subcommittee on Select Education held extensive oversight hearings on the Rehabilitation Act of 1973. At a hearing which I chaired in California, Ed Roberts, a postpolio respiratory quadriplegic and current State director of the California Department of Rehabilitation, shared his perspective and experience with the independent living movement. In his words:

> In its broadest implications, the independent living movement is the civil rights movement of millions of Americans with disabilities. It is the wave of protest against segregation . . . and an affirmation of the right and ability of disabled persons to share fully in the responsibilities and joys of our society.
>
> Medical and rehabilitation technology has made great advances in the last few decades and we are now able to help persons with even the most severe disabilities to the point of independence. The problem we now face is how to make changes in our environment so that these persons can complete the rehabilitation process and become actively participating and valued members of our communities.
>
> The independent living movement has made all of us aware of our society's underdevelopment and the scarcity of resources available for people with special needs.

Ed learned from personal experience that a disability is a condition that usually can be stabilized and assimilated into one's self-image, but a handicap is a condition that is created by the service gaps and architectural and attitudinal barriers in society. By developing society's capability to accommodate and sustain people with special needs, we can cause that handicap to disappear. It is important to realize that there are literally hundreds of thousands of people in this country who, because of age, disability, or other factors, are now denied the chance to lead a full and active life because of the underdevelopment of our communities and social service systems.

The basic premise of the independent living movement is that everyone has the potential to live more independently. Experience demonstrates that even the most severely and profoundly disabled individuals can be independent—they may need all kinds of help—but that they can be in control of their lives.

Prior to the Rehabilitation Amendments of 1978, the vocational rehabilitation system has addressed only a part of the overall need of the individual. It is well known that the vocational rehabilitation system has served only those most easily rehabilitated. The 1973 Rehabilitation Act moved State rehabilitation agencies toward serving people with severe disabilities as a first priority. As State agencies have begun to carry out this mandate, they have become increasingly aware of the gaps that exist in their own programs and the lack of community services. VR agencies, according to Ed Roberts, "tend to systematically reject the people with the greatest needs. Many people with severe disabilities need extensive independent living and prevocational services in order to be helped by vocational programs, and once they complete rehabilitation programs, they may continue to need independent living services to varying degrees for the rest of their lives. For the most part, these services do not exist in our communities."

The Rehabilitation Act of 1973, in an effort to recognize the barriers to use of the rehab system by severely disabled individuals, mandated a comprehensive needs study on this population. This study completed in June 1975, documented the substantial unmet service need among severely disabled individuals. In addition, five demonstration projects further investigated the extent and characteristics of the severely disabled population, its rehabilitation needs and the cost of needed rehabilitation services.

The largest and best known of the independent living programs, and one of the five demonstration programs under the 1973 mandate, is the Center for Independent Living in Berkeley. In its 6 years of operation it has had a major effect on the accessibility and responsiveness of the bay area community and the ability of the community's residents to live more independently. Organizations such as CIL fill a major gap in our medical/rehabilitation network. Their focus is on integration and the services needed to move people into the mainstream. Independent living programs deal with the quality of life people lead in their communities and they are service and training centers.

In California, the State department of rehabilitation has in the past year used its new innovation and expansion (I. & E.) grant capability to stimulate the development of independent living programs throughout the State. Currently there are 14 of these organizations in California, 9 of which were started by I. & E. grants. We regard these programs as essential components in the network of community-based services. The programs help clients move toward vocational goals and are valuable resources in developing in employers, helping professionals, and the general public a greater awareness of the employment and independent living potential of all people with disabilities. These programs will reach out to the many people who have been excluded from Department of Rehabilitation programs for reasons of severity of disability, and that they will function as important resources for supportive services, counseling, prevocational and vocational training throughout the rehabilitation process.

California is not the only State that has done this. State rehabilitation agencies in Michigan, Massachusetts and others have also begun to facilitate development of independent living programs in their communities. This trend has gone hand in hand with the growing conviction of State rehabilitation agencies that they can and should service a wider range of clients—including those people who, for many reasons, do not have an employment goal, but who can be helped significantly toward greater independence and integration. It is significant that at a recent meeting of the Council of State Administrators of Vocational Rehabilitation (CSAVR), 88 percent of the State directors felt that independent living services should be a part of State rehabilitation program. A few years ago only a few State directors felt that way.

□ 1210

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. I just want to say to the Members of the House and to this committee, I think we have clearly shown a substantial amount of money can be saved when we provide services to these individuals to live in their own apartments, to live in their own homes, to live with their families, away from institutions.

Next to the area I represent is probably the most successful rehabilitative independent living program. That is in Berkley. They have literally served hundreds of people who are able to go home to their own homes who are able to live next to mass transit lines so that they can go to work because they can receive services. Rather than staying in institutions at a tremendous cost, rather than being a burden to their families, they can go out and strike out on their own.

So, the suggestion I am making by this amendment I hope the House will adopt is that we no longer need demonstrations, but we need the funds to fund the services to these individuals. I think you must clearly understand that under the appropriation as provided by the committee the State of California would get around $40,000. In areas like Massachusetts, in Michigan, where independent living services are being expanded to these individuals, the money simply would do little other than tell them that the potential of service is available rather than providing the service.

So, I would hope today that we would carry out the mandate of the 1973 act when we said that by this time we were hoping to spend $80 million. I hope we will carry out the mandate of the Budget Act where we provided for $12 million under the authorship of Congressman SIMON to put the money into this program. I think we will find that we are on our way then to a successful program for the severely disabled that will lead them to live independently, that will lead them to employment and that will cut social service costs to the handicapped community.

I ask for the support of the House on this amendment and I expect to ask for a vote.

Thank you very much.

Mr. NATCHER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. NATCHER. Mr. Chairman, the substitute offered by the distinguished gentleman from California (Mr. MILLER) would further increase the amount that appears on page 73 of the report under human development to $161,528,000. The amount offered under the amendment that is now pending before the committee proposes to add $50 million. That is the Conte-Roybal-Biaggi amendment. That is the amendment, Mr. Chairman, we support on our subcommittee.

Now, the $10 million under the substitute offered by the gentleman from California would increase the amount in this bill for independent living projects by $10 million, making the total $12 million.

At the time of the hearings we considered the budget for the independent living program an amount of $2 million. This, Mr. Chairman, is a brand new program. It is a good program, there is no question about that. I dislike finding myself in disagreement with my friend from California on his substitute. The independent living program is a good program. It provides for disabled people who are in institutions, the opportunity to bring them out of the institutions. It takes them back into their homes and into the local community where they can enjoy their lives.

Mr. Chairman, we believed on our subcommittee that the $2 million requested to start this brandnew program should be approved.

Now, keep this in mind. This is a supplemental budget request. By the time this request clears the House, clears the other body, goes to conference and goes downtown, we will only have a few weeks left in the fiscal year. So, therefore, the $2 million that we have in this bill is fully adequate to start this program.

You know, it is a little unusual, Mr. Chairman, to start new programs and new projects in supplemental appropriation bills. This one was so important we decided to recommend it.

In the regular bill for fiscal year 1980 for Labor-HEW we have included the amount of $10 million for the independent living program. We have recommended this to the full Committee on Appropriations and yesterday the full amount of $10 million was accepted.

The substitute that is offered by the distinguished gentleman from California would place $10 million in addition to the $2 million to start a brandnew program. In the regular bill for 1980 the amount of $10 million has been requested, and that is the amount we will recommend to the House.

□ 1220

Mr. Chairman, in closing I would like to just point out again to the members of the committee we have a brandnew program. We put in $2 million and we recommend it. The $10 million additional cannot be used during the balance of the fiscal year 1979. It is not necessary. The amount that we have in here of $2 million is all that is necessary to start this program.

Mr. Chairman, I recommend to the committee that the substitute offered by the gentleman from California (Mr. MILLER) be defeated.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it pains me to oppose the amendment offered by my good friend, the gentleman from California (Mr. MILLER). He and I usually 99 percent of the time are on the same side, and I have a high respect for him as an individual.

First of all, and I am telling tales out of school here, we struck a deal on the last amendment in committee, and it really was a difficult task. It was not easy getting the additional $22.5 million for the nutrition program, and we agreed that this was it and we were going to go along with it. Now we come up with a new card and it makes it kind of tough.

I think the chairman made a good point, that this is a supplemental, that we did put $2 million in for the independent live-in centers. We only have 3 months now left in the fiscal 1979 year. By the time this goes over to the Senate and we get into a conference between the House and the Senate, it is going to take a considerable amount of time, so there will hardly be any time left at all at the end of the supplemental. So we really do not need the extra $10 million that the gentleman from California is attempting to amend. I believe in the program; it is a good program. We did put $10 million in the fiscal year 1980 bill because we believe in the program, and we believe it is a good program. But we would be spinning our wheels here.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

There are times when you do not have to be told you are spinning your wheels; you can feel it as you start to drift.

I will say to the gentleman I appreciate his remarks, and I appreciate the remarks of the chairman. It is my intent with the offering of my substitute to raise this issue because I think clearly, as the Committee on Appropriations has recognized, with the inclusion of the new program in the supplemental that we have here that is available to us, it will help handicapped individuals to live their own lives and to cut down the tremendous costs of keeping them in institutions. I will continue to push this issue on the 1980 appropriations that we will be having, I guess, next week or the week thereafter. Therefore, I will certainly abide by the will of the committee at this point.

Mr. CONTE. I want to take this opportunity to commend the gentleman from California. I have two children and a son-in-law all in this field, teaching with master's and doctorates, and I know what this program can do. It is a good program.

I should not say this, but maybe if the gentleman has an amendment to the 1980 bill increasing it, I may go along with it. But I commend the gentleman for bringing it to our attention today.

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent to withdraw my amendment offered as a substitute for the Conte amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CONTE).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses," $150,000.

● Mr. MICHEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just wanted to make mention that $421,000 is included to cover Capitol Police overtime on the House side, but we have also included report language stating that the funds shall not be used to fund overtime designed to supplement salaries, and that overtime shall be reduced in scope.

Frankly, the payment of overtime has gotten out of hand, and reached a peak earlier this year when a total of $1.6 million was paid out in overtime during the farmers demonstration. The entire 1,100-member police force was placed on duty 12 hours a day, 7 days a week, during that period, and in my view that was a case of overreaction.

We need to be watching matters such as this a little more closely and our report contains language calling on the Capitol Police Board, among others, to tighten things up in this regard.●

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Contributions to international organizations" $30,641,000.

AMENDMENT OFFERED BY MR. BARNES

Mr. BARNES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARNES: On page 25, line 8, strike "$30,641,000" and substitute in lieu thereof "$58,357,000."

Mr. BARNES. Mr. Chairman, the amendment before us is not a new issue. This is the third time in the last 2 months that we have seen this issue, and the House has twice approved, once by a division vote and once by a recorded vote, the point that I rise to make today.

On April 10 of this year the House defeated an amendment by the distinguished gentleman from California (Mr. ROUSSELOT) to strike from the International Development Cooperation Act language which would have prohibited the United States from making contributions to international organizations where those contributions might be used for the purpose of international technological assistance. On April 24 the distinguished gentleman from California introduced another amendment, this time to the Department of State authorization bill, which would have prohibited the payment by the United States of its share to any international organization, subject to the terms I just outlined. Again that amendment was defeated, by a vote of 187 to 214.

The purpose of my amendment today is simply to effect the will of the House which was demonstrated in the two votes that I have just mentioned. The amendment would provide $27,716,000 in appropriations for international organizations dues that are owed by the United States for fiscal year 1979. It would include $2,850,000 for our dues which have not been paid this year to the United Nations; $625,000 which are owed as our dues to UNESCO; $20,931,000, which is our share of moneys owed to the World Health Organization; $3,200,000 which we owe to the Food and Agricultural Organization; and $110,000 which the United States owes to the World Intellectual Property Organization.

It is worth noting, Mr. Chairman, the benefits that the United States directly derives from membership in U.N.-related organizations. In the U.N. itself, to which my amendment would provide the approximately $3 million that we owe this year, the role of the U.N. peacekeeping forces and observers in the Middle East is absolutely indispensable to the present progress being made between Israel and Egypt and, hopefully, the Arab States. The U.N., of course, is also deeply involved in narcotics control, exploration of the seabeds, control of corrupt practices internationally, all issues of direct concern to the United States and issues on which we obviously want to cooperate with other countries.

☐ 1230

The Food and Agricultural Organization includes an early warning system on pending crop and food shortages; assistance in the development of disease resistant varieties of wheat and barley; and statistical data on worldwide agricultural production and consumption. Because the United States is not contributing to those activities we are not deriving the benefits we otherwise would as a member of the FAO.

I should point out that almost $21 million of the $27 million at issue in this amendment would go to the World Health Organization. Over $2 of every $3 in this amendment would go to pay our dues to the World Health Organization.

There are two very important points to stress with respect to our participation in the World Health Organization. The first is the obvious critical nature of WHO's work, which includes the recent eradication of smallpox from the face of the Earth, the control of malaria, the worldwide network aganst the outbreak of flu and other contagious diseases, control and prevention of major diseases of animals transmitted to man and worldwide monitoring of adverse reaction to drugs.

To put this issue into perspective, we ask today for $27 million to pay for 1 year of membership in five international organizations.

Because of the World Health Organization's work in eradicating smallpox, for example, the United States saves every year $150 million because we need not subject our children to smallpox vaccination.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. BARNES was allowed to proceed for 3 additional minutes.)

Mr. BARNES. My second point with respect to the World Health Organization is somewhat more political. As we know all too well, international organizations are being pressured by opponents of the peace process in the Middle East. The World Health Organization was the most recent example of that. The Arab States demanded that the World Health Organization expel Israel and remove its regional office from Egypt as a condemnation of the peace process entered into by those two countries.

The United States opposed that effort to expel Israel and to condemn Egypt because of our commitment to what is going on in the Middle East. We almost lost that fight in the World Health Organization. One of the fundamental reasons we almost lost, I was told again this morning by the State Department, was that people said to us when our Government went to other governments and said, "Don't do this," they said, "Why do you care, you do not even pay your dues to this organization? What kind of influence do you expect to have in this?"

Well, the World Health Organization stood up to that pressure. This is one of the few examples in recent time of an international organization taking our side, standing up to international bullying, and we won that fight despite the fact we have not paid our dues.

Today we have the task of deciding whether or not we are going to support the World Health Organization that took that position; $21 million of the $27 million in this amendment goes directly to the World Health Organization.

You all received this morning a "Dear Colleague" letter signed by a number of distinguished Members of this House, including many of the leaders of the Committee on Foreign Affairs and including the majority whip of this House, urging you to vote for this amendment.

I was just handed a few minutes ago at the door a letter from a messenger. It is from the Vice President of the United States and I would read the pertinent portions of the Vice President's letter if I may:

> In April the House of Representatives passed legislation designed to enable the United States to resume its full 1979 contribution to international organizations. The Administration welcomed this action as well as matching action in the Senate and now is most eager that the $27.7 million in funds be appropriated to permit us to make our required payments.
>
> The President and I both consider this issue to be one of major importance. We strongly support passage of the Barnes amendment to H.R. 4289.
>
> Sincerely,
>
> WALTER F. MONDALE,
> *Vice President of the United States.*

Mr. Chairman, if the United States is going to continue to play a role in the international arena we must pay our dues to the international organizations to which we belong. For decade after decade we have condemned other countries, we have condemned the Soviet Union for playing politics with their dues to international organizations.

Well, because the Helms amendment was adopted last year by the Congress, we have been playing politics, we have been playing that game. We ought to be ashamed of it, we ought to end it today. We ought to pay this $27.7 million which we owe, which the House has twice in the last 2 months said we owe, said we ought to pay.

I encourage an affirmative vote on my amendment.

Mr. SLACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the issue of technical assistance has been a troublesome one for the Committee on Appropriations for several years. There are those who feel that technical assistance should be funded under voluntary programs of the United Nations, such as the U.N.D.P. (U.N. development program). The U.N. agencies themselves maintain that their charters, to which the United States subscribe, authorize the pursuit of programs involving technical assistance. In the past the House Committee on Appropriations has supported the view that such programs are permitted by the charters of these organizations and that assessments levied by these organizations constitute legal obligations on the part of the United States. Failure to pay our assessments will ultimately jeopardize our voting rights and membership in these organizations.

Last year the appropriation bill for the Department of State was amended in the Senate and funds for technical assistance were deleted. Conferees on the bill suggested restoration of such funds, but the House instead agreed to the Senate amendment—the Helms amendment—which deleted $27,716,000 from the appropriation.

The Helms amendment also included language directing that no part of the remaining funds be made available for the furnishing of technical assistance by the U.N. or any of its specialized agencies. This language had the effect of holding up the payment of funds for these organizations, since the organizations maintained that their charters did not permit them to accept funds with conditions attached. The House earlier this year, on the Department of State authorization bill, voted to nullify the restrictive language in order to free up the existing appropriation, but of course did not attempt to restore funds in that bill, since that is a matter under the jurisdiction of the Committee on Appropriations.

Mr. Chairman, when the Committee on Appropriations marked up this supplemental bill, it considered very carefully the administration's proposal to restore the $27,716,000. Since the House just last fall voted to withhold such funds, our committee felt that the full House should deal with the issue of restoring them. In other words, we deferred the matter for consideration by the full House.

As I indicated earlier, the committee has historically supported appropriations to pay in full assessments levied by these international organizations.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, I thank the gentleman for yielding.

I would like to make a few comments by way of guarded support. I hold no great brief for the entire appropriation but when you come down on percentages I look at the World Health Organization coupled with the Food and Agricultural Organization—and together they account for 90 percent of this appropriation. That is the issue we are dealing with now, whether we accept it or reject it, it is 90 percent a good investment.

In my judgment, the money spent to eliminate smallpox, yellow fever, and malaria, none can quarrel with. The fact we are investing to preserve the health of our own countrymen along with that of citizens in other countries can hardly be debated.

With regard to agricultural research no one can quarrel with the notion that we are dealing with the elimination of droughts, with the prevention of various crop and plant diseases. If there is any area in which America can make converts for its particular way of life it is through the food program.

I would like to pay my compliments to my subcommittee chairman, and say that I am in favor of this amendment.

Mr. SLACK. Mr. Chairman, I thank the gentleman.

□ 1240

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. SLACK. Yes, I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I want to echo what the subcommittee chairman said. I voted against the Helms amendment. I have been opposed to it, but after all, a majority of the Members on the floor here said they were for it; so when the committee reported this supplemental appropriations bill for the same year in which it was previously reversed on this issue, and we must report it one way or another; we said let the floor decide if the majority want to reverse the decision; however, I want to say that I have been a delegate to the WHO twice and to claim that other countries are looking at us as reneging on our agreement compared to what other countries do is just ridiculous. Many other countries have been behind in their dues many times for a year or two. Even if we are in arrears, we are not out of the organization. It is a common thing for some other countries to be in arrears. I do not see why we necessarily have to be the only country that is always ahead of time on paying their dues. That is not what is involved here.

On the other hand, I am still opposed to the Helms amendment and I will vote for an amendment to remedy the situation.

The CHAIRMAN. The time of the gentleman from West Virginia (Mr. SLACK) has expired.

(At the request of Mr. CONTE, and by unanimous consent, Mr. SLACK was allowed to proceed for 1 additional minute.)

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from Massachusetts.

Mr. CONTE. As I understand it, Mr. Chairman, the gentleman feels that the House should work its will here today on this issue.

Mr. SLACK. Yes.

Mr. CONTE. The gentleman guardedly supports the amendment?

Mr. SLACK. Yes; the House has been on both sides of the issue at different times. All we would like to establish is whether we are or whether we are not going to appropriate funds for technical assistance.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment of the gentleman from Maryland (Mr. BARNES).

Twice before this year, this body has gone on record in expressing support for the retention of technical assistance as part of our assessed contributions to the United Nations.

Only 2 months ago, the House rejected efforts to delete from the International Development Cooperation Act language which nullified the so-called Helms prohibition on technical assistance in the assessed contributions.

Later in April, this body again went on record in support of meeting our obligations with regard to our assessed contributions. This time, we declined to delete $41 million from the State Department authorization for technical assistance provided through our assessed contributions to the United Nations.

In my judgment, the House acted with wisdom and in the best interest of our Nation in both instances.

To vote against the amendment of the gentleman from Maryland would be a complete reversal of those two earlier positions and would mean that the United States would be in arrears in its assessed contributions to the United Nations.

At the same time, U.S. moneys would still be used for technical assistance. We cannot, by reducing our assessed contributions, insure that U.S. dollars will not be used for technical assistance. We can, however, insure that we will be in default on our commitments to the United Nations and its specialized agencies.

I would also note, as I have stated twice earlier this year on this same issue, that the charters of five of these agencies specifically authorize the use of assessed contributions for technical assistance. These charters, as you know, were ratified by the U.S. Senate, thus giving our approval to the use of assessed contributions for technical assistance. These agencies include the World Health Organization, the Food and Agriculture Organization, the International Civil Aviation Organization, the World Intellectual Property Organization and the Universal Postal Union.

These agencies are the ones which would be most affected by this reduction and are the ones which do the most good worldwide and within the United States.

For example, because of the World Health Organization's efforts to eliminate smallpox, no American child will suffer from this dread disease. Indeed, no child in the United States today has to suffer the discomfort of a smallpox vaccination.

WHO has also undertaken a massive, worldwide immunization program with a goal of innoculating all the world's children against the most common childhood diseases by 1990. Our failure to provide the assistance which we have committed the United States to provide would be a serious setback to this effort.

The Food and Agriculture Organization has been vital in protecting U.S. agriculture from the introduction of diseases from outside this country through international monitoring and control of animal and plant diseases.

We have heard arguments today, as we have in the past, that there is no need for reform of the U.N. system. With that, I could not agree more, but reducing the U.S. assessed contribution will not bring about that reform. It will merely put us in arrears and place us in the same category with the Soviets who like to withhold contributions for programs which they oppose.

Again, I would like to underline that the defeat of this amendment will not prevent U.S. dollars from being spent for technical assistance. There is no way through a reduction in our assessed contribution, regardless of what we say about our reasons for such a reduction, that we can prevent our contribution from being used for technical assistance.

We can, however, prevent needed funding for programs which will benefit the people of this Nation. I, therefore, Mr. Chairman, urge the adoption of the amendment by the gentleman from Maryland.

Mr. ZABLOCKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I strongly support the amendment of the gentleman from Maryland. I wish to advise the committee that, indeed, technical assistance has been authorized by both Houses and it was only on the appropriation bill in the other body where the so-called Helms amendment was adopted prohibiting the use of the funds that are now withheld. The amendment of the gentleman from Maryland would restore the $27.7 million of the full amount requested by the President to enable the United States to pay its full assessed contribution. As has been stated by my colleagues on two occasioned earlier, this year the House has voted for this issue and voted in favor of fulfilling our obligations to the United Nations systems.

I wish to commend the chairman of the subcommittee, our dear friend and able legislator, the gentleman from West Virginia (Mr. SLACK) for taking the position to guardedly support the amendment; but nevertheless asking the House to support the amendment.

If the United States does not fulfill its international obligations in a timely and orderly fashion, then the viability and vitality of the entire U.N. system will be tested as never before. With all the shortcomings of the U.N. and its agencies, they perform important and frequently vital services to the community of mankind.

These funds must be restored—not only to preserve the reputation of the United States for discharging its international obligations, but because the programs which would be funded by this amendment are of great importance to the people of this country as well as to millions of persons throughout the world.

Some have argued in favor of the cut approved by the Appropriation Committee on the grounds of a highly technical issue: To what extent technical assistance programs should be included in assessed contributions to international organizations. That is an important issue, but arbitrary budget cuts are the wrong way to get at that issue whatever the merits or demerits of it may be.

What is at stake here are real programs affecting real people. Who in this Chamber wants to cripple the world fight against smallpox and river blindness?

Who in this Chamber wants to stop research on animal diseases that could spread here?

Who wants to weaken worldwide efforts to prevent illicit diversion of nuclear materials?

Who wants to hamper International Civil Aviation Organization efforts aimed at promoting air safety and preventing hijacking?

Who wants to deny support for basic primary and secondary education of children in countries where the literacy rate is 30 to 40 percent?

I urge support for the gentleman from Maryland's amendment.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment.

Mr. Chairman, the Members have received in the morning's mail two different "Dear Colleague" letters in support of this amendment. I signed both, although I did not author either one; so, therefore, they are not quite as devasting as they would have been had I had my pen in hand; this is a good amendment, it is a necessary amendment.

I would point out that the U.N. does not have any constitutency anywhere. It does not have one in our country. It does not have one in most of the world. But the U.N. is a very valuable vehicle for U.S. foreign policy. Forget the rhetoric of the General Assembly sessions. That is the nonproductive part; but programs such as the World Health Organization are important, are necessary, are practical, and in my judgment are a good investment for the United States; so I would strongly suggest support for this amendment.

I think the House by eliminating the Helms amendment acted in a very statesmanlike responsible fashion. We should continue that pattern of voting. I would urge not only a vote for this amendment, but an overwhelming vote for this amendment, so that once and for all the House will clearly be on record as willing to support our necessary practical investment in the U.N., where U.S. leadership is needed and where U.S. leadership must be exercised.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding. I would like to associate myself with the gentleman's remarks.

Mr. DERWINSKI. Well, this is a red-letter day for me. I thank the gentlewoman for her great support. That should discourage all the opponents of this amendment.

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Chairman, I, too, would like to associate myself with the remarks of the gentleman from Illinois.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, just for the record, I would like to disassociate myself with the gentleman's remarks.

Mr. DERWINSKI. Well we are winning 3 to 1. That will be about the vote when we have it.

Mr. BONKER. Mr. Chairman will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Chairman, I would like to join the others in supporting the gentleman's statement. I think it is unnecessary that this House has to be called upon once again to reexamine our support for contributions to the United Nations. It seems to be an issue that is recycled. I am confident that with the broad support that has been expressed here today that we will once again reaffirm our position of full support of our legal and assessed contributions to the United Nations.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Maryland (Mr. BARNES).

Members of both Houses have worked hard this year to defeat attempts to either withhold or attach strings to our assessed contributions to the U.N. for its technical assistance programs. Until the action taken by the House Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary to delete $27.7 million from the fiscal year 1979 supplemental State Department appropriations bill, we have been successful in our endeavors. The House Foreign Affairs Committee repealed the so-called Helms amendment in the fiscal year 1980 foreign aid authorization request, and the

House subsequently defeated an attempt on the floor to reinstate the Helms amendment by a rollcall vote of 143 to 191. The Senate tabled by a vote of 54 to 35 an amendment offered by Senator HELMS which would have reintroduced the Helms amendment language in the fiscal year 1980 State Department authorization bill. These votes clearly indicate that a majority in Congress does not support withholding or attaching conditions to U.S. assessed contributions to the U.N.s technical assistance programs.

I wish to emphasize several crucial points with respect to our financial obligations to the U.N. and the U.N.'s technical assistance programs.

First, the United States is legally obligated to pay its assessed contributions to the U.N. and its specialized agencies under article 17, section 2 of the U.N. Charter.

Second, the Helms amendment not only cut $27.7 million from our assessed contribution to the U.N., but made payment of the remaining $327 million subject to certification by the U.N. and its specialized agencies that none of this money would be used for technical assistance. However, the contributions received by the U.N. and specialized agencies are placed in a common budget and these organizations cannot segregate funds for individual country programs or for special types of programs, such as technical assistance. Furthermore, none of the charters of the U.N. or specialized agencies specifically prohibits use of funds for technical assistance programs, but the charters of these organizations do prohibit them from accepting contributions with conditions attached to them. Therefore, neither the U.N. nor any of the specialized agencies has been able to accept U.S. assessed contributions for 1979.

Third, the specialized agencies have done excellent work in a wide range of areas, work which the United States could not possibly hope to perform alone. The World Health Organization, for example, has virtually wiped out smallpox in the world.

Fourth, since the primary benefits of U.N. assistance programs in the humanitarian, developmental, cultural, and technical fields go to the poorest of the world's poor, withholding our assessed contributions hurts everyone equally, but specifically, the most disadvantaged people in the least developed countries.

Fifth, since the U.N.'s humanitarian and technical assistance programs neither provide large amounts of money nor have significant political leverage in recipient countries, withholding our contributions does not give us any significant political leverage over those programs. On the contrary, it does reduce our influence in determining how these organizations should utilize their resources.

Sixth, our action encourages other countries to withhold or earmark their contributions, a practice for which the U.S. has consistently criticized countries such as the Soviet Union. Such practice can only lead to politicization of these organizations, to the detriment of the people they are designed to help.

In conclusion, Mr. Chairman, I strongly urge my colleagues in the House to support this amendment so that the United States can continue to participate fully in the U.N.'s activities and to enjoy the benefits of participation in the U.N.

Mr. DERWINSKI. Mr. Chairman, I just point out that our colleague, the gentleman from Washington who just spoke, is the chairman of our subcommittee on International Organizations. Obviously, he is aware of the effectiveness of these programs as he is aware of the legitimate role of leadership the United States provides and that this amendment would permit us to continue.

● Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment which would restore the $27.7 million in United Nations Technical Assistance Funds deleted from the fiscal year 1979 State, Justice, Commerce, and Judiciary appropriations bill. This cut was a consequence of the adoption of the so-called Helms amendment which in addition had included language restricting the use of U.S. contributions for the Technical Assistance Account. Wisely both Houses have repealed this language. This amendment affords us the opportunity to rectify the damage which will still be wrought by the Helms amendment.

The U.S. contribution is necessary to fund United Nations Organizations such as the World Health Organization, the Food and Agricultural Organization, the Atomic Energy Agency, and the International Civil Aviations Organization. These agencies have in the past provided instrumental services to the global community—the United States as a member of this community has reaped the benefits of such services.

For example, in the seventies, the World Health Organization programs have eradicated smallpox, thereby eliminating the need for routine vaccinations. This has saved the United States $150 million per year since 1971. Mr. Chairman, this is a net saving to the U.S. economy of over $1 billion. And this is the organization which will bear the brunt of a decrease in funding.

I am only too painfully aware from my work on this committee that money this year is scarce—we have worked carefully and not without great frustration to trim the budget. But this cannot be done at the expense of social programs which benefit U.S. citizens and our international obligations. The conflict between fiscal responsibility and social progress at home and abroad challenges us daily. Failure to respond to this challenge in an affirmative manner can only be judged as neglect of our responsibility as a world leader in helping to fulfill the basic needs of both United States and global populations.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BARNES).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 26, noes 4.

So the amendment was agreed to.

□ 1250

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DISASTER LOAN FUND

For additional capital for the "Disaster loan fund", $1,018,000,000, to remain available without fiscal year limitation.

Mr. HIGHTOWER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the Small Business Administration disaster loan fund is today empty. The cupboard is bare. 1979 may prove to be a record year for disasters in this country.

The floods and tornados have brought personal and financial disaster to thousands of homes on both the upper and lower Mississippi as well as in Oklahoma and Texas.

This appropriation, Mr. Chairman, of $1,018 million may not be enough to meet the need. We may have to come back later.

It will take as long as a year to clean up the wreckage following the tornado of April 10, 1979, in Wichita Falls. The Federal Disaster Assistance Administration has done and is doing a remarkable job. The Small Business Administration is working hard to process the loan applications and to help people to begin to re-build.

This appropriation is desperately needed. It is needed today. These people will re-pay these loans. They are not looking for a hand-out, only a helping hand.

Mr. MONTGOMERY. Mr. Chairman, I agree with the gentleman from Texas (Mr. HIGHTOWER) that these supplemental funds for the Small Business Administration are absolutely needed.

We have had disastrous floods in Mississippi during Easter. Homes and businesses have been wiped out. These flood victims have made applications for these loans and some have been approved by the SBA. However, the SBA has run out of money and are waiting for this supplement to make the loans.

I know my colleagues will support this disaster help in the bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

URBAN MASS TRANSPORTATION ADMINISTRATION

URBAN FORMULA GRANTS

(TRANSFER OF FUNDS)

For an additional amount of "Urban formula grants", to remain available until September 30, 1982, $40,000,000, to be derived by transfer from the appropriation "Urban discretionary grants".

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FISH: Page 32, after line 5, insert the following:

URBAN DISCRETIONARY GRANTS

For an additional amount for "Urban discretionary grants", $125,000,000, to remain available until September 30, 1982.

Mr. FISH. Mr. Chairman, fiscal year 1979 funding for discretionary capital projects for urban mass transportion was only $1.250 billion. The authorizing legislation set $1.375 billion as a reasonable level to carry out the program as developed by Congress. Therefore, we have a funding shortfall for capital grants of $125 million, that is not made up in this supplemental appropriation.

If you will recall, due to legislative problems faced in passage of the Surface Transportation Assistance Act of 1978, appropriations for mass transportation for fiscal year 1979 preceded, rather than followed, the authorizing legislation. Due to this fact, funding levels for fiscal 1979 were considerably below that which the Congress in the Surface Transportation Assistance Act some months later indicated they deemed proper funding for an adequate mass transportation program. The intent of this amendment is to provide key Federal transportation assistance where it is needed the most. The section 3 program aids States and localities in the purchase of buses, construction of bus capital facilities, construction of new fixed guideway systems, and the extension and rehabilitation of existing subway and commuter rail systems. At his discretion the Secretary of Transportation may make grants directly to localities, authorities, or to private operators.

Why is this amendment essential? One reason is clear: Because of inflation, the Federal Government's capital budget for public transportation has been shrinking. With people lining up at gas stations we should be purchasing more buses and railcars. Unless this amendment passes, we are going to be spending less.

In spite of the fact that the conventional wisdom of today holds that "less is best," I urge my colleagues to vote for full funding of capital assistance because I believe, like other Members of this body, that each expenditure must be judged on a case-by-case basis, and that program shortfalls now will result in increased Federal expenditures in the future.

I say this because mass transit ridership increased in 1978 nationwide by approximately 5 percent. I do not find this growth surprising, nor do I believe it represents a peak. Rather, I think it is only a beginning of what is to come. While each of us is aware of the need to control Government spending, to keep costs down and to curb inflation, cuts in this area would achieve none of these goals. I think it is undeniable that capital expenditure in this area today—facilitating ridership and reducing automobile use—means helping to curb our imports of oil tomorrow. We owe it to our people to act to help them adjust to higher costs and less supply.

In mass transit there is a long time lag between bus and rail car orders and actual delivery. There is no question that municipalities and authorities have outstanding requests. The arguments used against new programs in a supplemental do not apply here. Every day's delay is prolonging the inconvenience of our citizens.

Mr. Chairman, over the years, mass transit has had to fight competing transportation interests, and only recently, with the passage of the Surface Transportation Assistance Act of 1978, can it be said to have come of age. Our people are entitled to fast, clean, safe, reliable surface transportation. In his April 5 address to the Nation, the President gave official recognition to what Americans already knew—that mass transit was now involved in the total energy picture. Mass transit is essential to energy conservation.

In that address, President Carter said:

> Mass transit ridership must increase in the coming years if we are to hold in check our consumption of precious liquid fuels. In order to increase ridership, we need to expand transit capacity in the short term at a faster rate than currently planned. And that increased capacity must be available at the times of the day when it can make a difference—during commuting hours.

We have the opportunity today to carry out the President's call to "expand transit capacity in the short term at a faster rate than currently planned."

Mr. EDGAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this amendment offered by the gentleman from New York (Mr. FISH). I think it is a timely amendment, and it is appropriate to the process under which we are operating today.

We are considering a supplemental appropriations bill. The bill is produced in order to respond to special needs and supplemental concerns that were not considered in last year's budget process.

I think it is appropriate for us to recognize, in light of inflation, in light of the President's urban policy, and particularly in light of the energy crisis we find ourselves in, that public transit needs additional funding if we expect it to meet the demands that are being placed on it. New infrastructure for public transit is necessary if we hope to move people as efficiently as possible and in the best and most appropriate way possible during a period of energy shortages.

I think that the membership of the House will recognize that last October we overwhelmingly passed an authorization bill which provided new authority and funding for public transit.

□ 1300

But because of budget pressures, we stand now to find in 1979 and in 1980 that we will, in fact, be spending less (in real terms) on both operating and capital expenditures for public transit than we have been spending in recent years. To add insult to injury, we will be spending more on highways this year than we spent last year, even after adjusting for inflation. This is not sound transportation policy.

I do not intend to revive the old debate between highway and public transit interests, but I do think that, at this time, we ought to focus on public transit and keep its spending levels ahead of inflationary pressures. More than ever before, we need good, clean urban bus systems and rail systems. If we want to expand efforts in this area, we must pass this amendment.

I would like to add one particular concern to this debate. Last week, in 47 pages of the Federal Register, there were regulations published detailing how operators of public transit systems will have to make all buses, trolley cars, commuter rail systems, and subway systems accessible to the elderly and the handicapped. If we begin, just as a start, to follow the regulations that are proposed for accessibility to the elderly and handicapped, most of the money in the UMTA program for modernization of existing public transit systems will be consumed. This development occurred subsequent to passage of the 1979 appropriation last year. The circumstances of that decision have, in fact, changed, and that is why the gentleman's amendment is so necessary. These regulations have put new pressure on the UMTA program, augmenting the pressure created by recent gasoline shortages.

I commend the gentleman from New York for coming forth with his amendment, and I hope that Congress will respond to these urgent needs.

Mr. DUNCAN of Oregon. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I want to express my respect for both the gentleman from New York (Mr. FISH) and the gentleman from Pennsylvania (Mr. EDGAR), both of whom are leaders in pointing out the problems of urban mass transit. I want to assure both of them and the Members of this Committee that the Subcommittee on Transportation of the Committee on Appropriations is fully cognizant of the problems faced by mass transit in this country. But contrary to the statements which they have made, we think that we have been responsive to those needs and we have been responsive in a responsible fashion by trying to operate within the limitations imposed by this body in the budget resolution.

I want to ask the Members of this Committee to consider the circumstances under which this amendment is offered. This is a supplemental appropriation. This is really not an appropriate place to reexamine whether or not this body made the proper decision regarding the level of financing to be provided to this agency. A supplemental appropriation is traditionally to handle emergencies, to consider additional appropriations for unforeseen contingencies. There are no unforeseen contingencies here. The demands of the public for mass transportation did exist when Congress enacted the regular 1979 appropriation, do exist today, and will continue to face us in the future.

I would suggest to the Members that this Committee, as I said, has responded to those needs. It is not true that we are spending less money now than we did. As a matter of fact, the total amount available in 1978, a year ago, for these items, was $1.4 billion. Without this amendment, the amount available in 1979, including section 5 bus procurement funds, is $1.55 billion, and the amount for these eqivalent areas of activities in the 1980 budget, which the subcommittee will recommend, is $1.58 billion. That is a total in those 3 years of $4.53 billion—not millions, not hundreds of millions, but billions.

I do not know that any of us could really answer the question of how much is enough and how much is too much. It is true that the President has made some speeches urging greater emphasis in the area of urban mass transit. It is also true that there is not a budget request for this item. The Committee ought to take a look at the committee report. We have brought this chapter of the bill in at about $6 million—$6.5 million perhaps—less than the budget estimates. It is the smallest decrease of any of the subcommittees that have contributed to this 1979 supplemental.

We ought to remember the debate that took place during the consideration of the budget resolution. We ought to go back and take a look at the letters from our constituents, from our legislatures, demanding that the budget be balanced, and then take a look at what is left for this Committee to operate with under the terms of the third budget resolution. We have only $900 million in leaway without any amendments to this bill, so far as outlays in 1979 under the third budget resolution are concerned. We only have $1.8 billion with respect to new budget authority. We already have over $600 million in requests for increases, for food stamps.

There are also going to be additional requests for funding for additional interest payments on the national debt. There is being prepared downtown right now a request for additional funding for black lung. These are all entitlement programs, in essence.

I want to tell the Members what we have done, because this Committee has not been unresponsive to these needs. The gentleman is asking for another $125 million of appropriated money out of the general fund. This Committee, recognizing the needs for urban mass transit, has really put $140 million into mass transit, but we have done it in a responsible fashion by not adding 1 cent to new budget authortiy. But we are making available for these purposes an extra $140 million.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. DUNCAN) has expired.

(By unanimous consent, Mr. DUNCAN was allowed to proceed for 3 additional minutes.)

Mr. DUNCAN of Oregon. Mr. Chairman, we did this by reallocating the funding which the President and the Office of Management and Budget set aside within the overall limitations of this appropriation for a program which he called urban initiatives. Our subcommittee has no problem with urban initiatives. But we believe that it is of a lesser priority, than these priorities which the gentleman from New York (Mr. FISH) and the gentleman from Pennsylvania (Mr. EDGAR) have properly called to the attention of the body today. We think the real needs are in moving people.

There are at least three competing modes of transportation within this level of appropriations that we must satisfy. We are talking about buses, we are talking about old rail systems, and we are talking about the new rail starts. What we have tried to do with this $140 million is to put $50 million of it into bus programs available for all cities. We have reallocated $50 million into the new starts going to those communities which have to lay new rails to develop new transportation systems, and then for the old rail systems we have reallocated $40 million in formula grants. That is primarily for the cities from which the gentleman from New York (Mr. FISH) and the gentleman from Pennsylvania (Mr. EDGAR) come. But in addition to that, and again in spite of what the President's speech may have said about the needs for improved urban mass transportation, he had asked to reprogram $55 million from the old rail cities into buses. We turned that down because we think that was properly allocated within the 1979 budget and ought to stay within those old rail cities.

□ 1310

So there is $55 million for rail modernization that we would not have had if we had approved the President's request to reprogram funds. We also, on behalf of the old rail cities, turned down the proposal from downtown that would have required any section 3 bus procurements for the existing rail cities to be financed from the rail modernization funding.

So what we have done here by turning down the President's request is make the $55 million available for rail modernization. We have denied the request that any new buses be charged against rail modernization in those old cities, and then we have put, not $125 million, but $140 million, into these programs.

I suggest that the committee has operated in a completely responsible and responsive fashion. The amendment should be turned down.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I would like to commend the gentleman for the effort he has made as the new chairman of the subcommittee to recognize the need for modernization in the older rail cities and to recognize the need of the operators to——

The CHAIRMAN. The time of the gentleman from Oregon (Mr. DUNCAN) has expired.

(At the request of Mr. EDGAR and by unanimous consent, Mr. DUNCAN of Oregon was allowed to proceed for 1 additional minute.)

Mr. EDGAR. So, Mr. Chairman, I would like to commend the gentleman for his efforts, but I think it would be difficult for me as an individual who has studied this issue to agree with the gentleman that the operators of public transit this year and next will be living on additional funding.

It was the intention of the Surface Transportation Act of 1978 that we give an added emphasis to public transit. All of the operators, the Philadelphia system, the New York system, the Boston system, the Chicago system, and the Los Angeles system, have come to my office and detailed in, I think, a very adequate way the fact their amount of dollars from the Federal Government will, in fact, be reduced in the coming months.

Mr. DUNCAN of Oregon. If I may reclaim my time, the gentleman is speaking, I think, not in terms of a reduction in the actual number of dollars, because that is not the fact. Our numbers of dollars appropriated have increased.

The gentleman's statement is accurate and true only in the sense that the rate of inflation that affect every other expenditure likewise affect this. I am sure that is what the gentleman is talking about.

Mr. CONTE. Mr. Chairman, I yield to my good friend, the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I thank the ranking Republican member of the Appropriations Committee for yielding.

I do want to say I think all of us feel that the subcommittee has done a splendid job in great depth and have exercised responsibility, but they will remember that several of us from my State testified on just the subject that is here by amendment today.

I do not feel that, as a member of the minority, it is up to me to defend Presidential rhetoric. I was just alluding to some very plain language in the President's message, and if he, indeed, is guilty of not following it up with any request of the Congress, then the record will show that.

The purpose of the supplemental appriations has been brought to our attention. I think that is fair to say that the chairman of the subcommittee talked in terms of dealing with unforeseen circumstances.

I submit to the committee today that that is precisely what we are dealing with. When the level of fiscal 1979 appropriations was decided by this body, the gas shortages that affect the supply today were not present, and the oil decontrol that went into effect a few days ago, which will affect cost, was not present. These events have put citizens in a position where they not only have less supply, but at far greater cost.

And there is no end in sight. I think we will all agree.

So, I do think we are facing the unforeseen circumstances that fit this amendment clearly within the purview of a supplemental. I think that we can also see from the shortages and from the increased cost a vast increase approaching in mass transit ridership, one of the underpinning reasons for this amendment.

I thank the gentleman for yielding.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would just like to speak in strong support of the amendment of my colleague from New York and to attest to the tremendous need for the additional mass transit funds.

Our mass transit facilities are just falling apart at the seams. In light of the tremendous urgency of the energy crisis we are facing, not to create adequate facilities to accommodate the vast number of additional passengers who are trying to ride buses and trains in order to escape their automobiles would be very unwise. I think the gentleman's amendment is a very wise one.

In the past few weeks, the House has debated the merits of several proposals for gasoline rationing which would go into effect in the case of emergency oil shortages. This amendment offers us an opportunity for critical action in insuring a wise allocation of energy sources—retaining a viable mass transit system.

Almost 50 percent of our domestic oil supplies motor vehicles. Alleviating the pressure on our supplies, created by unnecessary automobile travel, should be a central part of our Nation's energy strategies.

In New York State, each day, we have 7 million mass transit travelers. In Westchester County alone, commuter rail lines carry 50 million per year, a number which has grown by about 6 percent annually for each of the last 3 years. On one rail line serving my congressional district, ConRail, the operator, reported an increase of 6.3 percent over 1978 during the first 2 months of 1979. Commuters on this line, where trains are filled daily almost to capacity, were surveyed in April and informed a local newspaper reporter that "(they) think trains with or without enough seats are preferable to driving a car to New York City." (The Ossining, N.Y., Citizen Register, Apr. 16, 1979.)

This rail line, the upper Harlem commuter line, is an old diesel line owned by the Metropolitan Transportation Authority and operated by ConRail. It is an excellent example of the need for additional mass transit capital improvement dollars. It carries about 6,000 people each day—it has been estimated that this line alone takes about 3,500 cars off the badly congested parkways between Westchester County and New York City each day.

The line is in terrible condition. It is a diesel line, and the tracks in some areas are 30 years old. In its application to UMTA for funds to electrify this line, the MTA described its equipment: "a conglomerate of cars averaging 30 years of age." There are "insufficient coaches for adequate service" and, of the existing coaches, the equipment has "little or no service life."

The frequency of mishaps and accidents on this line, due to the badly worn equipment, is extremely high. In 1977, a train derailed when its wheels cracked and slammed up against the floor of the car. Fires have occurred in the locomotives on several occasions—early this year, an FL–9 engine caught fire in Grand Central Station. Commuters have informed me that the cars on this line bounce badly, bumping into the walls of tunnels and against the platforms of the stations. In one case, cars bouncing against each other hooked together and had to be uncoupled in order to be disengaged. Uncouplings happen extremely frequently, occurring on February 12, 14, and 16 of this year. Commuters have measured the interior temperature of these cars at 110° F, and report holes in the roof and in the floors. Doors with faulty latches swing open during the commuting trip. It is apparent that the rolling stock, track apparatus and equipment are in a seriously deteriorated condition and the potential for accidents and continued deterioration is frightening.

In addition, the entire trip up the Harlem commuter line is absurdly slow. Since the lower part of the line with which it connects is electric, on some trains, commuters must change trains at midpoint.

In 1978, the Metropolitan Transportation Authority and the State of New York decided to take some small steps to upgrade this line. It was decided to purchase old cars for renovation and to electrify the line for the future. The advantages of this system are obvious—the newer electric cars would be much faster, any change of cars in North White Plains would be obviated, and much-needed repairs on the line would improve safety an speed and modernize in one blow. The State of New York committed $15 million to the project, and the MTA included it on the list of priority mass transit projects in southern New York, submitting an application for funding to UMTA.

On April 23, 1978, UMTA Administrator Richard Page indicated that the agency would support this project if enough funds were available.

What is needed is an additional $30 million in funds allocated for capital improvement projects under section 3 of the Urban Mass Transportation Act of 1964. Unfortunately, during fiscal year 1979, the UMTA funding was low—$3,175,000,000 was authorized and only $2,817,000,000 appropriated—and UMTA cited this as the reason for deciding not to fund the Upper Harlem line electrification. UMTA has not requested any supplemental funding: Unless the Congress reinstates a substantial amount of the funds authorized, UMTA had indicated that it will again determine not to fund the project, leaving Westchester's commuters with unsafe and undependable services, and driving more commuters to the highways.

This seems most shortsighted. Largely untouched by a huge Federal transportation budget, the commuter lines are nontheless the backbone of an energy-efficient transportation system. Cost studies of our alternatives in cases such as that of the Upper Harlem show that a relatively modest amount of capital at this point will rehabilitate our lines and save vast sums which would be necessary to maintain or replace the entire system.

I urge my colleagues to support this amendment to add $125 million to the appropriations for fiscal year 1979 for mass transportation discretionary grants. Fiscally, it is a wise, penny-pinching approach. Energywise, it is imperative.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment.

I will try to say in 30 seconds what it took the gentleman from Oregon to say in 10 minutes.

Mr. Chairman, the whole thing boils down to one thing. We worked very, very hard in bringing out a well-balanced bill, a well-balanced transportation bill, but the whole problem is we absolutely cannot afford any more.

Mr. Chairman, I rise in opposition to the amendment offered by Mr. FISH to add an additional amount of $125 million for urban discretionary grants.

The committee labored long and hard over this program. To illustrate how concerned we are about this program we directed that funding for the urban initiatives program be limited to $60 million during fiscal year 1979, thereby reducing by $140 million the level estimated to be earmarked for this purpose.

The $140 million that is available because of this limitation we then applied to the section 3 bus program. Section 3 new starts, and section 5 formula grants.

All of this is to say that the committee is sensitive to the needs of our Nation's cities and believes that funding of these basic activities is vital if public transportation is to survive in our major urban areas.

I would like to point out that the committee did not approve the proposal to reprogram $55 million from rail modernization to the procurement of buses.

We did this because we believe that a reduction in the rail modernization program would have a detrimental impact on older transit systems, such as those in northern New Jersey, New York, Chicago, Philadelphia, and Boston, which are seriously deteriorated.

We also denied a proposal which would have required any section 3 bus procurement for these areas to be financed from their rail modernization funding allocations.

In conclusion, I oppose this amendment. I would point out to my colleague from New York that the 1979 level is considerably higher than the fiscal year 1978 level and we simply cannot afford to spend any more.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. FISH).

The question was taken; and on a division (demanded by Mr. FISH) there were—ayes 7, noes 28.

Mr. FISH. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1320

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York (Mr. FISH) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 127, noes 270, not voting 37, as follows:

[Roll No. 184]

AYES—127

Addabbo
Ambro
Anderson, Calif.
Atkinson
Bailey
Barnes
Bedell
Biaggi
Bingham
Blanchard
Boggs
Boner
Bonior
Brodhead
Brown, Ohio
Buchanan
Burton, John
Burton, Phillip
Chisholm
Clay

Clinger
Collins, Ill.
Dellums
Diggs
Dixon
Dodd
Dornan
Dougherty
Drinan
Eckhardt
Edgar
Edwards, Calif.
Evans, Del.
Fary
Fascell
Ferraro
Fish
Fisher
Ford, Tenn.
Fowler
Garcia
Gaydos
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hall, Ohio
Heckler
Hollenbeck
Holtzman
Howard
Hyde
Jeffords
Kastenmeier
Kazen
Kemp
Kildee
Kostmayer
Lederer
Leland
Lent
Lowry
McKinney
Madigan
Maguire
Markey
Marks
Mavroules
Mikulski
Mikva
Miller, Calif.
Minish
Mitchell, Md.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Myers, Pa.
Nedzi
Nolan
Nowak
Oakar
Oberstar
Ottinger
Patten
Pepper
Petri
Peyser
Pritchard
Pursell
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rosenthal
Rostenkowski
Russo
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Solarz
Stack
Stark
Stewart
Stokes
Stratton
Studds
Thompson
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
Winn
Wolff
Yates
Yatron
Zeferetti

NOES—270

Abdnor
Akaka
Albosta
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boland
Bolling
Bonker
Bowen
Brademas
Brinkley
Brooks
Broomfield
Brown, Calif.
Broyhill
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dicks
Dingell
Donnelly
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Fazio
Fenwick
Findley
Fithian
Flippo
Foley
Ford, Mich.
Fountain
Frenzel
Frost
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Goodling
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harris
Harsha
Hefner
Heftel
Hightower
Hinson
Holland
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kelly
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murtha
Natcher
Neal
Nichols
O'Brien
Obey
Panetta
Pashayan
Patterson
Paul
Pease

Perkins
Preyer
Price
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Sabo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Stenholm
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Treen
Trible
Udall
Ullman
Vander Jagt
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wirth
Wolpe
Wright
Wyatt
Wylie
Young, Alaska
Zablocki

NOT VOTING—37

Anderson, Ill.
Beilenson
Bouquard
Breaux
Conyers
Coughlin
Dickinson
Evans, Ind.
Flood
Florio
Forsythe
Fuqua
Gilman
Goldwater
Hammer-schmidt
Harkin
Hawkins
Hillis
Horton
Johnson, Calif.
McDonald
Mathis
Mineta
Moffett
Murphy, N.Y.
Myers, Ind.
Nelson
Pickle
Rose
Simon
Spellman
Stockman
Wilson, C. H.
Wilson, Tex.
Wydler
Young, Fla.
Young, Mo.

☐ 1340

The Clerk announced the following pairs:

Mr. Moffett for, with Mr. Johnson of California against.

Mr. Hawkins for, with Mr. McDonald against.

Mr. Murphy of New York for, with Mr. Fuqua against.

Mr. Florio for, with Mr. Nelson against.

Mr. Conyers for, with Mr. Breaux against.

Mr. Gilman for, with Mr. Goldwater against.

Mr. Horton for, with Mr. Myers of Indiana against.

Mr. Wydler for, with Mr. Young of Florida against.

Mr. STRATTON and Mr. ROSTENKOWSKI changed their vote from "no" to "aye."

Messrs. LEVITAS, KOGOVSEK, and SHARP changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PANAMA CANAL COMPANY

LIMITATION ON GENERAL AND ADMINISTRATIVE EXPENSES

The limitation on general and administrative expenses is increased by $1,837,000.

☐ 1350

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time only to comment on the funding contained in the supplemental appropriation bill dealing with Panama. I would like to ask the gentleman from Mississippi to confirm this statement, that the funding in this legislation dealing with Panama primarily is for the transfer and consolidation of existing facilities from the present Canal Zone into the reduced area that will exist under American control after October 1. There had been some suggestion that an amendment ought to be offered to remove these funds in light of the fact that the House has not yet voted on the implementing legislation on the Panama Canal Treaty; but having discussed this with other Members, I would say these funds are necessary.

Mr. WHITTEN. Mr. Chairman, I am sorry. I was interrupted. I could not hear all the gentleman said. Would the gentelman mind repeating that?

Mr. BAUMAN. Certainly. I was just asking the gentleman from Mississippi to confirm my understanding that the funds contained in the supplemental for the Panama Canal Zone Government and the Panama Canal Co. are essentially funds necessary to allow consolidation of existing facilities in the reduced area of the zone after October 1 when the treaties take effect. There had been some discussion that an amendment might be offered to remove these funds completely until implementing legislation was acted upon by the House next week; but my own judgment was that without these funds it could seriously hamper the exercise of American rights and duties. Therefore, that these funds should not be removed. Am I correct in my estimate of the use of these funds?

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield further, may I say to the gentleman from Maryland that is my understanding This is handled by the subcommittee headed by my friend, the gentleman from Oregon (Mr. BOB DUNCAN). He is more familiar with the details of this than I am. However, my understanding is that of the gentleman from Maryland; so far as I know, that is correct.

Mr. BAUMAN. But the purpose of these funds is to carry out that consolidation that we are required to do for facilities, military construction, that kind of thing, in order to move into a greatly reduced Canal Zone on October 1; it is not for any payments to Panama.

Mr. WHITTEN. That is my understanding.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in view of the fact that from page 41 right through page 68 where we begin on Title III: General Provisions, these are all pay raises and transfers, I ask unanimous consent that the balance of the title be considered as read.

Mr. WHITTEN. That is agreeable to this side, I might say, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. Are there any points of order to the remainder of title II?

Are there amendments to title II?

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I only take this time so that the Members of the House will perhaps pay a little attention to the items that begin on page 40, et sequentes, as they say in the law. A number of these provisions on the next several pages restore amounts of money to congressional committees, congressional offices, the House Office Building Commission, and the Architect of the Capitol, among others.

What these provisions do, in effect, is to repeal the 5-percent cut that we voted last year in legislative appropriations. I believe it was the gentleman from Massachusetts (Mr. CONTE), a well-known conservative in this House, who quite often tries to save money for the taxpayers that offered that cut, and yet today by enacting this legislation we will be wiping out the 5-percent cut retroactively, somewhat quietly, perhaps, so that the public will not notice.

I am sorry we are doing that, but I want to commend the gentleman from Massachusetts for his original 5-percent cut. I know the sincere principle that motivated that action on his part. Now he is to be undone.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. Yes.

Mr. CONTE. Mr. Chairman, I want to thank my buddy from the Eastern Shore for his kind remarks. I hope he lets them in the record, because I will treasure them for the rest of my life; but let me tell the gentleman from Maryland that that 5-percent cut was the only cut, the only 5 percent or any across-the-board cut that held throughout the procedure and under the able chairmanship, and I say this sincerely, I think he is one of the best chairmen we have of any subcommittee in the Congress, rough, tough, he hangs in there, the gentleman from Indiana, ADAM BENJAMIN. The gentleman saw to it that they did not get around that 5-percent cut.

I hope the gentleman from Maryland will yield to the gentleman from Indiana.

Mr. BAUMAN. Mr. Chairman, I yield to the gentleman to explain why the Botanical Gardens needs an extra $56,000.

Mr. BENJAMIN. Mr. Chairman, we have not impaired the Conte amendment as such. The Conte amendment still exists in the 1979 law.

Pursuant to the Conte amendment, the 5 percent amounted to a withholding of $22 million from legislative branch appropriations. Of that $22 million, we have employed $13 million to adjust for the 5.5-percent pay raise provided to Federal employees last October; so there is still $9 million in reserve that we do not contemplate using pursuant to the Conte amendment.

Mr. BAUMAN. Mr. Chairman, could the gentleman tell us whether any of these restorations of funds would be used to finance cutrate gasoline for any congressional officials or leadership, or anything like that?

Mr. BENJAMIN. Mr. Chairman, I will respond to the gentleman by saying that all of the section 311 money that is being transferred in this bill is used merely for the pay adjustment of October 1978, and relates in no way to the price of gasoline.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman and yield back whatever is left of my time.

The CHAIRMAN. Are there any amendments to title II? If not, the Clerk will read.

☐ 1400

Mr. GIAIMO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to provide the House a budget perspective on the pending supplemental appropriations bill.

I want to take this opportunity to commend the chairman of the Committee on Appropriations, on which I have the opportunity to serve, and also all the subcommittee chairmen and the ranking minority members for bringing out this bill, and in fact all members of the committee which I consider to be a good bill and one that is worthy of support. I know full well the difficult time they have had in committee trying to hold the line on spending in this supplemental.

However, I think there is something we in the House should be forewarned about. The bill as reported would provide $11.3 billion in budget authority and $7.9 billion in outlays. If passed by the House in its reported form, the remaining funds allocated to the Committee on Appropriations under the revised fiscal year 1979 budget resolution would be $1.7 billion in budget authority and $1 billion in outlays.

Actually as a result of some actions and reestimates that have been made since we adopted those figures, I think the more accurate figure is that there is probably something like $1.7 billion in budget authority and about $900 million in outlays left after this bill is reported.

We should remember that the fiscal year 1979 budget aggregates and allocations to the various committees were revised. Changes in economic conditions during the past few months produced a situation in which the spending totals threatened to exceed the budget aggregates. This was not because of any action Congress had taken; it resulted from economic factors operating on such things as interest on the public debt and other inflation related outlays of the Government.

What I am trying to say in a nutshell is this: This bill as it comes in and as it has been amended is well within the fiscal year 1979 budget ceilings which the House adopted several weeks ago. Bear in mind, however, that there are other things still to be considered for fiscal year 1979 which are not included in this bill. Particularly we will need moneys for food stamps. That request is going to be coming along for fiscal year 1979.

We are going to need moneys for black lung. That request is going to be coming along in 1979. And as recently as today, we are informed that there could well be an additional request for additional moneys for unemployment compensation.

So while this bill is well under the ceiling that we adopted several weeks ago, when we consider those other requests for substantial sums of money—because when we are talking about unemployment compensation and black lung and food stamps, we are talking of roughly $400 million or $500 million for food stamps, perhaps $400 million for black lung, and perhaps $500 million for unemployment compensation—if we are not careful, we could well break through the ceilings which we adopted in the third budget resolution for fiscal year 1979 several weeks ago.

The message that I have for the Members is that inflation is pushing our expenditures up. Witness the fact that they may need more money in food stamps and unemployment compensation. So it behooves us to hold the line on amendments. It behooves us to vote down additional spending amendments and to go with this committee which is trying its utmost to stay within the budget figures which Congress recommended and which Congress set as binding figures, as we will recall, several weeks ago insofar as it affects fiscal year 1979.

Mr. Chairman, we are dangerously close to the ceilings, and I urge the Members to cooperate with the committee and with all the Members who are trying to hold the line on fiscal year 1979 spending.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: On Page 68, after line 17, insert the following section:

SEC. 303. Of the total budget authority provided in this Act, for payments not required by law, five per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed ten per centum, and *Provided further*, That this reduction shall not apply to the appropriation in this Act in support of the Egyptian-Israeli peace treaty.

Mr. MILLER of Ohio. Mr. Chairman, the amendment that is offered at the present time is certainly not new to those Members who have been here for several years. I have offered it in the last 4, 5, or 6 years to most of the appropriations bills. Sometimes it has flexed from 5 to 2 percent and up to 8 percent; it has depended upon the bill.

What the amendment does is this: It provides that of the total budget authority provided in this act, for each appropriation activity, account and project, for payments not required by law, 5 percent of the amount can be withheld, but it shall not exceed 10 percent. It takes the 5 percent off the nonmandatory items. At that time it allows the conference committee to protect the high priority items and not reduce them one bit. The low priority items can be reduced to a maximum of 10 percent.

So the amendment does have flexibility. It is fine-tuned, since we speak of only affecting nonmandatory items. Pensions, salaries, and all items that are mandated by law are not affected.

Then when we take the second step to allow 10 percent taken off the low-priority items, we have the flexibility that is well worth trying.

I heard our ranking minority member say that there was only one 5-percent amendment that stuck last year. He was correct. He was absolutely correct, but by the same token, we tracked what was done on the other amendments, and even though the language of the amendment was removed in conference, over $600 million was removed from the bills because of the language that we had, and that language is what we are offering today in the supplemental.

On June 4 I had this amendment printed in the Record. Today, we have added language to exempt the Israeli-Egyptian peace treaty. We have to be practical. We had a vote on May 30 of 347 to 28, that agreed with the authorization for the Israeli-Egyptian peace treaty. I voted no. I would prefer that those treaty funds fall under the 5-percent reduction, but to be practical and to get some type of reduction, we find it necessary to exempt the Israeli-Egyptian peace treaty funds. That is $1,470,000,000.

I would like to go through what the amendment does. There is $11,300,000,000 in the bill. The nonmandatory part of the bill is $4,397,000,000. Five percent of the nonmandatory amount would be $219 million. So we are voting to reduce the total bill by $219 million if we vote for the 5-percent reduction.

Let us look at where we are right now with our national debt. We are crowding $900 billion on our national debt.

□ 1410

According to the third budget resolution, the interest on that national debt for 1980 will be $52.4 billion. If you divide that by 365, you find that we are paying $144 million a day on the national debt, $144 million a day.

We had amendments here for $12 million, for $15 million. Why, we could do a lot of good for the American people if we did not have to pay the $144 million interest loan on the national debt.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Miller) has has expired.

(On request of Mr. Solomon and by unanimous consent, Mr. Miller of Ohio was allowed to proceed for 5 additional minutes.)

Mr. MILLER of Ohio. Mr. Chairman, I only have one other point. I will not use the 5 minutes. I want to state, so that we keep updated, who owns the national debt. Today we find that $134 billion is owned by foreign nations. $8 billion was paid last year for interest on that national debt to foreign nations, many that we have helped, many that we are still helping through the Foreign Operations appropriation. I think it is vitally important that we have a further reduction. This is the opportunity to do it. We had the chairman of the Budget Committee standing here a few minutes ago pleading with the Members not to accept more spending amendments because it would break the ceiling. This is an opportunity to reduce, at least to some small degree, by $219 million.

Mr. WHITTEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I wish I might have the attention of my colleagues on this supplemental just for a few moments. As Members know, the chairmanship of the Committee on Appropriations is a new assignment for me. During the first meeting this year, we went over the deplorable state which we find our finances in for a variety of reasons. Inflation is rampant. Our debt continues to swell. Our dollar has depreciated 50 percent since 1967.

But when we come to an amendment such as we have here, in view of that overall situation, we need to look and see that this committee has taken its job seriously. I do not remember in my experience here when the supplemental request has been held in line and cut down as this one has been, from $15.1 billion to $11.3 billion. The committee has recognized our serious financial situation and has acted accordingly. We have already cut this bill 25 percent.

My friend, the gentleman from Ohio, has told us that for several years he has regularly offered this amendment. When you do that you can get in the habit of such a thing without perhaps looking closely to the merits of the particular case before you. The gentleman has carefully excluded certain items from his amendment and perhaps some programs should be excluded. But, by the same token, the $219 million he said would be saved is on such programs as disaster relief.

We pointed out earlier that with time, 58 percent of the programs on the Federal budget have built-in acceleration clauses. Where we used to have problems with contract authority, now we have problems with entitlements. By his own amendment he exempts all of those programs. I would say that if you made a study of these developments, you would wonder if we have not put under a tent safe from cutting, those very things that perhaps should be cut. This amendment applies to those things which do not have the protection of entitlements or built-in increases.

I urge the Members to vote down this amendment. We will be thoroughly sound in doing so. What we might do in a future bill and on other matters, is another thing but this bill was before us for months, and we cannot afford to accept an unstudied amendment as against the studious, hard work of the committee.

I will say that the members of the subcommittees that brought this bill to us are just as conscientious, just as sound, as they can be. By just arbitrarily saying they are found to be wrong I think will give mighty little reward to a whole lot of hard work in trying to hold down expenditures.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment. I have done it before and I do it again. We have been down this road many, many times before. It has led us to the same place every time: Futility, U.S.A.

This supplemental, as the chairman and my good friend said, is a carefully considered, carefully balanced bill. It is the product of hours and hours of hearings and deliberations by all of these subcommittees on Appropriation and of the entire Appropriations Committee. We gave fair and full consideration to the proposals of the President and to the needs of our constitutents.

We reduced the amount requested by the President by $3.8 billion. How does the gentleman from Ohio presume to reduce the bill by another additional 5 percent. I ask you: Why not 2 percent? Why not 3 percent? Why not 7 percent?

These across-the-board cuts are an insult. They are an insult to the committee, to the subcommittees that have worked so hard, and to the legislative process.

The gentleman from Ohio should offer individual cuts or provide a detailed explanation and a justification—program by program and project by project—for his 5-percent cut. Otherwise, the amendment should be summarily rejected by the House of Representatives.

There was discussion here today about disaster relief. Let me tell the Members that we have floods and hurricanes—I believe about 84 disasters—all over the country. There is over $1 billion in the supplemental request for disaster loans. If the gentleman's amendment is adopted, you are going to cut $50.9 million out of that category. The gentleman from Alabama (Mr. Edwards) and the chairman of the subcommittee, the gentleman from New York (Mr. Addabbo), have worked longer than anyone on the Subcommittee on Defense. If you go along with this amendment, you are going to cut $50.3 million out of defense. I have not been a great crusader for increased defense spending, but since I have been the ranking minority member sitting on the Defense Subcommittee on Appropriations, I know there is not enough money in this bill for a defense appropriation bill. It is cut way down. There are places in the Air Force that scared me when the people came up to me, people from the Pentagon, and said, "We do not have money for maintenance at some of our Air Force bases to take care of sundry work at many of the bases that we have around the country. We have an air base in New York State where we park the B-52 bomber. The roof is leaking. There is no money to fix the roof where we park the B-52 bomber." And the gentleman from Ohio wants to cut $50 million more.

Let me mention some of the others. In space, in science, the gentleman wants to cut $9.2 million. In natural resources, in the Interior budget, it would be $13.8 million. In transportation, where we have had a big fight here, he is going to cut $21.4 million. In education, training, employment, social security, he is going to cut $28 million. Income security, a very, very sensitive subject, he wants to cut $9.4 million.

□ 1420

I think this is the time to do it right at the beginning. This is the first supplemental. I hate to do this to my good friend from Ohio. I mean that sincerely. He is sincere in what he is trying to do, but he is going to do this to every single appropriation bill that comes down the line. He is on the committee. He goes to the markups. He is a very conscientious member of the House. He can offer the cuts there, rather than coming up here to the floor and taking the easy way out, 5-percent, 6-percent cuts across the board.

Mr. Chairman, I yield back the balance of my time.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my good friend and neighboring Congressman from Massachusetts (Mr. CONTE), wanted to know why the gentleman from Ohio did not offer an amendment for a 4-percent or 3-percent or 2-percent cut.

I think, to answer my good friend's question, most of us who wanted a 10- and 15-percent cut, and it was a compromise on the part of the gentleman from Ohio.

I strongly support the amendment and associate myself with the amendment offered by Mr. MILLER of Ohio.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. I thank the gentleman for yielding.

As a matter of fact, I guess it is time that we showed a sign that has been around here for some time. It says, "There are 1,000 other programs that could be cut, but do not cut this one." That is what we hear every time. When it is on the authorization we hear that it should be done on the appropriation. When the cut is proposed on the appropriation, we hear that it should be done on the authorization, and with those who decide it should not be done on the appropriation or the authorization, they say it should be done in committee. There is never the right time to cut.

Now, I understand, and I respect the chairman of our committee, and the chairmen of the subcommittees and our ranking minority people. I respect them. They worked. I worked, too. I offered amendments in committee. I offered amendments to reduce, and we did reduce these bills some.

I would like to refer to one thing that was mentioned a minute ago. I would not be cutting social security. I would not be cutting defense.

The language of the amendment is very plain. I am afraid we have some people who have not understood the amendment over all these years.

We take 5 percent off the nonmandated spending. We then stack up line items, put the high priority on top, the low priority on the bottom, take nothing out of the high-priority items, take as much as 10-percent maximum, out of the low-priority items, so that we come out with a 5-percent overall reduction. That is what the amendment is all about. I hope that the Members will support it.

Mr. EDWARDS of Alabama. Mr. Chairman, frequently I support the gentleman from Ohio. I think he could better serve his cause if he would be a little more selective in offering these amendments, but, nevertheless, what he has done in the House in calling these things to our attention, I think, has been good.

But I think in the instance of this particular supplemental appropriations bill that he is in error in offering the amendment. We have cut close to $4 billion from the President's budget, and if we want to put that in terms of percentages, it is about a 25-percent cut from what the President proposed in the supplemental.

I think, therefore, that rather than trying to knock off more, the committee and the subcommittee chairmen and the ranking members should be commended for the strenuous effort they made in trying to hold down each individual section of this bill.

I know for myself that I sweated and died trying to get more money in the bill for defense, and the wisdom in the full committee and in the subcommittee was that we were spending enough in this particular bill.

I would like to see more in here. I certainly would not like to see less.

I am not sure I understand what the gentleman from Ohio means when he talks about mandated programs. I guess in that sense defense is not mandated and so we would be one of those who would suffer up to 10-percent cuts in defense.

So I would urge first, I suppose, to my friend from Ohio to continue to bring these issues to the House, but I would urge the Members of the House on this particular amendment to vote it down, because the Appropriations Committee has, in my opinion, done a credible job with this bill.

Mr. MICHEL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman and members of the Committee, I reluctantly rise in opposition to the amendment. I know the gentleman from Ohio has good intentions. I guess I shared his frustrations many times, because in the big HEW bill I happened to be the only member of the subcommittee who did not offer an amendment to increase it when we were marking it up. I offered some amendments yesterday to cut back even further.

On one I had my wings clipped, and I think rightly so, because I took the same tack as the gentleman from Ohio. I went back to the budget resolution debate, during which the gentleman from Iowa (Mr. GRASSLEY) offered an amendment to cut 7 percent across the board in travel.

I thought, well, if we had such an overwhelming vote with only three dissenting votes in the House, we ought to be able to do it on our HEW bill.

As a matter of fact, in retrospect, and thinking the matter through very clearly, I had the opportunity on each one of the agencies in that bill to make selective cuts, because some agencies are doing better than others. Why penalize those who do a good job as against those who do a bad job?

I spoke earlier on general debate. A billion and a half dollars of this supplemental has to do with HEW. The gentleman from Massachusetts, the gentleman from Kentucky and all the rest on that subcommittee, we sat for days listening to that testimony. Then we conjured with ourselves hours and hours on how we were going to mark up the individual items here. I thought we did a pretty good job.

I made some comment to the effect frankly, I think, on medicaid that we were $198 million short conceivably. I am not altogether sure. But I just think it is destroying the incentive for members of the Appropriations Committee to do that nitty-gritty, day-to-day job if, after sitting there for weeks and months and coming in here with somebody who cannot tell specifically what he would like to cut and just swings it across the board, because he would like to have a figure of $100 million or $200 million or $300 million to be able to look real good.

Now that is making no reflection on my friend again, the gentleman from Ohio. We have been through this thing time and time again. We might as well face up to it the first bill of the year, or we are going to go through the same trauma over the course of every one of these bills.

I just happen to think the more representative way of getting this job done is on a day-to-day basis as we deal with these bills in the month of June, specifically, that we take the time on each individual one to do a credible job, that in the end we are going to get credit for doing our homework.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would like to firmly endorse what the gentleman said and make two points, if I can.

No. 1, what we ought to remember is exactly what the gentleman from Illinois is saying, that all we are encouraging each appropriation subcommittee to do, if you start down this road, is to build cut insurance into every bill.

The Senator from Oklahoma (Mr. BELLMON) pointed that out. He certainly is no liberal spendthrift, but he pointed out we destroy the ability to deal with these problems in a disciplined way, and we also require these subcommittees or invite them to build in cut insurance; so you do not do anything except fool people.

Secondly, the way this is designed, it sounds appealing, because it excepts entitlement. That is exactly the wrong thing to do if we are going to cut programs. We should not carve out large chunks which are automatically untouchable because then we encourage every interest group in this country to get their program funded under an entitlement basis rather than under an appropriation, and the Congress loses total control in the appropriation process on any spending for any program.

☐ 1430

This would lead to a day when we just have no way at all of controlling any expenditures of the Government.

Mr. MICHEL. I thank the gentleman for his very valuable contribution. I simply want to echo the fact that we know that the departments, when they come up to us, have some padding in their requests; some have more than others. Those of us who have served for many years on that committee know where those paddings take place, and know where to cut it out.

I would hate to think that we would be forced to follow the same kind of discredited example of padding just a little bit as insurance against this kind of move on the floor of the House. So, as I said, I very reluctantly ask for a vote against the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Miller).

The question was taken; and on a division (demanded by Mr. Miller of Ohio) there were—ayes 9; noes 54.

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to rule XXIII, clause 2, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Ohio (Mr. Miller) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Mr. WHITTEN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

□ 1440

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Kazen, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, H.R. 4289, making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. MILLER of Ohio. I am, in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Miller of Ohio moves to recommit the bill, H.R. 4289, to the Committee on Appropriations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FEDERAL EMPLOYEES COMPENSATION REFORM ACT OF 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–142)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

I am transmitting to the Congress today legislation to reform the Federal civilian employee compensation system. The proposals I am making will insure that Federal employees are rewarded fairly for their work and that taxpayers' dollars for such compensation are well spent. This legislation is part of my continuing efforts to make the operation of the Federal Government more efficient, effective and equitable.

The Federal pay system has been governed under the principle of comparability since 1962. The comparability principle requires that annual Federal employee pay increases be based upon a survey comparison with pay levels of employees with similar jobs in the non-Federal sector. By determining pay raises through an objective, annual survey, the pay setting process is depoliticized, employee expectations are stabilized, and the government is better able to plan the timing and approximate size of pay adjustments. This comparability principle is equitable to Federal employees and taxpayers alike.

Despite the soundness of the principle of comparability, significant problems have developed in the way the comparability principle is implemented. The existing comparability system, by excluding consideration of such factors as employee fringe benefits, has distorted the comparisons between the Federal and non-Federal sectors. In addition, other structural and procedural problems have developed with parts of our Federal employee compensation system. The blue-collar pay system, for example, has statutory requirements that result in unjustified salary levels for these workers.

The Federal Employees Compensation Reform Act of 1979 will remedy these problems. Its objectives are to:

—insure that Federal employees are paid fairly;

—make the comparability system more accurate;

—improve management flexibility in the compensation area so that needed employees can be better recruited and retained;

—make sure that taxpayers' money for Federal employee compensation is efficiently spent; and,

—eventually reduce the annual budgetary cost of the Federal payroll.

TOTAL COMPENSATION COMPARABILITY

At present, comparability between the Federal and non-Federal sectors is measured only in terms of pay rates. However, a large part of compensation for both Federal and non-Federal employees consists of benefits aside from pay such as retirement and health plans. If we are to have a truly comparable Federal employee compensation system, such fringe benefits cannot be ignored. Under my proposal the value of benefits plus pay in the non-Federal sector would be compared with benefits plus pay in the Federal sector. This concept, known as total compensation comparability, would allow for a realistic assessment of whether the total compensation of Federal employees is ahead, comparable with, or behind that of their non-Federal counterparts.

A LOCALITY PAY SYSTEM FOR THE WHITE COLLAR WORK FORCE

At present, General Schedule employees of a given grade are paid the same rate regardless of where they work in the United States. However, pay rates in the non-Federal sector vary widely in different parts of our nation. As a result, Federal pay rates are significantly higher in some areas than local prevailing rates. In others, Federal rates are far below the local level. These differences either give the Federal Government an unfair competitive advantage over other employers or hamper the government's ability to recruit and retain a qualified work force. My proposal would minimize this problem by requiring that the compensation of most white-collar employees be comparable with compensation in the local area.

CHANGES IN THE BLUE COLLAR PAY SYSTEM

The system for paying blue-collar employees, known as the Federal Wage System, is already based upon the principle that Federal blue-collar pay rates should be comparable to prevailing local non-Federal rates. However, several features of the Federal Wage System law are inconsistent with this principle, such as one which requires the use of non-local wage data under certain circumstances and the distortion that results from applying average local pay rates to a designated step in the Federal grade structure. As a result, the Federal government pays many blue-collar workers well above local prevailing rates. My proposal would repeal these unjustified statutory provisions, and would allow the Office of Personnel Management to design provisions that reflect prevailing practices.

INCLUSION OF STATE AND LOCAL GOVERNMENTS IN COMPARABILITY SURVEYS

Under existing law, only private businesses are surveyed in the comparability process used to set Federal white and blue collar compensation rates. State and local government employment is excluded. This exclusion distorts true comparability. Today there are over 13 million State and local employees, almost 14 percent of the national work force. This is double the number employed in 1962 when comparability was first adopted. If compensation for Federal employees is to be truly comparable to what other Americans are paid, this large portion of the national work force should be included in the survey. In addition, there are a number of job categories in State and local government such as policeman, firefighter, and social worker which are analogous to certain Federal job categories but are not well represented in the private sector. This is a further reason why State and local government workers should be included in the comparability survey.

INCREASED MANAGEMENT FLEXIBILITY TO RECRUIT AND RETAIN A QUALITY WORK FORCE

This legislation would give Executive Branch managers needed flexibility to adopt more efficient and equitable industry pay practices. For example, premium pay such as overtime would be patterned after prevailing practices and the provisions of the Fair Labor Standards Act. Limited additional payments called "staffing differentials" would be authorized to aid in recruiting and retaining highly qualified individuals critically needed for the Federal work force. The Office of Personnel Management would be authorized to establish special pay and classification systems for those occupations that do not fit a standard pattern of the General Schedule and for which it is difficult to hire qualified employees. This would be similar to the authority the Office now has for special blue-collar schedules.

The reforms I am proposing today are based on the principle that comparability is the best long-term policy for determining compensation for Federal employees. It is not expected that any employee will suffer any actual reduction in current pay as a result of these proposals. However, in the long-run this legislation will create significant annual budget savings.

I ask the Congress to act promptly on these proposals to reform the Federal civilian compensation system. Federal employees will benefit from fairer compensation treatment. The American people will benefit from more efficient use of their tax dollars.

JIMMY CARTER.

THE WHITE HOUSE, *June 6, 1979*.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1979

Mr. ASHLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. ASHLEY).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 390, nays 2, not voting 42, as follows:

[Roll No. 185]

YEAS—390

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hance
Hanley
Hansen
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Zablocki
Zeferetti

NAYS—2

Lloyd
Mitchell, Md.

NOT VOTING—42

Alexander
Anderson, Ill.
Beilenson
Bouquard
Breaux
Brown, Calif.
Conyers
Coughlin
Dickinson
Dingell
Drinan
Erdahl
Evans, Ga.
Evans, Ind.
Flood
Florio
Forsythe
Fuqua
Goldwater
Hall, Tex.
Hammerschmidt
Harsha
Hawkins
Hillis
Jeffries
Johnson, Calif.
McDonald
Michel
Mikva
Miller, Calif.
Mineta
Murphy, N.Y.
Myers, Ind.
Nelson
Pickle
Roberts
Rose
Spellman
Williams, Mont.
Wydler
Young, Fla.
Young, Mo.

☐ 1500

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3875, with Mr. BENNETT, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, June 5, 1979, title II had been considered as having been read and open to amendment at any point. Pending was an amendment offered by the gentleman from Idaho (Mr. HANSEN).

The Chair recognizes the gentleman from Idaho (Mr. HANSEN) for 5 minutes in support of his amendment.

Mr. HANSEN. Mr. Chairman, this proposal is partly one of protecting civil rights and partly for relief of certain chronically poor minorities who live in such pockets of poverty as inner-city urban areas and Indian reservations, and should be known as the Hansen-Hagedorn amendment because of the longstanding efforts of my colleague, TOM HAGEDORN, of Minnesota.

The purpose of this amendment is to remove a costly regulatory obstacle that currently acts as a substantial hindrance to housing rehabilitation efforts, particularly in larger urban areas, and to HUD-assisted Indian housing projects, primarily in rural areas. Because of the requirement that prevailing wage rates be paid on these types of housing construction projects, the very people that are supposed to be assisted by the housing programs are being hindered in their efforts to have decent housing.

Mr. Chairman, the gentleman from Minnesota (Mr. HAGEDORN) brought the rehabilitation program to the attention of the House during the debate on the housing bill last year. Because of the need to get positive action taken, as a member of the House Banking, Finance and Urban Affairs Committee, I offered this amendment similar to last year's proposal during the committee markup on the bill. After consideration of the amendment, the voice vote was announced in favor of passage, but a rollcall and the delivery of some proxies caused the amendment to fail by one vote in the announced rollcall result of 18 to 19. I believe that this vote in committee is a strong indication of the bipartisan and across-the-political-spectrum support that it has.

Because of the unique problems ensuing from the application of the prevailing wage labor standard to urban neighborhood-based nonprofit organizations and rural Indian reservations, the direct result has been discrimination because of Federal laws and Government regulations against those the housing programs we are voting on today are supposed to help.

The problems that come from applying the prevailing wage provision to these programs come from the requirements of the Davis-Bacon Act, a law that requires that the Department of Labor determine the prevailing wage in a locality and that these wage rates must be paid on all federally financed construction projects.

Many Members of the House may be suspect of this particular amendment, but I urge them to pay particular attention to the narrow limitation of the wording. This amendment will only exempt the application of this prevailing wage provision from two programs—housing rehabilitation projects conducted by neighborhood based nonprofit organizations and low-income Indian housing.

THE COMMITTEE TO SAVE INDIAN HOUSING,
Denver, Colo., June 1, 1979.

Hon. GEORGE HANSEN,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HANSEN: We have just learned that you intend to introduce an amendment to H.R. 3875 when it reaches the floor of the House, exempting HUD assisted Indian housing from the requirements of the Davis-Bacon Act. Our organization represents nearly every known organization having responsibility for the delivery of housing to Indian people and we fully support your proposed amendment.

The Davis-Bacon wage rate requirement is cited by many tribal and Indian housing authority officials as a major factor contributing to the high cost of Indian housing, the low rate of local Indian employment on HUD projects, and to substantial delays in the development of Indian housing.

Reservations do not generally have separately established Davis-Bacon wage rates and instead must use those established for non-Indian areas which are generally much higher than those actually prevailing on the reservations. Data used to establish rates is often old, from outside the local area, and may even be based on construction other than housing. The March 1978 GAO Report on Indian Housing states that wage rates are often taken from those established for the nearest metro area and increased for a travel differential.

These artificially high rates increase housing costs both directly and indirectly. Delays, which translate into higher costs because of inflation, occur because union contractors often do not operate in Indian areas and the required higher rates make nonunion contractors reluctant to bid on Indian projects. Some Indian housing authorities have also encountered construction delays because there were no rates established for their area at all.

Contrary to the original intent of the Davis-Bacon Act, Davis-Bacon rates work to the disadvantage of local Indian employment on HUD financed projects. There is no pool of skilled workers on most Indian reservations and contractors are understandably reluctant to hire unskilled workers at Davis-Bacon rates. In addition, the higher rates provides no incentive to contractors for seeking out local Indians for employment since they can afford to bring in their non-Indian employees. There are few, if any, workable apprenticeship and training programs for Indian reservations because such programs require a 3 or 4 year training period commitment and HUD makes housing construction commitments on a project by project basis.

Federal dollars for Indian housing construction are very limited and we see the elimination of Davis-Bacon wage rate requirements as a means of stretching those dollars further to build critically needed units. At the present time, fully 60 percent of all Indian families live in housing which is severely substandard. Many Indian homes are no more than a one or two room shack without running water or electricity.

We thank you for the initiative you have taken in this matter and trust that your colleagues in the House of Representatives will vote in support of this most worthwhile amendment.

Sincerely yours,
PEGGY TREUER,
Coordinating Committee Member.

It is no secret that the basic friends of Davis-Bacon are the labor unions who do not wish to see this special interest law stricken from the books. Since the prevailing wage usually is the collective bargained wage rate in a particular area, the higher union wages are protected when they are applied to Federal construction projects. Naturally, any attempt, even this narrow one, is looked on with a great deal of fear by union interests. After this vote, their literature will be calling this a test vote on Davis-Bacon. Our offices have already been sent letters and mailgrams about the need to defeat this amendment because of its effect on Davis-Bacon and the wages of workers covered by prevailing wages.

It might surprise those who oppose this amendment that we do not consider this an amendment to repeal Davis-Bacon. In a "Dear Colleague" I sent out to each Member yesterday, I underlined that statement—this is not an amendment to repeal Davis-Bacon. I say to any of my colleagues who have been approached by so-called union and labor interests from here in Washington or back in your home district, this is not an amendment against the unions—this is an amendment that is against the shoddy application of the prevaling wage provision to two particular housing programs; it is an amendment that will show the Department of Labor and HUD that the Congress wants something done about how the provision is administered; it will be a signal to the American taxpayer that the House is serious about getting something done about wasteful Government spending and it will be an amendment to show the minorities affected by the program that we are sincere about removing the restrictions that are preventing minorities and the less-fortunate from having the most and best housing units available for the money.

I now yield to the gentleman from Minnesota and commend him for his expertise in this area and the leadership that he has exhibited in the past toward educating the House about the abuses of the Davis-Bacon Act.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I wish to thank my colleague from Idaho, GEORGE HANSEN, for yielding and congratulate him and Mr. HAGEDORN on the work they have done in trying to obtain better housing, increased employment opportunities and an end to job discrimination for those individuals living in innercity urban ghettos and Indian reservations by offering these exceptions to the Davis-Bacon Act.

The Davis-Bacon Act was enacted in 1931 and the legislative intent was to discourage nonlocal contractors from bidding on Government projects and bringing in cheap, outside labor to work on the projects. The act as passed and amended only provides that wages paid by successful contractors would not disturb local wage standards. It requires that contractors working on Federal projects pay at least the locally prevailing wages to their workers as determined by Labor. Since the Davis-Bacon Act requires the payment of prevailing wages on federally funded or assisted construction projects, this means that the Government oftentimes pays the going union rate and hires union labor, rather than employing nonunion construction workers.

The flaw in the system is that most blacks and Indians are in the nonunion sector. Therefore, the Davis-Bacon Act actually discriminates against black and Indian workers and contractors in an indirect fashion. It also directly raises the cost of federally funded or assisted low-income housing. It is evident that without these exceptions the Davis-Bacon Act will continue to hinder the very people it is supposed to assist.

Today's minorities are further disadvantaged than earlier minority groups coming to our shores because of the lack of opportunity in our economic system. Much of the success of the earlier minorities can be attributed to the fact that when these minorities came to the United States, they faced a relatively open economic system. There were sweatshops, peddlers, and all kinds of domestic jobs. There was not a minimum wage law and workers were paid by the piece rate. What this meant was than an unskilled worker could get a job and ultimately learn skills. Today's laws require either Federal or union-dictated minimum wages and numerous occupational licensure laws which effectively bar employment to the lowest skilled people. Justifications for these laws are many, however, whatever their intent, they have effectviely cut off the lower rungs of the economic ladders.

What disadvantaged black people and Indians need is not a savior or political leaders, they need the opportunity to be able to compete in the market. These two disadvantaged groups do not need massive social spending. They need legislative changes that improve economic opportunity, especially in the labor market. For upward mobility, open entry further down the economic ladder is a bigger problem and a bigger opportunity.

It is my hope that my colleagues in the House of Representatives will restore to these two disadvantaged groups the opportunity to climb the economic ladder in our society. These exceptions will restore opportunity to these individuals without exposing them to loss of wages through exploitation by contractors or from adverse economic conditions because of the number of other laws that have been passed which protect construction workers.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, the gentleman has made a profound impact around the country in the gentleman's arguments against the Panama Canal treaties. I am just worried, is the gentleman trying to slip any anti-Panama Canal Treaty language into the gentleman's amendment, or is the gentleman saving that for another day?

Mr. HANSEN. Mr. Chairman, I might mention to the esteemed gentleman from Illinois that I am not quite as slippery on these matters as he is. This amendment has no such complications.

☐ 1310

The CHAIRMAN pro tempore. The time of the gentleman from Idaho (Mr. HANSEN) has expired.

(By unanimous consent, Mr. HANSEN was allowed to proceed for 2 additional minutes.)

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Minnesota, whose expertise in this area has been exhibited in the past and who has been active in educating the House about the abuses of the Davis-Bacon Act, particularly in this area.

Mr. HAGEDORN. Mr. Chairman, I wish to thank my good friend from Idaho (Mr. HANSEN) for yielding and want to congratulate him on the courage he has shown in introducing this amendment not only in committee, but here on the floor.

Last year, I introduced a similar amendment to the housing bill and there were 173 Members who voted in favor of it. I hope with the passage of time the Members have become more informed about the insidious effect of this law. I commend Congressman HANSEN on the arguments that he is making today as well as the one he presented to the committee during markup.

The rehabilitation portion of this amendment is identical to the amendment I offered last year and since that time a Senate report has been issued which is critical of the administration of the Davis-Bacon Act with respect to low-income Indian housing. Because the effect of the programs is the same, the decision was made to combine the two programs into one amendment. It affects urban and rural citizens alike and the result is the same—they do not get the quantity of housing or the jobs they need because of the manner in which the prevailing wage provision is applied and administered.

A recent Senate report has made it very clear that the prevailing wage requirement is not doing what it was intended to do. The following comments I will make are lifted directly from the Senate report or are paraphrased: As applied to Indian reservations, Davis-Bacon rates are often much higher than they would be otherwise. In large part, this is because the Department of Labor has made little or no effort to compute Davis-Bacon rates that are specific to each reservation situation. Many reservations are not located in unionized areas. Despite the fact that Labor surveys are supposed to include all workers performing similar work in the area, both union and nonunion, studies by the General Accounting Office and private researchers have established that Labor procedures often involve the use of old data, data from outside local areas or simply the use of the prevailing union rates in construction—all practices which discriminate against nonunionized bidders in the reservation areas.

Because my colleague is from the western part of the country which has a significant Indian population, I would hope that he would comment on the effect that these rates have on the local reservations.

Mr. ASHLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong opposition to the amendment of the gentleman from Idaho (Mr. HANSEN). The gentleman would have us believe that it is necessary to waive the Davis-Bacon Act requirements in order to achieve housing rehabilitation at reasonable costs and to bring housing to Indian reservations. In fact, Davis-Bacon is not as much of a problem as the gentleman from Idaho thinks.

First, Davis-Bacon applies only to the rehabilitation of structures designed for the residential use of eight or more families. Since almost all housing rehabilitation is being done on small 1-to-4-family structures, Davis-Bacon has actually had little overall impact on the housing rehabilitation programs.

Second, in many metropolitan areas, particularly in New York City, there have been successful negotiations with the local building trade unions. These negotiations have led to agreements which reduce the overall cost of rehabilitation by allowing more apprentices to be used in rehabilitation projects. This has had the secondary benefit of allowing more neighborhood residents to be employed in those positions.

With regard to the Indian housing program, I would like to point out that the Senate select committee report does not necessarily support the arguments that the gentleman makes against Davis-Bacon. The report indicates that if wage rates for Indian reservations are established in accordance with prevailing rates in the area of the reservation, there is no problem. And, if the Department of Labor established and applied wage rates more carefully virtually all the problems with the act would disappear. The select committee also called for a carefully planned apprenticeship and training program for Indian workers, and in this I join them. In each instance, the problem discussed by the select committee could be resolved administratively and does not require gutting Davis-Bacon for a resolution. Additionally, our committee is undertaking its own review of the Indian housing programs and we have yet to come to any conclusion about the need to alter the way Davis-Bacon affects these programs.

Finally, the Davis-Bacon Act is firmly imbedded in our Nation's housing programs and has provided the means to insure that fair wages are paid on all federally assisted housing construction. There is no sense in abandoning a proven safeguard of fair labor standards in some plaintive hope of reducing construction costs, particularly when alternative means of lowering these costs are available. I urge my colleagues to oppose this amendment.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I am happy to yield to the distinguished gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, the gentleman from Idaho (Mr. HANSEN) proposes this ostensibly reasonable amendment which in fact is a very dangerous amendment. The gentleman talks about civil rights and the poor workers and the Indians.

A lot of these rehabilitation programs are called "sweat equity" programs, and for very good reasons. The gentleman said he would supply some communications from some Indians with respect to this amendment.

The chairman of the subcommittee, my friend, the gentleman from Ohio (Mr. ASHLEY), and I received a telegram with respect to this matter from Peter MacDonald, chairman of the Navajo Tribal Council, the Navajos being the largest group of Indians in the United States, and that telegram reads as follows:

> It is my understanding that certain amendments are being urged to the Housing and Community Development Act of 1979 (H.R. 3875) which purport to eliminate Davis-Bacon Act wage levels.
>
> As Chairman of the Navajo Tribe, comprised of 150,000 people, of which only one-half are regularly employed, I would express opposition to the diminishment of the wage scale which Navajo construction workers might otherwise expect to receive on Federally funded projects.
>
> The Davis-Bacon Act is one of the few pieces of Federal legislation which has been of immediate and genuine benefit to the Navajo wage earner.
>
> While it is traditionally argued in some quarters that we might obtain more housing units by lowering the wage costs, this argument overlooks the fact that many of the proposed occupants of federal houses on the reservation are the same people who are employed to construct the houses. In balancing the interests, it would seem that more effort could be made in technical advances rather than taking the easy way of reducing the wage scale, which usually benefits only the contractor.
>
> For years we have had to contend with the situation in which a Navajo carpenter working side by side with a non-Navajo carpenter received substantially less wages for the same work. Davis-Bacon prevents that from happening on Federally funded projects.
>
> Sincerely,
>
> PETER MACDONALD,
> *Chairman, Navajo Tribal Council.*

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

(On request of Mr. THOMPSON, and by unanimous consent, Mr. ASHLEY was allowed to proceed for 4 additional minutes.)

Mr. THOMPSON. Mr. Chairman, will the gentleman yield further?

Mr. ASHLEY. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I thank my colleague, the distinguished subcommittee chairman, for yielding. I could not be more strongly opposed to this amendment, although let me say that I, along with other Members, will also be strongly opposed to the next amendment to chop Davis-Bacon.

□ 1520

It is fine to hear our colleagues get up and say they know minority employees, they have worked with them, and so on. The fact is that the real purpose of this amendment is to undercut the real wages of workers on certain Government construction projects. We are asking them to work at a substandard wage in urban areas or Indian reservations for what? So that they can pay higher rents, which they cannot afford because they are being underpaid for the work that they do.

We have been through this before, I say to the gentleman from Ohio and to the Members of the Committee. I am certain that in this Congress those like the gentleman from Idaho and the gentleman from Minnesota, who are suddenly concerned with civil rights of minorities, will make every effort to undermine their right to earn the prevailing wage. This is just one of the numerous peripheral attacks on Davis-Bacon. In today's economy, we cannot afford it. We should never ask people to work for subminimum wages as we would be with this amendment.

Mr. ASHLEY. I appreciate the contribution of the distinguished gentleman from New Jersey, who has such a long and vast experience in this area.

I might say that it seems to me that the letter from which the gentleman from New Jersey quoted is an important contribution, too, especially when you think that that letter and that point of view comes from the chairman of the largest Indian tribe in the Nation, from the people who are actually the most directly impacted. He takes a position quite significantly different from the gentleman who is the author of the pending amendment.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding.

Mr. Chairman, I would like to say that this letter, dated June 1, from the Committee To Save Indian Housing, signed by 24 different housing agencies of Indian tribes around the country, including the Director of the Navajo Housing Authority, stated that they are firmly in support. And when we have time again, unless the gentleman wants to do it on his own time, I can read basically how strongly they are for this amendment.

Mr. ASHLEY. The gentleman has his time. He could put his letters against our letters. Obviously, he did not choose to do so, knowing that in quality, if not in quantity, he would be outgunned. I am sure that the record will be generous enough to the gentleman.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield on that point?

Mr. ASHLEY. I yield to the gentleman from New Jersey.

Mr. THOMPSON. The fact is that the Indian groups never met in order to arrive at the decision which the gentleman from Ohio sets forth.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

(On request of Mr. HAGEDORN and by unanimous consent, Mr. ASHLEY was allowed to proceed for 2 additional minutes.)

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield further?

Mr. ASHLEY. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Noting the point just recently made about the letter from the Navajo Indian Tribe and the gentleman's support of it, here is a Senate report, published in 1979. I do not know how much credibility to give to the Senate committee over there, but I would guess they are responsible individuals and probably as capable as those on the House side.

Mr. ASHLEY. I think the gentleman might be going a little far.

Mr. HAGEDORN. Here is what they said:

> The Department of Labor's Bureau of Apprenticeship and Training (BAT) which administers these programs has not taken any initiative to adapt them to the reservation and make them work.

They applied Denver rates to the State of Montana, Idaho, and Wyoming. And if you call that a community of interest or an area geographically that is contiguous, I would be rather surprised at your use of the definition.

Mr. ASHLEY. Those are not my words.

Mr. HAGEDORN. But that is exactly where the rates come from. Denver is applied to Montana, far far away from the reservation.

> Only one tribe—the Navajo Nation—has had a large scale and successful apprenticeship program and then only after the exertion of much effort.

That is one tribe out of many, many tribes.

They ask for removal of Davis-Bacon from the application of housing projects.

Mr. THOMPSON. If the gentleman will yield, to rely on language from the other body in this case is perfectly ridiculous. The fact is that we have heard from the several Navajo tribes directly and not from our distinguished colleagues on the other side.

I do not know how many Indians they have in Minnesota, except the wonderful rice-growing group, but I do not believe they have any Navajos.

The CHAIRMAN. The Chair will advise the gentleman from Minnesota that it is not permissible in the House to quote from the proceedings of the Senate or reports of that body in advocating a position in debate.

Mr. STANTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, it is always extremely interesting when we get into an excellent debate like this in the House and we see so many people listening. Sometimes some people are experts. I am not too familiar with the Navaho Indians or how this other group of Indians feels, but I would like to tell the Members how I think the taxpayers in northeastern Ohio feel a little bit about Indian housing programs.

It has not been brought out that the average unit cost of the taxpayers in my congressional district for Indian housing is $70,000 per unit. Can you imagine that? Seventy thousand dollars. That is, roughly, I am told by the staff, a 1,100-square-foot single-family unit at a cost of $70,000.

The Farmers Home Administration administers the program for basically the same type of a unit for $50,000. Why is the Indian program included in Davis-Bacon at all? It is somewhat of a fluke because it was included in the program with the general housing program of public housing. There is no reason, basically and fundamentally, and, as our chairman has pointed out, nine units or less, this does not apply to the single-family-unit dwellings or the programs on Indian housing. We do not have this program in the FHA. We do not have this program in the Farmers Home Administration.

So what we are faced with—and I hope the Members will look rationally at this fact—is that this bill authorizes approximately $20 million for Indian housing. The number of units proposed has been reduced from 6,000 to 4,000 units because of this limitation.

So I would hope the Members would consider this very modest, modest approach.

As the gentleman from Idaho said, this was a 20-to-19 vote in the committee. I talked to AFL-CIO people about this amendment just for the inner hardcore cities and where it applies to nonprofit sponsors. This does not affect the contractors in my congressional district. As the gentleman from New Jersey (Mr. THOMPSON) pointed out a while ago, there is no one who takes more pride than the people who qualify as a workman, in my opinion, under Davis-Bacon. These are professional and union people. No one can compare with their work. But we are talking, as I understand it, only on the Indian reservations, and inner city rehabilitation programs where they are going to build 100,000 units and when the poor want the work themselves.

We had a discussion yesterday on the UDAG program, and I thought for sure that the amendment was to kill this program, until it dawned on me that all we were doing was allowing an increase of 19 percent. It is really overkill. All I would point out is, I would vote against any further increases in extension of elimination of Davis-Bacon—and I do not agree with the author on this.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I am confused about two things the gentleman said. The first was that the gentleman is comparing the cost of construction of Indian housing with the cost of the average FHA or Farmers Home Loan.

Mr. STANTON. Same size, that is correct.

Mr. FORD of Michigan. But is not the one direct Government construction and are not the other two simply guaranteed loans by individuals who borrow amounts of money, and are they not limited in scope, so that really it is the cheapest housing that is being built, in terms of unit costs? I do not know how the gentleman compares the Indian construction program, which is a Government-financed program, with a couple of programs that are just Governmental loan guarantees. How does the gentleman justify that kind of a comparison?

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I always look at things as to what it costs my taxpayers. It cost the taxpayer $70,000 per year.

Mr. FORD of Michigan. We are not guaranteeing an Indian a mortgage when he borrows money to build a house. We are building the housing with Federal money.

Mr. STANTON. I grant that. We are building it at a cost of $70,000.

Mr. FORD of Michigan. If the gentleman's concern is he should not be spending money on the Indians, take the Indians out of the housing program.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. STANTON) has expired.

(At the request of Mr. FORD of Michigan and by unanimous consent, Mr. STANTON was allowed to proceed for 2 additional minutes.)

Mr. STANTON. I would say, if the gentleman has any further facts, please tell me. I have been told that the GAO got such a beating yesterday, I hate to mention their name today, but those poor, honest, hard working people have been picked lately.

Over the years, somewhere between 5 and 15 percent of the cost of Indian housing labor cost can be attributed to complying with the Davis-Bacon Act.

So from my taxpayers' point of view, I want to reduce that cost as long as I can assure that it is good housing built for the Indians.

That is a point the gentleman might well argue on that I have not heard from the gentleman from New Jersey (Mr. THOMPSON). They build a better community.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. STANTON. Yes; I yield to the gentleman from New Jersey.

Mr. THOMPSON. I compliment the gentleman for his straightforward statement of his objection to this. In the name of economy, the gentleman feels that we ought to cut wages in the construction of Indian housing. That is straightforward and honest, and, while I disagree with the gentleman totally, it is not what we are being told by the gentleman from Idaho, who would have us believe he is doing something for the benefit of the Indians.

The fact is he wants the local Indians, who were hired to work on a construction job, to have the right to work for less than the prevailing wage. He wants to protect their interests by making it possible for a greedy contractor to come in from the outside, bid on a Government job, hire local help at less than the prevailing rate, put the profit in his pocket, and go back to New York.

Mr. STANTON. The gentleman has made his point and went a little bit farther. I heard the colloquy between the gentleman from Idaho and the gentleman from Illinois, and the last person that needs to defend him is this man in the well at the present time. He has got his own reason. I have my own reason. I appreciate the gentleman from Michigan listening.

Mr. THOMPSON. If the gentleman would continue to yield, I would say to the gentleman from Michigan (Mr. FORD), I agree that from the gentleman's point of view, he has done a splendid job. I do think the gentleman is confused about price. We are not talking about buying a home, 1,200 square feet in the District of Columbia, any more than they are living in tepees any more. These things cost a little money. The people ought to be paid a decent wage to build them, that is all.

Mr. STANTON. The gentleman states his point. I am glad he listened to mine. That is what I am talking about. I am talking dollars and cents.

When somebody comes along and tells me that we have an Indian program and tells me that, because of the restriction, we are going to limit it to $20 million and only build 4,000 instead of 6,000 units at $70,000 per unit, then it is dollars and cents.

Mr. BEARD of Rhode Island. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, distinguished Members of the House, the act was passed in 1931 to protect the prevailing living standards of the building trades. I think it has done exactly that, the trades across this Nation, men and women who would have been shortchanged if it was not for this legislation that was passed in this Congress.

I think the issue today, as far as I am concerned, is not to argue the merits up or down, and I am against any amendments that have come up today.

As far as I am concerned, it is an insult to the Education and Labor Committee.

I am a member of that full committee. I am the chairman of the Subcommittee on Labor Standards which has the responsibility in this Congress, the jurisdiction in this Congress over Davis-Bacon.

It has been made known to the interested parties that are against Davis-Bacon that there is a hearing scheduled June 14 of this year. It seems to me that that is the proper place to present their point of view at the hearing to the right committee.

I think, as I said, it is an insult to the full committee. It is an insult to the Membership of this floor for this type of legislation to have Members scoot around the proper committees, and I oppose this amendment or any other amendment that comes up on Davis-Bacon for those reasons.

I yield back the balance of my time.

Mr. HAGEDORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe that this last statement of the gentleman from Idaho hits to the heart of this matter. The Indian housing program and the urban rehabilitation program by neighborhood nonprofit organizations are both causing unemployment among the very pop-place the programs are supposed to help. The harm is twofold, as the citizens have fewer housing projects to live in and there is more unemployment because the local workers are not being employed on the projects.

The Indians are not being hired on the reservation. Check the facts. They are not trained. The ratios under Davis-Bacon require 4, 5, 7, sometimes 10 journeymen to an apprentice ratio, which means that these Indians who are not trained are not getting the jobs, and to say otherwise is a falsehood. At least it shows the gentleman is not informed of what the situation is.

Mr. Chairman, this is the same type of situation which I noticed about the neighborhood rehabilitation efforts in many of our larger cities and that is why I offered a similar amendment last year. The prevailing wage requirement has proven particularly costly in this area of inner-city housing rehabilitation and renovation. High prevailing wage requirements and restrictive work rules imposed by the act and agency regulations have severely retarded many of these projects.

According to Douglas Moritz, deputy administrator of Los Sures, a neighborhood-based, nonprofit rehabilitation group in the Bronx:

> Many of the symptoms of urban blight can be connected to Davis-Bacon . . . Its net effect in poor communities is to make the cost of housing outrageously high, as well as to exclude poor workers from construction employment.

Discussions with Mr. Moritz just last week revealed that the situation with regard to the harm caused by the prevailing wage requirement has not changed since the vote last year. The neighborhood organizations have been experiencing extensive growth and the requirement has caused grave concern. Not only has HUD told them that there will be a cutback in rehabilitation funds, but the local unions have been demanding that 100 percent of the prevailing wage be paid on the projects. This is adding increased costs of between $4,000 to $5,000 to the construction of each apartment unit. The American taxpayer will be paying the extra cost and the local citizens will have less in the way of housing units to offer them a decent place to live. According to Mr. Moritz, who must deal with these matters every day, the people in the city are being denied union jobs and they should be getting the jobs on the rehabilitation projects because they are the ones who are being affected. We do not have to go to the prevailing wage to keep the construction jobs affordable.

I am quoting Mr. Moritz when I say that the neighborhood people are satisfied with the lower nonprevailing wage rates. This lower rate helps give them jobs and the housing gets built. In the city of New York, the prevailing wage rate is the union scale. This is why union concerns have been trying to stop the passage of this amendment. It is simply that they want to protect their interest—and this is being done at the expense of those who need the housing and the jobs.

I agree with my colleague from Idaho that this is not a vote on the repeal of Davis-Bacon; rather this is a vote for decent housing and for increased employment of those who have the skills but do not have the union identification that will insure a job. This is a vote to show the Department of Labor and HUD that the Congress does not want this negative prevailing wage applied in these two programs. And with HUD taking the position that there will be no increase in the subsidy for assistance this year, unless we do something today by passing this amendment, there will be fewer units built—or none at all.

We must use all of our resources—human and financial—toward better housing. The local officials who want to help get more housing and jobs are having to spend their valuable time wrestling with HUD and labor regulation and labor union demands regarding the prevailing wage rate requirements. If we vote today to do away with these requirements, then we will be doing a favor for those who need the help.

My colleague from Idaho has discussed the impact of Davis-Bacon on Indian housing. The effect is much the same with the housing rehabilitation projects performed by neighborhood-based, nonprofit organizations.

When any form of Federal assistance is employed to rehabilitate housing, including community development and CETA funds, the prevailing wage requirement is triggered and wage rates which are more than can be afforded by the rehabilitation groups are required. These groups must use Federal assistance because they are usually unable to attract any funds from private lending markets.

Suffering significantly by the requirement are what are known as sweat equity programs. These generally involve workers who volunteer their labor on rehabilitation projects in exchange for their equity in the housing units they build. Where Davis-Bacon is inapplicable to a federally assisted project, these workers might be paid no more than $3.50 to $4 per hour to everyone's satisfaction—except labor unions who want to protect higher union wages. Those receiving these lower wages are more often than not unemployed, and are investing in their own homes and communities with the sweat equity program.

These projects can be virtually stopped in their tracks by the invocation of the prevailing wage requirement which will commonly require the payment of wages in excess of $10 per hour. While HUD has limited waiver authority under some of the provisions of the Community Development Act, more often than not rehabilitation projects are deterred from the outset by the prevailing wage requirement. What we are trying to do today is to completely do away with the requirement so that officials at HUD and the Department of Labor do not have to worry about playing politics with this waiver option.

In the past, some inner city rehabilitation efforts have been closed down when buildings trades locals refused the Secretary of HUD's offer to negotiate lower Davis-Bacon wage rates for rehabilitation work.

When an individual wants to work on a sweat equity project and be paid a wage, he is often frustrated by archaic work rules. Philip St. George, past director of the Urban Homesteading Board in New York City and presently a city employee working with housing problems, observed when he was providing technical aid to the city's sweat equity groups:

> Current Davis-Bacon regulations actively prevent homesteading projects from being implemented due to overly restrictive work rules. . . . these rules provide a ratio system for hiring journeymen, apprentices and trainees on a federally financed housing project. The ratio, often five journeymen supervising one unskilled urban homesteader/trainee is obviously costly and impractical.

The same expensive and impractical ratio also applies to many Indian housing projects.

Also, the precise job descriptions that prevailing wage regulations require on a project, conforming exactly to trade union descriptions, are totally inappropriate to most rehabilitation projects. Due to the uncertain work in such projects, it is often impossible to know in advance the materials and labor that will be needed, but the rigidity of the rules and regulations remain.

The exemption of Davis-Bacon requirements provided by this amendment for the rehabilitation projects will not undermine the overall purposes of the Davis-Bacon Act. We are talking only about projects which, without local community involvement and the employment of neighborhood residents, would not be carried out in the first place.

It is not an issue of paying lower wages or of denying jobs to union workers. It is simply an issue of giving free play to the self-help initiatives of local community organizations.

Some might say that the rehabilitation amendment is too broad—that is should be worded only to include the homesteading individuals and not include the multifamily units that I mentioned earlier. However, I believe that we would be doing an injustice to all the citizens who need decent housing in our inner cities not to do what we can to exempt both types of projects from the requirements of the prevailing wage and the related regulations. Both the homesteader and the worker who want to work on multifamily units are suffering by the restrictions of this act.

Mr. Moritz indicated that on one particular project, 49 percent of those employed are from community minorities. Most of them would accept the lower wage scale so that their jobs and decent housing could be insured. He presently has an agreement that 75 percent of the prevailing wage will be paid on a 200 unit gutted building being rehabilitated. When the agreement runs out in July, the unions want to go back to 100 percent. It is conceivable that this could add up to $1 million to the project. This increase could jeopardize the current project because the subsidy will have to go up and HUD is already cracking down with ceilings on such subsidies. The end result will be less in the way of housing for those who need it.

There may be some opposed to this amendment who will say that these matters can be handled administratively by HUD and the Department of Labor. The Senate Indian report is very critical of the activities of Labor in this regard. HUD's waiver power is seldom used so we have further delay and additional expenses brought about by administrative and bureaucratic inaction. This amendment is a signal to HUD and the Department of Labor that we want something done. It is my understanding that there has been a great deal of interest at HUD over this amendment and that some type of administrative changes may come from the pressure that this vote may generate. I say that this is good. If HUD and Labor will not do what they have the power to do then the Congress must give them the push needed. I realize that they would not support a measure cutting away at their powers, but if they will not waive the application of Davis-Bacon administratively, then we must do so legislatively.

I join with my colleague when he states that this amendment will not repeal the Davis-Bacon Act. The waiver of the prevailing wage requirement in these two programs will not undermine the overall purposes of the act. If labor unions feel this is a vote in favor of the repeal of the Davis-Bacon Act. then I strongly state that they are doing a disservice to those who vote in favor of the amendment. I urge all my colleagues not to fear the wrath of some special interests if they vote for this amendment. Take this amendment for what the words say it is to do—to exempt the application of the prevailing wage rate requirement from two particular housing programs. Most of my colleagues know that I am leading the fight to repeal the Davis-Bacon Act from the statute books. In fact, I have another amendment that will repeal Davis-Bacon from all provisions of this very bill. However, this is not the case with this amendment offered by the gentleman from Idaho, Mr. HANSEN. This is a narrow and limited amendment and regardless of any comments that may be made by opponents to the amendment, we do not consider it as the vote to repeal. It is an exemption to help citizens who are being hindered by its application.

I would like to bring one other point to the attention of my colleagues. The principal citizens being harmed by the prevailing wage requirement in these two programs are minorities—Indians in the rural areas and blacks, Hispanics, Chicanos, and other minorities who live in inner city areas in need of rehabilitation. A recennt article in the Wall Street Journal by Walter W. Williams, a noted black associate professor of economics at Temple University contained the following statement:

> Political "saviors" don't deliver what blacks need: The Davis-Bacon Act is a law which requires the payment of prevailing wages on federally funded or assisted construction projects. Often this means the government pays the going union rate and hires union labor, rather than employing non-union construction workers. But most black construction workers are in the non-union sector. Therefore the Davis-Bacon Act discriminates against black workers and contractors in an indirect fashion. It also directly raises the cost of federally funded or assisted low income housing.

In fact part of the original intent of the Davis-Bacon Act was to get blacks out of Federal construction jobs. This is evidenced in much of the floor debate cited in the RECORD.

Another article appeared in the May 28, 1979, edition of the National League of Cities Weekly publication. This article stated that at the National League of Cities Labor Relations Advisory Committee regional meetings held this month, city officials expressed frustration with mandated costs stemming from the Davis-Bacon Act. Some officials called for amendments to lessen the impact of the legislation and others supported outright repeal of the act.

This amendment offers members the opportunity to satisfy a lot of people in this Nation—the taxpayers who must pay the bill, city officials who are tired of the frustration caused by the requirements but most of all we will be helping to relieve repressed citizens of the restrictive rates and regulations associated with the prevailing wage requirement.

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Ms. OAKAR. I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am going to be very brief.

Every time there is an issue that deals with minorities in the employment world, or women in the employment world, the argument is always that there are not enough qualified people, and that is why you have to pay them less. Well, I think that people who are minorities and people who are women are tired of hearing that argument. I think it is an insult. It is certainly an insult to the Indian people, native American people, many of whom I represent in my city, to say that they do not have qualified people to deal in the construction trades and get paid a just salary.

It is simple justice. Why should we be prejudiced against them. This is exactly what this amendment does, and I think people who are minorities and women do not want to be used in biased arguments that make no sense.

Mr. WEISS. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from New York.

Mr. WEISS. I appreciate the gentlewoman's yielding to me.

Mr. Chairman, I rise in opposition to the amendment.

The purpose of the Davis-Bacon Act is to prevent the undercutting of local labor standards in Federal construction projects. The effect over the years has been, not as its detractors would have us believe, to raise the rate of inflation. In fact, a recent study by the Wage and Price Stability Council found that the Department of Labor's local wage determinations are usually below the collectively bargained wage rates in the area. And we cannot ignore the fact that the reward of higher wages is higher productivity. Productivity in the construction industry has been rising faster than in any other industry, while the average annual income is actually lower than that of workers in the manufacturing industry.

The Davis-Bacon Act encourages competition based on good management, design and engineering, not the undercutting of local wages. And the wages are not, as opponents often argue, automatically union rates. Wages are based on the local area, and almost 80 percent of the time, nonunion rates prevail.

Opponents of the Davis-Bacon Act point to the recent GAO report as argument for their attempts to weaken the act, even though GAO conceedes that their findings are statistically invalid and founded on insufficient data. The report is based on only a few projects out of a total of 120,000.

But the Davis-Bacon Act is not simply a protective measure, enforcement helps to foster increased training and apprenticeship opportunities. Contractors in cities across the United States have worked with community groups to use rehabilitation projects as training programs for inner city youth and adults. In Minneapolis, 39 inner city youth worked under the sponsorship of 9 experienced construction workers to rehabilitate a vacant 32-unit building. Of the 39 participants, 18 are now apprentices, and 2 of these are women. The safeguards of Davis-Bacon are essential for these and other "sweat equity" programs, not only in Minnesota, and New York, but Oklahoma, Milwaukee, and across the country. According to HUD, no rehabilitation project or "sweat equity" program has ever been endangered by the provisions of Davis-Bacon.

Mr. Chairman, adoption of this amendment, or any kind of weakening amendments are the first step in rejecting the concept of maintaining equitable labor standards. I urge my colleagues to oppose these amendments.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentlewoman for yielding.

Mr. Chairman, I rise in opposition to this and other amendments which are being offered to destroy the protections of the Davis-Bacon law which, in effect, says that the wages of construction workers on federally financed projects shall not be fair game for contractors who treat workers inequitably.

Almost a half century ago, in the administration of President Herbert Hoover, a shining beacon of conservatism, recognized that construction labor and contractors were especially vulnerable in the cut-throat contract bidding on Federal buildings and projects. To protect the wages, the working conditions, and the benefits of health care, vacations, retirement and insurance of construction men and women, the Davis-Bacon principle was adopted by the Federal Government and by the States.

Through the years the Davis-Bacon

idea has won a greater measure of dignity, democracy, and security for the individual construction worker and contractor resulting in a better life for their families and assurance of high quality construction for various public projects. Because of the great economic stakes involved, Davis-Bacon has been under constant attack by opponents. Recently the intensity of the assault against Davis-Bacon has become more furious and better financed, but fails to turn around the logic which established the Davis-Bacon law.

Under the guise of eliminating "wasteful Government interference" reactionary groups in our country are fighting to repeal statutes and regulations which protect workers' health, safety, and living standards. On the national level, the Davis-Bacon law which established wage and hour requirements for federally financed construction projects is the target for right-wing groups in their drive to destroy unions.

The evidence discloses that the overall effect of Davis-Bacon upon the economy has not been inflationary. For example, the hourly wages in the construction industry increased less over the past decade than did wages in manufacturing or wholesale and retail trade.

What Davis-Bacon has done is to make possible a large, stable, nucleus of efficient, productive, and skilled construction craftsmen, which is a tremendous asset. The homebuilding and construction industry in America has reached pre-eminence because of this able workforce. The accountability and self-monitoring nature of the quality assurance that Davis-Bacon engages should be recognized as a significant asset when we vote to spend public dollars.

Davis-Bacon has provided stability to those local contractors in our States and cities which must compete and bid on public projects. Business people who must allocate, plan and finance their enterprises ought to be provided security that their equitable and reasonable treatment of skilled workers will not place them at an economic disadvantage.

The full integrity of the Davis-Bacon concept must be buttressed and it is my hope that later legislation will be enacted to do that because it has proven to be excellent national policy.

Therefore, the members of this committee should reject the amendments presented today which represent a false economy and savings for which we would pay dearly.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words, I rise in strong support of the amendment offered by the Gentlemen from Idaho and applaud his efforts to bring about some fairness and equity in our Federal housing programs.

My colleagues on the Banking Committee, of course, can ably demonstrate how the Davis-Bacon Act has proved particularly costly and burdensome in the areas of Indian and rehabilitation housing.

What I would like to emphasize is that the problems of Davis-Bacon are not limited to the housing programs They infect the over 50 programs which incorporate the Davis-Bacon Act. These programs include our Transportation and Highway Acts, our Education Acts, our Public Works Acts, our Medical and Health Assistance Acts and many others.

If you examine each of these programs carefully, you will find countless instances of inaccurate wage determinations.

The source of these problems, reduced to simplist terms, is the inability of the Department of Labor to calculate what the true prevailing wage is in a geographic locality. Again, and again, studies have documented how the Department has failed in this endeavor. Most of you know of the exhaustive study recently concluded by the GAO. The findings show that the situation is so hopeless—and that the problems are congenital to the act itself—that it recommends outright repeal.

This is no off-the-cuff recommendation. It follows eight previous studies, by the GAO, of the administration of the act, dating back to 1962. Moreover, its conclusions and findings are confirmed in numerous other studies. As recently as February of this year, a research group reported on its study of the application of Davis-Bacon in housing programs administered by HUD. They found and I quote:

> HUD is paying construction wage rates in excess of actual prevailing wage rates in many geographic areas.

In the face of this mounting evidence, the Department of Labor has done nothing to effectively improve this act. All we hear is endless litany of promises to review, evaluate, study research, ad infinitum.

What I hope is that passage of this modest amendment offered by my friend from Idaho will finally make people realize the urgency of the problems with Davis-Bacon and that the majority of this body is committed to doing something about it.

It is true that the Education and Labor Committee's Subcommittee on Labor Standards has announced 1 day of oversight hearings on the Davis-Bacon Act. And in this regard, I wish to commend by friend, Ed Beard, for scheduling these hearings. But I would remind my colleagues that the question of how Davis-Bacon impacts the HUD housing projects has already been the subject of hearings this year. Last month the Senate Banking Committee's Subcommittee on Housing, had hearings on this precise issue. And if you review the transcripts of those hearings, in which the subcommittee heard from the Department of Labor, the GAO, and Secretary Harris of HUD, you will find that the findings of the GAO were not undermined. In fact, Secretary Harris ackknowledged that the Department has experienced problems with the Davis-Bacon Act.

Moreover, I would remind my colleagues that Mr. Hansen's amendment does not directly amend the Davis-Bacon Act itself. Thus, I do not agree with my majority colleagues on the Education and Labor Committee that the amendment infringes our committee's jurisdiction.

For these reasons, I urge my colleagues to vote in favor of this amendment.

Mr. FORD of Michigan. Would the gentleman yield?

Mr. ASHBROOK. I will be glad to yield to my friend.

Mr. FORD of Michigan. I am sorry I was distracted. Did I hear the gentleman correctly, did the gentleman say that the Education and Labor Committee absolutely would not report out legislation to do what the gentleman is attempting to do, to cut back ?

Mr. ASHBROOK. Yes, that is what I said. And I have been known to be a betting man on occasion in the past. I will give you a thousand-to-one odds. Would that be a good start?

Mr. FORD of Michigan. I just wanted to know if a fair interpretation of that statement was——

Mr. ASHBROOK. Yes, and I will be glad to give you a thousand-to-one bet that we will not get anything out.

Mr. FORD of Michigan. The committee with the primary responsibility for dealing with this legislation does not have enough votes with Republicans plus Democrats to report out this kind of legislation? I do not believe it.

Mr. ASHBROOK. It is a sad commentary, but I think you stated it correctly.

Mr. FORD of Michigan. The gentleman could not get three votes in our committee from either party, could he?

Mr. ASHBROOK. I do not think there is any chance. As I say, I will give you a thousand-to-one, I will even go to five thousand-to-one.

Mr. FORD of Michigan. And that is why they are trying to bypass the committee with this end run and make a mockery of the committee system of the House.

Mr. ASHBROOK. I do not think it is a mockery. I take some slight in the fact as a member of the Education and Labor Committee. I wish we could dutifully report out to the House some action on the Davis-Bacon Act that is demanded by the GAO, demanded by the public, demanded by commonsense. The fact that it is not apt to happen leaves me with a sense of chagrin, and I agree with that very much.

Mr. PHILLIP BURTON. Would the gentleman yield?

Mr. ASHBROOK. Yes, I yield to a very distinguished member of our committee.

Mr. PHILLIP BURTON. Did I hear the gentleman correctly, the gentleman predicted there would be no Davis-Bacon amendments reported by the Labor Committee this Congress?

Mr. ASHBROOK. I said amendments that would cut, limit, or in any way reflect the GAO report.

Mr. PHILLIP BURTON. The gentleman then is not anticipating the favorable consideration of my modest proposal to bring about long overdue, needed strengthening of Davis-Bacon, is he?

Mr. ASHBROOK. Well, the odds are about even on that, I would tell my colleague.

In all seriousness, I think we know nothing is going to come out of the Davis-Bacon Act that has any relationship whatsoever to the economics of the situation in which we find ourselves in 1979, not 1931.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. ASHBROOK was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. The reality of the situation as shown by the GAO and in the GAO report is very clear in what it says. The Davis-Bacon Act accounts for excessive and wasteful labor costs, those two words are theirs, of $5 million annually. In addition, $200 million in burdensome recordkeeping requirements; $700 million, as my friend from Ohio, the ranking member of the committee has indicated, buys nothing, buys no additional housing, merely is an overcharge, an overprice for the same amount of housing. And we are not talking about sweatshop labor. We are talking about a premium being paid because of the Davis-Bacon Act, and I think in light of that, in light of the strong vote on the Hagedorn amendment last year, 170 Members of this Chamber, in light of the current that is throughout the country right now, in light of last November's election, I guess this would be one of those votes where we will find out how well we listened to the constituency last year.

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Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding and commend the gentleman for his strong statement. I know that I, too, share the concern of the Indians in rebuilding our inner cities, but we favor doing it differently. We want to use self-help programs and not have it be through the largesse of the taxpayers. We want to have people pull themselves up by their boot straps and not to hand them something. That is all we are saying. Does the gentleman not find it a little strange that ever since Davis-Bacon has been added to the laws of the land, people will come in and defend it in the tiniest and narrowest applications, and this certainly has to be an example of that? We just do not deal with one of the most severe problems of Davis-Bacon, and that is the fact that it is hurting the very poorest of the poor and minority people who live on reservations, sometimes hundreds and hundreds of miles away from large urban areas where Davis-Bacon standards are being applied. Does the gentleman not find that strange?

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. EDWARDS of Oklahoma, and by unanimous consent, Mr. ASHBROOK was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. I would concur most wholeheartedly with the statement of the gentleman from Minnesota. The crocodile tears are everywhere, and I think we should understand they are just that.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

I just want to make the point that the Indians that I am familiar with want more housing for the dollars and not less. They want more units.

As has been pointed out earlier, the workers on those jobs are not the Indians. The workers are people brought in from the outside. I would just like to make the point, as a Representative from Oklahoma, that I am always delighted to hear that our colleagues and friends from New Jersey, New York, Michigan, and Ohio are so expert on the problems of the Indian population that I represent.

Mr. ASHBROOK. Is my colleague saying there are more Indians in Oklahoma than in New Jersey?

Mr. EDWARDS of Oklahoma. Not only do we have more Indians, but I had thought the debate was about members of the tribes like the Cherokees, not the Cleveland Indians. But maybe that is what we are talking about.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I thank the gentleman for yielding.

I think it is entirely appropriate that the gentleman points out the respective States represented here in the argument. The gentleman from Idaho offers an amendment and attacks the very basic principles involved in Davis-Bacon. I note with interest that Idaho adopted its State Davis-Bacon law in 1911, 20 years before President Hoover signed the Federal law that we are here discussing today. Then the gentleman from Oklahoma (Mr. EDWARDS) rises to question the validity of the act, and Oklahoma passed its law in 1909. The two States represented by the principles involved here were two of the seven States that adopted this law as a precedent to the Federal Government's adopting the law. Now 40 States have followed suit, including my State of Michigan, which I must say may not have as many Indians but was at least 30 years slower than the gentleman's people in seeing the wisdom for the need of Davis-Bacon to protect its employees.

Mr. ASHBROOK. I thank my colleague. It is just possible that the Congress in its voting today could see the light and wisdom that we should show as part of the reform movement in the country in that that reform might reach Oklahoma, Idaho, and some of the other States.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. CLAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have a great deal of compassion for Indians and problems of Indians. I do not have any Indians in my district, but I have got some other minorities that are affected by this amendment. The debate so far today seems to give the impression that only Indians are affected. I happen to think the cynical argument against the Davis-Bacon Act is that its repeal would improve the job prospects of minorities in the construction industry. The simple fact is that blacks, Chicanos, and women have actively and successfully sought entry into the construction industry for one reason—the promise of a fair standard of living and skill-productive work. But just as minorities are making substantial gains in construction employment, Davis-Bacon is threatened and its repeal would mean that the decent, paying wage so recently won by minorities will be cut if Davis-Bacon is repealed. And the opponents of Davis-Bacon have the gall to demand its repeal in the name of minority employment opportunities.

During the early 1970's there has been a concerted effort, stimulated in large part by the Federal Government's affirmative action requirements of federally financed contractors to develop skilled minority workers through training programs. These efforts have significantly increased the participation of minority group members in apprenticeship programs and other training programs. The major impact of the increased minority participation in apprenticeship programs is now being seen as minorities are entering journeymen status as a result of the efforts of the early seventies. It would be a cruel joke indeed that after a decade of struggle and study for minorities to finally reach their journeymen status only to find journeymen's wages cut by the repeal of Davis-Bacon.

And what are the current figures on minority participation in the construction industry? Department of Labor figures for the first half of 1978 show that 21 percent of all apprentices in union apprenticeship programs are minorities. It is also very illuminating to look at the same data in the nonunion apprenticeship programs. The first half of 1978 saw only 12 percent of the participants in nonunion apprenticeship programs coming from minority groups.

In 1976, union programs graduated 3,777 workers from minority groups into the ranks of journeymen compared to the 162 workers from minority groups graduated from the nonunion programs. It is these very nonunion contractors who are now telling us that they have become the great champions of minority and female employment by leading the fight against Davis-Bacon. Their own record in the area of minority training and hiring belies their argument today.

If they are successful in repealing or limiting Davis-Bacon, there will be one and only one consequence for minorities and women—these new found jobs will be relegated back into the lower rungs of the economic ladder and the gains they have made over this decade will literally turn to ashes.

Finally, the short-term employment, high unemployment, a preponderance of small firms, new business competition, high labor costs in proportion to total costs and a lack of control over other production costs make employment conditions in the construction industry inherently uncertain and indeed perilous for all construction workers. In this environment, minority and female workers new to the industry are especially vulnerable and I urge you to do nothing to eliminate the wage protections contained in Davis-Bacon and the related acts including the housing statutes which will so seriously threaten the economic livelihood of these workers, male and female, minority and nonminority, old and young alike.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from California.

Mr. PHILLIP BURTON. I thank the gentleman for yielding.

I would like to applaud our colleague and associate myself with his remarks. It is sheer obvious sophistry and nonsense that either the motivation or the effect of this amendment is going to help minority groups. This amendment, purely and simply, has as its genesis, and with its thrust to help, trying to bust a little bit the building trades union movement in this country. It is going to fool no one at home. This amendment, if adopted, is merely going to depress the wages of those who work to earn their pay. The amendment is ill advised; it ought to be rejected as it has been rejected the few times it has been offered over the last couple of years by my colleagues. It serves no useful purpose; it is entirely mischievous.

Mr. CLAY. I thank the gentleman for his comments.

Mr. Chairman, I urge defeat of the amendment.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not know yet—but I do not think I will vote for any radical change in Davis-Bacon, not that I think it is universally desirable but it has been a stable part of our economy for too many years, ever since the Republican Congress and the Republican President, Mr. Hoover, signed it into law in 1931. We should not throw away something like that without very heavy thought as to whether or not it would be wise. I yield to no one in this House in my concern for getting the minorities into the construction and other trades. There were 14 blacks out of 4,776 apprentices when I went to work on it in New Jersey. Now it is better, you say, but it is not good enough. But it is not that which I am arguing. It is not on that basis.

I do not know much about Indians and will have to leave that to those who have reservations and really understand it better.

But not long ago in the New York Times magazine section there was an article by a group of blacks and Puerto Ricans in the South Bronx of New York City. What were they asking? They were desiring the work they were doing. What did they ask? Out of 10 things, what were the 2? One, do not apply the Davis-Bacon to us. Two, let us have the subminimum wage for teenagers.

I gave that article to the gentleman from Maryland (Mr. MITCHELL) and I asked him what he thought we ought to do about it, because this was a serious request from one of these groups.

Mr. CLAY. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Missouri.

Mr. CLAY. I thank the gentlewoman for yielding.

Is the gentlewoman suggesting that we ought to have any more compensation for black people who want to exploit other black people?

Mrs. FENWICK. I will now regain my time. This was not a question of exploitation; this was a nonprofit group doing their own housing for their own use.

Mr. CLAY. If the gentlewoman will yield again, she says it is not exploitation, but they expect people to work for a subminimum wage.

Mrs. FENWICK. This is not subminimum wage. Only for teenagers is it subminimum, and the men would be working at a proper wage, the men and the women who, I hope, would be employed.

The point is this amendment applies only to nonprofit groups. Do not smile. This is not funny. This is serious.

☐ 1600

This is a serious matter involving the lives of people.

If we do not pay attention to people what is the point of their writing articles? What is the point of their trying to tell us what their problems are? Nobody apparently really cares. They try to tell us what the situation is in their lives and the answer is that it is laughable.

Perhaps I am not the best advocate but I am honest and I am telling you the truth. We are not doing these people a favor. If they, themselves, will write an article to the New York Times and ask for changes why are we totally unwilling to listen to them? That is serious and I think it deserves serious consideration.

Davis-Bacon is something else. I think you are right that maybe we should not interfere with such an important part of our economy but we are talking here of only two applications: the nonprofit local group of citizens organizing among themselves, and housing for Indians in the reservations. I cannot see any harm here to the principle of the wider economy to which so much reference has been made during the afternoon.

Mr. ASHBROOK. Mr. Chairman, will my colleague yield?

Mrs. FENWICK. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank my colleague for yielding.

Mr. Chairman, I merely want to point out after listening to the comments of my friend, the gentleman from Missouri, I do not look upon Davis-Bacon as a black-white racial minority issue but I would say in my own State of Ohio we have a very substantial black legislative caucus in the Ohio Legislature and they have gone on record for the repeal of the Davis-Bacon Act. I have no way of knowing how prevalent that attitude would be among black legislators throughout the country but I do know in the State of Ohio the black caucus of the Ohio Legislature favors repeal of the Davis-Bacon Act.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for his contribution. I will say this. I have spent a good deal of time trying to get the minorities, both blacks and Puerto Ricans into good paying jobs. I was chairman of a Democratic Governor's Equal Employment Opportunity Committee in my State of New Jersey. It was my work for many years, so I think I have some right to speak.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words and shall speak in opposition to the amendment.

I address my comments from the floor of the House of Representatives to the people of the South Bronx, and I would hope to get the attention of the gentlewoman from New Jersey because I would like her to know that there are some things which she said that I agree with.

Davis-Bacon is an issue in which the gentlewoman from New Jersey referred to in reference to the feelings of my people in the South Bronx. As I am sure you are aware, I represent the South Bronx and I have had inquiries from people in my district who have wanted an explanation as to the effect of Davis-Bacon in terms of housing and rehabilitation programs. What I would really like to say to the people of the South Bronx from this floor is that the same people who stand here today, the merchants of budget cutting of social programs, the promoters of battleships over housing, B–1 bombers over community development, these are the people who would lead us to believe that repeal of Davis-Bacon would be beneficial to Hispanics, blacks, and Indians.

Mr. Chairman, I do not want my community in the South Bronx to be fooled for 1 minute by the legislative process and what some would have us do here to destroy the inroads that minorities have made in the construction trade unions whether it be in apprentice programs or as journeymen. Minorities can no longer be used whenever it is convenient to be the tools of repressive and economically unjust measures. Now that minorities after a long and hard struggle are finally making inroads into the construction trades unions, the gentleman's amendment would cut us off and put my people in a position of working for substandard wages.

Ten or 20 years ago, I may have taken this floor and agreed to support such a measure. But the fact is that as the roles of the unions continue to grow with more and more Hispanic surnames than ever before, and more blacks than ever before, now the budget cutters of social programs would deny us the same benefits that the trade unionists have enjoyed since 1931.

Mr. Chairman, I am very optimistic and envision that in 10 years the building trades of my city, the city of New York, will have an overwhelming minority membership. We have fought hard and will continue to fight to achieve that end. The bottom line is that my people in my community in the South Bronx should have reason to hope that they too can reap the benefits of a hard day's work.

I ask you to defeat this amendment, it is a bad amendment.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the distinguished gentleman from Idaho (Mr. HANSEN) to eliminate the prevailing wage requirement on rehabilitation projects undertaken by neighborhood nonprofit organizations and on low-income Indian housing projects. If passed, this amendment will reduce the cost of these housing projects, without compromising their quality, and will help promote hiring of local people—something that, ironically, was one of the objectives of the Davis-Bacon Act when it was passed back in 1931.

In this connection, I cannot help but note that recommendations along these very lines have come from people or groups closely associated with the two types of projects this amendment would address. As the distinguished gentleman from Idaho notes in his eloquent "Dear Colleague" letter of June 4, the deputy administrator of a housing rehabilitation group in New York has gone on record as saying that the application of Davis-Bacon to such projects results in outrageously high housing costs and excludes poor workers from construction jobs. And, as the minority members of the Banking, Finance and Urban Affairs Committee note in their views, the Senate Select Committee on Indian Affairs has strongly argued the inappropriateness of federally determined prevailing wage rates because such rates had "been identified by many different Indian housing authorities as a major source of inflation and delay." According to economists in the General Accounting Office, which has recommended that not just these two, but all applications of the Davis-Bacon Act be repealed, eliminating the prevailing wage for the Indian housing authorized in the bill will save from $750,000 to $875,000.

Mr. Chairman, it is also my understanding that a number of States are considering repeal of their prevailing wage laws for the very reason addressed by this amendment—unnecessary cost escalation of public programs. One State, Florida, has passed a repeal bill with much of the impetus for that move coming from those concerned about school construction costs. With inflation being what it is, it behooved them, just as it behooves us, to get as much value for taxpayers dollars as they possibly could.

For that reason, Mr. Chairman, I urge adoption of this amendment. Its passage would benefit benefactors (the taxpayers) and beneficiaries (low income housing applicants) alike—in more ways than one. And, to my way of thinking, that is what we should be looking for, not only in this instance, but in all areas of Federal involvement.

Mr. HANSEN. Mr. Chairman, will the gentleman yield to me?

Mr. DANNEMEYER. I yield to the gentleman from Idaho.

Mr. HANSEN. I thank the gentleman from California and applaud him for an excellent statement.

I would like to say in rebuttal to some of the things that have been said by some of the last few speakers that I have not attacked anything. We have been witnessing quite a contrasting argument between political emotionalism and professionalism and we have talked a lot about letters.

I am going to read this letter from the Committee To Save Indian Housing because I think it is most important.

There are 24 housing authorities represented and I think that this is a lot more representative of the feeling of the Indians and the professional assessment of needs than the emotionalism and politics of one chief that was pointed out earlier.

This is what they say, and please note that the director of the Navajo Housing Authority is included, and his professional opinion certainly offsets the single letters expressing the opinion of the Navajo chief cited earlier by the gentleman from New Jersey, Mr. THOMPSON:

THE COMMITTEE TO
SAVE INDIAN HOUSING,
Denver, Colo., June 1, 1979.

Hon. GEORGE HANSEN,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HANSEN: We have just learned that you intend to introduce an amendment to H.R. 3875 when it reaches the floor of the House, exempting HUD assisted Indian housing from the requirements of the Davis-Bacon Act. Our organization represents nearly every known organization having responsibility for the delivery of housing to Indian people and we fully support your proposed amendment.

The Davis-Bacon wage rate requirement is cited by many tribal and Indian housing authority officials as a major factor contributing to the high cost of Indian housing, the low rate of local Indian employment on HUD projects, and to substantial delays in the development of Indian housing.

Reservations do not generally have separately established Davis-Bacon wage rates and instead must use those established for non-Indian areas which are generally much higher than those actually prevailing on the reservations. Data used to establish rates is often old, from outside the local area, and may even be based on construction other than housing. The March 1978 GAO Report on Indian Housing states that wage rates are often taken from those established for the nearest metro area and increased for a travel differential.

These artifically high rates increase housing costs both directly and indirectly. Delays, which translate into higher costs because of inflation, occur because union contractors often do not operate in Indian areas and the required higher rates make non-union contractors reluctant to bid on Indian projects. Some Indian housing authorities have also encountered construction delays because there were no rates established for their area at all.

Contrary to the original intent of the Davis-Bacon Act, Davis-Bacon rates work to the disadvantage of local Indian employment on HUD financed projects. There is no pool of skilled workers on most Indian reservations and contractors are understandably reluctant to hire unskilled workers at Davis-Bacon rates. In addition, the higher rates provides no incentive to contractors for seeking out local Indians for employment since they can afford to bring in their non-Indian employees. There are few, if any, workable apprenticeship and training programs for Indian reservations because such programs require a 3 or 4 year training period commitment and HUD makes housing construction commitments on a project by project basis.

Federal dollars for Indian housing construction are very limited and we see the elimination of Davis-Bacon wage rate requirements as a means of stretching those dollars further to build critically needed units. At the present time, fully 60% of all Indian families live in housing which is severely substandard. Many Indian homes are no more than a one or two room shack without running water or electricity.

We thank you for the initiative you have taken in this matter and trust that your colleagues in the House of Representatives will vote in support of this most worthwhile amendment.

Sincerely yours,

PEGGY TREUER,
Coordinating Committee Member.

I also would like to expand on the information and material printed in the earlier mentioned Senate report. I do not want anyone to think that I am being biased in my remarks because of my desire that this amendment pass. I have a copy of this portion of the Senate report with me if any of my colleagues would like to examine it. A copy has also been mailed to your office for your use in your consideration of the merits of this amendment.

There were four principal areas dealt with in this report:

Inappropriate reservation rates;

Unequal application of rates;

No meaningful apprenticeship or training allowed by the Department of Labor; and

Recommendations for changes.

As it has done in so many other prevailing wage rate determinations, the Department of Labor has simplistically taken the rate established for the nearest metropolitan area and increased it by an amount to transport a worker from the metropolitan area to the reservation and back each workday. This makes reservation rates prohibitively high. These are not the words of the gentleman from Idaho but those of the Senate report. The rates are made prohibitively high.

I will quote further from the report. The few contractors located to an Indian Housing Agency generally have lower wage rates than the Davis-Bacon rates. The requirement of Davis-Bacon rates often causes such potential contractors to shy away from bidding on an IHA's project simply because the contractor must reduce the firm's wage scaled after the IHA project is completed—a demoralizing procedure to the workers, except in the unlikely event that it obtains another Davis-Bacon governed job or is able to bid successfully at noncompetitive levels in the private market.

The wage rates are also unequally applied. Under the HUD Indian public housing program most of the house construction is on detached single-family units in isolated rural areas. Single-family units assisted by HUD's FHA and USDA's FmHA are not subject to Davis-Bacon wage rates, yet HUD Indian units are required to pay those wage rates. A table in the Senate report showed the difference in wage rates with one HUD region. The average wage rates ran from $14.83 on one reservation in Nevada to $6.08 on another reservation in the same State. This was the average of the wages paid to three trades—carpenters, plumbers, and electricians.

One of the principal harms against the Indian population because of the prevailing wage requirement is the fact that few Indians are ever hired on many of the Indian Housing Agency projects because the pool of skilled labor on most reservations is almost nonexistent. The Senate report stated that the Department of Labor's Bureau of Apprenticeship and Training which administers training programs has not taken any initiative to adapt them to the reservation and make them work. Regardless of the requests that have been made for positive action in this area, the Department of Labor has yet to take any interest in Indian apprenticeship programs although Indian community unemployment rates generally eclipse even the worst urban ghetto black teenage rates, with some reaching as high as 80 percent.

I strongly urge the adoption of my amendment.

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Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, as near as I can tell, that performance establishes that the gentleman now knows more about Indian affairs than anybody since George Custer.

Mr. HANSEN. If the gentleman from California will yield further, I might say in response to the gentleman from New Jersey regarding Custer that this should be his last stand in defending these oppressive aspects of Davis-Bacon.

Mr. ANNUNZIO. Mr. Chairman, as a member of the committee, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Hansen amendment.

Mr. Chairman, the GAO has recently issued a report which calls for the repeal of the Davis-Bacon Act. An examination of the report reveals that it is based upon a statistically unsound study and is really nothing more than a string of conclusory statements unsupported by documentation. The conclusions of the GAO are grand but the reasoning used to arrive at the conclusions are hardly believable. Essentially the GAO concludes that the Davis-Bacon Act has resulted in increased costs for federally financed construction and has, therefore, had an inflationary effect on the economy. When stripped of its rhetoric, the GAO based its conclusion on a random sample of 73 wage determinations issued by the Department of Labor in 1976. It it from a re-examination of these 73 determinations that the GAO bases its figure that Davis-Bacon adds $500 million to construction costs each year. But what the GAO does not tell us is that the 73 determinations were taken from 18,000 wage determinations actually issued by the Labor Department in 1976. Moreover, the GAO itself admits that it is not valid to draw any conclusions from this miniscule sample of all wage determinations. I would like to quote to you from the report itself. The GAO said of its own study:

> We recognize that our sample size was insufficient for projecting the results to the year's universe of construction costs with statistical validity.

Yet the GAO then goes on to make sweeping conclusions based upon its "insufficient" study.

There is even less support, if that is possible, for the GAO's finding that the Act's record keeping requirements add $200 million to the annual cost of construction. This conclusion is based exclusively on a 1972 survey conducted by the AGC, one of the leading opponents of Davis-Bacon today. How did the AGC arrive at its conclusion that the reporting requirement adds $200 million to construction? It sent a questionnaire to 10,000 construction employers asking them to estimate how much the reporting requirement added to their costs. The AGC received responses from only 276 employers and, in the end, based its conclusion on only 41 of the responses. That this survey is without merit is self-evident.

The GAO report also sweepingly concludes that the Labor Department has engaged in 50 years of maladministration of the act and further finds the act is incapable of proper administration. Again, the GAO rested its broad conclusion on a minuscule sample of real projects. It looked at 73 determinations, 50 of which were "project" determinations which are applicable to a particular federally funded construction project. This represents about one-half of 1 percent of the 9,573 such project decisions issued by the Department between January 1 and June 30, 1976.

In looking at the 73 determinations, the GAO criticizes the Labor Department because one-half were not based on wage surveys. The GAO fails to point out that the Labor Department maintains a continuous listing with contracting agencies, employers, and labor organizations which provide it with constant updated economic information of the wages in various communities. Indeed, the decision to forgo full wage surveys for every determination—of which there are 18,000 every year—has been endorsed by the Council on Wage and Price Stability which noted that each wage survey costs between $200 and $400 per employer and that the Department's policy has resulted in great savings of administrative costs.

Finally, I am not alone in rejecting the conclusions of the GAO report. By letter of February 1979, the OMB transmitted its opinion of the Davis-Bacon report to the GAO. This is what OMB said:

> The findings contained in the draft report are similar to views expressed in previous GAO reports which have criticized the interpretations and implementing regulations made by the Department of Labor. However, we have not concluded that the public interest would be served by repeal of the Davis-Bacon Act, and therefore *do not endorse your* recommendation.

I am in accord with the OMB and the many other executive agencies including the Department of Labor and HUD which have called for the retention of Davis-Bacon coverage where it is now found and which have completely rejected both the reasoning and conclusions of the GAO report.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I detect the mood on the floor so I will actually use just 1 minute. This debate has been a classic example of what happens when you take a subject that is automatically controversial and turn it loose prematurely. If we listen to what I may call the prounion types, I say that respectfully, you would think that Davis-Bacon was the holy of holies, and if repealed the entire labor union movement would collapse.

On the other hand, if we listen to the proponents of this amendment, they paint a picture that the Davis-Bacon Act alone has been responsible for all the inflation the country has had in the last 47 years. Obviously, there is exaggeration on both sides; but it is my understanding there are going to be a series of these amendments. I personally think it is the wrong way to legislate. I also think it will put the House in the position, as we have been on a number of other subjects, when we dig in, too much rhetoric, too much emotion and no progress.

I would suggest that the Committee on Labor and Education have honest to goodness hearings on this matter, that they update their data, that they analyze the conflicting charges pro and con and present the House at some point with a real record on which we could base our votes.

I believe these amendments today in that sense are premature. I think the wisest course of action at this point would be to reject all these Davis-Bacon amendments and let the proper committee of jurisdiction do its work and run its course.

Mr. Chairman, I rise in opposition to the gentleman's amendment for the following reasons:

My first concern is over procedure. If a strong case can be made for outright repeal of Davis-Bacon, the proper committee of jurisdiction should be compelled to act. Piecemeal battles on Davis-Bacon amendments will merely promote political bitterness and not end the issue.

Davis-Bacon may not be inflationary. These provisions require the Secretary of Labor to determine the wages prevailing for the corresponding classes of laborers and mechanics employed on projects in an area similar to projects where the work is to be performed. According to a DOL 1978 study, in 80 percent of the cases, these prevailing rates were "nonunion."

As I understand it, the Davis-Bacon Act, passed in 1931, requires contractors who bid on Federal or federally supported construction to pay wages prevailing in the area for similar kinds of construction. The goal of the law was to prevent contractors from using Federal funds to undercut wage standards in an affected area.

There is some confusion over the question of whether Davis-Bacon wages are usually based on union wage scales. Based on another Labor Department study of wage determinations in 3,106 counties, for all types of construction, in 57 percent of the counties prevailing wage rate determinations were not equal to union scales. There seems to be some contradiction between the two studies I cited, and opponents and proponents can obviously reason either way.

It is my understanding that the labor costs of home construction, as a percentage of total costs, have been decreasing steadily. Today labor costs of direct construction are approximately 16 percent of total costs, compared to almost twice that percentage some 40 years ago. While labor costs have been decreasing, the increases have come from higher interest rates, land costs, and materials. I believe the percentages that I just quoted are correct.

There is another argument over whether Davis-Bacon coverage helps minority workers learn skilled trades and find decent jobs. While Davis-Bacon requires that prevailing wages be paid to journeymen, less than prevailing wages may be paid to certified trainees—provided that a reasonable ratio of instructors to trainees is maintained to guarantee effective training. However, Davis-Bacon was not originated to solve real or alleged discrimination cases. This particular issue confuses rather than clarifies the central debate.

Mr. Chairman, I must admit that I am concerned over the impact of the Davis-Bacon repeal in the metropolitan district which covers my congressional district. As I understand the original purpose of the law, it merely calls for fair labor standards. If completely repealed, an area such as the one I represent, which is highly unionized, would be subject to "raids" from nonunion personnel, who would be imported into the area. This would aggravate management-labor relations; increase tension between union and nonunion employees and employers; and distort the traditional availability of manpower.

Therefore I would hope that the members of the Education and Labor Committee would give this subject the full review that it deserves. Frankly, a full review is long overdue. Then, on a direct rather than piecemeal basis, Davis-Bacon repeal could be properly brought to the floor with updated information and a full record on which we could base our votes.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, I associate myself with the remarks of the gentleman from Illinois and would like to add one or two of my own. I speak against the amendment.

We have heard a great deal of discussion on the floor today about what the proponents of the amendment say are in the best interests of unions and blacks, Hispanics and Indians. I am inclined, however, to take the word or the opinion of those who represent those people when they say that the Davis-Bacon Act now is beginning to result in their favor.

The doors of the establishment, Mr. Chairman, have long been closed to these groups. Now that they are being opened, the amendment would slam the doors in the face of those people.

I would also like to comment, especially to the Members on my side of the aisle, whether or not it be a good policy to place the burden of solving inflation on the working men and women of this country. Inflation is a comprehensive problem. It needs a comprehensive solution. I should like to suggest that the repeal of the Davis-Bacon Act, even this portion of it, is not a comprehensive solution and certainly does not go to the comprehensive problem of inflation.

We had a chance several weeks ago in this House to get at the heart of inflation, and that is deficit spending. Balancing the budget is the kind of policy that would be a comprehensive solution to the problem of inflation.

I do not think it is fair to place the burden of inflation entirely on the working men and women of this country, especially those who build the country, and therefore I am rising in opposition to this amendment.

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New Jersey.

Mr. HOLLENBECK. Mr. Chairman, I would like to associate myself with the gentleman's remarks as to the timeliness of these amendments. I will put my remarks in a nutshell and ask permission to revise and extend.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Idaho.

Contrary to what we are being told by supporters of the amendment, the Davis-Bacon Act is not an obsolete law. The guiding principle of the act is as valid today as it was when it was enacted in 1931. And that principle is nothing more than protecting the American worker from exploitation by guaranteeing that the average prevailing wage in a region be paid on Government construction projects. The Davis-Bacon Act was passed because the Government found itself using taxpayer's money to undercut construction wages on Government construction projects. If we begin to erode Davis-Bacon today, our country could easily revert back to the pre-1930's Government assisted inequities and exploitation of the construction industry.

I am afraid that if we begin that erosion I refer to today, the American worker will lose the protection he has enjoyed so long from a much-needed act.

We have been told that Davis-Bacon as a whole, is inflationary and that the construction worker is overpaid. Recent studies have shown that construction worker wages are increasing more slowly than those workers in most other industries. In point of fact, hourly wages in the construction industry increased less over the past decade than did wages in manufacturing or wholesale or retail trade. High hourly wages sometimes earned by construction workers must be viewed in the context of the seasonal and intermittent nature of their work. Claims that the act is inflationary ignore these realities as well as the fact that recent industry studies show that the percentage cost of labor in the construction of housing has fallen steadily during the last 30 years, with labor representing only 17 percent of the cost of a new home in 1978.

In addition, I would like to take this opportunity to comment briefly on the GAO report that opponents of Davis-Bacon have quoted. It appears to me that GAO made some assumptions and estimates based on insufficient data. For example, GAO claims that the act increases construction costs by $513 million annually, based on a finding that 12 Labor Department wage determinations were too high. This estimate was reached despite the fact that there are about 120,000 construction projects subject to Davis-Bacon. In fact, I am told GAO has now admitted that its findings were without statistical certainty.

I feel that it is essential that we keep Davis-Bacon labor standards if the HUD-assisted homesteading rehabilitation projects are to work. As you know, under the program multifamily projects are rehabilitated for purchase by homesteaders who gain an equity position in their unit based on the value of the labor contributed. This is called "sweat equity" and is successful because of proper training and supervision by experienced contruction workers. According to HUD, no multifamily "sweat equity" homesteading project or traditional rehabilitation project has been made unfeasible because of the application of Davis-Bacon.

In conclusion, I would like to point out to my colleagues the poor timing of this amendment. The House Subcommittee on Labor Standards has already announced that they plan to hold hearings on the Davis-Bacon Act in order to determine if changes in the law are needed. Some may be needed but that must be determined after careful deliberation. In my opinion, Congress should postpone any decision on any part of Davis-Bacon until after these oversight hearings are concluded. To eliminate Davis-Bacon coverage for programs funded or guaranteed under the Housing and Community Development Act, before receiving the benefit of the Labor Standards' findings would be, in my opinion, a short-sighted hatchet job. Even if you do not support the intent of Davis-Bacon, I urge you to postpone your decision until after the subcommittee has had the opportunity to review the law.

Mr. Chairman, I support the principle behind Davis-Bacon Act. I believe that on balance it encourages uniform labor costs that are consistent with local practices of bidding on federally funded projects and in this way, fosters competition based upon fair management, good design, and safe engineering. I urge my colleagues to oppose this amendment.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for yielding.

In keeping with the brevity of trying to use the gentleman's time, let me say: First, I support what the gentleman has said, particularly for the need to review this in the proper setting and not in the setting we are doing now, particularly having looked at the GAO report being discussed here where the GAO report says they examined 30 projects at random and they themselves say in the report this is an insufficient amount of examination to properly project the costs of the Federal projects, of which there were nearly 18,000 involved.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. HANSEN).

The question was taken; and on a division (demanded by Mr. HANSEN) there were—ayes 14, noes 19.

RECORDED VOTE

Mr. HANSEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 244, not voting 35, as follows:

[Roll No. 186]

AYES—155

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bedell
Bereuter
Bethune
Bowen
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Derrick
Devine
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Fenwick
Fountain
Frenzel
Gibbons
Gingrich
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hance
Hansen
Harsha
Hefner
Hightower
Hinson
Holt
Hopkins
Huckaby
Hutto
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kelly
Kemp
Kindness
Kramer
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Livingston
Loeffler
Long, Md.
Lott
Lungren
McClory
McKay
Marlenee
Marriott
Martin
Mathis
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Neal
Paul
Preyer
Pritchard
Quayle
Regula
Rhodes
Roberts
Robinson
Roth
Rousselot
Rudd
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Treen
Trible
Udall
Ullman
Walker
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Winn
Wyatt
Wylie

NOES—244

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Annunzio
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clausen
Clay
Clinger
Coelho
Collins, Ill.
Conte
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derwinski
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Ertel
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Garcia
Gaydos
Gephardt
Gilman
Ginn
Glickman
Gonzalez
Gore
Gray
Guarini
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Heckler
Heftel
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Jeffords
Jenrette
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Long, La.
Lowry
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McHugh
McKinney
Madigan
Maguire
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Calif.
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Royer
Runnels
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Solarz
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stratton
Studds
Swift
Synar
Thompson
Traxler
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Weaver
Weiss
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Yatron
Young, Alaska
Zablocki
Zeferetti

NOT VOTING—35

Anderson, Ill.
Beilenson
Bouquard
Breaux
Conyers
Coughlin
Dickinson
Drinan
Erdahl
Evans, Ga.
Evans, Ind.
Flood
Florio
Forsythe
Fuqua
Giaimo
Goldwater
Hammerschmidt
Hawkins
Hillis
Johnson, Calif.
McDonald
Markey
Mineta
Murphy, N.Y.
Myers, Ind.
Nelson
Pickle
Rose
Spellman
Stokes
Vander Jagt
Wydler
Young, Fla.
Young, Mo.

The Clerk announced the following pairs:

Mr. Nelson for, with Mr. Johnson of California against.

Mr. Fuqua for, with Mr. Mineta against.

Mr. Breaux for, with Mr. Flood against.

Mr. McDonald for, with Mr. Florio against.

Messrs. BUCHANAN, DIXON, RITTER, and LEWIS changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PEYSER

Mr. PEYSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEYSER: Page 14, after line 22, add the following new section:

SEC. 210. The Secretary of Housing and Urban Development shall provide that at least 15 percent of assistance made available under contracts entered into under section 235 of the National Housing Act after October 1, 1979, shall be made for the purpose of assisting low-income families (for the purpose of acquiring a condominium unit or a membership in such a cooperative association, which, without such assistance, would be likely to be displaced from rental units which are to be converted to units in a condominium project or in such a cooperative association.

☐ 1640

Mr. PEYSER. Mr. Chairman, this is a very simple amendment. I want to compliment the committee for having included in the bill the recognition of the problem that is faced by poor people, and I want to compliment the committee for the recognition in the bill of the fact that many poor people are faced with a major problem today in the country, with the rapid and ever-increasing conversion of rental apartments to condominiums or cooperatives.

These people are caught with little opportunity to frankly stay in their own apartments that they have lived in for a number of years, and many of these people are elderly, are fixed-income people, who really desperately need help.

Now, the committee has recognized that need, and all I am trying to do is to earmark this a little more carefully by saying that the Secretary shall set aside 15 percent of the section 235 moneys to be used to help poor families who are faced with being basically ousted because of a condominium conversion and cannot go into any other form of housing.

I would like to call to the Members' attention that in the last year, in 1978, there were over 100,000 rental units converted into condominiums, which is a 100-percent increase over 1977.

The indications are, based on an article yesterday in the New York Times, and based on studies that we have made, that this figure will more than double in the year of 1979. It is impacting the wrong people.

So, I am asking, Mr. Chairman—and in the interest of brevity and the late hour, I will not pursue the point further at this time—I am asking that the House can act merely to set aside this 15 percent to guarantee that the Secretary has the discretion and has this amount of money to help these poor people face the condominium conversion.

Mr. Chairman, I yield back the balance of my time.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will be equally brief.

The gentleman from New York and I engaged in a colloquy the other day. From that colloquy it was clear that we share a common concern with respect to the rapid development of condominium conversion and the problem that this development represents to many people living on fixed incomes in rental units.

Mr. Chairman, I think that the distinguished ranking minority leader, the gentleman from Ohio (Mr. STANTON) would agree with me, that our subcommittee has long experience with the proposition of legislative set-asides. We have not been persuaded at all, and I think I can speak for him, at least for the moment, with regard to the efficacy of legislative set-asides, whether they be for assisted housing, for public housing, and section 8 programs. Where they have been considered, whether legislative set-aside, new construction versus existing housing units, wherever we have considered these set-asides, we have had some real reservations about them, because they really do impose a kind of inflexible framework on the operation of the Department.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. STANTON. The gentleman, of course, is absolutely right. We have, for good reasons, always opposed the set-aside provisions in the housing bills in the past. I hope we would here today.

For example, one of the problems to me, though, has been what priorities would we set. That is, good condominium is a good priority. My favorite priority may be, with the rising of utility rates, to set aside 15 percent for the elderly home owners.

I would hope the amendment would be overwhelmingly defeated.

Mr. ASHLEY. I appreciate the contribution of the gentleman.

I would point out that the committee has established priority in the legislation before us for low-income people who live in rental units converting to condominiums or cooperatives, so it is already in the bill.

This concern that is expressed is not faintly just a mile down the floor of the House. It is in the bill. The bill also deletes a number of provisions in existing law barring the use of section 235 for existing housing.

As I told the gentleman from New York the other day, the committee is not yet prepared to go beyond the committee provisions regarding this condominium conversion issue and will not do so until the committee has a further opportunity to review this matter in greater depth.

It is a very fast-moving situation. It is impacting particular cities at this time, and the city is aware of it; and we have legislated appropriately as we see the situation at this time.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. PEYSER).

The armendment was rejected.

The CHAIRMAN. Are there further amendments to title II?

The Clerk will designate title III.

Title III reads as follows:

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) Section 2(a) of the National Hosuing Act is amended by striking out "October 1, 1979" in the first sentence and inserting in lieu thereof "October 1, 1980".

(b) Section 217 of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1979" in the fifth sentence and inserting in lieu thereof "September 30, 1980".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

(f) Section 244(d) of such Act is amended—

(1) by striking out "September 30, 1979" in the first sentence and inserting in lieu thereof "September 30, 1980"; and

(2) by striking out "October 1, 1979" in the second sentence and inserting in lieu thereof "October 1, 1980".

(g) Section 245 of such Act is amended by striking out "September 30, 1979" in the third sentence and inserting in lieu thereof "September 30, 1980".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserfting in lieu thereof September 30, 1980".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1979 in the second sentence and inserting in lieu thereof September 30, 1980".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 302. Section 3(a) of Public Law 90-301 is amended by striking "October 1, 1979" and inserting in lieu thereof "October 1, 1980".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 303. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1980".

TEMPORARY MORTGAGE ASSISTANCE PAYMENTS

SEC. 304. Section 230 of the National Housing Act is amended to read as follows:

"TEMPORARY MORTGAGE ASSISTANCE PAYMENTS AND ACQUISITION OF MORTGAGES TO AVOID FORECLOSURE

"SEC. 230. (a) (1) Upon receiving notice of the default of any mortgage covering a one-, two-, three-, or four-family residence heretofore or hereafter insured under this Act, the Secretary (for the purpose of avoiding foreclosure of the mortgage, and notwithstanding the fact that the Secretary has previously approved a request of the mortgagee for an extension of the time for curing the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property, or has approved a modification of the mortgage for the purpose of changing the amortization provisions by recasting the unpaid balance) may make all or part of the monthly payments due under the mortgage directly to the mortgagee on behalf of the mortgagor, if such default was caused by circumstances which are beyond the mortgagor's control and render the mortgagor temporarily unable to correct a mortgage delinquency and to resume full mortgage payments. Payments may be made only in accordance with the provisions of this subsection and shall be subject to any additional requirements the Secretary may prescribe.

"(2) No payments may be provided under this subsection unless the Secretary has determined that such payments are necessary to avoid foreclosure and that there is a reasonable prospect that the mortgagor will be able—

"(A) to resume full mortgage payments upon termination of assistance under this subsection;

"(B) to commence repayment of the payments made under this subsection at a time designated by the Secretary; and

"(C) to pay the mortgage in full by its maturity date or by a later date for completing the mortgage payments previously approved by the Secretary under section 204(a) of this Act.

"(3) Payments under this subsection may be in an amount determined by the Secretary up to the amount of the principal, interest, taxes, assessments, ground rents, hazard insurance, mortgagee's expenses in connection with payments or repayments under this subsection, and mortgage insurance premiums due under the mortgage, and the initial payment may include an amount necessary to make the payments on the mortgage current. Payments may not exceed amounts which the Secretary determines to be necessary to supplement the amounts, if any, which the mortgagor is capable of contributing toward the mortgage payments.

"(4) Except as provided in paragraph (6), payments under this subsection may be provided for a period of not to exceed eighteen months, inclusive of any period of default for which payments are provided. The Secretary shall establish procedures for periodic review of the mortgagor's financial circumstances for the purpose of determining the necessity for continuation, termination, or adjustment in the amount of the payments. Payments shall be discontinued at any time when the Secretary determines that, because of changes in the mortgagor's financial circumstances, the payments are no longer necessary to avoid foreclosure or that there is no longer a reasonable prospect that the mortgagor will be able to make the payments and repayments specified in subparagraphs (A), (B), and (C), of paragraph (2) of this subsection.

"(5) All payments shall be secured by a lien on the property and by such other obligation as the Secretary may require. Payments shall be repayable upon terms and conditions prescribed by the Secretary, and such terms and conditions shall include requirements for repayment of any amount paid by the Secretary toward a mortgagee's expenses in connection with the payment or repayments made under this subsection. The Secretary shall establish interest charges on payments made under this subsection; such charges shall be at a rate (A) not less than the current average yield on outstanding marketable obligations of the United States of medium term issued during the six months preceding the making of the initial payment on behalf of the mortgagor concerned, and (B) not more than the maximum interest rate applicable with respect to mortgages insured pursuant to section 203(b) of this Act. Such charges shall be payable notwithstanding any provision of any State constitution or law or local law which limits the rate of interest on loans or advances of credit.

"(6) Payments under this subsection may be made in connection with a mortgage without regard to whether the Secretary has previously taken action to avoid acquisition or foreclosure with respect to such mortgage, except that payments may be provided on behalf of a mortgagor previously assisted under this section only in cases in which full mortgage payments (and any repayments to the Secretary which may have been requested) have been made by such mortgagor for at least 12 months from the time such previous assistance under this section was terminated.

"(b) (1) When the Secretary receives notice of a default described in subsection (a) (1) and makes a determination that assistance under subsection (a) would be impracticable in the case of the mortgagor, the Secretary (for the purpose of avoiding foreclosure of the mortgage, and notwithstanding the facts described in the parenthetical material of subsection (a) (1) and the fact that payments have been made under subsection (a) with respect to the mortgage) may acquire the loan and security therefor upon payment of the insurance benefits in an amount equal to the unpaid principal balance of the loan plus any unpaid mortgage interest plus reimbursement for such costs and attorney's fees as the Secretary finds were properly incurred in connection with the defaulted mortgage and its assignment to the Secretary, and for any proper advances theretofore made by the mortgagee under the provisions of the mortgage. After the acquisition of such mortgage by the Secretary, the mortgagee shall have no further rights, liabilities, or obligations with respect thereto. The provisions of section 204 relating to the issuance of debentures of incident to the acquisition of foreclosed properties shall apply with respect to debentures issued under this subsection, and the provisions of section 204 relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when the Secretary has acquired an insured mortgage under this section, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purpose appropriate and effective) which shall be prescribed by the Secretary.

"(2) The Secretary may provide assistance, to a mortgagor whose mortgage has been acquired under paragraph (1) of this subsection, through forebearance of interest or principal, or both, or through other means, for a period of not more than eighteen months after the acquisition of the mortgage, if the default was caused by circumstances which are beyond the mortgagor's control and render the mortgagor temporarily unable to correct a mortgage delinquency and to resume full mortgage payments, if the mortgagor has not been assisted under subsection (a) within twelve months of the date of such acquisition, and if the Secretary determines that there is a reasonable prospect that the mortgagor will be able to meet the conditions described in subparagraphs (A), (B), and (C) of subsection (a)(2). Such assistance (including any expenses of the Secretary incurred in connection with providing such assistance) shall be repayable upon terms and conditions prescribed by the Secretary and shall be subject to the same interest rate chargeable for repayments of assistance made under subsection (a). Such rate shall be payable notwithstanding any provision of any State constitution or law or local law which limits the rate of interest on loans or advances of credit.

"(c) All expenditures made under this section shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the property to which the payments made relate, and any payments received under this section shall be credited to such funds.

"(d) The Secretary may not carry out this section after September 30, 1981, except that assistance or payments which have been commenced on or before such date may be continued beyond such date in accordance with the applicable provisions of this section.

"(c) The Secretary shall, to the extent practicable, provide homeownership counseling to persons assisted under this section."

RESEARCH AUTHORIZATIONS

SEC. 305. Section 501 of the Housing and Urban Development Act of 1970 is amended by striking out in the second sentence "and not to exceed $62,000,000 for the fiscal year 1979" and inserting in lieu thereof "not to exceed $62,000,000 for the fiscal year 1979, and not to exceed $49,000,000 for the fiscal year 1980".

FEDERAL HOUSING ADMINISTRATION GENERAL INSURANCE FUND

SEC. 306. Section 519(f) of the National Housing Act is amended by inserting the following before the period at the end thereof: "and further increased by $93,000,000 on October 1, 1979".

HOUSING FOR THE ELDERLY OR HANDICAPPED

SEC. 307. (a) Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended by striking out "and to $3,300,000,000 on October 1, 1978" and inserting in lieu thereof "to $3,300,000,000 on October 1, 1978, to $3,835,000,000 on October 1 1979, to $4,785,000,000 on October 1, 1980, and to $5,760,000,000 on October 1, 1981".

(b) Section 202(a) of such Act is amended by adding at the end thereof the following new paragraphs:

"(6) In reviewing applications for loans under this section, the Secretary may consider the extent to which such loans—

"(A) will assist in stabilizing, conserving, and revitalizing neighborhoods and communities;

"(B) will assist in providing housing for elderly and handicapped families in neighborhoods and communities in which they are experiencing significant displacement due to public or private investment; or

"(C) will assist in the substantial rehabilitation, in an economical manner, of structures having architectural, historical, or cultural significance.

"(7) The Secretary may make available appropriate technical and training assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.".

(c) Section 202(g) of such Act is amended by adding the following new sentence at the end thereof: "At the time of settlement on permanent financing with respect to a project under this section, the Secretary shall make an appropriate adjustment in the amount of any assistance to be provided under a contract for annual contributions pursuant to section 8 of the United States Housing Act of 1937 in order to reflect fully any difference between the interest rate which will actually be charged in connection with such permanent financing and the interest rate which was in effect at the time of the reservation of assistance in connection with the project.".

MORTGAGE INSURANCE FOR EXISTING DWELLINGS WITH WARRANTY PLANS

SEC. 308. Section 203(b)(2) of the National Housing Act is amended by striking out "the dwelling was completed more than one year prior to the application for mortgage insurance, or the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction" in the third sentence and by inserting in lieu thereof the following: "(i) the dwelling was completed more than one year prior to the application for mortgage insurance, or (ii) the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction, or (iii) the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction".

AUTHORIZATION FOR NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 309. Section 608(a) of the Neighborhood Reinvestment Corporation Act is amended by inserting the following before the period at the end thereof: "and not to exceed $9,500,000 for the fiscal year 1980".

STUDY ON MORTGAGE INSURANCE PREMIUMS

SEC. 310. The Secretary of Housing and Urban Development shall conduct a study of the relative risks of loss which exist with respect to the various classes of mortgages which may be insured under sections 203(b) and 213 of the National Housing Act. Such study shall be conducted for the purpose of making recommendations on the advisability of reducing, in accordance with sound actuarial and accounting practices, some or all of the mortgage insurance premiums required for such classes of mortgages. The Secretray shall transmit such recommendations to the Congress within eighteen months from the date of the enactment of this Act.

EXEMPTION FROM STATE USURY LAWS

SEC. 311. Title V of the National Housing Act is amended by adding the following new section at the end thereof:

"EXEMPTION FROM STATE USURY LAWS

"SEC. 529. (a) The provisions of the constitution of any State expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders and the provisions of any State law expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, or advance which is insured under title I or II of this Act.

"(b) The provisions of subsection (a) shall apply to loans, mortgages, or advances made or executed in any State until the effective date (after the date of enactment of this section) of a provision of law of that State limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance.".

NEIGHBORHOOD SELF-HELP DEVELOPMENT

SEC. 312. Section 704(d) of the Neighborhood Self-Help Development Act of 1978 is amended by inserting the following before the period at the end thereof: "; except that the Secretary may make such grants and other forms of assistance available without such certification if such assistance is made available for the demonstration of innovative means of assisting in neighborhood conservation and revitalization, but not more than 10 per centum of assistance made available under this title in any fiscal year shall be made available without such certification".

FEDERAL HOUSING ADMINISTRATION MORTGAGE LIMITS

SEC. 313. (a) Section 203(b)(2) of the National Housing Act is amended by striking out everything through "or $75,000 in the case of a four-family residence;" and inserting in lieu thereof the following:

"(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $65,000 in the case of property upon which there is located a dwelling designed principally for a one-family residence; or $73,500 in the case of a two-family residence (whether or not such one- or two-family residence may be intended to be rented temporarily for school purposes); or $87,500 in the case of a three-family residence; or $100,000 in the case of a four-family residence;".

(b) Section 220(d)(3)(A)(i) of such Act is amended—

(1) by striking out "$60,000" and inserting in lieu thereof "$65,000";

(2) by striking out "$65,000" the first time it appears and inserting in lieu thereof "$73,500";

(3) by striking out "$65,000" the second

time it appears and inserting in lieu thereof "$37,500";

(4) by striking out "$75,000" and inserting in lieu thereof "$100,000"; and

(5) by striking out "$7,700" and inserting in lieu thereof "$8,000".

(c) Section 222(b)(2) and section 234(c) of such Act are amended by striking out "$60,000" in each such section and inserting in lieu thereof "$65,000".

HIGH-COST AREA MAXIMUM MORTGAGE AMOUNTS

Sec. 314. The National Housing Act is amended by striking out "by not to exceed 50 per centum in any geographical area" where it appears in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), and 234(e)(3) and inserting in lieu thereof in each such section "by not to exceed 75 per centum in any geographical area."

TITLE I LOANS FOR MOBILE HOMES AND LOTS

Sec. 315. (a) Section 2(b) of the National Housing Act is amended by striking out "$16,000 ($24,000 in the case of a mobile home composed of two or more modules" in the first sentence and inserting in lieu thereof "$17,300 ($25,920 in the case of a mobile home containing two or more modules".

(b) Section 2(b) of the National Housing Act is amended—

(1) by striking out subparagraph (A) of the second paragraph and inserting in lieu thereof the following:

"(A) involve such an amount not exceeding $23,550 ($32,170 in the case of a mobile home composed of two or more modules); and";

(2) by striking out subparagraph (A) of the third paragraph and inserting in lieu thereof the following:

"(A) involve such amount not exceeding $26,675 ($35,295 in the case of a mobile home composed of two or more modules); and";

(3) by striking out "$5,000 in the case of an undeveloped lot, or (ii) $7,500" in subparagraph (A) of the fourth paragraph and inserting in lieu thereof "$6,250 in the case of an undeveloped lot, or (ii) $9,375"; and

(4) by striking out "ten years and thirty-two days" in subparagraph (B) of the fourth paragraph and inserting in lieu thereof "fifteen years and thirty-two days".

FEDERAL HOME LOAN MORTGAGE CORPORATION ACT AMENDMENTS

Sec. 316. (a) Section 306 of the Federal Home Loan Mortgage Corporation Act is amended by adding the following new subsection at the end thereof:

"(e) Any person, trust, or organization created pursuant to or existing under the laws of the United States or any State shall be authorized to purchase, hold and invest in mortgages, obligations, or other securities which are or have been sold by the Corporation pursuant to this section or pursuant to section 305 of this title to the same extent that such person, trust, or organization is authorized under any applicable law to purchase, hold or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof."

(b) Section 305(b) of such Act is amended by inserting "with respect to the sale of mortgages to the Corporation" after "section".

(c) Section 303 of such Act is amended by adding the following new subsection at the end thereof:

"(f) All obligations, participations, or other instruments issued by or guaranteed by the Corporation shall be lawful investments, and may be accepted as security for all fiduciary trusts, and public funds, the investment or deposits of which shall be under the authority and control of the United States or any officer, or officers thereof."

GNMA LIMITS

Sec. 317. Section 302(b)(1) of the National Housing Act is amended by striking out the second sentence and inserting in lieu thereof the following: "Notwithstanding the provisions of clause (3) in the preceding sentence, the Association may purchase a mortgage under section 305 with an original principal obligation that exceeds the otherwise applicable maximum amount per dwelling unit if the mortgage (1) is insured under section 221(d)(3) or section 221(d)(4), and (2) at least 20 per centum of the units covered by such mortgage are assisted under contracts authorized by section 8 of the United States Housing Act of 1937."

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 17, strike out line 7 and all that follows through line 13 on page 23, and redesignate the subsequent sections accordingly.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 23, line 20, strike "$49,000,000" and insert in lien thereof "$51,000,000".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 32, line 19, insert the following new section:

SECTION 203(i) PROGRAM

Sec. 317. Section 203(i) of the National Housing Act is amended—

(1) by striking out "adjacent to a public highway" in the last proviso and inserting in lieu thereof "adjacent to an all-weather public road"; and

(2) by striking out "five" in the last proviso and inserting in lieu thereof "two and one half".

The committee amendment was agreed to.

□ 1650

The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 33, after line 2, insert the following new section:

INVALIDATION OF HUD INCREASES IN THERMAL REQUIREMENTS

Sec. 318. The final rule revision 6 A of the Department of Housing and Urban Development (entitled "Increases in Thermal Requirements for HUD Minimum Property Standards" and contained in the Federal Register volume 44, number 74, April 16, 1979, 24 CFR Part 200) is hereby disapproved and invalidated insofar as it applies to masonry construction.

Mr. KELLY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is not often the House of Representatives has the opportunity, in one stroke, to help consumers, industry, and labor, and to preserve its own institutional integrity. But we have one such opportunity today.

By voting to approve the committee amendment that is designated section 318 of H.R. 3875, this body can render a great service to the masonry construction industry, the people it serves, and the people it employs, as well as take a strong stand on the issue of congressional oversight of bureaucratic rules and regulations.

The purpose of section 318 is to invalidate certain HUD revisions to the minimum property standards respecting thermal insulation requirements for one- and two-family dwellings. The section was approved in full committee by a strongly bipartisan 22 to 6 vote.

The problems with the regulations are conceded in an April 19 letter from HUD Secretary Patricia Harris to Banking Committee Chairman HENRY REUSS.

In that letter, the Secretary frankly admits that HUD has conducted no cost-benefit analysis of the effect the proposed regulations would have on masonry wall construction. Industry estimates of the costs that would be imposed by the regulations range as high as $1,000 per house.

But the truly serious flaw in the regulations, also admitted in the Secretary's letter, is that HUD has not considered the insulating capacity of masonry or concrete walls. That means that HUD does not know whether the regulations, as they apply to masonry wall construction, will result in greater or lesser energy efficiency, or in no change at all. Clearly this is not sufficient information on which to implement regulations that will have such a heavy impact on a major industry.

HUD published these regulations without vitally needed support data, and claims such data is unavailable. But other departments and agencies of the U.S. Government, including the Department of Energy, the Farmers Home Administration, and the National Bureau of Standards, are currently conducting and analyzing studies on many of the questions that HUD needs answers to before it goes forward with these regulations.

Mr. Chairman, the least this House can do, as the branch of Government that is closest to the people, is to insure that when the Government speaks to the American people, it speaks with only one voice, and not in three or four discordant and contradictory voices. I urge the House to approve this amendment.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was going to place an amendment on this bill at this time which would have reinforced the action of the Housing and Community Development Subcommittee of the full Committee on Banking, Finance and Ubran Affairs, which was passed by the subcommittee, 22 to 6. This amendment, which was passed by the subcommittee 22 to 6, simply disapproved and invalidated HUD's thermal standards for masonry construction.

The Secretary proceeded, even though she had been told by the committee, after an overwhelming subcommittee vote and after the chairman of the subcommittee moved to report the bill to the full House of Representatives, and the chairman of the full committee then repeated, as is the procedure, that he was reporting the bill to the full House of Representatives. We, therefore, had a disapproval of the Secretary's masonry energy rules by a vote of 22 to 6, in the subcommittee and by the full committee.

The Secretary then chose to put those regulations into effect claiming—claiming that since the committee had not printed its report yet that this issue was not in front of the House of Representatives.

Mr. Chairman, I would suggest to you that this is a direct slap that has been made to the face of Congress, and to all of us sitting here. I find myself particularly disturbed because ever since the Secretary took office I have fought a great many battles for her. I have fought battles for her against my own party. I have fought battles for her against her own party. I find this a highly arrogant and arbitrary action.

Later on, Mr. Chairman, in an extension of my remarks I will insert an article from the Legal Times which states quite clearly that HUD has chosen to ignore the congressional veto, and states rather clearly that Secretary Harris showed her utter contempt for this body and this body's right to express whether or not they approved of the regulations.

Mr. LEVITAS. Would the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank my colleague for yielding.

I have always said it is not appropriate to say "I told you so." But, I told you so.

The only way we are going to get the bureaucrats to do what Congress, the lawmaking body in the United States, wants to be done, is to have a real congressional veto. And when they issue the regulations and make law that goes contrary to the desires of the elected Representatives, there is only one way to get them, and that is to have in place a true congressional veto which can reject their actions.

I know there has been some progress made by the gentleman's committee. I know the halfway start that was made last year on this legislation. But I suggest to my dear friend from Connecticut and the other Members of this House that the only way we are ever going to get the bureaucrats to carry out the policies of the Congress, who are elected by the people, and responsible to them, is by putting in place the congressional veto, which I am confident we will do during the 96th Congress.

Mr. McKINNEY. The gentleman from Georgia may rest assured that I will join him every single time that this legislation is placed before the House.

I would suggest to the Secretary, who I am sure will hear about this colloquy we are having, that if the Secretary is going to come to this Member, as she has many times and asked for support, if the Secretary is going to request that I stand up in appropriations battles and keep in the money that she wants for different programs, if the Secretary is going to suggest that I should support her programs, then perhaps it can work both ways. Perhaps if enough of this goes on there will be those of us here who without a one-House veto will turn around and just simply vote "no" to what the Secretary proposes.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(By unanimous consent Mr. McKinney was allowed to proceed for 2 additional minutes.)

Mr. McKINNEY. I want clearly to tell the Members why I am not putting in this amendment which would instruct, by public law, the Secretary to remove these energy regulations and to do what she was told to do, which was to consult with others, and promulgate them in the proper fashion, and not to abuse the intent of Congress.

I am not going to do that, Mr. Chairman, because the Secretary is going to be taken to court over this matter. And I hope she will be taken to court over and over and over again.

I want to clearly establish on the record at this point that the House of Representatives committee handling her affairs voted 22 to 6 to throw out her regulations, and that the full committee reported that to the full House through the words of their chairman, Mr. Reuss, and that the only thing missing was the printed report.

I am not a lawyer, which I sometimes am thankful for, but it seems to me under the rules of the House going back to Jefferson's Manual, that any action of a committee which is the last action before it goes to the Committee of the Whole in the full House of Representatives is, in fact, verbally or not, printed or not, an action on the part of this Congress that says in this case we disapprove of these regulations. I certainly hope that whatever court case there may be coming up on this, and I assume there will be a great many because they are terrible regulations, that this colloquy will be taken into consideration.

The last point is that this week, in an attempt to soothe over some ruffled feelings, six more States were added to the list of exempted States under these regulations. Those six more States, Mr. Chairman, sound pretty good. There are another 40-odd we can worry about. But it is interesting that these six States were added with no additional research, no discussion, no investigation, no consultation, no expertise. They were simply dumped on to pacify the Congress of the United States.

This Congressman is not pacified.

The CHAIRMAN. The time of the gentleman from Connecticut has again expired.

(At the request of Mr. Kelly and by unanimous consent, Mr. McKinney was allowed to proceed for 2 additional minutes.)

Mr. KELLY. Would the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Florida.

Mr. KELLY. I thank the gentleman for yielding.

The matter that most concerned the committee, as I understand, about this regulation is that the Farmers Home Administration and the Department of Energy both had regulations and reports coming down the tube very quickly, within the next 60 days or so. The committee felt as though the Government should speak to the home building industry with one voice after all of the reports from these various agencies were in. The committee was most concerned that HUD not go off in a direction by itself with the industry then having to listen to two or three voices. Does the gentleman concur?

Mr. McKINNEY. The gentleman could not be more correct. I will also cite that in my extension of remarks tonight, and I am also going to include a letter signed by a great many of this committee's members on both sides of the aisle to the Secretary.

Mr. STANTON. Would the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I wish to associate myself with the gentleman's remarks. I am very pleased that he will put in the Record at a later time the letter of May 30 to the Secretary expressing strongly the feeling in writing of 14 members of the committee on this point. And I thank him for his contribution.

Mr. McKINNEY. I thank the gentleman.

□ 1700

Mr. ASHLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be very brief, but I do not want the record to stand as reflecting apparently only one opinion or one view with respect to the subject matter at hand. I think it is only fair that we look at this subject matter in some greater perspective.

It was back in 1975 that this House, the entire Congress, passed the Energy Policy Conservation Act. In that act we mandated that the Department of Energy promulgate energy efficiency standards for new residential and commercial construction. Last year in the National Energy Act we directed the Secretary of HUD to come up with interim thermal efficiency standards because it become evident that the Energy Department's standards would not be completed until 1980 or 1981. So the Secretary of HUD in the development and publication of the regulations that are in question here was simply responding to a mandate of the Congress which we affirmed last year.

It is said that there was a vote of 22 to 6 on the part of our committee expressing outrage and disagreement with the regulations involved. The vote was, indeed 22 to 6. It should be borne in mind that the review procedure again that was adopted by this body last year is a review procedure whereby the

House Committee on Banking, Finance, and Urban Affairs 20 days prior to finalization of regulations has an opportunity to review such regulations to assure that they are consistent with the intent of the statute. There was a real split of opinion as to whether the concern of the committee was over the substance of the regulations as distinct from whether or not the Secretary was transgressing upon the intent of the Congress.

There is also some confusion over whether or not we on the Banking Committee acted in a timely way. It is a fact that on the 20th day, as I recollect it, we voted 6 to 22 as indicated by the gentleman from Connecticut. We did not, however, report within the 20-day period as provided by law. Therefore, the Secretary, it really can be argued, was under no compulsion to recognize the action of the Banking Committee.

In the fiscal analysis, Mr. Chairman, we have a Secretary of HUD who is really being mandated by Congress in two different directions, being mandated to promulgate and to implement thermal efficiency standards pursuant to the legislation passed by this body last year on the one hand, and being mandated to renege on and tear up the proposed regulations as far as masonry construction was concerned on the other. So obviously the Secretary was in a quandary, and it just seems to me, Mr. Chairman, that the record should reflect that the action of the Secretary was taken under such circumstances, and looked at in this light, it is not quite as inconsistent and is not quite as contentious, to say the least, as has been described.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding.

I think the gentleman is perfectly aware that I very seldom disagree with him when it comes to matters of housing, and I have been a strong supporter of the Secretary. I did not fight these rules because the Secretary was putting them out or was reaching for a power play. I would suggest to the gentleman that I know a little bit about building. I fought those because I found them to be the most insane standards I have ever seen in my life.

Mr. ASHLEY. If the gentleman will permit me now, the gentleman is going to the substance, that is to say, to the merits of the proposed regulations. What I am saying is that when we adopted the review procedure last year, it was not to provide the gentleman or me with an opportunity of expressing disagreemen with respect to regulations; it was to provide us with an opportunity to review regulations to insure that they were consistent with the intent of Congress.

Mr. McKINNEY. If the gentleman will yield further, could I ask the gentleman a few more questions? We also, I believe as the chairman will remember, mandated the Secretary to discuss and communicate and get together with the Department of Energy, and in her own admission this did not take place, nor did it take place with the Federal Home Loan Bank Board.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. McKinney, and by unanimous consent, Mr. Ashley was allowed to proceed for 2 additional minutes.)

Mr. McKINNEY. If the gentleman will yield further, also, Mr. Chairman, I would suggest to my chairman that it was on the 18th day that we acted with a 22-to-6 vote, and it was the gentleman's very words that I heard, and I voted with him, that at the end of this process, the committee does hereby report the bill to the full House of Representatives. That is just a quote out of my mind.

Mr. ASHLEY. I would say to the gentleman that I am not in the well to debate that issue interminably. It is my understanding that this was a matter that was subject to a different interpretation than some House Members would have.

Mr. McKINNEY. If the gentleman would yield further, on the motion of Chairman Ashley on May 10, 1979, it was to report H.R. 3875, as amended. After the vote, Chairman Reuss stated "So the motion is agreed to. The bill is reported out." It seems to me awfully clear, Mr. Chairman.

Mr. ASHLEY. Not that clear to me; that is all I am saying.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Michigan.

Mr. TRAXLER. I thank the gentleman for yielding.

As a member of the HUD Independent Agencies Subcommittee of the Committee on Appropriations, I compliment the gentleman from Ohio (Mr. Stanton) and the members of the subcommittee and the full committee, on this fine piece of legislation. I am particularly pleased with the gentleman's efforts in the research area. He is to be complimented on them.

Mr. Chairman, I rise in support of H.R. 3875, the Housing and Community Development Amendments of 1979. I want to take particular note of the Banking Committee's action on HUD's research program.

The problems of housing and of our Nation's communities are among the most grave and among those having the most direct effect on our citizens. Research is one of the truly effective and least costly ways of helping to address those problems. We have seen regular benefits from HUD's research each year, such as the energy-saving advice for the individual homeowner, in "Up the Chimney or in the Bank," and the improved cost management methods for our local communities, in "Implementing Effective Cost Management in Local Government: A Practical Guide." Research projects such as these are extremely cost-effective, savings hundreds of times their own costs.

Section 304 of title III of H.R. 3875 authorizes $51,000,000 for fiscal year 1980 for HUD's research programs. I urge full support for the amount provided by the committee. I was pleased to note that the committee's report acknowledges that HUD's program has been noticeably more focused than in previous years, and urges that HUD continue to shape its programs to meet the high-priority agenda set forth in current research budget justification.

I commend the Department for its plans to focus its research on the following critical issues: Improving urban economic development, public finance, and local tax policy; increasing neighborhood reinvestment and revitalization; slowing the rise in the cost of housing; improving the housing conditions of our elderly, handicapped, and others with special needs; diminishing housing discrimination; improving the mechanisms of housing finance; and increasing our efforts to help improve the capacity of local government to manage and deliver its services.

I urge your support for H.R. 3875, particularly as it will serve to give priority attention to these urgent housing and community development research issues.

AMENDMENT OFFERED BY MR. CAVANAUGH

Mr. CAVANAUGH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cavanaugh: Page 33, after line 11, insert the following new section:

Sec. 319. Section 242 (d) of the National Housing Act is amended by adding the following new paragraph at the end thereof:

"(5) The Secretary shall not insure any mortgage, or approve a modification of an existing mortgage insured pursuant to this section or section 223 (f), if such insurance or modification is to be made in connection with a guarantee, as authorized pursuant to section 306, of a trust certificate or other security which is exempt from federal taxation or which is to be used to collateralize obligations which are so exempt; except that the Secretary shall not refuse to insure such a mortgage, or approve such a modification solely on the basis that such insurance or modification is to be made in connection with a guarantee, as authorized pursuant to section 306, of a trust certificate or other security which is exempt from federal taxation or which is to be used to collateralize obligations which are so exempt, if a written application for such insurance or modification submitted at the express direction of the hospital has been submitted to the appropriate office of the Department of Health, Education, and Welfare prior to March 29, 1979."

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. CAVANAUGH. Mr. Chairman, this amendment is intended to equitably resolve a problem which has affected many of the Nation's hospitals who have sought to use a technique known as a "combination financing" to reduce debt service and help contain rising hospital costs. These hospitals sought to refinance their existing indebtedness presently insured by HUD through the use of tax exempt securities combined with the Federal Government guarantee.

During 1978 HUD approved the application of four hospitals for combination financing. On December 8, 1978, HUD in a telegram to its Regional Administrators indicated that a task force was being formed to establish policy on combination financing but applications were still being accepted by HEW regional offices and the language of the telegram indicated that the intent was not to delay or prevent this financing but only to allow HUD to review the terms of such financing. On March 29, 1979 by telegram HUD clearly indicated that it would no longer accept or approve any applications for combination financing, except section 8 insured multifamily projects.

Prior to that March 29 date many hospitals in good faith and in reliance upon the four previously accepted applications and the December 8, 1978 telegram had made application for combination financing and committed themselves to a significant level of effort and cost.

It was as a result of this arbitrary reversal of policy that Congress was forced to act. Chairman ASHLEY at Mr. GREEN's and my request held hearings on May 17, 1979, on this issue in which we carefully explored the ramifications of this entire financing technique. The hearings were intended to provide a basis for a recommendation of appropriate action on the questions surrounding this financing technique. My amendment attempts to equitably rectify the situation of those hospitals which had acted in good faith and had applied for combination financing prior to March 29, the date of the Secretary's telegram. These hospitals have already spent money and have built their future plans around the assumption that the combination financing technique would be available to refinance their debt.

Mr. Chairman, my amendment is geared only to those programs directed by the Department of Housing and Urban Development. My amendment makes no statement concerning any other combination financing technique under other programs especially those programs administered by the Department of Health, Education, and Welfare.

□ 1710

Mr. Chairman, I would like to especially commend the gentleman from Ohio (Mr. ASHLEY) for his generosity, first in holding the hearings and in working with me in developing this amendment to resolve this problem equitably and fairly for those hospitals concerned.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. CAVANAUGH. I yield to the gentleman from Florida.

Mr. KELLY. The gentleman's amendment has a cut-off date of May 29; is that correct?

Mr. CAVANAUGH. It is March 29.

Mr. KELLY. Mr. Chairman, the gentleman is not suggesting there are not other hospitals that had been in similar circumstances prior to that date but the gentleman is just taking that as an arbitrary cut-off time; is that correct?

Mr. CAVANAUGH. In order to equitably resolve this situation, I think that it was generally felt that as of March 29 the hospital industry and those seeking this kind of financing were reasonably on notice as to the desire of the Department of Housing and Urban Development to change their previous policy of accepting this technique.

Mr. KELLY. If the gentleman would yield further, the point I am trying to make is that the merits regarding the obvious intent of Congress in the language of the law were the same now and before March 29 and that if there are other hospitals it is conceivable they could have been in much the same situation in that they did depend on a fair reading of the law and that they had, in fact, made some application in the process to be approved under the language of the law as you understand it and represent it?

Mr. CAVANAUGH. Mr. Chairman, the amendment is intended to encompass all of those who may have proceeded to initiate applications with the Department of Health, Education, and Welfare with a view toward utilizing the combination financing technique.

Mr. KELLY. But that may have not included some who had made application to the regional offices as far as you know. Is that correct?

Mr. CAVANAUGH. The amendment is intended to encompass all those who had made applications.

Mr. KELLY. To the regional offices, as well?

Mr. CAVANAUGH. We do not designate the form that the application would have taken.

Mr. KELLY. I thank the gentleman.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. CAVANAUGH. I yield to the gentleman from New York.

Mr. GREEN. I would like to commend the gentleman from Nebraska for attempting to come to grips with an extremely complex situation, and I urge that his amendment be passed since it will inject some equity into a situation that is presently being dominated by an administration that has demonstrated its intent to circumvent the Congress.

The gentleman's amendment says that the law as it stood prior to March 29 will be upheld. Approximately 33 hospitals that had been proceeding in good faith had applied for combination financing, a mechanism by which an FHA-insured hospital mortgage and a GNMA guarantee underpin tax exempt bonds.

I have some problems with this amendment, although I support it in the gentleman's efforts to make the best of a bad situation. I believe the combination financing device is good public policy and should not be cut out as of March 29. The efforts to cut off the combination financing have come from the highest levels of the executive branch. However, the political or other considerations behind this change in policy may well overlook the substantial benefits of combination financing in a crucial effort to contain hospital costs.

It should be noted that the Congress had never heard from HEW, the agency best able to judge the merits of combination financing as it relates to hospital cost containment.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. STANTON and by unanimous consent Mr. CAVANAUGH was allowed to proceed for 3 additional minutes.)

Mr. GREEN. Mr. Chairman, will the gentleman yield further?

Mr. CAVANAUGH. I yield to the gentleman from New York.

Mr. GREEN. HEW was supposed to testify before our subcommittee on this but they were called off as late as 7 p.m. the night before the hearings. I submitted questions at the hearings to HEW on this matter. However, the Congress has yet to receive a response to those questions.

Furthermore, when examining the loss to the Treasury from combination financing, I have arrived at the conclusion that the loss is not great enough to warrant a termination of this financing mechanism.

A study of those mortgages that had been refinanced by one underwriter show that the average tax rate that was being paid by the holders of the taxable bonds that were being refinanced averaged only 14.5 percent. This is because by far the largest holders of the taxable hospital bonds are pension funds, which pay no taxes. So the refinancing simply changes a taxable bond held by an institution that is tax free to a tax-exempt bond held by individuals who otherwise would pay taxes.

Therefore, Mr. Chairman, it seems to me that the revenue loss is not as great as has been claimed by the Treasury and that the revenue loss looked at in contrast to the interest savings of the hospitals is a very good trade-off indeed and one that is sound for the Federal Government because a large part of the hospital costs are covered by medicare-medicaid payments which will be reduced as hospitals enjoy lower interest costs.

Nonetheless, I think this is the best that can be made of this situation and I again want to commend the gentleman from Nebraska for his part in making this possible.

Mr. CAVANAUGH. Mr. Chairman, I want to thank the gentleman from New York. Without the gentleman's essential and intelligent contribution and address to this issue I do not think we would have arrived at a satisfactory and the equitable solution that we have today.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. CAVANAUGH. I yield to the distinguished chairman.

Mr. ASHLEY. I appreciate the gentleman yielding.

Mr. Chairman, I rise in support of the amendment by my colleague, the distinguished Member from Nebraska (Mr. CAVANAUGH). I must say though that I am reluctant to voice any support for the combination of Federal insurance and guarantees with tax-exempt issues. This combination has the effect of creating a security superior to Federal securities which is contrary to the policy so many times reaffirmed by this body. Additionally, I am concerned about the considerable and wasteful tax expenditures which can ensue from this combination financing technique. Even though it may appear that the hospital's costs are going down, the real cost of health care will be going up. The Federal Government through these tax expenditures would be bearing an increasing share of that cost without the concurrent ability to fully assure increased efficiency in the health care system.

However, because of the confusion over whether or not this combination financing tool was available to hospitals, I agree with my colleague that those hospitals which have shown good faith by submitting applications supported by their boards of directors prior to the definitive barring of this financing tool, should be permitted to employ this financing tool. Therefore, I urge my colleagues to support this amendment.

Mr. CORRADA. Mr. Chairman, will the the gentleman yield?

Mr. CAVANAUGH. I yield to the gentleman from Puerto Rico.

Mr. CORRADA. Mr. Chairman, I wish to express my support for the amendment proposed by my colleague the gentleman from Nebraska which would allow the grandfathering of applications pending prior to March 29 for HUD guarantees of tax exempt hospital financing. In my district, Auxillo Mutuo Hospital submitted an application for assistance combining FHA/GNMA and Hill-Burton loan guarantee with a tax exempt revenue bond issue. The application which was submitted on February 7 has been stalled exclusively as a result of the problem which this amendment would resolve.

If the combination financing were approved, Auxilio Mutuo could obtain a low interest rate of approximately 7 percent as opposed to 9.5 percent. The long-range savings to the hospital would be $3.2 million. The hospital is an established nonprofit entity, with 255 acute short-term beds, 44 beds for long-term care, a 99-bed facility for skilled nursing and ancillary services covering an OPD clinic, a clinical laboratory, unit X-ray departments and a renal dialysis unit. This hospital serves a community where medical services are still scarce.

During the last 3 years, Auxilio Mutuo has kept its costs down to 8.4 percent increases annually. The combination financing will allow it to continue to maintain a low increase in cost and comply with President Carter's national agenda for cost containment and voluntary efforts toward cost control.

I urge my colleagues to ratify this amendment and contribute in a positive manner to the containment of skyrocketing hospital costs in America.

● Mr. OTTINGER. Mr. Chairman, I want to make clear my support of the amendment offered by Representative CAVANAUGH relating to the use of combination financing under section 242 of the National Housing Act.

Briefly, this combination financing technique merges two existing financing alternatives—Federal loan guarantees under sections 242 and 306 of the National Housing Act and tax exempt bonds. This technique has been used by a number of hospitals to lower their costs associated with modernizing or replacing outdated facilities.

Mr. CAVANAUGH's amendment was offered in response to a recent HUD policy decision to terminate the utilization of combination financing under section 242. This new policy was made public in a March 29 telegram from Lawrence Simons, Assistant Secretary, to HUD regional offices.

At the outset, I want to make it clear that I do not believe HUD has the legal authority to terminate combination financing for hospitals. In section 817 of the Housing and Community Development Act of 1974, Congress expressly forbade HUD from withholding assistance because the bonds to be used in connection with this assistance would be tax exempt. I expect this issue will be resolved in the courts.

In the meantime and without going into the benefits of combination financing, I think we must look at the effect of HUD's decision on the hospitals projects which were in the planning stage before this telegram was issued. The New Rochelle Hospital Medical Center in my district, for example, began planning its $24 mililon improvement project more than a year before HUD's decision to terminate combination financing. The sudden arbitrary cutoff of this particular financing technique will have a devastating effect on New Rochelle Hospital and a number of others around the country. This simply is not fair.

I think it is important for Members to understand the planning that went into this application for a section 242 FHA-insured mortgage. I am including for the record a chronology of New Rochelle Hospital's modernization project.

NEW ROCHELLE
HOSPITAL MEDICAL CENTER,
New Rochelle, N.Y., June 5, 1979.

Hon. RICHARD OTTINGER,
U.S. Congressman,
Washington, D.C.

DEAR CONGRESSMAN OTTINGER: As you know, New Rochelle Hospital Medical Center has been involved in a major construction/renovation program which is scheduled to begin shortly. When the construction begins it will culminate over a 2-year period of securing proper approvals. Below is a brief chronolgy of events:

1. August 1, 1977—Part I Application submitted by New Rochelle Hospital to the Health Systems Agency. (This step has been required by the Health Planning Act—P.L. 93-641).

2. In May of 1978 the Hospital hired the investment banking firm of Blyth, Eastman Dillon Health Care Funding, Inc., who had proposed to utilize the combination financing of the FHA-242 Program in conjunction with a tax exempt state program.

3. Since the Hospital fully intended to go through with the combination program, the Board of Governors requested that enabling legislation be introduced that would allow New Rochelle Hospital to finance through the New York State Dormitory Authority. This Bill was introduced, voted upon and signed into law by Governor Carey on July 29, 1978.

4. August 2, 1978—The Hospital received Part I approval.

5. We then filed our application for the FHA financing with the New York Office of HEW on August 8, 1978.

6. On February 7, 1979 the Hospital received initial approval from HEW for our FHA financing. It should be noted that while we had always intended to proceed with the combination financing mechanism (FHA-Tax Exempt) the Hospital saw no reason to rush ahead to file its application for the combination program. In fact, we were led to believe that we should first secure HUD approval and then submit for the combination method. This lack of urgency was bolstered by a memorandum dated January 18, 1979 from Dr. Florence Fiore to the HEW Regional Offices instructing them on the proper procedures to be followed in processing the combination application. This gave credence to the viability of this program.

7. In a letter dated March 12, 1979 the Hospital was informed that HUD granted initial approval for the FHA financing of our project. This now enabled the Hospital to file for the approval of the combination financing (FHA-Tax Exempt) program.

8. On March 22, 1979 I sent a letter to the Hon. Patricia K. Harris, secretary of HUD, seeking approval of the combination method for our hospital.

9. Suddenly, on March 29, 1979 Lawrence B. Simons, Assistant Secretary for Housing, issued a memorandum stating that the combination financing mechanism will not be available for hospitals.

10. As a follow-up to my March 22, 1979 memorandum to Miss Harris, on April 10, 1979 the Hospital filed the formal application papers for the combination program.

Having reviewed the above chronology of events, we are most concerned that New Rochelle Hospital Medical Center will be arbitrarily precluded from participating in this combination financing mechanism. I must emphasize that this construction program has met all of the federal and state guidelines for need, scope and financial feasibility. Also, the Hospital has consistently taken appropriate steps and expended the necessary resources to secure the HEW and HUD initial approvals and also to process the combination financing method.

On the basis of equity and fairness, we, therefore, seek authority for the New Rochelle Hospital Medical Center to utilize the combination financing method and thereby not be precluded on a purely arbitrary basis.

Sincerely yours,
GEORGE A. VECCHIONE,
Administrator.

My understanding is that Mr CAVANAUGH's amendment will grandfather into the program those projects which had applied to HEW or HUD before March 29, 1979. The adoption of this amendment is simple justice for the hospitals that have been planning their projects long before HUD decided to make the hospitals ineligible.●

Mr. CAVANAUGH. Mr. Chairman, I thank the gentleman for his contribution.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. CAVANAUGH. I yield to the distinguished ranking minority member.

Mr. STANTON. I thank the gentleman for yielding.

The minority statement has covered your amendment. You have made some changes that people wanted. We compliment you on your amendment and urge its adoption.

Mr. CAVANAUGH. I thank the gentleman for his assistance.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. CAVANAUGH).

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments to title III?

If not, the Clerk will designate title IV.

Title IV reads as follows:

TITLE IV—INTERSTATE LAND SALES

DEFINITIONS

SEC. 401. Section 1402 of the Interstate Land Sales Full Disclosure Act is amended by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively, and by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) 'subdivision' means any land which is located in any State or in a foreign country and is divided or is proposed to be divided into lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan;

"(4) 'common promotional plan' means a plan, undertaken by a single developer or a group of developers acting in concert, to offer lots for sale or lease; where such land is offered for sale by such a developer or group of developers acting in concert, and such land is contiguous or is known, designated, or advertised as a common unit or by a common name, such land shall be presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan;".

EXEMPTIONS

SEC. 402. Subsections (a) and (b) of section 1403 of the Interstate Land Sales Full Disclosure Act are amended to read as follows:

"(a) Unless the method of deposition is adopted for the purpose of evasion of this title, the provisions of this title shall not apply to—

"(1) the sale or lease of any improved land on which there is a residential, commercial, condominium, or industrial building, or the sale or lease of land under a contract obligating the seller or lessor to erect such a building thereon within a period of two years;

"(2) the sale of evidences of indebtedness secured by a mortgage or deed of trust on real estate;

"(3) the sale of securities issued by a real estate investment trust;

"(4) the sale or lease of real estate by any government or government agency;

"(5) the sale or lease of cemetery lots;

"(6) the sale or lease of lots to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings or for the purpose of resale or lease of such lots to persons engaged in such business; or

"(7) the sale or lease of real estate which is zoned by the appropriate governmental authority for industrial or commercial development or which is restricted to such use by a declaration of convenants, conditions, and restrictions which has been recorded in the official records of the city or county in which such real estate is located, when—

"(A) local authorities have approved access from such real estate to a public street or highway;

"(B) the purchaser or lessee of such real estate is a dully organized corporation, partnership, trust, or business entity engaged in commercial or industrial business;

"(C) the purchaser or lessee of such real estate is represented in the transaction of sale or lease by a representative of its own selection;

"(D) the purchaser or lessee of such real estate affirms in writing to the seller or lessor that it either (i) is purchasing or leasing such real estate substantially for its own use, or (ii) has a binding commitment to sell, lease, or sublease such real estate to an entity which meets the requirements of subparagraph (B), is engaged in commercial or industrial business, and is not affiliated with the seller, lessor, or agent thereof; and

"(E) a policy of title insurance or title opinion is issued in connection with the transaction showing that title to the real estate purchased or leased is vested in the seller or lessor, subject only to such exceptions as may be approved in writing by such purchaser or the lessee prior to recordation of the instrument of conveyance or execution of the lease, but (i) nothing herein shall be construed as requiring the recordation of a lease, and (ii) any purchaser or lessee may waive, in writing in a separate document, the requirement of this subparagraph that a policy of title insurance or title opinion be issued in connection with the transaction.

"(b) Unless the method of disposition is adopted for the purpose of evasion of this title, the provisions requiring registration and disclosure (as specified in section 1404 (a)(1) and sections 1405 through 1408) shall not apply to—

"(1) the sale or lease of lots in a subdivision containing less than one hundred lots not otherwise exempt under this section;

"(2) the sale or lease of the first twelve lots of a subdivision which are sold or leased, or both, in any calendar year if not more than twelve lots have been sold or leased, or both, from that subdivision in any previous calendar year;

"(3) the sale or lease of lots in a subdivision if each noncontiguous part of such subdivision contains not more than ten lots, and if each purchaser or lessee (or spouse thereof) has made a personal, on-the-lot inspection of the lot purchased or leased, prior to signing of the contract or agreement to purchase or lease;

"(4) the sale or lease of lots in a subdivision where at least 90 per centum of the lots in that subdivision are each forty acres or more in size (inclusive of easements for ingress and egress or public utilities) and any remaining lots are each no less than 30 acres in size (inclusive of easements for ingress and egress or public utilities);

"(5) the sale or lease of a lot which is located within a municipality or county where a unit of local government specifies minimum standards for the development of subdivision lots taking place within its boundaries, when—

"(A)(i) the subdivision meets all local codes and standards, and (ii) each lot is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences;

"(B)(i) the lot is situated on a paved street or highway which has been built to standards applicable to streets and highways maintained by the unit of local government in which the subdivision is located and is acceptable to such unit, or, where such street or highway is not complete, a bond or other surety acceptable to the municipality or county in the full amount of the cost of completing such street or highway has been posted to assure completion to such standards, and (ii) the unit of local government or a homeowners association has accepted or is obligated to accept the responsibility of maintaining such street or highway, except that, in any case in which a homeowners association has accepted or is obligated to accept such responsibility, a good faith written estimate of the cost of carrying out such responsibility over the first ten years of ownership or lease is provided to the purchaser or lessee prior to the signing of the contract or agreement to purchase or lease;

"(C) at the time of closing, potable water, sanitary sewage disposal, and electricity have been extended to the lot or the unit of local government is obligated to install such facilities within one hundred and eighty days. For subdivisions which do not have a central water or sewage disposal system, rather than installation of water or sewer facilities, there must be assurances that an adequate potable water supply is available year-round and that the lot is approved for the installation of a septic tank;

"(D) the contract of sale requires delivery of a warranty deed (or, where such deed is not commonly used in the jurisdiction where the lot is located, a deed or grant that warrants at least that the grantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him) to the purchaser within one hundred and eighty days after the signing of the sales contract;

"(E) at the time of closing, a title insurance binder or a title opinion reflecting the condition of the title shall be in existence and issued or presented to the purchaser or lessee showing that, subject only to such exceptions as may be approved in writing by the purchaser or lessee prior to the recordation of the deed for execution of the sale or lease, marketable title to the lot is vested in the seller or lessor;

"(F) each purchaser or lessee (or spouse thereof) has made a personal, on-the-lot inspection of the lot purchased or leased, prior to signing of the contract or agreement to purchase or lease; and

"(G) there are no direct mail or telephone solicitations which offer gifts, trips, dinners, or other such promotional techniques to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot; or

"(6) the sale or lease of a lot, if a mobile home is to be erected or placed thereon as a primary residence, where the lot is sold as a homesite by one party and the home by another, under contracts that obligate such sellers to perform, contingent upon the other seller carrying out its obligations so that a completed mobile home will be erected on the completed homesite within a period of two years, and provide for all funds received by the sellers to be deposited in escrow accounts (controlled by parties independent of the sellers) until the transactions are completed, and further provide that such funds shall be released to the buyer on demand without prejudice if the land with the residential home erected or placed thereon is not conveyed within such two year period. Such homesite must conform to all local codes and standards for mobile home subdivisions, if any, and must provide potable water, sanitary sewage disposal, electricity, access by roads, and where common facilities are to be provided they must be completed or fully funded and the purchaser must receive marketable title to the lot.".

REQUIREMENTS RELATING TO THE SALE OR LEASE OF LOTS

SEC. 403. Section 1404 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"REQUIREMENTS RELATING TO THE SALE OR LEASE OF LOTS

"SEC. 1404. (a) It shall be unlawful for any developer or agent, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce, or of the mails—

"(1) with respect to the sale or lease of any lot not exempt under section 1403—

"(A) to sell or lease any lot unless a statement of record with respect to such lot is in effect in accordance with section 1407;

"(B) to sell or lease any lot unless a printed property report, meeting the requirements of section 1408, has been furnished to the purchaser or lessee in advance of the signing of any contract or agreement by such purchaser or lessee;

"(C) to sell or lease any lot where any part of the statement of record or the property report contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein; or

"(D) to display or deliver to prospective purchasers or lessees advertising and promotional material which is inconsistent with that information required to be disclosed in the property report; or

"(2) with respect to the sale or lease, or offer to sell or lease, any lot not exempt under section 1403(a)—

"(A) to employ any device, scheme, or artifice to defraud,

"(B) to obtain money or property by means of any untrue statement of a material fact, or any omission to state a material fact necessary in order to make the statements made (in light of the circumstances in which they were made and within the context of the overall offer and sale or lease) not misleading, with respect to any information pertinent to the lot or subdivision;

"(C) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser; or

"(D) to represent that roads, sewers, water or electric service, or recreational amenities will be provided or completed by the developer without stipulating in the contract of sale or lease that such services or amenities will be provided or completed.

"(b) Any contract or agreement for the sale or lease of a lot not exempt under section 1403 may be revoked at the option of the purchaser or lessee until midnight of the tenth day following the signing of such contract or agreement, and such contract or agreement shall clearly provide this right. No other revocation period shall be imposed by Federal or State law, regulation, or order, except that any State may permit a longer period within which such right may be invoked.

"(c) In the case of any contract or agreement for the sale or lease of a lot for which a property report is required by this title and the property report has not been given to the purchaser or lessee in advance of his or her signing such contract or agreement, such contract or agreement may be revoked at the option of the purchaser or lessee for two years from the date of such signing, and such contract or agreement shall clearly provide this right.

"(d) Any contract or agreement which is for the sale or lease of a lot not exempt under section 1403 and which does not provide—

"(1) a legally sufficient and recordable description of the boundaries of the lot;

"(2) that, in the event of a breach of the contract or agreement by the purchaser or lessee, the seller or lessor (or successor thereof) will provide the purchaser or lessee with written notice of such breach and of the opportunity, which shall be given such purchaser or lessee, to remedy such breach within thirty days after the date of the receipt of such notice; and

"(3) that, if the purchaser or lessee loses rights and interest in the lot as a result of a breach of the contract or agreement which occurs after the purchaser or lessee has paid 15 per centum of the purchase price of the lot, excluding any interest owed under the contract or agreement, the seller or lessor (or successor thereof) shall refund to such purchase or lessee any amount which remains after subtracting (A) the amount of damages incurred by the seller or lessor (or successor thereof) as a result of such breach, from (B) the amount paid by the purchaser or lessee with respect to the purchase price of the lot, excluding any interest paid under the contract or agreement,

may be revoked at the option of the purchaser or lessee for two years from the date of the signing of such contact or agreement. This subsection shall not apply to the sale of a lot for which, within one hundred and eighty days after the signing of the sales contract, the purchaser receives a warranty deed (or, where such deed is not commonly used in the jurisdiction where the lot is located, a deed or grant that warrants at least that the grantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him or her).

"(e) Upon the revocation of a contract or agreement pursuant to subsection (b), (c), or (d) and upon the tender of an instrument by the purchaser or lessee to the developer or designee thereof conveying his or her rights and interests in the lot, such purchaser or lessee shall be entitled to all money paid by him or her under such contract or agreement."

CERTIFICATION OF SUBSTANTIALLY EQUIVALENT STATE LAW

SEC. 404. Section 1409 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"CERTIFICATION OF SUBSTANTIALLY EQUIVALENT STATE LAW

"SEC. 1409. (a) (1) A State shall be certified when the Secretary determines—

"(A) that, when taken as a whole, the laws and regulations of the State applicable to the sale or lease of lots not exempt under section 1403 require the seller or lessor of such lots to disclose information which is substantially equivalent to or greater than the information required to be disclosed by section 1408; and

"(B) that the State's administration of such laws and regulations provides, to the maximum extent practicable, that such information is accurate.

"(2) In the case of any State which may not be certified under paragraph (1) because its laws and regulations do not require disclosure of all the information required to be disclosed by section 1408, such State shall be certified when the Secretary determines—

"(A) that, when taken as a whole, the laws and regulations of the State applicable to the sale or lease of lots not exempt under section 1403 provide sufficient protection for purchasers and lessees with respect to the matters for which information is not required to be disclosed by such laws and regulations; and

"(B) that the State's administration of such laws and regulations provides, to the maximum extent practicable, that (i) information required to be disclosed by such laws and regulations is accurate, and (ii) sufficient protection for purchasers and lessees is made available with respect to the matters for which information is not required to be disclosed.

"(b) After the Secretary has certified a State under subsection (a), the Secretary shall accept for filing under sections 1405 through 1408 (and declare effective as the statement of record and property report) disclosure materials found accountable, and any related documentation required, by State authorities in connection with the sale or lease of lots located within the State. Nothing in this subsection shall preclude the Secretary from exercising the authority conferred by subsection (d) and (e) of section 1407.

"(c) The Secretary shall periodically review the laws and regulations, and the administration thereof, of States certfied under subsection (a), and may withdraw such certification upon a determination that such laws, regulations, and the administration thereof, taken as a whole, no longer meet the requirements of subsection (a).

"(d) Nothing in this title may be construed to prevent or limit the authority of any State or local government to enact and enforce any law, ordinance, or code with regard to the sale of land not in conflict with this title. In administering this title, the Secretary shall cooperate with State authorities charged with the responsibility of regulating the sale or lease of lots which are subject to this title.".

CIVIL LIABILITIES

SEC. 405. Section 1410 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"CIVIL LIABILITIES

"SEC. 1410. (a) A purchaser or lessee may bring an action at law or in equity against a developer or agent if the sale or lease was made in violation of section 1404(a). In a suit authorized by this subsection, the court may order damages, specific performance, or such other relief as the court deems fair, just, and equitable. In determining such relief the court shall take into account, but not be limited to, the following factors: the contract price of the lot; the amount the purchaser or lessee actually paid; the cost of any improvements to the lot; the fair market value of the lot at the time of sale or lease; and the fair market value of the lot at the time such lot was purchased or leased.

"(b) A purchaser or lessee may bring an action at law or in equity against the seller or lessor (or his or her successor in interest) to enforce any right under subsection (b), (c), or (d) and subsection (e) of section 1404.

"(c) The amount recoverable in a suit authorized by this section may include, in addition to matters specified in subsections (a) and (b), interest, reasonable attorneys' fees, independent appraisers' fees, and travel and court costs.

"(d) Every person who becomes liable to make any payment under this section may recover contribution, as in cases of contract, from any person who, if sued separately, would have been liable to make the same payment.".

LIMITATION OF ACTIONS

SEC. 406. Section 1412 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"LIMITATION OF ACTIONS

"SEC. 1412. (a) No action shall be maintained under section 1410 with respect to any violation of section 1404(a) unless brought within three years after discovery of the violation upon which it is based or after discovery should have been made by the exercise of reasonable diligence. In no case shall any such action be maintained under section 1410 with respect to any violation of section 1404(a) (1) more than three years after the last payment has been made pursuant to the contract of sale or lease, or three years after the conveyance to the purchaser of a warranty deed or, where such deed is not commonly used in the jurisdiction where the lot is located, a deed or grant that warrants at least that the grantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him or her), whichever is shorter.

"(b) No action shall be maintained under section 1410 with respect to subsection (b), (c), or (d) of section 1404 unless brought within three years after the signing of the contract or lease, notwithstanding delivery of a deed to a purchaser."

CEASE-AND-DESIST ORDERS

SEC. 407. Section 1415 of the Interstate Land Sales Full Disclosure Act is amended by adding the following new subsections at the end thereof:

"(e) Whenever the Secretary has reasonable cause to believe that any developer or agent is engaged in any act or practice which would violate the provisions of section 1404(a)(2) and the Secretary determines that such act or practice is likely to cause harm to purchasers or lessees, the Secretary may issue and serve upon such developer or agent a complaint stating the charges in that respect and containing a notice of a hearing, at a time and a place therein fixed. Such hearing shall be on a date at least twenty days and not more than forty-five days after service of such complaint. The developer or agent shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Secretary requiring the developer or agent to cease and desist from the act or practice as so charged in such complaint. Notwithstanding the preceding sentence, if the developer or agent fails to file an answer and intention to appear within fifteen days after service of the complaint and notice, such developer or agent shall be deemed to have waived the right to a hearing and the Secretary may issue an order to cease and desist. The Secretary shall issue a decision within ten days after any hearing, and any order issued to cease and desist shall be effective upon service on the developer or agent.

"(f)(1) Whenever the Secretary has reasonable cause to believe that the violation specified in the complaint served upon a developer or an agent pursuant to subsection (e) of this section is likely to cause immediate and substantial harm to purchasers or lessees, the Secretary may issue a temporary order requiring the developer or agent to cease and desist from any such violation or failure to comply. Such order shall become effective upon service upon the developer or agent, and, unless suspended by a court in procedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to the complaint and notice, or if an order to cease and desist is issued against the developer or agent pursuant to subsection (e), until the effective date of any such order.

"(2) Within ten days after any developer or agent has been served with a temporary order to cease and desist, such developer or agent may apply to the United States district court for the judicial district where the developer or agent is located, or to the United States District Court for the District of Columbia, to determine whether such order was arbitrary, capricious, or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law. The sole effect of any order of the court will be only to suspend the effectiveness of the temporary order to cease and desist, pending completion of the administrative proceedings pursuant to the complaint and notice served upon the developer and agent under subsection (e) of this section.

"(g)(1) Any person who violates any order issued under subsection (e) or (f), as determined by the Secretary after opportunity for a hearing, may be subject to a civil penalty not to exceed $5,000 for each such violation. Each separate offense shall constitute a violation and, in the case of a continuing offense, each day shall constitute a separate violation. Any determination of the Secretary shall be subject to review only as provided in section 1411.

"(2) Penalties assessed pursuant to this subsection may be collected in an action brought by the Secretary in any district court of the United States. In any such action the validity and appropriateness of the final determination imposing the penalty shall not be subject to review.

"(3) The amount of such penalty, when finally determined, shall be payable to the United States Treasury.".

CRIMINAL PENALTIES

SEC. 408. Section 1418 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"PENALTIES

"SEC. 1418. Any person who willfully violates any of the provisions of this title, the rules and regulations prescribed pursuant thereto, or any cease-and-desist order issued under subsection (e) or (f) of section 1415, or any person who willfully, in a statement of record filed under, or in a property report issued pursuant to, this title, makes any untrue statement of a material fact or omits to state any material fact required to be stated therein, shall upon conviction be fined not more than $10,000 or imprisoned not more than seven years, or both.".

PARENS PATRIAE

SEC. 409. The Interstate Land Sales Full Disclosure Act is amended by redesignating sections 1421 and 1422 as sections 1423 and 1424, respectively, and by inserting the following new section after section 1420:

"PARENS PATRIAE RIGHT TO SUE

"SEC. 1421. (a)(1) Any attorney general of a State may bring a civil action in the name of such State, as parens patriae on behalf of individuals residing in such State, in any district court of the United States having jurisdiction of the defendant, to secure monetary or injunctive relief as provided in this section for injury sustained by such individuals by reason of any violation of section 1404. The court shall exclude from the amount of monetary relief awarded in such action any amount of monetary relief—

"(A) which duplicates amounts which have been awarded for the same injury; or

"(B) which is properly allocable to—

"(i) individuals who have excluded their claims pursuant to subsection (b)(2) of this section, and

"(ii) any business entity.

"(2) The court shall award the State as monetary relief the total damage sustained as described in paragraph (1) of this subsection and the cost of suit, and, in its discretion, the court, may include reasonable attorney's fees in the cost of suit.

"(3) The court may, in its discretion, award reasonable attorney's fees to a defendant, and such court shall award such fees to a defendant upon a finding that the State attorney general has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

"(b)(1) In any action brought under subsection (a)(1) of this section, the State attorney general shall, at such times, in such manner, and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice given solely by publication would deny due process of law to any person or persons, the court may direct further notice to such person or persons according to circumstances of the case.

"(2) Any individual on whose behalf an action is brought under subsection (a)(1) may elect to exclude from adjudication the portion of the State's claim for monetary relief attributable to such individual by filing notice of such election with the court within such time as specified in the notice given pursuant to paragraph (1) of this subsection.

"(3) The final judgment in an action under subsection (a)(1) shall be res judicata as to any claim under this section by any individual on behalf of whom such action was brought and who failed to give such notice within the period specified in the notice given pursuant to paragraph (1) of this subsection.

"(c) An action under subsection (a)(1) shall not be dismissed or compromised without the approval of the court, and notice of any proposed dismissal or compromise shall be given in such manner as the court directs.

"(d) In any action under subsection (a)(1) of this section, in which there has been a determination that a defendant committed any violation of section 1404, damages may be proved and assessed in the aggregate by statistical or sampling methods, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

"(c) Monetary relief recovered in an action under subsection (a)(1) shall be distributed in accordance with a procedure which, as the district court determines, will afford each individual a reasonable opportunity to secure his appropriate portion of the monetary relief. Any monetary relief which remains after the distribution described in the previous sentence shall be deemed a civil penalty by the court and deposited with the State as general revenues.

"(f)(1) Whenever the Attorney General of the United States or the Secretary has brought an action under this title, under any rule, regulation, or order issued thereunder, or under any other Federal law with regard to a violation which is also a violation of this title or such rule, regulation, or order, and such Attorney General or the Secretary has reason to believe that any State attorney general would be entitled to bring an action, under this section, based substantially on the same alleged violation of Federal law, he shall promptly give written notification thereof to such State attorney general.

"(2) To assist a State attorney general in evaluating the notification described in paragraph (1) or in bringing any action under this section, the Attorney General of the United States or the Secretary shall, upon request by such State attorney general, make available to such State attorney general, to the extent permitted by law, any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action under this section.

"(g) For purposes of this section, the term 'State attorney general' means the chief legal officer of a State, as defined in section 1402(9), or any other person authorized by State law to bring actions under this section except that such term does not include any person employed or retained on—

"(1) a contingency fee based on the monetary relief awarded under this section; or

"(2) any other contingency fee basis unless the amount of the award of a reasonable attorney's fee to a plaintiff is determined by the court under subsection (a) (2) of this section.".

REPORT TO CONGRESS

SEC. 410. The Interstate Land Sales Full Disclosure Act is amended by adding the following new section after section 1421, as added by section 409 of this title:

"REPORT TO CONGRESS

"SEC. 1422. The Secretary shall prepare and submit to the Congress on March 1, 1981, and biennially thereafter a report on the administration of this title and its impact upon the land development industry and purchasers and lessees of undeveloped land. Such report shall include but not be restricted to the analysis of—

"(1) consumer and industry complaints and their resolution, with particular emphasis on the impact of various statutory and regulatory exemptions;

"(2) the effect the State certification has had in encouraging States to provide protection to purchasers of undeveloped land; and

"(3) efforts by the Secretary to simplify registration and disclosure procedures.

The report shall also contain such legislative recommendations as the Secretary deems advisable.".

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 54, strike out line 1 and all that follows through line 4 on page 58, and redesignate the subsequent section accordingly; on page 58, lines 7 and 8, strike out "adding the following new section after section 1421, as added by section 409 of this title:" and insert in lieu thereof "redesignating sections 1421 and 1422 as sections 1422 and 1423, respectively, and by inserting the following new section after section 1420:"; and on page 58, line 13, strike out "1422" and insert in lieu thereof "1421".

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. CAMPBELL

Mr. CAMPBELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CAMPBELL: Page 50, line 15:

H.R. 3875 is amended by striking out Section 407, beginning on page 50, line 15 through page 53, line 10 and renumbering each succeeding section.

☐ 1720

Mr. CAMPBELL. Mr. Chairman, my amendment would remove from the bill section 407. This is the section that grants to the Secretary the power to issue cease-and-desist orders, including a temporary restraining order and to assess civil penalties for a violation of those orders.

There are several reasons why I believe the Congress should not grant the Secretary these extraordinary powers. In the first place, they are not needed. This provision would fix something that is not broken.

I know there are some who will immediately say, "But what about some of the horror stories I have heard about people being pressured into buying worthless land or land that is actually underwater?" Mr. Chairman, I agree that this is wrong and that land buying consumers should be protected. But, they are protected, and those protections are greatly strengthened by other provisions of this bill.

A careful reading of title IV makes it clear that the real consumer protection provisions—those that would prevent these horror stories from occurring—are located elsewhere. For example, the cooling-off period in which a purchaser has the right to rescind a contract, is extended from 3 days to 10 days; there are strong antifraud provisions; there is a crackdown on misleading advertising; and numerous protections are required to be written into the sales contracts. These are only some of the provisions that protect the potential land buyer, but they are the ones that will stop the abuses we often read about.

The purpose of the cease-and-desist provision and the civil penalties obviously is for enforcement. But, once again, it is not necessary. Under existing law the Department can obtain a cease-and-desist order—it can also obtain a temporary restraining order and there are methods available to fine companies for violating the Interstate Land Sales Full Disclosure Act. To pass additional laws is a case of legislative overkill.

Let me just briefly compare the existing law to section 407.

Under the bill, the Secretary may serve a complaint upon a developer and hold a hearing. Under existing law, the Secretary has the same powers.

Under this bill, the Secretary may issue a cease-and-desist order. Under existing law, the Secretary can obtain a cease-and-desist order in any U.S. district court.

Under this bill, the Secretary can issue a temporary restraining order. Under existing law, the Secretary can obtain a temporary restraining order in any U.S. district court.

Under this bill, the Secretary can assess civil penalties of up to $5,000 for each violation of one of the Secretary's orders. Under existing law, a developer would be subject to a judicially determined fine for violating either a temporary or permanent order of the court.

With respect to these civil penalties, I would like to point out that under this bill, the Secretary on one violation, lasting 2 days, could fine a party an amount equal to the maximum fine for any number of criminal violations.

When you strip away the verbiage you can see that there are adequate protections under existing law. The difference, and it is a very important difference, is who decides to issue the orders, who decides whether an order has been violated, and who decides what the amount of the penalty shall be. Under this bill, it is HUD; the same entity that is a party to the dispute. Under existing law it is the court, an impartial third party.

And, Mr. Chairman, this brings me to my second reason for opposing this section. Basic due process requires that the same entity should not combine the investigative, the prosecutorial, and the judicial functions under the same roof. However, this section does precisely that.

This is an issue that concerns me deeply. My position is one that I feel completely comfortable with though I do not present myself as a legal scholar. So, let me, Mr. Chairman, quote to you the words of a man who is, I believe, universally accepted as one of the finest constitutional lawyers ever to serve in Congress—former Senator Sam Ervin of North Carolina. In debating the merits of the same sort of provision—and one that was defeated, I might add—Senator Ervin said this about cease-and-desist powers being granted to a cabinet officer:

> The . . . amendment would make a Cabinet officer or his designee the enforcer of the law. It would give him the power to investigate the complaints; it would give him the power to find the facts as a jury, and the power to act as judge and enter a decree. Moreover, it would make all the courts in the land powerless to interfere with any finding of fact that he makes, if that finding of fact is supported by any testimony, no matter how contrary to the overwhelming mass of the testimony the finding of fact may be. The amendment would establish a procedure which prostitutes the judicial process, and is alien to any land which reveres the due process of law.

Mr. Chairman, I agree.

Another point is that it shifts the burden of going forward from the Department to the accused.

One final point. It has been argued that this type of administrative remedy is widely used by other departments and agencies. The Library of Congress has been able to identify 17 other Government entities that have been granted this authority. Only three of them are executive agencies similar to HUD. The others are either commissions or regulatory agencies. Neither the Department of Housing and Urban Development nor the Office of Interstate Land Sales are comparable to the Interstate Commerce Commission, the Federal Communications Commission, the Civil Aeronautics Board, or any of the rest of these regulatory agencies or commissions. They were all established by Congress to be independent bodies. They are composed of appointees from different administrations, different parties, and with different philosophies. They serve fixed terms and are insulated from political pressures. A department headed by a Presidentially appointed Cabinet Secretary, of course, is just the opposite.

Congress established these regulatory commissions and boards and intended them to be independent. They also bestowed upon them quasi-judicial powers which could include cease-and-desist powers. They did so because the issues they decided were technical in nature and could only be discovered after extensive factfinding and deliberation. It was not that they were issues beyond the court system, but that it would have been a burden upon the courts and would have required judges steeped in the expertise court system, but that it would have been of a particular profession.

This bill does not require that special expertise. The basic purpose of section 407 is to allow the Department to decide whether or not fraud has been committed or is about to be committed. Now, I submit that this is not a matter of special expertise. The courts have been deciding this since common law time.

They do not need any help in making that decision.

But what about these other agencies or departments? Mr. Chairman, if there was ever a case to be made for the old saying that we should profit from our mistakes, it is right here. We have unfortunately watched these other agencies exercise similar authority. We know what they do. I do not want to see another OSHA established. Congress need not grant these powers and then cringe when they are used, and likely abused. Instead, Congress must reestablish the separation of powers. If we do not, the executive branch will continue to gobble up everything that is left. Let us stop giving the administrative branch all that they desire at the expense of the other two branches of Government because, as we all know, their appetite is insatiable. Let us say enough is enough and refuse this intrusion on judicial authority.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the distinguished ranking minority member.

Mr. STANTON. Mr. Chairman, I wish to inform the House that this amendment was offered in committee. The gentleman did an outstanding job in presenting the amendment at that time.

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. CAMPBELL) has expired.

(At the request of Mr. STANTON, and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 2 additional minutes.)

Mr. STANTON. Mr. Chairman, I was one of those who did help the gentleman to bring it to the attention of the full House, because it is a subject matter in which we all should be interested, the subject of the cease-and-desist orders.

I would hope that many of the Members who have heard the gentleman today will think in their wisdom that this is, indeed, something they should support. I am proud to support it and I am very pleased that the gentleman has presented it so well.

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Georgia.

Mr. BARNARD. Mr. Chairman. I rise in support of the gentleman's motion.

The power to issue cease-and-desist orders, along with the power to levy civil penalties which could exceed the maximum criminal penalties, should be granted sparingly. Indeed, an argument can be made on due process grounds that they should never be granted.

As the gentleman has stated, 13 of the 17 grants of such power have been made to independent agencies or regulators, and only on 3 occasions to executive agencies open to direct political control. I seriously doubt whether HUD has shown itself to be objective enough to be added to this list.

Last year, we saw the House overwhelmingly pass a one-House veto of all HUD's proposed regulations. This was the first, and only, time that such an action has been taken with respect to a Cabinet department.

This year, Secretary Harris has informed the Banking Committee that we did not understand the law, and that she would not abide by one of our resolutions, contained in this bill, delaying proposed thermal standards for 90 days.

Even HUD's current conduct of interstate land regulation is open to question. The act intended the Department to concentrate on the large mail order interstate land dealers. Instead, HUD has declared that any use of the mails brings a developer under its jurisdiction, and has imposed such complex paperwork and regulations that many smaller developers are being forced out of the market. Meanwhile, the large interstate mail order land developers have escaped without any substantial attention being paid to them.

Now, after this record of misapplied regulations, we are being asked to grant HUD the power to issue cease-and-desist orders and to impose civil penalties as well. I should think that recent history would make even those who think that cease-and-desist powers are appropriate, hesitate before granting such powers to HUD.

☐ 1730

Mr. ASHLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong opposition to the amendment offered by our colleague, Mr. CAMPBELL. By deleting the Secretary of HUD's power to initiate cease-and-desist proceedings, this amendment would seriously weaken the Secretary's ability to respond quickly and to stop in their tracks the use of illegal and fraudulent sales techniques by deceptive land sales companies.

At present, the Department has no administrative remedy available to combat fraudulent advertising and sales practices. If HUD cannot obtain voluntary compliance from a developer who is using "bait and switch" sales tactics or making deceptive claims about the investment value of the property, the Department's only alternative is to seek an injunction or bring criminal charges in already overburdened Federal courts. HUD has been faced with long delays in obtaining preliminary injunctions due to U.S. attorneys who often have had higher priorities and crowded court dockets which result in calendar delays of as long as a year. In addition, under existing law, a developer may be fined only if he is guilty of criminal activity. This bill includes a civil penalty for violation of the cease and desist order. This sanction was specifically recommended by the Administrative Conference of the United States. Twenty-six other Federal departments and independent agencies presently have the authority to levy such civil fine.

Once deceptive practices that are likely to cause harm to purchasers are discovered, it is critical that the Department be able to move quickly and precisely to prohibit the use of such unfair tactics. It is also important that developers accused of such practices have the issue resolved as rapidly as possible by administrative judges who have developed expertise in this area.

The Office of Interstate Land Sales Registration is the primary regulatory office in the Department of Housing and Urban Development. Over 15 Federal agencies which have important regulatory responsibilities have found the power to issue cease and desist orders a very effective and necessary enforcement tool. These agencies include the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, the National Labor Relations Board, the Small Business Administration, and the Federal Trade Commission.

Some proponents of this amendment claim that the cease and desist procedure would not assure that suspected violators would receive due process. Such criticism calls into question the validity of the Administrative Procedure Act and our whole administrative law system. The Administrative Procedure Act assures procedural safeguards and contains a number of provisions designed to guarantee the independence of administrative law judges from the agency: for example, judicial and prosecutorial functions are separate and ex parte communications are prohibited. It is also a normal and constitutionally valid procedure in many agencies that use administrative law judges to provide that the determination of the ALJ may be appealed to the head of the Agency prior to appealing to a Federal court. Administrative law judges are not Agency paws, but maintain independent judgment, have a good record as objective factfinders and have established high standards of professional integrity. That system has time and again been subjected to judicial scrutiny and found to be a useful, fair, and constitutional adjunct to our Federal court system. The 1978 decision by the Supreme Court in Butz against Economou clearly supports this conclusion.

During the last 5 years, 83 administrative hearings have been held at HUD before administrative law judges regarding violations under the existing law. Not one of the decisions issued by the ALJ has been appealed to Federal court. Surely this track record indicates that the developers who have appeared before the ALJ are satisfied with the due process they received. Clearly by granting this Agency the necessary powers to initiate cease and desist orders, due process will be maintained and the integrity of our administrative law system will not be undermined. To believe otherwise would mean, instead of deleting the cease and desist power, we should be repealing the Administrative Procedure Act. We now have the opportunity to assure that fewer fraudulent land developers will be able to continue to bilk unsuspecting land buyers while their cases languish in the Federal courts. I strongly urge my colleagues to defeat this ill-conceived amendment.

☐ 1735

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

(By unanimous consent, Mr. ASHLEY was allowed to proceed for 1 additional minute.)

Mr. ASHLEY. On balance, as I have said, we have struck an equitable balance between these competing exclusions, one of which is to reduce redtape and the burden of regulation. The other is to protect the consumer who has a right to be protected from fraudulent and tricky kinds of deceit and such practices that were the cause of the legislation being developed and passed by the Congress 10 years ago. Those same practices absolutely require the same concerted national effort.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has again expired.

(On request of Mr. CAMPBELL and by unanimous consent, Mr. ASHLEY was allowed to proceed for 1 additional minute.)

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. I thank the gentleman for yielding.

Is it not also true that the Federal Trade Commission would have jurisdiction and has powers to deal with fraud and misrepresentation?

Mr. ASHLEY. That is so.

Mr. CAMPBELL. So we would have a duplication in agency powers if they had cease and desist powers?

Mr. ASHLEY. The gentleman is mistaken on that. The Federal Trade Commission has indicated in no uncertain terms that it has paid scant attention to this area of fraudulent and interstate land sales, and it would be only too happy, with the adoption of these amendments, to reduce its efforts in this area.

Mr. CAMPBELL. Nevertheless, they do have the jurisdiction.

Mr. ASHLEY. Well, they have the jurisdiction. The same thing could be said of the power of U.S. attorneys, but the gentleman knows that those efforts have resulted in less than adequate attention.

Mr. CAMPBELL. If the gentleman will yield further on the other point, we have talked so much about these large interstate land companies that have defrauded people, and they ought to be prosecuted. I certainly agree with that to the fullest extent.

Mr. ASHLEY. That is good.

Mr. CAMPBELL. But other parts of this bill now bring it to the point where the Secretary would have jurisdiction even on the sale of one lot if a telephone were used or any other item in interstate communication or capable of being used in interstate communication.

Mr. ASHLEY. Why not? Would not the gentleman want some action taken? What does the gentleman want?

Mr. CAMPBELL. Under present law, which has a 50-lot subdivision, would it not put the Secretary in the position of the agency which has jurisdiction?

Mr. ASHLEY. We have reduced the threshold eligibility from 50 to 100 lots. But we have said that, despite the fact we are doing this, we are relieving that kind of burden on the developer and that, where there are instances of fraud, the jurisdiction is of course retained.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the gentleman's amendment, and I want to compliment him for bringing it to the House floor today. All of us, of course, want to make sure that the land buying consumers are protected. I might say that I support the provisions of the Interstate Land Sales Act except for this extraordinary cease and desist order power. We are all aware of newspaper articles talking about how someone was ripped off by a fast-buck artist and persuaded to buy land under 6 feet of water off the coast of Florida, or something like that, and certainly we do not want that to happen. On the other hand, industry representatives are by and large honest people who do a good business, and I do not think that we want to interfere with the legitimate sales that are entered into by two willing parties. So what we are doing is to make sure that this law protects the consumer from the potential abuses—but does not place an unfair burden on the industry—which I think this amendment does. I would submit that most of the people in this industry are basically honest small businessmen.

□ 1740

It may be that the Secretary cannot get into court, because some of the cases that are presented to the Justice Department are not all that good.

I submit at the same time that the Federal courts are not all that crowded, that you can get into court if you have a good case.

To point up the fact that this extraordinary power is not needed, I would ask my colleagues' indulgence for a moment to propose to them a riddle.

The riddle is this: When is a dead goose more important than an alleged fraud?

I will provide the answer in a few minutes.

Mr. Chairman, in the simplest terms possible, what we are talking about when we say the Secretary will have cease and desist powers, is that the Secretary on her own determination can stop the sale of property.

It says that the Secretary, who is, of course, a Cabinet-level official, will have these extraordinary powers based upon her own judgment.

Now, let me ask a question. Why should the sale of private land be the subject of this extraordinary power by one individual?

We have in the past required that the seller disclose all that is bad as well as all that is good, and there is power within the present law for the Secretary to go to the Justice Department if she has a good case based on those facts.

Now, if the law we are amending today were a regulatory law, that would be one thing, but this is not a regulatory law. This is the Interstate Sales Full Disclosure Act, and disclosure is not per se regulation.

To me, there is a difference.

Putting aside the matter of changing the basic thrust of the law, should we give these powers to the Secretary of a department? Why does HUD want these powers? Because they claim, as I say, they cannot get into the Justice Department, and the Justice Department is especially versed to act quickly even if in cases of fraud.

Mr. Chairman, I might say that that argument, if I thought it were really a problem, would be a good one, but I suspect that it is a question of whether, as I say, HUD has a good case.

I will now get back to the answer to my riddle of when is a dead goose more important than an alleged fraud?

Apparently, when HUD is alleging the fraud, because just the other day I noticed that the Justice Department acted within 24 hours when a person apparently killed a goose with his putter out at the Congressional Country Club. So the courts were not all that crowded to take care of that case expeditiously.

Now, of course, I think killing a Canadian goose is a very, very serious matter, but I would think that it should not rank above a land fraud case, especially where people's money is involved.

I hope this illustrates to my colleagues that the courts are not so crowded, and if the Secretary does have a good case, she could get a hearing almost immediately, and that she does not need this extraordinary power in order to protect the consumer.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. CAMPBELL and by unanimous consent, Mr. WYLIE was allowed to proceed for 3 additional minutes.)

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I will be glad to yield to the gentleman from South Carolina.

Mr. CAMPBELL. I thank the gentleman for yielding.

I thank him for his remarks. It is an interesting point that has come up.

Mr. Chairman, proponents of the need for administrative cease-and-desist powers attempt to make their case by claiming the present system is ineffective and cumbersome. A fact sheet put out by the Department of Housing and Urban Development says that it requires "dealing with the Department of Justice." They make it sound like Justice is a foreign nation.

In any event, I think it should be pointed out that their recent report to Congress indicates the present system does work. Let me quote from page 31 of the report to Congress, March 1, 1979.

> A classic example of a successful civil injunctive case based upon complaints is the Holley by the Sea case. Prospective lot purchasers were being solicited by telephone by sales agents who made misleading claims about the property and its future development and value which were not true. HUD subpoenaed documents and testimony from corporate officers, sales brokers and agents and obtained information from cooperating state agencies. A complaint based on civil fraud, primarily oral misrepresentation, was

> filed in Federal District Court in Miami in August 1977.
>
> The developers, a joint venture of three corporations, their parent companies, including Bankers Life and Casualty Company of Chicago, and the sales brokers and agents agreed to a settlement which included amendments to filings, a recission offer to purchasers in the amount of $1.3 million dollars, the posting of a bond and establishment of an escrow to assure the refunds would be available and a system for monitoring sales when they are recommended. Sales and the subdivision's registration now still are suspended pending the resolution of serious problems with the subdivisions.
>
> During the last quarter of 1978, through complaint work, civil actions and administrative settlements other than standard rescission exercises, HUD recovered for consumers nearly 4 million dollars.

I submit, Mr. Chairman, the problem may very well be one of poor cases rather than cumbersome procedure. Justice is not going to take on a case they do not believe has merit. And, that is what we pay them to decide. The Department wants to replace this independent judgment with their own preconceived opinions.

If the present system works, and their report to Congress says that it does, we should keep it.

□ 1745

Mr. WYLIE. Precisely. That points up the reason why this is a good amendment again. But, I think during the course of the hearings it was pointed out that last year there would probably have been five cases affected by this amendment if it were adopted.

Now, I say that is trying to kill a gnat with a hammer. I think that given this power a mischievous Secretary could abuse that power and could, in fact, harass many honest land sales representatives who would want to try to enter into a contract with a willing buyer. It becomes a matter of judgment then. Why should the two parties not be able to enter into a contract to purchase the land and not have the Government looking over their shoulder every time to see if they are dotting every "i" and crossing every "t".

But, in the case where there is obvious fraud, there is a remedy in the law at the present time, as the gentleman has said. Therefore, I think his amendment should be adopted.

Mr. MINISH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(By unanimous consent, Mr. MINISH was allowed to proceed for an additional 5 minutes.)

Mr. MINISH. Mr. Chairman, right now HUD is hamstrung by its inability to act quickly to stop violations of the law. Under present law if HUD discovers illegal practices it must go through the Justice Department to seek Federal court injunction prohibiting those practices.

Because of the crowded court dockets, this can take months or even years. Meanwhile, a developer can continue whatever he is doing. Some have been bad, very bad. Some have gone to jail.

For example, a developer in Texas was selling lots without giving buyers disclosure documents. He was not completing promised roads and was not giving good title to the lots. HUD began seeking an injunction in February of 1976. The trial was postponed three times, and there still has been no hearing concerning a permanent injunction.

In another case it took HUD more than a year to get a preliminary injunction against a developer in Indiana who was violating Federal law.

If the Campbell amendment is passed, these abuses will continue to rip off innocent people, and the maker of the amendment knows that.

Mr. CAMPBELL. Mr. Chairman, would the gentleman yield on that point?

Mr. MINISH. I will yield later. Do not worry, I will yield to you.

Mr. CAMPBELL. Mr. Chairman——

Mr. MINISH. The section in title IV which gives cease-and-desist powers to HUD is by no means extraordinary; 15 Federal agencies, including the National Labor Relations Board, the Federal Trade Commission, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Communications Commission, the Small Business Administration, the Department of Agriculture, the Interstate Commerce Commission, the Civil Aeronautics Board and others already have cease-and-desist powers. There is no reason for denying land buyers the protection they receive from agencies who police other areas. Why should land developers get special consideration? Why are they better than banks, TV stations, or labor unions? HUD should have the same cease-and-desist powers as everyone else.

The argument that cease-and-desist powers violate due process is completely incorrect. Like all of the other agencies and the cease and desist laws on the books, title IV provides for the issuance of orders only after a trial-type hearing before an administrative law judge in accordance with the requirements of the Administrative Procedures Act.

□ 1750

Numerous Federal courts have recognized the independence of the administrative law judges and have said that administrative hearings held under APA fulfill the requirements of due process. For example, in a recent decision, upholding the validity of administrative actions, the U.S. Supreme Court held that an administrative law judge "is not responsible or subject to the supervision or direction of employees engaged in the performance of investigative or prosecution functions for the agency." *Butz* v. *Economu*, 438 U.S. 478 (1978). The use of cease and desist orders after administrative hearings is a necessary and universally accepted protection which should be given to land purchasers.

The unscrupulous land dealers prey on the innocent.

The maker of the amendment talked about some problems that they had in Florida. Here is a recent headline—"Interstate Land Sales victim may be $14 million in FTC agreement." Let us talk about Rio Rancho. The Rio Rancho case is a good example of land sales frauds. Between 1961 and 1971 AMREP, the owner of Rio Rancho, bought 91,000 acres, about 142 square miles of semi-arid land near Albuquerque, N.M. AMREP paid between $178 and $196 per acre for most of the land; yet in 1974 it was selling homesites on the same land for between $7,000 and $11,400 per acre. Some unimproved commercial and multiple-dwelling lots were selling for prices in excess of $25,000 for a quarter acre. There was nothing to justify this markup. AMREP made no improvements other than rough roads to all but a small core area of Rio Rancho, and there was no resale market for the development's lots. In fact, AMREP purchased the first 54,000 acres in 1961 for $178 per acre and bought additional land adjacent to Rio Rancho 10 years later for about $180 per acre. Rio Rancho sold more than 77,000 lots to about 45,000 people in 37 States and overseas. The sales operation focused on relatively unsophisticated blue-collar workers and resulted in the sales of over $170 million before the Federal Government stepped in.

After a 3-year legal battle—and I want to call my friend's attention to that—four officers of the AMREP Corp., the owner of Rio Rancho, were convicted on 20 counts of mail fraud and 5 counts of violation of the Interstate Land Sales Full Disclosure Act. On March 10, 1977, U.S. District Court Judge Charles M. Metzner sentenced the four individual defendants to concurrent terms of 6 months' imprisonment on each of the 25 counts. The AMREP Corp. was fined $1,000 on each of the 20 mail fraud counts and $5,000 on each of the 5 interstate land sales counts, for a total of $45,000 in fines.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. MINISH. I will be happy to yield to the gentleman from South Carolina.

Mr. CAMPBELL. I thank the gentleman for yielding. I think that I would like to make a point at this time before I go to another point.

Mr. MINISH. I do not plan to yield all of my time, so please get to the point.

Mr. CAMPBELL. The gentleman is talking about a criminal case versus a civil case of mail fraud; is that correct?

Mr. MINISH. Rio Rancho, fraud.

Mr. CAMPBELL. Yes, criminal.

Mr. MINISH. It was fraud.

Mr. CAMPBELL. Criminal fraud.

Mr. MINISH. Yes.

Mr. CAMPBELL. We are not into criminal penalties. The criminal section of this bill is not being affected whatsoever in this.

Mr. MINISH. Only in that if they had cease and desist orders, this would not have happened. That is the point I am trying to make.

Mr. CAMPBELL. I would like to ask one other question, if I might.

Mr. MINISH. I do not have any more time at this point. If I have time, I will yield further.

What I want to say to my friends is if they are not concerned about the civilians, for God's sake, at least be concerned about the servicemen. Many military purchasers say they have been had by these same developers. The Army Times article I have in my hand describes numerous cases of soldiers being defrauded. They are doing their best to protect us, it is about time we did something to protect them.

All this amendment does, if it is passed, is it gives the unscrupulous landowners another opportunity to steal from innocent victims.

□ 1755

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. MINISH. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I would like to congratulate the gentleman, as a consumer-director in New Jersey I know we have to have a Federal law that crosses State lines. I could not get protection for my people because if they were out of State there was nothing much we could do.

I applaud this amendment. I hope very much we can get protection.

Mr. MINISH. Mr. Chairman, I thank the gentlewoman for her remarks. I am well aware of her job as director of consumer affairs for New Jersey. I also want to add that she did a very good job as head of that agency. I know the gentlewoman had many cases of this type which she was unable to deal with because of inadequacy of the present law.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. MINISH. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Chairman, the point or statement that the gentleman in the well made to the gentleman from South Carolina that he knew if his amendment passed that these people would be prosecuted, I would ask the gentleman to reconsider those words, to take them down, because they are not what the facts are.

Mr. MINISH. As I understand it, the gentleman knows about the Rio Rancho case. I thought the gentleman was aware of these problems.

Mr. CAMPBELL. The gentleman made a flat statement.

Mr. MINISH. Is the gentleman saying he did not know about Rio Rancho? The gentleman knows it now, does he not? The gentleman knows it completely now.

Mr. CAMPBELL. I know what the gentleman has just stated.

Mr. MINISH. The gentleman knows now, so the gentleman ought to withdraw his amendment.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think there is something that should be pointed out and that was in the Florida land case that was pointed out a while ago. This is a Federal Trade Commission, an FTC agreement that was cited just now from the well which points back to what I have been saying all along, that there is a remedy and there is a method you can do it. We are being duplicative in that. I think that point should not go unchallenged; but I would like to go a little bit further than that, because I do think these people should be prosecuted. They should go to jail and that every legal remedy should be pursued to stop them from any fraudulent action.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, on which one, that is to cease and desist?

Mr. CAMPBELL. Mr. Chairman, I would like to point out further, these are not the average case. These are the exceptions. They should be prosecuted to the fullest extent.

Let me read some of the complaints that go to the heart of the matter. These are examples of cases that the Office of Interstate Land Sales Registration has received.

A buyer wrote a complaint that a developer enticed him to visit a project with an offer of "free hot dogs"; but the hot dogs were cold and no mustard was available; therefore, the developer was guilty of false and deceptive advertising.

Another buyer wrote complaining that the cost of greens fees at the project's golf course had been increased from $5 to $7.

Another buyer complained that "club" dues were raised by $10 per quarter.

Another buyer complained that his lawyers mishandled a lawsuit he brought against a developer, and on and on.

Finally, and I have a copy of one right here with me. This is one where they say that after finding this out, that there was not enough rain for the garden to grow and there were so many deer that would come in and eat up their plants as they came up. Therefore, it had been fraudulently advertised that this was a good piece of real estate.

Those are the types of complaints we are talking about with small developers in an intrastate situation. We are going into intrastate, because we are not down to one lot.

Mr. HYDE. Mr. Chairman, I yield to the gentleman from New Jersey (Mr. Minish).

Mr. MINISH. Mr. Chairman, the gentleman from South Carolina did not indicate that the taking of $140 million profit, as Rio Rancho did, is not an ordinary case.

Mr. HYDE. Mr. Chairman, I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for yielding.

I said of the cases, it would be an exception, an exception would not be an ordinary run-of-the-mill case.

Mr. MINISH. Rio Rancho is not an exception, is it?

Mr. CAMPBELL. I certainly think it is an exception to the ordinary run of the mill. It is the only one mentioned.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Hyde) has expired.

(By unanimous consent, Mr. Hyde was allowed to proceed for 1 additional minute.)

Mr. HYDE. Mr. Chairman, I think this is a great bill. I compliment the gentleman from New Jersey for bringing it. We need a Federal law, the fast buck artists ought to be prosecuted. Let us agree to the horror stories, they are horrible.

What concerns me is the way we are rushing to judgment against somebody, that somebody makes a complaint about, and it is all in-house. The prosecutor, the investigator, the judge, the jury, the executioner, the undertaker, it is all in-house.

□ 1800

Now, that is fast and that is expeditious, but is it justice?

I know there are 16 other agencies that have this plenary power. That is terrific. That is fast and it is expeditious, but what concerns me is that we have this administrative judge, and whatever this judge finds the Secretary has the power to overrule and to change the finding. The appeal to court, when they finally struggle through this incestuous in-house, intramural operation and get to court, is narrow; the scope of the appeal is about this narrow. The facts are as found by the Secretary unless there is no evidence to support them.

It is just that some due process is appropriate, that is all. While 16 other agencies have this power, that does not mean we should give it to a 17th agency.

Mr. KELLY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think right at the outset that I should take just a moment to compliment the gentleman from South Carolina (Mr. Campbell), the gentleman who brought this amendment to the floor, for his restraint. I think that accolades should go to my good friend, the chairman of the subcommittee, for his courage in coming here to support a piece of legislation of this kind.

I think the Members of this House should understand that, with the Office of Interstate Land Sales, we are not fighting crooks. That is not what this legislation is about. What we are doing is imposing the heavy hand of stupid government on the development industry of the United States of America.

We do not catch many crooks with this deal, but let me tell the Members what we do every day that passes under the Sun in the heavens, and that is that we impose a burden of having to comply with the regulations. It costs about $3,000 to $20,000 on an average to apply, in order to be able to do business, and developers have to make this application to this office, to this Federal bureau.

Why do we need this? Let me tell the Members why. There was some publicity in the paper about a bunch of dummies who bought land that they had never seen, and they got cheated. They bought land because they read in a magazine that some character had a piece of "heaven" out somewhere under the western sky of Colorado or some place, so some gallant here in the House of Representatives or in Congress came galloping up to save these citizens.

Well, as a result, everyday now every honest developer in the United States of America and every wary, conscientious purchaser who goes out and compares land and looks at it and is careful so that he is not cheated has to pay the penalty of this bureaucracy.

There is no more reason for the Office of Interstate Land Sales than there is for us to have an additional Congress. As a matter of fact, maybe it is not quite that bad. I think I overstated.

But I do want to point out some other things to the Members. Every State in the United States of America has the prosecution equipment. It has the laws and it has the law enforcement agencies to handle any kind of fraud or to proceed against any kind of crooks in the State. A purchaser has either got to be in the State where the land exists or in the State of his residence, and if the fraud is perpetrated in either of those places, the State of situs has the power to prosecute.

In addition to that, we have the FBI, we have the Attorney General of the United States, we have the Department of Justice, we have the Postal Department, we have the FTC, and we have the SEC and all of the other array of prosecuting and investigating agencies.

Mr. MINISH. Mr. Chairman will the gentleman yield?

Mr. KELLY. Mr. Chairman, I will yield in just a minute. I will be happy to yield later to the gentleman for what enlightenment that would bring us.

Mr. Chairman, we have all of this, and we have no more need for this agency. This is not a device to punish crooks; this is a device to make it appear that "we are taking care of the public." But one more time on the floor of this House it is necessary to ask how much more protection can the taxpayers and the people of the United States afford?

We are giving them more than they can afford right now. They are about to collapse from all the good things we are doing for them. The economy is in shambles, our defense structure is not competitive in many cases throughout the world, we are in trouble, and that is happening because of this very kind of nonsense.

Mr. MINISH. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I will be happy to yield to the gentleman from New Jersey.

Mr. MINISH. Mr. Chairman, the gentleman referred to some of the land purchasers as "dummies." The gentleman did not mean to use that term for the servicemen, did he?

Mr. KELLY. Oh, yes, I did. I meant it to apply to everybody who goes out to buy a piece of land just because some crook calls him on the telephone and says, "Hey, man! Have I got a hot deal for you!"

I want to tell the gentleman something. There is no protection anywhere in the world for people like that. And the very idea that we, as Members attempting to represent all of the people, would impose upon our country this kind of a fraud is a disgrace.

☐ 1805

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from South Carolina.

The CHAIRMAN. The time of the gentleman from Florida (Mr. KELLY) has expired.

(On request of Mr. CAMPBELL and by unanimous consent, Mr. KELLY was allowed to proceed for 1 additional minute.)

Mr. CAMPBELL. I thank the gentleman for yielding.

The gentleman is aware, I am sure, that we have tried to look after those who may have been defrauded, erroneously or otherwise, by extending the period of time in which they can vacate a contract from 3 days to 10 days, so all they can do is just say it is null and void in the law now; is that correct?

Mr. KELLY. That is a part of the law. But the point is clearly this: We should not give this agency more power. We should get rid of the agency. There is no reason for it to exist. The Member, whoever it was, that perpetrated this thing, this agency, on the public has already gotten his publicity. Then let us settle for that. And let us get rid of it for the sake of all of the honest people who are doing business in the development and housing industry. They are not crooks. It is an affront to the dignity of the people of this country to suggest that everybody who is a developer is a crook.

Mr. EVANS of Delaware. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Department categorized the complaints that were received under fraudulent practices related to interstate land sales into five general areas, and this bill addresses, I think, quite properly, those complaints. However, several provisions on this bill go far beyond what is reasonable and necessary to deal with fraudulent activities.

I strongly believe in protecting the consumer from unscrupulous salesmen, but there is a limit to what we can or should properly do. The amendment offered by the gentleman from South Carolina—and I congratulate the gentleman on his amendment—corrects a serious flaw in this bill. Title IV of the Housing and Community Development Amendments of 1979 establishes a dangerous precedent which compromises both our system of justice and the doctrine of the separation of powers. It has been said here on the floor of the House of Representatives that there is a limit to what the consumer can afford, and I think there is a limit to the extent which the Federal Government may and can go to look out for the private concerns and interests of a citizen. But even in this case, financial considerations become irrelevant when you are talking about legislation which would fundamentally challenge many of the essential principles underlying our system of justice and further erode the doctrine of separation of powers. The blindfold on the lady of justice is there for a reason. It symbolizes both equal justice under the law and the presumption that fair and impartial justice will be administered in a judicial forum. When you get a situation where you allow the Secretary of one of the major departments of the executive branch of Government to assume distinctly judicial powers and be both prosecutor, judge and jury, I say to the Members of the House that you are irresponsibly challenging the established precepts of our system of justice. This bill, in its present form, shifts the burden of proof from the Government to the individual developer. This provision of the Interstate Land Sales Act is another example of the generally misguided effort to concentrate quasi-judicial powers in executive agencies. It is simultaneously unnecessary, unreasonable, unwarranted, and inconsistent with the historical division of powers which characterizes our democratic form of government.

Mr. Chairman, I hope very much that the Members will vote for the amendment offered by my friend, the gentleman from South Carolina (Mr. CAMPBELL).

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I appreciate the interest of the Members on this issue. I have followed it closely but admittedly, not as close as the gentleman from New Jersey (Mr. MINISH), who has worked a long time, on the improvements in this legislation and the OILSR law.

Before us we have a major revision concerning the Office of Interstate Land Sales Registration in HUD, and I guess it came about because there were problems and abuses that came to light as a result of State and Federal regulations that were intended to effectively protect consumers and developers and provide the proper information to all interested individuals. In other words this is a remedial measure that seeks to streamline, simplify and provide effective remedies for the OILSR role.

I take exception to the comments of the gentleman from Florida (Mr. KELLY) about the intelligence or the ability of American people, because there are many people who do not have the ability to understand adequately a land transaction and what is happening and, as a consequence, can be duped into purchasing something improperly.

☐ 1810

I think that concentration here in this issue, and the focusing of responsibility where it belongs. We must recognize that the Secretary does and has received many of these complaints in the Office ILSR, and as a consequence, predictably came forth and asked us to provide them with the opportunity and the ability to do something about very specific complaints.

Now, the initial request of the Office of Interstate Sale Registration was for a broad cease and desist order power. The nature of this legislation after committee review was to narrow the dimensions and the size of that power to a more constrained and a very narrow cease and desist power.

What the gentleman from South Carolina, of course, is attempting to do is to strike that out. Obviously, there are other means available to solve this problem. I guess the question is not whether there should be cease and desist power, the question is, Who should have the right to exercise it? In other words, do we want to give it to the Federal Trade Commission, as the gentleman from South Carolina has suggested, that we leave them be the reservoir of that particular power and the exercise of it?

Do we want to leave it with the overloaded court, who also has that power? Or, do we want to give it to the Office of Interstate Land Sales Registration.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. The Federal Trade Commission already has that power.

Mr. VENTO. That is right, but the question is who do we want to exercise the cease-and-desist prerogative.

I did not mean to suggest they do not have it. The intention in the legislation is to leave it with the one office that does the registration and has the information and that receives the complaints. That is the argument that I would make to the gentleman from South Carolina in opposition to his amendment to strike OILSR is an office that has the registration information, that is actively involved in the field, but yet, the gentleman wants to imply that the courts ought to do this, who would have to be reeducated with each and every case, or that the Federal Trade Commission should expand its jurisdiction over this area, because its bureaucracy in addition to heavy burden that they already have assumed.

In an area where it does not have the expertise today, should we build the expertise upon the foundation that we have in place with the Office of Interstate Land Sales Registration, or throw this responsibility to other commissions or the courts?

I think that the logic would insist, and economy, efficiency in the operation of the Federal Government would come down on the side of providing the power to the office that has already assumed the responsibility.

As I say, this is a much narrower power—and when the opponents suggests some of the minor fraudulent activities, look at the report language or in the law that suggest that the Secretary must have cause to believe that the violation is likely to cause immediate and substantial harm to the purchasers or lessees of that particular property.

That is a very tough, stringent test. It is intended to be. If we could narrow it any more, I do not know how we could do it and still do justice to consumers and developers.

So much concern flows to the temporary injunction. In these instances there is an appeal process. In spite of the concern of the gentleman from Illinois about this being an inhouse operation, there is an administrative law judge procedure in which this individual law judge is selected in an objective and unbiased manner. We let that administrative law judge make many decisions, just as in other agencies where such cease-and-desist power exists, decisions are made in an objective manner. In other words, if there is something wrong with that process, we ought to deal with that, rather than raise the issue simply as it applies to the OISLR in HUD.

For the general cease-and-desist order, the appeal opportunity for that individual is to go to the regular court of appeals and to have that cease-and-desist order lifted. In other words, we are talking about the general and temporary cease-and-desist orders, where substantial harm is involved to consumers and that is what the amendment attempts to strike out from this proposal.

Mr. CAMPBELL. If the gentleman would yield further, the gentleman is quite correct that there is an appeal from the temporary restraining order, but in so doing, it must prove that the order was issued in an arbitrary and capricious manner, and those are the only grounds.

Mr. VENTO. I think that is a good point. If they cannot demonstrate that when there is immediate and substantial harm to the purchasers, and that is of course the test, the very narrow test, then the order ought not to be lifted. I think it ought to be pointed out that we are not talking about a remedy for the minor complaints that the gentleman from South Carolina (Mr. CAMPBELL) earlier referred to.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. VENTO) has expired.

(At the request of Mr. CAMPBELL and by unanimous consent, Mr. VENTO was allowed to proceed for 1 additional minute.)

Mr. VENTO. Just this summary. I think the logic has to come down on the side of leaving the Office of Interstate Land Sales Registration, with the opportunity to exercise this particular power, because they have the information. They have the staff. They have done the work. I think that to reimpose that or superimpose that in the Federal Trade Commission or bounce this back into court is really an inefficient way and an inoperative way for this Federal Government to exercise the administration of this law.

We have set this administration up in HUD and we ought to use its ability to the fullest extent possible to provide the protection that the American consumers are paying for.

□ 1815

Legitimate real estate developers and consumers would benefit from that.

There ought to be a rhyme and reason for them filing the information required in OILSR. We ought to require HUD and OILSR to the fullest extent of the ability, to create and gain these benefits for consumers and developers that you and I represent.

Mr. CAMPBELL. Would the gentleman yield?

Mr. VENTO. I am happy to yield to the gentleman.

Mr. CAMPBELL. I thank the gentleman. The only point is we are not leaving a power with HUD, we are giving a new power and we are not striking existing law, we are creating new law.

Mr. VENTO. I understand exactly what the gentleman is saying. I would differ with the gentleman in pointing out that the power should reside with those who can exercise it and have an ability to use it most effectively, the OILSR within HUD.

Mr. PASHAYAN. I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I must share a somewhat amusement with my colleagues that I have that the Department of Housing and Urban Development has to wait in line to enter the crowded courts.

What inconvenience.

What inexpedience.

What indignity that the Secretary of HUD should wait her place in the long line of overcrowded courts.

Let the citizens wait, but let us not have our Secretary wait. And so because of this she comes to this body and asks what I consider a rather radical solution to her problem of inconvenience.

Her solution is to ignore the grand and broad principle of common law. Her solution has the terrible effect of shifting the burden of proof from her Department to the private citizen. Her solution certainly violates the spirit of the separation of powers of our Constitution.

In short, she seeks what is in essence an arbitrary power both to prosecute in the initial instance and to judge the merits of the case.

This is the kind of classic usurpation of power that, in my opinion, I think we have seen all too much of, in this town over the last several decades.

I am not for 1 minute defending the wrongdoing on the part of certain landowners, but what I am saying is for this body to pass a law that would result in the Secretary accumulating these kinds of powers is the sort of thing that this Congress I think ought best to avoid. Expediency is no cause to depart from the principles of due process. And I would like to think that this Congress would let the benefit of the doubt lie with the citizen rather than the Government.

Mr. CAMPBELL. Would the gentleman yield?

Mr. PASHAYAN. I will yield my time to the gentleman from South Carolina.

Mr. CAMPBELL. I thank the gentleman for yielding. I think the points he has made are very important.

I wonder if the gentleman is aware that the other body had the same type of legislation and that they chose not to adopt the bill with this provision in it in the Banking Committee of the other body?

Mr. PASHAYAN. I am aware of that and I thank the gentleman for pointing it out. I can only say that that was a wise step on the part of the other body.

Mr. CAMPBELL. I thank the gentleman.

Mr. BUTLER. Mr. Chairman, I move to strike the last word and I rise in support of the amendment.

Mr. Chairman, I will not burden the membership with a repetition of all of the reasons why it is undesirable to extend the cease and desist authority to administrative agencies and the Secretary of HUD in this instance. I think it is a very substantial authority, it is a very significant authority, and I think it is very important that we not undertake it lightly.

In this particular instance, of course, there are certain due process provisions of this particular legislation which concern me, and I am very grateful for the kind remarks of the gentleman from Ohio about the amendment which I would offer to cure some of these deficiencies. I appreciate his agreement to accept those amendments.

But, I think we better judge this amendment before us in section 407 on section 407 as it now appears, because we have no assurance that the rest of the membership is going to be as kind and generous as the distinguished gentleman from Ohio. So I would only mention certainly the procedural deficiencies which concern me about this particular piece of legislation, this particular extent of authority. On page 39 of the report it tells there, "where it is determined, after a hearing on the record before an objective administrative law judge, that the Secretary * * * has reasonable cause to believe * * *" that certain rights flow from that, but if you will read the bill, we are not guaranteed that there will be a hearing before an administrative law judge. I think you can by reading other sections and by reading the Administrative Procedures Act read the right of an administrative law judge into that. I am sure that is the intention of the Secretary when requesting this amendment, but I wonder whether that sort of draftsmanship ought to be perpetuated in the law. But there are no procedural deficiencies. If you will read the bill on page 51: "Such hearing * * *"—this is a hearing by the Secretary, and presumably before an administrative law judge—she picks the time; she picks the date; she picks the place; and she sets the time—"shall be on a date at least 20 days and not more than 45 days * * *" the developer or agent shall have the right to appear, and then on line 8 it says, "Notwithstanding the preceding sentence, if the developer or agent fails to file an answer and intention to appear within 15 days after service of the complaint and notice, such developer or agent shall be deemed to have waived the right to a hearing * * *."

In other words, you have a hearing within 20 days of service, but if you do not show up before the 20th day, then you waive your right. That is a pretty surprising sentence, a pretty surprising power. I do not think it ought to be in the law, and that is one of my objections to this.

Where is the right to counsel in this hearing? Where is the right to present evidence? Where is the right to be represented? Where is the right to cross-examine? Where is the right to be confronted by witnesses against you? None of these things are preserved in this legislation.

Then, of course, we have the temporary restraining order. There is no hearing at all for a temporary restraining order.

Whenever the Secretary has reason to believe, and so forth, and so forth. A violation is likely to cause immediate and substantial harm. Then she or he or they may issue the temporary restraining order. That is a big step to take, because I think we have got to recognize that once you issue a temporary restraining order against a land developer or salesman, or against anyone, you have forever maligned that person, and what it does to his business and what it does to his future as a result of this temporary restraining order, whether it is later removed or not, is the sort of damage that we ought not to make available to an administrative agency or to a Secretary under the law.

Mr. MINISH. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from New Jersey.

Mr. MINISH. I thank the gentleman for yielding.

Is it not a fact that if you do not show up in any court on the appointed date you are in default? I am asking you if you do not show up in any court, are you in default? The gentleman is concerned about the individual not showing up. Is it not the same in any court?

Mr. BUTLER. I appreciate the gentleman's question, and the answer is no. I will say to the gentleman if you do not show up, you still ought to be entitled to a hearing, because we are still going to do this. But what this bill, this legislation, says is, we give you notice. Come in in 20 days for your hearing, but if you do not let us know in 15 days that you are coming in an the 20th day, you waive your right to a hearing. You tell us what you are going to do, but we "ain't" going to tell you what we are going to do. That is not due process.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(At the request of Mr. VENTO, and by unanimous consent, Mr. MINISH was allowed to proceed for 1 additional minute.)

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MINISH. I yield to the gentleman from Minnesota.

Mr. VENTO. I appreciate the gentleman's diligence in terms of this issue and his distinguished work on the Committee on the Judiciary, but I am concerned. Is the administrative procedure really set up here that much different from what exists for the other agencies that have that power today? Can the gentleman speak to that issue? He has pointed out that he felt this was a very unusual power in this particular instance. Is it not exactly the same; does the gentleman know or not?

Mr. BUTLER. It would be my intention to speak to that issue, if the gentleman would give me an opportunity. I will say to the gentleman I have not had an opportunity to compare the cease-and-desist order elsewhere, so I cannot speak to that, but I can say to the gentleman that I am offended by the cease-and-desist order we would grant here under the circumstances.

Mr. VENTO. I appreciate that. If the gentleman will yield further, in reading this, "Whenever the Secretary has reasonable cause to believe that the violation * * *" then I think you have to look beyond that that there is cause, or immediate or substantial harm to the purchasers. The time frame seems to be a little compressed here, and I think it has to be recognized in the context of that particular concern that the committee tried to be as narrow as possible.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

● Mr. GOLDWATER. Mr. Chairman, I rise in support of the Hansen amendment to H.R. 3875 which would waive applicability of the Davis-Bacon Act for Indian housing and residential housing rehabilitation projects carried out by neighborhood based nonprofit organizations.

Because this act requires private contractors to pay the regional prevailing wage to workers on any federally funded construction project, costs are much higher than they would be if awarded to the lowest bidder.

According to the GAO report released last December, Davis-Bacon has cost the Government approximately $715 million a year in unnecessary construction and administration costs. All because the Department of Labor has tended to set the wage rate at union scale rather than at the typical or prevailing scale for a particular locality.

Another study by the Senate Select Committee on Indian Affairs shows that Davis-Bacon has been a major source of inflation and delay on Indian housing projects.

I will not argue the point that Davis-Bacon may have been necessary at one time. This act was passed during the depression to protect local construction workers from outside competitors who were willing to work cheaply and were underbidding local builders, thereby forcing down local wages. However, there is no justification for it today.

By amending this act, we will be reducing the inflationary impact of Davis-Bacon to some degree, thereby assisting our beleaguered taxpayers who have been picking up the tab for Government waste for so long. I urge my colleagues to support this amendment.●

● Mr. UDALL. Mr. Chairman, I voted for the Hansen amendment.

The original intent of the Davis-Bacon Act was to prevent Federal contractors from engaging in the practice of bringing into an area of Federal construction out-of-State workers who generally worked for less than the local community workers, thereby undercutting and depressing prevailing local wage scales, demoralizing local labor markets, and disrupting local economic conditions.

Mr. Chairman, I continue to support that basic intent and regret any attempts to weaken the Davis-Bacon Act. But my support of the act is not a blind one. As chairman of the House Interior Committee, I feel a special obligation to protect Indian interests.

Where experience with Davis-Bacon has shown, in any particular circumstance, that the act is not having that effect or, worse, is having the opposite effect, we must be ready to make intelligent exceptions to the act.

The application of Davis-Bacon to Federal housing programs on Indian reservations, as interpreted by the Labor Department, has had the exact opposite effect.

When the national unemployment rate rises to 6 percent, there is panic in the economy. Yet, rates of 40 percent to 80 percent unemployment are common on Indian reservations. The Labor Department sets the prevailing wage rate for Indian housing construction contracts based upon the high rate in the nearest urban area. Unskilled, untrained Indian labor cannot compete at this high wage rate and the contractors, relying on the Labor standard, import off-reservation labor, effectively denying Indian people of badly needed jobs.

Davis-Bacon was also intended to permit local unskilled labor to work on Davis-Bacon projects at apprentice rates to gain the necessary skills. Again, the Bureau of Apprenticeship and Training of the Department of Labor has effectively prevented this aspect of Davis-Bacon from operating on the reservations.

The net result is that Indian labor is denied jobs on their own reservations and are denied the upward wage mobility built into Davis-Bacon.

Even worse, this perversion of Davis-Bacon has artificially driven up the cost of Indian housing, denying Indians badly needed public housing assistance.

Mr. Chairman, while I continue my general support of the Davis-Bacon Act, I do support the limited exemption proposed in the Hansen amendment.●

The question is on the amendment offered by the gentleman from South Carolina (Mr. CAMPBELL).

The question was taken; and the chairman announced that the ayes appeared to have it.

Mr. ASHLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

Mr. ASHLEY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

The Chair has already ruled that an insufficient number stood for a recorded vote. A separate point of order has been made that no quorum is present, and the Chair is counting; 77 Members are present, not a quorum.

PARLIAMENTARY INQUIRY

Mr. STANTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. STANTON. Under the rules of the House, is it applicable to make this point of order after the vote has been over with?

The CHAIRMAN. The Chair will state to the gentleman it is always in order to make a point of order of no quorum. The Chair has already ruled, however, that there was an insufficient number standing to order a recorded vote. If the chairman of the committee desires to call for a separate vote in the House after the bill is disposed of, he may do so.

Mr. STANTON. Mr. Chairman, then no vote can be taken at this particular time?

The CHAIRMAN. A recorded vote on the amendment is not in order.

Mr. ASHLEY. Mr. Chairman, I ask unanimous consent to withdraw the point of order.

The CHAIRMAN. The Chair has already announced that a quorum is not present.

PARLIAMENTARY INQUIRY

Mr. STANTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. STANTON. Mr. Chairman, could I move that the Committee do now rise?

The CHAIRMAN. It would be in order to do so.

Mr. ASHLEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. GIAIMO, having assumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, had come to no resolution thereon.

PERMISSION FOR SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT UNTIL NOON TOMORROW DURING 5-MINUTE RULE

Mr. STEWART. Mr. Speaker, I ask unanimous consent that the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce may be permitted to sit until noon on Thursday, June 7 during the 5-minute rule.

The SPEAKER, pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

FUELS REPLACEMENT BILL—TO REGAIN CONTROL OVER OUR OWN DESTINY

(Mr. JEFFORDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. JEFFORDS. Mr. Speaker, today myself and 19 of my colleagues, a bipartison group, are introducing a bill because like most Americans, we are tired of being at the mercy of OPEC. We want our Nation to regain control over our own destiny.

We propose to put a cap on what OPEC can charge us, by providing an alternative to buying their oil. We propose to do that by making the best use of our Nation's vast natural and technical resources, and of our dynamic free enterprise system.

Our proposal, the fuels replacement bill, creates an assured market for substitute fuels. Any number of alternatives are available or can be produced to meet this mandate, including alcohol from wood, grain, or garbage, synthetic fuel from coal, or oil from shale. The fuels used would be determined by marketplace competition. There would be no cost to the Federal Government, except for enforcement.

Refiners would be required to phase in substitute fuels, beginning in 1981, with quantities increasing to 10 percent of their total gasoline production by 1987. They could mix the fuels themselves, or contract with others to do it. They would have flexibility to alter their percentages at different times of the year and among the geographic regions they served. If they failed to meet the goal at the end of the year, they would be fined a dollar for each gallon of fuel sold in violation of the law.

Estimates of the consumer cost of motor fuel under this program vary greatly, as you might expect. But it is clear the price will be cheaper than it would be without the program.

Spot checks from OPEC are now over $20 a barrel, and in one recent case, over $50. For each new barrel produced as a result of the President's decontrol program, the "marginal" cost will range from $40 to over $100, depending on which experts we choose to believe.

By comparison, using the best figures available from the Department of Energy, the Congressional Budget Office, and Congressional Research Service, the cost of substitute fuels is competitive with some current oil prices.

Shale oil would range from $20 to $25 per barrel. Alcohol prices would range from $20 to a little under $50. Liquid from coal would have an initial price range of $25 to $40, but the top end of that projection would be reduced to $30 by 1985.

Clearly, this program will not bring back the era of cheap energy. But it will, at the very least, stabilize the incredible price hikes which will otherwise occur.

It is important to note that our bill will work with or without decontrol. Those of us opposing decontrol—and I happen to be in that category—have an obligation to come up with an alternative. This legislation can fulfill that obligation. Those who favor decontrol must find a way to assure excess profits will be put to good use. The bill would also accomplish that purpose.

It should also be understood that we are not proposing a venture into the unknown. Brazil already mandates 10 percent gasohol, and big oil companies such as Exxon and Texaco have complied. South Africa now produces synthetic gas from coal. Germany used liquefied coal in World War II. With the research and experience behind us, and with the vast natural and technical resources available to this country, we can do it better and cheaper.

To anticipate a question you might well ask, If the idea is so sound, why has not our own Energy Department suggested it? One DOE spokesman gave me a candid answer that is not likely to be repeated publicly. DOE considered it, but has not used it because the oil companies did not like it.

Any realistic plan for energy independence requires substantial lead time. This bill does not provide a full answer today. But positive action by Congress will send crucial messages to OPEC and to the major oil companies.

The message to OPEC will be that we have a serious program, putting us on the road to energy independence, and that they would be well advised to deal with us in a reasonable manner.

The message to the oil companies will be that Congress, rather than big oil, will be dictating America's energy policies from now on.

The Members joining me are: Mr. ANDERSON of Illinois, Mr. MINETA, Mr. EMERY, Mr. SIMON, Mr. WAMPLER, Mr. GLICKMAN, Mr. GRADISON, Mr. BEDELL, Mr. PERKINS, Mrs. HECKLER, Mr. NEAL, Mr. LEACH of Iowa, Mr. MOORHEAD of Pennsylvania, Mr. MADIGAN, Mr. D'AMOURS, Mr. JOHNSON of Colorado, Mr. BALDUS, Mr. RICHMOND, and Mr. PANETTA.

Mr. Speaker, we are tired of an energy policy based on faith, hope, and charity in companies and countries that are less than our best friends. It is time to put our faith in America.

NATIONAL TAX LIBERATION DAY

(Mr. PHILIP M. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PHILIP M. CRANE. Mr. Speaker, June 6 is a great day of celebration. The House should join in commemorating this day of freedom. June 6 is the day the average American taxpayer is finished working for Government this year and can finally begin working for himself.

Forty-four percent of the average American's income will go to Government this year—approximately $7,000. This figure represents the total cost of all levels of Government: The taxes withheld, the taxes paid, the taxes hidden, the taxes postponed, and the worst tax of all, inflation. Government has spent every penny we earned up to June 6. Coincidentally, June 6 is also the anniversary of proposition 13's victory.

I bring this up not to air the traditional conservative complaint of excessive government, but to propose a liberal remedy. I have a proposal that could help us achieve a balanced budget without a constitutional amendment. I call it truth in advertising.

The Government is not now practicing truth in advertising. There is unprecedented ingenuity in dispersing and hiding the real tax burden; not the least of which is deficit spending, devalued currency and inflation. I propose that we set a noble example for the hundreds of thousands of corporations we regulate by practicing truth in advertising.

No. 1. Let us calculate every year the Tax Liberation Day—the day the average American stops working for Government and starts working for himself.

No. 2. Tax Liberation Day would become a national holiday. Americans have worked for Government up to that day; it is only fitting that Government give them a day off to rest.

No. 3. We also make that day the deadline for IRS returns instead of April 15. This year it will be June 6. Next year it might be June 10 and so on.

No. 4. We advertise that truth; we advertise that date. As soon as our statisticians figure out which day it is, the President could help publicize that date by dropping in on an average American taxpayer and announcing to him how long he will be working for Government in the coming calendar year. Then the President could ask to spend the night with him so he could get to know what the average American taxpayer thinks about that. If he gets to spend the night there—and the average American taxpayer is pretty tolerant that way—the President can explain why that average American taxpayer will be working as hard for the Government as a lot of people on Government payrolls. This would not only be instructive to the taxpayer and to the President, it would also get other taxpayers interested in figuring out their tax burden.

No. 5. Every new spending program introduced would not only have the "inflationary impact" estimating how much it would cost the Treasury, it would also estimate how long this might delay the time the IRS could collect the money to pay for it. For example, let us say a Senator wanted to pass an extensive new program for health insurance. Nowadays he inspires us by saying, "Let's not be stingy, we'll all be taken care of." But with truth in advertising, he might also add, "Oh, yes. This means you will have to work an additional 2 weeks for the Government."

Now I know also that some of my colleagues might complain about my proposal because we already celebrate freedom later in the summer. I would just like to point out that if present spending trends continue, then the June 6 freedom celebration would soon be pushed back to July 4 anyway. In fact, if current trends continue, we might have to celebrate tax freedom in conjunction with Christmas.

So I ask my colleagues to consider this progressive proposal, this reform proposal, this liberal proposal for truth in advertising. On July 4, we once declared our independence from taxation without representation. On June 6 I ask you to declare our independence from taxation with representation.

Governor Adlai Stevenson said:

> Let us talk sense to the American people. Let us tell them the truth. . . . Better we lose the election than mislead the people.

That is what he told the Democratic convention in accepting their Presidential nomination in 1952. "Better we lose the election than mislead the people."

My truth in advertising proposal is really just simple justice. How can we ask someone to pay last year's taxes by April 15 when he is still working for Government for this year?

By delaying the IRS deadline to June 6, or whenever Tax Liberation Day occurs for that year, we would also be giving the taxpayer a slight tax cut. Other IRS deadlines for withholding taxes and estimating taxes and so on would also be delayed accordingly. With the ingenuity we have shown in devising new taxes I am sure we can easily figure out how to set later deadlines.

My proposal would not constitute a substantial tax break but it just might spur productivity enough to help overcome the financial stagnation that presently threatens us. In the last issue of Time, their essay pointed out that American productivity "has in recent months dipped below zero progress," but that "meantime, the public sector in the past three decades has consumed more and more of the Nation's gross product—32.5 percent in 1978."

It said, "Productivity is not simply a matter of people willing to work hard, although that remains a major factor. It is also a matter of maintaining healthy machines and plants, capital investment and innovation. In most of these areas, America now lags behind many other nations."

This truth in advertising would also help balance the Federal budget without a constitutional amendment. Not only temporarily by spurring productivity and investment revenues, but more importantly by waking up the American taxpayer. If the average American taxpayer knew that 44 percent of his income and working time went to the Government—and that percentage was steadily increasing—he would not tolerate unnecessary spending any longer.

You have heard the joke that if you do not go to other men's funerals they will not go to yours? But that is often the logic of Washington, if you do not support my unnecessary program I will not support yours. With truth in advertising the new attitude might be, if I cannot justify supporting your unnecessary program to the taxpayers I will not be here next year to vote on anything.

Woody Allen said: "I'm not afraid to die, I just don't want to be there when it happens." Woody Allen has a great new movie called "Manhattan." But if you recall the bankruptcy story of the real Manhattan, you should also recall the joke. Mayor Lindsay was not afraid of New York dying. He just did not want to be there when it happened.

But ladies and gentlemen of the House, there are only so many acting jobs available in Europe. Not enough for all of us. I propose we try to earn our rave reviews here in the Congress rather than trying to be somewhere else when the taxpayers learn what is happening.

Tax Liberation Day, both the holiday and the deadline for tax returns, would make the American taxpayer painfully aware of the cost of Government growth.

They would notice that the June 6 date is slipping further and further toward the second half of the calendar year.

Then at some point the public attitude would reach critical mass—as it did in California on this date; as it did in Great Britain; as it did in Canada; and they would cry enough—Enough.

It is ironic, is it not? We broke with the British Government because we felt a distant government did not tax us reasonably. But the American taxpayer still feels that a distant government does not tax reasonably; and that Government is us, ladies and gentlemen. That Government is us. As Pogo put it, "We have met the enemy and they is us."

We have taxed their work, their food, their homes, their gas, their pursuit of happiness. We have taxed their will to be productive. We have taxed their patience.

June 6 is now Tax Liberation Day. At this rate, by 1984 it will be July 4. It is time to set the alarm clock at the IRS. I say June 6 is late enough to wake up the American people.

NBC: NO OBJECTION TO CALL FOR RACE MURDER

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, last month I read into the RECORD an article from the Washington Post, which demonstrated that there was no generation gap in opposition to liberal racism: Eighty percent of white students and half of the minority students oppose racist affirmative action programs.

But there is also no generation gap on intimidation. The Post article described the tactics used by liberals to enforce their racist claims: Threats, thugs, and the swinging of baseball bats. In colleges as in America at large, threats and violence remain the leftist racist's fallback. Comedian Richard Pryor, on Johnny Carson's "Tonight Show," asked American blacks to kill South African white people, and, according to an article by Bob Greene in the Columbus Citizen-Journal, which is inserted below, he observed that not a single American objected to this demand for racist murder. He could not have been talking to us. Certainly Johnny Carson did not object to it. Of course I do and most nonracist right thinking Americans do.

Mr. Greene says that, "maybe this marked my emergence as a right-winger." He just did not realize how submerged even the most prevalent so-called right-wing—meaning nonliberal—sentiments are in this country. Why bother to object to Pryor's statement? Establishment opinion will simply ignore you, and write you off as a fanatic.

Because of this hopelessness, our people have to a large extent ceased complaining to us about the real atrocities of the leftist establishment in this country. Liberals whine about the "tax revolt," and say it is a crude way to react to Government policy.

Maybe so, but it is the only way the people have. The establishment has brain washed our people and divided them so that leftist policy could be shoved down their throats. They then say there is peace, because they will not allow any dissent to surface. Fortunately, people are waking up and that really scares the liberal establishment.

Alexandr Solzhenitsyn describes the Russian situation, where Communist policy has made the criminal a privileged caste. One result of communism, he points out, has been "to make spinelessness a national characteristic." Here is what Eric Hoffer says about what liberal policy has made of the American majority:

> A fateful characteristic of our violent age is the nonviolence, the incredible meekness, of the victims. Almost without exception, the social scientists are telling us that Americans are at present more violent than they were in the past. Yet anyone who observes the American scene in any big city with his own eyes knows that it is not so. The American man in the street is infinitely less pugnacious, less quarrelsome and less ready to take offense than he was in the past. We used to fight in the streets, in saloons and on the job. Neighbors used to argue shrilly over the fence and often come to blows! But just now the great majority of Americans are afraid to open their mouths. They will not get into a fight no matter what you call them and will not get involved even when they see people murdered before their eyes. They are afraid to get angry. The crucial, central fact about contemporary Americans is their timidity—their cowardice.

Nor is there a "generation gap":

> The other day, at Berkeley, a class of 250 students was addressed by an intruding Negro student as (filthy name) and warned not to come to class next day or have their throats slit. The punk was not thrown out. The professor, a famous teacher, begged the intruder to leave the class. Would it have been overreaction had the class rushed the foul-mouthed punk and thrown him out? Was it sheer humaneness that kept the famous professor meek in the face of insults and threats? The students and the professor were plainly afraid. When cowardice becomes a fashion, its adherents are without number, and it masquerades as forbearance, reasonableness and whatnot.

But the last point Hoffer makes should be listened to very carefully: Our public is slow to act, but once it does, its fury will be extreme:

> We do not know what is ahead of us. It is hardly likely that the violent minorities will abruptly change their ways. There is a vague feeling that a day of wrath is waiting around the corner when the saturated resentment of the long-suffering majority crystalizes in retaliation. It is impossible to say when, where and how the reaction will come.

The Bob Greenes of this world may feel that they are crying in the wilderness now. I have been there for two decades. But they are calling to the depths of a people who have had enough and far more than enough of liberal hooliganism and oppression. When liberals see the real American majority after they cease to be silent, they will wish they had let sleeping wolves lie—and that time appears to be coming soon.

Bob Greene's May 18, 1979 column, "Call for Racial Killing Goes Unheeded", follows:

[From the Columbus Citizen-Journal, May 18, 1979]

CALL FOR RACIAL KILLING GOES UNHEEDED

(By Bob Greene)

I was half-asleep, watching the "Tonight Show" the other evening, when the most extraordinary thing happened on the screen. Richard Pryor, the black actor-comedian, was on the show, talking to host Johnny Carson. Pryor was discussing a recent trip to Africa, when suddenly and without prompting, he said something along the lines of:

"Angry black people in this country who are carrying guns around should go to South Africa and kill some white people."

That is not an exact quote; I did not write it down at the time. But it's close. Pryor urged American blacks to kill South African whites, and he did not say it as part of a comedy routine.

I was sure I would be reading about it in the papers within a day or two. Fifteen million people watch the "Tonight Show" every evening; I was certain that thousands of them, outraged by Pryor's call for racial murder, would be flooding the NBC switchboards around the country.

Several days passed. I heard nothing. Nothing appeared in the papers.

I called the NBC affiliate in Chicago. I asked a spokesman if calls to their switchboard were kept track of; she said yes. I asked her to check how many people had called to complain about what Pryor said. She checked. "Zero," she said.

So I called NBC headquarters in New York. I asked an executive there to find out how many people, around the nation, had called NBC stations to complain about Pryor's words. After checking, the executive said, "No calls at all. If there had been a lot of calls, I would have heard about it."

I began to think I had imagined it. I have been convinced for some time that we are in the era of the End of Outrage—with Americans numbed past the point of being taken aback by anything—but surely someone, on national television, asking American citizens to kill citizens of another nation, might cause a stir.

I spent most of a day talking to NBC executives in New York, California and Chicago, trying to confirm what Pryor had said.

Repeatedly, I was told that NBC does not keep written transcripts of what is said on the "Tonight Show," and that it would be "impossible" to review a videotape of the program to ascertain the Pryor quote.

"We're not permitted to do that," one executive in California told me when I asked for an exact reading on what Pryor had said.

Finally, an NBC publicist named Mike O'Hara was found. He had sat in on the Pryor taping, and he had made notes of Pryor's comments. The notes said: "Angry blacks in this country should go to South Africa and kill some white people."

I told him that was pretty much the way that I recalled it—did he remember Pryor saying anything about guns?

"Yes, that may be right," he said.

(Later, an independent television monitoring service verified Pryor's statement as "If you want to do anything, if you're black and still here in America, get a gun and go to South Africa and kill some white people, and then you'll probably go in jail again, but you will be doing something besides robbing old ladies.")

My next question was; why did NBC allow it on the air? Earlier in the program, an obsenity said by Pryor was bleeped out; was there no consideration given to editing out a potently racist call for murder?

No one in the Broadcast Standards department at NBC—which is responsible for such decisions—would talk to me. One person kept referring me to another.

Eventually Joe Bleedan, an NBC publicist, told me that if Pryor had said something "coarse or vulgar" on the "Tonight Show," it would have been edited out.

But, when Pryor called for black Americans to kill white South Africans, that was "considered his personal opinion and not reflective of any of NBC's feelings. And for us to edit that out would be out-and-out censorship."

Well . . . I have been called a kneejerk liberal more than once in my life, and I have been guilty of crying "censorship" at times when various opinions, including my own, have been in danger of being suppressed by various persons, including newspaper editors.

So maybe this marks my emergence as a right-winger. But I am appalled that NBC allowed Pryor to say what he did on the air. The show is taped; NBC had plenty of time to edit him. South Africa may have a racist government, but no more racist than a black comedian asking blacks to kill white South Africans.

Even the concept of free speech is tempered by the prohibition against yelling "fire" in a crowded theater. By calling for racial murder in the crowded theater that is an America full of racial misunderstanding today. Pryor did just that. NBC could have decided that it was simply too inflammatory and in too poor taste to broadcast across the nation. Certainly what he said was potentially more damaging than the obscene word of his that they bleeped out.

But obviously I'm in the minority. As NBC points out, no one else called. No one else complained. I guess we just don't care about such things any more.

RETURN TO POLAND OF HIS HOLINESS POPE JOHN PAUL II

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. KOSTMAYER. Mr. Speaker, throughout this week those of us in the free world have followed closely the historic return of His Holiness Pope John Paul II to his native Poland. And we have viewed his pilgrimage with a mixture of pride, gratitude and a good deal of fascination.

In only a few days the Pope has done more to advance man's continuing crusade for human rights and religious freedom than many have done in a lifetime.

His deeds, his words and his gentle, engaging manner have captivated his countrymen. His mission has stirred those of us who share his sentiments, while making it clear to the Communists that they can build walls, close borders, and imprison citizens—but cannot capture the souls or spirits of men and women who still yearn to be free.

The people of my district share a common bond with the Poles of Czestochowa. Located just outside of Doylestown in Bucks County, Pa. is our own country's national shrine to Our Lady of Czestochowa. Annually hundreds of thousands of Polish-Americans pay homage at the American Czestochowa honoring the Black Madonna who has been revered in Poland for 6 centuries as a symbol of that country's nationalism and faith.

The people of Pennsylvania's Eighth Congressional District are proud of our own shrine at Czestochowa and we join with many other Americans in thanking the Holy Father for his courageous efforts this week on behalf of human rights and religious freedom.

And we in southeastern Pennsylvania look forward to the first week of September which is our own annual time of celebration and commemoration at the Shrine of Czestochowa near Doylestown.

It is then that we remember the plight of the Poles who fled to the original Czestochowa when they were persecuted in the name of orthodoxy by Bismark and later by the Nazis.

We remember that in 1956, nearly a million of them went to Czestochowa for the 300th anniversary of the shrine even though Communist party officials canceled trains and buses.

In short, in our own celebration, annually, we salute the revolutionary spirit of the Polish people, and give to Polish-Americans a chance to lift their heads and hearts in a salute to the patriots of their native land.

I am proud the Shrine of Czestochowa is in my congressional district and am especially pleased of the renewed attention we are able to bring to that Polish-American movement because of Pope John Paul's return to Czestochowa, Poland.

GOVERNMENT REGULATIONS AND COAL

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RAHALL. Mr. Speaker, yesterday I testified before the House Budget Committee's task force on inflation, chaired by the distinguished gentleman from Illinois (Mr. SIMON).

There is no doubt, that inflation coupled with the present energy crisis, are the two most important issues facing this country today.

In my presentation before the task force, I discussed how Government regulations, specifically those relating to the coal industry, are not only fueling inflation but stifling expanded production and utilization of coal. What is worse, these regulations have also played a part in putting thousands of miners out of work.

Mr. Speaker, I would like my colleagues to take a few moments to review my remarks, because I firmly believe that coal can serve this Nation as a major energy source in the future, only if current regulatory trends are curbed:

TESTIMONY BEFORE THE TASK FORCE ON INFLATION

(By Congressman Nick J. Rahall, II)

Mr. Chairman, I would first like to thank you and the Members of the Task Force for this opportunity to discuss the effects of federal regulations on inflation. I believe you all show a great deal of courage to hold these hearings and allow Members to express their views on a matter which seems to be a major concern to all Americans, especially in this time of "Too Much Government."

My presentation this morning will deal with the correlation between government regulations and increased energy costs, thereby fueling inflation. Specifically, I would like to concentrate on what these regulations are doing to the coal industry and the effect it is having on those Americans who rely on coal for their livelihood; I would first like to make some general observations:

The Federal government affects costs and prices in many industries through its regulatory powers. Traditionally, regulation has been confined mainly to transportation, communication, energy, banking and finance, and agriculture. More recently, there has been an increase in health, safety, and environmental regulations which affect a wide variety of businesses across the entire spectrum of industry and commerce.

The costs of regulation are reflected in the Federal budget to only a small degree. Most of the costs are bourne by business and are usually included in the prices paid by consumers. The benefits of regulation are significant, but they are difficult to measure. The unmeasured benefits of regulation must be balanced against the measured cost increases they may generate, especially in a period of inflation when it is particularly important to avoid adding costs and prices unnecessarily.

Federal regulations are issued to achieve such goals as improved worker safety or a cleaner environment, goals with which we all agree. These regulations impose costs on private industry rather than on the Federal budget, thus making the costs more difficult to detect. To the extent that these added costs are not absorbed by lower profits or wages, they increase the price level to all consumers.

Government regulation is not new. A body of old-style regulatory measures that has existed for many years was often intended to have a direct effect on prices or costs. Farm price supports, as an example, were established to raise agricultural prices in order to benefit farm incomes. Minimum wage laws were enacted to raise incomes of low-wage workers. Tariffs raise the price of imported goods, thus providing protection to U.S. import competing firms.

Some of the newer regulatory agencies like the Occupational Safety and Health Administration and the Environmental Protection Agency do not have as their main concerns price effects. But since the actions of these agencies do affect costs, their decisions affect prices and efficient use of resources. This fact does not imply that all regulatory actions that have a price-raising effect should be banned; it means simply that the price effect should be considered in determining whether the result is worth the cost.

In this regard, I am a supporter of H.R. 1008, the "Regulatory Review Act of 1979" which I believe will help ease the crushing regulatory burden on our economy by providing for a legislative veto of unwise, overlapping and at times nonsensical regulation by requiring that all proposed federal regulations be submitted to the Congress 60 days prior to their implementation.

In regard to our Nation's present energy situation, a question that is asked is, "Has environmental regulation gone too far?"

We face a dilemma because it is unlikely that there will ever be universal agreement on the value of being asked to live and work in a smog-free environment, of lakes being still full of fish and free of airborne pollutants, and even prolonging human life. And as long as there is no agreement on what resources society should devote to seeking such social goals, and as long as the true role of environmental regulations in such quests remain unclear, the current rather frantic confrontation approach to regulation will continue.

It is also obvious that well-intended government regulation often does not measure the true benefits against the harmful costs generated. To those who say cost should not be considered as they continue to seek an entirely riskless society under impossible conditions, I say this type of thinking is unrealistic.

Mr. Chairman, there are many forces at work today which influence the use and future of coal as an energy source. Coal, the one dominant fuel in our economy, was supplanted by oil and gas shortly after the second world war. This shifting away from coal has caused many disruptions in the industry itself and state economies which rely heavily on coal production processing.

What we see today is a Nation that is rapidly running out of domestic supplies of oil and gas, and we have in-place industrial plants that are currently fired by petroleum or natural gas because clean air regulations limit the type and eventually the amount of coal that can be used in industrial and utility applications. All at the same time there are slim prospects for conversion to coal in many sectors, and coal technology advances have not yet been made.

Mr. Chairman, I have just returned from four days in my home State of West Virginia, and the fourth District of which I am proud to represent, was at one time one of the largest coal producing regions in the nation.

Today, over 6,000 miners are out of work in West Virginia. 15,000 miners out of work nationally. Gasoline prices going to $1.00 a gallon, and through it all people are asking, "Why not coal?"

Mr. Chairman, what can plainly be seen, the thrust of what I have come to speak on is how regulations are affecting the development of an energy resource which is being called upon to play an integral part in our energy future—that resource being Coal!

The nation has an energy crisis. Coal is being called upon to help solve that crisis. But to help in the solution that coal has to be mined. It has to be mined safely, it has to be mined properly, with proper expenditures and with proper regulation.

The current mood of the coal industry is one of turmoil and confusion. Government officials continue to call upon the industry to double production by 1985 while layoffs and decreasing production run rampant through the industry. The demand for coal is very slack, the nation has about 100 million ton per year of productive capacity—over and above the 700 million tons now being produced. At the heart of this issue lies the ability of the coal industry and those utilizing coal to comply with federal regulations which have been promulgated by the Environmental Protection Agency as well as the provisions set forth in the Surface Mining and Reclamation Act of 1979.

Mr. Chairman, I had the opportunity to be a Member of the Conference Committee who worked out the final compromise of the Surface Mining and Reclamation Act, a compromise which I believed would strike the proper balance to allow for coal production and utilization while affording protection to the environment. I regret to report that in some instances the regulations exceed the intent of the law. I believe this is due to the fact that we end up with experts with preconceived ideas writing the regulations, rather than those experienced in the industry writing the regulations.

The Council of Economic Advisers report on the permanent regulatory program under the Surface Mining Act states that the expense to the coal industry in complying with the regulations could amount to $3 billion dollars annually. This could amount to an additional charge of $4.00 per ton of coal. I do not believe this country can afford this type of regulatory enforcement to continue, nor do I believe that it was the intent of Congress to heap such a burden on the coal industry or the American people. Mr. Chairman, I believe that the coal industry can provide a much needed fuel at a price the people can afford if we in Washington could prevent our good intentions from becoming a regulatory nightmare.

Consolidation Coal Company recently issued a cost analysis report on the cost to conform with only 21 of the hundreds of regulations issued by the Office of Surface Mining in compliance with the Act. Their report shows that the total cost for Consol to comply with the 21 provisions is $235.2 million per year or $3.695 per ton of coal. This compares to a total cost of $93 million, $1.34 per ton utilizing "Good Engineering Practices" through which the company could achieve the same end results, a difference of $160 million per year or $2.35 per ton.

As anyone might guess, these additional costs are not ones which any company could afford to consume and therefore they will be passed on to the consumer in the form of higher fuel costs. This means that the cost of coal purchased from Consol will be increased $2.35 per ton for company compliance with regulations.

Yet what is more devastating is that Consol represents only 8% of total yearly production of all coal producers in our Nation. Interpolating their additional yearly costs to the entire industry will result in an added yearly cost of $2.011 billion which will be passed on to the consumer.

As many of you are aware, in the next few days, the President will announce his determination on a proposed ruling by E.P.A. to restrict the future use of low-sulfur West Virginia and Kentucky coal by utilities in the State of Ohio. For those of you who may not be familiar with this issue, let me briefly touch upon its history.

On December 18, 1978, E.P.A. issued a proposed determination to invoke Section 125 of the Clean Air Act Amendments of 1977, to require Ohio utilities to install costly scrubber units for burning high-sulfur coal mined in Ohio as a means of complying with Ohio's plan for attaining federal clean air standards. Such a determination would deny Ohio utilities the right to purchase low-sulfur coal from neighboring West Virginia and Kentucky as a means of meeting the standards. Low sulfur West Virginia and Kentucky coal is capable of meeting the prescribed Clean Air Standards *without* the costly installation of scrubbers.

If implemented, EPA's determination not only would increase the operating costs of Ohio utilities—and in turn the rates charged to consumers—but would result in economic dislocations in the coal fields in West Virginia and Kentucky.

The controversy arises from Section 125's provision that in seeking to "prevent or minimize significant local or regional disruption or unemployment," federal officials may "prohibit (certain power plants) from using fuels other than locally or regionally available . . ." In comments released March 1, 1979, the Council on Wage and Price Stability made the following conclusion. "We believe that Ohio by itself does not represent a distinct region for coal; this alone should be sufficient to indicate that a finding under Section 125 cannot be supported.

Further, the employment and economic consequences for Southeastern Ohio are unlikely to be as severe as EPA predicts. Finally, we are concerned that the remedial effects that EPA may recommend under Section 125 may have serious employment and economic consequences in other parts of Ohio and elsewhere in the Appalachian region . . ."

As you can see, these examples show that the coal industry, the American public and our Nation will be forced to waste billions to comply with regulations which, in my opinion, are unnecessary, unjustified, and inflationary. Not only are government regulations fueling inflation, but they are putting men and women out of work in inflationary times.

The President, the head of the Department of Energy, and the head of the Department of the Interior must control and lead on this issue, not follow passively behind a trail of redtape and regulations. The White House cannot have it both ways. The President cannot expect to keep all his environmental constituency on the one hand, and double coal production in the United States on the other. Indeed, Mr. Chairman, in many cases considering industry's efforts to clean-up in recent years, it's possible that we could very well better meet a needed balance, were good engineering practices and the forces of our free enterprise system allowed to work, rather than forced government cookbook regulations in every facet of our society.

There is a proper balance needed, but that has not been struck. If it is not reached soon, all Americans will lose out.

It strikes me not unreasonable to suggest, in a democratic and rationally run nation, that a government either wants to produce coal says so and makes its policies accordingly, or it does not choose to have that as a national policy and makes its rules and regulations accordingly.

It is no secret that the coal industry is in trouble, and ironically the problems have come at a time when coal's potential has never been greater. However, due to the growing list of complicated problems, some of which I have discussed here, it is obvious that coal will not play a significant role in our energy future unless drastic action is taken to reduce the regulatory burden which has been placed upon it.

☐ 1835

ENERGY PROBLEMS IN CONNECTICUT

(Mr. GIAIMO asked and was given permission to address the House for 1 minute.)

Mr. GIAIMO. Mr. Speaker, the energy situation we face in Connecticut, as well as in the United States in general, is not good. The prices of our essential energy supplies have been going up rapidly, and will unfortunately, continue to do so, while our supplies of energy will continue to be scarce. This will be true of heating oil, and of gasoline, as well of the residual fuel oils used by our electric powerplants to produce electricity. Our latest problems are only one symptom of the insecurity of the oil supplies available to the United States, and were triggered by the revolution in Iran, when 5 million barrels a day of Iranian oil production—roughly equivalent to half the oil the U.S. imports—were lost to the world oil market for a period of nearly 4 months. Since then, Iranian exports of oil have only grown to one-half their levels of previous years.

Although these events seem foreign to us, they have hit each and everyone of us in our homes, and in our pockets, as well as in the way we live. Since December, OPEC's oil prices have increased by over $6 a barrel, or 15 cents per gallon, and every prospect is that the increase is not over yet. Some OPEC nations are selling their oil at 20 cents a gallon markups, while others have charged up to a 45 cents per gallon surcharge in isolated instances.

To bring this home in terms those of us in Connecticut would understand, it is only necessary to mention that some heating oil shipments recently have been sold at 90 cents per gallon and higher—

almost twice the prices of last winter. If this were to continue, it would be a disaster for those of us in the Northeast. Putting this in terms of the U.S. economy, our dependence on insecure oil supplies for over half the oil we consume, has increased the cost of U.S. oil imports to over $52 billion a year, and added a full one-half of 1 percent to the national rate of inflation. Our oil imports, alone, this year will cost the average American household nearly $1,000.

The shortage of crude oil has led to a shortage of gasoline, of heating oil and of residual fuel oils. All of these are important to Connecticut. Heating oil stocks, in particular, are at historic lows, and we must insure that shortages similar to the California gasoline shortage do not break out in Connecticut for heating oil. A group of us in the House of Representatives have communicated our concerns to the Secretary of Energy, Dr. Schlesinger, and he has committed the Department of Energy to keeping close track of home heating oil stocks, and has encouraged refineries to produce more heating oil to supplement scarce domestic supplies. I hope these steps to encourage additional heating oil supplies, in addition to steps for encouraging conservation, and switching of industrial use of distillate oils toward use of natural gas, will result in moderating any shortages which might result.

Even so, I fear there may be spot shortages over the year ahead, and I will insist that whatever shortages occur should be shared equally throughout the population. In particular, I was distressed to learn recently that DOE had estimated that supplies of gasoline for Connecticut, during May of this year, would be relatively lower than those available to the rest of the Northeast. I have written Secretary Schlesinger to demand an explanation for this, and to demand the correction of this obvious inequity.

All of these problems show the real need for taking strong measures to reduce the insecurity of our oil supplies. We must find ways to reduce our consumption of oil, to boost our domestic production, and to increase the production of oil abroad in nations outside of OPEC. We in New England, particularly because of our heavy dependence on imported oil, should take strong steps to insulate our houses, and to use more efficient automobiles. The Congress is now struggling over these issues, and particularly oil pricing and taxing legislation. Although the resolution of these issues by the President and the Congress will be of great long-term importance, this, unfortunately, will not greatly help our immediate problems. This is due to the long lead time nature of our energy problems; however, we must do now whatever we can to solve our long-term energy problems. As chairman of the Budget Committee of the U.S. House of Representatives, I can report that the Federal Government is making substantial expenditures—in excess of $4 billion a year—on energy research and development projects which will provide our energy supplies of tomorrow; also, the Federal Government is providing substantial incentives to conserve energy and use solar energy to help alleviate today's energy shortages. I am confident that if we continue to do these things over the years ahead, we will be able to create a more stable energy future for ourselves and for our children.

ANTIUSURY AMENDMENT

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, during the debate on the bill just under debate in the Committee of the Whole House, H.R. 3875, I intended to offer an amendment deleting section 310, on page 27, whereby we are exempting any loan under this bill from State usury laws. I intended to offer the amendment as a point of discussion to express my concern over the high cost of mortgage money specifically, and high interest rates generally. The American people are being—and have been for 13 years—cheated and robbed.

We in the Congress, by passing such provisions as section 310, are legitimitizing and nationalizing the loan sharks.

Mr. Speaker, an old Texas doggerel goes as follows:

Here lies old 25 percent
The more he made, the less he lent,
The more he got, the less he spent,
He's gone—we do not know which way he went
But if to heaven his soul has went
He'll own the place and charge them rent.

□ 1835

MILITARY SEVERANCE PAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BOB WILSON) is recognized for 5 minutes.

● Mr. BOB WILSON. Mr. Speaker, I am today introducing legislation that will address the present inequity in the area of military severance pay.

Members of the U.S. Armed Forces, unlike their civilian friends employed by the Federal Government, are not vested in a retirement system until completion of 20 years of active service.

Only about 11 percent of the enlisted force and 29 percent of officer personnel stay until retirement.

In the case of enlisted personnel, most leave the Armed Forces on or before the end of their first enlistment. Some stay for a second tour before returning to civilian life. However, whatever the length of time involved, once promoted to the grade of sergeant or petty officer, enlisted personnel are considered "career-oriented" and assigned duties according to that category.

The regular officer is also considered a careerist, but if not selected for promotion may be entitled to severance pay.

For example, regular Navy ensigns and Marine Corps second lieutenants (pay grade O–1) failing promotion to the next higher grade (O–2) because of a lack of professional qualification are entitled to severance pay. Their service at this time could be no more than 3 years.

Contrarily, enlisted members may be promoted up to and including the top enlisted grade (E–9), have 5, 10, 15 or even 19 years of active service, and not be entitled to any remuneration if discharged for any reason.

BACKGROUND

The GAO reports that some form of military severance pay has been in existence since the early 1800's:

> The Congress, at that time, enacted the act of May 14, 1800, to reduce the Army for purposes of economy and the good of the service. All disharged officers and enlisted personnel were given three months separation pay to use as compensation for services and expenses for returning home.

Following World War II and the Korean conflict, the Mustering-Out Payment Act of 1944, and its successor, the Veterans Readjustment Assistance Act of 1952, offered amounts of $100, $200, or $300 to personnel serving honorably in the U.S. Armed Forces. Receipt of mustering-out payments (MOP) came following discharge or release from active duty.

Following the post-Korea period, things were different. The Armed Forces honorably discharged millions of Vietnam-era veterans without offering more than basic pay entitlement and allowances through date of discharge.

Although the question of paying MOP to short-term enlisted personnel may be moot, the question of providing some type of readjustment pay to career enlisted members with 5 or more years of service is not.

RECOGNITION FOR NONDISABILTY SERVICE

Nondisability severance payments are made to involuntarily terminated employees in recognition for past services, to extend a measure of compensation for a lost job, seniority, and a disrupted life, and to assist in the transition to a new career

In addition, foreign nationals, many working for nonappropriated fund activities, such as clubs, exchanges, et cetera, are provided severance payments amounting to more than 1 year of their regular salary. And the Defense Department insists that the military services pay these sums.

HOW MANY INVOLVED?

More than 3 years ago, Army Times reported:

> Several thousand E–5s will be potential targets for reenlistment denial under the (Army's) qualitative management program within the next few weeks.

Prior to and since that date, thousands of other enlisted men and women have been and were denied reenlistment and/or involuntarily discharged without receipt of any financial recognition from the Federal Government.

The GAO reported the problem to Congress in "The Federal Government Severence Pay Programs Need Reform"—FPCD 78–68; December 7, 1978:

> Military nondisability severence pay is available only to officers, not to enlisted members. Enlisted members are rarely separated involuntarily. However, since they are subject to such separation, it would seem appropriate to provide them with the same benefits accorded officers separated for the same reasons.

The following numbers of involuntarily discharged enlisted members were provided by the appropriate military department:

TABLE 1.—ENLISTED PERSONNEL DENIED REENLISTMENT OR INVOLUNTARILY DISCHARGED UNDER HONORABLE CONDITIONS

Fiscal year	Army	Navy	Marines	Air Force	Total
1973	(1)	6,525	213	796	7,534
1974	2,752	3,930	2,205	897	9,784
1975	[2] 2,026	4,804	211	903	7,944
1976	2,000	3,048	209	775	6,032
Total	6,778	18,307	2,838	3,371	31,294

[1] Unavailable.
[2] Estimate provided in 1975.

The numbers have fallen dramatically with reductions in the overall strengths of the military services since calendar year 1976. Only the Air Force appears to be discharging more noncommissioned officers than in previous years. The following chart records the differences:

TABLE 2.—INVOLUNTARY DISCHARGE STATISTICS (ENLISTED PERSONNEL WITH 5 TO 19 YR. HONORABLE ACTIVE DUTY)

Fiscal year	Army [1]	Navy	Marines	Air Force	Total
1976	[2] 485	477	261	1,113	2,336
197T	(3)	176	85	(3)	261
1977	[2, 4] 585	646	235	1,528	2,994
1978	[4] 587	754	233	1,156	2,730
Total	1,657	2,053	814	3,797	8,321

[1] Does not include in-the-field discharges.
[2] Actual numbers denied reenlistment by Headquarters, Department of Army.
[3] Not available.
[4] Army Times reported in 1978 that Army would eliminate 686 enlisted members in pay grades E–5 and E–6. The article also said this was 86 more than the previous year's total.

SUPPORT FOR EM SEVERANCE PAY

Evidently these numbers are impressing people, panels, and study groups. In 1971, even before the involuntary exodus, the Interagency Committee (IAC) recommended readjustment pay for all members of the uniformed services involuntarily separated with 5 or more years of active service.

The recommendation was supported by the DOD retirement study group formed in 1972 and later incorporated in the proposed Retirement Modernization Act (RMA) sent to the 93d Congress for consideration.

In its report of April 1976, the Defense Manpower Commission (DMC) also recommended readjustment pay for all members involuntarily separated from the Armed Forces. DMC said they should have a choice between a cash payment plus a deferred annuity, or an amount in cash equal to twice the severance payment.

Again in 1978, the President's Commission on Military Compensation reported that "severance pay should be extended to enlisted people." And finally, in its December 1978 report to Congress, GAO recommended a severance pay program for enlisted personnel. The Comptroller General said there was no reason why enlisted personnel were not eligible to participate.

GAO cited the case of a civilian employee whose position was abolished after 12 years of service and an enlisted member denied reenlistment after serving the same period of time in the Armed Forces. The civilian receives severance pay. The enlisted member was not eligible for any type of special payment.

DEFENSE'S POSITION

DOD has held off supporting separate legislation offering severance pay to enlisted personnel. It claims severance pay is a part of the military retirement system and should be considered only in a package.

However, it is interesting to note that the Defense Officers Personnel Management Act (DOPMA) has been considered in the 94th and 95th Congresses and is back on the burner for the 96th. A goodly portion of the proposal deals with separating officers at various stages prior to attaining retirement eligibility—and it also covers severance pay.

In fact, severance pay provisions in DOPMA were so closely scrutinized by the House of Representatives that it recommended increases in payments of up to a maximum of $30,000.

Meanwhile, responding to the latest GAO suggestion to revise military severance pay programs, DOD replied that it sees "no evidence of any compelling urgency for such a change."

Defense asked GAO:

Is there a major savings to the taxpayer to be expected from such a change?

Are the members of the Armed Forces so upset about the alleged inequities of the current system that their performance is adversely affected?

Is the Congress demanding action?

First question: Yes, there are savings to be gained in providing severance pay for enlisted personnel. It is likely the services would deny reenlistment to more than double the numbers now being discharged (see table No. 2). If this happens, approximately 5,500 members may be involved. If each receives the maximum (which most will not) of the $15,000 in severance payment, the total cost would be about $82.5 million. Should one-half that number be permitted to stay until retirement, wages and allowances might account for $33 million in annual appropriations for each year of active duty. Retirement costs for the 2,750 persons could hit $396 million.[1] The savings: Some $300 million, plus for future years.

Second question: There are not many members of the Armed Forces psychologically or physically affected by inequities in the present system. In fact, most never think about the issue. Few, if any, expect to be on the receiving end of a career cut short by quantitative management or whatever. Frankly, no one feels the sting of an inequitable situation until they are caught up in one.

There are those who know the system is not fair and seek now to amend the program. In addition to those mentioned earlier, there are the following: U.S. Army Chief of Staff, Gen. Bernard W. Rogers, who favors correcting this inequity in today's system, Air Force Secretary John Stetson, who, in a recent position paper to the Secretary of Defense, wrote that "the U.S. Air Force would like to see severance pay for enlisted."

According to USAF officials they will not separate many career airmen short of retirement because of no EM severance pay.

Third question: The Congress is not demanding action. It is not doing so for some very obvious reasons. First, Congress is waiting for the Defense Department to offer the legislaation; second, Congress is not fully aware of the need for EM severance pay; third, not many Members are cognizant that enlisted members are not entitled to severance payment; and fourth, fewer Members of Congress are aware of the probable future savings to taxpayers should they adopt such payments.

RECOMMENDATIONS

The ultimate goal of these remarks is to plead for early legislation giving military enlisted personnel the right to qualify for severance pay.

Defense approves of and encourages severance pay for its nearly 1 million civilian employees, its tens of thousands of indirect hire and associated foreign national employees, and its hundreds of thousands of uniformed commissioned officers. Therefore, it should move rapidly to support these payments for its military enlisted personnel.

Common decency, fairplay, and equal consideration of all its employees demands that DOD support separate and early severance pay legislation for military enlisted members.

I believe in this legislation, Mr. Speaker, and urge its early consideration.●

OBJECTING TO USE AND ABUSE OF PRIVILEGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. LIVINGSTON) is recognized for 5 minutes.

Mr. LIVINGSTON. Mr. Speaker, I originally ran for public office because I was concerned about the direction this country was taking. One of those indications included an increase in the tendency of our elected leaders to consider themselves the elite—more important and somehow more intelligent than the rest of the people and, therefore, more qualified to govern.

Today's Washington Post disclosure that the leadership of this House and the Senate, as well as certain unelected Federal officials, have been receiving cheap gasoline at special pumps, is one manifestation of that elitist concept and it appalls me. That kind of disregard for the problems that confront the average American during this oil shortage reflects on me, as an individual Member, as well as on the entire Congress.

I believe it is improper for those who are charged with leading the effort to develop and implement an energy policy—the elected leaders of our National Legislature—to attempt to circumvent normal channels for their own convenience and exempt themselves from the effects of their own national standards.

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[1] Wages and allowances averaged at $12,000 annually, (probably a high figure) and retired pay calculated at $4,800 each year x 30 years expected lifespan. No CPI adjustments considered.

The sacrifices we all make to serve in public office should be compensated by the salaries we vote ourselves. Any hidden "perks" serve only to undermine the confidence of the American people in our integrity and our devotion to public service. I strongly believe that we should be willing to openly vote for whatever compensation we feel we deserve—and that we should stand or fall on that vote.

I wish to make a formal objection against the use and abuse of privilege inherent in the report of 67-cent gasoline for congressional leaders. If that price gas is not available to the American people, it should not be available to any of us. Furthermore, I believe that the American people are entitled to an explanation as to how that price of gasoline was obtained and to whom the leadership owes this special privilege.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I just wanted to compare with the gentleman, I mentioned this earlier on the floor during the debate on the supplemental appropriation. I think the gentleman speaks probably the views of not only his constituents, but many millions of Americans. It is the kind of remarks about which I am sure most of us have no knowledge that causes this Congress to be in disrepute.

I would hope that the appropriate authorities in both Houses would immediately order an end to this and at the same time they might want to consider the possibility of not renewing their leases on their Mercuries and Cadillacs next year as a step in this direction.

Mr. Speaker, I compliment the gentleman.

Mr. LIVINGSTON. Mr. Speaker, I certainly think it should go far to show that we want to live within our means and live within the same standards we set for the American people.

I noted the article in the Washington Post. I understand the information went abroad across the Nation on the NBC Today Show and I have already heard from a number of my constituents who feel very strongly this would be the case.

☐ 1840

"KING CRIME" MURDERS REMAIN UNSOLVED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, last week, on Thursday, I mentioned and summarized some of the developments with respect to the assassination of Federal District Judge John W. Wood. I must underline the fact that this is the first murder of its kind in the history of the Federal judiciary.

The manner, the form, and the nature of the assassination is unique, it is unprecedented, and it is very disturbing to me, as I said and repeat now, because I had been warning Judge Wood and in fact had specifically conveyed with a sense of urgency the recommendation to Judge Wood that he reconsider and obtain the custodial protection of the U.S. marshals. Once again, I conveyed this message to him just 3 or 4 days before the assassination.

Mr. Speaker, this unfortunately also follows a series of addresses I had made in this forum last year. and the year before last with respect to the general situation, the insidiousness, and the extent of organized crime. I pointed out its complete freedom to act at will and to transcend in its awesome display of power any of the capabilities of any government, whether it is local, State, or Federal, and its capacity to control it.

I had spoken out with respect to the mysterious and unsolved death of a former drug enforcement agent. This man had been the agent in charge of the Mexico City office and was arrested subsequently on the charge of bribery and jailed in San Antonio. Suddenly, in December, he was struck by some kind of attack after eating a peanut butter and jelly sandwich. He lingered in a coma for months and finally died about a month or so ago.

Mr. Speaker, these cases and the others are not unrelated. They are unsolved.

At this time I drew attention to the knee-jerk reaction that I had been warning against for months, and the reason that I had raised my voice was because it was apparent to me that this malodorous situation in the country demanded priority and the concentrated attention of officials at the highest levels of our Government.

So here we have the knee-jerk reaction now. At this point there is still no lead to the culprit, the murderer of Judge John Wood. There is no solution of the crime involving the attack on the assistant Federal district attorney, that preceded the murder, last autumn of James W. Kerr, the assistant Federal district attorney. This is an intolerable situation.

At this point the Justice Department dispatched 40 agents to the San Antonio area. I can tell the Members now what the format or the scenario will be. It will be that they will come to the conclusion that the culprit must be somebody who was disgruntled and nursing a grudge because of the severity of a charge imposed by the judge upon him or some relative.

But the real solution of this crime is no nearer than a solution to the attempt on the life of James Kerr or the crimes that triggered my interest which involved two humble, little known Mexican Americans in San Antonio who were hit gangster fashion about 4 months before the attempt on the life of James Kerr.

Mr. Speaker, these are not unrelated crimes. Just as a simple Member of the House of Representatives, without being an expert in law enforcement, I can realize what is involved, but what continues to mystify me is the absolute failure on every level of law enforcement to address itself to the control of this uncontrollable "King Crime."

Mr. Speaker, I yield back the balance of my time.

SOME WAYS TO FIGHT INFLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 20 minutes.

● Mr. REUSS. Mr. Speaker, there follows my testimony this morning before the House Committee on the Budget, Special Task Force on Inflation:

Testimony of Hon. Henry S. Reuss

I commend the House Budget Committee for establishing this special Task Force, under the able chairmanship of Congressman Simon, to delve into the problem of inflation. I welcome the opportunity to appear before you today.

As a creature of the Committee on the Budget, you are no doubt receiving a more-than-fair share of advice about the link between federal expenditures, the budget deficit, and inflation. This is normal: we each tend to view the problem of inflation as somehow especially amenable to whatever action we happen to be in position to take. There are those who serve on the Committee on Banking, and many more who appear before us as witnesses, who believe the Federal Reserve to be the unique inflationary villain, and a more strict control of the money stock, enforced, naturally, by Congress, to be the sole cure. We need not dwell on these simple and allegedly painless panaceas; suffice it to say that if controlling inflation were so easy, it long ago would have been done.

In truth, our present inflation is the result neither of fiscal profligacy nor of monetary abandon; it is instead the cumulative consequence of 20 years of gradual deterioration in our domestic economy, and in our international economic position, an erosion of our economic strength that stems from causes as diverse as the Vietnam War and the depletion of our domestic petroleum reserves, which may be summed up in a single word: "structure".

It follows that the range of short-run policy options, of steps that can be taken now and whose effects will be felt within a year or two, is small. Only long-term structural reforms hold any prospect of bringing a return to the steady-growth, stable-price equilibrium that seemed so nearly within reach only 15 years ago. Yet these measures, precisely because their effects are so long in being felt, are those that, I fear, are least likely to be addressed in an atmosphere of panic.

It used to be thought that a combination of fiscal, monetary and incomes policy, the best that Keynes, Friedman and Galbraith could offer, would be able to hit all the major short-run macroeconomic goals at once: high employment, high output, stable prices and a stable foreign exchange rate. In an ideal world this might be the case. But in the world we actually live in, carrying out such a strategy is blocked by obstacles like long lead times and imperfect information.

Fiscal policy, we have found, is too rigid to be used for fine-tuning. Public expenditures often take nearly two years from the time they are appropriated until they take full effect. Tax changes take almost as long to enact, except in dire emergency, and the effect of a tax increase or reduction is slow, because such changes disappear at first into savings, and only slowly show up in consumption and investment.

Monetary policy, we have found, is too imprecise to be a fail-safe tool of short run economic management. "Let the money supply grow at a constant annual rate," the monetarists have been telling us. Yet the monetarists have been unable to agree among themselves on what the money supply actually is, let alone on what its exact numerical rate of growth should be. Economist Kenneth Boulding stressed the need for a good definition of money with his couplet:

"For if we have not, then what have we got, but a Quantity Theory of no one knows what?"

The Federal Reserve's response has been to establish target growth ranges for a whole series of differently defined types of "money" from M1 to M2 to M3 to Bank Credit, with the consequence that in most years they hit one or more targets and miss one or more others, and it is impossible to say whether monetary policy as a whole is on the vaunted "stable growth path" or not, much less whether the actual path is the best route to stable prices and full employment.

Incomes policies, finally, seem to require a stronger sense of national purpose and willingness to sacrifice in the public interest than our government has been able to inspire. Despite noble efforts, "voluntary" policies have not been able to stem the rising tide of wage demands and price increases when economic recovery gets under way.

Government is then faced with an intolerable choice. It can either slam on the brakes and bring on a recession or worse, or it can impose draconian controls over prices, wages, capital movements and foreign trade, with all that implies in new bureaucracy, expanded government power and cost, and inequity, perceived or real. Naturally, it shrinks from both options, and continues to limp along with a deteriorating economic climate, hoping to postpone a reckoning for as long as it can. This can't go on forever.

At the moment, pressure is building for a revival of the 'ole time religion: a tight-money, high-interest-rate juggernaut against our escalating rate of inflation. The last time this particular fervor swept into town, in the fall of 1974, it left behind soaring unemployment, the worst recession in 40 years and a tract of political scorched earth that seemed to extend for blocks on every side of Lafayette Park. We though then it had gone for good. Still, cults are everywhere on the march these days, and it's not too surprising to find that this one is back.

All kidding aside, we know enough about the consequences of the policy that is being proposed. There are not many things on which the science of economics provides repeated experimental evidence, but this is one. Nixon and Burns tried to cure inflation by clobbering the economy in 1971; Nixon, Ford and Burns tried it again in 1974. The result in each case was the same: a permanent loss of real production, a permanent rise in the high capacity rate of unemployment, and a temporary deceleration of inflation, which evaporated as soon as the economy warms up again. In the meantime, years of capital investment, essential to our technological competitiveness and to the avoidance of future inflationary supply bottlenecks, had been lost. Squeezing the economy simply does not cure inflation. The resulting unemployment is a personal disaster for those who suffer it, and a deserved political disaster for the Administration responsible for it.

There is another aspect to all of this, about which the Chairman of the Committee on Banking is bound to show concern. The Congress did not stand still after the tight money fiasco of 1974–1975. Precisely to avoid a reenactment of the behind-the-scenes policymaking that served us so poorly then, we established regular procedures whereby the Federal Reserve reports to Congress in advance on the general contours of the policy it plans to pursue. We hold hearings on that plan, and now, under the strengthened procedures of the Humphrey-Hawkins law, we issue a Report to Congress containing our evaluation of it. In our first such Report, signed by forty-three members of the Banking Committee, we said:

"Anti-inflationary policies must not cause a recession:

"The committee recognizes that reducing inflation will require persistent, measured monetary and fiscal restraint. Policies which attempt to break inflation quickly would lead to recession and high unemployment and defeat themselves. Such policies would not stop inflation because they are too costly in terms of lost output and employment. As a result, they would be abandoned before they were in place long enough to stop inflation and replaced instead by policies designed to fight unemployment which would rekindle inflation."

In my opinion, the recommendation that we made last March continues to be a good recommendation today. If inflation cannot be licked permanently by sharply restrictive monetary and fiscal action, then we should not attempt to lick it at all by those means. We should, instead, turn to the longer run structural measures that will help, over a period of years, to restore the basic prosperity that is an essential precondition to price stability.

Three sectors where the contribution of ramshackle structure to rising prices is especially significant are food, health care and energy.

High food prices are due not so much to domestic excess demand as to a variety of things. Some, like the weather, we can't do much about. Others are the result of past folly by the federal government, as when it sold a billion dollars' worth of grain at discount prices to the Russians in 1972 and caused the price of bread to escalate at home. The traditional government farm policy of high price supports and acreage limitations hurts the consumer and helps mainly the large corporation farm. Instead, we could avoid excessive price supports and assure the family-sized farmer a fair income by direct payments. It's a program that worked well in World War II to keep milk prices down.

We have added unnecessarily to food costs by fostering an inefficient, over-layered, overextended network of middlemen. A rationalized food distribution system, with retail food cooperatives encouraged by the new National Consumer Cooperative Bank, could help.

Health costs have also been going crazy. Many insurance plans offer better coverage for people while they're in the hospital, thus forcing excessive use of high-cost hospital services. And too much unnecessary diagnostic tests, too much unnecessary surgery, and too much expensive medical equipment such as brain scanners and kidney machines also add to increasing costs. We need, at a minimum, to enact the President's Health Care Cost Containment Bill. But our health care inflation problem will not be solved fully until we enact a national health insurance plan that does not build in incentives for physicians to supply costlier health care than health requires.

The high and rising cost of energy has a long, complicated political history, which I am not going to try to unravel today. To put it in a nutshell, we may say that over the past decade the price of oil has ceased to be administered for the benefit of consumers, and has become administered instead for the benefit of producers. At the same time, U.S. production has been an ever-falling proportion of U.S. consumption, so that we have become more vulnerable to the price actions of foreign suppliers.

We need to reduce our dependence on foreign energy supplies, by investing in energy-conserving investments like home weatherization and mass transit, and in clean energy substitutes like solar heat and wind-generated electricity. And perhaps, in the more immediate future, we should consider taking steps to insure that our irreducible imports of foreign oil are not subject to economy rattling fluctuations of price and quantity. One way to do this would be to establish a government purchasing agency for foreign oil, for which authority may already exist under the Ex-Im Bank law and/or the Defense Production Act. Brazil has saved 5 percent on their oil import bill this way.

A fourth area, in which great gains in productivity and lower prices could be obtained by direct government action is transportation. Deregulation of the airlines fares has already helped rationalize air travel in this country, allowing more people to travel on fuller airplanes at lower cost. Deregulation of trucking, and in particular elimination of the maze of entry restrictions that now encumber the industry, would have similar beneficial effects for the public. Railroad regulatory reform is likewise on the drawing boards. In these areas, if we act, we can hope for a significant contribution to reduced inflationary pressures within a relatively short time.

Finally, we need to correct what is perhaps the greatest structural problem of all: the relative imbalance between our manufacturing sector and those of two of our greatest industrial allies, West Germany and Japan.

In a word, the United States, like Britain, has too few producers, relative to Germany and Japan, which have too many. The result is that when our recovery advances, we expand dramatically our imports of manufactured goods, until we have, as at present, a $13 billion annual trade deficit with Japan alone. Our balance of payments turns sour, our dollar collapses, our inflation rate rises, and the government intervenes by putting an end to economic growth. In Japan, there is an off-setting trade surplus, the yen goes up, foreign goods appear cheap, and the Japanese government intervenes to protect Japanese producers by forcing down the value of the yen and impeding the entry of foreign products. We lose once on our own government's policy, and once on theirs.

Our governments' repeated injunctions to the Germans and Japanese to lift import restrictions and stimulate their economies do some good, but not much. For, while our imports of their products—color TV's, cameras, snazzy autos—are highly income-elastic, and rise sharply in a boom, their imports of our goods consist mainly of food, aircraft, computers, and similar items whose consumption does not rise so rapidly with income. Increased German and Japanese demand stimulates their own economies, but not ours.

One solution might be for us to try to persuade foreign producers of automobiles, consumer electronics, appliances and similar hardware to locate their plants in the United States, as Volkswagen is doing with tremendous success in Pennsylvania. U.S. workers will get the jobs, U.S. consumers will get the products, the U.S. trade balance will improve, and foreign businesses will earn healthy profits in healthy American dollars.

Japan, Germany, and oher relatively over-industrialized OECD countries should, for their part, concentrate their attention on the development of their own infrastructure, particularly in their cities. Both countries need large quantities of new, high-quality housing. Both could use substantial investments in new mass transportation. Both have severe water and air pollution problems, desperately in need of massive correction. All of these activities would divert resources away from manufactures, and perhaps even awaken hitherto unsuspected desires for the products of the emerging nations of the Third World. The United States, as well as Britain and Italy, in short, need to rebuild their physical capacity to produce; Germany and Japan need to take advantage of their long-accumulating capacity to consume.

As new factories for advanced goods are built in the United States, we will need to phase out and release labor from older, low-productivity industries that are no longer competitive with the manufactures of Latin America, Mediterranean Europe, and South Asia. Why should American workers produce shoes when they could be producing semiconductors at twice the incomes, and buying shoes from abroad at half the price? The reason, of course, has always been that the displaced shoemakers and the newly-hired electronics technicians are not usually the same people, and the former rightly doubt that they will be compensated adequately for the losses they suffer on behalf of the latter. Why not, therefore, try a new approach: Tie the reduction in import barriers for low-technology goods to the availability of alternative jobs for the affected workers, and induce producers of high-technology goods to provide those jobs by locating in areas where there is either high unemployment or a large number of workers in internationally noncompetitive industries?

With an integrated, structural approach to our long-term problems of international imbalance, low-productivity job mix, structural unemployment and trade-based inflation, we can begin to build for a more prosperous 1990s.

But we should start today.●

SALT AND THE MEANING OF POLITICAL LINKAGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CHARLES H. WILSON) is recognized for 5 minutes.

● Mr. CHARLES H. WILSON of California. Mr. Speaker, it has long been my belief that strategic arms limitation talks (SALT) should never become divorced from the rest of Soviet-American relations. Recent developments in the world compel me to articulate, in detail, my explanation of the concept of political linkage and its intrinsic importance to the entire SALT process. Under the provisions of the basic principles of mutual relations between the United States of America and the Union of Soviet Socialist Republics, signed in May 1972, "major importance" was attached to "preventing the development of situations capable of causing a dangerous exacerbation of their relations * * *." This principle was approved by Congress in Public Law 92-448. Unfortunately, these principles have not been realized since SALT I.

Despite various cosmetic efforts to reduce the visible differences between the United States and the Soviet Union, the true image of the Soviet Union has shown through. It is my contention that Americans, and their chosen political representatives, must fully appreciate the extent of those differences and the difficulty in negotiating with the Soviets. SALT cannot exist isolated from these factors and must reflect the state of our relations with the Soviets. Political linkage represents, therefore, the creation of an atmosphere in the SALT process where there is a greater sensitivity to the significant international events that threaten international security and impinge upon the primary objective of arms control, that is to maintain peace. Adherence to the concept of linkage would ultimately lead to greater security in that it places SALT in the perspective of the real world and strengthens the relationship between the pursuit of arms control and the maintenance of international security. It would dispense with the fiction that SALT is an isolated act.

The Soviet Union has made no attempt to hide its historical dedication to ideological and political struggle with the West. This dedication is written into the Soviet Constitution. Also, I find attempts to attribute American values to Soviet behavior untenable. The Soviets operate under principles and values far removed from the American experience. The long tradition of Russian expansionism, combined with the embracement of an ideology committed to fundamentally reordering the world, pose serious causes of concern for this country.

Soviet devotion to this philosophy is easily demonstrated by their recent behavior. For example, Soviet policy in the Middle East has continuously trammeled all efforts toward peace. From their promotion of the Yom Kippur war in 1973, to their active support of those parties in opposition to the recent peace treaty, for example, the PLO, the Soviets have persisted in creating tension. In Africa they have continuously fueled the fires of conflict and exacerbated existing animosities. The Soviets supported a minority faction in Angola and Ethiopia by providing arms and their proxy warriors, the Cubans. Their efforts have resulted in the eventual subjugation of the majority to minority rule. In both South Africa and Rhodesia the Soviets have maintained the policy of supporting an external military solution as opposed to a peaceful internal settlement. Perhaps their involvement in the Horn of Africa has been the most blatant exhibition of Soviet interference in the affairs of African States. The Soviet Union made Somalia a competent regional military power knowing that Somalia had irredentist designs on surrounding territory. Once war had begun in the Horn, the Soviets initiated one of the most massive airlifts in their history to supply Ethiopia. This support culminated in the reintroduction of Cuban combat troops. This time, however, they were in a far greater number.

Further evidence indicating that the Soviet Union seeks to openly challenge the West is easily found. Soviet involvement in the coup in Afghanistan, deliveries of the Mig-23's to Cuba, support of the Vietnamese invasion of Cambodia, and its flagrant disregard for human rights typify Soviet unwillingness to cooperate with the West. Soviet behavior on the international scale casts serious doubt upon any prospect of lessened international tensions for the years to come.

What of Brezhnev's declarations regarding SALT and détente? In the past, Brezhnev has voiced his country's commitment to détente and arms control. Within the same breath, however, he has reaffirmed the Soviet national policy to "assume favorable conditions for the worldwide victory of socialism." This is the true strategic purpose of Soviet détente and arms control. A desire to avoid nuclear war on the one hand, yet the ideological identification with global struggle and wars of liberation on the other. Reducing the risks of nuclear confrontation with the United States affords the Soviet Union the safety to involve itself in a provocative manner in all other ways. This strategy is naturally suited to a nation opposed to the international status quo and determined to disrupt the international order. At best the Soviets seek the separation of nuclear weapons from the conduct of diplomacy. At a minimum, they seek to convince us this is so.

It is evident that the present administration is ideologically wedded to disarmament. Arms control in general, and SALT, in particular, are regarded as fundamental to international stability and detenté. Observation of Soviet participation in SALT must lead one to the conclusion that the Soviets have a different approach. While the United States has endeavored to create a two-way exchange of information, the Soviets have remained largely unyielding in this respect.

They have contributed little information to enhance our conceptual understanding of their strategic doctrine. Until recently, they have forced the United States to rely solely upon its own data in the negotiations. Their attitude continues to be suspicious and their disposition negative.

Further, it is apparent that the internal debate over SALT in the inner circles of the Government of the Soviet Union has allowed the military and upper echelon political leaders to determine the direction of the negotiations from the Soviet side. As one Soviet writer who was previously involved in the arms control process indicated, arms control is regarded as a problem for military planning, not a goal in itself. There is no evidence that the Soviets have constrained themselves in any category of military development as a result of SALT I that they did not previously intend to be constrained.

The President and his SALT negotiators have rejected linking the process of SALT with the conduct of Soviet foreign policy. The administration has reduced the concept of linkages to the simplistic analogy of the carrot and the stick, and has concluded that SALT II would not be a reward for Soviet good behavior. It is said that SALT II exists for the mutual security of both countries and will contribute to that end regardless of those Soviet activities which damage our interests in the world.

The Carter administration's policy toward linkage reflects a certain naivete about the nature of arms control and human nature. Nuclear strategy, no matter how distasteful, is still politics. Military strategy is reflective of the political and cultural heritage of a country. In fact, in the Soviet Union it is a reflect-tion of the political ambitions of the men who construct and integrate it into the grand strategy. Nuclear strategy is one aspect of this grand strategy. Recalling that Soviet international policy is a coherent whole, represented by the fact that they continue to refer to the international military and political balance in terms of the "correlation of forces," there is a definite relationship between Soviet probes in the Horn of Africa and SALT. Even though these events are on a different scale, they mirror the same assumptions. Despite the fact that the President has renounced the relationship between strategic arms limitations and diplomacy. In general, the Soviets, because of their own doctrine, have not renounced this relationship.

By attempting to make SALT an apolitical dialogue, the administration has facilitated the execution of Soviet foreign policy while hampering our own. The Soviets appear to have negotiated SALT with questionable intentions while smugly performing acts contrary to the spirit of cooperation. The administration has allowed the Soviet Union to operate in a manner threatening international security with little recourse from the United States. SALT I did not constrain Soviet military developments and in the meantime they continued to disrupt and to create and promote conflict and tension in the world. Given the present administration's attitude, it appears that the aftermath of SALT II will be similar.

One of the themes of this century is the growing interrelationship of international politics. Given a certain level of importance, significant international development are interconnected. It is artificial then, and highly unrealistic, to create SALT in a vacuum. It is obvious that Soviet politics and strategy are a coherent whole based on a dogma, and that all aspects of their behavior are reflective of their grand strategy. The requirements for security are determined by the calculation of another nation's capabilities and intentions. We can determine, with reasonable accuracy, the military capabilities of the Soviet Union. Their level of military capabilities is cause for concern. What multiplies this level of apprehension is that their intentions continue to appear to be outwardly hostile. It is absurd to exclude Soviet intentions from SALT considerations and only focus on the arms control aspects of United States-Soviet relations. Arms developments in the United States and the Soviet Union have occurred largely as the result of the hostility between the two nations; arms themselves have not been the cause of the hostility.

The United States should address, when necessary, other significant matters effecting United States-Soviet relations within the context of SALT. It should be also understood that arms control is not a panacea for all the problems that exist between the United States and the Soviet Union. When certain activities strike at the integrity of the arms control process, they should immediately be voiced in the SALT forum. It is simply hypocritical to negotiate a treaty intended to reduce tension and promote stability while there are events occurring simultaneously to increase it. This, I believe, is a more accurate formula for the promotion of security and strategic stability.●

OPPOSITION TO WAIVER IN THE DEPARTMENT OF EDUCATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. Brademas) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, yesterday in my own remarks in the House of Representatives, June 5, 1979 page 13381, and in remarks of our distinguished colleague, the Honorable Paul Simon, chairman of the Select Education Subcommittee of the House Committee on Education and Labor, on page 13572, we set forth a number of reasons for our strong opposition to a provision in H.R. 2444, the Department of Education Organization Act.

Mr. Speaker, I refer to section 439 of the bill, a section that would have very damaging effects on the administration of an entire range of grant programs under the new Department of Education.

I should explain that section 439 is intended to provide relief to a State, Florida, whose plan for operation of vocational rehabilitation of handicapped persons was judged in violation of Federal law.

In this connection, I call to the attention of Members of the House some of the findings of an audit prepared by the Inspector General of the Department of Health, Education, and Welfare. The Inspector General's audit provides dramatic evidence of the sharp decline in the overall effectiveness of the Florida vocational rehabilitation program since the vocational rehabilitation reorganization which the courts have rejected.

The audit showed a 52 percent decrease from 1973 in the total number of clients rehabilitated through 1977 and a 29 percent decrease in the total clients served as well as a 17 percent decrease in the number of severely handicapped persons served from 1975.

The Inspector General's audit shows important deficiencies in the financial management of Federal funds allocated for the vocational rehabilitation program in Florida.

The audit recommends substantial financial adjustments for "unallowable and excessive charges to the Federal Government."

Mr. Speaker, I cannot here take time to recite all of the sharp criticisms made by the Inspector General of the operation by the State of Florida of its vocational rehabilitation program, and I would remind my colleagues that 80 percent of the moneys involved here are Federal while 20 percent are State.

The waiver authority provided in section 439 is clearly most damaging to the interests of handicapped persons and that, Mr. Speaker, is undoubtedly the reason that so many organizations representing handicapped Americans are so strong in their support of an amendment that will be offered by Mr. Simon to delete section 439 from the bill.

In this connection I ask unanimous consent to insert in the Record two statements prepared by Dr. Frank Bowe, Director of the American Coalition of Citizens with Disabilities, Inc.

The first is entitled, "The Florida Situation," dated April 2, 1979.

THE FLORIDA SITUATION

BACKGROUND INFORMATION

P.L. 93–112, the Rehabilitation Act of 1973, provides that certain administrative conditions must be adhered to in the delivery of rehabilitation services. For the present instance, the relevant passages require the designation of a single state director for the agency, a director who has sole responsibility for administering all aspects of the program.

P.L. 95–602, the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, makes one more option available: the designation of a private or public organization or agency to deliver services in lieu of the State.

Thus, there are only two lawful options: the State delivers services in accordance with the law, or some other entity does so in accordance with the law.

Specifically, section 102 of P.L. 95–602 amends section 101(a) of P.L. 93–112 as follows: "In order to be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services for a three-year period and, upon request of the Commissioner, shall make such annual revisions in the plan as may be deemed necessary." Section 101(c) of the earlier Act is amended to read: "(2) The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of subsection (a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment." Section 101(d) is also amended to provide that a State dissatisfied with determinations made under subsection (b) or (c) may appeal to the Court of Appeals for the circuit in which the State is located. These amendments were made specifically in response to Florida's litigation in this area since 1975. First, should Florida choose not to observe the law, its right to appeal is clearly and unequivocally spelled out. Second, should the appeal be denied, the State has a choice: to comply with the law or to permit some other entity to do so. Third, in an effort to ease the red-tape burden upon the States, a three-year plan with annual revisions was substituted for annual plans; these are notably easier to comply with as annual revisions may be quite minor.

CURRENT PERSPECTIVES

The "Florida situation" has attracted nationwide attention for its implications. One of these has to do with "categorical" programming as opposed to "block-grant" programming. Another has to do with the balance of federal-state support for federally mandated state-delivered services. A third has to do with ensuring delivery of services to a population that traditionally has been relatively powerless politically.

The Congress has determined that categorical programming is necessary in order to assure that funds appropriated by the Congress for certain purposes are in fact expended for these purposes. An audit by an appropriate auditing agency in Florida has raised grave questions concerning whether funds appropriated for rehabilitation services have in fact been expended for this purpose, and for no other, by the human-services umbrella agency in Florida. ACCD firmly supports the continuation of categorical funding for rehabilitation programming. We believe that monies intended by the Congress must be used as they were designated; this is especially urgent in light of the scarcity of such funds. Nationwide, only 1 out of 11 eligible clients can now be served, so severe is this shortage of appropriations. Further, we believe that should block-grant funding be substituted for categorical support, other, more powerful state lobby groups would succeed in squelching our voice and further reducing the funds available for rehabilitation.

On the balance of funding question, ACCD notes that the Federal Government provides 80 percent of the monies for rehabilitation, the State 20 percent; in the case of independent living, the Federal Government provides 90 percent of the support. ACCD believes that in light of this balance, the Federal Government has a legitimate basis for ensuring that funds are in fact spent as they were intended. Were the balance reversed, Florida might have a much stronger case for administering the program in its own fashion with much more lenient strings imposed upon it. Regardless of the balance question, both partners in this effort should be held accountable for observing strict accounting procedures and ensuring appropriate expenditure of funds.

With respect to ensuring the delivery of services to disabled people, ACCD believes this should be paramount in the minds of those responsible for the program. Litigating over a four year period, using funds intended for services to pay for litigation, and placing a priority upon administrative structures over service delivery does not imbue one with a very great sense of trust that ensuring service delivery is paramount in Florida at this time. Equally critical, ACCD believes that any entity picking up the program must place the highest priority upon the delivery of quality services to disabled Floridians.

The resistance of Florida's legislative and executive branches to comply with the requirements of P.L. 93–112 and P.L. 95–602 signal a growing attack upon "categorical programs," of which many benefit disabled people.

There are approximately 492 such programs. Each has its own regulations. The state governments, through the National Governor's Association, have attacked the central rationale for such programs, claiming that "block grants" would permit greater administrative flexibility, cost savings, and other benefits. The "Florida case," by unanimous decision of NGA's executive committee, has been chosen as a flagstone of the movement to eliminate categoricals. In other words, categorical programming in rehabilitation is a "lightning rod" on this issue.

It is necessary for all of us to appreciate why such categorical programs are helpful for disabled people. The essential rationale is that, under block grants, competition with welfare groups and other powerful lobbies would, and historically has, resulted in programs for disabled people being relegated to the bottom of the totem pole. We need categoricals to ensure that funds allocated for services to disabled people are actually spent for disabled people. This is the issue: will we allow ourselves to succumb to situations such as Florida's where VR monies are used to pay the phone bills and rental fees of all human-service agencies, or will we insist that monies be spent as Congress insisted?

Block grants in rehabilitation are currently used in actual practice in Florida and Georgia. The failure of these states to serve disabled people appropriately, and to increase support over the years, is the reason I singled these states out in my recent article, "Civil Rights for the Disabled," a copy of which is appended.

Some of our members appear to think that the issue is one concerning VR alone. That is tragically mistaken. Officials of the NGA have been quoted in recent months, for example, in attacks upon P.L. 94–142, claiming that full implementation "would literally bankrupt the states." Similarly, NGA has lashed out against section 504, claiming, as NGA chairman Julian Carroll did upon emerging from his meeting with President Carter, that section 504 is a prime example of what must be stopped, cut back, and delayed if the governors are to support Carter's budget request. The fact is that almost every service program benefiting disabled people—from special education to housing—is now under a categorical program. All of us, whether we are primarily interested in mental retardation, cerebral palsy, deafness, blindness, or some other disability or discipline, should be deeply concerned about the governor's attack on categoried programming.

The second article by Dr. Bowe is entitled, "Civil Rights for the Disabled," from the January 9, 1979, issue of the Washington Post.

Civil Rights for the Disabled

(By Frank Bowe)

When President Carter first announced his intention to propose an "austere" budget for the coming fiscal year, one segment of the American public reacted with a particularly acute sense of foreboding. The country's 36 million disabled citizens knew that the combination of their political powerlessness and the highly publicized price tags associated with their newly granted rights would make them one of the first victims of the budgetary cuts. And that is exactly what appears to be happening. As one disabled woman put it: "Just when it is our turn to get a piece of the pie, people decide we can no longer afford dessert."

Leading the charge has been the National Governors Association (NGA). In a meeting with President Carter and in a letter to Budget Director James T. McIntyre, the NGA proposed a deal: In exchange for the governors' acquiescence on the budget cuts, Carter should authorize cut backs and delays in implementation of section 504, the civil-rights statute for disabled people, and relax the legal requirements of P.L. 95–602, the recently enacted Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. In other words, the NGA would not scream too loudly, nor lobby too vigorously, against Carter's budget if the administration would allow the states to defer action on rights and services for disabled people.

Columnist Neal Peirce picked up the theme. In recent columns, he has attacked the cost implications of section 504 while decrying federal strings upon rehabilitation dollars. "President Carter has a golden opportunity to show his mettle of fighting inflation, reducing burdensome regulation, saving energy, and helping out the nation's cities," says Mr. Peirce. The "golden opportunity" he sees is "to cease and desist" with section 504, especially in transportation. In another column, Mr. Peirce blasts Rep. John Brademas (D-Ind.) for requiring states to follow federal guidelines on rehabilitation spending.

The arguments advanced by the NGA and Mr. Peirce have a certain surface validity: In a time of tight fiscal constraints, expensive social programs administered on the state level might better be less stringently regulated from Washington. The facts explode the theory, however. Let's examine some of the arguments and the relevant data.

Myth 1: It's too expensive to grant disabled people access to programs and facilities. No one debates the fact that accessibility can be expensive. After all, most of America is blantantly inaccessible to people using wheelchairs, senior citizens and others with mobility problems. Less obvious, but equally pervasive, are barriers to deaf people that prevent them from understanding television and many other forms of communication and obstacles to blind persons that impede them from acquiring information. To remove those barriers will require investments of financial and manpower resources, perhaps several billions of dollars.

But what are the costs of not removing those barriers? Today, fully half of all adult disabled people who are not institutionalized are on some form of public income maintenance, most because they cannot get jobs in inaccessible buildings, training in inaccessible schools, and transportation in inaccessible buses and subways. The cost to society: a staggering $100 billion annually in federal, state, and local income-maintenance and related dependence-oriented expenditures. These costs are rising at a rate far outpacing inflation and the national economic growth rate; the spiral is out of control. Only one measure will halt and then reverse the trend—getting disabled people off dependence programs and onto payrolls. And that will happen only when barriers are removed.

The fact is that we as a country literally cannot afford not to "have dessert." We must make the investments required to ensure access so that disabled people may obtain the education and vocational training needed to qualify for employment, may secure the transportation needed to get to those jobs each weekday, and may compete equally for well-paying jobs. To do otherwise is to condemn ourselves to ever-mounting entitlement expenditures that do not solve the underlying problem but merely postpone the day when even these measures are unaffordable.

Myth 2: Special services are cheaper and better than access to general services. On the surface, this argument appears to make sense. Rather than design, and where necessary retrofit, the general transportation and other systems and facilities for full accessibility, offer disabled people separate, "individualized," services. The argument is that to provide "dial-a-ride" and "special-education" services is less costly than is making the mainstream system open for use by disabled as well as able-bodied persons—and that these separate services help disabled people more anyway.

The facts to dispute this contention are readily appreciated. Special services, by their very nature, are continuing, annual, costs; accessibility modifications, by contrast, are fixed, one-time expenses. Further, the opening of a general system to disabled people increases use of the system without raising operating or other costs once the accessibility modifications have been made. Take for example transportation. The labor, fuel, repair, capital and other costs involved in mass transit are constant whether disabled people use it or not; opening the system to disabled people increases revenue through fares without necessitating additional runs. By contrast, dial-a-ride services require special manpower, special vehicles, extra fuel and other additional costs—without increasing revenue.

All of this is in addition to the central thesis that separate-but-equal violates the basic civil rights of citizens. No other minority in America has been expected to accept partial rights, or delays to some unpredictable future, on the basis of costs. As Sen. Edward Kennedy (D.-Mass.) has argued: "Human rights are not conditional. And a commitment to a conditional human right is no commitment at all."

Myth 3: Permitted more flexibility through relaxed regulations, the states will allocate funds in a more effective manner, thus improving services for disabled people. This argument flies in the face of the undeniable reality that throughout the history of this country—that is, throughout the long period when there were no regulations requiring equality of opportunity and delivery of services for disabled people—the states manifestly did not protect these rights nor deliver these services to those who most needed them. There is no compelling reason to believe that things will be drastically altered in the near future. There is strong reason to believe, however, that powerful lobby groups will muscle disabled people out of the picture were the regulations to be removed or significantly cut back. Spending on rehabilitation is notably lower, and increases much slower from year to year, in states where the spirit as well as the letter of the federal laws and regulations are not followed, such as Florida and Georgia, than in states where they are. More convincing evidence of the fallacy of this myth is difficult to imagine.

It seems, then, that President Carter does in fact have a "golden opportunity" to help halt inflation, improve services and conserve energy. But it is not the "opportunity" Mr. Pierce and the NGA perceive. Rather, it is to pursue courageously the path the administration selected during the past two years, one of attacking unnecessary barriers to disabled people while at the same time improving job-training and other services. This would be a bit like the Chinese proverb: "Give a man a fish, and he will eat for a day. Teach him how to fish, and he will eat for the rest of his life." Then the question would no longer be whether the nation can afford to give disabled people a piece of the pie. They could buy their own, thank you very much.

At this point, Mr. Speaker, I also insert in the RECORD the text of a letter to all Members of the House of Representatives dated June 6, 1979, from the distinguished chairman of the Committee on Education and Labor, the Honorable CARL D. PERKINS; from Mr. SIMON; and myself.

Our letters explains our reasons for opposing retention of section 439 of H.R. 2444 and urging Members of the House to support Mr. SIMON's motion to delete this section.

COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C., June 6, 1979.

DEAR COLLEAGUE: Tomorrow, H.R. 2444, The Department of Education Organization Act, is scheduled to come before the House of Representatives.

This bill contains a provision which concerns us deeply, a provision which we shall move to delete because of its seriously damaging implications for programs in the proposed Department of Education.

Specifically, Section 439 of H.R. 2444 would give the Secretary of Education discretionary authority to waive Federal statutory requirements regarding the administration within the new Department of grant programs by state and local officials.

Section 439 has broad application. It infringes not only on the policy of scores of grant programs but on Congressional requirements for assuring accountability for the expenditure of Federally appropriated tax moneys and for the implementation of such programs at the state and local level. In fact, a survey by the Library of Congress identifies some sixty programs that would potentially be affected by this provision.

For example, the impact of Section 439 would reach the three largest formula grant programs in education—basic grants for the education of low-income children, impact aid, and state grants for the education of handicapped children. Section 439 would affect, too, the basic state grant program for vocational rehabilitation. It would mean, in essence, the lack of identity for programs at the state and local level.

The House report accompanying H.R. 2444 attempts to rationalize Section 439 by claiming that, without the waiver, state and local education agencies would not be able to consolidate authority over their vocational education and vocational rehabilitation programs. This assertion is inaccurate and shows a serious lack of understanding of current law. As pointed out in the Senate report accompanying a companion bill, a significant number of states already operate their vocational rehabilitation programs through their education agencies.

In fact, it should be noted that Section 439 is intended to provide relief to a specific state, i.e. Florida, whose plan for vocational rehabilitation has been judged in violation of Federal law. Indeed, in April of this year, the United States Supreme Court denied review of a lower court's decision holding Florida's plan for vocational rehabilitation not to be in compliance with Federal requirements.

Our opposition to accommodating the Florida plan through the waiver authority proposed by Section 439 is underscored by the finding of Florida's own State Auditor's reports in 1977 and 1978.

More recently, an audit prepared by the Inspector General of Health, Education and Welfare underscored the continuing problem of the Florida approach to providing services to handicapped individuals.

The Inspector General's audit shows that since the Florida plan took effect, the vocational rehabilitation program has decreased significantly in the relative number of clients accepted and rehabilitated compared to other states.

The Inspector General's report demonstrates that vocational rehabilitation funds allocated to Florida were channeled to other programs, that unobligated funds were not properly reported or recorded, and that services to handicapped clients in some districts in Florida were reduced or restricted.

We believe strongly that the waiver authority provided in Section 439 would be particularly harmful to handicapped people. Indeed, nearly all of the national organizations of disabled individuals oppose Section 439.

Because of the potential for abuse and the broad implication of Section 439, we believe that such a proposal should have been the subject of hearings, as was not the case here, and should not be a part of the legislation to create a Department of Education. The problems of one state concerning one program should not dictate a policy for all states and all programs of the new Department. We hope that you will join us in supporting an amendment to delete Section 439 of the Department of Education Organization Act.

Sincerely,

PAUL SIMON,
Chairman,
Subcommittee on Select Education.
JOHN BRADEMAS,
Ranking Majority Member,
Subcommittee on Select Education.
CARL D. PERKINS,
Chairman,
Committee on Education and Labor.

Finally, Mr. Speaker, I insert a list of organizations opposing section 439 of H.R. 2444:

ORGANIZATIONS OPPOSING SECTION 439 OF H.R. 2444

American Academy of Physical Medicine and Rehabilitation.
American Association of Workers for the Blind.
American Coalition of Citizens with Disabilities.
American Congress of Rehabilitation Medicine.
American Council of the Blind.
American Deafness and Rehabilitation Association.
American Foundation for the Blind.
American Vocational Association.
Conference of American Instructors for the Deaf.
Conference of Executives of American Schools for the Deaf.
Council of State Administrators of Vocational Rehabilitation.
Council for Exceptional Children.
Gallaudet College.
Goodwill Industries.
International Association of Parents of the Deaf.
National Association of the Deaf.
National Association of Retarded Citizens.
National Council of State Agencies for the Blind.
National Easter Seal Society.
National Multiple Sclerosis Society.
National Rehabilitation Association.
National Society for Autistic Children.
New York State Department of Education.●

A BILL TO ASSIST IN PRESERVATION OF URBAN NEIGHBORHOODS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MYERS) is recognized for 5 minutes.

● Mr. MYERS of Pennsylvania. Mr. Speaker, today I am introducing a bill which would establish a Neighborhood Reinvestment Corp. as a Federal Government Corp. to assist the urban neighborhoods in our large metropolitan cities to preserve and strengthen the urban neighborhoods which make up the building blocks of our cities. The Federal Government, over the past 30 years, has engaged in large-scale assistance to many of our cities, such as my city of Philadelphia, in an attempt to assist these cities in meeting their development and housing needs. These efforts, it is true, have been massive insofar as dollars involved, but have left much to be desired in the final product. These efforts, such as urban renewal, model cities, the neighborhood development program, the open space program, the urban beautification program, the Federal highway program, the urban mass transportation and many others have sought to attack the urban problems on a citywide effort, rather than attempting to zero in on the smaller, yet most vital, part of the urban community, that is, the neighborhoods themselves.

Large cities, such as Philadelphia, are made up of hundreds of such neighborhoods, many of whose residents have lived in these neighborhoods for generations, but our Federal Government efforts have in most cases by-passed them. The recent experience of the community development block grant program has been encouraging, but this too depends on the effort of the city itself to spread the money in such a way so that all areas of the city can benefit.

The bill that I am introducing today seeks to use the dynamic energy of our urban neighborhoods and the community group that have organized in these neighborhoods, together with the local government, in my case, the city of Philadelphia, and financial lending institutions in these communities to work together to pool their financial resources to assist in such efforts as rehabilitating the existing housing stock in these neighborhoods rather than whole scale demolition of good solid housing stock and the resulting new high rise type housing in its place. My city of Philadelphia probably has the largest amount of existing housing stock that is available for rehabilitation purposes for single-family use. This Neighborhood Reinvestment Corporation would provide the initial seed capital to begin neighborhood rehabilitation efforts and to begin at last to use the efforts of local community groups to improve their housing and to provide a better living environment for the citizens of these neighborhoods.

This bill draws upon the excellent efforts of the existing neighborhood reinvestment task force that has been ongoing since 1969. This task force is made up of representatives from the Department of Housing and Urban Development, the Federal Home Loan Bank Board, the Comptroller of the Currency and the Federal Reserve Board. It is currently active in 33 cities and primarily operates with some contributions from the participating financial regulatory agencies, and a small amount of private foundation support, and a grant from the Department of Housing and Urban Development. My bill would institutionalize this effort, greatly expand the Federal Government funds available for these purposes and pledge the Federal Government's assistance for housing the great energies that exist in our urban neighborhood communities.●

CONGRESS SHOULD STOP SALE OF GAS AT REDUCED RATES TO CONGRESSIONAL LEADERS AND KEY ADMINISTRATIVE PERSONNEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PEYSER) is recognized for 5 minutes.

● Mr. PEYSER. Mr. Speaker, I read with outrage the story that appeared in today's Washington Post concerning the special gasoline pumps that exist for congressional leaders and key administrative personnel. It seems that while the American public is struggling with long lines and skyrocketing prices for gasoline, a few in Congress have chosen to isolate themselves from these real world pressures.

Not only does this activity represent a callous disregard for the problems of the very people we are supposed to represent, but it also compromises the integrity of the Congress in the one area that requires the full strength of our positive leadership—energy policy.

I urge that the leadership in the Congress, both in the Senate and in the House, immediately bring a halt to this program of providing gasoline at reduced rates and unlimited availability.●

OPEC PRICE POLICIES HAVE MADE A MOCKERY OF AMERICAN TAX LAWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, on May 8, the House of Representatives, in dealing with its 1980 budget resolution, by a vote of 355 to 66 directed that Congress consider a modification of the foreign tax credit. The House action strikes at the most costly loophole in the entire tax code.

It is high time that we direct our interest to the effect of the OPEC price escalation of the foreign tax credit. The following table indicates the manner in which American petroleum companies have utilized foreign tax credits:

Foreign tax credit utilized for U.S. petroleum companies

Year:	*Credit Utilized*
1972	3.0
1973	5.2
1974	15.4
1975	14.8
1976	17.6
1977*	19.9
1978*	22.2
1979*	24.8

*Projected on the basis of the GNP deflator

Before OPEC price increases in 1972, the oil companies were utilizing about $3 billion in foreign tax credits a year. Since 1972, the utilization of the foreign tax credits has multiplied by over 800 percent. Since 1972, the $3 billion tax loophole has now become a giant spillway with claimed tax credits up to $24.8 billion in 1979.

Almost one-half of the foreign tax credits which are created or utilized are generated through oil sales to Europe, Japan, and other parts of the world. Every barrel of OPEC oil sold by American international oil companies to foreign countries creates about $4 of tax credit for the American company.

OPEC price policies have created a huge tax credit machine. The special oil tax limitations have not closed the tax loophole since utilization of the foreign tax credit has moved steadily upward, completely unaffected by these limitations. These signals are flashing all over the place for action. We cannot fail to act.

Under the law, unused foreign tax credits have developed into a huge potential storm cloud of trouble. Since 1974, the foreign tax credit loophole has generated $50 billion in excess credits. The foreign tax credit generates at an anuual rate of $35 billion at 1979 levels. Oil companies need only use one-half of that to totally shelter their oil income for the year. The excess is available if needed.

There is nothing that would prevent one of the multinational oil companies from selling all of its foreign assets and writing off all of the multibillion capital gains by offseting capital gains with the excess foreign tax credits which they are generating at such alarming rates.

The accumulation of foreign tax credits by American petroleum companies constitutes a time bomb capable of diverting billions of dollars from the Treasury. As far as the petroleum industry is concerned, the OPEC price policies have made a disgraceful mockery of American tax laws.●

FOR CREATION OF A DEPARTMENT OF EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

● Mr. BROOKS. Mr. Speaker, the need to improve the management of Government programs and cut redtape is recognized by all as an important goal for Congress. We will have a chance to move toward that goal when we consider the bill creating a Department of Education.

In today's New York Times, the Director of the Office of Management and Budget, James T. McIntyre, points out that every decision made by the Office of Education now must also be approved by as many as 14 other offices. He also states that it takes the Department of Health, Education, and Welfare an average of 519 days to publish required regulations for education programs.

A Department of Education, he says, will establish a lean, flexible administrative structure that will improve the management of education programs, make them more accountable, and save the taxpayers money.

I include the article at this point as well as a background report on the Department of Education prepared by the White House Press Office:

[From the New York Times, June 6, 1979]

FOR CREATION OF A DEPARTMENT OF EDUCATION

(By James T. McIntyre, Jr.)

WASHINGTON.—The Senate recently voted 72–21 to shift a large number of existing Federal education programs into a separate Cabinet department. The House of Representatives is expected to vote on this reorganization in the next several days.

Formation of a separate Department of Education would bring needed improvement to the day-to-day management of more than 150 Federal programs. It would cut the red tape too often associated with Federal aid-to-education programs and would subject these programs to the scrutiny they cannot receive under the existing structure.

Through the years, Congress has mandated a limited but important Federal role in education: to insure every American equal access to educational opportunities. Unfortunately, it has never established the organizational structure needed to carry this out. Most Federal aid-to-education programs are currently administered by the Department of Health, Education and Welfare, an arrangement that is inefficient and lacks accountability. Past records show that H.E.W. has taken an *average* of 519 days to publish required regulations for education programs, during which time states and school districts have had to wait for sorely needed Federal funds. The reason for these long delays is red tape. Every decision made by H.E.W.'s Office of Education must also be approved by as many as 14 other offices. The same elaborate procedures apply whether the matter involves a routine regulation or a broad policy question involving budget and legislation.

Shifting H.E.W.'s education programs to a separate department would establish a lean, flexible administrative structure. It would roughly cut in half the time required to process important budgetary, legislative or regulatory matters. It would permit the direct elimination of 450 Federal positions, saving taxpayers $19 million annually.

A broader management deficiency of the current organization is H.E.W.'s tendency to focus attention on the health and welfare programs that form more than 90 percent of its budget. Long-term education concerns inevitably get pushed to a back burner.

As for the problem of accountability, the Commissioner who heads the Office of Education now shares responsibility for Federal education policy with not only his boss, the H.E.W. Secretary, but also with an Assistant Secretary for Education as well. He shares related authority with the Director of the National Institute of Education. His lack of clear-cut authority—as well as status—helps to explain why there have been 13 Commissioners of Education in 12 years.

This fragmented division of authority also explains why the Congress itself has a difficult time assigning responsibility for Federal education policies. With as many as four different people having claim to the title "Chief Education Official," accountability is elusive at best.

Forming a separate Department of Education would make a single agency and a single Cabinet official responsible full-time for Federal education matters. It would make these programs—which cost the American taxpayer more than $14 billion annually—more directly accountable to the President, Congress and the American people.

DEPARTMENT OF EDUCATION—UPDATE: BACKGROUND REPORT

(By Office of Media Liaison, the White House Press Office)

In February, President Carter sent Congress legislation shifting more than 150 Federal education programs to a separate Department of Education. The Department would combine the main body of Federal education programs, now in the Department of Health, Education, and Welfare, with those of six other agencies.

Legislation establishing a Department of Education was approved in the Senate April 30 by a vote of 72 to 21. A similar bill was reported by the House Government Operations Committee May 2.

The February 8th Background Report gave details on the proposed Department. Since then a number of questions have been raised. We outlined them here for your information.

Q. In day-to-day management terms, what is the problem with having education programs remain in HEW?

A. The Federal Government has been severely criticized over the years for the way it administers education programs. Most criticism has come from local educational officials who are concerned with the excessive red tape and delays associated with such programs.

These problems can be traced directly to the way in which federal education programs are organized. Today every decision made by HEW's Office of Education also must be approved by an extensive set of additional departmental clearance points. Similar procedures apply whether the matter involves key budgetary and legislative issues or a routine regulation.

Red tape such as this can be particularly frustrating to those who must rely on Federal programs. Records show, for example, that in the case of aid-to-education grants, it has taken HEW 519 days on average to publish required regulations. This is how long states and school districts have had to wait before needed Federal funds could be approved.

Shifting HEW's education programs to a separate Department would directly eliminate the bureaucratic layers necessitated by the current HEW organizational structure. It would reduce the number of clearance points and expedite program management substantially. It would cut roughly in half the time needed to process a budgetary, legislative or regulatory matter. It would allow the new Department to respond faster and more effectively to local needs and concerns. The direct savings: 450 federal positions; $19 million a year.

Q. Can't Federal education programs be made more efficient through a simple change in procedures?

A. The elaborate clearance procedures required for Federal education matters were not developed haphazardly. They only serve to blueprint the very real fragmentation of authority that exists for such programs.

Today the Commissioner who heads the U.S. Office of Education shares responsibility for Federal education policy with not only the HEW Secretary but an Assistant Secretary for Education. He shares related authority with the Director of the National Institute of Education. This lack of clearcut authority, and status, helps to explain why there have been 13 different Commissioners of Education in 12 years. The fact that as many as four different persons hold claim to the title, "Chief Education Official," also explains why Congress has a difficult time assigning personal responsibility for the success or failure of Federal education practices.

Q. Doesn't education reap some off-setting advantage from inclusion in an emormous department such as HEW?

A. Today HEW has a budget approaching $200 billion annually—only the budgets of the U.S. Government and the Soviet Union are larger. While education programs pay a heavy bureaucratic price for inclusion in this enormous department—elaborate clearance procedures, etc.—they reap little benefit. The pattern has been for HEW to focus dominant management attention on its giant health and welfare programs, which constitute 90% of its budget. This historic tendency is sharpened by what Senator Abraham Ribicoff—himself a former HEW Secretary—has described as the *"crisis"* nature of health and social service programs. In an atmosphere of first-things-first, long-term education issues too often get pushed to the back-burner.

Putting one Department and one person in charge of Federal education programs full-time would ensure that the particular management problems of education receive the high-level attention they deserve.

Q. Would having a separate Department lead to an expanded federal role in education?

A. States and localities bear the primary responsibility for education in America. This principle of *local control* is rooted not only in our nation's tradition, but in the law as well.

In matters of education, the federal government's role is limited and specific. It is clearly defined by the various education programs the Congress has mandated over the years.

President Carter has now proposed shifting more than 150 of these education-related programs into a separate Department. The reorganization will not alter the federal role in education. (The legislation contains specific language *prohibiting* an increased federal control of education). What it will do hopefully is allow the government to meet its *existing* commitments to education more effectively.

Q. Would formation of a separate Department lead to increased bureaucratic costs?

A. The Department would include no more people and cost no more than is devoted to education under the current structure. The reorganization would in fact *reduce* bureaucracy by eliminating the duplication of effort that results from the existing HEW organizational structure. It would permit the direct elimination of 450 federal positions, with a savings to taxpayers of up to $19 million annually. Further savings could be achieved through improved program and financial management.

Transition costs of the new Department—estimated at $10 million—would be met from funds already budgeted for the affected programs. The Administration will request no additional funding for this purpose.

Q. Would forming a separate Department lead to increased funding for educational programs?

A. If past history offers any guide, there is no direct relationship between organizational status and funding levels. In the cases of two recently established departments, HUD and Transportation, their formation did not increase their share of the federal budget. (Transportation's share actually *declined*.)

A key advantage of the separate Department is that it would expose federal education spending to far greater scrutiny on the part of both Congress and the public. Such scrutiny is not feasible as long as education spending is hidden beneath layers of bureaucracy.

Q. Wouldn't an Education Department run into the same implementation challenges that have faced the Department of Energy?

A. There are two reasons to believe that this reorganization would be achieved more smoothly. First, we will not face the extremely difficult challenge of trying to organize a new department and develop a new national *policy* at the same time.

Second, we won't face the challenge of trying to reconcile the missions of several established governmental units. The central core of the new Department of Education would be shifted from HEW *intact*.

Q. Does education justify Cabinet status?

A. If you base this judgment on the American people's own priorities, it does. Education today represents the nation's most prodigious enterprise. It engages the time and attention of 60 million citizens—three Americans in ten—as students, teachers or otherwise. It commands an annual investment—counting public and private expenditures—of $120 billion.

Education deserves Cabinet status in terms of the federal government's own commitment to this area. More than 150 programs would be included in the proposed Department. These programs have combined budgets which now exceed $14 billion—larger than five *existing* Cabinet departments. ●

THE 13TH ANNUAL BOGIE BUSTERS GOLF AND GALA BENEFIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. HALL) is recognized for 5 minutes.

Mr. HALL of Ohio. Mr. Speaker, I would like to address my colleagues here in the Congress and the people of the United States to point out what I consider to be one of the Nation's most outstanding and worthwhile community events which takes place every year in my district in Dayton, Ohio.

This event, the "Bogie Busters" is essentially a fundraiser benefiting the Multiple Sclerosis Research Fund. However, through the years and through the hard work of one of Dayton's most outstanding families, the Laughter family, this event has grown to be much, much more than a fundraiser. Indeed, it is, most likely, one of the leading gatherings of some of America's finest talent in all walks of life and professions.

The Bogie Busters started 12 years ago with 20 people. This year there will be 200. President and Mrs. Ford will be in attendance, as well as an array of headliners from the entertainment world including Bob Hope, Glen Campbell and Foster Brooks.

The Bogie Busters provide an outstanding golf tournament to those who participate and it brings in, as Pat Summerall said last year when emceeing part of the event, "not just good people in athletics, but just good people."

For this reason, I want to publicly thank the Laughter family and all of the civic leaders in Dayton and all of the wonderful guests from throughout the Nation who have come to participate in this event with the chief goal of helping to benefit multiple sclerosis.

SURGE OF POLISH-AMERICAN PRIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, Pope John Paul's return to Poland is proving to be a spiritual, social, and political triumph beyond expectation. The coverage of his current visit demonstrates that the Pope is a man who virtually transcends politics and persuasions: His message of hope and commitment to individual liberty inspires and delights all people who believe in man's fundamental right to be born free and to live free.

In addition, the Pope's visit is a personal triumph to people of Polish blood—a people whose accomplishments have, at times, been dismissed because of the ignorance of others. I have always been proud of being a Polish American, just as Poles everywhere have taken pride in their backgrounds. I am, then, pleased that the Pope's visit allows others a chance to appreciate and share the heritage of being Polish. I would like to insert into the RECORD an article by reporter Gregory Jaynes that appeared in the Chicago Tribune on June 6, 1979. The "Surge of Polish-American Pride" highlights the warmth, intelligence, and strength of this Polish Pontiff and of his people.

JOHN PAUL'S INFLUENCE: SURGE OF POLISH-AMERICAN PRIDE

(By Gregory Jaynes)

PHILADELPHIA.—Last Nov. 1, Martin E. Marty of the University of Chicago wrote in Christian Century that the election of a Polish Pope would seriously curtail the circulation of Polish jokes in the United States. Whether Marty was right depends on which barroom, street corner, or Roman Catholic parish the canvasser chooses to visit. The one thing that is certain is that the ascendancy of John Paul II has gone a long way toward shoring up the confidence of an ethnic minority that has been put upon in this country for ages.

No one seems able to point a finger accurately at the spot where the denigration began. However, the prejudice can be traced back to Jamestown, Va., in the early 1600s. There, the unskilled English colonist had to call upon his Polish counterpart to manufacture glass, pitch, and tar, but the right to vote was reserved for those of English descent. The Poles responded with the first labor strike in the nation's history, and won a voice in Virginia's infant government.

Skipping three centuries, and scores of noble acts by many Poles, a reader can run across an outrageously pejorative entry in a book called "The Passing of the Great Race" by Madison Grant, president of the New York Zoological Society. The immigrants, he wrote, "contained a large and increasing number of the weak, the broken, and the mentally crippled of all races drawn from the lowest stratum of the Mediterranean Basin and the Balkans, together with hordes of the wretched, submerged populations of the Polish ghettos. Our jails, insane asylums, and alm houses are filled with this human flotsam and the whole tone of American life . . . has been lowered and vulgarized by them."

That was in 1916, when there were more than a million men and women in the United States who spelled and spoke in double consonants, employing a language their American employers found baffling and so regarded the speakers as dumb. The image hung around and hung around, even though Poland was once the largest political unit in Europe, powerful enough in the 17th Century to stop a Moslem drive westward and to rescue Vienna from the Turks—even though Copernicus was a Pole, and Kosciuszko had worked like a dog to help win the War of Independence, and Paderewski composed and played like an angel.

A year after Grant's book came out, on April 6, 1917, Woodrow Wilson called for volunteers and 40,000 of the first 100,000 Americans to enlist were Poles. Their motherland—no longer on the map because for more than a century it had been the partitioned property of Prussia, Russia, and Austria—would be the hub of World War I.

In South Bend, Ind., 94 of the first 100 volunteers were of Polish descent. While Pola Negri delighted film audiences, her countrymen helped not only to win the war but to restore Poland, put it back on the map. Then, while Leopold Stokowski and Artur Rubinstein soared to starry heights, Poland was crushed by Germany only to become, with barely a bone intact, a satellite of the Soviet Union.

Sometime after Edmund Muskie, whose father's name was Marcisewski, became the first popularly elected Democratic United States Senator from the state of Maine, in 1959, the Polish joke began to gain currency, gradually overtaking the cruel shots at the slow-witted black, the avaricious Jew, the fumbling Italian.

The batting average of Carl Yastrzemski in baseball and of Zbigniew Brzezinski in world affairs may have helped to dispel the stereotype. But it appeared that nothing short of a Polish Pope could slow the tongues of the insensitive jokester, Saturday, John Paul II landed in Warsaw.

By the lights of Polish clergymen in Pennsylvania, home of the third largest concentration of Polish Americans, his election last fall has immeasurably swelled the pride of their parishioners. John Cardinal Krol, Archbishop of Philadelphia, says that men are now telling him for the first time that they are sons of Polish mothers. "I wouldn't say they concealed it before," he said last week before leaving for Poland, "but they didn't voluntarily reveal it."

In an hour's conversation, the Cardinal attempted to capsulize the 1,000 years since Christianity was introduced in Poland. He began by saying: "I would like to observe that when Gilbert K. Chesterton visited Poland he was so fascinated by what he learned that he said there should be an encyclopedia entitled, 'What People Don't Know.' "

Through the dynasties, the repulsion of invasions by the Mongols and by the Order of the Teutonic Knights, and the partitioning of the country in the 18th Century, the Cardinal told his story. Polish heroes down the ages, punctuated the tale. Two Krols, both blood kin, were killed while trying to protect Polish Jews during World War II. In the end, the Cardinal likened those who would go on telling the "vicious" Polish jokes to "puppies yapping at our heels."

The Pope, according to Polish clergymen, has become a reference point Polish Americans use for self-assurance, even self-esteem. "His election influences the young people not to be ashamed," said the Rev. Victor E. Krzywonos, Administrator of the National Shrine of Our Lady of Czestochowa, in Doylestown, 25 miles north of Philadelphia. "The younger people suffered most with this joke thing," the priest said. "It made them look at their parents as imbeciles. The young ones began to assimilate with the other people and forget their heritage."

This attitude has been reversed, Father Krzywonos believes, in part because of the election of John Paul II, and partly because "everybody today is heritage-conscious, ethnically conscious. Personally, I would attribute this to the black man. He fought his way up and made everybody conscious of his ethnicity, of his rich background."

Down in Philadelphia, Monsignor Anthony E. Jaworowski, who is currently in Poland, does not see an end to the Polish joke as much as softening of its sting. "The Holy Father is so intelligent, so deep," said the Monsignor, "that I'm thinking some of these people who enjoyed circulating these horrible stories are saying, 'Hey, wait a minute, maybe we're on the wrong track. He is too intelligent to be talked about that way.' I think the stories will become more delicate, tamer, not so offensive."

Monsignor Jaworowski's parish, St. Adalbert's, the worshipping place for 3,000 Polish families, is in an area of northeast Philadelphia called Port Richmond. The church is surrounded by the A. J. Jagielski, Jr., Funeral Home, Polonia Federal Savings, Skowronski Real Estate, the offices of C. Czarnecki, opthomology, and D. Czarnecki, gynecology, and the icon-filled home and office where Josephine Nowak's late husband used to practice law.

"The Polish people have been hurt enough," Mrs. Nowak said the other day as she prepared to leave for Poland. "We are sensitive people, When this man was made Pope we were so overjoyed we took our Polish flag and our American flag and rejoiced in the streets. Even the words, 'Polish joke', should be forgotten."

Thirty-five miles to the south, in Wilmington, Del., a vibrant Polish community lives around a 75-year-old brick institution called the Pulask Legion. The Poles, some of whom in 1904 were earning seven cents an hour for factory work, established the Legion to help one another. Houses cost $1,000 then, and the Legion made families $1,000 loans, which were paid back at $5 a month for 11 years and 9 months. "This is still a neighborhood where people wash their steps every week," Richard Przywara, treasurer of the Legion, said the other night.

"These people were ecstatic when John Paul was elected," Przywara said. "The biggest change was an immediate reduction in the Polish joke. You know, we're really not dumb people by any stretch of the imagination."

Upstairs, Edward Cieszynski, another director of the Legion, was sweeping out a boardroom. "The first working people at Jamestown were Polish," Cieszynski said with pride. That was because the British didn't know how to do anything. That's been over 300 years and I still haven't heard a good Anglo-Saxon joke."●

EXPRESSION OF SUPPORT FOR DEPARTMENT OF EDUCATION ORGANIZATION ACT

(Mr. FOWLER asked and was given permission to address the House for 1 minute.)

Mr. FOWLER. Mr. Speaker, due to a commitment in my State of over 8 months' duration, I must be in Georgia to speak to the annual meeting of the Georgia Bar Association.

In the event that the measure to establish a new Department of Education is considered by the House tomorrow, I shall miss it, but I take this opportunity to express my strong support for that measure and urge my colleagues to pass the legislation.

TRIBUTE TO THE HONORABLE MORGAN MURPHY, SR.

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, last month we received with sadness the news of the passing of the father of our colleague and friend, the Honorable Morgan F. Murphy of Illinois. I have run across a fine eulogy to the late Morgan Murphy, Sr., authored by Mrs. Pat Somers Cronin, and I would like to share her comments with my colleagues in the House. Mrs. Cronin's thoughts, undoubtedly shared by those who knew the senior Morgan, are a tribute to a great American.

The article follows:

[From the Beverly Review, May 16, 1979]

View from the Hill

(By Pat Somers Cronin)

My husband is a man of many friends. Many, many friends. And among that special and often distinguished group, I can't name anyone he thought more highly of than Morgan Murphy, Sr., a longtime member of our Beverly Hills/Morgan Park community who died last month.

For years, they had worked together in various Catholic organizations and shared a mutually satisfying business relationship, too. Morgan was a man whose word was good anytime and every time; if he gave you his promise, that was that. You could count on him always.

And he was a delight to be with . . . sparkling, good company, kind, gentle, but very urban and witty. When he talked to you, he gave you his full attention, and there is nothing more flattering than to be listened to with interest.

Why did he have to be ill for so long? Why did such a good person have to suffer so much at the end? If only there were answers for such questions how much easier it would make life and the living of it for us all.

Surely there must have been dark days of discouraging fatigue for his staunch and courageous wife, Anne. But over the years, whenever we met, she would just ask for our prayers, never our sympathy; in fact, with all her own trouble, she would greet us cordially and ask for our family. That kind of cheerful and noble resignation, friends, is Christian with a capital C.

To me, Anne seems a rock of faith and fortitude . . . which may be why Morgan and Anne number among their three sons and three daughters a priest of the Chicago Archdiocese, and a Sister of Mercy. Not too many families can offer that kind of living evidence of the deep, well-founded, and very real faith underlying everyday activity.

Nor, most likely, do I have to mention that then son Morgan Murphy, Jr., is our United States Representative (D., Chicago), a thoughtful, perceptive gentleman it is a pleasure to watch grow and mature in office. With his family background, he can hardly miss.

The list of honors and appointments in Morgan's extensive obituary proves what a public spirited citizen he was, and how much he loved the city and its people.

But I prefer to remember him as the devoted husband, proud father, and good Christian; as the Knight of St. Gregory who wore his honors lightly and well. He obviously walked in high places, but he was never impressed with the trappings of prestige and position . . . or with himself, either (unless he paused to reflect his pride in Anne or the children).

You felt his self-containment and his sense of disciplined strength. He was such a straightforward man and they just don't make them like that anymore . . . not too often anyway. Morgan Murphy was a Thomas More type in a twentieth century world that no longer salutes the values he cherished and stood for, which may be why that world is always hurting somewhere. I'm happy I had the privilege of knowing him.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Gilman (at the request of Mr. Rhodes) for today on account of official business.

Ms. Holtzman (at the request of Mr. Wright) between 10 a.m. and 11 a.m., today on account of official business.

Mr. Nelson (at the request of Mr. Wright) for June 6, 7, and 8 on account of official business.

Mr. Young of Missouri (at the request of Mr. Wright) for June 6 through 12 on account of official business.

Mr. Bob Wilson (at the request of Mr. Bauman) through June 11 on account of official business.

Mr. Badham (at the request of Mr. Bauman) through June 11 on account of official business.

Mr. Dornan (at the request of Mr. Bauman) through June 11 on account of official business.

Mr. Wydler (at the request of Mr. Bauman) through June 11 on account of official business.

Mr. Myers of Indiana (at the request of Mr. Bauman) for today to attend funeral of former Representative William Bray.

Mr. Rudd (at the request of Mr. Bauman) through June 11 on account of official business.

Mr. Schulze (at the request of Mr. Bauman) through June 11 on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Whittaker) to revise and extend their remarks and include extraneous matter:)

Mr. Bob Wilson, for 5 minutes, today.

Mr. Livingston, for 5 minutes, today.

(The following Members (at the request of Mr. Stewart) to revise and extend their remarks and include extraneous material:)

Mr. Weaver, for 10 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Reuss, for 20 minutes, today.
Ms. Holtzman, for 5 minutes, today.
Mr. Charles H. Wilson of California, for 5 minutes, today.
Mr. Mica, for 5 minutes, today.
Mr. Brademas, for 5 minutes, today.
Mr. Myers of Pennsylvania, for 5 minutes, today.
Mr. Ottinger, for 5 minutes, today.
Mr. Peyser, for 5 minutes, today.
Mr. Vanik, for 5 minutes, today.
Mr. Brooks, for 5 minutes, today.
Mr. Hall of Ohio, for 5 minutes, today.
Mr. Rostenkowski, for 5 minutes, today.
Mr. Harkin, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Montgomery, to follow remarks of Mr. Hightower today.

The following Members (at the request of Mr. Whittaker) and to include extraneous matter:)

Mr. Rhodes.
Mr. Hyde.
Mr. Ashbrook in four instances.
Mr. Wydler in two instances.
Mr. Whitehurst.
Mr. Bob Wilson in two instances.
Mr. Campbell.
Mrs. Heckler.
Mr. Derwinski.
Mr. Shuster.
Mr. Conte.
Mr. Michel in two instances.
Mr. Roth.
Mr. Goodling in two instances.
Mr. Erlenborn.
Mr. Paul in four instances.
Mr. Jeffords.
Mr. McKinney.
Mr. Lagomarsino.
Mr. Broyhill.
Mr. Findley.
Mr. Kemp.

(The following Members (at the request of Mr. Stewart) and to include extraneous matter:)

Mr. Mikva in two instances.
Mr. Bailey.
Mr. Minish.
Mr. Ginn.
Mr. Mazzoli in two instances.
Mr. Beard of Rhode Island.
Mr. Nowak in five instances.
Mr. McCormack.
Mr. Murphy of New York.
Mr. Drinan.
Mr. Miller of California.
Mr. Wolff.
Mr. Conyers.
Mr. McKay.
Mr. Hamilton.
Mr. Scheuer.
Mr. Ireland.
Mr. Oberstar in two instances.
Mr. Hall of Ohio.
Mr. Santini.

Mrs. Boggs.
Mr. Atkinson.
Mr. Lehman.
Mr. Dodd.
Mr. Benjamin.
Mr. Weiss.
Mr. LaFalce.
Mr. Albosta.
Mr. Zeferetti.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following title:

S. 348. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ben Abruzzo, Maxie Anderson, and Larry Newman.

S. 613. An act authorizing the President of the United States to present a gold medal to the widow of Hubert H. Humphrey.

ADJOURNMENT

Mr. STEWART. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Thursday, June 7, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1759. A letter from the General Counsel of the Department of Defense, transmitting a draft amendment to the pending Military Construction Authorization Act for fiscal year 1980; to the Committee on Armed Services.

1760. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of the Army's intention to omit the clause authorizing the Comptroller General to examine certain records which would otherwise be required to be included in contracts with the Government of the Netherlands for storage services at Bergen op Zoom, the Netherlands, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

1761. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by James K. Bishop, Ambassador-designate to Niger, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

1762. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 9 of the National Climate Program Act to extend the authorization for appropriations for fiscal years 1981 and 1982; to the Committee on Science and Technology.

1763. A letter from the Comptroller General of the United States, transmitting a report on the Panama Canal Treaty implementing legislation (ID–79–33, June 4, 1979); jointly, to the Committees on Government Operations, Foreign Affairs, Merchant Marine and Fisheries, and Post Office and Civil Service.

1764. A letter from the Comptroller General of the United States, transmitting a report on part-time and other Federal employment (FPCD–78–19, June 5, 1979); jointly, to the Committees on Government Operations and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, report of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Omitted from the Record of June 5, 1979*]

Mr. ULLMAN: Committee on Ways and Means. H.R. 3920. A bill to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment, Compensation, and for other purposes. (Rept. No. 96–237). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted June 6, 1971*]

Mr. ULLMAN: Committee on Ways and Means. H.R. 2727. A bill to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes; with amendment (Rept. No. 95–238). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 4007. A bill to amend the Internal Revenue Code of 1954 to provide that the provisions which increase the Federal unemployment tax in States which have outstanding loans will not apply if the State makes certain repayments. (Rept. No. 95–239). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X,

the bill, to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengten and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes (H.R. 3434, as reported on May 10, 1979) was referred by the Speaker as follows:

The Committee of the whole House on the State of the Union discharged, and referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93–344.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STUDDS:

H.R. 4335. A bill to amend title V of the National Energy Conservation Policy Act to provide for the Federal purchase of wind energy systems, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BEVILL:

H.R. 4336. A bill to amend the Defense Production Act of 1950 to extend the authority granted by such act and to provide for the purchase of synthetic fuels and synthetic chemical feedstocks,. and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROOKS:

H.R. 4337. A bill to provide for the transfer of the Foreign Claims Settlement Commission of the United States to the U.S. Department of Justice as a separate agency in that Department; to provide for the authority and responsibility of the Department of Justice to supply to the Foreign Claims Settlement Commission certain administrative support services without altering the adjudicatory independence of the Commission; to change the terms of office and method of appointment of the members of the Commission; and for other purposes; to the Committee on Government Operations.

By Mr. PHILIP M. CRANE (for himself, Mr. Symms, Mr. Paul, and Mr. Daniel B. Crane):

H.R. 4338. A bill to establish "National Tax Liberation Day" as a legal public holiday; jointly, to the Committees on Post Office and Civil Service and Ways and Means.

By Mr. GLICKMAN:

H.R. 4339. A bill to repeal certain special reduced postal rates authorized for political committees; to the Committee on Post Office and Civil Service.

By Mr. GOODLING:

H.R. 4340. A bill to amend the Atomic Energy Act of 1954 to modify for new nuclear facilities the limitations on the amount of financial protection required with respect to nuclear incidents, to remove for such facilities the statutory limitation on the aggregate liability for a single nuclear incident, to limit the financial obligations of the United States with respect to such incidents, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 4341. A bill to amend the Railroad Retirement Act of 1974 to provide that the spouse of a person receiving an annuity on account of disability may receive an annuity at age 60 if such person would have completed 30 years service as of the date of that person's attaining the age of 60; to the Committee on Interstate and Foreign Commerce.

H.R. 4342. A bill to amend title 23, United States Code, to condition the approval of Federal funding for highway projects within a State upon the elimination of subsidized commuter parking for employees of such State; to the Committee on Public Works and Transportation.

H.R. 4343. A bill to amend the Internal Revenue Code of 1954 to allow a refundable tax credit for amounts paid for increases in electricity under automatic fuel adjustment clauses as a result of the shutdown of the nuclear plant at Three Mile Island near Middletown, Pa.; to the Committee on Ways and Means.

H.R. 4344. A bill to amend the Internal Revenue Code of 1954 to provide that advertising of alcoholic beverages is not a deductible expense; to the Committee on Ways and Means.

By Mr. JEFFORDS (for himself, Mr. Mineta, Mr. Anderson of Illinois, Mr. Simon, Mr. Perkins, Mr. Glickman, Mr. Emery, Mr. Bedell, Mr. Gradison, Mr. Neal, Mr. Wampler, Mrs. Heckler, Mr. Moorhead of Pennsylvania, Mr. Leach of Iowa, Mr. D'Amours, Mr. Baldus, Mr. Madigan, Mr. Johnson of Colorado, Mr. Richmond, and Mr. Panetta):

H.R. 4345. A bill to establish a program for replacing, by 1987, 10 percent or more of the gasoline consumed in the United States with alcohol and other replacement fuels derived from coal and renewable resources; to the Committee on Interstate and Foreign Commerce.

By Mr. LUJAN:

H.R. 4346. A bill to amend title IV of the Higher Education Act of 1965 to establish a system of student tuition advances to be repaid as an income tax imposed by the Internal Revenue Code of 1954, and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. LUKEN:

H.R. 4347. A bill to amend the Public Health Service Act to revise and extend the programs of the National Institute of Arthritis, Metabolism, and Digestive Diseases with respect to diabetes, to revise and extend the authorizations for the National Diabetes Advisory Board, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. McDADE (for himself, Mr. Lederer, Mr. Edgar, Mr. Gray, Mr. Dougherty, Mr. Kostmayer, and Mr. Myers of Pennsylvania):

H.R. 4348. A bill to authorize the Secretary of the Interior to acquire the Walnut Street Theatre, a national landmark, for inclusion as a national historic site in Independence National Historical Park, Philadelphia, Pa., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MOORHEAD of Pennsylvania (for himself, Mr. Evans of Delaware, Mr. Foley, Mr. Hanley, Mr. Jeffords, Mr. Kelly, Mr. Minish, Mr. Murtha, Mr. Patterson, Mr. Perkins, Mr. Ritter, and Mr. Wylie):

H.R. 4349. A bill to amend the Defense Production Act of 1950 to extend the authority granted by such act and to provide for the purchase of synthetic fuels and synthetic chemical feedstocks, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MYERS of Pennsylvania:

H.R. 4350. A bill to establish a Neighborhood Reinvestment Corporation; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RICHMOND (for himself and Mr. Jeffords):

H.R. 4351. A bill to require that the Secretary of Agriculture establish a program to develop improved methods for using organic wastes in agriculture; to the Committee on Agriculture.

By Mr. RUSSO:

H.R. 4352. A bill to authorize the Comptroller General to audit the programs, activities, and financial operations of the Federal National Mortgage Association, and to amend certain housing laws for the purpose of improving Federal programs which insure home mortgages; to the Committee on Banking, Finance and Urban Affairs.

H.R. 4353. A bill to provide compensation for the victims of crime, assistance to witnesses in criminal cases, and an increase in witness fees; to the Committee on the Judiciary.

H.R. 4354. A bill to amend title 18 of the United States Code with respect to firearms; to the Committee on the Judiciary.

By Mr. ST GERMAIN:

H.R. 4355. A bill to amend the Defense Production Act of 1950 to extend the authority granted by such act and to provide for the purchase of synthetic fuels and synthetic chemical feedstocks, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SEIBERLING:

H.R. 4356. A bill to amend the Food Stamp Act of 1977 for purposes of providing that certain educational loans, grants, scholarships, fellowships, and veterans' educational benefits received by recipients of aid to families with dependent children shall not be included in determining household income for purposes of such act; to the Committee on Agriculture.

By Mr. STUDDS:

H.R. 4357. A bill to amend the Fishery Conservation and Management Act of 1976 to bring Atlantic bluefin tuna under the management authority of the United States within the fishery conservation zone, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. WALGREN:

H.R. 4358. A bill to amend section 431 of the Public Health Service Act to provide funds to the National Institute of Neurological and Communicative Disorders and Stroke for research in the area of regeneration of the spinal cord; to the Committee on Interstate and Foreign Commerce.

By Mr. BOB WILSON:

H.R. 4359. A bill to amend title 10, United States Code, to provide separation pay for regular enlisted members of the U.S. Armed Forces; to the Committee on Armed Services.

By Mr. ZEFERETTI (for himself, Mr. Murphy of New York, Mr. Akaka, Mr. Bauman, Mr. Biaggi, Mr. Bonker, Mr. Bowen, Mr. D'Amours, Mr. Evans of the Virgin Islands, Mr. Forsythe, Mr. Hughes, Mr. Hutto, Mr. Myers of Pennsylvania, and Mr. Oberstar):

H.R. 4360. A bill to promote the development of an American fishing industry in certain underutilized species; to the Committee on Merchant Marine and Fisheries.

By Mr. HEFTEL:

H.R. 4361. A bill to require the Secretary of Energy to establish technical specifications for the permanent storage of spent fuel from nuclear reactors before initiating any in-house feasibility studies or negotiations with foreign nations regarding storage of spent fuel from any foreign reactor; jointly, to the Committees on Interior and Insular Affairs, Foreign Affairs, Interstate and Foreign Commerce.

By Mr. LELAND (for himself and Mr. Maguire):

H.R. 4362. A bill to increase the quality, effectiveness, and availability of nutrition information and programs for the prevention of nutritional disorders in children and women, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, Agriculture, and Ways and Means.

By Mr. WILLIAMS of Ohio:

H.R. 4363. A bill to prohibit the Environmental Protection Agency from promulgating any new rules or regulations before June 1, 1981, to prevent any EPA enforcement actions which would result in the closing of any facilities before June 1, 1981, without congressional approval, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Rules.

By Mr. McDADE:

H.J. Res. 354. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Ms. FERRARO (for herself and Mr. Addabbo):

H. Res. 302. Resolution expressing the sense of the House of Representatives regarding summer fill-up programs for home heating oil; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

215. By the SPEAKER: Memorial of the Legislature of the State of Washington, relative to authorizing the Bonneville Power Administrator to develop or purchase energy from pilot developmental plants; to the Committee on Interior and Insular Affairs.

216. Also, memorial of the Legislature of the State of Louisiana, relative to supplies of diesel fuel for farmers; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HEFTEL introduced a bill (H.R. 4364) for the relief of Librado Perez, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 52: Mr. Chappell.

H.R. 154: Mr. Coelho, Mr. Andrews of North Dakota, Mr. Nolan, Mr. Erdahl, Mr. Pepper, Mr. Hagedorn, Mr. Sabo, Mr. McKinney, and Mr. de la Garza.

H.R. 160: Mr. Spence, and Mr. Anthony.

H.R. 652: Mr. Hopkins.

H.R. 745: Mr. Wolpe, Mr. Jeffords, Mr. Dellums, Mr. Weiss, and Mr. Wolff.

H.R. 1173: Mr. Livingston, Mr. Evans of the Virgin Islands, Mr. Leach of Louisiana, Mr. Symms, Mr. Devine, and Mr. Dan Daniel.

H.R. 1306: Mr. Albosta, Mr. Charles Wilson of Texas, Mr. Yatron, Mr. Davis of Michigan, Mr. Young of Alaska, Mr. Cleveland, Mr. Gilman, Mr. Wampler, Mr. Dornan, Mr. Edwards of Oklahoma, Mr. Abdnor, Mr. Robinson, Mr. Addabbo, Mr. Latta, Mr. Andrews of North Dakota, Mr. Marriott, Mr. Derwinski, Mr. Bevill, Mr. Mottl, Mr. Evans of the Virgin Islands, Mr. Leach of Louisiana, Mr. Badham, Mr. Miller of Ohio, Mr. Trible, Mr. Corcoran, Mr. Evans of Georgia, Mr. Kemp, Mr. Robert W. Daniel, Jr., Mr. Rudd, Mr. Grassley, and Mrs. Smith of Nebraska.

H.R.1597: Mr. Royer.

H.R. 1600: Mr. Goodling, Mr. Leach of Louisiana, Mr. Huckaby, Mr. Ritter, Mr. Nolan, Mr. McDade, Mr. Murtha, Mr. Maguire, Mr. Ashbrook, Mr. Mavroules, Mr. Kogovsek, Mr. Robert W. Daniel, Jr., Mr. Neal, Mr. Kramer, Mr. Ottinger, Mrs. Bouquard, Mr. Vander Jagt, and Mr. Gingrich.

H.R. 1734: Mrs. Spellman.

H.R. 1916: Mr. Johnson of Colorado, Mr. Florio, Mr. Hughes, Mr. Panetta, Mr. Stark, Mr. Andrews of North Carolina, and Mr. Wirth.

H.R. 2085: Mr. Murphy of Pennsylvania, Mr. Lagomarsino, Mr. Winn, Mr. Mitchell of Maryland, Mr. Forsythe, Mrs. Fenwick, Mr. Neal, Mr. Ertel, Mr. McCormack, Mr. Weiss, and Mr. Nolan.

H.R. 2129: Mr. Anderson of California and Mr. Roybal.

H.R. 2552: Mr. Grassley.

H.R. 2760: Mr. Donnelly.

H.R. 3519: Mr. Dornan.

H.R. 3561: Mr. Downey, Mr. Swift, Mr. Heftel, Mr. Frost, Mr. Patten, Mr. Daniel B. Crane, and Mr. Oberstar.

H.R. 3595: Mr. Murphy of Pennsylvania, Mr. Kindness, Mr. Winn, Mr. Beilenson, Mr. Duncan of Tennessee, Mr. Roe, Mr. Dornan, Mr. Downey, Mr. Seiberling, Mr. Ottinger, Mr. Fountain, Mr. Hyde, Mrs. Holt, and Mr. Fish.

H.R. 3678: Mr. Stenholm.

H.R. 4142: Mr. Leach of Louisiana, Mr. Dickinson, Mr. Solomon, Mr. Whitehurst, Mr. Devine, Mr. Winn, Mr. Hughes, Mr. Santini, Mr. Spence, Mr. Buchanan, Mr. Neal, Mr. Downey, Mr. Frost, Mr. Hyde, Mr. Lagomarsino, Mr. Bevill, Mr. Lungren, Mr. Charles Wilson of Texas, Mr. Grassley, Mr. Beard of Tennessee, Mr. Brown of Ohio, Mr. Robinson, Mr. Addabbo, Mr. Hagedorn, and Mr. Symms.

H.J. Res. 139: Mr. Mavroules.

H.J. Res. 213: Mr. Coelho, Mr. Derwinski, and Mr. Gradison.

H. Res. 115: Mr. McKinney.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 111

By Mr. MOTTL:

—Section 250 is amended to include new subsection (d) which reads as follows:

"(d) No payments may be made under the provisions of subsections (a) and (b) of this section during any period that there are outstanding, unpaid, uninsured claims of United States citizens or United States corporations against the Republic of Panama for the value of property, real and personal, which had been owned or controlled by such

United States citizens or corporations and which has been nationalized, expropriated, occupied, or seized by the Republic of Panama; *provided*, that (1) any such claims for compensation shall have been presented to the Republic of Panama and remained unsettled and unpaid for a period of at least six months; (2) the Panama Canal Commission shall have been notified of the amount and basis of any such claim by the claimant after such six-month period; and (3) the Panama Canal Commission has determined, within thirty days of the date such notification is given to it, on the basis of the information submitted to it by the claimant and any supplemental information resulting from its own investigation, that the claim is not frivolous and without any meritorious basis. The Commission shall, within sixty days thereafter, appoint a qualified appraiser who shall determine the fair market value of the property taken, whose findings as to value shall be made ninety days after appointment and be binding on the parties thereto. For purposes of this subsection, property 'owned or controlled by such United States citizens or corporations' includes property owned or controlled either directly or indirectly through ownership of securities, through the power to elect directors or to direct or cause the direction of management or policies, or otherwise."

H.R. 2444

By Mr. ERLENBORN:

—In the following places, strike out the word "Education" and insert in its place "Public Education and Youth": on page 51, in line 20;

On page 53, in lines 4, 5, and 7;

On page 55, in line 19;

On page 57, in lines 12 and 14;

On page 64, in lines 9 and 10, and 12;

On page 98, in lines 16 and 17, and 24;

On page 99, in lines 6, 10, 19, 20 and 21, and 22 and 23;

On page 100, in lines 4, 17, and 19;

On page 101, in lines 5, 9 and 10, 13, 16, and 23;

On page 102, in lines 13, 15, and 25;

On page 103, in lines 11 and 13; and

On page 104, in line 17.

Amend the title to read, "A Bill To establish a Department of Public Education and Youth, and for other purposes."

—On page 58, in line 8, strike out "six" and insert in its place "five".

On page 62, strike out lines 14 through 23, inclusive.

On page 63, in line 3, strike out "207." and insert in its place "206.";

In line 12, strike out "208." and insert in its place "207."; and

In line 22, strike out "209." and insert in its place "208.".

On page 64, in line 4, strike out "210." and insert in its place "209.";

In line 8, strike out "211." and insert in its place "210."; and

In line 15, strike out "212." and insert in its place "211.".

On page 67, in line 3, strike out "213." and insert in its place "212.".

On page 99, in line 3, strike out "14" and insert in its place "13"; and

In line 19, strike out "(6)" and insert in its place "(5)".

On page 52, in the table of contents, strike out "Sec. 206. Office of Special Education and Rehabilitation Services." and renumber sections 207 through 213 as sections 206 through 212, respectively.

—On page 59, in line 2, after the semicolon, insert "and"; strike out lines 3 through 5, inclusive;

In line 6, strike out "(6)" and insert in its place "(5)";

After line 8, insert the following new subsection:

"(d) Each of the officers appointed pursuant to subsections (a), (b), and (c) shall, in the performance of his or her duties, encourage the involvement of parents, students, and the public in departmental programs."; and

In line 9, strike out "(d)" and insert in its place "(e)".

—On page 61, in line 14, after the word "private" insert "organizations and".

—On page 63, strike out lines 20 through 24, and on page 64, strike out lines 1 and 2.

On page 73, strike out lines 5 through 21 and insert in lieu the following:

"(b) The Secretary shall delegate the operation of schools for overseas dependents of personnel of the Department of Defense to the Secretary of Defense.

"(c) The Secretary shall provide such technical services and assistance to the Secretary of Defense as is required for the thorough and efficient operation of the overseas schools.

"(d) The Secretary shall assure that the resources of the Department are available to the overseas schools without compensation."

—Strike out all from line 24 on page 70 to line 12 on page 71, inclusive.

On page 71, in line 13, strike out "(5)" and insert in its place "(4)";

In line 21, strike out "(6)" and insert in its place "(5)"; and

In line 24, strike out "(7)" and insert in its place "(6)";

On page 72, in line 1, strike out "(8)" and insert in its place "(7)".

—On page 72, after line 7, insert the following new subsection:

"(c) The functions transferred to and vested in the Secretary by subparagraph (a)(2)(I) of this section shall revert to the Secretary of Health and Human Services five years after the effective date of this Act unless prior to that date a law has been enacted which continues the functions in the Secretary."

—On page 72, after line 7, insert the following new subsection:

"(c) The functions transferred to and vested in the Secretary by paragraph (a)(4) of this section shall revert to the Secretary of Health and Human Services five years after the effective date of this Act unless prior to that date a law has been enacted which continues the functions in the Secretary."

—On page 72, in line 24, after the word "Act," strike out all that follows up to and including line 4 on page 73 and insert in its place: "if, not later than three years after the effective date of this Act, the Secretary and the Secretary of Defense jointly recommend to the President that all functions and offices vested in the Secretary of Defense or the Department of Defense by the Defense Department's Education Act of 1978 be transferred to the Secretary, such functions and offices shall be transferred to and vested in the Secretary, at such time and in such manner as the President may designate."

—On page 73, in line 1, strike out "three" and insert in its place "five"; and

In line 10, strike out "one year" and insert in its place "three years".

—On page 73, in lines 11 and 12, strike out ", after consultation with the Secretary of Defense, shall" and insert in its place "and the Secretary of Defense shall jointly"; and

In line 14, after the word "Secretary", insert "and the Secretary of Defense".

—On page 73, after line 21, insert the following new subsection:

"(e) The functions transferred to and vested in the Secretary by subsection (a) of this section shall revert to the Secretary of Defense five years after the effective date of this Act unless prior to that date a new law has been enacted which continues the functions in the Secretary."

—On page 75, in line 9, after "306.", insert "(a)"; and

After line 13, insert the following new subsection:

"(b) The functions transferred to and vested in the Secretary by subsection (a) of this section shall revert to the Secretary of Housing and Urban Development five years after the effective date of this Act unless prior to that date a law has been enacted which continues the functions in the Secretary."

—On page 76, after line 14, insert the following new subsection:

"(d) The functions transferred to and vested in the Secretary by subsection (a) of this section shall revert to the Secretary of the Interior five years after the effective date of this Act unless prior to that date a law has been enacted which continues the functions in the Secretary."

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE GENERAL SERVICES ADMINISTRATION

"Sec. 308. There are hereby transferred to and vested in the Secretary all functions of the Administrator of General Services or the General Services Administration under chapter 15, 21, 23, 25, 27, 29, 31, and 33 of title 44, United States Code."; and

In line 16, strike out "308." and insert in its place "309.".

On page 52, in the table of contents, after section 307, insert "Sec. 308. Transfers from the General Services Administration." and renumber section 308 as section 309.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

"Sec. 308. There are hereby transferred to and vested in the Secretary all functions of the National Foundation on the Arts and the Humanities under the National Foundation on the Arts and the Humanities Act of 1965, as amended."; and

In line 16, strike out "308." and insert in its place "309."

—On page 52, in the table of contents, after section 307, insert "Sec. 308. Transfers from the National Foundation on the Arts and the Humanities." and renumber section 308 as section 309.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE VETERANS' ADMINISTRATION

"Sec. 308. There are hereby transferred to and vested in the Secretary all functions of the Administrator of Veterans' Affairs or the Veterans' Administration under chapters 31, 32, 34, 35, and 36 of title 38, United States Code."; and

In line 16, strike out "308." and insert in its place "309.".

—On page 52, in the table of contents, after section 307, insert "Sec. 308. Transfers from the Veterans' Administration." and renumber section 308 as section 309.

—On page 80, after line 9, insert: "personnel occupying";

In line 12, strike out the word "positions" and insert in its place "personnel".

—On page 82, after line 9, insert the following:

"(c) In addition to the requirements specified in subsection (b), all rules and regulations proposed by the Secretary to apply to functions and offices transferred under section 303 of this Act must be approved by the Secretary of Defense before they may be promulgated."

By Mr. GARCIA:

—Page 58, line 8, strike out "six" and insert in lieu thereof "seven".

Page 64, after line 2, insert the following new section and redesignate the following sections and conform the table of contents accordingly:

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

SEC. 210. There shall be in the Department an Office of Bilingual Education and Minority Languages Affairs headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer and coordinate functions under Title VII of the Elementary and Secondary Education Act of 1965, post secondary education programs and any other programs relating to bilingual education, including research, development, evaluation and assessment with respect to such programs. The Assistant Secretary shall perform such additional functions as the Secretary may prescribe.

—Page 79, after line 25, insert the following new subsection:

(g) Notwithstanding any other provision of this section, appointments to positions in the Department shall be made in accordance with the policy of section 7201(b) of title 5, United States Code, and with the regulations prescribed by the Office of Personnel Management under section 7201(c) of such title.

By Mr. HARKIN:

—Page 73, beginning on line 22, strike out all of section 304 through line 21 on page 74 and redesignate the following sections and conform the table of contents accordingly.

By Mr. McCLORY:

—Page 74, line 22, strike "TRANSFERS FROM THE DEPARTMENT OF JUSTICE" and all that follows through line 6, page 75, redesignating succeeding sections accordingly.

By Mr. QUAYLE:

—Page 80, line 12, strike "450" and insert "800" strike out lines 13 and 14, and insert the following: "increased. Any consultants and experts hired under section 402 shall count as full-time permanent positions for the purposes of this section."

By Mr. WAXMAN:

—Page 69, strike out lines 22, 23, and 24, and redesignate the succeeding subparagraphs accordingly.

By Mr. WALKER:

—On page 54, in line 21, strike out the ";", and insert the following: "and that no individual should be denied such education opportunities by rules, regulations, standards, guidelines, and orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin or sex."

—On page 55, in line 13, strike out the "; and" and insert in lieu thereof ";";

In line 16, strike out the period and insert in lieu thereof "; and"; and

After line 16, insert the following:

(9) the lack of a daily opportunity for prayer or meditation on a voluntary basis in public schools providing elementary or secondary education has adversely affected the students of this nation.

—On page 56, in line 17, strike out the "and";

In line 19, strike out the period and insert in lieu thereof "; and"; and

After line 19, insert the following:

(8) to promote in all public schools providing elementary or secondary education a daily opportunity for prayer or meditation, participation in which would be on a voluntary basis.

H.R. 3875

By Mr. TAYLOR:

—Page 41 after line 15, Section 402 of H.R. 3875 is amended by adding the following subsection:

(c) Unless the method of disposition is adopted for the purpose of evasion of this title, the requirements of sections 1404(a)(1) and 1405 through 1408 shall not apply to—

(1) the sale or lease of real estate by a developer who is engaged in a sales operation which is intrastate in nature. For purposes of this exemption, a lot may be sold only if—

(A) the lot is free and clear of all liens, encumbrances, and adverse claims;

(B) the purchaser or his or her spouse has made a personal on-the-lot inspection of the lot purchased;

(C) each purchase or lease agreement contains a clear and specific statement describing the party responsible for providing and maintaining the roads, water facilities, sewer facilities, and any existing or promised amenities.

As used in this clause (1), the terms "liens", "encumbrances", and "adverse claims" do not include United States land patents and similar Federal grants or reservations, property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, if—

(i) the developer, prior to the time the contract of sale or lease is entered into, has furnished each purchaser or lessee with a statement setting forth in descriptive and concise terms all such reservations, taxes, assessments, which are applicable to the lot to be purchased or leased; and

(ii) receipt of such statement has been acknowledged in writing by the purchaser or lessee;

SENATE—*Wednesday, June 6, 1979*

(Legislative day of Monday, May 21, 1979)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray in the words of the Psalms—

O God, Thou art my God; early will I seek Thee: my soul thirsteth for Thee, my flesh longeth for Thee in a dry and thirsty land, where no water is: To see Thy power and Thy glory, so as I have seen Thee in the sanctuary. Because Thy loving kindness is better than life, my lips shall praise Thee.—Psalms 63: 1, 2, 3.

Show me Thy ways, O Lord; teach me Thy paths. Lead me in Thy truth and teach me: for Thou art the God of my salvation; on Thee do I wait all the day.—Psalms 25: 4, 5.

Set a watch, O Lord, before my mouth: keep the door of my lips.—Psalms 141: 3.

Order my steps in Thy word: and let not any iniquity have domination over me.—Psalms 119: 133.

Let the words of my mouth, and the meditation of my heart, be acceptable in Thy sight, O Lord my strength and my redeemer.—Psalms 19: 14.

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 6, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. Mr. President, I have no requirement for my time this morning, and no request that I yield any portion of it. I would be glad to reserve it if there is a need for it. At the moment, while I check with some Members on our side who may or may not utilize their special

• This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

order time this morning, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VITIATION OF ORDER FOR RECOGNITION OF SENATORS DANFORTH AND BELLMON

Mr. ROBERT C. BYRD. I ask unanimous consent that the order for recognition of Messrs. DANFORTH and BELLMON be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I return my time.

Mr. BAKER. Mr. President, I have no further need for my time. I turn it back.

RECOGNITION OF SENATOR WALLOP

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wyoming is recognized for not to exceed 15 minutes.

THE MSHA TEST

Mr. WALLOP. Mr. President, today I bring before the Senate a problem of great concern. The specific incident which prompted this statement is just a small reminder of the power the regulatory agencies have over individual lives in this country.

Recently, I received a copy of a test entitled, "The Situation Adaptability Evaluations for Management Personnel." This test was given to participants in an MSHA training course held on April 16–18, 1979, in Albany, Oreg. Mr. President, the test is absurd, insulting, and an abuse of Government responsibility.

I would add the test is an abuse of civility to any person's feelings. Although defended by the giver of the test as a "social icebreaker," the test asks ridiculous, puerile questions which are offensive.

One of my constituents, compelled by his Government to attend this safety class, found the test disgusting. Mr. President, this test is an embarrassment to a whole spectrum of decent Americans who are compelled through law to participate in such procedures.

Mr. President, on May 4, oversight hearings were held in the Labor and Human Resources Committee on the applicability of Public Law 95–164 to sand, stone, and gravel mining operations. During this hearing, several problems in implementing the training provision mandated by the law were discussed. A review of the testimony given by individuals and associations representing the industry will show that the training regulations' effectiveness and the credibility of the agency in implementing the law is seriously questioned.

The new Mine Safety and Health Act of 1977—Public Law 95–164—required that each new "miner" be trained by a certified safety instructor a minimum of 24 hours for surface mines and 40 hours for underground coal mines before beginning their jobs. In order to provide the training to certify the safety instructors, numerous centers were set up by MSHA throughout the country. To become certified, a participant can attend a 3-day session of classes, learning how to instruct the miners in safety. The course is provided free of charge by the Government but all expenses must be paid by the individual or the employer. The gentleman I have referred to earlier in my statement spent approximately $500 to attend the course for the required time. This figure will vary but the cost is assumed by the individual or the company.

Most Americans take the safety of employees seriously. Employers and small businesses do not have time for Government pranks. MSHA required that "miners" participate in safety programs. However, when this type of absurd and obscene test is administered by Government employees, on Government time, and presumably with Government materials, it is a gross abuse of the taxpayer's money. Even adopting the most liberal definition of "training" I cannot, under any circumstances, condone the use of this material for a Government funded and sponsored training program.

If this is the judgment, attitude and caliber of those in authority at MSHA, it is time to make some drastic changes. Such arrogance and blatant abuse of the authority delegated to this agency demands immediate action plus public and personal apology, by those responsible and the Secretary of Labor.

Mr. President, I ask unanimous consent that the test be printed in the RECORD, as if read, because I frankly tell you, I am embarrassed to read it in front of an audience.

There being no objection, the test was ordered to be printed in the RECORD, as follows:

Situation Adaptability Evaluation for Management Personnel

This test has been designed to evaluate reactions of management personnel to various situations. The situations are based on actual case studies from a well known educational institution and represent a cross section of test data correlated to evaluate both reaction time to difficult situations as well as the soundness of each decision selected.

There are eight (8) multiple choice questions. Read each question thoroughly, place an "X" by the answer you feel is most correctly justified by the circumstances given. Be prepared to justify your decision.

You have four (4) minutes.

(Do not turn this page until told to do so).

(1) You have prepared a proposal for the regional director of purchasing for your largest customer. The success of this presentation will mean increasing your sales to his company by 200%. In the middle of your proposal the customer leans over to look at your report and spits into your coffee. YOU:

(A) Tell him you prefer your coffee black.

(B) Ask to have him checked for any communicable diseases.

(C) Take a leak in his "out" basket.

(2) You are having lunch with a prospective customer talking about what could be your biggest sale of the year. During the conversation a blonde walks into the restaurant and she is so stunning you draw your companion's attention to her and give a vivid description of what you would do if you had her alone in your motel. She walks over to the table and introduces herself as your client's daughter. Your next move is to:

(A) Ask for her hand in marriage.

(B) Pretend you've forgotten how to speak English.

(C) Repeat the conversation to the daughter and just hope for the best.

(3) You are making a sales presentation to a group of corporate executives in the plushest office you've ever seen. The hot enchillada casserole and egg salad sandwich you had for lunch react, creating a severe pressure. Your sphincter loses its control and you break wind in a most convincing manner causing three (3) water tumblers to shatter and a secretary to pass out. What you should do next is:

(A) Offer to come back next week when the smell has gone away.

(B) Point out their chief executive and accuse him of the offense.

(C) Challenge anyone in the room to do better.

(4) You are at a business lunch when you are suddenly overcome with an uncontrollable desire to pick your nose. Remembering this is definitely a NO NO, you:

(A) Pretend to wave to someone across the room and with one fluid motion, bury your forefinger in your nostril right up to the 4th joint.

(B) Get everyone drunk and organize a nose picking contest with a prize to the one who makes his nose bleed first.

(C) Drop your napkin on the floor and when you bend over to pick it up, blow your nose on your sock.

(5) You've just spent the evening with a supplier who invited you to an all night boiler-making drinking party. You get home just in time to go to work. You stagger to the men's room and spend the next half hour vomiting. As you're washing up at the sink, the sales training director walks up, blows his cigar in your face, and asks you to join him for drinks after work. You:

(A) Look him straight in the eye and launch one last convulsive torrent at the front of his Hart Shaffner & Marx suit.

(B) Nail him right in the crotch, banking on the fact he'll never recognize your green face.

(C) Grasp his hand and pump it till he P's his pants.

(6) You are at dinner with a customer and his wife, who looks like the regional runner-up of the Marjorie Main look alike contest. Halfway through dinner you feel a hand on your lap. If you are resourceful you will:

(A) Accidently spill hot coffee in your lap.

(B) Slip a note to the waiter to have your customer paged and see if the hand goes away when he does.

(C) Excuse yourself and go to the men's room. If he follows, don't come out until you have a signed order.

(7) You're on your way in to see your best account when your zipper breaks and you discover that you forgot to put your underpants on that morning. You decide to:

(A) Call on the customer's secretary instead.

(B) Explain you were just trolling for queers.

(C) Buy a baggy raincoat and head for the school playground.

(8) You've just returned from a trip to Green Bay, Wisconsin in January and tell your boss that nobody but whores and football players live there. He mentions that his wife is from Green Bay. You:

(A) Ask what position she played.

(B) Ask if she's still working the streets.

(C) Pretend you're suffering amnesia and don't remember your own name.

Mr. WALLOP. Mr. President, there is little anyone can say about this filth and this kind of insult to the American working man. If the Congress of the United States cannot take a look at the material here and realize that this bureaucracy thinks it governs the people of America, not by their consent but by their own giving of grace to our existence, then it is time that we really take a serious look at the events and wonder if we have a free country. It seems to me this kind of material can only be put in front of Americans by the most arrogant kind of Government.

The mining industry has no choice. They cannot run their mines under any set of circumstances without completing one of these courses.

Mr. President, the Secretary of Labor of the United States owes a personal apology to those who took this course and so, indeed, do those who designed it and those who administered it.

I thank the Chair and yield back the remainder of my time.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, without prejudice to the order on yesterday which allows me to be recognized for the purpose of calling up the resolution by Senator HARRY F. BYRD, JR., or the committee substitute—one or the other—that there now be a brief period for the transaction of routine morning business not to extend beyond 15 minutes, and that Senators may be permitted to speak therein for about 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT OF RULE XXV OF THE STANDING RULES OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask that it be stated by the clerk.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 176) amending paragraph 3(b) of Rule XXV of the Standing Rules of the Senate:

Resolved, That paragraph 3(b) of Rule XXV of the Standing Rules of the Senate is amended by striking out of the item relating to Intelligence, the number "13" and inserting in lieu thereof "15".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

Mr. WALLOP. Mr. President, that has been cleared by the minority and there is no objection.

The resolution (S. Res. 176) was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANNUAL FINANCIAL DISCLOSURE OF SENATOR STAFFORD

Mr. STAFFORD. Mr. President, in each of the last 5 years, I have made public disclosures of my financial holdings, along with summaries of my Federal income tax returns.

I have pledged that I would issue a similar financial report to the citizens of Vermont each year for the remainder of my time in public office.

In keeping with that promise, I am today once again issuing a public statement of financial disclosure.

The financial statement shows that my wife, Helen, and I had net assets of slightly more than $443,000 as of May 1, 1979, when the evaluation was made.

The statement I am making public lists details of our holdings—including bank accounts, cash value of life insurance and Federal retirement fund, real and personal property we own, and stocks and bonds.

The majority of the stocks and bonds listed were owned by us before I entered public office and there has been little change in our financial condition in terms of real dollars since I entered public office in Vermont 25 years ago. Like most Americans, the Staffords are having trouble keeping up with inflation.

The summary of our joint Federal income tax return shows that Mrs. Stafford and I had an adjusted gross income last year of slightly less than $71,000. Of that total, $57,500 came from my salary as a U.S. Senator.

Our taxable income was $62,500.

We paid more than $20,500 in Federal income taxes for the year, and $5,134 in Vermont State income taxes. Our total of Federal and State income tax payments was $25,707.

Those Federal and State income tax payments amounted to more than 36 percent of our gross income.

I am submitting details of our financial statement to be printed in the Congressional Record, as in the past. And, as I have done in each of the last 5 years, I am making copies of the statement available to newspapers, radio stations, and other news services in Vermont.

This information is being made public because I remain convinced that those who serve in Government, as well as Government itself, must be as open and candid as possible with the public.

The net worth of the Staffords increased by slightly more than $55,000 in the last year, mainly for reasons that are familiar to all property owners.

The property we own in Vermont and our house in Virginia continued last year to reflect rising real estate prices—and thus to increase in market value.

The market value of our three properties increased by a total of $42,000 during the last year, and that accounted for most of the total increase in our net assets.

In addition, we reduced our mortgage by $1,000, and my Federal retirement fund increased by $6,000 during the year. The value of our stock portfolio showed an increase of $2,000.

The best way to enable Americans to judge whether their government and their officials are acting properly is to provide full disclosure of all interests of government and of those who make decisions in government.

Thus, I invite all Vermonters—and all Americans—to examine my financial interests and to match those interests with my record as a public official.

For some time I have been concerned over the loss of public confidence in government and politics. I believe one of the reasons for public suspicion is that so much of the activity of government and politics takes place away from public view.

I had hoped that, by this time, the Congress would have enacted legislation requiring detailed public financial disclosure by Members of Congress and other senior officials of Government.

Some progress has been made in this direction. But, not enough. The financial disclosures I have been making public each year continue to go beyond that required by law or Senate rules.

I shall continue to support legislation that provides greater disclosure of government and of the activities of those in government.

In the meantime, I shall continue to make my own full financial disclosure to my fellow Vermonters.

I ask unanimous consent that the financial statement and the Federal income tax return summary I have referred to be printed in the Record.

There being no objection, the material was ordered to be presented in the Record, as follows:

Summary of 1978 joint Federal income tax return; Robert T. and Helen K. Stafford

Income:	
Salary	$57,500.00
Interest	1,301.74
Dividends (less $200 exclusion)	3,554.23
Other	11,982.61
Total income	74,338.58
Adjustments to income:	
Allowable congressional expenses not reimbursed	3,403.76
Total adjustments to income	3,403.76
Adjusted gross income	70,934.82
Itemized deductions:	
Medical	150.00
Taxes	9,478.77
Interest	529.06
Contributions	662.50
Miscellaneous	782.29
Total deductions	11,602.62
Less zero bracket amount	3,200.00
Taxable income	62,532.20
Federal income tax due and paid	20,573.57

SAVINGS ACCOUNTS

Bellows Falls Trust Co	$5,000.00
Burlington Federal Savings & Loan	5,000.00
Burling Savings Bank	5,000.00
The Howard Bank	5,000.00
Rutland Savings Bank	5,000.00
Total	25,000.00

CHECKING ACCOUNTS

Riggs National Bank	9,728.95
First Virginia Bank	694.00
The Howard Bank	300.00
Total	10,722.95

LIFE INSURANCE

Travelers Insurance Co	
MONY	
NYLIC	
NSLI	
Connecticut General	
Total cash value	18,194.50

REAL ESTATE

(Estimated market value)

64 Litchfield Ave., Rutland, Vt. (house)	100,000.00
27 Howard Ave., Rutland, Vt. (house)	40,000.00
3541 Devon Dr., Falls Church, Va. (house)	100,000.00
Total	240,000.00

ADDITIONAL ASSETS

Contributions to Federal retirement	53,340.19
Law library and office furniture, 27 South Main St., Rutland, Vt	2,000.00
Boat and two cars	24,000.00
Personal property	20,000.00
Total	99,340.19

STOCKS

Nam e	Shares	Value
A.T. & T	100 at 57⅞	$5,887.50
Bellows Falls Trust Co	80 at 60	4,800.00
Cluett Peabody	20 at 10⅝	212.50
Con Edison of N.Y	100 at 22¼	2,225.00
Gillette Co	20 at 24½	490.00
Greyhound	20 at 11⅞	237.50
The Howard Bank	1,084 at 14	15,176.00
International Harvester	20 at 38½	770.00
Manufacturers Hanover Trust	664 at 35½	23,572.00
Monsanto	40 at 49⅝	1,985.00
N. L. Industries	40 at 22⅝	905.00
National Distillers	40 at 22¾	910.00
Outboard Marine	20 at 16⅞	337.50
Security Pacific Corp	16 at 28⅞	462.00
Time, Inc	30 at 36½	1,095.00
Vendo	10 at 5½	55.00
Total		59,120.00

LIABILITIES

Eastern Liberty Federal Savings & Loan Assn.—First mortgage, Devon Drive, 12/31/78	$9,018.60

RECAPITULATION

Total Assets	$452,377.64
Total Liabilities	9,018.60
Net Assets	$443,359.04

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT OF TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 3915.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3915) to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 10 months the date on which the corporation must pay benefits under terminated multiemployer plans.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times, and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

● Mr. WILLIAMS. Mr. President, H.R. 3915 would delay, for a period of 10 months, the date on which the Pension Benefit Guaranty Corporation must guarantee benefit payments of terminating multiemployer pension plans subject to the Employee Retirement Income Security Act of 1974.

This delay is necessary to avoid confusion and possibly serious financial disruption to certain multiemployer plans, their participants and beneficiaries, and the Pension Benefit Guaranty Corporation. During the period of delay, Congress will have an opportunity to fully review the problems associated with termination insurance for multiemployer plans, and to consider the administration's proposals in this area.

H.R. 3915 makes no substantive changes, but merely continues the status quo until May 1, 1980. I am hopeful that by that time Congress will have agreed on any necessary substantive changes in title IV of ERISA.●

Mr. JAVITS. Mr. President, I rise in support of H.R. 3915, a measure passed by the House on June 4 which would delay for 10 months the Pension Benefit Guaranty Corporation's (PBGC) mandatory insurance coverage of terminated multiemployer plans under the 1974 pension reform law (ERISA). H.R. 3915 is identical to S. 1057 which Senator WILLIAMS and I cosponsored on May 2.

The delay of automatic PBGC insurance coverage for multiemployer plans until May 17, 1980 is essential so that the Congress will have additional time to enact a redesigned termination insurance program. If the present insurance program is permitted to become automatically effective on July 1, 1979, the PBGC probably would not have sufficient funds to guarantee the payment of benefits under terminated plans already covered by the PBGC and under plans which are likely to terminate on or after July 1. This would be a most unfortunate event not only for the parties directly involved but for the entire American people.

To be sure, this bill is not the first to be enacted. On August 4, 1977, I introduced the first such bill because of my concern about the potential mass termination of financially-troubled multiemployer plans on January 1, 1978. This was the first day when mandatory PBGC coverage would have become effective under ERISA. Legislation was enacted in December 1977 delaying mandatory coverage for 18 months until July 1, 1979. Unfortunately, the 18-month period was not sufficient additional time for the administration to develop a new insurance program and for the Congress to enact statutory amendments to ERISA.

Consequently, the Congress will need additional time to consider the comprehensive recommendations of the administration contained in S. 1076 which Senators WILLIAMS, LONG, and I introduced by request on May 3. Hearings on S. 1076 have already been scheduled by the Senate Labor and Human Resources Committee for June 26 and 27.

I urge my colleagues to give the Congress more time to consider the merits of S. 1076, and I therefore recommend the expeditious passage of H.R. 3915.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, does the Chair have announcements to make at this time?

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the President pro tempore, pursuant to Senate Resolution 400, 94th Congress, and Senate Resolution 4, 95th Congress, appoints the Senator from Vermont (Mr. LEAHY) and the Senator from Maryland (Mr. MATHIAS) to fill at-large vacancies on the Select Committee on Intelligence.

Mr. BAKER. Mr. President, I would comment only for one brief moment about the appointments just made by the Chair. It is my responsibility to make recommendations for the appointments of Republican Members to the Intelligence Committee under our conference rules and the provisions of relevant resolutions and statutes.

I would point out that the appointment that has been made of the distinguished Senator from Maryland is a reappointment. That is, he lost his seat on that committee by reason of a change in the membership.

Mr. ROBERT C. BYRD. Mr. President, may we have the floor cleared of staff people?

I beg the Senator's pardon.

Mr. BAKER. I thank the majority leader.

Mr. President, I also point out that I was pleased to reappoint him to that position, and that I consulted with the ranking Republican, Senator GOLD-

Water, who is completely in accord with that recommendation.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, may we have morning business closed?

The ACTING PRESIDENT pro tempore. The Chair announces that, if there is no further morning business, morning business is closed.

RESOLUTION CONCERNING MUTUAL DEFENSE TREATIES

Mr. ROBERT C. BYRD. Mr. President, under the order authorizing me to proceed at this time to call up the measure regarding the mutual defense treaties, I ask unanimous consent that the Chair lay before the Senate Calendar Order No. 113.

The ACTING PRESIDENT pro tempore. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 15) concerning mutual defense treaties.

Without objection, the Senate proceeded to consider the resolution (S. Res. 15) which had been reported from the Committee on Foreign Relations with an amendment to strike all after the resolving clause and insert the following:

That it is the sense of the Senate that treaties or treaty provisions to which the United States is a party should not be terminated or suspended by the President without the concurrence of the Congress except where—

(1) the treaty provisions in question have been superseded by a subsequent, inconsistent statute or treaty; or

(2) material breach, changed circumstances, or other factors recognized by international law, or provisions of the treaty itself, give rise to a right of termination or suspension on the part of the United States;

but in no event where such termination or suspension would—

(A) result in the imminent involvement of United States Armed Forces in hostilities or otherwise seriously and directly endanger the security of the United States Armed Forces in hostilities or otherwise seriously and directly endanger the security of the United States; or

(B) be inconsistent with the provisions of—

(i) a condition set forth in the resolution of ratification to a particular treaty; or

(ii) a joint resolution; specifying a procedure for the termination or suspension of such treaty.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, during the consideration of the pending measure, Senate Resolution 15, no amendment be in order to the amendment which Mr. Harry F. Byrd, Jr., will offer as a substitute for the committee substitute language; provided further that no amendment be in order to the resolution or to the committee substitute language therefor prior to the vote up or down on the Harry F. Byrd, Jr., amendment, which up-or-down vote is assured under the order previously entered by the Senate some several days ago.

Mr. BAKER. Mr. President, reserving the right to object, I must reserve at the moment. I have received word that the ranking member of the Committee on Foreign Relations is on his way to the floor and he asked that we might withhold any further requests until he arrives, which I think is a reasonable request.

Mr. ROBERT C. BYRD. Very well. I withdraw the request for the moment, Mr. President.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER (Mr. Sasser). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendment which will be called up by Mr. Harry F. Byrd, Jr., not be open to amendment that there be a time limitation on the amendment by Mr. Harry F. Byrd, Jr., of not to exceed 4 hours, to be equally divided in accordance with the usual form between Mr. Harry F. Byrd, Jr., and Mr. Church, and that neither the language of the resolution, Senate Resolution 15, nor the language of the committee substitute be open to perfecting amendment prior to the vote up or down which will come on the amendment by Mr. Harry F. Byrd, Jr.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, the majority leader mentioned the perfecting amendment. I assume he means any amendment?

He said perfecting amendment, but I assume the majority leader meant any amendment?

Mr. ROBERT C. BYRD. Yes.

Mr. HARRY F. BYRD, JR. Including a perfecting amendment?

Mr. ROBERT C. BYRD. Yes.

Neither the language of the resolution nor the committee substitute be open to amendment prior to the vote up or down on the amendment by Mr. Harry F. Byrd, Jr.

Mr. BAKER. Mr. President, reserving the right to object, I will not object, I reserved earlier to say that the distinguished Senator from New York wished to be present at the time such request was acted on.

I am advised now by the chairman of the committee, the distinguished Senator from Idaho, that he has conferred with Senator Javits and that this is an agreeable arrangement.

I can further state that the distinguished vice chairman of the Select Committee on Intelligence, Senator Goldwater, has been consulted on this matter and finds this arrangement acceptable.

Mr. CHURCH. Yes; that is my understanding.

Mr. BAKER. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

Mr. President, I hope the debate on the amendment by Mr. Harry F. Byrd, Jr., will not consume 4 hours. I would hope that the respective cloakrooms advise Senators on both sides if they wish to come to the Chamber on the amendment by Mr. Harry F. Byrd, Jr., they do so as soon as possible today in order to conserve time.

The PRESIDING OFFICER. The amendment has not been called up yet. Does the Senator from Virginia seek recognition to call up the amendment?

Mr. HARRY F. BYRD, JR. I think the appropriate procedure, Mr. President, is that the chairman of the committee make the opening statement on the committee substitute in regard to Senate Resolution 15.

The PRESIDING OFFICER. The Chair would also state that the time does not start running until the amendment is offered.

Mr. CHURCH. Very well.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. Is the proposed committee substitute now the pending business?

The PRESIDING OFFICER. That is, at the moment, the pending question.

Mr. CHURCH. Then, Mr. President, I suggest, if it is agreeable with the distinguished Senator from Virginia, that he offer his amendment at this time, that I proceed to discuss the committee substitute, after which the debate can continue, and the time would commence running when the Senator submits his amendment.

Would the Senator be agreeable to submitting his amendment now in order that the time might start running? I will then proceed with my statement which will not take long, I say to the Senator. It is about a 15-minute statement.

Mr. HARRY F. BYRD, JR. Mr. President, yes, I will agree to that.

Mr. CHURCH. I thank the Senator very much.

UP AMENDMENT NO. 228

Mr. HARRY F. BYRD, JR. Mr. President, I send the amendment to the desk. It is an amendment in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. Harry F. Byrd, Jr.) proposes an unprinted amendment numbered 228:

Strike out the committee substitute and substitute in lieu thereof the following:

"That it is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation.".

TREATY TERMINATION RESOLUTION

Mr. CHURCH. Mr. President, I am pleased to present Senate Resolution 15, which expresses the sense of the Senate concerning the termination of treaties.

This resolution, the Senate will recall, was referred to the Committee on Foreign Relations on March 8 when its sponsor, the distinguished Senator from Virginia, graciously withdrew an amendment in the same form which he had offered to the Taiwan Relations Act. It was agreed at that time that the Committee on Foreign Relations would report the resolution to the Senate not later than May 1. It was also agreed that the committee could, if it deemed it appropriate, recommend to the Senate that the resolution be amended. On May 1, consistent with this unanimous consent agreement, the committee reported the resolution with an amendment.

I believe it is fair to say, Mr. President, that the issues raised by Senate Resolution 15 were studied thoroughly by the committee. It heard testimony from the resolution's sponsor, Senator BYRD of Virginia. It heard testimony from the plaintiff in the pending legal action on this issue, Senator GOLDWATER. It heard testimony from spokesmen for the Department of Justice and the Department of State. It heard testimony from a dozen of the Nation's foremost legal scholars. And it retained as a consultant perhaps the most eminent authority in the field of American foreign relations law, Prof. Louis Henkin of Columbia Law School.

The committee's starting point was, of course, the language of Senate Resolution 15 as introduced by Senator HARRY F. BYRD, JR. That resolution provided as follows:

> It is the sense of the Senate that approval of the U.S. Senate is required to terminate any mutual defense treaty between the United States and another nation.

The committee concluded, along with the overwhelming majority of constitutional authorities who testified before it, that this language required modification.

First, as is discussed in the committee report, while this formulation is perhaps attractively simple, the law on the subject is not so simple. The specific intent of the framers is unclear, the historical precedents are ambiguous, and the legal precedents are inapposite. The state of the law is not easily summarized, certainly not as easily as the Byrd resolution suggests.

Second, the original language proposed by Senator HARRY F. BYRD, JR., is limited to "mutual defense treaties." Aside from the question of which particular treaties such language would encompass, there appeared to the committee to be no constitutional basis for distinguishing those treaties from other treaties to which the United States is a party. The United States is a party to many other treaties which are of at least equal importance; to place mutual defense treaties in a special category is to imply that the Senate is less concerned about the possibility of unilateral Presidential termination of other treaties. The committee believed that the Senate should not convey that impression.

Third, the committee's witnesses were in virtually unanimous agreement that the resolution's reference to Senate approval was unduly narrow—that approval by the Congress would also suffice.

For these reasons, and others detailed in the committee's report, the committee recommends to the Senate that Senate Resolution 15 be modified. Before describing the amendment recommended by the committee, however, I should like to point out what that amendment does not do.

First, the amendment makes no judgment, explicit or implicit, concerning the legality of any past Presidential action, including the termination of the mutual defense treaty with Taiwan. It looks to the future, not the past.

Second, it does not purport to define the scope of Presidential power. It uses the word "should" advisedly; as I noted the contours of the law are simply not clear enough to warrant a categorical assertion by either branch concerning its specific constitutional role. The more responsible course, it appeared, was to prescribe guidelines setting forth the expectations of the Senate as to what action would be appropriate in given circumstances.

Third, the amendment recommended by the committee recognizes no authority on the part of the President which he would not have had in its absence. Obviously, the resolution could not confer authority; as a simple Senate resolution, it merely expresses the sense of the Senate, and it does not purport to have the force of law—let alone the ability to reallocate constitutional power. But because it simply sets forth guidelines rather than attempting to define Presidential authority versus that of the Senate or the Congress, it cannot be construed as an acknowledgement by the Senate of any measure of unilateral constitutional authority on the part of the President. Accordingly, the Senate will remain free, if it adopts the resolution as amended by the committee, to assert the full panoply of its constitutional prerogatives at any time in the future.

This is what the resolution recommended by the committee would not do. Now let me describe what it does do. It provides as follows:

> *Resolved*, That it is the sense of the Senate that treaties or treaty provisions to which the United States is a party should not be terminated or suspended by the President without the concurrence of the Congress except where—
>
> (1) the treaty provisions in question have been superseded by a subsequent, inconsistent statute or treaty; or
>
> (2) material breach, changed circumstances, or other factors recognized by internaitonal law, or provisions of the treaty itself, give rise to a right of termination or suspension on the part of the United States;
>
> But in no event where such termination or suspension would—
>
> (A) result in the imminent involvement of United States Armed Forces in hostilities or otherwise seriously and directly endanger the security of the United States; or
>
> (B) be inconsistent with the provisions of—
>
> (I) a condition set forth in the resolution of ratification to a particular treaty; or
>
> (II) a joint resolution;
>
> Specifying a procedure for the termination or suspension of such treaty.

A full explanation of these provisions is set forth in the committee report, but let me summarize them briefly.

The resolution begins by setting forth a general proposition: That the President should not terminate or suspend any treaty or treaty provisions to which the United States is a party without the concurrence of the Congress. As I mentioned a moment ago, the key word is "should": The resolution, as amended, would constitute the advice of the Senate to the President concerning what action ought to be taken in terminating treaties. As to the scope of the general rule set forth in the amendment, it comprehends both bilateral and multilateral treaties, and it encompasses all forms of international agreements—conventions, protocols, accords, or whatever—that are approved by the Senate. Their nomenclature, for purposes of this resolution, is irrelevant.

Following the general rule, the committee amendment sets forth specific exceptions.

The first exception consists of treaty provisions which have been superseded by a subsequent, inconsistent statute or treaty. It seems clear that congressional concurrence can be presumed in such circumstances.

The second exception concerns grounds recognized under international law for the termination or suspension of a treaty. Material breach is one such ground. Where another party to a treaty commits a serious violation, under international law the performance obligations of the United States come to an immediate end, and the President should not have to continue to comply with the terms of that treaty until it is formally terminated by the Congress. A similar rationale applies in those situations in which a fundamental change of circumstance has occurred. This doctrine of international law—"rebus sic stantibus"—recognizes the authority of a State to terminate a treaty to which it is a party in circumstances that are fundamentally different from those prevailing at the time the treaty entered into force, so long as that change was not reasonably foreseeable and so long as it was not brought about by the action of the terminating State. Most authorities recognize the propriety of Presidential action in such circumstances, and indeed, Senator GOLDWATER's analyses of the historical precedents exclude situations in which a fundamental change of circumstance occurred.

For similar reasons, the language of paragraph (2) incorporates by reference other grounds existing under international law for temination of a treaty, such as error, coercion, fraud, and corruption. International law also takes cognizance of the authority of a state to terminate a particular treaty in accordance with its own provisions, so it seemed sensible to the committee to include a reference to this authority as well.

Following these exceptions, the resolution proceeds to set forth two situations in which a termination or suspension should never be effected by the President without congressional concurrence. The first consists of circumstances in which such termination or suspension would result in the imminent involvement of the U.S. Armed Forces in hostilities or otherwise seriously and directly endanger the security of the United States. This provision takes cognizance of the power of Congress to declare war; it provides, in effect, that the President should not terminate a treaty in the event the congressional war power is implicated. The Congress should not, in other words, be presented with a "fait accompli" in which it is required to support armed forces already committed to combat.

The second situation, set forth in paragraph (B), is one in which the termination or suspension would violate the provisions of one of two measures: First, conditions added by the Senate to its resolution of ratification to a given treaty; or second, a joint resolution. Either such measure could set out a procedure for the termination or suspension of such treaty, specifying, for example, that the treaty could not be terminated without the approval of the Congress or the Senate.

It is at this point, Mr. President, that the committee takes sharp issue with the administration. Executive branch spokesmen have argued that the President possesses an "implied" power to terminate any treaty with any country under any circumstances, irrespective of what action may have been taken by Congress by law or by the Senate in a reservation to that treaty. The committee completely rejected this argument. It is unsupported in logic and it is unsupported in experience. The power to advise and consent to treaties is conferred on the Senate by the Constitution without express limitation. Throughout the history of this Nation, the Senate has exercised its right to condition its consent to treaties. No such condition has ever been disregarded by a President or has been struck down by the Supreme Court. The power of Congress to legislate under its general powers on matters covered by treaty provisions is equally clear.

The process of treaty termination, therefore, is a process in which each branch shares power. As the committee makes clear in its report, it does not believe that the evolving partnership between Congress and the President in the conduct of our Nation's foreign relations is advanced by claims of absolute authority in this area. I would not expect that the Senate would impose such conditions on its consent to future treaties as a matter of course; but if, in a specific case, it concludes that the equities require that such a condition be imposed, this amended resolution will place the President on notice that the procedure specified in that condition must be adhered to.

The resolution recommended by the committee is, therefore, both conciliatory and forthright. It does not purport to delineate Presidential powers. Instead, it offers the Senate's judgment as to what procedures should apply. At the same time, however, it conveys a clear message to the President that the roles of the Senate and Congress in the treaty termination process must be respected. Their powers are substantial, and they can be brought to bear forcefully, if the occasion requires. But a constitutional confrontation over the termination of a treaty would be in the interest of neither branch, and it is the purpose of the committee, in recommending its amendment to the Senate, to suggest a process through which such questions can be resolved smoothly and efficiently in the future.

Mr. President, in connection with the constitutional questions posed by the original resolution, two articles have been published in the American Bar Association Journal. One, entitled "Normal Relations With China: Good Law, Good Policy," was written by our distinguished colleague Senator KENNEDY of Massachusetts. The other, entitled "Treaty Termination Is a Shared Power" was written by the able Senator from Arizona, BARRY GOLDWATER.

I think it appropriate and I, therefore, ask unanimous consent that the full text of both articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

NORMAL RELATIONS WITH CHINA: GOOD LAW, GOOD POLICY

(By Edward M. Kennedy)

For almost three decades, until the end of 1978, American foreign policy was plagued by an anomaly. Alone among the major nations of the world, the United States had failed to recognize officially a basic fact of international life—that the People's Republic of China effectively governs China's territory and one billion people. But last December 15 President Carter courageously decided to establish diplomatic relations with the People's Republic as of January 1, 1979, and to exchange ambassadors on March 1. He thereby successfully concluded the normalization process begun by President Nixon and Chairman Mao in the 1972 Shanghai communiqué.

At the same time the president notified Peking's rival, the Republic of China on Taiwan, that the United States would terminate diplomatic relations with it. The two competing governments have long held that only one of them can be recognized as the government of China and that Taiwan is a part of China. The president also announced that the United States would give notice on January 1—as it did—of its intention to terminate one year hence the 1954 Mutual Defense Treaty with the government of Taiwan under Article 10 of the treaty.

The United States formally declared, however, its continued interest in the peaceful resolution of the Taiwan issue and the continuation of commercial, cultural, and other nongovernmental relationships with the people of Taiwan. The Carter administration also provided for Taiwan's future ability to defend itself by making clear that its authorities could continue to purchase selected defensive weapons in the United States.

I welcome and support this decision. It was right in its recognition of the reality of China. It was responsible in its provision for the continuing well-being of the people of Taiwan. It was a well-timed stroke of grand strategy, giving the United States maximum benefit in our triangular relationship with China and the Soviet Union, consolidating the unprecedented process of accommodation among China, Japan, and the United States, and ushering in a new era of co-operation and friendship between the world's most powerful and the world's most populous nations.

In thus establishing a normal and enduring relationship with China, the president enhanced the prospects for peace and prosperity of Taiwan. By changing the form of our relations with the island, the president enhanced their substance and durability. While Peking continues to maintain that Taiwan "is entirely China's internal affairs," it has not contradicted the statement that the United States "continues to have an interest in the peaceful resolution of the Taiwan issue and expects that the Taiwan issue will be settled peacefully by the Chinese themselves." In addition, although Premier Hua Kuo-feng registered China's objection to continuing American arms sales to Taiwan, he said that, despite these differing views, "nevertheless the joint communiqué was reached."

Chinese leaders have often stated their preference for a peaceful resolution of the Taiwan issue, and one can understand why. Peking is preoccupied with the Soviet military threat, and it lacks the military means successfully to invade Taiwan. It is clearly interested in improving its relations with the West, especially the United States and Japan, in order to promote both parallel action to balance Soviet power and cooperative arrangements to modernize its agriculture, industry, technology, and defense. Nothing would more surely jeopardize this vital strategic endeavor than the use of force against Taiwan.

Of course, circumstances may change over time, and it is noteworthy that the United States managed to normalize relations with China without undermining the legal basis for American action in behalf of Taiwan in the unlikely event that should become necessary. The recent joint communique did nothing to clarify the United States' view of the legal status of the island, which the Shanghai communique left artfully obscure. In the new communique the United States simply "acknowledges the Chinese position that . . . Taiwan is part of China." This creative ambiguity in our legal position leaves open what actions we might take to assure the peaceful future of Taiwan, just as that question was left open under the now terminating 1954 defense treaty, which provides only the vague assurance that, in the event of attack, the United States will "meet the common danger in accordance with its constitutional processes."

I believe that the combination of improved Sino-American ties, continuing nongovernmental relations with Taiwan (including access to defensive arms), and Washington's statement of interest in a peaceful settlement of the island's future will give Taiwan increased security and prosperity. To help realize this prospect, I intend to join in sponsoring legislation that will facilitate nongovernmental contact with the island and will sustain its well-being.

CAN THE EXECUTIVE TERMINATE THE TREATY ON ITS OWN?

Despite these measures to safeguard the island, some critics have denounced President Carter's normalization decision as a "stab in the back" of Taiwan. Sen. Barry Goldwater and others are now challenging, in the courts as well as in Congress, the presidential notice terminating the defense treaty. They incorrectly argue that the executive lacks legal authority to terminate the treaty, according to its own terms, without the approval of two thirds of the Senate or a majority of each house of Congress.

I strongly oppose this challenge, which threatens to sidetrack one of the most important foreign policy initiatives of recent history into domestic constitutional controversy. I am confident that this effort will fail, for law, practice, and policy clearly support the president's notice of termination in these circumstances. It is in no one's interest to throw our future relations with Taiwan into legal limbo, instead of assuring the continuity of our relations with the people of that island.

The president might have avoided the constitutional question by simply exercising his unchallenged prerogative to recognize the People's Republic as the government of China and to establish diplomatic relations with it. As demonstrated by the experience of other nations that have switched recognition from Taipei to Peking, this would have led to the lapse of the 1954 defense treaty and of the other bilateral agreements between Washington and Taipei, which Peking has always regarded as invalid, with the Congress then providing for continuing nongovernmental relations with Taiwan. By reiterating its previous declarations that the defense treaty was a nullity, Peking could have left no doubt that the treaty no longer had legal effect, as a consequence of the position of China's new government rather than through a termination decision by Washington.

The president chose, however, to end the defense treaty according to its one-year termination provision and to state that other agreements with the Republic of China on Taiwan endure until replaced by new arrangements with the authorities on the island. Whatever the merits of the latter claim under international law and practice, the president plainly has the independent authority to terminate a treaty according to its notice provision.

Although the Constitution requires the president to obtain the advice and consent of the Senate prior to concluding a treaty, it sets forth no such requirement for terminating a treaty. In approving the 1954 defense treaty with the Republic of China, the Senate might have required the president to obtain the approval of the Senate or Congress prior to termination, but it chose not to do so. The treaty simply provides for termination with one year's notice. In the light of 20th century practice, this plainly confers on the president the power to terminate the treaty at his discretion. In his December 15, 1978, memorandum to Secretary of State Vance, the State Department legal adviser, Herbert J. Hansel, stated categorically that "the president has the authority to decide under the Constitution whether the United States shall give the notice of termination provided for in Article X of the U.S.–R.O.C. Mutual Defense Treaty and to give that notice, without congressional or Senate action."

Presidents have given notice of treaty termination independent of the Senate or Congress on 14 separate occasions in our nation's history, and ten of these instances have occurred in the last 50 years:

1815 (Madison). Agreement on annulment of 1782 Treaty of Amity and Commerce with the Netherlands.

1899 (McKinley). Notice of termination of certain articles of 1850 Convention of Friendship, Commerce, and Extradition with Switzerland.

1920 (Wilson). Agreement on termination of 1891 Treaty of Amity, Commerce, and Navigation with Belgium concerning the Congo.

1927 (Coolidge). Notice of termination of 1925 treaty with Mexico on prevention of smuggling.

1933 (Roosevelt). Notice of withdrawal from 1921 multilateral Convention for the Abolition of Import and Export Prohibitions and Restrictions.

1933 (Roosevelt). Declaration of termination (withdrawn subsequently) of 1931 Treaty of Extradition with Greece.

1936 (Roosevelt). Protocol of termination (withdrawn subsequently) of 1871 Treaty of Commerce and Navigation with Italy.

1939 (Roosevelt). Notice of denunciation of 1911 Treaty of Commerce and Navigation with Japan.

1944 (Roosevelt). Notice of termination of 1929 protocol to Inter-American Convention for Trademark and Commercial Protection.

1948 (Truman). Notice of withdrawal from 1937 multilateral Convention for the Regulation of Whaling.

1954 (Eisenhower). Notice of withdrawal from 1923 Convention on Uniformity of Nomenclature for the Classification of Merchandise.

1962 (Kennedy). Notice of termination of 1902 Convention on Commercial Relations with Cuba.

1965 (Johnson). Notice of denunciation (subsequently withdrawn) of 1929 Warsaw Convention concerning international air travel.

1975 (Ford). Notice of termination of participation in the International Labor Organization.

Especially in the 19th century, presidents occasionally terminated treaties at the direction of or with the prior or subsequent consent of the Senate or the Congress. But this fact in no way negates the president's power to act independently. In modern practice this presidential exercise of independent authority outnumbers the total of all other methods utilized.

Since 1920 only Presidents Hoover and Nixon have not terminated treaties pursuant to a notice provision. All other modern presidents, from Wilson through Carter, have exerted their valid constitutional authority by terminating treaties without formal advice and consent. Their actions have been accepted by the Congress and unchallenged in the courts.

No American judicial decisions directly address the question of the president's right, pursuant to a notice provision, to terminate a treaty without formal congressional approval. Some court cases assume independent presidential power to terminate. In *Charlton v. Kelly*, 229 U.S. 447 (1913), for example, the Supreme Court pointed out that it is for the president to determine whether a treaty violation has occurred and, if so, whether termination is warranted. And in *Terlinden v. Ames*, 184 U.S. 270 (1902), the Supreme Court held that on the question of whether an American treaty with Prussia survived the formation of the German Empire, the actions of the executive branch and the German government were of controlling importance.

Often the issue of treaty termination is related intimately to the question of recognition of a foreign sovereign and establishment of diplomatic relations, as indeed it is in the case of China, and both questions have been regarded as requiring political judgments that are within the president's authority.

An overwhelming number of contemporary scholars of international and constitutional law who have considered this question agree that the president has the clear prerogative to give notice of termination, pursuant to a notice provision in a treaty, without the approval of the Senate or the Congress.[1] The American Law Institute takes the same position in Sections 155 and 163 of the *Restatement of the Law* (Second), *Foreign Relations of the United States*.

PRESIDENT CAN'T ENTANGLE ALONE, BUT HE CAN DISENTANGLE

Sound historical and policy reasons sustain this conclusion. The framers of the Constitution feared "entangling alliances" and required the president to obtain the advice and consent of two thirds of the Senate prior to concluding a treaty. The farmers manifested no similar concern with the president's exercise of discretion to disentangle the nation from alliances, and the Constitution thus imposed no requirement of Senate participation in treaty termination.

In the absence of specific constitutional, treaty, or statutory language restraining the president, it has been understood that he is responsible for determining how to deal with treaties once concluded. For example, in referring to the 1793 Neutrality Proclamation by President Washington and its relation to American treaties with France, Alexander Hamilton wrote that "treaties can only be made by the president and Senate jointly; but their activity may be continued or suspended by the president alone." Hamilton, incidentally, made this statement with specific reference to a situation almost identical to that involved in normalization with China.

He wrote, as quoted in *Letters of Pacificus and Helvidius on the Proclamation of Neutrality of 1793:*

"The right of the executive to receive ambassadors and other public ministers, may serve to illustrate the relative duties of the executive and legislative departments. This right includes that of judging, in the case of a revolution of government in a foreign country, whether the new rulers are competent organs of the national will, and ought to be recognized, or not; which, where a treaty antecedently exists between the United States and such nation, involves the power of continuing or suspending its operation. . . .

"This power of determining virtually upon the operation of national treaties, as a consequence of the power to receive public ministers, is an important instance of the right of the executive to decide upon the obligations of the country with regard to foreign nations."

Despite the fact that the president's independent power to terminate treaties is well-established, supported decisively by modern practice, and accepted by the Congress and most scholars, Senator Goldwater now seeks to challenge it. Because the president, especially in the nineteenth century, occasionally terminated a treaty with prior or subsequent Senate or congressional participation, he argues that the president must always obtain legislative approval, except that, as he wrote in *China and the Abrogation of Treaties*, "history indicates the president may, if Congress raised no objection, determine whether or not a treaty (1) has been superseded by a later law or treaty inconsistent with or clearly intended to revise an earlier one, (2) has already been abrogated because of its violation by the other party, or (3) cannot be carried out because conditions essential to its continued effectiveness no longer exist and the change is not the result of our own action." He would dismiss the many instances of independent presidential treaty termination as "exceptions" to the supposed general rule requiring legislative approval.

Senator Goldwater's analysis is seriously flawed. When carefully examined, the instances of independent presidential termination do not fall into the three categories of "exceptions" that he suggests. Rather, they demonstrate that the president has been free to terminate treaties in a variety of situations whose common denominator is that in each case it was no longer wise for the United States to adhere to the treaty in question. Contrary to Senator Goldwater's assertion, most instances of independent presidential termination have occurred in circumstances in which there was no inconsistent law or treaty superseding the treaty in question, there was no violation by the other party, and there was no impossibility of performing treaty obligations.

For example, Senator Goldwater claims that President Coolidge independently terminated our 1925 treaty with Mexico on the prevention of smuggling because it was "impossible to implement the convention." Yet there is no factual basis for this contention. The record reveals that the secretary of state thought it inadvisable to retain the treaty so long as Mexico failed to conclude an arrangement safeguarding American commerce against discrimination. (U.S. Archives, 74 D 481, Box 16678.)

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[1] See, e.g., Cohen, "Normalizing Relations with the People's Republic of China," 64 A.B.A.J. 940 (1978); Tribe, *American Constitutional Law* 164 (1978); Henkin, *Foreign Affairs and the Constitution* 136 (1972); Hyde, *International Law Chiefly as Interpreted and Applied by the United States*, Vol. II, 1519–20 (2d rev. ed. (1945); McDougal and Lans "Treaties and Congressional-Executive or Presidential Agreements," 54 YALE L. J. 181, 336 (1945); McClure, *International Executive Agreements* 16, 306 (1941); Willoughby, *The Constitutional Law of the United States*, Vol. I, 585 (2d ed. 1929); Reeves, "The Jones Act and the Denunciation of Treaties," 15 A.J.I.L. 33, 34, 38 (1921); Letter from Lowenfeld to the *New York Times*, May 28, 1978.

Similarly, Senator Goldwater seeks to portray President Roosevelt's 1939 termination of the 1911 commercial treaty with Japan as being compelled by our obligations under the 1922 Nine-Power Agreement. But nothing in the later agreement required the United States to terminate the purely commercial treaty. The only evidence offered to support Senator Goldwater's view is a statement by Senator Schwellenback that actually shows that he did not believe it necesary to terminate the 1911 treaty. (84 Cong. Rec. 10785.) The treaty was terminated, as the notice stated, because it "contains provisions which need new consideration . . . with a view to better safeguarding and promoting American interests as new developments may require."

In fact, not only is Senator Goldwater's interpretation flawed by its misconstruction of the precedents, but it also is flawed logically as well. What is the source of the president's power to make "exceptions" unless it derives from his authority to terminate a treaty wtihout legislative approval? Why cannot the president make other "exceptions"? Since the 14 cases of independent presidential termination that supposedly constitute "exceptions" outnumber the total of all other methods utilized in modern practice, they are strange "exceptions" indeed.

The treaty power is not the only one in which the Constitution requires the approval of the Senate before the president takes certain action but does not require similar approval when he undoes that action. The Senate's consent is necessary for the appointment of cabinet officers but not for their removal. (272 U.S. 52; 295 U.S. 602.) "The conduct of foreign relations, like the duty to see that the laws are faithfully executed, is a plenary executive power," Prof. Randall Nelson wrote in 42 Minnesota Law Review 879 (1958). "In the absence of express limitations upon the power to remove and the power to terminate, there is a strong presumption that no such limitation was intended."

SUBSEQUENT PRACTICE HAS REPUDIATED EARLIER VIEWS

In seeking to bolster his position, Senator Goldwater relies on quotations from Thomas Jefferson and James Madison—uttered before the nation had any experience with treaty termination—to the effect that legislative consent is legally required. Yet in the same discussion Jefferson conceded that there were disagreements about the treaty power, and in 1815 Madison became the first president to terminate a treaty without legislative consent. Subsequent presidential practice has plainly repudiated the early view of Jefferson and Madison and confirmed that of Hamilton and later Madison.

Nor is there substance to Senator Goldwater's general argument that, apart from the many "exceptions," when the president terminates a treaty without legislative consent, he violates his constitutional duty to "take care that the laws be faithfully executed," because the Constitution makes a treaty "the supreme law of the land." This misses the point of the very case at issue. Article 10 of the treaty in question provides for its termination. In giving notice of an intent to terminate the treaty pursuant to that provision, the president was not violating the treaty but acting according to its own terms—terms that were approved by the Senate when it consented to the treaty.

As Charles C. Hyde, former legal adviser to the Department of State, put it in his leading treatise: "The president is not believed . . . to lack authority to denounce, in pursuance of its terms, a treaty to which the United States is a party, without legislative approval. In taking such action, he is merely exercising in behalf of the nation a privilege already conferred upon it by the agreement."

This suggests the proper course for senators who are troubled by the president's independent authority to terminate a particular treaty or category of treaties. At the time that each treaty is made and submitted for their advice and consent, they could seek to condition Senate approval on acceptance of the Senate's participation in its termination. The Senate might have done so when it consented to the 1954 defense treaty with the Republic of China, but it did not. Any attempt, at this point, to invalidate the president's notice of intention to terminate is not only unwise as a matter of enlightened China policy but also without legal foundation. Prof. Louis Henkin, one of our leading constitutional authorities, has written: "Attempts by the Senate to withdraw, modify, or interpret its consent after a treaty is ratified have no legal weight; nor has the Senate any authoritative voice in interpreting a treaty or in terminating it."

GOOD LAW, GOOD POLICY, AND IN OUR AND CHINESE NATIONAL INTERESTS

Normalization of relations with China is good law and good policy. It is in our national interest, in the interest of Chinese on both sides of the Taiwan Strait, and in the interest of peace in Asia and the world. We should not allow an argument that is based on a misconception of the law to divert us from supporting the president's statesmanship. The Congress and the American people should focus their efforts on co-operating with the executive branch to develop the measures required to consolidate our new and encouraging relations with both the People's Republic and Taiwan.

TREATY TERMINATION IS A SHARED POWER

(By BARRY M. GOLDWATER)

On December 15, 1978, while the Congress was out of session, President Carter announced that the United States would recognize the People's Republic of China as the sole legal government of China as of January 1, 1979. At the same time the president also made known, through informal briefings for the media, his unilateral decision to terminate the defense treaty with the Republic of China, claiming authority to act under Article X of that treaty, which states "either party," not "either president," may cancel it after giving one year's notice. Without public announcement, the actual notice of termination of the defense treaty was sent by diplomatic note to the Republic of China on December 23, 1978, to be effective on and as of January 1, 1979.

The president's decisions were shrouded in secrecy and contrary to the purpose of Section 26 of the International Security Assistance Act of 1978, a law enacted by Congress just three months preceeding his announcement, which specifically called for prior consultation with the legislative branch.

On December 22 I filed suit in the United States District Court for the District of Columbia, with 15 of my colleagues from both houses of Congress, challenging the validity of the president's attempted termination of the treaty without any supporting legislative authority. We asked the court to declare the president's action unconstitutional and illegal and to set aside his purported notice to cancel the treaty as having no effect.

It is the premise of our case that in acting alone to interpret the defense treaty and to make a self-serving interpretation of the constitutional allotment of powers among the executive and legislative departments, President Carter has not only usurped powers conferred on the Congress, but has attempted to exercise a function the Supreme Court has said is clearly reserved to the judicial branch, the power "to say what the law is." *United States* v. *Nixon*, 418 U.S. 683 (1974).

The question is not whether any past precedents justify the president's assertion of independent power, although I believe the weight of historical evidence proves that treaties are normally terminated only with legislative approval. The true question is whether his action represents the original intent of the people who drafted the Constitution.

This is a legal and historical question, and the hard fact is that nothing in the records of the federal convention or in the explanations at the state conventions on ratifying the Constitution confirm in any way the president's sweeping claim of unchecked power. To the contrary, contemporary materials and the text of the Constitution show that the termination of a treaty, involving as it does the sacred honor of the country and serious policy interests, is a decision of such major importance that the framers required the joint participation of both political departments, the executive and legislative, in making that decision.

If left unchallenged, the president's unilateral action will set a dangerous precedent that would enable him or a future president to terminate any defense treaty at will. In fact, the precedent could be used for the presidential termination of any treaty to which the United States may now be a party or become a party in the future—for instance, with Israel. This unchecked concentration of power is totally inimical to our democratic, representative form of government.

However one may feel about the wisdom of independent presidential termination of the defense treaty as a step required to complete full normalization of relations with Peking, we each should remember the admonition of Chief Justice John Marshall: "The peculiar circumstances of the moment may render a measure more or less wise, but cannot render it more or less constitutional." In filing suit, it was my purpose to defend the legislative function conferred by the Constitution, not to contest the rightness or wrongness of his policies, which can be debated in other forums.

The Constitution is silent as to how a treaty shall be terminated. It is also silent on how a statute or any other law shall be cancelled. Yet no one makes the argument that the president alone can repeal a statute. In fact, in The *Confiscation Cases,* 20 Wall. 92 (1874), the Supreme Court expressly said that "no power was ever vested in the president to repeal an act of Congress."

It is my belief that by placing treaties among "the supreme Law of the Land" in Article VI, clause 2, and by requiring in Article II, Section 3, that the president "shall take care that the Laws be faithfully executed," the framers meant, and expected without saying more, that the president would carry out a treaty in good faith. This is exactly the opposite of giving him an implied authority to cancel any treaty at will. It is also well known that the framers were concerned with restoring dependability to treaties made by the United States. They were anxious to gain the respect and confidence of foreign nations by keeping our treaty commitments.

For example, in the preface to his notes on debates in the Constitutional Convention, James Madison singles out the lack of obedience to treaties as one of the conditions the federal Constitution was intended to correct. Our unfaithfulness to treaties, Madison wrote, is among "the defects, the deformities, the diseases and the ominous prospects for which the Convention were to provide a remedy, and which ought never to be overlooked in expounding & appreciating the Constitutional Charter the remedy that was provided."

In a similar vein, James Wilson, who signed the Constitution and sat on the first Supreme Court, lectured his law students that a country "which violates the sacred faith of treaties, violates not only the voluntary, but also the natural and necessary laws of nations . . ." He added: "As the United States have surpassed others, even other commonwealths, in the excellence of their constitution and government; it is reasonably to be hoped, that they will surpass them, likewise in the stability of their laws, and in their fidelity to their engagements."

Would the framers, who regarded violation of "the sacred faith of treaties" as "wicked," "dishonorable," and contrary to the best interests of the country in acquiring respect in the community of nations, have contradicted these purposes by making it as easy under the new Constitution for a single officer of the government to repeal a treaty as it had been for individual states to nullify a treaty under the Articles of Confederation? We should also remember the concern of the framers with sectional economic interests. Many of them hoped for advantageous commercial treaties that would open up trade for their sections with other nations. The framers also had extensive discussions about treaties of peace as being included within the treaty clause, in recognition of the fact that those treaties would be the normal method of terminating a war. Without any support textural evidence to show it, it is inconceivable that the framers assigned to one person power to denounce a commercial treaty that would be highly beneficial to the interests of a particular geographic region or a peace treaty that had formally concluded a war and whose faithful adherence would presumably advert the chance of resumption of hostilities, however slight that chance may be. As the language of the Constitution does not distinguish commercial and peace treaties from other treaties, such as a security pact, it is obvious that all treaties share the same protective armor.

JOINT PARTICIPATION NEEDED FOR ANY "GENUINELY CRITICAL DECISION"

In his landmark work on the subject in 5 *Seton Hall Law Review* 527 (1974) Prof. Arthur Bestor persuasively shows that the doctrine of separation of powers is "prescribed as explicitly for the conduct of foreign relations as for the handling of domestic matters" and explains: "The purpose and effect of any such arrangement is to require the joint participation—the cooperation and concurrence—of the several branches in the making and carrying out of any genuinely critical decision."

Justice Joseph Story, one of the foremost scholars to sit on the Supreme Court, confirms this statement. In his *Commentaries on the Constitution*, Story writes, in connection with the decision of the framers to allot the treaty authority jointly in the president and the Senate, "his joint possession of the power affords a greater security for its just exercise, than the separate possession of it by either" and that it "is too much to expect, that a free people would confide to a single magistrate, however respectable, the sole authority to act conclusively, as well as exclusively upon treaties."

Story adds, in words having equal relevance to making or unmaking a treaty: "The check, which acts upon the mind from the consideration, that what is done is but preliminary, and requires the assent of other independent minds to give it a legal conclusiveness, is a restraint which awakens caution, and compels to deliberation."

This is what the framers had in mind in establishing a system of checks and balances. They sought to protect the security of the people by making the president and the Senate checks on each other in the exercise of the full treaty power. By providing for the added deliberation and attention to the subject that would be required by vesting the full treaty power jointly with the president and at least one branch of the legislature, the security of the people would be far better protected than it would be if the power were conferred on a single officer. The security that follows caution and added deliberation would be lost if no check had been put on the unmaking of a treaty.

Why the framers would want to offer the people security in the making of treaties, but not in their termination, is unexplained by those who argue this difference exists. I believe there is no difference and that the checks and balances called for in the separation of powers is equally as applicable to the critical decision of casting aside our formal treaties with other nations as it is in making those treaties originally.

The early authorities, including some among the Founding Fathers, saw the repeal of a treaty in the same light as they saw the repeal of a statute. It would have been strange to hear anyone argue that the president, by his sole authority, could terminate whatever treaty he wished, whenever he wished. James Madison, for one, believed that "the same authority, precisely," would be "exercised in annulling as in making a treaty." Thomas Jefferson, when he was Washington's first secretary of state, wrote a report in which he reasoned that the same authority who possessed the power of making treaties consequently had the power of declaring them dissolved. And, when he was vice president, Jefferson compiled the first manual of rules of the Senate, in which he wrote: "Treaties being declared equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded."

Further evidence that the framers linked the repeal of treaties to the repeal of statutes appears in John Jay's brief analogy in *The Federalist*, Number 64: "They who make laws may, without doubt, amend or repeal them, and it will not be disputed that they who make treaties may alter or cancel them. . . ."

Justice Iredell, who served on the first Supreme Court, shared the views of Madison and Jefferson as to the legislative role in terminating treaties. In an opinion accompanying *Ware* v. *Hylton*, 3 Dall. 199 (1796), he twice stated his belief that Congress alone has "authority under our government" of declaring a treaty terminated, even in circumstances where the other country has first violated it.

Another authority who believed the legislature must act before a treaty is terminated is James Buchanan. In writing about the anticipated cancellation of a commercial treaty with Denmark considered damaging to our exports, then Secretary of State Buchanan wrote that "an act must first pass Congress to enable the president to give the required notice. . . ." His official concession of the joint possession of power is especially noteworthy since that treaty contained a provision similar to the one in the R.O.C. defense treaty so heavily relied on by President Carter.

Each treaty authorizes termination after notice being given to the other party. However, Secretary Buchanan obviously believed the sovereign authority who could make the decision to give notice was not the president alone, but the president together with the authority of a law enacted by Congress.

When the United States finally cancelled the treaty with Denmark, it was accomplished by a Senate resolution of March 3, 1855, passed unanimously, which advised and consented to authorizing President Pierce to give notice of its termination. The president had requested the authority, thereby giving some indication of his belief that the decision-making authority was jointly possessed by him and the legislature, or at least one branch of it, and was not vested in him alone.

The incident led to an authoritative report by the Senate Foreign Relations Committee in 1856. In response to public discussion over whether the Senate had acted properly in authorizing presidential action without the concurrence of the House of Representatives, the committee concluded that the Senate and president jointly possessed competence to terminate a treaty "without the aid or intervention of legislation" by the other house. Speaking precisely to the same issue presented by Article X of the R.O.C. defense treaty, the committee decided that "where the right to terminate a treaty at discretion is reserved in the treaty itself, such discretion resides in President and Senate."

The committee explained: "The whole power to bind the government by treaty is vested in the president and Senate, two thirds of the senators present concurring. The treaty in question was created by the will of the treaty-making power, and it contained a reservation by which that will should be revoked or its exercise cease on a stipulated notice. It is thus the will of the treaty-making power which is the subject of revocation, and it follows that the revocation is incident to the will." Thus, the committee clearly took a position at odds with the novel theory asserted by President Carter today.

LODGE THOUGHT CONGRESS COULD DISAPPROVE TAFT'S NOTICE

Henry Cabot Lodge, when he was chairman of the Senate Foreign Relations Committee in 1911, also believed the power of treaty termination was jointly possessed by the president and legislature. In response to a question in the Senate whether notice, given Russia by President Taft to terminate a commercial treaty because of Soviet violations, would be legal in the absence of congressional ratification, he replied, "Of course, Congress can disapprove his action; and then, I take it, the notice falls. . . ." Senator Lodge added his opinion that the power to terminate that treaty by notice, as authorized in an article thereof, was vested in the Senate and president together "because in making such a treaty the Senate and the president represented the high contracting party."

Lodge was then acting as floor manager of legislation that did ratify the president's action, and his statements clearly express his interpretation of the term "contracting party," used in a treaty provision, as meaning the Senate and president jointly.

In 1917 Prof. Edward Corwin, recognized as one of the leading authorities on the Constitution in this or any other century and generally a defender of broad presidential power, wrote: "[A]ll in all, it appears that legislative precedent, which moreover is generally supported by the attitude of the executive, sanctions the proposition that the power of terminating the international compacts to which the United States is party belongs, as a prerogative of sovereignty, to Congress alone."

Another official admission of the necessity for legislative concurrence in the decision to provide notice in circumstances in which a treaty itself authorizes the giving of notice comes from an attorney general's opinion. In 1941 Francis Biddle, then acting attorney general, was asked to advise President Roosevelt whether, in view of the dislocation of ocean-borne commerce because of war, the International Load Line Convention, which governed ocean tanker tonnage loads, had ceased to be binding. Biddle concluded the convention was inoperative because of the "well-established principle of international law, *rebus sic stantibus*, that a treaty ceases to be binding when the basic conditions upon which it was founded have essentially changed."

But he sharply qualified his opinion. While the president could decide whether the treaty was inoperative or suspended under this principle of international law, the president alone could not terminate the treaty if he acted under a treaty provision allowing withdrawal by giving due notice. Biddle wrote: "It is not proposed that the United States denounce the convention under Article 25 (47 Stat. 2256), nor that it be otherwise abrogated. Consequently, action by the Senate or by the Congress is not required."

Article 25 of that convention provided that it may be denounced by any "contracting government" by notification to the other parties and that the withdrawal should take effect 12 months after the date of notification is received. The article is similar to Article X of the R.O.C. defense treaty, which likewise allows denunciation by the United States after one year's notice. Thus, it is clear that Biddle believed legislative concurrence was needed in order to authorize presidential action pursuant to the terms of a treaty in circumstances identical to those asserted by President Carter as grounds for unilateral action. President Carter's decision to notify the Republic of China on his sole authority is directly in conflict with a 20th century opinion of the country's highest law enforcement officer.

History confirms the denial of an independent treaty termination power of the president, although there are minor exceptions explainable under principles of ordinary contract law. In fact, the first treaty terminations were done by act of Congress in 1798. These were the three treaties of alliance with France, which were cancelled by Congress after repeated French attacks on American shipping.

The second instance of termination by the United States was in 1846, 57 years after the Constitution was approved. President Polk asked Congress for authority to pull out of a treaty with Britain yielding joint rights to the Oregon Territory. A joint resolution was enacted giving him authority to provide notice of withdrawal, as was authorized in the treaty. This is the first known instance of termination by notice and is impressive historical evidence of what procedure is required to carry out a treaty provision similar to Article X of the R.O.C. defense treaty.

In all, I have identified 48 instances in which treaties have been terminated or suspended by the United States—40 with the clear authorization or ratification of an act of Congress, joint resolution, or Senate resolution. Four others were superseded by a later statute or treaty in conflict with the earlier treaty. The normal practice of treaty termination in the United States has been joint action by the president and Senate or Congress.

Only four treaties have been cancelled by the president entirely independent of any supporting legislative authority. The president may not have acted constitutionally even in these isolated cases, which are abnormal. In fact, Congress may not have been informed, and thus no challenge was made at the time. But if there is any difference in the two groups of cancelled treaties, a logical explanation may be found in contract law.

For in each of the situations of independent presidential action, the other party had first violated the treaty, it was impossible to perform the treaty, or there was a fundamental change of conditions essential to the operation of the treaty and originally assumed as the basis for it. In none of these incidents was the reason for terminating or withdrawing from a treaty the result of a breach or other action on our part inconsistent with the purposes of the treaty concerned.

In these circumstances, the incidents fall within the rules of early contract law by which a party is released from an agreement. All the first writers on the law of nations, such as Grotius and Vattel, whose works were consulted by the Founding Fathers, agreed that there is no difference in the rules of law applied to public treaties or private contracts.

The framers may well have silently assumed the president could determine a treaty ended if it should be violated by the other country, if performance became impossible, or if there was a fundamental change of conditions not of our own making. In their own experience, it was an implied condition of a contract or treaty that the obligations of the parties ended or were suspended on the happening of one of these events. Without conceding the legality of occasions when the president has acted unilaterally, these principles of contract law may explain independent presidential action in exceptional circumstances, none of which apply to the president's action regarding the R.O.C. defense treaty.

STATE DEPARTMENT'S MEMORANDUM BACKS CARTER'S ACTION

The State Department has released a memorandum by Herbert Hansell, its legal adviser, dated December 15, the same day as President Carter's public announcement, claiming the president could do what he did. That paper, actually a legal argument, contains highly selective quotations from authorities (none cited in this article appears in the memo) and sets forth a dubious list of alleged precedents for unilateral presidential action. Although the legal adviser lists 12 precedents for independent treaty termination, he admits on the face of the brief that two were never terminated (notice was withdrawn) and two more were instances in which the other nations first denounced the treaties, which seriously weakens the relevance of the precedents.

The State Department reaches so far to find an early precedent that it wrongly attributes the first example of presidential treaty termination to President Madison. This seeming rock of the State Department list is created from a passage in a letter from Secretary of State Monroe in response to the claim by the Netherlands in 1815 that an earlier commercial treaty had expired.

State claims Monroe's answer appears to accept the interpretation given the treaty by the Netherlands. Once Monroe was president, however, he repudiated that meaning of his letter. Monroe's secretary of state, John Quincy Adams, insisted that the earlier treaty had not been annulled. In *University* v. *Miller*, 14 N.C. 188 (1831), the Supreme Court of North Carolina accepted President Monroe's position and enforced the treaty as law.

The State Department also omits mentioning in its memo that the early commercial treaty had been concluded with a different state. During the Napoleonic wars the United Netherlands, with whom we had signed the treaty in 1782, was absorbed into the French empire, entirely disappearing as a separate nation. After the war it was reformed and joined with other areas. Samuel B. Crandall writes the state thus erected from the ashes of war "differed in name, territory, and form of government from the state which had entered into the treaty. . . ." In other words, if the treaty was annulled, it was because of the disappearance of one of the parties and not because of any broad power held by the president. This is the stuff of which the State Department memo is made.

Of the few alleged precedents that have any plausible basis (three or four at most), all can be explained by invoking the principles of contract law discussed above. None of these exceptions has any application to the R.O.C. defense treaty.

Even as to this handful of precedents, there is no ground for asserting independent presidential power. There is no court decision upholding their legality, and the last precedent is no better than the first. As the Supreme Court said in *Powell* v. *McCormack* 395 U.S. 486 (1969): "That an unconstitutional action has been taken before surely does not render that same action any less unconstitutional at a later date."

It has been suggested that since the president alone has the power to remove executive officers appointed by and with the advice and consent of the Senate, he also has power to remove treaties. The two cases are completely dissimilar. The ability to remove officers clearly under his direction aids in the efficient performance of the president's duties. The removal of treaties violates the president's constitutional duty to see "that the laws be faithfully executed." It is obvious that the president's relation with subordinate officers cannot be equated to his relation with sovereign authorities of other nations. The courts also have sharply restricted the removal power to purely executive officers, holding the president cannot remove officers who exercise quasi-legislative or judicial funnctions in Humphrey's Executor, 295 U.S. 602 (1935). As the treaty power has long been found to partake more of the legislative than executive character, the analogy with the removal power does not hold up.

By admitting that the defense treaty "is technically still in effect" in 1979, until the notice period expires, the administration rejects any notion that the treaty lapsed upon derecognition of the R.O.C. By this and by asking Congress for legislation to permit the other "current agreements and treaties in effect with the government on Taiwan to remain in force," the administration admits that the authorities on Taiwan are a de facto government in control of the territory of Taiwan and that we can have dealings with them.

The only remaining question is whether, although the president normally cannot terminate a treaty without further legislative action, the Senate has consented to his action in the case of this treaty by having approval language in it that allows termination by notice. The answer is clear that no authority of this type can be inferred from the treaty or legislative history.

First, it should be noted that the provision does not authorize termination after notice by "the president" or "executive" of either country. The treaty uses the term "party." This obviously means the sovereign authority of the state giving notice. In determining who represents the sovereign authority, it is necessary to consult the constitutional processes of the state in order to find what power makes the decision to give notice and, after that decision has been made, what power shall actually transmit the notice. Under our Constitution, it is clear that whoever communicates notice, the power of making the initial decision belongs jointly to the president and Senate or Congress.

Although it is generally accepted that the president is "the sole organ of the nation in its external relations, and its sole representative with foreign nations" (229 U.S. 304, 319–20), this proves no more than that it is the president who shall act as the official representative of the nation in communicating with the foreign government. His capacity as a diplomatic organ in no way need imply a power of making the critical policy decision required before delivery of the notice.

There is absolutely nothing in the legislative reports and proceedings concerning the 1954 treaty that indicates the president can act alone in giving notice. In fact, the language of the defense treaty differs in a significant way from the text of the related Formosa Resolution, which did specifically authorize the president to cancel it. Thus, the record bears strong evidence the Senate did not mean for the president to act alone in denouncing the treaty, since similar language was not used in the treaty.

The Formosa Resolution and the defense treaty both came before the Senate at the same time. The treaty was first considered in committee concurrently with the resolution in January, 1955. The resolution was reported to the Senate on January 26 and signed into law on January 29. The treaty was reported on February 8 and approved by the Senate on February 9.

IF THE TREATY MEANT "PRESIDENT," WHY DID IT SAY "PARTY"?

The Senate had each measure before it for immediate comparison. In this setting, it is striking that the Formosa Resolution, by its own language, expires "when the president shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, and shall so report to the Congress." The treaty, on the other hand, provides for termination on one year's notice by "either party."

Why, if the treaty meant to authorize "the president" of either party to terminate it by giving notice, did it not say so? The Senate had before it langauge of the specific kind in the Formosa Resolution, which it could have substituted for Article X, if it meant to approve independent presidential action. When it advised and consented to a treaty containing an entirely different term, without any explanation in the papers sent to it by the executive branch or in its own hearing, report, or floor debate, indicating that the term meant something other than what it said ("party"), this is surely conclusive that it did not understand "party" to mean "president."

In 1856 the Senate Foreign Relations Committee had unequivocally found that language similar to Article X referred to "the will of the treaty-making power," which it defined as "the president and Senate." The Senate, together with the president and often with the House of Representatives, had participated in the termination of nearly 40 treaties by 1955, virtually all of which contained duration provisions similar to Article X of the R.O.C. defense treaty. From this, if any understanding could be attributed to the Senate when the treaty was ratified, it was that the term "party" meant the president and Senate jointly.

But the State Department would not only attribute a meaning to the R.O.C. defense treaty of which it never informed the Senate. It would put the same meaning on dozens of other major treaties that contain similar provisions. For example, the North Atlantic Treaty Alliance and our security pacts with South Korea, Japan, and the Philippines include articles allowing either "party" to withdraw after one year's notice. The Nuclear Test Ban Treaty, the Statute of the International Atomic Energy Agency, the Nuclear Nonproliferation Treaty, the Biological Weapons Convention, the Universal Copyright Convention, and the Outer Space Treaty, among others, each provide by their own terms for termination after one year's or less notice to the other parties. The consequences of accepting the State Department's interpretation of these provisions is far reaching indeed.

No matter that the State was not clearly informed of what the language meant when it gave its advice and consent to ratifying these agreements. No matter that the executive may have had a different understanding than the Senate and kept silent about it.

When it suddenly suits the needs of expediency for its policy of the moment, the State Department unveils a doctrine it has hidden from public discussion. After having exploited the use of executive agreements to the point where the president can make virtually any treaty he wants by calling it a mere executive agreement, now the State Department is ready to usurp the power of unmaking treaties as well.

Events in the year ahead may well determine whether the executive succeeds or fails in this historic power grab.

Mr. CHURCH. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 15 minutes.

Mr. President, Senate Resolution 15 was introduced the first day of the Senate. It is sponsored by the two Senators from Virginia, the Senator from North Carolina (Mr. HELMS), the Senator from California (Mr. HAYAKAWA), the Senator from Utah (Mr. GARN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wisconsin (Mr. PROXMIRE).

Mr. President, this resolution is very brief, and I will read it:

> *Resolved*, That it is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation.

Mr. President, that resolution was debated in the Senate in March—March 9, if my memory is correct. At that time it was agreed that the resolution would be sent to the Committee on Foreign Relations, that hearings would be held, and that it would be reported back to the Senate by May 1. That was done.

It was stipulated, also, that it would be called up for consideration by the Senate within 90 days, and today is the 90th day. That stipulation was totally complied with.

Mr. President, what the Foreign Relations Committee did, however, is that it took the original resolution which provides for Senate approval before treaties can be terminated, turned that about-face, and gave the President of the United States a blank check in the termination of future treaties.

> On Page 2 of the committee substitute it says that the President may act unilaterally (1) when the treaty provisions in question have been superseded by subsequent, inconsistent statute or treaty; or, (2) in the case of material breach, changed circumstances, or other factors recognized by international law . . .

"Changed circumstances," Mr. President, is a total blank check to the President. "Of other factors," that, also constitute as a practical matter a blank check for the President, whoever he may be, to terminate unilaterally a treaty.

So the committee substitute does precisely the opposite from the intent of the original resolution.

The amendment which I have offered today on behalf of myself and Senator WARNER, Senator HELMS, Senator HAYAKAWA, Senator GARN, Senator THURMOND, and Senator PROXMIRE would substitute for the committee substitute the original language of Senate Resolution 15.

Mr. President, there is no disagreement, I am sure, with the assertion that under our Constitution the President clearly shares the treatymaking process with the Senate.

Does he not then share the treaty-terminating power with the Senate?

That is the issue addressed by the pending amendment.

I introduced Senate Resolution 15 on the opening day of Congress. In the debate on March 7 the distinguished Republican member of the Foreign Relations Committee, Senator JAVITS, with his customary ability to get to the heart of a matter, stated: "This is not just another sense of the Senate resolution. This is the real McCoy."

That is Senator JAVITS speaking.

The senior Senator from New York immediately recognized, when I called up this resolution for consideration in March, that the Senate was being asked to make a decision of great future importance to the country and to the Senate itself.

Whatever the Senate finally does in regard to the Byrd resolution, whether it approves or defeats it, a clear precedent will have been established.

The issue posed by the resolution is far broader than the question of Taiwan and the 30-year-old treaty of friendship with the Republic of China.

We have many treaties of friendship with nations throughout the world, and what happens to them in the future could depend on what action is taken today on Senate Resolution 15.

At this point let me say this: I favor establishing full diplomatic relations with the People's Republic of China.

It is one of the great nations of the world; it has a population larger than that of any other country.

It is important that our country and the People's Republic have contact, that there be a dialog between our countries. So I look with favor upon the establishment of diplomatic relations.

What I do not favor, however, is that in bringing this about, the President of the United States threw overboard a long-time friend and ally. The Senator from Ohio (Mr. GLENN), in his presentation to the Senate, pointed out that the President gave notice of intent to terminate the treaty of friendship between the United States and Taiwan without consulting the other party to the treaty; that, in fact, the first Republic of China knew about the proposal to terminate the treaty was when it learned of it through the news media.

The second aspect of this action taken by the President last December is much broader than the question of Taiwan.

It seems to me that it is important to establish for the future whether a President may unilaterally terminate a mutual defense treaty with other nations.

Our country has many such treaties. Some of them are extremely important, in the view of the Senator from Virginia, to the welfare of the United States.

I believe that a President alone does not have the authority to terminate such treaties. In the research that my staff has been able to do, no case has been found in which a major treaty with another nation, of a defense nature, ever has been abrogated unilaterally by a President of the United States. There have been cases, of course, in which minor treaties have been set aside; there have been cases in which, with the outbreak of war, the treaty became, ipso facto, nonbinding. However, so far as I can determine, this is the first time an attempt has been made to set aside a treaty of this magnitude by unilateral action of the executive branch of Government.

In 1954, Secretary of State John Foster Dulles responded as follows to an inquiry by Senator Jenner of Indiana. This was the statement of the Secretary of State:

> In light of the fact that your letter specifically raised the question whether the Department of State, under the present administration claims authority to modify treaties, I am glad to assure you that it is

> my view that the Executive may modify a treaty or a provision thereof only by the conclusion of another treaty entered into by and with the advice and consent of the Senate. This is also the view of my advisors who are fully aware of my position and fully share my views.

Admittedly, there is a difference of opinion among lawyers and the Constitution itself is silent on the direct question.

The Constitution provides the manner in which treaties are to be made, but it is silent as to termination.

But, the Constitution is also silent in explaining how statutes are terminated. The Constitution describes carefully the process of creating a law, but nowhere does it describe the process nullifying a law. All of us know that a President cannot unilaterally terminate a law—yet a treaty is a law.

To hold that a President can nullify a treaty is to assign to the President the power to unilaterally set aside a law—because a treaty is a law and is so recognized.

The Constitution in article VI reads:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land, and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Admittedly, a statute or treaty can be self-limiting by providing in its own terms for termination of its effectiveness upon the occurrence of specified contingencies; for example, the expiration of a fixed term of years. However, if a statute or treaty does not provide that it is to be in effect for a limited term or that it will automatically terminate on the happening of some other contingency, then it will not terminate, in my view, unless and until terminated by a subsequent action of like status.

Now, Mr. President, there is no precedent for the termination of a mutual defense treaty by executive action alone.

On March 7, on the Senate floor, I asked the Senator from Ohio (Mr. GLENN) the following question, and Mr. GLENN was managing the Taiwan enabling legislation:

> Has any mutual defense treaty been terminated by unilateral action?

Senator GLENN responded:

> I do not believe so . . . in that time since World War II, which is the only time we have had mutual defense treaties, the answer is no.

Mr. President, there may be some isolated precedent involving termination of minor treaties in abnormal circumstances by uncontested executive action. But it is a well-established principle, repeatedly enunciated by the Supreme Court, that the occurrence of an unconstitutional action in the past does not justify or make constitutional its repetition. I do not think, therefore, that too great stock should be placed in obscure precedents which may be cited.

As I said during the debate of the Taiwan relations legislation, the issue presented is clear cut. The Senate must participate in the treaty making process. Without Senate consent, a treaty cannot be ratified. Logic requires, therefore, that Senate consent is necessary to terminate a treaty.

Otherwise, the Senate could grant consent to the President's ratification of a treaty, and within a matter of weeks or months, a new President, newly elected, could undo that action.

I do not believe that a precipitous reversal of policy of that nature should be permitted solely on the whim of a single man or on the outcome of an election for a single office.

It would not be sensible to require Senate approval of ratification of a mutual defense treaty and, at the same time, permit a virtually immediate reversal of that decision without Senate approval.

Now, article X of the particular mutual defense treaty between the United States and Taiwan reads as follows:

> This treaty shall remain in force indefinitely. Either party may terminate it one year after notice has been given to the other party.

I believe it is highly significant that nowhere in article X does the term "President" appear. Article X does use the term "party". Clearly, the term "party" means government. In the case of the United States, our Government includes both the President and the Congress.

Article X also uses the term "may terminate." This language is permissive. It does not say "must terminate." It does not say "will be terminated." It merely says "may terminate."

The Senator from New York (Mr. JAVITS) stated categorically to the Senate (p. 4102, March 7) that—

> It is my judgment, and I sat through all the sessions of the Committee, that the Committee did not intend to approve or disapprove of the legality of President Carter's action.

The committee report on page 18 asserts that the committee is "inclined" to believe that the President did not act unconstitutionally.

I am inclined to the same position as enunciated by the committee. It seems to me the President does have the authority to give notice of intended termination of a treaty, but that the actual termination does not occur until approved by the Senate.

I say again, Mr. President, under our Constitution, the President of the United States clearly shares the treaty-making power with the Senate of the United States. In my judgment, he likewise shares the treaty-terminating power with the Senate.

Mr. President, how much time have I consumed?

The PRESIDING OFFICER. The Senator has consumed 18 minutes.

Mr. JAVITS. I yield 5 minutes to the distinguished Senator from Utah.

Mr. GARN. Mr. President, on the first day of the 96th Congress, Senator HARRY F. BYRD, JR. of Virginia introduced a Senate resolution which intended to block the usurpation of power by the executive branch in the treaty termination process. The language of Senator BYRD's resolution was clear and straight-forward. It read as follows:

> It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation.

At the time, I believed that Senator BYRD's proposal was one which deserved the full support of this body. I, therefore, cosponsored Senate Resolution 15, and still support the intent of Senator BYRD's original proposal.

Unfortunately, the resolution which we are considering today, as reported by the Senate Foreign Relations Committee, bears only the most superficial resemblance to the resolution introduced by Senator BYRD. According to the language recommended by the Foreign Relations Committee, a President may terminate any treaty without the approval of the Congress if "changed circumstances" have taken place, or when "other factors" have arisen. This language vitiates the intent and effect of Senator BYRD's original proposal. I must agree with my colleague, the distinguished Senator from North Carolina, JESSE HELMS, when he noted that the resolution offered by the Senate Foreign Relations Committee "would surrender all effective power involving treaty termination to the President and would in practice end Senate responsibility in treaty termination."

It is often argued that although the Constitution is clear on the role of the Senate in the treatymaking process, it remains silent on what, if any, role the Congress should have in treaty termination. However, it is an undeniable fact that, according to the Constitution, treaties are the "Supreme Law of the Land." Laws cannot be terminated by the President acting alone. The Senate, therefore, must refrain from conceding authority to the President which the Constitution itself does not grant.

I do not underestimate the importance of what we are debating today. While Senator BYRD's resolution was precipitated by President Carter's decision to terminate unilaterally the United States mutual defense treaty with Taiwan, the language of Senator BYRD's original proposal would affect all future defense treaties entered into by this country. It is, in my opinion, essential that the Senate state clearly for the record that mutual defense treaties between the United States and other countries cannot be terminated by a President acting alone.

I ask my colleagues to join with me in support of Senator BYRD's effort to offer his original language as a substitute for that provided by the Foreign Relations Committee. The Senate must reaffirm its constitutional role in the treaty termination process. We must not pass a resolution which would, in effect, allow a President to terminate a mutual defense treaty, or any treaty, by the mere stroke of a pen. To do so would be a violation of the principle of separation of powers and would do great harm to the constitutional process of this Republic.

Mr. President, I would simply summarize by stating that the resolution as reported back from the Foreign Relations Committee is worse than no resolution at all, because the Constitution is silent on this issue. Those of us who support Senator BYRD do not believe the

President can unilaterally cancel a treaty. But the resolution that is reported back by the Senate Foreign Relations Committee gives him a blank check and legalizes the action that he took with respect to Taiwan.

So not only do I support Senator BYRD and his resolution, and the original intent of that resolution, but I say that we must not allow what the Senate Foreign Relations Committee reported to be approved by the Senate, because then it does set a precedent, and does legalize what we feel was an unconstitutional act by the President, and has implications far into the future.

I thank the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank our distinguished colleague from Utah. I think the Senator from Utah makes a tremendously important point when he brings out that the resolution as reported by the Foreign Relations Committee is far worse than no resolution at all.

If the Foreign Relations substitute for the original resolution prevails, then that will create a Senate precedent by which the Senate itself says that when there are changed conditions or other factors, a President can unilaterally terminate a treaty.

That gives the President a blank check.

A blank check. Changed circumstances? If 1 year goes by, that is a changed circumstance. If 1 month goes by it is a changed circumstance. It gives the President almost total authority to make the decision on his own.

I thank the Senator from Utah for bringing out that point. I yield to the Senator from North Carolina such time as he may require.

Mr. HELMS. I thank my friend from Virginia.

Mr. President, I think it is essential to bear in mind what happened when, some weeks ago, the distinguished Senator from Virginia offered the substance of the pending resolution in the form of an amendment to a bill then being considered by the Senate. Being the gentleman that he always is, he did not press for a vote when he was asked to defer consideration of it at that time, with the assurance that the Foreign Relations Committee would promptly hold hearings, and report his resolution to the Senate. He assumed that the Foreign Relations Committee would report a version reasonably similar to what the distinguished Senator from Virginia had proposed in the first place.

But, as Senator GARN has just emphasized, what the Foreign Relations Committee did was reverse the entire intent of the Senator from Virginia's proposal. The committee's version makes mockery of the Senator's well-founded concerns, and as a member of the Foreign Relations Committee, I join with my friend from Virginia in strongly opposing the substitute by the Foreign Relations Committee. I wholeheartedly support his effort today to gain approval of his original proposal. I am delighted to cosponsor it with him.

Senator HARRY F. BYRD, JR., as was the case with his distinguished father who preceded him in this body, has a record of looking objectively and sensibly at the role of the United States in international affairs. I recall the battle that the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) waged on the question of Rhodesian sanctions. It was through his good efforts that the Senate finally went on record with a recognition that this absurd posture amounted to cutting off our nose to spite our face in terms of our need for a source of chrome ore, for example.

The Senate some years later reversed itself, unwisely. Today the able Senator from Virginia is again speaking sensibly and responsibly to the Senate, and I do hope that the Senate will act equally responsibly in response to his efforts.

The situation we confront today is this: The Byrd substitute to the committee substitute would restore the language originally introduced by the distinguished Senator from Virginia and the Senator from North Carolina on the 1st day of the 96th Congress. The resolution as reported, in effect, would reverse completely the intent and effect of Senate Resolution 15. The Foreign Relations Committee proposes to the Senate that rather than asserting a constitutional prerogative, the Senate instead surrender almost entirely its authority to approve or disapprove the termination of treaties.

Mr. President, that would be a tragic mistake. Senate Resolution 15, as originally introduced, stated a simple and clear-cut proposition. It expressed the sense of the Senate that Senate approval was required to terminate a mutual defense treaty, which is an obviously valid proposition. Nevertheless, the Foreign Relations Committee version has succeeded in altering what was proposed as a simple, clear-cut expression of Senate opinion, and has replaced it with a proposal which would do great harm to the Senate and to the country.

Senate Resolution 15, as reported by the Foreign Relations Committee, would deny the Senate an effective role in the process of treaty termination.

We had better bear that in mind as we cast our votes today. We had better know what we are doing. We had better understand the implications, not just on this issue but on all of the issues down the line.

The resolution, as reported by the committee, states that a President may terminate any treaty—I repeat, any treaty—without the concurrence of the Congress when "changed circumstances" have occurred, or when "other factors" have arisen, or when "the treaty itself, (contains a provision for) termination or suspension on the part of the United States."

Mr. President, how superficial is this Senate willing to be? This gives the President the authority to do what he wants under any pretext whatsoever. He can declare that the situation has changed. He can say that today is Wednesday morning instead of Tuesday morning, and that will suffice under the terms of the committee substitute. I think just elementary, commonsense would instruct this Senate not to abdicate its responsibility, not to turn over to the President an awesome responsibility which no one man should have alone.

But that is the way it is. Under the resolution as reported, a President, acting alone, could terminate any treaty which provided a right of termination to the United States as party to the treaty, or, acting alone, he could terminate a treaty in changed circumstances, or, acting alone, he could terminate a treaty if other factors arose. These provisions would surrender all effective power involving treaty termination to the President and would in practice end Senate responsibility in treaty termination. Moreover, the committee, by replacing the word "Senate" in the original resolution with the word "Congress" in the resolution as reported, asks the Senate to surrender in addition to its own authority, also the authority of the House of Representatives in those cases in which treaty termination might involve House action. Even if the Senate is ready to surrender its own authority, it should not surrender with it the authority of the House. The most astonishing feature of the committee action is the proposals that in any treaty in which there appeared a termination clause giving a right of termination to "a Party" to the treaty, the President would be allowed to terminate at his whim. The committee would thus permit a President to withdraw from all existing military alliances of the United States, simply with the stroke of a pen. Literally hundreds of other treaties not involving mutual defense would also be subject to Presidential termination simply by executive action so long as the treaty involved contained a clause granting to the United States, under international law, the right to terminate.

In short, the resolution as reported is intended to reverse completely the effect of the resolution as introduced, and if adopted in the form reported by the committee, the resolution will encourage further Presidential usurpation of Senate and congressional prerogative. The resolution, as reported by the committee, must not be enacted, or far greater harm will be done to the basic constitutional framework of our Government than has already been caused by the current President's disregard for the constitutional limits on his authority.

CONSTRUCTION OF THE CONSTITUTION

In any issue which involves an interpretation of the Constitution, the best source of information is obviously the document itself. In my judgment, the meaning of the Constitution in this instance is clear and can be readily ascertained.

Senate Resolution 15, as introduced, expresses a proposition which at its core is a statement regarding the proper method for the termination of law. That statement would be correct, in my view, whether the law in question took the form of treaty or statute, or, if in treaty form, whether the treaty were a mutual defense treaty or any other treaty. Stated simply, the issue involves determining the proper modality under the Constitution for law termination.

The Constitution specifies precise modes for the creation of law. It specifies the manner in which statutory law is created, and it also specifies the manner in which treaty law is created. It establishes that treaty law has the same status as statutory law, and as in the case of statutory law, it declares treaty law supreme over conflicting State statutes or constitutions. The Federal Constitution does not, however, expressly specify modes for repeal or termination of Federal law, whether it be law created by statute or treaty.

The only logical conclusion to be drawn from the failure of the Constitution to specify precise modes for the termination of law is that law can be terminated only in the manner in which it is made, that is, by an instrument of like dignity. In other words, a statute may be terminated only by another statute adopted subsequent in time or by a treaty adopted subsequent in time. Similarly, a treaty may be terminated only by a subsequent statute or by a subsequent treaty or by some subsequent instrument of similar status and force.

It seems to me that any other conclusion cannot be supported. Any other conclusion would of necessity contemplate the termination of law by some action not itself arising to the dignity of law. That would not accord with basic concepts of democratic government since it would imply that, although law is to be made only with the participation of the people's representatives, it can be unmade without the same form of popular consent. It would further imply that law validly adopted is not inherently permanent in nature unless and until changed by subsequent law, thus introducing a new concept wholly foreign to all constitutional and governmental principles.

Admittedly, a statute or treaty could be made self-limiting by providing in its terms for termination of its effectiveness upon the occurrence of specified contingencies, for example, the expiration of a term of years. However, if a statute or treaty does not provide that it is to be in effect for a limited term or that it will automatically terminate on the happening of some other contingency, then it will not terminate, in my view, unless and until terminated by a subsequent statute or treaty or by some subsequent instrument of like status.

Although there may be a minor precedent involving termination of treaties (and doubtless statutes as well) which might conflict with the foregoing analysis, I am reminded that the Supreme Court has repeatedly held that the fact that an unconstitutional act has occurred in the past does not justify or make constitutional its recurrence. In that connection, I find helpful the Court's statement in *Powell* v. *McCormack*, 395 U.S. 486, 546–547 (1969):

> That an unconstitutional action has been taken before surely does not render that same action less unconstitutional at a later date.

Similarly, in *United States* v. *Morton Salt Co.*, 338 U.S. 632, 647 (1950), the Court held that—

> Nonexistent powers cannot be prescripted by an unchallenged exercise . . .

Finally, in *Zweibon* v. *Mitchell*, 516 Fed. 2d 594, 616 (D.C. Cir. 1976), the Circuit Court followed the rule of the Supreme Court and emphasized that—

> There can be no doubt that an unconstitutional practice, no matter how inveterate, cannot be condoned by the judiciary.

Nor do I think should a new unconstitutional action be condoned by the Congress, notwithstanding possible isolated precedent to the contrary.

I believe that construction of the Federal Constitution itself provides the best guidance in determining the proper mode for termination of treaty law. That guidance is found in the Constitution's declaration that treaty law is supreme and in its description of how law is made and perforce how law is unmade.

CONSTITUTIONAL PRECEDENTS

Mr. President, when the meaning of the Constitution is clear, then it should not be necessary to resort to precedent. The meaning of the Constitution in this instance being clear, the committee has found it necessary to resort to precedent in an attempt to overturn the document's obvious intent.

Frankly, I believe the committee has presented an inaccurate analysis of the historical record in a forlorn effort to justify its decision to relinquish virtually all responsibility in treaty termination. Therefore, I find it necessary to cite precedent in order that it be clear to the Senate that the committee has misinterpreted the history of treaty termination in order to achieve an improper goal.

Without citing any evidence in the historical record concerning treaty termination, the majority avoids the true precedents and asserts instead that the President has power to terminate a treaty under its terms whenever that treaty provides for withdrawal by either "Party." The committee focuses on the President's presumed powers in carrying out the foreign policy of the Nation.

For example, the majority makes the broad assumption that since the President conducts foreign relations, the word "Party" when found in a treaty means "President." But this assumption is wholly unfounded. In fact, it is clearly contrary to past practice and consistent previous interpretations given to the term "Party" by the Senate and by this committee throughout history under the Constitution. I will pursue this example for the purpose of illustrating my point that the majority has misunderstood the precedents. The example is also important, because the word "Party" is characteristically used in treaty provisions permitting or causing (as the case may be) termination after notice.

The first instance of terminating a treaty by notice did not occur until 1846, when Congress by joint resolution authorized President Polk to annul the convention with Great Britain regarding the joint occupation of the Oregon territory. President Polk specifically asked Congress for that authority.

The second time we acted under the notice provision of a treaty, it was to withdraw from the commercial treaty with Denmark of 1826.

In writing about the anticipated cancellation of this treaty in 1848, Secretary of State Buchanan issued official instructions declaring that—

> An act must first pass Congress to enable the President to give the required notice. Vol. 8 *The Works of James Buchanan* at 224 (ed. J.B. Moore, 1909).

Indeed, when the United States later withdrew from that treaty it was pursuant to legislative authority conferred upon President Pierce. Again, the President had specifically requested such authority, proving that he alone could not make such a fundamental foreign policy decision for the Nation.

This incident led to an authoritative report by the Senate Foreign Relations Committee in 1856. This committee examined the precise issue before us today: How shall a treaty be terminated which by its own terms provides for cancellation after notice given by either "Party"? The committee answered that—

> Where the right to terminate a treaty at discretion is reserved in the treaty itself, such discretion resides in the President and Senate. S. Rep. No. 97, 34th Cong., 1st Sess. (1856).

The committee explained:

> The whole power to bind the government by treaty is vested in the President and Senate, two-thirds of the Senators present concurring. The treaty in question was created by the will of the treaty-making power, and it contained a reservation by which that will should be revoked or its exercise cease on a stipulated notice. It is thus the will of the treaty-making power which is the subject of revocation, and it follows that the revocation is incident to the will.

The committee added that although "the advice of the Senate alone is sufficient to enable the President to give the notice," it would be appropriate for him to obtain "the joint assent of the Senate and House of Representatives" as an alternative means of authority. No power in the President alone was ever contemplated by the committee.

A decade later the entire Senate confirmed the position of the committee that legislative authority is necessary to enable the President to give notice. In 1865 both Houses enacted the joint resolution of February 9, ratifying President Lincoln's purported notice of withdrawal from the Rush-Baggot Convention. During Senate debate on the authorizing legislation, many Senators argued that the notice of the President was wholly invalid until adopted legislatively.

For example, Senator Garret Davis of Kentucky said:

> It is indispensably incumbent and necessary, in order to secure the termination of this treaty, that it shall be terminated, *not by the action of the President, but by the action of Congress*, 35 Cong. Globe 313 (Rives ed. 1865). (Emphasis added.)

Senator Charles Sumner of Massachusetts, then chairman of the Foreign Relations Committee, agreed that—

> The intervention of Congress is necessary to the termination of this treaty. . . .

He explained that it is "to be repealed or set aside only as other law is repealed or set aside; that is by act of Congress"—35 Cong. Globe 312 (Rives ed. 1865).

Congress defended its shared power over treaty termination again in 1911 when it learned that President Taft had given notice of termination of the Commercial Treaty of 1832 with Russia. In view of Soviet violations of the treaty by discrimination against American Jews, President Taft informed Russia on December 15, 1911, of intent to terminate the treaty as provided therein. In doing so, the President informed the Senate of his action "as a part of the treatymaking power of this Government, with a view to its ratification and approval." G. Hackworth, 5 Digest of International Law 320 (1943). Thus President Taft acknowledged the necessity for legislative ratification of his action.

During Senate action on the legislation, Senator Henry Cabot Lodge, chairman of the Foreign Relations Committee was asked whether the President's action would be legal in the absence of legislative action. He replied:

> Of course, Congress can disapprove his action; and then, I take it, the notice fails.... 48 Cong. Rec. 479 (1912).

Senator Lodge added that the power to terminate the treaty by notice according to its terms rested in the President and Senate alone:

> Because in making such a treaty the Senate and the President represent the high contracting party. Id.

The interpretation of the term "Party" as meaning "President and Senate," given to it by the Senate Committee on Foreign Relations in 1856 and by the chairman of that committee in 1911, has never been repudiated or changed by the Senate. Some administration spokesmen mistakenly testified that the Senate has previously conditioned treaty ratification on the stipulation that denunciation would require the participation of the Congress. They claim this implies a recognition of Presidential powers and refer to Senate approval of the Lodge reservation to the League of Nations Treaty in 1920 as such an example. But this argument is based on sloppy research. It misreads the purpose of the reservation and more significantly ignores two Senate votes rejecting amendments which would have authorized the President alone to withdraw from the treaty by notice.

The Lodge reservation was first approved twice by the Senate, on November 8, 1919, and on February 21, 1920. It provided that—

> Notice of withdrawal by the United States may be given by a concurrent resolution of the Congress of the United States. 58 Cong. Rec. 8139.

The obvious purpose was to assure that the Congress alone could provide for withdrawal from the League without the signature or any further action of the President since a concurrent resolution is not sent to the President for approval, as is a bill or joint resolution. Moreover, the Senate twice defeated amendments to the Lodge reservation that would have enabled the President to give notice. 50 Congressional Record 8134–8135; 59 Congressional Record 3242. Thus, the Senate in 1919 and 1920 expressly rejected any notion that the President acting on his own initiative could unilaterally terminate a treaty by notice.

There is even a recent Attorney General opinion advising the President he cannot use the notice provision of a treaty without legislative action. In 1941, Acting Attorney General Biddle advised President Roosevelt:

> It is not proposed that the United States denounce the convention under Article 25 (relating to notice of denunciation) ... nor that it be otherwise abrogated. Consequently, action by the Senate or by the Congress is not required. 40 Op. Att'y. Gen. 119 (1941).

Similarly, the writings of the Founding Fathers evidence their belief that, in remaining silent on the subject of treaty termination, the Constitution implied that treaties would be terminated as they are made—with the consent of both the executive and the legislative branches. Thus, Thomas Jefferson understood:

> Treaties are legislative acts. A treaty is the law of the land. It differs from other laws only as it must have the consent of a foreign nation, being but a contract with respect to that nation. . . . Treaties being declared, equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded. T. Jefferson, A Manual of Parliamentary Practice for the Use of the Senate of the United States, Sec. LII (1801).

The analogy of treaties to statutes, and its implications for the repeal of treaties, was analyzed by James Madison as follows:

> That the contracting powers can annul the Treaty cannot, I presume, be questioned, the same authority, precisely, being exercised in annulling as in making a treaty. 1 Letter and Other Writings of James Madison, 524–25 (1865).

The well known concern of the framers with regional economic interests, navigation rights, and peace treaties refutes any notion they intended to make it easier to escape, than make, treaties. Surely, the framers did not vest one person with complete power to denounce treaties of such supreme importance, without any legislative deliberation.

Hamilton expressed his concern in this matter when he wrote in the Federalist No. 22 that one of the specific defects meant to be corrected by the Constitution was the want of fidelity to our treaty engagements in view of the ease by which treaties could be dropped under the Articles of Confederation. Similarly, John Jay expressed the view that—

> They who make laws may, without doubt, amend or repeal them; and it will not be disputed that they who make treaties may alter or cancel them. . . . The Federalist No. 64, at 394 (J. Jay).

Numerous scholars agree the President cannot lawfully terminate a treaty without legislative consent. For example, Justice Story, in his Commentaries on the Constitution, wrote:

> (Treaties) should have the obligation and force of a law, that they may be executed by the judicial power, and be obeyed like other laws. This will not prevent them from being cancelled or abrogated by the nation upon grave and suitable occasions; *for it will not be disputed, that they are subject to the legislative power and may be repealed, like other laws, at its pleasure.* (Emphasis added.) *J. Story, Commentaries on the Constitution of the United States* 695 (1873).

Prof. Edward Corwin, in his treatise on executive control of foreign relations, said:

> (A)ll in all, it appears that legislative precedent, which moreover is generally supported by the attitude of the Executive, sanctions the proposition that the power of terminating the international compacts to which the United States is party belongs, as a prerogative of sovereignty, to Congress alone. E. Corwin, The President's Control of Foreign Relations 115 (1917).

Prof. Stephan A. Riesenfeld of the University of California, Berkeley writes:

> The most logical view is that the power to denounce a treaty is vested in the President by and with the advice and consent of the Senate, so that the department of the government which makes the treaty can terminate it, regardless of whether the termination is by unilateral, but lawful, denunciation or by a new treaty. Riesenfeld, The Power of Congress and the President in International Relations, 6 Cal. L. Rev. 643, 660 (1937).

Professors McDougal and Reisman testified at our recent hearings:

> (W)hen we deal with security agreements we are dealing with agreements that pose the greatest commitment of the destiny of the Republic....
>
> (T)he President cannot terminate these treaties on his own initiative, without an authorization. Hearings on S. Res. 15, pp. 388, 394.

Irwin S. Rhodes, author-editor of "The Papers of John Marshall" and the forthcoming "The Papers of Roger Brooke Taney," said in a prepared statement printed in the hearings on Senate Resolution 15:

> Just as the power to legislate implies the power to repeal in the same manner and the power to judge implies the power to revoke or overrule in the same manner, so the same principle applies to treaties. If such be the case, as I firmly believe, the revocation of a treaty by the President without the advice and consent of the Senate is unconstitutional and notice by him of intended termination is a nullity. Id. at 36.

Similarly, Prof. Edward Gaffney, Jr., assistant director of the Center for Constitutional Studies at Notre Dame Law School, formerly a member of the policy staff of U.S. Attorney Generals Levy and Bell, observed at those hearings:

> If the President is under the duty, in Article II, to take care, to see that the laws are faithfully executed, and if then Article VI defines law to include and to embrace treaties, then it seems to me that the normal route would be to go back to the House and Senate for a majority vote, just the normal way that you unmake an act. Id. at 515.

And Prof. Thomas S. Franck, director, Center for International Studies of the New York University School of Law, testified:

> (T)reaties are the supreme law of the land, that laws and treaties, in the words of the Supreme Court in *Whitney* v. *Robertson* are on the same footing as laws and must be terminated as if they were laws, either by a legislative resolution or by inconsistent subsequent law. Id. at 274.

With specific reference to the 1954 Defense Treaty with Taiwan, Prof. Arthur Bestor, professor of history emeritus of the University of Washington writes:

> The termination of the Mutual Defense Treaty by the President without obtaining the advice and consent of the Senate—indeed, in flagrant disregard of the "sense of the Congress" clause in the International Security Assistance Act of 1978 (which comes close to being what the Constitution de-

> scribes as the "advice" of the Senate)—represents a usurpation of power of the most dangerous sort. Introduction to "Location of the Constitutional Power to abrogate or Terminate a Treaty: The Original Intent of the Constitution Historically Examined," Cong. Rec. 2892 (Feb. 21, 1979).

Prof. Alan C. Swan, former legal counsel in the Department of State, reaches the same result on the basis of the separation of powers doctrine. He testified at the hearings on Senate Resolution 15:

> As such, it (the separation of powers doctrine) is a guarantee of our liberty as important as the Bill of Rights itself. It also means that if, acting in accord with that doctrine, the President and Senate concur upon a treaty, any suggestion that the President alone, without Congressional concurrence, may reverse the policy of the treaty is tantamount to a suggestion that the great matters with which treaties deal are for some reason removed from the Madisonian precept. Id. at 293.

Prof. Eugene V. Rostow, former Undersecretary of State and dean of Yale Law School, succinctly summed up the constitutional and policy implications of his position as follows:

> It cannot be constitutional to allow the President to abrogate treaties by a stroke of his pen. Can the President alone nullify our solemn national commitment to NATO? The President's duty is to see that treaties and statutes are "faithfully executed." He has no power to repeal them. Such a doctrine would make nonsense of the separation of powers, and indeed establish an Imperial Presidency. E. Rostow, Yale Alumni Magazine (April, 1979).

A similar statement appears in a recent article by David Scheffer in the Harvard International Law Journal:

> If the President's unilateral action were to go unchecked, then the precedent which this case would establish could lead to the inevitable consequence of an ambitious or unreasoned President disengaging the United States from crucial bilateral and multilateral treaties with the stroke of a pen and without the constitutional balance of legislative advice and consent. Scheffer, The Law of Treaty Termination as Applied to the United States De-Recognition of the Republic of China, 19 Harvard Int'l. L. J. 931, 1008 (1978).

Mr. President, I think it is worthwhile to point out that the majorty worked carefully to build a record for its case. Yet not one person testified at the hearings in support of Presidential power who is not now or was not earlier an employee of the executive branch. Witnesses who supported Presidential power over treaty termination included:

Brownell—Former Attorney General.

Chayes—Former State Department Legal Advisor.

Hammond—Deputy Assistant Attorney General.

Hansell—State Department Legal advisor.

Lowenfield—Former State Department Legal Advisor.

Meeker—Former State Department Legal Advisor.

Moore—Former Counselor on International Law to the Department of State and United States Ambassador.

Oliver—Has served a total of over 13 years in the Executive Branch, including State Department.

Rogers—Former Assistant Secretary of State.

Rusk—Former Secretary of State.

Even the committee's special consultant, Professor Henkin, formerly served 10 years in the Department of State.

It is no surprise that these former executive branch officials loyally trooped in to support Presidential power. The surprise is that several former Government officials argued before the committee that President Carter has usurped legislative power over treaty termination. The surprise is that even the witness list being loaded down with former State Department officials, the majority of scholars who submitted prepared statements to the committee endorsed the proposition that legislative participation is needed to terminate a treaty.

These scholars include:

Thomas Franck, Director, Center for International Studies of New York University, School of Law.

Doctor Arthur Bestor, Professor of History Emeritus of the University of Washington, Seattle.

Professor Edward Gaffney, Assistant Director of the Center for Constitutional Studies at Notre Dame Law School, and formerly a member of the Policy Staff of United States Attorney Generals Levy and Bell.

Professor of International Law William M. Reisman of Yale Law School, who submitted a statement jointly for himself and Professor Myers McDougal of Yale Law School, a former President of the American Society of International Law and of the Association of American Law Schools.

Professor Alan C. Swan of the University of Miami Law School, a former legal Counsel in the Department of State, AID.

Professor Eugene Rostow, former Undersecretary of State and Dean of Yale Law School.

Professor of Constitutional Law Charles Rice of Notre Dame Law School.

Irwin Rhodes, author-editor of "The Papers of John Marshall" and the forthcoming "The Papers of Roger Brooke Taney."

Also, Senators Harry F. Byrd, Jr., and Barry Goldwater testified convincingly for legislative action in treaty termination.

In summary, 10 statements were received in defense of Presidential power, all present or former executive branch officials; 11 statements were received rejecting independent Presidential treaty terminations as illegal. The latter statements represented a wide viewpoint not only of Members of Congress, but of former executive officials and independent scholars, as well.

Again Mr. President I commend my friend from Virginia for his diligence in this matter. He has again performed a valuable service for this Nation and the American people. I congratulate him and I want him to know that I am honored to join in cosponsorship of his resolution.

Mr. HARRY F. BYRD, JR. I am very grateful to the distinguished Senator from North Carolina for his comments, grateful for his strong support of this measure, and for his cosponsorship of the proposal.

Mr. President, how much time has the Senator from Virginia consumed?

The PRESIDING OFFICER. The Senator from Virginia has consumed 30 minutes.

Mr. HUMPHREY. Will the Senator yield?

Mr. HARRY F. BYRD, JR. In just a moment.

Mr. President, how much time has the opposition utilized?

The PRESIDING OFFICER. The opposition has consumed 17 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I yield 5 minutes to the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I cannot believe that the authors of our Constitution so carefully put in place a system of checks and balances that was ever intended to give power to one man acting alone to terminate treaties which are entered into with the advice and consent of the Senate. For that reason, I fully support the amendment proposed by the distinguished Senator from Virginia.

The text of Senate Resolution 15, as originally proposed by Senator Byrd, is clearly preferable to the language which emerged from the Committee.

Senator Byrd's language is straight forward and unambiguous: The "approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation." Historical precedent supports the argument that the abrogation of a formal treaty requires Senate approval. Presidents Madison, Hayes, McKinley, Taft, Wilson, and Harding all bowed to the argument that a President cannot abrogate a treaty by himself. While the Constitution is not explicit on this point, it does state that the President "take care that the laws be faithfully executed." Under article V of the Constitution, a treaty is considered to be a part of the "supreme law of the land."

The President cannot unilaterally abrogate a law. He, therefore, cannot unilaterally abrogate a treaty. Senator Byrd's language conveys this message clearly to the President. It also sends a clear message of reassurance to our allies and friends abroad who are beginning to harbor doubts about the credibility of our commitments. Such doubts have been fostered by a chain of events since Vietnam, but have been reinforced most recently by the President's abrupt decision to terminate our long-standing Mutual Defense Treaty with the Republic of China. His treatment of Taiwan certainly has diminished the credibility of our recently offered assurances to Israel. Moreover, it has aggravated the concern of other friends abroad who depend upon close military ties with the United States. Our friends and foes alike are quick to apply perceptions of our treatment of Taiwan to their own relationships with the United States. If adopted, Senator Byrd's proposed language for Senate Resolution 15 would help to quell growing fears abroad that the United States cannot be counted upon to accept meaningful responsibility on the international scene.

The committee's text of Senate Resolution 15 does not send a clear message to anyone. This text lists a number of situations under which the President may unilaterally terminate treaties. Of these, the broadest is the second, which permits unilateral Presidential action when:

> Material breach, changed circumstances, or other factors recognized by international law, or provisions of the Treaty itself, give rise to a right of termination or suspension on the part of the United States.

This clause, Mr. President, renders the resolution worthless. The language is so vague—especially the reference to "changed circumstances"—that a President could terminate virtually any treaty unilaterally and still abide by the resolution.

This committee language confuses rather than clarifies the treaty powers of the Senate.

The committee's language assigns "Congress" not just the Senate the role of "concurring" with a Presidential decisions to terminate a treaty. Under what logic should the House be brought into the treaty breaking process when it is not involved in the ratification process?

For these reasons, Mr. President, I firmly believe that the resolution as reported by the committee should not be accepted. It does far greater harm to our constitutional framework than the President did when he attempted to terminate our treaty with Taiwan. For this reason, Mr. President, I urge my colleagues to support Senator BYRD's amendment to Senate Resolution 15.

Obviously, Mr. President, this is a very important issue indeed. We are talking about powers under the Constitution. I hope my colleagues will support Senator BYRD in his very clear and straightforward language so that we will not, by our actions with regard to Senate Resolution 15, serve only to muddy the issue further but to clear it up once and for all insofar as the Senate is concerned. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I yield 15 minutes to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, the Senate will reach a historic vote today on its role in the termination of treaties. Under the unanimous consent agreement, we will have an up or down vote on Senate Resolution 15 as originally introduced by my good friend from Virginia, Senator HARRY BYRD. That resolution states that no defense treaty can be terminated by any President without the approval of the Senate.

All my life, as long as I have been able to read, that has been my understanding of what the Constitution of the United States says. Evidently some people either cannot read English or misinterpret what English says.

Mr. President, we are squarely faced with the following proposition: Either the President has absolute power to terminate any treaty at will or the Senate is a partner to the unmaking of a treaty, just as it is in the making of a treaty.

Now, I know the Foreign Relations Committee has drafted a substitute proposal which on the surface seemingly places limits on the President's termination power. Actually, the substitute version makes so many exceptions, including some 14 exceptions listed in the committee report, that the President can virtually terminate any treaty he wishes under one or another of these provisions.

Let me read what these 14 are, Mr. President, but let me preface my remarks by saying I do not believe the Foreign Relations Committee did this. I think this was prepared by the State Department whose absolute ignorance of this subject is appalling.

I attended a court hearing not too long ago and listened to the lawyers from the State Department argue their case. I am not a lawyer, but I would like to go to court with those gentlemen any time. They have no idea at all of what they are talking about. I have a strong feeling the language we are discussing now is the language that came out of the State Department.

Let me read these 14 exceptions:

> To summarize the provisions of that Convention, a state has the right to terminate treaties under one or more of the following circumstances:
>
> (1) in conformity with the provisions of the treaty;
>
> (2) by consent of all the parties after consultation with the other contracting states;
>
> (3) where it is established that the parties intended to admit the possibility of denunciation or withdrawal;
>
> (4) where a right of denunciation or withdrawal may be implied by the nature of the treaty;
>
> (5) where it appears from a later treaty concluded with the same party and relating to the same subject matter that the matter should be governed by that treaty;
>
> (6) where the provisions of the later treaty are so far incompatible with those of the earlier one that the two treaties are not capable of being applied at the same time;
>
> (7) where there has been a material breach by another party;
>
> (8) where the treaty has become impossible to perform;
>
> (9) where there has been a fundamental change of circumstances;
>
> (10) where there has been a severance of diplomatic or consular relations and such relations are indispensable for the application of the treaty;
>
> (11) where a new preemptory norm of international law emerges which is in conflict with the treaty;
>
> (12) where an error was made regarding a fact or situation which was assumed by that state to exist at the time when the treaty was concluded and formed an essential basis of its consent to be bound;
>
> (13) where a state has been induced to conclude a treaty by the fraudulent conduct of another state; and
>
> (14) where a state's consent to be bound has been procured by the corruption or coercion of its representatives or by the threat or use of force.

The report goes on to say:

> Even in the above circumstances of course, the President should consider the impact of his determinations and the importance of building support for his policies in deciding whether and how to involve the Congress in his course of action. That Congressional concurrence may ordinarily be presumed does not imply that Congressional opinion should not be sought. The President's conclusions in this regard should be reached on a case-by-case basis; routinely excluding the views of the Senate or the Congress by failing to consult fully in advance of treaty terminations would surely be unwise.

We have been saying that for months. The Senate, last year, passed a resolution telling the President that he could not abrogate a treaty with Taiwan—he could not, unless he came to the Senate and asked for advice and consent. And he thumbed his nose at us. I heard about it someplace in the air, out in southern Arizona. Nobody was consulted about it. The President broke the law.

Mr. President, I happen to have instituted a suit on that subject, not to change the determination to recognize Red China, which I thought and still think was a terrible mistake, but it is a fact. My suit is merely to determine whether or not the President acted legally in avoiding the intent of the Constitution, as expressed, not once but twice, by the Senate of the United States.

I might say, that is all we are talking about here today. The Senator from Virginia is not trying to change the recognition of Red China; that is not my intention. It cannot be done. I wish it could be done, but it cannot. We have accepted it.

All I want to see and all the Senator from Virginia wants to see is that no future President, nor this President, feels that, at any time, he can abrogate any treaty just because the Coca-Cola Bottling Works feels it would be to their advantage to have a factory or a distillery in China, and down the list of those big corporations that I feel are behind this.

Mr. President, my feeling is that this committee substitute, as I have said before, was prepared by the State Department, because I think they have the recognition that they have no case in court—and I do not want to talk to this, because I think it is wrong for anybody to talk about a case that is, in all probability, going to be heard—although there is some chance that it will not be heard. I do not think this should have an effect on it. But let me advise my colleagues that that is precisely what this language contained in the substitute for the Byrd resolution does: It, in effect, sanctifies and makes legal the illegal actions of our President.

As a Member of this Senate, I want no part of it. I swore to uphold the Constitution of the United States against all enemies, including the President, if he wants to be an enemy.

Mr. President, in fact, as I say, this is exactly how the committee substitute was explained to committee members at the markup of Senate Resolution 15. The transcript of the markup which is printed with the committee report is quite clear on this point. At page 44, Mr. Tipson of the committee staff described the substitute resolution as follows:

> I cannot conceive of a situation arising where the President could not argue that it came under one of those stipulations.

Those are the 14 that I have read.

I have to say it would be pretty hard for me to find or even dream up a situation not covered by those 14, unless it might be something contained in the Lord's Prayer, and thank God, they have not gotten down to that, yet.

Not only does the committee version recognize open-ended power in the version but it seeks to make the Senate a partner with the President when he acts in violation of international law. After telling the President that he can act alone under at least 14 different grounds of international law, the committee substitute would leave the few remaining cases of treaty termination for joint action by the Congress together with the President.

That is mighty nice of them. Too bad the Constitution does not agree with them. But they do not care about the

Constitution, and that is what we are talking about.

I am appalled, at times, to hear Members, colleagues, friends of mine, whom I have served with for years, members of the Committee on Foreign Relations, who stand on this floor and proclaim, correctly, rightly, that we have given too many powers of the Senate and the Congress to the administrative branch. Yet, without any qualms at all, they see nothing wrong with allowing the President to abrogate a treaty, in direct violation, in my opinion, of the Constitution of the United States.

It does not make sense to me how a man who can reason one way in connection with the relationship of our country to another country can reason exactly opposite when it comes to the prerogatives of this body. We were told by the Founding Fathers, we were told by the 13 original signers to our Constitution, "You have to advise and consent."

It was the advice of General Washington that we be careful about allies. That is one of the reasons we were given the power of advice and consent. Thomas Jefferson called a treaty the supreme law of the land. President Carter does not believe it is even the law of the land.

Mr. President, this amounts to a committee recommendation of congressional complicity in cases where the President willfully violates international law.

In other words, our domestic constitutional principles are virtually ignored and the only time the Senate or Congress is asked to play a role is when the President wants to act contrary to customary international law.

Mr. President, I urge that my colleagues reject the committee substitute and support the resolution as originally introduced by Senator BYRD. Under the separation of powers doctrine, it is clear that the President would be invading a legislative function if he should unilaterally break a treaty. A treaty is part of the supreme law of the land, and the President can no more repeal a treaty without legislative authority than he can repeal an act of Congress.

The great majority of legal scholars, who have devoted their lifetimes to a study of the Constitution and the original intent of the framers, believe the President cannot terminate a treaty without legislative participation. Past Presidents and Secretaries of State have recognized the need for legislative approval.

For example, President Taft, who was also a Chief Justice of the Supreme Court, said:

> The abrogation of a treaty involves the exercise of the same kind of power as the making of it.

Mr. President, I ask the Senate to stand together on this issue. This is not a partisan issue.

I am speaking on behalf of a measure introduced by a former outstanding Democrat, now not a member of either party, and I happen to be a Republican. This is not partisan. This applies to the Constitution of the United States. It applies to all of our 230 million people.

If the President has been correct in the abuse of his power, Mr. President, I have no hesitancy in saying that he has established a precedent for a dictator, because if one man at his own choosing, without any reason at all, can change and end a treaty, he can change and end a law, can end anything he wants in this country, and his word becomes the word of a dictator. That is what frightens me.

As I say, I did not like the recognition of Red China. I thought it was stupid and wrong. But it is stupid and wrong. I will buy it. I have lived through a lot of stupidity in the course of my life.

But I do not like to live with stupidity and wrongness when it applies to the Constitution of the United States which has so well governed and provided for all the millions of people who live in this country. Whether they know it or not, it is the best formed doctrine of government ever written by man, and every time we tamper with it we make a mistake.

I do not like the President playing football or baseball with it, or tossing peanuts with it. It is too important.

I wish we had more Senators here today, but I can understand the amount of business they have to attend to. I want to assure them there is no more important business than what we are going to do today, because we are either going to tell the President, the existing President, "Stop it," and we are going to tell the future President, "No more of this," or we are going to say, "It's OK, buddy, anything you want to do is all right, the Senate and the House will not stand in your way."

It is not a liberal-conservative issue. It is a matter that directly involves the constitutional power of the Senate as a corporate body and I for one am not about to turn over the powers of a dictator to the Presidency no matter who is serving in the Oval Office.

I thank my friend from Virginia for yielding.

Mr. HARRY F. BYRD, JR. Mr. President, the Senator from Arizona has made a powerful presentation to the Senate today on the importance of the issue before the Senate—a powerful presentation.

It is an appeal to the Senate to adhere to its prerogatives and its responsibilities under the Constitution.

If the substitute submitted by the Foreign Relations Committee is adopted, the Senate would be abrogating voluntarily, by its own vote, responsibilities given to it by the Constitution.

As the Senator from Arizona so aptly stated, this is not a partisan issue. This is not a Democratic issue or a Republican issue. This is not a liberal or conservative issue. This is not a North or South issue.

It is an issue of whether the Senate of the United States wants today to create a precedent which will eliminate for the future its role in the termination process of treaties approved previously by the Senate of the United States.

Mr. President, how much time does the Senator from Virginia have remaining?

The PRESIDING OFFICER. The Senator has 69 minutes remaining.

Mr. HARRY F. BYRD, JR. Mr. President, my distinguished colleague from Virginia is here prepared to speak. The proponents of the pending amendment have utilized 48 or 49 minutes. The opponents have utilized 17 minutes.

Mr. President, I think it is appropriate at this time that the proponents reserve the remainder of the time. Insofar as the opponents of the pending proposal are concerned, they have pressing matters elsewhere or are not available at the moment.

I am going to make a unanimous-consent request that a quorum call be put in, that the time be charged to the opponents, and when the opponents get here and they object to that, then I will share the time with them if they so insist.

Mr. GOLDWATER. If the Senator will withhold the unanimous-consent request, might I suggest he consider asking unanimous consent that a quorum call be held and the time be charged to neither side.

Mr. HARRY F. BYRD, JR. I would be glad to do that.

Mr. President, I withdraw my previous unanimous-consent request, and I ask unanimous consent that a quorum call be put in motion and the time be charged to neither side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, what is the status of the situation? Are we ready to vote on the amendment of the Senator from Virginia (Mr. HARRY F. BYRD, JR.)? I do not see anybody in the Chamber except Mr. HARRY F. BYRD, JR., Mr. GOLDWATER, Mr. WARNER, and the Presiding Officer.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will yield, the situation is this: The pending amendment is the amendment I offered as a substitute for the committee amendment, under a 4-hour time limitation. The proponents of that substitute have utilized 48 or 49 minutes. The opponents have utilized 17 minutes. I have reserved the remainder of my time so that the opponents can come in here and make their case.

Mr. ROBERT C. BYRD. Where are the opponents?

Mr. HARRY F. BYRD, JR. I have no idea. I do not keep track of my opponents.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. McCLURE. Maybe there are not any.

Mr. HARRY F. BYRD, JR. I want to change that remark. All Senators are busy. They have committee meetings; they have other commitments. So the opponents are involved elsewhere, on important business, and I do not want to downgrade that.

Mr. ROBERT C. BYRD. Of course not.

Mr. HARRY F. BYRD, JR. I do not want to express any criticism, but I do want to withhold the remainder of my time until the opponents come in here and either speak or are willing to yield back their time.

Mr. ROBERT C. BYRD. If the Senator gets consent, the time is not charged against either side.

Mr. HARRY F. BYRD, JR. That is right.

Mr. ROBERT C. BYRD. I will object to that.

Mr. HARRY F. BYRD, JR. It already has been done.

Mr. ROBERT C. BYRD. It has been called off. The time should be charged to somebody on the quorum calls.

I am not arguing with the Senator from Virginia.

Mr. HARRY F. BYRD, JR. My original proposal was that a quorum call be put in and that the time be charged against the opponents; and if they objected to that when they got here, I would share it with them.

Mr. ROBERT C. BYRD. That is fair enough.

Mr. HARRY F. BYRD, JR. But then, at the suggestion of another Senator, it was changed to the way it is now.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. We have an order not to exceed 4 hours on this amendment, and I hope we will not take 4 hours.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I want to see us get on with the debate and get a vote on this amendment.

I yield the floor.

Mr. GOLDWATER. Mr. President, I respect fully the problems of the distinguished majority leader. We all recognize them. In fact, so far as this Westerner is concerned, I do not care if we meet on Fridays, Saturdays, and Sundays. We cannot get home.

We came here on the floor this morning prepared to debate this matter, which I think—I may be wrong—is the most important constitutional issue ever to come before this body in the 25 years I have been here.

Mr. ROBERT C. BYRD. I have been listening to the Senator's eloquent speech.

Mr. GOLDWATER. We do not find anybody here to support the committee work. I see the chairman is now on the floor, and maybe we are ready to go.

Mr. ROBERT C. BYRD. I have been listening to the Senator's eloquent speech. I thought that if there were no further debate, we could vote. But if there is further debate, I respect the rights of Senators.

Mr. HARRY F. BYRD, JR. It will depend entirely on what the Senator from Idaho wants to do—if he wants to use all his time or wants to yield back some of his time.

Mr. ROBERT C. BYRD. In other words, the Senator from Virginia is ready to vote?

Mr. HARRY F. BYRD, JR. No, I am not quite ready to vote, but I am not prepared to take more time until I know what the opposition is going to do.

Mr. ROBERT C. BYRD. I see. It is up to Senator Church.

Mr. CHURCH. Let me say to the Senator that as far as I personally am concerned, I am prepared to vote on this question whenever the Senator from Virginia and others speaking on his side have completed their debate. I cannot speak for other Senators, and it may be that others will come to the Chamber and ask to speak in support of the committee position.

I have no intention personally to prolong the debate or to delay the vote. I may say a few more words, but I have presented the committee's case in the opening statement, and I think the strength of the committee's position is such that I am prepared to have the Senate proceed to a vote whenever the Senator from Virginia has completed his argument.

Mr. HARRY F. BYRD, JR. Would the Senator be inclined to put in a quorum call to be taken out of his time temporarily, a short quorum call to be taken out of his time?

Mr. CHURCH. I am happy to do that.

Mr. HARRY F. BYRD, JR. If the Senator is not prepared to use the time anyway, he may as well put in the quorum call.

Mr. CHURCH. The Senator asked for a short quorum call. I will put in a short quorum call.

Mr. HARRY F. BYRD, JR. All right.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote occur on the amendment offered by Mr. Harry F. Byrd, Jr., at 2 p.m. today with the time between now and then to be equally divided in accordance with the usual form.

Mr. STEVENSON. I have no objection. I thank the Senator very much.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. CHURCH. Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Gravel). Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. I yield 5 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, the issue before the Senate today is whether or not the President has the right to unilaterally terminate a mutual defense treaty to which the Senate has given its advice and consent. The Constitution clearly meant for foreign policy powers to be shared by the executive and legislative branches, when tied by formal means in binding instruments affecting vital security interests, and the Constitution divided the power of treatymaking between the two branches as a check and balance. The President's action last December 15 was clearly in violation of this principle and a direct challenge to this body.

On that night President Carter notified the Nation that he was unilaterally, and without consultation with Congress, terminating the mutual defense treaty of 1954 with the Republic of China.

DOLE-STONE AMENDMENT

While it is true that sometimes the delicate nature of negotiating prohibits immediate public disclosure, in this case the President had made only token efforts to consult with Congress, even after the passage of the Dole-Stone amendment by a vote of 94 to zero in the Senate. This amendment specifically expressed the sense of the Senate, and later the sense of the Congress that any new relationship with Peking and Taiwan with specific reference to the status of the mutual defense treaty be first discussed with Congress, precisely because so many Members of Congress were deeply concerned about the safety of Taiwan and our economic and strategic interests in Asia. Mr. Carter signed this measure into law as part of the International Security Assistance Authorization Act on September 26, 1978. Yet no consultation occurred in any legitimate sense of the term.

As it stands now, not only did we not receive any concessions from Peking, we did not even make sure the United States would be in a position to take advantage of the potential benefits of normalization. Under the proper circumstances I am very much in favor of normalizing our relationship with the People's Republic of China. The possible cultural and trade benefits are enormous, but we must first make certain the Communists are going to deal on equal terms with us. Other nations that have established relations with Peking have learned that trade with China is usually a one-way street. The Chinese have far to come to reach Western standards of living, and analysts say they are two generations away from being able to buy consumer goods in any significant quantities. In recent weeks we have seen the PRC forced to renege or suspend several billion dollars worth of trade pacts.

There has been some effort to downplay the suddenness with which our agreement to normalize relations with mainland China evolved. The administration has consistently tried to link this abrupt decision with the Nixon and Ford initiatives, highlighted by the Shanghai communique, as part of an inevitable evolution leading to the Friday night announcement. But the fact that there were no lengthy or well-handled negotiations with Peking is borne out by this point: The United States did not gain a single advantage in the exchange.

Presidents Nixon and Ford could have made this same agreement long ago in the negotiating process, but they were not willing to cave in to the Communist bargaining demands. The chief obstacle was the status of our long-time ally and friend, the Republic of China on Taiwan. But this administration found it expedient to abandon Taiwan without a warning to its Government or consultation with our own Congress. The issue before us today is not diplomatic recognition of Peking: It is the manner in which the negotiations were consummated and the price that was demanded in payment.

The United States cannot afford to abandon good allies and friends for short-term political expediency. The international perception of our own country as an honorable, reliable Nation, willing to abide by its agreements and to stand firm for its principles, is bound to suffer. This is especially true with a perceived reduction in strength of the United States vis-a-vis the Soviet Union, and the withdrawal of U.S. forces from Vietnam, Korea, and the Panama Canal.

In their haste to reap the perceived profits of recognition, our negotiators caved in to the mainland's preconditions and left many important details to work themselves out. It is true that there is great potential in our new relationship with China, but we must remain aware of the price. Many of us here in the Senate asked that the freedom and security of the people of Taiwan not be part of that price. We managed to amend the Taiwan Relations Act early this year to reflect our concern and to somewhat undo the damage that denormalization and the termination of the mutual defense treaty caused.

CONSTITUTIONAL DUTY

Mr. President, none of the actions being taken here today would have been necessary if President Carter had fulfilled his constitutional duty to consult with the Congress prior to his action. There seems to be a legal question of whether or not the President could, under the terms of the treaty itself, terminate the treaty as one of the two contracting "parties." Many of us believe the term "party" to include both the executive and legislative branches, and this has now become an issue in the judicial system. Nevertheless, the measure we consider today would specifically spell out this concept, putting this and all future Presidents on notice that such a blatant disregard of senatorial prerogatives cannot and will not be tolerated.

The mutual defense treaty with the Republic of China is an excellent lesson about what happens when the President acts unilaterally. Untold grief and damage might have been avoided if the Senate had been brought into the negotiations, at least as far as "consultation" requires. The negotiations were marred from the start. As the administration has subsequently admitted, the United States made no attempt to preserve our mutual defense treaty with Taiwan while normalizing with Peking, nor to maintain an official liaison office in Taiwan while opening an Embassy in Peking. Perhaps neither would have succeeded, but the fact is that you don't toss out desirable elements before starting the negotiations. Compromises must be made, but why should we not go into the negotiating sessions stating clearly our goals, listening to clear statements of their goals, and then talk from there?

CURRENT AMERICAN PATTERN

Mr. President, were this an isolated incident, it would not be so very serious. But it seems a current administration pattern—to announce U.S. troop withdrawals from Korea and then hope for a compromise between the North and South; to announce cancellation of the B-1 and then negotiate in SALT with the Russians about these very weapons; to announce deferment of the neutron bomb and then hope the Soviets will reciprocate.

The mutual defense treaty was entered into with the Republic of China in 1954. At that time we were concerned with the Sino-Soviet Communist bloc and the threat it represented. This threat brought about the formation of a number of mutual defense treaties around the world with other U.S. allies. It is a very grave matter, when with one stroke of the pen and no consultation with the Senate, one man can unilaterally end so solemn an undertaking—especially one whose underlying motives still remain operative today: our own national security interests. By the favorable consideration of this measure today, I hope we in the Senate make clear that this should never happen again.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. How much time remains?

The PRESIDING OFFICER. The Senator has 33 minutes remaining.

Mr. CHURCH. I thank the Chair.

Mr. President, it occurs to me that much of the debate today misses an essential point. The original language of the Byrd resolution reads as follows:

> It is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation.

The fact that the resolution is couched in the terms of a sense-of-the-Senate resolution is in itself an acknowledgement that the Senate cannot fix by law the authority of the President of the United States with respect to the termination of treaties.

Under the Constitution, certain powers are conferred upon the Congress and other powers upon the President. No matter what we say it is not constitutionally possible for the Senate acting alone, or for the Senate acting in conjunction with the House of Representatives, to impose a limit upon the authority that the Constitution vests in the office of the President of the United States.

If the President exercises his authority in a way so offensive to the Congress and to the people of this country that it is the judgment of the Congress that the President should be removed from office, then it is within the constitutional authority of Congress to impeach, convict, and remove the President from office.

However, as long as he resides at the White House as the elected President of the United States, there is no way under the legislative sun to impose limitations upon the constitutional power of the office he exercises.

So the Byrd resolution takes implicit recognition of that elementary constitutional fact by taking the form of a sense-of-the-Senate resolution. In other words, whether we adopt the Byrd language or the broader and, in my judgment, preferable language offered by the committee, we are still simply expressing the sense of the Senate; if a more extensive declaration of congressional opinion is desired, we could cast the resolution in the form of a concurrent resolution so that both Houses could express the sense of the Congress that the President ought not to terminate a treaty except under such circumstances as we would prescribe in the resolution.

Nevertheless, no matter how we did it—in a broader form to encompass the opinion of both Houses or in a narrower form to encompass the opinion of the Senate alone—it is still nothing more than an expression of opinion by the legislative branch; it has no binding effect upon the President.

So the real question before us is whether we should set out guidelines, which will suggest to the President now in office and those Presidents who succeed him, that it is our opinion that he ought not to terminate a treaty except under the circumstances set forth in the recommended language the committee has proposed.

If I have one principal problem with the original language of the Byrd resolution, it is that it is much too limited. It tries to make a distinction between mutual defense treaties and other treaties. The Constitution makes no such distinction, and the very question of what constitutes a mutual defense treaty is arguable.

In contrast, the language offered by the committee extends to all treaties—an important distinction, since many treaties which are clearly not mutual defense treaties nevertheless have a comparable importance to the United States.

Now, certain questions have been raised in the course of the debate today about the recommended substitute for the original Byrd resolution. I think these call for rebuttal.

One such argument is that by recognizing the President's authority to terminate treaties where "other factors recognized by international law give rise to a right of termination or suspension on the part of the United States," the committee recognizes vast authority on the part of the President.

Mr. President, I reject that argument. The proposed resolution as recommended by the committee recognizes no authority on the part of the President. It merely sets forth guidelines for Presidential action, advising him as to what we think he ought to do, rather than defining, or attempting to define, his constitutional authority.

That seems a reasonable way to proceed in a case of this kind. We are dealing with a very complex issue; it is in a gray area in which there are clearly shared powers as between the President and Congress.

Take, for example, a treaty which has taken effect that later, due to changing circumstances, no longer seems to serve the interests of the United States. In such a case, it is clearly within the authority of Congress to institute legislation which, if signed into law by the President, would have the effect of terminating the previous treaties, due simply to the doctrine that the later expression by the Congress in statutory form would supersede the previous treaty.

This is an instance where the Congress would share with the President the authority for terminating an existing treaty. But there are other instances in which I do not think we want to go on record as saying that the President could not act unilaterally.

Many times a treaty is entered into that no longer has substance or effect, for example, treaties entered into with the Republic of Cuba prior to the time that Castro became the head of state. All of us might agree that the provisions of those previous treaties, though technically still applicable and binding upon the United States, should no longer be observed by the United States by virtue of the fundamentally different character of the government that has come into power in Cuba.

In such a situation, would we really want to go on record as saying that the President cannot terminate those treaties even in accordance with their own provisions, unless and until the Congress has concurred? I do not think so, Mr. President.

We must not forget that the underlying character of a treaty partakes of the nature of a contract. In the law of contracts, if one party to the contract breaks it in a material way, the other party is released from any further obligation under the contract.

The same principle applies in international law. If one government or one country that is party to a contract with another breaks its provisions, then the other country is automatically released from the contract. It no longer is in effect. It has been broken.

Do we really want to say that under such circumstances the President could not officially declare the treaty null and void by virtue of the fact that it had been broken by the other party? Or must we ask him to constrain himself until such time as the Congress concurs in the act of termination?

I do not think so. What the committee has tried to do in its proposal is to set out the various circumstances that would, in the view of the Senate, warrant a termination of a treaty by the unilateral action of the President. At the same time, we make it clear that in other circumstances it is the belief of the committee and, given the necessary majority support sustaining the committee's position, it is the belief of the Senate itself that it would be highly inappropriate for the President to act unilaterally to terminate the treaty.

We have consulted with the best constitutional authorities in the country. We have made every effort to hear all sides of the argument. We have looked at the historical precedents. We believe that the substitute language offered by the committee is superior in every way to the original language submitted to it.

For this reason, Mr. President, I hope very much that the Senate will reject the amendment in the nature of a substitute offered by the distinguished Senator from Virginia.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. BRADLEY). Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, I yield 5 minutes to the distinguished senior Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise today in support of the amendment offered by the distinguished Senator from Virginia, Mr. HARRY F. BYRD, JR., of which I am a cosponsor, to Senate Resolution 15, the treaty termination resolution. The issue we face today goes to the very foundation of our Government. The U.S. Constitution provides for a tripartite form of government. Each branch—executive, legislative, and judiciary—each has powers granted to it by the Constitution. Our country is governed by a republican form of Government where no individual or even no one branch of Government has all the authority. Each branch of Government is responsible for the powers enumerated and given to it—the Congress to make the law, the judiciary branch to interpret the law, and the executive branch to administer the law.

What is at stake here today is a usurpation of the power of the Senate and Congress by the President. Article II, section 1, of the Constitution provides that:

> He (referring to the President) shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur.

In other words, the President can make a treaty with another country if, and only if, two-thirds of the Senate concur. Can this Government enter into a treaty requiring the President and the Senate both to act and then turn around and give the President alone the authority to cancel that agreement any time, anywhere, and any place he sees fit? I do not think that is the proper construction of the Constitution.

It is important in this context to recall the interpretation given the treaty power provisions of the Constitution by our Founding Fathers. John Jay wrote in the Federalists, that:

> Others, though content that treaties should be made in the mode proposed, are averse to their being the supreme laws of the land. They insist, and profess to believe, that treaties, like acts of assembly, should be repealable at pleasure. This idea seems to be new and peculiar to this country, but new errors, as well as new truths, often appear. These gentlemen would do well to reflect that a treaty is only another name for a bargain, and that it would be impossible to find a nation who would make any bargain with us, which should be binding on them absolutely, but on us only so long and so far as we may think proper to be bound by it. They who make laws may, without doubts, amend or repeal them; but still let us not forget that treaties are made, not by only one of the contracting parties, but by both, and consequently, that as the consent of both was essential to their formation at first, so must it ever afterwards be to alter or cancel them.

Mr. President, in the matter of treaties, the framers did not wish to entrust sole power to any one individual to any one branch of Government. That is the reason the Constitution provides that in the case of a treaty the President should submit the treaty, but the Senate would have to ratify it, and not only approve it, but approve it by two-thirds vote of the Senators present and voting. If it requires two-thirds of the Senate to act upon a treaty, does it make sense that just one man, the President, can undo one? To me it simply does not make sense, and I do not think it makes sense to the American people.

Mr. President, if the President of the United States can cancel a treaty at any time with any nation without congressional approval, where does that leave the United States with regards to all of its treaties? Where does it leave our allies?

If the President can take the law into his own hands in this area, then a future President may build upon this precedent to usurp complete control over other powers otherwise delegated to the Congress. It is important to remember the basic doctrine of separation of powers that flows through every provision and line of the Constitution. The framers were careful to delicately place a check and balance on each branch of Government to prevent any one branch from becoming more powerful than any other.

Mr. President, it is my belief that by placing treaties within the purview of "the Supreme Law of the Land" in article VI, clause 2 of the Constitution, and by requiring in article II, section 3, that the President "shall take care that the laws be faithfully executed", the framers prohibited the President from terminating treaties unilaterally without the advice and consent of Congress. I refer my colleagues to the Rules and Manual of the Senate. As we all know, Thomas Jefferson compiled the first manual of rules when he was Vice President. He said, and I quote, and it is in the manual:

> Treaties being declared, equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded.

Mr. President, the intent of the framers of the Constitution is clear and unequivocal. The Senate is vested with power and duty to ratify a treaty and concomitantly, Senate approval is required to terminate a treaty. I, therefore, strongly support the Byrd amendment and intend to vote for it and I urge my colleagues to also vote for this amendment.

Mr. HARRY F. BYRD, JR. Mr. President, I yield 15 minutes to my distinguished colleague from Virginia (Mr. WARNER).

Mr. WARNER. Mr. President, I thank my senior colleague from Virginia for the privilege of cosponsoring this resolution and for the privilege of rising in support of what we both believe is a historic moment in the history of the Senate.

Mr. President, I shall be very forthright in my remarks.

With all due respect to the distinguished chairman of the Foreign Relations Committee and others, I feel that a vote in favor of the position of the Foreign Relations Committee is in and of itself an act of abdication.

Our Constitution remains today, together with the Bill of Rights and the Declaration of Independence, the oldest continuously surviving democratic form of republic in existence on Earth today. Yet, if we go back in history, all other governments, monarchs, tyrannies, all others who ruled at the time the Constitution and the Bill of Rights was adopted, all other forms of government, have fallen into dust and decay at one time or another.

I strongly believe that we must look for guidance on this important issue to the Constitution itself. In any issue which involves an interpretation of the Constitution the best source of information is obviously the document itself. In my judgment, the meaning of the Constitution in this instance is clear and can be readily ascertained.

Senate Resolution 15, as introduced, expresses a proposition which, at its core, is a statement regarding the proper method for the termination of law. That statement would be correct, in my view, whether the law in question took the form of treaty or statute, or, if in treaty form, whether the treaty were a mutual defense treaty or any other treaty.

Stated simply, the issue involves determining the proper modality under the Constitution for law termination. The Constitution specifies precise modes for the creation of law. It specifies the manner in which statutory law is created, and it also specifies the manner in which treaty law is created.

It establishes that treaty law has the same status as statutory law, and, as in the case of statutory law, it declares treaty law supreme over conflicting State statutes or constitutions. The Federal Constitution does not, however, expressly specify modes for repeal or termination of Federal law, whether it be law created by statute or treaty.

The only logical conclusion to be drawn from the failure of the Constitution to specify precise modes for the termination of law is that law can be terminated only in the manner in which it is made, that is, by an instrument of like dignity. In other words, a statute may be terminated only by another statute adopted subsequent in time or by a treaty adopter subsequent in time. Similarly, a treaty may be terminated only by a subsequent statute or by a subsequent treaty or by some subsequent instrument of similar status and force.

It seemed to me, therefore, that any other conclusion cannot be supported. Any other conclusion would of necessity contemplate the termination of law by some action not itself arising to the dignity of law. That would not accord with basic concepts of democratic government since it would imply that, although law is to be made only with the participation of the people's representatives, it can be unmade without the same form of popular consent. It would further imply that law validly adopted is not inherently permanent in nature unless and until changed by subsequent law, thus introducing a new concept wholly foreign to all constitutional and governmental principles.

Admittedly, a statute or treaty could be made self-limiting by providing in its terms for termination of its effectiveness upon the occurrence of specified contingencies, for example, the expiration of a term of years. However, if a statute or treaty does not provide that it is to be in effect for a limited term or that it will automatically terminate on the happening of some other contingency, then it will not terminate, in my view, unless and until terminated by a subsequent statute or treaty or by some subsequent instrument of like status.

In summary, I believe that construction of the Federal Constitution itself provides the best guidance in determining the proper mode for termination of treaty law. That guidance is found in the Constitution's declaration that treaty law is supreme law of the land and in its description of how law is made and perforce how law is unmade.

Those of us from Virginia, whenever confronted with an interpretation of our Constitution, understandably look to the wisdom and the guidance of none other than Thomas Jefferson. I then quote, in conclusion, from the manual of parliamentary practice for the use of the Senate of the United States, found in every desk in this Chamber. Thomas Jefferson understood as follows:

> Treaties are legislative acts. A treaty is the law of the land. It differs from other laws only as it must have the consent of a foreign nation, being but a contract with respect to that nation. Treaties being declared equally with the laws of the U.S. to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded.

I conclude, Mr. President, that a vote in favor of the position of the committee is an act of abdication of our responsibilities.

I thank the Chair.

Mr. CHURCH. Mr. President, I yield myself such time as I may require of that remaining to me.

One of the arguments that has been made today is that the recommendations made by the committee would deny the Senate an effective role in the process of treaty termination. Mr. President, that argument has no basis whatever in fact. On the contrary, the language the committee recommends explicitly reasserts the power of the Senate in the matter of terminating treaties. There is a way that we can do this which is constitutionally proper and which, to my knowledge, has never been denied or ignored by a sitting President.

The way we assert the power of the Senate in the matter of terminating a given treaty is to condition our consent to that treaty upon a reservation that sets forth the procedure by which we intend the treaty to be terminated. In other words, whenever the Senate chooses to do so, it may specify that it gives its consent to a given treaty subject to the condition that the treaty shall not be terminated except with the concurrence of the Senate.

This is the proper way for the Senate to assert its authority whenever it feels constrained to do so.

Earlier, Mr. President, I pointed out that, no matter how vigorously a Senator speaks to the question, no matter how ardently the Senate itself may feel, there is no resolution that we can pass in this body that can limit the constitutional power of the Presidency. Yet we have our own authority, conferred by the Constitution upon the Congress of the United States or upon the Senate, as in the case of the ratification of treaties. There are ways that we can exercise our powers to curtail the actions of a President that the Congress finds objectionable. There came a time in the course of the Vietnam war when the continued insistence by a series of Presidents to persist in that foolish and futile struggle led the Congress to use its own authority over the purse strings to force an end to the war. We did not do so by haggling over or attempting to restrict the constitutional authority of the President; to be sure, much time and debate was given to that subject by those who felt one way or another.

But the action we took, in the final analysis, was one of asserting a power of the Congress which no one could deny—namely, the power of the Congress to authorize or withhold, to limit or condition or restrict, the ways in which the public won money shall be spent. When we pulled in the purse strings and said that no money was authorized for further bombings of Cambodia after a given time, the Congress imposed its own authority for the purpose of concluding that misadventure.

So I would urge the Senate to heed the work of the committee. We have suggested language that will accomplish all of what Senator HARRY F. BYRD, JR., originally sought, and more besides.

It takes this whole complex question and it gives to the President of the United States a set of guidelines by which we think he should be governed in the future in terminating treaties entered into by the United States. We believe these guidelines to be sound. We believe that they essentially conform with previous precedents and experience. We believe that they represent a valid conception of constitutional law.

Therefore, if the Senate chooses to support the committee, we will have given to every President a set of guidelines that we will know he should respect. Failing to do so could bring about reprisals in the Congress—clearly within the authority of the Congress—that would make it exceedingly unwise for the President to ignore the guidelines.

In other words, Mr. President, we shall have done our duty here in the most effective way possible, by addressing this very complex question in the most comprehensive way, based upon the most careful deliberations and the benefit of the wisest counsel.

Mr. President, I reserve the remainder of my time.

Mr. HARRY F. BYRD, JR. Mr. President, I yield 4 minutes to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I thank my friend from Virginia.

Mr. President, there is even more reason now why we should vote for the Harry F. Byrd, Jr. amendment. I have just been informed that Judge Oliver Gasch has ruled in district court that while he agrees with me on the merits of the case that I have filed against the President, he believes a few Senators alone cannot raise the issue in court. He writes that if the Senate as a body would vote in favor of its powers, this would present a controversy that the courts could act on.

Therefore, Mr. President, the vote today may be the only way we can express ourselves on the issue.

Here is what the judge said, briefly, and I quote from his decision:

> At least three resolutions dealing with the treaty termination power and the notice of termination given with respect to the 1954 Mutual Defense Treaty are presently pending before the United States Senate.[13] One is the Byrd resolution. If the Senate as a whole raised by this suit would be moot because the were to take action approving the termination of the Mutual Defense Treaty, the issues President's action would no longer be unilateral.[14] If the Senate or the Congress rejected the President's notice of termination or asserted a right to participate in the treaty termination process, the Court would be confronted by a clash of the political branches in a posture suitable for judicial review.
>
> * * * the Court is inclined to agree with plaintiff's assertion that the power to terminate the 1954 Mutual Defense Treaty is a shared power to be exercised by the action of both political branches. * * *.

So, Mr. President, we in this body, in just 25 minutes, have an opportunity to say to the President and future Presidents of this country, "You must abide by the Constitution. You cannot make up your own mind without consultation with the Senate."

So it is far more urgent than it was just an hour ago that the Members of this body vote in favor of the Byrd amendment.

I thank my friend from Virginia for yielding.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 4 minutes.

Mr. President, the able Senator from Idaho in his comments earlier made clear and stated that the President may act unilaterally—may act unilaterally—in terminating a treaty under certain conditions enumerated in the committee substitute. One of those conditions is this:

> Where there have been changed circumstances, or other factors.

That, Mr. President, obviously gives the President a blank check to do whatever he wishes to do in regard to the abrogation of treaties.

Mr. President, the chairman of the Foreign Relations Committee is not only a very able lawyer, a very excellent orator, a very fine individual, but he has great persuasive powers, and he is very good at bringing red herrings into his arguments.

I have noticed that over the years and I particularly noticed it today.

At one point he was talking about removing the President from office. What in the world this resolution today has to do with removing the President from office is totally baffling to me.

The distinguished chairman of the Foreign Relations Committee, the Senator from Idaho (Mr. CHURCH), says that the Byrd resolution takes power away from the President.

I say that is bunk, complete and total bunk.

Let me read what the Byrd resolution says. Let me read what the pending business is before the Senate and let the American people judge whether it takes power away from the President.

The amendment which the Senate will vote on now in 19 minutes says this:

> It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation.

That takes no power away from the President.

The Foreign Relations Committee, in its own report, which it issued in March of this year, testified and dramatized that the Senate of the United States, under the Constitution, has a role of participation in the termination of treaties. This is what the Foreign Relations Committee report stated on page 19:

> It appears to the committee, therefore, that the constitutional prerogatives of the Congress and the Senate have not been invaded, and that neither the Congress nor the Senate has elected to exercise the powers granted it by the Constitution to participate in the process of treaty termination. Had either done so, a different conclusion would likely result.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. HARRY F. BYRD, JR. I yield myself 2 additional minutes.

So the Foreign Relations Committee, in its own committee report, this past March, emphasized that the Senate does have a constitutional role in the termination of treaties. That is the only thing that is being sought today by the amendment offered by the Senator from Virginia, which is now the pending business. I read again that amendment:

> It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and other nations.

I must say that I am totally astonished that the chairman of the Foreign Relations Committee would oppose such a proposal. All treaties go before the Foreign Relations Committee. Yet, the chairman of that committee said it is not necessary for the President to submit proposals to terminate such treaties.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining on his amendment.

Mr. HARRY F. BYRD, JR. I reserve the remainder of my time.

Mr. CHURCH. Mr. President, I have known the able Senator from Virginia for many years, and such is my respect for him that I cannot be persuaded that he is as astonished as he has indicated by the position I have taken on this issue.

If the Senate will turn its attention to the committee's language, it begins with the resolving clause:

> *Resolved*, That it is the sense of the Senate that treaties or treaty provisions to which the United States is a party should not be terminated or suspended by the President without the concurrence of the Congress . . .

That is the first proposition we set forth. We do not limit it just to mutual defense treaties. We extend it to every treaty, since the Constitution makes no distinction between mutual defense treaties and other treaties. Who is to say which are the most important? Is a mutual defense treaty more important than the SALT II agreement, the limited test ban agreement, or the United Nations Charter?

There are all kinds of treaties to which we are a party, and they may be the equal of—or may exceed in importance—any given mutual defense treaty between the United States and a foreign government. So we begin by saying that no treaty should be terminated by the President alone, without the concurrence of Congress, except in particular circumstances which are then set forth in the committee language. These circumstances have long been recognized by international law, by precedent, and by practice; and we think it would be unseemly for the Senate, if it is going to express an opinion on this issue, to do so in terms as limited as those suggested by the able Senator from Virginia.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. CHURCH. I am happy to yield to the distinguished Senator from Maryland, a member of our committee.

Mr. SARBANES. Mr. President, first, I say to the distinguished Senator from Virginia and the Senator from Arizona that I think the issue that was raised by the proposal that was sent to the committee is an extremely important issue, and I believe the committee treated it and considered it as an extremely important issue. In other words, the underlying question which is posed by the proposition first brought forth by the distinguished Senator from Virginia is a very important question.

We held extended hearings, we took testimony from a number of witnesses, including a number of legal scholars, and the committee then worked into this matter very thoroughly and very carefully. The resolution which the committee has brought back to the Senate is more comprehensive in a number of respects than the proposition put forward by the distinguished Senator from Virginia and deals, I believe, with this issue in a more definitive and precise manner.

It makes clear, for example—and we had a colloquy earlier when this issue was first before the Senate—as to what approval was necessary. Was it just the Senate, or did it involve the House; and if it was only the Senate, then did you require a two-thirds vote or simply a majority vote?

The committee, after looking at all those questions, concluded that the concurrence which should be necessary was the concurrence of Congress. That, generally speaking, has been in those instances in which Congress has been involved historically in the termination of a treaty, how it has been done, involving both the House and the Senate, and of course in both instances then by a majority vote.

As the chairman of the committee has made clear, the resolution reported by the Foreign Relations Committee provides that treaties or treaty provisions to which the United States is a party should not be terminated or suspended by the President without the concurrence of Congress, with just two exceptions: First, the treaty provisions in question have been superseded by a subsequent inconsistent statute or treaty, which, in effect, would amount to a congressional action vitiating the treaty; or, second, material breach, changed circumstances, or other factors recognized by international law or provisions of the treaty itself give rise to a right of termination or suspension on the part of the United States.

Even with those two exceptions, the committee went on in this effort to define very carefully a congressional role, and a very important congressional role, on a very important issue. The committee went on to say that those exceptions would not apply in those instances in which termination or suspension would (a) result in the imminent involvement of U.S. Armed Forces in hostilities or otherwise seriously and directly endanger the security of the United States, or (b) be inconsistent with the provisions of a condition set forth in the resolution of ratification to a particular treaty. That is a condition we established in the Senate in the resolution of ratification. So that places it within our power, at the time of ratification of the treaty, to include a condition in the resolution of ratification. The second is a joint resolution specifying a procedure for the termination or suspension of such treaty.

A joint resolution, again, is completely within the control of Congress. So the committee's proposal has been very carefully crafted. I must say to the two Senators, the distinguished Senators from Virginia and Arizona, that it really responds in a very serious and thoughtful way to the basic question which was raised by the proposal submitted by the Senator from Virginia.

I submit to the Members of the Senate that the resolution which has been brought forward by the Foreign Relations Committee covers this subject in a comprehensive, encompassing manner, fully protective, in my view, more protective of the role of Congress with respect to treaty obligations than the proposition that was originally submitted by the Senator from Virginia.

For that reason I very much hope when the vote comes that the resolution of the Senator from Virginia will be defeated recognizing that the committee has responded to the Senator's concerns.

The PRESIDING OFFICER. The time for the opponents of the amendment has expired.

Mr. GOLDWATER. Mr. President, will the Senator yield me 2 minutes?

Mr. HARRY F. BYRD, JR. I yield 2 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I listened with a great deal of interest to what has just been said on the floor. I remind the chairman of the Foreign Relations Committee and its members present that the Byrd amendment was sent to them for hearings. It was not sent to them for amendment by the State Department.

And the first language that the chairman mentioned is fine, but we did not anticipate that they put restrictions on that language.

Mr. President, let me read from the court decision just handed to me a few moments ago.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. GOLDWATER. I will not yield.

The judge says:

> Based on the court's consideration of these historical precedents, the court believes the power to terminate treaties is a power shared by the political branches of this Government, namely the President and the Congress.

And there are no 14 amendments added to the judge's decision.

I thank the Senator from Virginia.

Mr. SARBANES. Mr. President, will the Senator yield for 30 seconds? I think it important to set the record straight.

Mr. HARRY F. BYRD, JR. I yield 30 seconds.

Mr. SARBANES. The term of referral to the Committee on Foreign Relations by the majority leader were that the amendment pending by the distinguished Senator from Virginia be withdrawn and that the amendment in the form of a resolution bearing his name be referred to the Committee on Foreign Relations, that that resolution, as amended, if amended, be reported back to the Senate no later than 90 days.

The committee has acted fully within the instructions placed upon it in unanimous-consent request of the majority leader sending the matter to the Foreign Relations Committee.

Mr. HARRY F. BYRD, JR. Mr. President, the proposal reported to the Senate by the Foreign Relations Committee is totally the opposite from the proposal submitted by the Senator from Virginia on January 15, the first day of this session.

The first page of the Foreign Relations Committee substitute is fine. It says:

> That it is the sense of the Senate that treaties or treaty provisions to which the United States is a party should not be terminated or suspended by the President without the concurrence of the Congress . . .

That is satisfactory to the Senator from Virginia. But then in a very shrewd way it totally undercuts that on page 2 by listing—as the Senator from Idaho, the chairman of the Foreign Relations Committee has already pointed out—it totally undercuts it by stating categorically that the President may unilaterally terminate a treaty as a result of "changed circumstances." "Changed circumstances"—that is a total blank check.

So I say this substitute by the Foreign Relations Committee is a shrewdly drawn document that totally guts the intent and the purpose of the original amendment.

The pending measure before the Senate, and the vote will occur in 4 or 5 minutes, would substitute for the Foreign Relations Committee substitute the original proposal submitted January 15, and I shall read the language because how in the world any Member of the Senate could vote against this I do not see. The amendment which will be voted on in a few moments says this:

> It is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation.

As an individual American citizen I have always felt that one of the reasons that the U.S. Senate is the important legislative body that it is, is because it must participate in any treaties which our Government makes with foreign governments.

A President may propose a treaty, negotiate a treaty, but it does not become effective unless approved by two-thirds vote of the Senate.

If my proposal is voted down, if the Foreign Relations Committee proposal is approved, then it will eliminate the Senate of the United States as a partner in any treaty termination process.

In the debate on March 7, the distinguished senior Republican member of the Foreign Relations Committee, Senator JAVITS, said with his customary ability to get to the heart of the matter:

> This——

Speaking of the Byrd proposal—

> is not just another sense of the Senate resolution. This is the real McCoy.

The senior Senator from New York recognized immediately that the Senate was being asked to make a decision of great future importance to the country and to the Senate itself.

Whatever the Senate does when the roll is called 2 minutes from now, whatever the Senate does in regard to the pending amendment, whether it approves it or whether it defeats it, it will establish a clear precedent. If the Members of the Senate want to say that we in the future no longer want to have jurisdiction over the termination of treaties it has the right to say that. However, if it believes, as the Senator from Virginia believes, that it has a constitutional responsibility in regard to the termination of treaties just as it does in regard to the ratification of treaties, then it will vote in favor of the pending proposal.

I say, in conclusion, that the pending amendment by the Senator from Virginia does not take from the President any power he now has. It does not prevent the President from expressing the intent to abrogate a treaty. It does not affect in any way the notice the President is given under article X which states either party may terminate a treaty after 1 year's notice has been given.

Mr. President, it does, however, say that the President cannot unilaterally nullify a treaty, and I read again the exact language that the Senate will be voting on in less than 1 minute, and the exact language is this:

> It is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Alaska.

Mr. STEVENS. I was just going to ask the Senator. He just read the language. Has this been modified?

Mr. HARRY F. BYRD, JR. I am reading the language of the amendment which is now the pending amendment.

Mr. STEVENS. I ask—I do not know if the majority leader will object to it—but I would like to pursue that one question.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there may be an additional——

Mr. STEVENS. Five minutes.

Mr. ROBERT C. BYRD. An additional 5 minutes to be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. The time to be divided between you and the Senator from Idaho, but I would like to pursue that question if I might.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, what is the unanimous-consent request?

Mr. STEVENS. To get 5 more minutes.

Mr. HARRY F. BYRD, JR. Make it 4 and take 2——

The PRESIDING OFFICER. Is there objection?

Mr. CHURCH. Just a moment.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Reserving the right to object, Mr. President, who is going to yield time to the Senator from Alaska?

Mr. ROBERT C. BYRD. Mr. President, I ask——

The PRESIDING OFFICER. The Senator is debating, and debate is not in order.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request.

I ask unanimous consent that Mr. HARRY F. BYRD, Jr., have 2 additional minutes and Mr. CHURCH 3.

Mr. STEVENS. Reserving the right to object, Mr. President, I want to ask a question.

The PRESIDING OFFICER. Debate is not in order. Is there objection?

Mr. HARRY F. BYRD, JR. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARRY F. BYRD, JR. May I ask the distinguished majority leader would the majority leader make his unanimous-consent request for 1 minute?

Mr. ROBERT C. BYRD. I would like 30 seconds to explain my vote. The Senator said earlier he could not understand how any Senator could vote against this proposal, and I would like 30 seconds.

I ask unanimous consent that the Senator may have 1 minute and I may have 2 minutes, and I will yield 1 minute to the Senator from Alaska.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. May I use my 1 minute, is that agreeable, Mr. President? I ask the Senator could he state for us in full the resolution as it now reads, because it is my understanding it was slightly different from what the Senator just read, and I want to make sure of what we are voting on.

Mr. HARRY F. BYRD, JR. What we are voting on will be stated this way:

> Resolved, that it is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation.

Mr. STEVENS. Period.

Mr. HARRY F. BYRD, JR. Period.

Mr. STEVENS. The rest of the language in the original resolution has been deleted?

Mr. HARRY F. BYRD, JR. Perhaps the Senator is speaking of the resolution reported from the Committee on Foreign Relations, which is a substitute for the proposal offered by the Senator from Virginia.

Mr. STEVENS. That was my understanding, yes. So the Byrd resolution is precisely as you just stated it, limited?

Mr. HARRY F. BYRD, JR. That is correct. The pending amendment is a substitute for the committee resolution.

The PRESIDING OFFICER. The 1 minute of the Senator from Alaska has expired.

The majority leader.

Mr. ROBERT C. BYRD. Mr. President, I shall vote against the amendment by Mr. BYRD, of Virginia, for this reason: It is a broad, blanket proposition which would say that the sense of the Senate is required to terminate any, a-n-y, mutual defense treaty between the United States and any other nation.

I say this can be done on a case-by-case basis as we adopt each treaty, I mean, as we adopt the resolution of ratification of any treaty, of the approval of ratification of any treaty, and the Senate can, based on the circumstances, conditions, and facts attendant to that particular situation on a case-by-case basis, write such provision into that particular treaty and any other treaty it wishes to write it into without taking the chance that we are doing something here which has no legally binding effect anyhow, but it is the sense of the Senate that would cover any, any, any, not to exclude any, treaty in the future.

So I say let us do it on a case-by-case basis and let the Senate today, 10 years from now, 20 years from now, make its own judgment on that particular treaty at that particular time.

It is for that reason that I will vote against the amendment by Mr. BYRD, of Virginia, and then I hope to amend, if I can, in ways I have discussed with the manager of the bill, the committee substitute.

I would hope for that reason that Mr. BYRD's amendment would be voted down.

The PRESIDING OFFICER. The Senator from Virginia has 2 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, let me say in response to the Senator from West Virginia, the majority leader, what he is speaking of is in regard to future treaties. We have a multitude of treaties of friendship on the books right now. What he has said cannot apply to those.

Mr. ROBERT C. BYRD. No, I did not mean that.

Mr. HARRY F. BYRD, JR. His comments apply to future treaties.

Mr. ROBERT C. BYRD. Right.

Mr. HARRY F. BYRD, JR. Obviously, the Senate can do what it wishes to do in regard to future treaties, but we have many treaties of vital importance to the United States and the people of the United States, and to say that the Senate of the United States wishes to take itself out—let me finish if I may, it is my time—to say that the Senate of the United States wishes to take itself out of the treaty-terminating process—and that is what will be done if the Committee on Foreign Relations' substitute is approved, that is what will be done—is hard for me to comprehend.

Mr. HUDDLESTON. Mr. President, I want to express my deep reservations about Senate Resolution 15, dealing with treaty termination, as it was reported from the Senate Foreign Relations Committee.

Section 2 of the resolution, I believe, expresses Senate approval of what in effect amounts to a carte blanche authority for the President to terminate treaties at will.

The Constitution does not require such a position. Current conditions do not warrant it. And, I believe, it would simply be unwise to adopt such a statement.

Senate Resolution 15 is, of course, a sense of the Senate resolution. A sense of the Senate or Congress resolution is not binding upon a President; it can be ignored. As a matter of fact, just last year a sense of the Congress expression related to the very issue which spawned Senate Resolution 15 was largely ignored. In the International Security Assistance Act, we stated:

> It is the sense of the Congress that there should be prior consultation between the Congress and the executive branch on any proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954.

As we all know, such "consultation" was mainly limited to advising of a small group of the pending action shortly before it was publicly announced.

But, that does not mean that sense of the Congress or Senate resolutions are unimportant. Indeed, such a resolution is often an important means of stressing a position and of seeking an accommodation with the administration in power, whatever that administration may be. The true force of such an expression perhaps lies in the fact that there are often binding actions on the same subject matter which can later be taken if the resolution fails to accomplish its purpose. The development and passage of the Taiwan enabling legislation is perhaps an appropriate example of this. As Prof. Abram Chayes noted in his testimony on treaty termination:

> In this very case of the mutual defense treaty, Congress has been able to devise and force the President to accept a stronger and much more public commitment to the security of Taiwan than he seemed at first to be willing to make.

At other times, a sense of the Senate resolution has been used to express support or approval of a specific policy advanced or pursued by an administration.

In other words, it has been to reinforce a commitment or view.

Consequently, what bothers me about the pending resolution is that it deals with legislative powers—our powers—and it, in my opinion, suggests to the President—any President—that we in the Senate are willing to concede to the executive broader authority to terminate treaties than, I believe, he either has or should have.

As the committee report itself notes, the matter of treaty termination is not a simple one:

> The complexity of the question is considerable: the specific intent of the Framers is unclear, the historical precedents inconclusive, the legal precedents inapposite, and the task of formulating a reasoned and responsible Senate position correspondingly complex.

That being the case, I do not believe we should set our stamp of approval on any expression as ambiguous and potentially far-reaching as the proposed substitute.

First, the ambiguity. Certain words or phrases in the resolution are taken from the Vienna Convention on the Law of Treaties. But, not entirely.

The Vienna convention reference to material breach, for example, is much more expansive than that used in the draft.

It reads as follows:

> ARTICLE 60
>
> TERMINATION OR SUSPENSION OF THE OPERATION OF A TREATY AS A CONSEQUENCE OF ITS BREACH
>
> 1. A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a round for terminating the treaty or suspending its operation in whole or in part.
>
> 2. A material breach of a multilateral treaty by one of the parties entitles:
>
> (a) the other parties by unanimous agreement to suspend the operation of the treaty in whole or in part or to terminate it either:
>
> (i) in the relations between themselves and the defaulting State, or
>
> (ii) as between all the parties;
>
> (b) a party especially affected by the breach to invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State;
>
> (c) any party other than the defaulting State to invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself if the treaty is of such a character that a material breach of its provisions by one party radically changes the position of every party with respect to the further performance of its obligations under the treaty.
>
> 3. A material breach of a treaty, for the purposes of this article, consists in:
>
> (a) a repudiation of the treaty not sanctioned by the present Convention; or
>
> (b) the violation of a provision essential to the accomplishment of the object or purpose of the treaty.
>
> 4. The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach.
>
> 5. Paragraphs 1 to 3 do not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties.

Likewise, the convention contains a reference to "fundamental change of circumstances." Are we to assume that this is the same as the "changed circumstances" referred to in the resolution; and if so, does that include the full Convention reference, which is as follows:

> ARTICLE 62
>
> FUNDAMENTAL CHANGE OF CIRCUMSTANCES
>
> 1. A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties, may not be invoked as a ground for terminating or withdrawing from the treaty unless:
>
> (a) the existence of those circumstances constituted an essential basis of the consent of the parties to be bound by the treaty; and
>
> (b) the effect of the change is radically to transform the extent of obligations still to be performed under the treaty.
>
> 2. A fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty:
>
> (a) if the treaty establishes a boundary; or
>
> (b) if the fundamental change is the result of a breach by the party invoking it either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.
>
> 3. If, under the foregoing paragraphs, a party may invoke a fundamental change of circumstances as a ground for terminating or withdrawing from a treaty it may also invoke the change as a ground for suspending the operation of the treaty.

And, what does "other factors recognized by international law" mean? Does this refer to factors such as "impossibility of performance" which are included in the convention or does it relate to the more elusive concept of jus cogens?

Finally, what does the term "provision of the treaty itself" mean? Is this simply a reference to the type of notice provision which the mutual defense treaty with Taiwan contained?

Second, the Vienna convention is a treaty on which the Senate Foreign Relations Committee has never held hearings, a convention which has never been debated in the Senate, one to which our Nation is not now a party. Thus, not only have we not had approval of the concepts and specific sections we have not even had the benefit of debate and deliberation over the provisions and their meaning.

Finally, and perhaps more importantly, it is a convention drafted to guide and regulate behavior among nations insofar as treaty relationships are concerned, not to determine any allocation of internal treaty powers. Whether or not provisions dealing with external treaty relations are constitutionally necessary, appropriate or even wise for guiding internal allocations is certainly a separate question.

The committee has apparently concluded that in those cases where international law allows the United States to terminate or suspend treaties, then the executive can exercise the power. In other words, it views this as an executive or administrative action. While I am willing to grant that there is an executive or administrative role here, I am not willing to concede that it is so exclusive.

The very fact that the Senate does have the constitutional right to advise and consent—or not to advise and consent—to treaties and to condition its advice and consent through understandings, reservations and other provisions in the articles of ratification and that the Congress must pass implementing legislation for most treaties indicate clearly that treaty powers are shared powers. And part of treaty powers are treaty terminations.

If there is at least no constitutional mandate that the President exercise these powers, then is it wise for us to suggest that, purely from a practical standpoint, these are the proper guidelines for the internal allocation of treaty termination powers?

In my opinion, they are not. They are, I believe, much too broad. Material breach, changed circumstances or other factors recognized by international law or provisions of a treaty itself as giving rise to a right of the United States to suspend or terminate could cover a multitude of situations. Indeed, it could be stretched to cover almost anything. And, even the apparent limitations on this—where termination or suspension would result in imminent involvement of U.S. forces in hostilities or seriously and directly endanger the security of the United States—are not particularly helpful. Certainly they are broad, but they are also judgmental calls, judgmental calls that the resolution would leave to the President.

Some future President might, for example, find a material breach of SALT or of the Panama Canal treaties. From a practical standpoint, do we want to be on record as believing that such decision should be left solely with the Executive?

Or take it a step further, suppose that a President determined that there had been a material breach of a SALT treaty but that suspension or termination would directly endanger the security of the United States. Therefore, he would not suspend or terminate. Again, are those decisions we want to be on record as leaving solely to the Executive?

Or suppose that some President in some future year decided that some changed circumstances in Europe meant the NATO treaty could be suspended or terminated? Do we want to be on record as supporting a Presidential right to make such a determination on his own?

Or take the case which led to this resolution. The mutual defense treaty with Taiwan included a provision allowing either party to give notice of termination. The executive branch took the position that the President, acting for the United States, could unilaterally give such notice. The resolution introduced by the distinguished Senator from Virginia took the opposite position. As I read the committee substitute, however, the committee has adopted the administration position. Is that what the Senate wants to be on record in favor of?

Mr. President, I simply do not think we need this resolution. I think the Senate would be better off as an institution without it.

The field is admittedly a complex and unsettled one. Fortunately, the problems are not ones that arise daily or even frequently. When they do, there is a certain tension between the legislative and executive branches—a tension which worked at least moderately well to produce an accommodation on the Taiwan issue.

The reported resolution purports to help set guidelines for future cases of treaty termination. But, in seeking to do so, it expresses a position which concedes more than I believe we should to the executive branch. It sets the stage, I believe, for expanded executive action in this area and a diminished authority base for the Senate. If we pass it, I think we run the risk of having it flung back at us at some future date as Senate approval of enhanced Presidential authority in this area. I do not think we want to do that.

Therefore, I shall support the amendment by the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

● Mr. SCHWEIKER. Mr. President, I rise in support of the substitute resolution offered by the distinguished Senator from Virginia. The issue before us is fundamental to the protection and assertion of the Senate constitutional prerogative in the termination of mutual defense treaties between the United States and other nations. Failure to appreciate this critical fact could result in a unilateral abdication of Senate responsibility in the area of foreign policy, placing this body in the curious position of acquiescing and actively participating in the dissolution of its own authority.

Removed of legal complexities, the issue can be stated quite simply: If the Senate is an active party in the formulation of an international commitment, then it follows logically that it should likewise express itself on the validity or otherwise of abrogating that commitment. The Senate can hardly be accused of usurping a power which the Constitution confers upon it. On the contrary, for the Senate to disavow such responsibility through language similar to that proposed by the committee, would effectively place this body in contempt of its duly recognized authority.

Article VI of the Constitution reads:

> This Constitution, and the Laws of the United States which shall be made in pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land, and the Judges in every state shall be bound thereby, any thing in the Constitution or Laws of any state to the contrary notwithstanding.

The committee version of Senate Resolution 15 lists several situations in which the President may unilaterally terminate treaties. Of these, the broadest is that which permits unilateral action when "material breach, changed circumstances, or other factors recognized by International law or provisions of the treaty itself, give rise to a right of termination or suspension on the part of the United States." The committee's version would not only provide an ex post facto justification for the President's action regarding Taiwan, but would also grant a license to future Presidents to undertake similar actions vis-a-vis other nations. Indeed the language is so general that a President could terminate virtually any treaty unilaterally and still abide by the resolution. This unfortunate result is compounded by the fact that the committee's version is not confined to mutual defense treaties alone, but rather encompasses others, nonmilitary treaties, whose potential termination would be subject to a President's discretion if they contain clauses granting the United States, under international law, the right to terminate. The implications of enactment of this measure for the credibility of our international commitments and protection of our foreign interests should be obvious.

When the meaning of the constitution is clear it should not be necessary to resort to precedent. Yet is not the practical effect of the committee's language a substantial modification of the Constitution's obvious intent? Moreover, the methods which the committee recommends regarding the specification of procedures for the termination of treaties on a case-by-case basis might prove impractical in many instances, while their adherence to the clear constitutional intent concerning the Senate's role in treaty termination is questionable.

The committee claims that it rejects the administration view that the President possesses an "implied" power to terminate any treaty, with any country, under any circumstances, irrespective of any legal action that may have been taken by the Congress or by the Senate in a reservation to the treaty in question. Yet in prescribing guidelines for executive action rather than pronouncing constitutionally-imposed requirements, the committee would seem to have significantly buttressed the administration's contention.

For these reasons, I urge the Senate to reject the committee's version of Senate Resolution 15, which fundamentally alters the intent of the resolution originally proposed by the Senator from Virginia. Let it not be said that the Senate willfully destroyed the constitutionally required balance between the executive and legislative branches regarding responsibility for the making and breaking of treaties.●

● Mr. KENNEDY. Mr. President, I rise in support of the committee amendment to Senate Resolution 15 and I oppose that resolution as introduced by Senator BYRD of Virginia.

My reasons for opposing it have been well stated by the distinguished chairman of the Committee on Foreign Relations. There is no constitutional basis, it seems to me, for distinguishing between "mutual defense treaties" and other treaties. I do not believe that the Senate should imply that it is more concerned about the termination of mutual defense treaties than it is about the termination of other treaties that may be equally significant.

Second, it is constitutionally inaccurate to state that "approval of the U.S. Senate is required to terminate any mutual defense * * *." Under the "last-in-time" doctrine, it is well settled that a subsequent, inconsistent statute legally supersedes a treaty. So it is clear that the Congress does have a role, and that exclusive reference to the Senate is unduly narrow.

My principal reason for opposing the formulation of the Senator from Virginia, however, is that it oversimplifies a complex legal and historical situation. I thank the distinguished floor manager for entering in the record my article on the historical precedents. I do not believe that the debate will be advanced by arguing the facts of each precedent, but I would point to that article—along with the historical conclusions put forth by the distinguished Senator from Arizona—as evidence that reasonable persons can differ as to what those precedents establish. Given this disagreement, I do not believe that the Senate should pronounce an absolute rule, subject to no qualifications; yet this is the proposal put forth by Senator BYRD.

A more responsible approach, I believe, is the one taken by the Committee on Foreign Relations—that is, prescribing guidelines for future Presidential action, rather than purporting to define the scope of Presidential power in this "zone of twilight." These guidelines are reasonable ones: they provide for future congressional concurrence in suspending or terminating treaties except in clearly defined and reasonable circumstances.

I must say frankly that, as I review the historical record, I do not see a history of abuse of discretion on the parts of Presidents in terminating treaties. The Senate is not confronted today with the need to respond to a long series of usurpations of Senate or congressional power. On the contrary, relatively few instances of disagreement have arisen over the course of our history, and I think this record of accommodation should be reflected in the measure we adopt today—as it is in the committee amendment.

For these reasons, Mr. President, I hope that the committee substitute is agreed to.●

Mr. HARRY F. BYRD, JR. I yield back the remainder of my time and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question? I ask unanimous consent that the Senator may have 1 additional minute.

Mr. HARRY F. BYRD. JR. I do not want an additional minute.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may proceed for 30 seconds.

Mr. HARRY F. BYRD, JR. I object. I think for the majority leader to come in here at the last moment and have the last word when we have been debating it all this time I am not sure is appropriate.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

UP AMENDMENT NO. 228

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Delaware (Mr. BIDEN) and the Senator from Hawaii (Mr. MATSUNAGA), are necessarily absent.

Mr. STEVENS. I announced that the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS) and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

Mr. GOLDWATER. Regular order, Mr. President.

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring to vote who have not done so?

The result was announced—yeas 59, nays 35, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—59

Armstrong
Baker
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd,
Harry F., Jr.
Cannon
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Ford
Garn
Goldwater
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Melcher
Morgan
Nunn
Pressler
Proxmire
Pryor
Randolph
Roth
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—35

Baucus
Bayh
Bradley
Byrd, Robert C.
Chafee
Chiles
Church
Cranston
Durkin
Eagleton
Glenn
Gravel
Hart
Inouye
Jackson
Kennedy
Leahy
Levin
Magnuson
Mathias
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Pell
Percy
Ribicoff
Riegle
Sarbanes
Sasser
Stevenson
Tsongas
Weicker
Williams

NOT VOTING—6

Biden
Culver
Hatfield
Javits
Matsunaga
Packwood

So Mr. HARRY F. BYRD, JR.'s amendment (UP No. 228) was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

TIME-LIMITATION REQUEST—S. 721

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the conclusion of the orders for recognition of Senators, the Senate proceed to the consideration of Calendar Order No. 179, S. 721, and that there be a time agreement thereon as follows: That there be 1 hour on the bill, to be equally divided between the managers of the bill; that there be 30 minutes on any amendment; that no nongermane amendments be allowed to come in, with the exception of three amendments by Mr. HELMS; that there be a time limitation of not to exceed 1 hour on each of those amendments; that there be a time limitation on any debatable motion of 10 minutes; appeal, 10 minutes; point of order, 10 minutes if debate is entertained by the Chair; and that the vote on passage of the bill, with paragraph 3 of rule XII waived, occur not later than 5 o'clock.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, my reservation is for the purpose of advising the majority leader that this bill is cleared on our calendar and that with the provisions the distinguished majority leader has made in the unanimous-consent request, we do not object; indeed, we concur with this request.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, if I may.

Mr. President, if I may, at the moment, I withdraw my request momentarily.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I renew the request that I made earlier with respect to the legislation scheduled for tomorrow.

Mr. BAKER. Mr. President, reserving the right to object, I understand that we are dealing now with the civil rights bill and a vote to occur not later than 5 o'clock, and the balance of the request which was a time limitation on amendments, and so forth.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. It also included the three amendments earlier referred to.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That on Thursday, June 7, 1979, no later than 10:30 a.m., the Senate proceed to the consideration of S. 721 (Order No. 179), a bill to amend the Civil Rights Act of 1957 to authorize appropriations for the United States Commission on Civil Rights for fiscal year 1980, and that debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 10 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill (except three amendments to be offered by the Senator from North Carolina (Mr. Helms), on each of which there shall be 1 hour) shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Indiana (Mr. Bayh) and the Senator from South Carolina (Mr. Thurmond): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Ordered further, That the vote on final passage of the bill occur no later than 5:00 p.m., June 7, 1979.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW AND RECOGNITION OF CERTAIN SENATORS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning, and that after the two leaders are recognized under the standing order, Messrs. MUSKIE, DOMENICI, WALLOP, and HAYAKAWA be recognized each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I believe that in the previous request, the Civil Rights Commission legislation was to follow the completion of the orders for the recognition of Senators.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

RESOLUTION CONCERNING MUTUAL DEFENSE TREATIES

The Senate continued with the consideration of the resolution.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Virginia would not yield to me earlier. He would not allow the Senate to give me 30 seconds in which to ask him a question. That, of course, is uncharacteristic of a courtly gentleman like the Senator from Virginia. He has never treated me with such bland unkindness heretofore.

Of course, there was nothing I could do or say about it. I accepted it, and do now, in the best of good faith and friendship. But, now, I shall ask him that question.

I am sure, Mr. President, that he regrets that temporary aberration.

Mr. HARRY F. BYRD, JR. Will the Senator yield at that point?

Mr. ROBERT C. BYRD. Oh, of course, I shall yield. I would never refuse to yield to my friend from Virginia.

Mr. HARRY F. BYRD, JR. I thank my "cousin," ROBERT.

Mr. ROBERT C. BYRD. Whether I had time or not.

Mr. HARRY F. BYRD, JR. I think the Senator will find—I hope the RECORD has it correct—that I said I had already yielded to the Senator from West Virginia; that if he insisted, I would yield again, but I hoped he did not insist. I did not refuse to yield, although I did not want to yield. The majority leader came in at the last moment and argued the case, which was all right. We had been here all day and had not heard a word from the Senator from West Virginia. I shall not say I was too willing, but I would have yielded to the Senator from West Virginia had he insisted.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. HARRY F. BYRD, JR. I agree with the Senator from West Virginia.

I do not like to refuse to yield. My refusal I considered a semirefusal.

I thought the time had come to vote.

Mr. ROBERT C. BYRD. Apparently time has become so priceless in this body that the majority leader cannot get one-half minute in which to address a question to his friend and cousin—c-u-z-z-i-n—from Virginia (Mr. HARRY F. BYRD, JR.).

It was that I wanted 30 seconds to address a question to the Senator from

Virginia. He objected to that, and I am sorry he did. But I love him as much as I did before, even more—even more—because with the passage of each second and minute, I love my friend more.

Mr. HARRY F. BYRD, JR. I can assure my dear friend it is completely mutual.

Mr. ROBERT C. BYRD. There is a friend that walketh closer than a brother.

I want him to count me as that friend.

Mr. HARRY F. BYRD, JR. I like to think of the Senator from West Virginia as a brother, as a cousin, or as a colleague.

Mr. BAKER. I think I have responsibility to break this up.

Mr. ROBERT C. BYRD. A man that has friends must show himself friendly, and the Senator from Virginia has friends because he shows himself friendly.

Mr. President, I ask the distinguished Senator from Virginia this question: Does the Senator's amendment have any binding effect, and legally binding effect?

Mr. HARRY F. BYRD, JR. The Senator from West Virginia, perhaps—I do not want to use "perhaps" because I do not want to downgrade any of my colleagues—perhaps the ablest parliamentarian in the U.S. Senate, or in the United States Congress, or as far as I know in the civilized world.

Mr. ROBERT C. BYRD. Mr. President, may we have order? I want everyone to hear what the distinguished Senator from Virginia is saying.

Would the Senator mind repeating his observation?

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. HARRY F. BYRD, JR. I will be delighted to.

The PRESIDING OFFICER. I will ask the Senator to suspend until we have order. The Chair is very interested in hearing the answer.

Mr. HARRY F. BYRD, JR. Yes. I would like to repeat that.

The Senator from West Virginia is perhaps—and I use the word "perhaps" because I do not want to denigrate any of my or our colleagues—is perhaps the ablest parliamentarian in the U.S. Senate——

Mr. ROBERT C. BYRD addressed the Chair.

Mr. HARRY F. BYRD, JR. [continuing]. The ablest in the Congress of the United States——

Mr. ROBERT C. BYRD. The Senator is just contrite. He is wanting to make amends for his past mistreatment of me by saying nice things about me. I say this facetiously. I appreciate my friend's compliments although I do not deserve them.

Mr. HARRY F. BYRD, JR. The Senator from Virginia just likes to tell the truth, and the truth is that the able Senator from West Virginia is just about the ablest parliamentarian in the U.S. Senate, in the Congress, the ablest, as far as I know, in the civilized world.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator.

But now may I ask the question? He has not answered my question.

Mr. HARRY F. BYRD, JR. Well, I was getting to it and the Senator interrupted me.

I wanted to preface it by saying, being a parliamentarian of such ability, the able Senator from West Virginia knows so well this is a sense-of-the-Senate resolution. It expresses the sense of the Senate, and that is what I have been trying to have done since the first day of this session, going back to January 15, 1979.

Mr. ROBERT C. BYRD. Will the Senator now answer my question?

Mr. HARRY F. BYRD, JR. In a moment.

I presented a resolution to seek to have the Senate go on record in regard to what I regard as a very vital matter.

Mr. ROBERT C. BYRD. Mr. President, the Senator is filibustering.

Mr. HARRY F. BYRD, JR. This is a sense-of-the-Senate resolution. It is the belief of 59 Members of this Senate.

Mr. ROBERT C. BYRD. Is it legally binding?

Mr. HARRY F. BYRD, JR. It is the belief of 59 Members of this Senate that any mutual defense agreement must be submitted to the Senate for approval.

Mr. ROBERT C. BYRD. Would the Senator now answer my question?

Is it legally binding?

Mr. HARRY F. BYRD, JR. The President can ignore it, if he wishes.

Mr. ROBERT C. BYRD. Now, my second question is directed toward the word "any."

I read the language in its totality:

> Resolved, that it is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation.

What does the word "any" mean? Does that mean any mutual defense treaty that is now in effect? Or is the distinguished Senator from Virginia speaking with respect to any such treaty that may be ratified in the future?

Mr. HARRY F. BYRD, JR. I do not believe one could speak of any treaty that might be ratified in the future because to do that, a treaty in the future, as the Senator from West Virginia pointed out in his able remarks in opposition just before the vote was taken, the Senate can attach to any future treaty anything it wishes to attach. So it could be rendered moot by action of subsequent Senators in ratifying treaties.

Mr. ROBERT C. BYRD. The Senator then is saying that his language would be retroactive?

Mr. HARRY F. BYRD, JR. The language, it is part of the Constitution.

Mr. ROBERT C. BYRD. That does not answer my question.

Is he talking about terminating any mutual defense treaty that has already been ratified?

Mr. HARRY F. BYRD, JR. Unless the treaty itself contains language which specifically would give the President the authority, and there is no such treaty I know of, or unless the treaty says it will terminate on such and such a date, then obviously it would apply.

Mr. ROBERT C. BYRD. Now, does the Senator intend that the word "approval" means that the Senate do so by majority vote or by two-thirds?

Mr. HARRY F. BYRD, JR. Majority vote.

Mr. ROBERT C. BYRD. Majority vote.

Mr. HARRY F. BYRD, JR. I might say at that point, there is a precedent in that regard in the ERA amendment to the Constitution which was approved by the Senate by a two-thirds vote and it was extended by the Senate by a majority vote.

Mr. ROBERT C. BYRD. The Senator is talking about a constitutional amendment. That does not necessarily follow with respect to treaties.

Mr. HARRY F. BYRD, JR. I am answering the Senator's question.

It is a majority vote.

Mr. ROBERT C. BYRD. Well, I personally think the Senator is right, because with respect to treaties, any reservations, understandings, minutes, and so on, can be adopted by majority vote.

I would agree with the Senator on that interpretation.

Mr. CHURCH. Will the Senator yield at that point?

Mr. ROBERT C. BYRD. Yes.

Mr. CHURCH. I wonder whether the proposition is valid constitutionally, inasmuch as the Constitution expressly requires a two-thirds vote to ratify?

The PRESIDING OFFICER. The Chair is having difficulty hearing the distinguished chairman of the Foreign Relations Committee.

Mr. CHURCH. Inasmuch as the Constitution expressly requires a two-thirds vote of the Senate to ratify a treaty, on what basis may the Senate alone repeal a treaty or terminate a treaty by a majority vote?

Mr. HARRY F. BYRD, JR. I will answer that in this respect, I say to the distinguished Senator from Idaho: If the Senator from Idaho wants to consider the amendment we just adopted as being unconstitutional, I will read it right into the RECORD:

> *Resolved*, That it is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation.

If there is anything unconstitutional on that, anyone has a right to so argue.

Mr. CHURCH. The Senator has not responded to my question. I will read the provision of the Constitution that applies to the treaty power.

It reads as follows. This is Article II, section 2, clause 2 of the Constitution:

> He—

Meaning the President—

> Shall have power, by and with the advice and Consent of the Senate, to make treaties—

To make treaties—

> Provided two-thirds of the Senators present concur.

That is the only language in the Constitution relating to treaty power. Ratification expressly requires a two-thirds vote. I think it is a novel legal proposition to say that the Constitution, which requires a two-thirds vote for the ratification of a treaty, would permit one body, the Senate, to terminate the treaty, which has the status of law. It is a novel proposition that one body of Congress can terminate a treaty by a majority vote, when the Constitution expressly says that it takes a two-thirds vote of the Senate to ratify a treaty.

Could it not be also argued that since

it takes a two-thirds vote to ratify a treaty, it must take a two-thirds vote to terminate? What is the constitutional basis for the Senator's argument?

Mr. HARRY F. BYRD, JR. The chairman is making very well a point I have been trying to make all day; namely, that it takes a two-thirds vote to ratify a treaty; and because of that and because the Senate is involved in the treaty making process, it, likewise, is involved in the treaty terminating process.

Mr. CHURCH. Why should it not require a two-thirds vote?

Mr. HARRY F. BYRD, JR. Let me continue.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. HARRY F. BYRD, JR. The committee of which the Senator from Idaho is chairman—and he argued for it—brought before the Senate legislation which would specifically permit the President to terminate a treaty unilaterally. Where in the Constitution does it say that the President may unilaterally terminate a treaty?

Mr. ROBERT C. BYRD. Mr. President, the Senator from Virginia has asked a very interesting question. Where in the Constitution can we find any words that would give the Senate a voice in the termination of any treaty?

The language says, as the distinguished chairman has appropriately quoted:

He—

Meaning the President. This is in article II of the Constitution. Article II deals with the Executive powers, not with the legislative powers. The legislative powers are set forth in article I, an article made up of 10 sections, that specifically enumerate the legislative powers. Article II has to do with the Executive powers, and the reference to the Senate in article II is as the chairman, Mr. CHURCH, quoted:

He—

Meaning the President—

shall have Power, by and with the Advice and Consent of the Senate, to make Treaties . . .

It seems to me that if the Founding Fathers had intended that the Senate should have a voice, ipso facto and across the board in every instance, in the termination of treaties, the Founding Fathers would have so stated. But it certainly is within the power of the Senate to specify, in a particular treaty, to lay down whatever requirements it wishes to make as to the termination of that treaty on the part of the United States. It can do that by majority vote. It can write such provision into a resolution of approval by majority vote.

Mr. HARRY F. BYRD, JR. That is correct.

Mr. ROBERT C. BYRD. So if we are going to talk about termination of treaties, it could be done by majority vote.

It is a nice question. I may be wrong. Perhaps those who argue the other side may be wrong. But that is my opinion. I am not a constitutional scholar. It is within the power of the Senate to add reservations by majority vote, understandings by majority vote. If it wants to include a provision that either government could terminate a treaty upon 1 year's notice—as was the treaty with Taiwan—it could do that. It could include any other requirements on the part of this Government that it wanted for its termination, it could do so by a majority vote.

However, it seems to me that the question goes beyond that. That is not the critical question at this point. We really are arguing the question as to whether or not the Senate has a specific role, given to it by the Constitution, requiring Senate approval to terminate treaties. There may be those who would argue that it does, but I do not think it does, by virtue of the statement I have just made, which explains my view on that.

However, I am concerned about the Senator's language, in that it would have the effect of being retroactive, if it had any legally binding effect at all. It seems to me that if the Senate, in the approval of the resolution of ratification of any treaty heretofore which is presently binding and in operation, had wanted to write such a provision therein, it could and would have.

I am a little disturbed that the Senator would have the Senate express its sense at this moment that any treaties presently in operation and being adhered to by this Government cannot be terminated by the President under any circumstance whatsoever. We cannot stand here today and foresee all the potential, possible circumstances that might obtain with respect to a given treaty at a given time.

In any and all circumstances with respect to the treaties that already have been entered into by this country, they cannot be terminated except by "approval"—I am talking about mutual defense treaties—"of the United States Senate."

"Any mutual defense treaty between the United States and another nation"—what does that do to the treaty with Taiwan? Would that affect that treaty?

Mr. HARRY F. BYRD, JR. It expresses the sense of the Senate that the President——

Mr. ROBERT C. BYRD. Cannot terminate that treaty without approval of the Senate. Yet, the Senate approved the resolution of ratification of that treaty—with that language in the treaty, providing for the termination, on the part of either country, of the treaty, upon 1 year's notice.

The Senator would say with his sense of the Senate amendment that that cannot be done, after having agreed that his language has no legally binding effect.

Mr. HARRY F. BYRD, JR. If the Senator from West Virginia examines the treaty with the Republic of China, he will find that it states that either party—p-a-r-t-y—may—m-a-y—after giving a year's notice, terminate.

"Party," under our democratic form of Government, normally means the Government of the United States; and I assume that most of us will agree that the legislative branch is a part of the Government of the United States.

Mr. ROBERT C. BYRD. So is the judicial branch, for that matter. If we are going to bring in the legislative branch on that premise, why not bring in the judiciary?

It seems to me that the Senate at the time it approved ratification of that treaty, if it had wanted to specificate that the Senate should have a voice in the termination thereof, it would have so stated.

Mr. HARRY F. BYRD, JR. And if it wanted the President to be able to do that unilaterally, it would have so stated.

Mr. ROBERT C. BYRD. The President is the Commander in Chief and the chief representative of this Nation in foreign affairs. It is he who ratifies a treaty, not the Senate. The Senate does not ratify a treaty.

Mr. HARRY F. BYRD, JR. The Senate does ratify a treaty.

Mr. ROBERT C. BYRD. No, the Senate does not ratify a treaty. The Senate approves the resolution of ratification, but the Senate can attach reservations to the resolution of ratification, and the President may refuse to ratify it, based on the reservations the Senate might add. It is not the Senate which ratifies. It is the President of the United States who acts to ratify the treaty, and I should think that the word "party" means the President of the United States.

Mr. HARRY F. BYRD, JR. The Senator is entitled to his interpretation.

Mr. ROBERT C. BYRD. I thank the Senator.

May I say to the distinguished Senator from Virginia that the process of ratification is complete when the instruments of ratification are mutually exchanged between the countries.

Mr. HARRY F. BYRD, JR. I did not think it was necessary to be quite as precise as that. Of course, the majority leader is correct. I used the term "ratification" loosely, to mean it could not become effective unless the Senate approves it.

Mr. ROBERT C. BYRD. Yes; but the Senate does not "ratify" a treaty.

Mr. HARRY F. BYRD, JR. The Senate gives approval to the ratification.

Mr. ROBERT C. BYRD. To the resolution of ratification.

Mr. HARRY F. BYRD, JR. The resolution of ratification.

Mr. ROBERT C. BYRD. With respect to the committee substitute, I have discussed with the distinguished chairman of the committee the possible amending of the committee substitute, because the Senate will later have an opportunity to choose between the language that has just been agreed to in the amendment by Mr. HARRY F. BYRD, JR., and any amendment or amendments which may be offered to the original resolution, and I understand that the distinguished Senator from Idaho will offer an amendment to that original resolution. When he does so I would express the hope that the word "Congress" be stricken from the language and that the word "Senate" be inserted in lieu thereof.

I do not believe that the other body has any role in the treatymaking power. I do not think anyone here would argue against that statement, but I would not want by implication or by specificity to give the other body any role in the treatymaking process.

Mr. CHURCH. May I say to the Senator that the amendment that I propose to offer for the purpose of giving the Senate an opportunity to vote on the language recommended by the committee will be altered in that respect. The reason that the term "Congress" was used in the first place was to give implicit recognition to the role that the entire Congress plays—including the House of Representatives as well as the Senate—when a treaty is terminated by virtue of some subsequent statute which is inconsistent with the terms of the treaty and which when signed by the President has the force of law, being the later act. That is an instance where I think no one would disagree that the House of Representatives, as well as the Senate, is involved in the process by which a treaty is terminated because of the inconsistent provisions of some subsequent law.

However, for purposes of this resolution, dealing exclusively with the termination of treaties and the guidelines that the President should follow, I see no reason why the term "Senate" should not be substituted for the term "Congress" because I agree with the distinguished majority leader it should not be our purpose, and indeed it is not our purpose, to in any way imply that the treaty powers exercised by the Senate should be compromised in any way.

Mr. ROBERT C. BYRD. Mr. President, the distinguished chairman of the committee has indicated he sees no reason why the word "Senate" should not be substituted for the word "Congress." I hope to put it in a more forceful and positive frame than that. I not only see no reason why it should not, I see every reason why the word "Senate" should be substituted.

The Senate can in consenting to any future treaties, if it wants to, provide for a role by both Houses in treaty termination or suspension. It can do that if it wants to and that option will still exist if the Senate wants to choose to exercise it. But where no specific provision is made for joint action in treaty termination I see no reason for assuming that the House of Representatives should have any part to play. And it is for that reason that I urge that the word "Congress" be deleted, so that the constitutional role of the Senate will not even appear to have been diluted, and that the word "Senate" be substituted therefor in whatever amendment the distinguished Senator proposes.

Mr. CHURCH. I agree with the majority leader that the term "Senate" is preferable to the term "Congress" in the first sentence of the committee's recommended language, and I intend to insert "Senate" for the term "Congress" when I submit the amendment.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator, and I yield the floor.

Mr. WARNER. Mr. President, I wish to provide just a little bit of legislative history which I think bears on the colloquy between the distinguished majority leader and the chairman of the Foreign Relations Committee.

Under the historical precedents, 52 treaties or treaty provisions were repealed by legislative action. Two of these were repealed by the advice and consent of two-thirds of the Senate acting together with the President. Five others were repealed by a subsequent treaty, which took a two-thirds vote of the Senate. Forty-five treaties were repealed by joint resolutions or acts of Congress enacted by a majority of both Houses.

In all these cases Senate approval was required. Either the Senate acted alone with the President or with the House of Representatives. In both types of situations the Senate acted.

There are only four other instances of repeal of a treaty to which the United States was a partner. One is the treaty with the Netherlands which expired during the Napoleonic Wars when the nation disappeared as a separate state. The three other treaties were denounced by Presidents in situations where the President did not inform the Congress. They were minor treaties which had become completely outdated and the President simply inferred congressional approval.

Mr. President, I ask unanimous consent to print in the RECORD documentation of these 52 treaties.

There being no objection, the documentation was ordered to be printed in the RECORD, as follows:

TERMINATION OF TREATY OR TREATY PROVISION WITH LEGISLATIVE ACTION (52)[1]

[Supplied by Senator Goldwater]

A. TERMINATION WITH LEGISLATIVE APPROVAL OR RATIFICATION (49)[2]

Authorizing legislation	Treaty	Total treaties affected
Act of July 7, 1798, 1 Stat. 578	French-American Treaties of 1778–88	4
H.J. Res. of April 27, 1846, 9 Stat. 109	Convention on Boundaries with Great Britain	1
S. Res. of March 3, 1855, 9 Senate Executive Journal 431	Commercial Treaty with Denmark	1
J. Res. of Jan. 8, 1865, 13 Stat. 566	Reciprocity Treaty with Britain	1
J. Res. of June 17, 1874, 18 Stat. 287	Treaty of Commerce and Navigation and Commercial Convention with Belgium	2
Act of February 26, 1883, 22 Stat. 641	Amity Treaty with G. Britain	1
J. Res. of December 21, 1911, 37 Stat. 627	Treaty of Commerce and Navigation with Russia	1
Seamen's Act of March 5, 1915, 38 Stat. 1164	Several treaties and conventions	25
S. Res. of May 26, 1921, 61 Congressional Record 1793	International Sanitary Convention	1
Treaty on Principles and Policies Concerning China (Nine Power Agreement) of February 6, 1922, 2 Bevans 375.	Treaty of Commerce and Navigation with Japan	1
Convention for the Protection of Industrial Property of March 20, 1883, 1 Bevans 380	1869 Trademark Convention with France	
1944 Chicago Convention on International Civil Aviation, 3 Bevans 944, 965	1928 Pan American Convention on Commercial Aviation	1
1946 Convention for the Regulation of Whaling, 4 Bevans 249	1937 Convention for the Regulation of Whaling	1
Trade Agreements Extension Act of 1951, 65 Stat. 72	Treaties of Friendship, Commerce, and Consular Rights with Hungary and Poland.	2
1948 Convention on Safety of Life at Sea	1929 Convention on Safety of Life at Sea	1
Foreign Assistance Act of 1961, 75 Stat. 424; Export Control Act of 1948, 50 U.S.C. App. 2021 et seq.: Trading with the Enemy Act, 50 U.S.C. App. 1 et seq.; Mutual Assistance Act of 1954, 22 U.S.C. 1934; Inter-American Treaty of Reciprocal Assistance of 1947, 4 Bevans 559; Cuban Resolution of 1962, 76 Stat. 697.	Commercial Convention with Cuba	
Byrd Amendment of 1971, 85 Stat. 427, sec. 503	"One aspect of our treaty obligations under the U.N. Charter," Diggs v. Shultz, 470 F. 2d 461 (D.C. Cir. 1972).	1
Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801	Three Conventions on Fisheries	3

B. TERMINATION WITH IMPLIED AUTHORITY CONFERRED BY INCONSISTENT LEGISLATION (3)[3]

Tariff Act of July 24, 1897, 30 Stat. 151	Commercial Convention with Switzerland	1
National Industrial Recovery Act of 1933, 48 Stat. 195	Convention on Abolition of Import and Export Prohibitions and Restrictions	1
Trade Agreements Act of June 12, 1934, 48 Stat. 943	Treaty of Commerce and Navigation with Italy	1

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[1] 1 incident of congressional ratification of a Presidential notice is not included in the table because notice was withdrawn before the treaty was terminated. In 1865, shortly after President Lincoln had notified Great Britain of our withdrawal from the Rush-Baggot Convention regulating naval forces upon the Great Lakes, Congress defended its power in the field by passing a joint resolution based on the principle that Lincoln's action was invalid until ratified and confirmed by Congress. H.J. Res. of Feb. 9, 1865; 13 Stat. 568.

[2] Congress terminated all existing treaties of the Hawaiian Islands with foreign nations in the Joint Resolution of July 7, 1898, 30 Stat. 750, but the action is not included in the table because those treaties were not ratified under the Constitution.

[3] Another treaty which was terminated because of inconsistent legislation is the 1891 Treaty of Amity, Commerce and Navigation with the independent State of the Congo. In 1916, Belgium, which had annexed the Congo, twice denounced the whole treaty after Congress directed the termination of a substantive article thereof in the Seamen's Act of 1915. The treaty is counted only once in the above tables, being included with those treaties affected by the Seamen's Act in table A. Termination of the treaty is reported by the State Department under the heading "Abrogation of Treaties and Provisions of Treaties wihch Conflicted with the Seamen's Act of March 4, 1915," Foreign Relations, 1920, vol. 1, pp. 207–209.

Note: Each of the above treaty termination actions are discussed in detail in Emerson, "The Legislative Role in Treaty Abrogation," 5 Journal of Legislation, University of Notre Dame Law School, pp. 52–64 (May 1978); 125 Congressional Record (daily edition, Mar. 1, 1979), pp. S 1891–1895.

Mr. WARNER. Mr. President, the legislative history of the subject before the Senate at the moment, I think, will be of great interest to scholars and historians. I ask unanimous consent that there be printed in the RECORD, from the Congressional Digest, the issue of June-July, 1979, volume 58, of which Norborne T. N. Robinson, III, is publisher, pages 161, 2, 3, 4, and 5.

There being no objection, the pages were ordered to be printed in the RECORD, as follows:

The Question of Presidential Power to Terminate Treaties

President Carter's announcement in December 1978, of his intent to terminate the mutual security treaty with the Republic of China has led to a major controversy over who has the power to terminate such treaties. In essence the issue is whether the President has the power to do so, or is the assent of the Congress, or the Senate (whose advice and consent is necessary to the adoption of a treaty) also required.

Since the mutual security treaties are a means to the end of deterring war, their importance lends considerable stature to the controversy.

As will be seen in the article on page 162, the mutual security treaties descend from the concept of collective security embodied in the League of Nations. During the period from the end of World War I to the present, collective security, its form and relationship to war powers, has been the subject of confrontations between the executive and legislative branches, both on a foreign policy level and on questions of the powers of Congress and the President.

The relationship of the Congress and the President in foreign policy often involves, as it does in this case, complex procedural situations. For example, the mutual security treaties are an instrument of foreign policy operating in the subject area of war-deterrence, but their language does not automatically commit the United States to war. Each party to the treaty may take such action as it deems necessary on the military level.

The standing of a mutual defense treaty, and the steps involved for the U.S. to take military action are thus two separate legal entities. The President as Commander in Chief could influence the effect of a mutual security treaty by withholding U.S. armed forces from action, or by committing them promptly (subject to the 60-day restrictions of the War Powers Resolution).

Should the Congress not agree to his action, the President would be compelled to disengage U.S. armed forces, or, in the case of Presidential inaction, should the Congress pass a law declaring war, and override a Presidential veto, the President would be compelled to perform his Constitutional imperative to "take care that the laws are faithfully executed."

Although mutual defense treaties and U.S. military action have an implied connection, it is over the treaty power and not any ultimate military decision, that the current controversy centers.

The U.S. Constitution states that the President "shall have power by and with the advice and consent of the Senate to make treaties, provided two-thirds of the Senators present concur." It also states that "this Constitution and the laws of the United States . . . and all treaties . . . shall be the supreme law of the land . . ." The Constitution does not mention the procedure for the termination of treaties.

Shortly after President Carter announced in December, 1978, his intent to terminate the mutual security treaty with the Republic of China, Article X of which states: "This treaty shall remain in force indefinitely. Either party may terminate it one year after notice has been given to the other party," Senator Barry M. Goldwater, Ariz., Rep., joined by a number of colleagues, filed suit in Federal court challenging the President's authority to terminate the treaty without the assent of either the Congress or the Senate.

When the new 96th Congress convened in January, 1979, Senator Harry F. Byrd, Va., Ind., introduced a resolution, S. Res. 15, stating, "It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation."

The question of treaty termination powers as it relates to all existing mutual security treaties, not just to the one with the Republic of China, was now before the Senate as well as in the courts.

On Constitutional questions involving a separation of powers issue, a conscious shifting of weight by one of the branches serves to place the other on notice of its determination and becomes a focus for involving public opinion.

Evolution of the Mutual Security Treaties

The United States emerged as an international power following the devastation of World War I. Not only did it have the material resources to aid in reconstruction, but its people were willing to commit them for the benefit of others on a scale unprecedented in modern history.

President Woodrow Wilson believed that, in concert with a sense of moral responsibility required of those nations placed in position of power, the peoples of the world could, through moral suasion backed by the collective use of military force, maintain world peace against acts of national aggression. To this end, he proposed, in 1918, as the last of his "fourteen points," that the establishment of a world organization, the League of Nations, be included in the Treaty of Versailles.

THE LEAGUE OF NATIONS

In July, 1919, President Wilson submitted the Treaty of Versailles with its League of Nations covenant to the U.S. Senate for ratification. In a series of speeches he stressed the theme of dependence on the moral force of public opinion, backed by the League's ability to publicize dangerous intrigues, and as a last resort, employ physical force if moral force failed.

The speeches of Senate opponents to the League centered on arguments that it would end the policy of "no entangling alliances;" that the United States would become morally, even if not legally, bound to join military actions determined by others; involved in the internal affairs of other nations, and they in ours; and tainted by the turmoils and intrigues of Europe. In addition, it would be morally wrong to become one of a handful of global "dictator nations" dominating a world where many colonial peoples were desirous of achieving independence.

After months of national debate, the treaty came to a vote in the Senate on November 19, 1919. Following a series of votes on amendments, the treaty already signed by the President received a majority, 53–38, but failed to obtain the necessary two-thirds vote for adoption.

In March, 1920, [its proponents believing it had a chance of passage], the treaty failed a final time, 49–35.

The League of Nations debate set the form of future controversies pertaining to the global role of the United States. The labels "internationalist," "isolationist" and "interventionist" came into popular usage. As another war in Europe threatened there were those, as during WWI, who favored neutrality and those in favor of intervention on the side of Great Britain and France. When Germany turned to invade Russia in June, 1941 some Americans believed that the Nazis and Soviets should be permitted to destroy themselves, lest a hostile Soviet Union emerge to dominate a prostrate Europe, while others believed Soviet survival was essential to the destruction of Nazi Germany.

In August 1941, prior to U.S. entry into WW II, Roosevelt and Churchill announced in the Atlantic Charter their vision of the postwar world.

THE UNITED NATIONS

Shortly after U.S. entry into the war, in January, 1942, 26 nations, including the "big four" (the United States, Great Britain, the Soviet Union and China) signed the "Declaration of the United Nations," agreeing to the Atlantic Charter's principles of freedom, and to prosecute the war in concert.

CURBING THE SENATE TREATY ROLE

By the following year, the concept of the United Nations as a framework for a League of Nations-type post-war organization became the focus of a major controversy in the Congress over the treaty powers of the Senate.

During 1943, resolutions expressing House and Senate support for a post-war international organization were adopted. At the same time efforts were made to amend the Constitution to provide for the ratification of a treaty by a majority vote of the Senate and House, instead of the two-thirds Senate approval required. Central to the arguments of the proponents was that the Senate must not be permitted to block adoption of a League of Nations-type organization as it had after World War I. The controversy continued in both Houses until the United Nations proposal was submitted in treaty form to the Senate, and was ratified by 89-2, in July, 1945.

The optimism which had accompanied the League of Nations era was tempered by British and American distrust of Soviet conduct, however, especially after, in 1944, the Soviet Union had encouraged the Warsaw uprising only to hold its army back from assistance, paving the way for a Polish communist regime established behind advancing Red Army lines while the Nazis inflicted heavy casualties on the Nationalist Poles. Since its guarantee of Polish freedom had precipitated Great Britain's declaration of war on Germany in September 1939, and the Soviets had denied Allied aircraft landings and assistance to Warsaw, subsequent Soviet armed subversion in Greece, and pressure on Iran and Turkey led to Churchill's "Iron Curtain" speech at Fulton, Missouri, and to the "Truman Doctrine" following President Truman's request, in March, 1947, that the Congress "support free people who are resisting attempted subjugation by armed minorities or by outside pressure."

The Soviet Union, in 1947, responded to a plan announced by Secretary of State George C. Marshall for the economic rehabilitation of Europe by rejecting Marshall Plan aid and establishing the Cominform, an organization for the ideological unity of the Soviet bloc which directed agitation and strikes throughout Western Europe. Further, in 1948, the Soviets installed a communist regime in Czechoslovakia and commenced the Berlin blockade.

MUTUAL SECURITY TREATIES

The United Nations Charter, in Article 52, states that "nothing in the present Charter precludes the existence of regional arrangements or agencies . . . relating to the maintenance of international peace and security . . . consistent with the Purposes and Principles of the United Nations."

Faced by repeated Soviet vetoes in the UN which hampered its operation, regional pacts, under Article 52, were resorted to as an alternative.

THE RIO TREATY

In 1947, the Inter-American Treaty of Reciprocal Assistance, commonly called the Rio Treaty, the basic collective security instrument of the Inter-American system, was signed and ratified by the United States and 20 other nations in the Western hemisphere.

NATO

Soviet expansionism led, in 1948, to the Brussels Treaty, an economic, social and collective defense treaty signed by Great Britain, Belgium, France and Luxembourg, and to the adoption by the U.S. Senate of the "Vandenberg Resolution," calling for the "association of the United States by Constitutional process with such regional and other collective arrangements as are based on continuous and effective self-help and mutual aid, and as affect its national security."

In 1949, the North Atlantic Treaty Organization (NATO) came into being, with ultimately, 15 signatory powers.

THE PACIFIC AREA PACTS

In 1950, the Soviet supported North Korean attack on the Republic of Korea led to the signing of a series of mutual security pacts between the United States and Pacific nations. The Philippine Treaty and the ANZUS (Australia, New Zealand and the U.S.) Treaty were ratified in 1951, the Republic of Korea Treaty in 1953, the Republic of China Treaty in 1954. The Japanese treaty signed in 1960 replaced an earlier one of 1951.

The Southeast Asia Treaty was signed in 1954. This treaty, and the United Nations Charter, were both cited by the Congress in its adoption in August, 1964 of the so-called "Tonkin Gulf Resolution," a joint resolution of the House and Senate which was regarded by President Johnson as the principal legislative authority for U.S. military involvement in Vietnam.

WAR POWERS

The mutual security treaties generally leave it to the individual signatory nations to determine the nature of its military response.

The North Atlantic Treaty for example provides, in Article 5, that the "Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all," and in such an eventuality, "each of them will assist by taking such action as it deems necessary, including the use of armed force . . ." As an official NATO document states it: "Each country is free, therefore, to take whatever action it judges necessary. Every armed attack does not of necessity call for an automatic declaration of general war."

The U.S. Constitution, of course, grants to the Congress the power to declare war. The United States entered World War I and II by declaration, but engaged in two subsequent major wars, Korea and Vietnam, without so doing, but with ample Congressional support reflected in the legislative form of resolutions and appropriations bills.

It has long been understood that a President can commit U.S. forces overseas for limited usage, and particularly in the era of intercontinental missilry, a President as Commander in Chief must have a quick-response capability.

RECENT ACTION IN THE CONGRESS

Negotiations between the Carter administration and the People's Republic of China on the matter of establishing formal diplomatic relations were underway for months.

"DOLE-STONE AMENDMENT"

On July 25, 1978, the Senate passed, 94–0, the "Dole-Stone Amendment", (sponsored by Senators Robert J. Dole, Kan., Rep. and Richard Stone, Fla., Dem.) to the International Security Assistance Act of 1978, which stated in pertinent part:

"It is the sense of the Senate that there should be prior consultation between the Senate and the Executive Branch on any proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954."

In September, in conference to resolve differences between the House and Senate versions of the bill, the House conferees asked that the word "Congress" be substituted for "Senate." This change, to include the House in the consultation process was adopted, and on September 26 President Carter signed into law the International Security Assistance Act of 1978.

NOTICE OF TREATY TERMINATION

President Carter, on December 15, 1978, announced the establishment of diplomatic relations with the People's Republic of China in a joint communique issued by both nations. The President announced that the United States intended to terminate the mutual defense treaty with the Republic of China (Taiwan), Article X of which provides: "This Treaty shall remain in force indefinitely. Either party may terminate it one year after notice has been given to the other party." Official notice was given January 1, 1979.

THE GOLDWATER LAWSUIT

Senator Barry M. Goldwater, Ariz., Rep., together with a number of Congressional colleagues, filed suit on December 22, 1978, in a Federal Court, to set aside President Carter's treaty-termination action on the grounds that Senate or Congressional approval is required.

SENATE RESOLUTIONS

On January 15, 1979, the opening day of the new 96th Congress, Senator Harry F. Byrd, Jr., Va., Ind., introduced S. Res. 15, a resolution co-sponsored by Senators Thurmond, Warner, Helms, Hayakawa, Garn and Proxmire, "concerning mutual defense treaties."

S. RES. 15

"Resolved, that it is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation."

S. CON. RES. 2

Senator Goldwater introduced S. Con. Res. 2, a "concurrent resolution" which has 21 cosponsors:

"Resolved by the Senate (the House of Representatives concurring), That, in accordance with the separation of powers under the Constitution, the President should not unilaterally abrogate, denounce, or otherwise terminate, give notice of intention to terminate, alter, or suspend any of the security treaties comprising the post-World War II complex of treaties, including mutual defense treaties, without the advice and consent of the Senate, which was involved in their initial ratification, or the approval of both Houses of Congress."

CARTER TAIWAN BILL

On January 26, 1979, President Carter transmitted to the Congress a bill "to promote the foreign policy of the United States through the maintenance of commercial, cultural and other relations with the people on Taiwan on an unofficial basis, and for other purposes."

The President, in an accompanying letter, said:

"I am confident the Congress shares my view that it is in the national interest that these unofficial relations between the American people and the people on Taiwan be maintained. It is highly desirable that this legislation be enacted as promptly as possible. I look forward to working with the Congress on this important project."

SENATE COMMITTEE TAIWAN BILL

On February 5, 6, and 7, 1979, the Senate Committee on Foreign Relations held public hearings on S. 245, "dealing with United States relations with the people on Taiwan." A number of amendments were adopted in committee and S. 245, the "Taiwan Enabling Act" was reported to the Senate on March 1, 1979, and was shortly taken up for debate by the full Senate.

TAIWAN SECURITY

As the Committee report observed, "the bill as submitted by the Administration contained no references to the interest of the United States in Taiwan security, and lacked any reference to the sale of defensive arms to Taiwan." The Committee bill included a section:

"It is the policy of the United States to consider any effort to resolve the Taiwan issue by other than peaceful means a threat to the peace and security of the Western Pacific area and of grave concern to the United States."

On March 8, during the floor debate, Senator Charles Percy, Ill., Rep., introduced an amendment to this section, stating in part:

"My amendment would delete 'of grave concern to' and would substitute 'to the security interests of.'

"I believe this substitution of language is essential, because we have a responsibility to make to the PRC (Peoples Republic of China) a clear statement of U.S. interests in a peaceful settlement of the Taiwan issue. We must not lead the Chinese to miscalculate or underestimate our interests. A clear statement reduces ambiguity and lessens the chances for misunderstanding."

Senator Frank Church, Idaho, Dem., Chairman of the Foreign Relations Committee, responded, in part:

"The substitution of the words contained in the Percy amendment would bring us back very close to the phraseology that was used in the old Mutual Security Pact which will be terminated as a result of the new relationship we have established with mainland China.

"Yesterday, I spoke with the President of the United States. He is prepared to accept the Committee language because it is drafted in such a way that it does not infringe upon any commitment he made on behalf of the United States. The language in the pending bill will not jeopardize the normalization of our relations with Peking."

Senator Church added that the President informed him that if the language went beyond his understanding with the PRC he would veto the bill.

The Senate rejected the Percy amendment by a 50–47 vote.

THE BYRD RESOLUTION

After discussion on the floor, there was general concurrence that S. 245 involved no finding on the issue of the President's powers to terminate a treaty, that not being a primary object of the Taiwan Enabling Act.

Senator Harry F. Byrd offered the language of his S. Res. 15 in the form of an amendment to S. 245, stating in part: "The question is much broader, as I see it, than just the question of Taiwan. The question is, what is going to happen in the future to the many other mutual defense agreements and treaties which we have with other nations?"

It was decided after floor discussion that the Committee on Foreign Relations should hold hearings on the subject. After obtaining agreement that the Senate would have a vote on it within 90 days, Senator Byrd withdrew his amendment, which the Senate instructed the Committee to report by May 1.

COMMITTEE HEARINGS

The Senate Foreign Relations Committee held three days of public hearings on the subject of treaty termination. As is general with Constitutional questions, particularly in the separation of powers area, testimony was far-reaching and in some instances given by invited witnesses in response to written questions provided by the Chairman.

One complex subject was the matter of treaty-terminating precedents, a number of which were cited. The complications surrounding evaluation of these earlier cases, which sometimes included a combination of treaty terminating acts involving both Presidents and the Congress, was illustrated by the fact that of the numerous cases mentioned, 12 were cited as possibly involving termination by a President alone. Lengthy and detailed arguments on each of these cases were submitted for the record by opposing counsels, Herbert J. Hansel, Legal Adviser of the Department of State, and J. Terry Emerson, counsel to Senator Goldwater.

THE COMMITTEE RESOLUTION

On May 1, the Senate Committee on Foreign Relations reported S. Res. 15, as amended, with an amendment to the title. S. Res. 15, as introduced by Senator Byrd, is a resolution "concerning mutual defense treaties." As reported by the Committee S. Res. 15 would be a "resolution concerning the termination of treaties."

Mr. GOLDWATER. Mr. President, it has been a very instructive debate, and just to keep history sort of straight on it I would like to discuss it a little bit more.

Appearing in the National Law Journal of Monday, May 28, 1979 was an article entitled "Can the President Unilaterally End Treaties?" It was written by a Mr. Michael Reisman and Myres S. McDougal. Mr. McDougal is the Sterling professor emeritus, and Mr. Reisman a professor of law, at the Yale Law School. I read from the paper:

> Is there in this instance an implied authorization to terminate? In some instances, the instrument itself may indicate the authorization of termination competence. But Article X of the Taiwan treaty does not constitute an implied authorization to the president; it confers the competence "on the parties" and the parties to this treaty are *states.*

I might digress to point out that the President, with the advice of the State Department, came to the conclusion that he was a party, forgetting that individuals cannot be parties in this country when "the party" refers to the State.

> Only the relevant constitutive process of each *state* could confer appropriate internal competence for termination.
>
> Is there implied authorization in related legislation? As our nation moved into the post-war era, new international challenges required a more active foreign policy and, in particular, the innovation of the mutual defense treaty, a type of contingent declaration of war. Key legislative instruments of this period comprised an experiment at ordering the novel relationships in which Congress delegated certain powers to the executive. As agreements between the branches about how the president was to use executive power in the new allocation, these new instruments were quasi-constitutional.
>
> The keystone of this legislation is the Mutual Defense Assistance Act of 1949. While Congress delegated to the president the authority to terminate certain aid agreements made under the act, it carefully spelled out the conditions under which the agreements could be terminated. The delegation did not apply to mutual defense treaties; moreover, none of the conditions specified in the act would authorize termination of the Taiwan defense treaty.
>
> Because there was authorization neither in the instrument itself nor in a complex of enabling lgeislation, the presumption is that the president was obliged to consult Congress in a constitutionally appropriate manner. We use this language advisedly, for our system employs different types of agreements as equivalent instruments of policy. Ordinarily, in our opinion, a joint resolution would be required to terminate a treaty or a congressional-executive agreement.
>
> The Constitution is not, of course, a suicide pact. If a major external crisis threatens the republic, there could be constitutional justifications for curtailed, informal consultations and, in exigent circumstances, perhaps for consultations only after the fact. In Section 1 of the War Powers Act, for example, Congress calls for consultation but recognizes that a president, in all good faith, may sometimes be obliged to act without prior consultation. Were the circumstances of the Taiwan case such as to warrant termination without any prior consultation? The answer is obviously in the negative. There was no urgency and, indeed, there is evidence that there was no political necessity for termination either.
>
> ### RECOGNITION
>
> Belatedly, the administration has argued that the competence to terminate is ancillary to the president's power to recognize. To be sure, the president recognizes foreign states and governments, but the notion that he may make anything constitutional by making it ancillary to recognition is preposterous. Can a president abrogate a tax treaty, a claims treaty or a tariff treaty or grant most-favored-nation treatment without benefit of statute in order to remove obstacles to recognition? Could he deliver political refugees who have asylum, permanent residence or even citizenship in order to arrange recognition? The content makes no more sense in relation to terminating the treaty with Taiwan.
>
> Equally absurd is the contention that certain consequences necessarily and logically follow recognition. The great John Bassett Moore said "recognition validates nothing"; we might add that it invalidates nothing. In the complex international politics of the 20th century, recognition cannot be taken as a single communication indicating comprehensive international legal consequences, for one or another of contending governments or states. For several decades the United States withheld recognition of East Germany while our trade relations indicated tacit recognition of that government; obviously our mixed communications were conditioned by deference to West Germany and an intricate policy with respect to Soviet controls in Europe. In 1972, the president and key officials ceremoniously visited Peking and we established a de facto embassy there, while we continued to "recognize" Taiwan and to maintain cordial diplomatic relations with Taipei. Precisely because the president's speech last December intimated continuation of many agreements with "the people of Taiwan," including arms sales, it is difficult to see how the recognition of Peking can be construed, as some have sought, as an ipso facto termination of a particular treaty, even assuming the president has the competence to terminate that agreement.
>
> ### INTERNATIONAL LAW
>
> In a tragic way, the Taiwan case demonstrates the dangers of decision taken hastily, stealthily, unilaterally and in ignorance of the law. Much attention has been given to the question of internal constitutional competence, but little has been given to the president's violations of international law.
>
> The last sentence of a note of agreement exchanged by John Foster Dulles with Taiwan's Minister for Foreign Affairs Yeh on the same day as the treaty says, "Military elements which are a product of joint effort and contribution by the two parties will not be removed from the territories described in Article VI to a degree which would substantially diminish the defensibility of such territories without mutual agreement."
>
> Whether this is read as integral to the treaty or as a separate agreement, it is clear that it imposes, at the very least, an obligation of consultation with Taiwan prior to major changes in the behavior contemplated by the treaty. There is no evidence the administration undertook such consultations.
>
> There is an even graver violation. Under international law, it takes more than the *diktat* of Mao-tse Tung, Dong-xiao Ping, Chiang-kai Shek, Richard Nixon or Jimmy Carter to make Taiwan a part of China. The question of legal title to Taiwan is a matter of international legal inquiry and whether it is conducted by reference to the traditional title search principles or by reference to the contemporary doctrine of self determination, which supersedes older criteria, it is plain that Taiwan belongs to the Taiwanese and that a lawful disposition of the people and their territory cannot be accomplished without their consultation. There is no indication that the people of Taiwan have been consulted; still less is there any intimation that they desire to become part of the People's Republic.
>
> In contrast, Congress' legal position in this matter has been correct. In consenting to the peace treaty with Japan, Congress declared as part of its constitutional act that the agreement did not resolve the status of Taiwan, an issue which participants at the peace conference had said was to be decided later according to the principles of the U.N. Charter. When this declaration is read with the mutual defense treaty and with the subsequent explicit direction to the president not to terminate the treaty without consulting Congress, it is clear that one of the functions of the treaty was to hold open the possibility of an internationally proper resolution of the status issue. That possibility has been seriously undermined by the president's unilateral action. It is doubly tragic that such a deed should have been committed by an administration that avows the international protection of human rights.
>
> While the document of 1789 makes no express reference to termination, the fundamental principles of a democratic sharing of power, and of checks and balances to protect that sharing, require that the Congress be accorded a role in the termination of all agreements, whatever the modality of their making, other than purely presidential agreements. Virtually all practice with regard to agreements other than presidential has historically involved either an express or implicit authorization by Congress to the president to terminate. Departures from this practice which have not been denounced as unlawful have only occurred in periods of national crisis. The postwar mutual defense treaties arise from legislation which did delegate to the president certain termination powers, but only for certain types of agreements and for carefully spelled-out contingencies. There was no implied authorization to terminate mutual defense treaties; indeed congressional communications indicated exactly the opposite expectation. Nor does the treaty itself authorize the president to terminate.
>
> Even if our historic constitutional practice were ambiguous, the key problem would remain: to shape a future policy in a most critical area in the life of this republic. A rational policy must retain that balancing of power which our national experience as confirmed is necessary for the preservation of freedom while retaining a requisite efficiency

> in decision-making. Such a policy plainly requires a continuing congressional role in treaty termination.
>
> The president's termination of the Taiwan treaty is constitutionally improper. It should be reviewed and rejected by public opinion and denied as precedent for future enlargement of executive competence. It would be most fitting that a president genuinely dedicated to the values of human dignity in a free society should take the lead in such denial.

Those are the opinions, Mr. President, of two men that I consider preeminent in their field, particularly Dr. Myres McDougal, who I believe is considered to be the outstanding authority and expert in this country on the subject of human rights.

Now let me go a little bit farther, because there is some interesting material here bearing on this subject from the minutes of the minority report of the Foreign Relations Committee. Starting on page 23:

> .... the writings of the Founding Fathers evidence their belief that, in remaining silent on the subject of treaty termination, the Constitution implied that treaties would be terminated as they are made—with the consent of both the executive and the legislative branches.

I repeat, "executive and legislative branches," because if it is the intent of the chariman of the Foreign Relations Committee to introduce an amendment that would strike the word "Congress", again he is fooling around with the Constitution, because the Constitution does not confine these treaty actions to the Senate. "The Congress" should prevail.

Many, many times in the 52-odd treaties that we have stopped or abrogated, if that is the word, the House has participated. For the distinguished Senator from Idaho to suggest that merely striking the word "Congress" is going to return this Byrd resolution to some form that the committee would like is completely wrong.

I might repeat that: With the consent of both executive and legislative branches. Thus, Thomas Jefferson understood:

> Treaties are legislative acts. A treaty is the law of the land. It differs from other laws only as it must have the consent of a foreign nation, being but a contract with respect to that nation. . . . Treaties being declared, equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone.

I repeat, an act of the legislature alone—

> can declare them infringed and rescinded.

That is Thomas Jefferson in "A Manual of Parliamentary Practice for the Use of the Senate of the United States," section LII, in 1801.

> The analogy of treaties to statutes, and its implications for the repeal of treaties, was analyzed by James Madison as follows:
>
> That the contracting powers can annul the Treaty cannot, I presume, be questioned, the same authority, precisely, being exercised in annulling as in making a treaty. 1 Letter and Other Writings of James Madison, 524–25 (1865).

I have heard many times in the discussion of this subject the question raised, "Well, where does the Constitution specifically grant the Senate the power to advise and consent on the annulment or abrogation of treaties as we keep reading?"

Well, the language is not there in exactly precise form, but there was no question in the minds of our Founding Fathers as to what would happen should a treaty be sought to be abrogated.

The well known concern of the framers with regional economic interests, navigation rights and peace treaties refutes any notion they intended to make it easier to escape, than make, treaties. Surely, the framers did not vest one person with complete power to denounce treaties of such supreme importance, without any legislative deliberation.

Hamilton expressed his concern in this matter when he wrote in the Federalist No. 22 that one of the specific defects meant to be corrected by the Constitution was the want of fidelity to our treaty engagements in view of the ease by which treaties could be dropped under the Articles of Confederation. Similarly, John Jay expressed the view that:

> They who make laws may, without doubt, amend or repeal them; and it will not be disputed that they who make treaties may alter or cancel them. . . . The Federalist No. 64, at 394.

Numerous scholars agree the President cannot lawfully terminate a treaty without legislative consent. For example, Justice Story, in his Commentaries on the Constitution, wrote:

> (Treaties) should have the obligation and force of a law, that they may be executed by the judicial power, and be obeyed like other laws. This will not prevent them from being cancelled or abrogated by the nation upon grave and suitable occasions; *for it will not be disputed, that they are subject to the legislative power and may be repealed, like other laws, at its pleasure.* (Emphasis added.) J. Story, Commentaries on the Constitution of the United States 695 (1873).

Prof. Edward Corwin, in his treatise on executive control of foreign relations, said:

> (All in all, it appears that legislative precedent, which moreover is generally supported by the attitude of the Executive, sanctions the proposition that the power of terminating the international compacts to which the United States is party belongs, as a prerogative of sovereignty, to Congress alone. E. Corwin, "The President's Control of Foreign Relations" 115 (1917).

Prof. Stephan A. Risenfeld of the University of California, Berkeley writes:

> The most logical view is that the power to denounce a treaty is vested in the President by and with the advice and consent of the Senate, so that the department of the government which makes the treaty can terminate it, regardless of whether the termination is by unilateral, but lawful, denunciation or by a new treaty. Risenfeld, "The Power of Congress and the President in International Relations," 6 Cal. L. Rev. 643, 660 (1937).

Professors McDougal and Reisman testified at our recent hearings:

> (W)hen we deal with security agreements we are dealing with agreements that pose the greatest commitment of the destiny of the Republic. . . .
>
> (T)he President cannot terminate these treaties on his own initiative, without an authorization. Hearings on S. Res. 15, pp. 388, 394.

Irwin S. Rhodes, author-editor of "The Papers of John Marshall" and the forthcoming "The Papers of Roger Brooke Taney," said in a prepared statement printed in the hearings on Senate Resolution 15:

> Just as the power to legislate implies the power to repeal in the same manner and the power to judge implies the power to revoke or overrule in the same manner, so that same principle applies to treaties. If such be the case, as I firmly believe, the revocation of a treaty by the President without the advice and consent of the Senate is unconstitutional and notice by him of intended termination is a nullity. *Id.* at 36.

Similarly, Prof. Edward Gaffney, Jr., assistant director of the Center for Constitutional Studies at Notre Dame Law School, formerly a member of the policy staff of U.S. Attorney Generals Levy and Bell, observed at those hearings:

> If the President is under the duty, in Article II, to take care, to see that the laws are faithfully executed, and if then Article VI defines law to include and to embrace treaties, then it seems to me that the normal route would be to go back to the House and Senate for a majority vote, just the normal way that you unmake an act. *Id.* at 515.

I lay emphasis on that, Mr. President, because if it is the intention of the chairman of the Foreign Relations Committee to try and alter the Byrd amendment by excluding the word "Congress," again they are treading on unconstitutional grounds. Not only the wording by the Founding Fathers, but authority after authority down through the 202 years of our history have given the House of Representatives a part in the treaty process, not as vividly as the Senate but they can concur with the Senate in whatever they want to do with any treaty.

I merely call that to my colleagues' attention to point out what we may go through if this amendment is offered—and I hope it will not be—as another exercise in futility.

And Prof. Thomas S. Franck, director, Center for International Studies of the New York University School of Law, testified:

> (T)reaties are the supreme law of the land, that laws and treaties, in the words of the Supreme Court in *Whitney* v. *Robertson* are on the same footing as laws and must be terminated as if they were laws, either by a legislative resolution or by inconsistent subsequent law. *Id.* at 274.

Again, Mr. President, they are referring to the Congress. They are referring to the whole Congress and the role of the whole Congress in repealing treaties.

Today we are watching actions being taken by the House. While I will not say that they follow a standard practice, necessarily, they may wind up making a shambles out of the treaty with Panama by virtue of their strength to appropriate money, something they have a higher appropriative position in than we have.

With specific reference to the 1954 Defense Treaty with Taiwan, Prof. Arthur Bestor, professor of history emeritus of the University of Washington writes:

> The termination of the Mutual Defense Treaty by the President without obtaining the advice and consent of the Senate—in-

> deed, in flagrant disregard of the "sense of the Congress" clause in the International Security Assistance Act of 1978 (which comes close to being what the Constitution describes as the "advice" of the Senate)—represents a usurpation of power of the most dangerous sort.
>
> Introduction to "Location of the Constitutional Power to abrogate or Terminate a Treaty: The Original Intent of the Constitution Historically Examined," Cong. Rec. S1607 (daily ed. Feb. 21, 1979).

Prof. Alan C. Swan, former legal counsel in the Department of State, reaches the same result on the basis of the separation of powers doctrine. He testified at the hearings on Senate Resolution 15:

> As such, it (the separation of powers doctrine) is a guarantee of our liberty as important as the Bill of Rights itself. It also means that if, acting in accord with that doctrine, the President and Senate concur upon a treaty, any suggestion that the President alone, without Congressional concurrence, may reverse the policy of the treaty is tantamount to a suggestion that the great matters with which treaties deal are for some reason removed from the Madisonion precept, *Id.* at 293.

Prof. Eugene V. Rostow, former Under Secretary of State and dean of Yale Law School, succinctly summed up the constitutional and policy implications of his position as follows:

> It cannot be constitutional to allow the President to abrogate treaties by a stroke of his pen. Can the President alone nullify our solemn national commitment to NATO? The President's duty is to see that treaties and statutes are "faithfully executed." He has no power to repeal them. Such a doctrine would make nonsense of the separation of powers, and indeed establish an Imperial Presidency.

That is from an article by Mr. Rostow in the Yale Alumni magazine of April of this year.

A similar statement appears in a recent article by David Scheffer in the Harvard International Law Journal:

> If the President's unilateral action were to go unchecked, then the precedent which this case would establish could lead to the inevitable consequence of an ambitious or unreasoned President disengaging the United States from crucial bilateral and multilateral treaties with the stroke of a pen and without the constitutional balance of legislative advice and consent.

That was written by Mr. Scheffer in "The Law of Treaty Termination as Applied to the U.S. De-Recognition of the Republic of China."

Mr. President, I have read those excerpts from the treaty termination resolution from the report of the Committee on Foreign Relations, to point out that even in the committee hearing on this resolution introduced by Senator BYRD, way back in January—and I might add that I introduced a similar resolution, I think on the same day, but mine was quickly hidden underneath a pile of old books. I do not know how old they were, but it is still there.

I read them because it points out, even in their own language, that they believe that Senator BYRD is right. I just wanted to discuss this matter of the chairman's intention to strike the word "Congress." I think if we did that and if the vote were successful, I think the next day, we would see the House of Representatives with a resolution putting it right back in, because it is very clear that the House has a part in the making of all laws, and treaties are laws. They can participate in the formation or destruction of treaties just the same as we do, and they have done it in times past. They probably will find occasions in the future when they have reason to take umbrage at what we may do or may not do.

Mr. President, I am very hopeful that the chairman of the Committee on Foreign Relations will not try to upset the language of the Byrd amendment.

I want to call the attention of the Senator from Virginia to what I am going to say. Of course, I may be completely wrong, but in listening to the remarks on the floor by the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Idaho (Mr. CHURCH), I gathered that there will be an amendment offered to the amendment already agreed to that will remove the word "Congress" from the resolution. It is my contention that if we do that, it is an unconstitutional act, because the Constitution is clear on this.

Laws are written by the Senate and the House; treaties are written by the Senate and the House, or can be; and they can be destroyed by action of the Senate and the House, and have been. So if such language is offered and, by some quirk, it passes, I think that, the very next day, we are going to be confronted with language coming back from the House saying "Uh-uh; you are the senior body, but you are not that senior; you leave the word 'Congress' where it belongs."

Does the Senator agree?

Mr. HARRY F. BYRD. JR. I say to the Senator from Arizona that the amendment just adopted is an amendment in the nature of a substitute for the committee amendment, so the amendment which has just been adopted is not amendable. What is amendable is the original Senate resolution. I have no idea what the Senator from Idaho has in mind, but as to the amendment which has just been adopted, my understanding of the parliamentary situation is that it was an amendment in the nature of a substitute and is no longer amendable.

Mr. GOLDWATER. Without losing my right to the floor, Mr. President, I am going to make a parliamentary inquiry: Is that statement of the Senator from Virginia correct?

The PRESIDING OFFICER. Will the Senator repeat the statement?

Mr. HARRY F. BYRD, JR. Yes; Mr. President, I address a parliamentary inquiry to the Chair.

Is not the Senator from Virginia correct that the amendment which the Senate just adopted, by a vote of 59 to 34, is an amendment in the nature of a substitute for the committee amendment and it is not further amenable?

The PRESIDING OFFICER. The Senator is correct. The committee substitute as amended by the Byrd substitute is not amendable. Any amendments would have to be addressed to the original resolution.

Mr. HARRY F. BYRD, JR. I thank the Chair.

Mr. GOLDWATER. Am I correct, then, in interpreting the ruling of the Chair on the language that I am holding in my hand—

> That it is the sense of the Senate that treaties or treaty provisions to which the United States is a party should not be terminated or suspended by the President without the concurrence of the Congress except where——

The PRESIDING OFFICER. What the Senator has just quoted is the language of the original committee substitute, which has been wiped out by the Byrd amendment. So that language that the Senator has just quoted is no longer present and could not be amended.

Mr. GOLDWATER. Mr. President, will the Senator read the precise language of his amendment? I have the wrong one in my hand.

Mr. HARRY F. BYRD, JR. Yes. The precise language that the Senate has just approved, by a vote of 59 to 35, is this:

> Resolved, that it is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation.

Mr. GOLDWATER. Then the word "Congress" appears no place in the Senator's amendment?

Mr. HARRY F. BYRD, JR. That is correct.

Mr. GOLDWATER. Well, I obviously am barking up the wrong tree. I am glad there is nothing to bark at.

Mr. HARRY F. BYRD, JR. The word "Congress" appears in the committee substitute which was just eliminated by the recent Senate vote.

Mr. GOLDWATER. May I ask the chairman of the Committee on Foreign Relations just what his amendment, that he proposes to offer, might do?

Mr. CHURCH. First of all, let me say I have not yet made the decision about what amendment, if any, I should offer. There are several options, any one of which I may decide upon. As of now, I have made no decision.

In any event, if I offer an amendment, it will be offered to the original resolution.

Mr. GOLDWATER. The Byrd resolution?

Mr. CHURCH. The original resolution.

At the moment, I say to the Senator from Arizona, the Byrd language has been substituted, by vote of the Senate, in place of the committee's recommended language. Since that took the form of a substitute for the committee's recommended language, it is subject to no further amendment. However, the original resolution is still subject to perfecting amendments and any perfecting amendment that I might offer would relate to the original resolution.

Let us suppose that the Senate were to adopt some perfecting amendment to the original resolution.

That language would then be before the Senate, as well as the substitute language that has been adopted by the vote the Senate has just taken.

Does that clarify or confuse the picture?

Mr. GOLDWATER. Well, it does not quite confuse me, but not a hell of a long way from it.

In other words, we cannot amend the language we have just voted on, but we could add a little bad thing on here and there.

Mr. CHURCH. Good things, too. It is within the realm of possibility.

Mr. GOLDWATER. Possibility.

Mr. CHURCH. Yes. The Senator is generous to afford me the possibility.

Mr. GOLDWATER. The Senator has me all cleared up. I wish he would not do that.

I do not want to keep on talking here forever and a day. I think we have a 5 o'clock unanimous-consent agreement to take up something else. I have nothing to do. I have not talked in so long, I thought I might spend the afternoon here in pleasant dissertation of the things that might be of benefit or no benefit to our Republic.

If the Senator does not go ahead, I can go on with my business.

Mr. CHURCH. I say to the Senator, no decision has been made with respect to an amendment. Several options are now being considered and one or another may be offered. But I am unable at this time to be any more specific or precise.

Mr. WARNER. Will the Senator yield?

Mr. GOLDWATER. I have the floor, but I am happy to yield.

Mr. WARNER. Mr. President, could we be advised by the Parliamentarian as to what is the pending question?

The PRESIDING OFFICER. The pending question before the Senate is the committee substitute, as amended by the amendment of the senior Senator from Virginia, which is likewise a substitute.

Mr. CHURCH. Mr. President, I would like to ask the distinguished Senator from Virginia if it is his understanding and intention that the language just adopted is meant to be prospective in its application and effect?

Mr. HARRY F. BYRD, JR. Well, to abide by the existing treaties.

Mr. CHURCH. Yes. That is not exactly what I meant.

Given the fact that it applies to existing mutual defense treaties, is it meant to relate only to future actions taken by a President, this President or any future President, having to do with the termination of a mutual defense treaty?

Mr. HARRY F. BYRD, JR. The language says that it is the sense of the Senate that before any treaty can be terminated it must have the approval of the Senate.

Mr. CHURCH. Yes. But the Senator is not intending to address past——

Mr. HARRY F. BYRD, JR. It is not addressed to any precise treaty, if that is what the Senator meant.

Mr. CHURCH. No. I am asking, is it addressed to actions of the President taken in the past, or is it meant to relate to actions taken in the future having to do with the termination of mutual defense treaties?

Mr. HARRY F. BYRD, JR. I think, in trying to determine how to reply to the able Senator, No. 1, as has been pointed out previously, it is the sense of the Senate, the Members of the Senate, 59 Members, have said that before a treaty can be terminated, approval of the Senate must be obtained.

Now, we all recognize—I recognized before I put the resolution in, all of us have recognized it ever since—that it is a sense of the Senate resolution. If the President chooses to ignore it, there is no legal recourse that can be had.

Mr. CHURCH. I certainly concur in that last statement of the Senator. But I suggest to him with all due respect that he has not answered my question.

Normally, any bill, or resolution, passed by this body is interpreted to take effect as of the date of its enactment or adoption. If it is a Senate resolution, that date would be the date on which the Senate rendered a final vote and adopted or approved the resolution in question. If it is a statute, it would be the date of the enactment of the statute, after both bodies had acted and the President signed the statute into law; the day the President signs the statute is, usually, the effective date.

Now, that is so whether or not the resolution or the statute contains a provision indicating the effective date.

My question to the Senator is, does he intend this resolution to apply to——

Mr. GOLDWATER. Mr. President, I have not yielded the floor.

Mr. CHURCH. I am sorry.

Mr. GOLDWATER. The Senator can have it all he wants. I just thought I would mention it at that point.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Does the Senator from Virginia intend that this resolution, which is quiet with respect to its effective date, should be governed by the normal practice; that is to say, would it take effect when finally approved by the Senate, and then would it apply to any action after that date to which its terms relate?

Mr. HARRY F. BYRD, JR. Since it is a sense-of-the-Senate resolution, it does not apply other than in the sense—in the sense—that the President is governed by the wishes of the Senate.

Mr. CHURCH. The Senator is quite correct. All I am trying to say is, this is a message to the President from the Senate, and therefore I would assume it must relate to any future actions of the President; we are not, after all, trying to rewrite history, are we?

Mr. HARRY F. BYRD, JR. I do not know how——

Mr. CHURCH. To apply it to the past?

Mr. HARRY F. BYRD, JR. I do not know how we would rewrite history, if one wants to rewrite history.

Mr. CHURCH. Then it would be equally futile to give this resolution a retroactive effect?

Mr. HARRY F. BYRD, JR. This is a resolution stating the views of the Senate, 59 Members of the Senate. Now, the President does not have to accept those views. But it is a resolution in which a majority of the Senate—and a reasonably good majority of the Senate—stated that in the judgment of these Members of the Senate no treaty can be terminated without the approval of the Senate.

I think that is clear.

Mr. CHURCH. Well, if the Senate acts today, June 6, 1979, then this resolution could only be an expression of the sense of the Senate as of this date, and until such time as the Senate takes some subsequent action that changes this resolution, that it is the sense of the Senate that the President ought not to terminate mutual defense treaties without the concurrence of the Senate. But it must look forward; it cannot look backward. It is an expression of the Senate of a certain date, and by its terms it must relate to the future. Am I not correct?

Mr. HARRY F. BYRD, JR. The Senator has stated it well. This Congress, on any issue, cannot rewrite history. There is no way this Congress, on this issue or any other issue, can rewrite history.

What this is doing is saying to the President that the Senate of the United States feels that a certain course of action must be taken.

Mr. CHURCH. Mr. President, I wonder whether the Senator from Virginia would agree to language that would make it expressly clear that the resolution he has offered would take effect from and after the date of adoption. Would that be acceptable to the Senator from Virginia?

Mr. HARRY F. BYRD, JR. The Senate has spoken. It is not a statutory law, as we all know. The Senate has expressed its view.

I will be frank with the Senator. I will not favor any change in the resolution which the Senate has just adopted.

Mr. CHURCH. When the Senator offered his resolution, at the time we were debating the Taiwan Enabling Act, he said this, and I read from page 4306 of the CONGRESSIONAL RECORD for March 8, 1979:

> Mr. President, in the heat of debate last evening, some of the opponents attributed to this amendment provisions which are not incorporated in any way in the amendment. Let me state what the amendment does not do.
>
> First. The amendment does not express either approval or disapproval of the President's decision to give notice under article X of the Mutual Defense Treaty between the United States and the Republic of China.

My question is this: Does the Senator interpret the language that has been adopted by the vote of the Senate as either a vote of approval or disapproval of the President's decision respecting the mutual defense treaty between the United States and Taiwan?

Mr. HARRY F. BYRD, JR. The amendment does not express either approval or disapproval of the President's decision to give notice under article X of the mutual defense treaty between the United States and the Republic of China. That is what I stated on March 8; it is what I state in debate today. It does not express either approval or disapproval of the President's decision to give notice.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LEVIN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UN AMENDMENT NO. 229

Mr. CHURCH. Mr. President, I send to the desk an amendment to Senate Resolution 15 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Idaho (Mr. CHURCH) proposes an unprinted amendment numbered 229:
>
> On page 1, line 1, after the words "of the Senate that", insert a comman and the following: "from and after the date of adoption of this Resolution".

Mr. CHURCH. Mr. President, the purpose of this amendment is to make it explicitly clear that the action taken by the Senate in approving the original language of the Byrd resolution is meant to take effect prospectively. That would normally be the rule, and I personally believe that such was the intention of the proponents of this amendment—though, of course, on that particular matter they are best able to speak for themselves.

However, at the time that this language was offered as an amendment to the Taiwan Enabling Act, the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) made two statements which would indicate to me that such was his intention.

He said on page 4306 of the RECORD for March 8, 1979, the following:

> Mr. President, in the heat of debate last evening, some of the opponents attributed to this amendment provisions which are not incorporated in any way in the amendment. Let me state what the amendment does not do.
>
> First. The amendment does not express either approval or disapproval of the President's decision to give notice under article X of the Mutual Defense Treaty between the United States and the Republic of China.

Then on page 4307 of the RECORD of the same date he goes on to say:

> The purpose of this amendment is not to focus on Taiwan, but the purposes of this amendment is to focus on the broader problems of what happens to future treaties made by the United States, ratified by the Senate, with other nations of the world.

So, using the words as they appear in the RECORD at the time that this matter first came up, I assume that it has always been the intention of the proponents of this amendment that it should have a prospective effect. That, of course, is the normal rule. It would apply to resolutions or to statutes even though the words were not expressly included.

In this case, however, I believe that it is very important that we include the phrase expressly so as to remove any ambiguity or doubt regarding the intended effect of this sense of the Senate resolution.

Granted, as the Senator from Virginia has acknowledged, this is a sense of the Senate resolution; it has no binding effect upon the President. It is at most an expression of the opinion of the Senate relating to how the President should terminate mutual defense treaties.

Nevertheless, we have before us today for the first time the decision of the U.S. District Court for the District of Columbia in the case of Senator BARRY GOLDWATER, et al., plaintiffs, versus James Earl Carter, et al., defendants, civil action No. 78-2412, in which the court states the following: "Upon consideration of defendants' motion to dismiss or, in the alternative, for summary judgment, and of plaintiffs' cross-motion for summary judgment, the memoranda in support thereof, the oppositions thereto, the arguments of counsel in open court, the entire record herein, and for the reasons set forth in the court's memorandum of this same date, it is by the court this 6th day of June 1979,"—which happens to be the very day upon which we are considering this resolution—"ordered that defendants' motion to dismiss be, and hereby is, granted; and it is further ordered that plaintiffs' cross-motion for summary judgment be, and hereby is, denied; and it is further ordered that this action be, and hereby is dismissed."

In the opinion of the court, however, there is some language in the conclusion of the court's opinion which I believe calls for the adoption of the amendment that I have offered. I will read the language at this time. Actually, it is the concluding paragraph of the court's opinion. It reads as follows:

> The Court believes that the extraordinary remedy of injunction or the related power of a declaration should be exercised sparingly and only when the legislative branch has been given the opportunity of acting. At least three resolutions are presently pending in the Senate. For these reasons the Court believes that the resolution of the ultimate issue in this case should in the first instance be in the legislative forum. If the Congress approves the President's action, the issue presently before the Court would be moot. If the Senate or the Congress takes action, the result of which falls short of approving the President's termination effort, then the controversy will be ripe for a judicial declaration respecting the President's authority to act unilaterally.

Now, none of us are really in a position to know whether the language used by the court constitutes good law, nor are we in a position to know exactly what the court means in the opinion with the words "If the Senate * * * takes action, the result of which falls short of approving the President's termination effort, then the controversy will be ripe for a judicial declaration respecting the President's authority to act unilaterally."

Certainly, it could be argued that the Senate's adoption of the original Byrd language without a provision that relates that language to future actions constitutes an action, quoting the court's words:

> . . . the result of which falls short of approving the President's termination effort.

That might form the basis for another lawsuit reopening the question of whether the mutual defense treaty with Taiwan has been successfully terminated by virtue of the notice given by the President as required by the provisions, 1 year's notice given by the President as required by the provisions of that treaty.

All of this may not come to pass, and I would hope that it does not. But it seems to me to be very unwise for the Senate to take any unnecessary risk. We have an Asian policy that has been put into effect. Even the sponsors of the original Byrd amendment, the language of which has been adopted by vote of the Senate this afternoon, in their arguments on the Senate floor and in their testimony before the Senate committee, were at pains to say again and again that they were not taking issue with the normalization of relations with the Peking Government, but rather that they did not like the way the President acted unilaterally without sufficient consultation with the Senate in terminating the treaty of mutual defense with Taiwan.

Mr. President, all of us were sensitive to this issue. That is why we included provisions in the Taiwan Enabling Act, which I authored along with the distinguished Senator from New York (Mr. JAVITS), giving the Taiwanese people reassurances concerning their security in the future.

The United States, by virtue of the provisions in that act, has made a unilateral declaration of its own putting the Peking Government on notice that our new relationship with it depends upon our expectation that there will be no resort to force between the mainland and Taiwan in the resolution of that issue. Moreover, we have pledge to continue to furnish to the people on Taiwan sufficient weapons to assure their self-defense in the future.

As I recall, the principal debate on the Taiwan Enabling Act centered around the security provisions that were contained in that bill.

Having done all that, is it now really our intention to unwittingly provide a basis for undoing an Asian policy of momentous importance to this country, a policy that clearly serves our national interest and that has won the approval of most Americans? Do we really want to leave ourselves in a posture that might reopen a lawsuit attacking the very validity of the termination of the old mutual defense treaty between the United States and the Republic of China located on Taiwan?

I would hope that we would not be so indifferent to the possible consequences as not to make it expressly clear that this language is meant to address the future.

If we adopt this amendment then it eliminates any question, Mr. President, about judging the past. It eliminates any possible argument that it was meant to be that the adoption of this language constitutes some kind of repudiation or condemnation of the President's decision to terminate the Taiwan defense treaty in accordance with its provisions.

But if, on the other hand, we leave the matter ambiguous, then, given the language of the court's opinion, we may well invite another lawsuit to throw new uncertainties into the American position in Asia, to raise new questions and, indeed, risk a judicial determination which might be far different from the one that the Senate would itself want.

All of this can be avoided simply by doing what I have always thought—judging from the statements, the debate, and the testimony of those who appeared before the committee—was the intention of the authors of this proposal; namely, that it was not an attempt to reach back into the past, but rather an attempt to express the sense of the Senate as to the proper way the Senate felt mutual defense treaties should be terminated in the future.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. CHURCH. Yes.

Mr. GOLDWATER. Had you finished?

Mr. CHURCH. Yes, I am prepared to yield the floor if the Senator wishes the floor.

Mr. GOLDWATER. I thank the Senator. Mr. President, I do not have much.

I have said time and time again that my action in court, my speaking on this floor, and my testimony are not directed at scrubbing the recognition of the People's Republic of China. I think all of us recognize that that is gone, and I do not think that this action today has any bearing on it at all.

I think the language obviously applies to President Carter's type of action. His action was the stimulus that led to the introduction of the Byrd resolution and my resolution, and my entrance into court. We are certainly saying that no President should take unilateral action of the kind President Carter took in the future. Obviously, it is also a form of disapproval of his action, as a constitutional matter. If we want no President in the future to break a treaty unilaterally, then we are clearly suggesting it should not have been done in the past.

Frankly, I think everything we do in this body has more or less that same relationship to the future and the past, even though the past is gone and forgotten. So I see nothing in the Senator's amendment that will in any way change what I hope will be the court's interpretation of our action, because the court has said it is inclined to agree with the plaintiffs' assertion that the power to terminate the 1954 Mutual Defense Treaty is a shared power, to be exercised in the future by both political branches. He goes on to say:

> Based on the Court's consideration of these historical precedents, the Court believes the power to terminate treaties is a power shared by the political branches of this government, namely, the President and the Congress.

While I am not a lawyer, which sometimes give me great sources of pleasure, I can read into this an indication that the judge will, if we were to take the action which we take today, then make the kind of decision that either we can make here on the floor by the passage of law, or he can make the decision as it might relate to the Constitution.

So I do not find anything harsh in the Senator's approach to the language. I am not the author of this; it is the distinguished Senator from Virginia. But I would ask unanimous-consent, Mr. President, that the language involved in the court's decision be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[U.S. District Court for the District of Columbia, Civil Action No. 78-2412]

SENATOR BARRY GOLDWATER, ET AL., PLAINTIFFS, V. JAMES EARL CARTER, ET AL., DEFENDANTS.

ORDER

Upon consideration of defendants' motion to dismiss or, in the alternative, for summary judgment, and of plaintiffs' cross-motion for summary judgment, the memoranda in support thereof, the oppositions thereto, the arguments of counsel in open Court, the entire record herein, and for the reasons set forth in the Court's memorandum of this same date, it is by the Court this 6th day of June, 1979,

Ordered that defendants' motion to dismiss be, and hereby is, granted; and it is further

Ordered that plaintiffs' cross-motion for summary judgment be, and hereby is, denied; and it is further

Ordered that this action be, and hereby is, dismissed.

OLIVER GASCH,
Judge.

[U.S. District Court for the District of Columbia, Civil Action 78-2412]

SENATOR BARRY GOLDWATER, ET AL., PLAINTIFFS, V. JAMES EARL CARTER, ET AL., DEFENDANTS.

MEMORANDUM

This is a suit by eight members of the United States Senate, a former senator, and sixteen members of the House of Representatives seeking declaratory and injunctive relief against the notice given by defendant President Carter to the Republic of China ("ROC" or "Taiwan") to terminate the 1954 Mutual Defense Treaty Between the United States of America and the Republic of China. Plaintiffs seek to have this Court declare that the termination of the 1954 Treaty cannot be legally accomplished, nor can notice be given of intended termination, without the advice and consent of the United States Senate or the approval of both houses of Congress.

Plaintiffs contend that President Carter's unilateral notice of termination violated their legislative right to be consulted and to vote on the termination and also impaired the effectiveness of prior votes approving the 1954 Mutual Defense Treaty. They also claim that the President's action violated section 26 of the International Security Assistance Act of 1978.

Defendants have moved to dismiss or, in the alternative, for summary judgment contending that this case is nonjusticiable because it presents a political question, plaintiffs lack standing to sue, and the President possesses constitutional authority to give notice of the termination of the Mutual Defense Treaty. Plaintiffs have filed a cross-motion for summary judgment, asserting that the case is justiciable, plaintiffs have standing, and the President is without legal authority to terminate treaties without congressional participation.

I.

On December 15, 1978, President Carter announced that the United States would, as of January 1, 1979, recognize the Government of the People's Republic of China ("PRC") as the sole government of China.[1] The United States and the PRC agreed to exchange ambassadors and to establish embassies on March 1, 1979. This represented a significant change in the relationship between the two countries, because for almost thirty years after the establishment of the PRC on mainland China in 1949, the United States had no diplomatic ties or other regular relationship with it due to the United States' continued recognition of the Nationalist Government on Taiwan as the sole legitimate government of China.[2]

On December 2, 1954, a Mutual Defense Treaty Between the United States of America and the ROC was signed in Washington, D.C. The Senate gave its consent to ratification on February 9, 1955 and the treaty was ratified by President Eisenhower on February 11, 1955. The treaty entered into force on March 3, 1955.[3] The Mutual Defense Treaty obligates the United States, upon joint agreement with the ROC and "in accordance with its constitutional processes," to defend Taiwan and the Pescadores from an armed attack.[4] Article X of the treaty contains a termination clause, which states that the treaty "shall remain in force indefinitely," but continues: "Either party may terminate it one year after notice has been given to the other party." The issue posed by this lawsuit is thus not whether the United States has the right to terminate the defense treaty, a right expressly guaranteed by Article X, but the procedure by which that right of termination should be accomplished.

During the past decade, initial steps towards normalizing relations between the United States and the PRC were taken. The PRC has always maintained that recognition of two Chinas was unacceptable and that continuation of the Mutual Defense Treaty with Taiwan was incompatible with normalization of relations with PRC. On December 15, 1978, the leaders of the United States and the PRC announced their agreement to establish diplomatic relations as of January 1, 1979. On December 23, 1978, United States Deputy Secretary of State Warren Christopher, at the direction of the President, gave notice of termination of the Treaty to ROC authorities on Taiwan. According to this notice, the Mutual Defense Treaty will terminate on January 1, 1980.

Perhaps anticipating this change in United States policy, in the latter part of 1978 both houses of Congress passed the International Security Assistance Act of 1978, which was signed by President Carter on September 26, 1978.[5] Section 26 of the Act, popularly known as the Dole-Stone amendment, provides:

"(a) The Congress finds that—

"(1) the continued security and stability of East Asia is a matter of major strategic interest to the United States;

"(2) the United States and the Republic of China have for a period of twenty-four years been linked together by the Mutual Defense Treaty of 1954;

"(3) the Republic of China has during that twenty-four-year period faithfully and continually carried out its duties and obligations under that treaty; and

"(4) it is the responsibility of the Senate to give its advice and consent to treaties entered into by the United States.

"(b) It is the sense of the Congress that there should be prior consultation between the Congress and the executive branch on any proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954."

22 U.S.C.A. § 2151 note (1979). Defendants maintain that consultations with members of both Houses occurred both prior and subsequent to the enactment of this act and that these consultations, which concerned negotiations with the PRC generally and the necessity for terminating the Mutual Defense Treaty, fully complied with the intent of the Dole-Stone amendment.[6] For reasons subsequently set forth, the Court does not reach the question whether the contacts mentioned amount to consultation.

II.

The issue with which the Court is confronted is whether the President has uni-

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Footnotes at end of article.

lateral authority to terminate a mutual defense treaty with a friendly nation which has not violated any of the provisions of the treaty. Reference to the historical precedents since the beginnings of this nation discloses terminations of treaties in more than fifty instances.[7] Some have been terminated by legislative action; some have been terminated by the President with the concurrence of both houses of Congress; some have been terminated by the President with senatorial consent; and some have been terminated by the President acting alone, but these Presidential terminations have been in situations in which it might be inferred that the Congress had no reason to question Presidential action, such as the termination by President Coolidge of the Mexican Smuggling Treaty, which had been found to be completely ineffectual. Based on the Court's consideration of these historical precedents, the Court believes the power to terminate treaties is a power shared by the political branches of this government, namely, the President and the Congress. In this instance, however, since the Congress has not yet acted on the question of treaty termination, a serious question arises concerning the standing of these congressional plaintiffs to seek a judicial injunction or declaration respecting the power of the executive.

An increasing number of senators and congressmen have invoked the jurisdiction of the courts to challenge executive actions and policies.[8] Because of their political overtones, these cases present difficult jurisdictional questions. In a number of cases the United States Court of Appeals for the District of Columbia Circuit has considered the interrelationship between standing to sue and the political question doctrine and expressed its view that the standing issue should be resolved first.[9] Thus, at the outset, the Court must consider whether plaintiffs have standing to obtain a judicial declaration that the President lacks authority unilaterally to terminate the Mutual Defense Treaty with Taiwan.

A. Standing

There are no special standards to be employed in analyzing congressional standing questions. *Harrington v. Bush*, 553 F.2d 190 204 (D.C. Cir. 1977). Like all plaintiffs, a legislator must show that he has suffered an injury in fact; that the interests he asserts are within the zone protected by the statute of constitutional provision in question; that the injury resulted from the challenged illegal action of defendants; and that the injury be capable of being redressed by a decision in his favor. *Id.* at 205 n. 68.

Perhaps the most important decision concerning congressional standing is *Kennedy v. Sampson*, 511 F.2d 430 (D.C. Cir. 1974). In that case the Court found that Senator Kennedy had standing to seek a declaratory judgment that a bill for which he had voted had become law despite a presidential pocket veto. The Court held that to the extent the powers of Congress are impaired, so too is the power of each congressman, because his office confers the right to participate in the exercise of the powers of the institution. *Id.* at 435–36; *see Trible v. Brown*, No. 79–1229 (4th Cir. Apr. 26, 1979) (oral opinion).

Plaintiffs Thurmond and Curtis, who voted to ratify the 1954 Mutual Defense Treaty, rely on *Kennedy* to support their claim that the President's action impaired the effectiveness of their prior votes approving the treaty. In considering the analogous claim of legislators who alleged that they had an interest in ensuring enforcement of laws for which they voted, however, the United States Court of Appeals for the Fourth Circuit held that once a bill has become law the legislators' interests are indistinguishable from those of any citizen and legislators "cannot claim dilution of their legislative voting power because the legislation they favored became law." *Harrington v. Schlesinger*, 528 F.2d 455, 459 (4th Cir. 1975).

All plaintiffs with the exception of former Senator Curtis claim that the unilateral notice of termination impaired their legislative right to be consulted and to vote on treaty termination. Several courts have suggested that the availabilty of alternative political remedies to redress executive action, such as impeachment, denial of funds, or a vote on pending legislation, is evidence that there has been no injury in fact to congressional rights or powers.[10] For example, in *Public Citizen v. Sampson*, 379 F. Supp. 662 (D.D.C. 1974), *aff'd mem.*, 515 F.2d 1018 (D.C. Cir. 1975), a group of congressmen sued to overturn an agency regulation granting inventors exclusive rights to patents developed under federal research contracts. This regulation was promulgated by the General Services Administration ("GSA") without congressional approval, and the congressmen claimed that it infringed on their right to participate in the disposal of government-owned property. The Court found no injury in fact and denied standing because promulgation of the regulation could not deprive Congress of its uncontested right to dispose of government property by limiting the contractual powers of the GSA. 379 F. Supp. at 666–67.

The availability of alternative means to remedy an allegedly unconstitutional action was recently considered in *Reuss v. Balles*, 584 F.2d 461 (D.C. Cir.), *cert. denied*, 99 S. Ct. 598 (1978). In that case a congressman sought declaratory and injunctive relief from the allegedly unconstitutional composition of the Federal Open Market Committee ("FOMC") of the Federal Reserve System. In rejecting the theory of legislator standing advanced by plaintiff, the Court noted that the congressman was not without the means of challenging the allegedly unconstitutional composition of the FOMC because he could introduce a bill requiring all FOMC members to be presidential appointees. *Id.* at 468. The Court stated: "This circumstance, while certainly not fatal to [plaintiff's] standing claim, does illustrate that his actual controversy lies, or may lie, with his fellow legislators; no supposed impairment of his legislative functions is due, in any part, to the actions or omissions of the named defendants." *Id.*

This analysis of congressional standing is based on a consideration of prudential and functional concerns, similar to those described by the Supreme Court in *Baker v. Carr*, 369 U.S. 186 (1962), the leading statement of the political question doctrine that reflects the deference to be accorded a coordinate branch of government under our system of separation of powers.[11] A suit such as this by a group of individual legislators seeking to vindicate derivative constitutional rights bypasses the political arena which should be the primary and usual forum in which such views are expressed.[12]

At least three resolutions dealing with the treaty termination power and the notice of termination given with respect to the 1954 Mutual Defense Treaty are presently pending before the United States Senate.[13] [One is the Byrd Resolution.] If the Senate as a whole were to take action approving the termination of the Mutual Defense Treaty, the issues raised by this suit would be moot because the President's action would no longer be unilateral.[14] If the Senate or the Congress rejected the President's notice of termination or asserted a right to participate in the treaty termination process, the Court would be confronted by a clash of the political branches in a posture suitable for judicial review.

The situation then would be comparable to that presented in *Kennedy v. Sampson*, in which congressional power had been exercised and was about to be frustrated by a pocket veto. Here, however, plaintiffs have not established the necessary injury required for standing. Either the Senate or the Congress as a whole still can utilize the legislative process to assert its right and demonstrate that it possesses a shared power with the President to act in terminating a treaty. Although the Court is inclined to agree with plaintiffs' assertion that the power to terminate the 1954 Mutual Defense Treaty is a shared power to be exercised by the action of both political branches, at the present time there is no indication that the Congress as a whole intends to assert its prerogative to act. Under these circumstances, the President's notice of termination does not constitute injury. In the absence of any injury to the institution as a whole, the individual legislators here cannot claim a derivative injury.

B. Cause of action under Pub. L. No. 95–384

Plaintiffs also have alleged that the statutory rights conferred by section 26 of the International Security Assistance Act of 1978, Pub. L. No. 95–384, have been violated because there was no prior consultation between the Congress and the executive branch prior to the notice of termination of the Mutual Defense Treaty. Defendants dispute this factual allegation and have submitted an affidavit detailing the consultation that occurred after enactment.[15]

The final language of the Dole-Stone amendment is general and nonmandatory in nature.[16] This was substituted for the apparently mandatory language originally proposed by Senators Dole and Stone.[17] Because section 26 apparently does not set forth a mandatory or binding duty to consult and because the Court could not effectively resolve the question of how much consultation would meet its terms if it were binding,[18] plaintiffs, in alleging injury under this section, have failed to state a claim upon which relief can be granted.

CONCLUSION

Our Constitution provides for a government of checks and balances. Legislative power is vested in the Congress. Among other powers the President is the "sole organ of the federal government in the field of international relations."[19] In Article II, section 3 he is charged with the responsibility of faithfully executing the laws which under Article VI specifically include treaties.

The Court believes that the extraordinary remedy of injunction or the related power of a declaration should be exercised sparingly and only when the legislative branch has been given the opportunity of acting. At least three resolutions are presently pending in the Senate. For these reasons the Court believes that the resolution of the ultimate issue in this case should in the first instance be in the legislative forum. If the Congress approves the President's action, the issue presently before the Court would be moot. If the Senate or the Congress takes action, the result of which falls short of approving the President's termination effort, then the controversy will be ripe for a judicial declaration respecting the President's authority to act unilaterally. Until then, the complaint is dismissed without prejudice.

OLIVER GASCH,
Judge.

FOOTNOTES

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[1] *See* Declaration of Warren Christopher in Support of Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment, ¶ 4.

[2] For background information on the historical relationship between the United States and the PRC and events leading up to the present diplomatic initiatives, *see generally* Scheffer, *The Law of Treaty Termination as Applied to United States De-Recognition of the Republic of China*, 19 Harv. Int'l L. J. 931 (1978).

[5] Pub L. No. 95–384, § 26, 92 Stat. 746 (1978).

[3] 6 U.S.T. 433, T.I.A.S. No 3178

[4] *Id.* Art. V.

[6] *See* Declaration of Richard Holbrooke in Support of Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment, ¶¶ 2–3.

[7] *See generally Resolution Concerning Mutual Defense Treaties: Hearings on Sen. Res. 15 Before the Committee on Foreign Relations*, 96th Cong., 1st Sess. 157 (1979) (history of treaty terminations by the United States prepared by the Dept. of State); Emerson, *The Legislative Role in Treaty Abrogation*, 5 *J. Legis.* 46, 52–64 (1978); Scheffer, *supra* note 2, at 979–985, 993, 995.

[8] *See*, e.g., *Edwards* v. *Carter*, 580 F. 2d 1055 (D.C. Cir.), *cert. denied*, 436 U.S. 907 (1978); *Metcalf* v. *National Petroleum Council*, 553 F.2d 176 (D.C. Cir. 1977): *Dole* v. *Carter*, 444 F. Supp. 1065 (D. Kan.), *motion for injunction pending appeal denied*, 569 F.2d 1109 (10th Cir. 1977).

[9] *Reuss* v. *Balles*, 584 F.2d 461, 465 n. 14 (D.C. Cir.), *cert. denied*, 99 S. Ct. 598 (1978); *American Jewish Congress* v. *Vance*, 575 F.2d 939, 943–44 (D.C. Cir. 1978).

[10] *See, e.g., Harrington* v. *Schlesinger*, 528 F.2d 455, 459 (4th Cir. 1975); *Metcalf* v. *National Petroleum Council*, 407 F. Supp. 257, 260 (D.D.C. 1976), *aff'd on other grounds*, 553 F.2d 176 (D.C. Cir. 1977).

[11] *See* Henkin, *Is There a "Political Question" Doctrine?*, 85 Yale L.J. 597 (1976).

[12] *See* Note, *Congressional Access to Federal Courts*, 90 Harv. L. Rev. 1632, 1649 (1977).

[13] Senate Resolution 10, which was introduced by Senator Dole on January 15, 1979, and referred to the Foreign Relations Committee, resolves: "That the Senate disapproves of the action of the President of the United States in sending notice of termination of the Mutual Defense Treaty with the Republic of China." 125 Cong. Rec. S209 (Jan. 15, 1979). Senate Resolution 15, which was introduced by Senator Harry F. Byrd, states: "That it is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation." *Id.* S220 (Jan. 18, 1979). Hearings on this resolution were conducted before the Committee on Foreign Relations on April 9–11 and a report was issued on May 7, 1979. S. Rep. No. 96–119, 96th Cong., 1st Sess. (1979). Senate Concurrent Resolution 2, which is subtitled "To uphold the separation of powers between the executive and legislative branches of Government in the termination of treaties," was introduced by Senator Goldwater and referred to the Committee on Foreign Relations. 125 Cong. Rec. S219 (Jan. 15, 1979).

[14] On April 10, 1979 the President signed the Taiwan Relations Act, which addresses major aspects of United States-Taiwan relations and contains a security assurance expressing continued United States concern in the absence of the Mutual Defense Treaty. Pub. L. No. 96–8, § 2(b) (Apr. 10, 1979). Defendants suggest that this Act can be interpreted as legislative ratification of the notice of termination. During debate on the proposed legislation, however, several members of the Foreign Relations Committee, including the majority and minority floor managers of the bill, stated that nothing in the bill constituted a determination of the legal and constitutional issue raised by the President's notice of termination. See 125 Cong. Rec. S2124, S2126, S2130, S2134, S2151 (March 7, 1979) (statements of Senators Javits, Glenn, Baker, Hayakawa, Helms, and Stone).

[15] Declaration of Richard Holbrooke in Support of Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment; *see* Defendants' Answer to Plaintiffs' Interrogatory No. 7.

[16] "It is the sense of the Senate that there should be prior consultation between the Congress and the executive branch on any proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954." 22 U.S.C.A. § 2151 note (1979).

[17] The consultation language proposed by Senators Dole and Stone stated: "It is the sense of the Senate that any proposed policy changes affecting the continuation in force of the United States-Republic of China Mutual Defense Treaty shall be a matter for prior consultation with the Senate." *See* 124 Cong. Rec. S11727 (July 25, 1978).

[18] *See Greater Tampa Chamber of Commerce* v. *Adams*, C.A. No. 78–0517, slip op. at 5–6 (D.D.C. Nov. 29, 1978), *appeal docketed*, No. 79–1123 (D.C. Cir. Dec. 21, 1978).

[19] *United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304, 320 (1936).

Mr. GOLDWATER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, let me read the resolution as it would stand if the words were incorporated that the Senator from Idaho suggests:

> Resolved, that it is the sense of the Senate that approval of the United States Senate, from and after the adoption of this resolution, is required to terminate any mutual defense treaty between the United States and another nation.

Is that the way the proposal would read?

Mr. CHURCH. It is a little different. The phrase goes at a little different place in the sentence. Let me read it to the Senator. It would read as follows:

> *Resolved*, that it is the sense of the Senate that, from and after the date of adoption of this resolution, the approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation.

Mr. HARRY F. BYRD, JR. I wonder if we might suggest the absence of a quorum and have that written out, so that the Senator from Virginia might have it.

Mr. CHURCH. Yes.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, if the amendment I have proposed were to be agreed to, the language of the resolution as so amended would read as follows:

> *Resolved*, that it is the sense of the Senate that from and after the date of the adoption of this resolution, the approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation.

I would have preferred the comprehensive language that the committee had recommended, dealing with the subject of the termination of all types of treaties and setting out the different circumstances and conditions that would apply in different cases. But the Senate has clearly indicated by its vote, a vote of 59 to 35, that it prefers to deal with mutual defense treaties in the brief declaratory fashion originally proposed by the able Senator from Virginia and, of course, I am cognizant of the decision and of the clear indication of the Senate's preference in this regard.

If the amendment I have suggested were to be agreed upon, it seems to me that it would do no violence to what the proponents of the Byrd language have been saying all along. As I have understood them, they have been saying, "We are not attempting to undo the past, we are attempting to establish a guideline for Presidents acting in the future. We hereby give notice," it seems to me that they are saying, "that from June 6, 1979, forward, it is the sense of the Senate that no President should terminate a mutual defense treaty without the concurrence of the Senate."

I contend that if this is the purpose of the proponents, as I believe it to be, then we should say so expressly by adopting and including in the resolution an effective date.

I am especially impelled to ask the Senate to make this change, because of the language contained in the decision of the court. In the case of Goldwater against Carter, which was handed down by the U.S. District Court for the District of Columbia, the court states in its conclusion the following:

> For these reasons the Court believes that the resolution of the ultimate issue in this case should in first instance be in the legislative forum. If the Congress approves the President's action, the issue presently before the Court would be moot. If the Senate or the Congress takes action, the result of which falls short of approving the President's termination effort, then the controversy will be ripe for a judicial declaration respecting the President's authority to act unilaterally.

Mr. President, we cannot ignore the language of this court's opinion. The judge has already indicated his own view regarding the action taken with reference to the Mutual Defense Treaty that existed between the United States and Taiwan.

If we do not make it clear today that this sense of the Senate resolution relates to the future and is not an attempt to pass judgment upon the past—if we do not make it clear that this resolution does not extend to all interested parties an open invitation to renew the litigation with results none of us can now foretell—then what seems on its face to be an innocent sense of the Senate resolution becomes in reality something quite different.

It could be construed to be an action by the Senate, the result of which falls short of approving the President's termination effort with reference to the notice that the treaty that existed between the United States and Taiwan will be terminated in accordance with its terms.

Now, my argument, Mr. President, is that the Senate ought not take that risk. There is no need to take it. There is no one here that can positively assure us that unintended but mischievous results would not ensue unless we take the precaution of making it expressly clear that this sense of the Senate resolution is intended to apply to future actions and is not intended to undo actions by the President that have already taken place, actions upon which we positioned an entirely new American policy in Asia.

I do not think any of us really want to start kicking at the foundations of that new policy or attempt to cause it to come crashing down, particularly as the result of decisions of courts over which we have no control and decisions we cannot now predict; for foreign policy is a political instrument of our Government and ought to be determined by the executive and legislative branches.

Therefore, Mr. President, I think we would be well advised to include in this resolution the express provision that its intended effect relates to the future and that its effective date is June 6, 1979.

I am hopeful, Mr. President, that the principal sponsor of this sense-of-the-Senate resolution will be amenable to such an amendment. He understands that at the moment I have promised the distinguished ranking member of the committee the Republican member (Mr. JAVITS), that no action will be taken prior to his return to the Chamber, which is expected within the next few minutes.

But I do hope that when he does return, it might be possible for the Senator from Virginia to accept this modification of his sense-of-the-Senate resolution.

Mr. HARRY F. BYRD, JR. May I say to the distinguished Senator from Idaho, as I understand it, he would prefer to delay for a short time rather than make decisions now and proceed now. Is that correct?

Mr. CHURCH. In deference to the minority and also because of a commitment I made to Senator JAVITS at the time he had to leave to attend the funeral I am constrained to wait until he returns before reaching a decision in which he should properly share.

But I would expect that would not delay us very long. His plane is supposed to have already returned and within a matter of a few minutes he should be back on the Senate floor.

Mr. HARRY F. BYRD, JR. I thank the Senator.

With that in mind, suppose I suggest the absence of a quorum

Mr. CHURCH. I would appreciate it if the Senator would do so.

The PRESIDING OFFICER (Mr. BAUCUS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT, 1979

Mr. STENNIS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 429.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 429) entitled "An Act to authorize appropriations for fiscal year 1979, in addition to amounts previously authorized for procurement of aircraft, missiles, naval vessels, and other weapons, and for research, development, test, and evaluation for the Armed Forces, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1979".

TITLE I—PROCUREMENT

SEC. 101. In addition to the funds authorized to be appropriated under title I of the Department of Defense Appropriation Authorization Act, 1979, funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Air Force and the Navy for procurement of aircraft, missiles, and naval vessels, as authorized by law, in amounts as follows:

(1) For aircraft: for the Air Force, $40,000,000.

(2) For missiles: for the Navy, $201,600,000.

(3) For naval vessels: for the Navy, $725,700,000.

SEC. 102. There is authorized to be appropriated for fiscal year 1979 $85,100,000 for contribution by the United States as its share of the cost for such fiscal year of the acquisition by the North Atlantic Treaty Organization of the Airborne Early Warning and Control System, as such system is specified in the Multilateral Memorandum of Understanding Between North Atlantic Treaty Organization (NATO) Ministers of Defense on the NATO E-3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978.

SEC. 103. (a) During fiscal year 1979, the Secretary of Defense, in carrying out the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E-3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978, may—

(1) waive reimbursement for the cost of work performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office for—

(A) auditing;

(B) quality assurance;

(C) codification;

(D) inspection;

(E) contract administration;

(F) acceptance testing;

(G) certification services; and

(H) planning, programing, and management services;

(2) waive any surcharge for administrative services otherwise chargeable; and

(3) in connection with the NATO E-3A Cooperative Programme for fiscal year 1979, assume contingent liability for—

(A) identifiable taxes, customs duties, and other charges levied within the United States on the program; and

(B) the unfunded termination liability of the United States to any contractor whose contract is terminated.

(b) Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. In addition to the funds authorized to be appropriated under title II of the Department of Defense Appropriation Act, 1979, funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Army and the Air Force for research, development, test, and evaluation, as authorized by law, in amounts as follows:

(1) For the Army, $18,700,000.

(2) For the Air Force, $250,800,000.

SEC. 202. (a) It is the sense of the Congress that maintaining a survivable land-based intercontinental ballistic missile system is vital to the security of the United States and that development of a new basing mode for land-based intercontinental ballistic missiles is necessary to assure the survivability of the land-based system. To this end, the development of the MX missile, together with a new basing mode for such missile, should proceed so as to achieve Initial Operational Capability (IOC) for both such missile and such basing mode at the earliest practicable date.

(b) In addition, it is the sense of the Congress that the basing mode for the MX missile should be restricted to location on the least productive land available that is suitable for such purpose.

(c) In accordance with the sense of Congress expressed in subsection (a), the Secretary of Defense shall proceed immediately with full scale engineering development of the missile basing mode known as the Multiple Protective Structure (MPS) system concurrently with full scale engineering development of the MX missile, unless and until the Secretary of Defense certifies to the Congress that an alternative basing mode is militarily or technologically superior to, and is more cost effective than, the MPS system or the President informs the Congress that in his view the Multiple Protective Structure (MPS) system is not consistent with United States national security interests.

(d) Nothing in this section shall be construed to prohibit or restrict the study of alternative basing modes for land-based intercontinental ballistic missiles.

Amend the title so as to read: "An Act to authorize appropriations for fiscal year 1979, in addition to amounts previously authorized, for procurement of aircraft, missiles, and naval vessels and for research, development, test, and evaluation for the Armed Forces, and for other purposes.".

Mr. STENNIS. Mr. President, I move that the Senate disagree to the amendments of the House, agree to the request of the House for a conference on the disagreeing votes of the two Houses, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Messrs. STENNIS, JACKSON, CANNON, HARRY F. BYRD, JR., NUNN, CULVER, TOWER, THURMOND, GOLDWATER, and WARNER conferees on the part of the Senate.

Mr. STENNIS. Mr. President, there is no firm agreement as yet as to a meeting of these conferees, but it has been arranged tentatively that we will meet as early as Wednesday of next week.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARINE PROTECTION RESEARCH AND SANCTUARIES ACT—TITLE II AUTHORIZATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration, for not to exceed 1 minute, of Calendar Order 141, S. 1123.

Mr. BAKER. Mr. President, reserving the right to object, I will not object; the reservation is for the purpose of stating to the distinguished majority leader that that item is cleared on our calendar, and we have no objection to proceeding to its consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1123) to amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such act for fiscal year 1980, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Represenaatives of the United States of America in Congress assembled, That section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 as amended (33 U.S.C. 1444), is further amended by (1) deleting the word "and" after the date "1977"; (2) deleting the period after the date "1978" and inserting in lieu thereof a comma; and (3) adding at the end thereof the following: "and not to exceed $9,500,000 for the fiscal year 1980.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER LIMITING TIME FOR RECOGNITION OF LEADERSHIP UNDER THE STANDING ORDER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time under the standing order for recognition of the two leaders on tomorrow after the prayer be reduced to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Then would not the orders for the recognition of Mr. MUSKIE, Mr. DOMENICI, and two other Senators immediately begin? Would not the time under the first order begin immediately?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

EXTENSION OF TIME FOR THE COMMITTEE ON GOVERNMENTAL AFFAIRS TO CONSIDER NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs have an extension of time until June 22, 1979, to consider the following nominations which have previously been sequentially referred to that committee: Mary Bass, Inspector General, Department of Commerce; Charles L. Dempsey, Inspector General, Department of Housing and Urban Development; Eldon D. Taylor, Inspector General, National Aeronautics and Space Administration; Paul R. Boucher, Inspector General, Small Business Administration; Thomas F. McBride, Inspector General, Department of Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF A MEASURE ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed for not more than 1 minute to the consideration of Calendar Order No. 175.

Mr. BAKER. Mr. President, may I reserve only long enough to advise the majority leader, as I had previously done privately, that that item is cleared on our Calendar and we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT—TITLE I AUTHORIZATIONS

The bill (S. 1148) to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 111 of the Marine Protection, Research, and Sanctuaries Act is amended by striking "and" following "1977," and inserting "not to exceed $1,232,000 for each of fiscal year 1980, fiscal year 1981, and fiscal year 1982," immediately after "1978,".

SEC. 2. Title II of the Marine Protection, Research, and Sanctuaries Act is amended by adding at the end thereof the following new section:

"SEC. 205. The Administrator of the Environmental Protection Agency is authorized to conduct a study to assist the city of New York in evaluating the technological options available for the removal of heavy metals and other toxic organic materials from the sewage sludge of the city of New York. The study shall also examine options available to reduce the amount of such pollutants entering the sewage system. The study is to be completed by July 1, 1980.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS TOMORROW UNTIL 10 A.M. ON MONDAY, JUNE 11, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business tomorrow, it stand in recess until the hour of 10 a.m. on Monday, and that might be revised until a later hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 428 ON MONDAY, JUNE 11, 1979

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that no later than 1 p.m. on Monday, the Senate proceed to the consideration of Calendar Order No. 212. That is the DOD authorization bill.

Mr. BAKER. Mr. President, reserving the right to object, I shall not object. As the distinguished majority leader knows, we negotiated on that for a couple of days and this is the best arrangement we could arrive at. I think it is a good arrangement and I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the disposition of Calendar Order No. 212, the DOD authorization bill, on Monday, the Senate proceed to the consideration of Calendar Order No. 161, a bill to extend the authorization for appropriations for the Endangered Species Act of 1973.

Mr. BAKER. Reserving the right to object, Mr. President, I have agreement as well on that. There is an amendment, but I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 721 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no later than 10:30 a.m. tomorrow the Senate proceed to the consideration of Calendar Order No. 179 on the Commission on Civil Rights.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

RESOLUTION CONCERNING MUTUAL DEFENSE TREATIES

The Senate continued with the consideration of Senate Resolution 15.

Mr. CHURCH. Mr. President, I think we are ready now to proceed toward a final resolution of this question. We have been waiting for the actual wording of the notice of termination by which the President, acting through the Deputy Secretary of State, Warren Christopher, undertook to terminate the mutual defense treaty between the United States and Taiwan.

We now have received the actual wording of that notice of termination and it reads as follows:

> Notice of termination, December 23, 1978.
>
> On behalf of the United States of America and pursuant to article X of the Mutual Defense Treaty between the United States of America and the Republic of China signed at Washington, December 2, 1954, I hereby give notice of the termination of that treaty. This notice shall be effective on and as of January 1, 1979, and under the terms of article X of the treaty, the treaty will terminate 1 year after that date.
>
> Signed, Warren Christopher.

Mr. JAVITS. Will the Senator yield?

Mr. CHURCH. I am happy to yield.

Mr. JAVITS. Mr. President, this, we are advised, is the only act the President will take, and as far as the United States is concerned this treaty is terminated. No further action is required.

On January 1, 1980, no further action will be taken or called for under that treaty. But the act of giving the notice is the final act required of the United States under article X.

Mr. President, on December 23, the date of this notice, it was actually delivered to the Embassy of Taiwan in Washington and to the governing authorities on Taiwan in Taipei.

Second, I think that we would want to also deal with that when the prospective amendment which comes up here shortly will be considered.

I will reserve other remarks I have on that subject until that time.

Mr. CHURCH. Mr. President, I understand that the distinguished Senator from Virginia is amenable to the modification of his substitute for the committee language that I have previously suggested; namely, to add to his substitute the phrase "from and after the date of the adoption of this resolution." So that in its amended form it would read as follows:

> Resolved, that it is the sense of the Senate that from and after the date of the adoption of this resolution, approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation.

It is necessary to secure the unanimous consent of the Senate in order to achieve this objective.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. CHURCH. I am happy to yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I have no objection to this proposal. It does not change the purpose or the meaning or the effect of the resolution, or the amendment to the resolution which the Senate this afternoon adopted by a vote of 59 to 35.

I have no objection to the resolution being expressly made prospective. Under article X of the Mutual Defense Treaty between the United States and the Republic of China further action seems required to terminate the treaty. The notice of termination has been given. The notice of termination has been given but the treaty is still in effect.

I have stated from the beginning, going back to January 15 when I first introduced the resolution, and stating again during the debate on April 7, that the amendment which the Senate adopted today does not express either approval or disapproval of the President's decision to give notice under article X of the Mutual Defense Treaty between the United States and the Republic of China.

I stated at the same time and I state again now, it does not prevent the President from expressing the intent to abrogate a treaty. It does not take from the President any power he now has.

It does, however, express the view of the Senate that under the Constitution the President cannot unilaterally nullify a treaty. That is what I have been fighting for since January 15.

The modification proposed by the chairman of the Foreign Relations Committee does not in any way reduce or modify the meaning and the purpose of the resolution which I introduced on the first day of this Congress.

So I have no objection to adding the words proposed by the Senator from Idaho.

If he wishes to propound a unanimous-consent request that the amendment which has just been approved by the Senate be modified along the line I have indicated, then I would then interpose no objection to that.

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I have one thing I would like to ask a question about.

We have been arguing here all afternoon about a possible amendment to the Byrd resolution. Now I have in my hands a notice of a termination dated December 23, 1978.

Is this going to be suggested as an amendment to the Byrd resolution?

Mr. CHURCH. No.

Mr. GOLDWATER. This is an entirely separate piece of business?

Mr. JAVITS. Will the Senator yield?

Mr. GOLDWATER. I will yield for a question.

Mr. CHURCH. It is not a part.

Mr. JAVITS. It is not a separate piece of business at all, but it is not a part of the amendment being suggested, as Senator CHURCH says, and for this reason.

The Senator is providing in this resolution, which he is not disturbing—he is giving an effective date, which is proper—but the word used there is "termination"; and perhaps a court is going to have to decide what is a termination. Has that termination taken place, or will it take place prospectively?

We might as well be frank about it and face it. This is a question which is capable of all kinds of international mischief. We have recognized the People's Republic of China. We are not around here to create massive international incidents, I hope.

Therefore, while I cannot affect what the Senate has done, and obviously it is the will of the Senate, I certainly can cast any light that is possible in connection with what the Senate has in mind. After all, this is a twilight question, this question upon which we have adopted this sense of the Senate resolution, in our Constitution.

Senator HARRY F. BYRD, JR., may think it is open and closed under the Constitution. I do not. But I have said, and I say again, that when, as, and if the Senate takes a position upon this matter that changes a constitutional lacunae, that is where something really is not dealt with. We cannot make the Constitution; we cannot change it; we cannot rewrite it. But we can indicate what we think it means, in aid, where a court turns to us and says, "This should have a legislative solution instead of a judicial solution."

So what I am trying to do is at least to map out the ground upon which we stand.

Senators may argue that a notice of the kind now in the RECORD is not a termination. I may argue that it is. That remains for the future, whether it will or will not affect the Taiwan situation. I am perfectly willing to leave that battle for when it occurs, but I do not want to leave it without making a record here as to what at least some of us have in mind as to what is and is not a termination.

I want to make it clear again that I will not object to this procedure, having an opportunity to make this clear, that there is no further notice to be given; that this is it; and that from January 1, 1980, the United States no longer will be bound by this treaty and will not consider the other party bound by this treaty. That, in my opinion, is a termination.

Mr. GOLDWATER. Mr. President, so that I might make the record again, for the umpteenth time, perfectly clear, it was never my intent in the suit I filed, it never has been my intent in the resolutions I have submitted and supported, that we would do anything to affect the recognition that has been given to the People's Republic of China. Personally, I do not think there is much we can do about it.

The question I have asked the courts to decide was whether the President can do this in the future—this President, the next President, or any President. In the answer that came down today from the court I asked to hear the case, he said, in effect, what the Senator from New York has just said: that if we took legislative action on the floor of the Senate indicating that we recognized responsibility in it, he might be persuaded to hear the case. That is as far as it has gone.

I recall that the Senator from New York made the forecast that the judge would not hear the case because he said it would be ruled political. There is nothing new in this case. It has been going on for the 202 years of the history of our country.

However, I want to make something clear, Mr. President, inasmuch as I am now convinced that this agreement notice sent down by Warren Christopher, dated December 23, 1978, will not become part of the resolution we have been debating all day.

In agreeing that the Byrd language applies to treaties terminated in the future, I note that President Carter has not yet terminated the Taiwan treaty.

The Foreign Relations Committee report on the Taiwan Relations Act, which we passed earlier this year, states:

> On January 1, 1979, the President notified the Republic of China that, pursuant to article X of the treaty, the United States intended to terminate the treaty as of January 1, 1986.

I repeat: 1980. The report then reproduces article X which provides as follows:

> Article X. This treaty shall remain in force indefinitely. Either party may terminate it one year after notice has been given to the other party.

I might inject here that notice to the other party was given on December 23 of last year. So, 1 year from January 1 of this year, this treaty will have been terminated. But not now. President Carter's notice was made effective on January 1, 1979. Therefore, the 1-year period does not expire until January 1 of 1980. This means that the Taiwan Treaty is still in effect today. It will be in effect tomorrow. In fact, it still will be in effect, under President Carter's own concept, until January 1 of 1980.

Since the Taiwan Treaty has not yet been terminated, the Byrd amendment, which was just adopted as a sense of the Senate resolution, clearly applies to the proposed termination of that treaty. The Byrd language covers any treaty terminated in the future. That means the Taiwan Treaty as well as any other treaty currently in force. Regardless of any individual Senator's interpretation, the language of the resolution, in my opinion, speaks for itself.

I wanted to make that clear in the RECORD, because that treaty still stands in effect. It has not been terminated, and it cannot be and will not be terminated, regardless of what we do or say, regardless of the Byrd amendment, until January 1, 1980.

I am not going to raise all the questions that pop into my mind as to the propriety of what the President has done. That is beside the point; it is history; and if there is going to be a decision on it, it will be decided in the courts. I hope the courts will decide this, because I look at it as a very important question.

I merely wanted to make it abundantly clear, first, that this statement of Warren Christopher's, dated December 23, has nothing to do with the resolution or the amendment we adopted today; and, second, that this treaty still is in effect, although we recognize that the termination proceedings have been set in motion and it will end on January 1 of 1980, regardless of what we do in this Chamber. That is all I have to say.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. JAVITS. I have the floor, and I am not quite finished.

Mr. GOLDWATER. No, the Senator from New York does not have the floor.

Mr. JAVITS. Who has the floor?

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. GOLDWATER. How did he get it?

Mr. JAVITS. I yielded to the Senator from Arizona.

Mr. GOLDWATER. No, the Senator did not. I asked the Chair to recognize me, and the Chair recognized the Senator from Arizona.

The PRESIDING OFFICER. I think the Senator is correct. He was recognized, and he yielded to the Senator from New York.

Mr. JAVITS. A parliamentary inquiry, Mr. President. I was on my feet.

Mr. GOLDWATER. I did not yield the floor.

Mr. JAVITS. Will the Senator allow me to get this question settled?

Mr. GOLDWATER. I am not going to argue about it.

Mr. JAVITS. With all respect, the Chair is in error. I was on my feet. It is I who was dealing with the notice and was laying these facts before the Senate. The Senator from Arizona asked me to yield, and I yielded.

Mr. GOLDWATER. No, no, that is not right. I do not care.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, have I been recognized?

The PRESIDING OFFICER. The Senator is recognized.

Mr. WARNER. Mr. President, I am a cosponsor of Senate Resolution 15 with my distinguished senior colleague from Virginia. I have been here throughout the day, working with the distinguished chairman of the Foreign Relations Committee; and I concur in what I understand to be the procedure by which we will proceed to address the business before the Senate at this time.

I join Mr. HARRY F. BYRD, JR., in stating my satisfaction with the work of the Senate today and my approval of the resolution, as amended, which is now before the Senate.

I believe it was particularly reasonable to make the amendment prospective in application so that there can be no doubt that Senate approval must be sought if the President decides after December 31, 1979, to seek termination of the mutual defense treaty with Taiwan.

Mr. President, the defense treaty with Taiwan is now in full force and effect. It was specifically continued in full force and effect by section 4(c) of the Taiwan Relations Act. Under section 4(c) it will not be terminated "unless and until terminated in accordance with law."

The President, in giving notice of intended termination of the Taiwan Treaty, expressed his intention to seek a termination of the treaty after the 1-year waiting period had run.

The Senate today will express its opinion that, if the President acts as he proposes, then he must seek Senate approval.

That is the purpose of Senate Resolution 15.

The distinguished Senator from New York stated that Senate Resolution 15 will not affect the notice given by the President. That may be true. But it does affect the actual termination of the treaty. Under article X actual termination cannot occur until after December 31, 1979. Then termination can occur only with Senate approval.

Several Senators addressed the Chair.

Mr. WARNER. I yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I wish the floor in my own right.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, the real problem here is there is no use in fencing around about this thing and adopting amendments that do not mean what they say. The fact is that the words used respecting the termination of the treaty and the notice given by the Department of State were characterized as an intention to terminate. The words of the termination, however, are very different from that. The State Department under the President's authority said, and I quote from the notice of December 23, 1978, "I hereby give notice of the termination of that treaty." Not an intention to terminate, but notice of the termination. "This notice shall be effective as of January 1, 1979," and so on.

The question may be before a court, as indicated by this decision which came down today. In view of this resolution and the use of the word "termination" in respect of its effective date, though, in my opinion a resolution no matter what it says is not effective until it is adopted. It is not retroactive. But be that as it may, the fact is that I construe this notice as the termination; no further act is required, and I wish to spell that out on the record as the basis upon which I was perfectly willing to enter into the unanimous-consent agreement for this amendment which would have dealt with the question of the effective date. So, as I say, I do not think that we could make this resolution retroactive anyhow. It does not say that, and normally unless it does say that for whatever effect it may have that would not be the case.

But in view of the enormous amount of difficulty which inheres in this situation internationally, notwithstanding, I do not know how you construe the fact that the treaty is in effect but it is not in effect. I just do not understand that. It is either not terminated or it is terminated. And I believe it is terminated, and I wanted to get that perfectly clear for the RECORD.

Mr. BOREN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, is it the Senator's opinion that if there were an attack made upon the Republic of China on Taiwan as of this date, for example, the United States would have obligations under the treaty?

Mr. JAVITS. The United States has an obligation under the treaty because according to its terms the termination does not actually take effect until the end of 1979.

Mr. BOREN. So the treaty then clearly is in effect as of this day if we have obligations under it.

Mr. JAVITS. But we are not dealing with whether it is in effect or not. We are dealing with whether it has been terminated according to its terms, and that is what I am arguing, that it has been terminated according to its terms. That is it. It has been terminated according to its terms which means that the actual cessation of the obligations does not end until the terms permit it to end. But by giving the notice we have done in my judgment what this resolution deals with, which is terminate the treaty.

Mr. BOREN. But the Senator would say we have continuing obligations under it until January 1, 1980?

Mr. JAVITS. I say we have the obligation which the treaty terms call for until January 1, 1980. That is my opinion.

Mr. CHURCH. Mr. President, it is clear that the agreement that we had sought—the understanding that we had thought possible, with the language making the resolution expressly prospective—has not been realized.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. CHURCH. No, I will not yield at this point. I will yield in a moment.

Mr. HARRY F. BYRD, JR. It is for a clarification.

Mr. CHURCH. The purpose for offering the language was to address the future. The only purpose was to make it clear expressly that the resolution was meant to be prospective in effect and was not intended to be an effort to repudiate the action taken by the President with regard to the mutual defense treaty between the United States and Taiwan.

I concur wholly with the interpretation that has been given by the distinguished Senator from New York. The treaty provides the terms for its termination. Either party is entitled to terminate the treaty on 1 year's notice.

The actual provision of article X reads:

> Either party may terminate it 1 year after notice has been given to the other party.

The notice was given on December 23, 1978. It was to take effect on January 1, 1979. That is the only action the President is required to make. He has given the notice.

The only question now is the effective date of termination, which is determined by the terms of the treaty itself, 1 year after the notice has been given. No further action being required, the President having given the notice, on December 31, 1979, the treaty would terminate by its own terms.

So I had thought that by making the resolution before us prospective, by addressing it to the future, we would eliminate the problem of the defense treaty with Taiwan. But clearly that is not the understanding or the interpretation of the proponents of this resolution, and for that reason we have been unable to reach a meeting of the minds. That being so I propose to withdraw my amendment and we shall let the debate continue, and I hope we may find some way to resolve this issue.

It would be a great error for the Senate to tamper with an established policy of such consequence to this country for Asia now that this policy has been put into effect, now that we have enacted enabling legislation which will give adequate assurances to the people on Taiwan. For us now to begin to tamper with all of that in an effort to reach back and undo the termination of the Taiwan treaty is not acceptable to me. I, therefore, withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The senior Senator from Virginia, Senator BYRD.

Mr. HARRY F. BYRD, JR. Mr. President, I do not see that there is any change from what existed when the Senator from Idaho made the proposal to which many on this side of the issue agreed.

The proposal the Senator from Idaho made dealt with the legislation before us. I did not realize that in agreeing to the proposal of the Senator from Idaho, that that required every Member of the Senate to agree with his idea as to the procedures in regard to the Mutual Defense Treaty with the Republic of China. The Byrd amendment does not address that issue at all.

I stated from the beginning, and I state again tonight, that the amendment the Senate adopted today, does not express either approval or disapproval of the President's decision to give notice under article X of the Mutual Defense Treaty between the United States and the Republic of China. It does not take from the President any power he now has. It does not prevent the President from expressing the intent to abrogate a treaty.

All of that I expressed in January, the first day of the session. I expressed that in April. I expressed it again today, and now what the Senate did today by a vote of 59 to 35 is precisely what the Senator from Virginia has been fighting for since the first day of this session. It expresses the Senate's view that a President cannot unilaterally terminate a treaty.

The Senate expressed its view. The Senate said today by an overwhelming vote that a President of the United States does not have the right to unilaterally abrogate a mutual defense agreement.

I was willing to cooperate with the Senator from Idaho. I was told an agreement had been reached. Now I find that for some reason or other there has been a change, which is all right with me.

Mr. ROBERT C. BYRD. Do I understand from what the Senator has said that the language of the amendment that was adopted earlier would not, in his opinion, impact on the treaty with the Republic of China?

Mr. HARRY F. BYRD, JR. I do not know how anyone could say that because I think any court could take judicial notice of what happened in the Senate today. So I cannot say it does not impact on it.

What I said is—and to make it precise I will just read it because this is what I have been saying since January 15—the amendment does not express either approval or disapproval of the President's decision to give notice under article X of the Mutual Defense Treaty between the United States and the Republic of China. It deals with treaties in general.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, in the earlier discussion of the proposed modification of the Byrd resolution, I drew attention to the statements that had been made at the time that resolution was first called before the Senate, and we reached by unanimous consent an agreement that it would be deferred until a later date.

There were two statements made at the time by the distinguished Senator from Virginia, one of which he has read. He said:

> First, the amendment does not express either approval or disapproval of the President's decision to give notice under article X of the Mutual Defense Treaty between the United States and the Republic of China.

I call the distinguished majority leader's attention to the fact that this is limited to notice.

The question at issue is whether the treaty is terminated by the President's act of giving notice, or whether—because the terms of the treaty require a year to expire from the time that notice is given—the termination has already come in effect, being achieved by the decision to give notice.

The second statement made by the distinguished Senator from Virginia at the time was as follows:

> The purpose of this amendment is not to focus on Taiwan, but the purpose of this amendment is to focus on the broader problem of what happens to future treaties made with the United States, ratified by the Senate, with other nations of the world.

Now, I listened to all the debate. I have listened to the testimony of all the witnesses who have come before our committee, including the distinguished Senator from Virginia, and the distinguished Senator from Arizona. The general thrust has always been this was to be prospective in character.

It was with that in mind that I suggested we make it expressly prospective in character by giving it an effective date, the date of its adoption, the whole purpose being to make it clear that what we intend is a guideline for future Presidential action relating to mutual defense treaties.

But as soon as that proposition matured to the point of a unanimous-consent request, Senator GOLDWATER and others, Senator WARNER, have stood up and said:

> We do not regard this change as having any substantive effect. We believe that the treaty with Taiwan has not been terminated; that the notice previously given by the President has not had the effect of terminating the treaty; and that, therefore, the concurrence of the Senate will be required at the end of this year if this sense-of-the-Senate resolution passes.

I suggest this is entirely different. We are really now getting down to what the proponents of this resolution seek. They seek to reopen American policy vis-a-vis the two Chinas. They propose to undo the effort of the President to terminate the defense treaty between the United States and the Republic of China.

The Senate had better know what is intended here because we could very well unwittingly adopt language that could be construed by the Federal court, that has just passed judgment on the Goldwater against Carter case today, as a legislative action that will reopen the whole question of the validity of the President's action in terminating the Formosan treaty.

It is all well and good for these pious statements to be made, "Oh, yes, we agree that it is in the national interest of the United States to have dealings with the world's largest country, China," and we do not take issue with that. But everyone knows that that relationship that was established between Washington and Peking by the action that the President has already taken was based upon an understanding that the treaty between the United States and Taiwan would be terminated.

If the Senate wants to reopen all of that and put everything in jeopardy in Asia, then at least the Senate should do so with its eyes open to the mischief that is portended by the adoption of this resolution.

Nor am I satisfied, Mr. President, with the argument that this is just a sense of the Senate resolution, and therefore cannot be binding upon the President, particularly in view of the explicit language of the court in this decision, which should be reread again. Only today the U.S. District Court for the District of Columbia issued an opinion in which the court first expresses or intimates a concurrence in the general proposition that the Senate should concur or should participate in the actions terminating treaties; but the court dismisses this action upon the grounds that it has nothing before it to decide.

It has already indicated in the decision how it will go, if this judge makes it; but he dismisses the action upon the ground that there is nothing before the court to decide, and in the concluding paragraph of the court's opinion, this is what is said:

> The Court believes that the extraordinary remedy of injunction or the related power of a declaration should be exercised sparingly and only when the legislative branch has been given the opportunity of acting. At least three resolutions are presently pending in the Senate. For these reasons the Court believes that the resolution of the ultimate issue——

Which, I say parenthetically, is the authority of the President to act unilaterally to terminate the Taiwan treaty:

> That the resolution of the ultimate issue in this case should in the first instance be in the legislative forum. If the Congress approves the President's action, the issue presently before the Court would be moot. If the Senate or the Congress—

Notice the difference in language. "If the Senate alone," says the judge, "or the Congress"—

> takes action, the result of which falls short of approving the President's termination effort, then the controversy will be ripe for a judicial declaration respecting the President's authority to act unilaterally.

Mr. President, you cannot read this opinion and come to any other conclusion but that the passage of the Byrd resolution will reopen the whole substance of the administration position in Asia for the further deliberation and decision of the Senate of the United States. Its proponents declare that the action in the President's effort to terminate the Taiwan treaty has not been completed and that once the Senate passes this resolution in its present form it cannot be completed without the concurrence of the Senate. So the whole issue will be raised anew.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. CHURCH. We have far too much at stake for the Senate to do this blindly, without knowing the consequences of its action. Then, if it wants to assume the responsibility, that is a different proposition. I cannot prevent the Senate from assuming that responsibility and reopening the whole question of our future relationship with Taiwan and mainland China, if that is what the majority of the Senate is determined to do. But I do insist that we have sufficient debate so that the Senate knows what it is doing, and I do insist that there be an opportunity for an amendment to be crafted that will clearly exempt from the purview of this sense of the Senate resolution the previous action taken by the President to terminate the Taiwan treaty.

Mr. GOLDWATER. Will the Senator yield?

Mr. CHURCH. Yes, I yield.

Mr. GOLDWATER. Mr. President, I think we ought to get this whole thing back on its right track. We started out here hours ago with the presentation of the modified Byrd amendment, modified by the Foreign Relations Committee, and we had, not intensive debate, but we had a rather thorough discussion of the matter, and then it was put to a vote of the Senate, and the Byrd amendment was unanimously passed.

That amendment is still the order of business. Whether or not the President has given the proper notice to Taiwan of termination to me is very, very much beside the point. It has no place in here at all. We have not raised that.

I have said repeatedly that the court suit that I entered into, that the distinguished Senator from Idaho has been referring to, had no effort, no thought of revoking any decision that the President had made about the People's Republic of China. I merely asked the court was he right in doing it unilaterally; and the court today has answered.

By the way, I have put the entire language of the court in the RECORD, and it will be available for my colleagues in the morning. In effect, the judge was saying, if you will read the whole thing, that if the Congress or the Senate took any kind of affirmative action such as we took today, it could mean another approach.

Again, I do not expect any decision of his, should he decide to make it, or should the higher court, which we will appeal to immediately unless he agrees to hear it, will come up with any other answer than that he can do it unilaterally or he cannot, and it still has no effect, in my opinion, on the recognition of the People's Republic of China.

I might just conclude that I would like to see us get this over with. The Senator has withdrawn his amendment which Senator BYRD and Senator WARNER and I had agreed to take, so we really have no business to discuss here on the floor. We thank Mr. Christopher of the State Department for sending down something that we all know by heart. But I would just like to say that if the court rules that the State Department had to get legislative approval, that will not upset normalization of relations. The President has a majority of his own party in both Houses of Congress; he might get that approval if he asks for it. But he has not asked for it, so there is no certainty that normalization will be affected at all.

I simply say this, Mr. President, because we have been at this all day long. I think we are far more in agreement than we are in disagreement, and if the chairman of the Foreign Relations Committee does not have an amendment, I suggest that we go to third reading, or whatever it takes, and we close up for today and get on with tomorrow.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. SARBANES. Will the Senator from Idaho yield?

Mr. CHURCH. Yes, I am glad to yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, I am glad the Senator from Arizona has made those comments, following on what the Senator from Idaho, the chairman of the Foreign Relations Committee, had to say, because I believe it underscores the importance of what the chairman of the committee said in the points he made just a few minutes ago on the floor of the Senate.

It is very clear that this proposition which is now before us has enormously important and serious implications with respect to the question of normalization of relations with the People's Republic of China and with respect to the question of our continued relationship with the people of Taiwan.

We should recognize that. The strong argument he is making is that before the Senate acts finally in this matter it ought to understand exactly what the consequences and implications of this action are to be. It does not help to illuminate the issue to say that it has no consequences or implications. It clearly does.

The chairman of the committee read from the opinion which was handed down today in the Federal district court, and it is clear from the explanations or the contentions offered by the proponents of the proposition that is now before us that it has consequences and implications. Every Senator ought to know that and understand it fully before called upon to act finally on this matter. It can put us back into the situation of dealing with an issue which I believe the Senate thought had been resolved and settled, and that matters could proceed forward on the basis on which the resolution had been made.

If people want to go back and reopen the entire issue, they can make that choice, but they ought to recognize exactly what it is they are doing if, in fact, that is the path down which they go.

I believe that the comments which the Senator from Arizona has just made underscore the importance of what the chairman of the committee said just a few moments ago.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I wonder if it would be possible to agree to put this matter over until 1 day next week. Under the order which has been entered, tomorrow the Civil Rights Commission authorization will be before the Senate. Under the order the Defense authorization bill will be up on Monday. I wonder if it would be possible to put this over until either Monday before that bill comes up or Monday after the bill comes up.

Under the order, another bill on which there is a time agreement is to be taken up upon the disposition of the military authorization bill. It might be possible to put this matter over until that measure, Calendar Order No. 161, the Endangered Species Act, has been disposed of. I would inquire if that would be agreeable. I would make that request.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further consideration of the pending business be resumed upon the disposition of Calendar Order No. 161, the authorization for the Endangered Species Act.

Mr. GOLDWATER. Reserving the right to object, Mr. President, we have had this before us now all day long. I do not see one bit of good in putting it off another day, 2 days, or a week, and I object. I will stay here all night and work on this. There is no sense in putting it off.

Mr. ROBERT C. BYRD. Mr. President, I appreciate the energy the Senator has. I know he could stay here all night. I realize that. But I have just listened to the chairman of the Foreign Relations Committee say that he hoped to have an opportunity to work out some language that might be acceptable to the Senator from Virginia, and that he would need some time. That being the case, I do not think there would be any disposition to let the matter come to a vote this evening. It is for that reason that I suggested that the Senate resume consideration of the measure after the other orders which have previously been entered have been consummated.

Mr. GOLDWATER. Mr. President, the Senator from West Virginia has been as kind to me as any man in this Senate for many years, and I do not think I have ever imposed upon him. I believe I have gone along with him.

Mr. ROBERT C. BYRD. The Senator from Arizona is always very helpful.

Mr. GOLDWATER. In this case, I say to my good friend, I believe we are ready to vote right now. The Senator from Idaho had an amendment we were agreed to. We told him we would take it. The first thing we know, he throws it out the window. If we are going to proceed down the line of trying to work in this language by Warren Christopher, there is just no way. It cannot be done.

If the Senator wants to come up with another amendment similar to what he had, I am sure that Senator BYRD within the next 15 minutes would say OK, and then we would have a bill. We could pass it and we could all go home and have dinner.

Mr. ROBERT C. BYRD. Mr. President, the situation is as follows: Under the order at 10:30 tomorrow morning the Senate proceeds to the consideration of the Civil Rights Commission authorization, and under the order the Senate, upon completion of its work tomorrow, goes over until Monday, at 10 o'clock. Under the order, upon the consummation of the orders for the recognition of Senators on Monday, the Senate will take up the military authorization at 1 o'clock, and under the order, upon the disposition of that bill, it goes to the endangered species bill, on which there is a time agreement.

We are in this situation: If the chairman and the ranking member do not wish to have a vote today—they have not indicated they are not willing to have a vote today—if they are not willing to let the matter come to a vote until they have developed language in an amendment which would be acceptable to everyone, which I assume they cannot do today, in that case it would not come tomorrow because of the order. It would not come Monday because of the order. The only way to have an immediate vote today would be on a motion to table the resolution and amendment. I do not think anyone wants to do that at this point. I think everyone is agreeable to trying to work this out.

So I think I have presented the only feasible approach, which is to try to find a time next week when we can resume consideration of this question, unless the Senators have an amendment at this time they wish to propose.

Mr. President, I yield, without losing my right to the floor, to the Senator from Idaho. I ask unanimous consent, Mr. President, that I may yield without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, it became clear in the earlier debate that differing interpretations were going to be placed upon the proposal that I had suggested, which would expressly make the resolution prospective, addressed to the future rather than the past.

When it became clear that the proponents of the resolution did indeed seek to make it applicable to the prior action—the action that the President has already taken, giving notice that the treaty between the United States and Taiwan would be terminated according to its terms—then I believe, Mr. President, the Senate is entitled to reconsider what it has done.

I would be prepared to offer an amendment, the substance of which would read as follows:

> Provisions of this resolution shall not apply with respect to any treaty the notice of termination of which was transmitted prior to the date of the adoption of this resolution.

In other words, the Senate must have a chance to vote on whether it really intends to obstruct a process which the President has set into effect when he gave notice of the intention of the United States to terminate the Mutual Defense Treaty with Taiwan.

If that is our purpose, we should know it. The only way we shall know it is to vote on it. This proposed amendment would put the issue very clearly, because unless this kind of amendment is adopted I am afraid that we are accepting the invitation of the Federal court. We may have the decision taken entirely out of our hands respecting the validity of the President's action. That is one possible consequence of our action.

The other possible consequence is that the President, feeling constrained to comply with the resolution, will have to come back later in the year to obtain the consent of the Senate to an action he has already taken, upon which the entire American position in Asia now rests. I think that would be a mischievous, reckless thing for the U.S. Senate to do.

I can appreciate why Senators might like a straightforward statement relating to mutual defense treaties and their termination as it applies to the future. But to go back and tamper with the past, to attempt to give this resolution a retroactive effect—which is clearly the intention of the proponents—and thus to invite the courts on the one hand to take the matter entirely out of our hands or, on the other, to bring it back to the Senate at some later date this year to attempt to get senatorial concurrence—oh, I think, Mr. President, if that is what the Senate wants to do, if it wants to put in jeopardy the American position in Asia—then at least we ought to do it with our eyes open, aware of the consequences.

At least we ought to assume the responsibility, knowing full well what we are doing, so we cannot dodge it later when the consequences turn out to be most adverse. We should know the risk and we should know the possible consequences—dire consequences—of this action.

I think the Senate should decide whether it wants this resolution to apply to the future or whether it wants it to apply to the past. For that purpose I am prepared to invite the distinguished Senator from New York to join with me in an amendment of the kind that I have read, namely:

> The provisions of this resolution shall not apply with respect to any treaty the notice of termination of which was transmitted prior to the date of adoption of this resolution.

Mr. ROBERT C. BYRD. Mr. President, I have the floor. Does the Senator now offer that amendment?

Mr. CHURCH. Yes.

Mr. ROBERT C. BYRD. I yield for that purpose only.

The PRESIDING OFFICER. In accordance with the unanimous-consent request made by——

Mr. ROBERT C. BYRD. Mr. President, what unanimous-consent request?

The PRESIDING OFFICER. The one made by the Senator from West Virginia. The objection was made by the Senator from Arizona.

Mr. ROBERT C. BYRD. Mr. President, I do not have to renew that request. If the Senate recesses in a little while, that will follow as a natural chain of consequences, because we have the orders all set up whereby three other measures will intervene. When the final one is disposed of, this one will automatically be back before the Senate.

I just thought I would offer the Senate an opportunity to go along with me, but it does not need to. The procedure is already set up.

I ask the Chair if that is not right.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. So the schedule of events is as follows: The Senate will recess in a little while, or I hope that it will; on tomorrow, the Senate will take up the authorization for the Civil Rights Commission; on Monday, it will take up the military authorization bill. Upon the disposition of that bill, it will proceed to the consideration of the endangered species bill, which is under a time agreement. Upon the disposition of that bill, it will automatically resume consideration of the pending business. I am perfectly amenable to working the matter in before that point, but I thought the Senate should know that that is what the situation is.

Mr. GOLDWATER. Will the Senator from Idaho yield for a question?

Mr. ROBERT C. BYRD. Mr. President, I have the floor. I shall be glad to yield to the Senator from Arizona with the understanding that I not lose my right to the floor.

Mr. GOLDWATER. Mr. President, this is not exactly a question, but I guess I can put it that way, and I am sure the majority leader will not lose the floor.

Might I suggest to my friend from Idaho what I think might be a solution to this: Ask the President of the United States to send a request to this body indicating that he wants to abrogate the treaty with Taiwan and have the language indicate that we would accept January 1, 1980, as a termination date, but allow the Senate to vote on it.

I shall give odds that the Senate will pass that kind of resolution. I think this will eliminate the problem that seems to be dwelling in the heads of several members of the Committee on Armed Services; namely, what somebody might do in a reciprocal way. I have no reciprocity ideas in my head, but I would like to suggest that, instead of this amendment, we consider asking the President to send a formal request down, which is all we have ever asked for, and hold a vote on it. If the Senator would like to make a small-sized bet, I can even give him the way it will turn out.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, before I yield further, I should like to yield to the Senator from Nebraska. I promised that I would yield without losing my right to the floor.

Mr. EXON. I thank the majority leader.

Mr. President, I have a question or two and a statement to make. Maybe I can clarify some of the confusion that seems to be reigning here.

I, for one, supported the Byrd amendment this afternoon, with the assumption and the understanding in my mind, at least, and with the material that was lying on the desk when I came up to vote, that I was not resurrecting the problem before the Senate with respect to the problems with Taiwan. I thought I was voting for the future. I believe that, in the earlier discussions that we heard on the floor of the United States Senate, that came through very loud and very clear. Yet, I have been here now for about 4 hours and I am beginning to wonder just what is going on, on the amendment that I voted for.

I should like to ask Senator BYRD, if I might, whether or not I was correct in voting for his amendment on the basis of not going back and bringing up the matter of our present policy. Although I think it was wrong for the President of the United States to do what he did, I think that is water over the dam. When I voted for his amendment today, I thought we were talking about future actions, not past actions.

Is that true?

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Virginia for the purpose of his answering that question, without losing my right to the floor.

Mr. HARRY F. BYRD, JR. May I say to the Senator from Nebraska, the proposal today did not focus on Taiwan. It was a general proposal and it deals with all mutual defense treaties. The Senator from Virginia agreed with the Senator from Idaho to modify the amendment in this form by adding: "from and after the date of adoption of this resolution."

So it does not undo what the President has done. There is a difference of opinion, entirely separate from this resolution, and I emphasize entirely separate from the amendment that was agreed to today. There is a difference of opinion whether the President's action last December, in itself, terminates a treaty.

Senator GOLDWATER especially, and others feel that it does not. Others, like the Senator from New York and the Senator from Idaho, feel that the President's notification action is all that is necessary. But that argument is not involved in this amendment. My amendment does not address that point.

Mr. EXON. Mr. President, that being the case, I am sure that the Senator would not object to agreeing to the amendment that the distinguished chairman of the Foreign Relations Committee just offered to us. Could the Senator agree with that?

Mr. HARRY F. BYRD, JR. I would like to see it. I do not know whether it prejudges the case or not. I have no objection to a neutral amendment. I would like to get Senator GOLDWATER's opinion since he has a case in court.

Mr. EXON. I thank the leader.

Mr. ROBERT C. BYRD. Mr. President, I yield first to the distinguished Senator from New York without losing my right to the floor.

Mr. JAVITS. Mr. President, may I try my hand at seeing what the situation is?

If the Constitution requires the President to get consent of a Congress to terminate a treaty, there is nothing we can do about it. But if the question is in a twilight zone, as many things are under the Constitution—for example, I had the same situation with the War Powers Act: when does an act of a President to defend the country in an emergency become war, when we require a declaration?

We worked out a methodology to take care of it. The difficulty with this problem is that we are not working out a methodology. We are trying to resolve a substantive question.

All I asked for, and I spoke to this matter originally, was to let us be neutral on that question.

If it is going to be a President fighting with Congress and the public domain, let us just leave it neutral. That is all I asked for.

But then we had interpretations by Senator GOLDWATER and Senator WARNER that they construed this resolution to mean that there has been no termination of the Taiwan treaty, that it remains in effect.

Let us remember that the reason we recognized the PRC and the reason they made the deal with us for recognition was on the basis of our having terminated this treaty.

So what are they going to do, pull out their Ambassador?

If Senator CHURCH and I are perfectly right about this, then you will raise hell in the world if you proceed too far.

What have we got a President for? Whether he makes a mistake, or is right or wrong, he has some power to deal with another country in foreign relations, in defense, and in security. It is a very serious matter.

All I say is let us leave it neutral, just where we found it; and we have expressed the feeling of the Senate that if the President is going to terminate a mutual defense treaty, he should come to us.

We cannot excise what is already in the RECORD. We cannot eliminate what was said. So the best way to do it is exactly as Senator CHURCH suggests: Let us have it very clear that we are not trying to reach this termination situation, and go on from there.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Idaho (Mr. McClure), without losing my right to the floor.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I would agree with my distinguished colleague from New York that it is perhaps desirable that this resolution be as neutral as possible on the question of whether or not the termination of the Mutual Defense Treaty with Taiwan has occurred, or must occur at some exact date with some following action.

But this amendment by the Senator, my distinguished colleague from Idaho, does not leave it neutral. It settles that issue. It says that the termination is complete. That that is already done, that action has been taken, and we ratify it.

That is, one way of presenting the issue to the Senator from Arizona, and suggested to be voted on by this Senate, is to offer the amendment my distinguished colleague has suggested and have the Senate vote on it.

If the Senate approves that amendment, then we have voted on the Taiwan issue and the Senate has then approved the termination of the Mutual Defense Treaty with Taiwan.

On the other hand, to say that the adoption of the amendment would leave it neutral is simply flying in the face of the expressed purpose of the amendment, which is not to leave it neutral, but to settle it.

As far as those who thought we were being neutral, it seems to me the Byrd resolution, the substitute for the committee substitute, really does leave it neutral. It leaves it up to the courts to decide whether or not there has been termination, or it leaves it up to future action by the Senate as to whether or not our concurrence in that is required.

But I have no objection to voting on the amendment offered by my colleague. I think it is one way to put the issue.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield gladly to the Senator from Virginia without losing my right to the floor.

Mr. HARRY F. BYRD, JR. Mr. President, I just want to say that, again, this resolution, as originally presented, as passed by the Senate today, does not deal specifically with Taiwan. It is a broad resolution.

My interest in this matter is for the Senate to go on record as stating that a President cannot unilaterally terminate a treaty. That is what the Senate did today. The Senate acted by a decisive 59-to-35 vote.

That was my great concern from the beginning. It is my concern now, and Taiwan, it seems to me, is not involved in this except peripherally or indirectly.

As far as I am concerned, I am perfectly willing to let the matter stand where it is. I accomplished what I sought. The Senate is on record as saying the President cannot unilaterally nullify a treaty.

Mr. CHURCH addressed the Chair.

Mr. ROBERT C. BYRD. I yield to the Senator from Idaho without losing my right to the floor.

Mr. CHURCH. Mr. President, the distinguished Senator from Nebraska put his finger, really, on the issue. He said that if it is not the intention of the Senate to reopen the question of the Taiwan Mutual Defense Treaty, then all that the Senate need do to make that clear is to adopt the amendment I had proposed which reads:

> The provisions of this resolution shall not apply with respect to any treaty, the notice of termination of which was transmitted prior to the date of the adoption of this resolution.

Now, if the proponents really are serious when they say that their purpose is not to go back—not to reach back into the past—not to exhume the question of Taiwan and the treaty that the President has given notice we will terminate—then all they have to do is accept this language. Then there can be no question either for a court to pass upon or for anyone in Taiwan, or on mainland China, or elsewhere, to misconstrue, for we will be clearly making this sense of the Senate resolution prospective, addressed to the future, such action as this or some future President might take in terminating some other mutual defense treaty.

I believe that is what most Senators thought they were voting on. I do not believe they want to go back.

Well, after all, have we done in this Senate this year? We have already gone through the Taiwan issue. We have already taken note of the action the President took in recognizing Peking. We have accepted that. We have written in elaborate provisions that the Senate thought were necessary to protect the legitimate interests of the people on Taiwan. We have put in security provisions that in some respects are better than those contained in the previous treaty.

We have dealt with this issue and we did so after considerable, careful, extended deliberation and debate.

Now, all at once, we are faced with a sense of the Senate resolution—and with the opinion of the court. We have both of them before us. Now we know what we are doing.

If we pass the Byrd resolution in its present form, the court has practically said that it will reopen and litigate the issue of the President's authority to terminate the Taiwan treaty.

Mr. McCLURE. Will the Senator yield?

Mr. CHURCH. I will as soon as I complete my thought.

If we can do so, secondly, we present the President with a resolution that its proponents construe as applicable to the Taiwan treaty, which they say does not terminate until the end of the year, and thus force the President, if he is to comply with this resolution, to bring the matter of the Taiwan treaty back to the Senate for a vote. I must say that is clearly the end purpose of the proponents. If it were not so, they would accept this amendment. But their failure to accept this amendment can only mean that it is their hope—if not their expectation—that they can somehow undo the action the President has taken upon which our whole policy in Asia now rests. If the Senate wants to do that, let us do it with our eyes open, and let us do it after Senators have had an opportunity to read the decision of the court.

So I cannot agree to any unanimous-consent agreement for a hurried decision on a matter the repercussions of which, the ramifications of which, we cannot even anticipate tonight. We have too much at stake here to start scrambling around what happened 6 months ago, to kick the foundations out from under an agreement that has been reached upon which the recognition of the Peking government and normal relations between that government and the United States are now founded.

I would not be a party to it, and I hope the Senate would not be a party to it. I really believe that most Senators thought this resolution lays down guidelines for the future; that this is not an attempt to undermine the present American policy with respect to China and Taiwan.

I think the Senate should vote on this amendment, I say to the majority leader. I believe he said that he yielded to me with the understanding that I might offer this amendment.

Mr. ROBERT C. BYRD. Yes, without losing my right to the floor.

Mr. CHURCH. Without the Senator losing his right to the floor.

UP AMENDMENT NO. 230

(Subsequently Numbered Amendment No. 221)

Mr. CHURCH. Mr. President, on behalf of myself and the distinguished Senator from New York (Mr. Javits) I offer the amendment, which reads as follows:

> The provisions of this Resolution shall not apply with respect to any treaty the notice of termination of which was transmitted prior to the date of adoption of this Resolution.

Mr. ROBERT C. BYRD. Mr. President, will the Senator add my name as a cosponsor?

Mr. CHURCH. Mr. President, I ask that the name of the distinguished majority leader, Mr. Robert C. Byrd, be added as a cosponsor; and that the names of Senator Cranston, Senator Exon, and Senator Sarbanes be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Idaho (Mr. Church), for himself and others, proposes an unprinted amendment numbered 230:
>
> On page 1 line 4 after the word "nation." insert the following:
>
> "The provisions of this Resolution shall not apply with respect to any treaty the notice of termination of which was transmitted prior to the date of adoption of this Resolution."

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I will yield shortly.

Mr. President, I hope that the proponents of the amendment that was offered by Mr. HARRY F. BYRD, JR. would agree to accept this amendment. They won a substantial victory. If we can get an agreement on this amendment, we could dispose of this measure quickly. They would have won a victory with respect to prospective, future defense treaties. As it is, it is entirely possible that the gains they have won could get into law.

Mr. President, I yield to the distinguished Senator from Idaho without losing my right to the floor.

Mr. HELMS. Did the Senator ask unanimous consent?

Mr. ROBERT C. BYRD. No.

Mr. HELMS. How can the Senator broker time?

Mr. ROBERT C. BYRD. I can refuse to yield.

Mr. HELMS. Fine. I simply asked if the Senator had asked unanimous consent that he yield, with the understanding that he will not lose his right to the floor.

Mr. ROBERT C. BYRD. Yes.

Mr. HELMS. Did the Senator do that?

Mr. ROBERT C. BYRD. Yes.

Mr. HELMS. Did the Chair rule on it?

The PRESIDING OFFICER. The Chair asks if there is any objection.

Mr. TOWER. Mr. President, reserving the right to object, the amendment would only be in order if a unanimous-consent request were agreed to. Is that correct?

The PRESIDING OFFICER. The Senator is not correct. The amendment is in order as an amendment to the original text of the resolution.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

Mr. ROBERT C. BYRD. Mr. President, I do not yield further at this point. I want to yield to the Senator from Idaho (Mr. McCLURE), if the Senate will allow me to do so. The only reason I am holding the floor is that I want to recess at some point.

Mr. HELMS. That is what I want the Senator to do.

Mr. ROBERT C. BYRD. After Senators have had an opportunity to discuss the matter. But I do not want to wait all evening, into the night. I hope Senators will not object to my yielding to Mr. McCLURE, without losing my right to the floor. That is my only purpose. I want to move to recess, because I have heard some talk here that there might be an all-night session. I just want to make a motion to recess at some point.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLURE. I thank the Senator for yielding, and I thank my colleagues for not objecting at this point

The only reason for my asking the Senator to yield at this point was to make a minor correction in what my colleague had said, in my understanding of what would happen as to where we would be without his amendment.

It is not my intention to debate the issue of whether the repudiation of the treaty with Taiwan was good or bad or whether the agreement with the People's Republic of China was good or bad—not tonight, not at this time. My colleague indicated that if we do not adopt the amendment, the court decision is very clear that the court will immediately say that the entire issue is open and that the court is ready to rule that the action was invalid. I do not think that is a correct reading of the court's decision at all, because the issue that the Senator from New York originally raised is still there, as to whether or not the termination was completed at the time of the President's announcement or whether that is an issue that is still open and the court might have to determine that.

Our action, absent the Church amendment, would not decide that issue. But the amendment of the Senator from Idaho (Mr. CHURCH) and others would decide the issue, so far as the Senate is concerned, as to whether or not we have approved of that action by the President.

Mr. CHURCH. May I respond?

Mr. ROBERT C. BYRD. Mr President, I announce that unless there is the intention on the part of any Senator to ask for the yeas and nays on my motion to recess, there will be no more rollcall votes tonight. If I am assured that there will be no rollcall vote on that motion, there will be no more rollcall votes tonight.

I yield to the Senator from Idaho (Mr. CHURCH), without losing my right to the floor.

Mr. CHURCH. Mr. President, I think the best way for the Senate to judge the effect of the court's decision today upon the matter still pending before us is to include the full text of the court's opinion in the RECORD at this point.

Mr. GOLDWATER. It already is in the RECORD.

Mr. CHURCH. I ask that we incorporate the opinion again at this point in the RECORD, since it is relevant to the debate.

I call attention to the concluding sentence of the court:

> If the Senate or the Congress takes action, the result of which falls short of approving the President's termination effort, then the controversy will be ripe for a judicial declaration respecting the President's authority to act unilaterally.

I think that says it all.

Mr. President, I ask unanimous consent that the full text of the opinion appear at this point in the RECORD.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

[U.S. District Court for the District of Columbia, Civil Action No. 78-2412]

SENATOR BARRY GOLDWATER, ET AL., PLAINTIFFS, V. JAMES EARL CARTER, ET AL., DEFENDANTS

ORDER

Upon consideration of defendants' motion to dismiss or, in the alternative, for summary judgment, and of plaintiffs' cross-motion for summary judgment, the memoranda in support thereof, the oppositions thereto, the arguments of counsel in open Court, the entire record herein, and for the reasons set forth in the Court's memorandum of this same date, it is by the Court this 6th day of June, 1979,

Ordered that defendants' motion to dismiss be, and hereby is, granted; and it is further

Ordered that plaintiffs' cross-motion for summary judgment be, and hereby is, denied; and it is further

Ordered that this action be, and hereby is, dismissed.

OLIVER GASCH,
Judge.

[U.S. District Court for the District of Columbia, Civil Action No. 78-2412]

SENATOR BARRY GOLDWATER, ET. AL., PLAINTIFFS, V. JAMES EARL CARTER, ET AL., DEFENDANTS

MEMORANDUM

This is a suit by eight members of the United States Senate, a former senator, and sixteen members of the House of Representatives seeking declaratory and injunctive relief against the notice given by defendant President Carter to the Republic of China ("ROC" or "Taiwan") to terminate the 1954 Mutual Defense Treaty Between the United States of America and the Republic of China. Plaintiffs seek to have this Court declare that the termination of the 1954 Treaty cannot be legally accomplished, nor can notice be given of intended termination, without the advice and consent of the United States Senate or the approval of both houses of Congress.

Plaintiffs contend that President Carter's unilateral notice of termination violated their legislative right to be consulted and to vote on the termination and also impaired the effectiveness of prior votes approving the 1954 Mutual Defense Treaty. They also claim that the President's action violated section 26 of the International Security Assistance Act of 1978.

Defendants have moved to dismiss or, in the alternative, for summary judgment contending that this case is nonjusticiable because it presents a political question, plaintiffs lack standing to sue, and the President possesses constitutional authority to give notice of the termination of the Mutual Defense Treaty. Plaintiffs have filed a cross-motion for summary judgment, asserting that the case is justiciable, plaintiffs have standing, and the President is without legal authority to terminate treaties without congressional participation.

I.

On December 15, 1978, President Carter announced that the United States would, as of January 1, 1979, recognize the Government of the People's Republic of China ("PRC") as the sole government of China.[1] The United States and the PRC agreed to exchange ambassadors and to establish embassies on March 1, 1979. This represented a significant change in the relationship between the two countries, because for almost thirty years after the establishment of the PRC on mainland China in 1949, the United States had no diplomatic ties or other regular relationship with it due to the United States' continued recognition of the Nationalist Government on Taiwan as the sole legitimate government of China.[2]

On December 2, 1954, a Mutual Defense Treaty Between the United States of America and the ROC was signed in Washington, D.C. The Senate gave its consent to ratification on February 9, 1955 and the treaty was ratified by President Eisenhower on February 11, 1955. The treaty entered into force on March 3, 1955.[3] The Mutual Defense Treaty obligates the United States, upon joint agreement with the ROC and "in accordance with its constitutional processes," to defend Taiwan and the Pescadores from an armed attack.[4] Article X of the treaty contains a termination clause, which states that the treaty "shall remain in force indefinitely," but continues: "Either party may terminate it one year after notice has been given to

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Footnotes at end of article.

the other party." The issue posed by this lawsuit is thus not whether the United States has the right to terminate the defense treaty, a right expressly guaranteed by Article X, but the procedure by which that right of termination should be accomplished.

During the past decade, initial steps towards normalizing relations between the United States and the PRC were taken. The PRC has always maintained that recognition of two Chinas was unacceptable and that continuation of the Mutual Defense Treaty with Taiwan was incompatible with normalization of relations with PRC. On December 15, 1978, the leaders of the United States and the PRC announced their agreement to establish diplomatic relations as of January 1, 1979. On December 23, 1978, United States Deputy Secretary of State Warren Christopher, at the direction of the President, gave notice of termination of the Treaty to ROC authorities on Taiwan. According to this notice, the Mutual Defense Treaty will terminate on January 1, 1980.

Perhaps anticipating this change in United States policy, in the latter part of 1978 both houses of Congress passed the International Security Assistance Act of 1978, which was signed by President Carter on September 26, 1978.[5] Section 26 of the Act, popularly known as the Dole-Stone amendment, provides:

(a) The Congress finds that—

(1) the continued security and stability of East Asia is a matter of major strategic interest to the United States;

(2) the United States and the Republic of China have for a period of twenty-four years been linked together by the Mutual Defense Treaty of 1954;

(3) the Republic of China has during that twenty-four-year period faithfully and continually carried out its duties and obligations under that treaty; and

(4) it is the responsibility of the Senate to give its advice and consent to treaties entered into by the United States.

(b) It is the sense of the Congress that there should be prior consultation between the Congress and the executive branch on any proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954.

22 U.S.C.A. § 2151 note (1979). Defendants maintain that consultations with members of both Houses occurred both prior and subsequent to the enactment of this act and that these consultations, which concerned negotiations with the PRC generally and the necessity for terminating the Mutual Defense Treaty, fully complied with the intent of the Dole-Stone amendment.[6] For reasons subsequently set forth, the Court does not reach the question whether the contacts mentioned amount to consultation.

II.

The issue with which the Court is confronted is whether the President has unilateral authority to terminate a mutual defense treaty with a friendly nation which has not violated any of the provisions of the treaty. Reference to the historical precedents since the beginnings of this nation discloses terminations of treaties in more than fifty instances.[7] Some have been terminated by legislative action; some have been terminated by the President with the concurrence of both houses of Congress; some have been terminated by the President with senatorial consent; and some have been terminated by the President acting alone, but these Presidential terminations have been in situations in which it might be inferred that the Congress had no reason to question Presidential action, such as the termination by President Coolidge of the Mexican Smuggling Treaty, which had been found to be completely ineffectual. Based on the Court's consideration of these historical precedents, the Court believes the power to terminate treaties is a power shared by the political branches of this government, namely, the President and the Congress. In this instance, however, since the Congress has not yet acted on the question of treaty termination, a serious question arises concerning the standing of these congressional plaintiffs to seek a judicial injunction or declaration respecting the power of the executive.

An increasing number of senators and congressmen have invoked the jurisdiction of the courts to challenge executive actions and policies.[8] Because of their political overtones, these cases present difficult jurisdictional questions. In a number of cases the United States Court of Appeals for the District of Columbia Circuit has considered the interrelationship between standing to sue and the political question doctrine and expressed its view that the standing issue should be resolved first.[9] Thus, at the outset, the Court must consider whether plaintiffs have standing to obtain a judicial declaration that the President lacks authority unilaterally to terminate the Mutual Defense Treaty with Taiwan.

A. Standing

There are no special standards to be employed in analyzing congressional standing questions. *Harrington* v. *Bush*, 553 F.2d 190, 204 (D.C. Cir. 1977). Like all plaintiffs, a legislator must show that he has suffered an injury in fact; that the interests he asserts are within the zone protected by the statute or constitutional provision in question; that the injury resulted from the challenged illegal action of defendants; and that the injury be capable of being redressed by a decision in his favor. *Id.* at 205 n. 68.

Perhaps the most important decision concerning congressional standing is *Kennedy* v. *Sampson*, 511 F.2d 430 (D.C. Cir. 1974). In that case the Court found that Senator Kennedy had standing to seek a declaratory judgment that a bill for which he had voted had become law despite a presidential pocket veto. The Court held that to the extent the powers of Congress are impaired, so too is the power of each congressman, because his office confers the right to participate in the exercise of the powers of the institution. *Id.* at 435–36; *see Trible* v. *Brown*, No. 79–1229 (4th Cir. Apr. 26, 1979) (oral opinion).

Plaintiffs Thurmond and Curtis, who voted to ratify the 1954 Mutual Defense Treaty, rely on *Kennedy* to support their claim that the President's action impaired the effectiveness of their prior votes approving the treaty. In considering the analogous claim of legislators who alleged that they had an interest in ensuring enforcement of laws for which they voted, however, the United States Court of Appeals for the Fourth Circuit held that once a bill has become law the legislators' interests are indistinguishable from those of any citizen and legislators cannot claim dilution of their legislative voting power because the legislation they favored became law." *Harrington* v. *Schlesinger*, 528 F.2d 455, 459 (4th Cir. 1975).

All plaintiffs with the exception of former Senator Curtis claim that the unilateral notice of termination impaired their legislative right to be consulted and to vote on treaty termination. Several courts have suggested that the availability of alternative political remedies to redress executive action, such as impeachment, denial of funds, or a vote on pending legislation, is evidence that there has been no injury in the fact to congressional rights or powers.;[10] For example, in *Public Citizens* v. *Sampson*, 379 F. Supp. 662 (D.D.C. 1974), *aff'd mem.*, 515 F.2d 1018 (D.C. Cir. 1975), a group of congressmen sued to overturn an agency regulation granting inventors exclusive rights to patents developed under federal research contracts. This regulation was promulgated by the General Services Administration ("GSA") without congressional approval, and the congressmen claimed that it infringed on their right to participate in the disposal of government-owned property. The Court found no injury in fact and denied standing because promulgation of the regulation could not deprive Congress of its uncontested right to dispose of government property by limiting the contractural powers of the GSA. 379 F. Supp. at 666–67.

The availability of alternative means to remedy an allegedly unconstitutional action was recently considered in *Reuss* v. *Balles*, 584 F.2d 461 (D.C. Cir.) *cert. denied*, 99 S. Ct. 598 (1978). In that case a congressman sought declaratory and injunctive relief from the allegedly unconstitutional composition of the Federal Open Market Committee ("FOMC") of the Federal Reserve System. In rejecting the theory of legislator standing advanced by plaintiff, the Court noted that the congressman was not without the means of challenging the allegedly unconstitutional composition of the FOMC because he could introduce a bill requiring all FOMC members to be presidential appointees. *Id.* at 468. The Court stated: "This circumstance, while certainly not fatal to [plaintiff's] standing claim, does illustrate that his actual controversy lies, or may lie, with his fellow legislators; no supposed impairment of his legislative functions is due, in any part, to the actions or omissions of the named defendants." *Id.*

This analysis of congressional standing is based on a consideration of prudential and functional concerns, similar to those described by the Supreme Court in *Baker v. Carr*, 369 U.S. 186 (1962), the leading statement of the political question doctrine that reflects the deference to be accorded a coordinate branch of government under our system of separation of powers.[11] A suit such as this by a group of individual legislators seeking to vindicate derivative constitutional rights bypasses the political arena which should be the primary and usual forum in which such views are expressed.[12]

At least three resolutions dealing with the treaty termination power and the notice of termination given with respect to the 1954 Mutual Defense Treaty are presently pending before the United States Senate.[13] One is the Byrd Resolution. If the Senate as a whole were to take action approving the termination of the Mutual Defense Treaty, the issues raised by this suit would be moot because the President's action would no longer be unilateral.[14] If the Senate or the Congress rejected the President's notice of termination or asserted a right to participate in the treaty termination process, the Court would be confronted by a clash of political branches in a posture suitable for judicial review.

The situation then would be comparable to that presented in *Kennedy* v. *Sampson*, in which congressional power had been exercised and was about to be frustrated by a pocket veto. Here, however, plaintiffs have not established the necessary injury required for standing. Either the Senate or the Congress as a whole still can utilize the legislative process to assert its right and demonstrate that it possesses a shared power with the President to act in terminating a treaty. Although the Court is inclined to agree with plaintiffs' assertion that the power to terminate the 1954 Mutual Defense Treaty is a shared power to be exercised by the action of both political branches, at the present time there is no indication that the Congress as a whole intends to assert its prerogative to Act. Under these circumstances, the President's notice of termination does not constitute injury. In the absence of any injury to the institution as a whole, the individual legislators here cannot claim a derivative injury.

B. Cause of action under Pub. L. No. 95–384

Plaintiffs also have alleged that the statutory rights conferred by section 26 of the

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Footnotes at end of article.

International Security Assistance Act of 1978, Pub. L. No. 95–384, have been violated because there was no prior consultation between the Congress and the executive branch prior to the notice of termination of the Mutual Defense Treaty. Defendants dispute this factual allegation and have submitted an affidavit detailing the consultation that occurred after enactment.[15]

The final language of the Dole-Stone amendment is general and nonmandatory in nature.[16] This was substituted for the apparently mandatory language originally proposed by Senators Dole and Stone.[17] Because section 26 apparently does not set forth a mandatory or binding duty to consult and because the Court could not effectively resolve the question of how much consultation would meet its terms if it were binding,[18] plaintiffs, in alleging injury under this section, have failed to state a claim upon which relief can be granted.

CONCLUSION

Our Constitution provides for a government of checks and balances. Legislative power is vested in the Congress. Among other powers the President is the "sole organ of the federal government in the field of international relations." [19] In Article II, section 3 he is charged with the responsibility of faithfully executing the laws which under Article VI specifically include treaties.

The Court believes that the extraordinary remedy of injunction or the related power of a declaration should be exercised sparingly and only when the legislative branch has been given the opportunity of acting. At least three resolutions are presently pending in the Senate. For these reasons the Court believes that the resolution of the ultimate issue in this case should in the first instance be in the legislative forum. If the Congress approves the President's action, the issue presently before the Court would be moot. If the Senate or the Congress takes action, the result of which falls short of approving the President's termination effort, then the controversy will be ripe for a judicial declaration respecting the President's authority to act unilaterally. Until then, the complaint is dismissed without prejudice.

OLIVER GASCH,
Judge.

FOOTNOTES

[1] *See* Declaration of Warren Christopher in Support of Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgement, ¶ 4.

[2] For background information on the historical relationship between the United States and the PRC and events leading up to the present diplomatic initiatives, *see generally* Scheffer, *The Law of Treaty Termination as Applied to United States De-Recognition of the Republic of China,* 19 Harv. Int'l L. J. 931 (1978).

[3] 6 U.S.T. 433, T.I.A.S. No. 3178.

[4] *Id.* Art. V.

[5] Pub. L. No. 95–384, § 26, 92 Stat. 746 (1978).

[6] *See* Declaration of Richard Holbrooke in Support of Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment, ¶¶ 2–3.

[7] *See generally Resolution Concerning Mutual Defense Treaties: Hearings on Sen. Res. 15 Before the Committee on Foreign Relations,* 96th Cong., 1st Sess. 157 (1979) (history of treaty terminations by the United States prepared by the Dept. of State); Emerson, *The Legislative Role in Treaty Abrogation,* 5 *J. Legis.* 46, 52–64 (1978); Scheffer, *supra* note 2, at 979–985, 993, 995.

[8] *See, e.g., Edwards v. Carter,* 580 F. 2d 1055 (D.C. Cir.), *cert. denied,* 436 U.S. 907 (1978); *Metcalf v. National Petroleum Council,* 553 F. 2d 176 (D.C. Cir. 1977); *Dole v. Carter,* 444 F. Supp. 1065 (D. Kan.), *motion for injunction pending appeal denied,* 569 F. 2d 1109 (10th Cir. 1977).

[9] *Reuss v. Balles,* 584 F. 2d 461, 465 n. 14 (D.C. Cir.), *cert. denied,* 99 S. Ct. 598 (1978); *American Jewish Congress v. Vance,* 575 F. 2d 939, 943–44 (D.C. Cir. 1978).

[10] *See, e.g., Harrington v. Schlesinger,* 528 F. 2d 455, 459 (4th Cir. 1975); *Metcalf v. National Petroleum Council,* 407 F. Supp. 257, 260 (D.D.C. 1976), *aff'd on other grounds,* 553 F. 2d 176 (D.C. Cir. 1977).

[11] *See* Henkin, *Is There a "Political Question" Doctrine?,* 85 Yale L.J. 597 (1976).

[12] *See* Note, *Congressional Access to Federal Courts,* 90 Harv. L. Rev. 1632, 1649 (1977).

[13] Senate Resolution 10, which was introduced by Senator Dole on January 15, 1979, and referred to the Foreign Relations Committee, resolves: "That the Senate disapproves of the action of the President of the United States in sending notice of termination of the Mutual Defense Treaty with the Republic of China." 125 Cong. Rec. S209 (Jan. 15, 1979). Senate Resolution 15, which was introduced by Senator Harry F. Byrd, states: "That it is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation." *Id.* S220 (Jan. 18, 1979). Hearings on this resolution were conducted before the Committee on Foreign Relations on April 9–11 and a report was issued on May 7, 1979. S. Rep. No. 96–119, 96th Cong., 1st Sess. (1979). Senate Concurrent Resolution 2, which is subtitled "To uphold the separation of powers between the executive and legislative branches of Government in the termination of treaties," was introduced by Senator Goldwater and referred to the Committee on Foreign Relations. 125 Cong. Rec. S219 (Jan. 15, 1979).

[14] On April 10, 1979 the President signed the Taiwan Relations Act, which addresses major aspects of United States-Taiwan relations and contains a security assurance expressing continued United States concern in the absence of the Mutual Defense Treaty. Pub. L. 96–8, § 2(b) (Apr. 10, 1979). Defendants suggest that this Act can be interpreted as legislative ratification of the notice of termination. During debate on the proposed legislation, however, several members of the Foreign Relations Committee, including the majority and minority floor managers of the bill, stated that nothing in the bill constituted a determination of the legal and constitutional issues raised by the President's notice of termination. See 125 Cong. Rec. S2124, S2126, S2130, S2134, S2151 (Mar. 7, 1979) (statements of Senators Javits, Glenn, Baker, Hayakawa, Helms, and Stone).

[15] Declaration of Richard Holbrooke in Support of Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment; *see* Defendants' Answer to Plaintiffs' Interrogatory No. 7.

[16] "It is the sense of the Senate that there should be prior consultation between the Congress and the executive branch on any proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954." 22 U.S.C.A. § 2151 note (1979).

[17] The consultation language proposed by Senators Dole and Stone stated: "It is the sense of the Senate that any proposed policy changes affecting the continuation in force of the United States-Republic of China Mutual Defense Treaty shall be a matter for prior consultation with the Senate." *See* 124 Cong. Rec. S11727 (July 25, 1978).

[18] *See Greater Tampa Chamber of Commerce v. Adams,* C. A. No. 78–0517, slip op. at 5–6 (D.D.C. Nov. 29, 1978), *appeal docketed,* No. 79–1123 (D.C. Cir. Dec. 21, 1978).

[19] *United States v. Curtiss-Wright Export Corp.,* 299 U.S. 304, 320 (1936).

Mr. CHURCH. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Georgia (Mr. NUNN) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I am prepared to move to recess, unless a Senator wishes me to yield.

Mr. President, the order for the convening time tomorrow is 9 o'clock?

The PRESIDING OFFICER. Nine o'clock.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes, for a question.

Mr. GOLDWATER. Has there been disposition of the approximate date of a vote on this amendment?

Mr. ROBERT C. BYRD. No; there has not.

Mr. GOLDWATER. The Senator has not asked unanimous consent yet?

Mr. ROBERT C. BYRD. No. I say to the distinguished Senator that if it is not disposed of before then, and it very well could be disposed of before then if some agreement is reached, the pending business would be resumed automatically upon the disposition of the Endangered Species Act.

Mr. GOLDWATER. That is next week?

Mr. ROBERT C. BYRD. Next week.

Mr. GOLDWATER. If I am here, you will have a hell of a time getting it up.

Mr. ROBERT C. BYRD. It will be brought up automatically.

Mr. HELMS. Mr. President, will the Senator yield me 30 seconds?

Mr. ROBERT C. BYRD. I yield, without losing my right to the floor.

Mr. HELMS. I will not object to that.

ROUTINE MORNING BUSINESS

ZIMBABWE-RHODESIA

Mr. HELMS. Mr. President, if reports coming to me are accurate, it appears that President Carter has chosen not to lift sanctions against Zimbabwe-Rhodesia. I hope these reports are not true.

In making such a decision, the President would be ignoring the overwhelming sentiment in the Senate that the elections in Zimbabwe-Rhodesia were free and open, and that the leaders of that country have made a good-faith attempt to meet with the guerrilla forces at an all-parties conference.

The Case-Javits amendment passed the Senate last year by a wide margin. It was passed by the House and was signed into law by President Carter. In signing that legislation, the President surely understood that he had accepted the formula set up by Case-Javits.

The Senate has stated, and strongly I might add, that those conditions have been met. Zimbabwe-Rhodesians accepted those conditions in good faith. They abided by the conditions of Case-Javits. Now, it is time for the United States to act in equally good faith.

At the appropriate moment, the Senate again will have the opportunity to vote to lift sanctions against Zimbabwe-

Rhodesia. That moment will come soon. No amount of delay by the President and the State Department, however well meaning, should further defer the fulfillment of this Nation's obligation to lift sanctions against Zimbabwe-Rhodesia. Ambassador Andrew Young's scare tactics in suggesting that Nigeria may engage in oil retaliation are unworthy of any responsible U.S. diplomat. Mr. Young's specious exhortations notwithstanding, the Senate should keep its word and again make clear its position on Zimbabwe.

IS THE FAITHLESS ELECTOR A CONSTITUTIONAL PROBLEM?

Mr. HATCH. Mr. President, a complaint frequently cited by opponents of the electoral vote system is the problem of the so-called faithless elector, the elector who casts his Presidential vote for someone other than to whom he is pledged. It is a concern that I share, although I consider it a red herring in view of the infrequency of its occurrence. In the history of the Republic, there have been no more than a dozen faithless electors out of the more than 16,000 electoral votes cast. The faithless elector has never come anywhere near to actually affecting a Presidential election.

While I would support an amendment that would eliminate the possibility of future faithless electors, including the abolition of the office of the elector itself, I am not sure that such a time-consuming approach is necessary. Prof. Charles L. Black, Jr., of the Yale Law School, for example, has suggested an alternative solution. In a recent article appearing in the Louisiana Law Review, Professor Black argues that the faithless elector problem is a problem "primarily, not of constitutional law, but of contract law." The elector, having been chosen by the voters with the understanding that he would cast his vote for a certain candidate, has thereby entered into an implied contract. As a result, Professor Black argues that "no constitutional amendment would be necessary."

I call to the attention of my colleagues Professor Black's observations and ask unanimous consent that they be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE FAITHLESS ELECTOR: A CONTRACTS PROBLEM*

(By Charles L. Black, Jr.**)

Availing myself of the marvelous freedom of this format, I am going to put an idea down here, as briefly as possible. I do not know whether this idea has been expressed by anyone else before. If it has, it cannot hurt for it to get another exposure; if it has not, it certainly should be put forward well before 1980.

Our electoral college system for electing the President sometimes generates the problem of the "faithless elector"—the elector who runs as a member of a state pledged to vote for a particular candidate, but who casts his vote for somebody else.

I happened to be around Congress and in the galleries when this question came up in January, 1969.[1] One Dr. Bailey, an elector in North Carolina, was pledged to Richard Nixon but voted for George Wallace. The Congress faithfully followed the stage directions in 3 U.S.C. §§ 15–17.[2] When North Carolina was reached, and the problem of Dr. Bailey was raised, the Houses dissolved their joint session and each met separately (without any further time for research or preparation) for the two hours, and not a minute more, mandated by section 17[3] with each member limited to a single five minutes' speech. After this deliberation, if so hectically hurried a "debate" can be called that, each House voted to receive Dr. Bailey's vote as cast, and to count for Wallace. Reconvening together, they acted accordingly.

This amount of consideration, for a great constitutional question whose solution might determine the identity of the President, could not be thought to rise to the level of frivolity—except for the fact that in the given case Nixon won no matter how you counted Bailey's vote. (My friend, Congressman Bob Eckhardt, said the most sensible thing said on this occasion—in effect that the job of Congress was not to adjudicate issues of no present pragmatic relevance, but to decide who had been elected President, and that Congress should simply have left the "faithless elector" question where it was and declared Nixon to be elected no matter how Bailey's vote was counted.[4]

I decline to believe that such perfunctory consideration of a question, the answer to which made no difference at the time, could determine for all time the right answer to that question when its answer *does* make all the difference, as sometime it easily may. So I have kept thinking, off and on, about the matter.

It struck me the other day—and this is the whole idea for this piece—that the problem of the "faithless elector" is a problem, primarily, not of constitutional law but of contract law.

The law of contract is after all the law we customarily think of when we consider what to do about borken promises. If there are firm evidentiary grounds for holding that an elector has made an express or implied-in-fact promise to vote for X (and if there are not the problem cannot arise), and if voters have voted for him in reliance on that promise, then it seems to me that a contract, with valuable and lawful consideration, has been made between him and them, the tenor of which is that he will perform a single, simple act of a unique value not commensurable with money. This contract falls within familiar categories: It is (as my description of it makes clear) a classic case for the equitable remedy of specific performance; how could the "remedy at law" (money damages) be "adequate"? It is, quite clearly, a third-party beneficiary contract, with the candidate in the role of beneficiary, and modern contracts law generally acknowledges the right of such a beneficiary.

The only substantive question remaining is whether such a contract is "against public policy," and hence void. At this point of course, we reach a facet of confrontation between contracts law and constitutional law. But how transformed is the constitutional question! The question is not now whether article II of the Constitution[5] in and of itself, compels the elector to keep his promise, or frees him to break it. The question is rather (and in stating it fairly I think I virtually answer it) whether a promise of a sort *not forbidden* by article II, and regularly made and kept by electors in every article II election for the last century and a half at least, is "against public policy," so as to be unenforceable, notwithstanding its meeting all technical requirements of contract law. I do think that question pretty well answers itself; certainly I can think of no better way to argue it than merely to state it.

There remain questions of procedure for enforcement of this contract. I would hope that it will not be thought recourse must be had to a court. The Houses of Congress are already the judges of the validity and effect of certificates from the components of the electoral college. In that capacity, Congress should, when needful, have those simple powers of a court of equity which would suffice in this situation—the power to reform an instrument to conform to legal obligation, and (overarching both of these remedies) the general equitable power to treat that as done which ought to be done.

None of the foregoing seems to me in the least doubtful, as the law now stands. But it might be as well to codify it all in a revision of title 3, so that it could all roll off automatically if the problem of the "faithless elector" visits us again. The next time, the solution to the problem could determine the identity of the President. Since the people would barely stand for a person's being President who became President because Congress considered itself impotent to give effect to a plainly implied-in-fact contract, it might be as well to say so at once, in a title 3 revision declaratory of the applicability, to this problem, of simple contract law and remedies. No constitutional amendment would be necessary.

FOOTNOTES

*Copyright, 1977, by Charles L. Black, Jr.

**Sterling Professor of Law, Yale University.

[1] *See* 115 CONG. REC. 145–72, 197–246 (1969).

[2] 3 U.S.C. §§ 15–17 (1970). These sections provide for a joint session of the Senate and House of Representatives to count electoral votes. If at least one Senator and one Representative should object to a particular elector's vote, each house shall meet separately to rule on the objection; unless both houses vote to reject the contested vote, it is counted as cast.

[3] *Id.* § 17.

[4] 115 CONG. REC. 164 (1969).

[5] U.S. CONST. art. II § provides, in pertinent part:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress. . . .

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and the House of Representatives, open all the Certificates, and the Votes shall then be counted. . . .

The Congress may determine the Time of choosing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

The twelfth amendment, adopted in 1804 to modify article II insofar as the election of the Vice President was concerned, left the above provisions intact.●

THE DAVIS-BACON ACT

Mr. HATCH. Mr. President, there have been those who have sought to portray the rapidly gathering forces on behalf of reform of the Nation's Davis-Bacon Act a little more than strident antiunionists. Nothing could be further from the truth and a recent editorial in the Providence Journal well illustrates why.

Those of us in the Congress seeking this reform by repeal of the Depression-era Davis-Bacon Act recognize that, as scripture says, "there is a time and place for everything." The time when Davis-Bacon served its useful purpose is long past. Now, all the act does is add to the inflationary burdens our people are unjustly forced to carry. The time has come to repeal this law and thus lift at least a part of our peoples' burdens in the fight against inflation. I commend the Journal's thoughtful editorial to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Providence Journal, May 1, 1979]

DAVIS-BACON ACT: AN EXAMPLE OF WASTE

The spectacle of congressional Republicans gathering forces to chop the head off the Davis-Bacon Act, a 48-year-old chicken that has come home to roost, has its element of ironic humor. But organized labor, which long ago adopted the wretched fowl, isn't laughing.

Spawned in 1931 by Republicans for less-than-noble reasons, Davis-Bacon has been a medium-priority target for repeal by the GOP in recent years. Now it has been moved up to the front burner by the pressure of business opposition and public resentment over waste in federal spending. Fuel has been added by a General Accounting Office draft report indicating that the fiscal watchdog agency will recommend repeal on grounds that Davis-Bacon is outmoded and inflationary.

The law was conceived in the late 1920's by Rep. Robert Low Bacon, R.-N.Y., who was angered that a veterans' hospital job in his district had gone to a firm that brought non-union labor up from the South and paid them less than the local wage rates. A northern-dominated Congress, which feared wage competition from Southern blacks, hastily passed the legislation, which has since been adopted by organized labor as one of its pro-union legislative showbirds.

Originally Davis-Bacon required contractors for federal building projects to pay locally "prevailing wages." Since then, Congress has extended it to cover all private construction funded partly or in full with federal dollars. Today it affects $40 billion worth of construction each year. The GAO now criticizes it because the Labor Department has never been able to determine satisfactorily what "prevailing wages" are, and so has relied on union wage scales whether or not they conform to the area's wage patterns.

This biased approach to the vague "prevailing wage" requirement, says the GAO, costs the federal government $500 million a year in wages. The paperwork associated with the act costs an additional $200 million, and its administration another $15 million. With the federal budget running a deficit of $30 or more billion in a heated-up economy with soaring inflation, this waste of three-fourths of a billion dollars is indefensible.

Rhode Island's Rep. Edward P. Beard, who chairs the House subcommittee overseeing the bill, fulminates about "merchants of anti-union hate (who) don't care who or what they destroy as long as they pull down a union."

That sort of rhetoric no doubt brings plaudits from Mr. Beard's constituency at the AFL-CIO. But we might suggest that the representative from Rhode Island has a wider constituency here which is neither pro- nor anti-union, but is decidedly for government restraint in spending and against the wasteful use of their tax dollars.

If Mr. Beard truly wants to speak for the best interests of all those who put him in office, he should re-examine the Davis-Bacon repeal effort in that more positive and practical light.

THE JEWISH COMMUNITY AND DIRECT ELECTION

Mr. HATCH. Mr. President, Senate Joint Resolution 28, which would abolish the electoral vote system would have substantial implications for minority groups. As observed by the American Jewish Congress in testimony before the Senate Judiciary Subcommittee on the Constitution:

> By tending to inhibit the nomination of candidates likely to be objectionable to sizable minority groups, the electoral system assures attention to the needs and desires of groups whose interests might be given much less consideration under a system of direct popular election.

Only the electoral system is concerned about something more than the pure size of a Presidential majority; it is concerned about the character of that majority as well. It is designed to insure that no minority group of any significant size, whether it be a racial, ethnic, religious, or geographical minority, is denied some measure of real influence in the selection of Presidents. It is designed to insure that a successful electoral coalition broadly reflects the fabric of the American electorate. The electoral system, unlike the system of direct popular election, is aimed at insuring that Presidents are selected through broadly based consensus, rather than through the divisiveness of regional or sectional campaigns.

I draw to the attention of my colleagues the observations of some of the Jewish community on electoral reform. The first item is the testimony of Howard M. Squadron before the Constitution Subcommittee in April in behalf of the American Jewish Congress. The second is a letter to the New York Times from Rabbi Bernard Rosensweig, president of the Rabbinical Council of America. The third is an editorial from Congress Monthly, a journal of Jewish affairs. The final item is an article from that same publication by Will Maslow.

I ask unanimous consent to print this material in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PREPARED STATEMENT OF HOWARD M. SQUADRON

The American Jewish Congress welcomes this opportunity to present to this Committee its views on the pending proposals to amend the Constitution so as to change the method of electing the President and Vice-President.

The American Jewish Congress is a national organization of American Jews formed, in part, to protect the religious, civic, political and economic rights of Jews, to strengthen Jewish life and values and, more broadly, to promote and extend the ideals of democracy. We believe the security of the American Jewish community depends on preservation of democratic values within this country. We are therefore actively concerned with ensuring that our Federal Government is truly responsive to the needs of its citizens.

The procedure for the election of the Chief Executive of our nation directly shapes the manner in which our democratic system operates. It is for that reason that we submit this statement on the pending proposals.

THE INFIRMITIES OF THE PRESENT SYSTEM

Few would deny that our present method of electing a President has serious infirmities. It has been criticized on numerous counts and efforts to reform it were first made back in the 18th century. I will emphasize only those criticisms that seem most significant.

First, because each state has electors equal to its number of representatives and senators, the number of electors is not directly proportional to the population of the states. Small states are thus overrepresented in the Electoral College. If each state's electoral votes were divided in proportion to the popular votes cast for each candidate in each state, the effect of this overrepresentation would be real. However, since each state, except for Maine, has for nearly a century and a half employed the unit rule, the overrepresentation of the smaller states is more apparent than real.

Second, since an election under our present system is determined by the number of electoral rather than popular votes, it is possible for a candidate to achieve an electoral majority without garnering a majority or even a plurality of the nationwide popular vote. In fact, it has been estimated that a candidate with a minority of 25 percent of the popular vote could yet receive the necessary majority of the electoral vote.[1] Thus, the will of the majority can be subverted. It has even been suggested that in a very close election there is a 50-50 chance that the candidate who squeezes out a victory in the popular vote will not squeeze out such a victory in the electoral vote. The 1976 election presented a very dramatic example of the possibility of a candidate receiving a majority of the popular vote losing the Electoral College vote. As Senator Bayh noted in his opening remarks at the hearings held on this subject in January of 1977, a switch of only 9,245 votes in Ohio and Hawaii would have denied an electoral majority to President Carter despite his 1.7 million popular vote plurality.

Third, the will of the voters can be disregarded by the electors themselves, since they are not legally obligated to cast their ballots for the candidate to whom they stand pledged. Although a rare occurrence during the first 165 years of our history, the "faithless elector" seems to have become a common practice since 1956.

Fourth, if no candidate receives a majority of the electoral vote, the election of the President is referred to the House of Representatives while the Senate considers the election of a Vice-President. The procedure in the House is even more undemocratic than that of the Electoral College. Each state is entitled to one vote, regardless of its size. There are also other objections. Each state delegation has full discretion of choice; it is in nowise bound by the vote of its constituency. If a state delegation is evenly divided, it cannot cast its vote. Finally, should the House itself be deadlocked, the Constitution is not clear as to how such a deadlock may be resolved.

PROPOSED CHANGES

In view of these criticisms, it is understandable that pressure to alter or even abolish the electoral vote system has mounted. Critics of the system offer four general routes for change, with variations within each possible route.

The most radical of these proposals, in the sense of moving farthest from the present constitutional scheme, is that calling for the direct or popular election of President and Vice-President. (See S.J. Res. 28.) The other three proposals (which over the past 10 years have often been contained in bills pending before one or the other House) would abolish the Electoral College but would retain the electoral vote system, with the same number of electoral votes being assigned to each state as the states now have electors. One of these proposals would divide each state's electoral vote proportionately to the popular votes cast in the state, using fractions; the second would allocate one electoral vote to each Congressional district, with two additional electoral votes in each state to be determined at large; and the third, which would involve the smallest change in the present system, would assign all the electoral votes of the state to the candidate receiving the most popular votes in that state. Coupled with each of these proposals is a variety of methods of determining whether a candidate has sufficient electoral (or popular) votes to be declared elected, as well as a variety of methods of conducting a second elective process (sometimes called the "contingent election") if no candidate is elected in the first election.[2]

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[1] Realistically, a minority candidate would only be elected in a close popular election. If there is real concern, despite 200 years of experience, about the possibility of a candidate with only 25 percent of the popular vote becoming president, consideration could be given not to a sweeping change but to an amendment directly dealing with that problem.

THE POSITION OF THE AMERICAN JEWISH CONGRESS

The American Jewish Congress has given deep and repeated consideration since 1967 to the proposals to revise or eliminate the Electoral College. In 1969 we submitted testimony before this same Subcommittee and about a year and a half ago Senator Bayh was our honored guest at a Governing Council Meeting of the AJCongress at which this subject was discussed. Our conclusion was and is that the manifest evils of the present Electoral College system should be corrected, particularly the opportunity for power-plays by "unfaithful" electors and the vagaries of the procedure for the contingent election when an electoral majority fails. Beyond this, however, we advocate caution. We oppose further change lest certain positive byproducts of an acknowledgedly imperfect arrangement be unwittingly jettisoned.

Specifically, we make the following recommendations: We would eliminate the electors, as human agents, while retaining the system of electoral votes. These votes would be allocated among the various states as they are now and would be cast, as they now are, in a bloc for the candidate within each state winning a plurality of the popular vote. A candidate winning a simple plurality of the electoral vote, if it reached as much as 40 percent of the total, wound become President. If no candidate received 40 percent of the total, a contingent election would be held in the house of Representatives (not the House and Senate together, as is sometimes suggested). In this election, each Representative would cast a single vote for one of the two candidates receiving the largest number of electoral votes. The candidate receiving a majority of the vote in the House would be declared President. The House would then conduct a similar election of Vice-President between the top two candidates in the Electoral College for that office.

THE ADVANTAGES OF THE PRESENT SYSTEM

Although the system of electing Presidents that has been in effect in this nation since its origin undoubtedly has faults, it would be a mistake to assume that it has no virtues. Indeed, its virtues are proved by its successful operation for nearly two centuries.

To begin with we must remember that our system of democracy is tempered by principles of federalism. The Founding Fathers adopted the Electoral College as a compromise plan—one that was acceptable to those on both sides of the Federal-State conflict, the Presidential-Congressional conflict and the big state-small state conflict. Within this context a major feature of the Electoral College system is that it acts to counterbalance the underrepresentation of the large states in the Senate. In addition, the Electoral College acts to accentuate regional factors, making possible combinations that give an advantage to the smaller states. The late Professor Alexander M. Bickel of the Yale School of Law eloquently made these points in his testimony on April 15, 1970 before the Committee on the Judiciary. I commend this testimony, which is an appendix to last year's hearings, to your attention.

Professor Bickel said (at p. 459):

"* * * the genius of the present system is the genius of a popular democracy organized on the federal principle. The founders of this Republic saw, as Walter Lippmann has written, using Edmund Burke's phrase, that the constitution of a State is not a "problem of arithmetic." The founders thought of the people, Mr. Lippman continues, "as having many dimensions in space, in time, in weight, in quality * * *. The American founders sought to represent this many-sided people and they thought of the people's will as an equilibrium of its many elements * * *. And so in their practical arrangements they sought to make the government as nearly representative as possible of the many facets of the popular will, of the people acting as citizens of local communities, acting as citizens of regions, of states, of the Nation, acting with remembrance of the past, acting as they felt at the moment, acting as they would feel after fuller consideration * * *."

"* * * The founders sought to approximate a true representation of the people by providing many different ways of counting heads." (Walter Lippmann, "The Good Society," pp. 253–54.

As Professor Bickel noted, the Electorial College aspect of the overall system is the aspect malapportioned in favor of the large industrial states (at p. 460.):

"* * * in which party competition is vigorous, and which generally swing by small percentages of the popular vote. Not only that, but the system is in effect malapportioned in favor of cohesive interest, ethnic or racial groups within those large States, which often go nearly en bloc for a candidate, and can swing the State and its entire electoral vote. * * * This insight, at any rate, has long governed the strategy of presidential campaigns and the decisions of the nominating conventions, and has in our day resulted generally in an orientation of the Presidency toward an urban constituency.

"It overstates the matter, however, to maintain the Presidency is thus given an invariable liberal, or even urban, politican and ideological cast, or that different strategies are impossible. Other groups than those that have been dominant in the past generation may seize the balance of power in the large industrial States, use it to other ends, and orient the Presidency in a different direction than that to which we have become accustomed. The point I make is merely that the electoral college opens up for cohesive groups in large industrial States a possibility of influence that they would not otherwise have. It holds out no guarantee that the influence will always be effective. Indeed, combinations remain conceivable which would make the malapportionment in favor of smaller States very real. Circumstances are imaginable in which small shifts of popular votes in a group of small States, combined with equally small shifts in at least one large State could swing the election. * * * The possibility of such a decisive role falling to a group of small States is in my judgment remote. But, it exists. There is, moreover, a symbolic value in play for the small States, since the electoral college, on its face, confirms the federal system and the equality, if only partial, of all States, large and small.

"The seeming paradox, embodied in the electoral college, of a system which offers the possibility of disproportionate influence both to cohesive groups in the large States and to the small States—this paradox should not seem strange in this chamber, for it is embodied also in the Senate itself. The at-large popular election of Senators means that in the big industrial States cohesive groups can have disproportionate influence in the election of Senators, just as under the electoral college system they can have disproportionate influence in the election of the President. For this reason, the Senate has in recent years had a more urban and liberal orientation than the House. Yet at the same time, of course, the Senate is the place of disproportionate influence for the small States, being malapportioned in their favor in far greater measure than the electoral college."

The House of Representatives too has in the past been disproportionately representative of rural areas because of gross malapportionment in both state legislatures and Congressional districts. While this has largely been corrected, its effects are still felt.

Also, in both houses of Congress the seniority system tends to give leadership positions to those who represent secure or one-party states rather than to those representing the large states where party fortunes are subject to rapid change.

These inequities, say the constitutional scholars, are compensated for by a system of electing Presidents which favors the urban voter. The Presidency, which must be responsive to urban and ethnic interests, is seen as a counterweight to Congress. In a country as large as ours and as diverse, this system of countervailing powers has served us well. It is part of a network of balances and accommodations which insures a concern for all groups and a genuinely representative government.

The present system has preserved the federal character of our government. It recognizes and embodies a delicate balance between the powers of the states and the powers of the central government. This feature of our system has contributed to its stability.

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[2] Another proposal has been developed by a Task Force of the Twentieth Century Fund—a "National Bonus" system—which would retain the electoral vote system (but not the live electors). Each state would get the same number of electoral votes it now has, all to be cast, as they now are, for the candidate getting the most votes in the state. However, an additional 102 electoral votes would be cast for the candidate getting the most votes countrywide. According to the Task Force, this proposal "virtually eliminates the possibility of defeat for the winner of the most popular votes, which was the priority of proponents of direct election, while preserving those aspects of the existing system that were seen by its defenders as bulwarks of the two-party system and of federalism."

In fact, however, this arrangement would boil down to another, but more complicated, kind of direct election. Under its terms, it is almost certain that the winner would always be the beneficiary of the 102-vote bonus. He could lose only in a situation in which, although he received a popular plurality, one of his opponents had an edge of more than 102 electoral votes among those cast separately by the states. That is so unlikely as to be safely treated as impossible. The Task Force Report effectively concedes this when it says that the proposal "virtually eliminates" the chance of a loss by the popular vote winner.

Under the National Bonus system, therefore, the whole election process would be aimed at the "bonus." Thus, all the arguments concerning a national election—pro and con—are equally valid as to this proposal. Moreover, since only the national vote would count, there would be no point in keeping the complication of the state-by-state vote. If a win by the leader in the popular vote is "virtually" assured, why have anything other than a popular vote?

Second, the stability and the success of America's system of government is in large measure due to our two-party system. The Electoral College mechanism has tended to preserve that system. Third parties are discouraged from running presidential candidates since they are not likely to win statewide pluralities.

In a two-party system, each party becomes a coalition of forces, a party of consensus and accommodation, rather than a rigid, doctrinaire fragmentation. There are therefore few irreconcilable losers in a two-party election and the winner is better able to govern. A multiple party system might result in less stability, even in a parliamentary system. The electoral history of multi-party countries provides insight on this subject. Each party tends to offer a self-contained ideology to the voters, and accommodation, which takes place after the elections, is more difficult. We believe that the dangers inherent in introducing a multi-party system in this country are particularly great today because of the recent sharp increase in single issue candidates who might garner large popular votes.

Third, in a close popular vote, there is an additional advantage to the Electoral College system: When the victory is seen through the magnifying glass of an electoral vote, a speak-through is transformed into a vote of wider acceptance and the winning candidate gains an enhanced ability to govern.

We do not regard the remote possibility that a candidate who wins the popular vote but nevertheless loses in the Electoral College as a sufficient reason for upsetting a system that has so many other sound reasons for supporting it. As the New York Times put it in a 1977 editorial, "There are risks in abolishing the Electoral College and subverting the two-party system. The risks are at least as serious as the remote contingency that the popular vote loser might squeeze out an Electoral College victory." This has happened only once, in the election of 1888, when Grover Cleveland won the popular vote by 90,000 votes only to lose in the Electoral College to Benjamin Harrison. But the ordinary statistical error in a national vote count would be greater than any minute discrepancy between the majority and the minority in such an election. So we can never be certain in close elections who really won.

There is only one situation, we believe, in which a candidate having a substantial lead in the popular vote could lose the electoral vote. That would occur if one candidate won by a landslide in one region while losing the others by a narrow margin. The electoral vote system, as it has developed during two centuries, would operate to deny such a candidate a victory. Its effect, therefore, has been to compel candidates to seek support not from one region or one race or one economic class or one ideology but from all. It requires what John Calhoun called "concurent majorities" in which the vital interests of important minority segments cannot be disregarded. Our political system is based on a wholesome unwillingness to entrust the fate of such minority segments to the caprice of a transitory majority.

To illustrate, in 1976, President Carter's popular margin over President Ford was only 1,605,905. Yet his popular majority in Georgia was 487,000—more than a quarter of his total margin. The bloated vote in his home State was enough to outweigh Ford's margin of victory in 22 States combined. Conversely, Ford's largest popular margin was in his own home State, Michigan, which he won by 191,000 votes, this plurality exceeded his popular margin in 15 of the 22 States referred to above.

The genius of our political system is that it recognizes that a federal government cannot operate like a New England town. As we have noted, several aspects of our Constitution are at odds with the concept that the majority must always have its way. It should also be remembered that our political system includes a life-tenured Supreme Court which has the power to invalidate laws that contravene constitutional guarantees, even when they enjoy overwhelming popular support.

In sum, if our federal system is to be changed in a manner which wipes out advantages held by some groups or some states, all of its aspects should be reconsidered. None should be regarded as sacred.

DIRECT POPULAR ELECTIONS

The proposal that the electoral vote concept be eliminated entirely in favor of direct popular vote has received wide support. We believe its supporters have overlooked many of the problems it poses. Not the least of these is the possible destruction of our two-party system.

In a system of direct election, narrowly based parties would be encouraged to enter presidential candidates in the hopes of gathering enough strength to prevent a majority or plurality choice, thereby giving them a bargaining position in any run-off procedure. And as the vote was fractioned by the proliferation of parties, it seems certain that the eventual winner would represent a smaller share of the popular vote. The popular vote system thus offers the irony that a system meant to assure an elected candidate most reflective of the popular will could result in a candidate elected by a smaller proportion of the popular vote.

Under a direct election scheme, furthermore, when a candidate failed to achieve a stipulated percentage of the vote, which would be more likely with additional minority parties in the field, a run-off election would be necessary. Apart from the delay in achieving a final result, a run-off has the dangerous effect of giving an exaggerated influence to minor candidacies.

The impact of adoption of the popular election system on the present balance of Federal-state power should be fully understood. Too often, it is assumed that we would simply eliminate the Electoral College and count the popular votes as they are now cast. There are many reasons why such a count would be unacceptable. At the least, the Federal Government would have to lay down uniform standards as to who could vote and what candidates and parties would be on the ballot.

Without such Federal regulation, individual states would be encouraged to compete in lowering the voting age in order to enlarge their proportion of the total vote. Sec. 2 of S.J. Res. 28, by reiterating that "electors of President and Vice-President in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature," seems to be encouraging such competition. On the other hand, in an election in which every vote had equal importance, the nation could not tolerate any restrictions on voting that a single state might propose. Moreover, it would cease to make any sense for persons to be deprived of their right to vote in a national election merely because they moved from one state to another. S.J. Res. 28 by merely providing that Congress may establish residency qualifications recognizes this problem but fails to solve it.

With respect to the ballot, it would obviously be illogical, in a single unitary election, to permit any state to exclude from the ballot parties or candidates who appear in other parts of the country. This aspect of the electoral process would also have to be taken over by the Federal Government.

More than merely candidates and voters are involved. It is doubtful that the country could long permit state control over the actual balloting process when every vote counted in a single national election. Under our present system, occasional fraud or other irregularities in the vote usually do not affect the result, even in a close election. In a popular election they would be intolerable. The Federal Government would have to supervise and, ultimately, conduct the voting process. It would soon be seen that a uniform, Federally-managed system of counting and reporting election results was required.

We are not saying that such changes would be wholly undesirable. We are saying that they would do violence to the Federal system as we know it.

In addition, when the popular vote in the presidential campaign is close, a recount might well be demanded by the losing candidate. This recount would not be restricted to one or two states, as at present. It would have to be nationwide. In three of the last five presidential elections, the count was sufficiently close that, had we been under a direct election system, a recount call would not have been unreasonable. (Kennedy v. Nixon—1960; Nixon v. Humphrey—1968; Carter v. Ford—1976). Contests on ballots in all of the 50 States would have to be resolved. In these circumsteances, a claim of a "stolen" election, even if ultimately rejected, would be at least as traumatic to this country as the election of a "minority" president. With a popular vote of 80 million, a plurality of 50,000 or 100,000 will certainly not necessarily convince the American public as to who has been elected. As noted earlier, the Electoral College has the effect of magnifying the victory for the winner, adding stability and reducing suspicion.

Finally, in this regard, Theodore H. White, author of The Making of the President series, has pointed out that,

"* * * if States are abolished as voting units, TV becomes absolutely dominant. Instead of courting regional party leaders by compromise, candidates will rely on media masters. Issues will be shaped in national TV studios, and the heaviest swat will go to the candidate who raises the most money to buy the best time and most 'creative' TV talent."

THE PROPORTIONAL AND DISTRICT PLANS

The other two proposed methods of electing the President may be treated together. Under both, each state would have the same number of electoral votes as it now has electors. Under the proportional plan, the electoral vote of each state would be divided in proportion to the popular votes cast in that state. Under the district plan, one electoral vote would be decided by the vote in each Congressional district in the state and two would be decided by the vote of the entire state.

We submit that these two proposals have nothing in their favor except narrow sectional interest. They would retain all of the bias of the present system in favor of the small states while doing away with whatever advantage the large states now have. The advantage held by the small states in the Senate would be retained. So would their disproportionate electoral vote.

In practice, either of these systems would virtually destroy the significance of the large states in the presidential selection process. In any close election, no candidate could hope to obtain an edge of more than three or four votes in any one state, no matter how large. The same advantage could be obtained with much less expenditure of energy—and of political capital—on one or two small states. Hence, in picking candidates and in shaping issues, the parties would tend to concentrate on the states with small population and light voting, and particularly those which they dominate.

Destruction of the influence of the urban voter and of minority groups has been stated quite frankly as the justification of these proposals. When similar measures were being considered in Congress in 1950, Senator Johnson (D. S.C.) complained:

"We, in the South, highly resent the fact that both parties will spend a hundred times as much money to get the Negro vote in Harlem * * * as the vote of a white man from South Carolina."

Similarly, Representative Gossett, after noting that both parties attached undue importance to the votes of Negroes and organized labor, said:

"Now, with all due deference to our many fine Jewish citizens, they constitute a third group, to whom a specific overt appeal was made in the platforms of both major parties. There are 2,500,000 Jews in the city of New York alone. When they vote even substantially en bloc, it means the balance of power in our largest State."

As noted above, one of the objections to the present system is that a candidate may be elected even though he did not obtain a majority, or even a plurality, of the popular vote. It cannot be suggested that either of these plans would reduce that possibility. On the contrary, if the proportional plan had been in effect in 1960, when John F. Kennedy obtained a narrow popular plurality as well as an electoral majority, he would have received only 262.671 electoral votes to 263.632 for Richard M. Nixon. In 1968, Mr. Nixon would have received 231.534 votes to 225.362 for Hubert H. Humphrey and 79.445 for George Wallace. Unless a 40% rule were in effect, this would have required a second election.

Both these systems, we submit, would also tend to undermine the two-party systems. Third parties would be encouraged to enter presidential elections because of their greater likelihood of bringing about an election deadlock.

THE CONTINGENT ELECTION

For the reasons stated above, we support retention of the unit rule in the allotment of electoral votes, while doing away with the Electoral College as a useless and dangerous anachronism. We believe, further that the present constitutional provisions dealing with the contingent election are cumbersome and undemocratic and urgently in need of change.

As noted above, we would not require a majority in the electoral vote but would provide that a candidate receiving a plurality of the electoral votes would be elected if his plurality constituted at least 40 percent of the total. Pluralties are generally considered sufficient in elections in this country for other offices. There is no need for a special majority rule in the case of presidential elections. Acceptance of a 40 percent rule would tend to preserve the two-party system since it would reduce the likelihood that a third party could deadlock an election. On the other hand, any third party large enough to obtain 20 percent or more of the electorial vote, thereby denying any candidate a 40 percent plurality, should be considered as a legitimate factor in the electoral process.

If a contingent election becomes necessary because no candidate wins 40 percent of the electoral vote, we believe it should take place in the House of Representatives. We oppose a second popular election because of the tremendous strain that puts on the electoral process. We believe the vote should be in the House of Representatives because it is the most representative body. We see no reason to give further advantage to the small states by including the members of the Senate in this vote. Furthermore, the members of the House will just have been elected while that would be true of only one-third of the members of the Senate.

We believe the contingent election should be among the top two candidates, to eliminate any possibility of deadlock. Finally, we believe the election of the Vice-President should also take place in the House of Representatives to guard against the possibility of a divided government and because it is the more representative body.

CONCLUSION

We submit that the proposals that we support have the merit of simplicity. They would eliminate the potential dangers of our present system without abandoning features that have proved their worth over the years. Such innovations as a direct election would have unpredictable and possibly baneful results. We believe it is the wise course to make only necessary alterations in a system which has served us well historically.

[From the New York Times, May 11, 1979]

Save our Time-Tested Electoral College

(By Rabbi Bernard Rosensweig, President)

To the Editor:

The proposed amendment to eliminate the Electoral College in the election of the President represents a great danger to the fabric of the American system of democracy. It poses problems which are more serious in their implications than those which it purports to correct. We would urge our legislators, with all the vigor at our command, to restudy the history of constitutional law and to commit themselves to the preservation of the finest system of government which our society has ever known.

The proposed amendment was introduced by Senator Birch Bayh of Indiana, chairman of the Senate Judiciary Subcommittee for Constitutional Amendments.

Let us concede that this system of electing Presidents, which was developed by the Founding Fathers, has its weaknesses, which should be corrected or eliminated. However, the overriding value of this unique system far outweighs its faults. The late Professor Bickel aptly characterized the uniqueness of the present system as "the genius of a popular democracy organized on the federal principle." Ingeniously, the Founding Fathers balanced the rights of larger states with the needs of smaller ones and succeeded in making our Government as nearly representative as possible in terms of the will of the various segments of our population.

We should understand then that the Constitution, when adopted, was designed to serve a twofold purpose: to provide for a democratic system of government which would reflect the views of the majority and at the same time prevent the minority from being overwhelmed by the majority. To do this, our forefathers developed a comprehensive system of checks and balances and of divisions of authority, all of which were designed to make the Government as nearly representative as possible of the multifaceted concerns of the total nation. In the process it has prevented a demagogue from arising who might be able to move the majority of one region or of one segment of the country and thereby lay claim to power.

The Electoral College has assured the rights of individuals and minority groups. Every person in our country belongs to some minority; every person has interests; every person wants to feel that his voice will be heard. The Electoral College has insured that the concerns of no group can be overlooked. What the Electoral College has achieved is that in organizing a campaign for the Presidency the candidate must direct his attention to every area of the country. He must appeal to and understand the different needs of different sections of the country, and he comes to the realization that he is the President of a varied society with different interests, different goals but with a common hope in the viability of the democratic process.

This system has worked well from the very beginning, and before we begin to toy with one of the main props in our structure, we should consider carefully and long the ramifications. Beyond that, the Electoral College has preserved the two-party system and has removed the element of tension and uncertainty which accompanies presidential elections in so many other countries. There is a world of difference in being elected on the basis of an Electoral College of 538 votes and being elected with a majority of a few hundred thousand votes in an election in which 60 or 70 million citizens may participate. The victory achieved through the Electoral College provides the new President with a stronger base of popular confidence and insures the orderly transition from one Administration to the next. Let us not forget that three out of the last five elections were won by hairsplitting majorities.

Let us preserve the system which has made us the mightiest nation on earth.

[From the Congress Monthly, April 1979]

Abolish the Electoral College?

A number of senators are managing a proposed constitutional amendment which would abolish the Electoral College system. They have let it be known that they intend to forgo hearings and proceed directly to the Senate floor for a vote. The principal sponsor of the amendment is Senator Birch Bayh, Democrat of Indiana, and his proposal to avoid hearings and go to an early floor vote has the endorsement of Senate majority leader Robert C. Byrd of West Virginia.

Senator Bayh's bill, S.J. Res. 1, would elect as President and Vice President the pair of candidates receiving the most popular votes nationally, eliminating the electors and their weighted influence. If no candidate received more than 40 percent of the vote, a runoff between the top two slates would decide the election. The new system would go into effect two years after the last of the 33 required states ratified the proposed amendment, which means it could not be in operation before the 1984 election at the earliest.

The American Jewish Congress has examined this and similar proposals over the course of the past decade. After extended, careful analysis we have come to the conclusion that the likely disadvantages of abolition far outweigh its presumed benefits. Will Maslow, general counsel of AJCongress, outlines the reasons for our opposition in the following pages.

We oppose, as well, the attempt by proponents of the amendment to pass up Congressional hearings. It is true that proposals for Electoral College reform have been examined by several Congressional committees in the past and that some 700 pages of testimony on this issue are now in print. This is not sufficient reason however to justify the present attempt to shortcut the customary process. Many Senators and Representatives who will be called upon to vote on this measure were not in office during the earlier proceedings and could not benefit from participation in those hearings. They had no chance to record their own views and concerns. Asking them to read the earlier texts is not the same as offering them the opportunity to probe, examine and inquire on their own.

Similarly, many civic groups who did not testify in earlier years may wish to do so now that the issue has ripened and appears to be nearing an early decision. Thus, during the most recent hearings no Jewish group testified except the National Council of Jewish Women—and they took a position not generally shared by the rest of the Jewish community as reflected in the program plan of the National Jewish Community Relations Advisory Council. At the very least, we must urge that opportunity be preserved for orderly review of all pertinent arguments so that a prudent, wise and well-considered judgment may eventuate.

This is a complex problem and one that cuts across the usual political categories. Liberals and conservatives are to be found on both sides. Thus, although some of the more influential conservative voices in the Senate oppose S.J. Res 1 their position is shared by such well established liberals as Joe Rauh of the ADA; former federal judge Marvin Frankel; Curtis Gans, director of the Center for the Study of American Electrorate; and

Eddie Williams of the Joint Senate for Political Studies, the most prominent black think tank in Washington. Further, this position is endorsed by the editors of the New Republic and by Arthur Schlesinger Jr. who in the April 4, 1977 edition of the Wall Street Journal offered the following comment, one which seems to us especially relevant at this moment:

> . . . the question of the direct popular election of the President is a good deal more difficult than it seems at first glance. This is no doubt why the question cuts so erratically across liberal-conservative lines.

What this all suggests is the need for the most deliberate consideration before we rush into changing the Constitution. We should be well aware by now of the unanticipated effects of constitutional amendments. No one who supported the 25th Amendment in 1967 supposed that it would give us within a few years a President and Vice President of the United States who had not been elected by the people.

As Lord Salisbury said long ago, "A violent isolated artificial improvement in the institutions of a community, undertaken without regard to the condition of the other portions of the machinery in concert with which it is to work, is a danger so great that no improvement at all is almost to be preferred."

The very fact that there is such a diverse mix of support on either side illustrates the unique difficulties inherent in this problem. It should be clear that disagreement with our position on the electoral college must not be taken to imply disagreement on other matters of fundamental principle or social policy. In particular, we would note that Senator Bayh, perhaps the leading advocate of Electoral College reform, has over the years consistently labored on behalf of issues of concern to the American Jewish community, as well as other minorities, including energetic support for the State of Israel at a number of critical points. Certainly, differences on this one issue must not be taken to imply anything other than the political truism that on matters of great complexity reasonable men of good will may sincerely and honorably disagree.

[From the Congress Monthly, Apr. 1979]

Gambling With the Unknown

(By Will Maslow)

The American Jewish Congress, a national association in existence since 1918, has given deep and repeated consideration since 1967 to the proposals to revise or eliminate the Electoral College. In brief, we believe we should retain the present system which has served our country well for almost 200 years. We believe, however, that by statute or constitutional amendment we can dispose of the problem of the "faithless elector."

The extent to which electoral reform will affect the Jewish community's position and influence in the national political scene is an important factor in the formulation of Jewish communal policy on this issue but it should not be and is not the only criterion by which we evaluate the Electoral College and proposals to abolish it. Jews have a stake in the political system beyond its impact upon their own influence. We cannot therefore support any electoral proposal, no matter how alluring, that threatens to unravel the basic political fabric of our country .

We oppose the direct election of the President for the following reasons:

1. *It will drastically reduce the political influence not only of Jews but of blacks and other minority groups and indeed of the residents in metropolitan areas.* The political influence of Jews and blacks in presidential elections is derived from several factors: They make up a significant proportion of the electorate in the key states with large electoral votes and they tend at least in presidential elections to vote in a bloc. Hence the political parties are sensitive to the interests of Jews and blacks both in their selection of candidates and in the adoption of party platforms. In a system of direct election, however, where a vote in one state is equal to a vote in another, that influence will be lost. We are gratified to note that the Black Leadership Forum, a coalition of the sixteen most important black organizations in the country including the Urban League and the NAACP, as recently as February 12, voted to retain the Electoral College system.

As Eddie Williams, the president of the Joint Center for Political Studies, a Washington-based black research institute, put it:

> As a newcomer on the political block, blacks have too much at stake to gamble on the unknown. Support for such a change should be based on nothing less than conclusive evidence that the advantages of the proposed reform far outweigh its disadvantages.

A report sponsored by the Brookings Institute in 1970 entitled *Voting For President* declared: "Again, because Negroes, Puerto Ricans, Mexican-Americans, Jews, Poles, Italians, Irishmen, and so on have comprised important voting blocs, presidential candidates have had to give attention to issues that concern them." The net result is a desirable one, summarized as follows in the Brookings report:

> The importance of populous states, their major metropolitan areas, and their large blocs of ethnic groups has tended to make presidential candadates "liberal" in domestic policy, sensitive to urban ethnic group concerns in both domestic and foreign policy, and "internationalists" in foreign policy—or at least more so than they otherwise would be.

2. *It will lead to the proliferation of ideological or single-issue parties which undermine the two party system.* These single issue groups count for almost nothing under the present electoral system but if every vote in the nation must be reckoned with and counted, they will be encouraged to mount campaigns for public relations rather than electoral purposes. We recoil at the prospect that in a presidential election there may be candidates from the anti-abortionists, budget balancers, black separatists, anti-gun controllers and even homosexuals. Indeed these separate groupings may frequently prevent a major party candidate from achieving the 40 percent presently required by Senator Bayh's resolution.

3. *It will reduce the moderating and compromising now accomplished by our national convention.* Our major parties by and large are centrist in their orientation. When the candidate of an ideological group won his party's nomination (Goldwater in 1964 and McGovern in 1972), the other side won by the largest popular majorities in our history. The direct election of the President, however, may induce a convention to select a charismatic candidate, relying on his demagogic television techniques to win the election.

4. *In the event of a close election we would face the horrors of a national recount, i.e., in every state, never before required in our history.* Such a recount would take weeks, perhaps months, delayed inevitably by court challenges, which would disrupt the political machinery and paralyze the country.

5. *The problem of the faithless elector is a hobgoblin that should scare no one.* Of the 17,000 electors chosen since 1789, no more than ten have betrayed their pledge and have voted for their own choice, but they did so only when it was known that their votes would not affect the outcome. Sixteen states now have laws forbidding such defection. We believe that this minor aberration can be handled by state laws or if necessary by a constitutional amendment which would win universal support.

6. *Similarly, the possibility of an election being decided by the House of Representatives where the members vote by states has not occurred in modern times.* While we favor the proposal that in such a contingency the election be decided by a joint session of the Senate and the House with each member casting one vote, we hardly think that the cumbersome procedure of constitutional amendment should be sought for this point.

7. *We do not regard the remote possibility that a candidate who wins the popular vote but nevertheless loses in the Electoral College is sufficient reason for upsetting a system that has so many other sound reasons for supporting it.* As the *New York Times* put it in a 1977 editorial: "There are risks in abolishing the Electoral College and subverting the two-party system. The risks are at least as serious as the remote contingency that the popular vote loser might squeeze out an Electoral College victory." This has happened only once, in the election of 1888. (Grover Cleveland won the popular vote by 90,000 votes only to lose in the Electoral College to Benjamin Harrison). But the ordinary statistical error in a national vote count would be greater than any minute discrepancy between the majority and the minority, so we can never be certain in close elections who really won.

We conclude with the homely adage: "If it ain't broke, don't fix it."

EVENTS IN ARGENTINA SHOW NEED FOR HUMAN RIGHTS COMMITMENT

Mr. PROXMIRE. Mr. President, recent events surrounding alleged human rights violations in Argentina demonstrate the need for a unified commitment from all nations to seek an end to such injustices. A June 3 article in the New York Times reports that over the past few years a number of attorneys and religious and political leaders within Argentina have compiled a list of 5,420 missing persons in the country. In over 200 of these cases the disappearance appears to have occurred while the persons were in the custody of the police or armed forces.

While the number of citizens reported missing has declined since the end of 1978, the Times report from Buenos Aires contends that "there are still enough cases to indicate that the repressive tactics of the security forces of parliamentary groups are not under full control."

This report of alleged repression is, by itself, deplorable. However, can the United States sit in judgment on political suppression around the world when we consistently refuse to ratify a treaty seeking to preserve the most basic human right, the right to live? I speak of our failure to ratify the Genocide Convention.

It is true that the alleged repression in Argentina is not subject to the provisions of the Genocide Convention. Yet if the United States, the Nation to which all others have turned for the moral leadership and direction in this area, refuses to ratify this treaty, are we in a position to comment on other forms of repression?

Arthur Schlesinger writes, "Americans have agreed since 1776 that the United States must be the beacon of human rights to an unregenerate world." Yet if we intend to remain this beacon, we must joint the community of nations who have openly dedicated themselves to halting genocide. A unified commitment among nations to end such a practice can be a step toward restraining the practices of repressive governments. However, if America refuses to join in the ratification of the Genocide Convention, then our commitment to preserving the "inalienable right" of life is very shallow. I urge my colleagues to support the ratification of the treaty and return America to the forefront of moral leadership.

CHAIRMAN MILLER'S REPORT CARD

Mr. PROXMIRE. Mr. President, G. William Miller, Chairman of the Federal Reserve Board, has earned a "D-plus" on his report card for the first 3 months of his second year as chairman of the central bank.

The D-plus grade represents a slight improvement over the grade I gave Chairman Miller 3 months ago because growth of the monetary aggregates has continued to be moderate compared to a year ago. Nevertheless, his grade cannot be any higher because we still do not have any evidence at all that the policies Miller has pursued have reduced inflationary pressures as he claimed they would. Credit is still readily available—almost without limit—and inflation has gotten worse, not better.

This is Miller's fifth report card as Federal Reserve Chairman. I said when I instituted these report cards that Miller would be judged on the effectiveness of the policies he has pursued. We must recognize that monetary policy works, at times, with long lags, and therefore, this grade is subject to revision as economic conditions unfold.

The fact that inflation has accelerated is indeed disappointing. A share of the recent increases is due to the rise in OPEC oil prices, which are not under our control, and which cannot be offset or influenced by monetary policy. The underlying rate of inflation, taking out the increase due to oil, is still far too high. While monetary growth has been only moderate, credit expansion has actually continued at a rapid pace.

The Fed's discount window policy has not been consistent with a tough monetary stance. The Federal funds rate has been in the range of 10 to 10¼ percent since last fall. The Federal Reserve's discount rate has been at 9½ percent, and, because of this gap between those two rates, borrowing at the Fed has ballooned, reducing the pressure on banks to lend less. The wide interest rate gap also raises questions of equity since it represents a pure subsidy to member banks that use the discount window.

The Banking Committee has recommended that the Fed give us a better credit aggregate indicator of its policies. We have also recommended that they narrow the ranges of growth they specify for growth in the monetary aggregates. I expect that Chairman Miller will be responsive to the committee's recommendation in his report on monetary policy on July which is required by the Humphrey-Hawkins Act.

When Chairman Miller was confirmed, I listed the economic indicators shown in the tables and said that they would be used in making these quarterly reports.

I ask unanimous consent that these tables be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

QUARTERLY ECONOMIC DATA

[Growth rates or percentage change]

	Q1:1977 to Q1:1978	Q1:1978 to Q1:1979	Q1:1979	Federal target ranges
Real GNP	3.64	4.66	0.74	
Implicit price deflator	6.39	8.67	8.43	
CPI	6.56	9.82	10.63	
PPI	6.69	10.15	12.88	
Money stock:				
M-1	7.74	4.84	−2.11	1.5–4.5
M-2	8.76	7.05	1.76	6.0–9.0

	Q1:1978	Q1:1979
Unemployment rate	6.2	5.7
Industrial production index	139.6	151.4
Manufacturing capacity utilization (percent)	82.1	86.1
Housing starts (millions)	1.721	1.618
3-mo Treasury bill rate	6.41	9.36
Corporate Aaa bond rate (Moody's)	8.45	9.29
Prime rate charged by banks	8	11¾
New home mortgage yield (FHLBB)	9.14	10.23

MONTHLY ECONOMIC DATA

	February 1979	March 1979	April 1979
Federal funds rate	10.06	10.19	10.01
3-mo Treasury bill rate	9.26	9.46	9.49
Corporate Aaa bond rate	9.26	9.37	9.38
Prime rate charged by banks	11¾	11¾	11¾
New home mortgage yield (FHLBB)	10.20	10.30	10.34
Housing starts (millions)	1,381	1,786	1,749
Money stock:			
M-1[1]	−2.23	−2.45	5.12
M-2[1]	1.37	1.69	6.77

[1] From 3 mo earlier.

SUNDSTRAND'S DIVERSIFICATION PAYS OFF

Mr. PERCY. Mr. President, one of the most dynamic and creative Illinois firms is Sundstrand Corp., headquartered in Rockford. Begun as a machine tool company in 1910, the firm has diversified into hydraulic systems that are used in aircraft power generating systems.

I was therefore pleased when Jim Ethington was elected to the chairmanship of Sundstrand. Jim has been associated with the firm for four decades, and I know the company will prosper under his leadership.

Mr. President, I ask unanimous consent that an article on Sundstrand from the May 28, 1979 Chicago Tribune be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUNDSTRAND FLIES HIGH

James W. Ethington, who was just elected chairman of Sundstrand Corp. in Rockford, believes that the company, which has long been a force in power transmission and fluid handling, will enjoy significant growth in its aerospace divisions in coming years.

"We make a lot of hydraulic systems, and they're on just about every airplane," Ethington says. "We are in position now to take advantage of the orders for replacement planes being made by the commercial airlines." In particular, Boeing Co. is using Sundstrand power generating systems on about 1,500 of its new 767 jets.

Sundstrand roots can be traced to a machine tool company incorporated in 1910, and for years it's been labeled as just that. "But in 1948 we began a serious diversification program that would get us into hydraulics," Ethington says. "When we were in the machine tool business we were prey to cycles."

The diversification strategy has proved successful. The company raised its dividend to 25 cents a share from 20 cents on April 19; should earn $3.60 a share on 1979 sales of $825 million (versus $3.05 a share and $723 million last year); and had an order backlog of $459 million at the end of 1978, $91 million higher than at the end of 1977.

All of this pleases Ethington, who celebrates his 40th year at the company this August very much. The son of a machinest, Ethington, now 61, grew up in Rockford, joined Sundstrand, and held a series of posts in corporate finance.

He became comptroller in 1955; treasurer in 1957, chief financial officer and president in 1968, and vice chairman in 1971. He was elected chairman upon the death of Bruce F. Olson in March.

Although he attended the Dickinson School of Business in Rockford, Ethington was sent to a graduate business program at Dartmouth College in 1954 to improve his skills.

He notes today that, thanks in part to seven straight years of increases in sales and earnings, institutional ownership of Sundstrand's 15.8 million common shares has increased dramatically, and now totals about 60 percent.

Moreover, Sundstrand's other lines of business continue to be strong, he says.

"We have a lot of growth coming in the current product areas we're in, and we'll be trying to further penetrate the markets we're in," Ethington says.

AN UPDATE ON CHUCK WHALEN

Mr. PERCY. Mr. President, Chuck Whalen retired from Congress in January after serving six highly productive terms as a Republican Member from Dayton, Ohio. Several years ago, I had the opportunity to travel with him in his Third Congressional District during his reelection campaign. Away from the day-to-day work of the Congress, I got to know Chuck Whalen better and I was very impressed with him.

Before coming to Congress, Chuck Whalen was a businessman, State legislator and a professor of economics at the University of Dayton. Today, Chuck Whalen can be referred to as "Mr. President" because he has since retiring from Congress become the head of New Directions, a Washington, D.C. based foreign policy organization.

Now he has written a refreshing column about his newest career which appeared in the Sunday, May 27 Washington Post. For those of us in Congress who feel that the universe revolves around us, it is good to know that this is not necessarily so and that the world outside is an exciting and interesting place.

So that my colleagues might enjoy as much as I did Chuck Whalen's perceptive observations and an update on his activities, I ask unanimous consent that his article be printed in today's RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

After Congress, It's the Best of Both Worlds

(By Charles W. Whalen)

The work week begins on a potentially painful note—my semi-annual dental check-up. Not only no cavities, but my flossing technique received an A-plus from the hygienist.

Proceeding down Massachusetts Avenue to Rock Creek Parkway—the same route I traveled for 12 years to my congressional quarters—I muse that, in many respects, my life has changed relatively little since that day, four months ago, when I closed the door behind me at 1035 Longworth House Office Building. In some ways I feel a bit like the retired quarterback who does the color commentary during NFL telecasts—we seem to have the best of both worlds. I still am involved in the legislative process (already having testified before four subcommittees). My contacts with members of the executive and legislative branch continue. Speech requests are as numerous as ever. But I now have better control of my time: no quorum calls to answer; no constituent interruptions. And, most important, more time with my family.

Upon arriving at New Directions headquarters I convened a meeting of our eight-member staff to develop our program priorities for the remainder of the year. Citizens interest groups, I find, not only preach but practice egalitarianism. Thus, decisions are derived through consensus.

Several hours then are devoted to completing the details of a series of congressional dinner discussions which New Directions will sponsor jointly with the African studies program of the Johns Hopkins School of Advanced International Studies.

At 6 p.m. I stop by the Council on Foreign Relations to hear the president, Winston Lord, review his most recent trip to China. After the speech, one participant privately opines that the Chinese leaders' view of the world, as related by Lord, reflected the scriptures according to Prof. Kissinger, not Chairman Mao.

Two productive hours are spent with six Washington-area New Directions members. We agree to establish a Volunteer Lobby Corps patterned after the League of Women Voters' successful operation. Abraham Lowenthal, chairman of the Latin American program at the Woodrow Wilson Institute for Scholars, joins me for lunch at the Capitol Hill Club. Abe fears that our relations with Latin American nations are deteriorating because of our intention to the global economic issues which so concern them.

Tom Popovich, my former staff assistant on the International Relations Committee, meets with me at 3 p.m. to go over the outline of a paper (on the Maghreb) which I will present next week to British, Canadian and American parliamentarians attending an African conference in Easton, Md. Before leaving for the day I call my former colleague, Sen. Larry Pressler, to confirm our June 5 luncheon appointment. Larry plans to give a speech on the SALT treaty and asks for any insights which I might provide.

I set aside the morning to draft my observations of last month's six-day speaking trip to Hamburg and London sponsored by the International Communications Agency. Ironically, had I taken this same tour last year, I might have been accused of "junketing." But now that I am a private citizen, this government-financed visit to Germany and Great Britain is heralded as a "cultural exchange."

Even though the District of Columbia Committee, on which I served, authorized billions of dollars for the Washington subway system, I never had an opportunity to use it during my congressional tenure. Now I find it indispensable. On my walk from Farragut North Station to the White House, I realize how isolated I had been on Capitol Hill. This afternoon, for the first time, I notice the good use Washingtonians make of their parks during the noon hour.

Several of us gather in the Roosevelt Room to hear Anne Wexler detail the highlights of SALT II. As a prospective administration ally, I am a frequent White House visitor these days, more so than as a congressman. The group decides to reconvene next Wednesday, at which time each organization will outline its SALT promotion program.

After returning to the office, I place calls to several New Directions patrons. Now that I am out of government, "meeting a payroll" has taken on greater significance for me.

My wife, Barbara, is awaiting me when I arrive at the Washington Club to help our neighbors, Ray and Anne Awtrey, celebrate their silver wedding anniversary. With constituent visits behind me, I am more faithful in my attendance at neighborhood gatherings. Barbara, therefore, no longer is confronted with the question: "Is there really a Chuck Whalen?"

Late in the morning I walk four blocks to my old stamping grounds, the Longworth Building, to meet Edie Wilkie for a cup of coffee. Edie is executive director of Members of Congress for Peace Through Law, a bicameral, bipartisan organization which I chaired during the 95th Congress. We plan to work closely on issues with which our two groups might become involved.

For the first time since I left office I return to the House floor, this time to participate in ceremonies sponsored by former members of Congress. I exchange greetings with many old friends, some of whom I hadn't seen for years. Fraternity transcends party and ideology whenever "lame ducks" gather. I also use this occasion to conduct a little business. Charlie Vanik apprised me of his plans for handling the multilateral trade negotiations package, which New Directions supports. I remind Dave Obey, chairman of the Democratic Study Group, that I will call him in a couple of weeks for coffee.

During our Capitol Hill Club luncheon, I ask Gov. John Gilligan, former AID director, to become actively involved in New Directions. Jack promises an answer as soon as he decides which of several pending job offers to accept. Somehow our conversation drifts to the "Game of the Century"—Notre Dame's 18-13 victory over Ohio State in 1935 which, as high school students, we both witnessed. While these two Irishmen may have had party differences in later years, there is no disagreement as to which team we supported.

Since Barbara is "under the weather," I squire my 12-year-old daughter, Anne, to the Stuttgart Ballet's presentation of "Lady of the Camellias"—a stunning performance. I am pleasantly surprised to have the wives of two Harvard Business School classmates—Dee Collins and Frances Petersmeyer—seated next to me. Dee, whose husband, Jim, entered the Congress a year after I did, reconfirms the wisdom of my retirement decision. "Jim is so exhausted," she notes, "that we have decided to remain in Washington this weekend rather than return to Dallas."

The staff will see very little of me today. A late-morning discussion with Townsend Hoopes, co-chair of Americans for SALT, focuses on how our organizations can work together to generate grassroots support for the treaty.

From Tim Hoopes' office I stroll to the Inter-American Development Bank, where I preside over a seminar considering "How to Build Support for International Development." I warn that creating "political will" requires more than "interfacing" and a "consensus of consciousness."

My next stop is Westbrook Elementary School in Bethesda, which is hosting its annual spring festival. After sharing box supper with Barbara and my two grade-school daughters, Anne and Mary, I head up Massachusetts Avenue to American University. There I address an arms reduction conference on the subject: "Disarmament as a Part of a Broader Foreign Policy." After concluding my remarks I dash home to watch the Bullets-Spurs seventh and deciding game. The disappearance of my last fingernail coincides with Bobby D's winning basket.

At 11:05 p.m. I accept a collect call from my son, Chip, a freshman at Hamilton College. "Dad, I just saw the Bullets on national television. Can you get me three tickets for next Thursday's game with the Sonics?" At 11:10 and 11:15 p.m., similar requests were received, respectively, from 17-year-old Dan, our Glen Echo volunteer fireman, and 15-year-old Ted. Still unreported is the Deerfield, Mass., precinct where 13-year-old Joe attends school. Joe probably is awaiting our weekly Sunday evening call to put the bite on us for Game 7.

And so to bed, anticipating a relaxing weekend in Washington with my real family instead of in Dayton, as was the case for so many years, with my "constituent family."

COMBINED SEWER FLOODING AND POLLUTION—A NATIONAL PROBLEM: SEARCH FOR SOLUTIONS IN CHICAGO

Mr. PERCY. Mr. President, on May 17, 1979, I was in Chicago to release an exhaustive six-volume study prepared at my request by the U.S. General Accounting Office (GAO) on Metropolitan Chicago's combined sewer problem. Entitled "Combined Sewer Flooding and Pollution—A National Problem: The Search for Solutions in Chicago," the report details Metropolitan Chicago's particular flooding and pollution problems and the ambitious, but highly costly solution devised by Metropolitan Sanitary District of Greater Chicago (MSDGC).

Some 7 years ago, a committee of representatives from the State of Illinois, Cook County, the city of Chicago, and the Metropolitan Sanitary District met to consider plans to deal with some of Metropolitan Chicago's most serious problems. This group, known as the Flood Control Coordinating Committee (FCCC), was searching for a way to substantially reduce basement flooding in the Chicago area, to clean up Chicago area waterways, and to reduce backflows into Lake Michigan.

After having reviewed 23 separate plans in the course of its 2-year study, the FCCC proposed construction of the tunnel and reservoir plan (TARP). A composite of four of the available options, TARP was judged by the group to be the most cost effective way to meet its various goals.

The first contract was awarded in September 1975, and construction commenced soon afterward.

However, as the mechanical moles began boring the project's tunnels deep beneath the surface of the city, profound questions were being raised both here in Chicago and in Washington concerning the advisability of this project. There were serious challenges regarding the premises on which TARP was built. It was suggested that TARP's pollution and flood control goals would be difficult or impossible to reach. And, it was revealed that most suburban communities would be unable to tie into the TARP system to make it work for them because they lacked funds to upgrade their own deteriorating sewer systems.

In all candor, I was not able, at that time, to independently determine the validity of the concerns expressed. I did know, however, that both sides of this important public policy debate were represented by persons of good will and outstanding dedication.

I then decided that the best way to approach this issue was to develop a three-pronged approach.

First, I personally asked Elmer Staats, Comptroller General of the United States, to conduct an exhaustive review of TARP, as a followup to an earlier study by the General Accounting Office, the investigative arm of Congress.

I urged GAO to assess the overall cost effectiveness of TARP—whether it is worthwhile and should be continued—and, in doing that, to:

Pinpoint the precise locations of basement and street flooding in Metropolitan Chicago. Incredibly, no such analysis then existed.

Determine what homeowners could do on their own to reduce basement flooding, instead of waiting until the 1990's or beyond to obtain relief.

Conduct a worldwide search for small-scale alternatives to TARP that might reduce basement flooding while saving tax dollars.

Second, I appointed an eight-member distinguished citizen's task force to advise me on TARP. It is headed by Dr. Hugh Hulbert, a distinguished professor of chemical engineering at Northwestern University. Members of the task force include two water management experts, an architect, a community planner, a geologist, and a homeowner who has experienced basement flooding.

Third, I supported in Congress the funding of a $1 million study by the Army Corps of Engineers for a flood control plan for Metropolitan Chicago. This was consistent with my commitment to maintain my support for the overall project pending completion of the GAO study and the recommendations of my own citizen's task force.

As the first portion of the study, GAO produced six comprehensive volumes. The second portion, which deals with the international search for alternatives, will be issued sometime this summer. It will include information gathered by the GAO team in other U.S. cities and in the United Kingdom, Sweden, West Germany, Norway, France, and Canada.

Let me first commend the 14 GAO staff members both in Chicago and in Washington who labored for more than a year on this superb report. Members include Bill Krueger, team director; Dan White, task force leader Stewart Herman, Mary Quinlan, John Rose, Sam Bellino, and others. Their team effort has far exceeded my expectations. They have diligently accumulated a compendium of never-before revealed facts and intrepreted them with skill and precision.

In this report, GAO has provided well-documented evidence which seriously calls into question several basic assumptions about TARP, its usefulness and its impact. These assumptions include:

Cost: When TARP was first proposed in December 1972, its estimated cost was $1.2 billion. According to GAO, that cost has now increased tenfold to $11 billion. This would make TARP one of the most costly public works projects in United States history, exceeding the $9.2 billion cost of the Trans-Alaska oil pipeline. The $11 billion figure is also twice as much as the $5.2 billion it would take to construct a new sea-level canal across the Isthmus of Panama. Even if one discounts the cost of interest—inclusion of which in the overall cost estimate is objectionable to the Metropolitan Sanitary District, but which I believe must be considered as a necessary element of cost—the project still exceeds $9 billion.

If construction on TARP phase I were halted today, as the GAO proposes, the project apparently would not become a "white elephant." Phase I contracts are awarded in somewhat complete segments, according to the principal funding source, the U.S. Environmental Protection Agency. The GAO estimates that if TARP were to be halted for any reason, the portions already completed could be made fully operational with additional expenditures of approximately $400 million.

Damages from flooding: Anyone who has experienced basement flooding knows the aggravation and anxiety that result from having walls caked with sludge and treasured belongings damaged. No monetary figure can truly relate the real costs of flooding's effects. GAO has concluded—based on an exhaustive scientific survey of 7,000 area residents in the 54 affected communities—that homeowners experience between $15 and $20 million annually in flooding-related damages. (The heaviest damage is felt in the west and north suburbs). This figure is less than five percent of the $475 million annual damage figure that had been postulated previously by MSD and the Corps of Engineers. This wide discrepancy between the two figures casts substantial doubt on all previous cost-benefit analyses of the benefits of TARP's flood control phase and cannot be explained away by the corps' inclusion of damage to industry which GAO found to be minimal. Moreover, nearly half the residents with flooded basements reported problems other than sewer backups. As GAO notes, residents with problems in their own lines or basements will profit little from improvements in the local sewer system or the completion of TARP unless they solve their own problems.

A check by my staff revealed that the wide disparity in the damage estimates is probably attributable to the fact that the $475 million estimate had been used based on using the flooding experience of St. Paul, Minn., as a model. But the comparison is undoubtedly flawed since St. Paul experiences extensive overbank flooding from the Mississippi River. The model purportedly included flooding there that occurred even prior to 1965 when the corps put into effect a major flood control program. Overbank flooding—the effects of which are invariably more severe—is not the real issue in Metropolitan Chicago.

Annual operating costs: In 1972, it was estimated that it would cost $13.6 million annually to operate and maintain TARP. Now the GAO has placed these costs at $56 million annually, including associated treatment plants, conveyance systems, and sludge disposal costs. GAO further relates that electricity needed to operate the project—some 170 million kilowatthours annually—would be equivalent to the amount needed to supply 27,000 residential customers for a year. This figure approximates the residential electrical needs of all of Evanston. At a time when we face a severe energy shortage, the consumption of such huge amounts of electricity must be of major concern. If GAO's new estimate of damage from basement flooding is correct, and if TARP were completed, then metropolitan-area taxpayers would be spending $2 each year for maintenance and operating costs alone to prevent the less than $1 average cost of damages resulting from urban flooding.

Backflows into Lake Michigan: The issue of backflows is of deep concern, yet the GAO has determined that Chicago beaches have had to be closed on the average of only 12 hours a year over the last 10 years because of polluted backflows into the lake. In addition, GAO found that even during the worst backflows, Chicago's water supply has always remained treatable.

Sources of funding: The prospects for Federal funding of TARP II flood control are dim. The Carter administration, consistent with its budget-cutting mandate from the American people, is reluctant to commit large sums for phase II. Funding may be altogether impossible unless present policy is changed. The White House Office of Management and Budget (OMB) says that sanitary sewage or storm runoff conveyed in manmade structures is not flood control if it goes to a treatment facility, as it would under TARP. They term this "urban drainage" not "flood control" which would thereby preclude funding through the Army Corps of Engineers. Phase II cannot be accomplished by the corps. No other source of funds appears likely.

Local impact: The GAO report concludes that even if TARP is completed, only 65 percent of flood damage will be eliminated. The other 35 percent requires the commitment of $1.6 billion for local sewer improvements. Volume 4 of the report indicates that no Federal funds are available to pay for these improvements. In Evanston, for instance, it would cost the average homeowner up to $192 per year over a 40-year period to pay for local improvements.

Self-help: Because of the dubious funding status of TARP phase II, there is serious question whether the flood control benefits of the project will ever be derived. Accordingly, my paramount concern is for homeowners afflicted by basement flooding and what they can do now to alleviate their problems. In volume 5, the GAO suggests numerous small-scale steps that individual homeowners and communities can take now to alleviate their flooding problems, without vast expenditures.

While these actions are not intended to be the panacea for local flooding problems, they may provide relief from, and in some cases eliminate, flooding. I urge homeowners and community officials throughout the Chicago area carefully to review this volume, and to consider taking whatever steps are applicable in their community to deal with their particular problem today.

Mr. President, at this point, I want to mention several suburbs that deserve recognition for their concerted efforts to control flooding through use of "innovative" or "small-scale" technologies:

South Holland: Where 90 percent of all downspouts have been disconnected, and 75 percent of all homes with basements use overhead sewers.

Niles: Which requires downspout disconnections in flood-prone areas, uses restrictors, and inspects sewers weekly for proper waterflow.

Arlington Heights: Whose ambitious program includes 28 detention basins which provide for boating and fishing opportunities or area associated with tennis courts and football fields.

Broadview: Where all major parking lots have to be constructed to detain water, and industries covering 5 acres or more must provide for onsite detention.

Lincolnwood: Where all homes built after 1970 are required to have sump pumps which eject water into backyards.

Melrose Park: Which floated a $180,000 bond issue to fund construction of a storm sewer lift station that has virtually eliminated flooding in its central section.

Mount Prospect: Where four pumping systems in the Eastern section, developed by a village engineer, keep water in sewers and out of basements.

North Riverside: Where two shopping centers have depressed areas in their parking areas for water ponding and detention.

Phoenix: Which requires overhead plumbing, sump pumps, and construction of homes above street level.

Posen: Where 95 percent of building with basements have overhead sewers.

Riverside: Where numerous greenbelt areas and parks afford ample drainage areas.

Schiller Park: Where detention ponds are required for new developments.

If I have inadvertently omitted any other communities which have taken significant steps at the local level to relieve their sewage problems, I ask that officials of those communities let me know by letter.

I want to note that MSD officials are correct when they say that community and homeowner actions on their own will not accomplish the degree of flood and pollution control which TARP is designed to achieve. But to ask homeowners to sit by idly until perhaps the 1990's or beyond without addressing their immediate flooding problems—awaiting the flood control phase of TARP which may never be constructed—is both foolish and self-defeating. The flood control measures which the GAO described will, if implemented by homeowners and whole communities, afford relief immediately and help avoid further damages and basement cleanup efforts resulting from flooded basements.

Finally, the effectiveness of phase I of TARP in meeting minimum Federal water quality standards is one of the central issues raised by this GAO report, and one that demands immediate attention. The position of the U.S. Environmental Protection Agency is perplexing. First, U.S. EPA stated that TARP I, by itself, would not meet minimum Illinois water quality standards; now, it has flip-flopped, stating that its own environmental impact statement was in error, and that phase I would meet minimum Illinois water quality standards. This reversal of policy places EPA in direct conflict with the Illinois Environmental Protection Agency and the Metropolitan Sanitary District, which both believe that phase I will not meet minimum pollution goals.

Now, the U.S. EPA says that phase II will not make much difference in reducing pollution. Again, this is in conflict with the other agencies. With such contradictory statements issuing from the so-called "experts" in this area, no wonder people in Chicago, and throughout the country, have lost confidence in the ability of their government to guide them wisely.

In any event, all these agencies agree that, even if TARP is completed, Chicago waterways will at no time be fishable nor swimmable.

These findings, and GAO's overall conclusions and recommendations, raise critical questions about the future of TARP. These questions must be addressed and resolved by all parties associated with the project—the MSD, the U.S. and Illinois EPA, the Army Corps of Engineers, the communities, and, of course, local taxpayers.

Having now received GAO's meticulously prepared and researched factual account of the status of TARP, I am asking my own Citizens' Task Force to report its recommendations back to me no later than July 30, 1979, so I can urge and take such action as is warranted.

I have reviewed this report carefully and am deeply disturbed by the amount of money needed to complete this project. Whether the amount is $7 billion, $8 billion, $11 billion, or more, I feel that we must question the cost-effectiveness of this project and the wisdom of such huge outlays in view of the other pressing needs facing these same communities, the city of Chicago, the State of Illinois, and the Nation at large. We must question, in Metropolitan Chicago alone, whether such huge expenditures on this one problem might jeopardize such other high priority and pressing concerns as the need to revitalize our neighborhoods and older suburbs with new businesses and housing; the need for a new rapid transit line for the southwest side of Chicago and new rolling stock for the RTA; the need to provide jobs for hundreds of thousands of unemployed inner-city youths and others through assistance programs for job training and development from private industry. It is a matter of priorities in an era of increasingly tighter Federal budget constraints.

From a national perspective, this report will also benefit the tens of millions of Americans who live in some 1,143 cities and towns across the country that have combined sewer systems which will have to be upgraded. Over 600 such systems are cited as seriously deteriorating. Currently, severe conditions are to be found in Boston, New York, Philadelphia, Providence, Baltimore, Milwaukee, Portland, and San Francisco. Officials there are looking to TARP as a possible prototype to solve their own severe problems. The U.S. Environmental Protection Agency estimates it will cost $25.7 billion for the Nation's cities simply to control pollution from combined sewer overflows. And, judging from the cost experience of TARP, much more will have to be spent nationally—on the order of hundreds of billions of dollars—to control urban flooding problems. A well-researched article in fortune magazine last year estimated that we would have to spend $600 billion to satisfactorily upgrade the Nation's deteriorating sewer systems. Where such sums will be coming from, I am afraid no one knows.

Because of the national importance of this report, I asked that three of the study's volumes be printed for national distribution by the Governmental Affairs Committee; specifically, the Executive Summary, the section on funding problems and the volume describing "What the Homeowner and Community Can Do to Reduce Basement Flooding" will be of considerable interest and use to communities and individuals across the country. Those interested in obtaining a copy of this committee print should write or call either my Washington or Chicago office.

Again, I thank the GAO team for this outstanding report. I urge careful consideration of these volumes by the agencies involved, the press, community officials and, most particularly, affected residents.

Mr. President, I ask unanimous consent that the text of the report's Executive Summary and a copy of my letter to the Comptroller General, Elmer Staats, commending him and his staff on this report, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 5, 1979.

Hon. ELMER B. STAATS,
Comptroller General of the United States,
General Accounting Office,
Washington, D.C.

DEAR ELMER: I wanted to express my deepest appreciation to you for the outstanding report you and your able staff submitted to me last month entitled "Combined Sewer Flooding and Pollution—A National Problem. The Search for Solutions in Chicago."

While we in the Congress have come to routinely expect high-quality performance from GAO, I believe that the work done on this report by your staff was truly exceptional. In particular, I would like to commend those responsible for directing the team's work, Oliver Krueger (team director), Daniel White (team leader), and Stewart Herman (deputy team leader). Oliver Krueger's overall supervision of the report, coupled with Dan White's direction of the day-to-day operations and Stewart Herman's able assistance, ensured that the report properly combined the necessary technical research with a straight-forward, practical discussion of the Chicago situation. Their assistance to me and my staff was the finest example of consultation and cooperation on any GAO project that I have ever requested.

The work of the rest of the team was exemplary. Donald Knudson, John Rose, Sam Bellino, Mary Quinlan, Frank Comito, Francis Zbylski, Ruthann Balciunas, Lela Mitchell, and Watt Sammons are to be highly commended for their intelligent and insightful work on this complicated project. Personally and professionally, my staff and I have enjoyed working with the entire team.

As you are probably aware, the release of the report was a significant event in Metropolitan Chicago. To best inform the public of the report's contents and implications, I scheduled a briefing for local officials, and a press conference, for the morning of May 17th. Your able team participated in both meetings, explaining the intricasies of the report and fielding questions with ease. Mr. Nicholas Melas, president of the Metropolitan Sanitary District of Greater Chicago, the group responsible for building TARP, also attended these two briefings. Because the GAO report raised strong objections to the continuance of the project, this might well have proven to be an extremely ticklish situation. However, your representatives handled themselves well. In their discussions with Mr. Melas, Dan White and Bill Krueger were cordial, yet effective in presenting GAO's conclusions. Both the community representatives and the members of the press were impressed, as was I, by their professionalism.

From a national perspective, this report will greatly benefit the tens of millions of Americans who live in some 1,143 cities and towns across the country that have combined sewer systems which will have to be upgraded. Over 600 such systems are cited as seriously deteriorating.

You may be interested in knowing that the Senate Governmental Affairs Committee, acting on your excellent suggestion, is reprinting three of the report's volumes as committee prints. In view of the critical need to promote better management of federal, state, and local resources, these volumes—the report's Executive Summary, the section on "Funding Problems" faced by communities and the chapter on "What the Community and the Homeowner Can Do Now"—will be of considerable interest and use to communities and individuals across the country.

I look forward to the forthcoming second portion of the study, a discussion of the national and international alternatives to large-scale combined sewer projects such as TARP, and to working with you and your capable staff in the future. Thanks for a job well done.

Warmest personal regards,
Charles H. Percy,
U.S. Senator.

Combined Sewer Flooding And Pollution—A National Problem. The Search For Solutions In Chicago: An Executive Summary

In older cities, like metropolitan Chicago, where storm and sanitary sewers are combined, heavy rains cause sewage to back up in basements and pollute waterways. To alleviate the problem in Chicago, an improvement plan has been developed which could cost as much as $11 billion. The pollution control phase is under construction at a cost of $2 billion. Funding has not been found for flood control, local sewer improvements, and most associated projects.

Illinois officials and the Environmental Protection Agency disagree on whether the pollution control phase will meet the State's lowest water quality goal. GAO recommends that the Environmental Protection Agency suspend funding of the pollution control phase until it can be reassessed.

Whether the plan is completed or not, many local communities need to upgrade their sewers. Yet they are frequently unable to find the funds, either locally or from Federal or State agencies. GAO has identified a number of less expensive measures that communities or homeowners can take to alleviate flooding.

Washington, D.C.

B-166506.
Hon. Charles H. Percy,
U.S. Senate.

Dear Senator Percy: This report, prepared in response to your request of March 9, 1978, discusses the combined sewer pollution and flooding problems in the Chicago metropolitan area.

The report highlights the current status and impact of the Chicago Tunnel and Reservoir Plan; profiles the extent and location of flooding and damage in the Chicago metropolitan area; sumarizes the limited availability of funds to correct the problems; and, in the absence of such funding, describes several alternatives for local communities and individual citizens to consider.

As arranged with your office, the report is being issued in six volumes. Volume 1 contains an executive summary of the entire report, including our conclusions and recommendations to the Environmental Protection Agency and the Corps of Engineers.

Also as agreed with your office, after you publicly announce its contents, we will furnish copies of this report to the Chairman, House Committee on Government Operations, House and Senate Committees on Appropriations, House Committee on Public Works and Transportation, and Senate Committee on Environment and Public Works. Copies will also be sent to interested Members of Congress and the Federal agencies concerned with the matters discussed in this report.

The Chairman of the Senate Committee on Governmental Affairs, of which you are the Ranking Minority Member, has agreed to publish as Committee Prints Volume 1—executive summary, Volume 4—funding for local flooding problems, and Volume 5—what can be done to minimize or eliminate urban flooding, for subsequent distribution to interested parties.

Appropriate sections of the report were discussed with the agencies involved and their comments were considered in the preparation of the final report.

Sincerely yours,
Elmer A. Staats,
Comptroller General of the United States.

PREFACE

At the request of Senator Charles H. Percy, GAO has reviewed the pollution and flooding problems in the Chicago metropolitan area served by combined sewers. This volume, the Executive Summary, includes an introductory section on the flooding and pollution problem in the Chicago metropolitan area and background information on the Tunnel and Reservoir Plan; synopsizes information in the other volumes; and contains our conclusions and recommendations.

In addition to this volume, our report includes five other volumes which address the following areas:

DESCRIPTION

Volume 2. The Tunnel and Reservoir Plan: Its Status and Impact—describes the plan's current construction and funding status; its impact on pollution and flooding in the combined sewer area; and the environmental concerns expressed about the plan.

Volume 3. A Profile of Urban Flooding in the Chicago Metropolitan Area—describes the flooding problem in the combined sewer area, including the extent of the problem (flooding of basements, streets, viaducts, etc.); estimated flood damages; and injuries, deaths, and health problems.

Volume 4. Funding for Local Flooding Problems is Extremely Limited—summarizes the availability of Federal, State, and local funds for projects to alleviate flooding.

Volume 5. What Can Be Done to Minimize or Eliminate Urban Flooding?—describes the actions local communities and homeowners can take to prevent flooding.

Volume 6. A Synopsis of the Flooding Problems for Each of the 54 Chicago Area Communities—contains 54 summaries and descriptive maps of the flooding experienced; actions planned or taken by the communities and residents to alleviate or mitigate the problems; and anticipated impact of the Tunnel and Reservoir Plan.

ABBREVIATIONS

Corps—Army Corps of Engineers.
EDA—Economic Development Administration.
EPA—Environmental Protection Agency.
GAO—General Accounting Office.
HUD—Department of Housing and Urban Development.
MSD—The Metropolitan Sanitary District of Greater Chicago.
TARP—Tunnel and Reservoir Plan.

GLOSSARY

Catchbasin. A chamber or well, usually built at the curbline of a street, for the admission of surface water to a sewer or subdrain, have at its base a pit designed to retain grit and debris below the point of overflow. The entrance to the catchbasin is through a grate and/or a curb opening. The purpose is to prevent sewer clogging by trapping coarse debris and to prevent odor emanations from the sewers by providing a water seal.

Check valve. A device installed in the sewer line between the house and street or in the house sewer line under the basement to prevent water from backing into the basement. Some valves close automatically when the flow through the sewer line reverses. Some are mechanically operated by control devices and some are manually operated.

Combined sewers. A sewer system composed of sewers which receive both municipal sewage and stormwater runoff from roofs, streets, ground, etc.

Drain plug. A device installed in floor drains to prevent water from backing up from the drain.

Infiltration. The water entering a sewer system and service connections from the ground, through such means as defective pipes, pipe joints, connections, or manhole walls.

Instream aeration. The circulation of oxygen in water to aid in purification.

Interceptor sewers. The collection system that connects main and trunk sewers with waste-water treatment plants.

Overbank flooding. Flooding that occurs when a river, stream, etc., overflows its banks.

Overhead sewers. A system in which all wastewater from above the street level in the house flows by gravity to the street sewer, but all wastewater and seepage collected in the basement is pumped up to the overhead sewer. The force of gravity and, ultimately, a check valve between the basement and the sewer system prevent backup from the street sewer system.

Outfall. The place where an effluent is discharged into receiving water.

Restrictor. A device placed in catchbasins to limit the rate of flow of water into the sewer system.

Separate sewers. A sewer system composed of sanitary sewers which carry only domestic and industrial sewage and storm sewers which carry only storm runoff.

Sludge. The solid matter removed from wastewater through treatment. Sludge handling involves the processes that remove solids and make them ready for disposal.

Standpipe. An open-ended pipe inserted tightly into a drain which serves as a reservoir to capture minor backups.

Sump pump. A device which pumps out water that accumulates in a basement sump pit.

SECTION 1: INTRODUCTION

When heavy rains hit cities where storm and sanitary sewers are combined, residents may find their basements, streets, and waterways flooded with raw sewage. This flooding causes millions of dollars of damage each year—and untold pollution, inconvenience, and disgust.

Among the hardest hit areas in the United States is metropolitan Chicago. In the last 5 years, single-family homes in the combined sewer area suffered an estimated $71 million to $102 million in damages from sewer backups.

Citizens groups, local officials, and the Federal Government have long sought a solution to this problem. But remedies are not easy to find. To solve the problem the Metropolitan Sanitary District of Greater Chicago (MSD) has developed a Tunnel and Reservoir Plan (TARP) to literally "bottle a rainstorm." TARP is both massive and expensive. It is one of the largest public works projects in the Nation and its projected costs will probably exceed the $9.2 billion expended for the Alaska pipeline. If completed, TARP would comprise 131 miles of rock tunnels, 9 to 36 feet in diameter, and ranging 150 to 290 feet below the ground. In addition, drop shafts, collecting structures, pumping stations, and three open-pit-type storage reservoirs would be constructed. Total capacity would be 44 billion gallons of water, or enough to fill 4.4 million railroad tank cars which would stretch approximately 1½ times around the earth.

The following illustrations show how such a tunnel and reservoir system would work and gives a perspective on the size of the project.

TARP alone will not be enough to solve the pollution and flooding problem. Other associated projects must be implemented. These include upgrading treatment plants, instream aeration, widening the Chicago Sanitary and Ship Canal, and extensive upgrading of the sewer collection systems in many of the 54 combined sewer communities.

Determining the precise cost for TARP and the associated projects is difficult. However, it will be expensive—$4 billion to $8 billion (December 1977 estimates) depending on what estimates are used and which associated projects are included in the total. If history is any indication, costs will continue to escalate and could exceed $11 billion by 1983.

TARP is a two phase project. Phase I, now being built with U.S. Environmental Protection Agency (EPA) and MSD funds and expected to be operational by June 1987, is primarily intended to solve water pollution problems caused by combined sewer overflows with limited flood control benefits. Phase I is currently estimated to cost about $2 billion with EPA funding around $1.5 billion and MSD about $0.5 billion. As of January 1979 contracts covering $0.7 billion have been awarded.

EPA officials said that phase I contracts are awarded in somewhat complete segments. Thus, if the project was halted for any reason it would not become a "white elephant." However, to make the segments operational would require additional expenditures. If it were decided to award no further contracts other than those already awarded ($735 million through January 1979), approximately $400 million more would be needed to make these segments operational.

Phase I is expected to reduce combined sewer overflows from approximately 100 to 10 per year and capture 75 percent of the untreated pollutants now entering the area waterways. There is some confusion, though, as to whether phase I will meet water quality goals. It depends on which goals and whom you are talking to. EPA, Illinois Environmental Protection Agency (State environmental agency) and MSD all agree that TARP (both phases) and its associated projects will not bring area waterways to the 1983 interim Federal goal of fishable/swimmable waters. EPA, however, believes that with instream aeration (funded by Illinois) and treatment plant improvements (as yet unfunded), area waterways will meet the lowest Illinois standard—secondary contact[1] only. The State environmental agency disagrees with EPA and believes that the entire program, including phase II, must be implemented if the minimum Illinois water quality goals are to be met.

Phase II is expected to reduce flood damage costs by 65 percent, decrease combined sewer overflows from 10 per year to 4 in 25 years, and eliminate backflows into Lake Michigan. Local sewer improvements—if the communities could afford them—are expected to alleviate the remainder of flooding problems. However, phase II has not yet been funded. Likewise, money for local sewer upgrading, estimated in 1977 to cost $1.6 billion, is extremely hard to come by, as is funding for some of the associated projects. The question arises, can the country afford to spend $11 billion in one city, when other cities also have serious combined sewer problems requiring large expenditures. The nationwide problems caused by combined sewer systems will be further addressed in an upcoming report. At that time we will discuss in greater depth the economic issues involved.

The following table synopsizes the project, its cost, and anticipated benefits:

TARP I, II, AND ASSOCIATED PROJECTS—BASIC INFORMATION

Item	Estimated cost (billions)	Performances
TARP I—Phase I:		
109.6 mi of tunnels, pump stations, drop shafts, and collecting structures. Capacity 2,000,000,000 gal.	[1] $1.999	Reduces combined sewer overflows from 100 to 10 per year, captures 75 percent of pollutants entering waterways. Little impact on flooding or frequency of backflows into Lake Michigan.
TARP—Phase II:		
21.5 mi of tunnels, increased pump capacity, and open storage reservoirs. Capacity 42,000,000,000 gal.	[2] .898	Reduces combined sewer overflows from 10 per year to 4 in 25 yr. Eliminates backflows into Lake Michigan. Reduces flood damage about 65 percent.
Associated projects:		
Treatment plant expansions and improvements: Constructing 1 new treatment plant, increase capacity at 2 others and upgraded processes at all plants.	[1] 1.091	Treatment capacity expanded. Water quality ammonia standard violations would be significantly reduced.
Instream aeration: Will provide 165,300 lb of oxygen a day	[3] .032	Artificial addition of oxygen allow Illinois' dissolved oxygen standard to be substantially met.
Upgrading local sewers	[4] 1.583	Local combined sewer upgrading needed to ease the 35-percent flooding damage not relieved by TARP I or II.
Solids utilization	[4] .156	Increased sludge processing capacity.
Dredging, channel widening, and associated works	[4] .248	Needed to insure proper operation of TARP.
Engineering, design, supervision and review	[4] .640	Estimated for TARP and associated projects.
Interest during construction	[4] 1.892	Represents cost of funds provided during construction for all projects.
All phases, total	8.539	

[1] MSD estimate January 1979.

[2] MSD estimate 1976.

[3] MSD estimate December 1977.

[4] Corps estimate December 1977.

While EPA and the State environmental agency disagree on whether phase I, when it is completed in 1987, will meet the Illinois water use goals, they do agree that phase I will have only limited impact on flooding and backflow frequency. Phase I, however, should reduce the pollutants in the backflows. Citizens with water in their basements want something done now—not sometime in the 1990s.

Fortunately, the situation is not hopeless. Although massive expenditures may not be cost effective, communities and homeowners have at their disposal less expensive options to relieve flooding. These range from "home remedies," such as disconnecting downspouts and installing drainplugs or standpipes, to preventive measures, such as regular maintenance of sewer systems. While such procedures will not provide a total solution to urban flooding, they could go a long way towards easing it.

SECTION 2: WHAT CAUSES FLOODING

Urban flooding occurs when rain falls so rapidly that the conveyance systems (sewers, rivers, drainage ditches, etc.) are unable to carry it away. The water must go somewhere, so it overflows onto streets, viaducts, and lowlands; spills into rivers and streams; and—where storm and sanitary sewers are connected—backs up the wrong way into basement drains, toilets, and laundry tubs. Rivers and drainage ditches in turn may brim over into the community.

Unfortunately, it is inefficient to build a sewer system that will handle the heaviest storm imaginable, so some flooding is inevitable. When designing a sewer system, a community must decide how often it is willing to put up with floods. Generally, the most benefit per dollar is derived from a system that protects against the 5 to 10 year storm.[2] For example, a recent study to upgrade Evanston's sewers projected the following cost/benefit relationships.

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[1] See page 13 for definition of secondary contact.

[2] A storm of an intensity that normally occurs once every 5 to 10 years.

Protection against average storm	Estimated project cost (millions)	Cost per dollar of benefit
1 year	$35.7	$1.94
5 years	43.6	.74
10 years	45.7	.71
25 years	50.0	.74
100 years	54.3	.79

The consulting firm recommended protection against the 10-year storm as most cost beneficial. Naturally, storms do not occur with predictable regularity, so a 10-year storm might occur three times in 10 years or never in half a century. Most sewer systems in the Chicago area have been designed to handle a 5-year storm which amounts to 1.8 inches of rain per hour. If an area receives heavier storms, flooding is inevitable.

COMBINED SYSTEMS AGGRAVATE THE PROBLEM

In older ctities like Chicago, rain from the streets and sewage from homes and businesses flow into the same conduits. Thus, the sewers are already 10 to 15 percent full when rain starts, whereas under separate sewer systems the storm sewers would be empty until rain begins. When the heavy rains fall, the mixture of storm water and raw sewage can back up into basements and overflow into local waterways.

Since modern sewer systems separate street and sanitary sewers, flooding, when it does occur, usually involves storm water and not sewage.

TIME TAKES ITS TOLL ON SEWERS

Many combined sewer systems were built in the early 1900s. The population has grown since then, increasing the flow of sewage, and much once-open ground has been paved, slowing the absorption of rain. Sewer construction has not kept pace, and systems that were designed to handle a 5-year storm cannot now do so.

Not only have communities failed to build new sewers, but many have not maintained the original ones. Regular clearing of tree roots, silt, and other obstructions has been neglected. Pipes have deteriorated and broken.

Of the 54 communities in MSD's combined sewer area, 30 have sewer systems that are considered fair, poor, or inadequate. Evanston's is a prime example of an inadequate system. According to an Evanston official, "Everytime it rains, it floods somewhere in Evanston's system."

SOME HAVE PROBLEMS, OTHERS DO NOT

Basement backup problems are indiscriminate. Within the same area, some residences may experience basement backup whereas others may not. Why? There are various reasons why this occurs, including:

The condition of the sewer system in a specific area of the community. For example, one area may have a system that has deteriorated substantially and thus is unable to convey even a fraction of its designed capacity.

The topography of an individual's property. One person's house may be elevated or the land may slope in a manner that prevents basement backups.

The condition of the sewer lines between residences and the community's sewer lines. Individual lines, particularly if they are clay tile, are susceptible to blockage from tree roots and general deterioration.

The adequacy of the resident's basement construction. Some basements have not been properly constructed to prevent seepage from wall and floor cracks.

The protective devices installed by the resident. Some residents have installed devices, such as standpipes, check valves, and overhead sewers, which prevent water from entering their basements.

HOME SYSTEMS ALSO CAUSE BACKUPS

Inadequate public sewers cannot be entirely blamed for basement flooding. Often, the problem is in the individual building, where flooding can result from

Obstructions in the lines to public sewers,

Seepage through cracks in poorly constructed walls and floors,

Leakage through window wells and doors.

Malfunctioning of flood control devices installed by residents,

Burst pipes or defective water heaters, or

Power failures which prevent flood control devices from functioning.

SECTION 3: THE TUNNEL AND RESERVOIR PROJECT—AN UPDATE

TARP phase I is designed to primarily solve the area's waterway pollution problem; phase II, the flooding problem. The project has been controversial from the start. MSD believes it is the most cost-effective solution to the area's problem. Critics claim it is a grandiose project, of such expense that the country cannot afford it. Opinions vary on how well it will work.

WHEN TARP WILL BE COMPLETED

The planning and construction of phase I is progressing with EPA funding about 75 percent of the cost. By January 1979, approximately 14 miles of the 109 miles of tunnels had been excavated. Contracts covering 37 percent of the project's estimated $2 billion cost have been awarded.

As with most large projects, delays have occurred. MSD currently estimates that phase I will be fully operational in June 1987. This represents a 6-month slippage since September 1978.

Whether phase II will ever be built is questionable MSD originally looked to the Army Corp of Engineers (Corps) to include this phase on its list of projects for congressional approval. The Corps concluded in February 1977 that it could build certain portions of TARP, primarily phase II. However, in January 1978 the Department of the Army and the Office of Management and Budget concluded that the Corps cannot build structures that convey sanitary sewage or storm runoff, or a combination of sanitary and storm sewage, to a treatment facility.

Subsequently, the Congress, in Public Law 95-482 approved October 18, 1978, appropriated $1 million for the Corps to begin studying the flood damage reduction portion of TARP. By September 1979, the Corps expects to have a plan of what should be studied. While the study has not yet been fully defined, the Corps plans to use the proposed TARP phase II tunnels and reservoirs as a basis of comparison with other alternatives. The study itself would be performed next and would require additional appropriations. The Corps estimates that the study will cost $8 million to $12 million and that it could take 5 years to complete.

HOW MUCH WILL TARP COST

No one knows how much TARP will cost, except that it will be expensive. In our previous report[1] the Corps, as of December 1977, estimated capital costs for TARP and associated projects at $7.9 billion.[2] MSD disagreed and estimated it at $4.0 billion.

The difference is primarily caused by whether certain associated projects and interest during construction are included. MSD's estimate did not include those factors. The Corps included the associated projects since TARP will not meet its goals unless they are completed.

Even these figures are probably understated because of inflation. Inflation by itself could drive the cost of TARP and associated projects beyond $11 billion by 1983. Yet, this may be low since we assumed that phase I projects not under contract could be completed for current estimates. Further, we found that large construction projects are often underestimated.[3]

Not only are TARP and associated projects capital intensive, but also they will be expensive to operate and maintain. In 1975 the Corps estimated additional annual operating and maintenance costs at $56.0 million for TARP and associated projects. This estimate included $17.5 million annually to operate phase I and II tunnels and reservoirs. The remaining $38.5 million would be costs associated with operating treatment plants and sewer and conveyance systems and disposing of sludge. MSD did not estimate operating and maintenance costs for associated projects; however, it feels that operating both phases of TARP would cost about $14 million, or $3.5 million less than the Corps estimate.

WHETHER WATER QUALITY GOALS WILL BE MET IS QUESTIONABLE

Whether phase I, currently under construction, will enable the area waterways to meet the Nation's water quality goals depends on which goals are referred to and whom you are talking to. The two goals involved are:

The Federal goal contained in the Federal Water Pollution Control Act, as amended, which provides for an interim national goal, wherever attainable, of water quality that provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water (fishable/swimmable).

Illinois less stringent water use goal provides that, as a minimum, all waterways should permit secondary human contact and permit indigenous aquatic life to exist. Secondary contact water use is one in which contact with the water is either incidental or accidental and in which the probability of ingesting appreciable quantities of water is minimal. This water use would not allow swimming but would protect indigenous aquatic life and allow recreational uses such as boating, fishing, and shoreline activities.

All agencies involved agree that even with both phases of TARP, most area waterways cannot meet the 1983 national goal of fishable/swimmable waters. They do agree that with phase II, the Illinois secondary contact standard would be met at all times. Disagreement exists, however, on whether phase I will meet the Illinois standard. EPA says it will if certain associated projects are done, whereas MSD says it will not. The State environmental agency agrees with MSD.

According to EPA environmental impact statements, the first phase tunnels will significantly reduce combined sewer overflows and capture 75 percent of the pollutant load that now enters the area waterways untreated. The ammonia standard violations, however, will continue, and the dissolved oxygen levels will remain below Illinois standards along 70 percent of the waterways. With the first phase tunnels alone, the waterways would still not meet the lowest Illinois water use standard—secondary contact and indigenous aquatic life.

Instream aeration to artificially add oxygen to the waterways is being installed with State environmental agency funding assistance. This measure will allow the Illinois dissolved oxygen standard to be substantially met in all the waterways. MSD also plans some treatment plant upgrading, with

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[1] "Metropolitan Chicago's Combined Water Cleanup and Flood Control Program: Status and Problems" (PSAD-78-94, May 24, 1978).

[2] In October 1978 the Corps revised its estimate to $8.2 billion for capital costs of TARP and associated projects.

[3] "Lessons Learned From Constructing the Trans-Alaska Oil Pipeline" (EMD-78-52, June 15, 1978).

EPA funding assistance[1] which, if completed, should allow the ammonia standard to be met at all times except during overflow episodes.

The EPA environmental impact statements on the TARP systems included a chart which showed that, even with the first phase tunnels, the instream aeration, and the treatment plant upgrading, the lowest Illinois water use standard would not be met. However, in a January 5, 1979, letter the Regional Administrator for EPA region V informed us that EPA now believes that TARP phase I and the other improvements (instream aeration and treatment plant upgrading) "will allow for the attainment of the secondary contact uses and thereby, provide for the protection of indigenous aquatic life and a variety of recreational uses such as boating, fishing and shoreline activities."

An EPA regional official stated that EPA did not really change its mind; rather the environmental impact statement charts were in error and that the occasional violations of standards that would occur will not significantly restrict achievements of the secondary contact water uses. MSD officials state that without the phase II reservoirs it is impossible for phase I, even with instream aeration and treatment plant ugrading, to meet the Illinois standard. The State environmental agency does not agree with EPA. The Acting Director of the State environmental agency noted on February 14, 1979:

"The State of Illinois supports the findings of the [Environmental Impact Statement] that the entire program, including phase II TARP, must be implemented if minimum water quality goals are to be achieved."

In explaining occasional violations, EPA said the standards would be achieved 95 to 100 percent of the time except for a segment of one stream where the dissolved oxygen standard would be met only 85 percent of the time. EPA further stated that construction of phase II will not significantly improve the water quality beyond that expected from phase I.

OTHER ENVIRONMENTAL CONCERNS EXIST

Other environmental concerns include

Potential contamination of the ground water supply,

The disposal of excavated rock material, and

The disposal of wastewater treatment residue (sludge).

Potential contamination of ground water supply

The potential contamination of the ground water supply has probably caused the most concern of the environmental issues surrounding TARP. Ground water is an important source of water for many Chicago suburbs. Contamination would result in serious problems. Although environmentalists feel TARP may well contaminate the ground water, EPA and MSD believe safeguards are adequate.

Hypothetically, the tunnel system could harm the ground water supply in two ways. During dry weather, when the tunnels are empty, the difference in water pressure between them and the aquifers (natural underground reservoirs) could cause ground water to infiltrate the tunnels, depleting the water supply. Conversely, during major storms, the pressure inside the tunnels could exceed that inside the aquifer, causing sewage water to seep out of the tunnels and contaminate the ground water.

TARP includes several measures to limit the interaction between the tunnels and the aquifers. Most of the tunnels are being constructed deep underground in extremely hard rock. These tunnels will be unlined, because the tightness and soundness of the rock formation is expected to preclude interaction. Tunnel segments through softer rock formations will be lined with concrete. As the tunneling progresses, grouting[2] will be used to salt sources of seepage in the rock structure, such as open joints and faults. EPA believes these measures will protect the ground water supply.

However, for insurance EPA is requiring observation wells to monitor the quality of ground water.

As part of the grant agreements, EPA required that MSD submit a plan for a ground water monitoring system with sampling parameters and frequencies mutually agreeable to the State environmental agency and EPA. Any changes in ground water quality resulting from tunnel construction or operation must be detected. MSD also was required to develop an emergency ground water recharge program to be used if contamination is discovered.

MSD consulted with EPA, the State environmental agency, and the Illinois Geological Survey before preparing these plans, which were submitted for their review in late January 1979.

Other environmental issues

The status of the remaining environmental issues varies. EPA believes that disposal of excavated rock material is being accomplished in an environmentally acceptable manner.

Disposal of sludge produced by treatment plants is a growing and expensive problem. TARP, when completed, would increase the volume of sludge by 15 percent since more rainwater will be captured and treated.

Sludge disposal is not a problem that TARP causes, but rather one that TARP exacerbates. MSD officials believe that cludge disposal is the most pressing problem associated with wastewater treatment. In a previous report,[3] we pointed out that until better solutions are found, the sludge disposal problem will get progressively worse and more controversial.

Additional concerns

Subsequent to the environmental impact statement, concern has been raised about potential damage to buildings from blasting for the tunnels. We were unable to review the concern about blasting since at this time there is little information available. Further, indications are strong that this issue will likely become involved in litigation.

In this period of energy conservation and Presidential concern over energy usage, TARP will be energy intensive. Much electricity is needed—enough to supply the annual requirement of approximately 27,000 residential customers—to pump an estimated 74 billion gallons of water from reservoirs to treatment plants. While electrical requirements are small compared to the area utility capability, a serious question exists concerning the Federal funding of an energy intensive project while at the same time encouraging conservation.

SECTION 4: BACKFLOWS TO LAKE MICHIGAN

TARP (both phases) was designed to meet the following water management goals:

Prevent backflows from the rivers into Lake Michigan.

Reduce waterway pollution caused by combined sewer overflows.

Reduce flooding in the combined sewer and downstream areas.

The backflows occur when the river levels rise to a height which threatens widespread flooding in the combined sewer area. When the rivers reach predetermined levels, MSD opens controlling locks to release impounded river water into the lake. Phase II is the portion of TARP specifically designed to eliminate backflows. Backflows of polluted river water into Lake Michigan have occurred 19 times from 1959 through 1978, with 12 of those in the last 10 years.

When MSD was considering various alternatives to TARP, it rejected any approach that would not satisfy all three objectives. In commenting on various control measures proposed since TARP was planned, MSD has taken the position that unless they meet all three goals, they cannot be considered as alternatives to TARP. Given that position, a large-scale TARP-type solution is virtually dictated.

Backflows thus become a critical issue. Are the impacts of the backflows so detrimental to the environment that they must be totally eliminated? The evidence does not support that contention. Backflows do not violate Federal or State environmental protection laws, or appear to seriously impair public health, the drinking water supply, or the use of public beaches. Government agencies, while unable to demonstrate serious adverse environmental harm, feel that backflows are undesirable and would like to see their impact minimized.

POLLUTION

The State environmental agency prohibits untreated combined sewer overflows into rivers, but has no specific law or regulation governing the backflows of the Chicago area rivers into Lake Michigan. State officials feel that if the combined sewer overflows are contained, backflows to the lake will be less of a problem. EPA views the backflows as being similar to nonpoint sources of pollution, which are not controlled under EPA's pollutant discharge permit system. Further, if TARP phase I projects are completed, it is expected that 75 percent of the combined sewer pollutants now overflowing into area rivers would be captured. Thus, the quality of water that would be discharged into Lake Michigan would be considerably less polluted than at present.

PUBLIC HEALTH

According to officials from the Cook County and Evanston-North Shore health departments, no documented public health hazards have been associated with the backflows to Lake Michigan. The impact of the backflows, if any, is unknown because the kinds of reportable diseases or infections that could result from backflows could just as easily be caused by some other contamination source.

BEACH CLOSINGS

If Lake Michigan is contaminated, public beaches may have to be closed. Park district officials from Chicago, Wilmette, and Kenilworth provided the following information on closings:

Community	Number of days beaches closed	Period (years)	Caused by backflows
Chicago	16½	9	3
Wilmette	8	6	4
Kenilworth	12	10	(1)

[1] Closed 10 days for high bacterial count, but source not identified. High bacteria count can be caused by backflows; however, it can also come from other factors.

The remaining park districts—Winnetka, Evanston, Glencoe, Lake Forest, and Waukegan did not have specific information on beach closings.

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[1] EPA officials are not sure whether EPA will be able to provide its full share of funds needed to complete treatment plant upgrading.

[2] A mixture of cement and water that is injected under pressure into a drilled hole that intersects a source of seepage. Chemical and epoxy grouts may be required in addition to cement grouts.

[3] "Sewage Sludge—How Do We Cope With It?" (CED-78-152, Sept. 25, 1978).

As shown above, backflows account only for a portion of beach closings. There are varied reasons for the remaining beach closings. In Chicago, for example, beaches have been closed 16½ days in the last 9 years for the reasons shown below:

Reason and total days closed:	
Oil spills in the lake	9
Backflows of river water when controlling locks opened	3
Overflows at 95th Street pumping station	3
Seiche warnings [a]	1½

[a] Seiche—a sudden rhythmical movement from side to side of the water of a lake or other landlocked body, occasioning fluctuation of the water level from inches to several feet due to sudden variations in atmospheric pressures, wind, or small earthquakes.

WATER SUPPLY

The Chicago water department has two water purification plants that process Lake Michigan water for use in the city and 74 neighboring communities. The plants can draw lake water either from the shore area or from a crib area about 2½ miles out in the lake. The water intakes are constantly monitored, and the purification plants can switch sources when the other source shows contamination.

A water department official said the area's water supply has never been restricted due to backflows to the lake. The water department has always been able to compensate either by switching water intakes or by increasing chemical treatment. Another official said, however, that the carbon application required for about one-fifth of the backflows caused the water to have a septic or hydrocarbon odor.

Officials from the Waukegan and Wilmette water departments noted backflows have not curtailed their water supplies and have only minimally affected their water treatment operations.

Although area water supplies have not been affected, community officials pointed out that backflows are undesirable and should be averted if possible.

SECTION 5: TARP'S IMPACT ON FLOODING

MSD says that phase I will have little impact on flooding. The addition of phase II tunnels and reservoirs would reduce flood damage cost in the communities by about 65 percent. MSD officials feel that the remaining 35 percent would require local sewer upgrading, estimated by the Corps to cost $1.6 billion, before flood damage could be alleviated.

Why will 35 prcent of the flood damage remain? Flooding in many communities is not caused by the inadequacy of MSD's interceptors, but rather the inability of the local sewer system to handle the load within the community. Since TARP is designed to relieve interceptor overloading, it will be of little benefit to those communities that cannot get sewage to the interceptors—unless they upgrade their local sewers.

We asked local officials for their perceptions of TARP's impact on their flooding problems. The perceptions varied. In the 28 communities where more than 15 percent of the respondents to our questionnaire[1] reported basement flooding from sewer backups, local officials in 9 of the communities felt that TARP will have no impact or only minimal impact on the problem unless sewers are upgraded. Also, 6 of the 28 communities felt that TARP would reduce flooding to some extent, but the community needs some sewer upgrading to receive the full benefit.

SECTION 6: HOW BAD IS FLOODING

How bad is flooding? It is hard to say. That a problem exists is undeniable; however, the problem is hard to characterize because its severity varies widely among the 54 communities, 375 square miles, and over 4 million people that make up the combined sewer area of MSD. In some communities, a sprinkle brings problems; in others a downpour causes little difficulty.

Community officials consider basement backup flooding to be the most serious problem. While approximately half the communities have serious street and viaduct flooding, they do not consider this to be as serious as basement backups. Overbank flooding is not considered a big problem since 80 percent occurs on forest preserve land.

We estimate damages from flooding to single-family dwellings at $71 million to $102 million over the last 5 years. Illness and injuries have been negligible; four, possibly six deaths have been attributed to flooding.

About 25 percent of the respondents to our questionnaire reported basement backup flooding through unobstructed home sewer lines. Of those who have had flooding, about four out of five suffered only during extreme rainfall. The following table illustrates, by community, the percentage of residents responding to our questionnaire that had basement backup flooding at least once during the last 5 years.

Community and Area:	*Percent of basement flooding*
Cicero, West	43.8
Kenilworth, North	35.0
Elmwood Pk., West	31.1
River Forest, West	30.8
Stickney, West	30.2
Forest Pk., West	28.2
Evanston, North	27.2
N. Riverside, West	27.1
Wilmette, North	26.9
Skokie, North	26.8
Broadview, West	26.5
Chicago, —	26.3
Riverside, West	22.5
Park Ridge, Northwest	20.8
Forest View, West	20.5
Brookfield, West	19.6
Morton Grove, North	18.7
La Grange Pk., West	18.6
Lincolnwood, North	18.6
Summit, Southwest	18.4
Blue Island, South	18.2
Berwyn, West	16.5
Western Sprgs., West	16.3
Riverdale, South	16.2
River Grove, West	16.2
Franklin Pk., West	15.8
Melrose Pk., West	15.6
Lansing, South	15.2
Calumet Pk., South	15.0
La Grange, West	14.3
Harwood Hts., West	13.5
Calumet City, South	12.7
Norridge, West	12.2
Maywood, West	12.2
Burnham, South	11.8
Golf, North	10.0
Oak Park, West	9.9
Schiller Pk., West	9.8
Harvey, South	9.3
Lemont, Southwest	9.1
Des Plaines, Northwest	8.8
Niles, North	8.7
Arlington Hts., Northwest	7.2
Markham, South	6.9
Palatine, Northwest	6.6
Mt. Prospect, Northwest	6.1
Dixmoor, South	5.9
S. Holland, South	4.1
Dolton, South	3.3
Phoenix, South	3.3
Posen, South	3.3
Bedford Pk., Southwest	2.6
Lyons, West	2.6
Hometown, South	2.3

DEATHS, INJURIES, AND HEALTH PROBLEMS

Chicago health officials stated that their records show no deaths from either overbank flooding or sewer backups from 1964 to 1977. Officials in three communities noted the following deaths.

In Arlington Heights, at least three deaths have been attributed to electrocution in flooded basements since 1967.

Skokie officials noted one death due to a gas explosion in a flooded basement.

Lincolnwood officials vaguely recalled that one person was electrocuted in a flooded basement at least 15 years ago.

In Chicago, one respondent to our questionnaire said that her infant drowned in a basement flood.

Community officials do not have information on injuries caused by basement flooding, since these generally are not reported. Regarding health problems, a health official noted that illnesses normally associated with contact with polluted water (viral hepatitis, intestinal infections, etc.) could go unreported if case were widely scattered.

Forty residents in eight communities responding to our questionnaire reported injuries and illnesses. Typical responses included

Back problems after cleanup,

A broken toe,

A cold from wading in standing water, and

Rashes from contact with the polluted water.

SECTION 7: LOCAL NEEDS ARE EXTENSIVE

If flood relief is to be obtained, regardless of what happens to TARP, many communities must extensively modify, rebuild, or construct new sewer systems. Without such upgrading, TARP's impact on flooding will be lessened. According to a December 1977 Corps estimate, such local sewer work will cost about $1.6 billion.

Of 54 communities, 26 have estimated the cost of sewer upgrading. The others have not made studies or simply do not know. The following table shows the estimated amount for the 26 communities.

Community	Amount (millions)	Date of estimate
Arlington Heights	$15.0	1979
Blue Island	4.0	1974
Brookfield	4.8	1976
Burnham	3.0	1975
Calumet City	13.0	1974
Chicago	500.0	1978
Elmwood Park	10.0	1979
Evanston	45.7	1977
Forest Park	1.0	1979
Forest View	.5	1979
Franklin Park	11.5	1979
Golf	[1] .4	1979
Kenilworth	[1] 1.6	1978
La Grange	[1] 5.8	1978
La Grange Park	10.0	1979
Lemont	5.0	1979
Maywood	[1] 5.5	1958
Mount Prospect	2.0	1979
Norridge	6.5	1979
Park Ridge	20.0	1979
Riverdale	1.0	1978
Rover Forest	8.8	1973
Schiller Park	[1] 5.1	1979
Skokie	[1] 65.4	Current
Summit	3.5	1973
Western Springs	5.2	Current
Total	754.3	

[1] The midpoint of a range estimate (e.g. $300,000 to $500,000).

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[1] Detailed questionnaire asking about their experience with flooding were mailed to a randomly selected sample of 6,973 area residents. Responses were received from 5,073, or approximately 73 percent.

Whether the overburdened local taxpayer will agree to such large expenditures is questionable. In our discussions with representatives from 54 communities, we found mixed views on approval of flood control projects. For example:

In 1974 Blue Island voters turned down a $4 million bond issue to construct relief sewers. These sewers were planned to alleviate flooding in specific areas of the community.

In 1977 Brookfield abandoned a plan to construct storm sewers in a 50 block area in the southern section. This $4.8 million flood relief project was cancelled when residents vigorously protested the special assessment.

In 1974 Calumet City voters turned down a $13 million referendum for flooding relief.

Some communities, though, have approved projects. These include:

In 1967 Oak Park approved a $7.5 million bond issue to install relief sewers; these have eliminated sewer backup problems.

About 7 years ago Melrose Park approved a $180,000 bond issue to construct a storm sewer lift station. This station alleviated flooding in the central area of the community.

In 1973 Mount Prospect voters approved a $2 million bond issue for various flood control projects.

To further understand the difficulty faced by communities, we asked Evanston officials to estimate the impact of local sewer upgrading on their residents. They noted that on a $100,000 home (average market value of a home in Evanston) it would cost the homeowner about $16 per month for 40 years if the upgrading was financed through property taxes. If the upgrading was financed through sewer charges, it would cost the average resident about $8 per month. Evanston officials said such costs would cause an extreme burden on their citizens. When one adds to this the cost of MSD's portion of TARP phase I (25 percent of phase I's $2 billion cost), which must also be funded by some of the same taxpayers, one can quickly see the problem.

SECTION 8: WHAT FEDERAL AND STATE GOVERNMENTS ARE DOING

Little Federal or State money is available to help local authorities deal with flooding. Sewer backups are considered a local problem; unfortunately, many local governments cannot afford to correct them.

One reason the Federal Government tends to leave flooding problems to local authorities is that there is no single agency to fund sewer projects. Those agencies that might provide funds are EPA, the Corps, the Department of Housing and Urban Development (HUD), the Economic Development Administration (EDA), and the Soil Conservation Service. For some reason, however, not one of these agencies specifically finances projects to remedy basement backups, the principal problem that plagues local sewer authorities. The situation at the State level is similarly bleak.

EPA

EPA can fund up to 75 percent of local sewer projects, but only if their primary purpose is to combat pollution. Thus MSD was able to acquire EPA funds for TARP only by splitting it into two phases—a pollution control phase and a flooding control phase. Phase I, estimated to cost approximately $2 billion, is being funded 75 percent by EPA and 25 percent by MSD. Further, it was agreed as a grant condition between EPA and MSD that the funding of TARP specifically precludes any EPA funding for enlarging combined sewers leading to the tunnels. Thus, local sewer projects in the MSD combined sewer area are not eligible for EPA construction funding.

EPA does have funds available (referred to as step 1 grants) that will permit local communities to study their sewer problems, but not to design or construct sewer systems whose primary purpose is to control flooding. As of January 1979, 38 of the 54 combined sewer communities have either received funds under this program or have applied for grants. According to EPA, the remaining 16 communities have not applied because they do not feel they have a problem, cannot afford the 25-percent local share, or just do not want to get involved with Federal funds.

After completing the step 1 study, EPA provides funds for design and construction of a project (steps 2 and 3). Only 1 (Summit) of the 54 communities has applied for these grants and it was turned down on the grounds that the proposed project was primarily for flood relief and was not intended to improve water quality.

THE CORPS

The Corps was the chief Federal agency concerned with flood control. Thus, it was to the Corps that MSD looked to fund TARP phase II. However, it was decided that the Corps could not construct TARP. Why? While the Federal Government assumed responsibility for flood control (Flood Control Act of 1936) it has not assumed responsibility for urban drainage projects. The key is whether TARP is considered a flood control project or an urban drainage project. In January 1978, the Department of the Army and the Office of Management and Budget agreed to criteria used in defining urban drainage and flood control. One provision is that sanitary sewage or storm runoff being conveyed in manmade structures would not be classified as flood control if it goes to a treatment facility.

The Congress has since appropriated in fiscal year 1977 $1 million to the Corps to begin a study of TARP's flood damage reduction provisions. If the Congress approves the cost of a full study, estimated at $8 million to $12 million, the Corps will ultimately report on whether TARP or some other plan would be the most cost beneficial way to deal with flooding the Chicago area.

HUD

HUD has two programs that could be of some assistance. One provides funds for public works projects and the other provides relief through flood insurance for flood-damaged property.[1] Characteristically, however, neither program applies to the specific flood problems of metropolitan Chicago.

The Community Development Block Grant program is primarily to finance housing and community development for the poor. Public works projects (e.g., sewers) that are incidental to such community development could be eligible. Some MSD communities have used these grants for sewer projects; for example, Chicago replaced 17,500 feet of brick sewers and Phoenix has filed three proposals with HUD for sewer improvement projects costing $300,000.

The national flood insurance program offers communities and homeowners insurance against flood damage. However, only when rivers or other bodies of water flood are losses covered. Damage from basement backups caused by inadequate sewers would seldom be covered. Officials feel that most of the basement backup problems in the Chicago metropolitan area would not be covered by national flood insurance.

OTHER FEDERAL AGENCIES

EDA has a program similar to HUD's in that it funds development projects (including public works) in economically hard-pressed areas. Residential sewer projects may qualify, but only if local industries or businesses are threatened by an inadequate sewage system. The city of Chicago has received $7.5 million under this program for sewer construction and replacement. Only two other communities in MSD's combined sewer area, Evanston and Cicero, have received funds from this program. EDA officials state that this program is unlikely to help local communities with flooding problems.

The Soil Conservation Service funds projects to prevent river flooding. Such projects are underway in three Chicago area watersheds. These are expected primarily to provide some relief for overbank flooding, although some basement backup problems might be solved.

STATE AGENCIES

The State of Illinois has practically no funds available for sewer improvements. The State Department of Transportation gets involved with projects that are directed at controlling overbank flooding or sewer flooding projects that are incidental to roadway improvements. In regard to the latter projects, the local community must pay the cost for any sewer improvement over and above that necessary for proper road drainage. The State environmental agency had a pollution control construction program similar to EPA's, but its funds for new projects are virtually exhausted. Agency officials pointed out that local flooding and sewer upgrading are the responsibility of individual communities.

SECTION 9: WHAT LOCAL AUTHORITIES CAN DO

The burden of alleviating basement flooding rests with local authorities. But many of the community officials told us that their communities do not have the means to support massive sewer projects. Further, they said that without strong Federal or State support, local communities will have to reconcile themselves to the inadequacies of their sewage systems. Thus, local officials must seek less expensive answers. Fortunately, there is much they can do, short of massive system overhauls, to better the systems. Some communities have had success with such relatively inexpensive measures as ordinances requiring the disconnection of downspouts, various actions to slow the flow of water into sewers, and regular street and sewer cleaning. Other communities have taken only limited corrective action.

Niles is an example of a community that has taken extensive action on its own to relieve flooding. According to community officials, this northwestern suburb, of which 60 percent is served by combined sewers, has serious street flooding in several sections and severe basement flooding throughout, due to inadequate local sewer capacity and outfall submergence. This community has taken the following actions:

Its regular sewer maintenance program includes cleaning about 20 percent of its sewers and catchbasins each year. Sewers are inspected weekly for obstructions and proper water flow.

It uses restrictors to limit the water flowing into the main sewers. This measure relieves basement sewer backup problems by ponding water in the streets and parking lots.

The community has a program to separate existing sewers wherever possible. Street drains are sealed off so that combined sewers only convey sanitary flow, then storm sewers are added.

In 1957, the community passed an ordinance requiring homeowners in flood-prone areas to disconnect their downspouts from the combined sewer system, and prohibiting such connection in all new construction thereafter. Additionally, officials recommend that all residents disconnect their downspouts from the combined sewers. They believe, however, that a general requirement for existing homes to disconnect would be hard to enforce, costly for the homeowner, and politically unpopular.

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[1] The flood insurance program is administered by the Federal Insurance Administration (FIA). On April 1, 1979, a reorganization moved FIA from HUD to the Federal Emergency Management Agency.

According to a Niles official, these actions have been effective in reducing flooding problems. Overall, flooding has been reduced by an estimated 50 percent and complaints from residents have decreased drastically.

An effective community program to relieve flooding should normally involve:

A study of the existing system to identify problems and solutions. EPA will fund such studies; however, it will not fund any project relating to flooding that might be proposed as a result of the study.

Educating the public on how to deal with basement flooding.

Regular maintenance and cleaning. Many communities neglect this, allowing debris to accumulate and pipes to deteriorate and excessive infiltration of water to occur.

Passing and enforcing ordinances that aid in flood control. For example, an ordinance requiring downspout disconnection can be quite helpful.

Reviewing and adopting low-cost techniques, such as restrictors, to slow the flow of water into sewers.

These steps will not by themselves solve the problem. Yet, when viewed in light of the scarcity of existing Federal and State funds, taxpayers' reluctance to support sewer improvement projects, and the possibility that TARP phase II may not be approved, they become quite attractive. This approach offers an opportunity to do something now, rather than waiting for funds or for a massive project that, even if it is authorized, might not be completed until the 1990s.

SECTION 10: WHAT HOMEOWNERS CAN DO

Homeowners, whether they live in a community with well-maintained sewers or cracked and clogged ones, or one that acts vigorously to ease flooding or ignores the problem, can on their own initiative keep water out of their basements. In many cases, it is only the homeowner who can act, because the problem is in their own sewer lines or house. Several measures are available to the individual who wants relief from backups. These range from $5,000 corrective systems to $15 drainplugs or standpipes.

FLOOD CONTROL DEVICES

Drainplugs and standpipes are devices that can be inserted in basement drains to stop minor backups. They cost from $15 to $60. Their drawback is that during major floods, they may cause pressure to build up and crack basement floors.

A check valve can be installed in a house sewer line that will allow water to flow out but not in. Manually operated check valves are priced from $300, while automatic ones cost up to $3,000. Check valves must be cleaned periodically or they may clog. Further, debris can jam them open during a storm, rendering them ineffective.

Sump pumps, ranging from $50 to $800, pump water out that accumulates in a basement sump pit. They depend on electricity, however, so when a power failure accompanies a rainstorm they are useless.

SYSTEM CHANGES

If homeowners want to spend $1,500 or more, they can virtually be guaranteed a backup-free basement. Two types of systems are available: the flood control system and the overhead sewer. The former combines pumps, check valves, and ejectors to block and remove water from basements, while the overhead sewer installed near the basement ceiling reduces the incidence of backups. Recently built homes usually have overhead sewers. Both systems partly depend on electricity, but backups are unlikely even during a power failure.

DOWNSPOUT DISCONNECTION

One of the easiest ways to reduce basement backups is to break the connection between the downspout and the sewer line. Downspouts carry water rapidly down from the roof, which tends to overload the sewer system. For about $15 per downspout, homeowners can redirect their downspouts away from their houses. In some cases, however, this procedure may create problems for a neighbor or be prohibited by local ordinances.

SEWER LINE MAINTENANCE

A high percentage of basement backups result from obstructed lines between the home and the street, particularly in areas with large trees. Periodically rodding out these lines can often eliminate flooding.

STRUCTURAL IMPROVEMENTS

Sometimes flooding is not caused by backups at all, but by cracks in walls, floors, and window wells. Sealing these cracks can correct the problem.

EXPERT ADVICE

Before deciding on any of the above actions, the homeowner would be wise to consult a reputable plumber. The plumber can diagnose the problem and suggest the most appropriate solution. For example, if flooding results from cracked walls, a drainplug will not help. The plumber can also provide guidance on proper installation and maintenance, which are, of course, necessary for a device to work. With the above information, the homeowner can evaluate the plumber's recommendation. A plumber's diagnosis costs about $50 to $125.

HOW WELL THESE DEVICES WORK

The device's capability depends on which device is used and how bad the problem is. Plumbers have told us that overhead sewers and flood control systems, if properly installed and maintained, offer virtually 100-percent protection. Others will offer varying protection depending on the seriousness of the problem. For example, if water only enters a few inches, an inexpensive plug will probably do the job.

If a resident cannot afford these devices or the advice of an expert consultant, disconnecting the downspouts and rodding out the lines should be considered. The latter action is particularly important if the resident lives in an area with lots of trees. Again, this approach does not offer an overall solution to the problem, but rather a means to protect the resident.

SECTION 11: CONCLUSION

The Chicago metropolitan area suffers heavily from waterway pollution and, more importantly to the residents, from flooding. MSD has proposed a massive and innovative project to reduce pollution and flooding in the Chicago metropolitan area. TARP and its associated projects will undoubtedly reduce pollution, flooding, and backflows.

Yet, when TARP and associated projects are judged by what it will cost, the taxpayer must stop and think. As of October 1978 TARP and associated projects are estimated at $8.2 billion. Costs are continuing to escalate. If history is a good indicator, this amount could ultimately increase by several billion dollars. Inflation alone could cause TARP and associated projects to exceed $11 billion by 1983.

Both phases of TARP and associated projects offer a promising solution to the problem. But, can the country afford it? Our upcoming report will address in more detail the economic issues, particularly whether the Nation can afford to spend so much for one problem when Federal funds for control of water pollution and flooding are limited as are other elements of the Federal budget. If the Federal Government spends the billions of dollars necessary to complete TARP, should not other hard hit cities also be entitled to their share? In February 1979 EPA estimated that it would take more than $25 billion just to solve the pollution problems of combined sewer communities. If the cost of solving flooding problems associated with combined sewers is included, it could ultimately run more than $100 billion. Thus, the time may have come to reexamine the project.

EPA and the State environmental agency disagree whether phase I of TARP will meet water quality standards. We do not know who is right, since predicting the quality of a waterway can be difficult. However, $2 billion or more will be spent on a pollution project with a high degree of uncertainty as to whether it will accomplish its goals.

There are several options to this problem, including:

Halting Federal funding of phase I and completing only that portion for which contracts have been awarded—$735 million as of January 1979. This alternative would result in a project that still would provide some pollution and flood control benefits—how much is hard to say without a study. It would save an estimated $0.9 billion in Federal and local funds.

Halting Federal funding of phase I and attempting to terminate contracts awarded. This could result in savings, but pollution and flood control benefits would be questionable, since some sections already constructed might be inoperable.

Continuing Federal funding of phase I, recognizing that the expenditure of $2 billion may not result in a project that will meet Illinois lowest water quality standards.

Halting TARP construction would likely require the State and EPA to reexamine the area's water quality goals. What might be required is the recognition that it is simply too expensive for certain streams in MSD's service area to reach water quality goals.

In previous reports we have taken the position that in attempting to achieve water quality goals, the Nation must consider costs, and that in the interest of economy, it may be necessary to permit flexibility in the Nation's water quality goals. More specifically: whether TARP should be funded. Specifically:

In our previous report on TARP[1] we concluded that:

> "Funds for control of water pollution and flood control, as with other elements of the Federal budget, are limited. It is not clear to what extent this Nation can afford to fund individual projects, such as Chicago's tunnel and reservoir project that would cost $8 billion. Consideration should be given to some lesser and/or flexible goals in the interest of economy."

In our report on "16 Air and Water Pollution Issues Facing the Nation," (CED–78–148B, October 11, 1978), we questioned whether TARP should be funded. Specifically:

> "* * * it is unlikely that the entire project will be funded; the goal to improve use of the waterways will not be met. From a cost standpoint it is very questionable whether the project should continue to be federally funded.
>
> * * * * *
>
> "The 'wherever attainable' provision of the 1983 interim goal should be used to exclude from the goal waterways that are seriously affected by natural conditions, nonpoint sources, or immense control costs."

We believe our previously stated position concerning TARP and need for the Congress to determine the extent of Federal assistance to urban areas for this type of program are still valid. As costs continue to increase, it becomes even more critical that TARP be reexamined to see if less costly solutions are available. Such solutions can range from adopting lower cost alternative technology to changing the goals or a combination of the two.

Whether phase II will ever be authorized is questionable. Like phase I, it is also costly. Further it is estimated that the project by itself will only solve 65 percent of flooding. Solving the remainder will require extensive expenditures for local sewer upgrading and other projects.

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[1] "Metropolitan Chicago's Combined Water Cleanup and Flood Control Program: Status and Problems" (PSAD–78–94, May 24, 1978).

The problems and difficulties are little solace to those residents who have problems, and many do. Help is needed now—not in 1987 when TARP I will be completed or in the 1990s at the earliest if TARP II is authorized. Communities and individuals, however, can take actions to alleviate the problem. Granted, such actions will not accomplish what TARP and associated projects are designed to do. They also will be far less costly.

TARP and associated projects are designed to solve three basic problems—reduce flooding, pollution, and backflows to Lake Michigan. The goals are admirable but given the cost of more than $11 billion can the country afford it? Especially when it involves only one city and other cities have similar problems.

SECTION 12: RECOMMENDATIONS

We recommend that the Administrator, Environmental Protection Agency, halt funding of TARP phase I except for those portions already under contract until EPA reassesses the project. In its reassessment EPA should—

Reevaluate whether it wants to support a $2 billion project that the State believes will not meet Illinois lowest water quality goals.

In the interest of reducing costs, adopt more flexible water quality goals for the waterways affected by TARP, and

Carefully review the reasons for the project's cost escalation and make changes necessary to control spiraling costs.

We further recommend that the Adminitsrator determine what treatment plant upgrading is necessary to achieve the benefits of phase I and whether funds will be available.

In carrying out the congressional mandate for the Corps of Engineers study of TARP II we recommend that the Secretary of the Army direct the Corps to—

Incorporate analyses of less costly alternatives to TARP phase II and associated projects and

Prepare a cost/benefit analysis of the various alternatives to TARP phase II and associated projects as well as the currently proposed project.

We also recommend that each of the 54 communities in MSD's service area consider adopting the technology and procedures discussed in Volume 5 of this report.

SECTION 13: SCOPE OF REVIEW

We obtained the information in this report by reviewing TARP project documents, research publications, engineering studies, correspondence, and by interviewing officials at—

Each of the 54 communities with combined or partially combined sewers;

The Metropolitan Sanitary District of Greater Chicago;

U.S. Army Corps of Engineers, North Central Division, Chicago, Illinois, Chicago District Office;

U.S. Environmental Protection Agency, Headquarters, Washington, D.C., and region V, Chicago, Illinois;

Environment Research Information Center, Cincinnati, Ohio;

Municipal Environmental Research Laboratory, Cincinnati, Ohio, and Edison, New Jersey;

U.S. Department of Housing and Urban Development, Headquarters, Washington, D.C., and Chicago, Illinois;

Federal Insurance Administration, Headquarters, Washington, D.C., and Chicago, Illinois;

U.S. Department of Commerce;

Economic Development Administration, Headquarters, Washington, D.C.;

Illinois Environmental Protection Agency, Division of Water Pollution Control, Springfield, Illinois;

Illinois Department of Transportation, Chicago and Springfield, Illinois;

Cook County Department of Highways, La Grange Park, Illinois;

Cook County Forest Preserve District, River Forest, Illinois; and

Northeastern Illinois Planning Commission, Chicago, Illinois.

To expedite issuance of this report, formal written agency comments were not obtained; however, the report was discussed with cognizant agency officials and their comments are included where appropriate.

We also met with various plumbing contractors and engineering firms. The following consultants assisted us by providing background information on combined sewer problems, suggesting and evaluating the feasibility of alternative technology and solve pollution and flooding problems, and reviewing and commenting on our draft report.

Mr. Jerome Horowitz, a consultant with extensive experience in water pollution policies and pollution monitoring and abatement. He has worked with various Federal agencies, including EPA, the National Science Foundation, and the Office of Management and Budget.

Dr. Floyd D. Peterson, a consulting engineer with extensive knowledge and experience in planning water pollution abatement programs. He is a past Chairman and Commissioner of the Washington Suburban Sanitary Commission.

Mr. Frank J. Drehwing, Vice President, O'Brien & Gere Engineers, Incorporated. Mr. Drehwing has extensive experience with combined sewer overflow programs and problems.

Center for the Environment and Man, Incorporated. This firm has significant experience in overall water quality and water resources management planning, including planning for combined sewer overflow and other nonpoint source pollution control. Specifically, the center has conducted studies for the National Commission on Water Quality; the Corps; New England River Basins Commission, and other Federal, State, and local agencies.

To determine the extent of flooding from combined sewers in the Chicago metropolitan area, we developed the following questionnaires:

A newspaper questionnaire printed in numerous local publications throughout the Chicago area to solicit flooding information from residents.

A detailed questionnaire distributed on a random sampling basis to about 7,000 residents in MSD's service area.

Mr. PERCY. Mr. President, I commend the reading of these reports to every one of my colleagues who have urban areas where they have combined storm and pollution sewer systems.

OMNIBUS JUDGESHIP ACT PROVIDES OPPORTUNITY FOR INCREASE IN NUMBER OF BLACKS AND OTHER MINORITIES ON FEDERAL BENCH

Mr. BAKER. Mr. President, in October 1978, the 95th Congress passed a piece of historic legislation. We increased the Federal judiciary by nearly one-third which is the largest single increase in the history of the Nation. The Omnibus Judgeship Act created 152 new judicial positions. The creation of the new positions in addition to the positions which are ordinarily created by retirement, elevation to higher courts, et cetera, provide a unique and unparalleled opportunity to increase the number of blacks and other minorities who sit on the Federal bench.

In my own State of Tennessee, one new Federal seat in the middle district of Tennessee was created by the Omnibus Judgeship Act. There is also the virtual certainty of another vacancy in the western district since one of the President's nominees to the Sixth Circuit Court of Appeals, Judge Bailey Brown, presently sits in the western district. With the new seat on the district court, Tennessee will have nine Federal district court judges—none of whom are black. I believe the time has come for this to change.

This is not a newfound belief on my part. In 1976 when Federal district court Judge Harry Wellford of the western district was nominated to the U.S. Court of Appeals for the Sixth Circuit, I supported then, as I do now, the appointment of a black to the Federal bench.

I believe that minority appointments should be made in both the middle and western districts of Tennessee, and I support such appointments. I know there are many extremely well-qualified black lawyers in these districts and regrettably, the talents of black lawyers have historically been an untapped resource in making appointments to the Federal bench.

It is now the time for us to make our Federal judiciary in the State of Tennessee representative of all of the people of Tennessee. We must not permit this rare and wonderful opportunity to pass.

WELFARE REFORM

Mr. BAKER. Mr. President, I am pleased to join many of my colleagues as a cosponsor of the administration's two-part welfare reform proposal. I am particularly pleased that the administration has chosen to provide us with a moderate, incremental approach to this reform effort. I am delighted to find that this measure is strikingly similar to the program outlined in S. 2777, the Jobs Opportunity and Family Security Act of 1978, of which I was also a cosponsor.

As I stated over a year ago:

> Few, if any, problems have so perplexed the Congress and the country as how to adequately and fairly provide for the genuinely needy amongst us without encouraging dependency and discouraging work.

Today, this is still true.

I doubt that there is any Member of Congress who would question the need for reform of our Nation's present welfare system. The system's numerous inadequacies and the strain it places on State and local governments have been documented time and again.

Thus, the question ceases to be academic. The problem is one which demands this body's immediate attention and a systematic approach aimed at achieving a comprehensive solution.

This is not to say that the administration's proposal is without deficiencies. I believe the jobs portion of the plan relies entirely too much on costly public service employment instead of making a firm commitment to private sector employment. The cash portion of the bill does not go far enough in providing much-needed fiscal relief for our overburdened State systems. However, I do believe that this proposal provides a much-needed first step in a comprehensive, incremental approach to overhauling the welfare system. It is for this reason that I am pleased to cosponsor the Work and Training Opportunities Act of 1979 and the Social Welfare Reform Amendments of 1979.

TRIBUTE TO A. PHILIP RANDOLPH

Mr. BRADLEY. Mr. President, earlier this week the memory of a truly great American was honored.

A. Philip Randolph conceived of and under overwhelming obstacles achieved major institutional changes which positively affected the lives of a significant segment of our society. He should be cherished in the memories of all of us as an example of one who refused to relinguish his efforts to achieve his ideals in the face of a substantial majority of dissenting views.

In 1925 before the civil rights movement was heard of Mr. Randolph established the Brotherhood of Sleeping Car Porters, the first major black labor union in the United States and the first black union granted a charter by the American Federation of Labor. This resulted in a dramatic improvement in the economic situation of the black working class. For the rest of his life Mr. Randolph continued his fight against racial discrimination which resulted in the AFL-CIO's banning of discrimination in unions, President Harry S. Truman's ending of segregation in the armed services, and several marches on Washington including the 1963 march which was significant to the passage of the 1964 Civil Rights Act.

It is ironic that this civil rights leader has died during the celebration of the 25th anniversary of the Supreme Court's decision in Brown against Board of Education which banned racially segregated schools. At this time we should rededicate ourselves to the establishment of equality in all aspects of American life.

THE PHARMACEUTICAL INDUSTRY

Mr. BRADLEY. Mr. President, the State of New Jersey is widely recognized as the center of the U.S. pharmaceutical industry.

Within her boundaries is the largest concentration of major, high-technology, research-oriented drug manufacturers in the United States. Much progress in the discovery and development of lifesaving, cost-effective medicines has been made in the research laboratories of these firms, and I am proud that New Jersey has provided an environment that has and will continue to foster the development of new medicines for the future benefit of people everywhere.

At a recent annual meeting of Merck & Co., Inc., a world leader in drug innovation headquartered in Rahway, John J. Horan, board chairman and chief executive officer, said we are entering a new era of discovery in pharmaceutical research. In the excerpts from his remarks which I would like to insert in the RECORD, Mr. Horan paints a fascinating picture of the directions in which biomedical science is expected to move in the decades ahead. The prospects for breakthroughs in the coming decade include newly developed treatments for diseases ranging from multiple sclerosis, epilepsy, and diabetes to heart disease and various cancers.

I am pleased to have the opportunity today to share Mr. Horan's account of these encouraging developments with a wider audience of Americans.

Mr. President, I ask unanimous consent to print in the RECORD the remarks by John J. Horan, chairman and chief executive officer of Merck & Co., Inc.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

EXCERPTED REMARKS BY JOHN J. HORAN

I would like to consider now the prospect for the longer-term future, the possibilities for new products and therapeutic breakthroughs in the coming decade. What may we expect from our research in the 1980's?

I would not and could not undertake to predict so far ahead what the specific new products of Merck will be. I will, however, indicate the kind of advances that responsible scientists now feel are on this side of the horizon.

To judge Merck's potential, we must remember that our laboratories do not stand alone but relate to the whole body of biological research. Out of the interaction and collaboration of scientists in industry, university, and government laboratories will come great advances of the future, as they have in the past, sometimes originating in one setting, sometimes in another. Merck will continue to participate in these advances, contributing both basic knowledge and our special capacity to move an early research lead through the long process that eventually brings a new therapy to those who need it.

Fortunately, there has been exciting progress in the basic health sciences in recent years—progress that has placed us on the threshold of what can be a new era in drug research and development.

Developments in the basic sciences now permit laboratories around the world to work at subcellular levels in dealing with biological processes. For example, scientists now know how energy is made available to and utilized in the cell, and have a better understanding of the nature and function of the subcellular entities which carry out specialized functions in the cell. There is important new insight into genes, both their mechanism and how their functions are controlled. And a wealth of new information has been gained about the biochemical aspects of such tissues as liver, bone, kidney, muscle, and connective tissue.

A field of basic research that has particular promise today is immunology. Growth of this scientific discipline has progressed dramatically both at the cellular level, where the contributions of different cells of the body have been recently identified, and at the molecular level, where some of the proteins that are involved in the immune response have been isolated and their functions demonstrated. Scientists have learned that a series of autoimmune diseases—including multiple sclerosis and myasthenia gravis—result primarily from the failure of a person's own immune system to recognize some parts of his body as belonging to him. The implication of immune reactions in such conditions as arthritis, cancer, and aging, as well as in all infectious diseases, is being pursued in many laboratories throughout the world. We have taken special steps, with respect to both staffing and facilities, to enable our laboratories to contribtue to and take advantage of the opportunities in this field.

In the cardiovascular field there are research developments that foreshadow an ability to reduce the likelihood of arteriosclerosis through the specific inhibition of an enzyme that regulates the synthesis of cholesterol . . . to improve the present treatment to high blood pressure by blocking one of the enzyme systems involved . . . and to develop new approaches to dealing with angina, heart attack, and sudden death.

A better understanding of the hormonal and metabolic imbalances that occur in diabetes suggests that ways may be found to control the long-term consequences of that disease—such as blindness, strokes, and kidney failure. In addition to insulin, other peptide hormones have been implicated in diabetes, and it is through manipulation of these other hormones that scientists hope to achieve new advances in diabetes.

Enormous steps have been made in unraveling the chemistry and the wiring of the nervous system. Much has been learned about the nerve cell—how it carries its messages, and even what happens when it conveys messages to another nerve cell or to such organs as glands or muscles. From such understandings a more specific treatment for schizophrenia should derive—a treatment that aims at the pathogenesis of the disease. In addition, it is now known that the brain elaborates its own natural opiate in response to pain; an understanding of this process may permit the synthesis of potent nonaddicting analgesic agents. Moreover, better understanding of the chemistry of sleep should facilitate the development of hypnotics that will mimic natural sleep. And there is good reason to hope for the evolution of improved agents to control epilepsy and anxiety—agents lacking the potential side effects of today's drugs.

In the area of viral diseases, live attenuated vaccines will be developed against a number of important diseases including chicken pox, pneumonia in children caused by the respiratory syncytial virus, and cytomegalovirus infection. The discovery that immunity can be conferred by subunits of microbial agents—subunits that in themselves cannot be infectious—will permit the development of safe vaccines against herpes infections, gonorrhea, otitis media (middle-ear infection), and possibly dental caries.

A breakthrough has been made in our laboratories toward the control of infectious hepatitis. The virus causing that disease, hepatitis A, has been grown in cell culture for the first time. Thus a source of virus is now available for production of a vaccine. And it is very likely that the most common form of serum hepatitis, the so-called Non-A Non-B hepatitis, will also yield to vaccine control.

There is a great deal of excitement associated with the use of interferon (an antiviral protein which confers resistance to many types of viruses) in the treatment of certain viral infections, such as chronic active hepatitis B and herpetic infections of the eye and the central nervous system. Interferon is also being used experimentally against some important malignant diseases, such as non-Hodgkins lymphoma, osteosarcoma, and mammary tumors. Interferon is available to scientists today only in very small quantities which are very difficult and expensive to isolate. The great need for the development of a production process which will make interferon available in the quality and form needed for a definitive evaluation of its utility and therapeutic range. Merck is working on the development of such a process.

The much-discussed recombinant DNA techniques permit scientists, by transferring genes, to modify the genetic characteristics of a given cell. These techniques can be and are being used safely and usefully in biological laboratories around the world, including ours. Recent advances in the use of recombinant DNA techniques permit new insights into the structure and regulation of genes. They also make commercial production of scarce biological products possible (the synthesis of human insulin in bacteria has already been demonstrated). Recombinant DNA techniques will also facilitate the development of pure proteins that will function as antigens for use in vaccines against organisms that cannot yet be grown *in vitro* in the laboratory. Hepatitis B vaccine, which is currently produced from antigen isolated from infected blood, is a high-priority target for this technology, and other vaccines could be derived from a similar approach.

A target for treatment of the various arthritic disorders is a drug that will halt the progression of the disease without severe side effects. The recent implication of an aberrant immune response as a prominent component of rheumatoid arthritis suggests an important new approach to therapy of this important disease, as does new information on the biochemistry of inflammation resulting from studies in our laboratories suggesting the involvement of reactive chemical species, called free radicals, in the inflammatory process.

Among the respiratory diseases, the treatment of asthma requires better therapeutic approaches. The body chemicals that produce the asthmatic attack have now been defined. Although their structures have not yet been entirely characterized, antagonists against each of the active principles are being elaborated in the laboratory. Such research should lead to improved specific therapy for this important disease.

The human consequences of obesity have been identified through epidemiological studies that have demonstrated the higher incidence of diabetes and an increased mortality rate, particularly from cardiovascular disease, among the obese. Approaches to the control of obesity could come from an understanding of lipid metabolism and the enzymes that are involved in the synthesis of fat as well as from an understanding of the direct chemical control of appetite within the brain.

Building from the demonstrated utility of "Timoptic" for the treatment of glaucoma, there will be a far-ranging investigation of other therapeutic modalities aimed at other mechanisms that are involved in controlling intraocular pressure. And it should also be possible to develop drug delivery systems that are uniquely suited for use in the eye.

It is the chronic and degenerative diseases that primarily afflict the aging . . . and this makes it all the more urgent that each research opportunity be identified and explored according to its promise. The number of people over 85 years of age in the United States will increase about 300% over the next fifty years. The number over 65 will increase about 135%. All of us know the trauma disease holds for the elderly and their families. For example, half of the approximately one million elderly people now in long-term care facilities have been diagnosed as being senile. Yet disease is not a necessary part of the human condition. It occurs when there are biological mistakes. Thus it should theoretically be possible for people—as Dr. Albert Sabin once said—to live in good health, and to die in good health. Much of the coming progress in therapy can benefit the elderly by preventing, treating, or controlling the diseases from which they suffer unnecessarily.

For example, a problem common among older males is urinary tract obstruction due to benign prostatic enlargement. Surgical intervention is widely practiced today. But a medical approach would be far more desirable and now seems possible. Further, Parkinson's disease is a major problem among the elderly, and the symptoms of the disease tend to progress despite therapy. A more direct chemical control should be possible as a better understanding of this degenerative disease is achieved. To illustrate further . . . among the recently discovered hormones and neurotransmitters within the brain are those that have the ability to stimulate various brain functions. It can be hoped that derivatives of such hormones and neurotransmitters may improve a variety of brain processes, including memory and learning.

I have by no means identified all of the opportunities that lie open to us for the eighties. Prospects have never been more exciting. Can Merck expect to take advantage of them?

We are very confident of the capacity of Merck research to match its great accomplishments of the past half century. We have scientists of the highest caliber, and we continue to recruit young people of promise as well as established leaders in their chosen fields of study. We are fortifying and expanding our representation among the fifty different scientific disciplines that are currently represented in our research activities. We have the very best people working together in a setting with a tradition of success in research.

They have at their disposal first-class research facilities. Two years ago we announced that we had under way a $60 million program of major capital spending to expand and modernize our research and development facilities. This program will be substantially completed by the end of this year.

This program will give us a major laboratory to house significantly expanded research programs in immunology and biochemistry; a major new facility for the isolation of natural products; a major new safety assessment and research laboratory in Riom, France; a significant expansion of our animal health research and development in North Branch, New Jersey, and Fulton, Missouri; and finally a new large-scale organics pilot plant in Rahway.

A fifteen million dollar expenditure has just been approved by our Board of Directors for the construction of advanced new laboratories for virology and cell biology research at West Point, Pennsylvania. Our laboratories have won a world-wide reputation in this field and plan to maintain our leadership in it. We believe that both scientific progress and the rising cost of health care will create new markets in preventive medicine, and vaccines are among the most cost-effective products in this area of health care.

We have in addition to all of this invested over twenty million dollars in recent years in laboratory modernization and improved instumentation which did not require major construction.

So we are providing our scientists with the modern facilities and instrumentation they need to undertake the most advanced research and development and to support a growing research program. We plan to continue to do so in the future.

It is important for stockholders to understand it is in the very nature of basic research that its results are unpredictable and often disappointing. Again, sometimes where a research lead proves fruitful and a new and efficacious product seems in hand, unexpected adverse reactions may come to light late in the lengthy process of safety testing, and a significant investment disappears. But the chief lesson of Merck's lengthy experience is that consistent support of research does prove rewarding, though not always in the way originally expected.

Therefore, we will continue to support our researchers with the kind of budget needed to create new product breakthroughs in these times of ever more complicated scientific and regulatory requirements. We remain confident that Merck's growth—as a company and in service to society—will benefit greatly from our unswerving commitment to innovation.

Reflecting that commitment, we are going to spend close to one hundred ninety million dollars on our research and development activity this year—the equivalent of almost two-thirds of last year's net income; this investment represents a very substantial risk, but it coincides with opportunities that we believe outweigh the risk.

If the endless and endlessly rewarding possibilities I have been discussing are to become realities—and if, as we fully expect, Merck is a participant in their successful accomplishment—then our investments and commitments in research will have been warranted many times over, and society will have benefited many-fold from encouraging the existence and growth of an innovative company.

One essential unifying element of all Merck activities is our competence in biology, chemistry, and engineering. Thus we seek the same innovative thrust in the animal health, agricultural, and environmental fields that has been our hallmark for decades in human health. The search for new and improved products continues in those fields and the social values of their products and services, although perhaps less obvious, are nonetheless real.

Incentives for industrial research are receiving attention everywhere in the world because technological leadership has such a direct bearing on critical economic, social, and political aspects of our lives, and is essential to our future economic health and security. We welcome and applaud the current initiatives by President Carter; Dr. Frank Press, Director of the Office of Science and Technology Policy in the White House; Dr. Jordan J. Baruch, Assistant Secretary of Commerce for Science and Technology; and others who are seeking ways to provide new incentives for industrial investment in R&D—their concern is most encouraging.

It is essential that government policy recognize the social and economic values of innovation and technological progress if we are to achieve the great advances in medicine that are at hand for the coming years.

Scientists have told me Merck is one of the most exciting places in which they could possibly work—whether in industry, academia, or government. I know that Merck people everywhere in the Company share the feeling that great achievements lie ahead.

A famous novelist, born just a few miles from the location of our modern medicinal chemical plant in Tipperary, Ireland, observed over two hundred years ago—

". . . . health—thou art above all gold and treasure—he that has thee has little more to wish for—and he that wants thee wants everything."

The 1980's offer the possibility and the promise of advances in society's battle against disease, disability, and suffering that will equal or surpass those of the 1940's, when much of the modern age of medicine was forged. The new understanding of the living organism, of life itself, that the biological sciences now lay before us offers an endless variety of opportunities to create new therapies to protect people from disease and premature death. Merck and the innovative, research-based pharmaceutical industry, working with scientists in university and government research, have the skills, the people, the resources, and the will to create new therapy from new knowledge. It should be a magnificent decade in humanity's search for health.

SENATOR MOYNIHAN'S ADDRESS TO THE NEW JERSEY BANKERS' ASSOCIATION

Mr. BRADLEY. Mr. President, on May 16, 1979, Senator Daniel Patrick Moynihan of New York addressed the New Jersey Bankers' Association. It was a very thoughtful address.

I ask unanimous consent that his remarks be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by Senator Daniel Patrick Moynihan

We in New York and New Jersey have done many things for ourselves, at our own expense, that the Federal government is now doing, at no small cost to us, for the country as a whole. It is a matter that my distinguished colleagues from your state, Senators Williams and Bradley, and I have begun to grow increasingly concerned about.

For example, the Port Authority of New York and New Jersey raises its own revenues to maintain, improve and promote our regional transportation system. We here do this for ourselves. But consider this: the Army Corps of Engineers is embarked upon a waterway project through some southern states that boggles the imagination. They have commenced to clone the Mississippi River, building a parallel waterway from Mobile, Alabama, on the Gulf Coast to Pickwick Pool on the Tennessee, thereby linking the Ohio River directly to the Gulf of Mexico. Meanwhile, New York City scrabbles for a federal loan just to build the third tunnel it needs to assure clean drinking water for its nearly 8 million people.

We built our own turnpike system, models for the national Interstate Highway System, and we financed them ourselves. The tolls we pay to use them—an additional cost of doing business in our states—go in good part to retire the debts we incurred. Meanwhile the National Highway Trust Fund has built freeways throughout the rest of the country, which have no user costs, but

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We also established our own Regional Plan Association, which coordinates studies and planning of the counties of New York, New Jersey and Connecticut which comprise the metropolitan New York region. On last May 13th our Regional Plan Association, again doing work that the Federal government should be doing for us, released a portion of a massive study of our regions economy, entitled "The Regions Money Flows." This study contends that, for 1975, the year studied:

> A severe drag on the region's economy results from the outflow of $8 billion of federal taxes paid in the region and spent outside the region. . . . The Association estimated that $6 billion plus could have generated as many as 700,000 jobs had it stayed in the region.

My staff and I have been working this past week to develop an even more current analysis of the flow of funds between New York State and the Federal Treasury. The precise data must be culled out of a mass of agency reports and budgets, for the federal bureaucracy compiles exquisite data on everything but that which it finds embarrassing. But I believe we have come close enough to the truth to offer some general conclusions. For this occasion I have gone over the data for New Jersey as well as New York, and for two states outside the Northeast of comparable population to New York and New Jersey respectively—California and Florida. The figures for Fiscal Year 1978 are, like the Regional Plan Association's figures for 1975, not encouraging.

Despite a nominal increase from $34 to $35.1 billion, federal outlays in New York State, in terms of constant dollars, actually declined since FY 1977. The same is true for New Jersey, where federal expenditures rose from $11.2 to $11.9 billion, something under the national inflation rate of 6.7 percent. Meanwhile, Federal spending nationwide rose faster than the inflation rate—by 9.4 percent.

New York and California paid roughly the same proportion of personal income taxes as their respective proportions of the national population. New Jersey, however, with about the same proportion of the nation's population as Florida (some 4 percent) paid 4.1 percent of personal income taxes, while Florida paid only 3.6 percent of the tax burden. Yet New Jersey got back only 2.8 percent of federal outlays in FY 1978—more than a full point below what it gave—while Florida got back 3.9 percent of outlays, somewhat better than it gave. I will not explain to a group of bankers how these seemingly small differences compound themselves over time.

In federal defense expenditures, New York got $5.5 billion in outlays in FY 1978, while California got back $17.2 billion. New Jersey got back 2.4 billion, while Florida, your comparison state, got back $3.8 billion.

Regional fiscal imbalance cannot adequately be measured in terms of aggregate tax revenues and expenditures. We must also pay close attention to what our states get federal monies for. To put it starkly, the faster growing regions of the country get infrastructure-water projects, defense contracts, research and development funds—while we get food stamps.

Lewiston, Idaho, and Muskogee, Oklahoma, are seaports while the Hudson Valley sleeps and the Passaic River stagnates.

There is much import in all these figures, but I wish here to offer but two conclusions.

First, we in the Northeast need to pursue a strategy of winning our fair share of federal funds and seeing that a decent proportion of what we get goes for economic development. To take but one example, we need to see that we ask for and get a fair share of the federal monies that go for water projects. Water is one of our great resources, one that, as the geologic water supplies of the Southwest are drained off through use, will prove to be more and more valuable to us and to the nation. Senator Domenici of New Mexico and I will introduce a bill in the Senate this week that will establish a formula for apportioning funds for water projects on the basis of a state's population and land area, rather than in the ad hoc fashion in which they currently are spent.

Second, we need to resist the impulse toward mindless budget-cutting that has arisen recently, so largely at the instance of legislators from states that have benefitted disproportionately from the distribution of federal funds for economic development in the period just behind us. At least, if the budget is to be cut sharply, we have to see that the cuts do not come from programs that help the already disadvantaged urban regions of the Northeast. We have seen, as the analysis of our Regional Plan Association bears out, that private capital investment flows often follow public investment flows. The private investment rate for the New York-New Jersey region, as a percent of gross regional product, was less than three quarters that of the private capital investment rates for the nation as a whole in 1972 (11 percent to 15 percent) and by 1975 had declined to almost one-half that of the nation (7 percent to 13 percent).

These are matters that bankers will understand. In the crucial election year ahead we need to bring them to the attention of a much wider audience.

VIETNAM VETERANS WEEK

Mr. CHAFEE. Mr. President, this past Sunday concluded Vietnam Veterans Week, this country's first such commemoration of the toils of men and women who served in a war which many of us have sought to forget.

I ask that a story which appeared in the May 31 edition of the Providence Journal be printed in the Record at the conclusion of my remarks.

I do so both because this article reports the honoring of ten Vietnam veterans with Presidential citations for their outstanding community achievement in Rhode Island, and because I feel the comments contained within the article, made by one of the honorees, accurately depict the tremendous obstacles which Vietnam veterans continue to face.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. CHAFEE. Mr. President, Peter Monahan was shot in the knee and received shrapnel in his face and rear in the 1968 Tet offensive. After recovering from those injuries, he was accidentally shot in the spinal cord while on Marine duty in Maryland and is now paralyzed from the waist down and confined to a wheelchair.

Like many disabled Vietnam-era veterans, Peter Monahan has displayed a particular brand of drive and courage. Entering Providence College in 1974, Peter majored in economics and received a degree last year. He has supplemented his pension with a firewood splitting business and is attempting to secure a Small Business Administration loan in order that he might purchase his own store.

Peter spoke not of his achievements last Wednesday, however, but of the frustration and prejudices which have haunted too many Vietnam veterans. After fighting in this Nation's longest, most expensive, and least popular war, these men returned not to the ticker-tape parades and honorary ceremonies which have followed other conflicts, but to an American public anxious to leave behind the entire episode.

The product of this attitude is a particularly disturbing situation. The overall suicide rate among returnees from Vietnam is 23 percent higher than that of nonvets of the same age. Of those who were married when they went to Vietnam, 38 percent were separated or divorced within 6 months of their return; 20 percent continue to have less than a high school education. One survey of Vietnam vets in metropolitan areas found that more than 40 percent had alcohol problems and more than half had drug related problems.

In the area of unemployment, some 340,000 have no jobs at all. More than one-quarter of all Vietnam vets earn less than $7,000 a year. Minority, disabled, and disadvantaged vets have serious unemployment problems. Vietnam-era veterans have an unemployment rate which exceeds 11 percent and the rate for the disabled is fully 50 percent.

Recently, the Senate approved both a drug and alcohol treatment program and a readjustment counseling program which were included in the Veterans Health Care Amendments of 1979. The $12.2 million authorized in S. 7 for psychological counseling is a start, but it is only that. As many as 1.7 million Vietnam veterans may need readjustment counseling and we will have to consider an innovative and expanded program.

In terms of educational opportunities, the law's requirement that veterans use GI bill benefits within 10 years of discharge has severely hampered Vietnam veterans. Extension of the so-called delimitation date would allow many to take advantage of improved benefits, which were inadequately low in the past.

We need to review the limitations of our employment initiatives, such as the help through industry retraining and employment (HIRE) program, and push ahead with alternate private sector employment programs. HIRE II and the targeted tax credit for employers of Vietnam vets are creative approaches which effectively address the employment situation.

Max Cleland said last week, "Vietnam Veterans Week is a symbolic gesture—but not an empty gesture." The week just past should alert the American people and this body that circumstances require a reordering and improvement of a number of Government programs related directly to the problems of Vietnam veterans.

Exhibit 1

Honored Viet Vet Deplores Negative-Image "Handicap"

(By Charles Bakst)

Providence.—"We've been depicted as drug addicts, alcoholics, people with mental problems, accused of being punks," Peter Monahan, 31, of Cranston said yesterday.

Monahan is paralyzed from the waist down and uses a wheelchair. He was accidently shot in the spinal cord on Christmas Day, 1969, while on Marine duty in Maryland after a tour in Vietnam.

In his comments yesterday on the plight of the Vietnam-era veteran, Monahan continued:

"A lot of people seem to forget we're very, very productive in our society, and most of the people who are coaching kids in sports now are Vietnam veterans. And being very, very active in their communities and doing outstanding work.

"But nobody seems to know that. All they see is the negative side."

He added, "I have a physical handicap from the Vietnam era, but all Vietnam veterans are handicapped because they are Vietnam veterans. As soon as you tell someone you're a Vietnam vet, they almost expect you to have something wrong with you."

Monahan said many treat the Vietnam-era veterans as second-class citizens, and "doors for job opportunities are closed."

Monahan's remarks came in an interview after a State House ceremony in which he and nine other Rhode Island Vietnam-era veterans, many of them disabled, were honored with citations from President Carter. The citations, presented by General Treasurer Anthony J. Solomon, were for "outstanding community achievement."

Monahan also was given an American flag that had been flown over the U.S. Capitol for him at the request of Sen. John H. Chafee. The flag arrived at the State House in the company of 15 Marines and Marine reserves who had run it in relays, from the Connecticut state line in Hopkinton, 45 miles away, in just under seven hours. The reservist who carried it into the State House was Sgt. Paul Monahan, Peter's twin brother.

The relay was held to focus attention on problems of Vietnam vets. Members of the relay unit were clad in jogging shirts and shorts or military camouflage suits.

"We want our Vietnam veterans to know that we have not forgotten them," Solomon said at the ceremony in the governor's reception room.

In a comment most Americans would subscribe to, in one way or another, Louis Alfano, state veterans affairs chief, who presided at the ceremony, told the veterans, "It really was a war that left a lot to be desired."

Besides Peter Monahan, others honored with citations were James Converse, Daniel Evangelista, Dempsey Varner and Carl Washington of Providence, Joseph Gallo of Warwick, Clement Lubine, Jr. of Glendale, John Meenagh of Pawtucket, Gordon Steele of West Warwick and George Vincent of East Providence.

Monahan was shot in the knee and received shrapnel in his face and rear in the 1968 Tet offensive. Eventually he recovered from that. His paralyzing injury came when he was accidently shot in a "top-secret mission" while on assignment to the National Security Agency at Fort Meade, Md.

A 1967 Woonsocket High graduate, he entered Providence College in 1974, majored in economics and received a degree last year. He has been supplementing his pension with a firewood-splitting business and is trying to get a Small Business Administration loan so he can open a liquor store.

Monahan, who for many years has coached baseball in Cranston youth leagues, said he feels he personally has been a victim of discrimination. He said he has tried unsuccessfully to get a coaching job in the Cranston School Department.

He said the school department tells him he is "qualified," but has yet to hire him on and gives no specific reason. He said he suspects that school officials regard his wheelchair as a handicap.

"I'm going to keep filing applications," he said. "They can say no for so long. Finally they're going to have to say yes."

PASTOR GEORGY PETROVICH VINS

Mr. LEAHY. Mr. President, I want to take this opportunity to speak for a few moments about an extraordinary man I had the privilege to meet in my home State of Vermont a few weeks ago. His name is Georgy Petrovich Vins, he is a Baptist minister, and until a short time ago he was a prisoner of conscience in the Soviet Union. Today, he is in Middlebury, Vt., a free man, waiting for his family to join him. He is a deeply religious man and he has spent 8 of the last 13 years in prison for doing nothing more than carrying on the work of his father as a Baptist missionary. Petr Vins, his father, was trained in seminaries in the United States and went to the Soviet Union in 1926 and later adopted Soviet citizenship. He died in a prison camp to which he was sent for his religious activities.

The story of the Vins family is one of great courage, almost endless suffering, and unfailing devotion to God. His mother spent 3 years in prison for signing petitions in support of religious believers. His wife, subjected to harassment and deprivation, supported five children while Pastor Vins was either in prison or in hiding. His eldest son, Pyotr, was a member of the Ukrainian Helsinki Monitoring Group, for which he spent a year in prison and was beaten and threatened by KKGB thugs on several occasions.

Yet, Mr. President, even after all that he has been through, after years of suffering and long separations from his family, Georgy Vins is not a bitter man nor is he a broken man. His deep faith has sustained him and nourished him and given him the strength and the will to carry on his work.

During the few hours I spent with him—walking across the beautiful campus of Middlebury College, enjoying a quiet dinner on Sunday evening, and over coffee on Monday morning—I found him to be a gentle and thoughtful man, dedicated to his ministry, concerned about the thousands of religious believers in the Soviet Union who are deprived of their right to worship as they choose, and deeply grateful that he has the opportunity to pursue his lifelong work.

Hopefully, his family will soon join him in Vermont and together they can begin anew.

Pastor Vins told me of his 10-year struggle in the Soviet Union to achieve legalization of a church entity. He spoke of the reasons why this group was originally formed; to freely speak the word of God among people in the Soviet Union, to follow the tenets of religious faith which they felt was not possible under the rules for so-called official religions in that country. He spoke of the Chairman of the Council of Churches, Gennady Kryuchkov, who has been in hiding for 10 years, forced to pursue his ministry in a clandestine manner holding services in fields or in forests, or in private homes of religious believers. Pastor Kryuchkov has been unable to live with his wife and nine children during these long years of his struggle to achieve freedom of religion in his own country. Pastor Vins spoke of the need to help those in the Soviet Union who wish to attain religious freedom for themselves and their children.

He also told me that he felt that the new Soviet Constitution would not have contained a reference to freedom of religion had it not been for the Helsinki Final Act. He said that as a result of the Helsinki accords and of strong Western support for the human rights provisions contained therein, religious people are no longer beaten or tortured in government prisons as they previously were. It is his strong conviction that Western concern acts as a deterrent and restrains Soviet officials when they seek to suppress the work of the church in the Soviet Union.

He asked a lot of questions about the United States. He was interested to learn that sessions of the U.S. Senate are opened every day with a prayer. He has been subjected to so much propaganda for so long that he has a greatly distorted view of the United States, even though he took the allegations of Soviet media with great skepticism. He did not ask to come to the United States or even to leave the Soviet Union; his only desire was to be able to continue his work in the Soviet Union without fear or harrassment. He was told on several occasions that he would be released if he would sign a paper saying that he would give up his religious activity. He refused to do so. He was told that he might be able to leave the Soviet Union if he wrote a letter to Brezhnev requesting it. This he also refused to do.

Now this brave man is here in our country, in my home State of Vermont, and is searching for ways to continue his work. We are proud to have him in Vermont and I know Americans everywhere will welcome him and praise his courage. Let us hope, Mr. President, that he and his family may find freedom and happiness in America and a new opportunity to serve God.

Mr. President, Pastor Vins is going to be here to appear before the Helsinki Commission of the Congress. We will have the honor tomorrow morning of Pastor Vins, who is well known to the Baptist community in the United States, delivering the opening prayer in the Senate. I wished to mention that to my colleagues, should any of them have the opportunity to be here tomorrow morning. I know they will enjoy the opportunity to meet Pastor Vins.

LET THE ESKIMOS HUNT

Mr. STEVENS. Mr. President, recently one of my good friends, Lael Morgan, a contributing editor to the Alaska magazine and Alaska Northwest Publishing Co., was featured in the "My Turn" column of Newsweek magazine. Lael's article in Newsweek concerned an existing dispute over the right of Alaskan Eskimos to continue to live their current subsistence lifestyle. Lael's article, entitled "Let the Eskimos Hunt," concisely describes the tremendous importance of hunting to the lifestyle of Alaska's Eskimos. Her article examines the importance of the bowhead whale to the Eskimo society and the need for America to recognize that this hunting has not endangered the populations of bowhead whales or other marine mammals which the Eskimos have hunted as part of their subsistence lifestyle for thousands of years.

Mr. President, last year I joined the Alaska Whalers Commission in a hard fight to permit Alaskan Eskimos to continue their lifestyle. The International Whaling Commission had originally established a total ban on the hunting of bowhead whales by Alaskan Eskimos, but we were partially successful in lifting that ban. However, the IWC refuses to recognize the needs of Alaska's Eskimos and has prohibited them from taking the whales which are necessary to sustain them. It is my hope that articles such as the one by Lael Morgan will awaken the American people to the tremendous injustice which has been visited upon the Alaskan Eskimo.

Mr. President, I ask unanimous consent that the article "Let the Eskimos Hunt" be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LET THE ESKIMOS HUNT

(By Lael Morgan)

Recently, over lamb chops, a hostess remarked to me how cruel it was for Eskimos to kill those baby seals. Hoping to dismiss the subject, I told her they weren't *our* Eskimos but Canada's. Alaskan Eskimos hunt mature seals of which there is an overabundance, and they hunt them because they need the food.

In the arctic, it would be hard to sustain oneself on pizza and veal cutlets—even if such supermarket fare were available. To function in that abysmal cold, the body cries out for the meat of the fat-rich sea mammals that nature has provided there.

Outside the arctic, which is my second home, I find little comprehension of the remarkable skill, work and endurance it takes for Eskimos to live off the land and sea in one of the world's most inhospitable climes. This spring, when Eskimos are expected to defy the International Whaling Commission (IWC) and kill more than the quota of possibly endangered bowhead whales allotted for their subsistence use, I'll have an even more difficult time explaining.

The whale has traditionally been, and still is, a large and important part of the Eskimo diet. Even today, natives usually hunt it as their ancestors did—paddling up to the quarry in homemade driftwood-framed sealskin boats, then dispatching the giant with a hand-thrust harpoon or shoulder gun, the design of which was patented in the 1800s. As part of the hunt ritual, the Eskimos return the whale's skull to the sea to appease the spirit of the magnificent beast.

Since bowheads are fairly wily, weigh a ton a foot and sometimes grow to be 60 feet long, the crews require considerable courage. Their primitive method of hunting definitely limits the take which, until 1978, was unrestricted by law.

WATCHDOG

In 1977, with little warning, IWC announced a total ban on Eskimo whaling. In later negotiations, Eskimos managed to get a quota of twelve bowhead whales for the 1978 season—36 less than they'd taken the previous year and seventeen less than their average annual kill over the previous decade. As a trade-off, U.S. negotiators allowed commercial hunters from Japan and Russia to take an additional 5,681 sperm whales, a whopping increase from the 763 originally allowed to them.

Eskimos maintained they were simply pawns in a larger game of international politics, and that IWC, established as a watchdog for *commercial* whaling, had no jurisdiction over their subsistence efforts. But they agreed to abide by the IWC quota until a long-neglected bowhead census could be taken.

The ensuing whale count was something of a disappointment because the electronic underwater detection devices failed to work. However, depending on visual sightings, scientists judged the bowhead whale population to be about 1,000 more than their original estimate. (Many Eskimos believe that even this count is low.)

In light of the new census, Eskimos expected the IWC to up their quota considerably. They were dumbfounded to learn the commission had increased by only six the number of mammals that could be taken for family use by their nine Eskimo whaling villages.

The natives, who have formed their own Alaska Eskimo Whaling Commission, point out that they are as concerned about whale conservation as anyone since whales are their bread and butter. The Eskimos have pledged to limit their kill to no more than 2 per cent of the *known* number of bowheads, which is estimated to be 2,264. This, of course, is well over the IWC quota.

Although the income of the average Eskimo hunter is below poverty level, the IWC penalties to be imposed on natives for violations are the same as for a commercial whaling ship: a $10,000 fine and/or a year in jail. Nevertheless, some Eskimos—who maintain that their traditional way of life is far more endangered than the bowhead—are prepared to take that risk.

It will not, I expect, be a popular cause for a reason quite apart from the justifiable debate on the well-being of our gentle cetaceans. The problem is a real lack of understanding of the balance of nature. Many Americans mindlessly oppose hunting, even in cases where animal populations are dangerously high.

In some areas of Alaska wolves have become so prolific they are running out of hunting ground and prey heavily on moose, deer and occasionally dogs. In the past, game managers curbed wolf populations by trapping and aerial hunting without wiping out the species. Still, whenever they propose to do this nowadays, they receive tens of thousands of letters of protest.

Growing deer populations in parts of California threaten to starve themselves out. Sea-otter colonies, burgeoning along the Pacific coast, are fast runing out of fodder, too, as well as putting commercial fishermen out of business.

Nature's answer is starvation: the survival of the fittest. "That is nature's way," the purists murmur approvingly, although they stop short of recommending this solution for the starving masses of India.

BENEFITS

There is, however, a scientifically sound argument to be made for selective hunting that serves not only the animal population but also benefits mankind. This is no trivial consideration in an overpopulated world that may be running out of food.

Scientists, noting that whales exhibit more rapid growth than other mamals, have speculated that we may one day be forced to cultivate our great cetaceans to meet a world food crisis. When you consider that during a year's captivity at Sea World a young gray whale gained 10,000 pounds and grew 9 feet, this is a comforting thought.

Unfortunately these concepts are offensive to our well-fed society, although folks seem to feel no guilt at all about enjoying a "Big Mac" or buying beefsteak in plasticwrapped packages.

The stockyard scene, the plight of hot-house-raised, hormone-stuffed chickens and force-fed geese seldom concern us for long. Yet we pride ourselves on our compassion for sea mammals.

Some of my Eskimo friends suggest that perhaps the best way to bring their point home would be to have every American personally kill and butcher one animal for his own consumption annually. But that would not appease those who object to the eating of meat. When informed that gardens don't thrive in the Arctic and man can't live by bread alone there, some vegetarians blithely suggest that the dwellers of the northland move to warmer climes.

To them I can only repeat the well-documented theory that "plants have feelings, too" and wonder, in passing, if boiling is the most humane way to execute spinach.

ALASKA'S LANDS

Mr. STEVENS. Mr. President, as many of my colleagues are aware, the House of Representatives recently passed legislation dealing with the final disposition of

Alaska's lands which the majority of Alaskans find unacceptable. Our delegation was united in opposition to the Udall-Anderson bill. Senator GRAVEL, Congressman DON YOUNG, Governor Hammond, the State legislature and I did everything possible to express our feelings on this matter. Congressman YOUNG did a tremendous job in trying to work out legislation which represented a balanced and reasonable approach to the controversial issue but, unfortunately, that alternative was not passed by the House of Representatives.

Naturally, Alaskans, and I include myself, are angry and frustrated by the events. The actions taken by the President in designating 56 million acres of national monuments and over 60 million acres of study areas have already affected Alaskans detrimentally. I recently received a letter from a man who used to earn his living guiding in an area assigned to him by the State. Mr. President, I ask unanimous consent to have this letter printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR TED: I am writing you this letter about the U.S. land withdrawals in the Wrangell Mountains. My family and I have been hunting and guiding in this area for the last fifteen plus years. Not a year has gone by without our presence there during the sheep hunting season; hunting for ourselves and guiding others for remuneration.

In 1976, the State Dept. of Fish and Game decided we should have exclusive guide areas instead of being able to hunt throughout the state. I applied for and got a good area in which I had been hunting for many years—just smaller. I wasn't totally happy, but resigned myself to the fact.

Now, as I see it, the federal government is saying that not only can I not guide in the Wrangell Mountains, I cannot even hunt. I have my 1979 sheep season all booked with hunters—deposits taken. Will the federal government allow me a chance to fulfill my contracts with my clients, or—will I have to send their deposits back? As you might guess, I have already spent the money living and gearing up for this season.

It will be very difficult for me to return deposits and a far greater hardship for me to do without the remainder of the money for the completed hunt.

I have been waiting for some provision to be made for people like me because there are many in my position. I can't wait much longer—the snow's about gone and the season is approaching.

What role does the federal government have in mind for me and my family in the new Alaska they are forming?

Sincerely,

TONY ONEY.

Mr. STEVENS. Mr. President, unlike many Alaskans who are simply planning to ignore the restrictions, Mr. Oney simply wants to know how he is to survive; he has abided by the laws, he obtained an assigned guiding area, he booked various hunts as he has for 15 years and now he finds that his whole living has been pulled out from under him. To tell you the truth Mr. President, I simply do not know how to answer Mr. Oney. I do not know how to answer the literally hundreds of Alaskans who have turned to me for help because of the effects of the national monuments.

It has been my position all along that we could reverse those adverse effects by the passage of reasonable d–2 legislation. I still hope that that is possible but, I can certainly sympathize with Alaskans who, following the House action, feel that there is no relief in sight.

The New York Post recently printed an editorial entitled, "Alaska and Self-Determination." This editorial summarizes some of the issues involved in the d–2 legislation and, I believe, reflects the feelings of many Alaskans. I ask unanimous sent that it be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ALASKA AND SELF-DETERMINATION

It is easiest to be in favor of costly, fastidious environmental rules when the territory you're protecting is somewhere else. The House of Representatives' big vote this week to set aside 125 million acres of Alaska as a wildlife preserve was such a decision.

To how many who voted did it matter that Alaskans are overwhelmingly opposed to having their state turned into a fiefdom for this exercise in virtue? What matter that Alaskans burnt President Carter in effigy for designating large areas of the state a national park when the Senate killed a similar bill last fall? What matter that Alaska's two Senators and its only member of the House are united in opposing the new move?

What Alaskan's clearly want is the same opportunity to develop their state afforded to every other state of the Union.

They are clearly unpersuaded by the claim of Rep. Morris Udall (D-Ariz.) that his bill would preserve for the rest of the American people "the last great area of wild beauty left in the United States."

Alaska is a poor state with 15 per cent unemployment—as much as 30 per cent in Fairbanks. The House bill will multiply those figures. It will cost jobs in the timber industry, restrict gold miners operating in the interior, and virtually end oil and gas development.

That is a poor prospect at a time when imported oil costs us $60 billion a year, and will soon cost more. Nor can we afford the sealing off of Alaska's untapped mineral resources. Of 16 strategic, non-fuel minerals which the U.S. must now import, Alaska has eight. But this will will block access to many unidentified mineral-rich areas as well as access to the second largest molybdenum mine in the Western world.

Carter's enthusiasm for preserving Alaska's wildlife forests at the expense of opening potential new sources of oil is misplaced. More than one-third of America's oil resources are at Prudhoe Bay and the highly reputed U.S. Geological Survey estimates there is a possiibility of finding major oil basins only 50 miles to the east.

This is not a bill for the American people. It is a bill for the affluent who can afford to explore Alaska's wildlife areas by small planes; it is a bill for a limited number of people who can spend summer months backpacking throughout the forests there; it is a bill to gratify people who do not live in Alaska to feel good about.

When it comes before the Senate Energy Committee, it should be substantially amended to achieve a proper balance—in both environmental and economic terms—between what Alaska and the nation need with a certain respect for the principal of self-determination.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

FEDERAL EMPLOYEES COMPENSATION REFORM ACT OF 1979—MESSAGE FROM THE PRESIDENT—PM 79

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

I am transmitting to the Congress today legislation to reform the Federal civilian employee compensation system. The proposals I am making will insure that Federal employees are rewarded fairly for their work and that taxpayers' dollars for such compensation are well spent. This legislation is part of my continuing efforts to make the operation of the Federal government more efficient, effective and equitable.

The Federal pay system has been governed under the principle of comparability since 1962. The comparability principle requires that annual Federal employee pay increases be based upon a survey comparison with pay levels of employees with similar jobs in the non-Federal sector. By determining pay raises through an objective, annual survey, the pay setting process is depoliticized, employee expectations are stabilized, and the government is better able to plan the timing and approximate size of pay adjustments. This comparability principle is equitable to Federal employees and taxpayers alike.

Despite the soundness of the principle of comparability, significant problems have developed in the way the comparability principle is implemented. The existing comparability system, by excluding consideration of such factors as employee fringe benefits, has distorted the comparisons between the Federal and non-Federal sectors. In addition, other structural and procedural problems have developed with parts of our Federal employee compensation system. The blue-collar pay system, for example, has statutory requirements that result in unjustified salary levels for these workers.

The Federal Employees Compensation Reform Act of 1979 will remedy these problems. Its objectives are to:

—insure that Federal employees are paid fairly;

—make the comparability system more accurate;

—improve management flexibility in the compensation area so that needed employees can be better recruited and retained;

—make sure that taxpayers' money for Federal employee compensation is efficiently spent; and,

—eventually reduce the annual budgetary cost of the Federal payroll.

TOTAL COMPENSATION COMPARABILITY

At present, comparability between the Federal and non-Federal sectors is measured only in terms of pay rates. However, a large part of compensation for both Federal and non-Federal employees consists of benefits aside from pay such as retirement and health plans. If we are to have a truly comparable Federal employee compensation system, such fringe benefits cannot be ignored. Under my proposal the value of benefits plus pay in the non-Federal sector would be compared with benefits plus pay in the Federal sector. This concept, known as total compensation comparability, would allow for a realistic assessment of whether the total compensation of Federal employees is ahead, comparable with, or behind that of their non-Federal counterparts.

A LOCALITY PAY SYSTEM FOR THE WHITE COLLAR WORK FORCE

At present, General Schedule employees of a given grade are paid the same rate regardless of where they work in the United States. However, pay rates in the non-Federal sector vary widely in different parts of our Nation. As a result, Federal pay rates are significantly higher in some areas than local prevailing rates. In others, Federal rates are far below the local level. These differences either give the Federal government an unfair competitive advantage over other employers or hamper the government's ability to recruit and retain a qualified work force. My proposal would minimize this problem by requiring that the compensation of most white collar employees be comparable with compensation in the local area.

CHANGES IN THE BLUE-COLLAR PAY SYSTEM

The system for paying blue-collar employees, known as the Federal Wage System, is already based upon the principle that Federal blue-collar pay rates should be comparable to prevailing local non-Federal rates. However, several features of the Federal Wage System law are inconsistent with this principle, such as one which requires the use of non-local wage data under certain circumstances and the distortion that results from applying average local pay rates to a designated step in the Federal grade structure. As a result, the Federal government pays many blue-collar workers well above local prevailing rates. My proposal would repeal these unjustified statutory provisions, and would allow the Office of Personnel Management to design provisions that reflect prevailing practices.

INCLUSION OF STATE AND LOCAL GOVERNMENTS IN COMPARABILITY SURVEYS

Under existing law, only private businesses are surveyed in the comparability process used to set Federal white and blue collar compensation rates. State and local government employment is excluded. This exclusion distorts true comparability. Today there are over 13 million State and local employees, almost 14 percent of the national work force. This is double the number employed in 1962 when comparability was first adopted. If compensation for Federal employees is to be truly comparable to what other Americans are paid, this large portion of the national work force should be included in the survey. In addition, there are a number of job categories in State and local government such as policeman, firefighter, and social worker which are analogous to certain Federal job categories but are not well represented in the private sector. This is a further reason why State and local government workers should be included in the comparability survey.

INCREASED MANAGEMENT FLEXIBILITY TO RECRUIT AND RETAIN A QUALITY WORK FORCE

This legislation would give Executive Branch managers needed flexibility to adopt more efficient and equitable industry pay practices. For example, premium pay such as overtime would be patterned after prevailing practices and the provisions of the Fair Labor Standards Act. Limited additional payments called "staffing differentials" would be authorized to aid in recruiting and retaining highly qualified individuals critically needed for the Federal work force. The Office of Personnel Management would be authorized to establish special pay and classification systems for those occupations that do not fit a standard pattern of the General Schedule and for which it is difficult to hire qualified employees. This would be similar to the authority the Office now has for special blue-collar schedules.

The reforms I am proposing today are based on the principle that comparability is the best long-term policy for determining compensation for Federal employees. It is not expected that any employee will suffer any actual reduction in current pay as a result of these proposals. However, in the long-run this legislation will create significant annual budget savings.

I ask the Congress to act promptly on these proposals to reform the Federal civilian compensation system. Federal employees will benefit from fairer compensation treatment. The American people will benefit from more efficient use of their tax dollars.

JIMMY CARTER.

THE WHITE HOUSE, *June 6, 1979.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 4:28 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announcing that the Speaker has signed the following enrolled bills:

S. 348. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ben Abruzzo, Maxie Anderson, and Larry Newman; and

S. 613. An act authorizing the President of the United States to present a gold medal to the widow of Hubert H. Humphrey.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

COMMUNICATIONS

The **PRESIDING OFFICER** laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-1556. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Background Information Bearing Upon Panama Canal Treaty Implementing Legislation," June 4, 1979; to the Committee on Armed Services.

EC-1557. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend the Military Construction Authorization Bill for Fiscal Year 1980; to the Committee on Armed Services.

EC-1558. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 9 of the National Climate Program Act to extend the authorization for appropriations for fiscal years 1981 and 1982; to the Committee on Commerce, Science, and Transportation.

EC-1559. A communication from the President, United States Railway Association, transmitting, pursuant to law, its third annual report on the performance of the Consolidated Rail Corporation (Conrail); to the Committee on Commerce, Science, and Transportation.

EC-1560. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Selected FCC Regulatory Policies: Their Purpose and Consequences for Commercial Radio and TV," June 4, 1979; to the Committee on Commerce, Science, and Transportation.

EC-1561. A communication from the Secretary of Energy, transmitting a draft of proposed legislation to provide certain authorities for the Department of Energy; to to the Committee on Energy and Natural Resources.

EC-1562. A communication from the Deputy Secretary of Energy; transmitting, pursuant to law, a supplemental report on the DOE's near-term applications for photovoltaic systems; to the Committee on Energy and Natural Resources.

EC-1563. A communication from the Assistant Secretary of the Interior, transmitting, pursuant to law, financial exhibits of the Colorado River Storage Project and Participating Projects for the fiscal year ended September 30, 1978; to the Committee on Energy and Natural Resources.

EC-1564. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes; to the Committee on Finanace.

EC-1565. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Rehabilitating Blind and Disabled Supplemental Security Income Recipients: Federal Role Needs Assessing"; to the Committee on Finance.

EC-1566. A communication from the Comptroller General of the United States, transmitting, pursuant to law a report entitled "Part-Time And Other Federal Employment: Compensation And Personnel Management Reforms Needed"; to the Committee on Governmental Affairs.

EC-1567. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, a follow-up report on the recommendations of the President's Commission on Mental Health; to the Committee on Governmental Affairs.

EC-1568. A communication from the Chairman of the United States Nuclear Regulatory Commission, transmitting, pursuant to law, a quarterly report on the number of full-time permanent employees hired and promoted between January 1 and March 31, 1979; to the Committee on Governmental Affairs.

EC-1569. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report on visa petitions granted third and sixth preference classification by the Service under section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

EC-1570. A communication from the Associate Director for Public Relations, Scouting/USA, transmitting, pursuant to law, the annual report of the Boy Scouts of America for calendar year 1978; to the Committee on Labor and Human Resources.

EC-1571. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend the influenza immunization program; to the Committee on Labor and Human Resources.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-270. A resolution adopted by the Legislature of the State of Pennsylvania; to the Committee on Armed Services:

"HOUSE RESOLUTION No. 67

"Whereas, The Department of Defense has planned to move the Helicopter Maintenance Complement of 13 military and 260 civilian employees from the New Cumberland Army Depot to the Air Naval Station at Corpus Christi, Texas; and

"Whereas, The Department of Defense has scheduled the deactivation of Fort Indiantown Gap Military Reservation by shifting 13 military and 270 civilian employees to Fort Meade, Maryland and eliminating the remaining 128 military and 310 civilian jobs; and

"Whereas, The Commonwealth of Pennsylvania has suffered undetermined economic losses from the nuclear reactor accident at Three Mile Island, adjacent to the New Cumberland Army Depot and Fort Indiantown Gap Military Reservation: now therefore be it

"Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States to take appropriate legislative action to prevent the above moves planned by the Department of Defense; and be it further

"Resolved, That copies of the resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States and to each Senator and Representative from Pennsylvania in the Congress of the United States."

POM-271. A joint memorial adopted by the Legislature of the State of Washington; to the Committee on Energy and Natural Resources:

"SENATE JOINT MEMORIAL No. 107

"Whereas, The State of Washington seeks to promote energy self-sufficiency through increased use of indigenous and renewable energy sources; and

"Whereas, Development on a commercial scale of such technologies as wood waste, wind, and low-head hydroelectric power generation will both provide new employment opportunities and increase reliance on domestic, renewable resources; and

"Whereas, Development of practical applications of these resources will be greatly accelerated through construction and operation of pilot developmental projects; and

"Whereas, A means for financing these pilot developmental projects is required; and

"Whereas, The initial pilot developmental projects may not be cost-competitive initially but are expected to lead to economical projects and therefore the development costs should be shared by Northwest electricity users on as wide a basis as possible; and

"Whereas, The Bonneville Power Administration wholesale customer network represents the largest customer pool in the Northwest;

"Now, therefore, Your Memorialists respectfully pray:

"(1) That Congress include express authority in the Northwest Power Bill for the Bonneville Power Administrator to develop or purchase energy from pilot developmental plants.

"(2) That in the event such legislation is not enacted the Administration make every effort to find a means to authorize such development or purchases through administrative action.

"Be it resolved, That copies of this memorial be immediately transmitted to the Honorable Jimmy Carter, President of the United States, the Secretary of Energy, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the state of Washington."

POM-272. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Energy and Natural Resources:

"HOUSE CONCURRENT RESOLUTION No. 139

"Whereas, it is vital that the supply of diesel fuels for agricultural purposes be preserved in order to keep agricultural production constant; and

"Whereas, the spring and summer are the primary seasons during which farmers use their tractors resulting in the greatest consumption of diesel fuel, in order to plant and cultivate crops of all types; and

"Whereas, the failure to maintain a consistent availability of diesel fuel for use by agricultural producers could lead to a reduction in harvest production and thus result in higher food prices; and

"Whereas, the farmers in the state are experiencing less availability of diesel fuel for the spring season in 1979 than was available in previous years; and

"Whereas, this situation if not resolved in the immediate future could lead to supply shortages which would have an immediate adverse effect on the agriculture industry in this state, as well as on consumers in Louisiana and throughout the nation.

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the President of the United States and the United States Congress are hereby memorialized to initiate immediate action to assure that farmers and other agricultural users continue to receive adequate supplies of diesel fuel for use in their tractors during the spring and summer months and that immediate action be taken to prevent disruptions and shortages in the supply of diesel fuel.

"Be it further resolved that a copy of this Resolution be transmitted to the President of the United States of America, to the presiding officers of the United States Senate and the United States House of Representatives and to members of the Louisiana congressional delegation."

POM-273. A resolution adopted by the Legislature of the Virgin Islands; to the Committee on Energy and Natural Resources:

"RESOLUTION No. 976

"Whereas Section 7(b) of the Revised Organic Act of 1954 provided that sessions of the Virgin Islands Legislature be held in the capital of the Virgin Islands at Charlotte Amalie, St. Thomas; and

"Whereas the other islands are located some distance from the capital, and

"Whereas residents of the other islands have frequently expressed the desire to be able to observe regular sessions of the Virgin Islands Legislature on their islands; and

"Whereas citizens' knowledge of and participation in the government process has been shown to be beneficial to both the people and the Government; Now, Therefore,

"Be it resolved by the Legislature of the Virgin Islands:

"Section 1. The Congress of the United States be and is hereby petitioned to amend the Revised Organic Act of the Virgin Islands to permit the Legislature, by resolution, to schedule sessions of the Legislature in locations other than the capital.

"Section 2. The President of the Legislature shall forward copies of this Resolution, immediately after its passage, to the President of the Senate of the United States, the Speaker of the United States House of Representatives, the Chairman and members of the House Committee on Interior and Insular Affairs, the Chairman and members of the Senate Committee on Energy and Natural Resources, the Secretary of the Interior and the Virgin Islands Delegate to the House of Representatives."

POM-274. A resolution adopted by the Common Council of the City of Madison, Wisc., opposing a proposed Social Security Administration regulation to force more frequent deposits of State payments under the State-Federal OASDHI coverage compact; to the Committee on Finance.

POM-275. A resolution adopted by the City Council of Port Hueneme, Calif., regarding construction grant funding for water reclamation projects; to the Committee on Environment and Public Works.

POM-276. A resolution adopted by the Kalamazoo County Board of Commissioners, Kalamazoo, Mich., urging Congress to create a National Cemetery at Fort Custer, Michigan; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HART, from the Committee on Armed Services with an amendment:

H.R. 2154. An act to revise the Strategic and Critical Materials Stock Piling Act, to require that appropriations for acquisition of strategic and critical materials be authorized by law, to establish a National Defense Stockpile Transaction Fund, and for other purposes (Rept. No. 96-201).

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. Res. 161. A resolution authorizing the printing of the report entitled "Special Bridge Replacement Program, Eighth Annual Report to Congress" as a Senate document (Rept. No. 96-202).

S. Res. 178. An original resolution relating to the payment of witness fees (Rept. No. 96-203).

S. Res. 179. An original resolution to pay a gratuity to Bruce L. Coleman.

S. 1284 REFERRED

The bill (S. 1284) to revise title 18 of the U.S. Code, introduced on June 5, 1979, and ordered held at the desk, was read by title and referred to the Committee on the Judiciary.

ORDER FOR STAR PRINT—SENATE REPORT NO. 96-177

Mr. CRANSTON. Mr. President, I ask unanimous consent that Senate Report No. 96-177 be reprinted as a star print to make various technical corrections of errors made inadvertently.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR SEQUENTIAL REFERRAL OF S. 382

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if and when S. 382, the Competition Improvements Act of 1979, is reported to the Senate by the Committee on the Judiciary, the bill be referred to the Committee on Commerce, Science, and Transportation for a period of not to exceed 45 days. This has been cleared by the chairmen and ranking minority members of both committees.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GOLDWATER (for himself, Mr. STONE, Mr. PRESSLER, Mr. DECONCINI, and Mr. BAYH):

S. 1287. A bill to repeal the earnings ceiling of the Social Security Act for all beneficiaries age 65 or older; to the Committee on Finance.

By Mr. CHAFEE:

S. 1288. A bill to amend the Internal Revenue Code of 1954 to provide a more graduated tax rate for corporations; to the Committee on Finance.

By Mr. HEINZ:

S. 1289. A bill to amend title XVIII of the Social Security Act to eliminate discrimination with regard to coverage for treatment of mental illness under medicare and to include community mental health centers among the entities which may be qualified providers of service for medicare purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. RIBICOFF, Mr. WILLIAMS, Mr. KENNEDY, Mr. BRADLEY, Mr. BAKER, Mr. BELLMON, and Mr. DANFORTH):

S. 1290. A bill to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. METZENBAUM, and Mr. RIBICOFF):

S. 1291. A bill to amend title 5 of the United States Code to improve the procedures for agency rule making; it require agencies to adhere to a pro-competition standard; to require the Congress and the President to review certain regulatory agencies; to provide public participation funding; and for other purposes; to the Committee on the Judiciary and the Committee on Governmental Affairs, jointly, by unanimous consent, and that if one committee orders the bill reported, the other committee has 45 days within which to report.

By Mr. SCHWEIKER:

S.J. Res. 85. A joint resolution to authorize and request the President to proclaim the week of September 16 through 22, 1979, as "National Meals on Wheels Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GOLDWATER (for himself, Mr. STONE, Mr. PRESSLER, Mr. DECONCINI, and Mr. BAYH):

S. 1287. A bill to repeal the earnings ceiling of the Social Security Act for all beneficiaries age 65 or older; to the Committee on Finance.

REPEALING THE EARNINGS TEST

● Mr. GOLDWATER. Mr. President, I am introducing today, for myself, the Senator from Florida, Mr. STONE, the Senator from Indiana, Mr. BAYH, the Senator from South Dakota, Mr. PRESSLER, and my colleague from Arizona, Mr. DECONCINI, a bill to completely repeal the earnings limitation on social security benefits at age 65.

It is true that important changes to the Social Security Act were made in 1977, which included alteration of the retirement test. An amendment sponsored by myself, and Senators STONE, DECONCINI, BAYH, and DOLE, among others of my colleagues, as modified by the amendment of the Senator from Idaho, Mr. CHURCH, was adopted raising the earnings lid for workers 65 and over in steps from $3,000 a year in 1977 to over $6,000 annually in 1982. Also, the 1977 amendment lowers from 72 to 70 the age at which persons may receive full benefits without regard to earnings, effective in 1982.

These are welcome changes. They liberalize the means test for several beneficiaries. However, they are not enough.

As Prof. Marshall R. Colberg of Florida State University points out in his recent book, "The Social Security Retirement Test: Right or Wrong?" the projected increase in exempt annual earnings "is much less impressive if the probability of substantial inflation is taken into account."

Professor Colberg explains:

> For example, the present value of $6,000 that is four years away is only $4,410 at an 8 percent discount rate. Consequently, *the real earnings limit (in 1978 dollars) will be raised only from $4,000 to $4,410 if an 8 percent inflation rate persists over the 1978–1982 period." Id.*, at introduction page, American Enterprise Institute for Public Policy Research (1978), emphasis added.

So, Mr. President, even with the 1977 changes, our public law continues to openly discriminate against more than 11 million citizens age 65 to 72. If persons of this age wish to continue working beyond age 65, they must pay what is in effect a tax of 50 percent on earnings over the ceiling.

This penalty robs older workers of benefits that are rightly theirs due to payroll taxes which they and their employers have been making over their working lifetimes.

The earnings test also deprives the economy of the skills and production of millions of older citizens who want to work, are capable of working, and have pulled out of the labor force for no reason other than a desire to get their social security checks.

Mr. President, there has been a lot of hogwash spread about the supposed cost of repealing the earnings test, but this argument is unproven and unfounded. The truth is that most workers who would benefit from a repeal of the test would not cost the social security system a penny. These older persons are already drawing the maximum benefits by staying home; but if the lid on earnings is repealed, they will rejoin the employment force.

These workers will pay additional social security taxes once they resume work, but the system will not be paying out to them any more than it presently is. Also, many workers will pay additional Federal income taxes to the Treasury and their output will benefit the gross national product.

For example, Professor Colberg, who is a former president of the Southern Economic Association, concludes that "if the social security earnings test were eliminated at age 65 * * * about half a billion dollars a year can conservatively be estimated as additional tax receipts by the Federal Government in the form of income and payroll levies." Id. at page 46.

Moreover, Prof. Colin Campbell of Dartmouth College, who is one of the Nation's foremost authorities on the social security system, writes in his recent analysis of the 1977 amendments:

> From the point of view of the economy—rather than the balance between the revenues and expenditures of the social security system—removing the earnings test is costless. Campbell, "The 1977 Amendments to the Social Security Act," at page 18, American Enterprise Institute for Public Policy Research (1978).

Professor Campbell adds that, in fact, by "encouraging people to work, liberalizing the earnings limitation increases the real output of the economy." Id.

In other words, Mr. President, repeal of the earnings test will virtually finance itself in terms of the true impact on the economy. And, since our legislation will remove the ceiling in 1983, after all changes made by the 1977 amendments have taken effect, the cost impact will be very slight in any event.

Mr. President, the new data that is just becoming available thanks to the original research of economists, such as Professors Colberg and Campbell, provides convincing evidence that repeal of the earnings test is not only morally justfied, it is economically wise policy.

There are many reasons why the retirement test should be eliminated. One is the great physical and mental harm older persons suffer when they are forced to retire sooner than they are ready. The American Medical Association has confirmed this injury to the health of older persons.

Then there is the obvious financial need that many older persons have to receive their social security income, while still continuing to work.

And, now, based on these new economic studies, we have another reason, the proven drain the ceiling puts on the national economy due to the loss of skills and output of older persons who retire in order to collect their social security checks.

Mr. President, I urge that Congress act speedily to eliminate this discriminatory feature from the law books. The social security earnings ceiling is a robbery of our senior citizens and it should be removed once and for all. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f)(8)(A) of the Social Security Act is amended by striking out "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are" and inserting in lieu thereof "the new exempt amount which is".

(b)(1) Section 203(f)(8)(B) of such Act is amended by striking out "Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be" and inserting in lieu thereof "The exempt amount for each month of a particular taxable year shall be".

(2) Section 203(f)(8)(B)(i) of such Act is amended by striking out "the corresponding exempt amount" and inserting in lieu thereof "the exempt amount".

(3) The last sentence of section 203(f)(8)(B) of such Act is amended by striking out "an exempt amount" and inserting in lieu thereof "the exempt amount".

(c) Section 203(f)(8) of such Act is further amended by striking out subparagraph (D) thereof.

(d) Subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act are each amended by striking out "the applicable exempt amount" and inserting in lieu thereof "the exempt amount".

(e)(1) Subsections (c)(1), (d)(1), (f)(1)(B), and (j) of section 203 of such Act are each amended by striking out "seventy" and inserting in lieu thereof "sixty-five".

(2) The last sentence of section 203(c) of such Act is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, widower, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.".

(3) Clause (D) of section 203(f)(1) of such Act is amended to read as follows: "(D) for which such individual is entitled to widow's or widower's insurance benefit if she or he became so entitled prior to attaining age 60, or".

(4) Subsection (f)(3) of section 203 of such Act is amended by striking out "age 70" and inserting in lieu thereof "age 65".

(5) Subsection (h)(1)(A) of section 203 of such Act is amended by striking out "age 70" and inserting in lieu thereof "age 65".

(6) The heading of subsection (j) of section 203 of such Act is amended by striking out "Seventy" and inserting in lieu thereof "Sixty-five".

Sec. 2. The amendments made by this Act shall apply only with respect to taxable years ending after December 31, 1982.●

By Mr. CHAFEE:

S. 1288. A bill to amend the Internal Revenue Code of 1954 to provide a more graduated tax rate for corporations; to the Committee on Finance.

GRADUATED CORPORATE TAX ACT OF 1979

● Mr. CHAFEE. Mr. President, the problems faced by our Nation's smaller firms deserve special attention and consideration.

Hand in hand with this country's troublesome unemployment problems and sluggish economic performance has been an increasing inability of our smaller enterprises to raise money for new capital investments. The uncertain state of our economy in past years and other recent trends in the financial markets have combined virtually to cut off the small business community from outside financing. Both the individuals and banks who were once willing to risk investing or lending money to new or smaller businesses have turned instead to bigger established corporations which offer less risk.

Consider the devastating decline in the offerings of new equity by small businesses: From $918 million in 1972 to a mere $16 million 3 years later. During that same time, large business offerings actually rose by 50 percent to a total of $41 billion. The reason for the lack of public willingness to invest in small enterprises lies not in the creativity and innovative capacity of small businessmen, but in public policies which work against a fair return on investment.

This alarming trend has accelerated to the point where small companies face a capital shortage estimated at $8 billion a year nationwide. Who can begin a business, much less expand one, when it cannot raise the money? In such a climate, is it any wonder why four out of five new businesses fail and go bankrupt in their first 10 years? Is it surprising to see so many older, antiquated factories in New England and elsewhere going out of business? When you think about it, it is sad but not particularly surprising.

I am not just concerned, however, because small businesses are having trouble making a profit or getting money from the bank. I am concerned because it is the small businesses which provide most of the jobs in this country. There are millions of smaller firms in the United States—over 36,000 in the State of Rhode Island alone. We count on them for 56 percent of our national private sector employment, 45 percent of the gross national product, and over half of our important industrial inventions and innovations.

The enormous potential of our small business community gives us a chance to tackle some of our most severe social and economic problems without setting up more top-heavy government programs.

I do not believe anyone would dispute the thesis that an essential ingredient of our strength as a Nation is our economic strength. Only from a strong economy will we provide the jobs our workers need, the defense capability to keep us secure, the social and governmental services we should have.

In so many ways our economic performance is tied to our tax laws and other government actions: Deterrants or incentives to increased capital formation, Federal budget deficits, or surpluses, raising or lowering interest rates regulations that enlighten or confuse—all have an impact on our economy.

Government policy must encourage jobs in the private sector, and must help to increase the availability of investment capital. This is crucial if the private sector is going to meet the problems of economic growth and development. Revising national tax policy is key to making this system work at its best.

A recent report of the Congressional Joint Economic Committee stressed that the percentage of GNP going to business investment over the next several years must be higher than in the past decade if the Nation's employment and productivity goals are to be fulfilled.

A strong flow of private investment back into smaller companies must be regained if we are to take advantage of their highly labor-intensive potential. This message is clear.

Toward this goal, I am introducing a bill which I would urge the Finance Committee to study and adopt.

My bill calls for an increase of the corporate surtax base from the current level of $100,000 to a new level of $150,000. Current law assesses a graduated tax rate from 17 percent to 40 percent up to $100-000 of a company's profits at which point the 46 percent rate starts. My bill requires a similar graduated rate on profits up to $150,000, when the 46 percent commences.

The resulting tax savings will amount to $8,000 for each company with taxable income of $150,000 or more. While $8,000 may not mean much to General Motors, it could be a great benefit to a small firm in Pawtucket or Hoboken or Des Moines.

Under my formula, a corporation with $100,000 in taxable income will pay taxes of $23,000. Under current law prescribed by the Revenue Act of 1978, the same corporation would pay $26,750.

Under my formula, a corporation with $125,000 in taxable income will pay taxes of $31,750. Under current law, the same corporation would pay $38,250.

Under my formula, a corporation with $150,000 in taxable income will pay taxes of $41,750. Under current law, the same corporation would pay $49,750.

These savings on taxes could be utilized for new equipment, or used to expand or update facilities.

Also, an $8,000 annual savings can be reinvested to create additional capital. These options are especially important since the U.S. rate of productivity has been declining for the past few years. As we are well aware, when productivity grows slowly or declines, inflation increases. With wages rising while output per hour falls, the cost of producing a given unit of output goes up, putting pressure on businesses to raise prices.

Mr. President, 40 years ago the first $25,000 of a corporation's taxable income was taxed at the lower rates. In 1975, it was increased to $50,000. Meanwhile, in that 40-year period, inflation had gone up 429 percent.

Last year, the Revenue Act of 1978 raised the corporate surtax base to $100,000. However, between 1975 and 1978, inflation increased 19 percent. Add to this the most conservative estimates from the administration which indicate that inflation will increase an additional 25 percent between 1978 and 1980.

While last year's action, which raised the base from $50,000 to $100,000, did much to help correct an unfair economic situation for the Nation's smaller corporations, the current rate is still not compatible with the inflated amounts of taxable corporate income.

My bill represents a modest, but important, change to our tax structure. It is designed to benefit smaller companies with annual taxable incomes of between $50,000 and $150,000. By preserving the current tax rates for the lower end of the scale—that is, the corporations with profits of up to $50,000—the bill does not create a climate for more tax shelters, but rather gives the most help to those firms which have the greatest need.

This bill will compliment my depreciation bill, S. 935, the Capital Cost Recovery Act of 1979, by providing businesses with increased capital investment.

I believe that both of these measures will greatly assist smaller companies to remain competitive, increase productivity, and contribute to the best of their ability to a healthy economy.

The consideration of this legislation is of extreme importance to our small business community. It is a strong and reasonable proposal, and I urge my colleagues to support the bill.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD together with an attached chart.

There being no objection, the bill and table were ordered to be printed in the RECORD, as follows:

S. 1288

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 11 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended—

(1) by striking out "30 percent" in paragraph (3) and inserting in lieu thereof "25 percent";

(2) by striking out "40 percent" in paragraph (4) and inserting in lieu thereof "30 percent";

(3) by striking out "plus" at the end of paragraph (4); and

(4) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) 35 percent of so much of the taxable income as exceeds $100,000 but does not exceed $125,000;

"(6) 40 percent of so much of the taxable income as exceeds $125,000 but does not exceed $150,000; plus

"(7) 46 percent of so much of the taxable income as exceeds $150,000.".

(b) The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1979.

Rate structure under the Chaffee proposal

[In percent]

Income subject to tax:	*Tax rate on income in the bracket*
0–$ 25,000	17
$ 25,001– 50,000	20
50,001– 75,000	25
75,001– 100,000	30
100,001– 125,000	35
125,001– 150,000	40
150,001 and over	46

●

By Mr. HEINZ:

S. 1289. A bill to amend title XVIII of the Social Security Act to eliminate discrimination with regard to coverage for treatment of mental illness under medicare and to include community mental health centers among the entities which may be qualified providers of service for medicare purposes; to the Committee on Finance.

COMPREHENSIVE MENTAL HEALTH ACT

● Mr. HEINZ. Mr. President, today I am pleased to introduce a bill to remove definitively from title XVIII of the Social Security Act all barriers to mental health care for the elderly. This bill will eliminate the 190-day lifetime limit for inpatient psychiatric care; replace the 50–50 copayment for mental health services with the same 80–20 copayment required for physical health care under medicare; eliminate the $250 annual ceiling for outpatient mental health care and replace that unfair and inadequate control with a strong utilization review requirement; enable community mental health centers (CMHC's) to qualify for provider status whether or not they are operated under the aegis of a hospital; and provide coverage for partial hospitalization services for mental health care by qualified providers, including CMHC's.

Mr. President, there has been much discussion and concern about the "Graying of America." The elderly today represent 1 in every 10 Americans. Within the next 30 years, their numbers may climb as high as 1 in 5. Yet we are far from understanding the aging process and the needs of people as they grow older. Nowhere is this more true than in the area of mental health for the elderly.

We have known for some time that the elderly are disproportionately subject to emotional and mental problems—leading the World Health Organization's list of incidences of new cases of psychopathology at 236.1 cases per 100,000 population. Suicides also increase with age, and the elderly account for 25 percent of the suicides nationally. And according to predictions by the National Institute of Mental Health and others, 79 to 80 percent of those 65 years old and over who will need psychiatric services in 1980 will never be served.

In the past, those elderly who have been treated for mental illness have characteristically been treated in the mental hospitals of this country. While constituting 10 percent of the total population, in 1975 they represented 28 percent of the mental hospital population, according to NIMH. While there have been great efforts to deinstitutionalize mental health care during the period from 1965 to 1975, according to Dr. M. Powell Lawton of the Philadelphia Geriatric Center a substantial number of elderly people were merely transferred from mental hospitals to nursing homes. Prominent among several reasons for this unhappy situation is that although medicare does not pay for the treatment of emotional disorders on an equal basis with physical illness, it does cover the costs of nursing home care. Consequently, alternative methods of treatment to the inappropriate placement of patients in the care of skilled nursing facilities (and/or other intermediate care facilities which lacked adequate personnel and resources to treat emotional, mental, or nervous disorders) had to be found.

Moreover, at the very time when the Federal Government was encouraging the development of over 700 community mental health center programs to provide a full range of mental health services within the community, including outpatient, day treatment or overnight care, and emergency services, medicare was encouraging the far more expensive institutional care because of reimbursement policies which did not allow nonhospital affiliated CMHCs to qualify as medicare providers. Even now this policy discourages and complicates (and often precludes) family care of an older relative in a familiar community atmosphere. The effect of medicare on institutionalization is evidenced in the fact that 80 percent of medicare expenditures for mental health care are for institutional inpatient hospital services.

Mr. President, I believe it is time for us to begin to make the changes in medicare which will allow the elderly of this Nation to obtain the best possible and most appropriate mental health care that medicine can make available. The bill I introduce today excludes psychoanalysis from the mental health coverage for medicare beneficiaries which the other provisions of the bill authorize. Such exclusion is not intended in any way to denigrate or discriminate against such method of medical treatment for mental or emotional disorders. I believe psychoanalysis, as a specific method of treatment indicated for the correction of specific functional impairments can be medically necessary, appropriate, and cost-effective. However, I have not, to date, been presented with adequate evidence in support of the efficacy of psychoanalysis as a medically appropriate treatment method for our Nation's elderly, the main beneficiaries of my bill's nondiscriminatory mental illness coverage.

The bill does attempt to remove all other barriers to mental health care, relying on stiff utilization review requirements to insure that elderly Americans receive the most appropriate services. Such utilization review requirements would be set by the Secretary of the Department of Health, Education, and Welfare and would hopefully eliminate any potential for abuse of the benefits. I would expect such review mechanism to be consistent with already established, ongoing peer review procedures currently in effect under the Social Security Act.

Finally, Mr. President, while the total cost of this bill has not yet been determined, numerous studies have confirmed that increased access to mental health services does not financially endanger or overload the system. In fact, there is evidence to show that access to mental health benefits results in reduced medical utilization. A study of the short- and long-term usage of mental health services in the Kaiser Permanente HMO in San Francisco, Calif., found that readily available mental health care services caused a reduction in the use of other medical services, and resulted in a savings to the program.

A Texas study of the cost-effectiveness of mental health care resulted in a reduction in the length of stay of patients from 111 days to 53 days in inpatient facilities. A study by Group Health Association of Washington indicated that patients treated for mental health problems reduced their nonpsychiatric physician usage by 30.7 percent. And a Blue Cross of western Pennsylvania study found a sharp reduction in the monthly cost per patient for medical services—from $16.47 to $7.06—when mental health outpatient benefits were available.

Mr. President, based on the evidence presented, I have concluded that whatever the estimated cost of providing increased access to mental health care for the elderly under medicare, that "cost" is an investment—an investment in better mental health and more productive, meaningful lives for the elderly of this Nation.

Mr. President, after extensive consultation with several groups representing the interests of elderly people, as well as the National Council of Community Mental Health Centers, Inc., American Psychiatric Association, and others in the health field, I am confident that the enactment of this bill would bring a better quality of life to elderly Americans in need of mental health services.

Mr. President, let me conclude and summarize this statement by answering three questions that people will want to ask.

Question 1: What does the Heinz mental health bill do?

Answer. The bill removes the special restrictions which currently exist on mental health treatment for the elderly under medicare. Under the new bill, medicare will reimburse community mental health centers for locally based mental health services. Also, families will be encouraged to care for elderly relatives since they will have freer access to local mental health care. Specifically, the legislation will:

First. Replace the 50–50 copayment for mental health services by both patients and medicare in favor of a 20–80 payment schedule now used for physical health care;

Second. Eliminate the 190-day lifetime limit for inpatient psychiatric care;

Third. Replace the $250 annual ceiling for outpatient mental health care with an effective utilization-review requirement;

Fourth. Enable community mental health centers to qualify for a provider status whether or not they are administered by a hospital;

Fifth. Incorporate a stiff requirement for external utilization-review of community mental health centers to insure that elderly and disabled Americans served by the center receive the most appropriate services;

Sixth. Disallow reimbursement for psychoanalysis, since the need for the service by those 65 years and older has not been established.

Question 2: Does not the present medicare system adequately serve those elderly in need of mental health care?

Answer. The elderly currently represents one-tenth of the Nation's population. There is considerable evidence that by 1980 79 percent of those 65 years and older will not receive proper mental health care unless effective legislation is introduced to improve outpatient care in hospitals, clinics, and community mental health centers. From its inception medicare has helped the elderly with physical health care, but it has not substantially affected the quality of mental health care. The legislation I am introducing will overcome past deficiencies.

Question 3. Are mental health centers for the elderly cost effective?

Answer. Yes, in both the economic and the social aspects of our society mental health centers have demonstrated both fiscal responsibility and genuine improvement in the quality of patient care. It has been noted that when mental health services are provided in a community the costs resulting from other forms of physical care are often reduced by as much as 50 percent. Since medicare does not provide payment for mental illness on the same basis as for physical ailments, there has been a tendency to substitute physical care remedies for mental health treatment.

The legislation which I have introduced will significantly lower total medicare costs. The introduction of a 20–80, patient-medicare payment schedule, the elimination of the 190-day lifetime limit for inpatient psychiatric care, the replacement of the $250 annual ceiling for outpatient mental health care with an effective utilization-review requirement, and the incorporation of a strict requirement for external utilization review of community mental health centers are just some of the ways of making medicare cost effective.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND DECLARATION OF PURPOSE

SECTION 1. (a) The Congress finds that—

(1) the older people of our Nation are entitled to the best possible physical and mental health care that science can make available, without regard to economic status;

(2) treatment for mental, emotional, or nervous disorders through an appropriate combination of medication and psychotherapy has been demonstrated to improve the functioning of mentally ill individuals;

(3) in spite of potential benefits of treatment, elderly persons are not represented proportionately in the mental health care delivery system;

(4) 80 percent of the elderly individuals who will need assistance for emotional disturbances in 1980 will not be able to receive assistance under the present system;

(5) elderly individuals comprise 10 percent of the general population of the United States but account for 25 percent of the suicides;

(6) medicare benefits must be equalized to better assure care in appropriate institutional settings for those elderly individuals in need of such services, and full outpatient care must be available for those elderly individuals with mental, emotional, or nervous disorders who do not require institutional care;

(7) since the enactment of medicare, those provisions restricting coverage for mental illness have not been revised and inflation has, in effect, further reduced the limited coverage originally envisioned by Congress; and

(8) the adequately funded community mental health center programs, providing comprehensive services for the mentally ill, have demonstrated the effectiveness of appropriate, available community services in reducing the demand for institutional care (particularly in State hospitals), yet medicare has not been revised to include community mental health centers among the entities which may qualify as providers of care.

(b) It is the purpose of this Act to provide for coverage of mental illness on an equal basis with coverage of other illness, and to include community mental health centers as providers under medicare.

REMOVAL OF LIMITATIONS ON BENEFITS FOR TREATMENT OF MENTAL ILLNESS

SEC. 2. (a) Section 1812 (b) of the Social Security Act is amended—

(1) by striking out "(subject to subsection (c))" in the matter preceding paragraph (1);

(2) by inserting "or" at the end of paragraph (1);

(3) by striking out "; or" at the end of paragraph (2) and inserting in lieu thereof a period; and

(4) by striking out paragraph (3).

(b) (1) Section 1812 of such Act is amended by striking out subsection (c) and redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(2) Section 1812 (d) (as redesignated by paragraph (1)) is amended by striking out "(c) and (d)" and inserting in lieu thereof "and (c)".

(c) (1) Section 1833(c) of such Act is amended to read as follows:

"(c) Notwithstanding any other provision of that part, with respect to expenses incurred in connection with the treatment of any mental, psychoneurotic, or personality disorder of an individual, there shall not be included expenses for any service furnished by a person who does not participate in such review procedures regarding medical necessity as the Secretary shall by regulations prescribe.".

(2) Section 1866(a) (2) (A) is amended by striking out the last sentence thereof.

COMMUNITY MENTAL HEALTH CENTERS

SEC. 3. (a) Section 1812(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph at the end thereof:

"(4) community mental health center services, including both outpatient visits and partial hospitalization visits (as such terms are defined by the Secretary).".

(b) Section 1814(a) (2) of such Act is amended—

(1) by striking out "or" at the end of subparagraph (D);

(2) by inserting "or" at the end of subparagraph (E); and

(3) by adding the following new subparagraph at the end thereof:

"(F) in the case of community mental health center services, (i) such services are or were required for the mental health treatment of an individual, (ii) a plan for furnishing such services has been established by a physician, preferably a psychiatrist (as defined in section 1861(r) (1)), or other mental health professional (as defined for this purpose in regulations by the Secretary) and is periodically reviewed and approved by a physician, preferably a psychiatrist, and (iii) such services are or were furnished while the individual is or was under the case management of a physician, preferably a psychiatrist (as defined by the Secretary in regulations);".

(c) Section 1814(b) of such Act is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(3) with respect to community mental health center services, equal to the costs which are reasonable and related to the cost of providing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A).".

(d)(1) Section 1861(l) of such Act is amended by inserting "or community mental health center" after "nursing facility" each time it appears therein.

(2) The subsection heading of section 1861(l) of such Act is amended by inserting "or Community Mental Health Centers" after "Facilities".

(e) Section 1861(u) of such Act is amended by inserting "community mental health center," after "home health agency,".

(f) Section 1861(w)(1) of such Act is amended by inserting "community mental health center," after "nursing facility,".

(g) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"Community Mental Health Center Services

"(bb) (1) The term 'community mental health center services' means the following items and services furnished to an individual as an outpatient or partial hospitalization patient by a community mental health center or (to the extent permitted in regulations by the Secretary) by others under arrangements with them made by the center—

"(A) active diagnostic and therapeutic services furnished by qualified mental health professionals (as defined by the Secretary in regulations), including psychiatrists, psychologists, psychiatric social workers, and psychiatric nurses;

"(B) drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered; and

"(C) such items and supplies as are ordinarily furnished to outpatients or partial hospitalization patients by community mental health centers in connection with an active mental health program of diagnosis and treatment,

excluding, however, any item or service if it would not be included under subsection (b) if furnished to an inpatient of a hospital.

"(2) The term 'community mental health center' means a facility which—

"(A) meets the definition of a community mental health center under section 201 of the Community Mental Health Centers Act and the regulations prescribed thereunder;

"(B) is primarily engaged in providing outpatient mental health services;

"(C) has a requirement that all mental health services are provided under the case management of a physician, preferably a psychiatrist;

"(D) meets such requirements as the Secretary may prescribe with respect to staffing requirements and qualifications of the staff;

"(E) maintains clinical records on all patients;

"(F) has in effect a utilization review plan in accordance with regulations prescribed by the Secretary;

"(G) has in effect an agreement with a hospital pursuant to subsection (1);

"(H) in the case of a community mental health center in any State in which State or applicable local law provides for the licensing of community mental health centers, is licensed pursuant to such law;

"(I) has appropriate procedures or arrangements (in compliance with applicable (State and Federal law) for storing, administering, and dispensing drugs and biologicals; and

"(J) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such center.".

(h) Section 1832(a)(2)(B)(i) of such Act is amended—

(1) by striking out "or" at the end of subclause (I);

(2) by striking out "and" at the end of subclause (II) and inserting in lieu thereof "or"; and

(3) by adding the following new subclause after subclause (II):

"(III) a physician to a patient in a community mental health center; and".

(i) Section 1864 (a) of such Act is amended—

(1) by inserting ", or whether a facility therein is a community mental health center as defined in section 1861 (bb)(2)" before the period at the end of the first sentence;

(2) by inserting "community mental health center," after "rural health clinic," in the second sentence; and

(3) by inserting "community mental health center," after "laboratory," each time it appears in the fifth sentence.

(j) Section 226 (c)(1) of such Act is amended by inserting "community mental health center services," after "post-hospital extended care services," the first time it appears therein.

(k) Section 7 (d)(1) of the Railroad Retirement Act of 1974 is amended by inserting "community mental health center services," after "in patient hospital services,".

EXCLUSION FROM COVERAGE OF PSYCHOANALYSIS

SEC. 4. Section 1862(a) of the Social Security Act is amended—

(1) by striking out "or" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(14) where such expenses are for psychoanalysis.".

EFFECTIVE DATES

SEC. 5. (a) The amendments made by sections 2 and 4 shall be effective with respect to services provided on or after the date of the enactment of this Act.

(b) The amendments made by section 3 shall be effective with respect to any accounting period of a community mental health center which begins more than six months after the date of the enactment of this Act.●

By Mr. MOYNIHAN (for himself, Mr. RIBICOFF, Mr. WILLIAMS, Mr. KENNEDY, Mr. BRADLEY, Mr. BAKER, Mr. BELLMON, and Mr. DANFORTH):

S. 1290. A bill to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes; to the Committee on Finance.

SOCIAL WELFARE REFORM AMENDMENTS OF 1979

● Mr. MOYNIHAN. Mr. President, the administration bill we are introducing today marks the beginning of the 96th Congress consideration of welfare reform. Their objective is to improve and extend the existing welfare system. This is a worthwhile, if limited, national objective, and the legislation deserves support.

This is only the beginning, however. My own commitment to fundamental changes in the structure of our public welfare system is undiminished. The administration's legislation does not contain such changes, although it makes useful, incremental modifications in current programs.

The increased benefits, such as they are, are overwhelmingly concentrated in regions that have traditionally resisted such measures. Few people in New York, and States such as ours, would be any better off if the legislation woud pass in this form, and almost an equal number would be worse off. Similarly, there is very little relief to the States and localities that have worked, at immense cost to themselves and their taxpayers, to provide a decent standard of life to their neediest citizens under the existing legislation. It is significant, I believe, that only 5.4 percent of the additional Federal funds that would be spent for cash assistance will be spent in New York, although New York contains 14 percent of all current welfare recipients and supplies more than 12 percent of the Federal revenues that will be spent for this purpose.

Still, it is a beginning. I am pleased that the administration has maintained an interest in welfare reform, and am especially pleased to be joined in this enterprise by Senators RIBICOFF, BAKER, BELLMON, and DANFORTH, whose tireless efforts in the 95th Congress made the prospects for welfare reform brighter in the 96th.

In view of the widespread interest in the specific provisions of this bill, I ask unanimous consent that the text of the bill, the section-by-section summary, and Secretary Califano's letter of transmittal to the President of the Senate, be printed in the RECORD at this point.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1290

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act, together with the following table of contents, may be cited as the "Social Welfare Reform Amendments of 1979".

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN; ASSISTANCE TO MEET EMERGENCY NEEDS; EARNED INCOME CREDIT

PART A—INCOME AND RESOURCES

Sec. 101. Definition of Income and Amount of Disregards from Earned Income.
Sec. 102. Income of Stepparents.
Sec. 103. Treatment of Certain Income.
Sec. 104. Modifications in Treatment of Income Effective Fiscal Year 1982.
Sec. 105. Definition of Resources and Allowable Limits.

PART B—ELIGIBILITY AND BENEFIT STRUCTURE

Sec. 106. Eligibility for AFDC by Reason of Unemployment of a Parent.
Sec. 107. Amount of Benefits for Child not Living With Relative Responsible for His Support.
Sec. 108. Definition of Dependent Child; Mandatory Coverage of Certain Individuals.
Sec. 109. Benefit Standards.
Sec. 110. Income Poverty Guidelines; Adjustment for Changes in the Consumer Price Index.
Sec. 111. Determination of Eligibility; Representation of Claimants; Notice and Opportunity for Hearing.

Sec. 112. Period for Determination of Aid; Times at which Payment must be Made.
Sec. 113. Employment Requirement and Services Related to Employment.
Sec. 114. Assistance to Meet Emergency Needs.

PART C—FEDERAL FINANCIAL PARTICIPATION; ADMINISTRATIVE IMPROVEMENTS; RELATED MEDICAID AMENDMENTS

Sec. 115. Increased Federal Financial Participation.
Sec. 116. Limitation on Fiscal Liability of States.
Sec. 117. Administrative Improvements.
Sec. 118. Programs for Mechanized Processing and Management Information Systems.
Sec. 119. Assistance for the Development of Administrative Improvements in AFDC Programs.
Sec. 120. Corrective Action Regarding Overpayments and Underpayments.
Sec. 121. AFDC Recipient Review.
Sec. 122. Monitoring and Assessing Performance in the AFDC Program.
Sec. 123. Technical Amendments to Incentive Adjustments for AFDC Quality Control.
Sec. 124. Amendments to Medicaid Program.

PART D—IMPLEMENTATION

Sec. 125. State Implementation of Amendments.
Sec. 126. Applicability of Amendemnts to the Territories.

PART E—AMENDMENTS TO THE INTERNAL REVENUE CODE AFFECTING THE EARNED INCOME CREDIT

Sec. 127. Governmental Payments to be Disregarded for Purposes of Support and Maintenance of Household Tests.
Sec. 128. Amendments to the Earned Income Tax Credit.

TITLE II—SUPPLEMENTAL SECURITY INCOME

PART A—FOOD STAMP CASH-OUT

Sec. 201. Food Stamp Cash-out for Certain SSI Recipients.

PART B—IMPROVEMENTS IN STANDARDS FOR DETERMINING ELIGIBILITY AND AMOUNT OF SSI

Sec. 202. Eligibility of Couples Living Apart.
Sec. 203. Eligibility of Individuals in Certain Medical Institutions.
Sec. 204. Earned Income in Sheltered Workshops.
Sec. 205. Exclusion from Resources of Burial Plots.
Sec. 206. Exclusion from Resources of Funds Set Aside for Burial Expenses.
Sec. 207. Exclusion of Certain Real and Personal Property from Income.
Sec. 208. Underpayments to Ineligible Spouse of Deceased SSI Recipient.
Sec. 209. Increased Payment for Presumptively Eligible Individuals.
Sec. 210. In-Kind Remuneration.
Sec. 211. Continuation of Benefits for Certain Individuals Hospitalized Outside the United States.
Sec. 212. Extension of Special Income and Resource Provisions.
Sec. 213. Depletion of Term "Child".
Sec. 214. Repeal of Mandatory State Supplementation.
Sec. 215. Limitation on Eligibility for SSI of Persons who Dispose of Resources.
Sec. 216. Rounding of Amount of Cost-of-Living Adjustment.

PART C—IMPROVED ADMINISTRATION OF THE SSI PROGRAM

Sec. 231. Judicial Establishment of Fees for Representing SSI Claimants.
Sec. 232. Retrospective Monthly Accounting.
Sec. 233. Limitation on Federal Administered Variations of State Supplementation.
Sec. 234. Elimination of Requirement for Representative Payment of SSI to Drug Addicts and Alcoholics.
Sec. 235. Adjustment of Retroactive Benefits under Title II on Account of Advances of SSI Benefits.
Sec. 236. Replacement of Benefit Checks.
Sec. 237. Mandatory Pass-Along of SSI Benefit Increases.
Sec. 238. Deletion of Obsolete Reference.
Sec. 239. Correction of Incorrect Reference in P.L. 92-603.

TITLE III—AMENDMENTS APPLICABLE TO TWO OR MORE PROGRAMS UNDER THE SOCIAL SECURITY ACT

Sec. 301. Limitation on Period Within Which Claims for Reimbursement Must Be Filed.
Sec. 302. Consolidated Account for Administrative Expenses.
Sec. 303. Research and Demonstration Authority under the Social Security Act.
Sec. 304. Improved Financing of Assistance Programs for the Territories.
Sec. 305. Support of Immigrants.
Sec. 306. Conditions Governing Availability of Federal Records.
Sec. 307. Disclosure of Tax Return Information.

TITLE IV—CHILD SUPPORT ENFORCEMENT

Sec. 401. Collection of Support for Certain Adults Receiving AFDC.
Sec. 402. Child Support Collections for Non-AFDC Families.
Sec. 403. Amendments Regarding Incentive Payments.
Sec. 404. Incentive Payments to Tribal Governing Bodies.
Sec. 405. Three Months' Extension of AFDC Eligibility.
Sec. 406. Method of Determining Reimbursement of the Federal Government.
Sec. 407. Method of Payment for Child Support Collection Services.

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN; ASSISTANCE TO MEET EMERGENCY NEEDS; EARNED INCOME CREDIT

PART A—INCOME AND RESOURCES

DEFINITION OF INCOME AND AMOUNT OF DISGEGARDS FROM EARNED INCOME

SEC. 101. (a) (1) Section 402(a) (7) of the Social Security Act is amended by inserting "(as defined in or determined under section 412)" after "income and resources" and by striking out ", as well as any expenses reasonably attributable to the earning of any such income".

(2) (A) So much of section 402(a) (8) as precedes subparagraph (C) thereof is amended to read as follows:

"(8) provide that, in making the determination under paragraph (7) with respect to income (as determined under section 412 (a)), the State agency shall, with respect to any month—

"(A) disregard from the earned income of any child or relative receiving aid to families with dependent children, or of any other individual (living in the same home as such relative and child whose needs are taken into account in making such determination), the first $70 of the total of such earned income for such month plus one-third of the remainder of such earned income for such month; and

"(B) disregard so much of the total of the income (not already disregarded under subparagraph (A) of this paragraph) of each dependent child receiving such aid and living in the same house as a relative specified in section 406(a) (1) whose needs are taken into account in making such determination, and each such relative, and all other individuals (living in the same home as such child or children and relative) whose needs are taken into account in making such determination, as does not exceed—

"(i) 65 per centum of the income poverty guidelines (as defined in section 414) for a family with the same number of members as such child or children, relative, and other individuals reduced by

"(ii) the value of the monthly allotment of food stamp coupons (as described in section 414) that would be provided to a family of such size with no income other than income under this part (and reducing such income only by the applicable standard deduction specified in section 5(e) of the Food Stamp Act of 1977) in an amount which, together with such food stamp allotment, equals the amount specified in clause (i), and further reduced by

"(iii) the amount of aid that would be payable under such plan for such month to a family of such size with no other income;

except that, with respect to any month, the State agency shall not disregard any earned income of—".

(B) Section 402(a) (8) (C) of the Act is amended by striking out "clause (ii) of".

(C) Section 402(a) (8) (D) of the Act is amended by—

(i) striking out "clause (ii) of",

(ii) striking out "clause (7)" (two places) and inserting in lieu thereof "paragraph (7)", and

(iii) striking out "clause (8)" and inserting in lieu thereof "subparagraph (A)".

(b) Part A of title IV of such Act is further amended by adding at the end thereof the following new section:

"INCOME

"SEC. 412. (a) For purposes of this part and any State plan approved under section 402 (a), the term 'income' (in the case of any dependent child, relative receiving aid to families with dependent children, or other individuals (living in the same home as such child and relative), with respect to any month) shall include all income from whatever source, but shall exclude only—

"(1) any gain or benefit which is not in the form of money payable directly to such child, relative, or other individual, other than a gain or benefit, under circumstances and to the extent specified by the Secretary, available for shelter, utilities, and similar needs;

"(2) any income which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of $10 in a month;

"(3) all educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' education benefits, and the like to the extent that they are used for tuition and mandatory school fees;

"(4) all loans other than educational loans on which repayment is deferred;

"(5) reimbursements which do not exceed expenses actually incurred and which do not represent a gain or benefit to such child, relative, or other individual;

"(6) moneys received and used for the care and maintenance of a third-party beneficiary who is not such a child, relative, or other individual;

"(7) income earned by a dependent child or any other child who is a member of the family, who is a student, and who has not attained his twenty-first birthday;

"(8) moneys received in the form of nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits, retroactive lump-sum insurance settlements (but such payments shall be counted as resources, unless specifically excluded by other Federal laws);

"(9) (A) the cost of producing self-employment income, and

"(B) 20 per centum of amounts received as wages or salary or of net earnings from self-employment;

"(10) an amount of earned income equal to the cost of care in a month for a child or for an incapacitated individual living in the same home as the dependent child and requiring such care for such month, to the extent it does not exceed $160 for months in the 12-month period beginning July 1979 or, for months thereafter, $160, adjusted to the extent determined appropriate by the Secretary by reason of changes in the cost of such care;

"(11) emergency assistance to needy families with children; and

"(12) any income that any other Federal law specifically excludes from consideration as income for the purposes of determining eligibility for (A) the food stamp program, but only to the extent found necessary by the Secretary to assure the equitable and efficient administration of the program established under this part, or (B) aid to families with dependent children.

"(b) The Secretary shall issue regulations, after consultation with the Secretary of Agriculture, to effectuate the provisions of this section and in doing so shall, insofar as practicable, coordinate the interpretation and administration of this section with subsection (d) of section 5 of the Food Stamp Act of 1977.".

(c)(1) The amendments made by this section shall be effective beginning with the sixth month following the month in which this Act is enacted.

(2) Effective with the date of enactment of this Act and prior to the effective date of the amendments made by this section, a State plan for aid and services to needy families with children shall not be regarded as failing to comply with the applicable requirements imposed under part A of title IV of the Social Security Act and the amount payable to any State shall not be decreased, solely because such plan fails to comply with the requirements of section 402(a)(7) or (8) of such Act, as in effect prior to the effective date of the amendments made by this section, if the plan complies with the requirements of section 402(a)(7) and (8) as amended by this section.

(3) Effective January 1, 1980, section 413 (a) of the Act (as added by subsection (b) of this section) is amended by adding at the end thereof the following sentence: "For purposes of this part, an individual's 'income' shall also include, to the extent and under the circumstances prescribed by the Secretary, an amount (which shall be treated as earned income for purposes of this Act) equal to the earned income advance amount (under section 3507(a) of the Internal Revenue Code of 1954) that is (or, upon the filing of an earned income eligibility certificate, would be) payable to such individual.".

INCOME OF STEPPARENTS

SEC. 102. Section 402(a) of the Social Security Act is amended by—

(1) striking out "and" at tht end of paragraph (28),

(2) striking out the period at the end of paragraph (29) and inserting in lieu thereof "; and", and

(3) adding after and below paragraph (29) the following new paragraph:

"(30) effective October 1, 1979, provide that in making the determination under paragraph (7), the State agency shall take into consideration so much of the income of the dependent child's stepparent (living in the same home as such child), as exceeds the sum of (A) the State's standard of need under such plan for a family of the same composition as the stepparent and those other individuals living in the same household as the stepparent and claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making the determination under section 402(a)(7), (B) amounts paid by the stepparent to individuals not living in such household claimed by him as dependents under subtitle A of title 26 of the United States Code for purposes of determining his Federal personal income tax liability and (C) payments of alimony or child support with respect to individuals not living in such household;".

TREATMENT OF CERTAIN INCOME

SEC. 103. (a) Section 407(b)(2)(D) of the Social Security Act (pertaining to treatment of amounts of unemployment compensation received) is repealed.

(b)(1) Section 402(a)(19)(D) of the Act (pertaining to disregard of WIN training incentives and payment of certain work expenses) is repealed.

(2) The first sentence of section 434(a) of the Act is amended by striking out "an incentive payment" and inserting in lieu thereof the following: "reasonble work expenses incurred by such participant (including costs authorized by subsection (b) of this section) and an incentive payment".

(3) Section 434 of the Act is amended by adding at the end thereof the following new subsection:

"(c) No amount paid under subsection (a) shall be included as income under any Federal or Federally-assisted program.".

(c) The amendments made by this section shall become effective with the sixth month following the month in which this Act is enacted.

MODIFICATIONS IN TREATMENT OF INCOME EFFECTIVE FISCAL YEAR 1982

SEC. 104. (a)(1) Section 412(a) of the Social Security Act (as added by section 101 of this Act) is amended by repealing paragraph (2) thereof.

(2) Section 412(a) of the Act (as amended by this section) is amended by striking out "for a child or" in paragraph (10) and inserting in lieu thereof "for a dependent child, other than a dependent child within the meaning of section 407(a), or".

(b) Section 402(a)(8)(A) is amended by striking out "receiving aid to families with dependent children" and inserting in lieu thereof "receiving aid to families with dependent children (other than on the basis of the unemployment of the principal earner in accordance with section 407)".

(c) Section 402(a)(8)(B) of the Social Security Act is amended by striking out "65 per centum" in clause (i) and inserting "75 per centum" in lieu thereof.

(d) Section 402(a)(8) of the Act is further amended by striking out subparagraph (D) (the limitation on the disregard of earned income for purposes of determining initial eligibility).

(e) The amendments made by this section shall become effective October 1, 1981.

DEFINITION OF RESOURCES AND ALLOWABLE LIMITS

SEC. 105. (a) Section 412 of the Social Security Act (as added by section 101(b) of this Act) is amended by redesignating subsection (b) as subsection (c) and adding the following new subsection (b):

"(b) The Secretary shall prescribe the

"(b) The Secretary shall prescribe the types and allowable amounts of financial resources (liquid and nonliquid) which a family otherwise eligible for aid to families with dependent children may own, and shall, in so doing, assure that no State plan approved under this part prescribes such an amount that is less than $750 in the case of any family, or greater than $1,750 (unless and, if so, only to the extent that such plan, as in effect for September 1981, specified a greater amount therefor). The Secretary in prescribing inclusions in and exclusions from financial resources, shall include any licensed vehicle (other than one used to produce earned income) but only such portion of the fair market value of any such vehicle as exceeds $4,500; in addition to items that the Secretary may exclude under the first sentence of this subsection, he shall, in any event, exclude from financial resources—

"(1) the home (including the land that appertains thereto);

"(2) the value of any plot of land, held for the purpose of providing a burial place for a member of the family;

"(3) household goods and personal effects;

"(4) the cash surrender value (to the extent it does not exceed limits prescribed by the Secretary) of any insurance policy owned by a family member;

"(5) real or personal property that produces income in an amount that represents a reasonable rate of return on its fair market value (determined in accordance with criteria prescribed by the Secretary);

"(6) property which is determined by the Secretary to be essential to the employment or self-employment of a family member;

"(7) any amounts received from a public agency for the restoration of a home or business damaged in a disaster;

"(8) resources, the cash value of which cannot be readily realized by any member of the family; and

"(9) any resources that any other Federal law specifically excludes from consideration as resources for purposes of determining eligibility for (A) the food stamp program but only to the extent found necessary by the Secretary to assure the equitable and efficient administration of the program established under this part, or (B) aid to families with dependent children.".

(b)(1) Section 412(c), as redesignated by subsection (a), is amended by striking out "subsection (d)" and inserting "subsections (d) and (g)" in lieu thereof.

(2) The heading of such section 412 is amended to read: "Income and Resources".

(c) Section 402(a) of the Act is amended by—

(1) striking out "and" at the end of paragraph (29);

(2) striking out the period at the end of paragraph (29) and inserting a semicolon in lieu thereof, and

(3) adding after and below paragraph (30) the following new paragraphs:

"(31) provide that no lien may be imposed against the property of any individual on account of aid paid or to be paid under the plan (except pursuant to the judgment of a court on account of aid incorrectly paid); and

"(32) provide that, except to the extent permitted under subparagraph (B),—

"(A) the needs of an individual shall not be taken into account in making the determination under paragraph (7) if, within any 24-month period that begins with or after the twenty-fourth month preceding the month in which an application (including the needs of such individual) for aid under this title is filed, he (i) disposed of resources which, if retained would have caused him to be ineligible for such aid, and (ii) received therefor compensation in an amount such that the difference between the fair market value of such resources and the compensation therefor equaled or exceeded $3,000, and

"(B) the needs of an individual to whom subparagraph (A) applies shall not be taken into account in making the determination under paragraph (7) for a period of 6 months if the uncompensated value of such assets exceeded $3,000, but not $6,000, 12 months if such value equaled or exceeded $6,000, but not $15,000, or 24 months if such value equaled or exceeded $15,000, beginning with the month following the month in which such disposition occurred, except that such needs may be included immediately upon the return to such individual of the resources he had previously disposed of, or the receipt by him of payment equal to the amount described in subparagraph (A) (ii).".

(d) The amendments made by this section shall become effective October 1, 1981.

PART B—ELIGIBILITY AND BENEFIT STRUCTURE

ELIGIBILITY FOR AFDC BY REASON OF UNEMPLOYMENT OF A PARENT

Sec. 106. (a) Section 407 of the Social Security Act is amended as follows:

(1) the heading is amended to read "Dependent Children of Unemployed Parents";

(2) subsection (a) is amended by striking out "his father" and inserting "the parent who is the principal earner" in lieu thereof;

(3) subsection (b) (1) is amended by (A) striking out "such child's father" in subparagraph (A) thereof and inserting "whichever of such child's parents is the principal earner" and (B) striking out "father" in subparagraph (B) and inserting in lieu thereof "parent";

(4) subsection (b) (2) is amended by (A) striking out "fathers" in subparagraph (A) and inserting "unemployed parents" in lieu thereof, and striking out "father" in subparagraphs (C) (i) and (ii) and in subparagraph (D) and inserting "parent described in paragraph (1) (A)" in lieu thereof;

(5) subsection (c) is amended by striking out "father" both times it appears and inserting "parent" in lieu thereof; and

(6) subsection (e) is amended by striking out "fathers" and inserting "parents" in lieu thereof.

(b) Section 407(a) of the Act is amended by striking out "as determined in accordance with standards prescribed by the Secretary" and inserting in lieu thereof "as determined in accordance with regulations of the Secretary specifying a uniform minimum level of monthly earnings that may be expected to be paid for full-time employment".

(c) Section 407(b) (1) of the Act is amended by (1) adding "and" after subparagraph (A), (2) striking out ", and" after subparagraph (B) and inserting "; and" in lieu thereof, and (3) striking out subparagraph (C) (requiring prior recent employment or receipt of unemployment compensation).

(d) Section 407(d) of the Act is amended to read as follows:

"(d) For purposes of this section, the term 'parent who is the principal earner', in the case of any child, means whichever parent, in a home in which both parents of such child are living, earned the greater amount of income in the six month period the last month of which immediately precedes the month in which an application is filed for aid under this part on the basis of the unemployment of a parent (unless the other parent is designated as 'the parent who is the principal earner' in accordance with rules prescribed by the Secretary to avoid hardship or consider unusual family circumstances), if and for each consecutive month for which the family receives such aid on that basis."

(e) Section 402(a) (19) (A) of the Act is amended by—

(1) striking out "mother" in clause (v) and inserting "parent" in lieu thereof;

(2) striking out "mother or other female caretaker of a child," in clause (vi) and inserting "the parent or other caretaker of a child who is deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent," in lieu thereof, and by striking out "the father or another adult male relative" in such clause and inserting "another adult relative" in lieu thereof;

(3) (A) striking out "or" at the end of clause (v),

(B) striking out the semicolon at the end of clause (vi) and inserting "; or" in lieu thereof, and

(C) adding at the end thereof the following new clause:

"(vii) the parent of a child who is deprived of parental support or care by reason of the unemployment of a parent, if the other parent (who is the principal earner, as defined in section 407(d)) is not excluded by this subparagraph ;"; and

(4) striking out, in the matter following the numbered clauses,

(A) "her option" and inserting "his option" in lieu thereof;

(B) "if she so desires" and inserting "if he so desires" in lieu thereof,

(C) "to her", and inserting "to him" in lieu thereof, and

(D) "she should decide" and inserting "he should decide" in lieu thereof.

(f) (1) Section 407(b) (1) of the Act is further amended by (i) striking out subparagraph (A), (ii) striking out the dash and inserting the text of subparagraph (B) (after striking out "(B)") in lieu thereof.

(2) Section 407(c) (A) of the Act is amended (A) by striking out ", (i) for any part of the 30-day period referred to in subparagraph (A) of subsection (b) (1), or (ii)", and (B) by striking out "subparagraph (B) of such subsection" and inserting "subsection (b) (1)" in lieu thereof.

(g) The amendments made by subsections (a), (b) and (c) (other than paragraph (3) thereof), (d), and (e) shall become effective October 1, 1980; the amendment made by subsections (c) (3) and (e) shall become effective October 1, 1981.

AMOUNT OF BENEFITS FOR CHILD NOT LIVING WITH RELATIVE RESPONSIBLE FOR HIS SUPPORT

Sec. 107. (a) Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"AMOUNT OF BENEFITS FOR CHILD NOT LIVING WITH RELATIVE RESPONSIBLE FOR HIS SUPPORT

"Sec. 413. Notwithstanding any other provision of this part, a State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed under this part solely because, under such plan, in any case in which one or more dependent children (other than a dependent child within the meaning of section 408(a)) live in any household in which—

"(1) (A) there is no relative (of those specified in section 406(a) (1)) who is legally responsible for the support of the child or children, or

"(B) there is such a relative but he is not eligible for aid under the State plan because of support furnished by another person or under another program, and

"(2) the needs of the relative (as so specified) with whom the child is living are not included in making the determination under section 402(a) (7) because of the amount of such relative's income or the value of his resources,

the amount of the aid furnished with respect to such child or children for shelter, utilities, and similar expenses is reduced, in accordance with regulations of the Secretary, from the amount payable to other families with the same member or members, to reflect the lesser need of such child or children for aid to meet the cost of shelter, utilities, and similar expenses."

(b) The amendment made by this section shall become effective October 1, 1979.

DEFINITION OF DEPENDENT CHILD; MANDATORY COVERAGE OF CERTAIN INDIVIDUALS

Sec. 108. (a) (1) Section 406(a) (2) of the Social Security Act is amended by striking out "a student" and all that follows and inserting in lieu thereof the following: "a student (i) regularly attending an elementary or secondary school or (ii) attending on a full-time basis a school, college, or university or a course of vocational or technical training designed to fit him for gainful employment;".

(2) Section 406 of the Act is amended by striking out "dependent children" in the portion of subsection (b) that precedes clause (1) and inserting in lieu thereof "dependent children, or a pregnant woman who, upon the birth of the child, would become eligible for aid to families with dependent children".

(b) Section 402(a) of the Act is amended by adding the following new paragraph (14):

"(14) provide for furnishing aid under the plan to (A) dependent children described in section 406(a) (or, at the option of the State, such children other than those specified in section 406(a) (2) (B) (ii), (B) pregnant women referred to in the first sentence of section 406(b), (C) dependent children deprived of parental support or care by reason of the incapacity or the unemployment of a parent, both parents;".

(c) The amendments made by this section shall become effective October 1, 1981.

BENEFIT STANDARDS

Sec. 109. (a) Section 402(a) of the Social Security Act is amended by inserting after paragraph (16) the following new paragraph:

"(17) provide—

"(A) that the State agency shall make monthly payments to each family with dependent children in an amount determined by substracting, after the application of paragraphs (7) and (8), the monthly income of the family (other than amounts provided under this part) from its monthly cash needs standard (as established by the State under subparagraph (B) of this paragraph);

"(B) that with respect to each month in which payments are determined under this paragraph, the State shall establish a monthly cash needs standard for any family with dependent children such that, in the case of any such family with no income other than income under this part (and reducing such income only by the applicable standard deduction specified in section 5(e) of the Food Stamp Act of 1977) the monthly cash needs standard plus the value of the monthly allotment of food stamp coupons under the Food Stamp Act of 1977 shall equal an amount that is not less than 65 per centum of the income poverty guidelines (as defined in section 414) for a family with the same number of members as such family; except that the value of the monthly allotment of food stamp coupons (as described in section 414) in the case of any family shall be considered to be the value of the allotment which such family would receive if it were considered a household with no income (except under this part) for purpose of the Food Stamp Act of 1977 (whether it is actually living alone or with one or more other persons or families);".

(b) Section 402(a) (1) of such Act is amended to read as follows:

"(1) provide that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; except that the State, in accordance with the Secretary's regulations, may vary its monthly cash needs standard (but not below the minimum established under paragraph (17)) as it applies to families with dependent children (or to families with dependent children described in section 406(a) and a lower monthly cash needs standard applicable to families with dependent children described in section (407), so as to take into account differences in the cost of living in different geographical regions of the State, but—

"(A) the State may take into account no more than six levels of such cost with respect to such families (and, if applicable, an additional six levels with respect to families with dependent children described in section 407), and

"(B) the monthly cash needs standard must be the same for all families with dependent children described in section 406(a) which are of the same size and are living within the same geographical region of the State, and must be the same for all families with dependent children described in section 407 which are of the same size and are living within the same geographical region of the State;".

(c) (1) Notwithstanding section 402(a) (1) of the Social Security Act, as amended by subsection (b) of this section, a State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed under part A of title IV of such Act if such plan—

(A) provides that, with respect to a family that received aid for September 1981 under such plan, the payment standard, as defined in paragraph (2), applicable to the determination of the amount of aid payable to such family, may continue to apply (but only if and for so long as it is greater than the applicable monthly cash needs standard established pursuant to the amendments made by this section) for that period of consecutive months during which such family is continuously eligible for such aid, and the expenditures resulting from the application of such standard shall be considered expenditures for aid to families with dependent children under such plan: or

(B) (i) takes into account, for no more than 48 months following the effective date of this section, a greater number of levels of cost of living in different geographical regions of the State than would be permitted under the amendment made by subsection (b), but only if the State, by an amendment to its plan approved under part A of title IV of the Act, approved by the Secretary of Health, Education, and Welfare revised at such intervals and as he may require, demonstrates that it is making substantial progress in reducing the number of such levels so that, by the expiration of such 48 months, it will comply with the amendment made by subsection (b); or

(ii) takes into account a greater number of levels of cost of living in different geographical regions of the State than would be permitted under the amendemnt made by subsection (b), but only to the extent that such greater number is approved by the Secretary of Health, Education, and Welfare upon a finding that good cause exists for the continued use under the plan of such State of such greater number of levels.

(2) For purposes of paragraph (1) (A), the term "payment standard" with respect to a family that received aid to families with dependent children for September 1981 means the amount of such aid that such family would have received (regardless of whether it did) for such month if it had no other income.

(d) The amendments made by this section shall become effective October 1, 1981.

INCOME POVERTY GUIDELINES; ADJUSTMENT FOR CHANGES IN THE CONSUMER PRICE INDEX

SEC. 110. Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"INCOME POVERTY GUIDELINES; ADJUSTMENT FOR CHANGES IN THE CONSUMER PRICE INDEX

"SEC. 414. (a) As used in this section, the term 'income poverty guidelines' with respect to any State means the income poverty guidelines for the nonfarm population of the United States as prescribed by the Office of Management and Budget (and adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964) as applicable to such State and, for purposes of section 402(a), the income poverty guidelines applicable to any period shall be determined (and adjusted) as follows:

"(1) (A) for the nine months beginning with October 1979, the income poverty guidelines prescribed for 1979 will be applied, after being increased by an amount equal to the product of those guidelines and the ratio of (i) the Consumer Price Index for all Urban Consumers for December 1978, to (ii) such Index for December 1977, and (B) thereafter rounded, when not a multiple of $10.00, to the nearest multiple of $10.00, or, if a multiple of $5.00, increased to the next higher multiple of $10.00;

"(2) for the twelve months beginning with July 1980, (A) the income poverty guidelines prescribed for 1980 will be applied, after being increased by an amount equal to the product of those guidelines and the ratio of (i) the Consumer Price Index for all Urban Consumers for December 1979, to (ii) such Index for December 1978, and (B) thereafter rounded as described in paragraph (1) (B);

"(3) for the twelve months beginning with July 1981, (A) the income poverty guidelines prescribed for 1981 will be applied, after being increased by an amount equal to the product of those guidelines and the ratio of (i) the Consumer Price Index for all Urban Consumers for December 1980, to (ii) such Index for December 1979, and (B) thereafter rounded as described in paragraph (1) (B).

"(b) For purposes of section 402(a) (8) (B) and, in the case of paragraph (3), section 402(a) (17), the monthly allotment of food stamp coupons under the Food Stamp Act of 1977 will be determined—

"(1) for the 9 months beginning with October 1979, by reference to the allotments that would have been provided at differing income levels during the period of January through June 1979,

"(2) for the 12 months beginning with July 1980, by reference to such allotments during the period January through June 1980, and

"(3) for the 12 months beginning July 1981, by reference to such allotments during the period January through June 1981.

"(c) For each 12 month period beginning with July of any year after 1981, the income poverty guidelines and the monthly allotment of food stamp coupons shall be determined (and adjusted) in the same manner as described in subsections (a) and (b).".

(b) The amendments made by this section shall become effective upon enactment.

DETERMINATIONS OF ELIGIBILITY; REPRESENTATION OF CLAIMANTS; NOTICE AND OPPORTUNITY FOR HEARING

SEC. 111. (a) Section 402(a) (4) of the Social Security Act is amended to read as follows:

"(4) provide that, consistent with the provisions of this subsection—

"(A) all individuals wishing to make application for aid to families with dependent children shall have opportunity to do so,

"(B) a determination on the application will be made promptly and, in any event, notice of the determination (and first payment, if the family is found eligible) will be sent to the individual applying no later than 30 days following the date of application;

"(C) (i) if a determination cannot be made within 30 days (for reasons other than the failure of the individual's or other family member's refusal to cooperate or take other reasonable actions necessary to such determination), aid to families with dependent children will be paid within 5 days following such 30-day period with respect to an individual or family that is presumptively eligible (as determined in accordance with criteria prescribed by the Secretary),

"(ii) such aid (on the basis of presumptive eligibility) will be paid for two months, in the case of a child deprived by reason of the unemployment of a parent (as defined in section 407(a)), or three months, in the case of any other dependent child or until a determination under subparagraph (B) is made, whichever is earlier, and

"(iii) if the individual or family is determined to be ineligible (or eligible for a lesser amount) after the payment of aid on the basis of presumptive eligibility, such payments shall not (in the absence of any fraudulent act or statement) be considered to be incorrect payments and no recovery will be made;

"(D) (i) replacement of lost or stolen checks will occur as swiftly as possible when requested at least 3 days and not more than 30 days after the day regularly designated for delivery of the check involved, but in no event more than 10 days from the date of the request for such replacement, and (ii) any other conditions that must be met or are applied to such replacement must be consistent with regulations of the Secretary:

"(E) (i) an opportunity for a fair hearing before the State agency will be granted to any individual whose claim for aid to families with dependent children is denied, or in the case of any action by the State agency in which a determination is made to terminate, adjust (for overpayment), withhold, or reduce payment;

"(ii) if such actions are taken by reason of a report provided by the recipient (or other individual in that family) or by his failure to file timely a requested report, the notice and explanation of the action will be sent to arrive not later than the day regularly designated for delivery of the payment affected by such action; and

"(F) an individual applying for or receiving aid to families with dependent children may represent himself or be represented or accompanied by an attorney or any other person of the individual's choosing in any proceeding before the State agency or the agency of a political subdivision administering the plan, or in any matter in which the individual has contact with any such agency.".

(b) Section 402(a) (10) is repealed.

(c) Section 406 is amended by adding after subsection (c) the following new subsection:

"(d) The term 'aid to families with dependent children' includes (1) payments required to be made under section 402(a) (4) (C) with respect to individuals found to be presumptively eligible therefor (without regard to whether they are subsequently determined to be eligible), and (2) payments, in order to replace lost or stolen checks, required to be made under section 402(a) (4) (D).".

(d) The amendments made by this section shall become effective October 1, 1981.

PERIOD FOR DETERMINATION OF AID; TIMES AT WHICH PAYMENT MUST BE MADE

SEC. 112. (a) (1) Section 402(a) of the Social Security Act is amended by adding after paragraph (20) the following new paragraph:

"(21) provide that—

"(A) (i) an application for aid under the plan will be effective beginning no later than the month preceding the month in which it is filed, except that, if the application is filed after the first day of the month, the State agency may reduce the payment (that would otherwise be payable) for the preceding month by an amount equal to that payment multiplied by the ratio of (I) the number of days elapsed in the month of application prior to the filing of such application, to (II) 30; and

"(ii) the needs of an individual will be taken into account for each month for which the application is effective in making the determination under paragraph (7), if, on the last day of such month he met the requirements under the plan for having his needs so treated; and

"(B)(i) the State agency will determine a family's eligibility for aid and the amount of such aid for each month, and, with respect to any month, the determination shall be made after the close of such month at such time or times as the Secretary may by regulation prescribe, except that;

"(ii) for purposes of determining eligibility or amount of aid to be paid for the month in which the application is filed, or the month (or any part thereof) prior to such month of application, income received before the day of application, and family composition, and the amount of its resources to the extent there have been changes occurring between the first day of the month preceding the month of application and the last day of the month of application, will be treated in accordance with such rules as the Secretary may prescribe consistent with subsection (d);

"(C) payment of no less than half the monthly amount for which a family is found eligible will (upon the family's request) be paid at the time the initial determination of eligibility is made if the regularly designated day for delivery of benefit checks in that month is more than seven days thereafter;

"(D) the day regularly designated for delivery of checks (of at least one-half the monthly amount payable) shall occur within the month (and by such date as the Secretary may require) following the month for which payment is made;

"(E) in the case of a dependent child described in section 407(a), such child (and his relative and any other individual, living in the same home as such child and relative, whose needs are taken into account in making the determination under pargraph (7)) shall be eligible for any month after the first two months only if the Secretary of Labor certifies (with respect to such month) that an employment or training opportunity has not been (or will not be, with respect to such month) made available to the parent who is the principal earner or fails to transmit any such certification;".

(2) Section 402 of the Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall by regulation prescribe rules for determining eligibility for and amount of aid to families with dependent children for the month in which the application is filed and the preceding month. Such rules shall—

"(1) provide for a transition to the rules for determining eligibilty and benefit amount for subsequent months in accordance with subsection (a)(21)(B)(i), and

"(2) assure that such determination will take into account any changes in income, resources, or family composition that may have occurred since the beginning of the month preceding the month of application,

to the end that payments for the month of application and the preceding month will respond to the family's need for aid in such months.".

(b) Section 402(a) of the Act is further amended by inserting after paragraph (21) (as added by subsection (a)), the following new paragraph:

"(22) provide (A) that, with respect to each recipient of aid, all facts affecting eligibility will be reviewed by the State agency at intervals of no more than 12 months, and (B) such rules requiring prompt reporting, by applicants for and recipients of aid, of information pertaining to family composition, income, resources, and any other matters affecting eligibility for or amount of aid as the Secretary may prescribe;".

(c) The amendments made by this section shall become effective October 1, 1981 or, with the approval of the Secretary, at such earlier date as the State may select, except that a State plan approved under part A of title IV of the Social Security Act shall not, during the six-month period beginning with October 1981 (or such earlier date as the State selects), be regarded as failing to comply with the requirements contained in section 402(a)(21) or (22), and the amount payable to any State shall not be decreased, solely because the plan fails to comply with such requirements if the Secretary determines that the State is taking all necessary steps, during the redetermination process, to adjust the time at which determinations of eligibility and payment amount are made and that the State will have completed such adjustments with respect to all recipients of aid under such plan by the close of such six-month period.

(d) Each State agency administering (or supervising the administration of) a State plan approved under part A of title IV of the the Social Security Act shall make a transitional payment in the first month for which are effective the amendments made by this section requiring that determinations of aid under the plan for a month be made after the close of that month. The transitional payment shall be made with respect to each child (and relative and other individuals living in the same home) eligible for aid for the month preceding the month in which such transitional payment is made and shall be in an amount equal to the benefits paid for such preceding month. If the day regularly designated for delivery of benefit checks under the State plan in months after the month in which the transitional payment is to be made is later than the tenth day of the month, the transitional payment shall be increased by an amount equal to such payment multiplied by the fractional part of the month that elapses up to and including such delivery day. The Secretary of Health, Education, and Welfare shall prescribe rules concerning the amount and timing of transitional payments in States that, for months prior to the effective date of this section, make payments of aid to families with dependent children on more than a single regular delivery date in order to achieve a result in such States comparable to that described in the preceding sentence. A transitional payment made under this section shall be deemed to be a payment of aid to families with dependent children and the amount of the increase, if any, by reason of the regular delivery date occurring after the tenth day of the month, shall not be counted as income under any Federal or State program.

EMPLOYMENT REQUIREMENT AND SERVICES RELATED TO EMPLOYMENT

SEC. 113. (a) Section 402(a)(19) of the Social Security Act is amended—

(1) by striking out "manpower services" from subparagraph (A) and inserting in lieu thereof "employment and training services";

(2) by striking out the semicolon at the end of subparagraph (A) and inserting in lieu thereof the following: ", and that, for purposes of this paragraph, good cause for refusing to participate in a work incentive program or to accept employment shall be considered to exist, in addition to any other cases specified by the Secretary of Labor, in any case in which an individual's participation in such program or acceptance of such employment would result in a reduction in his income (as defined in section 412, but including, pursuant to regulations of the Secretary of Labor, governmental benefits payable in a form other than cash);";

(3) by striking out "the Secretary of Labor" and inserting in lieu thereof "a work incentive program" in subparagraph (B);

(4) by striking out "to the Secretary of Labor" in subparagraph (F);

(5)(A) by striking out "and for so long as" in subparagraph (F), and

(B) by striking out "aid for any dependent child" in clause (i) of such subparagraph and inserting of such subparagraph in lieu thereof "aid may be paid for any dependent child" and striking out "will be made;" in such subparagraph and inserting a semicolon in lieu thereof;

(6) by amending the portion of subparagraph (F) that follows clauses (i) through (iv) to read as follows: "except that the State agency shall not take the action described in clause (i), (ii), (iii), or (iv), as may be appropriate, until after a period of thirty days following its receipt of a notice of such refusal, and such action shall thereafter continue in effect for forty-five days, or until it receives a notice rescinding the prior notice of refusal, whichever is later;";

(7) by amending subparagraph (G) to read as follows:

"(G) that the State will have in effect a work incentive program under part C, as part of which an administrative unit (designated by the Governor, and the employees of which unit, to the maximum extent feasible, perform services only in connection with such program) (i) will provide (directly or through arrangements with others) to individuals who have been registered pursuant to subparagraph (A) such health, vocational rehabilitation, counseling, child care, and other social and supportive services as are necessary to enable such individuals to accept a job or participate in employment and training services in accordance with part C, (ii) will, when arrangements have been made to provide necessary supportive services, including child care, certify to the work incentive program those individuals who are ready to participate in employment and training in accordance with part C, (iii) will participate in the development of the employability plan under section 433(b)(3) for such individual registered pursuant to subparagraph (A), and (iv) will assure, for purposes of clause (i), that when more than one kind of child care is available to enable the parent to participate in employment and training, the parent may choose the type of, but may not refuse to accept, available child care services;".

(b) Section 403(c) of the Act is amended by striking out "to the local employment office of the State".

(c) Section 407(b)(2)(C)(i) of the Act is amended by striking out "and for so long as".

(d)(1) Section 431 of the Act is amended to read as follows:

"SEC. 431. (a)(1) Subject to paragraph (2) of this subsection, there are authorized to be appropriated to the Secretary of Labor (hereinafter in this part referred to as the 'Secretary') such amounts as are sufficient to carry out the purposes of this part for each fiscal year.

"(2) If amounts authorized to be appropriated under paragraph (1) are included as part of an appropriation that includes amounts authorized to be appropriated by the Comprehensive Employment and Training Act or any other law, the Act containing such appropriation shall separately state so much of the sum appropriated as is to be made available for the costs of administering work incentive programs under this part (including costs associated with registrations, certifications, determinations, and similar duties which are required under this part).

"(b) The amounts appropriated pursuant to subsection (a) of this section shall be used as the Secretary deems appropriate to carry out the purposes of this part, with apportionments made available among the

States according to a formula which takes into account factors including but not limited to the relative numbers of recipients of aid to families with dependent children under a State plan approved under part A in each State and the relative cost of providing necessary services under this part in each such State, as determined by the Secretary. The Secretary shall ensure that apportionments are made available among geographical areas within each State on an equitable basis."

(2)(A) Section 432(a) of the Act is amended to read as follows:

"Sec. 432. (a) The Secretary shall, in accordance with the provisions of this part, provide financial assistance for work incentive programs which meet the conditions set forth in this part."

(B) Section 432(c) of the Act is amended by striking out all that appears through "such grant or agreement shall" and inserting in lieu thereof the following:

"(c) In carrying out the purposes of this part, the Secretary shall provide financial assistance to States which submit approved statewide operational plans under section 433 and to Indian tribes with respect to Indians on reservations. If the Secretary disapproves any operational plan or is dissatisfied with the implementation of work incentive programs in any area, the Secretary may make grants to, or enter into agreements with, public or private agencies or organizations to carry out such programs in such area. No financial assistance under a statewide operational plan and no grant or agreement by the Secretary shall".

(C) The first sentence of section 432(d) of the Act is amended by striking out "manpower training and employment services" and inserting in lieu thereof "employment and training services" and striking out "this or any other Act" and inserting in lieu thereof "this Act, the Comprehensive Employment and Training Act, or any other Act".

(D) The second sentence of section 432(d) of the Act is amended by striking out "In order" and inserting in lieu thereof "Except to the extent that employment and training services and public service employment opportunities are provided under the Comprehensive Employment and Training Act, in order".

(E) Sections 430 and 432(e) of the Act are each amended by striking out "manpower" and inserting in lieu thereof "employment and training".

(F) Section 432(f) of the Act is amended to read as follows:

"(f) The Secretary shall not provide financial assistance from appropriations to carry out this part for employment and training services or public service employment opportunities for which financial assistance is provided under the Comprehensive Employment and Training Act."

(3) Section 433(a) of the Act is amended to read as follows:

"Sec. 433. (a)(1) In order for each State to carry out work incentive programs under this part, the Governor of such State shall submit a statewide operational plan to the Secretary, in accordance with the provisions of this section, which shall—

"(A) provide an administrative system for coordinating employment and training services required by this title, including the functions of the administrative unit under section 402(a)(19)(G), and similar services under the Comprehensive Employment and Training Act;

"(B) provide for the establishment of a statewide planning committee, and area planning committees in each labor market area in the State, to assist the State in planning and monitoring work incentive programs under this part and any similar program under the Comprehensive Employment and Training Act;

"(C) provide that such statewide planning committee and each area planning committee shall consist of members who are representative of the agency administering the State work incentive program, the State welfare agency, prime sponsors under the Comprehensive Employment and Training Act, the State employment security agency, the State agency responsible for services under title XX of this Act, community-based organizations, and business and labor, and each such committee shall be furnished with staff to assist it in carrying out its responsibilities.

The Statewide operational plan may designate the State employment and training council established under section 110 of the Comprehensive Employment and Training Act as the Statewide planning committee required by paragraph (B), and subcommittees of such council as the area planning committees required by subparagraph (C), if such plan demonstrates that the purposes of this paragraph will be adequately met thereby.

"(2) The Secretary shall, after consulting with the Secretary of Health, Education, and Welfare, approve a statewide operational plan for carrying out work incentive programs under this part only if such plan sets forth satisfactory provisions for—

"(A) providing counseling and testing, and other services described in section 433(d), for individuals who are certified pursuant to section 402(a)(19)(G) and other eligible individuals who choose to seek such services;

"(B) providing such health, vocational rehabilitation, counseling, child care, and other social and supportive services, as are indicated pursuant to subsection (b)(1)(B) of this section for individuals certified pursuant to section 402(a)(19)(G);

"(C) providing social and supportive services, and services described in section 433(d), through public and private nonprofit agencies and organizations;

"(D) making determinations with respect to claims of incapacity by individuals who are referred under section 402(a)(19)(A) for registration under this part with review from time to time of the continuance of any such incapacity;

"(E) assuring that in no area will there be conducted institutional training of any type which is not related to jobs of the type which are, or are likely to become available, in such area, as determined after taking into account information provided by the State employment and training council under the Comprehensive Employment and Training Act.

"(3) When the Secretary determines that a program of employment and training services adequately meeting the purposes of this part will be carried out by any similar program under the Comprehensive Employment and Training Act, the Secretary shall provide by regulation for the statewide operational plan under section 433 of this Act and any similar plan under the Comprehensive Employment and Training Act to be an integrated plan, and in order to achieve this purpose the Secretary shall consolidate mutually consistent provisions which are required to be set forth in the plan submitted to the Secretary by each such Act."

(4) Section 433(b)(1) of the Act is amended to read as follows:

"(b)(1) The statewide operational plan shall set forth procedures, in accordance with regulations which the Secretary shall prescribe, to assure that the work incentive program will provide for—

"(A) prompt notification to the appropriate State welfare agency whenever an eligible individual required to register under this part by section 402(a)(19)(A) has applied for assistance under this part;

"(B) making assessments and providing such social and supportive services (required by section 402(a)(19)(G)) as are necessary to enable individuals registered under this part to accept a job or to participate in employment or training, based on an appraisal of the individual's needs for such services, involving professionals in the fields of employment and training and social services together with each such individual, with periodic reviews by such professionals to assure that needed services are being provided to each such individual; and

"(C) certifications to the work incentive program, pursuant to section 402(a)(19)(G), of those individuals who are ready to participate in employment and training when arrangements have been made to provide necessary supportive services, as indicated pursuant to subparagraph (B) of this paragraph."

(5) Section 433(b)(2) of the Act is amended in the first sentence thereof by striking out "by the Labor Market Advisory Council (established pursuant to section 432(f))" and inserting in lieu thereof "pursuant to section 433(a)(2)(E)" and by inserting "or other public or private nonprofit agency" after "thereof", and by striking out the second sentence thereof.

(6)(A) Section 433(b)(3) of the Act is amended by inserting after "the Secretary shall" the words "ensure that each work incentive program under this part will", and by striking out "to him".

(B) Section 433(c) of the Act is amended by striking out "Secretary" and inserting in lieu thereof "State, in carrying out work incentive programs under this part,", and by striking out "he".

(C) Section 433(d) of the Act is amended by striking out "include," and all that follows through "program orientation," and inserting in lieu thereof "include, but not be limited to, counseling and testing, referrals to employment opportunities, program orientation,".

(7)(A) Section 433(e) of the Act is amended to read as follows:

"(e) In order to provide public service employment opportunities for individuals under section 432(b)(3), the Secretary shall enter into agreements with prime sponsors under the Comprehensive Employment and Training Act, and with Indian tribes with respect to Indians on reservations, unless the Secretary determines that such opportunities will be adequately provided through programs receiving financial assistance under the Comprehensive Employment and Training Act."

(B) Section 433(g) of the Act is amended by striking out the words "to the Secretary of Labor", by striking out "State agency which certified such individual" and inserting in lieu thereof "State agency administering the plan approved under part A", and by striking out "he" and inserting in lieu thereof "the work incentive program".

(8) The second sentence of section 434(b) of the Act is amended by striking out "manpower training" and inserting in lieu thereof "a program of employment and training services", and by striking out "such training" and inserting in lieu thereof "such program of employment and training services".

(9) The second sentence of section 435 of the Act is amended to read as follows: "Non-Federal contributions shall be in cash, which may be provided from administrative costs for carrying out State plans under part A of this title."

(10) Section 439 of the Act is amended to read as follows:

"Sec. 439. (a) The Secretary shall issue regulations to carry out the purposes of this part, which shall be effective only after the Secretary of Health, Education, and Welfare has agreed to such regulations.

"(b) Regulations under this part shall include provisions for the establishment of a national coordination committee which shall review and recommend procedures and policies with respect to uniform reporting requirements and other requirements for the effective coordination and administration of work incentive programs under this part and any similar program under the Comprehensive Employment and Training Act.".

(f) The amendments made by this section (other than by subsection (a)(5) and (6) and subsection (c)) shall become effective October 1, 1981, and the amendments made by subsection (a)(5) and (6) and subsection (c) shall become effective October 1, 1979.

ASSISTANCE TO MEET EMERGENCY NEEDS

Sec. 114. (a) Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"ASSISTANCE TO MEET EMERGENCY NEEDS

"Sec. 415. (a) As used in this part—

"(1) The term 'emergency needs' means any extraordinary expense or need of a family caused by or arising from an accident, natural disaster, or other event of unpredictable, uncontrollable or nonroutine character, that cannot be satisfied by the other income or available resources of the family.

"(2) The term 'eligible family' means a family with children that, in the month in which the emergency needs exist,

"(A) receives aid to families with dependent children, or

"(B) has gross income not exceeding twice the income poverty guidelines (as defined in section 414) for a family of the same size, and the value of whose resources (other than those which would be excluded if the family were receiving aid to families with dependent children) does not exceed such limit as the State may prescribe consistent with paragraph (4).

A family, the value of whose resources (described in paragraph (2)) exceeds the limit prescribed by the State, may be considered an eligible family for assistance to meet emergency needs in the amount for which it would otherwise be eligible, reduced by the value of its resources in excess of such limit.

"(3) The term 'assistance to meet emergency needs' means assistance, in the form of money payments, vendor payments, or assistance in kind or in such other form as the State agency finds appropriate, to any member of an eligible family (as defined in paragraph (2)).

"(4) For purposes of paragraph (2), the State may set a limit on the value of family's resources that is not less than $750 and does not exceed (A) $1750, or (B) such greater amount as is specified, in accordance with section 412(b), in the State plan approved under this part.

"(b) There is authorized to be appropriated $200 million for fiscal year 1982, and such sums as may be necessary for each fiscal year thereafter, for payments under section 403(a)(5) to States for assistance to meet emergency needs.".

(b) Section 402(a) of the Act is amended by adding immediately after paragraph (12) the following new paragraph:

"(13) provide that assistance to meet emergency needs will be furnished to eligible families in accordance with priorities, consistent with regulations of the Secretary, designed to assure such families who are recipients of aid under this part will receive assistance to meet emergency needs;".

(c) Section 403(a) of the Act is amended—

(1) by repealing paragraph (5) thereof, and

(2) by adding at the end the following new sentences:

"(5)(A) In the case of any State providing assistance to meet emergency needs, the Secretary shall pay to such State for each fiscal year an amount equal to the sum of—

"(i) one-half the amount appropriated for payments under this paragraph for such fiscal year multiplied by the ratio of (I) the number of recipients of aid to families with dependent children under the plan of such State, to (II) the number of such recipients in all the States to which this paragraph applies, and

"(ii) one-half the amount appropriated for such purpose multiplied by the ratio of (I) the non-Federal share of expenditures for aid to families with dependent children under the State's plan approved under this part, to (II) the non-Federal share of expenditures for such aid under the plans of all the States to which this sentence applies.

"For purposes of determining the number of recipients in any State (or in all the States), or the amount of the non-Federal share of expenditures under the plan approved under this part in any State (or for all the States), the numbers for the most recent preceding year for which the Secretary determines that satisfactory data are available shall be used.

"(B) If the amount paid in any fiscal year to a State under paragraph (A) is not expended in such year for assistance to meet emergency needs, the State may retain one-third of the amount not expended, for use for such purpose in the subsequent fiscal year.

"(C) Any amounts paid under paragraph (A) in any fiscal year, and neither expended in that year nor retained by the State under subparagraph (B), shall to the extent such amounts do not exceed 5 per centum of the total amount appropriated for carrying out this section in such year, remain available for payment by the Secretary to any State or States that, in accordance with such criteria as he finds relevant, will have need of additional amounts for assistance to meet emergency needs in subsequent fiscal years.

"(D) If the amount that a State receives in any fiscal year under the preceding provisions of this paragraph is less than the amount it received for fiscal year 1979 under this paragraph (as in effect for the year), the Secretary shall pay to such State an additional amount (from amounts available to him under subparagraph (C), and, if necessary, from amounts appropriated pursuant to section 401) so that the total paid under this paragraph equals the amount paid in fiscal year 1979.".

(d) Section 412(a)(11) of the Act (as added by section 101 of this Act) is amended to read as follows:

"(11) assistance to meet emergency needs furnished under section 402(a)(13);".

(e) Section 406(e) of the Act is repealed.

(f) The amendments made by this section become effective October 1, 1981.

PART C—FEDERAL FINANCIAL PARTICIPATION; ADMINISTRATIVE IMPROVEMENTS; RELATED MEDICAID AMENDMENTS

INCREASED FEDERAL FINANCIAL PARTICIPATION

Sec. 115. Effective October 1, 1981, section 403(a) is amended by adding after paragraph (3) the following new paragraph:

"(4) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to 10 per centum, in cases involving a dependent child as defined in section 406(a) (or a woman described in section 406(b)), and 30 per centum in cases involving a dependent child as defined in section 407, of the difference between—

"(A) the total amounts expended during such quarter as aid to families with dependent children under the State plan, and

"(B) the total of the amounts determined under paragraph (1) or section 1118 with respect to those expenditures for such quarter.".

LIMITATION OF FISCAL LIABILITY OF STATES

Sec. 116. Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"LIMITATION ON FISCAL LIABILITY OF STATES

"Sec. 416. (a)(1) If, in fiscal year 1982, or in any of the following four fiscal years, a State's allowable expenditures for aid to families with dependent children (as defined in subsection (b)(1)) exceed 95 per centum of its fiscal liability base (as defined in subsection (b)(2)), the Secretary shall pay to such State for each such fiscal year, in addition to the amounts determined under section 403 (or section 1118) for quarters in such fiscal year, an amount equal to such excess.

"(2) The Secretary shall pay to each State, in addition to the amounts determined under section 403 (or section 1118), an amount equal to the following percentages, with respect to the specified fiscal year, of the amount paid to such State under paragraph (1) for fiscal year 1986:

"(A) for fiscal year 1987, 100 per centum;

"(B) for fiscal year 1988, 67 per centum; and

"(C) for fiscal year 1989, 33 per centum.

"(3) As a condition of any State receiving a payment under subparagraph (a)(1) or (2) of this section or under section 403(a)(4), the State must agree that it will pay to any political subdivision thereof which participates in such State expenditures a portion of such payment that bears the same ratio thereto as such political subdivision's expenditures bear to the total of such State expenditures.

"(b) As used in this section—

"(1) 'allowable expenditures for aid to families with dependent children' with respect to any State for fiscal year 1982, or any of the following four fiscal years, means the non-Federal share of expenditures for aid to families with dependent children (as defined in paragraph (4)) multipled by the ratio (but only if it is less than 1) of—

"(A)(i) the average monthly payment to an individual with no other income (determined in accordance with regulations of the Secretary) for months in fiscal year 1979, adjusted for use in fiscal year 1982 or in such following fiscal year (as defined in paragraph (3)) as the case may be, or

"(ii) if greater, the minimum monthly cash needs standard which may be established consistent with section 402(a)(17)(B), to

"(B) such average monthly payment (as so determined) for months in fiscal year 1982, or in such following fiscal year, as the case may be;

"(2) the 'fiscal liability base' with respect to any State in a fiscal year means—

"(A) the total expenditures under the plan of that State approved under this part as aid to families with dependent children for quarters in fiscal year 1979, reduced by

"(B) the total of the amounts determined under section 403(a)(1) or section 1118 with respect to those expenditures for such quarters (or, if different, the total of the amounts that would have been determined with respect to such expenditures using the percentages required by such sections for the corresponding quarters in such fiscal year), adjusted for use in such fiscal year (as so defined);

"(3) 'adjusted for use in' a particular year with respect to a specified amount or amounts means the amount (or amounts) multiplied by the ratio (A) the arithmetical mean of the Consumer Price Index for all Urban Consumers for the month of September occurring in the fiscal year for which the amount is to be used or applied by the Secretary, to (B) that index for September 1979; and

"(4) the 'non-Federal share of expenditures for aid to families with dependent children' means the total expenditures under the plan approved under this part for quarters in a fiscal year which are included for purposes of determining the amount payable by the Secretary under section 403(a)(1) or 1118 to such State for quarters in such year, reduced by the amount so determined.

"(c) (1) A State may, for purposes of subsection (a), increase its allowable expenditures for aid to families with dependent children for fiscal year 1982, or any of the following four fiscal years, by an amount equal to—

"(A) the average amount of State expenditures for medical assistance furnished for months in fiscal year 1979 to a family eligible therefor by reason of its receipt of aid to families with dependent children (such amount to be determined in accordance with regulations of the Secretary), adjusted for use in such fiscal year (as defined in subsection (b)(3)), multiplied by

"(B) the excess of—

"(i) the average monthly number of families eligible for medical assistance in such fiscal year under the plan of such State approved under title XIX by reason of their receipt of aid to families with dependent children, over

"(ii) the average monthly number of such families in fiscal year 1979."

"(2) As used in paragraph (1), 'State expenditures for medical assistance' to a specified family means the total amount of expenditures for such medical assistance, reduced by the amount determined by the Secretary under section 1903(a) with respect to the expenditures described in paragraph (1).

"(d) (1) A State may, for purposes of subsection (a) increase its allowable expenditures for aid to families with dependent children for fiscal year 1982, or any of the following four fiscal years, by an amount equal to—

"(A) (i) the ratio of total State expenditures for administration of the State plan approved under this part for quarters in fiscal year 1979, adjusted for use in such fiscal year (as defined in subsection (b)(3)), to

"(ii) the sum of the number of cases for each month in fiscal year 1979 receiving aid under the plan, multiplied by

"(B) the increase (if any) in the sum of the number of cases for each month in such fiscal year over such sum for months in fiscal year 1979.

"(2) As used in paragraph (1), the term 'total State expenditures for administration of the State plan approved under this part' means the total of such expenditures for such year reduced by the amount determined by the Secretary under section 403(a)(3) with respect to such expenditures."

(b) The amendments made by this section shall become effective October 1, 1981.

ADMINISTRATIVE IMPROVEMENTS

SEC. 117. (a) Section 402(a)(5) of the Social Security Act is amended by striking out "proper and efficient operation of the plan" and inserting in lieu thereof the following: "proper and efficient operation of the plan, including, to the extent and in accordance with regulations prescribed by the Secretary, the establishment of policies pertaining to—

"(A) prospective budget submissions by the State,

"(B) principles or criteria for the establishment of allowable administrative costs and applicable cost allocation rules,

"(C) fiscal control procedures which the State will be required to establish, and

"(D) standards to be applied and procedures to be followed in evaluating the State's administrative performance, including quality control procedures, fiscal reports, and access of appropriate Federal officials to State records relating to the administration of the program established under this title;".

(b) The amendment made by this section shall become effective October 1, 1979.

PROGRAMS FOR MECHANIZED PROCESSING AND MANAGEMENT INFORMATION SYSTEMS

SEC. 118. (a) Section 403(a)(3) of the Social Security Act is amended by—

(1) striking out "and" at the end of subparagraph (A);

(2) redesignating subparagraph (B) as subparagraph (D); and

(3) adding after subparagraph (A) the following new subparagraphs:

"(B) 90 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins October 1, 1979), as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a)(33), and (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under part D of this title or under title XIX, State programs with respect to which there is Federal financial participation under title XX, and administration of the food stamp program under the Food Stamp Act of 1977,

"(C) 75 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins October 1, 1979), as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under contract with the State) of the type described in subparagraph (B) (whether or not designed, developed, or installed with assistance under such subparagraph) and which meet the conditions of section 402(a)(33), and".

(b) (1) Section 402(a) of the Act is amended—

(A) by striking out "and" at the end of subparagraph (31),

(B) by striking out the period at the end of subparagraph (32) and inserting in lieu of such period the following: "; and", and

(C) by adding after and below subparagraph (32) thereof the following new subparagraph:

"(33) at the option of the State, provide, effective October 1, 1979 (or at the beginning of such subsequent calendar quarter as the State shall elect), for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (e), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this part and, at the option of the State and in accordance with regulations of the Secretary pursuant to subsection (e), in the administration of any other program or programs of such State authorized under this Act, so as (with respect to the State plan approved under this part) (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including, but not limited to, (I) identifiable correlation factors (such as social security number, name, date of birth, and sex of an applicant or recipient of such aid and the relative with whom any child (who is such applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery, of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system.".

(2) Section 402 of such Act is further amended by adding at the end thereof the following new subsection:

"(e) (1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(33), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

"(B) contains a description of the proposed statewide management system referred to in subsection (a), including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such statewide management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

"(F) contains an implementation plan with charts of development events, testing descriptions, proposed acceptance criteria, and procedures to handle possible failure of a system,

"(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits, and

"(H) assures that the State's system will, in accordance with regulations of the Secretary, be compatible with those of the Social Security Administration to facilitate the exchange of data between the State and Federal systems.

"(2) (A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(B), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(33) of this section.

"(B) The Secretary shall prescribe rules applicable to Statewide management information systems that are used by a State in the administration of its programs authorized under this Act, other than the State's plan approved under this part, to provide for the allocation to each of such other programs of its pro rata share of the cost of (i) the planning, design, development, and installation of such systems, and (ii) the operation of such systems, and none of the amounts so allocated by such regulations shall be included as expenditures for purposes of determining the amount to be paid to such State under section 403.

"(C) If the Secretary finds with respect to any statewide management information system referred to in section 403(a) (3) (B) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(c) Part A of title IV of the Social Security Act is further amended by inserting at the end thereof the following new section:

"TECHNICAL ASSISTANCE FOR DEVELOPING MANAGEMENT INFORMATION SYSTEMS

"SEC. 417. The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a) (3) (B) of this Act.".

(d) The amendments made by this section shall become effective October 1, 1979.

ASSISTANCE FOR THE DEVELOPMENT OF ADMINISTRATIVE IMPROVEMENTS IN AFDC PROGRAMS

SEC. 119. (a) Part A of title IV of the Social Security Act is amended by adding after section 417 (as added by section 118 of this Act), the following new section:

"ASSISTANCE FOR THE DEVELOPMENT OF ADMINISTRATIVE IMPROVEMENTS IN STATE PROGRAMS UNDER THIS PART

"SEC. 418. (a) The Secretary is authorized to make funds available to any State agency responsible for administering or supervising the administration of a State plan approved under this part, to assist such agency in meeting the cost of developing and implementing systems, techniques, or other innovative approaches designed to improve the quality of administration of such plan.

"(b) Payments under this section shall only be made upon the approval by the Secretary of proposals submitted by a State agency described in subsection (a) that demonstrate a substantial likelihood of achieving comprehensive improvements in the administration of the State's plan approved under this part. Such improvements should relate to one or more of the following administrative objectives:

"(1) improved planning for the manpower needs and supplies of the agency,

"(2) improved accuracy and efficiency of assistance case processing and review,

"(3) increased availability of services to the public, including improvements in accessibility and reduced processing times, and

"(4) other techniques that hold promise for improved administrative effectiveness and efficiency, including particularly those improvements with the potential for adaptation and use by the agencies of other States administering plans approved under this part, and solving administrative problems and strengthening program implementation.

"(c) Payments to States under this section will be available for meeting up to 75 percent of approved administrative projects, except that no portion of any such payment shall be available for expenses directly related to computer or other mechanized case processing or management information systems or the cost associated with routine administration including expansion of existing administrative capability.

"(d) Of the sums authorized to be appropriated by section 401 for any fiscal year, not more than $50,000,000 shall be available for payments with respect to proposals approved under this section.".

(b) The amendment made by subsection (a) shall become effective upon enactment.

CORRECTIVE ACTION REGARDING OVERPAYMENTS AND UNDERPAYMENTS

SEC. 120. (a) Section 402(a) of the Social Security Act is amended by—

(1) striking out "and" at the end of paragraph (32),

(2) striking out the period at the end of paragraph (33) and inserting in lieu of such period the following: "; and", and

(3) by adding after and below paragraph (33) the following new paragraph:

"(34) provide such rules with respect to both the recovery of aid incorrectly paid under the State plan approved under this part and the payment of such aid incorrectly denied or underpaid as the Secretary may by rgulation prescribe;".

(b) The amendments made by this section shall become effective October 1, 1980.

AFDC RECIPIENT REVIEW

SEC. 121. Effective October 1, 1979, section 402(a) of the Social Security Act is amended by striking out the period and inserting "; and" in lieu thereof and adding at the end the following new paragraph:

"(35) provide that, at such times and in accordance with such procedures as the Secretary may specify, the State agency will cooperate with the Secretary and with other State agencies administering plans approved under this part in reviewing case records and providing information (in accordance with safeguards prescribed by the Secretary) to verify the identity of applicants for or recipients of assistance and to determine whether an individual is receiving (and, if so, the amount of) (A) aid to families with dependent children under the plan of more than one State, and (B) benefits or other similar payments under any Federal or federally assisted program.".

MONITORING AND ASSESSING PERFORMANCE IN THE AFDC PROGRAM

SEC. 122. (a) Title XI of the Social Security Act is amended by adding after section 1116 the following new section:

"MONITORING AND ASSESSING PERFORMANCE IN THE AFDC PROGRAM

"SEC. 1117. (a) The Secretary shall develop and implement measures for monitoring, and assessing performance on an annual or more frequent basis, of the effectiveness of the requirements under part A of title IV for the approval of State plans, and of those plans as implemented in the States, in achieving the stated objectives of that part.

"(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (a) in any fiscal year.".

(b) The amendment made by this section shall become effective upon enactment.

TECHNICAL AMENDMENTS TO INCENTIVE ADJUSTMENTS FOR AFDC QUALITY CONTROL

SEC. 123. (a) Section 403(j) of the Social Security Act is amended by—

(1) striking out "less than 4 per centum" in paragraph (2) and inserting "less than 4 per centum and the State's case error rate of negative actions is less than 3 per centum" in lieu thereof.

(2) striking out "if the erroneous excess payments of aid had been at a rate of 4 per centum" and inserting in lieu thereof "if the rate of erroneous payments had been 4 per centum",

(3) by striking out "such rate" each place it appears in subpragraphs (A) through (E) of paragraph (2) and inserting "such erroneous payment error rate" in lieu thereof; and

(4) amending the second sentence of such subsection to read as follows:

"For purposes of this subsection—

"(i) the term 'dollar error rate of aid' means the total of the dollar error rate of aid for—

"(I) payments to ineligible families receiving assistance;

"(II) overpayments to eligible families receiving assistance; and

"(III) under payments to eligible families receiving assistance;

"(ii) the term 'case error rate of negative actions' means the total of the case error rate of aid for—

"(I) applications denied or otherwise disposed of where the reason given for the action is incorrect; and

"(II) assistance cases terminated where the reason given for the action was incorrect or payment was terminated prior to the expiration of the applicable advance notice period; and

"(iii) the term 'erroneous payments' means the total of—

"(I) payments to ineligible families receiving assistance, and

"(II) overpayments to eligible families receiving assistance.".

(b) The amendments made by this section shall be effective January 1, 1978.

AMENDMENTS TO MEDICAID PROGRAM

SEC. 124. (a) Section 1902(a) of the Act is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (10) (A), an individual shall only be considered to be receiving aid in any month under a State's plan approved under part A of title IV if (i) he was eligible for medical assistance in one of the four months preceding such month on the basis of his receipt of aid under the plan approved under part A of title IV, or (ii) he would be eligible for aid to families with dependent children in such month without the application of the disregard required by section 402(a) (8) (A).".

(b) (1) Section 1902(a) (10) of the Social Security Act is amended by striking out "(10) provide—" and inserting in lieu thereof "(10) except as may otherwise be provided in subsection (h), provide—".

(2) Section 1902 of the Act is further amended by adding at the end thereof the following new subsection:

"(h) (1) If a State's plan approved under part A of title IV as in effect for September 1981 did not include provision for paying aid with respect to children deprived of parental support or care by reason of unemployment of a parent, then the plan of such State approved under this title may specify that medical assistance will not be provided to such children or other relatives, or other individuals receiving aid under such plan with respect to such children.

"(2) If a State's plan approved under this title, as in effect for September 1981, did not provide medical assistance for individuals described in subsection (a) (10) (C), the State plan may provide medical assistance to all such individuals other than those who would, except for income and resources, be eligible for aid under its plan approved under part A of title IV by reason of a dependent child described in section 407."

(c) Section 1903(f) (2) of the Act is amended by striking out the comma and inserting", (A)" in lieu thereof, and by striking out the period and inserting in lieu thereof ", and (B) the amount described in section 402(a) (8) (A) (earned income that must be disregarded in determining eligibility for and amount of aid to families with dependent children) shall not be excluded.".

(d) The amendments made by this section shall become effective October 1, 1981.

PART D—IMPLEMENTATION

STATE IMPLEMENTATION OF AMENDMENTS

SEC. 125. Upon the request of any State, the Secretary of Health, Education, and Welfare is authorized to permit the State to implement any of the amendments made by this Act affecting continuing eligibility of or the amount of payments to recipients of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act within the six-month period following the effective date of such amendment if he finds that—

(1) the amendment will be implemented gradually throughout the course of a six-month cycle for redeterminations with respect to cases receiving aid to families with dependent children in such State, and

(2) such gradual implementation is consistent with the proper and efficient operation of the plan.

APPLICABILITY OF AMENDMENTS TO THE TERRITORIES

SEC. 126. The amendments made by sections 104, 108(b), 109, 110, 114, 115, 116, 119, and 124 of this Act, and the amendment made by section 103(a)(2) of this Act insofar as it amends subparagraph (B) to section 402(a)(8) of the Social Security Act shall be effective only in the case of the fifty States and the District of Columbia.

PART E—AMENDMENTS TO THE INTERNAL REVENUE CODE AFFECTING THE EARNED INCOME CREDIT

GOVERNMENTAL PAYMENTS TO BE DISREGARDED FOR PURPOSES OF SUPPORT AND MAINTENANCE OF HOUSEHOLD TESTS

SEC. 127. (a) GENERAL RULE.—Section 2 of the Internal Revenue Code of 1954 (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by adding a new subsection (e) to read as follows:

"(e) GOVERNMENTAL PAYMENTS DISREGARDED IN DETERMINING SUPPORT AND MAINTENANCE OF HOUSEHOLD.—For purposes of this title whenever it is necessary—

"(1) to determine the extent to which the support of an individual has been provided by that individual, by a taxpayer who has the same principal place of abode as the individual (including determinations under sections 152 and 1303(c)), or by the parents of the individual for purposes of section 152(e)(1)(A), or

"(2) to determine whether a taxpayer is considered as maintaining a household (including determinations under sections 2(a) and (b), 44A, and 143(b)),

any benefit provided under any Federal, State, or local governmental assistance program used for the support of the individual or for maintenance of the household shall not be taken into account."

(b) The amendment made by this section shall apply to taxable years beginning after December 31, 1979.

AMENDMENTS TO THE EARNED INCOME TAX CREDIT

SEC. 128. (a) MODIFICATION OF CREDIT.—Subsection (a) of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) is amended by striking out "10 percent" and inserting in lieu thereof "12 percent".

(b) REVISION OF THE LIMITATION.—Subsection (b) of such section 43 is amended by:

(1) striking out "$500" in paragraph (1) and inserting in lieu thereof "$600";

(2) striking out "12.5 percent" in paragraph (2) and inserting in lieu thereof "15 percent", and

(3) striking out "$6,000" in paragraph (2) and inserting in lieu thereof "$7,000".

(c) SPECIAL RULE AFFECTING DEFINITION OF INCOME.—Subsection (c)(2)(B) of such section 43 is amended by:

(1) striking out "and" after clause (ii),

(2) striking out the period after clause (iii) and inserting ", and" in lieu thereof, and

(3) adding after and below such clause (iii) the following new clause:

"(iv) the earned income of an individual shall not include any remuneration for services performed in a public service job if such remuneration is paid in whole or in part out of funds provided under part D or E of title II of the Comprehensive Employment and Training Act of 1973.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

TITLE II—SUPPLEMENTAL SECURITY INCOME

PART A—FOOD STAMP CASH-OUT

FOOD STAMP CASH-OUT FOR CERTAIN SSI RECIPIENTS

SEC. 201. Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"CASH PAYMENTS IN LIEU OF FOOD STAMPS TO CERTAIN RECIPIENTS OF SSI BENEFITS

SEC. 1619. (a) In addition to the supplemental security income benefits (including, for purposes of this section, a supplementary payment under an agreement pursuant to section 1616(a)) payable under this title with respect to an individual, the Secretary shall make na additional cash payment in lieu of food stamps for each month for which such benefits are payable, in the amount and manner described in subsection (b), to each such individual who, throughout such month—

"(1) lives alone, or

"(2) lives with one or more others each of whom is also an eligible individual.

The additional payment to an individual in lieu of food stamps shall be appropriately included in or with the check issued to him by the Secretary in payment of his supplementary security income benefit or supplementary payment under section 1616(a) and, in determining the amount of any supplementary payment (regardless of whether paid by the Secretary or the State or a political subdivision thereof) under such section for a month, the additional payment in lieu of food stamps shall be excluded from income.

"(b)(1) The Secretary will establish a single amount for making the additional payment in lieu of food stamps to an individual who does not have a spouse living in the same household, and a single amount for making such payment to an eligible individual with an eligible spouse in the same household. In the case of any State, the amount will be, for an individual or for an individual and spouse, equal to the cash value of the coupon allotment that would be provided to an aged individual, or aged individual and aged spouse, as the case may be, living in his (or their) own home and having no income other than the supplemental security income benefits and any State supplementary payments to such an individual (or individual and spouse) payable in such State, and reducing such income only by (A) the applicable standard deduction specified in section 5(e) of the Food Stamp Act of 1977, and (B) one-half the maximum excess shelter expenses deduction provided under section 5(e)(2) of such Act.

"(2) For purposes of paragraph (1),

"(A) no State supplementary payment shall be considered to be payable for any month in any State in which such payments for such month are made to fewer than one-half the recipients of benefits under this title,

"(B) if supplementary payments to aged individuals in the State with the same income are made in differing amounts based upon the geographic area of the State in which he resides, then the lowest such amount shall be applied, and

"(C) the value of the coupon allotment will be determined for each fiscal year based on the amounts specified in section 1611(b) (and the amount of State supplementary payments) in effect for July of the preceding fiscal year."

(b)(1) The amendments made by this section shall become effective October 1, 1981.

(2) In the case of any individual (or individual and spouse) who is eligible for the additional payment in lieu of food stamps referred to in section 1619(a) of the Social Security Act (as amended by this section), and who received a coupon allotment for September 1981 as a one (or two) person household, the value of which was greater than the amount of the additional payment in lieu of food stamps that would be payable to him for any month after Sepember 1981, such individual (or individual and spouse) shall receive an additional payment equal to such greater value for each consecutive month for which the applicable amount determined under section 1619(b) is less than the value of the coupon allotment for September 1981, and ending with the month during such individual—

(A) ceases to reside in the same State as he did on September 30, 1981, or

(B) ceases to be eligible for additional payment provided under section 1619(a) of the Act.

(3) No person who receives an additional payment in lieu of food stamps under section 1619 of the Social Security Act shall be considered a household, or a member of a household, under the Food Stamp Act of 1977.

(4) In the case of any State that provides State supplementary payments (a) of the type described in section 1616(a) of the Social Security Act, and (B) the level of which has been found by the Secretary of Health, Education, and Welfare, for the month of September 1981, to have been specifically increased so as to include the bonus value of food stamps, the amount of the additional payment in lieu of food stamps to any individual described in section 1619(a) of the Social Security Act shall equal—

(i) the amount that would be payable by application of the provisions of section 1619 of the Social Security Act, reduced by

(ii) the amount of the increase referred to in clause (B) of this paragraph.

PART B—IMPROVEMENTS IN STANDARDS FOR DETERMINING ELIGIBILITY AND AMOUNT OF SSI

ELIGIBILITY OF COUPLES LIVING APART

SEC. 202. (a) Section 1614(b) of the Social Security Act is amended by striking out "for more than six months." in the first sentence thereof and inserting in lieu thereof "for more than one month and, for purposes of determining the amount of benefits payable for the month during which they are living apart, the living arrangement of whichever one of such individual and spouse results in the higher benefit level shall be considered to be the living arrangement of both such individual and spouse. A husband and wife who are living in the same hospital, extended care facility, nursing home, or intermediate care facility shall be considered to be living apart."

(b) The amendment made by this section shall be effective beginning with the second month beginning after the date this Act is enacted.

ELIGIBILITY OF INDIVIDUALS IN CERTAIN MEDICAL INSTITUTIONS

SEC. 203. (a) Paragraph (1)(A) of section 1611(e) of the Social Security Act is amended to read as follows:

"(e)(1)(A) Except as otherwise provided in this paragraph (1), no person shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if throughout such month he is an inmate of a public institution.".

(b) Section 502 of Public Law 94–566 is repealed.

(c) Subparagraph (C) of section 1611(e)(1) is redesignated as subparagraph (D) and such section is further amended by inserting after subparagraph (B), the following new subparagraph (C):

"(C) If an eligible individual or eligible spouse, who is in a hospital, extended care facility, nursing home, or intermediate care facility throughout a month, was, in the preceding month, an individual with respect to whom supplemental security income benefits (including for purposes of this subparagraph State supplementary payments) were payable (without regard to this subparagraph) and, was not, throughout the preceding month, in a hospital, extended care facility, nursing home, or intermediate care facility, such individual's benefit shall notwithstanding subparagraph (B), be determined as though the living arrangement that existed in the preceding month continued to exist."

(c) The amendments made by this section shall be effective beginning the second month beginning after the date this Act is enacted.

EARNED INCOME IN SHELTERED WORKSHOPS

SEC. 204. (a) Section 1612(a)(1) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of subparagraph (A); and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) amounts (not otherwise wages under subparagraph (A)) paid for services performed in a sheltered workshop or work activities center (as those terms are defined by the Secretary); and".

(b) The amendments made by this section shall become effective beginning with the second quarter beginning after the date this Act is enacted.

EXCLUSION FROM RESOURCES OF BURIAL PLOTS

SEC. 205. (a) Section 1613(a)(2) of the Social Security Act is redesignated as section 1613(a)(2)(A) and is further amended by adding, immediately after and below, the following new subparagraph:

"(B) the value of any plot of land (subject to such limits as to size or value as the Secretary may by regulation prescribe) held for the purpose of providing a burial place for the individual or his spouse;".

(b) The amendment made by this section shall be effective beginning with the second month beginning after the month in which this Act is enacted.

EXCLUSION FROM RESOURCES OF FUNDS SET ASIDE FOR BURIAL EXPENSES

SEC. 206. (a) Secion 1613 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c)(1) In determining the resources of an eligible individual and his spouse who is living with him in the same household, there shall be excluded an amount, not in excess of $1,500 with respect to each of them, that is separately identifiable and has been set aside (as those terms are defined in accordance with regulations of the Secretary) to meet the burial and related expenses of such individual or spouse if the inclusion of any portion of such amount or amounts would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1611(a).

"(2) The amount of $1,500, referred to in paragraph (1), with respect to an individual shall be reduced by an amount equal to the (A) total face value of all insurance policies on his life, owned by him or his spouse living with him in the same household, the cash surrender value of which has been excluded in determining the resources of such individual, or such individual and spouse, and (B) the total of any amounts in an irrevocable trust (or other irrevocable arrangement) available to meet the burial and related expenses of such individual.

"(3) If the Secretary finds that—

"(A) any part of the amount excluded under paragraph (1) was used for purposes other than those for which it was set aside, or

"(B) the eligible individual (or his spouse) obtained the cash surrender value of a life insurance policy on his (or her) life, if that value had been excluded in determining the resources of such individual (and spouse), he shall reduce any future benefits payable to such individual or spouse by an amount equal to such part or such cash surrender value."

(b) The second sentence of section 1613 (a) of the Act is amended by striking out "except that" and inserting "except that at the option of the individual (or eligible spouse)," in lieu thereof.

(c) The amendments made by this section shall become effective for months after the month in which this Act is enacted.

EXCLUSION OF CERTAIN REAL AND PERSONAL PROPERTY FROM INCOME

SEC. 207. (a) Section 1612(b) of the Social Security Act is amended by—

(1) striking out "and" after paragraph (13) thereof;

(2) striking out the period after paragraph (14) thereof and inserting "; and" in lieu thereof; and

(3) adding the following new paragraph at the end of such section:

"(15) unearned income received in the form of real or personal property (A) to the extent it meets the criteria for exclusion from the resources of such individual or spouse under section 1613(a), or (B) which is not readily convertible into cash and which cannot be used by the individual (or such spouse) for food or clothing.".

(b) The amendment made by this section shall be effective beginning with the second month beginning after the date this Act is enacted.

UNDERPAYMENTS TO INELIGIBLE SPOUSE OF DECEASED SSI RECIPIENT

SEC. 208. (a) Section 1631(b) of the Social Security Act is amended by striking out "by recovery from or payment to such individual or his eligible spouse (or by recovery from the estate of either)", and inserting in lieu thereof the following: "by recovery from such individual or his eligible spouse (or from the estate of either) or by payment to such individual or his eligible spouse, or, if such individual is deceased, to the eligible spouse or, if no eligible spouse survives, to any surviving husband or wife (as determined under section 1614(d)) with whom the individual was living at the time of his death or immediately prior to institutionalization by reason of his last illness".

(b) The amendment made by this section shall be effective upon enactment, except that payment under section 1613(b) (as amended by this section) to the surviving husband or wife of an eligible individual who died prior to the date of enactment of this Act may only be made upon the request of such husband or wife.

INCREASED PAYMENT FOR PRESUMPTIVELY ELIGIBLE INDIVIDUALS

SEC. 209. Section 1631(a)(4)(A) of the Social Security Act is amended by striking out "a cash advance against such benefits in an amount not exceeding $100" and inserting in lieu thereof "cash advances of such monthly benefits, for which he is presumptively eligible, including any federally administered State supplementary payments, for each of the first three months of such presumptive eligibility".

IN-KIND REMUNERATION

SEC. 210. (a) Section 1612(a)(1)(A) of the Social Security Act is amended by inserting immediately before the semicolon, the following: "except that in determining wages for purposes of this title, the exclusions from wages provided by sections 209 (g)(1) and 209(h)(1) shall not apply".

(b) The amendment made by this section shall be effective beginning with the second quarter beginning after the date this Act is enacted.

CONTINUATION OF BENEFITS FOR CERTAIN INDIVIDUALS HOSPITALIZED OUTSIDE THE UNITED STATES

SEC. 211. (a) The second sentence of section 1611(f) of the Social Security Act is amended by striking out the comma after "preceding sentence" and inserting in lieu thereof "(1)", and by inserting before the period at the end thereof the following: ", and (2) an individual shall be treated as being inside the United States during any period of absence from the United States which is demonstrated to the satisfaction of the Secretary to be necessary in order to obtain inpatient hospital services, as defined in title XVIII for purposes of section 1814(f), if (A) the requirements of subparagraphs (A) and (B) of section 1814(f)(1) are met, or (B) the inpatient hospital services are emergency services and the requirements of subparagraphs (A) and (B) of section 1814 (f)(2) are met".

(b) The amendment made by this section shall be effective beginning with the second month beginning after the date this Act is enacted.

EXTENSION OF SPECIAL INCOME AND RESOURCE PROVISIONS

SEC. 212. (a) Section 1611(g)(3) of the Social Security Act is amended by inserting "(or supplementary payments made pursuant to an agreement under section 1616(a) or under section 212(b) of Public Law 93–66)" immediately after "supplemental security income benefits".

(b) Section 1611(h)(4) of such Act is amended by inserting "(or supplementary payments made pursuant to an agreement under section 1616(a) or under section 212 (b) of Public Law 93–66)" immediately after "supplemental security income benefits".

(c) The amendments made by this section shall be effective January 1, 1974.

DELETION OF TERM "CHILD"

SEC. 213. (a) Section 1614 (c) of the Social Security Act is repealed.

(b)(1) Section 1612(b) of such Act is amended by—

(A) striking out "a child who" in paragraph (1) and inserting in lieu thereof "under age 22 and";

(B) striking out "a child" in paragraph (9) and inserting in lieu thereof "under age 18"; and

(C)(i) striking out "a child who is not an eligible individual" in paragraph (10) and inserting in lieu thereof "an individual who is not an eligible individual or eligible spouse", and

(ii) striking out "child-placement or child-care".

(2) Section 1614(a)(3)(A) of such Act is amended by striking out "a child" and inserting in lieu thereof "an individual".

(3) Section 1614(f)(2) of such Act is amended by striking out "a child under age 21" and inserting in lieu thereof "under age 18".

(4) Section 1615(e)(2)(B) of the Act is amended by—

(A) striking out "this section to any child" and inserting "subsection (b)" in lieu thereof; and

(B) striking out "child" and inserting "individual" in lieu thereof.

(c) The amendments made by this section shall be effective beginning with the second quarter beginning after this Act is enacted.

REPEAL OF MANDATORY STATE SUPPLEMENTATION

SEC. 214. (a) Section 212 of Public Law 93–66 is repealed effective with the earliest month following the month in which this Act is enacted for which the Secretary finds implementation of such repeal to be administratively feasible, but in no event later than the ninth such following month.

(b) Effective with the first month for which subsection (a) is in effect, section 1618(a) of the Social Security Act is amended by striking out "(including payments pursuant to an agreement entered into section 212(a) of Public Law 93-66)".

(c) Effective with the first month for which subsection (a) is in effect, section 6(g) of the Food Stamp Act of 1977 is amended by—

(1) striking out the first comma and inserting "or" in lieu thereof,

(2) striking out ", or payments of the type referred to in section 212(a) of Public Law 93-66, as amended,", and

(3) striking out "and section 212(a) of Public Law 93-66".

LIMITATION ON ELIGIBILITY FOR SSI OF PERSONS WHO DISPOSE OF RESOURCES

SEC. 215. Section 1611(e) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) Except as provided in subparagraph (B), no person shall be an eligible individual or eligible spouse for purposes of this title if, within any 24-month period that begins with or after the twenty-fourth month preceding the month in which he files an application for benefits under this title, he (i) disposed of resources which, if retained, would have caused him to be ineligible for such benefits, and (ii) received therefor compensation in an amount such that the difference between the fair market value of such resources and the compensation therefor exceeded $3000.

"(B) A person shall be ineligible for benefits under this title by reason of the application of subparagraph (A) for 6 months if the uncompensated value of such assets exceeded $3,000, but not $6,000, 12 months if such value equaled or exceeded $6,000, but not $15,000, or 24 months if such value equaled or exceeded $15,000, beginning with the month following the month in which such disposition occurred, except that subparagraph (A) shall cease to be applicable after the month in which the resources he had previously disposed of are returned to him, or he receives payment equal to the amount described in subparagraph (A)(ii).

(b) Section 1902(f) of the Act is amended in the first sentence (1) by inserting "(1)" immediately after "except that", and (2) by striking out the period at the end and inserting in lieu thereof the following: ", and (2) in determining the eligibility of any such person for medical assistance, the State agency shall apply the limitation on eligibility because of disposition of resources, contained in section 1611(e)(4), in lieu of any other limitation or rule relating to the same matter that was contained in the plan of the State approved under this title and in effect on January 1, 1972".

(c) The amendment made by this section shall become effective with the first month beginning after the Secretary issues rules necessary to its implementation (but in no event later than the seventh month following the month in which this Act is enacted) but shall not apply to dispositions of resources that occurred prior to such month.

ROUNDING OF AMOUNT OF COST-OF-LIVING ADJUSTMENTS

SEC. 216. (a) Section 1617 of the Social Security Act is amended by striking out "and rounded, when not a multiple of $1.20, to the next higher multiple of $1.20," and inserting in lieu thereof "and, when not a multiple of $12.00, either rounded to the nearest multiple of $12.00 or, if a multiple of $6.00, increased to the next higher multiple of $12.00".

(b) The amendment made by subsection (a) is effective with respect to increases in benefit amounts as a result of determinations made under section 215(i) of the Act for months after August 1979.

PART C—IMPROVED ADMINISTRATION OF THE SSI PROGRAM

JUDICIAL ESTABLISHMENT OF FEES FOR REPRESENTING SSI CLAIMANTS

SEC. 231. (a) Section 1631(d)(2) of the Social Security Act is amended by redesignating it as section 1631(d)(2)(A) and adding immediately after and below it the following new subparagraph:

(B)(i) Whenever a court renders a judgment favorable to a claimant under this title who was represented before the court by an attorney, the court may determine and allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment. In the case of any such judgment, no other fee may be payable for such representation except as provided in this subparagraph.

"(ii) Any attorney who charges, demands, receives, or collects for services rendered in connection with proceedings before a court to which subparagraph (i) is applicable any amount in excess of that allowed by the court thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500, or imprisonment for not more than one year, or both."

(b) The amendment made by subsection (a) shall become affective upon enactment.

RETROSPECTIVE MONTHLY ACCOUNTING

SEC. 232. (a) Section 1611(c) of the Social Security Act is amended to read as follows:

"(c)(1) Except as provided in paragraph (2), an individual's eligibility for benefits under this title and the amount of such benefits shall be determined for each month, and, with respect to any month, such determination shall be made at such time or times after the close of such month as the Secretary may provide. Eligibility for and the amount of such benefits shall be redetermined at such time or times as may be provided by the Secretary.

"(2)(A) For purposes of determining eligibility for or the amount of supplemental security income benefits to be paid for the month in which the application is filed, or the month prior to such month of application, income received before the day of application, family composition, and the amount of resources, to the extent there have been changes occurring between the first day of the month preceding the month of application and the last day of the month of application, will be treated as the Secretary may prescribe consistent with subparagraph (B).

"(B) The Secretary shall by regulation prescribe rules for making the determination described in subparagraph (A). Such rules shall (i) provide for a transition to the rules for determining eligibility and benefit amount (for months subsequent to the months in which the application is filed) in accordance with paragraph (1), and (ii) assure that such determination will take into account any changes in income, resources, or family composition that may have occurred since the beginning of the month preceding the month of application, to the end that payments for the month of application and the preceding month will respond to the eligible individuals need for benefits in such months.

"(3) For purposes of this subsection, an application is effective as of the first day of the month immediately preceding the month in which it is actually filed.

"(4) The Secretary shall prescribe by regulation the circumstances under which waiver by him of the limitations specified in subsections (e)(1)(A) and (B) on an individual's eligibility and benefit amount for a month (to the extent either such limitation is applicable by reason of such individual's presence throughout such month in a hospital, extended care facility, nursing home, or intermediate care facility) would promote the individual's removal in the following month from such institution or facility to a less restrictive living arrangement appropriate to his situation. Under such circumstances, the Secretary shall not apply the provisions of subsection (e)(1)(A) or (B) to the month preceding the month of removal, and, instead, shall apply to such month and to the following month, the benefit rate that is appropriate to such individual's living arrangement in that portion of such following month as is subsequent to his removal from such institution or facility (in the amount that such rate was in effect for each month for which it is applied)."

(b) Section 1612(b)(3) of the Act is amended, by—

(1) striking out "calendar quarter" (2 places) and "quarter" (2 places) and inserting "month" in lieu thereof (4 places),

(2) striking out "$60" in subparagraph (A) and inserting "$20" in lieu thereof, and

(3) striking out "$30" in subparagraph (B) and inserting "$10" in lieu thereof.

(c)(1) The amendments made by this section shall become effective for months after the close of the eighth calendar quarter following the quarter in which this Act is enacted or for such earlier month, in the case of one or more of such amendments (or part thereof) with respect to which the Secretary of Health, Education, and Welfare determines that he can implement such amendment (or part thereof) consistent with an orderly transition from the quarterly prospective accounting system currently applicable to the determination of eligibility for and amount of supplemental security income benefits to the monthly retrospective system established by such amendments.

(2) The Secretary of Health, Education, and Welfare, shall make a transitional payment in the first month for which are effective the amendments made by this section requiring the supplemental security income determinations for a month to be made after the close of that month. The transitional payment shall be made with respect to each individual who was eligible (under the provisions of title XVI of the Social Security Act as in effect for the month before the month the transitional payment is made) for supplemental security income benefits (including, for purposes of this paragraph, State supplementary payments made by the Secretary on behalf of any State) for the month preceding the month in which such transitional payment is made and shall be in an amount equal to the benefits paid to him for such month. If the day regularly designated for delivery of benefit checks under title XVI of the Act in months after the month in which the transitional payment is to be made is later than the tenth day of the month, the transitional payment shall be increased by an amount equal to such payment multiplied by the fractional part of the month that elapses up to and including such delivery day. The transitional payment made under this section shall be deemed to be a payment of supplemental security income benefits and the amount of the increase, if any, by reason of the regular delivery date occurring after the tenth day of the month, shall not be counted as income under any Federal or State program.

LIMITATION ON FEDERALLY ADMINISTERED VARIATIONS OF STATE SUPPLEMENTATION

SEC. 233. (a) Paragraph (2) of section 1616(c) of the Social Security Act is amended to read as follows:

"(2)(A) Except as specifically authorized by subparagraphs (B) and (C), the Secretary shall not enter into an agreement under subsection (a) which provides for a variation on any basis other than in the amount of the State supplementary payments he is to make thereunder.

"(B) An agreement under subsection (a) may provide for variations from the amount of the supplementary payments the Secretary will make within the State to an individual without an eligible spouse living independently in his own place of residence in the case of—

"(i) an individual without an eligible spouse living in the household of another,

"(ii) an individual without an eligible spouse living with an essential person (within the meaning of section 211 of Public Law 93-66),

"(iii) an individual with an eligible spouse, living independently in their own place of residence,

"(iv) an individual with an eligible spouse living in the household of another, and

"(v) an individual with an eligible spouse living with an essential person (within the meaning of such section 211).

"(C) The amount of each State supplementary payment allowed under subparagraph (B) may be further varied to provide for two additional amounts of supplementary payments (in each of the six cases described in such subparagraph) based solely on the geographic area within the State in which the eligible individual is living."

(b) Such section is further amended by adding at the end thereof the following new paragraph:

"(3) The Secretary shall not enter into any agreement which provides for making supplementary payments to any eligible individual to whom the limitation on benefits in section 1611(e)(1)(B), is applicable.".

(c) The amendments made by this section are applicable to supplementary payments for months after the month so designated by the Secretary, notice of which having been published in the Federal Register 180 days in advance of such month, but in no event shall the designated month occur later than the eighteenth month following the month in which this Act is enacted.

ELIMINATION OF REQUIREMENT FOR REPRESENTATIVE PAYMENT OF SSI TO DRUG ADDICTS AND ALCOHOLICS

SEC. 234. Section 1631(a)(2) of the Social Security Act is amended by striking out the second sentence thereof.

ADJUSTMENT OF RETROACTIVE BENEFITS UNDER TITLE II ON ACCOUNT OF ADVANCES OF SSI BENEFITS

SEC. 235. (a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"ADJUSTMENT OF RETROACTIVE BENEFIT UNDER TITLE II ON ACCOUNT OF ADVANCES OF SSI BENEFITS

"SEC. 1132. Notwithstanding any other provision of this Act, in any case where an individual—

"(1) makes application for benefits under title II and is subsequently determined to be entitled to those benefits, and

"(2) was an individual with respect to whom supplemental security income benefits were paid under title XVI (including State supplementary payments which were made under an agreement pursuant to section 1616 (a) on administration agreement under section 212 of P.L. 93-66) for one or more months during the period beginning with the first month for which a benefit described in paragraph (1) is paid and ending with the month before the first month in which such benefit is paid pursuant to the application referred to in paragraph (1), the benefits (described in paragraph (1)) which are otherwise retroactively payable to such individual for months in the period described in paragraph (2) shall be reduced by an amount equal to so much of such supplemental security income benefits (including State supplementary payments described in paragraph (2)) for such month or months as would not have been paid with respect to such individual or his eligible spouse if the individual had received the benefits under title II at the times by were regularly due during such period rather than retroactively; and from the amount of such reduction the Secretary shall reimburse the State on behalf of which such supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the period involved exceeded the expenditures which the State would have made (for such period) if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.".

(b) Section 204 of such Act is amended by adding at the end thereof the following new subsection:

"(e) For payments which are adjusted by reason of payment of benefits under the supplemental security income program established by title XVI, see section 1132.".

(c) Section 1631(b) of such Act is amended by—

(1) inserting "(1)" immediately after "(b)", and

(2) adding at the end thereof the following new paragraph:

"(2) For payments for which adjustments are made by reason of a retroactive payment of benefits under title II, see section 1132.".

(d) The amendments made by this section shall be effective with respect to supplemental security income benefits (including State supplementary payments) paid for months after such date as the Secretary of Health, Education, and Welfare determines to be administratively feasible, but not later than the twelfth month following the month in which this Act is enacted.

REPLACEMENT OF BENEFIT CHECKS

SEC. 236. (a) Section 1631(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6) The Secretary shall by regulation establish procedures for the prompt replacement of benefit checks which have been lost, stolen, or destroyed or have not been delivered within two mail delivery days following the day regularly designated for their delivery. Such regulations shall limit the availability of the replacement procedures to checks issued in the month in which the request for replacement is made. Such procedures may provide for the issuance of checks or payment in cash by the Secretary from funds available to him for this purpose and shall prescribe such safeguards, such as limitations on the number of times payment may be made to an individual using such replacement procedures, as he finds necessary to prevent abuse of such procedures. The regulations shall specify procedures for the coordination and reconciliation of payments made pursuant to this paragraph with payment for the same month from the Department of the Treasury.".

(b) The amendment made by this section shall be effective with respect to benefit checks for the earliest month for which the Secretary of Health, Education, and Welfare determines it to be administratively feasible, but in no event later than the tenth month beginning after the month in which this Act is enacted.

MANDATORY PASS-ALONG OF SSI BENEFIT INCREASES

SEC. 237. (a) Section 1618 of the Social Security Act is amended by—

(1)(A) striking out "(including payments pursuant to an agreement entered into under section 212(a) of the Public Law 93-66)" in the portion of subsection (a) that precedes paragraph (1),

(B) (i) striking out "June 30, 1977" in such portion, and inserting in lieu thereof July 1, 1979, and (ii) striking out "June 30, 1977" in paragraph (1) of such subsection, and inserting in lieu thereof "June 30, 1979",

(C) striking out "have in effect an agreement with the Secretary whereby the State will", and

(2) striking out "preceding twelve-month period" in subsection (b) and inserting in lieu thereof "twelve-month period beginning with July 1976".

(b) Section 1618(b) of the Act is redesignated as section 1618(b)(1) and is further amended by adding at the end thereof the following new paragraph:

"(2) If a State discontinues making supplementary payments to individuals residing in domiciliary or personal care facilities and, in their place, makes vendor payments to such facilities (or their agents) on behalf of such individuals, the Secretary shall not find that the State has failed to meet the conditions of subsection (a)(3) and (4) (regardless of the level of such vendor payments) and the total of the supplementary payments replaced by such vendor payments within a twelve-month period shall be subtracted from such State's total expenditures for supplementary payments in the twelve-month period beginning July 1976 for purposes of paragraph (1)."

(c) Such section is further amended by adding at the end thereof the following new subsections:

"(c) The Secretary shall not find that, with respect to any applicable twelve-month period, a State has failed to meet the conditions of subsection (a)(3) or (4) (as modified by subsection (b)) if he finds that the State has made reasonable efforts throughout such period to meet the conditions of subsection including, where necessary, to make adjustments under subsection (b)(2), within such time after the close of the period and in accordance with such criteria as the Secretary may by regulation prescribe. The Secretary shall also specify in regulations the standards he will employ, including the requirements for a detailed showing by the State, to determine that a State is making reasonable efforts to meet the conditions of subsection (a).

"(d) If the Secretary determines that the State has not, throughout any period, made reasonable efforts to meet the conditions of subsection (a), he shall withhold all amounts that would otherwise be payable to the State under section 1903 for quarters begining after the month in which such determination of the Secretary becomes final until all amounts previously paid under such section for the period with respect to which such determination was made have been recovered.".

DELETION OF OBSOLETE REFERENCE

SEC. 238. Section 1631(d)(1) of the Social Security Act is amended by striking out "(e), and (f)" and inserting "and (e)" in lieu thereof.

CORRECTION OF INCORRECT REFERENCE IN P.L. 92-603

SEC. 239. Effective January 2, 1976, section 305(b) of the Social Security Amendments of 1972 (P.L. 92-603) is amended by striking out "section 201(g)(1)(A)" wherever it appears (three places) and inserting "section 201(g)(1)(B)" in lieu thereof.

TITLE III—AMENDMENTS APPLICABLE TO TWO OR MORE PROGRAMS UNDER THE SOCIAL SECURITY ACT

LIMITATION ON PERIOD WITHIN WHICH CLAIMS FOR REIMBURSEMENTS MUST BE FILED

SEC. 301. Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"PERIOD FOR FILING OF CLAIMS

"SEC. 1133. (a) No Federal payment may be made under section 3, 403, 1003, 1403, 1603, 1903, or 2002 with respect to any State expenditure made in a fiscal year beginning after September 30, 1979, unless the Secretary receives a claim from the State for Federal reimbursement for such expenditure on or before the last day of the second fiscal year following the fiscal year in which the expenditure was made.

"(b) For purposes of subsection (a):

"(1) expenditures for assistance payments under a State plan approved under title I, IV, X, XIV, or XVI shall be considered to have been made in the fiscal year in which payment was made to the assistance recipient, his protective payee, or a vendor payee, notwithstanding that the expenditure was made with respect to a month in a previous fiscal year;

"(2) expenditures for medical assistance payments under title XIX shall be considered to have been made in the fiscal year in which payment or accounting transfer to the service provider was made by the single State agency responsible for administering the State plan, notwithstanding that the payment or accounting transfer was an adjustment to previous medical assistance payments; and

"(3) expenditures for administration, training and the provision of services under a State plan approved under title I, IV, X, XIV, XVI, XIX, or XX shall be considered to have been made on the date payment was made by a public agency to a private agency or individual or in the fiscal year or fiscal quarter to which costs were allocated in accordance with regulations of the Secretary; except that the Secretary may, at the request of any State, approve with respect to that State standards other than those specified in this subsection for determining when an expenditure shall be considered to have been made.".

CONSOLIDATED ACCOUNT FOR ADMINISTRATIVE EXPENSES

SEC. 302. (a) (1) Section 201 (g) (1) of the Social Security Act is amended by—

(A) striking out "of the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible and" from the final sentence of subparagraph (A),

(B) striking out, from the first sentence of subparagraph (B), "of administration of this title, title XVI, and title XVIII and" and striking out "; except that the" in such sentence and inserting in lieu thereof ". The" and

(C) striking out "for the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible and" from the second sentence of subparagraph (B) (as it was prior to the amendments made by this subsection).

(2) (A) Section 1817(h) of the Act is amended by striking out "section 201 (g) (1)" and inserting "section 709" in lieu thereof.

(B) Section 1841 (g) of the Act is amended by striking out "section 201(g) (1)" and inserting "section 709" in lieu thereof.

(C) Section 201 of the Act is amended by adding at the end thereof the following new subsection:

"(j) The Managing Trustee of the Trust Funds (which for purposes of this subsection shall have the same meaning as it does in subsection (g) (1) (A)) shall pay from time to time such amounts as are certified by the Secretary as required under section 709."

(b) Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

"CONSOLIDATED ACCOUNT FOR ADMINISTRATIVE EXPENSES

"SEC. 709. (a) There are hereby authorized to be made available for expenditure out of any or all of the Trust Funds and out of the amounts appropriated for the administration of any other programs (or parts of programs) or functions with which the Commissioner of Social Security or the Social Security Administration, or with which the organizational unit, or the designee of the Secretary, referred to in the section 452(a), is charged by law (including delegations of authority from the Secretary), such amounts as the Congress may deem appropriate to pay, in accordance with this section, the administrative costs of carrying out title II, title XVIII, and each of such other programs (or parts thereof) or functions.

"(b) From time to time during the fiscal year, but no less frequently than quarterly, the Secretary shall estimate the costs of administering title II, title XVIII, and each of such other programs (or part thereof) and functions with which the Commissioner of Social Security, the Social Security Administration, or the organizational unit or designee referred to in section 452(a) has been charged by law and shall certify to the Secretary of the Treasury the amounts to be transferred from each Trust Fund and each Appropriation referred to in subsection (a) to a separately identified account in the Treasury in order to insure, to the maximum extent feasible, that each of such Trust Funds and each of such appropriations have borne and will continue to bear their proper share of the costs to be incurred during such fiscal year.

"(c) A final determination of the amounts to be borne in a fiscal year by each of the Trust Funds and each of the appropriations referred to in subsection (a) shall be made at the earliest practicable date after the close of such year. After such determination has been made, the Secretary shall certify to the Secretary of the Treasury the amounts, if any, which should be transferred from one to any other of such Trust Funds and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund in the Treausry in order to insure that, each such Trust Fund and each such appropriation from which amounts had been transferred pursuant to subsection (b) in excess of the amount finally determined by the Secretary with respect to such Trust Fund or such appropriation has been repaid the amount of such excess plus the amount of any loss in interest to such Trust Fund or the general fund in the Treasury resulting from such excess.".

(c) If the final determination and the transfers of funds (including interest) required to be made under section 709(c) of the Social Security Act, as added by this section, have not been completed prior to the close of the next following fiscal year, the amendments made by this section shall cease to be effective at the close of such next following fiscal year.

(d) Section 305 of the Social Security Amendments of 1972 is repealed.

(e) The amendments made by this section shall be effective with respect to fiscal years beginning after September 30, 1979.

RESEARCH AND DEMONSTRATION AUTHORITY UNDER THE SOCIAL SECURITY ACT

SEC. 303. (a) Section 1115 of the Social Security Act is amended by—

(1) striking out "part A" and inserting "part A or D" in lieu thereof in the portion of subsection (a) that precedes paragraph (1) thereof,

(2) striking out "402" in subsection (a) (1) and inserting "402, 454" in lieu thereof, and

(3) striking out "403" in subsection (a) (2) and inserting "403, 455" in lieu thereof.

(b) The last sentence of section 1115(a) is amended by striking out "$4,000,000" and inserting "$20,000,000" in lieu thereof.

(c) Section 1120 of the Act is amended to read as follows:

"REPORT TO CONGRESS ON CERTAIN PROJECTS

"SEC. 1120. As soon as possible after the approval of any experimental pilot, demonstration, or other project all or any part of which is wholly financed with Federal funds made available under this Act (without any State, local, or other non-Federal financial participation) the Secretary shall submit to the Congress a description of such project including a statement of its purpose, probable cost, and expected duration."

(d) The amendments made by this section shall become effective upon enactment.

IMPROVED FINANCING OF ASSISTANCE PROGRAMS FOR THE TERRITORIES

SEC. 304. (a) (1) Section 3(a) (2) of the Social Security Act is amended to read as follows:

"(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to 75 per centum of the total of the sums expended during such quarter as old-age assistance under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof;".

(2) Section 403(a) (2) of the Act is amended by striking out "one-half" and inserting in lieu thereof "75 per centum" and by striking out "not counting so much of any expenditure with respect to any month as exceeds $18 multiplied by the total number of recipients of such aid for such month".

(3) Section 1003(a) of the Act is amended by striking out "one-half" and inserting in lieu thereof "75 per centum" and by striking out ", not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the blind for such month".

(4) Section 1403(a) (2) of the Act is amended by striking out "one-half" and inserting in lieu thereof "75 per centum" and by striking out ", not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the permanently and totally disabled for such months".

(5) Section 1603(a) (2) of the Act is amended to read as follows:

"(2) in the case of Puerto Rico, the Virgin Islands, and Guam, and amount equal to 75 per centum of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof);".

(b) (1) Section 1108(a) (1) of the Act is amended by—

(A) striking out "and each fiscal year thereafter other than the fiscal year 1979" and inserting in lieu thereof "and each of the six succeeding fiscal years"; and

(B) striking out the semicolon at the end of subparagraph (F) and inserting ", and" in lieu thereof and adding immediately after and below such subparagraph the following:

"(G) $48,000,000 with respect to the fiscal year 1980 and each fiscal year thereafter;".

(2) Section 1108(a) (2) of the Act is amended by—

(A) striking out "and each fiscal year thereafter other than the fiscal year 1979" and inserting in lieu thereof "and each of the six succeeding fiscal years"; and

(B) striking out the semicolon at the end of subparagraph (F) and inserting ", and" in lieu thereof and adding immediately after and below such subparagraph the following:

"(G) $1,600,000 with respect to the fiscal year 1980 and each fiscal year thereafter;".

(3) Section 1108(a)(3) of the Act is amended by—

(A) striking out "and each fiscal year thereafter other than the fiscal year 1979" and inserting in lieu thereof "and each of the six succeeding fiscal years"; and

(B) striking out the period at the end of subparagraph (F) and inserting ", and" in lieu thereof and adding immediately after and below such subparagraph the following:

"(G) $2,200,000 for the fiscal year 1980 and each fiscal year thereafter.".

(4) Section 1108(a) of the Act is further amended by—

(A) striking out the period at the end of paragraph (3) and inserting "; and" in lieu thereof, and

(B) adding at the end of such subsection the following new paragraph:

"(4) for payment to the Commonwealth of the Northern Mariana Islands shall not exceed $150,000 for fiscal year 1979 and each fiscal year thereafter.".

(c) Section 1108(a) of the Act is further amended by striking out "2002(a)(2)(D)" and inserting in lieu thereof "section 2002(a)(2)(D), and consistent with the requirements of subsection (e)".

(d) Section 1108 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding subsection (a) the 'total amount' referred to in such subsection in the case of any State, with respect to the fiscal year 1980 or any fiscal year, thereafter, shall not exceed the difference between (1) total expenditures under the State's plans approved under title I, X, XIV, or XVI, or part A of title IV in the fiscal year 1978, reduced by (2) the non-Federal share of such expenditures in such fiscal year.

(e) Section 1101(a)(1) of the Act is amended by adding at the end thereof the following new sentence: "For the applicability of the provisions of this Act to the Commonwealth of the Northern Mariana Islands, see P.L. 94–241, the Joint Resolution to approve the 'Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America', and for other purposes".

(f) The amendments made by this section shall be effective beginning October 1, 1979.

SUPPORT OF IMMIGRANTS

SEC. 305. (a) Chapter 2 of title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

"SUPPORT OF IMMIGRANTS

"SEC. 216. (a) No immigrant shall be admitted into the United States unless (I) at the time of application for admission an agreement described in subsection (b) with respect to such immigrant has been submitted to, and approved by, the Attorney General (in the case of an immigrant applying while within the United States) or the Secretary of State (in the case of an immigrant applying while outside the United States), or (II) such immigrant presents evidence to the satisfaction of the Attorney General or Secretary of State (as may be appropriate) that he has other means to provide the rate of support described in subsection (b), or (III) such immigrant (or class, of which such immigrant is a member) is designated by the Secretary of Health, Education, and Welfare (in consultation with the Secretary of State or the Attorney General, whichever may be appropriate) as a 'refugee' where such designation may be reviewed from time to time of the Secretary of Health, Education, and Welfare.

"(b) The agreement referred to in subsection (a) shall be signed by an individual (hereinafter in this section referred to as the 'immigration sponsor') who (1) is a United States citizen, or an alien lawfully admitted to the United States or permanent residence or an alien possessing a vivid immigrant visa (or concurrently being issued such a visa), and (2) presents evidence to the satisfaction of the Attorney General or Secretary of State (as may be appropriate) that he is capable of providing the financial support required by this subsection. Such agreement shall be in such form and contain such information as the Attorney General or Secretary of State (as may be appropriate) may require. In such agreement the immigration sponsor shall agree to provide, as a condition for the admission of the immigrant, during the five-year period beginning on the date of the immigrant's admission, such financial support as is necessary to prevent the immigrant from becoming eligible for benefits under title XVI of the Social Security Act, including State supplementary benefits payable in the State in which such immigrant resides, if such immigrant is an 'aged, blind, or disabled individual' as defined in section 1614(a) of the Social Security Act or, in the case of any other immigrant, such financial support as is necessary to prevent his becoming eligible for aid to families with dependent children or other public assistance based on need, including public assistance for routine medical care (as defined in regulations of the Secretary of Health, Education, and Welfare). A copy of such agreement shall be filed with the Attorney General and shall be available upon request by any party authorized to enforce such agreement under subsection (c).

"(c)(1) Subject to paragraphs (3) and (4), the agreements described in subsection (b) may be enforced with respect to an immigrant against his immigration sponsor in a civil action brought by the Attorney General or by the immigrant. Such action may be for the purpose of enforcing support or obtaining reimbursement for public assistance furnished, or both and may be brought in the United States district court for the district in which the immigration sponsor resides or in which such immigrant resides, in cases in which the amount in controversy exceeds $10,000 and, in all other cases, in any other court of competent jurisdiction.

"(2) Subject to paragraph (4), for the purpose of assuring the efficient use of funds available for public welfare, the agreement described in subsection (b) may be enforced with respect to an immigrant against his immigration sponsor in a civil action brought by any State (or the Commonwealth of the Northern Mariana Islands), or political subdivision thereof, which is providing public assistance to, or on behalf of, such immigrant under any program based on need, including public assistance for routine medical care. Such action may be for the purpose of enforcing support or obtaining reimbursement for public assistance furnished, or both, and may be brought in the United States distict court for the district in which the immigration sponsor resides or in which such immigrant resides, in cases in which the amount in controversy exceeds $10,000, and, in all other cases, in any other court of competent jurisdiction.

"(3) The right granted to an immigrant under paragraph (1) to bring a civil action to enforce an agreement described in subsection (b) shall terminate upon the commencement of a civil action to enforce such agreement brought by the Attorney General under paragraph (1) or by a State (or political subdivision thereof) under paragraph (2).

"(4) The agreement described in subsection (b) shall be excused and unenforceable against the immigration sponsor or his estate if (A) the immigration sponsor dies or is adjudicated a bankrupt under the Bankruptcy Act, (B) the immigrant is under age 65 and becomes blind or disabled after entering the United States, or (C) the failure of the immigration sponsor to support results from changes, substantially impeding his financial capacity to carry out the agreement and arising from circumstances that, in the judgment of the Attorney General, were unforseeable to the sponsor at the time the agreement was entered into.

"(5) Notwithstanding any other provision of law (including 5 U.S.C. 552a), (A) the head of any Federal or State agency (including, for purposes of this section, an agency of a political subdivision) responsible for the administration of a public assistance program referred to in subsection (b) shall make such reports to the Attorney General, at such times and in such form as he may require, pertaining to the provision of public assistance by such agency and to actions brought pursuant to subsection (c) by reason of the provision of such assistance, as may be necessary to facilitate the administration of this section or of section 241(a)(8), and (B) the Attorney General shall furnish such information as he may have, including a copy of the agreement required by subsection (a), to any Federal or State agency responsible for the administration of a public assistance program referred to in subsection (b), that may be necessary for such agency to secure support for an immigrant with respect to whom a support agreement has been executed or to obtain reimbursement for assistance furnished such an immigrant, or to otherwise achieve the purposes of this section.".

(b) The table of contents for chapter 2 of title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

"Sec. 216. Support of Immigrants.".

(c) Section 212(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(15)) is amended by inserting before the semicolon the following: ", or who fail to meet the requirements of section 216".

(d) Section 241(a)(8) of such Act (8 U.S.C. 1251(a)(8)) is redesignated as subparagraph (B), and a new subparagraph (A) is added, immediately before subparagraph (B), as follows:

"(8)(A) has, within five years after entry, received supplemental security income benefits under title XVI of the Social Security Act (including State supplementary payments under section 1616 thereof), aid to families with dependent children under a State plan approved under part A of title IV of such Act, or other public cash assistance based on need or public assistance for routine medical care (as those terms are defined by the Secretary of Health, Education, and Welfare pursuant to section 216), except that—

"(i) in the case of an alien with respect to whom a support agreement has been entered by an immigration sponsor, this paragraph shall apply only if such agreement is enforceable and only after efforts have been made to enforce such agreement but an amount equal to the public assistance paid has not been recovered and such recovery does not, in the opinion of the Attorney General, appear likely, and

"(ii) in the case of an alien who has been designated a refugee under section 216(a), or of an alien who is under age 65 and becomes blind or disabled after entry into the United States, this paragraph shall not apply, or

(e) The amendments made by this section shall apply with respect to aliens applying for immigrant visas after the ninetieth day following the date of enactment of this Act who have not, prior to the sixtieth day preceding the effective date of these amendments, obtained an affidavit of support duly executed before an official authorized to administer oaths.

CONDITIONS GOVERNING AVAILABILITY OF CERTAIN FEDERAL RECORDS

SEC. 306. (a) Part A of title XI is amended by adding after section 1133 the following new section:

"CONDITIONS GOVERNING AVAILABILITY OF CERTAIN FEDERAL RECORDS

"SEC. 1134. (a) For provisions relating to the disclosure to State agencies of return information, as defined in section 6103(b) of the Internal Revenue Code of 1954, and the safeguard requirements imposed, see section 6103 of such Code.

"(b) For parallel provisions with respect to information in records of State unemployment compensation agencies, see subsection (a) (10) of section 303.".

(b) Section 1106(a) of the Act is amended in the first sentence by striking out the period at the end and inserting in lieu thereof "or section 6103 of the Internal Revenue Code of 1954.".

(c) Section 411 of the Act is repealed.

(d) Section 402(a) (29) of the Act is amended to read as follows:

"(29) effective October 1, 1979, provide that return information available from the Social Security Administration under the provisions of section 6103 of the Internal Revenue Code of 1954, and information described in section 303(a) (10) of this Act and available from agencies administering State unemployment compensation laws, shall be requested and utilized to the extent permitted under the provisions of such sections;".

(e) Section 303(a) of the Act is amended—

(1) by striking out "and" at the end of clause (8),

(2) by striking out the period at the end of clause (9) and inserting instead "; and", and

(3) by inserting after clause (9) the following new clause:

"(10) In addition to any disclosure authorized or required pursuant to subsection (a) (1), the disclosure on a reimbursable basis from any data contained in the State agency's files, of information requested with respect to any individual as to (i) whether such individual is receiving, has received, or has made application for, unemployment compensation, the amount of and periods for which such compensation was paid or is payable, and the individual's address, and, if specifically requested (ii) whether such individual has refused an offer of employment, and, if so, a description of the employment offered and the terms, conditions, and rate of pay therefor, to—

"(A) the agency of any State that specifically requests such information with respect to such individual for purposes of determining eligibility for or the amount of aid or medical assistance to be provided under a State plan approved by the Secretary of Health, Education, and Welfare under title I, IV (part A), X, XIV, XVI, or XIX of this Act, or approved by the Secretary of Labor under part C of title IV of this Act, or

"(B) any authorized person described in section 453(c) (1) who specifically requests such information with respect to such individual for the purposes of carrying out the State plan approved under part D of title IV of this Act with respect to the enforcement of support obligations and the collection of support payments, subject to such information being used solely for the purposes for which it was disclosed.".

(f) (1) Subsection (a) of section 508 of P.L. 94-566 is repealed.

(2) So much of subsection (b) of such section as precedes the semicolon is amended to read as follows:

"(b) Provision for Reimbursement of Expenses.—Expenses incurred to reimburse agencies administering State unemployment compensation laws for furnishing information requested pursuant to section 303(a) (10) of such Act by a State or local agency administering a State plan approved under title I, IV (part A), X, XIV, XVI, or XIX of such Act, shall, for purposes of section 4, 403, 1003, 1403, 1603, or 1903 of such Act be considered to constitute expenses incurred in the administration of the State plan".

(g) (1) Except as provided in paragraph (2), the amendments made by this section shall become effective upon enactment of this Act. Any references in regulations in effect on that date to section 411 of the Social Security Act shall be considered to be references to section 6103 of the Internal Revenue Code of 1954.

(2) The amendment made by subsection (e) of this section shall become effective upon enactment, and shall become a requirement for State unemployment compensation laws effective not later than July 1, 1981.

DISCLOSURE OF TAX RETURN INFORMATION

SEC. 307. (a) (1) Paragraph (6) of section 6103(1) of the Internal Revenue Code of 1954 is amended to read as follows:

"(6) Disclosure of return information to Federal, State, and local child support enforcement agencies.—

"(A) Return information from Internal Revenue Service.—The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency—

"(i) available return information from the master files of the Internal Revenue Service relating to the address, filing status, amounts and nature of income, and the number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect to any individual to whom such support obligations are owing, and

"(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual's gross income (as defined in section 61) or consisting of the names and addresses of payers of such income and the names of any dependents reported on such return, but only if such return information is not reasonably available from any other source.

"B) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—Officers and employees of the Social Security Administration may, upon request, disclose return information from returns with respect to net earnings from self-employment and wages (as defined in section 1402, 3121(a), or 3401(a)) which has been disclosed to them as provided by (1) (A) of this subsection or as authorized by section 232 of the Social Security Act to officers and employees of the Social Security Act to officers and employees of the Department of Health, Education, and Welfare or, upon written request, to the appropriate State child support enforcement agency for purposes of establishing and collecting child support obligations pursuant to the provisions of part D of title IV of the Social Security Act.

"(C) Restriction on disclosure.—Return information shall be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations."

(2) Section 6103 (1) of the Internal Revenue Code of 1954 is further amended by inserting after paragraph (6) the following paragraph:

"(1) (7) Disclosure of certain return information by Social Security Administration to Department of Health, Education, and Welfare and to certain State agencies.—Officers and employees of the Social Security Administration may, upon request, disclose return information from returns with respect to—

"(A) net earnings from self-employment and wages (as defined in section 1402, 3121 (a), or 3401(a)), and

"(B) payments of retirement income, which has been disclosed to them as provided by (1) (A) of this subsection or as authorized by section 232 of the Social Security Act to officers and employees of the Department of Health, Education, and Welfare or, upon written request, to officers and employees of an appropriate State agency for purposes of, but only to the extent that the Secretary of Health, Education, and Welfare determines by regulations to be necessary in, determining an individual's eligibility for benefits, or the amount of such benefits, under a program described in title XVI of the Social Security Act or under a State plan approved by the Secretary of Health, Education, and Welfare under title I, IV (part A), X, XIV, XVI, or XIX of the Social Security Act."

(3) Paragraph (3) (A) of section 6103(p) of such Code is amended by striking out "(1) (1) or (4) (B) or (5)" and inserting in lieu thereof "(1) (1), (4) (B), (5), (6) (B) or (C), or (7)".

(4) Paragraph (4) of section 6103(p) of such Code is amended by striking out "agency, body, or commission described in subsection (d) or (1) (3) or (6)" and inserting in lieu thereof "agency, body, or commission described in subsection (d) or (1) (3), (6), or (7)".

(5) Subparagraph (F) (i) of paragraph (4) of section 6103(p) of such Code is amended by striking out "an agency, body, or commission described in subsection (d) or (1) (6)" and inserting in lieu thereof "an agency, body, or commission described in subsection (d) or (1) (6) or (7)".

(6) The first sentence of paragraph (2) of section 7213(a) of such Code is amended by striking out "subsection (d), (1) (6), or (m) (4) (B)" and inserting in lieu thereof "subsection (d), (1) (6) or (7), or (m) (4) (B)".

(7) Paragraph (16) of section 3304(a) of such Code is repealed, and paragraph (17) thereof is redesignated as paragraph (16).

(b) The amendments made by this section shall be effective on the date of the enactment of this Act.

TITLE IV—CHILD SUPPORT ENFORCEMENT

COLLECTION OF SUPPORT FOR CERTAIN ADULTS RECEIVING AFDC

SEC. 401. (a) Section 451 of the Social Security Act is amended by striking out "children" and inserting "children and the spouse or former spouse) with whom such a child is living" in lieu thereof.

(b) (1) Section 452(a) of the Act is amended by—

(A) inserting "and support for the spouse (or former spouse) receiving aid to families with dependent children on behalf of an absent parent's child" immediately following "child support" in paragraph (1) thereof;

(B) inserting "and spousal" immediately following "child" in paragraph (7) thereof; and

(C) inserting "(with separate identification of the number in which collection of spousal support was involved)" immediately following "child support cases" in paragraph (10) (C) thereof.

(2) Section 452(b) of the Act is amended by striking out "child support" in the first

sentence and inserting in lieu thereof "child or spousal support".

(c) Section 453(c)(1) of the Act is amended by striking out "child support" and inserting in lieu thereof "child support or support for a spouse receiving aid to families with dependent children".

(d) Section 454 of the Act is amended by—

(1) striking out "child support" in the matter preceding paragraph (1) and inserting in lieu thereof "child and spousal support";

(2) striking out the comma immediately following the first parenthetical phrase in paragraph (4)(B) and inserting in lieu thereof: "or from such parent's for his spouse receiving aid to families with dependent children with whom such child is living (if a support obligation has been established with respect to such spouse),";

(3) striking out "child support payments" in paragraph (5) and inserting "support payments" in lieu thereof, and striking out "collected for a child" in such paragraph and inserting "collected for an individual" in lieu thereof;

(4) striking out "of a child or children" in paragraph (9)(C) and inserting in lieu thereof "of either the child or children or the spouse"; and

(5) striking out "child" in paragraph (11).

(f) Section 457 of the Act is amended by—

(1) striking out "child" in the matter preceding paragraph (1) of subsection (a);

(2) striking out "child" in the portion of subsection (b) that precedes paragraph (1) thereof; and

(3) striking out "child" wherever it appears (four places) in subsection (c).

(g) The amendments made by this section shall become effective October 1, 1979.

CHILD SUPPORT COLLECTIONS FOR NON-AFDC FAMILIES

SEC. 402. (a) Section 455(a) of the Social Security Act is amended by striking out the semicolon at the end of paragraph (2), and all that follows, and inserting in lieu thereof a period.

(b) Section 454(6) of the Act is amended by striking out "(B)" and all that follows and inserting in lieu thereof the following: "and (B) a fee for furnishing such services to any such individual shall be imposed, in an amount equal to 10 per centum of the support collected, and deducted from the amount collected before remitting the remainder to such individual, except that such fee shall not be imposed in any case where the collection of such fee would have the effect of making the individual eligible for assistance under the State plan approved under A;".

(c) The amendments made by this section shall become effective October 1, 1979.

AMENDMENTS REGARDING INCENTIVE PAYMENTS

SEC. 403. (a) Section 458 of the Social Security Act, including the caption thereof, is amended to read as follows:

"INCENTIVE PAYMENTS

"SEC. 458. (a) When a State or a political subdivision thereof (acting on behalf of that State) makes the enforcement and collection of the support rights assigned under section 402(a)(26), there shall be paid to the State or political subdivision an incentive payment in an amount determined in accordance with subsection (c), but only if it is determined that the enforcement and collection activities are carried out pursuant to the plan of such State approved under this part.

"(b) Where more than one jurisdiction is involved in the enforcement or collection referred to in subsection (a), the amount of the incentive payment determined under subsection (c) shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.

"(c) The amount of the incentive payment referred to in subsection (a) shall equal 15 per centum of any amount collected prior to the application to such amount of the rules for distribution provided in section 457 to reduce or repay assistance payments."

(b) The amendments made by subsection (a) shall become effective October 1, 1979.

INCENTIVE PAYMENTS TO TRIBAL GOVERNING BODIES

SEC. 404. Effective October 1, 1979, section 458 of such Act is amended by adding at the end thereof the following new subsection:

"(c) For purposes of making incentive payments under this section, the tribal governing body of any federally recognized Indian tribe shall be treated in the same manner as a political subdivision of a State.".

THREE MONTHS' EXTENSION OF AFDC ELIGIBILITY

SEC. 405. (a) Section 402(a)(8) of the Social Security Act is amended by—

(1) adding "and" immediately after the semicolon at the end of subparagraph (D), and

(2) adding at the end thereof the following new subparagraph:

"(E) may, for not more than three consecutive months, disregard distributions to recipients of aid under the plan paid by the State under section 457(b) by reason of a support payment assigned pursuant to paragraph (26)(A);"

(b) Paragraph (5) of section 454 is amended to read as follows:

"(5) provide that in any case in which support payments are collected in a month for an individual with respect to whom an assignment under section 402(a)(26) is effective, and

"(A) the amount of such payments on the current month's support obligation is not sufficient to make such family ineligible for aid under the State plan approved under part A, or

"(B) the amount of such payments on the current month's support obligation is sufficient to make such family ineligible for such aid but with respect to a month for which the plan approved under part A provides for disregarding the excess of the amount collected on the current month's support obligation over the amount of such aid paid for that month, such payments shall be made to the State for distribution pursuant to section 457 and shall not be paid directly to the family;".

(b) Subsection (b) and (c) of section 457 of the Act are amended to read as follows:

"(b) The amounts collected as support by a State pursuant to a plan approved under this part shall be distributed as follows:

"(1) such amounts as represent payment on the current month's obligation and either—

(A) are not sufficient to make such family ineligible for aid under the State plan approved under part A, or

(B) are sufficient to make such family ineligible for such aid for a month, but the month is one for which the plan approved under part A provides for disregarding the excess of the amount collected on the current month's support obligation over the amount of such aid paid for that month,

shall be retained by the State to reimburse it for such aid paid to the family for the current month (with appropriate reimbursement of the Federal government to the extent of its participation in the financing);

"(2) such amounts as are in excess of the amounts retained by the State under paragraph (1) and are not in excess of the current month's obligation, shall be paid to the family; and

"(3) such amounts as are in excess of amounts required to be distributed under paragraphs (1) and (2) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past aid paid to the family for which the State has not been reimbursed or (B) if no aid has been paid by the State which has not been reimbursed, such amounts shall be paid to the family.

"(c) Whenever a family for whom support payments have been collected and distributed under the plan ceases to receive aid under part A of this title, the State may—

"(1) continue to collect support payments for a period not to exceed three months from the month following the month in which such family ceased to receive aid under part A, and pay to the family all amounts so collected as represent payments of the current month's obligation; and

"(2) at the end of such three-month period, if the State is authorized to do so by the individual on whose behalf the collection will be made, continue to collect support payments from the absent parent and pay to the family the net amount of any payments so collected as represent payment on the current month's obligation after deducting any costs incurred in making the collection from the amount of any recovery made,

and so much of any amounts of support so collected as are in excess of the payments required to be made in paragraph (1) or (2) shall be distributed in the manner provided by subsection (b)(3)(A) and (B) with respect to excess amounts described in subsection (b).

"(d) As used in this section—

"(1) the 'current month' (with respect to the manner of distributing collections of support) means the month in which the amount to be distributed has been collected, and

"(2) 'payments on the current month's obligation' means child support payments in full or partial satisfaction of a legal obligation to make payment for the current month, such obligation having been established in accordance with section 456."

(c) The amendments made by this section shall become effective October 1, 1979.

METHOD OF DETERMINING REIMBURSEMENT OF THE FEDERAL GOVERNMENT

SEC. 406. (a) Section 457(b) of the Social Security Act, as amended by section 405 of this Act, is further amended by adding at the end thereof the following new sentence:

"For purposes of this subsection, 'appropriate reimbursement of the Federal Government to the extent of its participation in the financing' shall be determined by application of the rate of Federal financial participation in the State's expenditures for aid to families with dependent children in effect for the quarter in which the support amount is distributed.".

(b) The amendment made by this section shall become effective October 1, 1979.

METHOD OF PAYMENT FOR SUPPORT COLLECTION SERVICES

SEC. 407. (a) Section 455(b)(2) of such Act is amended by striking out "The Secretary" and inserting in lieu thereof "Subject to subsection (c), the Secretary".

(b) Section 455 is further amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of law, no amount shall be paid to any State under this section for any quarter commencing after September 30, 1979, prior to the close of such quarter, unless for the period consisting of all prior quarters for which payment is authorized to be made to such State under subsection (a), there shall have been submitted by the State to the Secretary, with respect to each quarter in such period (other than the last two quarters in such period), a full and complete report (in such form and manner and containing such information as the Secretary shall prescribe or require) as to the amount of child and spousal support collected and disbursed and all expenditures with respect to which payment is authorized under subsection (a).".

(c)(1) Section 403(b)(2) of the Social Security Act is amended by—

(A) striking out "and" at the end of clause (A), and

(B) adding immediately before the semicolon and the end of clause (B) the following: ", and (C) reduced by such amount as is necessary to provide the 'appropriate reimbursement of the Federal Government' that the State is required to make under section 457 out of that portion of support collections retained by it pursuant to such section".

(2) The amendments made by paragraph (1) shall be effective in the case of calendar quarters commencing after September 30, 1979.

SECTION-BY-SECTION SUMMARY OF THE SOCIAL WELFARE REFORM AMENDMENTS OF 1979

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN; ASSISTANCE TO MEET EMERGENCY NEEDS; EARNED INCOME CREDIT

Part A—Income and Resources

Definition of Income and Amount of Disregards from Earned Income

Section 101 of the bill makes several amendments affecting the definition and treatment of income under the AFDC program.

Subsection (a) pertains to income disregards. Paragraph (1) adds the reference, in section 402(a)(7) of the Act, to the new section 412 (described below) that contains detailed provisions for determining income and resources. It also removes the generalized reference to exclusion of work expenses, as these amounts are standardized by other amendments described below.

Paragraph (2) of subsection (a) revises much of section 402(a)(8). As amended, that section would provide for disregards from income. First, income is determined by applying the detailed definition contained in section 412 described below which excludes, among other things, 20% of wages and self-employment income in recognition of work expenses, and child care expenses up to a monthly limit of $160 per child between July 1979 and June 1980, with appropriate adjustments, if necessary, thereafter. From this, there is disregarded the first $70 (rather than, as under current law, the first $30) of earned income plus one-third of the remainder of the earned income of an individual included in the AFDC grant. Provision would also be made, in section 402(a)(8)(B), for an additional disregard of income from any source, in States where the AFDC paid to a family with no other income, plus the food stamp allotment such a family would receive (with no income other than AFDC and allowing only the standard deduction of the food stamp program) is less than 65 percent of the poverty level (defined below). The State must disregard income in an amount equal to the difference between its AFDC grant to a family with no other income, and the grant that would be payable to such a family if, AFDC, together with the food stamps that family would receive, equaled 65 percent of the poverty level. This is referred to informally as the "low benefit disregard".

Subsection (b) adds a new section 412 to the Social Security Act, containing an explicit statement of items to be included in and excluded from income. It largely parallels the provisions of section 5 of the Food Stamp Act of 1977, with a few exceptions where the purposes or characteristics of the AFDC program suggest different treatment. Most importantly, paragraph (9) of section 412(a) would provide for the exclusion of the cost of producing self-employment income and 20 percent (as a standardized work expense allowance) of wages, salary, or net earnings from self-employment. Paragraph (10) prescribes the exclusion of amounts spent for child care (or necessary care for an incapacitated family member) up to a monthly limit of $160 per person for the 12 months beginning July 1979, with subsequent adjustments to that amount to the extent the Secretary finds appropriate because of changes in the cost of the care.

Section 412(b) would require the Secretary of Health, Education, and Welfare to issue regulations, after consultation with the Secretary of Agriculture, to assure the coordinated operation of the AFDC and food stamp programs.

Subsection (c) provides that these amendments (to the AFDC plan requirements) become effective six months after their enactment, but a State may amend its plan and implement these changes during that six month period.

Provision is also made, effective January 1, 1980, for including in an individual's earned income the advance payment of the earned income credit (under the Internal Revenue Code of 1954) for which an individual is eligible.

Income of Stepparents

Section 102 would add a new paragraph to section 402(a) of the Social Security Act, the requirements for State plans under the aid to families with dependent children (AFDC) program. States would be required to count that portion of the income (after subtracting the 20 percent of earned income for work expenses) of a child's stepparent, (living in the same home as the child) which exceeds (1) the amount needed by the stepparent to support himself and others living in the same household whom he claims as dependents for Federal income tax purposes, (2) amounts actually paid by the stepparent to dependents not living in the same household, and (3) payments of alimony or child support to individuals not living in his household. The amendment would be effective October 1, 1979.

Treatment of Certain Income

Section 103 changes the treatment of certain types of income under the AFDC program. Subsection (a) addresses the provision in current law that requires AFDC, payable because of the unemployment of a parent, to be reduced by the amount of unemployment compensation received by him. This section would be repealed and unemployment compensation would be treated as any other non-employment income.

Paragraph (1) of subsection (b) repeals section 402(a)(19)(D), the plan requirement relating to the work incentive program that requires the complete disregard of earnings or training allowance under the WIN program and the consideration in determining need of additional expenses in connection with participation in that program. These payments would, thereafter, be treated as any other earned income. Paragraph (2) amends the WIN program (section 434(a)) to provide for the reimbursement of expenses in connection with training under WIN, in addition to the incentive payment already authorized by law. Paragraph (3) adds a new subsection to section 434, to require the disregard from income of incentive payments or payments to reimburse for expenses made under section 434(a).

These amendments become effective six months after enactment.

Modifications in Treatment of Income Effective Fiscal Year 1982

Section 104 establishes several amendments to part A of title IV with a delayed effective date of October 1, 1981.

Paragraph (1) of subsection (a) repeals the reference, in section 412(a), to income excluded because it is received too irregularly or infrequently to be anticipated (since, with retrospective accounting this should no longer be a problem).

Paragraph (2) limits the exclusion of income for child care costs to families with dependent children other than by reason of the unemployment of a parent.

Subsection (b) amends section 402(a)(8)(A) such that the disregard of the first $70 of earned income and one-third of the remainder will cease to be applicable to families receiving AFDC by reason of the unemployment of a parent.

Subsection (c) would raise the percent of the poverty level, from 65 to 75 percent, specified in section 402(a)(8) for purposes of establishing the extent of the low benefit disregard.

Subsection (d) repeals section 402(a)(8)(D), the requirement that the earned income disregard, currently $30 plus one-third of the remainder, only be available to current or recent recipients, or to families who would be eligible without the application of that disregard. This amendment establishes so-called "eligibility to the break-even amount."

Definitions of Resources and Allowable Limits

Section 105 amends section 412 of the Act to authorize the Secretary to specify items to be excluded from and included in resources; the bill would also prescribe allowable resource limits for State AFDC plans. The allowable amount must be at least $750, and may be as high as $1,750, at State option. Those States that have resource limits higher than $1,750 in effect for September 1981, will not be required to lower their resource limits.

Items to be included in and excluded from resources are specified (in addition to the Secretary's rules) and generally parallel the applicable provisions contained in section 5 of the Food Stamp Act of 1977 and the implementing regulations. Excluded from resources are: the home, a burial plot, household goods and personal effects, the cash surrender value of life insurance (up to limits prescribed by the Secretary), property which provides a reasonable rate of return or is essential to the employment of a family member, amounts received from a public agency for restoration of a home or business damaged in a disaster, and resources that cannot be readily converted to cash by any family member.

This section also adds two paragraphs to section 402(a): State plans must provide that liens will not be placed against property of AFDC recipients, and that individuals will be ineligible for AFDC if they dispose of property having an uncompensated value of more than $3000 within 24 months of applying for benefits or while in recipient status. A period of ineligibility ranging from 6 to 24 months (depending on the amount of uncompensated value) applies to the individual in the family who disposes of property. If he recovers the resource or its fair market value, however, the period of ineligibility ceases at that time and his eligibility will be considered under the current circumstances.

These amendments will be effective October 1, 1981.

Part B—Eligibility and Benefit Structure

Eligibility for AFDC by Reason of the Unemployment of a Parent

Section 106 amends section 407 of the Social Security Act, the unemployed father program.

Subsection (a) removes the references to "unemployment of a father" and broadens the statutory language to include either parent, whichever is the "principal earner" (a term defined by the amendment made by subsection (c) below).

Subsection (b) would amend section 407 (a). Unemployment would be determined in accordance with regulations of the Secretary, as under current law. However, section 407(a) of the Act would be amended to indicate that those regulations will prescribe a uniform minimum monthly level of earnings expected from full time employment—thus defining the limit of unemployment. Such a limit, if prescribed at the present time, would equal $500 per month.

Subsection (c) repeals the requirement that the unemployed parent have been employed for at least 6 out of 13 quarters in the period ending a year before the application for AFDC (or received unemployment compensation within the year prior to application).

Subsection (d) adds a definition of principal earner to section 407—whichever parent, living in the home, earned the greater amount in the six months preceding application for AFDC (although the Secretary is given authority to issue rules to avoid hardship or deal with unusual cases).

Subsection (e) makes various conforming changes in section 402(a)(19) of the Act, pertaining to referral for and subsequent requirements relating to employment services and acceptance of employment or training. A new clause is added to section 402(a)(19)(A) to exclude from the work requirement the second parent in the unemployed-parent family, unless the parent who is the principal earner has failed to comply with all applicable requirements.

Subsection (f) repeals the requirement currently in section 407(b) that the parent undergo a 30-day waiting-period (i.e., must have been unemployed for 30 days) before receiving AFDC.

Subsection (g) describes the effective dates. The amendments made by subsections (a), (b), (d), and (e) become effective October 1, 1980; the deletion of the "6 out of 13 quarters" test and of the 30-day waiting period occur October 1, 1981.

Amount of Benefits for Child Not Living With Relative Responsible for His Support

Section 107 of the bill would add a new section 413 to part A of title IV, effective October 1, 1979, to describe the circumstances under which the States may reduce the AFDC grant in accordance with Secretarial regulations. The reduction, to recognize the reduced financial need for the costs of shelter and utilities that occurs in many such cases, may be made when there is no relative in the household legally responsible for their support or when the support of the relative is being provided from another source.

Definition of Dependent Child; Mandatory Coverage of Certain Individuals

Subsection (a) of section 108 amends section 406 of the Act to limit the definition of dependent child, as applicable to those over age 17 and attending school beyond the secondary level, to those attending full-time, and to define AFDC to include payments to pregnant women, who would, following the child's birth, be eligible for AFDC. Subsection (b) amends section 402(a), the requirements for State plans, to require coverage of all dependent children including dependent children of unemployed parents, the pregnant women described above, and the parent (or both parents, in incapacity or unemployment cases) of the dependent child living in the same home. However, at its option, the State may exclude dependent children who are over 17 and attending school beyond the secondary level.

These amendments become effective October 1, 1981.

Benefit Standards

Section 109 of the bill would mandate a national minimum AFDC benefit. Subsection (a) amends the AFDC plan requirements so that an approved plan must provide for making payments of the difference between a family's (countable) income and the State's monthly cash needs standard. That standard may be no less than the amount which, together with the value of food stamp allotment the family would receive (as a household having no income other than AFDC and applying only the standard deduction of the food stamp program), equals 65 percent of the poverty level (prescribed below).

Subsection (b) amends section 402(a)(1)—the Statewideness plan requirement. It allows an exception to that general rule so that, so long as they are at or above the minimum benefit level, (1) States may have no more than six monthly needs standards depending on the geographic area of the State to which they apply, and (2) six additional, lower, levels for the unemployed parent cases.

These amendments become effective October 1, 1981; however, a State may grandfather the payment standards for families that received AFDC for September 1981 if those pre-existing standards are higher than the required monthly cash needs standard that would otherwise be applicable to the family. Further, for four years after the effective date of this amendment, States may have a greater number of geographic variations than described above so long as the State has an approved amendment to its AFDC plan demonstrating that it is making substantial progress toward meeting the required number of variations by the end of the four years.

Income Poverty Guidelines; Adjustment for Changes in the Consumer Price Index

Section 110 of the bill would add a new section 414 to part A of title IV of the Social Security Act, containing definitions and procedures for establishing several critical amounts alluded to in various other amendments made by this bill and described above.

"Income poverty guidelines" are those prescribed by the Office of Management and Budget for the nonfarm population of the United States (and as adjusted by OMB pursuant to section 625 of the Economic Opportunity Act of 1964). For the first nine months of fiscal year 1980, the guidelines prescribed for 1979, adjusted by the change in the Consumer Price Index from December 1977 to December 1978, will be used; for the twelve months beginning with July 1980 (and each 12 month period thereafter), the guidelines for the same year will be used, adjusted by the CPI change for the 12 months period ending with the preceding December.

The monthly allotment of food stamp coupons under the Food Stamp Act of 1977 will be determined for the first nine months of fiscal year 1980 by reference to the allotments that would have been available for the January-June 1979 period. Thereafter, for any 12 month period beginning with July, the allotments are determined with reference to the schedules for the preceding 6 months.

These amendments are effective upon enactment.

Determinations of Eligibility; Representation of Claimants; Notice and Opportunity for Hearing

Section 111(a) amends section 402(a)(4) of the Social Security Act to delineate a claimant's rights and responsibilities. Subparagraph (A) states his right to opportunity to apply for assistance; subparagraph (B) requires a prompt determination of eligibility, and notice (and payment, if the applicant is eligible) of the determination within 30 days. For those applicants whose eligibility cannot be determined within 30 days, for reasons other than the applicant's failure to cooperate, subparagraph (C) requires the plan to provide that they be found "presumptively eligible" and be provided cash assistance for three months (two months for AFDC-UP families) or until the determination is made, whichever is sooner, and that the payments on the basis of presumptive eligibility not be considered overpayments. Subparagraph (D) requires replacement of lost or stolen checks within 10 days from the date replacement was requested (if requested between the third and thirtieth day following the usual delivery day). Subparagraph (E) requires the plan to provide notice and opportunity for a hearing and that, if action adversely affecting a recipient's payment is taken based upon information furnished by the recipient, or because of this failure to report, notice will be sent to arrive no later than the date upon which the action will become effective. Subparagraph (F) requires the State to allow clients to be represented by lawyers (or any other of their choice) in any matter involving the State or local agency.

Subsection (b) repeals section 402(a)(10) since its substance is consolidated into section 402(a)(4).

Subsection (c) amends section 406 to state that payments on the basis of presumptive eligibility and payments to replace loss or stolen checks are aid to families with dependent children, and could, therefore, be included for Federal matching.

Period for Determination of Aid; Times at Which Payment Must Be Made

Section 112 of the bill adds a new paragraph (21) to the statutory requirements for State plans. It pertains to the effective date of the application, the period for determination of eligibility and calculation of aid, and the time (or times) during the month at which payment must be made. Most requirements are new; a few reflect a reorganization of the provisions of existing law.

Subparagraph (A) requires that an application will be effective for the month preceding the month of filing, but the State may pro rate the first payment by the number of days that elapsed in the month of filing before application was made.

Subparagraph (B) requires that States determine eligibility for and amount of assistance for a month at the time (or times) prescribed by the Secretary after the close of the month and that all income received by a family member before the date of application, and family composition and amounts of resources, to the extent there have been changes from the month preceding application to the month of application, will be treated in accordance with the rules prescribed by the Secretary (consistent with a new subsection (d) added to section 402(a)) to the extent it affects eligibility or benefit amount for the month of application or the preceding month. Subsection (d) would require the Secretary to prescribe rules for the first two months' payments that provide for an uninterrupted transition to the retrospective accounting system and that with respect to factors affecting eligibility and benefit amount in the first two months will allow the Secretary to take appropriate account of changes in a family's circumstances that have recently occurred and to assure that initial benefits will reflect the family's current, rather than its past, need for AFDC.

The new paragraph also requires that payment of at least half the amount for which the family is eligible be made within the month after application, and that payment of at least half the monthly amount be made when the determination of eligibility occurs (unless the regular day for payment is within the next week).

Also, the plan must provide that with regard to unemployed parent cases, after the first two months, the family will be eligible for any month only if the Secretary of Labor certifies that employment for that month was not offered to the principal earner (or if he fails to submit any certification).

An additional plan requirement is added to assure that the State will review, at least annually, all facts relevant to a family's eligibility and that the State will adopt all rules for reporting by recipients that the Secretary requires.

These amendments are effective October 1, 1981, but if the Secretary finds that although the State does not fully meet these requirements, it is moving to place all its cases into a phased review cycle, and will complete that process within the 6-month period that begins with the effective date of the requirement, the Secretary may conclude that the State plan is not out of compliance with Federal rules. The State is also given the option of implementing these amendments at any earlier date following enactment, with the approval of the Secretary. Such a State may also have a 6-month period to phase in its cases on the rolls at the selected effective date.

Provision is also made for a transitional payment, when the State shifts from prospective to retrospective accounting. Since no benefits would otherwise be paid in that month, a transitional payment will be made to each family eligible for AFDC for the preceding month. The amount of the transitional payment will be the same as the amount the family received for the preceding month, plus, if the (retrospective) payment will be made later than the tenth day of the following month, that amount pro rated by the fraction of the next month elapsing before payment will be made. The transitional payment will be treated as an AFDC payment, and the increase because of the elapsed days in the following month must be disregarded from income under any other Federal or State program.

EMPLOYMENT REQUIREMENT AND SERVICES RELATED TO EMPLOYMENT

Section 113 contains various amendments to section 402(a)(19) of the Social Security Act, the requirements related to employment, training, and related services. The general purpose of these amendments is to retain the requirement for participation in the employment related activities, leading up to referral for employment and training, but without limiting the means of satisfying those requirements to referral to and participation in the work incentive program established under part C of title IV of the Act. These amendments will make it possible to bring work incentive programs and similar programs operated under the Comprehensive Employment and Training Act (CETA) together in a more integrated administrative framework. (The Administration will be proposing related amendments in companion draft legislation to amend the Comprehensive Employment and Training Act.)

Subsection (a)(2) does make an amendment of substance (currently contained in regulations); it specifies that for purposes of section 402(a)(19) of the Act, good cause for refusing employment or training exists if an individual would have less income after accepting the job or training opportunity than he did before. (When making this comparison, income has the same meaning as it does for AFDC, plus whatever publicly funded in-kind benefits the Secretary of Labor specifies.)

A second change is the amendment of the sanction provision in section 402(a)(19)(F)(i) that would leave to State option (rather than require, as under present law) the making of protective payments for the child of a relative who refuses to comply with the work requirement.

Another substantive change concerns the sanction that is applied following a refusal (without good cause) to accept employment. The amendment would repeal the sixty-day delay in the imposition of specified sanctions if the individual accepts counseling designed to persuade him to participate in the program. Instead, there is a 30 day delay period after which the prescribed sanction must be imposed for at least 45 days (or until the individual withdraws his refusal), whichever is later.

Part C of the title IV of the Act is amended to allow the Work Incentive Program, as currently administered, and similar programs under a new part E of title II of CETA to be administered under an integrated administrative system. These amendments will serve to better coordinate WIN and CETA activities, better utilize CETA programs, especially those that will be proposed as a new part E of title II, to serve similar populations, and avoid duplication of services between WIN and CETA. References throughout the bill are made to "employment and training services", rather than "manpower services" as currently in the law, in order to bring WIN into closer conformity to CETA.

As amended, section 431 would authorize the appropriation of funds directly to the Secretary of Labor, rather than to the Secretary of Health, Education, and Welfare who currently transfers the funds to the Secretary of Labor. Subsection (a)(2) would mandate that joint appropriations for WIN programs and any similar CETA functions specify the amount to be used for work incentive programs. Subsection (c) changes the allocation formula to reflect both State AFDC caseload and costs of providing services, to assure continued support for needed services.

Section 432, as amended, would require that the programs be statewide and be administered by agencies and authorities which the Governor would designate. The Secretary of Labor will deal directly with public or private agencies only in cases where the State plan is disapproved. Conforming references throughout the amendments to part C of title IV therefore change the administration of the WIN program from the Secretary of Labor directly to the State.

Section 433 as amended would require the plan to provide for an administrative system for coordinating employment and training services between WIN and CETA, would require establishment of statewide and labor market area planning committees to plan both this and similar programs under CETA and would require the plan so produced be approved by the Secretary of Labor in consultation with the Secretary of Health, Education, and Welfare. The program so developed would provide services for both WIN registrants and other AFDC eligible individuals requesting such services. As with other provisions mandating coordination between WIN and CETA, section 433(a)(3) specifies that when any activities mandated by part C of title IV can be carried out by a similar program under CETA, the State plan for this and CETA must be an integrated plan consolidating similar provisions.

Section 433(i), describing the conditions under which public service employment programs may be operated, is amended to mandate use of the CETA system as the principal provider of such jobs either by specific agreements with prime sponsors or otherwise. It therefore deletes all the current conditions which govern public service employment.

Section 435 is amended to require cash contributions, rather than in-kind, as currently allowed, for the 10% State share in the WIN program.

Although the proposed program will be operated under appropriations made directly to the Secretary of Labor, joint Federal administration is preserved by requiring concurrence of the Secretary of Health, Education, and Welfare in regulations for the WIN program and by providing for the establishment of a national coordination committee to review and recommend procedures and policies, including coordination with CETA. Current law mandates joint regulation and the national coordination committee, but allows state plan to be reviewed and approved at the regional level. The change would strengthen the Federal role and facilitate closer coordination and use of the CETA system.

These amendments become effective October 1, 1981, except that the amendment made by subsection (a)(5) and (6) and subsection (c) (to leave to State option the decision to make protective payments for the child if the relative refuses employment and imposing, after a 30 day period, a sanction of at least 45 days and continuing until withdrawal of the refusal) are effective October 1, 1979.

Assistance To Meet Emergency Needs

Section 114 of the bill adds a new section 415 at the end of part A of title IV of the Act relating to assistance for families with children to meet their emergency needs. That section defines "emergency needs" (those arising from an accident or disaster or other uncontrollable, unpredictable or nonroutine event) and 'eligible family" (one that receives AFDC, or whose income is not more than twice the poverty guidelines and whose resources meet a State prescribed limit between $750 and the allowable resource amount for AFDC), and "assistance to meet emergency needs" (assistance in the form of cash, vendor payments, or other forms found appropriate by the State). The authorization for FY 1982 would be $200 million (and such sums as are necessary for subsequent years).

Subsection (b) adds a plan requirement so States must provide assistance to meet emergency needs, in accordance with priorities prescribed by the Secretary.

Subsection (c) makes the necessary amendments to section 403 of the Act, payments to States, to set up block grants to States for this purpose. Half the available funds are distributed among the States on the basis of AFDC caseload, the other half on the basis of State spending for AFDC. If any of these amounts are not spent by a State, it may retain one-third for use in the subsequent year for emergency assistance, and return the remainder to the Secretary. He may reallot so much of those amounts as do not exceed 5% of the total appropriation for that year.

The remainder of this section makes necessary conforming amendments.

Part C—Federal Financial Participation; Administrative Improvements; Related Medicaid Amendments

Increased Federal Financial Participation

Section 115 of the bill amends section 403 of the Act to increase the Federal support for State AFDC programs. Effective October 1, 1981, an additional amount for each quarter equal to 10 percent of the non-Federal share of total expenditures in that quarter for aid to families with dependent children deprived by reason of the death, absence, or incapacity of a parent, and 30 percent of the expenditures for aid in unemployed parent cases, would be provided to each of the fifty States and the District of Columbia. States must pass through to the localities a portion of this additional payment that is proportional to the localities' participation in the non-Federal share of AFDC expenditures.

Limitation on Fiscal Liability of States

Section 116 amends part A of title IV by adding a new section 417, establishing, effective October 1, 1981, a limitation on State fiscal liability under the AFDC program. Section 417 would provide:

(a) If, in FY 1982, or any of the following four fiscal years, a State's "allowable expenditures" exceed 95 percent of its "fiscal liability base" (both terms are defined below), the Secretary will pay the amount of that excess to the State. For fiscal years 1987 through 1989, he will pay a declining proportion (starting at 100 percent, and decreasing by one-third percent each year) of the excess determined for 1986. The State must agree to "pass-through" to political subdivisions that contribute to the nonfederal cost of AFDC a proportionate share of these payments.

(b) "Allowable expenditures" means a State's expenditures for aid to families with dependent children in fiscal year 1982 (or any of the following four fiscal years) times (in situations in which there has been a real benefit increase) the ratio of the average monthly AFDC payment for an indigent individual in FY 1979 (or, if greater, the mandatory minimum AFDC payment level) to the average monthly payment to such an individual in FY 1982 (or the subsequent fiscal year). The State's "fiscal liability base" is the non-Federal share of expenditures for aid to families with dependent children in 1979, indexed to reflect changes in the cost of living from FY 1979 to FY 1982 (or the subsequent fiscal year).

(c) Additionally, in recognition of the possible increase in the Medicaid caseload because of the new AFDC requirements, States may increase the amount of the allowable expenditures described above by: the average amount of medical assistance furnished to an AFDC family in 1979 (indexed for changes in the cost of living from FY 1979 to FY 1982 (or the subsequent fiscal year)), times the increase in the number of AFDC families eligible for medical assistance between FY 1979 and FY 1982 (or the subsequent fiscal year).

(d) Finally, States may increase their "allowable expenditures" for 1982 or the subsequent fiscal year) by the product of the average administrative cost per case in FY 1979 (indexed (times the increase) to 1982 or 1983) times the increase in the average monthly number of cases throughout the applicable year.

Administrative Improvements

Section 117 amends section 402(a)(5) of the Act, the plan requirement for necessary methods of administration, to specify some of the particular areas in which the Secretary will be issuing regulations for required administrative methods. They will deal with a variety of administrative matters related to a State's operation of the program, such as prospective budgets for its administrative costs, allowable costs and cost allocation rules, fiscal controls, and quality control procedures. This amendment will be effective October 1, 1979.

Programs for Mechanized Processing and Management Information Systems

Section 118 would amend section 403 of the Social Security Act to make improved Federal matching available to States that develop and operate computerized management information systems for their AFDC programs. The matching rate would be 90 percent for the costs of development and implementation of such systems, and 75 percent for their ongoing operation. The State's system must meet specified criteria in order to qualify for the increased support, including matters such as the compatibility of State systems with each other and with those of the Social Security Administration to the extent necessary to permit the conduct of periodic screening between jurisdictions. The State may, at its option use these systems in its administration of other Social Security Act programs. However, the Secretary will prescribe cost allocation rules and no part of the costs attributable to the programs other than AFDC may be included for matching under the AFDC program. Additionally, the Secretary would be directed to enable States to develop and operate such systems. These amendments will become effective October 1, 1979.

Assistance for the Development of Administration Improvements in AFDC Programs

Section 119 would add a new section 418 to the Act, authorizing the Secretary to make funds available to any State agency by administering a plan approved under the Social Security Act, to assist the agency in developing improved or innovative administrative techniques to enhance program administration. Specific administrative objectives are described that proposals must meet in order to be funded under this new section. Funding would be available for up to 75 percent of the costs; none of these Federal funds would be available for computer-related expenses or expenses of routine administration. These amendments would be effective upon enactment.

Corrective Action Regarding Overpayments and Underpayments

Section 120 adds a new plan requirement to section 402(a); effective October 1, 1980, State AFDC plans must provide for the recovery of overpayments, and for the making of payments to correct erroneous denials or underpayments previously made.

AFDC Recipient Review

Section 121 of the bill amends section 402 (a) of the Act, effective October 1, 1979, to require the State AFDC plan to provide that the State will, together with other State welfare agencies, review its caseload to verify the identity of recipients and determine whether a recipient is receiving AFDC, or any other Federally supported benefits, under the same program in more than one State.

Monitoring and Assessment of Performance in the AFDC Program

Effective upon enactment, section 122 of the bill would add a new section 1117 to the Social Security Act. That new section would direct the Secretary to develop procedures for monitoring and assessing performance, at least annually, of the effectiveness of the statutory plan requirements and the AFDC plans, as implemented, in achieving the purposes of the law.

Technical Amendments to Incentive Adjustments for AFDC Quality Control

Section 123 of the bill contains technical amendments to section 403(j) of the Social Security Act, a new provision added by the Social Security Amendments of 1977. That subsection of the law authorizes incentive payments to States with low erroneous payments. Further, no distinction is presently made in the law between erroneous expenditures, i.e., overpayments to eligibles or payments to ineligibles, on the one hand, and so-called negative case actions, or underpayments (or the failure to make payments) to eligibles. Therefore, this section would amend section 403(j) to define these different types of case actions and provide specifically for the manner in which each class should be taken into account in calculating incentive payments. Because these amendments are essential to the calculation of incentives, they would be effective January 1, 1978, the date that subsection (j) first went into effect.

Amendments to Medicaid Program

Section 124(a) amends section 1902 to specify that, for purposes of categorical eligibility for Medicaid, an individual will only be considered to be an AFDC recipient if he received Medicaid in one of the four preceding months based on his receipt of AFDC, or he would, in the current month, be eligible for AFDC without application of the disregard from earned income of $70 plus one-third of the remainder.

Subsection (b) amends section 1902 of the Social Security Act to specify that, if a State AFDC plan did not, for September 1981, include dependent children of unemployed parents, then the State's Medicaid plan need not include such families when the Federal requirement for their inclusion in AFDC becomes effective on October 1, 1981. Also, if the State's Medicaid plan for September 1981 did not include coverage of the medically needy, then medically needy coverage subsequent to September 1981 is not required to include the medically needy families with an unemployed parent. Finally, subsection (c) amends section 1903 (f)(2) so that, in evaluating a family's income to determine whether it is medically needy, the AFDC earned income disregard of $70 plus one-third of the remainder will not be applied.

Part D—Implementation

State Implementation of Amendments

Section 125 authorizes the Secretary of Health, Education, and Welfare, to allow a State (at its request) to implement over a six month period certain of the amendments that this bill would make. In the case of changes in the criteria for determining eligibility for or amount of aid to families with dependent children, the amendment may be phased in if the Secretary finds that it will be accomplished for recipients of AFDC over the course of the six-month redetermination cycle, and that that phasing is consistent with the proper and efficient operation of the AFDC plan. No such gradual effectuation is authorized, however, for applicants for AFDC.

Applicability of Amendments to the Territories

Section 126 specifies which sections of the bill apply only to the 50 States and the District of Columbia, and which apply as well to the territories (which for this purpose, includes Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands).

Part E—Amendments to the Internal Revenue Code Affecting the Earned Income Credit

Governmental Payments To Be Disregarded for Purposes of Support and Maintenance of Household Tests

Section 127 of the bill would amend section 2 of the Internal Revenue Code of 1954 to provide that, when determining whether a person is supported by himself or by another individual, or when a person is maintaining a household, amounts provided under a public program of assistance used for support or for maintenance of a household will not be taken into account. This amendment will become effective January 1, 1980.

Amendments to the Earned Income Tax Credit

Section 128 amends the Internal Revenue Code of 1954 to make the following changes for years after 1981 in the earned income credit: section 43(a) of the Code would be amended to allow a credit equal to 12 percent (rather than 10 percent) of earned income not in excess of $5000. The limitation on the credit, contained in subsection (b), would be amended to provide a maximum credit of $600 (instead of $500) and provision would be made for reduction of the credit by 15 percent (rather than 12.5 percent) of adjusted gross income over $7000 (instead of $6000). The definition of earned income would be amended to expressly exclude earnings from services performed in a public service job if such earnings are paid in whole or in part, from funds provided under title II of the Comprehensive Employment and Training Act of 1973.

TITLE II—SUPPLEMENTAL SECURITY INCOME

Part A—Food Stamp Cash-Out

Food Stamp Cash-Out for SSI Certain Recipients

Section 201 of the bill amends part A of title XVI by adding a new section providing cash payments in lieu of food stamps for certain SSI recipients.

Section 1619 of the Social Security Act would provide as follows:

(a) The Secretary will make a cash payment, in addition to the SSI benefits (which, throughout this section, includes Federally administered supplementary payments payable to an individual, in the case of each such beneficiary living alone (in his own household) or living with others all of whom are SSI beneficiaries. The payment will be made together with the SSI check and will be excluded from income in determining the amount of the Federally administered supplementary payment.

(b) The Secretary will establish one amount for eligible individuals, and another for eligible couples. The amount will equal the value of the coupon allotment to an aged individual (or couple) with no income other than the SSI benefits, and subtracting only the standard deduction specified in section 5(e) of the Food Stamp Act of 1977 and one-half the maximum excess shelter deduction specified in that section, currently $75. In establishing these amounts, the Secretary will only consider supplementary payments if they are made to at least half the SSI beneficiaries in the State. If the State has geographic variations, the lowest one will be used, and the SSI benefits (to determine the amount of coupon allotment) for each fiscal year will be the statutory benefit amount in effect for July of the preceding year.

These amendments will be effective October 1, 1981. An individual who is eligible for an additional payment in lieu of food stamps, and received food stamps for September 1981 in a greater amount, will receive the latter amount so long as it is greater and he is continuously eligible for SSI, and ending with the month he no longer lives in his own home, or moves out of the State in which he resides during September 1981. Any person who receives the additional payment will be ineligible for food stamps (or inclusion in a food stamp household). Any State which has cashed out food stamps (and includes the bonus value of food stamps in its State supplementation levels) shall pay only the difference between the additional payment in lieu of food stamps and the bonus value already paid through the State supplementation.

Part B—Improvements in Standards for Determining Eligibility and Amount of SSI

Eligibility of Couples Living Apart

Section 202 of the draft bill would amend section 1614(b) of the Act, the section containing most of the definitions used in the SSI program, to modify the definition of eligible spouse. An individual would cease to be the "eligible spouse" of another after they had been living apart for more than one calendar month, rather than six months as in existing law. The current six month period imposes real hardships upon separated couples; they are living apart and hence incurring the greater living expenses occasioned by separate residences, but they can only be paid at the lesser rate which is designed for a couple living together. The one month separation requirement would allow the couple's living arrangement to stabilize before the recomputation of SSI benefits is required but would not impose what seems to be an excessively protracted waiting period. During that one month period, the couple would be paid on the basis of whichever of their (separate) living arrangements yielded the higher amount.

In addition, this amendment would treat a husband and wife as living apart, even though they may be living in the same medical institution. Since institutional charges for members of a couple are assessed on an individual basis, and thus in such cases the rationale for a reduced SSI benefit for couples—economies of living together—is not applicable, the coup members should be treated as individuals for SSI purposes.

Eligibility of Individuals in Certain Medical Institutions

Section 203 of the draft bill would amend section 1611(e) of the Social Security Act to provide a one month delay for an institutionalized SSI recipient before either making him totally ineligible (if he is now residing in a public institution and Medicaid payments are not made on his behalf) or applying the reduced $25 payment standard (if Medicaid is making payments to the institution for the individual). Under present law, the share reduction in SSI benefits in the case of an individual who has come to rely upon them to maintain his residence outside of an institution can be extremely harsh when the period of institutionalization is not long. In such cases the recipient must continue to pay expenses in connection with his permanent residence so that he can return there. For this reason, continuing to compute payments under the same living arrangement assumptions as applied in the previous month, for a period of one additional month, is considered reasonable. This one month extension will only apply to individuals who received SSI for the preceding month and may therefore reasonably be assumed to rely upon the payment. This proposal is also intended to coordinate with the amendment made by the preceding section. If one member of a couple goes into an institution (and thus they are living apart), they may continue to receive a couple's benefit for one more month. Thereafter the reduced standard would apply, but at the same time the couple could be treated as two individuals and the income of one would not count against the other.

Earned Income in Sheltered Workshops

Section 204 of the bill would provide for treating income received in a sheltered workshop setting as earned income in all cases for purposes of determining eligibility for and the amount of SSI benefits. This would correct the inequitable situation under current law in which sheltered workshop income of some SSI recipients must be treated as unearned income (and as such is subject to only a $20 per month exclusion) simply because the recipient is engaged in a rehabilitation program and thus is not in an "employee" relationship with the workshop. Sheltered workshop income of SSI recipients who are not engaged in a rehabilitation program, and thus are employees, is treated as earned income and is subject to more liberal income exclusions ($65 per month plus one-half of the remainder).

Exclusion From Resources of Burial Plots

Section 205 would amend section 1613 of the Social Security Act to provide for the exclusion of burial plots from the resources of an individual. Such an exclusion would allow low income people, usually the elderly, to receive SSI benefits without being forced to choose between retaining the burial plot or a small amount of savings. There is often enormous resistance on the part of the aged to giving up a burial plot, especially when doing so would mean the person could not be buried at the same location as other members of his family.

Exclusion From Resources of Funds Set Aside for Burial Expenses

Section 206 would amend section 1613 of the Social Security Act, prescribing rules for the treatment of resources under the supplemental security income (SSI) program, to provide for an exclusion from countable resources of amounts set aside to meet the burial expenses of an eligible individual or his spouse who is living with him. Each may exclude up to $1500 in a separately identifiable fund for burial expenses, but that amount must be reduced by the amount of any whole life insurance policies that have been excluded from resources, or irrevocable burial trusts, either of which would serve the same purpose. Further, if the amount set aside for burial expenses is used for another purpose, or any excluded cash surrender value is obtained by the individual, future SSI benefits will be reduced by a like amount.

Exclusion of Certain Real and Personal Property from Income

Section 207 of the draft bill would amend the SSI program to add to the list of exclusions from income unearned income in the form of real or personal property (1) which would be excluded from resources (e.g., a house which the individual inherits and thereupon moves into), or (2) which is not readily convertible to cash and is not in the form of food or clothing. It can be extremely harsh to reduce an individual's benefits in a month that he receives, for example, a gift or inheritance even though he can't use it to meet normal living expenses.

Also, it serves no program purpose to count as income property which will immediately be excluded from resources. The property would continue to be treated as a resource, subject to the overall limit on the allowable value of resources. If it caused the total value to exceed the resource limit, the provision of section 1613(b), on disposition of resources, could then be invoked.

Underpayments to Ineligible Spouse of Deceased SSI Recipient

Under section 208 of the draft bill, the underpayment provision of the SSI program (section 1631(b) of the Social Security Act) would be amended to allow the correction of underpayments with respect to a deceased SSI recipient by making payment to his surviving spouse who was living with him at the time of death, regardless of whether the spouse is eligible for SSI.

Under the provisions of current law, such payments may only be made to a surviving eligible spouse. This restriction causes hardship for a surviving ineligible spouse who may have incurred debts providing for the needs of the SSI recipient prior to his death and expected to make payment from the SSI benefits of the eligible individual. Enactment of this proposal would alleviate the hardship caused when the ineligible spouse cannot receive the underpayment and would greatly enhance public understanding of the program.

Increased Payment for Presumptively Eligible Individuals

Section 209 of the bill would amend that provision of the Social Security Act which authorizes cash advances of SSI payments to meet cases of financial emergency. Under section 1631(a)(4)(A) of the Act, as presently in effect, payments may be made to a presumptively eligible individual of up to $100 per month. This amendment would liberalize the provision in two regards: first, it would allow payment of up to the full amount of monthly benefits, and second, the amendment would permit such a payment to be made for three successive months. The amounts contained in the proposal are more realistic in light of the current cost of living and would allow the Secretary to be more responsive to the immediate needs of indigent individuals. However, this provision, as amended, would continue to be tightly administered as under present law so as to limit is applicability to individuals where there is a strong presumption of eligibility and who are facing clear financial emergencies.

In-Kind Remuneration

Section 210 of the draft bill would amend section 1612(a)(1)(A) of the Social Security Act to broaden slightly the definition of the title II definition of wages, which does not include remuneration furnished in a form other than cash for agricultural or domestic service or service not in the course of the employer's trade or business. The effect of that exclusion, when carried over to the SSI program, is to require the treatment of such amounts as unearned income, with the resultant dollar-for-dollar reduction in SSI benefits (after the initial $20 per month disregard). There is no apparent reason for treating in-kind remuneration of workers in the SSI program differently from the in-kind earnings of other workers.

Continuation of Benefits for Certain Individuals Hospitalized Outside the United States

The present SSI law makes an individual ineligible for benefits for any month throughout all of which he is outside the United States. Section 212 of the draft bill would amend section 1611(f) to apply a special rule, consistent with a provision in the Medicare program, for SSI recipients receiving inpatient hospital services provided outside the United States. The amendment made by section 211 would provide that an individual will be eligible for SSI if he is outside the United States to obtain inpatient hospital services because the foreign hospital is closer to his home or more readily accessible than the closest adequate facility within the United States, or, in the case of emergency hospital services he was within the United States (or traveling between Alaska and another State) when the emergency requiring hospitalization occurred, and the foreign hospital was closer than the nearest alternative facility within the United States. This amendment is consistent with the general intent of the restriction of SSI eligibility to those within the United States, while making an exception for reasonable situations.

Extension of Special Income and Resource Provisions

Section 212 of the proposed bill would amend sections 1611 (g) and (h) of the Social Security Act to extend the applicability of those special grandfathering provisions relating to income disregards for the blind and to resource limits.

The grandfathering protection would continue until the individual had been ineligible for either an SSI benefit or a State supplementary payment for six consecutive months. Under the present law, recipients who were converted from the superseded State administered programs are entitled to have the resource exclusions and, in the case of the blind, the income disregard rules, of those programs applied to them until the expiration of a six month period during which they are ineligible to receive SSI benefits. However, in some cases, individuals would (usually because of income) be eligible for a State supplementary payment and therefore on the program rolls continuously although ineligible for the basic Federal payment. It seems inequitable and without any program purpose to cause one group of recipients to lose its eligibility for grandfathering protection while preserving it for another group in almost identical circumstances.

Deletion of Term "Child"

Section 213 of the draft bill would repeal section 1614(c) of the Social Security Act, the definition of the term "child" for purposes of the SSI program, and make several minor conforming amendments. A "child" under current law is under 18, or if a student, under 22, and is neither married nor the head of a household. This term is then used in various places throughout title XVI; for example, there is a special definition of disability in the case of a child under 18, and special rules on the effect of a parent's income and resources on the eligibility of a child under 21. There seems to be no reason, however, for having these special rules apply to a "child" under some specified age rather than an "individual" under the same age. The primary adverse effect of the use of the term "child" comes about in the disparity of treatment of parents' income and resources between students and non-students, and that distinction seems unwarranted in the context of the SSI program.

Repeal of Mandatory State Supplementation

Section 214 of the proposed bill would repeal section 212 of P.L. 93-66, the requirement that States pay mandatory supplementation to maintain the December 1973 income levels of all SSI recipients who, for December 1973 (the last month of the superseded State grant-in-aid programs), were recipients of State assistance. The requirement is a condition of continued Federal cost sharing in a State's Medicaid program.

Attempting to relate current payments to State standards in effect in 1973 is a task of enormous administrative complexity, and the relationship to current circumstances becomes increasingly tenuous as time goes on. This provision was intended as a transitional device to protect former State recipients from a loss of income. Now, however, States should be allowed to set standards for all recipients within their boundaries and apply them equally throughout.

Limitation on Eligibility for SSI of Persons who Dispose of Assets

Section 215 of the draft bill would amend section 1611(e) of the Social Security Act to preclude SSI eligibility in the case of an individual who transferred assets, without compensation if the assets (or portion thereof) transferred without compensation had a value of $3000 or more. The bar would apply with respect to transfers occurring within any 24-month period, beginning with the twenty-fourth month preceding application. The period of ineligibility ranges from 6 to 24 months (depending on the amount of uncompensated value). However, the prohibition would cease immediately upon the return to the applicant of the uncompensated portion of the assets, or the payment to him of their fair market value.

The effect of this amendment will carry over to Medicaid eligibility without further amendment of title XIX of the Act except in the case of States applying their 1972 Medicaid criteria, under the authority of section 1902(f) of the Act. Therefore, a brief amendment would be made to that section to assure that this rule would apply to eligibility for Medicaid in all States.

Rounding of Cost-of-Living Adjustments

Section 216 would amend section 1617 of the Social Security Act to provide for rounding the annual SSI benefit amounts to the nearest $12.00, or, in monthly terms, to the nearest dollar. Under present law, SSI benefit amounts are rounded to the next higher multiple of 10 cents. This amendment parallels the Administration's proposal to round monthly benefit amounts under title II of the Act to the nearest dollar and will therefore facilitate relationships between the two programs.

Part C—Improved Administration of the SSI Program

Judicial Establishment of Fees for Representing SSI Claimants

Section 231 would add a new subparagraph (B) to section 1631(d)(2) of the Social Security Act to provide that when an SSI claimant obtains a favorable judicial decision, the court may set a fee for the attorney who represented the claimant. The fee can't exceed 25 percent of past due SSI benefits, and will represent the full amount which the attorney can charge for his services in connection with that judicial proceeding. Title XVI currently authorizes the Secretary to prescribe fees in connection with administrative proceedings; this amendment would bring the provisions of title XVI with respect to fees for representation of SSI claimants fully in line with current law under titles II and XVIII.

Retrospective Monthly Accounting

Under current law, continuing eligibility for and the amount of SSI benefits are determined on a prospective quarterly basis. (Initial applications are considered on a monthly basis during the first quarter if they are filed in the second or third month). Of necessity, therefore, income (as well as other circumstances, such as living arrangements) affecting eligibility and amount of payment must be assumed, with subsequent corrective action required should the assumptions prove to be inaccurate. Section 232 would amend the relevant sections of title XVI, therefore, to provide that eligibility and benefit amount will be determined on a monthly (rather than quarterly) basis, and will be retrospective.

The amount of payment that will be made will be determined, therefore, after the close of the month for which it is made. Similarly, an application will be effective back to the first day of the month preceding the month in which it is actually filed. Special provision is made for the Secretary to waive the limitations on payment applicable to individuals in hospitals, nursing homes, or other medical institutions, in order to facilitate their leaving the institution and receiving, in the month of leaving, an SSI payment in an amount appropriate to the new living arrangement. The Secretary is also given authority to prescribe rules for the first two months payments, in accordance with rules he would issue under a new paragraph. Under these regulations, first two months' payments will provide for an uninterrupted transition to the retrospective accounting system and, with respect to factors affecting eligibility and benefit amount in the first two months, will allow the Secretary to take appropriate account of changes in an individual's circumstances that have recently occurred to assure that initial benefits reflect his current rather than past need for SSI.

Special provision is also made for a transitional SSI payment to be made in the first month for which the retrospective accounting method is effective. Since no benefits would otherwise be paid in that month, a transitional payment, to each individual eligible for SSI for the preceding month, will be made. The amount of the transitional payment will be the same as the amount the beneficiary received for the preceding month, plus, if the (retrospective) payment will be made later than the tenth day of the following month, that amount pro rated by the fraction of the next month elapsing before payment will be made. The transitional payment will be treated as an SSI payment, and the increase because of the elapsed days in the following month must be disregarded from income under any other Federal or State program.

Limitation on Federally-Administered Variations in State Supplementation

Section 233 of the draft bill would amend section 1616 of the Social Security Act the section dealing with optional State supplementation and agreements for Federal administration of that supplementation. The amendment would prescribe the specific situations in which the Secretary would be authorized to administer varying amounts of optional supplementation. Any changes from the basic amount set by the State, other than those specified in the revised subsection (c) (2) of section 1616, could not be included within the agreement for Federal administration.

Under the proposed amendment, the Secretary may administer a basic amount of supplementation for an individual living independently in his own place of residence; in addition, he may vary that amount at the State's request to take account of the situation in which an individual:

1) lives in the household of another,
2) lives with an essential person whose status has been grandfathered by section 211 of P.L. 93-66,
3) lives in his own residence with his eligible spouse,
4) lives in the household of another with his eligible spouse, or
5) lives with an eligible spouse and an essential person.

With respect to the basic amount for individuals living independently, and to each of the five differing amounts based on living arrangements, there may be two variations of each of those amounts (for a total of three amounts per living arrangement) in recognition of as many as three geographic classifications within each State.

It should be noted that there would be no Federally administered variation allowed from the basic supplementary payment amount by reason of an individual's being aged, blind, or disabled.

In addition, a new paragraph (3) would be added to subsection (c) to preclude the administration by the Secretary of a supplementary payment to any individual to whom the $25 personal needs allowance applies. The large number of variations which the Secretary has been asked to administer by some States has greatly added to the administrative complexity of the SSI program. To impose outside limits on the number and types of variations with which he will have to deal should allow reduced error rates and generally facilitate the administration of the SSI program.

Elimination of Requirement for Representative Payment of SSI to Drug Addicts and Alcoholics

Section 234 would delete the requirement that a disabled or alcoholic cannot receive the SSI benefits for which he is eligible directly, but rather must have payment made on his behalf to a representative payee. The effect of repealing this provision is to allow payment to be made on the same basis of the same considerations as are applied to any other recipient. Individual judgments would be made by the Secretary, and in those cases where it is found appropriate to safeguard the individual's interest payment could be made to a representative payee. However, that result would not be mandated. This result would contrast with present law, where payment can only be made through a representative some situations in which officials of the facility at which the individual is receiving treatment assert that direct payment would be consistent with and enhance the individual's course of treatment.

Adjustment of Retroactive Benefits Under Title II on Account of Advances of SSI Benefits

Section 235 of the draft bill would add a new section 1132 to the Social Security Act. This new section will allow the Secretary to offset, against retroactive benefits paid under title II, amounts of SSI benefits paid for the same period for which the retroactive title II payment is eventually made. The retroactive payment would be reduced by the amount of the SSI benefits which would not have been paid had there been timely payment made under title II, and the reduction will go to reimburse the general funds for expenditures for those excess SSI payments. With this mechanism, each program will bear its true share of the costs of benefit payments to an individual. Under current law, an individual eligible under both the OASDI and SSI programs whose determination of eligibility for OASDI is delayed can in some cases receive a windfall—i.e., full payment under both programs for the same months—since SSI would have been paying benefits without any reduction because of OASDI. In situations where State supplementary payments were also made, but would have been smaller (or zero) had the title II payment been made on a monthly basis from the time of first entitlement, the Secretary will reimburse (or credit) the State for its pro rata share of the adjustment.

This provision will allow a more accurate assessment of relative program costs and eliminate windfall retroactive title II benefits which reward individuals merely because the first payment under title II was delayed.

Replacement of Benefit Checks

Section 236 of the draft bill would amend the payment section of the SSI law to provide authority for the prompt replacement by the Secretary of benefit checks which have been lost, stolen, or destroyed or, for any other reason, not delivered to the recipient within two days following the usual delivery day. The Secretary would be directed to issue regulations specifying procedures for replacement. The legislative language specifies that the replacement request must be made within the same month for which the missing check was issued. The regulations are also to specify the procedures which will be followed to reconcile accounts with the Treasury Department. This authority will allow the Secretary to be more responsive to the immediate and often urgent need for funds of SSI recipients.

Mandatory Pass-Along of SSI Benefit Increases

Section 237 would make certain technical amendments to section 1618 of the Social Security Act, the section requiring States to pass along to SSI recipients increases in the Federal benefits. The amendments made by subsection (a) would delay the period with respect to which the pass-along applies so that these technical amendments would be applicable to the period for which the pass-along is in effect; under the amendment it would apply to increases occurring after June 30, 1979. Also they would eliminate the requirement that there be an agreement, and merely have its condition for Medicaid matching stand on its own. Finally, a fixed (rather than sliding) time period would be provided for establishing the 12 month total of expenditures which form the basis of the alternate condition States can meet under this section, i.e., rather than maintaining levels of benefits, it can maintain total expenditures for supplementation. The period would be fixed as the 12 months beginning July 1976, to maintain equivalence with the December 1976 date that sets the benefit rate that they may be maintained as the primary way of passing along benefit increases.

Subsection (b) would give a State the option of changing from cash supplementation (paid directly to individuals) to vendor payment in the case of individual residing in domiciliary or personal care facilities. If a State makes such a change, the amount of the vendor payments to the facilities will be subtracted from the State's total expenditures that must be made in determining whether it has met the pass-along condition of section 1618.

The new subsections would be added to section 1618. Subsection (c) prescribes that the penalty will not be invoked if the Secretary finds that the State had made reasonable efforts to comply with the pass-along conditions, but fell short of maintaining its total expenditures, to permit the State to make additional payments after the close of the relevant 12-month period. The Secretary would also prescribe by regulation the criteria for determining that the State was making continuing "reasonable efforts".

Subsection (d) specifies that if Federal participation under Medicaid is to be withheld, by reason of the State's failure to make reasonable efforts to comply with the pass-along requirements, the Secretary shall thereafter withhold Medicaid payments otherwise payable until he has recovered the amount paid under title XIX for the period for which the State failed to meet the pass-along conditions.

Deletion of Obsolete Reference

Section 238 of the draft bill would delete the cross reference to section 205(f) of the Social Security Act which appears in section 1631(d)(1) of the Act. Section 205(f), regarding witnesses who give testimony which can be used against them, was repealed by the Crime Control Act of 1970 (P.L. 91-452).

Correction of Incorrect Reference in P.L. 92-603

Section 239 amends section 305(b) of the Social Security Amendments of 1972 to correct a cross reference contained therein. Section 201(g)(1)(A) of the Social Security Act contained the authority for reimbursing the Trust Fund for portions of administrative expenses attributable to SSI. In 1976, this provision was redesignated as section 201(g)(1)(B), but the reference contained in section 305(b) of P.L. 92-603 were not conformed.

TITLE III—AMENDMENTS APPLICABLE TO TWO OR MORE PROGRAMS UNDER THE SOCIAL SECURITY ACT

Limitation on Period Within Which Claims for Reimbursement Must be Filed

Section 301 would add a new section 1133 to the Act to prescribe express time periods within which claims for Federal reimbursement under the public assistance programs (including for this purpose Medicaid and social services) must be made. The new section would require that Federal reimbursement would not be available unless the claim were made within the two fiscal years following the fiscal year in which the expenditure occurred. Standards are also prescribed (with discretion in the Secretary to allow variations at the request of the State) for determining when an expenditure is made.

Consolidated Account for Administrative Expenses

Section 302 of the draft bill would amend title VII of the Social Security Act by adding a new section, authorizing expenditures from the Trust Funds for carrying out titles II and XVIII (authority currently contained in section 201(g)(1) of the Social Security Act), and authorizing the transfer of amounts from the Trust Funds or from the general fund of the Treasury into a consolidated account for administering all programs for which the Socal Security Administration and the Office of Child Support Enforcement are responsible. Transfers into the consolidated account will be made originally on the basis of estimates; however corrections will be made throughout the fiscal year, no less frequently than quarterly, on the basis of actual experience to assure that each Trust Fund and each general fund program bears only its appropriate share of the administrative costs. A final accounting will be made after the close of the fiscal year and amounts transferred or credited, so that each source of funding has been repaid, with interest, for any amounts with which it should not have been charged. If this had not occurred fully by the close of the following fiscal year, the authority to use the consolidated account in this way will cease to exist.

Research and Demonstration Authority Under the Social Security Act

Section 303 makes several amendments to sections 1115 and 1120 of the Social Security Act, pertaining to research and demonstration projects under the Act.

Subsection (a) extends to part D of title IV (the child support enforcement program) the authority to waive plan requirements and limitations on matching in order to conduct projects to promote the objective of the assistance titles.

Subsection (b) would raise from $4 million to $20 million the amount available to the Secretary to make Federal payments for costs under section 1115 demonstrations that would otherwise have to be met from non-Federal sources.

Subsection (c) amends section 1120 of the Act to delete the requirement that all research and demonstration projects under the Act be approved by the Secretary or Under Secretary, personally, if the funding is all Federal money.

Improved Financing for the Territories

Section 304 makes several amendments all designed to make permanent improvements in the financing of the assistance programs in the territories. Subsection (a) would provide, beginning in fiscal year 1980, a permanent matching rate of 75 percent in the assistance programs. Subsection (b) makes the necessary amendments to section 1108 to double the ceilings that have been in effect for each year since 1972 (with the exception of 1979, for which year only the Tax Reform Act tripled the ceilings). The section also makes express provision for the Commonwealth of the Northern Mariana Islands.

Subsection (c) makes the ceilings on payments to the territories subject to a new subsection (e) of section 1108, that would, in effect, impose a maintenance of effort requirement. The maximum amount available for payment to a territory would be reduced by any decrease in that territory's expenditures for cash assistance from the amount it spent in fiscal year 1978.

Support of Immigrants

Section 305 of the draft bill would amend the Immigration and Nationality Act; subsection (a) would add a new section 216 to that Act to require that in the case of an immigrant seeking admission to the United States and relying upon financial support from a sponsor, the sponsor must execute a legally enforceable agreement to furnish a specified level of support for 5 years following the immigrant's entry into the United States. Such an agreement would not be required from immigrants, or classes of immigrants, designated by the Secretary of Health, Education, and Welfare after consulting with the Secretary of State or the Attorney General, as refugees.

The sponsor providing the support agreement must be a citizen or an alien lawfully admitted for permanent residence. He must furnish evidence of his ability to support, and must agree to provide income sufficient to keep the immigrant from becoming eligible for assistance under Federal, State, or local assistance programs based on need, or publicly funded assistance for routine medical care (as defined by the Secretary of Health, Education, and Welfare).

The agreements can be enforced by the United States or by a State or local agency providing assistance to the immigrant; suit may be brought in Federal district court when the amount in controversy exceeds $10,000 (otherwise the suit must be brought in any other court of competent jurisdiction. Suit may be brought to enforce support or to recover assistance already furnished.

If public assistance is furnished to an immigrant with respect to whom there is an enforceable support agreement in effect, and efforts to secure support under such an agreement are unsuccessful, the receipt of assistance may constitute grounds for deportation.

The new section would state expressly that the support agreement is unenforceable under any of the following circumstances: the immigrant is under age 65 and became blind or disabled after entry, the sponsor dies, the sponsor is adjudicated bankrupt, or the sponsor cannot fulfill the agreement because of changes in his financial circumstances that could not be foreseen when he undertook to provide support.

The head of any agency providing support is directed, notwithstanding any other provision of law, to furnish information necessary to the Attorney General concerning their provision of assistance and efforts to enforce support agreements as he needs to carry out the Immigration and Nationality Act. Similarly, the Attorney General will provide information (including a copy of the support agreement) to any agency administering a program of public assistance furnishing benefits to the immigrant (or seeking to secure support for him).

These amendments would apply to immigrants applying for admission after the ninetieth day following the date of enactment of this draft bill other than those who, sixty or more days before the effective date, had obtained affidavits of support.

Conditions Governing Availability of Certain Federal Records

Section 306 amends title XI of the Social Security Act, effective upon enactment, to add a new section 1134 containing two informational cross references. Subsection (a) cites the reader to section 6103 of the Internal Revenue Code of 1954 for rules governing disclosure of certain return information in the files of the Social Security Administration for purposes directly connected with the administration of Social Security Act programs providing cash or medical assistance. The rules governing disclosure are contained in the amendments made by the following section of this bill. Subsection (b) of the new section contains cross references to the authority for State unemployment compensation agencies to provide information necessary for the administration of those programs. To better carry out these changes, amendments are made to to title III of the Social Security Act, to assign responsibility for sharing wage information to State agency administering the State unemployment compensation (and to relocate the amendments to this effect made by section 508 of P.L. 94-566 and to make conforming changes). This section repeals section 411 of the Act, since all disclosure would be under the Internal Revenue Code, and makes conforming amendments to two other sections of the Act.

Disclosure of Tax Return Information

Section 307, to assist in eligibility and benefit determinations under the specified State plans approved by the Secretary of Health, Education, and Welfare under the Social Security Act, or in connection with the SSI program, and to institute effective quality control systems provides for the disclosure of certain tax return information to the Department of Health, Education, and Welfare and to State agencies administering the programs of aid or medical assistance under titles I, IV (part A), X, XIV, XVI, or XIX of the Social Security Act.

New paragraphs would be added to section 6103( ) of the Internal Revenue Code of 1954, dealing with disclosure of information for purposes other than tax administration, authorizing the Social Security Administration to disclose information it has already received (under subsection ( ) (1) or, in connection with annual reporting, under section 232 of the Social Security Act), to other officials of the Department of Health, Education, and Welfare or to State agencies (but subject to limitations described below) in order to determine eligibility or benefit amount under the cash or medical assistance programs assisted under the Social Security Act. (Paragraph (c) of section 6103 would be similarly amended so that such information could be disclosed in connection with the child support enforcement program.) However, information can only be disclosed to the extent that it is necessary for these purposes, as determined by the Secretary of Health, Education, and Welfare. This determination must be contained in regulations which, while not specified in the bill, it is understood will be formulated in accordance with the rulemaking procedures, including notice and opportunity to comment, required under 5 U.S.C. 553.

The remainder of this section comprises conforming amendments to other related provisions of the Internal Revenue Code of 1954, including the requirements for safeguarding disclosed information.

TITLE IV—CHILD SUPPORT ENFORCEMENT

Collection of Support for Certain Adults Receiving AFDC

Section 401 of the bill would make a series of amendments to part D of title IV of the Social Security Act to the end that State child support agencies would be responsible for collecting support, in those cases in which that support obligation has already been established, for adult AFDC recipients. Amounts collected would be subject to the same rules regarding distribution and similar matters as are collections of child support.

Child Support Collections for Non-AFDC Families

Section 402(a) of the bill would amend section 455(a) of the Social Security Act to make permanent the authority to use Federal funds by State child support agencies to make collections on behalf of non-AFDC families.

Subsection (b) would amend section 454 (6) of the Act to require (rather than allow) the imposition of a fee for collection services for these families. The fee would be fixed at 10 percent of the amount collected and withheld by the agency from the collection before the balance is distributed to the family. However, the amendment would specifically preclude imposing the fee where to do so would make the family eligible for AFDC.

Amendments Regarding Incentive Payments

Section 403 of the draft bill would revise section 458 providing for incentive payments in relation to the amount of support collected. The revision would eliminate incentive payments in interstate cases (because of the enormous amount of administrative complexity invloved), and make States (in addition to political subdivisions, as in current law) eligible for incentive payments. However, all incentive payments (to the States and to the political subdivisions) would be paid from collections before any distribution is made to the Federal or State governments, rather than having the full cost of the incentive payments taken from the Federal share of collections.

Incentive Payments to Tribal Governing Bodies

Section 404 of the draft bill would specifically include tribal governing bodies as local government organizations eligible for incentive payments.

Three Months' Extension of AFDC Eligibility

Section 405 of the draft bill would amend part A of title IV (AFDC) to afford a State the option of disregarding, for up to three months, the excess of support collections paid the family for that month. Thus, even though the amount collected for one or two months to meet a monthly obligation might be sufficient to make the family ineligible for AFDC, the State would have the option of keeping the family in the AFDC program until a stable payment pattern had been established and could reasonably be expected to be continued. Where the State did not choose to exercise this option, the collection would go directly to the family, as under existing law.

Corresponding changes would be made in part D of title IV. Payment on the support obligation would be made to the State (which had adopted the AFDC disregard option) during the period to which the disregard applied. The distribution provision would also be amended, allowing States to retain amounts equal to AFDC payments during this period; in this way neither the State nor the individual would be worse off by reason of the decision to let the family remain on the AFDC program for up to three extra months.

Additionally, minor clarifying amendments closely related to the new distribution provisions would be made to section 457 (distribution of collections) to make explicit the distinction between payments on the current month's obligation, and those with respect to earlier periods. These technical amendments would necessitate no change in the existing program policies or in the administration of the child support program.

Method of Determining Reimbursement of the Federal Government

Section 406 of the draft bill would specify that the Federal share of reimbursement from child support collections for AFDC previously paid to the family would be based upon the Federal AFDC matching rate for the quarter in which the collection is distributed. Currently the law requires that Federal reimbursement be calculated on the basis of the rate in effect when the AFDC payment was made. The change made by the amendment would provide a simpler and more practical way to determine reimbursement.

Method of Payment for Support Collection Services

Section 407 of the proposed bill would add a new subsection to section 455 to prohibit advances of Federal funds to a State child support enforcement agency unless a full and timely report of collections and expenditures was made to the Secretary. The report would have to cover all prior quarters other than the most recent two quarters preceding the one for which advances of funds are sought. Additionally, section 403 (payments to State AFDC agencies) would be amended to reduce the amount payable to a State under that program by the amount due to the Federal government as its share of collections in accordance with section 457.

Department of Health, Education,
and Welfare.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: I enclose for the consideration of the Congress a draft bill to be cited as the "Social Welfare Reform Amendments of 1979".

The bill is a series of closely related amendments to existing laws, primarily to part A of title IV of the Social Security Act, the statutory basis for Federally assisted State programs of aid to families with dependent children (AFDC), and to title XVI of that Act establishing the SSI program, but also to other authorities, such as the Medicaid program, and the earned income credit provided in the Internal Revenue Code of 1954, having direct implications for welfare programs. This bill is one of two proposals that will be presented to the Congress. Covered by a companion draft bill are proposals for a program of jobs, training, and employment related services.

Title I of the bill, containing the amendments to the AFDC program, would amend the Social Security Act to provide fundamental improvements in the basic AFDC benefit structure, to make significant administrative changes designed to increase the responsiveness and efficiency of AFDC programs, while reducing error and waste, and to provide fiscal relief to States.

Specifically, the bill would make important changes in the AFDC programs in the following areas:

Amount of benefits and income disregards. Effective fiscal year 1982, a national minimum payment level would be established. The minimum, when added to the food stamps available, would give the AFDC family purchasing power of no less than 65 percent of the poverty level. Prior to 1982, an income disregard would be required in each State in which the payment level does not meet the national minimum. By requiring this disregard (the so-called low benefit disregard) of income equal to the difference between the national minimum benefit and State's actual payment level, we will assure that a family with some additional income will not suffer a loss of income until its purchasing power is equivalent to 65 percent of the poverty level. The low benefit disregard will be retained after 1982 but based, then, on 75% of the poverty level.

Aid to dependent children of unemployed parents. The language of section 407 of the Social Security Act, permitting States to provide aid to dependent children because of the unemployment of the father, would be amended to refer to the unemployed parent". Further, the parent with respect to whom the dependency test would be applied would be whichever parent was the principal earner in the family. The requirement that the parent have a recent previous attachment to the work force would be deleted, and the 30-day waiting period would be dropped. In order to assure that the principal earner be actively seeking employment, eligibility could be certified for two months only. For any month thereafter, the Secretary of Labor would have to provide assurance that no employment would be available to the principal earner for that month.

Required coverage of children and certain adults. Coverage would be mandated for families with dependent children because of the unemployment of a parent, for pregnant women who would not otherwise be eligible for AFDC until the birth of the child, for children who meet the statutory definition of dependent child, and for both parents in incapacity and unemployment cases.

Greater consistency with the food stamp program. The definition (including inclusions and exclusions) of income and resources would be set out in considerable detail for the first time in the AFDC authorizing legislation. These definitions are taken directly from the Food Stamp Act of 1977, with only a few changes having been made to reflect differences in the scope or objectives of the two programs. Insofar as feasible, however, the two programs have been aligned, thus leading to increased public understanding and administrative simplification of the relationship of the two programs.

Other administrative improvements. Several amendments are designed to achieve more efficient and effective administration of the AFDC programs throughout the States. Regular reporting of circumstances would be required and, for cases with income or other factors subject to change, the Secretary will, by regulation, require monthly reporting. After the first month, benefits would be determined retrospectively, based on actual circumstances in the previous month, rather than on forecasts of the current month's circumstances, as is now the case, and disregards for work expenses would be standardized. Finally, States could obtain assistance for mechanized eligibility systems and grants for innovative administrative practices.

Fiscal relief for States. Each State's costs for AFDC benefits would be reduced by 10 percent (or, with respect to unemployed parent cases, 30 percent) through an amendment to the provisions for Federal matching. Also, upon the effective date of the various elements of mandatory coverage and the national minimum benefit, the States would be guaranteed for the next five years that they need spend no more than 95 percent of the amount spent in fiscal year 1979, indexed to reflect changes in the Consumer Price Index. Thereafter, the Federal payment (to achieve the fiscal relief described) would phase-out over the following three years.

We believe these amendments, together with the companion legislation for jobs, training, and employment related services, represents a sound blueprint for gradually improving and strengthening these Federally assisted State AFDC programs: by assuring a more adequate level of support for needy families, by providing greater numbers of employment and training opportunities, by assuring greater equity among the programs of all the States, and by facilitating significant improvements in program administration.

Title II of the bill contains amendments to the Supplemental Security Income (SSI) program of aid to aged, blind, and disabled established under title XVI of the Social Security Act. Among the more significant are—

The replacement of food stamps currently received with an additional cash payment for a substantial portion of the SSI recipients,

The denial of eligibility for SSI, and therefore for Medicaid, for specified periods of time when an individual has disposed of resources having an uncompensated value in excess of $3000 within 24 months of application (paralleling an amendment to the AFDC program), and

The adjustment of an initial retroactive OASDI payment, often in a substantial amount, to reimburse the SSI program for benefits paid during the period of the OASDI determination, in order to eliminate the windfall that occurs when the OASDI determination is delayed and the SSI payment is unreduced during that period of delay.

Additionally, the bill would make amendments having an impact on the quality of the administration of the SSI program. Similar to the AFDC amendment described above, the bill would provide for the determination of SSI eligibility and benefit amount on a retrospective (rather than prospective) basis. This change will greatly increase the certainty that underlies SSI determinations—they can be founded on facts rather than predictions—and it is expected to reduce to a significant degree the volume of overpayments in SSI.

Title III of the bill contains amendments that apply to two or more of the public assistance programs established under the Social Security Act. These amendments include limits on the time within which a State must file claims for Federal reimbursement, amendments to the financing provisions applicable to the territories, amendments to the Immigration and Nationality Act to require legally enforceable support agreements for certain aliens (other than refugees) entering the United States, in order to reduce the likelihood of their dependency upon State and Federal welfare programs, and amendments to the Social Security Act and Internal Revenue Code to assure the availability of carefully limited income information, with appropriate safeguards and penalties for misuse, to this Department and to State agencies administering welfare programs.

In addition, title IV contains certain amendments to the Child Support Enforcement Program, established by part D of title IV of the Social Security Act, which have been submitted to the Congress earlier.

The amendments referred to above, as well as the remaining ones contained in this draft bill, are described in greater detail in the attached section-by-section description of the bill.

We urge the Congress to give the draft bill its prompt and favorable consideration. We are advised by the Office of Management and Budget that enactment of the draft bill would be in accord with the program of the President.

Sincerely,

JOSEPH A. CALIFANO,
Secretary.●

● Mr. RIBICOFF. Mr. President, I am pleased to join with my colleagues, Senators MOYNIHAN, BELLMON, DANFORTH, BAKER, KENNEDY, WILLIAMS, and BRADLEY, in cosponsoring the administration's welfare reform proposal today. Welfare reform has been a difficult and controversial issue over many, many years. The question of how to help the Nation's poor has generated much discussion but few solutions. The bill we are cosponsoring today is not the final answer to poverty in America, but it is a step forward.

This bill represents a moderate incremental approach. As long as the choices in welfare reform are all or nothing, we will get nothing. However, I do not believe that we should sacrifice another generation of people while we wait for the perfect answer. This legislation will not solve all our problems, but it will improve the operation of a welfare system and the situation of the Nation's poor.

We can all recite what is wrong with our current system. Today we have scattered administration of overlapping and sometimes inconsistent programs. In half of our States we push a father out of the home before we aid his family. We do little to provide meaningful job training or work experience. Too often work does not pay. Benefits vary widely from State to State. And some of our localities are straining under the financial burden.

This bill solves some of the problems in our current nonsystem and lessens others. For example, this legislation expands the AFDC-unemployed parents program nationwide into a family security program which provides aid to poor families with children without forcing the unemployed father to desert his family. Mandating AFDC–UP in every State does not increase the fiscal burdens on these States because this bill also provides for an increased Federal match as well as a hold harmless provision.

Mr. President, this bill is not perfect. If it becomes law tomorrow our problems would not be over. But our situation and the situation of our Nation's poor would be better than it is today. Of the groups hardest hit by rising costs and spiraling inflation are the dependent children of families who receive support from public welfare programs. Necessary and humane improvements must be made even in a time of fiscal austerity. As compared to last year's administration bill, which cost $20 billion, the cost of today's bill is $5.7 billion.

Mr. President, poverty is the overhead in the operation of our society—welfare is the cost of our failures. As long as the choices in welfare reform are all or nothing, we will get nothing. Eight years ago we tried and failed to make major improvements in our welfare system. We cannot sacrifice another group of people while we wait for the perfect answer. Let us take a big step forward this year.

I congratulate the administration for drafting a realistic welfare reform bill. I have said that from my experience as Secretary and in this body, unless we get a welfare reform program that cuts across different philosophical thinking and party lines, we are not going to get welfare reform. This bill is a start. It has a structural framework from which we can begin to build a program that will better serve the needs of the poor in this country. I urge my colleagues on both sides of the aisle to join with me and cosponsor this bill.●

WELFARE REFORM

● Mr. KENNEDY. Mr. President, I am pleased to cosponsor the Social Welfare Reform Amendments of 1979. These amendments are a necessary step in making sense of our welfare system and in making our welfare system more humane.

Under the current welfare scheme, we have seen the degradation into which the needy have been forced. We have seen the enormous burdens under which the States and cities have toiled.

We have seen administrative inefficiency and large error rates.

We have seen arbitrary Federal and State decisions on coverage and eligibility that treat similarly situated families differently and dissuade people from working.

And we have seen instance after instance of people who would rather work in dignity but were not able to secure that work.

The Rube Goldberg welfare machine that we have put together simply will not carry its load.

But I am convinced that we can have a system which is decent to those who need our aid, can have a system which lifts the weight from the States, and can do so in a manner which is more efficient than the current system.

This bill moves us much closer to this system.

Mr. President, in the last Congress, I introduced S. 3498, the Welfare Reform and Fiscal Relief Act of 1978. In that leigslation I outlined some of my major concerns in this area. The proposal introduced today contains many fine features and addresses many of these concerns. These changes should help create a better welfare system. Some other provisions will have to be examined closely during the legislative process.

Mr. President, I would like to briefly react to some of the points in the legislation introduced today:

First, national minimum benefit. A national minimum benefit is crucial to the fight against poverty.

Currently, AFDC benefit levels vary widely—from $1,440 a year for four in Mississippi, to $6,552 for four in Hawaii. Even after adding food stamps, which many eligible people do not get, the benefits differ by over two times between the highest and lowest States.

These differences are not accounted for by differences in living costs. They are arbitrary differences.

The bill introduced today puts a floor under benefits of 65 percent of the poverty level. This will immediately affect AFDC recipients in 13 States. It will raise the benefits for those who are in the worst straits.

I do not think that the 65-percent level can be the Federal policy for very long. It cannot be our policy for very long that people must live on less than two-thirds of their minimum requirements. I would hope that in this bill we can promise improvement in the floor in the years to come.

Second. Coverage and eligibility. In 24 States today, intact families are not covered by AFDC. The pressure on those families is to split up so that the children can get relief. The main wage earners who are in this situation have not spurned work. They have been unable to get it. We cannot assume away the economic duress that this puts on their children. The bill introduced today mandates coverage of intact families and removes this horrible pressure.

The legislation also makes other coverage and eligibility changes. It mandates that the same criteria be used to determine if a family is eligible for benefits as is used to determine if a family, once eligible, can continue to receive them. This is a good change—it is unfair to treat two equally situated families differently simply because one is already in the system.

I am concerned about a couple of other proposals. The bill removes the rule which limits coverage of two-parent families to those where the main worker has worked less than 100 hours. This was an unfair limit. It had nothing to do with people's actual income. But, in its place an eligibility limit of $500 a month or less is proposed. There is no reason why two-parent families should be treated differently from one-parent families for purposes of eligibility or amount deducted. We should not discourage work by arbitrary cutoffs.

I am also concerned with the new rules on work incentives for AFDC recipients. Recipients who work for low wages can keep more, since they retain the first $70 earned rather than the first $30. But less can be retained by other AFDC beneficiaries since the proportion of earnings which can be retained above the $70 is lowered. This hurts their incentive to work more; nor are these people well enough off so that we should call on them to pay the greater tax on earnings.

Third. Rights and responsibilities. Those in our welfare system who need assistance but have not been able to get it must fear for their very sustenance.

Wrong data may lead to a false finding of ineligibility. A person may not be able to fill out the application. The check which has been mailed may have been stolen and there is no sure mechanism to replace it.

We should demand of our welfare system what the rest of us demand of our Government—that the procedures by which determinations are made are fair, understandable, and as speedy as possible; and that a process exists by which a party can inform the Government of his view of the circumstances and can have his Government react.

The proposal submitted today does not do all it can to insure these rights. We should be able to do more to insure that proper notice and a hearing are available to applicants and recipients when benefits are to be denied, changed or terminated.

Fourth. Fiscal relief. Any welfare reform bill has to recognize that the problems which create the need for a welfare program are primarily Federal in origin. The Federal Government bears the principal responsibility for meeting them.

When the need for welfare payments depends primarily upon economic conditions determined by national policies; when the costs in any State depend upon constitutional restraints on requirements for eligibility; when the particular costs of the program depend upon Federal decisions on eligibility and the extent of coverage, then the Federal Government bears the responsibility to provide the resources for AFDC as well.

The relief proposal here—for the Federal Government to assume 10 percent of each State's AFDC costs, together with a "hold harmless" for new benefits imposed in certain States—is a significant step in recognizing our Federal responsibility.

Fifth. Welfare administration. One of the greatest needs of the welfare program is for better management. The error rate—overpayments and underpayments, people wrongly entered on the rolls or those wrongly denied relief—seriously diffuse our welfare effort. So, too, complicated administrative formats confuse recipients and take enormous amounts of time—and therefore increase administrative costs. This bill makes some good efforts at simplifying the administration of our welfare program, including standardizing asset, income, and other definitions with those used in the food stamp program.

Sixth. Earned income tax credit. The proposal submitted today expands the earned income tax credit for those who are already eligible for it, families with children. I believe that we ought to assist working families. But I think that serious consideration should be given to expanding the credit to new categories of people with whatever funds we allot to the EITC. Specifically, we should consider aiding childless couples who are poor and working, and who are not eligible for welfare, as well as considering expanding the aid given to current recipients and giving aid to people further up the income scale.

I am also concerned about the denial of the EITC to those who are in CETA positions. The ramifications of treating these workers differently from other workers should be fully studied before this change is made.

Seventh. Jobs. Finally, one of the most important parts of the welfare proposal is the welfare jobs bill which will be submitted next week. It will fit with the bill introduced today to create a systematic approach to providing jobs for those who are able to work who would otherwise be on welfare. That bill will create a job search system for welfare recipients and will also allow for some 400,000 new CETA jobs for those AFDC recipients who do not find work during the job search.

I will have more to say on that bill when it is introduced. But it is an important aspect of the effort we are making here; any commitment to bring people out of poverty must entail a commitment to give them training and jobs.

Mr. President, this proposal contains very constructive changes. It makes significant strides in addressing the most egregious failings of our current welfare system, in correcting that which most needs correcting.

As the President noted in his message to the Senate, now is the time to move forward in this area. We have the good fortune of a broad coalition of people in both the House and Senate who are ready to act. This legislation is being introduced in the House by Congressman CORMAN, who has long been active in trying to improve our welfare system, and who heads the Welfare Subcommittee in the House, and Chairman ULLMAN of the Ways and Means Committee. Here, the legislation is being introduced and will be reviewed by Senator MOYNIHAN, who has a long-standing and deep commitment to welfare reform. The other sponsors of this bill have also demonstrated their concern that we finally address the failings of welfare.

I look forward to working with the administration and with my colleagues in Congress to reform our welfare system.●

Mr. BRADLEY. Mr. President, on behalf of Senator WILLIAMS and myself, I am pleased to join my Senate colleagues today in support of the Social Welfare Reform Amendments of 1979. This legislation, in conjunction with the Work and Training Opportunities Act of 1979, is designed to secure work for those low-income Americans who can work and to assure more adequate benefits to those who cannot. It also provides fiscal relief to State and local governments, many of which are financially hard-pressed due to heavy welfare burdens. Finally, this effort has a unique importance because it finally recognizes that welfare is a national issue which requires positive Federal involvement in assuring minimum program standards and benefits and an increased Federal financial role.

This legislation has taken the existing multifaceted system of welfare programs as its starting point and has undertaken to identify the major problems and to propose changes that will improve the functioning of the system. This is a wise approach which offers the possibility that we will make real progress in improving the system which is a vital lifeline for many of our needy citizens.

Those features of the Social Welfare Reform Amendments of 1979 which appear to us to be most significant are:

The federalization of minimum welfare benefits at 65 percent of the poverty level, which would lessen the wide variability in benefits that now exists from State to State. This change would increase or provide for the first time benefits to many poor Americans in the 13 States whose benefits now fall below this level.

The requirement that all States establish an AFDC-unemployed parent program, under which all two-parent families would be eligible for federally-supported aid when the primary earner is temporarily unemployed. Although New Jersey and 25 other States currently operate AFDC-unemployed father programs, 24 States do not have such programs. This program would provide an important financial bridge to low-income families between periods of regular employment.

Changes in the earned income tax credit to increase aid to low-income workers in the private sector, thereby encouraging workers to move from public service jobs that are not covered by the EITC to jobs in the private sector that are covered.

Federal financial assistance to States to standardize and automate welfare program administration. The current lack of uniformity, including different eligibility standards for different programs, and the poor coordination among the different pieces of the welfare system give rise to error, fraud, and abuse. The legislation would also make a number of changes in income reporting and benefit calculations to eliminate error and simplify the AFDC system. Not all of the proposals included in this bill are, in our view, equally desirable, and we expect that by the time this bill reaches the Senate floor, changes will be made to remove some of these features and modify others.

Finally, and most immediately important to New Jersey, fiscal relief. Already heavy State and local tax burdens are made more burdensome in most high benefit States, New Jersey among them, by the increasing costs of welfare programs. Reducing benefits is not an option, given the real human costs of such budgetary tightening. Indeed, benefits are even now below what we believe is adequate for families unable to earn sufficient income by their own efforts. This legislation would provide Federal fiscal relief in the amount of $900 million in fiscal year 82 to State and local governments, in both direct cash relief and by way of the jobs program. New Jersey and other high-benefits States share in these monies, although the Federal funds going to low-benefits States of the South and Southwest to improve aid levels are considerably greater. We strongly support the idea of a minimum Federal benefits level which would increase the benefits to the poor in low-benefits States. We also believe that more should be done in the form of fiscal relief for those States, like New Jersey, which have long recognized both the basic fairness and the public responsibility involved in providing higher, if still inadequate, levels of support for those unable to earn enough money to be self-sufficient. We intend to explore ways to extend greater Federal assistance to these States as this bill moves through committee.

The Social Welfare Reform Amendments of 1979 is an important starting point in the work of improving our Nation's welfare system. It is a relatively modest beginning, but an essential one. Mr. President, we urge the Senate's support of this piece of legislation, along with its companion piece, the Work and Training Opportunities Act of 1979, in the belief that the sooner the Congress acts to help those needy families receiving assistance to become self-sufficient through employment and through increased benefits, the greater the benefits will be, both for those low-income Americans and for the country as a whole.

● Mr. BELLMON. Mr. President, I am pleased to join several of my colleagues in cosponsoring both the income maintenance and the jobs bills included in the President's revised welfare reform proposal. In addition to the thoughts expressed in the joint statement by Senators BAKER, RIBICOFF, DANFORTH, and myself, I want to comment briefly on some additional reasons I am cosponsoring these bills and some of the provisions in them I will try to get changed before they become law.

The basic reasons I am supporting these bills are: First, they are very similar to the welfare reform proposal I cosponsored along with six other Senators last year—S. 2777, the Job Opportunities and Family Security Act. The administration has adopted the key elements of our proposal. While there are a few significant differences between the proposal we made last year and the administration's new proposal, these differences are much less significant than are the areas of agreement.

My second reason for cosponsoring these bills is that I believe there is a real possibility that Congress can enact legislation this year to improve the Nation's welfare system, and that these bills offer the best available vehicles around which a welfare reform consensus can be built.

Most taxpayers are highly critical of the welfare system. They are convinced that much of their tax money is being wasted through fraud and mismanagement. They think people who should and could work are not being given the opportunity to work. They fear we are encouraging multi-generation welfare dependency.

There is considerable truth behind these and other criticisms of welfare. And yet, the American people have tolerated growing welfare costs because Americans are compassionate, and they want to help people who are down and out.

I believe these bills give us the opportunity to provide a better deal for both taxpayers and people who could be helped by welfare programs. If these bills are enacted, those who need support from public welfare will get that help without the unfairness that is frequently found in our present system. Many of those most in need will get more adequate help than they can get under present law. The administrative changes will both save money and help applicants and recipients, as well as welfare workers, cut through redtape.

But the most significant way in which the bills we are introducing will help both people in need and the taxpayers is through their emphasis on getting people onto payrolls instead of the welfare rolls.

We must not write off as unproductive, noncontributing citizens the 3 million adults in families that receive AFDC. Many of them already work when they can. Many others are eager to work or receive training to prepare them for supporting themselves.

I am convinced that changing our welfare and jobs systems as proposed in these two bills will provide the Nation with both a more humane and efficient welfare system in the shortrun and with lower costs in the longer run. The movement of people away from welfare and onto payrolls will produce very large welfare savings, as well as added tax revenues. It will also make additional productive workers available to our economy during the coming years during which the country may face labor shortages. The United States can ill afford to continue the waste of human resources.

It is a tragedy that relatively little of the huge invesement we have made in employment and training programs under CETA in recent years has helped move welfare recipient to payrolls. Through last year's CETA amendments, Congress launched a major reorientation of the program so that it will be directed much more in the future to the training and employment of the structurally unemployed, especially welfare recipients. Last year, Congress also expanded and improved the tax credits which give private employers incentives to hire welfare recipients, youth from poor families, and others who have the most difficulty competing for jobs.

The bills we are introducing will continue the process begun last year of reorienting our employment programs and tax policies so that work, rather than welfare, becomes a reality for a large number of people who would otherwise be dependent.

These bills properly put first priority on finding regular jobs for people on welfare and those who are on the verge of becoming recipients. This is critically important. Subsidized public service jobs must not become the easy route to putting welfare recipients to work. Rather, public service jobs should be used only as temporary alternatives when regular jobs cannot be found for people who are able to work.

In this regard, I want to stress that while I support the administration's jobs bill, I do not consider the level of public jobs for which the administration says is will request funding under that bill to be either necessary or prudent. As I understand it, the administration would earmark for welfare recipients 170,000 of the existing CETA public services jobs. I agree fully with that part of the proposal. However, the administration indicates it will request funding for 400,000 new public service jobs as well. I am not convinced that we need that many additional subsidized jobs to make the revised welfare system work effectively. If we create as many public service jobs as the administration proposes, those jobs may become the easy, first choice for too many people, rather than a last resort work opportunity after a real effort to find a regular job. In any event, we should go slowly in expanding public service jobs until we make sure the system is working well and that we really need more such jobs.

I am also concerned about the possibility that a growing number of people could become permanent holders of subsidized public jobs. The administration bill permits indefinite extensions of public service employment, subject only to 8-week job search periods every 18 months. I believe a single period of subsidized employment of up to 18 months should be enough for most recipients to develop skills and work habits and find regular employment.

I am disappointed that there is not a stronger commitment in the administration's proposal to increase opportunities for AFDC mothers of young children to improve their education and their skills, and otherwise begin moving toward self-sufficiency. I hope the welfare and jobs bill Congress passes will devote major attention to this group, which has very high potential for moving from welfare dependency to self-support and independence.

In addition to doing all we can to get adult welfare recipients into stable jobs, we must be especially concerned about youth and young adults in both welfare and nonwelfare families. A great deal is being done under CETA to train young people for jobs, and the new tax credtis will encourage employers to hire more of them. However, I believe additional innovations are needed to prepare today's youth and young adults for the employment needs of the coming years. To this end, I plan to introduce, in the coming weeks, a bill creating a national manpower reserve. The details of this proposal are still being developed but, in essence, it will provide skills training and stipends for young people who agree to relocate in order to take jobs in other parts of the country in the skills areas for which they are trained. The program would be entirely voluntary.

I also have some reservations about the use of CETA as the delivery system for all subsidized public service jobs. Many CETA prime sponsors have not yet shown the ability or the commitment to work with welfare recipients and welfare departments in the ways necessary to provide the help welfare recipients need in finding jobs. I intend to propose an amendment to the jobs bill which will expand the authority of the Secretary of Labor to designate agencies other than CETA prime sponsors to deliver the new public jobs which would be created under this bill. I hope to persuade the administration, my cosponsors, and the Human Resources Committee of the wisdom of broadening this option.

In addition to the changes in the jobs bill I have already discussed, I will work personally for the following additional changes in the following aspects of the income maintenance bill:

First. The proposal would eliminate or reduce State flexibility in a number of areas that are not central to the key problems in the welfare system. I am concerned about these changes, both because reasonable people can differ on whether the changes should be made, and also because inclusion of these provisions in the administration's plan may slow down the enactment of reforms that are of higher priority. For instance, the administration's proposal would mandate extension of AFDC benefits to pregnant women who would be eligible for benefits when their child is born. The States presently have an option on this, and twenty-two States have chosen not to provide such benefits. Similarly, the administration would mandate installation of retrospective accounting and monthly income reporting for purposes of calculating AFDC eligibility and grant amounts. While AFDC administration could indeed be tightened through use of retrospective accounting and monthly reporting, I am not sure that all States should be forced to adopt such procedures.

Second. The administration proposes to make the work incentive allowances, which are now available to recipients of AFDC, available also to applicants. This will have the effect of increasing the welfare rolls by bringing in people who have earnings above the AFDC benefit level, but low enough to qualify for AFDC benfits under the change the administration proposes. While it is true that the administration's proposed change would eliminate an inequity that now exists, it would do so in a questionable and controversial way. I believe it would be better to leave this issue for subsequent consideration, rather than trying to deal with it as part of a 1979 welfare reform bill.

Third. The administration proposes to eliminate all requirements for prior periods of employment and unemployment as conditions for receipt of AFDC by two-parent families. I agree fully that no minimum period of employment should be specified before such families can qualify for assistance. I am concerned, however, that elimination of the 30-day unemployment requirement may make it too tempting for people to leave a job one day and go on welfare the next day. It seems to me that, in view of the improved emergency assistance program provided for in the bill, the 30-day unemployment requirement is still desirable and appropriate.

Fourth. The administration proposes an increase in the earned income tax credit. While generally consistent with the bill we proposed last year, this increase is probably untimely. Last year's tax bill provided a significant expansion of the earned income tax credit. I believe further changes in the credit should be made a part of the next major tax bill rather than being in a welfare reform bill this year. Dropping the expansion of the earned income credit would reduce the cost of the administration's proposals by over $700 million.

Fifth. The administration proposes a considerable number of minor changes to the supplemental security income program. A few of these may turn out to be controversial. I believe that these changes should be removed from the welfare reform package and dealt with separately to avoid cluttering and confusing the debate on welfare reform.

Sixth. The cost estimates presented by the administration must be carefully analyzed by the Congressional Budget Office and other impartial analysts. We cannot forget that the administration grossly understated the cost of its previous welfare proposal when it was initially presented. That does not appear to be the case this time, but the proposal must, nevertheless, undergo careful congressional scrutiny to make sure that the cost estimates are realistic.

I am troubled that, in the materials explaining its proposals, the administration refers a number of times to the Census Bureau estimate that 25 million Americans live below the poverty level. This alleged poverty count is greatly inflated because of the failure of Census to consider as income in-kind benefits such as food stamps, school lunches, housing subsidies, medical benefits, and various social services. The Congressional Budget Office has estimated that if these benefits were counted as income, the number of poor would drop by nearly half.

I raise this concern only to point out that the poverty problem in the Nation is not as severe as some of the administration rhetoric would make it apepar. Consequently, these welfare changes, if enacted, will make an even more substantial dent than the administration indicates in the remaining poverty problem in this country.

Again, I commend the President for putting forth a generally well-targeted set of proposed changes to our current welfare system. I look forward to the opportunity to study further and help refine the President's proposals. I urge the responsible committees in the House and Senate to give prompt and full attention to these proposals. Although much valuable time has elapsed while Congress awaited the President's revised proposals, I believe this Congress can, and should, pass significant welfare reform legislation.●

Mr. DANFORTH. Mr. President, I am pleased to cosponsor the Social Welfare Reform Amendments of 1979, which is being introduced today, and the Work and Training Opportunities Act of 1979, which will be introduced on Monday—the two administration welfare reform bills. I have joined in a statement of support for the administration's welfare reform proposal with Senators BAKER, BELLMON, RIBICOFF, and HATFIELD, the original cosponsors of our own welfare reform proposal of last year—a proposal very similar to the current administration proposal. I ask unanimous consent that the joint statement be printed in the RECORD. I would like to supplement the joint statement with a few additional thoughts.

Some people question how we can propose additional welfare spending at a time of rapidly rising prices and concern about the economy generally. It is perhaps trite to say—but nonetheless true—that our compassion as a Nation can be judged largely by how we treat our own poor. Our rapid rate of inflation hurts everyone, but it is devastating to the dependent children and their families who receive support from the welfare system.

In addition to the general rise in prices, there has been a great deal of discussion regarding the impact on Americans of decontrol of oil prices. The Congressional Budget Office recently estimated that with constant real OPEC prices, oil price decontrol will increase the Nation's oil bill by $12.2 billion in 1982. I am not optimistic that OPEC prices will remain constant in real dollars, so it is likely that the figure will be considerably higher. CBO also estimated that families at the lower-income levels will be harder hit than other families by decontrol. Although the need for welfare reform has been clearly demonstrated on its own, the decontrol issue, it seems to me, makes even more compelling the case for welfare reform.

The administration's welfare package is a "bare-bones" proposal. Its full cost of about $5.7 billion in 1982 should not prevent us from having a balanced Federal budget by that time. But, most of all, these two bills will achieve some key objectives of virtually every serious welfare reform effort for the past 10 years. Yet, the proposal will achieve them at minimal cost and with minimal disruption of the existing system.

I believe I am as budget conscious as any Member of the Senate. But it is neither responsible nor conscionable to oppose every spending measure which comes along. Welfare has a very bad name these days—and not without reason. But one of the main purposes of these bills is to bring some equity and good sense to our wefare system.

Can we afford to have welfare reform? We cannot afford not to. The investment we make in moving people from welfare dependency to the independence of self-support through work will pay large dividends in the future.

I should add that my cosponsorship of these bills does not indicate agreement with every provision. I support the general principles—the nationwide minimum benefit, the expanded coverage of two-parent families, administrative simplification, the emphasis on work, and some fiscal relief for States and localities.

However, I have some questions about various aspects of the bills being introduced. For example, although I believe that work should be emphasized, it is critical that the focus should be on work in the private sector. Public jobs which are subsidized make sense for temporary work and training slots, but we must be very careful not to slant the system toward public jobs. I am concerned that creating a large number of new public jobs might focus energy away from the preferable solution of stimulating private sector jobs for welfare recipients.

In addition, I question whether a specified retrospective accounting system should be imposed on the States. S. 2777, the bill I cosponsored last year, permitted States the option to choose either a retrospective or prospective accounting system and I wonder whether that might not be the preferred course. Further, I want to take a closer look at the formula for allocating emergency assistance funds to insure that the formula distributes the money most equitably.

I have other concerns as well, but I am hopeful that my questions and reservations, as well as those of other Members of Congress, will be worked out within the general structure of the two bills. A bipartisan effort can result in important improvements in our welfare programs. I hope we can proceed toward a successful conclusion this year.

Mr. President, I ask unanimous consent that a press release in support of this legislation be printed in the Record.

There being no objection, the press release was ordered to be printed in the Record, as follows:

Statement by Senators Bellmon, Danforth, Ribicoff, Baker, and Hatfield, in Support of the Carter Administration's Welfare Package

As cosponsors last Congress of S. 2777, The Job Opportunities and Family Security Act of 1978, we congratulate the Administration on producing what we believe is a realistic welfare reform proposal. We are gratified that the proposal bears such a striking resemblance to our own bill of last Congress. We join as cosponsors of both parts of the proposal—The Work and Training Opportunities Act of 1979 and The Social Welfare Reform Amendments of 1979—in the hope that our cosponsorship will aid in bringing about constructive and needed changes in welfare programs, which are so long overdue.

Welfare reform is essential; the shortcomings of the present welfare system have been recited again and again over the last decade—its inequities, its disincentives to work, the wide variation among states, and in some cases, inadequacies of benefits, its administrative complexity, and its susceptibility to fraud and abuse.

We believe the reforms proposed by the Administration—many of the same reforms which we proposed in our own welfare bill—are critical in correcting shortcomings in the current program of Aid to Families with Dependent Children.

As in our bill, the Administration proposes a mandated minimum benefit for all AFDC families equal to 65% of the poverty level. This will assure that all AFDC families in our country, no matter where they live, will have a minimal level of support.

As in our bill, the Administration's proposal requires that states extend cash benefits to families with children irrespective of the presence of two parents. This will help to correct the anti-family bias in current welfare programs and reduce the incentive for poor families either to separate or to engage in deception.

As in our bill, the Administration's proposal makes needed administrative reforms which will reduce the complexity and cut down on inequities. For example, it changes the assets test and income definitions so that they conform to those used in the food stamp program. These changes should reduce paperwork and simplify administration. As we proposed, it also standardizes work expenses, again easing administration and improving equity.

As in our bill, the Administration provides for a shift from the state and local levels to the Federal Government of some of the burdens of welfare financing. A modest shift of finacing burdens is probably essential in order to achieve needed program improvements. Some states and localities are indeed straining under the financial burden of their welfare programs and need more federal support.

As in our bill, the Administration proposal increases federal support for state and local emergency assistance programs and converts the federal funding to block grants, thereby increasing flexibility in the use of emergency assistance funds. We believe adequate emergency assistance is a vital part of an improved welfare system. The recipients of the AFDC program are people—vulnerable people—not machines; the states must be able to respond with flexibility when human problems fall outside the normal rules of the basic program.

The Administration's new proposal streamlines and improves the arrangements for helping welfare recipients find work in much the same way that our bill proposed. While we prefer private sector jobs to public jobs, we are pleased by the emphasis on work as an alternative to welfare that the Administration's plan provides.

Finally, the Administration's proposal retains state and local administration of cash assistance instead of the takeover by the Federal Government of these programs proposed last year. Here again, the Administration has now made the same choice made in our bill last year—and we are convinced it is the right choice.

Each of us has reservations about particular aspects of the Administration's proposal. We are convinced that the welfare package can be strengthened and improved upon. However, we want to signal very clearly our commitment to welfare reform along the lines of the two Administration bills. We believe the bills being introduced today provide the best vehicle for meaningful changes—changes which will improve the lives of our neediest citizens within the very real budget constraints that we face. If a majority of our colleagues will join with us in this effort, we can achieve realistic yet fiscally responsible welfare reform in the present Congress.

By Mr. KENNEDY (for himself, Mr. Metzenbaum, and Mr. Ribicoff):

S. 1291. A bill to amend title 5 of the United States Code to improve the procedures for agency rulemaking; to require agencies to adhere to a procompetition standard; to require the Congress and the President to review certain regulatory agencies; to provide public participation funding; and for other purposes; to the Committee on the Judiciary and the Committee on Governmental Affairs, jointly, by unanimous consent, and that if one committee orders the bill reported, the other committee has 45 days within which to report.

ADMINISTRATIVE PRACTICE AND REGULATORY CONTROL ACT OF 1979

● Mr. KENNEDY. Mr. President, I am introducing today the Administrative Practice and Regulatory Control Act of 1979, which is designed to improve the effectiveness and fairness of the regulatory process. The bill, which is cosponsored by Senator Ribicoff and Senator Metzenbaum, has four main objectives.

1. SUBSTANTIVE REGULATORY REFORM

The first objective is to achieve substantive reform of Government regulation by creating a system that will encourage scrutiny of individual agencies both by the President and the Congress. It is my firm conviction, based on my experiences with the trucking, airline and drug industries that meaningful regulatory reform is most thoroughly achieved by analyzing on an agency-by-agency, step-by-step basis the effectiveness of Government regulation. It is a painstaking and difficult task. It requires a close examination of each one of our agencies with the following questions in mind:

What is the market defect that justifies regulation by this agency?

Is the regulatory method used to correct this market defect effective in achieving that goal?

Are there alternatives to classical regulation that avoid its problems and better achieve its goals?

The legislation I am introducing today is designed to bind the President and the Congress together as partners in this regulatory reform analysis. The legislation contains a mechanism which requires the President and Congress to review certain agencies in a systematic way. I call this mechanism my "High Noon" provision because it exposes these regulatory agencies to bright, piercing sunlight that should uncover any defects in the regulatory process. The mechanism for review does not purport to provide a magic formula for success. But it does give the political system the needed flexibility to facilitate the reform of Government regulation.

The bill provides two action-forcing mechanisms, or "triggers," for regulatory reform. The first "trigger" requires the President, acting on the advice of a newly established Committee on Regulatory Evaluation, to propose a regulatory reform bill which, wherever possible, will provide alternatives to classical regulation that will avoid its problems and better achieve its goals. The committee is carefully structured to represent the different points of view which must be factored into regulatory reform legislation. The membership of this group would include the Chairman of the Council of Economic Advisers, the Attorney General, the Chairman of the Federal Trade Commission, the Chairman of the Council on Wage and Price Stability, the Secretary of Labor, a consumer representative, the head of the agency under consideration, and several others to be appointed by the President.

The legislation establishes a schedule which mandates Presidential review of 10 categories of agencies between 1982 and 1992. The list of agencies is not comprehensive. It cannot be. There are well over 100 agencies in the Government that issue regulations. But the bill does target those agencies or series of agencies which have a tremendous impact on the economy. If we are successful with those agencies, we can move on to others.

Once in Congress, the President's regulatory reform bill is referred to the appropriate committees which have 360 days of continuous session to scrutinize, amend, and report out a regulatory reform bill.

The second trigger is a procedural trigger which is derived from the Congressional Budget and Impoundment Control Act. If the committee reports out the bill, it becomes a "privileged" matter on the floor of Congress. If the committee fails to report out the bill by the 360-day deadline, there is a discharge mechanism which can be used to bring the bill to the floor of Congress. Although it still takes two Houses of Congress and the President to enact regulatory reform, and although the appropriate committees still retain their jurisdiction over agencies, this bill obviates procedural tieups which can prevent Congress from getting to the heart of regulatory reform.

2. INCREASED COMPETITION IN REGULATED INDUSTRIES

The second objective is to increase the amount of competition in the regulated industries. The bill requires agencies to analyze the anticompetitive implications of their actions and choose the least anticompetitive alternatives to achieve those mandates. It does not alter existing statutory mandates.

The bill focuses on four specific types of regulatory actions which substitute direct economic regulation for the operation of the free marketplace: Limits on entry, control over prices, restraints on the amount of goods and services, and approval of anticompetitive agreements among competitors. The bill would allow an agency to regulate in this manner only if it has considered the competitive effects of the action and has concluded that it is the least anticompetitive alternative available to achieve its statutory goals.

This analysis for the least anticompetitive alternative is expected to result in significant reductions of overly restrictive economic regulations. It gives a clear signal to the agencies as to how the Congress expects them to exercise their discretion when executing statutory mandates. It makes competition a regulatory tool itself and charges the agencies with using it in the appropriate place.

The primary activity sought to be affected by this bill is Federal regulatory control over the economic structure of an industry. The bill does not reach regulations intended to establish health, safety, and environmental standards.

3. PUBLIC PARTICIPATION IN AGENCY RULEMAKING

The third objective is to increase the amount of meaningful public participation in agency rulemaking. The bill does this in four ways.

First, it removes the provisions in the Administrative Procedure Act that exempt from rulemaking procedures, military and foreign policy functions and matters relating to public property, loans, contracts, grants and benefits. These exemptions unnecessarily restrict the public from participating in these important kinds of agency activity. Instead, the legislation tailors the exemptions from rulemaking to specific Government needs. For example, the President can, by Executive order, exempt an agency from rulemaking requirements in the interest of national defense. Both the administrative conference and the American Bar Association have long urged that these across-the-board exemptions be abolished.

Second, the bill adopts the so-called hybrid approach to rulemaking for significant rules. The bill expands the procedural requirements in informal rulemaking for those significant rules which have an annual impact of $100 million or more on the national economy.

Presently, under the Administrative Procedure Act, as written, an agency must engage in certain minimal requirements before adopting a rule no matter how significant an impact the rule will have on the economy. The APA does not require an agency to disclose the data upon which it relies in adopting a rule, or to disclose the arguments made to it about the rule. This has frustrated efforts by the public to ascertain and challenge the basis for an agency's decision. It has also frustrated the courts which must review agency rules to determine whether they are "arbitrary and capricious".

In response to the deficiencies in the rulemaking requirements under section 553, the courts have developed a series of "hybrid" requirements which are designed to force agencies to disclose the underlying facts and analysis upon which a rule is premised, and to encourage agencies to involve the public in a meaningful way in agency rulemaking. However, reliance on case-by-case judicial decisionmaking to evolve new rulemaking procedures has created an undesirable degree of confusion. As the Supreme Court noted last term, it is the responsibility of Congress—not the responsibility of the courts—to update the APA to the realities of modern decisionmaking.

This bill adopts many of the procedures mandated by the courts in agency rulemaking, and also incorporates some of the provisions—like the advance notice of proposed rulemaking—now contained in Executive Order 12044. The goal of the bill is to maximize public participation in agency rulemaking while at the same time not hamstringing an agency by unnecessarily burdensome requirements.

Third, the bill requires agency officials to log all communications made to them about a "significant" rule—a rule which has an annual impact of $100 million or more on the economy—from persons outside the agency after the notice of proposed rulemaking is published in the Federal Register.

The issue of communications from persons outside the agency about the merits of a rule is exceedingly complex. Presently under the APA, there is no prohibition against such communications in informal rulemaking. When the Administrative Procedure Act was drafted in 1946, its authors made a careful decision to allow agencies great flexibility when they were formulating rules. The agencies were permitted, even encouraged, to seek out advice from as many experts as possible when formulating agency rules. Thirty-three years later that general principle is still valid. But there is need to respond to the often voiced criticism that agency decisions are really made on the basis of special interest arguments, heard in the "back room." which the public does not have an opportunity to rebut or know about, and the courts do not have an opportunity to consider as part of the basis for judicial review.

I first became concerned about the problem of "ex parte" communications as chairman of the Administrative Practice and Procedure Subcommittee and I introduced a bill to require logging of ex parte communications both in rulemaking and adjudicatory proceedings. Subsequently, with the passage of the Sunshine Act, the problems involved in "ex parte" communications in formal rulemaking were addressed; there remains, however, the even more difficult problem of "ex parte" communications in informal rulemaking.

This bill requires an agency to log certain contacts—not only from persons outside the agency, but also from officials who work elsewhere in the Government. The purpose of this provision is not to prevent private sector or intra-governmental contacts. Indeed, these contacts should be encouraged in order to give the agency a clear perspective on the ramifications of a proposed rule. Rather, the purpose of the logging provision is to insure that the public and the courts are fully aware of all persons who have contacted an agency about the merits of a significant rule after the notice of proposed rulemaking is published in the Federal Register.

We have had extensive discussions with the administration over the scope of the "ex parte" provision, and understand that, particularly with respect to contacts from Government officials outside the agency, this logging provision deals with complex, philosophical, and practical problems. But the problems are not insurmountable. I look forward to working closely with the administration and the public in order to understand fully the ramifications of this provision, and in order to arrive at the best possible logging provision.

Fourth, the bill provides public participation funds for those who will provide the agency with points of view that are critical to effective and fair agency decisionmaking. I have long been an active supporter of distributing public participation funds to those businesses, persons, or groups that might not otherwise be represented in the agency rulemaking process. Because the agency can have a major impact on the public when it adopts a rule, it is important that it fully understands the viewpoints of all segments of society which will be affected by a proposed rule. The Administrative Conference is given the responsibility for distributing the funds under my bill.

Finally, the bill improves the quality of agency procedures by establishing a committee within the Administrative Conference to fashion a uniform code of administrative procedures, which would be similar in function to the Federal Rules of Civil Procedure. This provision is premised on a recommendation of the American Bar Association.

Presently, each agency has its own set of rules which are usually created on an "ad hoc" basis without any opportunity for public participation. Under this bill the uniform rules are subject to public notice and comment; therefore the public will have an opportunity to participate, for the first time, in the creation of agency procedures. In addition, the creation of a uniform code of administrative procedure will result in a body of case law which will significantly aid both agencies and parties in understanding procedural rights and remedies. Lastly, a uniform code of administrative procedures will permit nonspecialists to practice more easily and effectively before an agency.

4. COORDINATING REGULATORY REFORM ACTIVITIES

The fourth objective of the bill is a housekeeping objective. Presently in the executive branch, there are a myriad of agencies, groups and divisions which are concerned with improving the regulatory process: The Council of Economic Advisors, the Regulatory Council, the Council on Wage and Price Stability, the Regulatory Analysis Review Group, the Federal Register, the National Bureau of Standards, the Administrative Conference, to name a few. Many of these agencies perform overlapping functions.

This bill takes a small step in trying to coordinate these various functions. It requires the Administrative Conference to create a clearinghouse for all these regulatory entities. It also gives the chairman of the Administrative Conference responsibility for the Federal Advisory Committee Act, as it applies to agency advisory committees; for the Federal Reports Act, as it applies to independent regulatory agenices; and for the Federal Register. The goal of the bill is to make the Administrative Conference the focus of all regulatory reform activities that take place in the Government. However, the real streamlining of the Federal Government—eliminating and coordinating overlapping regulatory functions—can take place only with the active commitment of the executive branch.

The "Administrative Practice and Regulatory Control Act of 1979" is not intended to provide a comprehensive regulatory reform package to serve as a panacea for all the woes created by Government regulation: Delay, costs, paperwork burdens, big Government, inflation. Rather, the bill is intended to focus attention on certain approaches which might improve the substantive and procedural aspects of the agency process. Many of these are derived from bills which I introduced as chairman of the Administrative Practice and Procedure Subcommittee and the Antitrust Subcommitte: The Public Participation in Federal Agency Proceedings Act, the Competition Improvements Act, the Airline Deregulation Act, the Open Communications Act, to name only a few. The Judiciary Committee has already held 2 days of hearings on a draft proposal which is similar to the bill I am introducing today. This bill reflects many of the excellent suggestions which were made at those hearings.

Moreover the bill is not intended to compete with other important regulatory reform proposals. Senator Ribicoff has introduced—and I have cosponsored—a regulatory reform package which deals in a responsible way with many of the difficulties agencies have experienced during the 33 years the Administrative Procedure Act has been in operation. The administration has also proposed a regulatory reform bill which is similar to the Ribicoff bill and which proposes important alternatives to certain provisions of that bill.

I look forward to working with the members of the Governmental Affairs Committee, with the administration and with those Senators, like Senator Culver and Senator Muskie, who have been in the forefront of efforts to reform Government regulation.

I ask unanimous consent that the text of the bill, and the section-by-section analysis of the provisions of the bill be printed in the Record. I also ask unanimous consent that the speech which I delivered to the American Enterprise Institute and the National Journal Leadership Conference, "Regulatory Reform: Striking a Balance" be printed in the Record. Finally, I ask unanimous consent that Senator Ribicoff's excellent article "For Effectiveness and Efficiency: S. 262" which recently appeared in Regulation magazine be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 1291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Administrative Practice and Regulatory Control Act of 1979".

TITLE I—IMPROVING THE REGULATORY PROCESS

DEFINITIONS

Sec. 101. Section 551 of title 5, United States Code, is amended by striking out "and" at the end of paragraph (13), by striking out the period at the end of paragraph (14), and by adding at the end thereof the following new paragraphs:

"(15) 'significant rule' means a rule or series of closely related rules which will result in an annual impact on the economy of $100,000,000 or more; or any other rule or series of closely related rules which the agency determines is likely to have an equally significant impact on the economy;

"(16) 'emergency rule' means a rule which must be promulgated immediately without the expiration of otherwise specified periods of time for public notice and comment in order to prevent—

"(A) serious injury to an important public interest;

"(B) substantial frustration of legislative policies; or

"(C) serious damage to a person or class of persons.".

IMPROVING THE QUALITY OF AGENCY RULEMAKING

Sec. 102. Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rulemaking.

"(a) Subsections (b) through (f) of this section apply, according to the provisions thereof, except to the extent that there is involved—

"(1) a military or foreign policy function of the United States that is specifically authorized under criteria established by Executive order to be kept secret in the interest of the national defense or foreign policy;

"(2) a matter relating to agency management, organization, personnel, or rules of agency practice or procedure;

"(3) a rule, which the agency finds and incorporates the finding and a brief statement of reasons therefor with the rule as published in the Federal Register, is an emergency rule, or involves a matter for which notice and public procedure is impracticable, unnecessary or contrary to the public interest;

"(4) interpretative rules; or

"(5) general statements of policy;

and notice and hearing is not required by statute. In the case of an emergency rule, the agency shall comply with rule making requirements, whenever appropriate, after the emergency rule has been issued.

"(b) General notice of a proposed rule making shall be published in the Federal Register, unless all persons substantially interested in the proposal are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

"(1) the terms or substance of the proposal;

"(2) a statement of the time, place, and nature of public rule making proceedings;

"(3) a discussion of the legal basis of the proposal; and

"(4) a description of the subjects and issues involved.

After the notice required by this subsection, the agency shall give interested persons an opportunity to participate in the rule making through submissions of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of the basis and purpose of the rules. When a proposed rule is a 'significant rule', subsection (c) applies instead of this subsection. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

"(c) In the case of a proposal for a significant rule, the agency—

"(1) shall publish an advance notice of proposed rule making in the Federal Register which shall contain a brief description of the area of inquiry under consideration, and the objectives which the agency is interested in achieving, and shall invite suggestions with respect thereto, but the agency shall not be required to respond to the suggestions;

"(2) may, if the agency in its discretion determines it will be useful—

"(A) hold an informal public meeting on the area of inquiry,

"(B) create an ad hoc advisory committee which is not subject to any requirements of the Federal Advisory Committee Act except the requirements in section 10 (a) and (b) of that Act, or

"(C) use other devices,

to obtain suggestions regarding the content of the area of inquiry prior to notice of rule making;

"(3) shall publish a notice of proposed rule making in the Federal Register which shall—

"(A) include the information required by paragraphs (1) through (4) of subsection (b),

"(B) describe, to the extent feasible and invite suggestions with respect to alternatives which would achieve substantially the same objective; and

"(C) describe, to the extent feasible, reporting, record-keeping and other compliance requirements of the proposal;

"(4) shall give the public not less than 60 days to comment;

"(5) may use either oral or written procedures which the agency determines are appropriate for resolution of significant controversies over material factual issues, including, but not limited to—

"(A) informal public hearings, meetings or conferences;

"(B) the creation of expert advisory councils;

"(C) mediation techniques; and

"(D) presentation of studies, documents and staff arguments for written comment and rebuttal; and

"(E) presentation of witnesses; and

"(6) shall publish the final rule in the Federal Register together with—

"(A) a concise general statement of its basis and purpose;

"(B) a description of any new reporting or recordkeeping requirement;

"(C) a description of the ways in which the final rule is different from the proposed rule;

"(D) the date the rule is effective;

"(E) a discussion of the merits of the substantial arguments and comments made concerning the rule, and changes made in the proposal in response to the arguments and comments; and

"(F) an explanation of why significant suggested alternatives were rejected, provided that if the above discussion is too lengthy, the agency may publish in the Federal Register a summary of the discussion required by subparagraphs (E) and (F) and make the full discussion available to the public.

"(d) The agency shall maintain a file of each rule making proceeding. The file shall include—

"(1) the notice of proposed rule making and any supplemental notice;

"(2) copies of, or identification of, all studies and documentary material upon which the agency substantially relied in formulating the rule;

"(3) copies of all written comments received from the public on the proposed rule or area of inquiry after the notice or advance notice of proposed rule making was published in the Federal Register;

"(4) the record of communications required by section 553a;

"(5) all material which the agency by law is required to make public in connection with the rule making or which the agency wishes in its discretion to make part of the record; and

"(6) the statements required of the agency in formulating the rule.

The file required by this subsection shall be available to the courts as the agency record in connection with review of the rule, but the file need not constitute the exclusive basis for judicial review or for agency action.

"(e) Unless a longer period of time is required by law or provided in the rule, the required publication or service of a substantive rule shall be made not less than 30 days before its effective date except as the agency for good cause determines otherwise.

"(f) Each agency—

"(1) shall issue a public report at least every five years on the extent to which significant rules have been complied with, and the effectiveness of the rules in achieving their objectives; and

"(2) shall establish an agenda for reviewing the compliance with and effectiveness of significant rules which were effective on the date of enactment of this section.

"(g) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.".

OPEN COMMUNICATIONS IN INFORMAL RULE MAKING

Sec. 103. (a) Subchapter II of title 5, United States Code, is amended by adding after section 553 of such title the following new section:

"§ 553a. Maintenance of records of communications in informal rule making

"(a) For the purpose of this section, the term—

"(1) 'agency official' means a member of the body comprising the agency or other agency employee who is or may reasonably be expected to be involved in the decisional process of the rule making proceeding; and

"(2) 'record of communication' means a record of oral or written communication received by an agency official from persons outside the agency relevant to the merits of a rule making proceeding for a significant rule.

"(1) the name and position of the official who received the communication;

"(2) the date upon which the communication was received;

"(3) the name, address and position of the person from whom the communication was received and of the person on whose behalf such person was acting in making the communication;

"(4) a brief description of the subject matter of any oral communication, and of any written communication a copy of which is not placed in the file pursuant to clause (5) of this subsection; and

"(5) in the case of communications through letters, documents, briefs, and other written materials, copies of such material in its original form except to the extent that such materials are exempt from mandatory disclosure under the provisions of section 552(b);

"(c)(1) Each agency shall keep a record of communication in the file required by section 553(d) for each oral or written communication, related to the merits of a significant rule, initiated by persons outside the agency after the notice of proposed rule making is published in the Federal Register, except communications from members of the working press.

"(2) Each agency shall assure that records of communications shall be prepared and furnished for inclusion in the public file required by section 553(d) within 5 working days of the receipt of the communication.".

(b) The analysis of subchapter II of chapter 5 of title 5, United States Code, is amended by inserting after item "553" the following item:

"553a. Maintenance of records of communications in informal rule making.".

ENHANCING PUBLIC PARTICIPATION

Sec. 104. (a) Subchapter II of chapter 5 of title 5, United States Code, is further amended by inserting after section 558 of such title the following new section:

"§ 558a. Participation expenses.

"(a) The Administrative Conference is authorized to provide financial assistance, including advance payments, to eligible persons for the costs of attorneys and other experts and for other costs of participation by such persons in agency proceedings whenever the Conference finds, after consultation with the agency, that—

"(1) the person is an effective representative of an interest the representation of which could reasonably be expected to contribute substantially to a fair disposition of the proceeding, taking into account (A) the need for representation of a fair balance of interests, (B) the complexity and relative importance of the issue involved, (C) whether the person represents a substantial public interest, and (D) the importance of public participation after considering the need to encourage participation by segments of the public who may have little economic incentive to participate;

"(2) the economic interest of the person, or the individual economic interests of a majority of the members of such persons, in the disposition of the proceeding is small in comparison to the costs of effective participation in the proceeding, or the person does not have sufficient resources available to participate effectively in the proceeding in the absence of financial assistance; and

"(3) participation by such person in the proceeding is otherwise authorized by statute, regulation, agency practice, or the exercise of agency discretion.

"(b) Within 90 days after the date of enactment of this section, the Administrative Conference shall propose regulations to carry out this section and to guarantee that the funds are distributed fairly and expeditiously to the participants in agency proceedings.

"(c) The regulations shall provide—

"(1) that each year each agency shall estimate its needs for public participation funds for the following fiscal year and submit a report to the Administrative Conference describing to the extent feasible the nature of the proceedings for which funds will be requested;

"(2) that the Conference shall publish in the Federal Register an outline of the public proceedings for which the agency estimated a need for public participation funds;

"(3) procedures by which a person seeking the award is required to state the basis of such person's eligibility for the award, the amount sought, and other proceedings in which the person received public participation funds;

"(4) procedures to guarantee that where multiple applications are submitted for participation in a proceeding, no duplicative presentations are permitted;

"(5) procedures for evalauting the performance of persons who receive such funds and for recouping any payments when the agency determines—

"(A) the person clearly has not provided the representation for which the payments were made; or

"(B) the person acted in a manner demonstrating bad faith toward the agency; and

"(6) procedures for examining the expenditures of any party to a proceeding in which public participation funds are distributed.

"(d) Such regulations shall be adopted and take effect within 270 days after the date of enactment of this section.

"(e) The head of each agency and the Chairman of the Conference shall prepare and transmit to the Congress and to the Office of Management and Budget an annual report with respect to the nature and disposition of all proceedings in which awards of fees and costs pursuant to this section were sought. Each report shall include the amounts sought and awarded in each such proceeding, the computation of such amounts, and the identity of each applicant and recipient.

"(f) There are authorized to be appropriated for the purpose of carrying out this section $20,000,000 for the fiscal year 1980 and for each of the subsequent fiscal years ending prior to October 1, 1982.".

(b) The analysis of subchapter II of chapter 5 of title 5, United States Code, is amended by inserting after item "558" the following new item:

"558a. Participation expenses.".

TITLE II—A PROCOMPETITIVE STANDARD FOR FEDERAL AGENCIES

Sec. 201. (a) Title 5, United States Code, is amended by adding immediately after chapter 5 the following new chapter:

"Chapter 6—A PROCOMPETITIVE STANDARD FOR FEDERAL REGULATION

"Sec.

"601. Definitions.

"602. Procompetitive standard for Federal agencies.

"603. Notification and discovery.

"604. Review of policies and annual report.

"§ 601. Definitions

"For the purposes of this chapter—

"(1) 'effects on competition' means effects on the competitive process and not upon individual competitors or any one competitor;

"(2) 'agency action' includes the whole or part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act as defined in section 551 of title 5, United States Code; and

"(3) 'agency' means each authority of the Government of the United States as defined in Section 551 of title 5, United States Code.

"§ 602. Procompetitive standard for Federal agencies

"(a) Notwithstanding any other provision of law, no Federal agency shall take any action that directly—

"(1) regulates or licenses entry under a scheme in which the level of entry is subject to limitation;

"(2) sets or reviews, with authority to accept, reject, or modify, the monetary price charged for goods or services;

"(3) sets, limits, or allocates the production or distribution of goods or services; or

"(4) reviews, approves, rejects, or regulates the terms and conditions of agreements among providers or purchasers of goods or services,

unless it has considered the effects on competition of such action and found that such action is the least anticompetitive alternative legally and practicably available to achieve statutory goals.

"(b)(1) The provisions of clause (1) of subsection (a) of this section shall not apply to any regulation or license of entry which is based upon a finding that an applicant for entry or a licensee does not meet specified standards of health or safety as required by a law that specifically regulates health or safety.

"(2) The provisions of clause (3) of subsection (a) of this section shall not apply to any regulation of the production or distribution of a good or service based upon a finding that such good or service does not meet specified standards of health or safety as required by a law that specifically regulates health or safety.

"(c) The findings required by subsection (a) of this section shall be included in any opinion accompanying an agency order and shall be included in the statement of basis and purpose incorporated in any rule.

"§ 603. Notification and discovery.

"(a) Each agency after consultation with the Attorney General and within 120 days after the date of enactment of this chapter, shall establish procedures by which the Attorney General will be notified of important pending agency actions subject to section 602.

"(b) In any administrative proceeding or judicial review of such a proceeding subject to section 602(a), the Attorney General and the Federal Trade Commission may each appear as a party of right.

"(c) The Attorney General and the Federal Trade Commission may utilize any power conferred upon them by any other provision of law, including the antitrust laws and the Antitrust Civil Process Act, in carrying out their responsibilities under this chapter.

"§ 604. Review of policies and annual report

"(a) Each Federal agency shall review and modify its rules, regulations, policies, practices, and procedures so as to have the rules, regulations, policies, practices and procedures conform to the purposes and provisions of this chapter.

"(b) The Federal Trade Commission shall report annually to the President and the Congress on the degrees to which Federal agencies have complied with the provisions of this Act. Such report may focus on the industries or facets of industries, subject to regulation, that the Commission believes should be accorded priority consideration for the purpose of promoting competition in the economy.".

(b) The chapter analysis of part I of title 5, United States Code, is amended by inserting after item "5." the following new item:

"6. A Procompetitive Standard for Federal Regulation .... 601".

TITLE III—REVIEW OF THE EFFECTIVENESS OF AND CONTINUING NEED FOR GOVERNMENT REGULATION REVIEW AUTHORIZED

SEC. 301. (a) Title 5 of the United States Code is amended by adding immediately after chapter 7 the following new chapter:

"Chapter 8—REVIEW OF REGULATORY AGENCIES

"Sec.

"801. Purpose.

"802. Definitions.

"803. Committee on Regulatory Evaluation.

"804. Schedule.

"805. Regulatory reform legislation and report.

"806. Action by Congress.

"807. Appropriations.

"§ 801. Purpose

"The purpose of this chapter is to provide for a review by the President and Congress of the impact of Government regulation in various areas; to enhance the effectiveness of regulatory agencies in achieving their statutory goals; to analyze the goals of various agencies in light of other Federal policies; and to examine nonregulatory alternatives to achieve statutory goals.

"§ 802. Definitions

"For purposes of this Act 'agency' has the same meaning as provided in section 552(e) of title 5, United States Code.

"§ 803. Committee on Regulatory Evaluation

"(a) The President shall establish a Committee on Regulatory Evaluation to provide such information and advice as he may need to carry out his responsibilities under this chapter.

"(b) The Committee shall be composed of—

"(1) the Attorney General;

"(2) the Chairman of the Council on Wage and Price Stability;

"(3) the Chairman of the Federal Trade Commission;

"(4) the Secretary of Labor;

"(5) the Chairman of the Council of Economic Advisors;

"(6) the President's Advisor on Consumer Affairs; and

"(7) not more than five individuals selected by the President, who shall be broadly representative of regulated interests including consumer interests.

"(c) The Committee shall also have as ad hoc members, the head of each agency which is under examination and evaluation pursuant to this chapter.

"(d)(1) The President shall appoint the Chairman of the Committee. The Committee shall meet at the call of the chairman but not less than 2 times a year. The Chairman shall appoint such staff members as are necessary to carry out the provisions of this chapter.

"(2) A vacancy in the Committee shall not affect its activities and a majority of the members thereof shall constitute a quorum.

"(e)(1) Members of the Committee who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed with travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Committee.

"(2) Members of the Committee not otherwise employed by the Federal Government shall receive compensation at a rate fixed by the President but not in excess of the daily rate prescribed for GS-18 under section 5332, title 5, United States Code, including traveltime for each day they are engaged in the performance of their duties as members of the Committee and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Committee.

"§ 804. Schedule

"The President shall, after consultation with the Committee on Regulatory Evaluation, not later than the first day of April in each of the years specified in paragraphs (1) through (9) of this section, submit a regulatory reform report containing the information required under section 805, and any proposed regulatory reform legislation the President deems appropriate, with respect to each of the following agencies and any other relevant agency which the President determines should be analyzed:

"(1) the Interstate Commerce Commission, 1982;

"(2) the Federal Maritime Commission, 1983;

"(3) the Federal Communications Commission, 1984;

"(4) the following agencies concerned with the environment and natural resources:

"(A) the Environmental Protection Agency; and

"(B) the Department of the Interior, 1985;

"(5) the following agencies concerned with energy:

"(A) Nuclear Regulatory Commission;

"(B) Federal Energy Regulatory Commission; and

"(C) The Department of Energy, 1986;

"(6) regulation of safety and consumer protection by the following agencies:

"(A) Consumer Product Safety Commission;

"(B) the Food and Drug Administration in the Department of Health, Education, and Welfare;

"(C) Food Safety and Quality Service, and Animal and Plant Health Inspection Service or their successors in the Department of Agriculture;

"(D) the National Highway Traffic Safety Administration in the Department of Transportation;

"(E) the Occupational Safety and Health Administration in the Department of Labor, 1988;

"(7) regulation of commerce and international trade by the following agencies:

"(A) International Trade Commission;

"(B) Commodity Futures Trading Commission;

"(C) the Federal Trade Commission;

"(D) the Industry and Trade Administration or its successor within the Department of Commerce;

"(E) Agricultural Stabilization and Conservation Service and the Agricultural Marketing Service or their successors in the Department of Agriculture, 1990; and

"(8) regulation of banking and finance including the following agencies:

"(A) Federal Housing Administration in the Department of Housing and Urban Affairs;

"(B) Office of the Comptroller of the Currency in the Department of the Treasury;

"(C) Federal Deposit Insurance Corporation;

"(D) Federal Home Loan Bank Board;

"(E) Board of Governors of the Federal Reserve System;

"(F) National Credit Union Administration;

"(G) Federal Savings and Loan Insurance Corporation;

"(H) Farm Credit Administration . . . 1992.

The President may change the order of the schedule whenever he determines it is appropriate, but in no case may the President change the schedule date by more than 2 years.

"§ 805. Regulatory reform legislation and report

"The President, with respect to each agency listed in section 804, shall issue a report and propose any regulatory reform legislation the President deems appropriate. The report shall explain in detail the provisions of the proposed legislation. In formulating the legislation and the report the President shall consider reforms which—

"(1) increase economic competition;

"(2) achieve the statutory goals of the agency by less restrictive or nonregulatory means, including, but not limited to, the use of taxes, penalties, market-based incentives, bargaining techniques, required disclosure, or the creation of new causes of action;

"(3) increase the effectiveness of regulatory programs; and

"(4) enhance the ability of agencies to protect health and safety and the interests of consumers.

The report shall examine the impact of the regulatory activities of each agency or set of agencies on the regulated industries, geographical regions, consumer groups, the environment or health and safety; shall analyze whether the statutory goals or the policies of the agency conflict with other Federal Statutes or other agency policies; and shall analyze the continuing validity of related tax expenditures affecting the industries subject to regulation. If the President recommends that there is no need for reform of the agency, he shall state the reasons for his recommendation in detail in the report.

"§ 806. Action by Congress

"(a) The following subsections of this section are enacted by Congress—

"(1) as an exercise of the rule making power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they shall supersede other rules only to the extent they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(b) The President shall submit the proposed regulatory reform legislation and report to the Congress and separately transmit such proposal to the Speaker of the House of Representatives and the President pro tempore of the Senate.

"(c) The regulatory reform legislation and report shall be referred—

"(1) to the appropriate standing or special committees of the House of Representatives having legislative jurisdiction on oversight responsibilities with respect to the subject matter of the regulatory reform legislation and report; and

"(2) to the appropriate committee or committees of the Senate having legislative jurisdiction or oversight responsibilities with respect to the subject matter of the regulatory reform legislation and report.

The committees shall review the regulatory reform legislation and report, and report to the House or Senate on its review, together with such legislation as each committee deems appropriate, within 360 days of continuous session of Congress after its introduction. Each such report shall be a joint report if agreement between or among the committees to which the legislation is referred can be made with respect to any of the proposals.

"(d)(1) The regulatory reform legislation and any amendment thereto which is reported out of committee shall be privileged business for immediate consideration. In the event that a committee has failed to report the regulatory reform legislation submitted by the President within 360 days of continuous session after it was introduced, it is in order to move to discharge the committee from further consideration of the regulatory reform legislation.

"(2) A motion to discharge may be made only by an individual favoring the legislation, may be made only if supported by one-fifth of the Members of the House involved (a quorum being present), and is highly privileged in the House and privileged in the Senate; and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the legislation, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to

"(e) When a committee has reported, or has been discharged from further consideration of, the bill and any amendments thereto, it shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the regulatory reform legislation. Such motion shall be highly privileged and not debatable. Any amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(f) If the motion to proceed to the consideration of a resolution is agreed to, debate on the regulatory reform legislation shall be limited to 10 hours, which shall be divided equally between those favoring and those opposing the regulatory reform legislation. Amendments to the regulatory reform legislation shall be in order but debate on the amendments shall be limited to 2 hours each, which shall be divided equally between those favoring and those opposing the amendment. It shall not be in order to move to reconsider the vote by which the regulatory reform legislation or any amendments thereto are agreed to or disagreed to, and it shall not be in order to move to consider any other matter introduced with respect to the regulatory reform legislation.

"(g) Motions to postpone, made with respect to the consideration of the regulatory reform legislation, and motions to proceed to the consideration of other business shall be decided without debate.

"(h) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to the regulatory reform legislation shall be decided without debate.

"§ 807. Appropriation

"There are authorized for the purpose of carrying out this chapter $2,000,000 for the fiscal year 1980 and for each of the subsequent fiscal years ending prior to October 1, 1992.".

(b) The table of chapters of Part 1 of title 5, United States Code, is amended by inserting after item "7." the following new item:

"8. Review of Regulatory Agencies....801.".

TITLE IV—THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES ORGANIZATION

SEC. 401. (a) Section 573 of title 5, United States Code, is amended by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d) and by inserting before subsection (b), as redesignated, the following new subsection:

"(a) The Administrative Conference of the United States shall be an independent commission headed by a Chairman appointed by the President, by and with the consent of the Senate. The Chairman shall be appointed for a term of four years which shall be coterminous with the term of the President. The Chairman may be removed from office by the President only for inefficiency, neglect of duty, or malfeasance in office. The Chairman shall be responsible for the executive, administrative and analytic operations of the Conference. The Chairman is authorized to appoint, subject to the provisions of this title, such officers and employees as may be necessary to administer the provisions of this subchapter, and to prescribe the powers, duties and responsibilities of all officers and employees engaged in the administration of this subchapter. The Chairman shall be paid at the highest rate established for the chairman of an independent regulatory board or commission.".

(b) Section 573 (c)(1) of such title (as redesignated by subsection (a)) is amended to read as follows:

"(1) the Chairman of the Conference.".

(c) Section 573 (c) of such title (as redesignated by subsection (a)) is amended by adding at the end thereof the following new sentence: "At least one-fourth of the members appointed by the Chairman shall be individuals who shall be broadly representative of regulated interests, including consumer interests.".

FUNCTIONS OF THE CONFERENCE

SEC. 402. (a) Section 575 (c) of such title is amended by striking out "and" after clause (14), by striking out the period at the end of clause (15) and inserting in lieu thereof a semicolon and the word "and", and by adding after clause (15) the following new paragraphs:

"(16) provide an adequate mechanism for handling requests brought by persons for public participation funds, pursuant to section 558a of this chapter;

"(17) create a uniform subject matter filing index to be used by the agencies and the Code of Federal Regulations;

"(18) comment on agency procedures and, when requested, on agency rules to determine if the rules conflict with, overlap or duplicate other agency rules or reporting requirements;

"(19) receive and evaluate complaints that an agency consistently fails to comply with subchapter II of this chapter (commonly known as the Administrative Procedure Act, the Freedom of Information Act, the Privacy Act of 1974, and the Government in the Sunshine Act) and report to the Congress and the Office of Management and Budget on the failure of any agency to adhere to the statutory requirements set forth in this clause;

"(20) be charged with the custody and prompt and uniform printing and distribution of agency rules and other documents as required by chapter 15 of title 44;

"(21) review the activities and responsibilities of any advisory committees established or utilized by one or more agencies as required by the Federal Advisory Committee Act;

"(22) create a clearinghouse composed of the head of all agencies, divisions or groups within the Federal Government dealing with the problem of enhancing the effectiveness of Government regulation, to coordinate the activities of such agencies, divisions and groups; and

"(23) determine whether or not the collection of information by an independent Federal agency is necessary for the proper performance of the functions of the agency as provided by section 3512 of title 44.".

(b) Section 575 of such title is amended by adding at the end thereof the following new subsection:

"(d)(1) The Conference shall establish a Committee on Administrative Procedures composed of—

"(A) the Chairman of the Conference, who shall serve during his term of office as chairman of the committee,

"(B) two members of the Council designated from time to time by the Chairman, and

"(C) eight other members of the Conference who shall be appointed by the Chairman with the approval of the Council.

Five members of the committee (excluding the chairman for this purpose) shall be employees of Federal regulatory agencies or executive departments; and five shall not be so employed and shall be broadly representative of regulated interests including consumer interests. A vice chairman shall be selected by the committee from among its members.

"(2) The committee shall, within two years after the effective date of the Administrative Practice and Regulatory Control Act of 1979, draft and submit to the Conference procedural rules to be utilized by agencies in conducting proceedings subject to sections 553 through 558 of this title, and amend or revise such rules from time to time. The rules, which shall be consistent with sections 553 through 558, shall be designed to improve the fairness, quality, and efficiency of agency proceedings and to enhance opportunities for public participation in agency proceedings. The committee shall provide notice to the public and participation by the public, orally or in writing, in drafting such rules.

"(3) If approved by a majority of the members of the Conference, such rules or amendments shall be binding on all agencies in proceedings subject to sections 553 through 558. The President is authorized to grant waivers or modifications of particular rules on petition of any Federal agency as defined by section 3502 of title 44 of the United States Code. The Chairman is authorized to grant waivers or modifications of particular rules on petition of independent Federal regulatory agencies. Each agency may adopt other procedural rules not inconsistent with any effective uniform rule.".

TITLE V—CONSOLIDATION OF REGULATORY REFORM FUNCTIONS

FEDERAL REPORTING

SEC. 501. (a) Section 3512 of title 44, United States Code, is amended by striking out "Comptroller General of the United States" and inserting in lieu thereof "the Chairman of the Administrative Conference".

(b) Such section 3512 of such title is further amended by striking out "Comptroller General" and inserting in lieu thereof "Chairman of the Administrative Conference".

THE FEDERAL REGISTER

SEC. 502. (a) Sections 1502 through 1504 of title 44, United States Code, are amended by striking out "Administrator of General Services" each time the term appears and inserting in lieu thereof "Chairman of the Administrative Conference.".

(b) The third sentence of section 1506 of such title is repealed.

FEDERAL ADVISORY COMMITTEE ACT

SEC. 503. (a) Section 7 of the Federal Advisory Committee Act is amended—

(1) by inserting before the period at the end of subsection (a) the following: "except for committees established or utilized by one or more agencies";

(2) by deleting "either the agency head or" from the third sentence of subsection (b);

(3) by deleting the last sentence of subsection (b); and

(4) by deleting the last sentence of subsection (c).

(b)(1) Section 8 of such Act is amended by redesignating subsections (a) and (b) as subsections (b) and (c), respectively, and by inserting after the section heading the following new subsection:

"(a) The Chairman of the Administrative Conference shall be responsible for all matters relating to advisory committees utilized by one or more agencies. The Chairman shall perform all duties required of the Administrator of General Services under section 7. Agency heads shall cooperate with the Chairman in making his annual review of the advisory committees and shall make all recommendations resulting from that review to the Agency Head, to the President and to Congress with respect to action the Chairman determines necessary.".

(2) The section heading of section 8 is amended to read as follows:

"RESPONSIBILITIES OF THE CHAIRMAN OF THE ADMINISTRATIVE CONFERENCE, AND OF AGENCY HEADS; ADVISORY COMMITTEE MANAGEMENT OFFICER DESIGNATION".

(c) Section 9(a)(2) of such Act is amended by substituting the word "Chairman" for the word "Director".

(d) Sections 10 through 14 of the Federal Advisory Committee Act are each amended by striking out "Director" wherever it appears and inserting in lieu thereof "Director or Chairman".

TITLE VI—MISCELLANEOUS PROVISION

EFFECTIVE DATE

SEC. 601. (a) Except as provided in subsection (b), the amendments made by this Act shall take effect 60 days after the date of enactment of this Act.

(b) The amendments made by title II shall take effect with respect to proceedings commenced after the date of enactment of this Act.

SECTION-BY-SECTION ANALYSIS

TITLE I—IMPROVING THE REGULATORY PROCESS

SEC. 101. Definitions.

This section amends section 551 of the Administrative Procedure Act (APA) by adding two new definitions. "Significant rule" is defined as a rule or series of rules which will result in an annual impact on the economy of $100 million or more, or any other rule which has an equally significant impact on the economy. The figure $100 million is based on the figure used in Executive Order 12044 to distinguish between major and nonmajor rules.

"Emergency rule" is defined as any rule which must go into effect immediately to prevent serious injury to the public, substantial frustration of legislative policies, or serious damage to a person or class of persons.

Sec. 102. Improving the quality of agency rule making.

This section improves the quality of agency rule making by amending Section 553 of the Administrative Procedure Act in two major ways. First, it adopts the recommendation of the Administrative Conference and the American Bar Association by eliminating the across-the-board exemptions from rule making requirements for military and foreign affairs functions of the United States and for matters relating to public property, loans, grants, benefits or contracts. With respect to the military and foreign policy functions, the President is authorized to exempt by Executive Order those activities which should be kept secret in the interest of the national defense or foreign policy.

Emergency rules are also exempted from rule making requirements. However, after the emergency rule has been issued, the agency must, wherever appropriate, comply with the generally applicable rule making requirements.

Second, the section cerates a two-tiered system of agency rule making. This bill makes a distinction between rule making requirements for rules which are not "significant" and for rules which are "significant".

For those rules which are not "significant", the agency must comply with the "notice and comment" procedures presently in Section 553 of the APA. With respect to "significant" rules, this section expands the opportunities for effective public participation in agency rule making by creating a so-called "hybrid" rule making procedure. The agency must issue an advanced notice of proposed rule making which will alert the public to the area of inquiry under consideration by the agency, and the objectives which the agency is interested in achieving, and which will invite suggestions from the public on how to achieve those objectives. There is no requirement that the agency respond to these suggestions.

The agency is encouraged, but not required, to involve the public in the agency rule making process during the early stages of rule making before the notice of proposed rule making is published in the *Federal Register*. The agency is invited (1) to create ad hoc advisory committees which would not be subject to most of the requirements of the Federal Advisory Committee Act; (2) to hold informal meetings to obtain suggestions about the act; and (3) to use any other device which will generate meaningful public input.

The agency is required to publish a notice of proposed rule making which shall include the information required for a non-significant rule, as well as additional matters. The agency must describe reporting, record-keeping and other compliance requirements which may be created by the proposal. In addition, the agency must, to the extent feasible, describe and invite suggestions with respect to alternatives which would achieve the same objectives of the rule. The agency must allow at least 60 days for public comment.

The bill gives the agencies increased flexibility to experiment with the kinds of procedures it can use to resolve significant controversies over material factual issues including: informal public hearings, the creation of advisory councils, mediation techniques, paper hearings, or the presentation of witnesses. The agency is not required to use any of these devices.

The agency must publish the final rule in the Federal Register together with, among other things, a description of any new reporting or record-keeping requirement, a description of the ways in which the final rule is different from the proposed rule, a discussion of the merits of the substantial arguments and comments, and an explanation of why significant, suggested alternatives were rejected.

The main goal of the '"hybrid" rule making procedure is to maximize public participation in agency rule making without unnecessarily "clogging the wheels" of government by forcing an agency to comply with onerous rule making requirements.

Whether or not the rule is significant, the agency shall maintain a file of each rule making proceeding. The file shall contain all statements required of the agency in formulating the rule, copies of all studies and documentary material upon which the agency substantially relied in formulating the proposal, copies of all written comments received from the public on the proposal after the notice or advance notice of proposed rule making was published in the Federal Register, and in the case of significant rule makings, a record of communications about the rule from persons outside the agency.

The purpose of the file is twofold. First, it enables the public to examine and rebut information upon which the agency is basing its decisions. Second, it provides the court with a record for purposes of judicial review.

Finally, with respect to significant rules, the agency is required to issue a public report every five years on the extent to which the rule has been complied with by the persons subject to regulation, and on the effectiveness of the rule in achieving its goals. The purpose of this provision is to require an agency to use surveys and other monitoring techniques to enable the public and the agency to evaluate whether there is need for additional enforcement of the rule, and whether, the rule should be rewritten to achieve its objectives in a more effective way.

Sec. 103.—Maintenance of records of communications in informal rule makings.

With respect to significant rules, this section requires an agency to place a record of communication in the public rule making file for each oral or written communication initiated by persons outside the agency to those agency officials who are involved in the decisional process of the rule making proceeding. The record of communications must contain, among other things, the name of the persons who contacted the agency official and a brief description of the subject matter of the communication. All written communications except those exempted from mandatory disclosure under subsection (b) of the Freedom of Information Act must also be included in the record of communications.

In essence, this section, which is derived from the Open Communications Act of 1975, is designed to require an agency to log all communications made to it about a significant rule after the notice of proposed rule making in order to allow the public the opportunity to know about all contacts to the agency about a rule. This section permits agencies to obtain as much input as possible from the public and from other government agencies about the content of the rule.

Sec. 104. Enhancing Public Participation.

This section, which is derived from the Public Participation in Federal Agency Proceedings Act of 1977, authorizes the Administrative Conference to provide financial assistance, including advance payments, to eligible persons for the costs of attorneys and other experts in agency proceedings, both rule-making and adjudicatory proceedings. There are several criteria of eligibility. In essence, a person is eligible for public participation funding if that person is an effective representative of an interest which will contribute substantially to a fair disposition of the agency proceeding; and if the economic interest of the person in the disposition of the proceeding is small in comparison to the costs of effective participation in the proceeding, or if the person does not have sufficient resources available to participate effectively in the proceeding in the absence of financial assistance. Small businesses and public interest groups would be eligible for funds.

The Administrative Conference will promulgate regulations to guarantee that the funds are fairly and expeditiously distributed, and that the people who receive the funds have provided the representation for which the payments were made. Furthermore, the Conference and the head of each agency are required to report to Congress and the Office of Management and Budget on the nature and disposition of all proceedings for which public participations funds are given.

The bill authorizes $20 million to be appropriated for public participation funds for the fiscal year 1980 and for each of the subsequent fiscal years ending prior to October 1, 1982.

TITLE II—A PRO-COMPETITIVE STANDARD FOR FEDERAL AGENCIES

Sec. 201. A Pro-competitive Standard for Federal Agencies.

Title II is intended to enhance competition in the regulated industries by requiring that a pro-competitive standard be applied to certain agency actions. This section targets four types of federal regulation that directly substitute economic regulation for the free operation of the marketplace:

(1) limitation on entry, where the regulator seeks control over the actual number of participants in the market;

(2) control of prices;

(3) restrictions on the amount of goods or services which may be produced or distributed;

(4) approval of business agreements between competitors which normally violate the antitrust laws.

An agency will be permitted to regulate in this manner only after it has considered the competitive effects of the action and concluded that such action is the least anticompetitive alternative available to achieve its statutory goals.

The Attorney General and the Federal Trade Commission may each appear as "parties of right" in administrative or judicial proceedings involving the required analysis. Each shall have the necessary investigative authority to make their intervention effective.

Agencies will be required to review existing rules and practices and bring them into conformity with the section. The Federal Trade Commission shall report annually on compliance with the section.

The analysis will be required of every covered federal action not commenced as of the date of enactment.

TITLE III—REVIEW OF THE EFFECTIVENESS OF AND THE CONTINUING NEED FOR GOVERNMENT REGULATION

Sec. 301. Review authorized.

This section is designed to ensure that Congress and the President will seriously consider regulatory reform legislation to improve the effectiveness of regulatory agencies.

First, the President is required to set up a Committee on Regulatory Evaluation to provide him with assistance in reviewing specified regulatory agencies. The Committee shall be composed of the Attorney General, the Chairman of the Council on Wage and Price Stability, the Chairman of the Federal Trade Commission, the Secretary of Labor, the Chairman of the Council of Economic Advisors, the President's Advisor on Consumer Affairs, five individuals selected by the President, and the head of the agency under consideration. The membership of the Committee is designed to represent the various interests—consumer, labor, antitrust—which are essential to a balanced approach to regulatory reform. Two million dollars are authorized each year for the activities of this Committee.

This Committee will assess the continuing need for, and the effectiveness of, regulation by a particular agency and will submit to the appropriate Congressional Committee, according to a fixed schedule over ten years, regulatory reform legislation and reports explaining the legislation for each agency. In 1982, the President would submit a bill to reform the ICC, in 1983 the Federal Maritime Commission, in 1984 the Federal Communications Commission, in 1985 the Environmental agencies, and so forth until 1992 when the President will evaluate our banking and financial institutions. For each regulatory agency, the President will consider reforms which increase economic competition, achieve statutory goals by less restrictive or non-regulatory means, increase the effectiveness of regulatory programs, and enhance the ability of agencies to promote health and safety. The President submits his regulatory reform legislation to the appropriate Congressional Committees.

The Congressional Committee have 360 days of continuous session to report a regulatory reform bill. Once reported, the bill becomes a "privileged" matter on the floor of the Senate. If not reported by the 360 day deadline, one fifth of either house of Congress (a quorum being present) can vote to discharge the bill. Once discharged, the regulatory reform bill becomes a "privileged" matter. In essence, the goal of this section is to provide a procedural mechanism to allow Congress as a whole to consider a regulatory reform proposal. The "action-forcing" mechanism—or "trigger"—is similar to the procedural mechanism used in the Congressional Budget and Impoundment Act. It takes two houses of Congress and the President to pass a regulatory reform bill.

TITLE IV—THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Sec. 401. (a) Organization.

This section is designed to expand the management function of the Administrative Conference while at the same time preserving its academic responsibilities to recommend changes in agency procedures. The Administrative Conference is made an independent commission headed by a Chairman and appointed by the President, by and with the consent of the Senate. He may be removed by the President only for cause. The present functions of the Conference are retained, and new functions are given to the Chairman of the Conference. He will, among other things, distribute public participation funds; create a uniform subject matter filing index to be used by agencies; will comment on agency rules to determine if the rules are in conflict with other agency rules; will receive and evaluate complaints that an agency has not complied with the Administrative Procedure Act, the Sunshine Act and other acts; and will create a clearinghouse for all the divisions within the federal government dealing with improving the effectiveness of government regulation. The Chairman of the Conference is also given the responsibility for monitoring the Federal Reporting Act as it applies to independent regulatory agencies; for overseeing the activities of the Federal Register; and for reviewing the activities and responsibilities of any advisory committee establshed by agencies under the Federal Advisory Committee Act.

Sec. 401 (b). Procedural Rules.

This section establishes a Committee on Administrative Procedures within the Administrative Conference which shall propose procedural rules to be used by agencies in conducting proceedings subject to Sections 553 through 558 of the Administrative Procedure Act. If passed by a majority of the Conference, these uniform procedural rules, similar in principle to the Federal Rules of Civil Procedure, would be binding on all agencies. An agency can adopt any rule of procedure not inconsistent with these uniform rules. The President can grant a waiver from compliance with these rules upon application of an executive agency, and the Chairman of the Conference can grant a waiver from compliance upon application of an independent regulatory agency.

TITLE V—CONSOLIDATION OF REGULATORY REFORM FUNCTIONS

Sec. 501. Federal Reporting.

This section amends the Federal Reports Act by giving the Chairman of the Administrative Conference the responsibilities presently held by the Comptroller of the General Accounting Office for monitoring the compliance of independent regulatory agencies with the Federal Report Act.

Sec. 502. Federal Register.

This section amends title 44, United States Code, by transferring the *Federal Register* from the Administrator of the General Services Administration to the Chairman of the Administrative Conference.

Sec. 503. Federal Advisory Committee Act.

This section transfers most of the responsibilities for implementing the Federal Advisory Committee Act with respect to agency advisory committees from the Administrator of the General Services Administration to the Chairman of the Administrative Conference.

REGULATORY REFORM: STRIKING A BALANCE ON MAY 21, 1979

(By Senator EDWARD M. KENNEDY)

I am pleased to be speaking before this National Leadership Conference on Regulatory Reform. The National Journal's coverage of regulatory issues has been fair, detailed and helpful. And AEI's contribution to our thoughts on regulation has been substantial. In a hundred ways—through testimony on specific legislation, through studies and think pieces, through seminars, symposia, and Regulation magazine—The American Enterprise Institute has planted important seeds, focussed Congressional and Executive attention on major problems or perverse effects of regulation, and acted as a stimulant in the growing debate. I may not have agreed with all the positions AEI has taken in recent years. But its ability to inform—and amplify—discussion is undeniable.

While examining regulatory reform, Senator Culver, Chairman of the Administrative Practice Subcommittee, received a letter from a constituent fed up with filling out forms instead of running his business. He had received an EEO questionnaire which asked, "How many employees do you have, broken down by sex?" He wrote back: "None. Our problem here is alcohol."

My own concern with regulatory reform is not new. And neither is the country's. Regulation touches all of us because the cost of transportation and energy, the safety of food, drugs, jobs, and the quality of the environment, are crucial for all of us. If Americans are to believe in their government, regulation must be—and seen to be—fair, reasonable and effective.

In 1860, Ralph Waldo Emerson wrote that "the government, which was meant for protection and comfort of all good citizens, becomes the principal obstruction and nuisance, the cheat and bully we meet everywhere is the government." Twenty years later Congress created the ICC; 100 years later we are trying to uncreate it. In the 1930's Orwell articulated the terrifying vision of a government without limits, whose only constraint was that there were no more people or actions to dominate.

And since that time the growth of government has been explosive. Now we hear that regulation may cost the economy between $25 and $50 billion in paperwork alone; that the regulatory establishment grew 115% between 1975 and 1978, incurring annual budget costs of nearly $5 billion; that industry's regulatory compliance costs may be over $100 billion; that regulation may cost jobs, hit small business more heavily, be partly responsible for inflation, and at the same time may be ineffective.

But these costs do not mean that we can turn back the clock and return to the days of Ralph Waldo Emerson. Unlike Mr. Emerson, we live in a complex technological society where consumers have neither the knowledge nor the power to bargain for their interests.

Social regulation brings benefits not just costs. Clean air. A safe working place. Promotion of minority employment. Controlling sickle cell anemia. Safe automobiles. And the difficulty of measuring these benefits is no argument that they do not exist. It is a demonstration that cost-benefit analysis has limited utility in this sphere. That conclusion is confirmed by the fact that cost data comes from interested businessmen whose accountants routinely tally them, while the public has no way or incentive to tally the benefits.

Thus to pay too much attention to cost-benefit analysis or its brother, cost-effectiveness analysis, is to decide policy by relying on only one side of the ledger. That is unacceptable in a society which places a high premium on life, liberty and the pursuit of happiness.

Nor do these costs of regulation mean that we should plunge headlong into deregulation in every area of governmental activity. The history of unregulated markets too clearly shows that they often can prove detrimental to consumers and businessmen alike. Recent revelations indicate that major asbestos firms were well aware of their product's harmful effects on workers and school children, but covered up that knowledge for generations. The power company's behavior at Three Mile Island scarcely justifies a benign faith in the workings of the market. And complete decontrol of oil prices may well constitute a case of the Invisible Hand belonging to a mugger instead of an agent for the general good.

The procedures of government must clearly be updated and revamped to achieve greater speed, openness, fairness and efficiency. But procedural changes in regulation are unlikely to achieve change in its substantive results. Procedure alone will not give us lower prices, better health and safety, or a cleaner environment. And it is results that count.

Time has borne this out. For many years we thought agencies would deregulate properly because they were merely transmission belts without power to make substantive policy, authorized only to apply Congress' orders to practical situations. But it is clear, agencies are not just gear wheels, they make policy all the time.

During the New Deal, we admitted this policy role but convinced ourselves that management by experts, controlled by basic precepts—"the science of the regulatory art"—would yield better results. This faith has been a snare and delusion. There is no "science" of regulation; the proper allocation of rates, air routes, fuel oil, or protective respirators cannot be decided by abstract neutral principles.

The procedural answer of the 1960's was to open the regulatory process—to provide more information to participants and allow participation by all potentially affected groups. We are still pursuing that effort, and more needs to be done. But such participation is seldom sufficient by itself to change regulation's basic course.

This is not to say that increased procedural fairness, expertise and participation are undesirable. To the contrary, they are critical in a democratic society. But we cannot count on procedure alone to produce major improvements in regulatory effectiveness.

How then are we to bring about meaningful change? I am convinced the key lies in agency-by-agency examinations of specific regulatory programs. Government bodies outside the agency concerned must take the time and effort needed to force change; they need the help of outside groups committed to fundamental reform. In that work they should be guided by a "regulation as last resort" philosophy. I would call this approach "least restrictive alternative" regulation.

That is the basic rule of our antitrust laws. Under those laws, when firms enter into an agreement, a court asks whether it will interfere with competition. It then asks whether the agreement is necessary to achieve an important public purpose. And it allows the agreement only if it is "the least restrictive alternative" available to achieve that purpose.

This approach applies to government regulation too. If we start out in favor of a competitive, unregulated marketplace, the government should intervene only when that market does not work properly—when it fails to fulfill an important public need. And when the government does intervene, it should choose the least restrictive means available before turning to self-perpetuating commands-and-controls. At the very least, it should examine available alternatives, in a regular, structured manner before choosing that route.

Practical consequences flow from this view. First, in the area of social regulation—traffic safety, food purity, drug efficacy, environmental protection, job safety and health—deregulation is unlikely to be an answer. There are too many powerful reasons—rooted in fairness, social justice, relief for the disadvantaged and under-represented—that will not allow such regulation to be wiped away. We can never stop trying to make social regulation more effective and incorporate new approaches. But past experience with unregulated drugs, pollution, and job conditions shows that relying on totally free markets here would invite chaos. Consumers do not have the knowledge or power to protect their best interests, and the protective efforts of more conscientious firms would be driven to the lowest common denominator. Here the choice will be how to regulate—not between regulation or none.

Second, where health and safety are not paramount, and the industry consists of several firms in a reasonably competitive market, the most likely answer is not to regulate. Instead we should rely on the discipline of that market, backed by antitrust policy. This has proved true for airlines. It also applies to trucking and other regulated industries. The best example is the Civil Aeronautics Board.

My Administrative Practice Subcommittee studied the CAB for over 18 months. We found that government regulation itself was the prime cause of high air fares. The CAB had effectively outlawed price competition, while channeling the airlines' competitive energies into excessive scheduling, gourmet meals, and other frills. The result was too many empty seats—for which ticket buyers paid.

Now airlines have been deregulated. And now they are charging lower fares and making more money. Demand has risen, and they are carrying more people to more places than ever before. In 1978:

The real average domestic ticket price dropped nearly ten percent, compared with the Consumer Price Index;

Air customers saved over two and a half billion dollars in fares;

Carriers made record profits of $1.2 billion dollars, for a 19 percent return on equity;

The industry added 12,000 new jobs, including 1,100 at Boston alone.

This is how sensible deregulation can promote efficiency and reduce inflation at the same time.

Trucking is another patient that needs a healthy dose of competition. Since 1935 we have regulated trucks like trains. We have forced them to use listed routes, pretending they were like rail lines whose huge investments in private track needed protection from wasteful competition. We have regulated their rates—not to keep them low, but to keep them high—to protect the monopoly value of their government licenses. We have even allowed them to set prices collusively—behind closed doors—in ways that are felonies in every other industry.

But trucks are not trains, and we should stop regulating as if they were. What is more, trucks are not public utilities. This is not a case where only a handful of firms can operate efficiently. The way to insure fair truck rates—and lower prices for all consumers—is to unleash competition, not cage it more tightly.

Comprehensive legislation to reduce trucking regulation will soon be before Congress. I have already introduced S. 710, which would end legalized price-fixing and limit the ICC's ability to outlaw competitive rates filed by carriers. This is an important step. And beyond it we must move to erase outmoded restrictions on entry, on mergers and acquisitions, on other aspects of truck operations.

I believe we will succeed in this trucking effort. Many of our opponents in this fight for free enterprise are those who often urge less government intervention—for others, not themselves. Indeed, many members of the business community support regulatory reform, but always in someone else's area of business. But with help from the American Enterprise Institute and others, we can win this battle for the American people.

In other regulatory areas, however the answer will not be to wipe the slate clean, but to make regulation less intrusive, less bumbling and bureaucratic. There are many tools the government can use to stop short of—or supplement—direct command-and-control regulation. The government can institute regulatory taxes. It can require more disclosure. It can encourage bargaining among private parties. The practical difficulties with these techniques should not be understated. But they may well make health, safety, and environmental regulation more effective and less cumbersome.

In the environment, for example, the goal is to encourage industry to use less polluting production methods. Environmental taxes as supplements to direct standards have long been advocated by many environmentalists and some in industry. EPA is currently experimenting with systems of "marketable rights" under which new firms can buy rights to pollute from older firms, creating a profit motive for existing and new firms to reduce emissions in the most cost-effective ways. Regulatory taxes have been used to increase the price of throw-away cans and non-returnable bottles, encouraging buyer shifts to more socially-desirable products. They might also be used to regulate the price of cigarettes with dangerous levels of tar and nicotine, or to raise the prices of automobiles with low gasoline efficiency.

We might also use increased disclosure to warn consumers away from products we do not want to forbid. We use mandated disclosure as a regulating technique in drug labelling, in food packaging, at the gas pump, in the stock market. It is less restrictive and sometimes more effective than banning a substance or product. As we discover that more and more necessary food substances also carry risks, we may want to require food labels warning consumers to eat what they want, but not too much of any one thing. Some have suggested a "dangerous food" area in each grocery store for products whose intake should be restricted, though not banned entirely. And as a result of the saccharin mess, FDA itself is exploring the possibility of regulating only "involuntary exposures" to food additives, not the hopeless task of regulating exposures which consumers with full knowledge still desire.

We might also make more use of informal bargaining to attain regulatory goals. In some European countries, workplace safety problems are negotiated between unions, management and a government representative. Certain firms have quietly begun to work with OSHA to explore such techniques here. This process can take place on an informal plant-by-plant basis, producing more effective regulation as well as freedom from unwieldly requirements. It can also make direct government enforcement a matter of last resort rather than one of first instance.

Finally, in some areas it will not be possible to avoid direct regulation. Thalidomides must be banned. Nor would it be wise to rely solely on the market place for the purity of our air or drinking water. Effective regulation is as important to parents filling a prescription as to the worker who breathes the air in his plant. Government safety standards are equally important to the traveler in his plane and the machinist at his workbench. There must be a Federal Aviation Administration and there must also be direct government concern with worker safety. Reform here will be complex. It may involve giving agencies more resources, or changes in procedure. It may involve increased enforcement, or systems that encourage more voluntary compliance. It may also involve an admission that what works for General Foods is not right for the corner grocer.

But in all these cases we can do more. We can encourage others to follow the same case-by-case approach, and to do so by pro-competitive means. We can legislate a system that will encourage scrutiny of individual agencies and require detailed reform plans. And we can promote regular examination of less restrictive alternatives to attain legitimate regulatory ends.

This week I will introduce legislation which adopts this substantive-reform approach. The bill has three basic objectives.

First, it will institutionalize substantive reform on a case-by-case basis, analyzing each agency by asking these questions:

What is the market defect that justifies regulation by this agency?

Are the methods used to correct this defect effective in achieving that goal?

Are there less restrictive alternatives?

The bill contains a "High Noon" provision which, by two trigger mechanisms, will expose a specific regulatory agency each year to the kind of piercing light that should uncover any defects.

The first trigger requires the President, with a newly established Committee on Regulatory Evaluation—a committee with a fundamentally pro-competitive outlook—to propose a regulatory reform bill and report dealing with one listed agency each year. Wherever possible, this report will review alternatives to direct regulation, evaluate pro-competitive improvements, favor consumers.

The legislation mandates presidential review of ten categories of agencies in the decade between 1982 and 1992, including the ICC, the FMC, the FCC, environmental agencies, and banking and financial regulatory agencies.

Once in Congress, these reform proposals will be referred to the appropriate committee, which has 360 legislative days to consider the bill, amend it, report it out.

Then comes the second trigger—a procedural trigger. If the committee does not act within a year, the bill can be discharged for privileged floor consideration. Thus, while it would still take two houses of Congress and the President to enact regulatory reform, and the appropriate committees still retain jurisdiction, this bill obviates the procedural tie ups which frequently prevent Congress from getting to the heart of the matter.

Second, the bill will focus on the daily substantive activities of regulatory agencies. Agencies concerned with economic regulation would be forced to consider whether their aims might be achieved through less restrictive alternatives and greater reliance on competition. This is an approach to reduced regulation which relies on agency, rather than congressional initiative.

This proposal will increase the use of competition as a regulatory tool. It targets the four types of federal regulatory activity which substitute direct economic regulation for the marketplace and which have historically had severe anti-competitive effects: limits on entry, control over prices, restraints on the amount of goods and services which may be produced or distributed; and approval of anti-competitive agreements among competitors.

An agency may regulate in these ways only after it has considered the competitive effects of the action and concluded that action is the least anti-competitive alternative available to achieve its goals. Agencies may still regulate in the manner they deem necessary, but would be required to consider competition to the maximum degree possible.

Third, the bill will increase the amount of meaningful public participation in agency rule making. This is critical not only for fairness but for improved agency decision making.

The bill increases public participation in four ways:

It reforms the barebones "notice and comment" requirements for agency rule making and requires that rules which have a major impact must give the public an increased opportunity to understand the arguments made and rebut them.

It expands the kinds of rules which are subject to public participation by removing across-the-board exemptions for a number of agency functions presently immune from public scrutiny: the military, foreign policy functions, procurement, the giving of grants and benefits.

It requires agency officials to log and summarize all communications made to them about a rule from persons outside the government after the proposed rule is published in the *Federal Register*.

And the bill provides public participation funds for those persons and groups who will provide important points of view that should be taken into account in rule making.

Finally, the bill improves the quality of agency procedures by setting up a committee in the Administrative Conference to create a uniform code of administrative procedures.

These provisions are consistent with the major regulatory reform bills now before the Senate, the Ribicoff bill and the Administration's proposal. They complement and strengthen those bills. And they are consistent with what lies beneath those efforts—the widespread belief that there is too much costly and obtrusive government regulation, that Congress has created as many regulatory problems as it has solved, and that there is need for greater public participation in agency rule making proceedings.

As we approach the 1980's, the issue of government credibility—its ability to respond sensibly and effectively, to know when to stay out as well as leap in—has grown larger.

Our citizens and businesses feel over-regulated. But to most Americans regulation is not the President. It is not the Secretary of Energy or HEW. It is not even Washington. It is the energy allocation guidelines no one can understand. It is the government contract officer who puts people through hoops before he will look at their applications. It is the inspector from FAA or USDA or OSHA who may hold life and death power over their businesses but does not seem to understand their operations and acts unwilling to to learn.

Striking the proper balance between compulsion and choice for individual citizens must be our focus. That is where gains must be made if we are to make a real difference. For if faith in government's good sense, and even sanity, continues to decline, the will to respond where national response is truly needed will soon be gone too.

The high cost of regulation, inflation, the general public feeling that government intervenes too much in our lives, and the breakdown of classical rationales for federal regulation are the mainsprings of the current debate over regulatory reform. They are the reasons this subject has become more than the preserve of academics and commissions whose reports gather dust on Washington's bookshelves.

The answers to this debate will not be found in a return to the government of

Franklin Roosevelt. But they will not be found in a return to McKinley's either. They will require new approaches and much hard work. But that is something America has never been afraid of. Let us renew that fearless belief in new ideas. Let us strive together to make government work better for all the people.

For Effectiveness and Efficiency: S. 262

(By Abe Ribicoff)

The year for improving federal regulation has arrived. The momentum for reform is strong, and Congress is in a receptive mood. No fewer than fifteen regulatory reform proposals are pending before the Senate Governmental Affairs Committee, and action on those bills is a top committee priority. Moreover, the President has reiterated his commitment to more effective federal regulation by proposing a comprehensive reform measure.

Some of the proposals would require federal agencies to conduct and publish impact statements for proposed major regulations. The one that I introduced on January 31, S. 262, would require all federal regulatory agencies to consider the costs, benefits, and alternatives before issuing their rules and regulations in final form. This "Reform of Federal Regulation Act" now has thirty-one sponsors, including six committee chairmen.

Federal regulation certainly has its problems. The committee's three-year *Study on Federal Regulation* (whose final volumes were published this year) identified and considered a wide range of concerns, including (1) lack of opportunity for public participation, (2) the close ties often existing between the regulated and those subject to regulation, (3) wasteful paperwork burden, (4) overlapping and duplication of responsibilities, (5) undue delay, (6) economic problems created by restrictions on entry and competition, and (7) questions on the cost and effectiveness of some "social" regulation. Despite these concerns, I believe that much federal regulation serves important purposes and needs to be continued. The question therefore is how we can make regulation better. The answer is not to set up new political controls on regulatory decision-making, but to create mechanisms that would insure more systematic consideration of proposed rules.

A number of recent studies have pointed out the high costs of regulation. One of these, Arthur Andersen and Co.'s study for the Business Roundtable, found that forty-eight major companies spent $2.6 billion in 1977 to comply with federal regulation in just six selected areas. We need to get a handle on these costs—to know what they are and how to minimize them. But we must keep in mind that the costs of inaction may be higher still. For example, according to EPA Administrator Douglas Costle, Hooker Chemical could have spent $1.5 million back in the 1950s to build a landfill for the company's toxic wastes, but instead it dumped them into the Love Canal. That action has already cost New York State some $23 million and, if Hooker Chemical is found liable for the health claims brought against it, might cost the company $2 billion. Complying with regulation is often, on balance, a better bargain for society and for the regulated than the painful consequences or costly remedies that may be the result when regulation is sidestepped or nonexistent.

It is equally clear that government intervention can save consumers money. Take the case of brand-name and generic drugs. If a consumer buys a common tranquilizer under its heavily advertised brand name (Equanil), the price is $7.50 per hundred, while if the same drug is purchased by its generic name (meprobamate), as little as 94 cents will be paid for the same quantity. That may be an extreme example. All the same, it is estimated that FTC's and FDA's proposals for encouraging greater reliance on generic drugs may cut as much as $400 million from the nation's annual $8 billion drug bill.

PRINCIPLES OF REFORM

In considering the matter of cost-benefit analysis, it is necessary to make a distinction between two classes of regulation—economic regulation and regulation for the protection of health, safety, and the environment. These two classes have different purposes, present different measurement problems, and require different kinds of solutions.

Where economic regulation is concerned, the main costs are usually not compliance costs imposed on industry, but increased service expense for the consumer. As FTC Chairman Michael Pertschuk has put it, economic regulation is frequently "by business, of business, and for business." It may be possible to eliminate this class of federal regulation. For example, I think the consumer would derive much benefit from the lifting of federal controls on the trucking industry. A virtually identical approach worked with the airlines, where the phasing out of traditional controls by the Civil Aeronautics Board aided not only the consumer but also the industry. And we should note that economic deregulation of the airlines has not cut into the Federal Aviation Administration's responsibilities for air traffic safety.

Thus, in the economic area, we should start with the question, Is regulation in this area necessary at all? But we cannot take this approach to health, safety, and environmental regulations. This is not to say, however, that we should ignore their costs. We should be looking for the most efficient and least costly means to achieve our goals, since there can be no justification for wasting resources.

The requirement for regulatory impact analyses in S. 262 will make a major contribution in this regard. S. 262 embodies three guiding principles advanced in the committee's Study on Federal Regulation.

First, impact analysis should be viewed as a useful *tool* for decision-making, not as a *rule* for determining whether a regulation should be issued. This is so because of the difficulty in quantifying benefits, and often costs as well—particularly in the fields of health, safety, and environment. Even the Business Roundtable study—which drew on the combined resources of some of the major U.S. companies, the talents of a leading accounting firm, and a research investment of hundreds of thousands of dollars—acknowledged major difficulties in reaching accurate cost estimates. Since we cannot, at this time, expect very much from the existing methods for determining costs—and certainly not for determining countervailing benefits—the decision on a regulation cannot turn only on cost-benefit calculations.

Second, it is not desirable to add further costly steps to the regulatory process. The requirement for economic impact evaluations should be as comprehensive as possible, but it should not be so complex and elaborate that it creates additional expense, delay, and confusion.

Third, in order to have the advantage of agency expertise, the analysis should be conducted *within* the department or agency considering a particular action. The adequacy and objectivity of in-agency analyses can be insured through congressional oversight and by outside periodic review of impact statements.

THE "REFORM OF FEDERAL REGULATION ACT"

In accordance with these principles, S. 262 would require that every federal department and agency prepare a detailed analysis of the projected economic effects and the projected health, safety, and other "noneconomic" effects likely to result from a major proposed rule. This requirement would cover independent regulatory commissions, which currently are exempt from the impact analysis requirement of Executive Order 12044, issued in 1978. I am convinced that requiring *all* agencies to give systematic consideration to the economic impact of their proposals will produce more thoughtful final decisions.

The impact analysis will involve two steps. In order to expedite the regulatory process and encourage timely public discussion, a draft analysis would accompany the proposed regulations when they are first published for comment. This draft would contain a concise statement of the need for the proposed action along with any practical alternatives, giving in each case a preliminary estimate of impact (including economic impact) and relative effectiveness. Subsequently, after allowing at least sixty days for public comment on the initial analysis, the final regulations along with an even more detailed impact analysis would be issued.

Such analysis would be required, however, only if the statutory mandate of the agency permits costs and other external considerations to be taken into account. Some statutes direct that agency decisions be made solely on the basis of health and safety considerations. It is difficult to determine how an impact analysis requirement would work in those instances and, in any case, we do not want to reverse years of congressional action and deliberation by changing those statutes in this way.

Compliance oversight would rest with Congress. The Congressional Budegt Office would periodically review the regulatory impact analyses of the agencies in order to ensure adequate agency compliance. The CBO reviews would be reported to the public, the Congress, and the agencies performing the analysis. Judicial review of an agency's analysis procedures would be precluded in order to avoid lengthy litigation and the delay that produces. Court review would, of course, remain available for the regulation itself.

The bill contains other important provisions. For example, it would require agencies to establish priorities and reasonable deadlines for action and would also encourage the use of more informal procedures to cut down the amount of time spent on trial-type proceedings. In addition, it would require agencies to determine which existing regulations need reexamination and to publish a general plan for the review of those rules every five years.

I am pleased that the President's regulatory reform proposal, S. 755, parallels my bill in many respects. While there are differences, S. 755 does reflect the fact that the committee worked closely with the executive branch in identifying the problems and fashioning the needed reforms.

I would like to close with a final point on presidential review of regulatory decisions. Regulations should be considered on the public record, not behind closed doors. Recently there have been problems in this regard. In private meetings with agency heads, the President's economic advisers have pressed for changes in regulations, after the public comment period has ended. And changes have been made—on cost-benefit grounds—even in cases where the statutes provide that decisions be based solely on health and safety criteria. Recent smog and strip-mining rules have been modified, apparently as a result of White House influence.

When that occurs, are the discussions recorded and made part of the agency's record? Does the public have a chance to respond? How can a court review arguments and facts presented in secret conversations? Why should the judgments of admittedly unelected regulators be replaced with those of unelected White House staff members? Is it advisable to create yet another bureaucratic layer in the White House, with its often limited resources for dealing with complex regulatory issues?

I question whether a presidential "regulatory veto" protects the public's right to a fair process. There is, I believe, a better way. As is recommended in volume five of our study, presidential participation should take place on the public record and *at the beginning of the process*—not *at the end*, when the public has no chance to comment. In that way, due process can be guaranteed, and agencies can still be *required* to consider important national concerns—such as inflation and paperwork—in drafting their regulations.

I am convinced that our approach will increase accountability as well as the opportunity for presidential leadership. Assume, for example, that EPA proposed a regulation contrary to established national energy policies. Under our proposal, the White House could do one of two things: it could formally intervene in the process, arguing against the proposed policy; or it could propose an alternate approach which the agency would have to consider within a set deadline. In either case, the agency would certainly respond, because regulators do not operate in a vacuum. In my experience, they are highly sensitive to administration objectives—a sensitivity prompted by the President's appointment and budget powers. Serious and timely consideration would be given to the President's viewpoints, and national leadership would be asserted in a *public* context.

We must not cripple the ability of agencies to discharge their statutory duties. Nor should we lose sight of the important purposes served by health, safety, and environmental controls. What the people want is effective and efficient regulation. And that is the objective of S. 262.●

THE NEED FOR REGULATORY REFORM

● Mr. METZENBAUM. Mr. President, I am pleased today to join Senator KENNEDY as a cosponsor of the Administrative Practice and Regulatory Control Act of 1979.

The need for reform and improvement of our Federal regulatory system has never been more compelling than it is today.

For too long, Federal regulatory agencies have passed rule after rule holding down competition in the marketplace and favoring established firms against new entrants. All of this has been at the expense of the consumer.

For too long, Federal regulatory agencies have been able to conduct one-sided rulemaking processes, sometimes granting favored treatment to regulated industries, giving advance information about upcoming proposals, holding closed off-the-record meetings with industry officials, and offering special consideration to information received after the closing date for public comment.

For too long, Federal regulatory agencies have imposed significant costs upon both business and consumers without giving adequate consideration to the impact of their decisions. And too often, the agencies have done so without giving interested and affected parties a fair opportunity to participate in the rulemaking process.

These shortcomings are not restricted to any one category of Federal regulatory agency. Economic regulatory agencies, environmental regulatory agencies, energy regulatory agencies, health and safety regulatory agencies—all have been guilty at one time or another of one or more of these failings.

The proposal that we introduce today addresses these problems.

The legislation provides that economic regulation—regulation designed to supplant the competitive marketplace—will be held to a strict test that minimizes anticompetitive effects. Such regulation will, as a result, more effectively improve the functioning of the marketplace rather than blindly protect inefficient producers at the consumer's expense.

The legislation will also require regulatory agencies to conduct open, accessible, and thoroughly documented rulemaking processes. The public record will include all analyses and material upon which an agency bases its decision. It will include a log of all exparte communications regarding significant rules. The record will enable all interested parties to understand why a regulatory decision has been made and whether it is reasonable and proper.

In addition, the bill will strengthen public participation in the regulatory process. The independent administrative conference will be expanded to finance intervenors who can provide valuable information to the regulatory agencies that will help balance the rulemaking process against dominance by participants with an economic self-interest in its outcome.

These reforms will make the regulatory system both more equitable and more effective. Congress has a responsibility to do more than simply expanding the areas of regulatory responsibility. We need to insure that Federal agencies do the best possible job of serving the public interest. These reforms meet that need.●

● Mr. RIBICOFF. Mr. President, I am pleased to join with my distinguished colleagues, Senators KENNEDY and METZENBAUM, in introducing the Administrative Practice and Regulation Control Act of 1979.

The bill we introduce today is another significant step toward meaningful regulatory reform in the 96th Congress. It underscores my belief that the year for reforming regulation has, at long last, arrived.

I commend Senator KENNEDY for his work on this measure. I particularly welcome the active commitment of the distinguished chairman of the Judiciary Committee. Senator KENNEDY's experience and leadership will make a difference. He is a cosponsor of S. 262, and I am pleased to join him in this effort as well. That mutual support signals the close working relationship between our committees on this pressing matter. That cooperation holds the promise of prompt and effective action on reform of Federal regulation.

This bill complements far-reaching, regulatory reform proposals already before the Senate. It complements S. 262, which I introduced in January, and S. 755, which the President submitted in March. And, in various constructive ways, the bill we introduce today addresses additional areas of concern.

For example, it establishes a process by which the President will recommend, on a scheduled basis, substantive reforms of specific regulatory agencies—what Senator KENNEDY calls a "High Noon" provision. Under that proposal, intensive congressional review of regulatory programs will be guaranteed on a periodic basis. The bill also addresses some recent court decisions on informal, notice and comment rulemaking. And the bill creates a process to develop uniform rules for the regulatory agencies, to the extent that is feasible and appropriate.

For those and other reasons, this measure is a welcome addition to our discussion of what can be done to make regulation more efficient and effective. Our committee will want to review these proposals with care, and refinement will doubtless occur in that process. I look forward to working the proposals contained in this bill into the comprehensive regulatory reform proposal our committee will report. As such, the joint action we take today is, to my mind, a significant step forward.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the "Administrative Practice and Regulatory Act of 1979" which was introduced today by Senator KENNEDY be jointly referred to the Committees on Judiciary and Governmental Affairs; and that if one committee orders the bill reported, the other committee has 45 days within which to report.

This request has been cleared by the chairmen and ranking minority members of both committees.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. SCHWEIKER:

S.J. Res. 85. A joint resolution to authorize and request the President to proclaim the week of September 16 through 22, 1979, as "National Meals on Wheels Week"; to the Committee on the Judiciary.

NATIONAL MEALS ON WHEELS WEEK

● Mr. SCHWEIKER. Mr. President, today, I am introducing a resolution to establish the week of September 16 through 22, 1979, as "National Meals on Wheels Week." This year will mark the 25th anniversary of the meals on wheels programs which serve nutritious food to the homebound elderly and disabled. This service is provided through the efforts of countless dedicated volunteers who devote much time to the cooking, preparing, and transporting of daily meals to elderly clients.

I am very proud that this valuable volunteer service began in my own State of Pennsylvania. In 1953, visiting nurses in the Philadelphia area noticed that several of their elderly clients were suffering from poor health due to severely inadequate diets. Answering the visiting nurses' appeal, volunteers in 1954 set up the first home-delivered meal program to aid these aged patients.

Since that first effort, meals on wheels programs have sprung up all across the country. They are locally based groups organized around the specific needs of their community and clientele. By providing both nutritious meals and warm personal contacts, the volunteers assist many of our Nation's elderly to live independently, to remain in their homes instead of in institutions.

Not only is it vital to honor the success with which meals on wheels has reached the elderly, but also its approach deserves recognition. This grassroots effort should serve as a model for other volunteer and community action programs. Because they are locally based, the meals on wheels projects can be responsive to special needs and individual preferences in a way that broader based programs could not. In addition, this is accomplished with minimal overhead and administrative expense. The meals on wheels service is still very much "neighbor helping neighbor." I believe it is important to keep this spirit alive. We must protect and expand private sector efforts to deal with community needs.

I offer my resolution in recognition of the tireless dedication of these volunteers. Through their commitment, many of our homebound aged and disabled are living healthier, happier, and more vigorous lives.

I urge my colleagues to join me in supporting this significant legislation.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 85

Whereas in 1953, visiting nurses in the Philadelphia, Pennsylvania area sought help to prevent further malnutrition, health breakdown, and hospital admissions of several aged patients who were living on grossly inadequate diets;

Whereas with the delivery of meals by volunteers beginning in 1954, a new and progressive step in the care of the aged evolved which resulted in a number of elderly people leading independent lives at home instead of in an institution;

Whereas the Meals on Wheels programs have now expanded to serve over 200,000 well-balanced meals daily to aged and ailing people across the nation resulting in happier, more vigorous, and better adjusted individuals;

Whereas over 25,000 volunteers expend approximately 200,000 man-hours daily to serve over 150,000 elderly clients; and

Whereas Meals on Wheels, originating on a volunteer basis in the private sector, has great merit as a direct service to needy people, and responds to the social and economic needs of many elderly citizens: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the selfless service these Meals on Wheels volunteers perform, and in honor of the twenty-fifth anniversary of the founding of the program and the sixth National Conference of Meals Programs, the President is hereby authorized and requested to proclaim the week of September 16 through 22, 1979, as "National Meals on Wheels Week" and invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such same week with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 235

At the request of Mr. CHURCH, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 235, a bill to amend titles II, VII, XI, XVI, XVIII and XIX of the Social Security Act, and for other purposes.

S. 436

At the request of Mr. FORD, the Senator from Mississippi (Mr. COCHRAN) was added as a composer of S. 436, to amend the Tennessee Valley Authority Act to increase the amount of debt which may be incurred by the TVA.

SENATE JOINT RESOLUTION 64

At the request of Mr. CHAFEE, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of Senate Joint Resolution 64, to authorize construction of a memorial to the men and women who have served in the U.S. Navy.

SENATE RESOLUTION 177—SUBMISSION OF A RESOLUTION TO AFFECT THE DISPOSITION OF AIRLINE COUPONS

Mr. PERCY (for himself and Mr. GOLDWATER) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 177

Whereas two major domestic airlines are offering half-fare discount coupons to passengers on regularly scheduled flights from May 28 to June 17, 1979; and

Whereas these coupons can be applied to the fare on any domestic flight on these two airlines between July 1, 1979 and December 15, 1979; and

Whereas Senators and officers and employees of the Senate may receive these coupons in the course of official visits to their home states; and

Whereas these trips are made at the expense of the taxpayers of the United States; Now therefore be it

Resolved by the Senate of the United States of America that any Senator, officer or employee of the United States Senate who receives a half-fare airline coupon in the course of official travel between May 28, 1979 and June 17, 1979 is directed to turn over such coupon to his or her office supervisor for use by that office to offset the cost of future official travel during the redemption period. Further, each office supervisor is directed to maintain accurate accounting of the acquisition and use of all half-fare airline coupons.

Mr. PERCY. Mr. President, two major domestic airlines recently began offering half-fare discount coupons to passengers on regularly scheduled flights.

These coupons can be applied to the fare on any domestic flight on these two airlines between July 1, 1979, and December 15, 1979. The coupon offer, which began May 28, 1979, will continue through June 17, 1979.

Today, I am submitting a resolution to assure that the savings realized through the use of these half-fare coupons are passed on to the taxpayers. Since the taxpayers of the United States are the ones who foot the bill for official travel, ours and that of our staffs, it is a simple matter of equity that they reap the savings from coupons we receive when we make official trips.

Specifically, my resolution directs any Senator, officer, or employee of the U.S. Senate who receives half-fare airline coupons in the course of official travel between May 28 and June 17 to turn over the coupon to their office supervisor to offset the cost of future official travel. In addition, supervisors are directed to maintain accurate accounting of the acquisition and use of all half-fare airline coupons.

Mr. President, the intent of this resolution is simple and direct. The taxpayers, not individual Senators and their staffs, are entitled to the benefits of half-fare airline coupons. If we fail to set a Senate policy, coupons acquired in the course of official travel could be used for personal travel or even sold.

The General Services Administration has issued an order requiring that all Federal employees turn in half-fare coupons. Many corporations and businesses, including A.T. & T. and Sears, Roebuck & Co., are requiring their employees to submit half-fare coupons with expense accounts to cut the cost of future travel.

I have already instituted a policy of requiring members of my staff to turn in half-fare coupons to the office and I urge that the U.S. Senate on behalf of all American taxpayers adopt the same policy.

Mr. GOLDWATER. Will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. GOLDWATER. Mr. President, I think the Senator from Illinois has done a very commendable thing I remember he was one of the leaders, in fact, in the move to deregulate the airlines. I can pose this in the form of a question or just as an observation. Since this has happened, air travel in this country has gone up by I do not know how much. For example, the lines unloaded and off loaded in my home town of Phoenix last year twice as many people as live in the whole State. This is causing a considerable amount of trouble that I think we had better start paying attention to.

On this DC-10 the other day which has come in for so much criticism, the reservations made for the 24 hours prior to that had at least one transcontinental flight and maybe two. Planes come into Chicago, refuel, then they go to San Francisco, refuel, fly back to New York, refuel, fly back to Chicago, refuel, and fly off to Phoenix.

There is so much trouble that an airplane can stand. I was on a 707 the other night that had over 61,000 hours on the airframe. We do not know whether that is too much, too little, or whether there is twice as much life left in it.

I would suggest to my airline friends before they start giving away half-fare coupons back and forth across this country, which means more and more use of their aircraft, they remember the fact that they are short of airplanes. We need $85 billion to buy the airliners that are needed in this country to modernize our fleet. In the meantime, we are just running the living daylights out of existing airplanes.

If TWA, American, and United want to give away half-price tickets, that is up to them. It is none of my business. But I think we ought to sound a warning that we, through the Aviation Subcommittees of both Houses, may force the FAA to require more stringent examinations or more often examinations.

I have been flying aircraft for 50 years and it is like a body. You can only run it so far so fast and the whole thing begins to give up.

While I commend the Senator very

much for what he has done, in fact I intended to do it myself, I do think we should just warn the airlines that if they are looking for overflow passenger loads on every flight, they are going to have to be ready to buy new equipment, and they are not ready.

Mr. PERCY. I thank my distinguished colleague. I appreciate very much his support of this resolution, and the indication he might have done it himself. Once again I would be honored indeed to have the senior Senator from Arizona as a principal cosponsor.

I remember a letter we wrote to the Rules Committee years ago saying that just like "there ain't no free lunch" there ought not to be a free haircut, and besides if we paid for them they might be better haircuts.

We wrote a letter insisting that we be charged for haircuts. The Rules Committee accommodated us and we are being charged.

I would appreciate the cosponsorship of the Senator from Arizona.

It is a matter of equity and fairness and something we would be inclined to do otherwise, but I think as a matter of uniform principle we ought to establish this practice immediately. I have already turned in my first coupon. There is no reason in the world that the Government should not get the benefit of that. I should not, at Government expense, fly back and forth between Chicago and Washington, D.C., with the limited number of flights we can take and benefit personally by those flights. It may encourage a lot of official travel between now and the deadline date of June 17.

So, I think we ought to nip that in the bud and not place any temptation in anyone's way. I appreciate the cosponsorship.

With respect to the element of safety and the fact that deregulation is really working, the Senator from Arizona is just right: Let the airlines do what they want. This is absolutely their privilege and we should not have been in the business in the first place. But there is not any question that the concept of putting safety first is always there. United's safety record has been an extraordinarily good one. They went through a painful process in their strike. This is the first time an airline was struck without the cooperative pact that the airlines previously had had. They suffered the full brunt of it. Therefore, they needed to bring back their customers to United Airlines, if I understand the incentive they offered. And of course, American followed suit in the competitive spirit.

I think this is the kind of competition we ought to encourage. Obviously, United would be the first to say that it ought not in any way to interfere with safety. The added load factor, the number of hours an engine ought to operate before it is inspected, the fatigue factors, all of those simply come into effect much quicker if we have a faster turnaround time. Certainly, "safety first" in every possible instance.

I think Langhorne Bond, whom I met in Chicago, when he was out investigating the tragic accident of the American flight, was putting safety first. I think they have been encouraged in every conceivable way now by the courts to do so. I say to one of our distinguished colleagues, who still flies a jet and who knows more about aviation than the rest of his colleagues here put together, with a few exceptions such as a couple of our astronaut friends, I think his words of wisdom are well taken. Certainly, I would assume the management of our leading airlines is paying very scrupulous attention to this.

I think we can rejoice in the fact that earnings of the airlines have now gone up so high, with so many millions of additional passengers that have benefited from deregulation. It is the only service being offered that is less costly than a year ago, far less costly, simply because the planes are now full, rather than half empty. There is no more fatigue factor for a full plane than for a half-empty plane. We are now reaping those benefits and let us plow them right back in in terms of refurbishing the aircraft and keeping them safe.

I thank my colleague for his words of wisdom.

Mr. GOLDWATER. I might say if the Federal Government could give them a little tax break now, they could keep some of that money and buy new equipment.

I should like to take this opportunity, as long as the Senator mentioned safety, because the DC–10 has gotten such a bad kick in the head, to say that, of all the wide-bodied jet aircraft, the DC–10 had the best safety record of all, even though it had the two worst crashes in history.

The FAA has done a good job on it, I think, and I wish they would get through with it and tell us the exact whole story, which they have not done.

I agree with the Senator, we have to encourage these people and keep them moving. I want to compliment the Senator on being so early on deregulation. I dragged my heels a little bit, and I am sorry I did, now.

Mr. PERCY. I thank my colleague. If he felt he was a little slower on that particular one, he has been ahead of the Senator from Illinois in many, many other areas. The Senator from Illinois was told by many of his own distinguished friends in the airline industry:

> You may know something about the photographic business and manufacturing and industry, but you sure don't know much about the airline industry.

I just had faith that the marketing system really works and if we had that faith by the bureaucrats in Washington to let us make as many decisions as we possibly can in the private sector, we are all going to benefit by it. That faith I had has been borne out now. Virtually everyone in the industry enthusiastically supports it, whereas United, Pan Am and Air West were some of the only ones that really supported that concept.

SENATE RESOLUTION 178—ORIGINAL RESOLUTION REPORTED RELATING TO THE PAYMENT OF WITNESS FEES

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was ordered placed on the calendar:

S. Res. 178

Resolved, That witnesses summoned to appear before the Senate or any of its committees shall be entitled to a witness fee rated at not to exceed $50 for each full day spent in traveling to and from the place of examination and for each full day in attendance. A witness shall also be entitled to reimbursement of the actual and necessary transportation expenses incurred by him in traveling to and from the place of examination, in no case to exceed 35 cents a mile for the distance actually traveled by him for the purpose of appearing as a witness if such distance is not more than six hundred miles or 20 cents a mile if such distance is more than six hundred miles.

SENATE RESOLUTION 179—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was ordered placed on the calendar:

S. Res. 179

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Bruce L. Coleman, widower of Dorothy M. Coleman, an employee of the Senate at the time of her death, a sum equal to two months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

AMENDMENTS SUBMITTED FOR PRINTING

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT AND MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT AUTHORIZATIONS—S. 1159

AMENDMENT NO. 220

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to S. 1159, a bill to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes.

55-MILE-PER-HOUR SPEED LIMIT

● Mr. GARN. Mr. President, the requirements imposed upon the States in connection with the 55-mph speed limit laws are increasing, and show no signs of providing future relief from this regulatory burden.

The Department of Transportation is currently formulatiing new requirements for monitoring vehicle speed with a target date of implementation of October 1, 1980. These regulations will force most States to install automatic recording devices to provide the necessary constant data under the required 24-hour time periods of traffic surveillance on all Federal aid roads. Not only has no money been put aside to help the States make these changes, but DOT has failed to request any money for State enforcement of the 55-mph speed limit in their 1980 fiscal year budget.

Most important to consider in light of this information is that there is no ceiling on the amount of monitoring that may be required for a State's certification for highway funds. My proposed amendment would establish a limit by simply striking three words from the existing law. It would then read:

> Each state shall submit to the Secretary such data as the Secretary may determine by rule is necessary to support its certification under Section 141 . . . in accordance with criteria which takes into account the variability of speedometer readings and criteria based upon the speeds of a representative sample of all vehicles.

This amendment will not have any immediate effect upon either the regulations being formulated by DOT or the tax money needed to implement them. But it will provide a much needed safeguard in keeping them under control and preventing future misuse of the existing 55-mph speed limit laws. They have been proven to be a wise safety measure, but the potential for overburdening Federal control must be limited.●

NOTICES OF HEARINGS

COMMITTEE ON FOREIGN RELATIONS

● Mr. CHURCH. Mr. President, subsequent to the joint referral of S. 493, the Deep Seabed Mineral Resources Act, to the Committee on Foreign Relations, we will be holding a hearing on June 13, 1979, at 2:30 p.m. in room 4221 of the Dirksen Senate Office Building. Anyone wishing to testify should contact David L. Evans, Chief Clerk of the Committee on Foreign Relations, on 224–4651.●

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

● Mr. KENNEDY. Mr. President, I wish to announce that the Subcommittee on Administrative Practice and Procedure has scheduled hearings on the reform of the regulatory process. The first hearing will be held on Wednesday, June 13, 1979, in room 357, Russell Senate Office Building, beginning at 9:30 a.m. The committee will hear from Douglas M. Costle, Administrator of the Environmental Protection Agency and Chairman of the Regulatory Council, and other administration witnesses concerning the administration's regulatory reform efforts, including the implementation and effect of Executive Order 12044.●

SUBCOMMITTEE ON ANTITRUST, MONOPOLY AND BUSINESS RIGHTS

● Mr. METZENBAUM. Mr. President, the Judiciary Subcommittee on Antitrust, Monopoly and Business Rights will hold hearings on the anti-competitive effects of railroad mergers on June 11, 1979.

Senator MAX BAUCUS will chair the hearing, which will begin at 9 a.m. in room 457 Russell Senate Office Building.●

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

● Mr. CRANSTON. Mr. President, I announce that the Subcommittee on Financial Institutions of the Committee on Banking, Housing, and Urban Affairs will hold hearings on financial reform. The issues will include, nationwide authority for NOW accounts and sharedrafts, broaden asset powers for thrifts, a phase out plan for the Interest Rate Control Act and preemption of State usury laws in regard to residential mortgage lending. Legislation will be introduced shortly on these subjects.

Three days of hearings have been scheduled commencing June 21, 1979, 9:30 a.m., June 27 and July 18, in room 5302 of the Dirksen Senate Office Building. Testimony on June 21 will be by invitation only.

Persons wishing to submit testimony or testify on June 27 or July 18, may contact Carolyn Jordan, counsel to the Financial Institutions Subcommittee at (202) 224–7391.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate today to consider the nominations of Thomas Harris and Frank Reiche to the Federal Election Commission; and other legislative and administrative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to consider S. 796, railroad deregulation legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to consider S. 611, the Communications Act amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to mark up S. 688, the Department of Energy Authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, June 12, 1979 beginning at 2:30 p.m. to hold a hearing on veterans' disability compensation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 13, 1979, to consider deep seabed legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CHURCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, June 7, 1979, beginning at 2 p.m., to hold a hearing on several judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CHURCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hold a hearing on international tax treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, June 13, 1979, beginning at 2 p.m., in order to hold a markup session on S. 570, the Hospital Cost Containment Act of 1979.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SALT II REJECTION WOULD NOT BRAND NATION AS "WARMONGER"

● Mr. GOLDWATER. Mr. President, in all the wide range of debate over the SALT II treaties, the cheapest shot of all belongs to President Carter. I am referring to his ridiculous statement that a Senate refusal to ratify this treaty would brand the United States of America as a "warmonger." In my experience I have heard many Presidents make foolish, self-serving remarks, but none quite equals this outrageous and damaging statement about our Nation.

Mr. President, just consider what ammunition the Soviet Union and American detractors around the world could make of this statement if the Senate in its wisdom decides not to ratify the SALT II agreement. There are many of us who have severe doubts about whether SALT II will be beneficial to this country, and not one of us could possibly fit the description of one who desires war. By the same token, there are many among us who believe SALT II would be a good thing for this Nation, but there is not one who could possibly fit an extremist definition such as traitor—a word almost as villifying as Mr. Carter's word "warmonger."

Mr. President, I believe President Carter has done this Nation and the U.S. Senate a grave disservice in his unwise choice of words. I would hope that he might see fit to correct this situation before the SALT II Treaty is officially presented for ratification.

Mr. President, this entire subject was dealt with very thoroughly and in my opinion very accurately in an article by Alice Widener published in the June 9 issue of Human Events. It was entitled "Carter Blackmails Senate with SALT II."

I submit the following article for the RECORD:

CARTER BLACKMAILS SENATE WITH SALT II

(By Alice Widener)

To try to force ratification of the SALT II treaty between our country and the Soviet Union, President Carter declared that a Senate refusal would brand our nation as a "warmonger." That is the most outrageous and potentially damaging statement made about our nation by any President in our history. What Mr. Carter has done is tantamount to praising the Lord and passing the ammunition to the enemy.

With a single word, he has put the United States and American people into the most invidious possible position. He has rejected the great philosophy of our Constitution making international treaties subject to a two-thirds Senate majority opinion, a philosophy protecting us from the folly of personal dictatorship by the Chief Executive since 1776. Mr. Carter has invited world opinion to condemn our country if the Senate withholds its approval of SALT II, an action the Senate might take only after thorough debate and most intensive consideration of our nation's best interests.

Everyone knows there is very strong difference of opinion among us concerning SALT II. Is the President ready to degrade every U.S. senator who disagrees with him in this vital matter? The term "warmonger" is one of the most vilifying a person can make about another. No decent person in any country wants war. There is not a single member of the United States Senate who is so low or sadistic or insane as to want war.

We have had many Presidents who spoke carelessly or unwisely. But none has ever spoken so rashly as Jimmy Carter. Obviously, he has little control over his tongue; worse, he shows little sense of obligation to guard our nation's prestige and moral stance, and no sense of the weight of his own words, a weight in no way due to his own qualities but only to the high office he holds.

There are honest, able and patriotic men in our nation who sincerely believe that ratification of the SALT II treaty is advisable. It would not be rational to call any one of them a traitor, a word almost as ugly as warmonger. There also are honest, able and patriotic men who sincerely believe that ratification of SALT II is not advisable, that the proposed treaty would put our nation at a distinct disadvantage in military and peace-keeping strategy. Are these opponents of SALT II to be branded by the President as "warmongers"? Is the United States of America to be internationally branded by the President as a warmonger, though most most of our NATO allies are extremely leery of SALT II?

Whatever may be an individual citizen's opinion regarding SALT II, every American with a grain of common sense and awareness of psychological effect knows that ours is a mass media era in which a word or slogan is flashed instantly round the world. If the Senate were to reject SALT II, all that foes, critics, enemies, adversaries and just plain anti-Americans would need to do to injure our national moral reputation would be to hurl the United States President's hateful epithet at the United States.

Many loyal Democrats have publicly described President Carter as "inept." It appears, however, that his most grievous fault is far worse than ineptitude. He has launched a deadly, single-head one-word missile against the United States Senate in order to get his own way. He has practiced semantic blackmail. It is the same as if he had said to the Senate, "You do as I say or I'll blacken you throughout the world!"

Are Americans—whatever their personal beliefs—going to tolerate this denial of their fundamental constitutional rights by President Carter? Are we going to tolerate a President who praises the Lord and passes the ammunition to the enemy? ●

DEATH OF CONGRESSMAN E. C. "TOOK" GATHINGS

● Mr. PRYOR. Mr. President, recently the people of Arkansas were saddened by the death of former Congressman E. C. "Took" Gathings. Many of you will remember Took who served 30 years in the House of Representatives as the Congressman from the First Congressional District of Arkansas.

Although Took retired in January of 1969, he never stopped serving his people. In fact, he was addressing the West Memphis Port Authority on which he served for many years when he died.

Nothing I could say today in tribute to Took Gathings could match the many honors and tributes he accrued while he was alive. The Federal Land Bank, the Arkansas Farm Bureau, the National Association of Businessmen, and countless civic groups throughout the State have honored Took Gathings for distinguished service.

However, perhaps the biggest tribute was paid him only last fall when the new Federal building at Jonesboro, Ark., was dedicated and named after E. C. Gathings.

I was honored to serve in two Congresses with Ezekiel Candler Gathings. I will always appreciate his kindness to the "new kid on the block." It sure made learning one's way around the House a lot easier when people with the experience and respect of Took Gathings were there to help.

The people of the First Congressional District, as well as the State of Arkansas, will not forget his service. Nor will anyone in this country who knows agriculture.

Took Gathings became the second-ranking member of the House Agriculture and his work there had a profound effect on today's agricultural policies.

He left his mark on his district—major cotton and rice programs which he sponsored, water facilities and flood control projects, the bringing of natural gas to eastern Arkansas, the establishment of the Blytheville Air Base and later the reactivation of this base, major bridge construction projects across the Mississippi River at Memphis and Helena, liberalization of small farm loans and home mortgage funds for veterans, the development of the Arkansas River. He will be remembered for all of these things by not only the people of the First Congressional District, but by the people all over the State of Arkansas.

Mr. President, I am proud to be a part of a delegation which has been served in the past by a man like Congressman Gathings. His dedication and service will not be forgotten.●

THE EQUAL RIGHTS AMENDMENT

● Mr. GARN. Mr. President, last year the 95th Congress adopted House Joint Resolution 638, a resolution purporting to extend the ratification period for the equal rights amendment (ERA). I will not rehearse the arguments for and against that action; I will repeat my own conviction that the action was unwise and of extremely dubious constitutionality. A judgment as to its wisdom will have to await the judgment of history; a decision as to its constitutionality will not have to wait that long.

There are now pending at least two law suits which will test the legality of the extension resolution. One has been filed in the State of Washington, the other in the State of Idaho. The Washington suit has been filed by Attorney Michael P. Farris on behalf of his clients who are members of the Washington State Senate and House of Representatives. The Idaho suit has been filed by the States of Idaho and Arizona, and many legislators from the two States. The Mountain States Legal Foundation has acted as counsel in the case.

Mountain States Legal Foundation is a tax-exempt, nonprofit public interest law foundation, representing broad and significant citizen views in the courts. The foundation is a 501(c) (3) organization, so contributions are tax-deductible. Although the foundation is an independent corporation, it is affiliated with seven other regional litigating foundations and the National Legal Center for the Public Interest.

I ask that a letter and news release from Mountain States Legal Foundation be printed in the RECORD. I urge our colleagues and men and women throughout the Nation to ponder the importance of these cases which will help determine the method in which the basic legal document of this country is amended. I trust the decisions will protect the history, integrity, and intent of a Constitution founded on the concepts of federalism, separation of powers, and enumerated rights.

The material follows:

MAY 23, 1979.

Hon. EDWIN JACOB GARN,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR GARN: Recently, the Mountain States Legal Foundation, in concert with the Attorneys General of Arizona and Idaho, plus the legislatures, legislative leaders, and individual legislators of those states, filed a case of major constitutional significance in the Federal District Court of Idaho. The case deals with two basic questions: 1) the right of a state to rescind its approval of a proposed constitutional amendment within the established time frame for ratification, and 2) the right of Congress to extend the original time frame granted for ratification of a proposed constitutional amendment.

This case is of critical importance to the Nation. It asks the courts to clarify and interpret Article V of the U.S. Constitution. We feel the process for amending the Constitution, and, in fact, the very integrity of the Constitution, must be protected.

We expect a struggle between the state governments and the national government, as our country addresses social and economic issues such as balancing the budget, spending limitations, abortion, voting rights for Washington, D.C., nationalization of corporations, etc. So that we can fairly address these issues, the rules of the game should be stated before the struggle begins, rather than after it is underway, as is the case in the consideration of the proposed 27th Amendment.

This is another effort by the Foundation to help firm up and direct public policy on issues of crucial importance to the Nation. We are grateful for the tremendous support we have received from several of the state governments in this and other cases, as we seek to defend state's rights on public land and water issues, individual liberties, and the freedom of economic expression through the private enterprise system.

Sincerely,

JAMES G. WATT.

SUIT FILED TO CLARIFY AMENDMENT PROCESS

BOISE, IDAHO.—A lawsuit to clarify the process for amending the United States Constitution was filed on May 9, in the Federal District Court for the State of Idaho. Plaintiffs in the case include the Legislatures of the States of Idaho and Arizona, as represented by the two Attorneys General, the Idaho Secretary of State, the legislative leadership from the two states, and a host of individual legislators.

The Mountain States Legal Foundation, a public interest law firm and legal counsel for the individual legislators, secured from constitutional scholars the legal research which is the basis of the suit which seeks to have the court rule on two basic areas of controversy surrounding the interpretation of Article V of the United States Constitution: (1) The right of a State to rescind its approval of a proposed constitutional amendment within the established time frame for ratification, and (2) the right of Congress to extend the original time frame granted for ratification of a proposed constitutional amendment.

James G. Watt, President and Chief Legal Officer of the Foundation, noted that while the case concerns the procedures for considering the "Equal Rights Amendment" the Foundation takes no stand on the substantive aspects of the proposed 27th Amendment, or any other proposed amendment. The members of the Foundation believe that in addressing major social and economic issues, political forces will seek constitutional amendments and direct attention to the constitutional responsibilities of the states and the federal government. Mr. Watt went on to say, ". . . in the coming years, we anticipate major efforts to amend the Constitution of the United States, whether it be concerning spending limitations, a balanced budget, abortion, nationalization of corporations, the granting of Senate and House representation to the District of Columbia, or a myriad of other items."

This increased use of constitutional amendments to challenge the balance of power between the states and the federal government calls for a clarification of Article V of the Constitution which concerns the amending process. It is this clarification the Foundation hopes to gain from a court ruling. Because of its concern for the integrity of the Constitution and its amending process, the Foundation commissioned legal scholars to research this general subject matter last fall. That research project is the basis for the case which has been filed.

The case was filed in the State of Idaho for several reasons. First, Idaho is one of the states which both approved and rescinded its approval of the 27th Amendment during the initial seven-year time frame. The rescission of that ratifying vote has not been recognized by the General Services Administrator. In addition, the federal judges in the State of Idaho have had good exposure to constitutional questions and are considered to be knowledgeable and highly successful in having their opinions affirmed by the Supreme Court.

The Mountain States Legal Foundation is a non-profit, tax-exempt public interest law firm which serves the people in the eight mountain states. Its members are varied in background and in their opinions concerning the ERA Amendment, however, they share an overwhelming concern for the maintenance of individual liberties and economic freedoms as guaranteed by the Constitution.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the three notifications I have just received:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., May 31, 1979.
In reply refer to: I-4780/79
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHURCH: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-37, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for other than defense articles and services esitmated to cost $556.2 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

WALTER B. LIGON,
Acting Director,
Defense Security Assistance Agency.

[Transmittal No. 79-37]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Saudi Arabia.

(ii) Total estimated value: Major Defense Equipment*, $0.0; other, $556.2 million; total, $556.2 million.

(iii) Description of articles or services offered:

Management and contracting services in support of construction of an infantry center and school at Khamis Mushayt, Saudi Arabia.

(iv) Military department: Army (HDA).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: 31 May 1979.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., May 31, 1979.
In reply refer to: I-4781/79
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-38, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for other than defense articles and services estimated to cost $238 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

WALTER B. LIGON,
Acting Director,
Defense Security Assistance Agency.

[Transmittal No. 79-38]

NOTICE OF PROPOSED ISSUANCE OF LETTERS OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value: Major Defense Equipment*, $0.0; other, $238.0 million, total, $238.0 million.

(iii) Description of Articles or Services Offered:

Management and contracting services in support of construction of an engineer center and school at King Khalid Military City in Saudi Arabia.

(iv) Military Department: Army (HDB).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 31 May 1979.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., May 31, 1979.
In reply refer to I-4782/79.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-39, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for other than defense articles and services estimated to cost $216.9 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

WALTER B. LIGON,
Acting Director,
Defense Security Assistance Agency.

[Transmittal No. 79-39]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value: Major Defense Equipment* $0.0; other, 216.9 million, total, $216.9 million.

(iii) Description of Articles or Services Offered:

Management and contract services in support of construction of a signal center and school at Taif, Saudi Arabia.

(iv) Military Department: Army (HDC).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 31 May 1979.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that three such notifications were received on May 31 and June 4, 1979.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., May 31, 1979.
In reply refer to: I-1861/79ct.
Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b), of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,
WALTER B. LIGON,
Acting Director,
Defense Security Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., May 31, 1979.
In reply refer to: I-1905/79ct.
Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b), of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,
WALTER B. LIGON,
Acting Director,
Defense Security Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 4, 1979.
In reply refer to: I-4455/79.
Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b), of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle East country tentatively estimated to cost in excess of $25 million

Sincerely,
WALTER B. LIGON,
Acting Director,
Defense Security Assistance Agency.●

THE ENERGY PROBLEM

● Mr. GARN. Mr. President, one measure of the gravity of the energy shortage is the fact that for 2 weeks running, the lead editorial of the New Republic has dealt with this question. In view of the somewhat "liberal" reputation of TNR, it is gratifying to me that these editorials contain so much sense.

We face a very difficult transition in the United States, from very cheap energy to very expensive energy. It is a transition that was inevitable. The fact that it has been delayed by Government intervention makes the transition all the more difficult, but we need not go out of our way to disrupt it. And that is what we do when we spend our time calling oil companies and consumers names, and encouraging suspicions of collusion and conspiracy. As the editorials point out, that has been the major part of the Carter administration effort so far.

What positive steps that have been taken, such as proposing decontrol of gasoline and oil, seem to have been taken reluctantly, sometimes against kicking and screaming.

At all events, Mr. President, the editorials are worthwhile, and provide a capsule summary of where we are, how we got here, and some hints on how to get out. I commend them to all my colleagues, and ask that they be printed in the RECORD.

The editorials follow:

[From the New Republic, May 26, 1979]

TANK QUEUES

For two years now President Carter has been predicting the imminent exhaustion of the world's oil supplies, but not until long lines began to form at California gas stations two weeks ago did the message finally begin to get through. Having predicted that the sky was falling, he must have taken some satisfaction in seeing a few pieces at last crash to earth. At a meeting with business leaders at the White House, Carter couldn't resist an I-told-you-so, scolding the American people for their refusal "to face the inevitable prospect of fuel shortages." He also took the opportunity to criticize Congress for it rejection of his gasoline rationing proposal, American consumers for their profligate use of fuel, and skeptics for trying to blame the shortage on the oil companies.

But Carter's own words dramatized his administration's confusion. Carter didn't acknowledge that the current gasoline allocation system is responsible for much of the mess. Neither did he concede that his own insistence on keeping price controls on gasoline have kept consumption higher than it otherwise would be. Nor did he mention that he has encouraged conspiracy theories about the oil companies, the same ones he now dismisses, by blaming them every time his energy proposals have run into opposition.

For all its public relations value to the Carter administration, the shortage of gasoline in California doesn't offer persuasive evidence that the world is rapidly running out of oil. The shortage is partially the result of a series of bad breaks beyond any American's control, partially the result of a self-feeding panic psychology, and partially the result of misguided government policies.

The most visible cause of the shortages in California and elsewhere is the overthrow of the shah of Iran last January, which led to a 69-day shutdown of oil production by the world's second largest supplier. The halt in shipments reduced US imports of oil by 600,000 barrels a day, about seven percent of normal supply. In March the new regime began pumping oil again, but at a lower level than before. Meanwhile OPEC had used tight world supplies as an excuse to raise its price to $14.50 a barrel, with member nations permitted to add on whatever surcharge the market would bear. After Iranian production resumed, Saudi Arabia agreed to cut back its output to keep world prices high. But while total world production was falling, demand for gasoline by American consumers continued to grow. US consumption rose four percent during the first three months of 1979; in California it jumped 17 percent.

Ordinarily these changes might have had no serious repercussions, but they came at a time when gasoline supplies were already low. Last summer the Carter administration, fearing wintertime shortages of home heating oil, had urged refiners to shift production from motor gasoline to what are known in the industry as "middle distillates"—diesel fuel and home heating oil. The refiners did as requested. Unfortunately last fall proved to be unseasonably warm, stimulating Americans to drive more and consume more gasoline than usual. By the end of November gasoline stocks were depleted to a level regarded by the Department of Energy as the bare minimum. During the winter oil firms managed to rebuild their inventories somewhat, but the Iranian crisis and the driving surge that hit in the first quarter of the year reduced them back to dangerously low levels.

The immediate problem in California, and in a few isolated parts of the country like Washington, DC, is that once people heard about the impending shortage, a lot of them went out and filled up their tanks. The average credit card purchase in California during the first week of panic buying was only three dollars—less than half the usual average. One reason gas stations were running short of supplies is that a lot more motorists than usual were driving around with full tanks.

American oil companies might have softened the impact of the drop in Iranian production by buying more oil from other suppliers on the "spot" market. But DOE strongly discouraged them from doing so because it hoped to force OPEC to cut its prices. Faced with depleted stocks even before the peak summer driving season had begun the major oil companies and the nation's independent refiners began this spring to reduce their shipments to retail dealers.

Here is where the real trouble began. Under DOE rules, a refining company that wants to reduce the amount of gasoline it provides to its dealers must follow an "allocation" formula. The allocation rules in effect freeze supply patterns. The purpose is to prevent refineries from favoring their own stations and cutting off independent and small retailers. The problem is that the rules make it next to impossible for refiners to shift supplies around to meet changes in demand. When California drivers increased their consumption sharply this year, dealers had no way to accommodate the higher demand and soon ran short in that state.

Any allocation rules would tend to inhibit needed adjustments, but DOE's regulations have a more serious flaw. Until March 1, the allocation rules were based on supply figures for 1972—meaning that stations were allotted gasoline supplies based on what they sold in a corresponding month *seven years ago*. To get an idea what this means, take two hypothetical stations which sold the same amount of gas in 1972. One has doubled its business since then; the other has had its sales cut in half. Under the DOE rules, each would get the same allocation. On top of this problem is DOE's confusion. In the last four months, refiners have been saddled with three successive sets of allocation rules. Under the first, allocations were calculated using 1973 as the base period. On March 1, DOE changed the base period to 1978, applying the new rules to shipments in March, April and May. On June 1 the base period was supposed to be changed to 1977, but now DOE says the 1978 base period will be used until the end of September. There are some exceptions to the rules for stations that have drastically increased sales since last year.

The allocation rules deserve most of the blame for the long lines in California, but not all. Curiously, there is no shortage of crude oil there; in fact there is a glut. California's real problem lies with its refineries. In the first place, most of them are designed for light grades of crude, and much of the crude now available in California is heavy-grade Alaskan oil. The Alaskan oil is also high in sulphur content, so cleaning it up to meet California's unusually high anti-pollution standards is particularly expensive. Heavy grade crude oil also yields less gasoline per barrel than lighter grades.

Refineries present a problem elsewhere, namely that there aren't enough of them to keep up with rising demand. So far this year American refiners have been producing just about as much gasoline as possible, but they're strapped by insufficient capacity. Why don't firms build more gasoline refineries? Mainly because there are federal price controls on gasoline but not on other petroleum products such as home heating oil.

The method of the current price controls is not to hold down prices but to freeze profits at their 1973 level. A retail dealer figures the price he can charge this way. He takes the selling price on each grade of gasoline as of May 15, 1973. He adds to that the difference between his cost per gallon then and his cost now. Then he adds up to three cents per gallon for cost increases attributable to wages and utilities, and then costs due to increased rent and to the installation of the vapor recovery systems required by the Environmental Protection Agency. Then he adds on all his state and federal taxes to get the maximum legal selling price. But there is another wrinkle. If at any time a dealer has charged *less* than the maximum, he can "bank" the difference and add it on whenever he thinks the market will bear it. The rules are so complicated that it's impossible for the average driver to know whether or not he's being charged a legal price and many dealers say it's hard for them to figure it out themselves. But the crucial feature is that a dealer cannot increase his total profit margin over what it was in 1973 (except by adding on "bank" costs): if it was a penny then, it can't be more than a penny now. Federal price rules apply to refiners as well as retailers, and here again the point is to restrict the total profit margin. A refiner who invests in new facilities can pass through the cost of interest on its borrowed funds and the cost of depreciation, but not a return on its investment. Consequently the refiner has no incentive to expand its refining capacity. DOE's own Office of Competition blames DOE price rules for discouraging investments in new refinery facilities.

The distinctive to refinery investment has especially constricted the production of unleaded gasoline, which requires more expensive processing than leaded gasoline. Gasoline price controls have been in effect since 1973, which means they inhibited investment just when it was needed to accommodate the increased demand for unleaded gas mandated by new federal emission standards. Demand for unleaded gasoline has soared in recent years. In 1975 unleaded accounted for only 13 percent of total gasoline consumption; this year it will account for 42 percent. But refinery investment hasn't kept pace with the increase, and there is little hope that it will in the near future. DOE Deputy Secretary John O'Leary told Congress last December that no major refinery expansions or improvements are scheduled for the next two years, and he blamed it on his own department's price rules.

Carter hasn't handled these problems very well. His own Energy Department has documented the harm done by price controls on gasoline, but Carter and his inflation chief Alfred Kahn take the silly view that controls can't be lifted when prices are rising. Meanwhile, however, DOE has quit discouraging American refiners from buying on the spot market, reasoning that any oil is better than none. It has also announced that it may increase the permissible margin of profit on gasoline prices, which would provide a slightly greater incentive for refiners to expand capacity. The Energy Department also has begun to reexamine a potentially disastrous policy—encouraging refiners to shift production from gasoline to home heating oil well before the end of July, which is when the shift normally would occur. Changing over early would severely aggravate the relatively mild shortage the country is now enduring.

But the ultimate answer to the current problems, and the only way to ensure that they don't become permanent, is to eliminate DOE's regulations on gasoline prices and allocations. Price decontrol would promote the president's own oft-stated goal of conservation; it would also provide a sorely-needed boost to refinery investment. The way to prevent windfall profits by the oil companies is by a wellhead tax on domestic production of crude oil. (See "The Moral Equivalent of Verdun," TNR, April 14.) With such a tax in place, price controls on gasoline would be superfluous. With or without such a tax, gasoline price controls encourage excessive consumption of gasoline, thereby aggravating the oil crisis and increasing our dependence on OPEC. And as the current lines at service stations demonstrate, gasoline price controls—like any other price controls—cause needless shortages, confusion and misallocation of resources.

The only way to prevent gasoline shortages is to allow the price to rise in order to bring supply and demand into balance. Repealing the current rules for allocation would serve a related purpose—to let supplies be shared on the basis of market conditions and not old retail ledgers. That way the present shortage, which so far has caused distress only in California, can be spread more evenly over the entire country. That would be fairer and considerably less painful.

[From the New Republic, June 2, 1979]

The Guys in Abu Dhabi

The House Democratic Caucus voted overwhelmingly on May 22 to oppose President Carter's plan to decontrol domestic oil prices. Representative Toby Moffett of Connecticut asked, "Will it be the guys in the rooms in Abu Dhabi who determine the price of oil in the United States?" The answer is yes, OPEC sets the price of oil. Legislating the price of oil to stay low is like legislating the earth to stop turning. This will be true for as long as the government pursues policies that make us more dependent on imported oil, rather than less so.

Domestic oil price controls increase the stranglehold of the guys in Abu Dhabi in two ways. First, by holding down the retail price of oil products, domestic controls increase the demand for oil. This demand can only be satisfied by increased imports. Second, controls artificially constrain domestic production. If the domestic control price is $10 a barrel and the world price is $18, we will find ourselves paying OPEC $18 for a barrel of oil identical to one we could have produced domestically for $11, but didn't.

Nobody expects vision and courage out of the House of Representatives anymore, but President Carter has not done his decontrol plan any service with his demagogic attacks on oil company profits. We support a tax on the windfall profits that domestic oil producers will reap from decontrol. Indeed, President Carter's proposed tax looks to us like all bark and no bite, since it permits most of the windfall to escape. But the possibility of a windfall does not mean that the oil companies are immoral, and implying that they are needlessly muddies the debate.

The potential windfall consists of the fact that most oil costs a lot less to produce than the artificially high price OPEC has set for it. We can't prevent OPEC from pocketing $18 for oil that costs 25 cents to produce. We don't want to prevent domestic producers from getting $18 for oil from new sources that will cost $18 to produce. But after decontrol, domestic producers suddenly will be able to get $18 for oil that costs them only four or five dollars to produce. This is completely fortuitous. It has nothing to do with investment or risk-taking or any other activity for which profit is a fair reward: it is a windfall.

Of course people enjoy windfalls all the time, when their houses rise in value or when a wealthy aunt dies. Ordinarily they suffer only the normal revenges of the tax system. There are two good reasons why these windfall profits for the oil companies should be treated differently. First, when the government is asking everybody to make sacrifices to cope with the energy crisis, it's especially important that nobody be seen to gain from it fortuitously. Second, since the oil companies are our liaison to the OPEC monopoly, it's wise to prevent them from becoming de facto members.

Is this so terribly complicated? Couldn't President Carter explain it in a way that the American people—and even members of Congress—could understand, without suggesting that the oil companies are evil incarnate and their profits are excessive? In fact, oil industry profits appear to be quite moderate, compared to other large American companies (though there is some dispute about accounting methods). According to *Fortune* magazine's annual calculations, oil company stockholders enjoyed an average return on their equity of 13.4 percent, compared to an average of 14.3 percent for all the *Fortune* 500.

Some oil companies have been staging their own morality play on the subject of profits, with a different script than President Carter's. The companies argue that they need their windfall to finance exploration and development of new oil. Their friends on Capitol Hill want to exempt from the already modest windfall tax any profits that are "ploughed back" into investment. This kind of crude ploy invites the very sort of suspicions about their motives that the oil companies resent. It is the *potential* for profit that stimulates investment. If decontrol makes new domestic production profitable for the oil companies, they do not also need to be given the money to finance these ventures. Investors will be happy to supply it.

Corporate profits are not inherently evil, nor are they a natural right of all large corporations. In this respect, at least, economic life is not a morality play.●

CABLE TELEVISION

Mr. GOLDWATER. Mr. President, as my colleagues may knew, extensive hearings on the Federal laws which regulate communications are now being conducted before the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation. Proposed legislation introduced by several members of the subcommittee is being considered including my bill, S. 622, and S. 611 by the Senator from South Carolina (Mr. Hollings).

During the period of June 5–19 the subcommittees will be taking testimony on, among other things, broadcasting and cable television. One of the issues which will undoubtedly be explored in depth is so-called program or retransmission consent. Such a requirement would compel anyone who wished to take a television signal being sent out over the air and rebroadcast it to first obtain consent from the program originator or other person who owns or has control over the program.

The New York Times published an editorial on this subject on May 22. Although I have not yet made up my mind as to the proper answer to this issue, the editorial concisely states one side of an important subject. Because of its informative value, I ask that the editorial be printed in the Record.

The editorial follows:

[From the New York Times, May 22, 1979]

How Cable Goes to Market

Just as they are finally winning rescission of rules that unfairly shielded broadcast television against their competition, cable television companies are grasping to hold on to some unfair protection for themselves. They are to be free at last to carry programs from any part of the country, but they do not want to pay the market price for such shows. They want to attract customers with high-quality entertainment but without paying a fair royalty. That is not our idea of fair competition.

As long as cable was simply a device for improving home reception—a more powerful antenna—it provided a service that satisfied both producers and audiences. Indeed, cable thus added to the total audience for regular television shows and enhanced their advertising appeal. But with new satellites in space, cable operators can bring in images from any part of the country to compete with local programs. A local station that thought it had bought exclusive broadcast rights in a region may discover the same show on a competing cable channel. Or a program producer or syndicator who thought he had sold his show in one city for a roughly predictable audience may find the signal captured and reshown elsewhere without his permission or fair compensation.

Present law requires cable companies to pay only a modest copyright fee, fixed by Congress. But the proposed Communications Act of 1979, championed by Chairman Van Deerlin of the House Commerce Communications subcommittee, would require them to negotiate for program rights in a competitive market.

The cable operators contend that this would stifle their growth and impede the Federal Government's effort to promote diversified programming. If required to pay higher copyright fees, they argue, cable companies would have to raise fees to subscribers and risk losing some audience. Worse, they fear that their rival over-the-air broadcasters will conspire with program producers to keep shows off cable altogether and that this would injure even their "antenna" business of selling just better images of the programs on the conventional television schedule.

Whatever the merits of these arguments, they cannot justify depriving the producers of their property and right to a fair return on investments in costly film, sports and cultural programs. When a program is sold to a local broadcaster, the price is based on the likely local audience and its appeal to advertisers. But if that same program is carried by satellite into distant markets without further payment or even permission, the result is a kind of piracy. The law recognizes that and requires a token payment, but Congress has presumed to set the price.

We cannot believe that fair payment to producers would cripple cable television, which now reaches 20 percent of the nation's homes. Once it achieves 30 percent penetration, it will be of sufficient attraction to advertisers to get their support in buying program rights. The sale of cable service itself, in any case, depends more on novel offerings, like Home Box Office and non-commercial children's shows, than on imported rebroadcasts of conventional productions. Congress should certainly untie the hands of cable operators to let them compete for everything, but if it is a market they want, they should have to live by its rules.

THE NESTLE BOYCOTT

● Mr. DOLE. Mr. President, as the ranking Republican on the Senate Nutrition subcommittee, I am concerned about the problem of infant nutrition in the Third World. This is a difficult problem and certainly those of us involved with alleviating hunger are worried about the rate of infant mortality in the less developed nations. While many other Americans share this concern, some have chosen to express it in support of a boycott against the Nestle Co., the Swiss-based food company. Thus far, it seems to me, this highly emotional issue has been discussed one dimensionally; that is, the pro-boycott side has primarily been publicized. In fairness, it would seem to me that the Nestle view of the situation also deserves some examination. Therefore, I commend to my colleagues' attention a news story which appeared in the April 29 edition of the Contra Costra (Calif.) Times. The article reports on remarks made by Ernest W. Saunders, vice president of Nestle, to a food and drug institute conference held at Charleston, S.C., on April 25.

Mr. President, I request that the article from the Contra Costra Times be printed in the Record.

The article follows:

Nestle Official Urges Improved Infant Nutrition

Charleston, S.C.—The head of the infant nutrition group at Nestle, the Swiss-based food company, Wednesday called upon the infant formula industry to recognize its "shared responsibility" for improving infant nutrition in the developing countries.

"The improvement of infant nutrition in poor communities depends on the closest possible co-operation between the infant food industry, governments, international agencies and the health professions, Ernest W. Saunders told members of the food and drug institute food update conference at Charleston, S.C.

Saunders emphasized that infant mortality rates have decreased dramatically in developing countries—a decrease of about 50 percent in the last 30 years.

According to Saunders, infant formula has "contributed to this decline by providing a nutritionally balanced supplement when breast-feeding is insufficient or impossible. Industry is entitled to be proud of this contribution.

Breast-feeding is the best and safest way to feed a baby for the first months of its life. Therefore, unnecessary replacement or supplementation of breast milk should always be discouraged. This has always been our position.

"However, medical experts agree that breast milk alone ceases to provide adequate nutrition after about three to four months." Saunders also noted that there are some mothers "who for various reasons simply cannot breast-feed.

"The issue is thus not breast or infant formula in a bottle. It is optimal and appropriate nutritional supplementation in the developing world."

Saunders, a Nestle vice-president, related the proper promotion and marketing of infant formula to questions or corporate responsibility. "We believe that industry has a major responsibility to ensure correct use of its products and to communicate nutrition information by means appropriate to the mother's education and environment, and (in relation to) health service availability.

"We believe that our nutrition programs, developed with the advice of medical professionals, adhere to these criteria.

"We believe that local governments have the ultimate responsibility to determine the conditions under which infant foods are distributed in their respective countries.

"We believe in a fair return on the investments we make and the services we render; we have not and never have had, any desire whatsoever to make a profit, either consciously or unconsciously, to the detriment of the health of consumers of our products."

At the close of his address, Saunders referred directly to the boycott of Nestle products by some consumers in the United States.

We accept that there is genuine concern in this country about world hunger, and in particular about infant malnutrition. Nestle's own long-term commitment to improved infant nutrition in the third world is second to none.

"Thus, we do not accept that a boycott campaign, using techniques of crude propaganda and promotion, is relevant to the solution of these problems.

"By sensationalizing and oversimplifying the issues involved, well meaning people are being misled, and their goodwill exploited. This causes genuine harm to the constructive efforts needed to improve child health.

"Nestle welcomes the meeting being organized by the world health organization and UNICEF next October which we believe will lead to the formulation of clear and unambiguous guidelines defining how governments, the health professions and the infant food industry should work toegther within the framework of shared responsibility to ensure that further significant advances can be made in the fight to improve the health and nutrition of children throughout the world.●

LAVERNE TRIPP

● Mr. HOLLINGS. Mr. President, recently the South Carolina General Assembly passed a resolution which I wish today to call to the attention of my colleagues, because it honors a gentleman who has made a splendid contribution to both the spiritual and musical dimensions of our State's and Nation's citizenry.

The resolution was passed in honor of Mr. LaVerne Tripp, widely known as the Musical Minister of the Gospel and the Christian Ambassador of South Carolina.

LaVerne Tripp's home is technicaly in Spartanburg, S.C., but his travels around the State and throughout the Nation make him a citizen of a nationwide community. The dedicated effort he has put into his work has won him acclaim far and wide. An organization which he created—The Song Evangelistic Association—has significantly advanced the evangelistic movement in the United States.

So I want to take this opportunity to applaud the South Carolina General Assembly on its fine recognition of our friend LaVerne Tripp. But more than that, I want to bring to the attention of those of my colleagues who may be unfamiliar with him an individual who has made a real contribution for good in our country.

Mr. President, I ask that the resolution be printed in the RECORD.

The concurrent resolution follows:

A Concurrent Resolution To Recognize the Long and Dedicated Career of LaVerne Tripp of Spartanburg as Musical Minister of the Gospel and Christian Ambassador of South Carolina

Whereas, LaVerne Tripp of Spartanburg has been engaged in a musical ministry of the Gospel appearing nationwide on radio and television, carrying the good news of Christianity in song and words throughout the country; and

Whereas, in this capacity Mr. Tripp has become a dedicated Christian ambassador for South Carolina recognized everywhere for his musical talent which he uses so effectively to communicate the Christian message wherever he travels; and

Whereas, an organization he created, the Song Revival Evangelistic Association, has made substantial contributions to the evangelistic movement and numerous worthy Christian activities. Now, therefore, Be it resolved by the Senate, the House of Representatives concurring:

That the General Assembly by this resolution recognizes the long and dedicated career of Christian service of LeVerne Tripp of Spartanburg, a truly great musical evangellist who also serves effectively as a Christian ambassador for South Carolina and extends to him and his associates best wishes for continued success in his continued efforts to spread the good news of the Gospel with song and words throughout the nation.

Be it further resolved that a copy of this resolution be forwarded to Mr. Tripp in Spartanburg. ●

COMPANIES ENCOURAGE CONSERVATION

● Mr. DOLE. Mr. President, the long lines at California gasoline stations in recent weeks have served to remind us all of the severity of the energy supply situation in the United States. The American people are confused, alarmed, and angry. Gasoline supplies for the coming summer driving season are predicted to be very short and, as of now, we have been unable to devise an equitable and workable short-term solution to this critical problem.

Gasoline stations in my home State of Kansas are already feeling the pinch. Many have had their allocations trimmed substantially and further curtailments are expected in coming months.

In an effort to help ease the supply situation, at least two Kansas companies are encouraging their employees to use available mass transit systems to get to and from work. One of these companies, the Coleman Co., an internationally prominent manufacturer of outdoor camping supplies, announced yesterday that it will pay half the cost of bus tickets for employees who ride the bus to work. In addition, Coleman plans to lease buses to take employees directly to its two Wichita plants.

In addition, the Fourth National Bank & Trust Co. has announced that it will offer employees free bus tickets if they will leave their cars at home.

These two enterprises are to be commended for voluntarily undertaking this program. I am hopeful that other employers will consider taking similar steps. If every major employer in areas served by mass transit would implement this type of mass transit incentive program, I believe the energy savings would be substantial.

I request that an article on the Coleman and Fourth National Bank programs which appeared in this morning's Wichita Eagle be printed in the RECORD.

The article follows:

Coleman To Pick Up Half of Tab for Bus Tickets

Coleman Co. announced Tuesday that it will pay half the cost of bus tickets for employees who ride the bus to work and also will lease buses to take employees directly to Wichita plants.

Coleman said it is making the offer "to encourage greater energy conservation, to promote mass transit and to relieve transportation availability problems."

Coleman is the first manufacturer in Wichita to offer employees an incentive to replace private cars to get to and from work. Recently, Fourth National Bank and Trust Co. offered employees free bus tickets.

Coleman employees will be able to use a block of 20 bus tickets for $3, half the normal cost, starting May 29. Coleman's plant at 250 N. St. Francis and its south plant can be served by regular Metropolitan Transit Authority routes.

Workers at Coleman's north plant at 801 E. 37th N. and its northeast plant at 3600 N. Hydraulic will be able to transfer in downtown Wichita to a special Coleman bus that will take them directly to work and pick them up in the afternoon.

The morning runs will start at 6:05 a.m. and 7:05 a.m. at Lawrence-Dumont Stadium. The buses then will go to the transfer point at Douglas and Broadway before leaving for the plant. Return trips will leave the plants at 3:40 and 5:10 p.m.

Coleman said it will encourage employees to use the bus passes for non-work related trips as well.

Coleman said it will also encourage car pooling by supplying department managers with lists of workers' residences. Employees can study the lists and find co-workers who could travel with them.●

REMEMBERING MARY MURTAGH

● Mr. KENNEDY. Mr. President, on Wednesday, May 23, a large number of the friends of Mary Murtagh gathered at St. Joseph's Church near the Capitol for a special memorial gathering. Mary's sudden death last month was a deep shock to all of us, and a tragic loss for her many friends and colleagues.

The memorial gathering was a very moving service. A number of Mary's friends spoke in remembrance of her, and bore witness for her in many different ways that are a tribute to Mary's extraordinary character and spirit.

I would also mention that Mary's friends are preparing a memorial book that will contain tributes and reminiscences about Mary by those who knew her. Meg Power in Senator JAVITS' office is now collecting materials for the book.

Mr. President, I submit for the RECORD the eulogies delivered at the memorial gathering for Mary Murtagh on May 23. I also submit for the RECORD the Wordsworth poem and the Beatles song that were part of the service.

The material follows:

Eulogy By Jerry Michael Brady

We speak today knowing little can be added. We seek to console, wondering what in God's name will suffice. We sense the drama which surrounds us and search only for simplicity.

What is true is simple and already evident, without words being spoken. The sorrow, the memories, the presence of so many from near and far testify to this: Mary Murtagh was a wonderful and gifted woman. She was a great joy to us. She was, as the poet has written, "a phantom of delight."

We miss her so much more because, when she was here, Mary was truly present. She spoke now. She acted now, and everything rushed out in rich detail. She was as fresh and authentic as anyone we are ever likely to meet, so it is little wonder we struggle to capture and preserve.

Mary was a great actress on a small stage, before a small but devoted audience. We loved that incredible laugh. We waited for the jokes and the routines which bolted out of nowhere. We called, hoping to be kidded and put down. She was a star, and beneath all the self-mockery I think she knew it.

Mary was very special to me. In the darkness now I feel as if she woke me up and filled my days with sunshine. I loved her very much, and she loved me, and I dread the quiet aftermath without her.

It is with hesitation that I speak so personally, yet the good news should go out. You may have known her as the respected professional and valued friend, 38 years of age. I knew her as a very young and very happy woman enjoying with wide eyes the excitement of first love.

It started, early on, when Mary decided I was to be her best friend. It was not a title I sought and I certainly did not covet the duties and reciprocities which went with it. Yet before long, it was true. I was her best friend and she was mine.

If asked how this happened Mary would reply, "Magic," since it certainly didn't make sense any other way. Among other things you will observe that I am, in her terms, a short person, a mere dwarf, and that was just the first shortcoming. If I were asked I suppose I would recall President Kennedy's remark when asked how he became a war hero. "It was involuntary," he said, "they sank my boat." In other words, I got lucky.

I did have one advantage. "You are the first person I ever met who was crazier than me," she said. That was also true and it was a great comfort to her. Mary was disturbed by the envy and striving, the incessant chatter and misgiving which swept around her precocious mind. She thought herself slightly mad and was greatly relieved to know she had company.

"We are like two children clutching each other in the dark," she said frequently, and we were indeed like children, at play and in doubt. Together and sheltered, we spoke our fears and let them loose. Gradually she lightened and softened. You could see it in her face.

Perhap's Mary's most telling statement about herself was her frequent comment, "I could be dead next week." Unlike those of us who think we are immortal, Mary understood somehow that time was short. That awareness deeply influenced everything she did, and explained why she did so much and why she was vividly present. It explains her abominable credit rating, her love of travel and her devotion to memorable meals with friends.

Beneath the dark humor and bright outlook, Mary feared for her life. In recent months she kept a notebook to jot down thoughts for her impending novel on women's madness. It includes wonderful hints of what might be coming, stuff like how nuns smelled in first grade, why she was not chosen Blessed Virgin Mary in fourth, a lovely description of two toddlers in love—and other good things. It also contained remembrances of a childhood when she was sure her heart would stop and an adulthood lived in continual fear of cancer.

In January, death brushed her by for the first time. I cannot tell you how she coped. She was surrounded by friends, but it was while alone that she stripped away a lifetime hypochondria and faced squarely the reality of her mortality. I can tell you she emerged with new resolution, new calm and new strength.

Always frail and taut, Mary began running and one weekend last month ran 11 miles, including a triumphant last place finish in a 10,000 meter race. One brilliant sunny day in March she went skiing for the first time.

She had always loved "street people" and cared for those who kept warm at McDonalds on Pennsylvania Avenue. While in Mexico City last year she scattered money among the poor like Queen Isabella trying to make up for the sacking of New Spain. Now she wanted to begin what she said would be a lifetime dedication to street people here. She began working Saturdays at a soup kitchen and this week would have started working the early hours on weekdays when help is thin and the work harder.

As you know, Mary had a passion for Justice, particularly the right of Americans to speak and write without restraint. She could not see how there was any justice to be won in the assessment of technology and was seeking new avenues for her energy. A position was open in the Justice Department where she could help bring to justice those who had tried to exterminate the Jews in World War II. But why, I asked her, did she want to track down war criminals who must be old by now? What could be gained by devoting her life to this cause?

That's not true, she said. Thousands are still alive and there will be no justice until they are brought to trial. They killed millions and the world of the future must know in every possible way that this cannot happen again!

Mary was an extremist, a radical through and through. And she exaggerated everything—her social views, her outrageous language, nothing escaped. When one suggested she might have overstated a bit, Mary would whip up a storm of gestures and say, "Would you give me a break."

It should be no surprise, then, that she was an extremist when it came to loving others. She defied all the modern teachings about men and women together. She was classical. The last time we spoke she expressed her love with such astonishing nakedness I could not even hide behind humor. I was stunned. I know she understood my love for her; still I speak today in belated response.

Her love was so boundless one could roam around within that space and make mistakes and fall silent as I did and she would be there. She valued faults and foibles because they made such good jokes. And I could never get over how it seemed that no time transpired between asking something of her and the time she said, "Sure."

The good news is that the day before she left Mary sprayed around to new friends the word that she had never been happier in her life. She was quite beautiful. She was in touch with her extraordinary power to love and it showed on her face.

Of all her routines, her favorite had to do with height. She was a "tall person;" others were "dwarfs". She claimed to be five foot seven and, well as I knew her, I never found out how tall her little body really was. But she was right. She was a tall person, a tall order, a large spirit, a generous human being. We would do well to remember that time is short and we, too, have an opportunity to be tall.

Eulogy by Senator Edward M. Kennedy

One of Robert Burns' most famous poems, called "Highland Mary," contains these lines that help to capture both the joy and sadness we feel today:

Green be your woods, and fair your flowers,
For there I took the last farewell
Of my sweet Highland Mary.
Fell Death's untimely frost,
That nipped thy flower so early.
But still within my bosom's core
Shall live my Highland Mary.

To have known Mary is to vividly remember her. And there are many vivid memories I shall keep.

There were the phone calls I received at all hours—calls made in desperation from Gerry Studds or Eddy Boland or other members of the Massachusetts Congressional delegation, demanding that I get Mary off their backs, insisting that this time she had finally gone too far, saying that perhaps Mary's name was entitled to be first on our joint press release on an issue, but certainly not my name.

There was the organized chaos of her busy desk in the overcrowded office where she worked—the piled-up papers and ashtrays and coffee cups. I asked her how she ever put her hands on anything. She said she should have been an archeologist, because she had a sense of layers of deposit.

There was the long and difficult fight for the Islands Trust legislation. I never understood how so many people on every side of an issue could dislike me so much and yet still be so fond of Mary. But we had a system. Each time the landowners, the townspeople, or the developers got angry enough to march against me, I sent Mary up by plane to the Islands, and she never let me down.

There was the memo she sent me, insisting that she was entitled to take full responsibility for both national and Massachusetts fishing industry issues. The fishermen really needed a woman, she said, to help get their act together in Congress. I told her I'd been handling that one myself for 12 years and hadn't been doing all that badly. "You can't be serious about that," she said. "The Russians are practically landing with their trawlers on Cape Cod, and New Bedford is ready to lynch you." That was in 1975, and by 1977, after we turned her loose, the Russians were put 200 miles out to sea by Mary Murtagh's Act of Congress.

They loved her everywhere, but especially in Gloucester and New Bedford, on the Vineyard and Nantucket. And they wept when they learned that she had died.

There were so many other things—the frantic scrambles to get the fact books up to date for trips to Massachusetts; the incredible loyalty; the unminced words; the subtle humor; the self effacing comments; the infectious Irish laugh that could crack up the office and ease any tension; the subscription she cancelled to the Washington Post because of the efforts to break the strike; the perseverance and determination that put her through Georgetown Law School at night, while doing the work of two by day; the free spirit symbolized by the environmental poster on her wall that read "Close to the Wild Heart of Life."

Last night, in thinking about this gathering, I looked through some of the things Mary had worked on for me. And I came across these words that she had written for me to use in 1977 at the dedication of the Robert Frost Home in Franconia, New Hampshire:

"One gift, more than any other, separates all that is human from all that is not, and that is the gift of the poet.

"One bond unites all people and makes them free, whether they are imprisoned or sailing the seas, whether they are lonely or well-loved, and that is the wisdom that to be human is to shape your own world.

"One human opportunity survives and overcomes disease and despair and suffering and fear, and that is the chance to create a better moment for the human spirit today or tomorrow, in a small and unheralded way, or in a broad and public way."

The outpouring of praise for Mary this past week is a memorial richly deserved. It is also a tribute to her family and her roots, to her mother, Mrs. Anna Murtagh and to her sister Margaret Ann and her sister's husband, Tom Barylski. More than our words can convey, this gathering tells how much Mary meant to each of us. She brightened all our lives, and both Congress and the country are better for Mary's having passed this way.

In the words of the old Irish verse, words by which Mary lived:

May the road rise up to meet you,
May the wind be always at your back,
May the sun shine warm upon your face,
And the rain fall soft upon your fields,
And until we meet again,
May God hold you in the palm of his hand.

Eulogy by Jan Verrey

Mary was as derivative of her friends as we all were of her, and I would like to talk about Mary in terms of her wonderful family and friends.

Mary is blessed with an extraordinary family. Her mother, Anna, is the major influence in all that Mary did for others. Mrs. Murtagh's dignity, strength, unlimited compassion and devilish humor were evident in Mary. Mary derived great pleasure from her mother and imitated her with respectful joy.

Mary's father, Thomas, had an intense belief in human decency and justice. He fought hard for that during the times when unions were just beginning to form. Mary's eyes would burn with emotion when she told her father's stories of the body-breaking working conditions which pressed hard on him and his fellow workers. Mr. Murtagh's life was the iron in Mary's unbendable stance for human rights.

Mary was very proud of her sister, Margaret Ann. Margie is shyly quiet and gentle, but never afraid. Mary was in awe of her sister's fearlessness. In the Murtagh tradition, Margie spearheaded a union drive despite personal risk, and continues her work for the benefit of others to this day.

Mary held friendship above everything as the true test of human spirit. Human kindness came easily to Mary and she cherished that in her friends. In return, she gave away a piece of her heart.

Dick Raleigh, who is here from Florida, went to college with Mary at the University of Detroit. Dick shared exciting, hopeful years with Mary, the beginning of her political life and her intellectual growth. He was her constant traveling companion. In the last few days, Dick made one more trip with Mary, including Miami, Detroit and Washington.

Tally Koss worked with Mary at her first job at Social Security in Detroit, and later in New York. Mary was a claims analyst and, of course, approved every single application that came across her desk. Tally supported her and shared her hopes that at least a few of the 100's that Mary approved would be ultimately granted. Mary always said of Tally that if you lost her as a friend, you would be in deep trouble.

Jim King, a hail storm of hilarity, could make Mary laugh in spite of herself. When Mary left Social Security in Baltimore to volunteer in Senator Kennedy's '70 Senate race, she left without regard for what she would be asked to do, but she was a bit afraid. The first person she met was Jim, an experience in itself. Mary worked with Jim in the campaign and treasured his warmth, protection and that outrageous human which made her howl with laughter and gave her so much comfort.

The Kennedy family was an integral part of Mary's life. They shaped her career, and best of all, brought her to Washington. She was active in Democratic youth organizations in support of President Kennedy. She planned to move to Washington to volunteer in Senator Robert Kennedy's Presidential campaign. Although she could not be here in time for that campaign, she was a volunteer for Senator Edward Kennedy.

She admired President Kennedy's graceful intellect, Senator Robert Kennedy's steel courage, and Edward Kennedy's embodiment of all those qualities. She was especially proud to be relied on and trusted by Senator Kennedy as her boss and her friend.

Mary had a great affection for Eugenia Ufholz, her assistant at the Office of Technology Assessment. They became good friends. It never ceased to amaze Mary how Eugenia could take the numerous piles of papers cluttering Mary's desk, organize them neatly for easy access for the future—only to be put back into piles for Eugenia to find again.

Mary had hundreds of friends that she loved and were dedicated to her. It is a special tribute to Mary to see how many of her friends are here today, all remarkable, all brought together by Mary.

When we were desperate, Mary was there. When we were unhappy, Mary cheered us up by poking fun at herself, perhaps talking about the time she entered the Howdy Doody Look-alike contest.

I met Mary when she walked into the Senator's mailroom to volunteer. She was skinny and shy. Her wild red hair, which she had to threaten every morning to stay in place, was pulled back into a pony tail. You could hardly see her face behind large, tinted glasses. Within minutes everyone in the mailroom fell in love with Mary, especially when she finally took off those glasses, revealing her michievous, pretty face.

She could destroy the well-prepared argument by a "hurrmph!" and a withering glare. And you would find yourself doing things you never thought possible, because Mary said you could—like flying. She would comfort me on the plane, she said, but was sound asleep before the plane had hardly moved an inch.

Our Mary, the delicate, freckle faced beauty with Irish blue eyes, got away from us last week, and we are lonely.

But she left us a gift—that each of us can say, "Mary Murtagh was a friend of mine."

Eulogy by Representative Morris K. Udall

We gather here today to mourn the death of this special, beautiful person but, while we're here, we ought to celebrate her remarkable and unusual life. Each of us is here today because Mary Murtagh's life touched ours and we remember.

I read her obituary in the paper a few days ago and in the inevitably cold print it seemed somehow routine and unremarkable. "Director for Liaison for OTA; she died at G.W. Hospital following a stroke; aide to Senator Edward Kennedy; volunteer for Senator Robert Kennedy; born in Detroit; worked in New York and Baltimore; survivors included mother and sister; and the family suggests contributions, and so on . . ."

In reading that obituary, the poignant, lyrical question from the old Peggy Lee song came back to me: "Is that all there is?" Well, the presence of all of you here today shouts back the answer: "No, there is more. There is much more."

For Mary Murtagh was no ordinary person. There was much that was extra and uncommon about her in her life. And today, each in our own way, we can reflect about what she meant to us. And that in the end is the best measure of a life, the impact that it leaves on friends and neighbors and family. By that kind of reckoning, Mary Murtagh's passage through this world was successful beyond what most of us in this room might ever expect to hope for ourselves. For this woman had a rare capacity to inspire, to bring out the best, to contribute warmth and to give joy.

No, my friends, that cold obituary is not all there is about Mary Murtagh. For measuring a life by compassion, by caring, by loyalties that life can build, then Mary was wealthy beyond what dollars or material possessions can match. This great lady had an empathy and sensitivity that was uncommon. I think she could spot a phony at 100 yards or sense a lonely soul in need of help in merely a glance.

And in this city where there is so much posturing and dissembling, Mary Murtagh was plain and genuine and 100 proof honesty and humanity. She reminded me of a slogan once seen at the marches in those days in the 60's where she was participating which said simply "No more B.S."

Her visits to my office were a time for banter and a pleasant break in my routine. I remember the last time she came to get me ready for an OTA Board meeting, and I asked what outrages and disasters she had arranged for the next day's session. I also asked her what she thought of old so and so, and she referred irreverently to that person as a phony, and we had a great laugh over the old line that someone used in Washington that if you're going to be phony then at least be sincere about it.

And so, we gather to pay our last respects to this tender and sensitive soul. At times of death we are inclined to ask the family, "Is there anything I can do?" Mary is gone and we can't do anything about that. But there are things we can do. All of us today can tell the family what she meant to each of us. We can send a donation to this Center for Creative Non-Violence, as requested. We can do more than that, we can learn some lessons from Mary and be a little gentler with each other. And in this busy and impersonal world, we can try to be a little bit more personal, to reach out, to care, and to concern ourselves with our friends and our fellow workers. And we can do as she did, try to get involved in the great issues of our time. Speak out against the evil of war and injustice and cruelty.

When I think of Mary, I think of what Justice Holmes said a long time ago. He said: "I think that as life is action and passion, it is required of a person that he should share the passion and action of his time at the peril of being judged not to have lived."

When I was a boy in a little rural town in northern Arizona, we were often forced to resort to candles when the power supply went out at night. Each new batch of candles always seemed to have one in it which burned out more quickly than the others; but while it lasted it had an extra brilliance. The All Mighty in His wisdom gave Mary a shorter time on this earth than most of us, but I suggest that in compensation He gave her a special spirit and personality that made her candle burn with extra intensity. Mary, we all thank you for sharing that gift with us.

Eulogy by Sheldon Tromberg

For a brief time I was Mary Murtagh's teacher.

She was brilliant, logical and literal, iron-willed yet fragile, aspiring yet modest, compassionate and refreshingly acerbic. She will always remind me of that magnificant character that Katherine Hepburn played in the African Queen.

Mary Murtagh had no patience with bland, blasé, spiritless self-soapers, awash in their own flatteries. To her, indifference, wishy-washiness and heartlessness were victimizing unctions of conceit, to be neither coddled nor condoned.

Instead, she viewed duty as a stern voice . . . moral obligations as cheerful choices . . . patriotism and responsibility as right and proper—and, the dignity of every living being, an inalienable right, never to be tampered with.

Mary was very young, yet very old fashioned.

She reminded us to make the best of it when you get the worst of it . . .

She understood our faults and liked us in spite of our virtues . . .

She believed, "What is essential is invisible to the eye—that it is only with the heart one can see rightly."

She reminded us that—every person can make their life great by high endeavor—that "we live by admiration, hope and love"—that democracy means not, "I am good as you are," but, "you are as good as I am."

Those azure-blue sparkly eyes with rosy hopes are with us no more in life, but she has willed us a gift for all our lifetimes. . . .

Mary Murtagh has become a tender conscience gently cradled in our souls.

Eulogy by Richard Raleigh

I have chosen three brief readings; the first a poem by an Irish patriot and martyr, written the night before his execution; the second a fragment from Shakespeare's Cymbeline that assures us that death is the end of fear; and lastly a passage from the Book of Wisdom from the Old Testament.

Many have commented on how fully Mary lived life, knowing that it would one day end. She would undoubtedly urge us the living, those of us still permitted to roam about what Wallace Stevens called this "old chaos of the sun", to be sensitive to the beauty around us at every moment. Patrick Pearse spoke movingly of the beauty and brevity of life. Like Mary, he was Irish. Like Mary, he was a graduate in law. He died when he was 37. The night before he was executed by the British for his role in the Easter uprising of 1916, he wrote this poem:

LAST LINES—1916

(Written the night before his execution)

Padraic Pearse (1879-1916)

The beauty of the world hath made me sad,
This beauty that will pass;
Sometimes my heart hath shaken with great joy
To see a leaping squirrel in a tree,
Or a red lady-bird upon a stalk,
Or little rabbits in a field at evening,
Lit by a slanting sun,
Or some green hill where shadows drifted by,
Some quiet hill where mountainy man hath sown
And soon would reap, near to the gate of Heaven;

Or children with bare feet upon the sands
Of some ebbed sea, or playing on the streets
Of little towns in Connacht,
Things young and happy.
And then my heart hath told me:
These will pass,
Will pass and change, will die and be no more,
Things bright and green, things young and happy;
And I have gone upon my way
Sorrowful.

Mary had her share of phobias, some quite normal, like the fear of rickety old DC 3's groaning toward the Keys or the Cape, or the fear of various animals—dogs and cats included, some more exotic fears, some fears to our minds simply comical. She feared water, earth, wind, fire and other people's French fries. But she was courageous because fear never stopped her. She confronted her fears head-on. Shakespeare tells us in this fragment from Cymbeline that death is, at least, the end to fear.

FEAR NO MORE THE HEAT O' THE SUN

William Shakespeare [1564–1616]

Fear no more the heat o' the sun,
  Nor the furious winter's rages;
Thou thy wordly task hadst done,
  Home art gone, and ta'en thy wages:
Golden lads and girls all must,
As chimney-sweepers, come to dust.

Fear no more the frown o' the great;
  Thou art past the tyrant's stroke;
Care no more to clothe and eat;
  To thee the reed is as the oak:
The scepter, learning, physic, must
All follow this, and come to dust.

Fear no more the lightning flash,
  Nor the all-dreaded thunder stone;
Fear not slander, censure rash;
  Thou hast finished joy and moan:
All lovers young, all lovers must
Consign to thee, and come to dust.

No exorciser harm thee!
Nor no witchcraft charm thee!
Ghost unlaid forbear thee!
Nothing ill come near thee!
Quiet consummation have;
And renowned be thy grave!

At Mary's funeral last Saturday in Michigan, we heard the following passage from the Book of Wisdom. Here we are assured that the "souls of the just are triumphant in death."

But the souls of the just are in the hand of God, and no torment shall touch them. They seemed, in the view of the foolish, to be dead; and their passing away was judged an affliction and their going forth from us, utter destruction. But they are in peace. For if before men, indeed, they be punished, yet is their hope full of immortality; chastised a little, they shall be greatly blessed, because God tried them and found them worthy of himself. As gold in the furnace, he proved them, and as sacrificial offerings he took them to himself. In the time of their visitation they shall shine, and shall dart about as sparks through stubble; they shall judge nations and rule over peoples, and the Lord shall be their King forever. Those who trust in him shall understand truth, and the faithful shall abide with him in love: because grace and mercy are with his chosen ones.

PERFECT WOMAN

(By William Wordsworth)

She was a phantom of delight
A lovely apparition, sent
To be a moment's ornament.
A dancing shape, and image gay,
To haunt, to startle, and waylay.
A traveller between life and death.
The reason firm, the temperate will,
Endurance, foresight, strength, and skill;
A perfect woman, nobly planned
To warn, to comfort, and command;
And yet a spirit still, and bright
With something of an angel light.

LET IT BE

(By Lennon and McCartney)

When I find myself in times of trouble,
Mother Mary comes to me,
speaking words of wisdom, let it be.
And in my hour of darkness,
she is standing right in front of me,
speaking words of wisdom, let it be.

Let it be, let it be, let it be, let it be.
Speaking words of wisdom, let it be.

And when the broken hearted people living in the world agree,
there will be an answer, let it be.
But though they may be parted,
there is still a chance that they may see.
There will be an answer, let it be.

Let it be, let it be, let it be, let it be.
There will be an answer, let it be.

And when the night is cloudy,
there is still a light that shines on me.
Shines until tomorrow, let it be.
I wake up to the sound of music,
Mother Mary comes to me,
speaking words of wisdom, let it be.

Let it be, let it be, let it be, let it be.
There will be an answer, let it be.●

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 a.m. tomorrow morning.

The motion was agreed to; and at 7:42 p.m., the Senate recessed until tomorrow, Thursday, June 7, 1979, at 9 a.m.

EXTENSIONS OF REMARKS

CATERPILLAR—"A CLASS COMPANY"

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. MICHEL. Mr. Speaker, at a time when business and industry are targets of media criticism it is good to read an intelligent appreciation of one of America's corporate giants. I refer to the recent editorial published in the Tazewell Courier, written by publisher Tom Jones, praising the Caterpillar Tractor Co. located in Peoria, Ill.

Mr. Jones describes the beneficial impact Caterpillar had made on Peoria and the surrounding area. He employs the fact that Peoria—not New York, or Los Angeles, or Chicago—is the world headquarters of this firm. Writes Jones:

> Peoria is much more cosmopolitan than many individuals not familiar with Peoria as a city might believe. Much of this is due to Caterpillar's influence . . . either directly or indirectly.

At this time I wish to insert in the RECORD, "Caterpillar—A Class Company, A Good Neighbor," by Tom Jones, published in the Tazewell Courier, May 24, 1979:

CATERPILLAR—A CLASS COMPANY, A GOOD NEIGHBOR

Caterpillar Tractor Co. is the premier company in the central Illinois area for a multitude of reasons. It is a first class company in my estimation.

First and foremost, it is the largest single employer in the area . . . and I believe the largest single employer from the private sector for the entire state, as far as that goes.

More than 35,000 Peoria-area Cat employees live, work and play in this cross-section that we call central Illinois.

But Cat is a class company for reasons other than employment, too.

They do things in a class way.

Recently, I came across an attractive looking magazine that is given to the nearly 20,000 visitors that come to the Peoria area every year to visit Caterpillar's various plants, offices and facilities.

It is titled, "Caterpillar in the Peoria Area" and is chock-full of pertinent information and data relating to Caterpillar's operations in the Peoria area.

From some of the information gleaned from the magazine I read that Caterpillar has more than 465 acres under roof in the area, and the popular Caterpillar Power Parade (a full line demonstration of Cat equipment for employees and their families) attracted more than 126,000 people from throughout the midwest during the most recent Power Parade with 27 feature demonstrations.

Everything about Caterpillar seems big.

The business library on the seventh floor of the Administration Building in downtown Peoria boasts more than 10,000 books.

That same building, Caterpillar's World Headquarters, receives about 175,000 pieces of first class mail and sends nearly 125,000 additional pieces of mail of all classes every month.

The teletype room in that building averages an additional 40,000 incoming and outgoing messages every month, too.

No, they don't do things in a small way at Cat.

Since 1950 Caterpillar has grown from a two-plant business to a sophisticated industrial corporation with more than 50 facilities and 85,000 employees in 15 countries.

Caterpillar is one of the largest exporters of industrial goods in the United States and their foreign sales are most impressive when listed with other major U.S. corporations.

The magazine also gives a "thumbnail"

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

sketch of Caterpillar's various facilities here . . . in addition to the Administration Center, the East Peoria Plant, Morton Parts Distribution Center, Mapleton and Mossville Plants and the Technical Center are highlighted too.

Also provided is a graphic illustration on the inside back page which provides readers with a flow chart showing the various Caterpillar operations and their impact on each other as well as with Cat suppliers and customers.

Too often we who live here in central Illinois have a tendency to forget about the total impact of Caterpillar.

Its economic impact alone is mind boggling . . . but add to that the multitude of other things that Caterpillar does for this area.

I've said it before and I believe it's true, without Caterpillar, Peoria would be just another small midwest town in the middle of the corn belt.

But Caterpillar has brought a certain degree of urbaness to Peoria that you don't find in other similar sized midwest cities somewhat isolated from major metropolitan areas.

Peoria is much more cosmopolitan than many individuals not familiar with Peoria as a city would believe.

Much of this is due to Caterpillar's influence . . . either directly or indirectly.

Directly through the company's financial support of the arts and a multitude of other worthwhile and meaningful endeavors . . . and indirectly with the caliber of top management and other personnel that have been attracted to this area because of the fact that Caterpillar's World Headquarters are located in Peoria, Illinois and not in a more glamorous city such as New York, or Los Angeles or Chicago.

Caterpillar makes a big difference in our economy, yes.

But it also makes a big difference in our lifestyles, too.

Caterpillar is a good employer . . . and a responsible corporate citizen to its community.

It is a good neighbor.

A class company.●

ENERGY COMPANY OF AMERICA (ECA)

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. MINISH. Mr. Speaker, it becomes clearer each day that the multinational oil companies are incapable subverting their own interests to those of the American people.

Although oil industry profits continue to grow in an astonishing fashion, no help is offered to the consumer in terms of reasonable prices or plentiful supply. On the contrary, the oil companies act as if they were nothing more than local extensions of the OPEC cartel.

Perhaps it is time we recognize that the oil companies will never consider the national interest unless it coincides with their own.

I would like to submit for the RECORD an editorial from the Newark Star-Ledger, New Jersey's leading daily newspaper. The editorial succinctly states the rationale behind legislation I have introduced to create an Energy Co. of America (ECA).

Since oil companies stand to gain no matter what price is charged by OPEC, why not create a nonprofit, American company to compete with private industry? H.R. 3885 does precisely that.

The Energy Co. of America would establish itself as a competitive force in the oil marketplace. It would be authorized to negotiate with any and all foreign energy sources to purchase oil at the best price available.

In addition, the ECA would be mandated to develop the multitude of energy resources available here in the United States. The vast majority of our proven and unproven reserves lies on Federal land. These resources belong to the American people and a comprehensive plan for their development must be designed.

The Energy Co. of America would be empowered to work alone, or in concert with the private corporation, to develop our resources for the public interest. It would do so by environmentally sound methods.

Finally, the ECA would establish reserve supplies of energy to be allocated in times of shortage.

The Star-Ledger editorial follows:

DEALING WITH OPEC

President Carter's chief inflation adviser, Alfred Kahn, has a faculty for cutting against the bureaucratic grain by coming up with fresh ideas to solve difficult problems.

Addressing himself to the energy crunch, for example, he has advanced this promising proposal:

"The Administration should consider whether major oil companies, which are producers themselves, are the most effective bargainers for foreign oil. An alternative procedure could be for the federal government to do the bargaining for lower prices, threatening not ot buy if the price is not right. But the government would have to be backed up by the American public's willingness to accept gasoline rationing if necessary to support the government's negotiating position."

The idea was submitted as part of a lengthy memorandum to top Carter Administration officials outlining some of Mr. Kahn's long-range plans to curb runaway prices.

Mr. Kahn has shrewdly put his finger on an obvious conflict of interest. The big oil companies, as owners of huge petroleum reserves, automatically benefit from any increase in the per-barrel price because this increases the value of their reserves. Under these conditions, it is not likely they will drive a hard bargain with the Organization of Petroleum Exporting Countries (OPEC), a reality that seems to have escaped the Administration.

In a showdown with OPEC over oil prices, the American public will give wholehearted support to their government—including the acceptance of rationing. They will do so because they are now convinced that the alternative is one OPEC price increase after another, with no brake and no roof, until the economy burns up in a flame-out of excesses.●

UPPER BURRELL TOWNSHIP CELEBRATES CENTENNIAL ANNIVERSARY

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. BAILEY. Mr. Speaker, it is a distinct pleasure to direct your attention and the attention of my colleagues in the U.S. House of Representatives to the centennial anniversary of Upper Burrell Township, Westmoreland County, Pa.

On Sunday, July 8, 1979, the opening ceremonies will be held to commemorate the 100-year existence of this small but friendly community.

The second-class township of Upper Burrell was established by order of the Westmoreland County Court of Quarter Sessions on January 18, 1879. The original Burrell Township was partitioned from Allegheny Township in 1852 and was named in honor of Judge Jeremiah Murry Burrell, who was presiding judge of the court.

The population in the beginning was 714 and agriculture was the chief occupation. Its population steadily climbed to almost 2,000 in 1960 but the occupations have shifted over the years to include work in manufacturing and construction, sales, and professional and technical services.

The most significant development in the history of Upper Burrell was the decision of the Aluminum Co. of America to locate its new integrated technical center there. Today, with buildings housing the Alcoa laboratories and supporting services and approximately 1,100 employees, this is the largest and most productive light metals research and development facility in the world. Further expansion is planned.

Another significant development was the relocation of the Penn State University, New Kensington campus, in Upper Burrell Township on a site donated by Alcoa. Lt. Gov. Raymond T. Shafer participated in the initial ground breaking ceremony on October 27, 1965, and the facilities have steadily increased. Today, the 63-member faculty is serving 1,218 degree and certificate students and 4,000 to 5,000 students per year in a wide variety of courses in continuing education.

The main ceremonies of this centennial week will honor past, present, and future members of the Armed Forces. In addition, a bronze plaque will be dedicated in honor of the brave members of the armed services.

I know that I speak for my colleagues and for the residents of my congressional district when I congratulate the fine citizens of Upper Burrell for their efforts to make their home even better for the next hundred years. The entire Upper Burrell Township centennial celebration project is a typically American accomplishment that should make us all proud.

Congratulations to my friends of this fine community.●

ALTERNATIVES TO THE EXISTING OIL IMPORT SYSTEM

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. CONYERS. Mr. Speaker, the Oil Imports Act of 1979 (H.R. 3604), introduced on April 10, 1979 by Representatives BENJAMIN ROSENTHAL, CHARLES ROSE, and myself, seeks to establish a

Federal nonprofit corporation to purchase foreign crude oil and petroleum products and to resell it in the United States. The concept is not new. Congress gave the President standby authority under the Energy Policy and Conservation Act of 1975 to create such a Federal oil purchase agency. The act establishing the Department of Energy also made reference to that authority.

The legislation was introduced on the assumption that, while curbing oil imports is an essential long-range goal, imported oil will remain a major source of supply in the coming years. Ways have to be found, then, to assure a reliable supply at the lowest possible price from the most diverse sources. The problem lies in the fact that there no longer is a ceiling on the world price. While the contract prices, in the neighborhood of $16 a barrel, are being boosted by surcharges, there is evidence of growing breaches in contract agreements and of conversion of contracts into spot sales, which are currently running as high as $36 per barrel. The cost of imported oil is expected to climb to $55 billion or more this year. The shock administered to the economy and the social fabric has already done enormous damage.

The oil imports bill is an effort to address the dangers of the existing oil import system. In place of the control over production and marketing that is currently exercised by a small number of multinational oil companies, whose own growth and profits are directly tied to higher world oil prices, it proposes an independent and publicly accountable agency whose function is to negotiate directly with oil-producing countries and to shop around the world for the lowest priced oil. The present system sustains oil buying from a small number of producers with which the companies enjoy historical ties and numerous privileges, including equity interest and management, as in the case of Saudi Arabia. H.R. 3604 makes possible an expansion and diversification of sources of supply, including incentives to purchase from Third World nations outside of OPEC that possess vast oil reserves, but with whom the companies prefer not to do business. Currently, the Federal Government and citizens lack the most elemental information about the amounts of oil that are purchased abroad, where the oil is refined or sold, the uses to which it is being put, and whether or not real shortages exist. The oil imports bill would serve the important function of gathering this information and monitoring the purchase, refinement, and uses of all foreign oil and petroleum products.

Finally, in place of the current system in which the oil companies sustain the cartel power of the OPEC countries, the legislation introduces much-needed countervailing market power on the side of the buyers, that only government-to-government transactions permit.

Recent information from Iraq, that I have come across, suggests yet another reason why the time has come to deliberate on alternatives to the existing oil import system—namely, the efforts underfoot among a number of OPEC countries to eliminate sales to "the oil monopolies" and their role in the transport and marketing of foreign oil. The following policy statement of Saddam Husayn, Iraq's vice-chairman, was reported in the Foreign Broadcast Information Service's news digest of May 31:

> The unstable situation in the world oil market is proof that as long as U.S. capitalist monopolies continue to control any stage of the oil industry, these monopolies will remain in a position to tamper with the supply and demand factors and to increase oil prices . . . [and] effectively harm the economies of oil-producing countries in particular and of Third World countries in general . . . What we have achieved in international oil relations and direct oil marketing to some 50 countries, removed from maneuvers by the oil monopolies, emphasizes the fairness and importance of the decision to nationalize the oil industry in Iraq.

Whether or not the Iraqi minister's threats to eliminate sales to the oil companies, on which our country depends for its supply, are plausible or not, the fact is that, increasingly, most other major industrial consumers of oil depend on Government policies and government-to-government transactions for the purchase of their own oil. The present situation is rife with dangers. The existing oil import system is obviously well-suited to the companies' goals of profit and control, but it makes no sense whatsoever from the point of view of the national interest. I am hopeful that the committees of jurisdiction in the oil import field will move forward on the legislative proposals such as H.R. 3604 that provide alternatives to the existing arrangements.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 7, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 8

9:30 a.m.

Judiciary

Antitrust, Monopoly and Business Rights Subcommittee

To hold hearings on a proposed amendment to S. 390, to expedite and reduce the cost of enforcing antitrust laws.

5110 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To continue hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.

235 Russell Building

JUNE 11

9:00 a.m.

Judiciary

Antitrust, Monopoly, and Business Rights Subcommittee

To hold oversight hearings on the activities of the railroad industry relating to the policy of promoting railroad mergers.

457 Russell Building

9:30 a.m.

Finance

Energy and Foundations Subcommittee

To resume oversight hearings on the implementation of the energy taxation policy for tax proposals relating to energy production (windfall profits taxes).

2221 Dirksen Building

Judiciary

Constitution Subcommittee

To resume hearings on S. 506, to provide the Department of Housing and Urban Development with new enforcement powers to insure compliance with statutes guaranteeing equal access to housing in the United States.

2228 Dirksen Building

Select on Ethics

To resume hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.

1202 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To hold hearings on S. 339, to facilitate U.S. exports relative to credit to Communist countries.

5302 Dirksen Building

Labor and Human Resources

*Health and Scientific Research Subcommittee

To resume hearings on S. 1177, to establish a partnership between the Federal Government and the States in the planning and provision of mental health services.

4232 Dirksen Building

JUNE 12

9:00 a.m.

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To hold oversight hearings on housing issues relating to tax-exempt mortgage revenue bonds.

5302 Dirksen Building

9:30 a.m.

Select on Ethics

To continue hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.

1202 Dirksen Building

10:00 a.m.

Appropriations

Business meeting, to begin mark up of proposed budget ceiling allocations for fiscal years 1979 and 1980, and on proposed supplemental funds for fiscal year 1979 for all agencies and programs under the jurisdiction of the Committee.

S-128, Capitol

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on S. 950, proposed Omnibus Solar Energy Commercialization Act.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold hearings on S. 703, to provide for the study, advanced engineerings, and design and or construction of certain public works projects for navigation and flood control on rivers and harbors in the United States and trust territories.
4200 Dirksen Building

Finance
To resume mark up of S. 505 and 507, proposing reform of the administrative and reimbursement procedures currently employed under the medicare and medicaid programs, and S. 570, to establish a system of stand-by percentage limits on allowable rates of increases in hospital revenues (Hospital Cost Containment).
2221 Dirksen Building

10:30 a.m.
Judiciary
Antitrust, Monopoly, and Business Rights Subcommittee
To resume hearings on a proposed amendment to S. 390, to expedite and reduce the cost of enforcing existing antitrust laws.
5110 Dirksen Building

JUNE 13

9:30 a.m.
Select on Ethics
To continue hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.
6226 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.
235 Russell Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To continue hearings on S. 950, proposed Omnibus Solar Energy Commercialization Act.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To continue hearings on S. 703, to provide for the study, advanced engineerings, and design and or construction of certain public works projects for navigation and flood control on rivers and harbors in the United States and trust territories.
4200 Dirksen Building

Finance
To continue mark up of S. 505 and 507, proposing reform of the administrative and reimbursement procedures currently employed under the medicare and medicaid programs, and S. 570, to establish a system of stand-by percentage limits on allowable rates of increases in hospital revenues (Hospital Cost Containment).
2221 Dirksen Building

Judiciary
To resume hearings on S. 382, to strengthen and facilitate the carrying out of antitrust and procompetitive policies of the Federal Government, and to increase competition in regulated industries.
2228 Dirksen Building

2:00 p.m.
Labor and Human Resources
Business meeting, to mark up S. 570, to control increases in hospital revenues (Hospital Cost Containment).
4232 Dirksen Building

JUNE 14

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings to examine the activities and policies of the Consumer Product Safety Commission in the area of chronic hazards as it relates to consumer products.
5110 Dirksen Building

Select on Ethics
To continue hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.
1202 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue hearings on S. 611, and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.
235 Russell Building

Energy and Natural Resources
Energy Regulation Subcommittee
To receive testimony from the Energy Information Administration on the current energy supply situation.
3110 Dirksen Building

Finance
To continue markup of S. 505 and 507, proposing reform of the administrative and reimbursement procedures currently employed under the medicare and medicaid programs, and S. 570, to establish a system of stand-by percentage limits on allowable rates of increases in hospital revenues (Hospital Cost Containment).
2221 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 668, to allow the Cow Creek Band of the Umpqua Indians of Oregon to file a claim with the U.S. Court of Claims for alleged failure of the United States to fulfill treaty obligations.
6226 Dirksen Building

10:30 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the activities of financial institutions relative to the sale of insurance.
5302 Dirksen Building

2:30 p.m.
*Veterans' Affairs
To hold hearings on S. 689, proposed Veterans' Disability Compensation and Survivors Benefits Act, and S. 754, proposed Veterans Insurance Amendments Act.
6226 Dirksen Building

JUNE 15

9:30 a.m.
Finance
Tourism and Sugar
To hold hearings on S. 589, 749, and 940, bills to provide for the applicability of tax rules affecting foreign conventions.
2221 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.
235 Russell Building

JUNE 18

9:30 a.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 231, 700, 1003, and 1065, bills to provide for the enactment of efficient tax incentives for research and development innovation in the field of U.S. exports.
2221 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcasting uses of the electromagnetic frequency spectrum.
235 Russell Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on S. 864, to establish an office within the Department of Commerce, which would promote and encourage the formation and utilization of export trade associations.
5302 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To resume hearings on S. 703, to provide for the study, advanced, engineerings, and design and or construction of certain public works projects for navigation and flood control on rivers and harbors in the United States and trust territories.
4200 Dirksen Building

JUNE 19

9:30 a.m.
Commerce, Science, and Transportation
To resume oversight hearings on the trucking industry's economic regulation by the Federal Government, focusing on household moving and the problems confronting both the household goods carriers and the consumers they serve.
235 Russell Building

*Energy and Natural Resources
To hold oversight hearings on the activities of programs administered by the Surface Mining Control and Reclamation Act of 1977.
3110 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
To resume oversight hearings to explore the areas of basic learning skills used in elementary and secondary schools.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on S. 864, to establish an office within the Department of Commerce, which would promote and encourage the formation and utilization of export trade associations.
5302 Dirksen Building

Commerce, Science, and Transportation
Communications Subcommittee

To continue hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.

1202 Dirksen Building

Environment and Public Works
Water Resources Subcommittee

To continue hearings on S. 703, to provide for the study, advanced engineerings, and design and or construction of certain public works projects for navigation and flood control on rivers and harbors in the United States and trust territories.

4200 Dirksen Building

JUNE 20

9:00 a.m.

Veterans' Affairs

To hold hearings on veterans' claims for disabilities resulting from the effects of nuclear weapons testing.

6226 Dirksen Building

9:30 a.m.

Labor and Human Resources

To hold hearings on S. 446, proposed Equal Employment Opportunity for the Handicapped Act.

4232 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation
Surface Transportation Subcommittee

To resume hearings on S. 796, proposed Railroad Deregulation Act.

235 Russell Building

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Labor and Human Resources
*Health and Scientific Research Subcommittee

To hold hearings on S. 568, to provide for the potential contribution and advancement of women in scientific, professional, and technical careers, and on proposed national health insurance programs.

457 Russell Building

3:30 p.m.

Labor and Human Resources
Health and Scientific Research and Submittee

To resume markup of S. 772–787, S. 1045, and S. 1075, bills to require drug companies to conduct postmarketing and scientific investigations of approved drugs, to transmit drug information to patients and health professionals regarding the use of approved drugs.

S–207, Capitol

JUNE 21

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee

To hold hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.

6226 Dirksen Building

*Energy and Natural Resources

To resume oversight hearings on the activities of programs administered by the Surface Mining Control and Reclamation Act of 1977.

3110 Dirksen Building

Labor and Human Resources

To continue hearings on S. 446, proposed Equal Employment Opportunity for the Handicapped Act.

4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee

To hold hearings on proposed legislation to establish financial reform programs.

5302 Dirksen Building

Commerce, Science, and Transportation
Surface Transportation Subcommittee

To continue hearings on S. 796, proposed Railroad Deregulation Act.

235 Russell Building

*Labor and Human Resources
Health and Scientific Research Subcommittee

To continue hearings on S. 568, to provide for the potential contribution and advancement of women in scientific, professional, and technical careers, and on proposed national health insurance programs.

457 Russell Building

JUNE 22

9:30 a.m.

Finance
Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 1063 and 1062, bills to provide for the structural simplification of the Internal Revenue Code.

2221 Dirksen Building

JUNE 25

9:30 a.m.

Finance
Taxation and Debt Management Subcommittee

To hold hearings on S. 192 and 208, bills to provide for the tax treatment of foreign investors for property located in the United States.

2221 Dirksen Building

10:00 a.m.

*Labor and Human Resources
Health and Scientific Research Subcommittee

To hold hearings to investigate the environmental effects of low level radiation.

4232 Dirksen Building

2:00 p.m.

Labor and Human Resources
Health and Scientific Research Subcommittee

To resume mark up of S. 772–787, S. 1045, and S. 1075, bills to require drug companies to conduct post-marketing and scientific investigations of approved drugs, to transmit drug information to patients and health professionals regarding the use of approved drugs.

EF–100, Capitol

JUNE 26

9:00 a.m.

Labor and Human Resources

To hold hearings on S. 1076, proposed Multiemployer Pension Plan Amendments Act.

4232 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

To resume oversight hearings on the trucking industry's economic regulation by the Federal Government.

235 Russell Building

10:00 a.m.

Energy and Natural Resources
Energy Conservation and Supply Subcommittee

To hold hearings on S. 734, proposed Federal Power Marketing Revolving Fund Act.

3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee

To hold hearings on proposed cost sharing factors for water resources projects.

4200 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee

To hold hearings on proposed authorizations through fiscal year 1964 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.

1114 Dirksen Building

JUNE 27

9:00 a.m.

Labor and Human Resources

To continue hearings on S. 1076, proposed Multiemployer Pension Plan Amendments Act.

4232 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

To continue oversight hearings on the trucking industry's economic regulation by the Federal Government.

235 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee

To resume hearings on proposed legislation to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.

6226 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee

To continue hearings on proposed authorizations through fiscal year 1984 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.

1318 Dirksen Building

JUNE 28

10:00 a.m.

Energy and Natural Resources
Energy Conservation and Supply Subcommittee

To resume hearings on S. 734, proposed Federal Power Marketing Revolving Fund Act.

3110 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee

To continue hearings on proposed authorizations through fiscal year 1984 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.

4232 Dirksen Building

JULY 10

10:00 a.m.

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee

To hold oversight hearings on the implementation of the Outer Continental Shelf Leasing program.

3110 Dirksen Building

JULY 11

9:30 a.m.

Labor and Human Resources

To hold hearings on the workplace, employment and training and their perspectives for the coming decade, and will focus on the Federal role in public sector employment and training policies and programs.

4232 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on the certification and inspection procedures of the DC-10 and other types of aircraft.

235 Russell Building

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

JULY 12

9:30 a.m.

Labor and Human Resources

To continue hearings on the workplace, employment and training and their perspectives for the coming decade, and will focus on the Federal role in public sector employment and training policies and programs.

4232 Dirksen Building

Veterans Affairs

To hold oversight hearings on the efforts made by the Veterans' Administration to provide information on benefits due incarcerated veterans.

6226 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue hearings on the certification and inspection procedures of the DC-10 and other types of aircraft.

235 Russell Building

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To resume oversight hearings on the implementation of the Outer Continental Shelf Leasing program.

3110 Dirksen Building

JULY 16

10:00 a.m.

Energy and Natural Resources

To hold hearings on S. 730, to provide for the establishment of the Energy Corporation of the Northeast designed to bring together the States, Federal Government, and private industry in a creative effort to deal with the energy problems of this area.

3110 Dirksen Building

JULY 17

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold joint hearings with the House Subcommittee on Science, Research and Technology of the Committee on Science and Technology, to examine U.S. policies and initiatives of the U.S. Conference on Science and Technology for Development.

5110 Dirksen Building

JULY 18

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

JULY 19

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To hold oversight hearings on the implementation of the Education for all Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

JULY 24

9:30 a.m.

Labor and Human Resources

To resume hearings on S. 446, proposed Equal Employment Opportunity for the Handicapped Act.

4232 Dirksen Building

JULY 25

9:00 a.m.

*Veterans' Affairs

To hold hearings on S. 759, to provide for the right of the United States to recover the costs of hospital nursing home or outpatient medical care furnished by the Veterans' Administration to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts.

6226 Dirksen Building

JULY 26

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for all Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

JULY 31

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for all Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

CANCELLATIONS

JUNE 8

9:00 a.m.

*Labor and Human Resources

Alcoholism and Drug Abuse Subcommittee

To hold hearings to examine the effectiveness of warning labels on alcoholic beverages.

6226 Dirksen Building

9:30 a.m.

Labor and Human Resources

Education, Arts, and the Humanities Subcommittee

To resume oversight hearings to explore the areas of basic learning skills used in elementary and secondary schools.

4232 Dirksen Building

Select on Ethics

To continue hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.

1202 Dirksen Building

JUNE 12

10:00 a.m.

Rules and Administration

To resume hearings on S. 623, proposed Senate Election Reform Act, to be followed by consideration of legislative and administrative business.

301 Russell Building

2:30 p.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

Business meeting to begin mark up of S. 772-787, S. 1045, and S. 1075, bills to require drug companies to conduct postmarketing and scientific investigations of approved drugs, to transmit drug information to patients and health professionals regarding the use of approved drugs.

4232 Dirksen Building

JUNE 14

2:00 p.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To resume mark up of S. 772-787, S. 1045, and S. 1075, bills to require drug companies to conduct post-marketing and scientific investigations of approved drugs, to transmit drug information to patients and health professionals regarding the use of approved drugs.

4232 Dirksen Building

JUNE 21

2:00 p.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To continue mark up of S. 772-787, S. 1045, and S. 1075, bills to require drug companies to conduct post-marketing and scientific investigations of approved drugs, to transmit drug information to patients and health professionals regarding the use of approved drugs.

EF-100, Capitol

SENATE—*Thursday, June 7, 1979*

(Legislative day of Monday, May 21, 1979)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

Mr. LEAHY. It is my distinct pleasure as a U.S. Senator and as a Vermonter to welcome the guest chaplain, the Reverend Georgi Vins, a Baptist minister who is now in exile from his own country and is resident in the United States.

PRAYER

The Reverend Georgi P. Vins, a Russian refugee Baptist clergyman, offered the following prayer, which was interpreted in the English language by Cathy Cosman:

Almighty God and Father of our Lord Jesus Christ,
All compassionate Father of mercy,
I ask Your blessings on the people who gather here.
I am grateful to You for the gift of freedom.
I am grateful for the goodness of the American people,
Who receive me, an exile.
Let there be peace throughout the world!
Let there be freedom for all people.
Send the freedom to preach the Gospel.
Dear God, bless Russia and America!
Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 7, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. FORD). The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no need for my 2 minutes. Does the Senator have need for his?

Mr. DOMENICI. I only ask unanimous consent that George Ramonas, of my staff, be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield my time to the Senator from Maine if he needs it.

Mr. MUSKIE. I thank the majority leader.

RECOGNITION OF SENATOR MUSKIE

The PRESIDING OFFICER. Under the previous order, Mr. MUSKIE is recognized for 15 minutes, with an additional 2 minutes from the majority leader.

The Senator from Maine.

THE POPE'S RETURN TO POLAND

Mr. MUSKIE. Mr. President, it is most appropriate that the Senate set aside its business this morning to reflect on the return of Pope John Paul II to his native Poland.

Here in the United States, we wear our social, religious, and political freedom lightly. We are accustomed to the interplay of ideas, competition among philosophies, and proliferation of faiths which a free society allows.

We instinctively share a moral, ethical, and governmental philosophy. We debate the means to our common ends within a narrow range of options we all agree are appropriate for government.

Elsewhere, this is not always the case. Poland today is regarded as a progressive among Communist bloc nations. Yet press censorship, restrictions of movement, an active secret police, limits to religious freedom—all the approaches to social and economic growth which we know as uniquely Communist are very much in evidence.

The government professes atheism and actively discourages religious practice. It works toward rigid social prescriptions as well as economic goals. Without question, it is committed to its belief that the means and ends are in the people's best interests. And it will accept no arguments to the contrary.

Perhaps the strongest uniting force in the country is the pride of the people in their thousand-year heritage as Poles.

It is a pride faithfully nurtured through wartime devastation which is inconceivable to any who did not experience it. It is unshakable. And it is universal.

The strongest social force is the Roman Catholic Church. It is the church which acts as ombudsman for the people, which promotes civil and human rights, and which most visibly and firmly offers an opposing viewpoint. This fact has made relations between church and state uneasy at best and hostile at worst. As Karol Cardinal Wojtyla, Archbishop of Krakow, the new Pope was one of those firm voices speaking in behalf of social change.

As Pope John Paul II, he is a Polish national hero. He would be regarded as such regardless of his personality. His elevation to a post of great secular as well as religious importance makes him a source of national pride as well as national reverence.

But John Paul is also a rare and remarkable human being. His faith is deeply held and it marks his every action. It is reflected in his personal warmth and obvious love for all people.

He seems to wear the mantle of St. Peter lightly, and describes himself as the "retired Archbishop of Krakow." People respond instinctively to this unassuming humanity.

He is a man of great intellectual capacity, and has been quick to understand the opportunities for change which modern communications present.

And he is a man of great strength and courage, which have marked his every utterance during this visit. Yesterday, he called on his countrymen to share his courage, to become nonconformists, to "run risks in life."

As Archbishop of Krakow, he was known for running risks. It is a characteristic which continues to serve him well.

Viewed against this background, it is no surprise that the Pope's visit is one of the most important and consequential events in recent Polish history.

It is also no surprise that people throughout the world are observing the visit with great interest and hope.

The Pope's visit is a homecoming, and a joyous one for him and for most of the 35 million people of Poland. But it/is also a visit with complex and significant social, political and religious overtones.

The Pope's visit is unique. This first Slavic Pope is the first Pope to visit a Communist country. His visit marks the first time the Government of Poland has ever cooperated formally in any way with the Roman Catholic Church in Poland. It comes at a time when Poland is seeking to expand its relations with the West, within the context of its relationship with the Soviet Union. And it comes at a time when those contacts with the West are marred by fundamental differences in the fields of human rights.

In short, the Polish Government and the Polish people are in uncharted territory.

The Polish Government, to its credit, has been willing to make substantial compromises in making arrangements for the visit—a visit, I might add, which would pose substantial logistical and administrative challenges anywhere in the world. In Poland, where large crowds are unheard of and where such basics as convenient lodging in rural areas simply do not exist, the job is all the more difficult.

Church officials connected with the visit have also made compromises, of course.

But the key here is that for the first time, the church and the government are talking, working together and reaching agreement. How valuable those contacts will be in the future is a question with enormous long-term significance in Poland.

Polish First Secretary Edward Gierek was looking forward to the visit when I talked with him during a recent visit to Poland. As he greeted Pope John Paul, he took the opportunity to encourage cooperation between church and state in the name of "further progress in the life of the society."

For his part, Pope John Paul has made the most of every opportunity to speak out on subjects of greatest concern to Roman Catholics behind the Iron Curtain.

He has reaffirmed his Slavic heritage, has demonstrated his own sense of Polish nationalism, and has been deeply moved by the warmth of his countrymen. His first gestures and first remarks concerned his native land—which he called "the roots of my light, of my heart, of my vocation."

From that base he broadened his sense of cultural pride to embrace all of Eastern Europe. "We cannot forget these brothers of ours," he said, and he prayed that his promise to remember would be heard.

And he offered a blunt challenge to the government in Poland and all Communist regimes which deny a temporal role for the church or any other group.

He pressed for guarantees of religious liberty and sought governmental recognition of "the cause of fundamental human rights."

Words like these are not lightly spoken publicly in Poland.

I believe what Pope John Paul was offering was a prescription for church-state cooperation based more on moral certainty than on political ideology. It was a counter-offer to Mr. Gierek's plea for cooperation along more limited and carefully circumscribed lines.

Whether Gierek can or will reply, and in what way, is a key question.

No one should believe that the Pope's visit will produce any instant blossoming of church-state cooperation. Church and state are fundamentally at odds on many issues. But the Pope's visit unquestionably offers an opportunity to begin a better relationship, perhaps first in Poland; perhaps eventually in all of Eastern Europe.

Millions here in the United States and throughout the world hope and pray that the opportunity is not lost.

Mr. President, I believe it is particularly fitting that we speak today of the Pope's pilgrimage home. Yesterday marked the 35th anniversary of the allied invasion of Europe, an event we view with justifiable pride.

In Poland, the Nazis had just completed construction of the railway siding at the Birkenau death camp. Later this summer the Poles will mark the 35th anniversary of the Warsaw uprising and the systematic demolition of Warsaw.

Pope John Paul visits Auschwitz-Birkenau today, to pray for the 4 million who died there at the hands of the Nazis. It is maintained by the Polish people as a memorial, and it is a place of unspeakable horror.

It is also a place of deep significance to every Pole.

It was primarily Poles and others from Eastern Europe who paid the ultimate price for that inhumanity. Poland survived. It emerged with a fierce pride in its heritage and with a deep commitment to rebuild its cities and its society.

Perhaps in the Pope's visit to Auschwitz the Poles, and people throughout Eastern Europe, will see a symbol of what hope and human dignity can overcome.

For our part, we can also hope, and pray, that the Pope's visit establishes a strong foundation for progress and human rights in Eastern Europe.

Mr. DOMENICI. Mr. President, will the Senator from Maine yield 5 minutes to the Senator from New Mexico?

Mr. MUSKIE. I yield to my good friend from New Mexico.

The PRESIDING OFFICER. The Chair might say the Senator from New Mexico has 15 minutes.

Mr. DOMENICI. I was hoping that between us we would not use the full 30 minutes. To my knowledge, the Senator from Minnesota (Mr. DURENBERGER) needs about 2 minutes.

Mr. MUSKIE. The Senator from Washington (Mr. JACKSON) will be over shortly, and he will want 5 minutes.

Mr. DOMENICI. Then perhaps I should go ahead and use my own time.

The PRESIDING OFFICER. The Senator from Maine has 5 minutes remaining. The Senator from New Mexico is recognized on his own time.

Mr. DOMENICI. And the Senator from Maine does not lose his time?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I also have 2 minutes from the leadership, and I will start by using it.

First let me say to my good friend from Maine (Mr. MUSKIE) that, knowing how proud I have been in the past as an Italian when we have had distinguished world leaders that are Italian in origin, I can understand the distinguished Senator's great sense of pride that he must have in this rather fantastic man who happens to be of the same national origin as you—this tall, tall man who just went to Poland—and I commend you for that.

Mr. LEAHY. Mr. President, if I might interject for one second, as one of the three Senators of Italian descent in the U.S. Senate, I want to be associated with Senator DOMENICI's remarks.

Mr. MUSKIE. Mr. President, may I say to my friend that I take as much pride in our one Pope as you take in all the Popes of your nationality.

I was privileged to go to Rome for investiture of Pope John Paul II, and I think it was the most moving experience of my whole life, particularly in view of the warmth of the welcome extended by the Italian people to this Polish Pope, who spoke to the world at that time in 17 languages, including, I am told, fluent Italian, and—I am also told—in fluent Polish.

Mr. DOMENICI. He says he does his worst in Italian, but perhaps that was from mere modesty or to forestall possible criticism.

I am not so sure, I say to my good friend, but that his pride in the one may be totally justified as we look at history. I am not at all sure but that that pride may be appropriate in the light of current events.

Mr. MUSKIE. I appreciate the remarks of the Senator from New Mexico, and concur completely.

Mr. DOMENICI. If I may, I will borrow a word from my good friend the Senator from Maine and call this the "invasion" by a spiritual man. The Senator commented that yesterday we celebrated the anniversary of the invasion of Normandy by military men. It appears to me that we are speaking here today because there is another kind of invasion occurring, and it probably is more significant in the course of human history than many other kinds of invasions that have occurred.

Let me start my few words about Pope John Paul II with a statement found in this morning's Washington Post, where a reporter was asking a resident of the Pope's home town, Krakow, what he thought about all this.

This fellow was in a car garage or the like, and this was his statement:

> Last October he went off with a small suitcase, two rolls, a toothbrush, and some pocket change, and now look at the way he comes back here.

Thus said this average Catholic Pole, commenting on their great leader.

Now, Mr. President, I do not know what this great man will say to us if he ever comes to America. I hope he does, and I hope he has some lessons for us.

But there can be no doubt that this Pope stands tall today among men. He is not fettered as a leader with the little daily details about what we ought to do here and there, about decontrol of oil, ships, or fiscal responsibilities. He is talking about the big things: Human aspirations and human potential, and spiritual freedom, without which the others are of little consequence.

I am reminded that a speaker from Spain, speaking to the joint session for the new king, King Carlos, made a statement that I did not quite understand until I thought about it more and more. He said, "All significant human achievement occurs because men or women are free."

I really did not understand that because it appeared to me that for most of history men have not been free. But as I think about it he is correct, because people have been free in the course of great achievements, either because their government let them be free or because some force allowed them to be free, or their maker let them be free. And what makes this visit of the Pope, John Paul II, to Poland so significant is that he is saying to governments, "Yes, we need you. Yes, you have a rightful role. There must be some orderliness about the material world, and you have a very important role to play."

But he stops there, and he is saying, "But, no, you are not all powerful and you are not all important. There is something far more important."

That is what he is telling those over there, the so-called captive nations and their governments. That is the message to us and that is the message to history. Any government that seeks to go beyond the bounds of government and control the aspirations and freedom of the spirit of people is doomed.

It is just a matter of time. They will fail, either on a daily basis as they have in Poland, or they will fail eventually by change. For that kind of suppression has obviously failed in Poland. How else could the people all still believe and love this man, go out to meet him, go to their churches. That system has already, on a daily basis, failed as it cannot suppress freedom, the freedom of spirit, the freedom to believe in a God and to practice as a religion one's faith in that God.

It is obvious that while what I have just said is true, I believe it to be true, we need a man like this, every now and then, to come on to this world and take that little trip and make that invasion to rekindle the spirit, and to let everyone know that what they believe is indeed true.

How proud they must be. But let me say from my standpoint I obviously cannot be as proud, at least as personally proud, as they, but I can certainly, as a believer in the Almighty and a member of a free institution in a free nation, share their pride vicariously. I guarantee you, Mr. President, that there are few events that I have witnessed in my 47 years, that I can recall, that make me more proud than this one.

I commend the distinguished Slav, and he obviously loves to be called that, Pope John Paul II. The spirit that got him elected to that job and the spirit that moves him to these tremendous heights of leadership bring me to the floor to say thanks to him, to the spirit that moves him, and also to say, I encourage him. I encourage his people. I encourage people all over the world to listen carefully, not only to the words but to the vibrations that are coming from this episode. It assuredly seems to have some kind of cleansing power that is beyond the planned, beyond the military, beyond the rockets, beyond the bombs, of other invasions. It is something all pervasive that we all kind of hope to witness and feel but which does not happen very often.

Mr. President, I yield 2 minutes to my friend from Minnesota.

Mr. DURENBERGER. Mr. President, I rise to express my deep gratitude to the Senators from Maine and New Mexico for the thoughts they have shared with the country this morning.

In our hectic world we can be grateful there are still events of such joy and happiness that they overwhelm all our other activities. For a moment, the nations of the world are joined and we can relish the community of humankind.

The visit of Pope John Paul II to Poland has been such a cherished moment. As the world has watched, Pope John Paul has unabashedly professed his love for his fellow citizens and his native land. As one newspaper put it, the Pope truly has "indulged in moments of joy." And, he has shared those moments with the world.

The Pope's visit has had a special meaning for my family and me. My great-grandfather was born in Pilchowice, Poland, 25 miles from the Pope's birthplace, Wadowice. Several of my relatives still live near Pilchowice. Life for them has not been easy. A cousin spent 9 years in a Siberian prison camp. Another cousin works long hours in a coal mine, yet, part of the irony of life in Poland is that his family cannot get enough coal to keep them warm in the winter.

For my relatives and millions of Poles, the Pope's words of courage and cheer during his visit have given them hope. The Pope's presence has shown them the world cares; they have not been forgotten. That is the message of the Pope's visit. While we celebrate with joy, we must reaffirm our resolve to assure the freedom of all people.

The past week has also told the world something about Pope John Paul II. He is a man of great joy and deep personal warmth. He is a dedicated world leader who will not be intimidated in the face of human injustice. His words and actions during the past several days have stated emphatically that he is committed to peace and human dignity. He has told the world that his message will be heard.

My fellow Minnesotans, my family, here and in Poland, and I join the Pope in his quest for world freedom. We offer our help, our encouragement, and our prayers.

Mr. JACKSON. Will the Senator yield?

The PRESIDING OFFICER. The Senator from New Mexico has the time.

Mr. DOMENICI. I yield 5 minutes.

The PRESIDING OFFICER. The Senator only has 3 minutes. We shall use the time of the Senator from Maine to recognize the Senator from Washington.

Mr. JACKSON. Mr. President, I want to join Senator Muskie, Senator Domenici, and other colleagues this morning in reflecting on the historic homecoming pilgrimage of Pope John Paul II to Poland.

Over the centuries, in resisting tyranny, the churches have often miserably broken down. But there is also a great tradition of churches at their best—like dikes that again and again the encroaching sea of repression has come upon and found they would not give. Throughout history, there have been men and women who have said: You dare not coerce conscience. You dare not coerce worship. We must obey God rather than man.

Pope John Paul II stands in that great tradition—a wise, warmhearted and courageous spokesman for the free spirit confronting the world's coercion.

There are many things in these troubled days that the church cannot do to help, but some things are the church's special business. None is more crucial and important than to champion the cause of basic human rights.

Pope John Paul II understands this mission in a profound way. In Poland this week, he called upon Poland's Communist Government to recognize "the cause of fundamental human rights, including the right to religious liberty." He urged his bishops to seek a discussion with the government aimed at normalizing relations between church and state. "Any such discussions," he said, "must respect the convictions of believers, insure all the rights of citizens, and also the normal conditions for the activity of the church as a religious community in which the vast majority of Poles belong."

Pope John Paul II has already emerged as a statesman-pope who will both instruct and lead. Blessed with an extraordinary ability to preach to the mind and heart, a captivating down-to-earthness and sense of humor, he delights and moves his millions of listeners.

And he has only started on his efforts to encourage spiritual and temporal reform. He said:

> It is not what the Holy Spirit disposes, that this Polish Pope, this Slavic Pope, should at this precise moment manifest the spiritual unity of Christian Europe? . . . We shall not return to the past. We shall go toward the future.

Mr. MUSKIE. Mr. President, I simply want to say, in closing this colloquy, how much I appreciate the words of my colleagues, Senator Domenici, Senator Jackson, and others, who have spoken here this morning. As the only Pole ever elected to the U.S. Senate and the only Pole ever elected Governor of an American State, I had sometimes felt isolated, especially as, with other Poles across the country, I viewed the oppression of my father's native land and, in a real sense, my homeland, Poland.

My entire heritage is Polish. My father came to this country from eastern Poland. My mother's parents both emigrated to this country from Poland. I have been raised by my father, who was a very articulate and patriotic Pole, in the tradition of a thousand years of Polish Catholicism and Polish nationalism. So I feel, in a way, that perhaps one who is not of Polish extraction would not understand how my father's countrymen and my countrymen in Poland are reacting to this visit of their Polish Pope.

I spent 3 days in Poland in May, at the request of the President, and visited Warsaw, talked to lay leaders of Poland, visited Krakow, Auschwitz, and Birkenau. That 3 days drove home to me what my father said to me so many times when I was a boy at his knee, growing up. He wanted to be sure I would never forget what the Polish tradition meant to me. That is what Pope John Paul II is saying to the world this week.

I did not mention this in my opening remarks, but I feel I can do so in my closing remarks: I have a deep sense of personal pride, admiration, and gratitude for Pope John Paul II.

Mr. JACKSON. Will the Senator yield?

Mr. MUSKIE. Yes.

Mr. JACKSON. I can only say to Senator Muskie, you can be mighty proud of your heritage.

The PRESIDING OFFICER. The time of the Senator from Maine has expired. The Senator from New Mexico has 3 minutes remaining.

Mr. DOMENICI. Mr. President, I say to my good friend from Maine that I am so pleased that he gave his few closing remarks, because it seems to me that we have a tendency to forget some of the background of our people. This whole country is a country of immigrants. That is what makes it strong. It is the traditions that our freedom, in a sense, permits us to keep or give away, whichever we prefer. In my opinion, strength is still here because the bulk of those traditions, which are basically spiritual, are kept.

The immigrants' traditions of family, neighborliness, friendliness, thrift, pride, diligence, work—those things are what made America great and they all came with the immigrant. I think it is tremendous for history that people like the Senator state them here for the record, for all of posterity.

It has been a pleasure to share this morning with you, a great event and one of personal pride and joy to you, Senator Muskie. I thank you so much.

I yield back my time, Mr. President.

● Mr. LEVIN. Mr. President, the return of Pope John Paul II to his native Poland has given all of us in the United States an event of high drama. Part of that drama has been revealed by the media's coverage of the trip. But an even larger part remains unexamined by cameras and the pictures they create.

We have, first, the very human drama of a man returning to his native land, reaffirming his ties to his country, reestablishing his contact with his people. In a similar sense we have the very touching and evident emotion displayed by the citizens of Poland for their native son. The warmth of their welcome, the fervor of their embrace is symbolic of a deeper yearning in their hearts and minds.

That deeper yearning is, of course, for freedom. Freedom to worship as they wish, freedom to speak as they will, freedom to behave as they want. Despite years of Communist rule and indoctrination, it is evident that the call of freedom still is heard in the soul of the Polish people.

But finally, Mr. President, we have the courage of the Pope and the people of Poland. The courage of the people is evident in their willingness to publicly and openly welcome the Pope in the way they have. In their country, such expressions of personal pleasure run the risk of being met with expression of displeasure by the state. The people of Poland, in keeping with their traditions and spirit, have chosen to ignore that risk and honestly express their own sentiments. And the Pope is also showing his personal courage. That, of course, does not come as a surprise. We expect as much from a man who ignored personal danger in standing against the Nazis during their occupation of his land in World War II. But our lack of surprise ought not minimize our degree of admiration for the precedent-setting nature of his visit to a Communist country and his public statements about the relationships between the church and the Government of Poland.

I am, Mr. President, delighted to join with my colleagues in paying tribute to Pope John Paul II and to the people of Poland.●

POPE JOHN PAUL II'S MONUMENTAL VISIT TO POLAND

● Mr. CHAFEE. Mr. President, today we mark the 6th day of Pope Paul II's visit to his native country, Poland. I am honored to join my distinguished colleagues, Senators Muskie and Domenici, in noting the importance of this monumental occasion.

Just think of the significance of this event. The first Pole to occupy the 2,000-year-old papal throne has returned to the cheers of millions of his proud countrymen. The first Pope from an Iron Curtain country has now become the first Pope to visit a Communist land.

But most importantly, this visit—and the courageous and forceful words of the Pope himself—signify an open challenge from the Roman Catholic Church to the Government of Poland. That challenge is very simple, but hardly frivolous: Grant the people of Poland more than just token religious freedom.

At the same time, Pope John Paul II has daringly used the occasion to urge all Communist countries to cease the suppression of not only religious rights, but human rights, as well.

In boldly expressing his message to what he called all "captive nations," the Pope has aroused anew the pride of not only Polish-Americans such as Senator Muskie in Pope John Paul II, but all peace-loving people as well.

We have all been moved by the Pope's emotional visits to the sites of former German concentration camps, by the massive outpouring of love and adoration by the Polish people, and by the Pontiff's sense of informality, mirth, and genuine warmth. Never has any one personality clashed more sharply with the grim face of the Communist government, one which has tried futilely to limit public access to this remarkable man.

This visit has been a celebration for not just the Poles, but for us all. And no one could have carried the message of freedom more eloquently, amidst the joy of that celebration.

As an editorial in the Providence (R.I.) Journal said:

> Whatever else transpires during this tour, the Pope has already enunciated the desire of the people to be free, under whatever governmental system they live. And the overwhelmingly favorable reaction of the Polish people to his message has to make those in political power over them heed it carefully, too.

I know I speak for all of Rhode Island, which has the highest proportion of Catholics in the Nation, in declaring my personal pride in the actions of Pope John Paul II.●

POPE'S VISIT IS A VIVID DEMONSTRATION OF THE MORAL FORCE OF THE CHURCH

● Mr. RIBICOFF. Mr. President, I have followed with great interest and fascination the news of the visit of Pope John Paul II to his native Poland.

At every stop along his journey, the Pope's presence has evoked remarkable outpourings of faith and love from the Polish people. What we are witnessing is a massive and vivid demonstration of the sweeping moral force of the Catholic Church in Eastern Europe.

A leader of dignity and eloquence, the Pope is also very much a man of the people, a man with the most endearing of human qualities. Moved by the emotion of an occasion, Pope John Paul gives way to tears. It is not enough for him to wave and greet his followers; this Pope reaches out and touches them. One gets the feeling that if time would permit he would embrace every one of the millions of Poles who have come out to welcome him.

It is a reflection of the wisdom of the Roman Catholic Church that it elevated to the papacy this man so humble, so knowledgeable, so much in step with his time. He is making history and his reign is still young.

It is too soon to measure the impact of the Pope's visit on church-state relations in Poland. Nor is it possible to predict the long-term response of the Polish Government and the Soviet Union.

But let us hope and pray that these governments—and governments like them throughout the world—will be appropriately impressed with Pope John Paul's visit and will react in the same spirit of good will that has characterized his journey.

Pope John Paul II is a simple man. There is nothing complicated about what he is saying. It is that the state, no matter how well entrenched, is, after all, a temporal power. The state is not God. A people stirred by a deep and abiding religious faith will endure, against all obstacles.●

POPE JOHN PAUL II

Mr. MOYNIHAN. Mr. President, from the time of the elevation of Cardinal Wojtyla to the papacy on October 16, 1978, it was evident that the world would soon come into the presence of an unusual man. A scholar of depth, a poet of sensitivity, a man of unfailing personal courage, and yet a man not removed from the parish. We do not understand the origins of these qualities, but we come now to see them—even to be a bit awed by them—in recent days. Pope John Paul II's extraordinary pilgrimage to his native Poland reveals their powers, reveals them in a way we had come, perhaps, to think impossible in our time.

For this is surely not an age which much believes in the powers of religious faith, which believes in the miracle of spirit, which respects austerity and dedication and self-denial. But such things are no longer to be judged lightly, as the Pope's visit makes so plain. There is, of course, much history behind this. It is the history of centuries of Roman Catholicism, a history made more precious by the brutalities directed against the church since the coming of totalitarian communism to Poland. Indeed, the Pope himself was instrumental in its preservation during his time in his own country.

The recent history of Poland gives to its religious leaders a unique basis for commenting on the profound issues of human freedom and human aspirations. It springs from the heroism and the unshakeable faith of the Polish people themselves.

It has given to Pope John Paul II an authority in this realm which we have not seen before in our time. There is in his message and in his example an authenticity which no mere philosopher can attain. For he comes to lead his church—my church—personally rooted in the greatest struggles of the age, struggles in Europe which concerned nothing less than the preservation of civilization itself.

And yet this is nothing new either in Poland itself nor in Europe at large. We know of the time centuries ago when the church was instrumental in nurturing civilization through an era known as the Dark Ages. If it were not easy then—when barbarism was noted for its very primitiveness—how much harder in our time, when barbarism finds itself wrapped in the claims of science, and armed with the instruments of modern technology, and smug in its expectations that its totalitarian ideology will ultimately triumph.

Somehow we sense that they are wrong, and no man contributes more to our confidence than Pope John Paul II. For he reminds us that we can stand against the darkness and ultimately prevail over it. He affirms what we need to remember.

All this, Mr. President, results from an unusual set of facts, rich in its internal irony. We have in the present Bishop of Rome, first of all, a man uniquely distinguished in his intellectual background and in his training in theology and philosophy. He is of the school of philosophy known as phenomenology, a very demanding and exacting field of inquiry, one which traces its origins to issues that Plato struggled with in classical Greek times and St. Thomas Aquinas elaborated upon in the 13th century. It demands powers of mind rare in any hierarchial structure, rare even in university presidents and even still in Bishops of Rome, where administrative requirements, commonly prevail over intellectual ones.

Here we recall in the 12th century precedent of Pope Innocent III who nurtured in his time—as Father John J. Hughes has said—the rhetorical tendencies of the day affirming the spiritual quality of poverty. This was the medicine needed for the ailing church of his era. There is every evidence that John Paul II is doing much the same today in the face of totalitarian contentions of the absence of a spiritual and transcendental dimension in the human experience. Thus, we are pleased with John Paul II, not least because we are challenged by his own competence in areas that have fallen into desuetude in our own time.

Yet it would be a rare American Catholic, I think, who would attempt any intelligent critique of the Pope's philosophical writings—and I surely do not include myself among those rarities.

But I would make a further point. If anyone were to predict a source of great literature in the 20th century, perhaps the last place one would list is the totalitarian darkness of the Soviet Union. Yet through the last generation it can scarcely be doubted that the literature of protest emerging from the Soviet Union has been among the most stirring work of our time.

Similarly, if one were to predict where a theology of enlightment, intellectual rigor, and spiritual depth might originate—whether in the Christian or other churches of this age—the last place one might have investigated would be one within the jurisdiction of a rigid and offending totalitarianism, a subservient totalitarianism, such as the Government of Poland. Yet that, too, has happened, and thus does the Holy Spirit work its wondrous ways.

Mr. President, these are facts of profound consequence. They make an impression upon us even beyond the large specifics of the individual cases. It is simply this: It is in the context of opposition that one encounters the highest levels of affirmation. When it is dark enough one can see stars.

I thank the Presiding Officer and the majority leader for making this time available to me.

POPE JOHN PAUL II

Mr. JEPSEN. Mr. President, today I extend my support and admiration to a great Christian leader and a lover of peace, Pope John Paul II.

It is with great admiration that we read of his courageous words of inspiration and blessing to the people of his native Poland and to the people of the world who have been discouraged from exercising their religious freedom.

Such faith and courage of action are sorely needed in this strife-torn world, and I say to him this day: "My brother, I salute you. You are a shining example to us all. May God bless your mission."

VISIT OF POPE JOHN PAUL II TO POLAND

Mr. PERCY. Mr. President, we are all following the visit of Pope John Paul II to his native Poland with the greatest interest and attention. On this absolutely remarkable occasion we pray that the Pope's trip will serve to strengthen the church in Poland and to encourage the Polish authorities to allow greater freedom to the people of that country.

My long-time friend, Aloysius A. Mazewski, president of the Polish American Congress, has made a beautiful statement in which he expresses the hopes and feelings of American Polonia as the Pope visits their ancestral land. I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT OF ALOYSIUS A. MAZEWSKI

During the current visit of Pope John Paul II to his native Poland, American Polonia shares the joy and the awareness of this momentous event with the Polish nation, deeply conscious of the beneficent and transcendental contributions the Catholic Church has been making and continues to make to Poland's founding and development in terms of spiritual and cultural values and its indestructible "will to be".

We are deeply aware and appreciative of the fact that the first Polish Pope's visit to his native land constitutes a unique and epoch-making fact in the millennial annals of the Catholic Church in our ancestral home.

And on this singular occasion Americans of Polish origin and heritage do underscore the unbreakable ties which spiritually and culturally exist between them and the country of their origin.

The sense, substance and relevancy of these ties are best demonstrated on that forever memorable day of October 16th, when the first Pole was elected the Supreme Pontiff of the Roman Catholic Church. Americans of Polish origin shared with the Polish nation the unbounded joy, pride and thanksgiving stemming from that singular event.

Thus, aware of this kinship and spiritual and cultural ties with the land of our ancestry, we hope that Pope John Paul II's visit to Poland will open and facilitate a way to resolution of many conflicting problems that exist between the Church and the secular authorities in Poland.

We would like to see the construction of many more new churches than heretofore, to satisfy the spiritual needs of the expanding population; taking in America the freedom of information for granted, as a natural right, we would like to see Poland's mass media more accessible to religious matters, and we would like to see the circulation restrictions placed on such Catholic publications as the renowned and respected "Tygodnik Powszechny" lifted.

Thus watching with anxiety and concern many seemingly insurmountable problems and challenges of contemporary Poland, we sincerely hope that the Pope's visit to his native land will pave the way for a more equitable, just and proper attitude of the Communist government toward the religious life in Poland and its most important representative, the Roman Catholic Church now headed by a great Son of Poland.

We extend to His Holiness our most sincere wishes that his visit to his homeland will bring him great joy and everlasting encouragement to his native land.

STALIN SHOULD NOT HAVE ASKED

● Mr. BAYH. Mr. President, the immense outpouring of enthusiasm over the historic and unprecedented visit of Pope John Paul II to his native Poland has inspired all who believe deeply in the principle of religious freedom and the proposition that "the rights of man derive not from the generosity of the state, but from the hand of God." Those words were part of an American President's inaugural address. Their meaning, however, transcends the secular and material messages of political leaders. Their force is now being demonstrated to all the world in cities and towns which were 1 week ago virtually unknown to the vast majority of Americans. Places like Czestochowa, Krakow, and Jasna Gora, known already to many of my consituents of Polish ancestry, have now become familiar to millions of other Americans.

The triumph of Pope John Paul II's visit to Poland has demonstrated beyond all doubt what really dominates the hearts and minds of the Polish people. Despite the reign of the Communist government in Poland—imposed on the Polish people after World War II by the Soviet Union—the profound historical, religious, and cultural roots of the people of Poland have more than endured the listless yoke of Polish communism. There is clearly a power beyond that which can be imposed by Soviet tanks and Polish leaders who share with those in Moscow a dead end ideology which rejects the innately spiritual nature of man. To those forces, Pope John Paul II and his fellow Roman Catholics have demonstrated in a most convincing and nonviolent way that Joseph Stalin should never have asked his oft cited question: "How many divisions does the Pope have?"

The answer to that question might now be framed this way:

Ninety-five percent of Poland's 35 million people are Catholic;

East Germany has more than 1 million Catholics;

Czechoslovakia as an estimated 8 million;

Hungary has over 6 million; and

Yugoslavia, not a member of the Warsaw Pact, has over 7 million.

In addition to over 50 million Roman Catholics in Eastern Europe the religious influence in those countries is reinforced by the millions of Orthodox believers as well. The captive republics—Lithuania, Latvia, and Estonia also have substantial practicing Catholic and Protestant denominations. Even though the official policy of the Soviet Union itself is to attempt to transform the many Orthodox churches into "museums" millions of Russians, Ukranians, Byelorussians, and other nationalities still seek to worship in regular services even under the threat of constant State-sanctioned harassment in flagrant violation of the Helsinki accords.

It is now clear that the visit of Pope John Paul II to Poland is having a truly historic impact which will not be confined to the narrow influences which Polish Government officials must have hoped. It may now be possible to have a true dialog in Communist lands between Marxism and Christianity so often sought after in the late 1960's in countries which already knew freedom of religion. At this time, there is no question who would win any debate stemming from such an honest and open dialog.

It has been said that "more mighty than the tread of armies is an idea whose time has come." How much mightier and enduring is the ideal of love whose time is eternal and who has as a soldier Pope John Paul II.●

THE REUNION OF THE POPE AND THE POLISH PEOPLE

Mr. BRADLEY. Mr. President, along with all my distinguished colleagues who have gathered here this morning I have been deeply affected by events in Poland this week. I am moved by the warm reception extended by the people of Poland, people living in a Communist state, to the leader of the Roman Catholic Church on his return to his native land. This reunion of the Pope and the Polish people is rife with historic and human significance and I welcome the opportunity to commemorate the occasion.

By their enthusiastic welcome for Pope John Paul II, the Polish people have delivered a message, which reverberates in Moscow, on behalf of free expression and national identity. It asserts the triumph of spirituality over temporal restraints, and of individual beliefs over the pressures for conformity. After more than three decades of being submerged, the strong religious faith that for centuries characterized the Polish nation has resurfaced with dramatic clarity and punctuation. It is truly a national victory, for even the minority in Poland who are not of the Roman Catholic faith recognize the force of Catholics in that country today as a force for human freedom and national identity within the Communist world.

When Pope John Paul II reentered his homeland this week he declared loudly that religious liberty is one of the "fundamental human rights." He vowed to his brethren to "serve people also in the temporal dimension of their life." His words drove home to the Communist leadership in Poland and the Soviet Union that the spiritual animus of men and women cannot long be held in check by secular power. Spiritual inspiration must find expression in the social order. Civil society benefits from, and therefore should encourage, the voice of religious and moral conscience.

It is to the credit of the Communist leadership that they have graciously accepted the visit of the Pope and it is to be hoped that they will demonstrate their own strength and independence by accepting a continuation of the dialog he has opened with the Polish people.

In their response to the Postiff's visit, the Polish people have spoken their deside to continue the dialog. Their actions have reaffirmed our faith in the perserverance of individual belief and in the principal of tolerance. But one would expect no less from the Polish people. In our own country too citizens of Polish descent have given our society the advantage of their rich spiritual, political and personal contributions. I thank the people of Poland for their gift of inspiration to us all.

POPE JOHN PAUL II

● Mr. BENTSEN. Mr. President, the homecoming of Pope John Paul sends a message to all who are concerned with freedom.

In America we forget how lucky we are. We have a government of law; a Bill of Rights. We have a system that allows and encourages the people to express their will. We have clearly defined limits on the power of government.

When we think about the Pope's return to Poland, we can remember just how precious freedom actually is, how hard it is to achieve, how rewarding it is to experience, how arduous it is to preserve.

Mr. President, we live in a dangerous world and we must take every reasonable step to preserve the peace. Yet we must also understand that we are engaged in a battle of ideas.

In America we believe in freedom of speech. In Communist-bloc nations free speech is an enemy of the state.

In America we believe in free political expression. In Communist-bloc nations those who express their views may lose their freedom and may be declared insane by the state.

In America we believe in an economic system that encourages individual freedom and creativity. In Communist-bloc nations the individual is a tool to be used as the state commands.

There is a fundamental conflict of belief between those of us in the Western World who believe freedom is a friend of the people, and those in Communist-bloc nations who see freedom as an enemy of the state.

We seek freedom. They fear it. We encourage freedom. They seek to destroy it. We believe in individual initiative. They believe in oppression of the individual.

The trip of Pope John Paul to Poland demonstrates the triumph of faith.

Millions of people expressed their views, their faith, for all to see. Religion is alive, Polish nationalism is alive, the aspirations of the people are alive, no matter what the state may say, no matter what the party bureaucrats may dictate.

Pope John Paul has shown the world that the flame of freedom will continue to burn brightly in the hearts of the Polish people. His visit was met with an outpouring of applause and support and the adulation of millions who have declared for all to hear that the desire for freedom has not been destroyed in Poland.

The Polish people did not choose this Communist government. They did not vote for it before. They will not vote for it in the future. Someday, ballots rather than bayonets will rule in Poland and the people will see their will expressed.

Mr. President, I fear that the tides of repression may rise again after the Pope has gone. I hope and pray that they will not, but in recent days we have seen action by agents of the Polish Government that was disquieting, at best.

A priest and a reporter were assaulted. Citizens were refused permission to see their countryman, the source of their faith, their Pope and their friend.

When the Pope departs, will freedom flourish, or will the bullets and bayonets rule again? The whole world will be watching, and decent people everywhere will pray that repression will not rule the day.

Some time ago, Joseph Stalin asked how many divisions the Pope commanded. The answer is millions. He commands the respect, the support, and the aspirations of those around the world who believe in freedom. Christians and Jews and all others who believe, believe in religious freedom and will be proud to count themselves among these divisions.

Despite their protestations, the forces in Moscow and Prague and Warsaw silently agree.

More than anyone, they understand that Communist leaders in Poland and other countries must be supported by guns, because the divisions for freedom will not go away until freedom is won.

The courageous visit by the new Pope has reminded us, in America and Moscow and London and Warsaw, of exactly that.●

RECOGNITION OF MR. WALLOP

The PRESIDING OFFICER. Under the previous order, the Senator from Wyoming (Mr. WALLOP) is recognized for not to exceed 15 minutes.

Mr. WALLOP. I thank the Chair.

EPA AND THE APPROPRIATIONS DOCTRINE

Mr. WALLOP. Mr. President, this morning, in sadness, I bring another example of bureaucratic infighting, territorial imperative, and arrogance, to the people of the United States.

Mr. President, I was recently contacted by a rancher from Pinedale, Wyo., who brought to my attention an EPA brochure entitled "Irrigated Agriculture and Water Quality Management." This rancher was disturbed by the publication for two reasons: First, its comic-book approach implied to him that he, as part of its intended agricultural audience, was of suspect mentality. Second, the brochure stated that western water law, the source of his vested property rights and key to his economic well-being, was the major constraint to improved water management practices, and thus clean water in the West.

After reviewing the brochure, Mr. President, I, too, am concerned. Not because I believe that the comic book publishers of America need fear Government competition—they do not—but because I believe the brochure expresses a theme which dominates EPA's thinking on nonpoint pollution. It is a theme which has become larger than the partial truths which apparently support it.

The central principle of most western water law generally is referred to as the "appropriation" doctrine. It developed in the last century for many of the same reasons which even today make it the best system for administering competing water uses. The system has several characteristics which make it compatible with the modern day demands of water resources management. First, it is not based on the ownership of riparian land, but allows water to be used by all those who can put it to a beneficial use and who have the resources to do so. It encourages a wider, more equitable distribution of our most valuable resource. Second, the appropriative right has properties of realty, allowing the exchange of water rights on the market place, allowing them to rise to their most beneficial and efficient use.

Third, the prior appropriation system is well suited to comprehensive tabulation of water rights according to owner, quantity, use, and priority. The system allows States to manage water resources more efficiently than any other.

The appropriation doctrine developed in the West because practical experience demonstrated that it was the best system for the acquisition and allocation of water in areas where it was scarce. It had then, and has now, advantages for allocation and water quality which the riparian alternative neither has nor ever could have. While each State's response to new problems has been different, nontraditional values in water use, including esthetics, recreation, fish and wildlife enhancement, and environmental quality, are being protected by legislation in most States which use the appropriative rights doctrine.

Water shortages, always a fact of life in the West, are only now becoming common throughout our country. The problems which prompted the adoption of our water laws will soon become apparent to my colleagues from Eastern States.

With scarcity will come the necessity to allocate. Western water law has generally established rules by which those allocations can be made in the marketplace, where certainty and order can be provided, upon which investment and growth can be made, and where the most beneficial uses of water will be promoted.

Growing water quality problems and our increased sensitivity to them will place new burdens on any system. It is inevitable. But in addressing those water quality problems we must be aware that in the West, water rights are property rights. Upon them millions of economic and personal commitments have been made. The Federal Government cannot now advocate sweeping changes, based upon quality needs alone, at the expense of economic order, and without regard to individual rights in ignorance of site specific and regionally specific needs and problems. We must search for ways in which water quality and quantity objectives can be reconciled without mortal injury to either.

Mr. President, this is what disturbs me and my constituents about the EPA pamphlet. That farmers and ranchers are perceived by a Federal agency to be capable of understanding no more than comic book propaganda is sad, but easily corrected with a measure of respect. What is inexcusable and not easily corrected is the theme which seems to be developing at EPA. That theme is that western water law is archaic and is no longer a viable system, and that private rights to the use of water, valuable rights, can, indeed must be sacrificed at the alter of reduced silt and salt.

The challenges to water quality are increasing geometrically. So, too, are our demands for increased quantities of water. In each State which has adopted it, the appropriation doctrine is not perfect, but it remains the ideal legal structure to allocate, distribute, and administer water. It still has the necessary characteristics of continuity, flexibility, and identity.

But even the changes in State water law which EPA would impose if they could, would not solve the problems of agricultural nonpoint pollution. As the pamphlet admits, methods to reduce agricultural pollutions are site specific. They may include such techniques as sediment collection basins, the installation of sprinkler irrigation, trickle irrigation, cutback furrow irigation, the lining of canal and laterals, and tailwater reuse systems. These are all good ideas. They are innovations which many farmers and ranchers would love to install, if only they could afford them. And so, it boils down to three basic questions: Are the improvements warranted in light of the benefits they may achieve? If they are warranted, who will pay for them? And are we to impose upon agriculture, as we have in so many industries in our country, a climate where only the huge, only the monster, only the great and powerful, can respond?

Mr. President, these are not easy questions. The problems of pollution are not quickly solved. But we will come closer to solving them if Federal agencies begin to give farmers and ranchers credit for being the intelligent husbandmen that they are.

I might add, Mr. President, if we take a look at the way the Federal Government manages its land resources in the West and in this country, and the way private agricultural management manages its land resources, the Government does not stand up well by comparison. The Federal Government at every level is a lousy neighbor. They will not take care of weeds. They will not take care of fences. They will not take care of the property they have.

Like the greedy farmer of old, they go and seek more and more land, try to gather it in.

The Government puts in parks all over the country, while reducing management and operations budgets of existing parks, including the oldest one in America, Yellowstone—in my own State.

So all over America the Federal Government is seeking more and more to hold, managing it less and less well. At the same time the Government is accusing the American farmer of being a bumbling imbecile, who cannot do anything but read a comic book and who is standing in the way of this country's attempts to clean up its water resources.

Federal agencies must work in recognition of the fact that water is the stuff of life in the West, and proceed accordingly. By so doing, we will decrease the friction and speed the attainment of both our water quality and quantity goals.

Mr. President, I yield back the remainder of my time.

RECOGNITION OF SENATOR HAYAKAWA

The PRESIDING OFFICER. Under the previous order, the Senator from California (Mr. HAYAKAWA) is recognized for not to exceed 15 minutes.

"EVIL SATURDAY" IN LIBERIA

Mr. HAYAKAWA. Mr. President, I have to start out by telling a rather sad story.

In the Republic of Liberia, in West Africa, on the 14th of April, 1979, a day now commonly referred to as "Evil Saturday," about 5,000 persons, led and incited by the Progressive Alliance of Liberia, PAL, assisted by some University of Liberia students, the Susuku Organization and other dissidents, staged a violent demonstration in the city of Monrovia, which resulted eventually in a terrible calamity in which over 40 persons lost their lives and more than 400 were injured.

Under the influence of freely distributed alcohol and dope, the mob inflicted wanton damages on property which, according to reliable insurance company estimates, exceed $35 million. These vandals and hooligans, with abandon and callous impunity, committed acts of looting, vandalism, arson, aggravated assault and other rapacious blind crimes of violence against the law-abiding citizens of Monrovia.

The attack was so synchronized and orchestrated that it struck various parts of the city of Monrovia simultaneously and was manipuated in such a way as to camouflage the central purpose. This was not a random riot. It was very carefully orchestrated. It was very carefully coordinated. There was a central planning which was involved in creating this disturbance.

Evidence, both concrete and circumstantial, confirms that the basic intention and ultimate aim of all this carnage was to isolate, enfeeble, destabilize, and eventually topple the present Government of Liberia.

The purported reason for this long-planned challenge and attack on the Tolbert government was said to be impatience with the government's consideration of a proposal for the increase in the price of rice.

This is a proposal that had not actually taken place. Since no decision had been arrived at, it is obvious that those fomenting this disturbance could not be demonstrating against the alleged rise in the price of rice. The price of rice had not arisen. So this issue is a nonissue and cannot exist as a valid cause. It was not a cause; it was a pretext.

Actually, in the past 8 years of the Tolbert administration, there has been even greater emphasis than ever before on assistance to the underprivileged; help for the poor; equalization of opportunities for all, and promotion by merit, without regard to ethnic background, religious affiliation, or social standing. This is in recognition of the fact that the Liberian private sector, although it gives everyone the opportunity to strive for himself, to dig in, and work for himself, perhaps tends to pay insufficient concern to those who are weak and those who may be incapable of struggling equally with those who are more gifted or who are stronger. Naturally, the system is far from perfect; no system is.

Under the present system, the Liberian Government gives free prenatal and postnatal care to children up to 2 years old; free tuition for elementary school children; subsidies to high school students; subsidies for university students; and free adult illiteracy education programs.

Health clinics have also been given immediate attention, extending to the remotest village where care has been carried to the people by the digging of wells and the provision of water systems for rural and urban areas, to give them pure water; the electrification of towns to give them that basic essential: light.

Mr. President, we can be proud of the part that our own Peace Corps has played in improving the conditions of life in some of the remoter villages of Liberia. We also can be proud of our AID programs. We also can be proud of the fact that we have done much to contribute to the development and improvement of agriculture there.

We also have helped with the creation of connecting secondary and tertiary roads, communication links that tie up the networks of towns, so that people can travel and can take their agricultural products to market in the larger towns and cities.

There have been the building of markets throughout the country, thereby helping to monetize the free economy by placing people in a position that they can gain access to the metropolitan areas where the system of low-cost housing no longer dooms them to live in hovels and shacks, which are all too common in other parts of Africa.

There has also been the development of banks to enable and encourage agricultural development; housing institutes for the training and upgrading of the caliber of Liberian people in their occupational capacities, including vocational education.

Talking about agriculture, the growing of rice in Liberia was of a primitive kind. They used the slash-and-burn method, by means of which, after a harvest, they would burn an area and then would scatter rice seed over the burned area for the following year. It is inefficient and primitive, but nevertheless effective.

It is interesting that agricultural experts from Taiwan used to come, at the time I visited Liberia in 1973, to help improve the whole system of rice culture by introducing the irrigated rice paddies that are common in the Far East.

There has been, in the interest of efficiency, the incentive of better salaries for nurses, for schoolteachers, for messengers, policemen, soldiers, and any other low-salaried employees; the provision for higher daily wage for farmers and people who labor in industry.

All of the assistance to farmers, diversification of tree crops, the land subsidy to enable people to build their houses, to buy their farms, and all such schemes, by any stretch of the imagination, have to be conceived as being liberal, generous, socially minded projects of the Government.

Mr. President, I have gone into some detail describing the accomplishments of the Tolbert government. I think I should now also point out that the San Francisco State University, of which I was a president, has a particularly close tie to Liberia. In 1962, under the auspices of my university, a special program was initiated. With the assistance of the Agency for International Development, a cooperative educational venture got underway at that time.

This venture resulted in the creation of the Monrovia Consolidated School District and encompassed the organization of all 12 grades of elementary and secondary schooling. San Francisco State sent professors of education, experienced teachers, to Monrovia, where they served as educational advisers and teachers of teachers. At the same time, Liberian teachers came to San Francisco where they were given intensive training. They were really a colorful addition to our campus. AID provided the funds for the Americans and the Government of Liberia for its own nationals. The program was in active operation from 1962 to 1972. During that time period, 41 of our professors worked in Monrovia, while 81 Liberians were at San Francisco State. The Monrovia Consolidated School District is today Liberia's most respected school system. At the time of its creation, it had 6,000 students. Today, there are 26,000. Formerly, Liberians preferred to send their children to church schools rather than to government schools. The American-Liberian cooperative educational project, which I just described, has changed this. The preference of Liberians now is for their children to go to the Monrovia Consolidated School District.

Mr. President, Liberia is America's oldest and best friend in Africa. The United States is responsible for the foundation of Liberia. Its capital, Monrovia, is named after President Monroe in whose administration all this happened. It was settled early in the last century as a haven for freed slaves from this country, and our historical and cultural ties with Liberia are reinforced by trade and by the experience of thousands of Liberians who have studied in the United States. American private investment in Liberia is the highest in all black Africa—over $340 million. Liberia's political and economic system is modeled on our own, and President Tolbert has shown that Liberia can live with political opposition and free expression of opinion. The largest Voice of America transmitter in the world is located in Liberia, as well as our diplomatic telegraphic relay station for Africa and a Coast Guard Omega navigational station. Liberia's moderate positions have aided us in international bodies, and President Tolbert's proven talent for mediation and conciliation will be enhanced when he becomes chairman of the Organization of African Unity this year.

I am glad to say that within 72 hours after this "Evil Saturday" just described the U.S. airlifted medical supplies to Liberia and has made it possible for that country to receive other urgently needed material promptly. Liberia's Foreign Minister Cecil Dennis, came to Washington just before our Memorial Day recess to appeal for American aid to repair the damage, put the unemployed to work and to make it possible to hold the Organization of African Unity summit meeting as scheduled in July.

Mr. President, I believe that our Government should make a determined effort to give our friends in Liberia a helping hand. It is often said that we take our friends for granted and are quick in giving support to our enemies. Many of our adversaries and critics in Africa will be watching whether this is true. We certainly must not disappoint President Tolbert and his administration. It is in our national self-interest that we act promptly and decisively. I appeal to President Carter to provide appropriate assistance to help our friends, the Liberians, through the next difficult weeks, and to reassure them of our friendship and support at this critical time in Liberia's history.

I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEWART). Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, I wish to yield the remainder of my time to my distinguished colleague from Iowa who has some remarks to make.

The PRESIDING OFFICER. It is the Chair's understanding that the Senator from California had 1½ minutes remaining on his allotted time. He wishes to yield that 1½ minutes to the Senator from Iowa. Is that correct?

Mr. HAYAKAWA. Yes, Mr. President.

The PRESIDING OFFICER. The Senator may do so.

The Senator from Iowa is recognized for 1½ minutes.

Mr. JEPSEN. Thank you, Mr. President.

(Mr. JEPSEN's remarks concerning Pope John Paul II are printed earlier in today's RECORD.)

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business of not to extend beyond 10:30 a.m. today and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, is there any further morning business?

ALASKAN ENERGY DEVELOPMENT

Mr. STEVENS. Mr. President, last month Senator JACKSON and I participated in a conference on Alaskan energy development which was sponsored by the Americans for Energy Independence. This conference was one of the better forums I have attended recently and included a number of distinguished speakers on the subject of Alaska and its role in supplying energy to America in the future. The keynote speaker was my good friend, Senator HENRY JACKSON of Washington. His speech set the tone for the entire conference and deserves the attention of the Senate.

In his speech, Senator JACKSON touches on the need to balance the various interests involved in the development of Alaska's natural resources, particularly its oil and gas potential. It has always been my goal to achieve a reasonable balance which will permit future oil and gas exploration to flourish in Alaska. I am confident that Alaska can continue to function as a major energy supplier to the Nation if we are willing to face the issues involved in sharing Alaska's proper evaluation and utilization.

Mr. President, I ask unanimous consent that the remarks of Senator JACKSON at the Alaskan energy conference be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

[Excerpts from remarks of Senator Jackson]

ALASKA: ENERGY AND ENVIRONMENT—EYEBALL TO EYEBALL

THE ALASKA SETTING

Alaska is more than a State, it is a state of mind. Robert Service, Alaska's poet laureate, expressed it this way: "I am the land that listens, I am the land that broods; Steeped in eternal beauty, crystalline waters and woods.

Alaska is immense. Its 365 million acres cover an area nearly one-fifth the size of the Lower 48 States, sprawling across about 21 degrees of latitude and 43 degrees of longitude. If Alaska's northern-most point were placed on the U.S.-Canadian border at Lake of the Woods, Minnesota, Alaska's southern-most tip would lie on the mouth of the Savannah River, and the Aleutian Islands would stretch west of Los Angeles. Alaska has more square miles than people.

Within Alaska, the North American Continent reaches its highest point in Mt. McKinley (20,300 feet), as well as its lowest in the Aleutian Trench (25,000 feet below sea level). There are over 100 volcanoes; thousands of glaciers, numerous great rivers, countless lakes and 47,000 miles of ocean shoreline.

Alaska's lands, and inland and coastal waters are a treasure trove of wildlife, timber, fish, marine mammals, coal, migratory birds, and many hardrock minerals.

Alaska is also a place of special beauty. After extolling the many possibilities he foresaw for development of Alaska's rich and varied resources, Henry Gannett, chronicler of the 1898 Harrison expedition to Alaska had this warning:

"There is one word of advice and caution to be given those intending to visit Alaska for pleasure, for sight-seeing. If you are old, go by all means; but if you are young, wait. The scenery of Alaska is much grander than anything else of the kind in the world, and it is not well to dull one's capacity for enjoyment by seeing the finest first."

ALASKA'S OIL AND GAS RESOURCES

Most significantly for our discussion today, Alaska is the most likely place in the U.S. for major new discoveries of oil and gas. There are 23 possible sedimentary basins in Alaska and its Continental Shelf. Almost 1,000 wells have been drilled in Alaska and 19 proven oil and gas fields have been discovered. Oil and gas are being produced from the Swanson River field in the Kenai National Moose Range and in upper Cook Inlet. Oil is being produced at Prudhoe Bay.

Major oil corporations have entered into contracts with several regional Native corporations for exploration on private lands. Outer Continental Shelf leases in the Gulf of Alaska and lower Cook Inlet have been let. The State is currently considering lease sales in several State-owned areas. Other Federal OCS lease sales are also scheduled during the next several years, including a possible Federal-State lease sale being considered for a coastal portion of the Beaufort Sea.

The Arctic Region of Alaska, north of the Brooks Range and extending from the Canadian border westward to the Chukchi Sea, is an area of strong interest for environmental and wildlife values as well as an area which contains some of the best possibilities for major new petroleum discoveries under United States jurisdiction. According to studies by the Federal Government and the State of Alaska, the areas of highest interest from an energy viewpoint lie across the entire mid-section of the National Petroleum Reserve-Alaska, extend into the current producing area surrounding Prudhoe Bay and continue along the coastal plain into the Arctic National Wildlife Range.

HISTORY OF RESOURCE CONFLICT

Alaska and its resources have for decades been a focal point for fiercely competing resource protection and development demands. The national importance of these contests has grown as citizens of all states become increasingly dependent on the development of Alaska's energy resources—now oil, soon natural gas, and perhaps in the future, coal. Simultaneously, Americans have become increasingly aware of Alaska's superb scenic, wildlife and recreational resources and they have also demanded the protection of these resources. The conflict between these two objectives is the central issue of the current Congressional debate over Federal land policy in Alaska.

In the Alaska Statehood Act of 1958 the Federal Government agreed to deed over 103 million acres of federal land—almost one-third of the land area of Alaska—to the state. This is the most generous land grant in American history. In 1971, under the Alaska Native Claims Settlement Act, the Federal Government agreed to grant 44 million acres to Alaskan native groups. After these grants are made, the Federal Government will still own about 60% of Alaska's lands. In addition, it must make decisions concerning the Outer Continental Shelf adjacent to Alaska which constitutes 60% of the United States' shelf areas and holds one of the world's most productive fisheries.

All these Federal decisions must be made with both a recognition of the national interest and a sensitivity to the impacts upon and the concerns of a state whose citizens have long felt themselves beleaguered by "outside" interests, federal and private. An opportunity exists for pioneering a creative new partnership between federal and state government. In its absence, the mixture of development and preservation that emerges is sure to be profoundly unsatisfactory both to local and to national needs.

The complexities of these resource management responsibilities and the passions they arouse are focussed in the Alaska National Interest Lands or "d-2" legislation. This legislation stems from Section 17(d) (2) of the Alaska Native Claims Settlement Act.

This provision which Senators Bible, Metcalf and I sponsored, reflects our concern that the implementation of the massive land grants under the Statehood and Native Claims Acts must be accompanied by careful planning and management of the remaining public lands in Alaska if the haphazard and ill-advised development which occurred in the land rushes associated with earlier disposals of public lands is to be avoided.

THE CURRENT ALASKA LANDS ISSUE

I will not recite the long history of events since 1971, except to remind you that the legislation which came so close to enactment last year is again before us and hotly contested. It is important to keep in mind the tremendous national and international significance of this issue.

Decisions on what land is selected, to whom it is to belong, and what uses are to be permitted upon it will virtually dictate the shape of Alaska's future and the economic pursuits and life styles of its citizens and will certainly profoundly affect American environmental, energy, mining, Native American, and public land policies. The Congress is playing a unique role. It is not the traditional role of simply considering individual measures, each of which would designate the boundaries of only a single new park or wild and scenic river of modest acreage, but rather one of addressing legislation which requires us to conduct a full-fledged planning exercise for some 40 proposed areas many of which are much larger than most States and much richer in scenic, mineral, and other natural resource values than most areas of similar size anywhere else in the United States. Unlike most State planning exercises, this planning must be done with the unsettling knowledge that it will, in fact, be implemented.

THE SENATE COMMITTEE BILL

As many of you are undoubtedly aware, the Committee on Energy and Natural Resources devoted a great deal of time last year to this task. After more than 40 markup sessions we reported a bill which I believe strikes an appropriate balance among the competing issues of Alaska land policy.

I have introduced the Committee bill in this Congress as S. 9.

A brief description of S. 9's creation will, I believe, help you to understand why I believe it represents sound Federal land policy. The Committee did not follow the usual method of considering an introduced bill and amending it. Rather, we identified, analyzed and debated a series of policy issues such as wilderness management, access, energy and hardrock mineral development, subsistence and sport hunting and fishing, State and Native selection rights, and Federal-State cooperation in land planning and management.

After deciding on these policy principles, we carefully reviewed proposed national interest areas in the seven bills before us, including the House-passed bill. As we proceeded, we kept asking ourselves four key questions:

Are wildlife, wilderness, scenic, and other natural values of national importance adequately protected?

Are national energy objectives or needs for important minerals provided for?

Are obstacles to meeting potential needs for food, wood fiber, and other resources in Alaska minimized?

Are potential conflicts with other landowners minimized?

The result is a bill which designates approximately 100 million acres of Federal land in Alaska for protection of their resource values under permanent Federal ownership and management. The bill more than doubles the size of the National Park system and the National Wildlife Refuge system. It triples the size of the National Wilderness Preservation system. The principle difference between S. 9 and last year's House-passed bill (H.R. 39) is in the type of designation, not the total acreage involved.

In an effort to resolve possible conflicts between potential energy development and protection of environmental values, the bill contains a number of special provisions, not included in any other previous bill.

The first is a special Federal North Slope Lands Study Program which recognizes the unique combination of wilderness, wildlife, and oil and gas values on the Alaska North Slope. It directs a special study of all Federal lands in the area to assure that all elements of resource use and preservation will be presented to Congress at the same time. It includes a special Federal oil and gas exploration program on the Arctic National Wildlife Range, an oil and gas leasing program for non-North Slope Federal lands and a mineral resource assessment program.

Second is a special provision for transportation and utility systems in and across, and access into, conservation system units. This establishes a special procedure for allowing access for transportation and other purposes across and into conservation system units. It recognizes the need to balance protection of the resources and the need for access to permit energy and other development of Federal, State, and private lands not included in such units.

Third is a special procedure under which the President, with Congressional approval, can permit mineral exploration, development and extraction which is prohibited under existing law, but may be needed to meet future national needs.

Finally, and I believe most significantly in the long-run, the bill establishes an Alaska Land Use Council as an innovative vehicle for Federal and State cooperation in the management of Federal and State lands. It also authorizes special cooperative agreements for wildlife refuges and designates the Bristol Bay Cooperative Region as a unique experiment in Federal-State cooperation.

The Alaska Land Use Council consists of the heads in Alaska of the principal Federal and State agencies dealing with land and resource management, including transportation agencies. The Council will be headed by the Governor of Alaska and an independent Federal Co-Chairman appointed by the President. The Federal Co-Chairman will also chair a Washington coordinating committee composed of representatives at the Assistant Secretary level from the same Federal organizations that are represented on the Alaska group.

The Presidential representative would eliminate those semi-institutionalized blockages to information flow that continually plague all governments and large governments in particular. By providing a high level of horizontal intergration at the regional level and that same horizontal integration at the Washington level on a regional basis. I believe that we can approach solutions to problems with clearer ideas of what the realities of the situation in Alaska are.

The Alaska Land Use Council will recommend land uses on Federal or State lands, identify special opportunities for cooperation, including cooperation with Native Corporations. The Council's recommendations would be implemented only if accepted by the land management agency. However, if its recommendations were rejected, the agency would have to set out the reasons for rejection in a public document.

I believe that this process provides the best framework for avoiding or minimizing the conflicts between energy development and environmental protection in Alaska. To a large extent, these nationally significant values need not clash or at least, not with a destructive crash.

CONCLUSION

Nature has been generous with Alaska. But a simple cataloguing of separate natural resources is deceiving. Knowledge of the nature and existence of natural resources is only one factor in development. Market demands, costs of production, the rate of technological change, a people's ideals and values, and the character of their political and social institutions also determine the pattern of natural resource use at any given time. Such natural resources moreover cannot be regarded as discrete categories. The harvest of one may destroy or preclude the use of another, and resources compete as alternative means of satisfying similar demands of society. Man is forced to make difficult choices between incompatible resource uses on the basis of his scale of values and his ethical standards. In the making of decisions, conflict and controversy are inevitable. This is certainly true of energy-environment conflicts. The key to success in land policy lies not in seeking absolutes but in maintaining a flexible system which—by a constant appraisal and reappraisal of the practical effect of land and resource policies upon the long-run welfare of all the people—unrelentingly seeks the elusive, shifting public interest.

ALASKA LANDS

Mr. STEVENS. Mr. President, recently I have inserted in the RECORD a number of statements regarding the Alaska lands issue. These statements have included comments of other Alaskan officials on the importance of this issue to our State and to the Nation. Today I would like to place in the RECORD a detailed interview with Jay Hammond. Governor Hammond was reelected last year to a second term in Alaska, an event which was hailed by the Sierra Club as a victory for environmentalists. Nevertheless, Governor Hammond recognizes the need to pass balanced legislation relating to the Alaska lands issue. My staff and I have worked closely with Governor Hammond and his assistants on the Alaska lands issue over the past 2 years. Throughout the consideration of this issue, we have attempted to work for balanced legislation which will permit the continuation of traditional uses on Alaska lands and preserve those areas in Alaska which are truly spectacular.

In April, Governor Hammond was featured in an indepth interview by Barron's magazine regarding the future of Alaska's economic potential and its importance to the Nation. That interview entitled, "Out of the Deep Freeze?" is one which I would like to call to the attention of my colleagues. Governor Hammond's wide-ranging interview is an excellent one which summarizes the various issues facing Alaska and the Nation in the Alaska lands issue. I would hope my colleagues would read this interview and take note of Governor Hammond's points. Mr. President, I ask unanimous consent that this interview from Barron's magazine be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

OUT OF THE DEEP FREEZE?: THE GOVERNOR OF ALASKA SEEKS RESPONSIBLE ECONOMIC DEVELOPMENT

(By Roscoe C. Born)

WASHINGTON.—Jay S. Hammond, the burly, bearded governor of Alaska, is dodging rush-hour traffic to reach his chauffered limousine parked across the street. The limousine is rented; on previous visits to Washington, Governor Hammond tried to get about in taxis, but his advisers decided he was wasting his time that way.

Hammond comes to the nation's capital to push—among other things—legislation that would open more of his state's mineral resources to commercial development. That issue, besides heating the blood of environmentalists, holds interest for some major corporations (including Newmont, Amax, Phelps Dodge, Kennecott and Getty Oil) that have paid out princely sums for exploration of parcels of wilderness that have since been ruled off bounds to development. It's also a key question for the nation which stands to gain or lose the mineral wealth frozen in the north. Jay Hammond's stance has proved surprising to some, because he was elected as a "conservationist" governor, and for a time the mining industry feared Alaska's vast resources would be locked up forever. The governor believes circumstances have changed sufficiently for the present Congress to pass a developmental-conservationist compromise similar to one that died in the last days of the previous Congress.

The governor has other irons in the fire: he wants a go-ahead decision on the Sohio pipeline to bring oil from California to the Midwest, so that Alaskan oil can flow at a greater rate to the Lower 48. Meantime, he desires legislative change to permit an in-kind oil swap among Alaska, Japan, Mexico and mainland U.S.

Hammond, 56—a bush pilot, biologist, commercial fisherman, trapper and guide—was re-elected last year by the largest margin in Alaska's history. Barron's interviewed him on a recent visit to Washington.

Barrons: There seems to be some confusion about what Alaska wants to do with its minerals and unspoiled lands. Just what is your position?

Hammond: You've got, as you do in any state, blatant exploiters who couldn't care less, just as you have extreme environmentalists who would lock the whole thing up and throw away the key. But the bulk of Alaskans aspire to two major objectives, and I think these are rational ones that everybody could support. They are, to provide for environmentally responsible resource development, yet assure adequate protection to retain values such as wildlife habitat.

Q. Well, fine. But how do you do that?

A. We don't do it by establishing extremely protective federal enclaves which preclude even the most responsible development—and then have elsewhere total, uninhibited development over which there is no protection whatsoever. That's what the traditional federal approach tends toward. We feel that Alaska's circumstances are unique and require resolutions.

Q. Do you have some solutions to offer?

A. We have proposed some. Some are incorporated in the compromise bill that virtually all had agreed to at the conclusion of last year's Congressional session, and which, incidentally, are embodied in the so-called Huckaby [for Rep. Jerry Huckaby, Louisiana Democrat] bill of this year. You should start by recognizing the fact that we're trying to meet national energy needs and the need for Alaska to stand on its own as a full sovereign state. It's been frustrated because we've not received our entitlement of statehood land. For 20 years we've been denied all but one-third of that entitlement; we have 30 million acres out of 104 million promised us. Most people don't understand that. And unfortunately, the world gets down to a simplistic position. If you're not for some specific bill, you're obviously a wild-eyed rapist developer; and conversely, if you advocate some environmental constraints and sensitivity, you've sold out to preservation.

Q. Is it possible to please both sides?

A. In the closing days of the last session, we had a compromise bill that was fairly well agreed to.

Q. I was under the impression that the mineral interests were objecting strenuously to that bill.

A. Oh, they were, you betcha. But the bill, H.R. 39, as it went into the hopper, was substantially different from this compromise bill. We'd had people back here working, our staff people with resource bank information. They had significantly changed boundaries, had excluded in large measure the known resource commodities from inclusion in overly restrictive systems. We had made very substantial adjustments, which improved the bill in most everybody's view. That went down the tube when it didn't pass in the closing days of the session. Then the President imposed the Antiquities Act. One of the things the new legislation should do is revoke that.

Q. Would you explain the Antiquities Act and its effect?

A. When the compromise bill failed, Secretary [of Interior] Andrus prevailed upon the President to invoke the Antiquities Act, the creation of some 56 million acres of national monuments in Alaska. Now, national monuments are very restrictive, and it was the calculated intent of the Secretary to impose upon Alaska something so unduly restrictive that it would compel Congress to remedy the situation this year. The Secretary has repeated to me many times: if you get behind Congress, get a bill through, the Antiquities Act should be extinguished. All right, that's our first point.

Q. Okay, then what?

A. The legislation should incorporate a conveyance of lands to the state—the remaining 74 million acres of our entitlement under the statehood act, and the natives' 40 million acres, which they were entitled to and have not yet received, except for a tiny fraction. That's point two. Third, it doesn't do anybody any good to isolate lands which have been conveyed to the state, or to the natives, or land owned by private parties—that is, to surround them with federal "monuments" which virtually preclude access. So, adequate access is the third point.

Q. What else do you want from this legislation?

A. We feel the prerogative to manage our own fish and game resources is a basic right that every other state has. The Antiquities Act invades upon that and unduly involves the federal government. We recognize the federal government's presence and its ability to manage its own lands. But what good does it do to give the state authority to manage a caribou herd, for example? Then, as it crosses the border into a federal enclave, it's managed under an entirely different regime. Obviously, those animals don't read boundary lines. And another thing is, we wish to retain to the maximum degree possible the traditional usages.

Q. What does that mean?

A. We have numbers of natives, for example, who've subsisted or augmented their income through trapping since time immemorial. They're foreclosed from doing that in virtually all of these 56 million acres of monuments. We think they should be accommodated. We think we should not incorporate any known valuable resource commodities, be they hardrock minerals, timber or fisheries, inside of excessively restrictive federal systems that would preclude even the most environmentally responsible development. Don't close the door on resources that we know exist.

Q. Such as?

A. Well, for example, there's an immense molybdenum deposit in southeastern Alaska. Now I can't tell you at this stage whether it can be developed so as to not do violence to the fisheries and other natural values in that area. But we don't want to close the door and say we are not even going to let you look or bring forth a plan to determine whether you can. We need to determine what oil provinces might potentially yield, or what hardrock minerals might be available to us, should we have a national-interest demand for them.

Q. Your record is conservationist, but it sounds as if you're at least amenable to mineral development.

A. Let me tell you, if it were a simplistic choice of blatant, wild-eyed, all-out development, rip it all up and pave it all over, versus locking it all up, I would opt for the latter. But it is not that simplistic. In virtually all instances, if you're willing to assure that you don't do violence to a fishery or a caribou habitat or what-have-you, you can modify or accommodate development: as long as you lay down those rules and adhere to them and have a system that assures that development takes place either with those environmental constraints or not at all. Some people elsewhere are charging that Alaskans, if we don't put these things in the deep freeze, are going to rape the countryside. Most Alaskans resent that sorely, because most of us live more deeply in tune with our environment and land issues. And I think our track record demonstrates our environmental sensitivity.

Q. So this compromise legislation would permit a lot more development of the minerals?

A. It would to this extent; it would permit more environmentally responsible development on some lands that would be otherwise vulnerable and exposed.

Q. Then the minerals industry is supporting the same legislation you are?

A. Essentially, yes, by contrast to the approach that screens out even environmentally responsible development if a lot of resources in the state. They much prefer the more moderate, middle-ground approach. But you shouldn't believe for a moment that the bill they're supporting is a "developers' bill." You cannot label the Huckaby bill as anything but an environmentalist piece of legislation, when you look at the particulars; doubling the size of the parks, a 300% increase in refuges, and so forth.

Q. What is the outlook for this legislation?

A. Much better, much better.

Q. So do companies that have spent a lot of money in exploration stand a better chance of realizing returns on these investments?

A. Well, most of the exploration has taken place on areas that—well, some of it—will be foreclosed to development. But until this land issue is resolved and those lands are conveyed to the state and the natives, people are very reluctant to go ahead with developmental plans.

Q. Is this legislation your sole quest here, or do you have other concerns?

A. That's the major reason we're here. But it has tangential implications when it comes to our other energy questions, such as, how do you alleviate the West Coast oil surplus? Doing that would vastly increase the attraction of bringing more Alaskan oil onstream, of exploring and developing; and it would be a step toward alleviating the energy needs of the nation and, in the long term, reducing the balance of payments deficit and foreign dependency. Right now, we have a potential of bringing several hundred thousand barrels a day in additional oil to the West Coast from Alaska. If the West Coast glut were alleviated, California could bring into additional production something like 300,000 more barrels a day. There isn't a great inducement to ship more oil when you're piling it up.

Q. I gather, then, you're pushing for Sohio to go ahead with that pipeline to carry oil from California to Texas?

A. You bet we've been advocates of the Sohio pipeline. And in the interim, we're advocating that the situation be alleviated through a three-way oil swap, to Mexico and

Japan and so forth, with the stipulation—and I've discussed this with Energy Secretary Schlesinger—that we want this Sohio pipeline. And there should be an assurance. an inducement, which says, hey, you go ahead and if there is eventually any swap or transshipment of oil, you must first accommodate that facility that brings the oil through a pipeline to the Midwest.

Q. How do you size up prospects for working out a three-way swap?

A. We've gotten ourselves into a ridiculous situation. Virtually everyone agrees that the national interest, the state interest, the Mexican interest and the Japanese interest are better served through an oil swap. But politics are against it. There were promises made when the trans-Alaska oil pipeline was being considered that there would be no transport of oil to foreign countries. That was a promise given and structured in the legislation, demanded by Midwestern Congressmen, who of course wanted the pipeline to go into the Midwest.

Q. Are you pushing some specific proposal?

A. We have proposed that 100,000 barrels a day of Alaskan royalty oil, oil which belongs to the State of Alaska, be sold to Mexico and supplanted with an equal volume of Mexican oil for the United States. And, in turn, the Mexicans will sell their Alaskan oil, which remained in Alaska, to Japan.

Q. What is the rate of the pipeline flow now?

A. 1.2 million barrels.

Q. And what could the pipeline be sending down?

A. That could be boosted to 1.54 million in the relatively short term and potentially to two million barrels a day.

Q. How about the project to build a gas pipeline from Alaska?

A. We're vitally concerned with the gas pipeline. We believe it should be built; the pipeline across Canada, of course is the only game in town that's going to be approved by the President. We think the pipeline is very important to the state's economic stability in the future. We have the highest unemployment rate in the nation—an enormous problem with numbers of people who came up to work on the oil pipeline competing for the already-limited Alaskan jobs. If we don't have this gas pipeline, we're going to be compelled to undertake all sorts of irrational developmental programs or come in with crash government spending.

Q. Do you think there's any question that the gas pipeline will eventually be built?

A. I think all the indications from the federal government are that it will be built—by whom and on what schedule, I can't say.

CONCORDE WING CRACKS

Mr. PROXMIRE. Mr. President, in view of the public concern about the airworthiness of the DC-10 and the efforts to determine whether or not that aircraft has inherent design or maintenance problems, I think it only appropriate to once again call on the FAA to independently check on the adequacy of the repair procedures used to fix the wing cracks that have developed in the Concorde aircraft. Each of the Concordes has developed wing cracks—small cracks in the wing lower surface panels. The Department of Transportation informed me that 55 cracks had been discovered on all aircraft after flight hours ranging 470 to 2,159.

The FAA has stated that they must abide by the certification of airworthiness of the countries of origin of the Concorde—namely France and Great Britain. They have admitted that they have no independent source of technical data on the Concorde and must rely entirely on the information provided by the Concorde manufacturers through the respective governments.

Even though the Department of Transportation insists that the Concorde is airworthy and that the wing cracks have been fixed, I find this reassurance to be less than acceptable. The minimum that the U.S. flying public is entitled to is a check of the Concorde by impartial aviation experts. We cannot rely on the data supplied only by the manufacturer of the Concorde and the governments that have backed these aircraft with so much financial resources. The Concorde should be reexamined by American experts. Why take the chance to do any less?

HELSINKI PACT AND GENOCIDE CONVENTION PROVIDE MEANS FOR CRITICIZING VIOLATIONS OF HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, at the present time the United States, Canada, most European nations, and the Soviet Union are signatories to the Helsinki Pact. This pact was signed in 1975 and the delegations representing the signatories to the pact meet every 2 years. One of its primary and most important functions concerns individual human rights. It has provided the United States with a platform from which to criticize other signatories whom we feel are not in compliance with the human rights provisions of the convention. And the United States has been effective in doing just that. For example, in the past the U.S. delegation has called on the Soviet Union delegation to account for the treatment received by certain of its political dissidents.

Both the Helsinki Pact and the Genocide Convention involve human rights. The Helsinki Pact, however, has a much broader and more general approach to human rights than does the Genocide Convention which narrows the issue to the most basic of human rights: "the right to life." The Genocide Convention also differs from the Helsinki Pact in the sense that the Helsinki Pact deals with matters of a political nature whereas the Genocide Convention focuses strictly on "national, ethnical, racial, or religious groups." Another basic difference is that the Helsinki Pact is concerned with the inhumane treatment of an individual by his government whereas the Genocide Convention does not focus on the treatment of the individual, but on the group. Specifically, the Genocide Convention is concerned with the "intent to destroy" a particular group by another party.

Though both deal with human rights, they do not overlap and it is apparent that the Helsinki Pact was not intended to handle genocide matters. Rather these matters should be left to the Genocide Convention. Potentially the Genocide Convention could serve the same function as that provided by the Helsinki Pact.

Until the Senate ratifies the convention, however, the United States will be without this very important means of affecting world opinion. And yet this is just one of the many reasons why I continue to strongly urge my colleagues to ratify the Genocide Convention now.

ORDER FOR RECOGNITION OF MR. PROXMIRE AND MR. ROBERT C. BYRD ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, what is the convening hour for Monday?

The PRESIDING OFFICER. The convening hour for Monday is 10 a.m.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on Monday, Mr. PROXMIRE be recognized for not to exceed 15 minutes and that I be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

U.S. COMMISSION ON CIVIL RIGHTS AUTHORIZATIONS, 1980

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 721, which the clerk will state by title.

The legislative clerk read as follows:

> A bill (S. 721) to amend the Civil Rights Act of 1957 to authorize appropriations for the United States Commission on Civil Rights for fiscal year 1980.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Debate on this bill is limited to 1 hour to be equally divided and controlled by the Senator from Indiana (Mr. BAYH) and the Senator from South Carolina (Mr. THURMOND) with 30 minutes on any amendment; with 10 minutes on any debatable motion, appeal or point of order; and with no nongermane amendments to be in order except three amendments by the Senator from North Carolina (Mr. HELMS) on each of which there shall be 1 hour.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, how much time is there on the bill?

The PRESIDING OFFICER. One hour, evenly divided, on the bill.

Mr. ROBERT C. BYRD. I thank the Chair.

I suggest the absence of a quorum, and I ask unanimous consent that the time be charged against the bill equally on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Would a call for the regular order take down the Civil Rights Commission authorization bill and bring back before the Senate the measure that was the pending business on yesterday, dealing with the treaties?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Then it will be my purpose to ask unanimous consent—I am not going to ask unanimous consent at the moment; I will give the leadership on the other side a chance to come in before I do so—but I will ask unanimous consent shortly that a call for the regular order not bring down the Civil Rights Commission authorization.

I will bide my time before doing that, because I feel I owe a responsibility to the leadership on the other side to wait until someone appears representing that leadership; but I hope the Chair will indulge me in permitting me to hold the floor until that point.

Mr. President, without losing my right to the floor, I yield not to exceed 10 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. HATCH in connection with the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending measure, the Civil Rights Commission authorization bill, remain the pending business today until completed, until action thereon is completed.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, that is solely for today?

Mr. ROBERT C. BYRD. Yes. Solely for today. This is to prevent a call for the regular order to bring this bill down.

Mr. President, I would prefer to put it this way. I ask unanimous consent that a call for the regular order not bring down the Civil Rights Commission bill today.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I think I prefer to put it the other way. The request that is in is fine, there is nothing wrong with it.

Mr. President, I ask unanimous consent that the civil rights authorization bill remain the pending business today until completed.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. That, also, is agreeable.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that upon the disposition of the Civil Rights Commission authorization bill today, the Chair recess the Senate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, under the order, the Senate would recess over until 10 o'clock Monday morning, would it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

There are two orders for the recognition of Senators on Monday morning, are there not?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Now, Mr. President, I will suggest the absence of a quorum, and I thank the distinguished assistant Republican leader for the cooperation given in getting the consent order relative to a call for the regular order.

I would hope that, if possible, the opening statements could be made now on the Civil Rights Commission bill, and any Senators who have amendments could call them up. If there are no Senators who have amendments, then it would be my intention to recess until 1 o'clock today to allow Mr. HELMS to come to the floor at that time and call up his amendments.

He has as many as three. There is a time agreement on each of them. But he cannot be here until 1 p.m. because of his having to be elsewhere in a committee hearing until that time.

So, if there are any other amendments, those could be disposed of before 1 o'clock.

I wish the respective cloakrooms would put out the word that if there are other amendments to this bill, it would be well if Senators could get over and call them up before Mr. HELMS comes at 1 o'clock to call his amendments up. If this can be done, then Mr. HELMS can call up his amendments, they will be disposed of, and that will be the end of the action.

Mr. President, I have just been advised by the distinguished assistant Republican leader that it may be possible for Mr. HELMS to be on the floor by 12 noon. So if any other Senators have amendments, they should call them up in the meantime, within the next hour. This would mean that Mr. HELMS would be here at noon to call up his amendments, and the Senate could dispose of them. Upon the disposition of this business, the Chair, under the order, will recess the Senate over until 10 o'clock Monday morning.

Mr. President, I recommend that the respective cloakrooms put out a call saying that the leadership is about to propound a request that no amendments other than those of Mr. HELMS be in order after 12 noon today. This will indicate whether or not any other Senators have amendments; and if so, they could come to the floor and call them up quickly.

I ask the cloakrooms to do that and take not more than 5 minutes in getting back to the leadership.

Mr. President, what time, under the order, is the Senate to go to the military authorization bill on Monday?

The PRESIDING OFFICER (Mr. BAUCUS). No later than 1 p.m.

Mr. ROBERT C. BYRD. And the Senate is coming in at 10?

The PRESIDING OFFICER. The Senator is correct.

FREDERICK LAW OLMSTED NATIONAL HISTORIC SITE

The PRESIDING OFFICER. The bill I ask unanimous consent that the Senate proceed, for not to exceed 1 minute, to the consideration of Calendar No. 191.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 495) to authorize the establishment of the Frederick Law Olmsted National Historic Site in the State of Massachusetts, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, is the bill still in second reading?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Does the bill, as it stands now, contain the amendment offered by this Senator from Alaska?

The PRESIDING OFFICER. The amendment of the Senator from Alaska has been adopted. In addition, two amendments are pending.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Weicker amendment be withdrawn.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Still pending is an amendment by the Senator from Oregon, in the first degree.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Hatfield amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is ordered.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 495) was passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to preserve and interpret for the benefit, inspiration, and education of present and future generations the home and office of Frederick Law Olmsted, the great American landscape architect and designer, there is hereby established as the Frederick Law Olmsted National Historic Site (hereinafter referred to as the "Site").

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, the property comprising the former home and office of Frederick Law Olmsted at 99–101 Warren Street, Brookline, Massachusetts, as depicted on the map entitled "FRLA–80,001" dated March 1979. Said map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, District of Columbia. The Secretary may also acquire for the purposes of the site all or any portion of the documents, equipment, drawings, and other materials comprising the Olmsted archival collection.

(c) It is the express intent of the Congress that the Secretary should substantially complete the acquisition program authorized by this Act within two years after the date of its enactment.

Sec. 2. (a) The Secretary shall administer the Site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

(b) The Secretary is authorized to enter into a cooperative agreement with an appropriate entity for the management of the archival collection acquired for the purposes of this Act.

(c) Within three years of the date of enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and National Resources of the United States Senate, a general management plan for the site pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended. Within six months of the date of enactment of this Act, the Secretary shall submit a written report to the same committees relating the state of progress of his acquisition and provisions for management and permanent protection of the archival collection. He shall submit a similar report within one year of the date of enactment of this Act to the same committees indicating the final management and protection arrangements he has concluded for such collection.

Sec. 3. (a) Effective October 1, 1979, there are authorized to be appropriated from the Land and Water Conservation Fund such sums as may be necessary for the acquisition of lands and interests therein.

(b) There is hereby authorized to be appropriated, effective October 1, 1979, an amount not to exceed $514,000 for the acquisition of the archival collection; an amount not to exceed $200,000 for development; and an amount not to exceed $1,230,000 for the preservation of the archival collection.

Sec. 4. The National Parks and Recreation Act of 1978, approved November 10, 1978 (92 Stat. 3467); is amended as follows:

(a) Section 101(8), re: DeSoto National Memorial, is amended by changing the phrase "changing '$3,108,000' to '$5,108,000'." to read "by changing '$175,000' to '$292,000'."

(b) Section 101(20), re: Pecos National Monument, is amended by changing "$2,375,000" to "$2,575,000".

(c) Section 301, re: revision of boundaries, is amended by changing the words "but not exceed" in the first sentence to "but not to exceed".

(d) Section 301(8), re: Great Sand Dunes National Monument, is amended by (a) changing "one thousand one hundred and nine acres" to "one thousand nine hundred acres" and by changing "$166,000" to "$265,000"; and (b) by adding the following at the end thereof: "The Secretary shall designate the lands described by this paragraph for management in accordance with the adjacent lands within the monument by publication of a notice in the Federal Register.".

(e) Section 302 is amended at the end thereof by changing "section 301" to "title III of this Act".

(f) Section 309(b), re: Fort Union Trading Post National Historic Site, is amended by changing "this Act" in the proviso to "the National Parks and Recreation Act of 1978".

(g) Section 315(a), re: Cuyahoga Valley National Recreation Area, is amended by changing "90,001–A" to "655–90,001–A".

(h) Section 501(a), re: Guam National Seashore, is amended in clause (1) by changing "Anac" to "Anae".

(i) Section 505(f)(1), re: Kaloko-Honokohau National Historic Park, is amended by striking "Kaloko-Honokohau" the first time it appears in the subsection.

(j) Section 505(f), re: Santa Monica Mountains National Recreation Area, is amended by changing "January 1, 1976" to "January 1, 1978".

(k) Section 508(d), re: Ebey's Landing National Historical Reserve, is amended by changing "with donated funds" in the first sentence to "with donated or appropriated funds".

(l) Section 511(b), re: Maggie L. Walker National Historic Site, is amended by changing "at 113 East Leigh Street" to "at 110 A East Leigh Street".

(m) Section 551, re: the National Trails System Act, is amended by—

(1) in paragraph (13), change "(20)" to "(23)";

(2) in paragraph (18), insert quotation marks at the beginning and end of the second sentence; and

(3) in paragraph (21), insert quotation marks at the beginning and end of the second sentence.

(n) Section 601(a), re: Yellowstone National Park, is amended by changing "State of Wyoming" to "States of Wyoming and Montana".

(o) Section 612, re: Albert Einstein Memorial, is amended by changing "access" in the second sentence to "purposes of such memorial".

(p) Section 704, re: Upper Delaware River, is amended (a) in subsection (a) by changing "705(c)" to "704(c)"; and (b) in subsection (f)(1) by inserting the following sentence at the end thereof: "The Advisory Council shall terminate ten years after the date on which it is established.".

(q) Title IX, re: Jean Lafitte National Historical Park, is amended—

(1) in section 902(a) by changing "eight thousand acres" in the first sentence to "eight thousand six hundred acres";

(2) in section 904 by changing "section 7" in the first sentence to "section 907";

(3) in section 907(a) by striking the word "and" at the end of the clause numbered (6), changing the period at the end of the clause numbered (7) to "; and", and adding at the end thereof the following:

"(3) two members appointed by the Secretary from recommendations submitted by the Police Jury of Saint Bernard Parish."; and

(4) in section 907(e) by inserting the following sentence at the end thereof: "The Commission shall terminate ten years from the date of approval of this Act.".

Sec. 5. Notwithstanding any other provision of law, the Secretary of the Interior shall not charge any entrance or admission fee in excess of the amounts which were in effect as of January 1, 1979, or charge said fees at any unit of the National Park System where such fees were not in effect as of such date, nor shall the Secretary charge after the date of enactment of this section, user fees for transportation services and facilities in Mount McKinley Park, Alaska.

Sec. 6. The Wild and Scenic Rivers Act of 1968 (82 Stat. 906), as amended (16 U.S.C. 1271), is further amended as follows:

(a) In section 5(b), in paragraph numbered (3), change "(72)" to "(75)";

(b) In section 5(b), in paragraph numbered (4) change "(74)" to "(75)".

Sec. 7. Section 3 of the Act of December 2, 1969 (83 Stat. 279), is amended by changing "180,000" to "680,000".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

U.S. COMMISSION ON CIVIL RIGHTS AUTHORIZATIONS, 1980

The Senate resumed the consideration of S. 721.

Mr. ROBERT C. BYRD. Mr. President, we have given the cloakrooms an opportunity to notify Senators, and they have reported back on the calls to Senators. It appears that there will be no amendments other than the Helms amendments, with the following exceptions:

One, a possible amendment by Mr. Leahy; we do not know for certain.

Two, an amendment that would place a definite figure on the authorization in lieu of the open-ended authorization.

Mr. STEVENS. It is my understanding that something will be worked out with the distinguished manager of the bill to state the specific amount of the authorization, rather than such sums as may be necessary to carry out the purpose of the act.

Has the distinguished majority leader stated that the Helms amendments are the three amendments that may or may not be germane, as we understand them?

Mr. ROBERT C. BYRD. Mr. President, in response to the distinguished Senator's question, the order was for three amendments by Mr. Helms to be allowed to come in, whether or not they are germane, and he specificated as to what the contents were, so we know what the contents are.

Mr. STEVENS. I have just heard about a fourth amendment, and I am wondering whether that is germane to the bill.

Mr. ROBERT C. BYRD. He would not be shut out on that.

Mr. STEVENS. Very well.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no amendments other than the following amendments be in order: a possible amendment by Mr. Leahy, which would have to be called up before 12 noon; a possible amendment dealing with the authorization figure, and not more than four amendments by Mr. Helms.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I thank the majority leader.

Mr. ROBERT C. BYRD. I thank all Senators.

Mr. STEVENS. It is my understanding, so there is no misunderstanding for the remainder of the Senate, that with the exception of the one amendment dealing with the authorization level, all amendments to the bill, other than Mr. Helms' amendments, must be presented to the Senate before noon.

Mr. ROBERT C. BYRD. Yes, and must be germane.

Mr. STEVENS. And must be germane.

Mr. ROBERT C. BYRD. Mr. President, I would be willing, if the managers of the bill were willing and the leadership all around, to ask unanimous consent that final action on the bill be no later than 4 p.m. rather than 5 p.m. today.

Mr. STEVENS. I would urge the majority leader to let me inquire from Mr. Helms what is the fourth amendment and how much time it might take.

Mr. ROBERT C. BYRD. Could we split the difference?

Mr. STEVENS. I do not know what that might be.

Mr. ROBERT C. BYRD. All right. I am just trying to help the managers on our side.

Mr. STEVENS. Yes.

Mr. BAYH. Mr. President, I appreciate the extra effort that our distinguished leader has made to try to move us forward here today in his normally efficient and thoughtful manner and also the cooperation of the distinguished minority whip, the Senator from Alaska.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Indiana for his kind remarks.

Mr. BAYH. Mr. President, I ask unanimous consent that Ben Dixon, Kevin Faley, Irene Emsellem, and Mary Jolly be accorded the privilege of the floor during debate on voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, today the Senate begins debate on a bill to authorize appropriations for the U.S. Commission on Civil Rights for fiscal year 1980. I do not believe that I need recite the long list of accomplishments of the commission to date: They are well known to all. Let me just say though, that in the early years of the civil rights struggle and during the legislative battles of the last decade, the laws we passed were on issues that dealt with the fundamental precepts of this Nation. Then, as today, the Commission was on the forefront of the fight, defending the freedoms all Americans are supposed to have as a birthright.

Congress last year reextended the life of the Commission for 5 years, and added age and handicap discrimination to the Commission's jurisdiction. However, even though a majority of the Judiciary Committee has agreed to a 5-year authorization for the Commission, former Senator Scott expressed an interest in conducting an annual oversight of the Commission to be occasioned by the authorization process for each fiscal year. The Members of the other body supported this position both in their original hearings and in the conference with the Senate on the bill. The result was a 1-year—fiscal year 1979—authorization section in the bill which will be amended to include the upcoming fiscal year 1980 by S. 721.

S. 721 is a very simple bill, it merely authorizes the Commission to spend appropriated moneys for fiscal year 1980, the second year of its current extension period. While we all realize that the Commission's jurisdiction was expanded last year, I am not sure if the appropriation asked for, in fiscal year 1980, $11,372,000, is a sufficient increase to cover these new areas in addition to the Commission's other duties. The Commission, during the extension hearings last year, estimated that they would need $2.6 million to fund both the age and handicap areas, OMB gave them $271,000—which is included in the requested appropriation. If the Commission feels it needs more for these studies and OMB agrees, then the committee has instructed the Commission in its report on S. 721 that it inform the committee on the supplemental moneys it will seek and the exact use the Commission will make of that supplemental.

Mr. President, what I am trying to say is that the committee and its staff have made sure that the Commission has a "barebones" budget—we are supporting what the President has requested. In addition, Mr. President, we have taken pains, to insure that the Committee on the Judiciary is informed of any supplementals the Commission might request during fiscal year 1980.

The committee, I believe, Mr. President, has acted in the most responsible and expeditious way on this bill and we have done so in a bipartisan manner. Once the hearings were over, the Subcommittee on the Constitution reported the bill to the committee unanimously, the committee in turn, reported the bill also on a unanimous vote. I point out, Mr. President, that S. 721, was reported out of committee by May 15 budget act authorization deadline; the first time the committee has done this since the budget act has been in effect. I congradulate, the committee and especially our distinguished chairman, Senator Kennedy, the ranking minority member, Senator Thurmond, and the subcommittee ranking member, Senator Hatch, for this spirit of cooperation and responsibility in the legislative process.

Mr. President, I trust that the Members of the Senate will once again recognize the important role that the Civil Rights Commission plays in pursuing our ultimate goal of total equality of opportunity for all of our citizens, the birthright which is guaranteed to all but which unfortunately is denied to some.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally out of both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 231

Mr. LEAHY. Mr. President, I sent to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Vermont (Mr. Leahy) proposes an unprinted amendment numbered 231:
>
> At the end of the bill, insert the following:
>
> Section 104(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(a)(2) is amended by inserting at the end thereof the following:
>
> "(7) no later than April 1, 1980 the Commission shall study and report to the Congress and the President the legal questions involved in eliminating the legislative branch's exemption from the Civil Rights Act and the Commission shall further in its report recommend the various means to resolve each question.".

Mr. LEAHY. Mr. President, today, the Senate is considering a bill to authorize appropriations for the U.S. Commission on Civil Rights for the fiscal year 1980. One of the major functions of the Commission, established under the Civil Rights Act of 1957, is to appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution. The amendment that I am introducing to the authorization bill requires the Commission to investigate and resolve issues and problems particular to Congress.

Congress is exempt from the Civil Rights Act of 1964. What that means, Mr. President, is that through the exemption, Congress is not subject to the restrictions of employment discrimination which apply to everybody else in the country. Congressional employees are barred from seeking legal redress to charges of discrimination in employment. This situation came to a head this week in the Supreme Court case of Davis against Passman. The Court stated that Members of Congress may be sued in Federal Court for sex bias against their staff members. I applaud that particular decision. I think it was long overdue. But I think it is unfortunate that Congress should set a law that would make it even necessary to have the question be one of dispute. There should not have been any question that we should have been under the laws applying to the rest of the country, to begin with.

It is a landmark decision. The Court, however, raised the question of constitutional immunity which mootes the collection of actual damages resulting from a discrimination charge. My amendment will clarify and resolve the outstanding constitutional questions, the legal questions, that are involved. Some of these questions cannot be answered just by the Davis case itself, but will actually require legislation.

These questions, however, bar the full enjoyment of equal employment laws to the employees of the Congress. The merits of the amendment, I think, are obvious. Equality and justice will not come to congressional employees unless those of us who are the employers resolve these issues and extend to these people the same protections and responsibilities that we provide the average American citizen.

I said earlier this year, in a speech on the floor, Mr. President, that America may have witnessed the demise of the great southern plantation system, a system, as we all know, which was a social, economic, and political way of life. Its last vestiges disappeared over time following the Civil War. I also said in that earlier speech, Mr. President, that there was one last manifestation that exists and flourishes today. That plantation does not produce cotton or even tobacco; it produces laws. That last manifestation is Congress, itself.

It has shielded itself from some of the laws it has passed—laws which the large majority of us on the floor of the Senate would agree to and have actively supported. That the Civil Rights Act does not apply to congressional employees nor to the Members of either House is a source of embarrassment and potential injustice.

We who pass these laws and direct all citizens to abide by them are unwilling to place ourselves under the same responsibilities and restrictions. We have exempted ourselves from their coverage in the text of the laws. If Congress is to retain any credibility with the public, we must eliminate this double standard. We should not be a righteous body, beyond the restrictions of the laws we pass. Simple equity and fairness would ask for the passage of such legislation as I propose.

I do not think any one of us wants to go off in a helter-skelter fashion. What we are trying to do by this legislation is to let the Civil Rights Commission, the Commission most actively involved with such laws, study these questions and report back to us on precisely what laws would have to be changed to bring Congress under the Civil Rights Act and to let us know, in effect, what are the effects of Davis against Passman.

Mr. President, it will be my intention, throughout the rest of the time I am in the Senate, to work actively, as I have in the past, to get the various laws from which Congress is exempted to apply to Congress.

The Civil Rights Act of 1964 is one step in that direction.

Mr. President, we are talking about the Civil Rights Act here. In later bills on the floor, in later matters, I will address the Equal Employment Opportunity Act, the Equal Pay Act, the Fair Labor Standards Act, the National Labor Relations Act, OSHA, social security, the Freedom of Information Act, and the Privacy Act.

But this one is very clear, very simple, very specific.

Mr. President, I reserve the remainder of my time, but I hope this will be an amendment that will be acceptable to the managers of this bill.

Mr. BAYH. Mr. President, I am prepared to accept the amendment of my friend from Vermont. I share his feeling, and I have when this issue has been raised on previous occasions on the floor.

From a standpoint of shoring up confidence in our positions of legislative leadership which all of us would like to believe Congress still can provide, it ill behooves us in this critical area of civil rights to accord the members of our staff a lesser standard than we require to be applied to the employer-employee relationship of other places in the country.

So I salute the Senator from Vermont and support his ultimate goal.

For those who might have a different position, I think they, too, could support the amendment of the Senator from Vermont because what he is doing is saying, is that at least we should have an idea of what the legal problems might be in regard to the congressional exemption. Therefore when we discuss it again on the floor of the Senate we will have a better idea of how to resolve this problem and an idea of how complicated a resolution might be. In other words, we will be able to answer the question why was Congress given this exemption in the first place?

I would like to offer one word of caution to my friend from Vermont, who is also a fellow colleague on the Appropriations Committee, that we have succumbed to well-intentioned temptation over the past few years and we have added additional burdens to the earlier tasks carried by the Civil Rights Commission to the place where we are in a funding bind, as far as giving them additional responsibilities such as this, without giving them moneys.

So I think from the standpoint of how we get this done, the Senator and I have to find ways we can get more money through the appropriation process, which is separate and apart from this one.

But I would like to say again, from the standpoint of where the Commission is now as far as workload is concerned, they are hardly able to do everything we ask them to do now. So if we are going to make this real, we will have to get more money.

I am prepared to accept this amendment if there is no further debate on it.

Mr. LEAHY. Mr. President, I appreciate the kind words of the Senator from Indiana.

I might point out that on the feelings I have expressed here, the Senator from Indiana was urging such fairness under the laws long before I was ever a Member of the Senate.

I feel privileged to be on the floor even raising the issue with the Senator from Indiana as manager of the bill.

Mr. President, I am prepared to yield back the remainder of my time and ask for a voice vote on the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (UP No. 231) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I thank the Senator from Indiana and I thank the Chair.

UP AMENDMENT NO. 232

(Purpose: To authorize the Commission to report to Congress concerning discrimination against Americans who are members of eastern and southern European ethnic groups)

Mr. HELMS. Mr. President, I have an unprinted amendment at the desk which I call up and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 232.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 6, insert the following:

"Section 1975(b) of title 42, United States Code, is amended by adding at the end thereof the following:

"During 1980, the Commission shall appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution involving Americans who are members of eastern- and southern-European ethnic groups and shall report its findings to the Congress. Such report shall include an analysis of the adverse consequences of affirmative action programs encouraged by the Federal Government upon the equal opportunity rights of these Americans."

The PRESIDING OFFICER. The Chair inquires of the Senator from North Carolina whether this is one of the three specified amendments, or whether it is a fourth?

Mr. HELMS. This is one of the three qualified amendments.

The PRESIDING OFFICER. The Chair thanks the Senator.

The Senator has 30 minutes.

Mr. HELMS. Is that equally divided, or——

The PRESIDING OFFICER. Thirty minutes allocated to each side.

Mr. HELMS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Mr. President, I have been in the Ethics Committee meeting all morning. I had been given to understand the time had been reduced. I am agreeable to that suggestion and I wonder if any action has been taken along that line. Either way suits me.

Mr. BAYH. If the Senator will yield, I think we were reluctant to depart from the original unanimous consent in his absence. The Senator from Indiana would be glad to accept and not object to a request, if the Senator from North Carolina would like to make such a request, or I would be perfectly happy to make it——

Mr. HELMS. Very well.

I want to accommodate my friend from Indiana because I understand he has to leave at some specific hour this afternoon.

Mr. BAYH. We have a rather important intelligence meeting.

If the Senator will excuse me, I hate to get involved in a unanimous-consent request without checking with the leader, could the Senator from North Carolina go ahead and make his presentation?

Mr. HELMS. Certainly.

Mr. BAYH. I think we can operate under this time, anyhow. In the meantime, we will get the approval.

Mr. HELMS. We can always yield back the time we do not need.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, would the Senator from North Carolina be amenable to a reduction of time on his amendments?

Mr. HELMS. Yes.

Mr. ROBERT C. BYRD. Would he care to make a suggestion?

Mr. HELMS. Why do we not start with 40 minutes, equally divided?

Mr. ROBERT C. BYRD. Is this agreeable to the distinguished manager of the bill, that the amendments will be reduced to 40 minutes each?

Mr. BAYH. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that each of the amendments by Mr. HELMS be limited to not to exceed 40 minutes, to be divided and controlled in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I assure the majority leader that I will attempt to reduce the time actually used even further.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. HELMS. Mr. President, the Civil Rights Commission has demonstrated what this Senator considers to be a serious lack of responsibility, compassion, and concern as to the rights of citizens who are discriminated against on a daily basis because of their national origin. Such a pattern will continue unabated unless the Commission is specifically instructed to change its ways, and that is the purpose of the pending amendment.

The problem is the Commission's exclusive concern for the plight of groups who, practice shows, can be termed "governmentally approved minorities." This group includes women, blacks, persons of Spanish origin, Native Americans, Asian Americans, and other persons of non-Caucasian heritage. The Civil Rights Act does not single out special subclasses of Americans for special treatment; to do so is to perpetuate the very discrimination which prompted the laws in the first place. This is precisely what the Commission has done. The law, statutory and constitutional, is designed to protect people, not specific minority or interest groups from unfair treatment.

Why then are substantial cases of ethnic discrimination ignored by the Commission? Can it be that this discrimination does not exist? If so, either the law should be changed, or the Commission should so inform us. Experience indicates that there is both religious and ethnic discrimination on a wide scale, but a look through the work of the Commission would indicate that the Commission has never issued a report with regard to either religious or national origin discrimination. Its mention of any ethnic minority, other than Spanish or Native American, has been so sporadic as to be hardly worth mentioning. From the work of the Commission, one gets the impression that there is not now, nor has there ever been discrimination against ethnic Americans, such as Polish-Americans, Hungarian-Americans, or Italian-Americans.

I might say parenthetically, Mr. President, that this is not a political matter with the Senator from North Carolina. We have very few Polish Americans, or Hungarian Americans, or Italian Americans in North Carolina.

What the Senator from North Carolina seeks is simple equity across the board for all people.

For example, a recent report entitled "Last Hired—First Fired: Layoffs and Civil Rights" discusses the plight of blacks, women, Spanish and other nonwhite minorities with special emphasis on the problems of black youth. White males are lumped together without discussion of the various treatment of different ethnic groups within that category.

While it may be true as a whole that minorities and women lag behind white males in the areas of employment and higher education, one might validly question the Commission's assumption that all white males are treated equally. If the Commission were doing its job properly it would identify the targets of all types of discrimination and see which groups are receiving disparate treatment at the hands of employers.

The Commission seems willing to ignore studies conducted by Prof. Russell Barta in Chicago and the University of Michigan Ethnic Heritage Center in Detroit, showing that people of Polish or Italian ancestry find it almost as difficult to become officers and directors of the largest corporations based in those cities as do blacks and Latinos. Why is the Commission seeking equal treatment for some of these groups but not for others?

One might assume that a Commission charged with investigating instances of discrimination on the basis of race, color, religion, sex, or national origin would report on all types of discrimination covered by the civil rights laws but again, the Commission falls short.

In a 1974 document on Federal civil rights enforcement isued by the Commission, one finds a lengthy discussion of several government agencies.

The data in the 1974 report regarding the FCC would be worthless to any scholar or legislator concerned with oppression against Jews, Italians, Germans, Hungarians and Poles. All that would be found is data on blacks, Spanish, Orientals and American Indians. Another example is "The State of Civil Rights," issued in 1976 by the Commission, in which no mention is made of ethnic discrimination other than of against the "government approved" minorities. No mention is made of religious discrimination. Reams and reams of paper are consumed reporting on the same types of minorities and interest groups and with always the same conclusions. The conclusions themselves may well be unassailable in many instances. Another study entitled, "Window Dressing: Women and Minorities in Television", August 1977, deals only with blacks, Hispanics, native Americans, women, and Asians. The report recognizes that other ethnic bias exists, but then ignores that fact through the rest of the report.

The 230-page report entitled "Sex Bias in the U.S. Code," April 1977, undoubtedly consumed a substantial amount of the Commission's resources in search of "sexist" language in our stautory law. The utility of such a report is questionable, and its very issuance reflects a serious misallocation of resources.

Numerous complaints have been made concerning the Commission's lack of attention to this problem. For example, last year during hearings on the work of the Commission, its neglect of the problems of ethnic discrimination was soundly critiiczed by such organizations as the Polish-American Congress, the Catholic League for Religious and Civil Rights, and the Czechoslovak National Council.

In response to this mounting criticism, the Commission has scheduled what it terms a "consultation" on the subject of ethnic discrimination sometime during late 1979 or 1980. After nearly 20 years of neglect, this type of response is too little, too late.

Mr. President, the pending amendment would begin to rectify this inequity by requiring the Commission to undertake a study to analyze the laws and policies of the Federal Government with respect to denials of equal portection of the laws involving Americans who are members of Eastern and Southern European ethnic groups.

The research and analysis that the pending amendment would mandate is not without precedent. For example, I point to the excellent study of American ethnic groups that has been conducted by the Urban Institute from 1972 through 1975, especially the recently published report of the institute edited by Prof. Thomas Sowell entitled: "Essays and Data on American Ethnic Groups."

In conclusion, I ask unanimous consent, Mr. President, that the prepared statement of Leonard Walentynowicz, executive director of the Polish-American Congress, concerning the work of Civil Rights Commission, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF LEONARD F. WALENTYNOWICZ

Mr. Chairman and members of the Committee: In behalf of the Polish American Congress, I wish to express our sincere appreciation for this opportunity to express our concerns and views with respect to the subject matter of this hearing.

Civil rights have long been dear to the hearts and minds of people of and with Polish background and tradition and if anything are more so with those who are or have become United States citizens.

The history of the Poilsh people, the Polish patriots who helped found this country and the Americans of Polish background who helped make this country as great as it is, is a living and visible confirmation of the feeling and commitment of these people to human rights including civil rights.

I say this without any sense of pretention for there are people of many other backgrounds and traditions who have similar histories and the same feelings and commitments. I do say it, however, to make this Committee and others, who may hear and read these remarks, understand more fully why they are being made and so that they may not be misperceived.

The work of the U.S. Commission on Civil Rights, its continued existence and proposed expansion of mandates creates a mixed reaction with most Americans of polish origin and background. To the extent that the work of the Commission and its continued existence promotes the cause of civil rights for all, such work and existence is not only supported but enthusiastically endorsed. And, this feeling continues with respect to the proposed new mandates to include the problems of the aged and handicapped individuals. Nevertheless, the full record of the Commission is such as to raise serious misgivings about its overall performance and the desirability of continuing its existence if it continues to conduct its affairs in the uneven and discriminatory fashion it is now doing.

Let me elaborate and detail what I mean. Congress imposed five mandates upon the Commission when it first created it in 1957. Essentially, these were and are:

(1) To investigate voting right violations;

(2) Study and collect information concerning legal developments constituting denial of equal protection of laws under the Constitution;

(3) Appraise Federal laws and policies with respect to equal protection of the laws;

(4) Serve as a national clearinghouse for information in respect to denials of equal protection of the laws; and

(5) Submit reports, findings and recommendations to the President and Congress.

Significantly all these mandates included the additional mandate that they were to be performed with respect to the problems of discrimination relating to race, color, religion, sex or national origin. No priority as to the handling of these mandates was established and no direction was given that the resolution of one type of discrimination was to receive preference over the resolution of another type. To the contrary, the language specifically directs the Commission to report and make recommendations to see to it that all the forms of prohibited discrimination are addressed in such a fashion as to insure everyone the equal protection of the laws and our Constitution.

Given these mandates and notwithstanding the trying circumstances then existing, the Commission had a significant opportunity to secure the confidence of the greater part, if not all, of American and reshape the attitude of its people toward prohibited discrimination and the benefits stemming from a true application of the equal protection concept found in our laws and Constitution. Essential to the total success of such an effort was to create the impression that the Commission's activities were even and fair and were concerned with the good and welfare of all Americans. What did the Commission do?

Instead of carrying out its mandates in an even and fair fashion with care and concern for the good and welfare of all Americans, the Commission's record to date indicates that it is a champion and strong advocate of some groups that have an still are suffering discrimination but is totally indifferent, and neglectful of the discrimination suffered and still being suffered by other groups. In fact, the effect of some of the practices the Commission engages in not only perpetuate the discrimination being suffered by these disfavored groups, but also requires them to suffer the consequences of the actions the Commission proposes or approves to rectify the discrimination being suffered by the groups that it favors. As a result, a great deal of resentment has been created and the progress in eliminating all prohibited discrimination and the effects thereof has not been as rapid as desirable. Here are some illustrations.

In its 20 years of existence, the Commission has never conducted any studies on the existence in America of discrimination based on national origin with the exception of people of Hispanic origin. No such studies have ever been conducted on discrimination based on religion though numerous studies have been made on racial and sexual discrimination and discrimination based on color.

Such studies would have been useful even if no discrimination was found for it would have reassured Americans that the degree of attention the Commission was paying to racial, color and sexual discrimination was indeed justified and necessary. It would have also helped explain the existence of the "Polish" joke which defames and attacks the very integrity of people of Polish origin and the absence of such people, except sometimes in token numbers, in many facets of American life.

In this regard, another illustration reflecting the Commission's practices and attitudes is particularly pertinent.

Recently, the Commission issued a study critical of the use of stereotypes in the electronic media. Much emphasis was placed in this report on the adverse affect such stereotyping is having not only on American children who are forming impressions, but also upon older Americans in perpetuating false and discriminatory impressions. Yet, no mention was made of the effect of "Polish" jokes and novelties even though the harmful effects of such items is and was a matter of common knowledge.

Another illustration is the Commission's recent report regarding affirmative action. The report in essence supports affirmative action programs that exclude disadvantaged and discriminated whites other than Hispanics without offering any sensible justification therefor. But such a conclusion is not surprising because it reflects a long litany of other similar actions by the Commission, including data collection and use of designations.

For reasons not entirely clear, national origin groups such as Polish-Americans, Italian-Americans, Arabian-Americans, etc. are never separately considered even though numerically and otherwise they are distinct, and significant groups. Instead they are continually included in designations used by the Commission as "non-minority", "white" or "other", having the further effect as being part of the "net" group that ends up being disfavored by the Commission. Treated this way, these groups end up bearing the full brunt of the Commission's criticism for the discrimination of the groups it does favor, even though there is no persuasive evidence that groups such as Polish-Americans are indeed uniquely and solely responsible for such discrimination. This occurs notwithstanding there is substantial evidence that these same groups also have been and are suffering discrimination.

Apparently, the Commission feels it must engage in the practice of creating target groups in order to achieve what the Commission believes are its legitimate needs.

Another illustration is the Commission's attitude toward data collection by the Census Bureau. By letter, dated March 22, 1977, to the Hon. Juanita Kreps, Secretary of Commerce, the Chairman of this Commission made a plea for the adequate collection of data on persons of Spanish origin. A similar plea, though more extensive, was made by Louis Nunez, in his official capacity as Acting Staff Director of the Commission, in testimony before the House Subcommittee on Census and Population on June 10, 1977. To our knowledge, no similar plea has been made in behalf of any other group or groups of the white race, even though Hispanics are considered to be over 95% white by the Census Bureau and the Commission should have been fully aware of this fact and the fact that other ethnic groups are seeking similar data collection.

Other illustrations can be cited but the point perhaps can best be summarized and emphasized by looking at the make-up of the Commission and its senior staff. As aside from the origins of the Commission and senior staff, does the Commission and its senior staff reflect the balanced views, inputs and concerns needed for fair and even policy and action?—policy and action consistent with the directions given it by Congress?

If the Commission had such balance, it would have advised the Department of Justice when that Department filed its brief in the "Bakke" case that if race is an appropriate factor to be included in determining admission into professional schools, so too must, color, sex, religion and national origin, be included.

If the Commission had such balance, it would have advised the *Ad Hoc* Committee on Race/Ethnic Categories (formed in 1975 by representatives in the Executive Branch to formulate uniform data collection in order to facilitate budget formulation) to create more than five categories for Civil Rights Compliance Reporting.

If the Commission had such balance, it would have advised the Equal Employment Opportunity Commission, to expand the number of categories in connection with the forms it requires private employers to complete as part of its efforts to monitor properly civil rights compliance. This would be particularly appropriate in light of President Carter's memorandum of July 27, 1977 wherein he requested all departments and agencies to collect data on the racial, sex and ethnic makeup of his executive appointments and ancillary help along 16 different groups, thus recognizing the need for more categories.

If the Commission had such balance, it would have studied the potential disproportional impact of affirmative action programs and numerical remedies upon disfavored groups.

If the Commission had such balance, it would have studied the impact of recent immigration patterns on prohibited discrimination.

If the Commission had such balance, it would have reflected in its reports the fact that as with the Hispanic community there are a variety of larger and smaller subgroups, organized along national origin lines within the remaining portion of the white racial category: Included are such larger groups and subgroups as Baltics. Slavs, Checks, Hungarians, Lithuanian, Ukrainian, Estonian, Latvian, Russian, etc.

If the Commission had such abalance, it would have realized that many such groups within the white racial category fought against and are still fighting against prohibited discrimination, have been the victims themselves of discrimination, and should not be asked to suffer additionally to compensate the groups that are favored.

If the Commission had such balance, it would have advised the Congress and the President of the need to have data collected on all of the groups that make up America in order to secure confidence in making policy decisions as well as insure fairness and compliance with the equal protection provisions of our laws and Constitution.

In short, the Commission's credibility and as a result, its effectiveness, has been seriously impaired. In the eyes of many, the Commission's preoccupation with certain forms of prohibited discrimination has created the bases for new patterns of discrimination.

Nevertheless, the good work of the Commission need not suffer and will not suffer if there is a change in the attitude and concerns of the Commission. A change in the makeup of the Commission and its senior staff would help. Appropriate direction from this Committee in the exercise of its oversight function would be of immeasurable help not only with the Commission, but with the restoration of a full measure of public confidence.

We believe there is much good that can be done. This Congress is faced with many critical issues involving the fight against prohibited discrimination and the effects thereof. These include Congressional staffing, census reform and allocation, small business loans, reform of the Civil Service System, reform and consolidation of Federal agencies dealing with prohibited discrimination, unemployment, immigration reform, allocation of Federal aid, and so forth. The Commission could help Congress even more than it has if it broadens its concerns to what was originally intended.

Two particularly pressing areas that need extensive attention and analysis are the use of numerical remedies to remedy past discrimination and the growing dominance of group rights. What is the impact of these two factors on fundamental American values of individual rights and initiative, and merit selection? While more persons reject quotas, goals and timetables they are being used with increasing frequency. What should they represent? How long are they to be used?

Until there is absolute numerical parity between the number of the group employed and the number of the group in the relevant work force? If so, how do we allow for nondiscrimination factors such as cultural preferences, incentive, hard work, initiative and natural competition? And what should be the impact on the use of numerical remedies of recent flows of immigration including the proposed recognition of persons who originally entered in violation of our laws? Finally, if numerical remedies are to be used, and regardless how labeled, do we violate fairness and equality by using them for only some disadvantaged and discriminated groups and not for all?

In conclusion, we wish to thank the Committee for this opportunity and reaffirm our belief that all of us, regardless of race, color, sex, religion and national origin, can, by working together with a mutual concern and respect for all of our problems, overcome such problems for our common good. We offer our continued cooperation to this end, and would be pleased to answer any questions you have.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

Mr. BAYH. Mr. President, I appreciate the concern of the Senator from North Carolina with respect to this issue of Eastern-Southern European ethnic groups who are living as American citizens.

The fact is that this matter was brought to the Commission's attention a year or so ago. They held a national consultation on religious discrimination this spring. I call the attention of the Senator from North Carolina to the most recent volume of the Civil Rights Digest, in which it has the whole issue devoted to ethnic discrimination: "Don Giamatti and the Polish Joke," "The Self-Conscious Neighborhood," "The School as Melting Pot," "The Ethnic Image in the Media," "The Least Known Minority."

So a good deal of attention has been given to this.

The initial consultation on ethnic discrimination is scheduled for this fall. Several of the Commission's regional offices and State advisory committees are consulting with white ethnic organizations. This is something that is presently going on in the Commission.

To date, we have not singled out any group. We have not singled out blacks or women or Indians or Hispanic Americans. If the Senator from North Carolina feels that it is appropriate to single them out, I have no great objection to doing so in this bill. However, this should not be taken to mean that the Senate favors one minority over another. But let me again point out that this ethnic discrimination study is an ongoing process that is going on.

I am sure the Senator from North Carolina would not want to have two studies, one that they are doing now and one that he would suggest here. He would not really want to wait until 1980 as his amendment states if they already are doing it now.

Perhaps we could make some slight wording change here, one that would strike "during 1980," and say, "The Commission shall continue its appraisal of the laws and policies," and then go right on, so that they can continue the work they are doing and then report back to us.

Mr. HELMS. Mr. President, in response to the distinguished Senator from Indiana, I point out that I am aware that the fall of 1978 issue of the Civil Rights Digest contains articles related to Americans of Eastern and Southern European ethnic groups.

The Digest follows a magazine format, and it contains very brief articles. On the inside cover is printed very clearly:

> The articles in the digest do not necessarily represent Commission policy.

After the Commission has published thousands and thousands of pages of reports studying the problem of civil rights, without any mention of the problems of these American ethnic groups, to boast of several articles, which the Commission clearly states do not represent the Commission's views, is, it seems to me, to border on adding insult to injury.

I would like to accommodate the Senator in this amendment, but I do not think we are talking about the same thing.

They do not have to issue more than one report, just the one I am asking for. I prefer my amendment as it is.

Mr. BAYH. In other words, the Senator does not want them to start the study until 1980. He wants them to have a separate study from the one they are doing now.

Apparently, the Senator from North Carolina did not listen to all of what I said. He was looking at the paper that apparently had been prepared about the response to the report.

Mr. HELMS. I was talking to the majority leader. Will the Senator repeat what he said?

Mr. BAYH. They have held a national consultation already. They have another planned for this fall. All the State advisory groups already are consulting with ethnic leaders. The study has started.

I am not taking issue at all with my friend from North Carolina. This study had not been done 4 or 5 years ago when some of these other studies had been started, but it has been started now. We are going ahead in consultation with them, and I assume they will proceed.

That is why I am just suggesting and I would be prepared to accept the amendment, although it is a departure from the past. I mean we have not enunciated studies for black Americans or Hispanic Americans, although studies have been done in both these areas and others. I am nervous, I must say, in picking out two groups of Americans and separating them from others, for no apparent particular reason, especially when the studies are going on. Let me say again, though, that I have no big tieup about the study itself.

Mr. HELMS. In order to accommodate the Senator let me suggest that I modify my statement to read "during 1979." I will be glad to speed it up. I will make it July of 1979.

Mr. BAYH. No; the Senator from Indiana could not buy that. What is wrong with the suggestion that I made that we take the amendment of the Senator from North Carolina except we would start where it says "the Commission" and then we say "The Commission shall continue its appraisal of the laws and policies of the Federal Government," right on down through the rest of the Senator's amendment?

Mr. HELMS. In my judgment, if we use 1979 we are in business, according to what you say is now being done.

Mr. BAYH. I do not know how long it is going to take.

Mr. HELMS. Mr. President, maybe we can work this thing out.

I ask unanimous consent that I be permitted to suggest the absence of a quorum without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. All right. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENTSEN). Without objection, it is so ordered.

UP AMENDMENT NO. 232 (AS MODIFIED)

Mr. HELMS. Will the Senator allow me to send a modification to the desk and then he may proceed?

Mr. BAYH. Yes.

Mr. HELMS. Mr. President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 232, as modified.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment, as modified, be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 1, line 6, insert the following:

"Section 1975(b) of title 42, United States Code, is amended by adding at the end thereof the following:

'The Commission shall continue to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution involving Americans who are members of eastern- and southern-European ethnic groups and shall report its findings to the Congress no later than September 30, 1980. Such report shall include an analysis of the adverse consequences of affirmative action programs encouraged by the Federal Government upon the equal opportunity rights of these Americans.' "

Mr. BAYH. Mr. President, the Senator from Indiana is prepared to accept the amendment offered by our distinguished colleague from North Carolina which would, in essence, order the Commission to continue the study which has already been initiated, and would order them to report back by September 30, 1980.

My support for that amendment would be based on one caveat, and that is that this study could continue with resources available and be conducted in a manner that would not take resources away from the other studies that are presently being conducted by the Commission.

Two significant examples, which are at a development stage in the study process, that concern the Senator from Indiana, are the studies to find out how significant discrimination against our elderly is and to find out similar information about discrimination against the handicapped.

We have already given the Commission the order to come up with those studies. It just does not seem fair to me now to come up with another study and say, "OK, report here." It may require them to put the other two studies on the bench, and I do not want to do that. I want them to continue with this study, but the time frame, I hope, will take into consideration the need to go ahead and conclude the study about discrimination against our elderly and against our handicapped, and then have the study of the eastern European ethnic groups that the Senator from North Carolina would cover in his amendment.

The PRESIDING OFFICER. The Chair will interrupt for a parliamentary question. The Senator from North Carolina did not ask for unanimous consent for a modification of his amendment. Does the Senator request that?

Mr. HELMS. That is right. We are on a time limit, and I so ask.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the amendment is so modified.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. Does the Senator from Indiana yield?

Mr. BAYH. I yield the floor.

Mr. HELMS. I thank the Chair.

Mr. President, I do not disagree with one syllable of what the distinguished Senator from Indiana has just said about the study with respect to the handicapped and with respect to the elderly, and I do not consider there to be any problem. There are nearly 300 employees of the Civil Rights Commission, and they can readjust their emphasis in various respects and study the circumstances of the elderly, which I want them to do, and the handicapped, which I want them to do, and the citizens covered by this amendment.

Where I do disagree with my friend from Indiana is in his assumption that the Commission is already at work on this matter concerning ethnic discrimination. It is true enough, in response to mounting criticism, that the Commission has scheduled what it terms a "consultation" on the subject of ethnic discrimination for sometime during late 1979 or early 1980. But after 20 years of neglecting this area, this type of response is, perhaps, as the saying goes: Too little, too late. It is not as comprehensive as the report required by the Congress of the United States. And it is this type of comprehensive study that my amendment seeks. So the Senator from Indiana and the Senator from North Carolina are on the same track. He has one opinion about what the Civil Rights Commission is doing and I have another. Just to emphasize how important this matter is to the Senate, I am going to ask for the yeas and nays on this amendment.

Mr. BAYH. Mr. President, I respectfully ask the Senator from North Carolina not to do that. He is certainly within his right to do so. The Senator from Indiana has tried to work this out to his satisfaction despite the fact that this is the first time in history we have ever done this. Is it not possible for my friend from North Carolina to let the record stand as it is? It has no more meaning.

Mr. HELMS. I would differ with my good friend. There is a difference in the impact if there is an overwhelming rollcall vote when a bill gets to conference. I have had many occasions, I will say to my friend, when amendments were accepted and approved on a voice vote and then when they get to conference they fall through the crack and, with all due respect for my friend, I do want a rollcall vote.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. How much time is remaining?

The PRESIDING OFFICER. Each side has 8 minutes remaining on the amendment.

Mr. BAYH. Mr. President, I must say if we are going to have to do this, I am going to have to respectfully move to table, on the basis of the fact that I believe the time limit put on by the Senator from North Carolina will put the Civil Rights Commission in a position of having to give unequal treatment to different studies. There is no time limit in which they must report back to the Senate on the problems of the disabled, and there is no time limit within which they must report back to us on discrimination against the elderly as the amendment would require for the ethnic study.

There may be discrimination going on in the country as far as southern and eastern European ethnic groups are concerned. I have tried to point out to my friend from North Carolina that this study is presently in progress. But I am not going to be part of an effort where the Senate goes on record, with a record vote, saying it is more important to study discrimination in this country against one ethnic group than another.

We have never even picked out one ethnic group, or any other minority group, but yet the Senator from North Carolina, with all respect to his interest and concern, is now picking out southern and eastern European ethnic Americans as being more important than our old folks and our handicapped.

Mr. HELMS. I beg the Senator's pardon. The Senator must not misrepresent the position of the Senator from North Carolina, and I cannot stand silent while he does that.

Mr. BAYH. The Senator does not need to stand silent. He can say anything he wants, and he does so very well.

The fact of the matter is that we have to be responsible for the consequences of our acts, and the consequence of the act which we are now undertaking is that we would order a time certain for reporting back on discrimination against southern and eastern European Americans, and we would let go till the end of time, supposedly, the study of discrimination against the elderly and the handicapped. In my opinion, there is a lot more evidence to show that elderly people and handicapped people are being discriminated against than ethnic Europeans; and with all respect, as I am sure the Senator—I assume he is going to persist in his request for a rollcall vote. If he does, he is certainly within his rights; I do not want to foreclose his right to say something else, but I do move to table his amendment.

Mr. HELMS. The Senator from Indiana cannot move to table until I have used all my time.

Mr. BAYH. The Senator from Indiana is just being courteous to the Senator from North Carolina, as the Senator from North Carolina is to him.

Mr. HELMS. Yes, we are always agreeable about that.

Is the Senator's concern the deadline date in the amendment? Is that the Senator's concern?

Mr. BAYH. I have two concerns. First of all, it was the Senator from Indiana that got these studies started last year in the Commission, and it is going on right now. And despite the fact that the Senator from North Carolina does not think it is going on fast enough, it is started. I am prepared to give them a good shot to get moving faster, but I am not prepared to go along with a time limit which might of necessity put one group of Americans about whom we are concerned ahead of another group of Americans both of whom the Commission has started to study, as we have asked.

That is my concern.

Mr. HELMS. Mr. President, I ask unanimous consent that I be permitted to modify the amendment to strike the words "no later than September 30, 1980."

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and the amendment is so modified.

● Mr. DOLE. Mr. President, I support amendment No. 232 offered by the distinguished Senator from North Carolina.

Americans who are members of eastern and southern European ethnic groups have made significant contributions to our Nation. Unfortunately, these individuals have often faced extreme difficulty in being accepted by some members of our society. That the absence of lawfulness is the essence of tyranny, is a fact that has long been established.

As Americans, we can pride ourselves on our record in the continued struggle to advance human rights. We have not achieved perfection, but we can continue toward this end. One way to achieve our goal is to persevere in upholding the very tenets of our Constitution.

Mr. President, this amendment will provide a mechanism that will enable the Congress to monitor the enforcement of those Federal rules and regulations that have been enacted whose intentions are to insure the fair treatment of all Americans. There has been growing concern recently that many affirmative action programs that were designed to protect the individual rights of all Americans, have in fact created a hardship.

The Senator from Kansas believes that the Civil Rights Commission can do an effective job in studying those problems that confront all groups including ethnics from southern and eastern Europe.

I look forward to the reassurance provided by the report requested in this amendment.

Mr. President, we cannot allow our past progress in human rights to cloud our continued efforts to further advance the rights of all. Individual liberties are not transitory, they must continue to grow and flourish as we, as a Nation, progress.●

Mr. HELMS. All right. Mr. President, I have met the concern of the Senator from Indiana, and I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HELMS. I suggest the absence of a quorum while we get a sufficient second.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BAYH. Mr. President, how is the time for the quorum call going to be handled?

The PRESIDING OFFICER. The time for the quorum call will come out of the time of the Senator from North Carolina.

Mr. HELMS. That is agreeable to me.

The PRESIDING OFFICER. The clerk will proceed with the rollcall.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, we seem to be having trouble getting enough Senators here to constitute a sufficient second. I wonder if it will be agreeable to my friend from Indiana to lay this amendment aside and let me proceed with my second amendment, and then, at an appropriate time, we can have the rollcall on his motion to table this one and the vote on the next one back to back. Would that be satisfactory to him?

Mr. BAYH. Yes.

Mr. HELMS. All right. Mr. President, I ask unanimous consent, then——

The PRESIDING OFFICER. It is understood by the Chair that there is no objection to that request. Will the Senator from North Carolina restate his request?

Mr. HELMS. I ask unanimous consent that this amendment be laid aside with the time remaining intact for both the Senator from Indiana and the Senator from North Carolina, and that I be allowed to proceed to a second amendment.

The PRESIDING OFFICER. Is there objection?

The Chair hearing none, it is so ordered.

Mr. HELMS. I thank the Chair.

UP AMENDMENT NO. 233

(Purpose: To provide that conventions called under Article V to propose amendments to the Constitution be limited to a single subject)

Mr. HELMS. Mr. President, I call up an unprinted amendment which I have at the desk, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 233:

On page 1, line 6, insert the following:

"No convention called pursuant to article V of the Constitution may propose any amendment or amendments of a nature different from the subject stated in the valid applications made by two-thirds of the States."

Mr. HELMS. Mr. President, in response to the Chair's question which I think will be forthcoming, this is the second of the three qualified amendments.

The PRESIDING OFFICER. All right.

Mr. HELMS. Mr. President, when, by the terms of article V of the Constitution, the legislatures of two-thirds of the States petition Congress to call a convention for proposing amendments, Congress is obligated to provide for such a convention. This procedure does not involve State "memorials" to Congress, which give rise to no more than a moral obligation on the part of Congress, and have no legal effect.

One question that arises is whether, once two-thirds of the States have acted, Congress can call a convetion with respect to a single specified amendment or can the constitutional convention, once brought into existence, revise the entire Constitution?

I do not need to remind the Chair that this question has been raised on a number of occasions, since the passage of proposition 13 in California.

Of course, there is nothing to prevent State legislatures from submitting petitions calling for a general or so-called "wide-open" convention. In fact, several States have done so.

But to transform every petition asking for a convention to consider a specific amendment into a call for a convention of general jurisdiction, constitutes a strained and simplistic interpretation of the Constitution at odds with the drafting of article V and the constitutional powers of the States.

If State resolutions which request a limited convention can only establish a general convention, then why is it supposed the necessary number of resolutions must be on the same subject? But, article V is reduced to a dead letter and absurdity if Congress is forced to call a general convention with authority to rewrite the entire Constitution after receiving, for example, calls from 12 States seeking a balanced budget, 10 States wanting to limit taxes and 12 more States seeking to limit presidential tenure. The fact that Congress has received over 350 different convention calls and has not yet acted to call a general convention, suggests that a specific convention call by the States mandates a limited convention.

In 1971, the Senate Judiciary Committee reported that it was the responsibility of Congress "to enact legislation which makes article V meaningful" and not to make the constitutional convention "a dead letter."

In 1973, a special study committee of the American Bar Association concluded that it is important and proper for Congress to establish procedures for the implementation of an article V convention and "improper to place unnecessary and unintended obstacles in the way of its use." I believe that distorting the intention of the framers of the Constitution to require that any convention called under article V must be a general convention is just such an unnecessary obstacle.

As James Madison explained in Federalist No. 43, article V "guards equally against that extreme facility which would render the Constitution too mutable; and that extreme difficulty which might perpetuate its discovered faults." More importantly, Madison continued, "It moreover equally enables the general and the State governments to originate the amendment of errors as they may be pointed out by experience." The Founding Fathers clearly intended the convention method to be a workable, although not easy, method of balancing inaction in Congress. It can only be an equal alternative method that Madison intended if the States may call for a convention of limited jurisdiction.

As you may know, during the last Congress I introduced S. 1880, the "Federal Constitutional Convention Procedures Act." Earlier this year I introduced this same bill as S. 3. With the exception of several technical changes, S. 3 is identical to the legislation introduced by my friend and distinguished former Senator from North Carolina, Mr. Sam J. Ervin, Jr., which passed the Senate in 1971 and 1973.

Writing in the Michigan Law Review (March 1968), Senator Ervin stated: "The contention that any constitutional convention must be a wide open one is neither a practicable nor a desirable one. If the subject matter of amendments were to be left entirely to the convention, it would be hard to expect the States to call for a convention in the absence of a general discontent with the existing constitutional system. This construction would effectively destroy the power of the States to originate the amendment of errors pointed out by experience, as Madison expected them to do."

Attorney General Griffin Bell has also concluded that Congress should act to affirm the intent of the State legislatures which have called for a convention by passing legislation to insure that such a convention's jurisdiction be limited. Attorney General Bell has stated: "I think the convention can be limited. I have said so before. It is strange that people in the Congress make these statements—that a convention cannot be limited—when they are the ones that would have to set the limits. I think they should do something about it. The Senate twice has passed a bill to do something about it—the fact is that the majority of the scholars in America share my view." (ABC News "Issues and Answers," February 11, 1979).

Mr. President, many constitutional scholars have called upon Congress to act to develop guidelines for the calling of an article V convention, including Paul Bator of Harvard Law School, Gerald Gunther of Stanford Law School, Charles Rice of Notre Dame Law School, Walter Berns of the American Enterprise Institute, John T. Noonan, Jr., of the University of California at Berkeley, and Antonin Scalia of the University of Chicago Law School.

My amendment today would reaffirm prior actions of the Senate in 1971 and 1973 by specifically stating that "no convention called pursuant to article V of the Constitution may propose any amendment or amendments of a nature different from the subject stated in the valid applications made by two-thirds of the States."

Congress should act to provide an evenhanded, nonpartisan, and fair resolution of the problems inherent in calling a convention under article V. It should provide these procedures now, in the absence of a constitutional crisis in which a dispassionate resolution of the problems may not be possible.

Mr. President, my amendment today is a good opportunity for Congress to begin. It does not favor or assist any particular call for a constitutional convention. Support of this amendment should not be viewed as support or opposition to any presently proposed constitutional amendment or convention call.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Indiana.

Mr. BAYH. Mr. President, the Senator from Indiana agrees with much of what the Senator from North Carolina has said.

Mr. President, I ask unanimous consent that Mr. Peter Parham, of Senator KENNEDY's staff, and Mr. Ralph Oman and Marcus Bales, of Senator MATHIAS' staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. The Senator from Indiana has supported a Constitutional Convention Procedures Act. He is on record as believing that it is possible for the Congress to prescribe certain limitations to a constitutional convention. However, I have great reservations about attaching this particular measure to the Civil Rights Commission authorization.

This is a very critical matter. Although the Senator from Indiana has shared the same feeling with the Senator from North Carolina, that we do have authority to do it, I have to say to you, Mr. President, that the Senate better be on record as knowing that distinguished scholars such as Lawrence Tribe, of Harvard, Gerald Gunther, of Stanford, and others have expressed real reservations about whether we can do this. For us to whip it out here and add it to another bill without having had the opportunity to thoroughly study it, to debate it at all—here we have 40 minutes of debate in the Senate to try to resolve something in which we have eminent constitutional scholars taking issue—I think is really not the responsible way to go about this question.

I think we all know that the question before us right now, the constitutional question before us right now, is whether we should balance the budget or not. The Senator from Indiana is in the process of holding hearings of the Subcommittee on the Constitution to try to see what the right course of action should be. I hope, if there is a right course of action, that Congress can take it instead of being forced into taking it by two-thirds of the State legislaturse. If two-thirds of the State legislatures pass qualified resolutions, then, in my judgment, the Senate and the House have no alternative but to do what the Constitution tells them to do.

At that time, or before that time and after a thorough discussion and study of this issue, we could then, it seems to me, on a much stronger basis, go forth with not only this kind of legislation, but a more comprehensive kind of provision such as that which passed this body earlier under the leadership of our distinguished then senior Senator from North Carolina, Senator Ervin.

I think this is a very risky thing to do on the basis of the amount of debate and deliberation we have had at this time.

(Mr. BOREN assumed the chair.)

Mr. HELMS. Mr. President, the distinguished Senator from Indiana mentioned Prof. Gerard Gunther of the Stanford Law School. The fact is that I have received letters from constitutional scholars and that Professor Gunther has said as recently as 2 weeks ago that the Senate ought to proceed to the consideration of the so-called Helms legislation and resolve these problems. There may be some constitutional scholars around who doubt that we ought to proceed, but the Senator from North Carolina does not know them.

Mr. President, if the Senator from Indiana is willing to yield back his time, I am willing to yield back mine.

Mr. BAYH. Mr. President, I want to point out some testimony. I, of course, had not seen the letter from Dr. Gunther, but I do have here testimony that Professor Gunther gave in which he is very specific. This was the House Ways and Means Committee of the California State Assembly, I should state for the record.

He said:

> I think it is simply wrong to assert that there is any such overwhelming consensus that the Senator from North Carolina referred to.

He said he thought he was in pretty good company, because, "I share those doubts and I am glad to be in the company of such colleagues as Charles Black, Lawrence Tribe, who testified before you earlier, and also, the late Alexander Bickel."

That is pretty high-class company to be in. If the professor has changed his mind—and of course, we are all entitled to do that, but I have read specifically from the testimony of the distinguished scholar from Stanford.

Mr. HELMS. Mr. President, Professor Gunther made his comments in a public forum, I believe, on May 23 during a conference sponsored by the American Enterprise Institute. He urged the Senate to act. At that time he stated that: "Congress has been almost as irresponsible as the State legislatures in not holding hearings on the Constitutional Convention Procedures Act such as the Ervin-Helms proposal * * * I think Congress has power and should address itself to such issues as the Ervin and Helms bills, and issues such as where you have to send the applications to avoid this Mickey Mouse game of two Senators saying we do not understand that we have more than 14 proposals * * *."

I do not know that we ought to be bogged down in whether Professor Gunther has changed his mind. I might add that on the prayer amendment a number of constitutional authorities who, in the past were opposed to limiting the jurisdiction of the Supreme Court, have come forward and said that Congress does indeed have this authority. Prof. Raoul Berger of Harvard Law School is one such scholar.

Mr. President, I am delighted to yield back my time if the Senator is willing, and we can proceed with the vote on the two amendments.

Mr. BAYH. I shall be happy to yield

back my time in just a moment. How much time does remain?

The PRESIDING OFFICER. There are 14 minutes remaining to the Senator from Indiana, 9 minutes and 30 seconds remaining to the Senator from North Carolina.

Mr. BAYH. Mr. President, I just want to emphasize that I think a matter such as this, in which there is a significant difference of opinion as to whether we have the authorty to do it, should not be addressed and cannot, in my judgment, be responsibly addressed by adding it onto another bill without more than 40 minutes of debate and no hearings. I think that is really not the way we ought to approach this subject.

It just so happens that I agree with the Senator from North Carolina that I think we have the power to do it, but I certainly do not think this is the way to go about doing it. We have substantial numbers of scholars who have significantly greater doubts than the Senator from Indiana has. For us to pass this or to consider it—certainly, to pass it—and then blithely go about our business, thinking that we have done what we need to do, we have saved us from a three-ring circus convention, is to ignore the advice and counsel of several significant scholars and, indeed, to ignore history itself. Before we can rest too securely in this matter, we ought to look at what happened when the only constitutional convention in the history of the United States of America met. They met to revise the Articles of Confederation, the only one issue. When they got through, they rewrote the whole document and came up with a whole new constitution.

That is the only precedent we have.

Mr. HELMS. But the States had to ratify the Constitution, did they not?

Mr. BAYH. Of course, the States had to ratify. But the Senator's amendment does not go to State ratification.

Mr. HELMS. It does not have to. That is in the Constitution.

Mr. BAYH. Then I do not know what the Senator's question has to do with what we are doing here. His amendment does not go to State ratification; his amendment goes to the power that will be given to a State constitutional convention.

As the Senator from Indiana said, if we get the necessary two-thirds, here is one Senator who is going to say that we are going to follow the Constitution. We have no alternative, as much as I regret it. I hope we can resolve it before we get there.

Having said that, if we call that constitutional convention, we had better not be like a bunch of ostriches and stick our heads under the sand and ignore what happened the last time a constitutional convention was called. Because, in today's reference, that constitutional convention totally ignored the mandate of the call, went about their business, and wrote an entirely new constitution. And then it was ratified.

Now, the question before us right now is whether we feel that now, we should append to a Civil Rights Commission bill a separate matter, which is on an entirely different subject, which could have dramatic consequences as far as the future constitutional structure of the country is concerned. I say, with all respect to my friend from North Carolina, I am not willing to take that chance at this time.

Mr. HELMS. The Senator is taking absolutely no chance, because the Senate voted on this matter in 1971 and 1973, and overwhelmingly approved essentially what the Senator from North Carolina has proposed now.

Mr. HATCH. Will the Senator yield?

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes and 30 seconds.

Mr. HELMS. I yield such time as my friend from Utah may need.

Mr. HATCH. Mr. President, I thank my friend.

As the Senator knows, I am about to introduce a bill providing precisely what I think the Senator from North Carolina is trying to provide generally here.

Whatever the sense of the Senate is regarding constitutional convention procedures, it is the language of the Constitution that is determinative. There is nothing in article V that precludes States from requesting any sort of convention that they want, limited or general. It is clear to me, however, that opponents of the constitutional convention concept, whether on the subject of balanced budgets, abortion, or anything else, are interested in obtaining that interpretation of article V most likely to pose serious difficulties with its utilization.

It is for this very reason—congressional intransigence—that the founders prescribed an alternative means of amending the Constitution of the United States.

During 42 of the last 46 years, we have failed to balance the budget. The people in this country are sick and tired of it.

When I say "we," I mean the Congress of the United States, because there is no money spent that we do not appropriate. There is no bureaucracy that we do not create to spend this money.

I believe the States are able to limit themselves and, indirectly, their delegates in any way they desire.

The faithless delegate is as serious a problem as the faithless elector of electoral college renown. When we talk about faithless delegates, I am talking about delegates to the constitutional convention, but I might talk even more about faithless Congressmen and Senators who go home and talk differently than they vote here.

Over the last couple of years, I have heard substantial talk back home, and all over this country, of how candidates would come here and balance the budget, get inflation under control, curtail the bureaucracy, streamline the Government, and get this country moving again.

Yet, after having spent a great deal of time on the Budget Committee this year and seeing how the system really works, how GNP figures, and inflation goals are manipulated, how "off-budget" items circumvent the budget process, and how the figures are stacked so they look like we are trying to balance the budget when we are not, I can see why the distinguished Senator from North Carolina is presenting this very simple, yet profound, amendment here today. I commend him for it.

He is one of the great men here in the Senate. He is constantly working for the people and for fiscal integrity and restraint.

He is a great believer in the private sector, which unfortunately I have to admit many of our colleagues are not.

I commend the distinguished Senator from North Carolina. If there is a better man here, I would like to meet him—and I have met all of them, of course, and I am a friend to all of them.

But friendship is not the important thing. The fact that every U.S. Senator is a fine person, and I certainly believe this to be true, is not the issue.

The fact that we like our colleagues and get along well and have repartee and enjoy each other is not the issue.

The issue is: What are they doing to America?

What the distinguished Senator from North Carolina wants to do is have them do in Congress what they say at home they will do.

I would like to see a bit more of that myself.

I might add that I certainly enjoy working with the distinguished Senator from Indiana. He is one of my dear friends in the Senate, although he is, I think, very often wrong on the issues. But, he is nevertheless, always a formidable advocate, for his point of view.

I do enjoy working on the committees with Senantor BAYH and enjoy our close friendship. But I think Senator BAYH is wrong in arguing against this particular amendment.

I thank my dear friend from North Carolina for granting me this time and certainly am honored that I can stand in support of his amendment. I will vote in favor of this amendment and urge its adoption.

What I am worried about is that the people who fight against the constitutional convention will ultimately deny a large majority of the people a constitutional reform that they are strongly calling for.

Mr. HELMS. The Senator is exactly right.

Mr. HATCH. The people who want to stop the profligacy of the Congress want a constitutional convention because they have thrown their hands in the air and said, "We haven't been able to get Congress to do it."

In asserting its right to participate in the treaty termination process, the Senate expresses neither approval nor disapproval regarding the notice of termination of any treaty which was transmitted prior to the date of adoption of this resolution.

Mr. HELMS. The Senator from Utah is not afraid of the people of this country, is he?

Mr. HATCH. No; I am not. I am not afraid of a constitutional convention and I am not afraid of the voice of the people expressed through such a convention.

Even if the convention did not do what was right, whatever product emerges from it would have to be submitted to three-fourths of the States for ratification. This is a part of the framework of checks and balances erected in the Constitution by the Founding Fathers. The Constitution, for exactly this reason, has proven the most distinguished and durable political document in the history of the world.

I might add, it is one which the distinguished Senator from North Carolina understands well and I think advocates well in behalf of here on the floor of the Senate.

I just want to commend him again today. I encourage my colleagues to vote for the gentleman's amendment.

I thank my friend.

Mr. HELMS. Mr. President, I thank my friend from Utah for his overly generous remarks. He is one of the finest additions to this Senate, certainly, since I have been here. On so many occasions, I have applauded his courage and his tenacity.

Mr. President, I want to see if we can get enough Senators here to get a sufficient second on the yeas and nays. So just to put that in process, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BAYH. Mr. President, before the Chair makes this determination, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Mr. President, the Senator from Indiana would like for us to vote on these in the order in which they were presented, that is the Senator's first amendment, which the Senator from Indiana tends to support, will be first, and that the one we are now faced with will be second.

Mr. HELMS. That is certainly my intent and, Mr. President, I thoroughly agree with the distinguished Senator from Indiana. I ask unanimous consent, if it is necessary, which I do not think it is, that the vote on my prior amendment come first and that the vote on the pending amendment come second.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Indiana.

Mr. BAYH. Mr. President, I advise my friend from North Carolina that the Senator from Indiana, as soon as it is appropriate, will reluctantly offer a tabling motion to this amendment.

Could the Chair advise the Senator from Indiana, should that be done after the vote on the first amendment?

The PRESIDING OFFICER. Would the Senator restate that request again?

Mr. BAYH. At what time is it appropriate for the Senator from Indiana to interpose a tabling motion on the second amendment?

Mr. HELMS. When time is yielded back.

The PRESIDING OFFICER. It would occur when the time is yielded back on the first amendment, just after the time is yielded back, then the motion by the Senator would be in order.

Mr. HELMS. Is there still time remaining on the first amendment?

Mr. BAYH. But the vote on the first amendment is not the amendment that is before us right now. That is the problem the Senator from Indiana has.

Mr. HELMS. I say to the Senator that I will make sure he has the opportunity to move to table.

Mr. BAYH. The Senator is seeking a yea-and-nay vote?

Mr. HELMS. Yes.

The PRESIDING OFFICER. After the vote on the first amendment, it would be in order to entertain a tabling motion as to the second.

Mr. HELMS. There was not a sufficient second. Is that correct?

The PRESIDING OFFICER. There is not a sufficient second.

Mr. HELMS. I am beginning to wonder if the Senate exists. Where is everybody?

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is time yielded back on the first amendment?

Mr. HELMS. I yield back my time.

Mr. President, I ask unanimous consent that it be in order for me to ask for the yeas and nays on the second amendment and for the yeas and nays to be requested on the Senator's motion to table, if indeed he decides to move to table the second amendment.

The PRESIDING OFFICER. The Senator requests the yeas and nays on the second amendment?

Mr. HELMS. That is correct.

Mr. BAYH. On the motion to table.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered on the second amendment.

The PRESIDING OFFICER. Is there a request for the yeas and nays on the motion to table?

Mr. BAYH. The Senator is going to move to table as soon as the time has expired.

The PRESIDING OFFICER. Unanimous consent was granted to allow the Senator from Indiana to ask for the yeas and nays on the motion to table.

Mr. BAYH. The Senator asks for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAYH. Mr. President, a parliamentary inquiry.

Does that mean it is possible we would have two votes on this amendment?

Mr. HELMS. I suggest that we yield back the time on both amendments, that we have rollcall votes back to back, and, if nobody has any objection, that the second rollcall vote be a 10-minute vote.

Well, perhaps we had better leave that alone.

Mr. BAYH. Yes, let us leave that alone.

Mr. President, how much time does the Senator from Indiana have?

The PRESIDING OFFICER. The Senator has 7 minutes and 50 seconds remaining on the second amendment. On the first amendment, the Senator from Indiana has approximately 6 minutes remaining.

Mr. BAYH. Mr. President, I think it is important for us to understand exactly what we are doing here.

Although the Senator from Indiana will move to table—and I do not usually like to do that, but I think that is the best way to resolve this matter right now—I think it is important to understand just what we are in the process of doing.

The Senate Subcommittee on the Constitution of the Committee on the Judiciary is in the process of holding hearings as to how we can effectively balance the budget. There is no consensus as to how that can be done, but there has been rather ready consensus among most economists I have seen addressing themselves to the one constitutional amendment that has the most sponsors that if that were to be implemented now, we would end up with a big recession and probably a bigger deficit. So if we are trying to balance the budget, I want to make sure that whatever vehicle we use accomplishes that purpose.

Of course, the next step is, what are we going to do so far as this call from the States is concerned to hold a constitutional convention? That call will be good and valid whether we end up balancing the budget or not.

So we might find ourselves faced with the necessity of going out and calling a constitutional convention or passing one through this body dealing with the need to balance the budget, even though the Federal budget is balanced.

Therefore, it is important for us to understand that there is a great deal of speculation, and there is a great deal of speculation about whether we have the power to do what the Senator from North Carolina suggests we have the power to do. As I said earlier, I believe we do have the power. But before making a final determination, I think we should have a serious debate on this procedural limitation as well as other procedural guidelines we might want to give to a subsequent constitutional convention. We should have hearings, and we should have a significant debate.

The last time we tried to pass this matter, and we did pass it through the Senate, we had a very extensive, comprehensive debate. The complexion of the Senate has changed since then. Half the Members of the Senate were not here then.

I refer to what Professor Gunther said in his testimony before the Ways and Means Committee of the California State Assembly in February of this year. In talking about the doubts of our capacity to do this, he said:

> I share those doubts, and I am glad to be in the company of such colleagues as Charles Black, Lawrence Tribe, and the late Alexander Bickel. Our positions differ in some details, but I think we are agreed that the convention route is a risky one and that the possibility of an effectively limited convention is doubtful indeed.

We have had some rather dramatic comments here in the last 10 or 15 minutes, talking about the treasured document of our Constitution, and I share the feeling expressed by some of my colleagues. My good friend from Utah talked about it being the longest lasting and the most beloved document in history. I agree.

I feel so strongly about it that I am not going to sit silent and not share with my colleagues the feeling I have that the beloved characteristics that have made our Constitution what it is today can be dissipated by a body that is called to balance the budget. We had better study that thoroughly, because there is a decided possibility that that could happen; and the only time in history we have any precedent, that is exactly what did happen.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. HATCH. Mr. President, I am the ranking minority member of the Constitution Subcommittee which the distinguished Senator from Indiana chairs. Not only are we good friends, but we also try to work together.

I am wondering if there is any possibility that the distinguished Senator from North Carolina would consider withdrawing, and if the distinguished Senator from Indiana would consider holding hearings on a procedural bill pertaining to constitutional conventions.

Would the distinguished Senator from Indiana consider holding hearings within the next few months, within a reasonable time, on a bill to establish procedures for a constitutional convention, whether or not we ever have one? Would the distinguished Senator from North Carolina consider at the same time withdrawing this amendment?

Mr. HELMS. I would be delighted to withdraw the amendment, with that assurance.

Mr. HATCH. I think we are going to hold hearings. The question is, when?

If the amendment is withdrawn, could we agree to hold hearings on this?

Mr. BAYH. I have said this before: I hope that at some time we can hold some hearings on this. The question is that we have a great deal to do. I can just hear my people back home saying, "Why do you hold hearings on a procedure for a convention? You should be holding hearings on balancing the budget."

About every other day this week, I have had hearings on matters in which I have had to preside.

Mr. HATCH. I might add the distinguished chairman is very active on this committee and very diligent in holding hearings. However, since 30 States have demanded a constitutional convention I see plenty of reason to hold hearings. Can I get the distinguished Senator from North Carolina to withdraw this amendment and prevent a vote today on this particular issue, since we will have to hold hearings anyway? Could we establish that by September we will hold hearings. Preferably this summer, if possible. I know the Senator and I have a busy agenda and other members of the committee have busy agendas. I know the Senator does.

Mr. BAYH. Let me say I do not want to promise something I cannot deliver on, although I feel in my heart I will try.

Mr. HATCH. The Senator is willing to hold hearings.

Mr. BAYH. I am willing to hold hearings and will start the process. It should be sometime before the year is over. From a practical standpoint, if we are going to do anything, we have to get something going.

Mr. HATCH. I agree.

Let me act as a possible broker between these two Senators.

Mr. BAYH. That is a dangerous place to be.

Mr. HATCH. It is not easy.

The PRESIDING OFFICER. All of the time of the Senator from Indiana has expired.

Mr. HATCH. Mr. President, I ask unanimous consent that we have an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I suggest this, if I could possibly bring these two Senators together on this: Could they agree that we start conducting hearings on this and sometime before September and continuing if necessary through the end of the year?

Mr. HELMS. I say amen to that, if the Senator will permit me.

Mr. HATCH. I do not mean to be telling the Senator.

Mr. HELMS. I first introduced this legislation in 1977 and it died with the end of the last session. So, on the first day of this session, I introduced it again. The number of the bill is S. 3.

I understand how busy the Senator is, and I am not criticizing him, and he knows that. However, I will be glad to swap him his responsibility on the Judiciary Committee for mine on the Ethics Committee any time he wants to swap.

Mr. BAYH. I do not think the Senator from Indiana is nearly as well qualified to sit on the Ethics Committee as is the Senator from North Carolina.

Mr. HELMS. Flattery may get the Senator somewhere.

Mr. BAYH. I wish to point out, if my friend will let me interrupt here a moment, that the Senator from Indiana did not have jurisdiction of that measure back in 1977 and in 1978.

Mr. HELMS. I understand.

Mr. BAYH. And he did not have jurisdiction until this year. It was in the Separation of Powers Subcommittee.

Mr. HELMS. That is correct.

Mr. HATCH. If the Senator will yield, I think the Senator from Indiana has been most diligent on the committee. He has also indicated he is willing to hold hearings. Can we get some sort of time frame here? What about my suggestion of later in the summer?

Mr. BAYH. I do not see any reason why we cannot hold hearings sometime this year, in October perhaps.

Mr. HATCH. Mr. President, will the Senator from North Carolina withdraw his amendment? He has a bill and I have a bill, and I am prepared to have hearings before we vote on them.

Mr. HELMS. I, too, wish to bring Professor Gunther and the other constitutional scholars I mentioned earlier in to testify.

Mr. HATCH. I think the Senators have both performed a service here. The distinguished Senator from Indiana diligently worked hard on this committee. I know that personally. I am sure he will hold full, fair, and open hearings on this subject.

Mr. HELMS. I never question the word of the Senator from Indiana. Will he just state to me, so I can understand it, what his intent is with respect to S. 3 and similar legislation,

Mr. BAYH. I think I just did.

Mr. HELMS. I want to hear it again because it is music to my ears.

Mr. BAYH. I am always glad to play the music if the Senator from North Carolina will dance. That is a pretty good trade.

Mr. HELMS. That will be the day.

Mr. HATCH. Sometime by October we will begin some hearings on this and try to get a bill.

Mr. HELMS. That is perfectly satisfactory.

Mr. BAYH. The Senator from Indiana was a cosponsor of the original legislation.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HATCH. Mr. President, I ask unanimous consent that we be yielded 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. So, the Senator from Indiana has no objection to the legislation. I voted for it and cosponsored the legislation of the predecessor of the distinguished Senator from North Carolina, Senator Ervin.

Mr. HATCH. I am looking forward to working with Senator BAYH on future legislation in this regard.

Mr. HELMS. I believe it is going to be necessary for me to ask unanimous consent to vitiate the yeas and nays on this particular amendment; is that correct?

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

Mr. HELMS. I did not ask it, but I do ask it now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. The Senator from Indiana asks unanimous consent to vitiate the yeas and nays on the motion to table.

Mr. HELMS. That is also music to my ears.

The PRESIDING OFFICER. Without objection, the motion to table is vitiated.

Mr. HELMS. All right. Mr. President, I withdraw the second amendment.

The PRESIDING OFFICER. The amendment (UP 233) is withdrawn.

UP AMENDMENT NO. 232, AS MODIFIED

Mr. HELMS. Mr. President, I am prepared to yield back the remainder of my time on the first amendment if the able Senator from Indiana is willing to yield back his time.

Mr. BAYH. The Senator from Indiana is glad to do that.

Mr. HELMS. All right. I yield back the remainder of my time. Let us vote.

The PRESIDING OFFICER. All time is yielded back.

The question occurs on agreeing to the amendment No. 232, as modified, of the Senator from North Carolina.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Colorado (Mr. HART), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Maryland (Mr. MATHIAS), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The PRESIDING OFFICER (Mr. STEWART). Is there any Senator in the Chamber who desires to vote?

The result was announced—yeas 91, nays 1, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—91

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—1

Ribicoff

NOT VOTING—8

Armstrong
Baker
Chafee
Culver
Hart
Mathias
Packwood
Stevenson

So Mr. HELMS' amendment (UP No. 232), as modified, was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 234

(Purpose: To promote energy conservation and school transportation safety)

Mr. HELMS. Mr. President, I call up an unprinted amendment which I have at the desk, the last of the three qualified amendments, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 234: At the appropriate place——

Mr. HELMS. I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following:

SEC. . (a) Section 213 of the Equal Educational Opportunities Act of 1974 (20 U.S.C. 1712) is amended by inserting "(a)" after the section designation and by inserting at the end thereof the following new subsection:

"(b) During a period of national energy emergency determined pursuant to section 221(f), no court, department, or agency of the United States and no voluntary plan for desegregation may require the transportation of any student, and no order of a court, department, or agency in effect on the day before the effective date of the period of national energy emergency requiring the transportation of any student may be implemented.".

(b) Section 221 of the Equal Educational Opportunities Act of 1974 (20 U.S.C. 1720) is amended by inserting at the end thereof the following new subsection:

"(f) The term 'period of national energy emergency' means a period of time which the Secretary of Health, Education, and Welfare, after consultation with the Secretary of Energy and such other officials as may be relevant, determines is an academic year for elementary and secondary school purposes following a calendar year in which direct and indirect imports of crude oil and refined petroleum products into the United States equal or exceed 40 per centum of the total annual United States petroleum consumption during that calendar year.".

Mr. HELMS. Mr. President, I am going to be exceedingly brief, because the issue of forced busing has been——

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. Because the issue of forced busing has been debated many, many times in this Chamber.

I would say, Mr. President, that last Tuesday, I submitted an amendment to limit the use of busing for racial purposes to the legislation pending at that time, S. 1030. That amendment would have authorized the President to act in a national energy emergency.

Mr. President, I would like to have a little more order in the Senate Chamber.

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until there is order in the Chamber. Senators engaged in conversations will please clear the aisles and take their seats.

Mr. HELMS. I thank the Chair.

As I was saying, Mr. President, at that time it was felt by some Senators who support the restriction of such forced busing that since S. 1030 would only serve to authorize the President to act for periods not to exceed 12 months, that particular piece of legislation was not an appropriate vehicle for the amendment.

I can understand these Senators' concerns. The Senator from North Carolina is in the position of wanting, and intending, to use every opportunity available to him to stop the absurd waste of millions upon millions of gallons of gasoline each year to haul little schoolchildren across cities and counties just to satisfy the whim and caprice of some Federal bureaucrat or Federal judge. It is a perfect outrage.

The existing situation of forced busing is opposed by about 85 percent of the American people, including a majority of our black citizens. Here we are at a time of incredible energy crunch and this folly is being continued.

If we are serious about wanting to conserve gasoline, if we are serious about wanting to stop wasting gasoline, let us pull the worst gas guzzlers off the highways. Needful busing of schoolchildren is fine, and this amendment would do nothing to diminish the transportation of schoolchildren for the purpose of getting them to school for educational purposes.

The implementation of various so-called voluntary plans initiated by school districts with the gun of a Federal judge at their heads is quite another thing.

That is the purpose of this amendment.

This is a revised amendment which, while recognizing that this country faces a profound energy crisis, does not raise even the remote possibility of applying a restriction and then removing it each year. No such risk is involved.

Mr. President, I said earlier that a number of Senators came to me this past Tuesday and said, "Look, we are opposed to forced busing, but we have some doubt the implementation of your amendment."

I said, "Very well, I will give you another chance, probably this very week to vote to stop forced busing." This is that chance, Mr. President.

This amendment would restrict busing when in the previous year the direct and indirect imports of crude oil and refined petroleum products into the United States equal or exceed 40 percent of that year's total American petroleum consumption. That is clear enough, Mr. President.

Last year, the import figure was 43 percent, according to the Library of Congress, the American Petroleum Institute, and the Department of Energy. All three agree to that. The prospects of American oil imports dropping below the 40 percent figure stipulated in my amendment in the next few years is highly unlikely. Therefore, should the pending amendment be adopted, its restriction would remain in effect.

Mr. President, I am not going to use much more time because, as I said earlier, this matter has been debated and debated and debated in this Chamber. But when we look at the raw figures of the manner in which gasoline is being wasted throughout this country, we have to be appalled. I will choose just a couple of examples from my own State.

The Charlotte-Mecklenburg school system used 478,343 gallons of gasoline in 1968 and 1969 to travel 1,908,842 miles. That was before forced busing.

Then in April of 1971 the Supreme Court affirmed a busing plan in the famous case known as Swann against Charlotte-Mecklenburg County Board of Education. What happened? In 1971 and

1972, Charlotte used 864,733 gallons of gasoline to travel 3,914,215 miles. Last year, 1977 to 1978, Charlotte used—and get this, Mr. President—1,119,956 gallons to travel 5,954,587 miles. And that is not the whole story. Those Charlotte figures do not include the miles traveled or the gas used by the 50 service vehicles which are leased to bus a substantial number of students. The cost of gasoline alone to the taxpayers increased from $47,448 in 1969 to $456,718 in 1978, almost a 10-fold increase in cost since forced busing was thrust upon the city of Charlotte.

In my hometown, the city of Raleigh, and in Wake County during 1969 and 1970, a total of 332,855 gallons of gasoline were used to travel 1,676,925 miles. Then came forced busing. Raleigh-Wake County last year used 999,123 gallons to send those buses 4,532,098 miles. The cost to the taxpayers for gasoline alone increased during this time from $43,079 in 1969 to $405,928 in 1978. Again, nearly a 10-fold increase.

Mr. President, I have statistics for Winston-Salem and Greensboro. Rather than consume the time of the Senate, I ask unanimous consent that this table be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

	1969-70	1977-78
Charlotte—Mecklenburg County:		
Buses	267	[1] 591
Bus miles	1,908,842	5,954,587
Service vehicle miles		572,377
Gallons/gas	478,343	1,119,956.5
Cost/gas	$47,448	$156,718.28
Raleigh—Wake County:		
Buses	254	525
Miles	1,676,925	4,532,095
Gallons/gas	332,855	999,123
Cost/gas	$43,079	$405,928
Winston-Salem—Forsyth County:		
Buses	208	408
Miles	1,239,300	4,480,991
Gallons/gas	305,307	865,757.9
Cost/gas	$37,089	$350,530.99
Greensboro-High Point—Guilford County:		
Buses	107	567
Miles	[2] 593,176	4,100,110.1
Gallons/gas	131,817	847,293.6
Cost/gas	[2] 20,596	$341,969.44

[1] Plus 50 service vehicles.

[2] Estimate based on averages from other school districts.

Mr. HELMS. Now, I realize that not all of this increase is attributable to unnecessary busing, but the fact remains that the average school bus only gets a mere 5 miles to the gallon in gasoline consumption.

Paul Harvey reported in his news commentary some time back that we will continue to waste 342 million gallons of gasoline each year busing schoolchildren. Mr. Harvey went on to point out that nationally this wastes the total output of 600 average producing oil wells each year.

Mr. President, I ask unanimous consent that the name of the Senator from Delaware (Mr. ROTH) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. HELMS. I am delighted to yield to my friend from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, as I understand the amendment offered by the Senator from North Carolina, it would be a means, if adopted, for the Nation to conserve a vast amount of fuel, which fuel, namely gasoline, appears to be in short supply today. Is that the purpose of the Senator's amendment?

Mr. HELMS. The Senator is correct.

Mr. HARRY F. BYRD, JR. The amendment of the Senator from North Carolina would eliminate the need for unnecessary, forced busing of schoolchildren throughout our Nation.

Mr. HELMS. That word "unnecessary" is the key word. The Senator is absolutely correct.

Mr. HARRY F. BYRD, JR. Is it not correct that throughout the Nation vast numbers of schoolchildren are being bused from one end of a city to the other end of a city, such busing being totally unnecessary if the child were permitted to go to the school nearest to his home?

Mr. HELMS. The Senator is right. Let me mention one little episode that occurred in Charlotte-Mecklenburg. The judge, who, in effect, became a school board when he took over this process, ended up with a statistic that was not quite satisfactory to him.

So, as a result of his court order, one child on one end of the county was bused all the way to the other side of the county. He was the only student on the bus. He had a private chauffeur, a private bus, and he traveled, I think it was something like 61 miles a day.

Mr. HARRY F. BYRD, JR. And the taxpayers paid for the gasoline and the wear and tear on the bus and the pay of the busdriver, all of that to bus one child from one end of the city to the other.

Mr. HELMS. That is right. I may be a little wrong on the miles, but the other figures, as I described them are accurate.

I say to the Senator from Virginia that this is a perfect absurdity and ought to be stopped.

Mr. HARRY F. BYRD, JR. It seems to me it is totally ridiculous and there is no wonder there is an apparent shortage of gasoline. There is no wonder the price of gasoline is going up if the Government itself is forcing localities to take such foolish action as the Senator from North Carolina indicated in that one instance. I am sure that that instance is multiplied many, many times throughout our great country.

When Washington calls on the individual citizen to conserve and sacrifice, I notice that Washington does not, itself, conserve and sacrifice. Here is an opportunity, by supporting the amendment offered by the Senator from North Carolina, for the U.S. Senate to take an action which could result in the reduction in the use of—I do not have any precise figures, but I would say hundreds of thousands of gallons of gasoline every day.

Just think how helpful that would be to people throughout our Nation who are faced with higher and higher prices for gasoline.

I commend the able Senator from North Carolina. I would be pleased if he would make me a cosponsor of this amendment and I shall be glad to support it.

Mr. HELMS. I thank the Senator.

Mr. President, the able Senator from Virginia has been in the forefront of this battle over a period of years and I am honored to work with him on every occasion. I ask unanimous consent that Senator HARRY F. BYRD, JR., be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask that the distinguished Senator add my name as well.

Mr. HELMS. Mr. President, Senator Thurmond has been another fighter in this cause. I appreciate his efforts, and I ask unanimous consent that he be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, will the Senator yield?

Mr. THURMOND. Mr. President, will the Senator yield me some time?

Mr. HELMS. Let me inquire how much time I have remaining.

The PRESIDING OFFICER. Six minutes and 6 seconds.

Mr. HELMS. I divide it between Senator THURMOND and Senator EXON.

I ask for the yeas and nays on the amendment, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by the Senator from North Carolina. I am aware that the issue may not be germane to the bill presently under consideration, but I am also aware of the great need that exists for legislation that limits unwarranted school busing in this Nation.

As we discuss this issue, there are right now thousands of children across this Nation exhausted and weary because of their daily trek across many miles in a schoolbus to get to school. Many of these children live within walking distance of schools, but because of the unwise decisions of courts and Federal bureaucrats, they are not allowed the opportunity to attend these close-by schools.

No, Mr. President, we do not adhere to the logic of a neighborhood school system. Instead, we force mothers across the land to send their children in each direction of the compass. Parents do this with the knowledge of the increased incidents of tragedies that have been the result of school bus accidents. In 1977, there were 23,000 school bus accidents, resulting in 8,500 injuries and 185 fatal injuries.

Of course, we do not know how many of these accidents occurred as a result of school busing ordered by a Federal bureaucrat to fulfill his social engineering guidelines. However, to me, even one serious injury or death is tragic.

Mr. President, not only is unwarranted

school busing a burden on children and their families, it also places a severe strain on the energy needs of this country. In a time when this country needs every drop of oil it can find, we waste millions of gallons of gasoline each year for forced school busing. As the distinguished Senator from North Carolina pointed out several days ago, school buses average only 5 miles to the gallon.

Therefore, we should be examining ways to cut back on this transportation and encourage families to have their children to attend local schools, those near their homes. Instead, Mr. President, we continue efforts at social engineering that requires 342 million gallons of gasoline each year busing school children, a large part of which is forced busing. It has been estimated that this consumes the total output of 600 oil wells each year. My colleagues should consider this as they hear the complaints from back home regarding fuel shortages and gas lines at service stations.

Mr. President, I might also point out a fact that may be surprising to many of my colleagues. A recent poll indicates that 58 percent of the black leaders in this county do not favor busing children outside their neighborhoods, solely to achieve desegregation. In addition, a Harris poll illustrates only 38 percent of black Americans favor such busing.

Furthermore, polls show 74 percent of black Americans do not feel busing promotes better education.

What we have, therefore, is a system that threatens the lives and well-being of our children, is extremely costly and wasteful of our scarce oil resources, and is not favored by the people for which it is primarily designed. Yet we allow forced busing to continue. What logic is this? It is time for the Senate of the United States to wake up and recognize the lack of necessity, the wastefulness, and the danger of allowing busing to continue in this country the way that it has in the past decade.

Mr. President, I urge my colleagues to consider this amendment favorably.

Mr. EXON. Mr. President, I thank my colleague from North Carolina.

I ask unanimous consent that my name be added as a cosponsor to the amendment of Mr. HELMS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I stood at this desk the day before yesterday, and I guess I was the only Senator on the floor at that time who spoke in behalf of a very similar amendment. At that time, I think the cause we espoused then may have been hurt somewhat by the fact that the amendment supposedly was not worded correctly. I understand that that has been corrected today and we shall have a clean shot, if you will, at whether or not the U.S. Senate wants to adopt this motion today, since it did not adopt it, by a very close vote of, I think, 52 to 39 on Tuesday last. Therefore, I think that the statistics have been well documented.

I think the key thing here is that, in addition to the fact that the people of the United States are opposed to forced schoolbusing, the fact and the signal that we want to send out today is that there is, indeed, an energy crisis in the United States of America. Unless we in the Congress of the United States do away or attempt to do away with unnecessary waste of fuel, unless we can send that message very loud and very very clear across this land, then the 77 percent of the people that were polled recently, who said that they did not think there was an energy crisis, might, indeed, say, yes, there is not, because the U.S. Senate and the Congress would not act on a very simple matter of eliminating the waste of gasoline through forced schoolbusing.

I thank the Chair and I thank my friend from North Carolina.

Mr. HELMS. I thank the Senator for his kind comments.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Forty-five seconds.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

Mr. BAYH. Mr. President, I do not suppose there is a single plan or program that has been the subject of more discussion or is more filled with painful political land mines than is the subject of busing.

It is unfortunate that any child in this country should be required to be bused out of his or her own neighborhood. This unfortunate situation is compounded by an irony. The facts of the situation are, have been, and, hopefully, will be changed.

But in my observation, many of the people who have decried with the loudest voices that busing is a destructive tool of the neighborhood schools have been the same voices saying "Nay" to efforts made to try to make the neighborhood school a viable educational unit in a way that is nondiscriminatory or to see to it that the neighborhoods themselves are desegregated.

There is no need for the Senator from Indiana to go into the history of past abuses of the boys and girls of this country as far as denying equal access to the classrooms of America, them who just through the accident of birth happen to be born black. We all know that history. We have come a long way in trying to eradicate it, but the job is not yet finished.

It seems to me, the question of whether one is going to support the amendment of the distinguished Senator from North Carolina or not has to be decided on a much broader basis than the conservation of energy.

First of all, I think it is important for us to remind ourselves that there are literally millions of American boys and girls that are going to school today by schoolbus, where that transportation system has absolutely nothing to do with a Federal court, or a school board being required to bus these children. They are bussed because of the use of that vehicle to get them to a good school.

The process of consolidation, good or bad, has resulted in the closing of a lot of one-room that is small schools and the construction of larger modern facilities with a rather comprehensive curriculum. There are fewer of these new schools so the kids are bussed.

I rode on a bus for 45 minutes or an hour twice a day when I lived on a farm. Most of our rural children still get back and forth to school by bus.

The statement was made here a moment ago that is just plain wrong. It intimated that the majority of the boys and girls who presently go to school by bus today are the subject of a Federal court order or the subject of efforts to root out discrimination.

About 4 percent of all the kids that go to school by bus are involved in that kind of process. So let us look at the amount of the saving, let us look at the size of the problem, and put it in proper perspective. Further, let us examine that 4 percent.

Those boys and girls are in those school buses for two reasons, and only two reasons. One because there was discrimination and segregation involved; and two, it was determined that the only way for those boys and girls to get a good education was to use the bus.

I must say, I have struggled with this in our own State and I have to confess that there are ingredients to that plan which, if I were sitting down and putting it together, I would change.

The horror story of a boy being shipped from one end of the county and back again and when he is the only person on the bus, if true should be ended. It is absolutely irresponsible for that kind of thing to be happening, however, we ought to be able to change it without throwing out the tool which has resulted in millions of boys and girls, for the first time in their lives, having a chance for a first-class educational opportunity.

I rise not to defend every busing order. As I say, I have had personal experience with one which had certain ingredients that caused me significant concern. But I think it is important for us to look at what we are really doing here.

If one would read the Helms amendment, we are talking about not just busing where we have a court order requiring it. The amendment says, no voluntary plans for desegregation.

In other words, community leaders get together and say it is bad to discriminate and they are going to stop it. They recognize this is not the way to act in America, and they agree to a plan voluntarily. The U.S. Senate is being asked to say, "No, you cannot do that." We are being asked to deal with the busing question not on the basis of whether we should have busing because it is good or bad per se, whether the neighborhood school is important, whether desegregation is important, or whether good education is important. Some of those basic, fundamental questions, it seems to me, ought to gird our decision on this vote as to whether we should have busing or not. We should not hang this on a little tickler where we say that we will sugar coat it and say that busing is bad because it is part of a transportation fuel shortage crisis.

I do not see anything in this amendment that says we are not going to put those boys and girls on a bus to go on a football trip, or go to a class reunion, or to take the band someplace—all those things that are important parts of the educational process.

No. It says that on the basis of saving energy, with 4 percent of those kids being bused under various orders, we will say "No."

It seems to me we ought to look at busing to see where it has been used in an irresponsible way, where it has been used excessively, and deal with that and not say on the basis of an energy shortage that we are going to stop sending kids to a good school.

I think there are a lot of things we could be doing, should be doing, and I am frustrated we are not doing, to make this country aware of and responsive to the energy problem.

It is very frustrating to me to feel we do have an energy problem and see us in this body, and the other body, and the President, all together, not being able to get our act together and not able to do something concrete.

What sort of copout is it, for us to say the way we are going to solve the energy problem is to refuse to ship the boys and girls to the school where they can get a good education? That is the best copout I have been in a long time, to try to say that the way to solve the energy crisis is not to bus school children, to tear up the educational system of America.

If busing is good or bad, it should be good or bad for 100 reasons other than how much energy it uses. The right of a boy and girl to a good education, the right to full and equal treatment under the Constitution of the United States—those are important reasons. Either they are related to busing or they are not. In any case, we should decide the policy question on those broad bases, and not say that if we get hit by an emergency, the kids are not going to go to school. That is the real irony—the kids who are not going to go to school are the ones who have never had a chance for a good education, because they have been discriminated against over a long period of time. The kids who really need a better education, better facilities, better opportunity—those are the kids who are going to sacrifice, and those are kids who this amendment says are going to save the country from an energy shortage. Whom are we kidding?

Let us decide this question on the basis of its merits, on the philosophy of whether the bus is a legitimate desegregation tool across the board. If busing is bad, it seems to me that it is bad whether you have an energy shortage or not.

Mr. HELMS. That is right.

Mr. BAYH. If it is good, I am prepared to make the sacrifice, if I have to walk, so that the kids can go to school.

I hope the Senate will join me in tabling this motion and in seeing this for what it is.

Mr. KENNEDY. Mr. President, will the Senator from Indiana yield?

Mr. BAYH. I am glad to yield.

Mr. KENNEDY. I do not want to delay the action of the Senate, Mr. President, but I understand the Helms amendment is essentially the same as the one introduced the other day—the amendment about the saving of energy.

I support the arguments against this amendment that have been made by the Senator from Indiana—who I should say has made them with great eloquence and great persuasiveness, as did the Senator from New York the other day. There are of course other means of saving energy that I wish our good friend from North Carolina and others who talk about this would consider. I am thinking of the area of deregulation of the trucking industry. According to ICC estimates eliminating gateways in the trucking industry for irregular route carriers alone would save about 100 million vehicle miles a year and 21 million gallons of fuel. Rack-hauling is another area: it is estimated that 20 percent or more of fuel is wasted by trucks returning empty.

It seems to me that this amendment of the Senator from North Carolina and others is pointed at a constitutional question of the equal education opportunities of children in this country, not at the energy issue—in actuality only 3.6 percent of all students are bused for desegregation purposes. So the amount of fuel in question is minimal. For those reasons, it has no place in this bill and is not justified on the basis of the merits.

I thank the Senator from Indiana for yielding.

Mr. BAYH. Mr. President, I move to table the amendment of the distinguished Senator from North Carolina.

The PRESIDING OFFICER. Will the Senator retain his time and thereby withhold his motion?

Mr. BAYH. Yes.

(Mr. NUNN assumed the chair.)

Mr. STEWART. Mr. President, will the Senator from Indiana yield for a question?

Mr. BAYH. I yield.

Mr. STEWART. The Senator from Indiana said something in his statement about which I want to raise a question, with respect to this amendment. He indicated in his comments that this amendment mght prohibit school boards from offering voluntary desegregation plans. It is my understanding that that was the Senator's statement.

Will the Senator please respond to that and enlighten me somewhat?

Mr. BAYH. I will be glad to respond to the question of the distinguished Senator from Alabama.

I call his attention to section (b) of the amendment before us.

It says:

> During a period of national energy emergency determined pursuant to section 21(f), no court, department or agency of the United States and no voluntary plan for desegregation may require the transportation of any student, and no order of a court, department, or agency in effect on the day before the effective date of the period of national energy emergency requiring the transportation of any student may be implemented.

Mr. STEWART. In other words, in the event that a school system had decided that it had worked out some voluntary desegregation plan, they would not be able to implement that in time of an emergency such as called for in this amendment. Is that correct?

Mr. BAYH. That is correct.

Mr. STEWART. In other words, that would be saying to a school system that wanted to do exactly what I said, and perhaps had worked out a difficult situation that might be the culmination of years of activity on the part of the school system—we would be saying, as the Senate, that we would not allow them to do that.

Mr. BAYH. That is accurate.

I must say, having been faced with citizens on both sides of the question who were very angry about busing, that the irony of this amendment is that you could not start 2, 3, or 4 years earlier and get people starting to do the kinds of things that are necessary so that you do not have to have busing. It seems to me the greatest tragedy of all is to say "No" to those who have done this kind of thing.

Mr. STEWART. My question is this: What happens to those schoolchildren who are in that situation, who have that kind of plan in place, whether it is voluntary or ordered? What happens to those schoolchildren in a time of emergency such as the Senator from North Carolina anticipates in his amendment? Do they just not go to school? Is that the situation? What happens to them in that situation?

Mr. BAYH. It seems to me that one of two things would happen. Either they would not go to school or their parents, either in their own cars or in carpooling with others, would send them. The irony in that recourse is that it would result in using significantly more energy than transportation by bus or several children in one vehicle.

Mr. STEWART. Would it not also provide a rather disruptive type situation in a school system that perhaps had settled down after years of difficulty in that situation?

Mr. BAYH. Yes. It would be the kind of thing that would keep dragging up the old hatreds, the old animosities, of which there are many in a situation such as that.

The Senator from Alabama knows how sensitive that issue is. It is sensitive in his State, and it is sensiitve in my State.

Mr. STEWART. It mght help the situation, but I would be less than enamored with the idea that it would be disruptive.

Mr. BAYH. I appreciate the thoughts of the Senator from Alabama.

(Mr. STEWART assumed the chair.)

Mr. HELMS. Mr. President, I should like to clear up a question.

I know that the Senator from Indiana did not mean to mislead the able Senator who is now presiding over the Senate but this would not affect the busing of schoolchildren except in the cases of busing for racial purposes. The so-called voluntary plan is usually one that has been volunteered with a Federal judge's gun at the head. Any suggestion that this amendment would eliminate the legitimate busing of schoolchildren to get them to school is absolutely false.

I want that perfectly understood. What we are talking about is busing that is forced directly by court order or indirectly by voluntary plans drawn up under the supervision of some Federal judge or Federal bureaucrat. That is what we are talking about and that is all we are talking about. So any Senator who is under the impression that it does more than that should read the amendment and consider the realities of these busing plans.

If I have any time remaining I am glad to yield it back so the Senator can move to table.

Mr. BAYH. Mr. President, does the Senator from Indiana have further time?

The PRESIDING OFFICER. Fifty-nine seconds.

Mr. BAYH. Mr. President, if the Senator from Indiana misled he did so by reading from the amendment of the Senator from North Carolina. Given the situation where there is a requirement to desegregate, there are several ways of accomplishing it, one of which is a voluntary plan. Even if all the neighbors in the community get together and the people in the city decide they are going to voluntarily draw up a desegration plan themselves, the kind of plan that makes the most sense to them as to how their children should be treated, instead of letting some panel of experts or some judge sit down there with a sliderule and determine how it should be done, even in that kind of plan, this amendment says it would not be possible.

Mr. HELMS. Mr. President, I ask unanimous consent that paragraph (b) of the amendment be printed immediately following the Senator's remarks so the record will be clear as to the intent of this amendment and what it says.

Mr. BAYH. Mr. President, I am glad for that to happen. That will be the second time that was in. It was in the first time when the Senator from Indiana read it.

Mr. HELMS. That is correct.

There being no objection, the paragraph was ordered to be printed in the RECORD, as follows:

"(b) During a period of national energy emergency determined pursuant to section 221(f), no court, department, or agency or the United States and no voluntary plan for desegregation may require the transportation of any student, and no order of a court, department, or agency in effect on the day before the effective date of the period of national energy emergency requiring the transportation of any student may be implemented.".

THE ABSURDITY OF BUSING: "WHAT BLACK PARENTS WON'T SAY"

● Mr. BIDEN. Mr. President, as we face yet again the problem of busing here in the Senate, it is important that we seek the views of those most affected by the shortsighted pressures of school busing programs—black students and their families. The absurdity of busing programs whose end result is all too often the resegregation of neighborhoods and the consequent resegregation of the schools is by now common knowledge among all parents.

A column published yesterday in the Washington Post by the distinguished black journalist, William Raspberry, offers and important insight into the perspective of black parents on busing. Mr. Raspberry offers us no easy answers, but he does offer a compelling analysis of the problem.

Mr. President, I ask that Mr. Raspberry's column be printed in the RECORD.

The article follows:

[From the Washington Post, June 6, 1979]

WHAT BLACK PARENTS WON'T SAY

(By William Raspberry)

The problem in Montgomery County, where most black students are in predominately white schools, is that integration is saddling those black students with ignorant and insensitive white teachers and racist schoolmates.

The problem in neighboring Prince George's County, where most black students are being resegregated into predominately black schools, is that these students are being denied the benefits of white teachers and classmates.

Montgomery blacks are bitter over the fact that teacher-training courses in black history and culture are no longer mandatory. Racist white teachers will continue to be ignorant of—and contemptuous of—their black students. The result, we are told, is that blacks in Montgomery County cannot receive a proper education.

In Prince George's County, the bitterness stems from white and black population shifts that are leaving more and more black students in predominately black schools. The result, we are told, is that blacks in Prince George's County cannot receive a proper education.

Are race relations in the two adjacent counties so fundamentally different? Or is there some common explanation for these two divergent views of what is best for black students?

I suspect there is, and I believe it has to do with a premise that no self-respecting black parent will dare state openly.

If they could, it might go something like this: We have no idea of how to run effective schools, but white people, for all their racism, do. Our solution, therefore, is to get our kids into schools with the white kids and then fight the racism as best we can.

You won't hear anyone say that, of course. What you will hear instead or arguments to the effect that white people, who are in charge of the distribution of resources, won't distribute them fairly. The solution, therefore, is to integrate the children so that racist administrators cannot isolate and discriminate against black children.

Don't believe it. If a court ordered the perfectly equitable distribution of personnel, equipment, money and other resources, and ordered further that these outlays be audited every 30 days to see that equity was maintained, a good many black parents would say: No thanks: we'd rather have integration.

Even if the black parents were given full authority over the way the resources are used, the response would remain the same: Give us integration.

Equal access to resources and control over how those resources get used are good things only if you are fairly sure you know, or can learn, how to use the resources to the best advantage of your children.

But many blacks believe (though they won't say it) that white people have some educational secret that blacks cannot learn. And if that is what they believe, then it is no wonder that they see integration as the only real solution.

Unfortunately, the solution is at least as difficult as the problem. It's easy enough to get a court order mandating racial integration. But as Prince George's parents are learning, you can't get a court order to keep white families from moving, or to keep black families from taking their place.

The result is the ultimate busing absurdity; the massive transportation of black children miles away from their homes—to schools that are black and getting blacker.

And even in the face of this absurdity, black parents can't bring themselves to admit that it doesn't work. After weeks of bitter debate, Prince George's blacks, under the leadership of the county NAACP chapter, have refused to curtail busing—even when the bus ride ends at an essentially segregated school.

The long-range outcome of this madness is plain for all to see. *De jure* segregation, racial isolation caused by official policies and actions, will be replaced by *de facto* segregation, racial isolation caused by shifts in housing patterns and immune from court action.

The political, emotional and economic capital that might have been spent on improving the schools attended by black children will have been wasted on nonsense fights over busing.

Saddest of all, the black children will remain just as isolated—and just as poorly educated—as they were when all the fighting started.●

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. BAYH. Mr. President, I move to table the amendment.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER) and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

Mr. METZENBAUM. Regular order.

The PRESIDING OFFICER. Are there any Senators in the Chamber still wishing to vote?

The result was announced—yeas 49, nays 46, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—49

Baucus
Bayh
Bellmon
Boschwitz
Bradley
Bumpers
Burdick
Church
Cohen
Cranston
Durenberger
Durkin
Eagleton
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Inouye
Jackson
Javits
Kassebaum
Kennedy
Leahy
Levin
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Pell
Percy
Pressler
Pryor
Ribicoff
Riegle
Sarbanes
Schmitt
Stafford
Stevens
Stevenson
Stewart
Tsongas
Weicker
Williams

NAYS—46

Armstrong
Bentsen
Biden
Boren
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Danforth
DeConcini

Dole
Domenici
Exon
Ford
Garn
Goldwater
Hatch
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Johnston
Laxalt
Long
Lugar
Magnuson
McClure
Morgan
Nunn
Proxmire
Randolph
Roth
Sasser
Schweiker
Simpson
Stennis
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—5

Baker
Chafee
Culver
Huddleston
Packwood

So the motion to lay on the table Mr. HELMS' UP amendment No. 234 was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HATCH. Mr. President, I have come increasingly to feel that the civil rights agenda of this Nation is far too important a matter to be left to the definition and determination of the U.S. Civil Rights Commission.

The PRESIDING OFFICER. The Senate will be in order. All time for debate has expired.

Mr. BAYH. Mr. President, I ask unanimous consent that the Senator from Utah may proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I have come increasingly to feel that the civil rights agenda of this Nation is far too important a matter to be left to the definition and determination of the U.S. Civil Rights Commission. The struggle for equal rights for all citizens remains one of the dominant concerns of public policy as this Nation enters the 1980's. It remains one of the noblest and enduring pursuits of our time. It is a cause, however, that has been increasingly trivalized and distorted by an agency that is rigid and doctrinaire in its approach to this problem.

Not unlike a variety of other once-vital agencies, the Civil Rights Commission has lost sight of its original mission and become thoroughly bureaucratized. As observed in testimony last year by the Committee on Academic Nondiscrimination and Integrity, an organization of university academics.

> The proceedings of the hearings of the commission reveal recurrent meetings of friends-in-cause who gather to survey the progress of past designs and chart new drives . . . they look to canvass new areas in which to extend governmental regulations, and to search for new justifications for their past rigid attitudes. The cast of invitees and the conduct of the proceedings betrays more desire to buttress preconceived ideas than a search for truth in an honest and impartial fashion . . . the Commission acts on behalf of extremely partisan and doctrinaire views.

What was striking to me about the testimony taken last year was not simply that a number of organizations appeared to take the Commission to task for their involvement or noninvolvement in a number of legislative areas, but that, with respect to most of them, there was the complaint that they had not been treated fairly by the Commission. The Catholic League for Religious and Civil Rights observed, for example, that—

> . . . the lack of independent scholarship, reasoned discussion, and total disregard for opposing views is apparent throughout the committee's discussion of the abortion issue.

In addition, numerous complaints were made that the Commission has totally neglected its statutory charge to investigate and report on ethnic and religious discrimination. Among the groups making this charge were the Polish-American Congress and the Czechoslovak National Council.

Illustrating, in my opinion, either the stridency, the irrelevancy, the misguidedness, or the casual attention accorded by the Commission to its charter and to the Constitution, is the following activity.

First. Despite prohibitions against lobbying, the Commission has actively engaged in communications with Members of Congress and the State legislatures aimed at defeating antiabortion legislation. The Commission went so far as to attack proposed human life amendments to the Constitution on the grounds of "unconstitutionality." Finally recognizing that abortion was never intended to fall within their jurisdiction, Congress last year approved language placing a flat prohibition upon Commission involvement in the issue of abortion.

Second. The Commission has been an unremitting supporter of "affirmative action" and racially based quotas. The Commission has stated that, "in spite" of the fact that affirmative action in education and employment may "affect the expectations of nonminorities," the Commission "reiterates its commitment to the concept of affirmative action."

Third. Despite the fact that substantial and highly controversial issues surround the proposed equal rights amendment that are not at all related to commitment to equality for women, the Commission has referred to the ERA as the "sine qua non of legality equality for women." Commission staffers have actively lobbied for the amendment in the State legislatures, in addition to conducting numerous "education" efforts in is behalf.

Fourth. The Commission has consistently defended and issued reports in behalf of forced schoolbusing, both within the large cities and between communities within metropolitan areas. This, despite the fact that large majorities of minorities and nonminorities continue to oppose schoolbusing, and despite the fact that increasingly numbers of academic studies are unable to identify benefits, either social or academic, that would overcome the substantial disruption accompanying schoolbusing orders.

Fifth. The Commission has issued a series of reports on sex and race "stereotyping" on television. The recommendations issued by the Commission have been called "chilling" by the press, with the Washington Post, a supporter of the Commission, commenting upon the agency's insensitivity to the first amendment.

Sixth. In the same vein, the Commission has investigated textbook "bias," requesting textbook publishers to provide them with the "guidelines" they provide authors to insure against "racist" or "sexist" biases. As with the television stereotyping report, the Commission's expressed goal is to have women and racial minorities portrayed in a "positive" light.

Seventh. The Commission has indicated its enthusiastic support for the IRS efforts to dictate to private schools their admissions policies. Under proposed IRS "guidelines," private institutions would be liable to a loss of their tax status upon a showing of insufficient numbers of minority students.

Eighth. The Commission has indicated that it will conduct a comprehensive study of the civil rights implications of State and local districting and redistricting efforts following the 1980 census. Will the Commission, as it is wont, find discrimination in the fact that minorities or women do not comprise the precise proportion of a State legislature or congressional delegation as they comprise total population? Will the Commission encourage efforts to involve the courts in dictating district boundaries to States and localities?

Ninth. The Commission has conducted several studies on the condition of prisons in the United States dealing with overcrowding, vocational programs, medical services, staff recruitment, et cetera. Why the Commission should be using its scarce resources on this research is a bit unclear. The same goes with their sweeping analyses of the "urban crisis." What does all of this have to do with the civil rights mandate of the Commission?

Tenth. The Commission has expended substantial amounts of resources investigating the discriminatory implications of all-male softball teams, the sex biases inherent in actuarial tables, sterilization programs, and a plethora of other subjects only tangentially related to the deepest and most intractable problems of discrimination in our society.

The past decade has not been a good one for sacred cows in this country. I believe that it may be about time for this body to give a longer look at where the Civil Rights Commission is heading. The goal of equal rights for all Americans is too critical to allow it to be given a bad name by any Government agency.

The PRESIDING OFFICER. Are there further amendments? If there be no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, have the yeas and nays been ordered on final passage?

The PRESIDING OFFICER. No.

Mr. ROBERT C. BYRD. Is there any disposition to have the yeas and nays on passage?

Mr. HATCH. Yes, I believe the distinguished Senator from North Carolina wishes the yeas and nays.

Mr. HELMS. Yes. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, this will be the last rollcall vote today. I ask unanimous consent that immediately following the disposition of this measure I may proceed for not to exceed 5 minutes with housekeeping measures, and so on, after which I will move to recess the Senate over until Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. Culver) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) the Senator from Rhode Island (Mr. Chafee), and the Senator from Oregon (Mr. Packwood) are necessarily absent.

The PRESIDING OFFICER (Mr. Melcher). Have all Senators in the Chamber voted?

The result was announced—yeas 91, nays 5, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—91

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—5

Byrd, Harry F., Jr.
Helms
Laxalt
McClure
Stennis

NOT VOTING—4

Baker
Chafee
Culver
Packwood

So the bill (S. 721), as amended, was passed, as follows:

S. 721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended by striking out "1979" and inserting in lieu thereof "1980".

Sec. 2. Section 104(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(a) (2)) amended by inserting at the end thereof the following:

"(7) no later than April 1, 1980, the Commission shall study and report to the Congress and the President the legal questions involved in eliminating the legislative branch's exemption from the Civil Rights Act and the Commission shall further in its report recommend the various means to resolve such questions.".

Sec. 3. Section 1975(b) of title 42, United States Code, is amended by adding at the end thereof the following: "The Commission shall continue to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution involving Americans who are members of eastern- and southern-Europe ethnic groups and shall report its findings to the Congress. Such report shall include an analysis of the adverse consequences of affirmative action programs encouraged by the Federal Government upon the equal opportunity rights of these Americans.".

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from California.

SENATOR EDWARD M. KENNEDY'S COMMITMENT TO SALT II

Mr. CRANSTON. Mr. President, next week, President Carter leaves for Vienna for the summit meeting with President Brezhnev. I hope and believe that the summit will not only result in the signing of the SALT II Treaty but also a full discussion and some resolution of trade, emigration, human rights, and other issues between our two countries.

The summit offers that unique and infrequent opportunity to resolve areas of confrontation and to expand areas of cooperation. But, it will certainly not change the fact that the United States and the Soviet Union are in fundamental and direct confrontation in both our political life and in our economic systems. Only the basic instinct of each to survive appears to have prevented actual military confrontation and nuclear disaster so far.

As an unabashed partisan of our own political and economic systems, I am confident that we will prevail, whether through nonmilitary competition or through peaceful cooperation. But, I am equally confident that any military confrontation would mean mutual nuclear destruction where there could be no winner.

No issue affects each and every person more than the prevention of nuclear confrontation. Thus, our distinguished colleague, the senior Senator from Massachusetts, Senator Edward Kennedy, chose this issue as the subject of his recent address to the graduating class of Boston University. In that address, Senator Kennedy announced his unequivocal support for the SALT II Treaty, stating that "a world with SALT II will be a safer world, a world closer to peace."

Mr. President, each of us in this Chamber will have to make a decision on the SALT II Treaty as has Senator Kennedy. Some have already made that decision; but others, as I am, are still accumulating facts, weighing the evidence, and awaiting the full and final text of the treaty or the conclusion of committee hearings. But the time for the actual vote is not yet upon us and I believe that each Senator can benefit from the careful analysis Senator Kennedy sets out in his speech. He examines the treaty in light of a world with and without SALT II, and concludes:

> A world without SALT is a world in which each side feels compelled to race ahead. The increasing build-up, together with the uncertainty and fear about the forces of the other side, is a prescription for nuclear disaster that the people of this Commonwealth and the Senate of the United States should reject.
>
> By contrast, a world with SALT will be a safer world, a world closer to peace. The agreement will enhance our national security. Its primary achievement will be to strengthen the strategic balance that already exists. It will end the uncontrolled escalation of the strategic arms race. It will begin the long-sought process of arms reductions. And it will commit both countries to continuing negotiations for future arms reductions.

Mr. President, I ask unanimous consent that the full text of the "Address By Senator Edward M. Kennedy at the Boston University Commencement Exercises, May 20, 1979" be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address By Senator Edward M. Kennedy

I am honored to be here today with the graduating class and your families, with President Silber and your fine faculty, and with so many other friends of Boston University.

Over the years, Boston University has achieved an outstanding reputation for excellence in education in our free and open society. From the day this University assumed its name in 1869, its charter has provided that no faculty member and no student could be required to espouse any particular religious belief. This University was the first in the world to open all its divisions to women, and the first in the country to award medical and doctoral degrees to women.

One of the clearest reflections of the University's spirit and breadth of its interests is the distinguished group of recipients of your honorary degrees today. Clarence Mitchell, Frank Johnson, Philip Caldwell, and Georgiana Jagiello have earned great renown in their respective fields of civil rights, law, business, and medicine, and I am proud to share this platform with them today.

And I am also honored to be here with Professor Benjamin Levich, a giant in the field of physical chemistry, whose work as a member of the Soviet Academy of Sciences has made him known throughout the world.

The scientific community has paid great homage to Levich's intellectual courage in recent years. It has held two major international conferences in his honor—the first at Oxford, England, in 1977, and the second last fall in Washington.

And the world is also aware of the great personal courage that he and his wife Tanya have shown in their efforts since 1972 to emigrate from the Soviet Union and to rejoin their children in the West. Dr. Levich forfeited all his past positions in that struggle, but he prevailed last year and is now free to teach and carry on his research in Israel and the United States.

The positive Soviet actions in the case of Professor Levich and others since then, including the recent release of prominent dissidents, have raised fresh hope for an improved climate in US-Soviet relations. Jewish emigration from the Soviet Union is now well over 50,000 people a year—the highest in Soviet history and a hopeful sign for more favorable relations between our two nations.

President Carter and President Brezhnev have now agreed to meet in Vienna on June 15th, and to sign the new SALT treaty in the course of the summit meeting. No issue we face at home or overseas is more important than nuclear arms control and the prevention of nuclear war. The SALT treaty is a historic achievement for which both leaders deserve great credit.

Today, I pledge to my fellow citizens of Massachusetts my support for the treaty. A major national debate is now beginning, and I urge you to join in working for the approval of this important step toward peace for future generations.

The new treaty and the forthcoming summit offer hope that both governments will now begin to re-examine the whole range of US-Soviet relations—not only in arms control, but also in other areas of crisis or confrontation, and in our relations involving trade, emigration and human rights.

Now that the SALT agreement is to be signed, I hope we can prepare the way for a trade agreement including most-favored-nation treatment for the Soviet Union, with a clear expectation of increased Soviet emigration in the future.

It is almost five years since the last such summit took place in Vladivostok. There have been too many disputes, too much tension and misunderstanding since then. I share President Carter's hope that as we look to the future, there can be more frequent and more regular consultations between our nations, both at the summit and at all other levels.

The Vienna summit should also bring progress on other important arms control negotiations—progress which would be virtually impossible in the absence of SALT II. Last March, President Brezhnev suggested that we move ahead with the nuclear test ban, with limitations on arms sales, and with force reductions in Europe. Vienna offers the opportunity for a fresh commitment to these vital efforts, and it is an opportunity we should not miss.

The summit will also give President Carter an important opportunity to look beyond SALT to the whole range of strategic issues between the two nuclear superpowers. We should seek to pursue a strategic dialogue with a view to making our military balance more stable and ultimately to reversing the arms race wherever it takes place.

But our primary concern in the coming months must be to do all we can to assure the successful ratification of SALT. One of the most controversial issues we face is the potential Soviet threat to our land-based missile force. It is alleged that by the mid-1980's, a Soviet first strike could destroy up to 90 percent of our ICBMs. Even now, as SALT is being written and the summit prepared, senior national security officials are deciding whether to accelerate the development of a new, mobile, powerful, and extremely expensive missile, called M–X. 250 of the missiles—or comparable land-and sea-based missiles now under development—could destroy 95 percent of the Soviet ICBMs by the late 1980's. Because most Soviet forces are deployed on land, whereas most U.S. forces are deployed in the sea and air, the Soviets could be seriously threatened by such developments. But if the Soviets and we embark on this new arms race, the security of both sides and the safety of the world could plummet, as each side seeks new ways to counteract the developments of the other.

The silo-busting missiles should be stopped. President Carter and President Brezhnev should use the summit meeting to launch negotiations to prevent this new escalation in the arms race.

I strongly agree with President Carter that M–X should not become the political price paid for SALT. He should make his decision strictly on the merits of increasing stability and reducing the risk of nuclear war—not to impress Soviet or American hardliners with a crash decision before the summit and before all the arguments can be carefully considered and evaluated. Instead, both sides should consider and discuss with each other what combination of actions they can take both to be more secure and to increase stability. These actions can include force improvements that reduce the risk of a first strike and that are fully verifiable. But they should also include reducing the dependence of both sides on their increasingly vulnerable land-based missiles, and negotiating reductions in the capabilities which represent the greatest threat to future deterence and future stability. Here, M–X and comparable missiles can be a powerful negotiating lever for future SALT agreements. Each side must work to convince the other to reduce these mutual threats to their strategic forces, and thereby reduce the danger of nuclear war that accompanies each new escalation in the arms race.

Already, some critics are complaining that SALT leaves to many missiles and too many warheads in the hands of the Soviets. Shopworn arguments are revived about Soviet Backfire bombers. The seeds of doubt are being sown about this country's ability to verify the new agreement. Opponents claim that the treaty will restrain us more than the Soviets, to the disadvantage of the United States and its allies.

But critics are curiously silent about the consequences of failure to ratify SALT. They are properly silent, because it is not easy to contemplate an increase in super-power confrontation, an escalation of the arms race, and an upsurge in the dangers of nuclear war. A world without SALT is not a pleasant prospect to contemplate.

Without SALT, the Soviets could deploy some 750 more nuclear systems than under the new treaty.

Without SALT, up to 10,000 additional Soviet nuclear warheads could be targeted on Boston, New York, Washington, and other major civilian and military targets throughout the United States.

Without SALT, there would be no limits on the production and inter-continental capability of Backfire bombers.

Without SALT, nothing would prevent the Soviets from concealing their missile sites and from putting their missile signals into code.

Without SALT, nothing would prevent the Soviets from multiplying their heavy missile force, compounding the threat against our own land-based missiles, and massively increasing the dangers of nuclear war.

Of course, we could match the Soviets missile for missile, bomber for bomber, threat for threat. We could double our projected Trident submarines. We could deploy hundreds of new silo-busting M–X missiles. We could develop a new generation of heavy bombers. And the price tag for an unconstrained new round of the arms race would be up to $100 billion more, at current prices, than we will spend under SALT.

A world without SALT is a world in which each side feels compelled to race ahead. The increasing build-up, together with the uncertainty and fear about the forces of the other side, is a prescription for nuclear disaster that the people of this Commonwealth and the Senate of the United States should reject.

By contrast, a world with SALT will be a safer world, a world closer to peace. The agreement will enhance our national security. Its primary achievement will be to strengthen the strategic balance that already exists. It will end the uncontrolled escalation of the strategic arms race. It will begin the long-sought process of arms reductions. And it will commit both countries to continuing negotiations for future arms reductions.

During the ratification debate, the Senate is likely to consider a range of amendments and understandings. I urge my colleagues in the Senate to proceed with caution. We owe it to the American people to consider the treaty with the seriousness it deserves, and to avoid taking actions which could lead to the unraveling of this crucial agreement.

Beyond the political posturing, beyond the numbers, beyond the complex terminology, beyond the competing arguments, a basic issue is at stake. That issue is the prevention of nuclear war—whether we shall give our civilization a better chance to survive.

Few of us, I suspect, have any real understanding of the nightmare of nuclear war. A little over a year ago, in January 1978, I was in Japan. I took the opportunity to visit the city of Hiroshima and to address the students and faculty of its university on nuclear energy and nuclear arms control. My family and I stood in silence at the stone memorial marking ground zero, the piece of earth directly below the bomb when it exploded in August of 1945, bringing death to 200,000 people. And then we visited the museum, with its graphic and shocking reminders of the horror of that day when black rain fell on the people of Japan.

Last month, members of Congress themselves saw one of the ways a nuclear war might affect the people of the United States. The Senate Health Subcommittee held hearings in Utah on the effects of so-called low level radiation from nuclear testing in the 1950's. Several witnesses from St. George, Utah, described to the Committee how their family members and neighbors, one after another, had died of leukemia after watching nuclear explosions as children.

Similarly, the nuclear accident at Harrisburg spotlighted the safety risks of existing nuclear reactors. It dramatized the need for more stringent precautions and a more thorough review of the role of nuclear power in our energy future.

A recent Congressional report tells us that a single one-megaton weapon, targeted on Springfield, Massachusetts, would kill more people within minutes than all the Americans who died in the Vietnam War. In an all-out nuclear attack, 160 million Americans would die immediately. Our society and our economy would be thrown back into the Middle Ages. A few moments of international madness could poison the globe for generations to come.

If they know the facts, I do not believe the people of this Commonwealth and the people of the United States would tolerate a failure to ratify the new SALT treaty. I do not believe they would tolerate the unnecessary risk of a nuclear catastrophe. There is too much at stake, too much riding on our choice, for us to falter at this gateway to a safer future.

And so I urge each of you—students, faculty, and friends of this outstanding University—to get involved in this debate. Let there be no doubt in Congress that the people care about the issue. If we are faithful to our stewardship of the great traditions of this nation, we cannot lose the opportunity that awaits us.

Boston University has long prided itself on its involvement with the community at large. As you graduate, take with you into the larger world the sense of dedication and commitment you have acquired. We can achieve a community of peace, of justice, of well-being for all. We can survive this age of nuclear confrontation. We can achieve all our other goals, if citizens like yourselves are willing to participate.

Be thankful for the fine education you have received. Be grateful to your parents for the sacrifices they have made to bring you safely to this auspicious turning point. And in the years to come, remember the great benefits you have received and give something back to America in return for all it has given you.

LEGISLATIVE VETO: A PANDORA'S BOX

Mr. PERCY. Mr. President, next week the Senate will consider the Federal Trade Commission authorization bill. One of our distinguished colleagues has proposed a controversial amendment which is opposed by the Commerce Committee—it would require Congress to review every rule the Commission promulgates.

I have pledged to my constituents that regulatory reform will be my highest priority in this Congress, and I am anxious to fulfill that pledge responsibly. Accordingly, I must vigorously oppose the legislative veto as it appears in this amendment. Disenchantment with the FTC certainly warrants a response from Congress, but that response must be workable and constructive.

The supporters of this legislative veto concept maintain that current outlets for congressional disapproval of particular regulations are too cumbersome. They say the time and uncertainty involved in passing legislation to address a specific agency action renders the procedure ineffective in dealing with the many and diverse activities of the FTC.

At the same time, they maintain that the legislative veto will probably be used rarely, if at all. They suggest that its mere presence will cause the Commission to respond more cautiously.

These two arguments are incompatible. If Congress only rarely wishes to correct the Commission's actions, it already has the mechanism. It can pass legislation to undo the action of the Commission. The Congress has done so in the past, and may well do so sometime in the future.

In my view, this is far preferable to the superficial and highly political review that a legislative veto might well become. The passage of a bill requires serious thought and a broad consensus. These are both necessary ingredients for routine matters; they are absolutely vital ingredients for matters which we have no technical expertise to evaluate. Congress simply cannot deal effectively with the large number of highly complex issues which will certainly come before us under this procedure. Specific complaints with the Commission should be dealt with specifically.

I also do not believe that the mere presence of legislative veto will make the Commission more cautious. The knowledge that every decision will be second-guessed by Congress would allow the Commission to shirk its responsibility to develop well-balanced regulations. We must rigorously avoid such a result.

I see several extremely dangerous implications in this amendment. First, the focus of lobbyists will certainly move to Capitol Hill. Lobbyists will have no reason to make a factually complete and well-reasoned case to the Commission; they will simply work over many of us. None of us need such additional pressures.

Where are we to acquire the technical expertise to evaluate rules affecting industries of which we know little? I have heard colleagues complain of the difficulties in managing our already large staffs. If current staffs are unwieldy, the much larger staffs which would be required under this amendment could be uncontrollable.

And that is exactly the reason we created independent agencies—to do work that we had neither the structure nor the expertise to do ourselves. The legislative veto, to be effective, requires that we duplicate the considerable review proceeding now existing within the agencies. The taxpayers are demanding of this Congress more efficient Government, not just more Government.

The Commission's mandate is broad because the American economy is complex. The FTC staff numbers more than 1,700, with over 600 lawyers and 80 economists—and for good reason. I do not believe that any of us want a Congress with 600 more lawyers and 80 more economists.

I am not suggesting that the legislative veto has no place. There are some very special circumstances for which Congress should retain immediate right of review. Occasionally speed is crucial to protect the Nation's welfare, and in these limited circumstances a legislative veto allows us quickly to remedy dangerous actions. But consider the scope of this amendment—each and every rule promulgated by the FTC will come before us, and my experience tells me that we will feel compelled to respond.

The proponents of the legislative veto have worked hard to make a case that the mechanism is constitutional. I will not argue this point: many ill-advised actions are constitutional. But they have not mentioned that the measure represents a fundamental shift in the processes and the delicate balances of power within the Constitution. I, for one, am reluctant to tamper casually with that balance.

Do not mistake my remarks as an endorsement of every Commission rule ever promulgated. I strongly disagree with some of the Commission's decisions. But the legislative veto would not reduce my dissatisfaction with the Commission, nor could it advance the interests of regulatory reform. The public demands responsible reform, not hasty reactions. The politicization of technical decisions cannot serve the public interest.

The proponents of this measure have said that it is not a panacea. But that is indeed what it is offered as—an apparently simple means to vent displeasure. I agree with its sponsors—it is not a panacea. It is a Pandora's Box.

FARM DEBT: A VICIOUS CIRCLE?

Mr. HELMS. Mr. President, Senate approval on May 23, of S. 985, a bill to amend the Consolidated Farm and Rural Development Act with respect to agricultural credit, prompts me to comment on my concern for the state of farmer indebtedness.

Were it not for rampant inflation, and if stronger economic conditions prevailed, I probably would not raise the question about various provisions of this legislation that dramatically increase lending levels for farm ownership, operating loan programs, and other purposes administered by the Farmers Home Administration FmHA).

In better times farmers would not be risking so much with the debts they already have, and the prospect of being encumbered by more. Inflation has hit our farmers hard; it has led to the upward spiral of production costs farmers have had to bear in recent years. Inflation is striking at the farmer's economic jugular, and right now he is struggling to remain financially solvent, and in a position to produce the food and fiber we need.

It is sometimes hard for a farmer to rationalize why he should continue when he realizes that farm equipment prices alone rose 83 percent from 1972 to 1977 compared to a 65-percent increase for all production items. Equipment costs from 1967 to 1977 doubled and their increases far outdistanced increases in prices farmers received for their crops and farm products. I do not think this trend has slowed since then, nor will it slow in the near future.

The modern farmer is faced with the need to obtain credit financing in order to stay in business, and he has done so without hesitation. By the end of 1978, farm debt rose by a record $17 billion to an estimated $135.9 billion. This is a 14-percent increase over the previous year. While farm debt has been growing, figures furnished to the Committee on Agriculture, Nutrition, and Forestry, indicate a tremendous growth in FmHA lending during the past several years. But, even with this expansion, other figures submitted by FmHA indicate that since 1971 the full-time work force of the Agency has not increased substantially, but instead has remained almost constant. Certainly, if FmHA is given more funds with which to extend credit, and is called upon to become more active, more farmers will seek this financing. The burden of an increased caseload will surely follow and strain the ability of this Agency to perform in an effective manner.

The committee heard proof of this when on May 8, 1979, Mr. Alex Mercure, Assistant Secretary for Rural Development, stated USDA's opposition to the increases being considered during a committee markup session. He stated that Farmers Home could not absorb and wisely dispense this much additional funding. The Agency's systems simply could not handle the overload to be expected as a result of increased applicants and the time it will take to process many more loans. All it means, Mr. President, is that we will come back to the floor with a request for increased personnel numbers for FmHA, coupled with an increase in their operating budget. Besides a growth in farm debt, which is frightening enough, we shall witness further growth in the Federal Government bureaucracy.

I hope my colleagues will not get the wrong impression and surmise that I am opposed to farmers obtaining financing for their farms or for expanding their operations. I am not. Growth in agriculture is necessary, and good in fact, since production and export of farm goods is one of the few things we can count on to support our sagging trade balance. I am troubled, however, where farmers are getting their money, and if they will be able to pay it back. Farm loans from the Government, like any other form of credit, must be paid back and farmers are finding it more and more difficult to stay current.

Because our farmers are finding it tough to keep treading water, I fear our offering more and more credit to them only churns the water of the economic ocean in which they swim. We may be guilty of deepening the farm debt and fueling inflation all the more by increasing demand deposits such as we are suggesting in this legislation. Mr. President, all we are doing is adding to the government deficit and fueling the fires of inflation.

This in some way expresses my reason for concern about the specific and questionable spending policy proposed in S. 985. We are boosting these levels far above our committee's recommendations on the fiscal year 1980 budget. In our March 15 report, the Agriculture Committee recommended an increase for farm ownership loan programs of $76 million and an increase in operating loan program authority of $50 million over the President's request. S. 985, as originally proposed by the administration, requested $800 million for farm ownership loans (the same as the estimated fiscal year 1979 level), and $700 million for operating loans ($125 million less than the estimated fiscal year 1979 level). The committee amendment to the bill increased the ownership loan level by $700 million and the operating loan level by $500 million. I hope my colleagues will closely examine the committee report on this bill and note that FmHA indicated it could not predict the credit needs of farmers with any accuracy 2 or 3 years in the future. The agency responsible for administering these programs opposed these massive increases, yet the committee approved the amendment almost doubling FmHA lending levels for these two programs.

I feel this bill pushes Farmers Home too severely. Already, this agency is beginning to acquire a larger share of the farm credit market than ever before, and is displacing Production Credit Associations, banks and other private sector lenders from portions of the market. If economic conditions continue to tighten, the trek to our local FmHA offices will undoubtedly become more crowded. If anything, we should be encouraging our private sector lenders to handle more farm credit needs.

To my way of thinking, the farmer benefits more when he obtains his loan from private sources, rather than from the Government. If he takes out a loan from his local PCA, his repayment can be considered as an additional contribution to growth within his community. The PCA will be able to turn right around and assist someone else in that rural area. Money repaid back to Uncle Sam is accepted just as gratefully, but is swallowed up into the Treasury and later siphoned off to fund perhaps some totally unrelated social program in a different part of the country. Additionally, local bankers and other lenders compete to provide better service and consultation for the farmer, and are more likely to respond to a worried farmer in a pinch than a government employee bound and guided by regulation.

Some of us in this body sense that our national direction in agriculture is beginning to slip into a "cheap" or "unfair" food policy mold which acts to hold down farm prices and keep farmer income within certain levels. This, of course, grates against the very foundation of our free enterprise system, and against agriculture's attempt to struggle free of Government intervention and control. Hopefully, Mr. President, we are not also beginning to mold an "easy money" farm credit framework capable of ensnaring our farmers in a vicious financial circle, in which they will become ever increasingly dependent upon mountains of credit just to stay afloat.

Highly respected agricultural banking economists are greatly disturbed at the recent trends of increasing dependence upon credit by farmers, and are of the view that it is a situation that must be brought under control. So that my colleagues may have the benefit of recent economic analyses of this sort, I ask unanimous consent that two articles addressing this subject be printed following my remarks. One, "Agricultural Banking: Where Will it Be in 1983?" relates how "it is disturbing to find recent increases in (farm) debt far outside previous bounds of its relationship to cash flow and net income."

The Agricultural Letter of the Federal Reserve Bank of Chicago for April provides precise details on how the "growth in farm debt has continued to exceed the growth in farm earning."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AGRICULTURAL BANKING: WHERE WILL IT BE IN 1983?

(Address by Alan R. Tubbs)

In the next five years, agricultural banking will be heavily influenced by fundamental structural changes in both agriculture and banking.

The shape of what is coming has already begun to develop in the last five years. These recent events cast fairly clear shadows before them.

I. Changes in agriculture

The dynamic environment of production agriculture is undergoing rapid shifts. These are largely the result of inflation, as can be seen in the accompanying charts and tables.

The price of capital assets has risen dramatically. Farm real estate has soared, becoming the most talked about inflation hedge. Prices of machinery and equipment, still being substituted for labor, have climbed to previously unbelievable levels.

Also, production expenses—feed, fertilizer, etc.—have added dramatically to the cost of farming operations. They are responsible for a tremendous enlargement in the volume and importance of crop loans.

You can see something of the impact of these developments on the financial condition of agriculture by studying Table 1.

HIGHER AND HIGHER

TABLE 1.—BALANCE SHEET OF U.S. FARMING SECTOR, JAN. 1 OF SELECTED YEARS, AND PROJECTIONS

[Figures in billions]

	1950	1960	1970	1978	[1]1983
ASSETS					
Real estate	$77.6	$137.2	$215.7	$525.8	$977.5
Non-real estate	41.1	54.9	76.3	146.3	236.5
Financial assets	15.8	18.1	42.8	36.2	58.1
Total	134.5	210.2	314.8	708.3	1,272.1
LIABILITIES					
Real estate debt	5.6	12.1	29.1	63.3	107.6
Non-real estate debt	6.8	12.7	23.8	55.5	105.5
Total	12.4	24.8	53.0	118.8	213.1
Net worth	122.1	185.4	261.8	589.5	1,059.0
Debt/asset ratio (percent)	9.3	11.8	16.8	16.8	16.8

[1] Projection based on average increase over last 4 yr.

Source: U.S. Department of Agriculture.

Of particular importance to agricultural banks is the rise in non-real-estate debt over the past decade. It shows no signs of slowing down or reversing; in fact, preliminary figures indicated it reached $137 billion by Jan. 1, 1979, compared with the $55 billion in the table for January, 1978. This raises a question for ag bankers: Can they maintain their 50% market share of non-real-estate credit demand (Table 2) through 1983—particularly if they continue to drop in market share of total deposits, as we shall examine later?

THE DEBT PICTURE

The net worth of agriculture has increased nearly five times since 1950 and nearly two and a half times since 1970. The majority of the increase is, of course, a result of appreciation in real estate values. In fact, since 1960, agricultural asset values increased by $467.9 billion, which was made up of $482.4 billion of capital gains (refers to change in the value of farm physical assets in current dollars) and —$14.5 billion of net investment (that is, disinvestment—farmers actually owned fewer assets but the values were higher).

The increased value of these assets, and accordingly, net worth, has perhaps given the farmer and the lender a false sense of security. For as the assets and equity have risen so has the debt which must be serviced. Agricultural lenders must soon remember that increased debt must ultimately be serviced from income, not from asset or equity appreciation.

Projection of total debt using historical growth rates would indicate that outstanding farm debt in 1983 would total $213 billion. Under current conditions this is a conservative estimate. People knowledgeable in the industry have estimated the total debt to approach the $400 billion level by 1985.

Since 1973 in particular, agriculture has been in a whole new ballgame with regard to asset value and debt in relation to income (Chart 1). The rapid increase in asset values at that point, of course, reflects the inflated real estate value.

The expectation for continued inflation since then has played a major role in pushing real estate values upward, while the role of the income stream has been downplayed and often forgotten. The point is, since 1973, income bears little relation to asset value (or purchase price, which establishes value).

Recent major refinancing of both short and long term debt into longer repayments has often served as a substitute for income and may have delayed the recognition that, at some point, income is still the underlying consideration. This recent round of refinancing has resulted in the increase of the average length of loan maturities from approximately three years in 1973 to nearly eight years today. Restructuring of the current debt into longer maturities, in effect, shifts today's financing burden to future income.

Emanuel Melichar, noted agricultural economist for the Federal Reserve, has said: "It is disturbing . . . to find that the recent increases in debt are far outside previous bounds of their relationship to farm cash flows and net income. The recent ratios of debt financing to income have no precedents in this country." (Chart 2.)

Whether the farm sector will be able to work out of this current unprecedented debt-to-income situation will, of course, depend upon future income prospects. Evidently as U.S. agriculture took on this additional debt, it was collectively felt that future increases in income were in sight. Hopefully they are. The future of country banks depends on it.

The conditions outlined above should say something about the manner in which agricultural lenders will operate between now and 1983. Recognition must be given to the fact that more debt or extended terms are not the ultimate solution, and more emphasis must be given to the outlook for total income and total cash flows.

Agricultural lenders will, in the next five years, have something to say about how rapidly capital investment is made and to what extent future income is borrowed upon. The ability of farmers to purchase land is to a large degree dependent upon their ability to generate the cash downpayment. To the extent that the downpayments are financed by the short term lender, agricultural bankers will influence the number of buyers and in turn the future price of land.

Perhaps lenders should take a more critical look and base future loan decisions on the basis of narrowing the disparity between farm income and debt, instead of widening the gap as liberal financing of downpayments will certainly do.

CAN BANKS HOLD THEIR 50% OF AG LENDING?

TABLE 2.—PERCENTAGE OF NON-REAL-ESTATE FARM LOANS HELD BY MAJOR LENDERS, JAN. 1 OF SELECTED YEARS

	Banks	PCA's	FICB	FmHA	Individuals, etc.
1968	44.6	16.9	0.8	3.8	33.9
1973	51.5	23.8	.9	2.8	21.0
1977	51.7	27.1	.8	4.2	16.2
1978	50.4	26.5	.7	6.2	16.2

Source: Federal Reserve Board.

An aside on a positive note: Today's farmers are getting more income help from off-farm sources than ever before. Almost 58% of income of farmers was obtained from nonfarm sources in 1976–77. This obviously is a big plus to cash flows, and has no doubt been a contributing factor to the widening gap between farm income and debt.

GOVERNMENT'S ROLE

Over the past decade, agriculture, as well as all other sectors of the economy, has experienced increased government involvement from the standpoint of control as well as in the way of subsidies. It appears this involvement will continue, and by 1983 government may be an even bigger factor.

Within the last two years, acreage set-aside and grain-reserve programs have been reinstituted. Substantial new government financial-help programs were introduced in the Farm Credit Act of 1978. These programs will be a great relief to those who have found out too late that they paid too much for land, or made excessive capital improvements. But these programs might also open the possibility for too many potential buyers on easier terms, further raising prices.

All things considered, however, agriculture has been and will continue to be an excellent place to invest deposit funds. Agriculture is America's single largest industry, with assets totaling $708 billion, equivalent to approximately 60% of all capital assets of manufacturing corporations in the U.S. All phases of agriculture still employ the largest number of people of all industries, and agriculture is the country's most important creator of new wealth. America's farmers have the largest equity base in terms of total dollars, while as a group are extremely low-leveraged.

A strong farm loan program is a means of preserving deposits for the commercial banking system. After all, deposits generated locally should be invested locally. Rural communities depend on it. The future of banking depends upon it.

II. Changes in banking

The most important change in the banking environment is the new freedom—indeed, advantage—of other depository institutions to invade banking's territory. This is evidenced by the competitive situation faced by rural banks.

Many have watched, without any defense, as a savings and loan office moved into their community, absorbed substantial savings deposits and funneled much of the deposits off to its larger home office community. Here are two examples of this:

Pioneer Federal Savings & Loan Association of Mason City, Ia., opened a branch in Osage, Ia. From July 1974 to March 31, 1977, the Osage branch office made loans of $3,136,000 and increased deposits by $5,975,000.

In Grundy Center, Ia., the branch office of United Federal Savings & Loan Association of Des Moines was established in October 1972 and up to March 31, 1977 had made loans of $502,700 while taking in deposits of $3,807,000. If this pattern is to continue, it will impact heavily on rural banks' ability to service agriculture between now and 1983.

The credit union story is similar. They, too, are siphoning off sizeable deposits into institutions characterized by extreme ease of charter and minimal capital requirements. They are attempting to offer, with little control or regulation, services traditionally limited to full service banks.

Figures from the regulatory agencies show that bank's market share has dropped alarmingly, while S&Ls' and credit unions' had increased significantly. During the period from 1950 to 1977, banks' market share dropped 24.2%, while S&Ls' share increased by 21.3%, and credit unions' share increased 2.9%. If the past two years' annual percentage growth rate is anything to go by, banks' market share by 1983 will have dropped to 58%, whie S&Ls' will have increased to 36%, and credit unions will have moved up to 5.3% of the deposit market. Although these are simple extrapolations of past trends, they should prove alarming to those involved in the banking industry. If banks continue to stand by and are unable to check the trend, these calculations could prove to be conservative.

HIGHER COSTS

Because of the intense competition for funds, the inflationary economy, the adaption of new technology, and legislative changes, the future of banking will also be characterized by higher costs.

Last Nov. 1—with the advent of automatic transfer from savings to checking accounts—was a significant date on the way toward paying interest on 100% of a bank's deposits. The trend will continue, although it may not be complete by 1983.

Then, on Nov. 2, the Treasury began requiring that banks pay interest (at rates linked to Federal funds) on Tax & Loan deposits held longer than overnight.

It is clear that higher costs of funds will be incurred by banks as regulators promote freer competition for deposits among all depository institutions.

Rural banks, like their regional and city counterparts, are experiencing the new phenomenon of having a portion of their money supply tied to the money markets. Historically, rural banks' cost of funds has been a function of the Reg Q ceiling rates and the relative mix of the various rates and maturities offered. In periods when money market rates exceeded Reg Q ceilings and to the extent that rural savers have invested at home, rural borrowers have enjoyed subsidized rates.

Since June, the option has been available to offer an instrument whose rate is tied to the money market. Many smaller banks are seeing money move from passbook savings at 5% to the new six-month money market certificate currently paying over 9%. As the amounts of these transfers and new deposits become significant, rural banks' average costs of funds will take unprecedented jumps.

This may only be the tip of the iceberg. If future legislation should continue to remove or phase out ceiling rates and allow more open competition based upon interest rates alone, country banks will be forced to pay the current rates in order to attract and hold the deposits. As depositors become more sophisticated and aware of money market alternatives and as EFT improves rapid mobility of funds, the local bank will no longer be the only investment alternative available.

On the plus side, should this kind of open competition evolve in the next five years, country banks, if desired, could more easily generate the funds to service agriculture. The money would be available as long as the bank and the customer are willing to bid for it in the market. This would, of course, present some additional growth problems to the bank, and many other considerations would have to be addressed before a bank could attract unlimited funds in order to serve its area's agriculture. However, the ability to resort to nonlocal funds would provide added liquidity permitting agricultural banks higher loan ratios now considered acceptable only at generally larger "nonagricultural" banks.

If ceiling rates remain in effect, with the exception of the new six-month certificate, and assuming continued strong rural and agricultural credit demand, country banks will find it difficult to maintain their current position as the primary lender to agriculture. Alternative sources of funds will need to be seriously investigated. These should include access to the money market.

One possibility currently available is participation with the Production Credit Association. This participation route has been streamlined, modified, and is a workable alternative. If the rural banker and PCA official can achieve a high level of confidence, as a number already have, within a few years this arrangement could mean the difference between a bank remaining a strong agricultural lender or letting the business get away to a stronger, more capable (and perhaps nonbank) lender.

Other methods to achieve access to money market funds are also under scrutiny. Bank of America, for example, has this past year worked on acquiring short term funds for use in agricultural participations.

Whatever, the method, by 1983 agricultural borrowers will be paying the going market rates, for bank credit, and this will require country bankers to reeducate agricultural borrowers to the true cost of money. This represents a *major challenge* to agricultural bankers in the coming years.

[From the Agricultural Letter, Apr. 6, 1979]

Farm debt has grown much faster in the seventies than in previous decades. Latest estimates from the USDA indicate that farm debt (excluding CCC loans) has grown at a compound annual rate of 11.3 percent during the nine years of this decade. That is substantially more than the annual growth rate of 8 percent in both the fifties and the sixties. The faster growth has already boosted farm debt to $131 billion, up from $48 billion ten years ago and only $21 billion twenty years ago. And if the stepped-up growth rate of the seventies persists through the next two decades, farm debt will surpass the trillion dollar mark before the year 2000.

The pick-up in farm lending is evident in both real estate and nonreal estate farm debt. So far this decade, nonreal estate farm debt (excluding CCC loans) has grown at an annual rate of 12.0 percent. That compares with annual growth rates of 6.3 percent in the sixties and 8.4 percent in the fifties. Farm real estate debt, which grew at annual rates of 8.0 percent in the fifties and 9.2 percent in the sixties, has grown at an annual rate of 10.7 percent so far in the seventies. Nonreal estate debt has grown faster this decade than real estate debt despite the sharply higher credit requirements to finance farm real estate transfers and despite efforts to restructure farm debt by replacing short-term obligations with longer-term mortgage financing.

All major lenders except life insurance companies have recorded faster growth during the seventies. Since the beginning of this decade, farm debt held by the farm credit system (primarily FLBs and PCAs) has risen at an annual rate of 15.0 percent, up from 11.6 percent in the sixties. The farm credit system now accounts for over 30 percent of the outstanding farm debt. At banks, which hold nearly 28 percent of the total debt, farm loans have grown at an annual rate of 11.2 percent this decade, as against 8.1 percent in the sixties. Farm loans held by individuals and others—a broad category of lenders that now account for 27 percent of total farm debt—have grown at an annual rate of 8.8 percent this decade. The remaining farm debt is about equally divided between life insurance companies and the Farmers Home Administration. Outstandings at the FmHA have risen at an annual rate of 13.8 percent so far this decade, while outstandings at life insurance companies—slowed by a brief downturn early in the decade—have grown at a rate of 6.2 percent.

Comparisons between the higher level of farm debt with various measures that partially describe the quality of farm debt are mixed. On the one hand, the value of farm assets (measured in current dollars) has about matched the stepped-up growth in farm debt. Consequently, the debt-to-asset ratio for agriculture—currently 17.1 percent—is only slightly above the level of the early seventies, although it is the highest since the early forties.

On the other hand, the growth in farm debt has continued to exceed the growth in farm earnings. Debt exceeded net farm income by a margin of nearly 4.7 to 1 last year, despite a near record for net farm income. Except for the two previous years, that was the highest ratio in modern times. Moreover, farm debt now exceeds annual cash receipts from farm marketings by a substantial margin. During the late sixties and early seventies, debt was about equal to cash receipts, and during the early sixties debt was 25 to 30 percent below cash receipts.

The relationship between debt and cash receipts is even more startling compared with what appears to be a very high annual debt service requirement. Based on evidence of collections and renewals at PCAs and FLBs and the assumption that relationships are similar for other lenders, it would appear that the "scheduled" principle and interest repayment on farm debt this year might be around $100 billion, or equivalent to about 90 percent of all cash receipts from farm marketings last year. Of course, much of this debt service requirement will be met by loan renewals and extensions rather than actual paydown. Nevertheless, it serves to point out that the expanded debt levels entail a substantial cash flow obligation for farmers. And in many cases, nonfarm earnings are probably used to help meet debt service requirements.

The implications of the higher debt levels, particularly with respect to agricultural earnings, are not clear. Some have suggested that the debt load in agriculture is too heavy. Clearly, the problems that developed in late 1977, when falling commodity prices resulted in a cash flow squeeze for farmers, adds some credence to that argument. But judgments as to whether the debt load is too heavy rests more appropriately in the cumulative decisions between individual lenders and borrowers rather than in an aggregate view of the agricultural sector. And that judgment will largely hinge on future earnings prospects of individual farmers from both farm and nonfarm sources.

Apart from the concern that farm debt may be too heavy, it seems clear that agriculture has become increasingly dependent on debt capital. If agriculture continues to have recurring cycles of boom and bust, the impacts on lenders will be more apparent than in the past.—Gary L. Benjamin, Agricultural Economist.

AGRICULTURE UNDER GAS RATIONING

Mr. HELMS. Mr. President, Congress for far too long has failed to encourage the domestic production of the oil this Nation so desperately needs. As a result, the United States is now dependent upon foreign sources for 45 percent of our gasoline supplies. As those foreign sources of supply have become less and less dependable, and the costs increasingly burdensome, the American people face a severe gasoline supply shortage.

Because of the tremendous time it takes to locate, produce, and refine additional supplies of oil, the Department of Energy now warns that we can expect spot shortages and dislocations in the supply of gasoline for the indefinite future.

Not surprisingly, there has been considerable national attention focused on the various aspects of standby gasoline rationing plans sent to the Congress by the President.

But rationing of necessary commodities is not a sensible option as long as there are other alternatives. Rationing will never work in a manner acceptable to the American people. World War II rationing was frought with corruption and confusion—and inequities. I, for one, hope we never see the day when it is imposed upon the people of this land.

It will be a tremendous mistake, resulting in unnecessary disruption of the economy in the years ahead—if the emphasis is placed on conservation instead of increased production of oil and the development of new sources of energy. To follow that course would be an exercise in futility, and highly destructive to the Nation.

If rationing is ever imposed on our people, it should be done only in the gravest national emergency as a short-term measure.

Recently the House of Representatives wisely voted to reject the latest of three versions of the standby gasoline rationing plan proposed by President Carter.

In my view, the fatal defeat of the President's standby gasoline rationing plan was its inadequate attention to the essential fuel needs of agriculture and its related industries. On April 30, the Rural Development Subcommittee of the Senate Committee on Agriculture, Nutrition, and Forestry held a hearing, at which Energy Secretary Schlesinger, among others, testified. It was clearly established at the hearing that the Carter plan was simplistic and totally unrealistic in light of how food and fiber is produced and distributed in this country. The subsequent changes in the plan all attempted to address this shortcoming, but never succeeded.

Because it is widely speculated that additional efforts will be made to come forth with yet another standby gasoline rationing plan, I feel obliged to spell out in specific detail the agricultural objections I raised to the previous plans, and to offer recommendations as to what must be included—at the very minimum—in a future plan for it to be in the least bit acceptable.

As ranking minority member of the Senate Agriculture Committee, I intend to insure that the energy needs of farmers and citizens of rural America are provided for in any standby plan the Congress may be asked to approve.

The President's plan was unlike every fuel contingency plan our Nation has had during and since World War II—it did not recognize agriculture as a clear priority for allocation of fuel. Rather than providing fuel rights to "agriculture and its related industries," the President's plan provided for off-highway vehicles used by farmers only. And, rather than providing fuel rights for "100 percent of current need" that plan provided for the establishment of vague "production goals" which were to serve as a means of controlling production and, thereby, fuel consumption needs in agriculture.

NO AGRICULTURE PRIORITY

In addressing the first flaw, I should point out that the food and fiber cycle of this Nation is a long and complex system that is very sensitive to even slight disruptions in gasoline or diesel supply. Off-highway farm vehicles are just one link in this vital chain. USDA statistics show that two-thirds of the gasoline farmers require in the production of food and fiber is used in on-highway vehicles, which were not provided for in any of the Carter plans. Farmers must be able to transport needed supplies to their farms. Supplies such as feed, seed, fertilizer, machinery parts, veterinary medicine, and the like are essential to agricultural productivity. Also, on-highway vehicles are needed as transportation for checking and hauling livestock and for transporting harvested crops to local markets.

On-highway farm vehicles require a priority status to operate for three reasons. First, the jobs farm vehicles perform dictate that most of these vehicles be one-half or three-quarter ton pickup trucks. Especially when hauling heavy loads, these vehicles have poor gasoline mileage. Second, the very nature of farming in many parts of America can require that long distances be traveled back and forth. Third, these vehicles often serve a dual role, acting as both a family car and business truck. This sort of "doubling up" has made the family farm more economical, and food and farm products less expensive for consumers. It should not be penalized.

Farmers are only one part of the immense agricultural chain. Fuel must also be provided for activities such as transporting milk from the farms to processing plants, handling raw and processed agricultural products, and in transporting food to retail outlets. A shortage at any point in this complex system would have disastrous results.

A good example of the countless exceptions that would arise under any plan that does not provide for agriculture and its related industries is custom pesticide applicators. These small businessmen are like most custom service operators. Many of them are farmers working to supplement their farm incomes while providing other farmers specialized services which require expensive equipment or unusual skills. They play a very important role in agricultural production. For example, custom pesticide applicators annually apply over 27 percent of agricultural pesticides, according to the USDA. My colleagues from the Great Plains, are well aware of a second example, custom combine operators. These hardworking men and women typically spend each summer traveling from Texas to the Canadian border as the wheat of that area ripens. USDA tells us custom combine operators usually harvest and haul to local markets approximately 35 percent of the wheat produced in the Great Plains. In that business, a day's delay can mean the difference between a bumper crop and a total loss. The absence of custom combiners would have a devastating impact upon wheat production, farm income, and food supplies.

We must acknowledge that any plan that does not grant agriculture and its related industries a distinct and specific priority works to evolve a fuel shortage in that sector. Though there is no study that projects the impacts upon agriculture of fuel supply constraints, it is not difficult to envision the consequences. In this regard, my colleagues should be aware of the following facts:

First, at the Agriculture Committee hearing on President Carter's proposed plan the American Bakers Association testified that if the plan were implemented, bakers would be forced to stop delivery to rural areas because these routes have low consumption levels in relation to distance traveled.

Second, panic buying is a common characteristic of any situation in which food supply constraints arise. In Boston and other major cities heavy snowfalls have spurred panic buying. As a result, prices doubled for products such as milk and bread; spot shortages quickly followed.

Third, a USDA study that does not even anticipate panic buying shows that just a 10-percent constraint upon food supplies would result in a 21-percent cost increase.

Fourth, many agricultural products are perishable even after processing. With many items, a few days delay would easily result in mass spoilage. These factors make clear to me that gasoline supply constraints would result in spot food shortages and incredible food price increases. I shudder to think of the effect doubled food prices would have on those living on fixed incomes.

THE FLAW OF PRODUCTION GOALS

Mr. President, the second basic flaw in President Carter's plan was the dependence upon the development of agricultural production goals. By adopting specific production goals, gasoline rights would supposedly be provided in amounts sufficient to provide for necessary agricultural production without investing scarce fuel in producing a crop surplus.

This approach would not work. Since the nature of any fuel shortage requires implementation of a rationing plan on short notice, we may be sure that implementation would not coincide with the beginning of most crop cycles. In other words, production goals would probably be set after a crop is planted and growing. Thus, we would find ourselves in a situation where ripened crops cannot be harvested because production goal levels are lower than actual production levels. We must remember that the agricultural production process is irreversible. It cannot be suspended and restarted. Once planted, crops continue to grow whether or not gasoline is allocated for their production. If energy is not invested in sufficient quantities to meet the need, ripened crops will be wasted and farmers ruined.

Even if production goals were only applied to crops for which the crop year began under the rationing plan, the concept of production goals would prove faulty. Production levels cannot be manipulated at will. Good weather can produce a bumper crop and require more energy for harvesting and processing than during a base period or average year. For example, farmers planted some 10 percent fewer acres of corn in 1978 than they did in 1977. Though 10 percent fewer acres were planted, more gasoline was required because 10 percent more grain was produced. Activities that reduce acres planted only change the potential maximum and minimum crop yields. Tampering with agricultural production is a reckless way to attempt to allocate fuel. Production goals maximize the potential for food shortages, with no assurances of fuel savings.

The development of agricultural production goals is not in keeping with efforts to prevent a Federal bureaucracy from springing up around a rationing plan. Overall national production goals would have to be translated into production goals for individual farmers and then further translated into specific fuel requirements for each individual farmer. So that these fuel rights allotments for farmers reflect actual need, bureaucrats must make an accounting of differing production norms between areas. Differences of 100 percent are not uncommon. Also, factors such as weather changes must be considered since bad weather can, for example, require a crop to be replanted two or three times while good weather will permit maximum production with one planting. It is not difficult to see what a bureaucratic mess would surely arise out of an attempt to implement a rationing plan with production goals.

Finally, limiting gasoline rights to production goals rather than meeting current need would necessitate special requests for supplemental fuel rights. The delays that are inevitable with requests for supplemental requests cannot be endured in the agricultural sector. To demonstrate my point, I would like to quote Dr. Weldon Barton, Director of USDA's Office of Energy. In comments submitted to the Department of Energy, Dr. Barton stated:

> It is imperative that the required amount of fuel be available when it is needed. For example, failure to get a crop planted within the optimum planting dates can have a depressing effect on yields. In the Central Corn Belt, corn yields per acre show an average decrease of a bushel a day for each day's delay in planting between May 15 and June 1. After June 1, the yield falls 2 bushels per day. A 10 day delay in gasoline supply to corn farmers could reduce the nation's corn crop by as much as 10 percent. Yet, the energy required to produce the crop would remain virtually the same.
>
> Failure to get a crop harvested at the proper time also results in lower yields and lower quality because field losses mount rapidly as crops become over mature. Field losses for many grain crops average 5 percent a week; but in wheat, a one week delay in harvesting can result in losses of 30 to 100 percent, depending upon the weather. Losses of similar magnitude occur with strawberries and other fresh fruits an vegetables.

Dr. Barton's very conservative estimates point out production problems that would result from delays. Obviously, spoilage would be another problem that would result from delays experienced at any point in the system.

In conclusion, Mr. President, any standby gasoline or diesel rationing plan this Congress adopts should assure agriculture and its related industries a fuel supply sufficient to meet 100 percent of current needs—anything less flirts with the disaster of food shortages. I believe that I speak for all my colleagues on the Senate Agriculture Committee in making these points and in promising very close scrutiny of any rationing plan considered by this body.

THE ILLINOIS BRICK CASE

Mr. DANFORTH. Mr. President, 2 years ago the Supreme Court issued a decision which turned antitrust enforcement in this country on its head. In the case of Illinois Brick against State of Illinois, commonly known as the Illinois Brick case, the Court decided that indirect parties, that is purchasers and sellers of goods and service, do not have the right to sue and seek damages for violations of Federal antitrust laws.

The effect of this decision was, for all intents and purposes, to eliminate private antitrust enforcement. Why is this so?

Indirect purchasers of goods and services are such parties as consumers and retailers, who do not directly purchase goods and services from a party accused of price fixing or restraint of trade under Federal antitrust laws. Yet, indirect purchasers are those parties most likely to be injured by antitrust violations. They are the ones who end up paying the increased prices attributable to antitrust violations.

Direct purchasers, by contrast, escape paying the increased price attributable to the illegal activity because they are able to pass on higher costs to the ultimate consumer. Not only have they not been injured, but also they are typically reluctant to bring suit because they are dependent on a good relationship with their suppliers for future business survival.

That is the fundamental problem with the Illinois Brick decision: by limiting the right to sue to direct purchasers, the court has denied legal rights to parties most likely to be injured, and preserved them for parties least likely to be injured—and least likely to file suit in antitrust cases.

How could the Court make a decision which on its face seems so patently unfair? It felt it had no choice. On the basis of a 1968 decision (Hanover Shoe against United Shoe Manufacturing Corporation) and stated reasons relating to complicated proof of damages, protracted litigation, et cetera, the Court felt compelled to rule as it did. However, in its decision the Court recognized that the decision might very well conflict with the intent of Federal statutes. Therefore it invited the Congress to clarify its intent.

Last year we attempted to do just that. Senator KENNEDY and I coauthored a bill (S. 1874) which would have overturned both the Illinois Brick decision and the Hanover Shoe decision. (In Hanover Shoe, the Court ruled that a party in an antitrust lawsuit could not use a so-called pass-on defense—that is, proof that purchasers passed on overcharges to their customers and therefore were not injured.) Taken together, this bill would have returned antitrust law enforcement to its pre-1968 status. Unfortunately, S. 1874 died at the end of the 95th Congress when faced with a filibuster in the Senate.

This year we are going to try again. The Senate Judiciary Committee recently reported a bill which is similar to last year's bill, with several important additions. The bill, as reported, would do the following:

First. Overturn Illinois Brick and reinstate the rights of indirect parties to seek damages for injury under Federal antitrust laws;

Second. Overturn Hanover Shoe by permitting parties in antitrust cases to use the "pass-on" defense, thus protecting defendants from duplicative recovery;

Third. Overturn the Supreme Court's 1978 decision in Pfizer Inc. against Government of India, the effect of which would be to limit foreign governments to recover no more than actual (as opposed to treble) damages under U.S. antitrust law, and only if those governments had laws guaranteeing similar rights to the U.S. Government;

Fourth. Authorize the Federal courts to set the amount of plaintiff's attorney's fees in class action cases and Government suits;

Fifth. Allow the Federal courts to award a reasonable attorney's fee to a prevailing defendant in vexatious cases; and

Sixth. Apply to all litigation pending at the time of enactment (except in the case of utilizing the pass-on defense).

The concept of the bill is simple. It would restore full legal rights to all parties harmed by violations of Federal antitrust laws. Its importance is a matter of fairness. I am amazed by the parade of lobbyists coming into my office telling me that this proposal would unfairly expose business to spurious, lengthy litigation generated by unscrupulous lawyers and professional troublemakers. They tell me they cannot defend themselves against the open door this bill would allegedly create. They tell me that the laws are strong enough without this bill. They tell me that the old law forced them into multi-million dollar out-of-court settlements of protracted, expensive cases. I say this is nonsense.

I refuse to believe that a company will pay out millions of dollars when it is innocent. If it does, its management should be replaced. Of course there will be some spurious lawsuits. But it seems to me that the way to combat them is to stand up and fight. U.S. industry did not become the major force in the world's economy by backing down in the face of adversity. Business should show its will—win some cases—and I am sure that the spurious suits will dry up.

If there are still problems with the bill, business should make its case for how best to amend it. But the business community has gotten greedy in this matter. Handed a windfall opportunity by an unexpected Supreme Court decision in 1977, the business community today is fighting tooth and nail against a bill they would have welcomed with open arms prior to 1977.

I consider myself to be a good friend of American business. I think it is the cornerstone of our economy, and in many ways, of our society. My record will show this plainly—too plainly for some of my critics.

But business is wrong this time around. Simple equity demands that Illinois Brick be overturned. To deny injured parties the right to sue for damages in antitrust cases is to deny our belief in equal justice under the law. That is what is at stake in this bill.

Let me tell you what else is at stake—the outcome of at least a dozen currently pending major antitrust cases, all of them brought by States against companies accused of price fixing. The States have filed suit in their own name as purchasers of products, as class representatives for political subdivisions within the State, or as parens patriae for consumer purchasers. Every one of these cases is subject to dismissal, in whole or in part, based on the Illinois Brick decision. Taken alone, they make a compelling case for speedy passage of S. 300.

The major cases are described below:

First. Cement antitrust litigation. Ten States have filed suit against 45 manufacturers of cement and cement products. Damages for plaintiffs could be as much as $200 million, but a substantial amount of these claims for damages are in jeopardy of being dismissed because some of the plaintiffs are indirect purchasers. Furthermore, a number of States have decided not to file in the cement litigation because of Illinois Brick.

Second. Fine paper antitrust litigation. Twenty-five States alleging damages of over $50 million have filed suit in this matter against 17 paper companies. Many of the transactions were made through so-called merchant houses and not directly from paper manufacturers. Thus, unless it can be shown that the merchant house participated in the conspiracy to fix prices, the States claim for damages is subject to dismissal. As in the case of cement, numerous States have decided not to join this litigation because of Illinois Brick.

Third. Ampicillin antitrust litigation. Thirty States have sued three pharmaceutical firms for violations of the antitrust laws, alleging damages of $10 to $20 million. Consumer classes have already been decertified in the litigation as a result of Illinois Brick. The majority of transactions for which damages are sought are indirect drug purchases made by consumers who were reimbursed by medicaid and medicare.

Fourth. Western sugar litigation.

Twelve States have filed suit against 11 sugar companies in this case. Damages are estimated to be at least $6 million. Nevertheless, on the brink of being thrown out of court by a motion to dismiss under the Illinois Brick rule, 10 of the plaintiff States recently settled for approximately $1 million. Had legislation been in effect reversing Illinois Brick, those plaintiffs almost certainly would have pursued this case further.

Fifth. Eastern sugar litigation.

Several States have alleged a price-fixing conspiracy against 14 sugar companies. The Court has already dismissed all plaintiff States representing indirect purchasers. Settlements have been reached with most of the defendants in the case, once again at a level substantially lower than could have been the case prior to Illinois Brick.

Sixth. Wiring devices litigation.

This case was brought against nine electrical manufacturing companies. The claims of the relatively few States which have been filed in this litigation are subject to dismissal because the vast majority of them relate to indirect purchases. Again, numerous States have not filed in the case because of Illinois Brick.

Seventh. Plywood antitrust litigation.

Several States have filed in this litigation against eight lumber companies. A judgment on liability has already been reached, but the vast majority of State purchases are indirect and therefore subject to dismissal. Only direct purchasers have been certified in this litigation. Damage estimates are unknown but are believed to be in the millions.

Eighth. Steel rebar litigation.

There are antitrust claims against numerous manufacturers of steel rebar which are subject to dismissal. The States of Washington and Oregon have alleged damages in excess of $25 million against three steel companies. But again these claims will most likely be dismissed if Illinois Brick is not overturned. Indirect purchasers in Texas have already been dismissed.

Ninth. Chicken broiler litigation.

Numerous States have filed against a marketing association and corporate distributors of broiler chickens. A settlement has been reached in the litigation. However, Illinois Brick will reduce the percentage of the settlement awarded to the States from 15 to 9 percent of the total damages assessed.

Tenth. Fertilizer Antitrust Litigation.

Five States have sued several companies for damages estimated at more than $50 million. Because many of the purchases in this litigation were indirect, there are motions pending to dismiss them all.

Eleventh. Anthracite Coal Litigation.

Purchases by the very few States which are in this litigation are direct. However several class members in this litigation have only indirect purchases and therefore cannot recover. The court already has denied certification of the governmental class because the vast number of local governmental purchases were indirect. For example, in New York, less than 100 of 2,500 political subdivisions purchase coal directly.

Twelfth. Refined Petroleum Products Antitrust Litigation.

Six States have sued by class action and as parens patriae for hundreds of millions of dollars due to price-fixing by major oil companies. A substantial number of the purchases in this case may be viewed as indirect and therefore may be subject to dismissal.

I am not passing judgment on the merits of these cases. That is up to the courts and the parties involved. I cite them to illustrate the significance and the scope of the problem we are talking about. These examples may be only the tip of the iceberg.

I do not know how these cases would come out if they were not dismissed. That is not the issue. The important thing is that they be heard and decided on their legal merits. Our laws must insure fair play. When the interests of producers take precedence over the rights of consumers—as is clearly the case with Illinois Brick—then faith in the free market system itself is undermined. We cannot permit that to happen.

Continued public trust in government and in business requires that the Illinois Brick decision be overturned as soon as possible.

I strongly believe that a failure to overturn the Illinois Brick decision would do serious damage to public trust in government, our system of justice, and the free enterprise system.

THE CASE FOR ENERGY CONSERVATION

Mr. PERCY. Mr. President, I wish to commend my colleagues for voting last Tuesday to pass S. 1030, the Emergency Energy Conservation Act. The bill gives the President and Governors of States the authority to act decisively in the event of a serious energy shortage. Such authority is desperately needed, especially in view of Congress shameful failure to grant emergency gasoline rationing authority to the President. I hope that my colleagues in the House will consider and pass the bill promptly.

While there is a clear need for emergency conservation measures such as those provided for by S. 1030, our Nation must also work to use energy more efficiently before we are crippled by supply shortages. The sad truth is that this Nation is consuming staggering amounts of petroleum.

This spring, Americans are consuming gasoline at a rate 4 percent higher than they were a year ago. Each person in America consumes an average, directly and indirectly, more than his body weight in petroleum every 4 days. About one-half of this oil is imported, and will cost almost $60 billion this year—more than 30 percent over last year's level.

These figures have ominous economic and national security implications. It is vital therefore that we break America's addiction to petroleum and other forms of energy. The fact is that energy conservation would help us to do that, with a minimum of economic disruption. Recent research and analysis, backed up by a growing wealth of actual experience, has shown that the economy can double its present size by the year 2010 while energy use in that year can be held to a level no higher than today's.

Although the evidence for this statement is massive and irrefutable, the political leadership of this country has consistently ignored the potential of conservation. Conservation is still seen—like solar energy—to be only of minor relevance to solving our energy problem. Nothing could be more dangerously wrong.

I use the word "dangerously" advisedly because unless we realize the huge potential for conservation as a new and enormous energy source, we will continue to over-promote environmentally damaging and heavily capital intensive technologies like nuclear power which do not even give us the liquid fuels we really need.

Energy conservation is usually discussed at times like the oil embargo of 1973–74 and in recent months because of shortages and sharply rising prices. As a result, most people equate conservation with curtailment. But defining conservation as curtailment does not tell the full story.

Conservation means changing technology and procedures to reduce the demand for energy without corresponding reductions in living standards. Conservation, in its proper sense, involves changes in resource use or preference that, in the eyes of the people conserving, maximizes well-being. It is an act of enlightened self-interest.

Whoever persuaded the President, back in April 1977 when he announced conservation as the cornerstone of his National Energy Plan, to go on national television to sell energy efficiency on the basis of "sacrifice" instead of "benefits", on the basis of "discomfort" instead of "more jobs", should be fired. Installing home insulation—a singularly profitable exercise—is hardly a sacrifice. Confusing a sacrifice with a benefit has had disastrous consequences in terms of giving this country a sane, safe and economic energy policy.

Over the next 50 years, modifications in energy-consuming equipment can yield substantial savings in energy and money because energy use in the United States is so inefficient. Dr. John Gibbons, the new Director of the Office of Technology Assessment, has given the following typical example of this inefficiency. In a typical gas-heated home, 25 percent of the energy in the gas goes uselessly up the stack during combustion. The pilot light consumes another 10 percent. Losses through poorly insulated heating ducts can amount to 40 percent. Altogether, from 35 to 55 percent of the useful energy in the natural gas can be wasted in a typical gas furnace system.

The situation is similar in homes heated by oil and electricity. In addition to the inefficiency of delivery of heat into the residence, there are two other major sources of energy loss. First, home insulation is frequently inadequate. Second, the heat produced by these furnaces (above 1,000° F) is vastly greater than is required, thereby incurring further losses.

Industry has generally received good marks for its conservation efforts, but there is vast untapped potential even in this cost-conscious sector of the economy. Last year, the Wall Street Journal reported the following three stories about energy saving investments in industry:

One company invested $30,000 in boiler controls: savings from this investment equal $60,000 per year, a 200-percent annual rate of return.

A tire manufacturer spent $40,000 to insulate steam valves: Savings amount to $80,000 per year, another 200 percent per year rate of return.

General Electric invested $13,000 at one of its plants to shut down certain equipment automatically: Annual savings are $51,000.

A critical component of a sane conservation policy is price. A regulatory policy which keeps the price of fuel artificially below the cost of replacing it only subsidizes excessive consumption, inhibits exploration and development, and undervalues energy-saving technology. Higher prices are a part of the solution to the Nation's energy problem, rather than part of the problem. Serious conservation cannot be achieved without permitting domestic prices to reflect the higher costs of energy production. The price must also incorporate the social and environmental costs of energy production. Other market distortions, such as Government regulations and incentives that subsidize energy production (e.g. tax advantages and loan guarantees) must be reexamined. Only when all the costs of energy production are included in the price of energy—or, as economists say, internalized—will price signals indicate the need to induce high energy efficiency.

The key point is that this country has a vast energy resource to tap—conservation energy—which can be "mined" by increasing energy utilization efficiencies. These savings are made possible, and economically rational, by the intelligent response of advanced technology to high and rising energy prices.

Numerous studies have now confirmed that the economic well-being of the United States can be maintained while energy growth is diminished. Several years ago, I said that energy and the production of goods and services are not linked in a one-to-one ratio. We now know that to be a fact, and yet many people adhere slavishly to the myth that the more energy we consume the better off we are.

The United States can prosper and flourish economically on much less energy than is commonly supposed. The means are available to obtain far more consumer goods and services out of each unit of fuel that we use. Automobile users can economically reduce fuel costs by 50 percent or more by selecting cars with efficient designs. Improved housing construction can save the homeowner several dollars for every dollar judiciously invested in making the house more energy efficient. Industrial waste heat recovery systems can often provide a 30 to 50 percent per year return on investment.

The technology to greatly increase the productivity of our energy system is both available and economic. We can fuel the future growth of our economy in large part by increasing the productivity of the energy we now use rather than by greatly increasing production of new energy sources. The advantages in terms of capital needs, foreign oil dependence, fossil fuel depletion, radiation hazards, nuclear waste disposal, and other problems are immeasurable.

Achieving low energy growth will not be easy or cheap, but it will be far easier and less costly than achieving high energy growth. The fact that we can maintain a healthy economy without massive increases in energy means that we can choose an energy future which greatly reduces the international, environmental, and political tensions and risks which we face over the next 50 years as oil becomes increasingly more costly and scarce.

By passing S. 1030 the Energy Conservation Act this week the Senate enables the President and 50 Governors to more fully implement the goals of the Alliance to Save Energy, founded by our former beloved colleague Senator Hubert Humphrey, former Secretary of HUD Carla Hills, and myself several years ago in anticipation of the energy crisis that is now upon us. Its goals must become the goals of all Americans.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of George Herbert Patrick Bursley, of Maryland, to be a Member of the National Transportation Safety Board, which was referred to the Committee on Commerce, Science, and Transportation.

MESSAGES FROM THE HOUSE

At 10:23 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 4015. An act to amend title 38, United States Code, to establish demonstration centers of geriatric research, education, and clinical operations within the Veterans' Administration.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 199. An act to amend the Shipping Act, 1916, to strengthen the provisions prohibiting rebating practices in the United States foreign trades.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

HOUSE BILL REFERRED

The following bill was read twice by title and referred as indicated:

H.R. 4015. An act to amend title 38, United States Code, to establish demonstration centers of geriatric research, education, and clinical operations within the Veterans' Administration.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 7, 1979, he presented to the President of the United States the following enrolled bills:

S. 348. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ben Abruzzo, Maxie Anderson, and Larry Newman;

S. 613. An act authorizing the President of the United States to present a gold medal to the widow of Hubert H. Humphrey; and

S. 199. An act to amend the Shipping Act, 1916, to strengthen the provisions prohibiting rebating practices in the United States foreign trades.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. MUSKIE), from the Committee on the Budget, without amendment:

S. Res. 166. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 673.

S. Res. 174. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 428.

ORDER TO PLACE H.R. 3892 ON THE CALENDAR

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from the further consideration of H.R. 3892, a bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to contract for the furnishing of private health care to veterans when such health care is authorized by a Veterans' Administration physician as necessary for the treatment of medical emergency, to authorize the Administrator of Veterans' Affairs to provide outpatient medical services for any disability of a veteran of World War I as if such disability were service-connected, to extend the authorization for certain expiring health care programs of the Veterans' Administration, and for other purposes, and that the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, SPECIAL U.S. SENATE DELEGATION TO VISIT THE U.S.S.R. AND NATO HEADQUARTERS, FROM JAN. 4 TO JAN. 11, 1979

		Per diem		Transportation		Miscellaneous		Total	
Name and country	Name of currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Howard Baker:									
Belgium	franc	8,760.16	299.80						
U.S.S.R.	ruble	173.57	263.31						
John Tower:									
Belgium	franc	6,885.11	235.63						
U.S.S.R.	ruble	141.39	214.55						

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, SPECIAL U.S. SENATE DELEGATION TO VISIT THE U.S.S.R. AND NATO HEADQUARTERS, FROM JAN. 4 TO JAN. 11, 1979—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jake Garn:									
Belgium	franc	8,265	282.85						
U.S.S.R	ruble	164.70	250.34						
John Danforth:									
Belgium	franc	4,300.02	147.16						
U.S.S.R	ruble	113.70	172.53						
S. I. Hayakawa:									
Belgium	franc	8,180.14	279.95						
U.S.S.R	ruble	234	199.85						
Malcom Wallop:									
Belgium	franc	9,250	316.55						
U.S.S.R	ruble	768.02	254.98						
William Hildenbrand:									
Belgium	franc	7,580	259.40						
U.S.S.R	ruble	100.70	153.06						
Howard Liebengood:									
Belgium	franc	8,739.99	299.11						
U.S.S.R	ruble	186.70	283.31						
Rhett Dawson:									
Belgium	franc	8,880	303.88						
U.S.S.R	ruble	155.32	235.86						
Stanley Taylor:									
Belgium	franc	5,345	182.91						
U.S.S.R	ruble	162.90	246.92						
Alexander Netchvolodoff:									
Belgium	franc	5,160	176.58						
U.S.S.R	ruble	126.69	192.26						
John Backer:									
Belgium	franc	7,822	267.70						
U.S.S.R	ruble	128.57	196.00						
Angelo Codevilla:									
Belgium	franc	8,992.50	303.00						
U.S.S.R	ruble	130.89	198.95						
Cran Montgomery:									
Belgium	franc	9,380	321.00						
U.S.S.R	ruble	141.70	215.02						
Ronald McMahan:									
Belgium	franc	9,009.98	308.35						
U.S.S.R	ruble	189.70	287.86						
Annie Lou Hughes:									
Belgium	franc	9,075	310.57						
U.S.S.R	ruble	183.43	278.80						
Joanne Novins:									
Belgium	franc	8,429	288.47						
U.S.S.R	ruble	164.69	249.92						
Delegation expenses:									
Belgium	franc					84,350.83	2,886.75		
U.S.S.R	ruble					2,024.93	3,072.73		
Total			8,476.43				5,959.48		14,435.91

Feb. 11, 1979.

HOWARD BAKER.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE ARMED SERVICES COMMITTEE, EXPENDED BETWEEN JAN. 3 AND MAR. 19, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator William Cohen: Germany	Deutsche mark	187	101.07					187	101.07
Mike Hastings: Germany	Deutsche mark	89	48.10					89	48.10
Robert Q. Old:									
United Kingdom	pound	71.47	145.80					71.47	145.80
Norway	kroner	730.45	144.26					730.75	144.26
Italy	lira	16,950	20.35					16,950	20.35
Germany	Deutsche mark	70.25	37.97					70.25	37.97
Senator John Tower:									
United Kingdom	pound	57.59	124.97					57.59	124.97
Norway (Bodo)	kroner	770.75	152.16					770.75	152.16
Norway (Oslo)	kroner					165	32.57	165	32.57
Italy	lira	52,300	62.79					52,300	62.79
Turkey	lira	2,140	85.60					2,140	85.60
Germany	Deutsche mark	96.25	52.03			320	172.97	416.25	225.00
Total			975.0				205.54		1,180.64
James R. Locher:[1]									
Philippines	peso	285	38.62					285	38.62
Thailand	baht	2069	101.92					2,069	101.92
PRC	yuan	169.40	110.00					169.40	110.00
Japan	yen	25,820	131.62					25,820	131.62
Korea	won	64,700	133.67					64,700	133.67
Robert Q. Old:[1]									
Philippines	peso	232.65	31.52					232.65	31.52
Thailand	baht	2912	143.45					2912	143.45
PRC	yuan		225.00						225.00
Japan	yen	40,540	206.00					40,540	206.00
Korea	won	66,660	137.74					66,660	137.74
Total			1,259.54						1,259.54

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Arnold Punaro:[1]									
Philippines	peso	317	43.00					317	43.00
Thailand	baht	2,259.1	111.29	40.19	1.98			2,299.29	113.27
PRC	yuan	232.21	150.79	23.1	15.00	61.6	40.00	316.91	205.79
Japan	yen	40,540	206.00					40,540	206.00
Korea	won	50,416	104.16					50,416	104.16
Jeffrey Record·[1]									
Philippines	peso	258.30	35.00	44.28	6.00	36.90	5.00	339.48	46.00
Thailand	baht	2,192.40	108.00	101.50	5.00	243.60	12.00	2,537.50	125.00
PRC	yuan	212.52	138.00	16.94	11.00	13.86	9.00	243.32	158.00
Japan	yen	31,881.60	162.00			3,739.20	19.00	35,620.80	181.00
Korea	won	65,824	136.00			5,324	11.00	71,148	147.00
Total			1,194.24		38.98		96.00		1,329.22
William S. Lind:[1]									
Philippines	peso	240.50	32.59					240.50	32.59
Thailand	baht	2,277	113.85					2,277	113.85
PRC	yuan		175.00						175.00
Japan	yen	24,280	123.84					24,280	123.84
Korea	won	54,100	111.78					54,100	111.78
Ron Lehman:[1]									
Philippines	peso	256.40	34.74					256.40	34.74
Thailand	baht	1,893	93.25					1,893	93.25
PRC	yuan	18,681	118.40					18,681	118.40
Japan	yen	37,900	192.66					37,900	192.66
Korea	won	47,600	98.35					47,600	98.35
Total			1,094.46						1,094.46
Sam Nunn·[1]									
Philippines	peso	295	40.00			74	10.00	369	50.00
Thailand	baht	1,827	90.00			203	10.00	2,030	100.00
PRC	yuan	347	225.00					347	225.00
Japan	yen	28,536	145.00			1,771	9.00	30,307	154.00
Korea	won	55,176	114.00			2,904	6.00	58,080	120.00
Gary Hart:[2]									
Thailand	baht	2,401	117.30					2,401	117.30
Philippines	peso	553.50	75.00					553.50	75.00
PRC	yuan		225.00						225.00
Japan	yen	40,540	206.00					40,540	206.00
Appropriated funds					1,687.20				1,687.20
Total			1,237.30		1,687.20		35.00		2,959.50

[1] Transportation by military aircraft.

[2] Transportation partially by military aircraft.

May 17, 1979.

JOHN C. STENNIS,
Chairman, Armed Services Committee.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE COMMITTEE ON THE BUDGET, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1978

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent oı U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Leon G. Billings:									
Switzerland	franc	116.37	587.72	186.70	92.94	34.60	18.16	1,337.67	6 8.82
United States	dollar				13.75		10.02		23.77
Air fare					749.00				749.00
Michael Pillsbury:									
Japan	yen	65,604	298.20	20,460	92.90	24,999	113.62	111,038	504.72
China	yuan	1,260	756.00	501.6	301.00			1,761.6	1,057.00
Korea	won	41,588	86.46	1,500	3.12	17,496	36.38	60,584	125.96
United States	dollar		3.50		11.80				15.30
Air fare					2,217.60				2,217.60
Robert S. Boyd:									
England	pound	233.12	465.66	26.0	51.93	12	23.97	271.12	541.56
Belgium	Belgium franc	5,204	171.66	1,286	42.42	249	8.22	6,739	222.30
France	franc	713	162.04	64.5	14.66	15	3.41	792.5	180.11
Air fare					352.00				352.00
Edmund S. Muskie:									
Japan	yen	20,876	112.00					20,876	112.00
China	yuan	1,463.67	900.00			854.94	523.64	2,318.61	1,423.64
Hong Kong	won	723.80	150.00	244.26	50.57			968.06	200.57
Air fare					2,730.00				2,730.00
Leon G. Billings:									
Japan	yen	20,876	112.00					20,876	112.00
China	yuan	1,463.67	900.00					1,463.67	900.00
Hong Kong	won	723.80	150.00	244.26	50.57			968.06	200.57
Air fare					2,730				2,730.00
Total			4,855.24		9,504.26		737.42		15,096.92

May 24, 1979.

EDMUND S. MUSKIE,
Chairman, Committee on the Budget.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENTSEN:

S. 1292. A bill to amend the Internal Revenue Code of 1954 with respect to punitive damages received by private litigants in antitrust actions; to the Committee on Finance.

S. 1293. A bill to amend the Currency and Foreign Transactions Reporting Act to provide for more efficient enforcement of its provisions by making it illegal to attempt to export or import large amounts of currency without filing the required reports; to the Committee on Banking, Housing, and Urban Affairs.

S. 1294. A bill to amend the Currency and

Foreign Transactions Reporting Act to allow for the payment of compensation to informers; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAUCUS:

S. 1295. A bill to amend title XVIII of the Social Security Act to provide for a program of voluntary certification for health insurance policies sold in supplementation of medicare; to the Committee on Finance.

By Mr. JACKSON (for himself and Mr. Mathias):

S. 1296. A bill to amend titles 10 and 32, United States Code, to authorize additional medical and dental care and other related benefits for reservists and members of the National Guard, under certain conditions, and for other purposes; to the Committee on Armed Services.

By Mr. GRAVEL:

S. 1297. A bill to redesignate Mount McKinley National Park as "Denali National Park" and to redesignate Mount McKinley as "Denali"; to the Committee on Energy and Natural Resources.

By Mr. RIBICOFF:

S. 1298. A bill to direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *Albatross* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade; to the Committee on Commerce, Science, and Transportation.

By Mr. EAGLETON:

S. 1299. A bill to change the names of a dam and reservoir on the Salt River, Missouri, from the "Clarence Cannon Dam and Reservoir" to the "Mark Twain Lake and Clarence Cannon Dam"; to the Committee on Environment and Public Works.

By Mr. CANNON (for himself and Mrs. Kassebaum):

S. 1300. A bill to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for U.S. air carriers, establish goals for developing U.S. international aviation negotiating policy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON (for himself, Mr. Bentsen, Mr. Hayakawa, Mr. Helms, Mr. Melcher, and Mr. Tower):

S. 1301. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to clarify the act's coverage with respect to employees engaged in the manufacture, servicing, or sale of recreational boats and certain small fishing boats; to the Committee on Labor and Human Resources.

By Mr. MELCHER:

S. 1302. A bill to reduce the impact of the reduction of energy resources resulting from bankruptcy or abandonment; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON:

S. 1303. A bill to repeal baseball's antitrust exemption, to prohibit certain territorial restrictions in professional sports, and for other purposes; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself and Mr. Tsongas):

S. 1304. A bill to improve congressional oversight of Federal programs and activities by requiring greater specificity in setting program objectives, by requiring continuing information on the extent to which programs are achieving their stated objectives, by requiring periodic review of new authorizations of budget authority and tax expenditures, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HATCH:

S.J. Res. 86. A joint resolution proposing a constitutional amendment to balance the Federal Budget, limit Federal spending, and prevent an increasing share of the national income from being consumed by the Federal Government; to the Committee on the Judiciary.

By Mr. STONE (for himself and Mr. Lugar):

S.J. Res. 87. A joint resolution expressing the determination of the United States with respect to claims by U.S. nationals for property seized by the Castro regime; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 1293. A bill to amend the Currency and Foreign Transactions Reporting Act to provide for more efficient enforcement of its provisions by making it illegal to attempt to export or import large amounts of currency without filing the required reports; to the Committee on Banking, Housing, and Urban Affairs.

LEGISLATION DEALING WITH DRUG SMUGGLING

● Mr. BENTSEN. Mr. President, today I introduce two bills that will serve as a strong weapon in the hands of law enforcement officials in their battle against organized crime and major drug dealers.

Drug abuse is one of the most urgent problems facing this Nation. Equally important is one of its causes, the drug trafficking that allows criminals to profit from the misery that flows from drug abuse.

We must take strong steps to capture, convict, and imprison those who seek to profit from dealing in drugs. They reap huge rewards by bringing danger to our streets. They cause many of those who are addicted to commit crimes, often violent crimes, to finance their deadly habit. They leave a trail of violence and injury and illness, as they escape to enjoy the fruits of their crime.

Mr. President, those involved in organized crime and drug trafficking have declared war against the American people. They seek to destroy the safety of our neighborhoods and they threaten the health of hundreds of thousands of our citizens.

The two bills I introduce today will help to combat and punish these heartless and deadly criminals The bills are designed to improve our ability to detect and apprehend those who would leave our country with large sums of illegally unreported currency, which will most often be used for criminal activity.

These bills were originally introduced on the House side, after lengthy meetings between concerned legislators and law enforcement officials. Among those consulted were the Drug Enforcement Administration, the Customs Service, the Department of Justice, and the Treasury Department, as well as special agents assigned to major drug investigations.

These bills are the product of careful research and hard work. I would particularly commend the efforts of the distinguished Representative from western New York, John LaFalce. He has received strong support from Representative Wolff, the chairman of the House Select Committee on Narcotics, and Representative St Germain, the chairman of the House Subcommittee on Financial Institutions. I believe that these bills can be enacted in this session of Congress, and I believe that if they are, law enforcement officials will be strengthened in their campaign against drug smuggling and organized crime.

The first bill would make it a crime for someone to attempt to leave the United States with large sums of illegally unreported currency. The Bank Secrecy Act requires that sums over $5,000 must be reported. As interpreted by the courts, however, perpetrators cannot be arrested under the statute until they have actually left the United States. Once they have left, though, it may be difficult or impossible for American law enforcement officials to have jurisdiction over them.

When our officials cannot obtain jurisdiction, criminals may escape unpunished. The money may remain unrecovered. The law will have failed to deter or punish the guilty. The risk for the criminal would have been reduced. The result has been more money illegally leaving the country for criminal purposes, more drug dealing, more violence on American streets, more drug addiction, and more profits for organized crime.

By making it a crime to attempt to leave the country with large amounts of unreported currency, this bill will allow arrests before the person has left the United States. It would be similar to the crime of attempted murder, or attempted burglary. By closing this inexcusable loophole, we can increase the odds that justice will be done and that the American people will be protected.

I would emphasize that the stakes are high. According to a conservative estimate by the Customs Service, every year well over $2½ billion, measured in foreign currency, leaves the United States illegally. It is estimated that of the unreported cash leaving the United States in such an illegal manner, some 90 percent of it involves money that will be used for criminal purposes once it has left.

Of this money, some 80 percent involves drug dealing.

Law enforcement officials in south Florida, who have long been battling major drug dealers, estimate that passage of this bill could facilitate over 100 arrests in that State alone.

We must remember that those who sneak out of this country with large amounts of criminally unreported money are usually doing so with the intent of committing yet another, more dangerous crime. This often involves organized crime. As noted above, it most often involves major drug traffickers.

The second bill I introduce today will allow a reward for those persons providing evidence leading to the capture of people trying to leave the country with large sums of unreported currency. It would enable them to receive up to 25 percent of the money seized, up to $250,000. It would provide an incentive for witnesses or others with information to come forward, to help apprehend the guilty and recover the money. It will increase the odds of large-scale drug smugglers being caught and punished.

Mr. President, the problems of organized crime and drug dealing are important to every area of this country. They are difficult problems that will remain long after these bills are passed.

We must make every effort to see that the guilty are brought to justice, that society is protected. Those who deal in drugs are preying on society. By their criminal conduct, they have become a cancer in our midst. The bills I introduce today will help to remove some small part of this cancer. They are a step forward.

I urge my colleagues to support these measures, to join me in this important mission.●

By Mr. BAUCUS:

S. 1295. A bill to amend title XVIII of the Social Security Act to provide for a program of voluntary certification for health insurance policies sold in supplementation of medicare; to the Committee on Finance.

SENIOR CITIZENS HEALTH INSURANCE REFORM ACT OF 1979

● Mr. BAUCUS. Mr. President, today I am pleased to introduce, with Senator Culver, the Senior Citizens Health Insurance Reform Act of 1979. The distinguished chairman of the House Select Committee on Aging, Claude Pepper, introduced identical legislation on May 10 to respond to documented abuses in the sale of medicare supplemental health insurance policies to the elderly. Representative Pepper's bill shares enormous bipartisan support with over 200 cosponsors.

Recent hearings before congressional committees on aging, Federal investigations, and newspaper reports revealed widespread abuses in the medicare supplemental health insurance industry. Concern over the incidence of the sale of unnecessary and duplicative policies to senior citizens have prompted a number of congressional initiatives to reduce the opportunity for abuse.

I am already cosponsoring a measure introduced by the chairman of the Senate Special Committee on Aging. Mr. Chiles' bill genuinely attempts to protect the elderly from unscrupulous sales agents selling worthless policies in supplement of medicare. While this bill begins to recognize the abuses by authorizing the development of minimum standards, I believe we can and must do more.

Last February I spoke on the issue of medigap before an aging conference in Missoula, Mont. In conversation with senior citizens I learned firsthand that there is widespread confusion over supplemental policies. It is often difficult for the consumer to determine the worth of the policy. There is rarely an opportunity to compare policies. And deceptive sales techniques are widely used in that the consumer is assured that the policy will cover everything medicare does not—a patently false assertion.

Since February I have received a number of requests from senior citizens in my State seeking accurate, reliable information on how to shop for medicare supplemental policies. The interest that was generated through the conference convinces me of the need for reform.

Because medicare is paying a smaller proportion of escalating health care costs, more and more older Americans are looking to supplemental policies to cover the gaps in medicare. In 1967 medicare covered 46 percent of the elderly's medical bill. That figure rose to 50 percent in 1969. But in 1977, while the average bill paid by the elderly for medical care was $1,738, medicare absorbed only 38 percent of the bill. This is compounded by the fact that health care costs are rapidly escalating.

The out-of-pocket expenditures for health care expenses for the elderly have risen an extraordinary 220 percent in the last decade. Motivated out of fear that they will not be able to absorb the expense of an illness, many senior citizens purchased medigap's policies.

More and more elderly Americans are purchasing supplemental insurance to fill the gaps in medicare coverage. Approximately 15 million out of 23 million older Americans have obtained at least one medigap policy. Twenty-three percent have at least more than one policy. Representative Pepper's investigation revealed cases where senior citizens purchased 3, 4, and as many as 30 different health insurance policies. It is tragic to learn that these supplementary policies normally contain a coordination of benefits clause stating that in cases of overlap only one policy will pay.

A recent Federal Trade Commission staff report cited lack of consumer information, lack of standardization of policies, and unscrupulous and aggressive sales techniques as contributing to unnecessary duplication of health insurance coverage.

The bill which Senator Culver and I are introducing today seeks to remedy the situation by establishing a voluntary program of certification for those companies who sell health insurance in supplementation of medicare. The bill authorizes the Secretary of the Department of Health, Education, and Welfare to establish Federal minimum standards and to certify those policies which conform with these standards. The criteria used to develop the standards would include adequacy of coverage, economic benefits to the insured, and the reasonableness of the premium charged.

My bill makes it unlawful for any company to provide false or misleading information for the purpose of obtaining Federal certification.

The bill would also forbid the sale of medigap policies through the mail that were not approved by the State insurance commissioners.

An incident recently occurred in Montana where a medicare policyholder purchased her policy through the mail from a prominent, reputable membership organization. The insured alleged that the company had not fulfilled its claim to pay for skilled nursing care in an extended care facility.

This commercial insurance company, one of the Nation's most profitable firms, sells its policies through the postal service. It has since been learned that in 1974 this corporation returned in premium dollars only 61.9 percent in claims, contrasted with 90.6 percent returned in the case of large insurers such as Blue Cross/Blue Shield.

The Senior Citizens Health Insurance Reform Act addresses potential abuses in mail order insurance. The bill makes it unlawful for a company to sell insurance through the mail that has not been approved by the State insurance commissioner of the State into which the policies are mailed. A fine of a maximum of $25,000 or imprisonment for a maximum of 5 years or both will be the penalty if convicted of this act. This provision would reduce the number of substandard policies available through the U.S. mail and strengthen our means to protect the ellderly population without infringing on the State's responsibility to regulate the sale of insurance.

The proposed legislation is not a cost measure; it does not create another layer of bureaucracy since the mechanism to administer its provisions are already in place in the Department of Health, Education, and Welfare; and it does not interfere in each State's prerogative to regulate the sale of insurance.

Mr. President, the concept of a voluntary procedure for certification is not a new one. In fact, my bill takes as its example a provision in the chairman of the Senate Finance Committee's catastrophic health insurance proposal. Both S. 350 and S. 351 would establish a voluntary certification program for private health insurance policies. Under this program, private insurers would submit their policy to the Secretary of the Department of Health, Education, and Welfare for certification. Approval by the Secretary will stimulate competition by enabling companies to advertise the fact of Federal certification in promoting their policies.

I might add that documented abuses have been limited to companies selling individual insurance policies. Very few problems have been found with Blue Cross and Blue Shield medigap policies, and with policies available through most other prominent insurance companies.

I believe this bill represents a modest yet realistic effort to protect our senior citizens from being victimized by unethical sales practices and worthless policies. I urge my colleagues to lend their support to the proposed legislation so that we may speedily enact this program.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Senior Citizens Health Insurance Reform Act of 1979".

FINDINGS

Sec. 2. The Congress finds that—

(1) health insurance costs have been increasing at a dramatic rate and now constitute one of the greatest fears of the elderly;

(2) medicare's coverage has been shrinking from almost 50 percent at its inception to approximately 37 percent of the average senior citizen health care costs in 1979;

(3) senior citizens are paying more and more to participate in medicare in the form of copayments and deductibles and are increasingly turning to the purchase of private health insurance policies to fill the gaps in medicare's coverage;

(4) the policies are often sold to the elderly on the understanding that they will pay for items uncovered by medicare such as out-of-hospital prescription drugs and nursing home care when the reality is that most of these policies provide payment only for medicare's copayment and deductibles;

(5) unethical insurance agents and a small number of insurance companies have sought to capitalize on the fears of the elderly and the general misunderstanding about the nature of medicare supplementary policies by selling the elderly excessive or duplicative insurance with very limited economic value;

(6) recent congressional hearings have established that these abuses are widespread and serious and that only six States have enacted specific laws or regulations to deal with the problem; and

(7) the instances of abuses have reached the point of becoming a national scandal and since these abuses have their roots in the Federal medicare program it is the Federal Government's responsibility to help provide a remedy.

MEDICARE AMENDMENT

SEC. 3. Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"VOLUNTARY CERTIFICATION OF HEALTH INSURANCE IN SUPPLEMENTATION OF MEDICARE

"SEC. 1882. (a) The Secretary shall establish a procedure whereby health insurance policies offered by private insurers in supplementation of the insurance programs established under this title may be certified by the Secretary as meeting minimum standards with respect to adequacy of coverage, reasonableness of premium charge, and general economic benefit to the insured.

"(b) (1) Any insurer which desires to have any health insurance policy which it offers in supplementation of the insurance programs established under this title certified for use in one or more States specified by the insurer may (in accordance with regulations promulgated by the Secretary) offer any such policy to the Secretary and request his examination and certification thereof.

"(2) If the Secretary, after examining any such policy and evaluating any data submitted in connection with such policy, determines that such policy meets the standards set forth in subsection (c), he shall certify such policy for use.

"(3) Such certification shall remain in effect provided that the insurer files a notarized statement with the Secretary no later than December 31 of each year stating that the policy continues to meet all Federal minimum standards.

"(4) The Secretary shall establish procedures for requiring that additional relevant data be provided to him in order that he might independently verify if the certified policies continue to meet Federal minimum standards.

"(c) The Secretary shall not certify under this section any insurance policy offered (or which may be offered) by an insurer unless he finds—

"(1) that such policy—

"(A) supplements both part A and part B of this title;

"(B) is written in simplified language and printed in no less than ten-point type;

"(C) does not limit or preclude liability under the policy for a period longer than sixty days because of a health condition existing before the policy is effective;

"(D) contains a prominently displayed 'no loss cancellation clause' enabling the insured to return the policy within 30 days of the date of sale without financial loss; and

"(E) provides the insured reasonable economic benefit in relation to the premium paid, including an assurance that, by the end of the second calendar year in which such policy is in effect, at least 75 percent of the amount of premiums collected from the sale of such health insurance is paid out in the form of benefits provided under the policy; and

"(2) that such policy complies with such other regulations as are established by the Secretary pursuant to this section.

"(d) The Secretary shall establish an appropriate emblem which may be used as an indication that certification on an insurance policy under this section has been made by the Secretary; and any insurer which has secured certification on an insurance policy by the Secretary under this section may have such emblem printed thereon and may, in advertising such policy to potential subscribers, display such emblem, and state that such policy has received such a certification.

"(e) The Secretary shall provide each State insurance commissioner with a list of each policy which has received Federal certification. The Secretary shall encourage the commissioners to facilitate the sale of federally approved policies and discourage the sale of policies which fail to meet Federal minimum standards.

"(f) (1) It shall be unlawful for an insurance company to provide false or misleading information to the Secretary for the purpose of obtaining Federal certification for insurance policies sold in supplementation of the insurance programs established under this title or for the purpose of attempting to establish that policies which have received certification continue to be in compliance with Federal minimum standards.

"(2) Whoever knowingly and willfully makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to the compliance of any policy with the standards set forth in provisions of Federal law and regulations as set forth in this section or in regulations promulgated by the Secretary pursuant to this section shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years or both.

"(3) Whoever falsely assumes or pretends to be acting, or misrepresents in any way that he is acting, under the authority of or in association with any program of health insurance established by Federal statute for the purpose of selling or attempting to sell insurance, or in such pretended character demands, or obtains money, paper, documents, or anything of value, shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years or both.

"(4) Whoever knowingly sells a health insurance policy to a person eligible to participate in a program of health insurance established by Federal statute, which policy substantially duplicates insurance protection already owned by that person (unless the policy being sold permits valid claims to be made against the policy without regard to similar claims made on previously owned policies), shall be fined not more than $25,000 or imprisoned not more than three years or both.

"(5) Whoever knowingly advertises, solicits, or offers for sale by mail, or knowingly deposits in the mail or sends or delivers by mail any insurance policy or policies into any State in which such policy or policies have not been approved by the State commissioner or superintendent of insurance shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years or both.".

REGULATIONS

SEC. 4. The Secretary of Health, Education, and Welfare shall promulgate regulations to implement this Act not later than eighteen months after the date of the enactment of this Act.●

By Mr. JACKSON (for himself and Mr. MATHIAS):

S. 1296. A bill to amend titles 10 and 32, United States Code, to authorize additional medical and dental care and other related benefits for reservists and members of the National Guard, under certain conditions, and for other purposes; to the Committee on Armed Services.

RESERVE FORCES BENEFITS ACT

● Mr. JACKSON. Mr. President, one of the most pressing and controversial problems facing our Armed Forces today involves the adequacy of the quantity and quality of the personnel currently serving under the All Volunteer Force program.

The Armed Services Committee has received testimony this year which strongly suggests that, in the absence of a resumption of conscription, we will be unable to man critical components of our military services with sufficient numbers of skilled personnel. Nowhere is this shortfall more evident than with our Reserve Forces. These forces composed of the Army, Navy, Air Force, Marine Corps and Coast Guard Reserves and the Army and Air National Guards are seriously understrength today and they have had chronic difficulties meeting their manpower needs. From the standpoint of our national security, such a situation occurring among those units which would be charged with rapidly augmenting and supporting the Active Forces which are our first line of defense, is simply intolerable.

Mr. President, in view of the important contribution these Active Forces make to our defense posture and considering the cost-effectiveness of the Reserves when compared to maintaining an equivalent capability with active units, I feel that we must move forward vigorously in our efforts to bring these Reserve units up to their designated end-strengths.

One such effort is represented by the legislation that I am today submitting together with Senator MATHIAS. This act, entitled the Reserve Forces Benefits Act, would amend some provisions and consolidate others of titles 10 and 32, United States Code, which pertain to medical care and related benefits for members of the Reserves and National Guard while performing active duty and inactive duty training.

The extension of these benefits to the men and women of the Reserve Forces of this country and, where applicable, to their dependents, can make service in the Reserves and National Guard significantly more attractive to potential recruits and present enlistees. I believe this legislation can do much to insure that we will continue to have a viable, adequately manned, and combat-ready Reserve component of our military posture.●

By Mr. GRAVEL:

S. 1297. A bill to redesignate Mount McKinley National Park as "Denali National Park" and to redesignate Mount McKinley as "Denali"; to the Committee on Energy and Natural Resources.

DENALI NATIONAL PARK

● Mr. GRAVEL. Mr. President, one of the smaller issues facing Alaska over the past several years is the question of changing the name of Mount McKinley National Park and the name of the mountain to "Denali." Although this issue does not involve land, jobs, the environment, or the many other crucial problems facing Alaska, it has nonetheless stirred the interest and the "psychological" desires of a great many Alaskans.

In recent years we renamed the historic Cape Canaveral in Florida, Cape Kennedy in honor of our past President. Several years later public reaction to this change intensified to the point where the Board of Geographic Names returned the historic Spanish name Canaveral, to that point of land. I think that action is analagous to the decision facing us today. "Denali," the historic geographic name used for centuries by local Native groups, was changed to Mount McKinley in a rather capricious fashion.

In 1896 a prospector came out of the "wonderful wilderness," and the first news he heard was of the nomination of William McKinley. The prospector had spent more days than he had cared to with two outspoken champions of free silver. The prospector, like McKinley, favored the gold standard. So the prospector got back at his long-winded friends. He named the great mountain he had seen after McKinley. Much to the dismay of many Alaskans, both Natives and later settlers, the name stuck in the official records.

This is not to say that we should not honor our Presidents and other distinguished Americans. I think the recent commemorative naming of two previously unnamed peaks in Alaska to Mount Begich and Mount Boggs was a fitting tribute to these men. Similarly, there are many new structures, such as bridges, schools, and hospitals where commemorative naming can help preserve memories and accomplishments of our leading citizens.

But we need not destroy a part of our Nation's and State's existing history to establish "new" history. Superimposing more modern, less-accepted names on already named topographic features violates a sense of historic integrity in the minds of many local residents.

Support for this change comes from a wide spectrum. The U.S. Board of Geographic Names has done much research into this matter, held public hearings, and has found approximately 59 percent of Alaska adult respondents wanted the change, and approximately 63 percent of respondents nationwide. The Alaska State Legislature, the Governor, the State Geographic Board, and the National Park Service have also endorsed this change. I ask unanimous consent that a report by the Board documenting this information be printed in the RECORD.

This measure is not without controversy. Most of the congressional delegation from Ohio is not very sympathetic to the idea of removing the name of its favorite son from the tallest mountain in North America. In fact, the introduction of a measure in the 95th Congress prohibiting the name change by a Congressman from Ohio caused the Board to suspend its deliberations in making any administrative decision until "Congress resolves the issue." Thus, we must act, and I would hope the Senate would support the wishes of the Nation and the people of Alaska to rectify this longstanding historical injustice by approving this change to "Denali."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. BOARD ON GEOGRAPHIC NAMES: SUMMARY REPORT ON THE PROPOSAL TO CHANGE THE NAME MOUNT MCKINLEY TO DENALI

BACKGROUND

Mount McKinley in Mount McKinley National Park, Alaska, with an elevation of 20,320 feet, is the highest elevation in North America. It was named in 1896 by William A. Dickey, prospector, "after William McKinley of Ohio who had been nominated for the presidency, and that fact was the first news we received on our way out of that wonderful wilderness."

Denali, reported to mean "great one," is the Tanana Indian name of the mountain. The Russian Americans called it Bolshaya Gora, meaning "big mountain."

Except for Mount Rainier, Mount McKinley is, to our knowledge, the only mountain name for which there has been a certain amount of objection through the years. The first proposal to rename the mountain Denali seems to have been made in books written by the Reverend Hudson Stuck. He was Archdeacon of the Alaskan missions of the Episcopal Church until 1920, and was a member of the first recorded party to have successfully climbed Mount McKinley in 1913.

SUMMARY

1. Senate Joint Resolution No. 6 of the Alaska State Legislature (March 7, 1975) requests the Secretary of the Interior, U.S. Department of the Interior, to direct the U.S. Board on Geographic Names "to officially designate Mount McKinley as Denali; and be it FURTHER RESOLVED that Mount McKinley National Park be renamed McKinley National Park."

Comments: (a). Passed by Senate, 13–4; Passed by House, 24–9.

(b). Changing the name of a National Park requires Congressional action.

2. Alaska State Geographic Board unanimously endorses the Resolution on February 7, 1975 and recommends that the name be changed to Denali.

3. Resolution formally brought before the U.S. Board on Geographic Names (Domestic Names Committee) at its April 8, 1975 meeting. No Action.

4. At its May 13, 1975 meeting the Domestic Names Committee voted to defer action on the name-change proposal for a period of six months (until November).

Comment: The Committee recognized the National importance of changing the name of North America's highest mountain. It realized that the American people were not aware of the name-change proposal. Time was needed for publicity and public reaction. Guidance from the Secretary, Department of the Interior is also needed since the Board works jointly with the Secretary. The case has been deferred at each month's meeting since November 1975.

5. National Park Service endorses changing the name of Mount McKinley to Denali (May 20, 1975).

6. The Department of the Interior issued two press releases, August 4, 1975 and December 11, 1975, asking for public opinion on the name-change proposal.

Comment: The news releases were widely printed and commented on in newspapers and magazines throughout the country.

7. Two letters from Governor Jay S. Hammond, State of Alaska, strongly supporting the Resolution to change the name of Mount McKinley to Denali (September 4, 1975 and January 21, 1976).

8. Response from individuals with regard to the name change proposal.

(a) Over 4,000 letters and petitions have been received.

1. Total signed letters and telegrams: 59 percent favor Denali; 41 percent favor Mount McKinley.

2. Adult response, U.S. including Alaska (2209); 63 percent favor Denali; 37 percent favor Mount McKinley.

3. Adult response from Alaska (1081): 59 percent favor Denali; 41 percent favor Mount McKinley.

4. Letters from school children (1869): 54 percent favor Denali; 46 percent favor Mount McKinley.

(b) Response from organizations and administrative bodies who oppose the name change and favor the name Mount McKinley, with indicated exception, not counted above:

Kenai Chamber of Commerce (Alaska).
Greater Anchorage Chamber of Commerce (Alaska).
Greater Palmer Chamber of Commerce (Alaska).
South/Eastern Alaska Mountaineering Association.
Alaska Visitors Association (117 signatures on petition also counted in the individual tabulation).
Westours (Seattle Washington).

(c) Response from organizations and administrative bodies supporting the name Denali not counted above:

Alaska Conservation Society.
Alaska Alpine Club.
Alaska Chapter Sierra Club.
Alaska Chapter & National-Friends of the Earth.
Alaska Federation of Natives.
Shageluk Village Corporation (Alaska).
Dillingham Village Corporation (Alaska).
Notaghleedin, Ltd. (Galena, Alaska).
Mountaineering Club of Alaska.
Denali Citizen's Council (Alaska).
Tanana Chiefs Conference, Inc. (Alaska).
Board of Nunan Kitlutsisti (Alaska).
Kugkaktlik Limited (Alaska).
McGrath Village Council (Alaska).
Tigara Village Corporation (Point Hope, Alaska).
Central Native Corporation (Anvik, Alaska).
Fairbanks Environmental Center.
Nulato City Council.
Outdoors North (Anchorage, Alaska).
Anchorage Daily News (Alaska).
Washington State University Alpine Club.
The Wilderness Society (National).
The Alaska Yukon Pioneers (Washington).
Cook Inlet Region, Inc. (Alaska).

9. Summary for reasons for:

A. Opposing the name change—

(a) Economic: cost of revising published material.

(b) Patriotic: McKinley was a U.S. President; McKinley; sounds more American.

(c) Usage: Mount McKinley is world known; people will find it hard to learn new name and may continue to use old name.

(d) Political & personal: McKinley was a great president; too much change today; the State and Federal Governments have more important things to do than change names; where will this name-changing end?

B. Favoring the name change—

(a) Usage: many people already use the name Denali: it was the original name; name should never have been changed to McKinley in the first place.

(b) Linguistic: Denali is more euphonious; Indian name is best because it is a natural descriptive name.

(c) Political & Personal: such a mountain should not be named for a mere man; McKinley never had anything to do with the mountain; the Europeans had no right to change the Indian name; our cultural heritage includes the Indians and should include their names.

(d) Bicentennial: renaming the mountain will be America's greatest Bicentennial monument.

Comments: 1. The large number of school children responses is largely due to publicity in a National school magazine.

2. There was a large response from former Alaskans living in the U.S. or people who have traveled in Alaska—most favor the name change.

3. Some organizations opposing the name change are travel or business oriented.

4. Organizations favoring the name change are generally ethnic, nature, recreation, and conservation oriented.

5. People living in the immediate area of the mountain generally support the name change.

6. It appears that almost all Indian and Eskimo people in Alaska (about 17 percent of the total population) support the name change.

ATTACHMENTS

1. Joint Resolution of the Alaska State Legislature.
2. Letter from National Park Service.
3. Letter from the Governor of Alaska.
4. December 11, 1975 news release.
5. Three newspaper articles.
6. Eight example letters.

Respectfully submitted,

Donald J. Orth,
Executive Secretary,
Domestic Geographic Names.

State of Alaska,
Office of the Governor,
Juneau, January 21, 1976.

Mr. Donald Orth,
U.S. Board on Geographic Names,
Arlington, Va.

Dear Mr. Orth: I wish to make known very clearly to the U.S. Board on Geographic Names my complete and wholehearted support for the renaming of Mt. McKinley to Denali.

Although I conveyed my support of the name change, along with the Alaska Legislature and the Alaska Geographic Names Board, in a letter to you on September 4, 1975, it has come to my attention there may be some confusion remaining. I hope this letter will make absolutely clear my strong endorsement as Governor of Alaska of the name change.

Since Mt. McKinley is the highest mountain in North America, it deserves a name with some special meaning and significance. Unfortunately, the present name fits none of the criteria we might normally think appropriate for a mountain of this significance. William A. Dickey, a prospector who named the mountain, was not the first to see, to identify, or to climb the mountain.

The Dictionary of Alaska Place Names, by Donald J. Orth, quotes Dickey, as naming the mountain, "after William McKinley of Ohio, who had been nominated for the presidency, and that fact was the first news we received on our way out of that wonderful wilderness."

In his book, *Mt. McKinley The Pioneer Climbs*, Terris Moore also talks about the reasons for Dickey's choice of the name, McKinley. "Mr. Dickey was later asked why he named the mountain, McKinley. Dickey answered that while they were in the wilderness, he and his partner fell in with two prospectors who were rabid champions of free silver, and after listening to their arguments for many weary days, he retaliated by naming the mountain after the champion of the gold standard." To those with even the most casual interest in Alaska and this mountain, it must be obvious these are simply not valid reasons for the name McKinley.

On the other hand, the name Denali is one which originated with Alaskans. It was a name in use for many years. Since Denali means "The Great One", or "the high one", the relationship to the mountain is obvious.

The renaming of Mt. McKinley to Denali would thus be an original Alaska name with meaning and relevance. The Alaska Legislature said in a joint resolution, "Whereas one of the aims of naming mountains, bridges, lakes or the like should be to honor and keep alive the heritage of those who were here before us; and whereas the renaming of Mt. McKinley as Denali would be a fitting and proper gesture to a large segment of the Alaskan population and would be originally Alaskan . . . Be it resolved . . . The Secretary of the Interior is respectfully requested to direct the United States Board on Geographic Names to officially designate Mt. McKinley as Denali . . ." I concur now as I did in my earlier letter.

For these and a number of other reasons of which you are no doubt keenly aware, I urge the U.S. Board on Geographic Names to establish Denali as a new name for North America's highest mountain.

Sincerely,

Jay S. Hammond,
Governor.

U.S. Department of the Interior,
National Park Service,
Washington, D.C., May 20, 1975.

Memorandum

To Executive Secretary, Board on Geographic Names.
Through Acting Assistant Secretary for Fish and Wildlife and Parks.
From Director, National Park Service.
Subject Change of name—Mt. McKinley.

This office recently received correspondence from Governor Jay Hammond of the State of Alaska concerning the name of Mt. McKinley. The resolution passed by the Legislature of the State of Alaska stated that it was their desire that Mt. McKinley be renamed "Denali." The name "Denali" being the historic name for this great mountain and important to the history and culture of Alaska.

We have no objection to the renaming of Mt. McKinley to "Denali" and, in fact, favor such a change strongly. We would also agree with the Legislature of the State of Alaska that the name of the park should be changed to "McKinley National Park." It should be pointed out, however, that by changing the name of the mountain to "Denali" we are, in effect, forcing Congress to act positively on the change to the name of the park. You may wish to consult the Congressional Committee members in advance of any announcement of your decision.

In addition to the change of Mt. McKinley to "Denali," we would also suggest that it would be most appropriate and proper to at the same time change the name of Mt. Forraker to "Sultana." "Sultana" is the traditional and historic name of Denali's wife. If we are to rename Denali, it would seem most inappropriate to have him go through the rest of history with Forraker for a wife.

The changes so indicated would seem to be in the true spirit of reestablishing historic place names wherever possible such as has been done at Cape Canaveral.

If we can provide any further assistance, please call on us.

Gary Everhardt.●

By Mr. CANNON (for himself and Mrs. Kassebaum):

S. 1300. A bill to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for U.S. air carriers, establish goals for developing U.S. international aviation negotiating policy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

INTERNATIONAL AIR TRANSPORTATION COMPETITION ACT OF 1979

Mr. CANNON. Mr. President, I am introducing today on behalf of Senator Kassebaum and myself a bill to redirect our international aviation negotiating policy. This bill is a vehicle to focus hearings the Aviation Subcommittee will conduct on July 30 and August 1 and 2.

For a number of years I have been deeply concerned about this country's lack of a basic, permanent policy for conducting aviation bilateral negotiations. My concern has been increased by the changing and often fragmented approach to negotiations by the various agencies involved in the process. Such a lack of organization has, in the past, put the United States at a considerable disadvantage in the negotiating arena and resulted in agreement which did not facilitate the goals of our country's passengers or international airlines.

My concerns were brought to a head with the adoption of Bermuda II, our bilateral agreement with Great Britain. In this negotiation, the United States put together a make-shift negotiation structure and came away with an agreement which is the greatest step backward in 40 years of attempting to bring market-oriented competition to international aviation.

Since that time, however, I have been encouraged by the way this administration has gotten their act together and maintained considerable momentum in attaining competitive aviation bilaterals. The administration has adopted a strong, procompetitive policy statement of goals for future bilateral negotiations. Further, State, DOT, and CAB have been working well together.

However, this recent success is an exception to a long history of bickering agencies, confused policy, and inconsistent bilateral goals. Therefore, I seek in this legislation to institutionalize the progressive policy and cooperation which the United States is today practicing.

This bill sets out a clear procompetitive policy statement to guide the CAB in international route and rate matters, and it also provides competitive goals for our bilateral negotiators and international aviation policymakers, at the Department of State, Department of Transportation and CAB. The bill makes changes to the route authority, agreements, and tariff sections of the Federal Aviation Act in order to bring the international aviation sections into harmony with the competitively-oriented domestic policies in those areas. And, the bill makes needed changes to the Federal Aviation Act and the Fair Competitive Practices Act to streamline the ability of the United States to react to any discriminatory practices against U.S. International airlines by a foreign government. Changes to the Fair Competitive Practices Act are also made to modernize the "Fly America" provision.

Finally, I want to note two controversial matters which I intend to explore during the hearings on this bill.

The first is the CAB proposal to provide a mechanism for the competitive bidding and rebidding of limited designation international routes. I have included this provision in the bill in order to see that this issue is examined. However, I must confess to some philosophical worries about this concept. Clearly the first and major emphasis of our policy should be to attain competitive bilaterals which do not limit carrier designation on a route. I have doubts, therefore, about setting up a procedural structure at CAB which is geared to anticompetitive bilaterals that limit market entry. I have fears that a structure which makes it easier to live with anticompetitive bilaterals may create unintentional incentives to accept such agreements in the negotiating process. However, I am aware that the reality of the world air transportation market is that we will probably never have open competition with all nations. For that reason I am introducing the CAB suggestion in this bill and I will keep an open mind about its desirability during the hearings.

The second controversial matter, which is not included in this bill but will be a subject of the hearings, is cabotage—the right of a foreign airline to carry domestic traffic. This is an emotional issue which I would like to see examined in a calm, levelheaded manner. There is the issue of emergency cabotage such as occurred during the United strike, as well as the question of general cabotage for compensatory bilateral or multilateral rights.

This is an important piece of legislation which I hope to have the Commerce Committee and the full Senate consider this year.

I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Air Transportation Competition Act of 1979".

Sec. 2. Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(a)) is amended to read as follows:

"DECLARATION OF POLICY: THE BOARD

"FACTORS FOR INTERSTATE, OVERSEAS, AND FOREIGN AIR TRANSPORTATION

"Sec. 102. (a) In the exercise and performance of its powers and duties under this Act, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under section 107 of this Act.

"(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

"(3) The availability of a variety of adequate, economic, efficient, and low-price services by air carriers and foreign air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions for.

"(4) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital, taking account, nevertheless, of material differences, if any, which may exist between interstate and overseas air transportation, on the one hand, and foreign air transportation, on the other.

"(5) The development and maintenance of a sound regulatory environment which is responsive to the needs of the public and in which decisions are reached promptly in order to facilitate adaptation of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.

"(6) The encouragement of air service at major urban areas in the United States through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State entities encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services.

"(7) The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of—

"(A) unreasonable industry concentration, excessive market domination, and monopoly power; and

"(B) other conditions;

that would tend to allow one or more air carriers or foreign air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

"(8) The maintenance of a comprehensive and convenient system of continuous scheduled interstate and overseas airline service for small communities and for isolated areas in the United States, with direct Federal assistance where appropriate.

"(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, privately owned United States air transport industry.".

"(10) The encouragement of entry into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.

"(11) The promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transportation industry.".

Sec. 3. (a) Section 102(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(c)) is repealed.

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading.

"Sec. 102. Declaration of policy: The Board."

is amended by striking out

"(a) Factors for interstate and overseas air transportation.

"(b) Factors for all-cargo service.

"(c) Factors for foreign air transportation."

and inserting in lieu thereof

"(a) Factors for interstate, overseas, and foreign air transportation.

"(b) Factors for all-cargo service.".

Sec. 4. Sections 401(d)(1) through 401(d)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(1) through (d)(3)) are amended to read as follows:

"ISSUANCE OF CERTIFICATE

"(d)(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation is consistent with the public convenience and necessity; otherwise such application should be denied.

"(2) In the case of an application for a certificato to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

"(3) In the case of an application for a certificato to engage in charter air transportation, the Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection on January 1, 1977, authorizing interstate air transportation of persons, which authorizes the whole or any part thereof for such periods, as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.".

Sec. 5. The first sentence of section 401(e)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(e)(2)) is amended by striking out the words ", insofar as the operation is to take place without the United States,".

Sec. 6. Section 401(g) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(g)) is amended by inserting "(1)" immediately after "(g)" and by adding at the end thereof the following new paragraphs:

"(2)(A) The Board may, upon application or on its own motion, review the authority in any certificate of public convenience and necessity granted under this section, and may suspend such authority and grant such authority to an alternative air carrier, in the event that it should find—

"(i) that restrictions arising from the provisions of a bilateral air transport agreement or other agreement or understanding with a foreign country, or otherwise imposed by a foreign country, preclude or make it impracticable for the Board to authorize an additional carrier in a particular foreign air transportation market or markets;

"(ii) that a qualified applicant has demonstrated that it can and will provide substantially improved service, substantially lower fares or rates, or a substantially improved combination of service and fares or rates in the market or markets; and

"(iii) that suspension and grant of such authority to the applicant would otherwise be inconsistent with the public convenience and necessity.

"(B) The Board shall process the suspension and alternative certification proceeding provided for in subsection (g) (2) (A) of this section pursuant to the simplified procedures under subsection (p) of this section, unless the holder of such certificate requests an oral evidentiary hearing or the Board finds that, under all the facts and circumstances, an oral evidentiary hearing is required in the public interest.

"(C) The Board may dismiss any application for suspension and alternative grant of certification authority under subsection (g) (2) of this section, if it is not satisfied from the materials submitted with the application (i) that the applicant is qualified, (ii) that it is probable that the applicant could and would provide substantially improved air service in a restricted market, or (iii) that proceeding with consideration of the application would otherwise be in the public interest.

"(3) Notwithstanding the provisions of subsections (g) (1) and (g) (2) of this section, the Board may suspend or revoke authority to serve any point authorized in a certificate issued under this section, upon notice and with a reasonable opportunity for the affected carrier to present its views, but without hearing, if the carrier has notified the Board in accordance with paragraph (j) of this section or any regulation of the Board that it proposes to suspend all service provided by that carrier to such point, or if the carrier has failed to provide any significant service to the point for 90 days preceding the date of the Board's notice to the carrier of its proposed action.".

SEC. 7. Section 402(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(b)) is amended to read as follows:

"ISSUANCE OF PERMIT

"(b) The Board is empowered to issue such a permit if it finds (1) that the applicant is fit, willing, and able properly to perform such foreign air transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder and (2) either that the applicant is qualified, and has been designated by its government, to perform such foreign air transportation under the terms of an agreement with the United States, or that such transportation will be in the public interest.".

SEC. 8. The third sentence of section 402(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(d)) is amended by striking out "Such application shall be set for public hearing and the" and inserting in lieu thereof "The".

SEC. 9. Section 402(f) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(f)) is amended by inserting "(1)" immediately after "(f)" and by adding at the end thereof the following new paragraph:

"(2) Whenever the Board finds that the government, aeronautical authorities, or foreign air carriers of any foreign country have, over the objections of the Government of the United States, impaired, limited, or denied the operating rights of United States air carriers, or engaged in unfair, discriminatory, or restrictive practices with a substantial adverse competitive impact upon United States carriers, with respect to flight operations to, from, through, or over the territory of such country, the Board may, without hearing but subject to the approval of the President of the United States, summarily suspend the permits of the foreign air carriers of such country, or alter, modify, amend, condition, or limit operations under such permits, if it finds such action to be in the public interest. The Board may also, without hearing but subject to Presidential approval, to the extent necessary to make the operation of this paragraph effective, restrict operations between such foreign country and the United States by any foreign air carrier of a third country.".

SEC. 10. Section 407(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1377(a)) is amended by inserting the phrase "or foreign air carrier" immediately after the words "air carrier" each time those words appear therein.

SEC. 11. Section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382) is amended by—

(1) striking subsections (a) and (b) thereof;

(2) redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively;

(3) striking the words "affecting interstate or overseas air transportation and" in subsection (a) (1), as so redesignated by this section; and

(4) inserting the words "affecting interstate or overseas air transportation," immediately after the word "agreement," in paragraph (a) (2) (A) (iii), as so redesignated by this section.

SEC. 12. (a) The center heading for section 412(a) of the Federal Aviation Act of 1958, as redesignated by section 11 of this Act, is amended by striking out

"AFFECTING INTERSTATE OR OVERSEAS AIR TRANSPORTATION".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 412. Pooling and other agreements."

is amended to read as follows:

"(a) Filing and approval of agreements.
"(b) Proceedings upon filing.
"(c) Mutual and agreement.".

SEC. 13. Section 416(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1386) is amended by adding at the end thereof the following new paragraph:

"(7) The Board may by order, to the extent it finds that such action is required in the public interest, exempt any foreign air carrier from the requirements or limitations of this Act, to the extent necessary to authorize the foreign air carrier to lease or charter aircraft, with or without crew, to a United States direct air carrier for the performance of service in interstate, overseas, or foreign air transportation by or on behalf of such air carrier under an agreement approved by the Board, subject to such safety regulations as may be prescribed by the Secretary for such operations.".

SEC. 14. Section 1002(j) (1) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j) (1)) is amended to read as follows:

"SUSPENSION AND REJECTION OF RATES IN FOREIGN AIR TRANSPORTATION

"(j) (1) Whenever any air carrier or foreign air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers) rate, fare, or charge for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice: and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board, by filing such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period or periods not exceeding 365 days in the aggregate beyond the time when such tariff would otherwise go into effect. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to reject or cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. The Board may at any time rescind the suspension of such tariff and permit the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded and an order made within the period of suspension or suspensions, or if the Board shall otherwise so direct, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect subject, however, to being canceled when the proceeding is concluded. During the period of any suspension or suspensions, or following rejection or cancellation of a tariff, including tariffs which have gone into effect provisionally, the affected air carrier or foreign air carrier shall maintain in effect and use the rate, fare, or charge, or the classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, which was in effect immediately prior to the filing of the new tariff (or if seasonal which was in effect for the preceding corresponding season). If the suspension, rejection, or cancellation is of an initial tariff, the affected air carrier or foreign air carrier may file for purposes of operations pending effectiveness of a new tariff, a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation. The board may decline to take any action authorized if it concludes that such action would not be in the public interest or would be inconsistent with obligations of the United States under an agreement or understanding with a foreign country.".

SEC. 15. Section 1002(j) (2) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j) (2)) is amended to read as follows:

"(2) With respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter into a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice: and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board upon reasonable notice, and by such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspensions, and the effective date thereof, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, following the effective date of such suspension, for a period or periods not exceding 365 days in the aggregate from the effective date of such suspension. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded within the period of suspension or suspensions, the tariff shall again go into effect subject, however, to being canceled when the proceeding is concluded. For the purposes of operation during the period of such suspension, or the period following cancellation of an existing tariff pending effectiveness of a new tariff, the air carrier or foreign air carrier may file a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.".

Sec. 16. Section 1002(j)(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(5)) is amended by (1) striking the word "and" at the end of subparagraph (E) thereof, (2) striking the period at the end of subparagraph (F) and inserting in lieu thereof "; and", and (3) by adding at the end thereof the following new subparagraph:

"(G) reasonably estimated or foreseeable future costs and revenues for such air carrier or foreign air carrier for a reasonably limited future period during which the rate at issue would be in effect.".

Sec. 17. Section 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1502) is amended by inserting "(a)" immediately after "Sec. 1102." and by adding at the end thereof the following new subsections:

"GOALS FOR INTERNATIONAL AVIATION POLICY

"(b) In formulating United States international air transportation policy, the Congress intends that the Secretary of State, the Secretary of Transportation, and the Civil Aeronautics Board shall develop a negotiating policy which emphasizes the greatest degree of competition that is compatible with a well-functioning international air transportation system. This includes, among other things:

"(1) freedom of air carriers and foreign air carriers to offer fares and rates which correspond with consumer demand;

"(2) the fewest possible restrictions on charter air transportation;

"(3) the maximum degree of multiple and permissive international authority for United States air carriers so that they will be able to respond quickly to shifts in market demand;

"(4) the elimination of operational restrictions to the greatest extent possible;

"(5) the integration of domestic and international air transportation;

"(6) an increase in the number of nonstop United States gateway cities;

"(7) opportunities for carriers of foreign countries to increase their access to United States points if exchanged for benefits of similar magnitude for United States carriers or the traveling public with permanent linkage between rights granted and rights given away; and

"(8) the elimination of discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including excessive landing and user fees, unreasonable ground handling requirements, undue restrictions on operations, prohibitions against change of gage, and similar restrictive practices.

"INTERNATIONAL AVIATION ADVISORY COUNCIL

"(c) To assist the Secretary of State, the Secretary of Transportation, and the Civil Aeronautics Board in developing such an international aviation negotiating policy there is hereby created an International Aviation Advisory Council which shall be comprised of representatives of the President's Domestic Council, the Department of Commerce, the Department of Defense, airport operators, scheduled air carriers, charter air carriers, airline labor, consumer interest groups, travel agents and tour organizers, and any other groups or institutions which the President deems to be appropriate. The Secretaries of State and Transportation and the Civil Aeronautics Board shall consult with the International Aviation Advisory Council on a regular basis. The Council shall advise the Secretaries of State and Transportation and the Civil Aeronautics Board on both broad policy goals and individual negotiations, when appropriate.

"OBSERVER STATUS FOR CONGRESSIONAL REPRESENTATIVES

"(d) The President shall grant to at least one representative of each House of Congress the privilege to attend international aviation negotiations as an observer if such privilege is requested in advance in writing.".

Sec. 18. (a) The center heading for section 1102 of the Federal Aviation Act of 1958 is amended to read as follows:

"INTERNATIONAL AGREEMENTS

"ACTIONS OF THE BOARD AND SECRETARY OF TRANSPORTATION."

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE XI—MISCELLANEOUS"

is amended by striking out

"Sec. 1102. International agreements."

and inserting in lieu thereof

"Sec. 1102. International agreements.

"(a) Actions of the Board and Secretary of Transportation.

"(b) Goals for international aviation policy.

"(c) International Aviation Advisory Council.

"(d) Observer status for Congressional representatives.".

Sec. 19. Section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504) is amended by striking the words "international negotiations and adversely affect the competitive position of any air carrier in foreign air transportation." and inserting in lieu thereof the following: "international negotiations. In making that determination, the Board or the Secretary, as the case may be, shall consider the effect of the proposed withholding on competition in air transportation.".

Sec. 20. The third sentence of section 1108(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1508(b)) is amended by inserting immediately before the period at the end thereof the following: ", unless specifically authorized under section 416(b)(7) of this Act".

Sec. 21. Section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. 1517) is amended to read as follows:

"TRANSPORTATION OF GOVERNMENT-FINANCED PASSENGERS AND PROPERTY

"TRANSPORTATION BETWEEN THE UNITED STATES AND A PLACE OUTSIDE THEREOF

"Sec. 1117. (a) Except as provided in subsection (c) of this section, whenever any executive department or other agency or instrumentality of the United States shall procure, contract for, or otherwise obtain for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States, or shall furnish to or for the account of any foreign nation, or any international agency, or other organization, of whatever nationality, without provisions for reimbursement, any transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is available.

"TRANSPORTATION BETWEEN TWO PLACES OUTSIDE THE UNITED STATES

"(b) Except as provided in subsection (c) of this section, whenever persons (and their personal effects) or property described in subsection (a) of this section are transported by air between two places both of which are outside the United States, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is reasonably available.

"TRANSPORTATION PURSUANT TO BILATERAL AGREEMENT

"(c) Nothing in this section shall preclude the transportation of persons (and their personal effects) or property by air carriers that do not hold certificates under section 401 of this Act if such transportation is provided for under the terms of a bilateral or multilateral air transport agreement between the United States and a foreign government or governments, and if such agreement provides reciprocal rights for the transportation by air carriers holding certificates under section 401 of this Act of passengers or cargo financed by such foreign government or governments.

"DISALLOWANCE OF IMPROPER EXPENDITURE BY COMPTROLLER GENERAL

"(d) The Comptroller General of the United States shall dissallow any expenditure from appropriated funds for payment for personnel or cargo transportation in violation of this section in the absence of satisfactory proof of the necessity therefor. Nothing in this section shall prevent the application to such traffic of the antidiscrimination provisions of this Act.".

Sec. 22. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading.

"TITLE XI—MISCELLANEOUS"

is amended by striking out

"Sec. 1117. Transportation of Government-financed passengers and property.

and inserting in lieu thereof

"Sec. 1117. Transportation of Government-financed passengers and property.

"(a) Transportation between the United States and a place outside thereof.

"(b) Transportation between two places outside the United States.

"(c) Transportation pursuant to bilateral agreement.

"(d) Disallowance of improper expenditure by Comptroller General.".

SEC. 23. Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1159b) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and adding a new subsection (b) as follows:

"(b)(1) Whenever the Civil Aeronautics Board, upon complaint or upon its own initiative, determines that a foreign government or instrumentality, including a foreign air carrier (1) engages in unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practices against a United States air carrier or (2) imposes unjustifiable or unreasonable restrictions on access of a United States air carrier to foreign markets, the Board may take such action as it deems to be in the public interest to eliminate such practices or restrictions. Such actions may include, but are not limited to, the denial, transfer, alteration, modification, amendment, cancellation, suspension, limitation, or revocation of any foreign air carrier permit or tariff pursuant to the powers of the Board under the Federal Aviation Act of 1958.

"(2) Any United States air carrier or any agency of the Government of the United States may file a complaint under this section with the Civil Aeronautics Board. The Board shall approve, deny, dismiss or set such complaint for hearing within 30 days after receipt of the complaint. In considering any complaint, or in any proceeding under its own initiative, under this subsection, the Board shall (1) solicit the views of the Department of State and the Department of Transportation and (2) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file such written evidence and argument as is consistent with acting on the complaint within 30 days of receiving the complaint.

"(3) Any action proposed by the Board pursuant to this section shall be transmitted to the President pursuant to section 801 of the Federal Aviation Act of 1958 (49 U.S.C. 1461).".

Mrs. KASSEBAUM. Mr. President, I am pleased to join with Senator CANNON in introducing the International Air Transportation Competition Act of 1979. This bill is designed to encourage greater competition in international air transportation markets, provide stronger guidelines for U.S. negotiating policy relative to air transportation bilateral agreements, and give greater latitude to the Civil Aeronautics Board in approving or disapproving rates and route authority.

There are two controversial provisions contained in the bill upon which the Aviation Subcommittee invites comment: New authority for the Civil Aeronautics Board to suspend or revoke the route authority of a carrier when it can be demonstrated that another carrier is able to provide better service, and an amendment to the "Fly America" clause permitting the use of foreign transportation between two points outside the United States when the U.S. carrier's service is not reasonably available. Hearings will be held by the subcommittee in late July and the first of August.

The bill is consistent with current U.S. policy to encourage more competition in aviation, including international markets, and provide better service at favorable rates for the traveling public.

I believe this bill enhances the current U.S. procompetition position, while maintaining reasonable protections for our domestic carriers.

By Mr. CRANSTON (for himself, Mr. BENTSEN, Mr. HAYAKAWA, Mr. HELMS, Mr. MELCHER, and Mr. TOWER):

S. 1301. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to clarify the act's coverage with respect to employees engaged in the manufacture, servicing, or sale of recreational boats and certain small fishing boats; to the Committee on Labor and Human Resources.

● Mr. CRANSTON. Mr. President, today, along with several of my colleagues (Senator BENTSEN of Texas, Senator HAYAKAWA of California, Senator HELMS of North Carolina, Senator MELCHER of Montana, and Senator TOWER of Texas), I am re-introducing a bill to amend the Longshoremen's and Harbor Workers' Compensation Act to exempt from the act's coverage employees engaged in the manufacture, repair, servicing, or sale of recreational boats and certain fishing boats. This bill would clarify jurisdictional lines made hazy by bureaucratic expansion of the intent of Congress. This bill received hearings in the Labor and Human Resources Committee at the end of the 95th Congress but was not reported to the Senate.

In 1972 the Congress enacted amendments to the Longshoremen's and Harbor Workers' Compensation Act of 1927 designed to provide a uniform compensation system for those engaged in what traditionally had come to be known as "maritime employment."

The law that Congress adopted contained seemingly simple, straightforward language to accomplish the purposes of the legislation. Congress certainly did not intend to expand to all dockside activity the traditional concept of "maritime employment" for the purposes of subjecting these businesses to Federal insurance requirements, nor did it intend to expand the coverage of the Federal Longshoremen's and Harbor Workers' Compensation Act to employees of the recreational boat industry or other small waterfront businesses normally, completely, and appropriately covered by State workers' compensation law.

In 1974, the Department of Labor, in its notice No. 21, with respect to the 1972 amendments to this act, erroneously reached the unfortunate conclusion that in adopting the 1972 amendments to the act, Congress intended to include the entire pleasure boat industry—including small recreational boat sellers, builders and repairers, marinas, servicers of small commercial fishing boats, and other shoreside or nearby operations—under the jurisdictional classification "maritime employment."

The immediate effect of this decision was to impose a substantial financial burden on the numerous small businesses, to which it applied, businesses previously covered by State workers' compensation laws. Testimony taken by the House Subcommittee on Compensation and Labor indicated that compensation insurance premiums for some small businesses increased as much as 500 percent in 2 years. Although this situation has improved, higher premiums resulting from the more generous Federal benefit structure for severe injuries or death remain a substantial problem for small businesses, even though statistically workers in these businesses are far less likely to suffer these serious injuries, because insurance premiums are constructed on a "worst case" basis.

The distinction between the heavy activities of longshoremen and harbor workers engaged in loading and unloading cargoes and other sometimes hazardous activities—which are considered by insurance carriers to be four times as dangerous as ordinary land labor—and the activities of recreational boat sellers or mechanics who are not engaged in any work-related high risk functions, is obvious. However, under the present DOL interpretation, the waterside components of the recreational boat industry are compelled to provide Federal L. & H. insurance—normally required only for the traditional hazardous maritime activities—for all their employees, while businesses with whom they are in competition, but fortuitously located off the water, are covered by less expensive State compensation insurance.

In addition to the obvious competitive disadvantage for these businesses, this curious jurisdictional interpretation defeats the very principle of uniform coverage within an industry which Congress had hoped to establish for traditional "maritime employment" by its 1972 action.

In addition to the financial burden which the recreational boat industry must bear, these companies found L. & H. insurance very difficult to obtain. In many areas private carriers are unwilling to write coverage under the Federal act, except for preferred customers. In California, coverage was virtually unavailable in 1975, until emergency State legislation temporarily opened the State Compensation Fund to employers seeking coverage under the Longshoremen's and Harbor Workers' Compensation Act. At present there are only two companies in California writing L. & H. insurance for the recreational boat industry, only one of which is a private carrier.

In a hearing I chaired last year before the Senate Committee on Labor and Human Resources, Assistant Secretary of Labor Donald Elisburg said that throughout the Nation only 62 injuries involving lost time from work were reported for the entire recreational boating industry during one 3-month period. Most of these were minor. This incidence of injury is very low. In California, during 3 months of 1978, there were only 28 lost time injuries reported under this act. Yet, testimony before the committee showed that in southern California alone, between 10 and 50 recreational boating industry workers lost their jobs as a result of layoffs and shutdowns resulting from the financial hardship imposed on small businesses in the industry because of the high premiums for L. & H. coverage. In northern California, an estimated additional 15 to 30 workers lost jobs for the same reason during the same period. Obviously, in the recreational boating industry the DOL-asserted jurisdiction is hurting more workers than it is helping, while all covered employers are forced to bear higher costs.

A worker whose job has been eliminated derives no comfort from knowing that in the unlikely event he suffered a serious injury on the job, he might have received benefits higher than under State law.

Moreover, there are many indications that in many States, DOL's asserted coverage requirements are being ignored by employers, who continue to purchase State, rather than Federal, workers' compensation insurance. In these cases, the conflicting interpretations of the meaning of the 1972 amendments make it impossible to tell who must be covered under Federal law. Without Federal coverage, workers receive no Federal benefits, even if injured.

Since the purpose of workers' compensation is to provide insurance coverage to protect the worker—not penalize the employer and by extension the worker—I believe it is time to amend the L. & H. Act to make clear that the recreational boat industry is excluded from the act.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(3) of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 902 (3)) is amended by striking out the remainder of the sentence appearing after the word "include" and inserting in lieu thereof the following:

"(A) a master or member of a crew of any vessel;

"(B) any person engaged by the master to load or unload or repair any small vessel under eighteen tons net;

"(C) any person engaged in the manufacture, repair, servicing, or sale of recreational boats, unless actually engaged on, under, or over the navigable waters of the United States (as defined prior to the enactment of Public Law 92-576) and unless not otherwise covered by State workers' compensation law; and

"(D) any person engaged in the manufacture, repair, servicing, or sale of fishing boats and employed by an employer with twenty or fewer employees, unless actually engaged on, under, or over the navigable waters of the United States (as defined prior to the enactment of Public Law 92-576) and unless not otherwise covered by State workers' compensation law."

SEC. 2. Section 2 of the Longshoremen's and Harbor Workers' Compensation Act is amended by designating paragraph (22) as paragraph (24) and by inserting after paragraph (21) the following new paragraphs:

"(22) The term 'recreational boat' means any vessel which is of a type or class designed, manufactured, or used primarily for noncommercial purposes, and not required to have a valid marine document as a vessel of the United States.

"(23) The term 'fishing boat' means any vessel which is seventy-two feet in length or less and is of a type or class designed, manufactured, or used primarily for commercial fishing purposes.".●

By Mr. CRANSTON:

S. 1303. A bill to repeal baseball's antitrust exemption, to prohibit certain territorial restrictions in professional sports, and for other purposes; to the Committee on the Judiciary.

SPORTS ANTITRUST REFORM ACT OF 1979

● Mr. CRANSTON. Mr. President, I am introducing in the Senate today a companion bill to H.R. 2129, the Sports Antitrust Reform Act of 1979, as introduced earlier this year in the House of Representatives by my fellow Californian Representative JULIAN DIXON and his colleague Representative JOHN SEIBERLING of Ohio.

Our legislation reforms the antitrust laws with respect to professional sports in two ways.

First, it removes the present exemption from antitrust laws which the Federal courts carved out for organized baseball many years ago. No other professional sport enjoys the court-created immunity enjoyed by baseball. The original Supreme Court decision, as many of my colleagues know, turned upon a finding by the Court that baseball was not a business engaged in interstate commerce. No court today would make such a finding and there is no good reason not to place baseball on the same basis as other professional sports with respect to the antitrust laws.

Second, the bill prohibits the exercise of exclusive territorial rights by franchise owners located in areas having a population greater than 2 million persons living within a 75-mile radius of the team's home.

I think it is unreasonable to permit the exercise of monopoly power in a community as large as Los Angeles which has proven that it can support comfortably two baseball teams. The same should be true for football and any other sport, for that matter.

The bill's limitation on exclusive territorial franchises will help to protect communities which may lose a team. I do not think Congress ought to prohibit the movement of businesses. But the law should not permit one person acting in concert with other league members to keep out a competing franchise. For example, the difficulties Washington, D.C., is having in attracting a team to RFK Stadium, in part, stems from the exclusive territorial rights of the Baltimore team located only 40 miles away. The situation is doubly unfair because the Baltimore owner acquired a windfall right to control baseball in Washington he did not have when both cities had teams. This type of unjustified leverage should not be permitted to continue. Our bill will end it.

I am very pleased to join with my House colleague from California, JULIAN DIXON, because we both share a great concern for the future economic well-being of the Coliseum area of Los Angeles.

The operations of the Coliseum are vital to the economic life of the community surrounding this great facility. On game days, over 1,000 jobs are provided to persons living within the immediate vicinity of the Coliseum. The earnings mean a great deal to this community in which the average income is well below the offical poverty level.

The economic future of the Coliseum is vital to other efforts to upgrade the immediate neighborhood and to provide an adequate stadium in which to hold the 1984 Olympic games. A professional sports team tenant will aid in bringing in revenues which will reduce the need for additional local, State and Federal expenditures for the games in 1984.

Professional sports play an important role in our lives as entertainment and as an important economic contributor. It is commonsense to place organized sport for money on the same legal basis as other businesses in our communities. I urge my colleagues to give this measure their support.●

By Mr. HATCH:

S.J. Res. 86. A joint resolution proposing a constitutional amendment to balance the Federal budget, limit Federal spending, and prevent an increasing share of the national income from being consumed by the Federal Government; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, today I am introducing a joint resolution proposing an amendment to the Constitution of the United States to require a balanced Federal budget and to impose spending limitations upon the Federal Government.

While a great deal of emphasis has been placed upon the new mood of budgetary restraint supposedly operating in Washington since the adoption of proposition 13 in California last June, it is clear to me that this mood is more apparent than real. In January, for example, the President billed as "lean" and "austere" a budget containing expenditures of $42 billion more than last year, and a budget deficit of $29 billion.

I might also add that there is an additional $12 billion in off-budget items that are never mentioned, except when they have to be.

In its concurrent budget resolution, Congress has improved upon these figures only slightly, although the pained expressions on the faces of special interests dependent upon Federal dollars would lead one to believe otherwise. Most of the reduction in the deficit level proposed by Congress is attributable to increased revenue projections resulting from higher predicted levels of inflation.

Thus, in the midst of what has been described as a "new era in fiscal responsibility," a budget is being approved ($532 billion) that is nearly 50 percent higher than the budget for fiscal year 1976, only 4 short years ago; and a budget deficit is being approved never even approached in the history of our country during peacetime, prior to 1975. Only in Washington could this budget be described as anything less than obscene.

Where are the hard decisions made in this budget that have to be made? Nothing of any substance is done to insure that HEW and GSA waste is curbed. No reductions in the executive bureaucracy are made. No agencies or commissions are abolished. No grand Federal programs are eliminated or pared down. Food stamps, mass transportation subsidies, impact aid, and CETA are continued as before, in fact, more than before.

Foreign aid and the international financial institutions are maintained intact. The Federal Government continues its involvement in such dubious areas as aid to the arts and humanities, Davis-Bacon, affirmative action, and new Senate office building construction.

Mr. President, it seems to me that this Congress and this administration do not yet feel the sense of urgency that is felt by the people of this country about our economic situation:

Secretary of Treasury Blumenthal, for example, testifies before the Senate Judiciary Committee that the congressional budget process has made a major contribution toward bringing about comprehensive, logical, and responsible budget making. This, despite the fact that our Nation has incurred more than $300 billion in new debt since the Budget Act's implementation in fiscal year 1976.

Congressional leaders threaten to punish State and local officials, who call for increased Federal restraint, by eliminating revenue sharing.

Members of Congress consider ways by which this body can avoid having to respond to State petitions calling for a balanced budget constitutional convention.

All the while, inflation continues to creep into double figures, the tax burden on American citizens becomes increasingly oppressive, unemployment is maintained at intolerably high levels, the dollar wanes in value, and the productivity and innovativeness of the American economy continues to be sluggish. In short, the American standard of living declines.

It is my belief that a constitutional amendment is critically necessary to effect a measure of fiscal responsibility. It is necessary because our root problem is not simply the fact that there are too many members of this body who do not understand the relationship between their actions and the state of the American economy. While their number remains tragically high, just as critical is the fact that all of our legislators operate in an institutional environment in which votes cast for high levels of Federal spending are rewarded, while votes cast against such levels normally carry no immediate benefits.

Legislators are no different than any other individuals in their concerns for maximizing their own self-interest. In this case, their self-interest is reelection. When confronted by a decision of whether or not to support a higher authorization of appropriation, or whether or not to support continuation of some spending program, the legislator is normally beset by special interest groups who have an immediate, an intense, and a focused concern for that program or that level of funding. These groups are visible, articulate, and able to reward or punish legislators with their support or nonsupport in congressional elections. It is only natural that the legislator should be sensitive and responsive to their concerns.

There is normally no similar constituency in behalf of reduced authorizations or appropriations, or for program retrenchment. Those who would logically be most concerned about such expenditures—the taxpayers—are diffuse, unorganized, and politically inarticulate. Even if they are able to perceive the nature of their self-interest, it is impossible for them to focus on any given program wih the same intensity and passion of a beneficiary special interest group. While such group may stand to gain millions or billions of dollars for their relatively narrow constituency, the taxpayer stands to lose nothing more than a few cents or a few dollars apiece on any single program. It is only when these programs are aggregated that the taxpayer begins to feel the impact of such spending.

The great virtue in a mandated balanced budget is that it alters completely the psychology of the congressional spending process. Under the present system, each of the special interests completes with the taxpayers to raise the total ante in the Federal Treasury. Under a system in which a balanced budget is compulsory, these same interests suddenly are competing with each other in order to insure themselves a certain proportion of a fixed ante in the Federal Treasury. The spending interests must not only convince Congress that their own particular program merits funding at a certain level. But, for the first time, must convince Congress that their program is more deserving than some other program. By establishing a fixed spending ceiling, a balanced budget constitutional amendment requires that Congress think in order of budget priorities. For the first time, an element of competition would be introduced into the budgetary process.

Because I believe that at least some of our difficulties in curbing fiscal profligacy are of an institutional nature, I am convinced that a permanent constitutional ceiling is warranted. I have heard it remarked that a balanced budget, or spending limitation amendment, would "trivialize" the Constitution, and that economic policy should not be written into the permanent law of the land. I emphatically disagree with this view. Our Founding Fathers conceived what was to be a limited Government, one whose activities were to be sharply contained and circumscribed. The 10th amendment of the Constitution states it well:

> The powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people.

It is the opinion of many in this country, including myself, that we have strayed a great deal further from this conception of national government than necessary or desirable. In my mind, a balanced budget or spending limitation amendment offers the potential to impose new limits upon the National Government, replacing those that have largely been eroded over the years. It has the potential to recreate a measure of the balance conceived by the Founding Fathers between the National Government, the States, and the people. This is certainly not a trivial objective. Rather, it goes to the heart of what our system of Government is going to be in the future.

Section 1 of the proposed amendment states simply that Congress shall insure the achievement of a balanced budget on an annual basis. Such a budget has been achieved by the Federal Government only eight times in the past 50 years, and only twice in the past 23 years. What is currently considered off-budget spending is to be included in this calculation.

With Federal outlays prohibited from exceeding Federal receipts or revenues, there will no longer be a need for Washington to monetize its debt—at the expense of the soundness of the currency, or a need to borrow from the capital markets—at the expense of the investment needs of the private sector.

Section 2 fuses onto the balanced budget requirement what is, in effect, a requirement that this balance not be achieved through heavy increases in the amount of revenues taken in by the Federal Government. Equally serious to the deficits incurred by the country in recent years has been the increased weight of Federal taxation. Since the beginning of the congressional budget process, the tax burden as a percent of GNP has increased from 18.4 percent in fiscal year 1976 to 20.1 percent projected for fiscal year 1980 and 20.6 percent for fiscal year 1981. It is the objective of section 2 to insure that a balanced budget is not achieved in the manner that the Carter administration proposes—through 14 to 15 percent annual increases in revenue. Such a balanced budget might represent a cure worse than the illness itself.

Mr. President, the language in section 2 is borrowed heavily from that proposed by Nobel prize winning economist Milton Friedman and the National Tax Limitation Committee. It specifies that increases in total Federal outlays from 1 year to the next shall not exceed the percentage increase in the nominal gross national product. Thus, Federal spending as a proportion of the economy will not rise in order to achieve a balanced budget.

Further, this language ensures that the Federal Government will not continue to enjoy the benefits of the inflation dividend that it accrues under our progressive income tax system. Under the present system, the Federal Government reaps financial rewards through inflation since taxpayers are artificially pushed into higher and higher marginal brackets as their nominal income increases in the meantime, their real income remains the same, or less. As a result of this phenomenon, it has been estimated that Federal tax revenues increase by approximately 1.65 percent for each 1 percent of inflation.

An increasing proportion of the national income is consumed by the public sector. Thus, the very economic policy that has led to the impoverishment of the productive sector has also led to the unjust enrichment of the public sector.

Section 2 specifies that, to the extent inflation exceeds 3 percent in a given year, the permissible percentage increase in total outlays during that year shall be limited to three-fourths of the excess. If, for example, the rate of inflation is 11 percent in a year, the permissible rate of outlay increase for the corresponding fiscal year would only be 9 percent. In this manner, the proposed amendment would eliminate any incentives for the Federal Government to promote relatively high levels of inflation.

Section 3 seeks to inject an element of flexibility into the economic requirements of the proposed amendment, although not the sort of flexibility that balanced budget opponents find achievable only in the absence of any economic requirements. It specifies that no more than once per fiscal year, a resolution may be offered to waive the requirements of this amendment by a vote of 60 percent of the Members of each House of Congress. Such a numerical majority is a relatively easily achievable one compared to those contained in the exception provisions of other proposed amendments. It is accompanied, however, by the requirement that such a resolution, which must specify newly permissible levels of outlays and receipts, shall be placed on the calendar of each House for at least 7 calendar days prior to consideration. The purpose is simply to draw the maximum amount of attention each year to a single vote in which the balanced budget is at stake.

Instead of the public having to sift through countless votes in order to determine which Members were "budget-busters," everything would boil down to one simply-understood vote. In the event that "emergency" conditions required further exceptions to the balanced budget and spending limitation requirements of the amendment, a far more difficult three-fourths vote would be necessary in each House of Congress.

Section 4 deals with one of the most difficult problems inherent in any balanced budget constitutional amendment—the need to avoid relatively easy circumvention of its terms. The section states simply that:

> Budgetary terms used in this article shall be construed in such manner as to substantially accord with their meanings on the day on which this article was submitted to the States for ratification.

There is a need, in my opinion, to strike a proper balance between elegance of constitutional language, and precision of constitutional language. This becomes a particularly difficult task with respect to the articulation of relatively complex economic concepts. While a number of critics have ridiculed the "economic textbook" language of the Friedman amendment (section 2), I am convinced that such language (albeit slightly modified) is necessitated by the fact that so many of the politicians supported by these critics have circumvented previous efforts at fiscal restraint at the Federal and State level through resort to various budgetary contrivances. These include increased reliance upon off-budget programs, Government sponsored enterprises, guaranteed loans, and new regulatory efforts shifting costs from the public to the private sectors.

The relatively precise language of section 2 and the relatively concise language of section 1 is thus combined with the broad policy of section 4. While I frankly have some concerns about any provision that might invest decision-making authority in the hands of the Federal courts, I believe that the effect of this provision will primarily be to deter subsequent Congresses from eroding or undermining the spirit of this amendment through manipulation and redefinition of such terms as outlays, receipts, inflation, et cetera.

The criticism is nevertheless raised that a balanced budget amendment could relatively easily be circumvented, if necessary. In response, I would suggest that most amendments or statutes, of human contrivance, can also be undermined or distorted by human contrivance. Some of us might suggest that this has already occurred with respect to earlier amendments that were probably considered airtight by their drafters. If the will is there to ignore a balanced budget amendment, or any other amendment, I have little doubt that an ingenious Congress or an ingenious administration can probably do this. The value of a constitutional amendment, despite this fact, is that it elevates to constitutional status a broad principle of government, the principle of fiscal responsibility. It thereby serves as a permanent beacon by which Congress and the Executive can—and must—judge their programs and policies.

Congress, it seems to me, is expected always to act in accordance with both the terms of the Constitution and the spirit of the Constitution. While it is not always, of course, easy to enforce this responsibility against Congress, it nevertheless remains their duty. It is not simply the judicial branch under our system of Government that has responsibility for interpreting the Constitution: The legislative branch has a concurrent responsibility to do this. In the case of political questions, the legislative branch stands in the place of the judiciary.

I am frankly uncomfortable with the attitude that we ought not to propose a constitutional amendment because it is capable of circumvention. I am sure that the people are capable of identifying those Members of Congress who will perpetually be looking for ways to circumvent. If circumvented, it will certainly not be the first constitutional amendment ever to be circumvented. If circumvented, it will still be justified as an exercise in placing in the organic law of our land an enduring and permanent principle of sound economic policy

Section 5 provides the effective date for the amendment, while section 6 imposes a 7-year time limit for ratification by three-fourths of the States.

Mr. President, there are a number of good constitutional amendments that have been proposed during this session to impose some much needed fiscal restraint upon the Federal Government. I believe that the immediate amendment offers one approach to the problem, but recognize the overwhelming need for Members who have sponsored or cosponsored some type of amendment to join together ultimately in behalf of a single amendment.

The momentum for such an amendment has been created at the grassroots and has been preserved by the legislatures of 30 States that have petitioned Congress to assemble a constitutional convention to consider an amendment. I hope that my colleagues will recognize that the issue before us is not simply whether or not an amendment will be proposed to limit Federal spending and balance the budget. Just as critical is the issue of which body will ultimately propose this amendment—Congress or the constitutional convention. If this body continues to act intransigently, and resist the strongly felt will of the people, then the people are constitutionally capable of taking this matter in their own hands. Congress can continue its wishful thinking that it can avoid confronting a constitutional amendment indefinitely. If so, it will soon be dealt a harsh lesson on the source of its own power. It will soon learn that there are higher authorities to whom it is accountable.

Mr. President, I ask unanimous consent to have printed in the RECORD a number of articles and addenda, including the full text of the joint resolution.

There being no objection, the joint resolution and material were ordered to be printed in the RECORD, as follows:

S.J. RES. 86

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States in the manner provided therein:

"ARTICLE —

"SECTION 1. In exercising its powers under Article I of this Constitution, the Congress shall assure that the total outlays of the Government during any fiscal year do not exceed the total revenues of the Government during such fiscal year. Total outlays shall include budget and off-budget outlays, and exclude redemptions of the public debt.

"SEC. 2. Total outlays of the Government during any fiscal year shall not increase by a percentage greater than the percentage increase in the nominal gross national product during the last calendar year ending prior to the beginning of such fiscal year. If the inflation rate for that calendar year is more than three percent, the permissible percentage increase in total outlays during such fiscal year shall be reduced by one-fourth of the percentage by which the inflation rate exceeds three percent.

"SEC. 3. (a) The Congress may provide by a concurrent resolution agreed to in each House of Congress by a rollcall vote of 60 percent of all Members thereof that sections 1 and 2 of this Article shall not apply to one fiscal year. Any such resolution shall specify permissible levels of outlays and revenues which may be considered during that fiscal year. It may not be considered by either House unless it has been on the calendar of that House for at least seven calendar days.

"(b) If the two Houses have agreed to a concurrent resolution under subsection (a) for a fiscal year, another concurrent resolution with respect to levels of outlays and receipts which may be made during that fiscal year shall require for adoption an affirmative rollcall vote of 75 percent of all Members of each House.

"SEC. 4. Budgetary terms used in this Article shall be construed in such manner as to substantially accord with their meanings on the day on which this Article was submitted to the States for ratification.

"SEC. 5. This Article shall apply to the second fiscal year which begins after the date of its ratification and to each succeeding fiscal year.

"SEC. 6. This Article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

CONTROLLING THE GROWTH OF GOVERNMENT: THE CONSTITUTIONAL AMENDMENT APPROACH

(By William Niskanen)

This afternoon I would like to bring you up to date concerning the status of the tax limitation movement. For seven years now I have been involved in drafting and promoting constitutional tax or spending limitation amendments at the state and federal levels. In particular, I would like to inform you of the efforts of the group with which I am associated, the National Tax Limitation Committee.

Our initial attempt at a state level tax limitation amendment was Proposition One in California in 1973, which was narrowly defeated. The first one of our measures that passed was in Tennessee in March of 1978, followed by similar measures in Hawaii, Arizona, Texas and Michigan which passed in November of 1978.

Our Committee has no relationship with the group that sponsored Proposition 13 in California. It is important to recognize that Proposition 13 is not a general tax limitation. Rather, it limits property tax rates and assessments, but does not limit either local or state general tax revenues.

The measures that we have promoted for the states have the following general character: the total amount of tax revenues that the state may collect is tied to a certain share of the total personal income or some other measure of aggregate economic activity in the state. The state, in turn, is prohibited from passing the buck down to local governments. There is usually a provision that requires the proportion of the state budget that goes to subventions (subsidies) for local governments and school districts be maintained. And, from then on, if the state government requires local governments to perform any new or expanded services, the state must pay the necessary incremental cost of those new or expanded services.

The final provision in the Michigan amendment was particularly innovative because it will avoid the conditions that led to Proposition 13 in California. The Michigan constitution now has a provision which operates on the property tax in the following way: if assessments on existing property increase faster than the general rate of inflation, then the maximum authorized millage is reduced in such a way that revenues from existing property go up only by the amount of inflation. This means that a revenue limit is also established at the local level whereby the revenues can grow only by the amount of inflation plus the revenues from new construction and improvements in the community. Beyond that, an increase in the millage rate requires popular support.

In 1978, these measures passed in five states. There are activities underway now in approximately 30 other states to promote similar measures.

Last summer, a committee was formed to draft a proposed amendment to the federal constitution for a similar purpose. That committee has met four times for a number of days on each occasion, and in late January completed its work. This proposal will be introduced in the Senate by Senator Stone of Florida and Senator Heinz of Pennsylvania.

Here is how the amendment would operate: The limit is on federal spending, not taxes. With the federal government's authority to run big deficits, the limit on taxes would not be adequate. The limit is therefore on total outlays, which includes both budget outlays and off-budget outlays. (Some of you may know that in the last dozen years or so the federal government has played a number of shenanigans with its budgetary devices, pushing more and more loans off the budget. To circumvent this practice, the limit will be expressed in terms of total outlays, budget and off-budget outlays of the Federal government.)

If inflation is under 3 percent, then the percentage increase in total outlays may be no higher than the percentage increase in the gross national product of the United States in the calendar year preceding the begining of the fiscal year. In this way, all the data on the gross national product are already in by the time the second Congressional budget resolution has to be passed. In a low inflation world, then, the government may grow as fast as the gross national product, but no faster. By introducing a 21 month time lag between changes in the gross national product and the federal budget, the federal spending limit will be almost perfectly counter-cyclical to the economic cycle. The federal share of the GNP would be highest in a recession year and lowest in a good economic year.

In a world in which inflation is higher than 3 percent, the allowed percentage increase in federal spending may be somewhat less than the prior growth in GNP. This, there is an inflation penalty in the allowed federal spending growth when inflation is above 3 percent. Federal spending itself is not the dominant determination of inflation, but this measure provides our political representatives in Washington with a strong incentive to bring inflation under control as a means of maintaining total federal outlays.

The other provisions of the proposed federal amendment are similar to those at the state level. The proportion of the total federal outlays that are subvented to states and local governments may not be reduced in the first six years after the passage of the amendment. The federal government may not mandate any new or expanded activities for state and local governments without sending them money to pay for the necessary cost of those new or expanded activities.

Finally, there is a provision for enforcing the amendment which was suggested by Professor Bork of Yale—one of the more distinguished law professors in the United States, former Solicitor General and, for a weekend or so, Attorney General of the United States. The section would provide for enforcement of this measure without keeping it tied up in the courts for a long period of time. He was very concerned about that feature and I think he handled it particularly well.

We need the support of groups who have not yet committed themselves either against the spending limit concept or in favor of a balanced budget amendment. Twenty-eight states have passed resolutions calling for Congress or a constitutional convention to draft a constitutional amendment requiring a balanced federal budget. I think that is a mistake, even though I share most of the concerns which have led to those resolutions at the state legislature level. It is a mistake because a balanced budget, by itself, will not do too much to correct either the growth of federal spending or the inflation problem. You can have very rapid growth of federal spending and still have balanced budgets. The balanced budget is consistent with federal spending being 30 percent of our income instead of roughly 22 percent of our income.

Furthermore, the balanced budget, by itself, has very little to do with inflation. There turns out to be no temporal relationship between budget deficits and money growth. Moreover, there is no relationship suggested by the international comparisons. Germany and Japan, for example, have had among the highest relative deficits in recent years with the lowest inflation rates of the industrial countries.

Therefore, I believe that the balanced budget movement, if it succeeds, will not achieve the purposes of its supporters. At the same time, I am pleased that they have gone as far as they have because it is forcing people in Washington who would otherwise pay no attention to a more responsible measure to consider our measure as being the best way to meet what are clear popular demands in this area. Some number of Congressmen and Senators are saying "Well, we do not want a constitutional convention; we really don't want the constitution opened up. Second, even if we wanted a balanced budget amendment, we would not know how to implement it. It is a very difficult concept to consider implementing on a regular basis. So, although we see that movement out there among the populace, we don't know how to handle it." And that has caused people who would otherwise give our movement little attention to give us serious attention.

This has been a long-term labor of love for our group. We have been engaged in this activity now since the fall of 1972. Our first victory was in March of 1978, and naturally we are in a bit of a high at the moment. We think that we have the staying power and we are going to try to stay with this effort—both the state constitutional amendments on taxes and the federal constitutional amendment on spending—for as long as necessary and as long as there is any hope.

QUESTION AND ANSWER SESSION

QUESTION. Will this in any way check the government's appetite for more spending programs? Or will the government resort to heavier tax burdens on the wealthy?

ANSWER. No, it does not check its appetite but it changes its authority. This would limit the percentage increase in total outlays to the percentage increase in the general economy. In my lifetime, the federal budget has gone from a few percent of the total output in the United States to over 22 percent currently. Think how rapidly that whole situation has changed! Total government spending has gone from 15 percent to nearly 40 percent of net output in a single lifetime. We are trying to bring to a close an era of rapidly increasing federal, state and local government claims on the income of Americans.

In answer to the second part of the question, our measures, as proposed on both the state and federal level, say nothing whatsoever about the composition of revenues. They may choose to raise the revenues all from one source or whatever they want. These measures have only one constraint on the composition of spending, and that is to maintain the share that is to go to subventions, to grants and aid. The whole spirit of these amendments is to leave to the political authorities the determination of where the revenue comes from and where the spending goes, but to establish a constitutional principle regarding the share of our income in the aggregate that they can spend without broad popular support.

QUESTION. I wonder if you might talk about what strikes me as being a very large loophole in this whole thing. Might not your proposal result in more government regulation since this method of government control shifts most of the costs to business and away from federal budgets?

ANSWER. It is a major problem and I worry about it. One thing at a time. I have never been enthused about the argument that you should not pull out one rotten tooth because you have another problem.

QUESTION. It is interesting that you have constrained activities so as not to short-circuit grants and aid to states, and, at the state level, to localities.

ANSWER. The reason for that is very clear. It is strictly political. The final groups of people who vote on a federal constitution amendment are state legislatures. I am not happy about the share of the federal budgets that goes to subventions and what I think is the wholly corrosive effect of those subventions at the state and local level. But recognizing that the final people who vote on federal constitutional amendments are state legislators, who would be very much concerned about maintaining that flow of subventions, is one of my rare concessions to realism.

Question. What is the status of your federal spending limitation amendment?

Answer. Our group, the National Tax Limitation Committee, has completed its draft. There are some 40 spending or balanced budget proposals already in the hopper in Washington. Ours has not yet been put in the hopper but it soon will be. I received a proposed Senate joint resolution a day or two ago from Senator Dole of Kansas, who is trying to pair the balanced budget proposal and a spending limit proposal in the same motion. There will be any number of these from which to choose. My sense (and there is every reason for me to be biased about this) is that ours reflects the most careful thought and prior experience of the many that I have seen.

Question. Your proposal assumes that the current base of expenditures is the appropriate one and builds off of that. Is that another concession to political reality?

Answer. Well, yes, in a sense. It does not necessarily reflect the assumption that the present level is correct. It does say that history starts from now. We are trying to roll back the federal government. We are not trying to change prior history. We start from now. That is, I believe, a necessary condition for gaining consent for these types of measures.

People, of course, have grown up in a world in which their expectations have been based upon certain federal roles. To a lot of people, if you reduce that role, their expectations and plans will be wrong, so in that sense history starts now.

Question. Periods of national emergency in the past have often been times when spending by Congress surged upwards and then failed to come back down to previous levels. How would your emergency provisions avoid this situation?

Answer. Emergency provisions can only be evoked if two-thirds of the membership of each House vote in favor of increased expenditures and this only following a declaration of emergency by the President. The emergency authority itself continues from one year to the next, but the authority to exceed the spending limit expires at the end of each fiscal year. In order to continue the emergency in effect, at least in terms of the spending authority, it must be approved by two-thirds of each House each fiscal year. It, therefore, does not permanently pull up the spending limit. They could run on emergency authority for a period of time, but it would take very broad support to do so.

Question. Is there any provision for paying off the national debt?

Answer. No, there is not. Our measure does not bear directly on the question of deficits or surpluses.

Our proposal would say that the government, in effect, couldn't grow any faster than the economy. In an inflationary world it couldn't grow that fast.

Given our present tax structure, a 10 percent increase in GNP leads to about a 16 percent increase in revenues for the federal government. If the federal government did not change tax rates, our amendment would eliminate the deficit within two years. Over a period of time, it would force a periodic reduction of tax rates.

This result comes from the fact that the federal revenue structure is very progressive, generating a great deal more revenue than the income growth. If you allow the spending authority to go up in proportion to the income growth, then that, in combination with the progressive revenue structure, would quickly eliminate the deficit.

We made a calculation as to what the consequences would have been if our amendment had been in effect for the first time in fiscal year 1969. Instead of running a cumulative deficit of $300 billion in that period of time, our proposal would have generated a $30 billion surplus.

Question. Is Milton Friedman a part of your group?

Answer. Yes, he was the most formidable member of our drafting committee. You may have seen the Bill Safire column in the *New York Times*, in which the headline read "The Friedman Amendment"—that refers to the proposal by our group.

Question. Will you briefly contrast this piece of legislation with Howard Jarvis' prescription? Jarvis also counts Milton Friedman as a supporter.

Answer. Professor Friedman did support Proposition 13 in California. I would not have. Professor Friedman has not been identified with Jarvis' effort at the national level.

Jarvis is proposing a statutory limitation (rather than a constitutional amendment) which would cut government spending over a period of several years by about a hundred billion dollars. Given that the deficit will be about $40 billion next year, that proposal would generate a surplus. It would cut the government spending by about $100 billion and cut taxes by about $50 billion, then the rest would eliminate the deficit.

I do not know the breadth of Jarvis' support at the national level. A Proposition 13-type measure passed in two other states this November—Idaho and Nevada—and failed in Oregon and Michigan. I do not expect this type of measure to have very much more success.

The co-sponsor of Proposition 13 in California, Mr. Gann, is now a member of our national group. Mr. Gann has followed up Proposition 13 by heading a group that is now sponsoring a general tax limit in California. Proposition 13, I predict, will prove to be a great disappointment to those who are concerned about constraining total government spending or even local government spending. One of its more unfortunate consequences will be substantial centralization of government in California.

Question. The national expenditure limitation hinges on the inflation rate. Who declares what the inflation rate is?

Answer. The inflation rate is defined as the difference between the percentage growth of GNP and the percentage growth in real GNP.

Question. But who determines it? Price Waterhouse?

Answer. Ah ha. I see where you are heading. At the state level, our amendments have been drafted in terms of data collected and distributed by the federal government. We could assume that, at the state level, the data itself would not be manipulative by the people whose interests are being constrained.

We have a real concern about that problem at the federal level. There may be a sort of Heisenberg uncertainty principle operating on federal statistics in that you can either observe economic conditions or you can act upon them but you cannot do both. I worry about that.

Over a period of time, you gentlemen and others around the country may have to finance a continuing project, at a place like the National Bureau of Economic Research, to make sure that the federal gross national product accounts are not distorted. For reasons that are not entirely clear to me, given my rather suspicious mind, the federal statistics to date have been remarkably immune to political manipulation—not perfectly, but remarkably so. But this is probably its most important test. If federal spending is tied to a measure of gross national product, I would be concerned about who measures it and who checks it.

Question. Bill, can we pursue that for just a moment. Politicizing the GNP has come up a number of times, as you know. I would say that the one statistical measure of economic activity that has been most politicized has been the budget. Congress passes laws saying what should be in the budget and what should be out of the budget, which laws contravene any notion of proper budget concepts. Is there any provision in your amendment to prevent Congress from passing laws redefining the GNP?

Answer. No, I think that you have to recognize the constitutional principal that your words have to convey something and that you cannot put everything in the constitutional amendment itself. In terms of the manipulation of the budget, our limit is expressed in terms of a limit on total outlays which includes the off-budget outlays. It would not include federal guarantees, which could lead to outlays in some future period. It does not include the private costs of regulations.

These problems concern me. I don't know of an instrument yet designed by man or woman that is perfect, and I don't want to wait for that.

Question. This could open up new career opportunities for accountants working for the Supreme Court.

Answer. There is an issue here. The way that Bork has drafted enforcement procedures, however, the only issue that the court addresses is a procedural issue and not a substantive issue. The substantive issue is thrown back into the political arena.

Question. Does this amendment have any implications for the composition of budget expenditures?

Answer. The only effect on the distribution of budget expenditures is the protection on the share going to subventions. In terms of the amendment's effects on the other parts of the budget, my guess is that it would increase the relative share going to defense. My sense is that the budget elasticity of domestic spending is high. In other words, a 10 percent increase in the total budget leads to a 15 percent increase in spending for a lot of domestic programs with only a 6 percent increase in defense spending. A 10 percent decrease would have the reverse effect. Now if you constrain the budget increases to the GNP increase, and no higher, then my guess is that it would increase the share going to the more traditional forms of government spending. There is nothing in our language which, by itself, requires any particular distribution of expenditures.

Let me point out, however, that the uncertainty about the compositional effects is a necessary condition to getting such a bill passed. The Harvard philosopher John Ralls uses the phrase "behind the veil of ignorance." What he means is that the only situation in which you are likely to get an agreement on fundamental principles is one that has uncertain benefits for the individual decision maker.

Even if one or more of you are clever enough to tell me the compositional effects, I wish that you would not tell anyone else. In fact, I think that they are fairly unpredictable. For the most part, I would not want them to be predictable because I think that the unpredictability of its compositional effects is a necessary condition for consent.

Question. Could we shift gears for a moment and concentrate on state level efforts? Now that the Michigan amendment has just recently passed, can you see any impact in terms of government planning for future activities that has already started to shape certain attitudes in the state government?

Answer. Yes, and some shenanigans as well. In other words, there is no way to write language that is not subject to some reasonable differences in interpretation.

But it has already affected the budget that the Governor just submitted. His budget came in substantially below the limit, in part because he wanted to provide some insurance that if something like unemployment or other economic related spending had to go up in fiscal 1980, he could still stay within the limit. And that is a wise way to handle the matter.

Question. One of the arguments used against moving ahead with tax limitations at the state level is that it is competitive with the effort for a national expendiure limitation. Or as someone has said, "you can't ride two horses at once." Would you comment on that?

Answer. I don't understand that line of reasoning. I have been riding two horses for some months on this matter and I see state limits and federal limits as complementary. They may compete for your time, but I don't think they compete in any substantive sense.

Many people have argued about what good it does to limit the state if the federal government is unlimited, and I sympathize with that. My response to that view is to ask them to join our group. We need support at the federal level, even after we have the state limits.

Strangely enough, the states in which these limits were first passed are not conspicuously high spending states—Tennessee, Hawaii, Arizona, Texas, and Michigan. Part of the explanation is that in these states the citizens have the authority for initiatives. There are only 22 states that allow the initiative process.

In other states you have to go through the legislature. In Massachusetts (locally called "taxachusetts") an amendment has already been approved by one session of the legislature, but it is a very demanding process that requires two consecutive sessions to approve it and then a popular vote. A tax limitation proposal has been prepared by colleagues of ours in Pennsylvania and it has ben endorsed by the Governor. Prospects for its passing are high there.

Question. What things have you learned in Michigan that others might apply who wish to see a tax limitation in state constitutions?

Answer. There is one lesson that we have learned in every state in which we have proposed this now, including several where our measures have lost: The primary opposition in every case has been the teachers union. They also had very substantial assistance from the national teachers associations to use in their campaign. We were outspent in Michigan about 3 to 1, primarily by the teachers organization.

Most teachers, however, are also parents. Most teachers are smart enough to recognize that they are taxpayers and that a good bit of their taxes go to matters that do not particularly return anything to them. From a political point of view, then, it is important to try to neutralize the teachers organization.

The other group that is most likely to oppose such a measure is the existing senior politicians in the state. It is very rare for a governor to endorse these measures. Governor Millikin was probably the last politician in Michigan to endorse our measure. He waited until everyone else had endorsed it. More importantly, he waited until his opponent had endorsed it.

The reason for this reluctance is simple: State tax limitation in effect, says to a governor that we are unhappy and we want to put a constitutional constraint on the growth of state government.

You have to work, in most cases, around the establishment politicians. In Michigan in 1976, more than half the legislators endorsed our proposal, but they were all back-benchers. None of them were majority/minority leaders or the governor and so forth. Tax limitation has been somewhat of an outsider's effort.

Another bit of advice is not to let the ideologues run away with your proposal. Many of us may prefer a lower government share. We may prefer that the government not do a lot of things that it is now doing. That the state, instead of taking 9 percent, take only 6 or 7 percent of income in the state. Forget it! Don't let the ideologues run away with your campaign, even if you are one of the ideologues.

The optimal campaign committee is a group of people who are distinguished citizens from throughout the community with varied backgrounds; we have had union leaders on our groups, etc. It is important that such a committee be non-partisan, broadly based, slightly anti-establishment, but not wholeheartedly anti-establishment.

Question. Could you expand on that a little? What kinds of things that you have done have really gotten the public's attention and support for the movement?

Answer. It is very hard to tell. As I mentioned, our successful efforts have all been in states having the initiative process. There is an inherent presumption by the newspapers, for example, that nothing a citizen group comes up with can be any good.

It is difficult to tell what our secret of success is. It is easier to identify the causes of our two most conspicuous failures. Our first failure was in California in the fall of 1973. This was our first attempt, and we lost by a narrow margin. The reason for that loss was that Governor Reagan got too far out in front of it. He wouldn't let it go and, as a consequence, it forced the leading Democrats in the state to oppose it just because it was becoming a plebiscite on Governor Reagan. We wanted to have a citizens committee headed by people like John Wooden and Bob Hope out in front of it, for obvious reasons. Governor Reagan was instrumental in getting the whole thing going so in some sense he had the right to do it, but it was not good political judgment.

In Colorado, which is the only state in which we lost in 1978, we let the ideologues have their way. The Colorado limit was a spending limit, not a revenue limit, and that was a mistake. Further, it was a limit on real per capita state spending. In other words, the real per capita state spending could never go up, regardless of what happened to income. That was also a mistake. It is very important to give the government a share of economic growth, more accurately to give the claimants on government spending a share in economic growth. The government has any number of ways in which they can mess up economic growth. Unless they have an almost proportionate share. I think that you are in real trouble.

Our successful campaigns were headed by leading business executives and respected politicians who campaigned with the active support of an awful lot of people. We had thousands of people collecting petitions, and banging on doors in Michigan. It was a very representative group. It is fun, in a way. It catches you up in it. I found myself sitting at a card table on the sidewalk collecting petitions, which may not be the best use of my time.

Question. Returning to the federal spending amendment for a moment, how do you assess the probability of your's group's measure being passed?

Answer. Well, I think it is a long shot, but it is a worthwhile long shot, and you can't spend your whole life betting on winners. I think the mood is right now. The Senate and the House are very concerned about the movement among the states to call a constitutional convention.

Congress, as you may know, passed a statutory spending limit last fall that is much tighter than ours—the Nunn amendment to the tax bill (Senator Nunn of Georgia). Both houses passed it by a 2 to 1 majority. The President threatened to veto the whole tax bill if the Nunn amendment was in it. It was taken out in conference committee about 10 o'clock Sunday morning and then they all went home to run for reelection that afternoon. But there is broad support in Congress now for at least a statutory version of a spending limit and, in fact, the Nunn amendment was much more restrictive than the one that we proposed.

On the other side of the coin, I think we are about nine months away from the end of this recovery and a lot of these concerns for spending limitations will go away for a while in a recession. It is difficult for people who are advocating fiscal restrain to get much of an audience when the economy turns sour.

So it is a long shot, but from my point of view a very important action. Even if the particular measure that we have proposed does not gain approval, it will affect the climate of opinion which influences fiscal decisions.

[From the Wall Street Journal, Jan. 23, 1979]

Why Not a Balanced Budget?

(By James Ring Adams)

Washington.—President Jimmy Carter has announced a "lean and austere" budget which increases federal spending by $39 billion and goes $29 billion into the red. When he first took office, he promised that this year's budget would be balanced. With Jerry Brown in the wings, rebaptized in Proposition 13 and pushing a constitutional amendment requiring a balance federal budget, the voters this year will be asking: What is the problem?

The question is especially urgent since this sizable gap will take effect in the last stage of an extended business recovery, when Keynes himself would be urging a budget surplus. If the long-awaited severe downturn does materialize in the last quarter of '79, which is the first quarter of the federal fiscal year 1980, one wonders if President Carter will ever be able to present a balanced budget.

These are urgent questions to a middle class plagued by deficit-driven inflation. But in the massive presence of the federal government, which is thrusting gleaming office buildings into every open space in downtown D.C., they seem hopelessly naive.

One hears that too rapid a cut would plunge the economy into a sharp recession. Or that most of the budget—77%, according to James T. McIntyre, director of the Office of Management and Budget—is "uncontrollable," meaning broadly that budget officials can't cut it on their own in a single year.

SPECIAL INTERESTS

But everywhere in Washington one also encounters the special interests whose livelihood depends on one or another federal program and who provide the constituency for executive departments in their struggles against OMB. The vast majority of these lobbyists and bureaucrats are able and honest individuals, yet the particular good deeds they seek—more federally subsidized housing starts, more day-care centers, more job training programs—don't necessarily add up to the general good of a balanced budget and lowered inflation.

Beyond these pressures, say Republican critics, the current budget is still reeling from the misguided economic policy of President Carter's first months in office. Persuaded that the main economic problem was unemployment and not inflation, he vastly expanded programs to stimulate the economy. For instance, the CETA program to provide job training and public service jobs was nearly doubled in 1977 on a temporary basis, but it is still slated now at the same level of nearly $10 billion. The President's current attempts at restraint remind one House Republican analyst of an "arsonist who started a three-alarm fire getting a guilty conscience and tossing teacups of water on it."

Of course, Democrats who are so inclined can say the same of Republicans. Federal spending grew more than 12% a year under Presidents Nixon and Ford, and the Ford budget for fiscal year 1976 had a $66 billion deficit, or 18%—a postwar peacetime record. Mr. Ford's lame-duck 1977 budget was more conservatve, with a proposed $43 billion deficit and "reverse wedges" to cut future spending, but his good intentions were scuttled by Mr. Carter's early 1977 spending spree. Although Mr. Carter has lost two years on his schedule to balance the budget, he now projects near balance in FY 1981.

It's only in comparison with the immediate predecessors, however, that President Carter's proposed $532 billion outlay for FY 1980 looks "lean and austere." The $29 billion gap, some 5.5% of the budget, isn't the full story. At least another $12 billion deficit is tucked away in "off-budget" accounts, principally the Federal Financing Bank. This figure, only slightly lower than that for FY 1979, boosts the total deficit to $41 billion, compared to FY 1979's total of $49 billion. This contributes to inflation. The administration did announce, to its credit, that it was planning a new system to control the growth of these off-budget charges, including the presently unpredictable burden of federally guaranteed loans.

The budget-makers have kept the deficit figures low by manipulating a few key assumptions. They've changed the method of projecting interest costs on the federal debt, for a paper savings of about $2 billion. As discussed elsewhere in today's paper, they've chosen the most optimistic economic forecast they could get away with, very likely understating the impact of inflation and unemployment. But they've also figured on higher food prices, thus cutting $2.4 billion out of the agricultural price support program. These economic figures would be soft anyway, because the fiscal 1980 budget doesn't even take effect for another nine months, an unusually long lead time as budget making goes. But the budget also includes savings from bills that have not yet and may never pass Congress, notably $1.7 billion for hospital cost containment.

As the expandable deficit indicates, this budget is still a far way from controlling federal spending. Outlays are up by $39 billion, or 7.9%. This figure does show improvement over this year's expected rise of $42 billion, or 9%, and the previous 10-year average in excess of 12%. But by contrast, if this year's budget had been frozen at the FY 1979 level of $493 billion, it would be running a $10 billion surplus.

The administration has not produced overwhelming evidence that its still-touted Zero-Based Budgeting has helped it put an end to unneeded government programs. Its surprisingly short list of examples includes Labor Intensive Public Works ($1 billion), the Alaska National Petroleum Reserve Survey Program ($227 million), the U.S. Travel Service ($11 million) and the Beekeepers Indemnity Fund ($3 million).

President Carter has, however, produced a substantial shift in allocations among his departments and agencies. Agriculture, Commerce, Energy, Interior, Justice and the General Services Administration have lost money in absolute terms. Big increases have come, as promised, in Defense (up 9.7%), but also in Labor (7.2%), HEW (10.4%) and HUD, the biggest winner of all with an 18.7% gain. (Some of this shift comes from reorganization.)

Surprisingly, the administration has even tried to obscure the full extent of its cost-cutting. One standard budget analysis, the "current service estimate," projects what future budgets would look like if all programs were continued at current levels. The estimate is adjusted for inflation, automatic benefit increases and the like in a way allowing substantial manipulation of the figures, and this year they've been manipulated downward. The budget message shows a very small cut, some $5 billion, from what the budget might have been, when other ways of figuring would show cuts of $13 billion and up. One Republican observer speculates that the administration is trying to hide its trimming from the liberal, pro-spending wing of the Democratic Party.

The budget message also plays down another politically explosive feature. The real reduction in the FY 1980 deficit comes from a major increase in tax collections. Estimated revenues are up $47 billion, or 10.3%. President Carter's message makes much of a $24 billion tax cut from 1978 legislation, but it devotes no narrative to the fact that personal income tax receipts are increasing anyway by $24 billion. This rise continues inexorably in future years, as "inflation creep" pushes taxpayers into higher brackets. Budgets in FY 1980 and after will also be helped by the increase in the Social Security tax rate, which is producing an additional $19.5 billion this year alone.

TAXPAYERS BEAR THE BURDEN

When asked, budget officials admit openly that they're balancing the budget on the backs of the taxpayers. In the FY 1980 budget, revenues have increased as a share of the GNP from 19.9% to 20.1%, and this ratio keeps going up. In FY 1982, it is projected to reach 21.6%, the highest level in at least two decades.

So the tax burden goes up, federal spending stubbornly resists control, and inflation grinds away at living standards. These conditions have the taxpayer asking what his money is going for at a time when the answers are much less self-confident than they used to be. CETA public service jobs, for instance, turned out to be largely a subsidy to state and local budgets. President Carter is shifting CETA's emphasis to training, but that program has been called the least efficient of all the ways to get people ready for jobs. According to one study, the main beneficiary is the job training industry which has grown up around this program, just as a welfare industry has grown up around welfare spending and an education industry has grown up around education.

Faith in government spending has been steadily eroded by such critiques from both the right and the left. As both the skepticism and the burden increases, the stage is set for a popular revulsion of the kind seem most clearly in post-Proposition 13 California and most dimly in Washington, D.C. Official Washington still tends to belittle the balanced-budget muttering in the countryside, but one must wonder whose attitude is the more naive.

[From the Washington Post, Mar. 6, 1979]

Requiring a Balanced Budget

(By James Dale Davidson)

The first success of the movement for a balanced-budget amendment has been to open debate about the conduct of government finances to popular participation. Now that 29 legislatures, of a needed 34, have called for a limited constitutional convention for the sole purpose of outlawing incessant deficit spending, leaders in Congress and other supporters of the prevailing orthodoxy have no choice but to defend their position.

That will prove more difficult than they suspect. They have not been prepared by recent experience to argue the case that deficit spending is beneficial. Now that they must do so, they will find that the arguments of 50 years ago, upon which the Wasnington spending consensus depends, no longer carry the weight of conviction. The feeling in Washington has been that the public cannot be relied on to comprehend complex issues, so politicians are obliged to do what they know is best while deceiving or mollifying the public as to the fiscal consequences.

Such an attitude leads the politicians to deceive themselves as well as their constituents. By pretending to seek balanced budgets while chronically failing to do so, they have suppressed or ignored the true reasons for far-reaching policy decisions. Thus they have trivialized their own thinking.

This is evident from the responses which have been forthcoming now that the defenders of deficit spending have been moved at a frantic speed to prepare their case. They could have entered the argument long ago. They did not, perhaps in hope that by ignoring the movement for a balanced budget they could make it go away. Since this has not happened, and the call for a limited constitutional convention is nearing success, the public is finally hearing the best arguments for deficits, along with an incredible variety of alarms about every aspect of the spending-reform movement. At this stage, readers of The Washington Post are well aware of many arguments which allegedly make it useless, dangerous or impossible to balance the budget. Unfortunately, there is not room at this writing to fully answer all of the objections. An attentive citizen would note, however, that the opponents refute many of their own points by arguing at cross-purposes. They claim, for example, that the budget cannot be balanced because the Congress lacks the forward vision to project revenue and expenditure accurately. With the next breath, they claim that the same congressmen, who lacks the foresight to do their sums, can predict when the economy will fall into a tailspin and need the fiscal tools to "fine tune" the economy. That is like saying that someone who is too blind to wield an axe should be trusted as a surgeon.

The efficiency of debt in stimulating the economy is already declining markedly through over-use, as a recent Solomon Brothers study confirms. Beyond that, when the budget is in balance there is no necessity that control of the money supply be tied to fiscal policy. The Federal Reserve Board has the power to regulate the money supply without a growth of government debt.

You also have heard that a convention, once convened, would celebrate a sort of witches' Sabbath by "dismantling" the Constitution (according to Sen. Kennedy), repealing the Bill of Rights, and, as one writer in The Washington Post recently charged, unleashing "conflicts that would make the other political crises since the Civil War look puny."

We invite anyone who has been persuaded by these alarms to consider a more sober interpretation. Not only is it highly unlikely that a convention could get out of hand, but there are also actually more checks upon an amendment emerging from a convention than is the case with a congressionally proposed amendment.

If the convention decided to turn America into the Land of Oz, any amendment it proposed would not only have to be ratified by 38 states. It would also be subject, as congressionally initiated amendments are not, to review in the courts for having strayed beyond the call. The sum of these considerations is such that a reasonable observer would have no more basis to object to a constitutional convention than to the Congress itself. It is effectively sitting as a perpetual convention whose constitutional deliberations are neither limited nor subject to court review.

And our view of the matter is hardly idiosyncratic. The deans of Harvard Law School and The University of Chicago Law School; the American Bar Association, former senator Sam Ervin and many other constitutional experts conclude that the convention route can be a safe, limited, method of proposing specific amendments.

The true significance of a convention call to balance the budget and its true danger from the point of view of Congress, is not that it would do something preposterous but that it is a repudiation of the current way of doing business. If our movement should succeed it would be, as The Wall Street Journal said, "a colossal vote of no-confidence in the United States Congress. The people would be saying that they have finally decided that Congress can't be trusted with money."

That is exactly the point. There really is a difference between the career interests of congressmen and the public interest. As everyone who is alert to politics knows, the first commitment of most politicians is to themselves. Beyond everything else, most congressmen wish to be re-elected. As a matter of pure logic, they improve their chances by resorting to deficit spending. It enables them to make the benefits of increased spending immediately evident to special constituencies while disguising the costs in the form of borrowing and inflation which are diffused over large numbers of the rest of society. Under such conditions, the incentives of the politicians clearly point toward ever-increasing spending with continued inflationary deficits.

Even the classic Keynesian formulation of deficits in lean years and surpluses in good years has proven impossible to follow in practice. The corollary to the deficits, the offsetting surpluses, can never be achieved because they involve making the political costs of the budget more evident than the benefits. Thus, since 1969, the dollar total of deficits over the one surplus has been at a ratio 100 to 1. This does not reflect "flexibility needed to deal with changing economic conditions," as proponents of unfettered spending propose. It reflects the degeneration of the system because of perverse incentive which lead individual congressmen to make spending decisions which are favorable to their career interests but bad for the public.

Furthermore, as Edward R. Tufte has documented in his book, "Political Control of the Economy," the ups and downs of the economy which politicians claim unfettered deficit spending is needed to counter, are at least partly caused by political manipulation in the first place. In addition to the business cycle (which may be ultimately caused by expansion of the money supply), we must consider the "electoral-economic cycle" which is clearly caused by politicians seeking to heat up the economy prior to elections.

A balanced-budget amendment would have other good consequences beyond merely making government more accountable. A balanced budget would reduce "crowding out." When deficit spending leads government to borrow massive amounts of money, it soaks up available capital, raising interest rates and reducing stock prices. A balanced budget would lower borrowing costs throughout the economy, stimulating investment, raising stock prices and promoting faster real growth.

Furthermore, an end to deficit spending would lead to less waste of resources by government. Currently, much wasteful spending is excused because it is considered part of a needed "stimulus for the economy." Without a balanced-budget requirement as a check on federal spending. Congress rarely asks, "Is this program worthwhile, or is it the best use of the taxpayer's money, or should we reduce taxes?" As Otto Eckstein puts it: "If the political process must levy the taxes to pay for the expenditures, there is likely to be a more careful scrutiny than if the expenditures can be clothed in the virtue of deficit-creating stimulus packages."

Beyond all these consideration is the greater good—the almost universally acknowledged fact that balancing the budget would reduce inflation. That is something we must do, not merely to save money but to preserve the civic virtues of democracy. These cannot be maintained through long-protracted inflation. The experience of many countries proves this.

As Thomas Mann wrote, "There is neither system nor justice in the expropriation and redistribution of property resulting from inflation. A cynical 'each man for himself' becomes the rule of life." Under such conditions when the majority is deprived, defrauded, and frightened, politics can take frightening turns. We dare not attempt to prove that America would be an exception to the rule that protracted inflation weakens and eventually destroys free institutions.

That is why we must heed the advice of responsible people of all parties, and enact a constitutional amendment outlawing inflationary deficit spending.

WOULD A BUDGET AMENDMENT WORK?

(By Robert H. Bork)

The most, and perhaps only, beneficial aspect of the rising number of states calling for a balanced budget amendment to the Constitution is that it may force Congress to some useful political response to heavy taxation, high spending, and double-digit inflation—problems, in one way or another, of Congress' own making.

The initiative of the states raises two specters. The first—a balanced federal budget, no matter what—seems a thoroughly primitive notion. Its inadequacies have been thoroughly discussed on this page. The second specter is that the state initiatives necessarily call for a convention, but a convention called under Article V of the Constitution, according to much responsible scholarship, cannot have its agenda restricted either by Congress or by the form of the state demands. It can consider and propose anything, and "anything" is an apt description of what a lot of organized groups would fight for.

Liberals and conservatives alike shun the convention, each supposing, with some objective evidence in support, that the Republic is currently in short supply of Madisons and Washingtons and not wishing to learn who their modern replacements might turn out to be. Whatever the merits of this dismal view of the nation's political talent and the electorate's good sense, the aversion to a general constitutional convention is surely sound. The continual reexamination of basic principles is a very bad political habit and one not to be encouraged. A constitutional convention ought to be the last resort of a foundering nation, not the casual practice of a successful one.

But specters have their virtues, and this pair may impell Congress to consider proposing a more responsible constitutional approach. It will have before it a proposal drafted by the National Tax Limitation Committee, whose best-known member is Milton Friedman. This amendment would control federal spending by accepting present levels but allowing increases only in proportion to increases in the gross national product. Government-created inflation would be deterred by reducing the allowed spending increase when inflation exceeds three per cent annually.

This spending-limit amendment deserves serious consideration. The case for it is compelling. It is unfortunate that the case against it seems hardly less so.

CASE FOR THE AMENDMENT

The case for the amendment is simply that we must somehow stop the seemingly inexorable rise in the share of society's wealth claimed by the federal government, and so far nothing short of a constitutional limit has worked. Perhaps only a constitutional check, one beyond the reach of ordinary majorities, can cope with the well-known pathology of social democracy: intense constituencies press for particular federal spending programs; generalized unhappiness with total outlays, taxes, and inflation prove ineffective to defeat specific claims; and, as a result, total spending mounts to levels that hardly anyone wants.

The long-term growth of government's share of national wealth (coupled with heavy regulation) is a serious, near-term threat to the vitality of the economy, particularly since it involves income redistribution that weakens incentives for both producers and recipients. Less obviously, perhaps, rising government spending is a long-term threat to American political freedom. Social and political discontents may increase beyond tolerable levels as the decreased size of the pie intensifies disputes about its division. Inflation, which may become endemic if spending is not controlled, has destroyed democracies before. Increasing subsidies, with conditions attached, are a mode of coercion that may evade constitutional guarantees, allowing government to buy decreased freedom it could not order directly. Rising spending also fosters the growth of great bureaucracies whose choices increasingly displace those of elected representatives. Even if the rule of the bureaucracies proves both stable and benevolent, which is by no means to be assumed, it is not the sovereignty of the people.

We may, therefore, brush aside some common objections to any amendment dealing with fiscal matters. One, difficult to fathom, is that fiscal responsibility is inherently a matter for statutory control and does not "belong" in the nation's basic document; the hands of future voters ought not be tied. All constitutional provisions tie the hands of future voters, and, in many cases, a good thing too. The question is instead one of the gravity of the danger addressed. Any systemic malfunctioning of government serious enough to threaten prosperity and freedom may properly be addressed by the Constitution. Nor is the aesthetic objection to the necessarily detailed, technical language of the amendment well taken. It comes not only from dedicated statists, whose literary sensibilities are perhaps suspect in this instance, but also from persons like James Kilpatrick, who writes of the spending-limit: "This is not constitutional language, this is statutory language, and it has no place in the supreme law of the land." The notion that the Constitution is reserved for grand statements of moral principle (whose vagueness has upon occasion caused a great deal of trouble) is neither an accurate description of the original document nor, if the need be plain, a sufficiently weighty objection to the amendment.

There is, then, a very good reason for the temptation to seize the moment, to capitalize upon the mood of tax revolt and transform it into constitutional structure before the mood fades. There are, unfortunately, three very real and substantial problems with the outlay amendment as it now stands.

1. Defense spending would have to compete under the outlay cap with rising costs of existing entitlement programs, such as Social Security, and these costs seem certain to soar even if no new programs are added. Defense is one of the few really discretionary items in the budget for any particular year, and the temptation will always be to meet the limit by deferring defense expenditures for one more year. Given Soviet attitudes and levels of military spending, far beyond their defense needs, delays in our defense spending could prove calamitous.

The amendment's emergency clause is no safeguard because complex weapons systems require years of lead time. Unless the clause were routinely invoked, which is unlikely since it requires a declaration by the President and two-thirds vote of each house, by the time an emergency was perceived, it would be too late.

CAUGHT BETWEEN TWO DANGERS

This may suggest that we are hopelessly caught between the dangers of rising government spending and the dangers of the outside world, that our choice is between the hegemony of the Soviet Union or that of HEW. Bleak as that thought is, most people would prefer HEW. Perhaps an amendment should contain a permanent exemption for defined defense spending. That might hurt its chances politically but so does the danger it now poses to national defense.

2. A different problem is that the amendment may not work at all. Forbidden to spend beyond a stated limit set by the previous year's expenditures and the increase in GNP, government has the power to force the private sector to make the expenditures it cannot. The technique is shown by current environmental and occupational safety laws and could easily be applied to Social Security or a national health plan. Real costs to the economy might be higher than direct government spending.

Perhaps this would be better than the hidden tax of inflation because the costs of regulation would presumably be opposed by an articulate business sector. At least the political choices would be more visible. But even that gain could be undercut by devices such as tax credits and government loan guarantees to replace direct spending.

Proponents of the amendment admit this problem, and its apparent insolubility by drafting techniques, but argue that the amendment would nevertheless crystallize a potent political opposition to such evasions. Perhaps. But it is impossible to forecast whether the symbol would prove effective or whether evasion would demean the Constitution and bring the ideal behind the amendment into contempt.

3. There is, finally, the problem of enforcement. A purely admonitory amendment seems undesirable, so court enforcement is provided. This provision avoids problems of multiplicity of lawsuits, judicial control of particular outlays, and the like, but grounds for worry remain. The language and the subject matter are technical, so that almost endless opportunities for litigation, and hence for judicial dominance in the budget process, exist. Terms must be defined under endlessly varying circumstances; conventions about statistics, accounting, budget making and other arcane matters must be probed and specified. The prospect may be for nightmare litigation that would be damaging both to the judiciary and to the budgetary process.

I find the merits of the amendment difficult to the point of being agonizing. Perhaps the affliction is serious enough to justify even so potentially damaging a cure; perhaps the problem can be addressed by a constitutional amendment of a type we have not yet thought of; or perhaps we must face the realization that, in this area at least, the Constitution cannot save us from ourselves.

[From the Richmond News Leader,
May 7, 1979]

Why Congress Won't Respond to Tax Revolt

(By Alexander Hill)

The current agitation for a reduction in taxes and government spending, while it is a welcome sign to the overburdened taxpayer, may not have any long-term impact on Congress. In fact, the short-term results themselves may be only negligible. Despite the posturing rhetoric from scores of born-again "fiscal conservatives" on Capitol Hill, there is little expectation that the typical lawmaker will actually vote to cut federal spending.

Understanding the reasoning behind this pessimistic forecast requires a look at the ever-present incentives to increase spending that face Congressmen. For one, success for the politician means name recognition and the association of his name with successful policies. In a world subject to limited resources and unlimited wants, there is no shortage of problems seeking solutions.

The astute politician attempts to create a program which promises quick solutions and which will bear his name. Spending taxpayers' money is one of the easiest "cure-alls" available in the congressional medicine bag. The fact that alternative solutions might be available through state and local governments, which can "customize" solutions to fit local problems better, or that market-based solutions might do the same job more efficiently, is contrary to the name identification that is so important for political success. Thus, a $10 billion public jobs program, while producing little of value and of short duration, is preferred by the politician to leaving the same money in the private sector where more permanent and productive jobs would be created.

PROFESSIONAL LOBBYISTS

Moreover, the lawmaker is confronted constantly with the representatives of special-interest groups, each asking that it be provided with a taxpayer subsidy for the stated purpose of solving some problem. While the special interests are represented by professional lobbyists who urge the Congressman to see things their way, the taxpayer is not represented during these daily confrontations—and there is little hope that he ever will be.

The difficulty in organizing taxpayers to oppose specific spending proposals has its roots in the overwhelming unfavorable cost-benefit ratio associated with such organizing. The individual taxpayer would find it personally very costly to oppose specific programs. And even if his opposition to any single program were successful, little savings would be passed on to him in the form of reduced taxes.

The mere thought of opposition implies knowledge of the existence and effectiveness of the proposal—knowledge that is costly and difficult to obtain. After all, how many taxpayers are there who read through the thousands of abstruse pages which explain federal spending programs? And how many even know how their Congressman voted on a particular issue?

GOVERNMENT "EXPERTS"

In addition to the representatives of public spending constituencies, another group of lobbyists roams the hallways of Capitol Hill and urges the Congress to increase spending. These lobbyists are paid by the taxpayers. They are the legions of government "experts" from the administration, or the Congress itself, who regularly testify before various committees and subcommittees.

Regrettably for the taxpayer, all of these "experts" are part of the spending constituencies. Agency chiefs, for example, are always on the lookout to increase their own power and prestige by expanding the resources available to them. Congressional staff members, continually associating themselves with the ever-growing army of lobbyists, tend to become spending advocates, too. Many congressional staff members graduate to become the managers of the new programs they have helped to create or join the ranks of the special-interest lobbyists, so there is every incentive for them to recommend more spending to the Congress.

SPENDING JUGGERNAUT

To the uninitiated observer, the one possible source of restraint for this spending juggernaut should be the newly established congressional budget process, which provides for a budget committee for each house of Congress and a Congressional Budget Office to provide an independent source of technical advice on spending issues. The chief impetus behind the creation of the new budget system was not the restraint of spending, however, but an opportunity for Congress to wrest the initiative for spending from the administration.

Nevertheless, one might expect to find reflected in the work of the two new budget committees the sudden public demand that taxes and spending be limited. The opposite is true. The House Budget Committee, for example, has made an effort to eliminate the opportunity for its individual members to reduce the growth of federal outlays. Even before consideration of the new budget was underway, the committee decided to prohibit votes on proposals for reductions in broad spending categories, even though these broad categories are the very items over which the committee has jurisdiction.

The committee instead wanted to force economy-minded members to propose cuts in specific programs, thereby allowing the spending constituencies and their congressional sponsors an opportunity to protest. This circumvented the inherent discipline of first agreeing to overall spending totals and then dividing the totals among the many constituencies as part of the appropriations process.

CONSTANT BIAS

The constant bias toward higher budgets is also found in the work of the Congressional Budget Office (CBO). One of its responsibilities is to keep track of the spending levels in various programs and to provide these totals to the budget committees for their use in considering future budget levels. But rather than providing past funding levels for each program as approved by the Congress, the CBO inflates each total through some obscure process before providing it to the committees. This forces committee members to propose and vote for a "reduction" in each program's budget just to keep spending at the previous year's level. Since few members are anxious to be perceived as constantly "reducing" funds for specific programs, votes on such proposals are seldom successful.

Raising revenues to pay for federal spending has itself been elevated to the level of an art. Since increasing taxes directly by means of a recorded vote is an unpopular option, more subtle methods are employed to shift funds from the private pocket to the public nurse.

Spending advocates now regularly support an annual deficit in order to cover their obligations. Borrowing to cover these deficits appears to be a less painful method of removing resources from the private sector, since the cost to the taxpayer is postponed. Consequently, 10 percent of this year's budget will be needed just to make the interest payments on funds borrowed to pay for programs whose benefits—if there were any—are long past.

"FISCAL DIVIDEND"

Even more subtle is the use of the "fiscal dividend." This is the amount of additional tax revenues collected from the public in part because inflation of prices and wages drives individuals into higher tax brackets. The spenders count in advance on collecting this "dividend" from the taxpayer and have it spent even before the working man realizes he is in a higher tax bracket. Inflation forces Congress to increase the number of dollars flowing to its spending constituencies just to maintain a constant level of goods and services to these groups, but it more than compensates by yielding even greater revenues to the government.

This occurs because there are more dollars collected in each income bracket, and inflated salaries propel taxpayers into higher brackets where a greater percentage of their income is taxed away. Because of inflation workers take home less in real terms—with the difference going to the government. Thus, the inflation caused by large federal deficits also helps to finance government spending.

In summary, federal spending is beneficial to the incumbent lawmaker; it is almost impossible for the individual taxpayer to oppose spending at the programmatic level; and spending is financed by policies which impose as little culpability as possible on its advocates. Given the rules of the spend-and-elect game—the way it is now played—the hurried scrambling on Capitol Hill to forestall a balanced budget amendment is understandable. Without the unrestrained source of funds implied by deficit spending, the development and maintenance of spending constituencies would be considerably more difficult.

Statement Submitted by James M. Buchanan for Hearings Before Subcommittee on Constitutional Amendments of the Senate Judiciary Committee, Scheduled for September 23, 1975

INTRODUCTION

(I am James M. Buchanan, University Professor of Economics and Director, Center for Study of Public Choice, Virginia Polytechnic Institute and State University, Blacksburg, Virginia. I am cofounder of the Public Choice Society, and I have written several books in public financial, economic theory, and political philosophy.

(I am joined in the written statement submitted here by my colleague, Professor Richard E. Wagner, who has also written books in public finance, and with whom I am currently working on the subject of "fiscal responsibility." We are preparing a major conference on this topic, and we hope to complete a book on this subject in 1976.)

DEFICIT SPENDING IN CONSTITUTIONAL PERSPECTIVE

We are pleased to have this opportunity to support Senate Joint Resolution 55. Senator Curtis and his colleagues should be congratulated for raising an issue that is vital not just for the continued prosperity of American citizens, but even for our continued existence as a free and democratic society.

A continually growing body of evidence indicates that prevailing fiscal practices and institutions are inadequate for ensuring fiscal responsibility. Budgets for the federal government show deficits whether the economic weather is fair or foul, and these deficits get larger with each passing year. Since 1961, there has been only one year of budget surplus, 1969. During the 16 year period, 1961–76, the 15 years of deficit, including projections for 1975 and 1976, totaled almost $230 billion. Moreover, the deficits are growing in magnitude. For the eight year period, 1961–68, the cumulative deficit was $60 billion. During the five year period, 1970–74, by contrast, the cumulative deficit was $67 billion. And the projected cumulative deficit for the two years 1975 and 1976, is now more than $100 billion.

It takes no technical economic wisdom to suggest that this pattern of irresponsibility cannot long continue. History is replete with instances of societies that explode and collapse due to inflationary fires fueled by government deficits. The destruction of democracy in Ancient Rome and in interwar Germany are but two illustrations, albeit quite significant ones. John Maynard Keynes, in whose name the present inflationary thrust is often legitimatized, was awed by the destructive capabilities of inflation. In *The Economic Consequences of the Peace,* Keynes observed that "There is no subtler, nor surer, means of overturning the existing basis of society than to debauch the currency. The process engages all of the hidden forces of economic law on the side of destruction, and does it in a manner which not one man in a million is able to diagnose." Keynes, we fear, was entirely correct in his vision of the destructive power of inflation. And can anyone seriously question the direct relationship between deficit finance and inflation?

How have we come to be trapped in a regime of continual and mounting deficits? What are the reasons for the institutional failures that we observe?

It is relatively easy to place the full blame on our elected political representatives, in the Congress and in the Executive branch, and to suggest that if these politicians would only listen carefully to the teachings of the economics all would be well. Indeed, this is precisely what the so-called Keynesian economists have been saying for thirty years. If we would only let them, these economists would "fine tune" the economy, and we should never have to worry about a thing. Since 1961, the ideas of these economists have become the conventional wisdom that underlies public policy. And we can all see how finely tuned our economy has become! It is ironic, but also tragic, that the period when these ideas have finally attained widespread public acceptance coincides with their refutation in academic circles. Keynes was prophetic here too, when he noted that "Practical men * * * are usually the slaves of some defunct economist."

In the minds of the citizenry old-fashioned norms of fiscal responsibility have been replaced by Keynesian activism, and this has profoundly altered the constraints under which our elected politicians operate. It has always been easier to legislate tax *reductions* than to legislate tax *increases*. Similarly, it has always been easier to legislate *expansions* in federal spending than to legislate *reductions*. When these differential pressures are combined, the arithmetical result is straightforward. Budgets will tend toward chronic deficits *until and unless politicians are constrained by some constitutional rule which requires that the taxing and the spending sides of the fiscal account be balanced*. We, as citizens, must be made explicitly to "pay for" what we are getting. (We must pay for it in any case, of course, but it is a question of paying for things openly and responsibly rather than secretly, indirectly, and in some genuine sense, corruptibly.)

Until the 1960s, we did, in fact, have such a constraint, even though it was not written in our formal constitution. Politicians, economists, journalists, the public at large, adhered to the rule that public budgets should be balanced. This rule, this constraint, was destroyed by the general acceptance of Keynesian economic theory. Although the development of Keynesianism began in the 1930s, its widespread acceptance dates from the early 1960s. The early post-war period, for instance, was informed by the pre-Keynesian ideas about fiscal responsibility. During the 14-year period, 1947–60, there were seven years of deficit and seven years of surplus. And the total budget was roughly balanced over this period, with the deficits summing to $31 billion and the surpluses amounting to $30 billion. Yet our unemployment history was roughly identical as between the pre-Keynesian and the Keynesian periods; unemployment averaged 4.6 per cent during 1947–60, and it averaged 4.9 per cent during 1961–74.

Our history since 1961 teaches us that we cannot destroy one side of a rule. Once the balanced-budget constraint faded out of our fiscal consciousness, we should have expected a regime of continued deficits, in fair weather and foul. The surprise is that it took so long in coming; it took until the 1960s before the Keynesian economic teaching really exerted its full influence. The results are here for all of us to see.

Our tradition-bound economist colleagues throughout the land will object to the proposed budget-balance amendment on the grounds that if adopted, it might overly restrict the ability of Congress and the Executive to fulfill the employment-prosperity objective laid down in the Employment Act of 1946. Deficits may be required, they will argue, if the nation should be plunged into deep depression on the scale of the 1930s. We respond to this on several counts. In the first place, there is an escape clause in the proposed amendment which does allow the constraint to be dropped in emergency situations, as defined by three-fourths of the members of each house. Secondly, and more importantly, accumulating economic research suggests that the full employment-high prosperity objectives can be attained, not by deficit spending, but by maintenance of sound operation and predictability in our whole monetary and fiscal structure, which will ensure growth in the nation's money supply at some rate consistent with growth in national productivity. Finally, some critics may argue that limited-size budget deficits offer a desirable means of introducing new money into the economy, new money that is related in quantity to the rate of productivity increase. The proposed balanced-budget amendment would prevent this fully responsible policy from being implemented. This would, indeed, amount to a serious objection to a rule of strict budget-balance in an economy without an outstanding national debt. However, given our own debt in existence, the responsible issue of new money can be utilized to monetize debt for decades before such an argument could begin to have validity.

Psychologists note that past traumatic experiences often color strongly our reactions to subsequent circumstances. As a society we have been plagued by one such experience: The Great Depression. An after effect of that traumatic episode has been our loss of faith in the functioning of our free enterprise, economy, and in the efficacy of previous norms of economic conduct. Before 1930, our economy had its ups and downs, as any free economy must. The down-turns, however, were always self-correcting and short-lived even when governmental policy acted to exacerbate the situation.

The Great Depression began as a normal down-turn, but was racially worsened by the activities of the Federal Reserve System in contracting the nation's money supply by nearly 25 percent between 1929 and 1933. The lesson that people retained from the 1930s was that our economy had changed radically in its character, for it was no longer viewed as being capable of operating on its own in a self-correcting manner. The economy was viewed as inherently unstable, much like a spinning top, and governmental guidance and intervention was necessary to keep the top stable and spinning. In truth, the wrong lesson was learned from the 1930s. The self-correcting character of our free enterprise economy had not changed. What began as an ordinary down-turn was converted to a catastrophe by the actions of a particular *public* agency.

We are coming increasingly to suffer from an over-dosage of wrongly prescribed medicine. The deficit spending biases of Keynesian economics are making our economy ever more fragile, and, indeed, unstable. Inflation might temporarily stimulate the economy, but a price would have to be paid later, much as the mirthfulness of the heavy drinker can be prolonged for a while, but eventually must turn into a hangover. Inflation creates false signals throughout the economy. Labor is attracted to employments that cannot be sustained without even greater inflation in the future. And the end product of such a course is the potential destruction of civil order, as history attests only too clearly. Inflation cannot end without some hangover, and increasing inflation merely postpones the day of reckoning, and makes that day even more painful.

We must restore some rule that will restrict politicians in their natural, understandable proclivity to spend and to refrain from taxing. (And, in an indirect sense, this is the same as saying that all of us, as voters, must restrict ourselves.) And this rule must be explicitly constitutional. It is for this reason that we strongly endorse the constitutional dialogue that discussion of the proposed amendment will generate. For those who do not like the particular form of this proposed amendment, let them suggest a better one, but do not let them say that no problem exists. Such neglect points the way to fiscal and economic ruin; that road is plain to see.

Our major concern lies not with the proposed amendment on fiscal responsibility. We endorse this proposal. Our concern lies in the absence of a companion amendment which will constrain the nation's monetary authorities. Even if we should secure the adoption of this amendment, and a regime of fiscal responsibility should be restored, this could still be undermined by irresponsible monetary actions, either actions which might bring the economy to the depths of deep depression, as in the 1930s, or to the excess of inflation, as in the 1970s. Let us get on with imposing constraints on the potentially irresponsible actions of those who control the supply of money, as well as on those who make budgets. Admittedly, much of the pressure on the monetary authorities within the last decade has stemmed from the necessity to finance ever-increasing budget deficits. But we should not allow the demonstrable fiscal irresponsibility to blind us to the potential irresponsibility of the monetary authorilties who should, also, be constrained through well designed constitutional rules.

Senator Scott. Now, I understand that my colleague, Senator Garn will be here and we will wait just a moment and have him as our next witness. I understand he is on his way.

Senator Curtis. Mr. Chairman, I understand that Senator Garn will return later; you can go ahead with the witnesses.

Senator Scott. Thank you, Senator.

Now, Dr. Niskanen, if you would come up here. We welcome you to the committee today, and ask you to proceed in whatever way you prefer.

[From the Washington Star, Mar. 5, 1979]

Kicking the Big-Spending Habit

(By Thomas Sowell)

After half a century of almost constant deficits by the federal government, a desperate effort is being made to stop this trend with a constitutional amendment requiring a balanced budget. Twenty-eight state legislatures have already voted to have a constitutional convention called for that purpose.

Another six states and a convention will have to be called, for the first time since 1787.

Washington politicians and pundits, who have calmly accepted the deficits and the runaway inflation for nearly two generations, are suddenly in hysteria over the thought of a constitutional convention.

All sorts of reasons are given why a budget cannot be balanced. All sorts of terrible things are predicted if a constitutional convention is called. The Bill of Rights could be repealed, for starters, according to alarmed big-spending politicians and their media friends.

Despite all the Washington mumbo-jumbo, balancing the federal budget is hard for basically one reason: It is popular to give people things from Uncle Sam and unpopular to raise taxes.

Before this political trend took hold back in the 1930s, balanced budgets were the rule rather than the exception. Every federal budget in the 1920s either was balanced or had a surplus. Throughout the 19th Century, the federal government finished in the black far more often than it finished in the red.

Balancing the budget is not some mysterious problem that we have to wait for a genius to solve. It was done for a long time before the New Deal discovered the political magic of winning votes with giveaways without losing votes with tax increase. The great political success of that formula has led to its continued use and expansion ever since.

Kicking that habit is the problem.

The relationship between government deficits and inflation is very clear, despite all the quibbles that can be made by big spenders and their political allies. We have gotten so used to inflation that we have come to think of it as somehow inevitable.

But throughout the 1920s, there were no significant increases in the general price level. Then came the era of big spending. The price level more than doubled between the 1930s and the 1950s. It doubled again between the mid-1950s and the mid-1970s.

And the end is not yet in sight.

Economic "experts" have told us that a balanced budget is just a fetish. Special circumstances may even make it undesirable at times. But history tells us that once politicians are free from the need to balance the budget, the sky is the limit.

The "special circumstances" that economists talk about become a fetish. Such circumstances seem to be happening almost all the time, for most of the last 50 years. "Crisis" has become a routine word.

We can always leave room for genuine emergencies by allowing Congress to authorize an unbalanced budget with a two-thirds or three-fourths majority. We don't need to leave them a blank check, the way we do now.

Some people argue that a constitutional amendment is not the best way to limit federal spending. Since we obviously haven't yet discovered any other effective way, why wait until we think of the perfect way before doing anything? One approach does not preclude other approaches as well.

The second aspect of the current political attacks on a constitutional convention to limit spending are the bogeyman fears that are being whipped up. Some big-spenders picture the Bill of Rights being repealed, the Supreme Court abolished and Congress handcuffed. All this hysteria ignores one simple fact. Whatever a constitutional convention proposes, all the states have to vote on it, and two-thirds have to agree, in order for the proposal to become "the law of the land."

It is true that there are many things the American people resent besides inflationary deficits, and some of these might also be considered by a constitutional convention. But after decades of quiet acceptance of power grabs by appointed federal judges taking over the functions of elected representatives, and anonymous bureaucrats issuing more laws than Congress, it is ironic to see this sudden panic at the thought of government of the people, by the people and for the people.

Paul Revere won fame by sounding the alarm, "The British are coming!" Today's big spenders and paternalists are sounding the alarm because the Americans are coming.

A Constitutional Ban of Profligacy

(By William F. Buckley, Jr.)

We have seen that the argument over the proposed constitutional amendment proceeds at many levels. One argument currently being stressed by the amendment's opponents is that economic doctrine ought not to be written into the Constitution, both because economic doctrine is a modish thing and because it is uncrystallized.

That is certainly true. The disestablishment of John Maynard Keynes during the past two decades is as convulsive an experience in iconoclasm as Dorothy's discovery that the dreaded Wizard of Oz was a cowardly middle-aged man with amplifiers and a lightning-machine.

A couple of years ago Professor John Kenneth Galbraith, interviewed in London, confessed that 15 years before, his fellow economists were pretty sure they had all the answers. "Now," said Professor Galbraith, "we know how much more there is to learn." If there is much more for other economists to learn, we can reflect, *a fortiori*, how much there is left for Professor Galbraith to learn.

Here is the way Professor Laurence Tribe of the Harvard Law School frames his complaint. Let us agree, he says, that during the recent period Congress has tended to overspend, i.e., it has been politically fashionable to overspend.

"But suppose," he says, that tomorrow it became "equally fashionable" to underspend. There is, he insists, an argument against underspending, even as there is an argument against overspending. It is preposterous, he concludes, to lock the Constitution into an attitude in the matter which changes, and rightly so, with the social seasons. Just as it is wrong to spend so wildly as to bring on inflation, it is wrong to underspend when today's capital investment can yield a generation's profit.

This criticism of the proposed amendment, although theoretically appealing is unrealistic. Unrealistic because economic husbandry, in a democratic society, is far less likely than economic profligacy.

The late Professor Wilhelm Roepke observed in a book published a generation ago that in the history of democratic government, no defeat of a political party can safely be attributed to public resentment of inflation.

It does not follow that economic sophistication might not give us the first exception to that rule. Even so, practical experience teaches us that the intensity with which an individual voter desires his particular benefit—whether social security, or high farm prices, or rent controls, or hospital care, or corporate protectionism, or educational benefits—tends, in the crunch, to outweigh the less specified brief against inflation.

But the principal reason for writing some kind of economic flywheel into the Constitution is precisely the power accumulated by Congress to bribe the states into prolonged submission. And here nobody has spoken more eloquently than the nation's principal and most powerful wheeler-dealer, House Speaker Thomas P. O'Neill.

Asked what were the prospects of the states ratifying a tax-limitation amendment, he commented that a hard look at federal aid to the states would "drive them to their senses."

In other words, a state would finally fear to subscribe to a constitutional amendment after realizing that the resultant economies would mean an end to revenue sharing. We have here the ultimate cynicism: The state cannot afford to risk its own emancipation from federal overspending for fear that in doing so, it will lose that money which is collected by the federal government, mostly from that state's own taxpayers, and then remitted to that state.

The Constitution is based on broad philosophical assumptions, many of them, but not all, stated in the Declaration of Independence. It would appear that the tendency of democratic governments to practice economic policies that induce inflation is now sufficiently pronounced, over a long enough period of time, to justify explicit recognition in the Constitution. For this reason, it is unjustified to say that the proposed reform is a question of economic tinkering.

[From the New York Times, Feb. 5, 1979]

FRIEDMAN AMENDMENT

(By William Safire)

EASTON, MD.—A specter is haunting Congress: the specter of a Constitutional Convention.

Twenty-four states out of a needed 34 have already passed resolutions calling for a national convention to pass an amendment to balance the Federal budget; Presidential candidates as similar as Democrat Jerry Brown and Republican John Connally have hastened to head the parade.

The convention method of amending the Constitution was provided by the Founding Fathers as a way of lighting a fire under the Congress if the Government in Washington did not prove responsive to the will of most of the states. The threat of a convention has been used before to induce Congress to propose amendments for states to then ratify; but in 200 years, those who proposed the convention method have never needed to go all the way.

Washington has reacted to the recent pressure of the Constitutional budget-balancers with a combination of fear, loathing, shock and honor; the often-expressed fear is that if those yahoos in the countryside ever got together with Constitutional sanction, they would tear up the Bill of Rights and bring back slavery.

Such a shrill, anguished reaction from Washington illustrates the wisdom of the Founders: A growing central government is unlikely to share its power or curtail its growth without a powerful threat from the states. Lawmakers in Washington will now have to find a way to limit Federal growth by offering an amendment of their own, or will have the initiative to do so legally wrested away.

The movement to curtail Federal growth will not be stopped. President Carter may try to pose as Scrooge with his "lean, tight, austere" rhetoric, but too many taxpayers know that he is increasing Federal spending by $40 billion—nearly 8 percent—which is a far cry from "budget cutting." Worse, any reduction of the Federal deficit will come not because spending is curtailed but because inflation is squeezing more tax dollars out of workers pushed into higher brackets.

Since most people have become convinced that the Government will never willingly stop its own growth, they are demanding a change in the Constitution that will force the Government to stop growing. The stern adjectives of rafshoonery will not suffice; tax-and-spend-a-little-less-than-unsual will not do; if spending cannot be restrained by lawmakers, then the lawmakers' spending will have to be restrained by law.

At the second annual Tidewater conference on Maryland's Eastern Shore, Republican officials convened by Senator Bob Packwood have reacted responsibly to the undeniable grassroots demand.

Most of the lawmakers who came to Tidewater knew that an amendment requiring a balanced budget, which is what the states have been talking about, is flawed. Not only would enforced balance forbid the Government to lean against the economic winds when necessary, but it would fail to mandate the curtailment of bureaucracy: tax-bracket creep could still increase the Federal tax take and a bureaucracy could thus grow, even with the budget balanced. What is desired is not so much "balance" as discipline—a handle on increases in Federal spending.

Nobel laureate Milton Friedman—the conservatives' beloved "Uncle Miltie"—had been asked for his answer by the nonpartisan National Tax Limitation Committee. At a small breakfast last week, economist Friedman put forward a Constitutional Amendment limiting the increase in Federal spending to the percentage increase in gross national product—with a more severe limitation in times of inflation, and an escape hatch in times of recession.

The Friedman Amendment permits Keynesians to stimulate the economy, when necessary, by tax reduction rather than by a spending increase; most important, it imposes a discipline on the Congress and the executive that neither branch has been able to achieve, alone or together.

At Tidewater II, Republican Senator John Heinz announced he would soon put forward the Friedman Amendment; in the Senate, on the Democratic side, Senator Dick Stone of Florida is likely to do the same. These men are two of the brightest lights in their respective parties; it is significant that Heinz and Stone are responding while so many of their conferees are wringing their hands.

What began as an inchoate, impractical movement to balance the Federal budget, eliciting Washington's scorn for its form and alarm for its methods has begun to mature: We now have a practical amendment, conceived by an economist of repute, sponsored by the Senate Establishment of the future.

The specter haunting Washington is doing its job: We may never have a Constitutional Convention, but the menace of one will bring about some spending limitation much like the Friedman Amendment. The people will be heard, even when the Government does not want to hear; the framers of the Constitution found the most ingenious way, two centuries ago, to make sure of that.

INFLATION IN ONE PAGE

1. Inflation is an increase in the quantity of money and credit. Its chief consequence is soaring prices. Therefore inflation—if we misuse the term to mean the rising prices themselves—is caused solely by printing more money. For this the governments monetary policies are entirely responsible.

2. The most frequent reason for printing more money is the existence of an unbalanced budget. Unbalanced budgets are caused by extravagant expenditures which the government is unwilling or unable to pay for by raising corresponding tax revenues. The excessive expenditures are mainly the result of government efforts to redistribute wealth and income—in short, to force the productive to support the unproductive. This erodes the working incentives of both the productive and the unproductive.

3. The causes of inflation are not, as so often said, "multiple and complex," but simply the result of printing too much money. There is no such thing as "cost-push" inflation. If, without an increase in the stock of money, wage or other costs are forced up, and producers try to pass these costs along by raising their selling prices, most of them will merely sell fewer goods. The result will be reduced output and loss of jobs. Higher costs can only be passed along in higher selling prices when consumers have more money to pay the higher prices.

4. Price controls cannot stop or slow down inflation. They always do harm. Price controls simply squeeze or wipe out profit margins, disrupt production. and lead to bottlenecks and shortages. All government price and wage control. or even "monitoring," is merely an attempt by the politicians to shift the blame for inflation on to producers and sellers instead of their own monetary policies.

5. Prolonged inflation never "stimulates" the economy. On the contrary, it unbalances, disrupts, and misdirects production and employment. Unemployment is mainly caused by excessive wage rates in some industries, brought about either by extortionate union demands, by minimum wage laws (which keep teenagers and the unskilled out of jobs), or by prolonged and overgenerous unemployment insurance.

6. To avoid irreparable damage, the budget must be balanced at the earliest possible moment, and not in some sweet by-and-by. Balance must be brought about by slashing reckless spending, and not by increasing a tax burden that is already undermining incentives and production.

[From the Chicago Tribune, Feb. 22, 1979]

VIEWS OF FORMER HEW SECRETARY CASPER WEINBERGER

NEEDED: AMENDMENT TO SHOW CONGRESS WHOM IT WORKS FOR

Twenty-seven states have acted favorably on a resolution that Congress call a new constitutional convention or pass its own constitutional amendment imposing some fiscal sanity on the federal government. The number of states still required to act is down to seven. It seems clear that a new phase in America's history is about to begin.

Attention has been focused on the mechanics of the problem; that is, whether or not Congress will have to call a constitutional convention, whether or not the agenda could be limited to a budget-balancing amendment, and so on. We have tended to overlook what it is that has brought us to the point of using a mechanism that was made a part of our Constitution in 1789, but has never had to be used before.

The simple fact seems to be that Congress has become unrepresentative of the people who elect it. Congress is receptive to pressures of special interests for more spending on their projects, but has failed to realize that what the people want is not more spending and more government but far less of each.

It is amusing and instructive to note the alarm expressed by the same types of groups who opposed Proposition 13 in California. The warnings are coming in thick and fast: from lobby groups who have what they want now (except that they always want more), from full-time legislators who win by responding to special interest groups, from editorial writers and columnists who see the end of the world, or at least the end of the Constitution.

The gist of the argument is that the people should not be allowed to reduce government or reduce government spending.

After all, there is nothing really revolutionary in the 1789 provision to permit two-thirds of the states to demand that Congress do something. Then, any amendment produced by the convention would also require ratification by three-quarters of the states to become effective. So the arguments that the convention might run wild and pass along a lot of undesirable amendments also seems a bit premature.

What is it that the people want so badly, that Congress will not give them? Essentially, it is a requirement that the federal government stop responding to all the special interests and consider instead the general welfare, which urgently requires the government to stop producing inflation.

There is not yet any agreement on precisely what measure the constitutional convention would take up.

First, there is a simple measure requiring that the federal budget be balanced each year except for certain emergency escape hatches, such as a declaration of war. But merely balancing the budget, while highly desirable most years, is not enough to halt the drastic increase in governmental activity and spending. You can always balance a budget by raising your revenues high enough.

Public sentiment might be appeased by a simple budget-balancing amendment—but that would leave Congress free to return to its old ways.

A more sophisticated proposal would tie the rate of permitted government spending increases to some objective figure, such as the increase in the gross national product, and then would permit those spending limits to be increased if there was a two-thirds vote of approval by both houses of Congress and approval by 46 state legislatures.

This would be some improvement, but it still would allow a very considerable growth in federal governmental activity, particularly if the inflation caused by government spending pushed the gross national product up to a rate that permitted more spending, and thus the cycle would continue.

Long-time observers believe the only real way to achieve overall reductions of governmental activity and governmental spending is to limit the amount of revenue that can be collected, and at the same time to require a balanced budget. Then you would truly force Congress to make some of the hard decisions as to which programs would be funded, and which would not, and to choose priorities rather than simply saying yes to all the special interests and then adding up the cost.

Certainly there should be provisions that permit the people to change their minds and decide they might indeed want something enough to require an increase in revenues. But at least the choice would be clear-cut and not imposed on them by a Congress which has been much more attentive to special interests than to the general welfare.

Testimony of Dr. Neil H. Jacoby Before California State Assembly Ways and Means Committee, February 1, 1979

WHY THE FEDERAL CONSTITUTION SHOULD REQUIRE A BALANCED BUDGET

The health of the American economy would be significantly advanced if the U.S. constitution required the Federal budget to be balanced each year, except in emergencies. A constitutional convention should be called to enact such a requirement, which is now written into the constitutions of nearly all the states.

I have been driven to this conclusion by observing the procession of huge Federal deficits in a time of prosperity, the disastrous fall of the dollar in world money markets, and an ominous price inflation that is still out of control.

Among the many causes of inflation, excessive Federal spending financed by expanding the public debt and the money stock is a central factor. Federal deficits in prosperous times like the present are a symbol of American fiscal irresponsibility, widely noted and criticized around the world. Today, the world is awash in unwanted dollars.

During twenty five of the past thirty fiscal years, 1950 through 1979, the Federal budget has run deficits totaling over $450 billion. It has had surpluses in only five years amounting to $17 billion. What is most alarming is that more than $360 billion of the deficits was generated during the past decade, which, except for the recession of 1975, has been a period of solid U.S. economic expansion. If one includes in Federal expenditures—as one should—the probably uncollectible Federal loans and loan guarantees made outside of the Federal budget, accumulated deficits loom even larger. Significantly, their huge magnitude is of the same order as the mountainous rise in the Federal debt and in the money stock.

This record shows that Federal government financing has failed to be the balance wheel for the private sector of the economy which was contemplated by J. M. Keynes. Budget surpluses in good years have not offset deficits in poor years. Congress's foot has been on the fiscal accelerator nearly all of the time; rarely on the brake. The Federal budget has for years been an engine of inflation.

Budget balance should be required by the U.S. constitution in order to curb excessive government spending, slow down inflation and restore confidence in the dollar. It is a needed bulwark against the strong bias toward over-spending contained in our system of democratic, representative government. Our system suffers from a disease that can be fatal if not checked. Government spending expands irrationally, mainly because of three factors—pressure group politics, bureaucratic imperialism, and, above all, deficit financing. Let us quickly examine each factor.

1. Pressure group politics. Our political representatives naturally satisfy the strong demands of small "special interest groups" for spending programs that benefit them greatly, because their demands are only weakly opposed by the majority who benefit little, if at all, or who pay the bills. The payoff to the politician of meeting the demands of the strong minority outweighs the political costs he incurs by flouting the will of the weak majority. Add to this the familiar phenomenon of legislative log-rolling for reciprocal political benefit, and it is easy to understand why total government spending mounts even higher, even though the majority of voters would oppose a higher total if given a chance. The public is never able to vote directly on the total size of the budget. One of the pressure groups tending to expand government spending is public employee unions whose bargaining power for higher pay and benefits is even greater than in the private sector.

2. Bureaucratic imperialism is a third cause of excessive government spending. The Federal bureaucracy today is better educated, more highly paid, and more activist in philosophy than ever before in our history. Washington has the highest per capita income of any major American City. Bureaucrats are under strong incentive to expand their programs, staffs and budgets, because their pay and their power depend on such expansion. Promotions perversely depend on the number of people supervised and the amount of money spent.

3. Deficit financing is probably the most powerful cause of excessive government spending, facilitating the operation of preceding factors. It permits Congress and the Administration to offer new benefits to the people without appearing to impose new tax burdens. Of course, those burdens appear later in the cruelest and most unfair kind of tax—inflation. The ability to run deficits enables legislatures and bureaucrats to avoid their primary responsibility—to set priorities on public wants and needs. They simply add the new spending program to the deficit. Small wonder that the prospect of a balanced budget amendment to the Constitution has provoked alarm and opposition along the Potomac.

A constitutional requirement of budget balance would impose an essential fiscal discipline upon Congress and the Administration. It would be the same kind of discipline that Proposition 13 in California imposed on State and local governments. History shows that an external force is essential. Governments do not discipline themselves. When it must present a tax bill to the voters concurrently with each new spending program. Congress will find it much easier to reject new spending. A constitutional requirement of budget balance will reduce government spending as well as insure that spending is responsibly financed. (A constitutional limit on the ratio of spending to the GNP would also be an effective instrument of control.)

How weighty are the arguments against a constitutional requirement of budget balance? The heart of the attack on the amendment is that it would deprive the Federal government of needed-flexibility in economic policy. It is argued that, in the event of a serious-recession, tax revenues would decline, unemployment benefits and welfare payments would rise, and a deficit would emerge. Government would then be obliged to raise taxes or to cut other spending in order to comply with the constitutional restraint on the budget. Either course of action, critics contend, would worsen the recession.

There are several responses to this argument. First, in the event of a serious recession or other emergency, the constitutional requirement of budget balance could by its own terms, be suspended by a two-thirds vote of Congress and approval of the President. Any recession that was really threatening to become cumulative and to create heavy unemployment would certainly command the necessary political support for suspension.

A second point is that the Federal government has many powerful non-fiscal instruments that it can use flexibly to deal with economic instability. They include monetary actions, incomes policies, tariffs, quotas and exchange rates, as well as such structural reforms as minimum wage laws and the Davis-Bacon Act. The level at which the Federal budget is balanced can be changed (by concurrent tax and expenditure changes) with counter-cyclical effects. Government could continue to pursue a flexible counter-cyclical policies even with a balanced budget.

A more fundamental response to critics of the balanced budget amendment is that flexible counter-cyclical actions by the government are not really effective anyway. Some prominent economists contend that limits upon our ability to forecast economic changes, and upon our knowledge of the power and timing of economic reactions to public policies, make government's effort to "fine-tune" the economy a source of instability rather than of stability. This group argues that government can make the maximum contribution to stable economic progress by consistently obeying a stable set of fiscal and monetary rules, thus creating stable expectations in the private sector of the economy.

Let us grant that the past record of Federal stabilization policies is spotty. Let us concede that we lack the ability to "fine-tune" the U.S. economy in our present state of knowledge. Yet there is evidence that flexible Federal economic policies can improve the performance of the economy. I believe that a constitutional amendment requiring a balanced budget—suspendable in emergencies—does not unwisely reduce the flexibility of Federal actions. The social costs of a modest reduction in fiscal flexibility will be far more than offset by the social benefits of a more efficient and more responsibly-financed Federal government. A heavy blow will be struck against inflation. World confidence in the dollar will revive. The U.S. balance of trade and payments would begin to improve. For these reasons, Senate Joint Resolution No. 2 merits support.

Do We Need a Constitutional Amendment To Limit Federal Spending or Balance the Budget?

(By Alvin Rabushka)

My professional research interests have long concerned the subject of the budgetary process, of the relationship between revenue and government spending, and growing public clamor for limits to taxation and spending. My interests range across state and local government, the federal government, and several foreign countries. I have written two books about the fiscal practices of the Hong Kong Government, where balanced budgets and financial reserves—not deficit spending and public debt—are the rule, and several papers on the reduction in spending and taxing during the nineteenth century in Great Britain (see the attached *Wall Street Journal essay*). I am presently studying the impact of Proposition 13 on both the public and private sectors in California and the various tax and spending limitation measures in the several states. I am also watching with great interest the competing proposals that have been advanced to limit federal spending or taxation. I therefore welcome this opportunity to present my thoughts on the prospects of constitutional amendments that might limit spending or require a balanced budget.

What is the essence of a budgetary system? The function of any government budget, as I understand it, is to compare estimates of proposed expenditure with past spending, current appropriations, and the resources available with which to meet the proposed new spending. The essence of a budget is that the fund-raising and granting authority (e.g., Congress, a state legislature, a local government) shall be presented with a consolidated statement of estimated receipts and expenditures in order to show a net position of balance or a prospective deficit or surplus—which in turn may either permit a remission of taxation or require an increase in taxation or other funding.

Throughout most of our history, and that of many Western nations, revenue estimates were invariably dealt with before expenditure estimates. It was generally believed that public expenditure should be fit to available public revenues, and that revenues should not be extended to fit expenditure. Moreover, public debt was regarded as undesirable, a thing to be reduced and eliminated if possible. The guiding principle was that government should aim to be self-supporting—this implies a philosophy and practice of balanced budgets.

In the twentieth century, spending decisions have become increasingly divorced from contraints of revenue. The government now determines its spending priorities first, and then instructs the Treasury to get, by taxation or borrowing, whatever funds are necessary to cover the outlays. Since government is reluctant to increase taxes, borrowing has been the chief way to cover shortfalls. The result has been an accumulation of massive public debt and rising rates of inflation induced by rapid monetary growth.

That government spending has grown dramatically in this century is beyond doubt. Total spending has risen from 8.0 percent of Gross National Product in 1902 to exceed 40 percent in 1978. Federal spending alone has risen from 2.7 percent of GNP in 1902 to 22.6 percent in 1978, a more than eight-fold increase. Ironically, some of this growth is due to the income tax receipts made possible by the 16th Amendment. Indeed, current debate on the need for an amendment to limit spending is partially attributable to the 16th Amendment.

Thus, in the absence of some limitation on government spending, we can say that our political processes contain a strong systematic bias toward government overspending. It is relatively easier to accede to new demands for spending than to raise taxes or cut back on existing programs.

The growth of government spending should not be viewed as a historical inevitability. Throughout the 19th century, Great Britain enjoyed a steady reduction in the relative (sometimes even absolute) size of its government. Public spending as a share of national income fell steadily from a high of 19.0 percent in 1811 to a low of 4.9 percent in 1881 (exclusive of debt charges). During this period, the British government reduced the national debt from £800 million to £550 million pounds, a fall of over 30 percent. At times, debt redemptions comprised half of annual expenditure. Throughout this period of shrinking government, real wages of workers more than doubled, and growing tax yields financed an ambitious program of housing, education, and other social services. Controlling the size of government did not come at the expense of the less well-off members of society.

Let me turn, now to three specific issues: first, a constitutional amendment to limit spending; second, an amendment to require a balanced budget (whether proposed by Congress or a Constitutional Convention); and, third, some implications of a Constitutional Convention. I want to address both economic issues and political considerations in the two different measures.

PROPOSED AMENDMENT TO LIMIT FEDERAL SPENDING

On January 30, 1979, the National Tax Limitation Committee released the text of a proposed constitutional amendment to limit federal spending. The amendment seeks to limit increases in total government outlays to the percentage increase in nominal gross national product of the last calendar year ending prior to the beginning of the next fiscal year. If inflation exceeds 3 percent, the permissable increase in total outlays will be reduced by one-fourth of the excess of inflation over three percent. (Inflation shall be measured by the difference between the percentage increase in nominal gross national product and the percentage increase in real gross national product.)

The amendment stipulates that fiscal surpluses be used to reduce the public debt of the United States. It also permits declarations of emergency, allows increases in total outlays if approved by a three-fourths vote of Congress and a majority of state legislatures, prevents reductions of grants to state and local governments, and contains an enforcement provision. (Time preclude extensive discussion of these provisions.)

I find myself in agreement with the intent of this proposed amendment—to stabilize if possible to reduce, government spending as a share of GNP (in the process, increasing private spending). Since each year's maximum spending limit is tied to the previous year's outlays, a reduction in spending in any one year would further limit expenditures in future years. In the event of runaway inflation, government spending as a share of GNP would also decline.

The amendment is well designed to attain these ends. Its one omission is that it does not instantly guarantee an end to defict spending. The amendment does not require the government to raise taxes to eliminate deficits. Its sponsors claim, instead, that reduced government spending will in the long run stimulate real economic growth that, in turn, will increase tax receipts and eliminate the deficit.

However as a political scientist, I have several problems with this approach to control government spending. I, for one, find this amendment difficult to explain. The notion of government spending as a share of GNP, to be reduced by some fraction in excess of 3 percent inflation, is too complex to explain in a simple and direct manner to the majority of American voters. The proposal to limit spending is far less understood or supported than its rival, but simpler, notion of a balanced budget. I do not rule out the possibility of growing public comprehension and support for the spending limitation measure; however, I expect the balanced budget concept to enjoy greater popularity and understanding for the immediate future.

PROPOSED CONSTITUTIONAL AMENDMENT TO REQUIRE A BALANCED FEDERAL BUDGET

Given the goal of limiting federal spending, I regard the foregoing amendment as a near perfect solution. By contrast, against this same goal, a proposed amendment to require a balanced budget only earns the mark of good. The reason is that federal spending can continue to grow so long as Congress is willing to raise taxes to cover the costs of new spending programs. But in the effort to achieve perfection, even the good is often lost and nothing is attained.

In and of itself, balancing the federal budget has several virtues. Most telling is restoring the link between spending and revenue. It would reestablish the historically proven norm in which public officials first determined what resources were available to government and, against that constraint, chose among the many competing claims on public spending.

Thus if politicians voted new spending programs, they would have to eliminate old programs, or raise additional taxes. Resistance to the elimination of existing programs or to tax increases would discourage many new spending proposals, thereby eliminating the current bias towards overspending. It would end future deficits and eliminate the inflationary effect of new money creation which has in past years finance these deficits.

A sensible amendment would allow some budget surpluses to be retained as financial reserves, up to some authorized share of annual spending. These reserves could be drawn down to make up revenue shortfalls in any one year due to recession.

Critics note that a balanced budget need not prevent future increases in federal spending. However, the need to raise more taxes to finance more spending makes it difficult to sustain the recent high rates of growth in new spending. A balanced budget requires that tax increases be explicitly voted, rather than implicitly imposed by deficit spending and inflation. In the era of tax revolts, few politicians want to campaign on a platform of higher taxes.

This good measure, not perfect, enjoys greater political appeal than the spending limitation measures. First, and most important, it is easy to understand. Every housewife and consumer understands the need for living within one's means. Not only is the balanced budget concept widely understood, it is also widely supported. The most recent Gallup Poll shows that the public favors a balanced budget by a margin of six-to-one.

California illustrates this point. Proposition 13, often described as a meat-axe approach to tax limitation, was a simple measure. Voters could look at past assessment notices and immediately calculate their tax savings. By contrast, Governor Reagan's ill-fated Proposition 1 of 1973—a spending limitation measure—was more complicated, more difficult to understand and support. Proposition 1 lost by a 54-46 margin. Proposition 13 won by landslide 65–35 proportions.

Despite his opposition to Proposition 13, the real winner in that election now appears to be California's Governor Brown. On the first poll taken after the election, more respondents thought that Governor Brown was for Proposition 13 than was his Republican opponent, Evelle Younger. Perhaps more than any other political figure, Governor Brown champions the balanced budget amendment. Twenty-nine states have already called either for a constitutional convention, or for an amendment to be proposed by Congress. Should Governor Brown occupy the White House in 1981, it will be due in large measure to his endorsement of the balanced budget as the vehicle for controlling runaway federal spending. Having watched Governor Brown's performance this past year, I would not underestimate his prospects.

To repeat: An Amendment to limit spending will stabilize and gradually reduce government spending as a share of national income. It will, over time, eliminate deficits as well. It is, unfortunately, less politically saleable than the more simple notion of a balanced budget.

It is important to remember that the Jarvis-Gann initiative to reduce and limit property taxes was accomplished wholly outside the state legislature and outside the established party system—indeed, over their opposition. Refusal of state leaders to grant tax relief stimulated the petition movement and its campaign overcame determined opposition from the state's political, business, labor, and intellectual establishments. Congressional reluctance to eliminate deficits and reduce spending (thus reducing inflationary pressures) is, in my opinion, the reason that many state legislatures have called upon the Congress to implement Article V of the Constitution for the purpose of an amendment to require a balanced budget.

Nor am I persuaded that an amendment to balance the budget precludes an amendment to limit spending. It is possible to seek the former proposal initially and refine it to reflect the attributes of a spending limitation measure as well. Indeed, there is nothing inherent in the concept of a balanced budget that precludes the attachment of a spending limitation as well.

This discussion is not intended to gloss over the technical difficulties in designing a workable mechanism for insuring the successful practice of a balanced budget. However, the main point of my remarks is to evaluate the relative economic and political merits of the two competing proposals.

THE IMPLICATIONS OF HOLDING A CONSTITUTIONAL CONVENTION

Why am I not distraught over the prospects for holding a convention? Opponents argue that the constitution should remain free of any amendment that represents economic policy. I believe this view is somewhat narrow. The founding fathers took limited government for granted, a fundamental principal of the American constitution. Indeed, direct taxation of income was permitted only after the 16th Amendment was ratified in 1913.

I believe that the founding fathers could never have contemplated this century's dramatic growth in government (with its accompanying budget deficits). If they had thought possible that the limited government they created two centuries ago could ever grow to its current size, with an overbearing presence in virtually every aspect of economic life, I believe they would have provided either for a spending limit or a balanced budget. They did not because they regarded today's government as inconceivable.

Although the state legislatures have explicitly limited their call for a convention to the one issue of a balanced budget, critics fear the convention could run amok and well put the bill of rights at risk. My political science sense tells me that the requirement of ratification by three-fourths of the states is not likely to jeopardize existing constitutional guarantees. Moreover, this concern strikes me as blatant distrust of the American people, which was precisely the same attitude put forward by those who opposed Proposition 13 in California. I believe the scaremongering is a mask to shield the real intent of those who oppose a constitutional convention, namely, they do not want to see limits placed on government spending.●

[From the Denver (Colo.) Rocky Mountain News, Feb. 13, 1979]

SEVENTY PERCENT OF AMERICANS FAVOR AMENDMENT ON BUDGET

NEW YORK.—Americans overwhelmingly favor a constitutional amendment requiring a balanced federal budget because they don't trust politicians to put a lid on government spending, an Associated Press-NBC News poll shows.

The public, weary of continuing inflation that they blame in part on deficit spending, says cutting waste in the federal bureaucracy would save enough money to balance the half-trillion-dollar budget.

But Americans' distrust of politicians is so deep that they don't believe their elected officials will act. Thus, they are split over whether the deficit could be wiped out in a few years.

The poll found 70 percent of those interviewed Feb. 5 and 6 favor a budget-balancing amendment. Eighteen percent opposed such a move, and 12 percent were not sure.

Support for an amendment has slipped in the past three months, however. The current level is 5 points below the finding of the November AP-NBC News poll and 9 points below the December results.

Despite the high level of support, Americans don't think their elected officials will actually accomplish the balancing act.

Only one in four said politicians will work to balance the budget. Seventy percent said politicians will not work to wipe out the deficit. Six percent of those interviewed were not sure.

This distrust has implications for politicians who have taken a stand on the balanced budget.

President Carter has consistently promised to balance the federal budget, but he opposes a constitutional amendment on the grounds that it would rob the government of needed flexibility. California Gov. Edmund G. Brown Jr. announced his support for a constitutional amendment in January.

Other politicians in Washington—Democrats as well as Republicans—have condemned the constitutional amendment route while praising the objective of balancing the budget.

One key element in the support for a balanced budget is the perception that the budget is so bloated by waste and inefficiency that it could be balanced just by eliminating waste.

Seventy-one percent of those polled agreed that wiping out waste would balance the budget. Twenty-three percent didn't think so. And 6 percent were not sure.

But there is a contrast between what the public would like and what it realistically sees happening. Only 45 percent think that a balanced budget is actually possible in the next few years. Forty-nine percent say it's impossible, and 6 percent are not sure.

Those who favor a balanced budget say by a 52–43 margin that their hope can become reality.

Those who oppose a balanced budget don't think one is possible anyway. Two-thirds of this group thinks it is impossible to wipe out the deficit, while only 28 percent think it is possible.

As with any sample survey, the results of the AP-NBC News polls could differ from the results of interviews with all Americans because of chance variations in the sample.

For polls with 1,600 interviews, the results should vary no more than 3 percentage points eiher way simply because of sample errors. That is, there is only one chance in 20 that the results of interviews with all American adults would vary from these results by more than 3 percentage points.

However, the results could vary from other polls because of differences in the wording of questions, timing of interviews or the method of interviewing.

TABLE 9.—BUDGET RECEIPTS AND OUTLAYS, 1789–1979

[In millions of dollars]

Fiscal year	Receipts	Outlays	Surplus or deficit (−)
1789–1849	1,160	1,090	+70
1850–1900	14,462	15,453	−991
1901–05	2,797	2,678	+119
1906–10	3,143	3,196	−52
1911–15	3,517	3,568	−49
1916–20	17,286	40,195	−22,909
1921	5,571	5,062	+509
1922	4,026	3,289	+736
1923	3,853	3,140	+713
1924	3,871	2,908	+963
1925	3,641	2,924	+717
1926	3,795	2,930	+865
1927	4,013	2,857	+1,155
1928	3,900	2,961	+939
1929	3,862	3,127	+734
1930	4,058	3,320	+738
1931	3,116	3,577	−462
1932	1,924	4,659	−2,735
1933	1,997	4,598	−2,602
1934	3,015	6,645	−3,630
1935	3,706	6,497	−2,791
1936	3,997	8,422	−4,425
1937	4,956	7,733	−2,777
1938	5,588	6,765	−1,177
1939	4,979	8,841	−3,862
1940	6,361	9,456	−3,095
1941	8,621	13,634	−5,013
1942	14,350	35,114	−20,764
1943	23,649	78,533	−54,884
1944	44,276	91,280	−47,004
1945	45,216	92,690	−47,474
1946	39,327	55,183	−15,856
1947	38,394	34,532	+3,862
1948	41,774	29,773	+12,001
1949	39,437	38,834	+603
1950	39,485	42,597	−3,112
1951	51,646	45,546	+6,100
1952	66,204	67,721	−1,517
1953	69,574	76,107	−6,533
1954	69,719	70,890	−1,170
1955	65,469	68,509	−3,041
1956	74,547	70,460	+4,087
1957	79,990	76,741	+3,249
1958	79,636	82,575	−2,939
1959	79,249	92,104	−12,855
1960	92,492	92,223	+269
1961	94,389	97,795	−3,406
1962	99,676	106,813	−7,137
1963	106,560	111,311	−4,751
1964	112,662	118,584	−5,922
1965	116,833	118,430	−1,596
1966	130,856	134,652	−3,796
1967	149,552	158,254	−8,702
1968	153,671	178,833	−25,161
1969	187,784	184,548	+3,236
1970	193,743	196,588	−2,845
1971	188,392	211,425	−23,033
1972	208,649	232,021	−23,373
1973	232,225	247,074	−14,849
1974	264,932	269,620	−4,688
1975	280,997	326,092	−45,095
1976	299,197	365,643	−66,446
TQ	81,687	94,657	−12,970
1977	356,861	401,902	−45,040
1978 estimate	400,387	462,234	−61,847
1979 estimate	439,588	500,174	−60,856

TOTALS, INCLUDING OUTLAYS OF OFF-BUDGET FEDERAL ENTITIES

Fiscal year	Outlays of off-budget Federal entities	Total outlays	Total deficit
1973	60	247,134	−14,909
1974	1,447	271,067	−6,135
1975	8,054	334,145	−53,149
1976	7,211	372,854	−73,657
TQ	1,770	96,427	−14,740
1977 estimate	8,693	410,594	−53,733
1978 estimate	11,514	473,748	−73,361
1979 estimate	12,538	512,712	−73,124

NOTES

Certain interfund transactions are excluded from receipts and outlays starting in 1932. For years prior to 1932 the amounts of such transactions are not significant.

Refunds of receipts are excluded from receipts and outlays starting in 1913; comparable data are not available for prior years.

Data for 1789–1939 are for the administrative budget: 1940–79 are for the unified budget.

In calendar year 1976, the Federal fiscal year was converted from a July 1 to June 30 basis to an Oct. 1 to Sept. 30 basis. The TQ refers to the transition quarter from July 1 to Sept. 30, 1976.

Off-budget Federal entity outlays begin in 1973.

The amounts of earned income credit in excess of tax liabilities are shown as negative budget receipts rather than as budget outlays. Accordingly, the budget totals have been adjusted retroactively.

The 1975–77 data have been revised retroactively to include the housing for the elderly or handicapped fund in the unified budget instead of with the off-budget Federal entities.

COMPOSITION OF BUDGET OUTLAYS IN CURRENT AND CONSTANT (FISCAL YEAR 1972) PRICES: 1958–82

[In billions of dollars][1]

	Current prices						Constant (fiscal year 1972) prices					
			Nondefense						Nondefense			
Fiscal year	Total outlays	National defense	Total non-defense	Payments for individuals	Net interest	All other	Total outlays	National defense	Total non-defense	Payments for defense	Net interest	All other
1958	82.6	43.7	38.9	19.4	5.6	13.8	141.9	74.0	67.9	28.0	16.2	23.7
1959	92.1	46.0	46.1	21.2	5.8	19.2	153.9	75.3	78.6	30.1	16.5	32.0
1960	92.2	45.2	47.1	22.9	6.9	17.2	150.8	73.8	77.0	32.1	16.3	28.6
1961	97.8	46.6	51.2	25.9	6.7	18.6	157.1	74.8	82.2	35.8	16.2	30.2
1962	106.8	49.0	57.8	27.1	6.9	23.8	168.7	77.2	91.5	37.1	16.6	37.8
1963	111.3	50.1	61.2	28.7	7.7	24.8	170.7	76.8	93.9	38.8	16.8	38.3
1964	118.6	51.5	67.1	29.8	8.2	29.1	177.4	77.0	100.4	39.7	16.7	44.0
1965	118.4	47.5	71.0	30.5	8.6	31.9	173.3	69.3	103.9	40.1	16.7	47.2
1966	134.7	54.9	79.8	34.3	9.4	36.1	187.9	76.3	111.6	44.2	16.4	50.9
1967	158.3	68.2	90.0	40.1	10.3	39.7	212.1	92.0	120.1	50.1	16.1	53.8
1968	178.8	78.8	100.1	46.0	11.1	43.0	229.5	101.4	128.1	55.6	16.9	55.6
1969	184.5	79.4	105.1	52.8	12.7	39.6	223.1	97.9	125.3	60.9	15.5	48.8
1970	196.6	78.6	118.0	59.8	14.4	43.9	220.8	90.3	130.5	65.1	15.0	50.4
1971	211.4	75.8	135.6	74.6	14.8	46.2	223.0	81.2	141.8	77.2	15.2	49.4
1972	232.0	76.6	155.5	85.3	15.5	54.7	232.0	76.6	155.5	85.3	15.5	54.7
1973	247.1	74.5	172.5	95.9	17.3	59.3	233.2	70.0	163.2	92.2	15.4	55.6
1974	269.6	77.8	191.8	111.1	21.4	59.3	231.9	69.7	164.0	98.0	14.3	51.6
1975	326.2	85.6	240.6	142.7	23.2	74.7	253.5	67.1	186.4	113.3	14.6	58.4
1976	366.4	89.4	277.0	167.4	26.7	82.9	266.6	65.6	201.0	124.2	16.4	60.4
1977	402.7	97.5	305.2	182.6	29.9	92.7	272.7	66.7	206.0	126.0	17.4	62.6
1978	450.8	105.2	345.6	195.4	35.4	114.9	283.2	67.3	216.0	125.9	17.8	72.3
1979 estimate	493.4	114.5	378.9	213.2	43.0	122.6	284.1	68.3	215.9	126.6	17.5	71.7
1980 estimate	531.6	125.8	405.7	237.7	46.1	121.9	286.2	70.4	215.9	132.0	17.2	66.7
1981 estimate	578.0	137.0	440.9	258.0	46.7	136.2	294.2	72.5	221.7	135.1	16.2	70.4
1982 estimate	614.9	148.2	466.7	276.8	45.0	144.8	299.9	74.7	225.1	138.4	15.5	71.3

[1] The amounts of earned income credit in excess of tax liabilities are shown as budget outlays rather than as negative budget receipts. Accordingly, the budget totals have been adjusted retroactively.

Note: The 1976–78 data have been revised retroactively to include the exchange stabilization fund in the unified budget instead of with the off-budget Federal entities. Profits on gold sales are now treated as a means of financing rather than an offsetting collection. The budget totals have been adjusted retroactively, starting with 1975.

Source: "U.S. Budget in Brief, Fiscal Year 1980," p. 81.

By Mr. STONE (for himself and Mr. Lugar):

S.J. Res. 87. A joint resolution expressing the determination of the United States with respect to claims by U.S. nationals for property seized by the Castro regime; to the Committee on Foreign Relations.

CUBAN PROPERTY CLAIMS BY U.S. NATIONALS

● Mr. STONE. Mr. President, as we are all well aware, the questions surrounding an eventual normalization of relations with the Castro regime—and a lifting of the U.S. economic embargo imposed in 1962—are raised from time to time.

Certainly, with Cuban troops involved in military adventures in Africa there is very little likelihood that the Government of the United States could justify serious discussions about normalizing relations between the United States and the Castro regime.

However, in one area at least, the weight of moral imperatives leaves no room for debate. I refer to the claims by U.S. citizens whose property was seized by the Castro regime when the present revolutionary government took power. These claims have been certified by the U.S. Foreign Claims Settlement Commission. Their value, in excess of $1.8 billion, plus interest at 6 percent per annum as allowed by law, constitute the largest seizure of U.S. property in history. In fact, they are greater than the value of U.S. property expropriated by all other Communist governments combined.

While it is possible that the Castro regime may continue to press its military campaigns in Africa for some time to come, it is also possible that that regime may reverse its present course, remove its troops, release all political prisoners, and press for genuine reconciliation with the United States. If this happens, discussions might move swiftly.

However, in at least one respect, a quick change of events could be very detrimental. For if the economic embargo is lifted without satisfactory arrangements in place for the settlement of certified U.S. claims, then there is very little chance that the claims will ever be paid.

Thus, I believe it is imperative, before such events become possible, that Congress impress on the President our strong conviction that these just, certified claims must be settled as a central prior issue to substantive discussions.

To make this position a clear and unequivocal matter of record, I am asking you to join me in support of the resolution. I ask unanimous consent that the text of the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 87

Whereas the Castro regime expropriated enormous amounts of private property owned by United States nationals in 1959 and 1960, for which no compensation has been rendered to this date;

Whereas this property has been certified by the United States Foreign Claims Settlement Commission to have a value in excess of $1,800,000,000 plus interest at 6% as allowed by law;

Whereas the claims against the Castro regime total more than the value of Cuban assets in the United States;

Whereas there exists a trade embargo in the United States against United States nationals doing business with the present Castro regime;

Whereas interest sections by each of the two governments have been exchanged;

Whereas the claims against the Castro regime total more than the value of the United States property expropriated by all other Communist governments combined;

Whereas the United States has settled its claims against most other Communist countries; and

Whereas it is the stated policy of this Administration that the trade embargo will not be lifted while a satisfactory solution to the settlement of these valid claims has not been consumated: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall insure that satisfactory arrangements have been made to provide for the payment in full plus interest as authorized by law of the certified claims of United States nationals.

Sec. 2. If the President enters into any agreement involving counter-claims made by the Castro regime against the United States, tax credits shall be provided as cash equivalents by the Department of the Treasury to United States certified claimants with such tax credits being assignable.

Sec. 3. The President shall urge the Castro regime to establish a fund to be administered by the International Monetary Fund or some similar international agency for the purpose of paying claims of United States nationals (such a fund to be supported by an appropriate royalty on such commodities as minerals including iron ore, nickel, oil, and others plus sugar, rum, seafoods and tobacco).●

ADDITIONAL COSPONSORS

S. 55

At the request of Mr. Bentsen, the Senator from Wyoming (Mr. Simpson) was added as a cosponsor of S. 55, the Meat Import Act of 1979.

S. 378

At the request of Mr. Bellmon, the Senator from Minnesota (Mr. Boschwitz) was added as a cosponsor of S. 378, a bill to authorize the Robert A. Taft Institute of Government Trust Fund.

S. 391

At the request of Mr. Roth, the Senator from Utah (Mr. Garn) and the Senator from South Carolina (Mr. Hollings) were added as cosponsors of S. 391, the Federal Administrative Improvements in Reports Act.

S. 830

At the request of Mr. JAVITS, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 830, to remove the State match requirement from the GI Bill Improvement Act of 1977.

S. 955

At the request of Mr. HELMS, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 955, the Taxpayers Bill of Rights Act.

S. 1096

At the request of Mr. STEVENS, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 1096, a bill to amend title 39, to provide for an extension of the provisions of section 3626(a) relating to reduced rates.

S. 1124

At the request of Mr. JAVITS, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1124, the National Library Act.

S. 1176

At the request of Mr. GRAVEL, the Senator from Hawaii (Mr. INOUYE) and the Senator from Nevada (Mr. CANNON) were added as cosponsors of S. 1176, a bill to amend the Antiquities Act and the Federal Land Policy and Management Act of 1976.

AMENDMENT NO. 204

At the request of Mr. DECONCINI, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) was added as a cosponsor of amendment No. 204 intended to be proposed to S. 588, a bill to amend the Foreign Assistance Act of 1961 to authorize development assistance programs for fiscal years 1980 and 1981, to make certain changes in the authorities of that act, to authorize the establishment of an institute for technological cooperation, and for other purposes.

SENATE RESOLUTION 180—SUBMISSION OF A RESOLUTION DIRECTING A PRODUCTIVITY POLICY STUDY BY THE JOINT ECONOMIC COMMITTEE

Mr. BENTSEN (for himself, Mr. RIBICOFF, Mr. MCGOVERN, Mr. KENNEDY, Mr. SARBANES, Mr. JAVITS, Mr. MCCLURE, Mr. ROTH, and Mr. JEPSEN) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES 180

Whereas the future health of the American economy depends critically on the growth of productivity in the years ahead;

Whereas our recent disastrous productivity slump makes any real headway in the fight to achieve full employment and price stability impossible;

Whereas the reasons for the drop in productivity are unknown;

Whereas the Joint Economic Committee is charged by law with the responsibility of carrying on a continuing study of matters relating to the Economic Report of the President and with providing guidance to the several committees of the Congress dealing with legislation relating to the Economic Report of the President and with providing guidance to the several committees of the Congress dealing with legislation relating to public policy: Now, therefore, be it

Resolved by the Senate, That the Joint Economic Committee, or any duly authorized Subcommittee thereof, shall as soon as possible—

(1) undertake an emergency study of the current state of the economy and of the problems relating thereto, with special reference to productivity; and

(2) provide the Congress with specific recommendations for legislation to remedy the existing ills and improve the performance of the economy.

SEC. 2. (a) For the purposes of this Senate resolution, the Joint Economic Committee, or any Subcommittee thereof, is authorized, through December 31, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to hold hearings, (4) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (5) to require, by subpena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (6) to take depositions and other testimony, (7) to procure the services of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, and (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration of the Senate, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) Subpenas may be issued by the Joint Committee, or subcommittee thereof, over the signature of the chairman or any other member designated by him, and may be served by any person designated by such chairman or member. The chairman of the Joint Committee or any member thereof may administer oaths to witnesses.

SEC. 3. The Joint Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than December 31, 1980.

SEC. 4. (a) The Joint Committee is authorized, through December 31, 1980, to expend under this Senate resolution not to exceed $150,000.

(b) The expenses of the Joint Committee under this Senate resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Joint Committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

AMENDMENTS SUBMITTED FOR PRINTING

BUSINESS REPORTING REFORM ACT OF 1979—S. 119

AMENDMENT NO. 222

(Ordered to be printed and referred to the Committee on Governmental Affairs.)

Mr. BELLMON (for himself, Mr. HOLLINGS, Mr. DOMENICI, Mr. HAYAKAWA, Mr. LEAHY, Mr. GOLDWATER, Mr. EXON, Mr. TOWER, and Mr. SCHMITT) submitted an amendment intended to be proposed by them, jointly, to S. 119, a bill to reduce duplicative and redundant reporting requirements imposed on American businesses by Federal agencies.

● Mr. BELLMON. Mr. President, inflation is the most serious problem facing our Nation today; and one of the major contributing causes of inflation is Government paperwork. Congress must act promptly and effectively to eliminate costly and unnecessary duplicative paperwork requirements.

This amendment, Mr. President, will go a long way toward elimination of redundant reporting requirements. It would allow a citizen—at his or her option—to file a release at the same time the person furnishes information to any Federal agency. The release would authorize the agency to which the information is reported to make the information available to any other Federal agency. For a year after filing such a release, the citizen could not be penalized for failure to report the same or substantially similar information to another Federal agency.

This bill does not relieve anyone of the responsibility to report to the Internal Revenue Service information needed for tax purposes; neither does it apply to information required by regulatory agencies in the exercise of their quasi-judicial functions; nor does it apply to information citizens agree to furnish as a matter of contract compliance.

This bill does not interfere with anyone's privacy. There is no compulsion to file a release. A person may, if he or she chooses, never file a release; but, in that case, the person would have to respond to each and every Federal agency demand for information, just as they do now.

This is a commonsense approach to a nonsensical problem, there is no sound reason people should be subject to fines—and in some cases imprisonment—simply because they are not disposed to spend time and money telling the Federal Government the same thing over and over.

The Federal Paperwork Commission concluded that businesses were spending billions of dollars each year, filing the same information with more than one Federal agency. CBS 60 Minutes put the cost of duplicative reporting at $30 billion a year.

This cannot be allowed to continue. We have attempted to arrest the proliferation of paperwork, by requiring forms approval by OMB and by GAO. Obviously, that has not worked. Each and every Federal agency seems to continue to be able to argue that they have unique needs, which can only be met by creating their own new forms.

This bill starts at the other end. It lets the citizen decide, in the interest of cost control and convenience, how much he or she is willing to let the various Federal agencies share information with one another. I, for one, have enormous confidence in this kind of commonsense approach, to help us sort out the instances in which reporting requirements can be consolidated.

One more thing this bill will do, Mr. President, is to require Congress to consider the necessity for, and the potential cost/benefit of future reporting requirements—before they are enacted. It is high time we require this of ourselves. After all, Mr. President, it is Congress in most instances which has created the duplicative reporting of which we now complain.

Mr. President, my cosponsors and I are introducing this amendment in the nature of a substitute for S. 119, to incorporate a number of constructive suggestions which have been made by our colleagues since the bill was first introduced in January.

We have come a long way this year, Mr. President, in recognizing the danger rampant inflation represents to our very way of life. We have taken giant strides, through the budget process, toward more responsible fiscal policy to help control inflation.

We must now take another step toward the same objective. Even if the plethora of paperwork we now require of private citizens were not so costly and inflationary, the duplication would not make sense. But it is costly. It is inflationary. And it is high time we do something about it. I am pleased to note the broad range of support for this legislation. My cosponsors include Senators who represent a broad range of political philosophy. We hope the rest of the Senate will join us, to insure that this important bill will soon become law.

Mr. President, the Readers' Digest recently ran an article which, among other things, shows how much Americans must spend every year to complete paperwork the Government requires. I ask unanimous consent that this article "Time to Control Runaway Regulation" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

TIME TO CONTROL RUNAWAY REGULATION

(By Prof. Murray L. Weidenbaum)

Last year, inflation tore nearly ten cents out of every dollar you earned. Experts marched out the usual lineup of culprits: the huge bill for imported oil, massive government spending, the accumulation of vast federal deficits. Usually ignored, however, was a major contributor to this drain on our economic lifeblood: the exorbitant, largely hidden cost of government regulation.

Regulation was born of legislation tailored to promote fair play in a vigorously competitive free market. But in recent decades the concept has been severely altered. Today, some 55 federal agencies, employing 80,000 bureaucrats, rain down a deluge of specifications governing nearly every aspect of our lives.

Last year's regulatory tab was a staggering $96 billion—nearly four times the nation's annual trade deficit, three-quarters the national defense budget, or $450 for every man, woman and child in the United States. Of the $96-billion total, the taxpayer footed the bill directly for $4.5 billion—the cost of setting up and running the regulatory agencies. Business and industry shelled out the remaining $91.5 billion for items ranging from paperwork (an absurd $25 billion) to "compliance" with financial, environmental, social and health-related federal demands. Passed on to the consumer in the form of higher prices, regulation added $2000 to the cost of an average home, at least $22 to the average hospital bill, 7 cents to a pound of hamburger.

But that's only part of the picture. When other, "invisible" costs are taken into account—the impact of business failures caused by overzealous regulation, of slipping export figures, of sagging productivity, of technological eclipse in fields once led by U.S. expertise—then the drain on the nation as a whole becomes incalculable.

Few would dispute the desirability of cleaner air and water or safer products in the marketplace. Nor would anyone deny that some regulation has been a direct response to past abuse. But costs like these suggest an irrational trend to regulation that is destructive rather than protective of our system.

As a former government official and as an economist who has spent the last four years directing a massive study of the impact of regulation in our society, I have become acutely aware of what one might call "regulatory myopia." Concerned with bits and pieces, the bureaucrats who last year filled 15,452 pages of the Federal Register with new regulations do not—in fact, cannot—see what they are doing to the economy. For the rest of us, however, the effects of regulation run amok are all too clear:

1. Prices soar. Compliance with regulatory requirements raised the list price of a 1978 car by an average of $666. Additional auto regulation is expected to add at least $500 to the price of a car by 1985.

But the inflated price tag of today's cars represents only the direct assault of government regulation. Other, indirect effects also ripple throughout the economy. For example, the U.S. steel industry bears the costs and frustrations of more than 5000 separate regulations stemming from 27 agencies administering 57 major programs. Last year, anti-pollution requirements alone pushed steel prices up by $8 a ton—putting the U.S. industry at a severe disadvantage in global markets.

The pulp and paper industry spent $3 billion between 1970 and 1978 complying with federal clean-water standards, and achieved a 95-percent reduction in pollution. But to reach the new reduction goal proposed by the Environmental Protection Agency—98 percent by 1984—would cost a further $4.8 billion. That's a 160-percent increase in costs to achieve a 3-percent improvement in water quality! It doesn't take a genius to figure out who pays for this.

2. Goods and services lag. Because of the Draconian testing and marketing requirements of the Food and Drug Administration (FDA), it now costs $50 million to develop a new American drug—a 900-percent increase since 1962—and takes seven years to get it on the market. One drug company's application to the FDA for approval of a skeletal-muscle relaxant consisted of 456 volumes; they weighed more than a ton and stood taller than an eight-story building. As a result of FDA regulation, U.S. patients are currently denied (among other things) a revolutionary asthma remedy, an invaluable anti-convulsant for epilepsy and perhaps a dozen new heart drugs readily available abroad.

Even regulations imposed for the best of motives can backfire. In 1974, after Congress passed the Employee Retirement Income Security Act, the IRS promptly issued 250 pages of regulations governing the nation's private-pension programs. Within months, 13,000 of these plans were terminated. The firms involved—most of them employing an average of just 30 employes—simply could not meet the immense cost increases entailed in the regulations.

3. Small businesses suffocate. General Motors can afford to detail 22,300 employes to federal paperwork. Standard Oil of Indiana has the resources to amass and store the 636 miles of computerized records demanded by the Department of Energy. But most of America's 13 million businesses have neither the staff nor the expertise to cope with the blizzard of government paperwork and regulations.

Baltimore's Parks Sausage Co., which employes 250 workers, spends $29,000 on federal paperwork each year. Before the firm can even open its doors in the morning, an inspector from the U.S. Department of Agriculture (USDA) must spend an hour looking around to make sure that nothing has been manufactured since the night before. He's on the premises all day, and his $14.80-an-hour wage is picked up by the company. If Parks is preparing food for the Army, another USDA agent must be on hand—at $22 an hour.

Parks also gets hit by the Interstate Commerce Commission, whose regulations sharply limit what truckers may transport. So trucks which carry pork products from the Midwest to the Parks plant in Baltimore must return empty—with the company picking up the tab and passing it along to the consumer. In all, federal regulations add six cents to the price of every pound of Parks sausage.

For many small businesses, regulations make it literally impossible to compete in the market place. Between 1968 and 1975, for example, 350 of the nation's 4,500 foundries (most of which employ fewer than 100 people) were wiped out by the twin blows of economic recession and EPA requirements that they install hugely expensive anti-pollution devices. In many of the 350 cases, the cost of meeting EPA's emissions-control standards would have been more than the entire net worth of the businesses themselves.

4. Taxes rise. When Congress passed the Rehabilitation Act of 1973, no one paid much attention to a single, unobtrusive sentence in Section 504 that proclaimed: "No otherwise qualified handicapped person shall be excluded from participation in any program or activity receiving federal financial assistance."

What did this mean? In 1977, the Department of Health, Education, and Welfare let us know, handing down sweeping regulations to implement Section 504. Among other things, any school, hospital or library receiving federal funds, directly or indirectly, would be given until June 1980 to install wheelchair ramps and whatever else was necessary to guarantee equal access to the handicapped. In Rudd, Iowa (population 429), this resulted in an order to the library board to spend $1123 to install wheelchair ramps at its 28-by-30-foot library. It did not matter that there was not a single wheelchair in Rudd.

Last September, the Transportation Department held hearings on a proposal to require elevators for every subway stop in the nation. The Chicago Transit Authority estimates its costs of compliance with this and other regulations in Section 504 at $910 million. In New York the price tag was put at a bankrupting $2.5 billion. (Faced with protests over these costs, the Department is planning to modify its demands later this year.)

Notes urban-affairs columnist Neal A. Peirce: "The federal government seems intent on ignoring a far more economical and practical way to serve the handicapped: 'dial-a-ride' taxi service which other cities provide for the handicapped at a cost of as little as $2 a ride." (Estimated cost per subway ride under the elevator plan: $2000.)

Clearly, the weight of excessive regulation must be drastically trimmed. But this must be done reasonably, intelligently and through the very mechanism that initiated, then lost control of, the regulators. Every regulation is issued under authority granted by the Congress. Every regulator is paid out of an appropriation passed by the Congress. And it is the Congress which must take the steps to bring things back into balance. As a starting point, I suggest:

An economic impact statement for each new regulation. Recently, the Occupational Safety and Health Administration (OSHA) issued a set of regulations governing occupational exposure to benzene. Compliance costs to the oil industry were estimated at $500 million per year. What were the benefits? OSHA could offer no estimate as to the number of lives that might be saved. An industry expert thought the new controls might possibly avert two cases of leukemia every six years.

Reviewing the case, the Fifth Circuit Court of Appeals struck down the OSHA regulation, saying that regulators must be able to show a "reasonable necessity" for costly edicts if they are to go into effect. Congress should underscore this principle by enacting legislation mandating a comprehensive economic analysis—and a favorable cost/benefit ratio—for any new regulation.

A sunset mechanism. Every regulatory agency should be reviewed by the Congress on a strict timetable to ascertain its usefulness. Such a review would have determined years ago that it was time "for the sun to set" on the Civil Aeronautics Board. As it was, it took a brilliant and iconoclastic CAB chairman, Alfred Kahn (now President Carter's chief inflation fighter), to see that the deregulation would be a bonanza for airlines and consumers alike. Kahn was even able to win approval of legislation that will put his agency out of business as of December 31, 1984.

Alternatives to government regulation. Many regulatory activities are simply not needed. A recent Senate study, for example, found that OSHA had done little or nothing in seven years of existence to "reduce the number and severity of work-related injuries and illnesses," as Congress intended. Among the study's recommendations; Dismantle OSHA and give business tax incentives to achieve safer work conditions.

Steps such as these will take us far along the way to reasoned control of regulation—a control that balances cost and benefits, puts safety and risk in perspective, and promotes the intelligent and necessary growth of our economy and society.

● Mr. HAYAKAWA. Mr. President, I am joining my colleague from Oklahoma today in sponsoring the Business Reporting Reform Act of 1979.

This bill is one step in relieving American businesses from the enormous burden of Federal reporting requirements. It will allow businesses to report the same information only once in a given year to the Federal Government. With few exceptions, private companies will be exempt from reporting the same information to more than one Federal agency in a year if a release is provided by the companies allowing the agency receiving the information to furnish it to other agencies.

Since taking office as a U.S. Senator a large number of my constituents have expressed to me their anger over the time that must be spent reporting information to the Federal Government. One repeated complaint is that many requests are for information that already has been given to a Federal agency. The information may not be simply copied and sent in reply to the next request, but a new form must be filled out with the information given in a different manner. Each Federal agency must have all its forms approved by the Office of Management and Budget, but this check does nothing to prevent duplication of information collected by the Government.

All private businesses, both large and small, share the burden of paperwork requirements, but the small company often has fewer resources to use to satisfy the Government's demands for information. The small business may not be able to afford an extra person on the payroll to fill out Federal forms. I have been told of an occasion when a small business paid a fine for noncompliance with Federal requirements because the fine was less expensive than providing the information the Government was seeking.

The larger company may be able to afford that extra person, but the cost of his salary will be passed on to the consumers of the company's product. The Commission on Federal Paperwork estimated during the mid-1970's that private industry spends about $32 billion annually on the completion of Federal forms. A more recent estimate raises that figure to $100 billion in 1980. In 1977 about 210 million man-hours were required to do the job. The prices of products and services we purchase include the cost of 210 million man-hours that did not contribute to production or marketing.

Unfortunately, the bureaucrat does not have any incentives to make use of information that is already available. The cost of filling out yet another form is not charged to the Government, or taken from an agency's budget. Profs. James Bennett and Manuel Johnson of George Mason University in Virginia, in a study on Federal paperwork, concluded that the bureaucrat has incentives to produce more paperwork. They state that the Federal bureaucrat receives promotions and salary increases based in part on the number of workers under his supervision, but to do so he must provide evidence that his department is performing some activity. The paperwork becomes that evidence.

Passage of the Business Reporting Reform Act of 1979 will not solve all the problems of excessive paperwork, but it is a good beginning. Removing requirements for duplicative reporting is a major step in providing relief for all businesses, and particularly small businesses whose resources are more severely strained by reporting requirements. I urge my colleagues to join our efforts to aid both businesses and consumers by enacting this measure without delay.●

VETERANS' DISABILITY COMPENSATION AND SURVIVOR BENEFITS ACT OF 1979—S. 689

AMENDMENT NO. 223

(Ordered to be printed and referred to the Committee on Veterans' Affairs.)

Mr. CRANSTON (for himself, Mr. Talmadge, Mr. Randolph, Mr. Stone, Mr. Durkin, Mr. Matsunaga, Mr. Stafford, and Mr. Humphrey) submitted an amendment intended to be proposed by them, jointly, to S. 689, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children; and for other purposes.

● Mr. CRANSTON. Mr. President, today I, together with my colleague on the Veterans' Affairs Committee, the distinguished Senator from Georgia (Mr. Talmadge), am submitting amendment No. 223 to S. 689. We introduced S. 689 on March 15, 1979, at the request of the administration. S. 689 would provide for a 7.8-percent cost-of-living increase, effective October 1, 1979, in the rates of service-connected disability compensation for veterans, and dependency and indemnity compesation—DIC—for the surviving spouses and children of veterans whose deaths were service connected. In lieu of the rate increase provided for under S. 689, amendment No. 223 would provide for a rate increase that would reflect the actual increase in the Consumer Price Index (CPI) for April 1979, over the index for April 1978. The rate of inflation for that 12-month period was 10.7 percent.

Thus, amendment No. 223 would provide for a 10.7-percent increase, which would take effect on October 1, 1979, and would be reflected in monthly compensation and DIC payments to veterans and survivors beginning on November 1, 1979.

Mr. President, I am very pleased that six members of the Committee on Veterans' Affairs—Messrs. Randolph, Stone, Durkin, Matsunaga, Stafford, and Humphrey—have joined as cosponsors of this amendment.

PROVISIONS OF AMENDMENT NO. 223

Mr. President, this cost-of-living increase would apply to the monthly rates of disability compensation under section 314 of title 38, United States Code—except for the monthly rates specified in subsection (k) of section 314; the rates of additional monthly compensation for dependents payable to veterans rated 30 percent or more disabled; the DIC rates under sections 411, 413, and 414 of title 38; and the annual clothing allowance under section 362 of title 38 for certain severely disabled veterans who must use prosthetic or other devices that tend to tear or wear out their clothing. The maximum monthly amounts specified in subsections (k) and (p) of section 314 would also be increased. Those are specific dollar amounts that may not be exceeded in the event that a veteran would otherwise be entitled to a higher amount by reason of entitlement to two or more monthly rates.

On June 14, 1979, the committee will hold hearings, chaired by the very able Senator from Georgia (Mr. Talmadge), on S. 689 and amendment No. 223 and on oversight issues that have arisen in the compensation and DIC programs. The hearing will begin at 2:30 p.m. in room 6226 of the Dirksen Senate Office Building.

COMPENSATION AND DIC PROGRAMS

Mr. President, the service-connected disability compensation program ranks first among the priorities of the Veterans' Affairs Committee. Closely associated with it in our committee's order of priorities is the DIC program.

Mr. President, the disability compensation program provides monthly cash benefits to veterans who, because of service-connected disability, have suffered impairment of earning capacity. The amount paid in individual instances is contingent upon the nature of the veteran's disability or combination of disabilities and the extent to which earning capacity is deemed to have been impaired. Compensable disabilities are rated on a graduated scale ranging from 10 to 100 percent according to the VA's schedule of rating disabilities. A totally disabled veteran is thus compensated at not less than the 100-percent rate or a higher monthly rate based on the specific disability. As of December 1978, the number of veterans receiving service-connected disability compensation benefits was 2,258,790, of whom 284,476 were receiving compensation at the 100-percent rate or a higher rate.

Veterans whose disabilities are rated at 30 percent or more may receive additional compensation for the veteran's spouse, children, and dependent parents. Such dependents' allowances are prorated according to the percentage of disability. In 1978, the number of dependents for whom veterans received additional compensation exceeded 1 million.

DIC benefits are paid to the surviving spouses and children of veterans whose deaths were service connected. Surviving spouses receive monthly benefits that are based on the veteran's military pay grade or service rank. A higher rate is payable if the surviving spouse is so disabled as to be housebound or in need of regular aid and attendance, and additional amounts are payable for the veteran's surviving children. When there is no surviving spouse, monthly DIC benefits are paid to each surviving child until the child reaches age 18, or, if the child is attending school, until age 23. During 1978, DIC benefits were paid to or for 317,429 surviving spouses and children.

In addition, DIC is paid to the needy surviving parents of a veteran whose death was service connected. Under Public Law 95-588, the provisions of chapter 13 of title 38, United States Code, governing the parents' DIC rates, were amended to provide for automatic annual adjustments at the same time and by the same percentage as social security benefits.

TRADITIONAL BASE PERIOD FOR COST-OF-LIVING INCREASES

Mr. President, Congress has traditionally acted periodically to provide for cost-of-living increases in compensation benefits in order to assure that those benefits keep pace with inflation. From 1968 to 1978, eight public laws were enacted by Congress in order to provide for rate increases. Five of those public laws were enacted in the last 5 years. Public Law 93-295, effective May 1, 1974, provided for an average increase of 17.2 percent. Public Law 94-71, effective August 1, 1975, provided for an average increase of 11.8 percent. Public Law 94-433, effective October 1, 1976, provided for an average increase of 8 percent. Public Law 95-117, effective October 1, 1977, provided for an average increase of 6.6 percent. Public Law 95-479, effective October 1, 1978, provided for an average increase of 7.3 percent.

Thus, Congress has compiled an outstanding record of dedication to the needs of our Nation's service-connected disabled veterans and the survivors of those who have given their lives in the service of our country.

However, Mr. President, the fact is that the 7.3-percent increase provided for under Public Law 95-479 was not sufficient to make up for the 8.3-percent increase in inflation over the base period; and this shortfall of 1.5 percentage points resulted from the fact that the base period used in determining the rate increase was one for which actual data with respect to the rise in the CPI was not available when the increase was enacted.

Mr. President, when the base period used for a rate increase does not permit the use of an actual measure of the CPI increase, the increases enacted may be either more or less than what is required to keep pace with inflation. For example, in 1977, Public Law 95-117 provided for a rate increase of 6.6 percent, effective October 1, 1977. This increase was intended to make up for inflation over the period since the previous increase became effective on October 1, 1976. The actual measurement of the CPI over that base period turned out to be 6.5 percent, resulting in a rate increase that exceeded the CPI increase by one-tenth of 1 percentage point. A second example occurred, as I have noted, as a result of the enactment of Public Law 95-479, effective October 1, 1978. That public law provided for an increase of 7.3 percent; the CPI increase for the base period intended to be covered—the 12-month period ending in October 1978—was actually 8.8 percent. Thus, veterans and survivors were denied a full measure of protection against inflation even though Congress, by enacting Public Law 95-479, intended such protection.

This did not occur because of any negligence or lack of foresight in the Congress. In recommending the 7.3-percent increase to the Senate in July 1978, our committee relied on economic projections of the rate of inflation made by the Congressional Budget Office based on economic indicators available at that time. The actual increase in the CPI for the base period—8.8 percent—was not available until late in November 1979, many weeks after the legislation had been enacted by Congress and signed by the President.

Mr. President, CBO makes economic projections of inflation for the current and future fiscal years in January, following the submission of the President's budget for the coming fiscal year. In June, using updated economic indicators, CBO begins a revision of its economic assumptions and its projections. The revised projections are generally made available to the Congress during July, and they are not revised again until the following January.

Mr. President, CBO projections are invaluable tools with regard to making decisions in the congressional budget process and many other decisions that must be made by Congress. But, as a means by which to determine a rate increase, a projection—by CBO or anyone else for that matter—is, in my view, just too imperfect an instrument because there are far too many variables. The effect of continuing this process would, I believe, very likely be a continuation of last year's experience of a shortfall.

Thus, I do not believe that the problem of rate increases that may be higher or lower than necessary to counter the effects of actual inflation can be solved effectively unless we begin to use a base period for which actual data regarding CPI increases are available.

COMPARISON BETWEEN RATE INCREASE IN AMENDMENT NO. 223 AND PROJECTIONS OF INFLATION BY OMB AND CBO

Mr. President, the base period in amendment No. 223 is, as I have noted, the 12-month period ending in April 1979. By contrast, the base period in S. 689 as introduced is October 1, 1978, to September 30, 1978; that is, from the effective date of the most recent rate increase to the day preceding the bill's effective date. At the time S. 689 was introduced, the Office of Management and Budget was projecting inflation of 7.8 percent over that period.

Mr. President, the Veterans' Affairs Committee, as well as other congressional committees, generally make use of economic projections prepared by CBO. CBO is currently projecting inflation of 8.3 percent over that same period. However, it is almost certain that CBO's, as well as OMB's, July projections will far exceed 8.3 percent and may, in fact, be in the neighborhood of 10 or 11 percent.

PURPOSE OF AMENDMENT NO. 223

As I have noted, Mr. President, the result of using the CBO projection in the rate increase under Public Law 95-479 was a shortfall of 1.5 percentage points.

Mr. President, I would like to emphasize that the purpose of our amendment is to propose a cost-of-living increase that guarantees that no such shortfall will occur with regard to the October 1979 increase.

I have stressed, throughout these remarks, my belief that it is extremely important to change the base period for compensation rate increases in order to assure that the increase is based on actual, rather than projected inflation. However, because the base period used for amendment No. 223—the 12-month period ending in April 1979—ends 5 months before the effective date of the rate increase, and actual data for a more recent base period—the 12-month period ending in May 1979—will be available when our committee marks up this legislation on June 28, I am planning to recommend to our committee that the more recent base period be used for determining the rate increase in the bill to be reported.

Currently pending in the House Veterans' Affairs Committee is H.R. 2282, which provides for an 8.3-percent increase. This measure, which seems likely to be favorably reported by the House Veterans' Affairs Committee in the near future, is similar to rate-increase legislation traditionally enacted by Congress—that is, the proposed rate increase is based, in part, on projected inflation. Thus, if the principle reflected in amendment No. 223 is agreed to by our committee and the Senate, the Veterans' Affairs Committees will have a focus for an exchange of views on the desirability of assuring veterans and survivors of a rate increase that is based on the actual increase in the CPI rather than projected inflation.

In the course of discussions between the two Veterans' Affairs Committees, I am hopeful that a compromise agreement can be worked out that assures veterans and survivors of an appropriate increase that is based on actual, rather than projected inflation.

ADMINISTRATION POSITION

Mr. President, the President indicated his strong support for a cost-of-living increase in compensation benefits by making provision in his budget for fiscal year 1980 for the cost of a 7.8-percent rate increase and by recommending the legislation we subsequently introduced on behalf of the administration as S. 689. In a letter dated February 23, 1979, accompanying the draft legislation (Committee Print No. 1) Max Cleland, Administrator of Veterans' Affairs, stated that the VA "supports increases designed to offset the decline in purchasing power due to inflation which are based on changes in the Consumer Price Index (CPI)."

Mr. President, I am hopeful that the administration will support my amendment, as carrying out the President's policy to insure that disabled veterans and the survivors of veterans who have given their lives for our country are not made the victims of inflation.

COST ESTIMATE

Mr. President, CBO informally estimated the fiscal year 1980 cost of amendment No. 223 to be $729.6 million in budget authority and $671.3 million in outlays.

Mr. President, I ask unanimous consent that the provisions of amendment No. 223 be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 223

On page 1, line 3, strike out all after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Adjustment Act of 1979".

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

SEC. 101. Section 314 is amended by—

(a) striking out "$44" in subsection (a) and inserting in lieu thereof "$49";

(b) striking out "$80" in subsection (b) and inserting in lieu thereof "$89";

(c) striking out "$121" in subsection (c) and inserting in lieu thereof "$134";

(d) striking out "$166" in subsection (d) and inserting in lieu thereof "$184";

(e) striking out "$232" in subsection (e) and inserting in lieu thereof "$257";

(f) striking out "$292" in subsection (f) and inserting in lieu thereof "$323";

(g) striking out "$346" in subsection (g) and inserting in lieu thereof "$383";

(h) striking out "$400" in subsection (h) and inserting in lieu thereof "$443";

(i) striking out "$450" in subsection (i) and inserting in lieu thereof "$498";

(j) striking out "$809" in subsection (j) and inserting in lieu thereof "$896";

(k) striking out "$1,005" and "$1,408" in subsection (k) and inserting in lieu thereof "$1,113" and "$1,559", respectively;

(l) striking out "$1,005" in subsection (l) and inserting in lieu thereof "$1,113";

(m) striking out "$1,107" in subsection (m) and inserting in lieu thereof "$1,225";

(n) striking out "$1,258" in subsection (n) and inserting in lieu thereof "$1,393";

(o) striking out "$1,408" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,559";

(p) striking out "$604" and "$900" in subsection (r) and inserting in lieu thereof "$669" and "$996", respectively;

(q) striking out "$905" in subsection (s) and inserting in lieu thereof "$1,002"; and

(r) striking out "$175" in subsection (t) and inserting in lieu thereof "$194".

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended by—

(a) striking out "$49" in clause (A) and inserting in lieu thereof "$54";

(b) striking out "$83" in clause (B) and inserting in lieu thereof "$92";

(c) striking out "$110" in clause (C) and inserting in lieu thereof "$122";

(d) striking out "$137" and "$27" in clause (D) and inserting in lieu thereof "$152" and "$30", respectively;

(e) striking out "$34" in clause (E) and inserting in lieu thereof "$38";

(f) striking out "$61" in clause (F) and inserting in lieu thereof "$68";

(g) striking out "$88" and "$27" in clause (G) and inserting in lieu thereof "$97" and "$30", respectively;

(h) striking out "$40" in clause (H) and inserting in lieu thereof "$44";

(i) striking out "$89" in clause (I) and inserting in lieu thereof "$99"; and

(j) striking out "$75" in clause (J) and inserting in lieu thereof "$83".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$218" and inserting in lieu thereof "$241".

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 201. (a) Section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the persons upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate		
E–1	$329	W–4	$472
E–2	340	O–1	416
E–3	348	O–2	430
E–4	370	O–3	461
E–5	380	O–4	486
E–6	389	O–5	536
E–7	407	O–6	602
E–8	430	O–7	653
E–9	[1] 449	O–8	715
W–1	416	O–9	768
W–2	433	O–10	[2] 841
W–3	445		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $484.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $901."

(b) Subsection (b) of such section is amended by striking out "$35" and inserting in lieu thereof "$39".

(c) Subsection (c) of such section is amended by striking out "$89" and inserting in lieu thereof "$99".

(d) Subsection (d) of such section is amended by striking out "$45" and inserting in lieu thereof "$50".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended by—

(a) striking out "$150" in clause (1) and inserting in lieu thereof "$166";

(b) striking out "$216" in clause (2) and inserting in lieu thereof "$239";

(c) striking out "$278" in clause (3) and inserting in lieu thereof "$308"; and

(d) striking out "$278" and "$56" in clause (4) and inserting in lieu thereof "$308" and "$62", respectively.

RATES OF SUPPLMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended by—

(a) striking out "$89" in subsection (a) and inserting in lieu thereof "$99";

(b) striking out "$150" in subsection (b) and inserting in lieu thereof "$166"; and

(c) striking out "$76" in subsection (c) and inserting in lieu thereof "$84".

TITLE III—EFFECTIVE DATE

SEC. 301. The amendments made by this Act shall take effect on October 1, 1979.●

WATER RESOURCES DEVELOPMENT ACT OF 1979—S. 703

AMENDMENT NO. 224

(Ordered to be printed and referred to the Committee on Environment and Public Works.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to S. 703, the Water Resources Development Act of 1979.

● Mr. GRAVEL. Mr. President, today I submit an amendment to S. 703 which has a dual purpose. The first part of the amendment directs the Corps of Engineers to conduct a 3-year study and report to the Congress on non-Federal costs associated with construction of containment works for dredged materials. It also provides the corps with authority to construct necessary retaining structures with Federal funds until Congress acts on the study recommendations, except where existing law assigns such costs to local interests.

Mr. President, the Office of the Chief of Engineers issued a new policy which took effect on October 1, 1978, that requires local agencies and authorities to begin paying for dikes and necessary retaining works for containment of dredged materials from harbors and waterways. Many of the local sponsors of these projects, including port authorities, have little or no tax support from the State or local governments. This new policy, therefore, could cause problems and hardships because many of the local sponsors may not be able to bear the costs associated with construction of these containment areas. This amendment would provide the opportunity for Congress to evaluate the impact of this new policy and take appropriate action.

Mr. President, the second part of the amendment I am offering today would authorize the Secretary of the Army, acting through the Chief of Engineers, to investigate, plan, and construct small dams with hydroelectric generating facilities. Each such project would not exceed 10 megawatts in capacity and would be limited to $15 million in Federal cost. A non-Federal public body would own and operate these facilities and pay back 100 percent of the cost of the project, including interest, over a 25-year period. The total Federal program would be limited to $75,000,000 in any one fiscal year.

Mr. President, to state the obvious, there is an energy crisis in this country. This legislation is a small, but, I fervently believe, an excellent step in the direction of energy self-sufficiency. It will bring clean, safe hydroelectric power to many small communities across this country. It will not duplicate any current program. It originates a means of improving the energy situation for many communities near river bodies which are amenable to hydroelectric power installation.

The Department of Energy does have a program which allows retrofit or installation of hydroelectric power capacity at existing dams. However, there is no program to do so where a new, small dam would be needed. Sites exist in many sections of the country where small dams with 5 to 10 megawatt generating facilities could be constructed. Such facilities can serve the needs of small communities with environmentally sound hydroelectric power for up to 100 percent of their electric power needs. I trust that we can move forward expeditiously to bring this program to reality.●

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT—S. 885

AMENDMENT NO. 225

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. CANNON submitted an amendment intended to be proposed by him to S. 885, a bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes.

Mr. CANNON. Mr. President, I am submitting today an amendment to S. 885, the Pacific Northwest Electric Power Planning and Conservation Act, designed to provide eligibility for portions of northern Nevada to secure Bonneville power. My State has an anomolous situation in which communities which are side by side, relatively speaking, pay enormously different power rates. One community is eligible for Bonneville power and the neighboring community is not eligible. I am hopeful something can be worked out in the Energy Committee to address this problem.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 225

On page 4, insert the following between lines 14 and 15: For the purposes of this subsection areas in the State of Nevada within seventy-five airline miles from said region which are not part of the service area of a distribution cooperative served by the Administrator shall be included in said region.

On page 17, line 20, strike "region.'." and substitute "region. For the purposes of this subsection areas in the State of Nevada within seventy-five airline miles from said region which are not part of the service area of a distribution cooperative served by the Administrator shall be included in said region.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON FOREIGN AGRICULTURE POLICY

● Mr. STONE. Mr. President, the Subcommittee on Foreign Agriculture Policy of the Committee on Agriculture, Nutrition, and Forestry will hold an oversight hearing regarding approaches to international grain agreements and marketing on Thursday, June 14.

The subcommittee will explore the various options open to the administration in light of the February breakdown of the international wheat talks. The Secretary of Agriculture recently met with representatives from Canada, Australia, and Argentina on sharing market information and avoiding undercutting prices. Other courses which have been suggested include trying to establish a cartel, reopening the negotiations for a new international wheat agreement, and establishing additional bilateral agreements along the lines of our 5-year grain agreement with the U.S.S.R.

The leadoff witness will be Dale Hathaway, Under Secretary of Agriculture for International Affairs and Commodity Programs. Other witnesses will include Michael L. Hall, president of Great Plains Wheat; Jerry Rees, executive vice president of the National Association of Wheat Growers; and, Joseph Halow, executive director of the North American Export Grain Association.

The hearing will begin at 9:30 a.m. in room 324. Anyone wishing further information should contact the committee staff at 224-2035.●

SUBCOMMITTEE ON ENERGY REGULATION

● Mr. JOHNSTON. Mr. President, on Monday, June 18, 1979, the Subcommittee on Energy Regulation of the Committee on Energy and Natural Resources will hold a hearing on several mandatory energy conservation proposals being developed by Senator Metzenbaum. This hearing will commence at 9:30 a.m. in room 3110 of the Dirksen Senate Office Building. Questions about the hearing should be directed to Benjamin Cooper or James T. Bruce of the subcommittee staff at 224-9894.●

COMMITTEE ON VETERANS' AFFAIRS

● Mr. CRANSTON. Mr. President, I would like to announce for the information of all Senators and the public that the Committee on Veterans' Affairs will conduct a hearing on S. 689, the proposed "Veterans Disability Compensation and Survivor Benefits Act of 1979"; Amendment No. 223 thereto submitted today, legislation concerning an increase in service-connected disability compensation rates; and S. 754, the proposed Veterans Insurance Amendments Act of 1979. The hearing will be held on June 14, 1979, at 2:30 p.m., in room 6226 of the Dirksen Senate Office Building. Anyone interested in testifying or who would like additional information should contact Mary Sears, associate counsel of the committee, at 224-9126.●

SUBCOMMITTEE ON PARKS, RECREATION AND RENEWABLE RESOURCES

● Mr. BUMPERS. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Parks, Recreation, and Renewable Resources of the Energy and Natural Resources Committee. The hearing is scheduled for June 22, 1979, beginning at 8:30 a.m. in room 3110 of the Dirksen Senate Office Building. The subcommittee will receive testimony on three proposals to designate wilderness in the Idaho primitive area in Idaho. The bills currently pending before the subcommittee are S. 95, S. 96, and S. 97.

Mr. President, the subcommittee has conducted 3 days of field hearings in Idaho on these three measures. Subcommittee hearings were held in Lewiston, Salmon, and Boise. Approximately 600 witnesses testified at these hearings. The hearing here in Washington on June 22 wil complete the subcommittee's hearing schedule with regard to these proposals.

I ask unanimous consent that a list of those persons invited to appear at the hearing on the 22d be printed in the Record.

For further information regarding the hearing, you may wish to contact Mr. Thomas Williams or Ms. Deborah Merrick of the subcommittee staff at 224-7145. Those wishing to submit a written statement for the hearing record should write to the Parks, Recreation, and Renewable Resources Subcommittee, room 3102 Dirksen Senate Office Building, Washington, D.C. 20510.

There being no objection, the list was ordered to be printed in the Record, as follows:

Witness List

U.S. Department of Agriculture, Forest Service, Washington, D.C.

Norm Guth, President, Idaho Outfitter and Guides Ass'n.

Ted Trueblood, President, River of No Return Wilderness Council.

Ernie Day, Idaho Wildlife Federation.

Dennis Baird, President, Idaho Environmental Council.

James Bentley, Manager, Forest Lands, Champion International Corporation.

James Johnson, Idaho Operations Manager, Wickes Forest Industries.

R. Kirk Ewart, Director of Industry Affairs, Timber and Wood Products Group.

Louise Shadduck, Executive Director, Idaho Forest Industry Council.

Tim Mueller, Resource Manager, Bennett Lumber Products.

Doug Scott, Northwest Representative, The Sierra Club.

Steve Payne, Idaho Representative, The Wilderness Society.

Thomas Kimball, Executive Vice President, The National Wildlife Federation.

Russell Peterson, President, The National Audubon Society.

Ralph Hodges, Executive Vice President, National Forest Products Ass'n.

J. Allen Overton, Jr., President, American Mining Congress.

John Jay Power, Legislative Advocate, United Brotherhood of Carpenters.●

AUTHORITY FOR COMMITTEES TO MEET

Mr. ROBERT C. BYRD. Mr. President, these requests have been cleared on both sides of the aisle.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to continue markup of S. 688, the Department of Energy authorization bill for fiscal year 1980.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold a hearing on S. 611, the Communication Act amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Surface Transportation Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold a hearing on S. 796, railroad deregulation legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

S. 1287—REPEALING THE EARNINGS LIMITATION

● **Mr. BAYH.** Mr. President, I am pleased to cosponsor the bill introduced yesterday by my colleague from Arizona, Mr. GOLDWATER, to completely repeal the earnings limitation on social security for all recipients age 65 and over as of January 1, 1983. It is stating the obvious to say that inflation has had a particularly disastrous impact on our Nation's older citizens. I believe this bill will go a long way toward alleviating the hardship they are currently experiencing.

I introduced legislation in May of 1977 to increase to $5,100 the annual amount which individuals may earn without suffering deductions from their social security benefits and to provide for an eventual phasing out of such limitation for workers 65 years of age and over. Later that same year, Senator GOLDWATER, myself, and many of our colleagues, offered the bill as an amendment to the social security financing bill. Our amendment passed after it was modified in such a way so that the total repeal of the earnings limitation affected only those individuals over age 70 as of January 1982. A $6,000 earnings limitation would continue to be in effect for those between the ages of 65–70.

The bill we introduced would accomplish what we originally set out to do in 1977.

Mr. President, it is becoming increasingly clear that social security benefits do not provide enough income for retired persons to live decently. The soaring cost of living has left many social security recipients striving just to get by. Those who have no other income than their social security checks live—strictly speaking—in poverty. According to the Census Bureau, nearly 25 percent of the population over 65 falls into this category.

In all too many cases, the only solution for many of these elderly citizens is welfare. And yet, despite these facts, existing law makes it impossible for many older Americans to raise their standard of living to a comfortable level.

A person who earns more than the earnings limitation ceiling must sacrifice a dollar in benefits for every $2 earned. This means that a single person between the age of 65 and 70 who is able and willing to hold down even a modestly paying job must give up every cent of the social security benefits to which a lifetime of work and as much as 35 years of paying into the trust fund entitled him or her.

The total repeal of the outside earnings limitation would benefit some 4 million older workers. This includes 2 million workers whose benefits have been actually denied or reduced as a result of the earnings test. Additionally, it is estimated that another 2 million older workers who now are out of the work force would return upon repeal of the earnings limitation.

There are two concerns which have been raised regarding lifting the limitation. The first is the cost. This reform would not cost several billion dollars, as many have projected. The system will not be paying out more in benefits than it currently pays. Instead, many recipients who have been unable to previously will rejoin the employment force.

These workers will pay additional social security taxes, as well as additional Federal income taxes. Further, the Nation will benefit from the skills that have been lost to it by the absence of these older experienced workers.

The second concern is that this legislation would benefit only the very wealthy. According to Census Bureau figures, only 6 percent of all workers 65 years of age or older had incomes of more than $20,000 from any source of income.

This same report showed that only 11 percent of all families headed by a person over the age of 65—even families with more than one wage earner—had a combined family income of over $20,000.

Even for those few older Americans whose income may be in excess of the $20,000 figure, I feel that these citizens are entitled to collect the social security benefits they had earned over a lifetime of hard work.

This latter fact, Mr. President, leads me to an observation concerning the basic philosophical character of our social security system. At the insistence of President Franklin Roosevelt, the system was designed as a contributory insurance plan instead of simply—as some of his advisers urged—an old-age benefit paid out of general revenues.

Mr. Roosevelt's point, which he made very explicit, was that if people paid insurance premiums into a special fund out of their own earnings, no future generation of politicians could ever take it away from them by labeling it "a Government handout."

In other words, because of the way the system was consciously designed by one of our greatest Presidents, social security benefits today are a matter of earned right, not Federal largess. It, therefore, seems to me not only mistaken but improper for anyone to try to claim that benefits are and ought to be conditional upon an agreement not to be gainfully employed.

Social security was not designed to include a means test. Its benefits are not predicated upon how much private income one might have. One does not have to plead poverty in order to qualify for a monthly social security check. For those who have paid into the system over these many years, the benefit is a matter of right.

Mr. President, that is the philosophy underlying the social security system. It is clear that an earnings limitation, which so weakens the automatic, rightful character of benefit payments, is inconsistent with that philosophy.

Furthermore, the earnings limitations penalizes only those social security recipients who earn wages or are self-employed. Pensions, no matter how large, are not counted in the limitation. Nor is interest and dividend income. The retired corporation executive can enjoy a pension of $50,000 a year and have investment income double that amount and still not lose one penny of social security. But the cabinetmaker or electrician who wants to continue his life's work and be paid for it may have to give up his entire social security check.

That is not fair. It is not sensible. It is not necessary.

Certainly, Mr. President, I do not begrudge the corporation executive the social security payment to which his own contributions entitle him. But I deeply resent the discrimination practiced against working people by a system that penalizes them for the fruits of their own labor. I urge my colleagues to act expeditiously on this bill.●

REAPPORTIONMENT: A BETTER WAY

● Mr. DANFORTH. Mr. President, on June 20 and 21 the Governmental Affairs Committee will hold hearings on S. 596, the Congressional Anti-Gerrymandering Act of 1979, sponsored by Senator HART and myself, together with Senator DURENBERGER.

The Congressional Anti-Gerrymandering Act would establish bipartisan redistricting commissions in each State entitled to more than one representative in Congress following reapportionment in 1980. These commissions would assume a task now performed by State legislatures in every State but Montana—the drafting of congressional district lines. Redistricting would be accomplished in accordance with justiciable standards which would militate against gerrymandering, the practice by which district lines are drawn to suit political ends.

The proposal advanced by Senator HART, Senator DURENBERGER, and myself is drawn in large measure from a proposal developed by Common Cause, the citizens lobby. They have prepared a pamphlet entitled "Reapportionment: A Better Way," which discusses the history of gerrymandering and its effect on American representative government. They present a strong case for scrapping the current system and substituting, in its stead, redistricting by commissions—the Danforth-Hart-Durenberger proposal.

Because of its length, I am not submitting the entire pamphlet for publication in the RECORD. I do believe, however, that the discussion of political gerrymandering and its effects deserves the attention of my colleagues and I submit that chapter of the pamphlet, together with an explanation of the Common Cause proposal.

The material is as follows:

REAPPORTIONMENT: A BETTER WAY

POLITICAL GERRYMANDERING

The U.S. Supreme Court has taken us a substantial way toward its aim of "fair and effective representation for all citizens." The Court's "one person, one vote" standard has done away with the gross malapportionment of the pre-*Baker* years. But the substantial population equality required by the Court is not a total answer to the representation question. The Court has not guaranteed fair district lines. According to William J. D. Boyd of the National Municipal League:

> The reapportionment revolution has certainly come a long way, and very effectively eliminated the evil of malapportionment. As with most revolutions, it remains incomplete so long as the political gerrymander remains to effectively dilute the basic principles of a representative democracy.

The problem of political gerrymandering has replaced population inequality as the major obstacle to "fair and effective representation." Gerrymandering has been defined by Professor Robert Dixon, one of the nation's foremost experts on reapportionment, as "discriminatory districting which operates to inflate unduly the political strength of one group and deflate that of another." It is usually, but not exclusively, manifested in the manipulation of the shape of legislative districts. Political gerrymandering is a political tool that has a long history in American politics. The gerrymander was named after Elbridge Gerry, Governor of Massachusetts in 1812 when the legislature created a peculiar salamander-shaped district to benefit Gerry's Democratic Party (see "The Original Gerrymander" on page 16). It lives on today. In 1971, University of California Professor Gordon E. Baker surveyed the reapportionment plans drawn for California and concluded:

> While population variances among districts were negligible, several resulting configurations appear to be prime candidates for the Elbridge Gerry Memorial Award for Creative Cartography. Indeed, comparatively speaking, the early Massachusetts governor was a rank amateur and his famed salamander-like district a model of compactness.

Political gerrymandering is generally an attempt by incumbent legislators and majority parties in legislatures to draw district lines that perpetuate their positions of power within the status quo. It often results from the conflict of interest of having district lines drawn by state legislators. Few issues are of as intense interest to legislators as reapportionment. The drawing of district lines can make or break the political careers of the incumbent legislators who are charged with drawing the lines in most states. All too often, incumbents give in to the pressure to manipulate district lines for personal or partisan benefit. As the Majority Leader of the Maryland Senate has quipped: "There are two things that excite the Senate, reapportionment and horse racing."

Political gerrymandering is usually done by the majority party in the legislature working with statistics of past voting behavior, party registration, and demographic information. The intent is to create districts designed to produce the greatest number of legislative victories for the majority party by wasting minority party votes. As a New York politico discussing an upcoming reapportionment once said: "Now it's just a question of slicing the salami, and the salami happens to be in our hands."

One gerrymandering technique is to concentrate minority party strengths in as few districts as possible, conceding these districts to the minority by wide margins in order to prevent the minority party from competing in other districts. For example, the majority party would concede one district to the minority in order to win three others. Another technique is to diffuse minority party strength in order to make it difficult for the minority party to win the number of seats representative of its popular support. In Illinois in 1973, for example, the General Assembly crossed the city line of Chicago nine times in drawing state legislative lines. The purpose and effect of this gerrymandering were to waste suburban Republican votes and to increase the number of city Democrats in the state legislature. In a 1972 study published by the American Enterprise Institute, Terry B. O'Rourke compared the ratio of votes won to seats won in the 1966–70 Congressional elections by parties with and without the power to draw district lines. O'Rourke found that "parties with reapportionment power used it to enormous advantage."

The majority party in the legislature does not always undertake affirmative action to undermine the representation of the minority party. Sometimes the majority party will cut a deal with the minority to protect incumbents of both parties. Bipartisan gerrymandering seeks to increase the strength of the incumbent or the majority party in each district. Yale Professor Edward R. Tufte has found that:

> . . . a major element in the job security of incumbents is their ability to exert significant control over the drawing of district boundaries: indeed, some recent redistricting laws have been described as the Incumbent Survival Acts of 1972. It is hardly surprising that legislators, like businessmen, collaborate with their nominal adversaries to eliminate dangerous competition.

Thus, even where apportionment plans are drawn by bipartisan legislatures, gerrymandering can be used to preserve the domination of incumbents and undermine competition.

Political gerrymandering is often a weapon in intra-party disputes. Legislative leaders have used their authority over reapportionment to win support for their legislative proposals and to punish their political opponents. In the 1971 session of the Texas legislature, Texas House Speaker Gus Mutscher's absolute control of the House was threatened by a group of maverick representatives who came to be known as the Dirty Thirty. Mutscher used the redistricting plan as his vehicle for revenge. According to one observer:

> On May 28, 1971, three days before the end of the sixty-second session, Mutscher and his henchman Delwin Jones of Lubbock unveiled their House redistricting plan and placed it on a little easel near the front of the House chamber. One by one, the members gathered round. First came the gasps of horror, then the laughter, and finally the shaking of heads and little smiles. More than half of the Dirty Thirty had been placed in districts with each other and most of the others wound up in districts composed of voters clearly antagonistic to their political philosophies . . . [Mutscher went to great pains to put two young liberals in the same district.] The result resembles a fat chicken with Denton's house at the end of the beak and Moore's at the tip of the tail.—(from Katz, *Shadow on the Alamo*)

When Chicago Mayor Richard Daley proposed a congressional districting plan designed to increase his already firm control over the Illinois delegation and remove a maverick Democrat from Congress, the Chicago Daily News saw the proposal as an assertion that "raw power can roll over the public interest by buying off the necessary votes in the Legislature with cynical political trades."

On the state level, political gerrymandering is often achieved by the establishment of multi-member rather than single-member legislative districts. The inevitable result of establishing multi-member districts—from which more than one legislator is elected—is to submerge the voting strength of ethnic or political party minorities. The U.S. Supreme Court has criticized multi-member districts but has not found them to be unconstitutional. In 1971, the Court rejected an argument that the use of multi-members districts in Indianapolis to limit black representation was unconstitutional.

THE EFFECTS OF POLITICAL GERRYMANDERING

Political gerrymandering—whether by the majority party or by both parties, whether the result of intra- or inter-party disputes—attempts to predetermine electoral results. Competition is minimized. This undermines the system of competitive elections on which our representative democracy is based

A Common Cause survey of state and congressional election results shows a shocking lack of competition in American electoral politics. We examined the proportion of incumbents in Congress and fourteen state legislatures who ran for renomination or reelection from 1968–1976 and won. The figures in Tables VI and VII on pages 17 and 18 show that incumbents who ran for re-election were re-elected at rates frequently in excess of ninety percent. Of the 69 state legislative elections reported in Table VII. the incumbent re-election rate dropped below eighty percent in only six Four of these six came in the four elections held in Hawaii and Montana since the adoption of reapportionment plans through processes that meet the anti-gerrymandering test advocated by Common Cause.

As public opinion polls have demonstrated, this high rate of incumbent re-election can hardly be traced to public satisfaction with the performance of government. Rather, a lack of meaningful competition is the major factor. Clearly, the existing system of reapportionment—where incumbent legislators establish the electoral ground rules and stack them in their favor—is one of the reasons for this lack of competition. The present system of financing elections and the many perquisites of public office are others.

The lack of electoral competition that results from political gerrymandering undermines our system of representative democracy in several significant ways.

First, political gerrymandering dilutes the value of political participation. Where election results are largely pre-determined through political gerrymandering, the chance that a voter can influence an election through volunteer campaign activity or voting is diminished. Without competition, political issues need not be debated. Voters receive little meaningful information and have few real choices regarding candidates' positions on major issues.

Second, political gerrymandering makes legislators less responsive to the political interests of their entire constituency. Safe districts remove the incentive to grant political concessions to constituent interests within the district or to create electoral coalitions and ensure representation of diverse points of view.

Third, political gerrymandering weakens political parties by allowing them to field weak candidates. With safe districts, political parties have little incentive to find strong candidates. Their talents are not essential to victory. Instead, the majority party in each district may use the safe seat as a political reward for a party loyalist.

Racial minority groups have been special victims of gerrymandering. An eighteen month study of the operation of the Voting Rights Act by the United States Civil Rights Commission in 1969 concluded that gerrymandering was a prime weapon for discriminating against black voters. There is no doubt that political gerrymandering in general and the use of multi-member rather than single-member districts in particular has had and can continue to have the effect of denying representation to minority groups. While blacks comprised 11.2 percent of the population in the 1970 census, only 287 of the approximately 7,500 state legislators—less than four percent—are black (see Table VIII). Only seventeen of 535 Members of Congress—just over three percent—are black.

THE GOALS OF REAPPORTIONMENT REFORM

In the 1960's, the goal of reapportionment reform was to establish legislative districts of substantially equal population. The goal now is to finish the reapportionment revolution by ridding the system of political gerrymandering in order to establish electoral fairness and increase electoral competition. By minimizing electoral competition, unfair districting undermines the political process and weakens the political parties. Our political process needs competition in order to function as envisioned. Competition forces the political process to be responsive to new ideas and new people. Without competition, the parties lack the incentive to recruit or put forward their best candidates. Electoral competition is an essential factor in giving citizens a chance to have their ideas given serious consideration in legislative forums.

The purpose of political gerrymandering is to shut people out of the political process. Reapportionment reform is designed to benefit the public by broadening political participation and increasing electoral compeition. Reapportionment reform is designed to strengthen the political process by providing an incentive for political parties to bring new ideas and new people into the process. By reforming the reapportionment process and improving state legislatures, states may increase public respect for state government and strengthen the role of state government in our federal system.

THE COMMON CAUSE MODEL PROPOSAL

The Common Cause model proposes a reapportionment process designed to produce districts that are fairly drawn as well as districts of substantial population equality. Unlike district lines produced by political gerrymandering, fair district lines are not drawn to pre-determine election results. The model proposes a system of reapportionment that is equitable in its treatment of incumbent legislators, political parties, and others. This replaces the present system where people with political power are able to manipulate district lines for personal and partisan advantage.

The Common Cause model has three main elements—strict anti-gerrymandering standards; an independent, nonpartisan reapportionment commission; and prompt judicial review. All three elements of the model are crucial. They are designed to reinforce each other and to produce fairly drawn district lines. The reapportionment standards are designed to produce fair district lines by limiting the discretion of the commission to gerrymander for political or partisan purposes. The nonpartisan reapportionment commission replaces the legislature, providing much needed independence. Fair district lines are more likely if district lines are drawn by persons not directly affected by them. Judicial review provides finality and acts as the final safeguard of the public's interest in fair and effective representation. A discussion of the three major elements of the model follows.

I. Reapportionment standards

The most important element of reapportionment reform is the establishment of strict anti-gerrymandering standards. While an independent commission is more likely to produce fair district lines than a state legislature, strict reapportionment standards can virtually eliminate the potential to manipulate district lines for political or partisan advantage.

It is the absence of objective, judicially enforceable standards that has allowed the political gerrymandering that undermines our system of representative government. According to University of California reapportionment scholar Gordon E. Baker:

> If more specific guidelines to minimize gerrymandering are not forthcoming, then a great democratic principle—one man, one vote—will have degenerated into a simplistic arithmetical facade for discriminatory cartography on an extensive scale.

The model seeks to provide more specific definitions of reapportionment standards than are found in most state constitutions. This is done by providnig population and compactness standards against which to judge reapportionment plans. A strong anti-gerrymandering provision is the centerpiece of the model proposal.

In *Reynolds*, the Supreme Court established the general rule that districts in each house have population "as nearly equal as is practicable." While the Court has discussed this requirement on numerous occasions, no precise definition has evolved. The model proposal attempts to establish specific population parameters more rigorous than those allowed by the Court in some cases, while maintaining flexibility necessary to allow the commission to apply other reapportionment standards as well.

In addition to establishing specific population standards, the Common Cause model's reapportionment standards are designed to produce fair districts by minimizing the opportunity for political gerrymandering. Single-member districts—favored by the National Municipal League, Legis 50, and other reform minded organizations—are required. The model requires the commission to respect local political subdivision boundaries (for example, towns and counties) where consistent with the population standards. By respecting these boundaries, the model minimizes voter confusion, enables constituencies to organize for political action in an effective manner, and limits the ability to gerrymander. Compactness and contiguity are required and are defined in order to establish a basis for enforcement. A strong antigerrymandering provision adapted from the Hawaii Constitution is included. It provides that: "No district shall be drawn for the purpose of favoring any political party, incumbent legislator, or other person or group." To help enforce this provision, the commission is not allowed to take into account the addresses of incumbent legislators. The commission may not use the political affiliations of registered voters, previous election results, or demographic information other than population headcounts for the purpose of favoring any political party, incumbent legislator, or other person or group. This is precisely the information that has been used by partisans in the past to gerrymander. The model provides that no district may be drawn for the purpose of diluting the voting strength of any language or racial minority group.

II. Reapportionment commission

The National Municipal League has described the reapportionment process in most states as an "illogical system in which legislators are the judges and juries in a matter of highest importance to themselves." The conflict of interest of having state legislators draw state legislative district lines is obvious. As the Illinois legislator quoted above pointed out: "Any man who doesn't fight for his own district is a particular damn fool." A state legislator can also have a conflict of interest in preparing a congressional district plan. In addition to the fact that some legislator might want to run for Congress, a candidate for re-election to the state legislator can benefit from an unbeatable congressional candidate at the top of the party ticket.

Independence and accountability are key aspects of reform. It is essential that the responsibility for drawing legislative districts be taken from those most directly affected. The model proposes establishment of an independent, nonpartisan commission to prepare reapportionment plans. The model is drawn largely from the successful commission established in the Montana Constitution of 1972. As in the Montana Constitution, the model is not designed to deny the legislature any interest in reapportionment but rather to buffer the process from the most direct and personal conflicts of interest. Four of the five members of the commission are appointed by the legislative leaders of the major parties. The fifth is chosen by the other four. Reapportionment scholars Gordon E. Baker and Robert G. Dixon recommend similar bipartisan commissions with tie breakers. As in the Michigan, Montana, and Vermont Constitutions, the model prohibits public officials from serving on the commission. State commissions made up entirely of public officials as in Arkansas or dominated by legislative leaders or their deputies as in Pennsylvania do not meet the standard of independence sought by advocates of reapportionment reform. As in Hawaii, Michigan, and Missouri, the model prohibits commissioners from running for legislative office for a period after service on the commission in order to avoid self-dealing. The model contains numerous accountability provisions designed to ensure that the apportionment process is done bv the commission in the open with a full public record and opportunity for public participation.

Few states used commissions before the reapportionment revolution of the 1960's, but they have become increasingly popular in recent years. As noted above, seventeen states now provide for boards or commissions to play a role in the reapportionment process—either as the apportioning authority, as a backup to the legislature, or in an advisory role. There is no federal obstacle to shifting the function of drawing congressional districts from the legislature to a reapportionment commission.

Establishment of a reapportionment commission is designed primarily to remove the conflict of interest inherent in having legislators draw their own districts and to eliminate the abuses that have resulted from this system. It also should save valuable legislative time and reduce reliance on the courts. The California Legislature, for example, dealt with apportionment in 1971, 1972, and again in 1973 at an estimated cost of over $1 million. In 1971, the Legislature had 26 full-time staff members working on apportionment. Ultimately, court-appointed special masters prepared the plan. In Montana in 1974, a commission prepared a plan at a cost of only $20,000. Extended and special sessions are frequently required when state legislatures try to reapportion. With most state legislatures still understaffed and restricted by state constitutional limitations on session time, the task of legislative reapportionment takes away from time that could be spent more profitably on substantive legislative matters.

The present method of reapportionment also ties up considerable court time. As noted above, sixteen existing state house apportionment plans and seventeen senate plans were court ordered. In virtually every state, apportionment plans have been challenged in court. Under the model, litigation should be less frequent because of the strong presumption of fairness that a plan developed by a nonpartisan commission would have. After evaluating the reapportionment experience of the 1970's, the Council of State Governments concluded that commissions "appear to have a better track record than Legislatures."

III. Judicial Review

No matter how well the reapportionment process works, legal challenges are inevitable in a matter as politically significant as reapportionment. Prompt judicial review is an essential element of a reformed reapportionment process. It is extremely important that all challenges to reapportionment plans be resolved and plans finalized well in advance of state legislative and congressional elections.

Finality in reapportionment is a matter of such importance and sensitivity that it warrants the prompt attention of the highest court in each state. The model grants these courts original jurisdiction over reapportionment matters. Challenges must be filed soon after a plan is prepared and the courts are required to issue decisions within a time certain.

TIME TO ACT

While reapportionment will not take place until 1981, it is now time for the states to reform their reapportionment procedures so that the legal framework for the development of fair reapportionment plans is in place by 1981. In virtually every state, this will require voter approval of the model constitutional amendment—either proposed by the legislature or petitioned to the ballot by citizen initiative—by 1980.

Legislative resistance to the Common Cause model will be strong because it strikes at the heart of the incumbency protection system. But public support can be expected. Proponents of reform should have little trouble convincing the public of the merit of a proposal designed to strip the legislature of its ability to gerrymander for self-serving purposes. The Special Masters appointed by the California Supreme Court in 1973 to prepare a reapportionment plan found "widespread public cynicism" about the traditional method of having the state legislature redistrict itself.

The model proposal relies heavily on the Colorado, Hawaii, and Montana reapportionment procedures. The Hawaii and Montana processes were recommendations of constitutional conventions that received voter approval in 1968 and 1972, respectively. The Colorado process was the result of a citizen initiative approved by the voters in November of 1974 by a vote ratio of three to two.

By working with problem solving legislators or using the citizen initiative process where necessary and available, citizens can establish reapportionment procedures designed to ensure fair and effective representation for all citizens in the 1980's. This can complete the reapportionment revolution of the 1960's. No longer will incumbent legislators and majority parties be able to perpetuate their power by pre-determining election results through reapportionment. Establishment of fair district lines through an equitable reapportionment process will help to restore competition—the lifeblood of a democratic society—to our electoral process.

THE FARMERS HOME BUSINESS AND INDUSTRY LOAN PROGRAM SHOULD REMAIN IN THE DEPARTMENT OF AGRICULTURE

● Mr. BURDICK. Mr. President, the President has said he wishes to transfer the business and industry loan program of the Farmers Home Administration to the Economic Development Administration in the Department of Commerce. He proposes also to transfer the 502 and 503 programs of the Small Business Administration to EDA as part of the same reorganization proposal.

I have mixed feelings about this proposal. I am the chairman of the subcommittee of the Committee on Environment and Public Works that handles EDA's authorizing legislation. I am a supporter of the EDA programs and an admiring friend of the people who administer them.

I am also a member of the Appropriations Subcommittee on Agriculture. Coming from a State with agriculture as its primary industry, I am keenly sensitive to the impact of Federal agriculture and rural development programs on the State of North Dakota. The Rural Development Act of 1972 authorized programs that have been of significant assistance to my State.

One of the programs authorized by that act is the business and industry program, which constitutes an integral part of the overall rural development package administered by the Farmers Home Administration. Removing any one of the four major areas of rural assistance—farm, housing, community facilities, and business and industry—could seriously cripple this integrated approach to rural development.

I believe both EDA programs and FmHA programs are needed in rural America. But nothing will be gained by transferring the business and industry program to EDA. The proposal to do so seems to emphasize functions rather than results. Moving the business and industry program may produce a clean-looking economic development chart, but it can add nothing to what I believe to be the track record of success of this program.

It is important to recognize the difference in missions of EDA and the FmHA. EDA makes investments (until now primarily public works grants) in EDA designated distressed areas of the country. Today a great proportion of that distress is in our cities. While EDA has been in the past primarily an agency whose programs served rural America, eligible cities now have nearly an equal claim to its resources.

FmHA's business and industry loan program, on the other hand, serves business enterprise in any rural area. It is a broad Federal guarantee authority of private loans which has transferred substantial amounts of investment capital from the major money markets to the rural areas.

The business and industry program is becoming increasingly important to farmers, both directly and indirectly. Some examples are loans that have permitted a number of food processing plants to keep open that would have otherwise shut down. At the same time, farmers and shippers in rural areas have witnessed the abandonment of branch rail lines necessary to keep vital market lines open. It is expected, I am told, that the business and industry loan program could enable these farmers and shippers to take some action over these troubled lines. I understand that the FmHA and the Federal Railroad Administration recently developed an agreement to work together in railroad transportation in rural areas. Further, I believe, the business and industry program could finance gasahol projects, which are of growing interest to farmers in the face of diminishing fuel supplies.

A question often asked is whether these loan projects, once transferred to EDA, would be confined to EDA's designated distressed areas. I have received a number of letters from my State expressing the fear that, since EDA has had to broaden its constituency to embrace much of urban America, some of the business and industry program authority will be shifted in that direction.

Mr. President, I have learned that more than $30 million in capital investments for 120 separate projects have been financed in the State of North Dakota through the business and industry program since its beginning in 1974. Since that time, nationally, the FmHA has guaranteed loans of over $2.7 billion through this program. Of the 529 loans obligated as of March 1, this fiscal year, 245 have been for $500,000 or under. Over 61 percent of all business and industry loans went to establishments in communities of 5,000 people or less.

The overall programs of the FmHA today total over $10 billion annually. EDA's programs authorities until recently have never been over the half billion mark. EDA's national delivery capabilities through field operations are therefore understandably modest compared to the larger FmHA. The latter has nearly 2,000 county offices across the country. Each State has between 5 and 10 substate district offices, and each State has a State office. In North Dakota there are 48 FmHA county officers, 5 district offices and the State office in Bismarck. Business and industry loans are generally handled by State offices, but I am told by FmHA that they plan to decentralize the program to their district offices if it is not transferred.

The contrast in the capacity of each agency to deliver programs requiring a great deal of face-to-face contact at the community level suggests that EDA would have to substantially augment the number of people it has assigned to the community level to administer the business and industry loan program. In my State, EDA has one person serving the EDA designated areas which constitute about a third of the counties and all the Indian reservations. EDA's field representative, working with the able staff of the Denver regional office, does a superb job. But at this time, I fail to see how the efficiency in the delivery of either the EDA or the business and industry programs could be improved by the proposed reorganization.

In conclusion, I think the administration was wise to withdraw its reorganization proposal which would have moved the Forest Service out of the Department of Agriculture and into a new Natural Resources Department. I think they realized that the votes to sustain that proposal did not exist. I believe the same sentiment exists with respect to the transfer of this successful program from the USDA's Farmers Home Administration.●

SELECTIVE SERVICE: FIRST INDUCTEE IN 30 DAYS

● Mr. COHEN. Mr. President, in the May 16 Congressional Record (on p. 11596), I inserted a letter I received from Selective Service System Director Robert Shuck in which he told me of his agency's ability to meet the Defense Department's accelerated mobilization requirement.

Director Shuck told me that preliminary results of a recently completed computerization test indicate that Selective Service could deliver the first inductee within 30 days, thus meeting the mobilization schedule required by the Pentagon since October 1977. Prior to that date, DOD had estimated it would need its first inductee 110 days after mobilization.

There has been some confusion over Director Shuck's statement that Selective Service "could input 1 year of birth group, approximately 2 million male registrants, in 5 days * * *." To clarify that statement, he has sent me a followup letter, dated May 31, concerning his agency's emergency registration plan.

Director Shuck said the plan calls for a 1-day registration 10 days after mobilization. Information from registrants would then be input into a computer and processed. That procedure would take 5 days. The first induction notices would be sent to registrants on or about the 19th day after the beginning of the buildup process. First inductees would report at M+30 days.

Director Shuck and the Selective Service System deserve great credit for their efforts to insure that we are able to meet our most stringent mobilization requirement. The agency's recently completed exercise is an indication of the strong commitment to that goal.

Following are Director Shuck's letters of May 31 and May 10. I ask that they be printed in the Record. As registration is considered, it is important that all who will be called on to vote on this issue have the benefit of his comments.

The letters are as follow:

Selective Service System,
Washington, D.C., May 31, 1979.

Hon. William S. Cohen,
U.S. Senate,
Washington, D.C.

Dear Senator Cohen: I want to clarify a misunderstanding created by my letter of May 10 concerning the development of an emergency plan to register and deliver men for induction into the Armed Forces within 30 days. The May 10 letter has been interpreted by some people to mean that we can complete the entire registration process within five days and this is positively not true. I hope the following information will clarify this important matter.

Our emergency plan is formulated to meet the new DoD manpower requirements calling for the first inductee in 30 days, 100,000 in 60 days and 650,000 in 180 days after mobilization. Since a Selective Service field structure would have to be reconstituted to assist in setting up the registration operation, a one day registration is being planned for 10 days after a mobilization. Once the registration has been held, the information gathered from the registrants would have to be input into a computer and processed. As I mentioned to you in my previous letter, preliminary results from a recent test by this Agency indicate that registrant information could be input into the computer in 5 days. Once this information is processed, the first induction notices would be sent to registrants on or about the 19th day after we begin the buildup process. The first inductee would report to the Armed Forces Entrance and Examining Stations at M+30 days.

If you desire to discuss this matter further please call me at 724-0424.

Sincerely,

Robert E. Shuck.

Selective Service System,
Washington, D.C., May 10, 1979.

Hon. William S. Cohen,
U.S. Senate,
Washington, D.C.

Dear Senator Cohen: Thank you for your letter of April 23, 1979 requesting information concerning the computer test just concluded by Selective Service. This test comprises but one part of the effort to meet the accelerated mobilization requirements of the Department of Defense.

The test was conducted to determine the feasibility and applicability of using automatic data processing equipment to accomplish rapid input of registration information received from each registrant following an emergency registration.

In response to your specific questions concerning this study, I am pleased to provide you with the following information:

The methodology employed is a business type application of DATA ENTRY at remote locations and the transmission of that data to a central point for processing to meet the needs of Selective Service. This is accomplished through a carrier program called Intelligent Data Entry System (IDES) and our in-house developed data entry format programs. The data is transmitted from one location to another via telephone line through a DATAPHONE connector.

The computer system used in this test was an IBM SERIES/1 computer with Data Entry Stations. To provide a perspective as to size and power, the SERIES/1 is what is currently termed a "mini-computer."

The preliminary findings indicate that such a system is quite feasible for accomplishing the input of registrant data quickly and efficiently in an emergency situation, as well as during continuous registration. During an emergency, preliminary data indicates we could input one year of birth group, approximately 2 million male registrants, in five (5) days utilizing distributive computer processing with remote and clustered key entry stations and mini-computers at our regional offices.

The final statistical report has not been completed as the test just ended on May 2. My project officer is completing a detailed analysis of the equipment's capabilities against the test objectives and of the large volume of data collected at the two remote sites and the host site invloved in the test.

The President has approved and forwarded to Congress a supplemental appropriation for Fiscal Year 1979 of approximately $1.7 million and a 1980 budget of $9.8 million. These funds will permit the Selective Service System to employ 50 additional people, recruit and train local and appeal board members, and complete an analysis of computer requirements over the next 5 years. With the additional money and personnel we will be able to develop the capability to start the delivery of inductees within 30 days.

We believe the $1.7 million supplemental for Fiscal Year 1979 and the $9.8 million for 1980 will meet all fund requirements, except funding for the purchase or lease of the required computer capability. Until we have completed the computer analysis we do not know what computer equipment will be needed, nor do we know how much we will need for purchase or lease. Based on present data we estimate the purchase of mini-computers for our Regions would be approximately $500,000 and the monthly lease of a central computer will be approximately $70,000 per month.

I certainly appreciate your interest and concern about the Selective Service System. We believe we must improve our readiness capability so that we would be able to begin the delivery of inductees as soon as possible after authorized to do so. We consider the Selective Service System as an important element in our Nation's defense readiness posture and we will do what we can to ensure we are ready for any emergency situation.

If you have any additional questions or desire to discuss our readiness activities, please write or give me a call on 724–0424.

Sincerely,

Robert E. Shuck.●

S. 1176—ANTIQUITIES ACT AND "BLM ORGANIC ACT" AMENDMENTS

● Mr. GRAVEL. Mr. President, I respectively request that Mr. Inouye and Mr. Cannon be added cosponsors of S. 1176, a bill to amend the Antiquities Act and the Federal Land Policy and Management Act of 1976.

I also ask that a summary of this bill and relevant background be printed in the Record.

The material follows:

S. 1176—Antiquities Act and "BLM Organic Act" Amendments

BACKGROUND

When Congress did not act on Alsaka lands legislation last year all the lands under consideration remained withdrawn and protected under section 17(d)(1) of the Alaska Native Claims Act. Despite this protection, the Secretary of Interior overlaid the lands with "emergency" 3-year withdrawals under the Federal Land Policy and Management Act (FLPMA).

On December 1 the President proclaimed 56 million acres of national monuments under the 1906 Antiquities Act. The Secretary is proposing additional 20-year withdrawals of 40–45 million acres as wildlife refuges under 204(c) of FLPMA.

THE ANTIQUITIES ACT

The Act was intended to prevent the removal and destruction of archaeological sites in the Southwest. It gave the President authority to withdraw "historic and prehistoric structures, and oher objects of historic or scientific interest" as national monuments. It provides that land withdrawn "shall be confined to the smallest areas compatible with the proper care and management of the objects to be protected".

SUMMARY OF S. 1176 PROVISIONS

Monuments over 5000 acres, including those in Alaska, would be submitted to Congress for approval.

"Objects of historic of scientific interest" defined to mean only historic or archaeological resources associated with human behavior.

20-year withdrawals under 204(c) of FLPMA would require Congressional approval rather than possible veto as currently provided.●

SALT II

● Mr. GOLDWATER. Mr. President, a few days ago I submitted Executive Amendment No. 1 to the resolution of ratification of the treaty on the limitation of strategic offensive arms between the United States of America and the Union of the Soviet Socialist Republic. My amendment would include the Backfire bomber in the aggregate number of launch vehicles to be counted in the treaty.

As recently as July of last year, Gen. David C. Jones, Chairman of the Joint Chiefs of Staff, continued to recommend that Backfire be counted among strategic weapons covered by the SALT II agreement then being discussed with the U.S.S.R. It is unreasonable to contend that the Backfire is less than capable of a mission against the continental United States. The February 1979 issue of the Air Force magazine cites the latest estimates published openly by the Swedish Air Force, and by agencies such as the prestigious Institute for Strategic Studies. They give the Backfire a maximum unrefueled combat range of 5,000 miles and a nominal weapon load in excess of 20,000 pounds. Although there has been controversy over the range, there is little or no controversay over tht fact that the Backfire with aerial refueling has all the range it needs to cover virtually all the United States. After one observed refueling, according to Air Force magazine, a Backfire prototype is said to have remained airborne for a further 10 hours.

The United States has agreed to count all of its aging B–52 fleet as part of the nuclear launch vehicles in SALT II. Part of that fleet is in storage in my State of Arizona and certainly not, at this point, much of a threat to anyone.

Mr. President, it is unrealistic not to consider the Backfire as part of the total aggregate of nuclear launch vehicles in SALT II and my amendment will insure that Backfire is included. I ask the support of my fellow Senators for this amendment and commend to their reading an article from the February 1979 issue of Air Force magazine. Mr. President, I ask that this article be printed in the Record.

The article follows:

Tupolev TU–26 Backfire-B—Tupolev Design Bureau; USSR

The photograph of the Soviet bomber known to NATO as "Backfire-B" which illustrates this item was taken from a Saab Draken interceptor of the Swedish Air Force, over international waters, during a Soviet combined-services exercise in the Baltic last June. Points to note include the absence of a flight refueling probe, seen previously on aircraft of this type, and the external stores racks under the air intake trunks, which must impose speed limitations and may be fitted only for exercises or for short-range ground support missions.

Controversy about "Backfire's" performance continues. Data given in the entry which follows conform with the latest estimates published openly by the Swedish Air Force, and by agencies such as the International Institute for Strategic Studies. Other expert opinion continues to credit the aircraft with a maximum speed in the Mach 2.25/2.5 bracket and a range adequate to cover virtually all of the continental U.S. with the aid of Arctic staging and flight refueling, from bases in the USSR.

As recently as 25 July 1978, General David C. Jones, chairman of the U.S. Joint Chiefs of Staff, continued to recommend that "Backfire" should be counted among strategic weapons covered by the SALT II agreement then being discussed with the USSR. Two U.S. congressional representatives at the talks, Democrats Robert Carr and Thomas Downey, believe, however, that the aircraft's potential is overrated. They suggest, in a report, that the U.S. has two politically feasible choices if the Soviet Union continues to insist that "Backfire" is not strategic: "It can remain adamant, in which case there will probably be no SALT II and the Soviets will be free to produce modern heavy bombers as well as Backfires without limit. Or it can permit the Backfire to go free in arms-control terms, while neutralizing it in military terms."

This second alternative, to cope with an aircraft claimed to be overrated, would cost an estimated $4,000 million. It is envisaged as requiring new over-the-horizon radars for the U.S. east and west coasts, improvement of the distant early warning line in Canada, employment of the USAF's E–3A Sentry AWACS aircraft, and purchase of at least 100 F–14 or F–15 interceptors for Aerospace Defense Command.

TUPOLEV TU–26 NATO REPORTING NAME: BACKFIRE

Official NATO sources first acknowledged the existence of a Soviet variable-geometry (swing-wing) medium bomber in the Autumn of 1969. Such an aircraft had been expected, as the Tu–22 (NATO 'Blinder') was clearly incapable of fulfilling the long-range strategic bombing role for which it had been intended.

A prototype of the new bomber is said to have been observed in July 1970, on the ground near the Tupolev works at Kazan in central Asia. Subsequent official statements confirmed the aircraft as a twin-engined design by the Tupolev bureau. At least two prototypes were built, followed by up to twelve preproduction models for development testing, weapons trials, and evaluation, by the beginning of 1973. Their official designation was said to be Tu–26; the NATO reporting name allocated to the aircraft is 'Backfire'.

When drawing up the basic parameters for the bomber, the Tupolev bureau is believed to have aimed at a maximum unrefuelled range of 4,775–5,200 nm (8,850–9,650 km; 5,500–6,000 miles) at high altitude. Unwillingness to depart from the Tupolev practice of retracting the main landing gear bogies into fairings on the wing trailing-edges limited the variable geometry to the outer wings, as on the Sukhol Su–17 and Su–20. There is evidence to believe that the large size of these fairings, with the wheels stowed beneath the wing, caused excessive drag, so that 'Backfire's' range fell short of what had been planned. Redesign almost eliminated the fairings from later aircraft, after the main landing gear had been revised to retract inward into the fuselage. This accounts for the two versions of the Tu–26 currently identified by NATO reporting names:

Backfire-A. Initial version, with large landing gear fairing pods on the wing trailing-edges. Believed to equip only one squadron.

Backfire-B. Developed version, with landing gear fairing pods eliminated except for shallow underwing fairings, no longer protruding beyond the trailing-edge. Increased wing span.

More than 100 'Backfire-Bs' are in service, with production continuing at the rate of about 36 aircraft per year. Most of them have been allocated to medium-range bomber squadrons of the Soviet Strategic Nuclear Forces; but at least 30 are deployed in a maritime role by Soviet Naval Aviation, and a former RAF Chief of Air Staff, Sir Andrew Humphrey, said in December 1975: "Russian fast- wide-ranging, and high-performing aircraft like 'Backfire', armed with stand-off missiles may soon become an even greater danger to allied shipping than the relatively slow-moving Russian submarines". It is expected that the 'Backfire' strategic/maritime force will be built up gradually to a total of 250–400 aircraft.

Type: Twin-engined medium bomber and maritime reconnaissance/attack aircraft.

Wings: Cantilever mid-wing monoplane, made up of a large-span fixed centre-section and two variable-geometry outer panels. No anhedral or dihedral, but wing section is so thin that considerable flexing of the outer panels takes place in flight. Leading-edge fence towards tip of centre-section on each side. Each outer wing panel is believed to be fitted with a full-span leading-edge slat, aileron, and slotted trailing-edge flaps aft of spoilers/lift dumpers. Wing sweep is believed to be variable from fully spread to fully swept, rather than limited to one intermediate position as on the MiG–23.

Fuselage: Forward of wings, fuselage is basically circular, with large ogival dielectric nosecone. Centre-fuselage is faired into rectangular-section air intake trunks, each fitted with a large splitter plate and assumed to embody complex variable-geometry ramps. There is no evidence to suggest external area-rule 'waisting' of these trunks.

Tail Unit: Cantilever structure, with sweep-back on all surfaces. All-moving horizontal surfaces; conventional inset rudder.

Landing Gear: Retractable tricycle type, of which details remain largely speculative. Each main unit is assumed to carry a multi-wheel bogie, which pivots inward from the vestigial fairing under the centre-section into the bottom of the adjacent intake trunk.

Power Plant: Two turbofan engines with afterburners, mounted side by side in the rear fuselage. It is not yet possible to identify positively the type of engine fitted, but U.S. sources have suggested the use of Kuznetsov turbofans similar to those installed in Tupolev's Tu-144 supersonic transport. This would be logical, as each engine is rated at 196.1 kN (44,090 lb st) with afterburning in the Tu-144. Uprated for military use, such engines would give an increase of at least 70% over the installed power in the Tu-22. A less-likely alternative is the turbofan evolved by the Kolesov bureau as a backup for the Tu-144, and which is said to be capable of supporting supersonic cruise without use of reheat. Fuel tankage is believed to include integral tanks in the entire fixed portion of the wings and much of the centre-fuselage above the weapon bay. A flight refuelling nose-probe can be fitted; after one observed refuelling a 'Backfire' prototype is said to have remained airborne for a further 10 hours.

Accommodation: Pilot and co-pilot side by side on flight deck, which may be less extensively glazed than the accompanying drawing suggests. Other crew members further aft, as indicated by position of windows between flight deck and air intakes.

Armament: Aircraft observed to date have usually carried a primary armament of one 'Kitchen' air-to-surface missile semi-submerged in the underside of the centre-fuselage. Aircraft shown in accompanying photograph has multiple racks for stores under the air intake trunks. U.S. reports have suggested that the Soviet Union is developing decoy missiles to assist penetration of advanced defense systems, in addition to very advanced ECM and ECCM. Twin guns in radar-directed tail mounting.

Dimensions, external:

Wing span: fully spread, 34.45 m (113 ft); fully swept, 26.21 m (86 ft).

Length overall, 40.23 m (132 ft).

Height overall, 10.06 m (33 ft).

Weights:

Nominal weapon load, 9,435 kg (20,800 lb).

Max T-O weight, 122,500 kg (270,000 lb).

Performance (estimated):

Max speed at high altitude *, Mach 2.0.

Max speed at low altitude, Mach 0.9.

Max unrefuelled combat range *, 4,350 nm (8,050 km; 5,000 miles).●

JUDGE VAL CORDOVA

● Mr. DECONCINI. Mr. President, it is my great pleasure to present for your consideration Judge Val Cordova, who has been nominated by the President of the United States to a position as Federal district judge in Arizona.

Judge Cordova will be, when confirmed, the first judge of Hispanic origin on the Federal bench in Arizona and one of the very few throughout the entire United States. Judge Cordova has blazed many trails throughout his life, most of which was accomplished during a period when members of minority groups were usually at a severe disadvantage.

In 1949, he was elected and served as president of the law school student body at the University of Arizona, after winning the moot court competition in 1948. When he took the bar exam in January 1950, he ranked second. He was a member of the Phoenix City Council from 1955 to 1959. He was appointed a superior court judge in 1965 and served until 1967. He was again appointed in October 1976 and has served in that capacity until this time.

A retention poll of the Maricopa County Bar Association resulted in Judge Cordova receiving a 97-percent retention rating, which was second among the 37 judges in Maricopa County. As an attorney, he received a rating from Martindale Hubbell of av, the highest rating an attorney can receive.

Judge Cordova has been recognized with many awards. Most recently, he received a plaque from Chicanos Por La Causa and was honored at a testimonial dinner by the Mexican-American legal defense group for service and contribution to the Mexican-American community in Arizona.

I am indeed pleased and proud that the President followed my recommendation and nominated Judge Cordova to the Federal district bench. This is a small step in our search for equal opportunity for all Americans regardless of race, creed, color, and national origin. But more importantly, it is a proud day for the United States because when Judge Cordova assumes a position on the Federal bench, he will do an outstanding job as he has done in each of his previous endeavors. It is important that in our rush to provide a satisfactory affirmative action process, that we find extremely competent people to fill those positions that will provide a foundation for equal opportunity. Merely filling quotas and playing the numbers game is not enough and will probably produce a counterproductive result. Judge Cordova is that type of needed extremely competent person, and I heartily recommend that he be confirmed.●

WHERE IS TRUE SECURITY FOUND?

● Mr. MATHIAS. Mr. President, we in this Chamber hear and deliver more speeches in a single year than most people do in a lifetime. And, in our lifetimes, we probably hear and deliver more speeches than most people would find humanly bearable.

This takes its toll. In fact, not long ago one of our colleagues, on being asked to read the text of another's speech, looked at him in blank amazement and replied:

> I never read anyone's speeches but my own, and I only read them once.

In view of this natural resistance to speeches of all kinds, especially other people's, I am normally hesitant to call any exemplar of that peculiar art form to my colleagues' attention. However, once in a great while someone eminently worth listening to says something so much in need of saying that everyone—no matter how inured to speechifying—should take notice.

Robert S. McNamara, president of the World Bank, made just such a speech on May 22 at the University of Chicago and I consider it my great honor and clear responsibility to call it to the attention of my colleagues. Mr. McNamara gave his talk on the occasion of receiving the Albert Pick, Jr., award for "outstanding contributions to international understanding" and even a quick perusal of its contents makes clear why he should have been singled out for this honor. Mr. McNamara's talk is the most important statement on national security that I have read in this year of mounting debate on national security. And its importance is enhanced by the fact that Mr. McNamara, more than most, knows whereof he speaks by past, and not infrequently, bitter experience.

He points out that our "concept of national security (has) become dangerously oversimplified," that we tend to equate national security exclusively with military strength, and that we forget "a society can reach a point where additional military expenditure no longer provides additional security."

Mr. McNamara's speech is a timely reminder that there are issues of human welfare and social progress that transcend in importance all the other issues of our day and that are more basic to true national security than any number of new weapons systems. It should be required reading for all those who intend to participate in the forthcoming debate on a SALT II agreement. Indeed, it should be required reading for all who care about the future of humanity.

I ask that Mr. McNamara's remarks be printed in the RECORD.

The remarks follow:

REMARKS BY ROBERT S. MCNAMARA

President Gray, Dr. Harris, Mrs. Pick, and Ladies and Gentlemen:

I am deeply honored and very grateful for this award—for the statute which accompanies it, and for the generous grant of $25,000, which I will contribute to a development-oriented activity.

It seems to me that what the Directors of the Albert Pick, Jr. Fund, and this great university, had in mind in establishing this award honoring international understanding was to point out that we need to think more profoundly about the new kind of world that is emerging around us.

The old order is certainly passing; perhaps the beginning of its breakdown can be dated from that cold December day in 1942 when a few hundred yards from where we are now sitting the first nuclear chain reaction began. The consequences of that event were to transform our whole concept of international security because Man now had the capacity not merely to wage war, but to destroy civilization itself.

If I may on this occasion speak quite personally, I had of course to wrestle with the problem of the fundamental nature of international security during my tenure as U.S. Secretary of Defense, and in 1966 I spoke publicly about it in a speech to the American Society of Newspaper Editors meeting in Montreal.

My central point was that the concept of security had become dangerously oversimplified. There had long been an almost universal tendency to think of the security problem as being exclusively a military problem, and to think of the military problem as being primarily a weapons-system or hardware problem.

"We still tend to conceive of national security," I noted, "almost solely as a state of armed readiness: a vast, awesome arsenal of weaponry."

But, as I pointed out, if one reflects on the problem more deeply it is clear that force alone does not guarantee security, and that a nation can reach a point at which it does not buy more security simply by buying more military hardware.

That was my view then. It remains my view today.

Let me be precise about this point.

No nation can avoid the responsibility of providing an appropriate and reasonable level of defense for its society. In an imperfect world that is necessary. But what is just as necessary is to understand that the concept of security encompasses far more than mili-

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* *See introductory copy.*

tary force, and that a society can reach a point at which additional military expenditure no longer provides additional security.

Indeed, to the extent that such expenditure severely reduces the resources available for other essential sectors and social services—and fuels a futile and reactive arms race—excessive military spending can erode security rather than enhance it.

Many societies today are facing that situation. Certainly the world as a whole is. And any sensible way out of the problem must begin with the realization of the dangers and disproportionate costs that extravagant military spending imposes on human welfare and social progress.

Global defense expenditures have grown so large that it is difficult to grasp their full dimensions.

The overall total is now in excess of $400 billion a year.

36 million men are under arms in the world's active regular and paramilitary forces, with another 25 million in the reserves, and some 30 million civilians in military-related occupations.

Public expenditures on weapons research and development now approach $30 billion a year, and mobilize the talents of half a million scientists and engineers throughout the world. That is a greater research effort than is devoted to any other activity on earth, and it consumes more public research money than is spent on the problems of energy, health, education and food combined.

The United States and the Soviet Union together account for more than half of the world's total defense bill, and for some two-thirds of the world's arms trade.

And yet it is not in the industrialized nations, but in the developing countries that military budgets are rising the fastest.

And will this large expenditure buy greater security?

No. At these exaggerated levels, only greater risk, greater danger, and greater delay in getting on with life's real purposes.

It is imperative that we understand this issue.

The point is not that a nation's security is relatively less important than other considerations. Security is fundamental.

The point is simply that excessive military spending can reduce security rather than strengthen it.

In the matter of military force—as in many other matters in life—more is not necessarily better. Beyond a prudent limit, more can turn out to be very much worse.

And if we examine defense expenditures around the world today—and measure them realistically against the full spectrum of actions that tend to promote order and stability within and among nations—it is obvious that there is a very great misallocation of resources.

Is there any way, then, to moderate the mad momentum of a global arms race?

No very easy way, given the degree of suspicion and distrust involved.

But as one who participated in the initial nuclear test ban arrangements, and other arms limitation discussions, I am absolutely convinced that sound workable agreements are attainable.

These matters clearly call for realism. But realism is not a hardened, inflexible, unimaginative attitude. On the contrary, the realistic mind should be a creative mind—free of naive delusions, but full of practical alternatives.

There are many alternatives available to an arms race. There are many far better ways of contributing to global security. I suggested a number of those ways in my address in Montreal in 1966, pointing out the importance of accelerating economic and social progress in the developing countries. When, two years later, I left the Pentagon for the World Bank this was an aspect of world order with which I was particularly concerned.

Eleven years in that institution, combined with visits to some 100 of the developing countries have contributed immeasurably to my international understanding. They have permitted me to explore the whole new world that has come to political independence—in large part over the past quarter century.

I have met the leaders of this new world—their Jeffersons and Washingtons and Franklins—and have sensed their pride and their peoples' pride in their new national independence, and their frustrations at their economic dependence.

I have shared their sense of achievement at the remarkable rate of economic growth which many of them attained, largely by their own efforts. But I have been appalled by the desperate plight of those who did not share in this growth, and whose numbers rose relentlessly with the great tide of population expansion.

There are today more than one billion human beings in the developing countries whose incomes per head have nearly stagnated over the past decade. In constant prices, they have risen only about two dollars a year: from $130 in 1965 to $150 in 1975.

But what is beyond the power of any set of statistics to illustrate is the inhuman degradation the vast majority of these individuals are condemned to because of poverty.

Malnutrition saps their energy, and shortens their lives. Illiteracy darkens their minds, and forecloses their futures. Preventable diseases maim and kill their children. Squalor and ugliness pollute and poison their surroundings.

The miraculous gift of life itself, and all its intrinsic potential—so promising and rewarding for us—is eroded and reduced for them to a desperate effort to survive.

The self-perpetuating plight of the absolute poor tends to cut them off from the economic progress that takes place elsewhere in their own societies. They remain largely outside the development effort, neither able to contribute much to it, nor to benefit fairly from it.

And when we reflect on this profile of poverty in the developing world we have to remind ourselves that we are not talking about merely a tiny majority of unfortunate—a miscellaneous collection of the losers in life—a regrettable but insignificant exception to the rule. On the contrary, we are talking about hundreds of millions of human beings—40% of the total population of over 100 countries.

Is the problem of absolute poverty in these nations solvable at all?

I believe it is. And I also believe that unless there is visible progress towards a solution, we shall not have a peaceful world. We cannot build a secure world upon a foundation of human misery.

Now how can we help lift this burden of absolute poverty from off the backs of a billion people? That is a problem we have been dealing with at the World Bank intensively for the past six or seven years.

It is clear that we in the richer countries cannot do it by our own efforts. Nor can they, the masses in the poorest countries, do it by their own efforts alone. There must be a partnership between a comparatively small contribution in money and skills from the developed world, and the developing world's determination both to increase their rate of economic growth, and to channel more of the benefits of that growth to the absolute poor.

Most of the effort must come from the developing countries' own governments. By and large they are making that effort.

In the past decade, the developing nations have financed over 80% of their investments out of their own meager incomes. But it is true they must make even greater efforts. They have invested too little in agriculture, too little in population planning, and too little in essential public services. And too much of what they have invested has benefitted only a privileged few.

That calls for policy reforms, and that is, of course, always politically difficult. But when the distribution of land, income, and opportunity becomes distorted to the point of desperation, then political leaders must weigh the risk of social reform against social rebellion. "Too little too late" is history's universal epitaph for political regimes that have lost their mandate to the demands of landless, jobless, disenfranchised and desperate men.

In any event, whatever the degree of neglect the governments in the poor countries have been responsible for, it has been more than matched by the failure of the developed nations to assist them adequately through trade and aid in the development task.

Today, Germany, Japan, and the United States are particularly deficient in the level of their assistance.

The case of the United States is illustrative. It enjoys the largest gross national product in the world. And yet it is currently one of the poorest performers in the matter of development assistance. Among the developed nations, Sweden, the Netherlands, Norway, Australia, France, Belgium, Denmark, Canada, New Zealand, and even—with all its economic problems—the United Kingdom: all of these nations devote a greater percentage of their GNP to Official Development Assistance than does the U.S.

In 1949, at the beginning of the Marshall Plan, U.S. Official Development Assistance amouted to 2.79% of GNP. Today, it is less than one-tenth of that. And this after a quarter-century during which the income of the average American, adjusted for inflation, has more than doubled.

There are, of course, many sound reasons for development assistance.

But the fundamental case is, I believe, the moral one. The whole of human history has recognized the principle that the rich and powerful do have a moral obligation to assist the poor and the weak. That is what the sense of community is all about—any community: the community of the family, the community of the nation, the community of nations itself.

Moral principles, if they are really sound—and this one clearly is—are also practical ways to proceed. Social justice is not simply an abstract ideal. It is a sensible way of making life more livable for everyone.

But it is true that the moral argument does not persuade everyone.

Very well. For those who prefer arguments that appeal to self-interest, there are some very strong ones.

For example, exports provide one out of every eight jobs in U.S. manufacturing, and they take the output of one out of every three acres of U.S. farm land—and roughly one-third of these exports are now going to the developing countries.

Indeed, the U.S. now exports more to the developing countries than it does to Western Europe, Eastern Europe, China, and the Soviet Union combined.

As another example, the U.S. now gets increasing quantities of its raw materials from the developing world—more than 50% of its tin, rubber and manganese plus very substantial amounts of tungsten and cobalt, to say nothing of its oil.

The U.S. economy, then, increasingly depends on the ability of the developing nations both to purchase its exports, and to supply it with important raw materials.

And the same sort of relationship of mutual interdependence exists between the other industrialized countries and the developing world.

Thus, for the developed nations to do more to assist the developing countries is not merely the right thing to do, it is also increasingly the economically advantageous thing to do.

What will it cost the United States and the other industrialized countries to do more?

Far less than most of us imagine.

The truth is that the developed nations would not have to reduce their already immensely high standard of living in the slightest, but only devote a minuscule proportion of the additional per capita income they will earn over the coming decade.

It is not a question of the rich nations diminishing their present wealth in order to help the poor. It is only a question of their being willing to share a tiny percentage—perhaps 3%—of their incremental income.

It is true that the developed nations, understandably preoccupied with controlling inflation, and searching for structural solutions to their own economic imbalances, may be tempted to conlude that until these problems are solved, aid considerations must simply be put aside.

But support of development is not a luxury—something desirable when times are easy, and superfluous when times become temporarily troublesome. It is precisely the opposite. Assistance to the developing countries is a continuing social and moral responsibility, and its need now is greater than ever.

Will we live up to that responsibility?

I don't know.

As I look back over my own generation—a generation that in its university years thought of itself as liberal—I am astonished at the insensitivity that all of us had during those years to the injustice of racial discrimination in our own society.

Will it now take another 50 years before we fully recognize the injustice of massive poverty in the international community?

We cannot let that happen.

Nor will it happen—if we but turn our minds seriously to the fundamental issues involved.

Increasingly the old priorities and the old values are being re-examined in the light of increasing degree of interdependence that is developing among nations—and it is right that they should be.

Once they are thought through, it will be evident that international development is one of the most important movements underway in this century.

It may ultimately turn out to be the most important.

Our task, then, is to explore—to explore a turbulent world that is shifting uneasily beneath our feet even as we try to understand it. And to explore our own values and beliefs about what kind of a world we really want it to become.

A few years ago, my wife pointed out to me words of T. S. Eliot which expressed this same thought. In one of his most pensive moods, Eliot wrote:

"We shall not cease from exploration
And the end of all our exploring
Will be to arrive where we started
And know the place for the first time."

Thank you, and good evening.●

DIRECT ELECTION

● Mr. BAYH. Mr. President, James Madison, commonly called the "Father of the Constitution," favored direct election of the President. At the Constitutional Convention during the summer of 1787, Madison along with James Wilson and Governor Morris pressed the case for direct election by the people against those who would have the "Chief Magistrate" chosen by the State legislatures or the Congress. Over the long months of June, July and August, as Madison guided the building of our Federal structure, he held to his position that of all the elective modes "he liked this best."

In 1787, practical arguments against Madison's ideal plan for choosing the President, however, were formidable. First of all, experience with direct election in the new country was scanty. Direct vote for State chief executive officer existed in only 5 of the 13 new States under the Articles of Confederation. In eight States the executive was chosen by the legislature, a method of selection that was to play a prominent role in the convention debates and which was to be factored into the eventual compromise resulting in the Electoral College. In four of the five States where the chief executive was directly elected by the people, contingency elections took place in the legislature, a provision which was also to appear in the method finally selected for election of a national chief executive by the convention.

Out of a total population of 4,000,000 almost 700,000 were slaves, comprising almost 90 percent of the South. While the counting of slaves for purposes of voting created no problem in local elections it would have had considerable impact on a national direct popular vote scheme. Not to count this large Southern slave population would have led to a Northern-dominated election—a wholly unacceptable result.

The lack of available information on possible candidates caused perhaps the gravest concern. The land was vast, methods of communication were primitive and education limited at best. Poverty and illiteracy were common and mail and word-of-mouth were the major methods of communication. Travel by stagecoach between points as close as Philadelphia and New York took as long as 2 or 3 days; 95 percent of the people lived on isolated farms or in villages of less than 2,500 people; and 100,000 of the 4 million American citizens lived beyond the Appalachian Mountains, almost totally out of the reach of any timely communication. The country had no daily newspaper until 1785. It was not until 1787, the year of the Convention, that the first State passed a law for public education. Just 15 universities existed in the Nation, and in 1800 only 600 books had been published and printed since the colonies were first settled.

On July 25, Madison made his longest speech on the various manners of selecting the President, a subject which periodically plagued the Convention throughout the summer, reviewing the different arguments and declaring his preference for letting the people choose. As he had said earlier in the debates, after all, "the President is to act for the people, not the States." It was not to be until August 31 that a committee of 11 was chosen to resolve finally the last, persistently troublesome item on the delegates' agenda. The Electoral College was the compromise measure pieced together of all the various "modes," and was ultimately approved with little debate on September 7. In the following remarks by Madison taken from Farrand's Records of the Federal Convention, Vol. II, it is interesting to note that a proposal for election of the President by electors—apportioned one to three per State—had been considered, approved and then rejected only a few days previously. Even more interestingly, the formula of elector apportionment as finally recommended by the committee was never debated in the Convention, indicating perhaps that the delegates had little interest in the relative amount of representation allotted to the large and small States in the Electoral College, and that the scheme of representation of the Connecticut Compromise was adopted primarily as a matter of convenience.

Mr. President, I submit the following statement by James Madison on July 25, 1787, for the RECORD.

STATEMENT BY MADISON

There are objections agst. every mode that has been, or perhaps can be proposed. The election must be made either by some existing authority under the Natil. or State Constitutions—or by some special authority derived from the people—or by the people themselves.—The two Existing authorities under the Natl. Constitution wd be the Legislative & Judiciary. The latter he presumed was out of the question. The former was in his Judgment liable to insuperable objections. Besides the general influence of that mode on the independence of the Executive, 1. the election of the Chief Magistrate would agitate & divide the legislature so much that the public interest would materially suffer by it. Public bodies are always apt to be thrown into contentions, but into more violent ones by such occasions than by any others. 2. the candidate would intrigue with the Legislature, would derive his appointment from the predominant faction, and be apt to render his administration subservient to its views. 3. The Ministers of foreign powers would have and make use of, the opportunity to mix their intrigues & influence with the Election. Limited as the powers of the Executive are, it will be an object of great moment with the great rival powers of Europe who have American possessions, to have at the head of our Governmt. a man attached to their respective politics & interests. No pains, nor perhaps expence, will be spared, to gain from the Legislature an appointmt. favorable to their wishes. Germany & Poland are witnesses of this danger. In the former, the election of the Head of the Empire, till it became in a manner hereditary, interested all Europe, and was much influenced by foreign interference—In the latter, altho' the elective Magistrate has very little real power, his election has at all times produced the most eager interference of foreign princes, and has in fact at length slid entirely into foreign hands. The existing authorities in the States are the Legislative, Executive & Judiciary. The appointment of the Natl Executive by the first was objectionable in many points (of view), some of which had been already mentioned. He would mention one which of itself would decide his opinion. The Legislatures of the States had betrayed a strong propensity to a variety of pernicious measures. One object of the Natl. Legislre. was to controul this propensity. One object of the Natl. Executive, so far as it would have a negative on the laws, was to controul the Natl. Legislature, so far as it might be infected with a similar propensity. Refer the appointmt of the Natl. Executive to the State Legislatures, and this controuling purpose may be defeated. The Legislatures can & will act with some kind of regular plan, and will promote the appointmt. of a man who will not oppose himself to a favorite object. Should a majority of the Legislatures at the time of election have the same object, or different objects of the same kind, the Natl Executive, would be rendered subservient to them.—An appointment by the State Executives, was liable among other objections to this insuperable one, that being standing bodies, they could & would be courted, and intrigued with by the Candidates, by their partizans, and by the Ministers of foreign powers. The State Judiciarys had not & he presumed wd. not be proposed as a proper source of appointment. The Option before us then lay between an appointment by Electors chosen by the people—and an immediate appointment by the people. He thought the former mode free from many of the objections which had been urged agst. it, and greatly preferable to an appointment by the Natl. Legislature. As the electors would be chosen for the occasion, would meet at once, & proceed immediately to an appointment, there would be very little opportunity for cabal, or corruption,. As a further precaution, it might be required that they should meet at some place, distinct from the seat of Govt. and even that no person within a certain distance of the place at the time shd. be eligible. This mode however had been rejected so recently & by so great a majority that it probably would not be proposed anew. The remaining mode was an election by the people or rather by the (qualified part of them) at large. With all its imperfections he liked this best. He would not repeat either the general argumts. for or the objections agst this mode. He would only take notice of two difficulties which he admitted to have weight. The first arose from the disposition in the people to prefer a Citizen of their own State, and the disadvantage this wd. throw on the smaller States. Great as this objection might be he did not think it equal to such as lay agst. every other mode which had been proposed. He thought too that some expedient might be hit upon that would obviate it. The second difficulty arose from the disproportion of (qualified voters) in the N. & S. States, and the disadvantages which this mode would throw on the latter. The answer to this objection was 1. that this disproportion would be continually decreasing under the influence of the Republican laws introduced in the S. States, and the more rapid increase of their population. 2. That local considerations must give way to the general interest. As an individual from the S. States he was willing to make the sacrifice.●

DEREGULATING HEALTH CARE

● Mr. DURENBERGER. Mr. President, last week, I had an opportunity to address a group of Minnesotans on Federal health policy. The focus of my remarks was the issue of hospital cost containment. My purpose was not to announce a position, but to explain my philosophy on how the Federal Government should be cooperating with the private health care system to provide quality health care for all Americans at a reasonable cost. It is a tough goal, but it can be reached. The key is to deregulate the health system, and provide competitive alternatives to health care. My philosophy is outlined in greater detail in my speech which follows:

Statement by Senator Dave Durenberger

As most of you know, I and other members of the Senate Finance Committee have been considering the President's proposed Hospital Cost Containment Bill for quite sometime. Soon I will have to vote on a bill which places a cap on spending in a single critical industry. I am well aware the establishment of such a cap represents a drastic increase in government regulation with enormous public policy implications. For the first time the Federal government would, if the bill passes, possess the mechanism to ration health services provided to the American public. And, it has occurred to me that hospital cost containment is more than just a first cousin to wage and price controls. I have given the matter of cost control a good deal of thought and would like to share some of those thoughts with you today.

I am not announcing a position, but want to lay out for you the framework of my approach to the problem; to share, if you will, my philosophy.

We have all heard the abstractions of the New Left and the New Right, but neither hospital cost containment nor any other human problem lends itself fully to abstract expression and solution. I come here today to discuss with you the New Realism, the only way I believe government can cope with problems in an increasingly complex society.

I believe that an approach founded in this New Realism allows us to change old ways of doing things while still preserving old values that ought to be preserved. Put another way, a New Realism allows us to solve the problems of today with our eye on the future, so that today's quick fix does not create a more enormous and threatening problem in the next decade or the next generation.

Some of my colleagues have advised me against discussing my approach to a legislative matter in advance of declaring a position. They tell me such procedure makes me a target twice instead of once. I don't buy that. And I don't think it's enough to take a position on any matter involving so many implications for our future, and then duck. Besides, at my height, I'm not sure I could duck fast enough anyway.

As a freshman Senator keenly interested in health care, I have been struck with two main impressions about our problems and proposed solutions to them.

First, the rapid cost increase is moving toward crisis proportions in the Federal government. You've heard the figures so often that I'm sure by now you are numb to their significance. But, while the public at large can debate the issue about such things as whether it is more correct to spend 4.5 percent of the Gross National Product on health care as we did in 1950, or almost 9 percent as we do now, or 15 percent as we might in just 20 years, the issue for the Federal government, which through such programs as Medicaid and Medicare is the largest single buyer of health care, is at the point where something very powerful must be done . . . and done soon. When the increase in Medicare and Medicaid spending in one year alone exceeds 4.2 billion dollars, which is more than the entire amount spent on all the activities of the public health service, and when continued Medicare increases threaten to bankrupt the trust fund by 1992, it's too late for debate as to whether to act—rather it's time to find the strongest and most effective form of corrective actions.

The second strong impression is the health delivery system we've created and the patchwork of proposed legislation designed to correct the problems is incredibly complex and doesn't seem to address the central problem.

We have passed health planning acts, health manpower training bills, enacted health research and development programs, reimbursement reforms, and are now looking at health cost control legislation. This legislative exercise has been notable for its lack of coordination and its omissions.

For instance, health planning is supposed to promote the rational development of services. However, our health training programs reward medical schools for turning out more doctors with little realistic thought to need or distribution. And we haven't even developed a public policy for such health problems as long term care or mental health services. Other policies, such as home health care, are being developed erratically. It is no wonder that we do not have an effective public response to this core issue of the cost of health care.

In my judgment, the basic problem of cost increases stems from two basic forces: a system of reimbursement which has all but eliminated cost consciousness on the part of consumers and providers for medical care, and a plague of government regulations and other actions which have almost totally ignored the question of cost effectiveness.

But what proposals exist to address the basic problem? On the industry side, we have the voluntary effort. From the analyses of the Congressional Budget Office, it appears that such an effort has had an impact; yet hospital expenditures continue to increase nationally at unacceptable rates just under 13 to almost 14.5 percent. The voluntary effort does not attack the basic problems, but rather is an effort to do the best possible job given an almost impossible situation.

On the government side, there is a bewildering array of bills which address, in one way or another, the four inter-connected problems of medical care: access, quality, distribution and cost. The scope, diversity, complexity and conflict between these bills is quite sobering.

Let me briefly cite a sampling of bills now being considered. As I stated at the beginning of this talk, the Finance Committee is now dealing with the proposed Hospital Cost Containment Bill. In addition, we have before us the Long-Ribicoff Catastrophic Health Insurance proposal and the Talmadge Amendments to the Social Security Act designed to reform Medicare and Medicaid reimbursement and to contain costs and prevent fraud and abuse.

An entirely different approach to cost containment has recently been proposed by Representative James Jones of Oklahoma who has introduced a bill to encourage cost consciousness by requiring patients who receive services to make significant co-payments to those providing medical services regardless of economic status. The co-payments would insure the medical providers of compensation, while attempting to discourage the casual use and abuse by many of those receiving services.

On an ever broader scale, the Administration promises that its incremental National Health Insurance Plan will be ready for presentation to the Finance Committee in the near future and Senator Kennedy's staff continues to ready his "Health Care for All Americans" plan for introduction as a bill. These efforts attempt to limit health care cost through more government regulation.

The system we've created and the proposed changes we are considering are so complicated that only a handful of legislators can claim to truly understand them. It is not surprising that technicians and bureaucrats appear to hold increasingly influential positions in the ongoing debate.

An idea which I continue to cherish is that I can approach old problems with a fresh perspective tempered in large measure by the experiences and lessons I've had in Minnesota. From that perspective let me tell you the basic criteria I will use to test the acceptability of any proposed solution including the hospital cost cap.

First of all, the proposal must, in a comprehensive way, deal with the fundamental problem caused by our cost-based reimbursement mechanisms and a third party coverage which have eliminated much of the cost consciousness of both the public and providers.

Second, the proposal must be as simple as possible so policy makers understand the full implications of our decisions and to insure that the proposal itself does not contain internal conflicting goals or means to achieve those goals.

Third, the approach must be capable of containing costs but not in conflict with other goals of better quality, easier access and better service distribution.

Finally, the corrective measure I seek will not deny useful services to the elderly or poor or any other group that needs them. The solution is not to ration services, but to provide needed care as efficiently as possible.

As I seek proposals which fit these criteria, I find there are two general strategies into which all proposals fall. In one, faith is placed in more extensive government planning and regulation. The other believes in competitive market forces and deregulation. Some proposals, such as Senator Kennedy's, seem to add regulation and create more competition at the same time.

My approach which fits my criteria by far the best, is to encourage competitive factors and to simplify regulation. I do not believe more regulation on top of the existing controls will solve the problem.

Health care services are not like public utilities, which are natural monopolies and therefore proper targets for extensive government control. In addition, personal health care services primarily benefit the individual who should be allowed a maximum range of choices regarding both the type and provider of those services.

The concept of getting the best for society through competition is nothing new. And it is continuing to receive more widespread support through successes like the deregulation of the airline industry. What is new, is the idea that the competitive alternative can actually be installed and actually lead to more efficiently delivered medical care. Based on an increasing number of experiences nationwide, but particularly in Minnesota, we have moved from theory to actual examples of a working competitive health system.

The seven county area surrounding Minneapolis and St. Paul has received national attention as an example of a well developed competitive marketplace for medical services. It has also received praise for its well developed Professional Standards Review Organization, PSRO, its progressive Health Services Administration, HSA, and the active participation of physicians, hospital trustees and administrators all seeking to improve the effectiveness and efficiency of medical care delivery.

The attention is well deserved. We can be proud of the fact that without the heavy hand of government regulation there have been dramatic improvements in medical care delivery in at least one area of the nation.

In the Metro Area, hospital cost increases reported by the Minnesota Rate Review Program have only 10.3 percent for 1978 and 1979 in marked contrast to the national rate of 12.8 percent.

The total number of patient days in the general category of medical/surgical, pediatrics and obstetric services have dropped by over 175,000 almost 9 percent over the last two years.

Health insurance premiums in the area have been increasing at a 2 to 4.5 percent rate instead of the 12 to 16 percent rates in previous years.

Hospital utilization for Blue Cross insured employed groups decreased statewide by 4 percent last year.

I could continue, but I think the point is made—something is working right in Minnesota and, in my judgment these figures represent only the beginning of what is possible. The elements of an infrastructure necessary for further development of competition, namely a sizable number of providers of alternative health plans and the educated involvement of employers already exist in this area.

The point is that there appears to be a significant lesson to be learned from this experience. I want to encourage this competitive alternative and build on it, and—where possible—develop it for use as a national model.

Has competition been an important force in causing these favorable statistics? There are obviously a great many forces at work here: Health planning, the PSRO, the enlightened trustees and management and an interested news media and public to name just a few. But in looking for something to correct the most basic problem—third party payor reimbursement and the myriad government regulations—I'm impressed with how far the competitive forces have developed in the Metro area.

In this seven county Metro area, we already have seven Health Maintenance Organizations which are operating more effectively than other HMO programs throughout America and serve almost 13 percent of the area's population. Nowhere in the country is such diversity of competing plans so prevalent. We also have several strong, growing multi-hospital systems, a developing and progressive change of attitude among hospital administrators toward a new and challenging system seeking better ways to deliver hospital care, aggressive group practices, satellite or branch clinics throughout the area and sufficient capacity to be a powerful stimulant toward competition.

We are also blessed with physicians, who from the recent report by cost commission, appear to support competition. We appear, already in Minnesota, to be well on our way to a viable alternative to increased government intervention.

But all this is Minnesota's success, and causes one to wonder what the competitive plan would look like at the national level. An alternative based on market forces would include these basic parts:

Several alternative delivery systems (e.g., HMO's) should be available for persons in a given geographic area to select. These systems will be the core of the provider incentives to produce most efficiently.

Employers would contribute a set amount to insurance premiums to cover a basic package of protection. The individual would have an incentive to shop between providers for the best coverage. This is key to cost consciousness on the parts of patients.

All plans should offer a basic minimum of benefits. To encourage this, tax deductability for the expense would be linked to providing this basic package. This will encourage expanded protection for the American public. Tax incentives could also be used to encourage business investment in preventive health measures for their employees.

Catastrophic coverage would and should be added by placing a limit on consumer cost sharing.

Provision can and should be made for the coverage of dependents, the unemployed and others, and in time, be expanded to cover all persons now without protection.

As the competitive infrastructure develops in local areas, Medicare and Medicaid can be brought in paying a set premium established in the marketplace, just as employers would do. Financing could be patterned after the Federal Employees Health Benefits Plan. The key idea is to provide the funds for basic coverage, a voucher of sorts, which will both encourage consumer choice and provide control over government expenditures.

Government regulations, which hamper competition and needlessly raise cost, will be removed as the market forces begin to work.

Overdevelopment of health facilities would be prevented by the cost efficiency requirements implicit in the competitive model.

Back to the issue we started with—should the proposed cap on hospital revenues be passed into law, or is there a better alternative?

Passage of the bill is an unnecessary measure, a major extension of government intervention to be considered only under the most extraordinary conditions. Have we reached such a crisis stage as to preclude seeking a better alternative?

The problem we are addressing, although it is increasingly being presented in an air of desperation, is not new. The crisis in health care has been with us for 14 years. Health care costs have been inflating at a double digit rate almost every year since 1964. And given the strenuous efforts now being made by both government and industry to contain costs, I feel we still have time to seek a better way. Once we move to revenue controls, on top of all other government controls, I feel viable competitive alternatives, such as we have in Minnesota may vanish.

My approach, therefore, is this. If the industry and government begin equally and in earnest to build and test a national model built on the competitive alternative, the cost cap should not be imposed. If there is insufficient support for a competitive alternative, a strong argument may be made that there is no choice but to follow the path toward more regulation and government control.

For my part, I intend to work hard to protect and nurture alternatives, such as those now present in the Metro area, while encouraging an ambitious effort to design and implement a national strategy based on this experience. Toward that end, I have asked the Health Subcommittee of the Senate Finance Committee, of which I am a member, to set up a series of hearings throughout the country to hear how such a system would work and where it is now operating.

I am convinced we can build a system designed around what competitive industry does best—provide a quality product most efficiently and, around what the American people do very well if given a chance—choose products and services with discrimination when given reasonable and realistic market alternatives.●

THE PIMA COUNTY VICTIM-WITNESS ADVOCATE PROGRAM

● Mr. DeCONCINI. Mr. President, I shall submit for the Record a letter recently printed in the Tucson Daily Citizen. This letter from Mr. John Stein praises the Pima County victim-witness advocate program for the dedicated and sensitive efforts of its crisis team members. Mr. Stein rightly notes that the Pima County program is one of the most advanced in the country. As the former Pima County attorney, I am intimately familiar with the victim-witness program. It was an incalculably valuable asset to the community during my tenure in office, and it has continued to expand its service to the community since that time.

Mr. President, the victim-witness advocate program is an example of the type of innovative programs that need to be developed within the larger framework of criminal justice. It fills a gap that has had the most immediate impact upon the perceptions of the public: most people only come into contact with the criminal law when they are witnesses to a crime or victims of one. To most people in these situations, the law has seemed unconcerned and uncaring about their personal needs as human beings, their fears and grief, or the aftereffects of the crime upon them. Thanks to the caring and dedicated efforts of the Pima County victim-witness program workers, this perception is changing.

The letter follows:

Remarkable Program

Editor, the Citizen: For some time now, a colleague, James Ahrens, and I have traveled the country on Justice Department-commissioned studies to learn how criminal

> justice can be improved by treating crime victims with increased compassion and respect. Last month, finally, our travels brought us to Tucson.
>
> Like other observers of the nationwide victim assistance movement, Ahrens and I were anxious to see the Pima County Victim-Witness Advocate Program. A number of its valuable services, like helping witnesses in court, were similar to those of many projects we have seen around the country. But its core service, helping law enforcement officers with citizens in the throes of anger, grief or shock, has unconventional qualities that deserve the attention of everyone in the victim assistance field.
>
> On one of our nights in Tucson, I rode with a staff member and a volunteer as they cruised the city, waiting for crisis calls. One sent us to a fatal car accident in the city, then to the vicim's home in the county, where we found a young mother about to put her two children to bed—each an unknowing, "secondary victim" of a recent infraction of the traffic laws.
>
> The rookie deputy sheriff who accompanied us and I observed the workers break the sad news to the widow in a way that was skillful, patient and kind. The underlying strain of providing that kind of comfort, which in this case took well over an hour, came home to me when I found myself tucking in bed the two gentle, scared children, ages 4 and 6—the same ages as my own kids, some 1,500 miles away. Ahrens recalled similar moments from his ride with the crisis team on the following night.
>
> Paradoxically, though the Victim-Witness Advocate Program is leagues ahead of most other victim assistance programs, its designers and operators do not seem overly content with its successes. They recognize, for example, that many victims present a calm front to the police, but fall into a state of terror or depression several hours or days later—a delayed crisis reaction which is often preventable with early intervention.
>
> If they do design a second-generation level of victim services, Jim and I and others like us will surely have the pleasure of a return pilgrimage. In the meanwhile, residents of the Tuscon area should know that dozens of us have already made visits to their city to see firsthand one of the most remarkable programs of practical goodwill one can find in the country today.
>
> JOHN H. STEIN,
> *Criminal Justice & the Elderly,*
> *Washington, D.C.*●

THE SENIOR CITIZEN INTERN PROGRAM

● Mr. ROTH. Mr. President, throughout my career in Congress, I have maintained an interest in the needs of the elderly citizens of our country. Their contribution to society and to the American way of life is invaluable.

In 1973, Congressmen Hillis and Biester and myself established the senior citizen intern program. It has given me great satisfaction to see the growth and success of the program over the last 7 years. The initial participation totaled 4 Members of Congress who sponsored 11 interns. This past May was the largest program ever—132 Senators and Congressmen nominated 165 senior citizen interns.

The primary objective of the program is to provide an opportunity for America's elderly to observe and participate in Government, especially the programs and issues that relate to the elderly. The intern program also allows the Members to hear from the elderly firsthand. The program is designed to provide the Members with an opportunity to gain a better understanding of the concerns of older Americans.

Interns serve as congressional staffers. The activities for their weeklong stay include researching subjects such as social security, housing, and medicare. The interns attended briefings by the Administration on Aging, HEW, and the Senate and House Committees on Aging chairmen and staff. Additionally, the interns received a special tour of the White House and were received by President Carter in the Rose Garden.

Perhaps the success of the program is best indicated by the comments the senior citizens themselves have made. As Herman Schneider of Wilmington, Del., an intern in my office this year wrote:

> During the past week, 165 senior citizens from 34 states plus the District of Columbia served as Senior Citizen Interns under the sponsorship of 132 House and Senate offices. The purpose of the seminar was to provide a platform for the exchange of information between the Federal government and elderly citizens from across the nation. I was fortunate to be one of two Senior Interns sponsored by Senator Roth of Delaware.
>
> As a result of this week in Washington, I have gained a new respect for its calibre of the staff and agency people who are serving senior citizens in the nation. The people we met from both the Administrative and Legislative branches of the Federal government seem to be well qualified and are aware and truly concerned with the problems of the elderly.
>
> The intern program was well conceived and efficiently administered. Men and women from across the U.S. were exposed to various leaders in the field of aging and given an opportunity to express their concerns and needs to those who recommend and administer government programs and policy. It was gratifying to see the understanding and sympathy expressed by our speakers, especially President Carter with whom we met in the White House rose garden on Friday morning, May 11th. It is evident that in this period in which our Administration and legislative bodies are attempting to balance the fiscal budget and control inflation that what is most needed is agreement on priorities.
>
> I am deeply indebted to Senator Roth for the opportunity to see our government in action and for the new insight we all obtained into the administration of programs for the elderly. Hopefully, we will all go back to our home states and communicate and help promote and support programs that are really needed.

And, as another intern, Norma Shaw of Newark, Del., wrote:

> I have spent one of the most memorable weeks of my life as one of the Senior Interns sponsored by Senator Roth on the Senior Intern Program.
>
> The entire program has been so thoroughly developed according to the needs, questions, answers and statistics for the Aging Citizen. Each Senior Intern participating in this program should be able to go back to their Senior Centers and Nutrition Sites with first hand knowledge of how his or her most urgent problems are being acted on here in Washington.
>
> Each subject that is most often considered as a critical one was explained by very efficient and knowledgeable people. And, just getting to know the people who represent us as very humble people was very enlightening.
>
> We now know why so many projects are held up with lack of funding or are at times, waiting for an amendment or different language to be added to have them actually come into being. I have certainly enjoyed my visits to various offices on the "Hill" and seeing the Senate and House in action. This gives each of us a much better idea of how the system works and how complex it all becomes. We also receive special rewards as we become acquainted with our fellow interns from all over the U.S.A. and listen to, share and help each other find solutions to our many at home problems, i.e., how programs for housing, health care, transportation and our centers are operated and how we can better inform our Senior Groups of the many services now available to them.
>
> I want to thank Senator Roth for choosing me to participate in this wonderful program and for all the courtesies extended to me during my stay.

Last year, when the Senate passed my resolution to establish officially the Senate senior citizen intern program, it recognized the importance of participation by America's elderly in Government. This action also serves as an example of the increasing awareness on the part of the Congress of the tremendous capabilities of older Americans.

The senior citizen intern program is just one example of the positive impact the elderly have on our lives. Their contributions and their assets to society cannot be estimated.●

UNITED STATES-CANADA FISHERIES TREATY

● Mr. PELL. Mr. President, the administration recently submitted to the Senate two treaties with Canada, one relating to Atlantic coast fisheries and another relating to the arbitration of the maritime boundary dispute in the Gulf of Maine. The two treaties constitute a package, because Canada refused to settle the boundary without the United States agreeing to a fishing treaty.

On the basis of a preliminary analysis made by my staff, I am very concerned that the terms of the fisheries treaty are heavily weighted in Canada's favor. If the conclusions of this preliminary analysis are confirmed during hearings before the Foreign Relations Committee, I believe that it would not be in the American national interest to enter into this treaty.

The reasons for my concern are as follows:

First. Inequitable allocations of catches. In 1976, the Congress passed the Fishery Conservation and Management Act by an overwhelming majority. This act established a 200-mile exclusive fisheries zone and contained other provisions to revitalize the American fishing industry. This act, of which I was a cosponsor, has been highly successful in promoting a growth in fish catches by American fishermen off our own shores. Yet, just as the benefits of this act are being realized and are generating new investments in the industry, the proposed treaty would establish catch allocations for American and Canadian fishermen that would reverse or slow down the growth in key sectors of the American industry which has taken place since the enactment of the 200-mile legislation.

Let me give examples relating to three species of particular importance to American fishermen in areas falling almost entirely within the U.S. 200-mile zone.

Scallops. In 1977, American fishermen caught 26.9 percent of the scallops in the Georges Bank area, about 12 percent of which is subject to a disputed claim with Canada, and Canadian fishermen harvested the remaining 73.1 percent. In 1978, the percentages were 31 percent and 69 percent, respectively. Under the proposed treaty, American fishermen would be limited to 26.65 percent for the next 10 years with an absolute ceiling of 48.73 percent forever. Yet, if the fishing effort by American scallop fishermen which we have witnessed in the past few years is projected forward, we would be taking more than 50 percent in just a few years. This restriction comes at a time when American fishermen have invested $25 to $30 million for the purchase of new vessels or the conversion of existing ones in the expectation of continued growth in their share of the catch.

Cod. In 1977 and 1978, the U.S. catch increased by 43 percent and 25 percent, respectively. More growth has been anticipated for 1979 and beyond; yet the treaty would restrict U.S. fishermen to the 1978 level.

Pollock. In 1978, U.S. fishermen caught 51.2 percent of the pollock in the areas covered by the treaty. Yet the treaty would reduce this level to 25.6 percent and reserve 74.4 percent for Canadian fishermen.

Strange as it may seem, only last week the President's special assistant, Anne Wexler, called for a tripling of the U.S. fishing effort in the years ahead as part of a major new administration initiative to promote fishing development and reduce the enormous balance of trade deficit the United States has in fisheries.

Although the treaty does give American fishermen increased access to some species in Canadian waters, only a few American fishermen are able to take advantage of these Canadian concessions because the vast majority of American fishing vessels are small and are therefore incapable of traveling the long distances to the fisheries in Canadian waters. Canadian vessels, on the other hand, are almost entirely large and capable of fishing in all U.S. areas covered under the treaty. Canadian reciprocity, therefore, is more apparent than real.

In addition to the limitations that I have mentioned regarding American access to species that are of interest to American fishermen, one special tradeoff contained in the treaty is worthy of attention. It relates to redfish and loligo squid. American fishermen who have been fishing for many years for redfish in Canadian waters—involving only a dozen or so vessels—will be permitted to continue fishing for this species at the current level for a maximum of 10 years in exchange for our allowing Canadian fishermen to gain access for the first time to loligo squid in American waters for the same period of time.

Thus we would be allowed to continue a small traditional fishery and Canada would be given new guaranteed access to a valuable squid fishery all along our east coast. From this base of operations, Canada could gain a foothold in the very same export markets American fishermen are seeking to enter and then expand its share of the fishery. At the same time, the treaty appears to allow Canada a substantial unregulated by-catch along with the squid.

Second. A meaningless review procedure. Under the proposed treaty, the allocations discussed above would be reviewed by the two parties every 10 years and could be adjusted in light of the outcome of the settlement of the Gulf of Maine boundary dispute and developments during each of the 10-year periods. However, regardless of how the boundary dispute is settled or what developments take place each decade, reductions in allocations at the end of any 10-year period are limited to 10 percent in cases where the initial allocation for a species is 50 percent or more and 5 percent for allocations less than 50 percent. Moreover, both parties must agree to any changes; and if agreement is not reached a third party arbitrator will decide the matter. As a result, once this treaty and its allocations go into effect, there is no assurance that U.S. allocations will ever be revised upward. A permanent cap on the growth of the U.S. industry could, therefore, result.

The unkindest cut, however is that even the very limited review procedure in the treaty is not triggered by the settlement of the seabed boundary—it comes years later. Legal scholars believe the United States has a strong case to win virtually all of Georges Bank and thus the fisheries with it. Indeed, it must be Canada's view as well, because Canada refused to agree to submit the boundary dispute to arbitration unless the United States agreed to a permanent and favorable fisheries treaty for Canadian fishermen. What defies my understanding is why the United States accepted the bargain.

Third. Canadian access to new areas of U.S. waters. It is bad enough that the allocations and review procedures in the treaty favor Canada, but the treaty also gives Canadian fishermen permanent access to large areas of American waters where they do not now fish. We are, therefore, bending over backward to insure that Canadian fishermen will be able to fill the allocations given to them under the treaty. By contrast, U.S. fishermen will generally not be in a position to benefit from the access gained to Canadian waters.

Fourth. Circumvention of 200-mile law's management provisions. Finally, the proposed treaty would create a bilateral United States-Canadian Management Commission and would establish three categories of management regimes by area and species in United States and Canadian waters. One of these regimes is management by the joint Commission, a second is priority management by one nation but subject to the veto of the other party, and the third regime is unilateral management by one party alone. Only the third regime corresponds to the authority exercised by the United States under the 200-mile law. Under the proposed treaty, Canada would participate, under one of the first two regimes, in management decisions covering 88 percent of the U.S. fishing zone in the Gulf of Maine and Georges Bank areas that were never in dispute. While the United States gains similar management participation in some of the Canadian waters covered by the treaty, the species involved are not of great interest to U.S. fishermen.

This treaty has been justified by the administration as necessary in order to provide for joint conservation of transboundary stocks and to get Canadian agreement to go to World Court arbitration of the maritime boundary. These may be laudable objectives, but I am not convinced that the benefits to be realized under the treaty outweigh the disadvantages I have outlined.

In any case, conservation is in the mutual interest of both countries. I do not see why this elaborate change in the law under which we manage our own resources needs to be made to accomplish what could have been done by a simple working arrangement among our Government fishing experts, each imposing conservation measures on their own nationals. Moreover, the need for a quick boundary settlement on the seabed has not been justified. Indeed State Department sources were quoted only the other day in Platts Oil Gram as indicating that the need for oil was not even a factor.

My judgment at this time, subject to what the administration will have to say at the hearing on the treaty, is that we would be better off without a treaty and we should attempt to arrive at informal arrangements with the new Canadian Government regarding the management of stocks in the disputed area of the Gulf of Maine and for the continuation of current levels of fishing in each other's waters.●

S. 344: THE STATES OF NORTH CAROLINA, WEST VIRGINIA, TENNESSEE, MARYLAND, ARKANSAS, AND MISSISSIPPI EXPRESS THEIR VIEWS ON BILLBOARD CONTROL

● **Mr. STAFFORD.** Mr. President, the Governors, or their representatives, of six more States have been kind enough to write to me to express their views on S. 344, my bill to add a more flexible approach to the Federal highway beautification law.

Governor Bill Clinton of Arkansas, for example, stated:

> I would support strengthened federal legislation without crippling amendments which would equitably accomplish the objectives of preserving the scenic quality of our highway environment. I do support sections (d) and (e) of your legislation, which deal with alternative means of providing information to the traveling public without the use of billboards.

The adoption of the very restrictive 1978 amendments to the Federal billboard control law has rendered the program unworkable, as many Governors have pointed out. S. 344, of course, enables a State to extract itself from the burdens of these restrictive 1978 amendments.

I submit the following letters for the Record:

Office of the Governor,
Raleigh, N.C., April 30, 1979.
Hon. Robert T. Stafford,
United States Senate, Committee on Environment and Public Works, Washington, D.C.

Dear Senator Stafford: Thank you for sharing with me a copy of S. 344 and your floor statement explaining the legislation.

Basically, I feel that the Highway Beautification Act of 1965 has given North Carolina an opportunity to regulate outdoor advertising and junkyards. Without the Federal legislation, I seriously doubt that North Carolina would have attacked the junkyard and sign problem. Although the 1965 Act, and the interpretations thereof, have led to somewhat of an administrative nightmare, we in North Carolina have successfully stopped the proliferation of junkyards and billboards adjacent to our Interstate and Primary Highway System.

I appreciate your concern and again thank you for sharing your thoughts with us on this matter.

My warmest personal regards,
Sincerely,
James B. Hunt, Jr.,
Governor.

Office of the Governor,
Charleston, W. Va., May 10, 1979.
Hon Robert T. Stafford,
Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

Dear Senator Stafford: Thank you for your letter concerning Senate Bill 344 pertaining to outdoor advertising control.

West Virginia has maintained some type of outdoor advertising control since 1938. With the passage of the Highway Beautification Act of 1965, it was necessary for the State to amend its statutes to meet the more particular requirements of the federal act. Since the passage of our amended Outdoor Advertising Act in 1967, the West Virginia Department of Highways has found little or no problem in meeting the thrust of the 1965 act and later amendments. In fact, we have almost completed the removal of nonconforming outdoor advertising signs.

Though there may be certain philosophical differences with the Congress of the United States placing a ten percent penalty clause in the Highway Beautification Act of 1965 and subsequent legislation, we do not believe that at this stage of our outdoor advertising activities, Senate Bill 344 would be of benefit or a detriment to the State of West Virginia.

I am enclosing, for your information a copy of our present act and the regulations thereto for consideration and perusal by your staff.

Sincerely,
John D. Rockefeller IV,
Governor.

Tennessee Department of Transportation,
Nashville, Tenn., May 13, 1979.
Hon. Robert T. Stafford,
United States Senator, Committee on Environment and Public Works, Washington, D.C.

Dear Senator Stafford: I am writing in response to your letter of March 27, 1979, in which you asked for information as to how your Bill S-344 would affect Tennessee's Highway Beautification Program. I have conferred with those persons in the Tennessee Department of Transportation who actively work in this area and offer their remarks for your interest.

If S-344 is enacted as it is written, Tennessee would continue a non-conforming billboard removal program under the criteria established in the proposed law. However the purchasing activity would likely be limited to those non-conforming signs on the interstate system only.

Existing Tennessee law provides that state law shall be no more restrictive than is the Federal law. Accordingly, Tennessee's enabling legislation would have to be amended to comply with the less restrictive provisions of S-344.

With reference to removal of non-conforming signs under local ordinances, Tennessee would provide for such removal without compensation. Where compensation required for removal of such signs, the State would advocate payment of costs by the local jurisdiction without contribution of state funds.

Your interest in Tennessee is greatly appreciated.

Sincerely,
N. C. King,
Staff Attorney.

Executive Department,
Annapolis, Md., May 18, 1979.
Hon. Robert T. Stafford,
U.S. Senate, Committee on Environment and Public Works, Senate Office Building, Washington, D.C.

Dear Senator Stafford: Thank you for the opportunity of commenting on S. 344 which you introduced in an effort to allow states greater flexibility under the Federal Highway Beautification Act.

As was indicated in the earlier poll conducted by the American Association of State Highway and Transportation Officials (AASHTO), there is no basic objection with the general concept of this legislation. It is felt, however, that we could be more supportive thereof if the proposed legislation would eliminate the recent requirement of the Surface Transportation Assistance Act which requires that any sign display or device which was lawfully erected under state law, and which is in existence as of November 6, 1978, and which is adjacent to the Interstate or Federal Primary System, cannot be removed without payment of compensation.

As a practical matter, few counties or municipalities can afford to eliminate such signs without payment of compensation and the compensation will have to be paid by the state or run the risk of the imposition of the 10% penalty clause. We cannot conceive of counties or municipalities picking up that cost.

While S. 344 retains the bonus status for states we, in Maryland, will have several practical problems which are not addressed in the legislation concerning the standards to be applied relative to on-premise signs adjacent to the Interstate System.

Under the present Maryland law, on-premise signs adjacent to the Interstate can be erected if in accordance with local zoning ordinances and regulations. Some of the local standards are in conflict with the National standards relative to outdoor advertising adjacent to the Interstate System under the 1958 bonus program (Part 750.101—750.110 the Code of Federal Regulations). The size of on-premise signs and the distance from the advertised activity is more restrictive under the Federal regulations than under some of our local regulations. Accordingly, it has been difficult to promulgate state regulations that will satisfy both the Federal requirements and the requirements of the existing state law relative to on-premise signs adjacent to the Interstate System.

It is respectfully suggested that consideration be given to including in this legislation a requirement that the aforesaid national standards be re-evaluated since these standards were originally implemented over twenty years ago. The Federal regulations or laws should be amended to provide that on-premise signs adjacent to the Interstate System should be regulated under size and spacing requirements adopted by the states and/or local subdivisions.

An additional area of concern with S. 344 is the provision permitting "service club and religious notices." Without a more precise definition of what constitutes such notices, we can envision a proliferation of signing under the guise of service club or religious notices.

I trust these comments will be of assistance to you in preparing for the hearings on S. 344 later this month.

Sincerely,
Harry Hughes,
Governor.

Office of the Governor,
Little Rock, Ark., May 22, 1979.
Hon. Robert T. Stafford,
United States Senator, Committee on Environment and Public Works, Washington, D.C.

Dear Senator Stafford: Thank you for the opportunity to review and comment on Senate Bill 344, proposed to release to the States the responsibility of highway beautification.

I can see advantages of this legislation for states such as Vermont, Colorado and Oregon, that would prefer to acquire billboards through police power rather than compensation, however, I do not feel it is in the best interest of Arkansas.

Since 1970, we have made substantial progress in ridding Arkansas' Interstate and Primary highways of unsightly and marring billboard clutter under the terms of the 1965 Highway Beautification Law.

I am apprehensive that legislation which would permit voluntary state control may not be as successful in Arkansas and could jeopardize the excellent progress that has been made.

On the other hand, I would support strengthened Federal legislation without crippling amendments which would equitably accomplish the objectives of preserving the scenic quality of our highway environment. I do support sections (d) and (e) of your legislation, which deal with alternative means of providing information to the traveling public without the use of billboards.

Again, I thank you for this opportunity to comment on this legislation, and I hope that it will result in a more effective and less costly program for billboard control and elimination. However, I do not feel Arkansas can, at this time, offer full support to Senate Bill 344.

Yours truly,
Bill Clinton,
Governor.

The Capitol,
Jackson, Miss., May 25, 1979.
Hon. Robert T. Stafford,
United States Senator, Committee on Environment and Public Works, Washington, D.C.

Dear Senator Stafford: Thank you for the opportunity to comment on your Senate Bill 344, the proposed Federal Highway Beautification Assistance Act of 1979.

I feel that the permitting of the states to establish a plan for review and acceptance by the Federal Government is a more workable solution than the present solution. I further feel that the states can mount an effective drive to accomplish the purpose of the Highway Beautification Act.

With best wishes and warmest personal regards, I am

Sincerely your friend,
Cliff Finch,
Governor.

LACK OF CONFIDENCE IN SCHLESINGER CONTINUES TO GROW

● Mr. METZENBAUM. Mr. President, the lack of confidence in our national energy program, or lack of one, is growing. Representatives of numerous segments of our society are calling for a change in the way we are dealing with our energy crisis, and a change in the leadership of the Department of Energy.

In the 2 weeks since I last spoke out for the removal of James Schlesinger, several reports have been brought to my attention of others who feel the same way.

It appears that the wall around the President is crumbling, and that even some of his closest advisers are urging him to find a new general to fight the moral equivalent of war. According to an article in the June 3 edition of the Washington Star, every senior adviser to the President, save Jody Powell, is urging the President to remove Schlesinger as Secretary of Energy. The report also states that other members of the administration, particularly Stuart Eizenstat, have become more involved in the decisions being made concerning our energy situation. Mr. President, I am sure that other members of the administration have better things to do than to engage themselves in the second-guessing of the Secretary of Energy. Yet, it appears that they feel they must do this. Mr. President, I believe this is indeed a sad commentary on our Secretary of Energy, Mr. Schlesinger. I ask that the article, entitled "Carter Aides Split on Firing Schlesinger," be printed in the Record in its entirety.

The article is as follows:

CARTER, AIDES SPLIT ON FIRING SCHLESINGER

(By Fred Barnes)

Despite a near consensus among White House aides that Energy Secretary James R. Schlesinger should be fired, President Carter refuses to discharge the energy czar because of his belief that Schlesinger is being made a scapegoat.

And because Carter feels this way, the aides who feel differently have not formally recommended to the president that he replace Schlesinger, according to administration officials.

"Nobody is going to march in and tell him to fire Schlesinger, or send him a memo saying that, because they know Carter will say no," one presidential adviser said.

However, what they have discussed with Carter are the political problems brought on by retaining Schlesinger, who is especially unpopular with liberal Democrats, officials said. Senior advisers have also talked informally about a new administration post for Schlesinger and a replacement for him as energy secretary.

At this point Schlesinger has only two strong supporters at the White House, the president and Press Secretary Jody Powell, these officials said. All senior advisers besides Powell—including political operative Hamilton Jordan, domestic policy chief Stuart Eizenstat and Gerald Rafshoon, assistant to the president for communications—are said to favor firing Schlesinger.

But Carter is adamant in his belief that Schlesinger is simply being blamed for energy shortages that are not his fault, and Powell has insisted that Schlesinger is a target partly because of his haughty demeanor.

It was Schlesinger's alleged arrogance that caused then-President Gerald Ford to fire him as defense secretary in 1975. Ford had few policy differences with Schlesinger then, and Carter and Schlesinger have few now on energy.

Transportation Secretary Brock Adams has also gotten in trouble with the White House, prompting Carter to criticize him openly at a Cabinet meeting last week.

Adams suggested to reporters recently that Carter's plan for decontrolling oil prices would not generate increased oil production. This is contrary to administration projections.

"The president was very upset about Adams," a White House official said. At the Cabinet meeting, Carter said "he was fairly concerned about Cabinet officers not appearing to support his decisions."

Adams sought to explain his comment on decontrol, but the President was not mollified, the official said. "The president was pretty forceful."

The Adams episode was minor, however, in comparison with the problem posed by Schlesinger's role as energy secretary and by the fusillade of criticism aimed at him. He has been attacked by Sen. Edward Kennedy, D-Mass., and California Gov. Edmund Brown Jr., potential rivals of Carter for the 1980 Democratic presidential nomination.

Moreover, a number of prominent senators and liberal activists have called for Schlesinger's dismissal. They include Sens. Alan Cranston, D-Calif., the assistant majority leader, and George McGovern, D-S.D., and consumer activist Ralph Nader.

At the White House, officials are critical of Schlesinger for alleged mismanagement of the Energy Department and for making inappropriate public statements about the nation's energy woes.

At a briefing for reporters last month, Schlesinger spoke optimistically about averting gasoline shortages this summer. His remarks led Eizenstat to intercede with cautionary comments about the broad dimensions of the energy problem.

In recent weeks, Eizenstat has assumed a larger—and perhaps dominant—role in formulating energy policy, at Schlesinger's expense. "Eizenstat just asserted himself, and the president hasn't done anything to restrain him," an official said.

But Carter remains personally loyal to Schlesinger, officials said. "The president's view is that anybody would be criticized who had that job," a White House aide said, "and that Schlesinger is getting no more or no less criticism than anybody else.

"Look at the Congress," the aide went on in explaining Carter's view. "They don't agree on energy policy. The country doesn't agree on energy policy. So all the frustration is coming down on Schlesinger. It's not Schlesinger who's at fault. It's the nature of the problem."

Both Carter and Powell have gone out of their way to defend Schlesinger. The press secretary routinely seeks to counter criticism of Schlesinger at his daily briefings.

And in March, Carter sent a note to Sen. Dennis DeConcini, D-Ariz., a foe of Schlesinger. He rejected DeConcini's call for firing Schlesinger, saying "I continue to have full trust and confidence in Secretary James Schlesinger."

In longhand, the president added this: "He has a very difficult job, and needs all the help and support he can get—He's got mine."

Mr. METZENBAUM. Mr. President, as I said earlier, the disenchantment with Secretary Schlesinger is reaching numerous segments of our society. Recently, I attended a meeting with Douglas Fraser, the president of the United Auto Workers. He had nothing but disdain for the Schlesinger plan to decontrol the price of domestic oil. He said, "the decontrol program would be an absolute disaster. That would be no program at all." Obviously, the members of the UAW agreed. They later voted to send a telegram to the President, urging him to drop his plan to decontrol the price of oil.

Complaints with the philosophy of the DOE are not the only problems. The actual function of the Department under Secretary Schlesinger has also been attacked. In an article in the May 31 edition of the Washington Post, employees of the Department lambasted the manner in which oil frauds are being investigated. According to the article, one DOE attorney said, "one fact is certain: confronted by massive, continuing frauds, (their) criminal investigations could not have been more effectively limited if they had been subcontracted to the American Petroleum Institute." Mr. President, this is a serious charge indeed. Unfortunately, these claims are not isolated incidents. And, it appears that investigations will be reduced even further. DOE's budget request actually seeks to reduce its staff of authors by more than half. I ask that the article, entitled "DOE Is Called Lax in Probing Oil Frauds," be printed in its entirety.

The article is as follows:

DOE IS CALLED LAX IN PROBING OIL FRAUDS

(By Morton Mintz)

The Departments of Energy and Justice were accused on Capitol Hill yesterday of repeatedly mishandling and failing to prosecute crude-oil repricing frauds said to have bilked consumers of billions of dollars since 1975.

DOE and its predecessor, the Federal Energy Administration, bore the brunt of the accusations, some of which were made by rebel DOE attorney Joseph D. McNeff of Dallas.

"No matter what the true reason is for the FEA's and DOE's failure to police the oil industry," McNeff testified, "one fact is certain: confronted by massive, continuing frauds, [their] criminal investigations could not have been more effectively limited if they had been subcontracted to the American Petroleum Institute."

His charges were indirectly reinforced by the testimony of two federal prosecutors who said information from the press—not from DOE or Justice—led them to launch criminal proceedings.

Rep. John D. Dingell (D-Mich.), chairman of the House Commerce energy and power subcommittee, said the two departments have achieved "precisely one successful criminal prosecution" after spending "millions of taxpayer dollars." He estimated that the frauds have cost the public billions.

Defending DOE, Herbert F. Buchanan, a top department official in Dallas, said it had to overcome "growing pains," but now is preparing to mount a huge assault on the frauds.

But Rep. John Conyers Jr. (D-Mich.), chairman of the House Judiciary crime subcommittee, rejected the defense as the kind of "song and dance" he's heard all too often.

He cited the testimony of the prosecutors, U.S. Attorney J. A. (Tony) Canales of Houston and Assistant U.S. Attorney Marvin L. Rudnick of Tampa, that expert auditors are indispensable to prosecutions. Yet, he said, DOE's budget request seeks a reduction in its staff of auditors—from 600 to 250.

"It's totally impossible for me to believe that there's some resurgence of interest in enforcement," Conyers said.

Dingell and Conyers presided over a seven-hour joint hearing at which they, members of their subcommittees, the General Accounting Office and other witnesses accused DOE and the Justice Department of laxity, or worse.

At DOE, spokesman James Bishop denied the charges, saying that the department has obtained jail sentences in some cases and will persist "until there are no more cases to prosecute."

At issue are the huge profits to be made from phony paper conversions of price-controlled "old" crude to uncontrolled "new" oil that commands approximately $7 a barrel more.

Over the past five years, several hundred crude-oil "resellers" have sprung up. Buying crude from producers for $5 per 42-gallon barrel, they illegally inflate the price in sales to other resellers until one finally sells it for about $12 to a refinery—sometimes a refinery that normally would buy it directly from the producer for $5.

"DOE recognized this scheme in 1975 and identified criminal activity—yet it took until the spring of 1978 to make the first referral to the Justice Department and until the spring of 1979 to obtain the first indictment of a crude-oil reseller," Dingell said.

The hearing produced an outburst of allegations that some major oil companies—not merely fly-by-night resellers—have profited from the frauds.

Some of the allegations came from McNeff, who was transferred to Dallas from Houston by DOE after seeking the help of Dingell's subcommittee in exposing the alleged frauds.

To an unspecified extent, McNeff charged, refineries owned by major oil companies have abandoned their customary practices of buying $5 old crude directly from producers and selling refined products directly to traditional buyers, particularly utilities.

Instead, he testified, they have been buying crude from resellers who illegally inflated the oil prices and supplying products to brokers "whose only function was to 'daisy chain' the prices [i.e., raise them through a series of transactions] while the fuel was being shipped directly to the utilities.

"By these two stratagems," McNeff continued, "the major companies have been able to raise the general price of fuel to its present artificially high level, insuring that when controls are removed they will not have to boost their prices even more dramatically and suspiciously."

F. Edwin Hallman Jr., who resigned May 5 as head of DOE's Atlanta region, testified that he was stopped from pursuing an investigation involving two $75,000 payments to a former Gulf Oil Co. vice president and officials of the Commerce Department.

Mr. METZENBAUM. Mr. President, another report shows the constant flow of misinformation we receive from the Department of Energy and the oil companies. In this article that appeared in the New York magazine, Michael Kramer and Dave Marash show the folly of the oil companies in their management of our oil supplies, and the manner in which the DOE actually defends them at the cost of the consumer. I ask that the article, entitled "Birth of the Gas-Pump Blues," also be printed in its entirety.

The article is as follows.

Birth of the Gas-Pump Blues

If you're one of those people who think Jimmy Carter is whistling "Dixie" when he moans about the oil crisis, take heart. You're right: We've been screwed. The Great Oil and Gas Shortage of 1979 is a bastard child, the product of government bungling and industry greed.

You don't have to be a Nobel laureate in economics to follow the story. Simply accept this premise: The oil business is in business to make money.

Supply: The next time an oil-company heavyweight blasts the ayatollah, consider this—the Iranian revolution has been a godsend for the oil industry, the best thing to happen since the embargo of five years ago. Just as the embargo turned out to be an excuse for the last big jump in oil prices, so this time is the Iranian uprising.

Behind every scam are accommodating statistics, so perhaps it should come as no surprise that the oil-industry data trotted out by government and company spokesmen alike all come from one source: the oil industry itself. What may come as a surprise, however, is the fact that those very same statistics, when carefully examined, exonerate Iran and implicate the industry and the American government.

For every single month since the Iranians turned off the spigot, America has actually imported more oil than during the comparable month in 1978. That's right. More.

This past December, when Iranian oil flowed smoothly, United States petroleum imports stood at 8.9 million barrels a day. In January, without Iran's contribution, imports fell to 8.5-million barrels a day. But this was still 450,000 barrels a day more than had been imported during the same month a year earlier. On a quarterly basis, America took in 40 million barrels of oil more during the first quarter of this year than was imported during the same period a year ago.

Where did all this oil come from? From the rest of the oil-producing world, which did, in fact, increase its production.

Demand: The reason for our current crisis, says the government, is insatiable demand—even increased imports can't quench our thirst.

True enough—January demand was up 8 percent over a year ago, and February showed a 5 percent jump. But then the graph lines even out. In March, American demand for gasoline was just 1.5 percent higher than in March of 1978. In April, when the trees and meadows turn green and driving becomes a pleasure, gasoline demand actually fell to a level equal to that of April 1978 and a full 2 percent below the April 1977 consumption, a year the industry considers normal.

Given these supply-and-demand numbers, how do we explain the present pump panic? One answer comes from John O'Leary, the deputy secretary of energy. He calls the oil industry's performance "prudent" management. Four decisions help define O'Leary's version of "prudent" management. Two were made in the boardrooms of Big Oil, two at the White House.

Nineteen seventy-eight was a year of stable oil supplies and slightly depressed prices. As described by Exxon board chairman Clifton Garvin, "Last year and the year before, there was a surplus in production capability around the world of about 10 percent, and those in the media came to refer to this as a glut. It's not a glut." Okay. When does 10 percent overproduction not lead to a glut—and the natural corollary, cheaper oil and gas? When you keep the stuff off the market.

Rather than take advantage of the increased supplies and bargain-basement prices, American oil refineries did just the reverse: They spent the year of 1978 running down their stocks of crude oil and gasoline. Imports were held below the levels considered normal, and crude reserves were taken from the storage tank, converted into gasoline, and sold. When prices are cheap and supplies seem stable, there's no profit in holding on to a commodity. So, in 1978, American oil men didn't.

Since the oil business never misses a chance to carp about the instability of its supply sources, one wonders why the industry operates on just a two-week inventory. The answer seems to be that a low margin of supply provides greater opportunity for market manipulations—like the contrived panic that peaked at the lead-free pumps in California this month.

As the industry ran down its stock of crude oil in 1978, the supplies of motor gas were run down even further. By August of 1978, crude had been depleted to 7 percent below the levels of a year earlier, but gasoline had run down a whopping 18 percent. This pattern continued throughout the year—well before the Iranian cutoff.

Since the beginning of this year (after the Iranian shutdown), American crude-oil stocks have been rebuilt, from 297 million barrels on hand in January to 322 million barrels in April. Meanwhile, gasoline supplies have gotten shallower. In other words, since January, supplies of crude oil have been building up in American storage tanks faster than the industry has been willing to turn them into gasoline for our cars. Or, as John O'Leary so mildly put it to a congressional hearing: "Refiners appears to have been somewhat conservative in their use of available crude oil and gas stocks."

It's not our fault, says the industry. "We just don't have enough equipment in place to supply the demand," says John Simmons, president of ARCO petroleum products. "Our refineries are producting at their maximum," echoes board chairman Fred Hartley of Union Oil of California. "Actually," adds Exxon's Garvin, "in the first four months this year, the refineries in this country are operating 3 or 4 percent above what they were a year ago." Actually, the industry's own data say otherwise: For the first four months of this year, according to the American Petroleum Institute's figures, the nation's refineries worked at just 85 percent of capacity, about the same rate as in 1978, at which time, the industry itself has admitted, the policy was to underproduce in order to reduce inventories. Is it any wonder that demand—and prices—soar?

Into this situation—low crude supplies due to industry sell-offs and a demonstrated reluctance to convert what crude there is into gasoline—comes the Carter administration with two apparently important moves.

The first federal step to "correct" the problem involved the re-allocation of gasoline supplies to retail dealers scheduled for May 1. Says Samuel Van Vactor, Oregon's chief energy planner: "The Energy Department screwed up. . . . The new regulations encourage companies to cut back" on their allocations, so again a product of quickly rising value stayed in the storage tank—and became more valuable. Of course the industry calls this "prudence." "We had no idea how the new federal allocations would work," says one industry source, "so we felt we had to reduce our May shipments to dealers just to let things sort themselves out." In effect, things sorted themselves out in motorists' panic.

Since more and more drivers need the lead-free stuff, the panic was worse there, and again the Carter administration seems to have helped the worst to happen.

As the Iranian situation began to affect the price, but not the supply, of crude oil, the administration advised the oil companies to help moderate the OPEC price rise by avoiding the lighter-weight, higher-priced kinds of crude. The industry cooperated—but it did not leave the market entirely. American purchasers bought the less expensive, heavier crude, leaving the lighter-weight oil to the European, and Japanese. The net effect of the administration's recommended "boycott" was no real boycott at all, and the price of all types of oil fell not one cent. Worse still, American gasoline consumers were severely penalized by this action since the unleaded gasoline we are required to use in our cars in order to comply with governmental regulations is made mostly from the very same lightweight crude our government was telling our oil companies not to buy.

A Chevron spokeman sums up the situation best: "Had we the same (lighter-weight) crude available this year as we had last year, we could make 3 percent more gas right now and 7 percent more for the summer." Which would obliterate the shortage.

The future? The administration is finally encouraging the oil companies to buy lightweight crude, so supplies of lead-free gasoline should be plentiful before long. The prices will be higher, undoubtedly—but not, as the evidence suggests, inevitably.

Mr. METZENBAUM. Mr. President, the message is clear. Dr. Schlesinger is not capable of dealing effectively with the energy crisis. He has shown little concern for the consumer, and his probusiness stands have resulted in higher and higher energy costs. Once again, I ask that President Carter reconsider his decision and remove James Schlesinger from the Department of Energy.●

CAN INFLATION BECOME OUR WAY OF LIFE?

● Mr. LUGAR. Mr. President, many people have commented upon the harmful effect of inflation upon the poor and those on fixed incomes. Inflation works an especially cruel hardship upon these groups in our society. But the destructive effects of inflation reach far beyond these groups. Inflation undermines the desire to save, encourages rapid consumption, and discourages the planning and long-term investments which are necessary to provide jobs and economic well-being.

Mr. President, if inflation is allowed to persist, it begins to feed upon itself. An inflationary psychology develops, and we may begin to direct our efforts toward coping with the symptoms of inflation rather than combating its underlying causes. For this reason, it is vitally important that the Federal Government display a firm commitment to bring inflation under control. Mr. George Marotta, a senior research fellow at the Hoover Institution, has written an article which illuminates the danger of failing to take prompt and decisive action to combat inflation. I commend this article "Can Inflation Become Our Way of Life?" to my colleagues and I ask that it be printed in the RECORD in full:

The article is as follows:

[From the San Diego Union, April 29, 1979]

CAN INFLATION BECOME OUR WAY OF LIFE?

(By George Marotta)

Now that inflation has been with us for over a decade many Americans are beginning to learn how to live with it. Furthermore, they are becoming wise in the ways of protecting themselves against its adverse effects. As it continues to persist, a growing number of individuals are even actually learning how to profit from inflation.

Herein lies a growing menace: the more we learn to hedge against, or profit from, inflation the less effort will be exerted to try to stop it. Each unsuccessful bout we have with this problem leaves us at a higher level than before.

The danger exists that it could become so ingrained in our decisions that it will rise beyond our control. The horror stories about the hyper-inflation of some of the Latin American countries and the inflation in Germany following World War I should remind us that it could happen here.

Inflation is already more of a divisive element in our society than we realize. Because most people equate inflation with increase price levels, business is blamed for causing the problem. Labor demands higher wages to keep up with the increased prices. Business raises prices because it anticipates higher wages and controls.

Each element of society is more interested in keeping up with or getting ahead of the problem than in looking for ways of eliminating it. Those who have cost-of-living escalators in their work contracts complain that their increases lag behind inflation. Those without these wage adjusting benefits seek them. These adjustments give people the illusion that they are keeping up with inflation and they are somewhat pacified.

Inflation is destructive to our basic values. It encourages spending beyond our means. Our spending and borrowing accelerates as we try to get out of dollars which decline, into properties that will retain or gain in value. People who splurged years ago on gold jewelry, diamonds, Persian rugs, antique furniture and fine art have seen their value steadily mount. Our tax laws encourage borrowing with its interest deduction allowance.

While "spenders" are rewarded, savers who try to provide for future needs are penalized. Prudent savers who put their money in U.S. Savings bonds have taken a beating. Every $100 invested in such bonds 10 years ago is worth only $89 now. Bank savings last year lost 3.5 percent (the passbook savings rate was 5.5 percent, but inflation ate up 9 percent. Furthermore, the loss increased as a result of federal and state taxes imposed on the interest.

The middle classes who find their savings eroded and their lifestyles deteriorating feel that the rich can protect themselves, while some of the poor are protected by government welfare programs.

The eroding value of the dollar reduces respect for our government and society both here and abroad. It also affects our other values by turning our world upside down. Saving and investing, previously a virtue, become gambling while spending and borrowing become investing.

A society cannot debase its currency without affecting also its other values. The work ethic diminishes in direct proportion to the instability of the value of wages. Individual responsibility is eroded by uncertainty regarding the future value of the currency.

Uncertainty over the value of purchases causes confusion and mitigates against careful spending. The current boom and spread of gambling from Nevada to Atlantic City reflects a desire by people to reap pleasure from the national currency before it completely loses value.

The growing contempt by people toward the cost of government is reflected in the overwhelming passage of Proposition 13 in California. This was a vote by people against inflation—not against local government. Most realized that the high property taxes were caused by the inflated value of property.

"Substantial deficits in federal finances is mainly responsible for the serious inflation that got under way in our country in the mid-1960s," according to former Federal Reserve Board chairman Arthur Burns. Trying to use Keynesian fiscal policies to limit unemployment has resulted in federal deficits in 23 out of the last 28 years. However, the claim that deficits promote full employment is refuted by the continuing decline in productivity and investment which is the only true base of long-term employment.

It is especially ironic that government, the main cause of inflation, should also be one of its major beneficiaries. This is because government revenues automatically rise faster than inflation because people are pushed into higher tax brackets. A 10 percent price rise results in a 16 percent increase in government revenues.

The disillusionment of the people increases as it watches the government tinker around the edges of the problem it created to enhance its power by instituting wage and price guidelines. Everyone knows that wage and price increases are the symptoms—not the cause—of inflation. It appears that the guidelines have served only to accelerate wage and price increases by business and labor which anticipate the imposition of actual controls.

Respect for government decreases further as one observes the federal officals "jawboning" business, labor, and the hospitals. These are futile attempts to divert the public's attention from the main cause of inflation, government deficit-financing.

Inflation hits many of the poor and elderly especially hard and breeds discontent. It creates bitterness between economic classes as the poor perceive their helplessness and lack of sophistication in developing hedges against, or profiting from, inflation.

The elderly, especially those on fixed incomes, realizing the folly of their previous attempts to provide for their own futures, are turning to government more and more for their needs, and passing the bill to youth. The more politicians rush to fill their health and welfare needs, the less will people save in the future to provide for themselves.

The problem of inflation enhances the power of union leaders as they mount more frequent wage increase campaigns on behalf of their memberships.

Asset-rich companies have less incentive to develop and exploit resources in the face of possible higher returns in the future.

Inflation spreads doubts about the free enterprise system itself. The high interest rates imposed to slow inflation divert funds from the long-term investments which create future profits and jobs. The uncertainty regarding the future rate of inflation and possible government remedial actions hampers business planning.

American companies seem to be merging because inflation prevents them from entering new markets on their own or starting new long-term projects. In addition, the weak U.S. dollar has contributed to a 23 percent increase in acquisitions of American companies by foreign companies.

More and more people feel that they are constantly having to work harder and harder just to maintain their present standard of living. This general frustration and resentment could have serious social consequences. If enough people give up believing that inflation can be checked, we will surely have hyperinflation with all sorts of unpredictable consequences.

Those who try to benefit from it will find inflation is like a chain letter scheme—the earlier participants will reap large returns, later players will benefit less, and the most recent will lose heavily. If more people try to accommodate to inflation and even benefit from it, we will have a harder time bringing this problem under control.

Some believe it would take a 20 percent annual inflation rate for things to get out of control in the United States. Slowly, but steadily, we are approaching that level. The price rise in February was 1.2 percent. If that rate were to continue, it would amount to 14.5 percent for 1979.

It may be later than we think.●

REVENUE SHARING: DON'T LET IT DIE

● Mr. TSONGAS. Mr. President, I wish to submit to the RECORD an article written by George D. Brown, entitled "Revenue Sharing: Don't Let It Die." This article appeared in the Thursday, May 10, 1979, Boston Globe.

The author is a professor of law at Boston College Law School, specializing in intergovernmental relations, and my former colleague from the Commonwealth of Massachusetts Attorney General's office.

Professor Brown has written a convincing argument for the retention of revenue sharing, and I urge my colleagues to read his article, which I submit for the RECORD.

The article is as follows:

REVENUE SHARING: DON'T LET IT DIE

(By George D. Brown)

Running true to form, revenue sharing is in trouble again. This program's checkered history resembles a fiscal version of "The Perils of Pauline."

In 1964 when word leaked out that Lyndon Johnson was considering some form of revenue sharing, the resultant controversy doomed the idea for the duration of his presidency. When Richard Nixon proposed his plans to share federal dollars, Wilbur Mills announced that hearings would be held, but for the purpose of killing the program. Revenue sharing was ultimately enacted in 1972 and survived the renewal gauntlet in 1976.

The current program—$6.85 billion annually in unrestricted aid to states and localities—expires on Sept. 30, 1980. The outlook for a second renewal is uncertain at best. Old enemies have renewed their attack. For example, Congressman Jack Brooks (D. Texas) has stepped up his opposition, largely on grounds of fiscal conservatism. "The American people are demanding that we reduce Federal spending. So we must find other ways to help those local governments that need help than simply sending them more money," he told the National Association of Counties. Brooks is Chairman of the House committee with jurisdiction over revenue sharing.

Old friends are gone. Revenue sharing was the flagship of Nixon's (and Gerald Ford's) "new federalism": a philosophy geared to maximizing local discretion and minimizing federal "intrusion" in the use of grant funds. Jimmy Carter is no revenue sharing enthusiast and has called for elimination of the states from the program.

The end of revenue sharing would send shock waves through the intergovernmental aid system. For example, Massachusetts would lose $217 million—almost one-half of Gov. Edward J. King's $500 million property tax reduction pledge.

Paradoxically, revenue sharing's best hope for renewal lies in enlisting the vigorous support of those who were once its sharpest critics: congressional liberals for whom urban and civil rights issues are a top priority. The notion that revenue sharing can be defended as a liberal, urban program would have seemed absurd four years ago. But things have changed.

Most important, revenue sharing itself changed dramatically in 1976. The renewal debate produced significant amendments on civil rights, citizen complaints and other aspects of the act. In 1975 one civil-rights advocate charged that "the Treasury Department's Office of Revenue Sharing has failed abysmally to prevent or remedy violations of the law." Now the advocate, Willim Taylor of the Center for National Policy Review in Washington says he discerns "a noticeable improvement in civil-rights enforcement," both in terms of legislature mandate and administrative attitude. The Office of Revenue Sharing has placed particular emphasis on municipal employment practices, and has advocated voluntary affirmative-action programs within the limitation of Bakke and other court decisions.

Unfortunately the Brookings Institution—the principal source of revenue sharing wisdom—has minimized the significance of the 1976 amendments, primarily because the formula was not changed.

What about the formula? Is revenue sharing effective in "targeting" funds to needy urban areas? It certainly is not as effective as the Anti-Recessionary Fiscal Assistance program (ARFA), according to several recent studies. The only problem is that ARFA is dead, and Congress shows little inclination to revive it. A well-targeted formula is not much good if there are no funds to target.

Assessments of the formula differ. A recent study by two staff members of the federal Advisory Commission on Intergovernmental Relations describes revenue sharing as "the best equalizer in the current federal aid system." On the other hand, Brookings labels the benefits to needy central cities as "mild."

The problem with revenue sharing is that a relatively large amount of money is paid out to many governments with substantially less need as a price for the aid that does go to needy cities. Boston gets $36.92 per capita, while the figures for Winchester and Brookline are $15.58 and $20.97 respectively. Eliminating suburban governments, or drastically cutting them, might have theoretical appeal, but the political consequence would almost certainly be the end of revenue sharing.

Short of changing the formula, what about eliminating small units of government? The concept sounds good, but the fact is that if the 19,817 governments under 1000 population were eliminated from revenue sharing, a grand total of $68 million would be available for redistribution.

The bottom line is that revenue sharing will probably remain more or less as is—with the likely exception of eliminating the states—or it will simply vanish.

Those concerned with urban problems, civil rights and related issues ought to think twice before they let this happen. An important first step will occur when the Council for Northeast Economic Action holds a high-level seminar on revenue sharing in Washington on June 4. It, and similar efforts, may succeed in transforming revenue sharing from a "sleeper" into one of the major issues before the 96th Congress.●

THE CHARM AND SIGNIFICANCE OF WATERLOO VILLAGE

● Mr. WILLIAMS. Mr. President, the northwest corner of my State of New Jersey is blessed with scenic rolling hills and lovely quiet streams. That part of the State, as is the entire State, is rich with historical significance. In the heart of this area rests the beautiful Waterloo Village, a splendidly restored and revitalized collection of buildings and lands honoring our ancestors.

Waterloo Village, recreated by the Waterloo Foundation for the Arts, is a unique and noncommercial setting for displaying our heritage. Its creative and talented founders, Percy Leach and Lou Gualandi, have recaptured the life style of 200 years of history. They have painstakingly revitalized an 18th century forge that supplied the British Army; restored the 200-year-old candlelit Towpath Tavern; and saved much of the historical property from developers' bulldozers. Among the restored village properties stands a 19th-century grist mill, general store, tavern, and church. Homes built in the mid-1800's have been returned to their original beauty and simplicity and contain much of the authentic and exquisite antique furniture, dinnerware, and crafts common of that era.

Mr. President, the fine and remarkable work done by Mr. Leach and Mr. Gualandi is truly commendable. I am pleased to personally know these two talented artists and to have viewed the creative work they have done in recapturing our heritage. I wish to share with my colleagues a newspaper article which appeared in the Newark Star Ledger on May 27, recounting the efforts of Mr. Leach and Mr. Gualandi and describing effectively the historical significance of Waterloo Village. I submit the following article for the RECORD.

ALL THE SPLENDOR THAT IS HISTORY

(By Victor Kalman)

Waterloo Village is progressing backward nicely, slipping into its niche in history as gently as the distant strains of harpsichord.

The old meeting hall which burned down years ago—no one is sure when—is being rebuilt on the stone foundation which outlived the blaze. It should be completed before the 11th annual Waterloo concert season opens June 22.

Work will start soon to restore the sawmill which produced lumber for the village's 26 buildings; on the forge which cast cannonballs for the British during the Revolutionary War, on a lock of the Morris Canal, the source of Waterloo's prosperity until the railroad idled New Jersey's commercial waterways in the late 1800s.

Much remains to be done, for Waterloo is not a museum but a living environment—one of the most beautiful in New Jersey and the most unique—at Stanhope in Sussex County, on the banks of the Musconetcong River.

It has regained the amenities enjoyed by its farm community in the 18th Century, recaptured the life-style foisted on its artisans by the industrial revolution of the 19th. It has yet to achieve fully its role in the 20th Century—as the site of a music school and a year-round concert hall for the internationally famous artists who perform there summers in a striped tent.

It will, for Waterloo means as much to the 300,000 who visit it annually as it did to the few whose names are recorded in stone and marble in the cemetery of the Methodist Church at the entrance to the winding road through town.

It will, for behind the concept of Waterloo as a non-commercial setting for America's heritage and a showcase for performing artists are two aesthetically-motivated romantics—Percy Leach and Lou Gualandi.

Ignoring warnings that "it can't be done," Leach and Gualandi saved the village from developers' bulldozers. Turning aside lucrative offers, they devoted their energies, financial resources and 25 years toward buying Waterloo, restoring it, preserving it and, finally, sharing it with others.

"We are very private persons," Gualandi said the other day, over coffee in the 200-year-old candle-lit Towpath Tavern. "This is our home; we thought a long time before inviting in strangers. But it has worked out well. There is reward, real satisfaction in sharing."

"Twenty years ago, we drew up a plan," added Leach, a cousin of actor Cary Grant. "We have been following the plan step by step. There have been frustrating times, of course, but in the main we are accomplishing what we set out to do . . ."

Waterloo Village is more difficult to define than to describe. It exudes a quiet beauty rather than splendor, the sublimity of peace as well as a sense of history. It is a sanctuary for philosophy and meditation, where silence is music, where a simple picnic could satisfy a gourmet.

It was for any or all these reasons that a young Percy Leach, upon his discharge from the Navy, was attracted to Waterloo in 1946.

He moved there with his parents from Boonton, where he was born and went to school, to continue musical studies which had been interrupted by World War II.

The year before, much of the village had been purchased by O. W. Caspersen, chairman of Beneficial Finance Company and one of the nation's major real estate developers.

It was one of Waterloo's many brushes with total extinction.

English settlers in the area called it Andover in 1740. Twenty years later a munitions firm opened a forge to supply the British army and the settlement became a village known as Andover Forge.

Because of its pro-King George connections, the Continental Congress closed the forge toward the end of the Revolution, the workmen left and the property was purchased by a young man called John Smith.

Smith is important to this moment of history because he and his descendants prospered. In 1815, he changed the village's name to Waterloo to honor Wellington's victory over Napoleon.

During the years before and after the Morris Canal was completed in 1831—with Waterloo a major stop on the 109-mile waterway which linked northern New Jersey with the south and Philadelphia—the Smiths built homes for members of the family, a grist mill, inn, general store, tavern, church and the other buildings which comprise Waterloo Village today.

When traffic on the canal dwindled, then stopped before the turn of the century, Waterloo Village, except for a few die-hard Smiths, became a ghost town.

A bank took over most of the property during the Depression, finally selling it to Caspersen in 1945. By then, Waterloo was in virtual decay. One house built in 1859 was habitable, however, and it was into this one—the last to be erected—that the Leach family moved.

"I became fascinated with the place," recalled Leach, pouring a second cup of coffee. "Instead of practicing the piano. I began puttering around the blacksmith shop and the old Stagecoach Inn, both of them practically hidden by underbrush and weeds. I received Mr. Caspersen's permission to fix them up a bit—paint them and so forth. That's how it started."

Then there were days and months of research in libraries, county records, galleries . . . talks with a neighbor, Carrey Bannister, a great grand-daughter of John Smith who had lived in the Homestead, Smith's home, for 87 years.

Finally, to learn how to restore the interior of the buildings he had discovered, Percy enrolled at the Whitman Schol of Design in New York where he met Lou Gualandi, a Staten Island-born, ex-Navy, embryo architect.

"Our crowd was mostly young musicians and artists, many of them talented but without a chance to perform, without a showcase for their talents,' Gualandi remembered. "Percy got the idea of staging a festival in his beautiful village and I visited him in 1949 to look it over. Like everyone else, I fell in love with it."

"Lou came back every week after that, worked harder than I did," Percy said.

They became business partners as well as associates in restoring Waterloo. Specialists in 18th Century English and American traditional interiors, they have designed and decorated many of the stately homes in New Jersey. They have worked so closely, think so much alike, that one can start a sentence and other complete it without pause.

"We've been very successful in business," said Percy, "but we've put it all into Waterloo. We bought the village inch by inch."

"It took us 20 years," Lou said.

In 1953, Caspersen had commissioned them to design and decorate Beneficial's new headquarters in Morristown—their first major commercial venture. When they used their profits to purchase more land, he scrapped his plans to develop the area.

"What you're doing is much more important than a present-day development," Caspersen told them.

They purchased the remainder of Caspersen's property in 1963, but from that point on acquisition became more difficult. One homeowner whose price in 1953 was $9,000 demanded more than $200,000 in 1965.

"We had to meet the price," Percy explained, "because by then antique dealers and other companies were ready to pay almost anything to open in Waterloo. We didn't want that . . . we didn't want the village commercialized.

"We wanted to remain in a place where people could enjoy themselves without spending a lot of money."

The skyrocketing cost of restoring and maintaining Waterloo and the soaring prices of antiques—all furniture, rugs, exquisite dinnerware, bric-a-bracs and other equipment in homes and craft buildings are authentic—led the partners to create the Waterloo Foundation for the Arts in 1967, a public, nonprofit organization which may receive financial aid from government and industry.

The foundation now controls an 11,000-acre section of Allamuchy Mountain State Park, thanks to agencies of the national and state governments.

"We really need more money than we're receiving," Percy claimed, "but we can't complain. We do hope, though, that individuals who have antiques of any kind will remember us. We've furnished more than 100 rooms, but we still have about 40 empty ones in the village."

"Furnishing 40 rooms correctly, in good taste . . . you're talking in the millions at today's prices," Lou pointed out.

Percy and Lou still carry on their private business from an office in the village, and continue to contribute their profits to Waterloo's restoration. A member of their staff said their average working day is 16 hours, seven days a week.

Waterloo's population is four.

Percy's father has died; he lives with his mother in the same home on the thickly wooded main street, across from the Musconetcong.

Lou and his father live on the outskirts of the village. In 1953 Lou moved an old barn to a knoll overlooking the river and converted it into a picture-postcard residence so enchanting that the late Pablo Casals used to arrive four or five days before his scheduled concert just to be able to stay there.

Van Cliburn, a frequent visitor, often stays two to three weeks. One of Gualandi's guests this summer will be Benny Goodman, who's to perform on Aug. 18—the only concert the clarinetist has scheduled this summer.

Waterloo's music season starts June 22-25 with the Newport Jazz Festival. It features the New Jersey Ballet in a jazz performance on opening night.

The village itself is open from 10 a.m. to 6 p.m. Tuesday through Sunday. Entrance fee for adults is $3.50, for senior citizens $2.50 and children $1.75. Sunday morning services at the Methodist Church are conducted at 9:45 a.m. with the Rev. Robert Streetman of Madison as pastor.

Visitors will discover new diversions this summer, among them an opportunity to tour Waterloo in a carriage such as John Smith rode.

Landaus and Victorians heretofore stored in the Stagecoach Inn are being refurbished and Maureen Kessel, a young horsewoman in charge of the equestrian program, is training the horses to drive them.

She will also give riding lessons, hire out horses and point to scenic and historic trails along the river and through Allamuchy Mountain. Some pass ancient Indian burial grounds, or stone piles marking the graves of British and American soldiers who fell during the Revolutionary War. The war did not touch the village itself.

Waterloo is an all-day adventure, a glimpse into early Americana. Craftsmen weave rugs, make brooms, grind corn in the grist mill and bake cornbread in a huge oven in the mill.

There are no ropes. One may sit in the antique chairs, walk on the rugs, even play the 134-year-old Steinway piano in the Homestead living room, as Cliburn does for hours on end.

For many, though, the music festival and the wondrous arts and crafts are secondary.

Just to amble through the village and hear music from the homes . . . to see the majestic swans and Canada geese teaching their young to swim in the placid pond in front of the nearly-completed meeting hall . . . to stand on the river bank and watch schools of trout zip through the clear water . . . or simply to gaze across the water at the mountains . . .

Such moments are sheer glory.

It's too bad, in a way, that John Smith was pro-British enough to change the name of Andover Forge. "Waterloo" can conjure up battle. This village is a peaceful dream.●

S. 119—BUSINESS REPORTING REFORM ACT OF 1979

● **Mr. BOREN.** Mr. President, I am proud to cosponsor with my fellow Senator from Oklahoma Senate bill 119. I applaud this bill's attempt to eliminate duplicative reporting requirements imposed upon private businesses.

Redundant requests by different Federal agencies seeking similar or identical information from the same businesses have resulted in an immense burden incurred by those businesses. According to Murray Weidenbaum of Washington University, there were 4,418 different types of approved Federal forms as of November 30, 1976, and that figure does not include tax and banking forms. Many of these forms were issued in pursuit of identical or similar information. The U.S. Office of Management and Budget estimates that individuals and business firms spend over 143 million man-hours a year filling out these forms. The product of all this pen-pushing is a paperwork cost borne by private industry of $25 billion to $32 billion a year, much of which, according to the Federal Paperwork Commission, is unnecessary.

There are many examples of the cost and waste engendered by these duplicative efforts and the burdens they impose.

I will share with you, Mr. President, just one recent case.

On May 1, I received a letter from the president of an Oklahoma firm, Pension Consultants, Inc., whose sole occupation is doing the paperwork that is required of pension plan participants.

Mr. President, I ask that the entire letter be printed in the RECORD.

The letter follows:

PENSION CONSULTANTS, INC.
May 1, 1979.

Hon. DAVID L. BOREN,
N. Robinson, Suite 350
Oklahoma City, Okla.

DEAR SENATOR BOREN: It has come to my attention that sometime during the last few weeks in April the Labor Department in Washington D.C. sent out three hundred thousand mailings requesting 5500–C or 5500 Reporting Form on pension plans. This office currently has received in excess of twenty five of these requests. Pension Consultants, Inc. is a small pension consulting and administration firm with in excess of two hundred and seventy five corporate pension plans.

Our sole occupation is to do the paper work that is required on these plans. In researching files for the copies of the reports that the Labor Department is requesting, we have found copies of every one of these reports, many having cover letters to the employer with instructions. Enclosed with this letter you will find for one plan a sample of the Labor Departments request, a copy of a letter to one of the employers with the instructions to him along with the enclosures mentioned. Senator Boren, the paper work required by administrative agencies, such as the Labor Department or the Internal Revenue Service is simply outlandish. Further, when they request duplication of the same work, it makes it doubly burdensome. In some cases the request was for information on plans that did not begin until sometime in 1976 with a fiscal year end in 1977, that means, a 1977 return would be filed, but there would not be a 1976 return as the Labor Department has requested. In other plans, the sole participant in the plan is the sole shareholder of the corporation and according to instructions printed by the Revenue Service there was no requirement to file 5500–C's with the Labor Department. Further, these same reporting forms were filed with the Internal Revenue Service, it appears to me that the Labor Department should go first to the Internal Revenue Service to obtain these forms, after that, then, if there is need they could go to the plan sponsors. If, what Sam Clark, of the Labor Department in Dallas, said is true, that three hundred thousand mailings have gone out, the cost of the mailing alone for postage is $45,000.00. This does not include the cost of mailing these back to the Labor Department, nor the cost of researching our files to find the information that they wish, nor the cost for the client sending this data to us, nor the cost of copying these returns. Further, they wish for original signatures to be had on the return when we send them back, this would again mean that we should send these forms to the client and now for the client to send them on to the Labor Department.

The burden of government on small pension plans is onerous. It seems to me that someone in your capacity could and should attempt to do something about these regulatory agencies and their unreasonable demands.

I would appreciate any assistance you can possibly give in this matter.

Sincerely,

DALE P. TACHENY,
President.

Department of Labor

	Number
Barrett Oil Co.	73–0996952
Jose J. Guijarro, M.D., Inc.	73–0956133
Al Smith Investments, Inc.	73–0934603
J. K. Boersna Beverage Co.	73–0593526
Coot H. Nelson	73–0989130
Womens Clinic of Tulsa, Inc.	73–0804088
Army Surplus Stores, Inc.	73–0940380
UIP Sales Company, Inc.	73–0783136
Green Clinic, Inc.	73–0985672
Ervin E. Addy, Jr., M.D., Proff. Assn.	75–1442846
Forrest W. Olson, M.D., Inc.	73–0803026
Jack L. Coats, M.D., P.A.	85–0208061
M. K. Braly, M.D., Inc.	73–0961168
William R Hunter, D.D.S., Inc.	73–0971557
Jimmie L. Gann, D.D.S., Inc.	73–0970395
Whiteneck Clinic, Inc.	73–0928927
Carl A. Schweers, M.D., Inc.	73–0980554
Allen Pharmacy, Inc.	73–0945864
Fina Clinic, Inc.	73–0795154
Jess Harris, Jr., Inc.	73–0970394
Graves Mfg. Co.	73–0756497
Kelly's Discount Electronics	73–0950949
Pediatric Health Care, Inc.	73–0928214
Max D. Quillin, O.D., Inc.	73–0969549
Ralph L. Nicholson, M.D., Inc.	73–0957435
Hooten Oil Co., Inc.	73–0772696

Mr. BOREN. As the letter points out, Mr. President, in April the Department of Labor mailed out 300,000 requests for reporting forms that had already been filed, in many cases, and in others the Labor Department was asking for pension plan reports covering periods of time when the plans had not even begun.

Furthermore, the very same forms had also been requested and filed with the Internal Revenue Service.

The cost of the duplicative mailing alone was 45,000 dollars.

Mr. President, I requested an investigation by the General Accounting Office and a preliminary report confirms the accuracy of this situation and happily the news that some remedies are underway.

However, the point is, the problem should not have occurred in the first place.

S. 119 strives to eliminate this illogical duplication which is the source of much of the expendable expenses endured by enterprises across the country. It will require businesses to provide all the necessary information required by the Federal Government, but will require that information to be submitted only once.

This bill would significantly ease the economic burden of businesses and thus reduce prices paid by consumers without threatening any public interest which Federal agencies purport to protect. I enthusiastically endorse my fellow Oklahoman's legislation which will allow businesses to devote their attention to the needs of the consuming public rather than becoming preoccupied by compliance with frivolous bureaucratic requests.○

MILWAUKEE RAILROAD

● Mr. BAUCUS. Mr. President, on June 1, the bankruptcy judge for the Milwaukee Railroad denied a petition by the trustee to abandon service on 7,000 miles of track. The judge's decision means that the Milwaukee must continue to operate its full system, at least for the time being.

The judge's denial was welcome news to the residents of the Midwestern and Northern Tier States that would be adversely affected by a Milwaukee shutdown. But we in Congress must continue our efforts to find a long-term solution to the Milwaukee's problem.

There are at least three necessary steps. First, the Congress must complete action on Senate Joint Resolution 81, a resolution I introduced to require the Milwaukee to continue service for 60 days.

Second, the Department of Transportation and other Federal agencies must quickly complete studies of employee and shipper stock ownership for the Milwaukee.

Third, we must develop financial assistance legislation to help employee- and shipper-owned railroads begin their operations.

I want to stress that I do not favor massive Federal subsidies for railroads. I would not support a western ConRail. Indeed, I would not support Federal assistance for any rail system that has no hope of ever being self-sustaining.

On the other hand, some assistance in the form of federally guaranteed long-term loans will be necessary for rundown railroads like the Milwaukee to rehabilitate their roadbeds and equipment and become profitable.

Unless financially ailing railroads can obtain funds to upgrade their equipment, they cannot effectively compete. They cannot take advantage of increased traffic that will be available from coal development and greater grain sales to Asia. They will not be able to take up the slack as high fuel prices and short fuel supplies curtail trucking.

A RESOLUTION TO CONTINUE MILWAUKEE SERVICE

The necessity for a resolution to continue Milwaukee service has not ended with the bankruptcy judge's recent decision.

The Milwaukee's cash losses should be minimal this summer, and some Federal assistance may be available under the Emergency Rail Services Planning Act. Nevertheless, at some point the railroad is going to face a serious cash shortage that may require cessation of operation.

The bill I introduced, Senate Joint Resolution 81 was very expeditiously approved by the Senate Commerce Committee and the full Senate on May 23. The House Commerce Committee approved a similar resolution on May 24.

The House must still act on its resolution, and a conference may be necessary to reconcile differences between the two bills.

I would urge the Congress to quickly complete consideration of these resolutions. Some amendments may be necessary because of the changed situation resulting from the judge's decision. Nevertheless, we should have this legislation in place to protect affected shippers and employees in the event that Milwaukee service is curtailed at some point in the future.

EMPLOYEE AND SHIPPER STOCK OWNERSHIP

Ownership by railroad employees and shippers offers the best hope for continuing the Milwaukee's transcontinental operation.

The advantages of employee and shipper ownership include higher employee motivation, greater shipper loyalty and use, and new opportunities for obtaining capital.

Three things are necessary if Congress is to pursue the concept of employee and shipper stock ownership. First, there must be a commitment by labor organizations that employees will participate financially in the plan. The employee contribution could come from the severence benefits employees would be entitled to in the event of a Milwaukee abandonment.

Second, there must be a commitment

by shippers that they will participate financially in the plan. The financial contribution need not be large, and in fact, shipper stock ownership plans have been developed where no cash was required from the shippers. Nevertheless, a strong indication of support by shippers is necessary.

Third, a comprehensive study of employee shipper stock ownership is absolutely necessary. The House Commerce Committee report (Joint 96–225) which accompanied House Judiciary Resolution 81, described the necessary parameters for such a study.

FINANCE COMMITTEE HEARINGS ON ESOP'S

On June 21, my Oversight Subcommittee of the Senate Finance Committee will hold a hearing to further pursue the concept of employee and shipper stock ownership. At the hearing, I will ask Federal agencies, including DOT, FRA, the Department of Commerce, and others, what they can and will do to determine the viability of a shipper and employee stock ownership plan for the Milwaukee.

I am enclosing for the Record, a copy of the Finance Committee announcement of the hearing.

The announcement follows:

Finance Subcommittee on Oversight of the Internal Revenue Service Sets Hearings on the Availability of Employee Stock Ownership Plans (ESOP's) for Railroads Such as the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (Milwaukee Road), and the Possibility of Providing for Internal Revenue Supervision of These Programs and of Similar Ownership Vehicles for Shippers Who Utilize Such a Railroad and Depend on Its Continued Operation and Financial Success.

Senator Max Baucus (D.-Mont.), Chairman of the Subcommittee on Oversight of the Internal Revenue Service of the Senate Committee on Finance, announced today that the Subcommittee will hold hearings on June 21, 1979 on the applicability of the Internal Revenue Code provisions regarding employee stock ownership plans to railroads and the possibility of revising these provisions to promote adoption of these plans by railroad employees and shippers and to provide for Internal Revenue Service administration of them.

The hearing will be held in Room 2221 Dirksen Senate Office Building and will begin at 1:30 p.m.

In announcing the hearings, Senator Baucus pointed out that the Internal Revenue Code contains numerous tax incentives to encourage employers to establish employee stock ownership plans for the benefit of their employees. In addition, the Code sets forth certain restrictions with which these plans must comply in order that the tax incentives will be available for employers and their employees.

Senator Baucus stated that in the course of analyzing the availability of an employee stock ownership plan for the Milwaukee Road, it became clear that most railroads cannot utilize many of the tax incentives, and cannot comply with certain of the restrictive provisions, contained in the Code. In addition, the Code contains no provisions for a similar type of plan for those who utilize the railroad services, the shippers. Senator Baucus pointed out that these shippers might have as great an interest in owning a railroad as the employees, and that the Congress should examine ways to encourage this concept at the same time it looks at ways to encourage employee stock ownership plans for railroads.

Witnesses who desire to testify at the hearing should submit a written request to Michael Stern, Staff Director, Committee on Finance, Room 2227 Dirksen Senate Office Building, Washington, D.C. 20510 by no later than the close of business on June 15, 1979.

Legislative Reorganization Act.—Senator Baucus stated that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the Committees of Congress, "to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

Witnesses scheduled to testify should comply with the following rules:

(1) A copy of the statement must be filed by noon the day before the day the witness is scheduled to testify.

(2) All witnesses must include with their written statement a summary of the principal points included in the statement.

(3) The written statements must be typed on letter-size paper (not legal size) and at least 100 copies must be submitted by the close of business the day before the witness is scheduled to testify.

(4) Witnesses are not to read their written statements to the Committee, but are to confine their ten-minute oral presentations to a summary of the points included in the statement.

(5) Not more than ten minutes will be allowed for oral presentation.

Written Testimony.—Senator Baucus stated that the Subcommittee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the record. Statements submitted for inclusion in the record should be typewritten, not more than 25 double-spaced pages in length and mailed with five (5) copies by July 9, 1979, to Michael Stern, Staff Director, Committee on Finance, Room 2227 Dirksen Senate Office Building, Washington, D.C. 20510.

FINANCIAL ASSISTANCE LEGISLATION

Mr. BAUCUS. Mr. President, I respectfully urge my colleagues on the House and Senate Commerce Committees to begin to develop quickly long-term legislation to deal with the financial problems not only of the Milwaukee, but also of other financially distressed railroads. Such legislation should consider the need to minimize Federal expenditures, the benefits of employee and shipper stock ownership, and the importance of railroads in our national transportation system especially in light of the current energy crisis. Railroads are essential not only to transport alternative energy sources like coal, but also are much more energy efficient than their principle competitor, trucks.

Mr. President, the bankruptcy judge's recent decision has given all of us concerned about the Milwaukee a little bit more time. But it is essential that we use this time wisely to develop a long-term solution to the railroad's problems.

ADDITIONAL DOCUMENTS OF INTEREST

Over the past few weeks a number of documents have been produced relative to the Milwaukee Road's position that I believe are of keen public interest. To assist the public in gaining access to these documents, I am including them in the Record today.

HOUSE COMMITTEE REPORT ON MILWAUKEE

The first document I want to present is the House Commerce Committee report that accompanied the 45-day resolution which was reported out on May 30. The first four paragraphs of that report—particularly the fourth paragraph, which begins with the phrase "In order to best determine the viability * * *"—are particularly timely. I urge the Department of Transportation to move quickly on the studies mentioned in the report. The Department has the authority and the funds necessary to undertake such studies. Thus, I respectfully urge Secretary Adams to begin them immediately and not wait for further congressional action.

The report follows:

Report

The Committee on Interstate and Foreign Commerce, to whom was referred the joint resolution (H.J. Res. 341) to require continuation of rail service by the Chicago, Milwaukee, St. Paul, and Pacific Railroad for a period of 45 days, having considered the same, report favorably thereon with an amendment and recommend that the joint resolution as amended do pass.

The amendment is as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

That (a) Congress hereby finds that—

(1) the proposed embargo of the freight operations of the Chicago, Milwaukee, Saint Paul, and Pacific Railroad Company (hereinafter the "Milwaukee Railroad") in the States of Washington, Montana, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan and Indiana, which the trustee of the railroad has asked the bankruptcy court to authorize and to direct, would have crippling repercussion on the economies of these States;

(2) the threatened embargo of freight service extends over seven thousand miles of the track, or approximately 75 per centum of the Milwaukee Railroad's rail system;

(3) the proposed embargo would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon uninterrupted rail service;

(4) coal shipments from the great coal deposits underlying Montana, Wyoming, North Dakota, and South Dakota are totally dependent upon continuing rail services;

(5) the agricultural producing and marketing activities in this tier of States is equally dependent upon continued service;

(6) cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare;

(7) cessation of such services is imminent; and

(8) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary to provide such services.

(b) Upon the basis set forth in subsection (a), the Congress declares that emergency measures must to taken to avoid the substantial damage to the economy of the region and of the Nation which the proposed embargo would otherwise cause.

Sec. 2. For a period of forty-five days following the date of enactment of this resolution, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on May 1, 1979; (2) shall continue no less than the level of service provided by it as of that date; and (3) shall not take any action to abandon or discontinue service over any part thereof unless it is authorized to do so by the Interstate Commerce Commission, and no affected State (or local or regional transportation authority) opposes such action by the Commission.

Sec. 3. (a) The Secretary of Transportation, under the authority of the Emergency Rail Services Act of 1970, shall immediately guarantee trustee certificates of the Milwaukee Railroad in the amount specified in section 4 of this joint resolution. Such guarantee shall be made without regard to the findings and conditions set forth in subsections (a) and (b) of section 3 of such Act, and the certificates guaranteed under this joint resolution shall not have the status and priority set forth in subsection (c) of section 3 of such Act.

(b) Certificates guaranteed under this joint resolution shall not have priority in bankruptcy over the claim of any creditor of the Milwaukee Railroad as of the date of enactment of this joint resolution.

SEC. 4. The Secretary of Transportation shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this joint resolution in an amount equal to the difference between (1) the total expenses incurred by such railroad in and attributable to the maintenance and continuation of service as required by section 2 of this joint resolution, and (2) the direct revenues from the handling, routing, and moving of traffic in connection with such service, together with any other source of revenues available to such railroad.

SEC. 5. The Secretary of Energy shall immediately conduct an assesment of present and potential coal hauling needs in the area served by the Milwaukee Railroad and report his findings to Congress within 30 days after the date of enactment of this joint resolution.

PURPOSE AND SUMMARY

The reported resolution requires that for a period of 45 days following enactment of the resolution, the Milwaukee Railroad shall maintain its entire railroad system as it existed on May 1, 1979. During this 45-day moratorium, alternatives to the proposed embargo and subsequent directed service will be evaluated by both governmental and private sector interests.

BACKGROUND AND NEED

The Chicago, Milwaukee, St. Paul, and Pacific Railroad, the Nation's seventh largest railroad entered bankruptcy for the third time in this century on December 19, 1977. On April 23, 1979, the court-appointed trustee Stanley E. G. Hillman of the Milwaukee Railroad petitioned the bankruptcy judge to embargo approximately 7,000 miles of its 9,400 mile system and to furlough an estimated 5,000 employees. A series of hearings have been held on the proposed embargo by the bankruptcy judge beginning on May 4, 1979, and a decision on the proposal is imminent.

The Milwaukee Railroad is one of two railroads that serve one of the world's largest coal formations—the Fort Union formation—which underlies part of Montana, Wyoming, North Dakota, and South Dakota. Both coal and agricultural shipments in this area are totally dependent upon railroad transportation. This region will provide an increasingly greater amount of coal as the country implements its coal conversion program.

Were the proposed embargo to be implemented at this time, severe and irreversible economic dislocations would occur in those areas served by the Milwaukee Railroad. The embargo threatens transportation services for shippers and employees in the northern tier States and would leave substantial geographical areas, especially in Washington, Montana, North Dakota, and South Dakota, without rail competition for the carriage of goods or without any rail services at all. The committee believes such a disruption of commerce and employment should not be made until an objective analysis of alternative scenarios for northern tier freight transportation is completed by the Department of Transportation, the Interstate Commerce Commission, the affected States, the Milwaukee employees, other railroads that serve the northern tier, the shippers, and the creditors of the Milwaukee Railroad and is available for public comment.

All proposals, including employee and shipper stock ownership plans, must be fully explored and evaluated, before an embargo is implemented, for the alternative is the use of Interstate Commerce Commission directed service (49 U.S.C. 11125). The committee believes a directed service order of this unprecedented magnitude is the costliest and, in the long run, least effective resolution of the problem. The Commission's recent decision to direct other carriers to provide service over certain of the proposed embargoed lines will entail $30 million in Federal payments to those carriers for the statutory maximum period of 240 days, after which service will cease if the lines in question are not purchased. Because a directed service order cannot substantially impair the ability of the directed carrier to serve its own shippers adequately or meet its common carrier obligations, the proposed ICC order, whereby 95 percent of the Milwaukee's present shippers would be served, may not provide even an adequate short-term remedy. Those carriers that might be directed to provide service are experiencing such serious locomotive and equipment shortages that their ability to meet their own common carrier obligations might be impaired. Finally, while a directed service order provides that the directed carrier must hire the employees of the other carrier, it is anticipated that less than half of the Milwaukee Railroad's employees would be employed by the directed carrier.

During the moratorium on cessation of service required by House Joint Resolution 341, it is essential that alternative plans for continuing essential transportation services be developed. The Department of Transportation should analyze and make appropriate adjustments to studies of the operations of the Milwaukee Railroad that have been made to date, including the Booz, Allen & Hamilton, Inc., report, which was authorized by the trustee and which was only recently made available to the public. Interstate Commerce Commission filings, internal company data and other sources will be of significant aid in completing the Department of Transportation analysis.

In order to best determine the viability of employee and shipper stock ownership proposals, the Department should consult with representatives of and employees of the Milwaukee, with its past and present management, with the financial experts of the railroad itself, the Federal Railroad Administration, other agencies, Members of Congress and other advisers. Variations on existing proposals should be evaluated to develop the most desirable design for an ESOP or SSOP with an estimate of the overall effects of employee and shipper ownership on employee relations, relations with regulatory commissions, profitability, ability to finance growth, ability to restore and rehabilitate the railroad's physical plant and equipment and other material effects. A necessary component of this analysis is a comprehensive market study for potential shipper revenues, including expanding export markets for grain and coal. The committee expects the Department to complete such an analysis before the end of the 45-day period, thereby providing sufficient time for implementation of appropriate recommendations or proposals.

OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the committee has made general oversight findings and recommendations set forth in this report.

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the committee on Government Operations.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee makes the following statement with regard to the inflationary impact of the reported bill:

The committee believes that the enactment of this legislation will have no inflationary impact on prices and costs in the operation of the national economy.

COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statement is made regarding the cost of this legislation:

In accordane with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the committee includes the following cost estimate submitted by the Congressional Budget Office relative to the provisions of House Joint Resolution 341:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C. May 25, 1979.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed House Joint Resolution 341, to require continuation of rail service by the Chicago, Milwaukee, St. Paul, and Pacific Railroad for a period of 45 days. This resolution was ordered reported by the House Committee on Interstate and Foreign Commerce on May 24, 1979.

The resolution directs the Secretary of Transportation to use authority available under the Emergency Rail Services Act of 1970 (ERSA) to guarantee loans made to the Milwaukee Railroad for a 45-day continuation of that railroad's current operations. An estimated $15 to $20 million would be required for this purpose. The resolution does not authorize new budget authority or loan authority.

The resolution requires the Secretary of Transportation to make the guarantees without application of certain findings and conditions required by current law. It would reduce the priority status accorded by law to ERSA guarantees, placing the Milwaukee guarantees (which are actually loan notes purchased by the Federal Financing Bank) in positions subordinate to claims of other creditors of the railroad. This lessens the probability that the Government will receive all the required interest and premium payments. However, it is difficult at this time to estimate how much repayment the government will receive. Loan terms wil probably require repayment to begin in fiscal year 1980.

Should the committee so desire, we would be pleased to provide further information.

Sincerely,

ALICE M. RIVLIN,
Director.

SECTION-BY-SECTION ANALYSIS OF HOUSE RESOLUTION 341

Section 1

Subsection (a) of section 1 of the reported resolution states certain congressional findings with respect to the crippling impact on the economies of certain States served by the Milwaukee Railroad if the imminent threatened cessation of essential rail services over approximately 75 percent of the Milwaukee's system is permitted to occur.

Subsection (b) of section 1 states a congressional declaration that emergency measures must be taken to avoid the substantial damage to the economy of the region and of the Nation which such cessation would cause.

Section 2

Section 2 of the reported resolution requires that, for a period of 45 days following enactment of the resolution, the Milwaukee Railroad shall maintain its entire railroad system, as it existed on May 1, 1979, shall continue to provide no less than the level of service provided by it as of that date, and shall not take action to abandon or discontinue service unless authorized to do so by the Interstate Commerce Commission and no affected State (or local or regional transportation authority) opposes such action by the Commission. This section does not preclude filing of an abandonment or discontinuance application with the Commission in accordance with existing law nor excuse less than full compliance with all Federal safety laws and regulations.

Section 3

Subsection (a) of section 3 of the reported resolution requires the Secretary of Transportation, under the authority of the Emergency Rail Services Act of 1970, to immediately guarantee trustee certificates issued by the Milwaukee Railroad without regard to certain findings and conditions set forth in such act. Subsection (a) also provides that such certificates shall not have the status of expenses of administration or receive the highest lien on the railroad's property and priority in payment under the Bankruptcy Act.

Subsection (b) of section 3 provides that certificates so guaranteed by the Secretary shall not have priority in bankruptcy over the claim of any creditor of the railroad as of the date of enactment of the resolution, thereby protecting the rights of existing creditors.

Section 4

Section 4 of the reported resolution requires the Secretary of Transportation to guarantee trustee certificates of the Milwaukee Railroad under this resolution in an amount equal to the difference between (1) total expenses incurred by the railroad in and attributable to the required maintenance and continuation of rail service and (2) direct revenues from the handling, routing, and moving of traffic in connection with such service, together with any other source of revenues available to the railroad.

Section 5

Section 5 of the reported resolution requires the Secretary of Energy to immediately conduct an assessment of present and potential coal hauling needs in the areas served by the Milwaukee Railroad and report his findings to the Congress within 30 days after the date of enactment of this resolution.

COMMITTEE CONSIDERATION

The Committee on Interstate and Foreign Commerce ordered House Resolution 341 reported to the full House by a vote of 34–15. The Subcommittee on Transportation and Commerce held hearings concerning the Milwaukee Railroad and legislative proposals on May 9, 1979.

JUDGE M'MILLAN'S JUNE 1 DECISION

Mr. BAUCUS. Last Friday the bankruptcy judge in Chicago decided to refuse the Milwaukee trustee's proposal to abandon the western lines of the Milwaukee Road.

I would like to include the judge's decision in the RECORD, at this time.

The decision follows:

[U.S. District Court, Northern District of Illinois, Eastern Division, No. 77 B 8999]

IN THE MATTER OF CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, DEBTOR

DECISION ON TRUSTEE'S PETITION FOR DIRECTION WITH RESPECT TO PARTIAL EMBARGO OF FREIGHT OPERATIONS

On April 23, 1979, the Trustee of the above railroad (hereinafter referred to as the Milwaukee Road) petitioned the court to direct an embargo on certain of his freight operations effective May 8, 1979 at 12:01 a.m. Hearings were commenced on May 4, 1979 and continued before Special Master Milton H. Gray on May 15 through May 18, 1979. Master Gray filed his recommendations on May 25, 1979 and objections to the recommendations were filed by various parties on May 29, 1979. In the meantime the Master had considered scores of exhibits, testimony of all interested parties which totalled 1350 pages of transcript, and many written sworn statements which were admitted subject to cross examination. Obviously the court is greatly indebted to the Special Master and to all interested parties for the expeditious handling of this matter.

We have carefully examined the report of the Special Master and the several objections filed thereto. Many parties, including the indenture trustees, have not filed objections, but we assume the indenture trustees object to the Master's recommendations because they have filed a petition for a complete embargo. In any event, we have familiarized ourself with the record and find and conclude that the findings of fact contained on pp. 10 through 25 of the Master's report are supported by substantial evidence, to the extent not modified hereafter in this Decision.

However, we reluctantly disagree with his conclusions of law, in substance, for the reason that we cannot find any statutory or other authority for our entering the order requested by the Trustee. We say this "reluctantly" because we believe that the Master and the attorneys for the Trustee have conscientiously attempted to find a solution for the difficult problems of the Milwaukee Road, and the Trustee's proposal is one which we believe would promote the public interest. However, every avenue which has been explored leads, in our opinion, to a road block, erected primarily by the Federal government.

The Trustee's petition and his attorneys' arguments are based primarily upon 49 U.S.C. § 11125. This statute, enacted in substantially its present form on January 2, 1974 and amended in technical details on October 17, 1978, is entitled "Directed rail transportation." It provides in substance that the Interstate Commerce Commission may direct another carrier to handle the traffic available to the affected carrier for a maximum period of 240 days, with reimbursement to the directed carrier for certain additional expenses incurred by it. The purpose of this statute is presumably to substitute service by one carrier for another under certain conditions, the additional cost being borne by the United States government. Thus the affected carrier, the Milwaukee Road in this instance, would be temporarily relieved of its duties as a common carrier and the public interest would be served by its competitors.

The statute, however, imposes certain conditions precedent upon the Commission's discretion to direct service, as follows:

(a) When a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title *cannot* transport the traffic offered to it because—

(1) its cash position makes its continuing operation *impossible;*

(2) transportation has been discontinued under *court order;* or

(3) it has *discontinued* transportation without obtaining a required certificate under section 10903 of this title;

the Commission *may* direct the handling, routing, and movement of the traffic available to that carrier and its distribution over the railroad lines of that carrier by another carrier to promote service in the interest of the public and of commerce. (Emphasis supplied to key words.)

In applying the foregoing statute, it must be noted at the outset that its requirements are apparently intended to be quite strict, as the emphasized words illustrate. The effect of the statute is to abrogate much of the Interstate Commerce Commission's primary jurisdiction to supervise abandonment or transfer of rail services. Hence Congress altered the procedures of the traditional administrative agency for only three narrowly defined, almost insoluble, crises. Each of these crises also seems to contemplate a complete, unavoidable, and not a partial, cessation of operations. Finally, the language of the statute is oriented toward action by the I.C.C., not by the reorganization court.

The first criterion for determining whether or not § 11125 applies, therefore, is whether the Milwaukee Road cannot transport its traffic because its cash position makes its continuing operation "impossible." The Trustee alleged this in his petition filed April 23, 1979 but the Master did not so find. He did find, at the bottom of p. 32 of his report, that "additional borrowing . . . would not be proper at this time; as a result, the Trustee is without cash to operate the entire Milwaukee." We do not find support in the record for any finding that the Trustee's cash position makes a continuing operation of the Road "impossible." Even if we did, § 11125 authorizes action by the I.C.C., not by this court.

We did find in a decision entered May 10, 1979 that the Trustee was in dire need of operating capital, since his bank balance had been reduced to about $300,000 and he was incurring loses of about $500,000 per day as of May 4, 1979. At that point his cash position was as a practical matter "impossible," since he had payrolls and accounts payable for operating expenses which exceeded his available cash. Therefore, for this and for other reasons, we authorized the issuance of a seventh Trustee's Certificate for priority borrowing of $15 million, since "denying this borrowing would have the same effect as ordering a prompt cessation of rail operations." (Decision of May 10, 1979, Conclusions par. 1, p. 10.)

The Trustee has not shown in the record on his instant petition for a partial embargo that the $15 million has been exhausted, or that his losses are continuing at the rate of approximately $500,000 per day, or that he is not able to obtain additional working capital. As a matter of fact, at this moment, he has a petition under consideration by Master Gray for an additional Trustee's certificate to borrow $20 million. In that hearing his witnesses have testified that $4.3 million of the previous priority borrowing has not yet been used and that his losses are now averaging about $10 million a month.* Possibly somewhere within the time frame of continued operations are also additional receipts from sales of operating and nonoperating real estate, grants from states, shippers, and the Federal government, and dividends from the wholly-owned Milwaukee Land Company. In short, we find that the "impossibility" contemplated by § 11125(a)(1) has not yet been encountered by the Trustee.

The second alternative provided in § 11125 is when "transportation has been discontinued under court order." The Trustee apparently believes that this language confers implied authority upon this court to enter an order for a partial embargo, but we do not agree. His case has been brought into this court by a petition filed under § 77 of the federal Bankruptcy Act. Under § 77, this court is not only limited by the provisions of that statute but is also subject to review of most substantive decisions by the I.C.C. Section 77(o) of that Act (11 U.S.C. § 205 (o)), provides that this court may authorize abandonment or sale of the debtor's properties upon certain conditions and after certain procedures have been followed, "but only with the approval and authorization of the Commission when required by chapter 1 of Title 49. . . ."

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*Emergency Motion of Indenture Trustees to Amend Order No. 166 etc. and Trustee's Response thereto, filed and heard in this matter on May 31, 1979.

The latter section is currently contained at 49 U.S.C. § 10903 which provides in pertinent part that:

> (a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may—
>
> (1) abandon any part of its railroad lines; or
>
> (2) discontinue the operation of all rail transportation over any part of its railroad lines;
>
> only if the Commission finds that the present or future public convenience and necessity require or permit the abandonment or discontinuance. In making the finding, the Commission shall consider whether the abandonment or discontinuance will have a serious, adverse impact on rural and community development. . . .

We find it impossible to believe that Congress intended to by pass the time-honored and elaborate administrative procedures of §§ 10903, 10904 and 10905 by enacting the bare bones "court order" provision of § 11125 (a)(2).

The Trustee strenuously contends that he is not "abandoning" any part of the railroad and that his petition is therefore not subject to § 10903. However, his evidence establishes that, once directed service is ordered on any portion of its line, the debtor is unlikely to be able to retrieve and reactivate that portion successfully. Furthermore, the Trustee concedes that he cannot reorganize the Milwaukee Road if it contains the portions sought to be embargoed. Therefore, in our opinion, the requested embargo for a substantial portion of the Road for a lengthy period of time does constitute a *de facto* abandonment. This cannot be ordered by this court except through the process of I.C.C. review mandated by § 10903.

If a partial temporary embargo is ordered, it also constitutes a form of a reorganization, the plans for which are likewise subject to approval by the I.C.C. after a statutory review procedure. The Trustee's evidence, supported in the main by a report of the management consulting firm of Booz, Allen & Hamilton (Trustee's Ex. 65), clearly indicates to us that a reorganization of the entire railroad is highly impractical if not impossible, and the Master agrees (Report pp. 19, 22).* The principal impediment to complete reorganization is the existence of the main line which would be subjected to an embargo, primarily that portion west of Miles City, Montana and between Kansas City and Chicago. If the Trustee is unable to reorganize these portions of the railroad and seeks an embargo followed by directed service of competing lines, he is in effect proposing at least a partial reorganization plan. For this additional reason, the "court order" alternative for discontinuing transportation under § 11125 is not available in this case.

It could be argued that § 11125 by implication amends and supersedes § 77(o) and § 10903 which were on the statute books long before the provisions of § 11125 now being discussed. However, it is well-recognized that statutes should be construed compatibly and that amendments or repeals by implication are disfavored. In *Radzanower* v. *Touche Ross & Co.*, 426 U.S. 148 (1976) the Supreme Court restated its earlier holdings that it is "a cardinal principle of statutory construction that repeals by implication are not favored." 426 U.S. at 154. Equally important, the Court emphasized that, in the absence of a "clear intention otherwise," a statute dealing with a narrow, precise, and specific subject is not submerged by a later-enacted statute of a more generalized nature. 426 U.S. at 153. Since Congress did not refer in any way to the Bankruptcy Act or its appendages in enacting § 11125, and since there are situations where a court order could cause discontinuance of transportation in cases where the railroad has not filed a petition under § 77, we can only conclude that the "court order" subsection of § 11125 does not refer to a court order of this court sitting in federal reorganization cases.

The Interstate Commerce Commission and its counsel have consistently taken the position that this court has no jurisdiction to order a partial embargo. Certainly that Commission and its counsel should be well-acquainted with the intricacies of the Interstate Commerce Act and § 77 of the Bankruptcy Act. In fact, the I.C.C. had taken this position earlier, giving Congress a clear opportunity to amend the statute if it intended a contrary interpretation. See *Lehigh and New England Railway Co.*, 540 F.2d 71, 81, f.n.28 (3d Cir. 1976) *cert, denied*, 429 U.S. 1061 (1977). Despite its disagreement with the Trustee's legal position, however, the Commission stands ready to direct service upon 36 hours' advance notice if we decide otherwise.

In short, we conclude that subsection (a) (2) of § 11125 does not afford this court independent authority to order a partial temporary embargo and that the provisions of the Bankruptcy Act and 49 U.S.C. § 10903 control any order which we could enter on this subject.

The third subsection, requiring "discontinued transportation" is obviously inapplicable on any of the facts in this record. The Milwaukee Road is still operating its trains from Kansas City to Chicago and west of Miles City, Montana, albeit painfully and at a loss. If we have no authority to enter a "court order" under subsection (a)(2), we also for the same reasons have no authority to order a discontinuance under subsection (a)(3). The Trustee does not contend otherwise.

Either in recognition of the foregoing problems with § 11125 or in an effort to find an alternative ground for relief, the Trustee and the Master turn to the proposition that continued operation of the entire Milwaukee Road would result in an unconstitutional erosion of the rights of creditors, particularly secured creditors. The Master concludes that an order for a partial embargo would tend to promote the objectives of § 77 because it would result in a more reorganizable entity. This of course assumes, by implication at least, that the embargoed portions would be abandoned under any reorganization plan, to protect creditors from further erosion and to produce a plan of reorganization which will be feasible and in the interest of creditors as well as the public. However, the concept of an unconstitutional erosion of creditors' interests has not gone to the point of permitting a reorganization court to exercise equitable powers in derogation of the I.C.C.'s jurisdiction.

In *New Haven Inclusion Cases*, 399 U.S. 392 (1970) the court approved the imposition of losses upon creditors by permitting priority borrowing by the railroad when reorganization was a possibility. Our own Court of Appeals *In the Matter of Chicago, Rock Island and Pacific R. Co.*, 545 F. 2d 1087 (7th Cir. 1976) held that priority borrowing was within the discretion of the court if reorganization was not "clearly impossible." Although the Master found that reorganization of the entire railroad as a continuum was apparently impossible, he also found that a partial reorganization accompanied by partial abandonment or other disposition of unprofitable sectors was not impossible. Neither the United States Supreme Court nor the Seventh Circuit Court of Appeals nor any other court that we know of has ruled that the impossibility of complete reorganization justifies an order for partial embargo, and as a matter of fact the courts have uniformly found that the reorganization of a railroad is one piece of cloth. Priority borrowing for a limited purpose or even for a viable segment of the railroad may be permissible under certain circumstances, but it does not follow that the remainder can be abandoned by court order.

Perhaps the most pertinent decision on the constitutional issue is Judge Friendly's opinion for the Special Court *In the Matter of Revaluation Proceedings Under §§ 303(c) and 306 of the Regional Rail Reorganization Act*, 439 F.Supp. 1351 (1977). In that case the court gave precedence to the requirements of the Interstate Commerce Act and § 77 in the matter of abandonment. It ruled that these statutory procedures must be followed even if the process results in a serious erosion of the railroad's property. It is the very nature of reorganization proceedings that creditors' rights be subordinated to those of the general public and subjected to financial losses, even though the reorganization process may take several months or years to reach fruition. Only if a railroad is faced with imminent "cashlessness" is a railroad justified in abandoning its service, according to the decision of the Special Court. When faced with a complete or substantial impossibility of continued operation because of a lack of working capital, the court ruled that a railroad cannot be required to do what it is unable to do, and that the only alternative is abandonment, a cessation of operations. See also *In re Penn Central Transportation Co.*, 384 F.Supp. 895, 919 f.n 31 (Special Court 1974).

Similarly, in *In re Central Railroad of New Jersey*, 485 F.2d 208 (3d Cir. 1973) (*en banc*) *cert. denied sub nom. Timpany* v. *New Jersey*, 414 U.S. 1131 (1974), the court stated that termination of passenger service could not be ordered in a § 77 reorganization proceeding without following the I.C.C. notice and hearing route. *Accord, In re Erie, Lackawanna Railrway Co.*, 517 F.2d 893 (6th Cir. 1975). Athough none of these cases involved § 11125, they are instructive in applying that statute as well as for rejecting the concept of an unconstitutional erosion of creditors' rights.

It is perhaps unfortunate that the I.C.C. modified its regulation Part 1006 which until February 6, 1978 permitted embargo by a common carrier where "compelling circumstances beyond the control of the carrier" required it. By limiting this provision to motor carriers after February 6, 1978, the Commission once again indicated its opinion that an embargo or partial embargo by a railroad should not be permitted except pursuant to the provisions of § 10903, although the foregoing regulation was not specifically directed toward the construction or scope of § 11125. In any event, as is pointed out in the objections of the State of Montana to the Master's report, his reliance and that of the Trustee on 49 C.F.R. § 1006, now § 1059, is misplaced.

In finding that the Milwaukee Road is not "cashless" on the record in this case, and that its continued operation is not "impossible," we are painfully aware that the Trustee will be confronted by these conditions in the foreseeable future. They can be temporarily avoided by the pending petition for a certificate to borrow $20 million on a priority basis (the decision on which has not yet been reached), but they can be avoided even longer by the United States Congress as evidenced by Senate Resolution 81 (and House Resolution 341). We have been advised by the distinguished senators from Montana, Senators Melcher and Baucus, that passage of this ameliorative legislation is imminent.

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*This does not necessarily preclude additional priority borrowing if a viable portion of the railroad is reorganizable and such funds are necessary to maintain the railroad's operations pending that reorganization.

While we as well as the Senators are aware of the unpredictability of the fate of emergency legislation of this sort, we must advert to the fact that continued operation of the Milwaukee Road for any length of time is almost entirely dependent upon financial relief from Congress. The findings of fact by Master Gray which we have approved make this crystal clear, particularly when the long-term operating deficits and substantial amounts of deferred maintenance are taken note of. Without summarizing these in this opinion, we call attention particularly to the findings on pp. 12 through 17 of the Master's report, most of which findings are incontrovertible on the record.

Congressional action is the only foreseeable alternative. We were advised in the hearing by representatives of the Interstate Commerce Commission that a petition for abandonment, if filed by the Trustee under § 10903, would necessarily consume several months before it could be acted upon, even then subject to appeal. The alternatives offered by § 11125 in its present form are certainly not in the public interest nor are they in the interest of the creditors. We have little doubt, however, that the Trustee will find continuing operation impossible or will be forced to discontinue transportation without obtaining a certificate under § 10903 in the foreseeable future, absent a release from the strictures of § 11125 or substantial and continued infusion of funds by the United States government.

For the reasons stated hereinabove, the objections of the State of Montana and others to the conclusions of law of the Special Master are sustained, and the Petition of the Trustee for Direction with Respect to Partial Embargo of Freight Operations is denied. The court directs the Clerk to enter a judgment pursuant to F.R.C.P. 58 denying said petition, appealable pursuant to 11 U.S.C. § 47(a).

Enter:

THOMAS R. MCMILLEN,
Judge, U.S. District Court.

SPECIAL MASTER'S DECISION ON THE MILWAUKEE CASE

Mr. BAUCUS. One week before Judge McMillen refused the trustee's abandonment proposal, Milton Gray, the court appointed special master in the case, reported his findings of fact and conclusions of law, Although Judge McMillen did not accept all of these findings and conclusions, I think they are an important part of the history of this case and should be made a part of the CONGRESSIONAL RECORD at this point.

The material follows:

IN THE MATTER OF CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, DEBTOR

[In the U.S. District Court for the Northern District of Illinois, Eastern Division, In Proceedings for the Reorganization of a Railroad No. 77 B 8999]

REPORT OF SPECIAL MASTER, MILTON H. GRAY, INCLUDING FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS, TO TRUSTEE'S PETITION FOR DIRECTION WITH RESPECT TO PARTIAL EMBARGO OF FREIGHT OPERATIONS

To the Honorable Thomas R. McMillen, District Judge:

I. *The Proceedings*

On April 23, 1979, Stanley E. G. Hillman, Trustee of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (the Milwaukee), filed a petition requesting that the Court direct him to embargo the Milwaukee's freight operations over more than 70 percent of its track effective May 8, 1979 and approve the borrowing of $15,000,000, as requested in a petition of April 16, 1979, to maintain the remaining operations of the Milwaukee. This petition was set for hearing on May 4, 1979, the Trustee was directed to file written testimony by April 30, 1979, and other parties were instructed to file answers and comments by May 3, 1979.

In response to the Court's direction, the Trustee filed statements by himself, his assistant, and Milwaukee Vice Presidents of Finance, Operations, Planning and Management Services. Statements and memoranda were also filed by more than fifteen other interested parties, including, *inter alia*, the Continental Illinois National Bank and Trust Company of Chicago as Indenture Trustee (the Continental Bank), the First National Bank of Chicago as Indenture Trustee (the First National), Harris Trust and Savings Bank as Indenture Trustee (Harris Bank), Girard Bank as Indenture Trustee (Girard Bank), the Milwaukee, the Interstate Commerce Commission (ICC), the Railway Labor Executives' Association (RLEA), the Railway Employes' Department (RED), and several states which would be affected by the requested embargo.

In his testimony on May 4, the Trustee revised the request contained in his original petition. The revisions postponed the requested date for initiation of the embargo to May 31, 1979, extended the requested embargo to include certain lines to Kansas City, and eliminated from the embargo a line to Miles City, Montana. The postponement of the requested embargo date was in response to the urging of the ICC and connecting rail carriers so as to permit the development of a plan for directed service by such carriers over embargoed territory in accordance with 49 U.S.C. 11125.

The hearing on the petition commenced on May 4, 1979. Because of the postponement of the effective date of the requested embargo, and because of the extreme nature of the cash crisis which was facing the Milwaukee, the May 4 hearing focused upon the propriety of borrowing $15,000,000 to continue operation of the Milwaukee through May 31, 1979. The factual statements on behalf of the Trustee, together with supporting figures and tables, were sworn to and admitted into evidence, with certain modifications and supplementary materials, as Trustee's Exhibits 1 through 62. The Trustee's witnesses were then cross examined with respect to the $15,000,000 borrowing. None of the other parties sought to introduce any sworn direct testimony on this issue, and the hearing with respect to it was concluded with final argument of counsel. The Court resolved the borrowing issue by authorizing the requested borrowing pursuant to Orders No. 166 and 166A and the findings of fact and conclusions of law appended thereto.

At the conclusion of the May 4, 1979 hearing, the Trustee indicated that in view of the use of the $15,000,000 of borrowing to keep the Milwaukee operating over its entire line through May 31, 1979, he would need authority to borrow an additional $20,000,000 at the end of May for the purpose of operating the unembargoed portion of the Milwaukee beyond that date. A hearing on this request was scheduled for May 29, 1979 and the Trustee was directed to provide for the statutory notice of that hearing.

The hearings with respect to the requested embargo were continued until May 15, 1979, and interested parties were directed to file any additional or supplementary written material prior to that date. Pursuant to that direction, additional written statements and memoranda were filed by the Trustee, the Girard Bank, the ICC, the RLEA, several states and other interested parties.

On May 10, 1979, Judge Thomas R. McMillen appointed the undersigned as Special Master to "consider and report promptly, stating findings of fact and conclusions of law, upon the issues raised by the Trustee's petition for direction with respect to partial embargo of freight operations, financing remaining operations, and related relief, as set forth in this Court's Orders No. 158 and 169 . . . On the same basis, the Special Master shall separately consider and report concerning the Trustee's application to FRA for financial assistance as set forth in Order No. 167." (Order No. 170). Thereafter, the undersigned took and subscribed the prescribed oath.

The Special Master did not participate in the May 4, 1979 hearing but prior to the May 15 hearing reviewed the May 4 transcripts and all filings made in respect to the issues pertinent to his appointment.

The Special Master sat with the Court during the hearing on May 15. Thereafter, he sat singly as Special Master during the continuation of the hearings on May 16, 17 and 18. All hearings were conducted in the customary judicial manner in the Ceremonial Courtroom in the Dirksen Federal Building, and all proceedings were recorded by the official court reporter. Testimony was taken under oath and full opportunity was given to all parties for direct and cross examinations. Proofs were closed late in the evening of May 18 and all counsel were given the opportunity of making closing statements. In view of the time pressures and the impending hearing of May 29, the Special Master announced that it was his intention to have his Report filed by May 25, that copies would be available in the Chambers of Judge McMillen, that it would be the responsibility of parties and counsel to secure copies of it, and that all objections to the Report should be in written form and filed by 10:00 a.m. on May 29. This schedule appeared satisfactory to all parties and counsel present.

During the hearings on May 15 through May 18, the supplementary and additional factual statements of the Trustee's assistant, the Vice Presidents of Management Services and Planning, and the President and Chief Executive Officer, were sworn to and admitted into evidence. In addition, the Trustee introduced the testimony of Charles W. Hoppe, Vice President of Booz-Allen & Hamilton, Inc. (Booz-Allen). Booz-Allen had conducted strategic studies of the Milwaukee's operations to assist the Trustee in evaluating the potential for its reorganization. The results of those studies were introduced into evidence as Trustee's Exhibit 65.

In all, in excess of 30 witnesses submitted direct sworn testimony and were tendered for cross examination, and several other interested groups and parties submitted written statements of position. In total, the record with respect to the embargo question contains in excess of 1350 pages of hearing transcript, and many hundreds of pages of written testimony, memoranda, figures and tables.

II. *The Positions of the Parties*

The Trustee's position is that the Court is faced essentially with two alternatives, directing embargo as requested or permitting additional borrowings of $65,000,000 to $75,000,000 which would be necessary to operate the entire Milwaukee system through December 31, 1979. The Trustees suggested that the second alternative may result in an unconstitutional impairment of the creditors' security and preclusion of the possibility of the successful reorganization of any portion of the Milwaukee. He asserted that continued operation of the entire system through 1979 will result only in worsening an already serious situation. He stated that, "The railroad would continue to deteriorate both physically and economically; its market would continue to erode; the likelihood of successfully revitalizing a smaller railroad would be reduced; and the total indebtedness incurred during this proceeding could approach $200 million dollars." (Trustee Ex. 1, p. 12). In short, the Trustee concluded that the Court has no reasonable alternative but to direct the requested embargo. Such an embargo would maintain the possibility of reorganizing the Milwaukee at a minimum risk while preserving 5000 jobs and the Milwaukee's most effective service to shippers.

The States of Illinois, Iowa, Michigan, Minnesota, Montana, North Dakota, South Dakota, Washington and Wisconsin expressed their views with respect to the requested embargo. Minnesota, North Dakota, South Dakota, and Wisconsin generally supported the Trustee's proposal on the grounds that it is necessary in view of the financial condition of the Milwaukee, will preserve the potential for reorganization of a portion of the Milwaukee, and will lead to better service on the portion of its lines which will remain in operation. Montana and Washington opposed the requested embargo and expressed particular concern with the cessation of service on the line between Miles City, Montana and Seattle, Tacoma, and Portland. They contended that the elimination of such service would have a serious adverse effect upon the economic interests of their states, and that continued operation of those lines would provide the Milwaukee with increased opportunities for the hauling of coal, grain and containerized cargo. The State of Illinois opposed the requested embargo, expressing general concern for the protection of shipper, environmental and public interests. The State of Iowa urged the complete liquidation of the Milwaukee as soon as possible, but requested that the Milwaukee's entire line be operated in the interim. Michigan expressed concern with the Milwaukee's line through Upper Michigan to Ontonagon, a line not included in the requested embargo.

The DLEA and the RED opposed the requested embargo because of its effect upon the Milwaukee's employees. The RLEA submitted statements of general chairmen of the various railway brotherhoods which represent the Milwaukee's employees, indicating that there will be substantial loss of employment on the Milwaukee as a result of the requested embargo, that this loss of employment will include many employees of advanced age and substantial seniority, and that many of those furloughed may have difficulty finding comparable employment or may be required to move long distance to find such employment. The Trustee had estimated that about half of the Milwaukee's approximately 10,000 employees would be furloughed as a result of the proposed embargo (Trustee Ex. 61, pp. 2–3). The labor representatives' testimony appears generally to support that estimate.

The Association To Save Our Railroad Employment (SORE) also opposed the requested embargo and seeks to acquire and operate the Milwaukee's lines west of Minneapolis as a new employee-owned company (SORE St., p. 2). It argued that the embargo would result in the dispersion of the Milwaukee's employees and the destruction of its revenue base and competitive position on the western lines (SORE St., p. 4), thereby jeopardizing the success of SORE's proposed new company.

The representatives of the Milwuakee and creditors generally have urged the immediate termination of all the Milwaukee's operations and the prompt liquidation of its assets. The position of the creditors is essentially that there is no possibility of the successful reorganization of any portion of the Milwaukee and that further operations by it through additional priority borrowing would unconstitutionally erode their security. On May 3, 1979, the Continental Bank filed a motion for an order directing the Trustee to embargo immediately all freight operations on the Milwaukee and to commence the liquidation of its properties. This motion was denied by the Court after the May 4, 1979 hearing (Orders No. 166 and 166A). On May 10, 1979, the Continental Bank, together with the First National Bank, Harris Bank and Girard Bank, filed a joint motion to direct an embargo of all freight operations and begin liquidation of the Milwaukee as of May 31, 1979. This motion has not been set for hearing by the Court.

The ICC opposed the requested embargo, essentially on legal grounds. It viewed such an embargo as a potential invasion of its authority under Section 77(o) of the Bankruptcy Act and 49 U.S.C. 10903 to hear and determine requests for abandonment or discontinuance[1] of rail transportation over all or any portion of a rail carrier's lines. The ICC has not questioned, or presented any evidence with respect to, the factual assertions relied upon by the Trustee to support the requested embargo or his decision as to the portion of the line to be embargoed. Nor has the ICC suggested any specific possible alternatives to the Trustee's request which may exist. Instead, it has confined itself to the assertion of its primary jurisdiction in the area of rail abandonments and discontinuances, and has requested that the Court require continued operation of the Milwaukee through December 31, 1979 while it exercises that jurisdiction.

III. *Findings of Fact*

The ICC presented the testimony of Richard J. Schiefelbein, Deputy Director for Rail Services Planning, with respect to the Commission's plans and preparations for providing directed service to shippers if the requested embargo is permitted. 49 U.S.C. 11125 provides that the ICC may direct other carriers, initially for a period of 60 days and thereafter for a period up to 180 additional days, to handle traffic available to a rail carrier which cannot transport that traffic because its cash position makes its continuing operation impossible or because transportation has been discontinued pursuant to a court order. The ICC stated it had been engaged in contingency planning for directed service since the inception of these proceedings in late 1977 (Schiefelbein St., p. 3). Those preparations were accelerated in early 1979 as a result of the Commission's awareness of the seriousness of the Milwaukee's cash situation, and have proceeded at a rapid pace since the Trustee informed the ICC of his plans on April 10, 1979 (Schiefelbein St., pp. 3–5). On May 11, 1979, the full Commission entered an order authorizing directed service for a 60 day period in the event that the requested embargo goes into effect (T. 97).[2] Prior to expiration of the 60 day period, the Commission will hold hearings for the purpose of considering continued directed service for an additional 180 days (T. 98). Under the order, the Commission would direct various carriers to service traffic originating and terminating on areas of the Milwaukee which are adjacent to the directed carrier's own line (T. 97, Schiefelbein St., p. 8). The level of service to be directed by the Commission would protect 99.4 percent of the traffic in the embargoed territory and would involve rail operations over 72 percent of the Milwaukee's track in that territory (T. 113). The cost of this service to the Government under the provisions of 49 U.S.C. 11125, is estimated to be in the area of $30,000,000 for a full 240 day period (T. 179). The Commission will be prepared to implement its directed service plan as of May 31, 1979 (T. 107, 125, 246). Section 11125(b)(4) requires that the directed carrier "hire the employees of the other carrier, to the extent that they previously provided that transportation for the other carrier, and assume the existing employment obligations . . . of the other carrier". The Commission is in accord with the Trustee's estimate that directed service will provide employment for approximately 2,000 of the 5,000 employees who would be furloughed by the Milwaukee as a result of the requested embargo (T. 128–129, 598–599, Trustee Ex. 61, p. 3).

It has been clearly established that the Milwaukee is in the grips of a dire cash crisis, and is suffering a cash drain of approximately $500,000 per working day (T. 548); and that continued full operation of the Milwuakee through December 31, 1979 would result in losses of approximately $157,000,000 (T. 534) and would necessitate additional borrowing of $65,000,000 to $75,000,000 (T. 545). There is no available source for the additional borrowings other than first priority loans (Trustee Ex. 1, p. 6).

In determining whether such borrowings would be consistent with the purposes of Section 77 of the Bankruptcy Act, consideration must be given to the effect that the borrowings would have on the possibility of reorganization, and on the creditors. The facts of record establish that the borrowing of $65,000,000 to $75,000,000 to maintain operations over the entire line of the Milwaukee through December 31, 1979 would substantially reduce the possibility of successfully reorganizing any portion of the Milwaukee and of preserving its estate for the benefit of creditors.

The Milwaukee's rail operations have resulted in rapidly accelerating losses during recent years. In the three years of operations which preceded the filing of the instant proceeding in late 1977, the Milwaukee suffered rail losses totaling $100,000,000 on an ICC accounting basis, including losses of $28,000,000 in 1975, $23,000,000 in 1976, and $49,000,000 in 1977 (Trustee Ex. 1, p. 3, May 4 T. 107, T. 555). In 1978, the Milwaukee suffered a loss of $82,000,000 on the same basis, and the loss for the first quarter of 1979 totaled $45,000,000 (Trustee Ex. 6, pp. 1–2). The potential loss in the last three quarters of 1979 is estimated at $112,000,000, which would make the total 1979 loss $157,000,000 and the total loss during reorganization $239,000,000 (Trustee Ex. 6, p. 2, T. 534, T. 555–556). The estimated 1979 loss is approximately 700% of the 1976 loss.

The cash position of the Milwaukee has also rapidly deteriorated to the critical stage. As of May 4, 1979, the Milwaukee's books showed a cash balance of $300,000 (May 4 T. 11, 119). As of that date, the Milwaukee had between $4,000,000 and $5,000,000 in past due invoices, and a payroll obligation for the last half of April approaching $8,000,000 (May 4 T. 119). The Milwaukee's average cash deficit, excluding borrowing, approaches $500,000 per working day (Trustee Ex. 10; May 4 T. 118–121; T. 548, and the cash deficit at the end of 1979, assuming no additional borrowing, is estimated at $81,614,000 (Trustee Ex. 10).

These losses and cash deficits have prevented and are continuing to prevent normal maintenance of the Milwaukee's physical plant and equipment. The absence of this maintenance has resulted in substantial deterioration of plant and equipment, and a consequent deterioration in service. The amount of deferred maintenance reported to the ICC by the Milwaukee in 1978 was $578,431,000, and the present maintenance level has caused an increase in this figure since it was reported (Trustee Ex. 12, p. 2; T. 556). The Milwaukee has a fleet of 504 road locomotives, and 450 of these units must be in constant operation to meet its service requirements (Trustee Ex. 12, p. 3;

Footnotes at end of article.

T. 54). On April 12, 1979, the Milwaukee had 386 operational road locomotives, and it is estimated that at the present rate of maintenance expenditures, only 322 units would be operable by the end of 1979 (Trustee Ex. 12, p. 5). To have as many as 400 operational units by the end of 1979, the Milwaukee would have to increase its maintenance-of-equipment budget for the remainder of 1979 from $52,600,000 to $64,600,000 (Trustee Ex. 12, p. 4).

The lack of maintenance on the Milwaukee's tracks has resulted in the restriction of speeds along much of its right-of-way. For example, in mid-April, 1979, the Milwaukee had 162 miles of 10 m.p.h. track between Chicago and Tacoma, 131 miles of such track between Savanna, Illinois and Kansas City, and 71 miles of such track between Chicago and Louisville (Trustee Ex. 12, p. 6; T. 662–663). Many other reduced speed areas will develop throughout the Milwaukee system during 1979 (Trustee Ex. 14). These conditions have placed the Milwaukee in a seriously adverse competitive position in certain areas. For example, its current transcontinental transit time is almost three times that of the Union Pacific and Burlington Northern schedules (Power Sup. St., p. 2). The Burlington Northern schedules service from Minneapolis to Seattle in 48 hours 40 minutes, while the Milwaukee's transit time is 137 hours (Trustee Ex. 12, p. 11; T. 503). The Milwaukee's current level of maintenance-of-way expenditures is $5,750,000 less than that necessary just to keep all the railroad in service for the remainder of 1979 (Trustee Ex. 12, p. 6). While this level of expenditure would keep the Milwaukee track serviceable, it would not prevent continued deterioration resulting in additional slow areas (Trustee Ex. 12, p. 7).

The seriousness of the deterioration of service on the Milwaukee is underlined by the statements of the interested parties. As previously noted, four states support the requested embargo despite the fact that the embargo would affect certain lines in each of these states. In addition, the State of Iowa seeks the complete liquidation of the Milwaukee, concluding that "the railroad transportation services provided by the Milwaukee must be placed in the hands of other carriers more capable of serving the public interest" (Kassel St., p. 6). The Port of Seattle, which opposes the requested embargo, noted that while rail carriers commonly advertise 4th morning service from Seattle to Chicago, the Milwaukee is providing 11 to 12 day service (Ct. Ex. 15, p. 5). The Montana International Trade Commission, which also opposes the embargo, notes that one Montana shipper has recently diverted shipments producing $1,500,000 of revenue annually from the Milwaukee to the Burlington Northern because of the "problems plaguing the Milwaukee, such as derailments." (Ct. Ex. 17, p. 3).

The deterioration in the Milwaukee's physical facilities and the resulting decline in its ability to provide service are exemplified by the decline in the amount of traffic it handles. In 1977, a year in which it lost $49,000,000 (May 4 T. 107), the Milwaukee handled 866,000 carloads. In 1978, carloads dropped to 806,000, and 1979 carloads are estimated at 725,000. The 1978 figure represents a decline of 6.9% from 1977, and the 1979 projection a decline of 16.3% (Trustee Ex. 6, p. 3).

The results of the Booz-Allen study (Trustee Ex. 65) further confirm the serious and worsening nature of the Milwaukee's condition. Booz-Allen was retained by the Trustee to evaluate the long-term potential viability of the entire railroad and of various smaller configurations of its line. In making this evaluation, it was asked to consider the operations, facility, equipment and capital investment requirements for each configuration, as well as the traffic potential and employee impact of each (Trustee Ex. 65, p. I–3). Ultimately Booz-Allen studied eight possible configurations for the Milwaukee. These included operation of the entire system minus low density lines as to which abandonment proceedings are either pending or likely within the near term, as well as the "Miles City Sub Core", which essentially consists of the portion of the Milwaukee which the Trustee proposes to continue to operate (Trustee Ex. 65, pp. III–3–4).

The study included a market analysis which was based, in part, upon a customer survey. The survey involved interviews with 72 selected customers. These customers were representative of a wide range of industries traditionally served by rail, and together account for 63 percent of the Milwaukee's present traffic (Trustee Ex. 65, pp. IV–1, 2; T. 919).

The results of these interviews confirm the Trustee's view of the present condition of the Milwaukee, and the causes of that condition. The shippers rated the Milwaukee below industry standards in equipment supply, service reliability and transit time by substantial majorities, while also indicating that the competence of Milwaukee personnel and its assistance to customers equaled or exceeded industry standards. The customers rated the Milwaukee below industry standards in equipment supply by an 84 percent margin, in service reliability by an 81 percent margin, and in transit time by a 66 percent margin. They rated the Milwaukee equal to or above industry standards in customer assistance by a 75 percent margin, and in personnel competence by a 53 percent margin (Trustee Ex. 65, Chart IV–4). Significantly, 82 percent of the shippers rated either equipment supply or service reliability as the most important factor in choosing between competing railroads (Trustee Ex. 65, Chart IV–3). These statistics clearly support the conclusion that in the absence of major increases in expenditures for the improvement of facilities and equipment, continued operation of the Milwaukee will simply result in continued erosion of its traffic base.

For each of the eight alternative configurations, the Booz-Allen study estimated the present and future traffic and market potential, plant condition and rehabilitation costs, and current and prospective operating costs. The estimates resulted in conclusions as to the potential net railway operating income (NROI),[3] and the investment commitments for rehabilitation of plant and acquisition of equipment necessary to achieve that NROI, for each configuration. These conclusions are summarized in Table 34 of Trustee Ex. 25. They indicate that with respect to the Milwaukee's entire system, exclusive of low density lines, an investment of $1,082,000,000 would be required to obtain an annual optimum NROI of $8,000,000. With respect to the "Miles City Sub Core", an investment of $189,000,000 would be required to obtain the same $8,000,000 NROI. To estimate the downside risk inherent in these investments, the Booz-Allen results, as summarized in Table 34, indicate the NROI which would be achieved in the two configurations if Milwaukee traffic did not rise above 1977 levels. With respect to the entire line such a traffic level would produce a $55,000,000 annual net railway operating loss, while the "Miles City Sub Core" would produce an $18,000,000 annual loss.

These facts establish that there is little likelihood that the entire Milwaukee system can be reorganized (T. 197). They further establish that the continued operation of that system through 1979, with the concommitant increase in priority debt of $65,000,000 to $75,000,000, would seriously jeopardize the possibility, which now appears to exist, of successfully reorganizing the most viable portion of that system (T. 503, 521).

The investment required to reorganize the entire system is enormous, the optimum return minimal, and the downside risk substantial (Trustee Ex. 65, p. VI–24). Optimum NROI would not be achieved for a lengthy period due to the massive rehabilitation required, and during this period negative cash flow would continue (Trustee Ex. 65, p. VI–22). Even assuming the optimum NROI could be obtained, the Milwaukee would continue to be a losing proposition after debt service. Moreover, the railroad might drown in its own interim losses during the prolonged period necessary to rehabilitate the system and achieve optimum NROI (Trustee Ex. 65, p. VI–23).

The possibility of reorganizing the Milwaukee on the basis of the "Miles City Sub Core", or some other variation of a markedly reduced Milwaukee system, appears to exist at the present time (T. 197). The "Miles City Sub Core", in comparison to the entire Milwaukee system, requires only a small fraction of the investment commitment, has virtually the same upside potential and only a third of the downside risk (Trustee Ex. 65, p. VI–24). The necessary rehabilitation could be achieved with relatively small cash losses for a shorter period (Trustee Ex. 65, p. VI–22; Trustee Ex. 1, p. 10). Operation of the "Miles City Sub Core" will concentrate the Milwaukee's activities in the Midwest, where it has historically been a more effective competitor, as well as in other areas where it is not at a competitive disadvantage to the Burlington Northern and Union Pacific (Trustee Ex. 1, p. 10; T. 66). It may permit partial financing of rehabilitation through the sale of assets in other areas (Trustee Ex. 1, p. 11), completion of the current 4R Act-funded track rehabilitation, further development of the currently successful sprint train experiment, and improvement of service through concentration of cars and locomotives (Trustee Ex. 1, p. 14). In view of these and other factors, the operation of a markedly reduced system centered in the Midwest would make substantial marketing opportunities immediately available to the Milwaukee and might ultimately lead to a viable railroad operation with NROI in excess of that predicted by Booz-Allen (Trustee Ex. 1, pp. 11, 12).

The viability of such a reduced system is, however, by no means assured. The prospect of an additional investment of $189,000,000 to achieve an NROI of $8,000,000 is not encouraging in view of the Milwaukee's current $420,000,000 debt (T. 775). Moreover, even that level of NROI is by no means guaranteed (Trustee Ex. 1, p. 10). The NROI estimates are based on an optimistic view of the Milwaukee's ability to achieve substantial traffic gains (Trustee Ex. 65, pp. VI–6, 7), and are the result of a process which includes many estimates and judgmental assumptions (Trustee Ex. 65, p. VI–21). Booz-Allen concludes that, "it will be difficult to achieve all of the operating improvements while at the same time reorganizing the railroad, rehabilitating the plant, and recapturing the traffic" (Trustee Ex. 65, p. VI–25).

The foregoing facts lead inevitably to the conclusion that additional priority borrowing of $65,000,000 to $75,000,000 to continue operation of the entire Milwaukee system would seriously jeopardize the possibility of reorganizing the Milwaukee on any basis. The reorganization of the entire Milwaukee system appears impossible on the basis of the present record, and the reorganization of a markedly reduced system possible, but problematic. Permitting the borrowing necessary to continue operation of the Milwaukee's entire system would simply permit its already serious economic and physical condition to continue to deteriorate, resulting in worsening service to the public, and continued erosion of its market.

Footnotes at end of article.

The additional priority borrowing necessary to continue operation of the Milwaukee through 1979 would also be detrimental to its creditors. Since the borrowing would be primarily or entirely on a first priority basis, it would reduce the assets available for payment of the creditors by its full amount, while making no positive contribution either to the railroad's current profitability or to its long term chances of success. As has been noted, such a course would simply permit the continuation of the serious economic and physical deterioration of the Milwaukee. The facts are that the current debt of the Milwaukee exceeds $420,000,000, exclusive of certain debts which the railroad owes to its subsidiaries and of the $65,000,000 to $75,000,000 necessary to continue operation of the entire system (T. 775, 801). These sums do not take into account other costs which would be incurred if liquidation took place. Such costs would include: (1) labor protection claims which could run into the hundreds of millions of dollars (Trustee Ex. 1, p. 18; Trustee Ex. 62; T. 811); (2) possible damages with respect to the abrogation of leases and other contracts (T. 800); (3) state and local taxes accruing during the liquidation period (T. 800–801); and (4) potential administrative costs (T. 801).

There is no real suggestion on the record that the entire Milwaukee can ever be reorganized; and the proceeds of the borrowing necessary to continue operation of the entire system would immediately flow out of the Milwaukee as cash operating losses, leaving only unsatisfied debts in their wake. Permitting extensively priority borrowing under these circumstances would only postpone the inevitable crisis, while making it much more difficult to deal with that crisis when it occurs. It increases the likelihood that the outcome of that crisis would be disastrous for the creditors, as well as all others concerned, including employees.

Creditors can and should be required to incur losses during an interim period where such losses are necessary to prevent elimination of essential rail operations and to achieve a feasible alternative to such an elimination. In this instance, however, priority borrowing to continue operations of the entire Milwaukee system through 1979 is neither necessary to prevent the elimination of essential rail services nor would it contribute to the achievement of a feasible alternative. As has been concluded, the continued operation of the entire Milwaukee system would not promote, but would jeopardize, the only apparently feasible alternative for reorganizing the Milwaukee. Moreover, the ICC intends to direct other carriers to service traffic originating and terminating on the portions of the Milwaukee's system which are included within the requested embargo. Under the ICC's directed service order, 99.4% of the traffic in the embargoed territory would be protected for up to 240 days, and no essential rail service would be eliminated. Under such circumstances, neither of the factors which might justify the imposition of losses upon creditors is present.

The eight month period during which the Commission has the power to direct service would provide time for a determination of the ultimate direction of the Milwaukee (Trustee Ex. 1, p. 14). During this period, the ICC, the United States Department of Transportation, the various state governments, the representatives of the Milwaukee's employees, and Congress could determine the nature and extent of assistance which might be made available to support the reorganization of the Milwaukee (Trustee Ex. 1, pp. 15, 16, 19). The period of directed service would also permit the Trustee's staff to determine the possibility of improving the results of a substantially reduced system, and to negotiate sales of portions of the Milwaukee lines to other carriers in a manner which will maximize job opportunities for Milwaukee employees (Trustee Ex. 1, pp. 16, 17; T. 451, 504). Undoubtedly, much must be done in a short period if the Milwaukee is to survive. The requested embargo may well serve to focus attention on the need for prompt action, while avoiding a continued drain of resources which must be preserved if the efforts of the interested parties are to bear fruit. In this connection, it should be noted that the Milwaukee has been in reorganization for almost 1½ years, during which the Trustee has made his view of the Milwaukee's needs and problems known to federal and state officials, as well as the public (Trustee Ex. 1, p. 6). During this period, little of benefit to the Milwaukee has been forthcoming.

IV. *Objectors' Factual Contentions*

The previous discussion indicates that directing the requested embargo would be in the long term interest of all concerned since it is necessary to preserve the possibility that the Milwaukee can be reorganized in the public interest. Several of the parties have, however, raised objections to the requested embargo based upon their particular interests. These concerns do not justify sacrificing or jeopardizing the possibility of a successful reorganization of the Milwaukee.

A most compelling objection to the requested embargo is made by the representatives of the Milwaukee's employees. The prospect of immediate loss of employment for approximately 3,000 employees, and the consequent disruption of their lives and their communities, is disheartening from any point of view. There is, of course, hope that some of these employees may return to work if portions of the Milwaukee are sold to other carriers or if public funds are made available in amounts and upon terms which would permit expansion of the portion of the Milwaukee system to be operated by the Trustee (Trustee Ex. 1, pp. 17, 19). Some employees will find work with other railroads (T. 429). The Court is now faced with the hard choice of directing the requested embargo, with its attendant consequences, or jeopardizing the jobs of all 10,000 Milwaukee employees and the public benefits which will be derived if the Milwaukee can be reorganized in a manner which will permit it to become an effective competitor providing adequate service to the shipping public. Only the former alternative is desirable.

SORE opposes the requested embargo because in its view the embargo will endanger the viability of its proposal to operate the Milwaukee's line from Minneapolis, Minnesota, to the West Coast as an independent company. SORE has submitted two written statements, a written copy of its proposal, and the written testimony and affidavits of J. Fred Simpson, a SORE employee who formerly was employed by the Milwaukee as a General Attorney and as an Assistant Vice President (Ct. Ex. 32–36). The Trustee questions whether the SORE proposal is feasible at all (Power Supp. St., pp. 1–10). That proposal is based on a preliminary study (Ct. Ex. 34, p. 9) and the assumptions upon which it relies are more optimistic than the data underlying the Booz-Allen conclusions. The SORE proposal is inconsistent with the Trustee's plan since both would involve operation over the Milwaukee's line between Minneapolis and Miles City, Montana, and both appear to rely to some extent on use of the same equipment (Power Supp. St., p. 5). The States of Minnesota, North Dakota and South Dakota, which would be served under either plan, support the Trustee. The determination of the viability of the SORE proposal, or a choice between that proposal and the Trustee's long term plans, is, however, neither required nor appropriate at this stage. SORE's point that the embargo will result in the dispersion of some of the Milwaukee's employees, and will adversely affect its revenue base and competitive position on the lines west of Miles City, may well have some validity (Smith St., pp. 3–4; T. 44–46), although SORE acknowledges that, even in the absence of an embargo, the Milwaukee's competitive position on those lines is rapidly deteriorating (Ct. Ex. 34, pp. 22–23, 25). The potential detrimental effect of the embargo upon SORE's preliminary proposal cannot outweigh the real and immediate need to preserve the possibility of reorganizing the Milwaukee.

The State of Montana and various groups representing interests within that State have vigorously opposed the requested embargo on the ground that elimination of service between Miles City, Montana and the West Coast would adversely affect Montana's economic interests. Those giving factual presentations on behalf of Montana included: (1) Montana's two United States Senators, the Honorable John Melcher and the Honorable Max Baucus; (2) the Montana Department of Agriculture; (3) the Montana International Trade Commission; (4) the Grain Terminal Association; and (5) the Western Energy Company. Senators Melcher and Baucus reported upon efforts being made in Congress to provide federal assistance to the Milwaukee. It is apparent that these Senators are making every effort to secure such assistance and that such assistance, if forthcoming, would represent a major contribution to the Milwaukee's reorganization. It is also apparent, however, that such assistance in the form of grants or subordinated loans is neither imminent nor assured, and can't be relied upon in dealing with the Milwaukee's immediate crisis. No bill to provide a grant or a subordinated loan to the Milwaukee has yet been approved by a full Committee of either the House or the Senate (T. 79–80), and a letter from the Honorable Harley O. Staggers, Chairman of the House Commerce Committee, presented in open Court by Senator Melcher, indicates that the Commerce Committee will be considering the problems of the Milwaukee "in the next several months" (T 70–71).

The other Montana representatives discussed the problems which would result if service provided by the Milwaukee ceases. Under the requested embargo, however, the Milwaukee would continue service east from Miles City, and directed service would protect all other significant Montana traffic (White Supp. St., pp. 3–4). While the Montana representatives emphasized the need to preserve the Milwaukee as a competitor with the other railroads operating in Montana, their testimony indicates that the Milwaukee is not currently providing effective competition in that State. For example, although the 14 grain elevators operated by the Grain Terminal Association in Montana which are served by the Milwaukee could tender 4,000 cars of freight per year to the Milwaukee, more than half of all such grain shipments are trucked because the Milwaukee does not provide "a viable service of transportation" (Ct. Ex. 11, pp. 1–2; T. 286). Only 10 to 15% of the grain movement from Montana is currently handled by the Milwaukee (T. 232, 298, 963–64). The Milwaukee is currently providing transportation for only one coal producer in Montana, and the tonnage involved is less than 4% of the total coal tonnage shipped from Montana by rail (Ct. Ex. 16, pp. 3–4; T. 363). This coal movement is eastward over lines the Milwaukee would continue to operate under the requested embargo (T. 368).

The State of Washington objected to the requested embargo on grounds similar to those raised by Montana. As in the case of Montana, directed service in Washington would protect all important Washington traffic (White Supp. St., pp. 1–3). Moreover, the Milwaukee's current ability to compete effectively in Washington is also questionable. Milwaukee transit times to and from

Washington are triple those of its competitors, and "the deteriorating condition of the carrier over the last 2–3 years" "makes it unlikely that the Milwaukee Road could expect to attract its historical share of traffic." (Ct. Ex. 15, pp. 5–6; T. 349).

V. *Conclusion of Law*

The principal legal issue posed by the Trustee's petition is whether an order directing the requested embargo would exceed the Court's jurisdiction and invade the province of the ICC Section 77(o) of the Bankruptcy Act provides that the bankruptcy court may authorize abandonment of portions of a debtor railroad's lines. The Section further provides, however, that, in the event the abandonment is of the type which requires ICC approval under 49 U.S.C. 10903, it may not be carried out without such approval. Several of the opponents of the petition argue that the requested embargo is, in fact, the type of abandonment which requires ICC approval, and cannot be authorized since no such approval has been obtained.

The Trustee contends that the requested embargo is not an abandonment at all, but is, instead, the type of emergency embargo which a railroad may unilaterally declare pursuant to 49 C.F.R. 1006.1 (renumbered 49 C.F.R 10591; Fed Reg, Vol 43, No 3, pp 972–973) Section 1006.1 embargoes involve temporary suspensions of service in instances where compelling circumstances beyond the railroad's control render it unable to provide rail service to or from any territory. They differ from abandonments covered by 49 U.S.C. 10903, since abandonments involve a voluntary cessation of services which the railroad intends to be permanent.

The Trustee argues that the requested embargo is neither voluntary nor permanent. He asserted that the need for the embargo arises from the inability of the Court to authorize additional priority borrowing to continue operation of the entire system, and the Milwaukee's resulting lack of cash to fund further operations. The Trustee believes that authorizing the additional priority borrowing necessary to maintain operation of the entire system would constitute an unconstitutional erosion of creditor security.

In arguing that the embargo is not a permanent abandonment, the Trustee indicates that substantial change may take place during the directed service period. Funds may become available to restore embargoed service through state and/or federal rehabilitation programs or through direct Congressional assistance. To the extent this does not happen, he will attempt to arrange sales of portions of the embargoed territory as operating lines. If lines cannot be sold on an operating basis, he will file abandonment petitions with the ICC.

The parties which oppose the requested embargo argue that it is neither involuntary nor temporary. They contend that the Court may constitutionally permit additional borrowing to maintain operation of the entire Milwaukee system pending the submission of abandonment petitions to the ICC and the resolution of those petitions by that body. They further argue that it is apparent that the requested embargo would be indefinite as to all lines and permanent as to many.

In the opinion of the Special Master, authorizing the additional borrowing necessary to continue operation of the entire Milwaukee system would not be proper at this time; as a result, the Trustee is without cash to operate the entire Milwaukee; and he may, therefore, put the requested embargo into effect without the prior approval of the ICC. These conclusions are not premised on a finding that the additional borrowing would necessarily constitute an unconstitutional erosion of creditors' security or that the proposed embargo is of the type which the ICC contemplated would be covered by 49 C.F.R. 1006.1. Instead, they are based on a finding that the embargo is essential if the purposes of Section 77 of the Bankruptcy Act are to be served rather than frustrated, and that granting it is authorized by the relevant statutory language and precedent.

The Court has discretionary authority to allow or disallow priority borrowing to continue losing operations of a debtor railroad. *New Haven Inclusion Cases*, 399 U.S. 392, 490-91 (1970); *Matter Of Chicago, R.I. & P.R. Co.*, 545 F. 2d 1087, 1090 (7th Cir. 1976). In exercising this discretion, the Court must act consistently with the purposes of Section 77 both to preserve an ongoing railroad in the public interest and to conserve the debtor's assets for the benefit of creditors. To allow the borrowing necessary to maintain operation of the Milwaukee's entire system through 1979 would be inconsistent with both these purposes. It would preclude or seriously jeopardize the possibility of a successful reorganization while at the same time raise the possibility of unconstitutional erosion of creditor security. These circumstances dictate that the Court should exercise its discretion by refusing to allow such borrowing.

The foregoing conclusions are based entirely upon the unique factual circumstances which are set forth above. The Trustee's efforts to improve the Milwaukee's performance during the last 1½ years have been to no avail. The Milwaukee's annual losses will have increased 700 percent since 1976 if the railroad is operated through 1979, the losses for each recent year are nearly double the preceding year, the Milwaukee has virtually no cash, reorganization of the entire Milwaukee system does not appear possible, and continued operation of the entire system through 1979 would preclude or seriously jeopardize the possibility of reorganizing any portion of the Milwaukee. Borrowing to finance operations of the entire system through 1979 would raise the possibility of unconstitutionally impairing the security of the Milwaukee's creditors, while exacerbating the deterioration of the Milwaukee, postponing the inevitable crisis, and rendering that crisis unmanageable when it ultimately occurs. Authorizing the requested embargo will preserve the possibility of a successful reorganization without interrupting essential service to the public or preventing prompt resort to the ICC while service continues.

The purposes of Section 77 of the Bankruptcy Act are the preservation of an ongoing railroad in the public interest and the conservation of the debtor's assets for the benefit of creditors. The statutory objective is "that the reorganized company should, if at all possible, emerge as a 'living, not a dying . . . enterprise.'" *New Haven Inclusion Cases, supra*, 399 U.S. at 431. "With these goals in view, the statute bestowed a 'broad and general' authority upon both the court and the trustees." *Id.*, at 420–421.

One of the broad powers conferred upon the Court is the power to allow the Trustee to incur priority debt to maintain losing railroad operations during a reasonable period in which a feasible plan for continued operation of the railroad is sought. *Id.*, at 490–492. The extent to which priority borrowing will be allowed is, however, within the discretion of the reorganization court, and will not be disturbed on appeal in the absence of an abuse of that discretion. *Id., at* 490–491; *Matter of Chicago, R.I. & P.R. Co., supra*, 545 F.2d at 1090.

In exercising its discretion as to whether to allow priority borrowing, the likelihood of successful reorganization and the possibility of injurious consequences to creditors must be considered. Where the borrowing would not contribute to a feasible reorganization plan, would not have a beneficial effect upon the railroad's operations, and is not necessary to maintain essential transportation service, it is inconsistent with the objectives of Section 77 and should not be allowed. Thus, in *Matter of Chicago, R.I. & P.R. Co., supra*, 545 F.2d at 1091, the Court approved priority borrowing only upon specific findings that reorganization was not clearly impossible, the borrowing was essential to continued operation of the railroad, and would have a direct beneficial effect on its profitability. In *Regional Rail Reorganization Act Cases*, 419 U.S. 102, 124 (1974), the Court stated that where a railroad is not reorganizable on an income basis within a reasonable time, "compelled continued rail operations . . . may accelerate erosion . . . through accrual of . . . claims having priority", and ". . . raise the distinct possibility that [creditors] would suffer an 'erosion taking' without . . . compensation. . . ." In *New Haven Inclusion Cases, supra*, 399 U.S. at 492, the Court stated that the rights of the creditors would not prevent priority borrowing where, absent such borrowing, "rail operations vital to the Nation [would] be jettisoned despite the availability of a feasible alternative." In *Matter of Valuation Proceedings Under Secs. 303(c) and 306 of the Regional Rail Reorganization Act*, 439 F. Supp. 1351, 1366–67 (Special Ct. 1977), Judge Friendly indicated that priority borrowing might constitute an unconstitutional taking if the creditors seek liquidation, the railroad is not reorganizable on an income basis, and the borrowing is simply to permit continued losing railroad operations while alternative arrangements are worked out.

In arguing that the Court may properly allow the borrowing necessary to operate the entire Milwaukee system, the opponents of the requested embargo place principal reliance upon the major losses imposed upon creditors during the New Haven and Penn Central reorganizations. In *New Haven Inclusion Cases*, the Supreme Court did approve the imposition of losses upon the creditors. It did so, however, primarily on the basis that the creditors there, unlike the Milwaukee's creditors, had not sought liquidation, but had consented to the continuation of the railroad in the hope of reaping gains from its inclusion in the Penn Central system. *New Haven Inclusion Cases, supra*, 399 U.S. at 492–493; *Matter of Valuation Proceedings, supra*, 439 F. Supp. at 1366. Moreover, as noted, the language in the *New Haven* case supports imposition of losses only where necessary to preserve essential rail services pending implementation of a feasible reorganization. It is true that the Penn Central sustained $851,000,000 in losses in reorganization from mid-1970 through 1973, but these losses took place prior to the reorganization court's finding in 1974 that the Penn Central was not reorganizable within a reasonable time. *Regional Rail Reorganization Act Cases, supra*, 419 U.S. at 124. Moreover, the Milwaukee is not the Penn Central in a number of respects. The incursion of losses totaling $851,000,000 by the Milwaukee during reorganization would more than dissipate the Milwaukee's assets, leaving nothing for creditors. Subsequent to 1973, the Penn Central remained alive only as a result of the infusion of several hundred million dollars in government funds between 1973 and April 1, 1976, and on that date it was conveyed to a federally created corporation. *Matter of Valuation Proceedings, supra*, 439 F. Supp. at 1376–1377. No one has suggested that such a solution is possible or desirable in the case of the Milwaukee.

Neither the New Haven nor the Penn Central reorganization proceedings provides any support for the concluison that the Court is without discretion to refuse to permit priority borrowing to support continued rail operations where such operations would frustrate the purpose of Section 77 by precluding, or seriously jeopardizing, the possibility of reorganization on an income basis.

The availability of directed service pursuant to 49 U.S.C. 11125 to protect 99.4% of the Milwaukee's traffic in the embargoed territory for up to 240 days also distinguishes this case from the New Haven and Penn Central situations. In those cases, the Courts were faced with the alternatives of permitting the cessation of shipping services vital to the national interest or of requiring lengthy continued operation of the carriers during which substantial physical and economic erosion of their estates would take place. The Courts necessarily chose the second alternative, and, in both cases, the result was that the railroads could not be reorganized on an income basis in accordance with the objectives of Section 77. In this case, the availability of directed service eliminates the necessity of compelling the debtor to continue its entire operation to insure maintenance of transportation vital to the Nation. That necessity undoubtedly contributed heavily to the result in the New Haven and Penn Central situations. Its absence here permits a third alternative which, unlike the other two, is in keeping with the purposes and objectives of Section 77. This alternative is to utilize directed service to conserve resources essential to the possibility of a successful reorganization, while service to the public continues and a reorganization plan is developed.

Permitting the requested embargo under the circumstances of this case would not be contrary to the requirements of Section 77(o) of the Bankruptcy Act, and would not infringe upon the ICC's jurisdiction under 49 U.S.C. 10903. Section 77(o) prohibits reorganization courts from authorizing only those abandonments which require ICC approval under Section 10903, and the Trustee's requested embargo is not such an abandonment. In view of the impropriety of authorizing the borrowing necessary to maintain operation of the entire system, the Trustee simply does not have sufficient cash resources to operate that system beyond early June. It follows that the Trustee, as a result of conditions beyond his control, not only may, but must, promptly cease operation of a portion of that system.

Judge Friendly, expressing the opinion of the Special Court under the Regional Rail Reorganization Act, has twice stated that cashlessness justifies a cessation of rail operations pursuant to an order of a reorganization court because such a cessation would not constitute an abandonment under 49 U.S.C. 10903. Initially in *In Re Penn Central Transportation Company*, 384 F. Supp. 895, 919 fn. 31 (Special Ct. 1974), Judge Friendly stated that the Special Court assumed that the requirement that an economically distressed railroad continue losing operations pending the filing of an abandonment petition with the ICC did not apply:

> ". . . if, after all reasonable efforts, a reorganization trustee was faced with an imminent depletion of cash that would make it impossible for him to pay current bills for wages, supplies, interline balances, and similar expenses, and still leave an amount sufficient to permit an orderly liquidation."

In Matter of Valuation Proceedings, supra, 439 F.Supp. at 1375–77, 1379 fn. 49, Judge Friendly elaborated on these comments. He stated that "a carrier *does not 'abandon'* what it is simply unable to do." *Id.*, at 1376 (emphasis added). He went on to conclude that Section 10903 could be disregarded "when cessation of operations [was] required by 'cashlessness' or other circumstances beyond a trustee's control," and such a cessation was authorized by a reorganization court. *Id.*, at 1379 fn. 49.

The opponents of the requested embargo argue that a result in accord with Judge Friendly's views would be contrary to *Palmer v. Massachusetts*, 308 U.S. 79 (1939) and its progeny—*In Re Erie Lackawanna Railway Co.*, 517 F.2d 893 (6th Cir. 1975) and *In Re Central Railroad Company of New Jersey*, 485 F. 2d 208 (3rd Cir. 1973). These cases involve attempts to abandon passenger service through an order of a reorganization court without the approval of a state administrative agency having jurisdiction of the abandonment. They hold that such an abandonment is unlawful because it would impair the balance between national and state authority and dispense with the benefits to be derived from resort to the expertise of the appropriate administrative agency.

Several significant factors render the *Palmer* line of cases inapposite here. None of the cases involved the cashlessness situation which Judge Friendly discussed, and none contemplated a period during which service to the public would be maintained while resort to the appropriate administrative agency took place. Since a cessation of operations pursuant to a court order necessitated by cashlessness is not an abandonment within the purview of 49 U.S.C. 10903, there is no administrative agency with jurisdiction over the cessation. Since service to shippers in the embargoed territory may be directed for up to the next eight months, essential public services will be continued rather than abandoned. Finally, because the Court has the power to require the Trustee to resort promptly to the ICC while service to the public continues, there is no danger that the benefits to be derived from the Commission's expertise will be lost.

VI. *Recommendations*

In light of the record in this case, it appears to the Special Master that approving the Trustee's requested embargo serves the public interest far better than any other available alternative. The ICC has requested the Court to ". . . require [the Trustee] to apply to the Commission for authority to discontinue operations over the lines embraced within the proposed embargo notice", and thereby to require ". . . the estate of the Milwaukee to continue providing services for a reasonable period of time during which not only the Commission but all other affected public agencies would have an opportunity to come up with a solution in the public interest" (ICC Br., p. 6). Approving the Trustee's request would meet these objectives and would also have many other benefits not otherwise obtainable.

(a) It would avoid unnecessarily depleting essential resources of the Milwaukee during the period in which time consuming ICC hearings would take place, and thereby enhance the possibility that a successful reorganization can be achieved.

(b) It would preserve the ICC's opportunity to apply its expertise to the solution of the Milwaukee's difficulties while 99.4 percent of all traffic on the embargoed territory is protected by directed service.

(c) It would diminish the possibility of an unconstitutional erosion of creditor security.

(d) It would maintain sufficient resources in the estate to enable the Court and the parties to avoid the chaos which could otherwise ensue if a successful solution to the Milwaukee's problems is not promptly forthcoming.

(e) It would diminish the threat of an ultimate cessation of operation of the Milwaukee, and a consequent termination of all of its employees.

(f) It would maximize the possibility that the purposes of the Bankruptcy Act can be achieved in this proceeding.

It is therefore respectfully recommended to the Court by the Special Master that the embargo requested by the Trustee be directed by the Court to commence at 12:01 a.m. on June 1, 1979.

It is also respectively recommended to the Court by the Special Master that the requested conditions of the ICC be included in such Order, namely:

1. That the Trustee be required to make available sufficient locomotives, cars, cabooses, worktrains and wrecker trains to directed carriers to permit them to perform directed service without unduly hampering their ability to serve their own shippers.

2. That the Trustee be required to file an appropriate application for authorization to discontinue and/or abandoned service within the embargoed territory, and that until such application is acted upon, the Trustee be prohibited from in any manner altering track and facilities within the embargoed territory without prior ICC approval.

3. The Court retain jurisdiction to enter such other and further orders which may be necessary to facilitate directed service.

The Court may also wish to give consideration to the following additional conditions:

1. That where appropriate, the Trustee be required to act promptly to develop and submit to the ICC applications for the sale or lease to other carriers of portions of the embargoed territory as operating lines.

2. That the Trustee be required to act promptly to develop a plan of reorganization to submit to the ICC.

3. That the Trustee be required, and the ICC be requested, to file monthly reports with the Court as to the progress of discontinuance and/or abandonment applications, sale or lease applications, reorganization plans, the status of directed service, and the effect of the embargo on employees of the Milwaukee.

Respectfully submitted,

MILTON H. GRAY,
Special Master.

Dated: May 24, 1979.

FOOTNOTES

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[1] For convenient reference, the term "abandonment" will be used to indicate abandonment and/or discontinuance in the remainder of this Report unless the context otherwise indicates.

[2] References in this form are to the transcript of the hearings held on May 15 through 18. References to the transcript of the May 4 hearing will so indicate.

[3] NROI does not include debt service (Trustee Ex. 1, p. 10).

SHIPPERS INTEREST IN SAVING THE MILWAUKEE ROAD

Mr. BAUCUS. Over the past few weeks I have observed some skepticism over the possibility that affected shippers would not contribute in any way to saving the Milwaukee Road. I do not know how much these shippers might contribute, but I do know that they tell me that they would consider contributing if they knew how much was asked of them.

To show the interest of these shippers, I am enclosing a selection of telegrams that bear directly on this point.

The telegrams follow:

Senator MAX BAUCUS: The Louisiana Land and Exploration Company and the Burlington Northern Railroad is planning a coal development in the Bull Mountain area of Montana to develop a coal mine with the potential of up to 2 million tons perannum.

In this regard we are interested in pursuing a plan for continued operation of the Milwaukee Railroad including such arrangements as employee ownership of the railroad.

Additional information on our development can be supplied upon your request.

FRED J. KNABE,
Manager Marketing.

Butte, Mont.,
May 17, 1979.

Hon. Russell B. Long,
U.S. Senate,
Washington, D.C.

Re: Milwaukee Railroad Western Energy Company and Montana Power Company believe that a workable plan involving employee and shipper ownership of the Milwaukee Railroad can be developed. We are interested in pursuing such a plan. We believe that the plan will result in the continued operation of the Milwaukee Railroad, which is essential to the economy of our area and for transportation of coal to serve the energy objectives of this nation.

W. P. Schmechel,
President of Western Energy Co.

Madison, Wis.

Hon. Russell B. Long,
U.S. Senate,
Washington, D.C.:

Wisconsin Power and Light Company, a large user of the Milwaukee Road, is interested in exploring possibilities of employee/shipper ownership of that railroad. It is our understanding your office will communicate our message and that of other Milwaukee Road Shippers to the Federal court so that body can consider this development as it prepares to rule on an embargo.

James R. Underkofler,
President, CEO Wisconsin Power
and Light Co.

Bellevue, Wash.

Senator Russell B. Long,
Washington, D.C.:

We believe that a plan for continued operation of the Milwaukee Road with employees and shippers should be pursued. Loss of the Milwaukee western facilities could result in significant effects on regional energy transport.

John W. Ellis,
President, Puget Sound
Power and Light.

Huron, S. Dak.

Senator Russell B. Long,
U.S. Senate,
Washington, D.C.:

We urge that Congress explore ways in which to provide short term grants and long term low interest loans to help keep in operation the vital transportation service provided to this Nation by the Milwaukee Railroad.

We are interested in having pursued all plans possible for continuing operation of the Milwaukee Railroad including ownership of the line by employees of the railroad.

Continued service by the Milwaukee Railroad is important to the citizens and economy of the entire Nation as well as the State of South Dakota.

A. D. Schmidt,
President,
Northwestern Public Service Co.

Bismarck, N.D.

Hon. Russell B. Long:

It is very important for Montana-Dakota Utilities Co., and our customers in a 4-State area that the Milwaukee Railroad continue operation. We are interested in an employee-shipper ownership plan if that will keep the railroad going.

David M. Heskett,
Chairman of the Board
and Chief Executive Officer.

Rapid City, S.D.

Senator Russell R. Long,
Senate Building,
Washington, D.C.:

We strongly support the concept of pursuing a plan whereby employee and shipper ownership could be developed to continue the Chicago Milwaukee rail service particularly as it effects deliveries within the State of South Dakota. It is our understanding that this plan is under consideration and it bears your most serious consideration.

Larry M. Owen,
Vice president, administration,
Black Hills Power and Light Company.

Great Falls, Mont.

Senator Russell Long,
Senate Office Building,
Washington, D.C.:

If the present Milwaukee Railroad management cannot or will not continue to operate their lines west to the coast I would strongly urge that the Senate support the alternate plan for a purchase and operation of the lines by the employee shipper group. If the Milwaukee western operation is abandoned Montana will be without rail competition and many important grain shipping points will be without rail service.

Walter V. Hicks,
Manager, Great Falls Shipping Assn.

Great Falls, Mont.

Senator Russell Long,
U.S. Senate,
Washington, D.C.:

We are interested in an employee-shipper owned railroad from Minneapolis to Portland Oregon to take over the Milwaukee tracks.

Duane A. Olson,
Montana Traffic Manager.

Raytown, Mo.

Senator Long,
Washington, D.C.:

Ninety days for the Milwaukee road employee ownership.

T. D. Carter.

Kremlin, Mont.

Senator Russell Long:

We need the Milwaukee Railroad in Montana and very interested in employee owned and shipper owned rail line in Montana.

Bob Kouynik,
Manager, Farmers Union GTA Elevator.

Townsend, Mont.,
May 22, 1979.

Sen. Russell Long,
U.S. Senate, Washington, D.C.

We the Broadwater County Farm Bureau in Townsend, Montana urge you to support the effort by the employers and the shippers to purchase the Milwaukee Railroad.

Peggy Flynn,
Secretary.

Inverness, Mont.,
May 18, 1979.

Sen. Russell Long,
Senate Office Building, Washington, D.C.

We need the Milwaukee Railroad in Montana and are very interested in an employee owned and shipper owned rail line in Montana.

Jim Schaefer,
Farmers Union GTA.

Huntley, Mont.,
May 18, 1979.

Sen. Russell Long,
Senate Office Building, Washington, D.C.

We need the Milwaukee Railroad in Montana and are very interested in an employee-owned and shipper-owned rail line in Montana.

Farmers Union GTA Elevator.

Guilford, Mont.,
May 18, 1979.

Sen. Russell Long,
Washington, D.C.

We need the Milwaukee Railroad in Montana and are very interested in an employee owned and shipper owned rail line in Montana.

Kennedy D. Thune,
Manager GTA Elevator.

Fairfield, Mont.,
May 18, 1979.

Senator Russell Long,
U.S. Senate,
Washington, D.C.:

We need the Milwaukee railroad in Montana and are very interested in an employee owned and shipper owned rail line in Montana.

A. H. Berg, *Manager.*

Chester, Mont.,
May 18, 1979.

Senator Russell Long:

We need the Milwaukee railroad in Montana and are very interested in an employee owned and shipper owned rail line in Montana.

GTA Elevator.

Powderville, Mont.,
May 19, 1979.

Senator Russell Long,
U.S. Senate,
Washington, D.C.:

We support shippers and employees as owners of the Milwaukee Railroad.

Pete and Mary Hill,
Shippers.

Fairfield, Mont.,
May 24, 1979.

Senator Russell Long,
Washington, D.C.:

Northwest area wife ask your support JSR81. Detrimental to Montana agriculture economy to lose Milwaukee.

Jo Brunner,
Northwest Area Spokeswoman.

Hingham, Mont.,
May 21, 1979.

Senator Russell Long:

We need the Milwaukee Railroad in Montana and are very interested in an employee owned and shipper owned rail line in Montana Grain Terminal Assn., Hingham, Mont.

Carl Younce.

Forsyth, Mont.,
May 21, 1979.

Senator Russell Long:

We support the efforts of employees and shippers to purchase the Milwaukee Railroad.

George T. Asay,
Shipper.

Lewistown, Mont.,
May 18, 1979.

Senator Russell Long,
Senate Office Building,
Washington, D.C.

We need the Milwaukee Railroad in Montana and are very much interested in an employee owned and a shipper owned rail line in Montana.

Henry McDunn,
Manager, GTA Terminal.

Winifred, Mont.,
May 18, 1979.

Senator Russell Long:

We need the Milwaukee Railroad in Montana and we are very interested in an employee owned and shipper owned rail line in Montana.

Paul Sielstad,
Manager, GTA Elevator.

Toronto, Ontario,
May 18, 1979.

Hon. Russell A. Long,
U.S. Senator, Senate Office Building,
Washington, D.C.:

Reference your telegram concerning Milwaukee Railroad, our answer is quote yes unquote.

Fred J. Kroll,
International President, Brotherhood of
Railway and Airline Clerks.

Three Forks, Mont.,
May 18, 1979.

Senator Russell Long,
Capitol One, D.C.:

We need Milwaukee Railroad in Montana are very interested in an employee owned and shipper owned rail line in Montana Farmers Union, GTA Three Forks, Montana.

Farmers Union GTA Elevator.

Rudyard, Mont.,
May 18, 1979.

Senator Russell Long,
Capitol One, D.C.:

We need Milwaukee Railroad in Montana and are very interested in an employee owned and shipper owned rail line in Montana.

Farmers Union Grain Terminal Association.

Cut Bank, Mont.,
May 18, 1979.

Senator Russell Long:

We need the Milwaukee Railroad in Montana and are very interested in an employee owned and shipper owned rail line in Montana.

Norman O. Johnson.

Moore, Mont.,
May 18, 1979.

Senator Russell Long:

We need the Milwaukee Railroad in Montana very interested in a employee owned and shipper owned rail line in Montana respectfully.

Ray King.

Big Sandy, Mont.,
May 18, 1979.

Senator Russell Long,
Washington, D.C.:

We need a Milwaukee Railroad in Montana and are very interested in an employee owned and shipper owned line in Montana.

Tom Worsley.

Shelby, Mont.,
May 18, 1979.

Senator Russell Long,
Capitol One, Washington, D.C.:

We need the Milwaukee Railroad in Montana and are very interested in an employee owned and shippers owned rail line in Montana.

J. Hultin,
Farmers Union Grain Terminal Association.

Geraldine, Mont.,
May 18, 1979.

Senator Russell Long,
Washington, D.C.:

We need the Milwaukee Railroad in Montana and are very interested in an employee owned and shippers owned rail line in Montana.

Farmers Union GTA.

Billings, Mont.,
May 18, 1979.

Senator Russell Long:

We need the Milwaukee Railroad in Montana and are very interested in an employee owned and shippers owned rail line in Montana.

Farmers Union GTA Line Elevator.●

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, the order has been entered for the consideration of the military procurement bill on Monday, the authorization bill, with the understanding that consideration begin no later than 1 p.m.

I would like to get consent to proceed at noon on that measure with the understanding we would not go any later than 5:30 p.m. on Monday on that measure.

Mr. STEVENS. Mr. President, may I ask the distinguished majority leader would it be possible to enter that order subject to my checking with the distinguished Senator from Texas?

It is my understanding talking to the chairman of the committee they are having a committee meeting and they could probably come here right from that meeting, so I am sure they will be together. But I have not been able to clear it with him and I believe he will be here.

I do not think Senator Tower will object if no one else has an objection. But I would like to enter the order subject to his contacting the Senator in the event he is not going to be available at that time.

I think he will be available because he has to go to the meeting with the distinguished Senator from Mississippi.

Mr. ROBERT C. BYRD. Let me withhold that request temporarily.

Perhaps the distinguished assistant Republican leader can determine that before we go out.

In the meantime I have two resolutions here which have been cleared with the minority.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President I report and send to the desk a resolution which has been cleared by the Budget Committee today and I ask unanimous consent that the Senate proceed to its immediate consideration.

The resolution (S. Res. 174) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 428, was considered and agreed to, as follows:

> *Resolved,* That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 428, a bill to authorize appropriations during the fiscal year 1980 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes.
>
> Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.
>
> For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 428, as reported by the Committee on Armed Services.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, this resolution which I send to the desk has been cleared with the minority, the distinguished assistant Republican leader is present. It has been reported today from the Senate Budget Committee, and I send it to the desk and ask for its immediate consideration.

Mr. STEVENS. There is no objection, Mr. President.

The resolution (S. Res. 166) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 673, was considered and agreed to, as follows:

> *Resolved,* That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 673, a bill to authorize appropriations to the Department of Energy for national security programs for fiscal year 1980 and fiscal year 1981, and for other purposes.
>
> Such waiver is necessary to permit the consideration of legislation authorizing new budget authority for fiscal year 1980 for national security programs of the Department of Energy. The Committee on Armed Services and the Committee on Energy and Natural Resources were unable to consider and dispose of the proposed legislation prior to May 15, 1979, because of the unusually heavy legislative workload of the committees early in the session.
>
> For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 673 as reported by the Committee on Armed Services.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE SURFACE MINING ACT: TIME FOR REASSESSMENT

Mr. HARRY F. BYRD, JR. Mr. President, it seems only yesterday, the President of the United States appeared before the American people to enunciate a national energy policy containing 10 broad principles.

The ninth of those principles dealt with our most abundant domestic source of energy—coal. In April 1977, President Carter said:

> Although coal comprises 90 percent of domestic fossil fuel reserves, the United States meets only 18 percent of its energy needs from coal . . . This imbalance between reserves and consumption should be corrected by shifting from oil and gas to coal and other domestic energy sources.

And later, he noted:

> Expanding future uses of coal will depend in large part on the introduction of new technologies that permit it to be burned in an environmentally acceptable manner, in both power plants and factories, for electricity, for process steam and for heat.

What was not understood at the time of the "moral equivalent of war" energy speech, was that a new technology was going to be necessary for the coal industry to learn to live with the surface mining act in order to bring on more of that coal that was to be produced in an environmentally acceptable manner.

The Surface Mining Control and Reclamation Act, Public Law 95–87, signed with appropriate fanfare, created a Federal bureaucracy that may have, even with the best of intentions, regulated out of existence the capability of the surface mining industry to achieve the goals set by the act.

In April 1979, 2 years after his first major energy speech, the President again spoke to the Nation with respect to the continuing and worsening energy situation. One might have expected a progress report on the previous plan, but that was not to be. The reason was simple: There was no progress.

As a matter of fact, I think it was understood at the White House that the surface mining law of 1977, as implemented by the Office of Surface Mining and the Department of Interior, actually frustrates the plans and goals of the administration, announced in 1977, and again in 1979.

Rather than say or do anything about this deplorable state of affairs under the control of the executive branch, the President chose only to reiterate the obvious. He said on April 5:

> Coal remains this country's major continuing source of fossil fuel. We have three and one-half times more energy in our domestic coal resources than in all other domestic resources combined.
>
> Nevertheless U.S. coal production has increased only slightly in the last four years, due in large measure to lack of strong demand and uncertainty in some federal policies.

Mr. President, that was a masterpiece of understatement. What President Carter did not tell the American public is that "the uncertainty in some Federal policies" refers directly to the surface mining act, and other acts, and those laws actually undermine the goal of increasing U.S. coal production.

The time has come, Mr. President, to cut the Gordian knot that inhibits increased domestic coal production. I believe it is obvious now that Members of Congress can respond to errors of judgment, and move in a concerted fashion to undo that which has caused great harm to the country.

Certainly, Members of Congress from the coal-producing States have proved that recently with respect to coal usage and the unnecessary regulatory actions of the Environmental Protection Agency.

We must do no less now. We must reassess the impact of the passage of the Surface Mining Act. The prospect for such a reassessment may be uncomfortable for some, but the process is necessary if we are to begin to resolve the most incredible dilemma faced by the world's greatest industrial power, to wit: we sit atop the world's largest energy resource and allow other countries to tear our economy to pieces because we fear to act in our self-interest.

There are those who say we can break the OPEC cartel's stranglehold on our economic system by bartering wheat for oil; I believe we can put the cartel in its proper economic place by digging domestic coal.

Mr. President, in order to do this we must make some hard, unpopular choices. It is time, I say, to make the choice: I prefer black gold to blackmail.

REASSESSMENT OF SURFACE MINING ACT

Mr. President, the reassessment I spoke of is already, quietly, underway. The distinguished chairman of the Energy Resources and Materials Production Subcommittee of the Energy and Natural Resources Committee, Mr. FORD of Kentucky, has announced that his committee will hold, on June 11, oversight hearings on the problems resulting from the implementation of the 1977 Surface Mining Act. Senator FORD's interest in the problems associated with Public Law 95–87 comes like a breath of fresh air at a time when there is much hand wringing and finger pointing rather than action, with respect to our national energy situation.

I would be remiss if I did not note that the House Committee on Interior and Insular Affairs has already conducted a day of hearings on this subject, March 6. A number of Virginia surface mine operators and a representative of the government of the Commonwealth appeared before that panel to provide a "real world" picture of the impact of the law on the surface mining business.

With due respect to the House review, I believe that the forthcoming hearings before the Senate panel are doubly important now that the President has outlined another new direction for future energy policy. And, I must add, in light of the nuclear accident at Three Mile Island, there is new pressure on the Congress and the country to look at all means of safely and effectively supplying our energy needs.

SCOPE OF THE REASSESSMENT

Mr. President, in the amending or enacting of each law, the Congress creates an excuse for a new bureaucracy and new business opportunities for the legal profession. Public Law 95–87 was no exception. But when one considers that the goal of the law was to produce coal in an environmentally safe manner, one wonders if more than the usual conflicts of purpose were the result of congressional action.

The Surface Mining Act, in section 702, states this (act) is not to be construed as "superseding, amending, modifying or repealing" portions of the following statutes: Mining and Minerals Policy Act, National Environmental Policy Act, Federal Metal and Nonmetallic Mine Safety Act, Federal Coal Mine Health and Safety Act, Federal Water Pollution Control Act, Clean Air Act, Solid Waste Disposal Act, Refuse Act of 1899, Fish and Wildlife Coordination Act and the Mineral Leasing Act.

No wonder the National Journal entitled a review of the problems faced by the industry as "the Coal Industry's Rude Awakening to the Realities of Regulation."

There is no way, Mr. President, that any Senator could adequately detail all of the problems associated with the regulations that have been promulgated as a result of the passage of the 1977 act, without inserting in the RECORD, the testimony of those in the business of trying to live with the regulations. I shall not attempt to list all of the areas that I feel need reassessment, but instead, consider some of the highlights of regulatory abuse that two years of experience have brought to the fore.

First and foremost, I should remind our colleagues that the act states:

> . . . because of the diversity of terrain, climate, biologic, chemical and other physical conditions in areas subject to mining operations, the primary governmental responsibility for developing . . . and enforcing regulations for surface mining reclamation operations subject to this Act should rest with the States.

In other words, Mr. President, the intent of Congress was for the Office of Surface Mining to use the experience of the various State surface mining regulatory authorities, to arrive at the goal of producing environmentally acceptable surface mined coal.

The testimony of Virginia officials indicates that the OSM has taken a cavalier attitude toward State regulatory efforts, and all but ignored, in the case of Virginia, a record of 12 years of overseeing surface mining operation within the State.

According to J. Steven Griles, of the Virginia Department of Conservation and Economic Development:

> OSM has not cooperated with the States in the deveolpment of permanent program regulations, but has treated the States just as any other self-interest group.
>
> As a result of the States' lack of involvement, the proposed preferred regulations do not achieve the desire of Congress to assure States' involvement in the permanent program. The complexity, detail, and impact of these regulations, both on the States' regulatory processes and on the coal industry, is staggering. With State involvement in the preparation of the permanent regulations, the regulations could have been prepared to reduce unneeded administrative requirements and provide for realistic environmental performance standards that would have met the intent of Congress without the high cost to industry.
>
> Of critical concern is Sec. 731.13, the so-called "state window approach." The intent of this Section is to allow States to request approval for alternatives to the requirements of the regulations in order to address regional considerations . . . Congress intended for each State to have latitude in developing its own State program in order to address these various conditions.

The long and short of Mr. Griles' lament is that the Office of Surface Mining is ignoring the States. There is no reason for such an attitude on the part of the Federal bureaucracy, unless there is, in fact, a built-in bias against the States on the part of those who think a national law means only national standards in spite of regional differences and in spite of the letter and spirit of the law passed by Congress.

In connection with the above type of attitude, one has to wonder about a Federal rulemaking procedure that ignores the facts of life when it comes to receiving the State plans called for in the act, but which are apparently not wanted by the Federal bureaucrats. I refer here to the incredible timetables that have been mandated for State program submittals to the OSM. As it stands now, the States have until August 3 of this year to submit plans to OSM.

Now, consider this: the act required that OSM promulgate regulations establishing requirements for State programs no later than August 3, 1978. But, Mr. President, those regulations were only promulgated in March of this year.

State of Virginia officials would like the Act modified so as to permit an additional year to submit State programs. This does not seem an unreasonable request in light of the foot dragging of the Federal Government with respect to requirements it should have met under the law.

Over the past several years, Mr. President, the Congress debated the issue of surface mining control and in each debate, the concern over "approximate original contour" loomed large. Unfortunately for the country, there was not, and is not, a general understanding of the types of coal surface mining that is done in different parts of the Nation, much less within different parts of a coal-producing State.

Nevertheless, the 1977 law mandates that, after surface mining operations, the area is returned to approximate original contour (AOC). Perhaps in some areas of the country there is little concern with this provision, but that is not the case in Virginia or throughout Appalachia. The U.S. Geological Survey found that 95 percent of our State's recoverable surface coal is on steep slopes. According to most reclamation and mining sources in Virginia, the requirement to cover all highwalls with approximate original contours is detrimental to the environment, minimizes the recovery of coal, and deprives communities of commercially valuable properties.

A reassessment of this part of the act, or, at a minimum, a reassessment of the proposed regulations promulgated to implement AOC should have a high priority in the forthcoming Senate hearings. The proposed AOC regulations have their greatest detrimental impact on coal production in Virginia, West Virginia, and Kentucky.

As noted earlier, it is difficult to mention all of the sections of the act that need either a reassessment or review by the Congress. At the conclusion of my remarks, I shall submit a digest of a few of the regulatory problems brought to my attention by Virginia State officials and mine operators.

THE SURFACE MINING LAW AND EMPLOYMENT

Mr. President, a number of Virginia surface coal mines have already been lost and miners thrown out of work due to the "new environment" created by the passage of Public Law 95-87. U.S. Judge Glen M. Williams of the western district of Virginia, upon issuing a temporary injunction barring enforcement of the OSM rules in the State of Virginia, opined that 500 jobs have already been lost due to the act.

Surely, Congress did not intend for surface mining of coal throughout Appalachia to cease with the passage of the act. Surely the President knows that he cannot expect industry to increase production when his underlings force businesses to the wall.

It is easy, of course, to cry "wolf" about the disastrous economic impact this or that government regulation has on a business, but in the case of the new surface mining law and the interim regulations that have been promulgated, there is an immediate cause and effect connection.

Appended to my remarks is the testimony of Mr. Phillip L. Trent, the coowner of the now defunct Black Creek Coal Co. of Pound, Va. In brief, Mr. Trent's business was forced to cease operations because of the interpretations and bureaucratic bungling of the Office of Surface Mining. His story is not unique, but rather, instructive. I am, of course, hopeful that this fine Virginian, who provided work for 50 people, will be able to get back into production.

If the Black Creek Coal Co. can be forced out of business, consider how much unnecessary regulation is costing the Pittston Co., the fifth largest coal producer in the United States, to stay in business, faced with the same type of problems as was Mr. Trent. Pittston has mines centrally located in Virginia, West Virginia, and eastern Kentucky.

The adverse economic impact of the 1977 law is felt throughout the industry, but the hardest hit, as usual, are the small operators. Small operators, and even some surface mine operators with a larger financial stake in the business simply are not equipped to hire the technicians, lawyers, scientists, and pay for outside studies for permits, as are the larger operations. As a matter of fact, from what I have heard about the impact of this law on the surface mine operations of Virginia, it might well have been subtitled, "the coal conglomerate development assistance act."

Mr. B. V. Cooper, executive director of the Virginia Mining & Reclamation Association, recently summed up the problems faced by the small operator:

> One of the Act's cruelest effects is on small business. Many operators who have their entire life's savings tied up in a small mine have been, and will continue to be, wiped out. They are being forced into unnecessary and expensive hearings and litigation. OSM uses the operator's tax money and the entire resources of the federal government to beat him in court. And even if the small operator wins, he loses. Most cannot afford the time and legal fees. And some have been forced out of business fighting a violation notice which was later thrown out of court.

Mr. President, over 10,000 persons are employed in the companies which make up the 200 Virginia coal producers and suppliers of goods and services to the coal industry. Those jobs and the families and communities that depend upon the Virginia coal industry, are threatened with almost total stagnation and perhaps even demise, if the Congress and/or the administration does not do something in the immediate future to straighten out the mess created by the passage of the surface mining law and the plethora of regulations that have emanated from the Office of Surface Mining in Washington.

I have called on my colleagues in the Energy and Natural Resources Committee to begin a reassessment of the act, but I hope all Members will begin to question the economic/energy impact the law is having on the whole country, not just in Appalachia. If we are ever to reduce our Nation's dependence on uncertain supplies of foreign oil, we must certainly have to turn to the revitalization of our domestic coal industry. From the few examples I have outlined here, I think there is a very serious question about the ability of the industry to respond to the challenge of providing all America with more coal, if producing that environmentally acceptable coal is made next to impossible by too much Federal regulation.

In conclusion, Mr. President, I wish to give Members an overview of the impact and importance that coal mining, surface and subsurface, has for the Virginia economy.

Virginia is currently the sixth largest coal producing State in the Nation, and its gross revenue from mining and mineral products FOB the mines have reached $1.5 billion per year. In excess of 1,000 coal mines are in the State and produced just under 40 million tons per year of perhaps some of the highest quality coal in the Nation, and, as I noted earlier, under some of the most challenging mining conditions imaginable.

Over 16,000 persons are employed directly in the mines, and many thousands of other individuals are employed indirectly as a result of the coal industry. The mining industry has a substantial impact upon the economy of the Commonwealth and the region, as a result of the economic activity of the coal mining and service companies in the coalfields of the State, the coal-hauling railroads, the coal-burning electric utilities, and the coal exporting port at Hampton Roads.

The Norfolk & Western Railway is the largest coal-hauling railroad in the Nation and is headquartered in Roanoke. The Chesapeake & Ohio Railway is also one of the largest coal-hauling railroads in the Nation and its lines extend through Virginia to the port at Hampton Roads.

The Appalachian Power Co., a division of the American Electric Power System, is centered in western Virginia; and Virginia Electric Power Co., a consumer of coal industry production, is located in eastern and northern Virginia. The port of Hampton Roads, because of its coal-exporting volume, is one of the largest ports on a tonnage basis in the Nation.

Mr. President, the coal industry is vital to the Commonwealth, to the Appalachian region, and to the Nation. The industry cannot, and should not, be beleaguered by irresponsible bureaucratic haggling. The coal industry of Virginia will help lift the country out of its energy doldrums, but it cannot do its part if regulators become ruinous to the industry.

I look forward to the hearings on the surface mining regulations and their impact on the production of coal, and on the goal of making our country less dependent upon uncertain foreign oil imports. The forthcoming hearings are of critical importance to the implementation of the President's new energy program and to the future energy security of our country.

Mr. President, I ask unanimous consent to have printed in the Record an appendix (No. 1) dealing with surface mining regulatory problems brought to my attention by Virginia officials and mine operators, and an appendix (No. 2), the testimony of Mr. Phillip Trent, of March 6, 1979.

There being no objection, the material was ordered to be printed in the Record, as follows:

Appendix 1—Some Surface Mining Regulatory Problems

1. The requirement for approving alternative postmining use of surface mined land. The current requirement has resulted in economic losses to particular landowners because the ten criteria for obtaining variances are not practical where the landowner does not have immediate plans for alternate use. One example is where there are several surface owners on one mining area with varying interest in meeting various requirements, i.e., feasibility plans, public facilities, financial plans, and engineering plans. These landowners were deprived of the economic benefits of having their land leveled as they desired.

2. The requirement to cover all highwalls with approximate original contours is detrimental to the environment, minimizes the recovery of coal and deprives the communities of commercially valuable properties, thus reducing the overall tax and economic base. The regulations now require elimination of the highwall and the restoration of approximate original contour. Since the operators are required to slope material back against the highwall, they have experienced increased sedimentation, rapid runoff and poor revegetation at considerable expense. Previously, the level benches reduced the rate of surface runoff, served as sediment traps and were easily accessed for revegetation procedures.

Because of the new requirement for covering the highwalls, mineral owners are being deprived of future access to coal reserves. The operators opine that the coal market might not economically allow taking additional cuts at a specific time, and thus, by stacking spoil against the highwall, they are negating any future surface mining of that particular block of coal. The operators contend that they are presently covering coal which might be mined in the 1980's.

3. Regulations pertaining to the disposal of spoil in valley or head-of-hollow fills. Virginia operators have shown by engineering computations that mass stability can be obtained in fill areas with spoil placement lifts considerably in excess of the four foot limit in the regulations. Depending on the type of material being deposited, it has been shown that hollow fills can be constructed without placing any of the material in specific lifts. These construction techniques have been used in Southwest Virginia for years without failures.

4. The segregation of topsoil. It has been determined that except for isolated deposits, very litle topsoil material is located in the mining areas of Southwest Virginia. Through soil analysis, revegetation research and experience, Virginia operators have found that the majority of overburden material, excepting sandstone, will support vegetation with the proper nutrients. It is the contention of Virginia operators that the proposed regulation to segregate subsoil material is unnecessary inasmuch as all such material must receive special treatment prior to its being used in vegetation.

5. Regulations pertaining to the protection of the hydrologic system are necessary, but is it necessary to require all drainage to pass through a sediment pond? Virginia operators have found that the proposed regulation is impractical, due to terrain and previous mining. Rather than use a Virginia example here, I will turn to the comments of West Virginia's Governor, John D. Rockefeller, IV, made in an interview with U.S. News & World Report on June 4. Governor Rockefeller said:

". . . Some of the regulations are simply unreasonable. On steep slopes and mountain areas, the (federal) government is requiring big sediment ponds to collect the runoff. The only problem is that there isn't enough land for big sediment ponds in Eastern Kentucky and West Virginia, where the land is only about 2 or 3 percent flat. There are other ways of accomplishing the same thing—ways that have worked extremely well in West Virginia—but the government insists on certain types of sediment-control ponds."

6. Regulations on "right of entry" for abandoned land program. The section of the new law is designed to give government officials the right to enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of reclamation of such adverse effects. The broad power was condemned by the Virginia legislative committees which were asked to enact it. The section gives a completely unwarranted grant to government employees to trespass upon anyone's property and look or explore virtually anything thereon. The Virginia Legislature would only enact such a provision with a proviso that an inspection warrant be first obtained by State employees before making such entries. In consideration of reassessment of the act and/or the regulations promulgated thereto, it should be made clear that such a proviso by the State legislature be acceptable to the Secretary of Interior in consideration of a state plan.

7. The proposed regulations seem to require bonding of the surface areas overlying underground mines. A requirement of this nature, according to Virginia operators, is impossible to meet because no surety will undertake to bond the extensive network of the underground workings of many coal companies, since the mines are frequently under surface developments of high value.

In a reassessment of the Act, Virginia operators would like the Congress to clearly state that such bonds are not required by the Act. Furthermore, there is considerable question about the "self-bonding" requirements which allow a permit applicant to grant to the regulatory authority a secured interest in the applicant's property, as a condition for approval of a self-bond. Both state regulatory officials and mine operators contend that this requirement is not explicitly found in the statutory section of the Act and represents an instance where the Office of Surface Mining has overstepped its authority.

The Virginia Department of Conservation and Economic Development has several other questions regarding bonding and bond release procedures as proposed in the preferred regulations which, the state officials find, are at variance with the new law. Certainly, any reassessment of the Act should include more specific guidelines for the interpretation of bonding and bond release requirements.

8. Lastly, Mr. President, there is a large area of concern in Virginia about the penalties which can be imposed upon the surface mine operator. Again, according to the Virginia regulatory officials, they find that the requirement that an operator forward to the (federal) regulatory authority an amount equal to the assessed civil penalty as a condition for obtaining a hearing on the amount of the proposed penalty or the fact of the alleged violation, is unfair and possibly unconstitutional.

It has been pointed out by those who have been living under the tender mercies of the surface mining act, that the above mentioned requirement is entirely alien to American principles of justice, which hold that all persons have a fundamental right to at least one hearing to challenge the government's accusations, regardless of that person's capacity to pay any penalty or fine which may ultimately be assessed.

The people who must deal with, and live with this matter, day-in and day-out, indicate that the OSM regulations which set forth the system for assessing civil penalties fail to offer sufficient flexibility to State regulatory authorities.

Appendix 2—Testimony of Mr. Phillip L. Trent, March 6, 1979.

My name is Phillip L. Trent. I reside in Pound, Virginia. I am co-owner of a small surface mine operation, trading as Black Creek Coal Company. I am here to represent our company, but more importantly, to speak for between two and three hundred other small surface mine operators in southwest Virginia, who, shall we say, are "in the same boat." Due to the existance and enforcement of Public Law No. 95–87, we were forced to cease mining. Though no cessation orders were issued, we could not physically or economically produce our coal.

I would like to relate to you my experiences with Public Law No. 95–87. Black Creek Coal Company was a small operator in every sense of the word, so we filed for a small operator exemption. We were denied the exemption on the grounds that we did not qualify because our renewal date was August 18, 1978. We appealed the denial on the grounds that a recent amendment to the Virginia State law provided that "the term of all surface mining permits was for the duration of the operation." The Office of Hearings and Appeals stated that this could not override the requirement of the Federal law and that a mining operation must have been issued a permit prior to the August 3, 1978 deadline, in order to be eligible for the limited exemption of section 502(C) of Public Law No. 95–87. This one small technicality forced us to have to comply with all eight performance standards set forth in the law or cease mining.

With the realization that in order to operate we had to try to comply with Public Law No. 95–87, we purchased two "off the road" haulers at a cost of $102,000.00 per hauler. Delivery date was set for the latter portion of July 1978. Inspector Patrick Murphy, of the Virginia Division of Mined Land Reclamation Department, assured us that we were in compliance with the Federal standards set forth in Public Law No. 95–87.

In July 27, 1978, Federal Inspectors Ronald C. McDowell and Steve Rathbaum arrived on the job site for our first Federal inspection. We were issued violation notice No. 78–1–5–4. The violation notice stated that we were placing spoil material on the downslope, which violated section 716.2(a) (1) of Public Law No. 95–87. We were ordered to dress down all spoil material from the Clintwood seam of coal that had been cast downslope since May, 1978 and revegetate in accordance with section 715.20 of Public No. 95–87. We argued with the inspectors that we were not casting spoil downslope, but instead pushing to the solid bench of the lower seam of coal, known as the eagle seam. The eagle seam of coal had been mined by us previously. We were still issued the violation notice and time of abatement was set for August 15, 1978. Remedial action, as required by the violation notice, was undertaken and completed in early August 1978.

During this time we had to make some decisions concerning our equipment and our employees. We knew we could not continue to operate under the conditions imposed on us by Public Law No. 95–87. We had financial obligations for equipment purchased, fuel purchased for reclaiming, and other miscellaneous financial obligations. We had obligations to our employees and to our families. Black Creek Coal Company was our only source of income. We had ceased producing coal to concentrate on the reclaiming that was required by the violation notice. Company funds had reached a low ebb and we had not mined or sold any coal.

As soon as the reclaiming was completed, we had to send our employees home with the hope that they would be able to obtain other employment. We had to relinquish to the seller: one Robbins Drill, one D–9 dozer and one 988 front end loader at an approximate loss of $209,000.00 to us. The two "off the road" haulers were returned to the seller. Our CPA, William Shears, of Wise, Virginia informs us that we had a loss of 6,200 tons of coal per month, beginning September 1, 1978 and ending December 31, 1978. According to Mr. Shears that is a conservative figure and in addition we had lost $3,500.00 investment credit used for tax purposes. Our former employees, with the exception of one, have been unable to obtain jobs and are trying to survive on unemployment benefits. We are unable to obtain a job and are not eligible to receive unemployment benefits.

An informal hearing had been requested on July 31, 1978. We had not received any response to this request by August 4, 1978. We wrote Mr. Dan Stocker in the region 1 office of surface mining, located in Charleston, West Virginia. On August 17, 1978 we received a telephone call from their Mary Wright, informing us that we were not eligible for a hearing because no cessation order had been issued. Within a few days after the telephone conversation with Mary Wright we received a proposed assessment of $1,400.00. Information furnished with the assessment notice told us that the fine must be paid within 30 days and that a fine of up to $10,000.00 could be imposed for every day we operated in violation of the notice.

We then requested a conference with the assessment office. We mailed the assessment of $1,400.00 with that request on September 20, 1978. The violation notice was terminated on September 21, 1978, without our knowledge. We were notified that a conference had been scheduled for November 7, 1978 in Lebanon, Virginia. We acquired attorney Henry S. Stout, Jr. of the law offices of Mullins, Winston, & Roberson, to represent us at the conference. Due to some bureaucratic foul up the hearing had been scheduled before the conference. After the hearing was held, the conference was cancelled. The hearing was held in the administrative law court in Norton, Virginia. Presiding judge Tom M. Allen ruled that Black Creek Coal Company was not in violation and further ordered the office of Surface Mining to reimburse our $1,400.00 plus interest. To date we have not received the reimbursement.

Our financial circumstances created by the enforcement of Public Law No. 95–87 prevent us from obtaining any other business venture and it would be doubtful that we could borrow enough capital to start the surface mine operation again. Facts and figures from our accountant prove to us that we could not operate with a profit as long as Public Law No. 95–87 is in existence.

I respectfully remind you again that there are between two and three hundred small surface mine operators in southwest Virginia, who cannot physically or economically produce much needed coal.

In summary, Public Law No. 95–87 has cost me my business and my livelihood. It has cost me the jobs of all my employees. It has cost my company approximately $700,000.00 of equipment and production of a much needed resource—coal for fuel. It is my considered judgment that environmental quality has not been improved one bit. I personally feel this is a tragic price to pay to satisfy a few people who know little and care less about the people in the Appalachian region.

RHODESIAN SANCTIONS

Mr. HARRY F. BYRD, JR. Mr. President, over the weekend I read in the Newport News Daily Press an excellent editorial entitled "Rhodesian Sanctions" which urges a revised policy toward Rhodesia.

The editorial emphasizes that, although not simon pure, the process by which the newly elected Government in Zimbabwe-Rhodesia has been chosen was a fairer process than any other observed in Africa.

Mr. President, the editorial is an accurate indictment of the failure of Andrew Young's policy toward Africa.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RHODESIAN SANCTIONS

The Senate, by a topheavy 75 to 19 vote, has now "advised" President Carter to lift this country's participation in the economic sanctions laid on Rhodesia by the U.N. Security Council. The Senate further requested the president to make a final decision, one way or the other, on lifting sanctions within 30 days of the time the new government is installed in that South African nation.

This poses a prickly dilemma for the administration.

Mr. Carter has stood firmly behind his U.N. Ambassador Andrew Young's African policy to this point. In a nutshell, that policy has been to applaud, encourage and uphold the principle of majority rule in the African nations, emerging or otherwise.

Inasmuch as this country had gone without any African policy previously, it had the virtue of taking a stand, establishing a consistent reference point. It had the added pragmatic virtue of positioning us a peg or two to the left of the Soviet policy, largely because we applied it across the board instead of opportunistically case by case as the Russians were doing.

However, as with generalizations on any subject, this U.S. policy has its drawbacks and limitations. It does not distinguish between scoundrels like Idi Amin and the more democratically inclined black leaders who came to their positions with education compatible with 20th century governments and economies they aspire to establish. It does not distinguish between white minority rule situations where honest effort is being made to accommodate change and where such effort is being stoutly resisted.

The newly elected government of Rhodesia and the new constitution are not simon pure majority rule models of democracy. But it is underwritten by a 64 percent vote by the blacks of that nation. The election may have had some flaws, but we are hard put to point out a fairer process in the turmoil of post-World War II African history. How long has it been now that our own "enlightened republic" has struggled with the problems of socio-economic fairness to all? We recognize the need for evolution here. Can't we grant Rhodesia a little more time on the same count?

Yes, it will likely prolong the guerrilla warfare situation by the dissident blacks. But there is nothing in the record of their action and rhetoric which indicates their participation in the recent process on their terms would have resulted in something more fair.

ORDER THAT STATEMENTS MAY BE PRINTED IN THE RECORD UNTIL 5 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 5 p.m. today to insert statements in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT COMMITTEES MAY FILE REPORTS UNTIL 7 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may have until 7 p.m. today to file reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CERTAIN ACTION TO BE TAKEN DURING RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess of the Senate over until Monday, the Vice President, the President pro tempore, and the Acting President pro tempore, may be authorized to sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess over until Monday, the Secretary of the Senate may be authorized to receive messages from the other body and from the President of the United States and that they may be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE TO FILE REPORTS UNTIL 5 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy may have until 5 p.m. tomorrow to file committee reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT BILLS AND RESOLUTIONS MAY BE INTRODUCED UNTIL 5 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 5 p.m. today to introduce bills and resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION ON MONDAY OF THE MILITARY PROCUREMENT BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 12 noon on Monday, the Senate proceed to the consideration of the military procurement bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the Senate will not be on that bill any longer than circa 5:30 p.m. on Monday. That is for the information of Senators.

Mr. President, I ask unanimous consent that during the consideration of the military procurement bill, no call for the regular order may bring that bill down.

Mr. STEVENS. There is no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is on the floor, and I have cleared that request with him, for the record.

Mr. President, how many orders for the recognition of Senators are there for Monday?

The PRESIDING OFFICER. There are two.

MONDAY, JUNE 11, 1979
ORDER FOR RECESS UNTIL 11 A.M.,

Mr. ROBERT C. BYRD. Mr. President, in view of the fact that the Senate has now agreed to start on the military procurement authorization at noon, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of the orders for the recognition of Senators on Monday next, there be a period for routine morning business, not to exceed 10 minutes, and that statements therein be limited to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business on Monday extend until 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may speak up to 5 minutes each during the period for routine morning business on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I be recognized on Monday upon the completion of business for that day on the military procurement bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will be taking up the military authorization bill. Rollcall votes are expected, and I hope that there will be good attendance. Amendments will be called up and disposed of, and as much progress as possible made on that bill.

Mr. DOMENICI. Mr. President, is there any additional time to ask a question of the majority leader?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. The Senator made reference to the military construction bill?

Mr. ROBERT C. BYRD. The defense procurement authorization bill.

Mr. DOMENICI. The defense bill; has that been agreed upon for Monday?

Mr. ROBERT C. BYRD. It has already been ordered. It is up for Monday.

Mr. DOMENICI. There is no time agreement other than that?

Mr. ROBERT C. BYRD. No time agreement, the Senator is correct.

Mr. DOMENICI. I thank the Senator.

RECESS UNTIL 11 A.M., MONDAY, JUNE 11, 1979

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 11 a.m. on Monday next.

The motion was agreed to; and at 3:44 p.m. the Senate recessed until Monday, June 11, 1979, at 11 a.m.

NOMINATION

Executive nomination received by the Senate June 7, 1979:

NATIONAL TRANSPORTATION SAFETY BOARD

George Herbert Patrick Bursley, of Maryland, to be a member of the National Transportation Safety Board for the remainder of the term expiring December 31, 1979, vice Kay Bailey, resigned.

HOUSE OF REPRESENTATIVES—*Thursday, June 7, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Heavenly Father, Creator of life, Giver of every good gift, we thank You for the opportunity to serve our neighbor and Nation.

Give us the strength of purpose to share with others who are in need, to encourage those who are afraid, to comfort those who know sadness, to forgive those who know guilt, and to protect those who are alone.

Reveal to us, Lord, how we may better serve this Nation, that Your Kingdom of righteousness and good will may be known among us.

In the Redeemer's name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3915. An act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 10 months the date on which the corporation must pay benefits under terminated multiemployer plans.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 429) entitled "An act to authorize appropriations for fiscal year 1979, in addition to amounts previously authorized for procurement of aircraft, missiles, naval vessels, and other weapons, and for research, development, test, and evaluation for the Armed Forces, and for other purposes," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. JACKSON, Mr. CANNON, Mr. HARRY F. BYRD, JR., Mr. NUNN, MR. CULVER, Mr. THURMOND, Mr. GOLDWATER, and Mr. WARNER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 411. An act to improve the protections afforded the public against risks associated with the transportation of hazardous commodities by pipeline;

S. 1030. An act to authorize the President to create an emergency program to conserve energy, and for other purposes;

S. 1123. An act to amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such Act for fiscal year 1980; and

S. 1148. An act to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORTS ON APPROPRIATIONS BILLS FOR FISCAL YEAR 1980

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file privileged reports on the following bills for fiscal year 1980:

Agriculture, rural development, and related agencies energy and water development;

Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices;

Departments of Labor, and Health, Education, and Welfare, and related agencies;

Legislative branch;

Military construction for the Department of Defense;

Departments of State, Justice, and Commerce, the Judiciary, and related agencies; and

Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. WHITTAKER reserved all points of order on the bill.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORTS REQUIRED BY SECTIONS 302 AND 307 OF CONGRESSIONAL BUDGET ACT OF 1974

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file reports required by sections 302 and 307 of the Congressional Budget Act of 1974.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

INTRODUCTION OF LEGISLATION ON NATIONAL HEALTH INSURANCE

(Mr. SABO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, I am introducing a bill for national health insurance. Mr. Speaker, I have included a full explanation of my bill in today's Extensions of Remarks for those Members who wish to examine these points further.

EXPRESSION OF APPRECIATION TO FRESHMAN DEMOCRATIC CAUCUS, REPUBLICAN CAUCUS, SMITHSONIAN INSTITUTION, AND NATIONAL ZOO

(Mr. MICA asked and was given permission to address the House for 1 minute today and revise and extend his remarks.)

Mr. MICA. Mr. Speaker, I would like to take one moment to say thank you to several people who assisted Members of the Congress on Tuesday evening. On Tuesday evening past, 450 Members of Congress and their families attended a gathering at the National Zoo, which was held by the Freshman Democratic Caucus and the Republican Caucus. We had a magnificent time.

All too often, I do not think we take the time to say thank you. I would just like to take a moment and say to the Secretary of the Smithsonian, S. Dillon Ripley, and to Theodore H. Reed, the Director of the National Zoo, how much we appreciate it. We look forward to doing this on an annual basis. I also see my good friend, the gentleman from Arkansas, ED BETHUNE, the chairman of the Republican Caucus, and I want to thank him for all of his help in this magnificent event.

FEDERAL-AID HIGHWAY TRUST FUND DOLLARS SHOULD BE INCREASED

(Mr. HOWARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOWARD. Mr. Speaker, late yesterday afternoon, the Committee on Public Works and Transportation received some preliminary figures from the the Federal Highway Administration on the obligation of Federal-aid highway trust fund dollars for the month of May. The sum of $879 million was obligated during the month as compared to $620 million in May of 1978. Cumulative obligations through May of this year are $5.822 billion, $1.7 billion ahead of last year's pace. If the obligation rate continues as expected, the Federal-aid highway program will come to a dead stop in July or August, although some $4.7 billion in contract authority would still be available for obligation.

Unfortunately, this information was not available yesterday when the House took up the supplemental appropriations bill. It is my hope, however, the Senate will see fit to increase the $8.5 billion obligation ceiling by at least $1 billion, and that the House will agree to the change.

With this change, the highway program can continue at its own pace, and the long discredited practice of impoundment of highway funds can be avoided.

AMERICANS NEED TO LEARN BASIC FACTS ON GASOLINE SHORTAGE

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, this gasoline shortage is real and Americans need to learn the basic facts. Let us look at some of the facts that were brought out yesterday when I was talking with top officials of the Sun Oil Co.

In the first place, the Sun Oil Co. is among the top 500 companies in the United States. Sun is 23d in sales but only 329th in return on equity. They talk about oil company profits, but I want you to notice it was 23d in sales but only 329th on return in equity. We need more domestic production. And Sun Oil Co. is one of the oil companies that could produce much more with deregulation in a free market. Today over half of their oil is produced domestically under the old price control regulations. If Sun could get market price, they could increase tremendously the production in such fields as the Saroc Field in west Texas. A few years ago the Sacroc Field was producing 202,000 barrels a day. But production has gradually dropped to where it is 104,000 barrels a day. It is expensive to add the carbon dioxide injection along with water to enhance production. But with a fair price, Sun could double the present production.

Sun needs more crude oil for their service stations. June allocations are 79 percent. Just this past week they had to buy world gasoline from Amsterdam. They paid $1.20 a gallon for gasoline landed on the east coast. There is transportation to the station. Then the station has expenses. We can produce gasoline in the United States much cheaper than this. America must stop relying on the Arab OPEC countries. Remember that our gasoline crisis in this country is due to the fact that half of the oil consumed in the United States is imported from the Arab OPEC countries. Only one commodity in the United States is under price control and that is oil and gas. Congress must deregulate oil and gas in order to eliminate the shortage.

PRESIDENT'S PROPOSAL TO CREATE 13TH CABINET DEPARTMENT DEEMED INAPPROPRIATE

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, President Carter's proposal to create the 13th Cabinet Department, H.R. 2444 which would establish a Department of Education not only is bad education policy, it also is bad government management policy. It would eliminate diversity of educational choice at the local level, and it would establish a Cabinet level bureaucracy larger than the current Departments of Commerce, HUD, Interior, Justice and State.

Never before has the Federal Government deemed education to be primarily a Federal responsibility. Education always has been a responsibility of the States, a wholesome tradition which should be continued.

President Carter's proposal is nothing more than a blatant political payoff in exchange for the endorsement of his candidacy in 1976 by the Washington education lobby.

The Republican Policy Committee, which I chair, has gone on record overwhelmingly in opposition to passage of this politically endorsed, costly Presidential payoff. If Members of this House permit President Carter to cater and cave in to these powerful lobbies, they will commit an injustice to a whole generation of Americans who believe that education should be controlled at the local level, and that Washington should exercise less power over their lives, not more.

□ 1010

LEGISLATION TO RECOVER DAMAGES CAUSED BY RIVER AND HARBOR ACT DEMONSTRATIONS

(Mr. DAVIS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Michigan. Mr. Speaker, in 1970, Congress authorized a program in the River and Harbor Act to demonstrate the practicability of year-round shipping on the Great Lakes. This year marked the last year for the demonstration program and the future of continuing the practice of shipping during the winter season is already a matter of much controversy.

Whether winter navigation continues or not, the fact remains that the demonstration program has had some impact on the people who own property along the navigation routes. There have been a number of claims that damage has been done to shore structures and vessels due to ice being pushed aside by the ships and further charges that there has been shore erosion due to ice piling against the shore.

It is important not to lose sight of the fact that these people have lived with this program and whatever the outcome of the debate over the issue of the future of the program, the problems raised by it need to be dealt with.

Today, I am introducing legislation to provide for a system of compensation to persons who have suffered damages due to the demonstration program. It authorizes the Secretary of the Army to determine the extent of damages to a person's property caused by the program. This would include State and local units of government that have sustained damages and allows for a period of up to 2 years for the filing of a claim of damages.

This problem is one which directly effects many States and recognizing the importance of the Great Lakes area economy to the entire Nation, it is essential that this matter is given prompt and serious consideration.

AIRLINE COUPONS

(Mr. SAWYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAWYER. Mr. Speaker, yesterday I took the floor of the House to bring up the question of these airline refund coupons or coupons that are being given out by United Air Lines and American Air Lines. These really amount to the equivalent of a cash refund and the House would be remiss, in my opinion, if they did not require these coupons to be turned in to be applied on the longer trips.

For example, I travel United on a two-leg flight to Grand Rapids, and on one round trip I picked up four of these tickets, $136 round trip. These tickets applied to a flight from Washington to Los Angeles first class are worth $257 each. So, I picked up over $1,000 of tradeable coupons that could be used by this House.

I think I have noticed now the executive branch has issued an order in this respect to all Federal employees. I think that many of the major companies, Sears, Roebuck and A.T. & T., have done this. I think it is just the same as pocketing a cash refund to keep it.

I think we ought to have our committee staffs, our staffs, and ourselves turn these in for apportionment to the longer trips.

Thank you very much, Mr. Speaker.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1979

Mr. ASHLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

The SPEAKER pro tempore (Mr. HOWARD). The question is on the motion offered by the gentleman from Ohio (Mr. ASHLEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DOWNEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 356, nays 5, present 3, not voting 70, as follows:

[Roll No. 187]

YEAS—356

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Deckard
Derrick
Devine
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Zablocki

NAYS—5

Conable
Derwinski
Gramm
Lewis
Mitchell, Md.

ANSWERED "PRESENT"—3

Danielson
de la Garza
Wolpe

NOT VOTING—70

Ambro
Anderson, Ill.
Applegate
Badham
Beilenson
Bonker
Bouquard
Breaux
Buchanan
Burton, John
Clay
Conyers
Crane, Philip
Davis, S.C.
Dellums
Diggs
Dingell
Drinan
Edgar
Edwards, Calif.
Edwards, Okla.
Erdahl
Fary
Fenwick
Ferraro
Fisher
Flood
Forsythe
Fowler
Frenzel
Fuqua
Garcia
Giaimo
Goldwater
Hall, Tex.
Hawkins
Holland
Ichord
Johnson, Calif.
Lloyd
McCloskey
McDonald
Mathis
Matsui
Mikva
Mineta
Moakley
Murphy, N.Y.
Nelson
Pickle
Price
Richmond
Rodino
Roe
Runnels
Santini
Schulze
Seiberling
Simon
Solarz

Spellman
St Germain
Stokes
Traxler
Wilson, Bob
Wilson, C. H.
Wydler
Young, Alaska
Young, Mo.
Zeferetti

☐ 1030

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3875, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, June 6, 1979, title IV had been considered as having been read and open to amendment at any point. Pending was an amendment offered by the gentleman from South Carolina (Mr. CAMPBELL). The Chair had announced that on a voice vote the ayes appeared to have it and a recorded vote had been refused.

The Chair recognizes the chairman of the subcommittee, the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Chairman, I demand a division.

POINT OF ORDER

Mr. STANTON. Mr. Chairman, I wonder if before we take this vote we could have complete order in the House, because some will want to stand for an aye vote and some will want to sit, so if we could start off with the House in order, I would appreciate it.

The CHAIRMAN. The Chair will call attention to the fact that on this very important vote which occurred last evening, there was considerable debate as to which side actually prevailed. It is very important that all Members understand the situation and be prepared to vote in accordance with their own wishes. The Committee will be in order. The gentleman from Ohio has demanded a division.

PARLIAMENTARY INQUIRY

Mr. STANTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. STANTON. Is it the understanding of the Chair that we are taking a vote on the Campbell amendment?

The CHAIRMAN. The gentleman is correct.

Mr. STANTON. Those in favor, then, of the procedural vote, who are in favor of the Campbell amendment, will then rise first as those who are in favor of it?

The CHAIRMAN. That is correct.

The question is on the amendment offered by the gentleman from South Carolina (Mr. CAMPBELL).

TELLER VOTE

The question was taken; and on a division (demanded by Mr. ASHLEY), there were—ayes 106, noes 61.

Mr. ASHLEY. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. ASHLEY and Mr. CAMPBELL.

The Committee again divided, and the tellers reported that there were—ayes 129, noes 73.

So the amendment was agreed to.

☐ 1040

The CHAIRMAN. Are there other amendments to title IV?

AMENDMENT OFFERED BY MR. TAYLOR

Mr. TAYLOR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAYLOR: Page 41 after line 15, Section 402 of H.R. 3875 is amended by adding the following subsection:

(c) Unless the method of disposition is adopted for the purpose of evasion of this title, the requirements of sections 1404(a)(1) and 1405 through 1408 shall not apply to—

(1) the sale or lease of real estate by a developer who is engaged in a sales operation which is intrastate in nature. For purposes of this exemption, a lot may be sold only if—

(A) the lot is free and clear of all liens, encumbrances, and adverse claims;

(B) the purchaser or his or her spouse has made a personal on-the-lot inspection of the lot purchased;

(C) each purchase or lease agreement contains a clear and specific statement describing the party responsible for providing and maintaining the roads, water facilities, sewer facilities, and any existing or promised amenities.

As used in this clause (1), the terms "liens", "encumbrances", and "adverse claims" do not include United States land patents and similar Federal grants or reservations, property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivisions, if—

(i) the developer, prior to the time the contract of sale or lease is entered into, has furnished each purchaser or lessee with a statement setting forth in descriptive and concise terms all such reservations, taxes, assessments, which are applicable to the lot to be purchased or leased; and

(ii) receipt of such statement has been acknowledged in writing by the purchaser or lessee;

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TAYLOR. Mr. Chairman, I am offering an amendment to H.R. 3875, the Housing and Development Amendments of 1979, to cure a longstanding problem with HUD's administration of the Interstate Land Sales Full Disclosure Act.

My amendment will remove from the paperwork requirements of the act the land sales which are intrastate in nature and never cross State boundaries. Specifically, the amendment would state that if a developer's activities are confined to selling lots only to residents of the State in which the subdivision is located, then the developer does not have to register that subdivision with HUD.

However, my amendment would condition the exemption on the developer providing certain protections to consumers.

Finally, my amendment would preserve the right of the purchaser to sue the developer under the Interstate Land Sales Full Disclosure Act for alleged fraud and would retain HUD's jurisdiction to prosecute fraudulent developers for fraud.

What we have with HUD's administration of this act, Mr. Chairman, is a classic example of bureaucratic bungling, regulatory overkill, and undue Federal regulations of the small business people of this country.

HUD has taken a well-intended law and misconstrued and misapplied it so much from what Congress had intended that it has only a similarity to the original law as passed by Congress. The law when it was originally enacted meant to protect land sales promoted primarily through the mails. Often the developer would send a mail solicitation to people who resided in States thousands of miles away offering undeveloped land. In many cases the only material consumers relied upon in making the decision to buy or not to buy was the material that was sent to them by the developer. Since the buyers because of their distance from the site of the purchase that they were going to make could not travel to look at the land, these documents were an important source for their information.

In addition, if a controversy developed to the enactment of this law, the buyer would have to travel to the developer's State to sue him to get his money back. This, too, created a hardship on the consumer; so Congress in 1968 enacted this law to address these problems. It mandated that the sales of these mail order lots had to be done with written material which was truthful. In order to encourage honest dealing, Congress gave jurisdiction in these controversies to the Federal court system, whereby a consumer did not have to travel to the State of the developer, but could sue him in his own district.

The Congress intended to exempt intrastate developers, and that is clear. The Senate report accompanying this legislation said:

> The committee expects the Secretary to utilize the discretion given him to exempt sales of lots in subdivisions which would technically be covered but which are intrastate or almost intrastate in nature—such cases as where interstate sales are very few in number and mainly coincidental. Such a situation could arise, for example, where a few out-of-state purchasers buy lots in a subdivision which is only being offered for sale within the state of the land's location or nearby communities.

☐ 1050

What has happened, Mr. Chairman, is that the Secretary actually has forced virtually every developer, large or small, intrastate or interstate, to come before her if they want to engage in this business. Even the smallest of developers who have never sold a lot to a resident of another State must now file a registration statement or file for an exemption before they can engage in this business.

If every Federal agency engaged in this type of regulation that HUD does with respect to land sales, no commerce could ever go on in this Nation without Federal intervention and approval. What would happen? What would stop HUD from telling every homeowner in the country they had to do this? Why cannot some other agency regulate the sales of cars or food or other products?

If that is the result the Members in this Chamber want—and I do not believe it is—then we should not allow this exemption that is called for, Mr. Chairman, in my amendment.

The cost of the registration with HUD can run into tens of thousands of dollars in engineering, accounting and legal fees. How many small businessmen can afford this kind of expensive Federal regulation and still remain in business?

The CHAIRMAN. The time of the gentleman from Missouri (Mr. TAYLOR) has expired.

(On request of Mr. STANTON, and by unanimous consent, Mr. TAYLOR was allowed to proceed for 5 additional minutes.)

Mr. TAYLOR. Mr. Chairman, I had one small developer who told me he was strictly engaged in intrastate selling and was confronted with HUD. First he was told he would not need an attorney, but later he realized he needed an attorney. He made not one trip, not two trips, not three trips, he made four trips to Washington; he retained a lawyer, and he hired a certified public accountant. He did all this in order to sell intrastate land to his neighbors. The total cost to this developer, when he was through, his cost was nearly $3,000 per lot, which ultimately had to be passed on to the consumers who bought those lots.

Those who engage, Mr. Chairman, in the rulemaking and technical regulations have failed to understand—and it seems they always will—that nothing in this country happens in the way of real progress until somebody buys something and somebody sells something. It should be our duty and our responsibility as Members of this body to make commerce flow freely, not to make it impossible.

What we have here, Mr. Chairman, is a power-grasping bureaucracy which has, as it often does, made technical administrative rules and regulations to include those who in no way were involved in the improper conduct toward which Congress directed the original regulation.

Our President recently, Mr. Chairman, met with the mayors of this country, and he pointed out to them that it was important that we remove some of the regulations if we are going to keep housing moving and keep housing starts up in this country. I agree with him that it is the responsibility of local government to do this. But let me say to my friends that it is our responsibility on the floor here today to face up to that challenge.

Nearly 200 years ago the Founding Fathers of our country, in setting forth their grievances and their complaints about big government, which was then in London, said that:

> The King has created many new offices and henceforce has sent forth many officers to harass our people and eat away our substance.

Let me say to my friends that from the grasslands of this country, the people all over our Nation are fed up with unnecessary, useless, and inflationary regulations that again harass our people and eat away at our substance. We have all gone home and talked about the oversight that is needed in this country. Our distinguished majority leader and our minority leader during this session have indicated that this would be one of the priorities of our Congress, to exercise oversight of the rules and regulations that have been promulgated.

Here is a chance for us to do this. Here is a chance for us to cut the fat and never touch the muscle, because this regulation protects the consumer, guarantees a free title, guarantees that he might have personally looked at the land, and guarantees that he must have a full disclosure statement of what services are going to be furnished on that land. If that is not full consumer protection, I do not know what it would take to give us full consumer protection. This guarantees the rights of the consumer at no cost to the Federal Government.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, first let me compliment the gentleman in the well. The gentleman from Missouri (Mr. TAYLOR), as a Member of this body, takes the well very seldom, but when he does, he always makes an extremely excellent point.

I just want to make sure that I clearly understand the gentleman's amendment now from his description.

Would I be right in summary if I perhaps put it this way: If a lot or if lands are considered to be in intrastate sales, then it is the gentleman's intent and purpose that they should be considered that and not included in certain sections of this legislation; is that correct?

Mr. TAYLOR. That is correct.

Mr. STANTON. Is that basically what the gentleman wants to do?

Mr. TAYLOR. That is true.

Mr. STANTON. Mr. Chairman, could the gentleman give to the House, so that perhaps some of us who are not lawyers could more clearly understand it, an example? What example could the gentleman give us perhaps as something that could happen without his amendment if the bill stays the way it is? What abuses by the Government could there be?

Mr. TAYLOR. Mr. Chairman, I think I enunciated one.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. TAYLOR) has expired.

(On request of Mr. STANTON, and by unanimous consent, Mr. TAYLOR was allowed to proceed for 3 additional minutes.)

Mr. TAYLOR. Mr. Chairman, if I may continue, there are hundreds of people from whom I have heard, and I have reams of letters from people in virtually every State of the Nation who are intrastate developers who have been forced to comply with these regulations which are expensive.

It takes an attorney and it requires a certified public accountant to come up with a full, detailed disclosure of the financial assets of a small developer. This costs money. It cannot be handled by mail. They come to Washington, they think they have the problem solved, they go home and they find there are other objections, so they have to come back to Washington. The costs are ultimately passed on to the consumers from these small intrastate developers who are doing nothing but selling to their neighbors. The cost of housing goes up because of these inflationary inflictions that are placed upon them by the regulations.

Mr. STANTON. Mr. Chairman, will the gentleman yield further?

Mr. TAYLOR. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, in the markup in our subcommittee the gentleman from Oregon (Mr. AuCOIN) submitted an amendment that I support, and I just wondered if I could take the time to ask the gentleman from Oregon this: Will he be getting some of his own time to explain hopefully to the body what differences there are between his amendment—which I supported at that time, if I remember correctly—and the amendment the gentleman in the well wishes to have adopted.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to my distinguished colleague, the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, I want to associate myself with much of the remarks that the gentleman from Missouri (Mr. TAYLOR) has made. It is my understanding that the gentleman from Missouri offers substantially the same amendment that I offered in the Subcommittee on Housing and Community Development, if not the identical amendment. If there are differences, I am not aware of them. Perhaps the gentleman from Missouri (Mr. TAYLOR) can tell our colleagues.

Mr. TAYLOR. Mr. Chairman, I believe my amendment is identical to the amendment that was proposed by my colleague, the gentleman from Oregon (Mr. AuCOIN).

Mr. STANTON. Mr. Chairman, I thank the gentleman.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Missouri (Mr. TAYLOR).

In private life, as the gentleman knows, I was involved deeply in the real estate business as a realtor and as a lawyer. I was pretty much doing a lot of real estate work as a lawyer.

I think that what the gentleman has offered here today is what we really need to do to keep our economy going in that sector without putting burdensome regulations and rules on the people in our local communities so they can go ahead with their small developments.

I think the registration law, insofar as it affects people in Kentucky and Missouri buying by mail order from Florida or wherever else it might be, is probably appropriate, but the type of situation that the gentleman addressed in his amendment does not need all that bureaucracy. A good title lawyer in one's own hometown can go ahead, if the title is good, and get an abstract and get proper title. They know what they are getting under the amendment. They have to go out and look at it. It just strikes me that it goes to the core of the situation, and that is what we need.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. TAYLOR) has again expired.

(On request of Mr. AuCoin, and by unanimous consent, Mr. TAYLOR was allowed to proceed for 2 additional minutes.)

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman's yielding again.

I think we can describe the effect of the gentleman's amendment more sharply for the Members of the body who do not serve on the committee. I would like to do that by asking the gentleman some questions.

It is my understanding that the amendment says that a Missouri seller who has Missouri land and wants to sell to a Missouri buyer shall be exempt from the Federal Government's looking over it and requiring its own disclosure requirements. The gentleman says that is not a proper role under those circumstances for the Federal Government to be so involved; am I right in this?

Mr. TAYLOR. The gentleman is precisely right.

Mr. AuCOIN. Is it not also true that there still must be some conditions that are met to protect the consumer, conditions set by those of us here at the Federal level in the Federal Congress—for instance that each lot sold must be free and clear of all encumbrances?

☐ 1100

Mr. TAYLOR. That is true.

Mr. AuCOIN. Second, that the purchaser has made a personal inspection of the lot in question.

Mr. TAYLOR. Correct.

Mr. AuCOIN. Third, that each purchase or lease agreement contains a statement describing the party responsible for providing and maintaining the roads, water facilities, and any existing or promised amenities. Is that not correct?

Mr. TAYLOR. That is exactly true.

Mr. AuCOIN. Is it not also true that the office within HUD that manages this whole question of interstate sales is a very limited office, in terms of personnel?

Mr. TAYLOR. I am glad the gentleman asked that. I would like to respond, if I might. I submit that the functions of this office are not being properly carried out because we are spending so much time harassing the small people, filling up the file cabinets down at HUD with thousands of these small operators, that the big ones are going scot-free, and they are not even being checked upon.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. TAYLOR) has expired.

(On request of Mr. AuCoin and by unanimous consent, Mr. TAYLOR was allowed to proceed for 2 additional minutes.)

Mr. AuCOIN. If the gentleman will yield further, I think this is an extremely important point. If we are really concerned about cracking down on interstate sales abuses—those transactions that go across State boundaries, that go from one State to another, with a seller in one State, a buyer in another, where you have ripe opportunities for abuses—if we are really concerned about abuses in that area and we have, at the same time, a limited staff in HUD to regulate and to administer this program, then it just seems to me that we ought to say to HUD and the interstate sales office that it ought to concentrate on that area and not spread out its personnel into areas beyond interstate transactions and engage itself with monitoring of transactions that involve Missouri land on the part of a Missouri seller to a Missouri buyer. If you do that, you are going to guarantee that some big-time operator that is engaged in transactions on an interstate market basis is going to get off scot-free, because there is no way that the limited staff in HUD can fully do the job.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to follow up on the point that the gentleman from Oregon just made. What tends to happen is that not only are they then diverting resources to go after a small operator in the intrastate market instead of the big operators who are dealing fraudulently in the interstate market, but what happens in the bureaucracy is, they go after the easy pickings. It is a lot easier to harass the small, local businessman than it is to go after the large corporation with corps of lawyers who are in the interstate sales situation. I think if we really want to deal with the serious problems of misleading representation and fraud in interstate land sales, it is extremely important that we focus the attention of the Department on the problem area which is right there in interstate sales.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. TAYLOR) has again expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. TAYLOR was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, it is my understanding that the title of the act as it was passed in 1968, and down until the present day, is the Interstate Land Sales Full Disclosure Act; is it not?

Mr. TAYLOR. It is.

Mr. VOLKMER. And if you read from the Senate report of that act, it is not in any way to pertain to intrastate sales; is that not correct?

Mr. TAYLOR. That is very clear in the legislative history.

Mr. VOLKMER. All the gentleman is trying to do by this amendment is to put the 1968 act in the way the Congress at that time passed it and intended it to mean; is that correct?

Mr. TAYLOR. That is correct.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Minnesota.

Mr. VENTO. On the nature of the gentleman's amendment, does the gentleman think his amendment only affects the intrastate sales state? In other words, the gentleman's language says "intrastate in nature." Is it the gentleman's understanding that his amendment only affects sales of a buyer and seller within the State?

Mr. TAYLOR. Yes.

Mr. VENTO. Mr. Chairman, I beg to differ with the gentleman. I think it does not.

Mr. TAYLOR. Would not intrastate in nature mean they were buying it within the State?

Mr. VENTO. I would think that that is the case. But the gentleman says "intrastate in nature." That means that along the borders of, say, Minnesota, Wisconsin, other areas, New York, New Jersey, the Poconos in Pennsylvania, all of these big population centers, they are going to be able to go into that State and buy from the developer there because he does not have his activities such as advertising outside the State?

Mr. TAYLOR. I doubt if the world would come to an end if they did.

Mr. VENTO. I think this goes beyond State boundaries.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, to alleviate the concern I am sure many people have for the consumer—and we have to be concerned about the consumer—the gentleman's amendment still retains an onsite requirement of inspection?

Mr. TAYLOR. They must have looked at the lot.

Mr. ROUSSELOT. So that if it were under water, that would be known.

Mr. TAYLOR. Yes.

Mr. ROUSSELOT. That would be required. Some of my colleagues on the committee have expressed great concern that onsite inspection is required in your amendment.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. TAYLOR) has again expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. TAYLOR was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. If the gentleman will yield further, I think it is important to make sure that in an interstate sale, for somebody who might be sold out of State, they can be assured, if there has been an onsite inspection, that it would not be swampland. Of course, when the Federal Government buys something there is no assurance it is not in a swampland. We have a post office building in New Jersey that was in the swampland when it was built. But the Federal Government is not too good about careful oversight anyway, and I am not sure we can rely on them to do it right. But there is an onsite inspection?

Mr. TAYLOR. That is right.

Mr. ROUSSELOT. That is very reassuring, because a couple of my colleagues have indicated to me that one reason they are not going to vote for the gentleman's amendment is that there is no onsite inspection requirement. So that is false, is it not?

Mr. TAYLOR. Yes.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the gentleman from Missouri and some of his supporters have repeatedly suggested that the small developer is affected. Is the gentleman aware that from page 34 to page 41 of the bill there are any number of exemptions for small developers? There is a 100-lot exemption, for instance, a 12-lot exemption, a noncontiguous-lot exemption, size exemption for over 40 acres, a municipality exemption. In addition to that, in terms of an onsite inspection that the gentleman from California pointed out, in Minnesota during the winter the water freezes and you cannot tell if you are on soggy ground or not. It seems solid. I am sure the gentleman is well aware of the fact that certain times of the year you have floods and rain, those types of conditions, which would negate the value of an onsite inspection. You cannot tell a lot of things from just a physical examination onsite inspection that the gentleman safeguard there are some problems with that as a practical matter. Although I think it is better than no safeguard, but it is obviously inadequate, considering the nature of the problem.

The CHAIRMAN. The time of the gentelman from Missouri (Mr. TAYLOR) has again expired.

(On request of Mr. COURTER and by unanimous consent, Mr. TAYLOR was allowed to proceed for 2 additional minutes.)

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I have a couple of inquiries. First, I understand by the gentleman's amendment that it does not apply if there is a lien or encumbrance or adverse claim on the property?

Mr. TAYLOR. True.

Mr. COURTER. What time, in fact, does that application have to take effect? In other words, what point in time is it required that there be no lien on the property?

Mr. TAYLOR. At the time the property is transferred it would have to be free from all liens and encumbrances, as could easily be obtained, as the gentleman from Kentucky pointed out, by certified abstract or by title insurance.

Mr. COURTER. It does not have to be at the time the two parties enter into the contract itself?

Mr. TAYLOR. No.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Minnesota.

Mr. VENTO. The amendment contains the language "liens," "encumbrances," and "adverse claims." And it goes at some length. I would recommend that the gentleman from New Jersey ought to read the actual language in the amendment. It goes on to point out, first of all, that at the time of sale, when the contract for deed is signed. I am informed—and I think that is probably accurate—"* * * taxes and assessments imposed by a State," other types of liens, I guess which would be normal in terms of utilities.

Mr. TAYLOR. Oh, they are normal. Anyone in the real estate business knows that those are normal liens, such as U.S. land patents, and so forth.

Mr. VENTO. If the gentleman will yield further, on line 5 of that paragraph it says: "* * * for the purpose of bringing public services to the land being developed, taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable * * *." The point is that those are exceptions.

Mr. TAYLOR. Exactly as they are in the present law.

Mr. VENTO. These are exceptions to it.

Mr. TAYLOR. You have exceptions there under the present Federal law. They are standard.

Mr. VENTO. The gentleman from New Jersey ought to be aware that those are exceptions for the interastate sale in this particular amendment that would not have to be met if there cost accrue after the signing of the contract for deed they would be the legal liability of the buyer—the consumer may place only a small down payment and substantial costs could arise especially when the consumers purchase on unimproved property.

□ 1110

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I strongly oppose the amendment proposed by my colleague from Missouri. This amendment would exempt from the registration and disclosure requirements of the current law the sale of land when the sale is intrastate in nature.

This amendment, let us face it, would be a gigantic step backward in the efforts of the Congress to protect consumers from unscrupulous land developers and their agents. That was our purpose 10 years ago, to afford that protection.

Today our purpose appears to be very different; namely, to afford protection to the land developers, so that they can engage more easily in practices that are fraudulent and fraught with trickery and deception.

For over the last 10 years now, the Office of Interstate Land Registration has at least assured consumers who buy undeveloped or partially developed land that the disclosure document required by HUD provide consumers with the information necessary to make a fully informed decision to buy or not to buy.

Among other critical information, that document explains whether the land is subject to earthquakes and whether the land is suitable for septic tanks.

Whether it would cost $50 or $3,000 to bring electricity to the lot, whether the developer has escrowed adequate funds to complete promised amenities? I ask you, do you think an onsite inspection will reveal that information to you? These are the types of requirements in the current law.

Onerous, bad for the consumer? I hardly think so.

Twenty-two States presently rely on the HUD document for State disclosure purposes. If the gentleman's amendment is passed, this will end. Most States do not have the staff or the capacity to take on the disclosure function now performed by HUD.

I will say this in passing to the gentleman, that the State of Missouri is one of those States that does not have disclosure requirements nor the capacity, the staff, to take on the disclosure function.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Missouri.

Mr. TAYLOR. It would create more bureaucracy than we need. We have courts. We have pretty good consumer protection policies in Missouri. We have lawyers. We have availability, and I would say this to my distinguished colleague from Ohio——

Mr. ASHLEY. Briefly.

Mr. TAYLOR. If any of these protected provisions within my amendment are not adhered to by the developer, then they are right back under HUD. They can be prosecuted.

Mr. ASHLEY. That is fine.

Mr. TAYLOR. You can do all the mean things to them the Secretary wants to do.

Mr. ASHLEY. In 21 other States, the purchaser is not going to see the benefit of the disclosure statement, not under the gentleman's amendment. The gentleman's constituents will not have the benefit of the disclosure statement.

Mr. TAYLOR. Yes, they will.

Mr. ASHLEY. They will not if the amendment is adopted.

Mr. TAYLOR. It is very clear.

Mr. ASHLEY. The proposed exceptions would leave a large number of consumers without this vital information.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Minnesota.

Mr. VENTO. I think it is a very important point the gentleman from Ohio makes.

The point is, if the constituents from the district of the gentleman from Missouri (Mr. TAYLOR) were to go to Florida and buy a lot and the sales of that lot in that State did not have an operation in Missouri, they would not experience the protection of this particular provision.

Mr. ASHLEY. That is precisely right.

Mr. VENTO. That is correct. I do not know what the intention of the gentleman from Missouri (Mr. TAYLOR) is, but that is the net effect of the term "intrastate nature," because it depends upon the definition in terms of what is intrastate. I think you are going to determine that on the basis of what the activity of the seller is, not as to the migration of people back and forth throughout this country buying land; is that right?

Mr. ASHLEY. That is right.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Missouri.

Mr. TAYLOR. Let the record show it is not legislative intent for that.

Mr. ASHLEY. I appreciate that, but I think that is the understanding we have.

Mr. TAYLOR. It is the understanding that if someone from Missouri went to Florida and bought a lot, they would not be protected? We are from Missouri, and we have got to be shown.

Mr. ASHLEY. I appreciate that.

I might say, Mr. Chairman, in view of the comment with respect to the enforcement activities of the Department of Housing and Urban Development in the intrastate land sales area, that five of the six criminal indictments and four of the convictions——

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

(By unanimous consent, Mr. ASHLEY was allowed to proceed for 4 additional minutes.)

Mr. ASHLEY. To continue, Mr. Chairman—five of the six criminal indictments and four of the convictions obtained in the past year would never have occurred if the gentleman's amendment had been in force.

That is why I say, Mr. Chairman, that the thrust of this amendment, whether it is the intent or not, is to relieve the developer of responsibility that he now has to conform with the law, to deprive the consumer of the protection that the consumer now has and rightly so. I cannot believe that this Congress is prepared to tell consumers that just because they purchased land in the State in which they reside, that they no longer will be provided these very important protections and information as called for in the current law.

In urging defeat of this amendment, Mr. Chairman, I, by no means, am ignoring the problem of the small businessman who is overburdened by Government regulation or the problem of the large developer who is faced with duplication of State and Federal regulations.

The committee worked carefully to balance the added protections needed by consumers with the relief needed by small businessmen.

The bill before us contains a number of exemptions, specifically designed to assist small developers. These include exemptions for the subdivisions containing more than 100 lots and for developers selling less than 12 lots a year or selling lots from several small scattered sites.

In addition, the new HUD regulations contain an additional exemption for subdivisions containing more than 200 lots marketed locally. HUD estimates that the 100-lot exemption itself will exempt approximately 25 percent of all of the subdivisions presently required under the act to register.

Not wanting to leave consumers without the benefit of disclosure, but recognizing the increasing role that several States have adopted in assuring protection for their residents, the bill also provides a carefully drawn intrastate exemption. While many States rely almost totally on the Federal requirements, other States have passed laws that provide equivalent or greater protection to consumers. Once HUD certifies those States that have equivalent laws, the developer will only have to comply with State disclosure registration requirements, thus eliminating State and Federal duplication.

Now, let us be clear who will benefit most from my colleague's amendment. It will not be the consumers. They will be left emptyhanded. It will not be the small businessman, as Mr. TAYLOR claims. Their problems are already addressed in other sections of H.R. 3875.

The people who will benefit most will be the large developers, those selling 300 to 5,000 lots or more, whose sales are intrastate in nature.

Is the sale intrastate in nature if the seller uses the instruments of interstate commerce such as the telephone, the mails, or newspapers, to complete the sale? I think not.

Is the sale intrastate in nature only if 100 percent of the lots are sold to residents of the State in which the land is located? What happens if 97 or 95 percent of the sales are to State residents?

Full disclosure is the most effective weapon we have, Mr. Chairman, for defeating fraudulent developers.

Do we want to answer to the consumers in our States, our districts, for protecting large developers from the responsibility of thoroughly disclosing the nature of the property that they are selling? I think not.

On that basis, Mr. Chairman, I urge defeat of this amendment.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

(At the request of Mr. VOLKMER and by unanimous consent, Mr. ASHLEY was allowed to proceed for 3 additional minutes.)

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. The gentleman, during his discussion as to the opposition to the amendment, made a statement as to the number of prosecutions that have been effected. I believe it was five out of six.

Mr. ASHLEY. That were intrastate in nature, I believe.

Mr. VOLKMER. What I was interested in, those six, are those the total that have been effected since what time?

Mr. ASHLEY. Thus far this year.

Mr. VOLKMER. This year?

Mr. ASHLEY. Yes.

□ 1120

Mr. VOLKMER. Now, did any of those publication magazines, radio, newspapers that were interstate have notices as to offers of sale on these lots?

Mr. ASHLEY. I frankly have not studied each of these criminal indictments and I have not had the opportunity to look at each one of them.

Mr. VOLKMER. As I understand the amendment of the gentleman from Missouri——

Mr. ASHLEY. We did receive testimony from the agency that with the gentleman's definition of sales covered under the act these indictments would not have been possible.

Mr. VOLKMER. The sales were only to Missourians. And I think this is an important point, and maybe it is intended within the gentleman's amendment, and maybe it does not explicitly say so, but I think there may be an offer to correct it. Let us assume that these sales are only to Missourians by Missourians, period.

Mr. ASHLEY. Well, what about it?

Mr. VOLKMER. Now, the gentleman does not think that this should be exempt under this act?

Mr. ASHLEY. No.

You see, I am looking at the transaction and, I am also looking at the means and the techniques, the instruments used in the sale. That is what I am looking at. Whether a transaction takes places here or 200 yards down the road with some invisible boundary does not really distinguish the transaction as far as I am concerned. When the instruments of interstate commerce are used to sell property, we want to assure adequate protection to consumers.

Mr. VOLKMER. What concerns me——

Mr. ASHLEY. The Senate 10 years ago identified the types of sales that it was interested in bringing within the purview of the Federal enforcement process. Those sales were sales that were furthered by the use of instruments of interstate commerce, the telephone, the mails, et cetera.

Mr. VOLKMER. What concerns some of us, I believe though, is the problem, the fact you have the agency now operating this law that says that even though those who are nonfraudulent, I am sure of those that have filed very few have actually been prosecuted, but you have many who have been required to file unnecessarily so and incur additional expense.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(At the request of Mr. VENTO and by unanimous consent, Mr. ASHLEY was allowed to proceed for 2 additional minutes.)

Mr. ASHLEY. I have to say that with the disclosure requirements, it is impossible to tell the amount of good that has been done. That is to say, it is difficult to tell exactly how much fraud has been obviated as a result of disclosure.

Mr. VOLKMER. I agree with that.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Minnesota.

Mr. VENTO. I appreciate the chairman yielding.

Let me just bring out another aspect of this proposed amendment that I think is important, and that is the fact, how do we define a Missourian or a resident of that State and a nonresident? How do you do that? In other words, there is nothing suggested here. That is another problem we have in terms of this issue.

Plus, in addition to that, of course, the exemption is for States that already have substantial certification and is already included in this revised OILSR Act requirements, so we are attempting to eliminate in this act the duplication and concerns in terms of the bureaucracy voiced by many in response to this issue.

It is streamlined along those lines. I think it is important to look at the fact that nobody intends to take away a responsibility that the State is ready to assume. We are trying to fill in the gap. I think everyone would agree, proponents and opponents, we do not want to see fraud in these instances.

Mr. ASHLEY. The gentleman gets to the point. You know, we are filling in where States have shown no interest, no ability, no capacity to move. What we are saying is that where States provide for disclosure, that is comparable to the disclosure provided for in Federal law, that for heaven's sake, let us do away with the duplication, make that very clear in the law itself.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Missouri.

Mr. TAYLOR. I think as far as disclosure is concerned, the text of this amendment has every disclosure in the world, not a disclosure to HUD, but a disclosure to the person who is buying the land that they are getting a certified, clear title, free of all liens and encumbrances, that they are looking at the land with their eyeball, they are seeing what they are buying, and then they are getting the full disclosure on what facilities have and will be offered to the buyer. If that is not disclosure enough to protect the consumer, God help him. Nobody can save a guy like that.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(By unanimous consent Mr. ASHLEY was allowed to proceed for 1 additional minute.)

Mr. ASHLEY. You are saying to go out there and look with your own two eyes, and if something is not right, then behave accordingly. If you do not see it, then you have at least had the opportunity.

What about whether or not the land is subject to earthquakes? You can giggle about it. They do not giggle about it in California or some other places.

What about if the land is suitable for a septic tank? Do you suppose the developer might know more about that than a potential buyer? Should he not be required to say what he knows about the suitability of the land for septic tanks?

Now, this is the kind of thing, this is the kind of information that is not readily available.

Mr. TAYLOR. The gentleman is familiar with what a title search is, is he not?

Mr. ASHLEY. Yes, I am. I practiced law. I am reasonably familiar with that.

AMENDMENT OFFERED BY MR. LEVITAS TO THE AMENDMENT OFFERED BY MR. TAYLOR

Mr. LEVITAS. I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS to the amendment offered by Mr. TAYLOR: the subsection is amended by adding at the end the following:

"For purposes of this subsection the term "intrastate in nature" shall mean sales by residents of a state to residents of that State of land situated within that State."

Mr. LEVITAS. Mr. Chairman, I think the substance and the intention of this amendment is pretty apparent on its face. The gentleman from Minnesota and others have raised questions as to whether the protection of the Interstate Land Sales Disclosure Act would apply to a person from Missouri, for example, who goes to Florida and purchases a lot there.

The author of the principal amendment, Mr. TAYLOR, said that that was not his intention. I think that this amendment makes it very clear that the Taylor amendment applies only to sales made by residents of a State to residents of that State of land within that State. By residents we mean people of a State that is their bona fide legal residence.

Mr. TAYLOR. If the gentleman will yield, I certainly agree with that, and would the gentleman yield?

Mr. LEVITAS. I would be glad to yield.

Mr. TAYLOR. That was the exact intention of the gentleman from Missouri. I thought intrastate in nature meant that very thing. But, if this helps clarify, I am certainly happy to accept your amendment, and I thank you very much for that.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman.

Mr. ICHORD. I concur with the statement of the gentleman from Missouri and wholeheartedly support the amendment of the gentleman from Georgia. I think the gentleman has clarified the amendment and I think at the same time you have removed all of the objections the opponents of the Taylor amendment may have.

Let us be honest with ourselves, gentlemen, in what we are trying to do here. I have heard my name, if the gentleman will yield further, mentioned in vain many many times, because I am a Missourian. But, this amendment not only applies to Missourians. You have been trying to put this off as a parochial amendment. It applies to Ohioans, it applies to New Jerseyites, it applies to Californians, it applies to Georgians, it applies to all of the States of the Union.

All this amendment does is to give every Member of this body a chance to put his action where his mouth has been. I doubt if there has been a Member in this body, including the gentleman from Ohio—in fact, he mentioned the burdensome regulations and paperwork requirements placed upon small business in his speech against the Taylor amendment. We are smothering small businessmen in this country, we are adding to inflation. We are putting them out of business, unintentionally, yes, because they just cannot afford to hire the lawyers, the accountants, the engineers to comply with all of the smothering regulation.

Now, let us put our votes where our mouths have been and vote this amendment up immediately.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman.

Mr. VENTO. I appreciate that. I think this does calm the fears I raised with regard to the definition of intrastate, and I commend the gentleman from Georgia for his amendment. I think it does clarify that point.

The other aspect I want to mention is that there are interstate transactions that are already exempt and this in no way affects those of course, because of the size and other factors delineated. There are many exceptions in legislation addressing the concerns of my good friend from Missouri (Mr. ICHORD). So, I commend the gentleman for clarifying the intrastate point. I think beyond that we have got one basic question we want to answer with regard to the impact of the Taylor amendment.

Mr. LEVITAS. I understand that.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to the gentleman from Ohio.

Mr. STANTON. I thank the gentleman for yielding.

I want the gentleman in the well to know I have looked at the amendment in a new light. I want him to know it was his amendment that swung the support of the gentleman from Missouri. I happen to agree with the gentleman from Missouri. Certainly, it is a clarifying amendment, and we are pleased to accept it.

Mr. LEVITAS. I thank the gentleman from Ohio for that.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. Mr. Chairman, I would like to address myself to the incorporation of my amendment to the principal amendment and explain my reason for supporting the principal amendment of the gentleman from Missouri. I am very well aware of the fact of the potential for fraudulent and deceptive sales practices in the sale of land across the country. Indeed, when I was a member of the State legislature in Georgia, I fought the fight against land developers for 3 years to put in place a Georgia Land Sales Act which provides in many ways more protection even than the Federal law does on this subject. But I think when we are talking about land which is in a State, being sold by persons in the State to persons in that State, the State has the responsibility for dealing with the problem. I think it is wrong for States not to deal with that problem.

But the basic erroneous assumption that is current in this bill without this amendment is the fallacy that the only place that protection for consumers can come is in, and that the only place for solutions for all of our problems can reside is the GS–11's in Washington, D.C., and that is wrong. I think we perpetuate that concept every time we say to the States, You are incapable of handling your own affairs. What we end up doing is creating a situation where the Federal regulators are able to go out and harass the two-bit operations because they can catch them easier and with less effort get their workload volume looking good and get publicity with their names in the newspapers, but they let the big boys get away who are ripping off the American people in millions and millions of dollars.

I think by focusing attention on the major problem of the interstate land sales industry and by letting the States measure up to their responsibilities and deal with those smaller scale local problems, as we have in Georgia, and as they have in other States, then we have put the matter in balance and perspective. Let the Federal Government deal with national Federal problems and the States deal with State problems. We find just as much wisdom, if not more, and just as much integrity, if not more, and just as much ability, if not more, to deal with the local and State problems at the State and local level as we do in the bureaucracies in downtown Washington, D.C.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

To follow up on the points the gentleman is making, many States now have much more strict supervision of land sales under all kind of laws than does the Federal Government. The gentleman's point is well taken that all omniscient wisdom does not necessarily reside in Federal bureaucracy. I think we have learned this as it relates of the Federal regulation of gasoline sales of the local gasoline station dealer who is trying to sell gasoline at the local corner. But over in the Senate they can get 67-cent gasoline because they have special privileges of Government to back them up.

The Congress created a huge bureaucracy of energy in a very similar situation to the land sales bureaucracy now in the Housing and Urban Development Agency. The results for the consumer and the small businessman will be the same unless we pass the Levitas-Taylor amendment.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MATTOX, and by unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. MATTOX. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Texas.

Mr. MATTOX. I thank the gentleman for yielding.

Mr. Chairman, I have been very much concerned about the excess of paperwork and overregulation that HUD has perpetrated on the land development industry in my State of Texas.

Therefore, I approve strongly of the recent attempts by HUD to simplify the registration and disclosure filings for all land sales. I hope the Department will move even further in this direction.

I also believe that there is a basic need to return to the concept of allowing the State legislatures to deal with transactions which are totally intrastate in nature. The Federal Government already has far too much responsibility in this area.

Therefore, I agree basically with what the gentleman is saying, that in a transaction where the land involved is in the State, where the sale of it is to permanent residents of the State, and where the land is being sold by sellers who are residents of the State, State law ought to prevail if there is one in place.

It seems that a reasonable position for us to be in would be for us to have a provision in this legislation that specifically requires those four conditions to exist before a developer can be exempt from the filing requirements of the act. Right now, there is a provision in the amended legislation that says if the Secretary approves a State disclosure law and certifies it as being as adequate as the Federal law, then the developer will have to comply with the State law only.

There is one basic problem with the provision. It, in effect, allows the Secretary of HUD to substitute Federal judgment for the judgment of the State legislature in handling totally intrastate transactions. If a State legislaure has spoken on the subject of disclosure, under the concept of States rights, we should allow that legislatures familiarity with the needs of its citizens to prevail.

Mr. Chairman, I therefore suggest that an additional amendment be included in the legislation that would specifically say that if a State has provided for disclosure, the State law will prevail without the consent of the Secreary of HUD.

I fully recognize that this does not set up any specific requirements for the State legislation; nevertheless, a State legislature should be able to determine the requirements of consumer protection in its State.

I would hope that every State would enact legislation at least as adequate as that which is contained in the Interstate Land Sales and Disclosure Act. I would further like to point out that even if the legislation is amended, HUD will still have enforcement power to stop or correct fraudulent transactions.

Mr. Chairman, to reiterate, to the Taylor amendment and the Levitas amendment, there needs to be added a proviso that states that an exemption may exist from HUD disclosure requirements on intrastate transactions if a State law provides for disclosure.

Mr. LEVITAS. If the gentleman will let me reclaim my time for a moment, that is the reason I do not think the provision in the present bill is adequate because it says that it must be substantially identical to the Federal law, and it must be approved by the Secretary. What that says is that the States have to run everything the way the Feds want them to run it. I think it is perfectly acceptable for States to be able to identify their problems and deal with their problems in their States, which they know a lot better than the GS–11's up here how to deal with them. So I do not have any objection to modifications or changes, but I think when we are talking about local sales of land to local people by local people. That is an area where we ought to let the States make those judgments about the problems and solutions. They have got the same concerns; they are elected by the same people who elect the gentleman and me; they are responsible to the same electorate. We have got to get away from the Federal elitist theory that all solutions must come from Washington.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Missouri.

Mr. TAYLOR. I thank the gentleman for yielding.

I certainly agree with the gentleman from Georgia. I do not believe we should set a pattern of Federal law and tell the States, you write a law exactly like this. Different States deal with different matters in different laws, and I think as long as the States are dealing with these matters, as most of them are, we should leave it up to the States.

Mr. Chairman, I would be happy to associate myself with the remarks of my colleague, the gentleman from Georgia, and say that he has returned to the Jeffersonian principles.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHNSON of Colorado. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the Levitas amendment and the Taylor amendment.

Colorado is a State that has had wide experience with this kind of legislation. We have had out-of-State land developers come in and do a great amount of cheating. We are also a State that is growing quite rapidly, and we have a number of legitimate businessmen in the State being harassed by the operation of this act. I have not seen any of the out-of-State land developers who are supposedly the fraudulent operators actually being prosecuted under this act in Colorado, but we have had legitimate businessman after legitimate businessman complain about the operation of the act because it is nothing but a burden upon them.

Actually the State has passed its own sufficient antifraud statutes. We have district attorneys, who are responsible for prosecuting people who are trying to engage in these fraudulent land practices, but we cannot do anything about the Federal Government's insisting on interference with the operation of the legitimate businessmen.

This is the amendment that we really need to have in a State like Colorado that is rapidly growing, where a small businessman is actually developing 100 to 300 lots a year and trying to build houses and obtain the financing, and he has got to spend more time messing around with the Federal Government under this act than he should.

I was originally in favor of this act when it came into effect in 1968 or 1969, whenever it was. I was practicing law in Colorado at that time, and I thought this was the kind of thing we needed. In actual operation and actual practice, it is a miserable failure. We would be better off to do away with the act. I suppose we cannot repeal it, but this at least would provide us with some of the relief we need.

I thank the gentleman for offering the amendment.

Mr. MINISH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Taylor amendment.

PARLIAMENTARY INQUIRY

Mr. TAYLOR. Mr. Chairman, I have a parliamentary inquiry. Is it my understanding that we have before us the Levitas amendment to my amendment?

The CHAIRMAN. The gentleman is correct.

Mr. TAYLOR. The gentleman from New Jersey (Mr. MINISH) said he is speaking on the Taylor amendment or the Levitas amendment?

Mr. MINISH. The Taylor amendment as amended by the Levitas amendment.

Mr. TAYLOR. As proposed to be amended. I thank the gentleman.

Mr. MINISH. Mr. Chairman, this amendment specifies exemptions for sales operations which are intrastate in nature, and I understand there is an attempt to perfect it. Sales can be made to residents who live hundreds of miles away from a development and yet are within the same State. Rural Missouri and downtown St. Louis are two different worlds. City people can go into the country to buy property, knowing nothing about local laws or the characteristics of local property. The so-called consumer protections in this amendment are not really consumer protections. On-site inspections do not tell the buyer very much at all. For example, they do not tell the buyer anything about the financial stability of the company. To comply with this amendment with regard to utilities, a developer would simply have to hand buyers a statement telling them that they, the buyers, are responsible for utilities.

This is supposed to be a small business exemption. However, the bill already contains numerous exemptions for small businesses. It raises the minimum file floor under the act from 50 to 100 lots. This alone exempts 53 percent of all developments presently covered by the act. When this is added to the other exemptions in title IV and the exemptions in last year's housing bill, the effect will be that two-thirds of all developments now covered by the act will be exempt. These exemptions are already in the bill. There is absolutely no need for more exemptions.

□ 1140

A number of States do not have their own sales laws. If this amendment is passed, all these States will have no protections for people who buy within these States.

Let me talk about problems in the State from which the maker of the amendment comes. For example, Rocky Ridge Ranch—I do not know in whose district that is—an 1,100 lot subdivision in St. Genevieve County, Mo., sold primarily to Missouri residents.

Let us assume for the moment that the purchasers were all residents of Missouri. Complaints included failure to inform buyers about water and sewer. In 1975, the Department of Housing and Urban Development filed a civil injunction against the developer. Since that time, many lot buyers have been offered refunds.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. MINISH. Certainly.

Mr. TAYLOR. From what agency did the gentleman derive this information?

Mr. MINISH. The Department of Housing and Urban Development.

Mr. TAYLOR. Mr. Chairman, I thank the gentleman.

Mr. MINISH. The remarks of the gentleman are not intended to mean that the Department would alter the report, are you?

Mr. TAYLOR. No; certainly not. No.

Mr. MINISH. I did not think so.

In Camden County, Mo., they sold lots without disclosing that sewage from lakefront lots was polluting.

Mr. TAYLOR. Mr. Chairman, may I ask who did this?

Mr. MINISH. The subdivision.

Mr. TAYLOR. Mr. Chairman, may I ask the gentleman the name of the company?

Mr. MINISH. Osage Highlands.

Mr. TAYLOR. In Camden County?

Mr. MINISH. Camden County, Mo.

Mr. TAYLOR. From where did this information come?

Mr. MINISH. The same place.

Mr. TAYLOR. From the Department of Housing and Urban Development?

Mr. MINISH. Yes.

I will let them know that you do not believe what I read from is true.

Missouri sold lots without disclosing that sewage from lakefront lots was polluting the subdivision's lake. The Department of Housing and Urban Development has referred this case to the Justice Department in an attempt to get an injunction to prevent further sales.

Everyone who has gotten up here has talked about the businessman. How many poor developers do you know? When is someone going to speak out for the thousands of consumers who have been ripped off? That is what we should be concerned with. I know of few poor developers but I surely know of thousands of consumers who purchased land intrastate and were ripped off.

I am for free enterprise and I think these businessmen should make money, but I do not think they should take advantage of the consumer the way they have and that is why I oppose the amendment of the gentleman from Missouri.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. MINISH. Yes, I will yield.

Mr. TAYLOR. Mr. Chairman, let me say first of all it is not the intention of this gentleman nor the intention of those supporting this amendment to destroy the Interstate Land Sales Registration Act. We recognize this measure was placed on the books for a purpose: to deal with those highbinders, illegitimate operators who were selling lots which really many times were not even there. We realize this has been done, and this legislation was created to deal with that, and it is named "interstate land sales."

My amendment addresses intrastate. This is specifically within the Senate language, redlined out of this legislation.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. TAYLOR and by unanimous consent, Mr. MINISH was allowed to proceed for 1 additional minute.)

Mr. TAYLOR. Mr. Chairman, will the gentleman yield further?

Mr. MINISH. I yield to the gentleman from Missouri.

Mr. TAYLOR. My amendment gives protection to the consumer. First of all, he must have seen the lot. Second, he must have a valid title.

The gentleman spoke of the financial condition of the subdividing company. As long as the buyer gets valid title and title insurance, that must be delivered at the time of the closing on the property. That is in my amendment. He is then safe. He must be given full disclosure as to what facilities will be provided: sewer, water, electricity, whatever; that must be a part of the disclosure, and if he fails to do this he is exempt from this amendment, it goes back under the Department of Housing and Urban Development for the penalties that exist under the interstate land sales.

Mr. MINISH. Mr. Chairman, am I correct in saying that your State has no law at all dealing with this?

Mr. TAYLOR. Mr. Chairman, our State has many laws. We enforce the law in Missouri.

Mr. MINISH. Does the State have laws dealing with this subject?

Mr. TAYLOR. Mr. Chairman, we have antifraud laws in Missouri and the attorney general will enforce them. I am sure the same applies to the State of New Jersey.

Mr. MINISH. Of course, and they will be enforced. My point is that there is not a disclosure statute in Missouri, there is in New Jersey.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ICHORD and by unanimous consent, Mr. MINISH was allowed to proceed for 2 additional minutes.)

Mr. ICHORD. Mr. Chairman, will the gentleman yield to me?

Mr. MINISH. I yield to the gentleman from Missouri.

Mr. ICHORD. I would say to my good friend and colleague, the gentleman from New Jersey, I have been sitting here and just cannot believe that I am hearing what I think I am hearing. As it comes through to me, the gentleman from Ohio and the gentleman from New Jersey seem to be saying there is no other government except the Federal Government. We have State governments, we have local governments to protect people.

Mr. MINISH. If the gentleman heard me say that the gentleman heard me wrong.

Mr. ICHORD. Then the other thing I must be hearing is that the State of New Jersey and the State of Ohio just do not have any feeling to protect their citizens.

Mr. MINISH. Again the gentleman's statement is not accurate.

Mr. ICHORD. Let me state to the gentleman from New Jersey, I have had a case where a developer—this could happen in New Jersey, it could happen in Ohio—comes into my office complaining of burdensome paperwork. He has never sold to anyone across State lines but he is subjected to all of the paperwork merely because he advertises on a television station and that television signal goes across State lines.

Is the gentleman really arguing that we should bring the Federal Government into all these problems when we are so bogged down with problems like this we cannot properly manage monetary and fiscal affairs, we cannot balance the budget, we cannot properly attend to the defense of this Nation, we cannot adequately attend to the interstate and foreign affairs problems that we have? We cannot even move the mails in this country as well as the Pony Express used to and you are going to put the Federal Government into protecting people who do not want to be protected? We shall continue to address problems but never solve them.

Mr. MINISH. Let me say to the gentleman, Mr. Chairman, a great leader of the party, represented by my friends on the left, Abraham Lincoln, said that the Federal Government should do for people what the people cannot do for themselves. And this is what we are attempting to do.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. VENTO and by unanimous consent, Mr. MINISH was allowed to proceed for 1 additional minute.)

Mr. MINISH. I yield to the gentleman from Minnesota.

Mr. VENTO. I think the gentleman from Missouri, of course, has some concern. I do not think the legislation the way it exists before us should be misunderstood. It recognizes the strength of local governments and the strength of State governments, where they have assumed this particular responsibility, the legislation provides them with the opportunity to exercise their judgment.

Mr. Chairman, the question then gets to be what is on an intrastate basis. Based upon the colloquy between myself and the gentleman from Missouri and the amendment that is being offered, I think there is no disagreement about that.

I think we want to get back to dealing with those States who do not have or do not choose to assume a certain responsibility in terms of transactions within the States. I think we can get to that as soon as we adopt this amendment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. MINISH. Certainly.

Mr. WALKER. I thank the gentleman for yielding, Mr. Chairman.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. WALKER and by unanimous consent, Mr. MINISH was allowed to proceed for 1 additional minute.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. MINISH. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I would like to emphasize the point made by the gentleman from Missouri a minute ago. In the case of a television station going over State lines, at least that is within the jurisdiction of the Federal Communications Commission. I had a developer selling strictly locally who advertised in local newspapers. These papers were sent to people who originally lived in the area and the papers are now sent out of State to them in order that they can keep up with the hometown news and that was used as a case for saying the builder now comes under Federal law. I think that kind of application of Federal regulation is completely out of character.

I thank the gentleman for yielding.

Mr. WATKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to express to the committee that when HUD came before the subcommittee, I asked witnesses of the Department of Housing and Urban Development to present to me the 5,000 complaints they had concerning land developments. I would like to report that the Department of Housing and Urban Development has never come forth with evidence of seriousness and type of complaints.

I have heard many of those 5,000 complaints center around something like a case where a particular subdivision may have had certain fertilizer used; it might have been organic in nature instead of certain other commercial fertilizers. Things of that nature should not be considered as a Federal complaint.

□ 1150

I think that the complaints that they have should be brought forth before the congressional subcommittee and committees or a Congressman when he requests it. I think that most of these complaints are so insignificant that it would be embarrassing to HUD and definitely to Congressmen to have Federal officials involved.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. Yes, I yield to the gentleman from Missouri.

Mr. TAYLOR. Mr. Chairman, might I inquire from the distinguished gentleman from Oklahoma about how long ago did the gentleman request those complaints?

Mr. WATKINS. That has been 3 or 4 weeks ago.

Mr. TAYLOR. And the gentleman has received no reply at all, even though they knew this legislation was coming up and that the gentleman serves on that committee?

Mr. WATKINS. I serve on that subcommittee. I thought I was going to have a meeting, but HUD backed out—did not show. I asked for those particular complaints to be aired.

Before I came to Congress, I was in the home building and land development business and I know the Federal redtape that it takes just to try to get a subdivision started and developed. It is unbelievable—the growing Federal controls on trying to do business on a local or State level. This responsibility should be left to local and State government.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. Yes, I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for yielding. The point that the gentleman raises is very important, because we have a list of some of the complaints, not the whole 5,000. We had discussed some of them yesterday. The gentleman is absolutely correct in his assumption that some, many, many of the complaints were frivolous in nature.

For instance, we have a list here of one, and I have whole pages of them, so we can go on, where a buyer writes to complain about the increase in rates for utilities and claims they were defrauded because of the utility rates.

Another, where the buyer complained that the developer would not buy back a lot which the buyer no longer wants.

Another one that says that the buyer would not buy back a lot because of illness in his family forced him not to be able to make the payments. Therefore, he was being defrauded, and on and on, and the one I cited yesterday about the buyer being enticed by hotdogs. The hotdogs were cold and therefore he was defrauded. These were lists that came from HUD.

I hope the gentleman is successful in getting a complete list.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. Yes, I yield to the gentleman.

Mr. ICHORD. Reluctantly, Mr. Chairman, I want to come to the defense of these GS-11's that the gentleman from Georgia talks about. They are too busy policing and protecting 230 million people in the United States. How are they going to have time after providing police protection for 230 million people to provide the gentleman from Oklahoma this information?

Mr. WATKINS. Mr. Chairman, if I might say in closing my remarks, I think it is kind of embarrassing in many respects that we have Federal people coming down to a local level to inspect gravel, certain type grass or what types of manure or fertilizer is being used in a local subdivision.

Mr. ICHORD. What did they want? Did they want organic fertilizer rather than mineral fertilizer? What did the GS-11's want?

Mr. WATKINS. I did not think that it was any of my business to stick my nose into trying to find out what type fertilizer was being used.

I would like to say, I know some of the complaints are legitimate. They should be looked into, but I think the local government, the county government, or the State government can handle those matters.

Mr. LUNGREN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, originally I had not thought that I was going to speak on this amendment, but some things have been said, upon which I think we need to focus. Those of us who were standing for election and reelection last time, that is all of us, heard from all of our neighbors and all of our constituents about the tremendous growth in the size of the Federal Government. We talked to them about how we were going to try to deal with redtape and how we were going to try to bring Government down to size. But when we set about to do just that, we realize a surprising thing—and that is that we did not get all this redtape, we did not get all this extra Government because we were passing laws to hurt or oppress people. We were passing laws because we thought we were going to help people.

The problem is that, oftentimes with the best of intentions, we end up with overreaching on behalf of the Federal Government.

I heard a comment in debate a few minutes ago about the fact that we should not allow the invisible boundaries to somehow have a determination in how we enact legislation. Well, now, what invisible boundaries are we talking about? I think what we are talking about are the boundaries that establish the States. In other words, it is the whole idea of federalism. We are talking about whether we have different levels of government that are capable of making decisions on their own.

Now, if someone were to come from the outside here knowing nothing about government and listen to some of the debate that is taking place, they would be led to believe that somehow the Federal Government is uniquely able to take care of fraud.

Now, has anybody heard of GSA? Has anybody heard of the "great" job the Federal Government is doing in getting rid of fraud in terms of its own business transactions? Are we to somehow suggest that those who gave us HEW, a bureaucracy which tells us it probably wasted about $2 billion to $8 billion last year out of a single budget, are somehow better able to decide, those GS–11's, 12's, 14's, and 16's, how we are going to get rid of fraud in transactions?

Remember, the nature of this amendment concerns transactions that are totally within a State involving the sale of property from a person who lives in a State to a person who lives in that same State, the entire transaction taking place within a State. Now, if federalism means anything, if we are to say that, yes, we can bring down the size of Government, should we not be trying to deal with those problems that are truly Federal problems and exclude those areas where the State and local governments can do a better job? Is that not what our constituents are trying to tell us to do, instead of coming here and saying we are against fraud, that, therefore, we are going to create a law that takes care of all fraud, no matter where it takes place, and that somehow the States are not able to do it themselves.

There is a saying I heard one time that says, "If you want people to act responsibly, give them some responsibility."

This is good advice when we have children growing up. It is also good advice when we happen to be looking at State and local governments. Are we going to say time and time again that only the Federal Government has the tremendous ideas, the tremendous knowledge and, yes, only the Federal Government has the great virtue to be able to identify fraud and take care of fraud, even though it deals solely with transactions within a State?

I think if we really want to take a tough look at how we eliminate some excessive redtape, we ought to take a look at this gentleman's amendment. We ought to support this amendment and not say that somebody this amendment is going to help create fraud or perpetuate fraud. It does not do that. It simply says to local governments and State governments, where you can take care of your own problem, take care of it. We will try to focus in on those transactions that deal across State lines, which is really what the Federal Government ought to be doing.

Mr. VENTO. Mr. Chairman, I rise in support of the Levitas amendment to the Taylor amendment.

Mr. Chairman, I think we have an opportunity with this amendment to try and focus on and narrow the effect, or at least the intent that the gentleman from Missouri has outlined; but beyond that, I think that once this is adopted, of course, that will limit the effect of his amendment.

I think there have been some aspersions here passed on the rewrite of this particular section of the OISLR bill that really are not cognizant of the total impact of this bill. This is a bill that streamlines this OISLR function. As I pointed out in my earlier remarks, from page 34 of this bill to page 41, we have all sorts of exemptions that are provided. We go from 50- to 100-lot exemptions. We provide an exemption where municipalities have exercised various codes with certain standards set down. I would say these are minimum standards by anyone's definition. They are not onerus standards.

Of course, in addition to those exemptions there is provided a specific exemption where States have assumed a responsibility with regard to these land sales transactions; so that would apply both to interstate and to within the State transactions, I might add, not just to the narrower definition that we are attempting to add to the Taylor amendment here today by my good friend, the gentleman from Georgia.

So I think that the idea is that there is a recognition here, all of us ran for reelection and heard the people's concerns regarding paperwork. We all recognize and want to make this law effective. We want to make it work.

I might say, you know, that is the intention of exeryone here, no one wants to see fraud committed or someone purchasing something that does not have the opportunity to have information that is necessary in order to make an intelligent decision. That is or should be the requirement.

I think these are really requirements that have been reframed and it has been recognized there have been problems with regard to this reforming or new regulations.

I think the question, though, after we get done with the Levitas amendment, which is apparently going to be adopted, goes to the point, that, in some States we have laws that we will fill in and certify. I think in my State, we have such a statute. I worked on the subdivided land sales practices act as a State legislator.

I know the gentleman from Oregon (Mr. AuCoin) did the same thing, and the gentleman from Georgia (Mr. Levitas) did the same thing in his State.

We have, I think, good State laws and these laws I am satisfied, maybe with some minor changes, will be acceptable to HUD to fill that particular responsibility; but the question arises, what about those States that have been already involved but have no law? We are not talking about adding new power to the Office of Interstate Land Registration. We are talking about a minimum requirement in terms of registration. Even if we are only talking on an intrastate basis, I think the question goes back to those from Missouri and to other States, do they have a State law that will pick up whatever minimum protections are in place and above those provided by this law.

In other words, that can reach in and take care of the concern and need. Do you want the consumers in your State, the developers, to guide themselves along some sort of principles?

☐ 1200

I would hope that many States would readopt the registration requirements that already had been imposed on them by virtue of this act before.

In other words, I ask: Shall we drop that whole system and then move to something new or something different? That would certainly be an imposition on developers and on consumers, if we have something that is rational and is working. Why not utilize it or at least provide the choice to use those standards.

I think the answer is to take that up and replace it with something in addition would shift things around and cause more confusion than it would do good. I think there is a real question in terms of those States and the Representatives of those States on this floor, and they should make an effort to represent the people in their communities and their jurisdictions and understand what the impact is upon the consumer and developer in the marketplace.

I think logic comes down on the side of keeping in place something that does exist, especially with the types of exemptions and the streamlining that are present in this bill.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I am happy to yield to my friend, the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding. I think all the Members are anxious to vote on this amendment.

So the gentleman is saying that with this amendment included in the Taylor amendment he thinks it is basically a good amendment?

Mr. VENTO. I think it solves the basic problem in terms of the definition.

Mr. ROUSSELOT. I appreciate the gentleman's support of the Levitas-Taylor amendment.

Mr. VENTO. Yes, I support it.

I think, however, another question goes beyond that. I wanted to address that point, too, because the nature of the debate has flowed to that particular point. Concerning State responsibility on exempted intrastate transactions.

Mr. ROUSSELOT. I appreciate the gentleman's support of the Levitas-Taylor amendments.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, I would like to inquire if the Levitas amendment contemplates that the Federal or the State law will determine the question of residence.

Mr. VENTO. Mr. Chairman, I do not think that is addressed. I think there are various ways it can be done, and I assume it would be resolved in terms of whether someone is actually a resident of that State. I think that is pretty well defined.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS) to the amendment offered by the gentleman from Missouri (Mr. TAYLOR).

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHLEY TO THE AMENDMENT OFFERED BY MR. TAYLOR, AS AMENDED

Mr. ASHLEY. Mr. Chairman, I offer an amendment to the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. ASHLEY to the amendment offered by Mr. TAYLOR, as amended. The subsections amended by adding at the end the following before the final period: : *Provided*, That such State requires the delivery of a disclosure document to purchasers.

Mr. ASHLEY. Mr. Chairman, this amendment seeks to recognize the strong sentiments of the membership that States should be allowed to accept and bear the responsibility of providing protection for the citizens of the respective States. This is a strong message, as contained in the Taylor amendment, as amended. It is a strong message to the Department that we want the Federal responsibility construed in a different way than it has been construed in the last 10 years.

What the amendment that I have offered does is to clearly recognize the responsibility of a State to protect the consumers of that State, just as the gentleman from Missouri (Mr. TAYLOR) and others have so strongly stressed. It would say simply that the intrastate exemption will apply only in States that require the delivery of a State disclosure document to their consumers.

This amendment would not require—and I want to make this clear—that the Federal Government set the standards for this disclosure document. Those standards would be set by the States. We would expect—I would, at any rate—that the States make a good faith effort to require a disclosure document that would serve to protect the citizens of Missouri or Ohio, or whatever State, but we would not have HUD say to them, "Look, you haven't come up with the proper kind of disclosure."

No, we are not saying that at all. What we are saying is that the intrastate exemption simply requires that the States do pick up the responsibility that the Federal Government will no longer have.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Missouri.

Mr. TAYLOR. Mr. Chairman, I ask the distinguished chairman of the subcommittee, would it not be much better consumer protection if the provisions of the Taylor amendment were adopted, the provisions which say that the purchaser must personally receive a disclosure statement from the buyer and this can be enforced in the law? It is written into the Interstate Land Sales Act, as amended by the Taylor amendment.

Would that not be much more protection than going out and telling the States, "This is the kind of a law we want you to write?"

Mr. ASHLEY. No, that is not what we are saying.

Mr. TAYLOR. It is full protection to the guy who is putting up money for the lot.

Mr. ASHLEY. But I am trying to get at some of the things that would provide protection for the consumer.

Mr. TAYLOR. That should be left to the States.

Mr. ASHLEY. I am accepting the fact that the Federal Government is not going to be involved.

Mr. TAYLOR. We are forcing the States to do it here on the floor by the terms of the gentleman's amendment.

Mr. ASHLEY. Should there not be some concern on the part of the body politic? Should there not be some concern, if not at the Federal level, then at the State level for the consumers for whom the gentleman from New Jersey has shown such powerful concern, and rightly so? Should there not be a responsibility other than on the developer himself?

Mr. TAYLOR. Judas Priest. The responsibility is already spelled out in this amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think the point here is that there really should be no great issue over what the gentleman from Ohio (Mr. ASHLEY) is debating because I think it really is consistent with the matter the gentleman from Missouri (Mr. TAYLOR) is dealing with.

What we are saying under this amendment is that on an intrastate basis there are 22 States now that rely solely on the Federal level.

Mr. TAYLOR. And that is their business.

Mr. VENTO. No, that is the current law. That is what the gentleman would be changing by virtue of his amendment. That is what he desires to change.

The point is that if we are going to exempt them from requiring some disclosure, there should be some protection afforded.

Mr. TAYLOR. Mr. Chairman, if the gentleman will yield, this is an interstate law to begin with.

Mr. VENTO. Mr. Chairman, I wish the gentleman would just let me finish my statement.

The point is that all the gentleman from Ohio (Mr. ASHLEY) is suggesting should be added here is that the States would come up with some sort of disclosure document requirement.

The gentleman is talking about disclosure, and I think that is good as far as it goes. I think these are important requirements which the gentleman from Ohio (Mr. ASHLEY) is saying the States will come up with.

They would come up with a statement of disclosure based on their own criteria, not the present criteria set by HUD but based on their own criteria that they would come up with. That would be a disclosure document for themselves that would be filled in.

Mr. TAYLOR. What criteria is that?

Mr. VENTO. The State criteria.

Mr. TAYLOR. In other words, we are going to go back to the 50 State capitals and say, "You write some kind of a law"?

Mr. VENTO. Only in the instrastate type of situations that is effected by your proposed amendment.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

(By unanimous consent, Mr. ASHLEY was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, will the gentleman yield further?

Mr. ASHLEY. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, that would be true only in the instances, as the gentleman from Ohio suggests, where there would be an absence of criteria. Absent this particular amendment, there is no requirement of the State.

I think most States are going to do something along this line. There is very little they can do now. They can do a great deal more, and we will leave that standard up to them to come up with. They would require a disclosure document that gives some information to the State's consumers.

Mr. ASHLEY. Mr. Chairman, what I am saying and what the gentleman from Minnesota (Mr. VENTO) is saying is that at the present time there are 22 States that rely solely and exclusively on the Federal disclosure document.

We are saying now that the Federal Government, by the adoption of the amendments currently pending, is no longer going to assume the responsibility for requiring such statements.

Once these amendments become law, the 22 States that have been relying on the Federal disclosure documentation—those 22 States will be obliged to develop their own disclosure criteria, not HUD's criteria but their own criteria.

We are simply saying that the gap, void, or vacuum that is being developed by virtue of the adoption of the Taylor amendment should be filled by the States themselves. That, I thought, was the whole thrust of the argument coming from this side of the aisle.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, under the gentleman's language, would a title search or a title policy fulfill the disclosure requirements? They show all those things.

Mr. ASHLEY. That would be up to each State. What we are saying is that the 22 States that now provide no disclosure, other than that which is required by the Federal Government, will just have to go to make that decision.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Ashley) has again expired.

(On request of Mr. Rousselot, and by unanimous consent, Mr. Ashley was allowed to proceed for 4 additional minutes.)

Mr. ASHLEY. Mr. Chairman, they could require any kind of disclosure statement that they want, any kind that they in their wisdom decided on. They would not have to meet a Federal disclosure standard.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

I think we are trying to understand the total thrust of the statement of my colleague, the gentleman from Ohio (Mr. Ashley), as it relates to this amendment.

□ 1210

What the gentleman is saying is that in the language contained in his amendment and let me quote: "the delivery of the disclosure document"—the gentleman is specifying that the State will determine what those documents shall be.

Mr. ASHLEY. Yes.

Mr. ROUSSELOT. Then would the gentleman object if I asked unanimous consent for an addition of language and I quote "as determined to be necessary by the State," following the word "document," since that is the intent, just as the gentleman has stated?

Mr. ASHLEY. I would have no objection to that.

Mr. ROUSSELOT. Mr. Chairman, I ask unanimous consent that the language "as determined to be necessary by the State" be included in the gentleman's amendment following the word "document."

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for accepting that modification. I believe it further reenforces the gentleman's clear intent.

Mr. MINISH. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from New Jersey.

Mr. MINISH. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the gentleman's remarks.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, I have one question I would like to ask of the gentleman in the well. The fact is, most legislatures meet every other year, and most legislatures have now adjourned. So the application of the gentleman's amendment would not be for 2 more years. There would be a 2-year lag. Is there any kind of arrangement or concession made in the interim period?

Mr. VENTO. Mr. Chairman, will the gentleman yield on that point?

Mr. ASHLEY. I yield to the gentleman from Minnesota.

Mr. VENTO. I think most of this can be taken care of on a regulatory basis. I do not think there is any problem with the intent of the gentleman's amendment, because it is solely up to the State to make a determination on this kind of document.

Mr. WHITE. But you have 2 years when it is in the regulatory agency.

Mr. ASHLEY. I think the colloquy should affirm the intent of this body that the States have an appropriate period of time, taking into account the scheduling of the meeting of the general assembly.

Mr. WHITE. It should not apply until the legislature meets?

Mr. ASHLEY. Exactly.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, I would like to commend the gentleman on his amendment as amended. I think it could clarify and inform that the regulatory body should not step in, but that the States in the next 18 months will have a chance to meet and adopt their solution to their problems.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Missouri.

Mr. TAYLOR. The gentleman agrees to the language "as determined to be necessary by the State"?

Mr. ASHLEY. Yes.

Mr. TAYLOR. I would like to say that I accept the amendment offered by the gentleman. The gentleman will accept my amendment with that provision?

Mr. ASHLEY. Yes.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Ashley) has expired.

(On request of Mr. Levitas and by unanimous consent, Mr. Ashley was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would like to commend the gentleman for the thrust of his amendment. I think it does put the matter in perspective and gives to the States the responsibilities as well as rights that they can both discharge. I think with that amendment, and taking into consideration the problem of the biannual meeting of the legislatures, we have dealt with the problem in a reasonable way, and I would hope that with the amendment of the gentleman from Ohio that this amendment offered by the gentleman from Missouri will be accepted.

Mr. ASHLEY. I thank the gentleman for his remarks.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, would the gentleman please explain the difference between the language provided "that the State requires delivery of a disclosure document" and the language in the Taylor amendment which says "has furnished each purchaser or lessee with a statement" and then setting forth what that statement should include?

Mr. ASHLEY. I do not think that would necessarily be an adequate disclosure statement. What I am trying to do is to cause the States to be obliged to treat the subject matter and make a decision on its own as to what is required in the way of a disclosure statement. That is what has been agreed upon.

Mr. KELLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the thing that concerns me about the Ashley amendment is that it does not seem clearly to mean anything, and I would like to engage the chairman of the subcommittee in colloquy to try to understand his amendment. The Taylor amendment clearly provides that a statement has to be given to the purchaser. There is some language in the Ashley amendment, which appears to be innocuous, which provides that if we give them a disclosure document—and I am concerned that the technology "disclosure document" is some sort of Federal buzz word that is going to give the Federal Government an opportunity to come down and administer the program. If that is not the case, I wonder why the language is there.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Missouri.

Mr. TAYLOR. I think that the compromise or the agreement that was reached as additional language to the amendment offered by the distinguished chairman of the subcommittee was that the State would provide the services if they deemed it necessary, or something to that effect, which would leave the determination, actually, up to the State to determine what is necessary in their State to provide full disclosure under their laws.

Mr. ASHLEY. If the gentleman will yield, that is entirely correct. The gentleman states it perfectly. His requirements are somewhat limited. Those of the State of Missouri might be somewhat different.

Mr. TAYLOR. The legislature could meet and say, "We cite the following laws which we feel are adequate at the present time."

Mr. ASHLEY. Yes.

Mr. TAYLOR. They might say that they feel the State has the authority. I thought the language in my amendment was adequate. But I have no objection to this language suggested by the gentleman from California.

Mr. KELLY. Mr. Chairman, let me ask the gentleman one more question. Is the gentleman satisfied that by putting this language in that the Taylor amendment is not damaged, it does not seem to have much purpose? At least, at a minimum, it has this purpose: It extends the status quo, which is terrible, for an additional 2 years. I am concerned that before this could ever come into effect that we would have to do this again, like we had to revote the vote that was cast on the closing business yesterday.

I think we are just being outmaneuvered, we are not going to get anything now, and the politicians are promising us we will get something later. There is no Member of this House who is not acquainted with that promise. That is the concern I have about the amendment. The substance of it does not seem to be apparent.

Mr. ASHLEY. I think we have made some headway. We have determined what intrastate land sales are. We have exempted intrastate land sales from the registration and disclosure requirements of the Interstate Land Sales Registration Act under the terms of this amendment. I feel we have made some very definite progress in liberating some of our small businessmen from having to fill out those horrendous forms. While I know the gentleman from Missouri is not completely satisfied with it—and I suppose many of us are not—it has been worked out in a compromising way that has been productive.

Mr. TAYLOR. Let me ask the gentleman, does the gentleman intend by his amendment that all of the provisions of the Taylor amendment will be held in abeyance until all of the States are able to comply with the mandates of the gentleman's amendment?

Mr. ASHLEY. I thought that the gentleman from Minnesota responded to that. We do not address that question.

Mr. VENTO. If the gentleman will yield, no, I do not think that that is the intention of this. I think we recognize that various States have both regulatory and legislative responsibilities in this area, so it is not the intent to hold this in abeyance. In fact, I do not know what the enactment provision is for the Taylor amendment with regard to this, but I guess it would follow the enactment date either present in the Federal statutes, the code, or in this act. I do not know what the effective date of this is. Whatever the effective date for this act is, it would be the effective date of the Taylor amendment.

□ 1220

Mr. KELLY. Let me regain my time to repose the question in order to press for a specific answer. The effect of the Ashley amendment will be in effect to hold in suspension for 2 years any of the provisions of the Taylor amendment or until such time as each State legislature has acted in compliance with the Ashley amendment.

The CHAIRMAN. The time of the gentleman from Florida (Mr. KELLY) has expired.

(At the request of Mr. VENTO and by unanimous consent, Mr. KELLY was allowed to proceed for 2 additional minutes.)

Mr. KELLY. I want to make this clear: What I want to get is a yes or no to that. Now, either it will or it will not or no one knows.

Mr. VENTO. No.

Mr. KELLY. I thank the gentleman.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Missouri.

Mr. ICHORD. I share the same concern that the gentleman from Florida has. We started out with an amendment with extremely limited application. The purpose of the amendment was to relieve our small businessmen of burdensome Federal paperwork because the proponents of this amendment seemed to be obsessed with paperwork.

If the gentleman would yield further, they do not care where the paperwork comes from, whether it comes from the State government or the Federal Government. Is that not the concern of the gentleman from Florida?

Mr. KELLY. It is.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Ohio.

Mr. ASHLEY. The gentleman from Florida, I think, perhaps more than the gentleman from Missouri is able to track competing national objectives. It is one thing to be obsessed, as the gentleman says, with relieving corporations and small business people from burdensome paperwork, but that does not mean that is the only thing that we can entertain at a given moment.

We are talking about legislation that was put on the statute books 10 years ago to protect American consumers. Is it not possible to strike a balance between the objectives that are so keenly felt by my friend from Missouri, by me and others?

In other words, there is a balance to be struck between the burden of regulation and the right of consumers not to be bilked in the marketplace.

Mr. KELLY. I would like to regain my time while the chairman is on his feet and put this question to him: Is it the gentleman's intention——

Mr. ASHLEY. I will respond to the question. I know what it is. It is not my intention, nor that of the amendment to forestall the applications of the Taylor amendment pending action by the States to——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KELLY was allowed to proceed for 2 additional minutes.)

Mr. KELLY. If the chairman would forgive me, because of the interruption of the procedure at the lapse of time, I was not able to get exactly what the gentleman said. What I am saying is, is any provision of the Taylor amendment going to be effective until each State has complied with the provision in the gentleman's amendment?

Mr. ASHLEY. The Taylor amendment will take effect on the effective date of the act.

Mr. KELLY. Yes; but until the State——

Mr. ASHLEY. The provisions of the Taylor amendment, I repeat for the fifth time, will not be stalled pending action with respect to the requirement regarding the delivery of a State required disclosure statement.

Mr. KELLY. Then, I would like at this time to express what I understand this amendment is going to do. This amendment, in effect, is going to say that until such time as the provisions in the Ashley amendment have been complied with by each State, that no exemption under the Taylor amendment will be available, and that is the best that can happen.

Mr. ICHORD. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, and members of the committee, I rise in opposition to the amendment of the gentleman from Ohio, and I might state to the gentleman from Ohio, I think I understand his intent.

However, I disagree with him that it is his responsibility as a Federal legislator to protect, with the sanction of the criminal laws, every man, woman, and child in the United States of America, all 225 million or 230 million of them. After all, there are governments in this country other than the Federal Government which have competency and also responsibilities.

We are in the area of police powers. Police powers, whether we like it or not, historically, and still are, primarily enforced by State and local governments.

Now, certainly, if the Taylor amendment had broad application, I would support the amendment of the gentleman from Ohio but let us look at the Taylor amendment. It has very limited application. It does not relieve the small businessman of control by HUD, only in very limited circumstances.

With the adoption of this amendment, we started out to eliminate paperwork. The gentleman is going to require a disclosure statement.

What are we doing, I would ask to the gentleman from Minnesota and the gentleman from Ohio. We do not know whether we will, increase the paperwork or not increase the paperwork. I do know this: The Taylor amendment itself keeps control by HUD in almost all cases. Read the amendment.

Now, we are also going to bring the State into the picture. We are going to get into a situation where the small businessman is not only controlled by State government; he will be controlled by the Federal Government.

We are going to have the problem of conflicting regulations that are often promulgated. We are all familiar with that. We are going to catch him pulled this way by the Federal Government and another way by the State government. That is my concern.

The gentleman will have to admit there is going to be dual regulation, right?

Mr. VENTO. I think that is the problem that we invite when we pass any type of restriction—in other words intrastate exemption—but I think it is a luxury we can afford based on the sentiments of our colleagues.

Mr. ICHORD. The gentleman likes regulations?

Mr. VENTO. No; I do not like regulations but if it means we do not impose them and permit State discretion. Obviously, we have to let municipalities and States pursue their own course of action with regard to disclosure or registration or whatever the requirements that they determine are based on the exceptions in the bill and proposed by this amendment. That is why the amendment says that States "determine are necessary" disclosure.

Now, with regard to the small businesses, we know the credit for the small business exemption belongs to the gentleman from Ohio (Mr. ASHLEY), and the gentleman from New Jersey (Mr. MINISH), who worked out the small business exemption.

The Taylor amendment just did not address itself to that, although I think there was some concern expressed by the gentleman from Missouri (Mr. TAYLOR) concerning that issue. I think he agrees with the accomplishments of the gentleman from Ohio and the gentleman from New Jersey, but the gentleman is right with respect to the fact that when we preclude the Federal Government, HUD, from being involved here, we obviously run the risk of—duplication regulations with or without language in this law.

Mr. ICHORD. If I may reclaim my time, I would state that I would agree with the rationale of the gentleman from Minnesota, if the gentleman from Missouri (Mr. TAYLOR) were exempting this small businessman from Federal regulation altogether, but he is not.

Here we are bringing about a situation of dual regulation. This is one of the great problems that is facing this country.

Let me ask the gentleman from Minnesota, has he not run up against the case where a State government is telling a businessman to go one way and the Federal Government is telling the businessman to go another way?

Mr. VENTO. If the gentleman would yield further, yes, we do run into that particular circumstance. But there is no way we can avoid it unless we preclude the States' responsibility on an intrastate basis, which we obviously do not do. That is the entire sentiment behind this amendment, which I think the gentleman from Missouri agrees with.

Mr. ICHORD. With all due respect to my good friend, I would state that the original purpose of this amendment was to reduce paperwork. I fear that with the adoption of the amendment to the amendment we will have more government regulation and paperwork than we now have.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

☐ 1230

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHLEY), as modified, to the amendment offered by the gentleman from Missouri (Mr. TAYLOR), as amended.

The amendment, as modified, to the amendment, as amended, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. TAYLOR), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to title IV? If not the Clerk will designate title V.

Title V reads as follows:

TITLE V—RURAL HOUSING

AUTHORIZATIONS

SEC. 501. (a) Section 513 of the Housing Act of 1949 is amended to read as follows:

"AUTHORIZATIONS

"SEC. 513. (a) The Secretary may, as approved in appropriation Acts, insure and guarantee loans under the authorities provided in this title in an aggregate principal amount not to exceed $3,906,000,000 with respect to fiscal year ending September 30, 1980; except that—

"(1) not less than $2,857,000,000 of any amount so approved in appropriation Acts for such year shall be made available for loans insured or guaranteed on behalf of borrowers receiving assistance pursuant to subparagraph (B) or (C) of section 521(a)(1); and

"(2) not more than $38,000,000 of such amount so approved for such fiscal year may be made available for loans insured under section 514.

"(b) There are authorized to be appropriated—

"(1) such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to (A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503, and (B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary;

"(2) not to exceed $48,000,000 for loans and grants pursuant to section 504 for the fiscal year ending September 30, 1980;

"(3) not to exceed $25,000,000 for financial assistance pursuant to section 516 for the fiscal year ending September 30, 1980;

"(4) not to exceed $1,000,000 for the purposes of section 506 for the fiscal year ending September 30, 1980;

"(5) not to exceed $5,000,000 for making advances under section 501(e) for the fiscal year ending September 30, 1980;

"(6) not to exceed $5,000,000 for carrying out section 509(c) for the fiscal year ending September 30, 1980;

"(7) not to exceed $1,200,000 for the purposes of section 525(a), not to exceed $3,800,000 for the purposes of section 525(b), and not to exceed $1,000,000 for the purposes of section 525(c) for the fiscal year ending September 30, 1980; and

"(8) such sums as may be required by the Secretary to administer the provisions of sections 235 and 236 of the National Housing Act and section 8 of the United States Housing Act of 1937.".

(b)(1) Section 514(d) of such Act is repealed.

(2) Section 509(c) of such Act is amended by striking out the second sentence.

(3) Section 517(j) of such Act is amended by striking out paragraphs (5) and (6).

(c)(1) Section 521(a)(1)(C) of such Act is amended by adding the following new sentences at the end thereof: "The amount of such additional assistance which may be approved in appropriation Acts may not exceed an aggregate amount of $985,000,000 for contracts entered into with respect to fiscal year 1979 and an aggregate amount of $500,000,000 for contracts entered into with respect to fiscal year 1980. Such additional assistance may not be so approved with respect to any fiscal year after fiscal year 1980.".

(2) Section 521(c) of such Act is amended by inserting the following new sentence after the first sentence thereof: "There are authorized to be appropriated to the Rural Housing Insurance Fund such sums as may be necessary to reimburse such fund for the amount of assistance payments described in subsection (a)(1)(C).".

(3) Section 521(a)(1) of such Act is amended by striking out subparagraph (H).

(d) Section 523(f) of such Act is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "There is authorized to be appropriated an amount to carry out this section not to exceed $1,000,000 for the fiscal year ending September 30, 1980."; and

(2) by striking out "1979" in the second sentence and inserting in lieu thereof "1980".

(e) Section 515(b)(5) of such Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(f) Section 517(a)(1) of such Act is amended by striking out "1979" and inserting in lieu thereof "1980".

SECTION 521(A) INTEREST RATE PROVISIONS AND DEFINITION OF LOW-INCOME PERSONS

SEC. 502. (a) Section 521(a)(1) of the Housing Act of 1949 is amended by striking out "by the Secretary of the Treasury" in the first sentence and all that follows through the period at the end of such sentence and inserting in lieu thereof the following: "by the Secretary of Housing and Urban Development under section 3(a) of Public Law 90–301 with respect to maximum interest rates established for mortgages insured under section 203(b)(5) of the National Housing Act.".

(b) Section 501(b) of such Act is amended by adding the following new paragraphs at the end thereof:

"(4) For the purposes of this title the term 'persons of low income' and the term 'persons and families of low income' means families and persons whose incomes do not exceed 80 per centum of the medium income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high- or low-family incomes, or other factors.

"(5) For purposes of this title the term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary.".

REPAYMENT AND REFINANCING OF LOANS UNDER SECTIONS 514 AND 515

SEC. 503. (a) Section 502(b)(2) of the Housing Act of 1949 is amended by inserting the following before the semicolon at the end thereof: ", except that any prepayment of the principal and interest of loans made or insured under section 514 or 515 shall be subject to the provisions of subsection (c)".

(b) Section 502 of such Act is amended by inserting the following new subsection at the end thereof:

"(c) In any case—

"(1) in which there is an offer to prepay the principal and interest of any loan made or insured under section 514 or 515 pursuant to a contract entered into with a borrower after the date of the enactment of this subsection, or

"(2) in which the Secretary has reason to request refinancing, in accordance with subsection (b)(3), of any loan made or insured under section 514 or 515 pursuant to a contract entered into with a borrower before or after the date of the enactment of this subsection,

the Secretary may not accept such offer to prepay or request such refinancing unless the Secretary takes appropriate action which will obligate the borrower (and his or her successors in interest) to utilize the assisted housing and related facilities for the purposes specified in section 514 or 515, as the case may be, for the duration of the original repayment schedule of the loan or until the Secretary determines (prior to the time of such duration) that there is no longer a need for such housing and related facilities to be so utilized or that Federal or other financial assistance provided to the residents of such housing will no longer be provided.".

RENTAL ASSISTANCE

SEC. 504. (a) Section 521(a)(2)(A) of the Housing Act of 1949 is amended by striking out "20 per centum" each time it appears in the second sentence thereof and inserting in lieu thereof "40 per centum".

(b) Section 521(a)(2)(A) of such Act is amended—

(1) by striking out "the public and private nonprofit owners" in the first sentence and inserting in lieu thereof "the owners";

(2) by inserting a comma before "congregate" in the first sentence; and

(3) by inserting "to a public or private nonprofit owner" after "section 514" the first time it appears in clause (i) of the second sentence.

TECHNICAL ASSISTANCE AND COUNSELING

SEC. 505. Section 525 of the Housing Act of 1949 is amended—

(1) by striking out subsection (c);

(2) by redesignating subsections (b) and (d) as subsections (c) and (e), respectively;

(3) by striking out "(b)" each time it appears in subsection (d) and inserting in lieu thereof "(c)"; and

(4) by inserting the following new subsection after subsection (a):

"(b) In addition to the authority provided in subsection (a), the Secretary may, subject to approval in appropriation Acts, make grants to, or enter into contracts with, qualified public or private nonprofit corporations, agencies, institutions, organizations, and other associations approved by the Secretary for the purpose of providing counseling to (1) recipients of assistance under this title who are delinquent with respect to the repayment of any loan made, insured, or guaranteed under this title, and (2) other recipients of assistance (especially borrowers receiving assistance under section 521(a)(1)(C) of this title) with respect to financial management, home maintenance, and related matters which will assist the Secretary in preventing and reducing delinquent payments and in encouraging timely and adequate maintenance of any property assisted under a loan made, insured, or guaranteed under this title."

REFINANCING

SEC. 506. Section 501(a)(4) of the Housing Act of 1949 is amended by inserting "and" after the comma at the end of subparagraph (A), and by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) if not refinanced, is likely to result (because of circumstances beyond the control of the applicant) at an early date in the loss of the applicant's necessary dwelling or essential farm service buildings, or

"(C) if combined (in the case of a substandard dwelling) with a loan for improvement, rehabilitation, or repairs and not refinanced, is likely to result in the applicant's continuing to be deprived of a decent, safe, and sanitary dwelling.".

PROPERTY DISPOSITION

SEC. 507. Section 510(e) of the Housing Act of 1949 is amended—

(1) by inserting ", to repair and rehabilitate such property," after "United States therein"; and

(2) by inserting after "to be reasonable" the following: "(except that in selling or otherwise disposing of such property which is to be used for residential purposes, the Secretary shall assure that such property will be in a decent, safe, and sanitary condition before or within a reasonable time after such sale or disposition)".

CONSTRUCTION DEFECTS

SEC. 508. Section 509(c) of the Housing Act of 1949 is amended by striking out "within eighteen months after such date of enactment." in the first sentence and inserting in lieu thereof "within thirty-six months after such date of enactment.".

SECTION 524 SITE-DEVELOPMENT LOANS

SEC. 509. (a) Section 524(a) of the Housing Act of 1949 is amended by striking out the first sentence and inserting in lieu thereof the following: "The Secretary may make loans, on such terms and conditions and in such amounts as the Secretary deems necessary, to public or private nonprofit organizations for the acquisition and development of land as building sites to be subdivided and sold to families, nonprofit organizations, public agencies, and cooperatives for use as sites on which residential structures will be built, without regard to whether such structures will be eligible for assistance under any Federal, State, or local law.".

(b) Section 524(a) of such Act is amended by striking out "Such a loan shall bear interest" in the second sentence and all that follows through "per centum" and inserting in lieu thereof "Such a loan shall bear interest at a rate equal to the market rate for comparable loans, as determined by the Secretary".

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 64, line 9, insert "before or" after "borrower".

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHLEY

Mr. ASHLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHLEY: Page 68, after line 18, add the following new title:

TITLE VI—POCKETS OF POVERTY PROGRAM

SEC. 601. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the Secretary) may make grants under this section to a city or urban county on the basis that only a certain area of the city or urban county, rather than the entire city or urban county, is severely distressed. Such grants may be made only out of funds appropriated for use on or after October 1, 1979, under section 119 of the Housing and Community Development Act of 1974.

(b) Any such grant may be made only if the Secretary has made a determination that—

(1) in the case of any metropolitan city or urban county, funds from such grant will be utilized only in an area (A) which consists of one or more contiguous census tracts having a population of at least 10,000 persons or 10 percent of the population of the metropolitan city or urban county, whichever is less, (B) in which at least 70 percent of the residents have incomes below 80 percent of such county's or city's median income, and (C) in which at least 30 percent of the residents have incomes below the national poverty level;

(2) in the case of any nonmetropolitan city, funds from such grant will be utilized only in an area (A) which consists of one or more contiguous census tracts having a population of at least 2,500 persons or 10 percent of the population of such city, whichever is more, (B) in which at least 70 percent of the residents have incomes below 80 percent of the city's median income, and (C) in which at least 30 percent of the residents have incomes below the national poverty level;

(3) the applicant will supply services (to the area assisted by the grant) to an extent which is at least comparable to the extent of services supplied by such applicant to other areas in the city or urban county which are similar to the assisted area in population and size and which have a median income which is above the median income for the city or urban county; and

(4) the project for which grant funds will be used will directly benefit the low- and moderate-income families and individuals residing in the area in which the project is to be located.

(c) The Secretary shall utilize up to, but not more than, 20 percent of the funds appropriated for use in any fiscal year under section 119 of the Housing and Community Development Act of 1974 for the purpose of making grants to cities and urban counties under this section.

(d) Notwithstanding any other provision of law including any provision of law established by an amendment made by this Act, no grant may be made to any city or urban county, from funds appropriated for use under section 119 of the Housing and Community Development Act of 1974, on the basis that only a certain area of the city or urban county, rather than the entire city or urban county, is severely distressed, unless such grant is made under this section.

Mr. STANTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHLEY) for 5 minutes in support of his amendment.

Mr. ASHLEY. Mr. Chairman, on Tuesday this body approved an amendment which was intended to expand the eligibility for the urban development action grant program to the so-called pockets of poverty. I opposed the amendment, because we had no opportunity to discuss the provisions when it was offered on the floor. Nevertheless, it is clear that the vast majority of my colleagues felt that it was appropriate at this time to open the program up to a larger number of cities. But, what my colleagues may not be aware of is that that Neal amendment is seriously defective will not accomplish that end. The amendment which I am offering is intended not to change the aim of that amendment, but rather to refine the amendment so that the will of this body can be effectuated. I might add that if the sponsor of the amendment had come to the committee we would not now be trying to perfect this troublesome amendment.

First, the amendment offered by the gentleman from North Carolina (Mr. NEAL), would have required that each so-called pocket of poverty would have to meet the same eligibility requirements as would pertain to communities as a whole. It is impossible to gather this type of data about an area which is smaller than the city boundaries. I am therefore suggesting that we define that pocket in terms of poverty since that is data which we can determine for such areas, and in the judgment of HUD and others, it is the closest parallel that we can make to what this body passed in the Neal amendment. I have also attempted to clarify the Neal amendment with regard to comparable services. This is an issue that has arisen many, many times with regard to urban development programs. It has been the subject of extensive litigation which has tied up programs for years.

If the Congress does not give sufficient clarity to the term, the cities which Mr. Neal would like to have benefit from the program may never have the opportunity to do so. I, therefore, suggest that we establish comparability on the basis that the extent of services in the pocket are at least equal to the level of services going to an area of similar size, but composed of more affluent residents of the community. I am also seeking to clarify that the project, rather than benefitting the geographical area, is really meant to benefit the low and moderate income families who reside there. This body has never passed a program simply aimed at geographical areas. We have always meant that the investment of Federal funds should benefit people.

After my colloquy with the distinguished Member from New York (Mr. Wydler), about the commitments of local governments and the passage of his amendment, it was clear that we should take this opportunity to assure that these less distressed communities make their own resources available to the project at least at the same level that the more distressed communities are now doing. These less distressed communities clearly have a greater capacity to contribute and they should be expected to do so. Finally, it is my desire to clarify that the up to 20 percent of all UDAG funds which could go for this purpose as provided for in Mr. Neal's amendment would be out of appropriated funds.

Mr. Chairman, though this amendment is offered in a form of a new title and as a free standing programmatic requirement, it is intended only to clarify and refine the amendment offered on Tuesday and adopted by this House overwhelmingly. If this body defeats this amendment, I will go to conference and defend the Neal amendment, but what I would like every one of the Members of this body to understand is that that amendment will in all likelihood result in not one additional city being eligible for the program because it is defective. The purpose of this amendment is not to thwart the Neal amendment, rather it is to empower it. I trust that the Members of this body will join me in support of this amendment.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. Of Course.

Mr. STANTON. Mr. Chairman, we have discussed and worked together with the staff on this amendment. We have at the present time no objection, but I wonder if the gentleman would explain any changes he has made other than the one covered by the staff. Are there any changes?

Mr. ASHLEY. No, there are not.

Mr. STANTON. This is the one we have been in full agreement on, and a local participation formula has been changed. Is my understanding correct on that?

Mr. ASHLEY. Yes, the gentleman is right.

Mr. Chairman, this is really in the nature of a perfecting amendment to the amendment offered by Mr. Neal on Tuesday that was overwhelmingly approved by this body. The amendments offered at this time do have the support of the ranking minority member and his associates, and of course the Department of Housing and Urban Development itself.

Mr. STANTON. If the gentleman will yield further, I simply want to say that the gentleman is correct. This has been cleared with us, and we have no objection to it from this side.

Mr. ASHLEY. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Ashley).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHLEY

Mr. ASHLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashley: Page 68, after line 18 add the following new title:

TITLE VII—EFFECTIVE DATE FOR NEW BUDGET AUTHORITY

Sec. 701. Any amendment made by this Act which creates new budget authority shall become effective on October 1, 1979.

Mr. ASHLEY. Mr. Chairman, this amendment is technical in nature and provides that no provision in this bill which creates new budget authority is to take effect prior to October 1, 1979. The amendment is designed to assure that this bill fully complies with the provisions of the Budget Impoundment and Control Act. It has the support of the chairman of the Budget Committee, the gentleman from Connecticut (Mr. Giaimo), and of the distinguished ranking minority member of the committee, the gentleman from Ohio (Mr. Stanton).

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Ashley).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Panetta: Page 68, after line 18, insert the following new title:

TITLE VIII—PAPERWORK REDUCTION

Sec. 801. Not later than six months after the date of enactment of this Act, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of Veterans' Affairs shall, in accordance with guidelines developed by the Office of Management and Budget, compile and index and thereafter maintain a separate file for each such agency containing each application form, information request or requirement form, and any other forms used by such Secretaries and Administrator to solicit information from persons in the conduct of housing programs of the Department of Housing and Urban Development, the Department of Agriculture, and the Veterans' Administration.

Sec. 802. (a) Not later than one year after the date of the enactment of this Act, the Secretary of the Housing and Urban Development, the Secretary of Agriculture, and the Administrator of Veterans' Affairs shall—

(1) to the extent consistent with provisions of law governing the conduct of housing programs, provide by regulations—

(A) for the consolidation of any forms which solicit identical or nearly identical information from the same persons in the conduct of two or more such programs;

(B) for the elimination of forms which solicit information which is already available from other sources; and

(C) for such further simplification and reduction of such forms as may be possible and practicable;

(2) report to the Congress any provisions of law which unnecessarily prevent such Secretaries and Administrator from carrying out the provisions of paragraph (1); and

(3) reduce the fiscal year 1979 level of paperwork burden hours (as allocated by the Office of Management and Budget) of their respective agencies by not less than 5.7 percent or to the maximum extent practicable in accordance with criteria established by the Office of Management and Budget.

(b) In carrying out the provisions of this section, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of Veterans' Affairs may, to the extent consistent with applicable provisions of law, have access to each of the files created by each of the agencies under section 801.

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California.

There was no objection.

Mr. PANETTA. Mr. Chairman, the amendment I offer establishes a new title in the bill entitled "Paperwork Reduction."

The purpose of the amendment is to implement the recommendations of the Paperwork Commission and the work of the Office of Management and Budget. I commend the committee for the action that has been taken in prior bills that seek to consolidate and simplify applications and appraisal forms involved in housing. That was in part an implementation of the recommendations of the Paperwork Commission, but not all. What is needed, first and foremost is a compilation of all forms that are used in the Department. At the present time, there is no compilation of forms in departments. Indeed, the GAO has stated it would take 2 years to determine how many forms are used in the Federal Government because there is no such compilation.

As has been estimated by the GAO and the Commission on Paperwork, before we can eliminate duplication, before we can simplify, before we can eleminate and reduce, we have to develop a compilation for those forms that are presently being used.

What my amendment would do is, first of all, require that the Department compile the forms used within a period of 6 months; second, that they would then consolidate and simplify forms that are used in the housing areas; third, they would report to the Congress if there are any problems in meeting those requirements; and fourth, that they would target toward a reduction in the burden of work by 5.7 percent, or to the maximum extent that is practicable.

The OMB is already conducting a test that would implement the provisions requiring compilation. In fact, the OMB is supportive of this amendment to try to get the various departments to begin to consolidate their work. I do not think I have to speak any more on this. The fact is, the cost of paperwork to the Federal Government is in excess of $100 billion annually. It is a process that is out of control, and part of the reason we cannot get control of it is because they simply are not even compiling or centralizing the forms that are now being used in the various departments.

The object of this amendment is to require them to perform that process, to compile and then really simplify and consolidate. I would urge support for the amendment.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do oppose the amendment offered by my colleague and good friend from California. I do so with some reluctance, because in the past I have been a very outspoken supporter of efforts to reduce paperwork. I do share his concern in this regard, but the fact is, Mr. Chairman, that we have not had an opportunity to study the amendment which he has now introduced. We did not have an opportunity to consider it during the subcommittee deliberations and those before the full committee.

It was not for any reasons of neglect on the part of the subcommittee or the full committee, the matter was not brought to our attention. Only today have we seen the amendment.

As of this moment, the Department of Housing and Urban Development likewise has not studied the amendment, and I suspect the same is true of the Veterans' Administration and the Department of Agriculture. I just do not know. I must repeat that, not knowing fully the effect of this detailed amendment makes it very difficult for me to support it.

□ 1240

It was not considered in hearings, as I have said, and I think this is not the responsible way to legislate even with respect to proposals whose aims are obviously good and meritorious. There is a proper procedure for bringing legislation to the floor of the House. When we circumvent or short circuit that procedure, we do so at considerable peril as far as the quality of legislation is concerned. Last year we included a very comprehensive paperwork provision in the law. As far as we can learn, the agencies are working diligently to implement this provision.

As the gentleman from California himself has said, OMB is working with HUD and other agencies in a demonstration that I am told involves a good part of what is being proposed in the amendment before us. This is only a demonstration whose results have yet to be brought to the attention of the committee, so let us not be premature. Attention is being given to this matter. The committee is very willing, ready and anxious to direct its attention appropriately and properly to the subject of excessive paperwork, but this is not the way to proceed.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to my colleague, the gentleman from Ohio.

Mr. STANTON. I thank the gentleman for yielding.

On this particular point I certainly agree with the gentleman and rise in strong opposition to the amendment. In our committee, if the gentleman will remember, last year just before the final days of adjournment I had a particular amendment based on the same thing that was directed to financial institutions, and we put on financial institutions for the simple reason that President Carter's directive and executive order to the agencies was in effect for this very purpose but did not cover the financial institutions, the Federal Reserve Board, and the Comptroller of Currency. Remember, it having been before our committee, and having passed out by us, when having the ranking minority member's support, the committee solely on the financial institutions did not include it in the final bill until additional hearings or additional information was to be had. So if we did not do it and bring it before the committee on the committee level, I have to agree with the gentleman. I certainly compliment him on his idea and assure him that I gave him full support in the subcommittee and committee levels of the House. Nobody could ever get up here certainly and speak against the goal of the gentleman's amendment. I certainly will not do this. I want to take the time to compliment the gentleman for bringing it up here, not at the last minute, but bringing it up here. I would hope sincerely that having made his point, he would withdraw it.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding. I appreciate the views expressed here, but they are always views we get when we are dealing with paperwork problems. This is not a complicated amendment. We are simply asking that within 6 months they compile all the forms set out by the Department of HUD.

Mr. ASHLEY. If I can reclaim my time, that is not all that is involved. The gentleman talks about simplification. He goes much further than that. Why not allow the subcommittee and the full committee to have an opportunity to look at this and to ask for the views of the Department with respect to it? This is no way to proceed.

Mr. VOLKMER. Mr. Chairman, I move to strike the last word. I would like to inquire of the gentleman from California, the sponsor of the amendment, very briefly. If the gentleman's amendment is not adopted, or if he were persuaded to withdraw the amendment, does he have any assurances from the subcommittee or the full committee that hearings will start within the very near future on the problem of paperwork from HUD and all their regulations that they impose?

Mr. PANETTA. If I might respond to the gentleman, if he would yield for that purpose, we do not need any more hearings on the issue of reducing paperwork. We have got a paperwork commission that has issued a report on this. We know what the problem is. It is $100 billion that is a burden to the taxpayers. We know the forms have to be reduced and simplified. That is all my amendment calls for is a consolidation, and for the Department to simplify and try to reduce the number of forms made available. I do not think we need hearings.

Mr. VOLKMER. Maybe it is beyond HUD to do that.

Mr. PANETTA. Pardon?

Mr. VOLKMER. Maybe they do not have the ability to simplify. Maybe it is because of the way they write rules and regulations that they have to make the forms more complicated, and they have to make five forms instead of one form.

Mr. PANETTA. I have discussed the problem with the Office of Management and Budget and the administration. They are in fact trying to conduct a test in this area in terms of consolidation. HUD is one of those agencies now involved in doing this. OMB has supported this kind of amendment. My goodness, if OMB has supported this kind of amendment, why can we not simply proceed and put it in place? We are simply enacting what the committee has done in the paperwork area and what OMB is trying to do, and what the paperwork says.

Mr. ASHLEY. If the gentleman will yield, does the gentleman support this?

Mr. VOLKMER. I have the time, please.

I would like to ask the gentleman if his amendment is really nothing more than a sense of Congress? We are not going to do anything to HUD if they do not do that. Does his amendment call for them to go out of business, or the Secretary to go to jail if they do not comply?

Mr. PANETTA. If the gentleman will yield, not at all. There is a provision there that says they shall report to Congress if they have a problem implementing or consolidating forms, or simplifying them, or a reduction of forms.

Mr. VOLKMER. In other words, this would be a help to the committee?

Mr. PANETTA. Yes.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Ohio.

Mr. ASHLEY. I thank the gentleman for yielding.

This is what OMB says:

> Until we are further along in designing the system, we feel it would be wise to remain fairly flexible in any instances to agencies on how to prepare data for the system.

So this is not in support of the gentleman's amendment, as I read their letter dated June 7 of this year.

Mr. PANETTA. If the gentleman will yield, I would like to quote a paragraph:

> Your intention to offer amendments to major authorization bills to require agencies to compile, index and maintain a file of their reporting forms is complementary to these efforts.

The efforts they refer to are in the prior paragraph in which they are trying to get agencies and departments to begin to consolidate the forms being used.

Mr. VOLKMER. So they encourage your efforts here today.

Mr. PANETTA. They are appreciably in line with what OMB is trying to do.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 7, noes 14.

Mr. PANETTA. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Forty-seven Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1300

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. PANETTA) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 366, noes 16, not voting 52, as follows:

[Roll No. 188]

AYES—366

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chency
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fazio,
Fenwick
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Stack
Staggers
Stangeland
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Treen
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Zablocki
St Germain
Traxler
Ullman
Weaver
Wilson, Bob
Wilson, C. H.
Wydler
Young, Alaska
Young, Mo.
Zeferetti

NOES—16

Ashley
Beilenson
Burlison
Burton, Phillip
Danielson
Fascell
Garcia
Green
LaFalce
Lujan
Minish
Reuss
Roybal
Seiberling
Smith, Iowa
Stanton

NOT VOTING—52

Alexander
Anderson, Ill.
Badham
Barnes
Bolling
Bonior
Bonker
Bouquard
Breaux
Burton, John
Conyers
Crane, Philip
Davis, S.C.
Edgar
Erdahl
Evans, Ga.
Fary
Ferraro
Fish
Flood
Forsythe
Fowler
Frenzel
Fuqua
Goldwater
Harkin
Hawkins
Holland
Johnson, Calif.
Lloyd
Mathis
Mineta
Murphy, N.Y.
Nelson
Pickle
Price
Ratchford
Rodino
Scheuer
Schulze
Simon
Spellman

☐ 1310

Mr. STUMP changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had intended to offer an amendment to increase the authorization for the Neighborhood Reinvestment Corporation from $9.5 million to $12 million for the coming fiscal year. That is a small increase. The total of this activity is small, but it is nonetheless a very worthy activity, an activity which brings in a lot of private investment in the work of preserving our communities, both in terms of the work of the neighborhood housing services and the neighborhood preservation projects.

Mr. Chairman, I had substantial support indicated for this amendment, and I had hoped that the chairman of the subcommittee, who has done such an outstanding job over the years on this legislation, would see fit to accept the amendment. But in conferences with him, he has advised me he is unable to do so, and out of respect for the gentleman and the work he has done—and I know he is familiar with the work of this Corporation—I have decided not to press the amendment.

I understand the Senate has voted the $12 million that I sought, and I do hope the subcommittee chairman and the conferees will be sympathetic to this program which benefits from a great multiplication factor. It is a way of catalyzing private groups, particularly the banks, to help in the preservation of our neighborhoods.

Mr. ASHLEY. Mr. Chairman, will the chairman yield?

Mr. BINGHAM. I am happy to yield to the chairman of the subcommittee.

Mr. ASHLEY. Mr. Chairman, I appreciate the gentleman's deference and consideration for me. I mean that very sincerely.

Frankly, I was torn in our discussions because I would like to fund at the fullest appropriate level the activities of the Neighborhood Reinvestment Task Force or Corporation. I would say, as I did to the gentleman, that the committee has expended great effort to try to keep the overall cost of the legislation before us at a respectable, constrained level.

☐ 1320

It was on that basis that the subcommittee, in considering this particular request from the administration, originally programed $8.5 million for the activities of the Corporation. We subsequently did increase that to $9.5 million, the original administration request. It was in cognizance of the fact that the Committee on Appropriations would fund that level of $9.5 million that I suggested to the gentleman that I would be constrained to oppose an increase beyond that amount.

I want to join with the gentleman in paying tribute to the activities of the Corporation. We have talked a lot in recent days about the use of public dollars to leverage private dollars, and that is precisely what is involved in this program. It is an effective program. It has worked well. We have to recognize, as I know the gentleman does, that the activities of this entity began some 4 or 5 years ago, first as a task force. Last year we converted the task force, because of its proven performance, into a Corporation. The Corporation received an adequate level of funding for its first year. The $9.5 million represents a modest increase over the level that was funded last year.

In respect to the budgetary constraints that we are trying to come to grips with and be responsible with, I think this is an appropriate level for this year. But I do join with the gentleman from New York in applauding the activities and encouraging the corporation. I look forward to the time soon when those activities can be supported at a higher level.

The CHAIRMAN. The time of the gentleman from New York (Mr. BINGHAM) has expired.

(On request of Mr. McKINNEY and by unanimous consent, Mr. BINGHAM was allowed to proceed for 3 additional minutes.)

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I too, would like to join the chairman of the subcommittee and the gentleman from New York in applauding the proposed amendment. But I felt that in this day and age of cutting expenses that adding to this Corporation would not pass in the House. I was responsible for separating this out as a separate corporation thanks to action on the part of the whole House. I think it has done incredibly good work, and I would like to see it receive more funding and will think in those terms, perhaps, as we go to conference. But I would suggest that this is the kind of program that the subcommittee will be looking at more and more in the future. It is a leveraging program and generates private investment, which we must have if we are to solve the problems of the cities. I congratulate the gentleman on his amendment.

Mr. STANTON. Mr. Chairman, will the gentelman yield?

Mr. BINGHAM. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I want to echo the remarks made by the gentleman from Connecticut and the gentleman from Ohio. This Corporation referred to certainly has my presonal full support. Just from the experience of what has taken pace in my neighboring city of Cleveland, Ohio, the experience in the district of the gentlewoman from Ohio (Ms. OAKAR), I know it has done outstanding work with the local people and the financial institutions involved. I congratulate the gentleman for offering this amendment today.

Mr. BINGHAM. I thank the gentleman for his remarks.

Mr. Chairman, let me say that I appreciate these words of support for the Corporation.

Let me just point out that last year's authorization was actually $12.5 million, so that the authorization figure in the bill is substantially lower than last year's authorization.

Now this amount may seem trivial, since the bill before us today authorizes more than $3.5 billion in new spending. But the Neighborhood Reinvestment Corporation has carefully developed a set of highly successful and cost-effective programs which they are now prepared to initiate in many more communities across the country. A total investment of $243,000 over a 4-year period in one of the Corporation's programs will typically produce $5 million in private investment in the neighborhood, a leveraging ability which puts even the much touted urban development action grant program to shame.

Since the Neighborhood Reinvestment Corporation is such a small item in this bill and therefore less noticed, let me briefly review its history for the record. Started in 1974 as a task force, with all the Federal financial regulatory agencies such as the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation as members, along with the Secretary of Housing and Urban Development, this organization set out to develop a new kind of partnership between neighborhood residents and landlords, local officials, and banks and savings and loans to work jointly on stemming neighborhood decay and disinvestment. This partnership took the form of neighborhood housing services (NHS) programs, which are private, locally controlled, nonprofit corporations which receive small grants from the local and Federal Governments as well as contributions from financial institutions.

These NHS programs use housing inspection, rehabilitation counseling, construction monitoring, revolving loan funds and increased underwriting of home improvement loans by private financial institutions to change the investment climate in their target neighborhoods. Standard procedures have been painstakingly developed over the last 5 years, and now there are NHS programs operating in 89 neighborhoods in 76 cities. Most of these are now self-sustaining and receive only some training and support services from the Corporation. The role of the task force has thus been a catalytic one, forging these new partnerships and training local people in these successful cooperative techniques.

Last year, the Congress recognized the success of the task force and decided to strengthen its efforts by establishing it as an independent Corporation with an authorization for fiscal year 1979 of $12.5 million. After 5 years of careful, almost laboratorylike development of NHS programs, during which the task force had actually resisted efforts I and others made to increase their budget, the Corporation was finally prepared to operate on a larger scale, establishing their tested, model programs in many more cities. They had also developed a range of new programs to deal with additional kinds of neighborhoods and commercial areas. Unfortunately, the vagaries of the budget and authorization process prevented the Corporation from being funded for fiscal year 1979, and it had to continue on its demonstration grant from HUD.

For fiscal year 1980, the Corporation is fully prepared to expand its operations and reach out to new neighborhoods where deterioration is proceeding unabated. When Senator PROXMIRE asked the Corporation's Executive Director during a hearing this year what the Corporation's Board had requested from the Office of Management and Budget for fiscal year 1980, he revealed that the Corporation wanted a program level of $15 million. I am convinced that this organization's record of success would justify such a level of operations.

Many of the Members of this House here today know full well the success of the Neighborhood Reinvestment Corporation since they have neighborhood housing services programs in their districts. I am certain the distinguished chairman of the subcommittee, the floor manager of this legislation, is fully familiar with the success of the NHS program in Toledo, and I would hope he would agree that many other cities should have the benefit of such a program. The typical NHS uses of $161,000 in its first year to produce $1.6 million in new private mortgage lending, and this kind of leveraging ability should be recognized and supported. The committee report on the Neighborhood Reinvestment Corporation, while praising its activities, concludes that a great expansion of its programs could hurt its ongoing efforts. On the contrary, the Corporation is fully prepared to handle this modest increase in funding.

The Corporation should be commended for the fact that it has worked carefully and slowly in developing its programs. It has not sought to expand rapidly. Now it is ready to move. It has acquired the experience. It has proven itself. I think it is fully ready to spend the kind of funds represented by my amendment.

AMENDMENT OFFERED BY MR. DUNCAN OF TENNESSEE

Mr. DUNCAN of Tennessee. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN of Tennessee: Page 68, after line 18, insert the following:

TITLE IX—TREATMENT OF SOCIAL SECURITY BENEFIT INCREASES UNDER CERTAIN FEDERAL HOUSING LAWS

TREATMENT OF SOCIAL SECURITY BENEFIT INCREASES

SEC. 901. (a) Notwithstanding any other provision of law, social security benefit increases occurring after May 1979 shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under the United States Housing Act of 1937, the National Housing Act, the Housing and Urban Development Act of 1965, or the Housing Act of 1949. For purposes of this subsection, the term "social security benefit increases occurring after May 1979" means any part of a monthly benefit payable to an individual under the insurance program established under title II of the Social Security Act which results from (and would not be payable but for) a cost-of-living increase in benefits under such program becoming effective after May 1979 pursuant to section 215(i) of such Act, or any other increase in benefits under such program, enacted after May 1979, which constitutes a general benefit increase within the meaning of section 215(i)(3) of such Act.

(b) Subsection (a) of this section shall be effective only with respect to assistance which is provided under the Acts referred to in the first sentence of such subsection for periods after September 30, 1979.

Mr. DUNCAN of Tennessee (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN of Tennessee. Mr. Chairman, next month social security recipients across the country will receive a cost-of-living increase in their benefits. Unless my amendment to the Housing and Community Development Act is passed today, those recipients living in public housing will suffer an unjust penalty. Under the present law, recipients residing in public housing will lose a significant part of their income increases, even slightly, their public housing benefits will decrease accordingly. We are, in fact, giving with one hand and taking away with the other.

Many of you will recall that last July, this House overwhelmingly passed this same amendment to the Housing and Community Development Amendments Act of 1978, only to watch it be rejected in conference shortly before we adjourned last fall. Since that time, my office has received numerous calls from across the country from recipients inquiring about the amendment. They were very disappointed when they learned that it had not become law, and that they would still be subject to these unfair rent hikes.

Today, we have the opportunity to correct this inequity. My amendment would assure that social security recipients residing in public housing would no longer have their rent raised solely as the result of a cost-of-living adjustment. The cost-of-living increase would not be considered as income for determining the eligibility of an individual to receive benefits under housing laws. The Congress last year, rightly and justly, passed legislation which prevents war veterans, who receive benefits, from losing any part of their benefits, whenever social security payments were increased.

I would add, Mr. Chairman that I offer this amendment as a separate title because it applies to many provisions in the legislation, and not just to any one title.

I respectfully urge that my colleagues support this important amendment.

Mr. FORD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Tennessee.

Mr. FORD of Tennessee. I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Tennessee (Mr. Duncan). I would say further that the inflationary rate is so high in 1979. We are talking about real problems, about our senior citizens, and we are talking about a 5.7-percent increase in the social security benefits. I would have to say that those who are recipients of social security in this country should not be penalized by HUD passing on increases in public housing throughout this country. I think it is wrong at this point, with the inflation rate as it is today, to give them a cost-of-living increase in social security payments and at the same time take it back from them in the housing program.

I would like to say again that I associate myself with the remarks made by the gentleman from Tennessee (Mr. Duncan), and I urge my colleagues to support this amendment.

Mr. QUILLEN. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Tennessee.

Mr. QUILLEN. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the gentleman's amendment.

I supported it in the last session of the Congress. It is very badly needed. It simply does not make sense that whenever a social security increase is granted to recipients that it should be taken away by another arm of the Government. I think it is time that we pass this amendment again and that it should be enacted into law for the benefit of those who badly need it.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Indiana.

Mr. HILLIS. I thank the gentleman for yielding.

Mr. Chairman, I, too, rise in support of the amendment. It seems to me a very good amendment. It seems to me that what is happening is comparable with what went on with our Nation's veterans for many years, when we saw a veteran get a veteran's pension and social security, and then social security went up and veterans' pensions went down. A year ago Congress stopped that. It seems to me that that is exactly the same thing we are talking about here, that you have the elderly person on social security living in public housing and as the public housing costs go up they do not have an increase at all. It seems to me that this is a worthwhile amendment, and I rise in strong support of it.

□ 1330

Mr. ASHLEY. Mr. Chairman, the amendment should be opposed. It would prevent social security cost-of-living increases from being counted as income when calculating rent in assisted housing.

In essence, what the amendment would do is to prevent rent increases for those residents, but only those residents in assisted housing, who get their income from social security payments.

I am sympathetic with what the gentleman is trying to accomplish, at least what I think he is trying to accomplish, but I have got to say that the amendment is ill-advised and certainly raises more problems than it answers.

Let me point out first that social security benefits are indexed for inflation. In computing the amount of the increases in social security, increases that have taken place in the rental markets throughout the country are a part of that consideration.

So, what I am saying is that, here we index social security payments, because there has been an increase in the cost of living, but then, having given them the cost-of-living increase, we turn around and say, "But you don't have to use this for any rent increases that may come along." What a self-defeating proposition.

It simply does not seem reasonable to me to say that the cost-of-living increases are supposed to cover rent increases and then turn around and prevent their use for those very same increases.

What troubles me most, Mr. Chairman, about the proposal is that it gives special treatment to one group of people simply because of their source of income. Someone who does not receive social security income would continue to be subject to rent increases, while another at the identical level of income, but who does receive social security benefits, would have no rent increase. Just because of the difference of source of income, one is treated differently. One gets a modest rent increase, the other does not.

Is this fair? It does not seem so to me.

The amendment as drafted would even treat social security recipients differently based on when they came into the program.

A person who was in public housing or section 8 today would essentially have their rent fixed, or frozen, based on this year's social security benefit level. In effect, they would enjoy the benefits of a national rent control program.

I repeat, for the sake of the gentleman from California and others who have articulated their views on rent control, that this would be a form of national rent control; no question about that. Someone who came under the program next year would have to pay a higher rent, since the rent would be based on the 1979 benefit level, even though they both would actually be getting the same social security payment. One would pay a higher rent than the other because of the impact, because of the effect of this amendment.

Now, in addition to the amendment being patently inequitable, it is costly, very costly. Projections done by the Department of Housing and Urban Development show that by 1980 the cost of the amendment would be at least $80 million and that the years after 1980 it could grow exponentially.

If the gentleman wishes to mitigate the effects of rent increases in public housing and section 8, it seems to me that there are far more effective and fairer ways of doing this.

If the gentleman's concern is to increase the value of the benefits under social security, again, there are better, more effective ways of doing that.

This amendment attempts to accomplish an understandable and laudable aim, but instead would create a very inequitable and very costly result.

Let me just close, Mr. Chairman, by saying that this committee, all 435 of us, are keenly aware that our assisted housing programs are in trouble because of the escalating cost of that housing.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Ashley) has expired.

(By unanimous consent, Mr. Ashley

was allowed to proceed for 3 additional minutes.)

Mr. ASHLEY. All of us are aware that our public housing and section 8 programs are in difficulty and are running into stiffer and stiffer opposition because of the escalating costs of these programs.

Now, what the gentleman would have us do is to accept an amendment which would make the programs all the more costly. Any time that you begin to limit the amount that is being paid in rent, despite the necessary increases in rent that are bound to take place caused by increases in the cost of energy, taxes and so forth, any time you impose this kind of a limitation, then you simply transfer the economic costs to others under the program or to the Federal Government. Nothing could be clearer than that.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. The gentleman has come to a point that has given me great concern. If rent is frozen and therefore the housing authority is deprived of income, who makes up that difference?

Mr. ASHLEY. It is made up by the taxpayers of the United States. Ten years ago, the Federal Government was paying very little in subsidy support of Federal housing beyond the retirement of the bonds that were sold for the construction of that public housing, but now we are at a level of some $750 million a year, over and above the obligation to retire the bonds.

So, there is no question, public housing is not paying for itself. It is in these increased payments that we have already authorized in this act that that shortfall is accommodated.

Mr. EDWARDS of Alabama. If the gentleman would yield further, would the gentleman agree that this situation it not comparable with the social security veterans' payment question?

Mr. ASHLEY. Well, I quite agree.

Mr. EDWARDS of Alabama. If the gentleman would yield further, I think the gentleman from Tennessee led me down this primrose path last year, and I joined with him in his amendment; but after talking with my housing authority directors and talking to people who have finally realized that the money has got to come out of the taxpayers if we hold down the rent, I have concluded that I made the wrong vote last year.

I shall vote against the amendment.

Mr. ASHLEY. If I may reclaim my time for a moment, I want to point out——

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

(By unanimous consent, Mr. ASHLEY was allowed to proceed for 3 additional minutes.)

Mr. ASHLEY. I would like to point out the irony that obtains in this situation. The gentleman from New York (Mr. GARCIA) took to the well of the House, and he pointed out that in the committee bill there is a provision that calls for the increase in rental income from 25 to 30 percent in some situations.

Nobody was alarmed at that. Here we are directing that in certain situations the tenants in public housing and section 8 must pay a somewhat higher percentage of their income because of the cost of the program and because we feel that this slightly greater percentage of their income should go to shelter. There was not a murmur against that other than from the gentleman from New York and one or two others.

Here is an amendment that says, but for social security recipients, they are just held harmless in this situation.

☐ 1340

It is not just the increase for next month, it is every single year from now on that they are in public housing or section 8 that there will be no rent increases for that small universe of families in such housing.

Mr. DUNCAN of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. Would the gentleman agree that it is not right or equitable that these older people, and you must agree that they are the older people who are in public housing and receiving social security, not the younger people, is it right, fair, and equitable that their increase in social security should go to the public housing authority who has already set their budget?

Mr. ASHLEY. Just as much as for somebody who receives from other sources.

Mr. DUNCAN of Tennessee. I disagree with the gentleman.

Mr. ASHLEY. We put a limit on the amount of family income that should go for rent in public housing or section 8, and that is less than most American families are spending for their shelter.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. I thank the gentleman for yielding.

The gentleman has made a very excellent point that may have gone by too quickly, and that is the small percentage of people that we are discussing. If I may ask the gentleman if this is correct, if we allow this amendment to stand will we be discriminating blatantly against others on social security who are in private housing, people who are very elderly in private rest homes, whose rent will go up and we would be providing a partial subsidy to a few at the expense of many of the elderly of this country?

Mr. ASHLEY. The gentleman is entirely correct. It is that blatantly discriminatory, and inequitable.

Mr. FORD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman.

Mr. FORD of Tennessee. I thank my colleague from Ohio for yielding.

May I ask the gentleman from Ohio this: You mentioned the $750 million a minute ago in additional subsidy.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(At the request of Mr. FORD of Tennessee and by unanimous consent, Mr. ASHLEY was allowed to proceed for 2 additional minutes.)

Mr. FORD of Tennessee. Is it not true that with this amendment offered by Mr. DUNCAN from Tennessee we are only talking about social security recipients, and that would only cost approximately $75 million, no more than $80 million?

Mr. ASHLEY. What it means is that if this amendment were in the law, were adopted, instead of $750 million in operating subsidies for our public housing authorities around the country we would instead be looking at a figure of $750 million plus $80 million, and that is just for 1980. In other words, we would be looking at $830 million instead of $750 million. In a very few years it would be well over $1 billion, at least this is the projection HUD has given us with respect to this amendment.

Mr. FORD of Tennessee. The social security cost-of-living increase is now 5½ or 5-plus percent.

Mr. ASHLEY. It depends.

Mr. FORD of Tennessee. How will HUD set the amount? Is it a flat amount, or is it geared, is it some type of a formula in exchange with the social security cost-of-living increase?

Mr. ASHLEY. I will make two points.

Social security is indexed for inflation. So, do not say that it is 5½ percent. We know unhappily that the rate of inflation is substantially greater than that.

Mr. FORD of Tennessee. How was this formerly worked out with HUD for the increases in the rents?

Mr. ASHLEY. It was worked out on the basis that the social security recipients' income will reflect the increase by virtue of the cost-of-living rates. A tenant in public housing, generally speaking, pays 25 percent of his, her, or their income for rent. They are obliged to do that, 25 percent.

Now, 25 percent of let us say $6,000 before a social security raise would be a certain amount. Twenty-five percent of $6,400, if that is what the annual increase by virtue of social security would be, is slightly more than that. In any event, it would be 25 percent.

Mr. FORD of Tennessee. I would urge my colleagues to support the Duncan of Tennessee amendment.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(At the request of Mr. DICKINSON and by unanimous consent, Mr. ASHLEY was allowed to proceed for 2 additional minutes.)

Mr. DICKINSON. Mr. Chairman, would the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Alabama.

Mr. DICKINSON. I would like to propound an inquiry to either the author of the amendment or the chairman of the committee. Is it a fact, or do I understand correctly that this will only affect those who are presently residents and living in the public housing, and that those who should come in after this amendment is passed, after the bill is passed, would not be the beneficiaries of the intent of the bill, but would have to pay an increased rental?

Would the gentleman from Ohio or the gentleman from Tennessee explain?

Mr. ASHLEY. I yield to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. It is my intent that those coming in after the social security recipients would receive the same benefit.

Mr. DICKINSON. Well, I thank you for your answer. But I would like to ask the gentleman or the chairman, is it their understanding that that is what is accomplished by the proposed amendment?

Mr. ASHLEY. Well, a tenant in public housing today would enjoy immediately the benefits of a rent freeze. If a tenant comes in also as a recipient of social security next year, or the year after, he is going to be paying substantially higher rental at that time. But any future increases in the rent by virtue of the cost-of-living increase would not apply to him pursuant to the amendment.

Mr. DICKINSON. The gentleman is saying then that those who might presently be under social security, but not in public housing, that might subsequently move into public housing, would not get the benefit of the intent of the author of the amendment?

Mr. ASHLEY. Well, the rents at that time would be at the higher level.

Mr. DICKINSON. Yes. I think that answers my question.

Mr. STANTON. Mr. Chairman, would the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. STANTON. I appreciate the author of the amendment standing in the well because through the chairman of the subcommittee I want to pose to him a question. Under the law proposed last week by the financial regulatory agencies and the small saver increased interest rates to 5¼, and sometimes 5½ percent, this will mean a little increase income for every one under, hopefully, in public housing or any other type of housing. Would you consider this income extra income which is now regulated being excluded or would it be included?

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(At the request of Mr. STANTON and by unanimous consent Mr. ASHLEY was allowed to proceed for 2 additional minutes.)

Mr. DUNCAN of Tennessee. We have never approached such a ridiculous situation. But, we did set the precedent for the veteran.

Mr. STANTON. But the gentleman gave this to the veterans regardless of where the veterans live, and that is why the question was asked a minute ago. You see, it really has no comparison to that, whether a social security person should get it or not.

But what the gentleman from North Carolina was saying is that you are giving a preferential treatment to only about 1 percent of the recipients of social security, as the gentleman from Ohio says, so that we will have in the same public housing block one on social security who would get no increase, and the fellow next to him, simply because he is not on social security, is going to get an increase for the same type of level unit. I think it ought to be based fairly and squarely as to what it cost per unit. The American taxpayers are already paying $750 million a year in subsidies, and the staff tells me next year it may be $1 billion.

Mr. DUNCAN of Tennessee. We had two classes in the veterans bill, we had the service-connected and the nonservice-connected, the service-connected veteran did not receive any benefit from the bill we passed last year. Nonservice-connected was a special class.

Mr. STARK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment and wonder if I could engage both the author and the distinguished chairman of the subcommittee in colloquy for a minute or two. I wonder if the gentleman from Ohio could tell me if he can give us an estimate of how many people will face eviction if this amendment does not pass?

Mr. ASHLEY. None.

Mr. STARK. I beg to differ.

Mr. ASHLEY. Well, it's not the answer you wanted to hear, but that is my judgment in the matter.

□ 1350

Mr. STARK. Is it not correct that in public housing there are absolute income limits?

Mr. ASHLEY. There are income limits.

Mr. STARK. All right, and if a social security increase carried the person over the threshold of the income limit, would that cause him to lose his occupancy?

Mr. ASHLEY. I know of no situations where elderly persons who are not able to pay rent are evicted from public housing. I do not know of that situation.

Mr. STARK. If I may repeat the question, it is my understanding that in various housing projects people in excess of certain total income cannot live there.

Mr. ASHLEY. Of course.

Mr. STARK. All right. That is answer No. 1.

Second, if you also included in their income Social Security receipts, it is conceivable, is it not, that somebody's Social Security increase could take him over that maximum income level?

Mr. ASHLEY. That is the idea.

Mr. STARK. All right, and that might be by as little as $5 or $6 they would cross over into the threshold and, therefore, have to leave public housing; is that not correct?

Mr. ASHLEY. I am told that they cannot be evicted on that basis.

Mr. STARK. They cannot be evicted on that basis?

Mr. DUNCAN of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. There is absolutely no provision that says they cannot be evicted on that basis in this bill, and nowhere else is there any such provision.

Mr. ASHLEY. I am told they cannot be evicted for being over the income limits by virtue of increases in social security.

Mr. DUNCAN of Tennessee. There is no such provision in this bill or any other housing act.

Mr. ASHLEY. Those are, I am advised, the regulations that are in effect at this time.

Mr. STARK. If I may reclaim my time, if I may suggest, as those who have dealt with HUD are aware, if regulations are subject to capricious change, would the gentleman from Tennessee not agree that this could immediately happen, and I submit we would stand in danger of immediately evicting many of our senior citizens who are the most needy and the poorest? I want to commend the gentleman from Tennessee. He addresses the problem with his amendment that is a source of fear and concern to the citizens of this country who are least able to defend themselves from the ravages of inflation, who live in the poorest and most meager conditions as to housing, to health care, to food, and this pittance that he seeks to protect and to bring their standard of living up to what most of us consider to be standard and decent is one I do not think we can afford to take away from them.

I urge my colleagues to support the Duncan amendment, and I yield back the remainder of my time.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, with all due respect to the chairman of the committee and the ranking member of the committee, we are discussing this proposed amendment in very legalistic terms as to what this amendment is going to do or not do to senior citizens living in public housing. I think what we have to do is to begin to look at this in terms of the individuals who are involved. There are many things that are unequal in our lives, and there are many groups that get in one way or another discriminated against. There are many pieces of legislation that we in the House pass and which many Members, perhaps including the chairman, vote for because of what they ultimately do. Impact aid for education is one of them. There are many problems with impact aid, but I voted for impact aid every time because it is going to get money into education, and education needs money.

So in a bill such as this when we talk about senior citizens, the elderly who are in public housing, I doubt if there are many Members here who have not talked to these people and who have not had them say, "Food prices are going up and I get this little increase in my cost of living under social security, and I cannot buy any more food even if I get to keep all that increase." It is the same for clothing, transportation, and medicine. It seems to me this is a way in which we can respond to try to help these people, and that is what we are really talking about here.

If we can pass this amendment, it is going to say that the social security increase that we give under the law is an amount of money these people can use to help them survive, to help pay for their food, to help pay for their clothing and transportation, and not just automatically be using it to put into public housing for HUD. I think that is the issue we have got to look at, and that is the issue we have to vote for.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Ohio, the Chairman.

Mr. ASHLEY. I appreciate the gentleman's yielding.

I hear what the gentleman is saying. I know his words come from the heart, but I would remind him, because I know he is a friend of public housing and assisted housing under the section 8 program, that up until quite recently we were committing the Federal Government to about 400 additional units of assisted housing each year. Because of the sharp increase in the cost of these programs, that level is now down to about 225,000 or 230,000.

What I am saying is that here are programs that we rely on to provide shelters for the most needy in our society. We feel the level going down. It is going down because the costs are going up. Here we are on the floor of this House just making sure that those costs go up all the more, all the more. What will be the effect and the consequence of this in years to come if we adopt this kind of amendment? The costs will then become so burdensome that the programs will cease to function.

This is not my notion as to how this Nation should respond to its responsibilities as far as shelter is concerned for our most needy citizens. I think this is a desperate, poorly advised amendment, not because of the very short term implications but because of the broader term implications, and I think that the gentleman can see what my position is.

Mr. PEYSER. I understand the chairman's point. I guess my point is in disagreement that we have to find another way of attacking that problem, even if it means more money into the public housing aspect, because what we are losing sight of—and I know the chairman's concern for senior citizens; I do not for a moment think he is not as concerned as I am—is that these are people who are living there by the skin of their teeth basically, and if we do not give them an increase in these inflationary times—that is, a real increase that they can keep to go out and get the basic essentials—we are hurting them. I do not want to hurt them, and neither does the gentleman from Ohio.

Mr. ASHLEY. If the gentleman will yield further, here we do indexing. We say that those in our society, not Members of Congress, not everybody, but those who are on social security have really got to be made whole against the erosion of inflation; so we say that, and we do index for them. They get annual cost-of-living increases. Now we are saying, Here is the increase in social security. If that is what the gentleman wants, let us vote on that, but let us not impose a national rent control scheme that will just cover certain people receiving certain kinds of income. That is an atrocious way of getting to the problem.

Mr. PEYSER. Once again, all I can say is that we are dealing with people who are not going to live forever. They need this help now.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. PEYSER was allowed to proceed for 1 additional minute.)

Mr. PEYSER. We are working for people now who are elderly people, who need all we can give them and what little we can give them right now. We do not have time for a new social security bill or a new housing bill. Here is a way through the amendment offered by the gentleman from Tennessee (Mr. DUNCAN) where we can respond in a little way. Believe me, we are not making any magnanimous gift here to individuals, but it is a vital gift. I think we ought to make it, and we ought to work out the problems brought about in another way.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. I thank the gentleman for yielding.

I would like to ask one question that has not come up in this debate. How often are the social security increases granted? Is it once a year?

Mr. PEYSER. Once a year.

Mr. CAMPBELL. All right. How often is the rent recomputed? Is it annually? Is it every 2 years?

Mr. DUNCAN of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I would like to yield to the gentleman from Tennessee to respond to that.

Mr. DUNCAN of Tennessee. It is my understanding that most local housing authorities adjust the rent every month, and the people have to take down their checks or stubs that they receive, and it is adjusted on a monthly basis.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. CAMPBELL, and by unanimous consent, Mr. PEYSER was allowed to proceed for 1 additional minute.)

Mr. CAMPBELL. If the gentleman will yield, it is my understanding that it is statutorily stated that recertification takes place every 2 years. I am wondering in this debate, and I am trying to follow it, if we have not already given a break to those in public housing versus those out in rest homes and this sort of thing, and if we are not really going one step further now. I do not really have an answer to it.

Mr. PEYSER. I would like to respond and say to the gentleman, and I am sure he is aware as well, that the inflationary increase in our country today, and particularly in the items that these poor and elderly need, have increased far more than the amount that is being allotted in the social security increase this year. It does not have anything to do with rent adjustments. So what I am saying is that the least we can do is to guarantee that they get this adjustment, and if they get this adjustment this year, the way we are going to go, they need it next year as well.

□ 1400

If, at that point, the adjustment is going to come in, as the gentleman suggests, these people will again be in an absolutely intolerable situation. I say, let us give them this little token of what we think of these people the seniors and elderly, in our country and let us go on with this bill and find other ways of handling the other problems that you are presenting at a later date.

Mr. BONER of Tennessee. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all I want to associate myself with the remarks of the gentleman from Tennessee. I would like to explain why I feel so strongly on this issue.

When we had our district work period in April I had the opportunity to hold public meetings at every senior citizens' highrise in Davidson County. The single most frequent and pressing question these people asked me was, "Why do you give us a cost-of-living increase in social security on the one hand and then, before we ever put the real dollars into our pockets, automatically raise our rent so that we can never really get ahead?"

Let me give you an example. The average yearly income of a resident who is over 62 in a metropolitan housing facility in Nashville is approximately $2,500. I did not say $57,000. I said $2,500 yearly average income on social security. This means a monthly income of approximately $208. Their average rent is around $47. That is 23 percent of the total income they receive.

Now, many of us in Congress occupy two residences. If you combine the rent you pay for your residence at home and in Washington, D.C., it will not exceed 23 percent of your total income. I am not one to go out and vote for a lot of programs that give away money but I am convinced if there is one segment of our society that needs some type of assistance from the Federal Government, it is our senior citizens and especially those who must live on a fixed income.

Even if it means not balancing the budget this year or going deeper into deficit spending in the budget for 1980, I think citizens across this Nation, like those senior citizens in Nashville who live on an annual income of $2,500, must be given some relief. I think increasing their rent every time they get a raise in their social security is an injustice that has existed for too long and something must be done. I support the gentleman's amendment that is similar to a bill I recently introduced in the House of Representatives, and I hope some of you who have been in Congress since 1972 when this unfair practice started, will stand up and say, "Whatever the cost, we are going to provide relief to this group of senior citizens across this Nation who need our help."

I grew up several blocks from where one of our senior citizens' homes is presently located, therefore I feel a closeness to our senior citizens in the public housing area. I went into the public meetings that we held and I looked into the faces of people who do not make the money that you and I earn, to these people inflation means having to cut back on the groceries they need, having to cut back on the amount of electricity they use for their basic necessities, and even having to cut back on the time they spend watching TV. These are the people that you and I represent. If Congress was ever created to respond to the needs of the people, this is the opportunity for us to demonstrate our willingness to act. Whatever the cost I believe we have an obligation to rectify this injustice that has been imposed upon this patricular segment of our senior citizens.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words and I desire to speak in opposition to the amendment.

I get the sense from the debate here that many Members are thinking that for every dollar of social security benefit increase it is being taken away by an increase in rent. The rent that is paid in public housing is 25 percent of the income, so for a $10 increase in social security benefits, only $2.50 maximum could go for an increase in rent.

Also, let us think of those who might be existing on a private pension who, if they are lucky enough, might get a cost-of-living increase in their pension. Most private pensioners get no cost-of-living increase. If they got a cost-of-living increase they would have to pay for that increase in rent that is the current practice.

The social security recipient would be immune from the increase but persons living on a private pension would have to pay the increased rent. That is very inequitable and, as the chairman of the committee pointed out, if we freeze this group of social security recipients at today's rent level, 5 years, 10 years from now they will be paying a much lower percentage of their total income toward rent than another social security recipient making no more in social security benefits than the older tenant. Those tenants moving in 10 years from now will have to pay that high level of rent existing at that time.

This amendment on the surface sounds very good but in its operation is totally unfair.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. DUNCAN).

The question was taken; and the Chairman announced the noes appeared to have it.

RECORDED VOTE

Mr. DUNCAN of Tennessee. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 311, noes 79, not voting 44, as follows:

[Roll No. 189]

AYES—311

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnard
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Buchanan
Burgener
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Coelho
Coleman
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Edwards, Calif.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Grisham
Guarini
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Heckler
Hightower
Hillis
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Matsui
Mavroules
Mica
Mikulski
Mikva
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pepper
Perkins
Petri
Peyser
Preyer
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Shannon
Sharp
Shelby
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Stack
Staggers
Stangeland
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Taylor
Thompson
Traxler
Trible
Udall
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Fla.
Zablocki

NOES—79

Ashbrook
Ashley
AuCoin
Bauman
Beilenson
Brown, Calif.
Broyhill
Burlison
Butler
Campbell
Cleveland
Clinger
Collins, Tex.
Conable
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Derwinski
Devine
Dickinson
Duncan, Oreg.
Eckhardt
Edwards, Ala.
Erlenborn
Fenwick
Findley
Fountain
Giaimo
Gramm
Green
Gudger
Hansen
Hinson
Holt
Huckaby
Ichord
Jeffries
Jones, N.C.
Jones, Okla.
Kramer
LaFalce
Latta
Livingston
Lundine
Lungren
McDonald
Maguire
Marriott
Martin
Mattox
Mazzoli
Michel
Miller, Ohio
Paul
Pease
Pickle
Reuss
Roberts
Rousselot
Rudd
Satterfield
Sebelius
Seiberling
Sensenbrenner
Shumway
Shuster
Stanton
Steed
Stump
Symms
Tauke
Thomas
Treen
Ullman
Whitehurst
Whittaker
Wylie

NOT VOTING—44

Badham
Barnes
Bolling
Bonker
Bouquard
Breaux
Conyers
Crane, Philip
Davis, S.C.
Diggs
Edgar
Erdahl
Evans, Ga.
Fary
Ferraro
Flood
Forsythe
Fowler
Frenzel
Fuqua
Goldwater
Hawkins
Hefner
Heftel
Holland
Johnson, Calif.
Lloyd
Mathis
Mineta
Murphy, N.Y.
Nelson
Price
Rodino
Schulze
Simon
Spellman
St Germain
Vander Jagt
Wilson, Bob
Wilson, Tex.
Wydler
Young, Alaska
Young, Mo.
Zeferetti

☐ 1420

Messrs. FOUNTAIN, BROYHILL, ROUSSELOT, and KRAMER changed their vote from "aye" to "no."

Mr. JACOBS changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. WEAVER. Mr. Chairman, I have an amendment at the desk.

Mr. ASHLEY. I am sorry, Mr. Chairman, but I did not hear what the gentleman said.

Mr. WEAVER. I have an amendment at the desk, Mr. Chairman.

The CHAIRMAN. The Chair will inform the gentleman that the gentleman from Oregon (Mr. WEAVER) stated that he desires recognition and has an amendment at the desk.

Mr. WEAVER. And, Mr. Chairman, I ask unanimous consent that it be offered and considered to title III.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

Mr. ASHLEY. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. WEAVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the amendment I had hoped to offer simply asks the Secretary of Housing to review regulations which have increased the price and the cost of land and housing in this country.

We all know that the cost of housing has skyrocketed and the cost of lots has skyrocketed. A great deal of this has to do with things that were put into FHA regulations in the 1960's that are not really necessary and that we can no longer afford.

I was shocked to find this out when I had some builders in to see me the other day: I asked them, "Do they still require a 36-foot wide street, curb to gutter, in subdivisions?"

They said, "They not only require a 36-foot wide street curb to gutter, but they have extended it to 42 feet."

This adds several thousand dollars to the cost of a lot when an 18-foot wide street serves us just as well. But built into these regulations of FHA are exorbitant costs that we find we can no longer afford, if we ever could, and today they are absolutely unconscionable.

So this amendment would have required the FHA to review such regulations.

I now simply make this request: Please, Mr. Secretary, begin to take some of these things out of the housing regulations so we can afford housing in this country again.

Mr. STANTON. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, evidently within a couple of minutes now the Committee will rise. It is my understanding that when the Committee does rise, there will be a separate vote on what we call the Campbell amendment on cease and desist.

I wish to point out to the Members of the Committee that this amendment earlier carried on a teller vote by almost a 2-to-1 margin. It carried very heavily last night in the House.

Mr. Chairman, I will yield now just for a couple of minutes to the author of the amendment so he may explain what the purpose of it is.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for yielding.

The amendment is very simple. It strikes the section of the bill that gives cease-and-desist powers to the Secretary of HUD. These powers are not now possessed in the form they are presented in this bill. The Secretary of HUD has the right to go to court like everyone else.

Mr. Chairman, the amendment that strikes the cease-and-desist power will be voted on again, and this will be, I believe, the fifth time. The bill gives extraordinary powers, if they are left in the bill, to the Secretary of HUD. It gives powers that can be delegated down to lower ranking members of HUD to issue restraining orders and issue cease-and-desist orders and lead to fines of up to $5,000 a day. We have struck this section thus far in the Committee. There will be a separate vote on the amendment, and we hope the vote will hold.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I had earlier thought perhaps I could highlight the points established by the unanimous consent procedure. However, I think it is too late in the deliberations to do that.

So suffice it to state that I hope my colleagues who serve on the conference committee, if the Duncan amendment is approved by the Senate, will give favorable consideration or, hopefully, substantive treatment to the SSI recipients, some of whom do not also get social security.

I raise that point at this time for the RECORD, hoping that our friends in the other body will see this discussion, and that perhaps, if they adopt the Duncan amendment, they will assure that the SSI recipients are accorded appropriate treatment.

Mr. STANTON. Mr. Chairman, I thank the gentleman.

□ 1430

Mr. MINISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have heard some rhetoric here which would give the impression that the powers that are being given to the Department of HUD are extraordinary. I just want to call the attention of the Members to those agencies that have cease and desist orders now. They are as follows: National Labor Relations Board; Federal Trade Commission; Federal Deposit Insurance Corporation; Federal Home Loan Bank Board; Federal Communications Commission; Small Business Administration; Department of Agriculture; Interstate Commerce Commission; Civil Aeronautics Board; Commodity Futures Trading Commission; Department of Interior; International Trade Commission; Environmental Protection Agency; National Credit Union Administration; and Federal Savings and Loan Insurance Corporation.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. MINISH. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, this has been a difficult debate in many respects, because the subject matter that we are treating is a subject matter on which a balance has to be sought. I do not think there is any Member on the floor of the House who is trying to pass legislation that would make it easier for land developers to defraud through deceitful practices the consumers of this country. That cannot be the purpose or the intention of any Member on the floor. Nor do I really think that it is the intent of any of us on this side, and perhaps on the other side, to lay upon the honest land developer a burden of redtape and bureaucracy far beyond what is needed for the protection of the consumer. So we are trying to seek a balance in this troublesome area. The cease and desist amendment, it seems to me, can be justified on the basis that it does provide the Secretary, the Administrator of the Interstate Land Sales Disclosure Act, with an appropriate intermediate tool to implement the basic purpose of the act, which is to protect against fraudulent and deceitful types of sales. That will not be used in a shotgun or in a random way. A cease and desist order would clearly issue only in those circumstances where the evidence has been overwhelming that practices are being engaged in that are deceitful, that are inappropriate, that are unlawful.

I would close by urging upon the Membership an understanding of what the committee tried to do in the drafting of the legislation before us. The reason for the disclosure and the cease and desist power with respect to the Interstate Land Sales Disclosure Act we thought was fundamental and necessary, and on that basis I would urge a negative vote on the Campbell amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MINISH. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to urge my colleagues to reconsider the vote on the Campbell amendment. It was a mistake. It has stricken out a very narrow cease-and-desist order power for HUD, which action they find under the circumstances is of immediate and substantial damage should it go forward. HUD, of course, did not have that power but they need it. The point is, they argue that the Federal Trade Commission has it. But who would suggest that we expand the authority or funding for that agency for the job, especially when you have in HUD already the responsibility and the information that is necessary to move forward in a objective manner when complaints are coming in, and they can step into the picture so they can do the job that was intended in the initial enactment of this bill.

Mr. MINISH. Mr. Chairman, the cease-and-desist power would help to protect the American servicemen, among others, from unscrupulous land developers. The amendment we are voting on will prevent HUD from bringing these people to justice.

● Mr. DASCHLE. Mr. Chairman, I would like to speak very briefly in support of the amendment offered by the gentleman from California (Mr. PANETTA). This amendment finally begins to take the approach to eliminating excessive paperwork and costly duplication that has long been needed. Instead of being a pious hope that paperwork will be reduced or a resolution calling for yet another useless study, Mr. PANETTA's amendment sets specific paperwork reduction requirements for specific programs where paperwork is a proven problem.

By requiring standardization of forms, setting a clear percentage paperwork reduction goal, and mandating a performance report by the administrators involved, this amendment insures that paperwork will actually be reduced. It is the kind of carefully drawn plan we must institute in all our programs if we are serious about reducing waste, duplication, and excess paperwork in our Government. I am pleased to support the gentleman from California and hope he will give us the opportunity to vote for similar amendments to bills affecting other major programs as they come before us this year.●

● Ms. OAKAR. Mr. Chairman, the Banking Committee has reported out a very important bill in H.R. 3875, the Housing and Community Development Amendments of 1979. I am happy to cosponsor this legislation because it is as important for the country as a whole as it is for the depressed cities of the Northeast that so desperately need housing assistance.

A great deal of the credit for this legislation belongs to my colleague, the chairman of the Subcommittee on Housing, the Honorable THOMAS ASHLEY. The chairman's great leadership skills as well as his tact and good humor were most apparent in our arduous markup sessions. It was an honor to be able to work with the chairman on this bill and I look forward to working with him in the future.

As with any piece of complex legislation, there are some compromises evident in H.R. 3875. Some are harder to live with than others. I would like to review some of the important points in this bill. First, it is not at all pleasant for me to see the level of assisted housing under section 8 reduced from 400,000 to 300,000 units. I supported Chairman Ashley's argument that some compromise was needed to be able to reconcile our bill with the Senate's abysmally low level of 250,000 units. It is my opinion that these levels must be restored and increased in the future. We cannot in good conscience do any less for the poor and the elderly. With inflation hitting the fixed-income person the hardest, we must do more now than we did in the past. The needs here are so great. In my own city of Cleveland, for example, there are over 21,000 elderly in need of decent rental units. Yet the housing assistance plan for the city of Cleveland projects the construction or rehabilitation of only 2,000 units. Federal assistance is the only way these people will be able to have decent housing.

I am happy that the committee approved a small increase in the funding for the urban development action grant program. UDAG has been very successful in attracting private investment capital into the urban core. It is an integral part of our effort to form a partnership between Government and the private sector in this redevelopment area. This is a small increase, but one that can be built on in the future.

Another important change that will help urban neighborhoods that are in danger of being overshadowed by big city government is the amendment that I offered concerning the Neighborhood Self-Help Development Fund. This would allow 10 percent of the funds to be assigned by the Secretary of Housing and Urban Development to local projects that are not certified by the local government. This is a small change, but an important one. It gives our neighborhood organizations some degree of autonomy in making decisions for their own neighborhoods. I hope it will encourage a fuller partnership between city governments and civic-minded citizens who wish to aid in development.

The committee can be proud of this bill. H.R. 3875 does not provide everything that we may have wanted in the housing area, but it is a necessary step in the right direction. We must continue the important work of providing decent housing for all Amercans. I urge quick passage of the Housing and Community Development Amendments of 1979.●

● Mr. DASCHLE. Mr. Chairman, I would like to address a few comments to the Housing and Community Development Act of 1979.

I feel that title V of this bill is somewhat of an overreaction to an unfortunate incident in Ohio where a prepayment was made that resulted in people being displaced due to higher rents levied on them by the new owner. I am especially concerned about the retroactive clause prohibiting prepayment of loans in the Farmers Home Administration's rural rental housing program.

I believe that if a 50-year limit on prepayment is made it will take any remaining incentive away from contractors who build the dwellings under this program. Presently, the law prevents the builder from charging his tenants little more than what the maintenance costs are. Consequently, the only way the builder can profit from this venture is by selling the units at a later date, at the discretion of the State housing authorities.

While I believe that similar situations like that which happened in Ohio should be avoided, I believe a 50-year limit applied retroactively to be too harsh and restraining, enough so as to induce these contractors from further participation in what I honestly believe to be a worthy program.●

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. Wright) having assumed the chair, Mr. Brown of California, Chairman of the Committee of the Whole House on the State of Union, reported that that Committee, having had under consideration the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, pursuant to House Resolution 285, he reported the bill back to the House with sundry amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. ASHLEY. Mr. Speaker, I demand a separate vote on the so-called Campbell amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 50, line 15—

H.R. 3875 is amended by striking out section 407, beginning on page 50, line 15 through page 53, line 10 and renumbering each succeeding section.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CAMPBELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 245, nays 145, not voting 44, as follows:

[Roll No. 190]

YEAS—245

Abdnor
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boggs
Boner
Bowen
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dornan
Dougherty
Downey
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fithian
Flippo
Foley
Fountain
Gaydos
Gibbons
Gingrich
Ginn
Glickman
Goodling
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Heftel
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marlenee
Marriott
Martin
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Myers, Ind.
Natcher
Neal
Nichols
O'Brien
Panetta
Pashayan
Paul
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Ritter
Roberts
Robinson
Roe
Rose
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stump
Symms
Synar
Tauke
Taylor
Thomas
Treen
Trible
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Winn
Wright
Wyatt
Wylie
Young, Fla.

NAYS—145

Addabbo
Akaka
Annunzio
Ashley
Aspin
AuCoin
Baldus
Barnes
Beilenson
Biaggi
Bingham
Blanchard
Boland
Bolling
Bonior
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Collins, Ill.
Corman
Cotter
D'Amours
Danielson
Dellums
Dingell
Dixon
Dodd
Donnelly
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Ertel
Fascell
Fazio
Fish
Fisher
Florio
Ford, Mich.
Ford, Tenn.
Frost
Garcia
Gephardt
Giaimo
Gilman
Gonzalez
Gore
Gray
Green
Guarini
Hall, Ohio
Hanley
Harkin
Harris
Heckler
Hollenbeck
Holtzman
Howard
Kastenmeier
Kildee
Kostmayer
LaFalce
Lederer
Lehman
Leland
Lowry
Lundine
McCormack
McHugh
Maguire
Markey
Marks
Matsui
Mavroules
Mikulski
Mikva
Miller, Calif.
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Solarz
Stack
Stark
Stewart
Stokes

Stratton
Studds
Swift
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
Williams, Mont.
Wilson, C. H.
Wirth
Wolff
Wolpe
Yates
Yatron
Zablocki

NOT VOTING—44

Anderson, Ill.
Badham
Bonker
Bouquard
Breaux
Clausen
Clay
Conyers
Crane, Philip
Davis, S.C.
Diggs
Edgar
Erdahl
Evans, Ga.
Fary
Ferraro
Flood
Forsythe
Fowler
Frenzel
Fuqua
Goldwater
Hawkins
Hefner
Holland
Johnson, Calif.
Lloyd
Mathis
Mineta
Murphy, N.Y.
Nelson
Price
Rodino
Schulze
Simon
Spellman
St Germain
Vander Jagt
Wilson, Bob
Wilson, Tex.
Wydler
Young, Alaska
Young, Mo.
Zeferetti

☐ 1450

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Johnson of California against.

Mr. Fuqua for, with Mr. Rodino against.

Mr. Nelson for, with Mrs. Spellman against.

Mr. Young of Missouri for, with Mr. Hawkins against.

Mr. Badham for, with Mr. Conyers against.

Mr. Philip M. Crane for, with Mr. Flood against.

Mr. Goldwater for, with Mr. Zeferetti against.

Mr. Schulze for, with Mr. Diggs against.

Mr. Bob Wilson for, with Mr. Clay against.

Mr. Wydler for, with Mr. Fary against.

Mr. Young of Alaska for, with Mr. Price against.

Until further notice:

Mr. Fowler with Mr. Forsythe.

Ms. Ferraro with Mr. Clausen.

Mr. Davis of South Carolina with Mr. Edgar.

Mr. Hefner with Mr. Erdahl.

Mr. Evans of Georgia with Mr. Holland.

Mr. Mathis with Mr. Murphy of New York.

Mr. St Germain with Mr. Charles Wilson of Texas.

Mr. Simon with Mr. Lloyd.

Mr. Bonker with Mr. Frenzel.

Mrs. BOGGS and Mr. BENNETT changed their vote from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. KELLY

Mr. KELLY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. KELLY. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. KELLY moves to recommit the bill, H.R. 3875, to the Committee on Banking, Finance, and Urban Affairs.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STANTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device; and there were—yeas 355, nays 36, not voting 43, as follows:

[Roll No. 191]

YEAS—355

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Heckler
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Runnels
Sabo
Santini
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Shelby
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

NAYS—36

Archer
Ashbrook
Bauman
Carney
Collins, Tex.
Conable
Crane, Daniel
Dannemeyer
Derwinski
Devine
Edwards, Okla.
Hansen
Harsha
Holt
Jeffries
Kelly
Kramer
Latta
Lewis
Lungren
McDonald
Miller, Ohio
Moorhead, Calif.
Mottl
Paul
Quillen
Rousselot
Rudd
Russo
Satterfield
Sensenbrenner
Shumway
Shuster
Stump
Symms
Taylor

NOT VOTING—43

Anderson, Ill.
Badham
Bonker
Bouquard
Breaux
Burton, John
Clay
Conyers
Crane, Philip
Davis, S.C.
Edgar
Erdahl
Evans, Ga.
Fary
Ferraro
Flood
Forsythe
Fowler
Frenzel
Fuqua
Goldwater
Hawkins
Hefner
Holland
Johnson, Calif.
Lloyd
Mineta
Murphy, N.Y.
Nelson
Price
Rodino
Schulze
Simon
Solarz
Spellman
St Germain
Vander Jagt
Waxman
Wilson, Bob
Wilson, Tex.
Wydler
Young, Mo.
Zeferetti

The Clerk announced the following pairs:

Mr. Johnson of California with Mr. Badham.

Mrs. Spellman with Mr. Forsythe.

Mr. Evans of Georgia with Mr. Schulze.

Mr. Murphy of New York with Mr. Bob Wilson.

Mr. Breaux with Mr. Anderson of Illinois.

Mr. Rodino with Mr. Philip M. Crane.

Mr. St Germain with Mr. Goldwater.

Mr. Zeferetti with Mr. Holland.

Mr. Flood with Mr. Solarz.

Mr. Fuqua with Mr. Wydler.

Mr. Conyers with Mr. Vander Jagt.

Mr. John L. Burton with Mr. Simon.

Mr. Fary with Mr. Bonker.

Ms. Ferraro with Mrs. Bouquard.

Mr. Hawkins with Mr. Davis of South Carolina.

Mr. Waxman with Mr. Fowler.

Mr. Young of Missouri with Mr. Mineta.

Mr. Lloyd with Mr. Clay.

Mr. Nelson with Mr. Erdahl.

Mr. Price with Mr. Edgar.

Mr. Hefner with Mr. Charles Wilson of Texas.

So the bill was passed

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS AND TECHNICAL CHANGES IN ENGROSSMENT OF H.R. 3875

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, the clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 3875.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

GENERAL LEAVE

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3875, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION TO EXCUSE FROM SERVICE AS CONFEREE AND APPOINTMENT OF NEW CONFEREE ON S. 429, DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT, 1979

Mr. DICKINSON. Mr. Speaker, I ask unanimous consent that the gentleman from Louisiana (Mr. Treen) be excused from service as a conferee on the Senate bill (S. 429) to authorize appropriations for fiscal year 1979, in addition to amounts previously authorized for procurement of aircraft, missiles, naval vessels, and other weapons, and for research, development, test, and evaluation for the Armed Forces, and for other purposes, and that the Speaker be authorized to appoint a Member to fill the vacancy.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the gentleman from Tennessee (Mr. Beard) to serve as a conferee on S. 429.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

PERMISSION FOR COMMITTEE ON RULES TO FILE SEVEN PRIVILEGED REPORTS

Mr. DODD. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file seven privileged reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 299 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 299

Resolved, That upon the adoption of this resolution is shall be in order to move, sections 401(a), 401(b)(1), and 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2444) to establish a Department of Education, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of sections 401(a) and 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93–344) and clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 2444, the House shall proceed, sections 402(a) and 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, to the consideration of the bill S. 210, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 2444 as passed by the House.

☐ 1520

The SPEAKER pro tempore (Mr. Murtha). The gentleman from Connecticut (Mr. Dodd) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. Quillen) for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 299 provides for the consideration of H.R. 2444, the Department of Education Organization Act. This resolution provides for an open rule with 3 hours of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations.

In addition, the rule waives points of order under sections 401(a), 401(b)(1), and 402(a) of the Congressional Budget Act to which the bill would otherwise be subject. Section 401(a) provides that it shall not be in order to consider any bill which provides new contract authority unless that bill also provides that such new contract authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in advance in Appropriations Acts. Various provisions of H.R. 2444 could be construed to provide new contract authority; however the Committee on Government Operations plans to cure this Budget Act problem by offering an amendment on the floor to make all contract authority in the bill subject to the appropriations process. With this assurance, the Budget Committee has agreed to this waiver.

Section 401(b)(1) provides that it shall not be in order to consider any bill containing an entitlement provision effective before the first day of the fiscal year which begins in the calendar year in which the bill is reported. Since certain new entitlements provided in this bill could become effective before October 1, 1979, the bill would be subject to points of order under this Budget Act provision.

Section 402(a) provides that it shall not be in order to consider any bill which authorizes the enactment of new budget authority for a fiscal year unless that bill has been reported by May 15 preceding the beginning of such fiscal year.

I understand that the Committee on Government Operations intends to offer an amendment to the bill making the effective date October 1, 1979, and thus curing the Budget Act problems regarding sections 401(b)(1) and 402(a). As a result, the Budget Committee has agreed to these waivers.

This rule also makes it in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule. The rule also waives points of order that might be brought against the committee amendment for violation of sections 401(a) and 401(b)(1) of the Budget Act and clause 5 of rule XXI of the rules of the House which prohibits consideration of appropriations matters in an authorization bill.

Finally, the rule provides that after the passage of H.R. 2444, the House shall take up consideration of S. 210, and it shall be in order to move to strike out all after the enacting clause of the Senate bill and insert in lieu thereof the provisions of H.R. 2444 as passed by the House. The rule also waives points of order under sections 402(a) and 401(b)(1) against the consideration of S. 210.

Mr. Speaker, I rise today in support of H.R. 2444, a bill to establish a Cabinet-level Department of Education. Education needs and deserves high-level visibility, leadership, and attention at the national level. It should be beyond question that education is too important to the economic and social well-being of this Nation to be left to the fragmented programing that now exists in some 40 departments, bureaus, and agencies. Nearly one-third of our total population is directly involved in education—some 60 million students, teachers, administrators, and other school personnel in public and nonpublic institutions. Given the numbers of people impacted by our educational system and the historical importance education has played in the founding and growth of our country, I believe that this new Department will elevate the status of education at the Federal level and give it the critical attention it so badly deserves.

H.R. 2444 will consolidate approximately 160 existing programs involving some 24,000 Federal employees. This bill will only consolidate existing programs and no new programs are created or authorized by this legislation. This bill provides for the inclusion of the following existing programs into the new Department of Education: the Education Division of HEW, including approximately 150 elementary, secondary, and postsecondary education programs and research activities; the education related activities of the Office of Civil Rights (OCR) including a provision which would elevate the Director of OCR and require a report be submitted to Congress detailing efforts toward compliance and enforcement; and health, nursing, and law enforcement student loan programs. This bill will streamline and coordinate a number of programs related to education which have up to now existed independently without any intergovernmental coordination.

Mr. Speaker, opponents of this bill have discussed in wildly exaggerated terms the detrimental impact a Department of Education would have on State and local control of educational policy. The rights and control of educational policy rests with the States and I would like to make it clear that the intention of this legislation as I support it—is to provide an administrative structure which is simpler and better able to respond and assist State and local communities. This bill specifically prohibits Federal intrusion in the determination of State and local needs and policies. The Federal role is clearly limited and specific.

The primary role of the Federal Govnment is to promote equal educational opportunity for all Americans through the support of locally designed programs. Presently, the administrative structure that exists is so deeply submerged within HEW that it is unable to be as responsive to the needs of State and local educational policymakers.

We, the Congress, are keenly aware of the fact that the American people are deeply distressed and frustrated with the manner in which much of their tax dollars are being spent. Waste and duplication exist in many programs and it is clear that education programs are not excluded.

Today we have before us a plan, which would address this problem—we have an opportunity to reduce the waste and duplication that exists—we have an opportunity to streamline our educational programs at a Federal level and provide a much improved administrative structure which can more effectively respond to the needs of the millions of students, teachers, and educators of this Nation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I want to thank the gentleman from Connecticut (Mr. Dodd) for his fair appraisal of the resolution now before us and his comments on the bill itself.

Mr. Speaker, I rise in support of the resolution and also in support of the bill to be discussed on the floor of the House. My credentials against Federal involvement in education are well known. I have fought Federal encroachment in that regard to insure that the Federal Government has no control of what goes on in the classrooms ever since being a Member of Congress from the First District of Tennessee. I am convinced that this bill does not provide any Federal encroachment in the classrooms or against our local and State control of education. As a matter of fact, there is a prohibition in the bill itself that says that the Secretary or any of his high-level Department heads cannot have any interference whatsoever in what is going on in the classrooms. We must forever protect our local and State control of education.

With that in mind as a backdrop, Mr. Speaker, I think it is a fair and appropriate thing to do to take the Office of Education out of one of the most bureaucratic departments in Government, where the Office of Education does not respond directly to the Congress, to the Members of this House. Rather, it should be out and into a Cabinet-level department where the Secretary of Education would answer directly to the Congress of the United States. When an education problem develops, you would not have to go through the cobwebs of those who would daydream, and cause a nightmare for us, in HEW. Bringing it out to a Cabinet level and putting into it the emphasis which it deserves is a good thing, Mr. Speaker. It not only is a good thing, but it would save the taxpayers money. It would reduce those now in Education by some 350 or 400 positions, saving a total of $19 million, and others estimate up to $100 million of taxpayers' money to do the job that must be done here if this bill passes today. And it will be enacted into law by a big majority. The Senate has already passed it by a vote, I believe of 72 to 21.

I am most anxious for the debate to occur on the floor of the House.

Mr. Speaker, I have had letters from friends of mine from the district, letters generated by those who oppose this measure, asking people to contact me, knowing that I am for the measure. They say that they want no more layers of bureaucracy. I say today that I, too, do not want any more layers of bureaucracy. I do not want to see another cabinet level department like the Energy Department, which has more employees today than many other agencies, running over each other, not knowing what to do and with no direction. But that is not true here.

We bring the Office of Education out on its own with the people who run it, the people who would answer directly to the Congress of the United States. It is a good thing.

Mr. Speaker, I urge the adoption of the resolution and reserve the balance of my time.

□ 1530

Mr. DODD. Mr. Speaker, I yield 11 minutes to the gentleman from New York (Mr. Rosenthal).

Mr. ROSENTHAL. Mr. Speaker, I found the arguments of the gentleman from Connecticut (Mr. Dodd) and the gentleman from Tennessee (Mr. Quillen) very interesting. I do not know what bill they are talking about. It certainly cannot be the bill to create a Department of Education because the assertion that anybody will save any money by the passage of this bill certainly is not supported by the facts.

Mr. Speaker, in a book published some years ago by Harold Seidman, who is a nationally recognized expert on Federal reorganization and dynamics of the Federal bureaucracy, a book called "Politics, Position, and Power," he said the following:

> Reorganization has become almost a religion in Washington. It has its symbol in the organization chart, old testament in the Hoover Commission reports, high priesthood in the Office of Management and the organization chart, old testament in the faith in sundry groups such as the Citizens Committee for Government Reorganization.

He went on to say:

> Reorganization is deemed synonymous with reform and reform with progress. Periodic reorganizations are prescribed if for no other purpose than to purify the bureaucratic blood and to prevent stagnation.

He concluded in this first paragraph by saying:

> Rare indeed is the Commission or Presidential task force with the self-restraint to forego proposing an organizational answer to the problems which it cannot solve.

In yesterday's New York Times, on the op ed page, there was an article by the Director of the Office of Management and Budget, one of the proponents for the creation of the Department of Education, in which he cites as the main thrust for creating a new department in the United States of America the following:

> Every decision made by HEW's Office of Education must also be approved by as many as 14 other offices. The same elaborate procedures apply whether the matter involves a routine regulation or a broad policy question involving budget and legislation.
>
> Shifting HEW's education programs to a separate department would establish a lean, flexible administrative structure. It would roughly cut in half the time required to process important budgetary, legislative or regulatory matters. It would permit the direct elimination of 450 Federal positions, saving taxpayers $19 million annually.

Let me tell the Members something interesting. Every one of the things that Mr. McIntyre wants to achieve could be achieved by Executive order. They could today create in the Department of Health, Education, and Welfare an Undersecretary for Education by reorganization plans. Everything that they assert is a necessary requirement for smooth and efficient management could be achieved by not only a much simpler method but by a much more responsive method.

Since this country was founded some 200 years ago, 14 Cabinet departments have been created, 3 by President Washington during his 2 terms and the other 11 during a long, long period of 190 odd years.

The creation of a department in this country is a very, very serious matter, and it should not be taken lightly. It should not be done because of the whim and capriciousness of Government reorganizers who have nothing else to do but to assert that the role of reorganization is paramount to the efficient operation of Government.

Indeed there should be reorganization when the overwhelming case has been made. In the years that I have been on the committee, we have considered three new departments. The burden of proof must be on the proponents who urge the reorganization. In this case it is the most minimal, abysmal proof I have ever seen; it is virtually nonexistent.

The important thing to consider, if one is serious about congressional responsibility, is that this Department runs counter to every theory of good management and restructuring of Government.

I know that many of us suggest that, "Well, the President is the Chief Executive of the administration, and he should be primarily responsible for housekeeping functions." That is to a very modest extent true. The role Congress plays, albeit we have established 14 departments in 200 years, is a much more serious role because we must act with guarded care, and we do not create departments lightly.

Let me tell the Members that we have had three major commissions, the Heineman Commission appointed by President Johnson in 1967, the Hoover Commission, and the Ash Council appointed by President Nixon in 1971, and they all said the same thing, that there should not be, if we are a believer in the administrative management theory, more departments but fewer departments. We should not increase the number of people reporting to the President to confuse his decision-making process, but we should build pyramids and we should not create departments of single-issue constituencies.

This Department as proposed is the first department in the history of the country that has as its sole and exclusive responsibility the giving of grants. There is no national education policy in the United States. It says in this bill that the Department cannot create one. We are creating a single-issue, a single-constituency department whose only purpose is grants in aid. It is almost, on the face of it, an absurdity.

What the Heineman Commission said to President Johnson in 1967 was: "Cut down the number of departments to six. Don't increase them. Cut them back to six."

The Commission suggested creating a Department of Social Services, including HEW, the VA, OEO, EEOC, and the Manpower programs, creating a Department of National Resources and Development, including Agriculture, the Interior, and the Army Corps of Engineers, creating a Department of Economic Affairs, with Treasury, Commerce, and Labor, creating a Department of Science and Environmental Preservation, and creating a Department of Foreign Affairs and a Department of National Security Affairs.

They said that the pyramid should "presidentialize" the management functions, and we should never, never create a department for parochial and political interests.

The Ash Council in 1971 said the same thing. They said we must move away from the rather narrow constituency-oriented, traditional departments toward broader functional and general-purpose departments.

And they said further: "Departments should have as their objective the achievement of certain policies, not merely the maintenance of relatively narrow programs," and we should remember this if we are to take our responsibility seriously, "the Secretary should not be faced with a single set of interest groups but rather should have a sufficient number of competing interest groups so he is not beholden to any single set of groups."

And there is another important consideration, if we are to take this thing seriously, which I have grave doubts about, and that is this: The proposal to establish a Department of Education is really a proposal to dismantle the Department of Health, Education, and Welfare, and if the educators get their own department, how soon will it be before the physicians and the medical profession also demand a department of their own?

If that comes to pass, which it will if this department passes, the social, welfare and income maintenance groups would by default have their own department.

So what we are offered today is not the opportunity to create one new department but to create in fact three departments. That is the inevitable residual outcome of this kind of consideration. HEW was created so that the Secretary could consider policy, program, and budgetary priorities on a broad scale. The first tier of compromise and accommodation is within the Department, not between the departments.

Let us look at the Cabinet table. How many additional persons do we want to add to the Cabinet table to give the President advice? How many additional ones should there be?

The President should be insulated from additional narrow, parochial, constituency-oriented secretaries so that he or she can have the opportunity to deliberate and think about the major issues: Inflation, energy, war and peace. The budgetary requirements for education, for welfare and for health should be resolved at a much lower level.

I would urge all the Members to read seriously the arguments made and the many editorials written by the Washington Post and the New York Times. The Washington Post on Monday and Tuesday of this week wrote two separate editorials. On Monday they said, "It's a bad idea." On Tuesday they said, "It's a bad idea—continued."

Never in the history of this country has there been such a narrow, single constituency interested in a department. I am not concerned with the motivations behind those who bring this proposal to the floor, but I urge all my colleagues to take seriously their responsibilities to the organizational structure of our government. They have a dual role with the Executive; it is an equal and perhaps a predominant role to that of the President of the United States.

We are voting and legislating for all time, and I would urge all my colleagues to go very slowly and very cautiously. This is the 15th time in our history that a proposal of this kind has been before the Congress of the United States.

□ 1540

In my judgment, it is the worst proposal. What we should be doing is eliminating and merging existing departments.

The one good proposal that the Office of Management and Budget came up with to create a Department of Natural Resources is not being sent to us because the political climate does not suggest that that proposal would receive a warm welcome here.

I would urge all of my colleagues to take their oath of office and their responsibility seriously and to vote down this proposal at the appropriate occasion.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when we get down to the nitty-gritty and consider the facts on the floor of the House when the bill is before us, we find a savings of millions of dollars, the elimination of 350 to 400 personnel, with a mandate in the bill that after the first year no more than 50 can be added, to me this makes sense.

Mr. Speaker, I yield 8 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, last week I received a letter on White House stationery. It was from Frank Moore, Assistant to the President for Congressional Liaison. The letter stated, and I quote:

> The President believes passage of the (Department of Education) bill will represent the single most important achievement in the field of education in this decade.

Attached to the letter was a six-page fact sheet, filled with facts and statistics about the new Department. There were also organizational charts showing how the Department would work.

I read all of this. And after I finished I thought to myself: In all of this material there is one word that is not mentioned at all. There are words like "consolidate," and "efficiency" and "budget" and "participation." But the one word that does not appear is the most important word of all in education.

That word is "children."

The basic question concerning the proposed Department of Education is this: How is the third-grader in Peoria or the high school senior in San Diego or the kid with a reading problem in Detroit going to be helped by this new Department? That is the question. And the answer to that question is the sound of silence. They would not be helped.

American children are the truly forgotten ones in the debate over this Department. Some professional educators talk about supposed efficiency. The Government bureaucrat talks about reorganization charts. The big education lobby talks about more political clout.

But nobody talks about children.

They are the ones education is supposed to be all about. The administration and the bureaucrats and the lobbyists have forgotten them. We talk proudly of billion-dollar Federal education programs. We ignore the numerous studies that show those programs very often do not help kids very much. We speak in ringing rhetoric about how much we in Congress want to do for "education"—quote, unquote. But in looking at the big, billion-dollar picture we have forgotten the individual American student.

But, still, you may say to yourself: At least this new Department is something different. Maybe it will reverse the recent trend of low test scores, an functional illiteracy and a host of educational ills that have brought American education more criticism now than at any time in its history.

If that is what you think, you are wrong. We are going to be handing over a brand new department to those whose educational philosophy either contributed to or was unable to stop this decline.

This new Department will not start anything new. It will simply solidify, institutionalize, and perpetuate the old, tired, discredited, weary, stale, flat, and unprofitable array of education innovation and social experiment we have been conned into believing helps kids.

If you are looking for the real enemies of education, do not look at those who oppose this bill, look at the special interests, the vested interests, the politicians and the bureaucrats who for many years have made a lucrative career out of spending tax dollars for innovations and experiments that do nothing except make special interest groups powerful and manufacturers rich. And they are the ones who will own this Department.

A vote for this Department is a vote for the educational-industrial complex, the single most powerful and politically militant lobby in America.

Do you really want to do something new and exciting and useful in education? Do you really want to help kids? Then let us vote against this Department and start a real revolution in this Congress. Let us sweep away the cobwebs and the educational cliches of two decades and start to find how and why and where and how often we can help individual children over a long period of time. We can do that without a new department.

You may have made a promise, in good faith, that you would support the concept of a new department. That is understandable. It sounds all right. How could it do any harm? It might even do some good. Or so you might have thought.

But think about it again for a moment. We are not talking about simply a new program or a new policy or a new addition or a new bureau. We are talking about an entire department. Departments have lives of their own. They always, always grow. they never, never, never die. Is that what you promised the folks back home? I think not. I think you made an honest promise to help children in your district. Keep that promise by voting against this bill.

Remember, misdirected sincerity can cause as much harm as calculated cynicism. When it comes to making policy it does not matter if your heart is in the right place if your head is on vacation.

Let us be candid: Some of us might be thinking of the possible political retaliation of the educational special interests if we cross them.

That is not an argument that is easily dismissed. They are tough. They are militant. They are well-financed. The Readers Digest claims that the NEA has a political war chest of $250 million.

A few weeks ago, in a speech given at Cheyney State College in Pennsylvania, President Carter denounced "special interests." He said "ordinary citizens" must participate if good legislation is to be passed. He said the "special interests * * * feed on the apathy of ordinary citizens."

All I can say to these words is "Amen." President Carter himself has given the best argument in favor of voting against this Department. This is a "special interest" bill, pure and simple. Not for children, or their parents, certainly not for the taxpayers but for just one big special interest—the NEA lobby.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, the gentleman said that these promises that this agency is not going to grow have been made. Is that true?

Mr. MICHEL. That is what they tell us.

Mr. HYDE. They tell us that it is going to consolidate and it is going to eliminate a lot of superfluity in Government and it is not going to grow.

Mr. Chairman, I would like to direct the attention of the Members to a pamphlet that I just discovered. It was published in 1936 by the Social Security Board, and it is entitled "Security in Your Old Age." It reads:

> Beginning in 1949, twelve years from now, you and your employer will each pay 3 cents on each dollar you earn, up to $3,000 a year. That is the most you will ever pay.

On the back of this same Government publication it says:

> What you get from the Government plan will always be more than you have paid in taxes and usually more than you can get for yourself by putting away the same amount of money each week in some other way.

Mr. Speaker, I hope the grain of salt that people should have used when they read this is still around on these new promises on education.

Mr. MICHEL. The gentleman makes a very valuable contribution.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, after listening to all of the reasons given by the gentleman in the well for opposing this bill, I am embarrassed to say that I agree with his opposition to the bill. I am opposed to this bill because I think almost everything the gentleman said is wrong. I am opposed to the bill because I think that a new, separate Department of Education will be looked at simply as a single-issue lobby within the administration, much as the Department of Labor is looked at, much as the Commerce Department is looked at, and, therefore, it will be ineffective. I also think it will be ineffective if they are taken out of the umbrella agency which they have now where they are in the same boat with the unions, with the health lobby, with everyone else. As one person on this floor who has worked continuously for higher education funding, I believe they are stripped of their power to get that if they are separated out from the HEW Department in the regular bill, as they will be, inevitably, down the line.

☐ 1550

So while I do not agree at all with the rationale of the gentleman in the well, I think on occasion even he can use bad logic to get to a good conclusion. I join him in that conclusion.

Mr. MICHEL. I thank the gentleman.

This, of course, is not the first time we have differed on the logic of the approach to a problem.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. QUAYLE).

Mr. QUAYLE. Mr. Speaker, I say at the outset, if you like the way the Department of Energy functions, you are going to love the way this new Department of Education is going to operate. There are a couple of incredible things about this bill.

One of the incredible things to me is the reasoning of a number of Members. I am not going to get into the motivation or the reasoning, but the ones who are in favor of this will say, "Yes, I am going to support it, but very, very reluctantly."

Yet on the other side, the ones against it are adamantly opposed to it.

Another somewhat incredible thing is that there is editorial opinion in this country, whether it is the Washington Post or the New York Times or the Indianapolis Star or the Chicago Tribune, from all sides of the political spectrum, opposed to the creation of this new Department of Education. There are editorials that have been well thought out and well reasoned, which gets me back to really one of these incredible things that I cannot put out of my mind. That is this commitment that everyone has made on this bill.

"Oh, yes, I am really not for it, but I committed myself to it. I maybe made that commitment 4 or 5 years ago. I committed it to a teacher back home. I committed it to my mother."

You cannot beat that, committing it to your mother or making that commitment, but let us look at what this commitment was based on.

This commitment was probably based on the fact that it was told you that first of all this would be a reorganization, and second of all, that there would be no more Federal involvement in the education system than what we have today.

Now, let us take the reorganization. This thing is not reorganization. There are well over 100 agencies related to education that are left out of this. It is not a reorganization.

The gentleman from New York talked about Mr. McIntyre's reorganization being much better than what is in this new Department of Education, and no more Federal involvement.

If you believe that we are going to create a Cabinet-level office and have no more Federal involvement, I think someone put it very aptly, then maybe we believe in the tooth fairy. It is simply not going to happen.

If you ask the administration, besides their commitment to NEA politically, do they want this new Department of Education to give it more visibility—give it more visibility from where? Give it more visibility from Washington. Give it more visibility from the Federal Government. For the first time in the history of this country, we are federalizing and establishing, as a policy, a Federal education system.

I think that an easy way to discard this very bad idea and bad idea continued, would simply be to vote down the rule.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I think that the real question for all of us in this debate over the Department of Education is whether what we are doing serves the best interests of education. I think that is what we all want, those of us who oppose the Department, those who want to see the Department go forward. All of us want the same thing. We want to do what is best for education.

As someone who spent some time teaching in the schools, it occurs to me that the fundamental focal point of education is the teacher-student relationship. That is what it is all about. That is where education really takes place. That is how we measure educational success, is how well the teacher works with the student and what the end result is, in terms of the learning process.

It disturbs me when I go through this bill for the Department of Education page by page, that the teacher-student relationship is not mentioned once. Nowhere in this bill does it even address the teacher-student relationship.

All this bill is about is more bureaucracy or more efficient bureaucracy. You have got to believe that bureaucracy or even more efficient bureaucracy adds up to educational progress in order to support this proposal.

The point is that those of us who oppose the Department of Education have continued to point out time and time again all kinds of conclusive evidence that this new Department will be bad for education.

Now, it seems to me, therefore, that it is up to the supporters of this Department to show that what they are doing is going to be good for education.

Instead, all they are doing is talking to us about bureaucratic efficiencies, some of which are even themselves open to question. If there is not an overwhelming preponderance of evidence that this new Department is going to serve that fundamental teacher-student relationship, then it seems to me that the Department needs to be rejected.

The one clear fact is when we look at the bill that the teacher-student relationship is not an objective at all. It is not even mentioned. Now that has to be disturbing.

If we look at what the proponents say this Department is going to do, we find that the whole thing is summed up in just talk about bureaucracy.

For instance, they say it unifies a fragmented organizational structure. It does not even do that. Ninety-six percent of all education programs which are outside the perusal of the Office of Education today are left outside the new Department of Education.

That does not do anything about fragmentation. They say it improves administration and management. It would create the 13th Cabinet Department with a \$14½ billion budget, 24,000 employees, 14 executive-level positions, 61 supergrade positions and 15 additional supergrade positions for a 3-year transitional period.

In other words, the new Department of Education is going to be larger than the Department of Commerce, HUD, Interior, Justice, and State.

If we believe that Commerce and HUD—that is right, HUD—Interior, Justice, and State are examples of lean, trim, efficient Government, only then can we accept the concept that an improved management efficiency is going to result from the Department of Education.

We have heard there is going to be a limitation on personnel. This Department starts out with one-and-a-half employees for every school district in the country. The limitation of 450 people does not cut that ratio at all.

Built into the bill is the fact that we are going to over the next decade increase the size of the Department by 500 employees, wiping out the original limitation.

We will hear from the proponents that we are going to have accelerated program implementation.

Well, the gentleman from New York, Senator MOYNIHAN, has put that well. He said it, and I am paraphrasing, that if you have improved energy within the system, what you end up with is more end product.

What that means is, if you calculate it out based upon paperwork, statistics now for the Government, that nearly 1,000 new pieces of paper every year are going to come into every school district in the country as a result of the creation of this new Department, 1,000 new pieces of paperwork, new redtape for educators to be burdened with. That is not what we need in education.

The proponents would have us believe that it is the development of a basic structure for reorganization. It does not provide for the transfer of any more specific programs than are now in the bill. We would have to come back to Congress and get approval for further transfers.

I would urge rejection of this Department.

Mr. DODD. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mrs. CHISHOLM. Mr. Speaker, would the gentleman yield?

Mr. GLICKMAN. I yield to the gentlewoman.

Mrs. CHISHOLM. Thank you very much.

I wish to go on record at this point to indicate that I am against a separate Department of Education. And as the debate progresses within the next few days I will go into all of the multitudinous reasons why this Department should be rejected.

Thank you very much.

Mr. GLICKMAN. Mr. Speaker, I am against the department.

I served on a local board for 3½ years before I came to Congress and was president of a local school board.

I think the gentleman from Illinois (Mr. MICHEL) hit the issue when he talked about is it going to help kids, is it going to improve education in America, is it going to improve proficiency. Nobody knows that answer.

But I think even more than that is to look back at the basic constitutional issue. The Constitution says "All powers not enumerated to the Federal Government are reserved to the State." And in the Federalist Papers, some of the intelligent founders of this country talked about that, and they talked about what should be in a Cabinet-level department. They came to the conclusion that it should only be those things that are of compelling and unique Federal interest.

No matter how you slice the cake, education is predominantly of State and local interest.

Now, that does not mean that education is not important. It is. It is the most important asset for the future. It does not mean we do not need increased funding. We do. Education is underfunded and teachers are underpaid.

But, does it mean that we set up a Cabinet-level department for an issue that is predominantly of local and State concern? I say absolutely not. I think it violates constitutional intent, and I think that the founders of this Nation would not have it that way.

I have never seen an issue since I have been in this Congress for 2½ years that has less enthusiasm. I have not found one person who grasps this issue and says, "I love this department, it is going to do wonders for this Nation, it is going to improve educational quality," because they cannot say that in good faith. Nobody knows whether it is going to do any good or not. It might. It could help the bureaucracy a little bit. It could make things a little more compatible. But nobody knows for sure. And I say unless you can show me a compelling reason why this department will improve educational quality, which is in direct contravention of what the founders of this Nation talked about when they talked about a reservation of powers to the States. This is a federalist issue we are dealing with right now. Do we want to give State and local governments ultimate control over education?

I believe that if you believe that you do want to give State and local governments an ultimate control then you vote "no" on this bill, recognizing that things are not perfect in education, recognizing teachers do have significant problems in coping with the educational system. But also recognizing that this could be the turning point for public education in this country, which I believe in very, very strongly, and which I believe needs to have more and more local control and local influence.

Mr. QUILLEN. Mr. Speaker, the opponents of this measure talk about bureaucacy. They fail to realize that the Office of Education is in one of the most bureaucratic Departments of Government.

As a matter of fact, HEW's budget is number three in all of the world only under the United States of America's total budget and only under Russia's total budget.

As a matter of fact, their own audit turned up over seven billions of dollars that got away without them even knowing where it went. And the whole cost of the Department of Education in a Cabinet-level position is only around 14.5 billions of dollars a year, or just about twice as much as they lost over there.

Is it not time we start taking education and giving it the dignity that it deserves and create a Cabinet-level position.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, what conceit the people have who think that the "made in Washington" stamp indicates quality. All too often we have had the argument that if things are not going right here or there or elsewhere, move the responsibility for that function to Washington and it will be done better.

That is exactly what is being asked here today. Oh, we are going to hear and we have heard a lot of discussion about this being a matter of reorganization, it has nothing to do with policy. That just is not the fact.

It has been pointed out in debate already that the creation of a Cabinet-level Department is a statement of policy. The creation of a Cabinet-level Department means that we have decided the Federal Government has an overriding responsibility relative to this particular function.

That has never been the case up until now. The gentleman from Kansas is exactly right when he points out the reservation of the power to the States. And throughout the course of the history of this country we have seen an educational system grow.

It is not perfect. As the gentleman from California says, we have good teachers, we have a good educational system and it has grown, it has flowered, it has fluorished with diversity, both public and private. Diversity, within the public system one State or one school district doing what they think is best. And it may not be the same as another State or another school district. The private system is moving in a different direction than the public system, we have that diversity and that local control has served us well.

We have heard from the administration, through Vice President MONDALE, that the reason for our move in this direction should be that we are the only industrial democracy that does not have a ministry of education. I say thank God.

Let us see what they have with ministries of education. In France they tell me that you can go into any school in France on any particular day and those students will be learning from the same page, and the same textbook, because they do have a central ministry of education that specifies these schoolbooks, specifies day by day what will be taught from those textbooks.

I know there are statements in the legislation itself saying that there shall be no Federal control. But let us look at what this Department will be doing. We have at the present time a system of categorical aid programs. They have grown like Topsy over the last 15 years. This at the present time is the preferred and almost only way that we extend Federal help to local educational institutions.

Categorical aid by its nature is very narrow and specific. Every categorical aid program requires rules and regulations spelling out as to exactly how those funds will be used. Every categorical aid program requires an application to be filled out at the local level, to be reviewed at the regional level and then, of course, the bureaucrats, to prove they have done their job, have to find something wrong with it and send it back to the local education agency. Then after it has been rectified it is sent back again to the regional or district office, and then finally finds its way into Washington. When the check goes out the trouble begins, because then all of those rules and regulations must be followed, records must be kept to see that they have been followed. Then records have to be filed with the Washington bureaucrats who again, a whole raft of them, read these reports and see whether the narrow categorical aid programs are being used properly and in accord with Federal policy.

☐ 1610

What could we do? We have made a few faltering steps in our Committee on Education and Labor to consolidate some of these categorical aid programs. What we should do is to move to block grants to free up our local educational agencies from the directions from Washington. The creation of a Cabinet-level department means they will have to justify the size of that department, the complexity of that department, the number of people that they have employed by continuing categorical aid. How could they move to a simpler system? How could they move to a system where they are principally sending out checks? I ask that the Members vote against this rule and against the bill.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DODD. Mr. Speaker, I yield 8 minutes to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I want to say that I urge an affirmative vote on this rule on the Department of Education Act. It is a good rule; it is a good act. We ought to pass the rule now, pass the bill Monday night, and send it down to the President.

GENERAL LEAVE

Mr. DODD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 299.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. DODD. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 293, nays 73, not voting 68, as follows:

[Roll No. 192]

YEAS—293

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
Bailey
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broyhill
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cleveland
Clinger
Coleman
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, Mich.
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Fish
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gramm
Grassley
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Heckler
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Leath, Tex.
Lehman
Leland
Levitas
Lewis
Livingston
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Roberts
Roe
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Royer
Runnels
Russo
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Spence
Stack
Staggers
Stanton
Steed
Stewart
Stockman
Stokes
Stratton
Studds

Swift
Synar
Tauke
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

NAYS—73

Archer
Ashbrook
Bafalis
Bauman
Bennett
Bolling
Broomfield
Brown, Ohio
Burgener
Cheney
Chisholm
Collins, Tex.
Conable
Crane, Daniel
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Dickinson
Duncan, Oreg.
Erlenborn
Findley
Garcia
Gaydos
Gradison
Green
Grisham
Guyer
Hansen
Harsha
Hinson
Holt
Hopkins
Hyde
Jeffries
Johnson, Colo.
Kindness
Kramer
Lagomarsino
Latta
Lederer
Lee
Lent
Loeffler
Lungren
McClory
McDonald
McEwen
Michel
Myers, Pa.
Obey
Paul
Quayle
Ritter
Robinson
Roth
Rudd
Sabo
Satterfield
Shumway
Shuster
Snowe
Snyder
Solomon
Stangeland
Stenholm
Symms
Taylor
Walker
Wilson, C. H.
Wylie

NOT VOTING—68

AuCoin
Badham
Baldus
Bonker
Bouquard
Breaux
Brown, Calif.
Burton, John
Chappell
Clausen
Clay
Coelho
Collins, Ill.
Conyers
Crane, Philip
Davis, S.C.
Edgar
Erdahl
Evans, Ga.
Fary
Ferraro
Fithian
Flood
Forsythe
Fowler
Frenzel
Fuqua
Gilman
Goldwater
Goodling
Hagedorn
Hammerschmidt
Hawkins
Hefner
Holland
Johnson, Calif.
Jones, Tenn.
Kogovsek
Lloyd
Lujan
McKay
Martin
Mikulski
Mineta
Mollohan
Murphy, N.Y.
Nelson
Price
Richmond
Rodino
Santini
Sawyer
Schulze
Simon
Solarz
Spellman
St Germain
Stark
Stump
Vander Jagt
Walgren
Whitehurst
Wilson, Bob
Wilson, Tex.
Wolff
Wydler
Young, Mo.
Zeferetti

☐ 1620

The Clerk announced the following pairs:

Mr. AuCoin with Mr. Frenzel.

Mr. Hawkins with Mr. Bob Wilson.

Mr. Fuqua with Mr. Rodino.

Mr. Lloyd with Mr. Forsythe.

Mr. Wolff with Mr. Santini.

Mr. Flood with Mr. Simon.

Mr. Zeferetti with Mr. Johnson of California.

Mr. Fowler with Mr. Stump.

Mr. Murphy of New York with Mr. Whitehurst.

Mr. Brown of California with Mr. Wydler.

Mr. Mollohan with Mr. Vander Jagt.

Mr. Breaux with Mr. St Germain.

Mr. Fary with Mr. Hammerschmidt.

Mr. McKay with Mr. Schulze.

Mr. Charles Wilson of Texas with Mr. Lujan.

Mrs. Spellman with Mr. Hagedorn.

Mr. Solarz with Mr. Sawyer.

Mr. Mineta with Mr. Martin.

Ms. Ferraro with Mr. Goldwater.

Ms. Mikulski with Mr. Clay.

Mr. Baldus with Mrs. Collins of Illinois.

Mrs. Bouquard with Mr. Goodling.

Mr. Edgar with Mr. Coelho.

Mr. Davis of South Carolina with Mr. Gilman.

Mr. Hefner with Mr. Conyers.

Mr. Young of Missouri with Mr. Erdahl.

Mr. Walgren with Mr. Evans of Georgia.

Mr. Stark with Mr. Philip M. Crane.

Mr. Richmond with Mr. Clausen.

Mr. Price with Mr. Fithian.

Mr. Nelson with Mr. Badham.

Mr. Kogovsek with Mr. Bonker.

Mr. Jones of Tennessee with Mr. John L. Burton.

Mr. Holland with Mr. Chappell.

Mr. MICA and Mr. PASHAYAN changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1630

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2444, to establish a Department of Education, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2444, with Mr. NEDZI in the chair.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. BROOKS) will be recognized for 1½ hours, and the gentleman from New York (Mr. HORTON) will be recognized for 1½ hours.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I yield myself 8 minutes.

Mr. ICHORD. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, since the public school system was established in this country it has been under the direction and control of local and State governments. That is the way it has been, and that is the way it will continue to be.

But over the years the Federal Government has assumed limited and sharply defined responsibilities to help the schools meet some of the challenges posed by changes in our society, and by the setting of national goals and priorities. These include the need to insure equal educational opportunities for all our children, through programs for the poor, the disadvantaged and the handicapped, through bilingual programs, and through enforcement of the civil rights laws. In addition, Congress has enacted laws to enable more of our children from low- and middle-income families to go to college, to prepare students for employment through vocational and career training, and to support educational research and innovation.

All these programs, and others, have been grafted onto existing departments and agencies, most of them in the Department of Health, Education, and Welfare, helping to swell that Department to a size that makes it almost unmanageable. And the Federal education effort itself, as a result of this haphazard growth, has become confused and confusing, marked by duplication and fragmentation of programs and responsibilities, blurred lines of authority, and a lack of coordination between the various departments and agencies involved.

What we are bringing before the House today in H.R. 2444 is a bill with only one aim: To improve the management of our Federal education program.

This bill does not create any new education programs. It does not set any national education policy. It does not create a new education bureaucracy. And it does not interfere in any way with local and State control of education.

The bill does not discriminate in any way against private educational institutions. The "Purposes" section of the bill specifically provides that one of the purposes of the new Department is "to support more effectively States, localities, and public and private institutions, students, and parents in carrying out their responsibilities for education."

The thrust of our Federal education programs has been to treat public and private education without differentiating between the two. The entire thrust of the Department of Education bill retains that philosophy and nowhere do we attempt to favor one over the other. Both private and public educational institutions will benefit from the passage of this legislation, which will focus more attention on our educational system and will give parents and students involved with public and private schools more assurances of a quality education.

The bill transfers into the new Department of Education virtually all of the educational programs and activities now in the Department of Health, Education, and Welfare, along with HEW's vocational rehabilitation programs for the handicapped, and those functions of the Office of Civil Rights and Inspector General's Office that deal with education.

It also transfers to the new Department the schools now operated by the Defense Department for the education of American children overseas; the schools and education programs for Indians now in the Department of the Interior; the college housing program now in the Department of Housing and Urban

Development; educational programs for migrant workers' families now in the Department of Labor; certain science programs now in the National Science Foundation, and some law enforcement education programs now in the Department of Justice.

There are about 150 programs in all that will go into the Department of Education, along with their budget authorizations of nearly $14.5 billion, and a total of more than 24,000 personnel. All these programs, budget authorizations and personnel slots now exist. They are not being created by this legislation. We are only bringing them together in a more coherent, more efficient, more visible and accountable organization.

Far from adding to the Federal bureaucracy, the new Department will result in a smaller and simpler management structure. Just as one example, the number of offices involved in developing legislative and budget proposals will be reduced by more than 50 percent, producing substantial savings in the amount of time it will take to carry out these functions.

In proposing the Department of Education, the administration estimated it would eliminate between 350 and 450 staff offices and special assistants in HEW. The Committee on Government Operations has gone them one better. We have required in this legislation that the number of full-time positions transferred into the new Department be reduced by 450 by the end of its first year of operations.

That will produce clear savings of between $15 and $19 million, more than enough to offset the transition costs of setting up the Department. And down the road, as the improved financial management and audit systems that will result from the reorganization take hold, savings of $100 million are foreseen by the Office of Management and Budget.

Those are only the savings at the Federal end. The improvement of services to the States and local school districts, as well as to private educational institutions, and the reduction of redtape in their dealings with the Federal Government, will produce significant savings for them, as well.

The end result of all this, of course, will be improvements in an education system that will directly benefit the more than 100 million students, parents, and teachers who participate in that system, and will strengthen our Nation as we move to meet the challenges of an ever more complex and demanding world.

This is a reorganization that makes sense from every point of view. I urge you to support it.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the very distinguished gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I commend the gentleman in the well. I desire to be associated with his remarks. I commend the gentleman for his leadership on this very important bill.

Mr. Speaker, today the Congress considers H.R. 2444, a bill I have cosponsored to create a Cabinet-level Department of Education.

As an educator, I have always regarded the support of education as the noblest function of government. The Federal Government, in particular, has an interest in insuring that educational opportunities are available to all in promoting higher education through financial assistance to low- and middle-income families in supporting vocational and career training, and in fostering educational research.

That these functions rest with the Federal Government is firmly established by congressional mandate. Just as firmly established is the tradition of local control of education. I foresee a Department of Education enhancing that tradition. A Department of Education would reduce the number of offices and the amount of time necessary to process funds to school districts and students.

A better coordination of education programs now scattered throughout the Federal bureaucracy would reduce overhead costs of administering those programs. According to estimates, initial savings of a new Department will more than offset transition costs of transferring and consolidating education programs. And the Office of Management and Budget predicts that $100 million will ultimately be eliminated from the costs of administering education through improved financial management and auditing.

I look forward to creation of a Department of Education to serve as an indication that the Federal Government recognizes how valuable to this Nation the investment of human capital represented by education truly is. A Department of Education would guarantee that education receives the attention it deserves instead of being submerged in the Department of Health, Education, and Welfare. I am astounded, Mr. Speaker, when I consider that the Department of HEW has a budget exceeded by those of only two other Government entities in the world: that of the entire Federal Government, and that of the Soviet Union.

The "E" in HEW is clearly lost under the present arrangement: education accounts for less than 8 percent of HEW's budget. Yet Federal education programs are already so important that a separate Cabinet-level department to handle them would have a budget larger than five existing departments. A Secretary of Education would increase the visibility, the accountability, and the coordination of programs that teach and train the American people.

Mr. Speaker, I hope the Congress will accept the opportunity to create a new Department that will work with officials in the cities and towns of this country to improve the quality and access of education for all our citizens.

☐ 1640

Mr. HORTON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of H.R. 2444, this bill to establish a Department of Education.

The bill would bring together under unified management many of the education programs which are now operated by Federal departments and agencies. This legislation is a major part of the President's proposed reorganization of the Federal Government.

This is not a spur-of-the-moment proposal, hastily conceived in a political campaign and thrust upon the Congress without adequate consideration. The concept has been studied and has matured over a long period of time.

Over the past 55 years a number of independent studies and Presidential commissions have recommended a Department of Education. Bills for the creation of a Department of Education have been pending before the Committee on Government Operations in every Congress since I became a Member in 1963. In fact, from 1908 to date, approximately 130 pieces of legislation to establish a separate Cabinet level Department of Education were introduced into the Congress.

The National Congress of Parents and Teachers was supporting a bill for a Cabinet level department as early as 1922, and the National Education Association has been committed to the establishment of such a department for over 100 years.

Thus, Mr. Chairman, interest in the Department of Education is not a recent one but it is a long developing concept whose time has come. Neither is the proposal one that has come to the floor of the House of Representatives without adequate hearings by the committee of jurisdiction. In fact, in the 95th Congress our committee held 5 days of hearings, heard dozens of witnesses expressing all points of view with respect to the reorganization, and devoted approximately 6 days to a very complete and thorough markup in the subcommittee and in the full committee before reporting H.R. 2444 to the House.

This year the committee devoted 3 more days to the hearings and an additional day of markup in the subcommittee and another day in the full committee before reporting H.R. 2444 to the floor.

This is not a partisan issue. Proponents and opponents of the Department of Education are on both sides of the aisle.

Why is the idea so important? The answer is quite simple. HEW is too large to properly manage the programs that have been assigned to it. The budget for HEW is the third largest in the whole world. First is Russia's budget, then the U.S. budget, and then the budget of HEW.

Buried in this bureaucracy in HEW is the Office of Education. The organizational structure is so complicated and it is so stratified that it is oftentimes impossible to get something done. In fact, in the last 12 years there have been 13 Commissioners of Education. That fact alone, in my judgment, speaks volumes about how serious the deterioration of the management of the important Federal education program has become.

All we have to do is talk to somebody in the Office of Education, and they will tell us that it is very difficult to get their ideas accepted or to get their programs adopted because they have to go through not only the Office of Education but first the Assistant Secretary and then up to the Secretary. So it takes literally weeks and months before they can get anything done.

The testimony given to us by the Director of OMB indicated that with regard to applications, regulations, and budget requests a tremendous amount of time is consumed in order for the Office of Education to get its programs through. It is estimated that because of this reorganization this time will be cut in half by the elimination of 15 offices from the clearance process.

This bill would, then, reduce the size of HEW, which in and of itself is a good thing, and I cannot understand why people are opposed to that.

The new Department of Education would have a much better defined administrative structure, with easily defined points of responsibility and accountability. In other words, the Congress would have a better opportunity to see what is going on in the education field because of better accountability and better management. We would have one office, one head of education to look to for the management of the education programs that are now scattered throughout the Federal Government. There are something like 160 programs that are now scattered throughout the Government, and they would be under one head, one place, where we could have better management and better accountability.

The bill does not establish new programs or spend more money than is saved. As a matter of fact, there will be savings as a result of this reorganization because of the elimination of some 450 positions.

The bill does not create a new education bureaucracy. One of the gentlemen speaking earlier on the rule was attempting to point out that there is no reference in here to students and teachers. The point is that this is a reorganization bill. It only deals with improving management. It does not deal with the substantive issues that are involved in matters of education.

This bill does not set education policy. It does not interfere with State and local control of education. It simply improves management.

As a matter of fact, there is a specific provision in the bill, section 103, that says that the Federal Government shall not direct or be in charge of or in control of education at the local level. Those of us who are in favor of creating the Department feel very strongly that there should not be any control from the Federal level, so we have specifically prohibited Federal control of education in section 103 of the bill.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I think my colleague, the gentleman from New York (Mr. HORTON), was here when the first Federal Aid Education bill was passed. I think my colleague will recall that was in the legislation at that time.

Is the gentleman saying that there has really been no control of education in the intervening 14 years?

Mr. HORTON. Mr. Chairman, that is not what I said. I said that this bill prohibits the Department of Education from exercising direct control of education.

Now, what you refer to is something different. I think the gentleman will agree with me that if this bill does not pass and the Department is not established, the system will continue the same as it is now. The point I am making is that education is controlled today with categorical programs and the manner in which they have been set up and administered.

I think with the type of management and accountability that would be achieved by the new Department, we could alleviate encroachment at the Federal level. Specifically, we have put the prohibition in the bill. That was done intentionally.

Mr. ASHBROOK. Mr. Chairman, do I understand that what the gentleman is saying is that we put it in the law before and they did not pay any attention to it, but by putting it in the law now, they will pay attention to it?

Mr. HORTON. Mr. Chairman, I am not arguing that point. All I am saying is that we have put it in the bill here to establish the Department. It is a keynote section; it is section 103. It is one of the earliest sections in the bill.

It is our intention that the language be followed, and as far as I am concerned, the committee of original jurisdiction, the Committee on Education and Labor, on which the gentleman serves, would certainly have the responsibility of making certain that that law is upheld. It is in the bill. If it is passed and becomes law, I certainly would do everything I can on the Committee on Government Operations to make certain that the prohibition is respected.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding and for his answers.

I am glad to have some of that responsibility in the future, but we failed rather badly in the past. Maybe we will do better in the future.

Mr. HORTON. Mr. Chairman, that is one of the reasons for having this Department, so we will have better management and better accountability.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I will be glad to yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding.

I would like to commend the gentleman from New York (Mr. HORTON) for making the point he just made with regard to the insertion of section 103 in the bill. I think it is important at the outset of this debate for that point to be made, because we are all going to hear more and more about this permitting greater intrusion into local education, and so forth.

The language of this provision could not be clearer than it is. It will even be understandable to some of the judges who will have to interpret the language at a later point when citizens may have to come to court and insist upon it. Let me read what it says.

□ 1650

Mr. HORTON. I do not have a copy of it in front of me, but if the gentleman does, I will yield him the time to read it because I think it is important to put it in the RECORD at this point.

Mr. LEVITAS. I think it is absolutely essential. It says this:

> No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system; over any accrediting agency or association; or over the selection of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent specifically authorized by law.

That is what it says, and what that means is that unless this Congress specifically, by legislation coming out of the Committee on Education and Labor, creates a new right, the Secretary is prohibited by law, enforceable in the courts, from any interference with local education. I think that point should be made early on in this debate.

Mr. HORTON. I am glad the gentleman made the statement. I appreciate hearing what the gentleman has to say on that subject. I agree with him completely. It is important that that prohibition be in this legislation. The gentleman's interpretation of the legislation and the fact that it is up to the Congress and the courts to carry it out is a good point.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, let me just make this point. The words that the gentleman just read from the bill, I understand, are identical to the language already in our general Education Provisions Act. So that if this is of any comfort to anyone who thinks it is going to change the course of Federal control, it does not change the current law.

Mr. HORTON. Is the gentleman saying that the law should not be enforced?

Mr. ERLENBORN. The gentleman is saying that this is the law today. And we already have much too much Federal control, with rules and regulations reaching right into the classroom.

Mr. HORTON. Would the gentleman eliminate this section from the bill? Is that the gentleman's intention?

Mr. ERLENBORN. I am telling the gentleman that restating what is already the law will not change anything.

Mr. HORTON. Mr. Chairman, in reply to the statement made by the gentleman from Illinois, I would like to say this: Regardless of what laws are on the books now and how they have been interpreted, I do think it is very important that this bill contains this language.

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. HORTON. Mr. Chairman, before I yield to the gentleman, I want to thank him for this language. This prohibition resulted from the language he offered to the bill in the subcommittee in the last Congress when he was on the Committee on Government Operations.

Mr. CORCORAN. Mr. Chairman, I appreciate the gentleman making that comment.

Mr. Chairman, in view of the discussion about this particular section 103 in the debate now, as well as the general concern which the proposed Department has generated with respect to Federal intrusion into what have been traditionally local school decisions, I would just like to emphasize what the gentleman from New York and the gentleman from Georgia have already made perfectly clear, it seems to me, and that is that the language which I developed and was able to successfully offer as an amendment to the bill which was developed in the last Congress and which is, in my judgment, essentially the bill which we have pending before us today was, as my colleague, the gentleman from Illinois (Mr. ERLENBORN) pointed out, language that was taken from the General Provisions Act; and the purpose was to make clear that the Department which we are attempting to create with this legislation will in no way have the authority to intrude on local decisions and, furthermore, that the only additional influence that the Federal presence can have in our local school districts would have to come out of the Education and Labor Committee of the House and out of the Labor and Human Resources Committee of the other body. The fact is that this Department in no way strengthens the ability of the Federal Government to enter into what are traditionally local school decisions.

Mr. HORTON. I think the point that should be made in response to the gentleman's comment is this: This language is very important. With this language on the books and with the programs in education scattered out, as they are, throughout the Federal Government, the policy which has been enunciated and set forth in prior legislation is difficult to administer, control and to follow up on. But here we set up a Department and we hold this Department accountable, to make certain that local control is not going to be usurped by the Federal Government.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I think it makes an important point, though, that when this legislation originally came to us in the last Congress, this language was not in there and it was up to the Congress to put language in which emphasized local control. It seems to me that this says something about the intent of the Administration.

Mr. HORTON. I am not talking about the intent of the administration. I am talking about the bill that is before us.

Mr. WALKER. I understand that.

Mr. HORTON. And I am talking about the fact that Congress has the opportunity to make changes in the administration-proposed legislation. As a matter of fact, we made another change which I will talk about in a few minutes with regard to limiting the number of personnel. That was an amendment that was offered in the full committee. I thought it was a good amendment. I will do everything I can to make certain that that goes into the law. If it passes here and in the other body and we have a conference, I want to make certain that that language is in the bill.

So I do not understand the gentleman's argument. The fact that the administration did not send it up does not make any difference. It is in the bill now.

Mr. WALKER. My point is that the people who are going to be administering the bill are not really as intent upon this as the Congress.

Mr. HORTON. That is not really a valid objection to the bill, because they will have to carry out the mandate of the Congress. If they do not, we will make certain that they do. That is the whole purpose of the oversight function of the Congress: to make sure that agencies carry out the mandates that we pass.

Mr. WALKER. The one thing I wanted to point out is that I think it is possible that we can probably strengthen the local control provisions even more through the amendment process here on the floor.

Mr. HORTON. That might be.

Mr. WALKER. And I was hoping that the gentleman, since he made such a strong statement on this, would support that thoroughly. I am going to offer an amendment that would give local school districts veto power over regulations issued by this Department.

Mr. HORTON. I will certainly not support that, and I will tell the gentleman now that I will not support it. That does not solve the problem.

Mr. WALKER. That assures local control over educational policies. I would hope that the gentleman would reconsider and support such an amendment.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Texas.

Mr. BROOKS. Section 103 was in the bill which was sent down by the administration this year. It was not in the bill last year when they sent it. This year it was in the bill.

Mr. HORTON. Mr. Chairman, in hearings before the Committee on Government Operations it was clearly demonstrated that the proposed separate Department would eliminate the cumbersome management structure within which education decisions in HEW are now made. It will remove duplication and will mean less redtape and better service to States, localities, schools, and students.

There are those who would prefer to have the Office of Education as an independent office within HEW. While such an idea has merit, it is not the choice before us. The option before us is to create a new Department or leave it like it is. Somebody is going to offer an amendment, I know, to set up a separate Office of Education. But it seems to me that if you are going to have a department, if you are going to have education outside of HEW, it ought to be of Cabinet status. In my judgment, the existing structure is very cumbersome. There is a real management problem at HEW. You do not have accountability. It is a very costly process. So I would opt for the better management and for the better organization.

☐ 1700

One of the arguments against the creation of the new Department is that personnel will increase by leaps and bounds. I have heard that stated in the halls here of the Congress at different times. I have heard the charge that it is going to be like all the other agencies we have created. That it is going to grow like Topsy, and there are going to be more and more personnel. As a matter of fact, during the debate on the rule, someone was attempting to use this limitation on personnel to make it appear as though we were increasing or making it possible for the executive branch to increase the number of personnel.

Section 403 in the bill puts a limit on personnel. It says that when we transferred personnel over to the new Department, that the total number of personnel shall be reduced by 450, which is the number that OMB says can be saved as a result of the reorganization. After the transfer they cannot increase the number of people in that agency over 50 each year without coming to the Congress to get specific authority.

It seems to me that this limitation on the size of the Department is an important addition to this bill.

In summary, this reorganization represents what many in the Congress have been asking for; that is, organizing the bureaucracy in such a way that it can adequately manage its responsibilities. This means accountability for decisions and clear lines of authority that will allow for proper oversight activity.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has expired.

(By unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. HORTON. It will also permit efficiencies and economies that cannot be realized when programs are scattered throughout the Federal agencies.

I urge my colleagues to vote for this bill and to oppose any debilitating amendments that may be offered on the floor later.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Pennsylvania.

Mr. RITTER. I would like to speak for a moment to this idea of education programs scattered all over the Government. Education, and I have spent most of my life in the education business, is a function. That function fulfills a variety of missions.

To say that the education functions, which are lodged in the Department of Defense, which are lodged in the National Science Foundation, which are lodged in the Department of Labor, are scattered wrongly and therefore must be brought to another point, a centralized point, I think, is dead wrong. Those functions belong with their missions. Those functions are effective in fulfilling their missions.

Education in and of itself can be wonderful and can be entertaining, but by and large, education fulfills a certain set of missions. If you divorced education from the mission that it is to fulfill, you divorce it from the end product and the result of education.

One massive educational function can only have one function, and that is to further increase its own functional status.

Mr. HORTON. There is some merit in what the gentleman has to say, but I think if the gentleman will analyze what I have said and the material that has been furnished him with regard to the proposed reorganization——

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has expired.

(By unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. HORTON. I am not disagreeing with the gentleman that there are educational functions that ought to stay in other agencies, because they are part of the overall function of that particular agency. The problem now is the proper management of educational programs that are not directly related to the mission of the respective agencies and are spread out throughout the Federal Government.

Mr. RITTER. If the gentleman would yield further, that spread is not in and of itself deleterious to accomplishing the missions that those educational programs are designed to accomplish.

Mr. HORTON. I am not arguing against the idea of excluding educational programs that are vital to the mission of a particular agency.

What I am trying to point out is that there are education programs that are not mission specific and that ought to be under a Department of Education rather than under another agency. Many of the programs will come from the Office of Education. One of the problems that HEW has is the inability to properly manage these programs. If the gentleman will take a look at the chart, he will see they have to go through several layers of bureaucracy most of which can be eliminated as a result of this reorganization.

Now, that in and of itself is helpful.

The other is that the Congress does not now have the ability to take a comprehensive look at all the programs of education.

It has a difficult time when it has to look at several different agencies, one committee in the Congress is looking at it here; another committee is looking at it over there.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has expired.

(By unanimous consent, Mr. HORTON was allowed to proceed for 1 additional minute.)

Mr. HORTON. Try to put all this together. It is an impossible job.

I am on the Select Committee on Committees, the special committee that we have here in the Congress this year to try to do something about reforming the committee system of the Congress. One of the problems is that we do not have the ability to properly conduct oversight.

The committees cannot do it, because these programs are scattered throughout the Federal Government. What we are trying to do with this reorganization is to take 160 programs and put them basically in one organization where we can look at them.

Mr. RITTER. I think, if the gentleman will yield further, title III does define a whole list of transfers into this new Department. I would agree with the gentleman from New York, there is no doubt that there is a major problem with the Department of Health, Education, and Welfare.

It is not just with the Department of Education itself, but it is within the structure of that particular bureaucracy.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has again expired.

(At the request of Mr. RITTER and by unanimous consent Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. RITTER. To continue, Mr. Chairman, to say that because there is a problem in administering programs in the Department of Health, Education, and Welfare, we should make the philosophical judgment to create an education ministry is going from the frying pan into the fire.

Mr. HORTON. I did not say that at all. Those are the gentleman's words, not mine. I feel it is important to establish a Department of Education in order to eliminate much of the bureaucratic maze, in order to shorten the length of time that it takes to implement laws, that it takes to get the budget process through, that it takes to implement the different programs that the Office of Education has.

We have testimony of people in the Office of Education saying they would like to make improvements, and it takes months before they can actually do anything because of the bureaucracy that they are involved with.

Mr. RITTER. I agree.

Mr. HORTON. Now, there are programs that ought to be administered by the new department. There are some that ought not to be, and the Congress, in its wisdom, has already eliminated some of those. There are others that probably ought to be here.

For example, we had a very serious question about the education of Indians, that is now under the Bureau of Indian Affairs. It was left out of the bill that was sent up by the administration. It was voted out in the last Congress. There was an amendment at the committee level to put them in.

Mr. RITTER. If I might ask the gentleman a quick question, I know that the title contains the programs for the Department of Defense. Does any one thing, or is there any one possible thing that a major education ministry is familiar enough with the subtleness of education within the various military services, to provide a positive step forward for that education process?

Mr. HORTON. Does the gentleman think that is the function of the military, to educate?

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. HORTON. If there is one argument that I think the gentleman is weak on, it is that one. The Department of Defense should not be in the business of education. They have the business of defending this country, providing the military strength and so forth.

Now, they do have children overseas, and they ought to be educated, but that ought to be done under the auspices of an Education Department and not under the auspices of the military.

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Illinois.

Mr. CORCORAN. I thank the gentleman.

First of all, I want to associate myself with the gentleman's remarks with respect to the organizational problem which this legislation addresses. But I think the gentleman from Pennsylvania has raised a good point about whether or not we ought to start looking at the individual student in terms of a whole person or whether we ought to continue the present practice with our Federal dollars that are being spent in having different program types.

□ 1710

I recall the testimony before our subcommittee last year of our former colleague, Al Quie, who is now the Governor of Minnesota. He pointed out very, very clearly that one of the big problems we have right now is the lack of coordination between the manpower training program in the Department of Labor and the vocational education programs in HEW.

I think what we are trying to do, and I realize that is not contained in this legislation, but the point is we are beginning the reorganization process. So I would hope that in years to come we could begin to look at the recipient of these funds in terms of a whole individual and not a program type.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(By unanimous consent Mr. HORTON was allowed to proceed for 5 additional minutes.)

Mr. JEFFORDS. Mr. Chairman, would the gentleman yield?

Mr. HORTON. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Just previously the gentleman mentioned the manpower programs and Al Quie, who was greatly respected. I would just like to let you know I intend to offer an amendment which will transfer to this Department of Education the manpower training programs out of the Department of

Labor in titles II, III, and IV of that title.

I just have come back from a tour around the country looking at the youth unemployment programs, or youth employment programs, if you want to look at it that way, and the thing that came home to me was the need to cooperate and the need to insure that we have cooperation between the areas of education, vocational education, and our youth employment programs. Where that is occurring it is working well.

But, unfortunately, in the majority of the country it is not occurring. It seems to me important that if we are going to have a Department of Education that it ought to be aimed at the areas of the greatest need, and that is at our young people who are dropping out of school, young people who are unable to find employment because of a lack of education. What we need to do is have cooperation at the top so that we can get that coordination and cooperation at the bottom where it is necessary.

So, it seems to me a Department of Education without the mechanics to do that does not have the meaning it should have. And I have endorsed the Department, although I have very serious questions about voting for it without the meaningful manpower programs which I believe it should have.

I just want to alert the gentleman that I intend to offer an amendment to accomplish that purpose.

Mr. HORTON. I think the gentleman has made some excellent points. We cannot get the Department established until we take this step, and it is important to bring educational programs under one head where the head of the Department can actually manage and be accountable for those programs. That is not the situation that we have if we leave the situation as it is today.

So, I think it is important for us to establish the Department. And I would urge my colleagues to vote for it.

Mr. JENRETTE. Mr. Chairman, would the gentleman yield?

Mr. HORTON. I yield to the gentleman from South Carolina.

Mr. JENRETTE. I want to associate myself with the gentleman's remarks, having had the pleasure of serving on the committee last year when we debated at great length the Department of Education bill. I regret for a number of reasons getting off that committee. I am looking at one of the reasons I regret not staying on the committee now.

But, I have moved over to the Appropriations Committee. The colloquy you were having with the gentleman about moving all of these individuals out of other departments into the Department of Education I think bears pointing out the fact that we in the Appropriations Committee, we have a very, very serious problem of five or six subcommittees dealing with parts of each individual Cabinet-level Department. There is no subcommittee in appropriations, and as we have seen here there is no subcommittee in any of the authorizing committees whereby we can really have total oversight.

I think probably we should realize here, and I agree with the gentleman that maybe the whole educational process of these people's coming from the Interior and everywhere else, it is good to have them there. But our mission I think in education, as my friend from Vermont just stated, is to really educate our young people so that they will be able to be gainfully employed.

I certainly hope as we go into the amendment process that we will, if we can, strengthen it so that the local level can have better control. I am certainly for that. I do not think I would go quite as far as the gentleman mentioned a few moments ago of a veto by any local level, but I think it is our mission to see our young people have the opportunity for the finest possible education they can have. And if it means giving stronger influence to this bill that the Government Operations Committee has worked so hard on, I certainly hope our colleagues will support it.

I enjoyed working very much with the gentleman from New York and the other members last year, and I certainly intend to support the committee in obtaining a bill, the mission of which is to educate our young people.

Mr. HORTON. I thank the gentleman for his contribution. We are sorry that he is not with us, but the gentleman has important responsibilities on the Appropriations Committee.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I rise in strong opposition to H.R. 2444.

Once again, we are being asked to pass judgment on an ill-conceived proposal to create a Cabinet-level Department of Education. In October, due to the lateness of the session and the large number of bills to be considered, last year's predecessor to the version before us today never received floor consideration. I am confident that with full debate of the issues involved, the House will resoundingly defeat H.R. 2444.

In the 8 short months since the close of the last session, opposition has arisen to H.R. 2444 from a broad spectrum of interests, from organized groups, individuals and the press, liberals, and conservatives. In my own office, mail is running better than 2 to 1 against the creation of a Department of Education. And it is interesting to note that in the Government Operations Committee, the bill was reported out by the thinnest of margins, 20 to 19.

The most basic considerations in this debate are the historical and the proper future roles of the Federal Government in the field of education.

In this country, schooling of the young has always been a State and local responsibility. This precept has endowed us, despite our failings, with the most diverse, flexible and responsive educational system in the world. Federal involvement in education has always been secondary, limited to the pursuit of broad social goals with the schools as one of many participants in the efforts to achieve those objectives. Examples range from the Morrill Land Grant College Act, the GI Bill and the Higher Education Act, all aimed at encouraging college attendance, to efforts directed at insuring civil rights and equal opportunity, as embodied in the Elementary and Secondary Education Act and the Education for All Handicapped Children Act, among others.

A fundamental reason that we do not now have a separate department to administer these initiatives is that Federal education-related programs are distributed among the various agencies according to their expertise; child nutrition, including student meal programs, in the Department of Agriculture, Indian education in the Bureau of Indian Affairs, college housing programs in the Department of Housing and Urban Development, law enforcement education in the Department of justice, and so on.

I fear that removing these kinds of programs from the agencies with the administrative experience and the resources dedicated to addressing these issues would result in a lack of coordination and duplication of effort, in direct contrast to the purported goal of improved efficiency espoused by supporters of the bill.

Proponents of H.R. 2444 contend that the legislation would reduce the overlapping jurisdictions and disjointed policy implementation of education programs located in various agencies. While that is a worthy goal, it does not demand the elevation of the Office of Education to the status of a cabinet department. Furthermore, review of this bill yields many contradictions between its legislative objectives and the agency transfers it recommends to implement the consolidation.

Is it logical to transfer the Bureau of Occupational and Adult Education from HEW, yet refrain from bringing in Training and Youth Services from the Department of Labor? Does it make sense to include HEW's Telecommunications Demonstration Programs without the broadcast demonstration programs authorized by the Educational Broadcasting and Telecommunications Demonstration Act passed by this body in 1976. Is it appropriate, in the spirit of more efficient administration, to transfer HEW's Institute of Museum Services to the proposed department when the National Endowments for the Arts and for the Humanities perform many of the same functions?

I would be interested to know the justification for keeping the GI bill education benefits within the Veterans' Administration. Could it be that the VA is best equipped to deal with the concerns of veterans? Whatever the reasoning, why did not it apply during consideration of the $111 million a year College Housing Loan Program before its subsequent removal from HUD? And finally in this vein, if efficiency of operation through consolidation is the goal of H.R. 2444, how will this be achieved when only $14.5 billion of the more than $10 billion Federal education effort is brought within the purview of the department.

Despite the inconsistency of the program transfers I have outlined, my major criticism of the Department of Education proposal is that the establishment of a cabinet-level department should occur only when there is a major national policy goal to be achieved. This was the case in the creation of the newest Federal departments, Housing and Urban Development, Transportation, and Energy. If the Congress desires a greater role for the Federal Goverment, the creation of a Department of Education is the place to begin.

Though supporters of H.R. 2444 insist otherwise, I fear that the natural result of that step will be more Federal initiative in the area of educational policymaking and a major encroachment into local autonomy over the schooling of our children. I feel I should reiterate that there is no central Federal mission in this field. Congress actions since the passage of the Land Ordinance Act in 1785 have been based on the concept of a limited, supportive Federal role in education. Since then, Federal involvement has always been directed at social goals where there is an existing Federal responsibility, be it civil rights, as in assuring equal educational opportunity, or nutrition in the case of the school lunch program.

That being the case, there is no sound management basis for creating a new department, a position borne out by the last three Commission studies on government and administrative organization. Indeed, President Johnson's Heineman Commission specifically warned against the establishment of departments serving ". . . narrow specialized interests or professional clientele such as health or education." That caution was echoed last year by a distinguished member of the majority leadership who stated that executive reorganization is basically a political, and not an administrative act.

Mr. Chairman, I have always been a strong advocate of aid to education. During consideration of the first concurrent budget resolution, I supported all attempts to direct more funding to the education, training, employment, and social services function because it is obvious to me that we are not affording as much educational opportunity as we should. However, the establishment of a Department of Education will do nothing to stem the decline in student achievement. Moreover, such a move may even lull us into the belief that we have addressed the problems facing our educational systems, when all we would have accomplished was a shuffling of bureaucrats hundreds or thousands of miles from where the solutions lie—in the communities that support and maintain the schools. Even without the logical inconsistencies of the bill, I could not endorse legislation creating a $14.5 billion department which is justified so heavily on such undefined catchwords as "status" and "prestige". Recognition is achieved through positive action, not cosmetic change. I urge you to reject H.R. 2444.

Mr. HORTON. Mr. Chairman, I disagree strongly with the gentleman.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, this bill to create a new Federal Department of Education is what is commonly referred to as "vested interest" legislation, and I oppose this action.

My colleagues well know from the intensive lobbying effort promoting this legislation that the primary force behind it is the National Education Association, one of the national union organizations representing public school teachers.

There is nothing wrong with a union organization promoting legislation. In fact, in this case we have the NEA union promoting the Department of Education bill and the American Federation of Teachers and other unions opposing it.

But in the case of this particular proposal to create a new Federal Government education bureau, with tremendous influence and control over Federal education programs and policies, including the spending of billions of dollars in Federal education grant assistance, we are faced with a moral and ethical dilemma.

The NEA already has considerable influence and control over Federal education policy. Many believe that it has too much control. NEA officials, as I will document in a minute, actually participate behind the scenes in the review and writing of official U.S. Office of Education regulations and policy guidelines before they are promulgated, and in some instances wield unofficial veto power over such policies.

This is not a healthy situation. The NEA represents only one public constituency—one group of member teachers, but not all teachers. NEA does not represent any noneducators. This bill will only institutionalize, centralize, and strengthen that NEA power over Federal education policy and programs.

As I have said, this is not a healthy development. Compounding the dilemma facing many Members of Congress is the fact that the NEA has given substantial political contributions to many Members of the House, who are now being asked to vote whether or not to pass legislation directly beneficial to NEA, and increasing NEA's involvement in Federal education decisionmaking. News stories documenting these NEA political contributions appeared in the national press this week.

Mr. Chairman, it is important to understand and document the current NEA role in Federal education policymaking, in order to understand how this bill will directly benefit this organization's own vested interests.

This role has been revealed in great detail in a book entitled "Power and Process," written in 1974 by Harry L. Summerfield, a former recent legislative aide for the House Education and Labor Committee, who then worked at the Department of Health, Education, and Welfare on the staff of the Assistant Secretary for Education Planning and Evaluation.

Following is Mr. Summerfield's insider's description of how Federal education policy is shaped behind the scenes by the NEA and other powerful education lobbies, which I will read:

Lobbies and Guidelines

One of the lobbies' most powerful methods to influence USOE [U.S. Office of Education] policy is exercised during the drafting of a law's "regulations" and "guidelines." After the president signs a bill into law, the original wording of the law is broken down and reshaped into language that facilitates the tasks of administration. The first chore, ordinarily a nonpolicy function performed by USOE attornies, is to draw up "regulations." Regulations are a simple restatement of the law but reorganized and made more easily understandable. Drafting "guidelines," however, is a vital policy function performed under the auspices of middle and lower middle level bureaucrats. Guidelines go well beyond mere restatement of the words of Congress. They are interpretations of the intent of the regulations. Once published in the Federal Register, these interpretations carry the force of law, instruct state and local school officials and all other people and agencies affected by a law, and explain exactly what they can do with the funds. Although regulations must reflect the "intent of Congress" as laid down in hearings, committee reports and the actual law itself, middle level administrators often exercise a great deal of discretion over their content, and often the content of guidelines changes according to political pressures.

Before publication of guidelines, the big lobbies traditionally review them and exercise varying degrees of veto power over their content. Working closely with USOE middle level bureaucrats, representatives of the NEA, NSBA, AASA, AVA, etc., check the wording and intent and actually participate in drafting alternative wording of guidelines. Lobbies therefore participate heavily in determination of prescriptions that have the force of law. When unchallenged, this power is considerable; it thoroughly integrates the public which is ostensibly regulated by government with the government regulators.

USOE bureaucrats welcome this cozy cooperation because it leads to smooth relations between themselves and most of the public they serve. Instances where public issues arise over the content of regulations are surprisingly rare, but they occur, and when they do the protagonist is almost always a group that was not privy to the prepublications guideline review.

One conflictual incident arose in 1970 over the use of Title I money. Regulations did not allow the expenditure of Title I dollars for anything but school materials and manpower. Certain civil rights groups examined the guidelines and petitioned the commissioner and the secretary to change them to permit expenditures for clothing for children. The big lobbies, who originaly participated in drafting the guidelines, vigorously opposed the change, mainly because they represent the maintenance of the schools and teachers salaries and did not want scarce federal education dollars siphoned off to meet individual needs not directly provided by the schools. Despite considerable public protest in Washington supported by newspaper coverage and editorials, the guideline remained unchanged.

Another conflictual instance between middle level bureaucrats and lobbies began as an issue of enforcement of existing guidelines. The Washington Research Project (see chapter 2), basing their protest on their own research drawn in part from published government reports, published the so-called "Martin-McClure Report." In it they presented evidence that administration of Title I dollars failed to comply with regulations and guidelines requiring rigorous federal enforcement of targeting of dollars to the poor. The Martin McClure Report cited instances where Title I money was used for general aid to school systems benefiting all children, not just the poor. To ensure closer control of the dollars—local enforcement to supplement weak federal enforcement—the group proposed a guideline change to require creation of parent councils in every school with power to review and determine Title I expenditures.

Visions of "community control" and administrative agony in the local schoolhouse prompted the large education lobbies into aggressive opposition to the Washington Research Project move. Ostensibly a compromise was reached between the civil rights advocates and the lobbies by changing the guidelines to require parent councils on a school districtwide basis with symbolic but not real review and control authority of Title I. In this way the big lobbies could be in favor of "local control" of education while continuing to focus power on education professionals.

The two examples described above took place at the guideline level. No laws were passed, no hearings held, no votes taken. The administrator's interpretation of the law prevailed, and that interpretation had its base in the desires of the big lobbies. In these cases, the civil rights groups demonstrated less powerful impact than either the administration or the big lobbies. Although civil rights groups could raise the issue, without support from elsewhere—Congress, a split among the big lobbies, the president—the middle level administration could simply absorb the temporary public flack. (Notably, the ability of the Washington Research Project to raise an issue and in the process develop limited congressional support won their leaders an invitation to some future prepublication guideline review sessions. Their power, however, remained limited.)

If the NEA or AASA or other large group had sought a change in guidelines, their position would have been quite different from the civil rights groups, and middle level administrators would have reacted accordingly. The big lobbies are backed by the moral force of their professional constituency, the ongoing reciprocal relationships with bureaucrats (many of whom are members of the organizations or were once employed by them), and strong support from Congress. An NEA guideline proposal, for example, carries a natural credibility with the bureaucrats which civil rights groups have a difficult time creating. A USOE career bureaucrat, who probably views himself as an "educator," is more likely to conclude that, if the NEA wants it, it must be a serious, "proper" proposal in the interests of public education. Civil rights groups tend to be viewed as somewhat "radical," not in touch with the real problems of the schools, and supportive of a shift of power from educators to the open community. In short, civil rights groups (as well as the Chamber of Commerce, the National Association of Manufacturers, and many other lobbies) tend not to be considered the natural public of USOE, and these groups have not carried political "clout" with the middle level administrators of the law.

Mr. Chairman, if so many organizations representing the public and our business community, as well as the people themselves, are not considered "the natural public" of the U.S. Office of Education middle bureaucracy as currently constituted, one can well perceive the tightly controlled, NEA-oriented bureaucracy from the top down that would be brought into being under this bill.

In fact, it has been the NEA's difficulty in controlling top level Federal education policy, according to Mr. Summerfield in his book, "Power and Process," which has led to NEA lobbying for congressional legislation such as this to tighten that control.

Mr. Summerfield pointed out in the passage that I just quoted that NEA works hand-in-glove with the middle-level bureaucracy in writing the regulations and guidelines for a program once Congress has authorized and funded it. But Summerfield also notes that NEA has had difficulty getting the current Federal education top level bureaucracy to initiate programs they want, and this had to obtain these programs directly from Congress.

Once a program, such as a new teacher training program, has been passed by Congress, Summerfield documents instances where NEA has then moved their own officials who shaped the legislation and lobbied it through Congress into Government positions of administration over the program.

One example of this cozy relationship cited by Summerfield was the appointment of Don Davies, an NEA official who helped develop the Education Professions Development Act to expand Federal teacher training, as administrator of the EPDA program once Congress had passed it. Mr. Summerfield described this circumstance as follows, and I quote:

Middle Level Administrators and the Lobbies

The education lobbies as big professional associations are more concerned with the ongoing administration of federal programs at the middle level of policy formation than they are with the machinations of the top level. . . . The lobbies, as large maintenance organizations seeking additional dollars for teacher's salaries and ongoing programs, have been less effective at the top administration levels. To influence top level policy, the lobbies have turned to Congress.

Middle and lower level administration officials, have, however, continually embraced the lobbies. Their motivation is pragmatic. The middle and lower level people must administer the ongoing programs that ultimately become the programs of the lobby's membership. Lobbies can provide USOE people with information and facilitation, which eases administrative problems when federal programs are applied at the state and local levels. Likewise, lobbies cause conflict and, because bureaucrats dislike conflict more than anything else, lobby aid and support is welcomed.

A particularly good example of cooperation occurred between Dr. Don Davies and the NEA. Before his appointment as the first administrator of the Education Professions Development Act (EPDA, a law to enhance varied aspects of teacher training), Davies had worked for the NEA on research and reports that served as important underpinnings of the EPDA legislation. Engaged in development of the act, known by NEA officials, and trusted, from the NEA viewpoint Davies made an ideal appointment as administrator. This did not mean, however, that NEA ran EPDA. It did mean that, since Davies fashioned the expenditure of considerable discretionary dollars, he could work in close communication with NEA as well as university and foundation advisers so that decisions made in government would raise minimum conflict.

The power brokerage role played by Davies was not entirely voluntary. Rather, it was in part structurally defined, a necessity based on real NEA power within the administration and in Congress. Had NEA not been a political match for USOE, Davies could have reduced his power brokerage function in favor of autonomous power—"educational leadership" (that is, he could have spent federal money with fewer constraints from outside government). However, under the structural circumstances of shared power, Davies was caused to act consistently to minimize the potential for disruptive conflict between NEA and USOE. From this, he salvaged personal prestige and a political space of his own to direct innovation in EPDA programs.

On one hand, lacking political shrewdness or lacking the will to link NEA and USOE, Davies could not have survived in this particular job. (Lacking neither of these, he flourished.) On the other hand, his concern for providing government-based leadership in the use of EPDA dollars, while probably dispensable, enhanced Davies' career. He moved shrewdly between his personal ambition to use USOE dollars as a change agent and NEA's proclivity to view USOE activism skeptically, and thereby avoided being branded either as a mere maintenance bureaucrat or a boat-rocking trouble maker. This was a center course—the happy road to bureaucratic success and power.

Mr. Chairman, it is apparent that the motives of the National Education Association and other elements of the educationist establishment are self-serving in their intense promotion of this legislation to create a new Department of Education.

Passage of this bill is designed to perpetuate and increase the pattern of growing bureaucratic control over our Nation's public school system described in graphic detail in Harry Summerfield's book, "Power and Process."

I should note that Mr. Summerfield has been an integral part of that process, and was himself a middle-level bureaucratic official who helped to wield the considerable power about which his book is so revealing.

It is my great hope that the House of Representatives will reject this legislation. It is also my hope that Congress will act to stop the "revolving door" relationship between the NEA and other educationist lobbies, and Federal Government operations involving education.

Congress has wisely acted in other areas under ethics in government legislation to prevent this kind of conflict of interest that is apparent in the education area of Federal Government activity. The same strict standards and prohibitions should be applied to Federal education programs and the administration of billions of dollars of Federal education assistance annually approved by Congress.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to a distinguished member of the committee, the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I thank the gentleman from Texas for yielding time to me, and I say that because he knows I am going to rise to oppose the creation of a Department of Education.

Mr. Chairman, I rise to offer a few comments against the creation of a Department of Education.

I oppose the creation of a separate Department of Education. As a member of the Government Operations Committee, to which this legislation was referred, and as a member of the Legislation and National Security Subcommittee which had initial responsibility from the committee over the legislation, I have heard many arguments pro and con as to the merits of creating a Department of Education. The weight of the arguments force me to oppose such a department, principally for two reasons. First, the proponents have not been able to justify to me the need for a separate Department of Education. Proponents suggest that a separate Department will give education greater prestige and visibility. I say education already has great prestige in America, great visibility, that education and yearning for education is ingrained in the psyche of America and that a new Education Department can add nothing to this. Proponents also say that there is need to reorganize the educational component of HEW to make it more efficient. To this, I say fine. I am all for improved government efficiency. However, instead of this legislation let us reorganize the educational component of HEW within that Department. We do not need a whole new department to improve efficiency, and, in fact, we have no guarantee that any improved efficiency would result from a new Cabinet-level department. I need only to point to the Department of Energy to aptly illustrate that new departments and improved efficiency are not necessarily associated.

More importantly, I am opposed to the creation of a new department because it poses a potential danger to an important American tradition. We in America have had no central educational policy. Rather, we rely—and have flourished in so relying—on having individual and independent educational policies set by and in our thousands of local communities. This diversity of policy, founded upon our tradition of local control of education, insures that we as a people and as a Nation enjoy the pluralism of thought that is one of America's hallmarks. To me, the establishment of a Department of Education provides a potential for a centralization of the control of ideas, a potential which may or may not be realized but one which will be latent for as long as the Department exists. This is the danger which the creation of a Department of Education holds and which, for me at least, is sufficient to oppose its establishment. I call upon my fellow Members to give careful consideration as to whether they want to support the creation of a Cabinet-level department which contains a danger contrary to the heritage of America.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I have long believed that one of the strengths of this Nation lies in the ability of each community to educate its own children. Its sons and daughters learn about the past, present, and future of the larger world in the framework of community values and ideals. This diversity and local heritage is an underpinning of our society. Both public and private schools should be allowed to fulfill that important responsibility without being burdened by the paperwork and escalating bureaucracy of big government.

Today, schools at every level are taking away time and money that could be spent in educating children to fill out duplicate reports and comply with overregulation. Educators are getting lost in the education establishment which is scattered throughout HEW and elsewhere. A local school superintendent or a college president cannot get answers. He becomes an archeologist digging through the many levels of bureaucracy within HEW and may never receive a clear-cut answer.

With the proposed Cabinet-level Department of Education, I see an opportunity to correct this situation. Rather than creating a new bureaucracy, it actually reduces the number of bureaucrats. It does not create one new office, or add power or increase spending. What it does do is force education to be accountable, something it could never be buried as it is in the bowels of HEW and the Departments of Labor, Defense, Justice, Interior, and Housing and Urban Development. It brings together 150 programs which are now scattered in an invisible education establishment and makes them visible and accountable. If we do not bring all the pieces out up front, how can we ever know how many taxpayer dollars are being spent on all sorts of educational programs? Who is spending that money? For which educational purposes? The way it is now, hidden in the nooks and crannies of big government, we can never know for sure if any program has been overlooked in an accounting.

This bill will actually tighten up the reins on bureaucrats and put a leash on the Department instead of writing out a blank check for a new Secretary. The bill contains two amendments that I authored which would make this the first Federal agency to be created with fewer bureaucrats than before and a set of built-in brakes to prevent any future bureaucratic growth. Today, HEW has 145,000 employees on payroll and a budget of $184 billion. My "personnel limitation" amendment statutorily cuts 450 positions off the new Department payroll within 1 year, and thereafter—with a minor exception—does not allow the hiring of any new employees without the passage of an act of Congress. Small is, indeed, beautiful. This type of reduction-of-bureaucracy-before-it-gets-started is unprecedented in our history. This is one department that cannot just grow and grow. In fact, it will be smaller.

My other amendment makes this the first Government agency to be established from the outset with a legislative veto provision on substantially all of its rules and regulations. The amendment extends the presently existing General Education Provisions Act veto provisions to substantially all transferred functions and programs. Congress would have 45 days in which to disapprove a rule or regulation through passage of a concurrent resolution by both Houses.

This congressional veto provision will have a twofold effect. It makes the Department more responsive to the public and to congressional intent by establishing the unquestioned realization in each agency that they cannot promulgate regulations with impunity. They will know that Congress is paying attention to what they are doing, looking over their shoulders, and can take action if they go off the wrong track. It is axiomatic that we will see more carefully drafted regulations, as well as more attention being paid to the views of citizens during the comment period. Its very existence will sensitize the bureaucracy and make it more responsive.

To those who say they fear the centralization of education as the end of local control, I say it is an achievement to be able to bring all the parts of the education establishment out in the open. All those programs exist and exert controls today but cannot easily be identified. The powers that they have today, they will have tomorrow. No more, no less. In my view, this bill contains the strongest guarantees to local control that I have seen in any bill. Section 103 says that:

> The Secretary * * * [may not] * * * exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school * * * [or] library resources, textbooks, or other instructional materials.

We will have better, not more, government. President Carter has said he would veto any bill creating this new Department which would bring about a greater intrusion by the Federal Government in local education. This bill does not do that. It guarantees local control.

I have had the opportunity to speak with the widest variety of people from many States, including my own State of Georgia. These local school board members, parents, and teachers described in a chorus how terrible the current paperwork and bureaucracy situation is in the current establishment. They strongly endorsed this new Department as a vehicle for putting education back in local hands. In my conversations with local people, those people who are the most jealous of local control have supported this bill including local school board members, and associations and State school superintendents.

More than anything, this bill is an opportunity to check the hidden growth of education functions which have sprung up all over government. It identifies them for better congressional oversight; it limits their growth; and it gives citizens, through their elected Representatives, the right to stop a bad regulation before it carries the weight of law. It will give us a better and more responsive educational future for America's boys and girls and young men and young women.

Now, Mr. Chairman, if I could get the attention of the chairman of the full committee, my distinguished colleague from Texas (Mr. BROOKS) for the purpose of clarifying and spelling out the legislative history of section 424 of this bill, I would like to ask the chairman of the Government Operations Committee some questions about the section-by-section discussion of section 424 in the committee report. Is my understanding correct that it is not the intention of the committee to cut back on the previous application of the scope of the rule and regulation review contained in the General Education Provisions Act to any program it now covers?

Mr. BROOKS. That is my understanding, yes.

Mr. LEVITAS. I raise the question because on page 26 of the committee report there is an implication in the last sentence of that paragraph that suggests that rules and regulations of the Office of Civil Rights now subject to GEPA congressional regulations disapproval procedure would not be subject to GEPA procedure under this bill.

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On the other hand, on page 14 of the committee report in the discussion on the section on rules, the first paragraph states that rules and regulations presently covered for congressional review and veto by section 431 of the General Education Provisions Act would continue to be covered by those provisions in this bill.

It is my understanding prior to the introduction of this legislation we have before us today, any regulations promulgated under the Civil Rights Act of 1964 for the administration of an education program would be subject to these GEPA review provisions by the Congress and that it was not the intention of the committee to cut back on that coverage.

Mr. BROOKS. My distinguished friend, it was not the intention of the committee to cut back on the coverage of the GEPA provisions. The language of the bill clearly indicates that the GEPA provisions are to continue to apply to the same extent that they are now applicable and, in addition, certain new transferred functions will additionally be made subject to the GEPA rule and regulatory review and veto provisions as specified in section 424 of this bill.

Mr. LEVITAS. I thank the chairman for qualifying this point so there will be no mistake about the legislative history on this question.

Now, Mr. Chairman, for purposes of qualifying another point I would like to ask the chairman some questions about title IV, section 403 of this bill.

Is my understanding correct that a reduction of 450 positions means a net reduction in the personnel level of this new Department below the number of such positions that exist the day before it comes into existence?

Mr. BROOKS. That is correct.

Mr. LEVITAS. Mr. Chairman, I understand the reason we were able to cut 450 positions in this new Department is because of consolidation and elimination of overlapping and duplicative functions that now exist in HEW. In the programs to be transferred, reorganized, and streamlined we will have a net savings of 450 positions.

Whatever jobs are created will be new in job description alone except for the temporary 15 limited-term appointees who will perform transition functions only for 3 years.

Any other jobs that are created will come from positions which exist today which can be consolidated or eliminated to allow for new functions.

It is my understanding that it is a responsibility of the Secretary to determine where these internal consolidations can occur so he can make room for any new positions that may be referred to in this bill.

Mr. BROOKS. That is a correct question of what section 403 does and how a reduction of 450 positions will be achieved. I want to add I discussed this with Jim McIntyre, the head of the OMB, this morning and clarified that it means full-time, active positions, no questions, no buts, no ifs, and it will be done in that fashion.

Mr. LEVITAS. I appreciate that because I think this limitation on the size of the bureaucracy means that instead of creating a larger and growing bureaucracy we will actually have a smaller one and one which could only be increased by act of Congress.

It is also my understanding, notwithstanding the provisions of law and any other general authorities of the Office of Management and Budget as in setting personnel ceilings, that the personnel ceilings of the Department of Education will be limited by this section of the bill the day this act goes into effect.

In other words, there can be no increase in the number of new positions, of the number of positions for the new Department after its creation which can result in its having more employees so the total number of employees in the Department exceeds the number of transferred positions less 450 when section 403 becomes operative.

Further, we would hope and I personally, speaking for myself, would expect that the reduction is in administrative positions and not in low-level slots or teaching or teacher-related positions.

Mr. BROOKS. The gentleman is correct about that. I discussed this in detail with Jim McIntyre of OMB this morning and I told him I did not want it just to be low-level slots or teachers or what-have-you in that category. He said it would be largely administrative. He has a clear understanding about the numbers.

Mr. LEVITAS. Mr. Chairman, I thank my chairman for his interest in this matter and for his clarification of the legislative history.

I think it is unprecedented in the creation of a new agency, department, or even the reorganization consolidation that we have started off not by creating a larger bureaucracy but a smaller one which cannot get larger because we have placed a limitation on its growth and it can only be changed when this Congress votes to increase its size.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to my colleague from North Carolina.

Mr. FOUNTAIN. Mr. Chairman, relative to section 403 about which the gentleman has spoken, I appreciate the colloquy which the gentleman has just had with our distinguished chairman, and what the language of the section says.

The language says, "shall be reduced by 450 and thereafter the number of such positions shall not be increased by more than 50 in any one year."

To put a period there and make an outright commitment not to increase any time in view of the thousands we have already we do not need would be fine but it says, "except by law enacted after the date of the enactment."

The administration does not commit itself not to recommend an increase beyond the 50 at some subsequent date we know not when, does it?

Mr. LEVITAS. That is precisely correct. The reason that is in there is that this Congress by law can change any law we pass.

I for one, and I am sure my colleague from North Carolina will join with me in defeating any such bill that would come before the Congress, and indeed support legislation that would cut back even further on the number of positions.

Mr. FOUNTAIN. I hope we can defeat this one so that will not be necessary.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I spoke a little while ago on the rule and I will not repeat what I said then but let me make the observation at this time that the press comments from across the country on the proposal to create a Department of Education have been almost universally negative, which is almost unprecedented. We have the Washington Post, the Washington Star, the New York Times, the Wall Street Journal, the Christian Science Monitor—practically every newspaper in every major metropolitan area plus newspapers in the smaller cities and villages have expressed themselves against this Department of Education.

Some national columnists have spoken out on this. Columnists like William Raspberry, James Kilpatrick, and others. Again, almost universally the columnists' comments have been against the creation of this Department of Education.

We have an almost unprecedented alliance of groups in the United States. The AFL–CIO and the ACU, the American Conservative Union, and George Meany agreeing on an issue like this. You know, it is just completely unheard of.

How in the world could anything with this almost unanimous opposition have gotten this far in the legislative process and possibly have a chance of passage? There is only one answer. The answer is found in a Reader's Digest article about the growing power of the National Education Association.

Apparently, I am the first one to mention the National Education Association in the debate. I have not heard them mentioned before. The only reason we have the bill here at this time this far in the process is because a number of years ago the National Education Association decided they were no longer going to be a professional organization worried about excellence in education. They turned themselves very consciously into a labor union. They had observed, and rightly so, that the labor unions and other organizations had clout commensurate with political activity and so they very carefully went about constructing an organization that gave them workers in every congressional district.

The National Education Association in 1976 was told by President Carter that he would support this long-sought goal of theirs, the creation of a Department of Education. Breaking with the tradition they had for many years, they endorsed him for the Presidency. They furnished money and workers to his campaign.

I know I do not stand alone in making this observation. I have seen it in the editorials, I have seen it in the columnists' stories.

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We were told by our Democratic colleagues in the hearing, the gentlewoman from New York (Ms. CHISHOLM) and Senator MOYNIHAN came into our hearings and said this is blantantly a political payoff. Senator MOYNIHAN said:

> If I were the President asking the Congress to respond affirmatively to this request, I would be ashamed of myself, because it is purely and simply a political payoff.

I said earlier in the debate on the rule that this was not good reorganization. You know, there are some things about this that I do not think most Members are aware of. It almost boggles the mind. Do you realize that the personnel of the new Department of Education will consist principally of teachers teaching in schools and administering a school system? At the present time the Office of Education does not operate any schools and they never have, to my knowledge. They have consciously avoided getting involved in the actual process of education, because they thought it was incompatible with their function as a Federal Office of Education. Over 60 percent of the personnel of the new Department of Education will be involved in operating the Department of Defense dependent schools, far flung around the world, and I believe in terms of the number of children served, the seventh largest school system in the United States.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

Mr. HORTON. Mr. Chairman, I yield 5 additional minutes to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, let me conclude my comments about the overseas dependent schools. It is a bad idea to have a Federal agency that is charged, as I am so fearful this agency will be charged, with formulating Federal educational policy, have them actually operating schools, making choices of textbooks, curriculum, course content. Then once they have made these decisions, having decided in their wisdom they have made the best decisions, they would inevitably, in my opinion, be inclined to translate those decisions into action in all the other schools in the United States.

Why would the Department of Defense dependent schools be put in the new Department of Education, in light of the fact that the Department of Defense recommended against it, in light of the fact that the Office of Management and Budget recommended against it, and only at the last minute before the President sent the bill up here in the last Congress was it included.

There is one obvious answer. This was supposed to be a reorganization. Up until the point they put the Department of Defense dependent schools in this proposed bill, there was practically nothing in it except the current Office of Education. It is purely and simply a device to make this look like a reorganization. Does it make good sense? Not at all. These schools, operated around the world, have been under the jurisdiction of the Education and Labor Committee to a very limited extent, and principally the Armed Services Committee and the Appropriations Committee. Our members on both sides of the aisle on those committees, the ranking members, have recommended against this transfer.

There is no way the Department of Education can reproduce the support system that makes these overseas schools function, a support system that furnishes transportation, health care, housing, subsistence, PX facilities, and all the other things that go into operating the schools, maintenance of the schools, operating schoolbuses in these farflung locations around the world.

Either the Department of Education is going to have to construct a duplicate system of support which would be totally wasteful, or they are going to have to rely on the Department of Defense to continue to do what they have done before and then it proves that this is just a sham, a sham saying that we are transferring the Department of Defense schools.

If the argument that I have heard in the committee is legitimate, we should take all the Federal education functions and put them in the Department of Education, then perhaps we will find support for the amendments that I intend to offer to put the service academies in the Department of Education.

If the Department of Defense overseas schools can better be operated by the Department of Education, so can Annapolis and West Point, so can the Air Force Academy and the Merchant Marine Academy.

My colleagues, this is, as I said before, not a reorganization. It is not good education policy. It is purely and simply an attempt to fulfill a campaign promise. If it were neutral in its effect on kids and on education, I would not feel so badly about it. Go ahead, let the President fulfill his campaign promise. I do not know why we should help him do it; but this is not neutral in its effect. It will be detrimental to our educational system. It will move educational decisionmaking to Washington. It will lock in categorical aid. It will rule out bloc grants, educational revenue sharing. It will be very detrimental to our educational system. It will not help educate children.

I would hope that we would, when we get finally to voting on this, reject this proposition.

Mr. ASHBROOK. Mr. Chairman, will my colleague, the gentleman from Illinois, yield?

Mr. ERLENBORN. I would be happy to yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, first I want to rise to commend my colleague, the gentleman from Illinois, for his leadership in fighting this piece of legislation.

As one who served on the Committee on Education and Labor with the gentleman, I think we know that all the talk about section 103 should bring nothing but smiles, if not guffaws from all of us. We know the intention to control and get involved is there.

I thank the gentleman for what the gentleman has done. I only hope that this House will exercise good judgment in this matter.

Mr. Chairman, the bill we have before us, H.R. 2444, proposes to create a new Cabinet-level Department of Education. The creation of any new government entity calls to mind the general rules of administration of government. These rules, known to all those who study government state:

First. That government reorganization takes place to consolidate programs for better management control and to eliminate duplication;

Second. That government reorganizations take place to cut the cost of government; and

Third. That government reorganization takes place to realine influence patterns within a specific issue area.

Judging by all three of these criteria the proposed Department of Education is a dismal failure.

A new DOE would aggravate, instead of solve the problems its proponents claim need to be addressed. Just the DOE should scare us. The Department of Energy has been a dismal failure. This Department would be worse.

The first rule, that of consolidation, states that there are times where bringing farflung programs under one roof provides for better management of policy and programs. I fail to see where a DOE would accomplish this goal. Looking at the bill I see only a handful of education programs that are included. There are at least another hundred education programs, including the massive veterans educational benefits, Head Start, and USDA programs that are left on the outside of this new Department. Why are these left out? If the proponents are really serious of consolidation they should leave no stone left unturned. A new DOE, to follow their logic, should include anything that vaguely touches the education issue. By including everything the economies of scale would save millions of dollars, and the ability of some education czar to look at the big picture of education and to chart a national education course would be achieved.

"But no," cry the proponents, "this is not what we want at all."

They quickly point out that Head Start and other programs should not be in the DOE because, while they are education programs, they also link into other program areas and, therefore, need to stay where they are. I can agree with the proponents' assessment of these programs; however, I must then ask, "Can't this argument be made for those that are included under the DOE?" After all, are not DOD schools linked into the broader program for military dependents? Is not the Indian education portion of the Bureau of Indian Affairs linked directly to the trust responsibility of the Department of Interior? Are not the wide range of education programs in HEW many times used in coordination with social and welfare programs? At this the proponents leap up and say that there is a need for a new Department to provide a focus for education.

The number of programs within the Department are irrelevant compared to the new ability to have a Secretary who can command Federal programs without the hassles of the present system which splits education in HEW between an Assistant Secretary and a Commissioner of Education, they counter. I cannot understand this argument. Management control comes from within, not from creating something new. If there is inadequate control of education programs, inadequate coordination between agencies, or not enough scope for future policy planning, then it is the fault of the administrators of these programs who have not thought of picking up their phones and making local calls to their counterparts and to arrange staff meetings to talk out differences.

Good management does not need congressional authority, let alone bureaucratic meddling. I should hope that the education bureaucrats understand that they have an open invitation from this Congress, and every future Congress, to be competent. If there are any legal roadblocks to coordination or to one education official talking to another education official, these can be dealt with on an ad hoc basis. The shuffling of boxes in an organization chart usually ends up only shifting attention from policy problems to the problems of updating agency telephone books. As we have seen with the first DOE, our energy problems got worse while three agencies fought over who got the prime office space in the Forrestal Building. American taxpayers deserve better than this. New office space, new letterhead, and a shiny new official seal does not change the fact that the same old bureaucrats are administering the same old programs. We do not need to watch another Forrestal fiasco to know this, and in this time of inflation the taxpayer cannot afford to see it either.

The problems of our present education administration lies in the fact that the Federal Government is trying to do too much. We have lost sight of the fact that education was once a function of the family. This function was delegated to first the churches, and then to private institutions as knowledge grew and required specialization. The role of Government in education came out of a desire to expand educational opportunities to a larger portion of the population. At no time was there an indication that the goals of education or the substance would be dictated by anyone other than the parents or the individual school administrators. When government began to use the financial aid as an open door to meddle in other education matters the problems of administration began to arise. No amount of new agencies or consolidation will avoid this fundemental issue. Administration of education has become a victim of its own activism.

The first rule of government reorganization is therefore violated. We have before us no reorganization except in name only. We certainly have no consolidation. All of what we are hearing about better control and better coordination can be accomplished under the present structure. Reorganization is no substitute for better management.

The second rule, that of cost saving, has been trumpeted by the White House. Since this is still the era of proposition 13 and the tax revolt the proponents have hoped to snare some more votes by stating there are untold cost savings in a new DOE. These claims are still untold, or at least unsubstained. It is the old doublethink, more is less, new costs are savings, more employees are staff cuts. Even the Washington Post has seen through this sham. In an editorial they state:

> The House bill, for example, would give the new department a full complement of top management—a secretary, an undersecretary, six assistant secretaries and so on, for a total net gain of 56 executive-level and supergrade posts. As the Congressional Budget Office pointed out, these worthies would require supporting staffs numbering perhaps 100. You can hear the new furniture being ordered, the larger offices being leased and the payroll going up.

The proponents of DOE are quick to state that duplication will be eliminated by consolidating programs and that the overall cost of new supergrades will be more than offset by these savings. This sounds convincing, but I must refer to a letter sent by the chairman of the Armed Services Committee. In that letter he states that the transfer of DOD dependent schools to DOE would "rupture the interdependence between the schools and the military, creating significant logistical problems." The letter goes on to state that—

> Because these schools depend upon the Defense Department for a wide variety of services, the transfer will unequestionably lead to increased costs, confusion, and for several years, chaotic conditions.

This is hardly a cost savings. Even if this House votes to eliminate this unwise action from the bill it still makes me wonder why it was included in the first place. How can people who say the DOE is consolidating programs allow such a mistake to make it out of the Government Operations Committee? The same could be said for NSF education programs, BIA schools, and CETA programs. In all cases what might be gained in coordination is lost because new duplication and coordination problems are created. It makes me wonder why consolidate any of these programs at all, since in each case, you have to fudge a bit on numbers, and stretch a little on rationale, in order to make a case in favor.

If the new DOE will not help management and may even cost more than the status quo, then what will the new Department do? The third rule of reorganization is that the shuffling of boxes will affect the pattern of influence that impacts on policy decisions of a given agency. In the case of the DOE the education functions of HEW would be separated from the broader social and welfare functions. The impact of this realinement will have major implications for the future of American education. Under the present circumstances education programs in HEW are heavily linked to the idea of helping various deprived portions of our society. While there is more intervention into the local community than I would like already occurring in the Office of Education, at least it is somewhat tempered by being within the broader context of HEW.

By itself, however, the "E" in HEW would have an immediate need to justify its existence. This could lead to some very rash initiatives. In addition, there would be a longer run effort to justify itself that would mean an ongoing effort to intervene. Even with safeguards built into H.R. 2444 there would be some way for the bureaucrats to slip through a loophole and open a new front or affront on the American education system. I cannot recall any agency that has been successfully reined in by legislative language, except maybe our intelligence sectors. The DOE will be no different.

What groups will be served by this new Department? Parents and children are better served by local government or private institutions than by massive Federal programs. School administrators do not now like the amount of paperwork and regulations they have to put up with from HEW. I doubt they would like an "E" focusing in on their schools. Teachers should not like the DOE because classroom freedom is their livelihood. In fact, no group of citizens will benefit from some education colossus astride the Nation.

Do not be fooled by statements that there will not be control of local education. These same statements were made when Federal aid to education first passed. They were lies then and they are lies now.

There is one group, however, that can be found who would reap the benefits of a DOE. That group is the National Education Association (NEA). For some reason NEA is willing to have its members hamstrung by future regulations, bedeviled by future legions of bureaucrats, and burdened with future high tax bills in order to have an agency to call its own. This is fine for the NEA bosses who work in plush offices here in Washington. They will have agency bigwigs at their beck and call. But for the rank and file teacher there will be no ego trips, no cushy administrative jobs, no opportunity to influence policy. For the grassroots it will be business as usual. This helps no one but the Washington officials in NEA and a President who wants to deliver on at least one campaign promise before the 1980 primaries.

For the privilege of having their own Department the NEA has paid dearly. From 1974 through the 1978 elections the NEA spent $527,522 on Members of Congress who support DOE and another $68,125 on those who are undecided. One wonders about the merits of a new Department when this type of money is being expended to promote it.

Mr. Chairman, I would like to close by saying that I know of some of my colleagues who hope that the worst does not occur with DOE. That we will not get more regulation and more bureaucrats. Some hope they can go home to their constituents with a yes vote to silence the NEA and the wish that DOE will not come back to haunt them. Some in this Chamber hold out the hope that DOE will backfire on its supporters. That a DOE will be an easier target for parents and conservatives to attack. That by dividing HEW you will eventually conquer it at budget time. I am sorry to report, that in my years in Washington I have seen none of this ever come to pass. In my capacity as ranking member of the House Education and Labor Committee I have never seen any indication that Washington will ever give back what is ceded to it. It is best to draw the line and say "Enough." That is what the American taxpayer is saying, that is what parents of schoolchildren are saying, and that is what this Chamber should be saying when it votes on H.R. 2444.

Mr. HORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOLLENBECK).

Mr. HOLLENBECK. Mr. Chairman, I support the concept of a Federal Department of Education. Educational programs have been lost for too long within giant agencies with something else as their primary mission. Currently, more than 150 Federal education programs, with a budget in excess of $14.5 million, are scattered throughout 40 Federal departments and agencies. The majority of these programs are spotted throughout the enormous Department of Health, Education, and Welfare (HEW). I know many individuals and organizations have experienced frustration in trying to deal with Federal officials scattered in a variety of educational programs housed in separate agencies and departments. My view is that education, as a major national concern, merits efficient management at the Cabinet level.

This reorganization to upgrade the importance of education in Federal decisionmaking would be accomplished by a simple lateral transfer requiring no additional bureaucracy. It is an efficient and comprehensive blueprint to end the fragmentation of responsibility for Federal education and training. Education funding would be much less likely to be cut than it is as a discretionary-funded portion of HEW. The bill also guarantees the concepts of local control and academic freedom, so there can be no mistake about the mission of the Department of Education.

Most important and partially as a result of legislation I cosponsored last term, the bill prohibits the new Department from exercising any direction, supervision, or control over local education programs, personnel, or materials; a crucial section of the bill. It establishes an Office of Civil Rights and provides for an Intergovernmental Advisory Council on Education and an Interdepartmental Education Coordinating Committee. In addition, it transfers the DOD overseas dependents' schools to the new Department; and transfers Indian education programs from the Interior's Bureau of Indian Affairs.

Over the years, the Federal Government has maintained a limited, support role in education; there is no uniform Federal code for school operations, and Federal activities are fragmented in areas of research, demonstration projects, and categorical aid to stimulate certain programs, and the gathering and disseminating of relevant information. Currently, Federal education programs are administered by HEW and seven other agencies—Justice, HUD, USDA, Interior, Labor, DOD, and the VA—plus the National Science Foundation and the National Foundation on the Arts and Humanities, an extremely undesirable situation.

I am convinced after careful study that establishing a Cabinet-level Department of Education will lead to more effective coordination of the education-related activities of the Federal Government and give education the status and attention it deserves. Federal education programs will get the high-level leadership and management that they now cannot receive because of the complex structure of HEW, as well as a Cabinet-level advocate with direct access to the White House. The end result will be more efficient administration and greater accountability of education programs, the elimination of duplicative activities, and better service and less redtape for the States and localities. In addition, a separate Department of Education will ease HEW's administrative difficulties, making the new Department of Health and Welfare more manageable.

Opponents of the legislation state that in the long run, the Department will constitute an expansion of the Federal bureaucracy; and that its establishment will lead to greater Federal control over education. But they ignore provisions specifically devised to guard against such developments. I am a great believer in controlling bureaucracy, as my record shows, but I resent attempts by some to argue the valid principles of budget balancing and curtailing government's size in situations such as this where they simply do not apply. That action is not far from demagoguery at its lowest.

The programs designated for transfer to the new Department are as follows:

First, HEW: The bill transfers the traditional education functions of HEW to the new Department. In addition to the Office of Education and the National Institute of Education, the vocational rehabilitation and related programs, and the Office for Handicapped Individuals also are designated for transfer. Excluded from transfer are social security programs supporting rehabilitation services for the blind and disabled persons. In addition, the student loan program is centralized within the department including: health professions loans; guaranteed loans; nursing loans; and national direct student loans. The nonbroadcasting demonstration program will also be transferred.

Second, Labor: The high school equivalency program and the college assistance migrant program are transferred to the new department.

Third, Justice: The bill transfers the law enforcement education program and the law enforcement intership program.

Fourth, HUD: The college housing program, which offers direct loans and debt service grants to support private market loans, is moved to the department.

Fifth, National Science Foundation: The programs directed to precollege level science education; minority group science education; special interest group science education; ethnics and values issues are designated for transfer. I oppose this particular transfer.

Sixth, Interior: The Indian education programs and those of other native Americans currently administered by the Bureau of Indian Affairs are to be moved to Education. Within 1 year of the bill's enactment, the Secretary shall submit to Congress a transfer plan, prepared in consultation with Indian organizations. The transfers are effective at the same time as other provisions of the bill, but the President may transfer functions relating to school operation, construction and maintenance over a 3-year period.

Seventh, DOD: The bill provides for a 3-year phase in period for the transfer of DOD overseas dependents' schools, following a plan to be submitted to Congress within 1 year. The bill specifies that the Secretary is not authorized to operate overseas institutions of higher education.

One important facet of the bill, as far as the size of the Department is concerned is that it requires that the total number of full-time positions in the Department be reduced by 450 by the end of the first fiscal year after the bill's enactment. Thereafter, the number of personnel positions may not be increased by more than 50 in any year without statutory approval.

In conclusion, it is clear that the current structure of education programs encourages the Federal role in education to be inconsistent, redundant, and turf-oriented among Federal officials, with no one actively in charge at the top. In dealing with Federal education that bureaucracy now often misconstrues congressional intent, in addition to imposing overwhelming paperwork requirements on local school districts. A Cabinet-level Secretary of Education would undoubtedly be more sensitive, visible, and accountable. Inappropriate staff initiatives could be quickly curtailed and local interests protected.

In my opinion, an organized Department of Education would coordinate programs, and establish deadlines of responsibility. In doing this, it would express what should be done for education in this country. Instead of occupying a secondary position wihtin HEW, the new Department would give education greater prominence, visibility and the attention it so rightly deserves. I urge favorable consideration of the legislation presently before us.

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 2444, of which I am a cosponsor. This bill would provide for the creation of a separate Cabinet-level Department of Education, an idea much discussed and long overdue. Literally hundreds of Federal educational programs are scattered throughout 40 agencies. Obviously, when we talk about a reorganization of this magnitude, there is always some element of entrenched resistance to change. Yet at a time when the fiber of American education appears to be at a low ebb, we must restore confidence and accord education a top national priority. This we can do without injecting further Federal control since the degree of authority, programing, and involvement of the Federal Government in local educational matters lies with the authorizing and appropriating committees of this Congress, and we are not embarking on a policy of increased controls.

What we are talking about is streamlining. Cutting the layers of bureaucracy and redtape which promote inefficiency and delay in the delivery of services.

When dealing with the $180 billion bureaucratic giant which we call HEW, frequently education is overlooked or assigned a lower priority it deserves simply because more dramatic or urgent matters related to health and welfare require considerable time, energy, resources, and attention. While health and welfare matters do in fact require immediate and a more short-term attention, a better education is the underlying long-term solution to many of the most pressing problems of our society, including health and welfare problems. Ultimately the strength of the Nation depends on the education of its people. As our people—poor, middle class, or rich become better educated, our culture, civilization, and quality of life will attain higher levels. If we allow our educational services to deteriorate, we will by aiding and abetting the human degradation of our citizens and eventually the debilitation of our Nation

Nowhere in the civilized world is education almost relegated to the ranks of a secondary agency. More than just for prestige and aesthetics, a Cabinet-level Department of Education is needed if we are to ever untangle the current bureaucratic morass and accord education the attention it deserves.

I urge you to allow for a more refined and precise examination of the educational problems of our Nation by authorizing the creation of a separate department in the Federal Government to administer, monitor, improve, and make more efficient the existing Federal educational programs.

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Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, I rise in strong support of H.R. 2444, to create a separate department of education at the Federal level. I highly commend President Carter for initiating this proposal. I also commend Chairman BROOKS for his leadership in putting together this bill and expediting its consideration.

As chairman of the Education and Labor Committee I have carefully observed the state of education in this country over the years. Some time ago I concluded that separate department status would greatly advance the cause of education for several reasons.

First, I firmly believe that the organization of the Federal Government should reflect the value which our society places upon education. At the founding of our Nation, education was perceived as the cornerstone of our democratic system. I feel this still holds true.

More Americans than ever—nearly 1 in 3—participate in education in some way. Education also comprises a major sector of our economy, with 38 percent of the general expenditures of State and local governments going toward education. Increasingly, our citizens are looking toward education to ease national problems such as unemployment, poverty, and crime.

If these high hopes are to be fulfilled, the best possible educational leadership will be required. And to my mind, a separate department of education would be the best way to give this important enterprise a strong voice in the Federal Government. Passage of H.R. 2444 would demonstrate that we all take very seriously the challenges education must face in the future.

Second, the Federal Government already makes a substantial enough contribution to education to constitute a department of manageable size. The Federal Government spends almost $13 billion a year to carry out educational missions which State and local governments are unable to support with their own resources. And this dollar figure only includes programs in the Education Division of HEW.

The scope of this Federal commitment to education becomes even more apparent when compared with the budgets of existing departments. The Education Division's budget exceeds the budget authority of six departments, and is greater than the budgets of the State, Interior. and Justice Departments combined.

With passage of H.R. 2444, the role of the Federal Government in helping disadvantaged students, expanding educational opportunities, and exploring new approaches to new educational problems would acquire more visibility. And the State and local contributions to education would be enhanced, as a Department of Education would provide a highly identifiable forum for their problems.

Third, I believe that the placement of many education programs in the Department of HEW has hampered evaluation of these programs on their own merits, especially with regard to budgetary decisions.

Between 1966 and 1979, the Office of Education's share of the total HEW budget has declined from 11.5 percent to 6.3 percent. Most of this decline can be traced to a single organizational problem. Some 70 percent of the HEW budget—or more depending on the definitions used—is wrapped up in so-called uncontrollable expenditures.

While these uncontrollable expenditures are very important to our national well-being, their growth from $45 billion in 1970 to $132 billion in 1977 has created a situation where adequate appropriations for education become more impossible each year.

Because education programs constitute 60 percent of the controllable expenditures in the Department, they have too often been the target of past administration attempts to trim the HEW budget. And consequently, a great deal of energy has been expended by Congress and the education community in years past trying to bring education appropriations up to a decent level.

While Secretary Califano, through his strong leadership, has done his best to see that this does not happen, I fear that in years ahead, under future administrations, education may once again be forced to assume an overly large share of the budget discipline imposed on HEW.

Placing education in a separate department would withdraw this invitation for budget cutting. The new organization as a department would insure that funding decisions for the different programs would be considered on their own merits, rather than according to how they stack up against other HEW budget restrictions.

Mr. Chairman, for these reasons and the many others admirably put forth by my colleagues, I urge the Members of the House to show sensitivity to the needs of education in this country by passing this crucial piece of legislation.

Mr. HORTON. Mr. Chairman, may I inquire as to how much time we have remaining?

The CHAIRMAN. The gentleman from New York (Mr. HORTON) has 45 minutes remaining, and the gentleman from Texas (Mr. BROOKS) has 70 minutes remaining.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Chairman, reaching a decision on H.R. 2444, authorizing a Cabinet-level Department of Education, has been one of the most difficult tasks I have had since coming to Congress.

The basic argument of trying to get all Federal education programs under one roof, speaking with one voice and intent and accounting to one source, has a certain logic and merit.

It appealed to me to the extent that I cosponsored legislation in the last Congress and was inclined to support it again this year.

A number of considerations have prompted me to change my mind.

The crux of the decision we will be making rests in the answer to one question:

Will the children of this Nation benefit?

Where their education is concerned our good intentions cannot justify mistakes.

Their future—indeed, this Nation's future—is too important for us to risk jeopardizing their education in any way.

Other questions associated with the debate on the separate Department of Education also are valid: How much will its administration cost in the long run? Will it be more efficient? Will there be better accountability? Will more bureaucracy bring order to the myriad Federal education programs? Is this the best way to get rid of any problems in our current programs? Is it really needed? Can we successfully keep local control?

These questions demand answers, but the bottom line remains:

Will the children of this Nation benefit?

A separate Department of Education is a valid option which must be thoroughly and actively considered in seeking the best means of helping our children obtain the skills and learning they will need to meet their future challenges.

That a Department of Education, training and careers might provide a better solution to our chronic problems of unemployment and underemployment which beset young people—particularly minority young people—than our habit of enacting crash public service training programs was a prime consideration when I joined our former colleague, the Honorable Al Quie, in sponsoring H.R. 6157 in the 95th Congress.

This measure was far from perfect, but it was more forthright at the outset than the measure we are considering today. In addition to Office of Education programs, H.R. 6157 incorporated many of the vocational education and training programs which, under H.R. 2444, remain scattered throughout the bureaucracy.

As I see it, one of the most serious problems with H.R. 2444 is that it purports to reorganize education programs into one department, but in reality it consolidates and transfers comparatively few of them despite the fact it will start out with more personnel than several of our other Cabinet departments.

I have to ask: Why is not the Department of Education the place for CETA if it is the place for the Office of Education's vocational programs? Why do not we have Head Start if we have elementary and secondary? Why some health education programs, not others?

The problems with H.R. 2444 are not unlike those which arose during our consideration of the Consumer Protection Agency when we had to exclude one group after another.

If the idea is so good to begin with, why must we have all the exemptions?

If a Department of Education is good for education, why are so many education programs left out?

As I considered H.R. 2444, these questions occurred to me again and again.

How much will its administration cost in the long run? I begin to worry whenever Congress authorizes anything with the phrase "such sums as may be necessary." This phrase is not an invitation to save money; to some it is an invitation to see how much can be spent.

Those who believe a separate Department of Education, authorized to spend "such sums," will make much effort to hold the line on expenditures have not paid much attention to what has happened when other departments were created under similar pretenses.

Currently the Federal Government is providing about 8 percent of the school budgets of this Nation. One of the strongest proponents of this measure, the National Education Association, is firmly and repeatedly on record advocating Federal participation of one-third. One can be certain that if participation expands, administrative costs will escalate.

Down the road, as we start appropriating "such sums" in accordance with a better coordinated federally mandated educational policy, what becomes of the diversity, the opportunity for innovation and the alternative choices which are now part and parcel of local control?

Will we completely abandon the concept of bloc grants and the opportunities now available under programs like revenue sharing? Will these be sacrificed to expanded categorical grants-in-aid determined and regulated by the policy then current?

A partial answer to this question, I submit, may be found in the original decision of the House when we voted to cut State revenue sharing from the first budget resolution. In South Dakota and in a number of other States, State revenue sharing is devoted exclusively to the support of local schools—no strings attached.

This decision—even though amended somewhat by the conference committee—does not bode well for retaining local control, regardless of our good intentions.

Will a separate department be more efficient? We have no indications of how new efficiences will be accomplished despite the good intentions of those who propose to effect them.

Will there be better accountability?

The local school board and school administrators are currently accountable to local school patrons who foot most of the bill. As the burden of funding educational programs passes to the Federal Government, it can be expected that education department officials ultimately will have more say than the local school board, despite the good intentions stated in section 103 of H.R. 2444.

Further, in our concern for retention of local control, we also must be wary of the precedents set in this bill for direct operation of schools.

I will not dwell on the transfer of the Department of Defense dependents schools, other than to note that this is the one exception I would allow in a Department of Education bill. DODDS should not be included because they are a unique entity wherein the Department of Defense assumes the role of school administrator and Congressional Armed Services Committee are the board of education.

DODDS is a school system, not an education program in the context of other education programs to be included in the separate department.

Will more bureaucracy bring order to Federal education programs?

This is what we hoped would happen when we created the Department of Energy. Once more, our intentions were good; our results are near disaster

Much is made of the bill's personnel reduction provisions. I do not question our good intentions of limiting the number of education department personnel as set out in H.R. 2444. On previous occasions, however, we have set personnel limits for the White House, but this has never stopped the White House staff from growing. They merely "detail" people from other departments to serve their purposes.

Is a separate department the best way to get rid of the problems bogging down current programs?

Proponents of H.R. 2444 point out that currently routine regulations which must be published before funds can go to needy school districts and students take an average of 519 days to be issued. They claim a Department of Education will cut this time approximately in half by eliminating 15 offices from the clearance process.

This may be well and good. But, if this bottleneck is so clearly identified already, do we need a separate Department of Education to get rid of it?

Could not some administrative action take care of it better and faster?

And, perhaps more important: Are needed checks and balances in jeopardy?

Can a Department of Education avoid politicization?

I believe the answer is "No."

Federal policymaking—and a Federal Department of Education will be making education policy as a matter of course—is, of its nature, politicized.

Mr. Chairman, these are some of the concerns which have gone through my mind as I have considered H.R. 2444.

I must also mention a broader concern.

My mail—my visits to South Dakota—your mail—your visits to your districts—all point to one fact:

The American people are fed up with Government interference.

They are tired of all the problems, the costs, the redtape, the regulations and the irritation they have—thanks to EPA, OSHA, MESA, HEW, IRS, CPSC, and the layers upon layers of bureaucracy of the programs we have enacted, supposedly for their protection and benefit.

They are sick of the expense. They are sick of the paperwork.

Most of all, they are sick of inflation which these programs cause.

A small sampling of South Dakota opinion is contained in this editorial from the May 25, 1979, edition of the Rapid City, S.D., Journal:

EDUCATION SUPER-AGENCY NOT ANSWER TO PROBLEMS

> Establishment of a federal cabinet-level Department of Education isn't the way to solve the problems which face education in this country.
>
> There are problems. In spite of money, resources and commitments on national and local levels, test scores and enrollments are declining and costs and headaches are increasing.
>
> The question is who should solve the problems? Should they be solved in Washington or at home?
>
> That's the central issue in the debate over legislation to establish a separate Department of Education. The Senate has passed its version of the bill, backed by President Carter, by a comfortable 72 to 21 margin. A similar bill passed a House committee by a 20 to 19 vote. All that's required now is for the full House to go along and the president will have fulfilled a campaign promise to the powerful National Education Association. That promise won an NEA endorsement, considered a critical factor in Carter's election in some states.
>
> Although the legislation was amended in response to concerns about adding to the federal bureaucracy and increasing federal control, it stretches belief to suppose a new department would cooperate in holding down its own expansion and its influence on those it is supposed to serve. Precedent is to the contrary.
>
> The department itself is not protected from dominance by the NEA. The bill does not protect teachers from agency shops, a form of compulsory unionism, nor does it prohibit strikes.
>
> We're not convinced that local control of education won't be diminished if the new department is authorized. There's a tendency on the part of the federal government to control what it funds: In recent years, as the federal share of educational costs has risen, local school districts have become increasingly ensnared by federal regulations. Creation of a separate Department of Education will only increase that trend.
>
> Creation of a new department will increase the status and visibility of education in the federal government. What concerns us is its potential costs and the danger that it will lead to further centralization of educational policy—a responsibility that traditionally has been, and should continue to be, within the province of local school officials.
>
> At a time when the federal bureaucracy should be contained and when there is a national concern over the problems of education, the last thing this country needs is to inflate the federal education establishment into a super-agency.
>
> The House should defeat the legislation.

Mr. Chairman, in all fairness, I must commend the Government Operations Committee for the improvements they have made since H.R. 2444 was introduced.

They have made a concerted effort to include language addressing some of the concerns we have all had over retention of local control and bureaucratic growth.

Commendable though their efforts be, doubts remain over local control, over costs, over bureaucratic growth, over politicization, over the exclusion of some programs, over academic freedom, over accountability, over the future of what has come to be known in this country as our tradition for educational excellence.

If we approve this bill, there is no turning back.

There will be no Presidential veto.

There will be no effective sunset provision.

In time, regardless of all the steps we may take to prevent it, executive orders and reorganization schemes may transform any department we create, congressional intent nowithstanding.

Good intentions are not enough.

As I said at the outset: Our decision must hinge on one question:

Will the children of this Nation benefit?

If we have any doubts at all, we should not vote for a separate Department of Education.

My doubts have caused me to change my mind about a Cabinet-level Department of Education and I intend to vote against this proposal.

Mr. HORTON. Mr. Chairman, I yield 7 minutes to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Chairman, I rise in strong opposition to the proposal before us this afternoon. I can imagine no legislation that would go farther in a direction which is adamantly opposed by the great majority of our constituents.

In spite of the rosy predictions about saving money and the disclaimers of section 103, I think a Cabinet-level Department of Education would serve to cost the taxpayers more money and result in more Federal intervention in local affairs.

The thing that bothers me most about this bill is not the threat of control of education by the Federal Government, although that is certainly an issue we need to address, but it seems to me the bill is a slipshod and perhaps a very ill-disguised attempt to create a national education policy and thereby break a long tradition of very limited Federal involvement in the national education scene.

The President of the National Education Association said recently, and I quote:

> Creating a Department of Education is, indeed, a profound step in which the Federal Government will be recognizing, for the first time, that it has a responsibility for education in and of itself.

It is true that we have authorized education bills and we have spent money for educational purposes in past years, but I would like to point out to my colleagues in the House that those authorizations and those expenditures have been made to serve purposes which are only indirectly related to education.

For example, after World War II the GI bill was adopted as the law of our country. Its purpose was to ease the transition of servicemen to civilian life and to prevent large-scale unemployment, but not as an aid to education per se.

In the 1950's, after the Sputnik success of the Russians, we became concerned about the status of our scientific programs, and as a result we adopted the National Defense Education Act to sponsor science, not to aid education.

In 1965 we enacted the massive Elementary and Secondary Education Act as part of President Johnson's war on poverty program. The emphasis was on compensatory education for the disadvantaged. It was a civil rights and income redistribution measure, not an aid to education measure.

I would suggest that programs for the handicapped, for those having English language difficulties, and for Indians, are largely civil rights measures, and the same is true of higher education. Programs to increase opportunities for low-income students are not to aid directly colleges and universities.

It seems, therefore, that when we have embarked into the field of education, we have done so to serve Federal policies such as national security, antipoverty, civil rights, labor, child welfare, veterans' benefits, and many others. As a result, the Federal Government has never found it necessary to adopt an education policy.

As a further result, we find that these programs are scattered throughout the various agencies and departments of Government because they were enacted to serve other established Federal aims.

Therefore, it seems to me that the real question here is not one of control, but the degree of Federal influence. Again, in spite of section 103, which I think is redundant and of little value—it does not curtail influence—I think the question will arise as to where the Federal dollars go and where they will be withheld in an effort to exercise that influence. What requirements will be attached to these dollars in order to exercise such influence. What approach will be adopted by the Federal Government as to teaching? What subjects would the Federal Government like to see schools teach?

It seems to me that only the most naive would believe that Federal priorities would not be applied through a Department of Education and eventually prevail.

Those in favor of the Department of Education argue that it would increase efficiency and coordination. It seems more likely, however, that such a department would seek endlessly to expand its authority and to increase its power. Such is the inherent nature of a bureaucratic agency.

There is clearly no consensus, even within the educational community, that a Federal Department of Education makes sense.

This bill was reported to the House by the Committee on Government Operations by a single-vote margin. The presidents of the University of California and of Stanford University, both located in my home State, strongly oppose the concept.

Perhaps the most compelling reason for voting "no" on this measure, when we do have a chance to vote next week, is that a Federal Department of Education is a threat to the local control of local concerns and problems. Our educational institutions are already overburdened with rules, regulations, and paperwork.

One example, of which I am sure my colleagues are aware, is the effort by HEW to apply title IX to colleges and universities in a fashion that certainly exceeds congressional intent.

Do we really want to create a department solely responsible for such activity? Do we want a monolithic program or a system which reflects the diversity which has made America the great country that it is?

Mr. Chairman, a recent poll of my constituents indicates that more than 70 percent oppose the creation of an education department. I share their view that we do not need a new bureaucracy and enhanced intervention to solve our education problems. Accordingly, I ask my colleagues to join me in opposing H.R. 2444.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. SHUMWAY. I am happy to yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Chairman, along the lines of the gentleman's argument, with which I would like to associate myself, I would like to make reference to the contentions of the Office of Management and Budget.

□ 1750

As I understand it, the administration does not claim a Department is necessary for developing a national education policy. On the contrary, Mr. McIntyre acknowledged that the Federal role in education is "limited and specific." This is a fundamental point that deserves emphasis. The proposed department is not intended to be an instrument for developing a Federal policy for education.

If educational policymaking is not at issue, then, what is the justification for a new Department? The administration bases its case on improved management. In Mr. McIntyre's words:

> The question before the Congress is simply this: How do we most effectively manage more than 150 Federal education programs? Do we do this through a separate Department, as the administration has proposed, or do we continue with the existing organization?

He then proceeded to present the case for a separate Department.

I would have no objection to giving education Cabinet status if this step were necessary to produce more effective and economical program management. I regret to say, however, that I am not persuaded that better management would automatically follow.

Of greater importance, I find it disappointing that the administration has not given attention to another management option—namely, a critical review of those 150-plus education programs to determine how many of them are really needed today.

Mr. SHUMWAY. I appreciate the gentleman's remarks.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the bill.

Mr. Chairman, the proposal we have before us to create a Federal Department of Education is very similar to a bill which was reported last year by the Committee on Government Operations, but was not considered by the House. Once again, the proposal brings a number of education-related programs together under one umbrella. Once again, the proposal omits almost as many education-related programs as it includes. And once again, the proposal, touted as a streamlining of the bureaucracy, makes obvious omissions for the sake of political expediency.

It is interesting to note that a number of organizations related to education in our society are willing to support the proposed department (or are, at least, unwilling to oppose it), but only on the condition that they not be included in it. Take for instance the child nutritionists who are accustomed to dealing with the Department of Agriculture and have no desire to disrupt an established relationship; or the science education people who wish to remain with the National Science Foundation, or the Head Start program, or the veterans, or a long list of others who simply want to continue pursuing their missions without any additional bureaucratic interference.

In order to narrow the opposition to the bill, these programs were omitted from the proposal. And now I have learned that the nurses wish to be excluded. And the Indians can not abide the thought of leaving the Bureau of Indian Affairs for a Department of Education. I am wondering who wants to be included in this new department at all.

Mr. Chairman, this is not my primary objection to the bill, however. It is only an indication I wish to call to my colleagues' attention that many people and organizations deeply concerned with education, have strong objections to this department—so strong that they want nothing at all to do with it.

My primary objection rests on the question of who is going to run the schools in this country in the long run. Will they be run by the local school board which, in Ohio, is elected so that it must carry out the goals of the citizens and parents of the community? Or will they be run by theorists sitting hundreds of miles away in a Washington office building, trying to devise a program that will fit every possible need throughout the Nation, which will not, in reality, fit any single need.

Mr. Chairman, I represent 43 high schools in the Seventh Ohio District. Only two of these are, what has traditionally been viewed as nonpublic schools, or parochial. But we are seeing a large growth of Christian private schools in my district. These schools are springing up because parents feel they need more control over their children's education. They want teachers and administrators more responsive to their needs.

These schools are a local response to local needs. A Federal Department of Education would not help this movement because it could not be sensitive to their individual needs. The only approach the Federal Government can take to problems is a broad sweeping approach.

I also represent 10 institutions of higher learning. One of these is a technical or vocational education college of outstanding quality. In fact, the State of Ohio gave birth to this relatively recent development in education—these schools which teach young people technical skills with which they can go out and earn a good living and, at the same time, fill the community's need for skilled workers. These technical schools were created by local people responding to needs within their community. We are very proud of these schools in Ohio, as well we should be.

Also among these 10 institutions are two black universities. One of these, Wilberforce University, is one of the oldest black colleges in the Nation. It was founded because, during the days of the Underground Railroad, Wilberforce, Ohio served as one of the terminus points of the railroad. Wilberforce University was born of the need of the former slaves who settled in the area—a local response to a need within the community.

Also, I might point out, Ohio was the first State to provide higher education for women. Again, not because of Federal impetus, but because of the community's needs.

All of these institutions are unique. And because of this diversity in our schools, individuals in this country can choose a school which will serve his or her individual interests and desires. I submit that a Federal Department of Education would stifle this diversity by strongly encouraging, if not actually mandating, that principles devised by bureaucrats sitting in Washington, be applied across the board at all institutions.

We are not a nation of carbon-copy citizens. I believe this is what makes our Nation great. But we cannot continue to nurture unique individuals if our schools cease to be unique institutions, and I would strongly urge my colleagues to defeat this unwise—no matter how well-intentioned—proposal.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN. Mr. Chairman, I rise in support of H.R. 2444, which will consolidate existing Federal education programs into a new Department of Education. The proposal before us today is essentially the same bill developed by the House Government Operations Committee, on which I had the privilege to serve in the 95th Congress.

Although I was not an original cosponsor of that bill, I did join as a cosponsor of the product which merged from that committee, and I am a cosponsor of this bill, H.R. 2444.

While I respect the sincere concerns that opponents of this measure have expressed, I am convinced that its reorganization and management accountability advantages give us a good bill. However, before going into the merits of the bill, I would like to comment on its politics. As most people here know, President Carter made it a matter of partisan politics with the National Education Association in his 1976 campaign for the White House. Somewhat belatedly for those Republicans who worked on this issue last Congress, my party took up the issue a couple of weeks ago and decided to make it a matter of partisan politics.

Now, Mr. Chairman, let me make it clear that I do not fault the partisanship involved at all. Good, healthy partisanship recently produced important legislative changes in our allies, England and Canada, whereas we have not had a real change in the policymaking branch of our Government for 26 years. So, since I believe in the important governmental changes which partisan politics can, and indeed, should bring about in this country because of some basic problems plaguing us, I do not find anything wrong with making the Department of Education a political issue.

I just disagree with the conclusion reached by my party; and in a recent letter to our colleague Bob Michel, the distinguished minority whip, I went into this in more depth than is needed here.

As far as the connection between politics and Government is concerned, I want our next Republican President to have an executive branch organized along lines that permit management accountability; and I want—and probably have more optimism about this than most of my colleagues—a Republican Congress which, with a better organized executive branch, can better exercise legislative oversight of the bureaucracy.

Mr. Chairman, all my training and experience in business as well as public administration in the years before I came to the Congress convince me that Government reorganization in education is absolutely needed. People run this Government just as people run our businesses, our farms, our factories, our professions, our hospitals, and all our other private endeavors. And when we find that we in the Congress, and the President of the United States in his role as top manager of the bureaucracy, cannot easily identify personal accountability in education, then we have a serious institutional problem.

I believe this organizational problem of public administration must be corrected. We can disagree about how to reorganize the vast array of Federal education functions spread all over Washington with no interface whatsoever, but I do not think we should ignore the need.

In this fiscal year, we will spend almost $25 billion of Federal money on education and education-related functions. This is not State money; it is not local money. This is $25 billion of Federal money, and I think we ought to know who is spending that money and what the taxpayers in this country are getting for their $25 billion of Federal money going into education.

Under the present scheme of things, we find Federal education dollars being spent in more than 40 different departments and agencies, including the Agriculture Department, the Labor Department, the Defense Department, the Interior Department, the Justice Department, and the Department of Housing and Urban Development, to name but a handful of the diverse agencies of Government here in Washington which currently have a hand in education yet have no education linkage whatsoever.

Because of the fragmentation and administrative chaos this presents both our Chief Executive and the Congress, H.R. 2444 serves an extremely valuable purpose in beginning the process of reorganizing these disjointed functions into one agency. It does not go as far as I would like, but in terms of management control over the programs involved, it goes three quarters of the way, and that is a good start.

Other supporters of the bill have debated its value in eliminating the current duplication of programs and overhead costs, so I will not go into that except to say that in matters like vocational education and manpower training, we must have better coordination between education and the world of work so that we begin to treat people as whole individuals, not program "types."

However, there is one last issue which needs to be addressed: The potential intrusion of Federal policy into local schools because of this legislation.

Mr. Chairman, this is one of the most serious concerns that people, including me, have had about this proposed new Department of Education. Like many other supporters of this bill, I did not come on board until this concern was adequately addressed.

In hearings before the House Government Operations Subcommittee on Legislation and National Security, on which I served during the last Congress, Charles B. Saunders, Jr., of the American Council on Education testified on this defect in the original bill and asked that strong language be added to the bill to prohibit Federal control of education.

During the markup of the bill by our subcommitee I offered an amendment which was accepted and I am pleased to say that this amendment is in H.R. 2444 as section 103. This section entitled, "Prohibition Against Federal Control of Education", contains a "* * * clear prohibitive on Federal interference in matters which have been traditionally left to be decided at the State, local, or institutional level. These locally decided matters include the curriculum, program of instruction, administration, personnel selection, selection of library resources, textbooks and other educational materials." as is pointed out in Committee Report No. 96–143 for H.R. 2444.

Thus this measure in no way, with this clear protection, can be construed as a means of federalizing our State and local schools.

H.R. 2444 is not a perfect bill. As I suggested earlier it can be improved during the legislative process in this Congress and by additional legislative action after it becomes a reality. But it seems to me this is a good vehicle for reorganizing and providing a basis for better management accountability of the billions of Federal dollars we spend on education, and I urge the House to support it.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Hawaii (Mr. Akaka).

Mr. AKAKA. Mr. Chairman, I rise today to urge my colleagues in the House to support the creation of a Cabinet-level Department of Education. There is no question in my mind and in the minds of my colleagues that education and the education process is vital and very important to the survival and welfare of not only this generation but succeeding generations. And yet we have permitted our Federal Government to exist with a huge Department of HEW and to have education-related programs to be a part of a large department with two other agencies.

□ 1800

The primary goal of this Federal agency is to improve the coordination of Federal education programs by eliminating unnecessary layers of the present bureaucracy.

It will not change the working relationship with the State, local, and private sectors. Instead, the primary responsibility for education will still reside with the State, local, and private institutions.

However, formation of a separate Department of Education will provide more reliable and more responsive support services to States, localities, educational institutions, and students, and will respond to their needs.

Two more related objectives of the Department of Education are greater accountability of and increased attention to Federal education programs.

The present structure of the executive branch does not allow sufficient consideration of education matters by the President, the Congress, or the American people. The Federal education programs are too often submerged beneath the Department of Health, Education, and Welfare's dominant responsibility to health and welfare. Nearly 90 percent of the total HEW budget is allocated to such programs as social security and medicare. Since Federal spending for education is included in this budget, Federal education programs are the prime targets for fiscal reductions.

The CHAIRMAN. The time of the gentleman from Hawaii (Mr. Akaka) has expired.

(At the request of Mr. Brooks and by unanimous consent, Mr. Akaka was allowed to proceed for 1 additional minute.)

Mr. AKAKA. As a former educator, and with the support of our National Education Association and educators in my State, I firmly believe that quality education is essential to the continued development of our great Nation.

Therefore, most importantly, the great visibility of a separate Department of

Education will strengthen the Federal commitment to equal educational opportunities for every American.

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. COLLINS.)

Mr. COLLINS of Texas. Mr. Chairman, we are being asked to approve legislation to create a Cabinet-level Department of Education. We are supposed to fund this new department with $14 billion and staff it with 16,200 bureaucrats. It is interesting to note that there are 16,000 school districts in the United States, which sets up a bureaucrat-to-school district ratio of 1-to-1.

However, before we create this new all-powerful bureaucracy in Washington let us look at past experience. The last time Congress was asked by the administration to create a new Federal Department was in 1977. To solve our energy problems President Carter asked for, and received, a Cabinet-level Department of Energy with a budget of $5 billion. In only 2 years, energy has progressed from a problem to a crisis, and the Department of Energy's budget has increased from $5 billion to $11 billion. Overregulation of the oil and gas industry by the DOE has caused domestic production of oil and gas to decrease to the point where we now import half of our oil requirements.

By creating a new Department of Education, the same crisis will occur in education that has occurred in energy. The educational problems in this country are not caused by a lack of Federal intervention but from too much Federal involvement. Under the programs of the New Frontier, the Great Society, and the "educational modernizations" of the 1960's, education in America drifted away from the basics of reading, writing, and arithmetic. Furthermore, the Federal Government became involved with education through forced busing, affirmative action quotas, and enforced educational experimentation which has greatly interfered with the discipline and authority of school principals and teachers.

This bill not only centralizes educational policy at the Federal level but it also mandates the new Department shall run schools. They will be in charge of all military base schools and Indian schools which means they will have the dual capacity of creating and carrying out policy. Their standards on books and courses for Federal schools could become "Federal guidelines" for all public schools who receive Federal money. Past experience would remind us that "Federal guidelines" usually become Federal regulations.

Results show that as Federal intervention in education increased, scholastic achievement decreased. In 1964 and 1965, when the Federal Government first decided to become involved in local eduational activities, the scholastic aptitude test (SAT) averages were 473 verbal and 496 math for a 969 total score. Every year since, there has been a steady decline in our students' test scores. In 1977 and 1978, the SAT averages were 429 verbal and 468 math for an 897 total. We must reestablish leadership in the local school board.

It is interesting to me to see how many organizations are opposed to the creation of an all-encompassing Department of Education. The AFL-CIO, the Washington Post, the Christian Science Monitor, the American Federation of Teachers, the National Catholic Education Association, and my State school board of Texas all oppose the new Department.

At a time when Federal interference is ruining our educational system by causing mismanagement, creating higher costs, decreasing teacher-principal discipline, and preventing a return to the basics in education, we do not need to enlarge the Federal Government's role in education. At a time of rampant inflation and huge budget deficits, we do not need a new bureaucracy that costs $14 billion a year to maintain, and is guaranteed to grow. All the money will just be used to increase the Federal regulation of education. And, Mr. Speaker, the country does not need, and cannot afford any more Federal regulation.

Let us sum up why the creation of a Department of Education is no good for the United States.

A separate Department means more spending. In 1977 Congress created a Department of Energy with $5 billion. In 1979 the Energy Department got $11 billion. And energy had grown worse from a problem to a crisis.

The Federal Government's active intervention in education began in 1964. School achievement has gone downhill ever since, as SAT grades decreased from 969 total in 1964 to 897 in 1978.

This bill puts the Department in charge of schools, teachers, courses, and curricula at military bases and Indian schools. We should anticipate that these rules will become the guidelines and Federal regulations for local schools in a few years. Local school boards are best.

Mr. HORTON. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Chairman, I thank the gentleman from New York for yielding to me.

Mr. Chairman, I would like to address the real nature of what we are doing with this Department of Education, because it seems to me that we have a long tradition in this country of offering outstanding education to youngsters. It is a 200-year history.

Over that 200-year history, the strength of education has been in its diversity. That diversity has come from the fact we have always believed that education should be centered on the child. Child-centered education has always been the most important thing in this country.

The way we centered it on the child was keeping this as localized as possible, starting with the one-room schoolhouse and building up through. We have always believed that the parents, the teacher, and the children, contributed something together and that nothing should interfere with that interrelationship, and particularly nothing should interfere with the relationship between the teacher and the student at the base.

Now we hear the argument from the people who would support this Department that somehow this new Department of Education should become the focal point of education, that this should become the national focal point where education happens.

That means that education is no longer going to be child centered. It means that education is going to become program centered, because that is all this Department is about. It is about programs, more and more programs, bigger and bigger programs.

That is disturbing, because that leaves the child out of the equation and moves us toward the day when the whole idea behind education will be how effective are our programs. That is not measured in good learning. That is not measured in good education. That is measured strictly in redtape.

Now, the argument that this is not redtape, that it is not bureaucracy, that it is not programs, can be looked at simply by looking at the structure of the Department. We are creating in this Department—and I have a chart here to try to help the Members with some of the numbers—we are creating in this Department 90 new supergrades and executive-level postions. That means that we are going to increase executive-level positions in the Department alone on a permanent basis by 500 percent over what is now in the Office of Education. That is an extension of bureaucracy, pure and simple.

We are going to spend for those new supergrade and executive-level bureaucrats, $4.5 million, and we are going to expend that even more with their staffs by spending and this is based upon the staffs that went to the Department of Energy by another $3.2 million.

But even if you just take the $4.5 million that we are going to spend for the executive-level and supergrade positions, we find that we could hire 297 teachers at the average pay across this Nation for what we are going to pay for big-level bureaucrats in the Department of Education.

What does that say about our commitment to the teacher-student relationships, if instead of hiring teachers across this country, we are putting high-level bureaucrats in place?

We are going to be spending in this new Department $774 million for new paperwork, new paperwork that is going to be distributed at local school districts.

The result is that 968 new pieces of paper, that is almost 1,000, new pieces of paper are going to arrive at every school district every year, because of this Department.

Mr. HORTON. Mr. Chairman, would the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. HORTON. I would like to know how the gentleman arrives at that figure of $774 million as the cost for the additional paperwork burden.

Now in the present situation, the way it is set up, we have to go not only from the Office of Education, but we have got to go through the assistant secretary level, and then we have to go through the Secretary level of HEW. There is a lot of paperwork. I am sure the gentleman will agree with me. There is a lot of paperwork there that will be eliminated by the creation of the new department, because we eliminate those levels of bureaucracy.

I am curious. As the gentleman knows, I served as the Chairman of the Paperwork Commission. I am interested in eliminating paperwork.

☐ 1810

Mr. HORTON. But I am at a loss to understand how you can keep the present Office of Education and not pass this bill creating a Department of Education and save $774 million on paperwork.

Mr. WALKER. I thank the gentleman for his question because I am well aware that he served as Chairman of the Paperwork Commission and, in fact, the statistics the gentleman developed as a part of the Paperwork Commission we used in order to develop this figure. The only way we felt we could do it, and admittedly it was a tough calculation, but the only way we could do it was take the number of pieces of paperwork generated by the Federal Government, which the gentleman's Commission I think did an outstanding job in setting down for us for the first time, and figure out how much of that is generated by each executive level and supergrade position. Then we took that times the new positions that are being created in this Department. If you take the new positions being created, you all of a sudden come up with how much additional paperwork is going to be generated from the Department. That is where the figure comes from.

It breaks down to the fact that we are going to end up with nearly 8,000 new pieces of paper going into every school district every year. That is not what educators want. Educators have been told that this Department was going to eliminate paperwork, it was going to do something about getting rid of all of this redtape that they have been burdened with and they have been tied up with. Teachers tell me that I talk to that the real problem they face is the fact that they are spending less and less time teaching children and more and more time filling out paperwork from all levels of Government, most of the time emanating from the Federal programs.

Now, what we are going to do is end up giving them even further problems in that regard.

Mr. HORTON. Mr. Chairman, would the gentleman yield further?

Mr. WALKER. I will be glad to yield.

Mr. HORTON. I want to agree with you, that is what the Paperwork Commission found at different levels, and that is one of the reasons why I am convinced that the establishment of the Department will tend to cut down on paperwork, because there is an awful lot of paperwork generated at these two levels of HEW, at the Secretary level and at the Assistant Secretary level.

And it seems to me that, and I understand now what the gentleman pointed out with regard to how he got the figure, the gentleman has taken these supergrades at 90 and just multiplied by a number and come up with 774.

Mr. WALKER. I thank the gentleman for his point. But, you see, what you are talking about is internal paperwork. What I am concerned about is the paperwork that is going to get out to the school districts because that is what we are concerned about. The internal paperwork that might be saved—we are not even sure of that—but what we are certain of is if you take all of these new Assistant Secretaries and new people that are going to have no other function but to generate paperwork, that paperwork eventually is going to end up back in the educational institutions; namely, the local school districts across this country. That is what we are concerned about in this Department.

Mr. ASHBROOK. Mr. Chairman, would the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. The gentleman is absolutely right. And I have placed in the RECORD on three occasions this year some of the paperwork response that was generated under a law we passed in this House.

Quite often we pass laws and we never really pay much attention how they impact on people at the local level. The Federal Register contains the results. I would say about 90 percent of the paperwork burden created on local schools by our educational programs and on the States, which then require of the local schools, a lot of the paperwork burden comes from the State, but it is required by a Federal provision, the State school authorities. So, you add the two of them together and it came up to almost 5 million man-hours, or woman-hours, or whatever the gentleman wants to call it, teacher-hours per year generated by our operations here. I think the gentleman is absolutely right. It will increase, not decrease, and anybody that thinks that it will decrease, I hope that we are around in a couple of years to remind them they said it.

Mr. WALKER. I thank the gentleman for that contribution because that is precisely the problem, and that is precisely the thing that has made educators I think somewhat enthusiastic for the idea of a Department of Education, because they have been told that it will decrease their paperwork, not increase it. But, when we sit down and look at the figures we see they will be deluged under more paperwork. I think the same educators today who are claiming they would be in support of the people who support this Department are going to be very much opposed to the people who have dumped all of that additional work on them for no good purpose in terms of education.

I come back to the point that that teacher-child relationship is the fundamental relationship, and anything which separates the teacher from the child; namely paperwork or namely big Government, is going to do a disservice to education. That disturbs me highly.

I think there is one other figure that we ought to think a little about too, and that is nobody has really mentioned the fact that we are going to end up with this Department that is going to have to go somewhere, going to have to be moved into a building somewhere. I do not know if that is going to result in new construction or not. I do not know of any empty Federal buildings sitting around. But nevertheless, if it does go into a new building, the most recent HEW Building, the Hubert H. Humphrey Building, that particular building cost some $40 million.

I took the time to check and find out how much classroom space we might be able to build in this country.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. HORTON. Mr. Chairman, I yield 5 additional minutes to the gentleman from Pennsylvania.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 5 additional minutes.

Mr. HORTON. Mr. Chairman, would the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman.

Mr. HORTON. I am at a little bit of a loss to know how the gentleman got the 90 new executive level and supergrade positions. According to the Congressional Budget Office estimate of May 7, they state that H.R. 2444 authorizes a net increase of 14 executive level positions and 42 supergrade positions, GS-16 to GS-18 to the current total. The gentleman saying 90. I cannot reconcile the 14 and 42 with the 90 that the gentleman has.

Mr. WALKER. Well, the gentleman has not included in that, of course, which I included, the 15 temporary positions created for a 3-year period at the executive level, and that also is being created as part of this department.

I have reason to disagree with the gentleman's figure of 42. It seems to me that figures the gentleman has on that would be 61 supergrade positions that are included in the data. That is my understanding of the reservations that were set-aside for this particular Department.

Mr. HORTON. If the gentleman will yield further, that only makes 71. I am still at a loss as to how the gentleman got 90.

Mr. WALKER. I am saying the gentleman has 61 supergrades plus 15 executive level positions, plus 15 more executive level positions which are created for a 3-year period.

Mr. HORTON. I have 14, 42, and that is 56. And then the gentleman says there is an additional 15. That is 71.

Mr. WALKER. I am disagreeing with the gentleman's figure of 42 because it was my understanding that the set-aside by the committee was 61 supergrade positions.

Mr. HORTON. That is the Congressional Budget Office estimate, not my estimate..

Mr. WALKER. I thank the gentleman. I am using the Congressional Budget Office's estimate, obviously, and that is where the figure came from.

Mr. HORTON. No, no, the gentleman misunderstood. The figure I am using is the figure that is in the cost estimate of the Congressional Budget Office. That is not my figure.

Mr. WALKER. OK. Excuse me, I misunderstood the gentleman.

My point is I am using the figures under the set-aside of the Post Office and Civil Service Committee. It is my understanding that they set-aside for this Department 61 supergrade positions. I think that must be where the difference in our figuring comes.

Just to make my point that I had started on about the amount of classroom space which could be built in this country for the same cost as building one Federal office building, the newest Federal office building we are talking about, would provide about 733,000 square feet of classroom space. Once again, if we are really talking about that relationship of child and teacher, classroom space would certainly be more in keeping with that tradition than Federal office space.

The point is this, Mr. Chairman: The creation of the Department of Education presents very serious fundamental problems. To agree with the idea of this new Department, one has to believe that Government is the best when it is bigger. One has to agree that a more expansive bureaucracy will not be a more expensive bureaucracy. One has to agree that learning should ultimately be a function of Federal thinking. And one has to agree that educators are looking to Washington for educational leadership. Certainly, the proponents of this Department do not state their case in these terms but the essence of their argument is summed up on such a set of premises. If one has doubts about the validity of these maxims, one must have serious doubts about the creation of this Department.

● Mr. PHILIP CRANE. Mr. Chairman, Thomas Jefferson, in a letter to Henry Lee dated 1824, wrote:

> Men by their constitutions are naturally divided into two parties: (1) Those who fear and distrust the people, and wish to draw all powers from them into the hands of the higher classes. (2) Those who identify themselves with the people, have confidence in them, cherish and consider them as the most honest and safe, although not the most wise depository of the public interests. In every country these two parties exist; and in every one where they are free to think, speak, and write, they will declare themselves.

To the third President's discussion, I would only add that 200 years of our system of Government have provided many reasons to believe that the Federal Government is certainly a no wiser depository of the public interest than the citizens themselves and is undoubtably less safe and honest.

This is the crux of the issue before us today. Nobody on either side of the argument is attacking education. Each one of us in this Chamber holds education in high esteem; indeed, many of us are educators by profession. An informed and intelligent populace provides the cornerstone of our Government. Not one of us wants to weaken our educational system because we realize that by doing so we risk weakening America itself. The question we need to address is simply from whence the direction in this matter should come.

Proponents of this bill say that this control should lie with the Federal Government; others of us strongly disagree. Yet, before we even address this fundamental difference of opinion, attention must be drawn to the inherent fallacies in the argument that better education will result from a Cabinet-level Department of Education.

Mr. Chairman, far be it for me to rise in defense of HEW as it stands now.

Before many Members of this distinguished body either double-up in laughter or fall over in a death-like faint, let me clarify. I do not believe that Mr. Califano's amorphous Department is any better than ever. However, ironically, due to its unorganized nature, I believe the education of my children to be be safer than it would be were there a more organized Department.

It is a fact that since HEW was established around a quarter of a century ago, the Office of Education budget has exploded from a few hundred million dollars to more than 10 billion. Yet, even now, it is but 6 percent of the full HEW budget. Because of this weak link in the Department, I am sure that there exists a great deal of cross-purpose and self-cancelling activity between the many different facets of the Federal Government that deal with education. So, what do we do?

In defense of bad issues, bad arguments tend to be created. Since HEW is a bureaucratic nightmare, let us create a new Department, offer the proponents. To those distinguished colleagues, I would say, "Wait a minute." Why do we not just tighten up a system we have now? We need to examine the Office of Education, find out what the problems are, and solve them directly—not just shift the whole mess to another building.

Moreover, the track record for single-constituency departments offers little reassurance. The Departments of Labor and Commerce provide case studies of neither/nor efficiency. In addition, such a situation is clearly dangerous. Any creation of a single-issue department risks that organization becoming an instrument of the specific constituency. In the case of the proposed Department of Education, this is a distinct possibility, and one of my greater concerns.

However, my greatest concern is more fundamental. Why are we creating a Federal Department of Education? By doing so, we place the responsibility for the education of our children squarely on the shoulders of Uncle Sam, a most precarious position indeed. The education of our citizens is critical to the public interest. Without an educated populace, our participatory Government could not survive. However, as Thomas Jefferson reasoned 150 years ago, the people—the citizens themselves—should be the keepers of the public trust—not those of us who frequent the Halls of Congress, not those Federal employees who occupy the offices downtown, and not those who sit on court benches and interpret the laws. Just as children differ, the needs of our schools differ. The best judges of these needs are the people closest to the schools and the students. Without a doubt, we here in Washington are farthest removed. Diversity is a strength of the American population; why should this not provide the foundation for our Nation's schools? A Federal education policy would squash any such hopes.

Why do Members of this distinguished body want to rush in where angels fear to tread, especially when our predecessors rushed into the same place unsuccessfully once before? In 1867, then Congressman James A. Garfield engineered the creation of a Department of Education. A year of nonproductivity encouraged the Congress to reduce the Department to Bureau status in the Department of Interior. The issue was raised again in 1923 when a Joint Committee on Reorganization issued a report calling for a Department of Education and Relief. Although Presidents Harding and Coolidge endorsed the report, Congress took no action.

Now the issue is before us again. The Members of this distinguished body are the last check on this piece of legislation; the congressional process is almost at the end. The finality of the action we take on this bill should give each of us pause. In most areas of our country, the little red schoolhouse is a thing of the past; should local control and variety in educational experiences be lost forever too, Mr. Chairman? I hope not.●

● Mrs. HOLT. Mr. Chairman, this is an interesting piece of legislation. There is hardly any public support for it outside the National Education Association, the big union which would gain power from it, and President Carter, who is fulfilling a promise to the NEA. I have difficulty finding Members of the House who really like this legislation, but we saw the overwhelming vote for the rule.

If this bill is enacted, it will authorize the creation of a national education system directed by a central bureaucracy remote from the lives and concerns of our local communities, beyond the influence of parents, teachers, and students who will be subjected to its policies.

During discussion of a similar bill last year, our late colleague Leo J. Ryan was a member of the Government Operations Committee, but vehemently opposed the bill. Here is how he described it:

> It is more than a benign reorganization of the Office of Education. It is a massive shift in the emphasis by the Federal Government from supporting the local efforts of school districts and State departments of education to establishing and implementing a national policy in the education of our children.

There is the danger. That is why I feel compelled to urge my colleagues to defeat this bill. Instead of helping local school districts with funds for special needs, the new Department of Education would inevitably begin trespassing on all manner of local policies and management.

It could not be otherwise. By creating a Cabinet-level Department of Education, we would be elevating education to the status of a major function of the Federal Government.

I ask you whether this new Department, with the usual complement of supergrade positions, could restrain itself from attempting to impose its uniform solutions to real or imagined problems, regardless of local needs and concerns.

And who would have access to the policymakers of this Department? Not the students, teachers, parents, or neighborhood organizations—the natural constituents of our local schools.

The hierarchy of the National Education Association—a national union very active in political campaigns and lobbying—would be there to help shape the policies and decisions of the Department of Education.

The Washington Post, in an editorial last February 11, had this to say:

> A Department of Education, if such is unfortunately enacted into law, will become a gigantic, single-minded lobbying outfit. It will be the NEA writ large.

Would a Federal Department of Education have a role in curriculum development, in the development of textbooks and the other materials of instruction, in the methodology of teaching, in the measurement of student achievement? Of course, it would. The expanding bureaucracy could not keep its fingers out of those areas.

It would attempt to shape future generations of Americans according to political, social, and economic philosophies prescribed by functionaries far removed from our local communities and our local values and traditions.

Many of us have become alarmed by the degree of Federal control that has already intruded into local schools through Federal aid programs. This concern is shared by many teachers, and one of them has just written me to express her alarm:

> I am against any expansion of Federal control over the public schools. I do not believe there is any clear justification for this separate Department of Education.

That sums it up very well. The issue is one of control, and there is no clear reason why the Federal Government should control education at the elementary, secondary, or college level.●

● Mr. HARRIS. Mr. Chairman, education is essential to the economic and social well-being of this Nation. It is one of the Nation's largest enterprises. Nearly one-third of our total population—some 65 million Americans—are involved in some form of education. At the Federal level there are over 300 separate programs scattered throughout 40 departments, agencies, and bureaus. Many educational activities in the Department of Health, Education, and Welfare are sandwiched between major health and welfare activities. Students, teachers, and administrators are not getting a fair shake. A separate Department of Education makes sense.

IMPROVED MANAGEMENT AND EFFICIENCY

Consolidating education programs in a separate Department would give these programs the high-level leadership that is unavailable through the current structure. H.R. 2444 will eliminate duplication in the administration and staff support activities of the Office of the HEW Secretary and the Education Division. The elimination of 450 positions will save $19 million. One example of the elimination of duplication is the process for developing regulations. Routine education regulations—which must be published before funds can go to needy schools and students—take an average of 519 days to be issued. The Department of Education will cut this time approximately in half by eliminating 15 offices from the clearance process.

Under the simpler structure proposed for the Department of Education, the number of offices involved in the preparation of the education budget will be reduced from 25 to 10. This would eliminate about 40 percent of the time—unnecessary delay—in this important process. These are just two examples of improved management and efficiency under H.R. 2444.

GREATER ACCOUNTABILITY

One of the most important features of the bill we are considering today is that there will be greater accountability. One Cabinet member would report directly to the President and could be held accountable to the Congress and all Americans for the responsiveness and efficiency of Federal education programs.

States and localities have primary responsibility for education. Formation of the Department of Education is meant to provide simpler, more reliable and more responsive support to States, localities, public and private institutions which provide education services. For the first time, it will give the education community a direct line of Cabinet-level contact with the Federal Government. As was stated in a memo to me from the National Conference of State Legislatures in a discussion of this bill, "Rather than a coherent, visible, and accessible administrative structure in Washington, we find a crazyquilt pattern that has the effect of limiting access to State and local officials who must deal with a broad range of policy concerns." Many of the problems these officials are encountering can be solved by the establishment of a Department of Education with a Secretary who is responsible for the administration of Federal education programs. There is no question that this Secretary would be better able to bring the education concerns of all levels of government to the President's attention, and would be in a better position to coordinate Federal education programs with other Cabinet secretaries than any assistant secretary or commissioner.

IMPROVED COORDINATION OF EDUCATION-RELATED PROGRAMS

Formation of a Department of Education will provide greater coordination of local, State and national programs and related Federal activities. Job training and retraining programs as well as basic and applied research will be enhanced by an effective Department of Education. Further, it will allow, for the first time, high-level consideration of the impact of other Federal policies, such as tax and energy, on educational institutions and students.

MORE EFFECTIVE SUPPORT OF EDUCATION PROVIDERS

In the provisions of H.R. 2444, the Federal role in education is limited and specific. The tradition of State and local control is firmly rooted in this country. This legislation reaffirms the "Jeffersonian" principle of local public education at all levels. Federal policies, in the area of education, can only be changed by the votes of a majority of both Houses of Congress. This reorganization will, in no way, allow Federal control over education policies and decisions that are properly the responsibility of States, localities and public and private institutions. In fact, this new bill will provide a stronger and clearer voice for local and State education. In my book, the diversity found throughout the country, from school district to school district is crucial, and I would never support an education bill that would serve to straightjacket these individual school jurisdictions.

Mr. Chairman, for the past two decades our Nation's schools have been hit by rapid social and economic change—change which is continuing almost daily. These changes justify a Federal education effort which is better coordinated and managed. I believe that a Cabinet-level Department of Education with a cabinet voice for education is what is needed.●

Mr. HORTON. Mr. Chairman, I have no further requests for time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time.

I move that the Committee do now rise.

The motion was agreed to.

□ 1820

Accordingly the Committee rose, and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. NEDZI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2444), to establish a Department of Education, and for other purposes, had come to no resolution thereon.

LETTER TO PRESIDENT MISINTERPRETED

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, some controversy has been raised in the news media in recent days concerning a letter I have sent to the President. My correspondence followed the vote in this House rejecting the President's gasoline rationing plan, and his comments subsequent to the House vote.

My intent in writing this letter was to explain to the President the reasons for my vote against his proposal, and to offer several sincere and constructive suggestions concerning future action in this area.

Unfortunately, the spirit in which I wrote this letter has been misinterpreted. The June 4 issue of Time magazine quotes a White House official as describing my letter as "snotty and insulting."

For this reason, I think it is important that I share its contents with my colleagues, so that they may be able to judge its contents for themselves.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 17, 1979.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I want you to know how disappointed I am with your public reaction to the House of Represenatives recent rejection of your stand-by gasoline rationing plan. I must respectfully, but strongly, disagree with your conclusion that the House acted in a parochial and irresponsible manner.

I do not know of a single House Member who is not committed to implementing an effective, fair, efficient system of gasoline allocation that will be acceptable to a majority of the American people.

Your criticism that House Members reflected only the wishes of their District in rejecting your plan is particularly puzzling to me. I was under the impression Members who are sensitive to the needs of their constituents are supposed to do just that.

Quite frankly, Mr. President, I have not been impressed with the way this Administration has handled the energy problem right from the beginning. As far back as April, 1977, you highlighted the energy problem as "the moral equivalent of war," and pledged an all-out effort to solve America's overreliance on imported oil. Unfortunately, for two years there was little follow-through.

Recently, your Administration announced oil decontrol combined with a punitive excess profits tax. The public will suffer from decontrol, but the excess profit tax measure you sent to the Congress will hardly be felt by the oil companies.

The American people have been continually given contradictory information on the seriousness of the energy crisis. Many of our citizens still believe the energy crisis is a hoax, a conspiracy perpetrated by the major oil companies in order to push the cost of gasoline higher. Others are convinced that adequate supplies will be forthcoming as soon as prices increase substantially. In traveling my District, I find the people skeptical but willing to sacrifice if they are presented with a fair and responsible program.

The American people are not afraid to sacrifice, if it is a shared burden. The Congress is not afraid to take tough stands, but it is not willing to turn the economy of this Nation over to the Department of Energy, and we cannot accept a plan which pits state against state, group against group and region against region.

In my estimation, it would have been foolhardy to push through a haphazard gas rationing plan which had been substantially modified in the Senate at the last minute, and did not have the support of the American people.

In my judgment, Mr. President, this recent confrontation between the White House and Congress epitomizes the lack of coordination between your Administration and Capitol Hill. It also reflects our citizens' concern that this Administration does not truly have a handle on the energy crisis.

Central New Yorkers have very little confidence in Mr. Schlesinger or the U.S. Department of Energy, and seriously question their ability to implement a smoothly functioning energy program. I reiterate my recommendation that you appoint a new Secretary who can gain the confidence of the American people.

I would respectfully suggest you take your case more forcefully to the people—with special emphasis on overcoming the suspicions of our citizens that the energy crisis is a hoax. Before we can ask the American people to sacrifice, we must convince them beyond a doubt that there is a need to sacrifice. Once we do that and present a fair allocation system, the people and the Congress will support you.

The other day, I happened to observe a distinguished U.S. Senator of the other Party effectively take the oil companies to task for their irresponsible behavior, and warn them they were flirting with nationalization if they did not begin acting more in the public interest. I think his sentiments accurately reflect the feelings of many Americans. Most citizens were shocked and angered to read the first quarter profits recently reported by the major oil companies. Yet, we are told to expect to pay more for less gas without any corresponding sacrifice required on the part of the oil industry, nor is there any requirement the new profits will be used to guarantee supply of product. I think this shortcoming is what is destroying the creditability of your energy program, and is the main objection that ought to be addressed before the House will approve any kind of allocation system.

In conclusion, I would hope there would be more constructive dialogue in the future on this highly complex issue and better cooperation with less fingerpointing. We all are trying to do the best we can for our constituents and our Nation. I hope you accept this in the spirit of cooperation and respect in which it is intended.

With every best wish, I am

Sincerely,

JAMES M. HANLEY,
Member of Congress.

FEDERAL CIVILIAN EMPLOYMENT REDUCTION ACT

(Mr. LOEFFLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LOEFFLER. Mr. Speaker, there is a message being sent to Congress from those whom we represent which we would all do well to heed. That message is that the Federal Government does not have the answers to the problems facing America today; that the solution for our Nation's ills is not more government; that the bloated bureaucracy inflicted upon the American people creates more problems than it solves.

All of us are daily brought face-to-face with the increasing difficulty of trying to deal with any portion of the Federal bureaucracy. I would wage that there is not one among us who has not experienced the frustration of being referred to at least six different offices within the same agency in search of a simple answer, only to find the last person not only ignorant of the subject but indifferent to the request. This is the side of the bureaucracy with which we and our constituents are all too familiar.

How many of us, however, realize the real dimensions of the monster we have created: Total government salaries—Federal, State, and local—now run $253 billion a year, a sum equal to 12 percent of our total gross national product; Last year the Federal Government fed the voracious, paper-fueled bureaucracy with enough paper for 66 billion letters—enough to stretch end-to-end to the moon 48 times. Today there are more people receiving income from the Federal Government than there are nongovernment workers paying tax dollars into the Federal Treasury.

Mr. Speaker, I am introducing today, for myself and Mr. ANDERSON of Illinois, the Federal Civilian Employment Reduction Act of 1979. Starting September 30, 1980, this bill will reduce the Federal civilian workforce from existing statutory levels—by attrition—at a rate of 2 percent per year for 5 years—for a total reduction of 10 percent. This reduction will be allocated proportionally throughout the Federal Government with the head of each agency given total flexibility in selecting those positions to be cut. Since the historic attrition rate for the Federal Government is approximately 22 percent, no present employee will be in danger of losing his job as a result of this reduction. The Federal Government will simply be able to replace 2 percent fewer employees than is the current practice.

Big government is not good government. A bloated, inefficient bureaucracy such as we presently endure breeds inconsideration, self-perpetuation and an unnatural separation from the people it purports to serve. The Federal Civil Employment Reduction Act of 1979 would gently and gradually reduce the size of the Federal Government without affecting the ability of the various agencies to perform their statutory duties. I urge all of my colleagues to look closely at this legislation and to support this overdue response to the pleas of the American people.

STATE SENATOR TOM VAN METER CALLS FOR IMPEACHMENT OF JUDGE BATTISTI

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, Senator Tom Van Meter has spoken out in strong and forthright terms on what I believe the vast majority of citizens in northern Ohio and Cleveland feel. Impeach Judge Battisti. If it were possible to have a vote on that arrogant judge, it would be certain that he would be bodily thrown out of office.

Until such a time as that is possible, impeachment is the only course which can remove this unfit judge from the bench.

Senator Tom Van Meter in his usual directness notes that Judge Battisti is a threat to local government in Ohio. Over the past year or so, Battisti has threatened virtually every Ohio official, either directly or indirectly, by his orders and suggestions.

The Van Meter statement is must reading. I include it at this point in the RECORD:

BATTISTI ACTIONS PUT STATE AND LOCAL GOVERNMENTS IN JEOPARDY, VAN METER CHARGES

COLUMBUS.—State Senator Thomas A. Van Meter (R-Ashland) today charged that widespread, continuous abuses of power by Federal District Judge Frank J. Battisti have put state and local government "on the endangered species list".

Van Meter said: "An appointed federal judge has seized virtually total, unchallengeable control over the elected Cleveland Board of Education and its administration. He has ordered a bankrupt school system to remain open—in violation of the State Constitution. In effect, he has become a dictator whose word is to be accepted without question."

The Ashland lawmaker declared: "No Federal judge anywhere in the United States has ever dared to go as far in usurping state and local governmental powers as Judge Battisti has. If his power grab is not halted, there will soon be no state or local government in operation in Cleveland."

Van Meter noted that Battisti already has a "special master" advising him on how to run the Cleveland schools. He has also imposed a deputy superintendent for desegregation (Charles Leftwich) on the school system. And most recently he has ordered the board to hire 7 additional aides for Leftwich as well as anyone else Leftwich requests. The price tag for the 7 initial new aides will cost the financially strapped district more than $200,000 per year.

"Spending $200,000 for new personnel is a violation of the terms imposed by the State Controlling Board when it advanced Cleveland $18.1 million last week," Van Meter stated. "Apparently, the judge doesn't feel bound by any state regulations at all," he added.

Noting that the NAACP has just asked Judge Battisti to consider imposing a tax on Cleveland voters if they fail to pass a levy in June, Van Meter said: "If the judge feels he can set aside the State Constitution at will, it would not surprise me at all if he were to impose a local tax on Cleveland residents. This certainly would be consistent with his past actions in disregarding the will of the people."

"I don't believe we can sit idly by while one of our most precious freedoms—the right of local self-government—is being killed before our very eyes," Van Meter stated. He continued: "When I introduced a resolution in the Ohio Senate calling on Congress to start impeachment proceedings against Judge Battisti, I predicted that his challenges to state and local authority would continue to increase. But I didn't expect him to go so far in such a short time."

"I am asking today that all Ohio citizens contact their legislators—both in Columbus and Washington—to urge them to support the impeachment of Judge Battisti. I realize that impeachment is a very serious undertaking. But when a judge who is sworn to uphold the Constitution takes it upon himself to destroy its most basic elements, then I must conclude that it is the only course of action we can responsibly follow," Van Meter concluded.

CEREMONY SUNDAY HONORING KING KAMEHAMEHA

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. AKAKA. Mr. Speaker, on behalf of the Hawaii congressional delegation, I would like to extend an invitation to my colleagues and their staff members to attend a ceremony this Sunday honoring King Kamehameha, the first king of the Hawaiian Islands.

The ceremony, sponsored by the Hawaii State Society, will be held on Sunday, June 10, at 2 p.m. in Statuary Hall, House side, on the second floor of the Capitol Building.

We will honor King Kamehameha, known as Kamehameha the Great, the most revered figure in Hawaiian history. He conquered the islands in the late 18th and 19th centuries, uniting, for the first time in history, the islands under one rule and establishing the Kingdom of Hawaii. The kingdom lasted a century, ending when Hawaii became a possession of the United States.

The ceremony will feature songs and dances of Hawaii, culminating in the draping of leis on the statue of Kamehameha. In this manner, we will pay homage to the greatest figure in Hawaiian history.

I hope you will be able to join us this Sunday. Thank you.

JUDGE BATTISTI SHOULD BE IMPEACHED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 10 minutes.

• Mr. ASHBROOK. Mr. Speaker, it is becoming more and more apparent that Federal Judge Battisti should be impeached. His actions merit it and I have presented an impeachment resolution in this Congress.

There is an old saying that it is an ill wind that does not blow someone some good. For all of the parents, taxpayers, teachers, and litigants who have suffered under the tyrannical iron hand of Federal Judge Frank J. Battisti, it may be hard to convince them that their suffering has not been in vain. One bright spot can be seen in the murky legal cloud cover he has created. His arrogant and intemperate actions are giving all of us a better case example to bring about long-sought Federal judicial reform. He is making my impeachment resolution, House Resolution 55, look better all of the time. With the death of Judge Willis Ritter of Utah, Battisti now stands as the worst apple in the barrel and the best, or is it worst, case example of the judicial intimidation, arrogance, and impudence which will ultimately bring us the reform we need.

As we have seen in many recent events, it often takes the bad apple in the barrel to bring about needed reform. In Judge Battisti's case, his only real contribution to jurisprudence may be that he unwittingly becomes the case example which demonstrates the need for bringing the Federal district judges under the system of checks and balances which operates in all other areas of our Government.

In the process of developing a case for my impeachment resolution, I have been amazed at the total arrogance of the man and his indifference to selfimposed judicial restraints and discretion that other judges have applied. Selfrestraint and discretion are something that are almost alien to him and he uses his high office to intimidate, coerce, threaten, and issue a lot of bad law. He sees himself as a one-man band, subject to no restraint. As the Akron Beacon-Journal noted, he does not even think he has to conform to the ethical requirements of filing financial reports. On those repeated occasions when his bad law is struck down by appeal courts, he goes right on, thumbing his nose at the law. As a consequence, while a lot of his bad law is struck down, a great amount of it stands.

Fortunately, Judge Battisti's penchant for meddling and sticking his judicial nose in everybody's business has been castigated by other judges in their appellate review. If you read all of the cases as I have, his actions have been called everything from "improvident" to "utterly inconsistent" to "emotionally involved." His fairness has been questioned.

DESEGREGATION ON HIS TERMS

In his mad rush to push his ideas of desegregation of schools, Judge Battisti has been at his worst. Judging by his record, that is really saying something. He has been slapped down repeatedly by the court of appeals. Stern lectures have been issued to the rampaging Federal judge from the northern district of Ohio. Time and time again, Battisti has been dressed down and reminded, in polite language which verge on reprimand, that he cannot act like a tyrant. He is very slow in getting the message, however.

In *National City Bank* v. *Battisti* (581 F2d 565) the court of appeals in very sobering terms pointed out his lack of judicial restraint. In that 1977 case Judge Battisti attempted to restrain several banks, which held Cleveland school bonds, from obtaining judicial orders from the Ohio Supreme Court to protect their security interests. Battisti apparently issued the restraining orders ex parte, ignoring the clear provisions of the civil rules for notice and hearing. The appellate court noted that the judge had acted on a record devoid of "charges of discrimination, much less proof and findings of fact thereon." The case was remanded.

As if their patience had been tried, the court of appeals properly reminded the Cleveland legislators-tyrant-judge:

> A United States District Court has broad discretion in fashioning remedies in a school desegregation case. Nevertheless, public schools are state controlled and supported by state or local government. School financing is thus clearly a matter of state responsibility through its appropriate executive, legislative and judicial branches. The federal courts have power to intervene in affairs of public schools only to vindicate provisions of the United States Constitution or federal law. Purposeful closing of Cleveland schools with intent to defeat the possibility of desegregation might, of course, call for intervention of the federal courts. See *Griffin* v. *County School Board*, 377 U.S. 218, 84 S.Ct. 1226, 12 L.Ed.2d 256 (1964). The present record before this court does not, however, contain any such charges of discrimination, much less proofs and findings of fact thereon.

In correcting bad Battisti law, the appeals court further reminded him that "absent such violations, of course, the Federal courts follow and apply State law pertaining to school financial problems. If the Ohio Legislature, Governor, and supreme court for constitutionally neutral reasons determine a specific order of priority of payment of school debts, the Federal courts have no power to pass judgment on the wisdom of the State decision." This 1977 case has had little effect on Judge Battisti who charges in with orders, threats, coercion, and intimidation to do precisely what the court of appeals have consistently told him he cannot do.

Battisti's actions were not based on law. They were clearly a part of his pattern of molding Cleveland school desegregation in his own narrow and biased personal view and marshaling to himself through his power on the Federal bench an intimidating hold on banks, teachers, school boards, legislators, and even the officials of the State of Ohio. His rebuke was deserved and timely.

It is impossible to assess the toll in cost, disruption, divisiveness, frustration, and lowering of educational standards which Judge Battisti has caused. His improvident actions have meant that schools have rarely known what to do between the time of his intemperate actions and the resolution of the many appeals of his orders. Stop, start. Stop, start. Change, modify. Return to prior actions. No wonder the Cleveland schools are in chaos.

In July 1978, the same circuit court applied reins to Battisti's power grab in giving Charles Leftwich sweeping control over city schools in Cleveland. In April of that year, Battisti had given Leftwich sweeping control over the school system's business, computer, research, and development and community relations departments. Battisti held a gun at the head of the school board from his powerful position on the Federal bench and ordered the board to hire persons recommended by Leftwich within 72 hours after he suggested them. School lawyers told the court of appeals that Battisti's arrogant commandeering of the Cleveland schools came unexpected and without a hearing.

Leftwich was apparently capable in one area—spending money—if not in running Cleveland schools. He left in his wake a number of questionable personal expense bills. An article in the Cleveland magazine which points out this travesty, courtesy of Judge Battisti appears in this newsletter.

In one important case, the court of appeals again had to knock down the tyrannical efforts of the erstwhile Cleveland jurist to charge off in a civil rights case in a direction that his fellow judges resisted.

Mahaley v. *Cuyahoga Metropolitan Housing Authority*, 500 F.2d 1087, (6th Cir. 1974), represents Judge Battisti's effort to "desegregate" the Cleveland suburbs by ordering five municipalities to take such steps as necessary to approve construction of low-rent housing units under a Federal housing assistance program. Like other cases I have cited, Battisti let his own notions of justice override the law. The case was originally heard by a three-judge panel, of which Battisti was a member. That panel found that the Federal housing program, which did not require municipalities to accept low-income housing, was constitutional. It ordered the case referred to a single judge for resolution of one of the remaining claims. Based upon the three-judge panel's disposition of the constitutional claim, the remaining claim should likewise have been dismissed. However, Battisti completely disposed of the issue referred to him by the three-judge panel without further argument or hearing. So much for due process but what he did is where the rub comes in.

In reading the court's decision, it was easy to see their chagrin. Mahaley against Cuyahoga Metropolitan Housing Authority should be must reading for all Battisti-watchers. The appeals court very clearly saw through Battisti's treachery and could scarcely veil their contempt for his high-handed actions and total disregard to the clear decision of the other two judges on the panel, Circuit Judge Celebrezze and district Judge Lambrose. Referring to him as the "single judge" the appeals court dressed him down very properly and summarily dispatched his selfstyled "Battisti law" flat to crack down on suburbs by the terse statement that—

> The rulings of the single judge and his order conflict with the decision of the three-judge panel and also conflict with the decision of the (U.S.) Supreme Court * * *

Back to what he did. Having received the remaining issue for disposition, look at what he did with that authority. Judge Battisti found that the cities had violated the Civil Rights Act. The Sixth Circuit reversed and ordered the case dismissed. It held that Judge Battisti's findings were "utterly inconsistent" with the three-judge panel ruling.

Moreover, if you study what transpired it gives you a good indication of the way Judge Battisti operates. The court of appeals hinted at his conspiratorial nature when it said:

> On the same day, about an hour later, at 12:14 o'clock p. m., there was filed with the Clerk of the District Court a 25-page Memorandum Opinion and Order of the single Judge, in which he completely disposed of the issue referred to him by the three-Judge panel without further argument or hearing. 355 F. Supp. 1257 (N.D. Ohio 1973).

This is nothing short of judicial treachery. The three-judge panel had left him authority to dispose of one minor remaining question but he used that authority to launch out in other directions and issue orders which had to be knocked down by the judges on appeal. Here is what the court said on page 1089:

> The single Judge recognized that there had been remanded to him only the one question, whether plaintiffs' rights under Section 1983 had been violated. He stated:
>
> The question remaining before the court is whether the defendants have used the consent requirement as a tool to perpetuate segregation in violation of 42 U.S.C. § 1983. (*Id.* at 1259)
>
> In his Memorandum Opinion and Order, however, the single Judge found that the defendant suburbs had committed a prima facie violation of the Fourteenth Amendment to the Constitution by their failure to enter into a cooperative agreement with CMHA to build low-rent, federally-assisted housing in their communities.

In criticizing Battisti, the appeals court tersely noted that the question of constitutionality had already been decided in favor of the suburbs by the three-Judge panel of which he was a member.

This is vintage Battisti. Left to do little more than perform a ministerial function, he seized upon that opportunity to foist on the municipalities a wide ranging order which was totally alien to the authority given to him by the other two judges. In the service, we used to refer to someone "short sheeting" a friend. It could also be called a violation of trust. It could be called arrogance. It can be called many things but shows clearly why the man cannot be trusted.

Think of it. Entrusted to do one small function but he had tucked away a 25-page decision, obviously already prepared, as the court of appeals noted since it was issued just 1 hour later. Anyone but a judge would be put away for such a disgraceful breach of trust.

BILL O'NEILL SHOWED HIM

Anyone who has followed Battisti's actions, statements, and orders in the Cleveland papers knows that he is not above threatening school boards, legislatures, the Ohio Supreme Court, the Ohio Department of Education—everyone who fails to fall before the cutting swath of his judicial scythe. Again, we can all be heartened by the times that the appeals court have reminded him that he went too far. The late Chief Justice C. William C. O'Neill challenged a Battisti meddling. In that case, a disciplinary action was in process before the Supreme Court of Ohio involving a judge of the court of common pleas of Hamilton County in Cincinnati. The appeals court had to remind Battisti again that he had no business poking his nose in an action of that type. They pointedly reminded him that——

> Venue did not lie in the Northern District of Ohio, and action filed against Justices of the supreme court but should have been instead in the Southern District of Ohio.

Of course, Judge Battisti is never worried about such niceties. Think what would happen if he could charge throughout the entire country, not just Ohio, with his rantings, ravings, and wild decisions.

The court said:

> This court is of view that the issuance of a temporary restraining order by the District Court under the facts of this case was improvident and that the district court should have abstained from interfering with the pending proceedings in the Supreme Court of Ohio.

They went on to remind him something which we should remind him every day of the week, that——

> Any doubts as to the properiety of a Federal injunction against State court proceedings should be resolved in favor of permitting the State courts to proceed in an orderly fashion to finally determine the controversy.

Battisti has a way of rushing in to redistricting, reapportionment, busing, desegregation—you name it—regardless of what other legal forum in which the actions may be taking place.

BATTISTI LABELED "EMOTIONALLY INVOLVED"

Rarely will a court comprised of judges take such an extreme slap at a fellow judge as did the court of appeals in the *Drayton* v. *Jiffee Chemical Corporation* (591 Fed. Rep. 2d 352) case. Presiding in a nonjury trial, Battisti so obviously abused discretion that the sixth district judges at one point were constrained to note—

> A careful reading of the entire record of the trial compels the conclusion that the trial judge, from the outset, was emotionally involved. It manifested itself in one-sided interrogation of witnesses by the court, in restrictions on cross-examinations and even in repeated interruptions of defense counsel's closing argument.

Now that is really saying a lot in polite, judicial language. Sounds like Judge Battisti, does it not? One-sided interrogation of witnesses. Restrictions on cross-examinations. Repeated interruptions of defense counsel's closing argument. How many times has he done that and not gotten this deserved slap. Talk to those who have been in his courts.

Threats, intimidation, arrogance—all are the hallmarks of Battisti's efforts to browbeat all who come before him. Fortunately, once in a while it all comes out and justice is done. How many times does this happen when this unfit judge's temper tantrums are not harnessed by judicial appeals?

The court referred to his "involvement"—what is that a code word for? Improper judicial interference? The court referred to his involvement as being such that it "raised a serious question whether the trial met those fundamental standards of fairness which every litigant before a Federal court has a right to expect." Litigants do not necessarily expect fairness in a Battisti court and that is one of the basic reasons he should be removed.

The list could go on and on. The examples are replete to show that Judge Battisti is emotionally, judicially, and constitutionally unfit to continue as a Federal district judge. He should be removed and it should be soon.●

LEGISLATION TO PROVIDE TAX EXEMPTION FOR INTEREST EARNED ON SAVINGS ACCOUNTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 5 minutes.

● Mr. TAUKE. Mr. Speaker, for the past 30 years, personal savings have accounted for 65 percent of our Nation's net private saving. Private saving has been the bulwark of our country's economic fortress, translating innovation into higher productivity, more jobs, and a higher standard of living.

Yet, the rate of savings as a percentage of disposable income has dropped from the historic level of 7.7 percent to a 30-year low of less than 5 percent today. This is in stark contrast to the Japanese rate of 24.9 percent and the German rate of 15.2 percent. As a result, those countries have experienced continued economic growth, high productivity, and low inflation rates. The United States, on the other hand, is mired in an economic swamp of double-digit inflation, a marked lag in productivity, and a declining rate of growth.

Why the slump in personal savings in the United States? The answer is simple: Powerful economic disincentives discourage savings.

The disincentives are twofold:

First, there is inflation. With prices soaring at double-digit rates, it is virtually impossible for savers to maintain the purchasing power of their savings dollars, even with interest rates at record levels. For example, during a period of 10 percent inflation, a saver might receive 6.75 percent interest, or $67.50 for a 1,000 deposit. While the dollar savings at the end of 1 year would be $1,067.50, the real dollar savings would be $960.75. That is a loss of $39.25 in purchasing power on the original $1,000 deposit. Little wonder why potential savers decide to spend rather than save during these times of exorbitant inflation.

Second, saving is further discouraged by the current tax system. The inflationary bias of the current progressive income tax system and the failure to exempt interest earned on savings accounts from that tax system combine to steer the potential saver away from savings institutions. During a period of 10 percent inflation, the $67.50 in interest earned by a $1,000 saver who is an average taxpayer would be reduced by $14.85 in taxes.

Thus, of an original savings deposit of $1,000, 10-percent inflation would take away $39.25 in purchasing power, and Federal taxation would reduce those real savings by an additional $14.85. At the end of 1 year, the saver can show only $947.38 where once there was $1,000. It should be noted, parenthetically, that the rate of inflation is closer to 15 percent today; my estimates of lost savings are thus conservative.

Today, I am reintroducing with cosponsors, my bill, H.R. 3810, which would partially remove the tax disincentive to saving. This legislation would phase-in a tax exemption for interest earned on savings accounts. The interest exemption would start at $100 for individuals and $200 for those filing a joint return. The exemption would be uniformly increased so that at the end of 5 years, exemptions of $500 for individuals and $1,000 on joint returns would be provided.

This gradual approach is designed to minimize the fiscal impact of the interest exemption. By the end of 5 years, I am confident that revenues at least sufficient to make up those lost because of the tax exemption will be stimulated. Increased savings should increase investment and economic growth, thus providing a natural increase in Government tax revenues.

It is estimated by the Joint Committee on Taxation that H.R. 3810 would result in $1.5 billion in lost revenues in its first year of operation. The revenue loss would be $4.7 billion during the fifth year; 37 million taxpayers would benefit from this bill with the average tax savings amounting to $34.

My proposal would be the first step toward making savings accounts attractive again. Small savers and those on fixed incomes would no longer be forced to take a tax loss on their savings. In addition, making savings pay could do much to help in the war on inflation. Consumers "buy now" to beat inflation with a resulting further upward push on prices and reduction of savings. Borrowers bid up interest rates as the supply of savings declines. Savings tax incentives would provide new savings and moderate the "buy now" philosophy. The net result of increased savings would be reduced inflation.

With inflation reduced, further increases in savings would result; the process would feed on itself. Capital investment, economic growth, and productivity would all be boosted. Americans would be better off.

I invite the support of savers, savings institutions and Members of Congress in this important endeavor. Most of our Nation's economic competitors have removed savings disincentives. America's economic future requires that we follow suit.●

TRAVESIO

The SPEAKER pro tempore. Under a previous order of the House, the gentlemen from Massachusetts (Mr. CONTE) is recognized for 5 minutes.

● Mr. CONTE. Mr. Speaker, last week, I had the pleasure of meeting with the President in the Oval Office of the White House. I was there to fulfill a promise I had made 2 months ago to the people of a small mountain town in Italy.

That town, Travesio, had been among the hardest hit when an earthquake in May of 1976 sent its devastating tremors throughout the Friuli region of Italy.

As my colleagues will recall, at that time, the Congress reacted with great humanity and immediately appropriated $25 million for relief and reconstruction in the area.

Three quarters of a million dollars was put to use to ease the immediate suffering through emergency supplies and equipment. The rest of the funding was committed to the substantial reconstruction project facing the region. The most pressing needs were to provide schools and centers for the aged, facilities that would keep the younger population in the region and would aid the elderly who, because of their age, could not take on the task of rebuilding and relocating on their own.

One of the facilities earmarked for construction was a junior high school in Travesio, a town of 2,000 people in the mountain area of Pordenone. This was one of eight schools and four centers for the aged for which funding was committed.

No sooner had this process gotten underway when, in September of the same year, the region was hit again with a quake. Because all of the previously appropriated funds had already been committed to the cleanup operations following the initial quake, Congress appropriated an additional $25 million to help the victims of the second of these twin disasters.

With this funding, six more schools were targeted for construction, along with three more centers for the elderly.

Time is helping the people of the Friuli region forget the suffering and devastation that the quakes caused. In all, according to the Italian Government, 1,000 of the residents of that area were killed, 2,400 were wounded, 32,000 were left homeless and 100,000 persons had their homes seriously damaged. Yes, time is helping to heal those wounds, together with the money that we so generously provided in relief assistance.

I began these remarks by saying that I had been to the White House last week to keep a promise I made to the people of Travesio. I had told them that I would convey to President Carter their appreciation for the help this great Nation gave them in their hour of need.

I made this commitment when I was in Travesio in April to dedicate the junior high school constructed with U.S. funding. The warm and gracious people of Travesio made me proud to be a Member of this body. They held a luncheon in honor of the dedication with entertainment supplied by the schoolchildren, including a particularly moving rendition of "This Land Is My Land," sung in English. I reciprocated by delivering my remarks of dedication in Italian. It was a beautiful day, a day in which I felt the traditionally strong bonds between our countries strengthened.

At the dedication ceremonies, the mayor of Travesio, Miss Bianca Tositti, presented me with a beautiful mosaic picture for President Carter. This picture was to serve as a sign from the people of Travesio of their "amicizia e gratitudine," that is to say, their "friendship and gratitude."

I have now fulfilled my pledge and have delivered the picture to the President along with my report on the reconstruction program. I would like to make a similar report to the Congress.

As many of my colleagues know. I have been a member of the House Appropriations Committee for the entire 21 years I have had the honor of serving in this body. For a goodly portion of that time, I held a seat on the Foreign Operations Subcommittee. I have, therefore, overseen a great deal of foreign aid provided by this country around the world. I believe that the reconstruction project being conducted in the Friuli region of Italy is one of the best programs I have ever seen administered by the State Department's Agency for International Development (AID).

As I told President Carter, the Friuli reconstruction project is a manifestation of both the innate pragmatism and idealism of the U.S. foreign assistance program. First, we are helping to build quality structures. There had been the temptation to purchase prefabricated structures in the interest of providing more immediate assistance. But the decision was made, and correctly so, to resist that more costly temptation and design structures for construction right on the sites. What has resulted, I believe, is a showcase, not only of this country's great humanity and concern for the people of the region, but a showcase of good architecture and sound engineering. All of the structures have been built in accordance with seismic codes to be earthquake resistant. As important, they have been designed in keeping with the local architecture. Most have the title roofs and stucco facades—over reinforced concrete—that characterize the majority of the buildings in the area. Appropriate technology and design are hallmarks of the new direction in foreign assistance. The Friuli reconstruction project is illustrative of this new orientation.

Second, in large part because of the care being exhibited in the design and construction of these buildings, we have earned the sincere appreciation of the people of the region. It became clear to me that the people will remember this assistance not merely as a gesture of aid, but a gesture of man to his fellow man in time of crisis. America's humanitarian spirit has once again revealed our dedication to the most basic and edifying of ideals, meeting man's basic human needs.

My host while I was in Italy for the dedication of the junior high school in Travesio was Mr. Arturo Costantino, coordinator of the Italian earthquake reconstruction program for AID. He and his staff of three, Mr. Merten Vogel, Mr. John Saccheri and Mr. Tullio Biagini, have done an outstanding job in the field. Their operation is a lean and trim one. I cannot recall a smaller administrative support team for a $50 million project. Their genuine dedication to carrying out the wishes of the Congress in this project is very much evident, as is the fact that they take great pride in their work.

In addition, administrative overhead has been kept to a bare minimum. For example, the AID team is located in space on the second floor of a factory building. The Italian subsidiary of the Carnation Co. has generously provided this space for their use for $1 a year.

When I told the President of my visit to Travesio, he commented, himself, on how pleased he was with the way the project was progressing. I think, Mr. Speaker, that the Congress can share in the sense of accomplishment at what we have provided in this reconstruction project.●

PERSONAL EXPLANATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, I was unavoidably absent on Rollcall No. 183 today, on final passage of H.R. 3464, SSI disability amendments which passed 374 to 3, attending the graduation of my daughter. Had I been present, I would have voted "aye."●

POLISH AMERICANS SHARE JOY AND PRIDE WITH THE POLISH PEOPLE ON THE VISIT OF POPE JOHN PAUL II TO POLAND

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, Polish Americans all over our Nation are spiritually sharing the historic journey of Pope John Paul II to Poland, his native land. Many millions of Poles, despite long years of religious and political oppression, are praying with the Pope and are being inspired by his words of faith and hope. Poland has always been a part of the Western tradition of faith and belief in the nobility of the individual human spirit, and it is this tradition, now being powerfully reaffirmed by the first visit of a Pope to Poland, that will remain of tremendous importance in the continuing struggle against advocates of oppressive state control of individual freedoms.

For over 1,000 years, Poland has been a Christian nation, the bulwark of Christianity, and in 1791, the year of the adoption of Poland's democratic constitution, Pope Pius VI titled the nation "Polonia Semper Fidelis," because of the Polish people's long struggle against foreign invaders and against those who would destroy Christianity. To commemorate this tradition, upheld for a millennium with suffering and struggle against brutal force, Pope John Paul visited the town of Gniezno, Poland's first archdiocese, and the religious center of the country when Poland's leaders accepted Christianity in 966 A.D.

Well over 1 million people worshipped with the Pope at the Shrine of Our Lady of Czestochowa, Poland's most precious and cherished national spiritual treasure. It was during that visit that the first son of Poland ever to head the church called on the Communist government of Poland to recognize the cause of fundamental human rights, including the right to religious liberty. Pope John Paul also urged the bishops of Poland to continue discussions with the government on halting the harassment of church activities and religious freedom in the country.

Mr. Speaker, the Pope's visit to Poland has great significance for Americans of Polish descent who have always worked for the lasting freedom of Poland's people, and Mr. Aloysius A. Mazewski, president of the Polish National Alliance and the Polish-American Congress, has expressed this sentiment in his statement on Pope John Paul's visit and its impact on Polish Americans. Mr. Mazewski has a decades-long record of distinguished service to our Chicago community though his leadership of the Polish American Congress, whose headquarters are located in the 11th District I am honored to represent, and a copy of President Mazewski's statement follows:

STATEMENT OF ALOYSIUS A. MAZEWSKI

During the current visit of Pope John Paul II to his native Poland, American Polonia shares the joy and the awareness of this momentous event with the Polish nation, deeply conscious of the beneficent and transcendental contributions the Catholic Church has been making and continues to make to Poland's founding and development in terms of spiritual and cultural values and its indestructible "will to be."

We are deeply aware and appreciative of the fact that the first Polish Pope's visit to his native land constitutes a unique and epoch-making fact in the millennial annals of the Catholic Church in our ancestral home.

And on this singular occasion Americans of Polish origin and heritage do underscore the unbreakable ties which spiritually and culturally exist between them and the country of their origin.

The sense, substance and relevancy of these ties are best demonstrated on that forever memorable day of October 16th, when the first Pole was elected the Supreme Pontiff of the Roman Catholic Church. Americans of Polish origin shared with the Polish nation the unbounded joy, pride and thanksgiving stemming from that singular event.

Thus, aware of this kinship and spiritual and cultural ties with the land of our ancestry, we hope that Pope John Paul II's visit to Poland will open and facilitate a way to resolution of many conflicting problems that exist between the Church and the secular authorities in Poland.

> We would like to see the construction of many more new churches than heretofore, to satisfy the spiritual needs of the expanding population; taking in America the freedom of information for granted, as a natural right, we would like to see Poland's mass media more accessible to religious matters, and we would like to see the circulation restrictions placed on such Catholic publications as the renowned and respected "Tygodnik Powszechny" lifted.
>
> Thus watching with anxiety and concern many seemingly insurmountable problems and challenges of contemporary Poland, we sincerely hope that the Pope's visit to his native land will pave the way for more equitable, just and proper attitude of the Communist government toward the religious life in Poland and its most important representative, the Roman Catholic Church now headed by a great Son of Poland.
>
> We extend to His Holiness our most sincere wishes that his visit to his homeland will bring him great joy and everlasting encouragement to his native land.

Mr. Speaker, in addition to Mr. Mazewski's statement highlighting the importance of Pope John Paul's visit to Poland, the June 7 edition of the Wall Street Journal contains an editorial pointing out that:

> This is a reminder that the fundamental conflict between the East and the West is a moral conflict, a struggle over what is the proper relationship between state and man:

The complete text of the editorial follows:

> ### THE POLISH POPE
>
> Pope John Paul II has fulfilled all the worst fears of Poland's Communist leaders and sent tremors into the Kremlin as well. It cannot be at all comforting to these leaders who have done what they could for years to discourage and even suppress religious expression, to see vast, enthusiastic crowds of Poles turning out to welcome the Pope. The religious passion of the Poles almost surely represents a passion for greater freedom as well.
>
> The Pope has not flinched from the risks of awakening these passions. Neither has he done it recklessly. It is a mark of his character that he has simply said what he had to say, that religious liberty is a fundamental human right and the state has no moral basis for restricting it.
>
> This bold and forthright declaration, made in the heartland of a Communist state carries a message for the West as well. It is a reminder to all those Western politicians who profess to believe in human rights that there are precious few such rights tolerated in the Marxist-Lenninist dogma. The state arrogates power to itself and gives back very little to the individual.
>
> This is a reminder that the fundamental conflict between the East and the West is a moral conflict, a struggle over what is the proper relationship between state and man. Economic freedom, destroyed by a system that places production in the hands of the state, is but one issue in that struggle.
>
> There has been a tendency among some Western intellectuals and politicians in recent years to define the conflict in the terms that the Marxists themselves prefer. They prefer to see the Marxist state as a benevolent force that conquers human greed, decrees just and equitable distribution of the fruits of production and makes its own demands for moral behavior. The poor and meek are far more likely to inherit the earth in their system, they declare, than in the open, capitalistic societies of the West.
>
> It is not necessary to deny that Marxism has a moral base to say that the real test of a moral order is how willingly it is embraced. Poles did not willingly embrace Soviet Marxism. It was thrust on them in war and it is preserved by Soviet tanks and troops on Polish soil. As the reception given the Pope shows, the moral order of the Roman church is embraced in Poland. It is clung to tightly despite the efforts of the state to weaken it or destroy it as a competitive force.
>
> This kind of struggle is an ancient one in Europe. The Roman church has both aligned itself with and struggled against secular powers through its long history. Polish Communists prefer to say today that Poland practices church and state separation, just as it is practiced in most countries of the West. They know, of course, that it is by no means a benign separation. It is only a truce made necessary by their inability to conquer the church.
>
> That inability, as Pope John Paul's visit makes clear, stems from the failure of the state to truly capture the allegiance of the Polish people. There are no spontaneous assemblages of 500,000 Poles to pay honor to Edward Gierek. There are no Silesian miners clamoring to see Communist officials, even though communism supposedly represents the interests of the working man above all else.
>
> Stalin wanted to know how many divisions the Pope commanded, a pointed and cynical assertion of secular power. Mao said that power flows from the barrel of a gun. Earlier cynics have insisted that might makes right, that history books are written by the victors, etc. But the vehemence of these statements itself betrays the uneasiness of political leaders who can command support only through naked force, who do not have a popular mandate. Leaders who command no divisions but who can awaken the human spirit and stir genuine passions are always a threat to their regimes.
>
> It is good for the people of the West to think more about moral authority at a time when the West is constantly accused of decadence by the Marxists. Free institutions do not always succeed in suppressing immorality, but they can only survive by representing superior human values and aspirations. Authoritarian institutions are unaccustomed to such discipline. That is why they always tremble when the human spirit expresses itself as it has in Poland these last few days.●

"KING CRIME" MURDERS REMAIN UNSOLVED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, the murder or assassination of Federal District Judge John W. Wood continues a mystery. The law enforcement officials have up to now discovered no clues or leads as to the identity of the person committing this heinous crime.

As I said yesterday, this is an intolerable situation. To begin with it was an avoidable, preventable death. There is no question in my mind there were enough facts to warrant a continuous and sustained surveillance and protective custody of the judge as has been the case with the Assistant Federal District Attorney James Kerr since the attack on him last autumn. As a matter of fact, coincidental to the visit that James Kerr made to this Capital City week before last in order to receive the Attorney General's citation or medal, I conveyed through his person to Judge Wood the urgent need for him to recall the Federal marshals in order to obtain protective custody which he had dismissed some 3 months ago.

It is not prescience or omniscience or any particular expertise on my part that had led to this warning or had led to my concern which I have voiced now for years.

☐ 1830

But the roots of all this go back to 1970, when I first became aware of the fact that organized crime of the most sophisticated kind, not the so-called Mafia; the Mafia is small potatoes. The Mafia such as has been discussed publicly is a branch operation of the real organized type that I refer to, the syndicate.

It was obvious to me that this very organized and sophisticated element had penetrated the highest levels of the Government of our country, including the particular entities having to do with law enforcement.

It was also obvious they had penetrated and continue to penetrate many other sectors of our society in a very effective way, to the point where I am convinced, as I have said for the past 6 years, that they are so powerful that I call them king crime. They have transcended any ability of the highest national law enforcement agencies to really control them, much less uproot them or even establish their full identity and the full pattern of this activity in the country.

It so happens that the area I represent is victimized, not because it is a seedbed of this activity, but because it happens to be through fortuitous events a waystation for some of these very elaborate operations, multibillion-dollar operations, as is the case with stolen automobiles and automobile parts for transportation into Mexico in return for drugs. I have been speaking out on that since last year and particularly since the beginning of this year, motivated by the brazen and heinous attack on the Federal assistant district attorney, James Kerr; but it goes back beyond this. It goes back to the unsolved murder of lesser known citizens in and around the area I represent.

Now these crimes, the attack on James Kerr and the murder of Judge Wood, did not happen precisely in my district, in that portion of San Antonio that is in my district. They actually happened in the district adjacent, the 21st District; but nevertheless, it makes no difference to me, because we are all involved and it has had an impact in those areas that I do represent. They are also intertwined with other murders and patterns of crime, including the mysterious death of Sante Barrio, who died about a month ago after lingering in a coma since December. This is a man who had been the drug enforcement agent administrator for the area office in Mexico City, was arrested in San Antonio after allegedly having been involved in two bribery transactions. He was jailed in San Antonio in the same jail where I had been demanding investigations for years, since the drug king Carrasco's operations, where this criminal was granted special favors and even conducted his drug business by means of a telephone in the jail for his youth. These things have never been investigated.

I shall continue to speak out.

WILLIAM F. FITZGERALD HONORED BY CREIGHTON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. Cavanaugh) is recognized for 5 minutes.

● Mr. CAVANAUGH. Mr. Speaker, on May 19, 1979, William F. Fitzgerald was presented with the honorary degree of doctor of laws at Creighton University's commencement ceremony. In presenting the award, Creighton's president, Father Matthew Creighton, S.J., said "He's given 50 years of distinguished public service. He's a real winner." One need only have met him for a short time to appreciate that significant understatement.

William Fitzgerald has participated in the growth and development of the city of Omaha over a longer period of time than any single man that I know. His family's contribution to the lives of others stretches back even further and surely set the tone for his high standards of community participation. Below is the text of an article about Bill that appeared in the May 18 edition of the Midlands Business Journal. I commend it to my colleagues to serve as an example of how dedication to principle and devotion to an ideal can produce rewards far beyond initial calculation.

The article, which was written by Teri McCarthy, describes that although Bill has retired from presiding over the day-to-day operations of his Commercial Federal Savings and Loan Association he is still a significant force in the civic and social fabric of the greater Omaha area.

The article follows:

William F. Fitzgerald To Get CU Degree

(By Teri McCarthy)

"I never thought I'd be getting another degree at this age," chuckled William F. Fitzgerald, Chairman of the Board of Commercial Federal Savings and Loan Association.

Fitzgerald will receive the honorary Doctor of Laws degree at Creighton University's commencement ceremonies on Saturday, May 19.

"I think it's terrific, it just fits him," exclaimed Creighton President, Father Matthew Creighton, S.J. "He's given 50 years of distinguished public service. He's a real winner."

Under Fitzgerald's guidance as President for 25 years, Commercial became the largest savings and loan institution in the state. When he assumed the Presidency in 1950, Commercial occupied one office, employed nine persons and reported assets of $7.5 million.

Twenty-five years later in 1975, when Fitzgerald became chairman and his son William A. succeeded him as president, Commercial boasted 15 offices, 190 employes and assets of $516 million. Today that figure has grown to over one billion.

"It's like a dream come true," explained Fitzgerald. "We are the biggest, but our primary interest was not in that direction. We were trying to help people finance their homes."

Creighton also cited Fitzgerald's business as a "public-minded concept of looking out for others. You don't give that many years of service for yourself. We are acknowledging his whole life."

Fitzgerald's favorite explanation of his career is that he's been "putting the foundation under dream houses." That "sole satisfaction" is what has kept him at Commercial since 1933 when he went to work "to help his dad."

His father, James J., preceded him as president and chairman of the board at Commercial.

Fitzgerald graduated from Iowa State College in 1931 with a B.S. degree in mechanical engineering, when only two of the class of 36 secured engineering positions. ("People now don't realize what the scope of unemployment was," said Fitzgerald.) William F. went to work selling insurance and real estate. About a year-and-a-half later, when numerous banks across the country were closing, he joined Commercial and, for a while, took care of real estate, overseeing repairs to ready the property for sale.

He became assistant secretary of the association in 1934 and secretary in 1942.

Fitzgerald is credited with an ability to foresee what services his customers need. Under his leadership, Commercial began branch operations. "The idea was to attract people by locating close to their homes. That's the primary motive of people when banking . . . convenience," said Fitzgerald. Today, Commercial has 15 Omaha branches and 34 statewide.

Fitzgerald also initiated the Commercial trademark—the time and temperature signs at most Commercial locations.

Another innovation, the CASHACTION bill-paying service was introduced about three years ago, said Fitzgerald. Since then, Commercial has had to install a nationwide WATS line to handle the large volume. Last month alone the CASHACTION service paid 66,000 bills.

Though much of Commercial's phenomenal growth is credited to Fitzgerald, he said the key is just plain "hard work. Young people should get to know as much as they can about their business, constantly continue their education and just work hard at it."

Fitzgerald has not done it alone though. He said the only way to get work done is to delegate responsibility, although he admits, "I'm not as good at that as others are."

"But I have to allow branches to operate independently and to make decisions. Sometimes I just have to sit back and grind my teeth if I know some of the 'new' ideas have already been tried. I have to let them see for themselves if it's going to work," added Fitzgerald.

Fitzgerald followed a family tradition of community involvement. Elected Ak-Sar-Ben king in 1976–1977, he is also a charter member, director, and past president of Kiwanis Club of south Omaha, was director of the Omaha Chamber of Commerce from 1958–1961, served as advisory board member of Archbishop Bergan Mercy Hospital, and was a regent of Creighton University from 1961–1968, as well as a member of the President's Council at Creighton.

Shrugging off his long list of community participation. Fitzgerald explained, "My father taught me to be involved. I believe anything you do for the community will come back to you seven-fold."

Fitzgerald is also involved with Commercial's employees. The company provides a generous retirement plan, life insurance, profit-sharing, a cafeteria, and a novel "employe apparel" program. Employes "earn" (by length of service) various clothing items ranging from women's scarves to men's suits. The program, started about six years ago, has become popular because "employes realize the clothing is as good if not better and certainly less expensive" than similar clothing.

A native Omahan, Fitzgerald is deeply committed to the city and its future. "I see nothing but good things happening in Omaha," he said. "The transportation, the railroads, good schools, an ideal atmosphere to rear a family. Many military people from both coasts retire here, although the climate doesn't attract as many retirees as the city warrants," but, as a true Nebraskan, he added, "Once they're here though, they see it's not so bad."●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. Drinan) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, due to a longstanding commitment in my congressional district, I was unable to be present in the House for a brief period yesterday during consideration of the Housing and Community Development Act of 1979, H.R. 3875. Had I been present, I would have voted as follows: "aye" on rollcall No. 185, a motion to resolve into the Committee of the Whole for the further consideration of H.R. 3875; "no" on rollcall No. 186, an amendment to waive Davis-Bacon prevailing wage standards for certain housing projects undertaken by Indian tribes and nonprofit community organizations.●

HARD FACTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. de la Garza) is recognized for 5 minutes.

● Mr. DE LA GARZA. Mr. Speaker, recently, our distinguished colleague, Henry B. Gonzalez, honored the people of my district by speaking at the annual Weslaco Chamber of Commerce dinner.

I think his remarks are of interest to all of us. I would like, therefore, to share them with my colleagues.

Hard Facts

(Remarks of U.S. Representative Henry B. Gonzalez)

Up in Washington, we spend most of our time trying to figure out the facts, and if we think we understand the facts, we try to decide what the best thing to do about them may be.

One of the things that makes it hard is that the facts are often subject to dispute. Another problem is that people come at you in the most ingratiating kind of way. Adlai Stevenson had some of the best advice any politician ever uttered: "When you get up there, it's all right to breathe in the flattery—but don't inhale."

If there is any one thing that seems constant, it is that the eternal verities keep changing on us. The hardest thing in life is to keep from living in the past. Think just a little about how much the world has changed in the last three decades, or even the last five years. Think what the country has been through, and how it has changed, how we have changed.

Thirty years ago, almost exactly, the Berlin Airlift came to an end. It had lasted a year; it involved better than a thousand airplanes a day hauling food, clothing, fuel and even candy to the two million people of West Berlin. It was a magnificent triumph for the patience, determination and ingenuity of the United States—a peaceful defeat of an arrogant Russian effort to choke off Berlin and drive the Allies out. The airlift transformed Berlin into a symbol of the determination of the West to resist Communist aggression. And so Berlin remains today, a symbol of freedom. It was made possible by that airlift, 120,000 flights that cost no less than 88 lives. All of this is gratefully remembered by the people of Germany and the people of Berlin—because the airlift not just symbolized American commitment—it confirmed that commitment. That was a proud time. It has a lesson for us today: a commitment has to be backed by principle and paid for with faithful performance.

And if our nation's commitments are today open to question, it is only because they have not always been made on the basis of sound principle nor always paid for with faithful performance. I believe that as a nation, and as a people, we still have the beliefs that, thirty years ago, backed up and preserved Berlin.

On the seventeenth of May, twenty-five years ago, the Supreme Court ruled that "separate but equal" was not just a social stigma; it was not just an odious practice; it was unconstitutional. In the years since that time there has been a profound change in America—a change for the better, because today there is not one person in the land who believes that he could deny equal rights to others. In all the struggle, all the turmoil, and all the confusion, one thing is clear; we are all one people, with the same rights.

Principle has been affirmed again. There may be quarrels about what "equal" may really mean, but the principle of equality stands firm, unchallenged and unchallengeable.

If life changes around us, and if the world changes around us, certain things remain true. The cardinal virtues stand unchanged, our understandings of what basic rights and wrongs are, remain intact.

We are entering a time in history when we need more than ever to rely on the virtues and principles that our country has come to stand for. We are entering into a time when the hard facts demand the best of us, all the courage and determination that we can summon within ourselves.

It is not just that there is the danger of holocaust; it is not just that there is the confusion and turmoil of the third and fourth world; it is not just that there is rampant (and worldwide) economic distress; it is not just that society and mores and hemlines change with unpredictable frequency, or that kids are confusing—for kids have always been confusing.

It is that our whole way of life is subject to change.

Think about energy.

We produce in this country about 10 million barrels of oil a day. We burn up the equivalent of another 9 million barrels a day in the form of natural gas. We consume enough coal to equal 7 million barrels a day. And we generate electricity from nuclear sources that equals another million barrels a day.

There is no one who estimates that our oil production is going to exceed what it is right now—no matter what we do, and no matter what the price may become. This country has drilled four million oil wells—twice as much as the rest of the non-Communist world combined. It's a hard fact: we can expect to produce about 10 million barrels of oil a day this year—and also 10 years from now.

The same is true for natural gas: we will produce in the future about what we produce right now, give or take a little.

We are importing right now nine million barrels of oil a day, half of the oil that we consume. At present prices that oil will cost us $10 billion more in 1979 than it did in 1978. And the price will keep going up in the future, as long as our demand remains where it is.

Well, what about trading a bushel of wheat for a barrel of oil? Fact one: we don't produce a bushel of wheat for every barrel of oil we import, not by a long shot. Fact two: the biggest oil exporter of them all, Saudi Arabia, not only produces a third of all the oil exported in the world, that country also owns a third of all the known proven reserves. Fact three: there are only 6 million Saudis, and they can't eat a bushel and a half of wheat apiece a day, even if we had it to trade.

Fact four: and most disturbing of all: Saudi Arabia is the country we rely on to moderate world oil prices, and that kingdom rests very insecurely in the midst of some of the most volatile problems of the world, surrounded by neighbors that nobody would want to meet in a dark alley. We don't have any way of knowing how long Saudi Arabia will remain as we know it today.

If we can't expect—realistically—to produce much more oil than we already do, and if it is dangerous to depend as much as we do on foreign oil, what can we do?

Well, there is coal. We use about 7 million barrels per day equivalent of coal today. The optimists believe that we can make that a 12 million barrel rate a decade from now—not much help.

Then there is nuclear power. In 1974, President Nixon declared that we should produce 40 percent of our electricity by nuclear generation in the 1980's. But today, even if every nuclear plant that has been planned is, in fact, built—a question that is subject to a great deal of debate, nuclear power will ten years from now supply less than half the target set in 1974. And it might not accomplish even that: day before yesterday, for instance, the Tennessee Valley Authority stopped all work on four nuclear plants it had under construction.

Today we burn the equivalent of 37 million barrels of oil a day; ten years from now that figure will probably reach 54 million. Of that, 18 million will be in the form of oil (today) of which half is imported, and in 1989, it will be 23 million barrels of oil, of which better than two-thirds would be imported. We would be more strapped than ever, more vulnerable than ever, to foreign instability—not to mention blackmail.

There is no question that this is the hard fact: we have a serious energy problem, a problem that threatens our whole way of life and even endangers our national independence of action. We are at a stage in our national life where countries can easily threaten us with an oil cutoff if we do not abide by their wishes—and the results, hard to live with today, would be catastrophic in the future.

It's a hard fact that in the world of international politics, power is the one thing that ultimately counts. Friendship doesn't mean much in a contest for national power. Our Mexican friends have just demonstrated how unfriendly even an unimportant oil producer can be—though it's certain that Mexico would not meet our growth needs alone, even if we bought all their oil.

If we are going to solve this problem, we have to look to ourselves. It won't be easy. Nothing is easy, not when it involves the most elemental forces of life and economics.

One thing that has happened since 1973's embargo is that this country has started to become more serious about conservation of oil—after all, once you use it, it's gone forever; and what's more, what we don't use, we don't have to import and pay for.

We've started to build cars that are more fuel efficient; we've begun to learn a little about how to build structures that save energy.

The IBM Corporation a few years back started to make changes in certain of its buildings, with the goal of saving 10 per cent of their energy cost. What they've actually done is manage to save 40 per cent. And it is not uncommon to find that with a few relatively small changes in a house, you can achieve savings of 25 to 50 per cent.

And we have started to use a little more ingenuity in this country. Instead of taking excess industrial steam and blowing it up the stacks, a growing number of countries are using to make power—a process called cogeneration. In some places the virtues of wind-powered generators are being tested; in other places solar power projects are getting a real test; and in still other places there are experiments involving biomass.

All of this is promising. But none of it is easy.

The hard fact is that if we do not curb the growth of our energy consumption, all the ingenuity and all the new approaches will come to nothing when you look at import figures, the price of oil, and our dependency on very fragile foreign sources.

Ten years from now, we will need 54 million barrels of oil a day energy equivalent. Probably no matter what we do, ten million barrels will come from domestic oil production and nine will come from natural gas—the same as today. Eleven or twelve will come from coal, which would be thirty per cent more coal then than now. Nuclear power—assuming that it's still around—would produce about twice as much then as now, something equal to 2 million barrels a day. And if we apply a lot of ingenuity, we can quadruple what we get from solar and other unconventional sources—perhaps 4 million barrels a day worth.

If we do all that we can do to substitute home-grown energy for imports, we can produce the equivalent of 36 million barrels a day—give or take a million.

The issue then will resolve itself to how we can cut down imports.

If we conserve, and if we have a truly effective program to build domestic production, we will import ten years from now 10 million barrels a day—the same as we do today.

But if we fail to conserve, we will be importing 15 million barrels a day—and we will be more dependent, more exposed, more broke than we are today.

The hard fact is that we have to learn to do both things better—to produce all we can domestically, to substitute new sources of energy wherever we can—and at the same time we have to conserve, so that we can get more out of every bit of energy that is consumed.

We don't have to live any less well than we do today. All we have to do is learn how to live better, more wisely.

What we have to do is make up our minds and get on with it. Our country can do that. History has shown time and again that we could.

The Berlin Airlift was supposed to be impossible, and that is why the Russians did not close off the air corridor to Berlin along with everything else.

But they did not count on American grit and ingenuity and determination. They did not count on a commitment from us. They were wrong.

We face a real challenge today—hard to see, hard to define, hard to believe—but a hard fact nevertheless.

I think we can face this challenge and win. It is up to us, and no one else.

I wouldn't have it any other way.

I believe in this country. I believe in our future. And I believe we can do anything we set our minds to.

Not long from now we will be celebrating the Fourth of July—looking back and remembering a great event, with grateful hearts and spirits filled with pride.

But remember this: the folks at that first Fourth of July weren't looking back. They staked their lives, their fortunes and their sacred honor on the future. They could not know the outcome. All they knew was that everything that had gone before was intolerable.

There had to be a new future, a new country. There could be no going back.

So let it be with us. We cannot reclaim a past that is gone. All we can do is commit ourselves to a better future.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. OAKAR) is recognized for 5 minutes.

● Ms. OAKAR. Mr. Speaker, I will be unavoidably absent from the House debate and vote on Friday, June 8, 1979. Last year, I was appointed by the Speaker of the House, the Honorable THOMAS O'NEILL, to a National Commission on Unemployment Compensation. On June 7, 8, and 9, my 20th District of Ohio will be the host for 3 days of hearings on unemployment compensation's operation. We began our work in the latter part of 1977 and expect to present a report to Congress by December of this year. It is a matter of extreme importance that I be present to hear particular evidence in Cleveland concerning the effects of unemployment compensation.●

KILDEE-FOLEY AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, I rise in support of the Kildee-Foley amendment which would delete from H.R. 2444 language transferring Bureau of Indian Affairs education programs to the new Department of Education.

In setting forth my reasons for supporting this amendment, I want to emphasize my strong support for the main thrust of the bill itself. By consolidating more than 100 Federal education programs, which are scattered throughout several departments, into one Cabinet-level department, H.R. 2444 will help to end needless and costly duplication of effort in the administration of the Federal education effort.

I was a sponsor of Department of Education legislation as it was introduced earlier this year, and I intend to support its enactment.

In my judgment, however, the provision of the bill which transfer Indian education programs to the new Department would be counterproductive.

The Bureau of Indian Affairs currently has jurisdiction over a wide array of services to Indians; among the most important of these is education, for it is through education that the identity of Native Americans is maintained and enhanced.

Today, years of work to consolidate and rationalize Federal assistance to Indian communities are beginning to bear fruit. In my congressional district, the Warm Springs Indian Reservation has become a self-sustaining economic and social unit, and it has done so on the terms of the Confederated Tribes of Warm Springs. Others are following suit.

To transfer education—the very heart of our effort to assist the Indian community—away from the BIA at this time would be a major setback to tribes throughout the Nation. That is why neither the administration, through the Department of the Interior and BIA, nor most tribal organizations support the transfer, and why I ask for my colleagues' support for the Kildee-Foley amendment.

I would like to conclude my remarks with a partial listing of Indian organizations opposing the proposed transfer:

Oglala Sioux Nation of South Dakota.
Ute Indian Tribe of Utah.
Shoshone-Bannock Tribes of Idaho.
Confederated Tribes of Siletz of Oregon.
Confederated Tribes of the Umatilla of Oregon.
Confederated Tribes of the Warm Springs of Oregon.
Navajo Tribes of Arizona and New Mexico.
National Advisory Council on Indian Education.
Alaska Federation of Natives, representing 201 Indian, Eskimo and Aleut Villages.
Seminole Tribal Council of Florida.
Nez Perce Tribal Council of Idaho.
Kickapoo Tribal Council of Kansas.
Blackfeet Tribal Council of Montana.
Crow Tribal Council of Montana.
Cayuga Nation of New York.
Oneida Nation of New York.
Cheyenne-Arapaho Nation of Oklahoma.
Coushatta Tribal Council of Louisiana.●

THE LATE MARVELLA BAYH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, I wish to join my colleagues who have already spoken in the Senate and in this House in expressing deepest heartfelt sympathy to my good friend, BIRCH BAYH over the loss of his lovely and dear wife, Marvella.

Marvella Bayh was not only a wife, but a great companion to the senior Senator from Indiana. She provided an unequaled inspiration to all of those around her to live life to its fullest and overcome all of the pitfalls we may encounter. Her greatest expression of self-respect, dignity, and enthusiasm for life were those when she was stricken with the horrible monster, cancer. She inspired faith in others who were as unfortunate as she, in addition to waging a public battle against this dreaded disease.

My wife, Mildred, who passed away also from cancer on March 31 was one of those strengthened immeasurably in the last dreadful year and a half of her life as she faced the inevitable end from the monster cancer by the example Marvella Bayh set in courage and in accepting with dignity the inevitable end.

Mrs. Pepper and I have had a long and warm friendship with Senator and Mrs. Bayh. We visited together on many occasions and often traveled together. My wife and Marvella were especially close because both my wife and I appreciated in Marvella those noble qualities which have adorned great women from the long past. She was ever thoughtful of others, ever trying to make things better for other people, ever helping to build a better and more beautiful world.

She was beautiful in person as she was beautiful in spirit. She was one of the nobility of our time for her life reflected the quality of excellence which is real nobility.

Senator BAYH and I are going to participate in a hearing before the House Select Committee on Aging on the 19th of June when the highest officials of the National Cancer Institute and some 30 of the outstanding authorities on cancer in the United States and some from abroad will testify about this dreadful killer of people which takes the lives of one-half of all the people who die beyond the age of 55 and many others of younger age. Surely if we wish in the best way to vindicate the lives of Marvella Bayh and Mildred Pepper and many others like them who have been taken by this dreadful disease we must spare nothing in our effort to find the cause and cure for it. We cannot allow so dreadful and destructive an enemy of our people to go unchecked and unthrottled if it lies in our power to choke him to death.

I know the deep anguish there is in Senator BAYH's heart, the torture of the lonely hours when the picture of beautiful Marvella comes bursting back into his memory and he lives again the tortuous hours of her last years and days as well as the happy hours of their years together. I extend to them and all of Marvella's loved ones my understanding and heartfelt sympathy. Marvella Bayh will live forever in the world of the spirits and, indeed, in the better world that she helped to build.●

REPORT ON THE LEGAL STATUS OF HOMEMAKERS IN PUERTO RICO

(Mr. CORRADA asked and was given permission to exend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. CORRADA. Mr. Speaker, I include in the RECORD a report on "The Legal Status of Homemakers in Puerto Rico." The report was prepared as part of last year's observance of International Women's Year.

The League of Women Voters of Puerto Rico was the local sponsor for this study which was undertaken by the Commission for the Advancement of Women's Rights and authored by Attorney Angelita Rieckehoff de Naveira.

Although traditionally the role of women as homemakers has not been viewed as a career choice, increasingly we, as a society, are coming to accept homemakers as integral members of the working class. Without their valuable contribution in maintaining, preserving, and promoting the family unit, society as we know it would cease to exist.

And yet we have been dilettante in recognizing their importance and to respect their rights. Despite the fact that the number of men who are optioning for a career in homemaking is increasing, most homemakers are still women.

This report on their legal status is not only appropriate as an information digest for homemakers regarding their rights, but also serves as a blueprint of ideas on how to better improve the protection society offers to these vital members of our community.

Mr. Speaker, I include the report on "The Legal Status of Homemakers in Puerto Rico" in the RECORD:

THE LEGAL STATUS OF HOMEMAKERS IN PUERTO RICO[1]

MARRIAGE

An old adage in Puerto Rico prescribes that "marriage and shroud come down from the sky", meaning that by divine design we must inevitably marry to complete our cycle as individuals. This was particularly true in the case of women.

As more and more women question that belief and consider other alternatives, it becomes necessary to review what marriage is all about, and what, in legal terms, we can expect when we enter into that relationship with a man.

Marriage, as considered by Puerto Rican laws is a civil institution, originating in a civil contract by virtue of which a man and a woman mutually agree to become husband and wife and to comply with the mutual obligations that the law imposes upon them.[2]

Puerto Rican law considers marriage not only as a contract, but also as a basic civil institution in our society. Thus, it has been regulated even in its more intimate details.

Requisites for marriage

The law prescribes that in order to marry, a person must be of legal age, that is, 21 years old. With parental consent minors may marry if the man is at least 18 years old and the woman 16. If the parents refuse their consent or are absent, minors may request permission from the Superior Court.[3]

In cases of pregnancies, marriage is authorized without the parents' permission by virtue of an order of the Superior Court nearest the woman's residence.

In accordance with the law, a seduced woman may marry at 14. If the seducer is 16 or over, he may face criminal prosecution, unless he marries the woman. In no case whatsoever may a woman of less than 14 years of age, or a man less than 16 marry.

Until 1976 a divorced or widowed woman could not remarry until 301 days after the divorce or death of her former husband. With the recent amendments she may marry if she presents a medical certificate stating whether or not she is pregnant.[4]

The marriage license is applied for at the Demographic Register of the Department of Health. The couple must bring the health certificates required indicating that both are free of any venereal disease and that neither suffers from epilepsy, idiocy or lunacy. This medical certificate shall be valid for a period of 10 days.[5]

The only persons authorized to officiate at weddings are judges, and duly ordained priests, ministers, or rabbis.[6]

Woman's name after marriage

The Civil Code states that the wife's last name shall be her husband's last name.[7]

However, Puerto Rican women have for centuries used their maiden name with the preposition "de" and the husband's surname afterwards. For example: when Raquel Garcia marries Juan Vélez, she will be known as Raquel Garcia de Vélez.

So actually, the Spanish tradition has helped women preserve their own identity, even though they marry.

Women's residence after marriage

Before the legal reform of 1976, the head of the family (then the husband) designated and set the family's residence. Recent amendments to the law determine that both husband and wife shall decide where they will establish their residence.[8]

In order that a person be considered a resident of a certain place he/she should come to that place with the intention of establishing his permanent residence and in effect stay there for that purpose. This is no significant matter. Many rights and obligations are determined by a person's residence.

Residence is very relevant when a legal proceeding is to be instituted (as divorce), or when seeking elective office. In the latter case a person may not run for office in a district if he/she is not residing there.

Who is responsible for the economic welfare of the family?

Both husband and wife are responsible for contributing to the economic welfare of the family. Sometimes the wife is unable to support herself, if she does not have the means to earn a living or the properties to derive income from. In those cases the husband has to provide for her, according to his means and the wife's necessities. This is also true during divorce proceedings right through final disposition of the case.

Economic matters before marriage

The Civil Code leaves very little room for the contracting parties to establish their own rulés concerning the economic matters within marriage.

If the contracting parties wish to make their own particular arrangements to suit their needs, they must do so before marriage. These arrangements are called Marriage Contracts.

Marriage contracts: an alternative

If no conjugal community is desired, the persons wishing to get married must establish their own system in a public deed prior to the marriage.[9] A public deed is a document signed before a notary under the formalities required by law. The original document is kept by the notary. Any person, for a very small fee may request a copy. Once the terms are established, they cannot be varied after marriage. In the absence of such a prior arrangement, it is understood that the marriage is contracted under the system of conjugal community.

These contracts, however, cannot be used to avoid paying income tax on the couples' joint income. They have to file only one return.[10]

Other convenient arrangements

Before marrying, a woman should make an inventory of the private property she owns. While she is married, it is important that she keeps a record of transactions where those properties are involved, so as to avoid any confusion with other property acquired after marriage.

What is conjugal community?

In Puerto Rico all property that is acquired by either spouse during the course of their marriage is common property that belongs to a separate entity called the conjugal community. This conjugal community has a separate personality from the individual husband or wife. All salaries, rents, interests, whether they come from separate or common property, belong to the community. Upon the dissolution of marriage, both partners will share on an equal basis in the property belonging to the conjugal community.[11]

Rights under the conjugal community

After the amendments of 1976, both husband and wife became joint administrators of property belonging to the conjugal community.[12] In theory, women have acquired equal rights in the conjugal community. In practice, however, husbands continue making most of the decisions affecting economic matters within marriage. Many times these decisions are not consulted with the wife. This results in women's lack of knowledge and experience in the financial affairs of the family.

Women's lack of experience in management will make it very difficult for her and her children in case the husband suddenly dies. Therefore, it is imperative that women not be silent partners. Families where the wife is considered an equal partner and where her talents are put to full use have a better chance of success.

What is the difference between conjugal property and separate property?

Before establishing the difference, it is important to understand that property refers to material things. It can be (1) chattel or (2) immovable (real) propery. Chattel is property that can be moved: the furniture, the car, any jewelry, money or corporate stocks.

Immovable property is land or any property that is attached to a piece of land and cannot be moved: for example, a house, a building, or an empty lot.

Conjugal property is property which is acquired by the spouses during marriage.[13] Separate property is that which belongs to one of the spouses before marriage, or is acquired by one spouse through inheritance or donation.[14] Property bought with funds originating from the sale of separate property is also considered separate property.

Rents from a separate property are conjugal property. If the property is mortgaged, any amortization through periodic payments of installments with conjugal community's income will benefit the conjugal property. So, any increase in equity derived from the reduction of the balance of the mortgage is conjugal property.

Any increase in value derived from improvements made with conjugal money on private property is conjugal property. For example, if the husband is engaged in cattle raising with his private property, any increase in the herd is considered conjugal property. Lottery prizes belong to the conjugal community. However, awards in tort actions for personal injuries belong to the beneficiary.[15]

Who administers the separate property?

Women may administer and dispose of their separate property.

It is very important to keep a clear record of what is separate property because the law presumes that all property acquired during

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Footnotes at end of article.

a marriage is conjugal property.[16] Thus, it is convenient for the woman to keep her property as separate as possible from any conjugal property to avoid ending up with no separate property of her own.

Who administers the conjugal property?

The 1976 amendments to the law provide that both spouses are co-administrators of the conjugal community. Both spouses have to consent before any conjugal chattel property may be sold or bought, except those that are for the benefit and use of the family. In transactions dealing with immovable or real property, both spouses must consent in a written document.[17]

Can the husband become the sole administrator of the conjugal community?

The husband will not be able to solely administer this property unless the wife gives a power of attorney authorizing him.[18] A power of attorney is a document signed before a notary under the formalities required by law. It can be general or specific. A general power of attorney is one conferring authority to execute general acts of administration. A specific power of attorney is an authorization for one or more specific transactions.

It is important that a wife seeks counsel before she signs away all her rights. It is recommended that, whenever possible, powers of attorney be restricted to the acts for which they were intended. A specific power of attorney will automatically be revoked at the completion of the transaction. A general power of attorney, however, has to be specifically revoked by the woman through a public deed before a notary. These deeds concerning power of attorneys have to be filed by the notary at a special registry at the Supreme Court.

Can the wife establish and administer a business of her own?

A married woman may establish a business of her own and within her own business she may buy and sell whatever chattels are needed without her husband's consent. All profits of the enterprise belong to the conjugal community. If the business has any losses, the conjugal community will take a loss, and accordingly, will be liable for any debts.[19]

CREDIT FOR WOMEN

Our laws and attitudes for several centuries have reflected the common belief that a spouse who does not earn an income by working outside the home is not creditworthy. Prior to 1976, a homemaker getting credit was an impossible dream. Only extremely wealthy women owning separate property could accomplish such a feat.

Some of the difficulties encountered by women are:

Single women have more difficulty obtaining credit than single men, especially in the mortgage credit.

Creditors generally require a woman upon marriage to reapply for credit, usually in her husband's name.

Creditors are often unwilling to extend credit to a married woman in her own name.

Creditors are often unwilling to count the wife's income when a married couple applies for credit.

Women who are divorced or widowed have trouble reestablishing credit. Women who are separated have a particularly difficult time, since accounts may still be in the husband's name.

Recent amendments to Federal Laws guarantee that credit shall be available to women.[20] These laws ban any discrimination because of sex, or marital status. However, since Puerto Rican law only contemplates the possibility of credit for things that are for personal use or for the use of the family, the possibility of a married woman establishing credit on her own are severely limited.[21] Lenders will require the husband's consent to give credit for things which are not personal or for the use of the family. In cases where the purpose of the loan cannot be established clearly, credit may be denied, unless the husband consents.

The Equal Credit Opportunity Act does not give anyone an automatic right to credit. It does require that a creditor apply the same standard of "creditworthiness" equally to all applicants.

What is creditworthiness?

Creditors choose various criteria to rate any person as a credit risk. They may ask about a woman's finances: how much she earns, what kinds of savings and investments she has, what her other sources of income are. They may look for signs of reliability: occupation, how long has she been employed, how long she lived at the same address, whether she owns or rents her home. They may also examine her credit record: how much she owes, how often she has borrowed, and how she has managed past debts.

The creditor wants to be assured of two things: the ability of the person to repay debts and his/her willingness to do so. The Equal Credit Opportunity Act does not change this standard of creditworthiness.

What is equal credit opportunity?

The law says that a creditor may not discriminate against a woman—treat her less favorably than another applicant for credit—because of sex or marital status.

Just because you are a woman, or single, or married, a creditor may not turn you down for a loan.

Applying for credit: Questions about your sex or marital status

A creditor may not discourage a person from applying for credit just because she is a woman, single or married. When a credit application is filled out certain questions may not be asked:

A lender may not ask the sex of the applicant—with one exception. If you apply for a loan to buy or build a home, a creditor is required to ask your sex to provide the Federal Government with information to monitor compliance with the Act. The person does not have to answer the question.

No woman has to choose a courtesy title (Miss, Ms., Mrs.) on a credit form.

Can a creditor ask about my marital status?

In Puerto Rico creditors may request the persons' marital status on an application on a personal loan; they may choose not to do so, although they could legally. But, you can only be asked whether you are married, unmarried, or separated (unmarried includes single, divorced, or widowed).

Rating you as a credit risk

To make sure that your application is treated fairly, there are certain other things that a creditor may not do in deciding whether a person is credit-worthy.

Specifically, a creditor may not:

Refuse to consider a married woman's income, even if such income comes from part-time employment.

Ask about birth control practices or plans to have children. A creditor may not assume that a woman will have children or that income will be interrupted to do so.

Refuse to consider reliable support, child support, or separate maintenance payments. However, a woman does not have to disclose such income unless she wants to in order to improve her chances of getting credit.

Consider whether a person has a telephone listing in his/her own name, because this would discriminate against married women.

Consider sex as a factor in deciding whether you are a good credit risk.

Use a woman's marital status to discriminate against her.

However, there are some closely related questions that are permitted. In order to estimate expenses, a creditor may ask how many children there are, their ages, and the cost of caring for them, as well as about any obligations to pay wife's support, child support, or maintenance. A creditor may ask how regularly is support received, or whether it is made under court order, in order to determine whether these payments are a dependable source of income.

Extending credit—your own account

The law says that a woman has a right to her own credit if she is creditworthy. If she is getting married, she can keep her own credit accounts and credit record.

Specifically, a creditor may not:

Refuse to grant a woman an individual account just because of her sex or marital status.

Refuse to open or maintain an account in a woman's first name and maiden name, or her first name and her husband's surname, or a combined surname.

Ask for information about her ex-husband, unless she is relying on income from alimony to support her application.

Establishing a credit history

Married women often have had trouble establishing credit records because all debts were listed in their husbands' names. A new rule will help women build up their own credit records.

Information that creditors furnish to credit bureaus or other creditors about any account used by both husband and wife or on which both are liable must be reported in the names of each spouse. The law provides that if credit history is used in rating an application, a creditor must consider the available credit history on any account held by the woman, or used jointly with her husband.

Is the wife responsible for the debts?

The conjugal community is responsible for any debts incurred by either spouse. This means that if the husband has gone on a shopping spree, the wife's present and future salaries will have to pay for these debts. In addition, any rents coming from her separate property are subject to attachment.

Each spouse is responsible for his or her debts incurred before marriage, during divorce proceedings or after the divorce. Those debts will have to be paid from his or her separate property.

What if a woman changes her status?

Creditors commonly used to require a woman who married to return credit cards that had been issued in her name and to reapply for credit in the husband's name. The regulation expressly prohibits such creditor practices in the absence of evidence of inability or unwillingness to repay. If a woman is contractually liable on an account and changes her name or martial status, a creditor may not, because of such a change, require reapplication, change the terms of the account, or terminate the account.

Consider any information that she can offer to show that a favorable credit history on any account in her husband's name reflects her own credit history accurately.

Some women have been denied credit simply because an ex-spouse was a poor credit risk. The law also says that a creditor must:

Consider any information that a woman can offer to show that an unfavorable credit history on any account she shared with her spouse does not reflect her own credit history accurately.

Footnotes at end of article.

Another Federal law, the Fair Credit Reporting Act, gives women the right to get a summary of her credit history from a credit reporting agency and to correct any inaccurate information in it.

Credit reporting

After June 1, 1977, creditors that report credit histories to credit bureaus, or that respond to inquiries from other creditors will be required:

To designate accounts on which both spouses are contractually liable, or on which the spouse is an authorized user.

To furnish information on such accounts to credit bureaus in a manner that will enable the credit bureau to provide credit information in the name of each spouse.

To furnish information to other creditors and to credit bureaus in the name of the spouse about whom an inquiry is made.

As to accounts in existence on June 1, 1977, if the creditor has not already made the necessary designation, the creditor is required to mail or deliver a notice to account holders advising them of the right to request credit reporting in both names.

This provision enables a woman who is married but not employed outside the home to develop a credit history for herself through use of her husband's account. In order to benefit completely from this provision, such women should write to each creditor with whom her spouse currently has an account on which she is contractually liable or an authorized user and request that the account be reported in her name as well as his. Forms for such purpose have been mailed out by many creditors. Women should be aware of the significance of these forms and the importance of filling them out and returning them to the creditor.

In addition, women who have any credit history should go to their local credit bureau to check the content of their files in order to assure that they are correct and complete. Favorable information can be added to a file.

Women should request that a separate file be set up in their own name (separate from their spouse's file). Such action is necessary in order to insure that each participant develops her own credit identity so that she will be better able to obtain additional credit in the future, particularly at the times that she is likely to need it most (e.g., at the time of separation, divorce, or the death of her spouse, in the case of married women).

Notice and penalties

A creditor may not stall on an application. An applicant must be notified within 30 days of any action taken on an application. If credit is denied, the notice must be in writing and it must either give specific reasons for the denial or tell that an explanation may be requested. The same rights apply if a credit account is closed.

If a woman is denied credit, she ought to find out why. She should try to solve the problem with the creditor, and show that she knows about her right to equal credit opportunity. If the problem cannot be solved and she thinks that she has been discriminated against, she can sue for actual damages plus a penalty if the violation was intentional. The court will also award reasonable attorney's fees if there has been a violation.

The most important rules

A woman cannot be refused credit just because she is a woman.

She cannot be refused credit just because she is single, married, separated, divorced, or widowed.

She cannot be refused credit because a creditor decides she is of child-bearing age and, as a consequence, will not count her income.

She cannot be refused credit because a creditor will not count income she receives regularly from alimony or child support.

She can have credit in her own name if she is creditworthy.

She can keep her own accounts and her own credit history if her marital status changes.

She can build up her own credit record because new accounts must be carried in the names of husband and wife if both use the account or are liable on it.

If she is denied credit, she can find out why.

To find out more

If you think you have been the victim of you may want to contact the Board of governors of the Federal Reserve System or the Civil Rights Division of the Department of Justice in Washington, D.C.

PHYSICAL ASSAULT

Physical assault—or wife beating—has become an epidemic in our society. It knows no economic or social barriers. Many women in Puerto Rico feel trapped in this situation because they have no marketable skills or private income to make themselves financially independent and thus able to establish a separate home. Some women feel that the children are still too young and need their mother at home, thus curtailing employment possibilities.

Some women even believe that they deserve such treatment because they have failed in some way as homemakers, thus justifying the beating as proper punishment.

The solution to this problem undoubtedly is found in reaffirming self-respect. Services are needed desperately to aid women in this respect. In the meantime, it is useful to know the following facts:

What to do if the husband physically abuses the children

It is a felony to physically or sexually abuse children.[22] This type of crime should be reported immediately to the police, the office of the Department of Social Services nearest you, the Superior Court's Family Relations Division, or the Prosecutor of the Superior Court nearest you. If you do so, you will not be subject to any civil or criminal action.

What to do if the husband assaults the wife

Assault and battery committed against any person is a felony.[23] If a woman is assaulted by her husband, she can inform the police. However, in practice, the police often are reluctant to intervene in these cases.

Laws against sexual aggression leave the woman unprotected when the aggressor is her husband.[24] In case of rape by the husband, the woman will find it impossible to start court proceeding against him.

However, she can leave the house and also file for divorce. After filing for divorce, she can ask the Court hearing the case, to establish a different domicile for her and for her children. If husband and wife are separated, a sexual assault will be considered rape.

DIVORCE

Our divorce laws are obsolete. They no longer reflect our way of thinking. They are predicated upon the notion that one spouse is guilty of some wrongdoing and that the other can seek redress.

In reality a divorce is the culmination of a slow process of deterioration of the relations between spouses. It is very seldom that one spouse is completely guilty and the other completely innocent.

Not only do the spouses suffer through this archaic process, but also the children are affected by it.

The disadvantages encountered by the homemaker are repeated and aggravated when her marriage is terminated by divorce. Many homemakers go through extreme hardship in the areas of employment, child care, and support for themselves and their children. In the process of making decisions and claiming their rights, it is useful for homemakers to know the following facts:

What are the grounds for divorce in Puerto Rico

The Civil Code allows a person to file for divorce on the grounds of adultery, habitual drunkenness or drug addiction, cruel treatment or grave injuries, abandonment, incurable sexual impotence, corruption of minors, the proposal of the husband to corrupt the wife, or for incurable lunacy.[25]

Puerto Rico has only one no-fault divorce ground. This is the case of the separation of the spouses for a period of two years. Recently, however, the Supreme Court of Puerto Rico determined that to deprive a couple of the right to mutually consent to a divorce is unconstitutional. This will open the door for divorce proceedings on a non-fault basis upon agreement by spouses who do not have any children.[26]

If a woman is physically or emotionally threatened, can she leave the house?

When a woman or her children are threatened, she has the right to leave the family domicile and take the children with her. To do so will not be construed as abandonment of domicile for the purpose of determining the guilty spouse in divorce cases. Judicially it has been interpreted that this constitutes constructive abandonment and the blame has been placed on the man who forced the woman to take such action.

If the woman does not live in Puerto Rico, can she file for divorce here?

The woman must be a resident of Puerto Rico for at least a year before a Puerto Rican Court assumes jurisdiction. Otherwise, she may only file for divorce in the event that the incidents that give grounds for the divorce happened in Puerto Rico.[27]

The divorce proceedings will be instituted at the Superior Court nearest the place of residence of the promoting party.

What temporary arrangements can be made?

Once the divorce is filed, the Court will step in to make temporary arrangements for domicile, economic matters, and for children's support and care.

If the wife does not have any money or a place to move to, upon sufficient proof the Court could order the husband to leave the house, until the divorce is final. The Court also will order the husband to provide the wife with money to cover her expenses while the divorce proceedings are still pending.

While divorce proceedings are pending, no debts incurred by the spouses shall be paid with conjugal property unless the Court so authorizes.[28]

Who pays for the divorce proceedings?

The spouses may determine who will pay for the divorce proceedings. If the wife does not have enough money, the Court will order the husband to pay for the legal expenses. If neither spouse has any money, they can use the free legal services available through government-funded entities.

Who gets what?

Divorce means both the dissolution of the matrimonial ties, as well as the division of all conjugal property.[29]

During the process of dissolution, the conjugal community must be appraised to determine what property is in fact available for division. Then, after all debts are paid or settled, theoretically each spouse gets half of the assets of the conjugal community.

For example, if the couple owns a business, the wife has an interest in the business and is entitled to receive her share of the business or to receive payments buying her out.

It is not uncommon to find that a homemaker has no idea whatsoever of the assets

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Footnotes at end of article.

of the conjugal community. She may not even know in which bank the husband has kept the family's account.

In most cases a typical middle-class family will own a house with very little equity and with big mortgage payments, some furniture and household goods, one or two cars which are still not paid for, one minimal savings account and several charge accounts. Thus, there is not enough ready cash to be used for the wife's needs. Most often, she will have to continue payments on whatever property is awarded to her, be it the house or the car. To complicate matters further, the wife's earning ability often is diminished by the time she has spent away from the labor market.

It is important for every wife to have a general knowledge of the family finances and to keep an account of money available for emergencies. It could be kept in a savings account or savings certificate in her name.

If she cannot support herself, can her ex-husband be forced to support her?

In Puerto Rico, a divorced woman does not have an automatic right to be supported. A former husband can be forced to support a former wife only when she is incapable of supporting herself and when he can afford to provide that support.[30] Therefore, the necessity of the one who is to receive and the capacity for payment of the one who is to pay have to be proven before the Court orders support payments. The Court determines this on a case to case basis. In no instance will the amount of money awarded as support to the wife exceed one fourth of the salaries and rents of the husband.[31]

These economic arrangements are not permanent and the Court can order a hearing at any time to re-examine the amounts or the circumstances which merit the wife's support payments. These payments may be revoked if she remarries.

Support for the children

In the case of a woman who has the custody of the children, the law relies on the belief that both parents are responsible for the children's support. The parental obligation to support the children does not end with the divorce decree. Children are entitled to support from their parents at any time they have a need for it.

Support is understood to be all that is indispensable for maintenance, housing, clothing and medical attention, according to the social position of the family. Support also includes the education and instruction of the person supported when he/she is a minor.[32]

The Court will determine the amount of money that each parent must contribute to the support of the children. This amount is subject to change if the children's needs increase. The amount can also be reduced.

This obligation to pay support to the children is completely different from the obligation to support the former wife.

What if the father refuses to pay child support?

It is important that steps are taken to insure the receipt of funds on a regular and continuing basis.

Obtaining a court decree for child support is the first step. This requires hiring a lawyer, or going to a free legal aid service if the woman has no money to pay for a lawyer.

If the father is in Puerto Rico and there is a Court order for child support, the woman can ask the Court to hold the father in contempt for failure to comply with it. The judge can put him in jail if he is found guilty.

Also, in Puerto Rico abandoning children is a midemeanor which carries, if convicted, a sentence of up to 6 months in jail or a fine of up to $500[33] This is a criminal action and to initiate it, the woman should go either to the police or the district attorney.

If the father lives outside Puerto Rico, the mother must locate him and attempt to enforce the child support decree wherever he can be found. In case he is not residing in Puerto Rico, through the support-of-dependent's law and through reciprocal agreements with all the states, he can be located and enforcement of the order can be obtained.

The Federal Government has stepped in to aid in the collection of child support. Concerned about the effects on welfare costs related to the failure to collect support payments, the U.S. Congress in 1974 amended the Social Security Act to strengthen collection of child support payments both for families on the program "Aid to Families with Dependent Children" and other families.[35]

This law, which applies to Puerto Rico, provides financial penalties for those states failing to establish efficiently operating units to implement it. These units are for establishing paternity, securing court orders for child support, locating defaulting parents, and collecting the payments. The Federal Government was directed to establish a parent locator service to help in finding defaulting parents, and it is now in operation. Persons not on welfare are charged for collection services.

In case you need help, contact any local office of the Department of Social Services, any local District Attorney's office, or any Special Solicitor for Family Relations of the Department of Justice.

Can the children be taken away from the mother if she is the guilty spouse in divorce proceedings?

No, the Court decides who obtains the custody of the children using the welfare of the children as a guide. The Court cannot make its decision based on who petitioned for the divorce, or on who was found guilty. Although the law treats both parents equally, the Courts usually award custody to the mother.

If the woman leaves the home, will the court take away her children?

If a woman files for divorce or leaves the house, the Court will not penalize her by awarding custody of the children to her husband. The award is made taking into consideration the welfare of the children.

Legal proceedings are available to prevent the husband from taking away the children once custody is awarded to the mother. If a woman should find herself in this position, she should consult a lawyer.

CHILD CUSTODY AND PATRIA POTESTAD

In Puerto Rico the law establishes a difference between these two rights over children. Custody is the right and obligation to take care of the children. Patria Potestad is the right to determine and make decisions concerning the children and, in addition, to represent them in litigation or in any actions which may benefit them.

Before the amendments of 1976, the law conferred the rights of custody and patria potestad to the father. Only in the absence of the father or in case of divorce the mother was awarded those rights.

The 1976 amendments gave both parents all rights over the children. Any decisions concerning them should be made jointly. They also will administer together any of the children's property.[37]

In cases of emergencies when only one parent is available to authorize medical treatment, the law provides that the parent who is in custody of the child can authorize medical treatment. There is a practical problem in the interpretation of the law when both parents that are present, are in disagreement. In that case it is suggested that the court be petitioned, through a lawyer, for the problem to be solved in the best interest of the children.[38]

When a couple divorces, who is awarded custody?

As previously mentioned, the law establishes that the Court should take into account only the best interests of the children to reach a decision concerning their custody. This does not mean that the parent who loses custody and patria potestad will not be able to see the children. He or she has the right to continue parental relations with the children, as determined by the Court in the divorce proceedings.[39]

Can custody and patria potestad over the children be changed?

Yes, they can be changed if whoever has custody and patria potestad dies, or if the Court can be convinced that it is in the best interest of the children.

When can a minor govern himself?

A child can become legally competent through marriage, a judicial decree, becoming 21 years old or by emancipation.[40]

What is emancipation?

It is a declaration by the parents before a notary public that the minor, who is 18 years old, is from then on capable of governing himself and administrating his property.[41] Once the emancipation is granted, it cannot be revoked. There are some minor restrictions which the law imposes on the disposition of his property until he becomes of legal age (21 years old).

Common law marriages

Elsewhere we have pointed out that the relationship between a man and a woman does not always arise within a marriage. Very often the alternative to marriage is common law marriage, that is, they intend to live together without having gone through a ceremony. Many problems that arise within marriage are experienced by partners in a common law marriage: economic decisions, children's welfare and support, physical aggression. It is important, however to know that Puerto Rican law does not recognize a common law marriage and consequently, these problems are aggravated.

Will a woman share in the property accumulated during a common law marriage?

The courts have decided that a woman has a right to share in property accumulated during the relationship in the same proportion that she contributed toward the acquisition.[42] Courts have also upheld the right of the parties to agree to the terms upon which any property shall be divided between them.[43]

Does a woman have a right to support payments once the common law marriage relationship has ended?

The law does not cover the woman in the eventuality of separation. Only in the case of death does the law provide that a woman may recover from the Workmen's Compensation Fund and, if applicable, from the Automobile Accident Compensation Administration.

What are the rights of children born outside of marriage?

According to Puerto Rican law, all children have the same rights with respect to their parents whether they were married or not.[44]

WIDOWHOOD

The emphasis of Puerto Rican inheritance laws is on family rights. So whether there is a will or not, there is a legal obligation for designated blood relatives to share in the estate of the deceased. Limitations on freedom to make a will are based on the institutions of "legal portions" and "forced heirs". Portions of the estate are designated by law to go to certain persons who are called forced heirs. They have a right to inherit regardless of whether the testator men-

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Footnotes at end of article.

tions them in his will or not. Forced heirs are the children, the parents and the surviving spouse in a limited way. They cannot be deprived of their legal portions, except under very extraordinary circumstances.

A husband and wife should review the arrangements that need to be taken care of in the event that one of them dies. Both should know where all the family papers are kept. These include deeds and abstracts for real estate, mortgages, loans, wills, insurance policies, savings bonds, saving books or certificates and corporate stock, if any. Other arrangements include employees pension plans and death benefits and Social Security benefits.

Both husband and wife should make separate wills to avoid any inheritance problem. They should also consult a lawyer concerning the tax-free $30,000 donations they may give their heirs during their lifetime.

Will the widow inherit from the husband?

During the marriage the wife is owner of half the assets of the conjugal property.

When the husband dies the conjugal community has to be dissolved. This means that the assets have to be appraised and the liabilities or debts subtracted. His half of the conjugal property together with his separate property becomes the dead man's estate.

Under Puerto Rican law a widow has a portion assigned in her dead husband's estate.[45] That portion is called "usufruct". Usufruct means the right to enjoy a property that legally belongs to another and consists of the right to enjoy the interest, rent, advantages, fruits deriving from that property.

While the widow has the right to enjoy and use the proceeds, she also has the obligations to preserve title to that property. Upon her death it reverts back to the heirs.

The heirs decide how to pay the usufruct and may convert the widow's share into cash. Formulas developed by insurance companies and other investors are used to determine the amount paid.

If the husband did not make a will before he died and he has descendants, his estate will be divided among them and the widow will have only the right of usufruct on the estate. Only if he has no living blood relatives (descendants, ascendants, brothers, sisters, or their children) will she be able to inherit from him.

If the husband made a will and he has descendants, two thirds of his estate must go to them. The remaining third may be willed to any person, including his wife.[40] But if he did not expressly provide in his will that she is to receive this third of his estate, she will only get the usufruct.

Puerto Rico's inhertance laws are very technical and we cannot specifically cover all the different situations. It will suffice to know that children and the parents of the deceased are forced heirs, and must receive a share of his estate. Any provisions willed to the contrary are null and void. Consult a lawyer.

Will all children inherit from their father?

In Puerto Rico, all the children of the deceased have the same rights to their father's estate. It makes no difference if they are children of the marriage that existed when the father died, children of previous marriages, or children born out of wedlock.

They all inherit an equal share of the first third of his estate. By will, he can divide the second third of his estate among his children as he chooses. If there is no will, the second third will be divided equally among all his children. He can will the final third of his estate to whomever he wishes, including his children.

What happens to the family home?

If there are children or parents of the deceased who demand their share of the estate, the widow may be forced to sell the house in the event that she does not have sufficient money to buy out their interest. Matters are often complicated if minors are involved. Special court proceedings may have to be initiated to resolve all related controversies.

Very little protection is accorded to the widow with minor children by the Homestead Act.[47] It provides that any head of a family (in this case the widow) will have a right to enjoy the family household and that in case of a forced sale, the first $1,500 of the proceeds shall be exempt from attachment.

What if the deceased has drawn up a will in the States?

The will drawn up outside of Puerto Rico will be recognized if it was executed according to the laws of the country or State in which the deceased was residing. However, any disposition of real property in Puerto Rico has to be done according to Puerto Rican law.[48]

Inheritance laws are binding on citizens of Puerto Rico, even if they reside in a foreign country, and any foreigner living in Puerto Rico is bound by its laws, family rights and obligations.

What about the debts?

Under Puerto Rican laws a person can transmit not just property, but also debts and obligations.

So, if you become an heir, before you accept that inheritance you can use a mechanism called "benefit of inventory".[49]

That means you accept conditionally the inheritance subject to that inventory so you don't end up liable for the deceased's debts and obligations.

What about pensions and Social Security?

If the husband is entitled to a job pension plan, he could very likely provide for the wife's well-being in case of his death. The pension plan gives him the choice to include her or not in the pension after his death. Most likely, if they are divorced, she may not qualify. Common law marriages are usually not recognized by these plans. It is important that the woman verify whether she is eligible under survivor's benefits.

A wife whose husband is covered by Social Security is entitled under certain circumstances, to benefits based on his employment record when he becomes disabled, retires or dies. A wife divorced prior to twenty consecutive years of marriage loses all eligibility for such benefits, unless he dies and she has children in her care that are entitled to a benefit based on his employment. Even if she is divorced after twenty or more years of marriage, she would not be eligible for such benefits until he is disabled, retires or dies. She loses all claim to her ex-husband's account if she remarries.

WHERE TO GO FOR HELP

Legal services:

Servicios Legales, Inc. Check your phone directory. Servicios Legales has offices in many towns and cities.

Tribunal Superior, (Superior Court), Family Relations Division. Check your phone directory for the address of the Superior Court nearest your place of residence.

Clínica de Asistencia Legal de la Universidad de Puerto Rico. School of Law, University of Puerto Rico, Tel. 767–6208.

Colegio de Abogados, (Bar Association). Ave. Ponce de León 808, Miramar, Santurce, Tel. 724–3358.

Counseling services:

Departamento de Servicios Sociales, (Social Services Department). Consult your phone directory for the address of the office nearest your place of residence.

Instituto del Hogar, (Home Institute). Los Mirtos 154, Hyde Park, Rio Piedras, Tel. 767–4110—765–7895.

Parent locator services:

Child Support Program. Department of Social Services, Old Naval Base, Bldg. 10, Stop 11, Miramar, Santurce, P.R., Tel. 725–0753—724–7400; Ext. 2119 and 2114.

Anti-discrimination services:

Comisión para el Mejoramiento de los Derechos de la Mujer. Ponce de León 1608, Stop 23, Edif. Garratón, 2d Floor, Santurce, P.R. Tel. 722–2857—722–2907.

Credit information:

Office of Consumer Affairs. Federal Reserve Board, Washington, D.C. 20551.

Civil Rights Division. Department of Justice, Washington, D.C. 20530.

Rape center:

Rape Crisis Center. Pabellón A, Hospital de Psiquiatría, Centro Médico, Río Piedras Puerto Rico, Tel. 765–2412; (Emergencies) 765–2285.

FOOTNOTES

[1] As of Feb. 1978, 71.50% of women over 16 years old are out of the work force. Employment and Unemployment in Puerto Rico, Labor Force Statistics Division, Department of Labor and Human Resources, Feb. 1978—Vol. 78–2.

[2] Art. 68, Civil Code, 31 L.P.R.A. 221.

[3] Art. 70, Civil Code, 31 L.P.R.A. 232.

[4] Art. 70, Civil Code, 31 L.P.R.A. 232, as amended by Law No. 108, June 2, 1976.

[5] 31 L.P.R.A. 236, as amended.

[6] Art. 75, Civil Code, 31 L.P.R.A. 243.

[7] Art. 94, Civil Code, 31 L.P.R.A. 287.

[8] Art. 90, Civil Code, 31 L.P.R.A. 283, as amended by Law No. 111, June 2, 1976.

[9] Art. 1267, Civil Code, 31 L.P.R.A. 3551.

[10] Art. 1268, Civil Code, 31 L.P.R.A. 3552; Art. 24(b), Income Tax Act of 1924, 13 L.P.R.A. 703(b). Albanese D'Imperio v. Secretary of the Treasury, 1955, 223 F. 2d 413.

[11] Art. 1295, Civil Code, 31 L.P.R.A. 3621.

[12] Law No. 51, May 21, 1976.

[13] Art. 1301, Civil Code, 31 L.P.R.A. 3641.

[14] Art. 1299, Civil Code, 31 L.P.R.A. 3631.

[15] Robles Ostolaza v. U.P.R. 96 D.P.R. 583 (1968).

[16] Art. 1307, Civil Code, 31 L.P.R.A. 3647.

[17] Law No. 51, May 21, 1976.

[18] Law No. 51, May 21, 1976

[19] Art. 1308, Civil Code, 31 L.P.R.A. 3661.

[20] Equal Credit Opportunity Act, Pub. L. 93–495 and Regulation B issued by Board of Governors Federal Reserve System on December 29, 1976 and effective March 23, 1977.

[21] Law No. 51, May 21, 1976.

[22] Arts. 99, 103, 105 New Penal Code, Law No. 115, July 22, 1974.

[23] Art. 95, New Penal Code, Law No. 115, July 22, 1974.

[24] Art. 99, New Penal Code, Law No. 115, July 22, 1974.

[25] Art. 96, Civil Code, as amended 31 L.P. R.A. 321.

[26] Sonia Figueroa v. Tribunal Superior, judgment rendered on May 15, 1978.

[27] Art. 97, Civil Code, as amended 31 L.P. R.A. 331.

[28] Art. 101, Civil Code, as amended 31 L.P.R.A. 344.

[29] Art. 105, Civil Code, 31 L.P.R.A. 381.

[30] Art. 109, Civil Code, as amended, 31 L.P.R.A. 385.

[31] Same.

[32] Art. 142, Civil Code, 31 L.P.R.A. 561.

[33] Art. 158, New Penal Code, Law No. 115, July 22, 1974.

[34] 32 L.P.R.A. 3331.

[35] Public Law 93–647.

[36] Art. 152, Civil Code, 31 L.P.R.A. 591.

[37] Act No. 99, June 2, 1976.

[38] *La Mujer y la Nueva Legislación sobre el Derecho de Familia,* Informe Especial Núm. 2, Comisión para el Mejoramiento de los Derechos de la Mujer, p. 4, Mayo 1977.

[39] Art. 107, Civil Code, 31 L.P.R.A. 383, as amended by Law 100, June 2, 1976.

[40] Art. 247, Civil Code, 31 L.P.R.A. 971.

[41] Arts. 232 ss., Civil Code, 31 L.P.R.A. 901 ss., as amended.

[42] Danz v. Suau, 82 D.P.R. 591 (1961).

[43] Pereles v. Martinó, 73 D.P.R. 793 (1952).

[44] Law No. 17, August 20, 1952.

[45] Art. 761, Civil Code, 31 L.P.R.A. 2411.

[46] Art. 737, Civil Code, 31 L.P.R.A. 2363, as amended.

[47] Law No. 87, May 13, 1956, as amended.

[48] Arts. 10, 11 and 666, Civil Code, 31 L.P.R.A. 10, 11, 2221.

[49] Art. 964, Civil Code, 31 L.P.R.A. 2801.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Addabbo, for June 8, 1979, on account of dedication of St. Albans Naval Clinic, Queens, N.Y.

Mr. Cheney (at the request of Mr. Rhodes) for June 8, 1979, on account of attending a funeral.

Mr. Gilman (at the request of Mr. Rhodes), from 3:15 today and the balance of the week, on account of official business.

Mr. Lloyd (at the request of Mr. Wright), for June 7 through 12, on account of official business of the Committees on Armed Services and Science and Technology.

Mr. Rangel (at the request of Mr. Murphy of Pennsylvania), on June 8, 1979, on account of official business.

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Schulze (at the request of Mr. Rhodes), on June 7, 8, 11, and 12, on account of official business.

Mr. Simon (at the request of Mr. Wright), for June 7 and 8, on account of serving as a Commissioner at the meeting of the President's Commission on Foreign Language and International Studies.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Whittaker) and to revise and extend their remarks and include extraneous matter:)

Mr. Tauke, for 5 minutes, today.
Mr. Conte, for 10 minutes, today.

(The following Members (at the request of Mr. Akaka) to revise and extend their remarks and include extraneous material:)

Mr. Ottinger, for 5 minutes, today.
Mr. Daschle, for 5 minutes, today.
Mr. Weaver, for 10 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Cavanaugh, for 5 minutes, today.
Mr. Drinan, for 5 minutes, today.
Mr. de la Garza, for 5 minutes, today.
Ms. Holtzman, for 5 minutes, today.
Ms. Oakar, for 5 minutes, today.
Mr. Ullman, for 5 minutes, today.
Mr. Pepper, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Corrada and to include extraneous material notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $2,123.

(The following Members (at the request of Mr. Whittaker) and to include extraneous matter:)

Mr. Collins of Texas in two instances.
Mr. Shuster.
Mr. Paul in four instances.
Mr. Lungren.
Mr. Campbell.
Mr. Edwards of Oklahoma.
Mr. Kramer.
Mr. O'Brien.
Mr. Beard of Tennessee.
Mr. Myers of Indiana.
Mr. Lott.
Mr. Livingston.
Mr. Fish.
Mr. Grisham.
Mr. Young of Florida.
Mr. Kemp.
Mr. Rousselot in two instances.
Mr. Dornan.
Mr. Ashbrook in three instances.

(The following Members (at the request of Mr. Akaka) and to include extraneous matter:)

Mr. Wyatt.
Mr. Sabo.
Mr. Minish.
Mr. Bailey.
Mr. Scheuer.
Mr. Hamilton.
Mr. Murphy of Illinois in two instances.
Mr. Jenrette.
Mr. LaFalce.
Mr. Kildee.
Mr. Nolan.
Mr. Rosenthal.
Mr. Weiss.
Mr. Addabbo.
Mr. Flood.
Mr. Murtha.
Mr. Gray.
Mr. Harris in two instances.
Mrs. Schroeder.
Mr. Drinan.
Mr. Dellums.
Mr. McCormack.
Mr. Danielson.
Mr. Dodd.
Mr. Solarz.
Mr. Pepper.
Mr. Rose.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1030. An act to authorize the President to create an emergency program to conserve energy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to the enrolled bill of the Senate of the following title:

S. 199. An act to amend the Shipping Act, 1916, to strengthen the provisions prohibiting rebating practices in the United States foreign trades.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 34 minutes p.m.), the House adjourned until Friday, June 8, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1765. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to the Netherlands (transmittal No. 79-40), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1766. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

1767. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice; transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

1768. A letter from the associate director, public relations, Boy Scouts of America, transmitting the 1978 annual report of the organization, pursuant to section 8 of the act of June 15, 1916, as amended, and section 3 of Public Law 88-504; to the Committee on the Judiciary.

1769. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting a report covering the quarter ended March 31, 1979, on the Commission's hiring and promotion of minorities and women, pursuant to section 201(h) of the Energy Reorganization Act of 1974, as amended (91 Stat. 1482); to the Committee on Post Office and Civil Service.

1770. A letter from the Deputy Secretary of Energy, transmitting a report on the Department's near-term applications for solar photovoltaic systems at Federal installations, as a supplement to the report submitted previously (Executive Communication No. 858) pursuant to section 208(a)(1) of Public Law 95-238; to the Committee on Science and Technology.

1771. A letter from the Comptroller General of the United States, transmitting a report on the Federal role in State programs for the rehabilitation of blind and disabled Supplemental Security Income recipients (HRD-79-5, June 6, 1979); jointly, to the Committees on Government Operations, Education and Labor, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. Supplemental report on H.R. 111. A bill to provide for the operation and maintenance of the Panama Canal and provide for the exercise of the rights and performance of the duties of the United States provided in the Panama Canal Treaty of 1977 (Rept. No. 96-98, Pt. II). Ordered to be printed.

Mr. FOLEY: Committee on Agriculture. Supplemental report on H.R. 3683. A bill to amend the Consolidated Farm and Rural Development Act (Rept. No. 96-153, Pt. II). Ordered to be printed.

Mr. WHITTEN: Committee on Appropriations. Report on Appropriations Committee recommendations compared with the allocation of budget totals to the Appropriations Committee for fiscal year 1980 (Rept. No. 96-240). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. Report on subdivision of budget totals agreed to in first concurrent resolution on the budget (House Concurrent Resolution 107) for fiscal years 1979 and 1980 (Rept. No. 96-241). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN. Committee on Appropriations. H.R. 4387. A bill making appropriations for Agriculture, Rural Development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-242). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee on Appropriations. H.R. 4388. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-243). Referred to the Committee of the Whole House on the State of the Union.

Mr. NATCHER: Committee on Appropriations. H.R. 4389. A bill making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-244). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENJAMIN: Committee on Appropriations. H.R. 4390. A bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-245). Referred to the Committee of the Whole House on the State of the Union.

Mr. McKAY: Committee on Appropriations. H.R. 4391. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-246). Referred to the Committee of the Whole House on the State of the Union.

Mr. SLACK: Committee on Appropriations. H.R. 4392. A bill making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-247). Referred to the Committee of the Whole House on the State of the Union.

Mr. STEED: Committee on Appropriations. H.R. 4393. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1980, and for other purposes. (Rept. No. 96-248). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee on Appropriations. H.R. 4394. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes. (Rept. No. 96-249). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Appropriations. H.R. 2797. A bill to make technical corrections related to the Revenue Act of 1978; with amendment (Rept. No. 96-250). Referred to the Committee of the Whole House on the State of the Union.

Mr. DODD: Committee on Rules. House Resolution 304. Resolution providing for the consideration of H.R. 3683. A bill to amend the Consolidated Farm and Rural Development Act. (Rept. No. 96-251). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 305. Resolution providing for the consideration of H.R. 3917. A bill to to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development, and for other purposes, (Rept. No. 96-252). Referred to the House Calendar.

Mrs. CHISHOLM: Committee on Rules. House Resolution 306. Resolution providing for the consideration of H.R. 3633. A bill to amend title VII of the Public Health Service Act to extend for 1 fiscal year the program of assistance for nurse training, and for other purposes (Rept. No. 96-253). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 307. Resolution providing for the consideration of H.R. 3916. A bill to extend for 1 fiscal year the current authorization of appropriations for programs of assistance under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and the Drug Abuse Office and Treatment Act of 1972 (Rept. No. 96-254). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 308. Resolution providing for the consideration of H.R. 3509. A bill to extend for 3 fiscal years the authorizations for appropriations under the Safe Drinking Water Act (Rept. No. 96-255). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 309. Resolution providing for the consideration of H.R. 3821. A bill to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes (Rept. No. 96-256). Referred to House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 310. Resolution providing for the consideration of H.R. 3236. A bill to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes (Rept. No. 96-257). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARNARD:

H.R. 4365. A bill to amend the National Bank Act, to refund to the Comptroller of the Currency funds held as successor to closed national bank receiverships, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BEARD of Rhode Island:

H.R. 4366. A bill to amend the Internal Revenue Code of 1954 to provide for cost-of-living adjustments in the individual tax rates, in the amount of the zero bracket amount, and in the amount of the personal exemptions; to the Committee on Ways and Means.

By Mr. BEARD of Tennessee (for himself, Mr. Whitehurst, Mr. Mathis, Mr. Lagomarsino, Mr. Martin, Mr. Hughes, Mr. McCloskey, Mr. Derwinski, Mr. Bevill, Mr. Lloyd, Mr. Collins of Texas, Mr. Evans of Georgia, Mr. Dougherty, Mr. Simon, Mr. Rudd, Mr. Corcoran, Mrs. Bouquard, Mr. Trible, Mr. Coughlin, Mr. Badham, Mr. Frenzel, Mr. Charles Wilson of Texas, Mr. Gingrich, Mr. Dornan, Mr. Burgener, and Mr. Hinson):

H.R. 4367. A bill to amend title 38, United States Code, to provide that veterans' benefits under such title for which entitlement is based on length of service in the Armed Forces, in the case of persons enlisting in the Armed Forces on or after the end of the 90-day period beginning on the date of the enactment of this act, shall be available only to persons who complete their initial period of obligated service on active duty; to the Committee on Veterans' Affairs.

By Mr. BEDELL:

H.R. 4368. A bill to amend the Internal Revenue Code of 1954 to make certain technical corrections with respect to the treatment of gasoline mixed with alcohol; to the Committee on Ways and Means.

By Mr. PHILIP M. CRANE (for himself, Mr. Stockman, and Mr. Diggs):

H.R. 4369. A bill to provide for the establishment of the Gerald R. Ford National Historic Site; to the Committee on Interior and Insular Affairs.

By Mr. ECKHARDT (for himself, Mr. Wright, Mr. Udall, Mr. Johnson of California, and Mr. Kazen):

H.R. 4370. A bill to provide certain authorities for the Secretary of the Interior to permit rights-of-way for purposes of certain pipeline transportation systems; jointly, to the Committees on Interior and Insular Affairs and Public Works and Transportation.

By Mr. EDWARDS of Alabama:

H.R. 4371. A bill to amend the National Environmental Policy Act of 1969 to provide for a statute of limitations with respect to judicial review of environmental impact statements; to the Committee on Merchant Marine and Fisheries.

By Mr. KRAMER:

H.R. 4372. A bill to provide mandatory social security coverage for Members of Congress, with appropriate limitations on the amount of the benefits which any such Member may receive if he is eligible for a civil service annuity based on the same congressional service; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself, Mr. Carr, Mr. Corman, Mr. Edwards of California, Mr. Scheuer, Mr. Seiberling, Mrs. Spellman, Mr. Studds, Mr. Vento, Mr. Weiss, and Mr. Wolpe):

H.R. 4373. A bill to amend the act of February 25, 1920, commonly known as the Mineral Leasing Act, to require competitive bidding for leases on Federal lands with oil or gas deposits, to require diligent exploration for, and development and production of, such oil or gas deposits, to limit the assignment of leases of lands with such deposits, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MOTTL:

H.R. 4374. A bill to amend title XVIII of the Social Security Act to freeze the part A deductible under medicare; to the Committee on Ways and Means.

By Mr. NEAL:

H.R. 4375. A bill to authorize the appropriation of funds for a demonstration peat-fueled electrical generating plant located in North Carolina; to the Committee on Science and Technology.

By Mr. RATCHFORD:

H.R. 4376. A bill to amend the Internal Revenue Code of 1954 to provide that the provisions denying the investment tax credit and rapid methods of depreciation for certain oil boilers will not apply to certain efficient replacement oil boilers; to the Committee on Ways and Means.

By Mr. SABO:

H.R. 4377. A bill to provide for certification and require the offering of qualified health plans, to provide Federal assistance to States to establish a program of assistance for low-income persons to purchase comprehensive health insurance, and a program for coverage of catastrophic health care expenses, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ANDERSON of California:

H.R. 4378. A bill to amend the Urban Mass Transportation Assistance Act of 1964 with respect to reduced fare ridership for elderly or handicapped persons; to the Committee on Public Works and Transportation.

By Mr. GUARINI:

H.R. 4379. A bill to amend title XVI of the Social Security Act to permit States to replace supplementary payments with vendor payments on behalf of residents of certain facilities, and for other purposes; to the Committee on Ways and Means.

By Mr. ROUSSELOT:

H.R. 4380. A bill to amend the Internal Revenue Code of 1954 to provide that the investment tax credit for energy property shall apply to certain property which is at least 10 percent more efficient than the property replaced; to the Committee on Ways and Means.

H.R. 4381. A bill to amend the Internal Revenue Code of 1954 to provide that the investment tax credit shall be allowable with respect to certain small boilers fueled by oil or gas; to the Committee on Ways and Means.

By Mr. STAGGERS (by request) (for himself and Mr. Fuqua):

H.R. 4382. A bill to amend the Energy Policy and Conservation Act, as amended, to provide assistance to States, and to political subdivisions within States to promote national energy objectives, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Science and Technology.

By Mr. WEAVER:

H.R. 4383. A bill to designate the Red Buttes Wilderness in the States of Oregon and California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WHITTEN:

H.R. 4387. A bill making appropriations for Agriculture, Rural Development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes.

By Mr. BEVILL:

H.R. 4388. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes.

By Mr. NATCHER:

H.R. 4389. A bill making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes.

By Mr. BENJAMIN:

H.R. 4390. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1980, and for other purposes.

By Mr. McKAY:

H.R. 4391. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

By Mr. SLACK:

H.R. 4392. A bill making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

By Mr. STEED:

H.R. 4393. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1980, and for other purposes.

By Mr. BOLAND:

H.R. 4394. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

By Mr. IRELAND (for himself, Mr. Derwinski, Mr. Lagomarsino, Mr. Mica, Mr. Yatron, and Mr. Wolpe):

H.J. Res. 355. Joint resolution expressing the determination of the United States with respect to claims by U.S. Nationals for property seized by the Cuban Government; to the Committee on Foreign Affairs.

By Mr. WEAVER (for himself and Mr. Edgar):

H.J. Res. 356. Joint resolution authorizing the President to proclaim July 1–7 "National Sky(lab) is Falling Week"; to the Committee on Post Office and Civil Service.

By Mr. STAGGERS:

H. Res. 303. Resolution providing for the further expenses of the Committee on Interstate and Foreign Commerce for the 2d Session of the 95th Congress; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DODD:

H.R. 4384. A bill for the relief of Lucia Faba; to the Committee on the Judiciary.

By Mr. NEAL:

H.R. 4385. A bill for the relief of Wake Forest University, Winston-Salem, N.C.; to the Committee on Ways and Means.

By Mr. OBERSTAR:

H.R. 4386. A bill for the relief of Mr. and Mrs. Clarence Ovenson; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were adde to public bills and resolutions as follows:

H.R. 2: Mr. Brown of California.

H.R. 85: Mr. Lowry.

H.R. 249: Mr. Fazio.

H.R. 1173: Mr. Paul and Mr. Collins of Texas.

H.R. 1603: Mr. Fountain and Mr. Boner of Tennessee.

H.R. 1980: Mr. Kildee, Mr. Wylie, and Mr. Walgren.

H.R. 2118: Mr. Beilenson, Mr. Bonior of Michigan, Mr. Brown of California, Mrs. Byron, Mr. Corcoran, Mr. Downey, Mr. Eckhardt, Mr. Edgar, Mr. Edwards of California, Mr. Evans of Delaware, Mr. Fazio, Mr. Fish, Mr. Fisher, Mr. Gephardt, Mr. Glickman, Mrs. Holt, Ms. Holtzman, Mr. Howard, Mr. Lagomarsino, Mr. Maguire, Mr. Murphy of Pennsylvania, Mr. Pease, Mr. Reuss, Mr. Simon, Mr. Stark, Mr. Weaver, and Mr. Wirth.

H.R. 2172: Mr. Cavanaugh.

H.R. 2994: Mr. Hughes, Mr. Heftel, and Mr. Lowry.

H.R. 3105: Mr. Gingrich, Mr. McClory, Mr. Derwinski, and Mr. Treen.

H.R. 3169: Mr. Mineta, Mr. Brodhead, and Mr. Guyer.

H.R. 3539: Mr. Myers of Indiana, Mr. Whittaker, Mr. Grisham, Mr. Burgener, Mr. Evans of Georgia, and Mr. Winn.

H.R. 3674: Mr. Collins of Texas, and Mr. Dougherty.

H.R. 3810: Mr. Addabbo, Mr. Bafalis, Mr. Benjamin, Mr. Bowen, Mr. Burgener, Mr. Carter, Mr. Devine, Mr. Dornan, Mr. Jenrette, Mr. Kindness, Mr. Mitchell of New York, Mr. Patten, Mrs. Snowe, Mr. Wampler, and Mr. Williams of Ohio.

H.R. 4058: Mr. Flood, Mr. Yatron, Mr. Huckaby, Mr. Sebelius, Mr. Buchanan, and Mr. Young of Alaska.

H.R. 4310: Mr. Breaux, Mr. Evans of Delaware, Mr. Evans of the Virgin Islands, and Mr. Treen.

H.J. Res. 205: Mr. Gephardt and Mr. Gray.

H. Con. Res. 50: Mr. Hanley.

H. Con. Res. 121: Mr. Dixon, Mr. Roe, Mr. Gray, and Mr. Seiberling.

PETITIONS, ETC.

Under clause 1 of rule XXII,

139. The SPEAKER presented a petition of the Common Council, Madison, Wis., relative to the frequency of deposits of State payments under the State-Federal OASDHI coverage compact, which was referred to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2444

By Mr. ERLENBORN:

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Biotechnology Research program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the National Institutes of Health by the Public Health Service Act."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Cancer-Construction program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the National Institutes of Health by the Public Health Service Act."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Cancer Research Manpower program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the National Institutes of Health by the Public Health Service Act, as amended."

—On page 72, after line 2, insert the following:

"(9) ali functions relating to the Drug Abuse Education Programs vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, or the Alcohol, Drug Abuse, and Mental Health Administration by the Drug Abuse Office and Treatment Act of 1972 as amended by Drug Abuse Office and Treatment Act of 1972."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Family Medicine-Training Grants program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the Health Resources Administration by the Public Health Service Act, as amended."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Health Manpower Education Initiative Awards program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the Health Resources Administration by the Public Health Services Act, as amended."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Health Professions-Financial Distress Grants program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the Health Resources Administration by the Public Health Service Act, as amended."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Health Professions-Special Project vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the Health Resources Administration by the Public Health Service Act, as amended."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Health Professions-Start-Up Assistance program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the Health Resources Administration by the Public Health Service Act, as amended."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Health Statistics Training and Technical Assistance program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the Health Resources Administration by the Public Health Service Act, as amended."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Minority Biomedical Support program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the National Instiutes of Health by the Public Health Service Act, as amended."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Nursing Capitation Grants program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the Health Resources Administration by the Public Health Service Act, as amended."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Nursing School Construction-Assistance Direct Grants, Loan Guarantees and Interest Subsidies program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the Health Resources Administration by the Public Health Service Act, as amended."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Nurse Training Improvement-Special Projects program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the Health Resources Administration by the Public Health Service Act, as amended."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Schools of Public Health-Grants program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the Health Resources Administration by the Public Health Service Act."

—On page 72, after line 21, insert:

"(e) There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Labor, the Department of Labor, the Administrator of the Employment and Training Administration, or the Employment and Training Administration with regard to the Employment and Training Institutional Grants Program under the Comprehensive Employment and Training Act of 1973, as amended."

—On page 72, on line 23, after "Sec. 303. (a)" add (1); On page 73, line 5, delete "(b)" and insert in its place "(2)"; On line 10 of page 73, delete "(c)" and insert in its place "(3)"; On line 19 page 73, delete "(d)" and insert in its place "(4)".

After line 21 insert the new subsection:

"(b) There are hereby transferred to and vested in the Secretary all functions relating to the Civil Defense-Architect/Engineer Student Development program vested in the Secretary of Defense, the Department of Defense, or the Civil Defense Preparedness Agency by the Federal Civil Defense Act of 1950, as amended."

—On page 72, on line 23, after "Sec. 303. (a)" add "(1)"; On page 73, line 5, delete "(b)" and insert in its place "(2)"; On page 73, line 10 delete "(c)" and insert in its place "(3)'; On line 19 of page 73, delete "(d)" and insert in its place "(4)".

After line 21 insert the following new subsection:

"(b) There are hereby transferred to and vested in the Secretary all functions relating to the Industrial Equipment Loans to Educational Institutions program vested in the Secretary of Defense, the Department of Defense, or the Defense Supply Agency by Public Law 93-155."

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF TRANSPORTATION

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Transportation, the Department of Transportation, the Administrator of the Urban Mass Transportation Administration, or the Urban Mass Transportation Administration with regard to the Urban Mass Transportation Managerial Training Grants Program under the Urban Mass Transportation Act of 1964, as amended."; and

in line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

By Mr. MARLENEE:

—Page 63, line 10, insert immediately after the period the following new sentence: "The Secretary, through the Assistant Secretary for Vocational and Adult Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Interdepartmental Education Coordinating Committee to coordinate related atcivities and programs of other Federal departments and agencies.".

By Mr. QUAYLE:

—On page 72, after line 2, insert the following:

"(9) all functions relating to the Alcohol Research Development Awards Program vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education and Welfare, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, or the Alcohol, Drug Abuse, and Mental Health Administration by the Public Health Service Act."

—On page 72, after line 2, insert the following:

"(9) all functions relating to the Alcohol National Research Service Awards Program vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education and Welfare, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, or the Alcohol, Drug Abuse, and Mental Health Administration by the Public Health Service Act, as amended."

—On page 72, after line 2, insert the following:

"(9) all functions relating to the Alcohol Training Programs vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, or the Alcohol, Drug Abuse, and Mental Health Administration by the Public Health Service Act and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970."

—On page 72, after line 2, insert the following:

"(9) all functions relating to the Drug Abuse Demonstration Programs vested in the Secretary of the Department of Health. Education, and Welfare, the Department of Health, Education, and Welfare, the Administrator or the Alcohol, Drug Abuse, and Mental Health Administration, or the Alcohol, Drug Abuse, and Mental Health Administration by the Drug Abuse Office and Treatment Act of 1972."

—On page 72, after line 2, insert the following:

"(9) all functions relating to the Drug Abuse Research Development Awards Programs vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, or the Alcohol, Drug Abuse, and Mental Health Administration by the Public Health Service Act."

—On page 72, after line 2, insert the following:

"(9) all functions relating to the Drug Abuse National Research Service Awards Programs vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, or the Alcohol, Drug Abuse, and Mental Health Administration by the Public Health Service Act, as amended."

—On page 72, after line 2, insert the following:

"(9) all functions relating to the Drug Abuse Training Programs vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, or the Alcohol, Drug Abuse, and Mental Health Administration by the Public Service Act and the Drug Abuse Office and Treatment Act of 1972."

—On page 72, after 2, insert the following:

"(9) all functions relating to the Family Planning Services Training Grants and Contracts Program vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Department of Health, Health Services Administration, or the Health Services Administration by the Public Health Service Act, as amended."

—On page 72, after line 2, insert the following:

"(9) all functions relating to the Occupational Safety and Health Training Grants

Program vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Director of the Center for Disease Control, or the Center for Disease Control by the Public Health Service Act, as amended, the Coal Mine Health and Safety Act of 1969, and the Occupational Safety and Health Act of 1970."

—On page 74, in line 23, after "Sec. 305.", insert "(a)"; and

On page 75, after line 6, insert the following:

"(b) There are hereby transferred to and vested in the Secretary all functions relating to the Citizenship Education and Training Programs vested in the Attorney General, the Department of Justice, the Director of the Immigration and Naturalization Service, or the Immigration and Naturalization Service by the Immigration and Nationality Act of 1952."

—On page 74, in line 23, after "Sec. 305.", insert "(a)"; and

On page 75, after line 6, insert the following:

"(b) There are hereby transferred to and vested in the Secretary all functions relating to the Desegregation of Public Education Programs vested in the Attorney General, the Department of Justice, the Director of the Civil Rights Division of the Department of Justice, or the Civil Rights Division of the Department of Justice by the Civil Rights Act of 1964."

—On page 74, in line 23, after "Sec. 305.", insert "(a)"; and

On page 75, after line 6, insert the following:

"(b) There are hereby transferred to and vested in the Secretary all functions relating to the Law Enforcement Assistance-Educational Development Programs vested in the Attorney General, the Department of Justice, the Administrator of the Law Enforcement Assistance Administration, or the Law Enforcement Assistance Administration by the Omnibus Crime Control Act of 1970, as amended."

—On page 74, in line 23, after "Sec. 305.", insert "(a)"; and

On page 75, after line 6, insert the following:

"(b) There are hereby transferred to and vested in the Secretary all functions relating to the Law Enforcement Assistance-Narcotics and Dangerous Drugs-Training Programs vested in the Attorney General, the Department of Justice, the Administrator of the Drug Enforcement Administration, or the Drug Enforcement Administration by the Comprehensive Drug Abuse Prevention and Control Act of 1970."

—On page 74, in line 23, after "Sec. 305.", insert "(a)"; and

On page 75, after line 6, insert the following:

"(b) There are hereby transferred to and vested in the Secretary all functions relating to the Law Enforcement Research and Development-Graduate Research Fellowships Program vested in the Attorney General, the Department of Justice, the Administrator of the Law Enforcement Assistance Administration or the Law Enforcement Assistance Administration by the Omnibus Crime Control and Safe Streets Act of 1968, as amended."

—On page 74, in line 23, after "Sec. 305.", insert the following:

"(b) There are hereby tranferred to and vested in the Secretary all functions relating to Law Enforcement Research and Development-Visiting Fellowships Programs vested in the Attorney General, the Department of Justice, the Administrator of the Law Enforcement Assistance Administration, or the Law Enforcement Assistance Adminisrtation by the Omnibus Crime Control and Safe Streets Act of 1968, as amended."

—On page 74, in line 23, after "Sec. 305.", insert "(a)"; and

On page 75, after line 6, insert the following:

"(b) There are hereby transferred to and vested in the Secretary all functions relating to the Public Education on Drug Abuse-Technical Assistance Programs vested in the Attorney General, the Department of Justice, the Administrator of the Drug Enforcement Administration, or the Drug Enforcement Administration by the Comprehensive Drug Abuse Prevention and Control Act of 1970."

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF COMMERCE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the National Technical Information Service Program vested in the Secretary of Commerce, the Department of Commerce, the Director of the National Technical Information Service, or the National Technical Information Service by the Research and Technical Services Act." and in line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following:

"(d) There are hereby transferred to and vested in the Secretary all functions relating to the National Environmental Study Areas and National Environmental Education Development Programs vested in the Secretary of the Department of the Interior, the Department of the Interior, the Director of the National Park Service, or the National Park Service by the Act of August 25, 1916."

—On page 76, after line 14, insert the following:

"(d) There are hereby transferred to and vested in the Secretary all functions relating to the Water Resources Research-Assistance to State Institutes Programs vested in the Secretary of the Department of the Interior, the Department of the Interior, the Director of the Office of Water Research and Technology, or the Office of Water Research and Technology by the Water Resources Research Act of 1964."

—On page 76, after line 14, insert the following:

"(d) There are hereby transferred to and vested in the Secretary all functions relating to the Water Resources Research-Matching Grants to State Institutes Programs vested in the Secretary of the Department of the Interior, the Department of the Interior, the Director of the Office of Water Research and Technology, or the Office of Water Research and Technology by the Water Resources Research Act of 1964, as amended."

—On page 76, after line 14, insert the following:

"(d) There are hereby transferred to and vested in the Secretary all functions relating to the Water Resources Scientific Information Center Programs vested in the Secretary of the Department of the Interior, the Department of the Interior, the Director of the Office of Water Research and Technology, or the Office of Water Research and Technology by the Water Resources Research Act of 1964, as amended."

By Mr. SKELTON:

—Page 56, line 22, insert "(a)" immediately after "Sec. 103.", and on page 57, after line 7, insert the following new subsection:

"(b) No funds provided under any program administered by the Secretary or the Department may be suspended, terminated or otherwise withheld from any educational institution, school or school system on the basis of any requirement imposed by the Secretary or the Department relating to curriculum, program of instruction, administration, personnel, the selection of library resources, textbooks or other instructional materials, except where specifically authorized by law prior to the effective date of this act."

By Mr. STANGELAND:

—On page 71, in line 25, after the semicolon, strike out "and".

On page 72, in line 2, strike out the period and insert in its place "; and"; and after line 2, insert:

"(9) all functions and offices vested in the Secretary of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Administrator of the Health Resources Administration, or the Health Resources Administration with regard to Nurse Practitioner Training Pograms under Title VIII, section 822, of the Public Health Service Act, as amended by the Nurse Training Act of 1975."

—On page 72, after line 2, insert the following:

"(9) all functions relating to the Mental Health Training Grants Program vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, or the Alcohol, Drug Abuse, and Mental Health Administration by the Public Health Service Act, Section 303."

—On page 72, after line 21, insert:

"(e) There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Labor, the Department of Labor, the Administrator of the Employment and Training Administration, or the Employment and Training Administration with regard to the Apprenticeship Outreach Program under the Comprehensive Employment and Training Act of 1973, as amended."

—On page 72, after line 21, insert:

"(e) There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Labor, the Department of Labor, the Administrator of the Employment and Training Administration, or the Employment and Training Administration with regard to the Apprenticeship Training Program under the Comprehensive Employment and Training Act of 1973, as amended."

—On page 76, after line 14, insert:

"TRANSFERS FROM THE APPALACHIAN REGIONAL COMMISSION

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Appalachian Regional Commission with regard to the Appalachian Child Development Program under the Appalachian Regional Development Act of 1965."; and

In line 16, strike out "308." and insert in its place "309."

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF COMMERCE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Calibration and Testing Services Program vested in the Secretary of Commerce, the Department of Commerce, the Director of the National Bureau of Standards, or the National Bureau of Standards by the National Bureau of Standards Organic Act, as amended." and in line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF ENERGY

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Energy or the Department of Energy with regard to the

Citizens' Workshops Programs under the Atomic Energy Act of 1954, as amended."; and

In line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF ENERGY

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Energy or the Department of Energy with regard to the Faculty and Student Participation-Laboratory Cooperative Program under the Atomic Energy Act of 1954, as amended."; and

On line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF ENERGY

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Energy or the Department of Energy with regard to the Faculty Training Institutes, Short Courses, and Workshops on Energy and Environmental Subjects Program under the Atomic Energy Act of 1954, as amended."; and

on line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF ENERGY

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Energy or the Department of Energy with regard to the Information Services—Exhibits, Public Speakers, Publications, Reference, and Analysis Program under the Atomic Energy Act of 1954, as amended."; and

in line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF ENERGY

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Energy or the Department of Energy with regard to the Motion Picture Film Libraries under the Atomic Energy Act of 1954, as amended."; and

in line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF ENERGY

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Energy or the Department of Energy with regard to the Research Reactor and Materials Assistance Program under the Atomic Energy Act of 1954, as amended."; and

on line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF ENERGY

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Energy or the Department of Energy with regard to the Traineeships for Graduate Students in Engineering, Studies Related to Energy Conversion, Health and Safety, and Environmental Sciences and Engineering Program under the Atomic Energy Act of 1954, as amended."; and

on line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF ENERGY

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Energy or the Department of Energy with regard to the Used Nuclear-type Equipment Grants Program under the Atomic Energy Act of 1954, as amended."; and

in line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF ENERGY

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Energy or the Department of Energy with regard to the Work Experience Program under the Atomic Energy Act of 1954, as amended."; and

in line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE GENERAL SERVICES ADMINISTRATION

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Disposal of Federal Surplus Real Property Programs vested in the Administrator of the General Services Administration or the General Services Administration by the Federal Property and Administrative Services Act of 1949, as amended."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF STATE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of State, the Department of State, the Administrator of the Agency for International Development, or the Agency for International Development with regard to the Institutional Centers to Aid Foreign Development Program under section 211(d) of the Foreign Assistance Act of 1961, as amended."; and

on line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF STATE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of State or the Department of State with regard to the Educational Exchange—Graduate Students (Fulbright-Hays) Program under Public Law 87–256, as amended."; and

in line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF STATE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of State or the Department of State with regard to the Educational Exchange—University Lecturers (Professors) and Research Scholars (Fulbright-Hays) Program under Public Law 87–256, as amended."; and

in line 16 strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF TRANSPORTATION

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Transportation, the Department of Transportation, the Administrator of the Federal Aviation Administration, or the Federal Aviation Administration with regard to the Aviation Education Program under the Federal Aviation Act."; and

in line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF TRANSPORTATION

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Transportation, the Department of Transportation, the Administrator of the Urban Mass Transportation Administration, or the Urban Mass Transportation Administration with regard to the Urban Mass Transportation Grants for University Research and Training Program under the Urban Mass Transportation Act of 1964, as amended."; and

in line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF TRANSPORTATION

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Transportation, the Department of Transportation, the Commandant of the U.S. Coast Guard or the U.S. Coast Guard with regard to the Coast Guard Cooperative Marine Sciences Program under the Act of September 25, 1961."; and

in line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

By Mr. WALKER:

—On page 62, in line 7, after "205.", insert "(a)"; and after line 13, insert:

"(b) Within one year after the effective date of this Act, the Assistant Secretary heading such office shall, as a part of the administration of such functions, prepare and submit to the Secretary and the Congress a report on how to conduct prayers, participation in which would be on a voluntary basis, in public schools which provide elementary or secondary education.".

—On page 72, after line 2, insert the following new section:

"(9) All functions relating to the Comprehensive Hemophilia Diagnostic and Treatment Centers program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the Health Services Administration by the Public Health Service Act of 1912, as amended."

—On page 72, after line 2, insert the following:

"(9) all functions relating to Consumer Affairs Programs vested in the Secretary of the Department of Health, Education, and Welfare, or the Department of Health, Education, and Welfare by Executive Order 11583 of February 24, 1971, as amended."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Developmental Disabilities–Demonstration Facilities and Training Program vested in the Secretary of Health, Education and Welfare, the Department of Health, Education and Welfare, or the Office of Human Development by the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended."

—On page 72, after line 2, insert the following:

"(9) all functions relating to the Facilities Engineering and Property Management-Technical Assistance Programs vested in the Secretary of the Department of Health, Education, and Welfare, or the Department of Health, Education, and Welfare by the Secretary of the Department of Health, Education, and Welfare's Reorganization Order of April 5, 1970 and the Reorganization Order of June 22, 1973."

—On page 72, after line 2, insert the following:

"(9) all functions relating to the Mental Health Research Development Awards Programs vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, or the Alcohol, Drug Abuse, and Mental Health Administration by the Public Health Service Act."

—On page 72, after line 2, insert the following:

"(9) all functions relating to the Mental Health National Research Service Awards Program vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, or the Alcohol, Drug Abuse, and Mental Health Administration by the Public Health Service Act."

—On page 72, after line 2, insert the following:

"(9) all functions relating to the Minority Access to Research Careers Programs vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Director of the National Institutes of Health, or the National Institutes of Health by the Public Health Service Act of 1921, as amended."

—On page 72, after line 2, insert the following:

"(9) all functions relating to the President's Council on Physical Fitness and Sports Program vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Director of the Public Health Service, or the Public Health Service by Executive Order 11562."

—On page 72, after line 2, insert the following:

"(9) all functions relating to Public Assistance Training Grants-Title XX Programs vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Director of the Social and Rehabilitation Service, or the Social and Rehabilitation Service by the Social Security Act, as amended."

—On page 72, after line 2, insert the following:

"(9) all functions relating to the Public Health/National Health Service Corps Scholarship Program vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Administrator of the Health Resources Administration, or the Health Resources Administration by the Emergency Health Personnel Act Amendments of 1972."

—On page 72, after line 2, insert the following:

"(9) all functions relating to Special Assistance to Refugees from Cambodia, Vietnam and Laos in the United States Programs vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Director of the Social and Rehabilitation Service, or the Social and Rehabilitation Service by the Indochina Migration and Refugee Assistance Act of 1975, as amended."

—On Page 72, after line 2, insert the following:

"(9) all functions relating to the Special Programs for the Aging—Multidisciplinary Centers of Gerontology vested in the Secretary of the Department of Health, Education, and Welfare, the Department of Health, Education, and Welfare, the Director of the Office of Human Development, the Office of Human Development by the Older Americans Act of 1965, as amended."

—On page 72, after line 2, insert the following new subsection:

"(9) All functions relating to the Special Programs for the Aging-Training program vested in the Secretary of Health, Education, and Welfare, the Department of Health, Education and Welfare, or the Office of Human Development by the Older Americans Act of 1965, as amended."

—On page 72, after line 21, insert:

"(e) There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Labor the Department of Labor, the Administrator of the Employment and Training Administration, or the Employment and Training Administration with regard to the Job Corps Program under the Comprehensive Employment and Training Act of 1973, as amended."

—On page 72, after line 21, insert:

"(e) There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Labor, the Department of Labor, the Administrator of the Employment and Training Administration, or the Employment and Training Administration with regard to the Employment and Training Research—Doctoral Dissertation Grants Program under the Comprehensive Employment and Training Act of 1973, as amended."

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Child Care Food Program vested in the Secretary of Agriculture, the Department of Agriculture, or the Food and Nutrition Service by the National School Lunch Act as amended."

In line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the National Agricultural Library Service vested in the Secretary of Agriculture, the Department of Agriculture, or the National Agriculture Library by the Organic Act of 1944 as amended.".

In line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the National School Lunch Program vested in the Secretary of Agriculture, the Department of Agriculture, or the Food and Nutrition Service by the National School Lunch Act of 1946 as amended."

In line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Nonfood Assistance for School Food Service Programs (Equipment Program) vested in the Secretary of Agriculture, the Department of Agriculture, or the Food and Nutrition Service by the Child Nutrition Act of 1966 as amended."

In line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the School Breakfast Program vested in the Secretary of Agriculture, the Department of Agriculture or the Food and Nutrition Service by the Child Nutrition Act of 1966 as amended."

In line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Special Milk Program For Children vested in the Secretary of Agriculture, the Department of Agriculture, or the Food and Nutrition Service by the Child Nutrition Act of 1966 as amended."

In line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Summer Food Service Program For Children vested in the Secretary of Agriculture, the Department of Agriculture, or the Food and Nutrition Service by the National School Lunch Act as amended."

In line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF COMMERCE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Importation of Duty-Free Educational and Scientific Materials vested in the Secretary of Commerce, the Department of Commerce, or the Domestic and International Business Administration by the Tariff Schedules of the United States, 19 U.S.C. 1202nt."

In line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF COMMERCE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to Sea Grant Support vested in the Secretary of Commerce, the Department of Commerce, or the National Oceanic and Atmospheric Administration by the National Sea Grant College and Program Act of 1966."

In line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE DEPARTMENT OF COMMERCE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the State Marine Schools vested in the Secretary of Commerce, the Department of Commerce, or the Maritime Administration by the Marine Academy Act of 1958.";

In line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following:

"(d) There are hereby transferred to and vested in the Secretary all functions relating to the Facility School Construction Planning and Equipping Programs vested in the Secretary of the Department of the Interior, the Department of the Interior, the Director of the Bureau of Indian Affairs, or the Bureau of Indian Affairs by the Snyder Act of 1921."

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE GENERAL SERVICES ADMINISTRATION

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Consumer Information Center Programs vested in the Administrator of the General Services Administration or the General Service Administration by Executive Order No. 11566."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE GENERAL SERVICES ADMINISTRATION

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Donation of Federal Surplus Personal Property Programs vested in the Administrator of the General Services Administration or the General Services Administration by the Federal Property and Administrative Services Act of 1949, as amended, and the Surplus Property Act of 1944, as amended."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE GENERAL SERVICES ADMINISTRATION

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the National Archives Reference Services Programs vested in the Administrator of the General Services Administration or the General Services Administration by Public Law 90–620."

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE GENERAL SERVICES ADMINISTRATION

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the National Audiovisual Center Programs vested in the Administrator of the General Services Administration or the General Services Administration by Public Law 90–620."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE GOVERNMENT PRINTING OFFICE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Depository Libraries for Government Publications Programs vested in the Public Printer or the Government Printing Office by 44 U.S.C., 1901–1914."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following:

"(d) There are hereby transferred to and vested in the Secretary all functions relating to the Indian arts and crafts development programs vested in the Secretary of the Department of the Interior, the Department of the Interior, the Director of the Indian Arts and Crafts Board, or the Indian Arts and Crafts Board by an act to promote the development of Indian arts and crafts.".

—On page 76, after line 14, insert the following:

"(d) There are hereby transferred to and vested in the Secretary all functions relating to the Indian education dormitory operations vested in the Secretary of the Department of the Interior, the Department of the Interior, the Director of the Bureau of Indian Affairs, or the Bureau of Indian Affairs by the Snyder Act of 1921."

—On page 76, after line 14, insert the following:

"(d) There are hereby transferred to and vested in the Secretary all functions relating to the Indian employment assistant programs vested in the Secretary of the Department of the Interior, the Department of the Interior, the Director of the Bureau of Indian Affairs, or the Bureau of Indian Affairs by the Snyder Act of 1921 and the Indian Adult Vocational Training Act of 1956."

—On page 76, after line 14, insert the following:

"(d) There are hereby transferred to and vested in the Secretary all functions relating to the Indian property acquisition-transfer of Indian school properties programs vested in the Secretary of the Department of the Interior, the Department of the Interior, the Director of the Bureau of Indian Affairs, or the Bureau of Indian Affairs by Act of June 4, 1953; 67 Stat. 41; Public Law 83–47, as amended.".

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE LIBRARY OF CONGRESS

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the books for the blind and physically handicapped programs vested in the Librarian of Congress or the Library of Congress by the act to provide books for the adult blind, as amended; 2 U.S.C. 135, a, a–1, b.".

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE LIBRARY OF CONGRESS

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the distribution of Library of Congress cataloging programs vested in the Librarian of Congress or the Library of Congress by 21 U.S.C. 150.".

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE LIBRARY OF CONGRESS

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Library of Congress photoduplication service programs vested in the Librarian of Congress or the Library of Congress by 2 U.S.C. 154.".

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE LIBRARY OF CONGRESS

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Library of Congress publications programs vested in the Librarian of Congress or the Library of Congress by 2 U.S.C. 136.".

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE LIBRARY OF CONGRESS

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the research and referral services in science and technology vested in the Librarian of Congress or the Library of Congress by 2 U.S.C. 136.".

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE LIBRARY OF CONGRESS

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Library of Congress Reference and Bibliographic Services Programs vested in the Library of Congress or the Library of Congress by 2 U.S.C. 136; 20 U.S.C. 91.".

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE LIBRARY OF CONGRESS

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Reference and Consultation Services in Preservation, Restoration, and Protection of Library Materials Programs vested in the Librarian of Congress or the Library of Congress by 2 U.S.C. 136.".

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following:

"(d) There are hereby transferred to and vested in the Secretary all functions relating to the Mine Health and Safety Education and Training Programs vested in the Secretary of the Department of the Interior, the Department of the Interior, the Administrator of the Mining Enforcement and Safety Administration, or the Mining Enforcement and Safety Administration by the Federal Metal and Nonmetallic Mine Safety Act and the Federal Coal Mine Health and Safety Act of 1969.".

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Technology Utilization Program vested in the Administrator of the National Aeronautics and Space Administration or the National Aeronautics and Space Administration by the National Aeronautics and Space Act of 1958, as amended.".

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the promotion of the Arts-Architecture and Environmental Arts vested in the Chairman of the National Endowment for the Arts of the National Foundation on the Arts and the Humanities or the National Endowment for the Arts of the National Foundation on the Arts and the Humanities by the National Foundation on the Arts and the Humanities Act of 1965.".

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Promotion of the Arts-Dance Programs vested in the Chairman of the National Endowment for the Arts of the National Foundation on the Arts and the Humanities or the National Endowment for the Arts of the National Foundation on the Arts and the Humanities by the National Foundation on the Arts and the Humanities Act of 1965."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Promotion of the Arts-Education Programs vested in the Chairman of the National Endowment for the Arts of the National Foundation on the Arts and the Humanities or the National Endowment for the Arts of the National Foundation on the Arts and the Humanities by the National Foundation on the Arts and the Humanities Act of 1965."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Promotion of the Arts-Literature Programs vested in the Chairman of the National Endowment for the Arts of the National Foundation on the Arts and the Humanities or the National Endowment for the Arts of the National Foundation on the Arts and the Humanities by the National Foundation on the Arts and the Humanities Act of 1965."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Promotion of the Arts-Music Programs vested in the Chairman of the National Endowment for the Arts of the National Foundation on the Arts and the Humanities or the National Endowment for the Arts of the National Foundation on the Arts and the Humanities by the National Foundation on the Arts and the Humanities Act of 1965."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Promotion of the Arts-Public Media Programs vested in the Chairman of the National Endowment for the Arts of the National Foundation on the Arts and the Humanities or the National Endowment for the Arts of the National Foundation on the Arts and the Humanities by the National Foundation on the Arts and the Humanities Act of 1965."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Promotion of the Arts-Federal-State Partnership Programs vested in the Chairman of the National Endowment for the Arts of the National Foundation on the Arts and the Humanities or the National Endowment for the Arts of the National Foundation on the Arts and the Humanities by the National Foundation on the Arts and the Humanities Act of 1965."

Conform table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Promotion of the Arts-Theatre Programs vested in the Chairman of the National Endowment for the Arts of the National Foundation on the Arts and the Humanities or the National Endowment for the Arts of the National Foundation on the Arts and the Humanities by the National Foundation on the Arts and the Humanities Act of 1965."

Conform table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Promotion of the Arts-Visual Arts Programs vested in the Chairman of the National Endowment for the Arts of the National Foundation on the Arts and the Humanities or the National Endowment for the Arts of the National Foundation on the Arts and the Humanities by the National Foundation on the Arts and the Humanities Act of 1965."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Promotion of the Arts-Expansion Arts Programs vested in the Chairman of the National Endowment for the Arts of the National Foundation on the Arts and the Humanities or the National Endowment for the Arts of the National Foundation on the Arts and the Humanities by the National Foundation on the Arts and the Humanities Act of 1965."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Promotion of the Arts-Special Projects Programs vested in the Chairman of the National Endowment for the Arts of the National Foundation on the Arts and the Humanities or the National Endowment for the Arts of the National Foundation on the Arts and the Humanities by the National Foundation on the Arts and the Humanities Act of 1965."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Promotion of the Arts-Museums Programs vested in the Chairman of the National Endowment for the Arts of the National Foundation on the Arts and the Humanities or the National Endowment for the Arts of the National Foundation on the Arts and the Humanities by the National Foundation on the Arts and the Humanities Act of 1965."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the promotion of the Humanities-Media Grants Programs vested in the Chairman of the National Endowment for the Humanities of the National Foundation on the Arts and the Humanities or the National Endowment for the Humanities of the National Foundation on the Arts and the Humanities by the National Foundation on the Arts and the Humanities Act of 1965."

Conform the table of contents accordingly.

—On page 76, after line 14, insert the following new section:

"TRANSFERS FROM THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 308. There are hereby transferred to and vested in the Secretary all functions relating to the Space Science Education Project vested in the Administrator of the National Aeronautics and Space Administration or the National Aeronautics and Space Administration by the National Aeronautics and Space Act of 1958, as amended."

Conform the table of contents accordingly.

—On page 89, after line 22, insert the following new section:

"REPORT ON HOW TO CONDUCT PRAYERS IN PUBLIC SCHOOLS

"SEC. 436. Within one year after the effective date of this Act, the Secretary shall prepare and submit to the Congress a report on how to conduct prayers, participation in which would be on a voluntary basis, in public schools which provide elementary or secondary education."; and

In line 23, strike out "436" and insert in its place "437".

On page 90, in line 8, strike out "437" and insert in its place "438"; and in line 13, striek out "438" and insert in its place "439".

On page 91, in line 2, strike out "439" and insert in its place "440".

On page 52, in the table of contents, after section 435, insert:

"Sec. 436. Report on how to conduct prayers in public schools."; and on page 53, renumber sections 436 through 439 as 437 through 440, respectively.

—On page 91, after line 18, insert the following new section:

"PROMOTION OF EQUAL EDUCATIONAL OPPORTUNITY"

"SEC. 440. The Secretary is authorized to utilize remedial programs to promote equal opportunity within education, and issue rules, regulations, standards, guidelines, recommendations and orders for purposes of compliance with such programs, provided that such programs do not utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex to require any individual or entity to take any action with respect to (1) the hiring or promotion policies or practices of such individual or entity, or (2) the admission policies or practices of such individual or entity."

On page 53, in the table of contents, insert the following after section 439:

"SEC. 440. Promotion of Equal Educational Opportunity."

—On page 91, after line 18, insert the following new section:

"VOLUNTARY PRAYER OR MEDITATION

"SEC. 440. Neither the Department nor any agency, officer, or employee thereof shall extend any Federal financial assistance by way of grant, loan, or any other device, to any State or local public elementary or secondary school authority, unless such authority has provided, in all educational facilities under its jurisdiction, a daily opportunity for prayer or meditation, participation in which would be on a voluntary basis."

On page 53, in the table of contents, after section 439, insert:

"SEC. 440. Voluntary prayer or meditation."

EXTENSIONS OF REMARKS

DEVELOPMENT OF AN AMERICAN FISHING INDUSTRY IN CERTAIN UNDERUTILIZED SPECIES

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. MURPHY of New York. Mr. Speaker, I am today introducing legislation, along with my colleague from New York, LEO ZEFERETTI, to assist in the development by American fishermen of underutilized fisheries species. The purpose of the Fishery Conservation and Management Act of 1976 is, in part:

> . . . to encourage the development of fisheries which are currently underutilized by United States fishermen. . . .

After more than 2 years experience with the act, it is clear that there are a number of technological and institutional impediments to the full employment of the underutilized species and, in some cases, the domestic harvest has actually decreased since the act became effective.

An analysis of the underlying causes for this turn of events shows that the act, as adopted, does not provide a ready mechanism for Americans to avail themselves of the existing foreign technology necessary to exploit these fisheries. Basically, successful harvesting of certain east coast and west coast mollusks and bottomfish requires that the catch be frozen at sea in order to prevent deterioration of quality and concomitant foreclosure from existing foreign markets. The technology to harvest and freeze on the same vessel—a "freezer stern trawler"—has been employed for more than 20 years by every foreign nation that operates a distant water fleet. Americans have never adopted this technology since we do no distant water fishing for mollusks and bottomfish and there has never been an incentive to harvest exclusively for an export market.

It is in the national interest for Americans to begin harvesting these underutilized species as soon as possible. Substantial numbers of jobs will be created both in shipbuilding—about 200 manyears for a 1,000 trawler—and fish harvesting —about 50 jobs per boat—and the balance-of-payments deficit will be significantly reduced. Furthermore, as a practical matter, implementation of foreign fishing programs within the 200-mile limit has resulted in an unacceptable waste of available resources. In the east coast squid fishery, for example, only 36 percent of the available squid was harvested in 1978, resulting in a waste of over 50,000 tons of squid. The protein content of this underutilized resource could meet the U.S. recommended daily allowance of 500,000 people for one year.

The squid fishery does not stand alone in this context, although it is perhaps the most egregious example of this waste, since the species has a very short life cycle and squid unharvested 1 year are not available the next. The current export value of this product alone exceeds $60 million.

The proposed legislation would authorize the Secretary of the Department in which the National Marine Fisheries Service is located to approve underutilized species development plans. Under such a plan, an American company applicant would have the right to use a foreign-built freezer stern trawler as an interim training/harvesting vessel in certain underutilized fisheries pending the delivery of the applicant's U.S.-built vessel. This will permit Americans to begin harvesting these underutilized species immediately, to benefit from the transfer of foreign technology in the construction and operation of these vessels, and to develop and train a pool of skilled American fishermen and crew. The alternative is continued delay of development of an American fishing industry in these underutilized species and a tragic waste of food resources.

The authority granted the applicant is subject to stringent conditions:

First. As part of the plan, the applicant must construct an American-built vessel to replace the foreign vessel;

Second. The foreign training vessel must be used to train American fishermen for service on the replacement vessel in a program acceptable to the Secretary;

Third. The applicant must meet the severe test of U.S. citizenship for operating in coastwise trade pursuant to section 2 of the 1916 Shipping Act. In the case of a corporation, this means that the president, chairman of the board, and most directors are Americans, and that 75 percent or more of the stock is owned by Americans;

Fourth. Ten percent of the gross revenues from the operation of the training vessel must be applied to the construction of the replacement vessel;

Fifth. The training vessel may operate only in designated underutilized fisheries;

Sixth. The size of each individual applicant's program and the total of all applicants in each fishery are limited.

I believe that enactment of this legislation will take us a long way toward developing an American fishing industry in the underutilized species and realizing the objectives of the Fishery Conservation and Management Act. I hope that that the Subcommittee on Fisheries, Wildlife Conservation, and the Environment, of the Committee on Merchant Marine and Fisheries will consider this legislation in its forthcoming oversight hearings on that act.●

RESOLUTION BY WEST GERMAN CHRISTIAN DEMOCRATIC UNION AND CHRISTIAN SOCIAL UNION HAS IMPORTANT IMPLICATIONS FOR SALT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. KEMP. Mr. Speaker, one of the principal concerns I have had as a member of the congressional delegation to the strategic arms limitation talks has been the potential effect of the agreement on U.S. allies. To date, there has been little commentary from U.S. allies other than pro forma statements by leaders of allied governments giving their ritualistic support for a major initiative of an incumbent U.S. Government. In March of this year, however, the opposition parties in the West German Parliament (Bundestag) have sponsored the most comprehensive statement on SALT to emerge from an allied nation to date. The content of the CDU/CSU resolution makes clear the nature of allied concerns, and provides useful information for the Congress concerned not only with the ratification of the agreement, but with the reformulation of U.S. defense policy which will be entailed in the execution of the agreement.

The resolution, citing the ability of the Soviet Union to destroy U.S. land-based ICBM's in a first strike, has emphasized the consequent importance of theater forces to the security of Europe. In particular, uninhibited access of the alliance to military technology crucial to U.S. security in the coming decade, particularly cruise missiles is a major concern of the alliance.

The concerns expressed by the CDU/CSU resolution go to the heart of SALT II. The noncircumvention clause contained in the treaty effectively preclude the transfer of technology for long-range cruise missiles—ground launched cruise missiles and air launched cruise missiles launched from tactical aircraft—the very technology most needed to contain the Soviet threat cited in the CDU/CSU resolution.

The resolution further expresses concern about the mutual and balanced forces reduction (MBFR) negotiations. In light of the bilateral United States-Soviet negotiations on MBFR, the concern expressed in the resolution to "up hold, undeviatingly and unalterably, NATO's jointly agreed negotiating goals" our allies have just cause for concern about U.S. negotiating tactics. In multilateral negotiations, the initiation of bilateral discussions between two of the opposing parties raises the possibility of eroding alliance cohesion. Further, the notion that the reductions in national forces, particularly the Bundeswehr is wisely rejected by the CDU/CSU resolu-

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tion, because of the special political and military status it would create for the Federal Republic within the alliance.

Both SALT and MBFR have great potential for splintering the NATO alliance unless considerable care is taken to assure unrestricted military cooperation by the United States with our allies, and to take into account in formulating bilateral and multilateral arms control positions, the long-term security interests of the alliance as a whole.

I include the text of the CDU/CSU resolution in the RECORD at the conclusion of my remarks:

[Translation, German Bundestag, 8th Electoral Period, Document 8/2638, March 9, 1979]

RESOLUTION

Motion by the faction of the Christian Democratic Union/Christian Social Union (CDU/CSU).

For a resolution in regard to deliberations on the inquiry by the CDU/CSU faction—Documents 8/2312, 8/2587—on preserving and consolidating peace through security, arms control, disarmament and the abolition of political causes of tension and on the inquiry by the factions of the Social Democratic Party (SPD) and Free Democratic Party (FDP)—Documents 8/2195, 8/2587—on the policies for peace, for defense and détente and on the status of disarmament and arms-control efforts.

Be it resolved by the Bundestag:

I

As a result of the debate of March 8 and 9, 1979, on the above-mentioned inquiries and the Government's reply, the German Bundestag states that:

1. The supreme goal of the Federal Republic of Germany's security policy is the ensuring of its territorial invulnerability, its external security and its political freedom of action through, on the one hand, sufficient defence capability, and, on the other hand, efforts towards abolishing political causes of tension, towards arms limitation and towards disarmament.

For decades the security and freedom of the Federal Republic of Germany have been based on this country's active membership in the North Atlantic Alliance and in the European Community.

This rootedness in the shared destiny of free peoples and democratic states will continue to be the basis of our security and of our policy of doing away with political causes of tension and armament in Europe, of decreasing military confrontation, and therefore of serving peace in Europe and throughout the world.

2. Our defense necessities and our possibilities of disarmament are to be oriented according to the extent and kind of threat by the Soviet Union with its allies; that is, according to its military potential and the expansive goals of its foreign policy.

It is with increasing concern that we must ascertain what the Soviet Union has been doing during the years of efforts towards East-West détente and during the concomitant negotiations on arms limitation: Instead of subjecting itself to the anticipated degree of military moderation, the Soviet Union has undertaken mass-scale armament, and has evidenced growing readiness to risk direct and indirect intervention throughout the world.

Through its arms policy and its arms-control policy, the Soviet Union is seeking, not a peace-stabilizing military balance, but, instead, military superiority and its projection as political influence.

3. As a result of this offensive Soviet arms policy, we must ascertain with concern that:

Deterrence is being made more difficult because of the Soviet Union's having achieved approximate parity with the United States on the nuclear-strategic level, and because of the threat that by the mid-1980's the Soviet Union will be capable of destroying, in a first strike, the American land-based Intercontinental Ballistic Missiles (ICBMs);

As a result, all the more importance is attached to the imbalances at the lower levels of deterrence, in particular: the Soviet Union's immense superiority in the sphere of nuclear medium-range weapons, the Soviet preponderance in the tactical nuclear realm, the continuingly increasing superiority of the Warsaw Pact forces in the conventional sphere.

II

Accordingly, the German Bundestag calls on the Government of the Federal Republic of Germany—

1. In its security policy, to seek, jointly with its allies, a balanced combination of, on the one hand, the requisite defense precautions, and, on the other hand, possible limitation of arms so as to compensate for the existing disequilibrium in the military balance of power;

2. In particular, to see to it—

That the necessary decisions on development, production and stationing of medium-range weapons (for example, Pershing II, Cruise missiles) are taken promptly, so as to maintain the credibility of NATO's deterrence capability in Europe,

That the compensatory reinforcement and modernization of NATO armament anticipated in the Long-Term Defense Program (LTDP) be undertaken without delay,

That a decision be taken as to the production and stationing of the neutron weapons required, in particular, as defense against the Eastern superiority in armor;

3. Within the negotiations on Mutual Balanced Forces Reduction (MBFR)—

To move ahead with negotiations, without the pressure of self-imposed deadlines and without further advance concessions by the West,

In so doing, to uphold, undeviatingly and unadulteratedly, NATO's jointly agreed negotiating goals,

In particular, to oppose any form of fixating the Soviet superiority in the reduction zone as to counter any Soviet claim to a voice as to the strength of the Federal German Armed Forces (Bundeswehr)—with a resultant military and political special status for the Federal Republic of Germany;

4. Vis-a-vis the United States, in view of the American-Soviet Strategic Arms Limitation Talks (SALT), to uphold the following European interests:

(a) The anticipated non-circumvention clause in the 8-Year Treaty must not impede the modernization and supplementation of the weapons necessary to the defense of the NATO area in Europe, or the accordingly necessary cooperation between the U.S. and the European allies.

(b) The treaty arrangements themselves must be balanced, vertifiable and unambiguous.

(c) After expiration of the period of validity of the protocol within the SALT II treaty arrangements, all weapons options (for example, Cruise missiles) required for European security must be reopened.

(d) Even before ratification of SALT II, a joint NATO negotiating strategy for the follow-up negotiations* must be worked out;

5. To call U.S. attention to the significance for European security that is attached to the invulnerability of the American land-based ICBMs;

6. To reaffirm the principle of shared risks and obligations that is the foundation of the alliance's effectiveness, unity and viability. This principle must not, however, rule out the taking of measures indispensable to the Federal Republic of Germany's security.

Bonn, March 9, 1979.

Dr. Helmut Kohl, Dr. Friedrich Zimmermann and the CDU/CSU faction.●

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* Negotiations on measures to deal with the so-called "gray zone" weapons: Soviet medium-range bombers and nuclear rockets, not covered in the proposed SALT II treaty, to which all of Euprope, in particular the Federal Republic of Germany, is exposed.

U.S. TRADE WITH CHINA

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. GINN. Mr. Speaker, with the current intense interest regarding commerce with the People's Republic of China, I would like to take note of a recent article which appeared in the "Growth Rings" publication about my constituent, Mr. C. L. Chang. Mr. Chang, now a resident of Savannah, Ga., fled mainland China in 1961, and I believe this article provides an interesting insight into both his remarkable life and in the activities of the Chinese regarding trade with the United States.

It is 1961. Heavy rains and floods sweep mainland China. Damage to homes and property is extensive, but worse yet are the ruined, inundated crops. Thousands of Chinese flee from famine, at least temporarily abandoning their ancestral homes and villages.

It is night. A cold, heavily overcast gloomy night on the sharp, scrabbly side of a mountain overlooking the narrow river which separates China from Hong Kong, the British Crown Colony. Two men, one hardly more than a boy, search for an old, little-used path, a goat trail, that leads to the water below. Tread softly, for stones will clatter down the slope, alerting border guards who watch along this fringe of the Bamboo Curtain. For two nights the boy and the man, an older cousin, have sought out the trail. Twice they have failed, and now hunger, tension and a gut-tightening sense of desperation grow within them. But then, one more turn, through some bushes, and there it is. The river. A few hasty words, an embrace, and the boy slips into the freezing water. It is only a hundred feet across at this point, but it takes excruciatingly long moments to stroke, kick and splash towards the far shore. The downstream current helps, but eventually of course it would wash the young swimmer into the sea.

The boy's name is Baby Dragon. He is the youngest child of a large Shanghai family, and he is slipping across an international border to join his parents in Hong Kong. He is leaving behind many relatives, including the aunt and uncle who cared for him when his parents "crossed over" a year or so before, seeking work and money. The money would be sent back to support their family. Now they are established merchants on this speck of a British island along the Chinese coast, and the boy will join them. He will study, and he too will work to support the family that remains behind. In English his name will be C. L. Chang.

It is 1969. C.L. is a young man now, 20 years old, in America, and traveling to Washington, D.C. There he will merge into the family of an older, married sister, and he will enroll in a university. But Washington proves to be too expensive for a student who can only work part-time, so he travels on to Nashville, Tenn., where he earns an associate degree in nuclear engineering. At Georgia Tech in Atlanta he completes the four-year curriculum in mechanical engineering, graduating in 1975. He meets another Chinese student, Annie, who is studying mathematics and engineering. In 1977, Annie completes her studies, and she and C.L. are wed.

It is early 1979, C.L. has proven himself to be a versatile, talented engineer. He is working for Georgia-Pacific at the pine plywood complex in Savannah. At night he studies for a masters degree in business administration. He is an industrious, friendly, professionally competent and an exceptionally intelligent young man. But a deep-rooted sorrow plagues him and Annie. Both miss the close daily contact with their relatives, a yearning tracing back to the deep-seated Chinese concept of the family as a focus of all life and affection.

Also in 1979, momentous events are taking place on the world stage. The vice premiere of China, Teng Hsiao-p'ing, has launched "The New Long March," a determined effort to bring some of the blessings of modern technology to the world's most populous nation. Emerging from the shadow of the Cold War and the Cultural Revolution, Teng sidesteps touchy diplomatic issues and establishes full diplomatic relations with the United States. He undertakes a well-publicized tour of this country.

Simultaneously, another, virtually unknown, Chinese delegation begins their own tour of the West. They are Chinese engineers, involved with the development of China's miniscule forest products industry, and they are seeking first-hand exposure to the industry and technology of Europe and the United States. The U.S. Trade Commission in Washington, D.C., plots an agenda, and it includes a visit to Southern pine plywood and particleboard operations. Would Georgia-Pacific be interested in demonstrating its technology?

A tour is arranged. Southern Division public relations manager Bill Lovett lays out the basic schedule, coordinating matters with local management at G-P's plywood and particleboard plants near Russellville, S.C. Members of the host's reception group include G-P Senior Vice President H.S. Mersereau, manufactured board group manager John Robinson, plywood group manager Art Stabler, environmental engineer Gerald Tice, and technical services manager Ken Peterson. Local management involved are area plywood manager Joe Gavalas, plywood plant manager Raz Carter, particleboard plant manager Jack Brown, and a number of staff people from the two plants.

But the first G-P employee to greet the Chinese when they alight at the plant complex is C. L. Chang. Yang Yensen, the head of the delegation and general manager of the China National Forestry Equipment Corporation, hesitates, for just an instant, in slight surprise. Greetings are exchanged in Yang's home dialect from Shanghi. "When did you come here," he asks, and the question is laden with unspoken, East-meets-West meaning.

"I told him I left China in 1961," C. L. later explained, "and I didn't have to say anything more. He understood. And that was the last word mentioned concerning my origins."

The plant tours go as smooth as Chinese silk. There are 17 members of the delegation. They clamber over and around and about every inch of the operations. They ask penetrating questions at briefing sessions preceding and following each tour, furiously scribbling notes in Chinese characters that run from right to left across the pages of tiny notebooks. The cut of their clothes is just slightly different. Their cigarettes are slightly shorter and thicker. A few wear caps seen most frequently in newsreels, and all wear black shoes.

They ask, for example, if particleboard can be used to manufacture television cabinets. John Robinson replies, "Yes, it can." And only a day later, during the concluding hours of Vice Premier Teng's visit, the Chinese announce a contract with a major American electronics firm to build the components of literally thousands of television sets for use in China. U.S. assistance in building an orbiting, television relay satellite is also announced. Undoubtedly, the signals will bounce to U.S.-made tubes and transistors housed within Chinese-made television cabinets . . . cabinets possibly made in plants slightly resembling the G-P plant at Russellville.

And through almost all the tours and the almost diplomatically ceremonial dinner which G-P held for its foreign guests that evening in nearby Charleston, C. L. Chang kept a steady, sure-footed flow of translation and conversation going between the two groups. Of course the Chinese had their own translator, and the trade escort officer also spoke Chinese, as did one or two of the delegation's members. But to the G-P people, C. L.'s efforts seemed the best, encompassing a command of not only both languages, but also an astute grasp of the engineering itself and the technical matters being discussed.

His was an amazing performance, a touch of home that quickly dispelled any first-time shyness between the two groups. Mid-way through the tours everyone seemed at ease, and the last vestiges of hesitant inscrutability were completely put to rout that evening at dinner. Business done, the conversation turned to pleasantries about food, sports, local history, life in America . . . and a hundred other matters any tourist unfamiliar with Western ways might ask.

"I think they were well pleased with the results of their visit," C. L. said later. "They were surprised at the way we would answer their questions, without holding anything back . . . and by the real welcome we gave them. They told me about their visit to another manufacturer's plant, where the welcome was not quite as good as ours, nor the information quite as detailed. I enjoyed the contact, but I wish I had more knowledge about them and about us. So I just did the best I could."

C. L.'s performance must have been good enough. For when Yang rose to close the dinner with the traditional final toast, his words were tinged with warmth, pledges of friendship, thanks and future contact. And as he saluted each of the G-P people in turn, a special slight smile crossed the Chinese leader's lips as he raised his glass to C. L. Chang, Baby Dragon, G-P's China Connection.●

PERSONAL EXPLANATION

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. ALBOSTA. Mr. Speaker, I was tied up in an important committee hearing and missed the opportunity to vote in favor of H.R. 3464, the Supplemental Security Income Disability Amendments of 1979. I supported this legislation and am pleased that it passed the House by an overwhelming majority.

H.R. 3464 will allow SSI recipients to enter the work force, knowing that at least some of the basic necessities of life are assured, while they go about developing or relearning the skills which will help them become self-sufficient later on down the line.

In the past, the Federal Government has pulled the rug out from under these people before they have been able to get their feet on the ground in their new jobs. Many of these disabled individuals, afraid to risk the loss of much-needed income and the medical and social services provided under SSI have remained wards of the Government, not by choice but by necessity.

It has been my experience that most severely disabled individuals want to work, if at all possible. Given a little encouragement, they can often become valuable employees. This legislation will help provide that encouragement.

I intend to give my full support to this legislation once it is reported out of conference and comes before the House for a final vote.●

OIL AND GAS LEASING DELAYS

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. SANTINI. Mr. Speaker, I would like to call to the attention of my colleagues the tremendous problems with delays in oil and gas leasing permits on Federal land revealed in the hearings held in Denver last September in conjunction with the domestic policy review of nonfuel minerals potential of Federal lands. Without belaboring the issue of why the forum available to oil and gas exploration industry has to be a nonfuel mineral policy study, this hearing brought out testimony that one of the major problems facing oil and gas producers is delays in getting access permits to drill and test Federal land. Testimony was received that it took BLM up to 3 years just for BLM to process a permit which finally allowed explorations. This raises costs to the point where exploration is delayed or worse, deferred indefinitely. BLM has a present backlog of 530 oil and gas lease applications covering over 1 million acres in my State of Nevada alone where some exciting new prospects have recently developed. This is to say BLM had 530 permits for oil and gas exploration that had been applied for but not yet issued. Over 3,000 oil and gas applications are backlogged in Montana while BLM and the Forest Service decide their fate. If applications had been promptly processed over the last few years, a few of them might be producing needed oil and gas today. It seems strange that the United States, at this time in our history, seems to be deliberately frustrating those who find and produce our mineral wealth.

I think it is a tragedy that as our people sit in gas lines throughout this country, oil and gas drilling permits sit in line in untold bureaucratic offices without receiving the priority or attention they deserve.

I urge all of my colleagues and their staff to review the testimony made at the hearings of the domestic policy review of nonfuel mineral potential. In recent Mines and Mining Subcommittee hearings, the Secretary of the Interior promised me he would make these publicly available. They offer some real insight into problems facing this country in future supplies of mineral resources.●

IS BIG REALLY BAD?

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. HYDE. Mr. Speaker, in our continuing dialog on the antimerger legislation now pending in the Senate Judiciary Committee and which may come before us, I want to share with my colleagues excerpts from the testimony of Kenneth W. Dam when he appeared before the Senate Judiciary Committee recently.

Mr. Dam, director of the University of Chicago Law School's law and economics programs, offers well-reasoned and important comments on the drastic effect passage of the antimerger bill would have on U.S. trade.

The excerpts, as printed in the May 22 edition of the Wall Street Journal, follow:

KENNEDY'S "BIG IS BAD" BILL

(By Kenneth W. Dam)

Defenders of the antitrust law often deny that it equates bigness with badness. But the "big is bad" slogan will become the law of the land if Sen. Edward Kennedy's proposed "Small and Independent Business Protection Act of 1979" passes.

S. 600, or the conglomerate merger bill, as it's also known, would prohibit the merger of U.S. companies with $2 billion in assets or sales and severely restrict mergers of somewhat smaller companies. The measure is aimed at so-called conglomerate mergers between companies in different lines of business.

Present antitrust already raises some obstacles to such combinations, as well as horizontal and vertical mergers. But under S. 600, no showing of anticompetitive danger would be required to bar mergers involving firms with assets or sales of more than $2 billion. The proposed law simply assumes that big companies have unfair advantages and that smaller is beautiful.

The Kennedy bill has been attacked on a number of grounds, not least for the implication that size is inherently evil. Serious studies have long since discredited this notion. And if size is an evil, why limit the scope of the bill to mergers; why not simply order the government to bust up any firm that has had the "luck" (skill?) to grow beyond a certain point?

But the really striking fact about the arguments put forth by proponents of measures like S. 600 is that they are out of date. For all one can divine by reading the testimony in favor of the Kennedy bill, we might be living in an economic Fortress America, where neither imports nor exports have any bearing on competition or on the economic well-being of the American people.

That might have been true during the period of American economic hegemony that followed World War II. But now the U.S. is only one of the world's major trading countries. Foreign consumers are no longer dependent on American goods, and here at home the pressure of import competition constitutes a major constraint on price increases and profit margins.

DOMINANCE IN AUTO INDUSTRY

Yet business critics continue to talk, for example, about the dominance of four companies in the American automobile industry. A glance down Constitution Avenue should convince any objective observer that all those Volvos, Volkswagens, Renaults, Datsuns and Toyotas cannot be ignored for mere arithmetic convenience. Only one firm makes consumer sewing machines in the U.S., yet well over half of U.S. consumption is imported.

How can Congress hope to make sound policy on the basis of numbers that mask, rather than reveal, the underlying realities?

If U.S. firms are to be prevented from enjoying some of the financial and management advantages achievable by conglomerate merger at the same time that their foreign competitors can reap those advantages, then the U.S. economy will be less productive. Efficiency is especially important in view of the fact that in many countries major industries receive assistance from their governments in the form of guarantees, subsidies or even equity participation. With increasing frequency developing countries, such as Korea, are finding markets in the deveolped world by these techniques. The ability to diversify risk and to tap broader sources of capital may be crucial to the survival of competing U.S. firms in the 1980s.

Conglomerate merger is one of the principal devices by which weak firms are strengthened and resources flow between industries. Firms facing strong import competition must be strengthened, or resources must be transferred from those firms to industries enjoying greater international comparative advantage.

Conglomerate merger is a more promising device to bring capital and better management policies to revitalize troubled firms than its governmental adjustment assistance, which too often turns out to be burial insurance and which few analysts believe will ever work to turn around weaker firms. And when resources must be transferred out of an industry that is no longer viable, even with better management and adequate finance, conglomerate merger is often a more palatable and efficient technique than is the alternative market process in which the uncompetitive firm simply wastes away, losing key employes and allowing obsolescent plant and equipment to deteriorate.

Conglomerate merger is also an alternative to more interventionist policies followed in other countries. One such alternative is protection. But tariffs and quotas are antithetical in spirit to the antitrust laws and certainly not in the consumer interest. Also at odds with U.S. tradition are forced reorganization of industries, a policy followed in Japan and France, and government mandated production-allocating cartels, such as the European steel cartel.

An even more ominous interventionist alternative is nationalization or, what amounts to nearly the same thing, massive direct subsidization of ailing firms. This policy has been pursued in a number of countries, sometimes dressed up as a socialist policy but often pursued as a straight bailout by more conservative governments.

For example, the British have in the past decade taken over one internationally weak sister after another, under both Labor and Conservative governments. The Heath government's takeover of Rolls-Royce in 1971 set the trend. In 1975 the British decided to make a virtue of necessity by converting most of these ailing firms into subsidiaries of the National Enterprise Board. The NEB is in form a public corporation but the reality is that it is a conduit for massive amounts of public funds into companies that are unable to turn themselves around because neither new management nor better financial practice seem to follow the infusion of tax money into public sector industrial firms. British Leyland, one of NEB's principal holdings, had a net loss including extraordinary items of about $77.5 million last year.

EXPERIENCE IN ITALY

The same pattern has been followed in Italy. The Italian Industrial Reconstruction Institute (IRI) dominates large sectors of Italian industry, including steel and shipbuilding. Much of the IRI empire dates back to the Fascist period. It was run in the immediate post-war period according to commercial criteria. But in the 1960's IRI was increasingly used to bail out industries in trouble. The most spectacular example was the acquisition of a controlling interest in the giant chemical firm Montedison, which continued thereafter to lose money on a scale which threatened the solvency of the IRI itself. In 1978 Montedison lost nearly $300 million. Italsider, an Italian state-owned steel company, lost over $400 million in 1977, the latest year for which figures were available.

The United States has had little experience with direct intervention. The principal example is Lockheed. We were fortunate that the Lockheed experiment was limited to loan guarantees and that it worked out as well as it did. Those who fear that Lockheed is a bad precedent for the future should be reluctant to close off a private sector alternative. We increase the likelihood of future bail-outs if we foreclose conglomerate mergers now.

Another international issue not considered by proponents of the conglomerate merger bill is how it would affect investment decisions. When industries stop growing but are still reasonably profitable, managements naturally consider investments outside the boundaries of the firms as they then exist. Although increased dividends are an alternative, they attract double income taxation and thus may not be in the interest of stockholders.

If many domestic mergers are now to be foreclosed, the incentive for foreign investment will be increased. The tendency will be to drive domestic firms toward becoming multinationals. One need bear no populist grudge against foreign investment or multinationals to deplore rules that bias firms in favor of foreign as opposed to domestic investment. The conglomerate merger bill thus could result in exactly what the critics of multinationals deplore—the exporting of jobs.●

VIETNAM VETERAN'S WEEK

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 1979

● Mr. DRINAN. Mr. Speaker, last week this country honored the people who served in the ranks of the Armed Forces during our involvement in Vietnam. The week beginning May 28 through June 3 marked the first commemoration of Vietnam veterans. For the first time these individuals received the long-overdue recognition that they deserve for their service during that conflict. The concern shown for the special needs of the Vietnam veteran mark what should be only the beginning of a long and concerted effort to recognize these brave men and women. I hope that my colleagues will maintain an active interest in this issue and promote the involvement of their constituents in an ongoing campaign to aid the Vietnam veteran.

Press attention has sensitized the public's awareness to these problems over the past week, and encouraged efforts to address the special problems facing Vietnam-era veterans. The plight of the Vietnam veteran must continue to be a "current issue" deserving of the public's attention.

The action of this body to establish a new program to provide outpatient, readjustment counseling, and related mental health services for Vietnam-era veterans is one example of positive steps forward.

Of primary importance, we must not forget the personal sacrifices of the young people who were called upon to serve their country during the long and arduous war in Indochina. Let us continue to aid the Vietnam veteran in meaningful and constructive ways. Last week's Vietnam Veteran's Week was a good beginning toward a fuller recognition of this deserving group.●

VIETNAM VETERANS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. LEHMAN. Mr. Speaker, I recently met with representatives from various veterans groups in the 13th Congressional District of Florida. Among those in attendance were Vietnam-era veterans. Speaking with these younger veterans separately, I observed that while they share many of the concerns of the veterans of earlier wars, their needs are far greater.

Vietnam is thought of as a war without heroes, a war we want to forget. There were no ticker-tape parades for the soldiers returning from Southeast Asia, but we cannot say that these men and women did less for their country than those who served in the two World Wars or in Korea. They answered the call of their country and did their best under trying political and military conditions. For many, the suffering was great and remains great years after the last American troops left Vietnam.

We have just finished observing Vietnam Veteran's Week. In addition to ceremonies to honor these Americans, the week was marked by passage of legislation to provide outpatient, readjustment counseling, and related mental health services for Vietnam-era veterans. This is an important step in meeting the needs of these neglected veterans, but much more should be done.

I have agreed to cosponsor the Vietnam Veterans Act which will provide special assistance in the areas of education, jobs, housing, and rehabilitation. In most instances, this legislation will only put the Vietnam veterans on equal footing with other veterans. It will also address the unique problems of the Vietnam veterans who have special readjustment problems.

I am hopeful that the attention drawn to these men and women during Vietnam Veteran's Week will result in early and steady progress for this legislation.

We are late in recognizing and expressing our appreciation for their sacrifices. We owe these men and women a debt of gratitude and should resolve to ease the suffering which we helped to create.●

TRIBUTE TO GEORGE E. AKERSON, JR.

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mrs. HECKLER. Mr. Speaker, one of the great pleasures and privileges of serving a congressional district is the opportunity to meet and work with the outstanding and dedicated leaders of our communities. George E. Akerson, Jr., of Westport, Mass., was such an individual—concerned, civic minded, and respected by his community and his professional colleagues.

George Akerson passed away last month, but his exceptional career as a newspaperman will stand as a lasting tribute to this admired gentleman. I take this moment to share with my colleagues an article from the Westport, Mass., News—an article that expresses so well our strong feelings for this respected individual:

GEORGE EDWARD AKERSON, JR., PUBLISHER AND EDITOR OF THE WESTPORT NEWS

George E. Akerson, Jr., husband of Phyllis (Chadwick) Akerson of 295 Horseneck Road, Westport, died Tuesday, May 1, at St. Luke's Hospital in New Bedford.

The son of the late George E. and the late Harriet (Blake) Akerson, he had lived in Westport for the last ten years.

A newspaper man all his life, he started out in the business as a staff writer for the Boston Herald after his graduation from Harvard in 1939. A five year stint in the Air Force during WW II found him a Lieutenant Colonel with over 10,000 hours in the air, flight time which included bombing raids over Japan and a record setting non-stop flight as pilot of a B–29 from Japan to Washington, a flight for which he was awarded the Distinguished Flying Cross.

After the war, he was promoted to the rank of Brigadier General, and returned to the newspaper world, following in the steps of his father who had served as Press Secretary to President Herbert Hoover. While employed by the Herald Traveler, George Akerson worked his way up from Assistant to the Publisher to Advertising Director to Assistant Publisher and was named President and Publisher of the corporation in 1963. Five years later, in 1968, he was named Chairman of the Board of Directors of the Boston Traveler Corp.

George Akerson retired and moved to Westport in 1975, where he founded the Westport News, and served as its Editor and Publisher, working seven days a week without pay, running the paper as both a hobby to occupy his spare time and as a springboard for young writers and photographers allowing them to get their first experience in journalism "under the gun". George Akerson liked working with young people, teaching them the business through actual experience, and he taught them well, as many have gone on to bigger and better things.

George Akerson insisted The Westport News be mailed free of charge to every home in Westport and Little Compton, as a public service to the community he loved so much. He also insisted The Westport News be run as a completely independent, automonous paper, uninfluenced by local politicians or advertisers. This hard line approach to running a newspaper gained him respect and admiration throughout the community.

Among other things, George Akerson was known as the local authority on the American Indian, a subject he was asked to speak on frequently by various groups throughout town, and which he did with great joy. He was also known for his collection of limericks, once saying he had every known limerick in the English language in his personal library.

To his employees, he was always more of a friend than a boss, always willing to listen to personal problems with a sympathetic ear. He will be missed very much by all who knew him, but the work he started will be carried on.●

TERMINATE DEPARTMENT OF ENERGY

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. WHITEHURST. Mr. Speaker, on Tuesday, June 5, I introduced H.R. 4329, a bill to terminate the Department of Energy on January 15, 1982, unless prior to that date the Congress has enacted a law to continue it. My floor statement regarding the bill may be found on page 13329 of the June 5 RECORD.

Today I would like to share with my colleagues an article by Milton Friedman, which appeared in the June 4, 1979, issue of Newsweek. He deals cogently with this issue, and, I believe, provides additional reasons for the termination of this Department. Let me call your attention particularly to his final sentence, which bears repeating here:

> It might even occur to someone how much better off we were before we had a Department of Energy.

It certainly has occurred to me, to many of my colleagues, and, I am sure, to a great many other citizens.

I urge prompt and favorable consideration of H.R. 4329; I think its passage, and the ultimate termination of the Department of Energy, would serve our country well.

The article follows:

BLAMING THE OBSTETRICIAN

(by Milton Friedman)

The explanations of the energy crisis and gasoline shortage that gush forth from government officials, newspaper reporters and TV commentators are tantamount to blaming the obstetrician for the baby.

A rapacious oil industry did not produce the gasoline shortage. Wasteful consumers did not produce the gasoline shortage. Hard winter did not produce the gasoline shortage. Not even Arab sheiks produced the gasoline shortage.

After all, the oil industry has been around for a long time—and has always been rapacious. Consumers have not suddenly become wasteful. We have had hard winters before. Arab sheiks have desired wealth as far back as human memory runs.

WHY NOW?

The subtle and sophisticated people who fill the newspaper columns and the airwaves with such silly explanations of the gasoline shortage seem never to have asked themselves the obvious question: why is it that for a century and more before 1971, there were no energy crises, no gasoline shortages, no problems about fuel oil—except during World War II?

There is an energy crisis, there are gasoline lines, for one reason and one reason only. Because government has decreed that there shall be. Of course, government has not done so openly. The President never sent a message to Congress asking it to legislate an energy crisis and long gasoline lines. But he who says A must say B. The government, beginning with Preident Nixon on Aug. 15, 1971, imposed maximum prices on crude oil, gasoline at retail and other petroleum products. And, unfortunately, the quadrupling of crude-oil prices by the OPEC cartel in 1973 prevented those maximum prices from being abolished when all others were. Maximum legal prices for petroleum products—that is the key element common both to World War II and the period since 1971.

Economists may not know much. But we know one thing very well: how to produce surpluses and shortages.

Do you want a surplus? Have the government legislate a minimum price that is above the price that would otherwise prevail. That is what we have done at one time or another to produce surpluses of wheat, of sugar, of butter, of many other commodities, and, most tragically, of teen-age labor. The minimum wage is a legislated price above the price that would otherwise prevail for the labor of many teen-agers. Like every minimum price, it enhances the amount supplied and reduces the amount demanded, and so produces a surplus, in this case of unemployed teen-agers.

Do you want a shortage? Have the government legislate a maximum price that is below the price that would otherwise prevail. That is what New York City and, more recently, other cities have done for rental dwellings, and that is why they all suffer or will soon suffer from housing shortages. That is why there were so many shortages during World War II. That is why there is an energy crisis and a gasoline shortage.

There is one simple way to end the energy crisis and the gasoline shortage tomorrow—and I mean tomorrow and not six months from now, not six years from now. Eliminate all controls on the price of crude oil and other petroleum products. The gasoline lines would melt faster than the snows of winter.

Other misguided policies of government and the monopolistic behavior of the OPEC cartel might keep petroluem products expensive, but they would not produce the disorganization, chaos and confusion that we now confront.

GAS WOULD COST LESS

And, perhaps surprisingly, this solution would reduce the cost of gasoline to the consumer—the true cost. Prices at the pump might go up a few cents a gallon, but the cost of gasoline today includes the time and gasoline wasted standing in line, and hunting for a gas station with gas, plus the $10.8 billion annual budget of the Department of Energy, which amounts to around 9 cents per gallon of gasoline.

Why has this simple and foolproof solution not been adopted? So far as I can see, for two basic reasons—one, general, the other, specific. To the despair of every economist, it seems almost impossible for most people other than trained economists to comprehend how a price system works. Reporters and TV commentators seem especially resistant to the elementary principles they supposedly imbibed in freshman economics. Second, removing price controls would reveal that the emperor is naked—it would show how useless, indeed harmful, are the activities of James Schlesinger and his 20,000 employees. It might even occur to someone how much better off we were before we had a Department of Energy.●

A TRIBUTE TO OUR FIGHTING MEN IN VIETNAM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. ASHBROOK. Mr. Speaker, it was a pleasure for me to see the recent publicity given to honoring our Vietnam veterans during Vietnam Veteran's Week. My record, throughout the Vietnam and post-Vietnam eras, shows that I have been aware of the debt we owe to these men. But we owe our former fighting men in Vietnam not only a debt in monetary benefits and jobs, but another, spiritual payment: the accolade given fighters for freedom.

Our men in Vietnam fought for the same cause our soldiers died for in other wars: freedom. In the early 1940's, with Americans firmly united in the war effort, it required great courage to do one's job as a soldier. But we have never asked as much of human beings as we did of our men in the late 1960's, when they did their duty despite confusion, stupidity, and vast numbers of enemy sympathizers at home.

We do not wish to remember war, but we cannot forget heroism. It is not to fix our minds on the blood baths in the Pacific that we have the Iwo Jima Memorial. The purpose is to commemorate bravery in the cause of freedom. It is not the "agony of Vietnam" we should remember, but we certainly should not let the agony allow us to forget the moral triumph of the hundreds of thousands of young Americans who did their duty.

Too many commentaries on our Vietnam veterans seem to be saying, in effect, that we should pay them off in money so we can forget the whole painful episode. This is morally wrong. It is spiritual cowardice. The Vietnam era was catastrophic, but that catastrophe was the fault of those in power, both in Washington and in the New York-based media. It was not the fault of the young men who fought and died for their country. It is our own failures that make the period painful, not their heroism .

Half a million American military personnel stood between 30 million Southeast Asians and Communist enslavement and death. We have seen the millions die and the enslavement proceed since those troops withdrew, so that today only a psychopathic liar—or a psychopathic ideologue—could deny that statement. The army of South Vietnam fought long and hard, but it was the American forces that made the final difference.

In Cambodia alone, from 1 to 3 million people have been murdered by Communists. That means that for each American soldier withdrawn from support or combat duty—and most were in support duty—two to six Cambodians have died.

While our soldiers fought and died for the freedom and the very lives of the Vietnamese, American big media kept insisting that the Vietnamese people loved the Communist invaders. But our fighting men noticed that the streams of refugees streamed southward, away from the Reds. The big media never noticed that their Communist heroes, their so-called people's friends, always have to chase those people down to conquer them, and to build walls around them to keep them once they have been "liberated." This sort of distortion did not fool our troops. They could see that they were defending a whole people from oppression, slavery, and butchery, though we at home gave them precious little credit for it.

Our leaders—not our men in uniform—failed the people of Vietnam, just as they failed their defenders. This is indeed a painful memory for a leadership which failed to lead, just as it should be agonizing to the media which failed to inform. But it does not negate the heroism of our Vietnam fighting men. Nor does it give us any right to "forget about it."●

FEDERAL GOVERNMENT'S ROLE IN OUR LIVES

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. IRELAND. Mr. Speaker, the attached editorial which was aired on WTVT, Channel 13 in Tampa on April 27 of this year addresses a question which should be of concern to all of us: the increasing role of Federal Government in our lives.

It was extremely well done and I wanted to take a moment to bring it to your attention.

The editorial follows:

WTVT EDITORIAL: UNCLE SAM AS NUTRITIONIST

Should marijuana peddlers now preying on our school children be put out of that business, they may have a whole new field to exploit if some people in Washington have their way. They can lurk around the school grounds pushing candy bars. The Department of Agriculture is working on a proposal to ban the sale of any food it considers insufficiently nutritious in school buildings. School principals would not be thrown in jail for violating the decree, but would lose their school lunch subsidy.

Now, it's a legitimate question, whether to allow junk food and soft drinks in our school buildings. But we think our local school officials are perfectly capable of deciding for themselves what is desirable or not. And if they can't, parents can certainly let them know. We don't need a horde of federal candy inspectors snooping around the hallways.

What's really frightening is that some people in government, including a few in Congress, think the feds ought to tell *all* of us what to eat. Senator McGovern has talked of giving the Agriculture Secretary authority to regulate the sale of foods of limited nutritional value. Controlling foods and drugs which are outright poisonous is one thing. But telling you what you should have for supper tonight is something else. In the first place, who's to say what's good for you and what's not? Just as an example, many fresh fruits have more sugar than a candy bar. If you don't want Uncle Sam at your dinner table every night, let your Congressman know.●

MIDLAND COOPERATIVES SUPPORT INCREASED AGRICULTURE RESEARCH FUNDING

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. OBERSTAR. Mr. Chairman, American farmers are the most efficient in the world. Their increasing rate of efficiency has long far outstripped that of the industrial sector of the U.S. economy. However, the rate of improvement has slowed by 40 percent in the 1970's, just when export markets, so important to our balance of trade, are expanding. Unfortunately, Federal support for the agricultural research, extension and teaching programs of our land grant colleges—a key factor in the farmer's ability to increase efficiency—has been seriously eroded by inflation since 1966. Thus we have been exhausting our stock of basic research knowledge. Our backlog of basic knowledge obtained from agricultural research needs to be replenished if the United States is to retain its leadership in food production and handling.

Both the extension system, which transfers new agricultural technology to farmers, and the research and teaching programs carried out at our land grant institutions which train the scientists who produce new technologies, need greater congressional support.

After careful study of our research needs and serious consideration of the Federal Government's budget capabilities, the Committee for Agricultural Research, Extension and Teaching (CARET) has requested a modest increase of 6 percent plus inflation for essential land grant college agricultural programs—a total of $64 million. I heartily endorse that investment now for the future welfare of the Nation.

History shows us that such investments pay off at the rate of 30 to 60 percent annually.

I would like to share with my colleagues the following excerpt from the resolutions passed at the recent annual membership meeting of Midland Cooperatives, Minneapolis, Minn. The Midland Cooperatives serve farmers through local cooperatives in Minnesota, Wisconsin, Iowa, North Dakota, and Michigan.

[From the Midland (Minn.) Cooperator, Apr. 9, 1979]

EXCERPT FROM RESOLUTIONS ADOPTED AT THE ANNUAL MEETING OF MIDLAND COOPERATIVES, INC.

Increases in productivity and growth of agriculture depends on up-to-date technology and education derived most importantly from continued research. It is important that the American farmer continue to lead the world in all aspects of producing food and fiber and that we continue to search for methods of increasing our efficiency for this purpose. We, the assembled delegates at this 53rd Annual Meeting of Midland Cooperatives, Inc., urge the President and Congress to realize the priority needs of agriculture and to maintain full financial support for agricultural research programs.●

RADIATION: THREAT TO HEALTH

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. BEARD of Rhode Island. Mr. Speaker, recent hearings held by the Subcommittee on Labor Standards of this House have outlined a most serious problem facing the millions of working people who are daily exposed to a variety of forms of radiation, whether from radioactive materials or from electromagnetic sources. In our attempts to reach a definitive basis for the consideration of radiation as an occupational hazard, we found a morass of conflicting opinions, sharply divided segments of the scientific community, no agreement among the many agencies and departments of the Government, serious fragmentation of research efforts, politically motivated approaches to research results, compensation programs totally unrealistic and totally inadequate and few recommendations that could be applied to set us on a clear course toward a legislative remedy.

Unlike any other occupational hazard, radiation effects cannot be seen by X-rays or any other diagnostic tool. It is possible for physicians to diagnose carcinoma, lung diseases, skin effects, and other disabilities caused by specific agents used in the workplace, but not radiation in humans. What is known is that low-level exposure to radiation can cause injury to cell structure, blood composition, bone marrow and other organs but science has not yet been able to pinpoint the specific cause of, say, pancreatic cancer as definitely due to radiation exposure. Despite this, certain standards for exposure to ionizing radiation in the workplace have been established and are supposed to be enforced by the Nuclear Regulatory Agency. I say "supposed to be" because, as we have recently seen in the case of the incident at Three-Mile Island in Pennsylvania, there is already enough evidence to show that many NRC regulations as to safety and health were not observed there and in other NRC-licensed installations. Testimony at our hearings reveals that there are serious radiation problems not being dealt with properly in the mines and mills that produce and refine uranium ore. Other testimony points to NRC rules and regulations being bent to suit particular situations. Most of the testimony offered by Government departments seems to be designed to protect the current operation of existing nuclear plants and to downgrade the hazards of occupational exposure to radiation. Even the National Cancer Institute bases its view of radiation hazards on an exercise in mathematical probability rather than even considering the extensive researches of responsible, independent scientists into the lives of thousands of workers who have been employed in nuclear reactor plants.

In addition to the hazards of ionizing radiation, there is no question that millions of workers are exposed every day in the workplace to a variety of radiation emanating from devices that make use of microwaves, extremely short radio waves, in such operations as heat-sealing, communication, melting, cooking and military applications. The microwave oven is the best-known instrument using these extremely high frequencies and from the testimony I have heard, the radiation levels set by the Food and Drug Administration are, at best, a guess at what the highest permissible level should be.

The Subcommittee on Labor Standards is not the only panel of the Congress concerned with this problem. There are several other committees, here and in the Senate, dealing with much the same subject and for a very good reason. In order for proper regulation to be established, in order for labor standards to be set, there must be some kind of standards to serve as guides. The present exposure standards for ionizing radiation were set a long time ago and just do not reflect more up-to-date research into this area. I think it is significant that the U.S. Navy, in its nuclear propulsion program, specifies standards for its vessels that are one-tenth the current NRC standards for personnel exposure to radiation. Time and again, medical testimony before the subcommittee, of which I am chairman, has called for the present standard to be reduced 10 times.

Another concern affecting this subject is the wide diversity of research programs, parceled out among some 16 different Government agencies and departments, bringing into question the goal of some of that research. In the recent report issued by the Interagency Task Force on Ionizing Radiation, Secretary Califano was very emphatic in his statement that:

> Long-range health effects of exposure to low-level ionizing radiation constitute a serious public health issue. The questions concerning low-level radiation demand a systematic research program that is conducted in an open and credible manner to provide the most accurate information possible to both the public and government.

Secretary Califano put his finger on one aspect of radiation research that leads me to compare the situation to appointing the fox to guard the henhouse. In his testimony before the Senate's Subcommittee on Energy, Nuclear Proliferation and Federal Services, Mr. Califano said:

> Most of the radiation research sponsored by the Federal Government . . . has been conducted by the Department of Energy. For example, in FY-1978, DOE supported seventy-eight percent of all of the Federally-funded research on the biological effects of ionizing radiation.

The Secretary said that the creation of an Interagency Radiation Research Committee, to be chaired by the National Institutes of Health, would assure a more effective coordinated effort. In other words, the Secretary was saying that the Department of Energy ought to get out of the health research business.

The Subcommittee on Labor Standards was presented with quite a number of charts and tables, all of them fairly interesting but reflective of the wide divergence of opinion as to the definitive cause-and-effect. One chart, not presented by any witness, came to my attention and it certainly says something to all of us:

TABLE 5*.—*Recent changes in U.S. cancer mortality rates 1972–75, States with greatest upward and downward changes*

Area, percent change, and nuclear facility

Washington (State), +8.9, Hanford.
Connecticut, +8.6, Millstone & Haddam Neck.
Tennessee, +8.1, Oak Ridge.
Rhode Island, +8.0, Millstone & Haddam Neck.
New Jersey, +5.7, Oyster Creek (BWR).
South Carolina, +5.4, Savannah River.
U.S. average, +3.4.
New York City, −1.1, 2 PWR (1962, 1973).
Virginia, −1.1, 2 PWR (1972, 1973).
Maine, −1.3, 1 PWR (1972).
Hawaii, −1.5, no nuclear reactor.
New Hampshire, −2.0, no nuclear reactor.
Montana, −4.4, no nuclear reactor.
Alaska, −10.6, no nuclear reactor.

Source: U.S. Monthly Vital Statistics.

There is certainly nothing conclusive about the figures in this chart but that there is something indicative is surely there and I believe Mr. Gene Moss, a health science researcher with the National Institute for Occupational Safety and Health, would agree. Mr. Moss, after his researches into the incidence of illness among present and former workers at the Portsmouth Naval Shipyard in New Hampshire, said that about 6.9-million people are threatened by the effects of radiation. This scientist does not claim to have the answers and says so emphatically. But, he says that something out there is killing people and something must be done about it.

I do not believe there is any acceptable number of cancer deaths due to the fact that we need nuclear power. I do not subscribe to the philosophy of the nuclear-power industry that radiation is a hazard in the same class as fire or electricity. I do not believe that there is any acceptable mathematical computation that tells us *x* number of people are going to die of radiation-induced cancer as long as we have standards that are not realistic, Government agencies that are devoted to promoting nuclear power no matter what the consequences and public and industry officials who have resigned themselves to death and disability caused by radiation.

If we can take the recommendations of the Interagency Task Force on Ionizing Radiation at face value, this is what we have a right to expect:

First. That the Federal Government will consolidate existing scientific and medical knowledge in authoritative radiation disease guidelines;

Second. That Federal compensation or benefit programs should adopt and publish clear criteria for deciding radiation exposure claims;

Third. That State compensation programs should be encouraged to adopt standardized radiation claim criteria;

Fourth. That the Federal Government should determine the feasibility of a National Registry of Radiation Workers;

Fifth. That current exposure standards be thoroughly reviewed;

Sixth. That machinery be put in place to collect up-to-date and comprehensive information on radiation sources and the levels of radiation exposure to the general public;

Seventh. That the "bureaucratic turf battles" over who should have a particular responsibility be eliminated;

Eighth. That the National Institutes of Health and other health agencies assume the major role in funding and conducting research into the health effects of radiation;

Ninth. That radiation health research be removed from the Department of Energy;

Tenth. That immediate steps be taken to standardize occupational requirements for medical and dental X-ray operators and that such standards be urged on all States; and

Eleventh. That Federal standards for uranium mining be placed under immediate review for the purpose of reducing radiation exposure in this highly susceptible area, both for workers and for residents of the locale.

Mr. Speaker, most of the recommendations cited above have already been suggested by various sections of the Interagency Task Force on Ionizing Radiation. It is encouraging that a National Radiation Research Committee has already been established, to be chaired by NIH. It is also very encouraging that the Office of Science and Technology Policy has moved to establish an Interagency Task Force on the biological effects of nonionizing electromagnetic radiation (BENER). These and other recommended actions are long overdue and underscore the fact that we can no longer depend on radiation research results of 20 or 30 years ago.

The future course of congressional action in such areas as care, benefits, pensions, compensation, occupational safety and environmental protection will depend considerably on the effectiveness of research conducted responsibly and properly interpreted. In the course of these hearings, I have heard of independent research thrown out the window after years of work, merely because of prejudgment or due to a "bureaucratic turf battle," to use Secretary Califano's phrase.

Finally, Mr. Speaker, there is the serious matter of qualified personnel to run the nuclear powerplants of this country as well as the variety of other installations engaged in some activity dealing with the peaceful and military applications of atomic energy. In 1964, at a fuel reprocessing plant in my own State of Rhode Island, the first fatality in private nuclear industry took place when an operator inadvertently created a nuclear excursion, subjecting himself to an enormous dose of radiation. He was dead in 49 hours. We must ask several questions about this. What are the rules and regulations that govern employment in nuclear reactors, processing plants, fuel manufacturing plants? Are records kept of the experience and qualifications of such people? What precautions are taken to reduce the possibility of human error creating a nuclear excursion or any other type of accident that can endanger the lives of thousands of people and even future generations? What of the transient workers who perform some of the high-risk tasks? These are some of the questions—I do not think we have all the answers by a long shot. I do know one thing; I never again want to hear a Government agency official tell me that I would be safer in a nuclear powerplant than in an airliner or crossing the street. This is neither logical nor worthy of consideration, especially when it comes from an otherwise intelligent scientist.●

BILL BRAY

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1979

● Mrs. HOLT. Mr. Speaker, it is with great sadness that I rise to comment on the death of our former colleague from Indiana, Bill Bray.

When I first arrived in Washington, Bill Bray was beginning his 12th term as Indiana's distinguished Representative from the Sixth District. Though I had the opportunity to serve with him for 2 years only, I quickly learned why Bill was held in such esteem.

He was a hardworking Member, who gave his all to representing the voters of Indiana. He was dedicated to preserving and strengthening the traditional values of our Nation. As the ranking minority member of the Armed Services Committee, he labored unceasingly for a strong and secure America. And above all of this, he was a down-to-Earth, likeable individual.

Bill Bray will be sorely missed. I offer my sincerest condolences to his wife, Esther, and his son, Richard.●

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*From Proceedings of a Second Congressional Seminar on Low-Level Ionizing Radiation, February 10, 1978.

REGULATION: PROBLEMS AND BENEFITS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, June 6, 1979, into the CONGRESSIONAL RECORD:

REGULATION: PROBLEMS AND BENEFITS

The problems and benefits of federal regulation have become the focus of an increasingly intense debate in Congress.

The concern about regulation has many origins, not the least of which is the rapid growth of the regulatory establishment. One count shows that of 86 regulatory agencies in operation during 1976, and only 18 existed prior to 1930 and only 48 before 1960. Furthermore, the Federal Register has more than quadrupled in size over the past two decades, expanding from 14,479 pages in 1960 to 65,602 pages in 1977. The regulators and their rules are now involved in virtually every segment of society. Their pervasive influence makes many Americans think that government has gotten too big and too intrusive into their lives and their businesses. Another source of concern is the cost of regulation. A recent study of the budgets of 55 regulatory agencies shows a sixfold increase in the past decade, from $811 million in 1970 to $4.8 billion in 1979. The estimated cost of compliance with the rules of these agencies has risen from $79.1 billion two years ago to $102.7 billion this year. These compliance costs fuel inflation as they are passed through to consumers.

Big government, costs, and inflation are not the only problems of regulation. Delay in regulatory proceedings, and the cumbersomeness of the proceedings themselves, are common targets of complaint. Since a great potential for postponement and paperwork is built into the system, proceedings can be used to halt or disable legitimate undertakings. Lost initiative and less innovation are related problems. Applications and studies can keep new products off the market, just as licenses and permits can keep new firms from entering an industry. Then, too, there is the problem of the uneven impact of regulation. A large organization may be able to swim against the tide of regulation, but an individual citizen may not be able to.

Critics of regulation do not stop here. They cite other reasons why the system should be overhauled. Many critics claim that regulators are inclined to lose their objectivity. At one extreme, regulators may be "captured" by those whom they regulate. At the other extreme, regulators may be too zealous to carry out their mandates in a reasonable way. Trivial efforts and misdirected programs are also obstacles to good regulatory practice. Some agencies may waste their time regulating trivia and may thereby fail to achieve their main objectives. Other agencies may have objectives that are no longer important. Finally, problems are sure to come up where regulations conflict with one another. The most troublesome are cases in which entire regulatory programs have incompatible effects. For example, a program that makes life difficult for small businesses may lead to more concentration in an industry. Such a program may be at odds with anti-trust regulation.

Regulation has its problems, but those problems make up only half the equation. Regulation would not exist if it did not have any benefit at all, so it is the benefit that makes up the other half of the equation. Regulation is nothing more or less than an attempt to cope with the growing complexity of a society in which the free market is not completely effective, in which there is some injustice, and in which there is some danger.

The benefits of regulation are obvious. One of the most important is to make available a service that would not be widely available without some protection from competition. Utilities and communications are examples where regulation to minimize competition may be beneficial. Another benefit is the confidence that regulation builds in certain sectors of the economy. For example, banking regulations assure savers that their assets are safe, and without them many people would choose not to patronize banks. Yet another benefit is the guarantee that goods will meet minimum standards of acceptability. In this case, warranty regulations and rules on product quality stand out.

There are other areas in which regulation is beneficial. Regulations governing the environment in which we live, the foods we eat, and the medicines we take are key factors in protecting health. One does not need to think long about polluted air and water, impure meat, or untested drugs to realize just how beneficial such regulation can be. Safety is another area where regulation provides protection. Unsafe planes in the air or hazardous appliances in the home are things which regulations prevent. Finally, regulations concerning hiring practices and college admissions are valued by many Americans. These Americans depend on them for an even chance.

Regulation most certainly has its problems. It has its benefits as well, and for each benefit there is a constituency which tries to make sure that regulation continues. The task of government is to see that the problems and benefits of regulation balance out. It is the search for an overall balance—one that is both practical and durable—which lies behind the debate now shaping up in Congress.●

POPE JOHN PAUL'S VISIT TO POLAND

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. NOWAK. Mr. Speaker, last October, I had the distinct privilege of being a member of the official U.S. delegation to the investiture in Rome of Poland's Karol Cardinal Wojtyla as Pope John Paul II.

That was a moving and impressive event. I was particularly struck by the aura of this new pontiff—the universality of his appeal, his personality, his exciting presence which reached out to all, and his great faith.

Pope John Paul's visit to his native Poland this week also has been a stirring event, focusing attention on the pontiff's immense potential for stimulating a new era in human and international relations.

This was a most historic occasion, as the first Slavic pope in the history of the church became the first pope to visit a Communist country. The reaction to the pope's visit and his multifaceted messages should have a tremendously beneficial effect on the spirit of the people of Poland, who have not had the freedom we enjoy in this country. Long range, hopefully it also will help raise the level of the freedoms they enjoy.

The massive outpouring of support from his fellow Poles is a tribute to the spiritual strength and strength of character of the Polish people, the vast majority of whom are practicing Catholics in an atheistic state.

The reaction to the pope's visit clearly shows that despite decades of oppression, the desire for freedom in spiritual and civil affairs continues to flourish. Thus, we sincerely hope that this visit will facilitate ways to resolve the many conflicts that exist between the church and secular authorities in Poland. Making Poland's mass media more accessible to religious matters and lifting restrictions on Catholic publications would be a start in the right direction. Important also, we hope Pope John Paul's courageous and forthright statements will help bring about greater civil and religious rights for the vast numbers of disenfranchised peoples in the other Communist-bloc countries.

The advent of Pope John Paul II on the international scene is a source of renewed hope for all advocates of human rights around the globe. Poland's reaction to the new pope should give the Soviet Union and its Communist allies much food for thought and good reason for evaluating their human rights policies.●

INFLATION AND RECESSION: TWO ARTICLES ON THEIR CAUSES

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. MITCHELL of Maryland. Mr. Speaker, I would like to share with my colleagues two enlightening and provocative articles which appeared recently. They both deal with the same dangerously important subject: The current inflation and impending recession.

The first article, by John L. Hess, "What the Press Doesn't Know About Inflation," appeared in the May 14 issue of Inquiry magazine. He complains that the range of "noted economists" usually questioned by journalists for economic analysis, although thought to cover a broad spectrum, is actually very narrow. All have failed miserably to predict accurately upcoming bouts with inflation and recession. The reason, Mr. Hess states, is that they ignore the critical role played by the Federal Reserve's money supply policies in the underwriting of both inflation and recession.

Inflation results from "the expansion of money at a faster rate than that of the production of goods and services." Recessions result from sharp decreases in money growth. The public is groping desperately for a solution to inflation and recession, Mr. Hess says, but policymakers refuse to acknowledge the real cause or impose the necessary solutions: Fight waste and corruption, especially by cutting the military budget; further reduce Government deficits by tax reform; beef up antitrust action and prosecute price rigging; and most important of all, constrain the money-creating power of the Federal Reserve and the banks.

The second article, by Nicholas von Hoffman, "Inflation's Winners," appears in the June issue of Harper's. He points out that in an inflationary economy, there are both winners; for example, home buyers who took out a mortgage over 3 years ago—and losers; for example, creditors. However, even those who profit from inflation do not like it, because of the economic and social uncertainty it generates.

Mr. von Hoffman deflates the widely held theory that inflation results from imbalances in our foreign payments and from bugetary deficits. He, too, stresses the part played by money supply. He states:

> Balance of payments totals, plus or minus, are very much like a budget deficit or surplus. In themselves they don't mean much. Like deficits, it's the extent to which a negative balance of payments tempts the government to print money to pay the debt that can be inflationary and a matter of concern . . .

I urge my colleagues to read these two articles and to heed their advice. By heeding the dangerously high growth of money when it began surging 2 years ago, I was able to warn in October 1977, that the Federal Reserve had "again put us on a collision course with disaster."

In a statement released at that time, I said:

> I am apprehensive that the course of money growth which the Federal Reserve has been following recently will create a false sense of euphoria for a while as monetary expansion stimulates output. But inevitably inflation will soar, beginning in the latter part of 1978 or early in 1979 and a recession will follow shortly thereafter. We are on a collision path with another 1974–1975 style bout with stagflation.

Most economists and public officials did not agree with my prediction 2 years ago. However—and I say this with a heavy heart—it has proven to be accurate. First we had renewed accelerating inflation, rising in 1978 and soaring in 1979; now we are headed toward recession. I find this situation particularly tragic, because it could have been averted. The inflation from which we are now suffering could have been avoided. The recession which we have begun to enter—and which I fear will be deep and cruel—also could have been avoided. It still can be ameliorated, if the Federal Reserve acts prudently—now—to return us to a policy of moderate, steady money growth.

The articles follow:

What the Press Does Not Know About Inflation

(By John L. Hess)

Louis Althazar of Laval University in Quebec has observed that the American media are like the Leaning Tower of Pisa: narrow and slanted. Nowhere is this more evident than in the coverage of inflation.

When a journalist seeks guidance on this question, he turns to an exclusive club of economists employed by a few banks and certified institutions. For balance, he characterizes the Republicans among them as conservatives, and the Democrats—like Arthur Okun, who helped Lyndon Johnson finance the Vietnam War with funny money—as liberals. But basically, these experts agree with one another to the decimal point. And to a man, they have missed every major turn in the economy in recent decades.

This can be frustrating. In December 1972, the New York Times assigned me to ask four of the most respected authorities to review the outlook for the new year. They were selected by an editor to reflect the full range of economic philosophy, from the liberal Henry Kaufman to the rightist Alan Greenspan.

The breadth of this spectrum is suggested by the fact that Dr. Kaufman was a partner in Salomon Brothers, an investment house then making piles by peddling the tax-exempt bonds of New York City, among others. Its chief was William Simon, who would leave just before that bubble burst, to head the Treasury under President Ford. Alan Greenspan, of course, became Ford's chief economic adviser.

While Simon and Greenspan were in Washington, the national debt soared by more than $200 billion, a record. Back in civilian life, Simon hired a ghost and perpetrated a best seller called A Time for Truth, which says liberal politicians are wrecking the country by deficit spending. This caused me to observe that a time for truth is when the Republicans are out of office. As for Greenspan, when he was pressed on a recent TV panel to explain why Republicans in office didn't practice what they preached, he replied, "The relationship between ideas and action is a distant one."

In December 1972, the relationship between ideas and reality proved to be a distant one. For the setting, keep in mind that the economy was then booming, with a flood of new money pumped in by that hard-money enthusiast Arthur Burns of the Federal Reserve, in good time to help the reelection of Nixon. Things looked good that year: Prices rose only 3.4 percent under compulsory controls.

My four seers were uniformly euphoric. Indeed, I could have saved time by interviewing any one of them and multiplying by four. To my banal opening question, whither the economy in 1973, all rattled off the same happy numbers, within one percentage point, for the gross national product, the Dow-Jones industrials, interest rates, and unemployment.

"There are no financial restraints on the economy," Dr. Kaufman told me.

"It's very rare that you could be as unqualifiedly bullish as you can now," Greenspan said.

All four looked surprised when, late in each interview, I asked about inflation. All thought that was a European problem.

"In fact," said Albert T. Sommers of the National Conference Board, "the American analyst is comforted by it."

The thought here was that rising prices in Europe would spur American exports. The same reasoning caused the New York Times, exactly five years later to the day, to declare that the crash of the dollar had "been a blessing, not a curse."

Sommers, the dean of American analysts of the business cycle, assured me that the government had that cycle well in hand. "Now it's a science," he told me. By the same token, he said modestly, business forecasting had become "pretty good," and the outlook for 1973 was "very good."

Two months later, Arthur Burns' new money hit the fan. In a monetary panic, Nixon was forced to devalue the dollar and end the last semblance of monetary stabilization. That summer, the United States entered the worst recession since the 1930s.

There is no evidence that the club of economists has learned anything from that experience, nor from the storms that have hit the republic since then. Indeed, they notoriously missed each major turn in the economy after 1973, as they had before.

Those in government service failed abysmally. During the dollar-selling panic of early 1978, European bankers were reported by the Times to be angrily describing the United States as "watching with a silly smile on its fact." (The Times itself, of course, was foolishly clapping its hands.) Last September, the Wall Street Journal quoted "a senior policy official" in Washington as admitting, "Fundamentally, we've been wrong two years in a row."

Yet today, still, when a journalist seeks guidance on economic policy, he calls upon and cites the same club members who have proved so infallibly wrong in the past.

The same complaint has just been raised by an eminent liberal nonmember, Robert Lekachman, in the Columbia Journalism Review (March/April, 1979). He cited a typical analysis by Hobart Rowen in the Washington Post, which relied on a range of views from Arthur Okun on the "left" to William J. Fellner on the "right," and he noted "how little actually separates" the ideas of these experts.

But Lekachman's article itself scarcely went beyond our Tower of Pisa in its breadth. It urged journalists to pay more attention to the views of such dissenters as John Kenneth Galbraith. And what are these neglected views? That inflation is caused by the rigging of prices and wages by big business and big labor. And what is the cure? Compulsory control of prices and wages.

There isn't all that much difference between Galbraith's diagnosis and that of, say, Arthur Okun. Indeed, Galbraith has expressed sympathy for Okun's weird scheme for granting tax rebates to businesses and employees who do not increase prices and wages beyond set guidelines. It is a measure of the level of economic discourse today that this costly, unfair, unworkable, and inflationary plan should actually be supported by some liberals and proposed to Congress by a floundering administration.

But Galbraith holds that Okun does not go far enough. Mandatory controls are the ticket. Galbraith never tires of recalling the experience of World War II. His view is doubtless colored by nostalgia, for he was our first price administrator. He tends to overlook the fact that he was dismissed under the pressure of businessmen who found him too strict, and he tends to minimize the black market that developed. Especially, I think, he skips the fact that all phases of supply and production were under government regulation and rationing, to aid a popular war effort. Finally, he skips the fact that prices exploded once the war was won.

Let Galbraith and Lekachman be reassured: Compulsory controls will very likely be imposed when the "voluntary" guidelines are clearly shown to have failed. In similar if less urgent circumstances, after all, they were imposed by Nixon—who boldly proclaimed, "We are all Keynesians now." And in the end, as in Britain, controls will work chiefly to force labor to accent a still smaller share of the economic pie. But they will not stop inflation.

Before theories of political economy were replaced by computer jockeys wielding intimidating arrays of more or less phony statistics, the nature of inflation was widely understood: It is the expansion of money at a faster rate than that of the production of goods and services. Distribution of this wealth, or distributive justice, was seen as a separate question, although inflation did cause a transfer of wealth from the weak to the strong, the slow to the quick.

But when dollar inflation became a permanent feature of the world economy during and after World War II—permanent and enormously profitable—a new economic diagnosis became necessary. We began hearing of "cost-push" inflation, caused mainly by union labor. Even now, though labor has been losing buying power for years, union wages are the chief and most vulnerable target of "antiinflationary" policy and discourse. President Carter says he is "not particularly concerned" that profits rose 26 percent last year; as his advisers see it, high profits are needed for investment to increase productivity to increase profits further. High wages, however, are inflationary.

Our public discourse on inflation might be less befuddled if we measured it with a yardstick other than the Consumer Price Index, which is so constructed that a jump in the price of beef—or oil—can tilt us into "double digit" inflation. And then we can blame the cattlemen, or OPEC. Even the monetarist Wall Street Journal uses this clumsy device. Thus the forecasters in 1972 could consider inflation to be a European problem. It was they, not us, who were experiencing the double digits.

But the United States has been inflating the world money supply at a rapid rate since World War II. Our prices remained relatively stable because we exported the inflation. As long as other countries accepted dollars as a reserve currency and issued their own money in its place, we were getting their goods for IOUs. This was so splendid a deal for us that a theory was created to justify it. For many years, our financial writers were conjuring the threat of a liquidity shortage—not enough dollars—long after the first monetary panics appeared in the 1960s.

It was generally accepted that cheap and easy money was a stimulus to the economy. The computer jockeys developed formulas to express this: So much fiscal stimulation would reduce unemployment by so much. Even after it was discovered that we could have inflation and unemployment too, and the word stagflation had to be coined, this thinking persisted. Indeed, the government's chief effort to combat the 1977–78 run on the dollar was to pressure the sound-money countries to "stimulate" their economies more—in other words, to inflate their own currencies. (The Times was an enthusiastic advocate of this course.) It was moderately successful, for our trading partners, fearful of a general bust, were forced to go along.

Despite the computers, nobody knows how many dollars are now at large in the world. Guesses range in the area of $600 billion to $800 billion, but the figures are fairly meaningless in the present state of the art. Some of the "Eurodollars" are now coming home to buy American property, thus adding to a stock of money in the domestic banking system now estimated at three-quarters of a trillion dollars. Against that, bank reserves are put at $37 billion, and lower reserve requirements have been proposed.

As this monetary volcano heats up, an alarmed public gropes for solutions. The right wing has made some headway in its drive to dismantle social programs and weaken unions. But contrary to what the conventional wisdom holds, a majority of the public has not embraced the rightist philosophy. People want the government to help the poor, to protect the environment, and to provide medical services at prices all can afford. Above all, however, they want inflation brought under control.

And all they hear about inflation slants to the right, like a Tower of Pisa. The liberals are frozen in the sterile debate of the 1930s, when "sound money" meant "let 'em starve" and deficit spending meant "prime the pump." The right, e.g., Bill Simon and Alan Greenspan, has learned to preach sound money while practicing inflation. Where are the sound-money liberals?

A sound-money liberal, if there is such an animal, would end the government deficit by tax reforms, by fighting waste and corruption, and especially by cutting the military budget. He would beef up antitrust action and the prosecution of price rigging. He would curtail the money-creating power of the Federal Reserve and the banks.

With such a program, we might have a real debate. Without it, we'll have more hot air, and inflation.

If You Are In Debt, Relax

(By Nicholas von Hoffman)

While the buying power of the money in your savings account evaporates—every dollar in it has lost 27 cents in the past five years—you may want to take heart from a certain Mrs. Hepburn, now long in her grave. She would not have been impressed with the repeated assertions of Jimmy Carter and every editorialist in the country that inflation is our common and worst enemy. In 1862 Mrs. Hepburn borrowed $11,250 in gold and silver U.S. coin from one Henry Griswold. Two years later the lady tried to repay the loan in greenbacks, the paper money the Lincoln Administration was printing in scandalous quantity to pay for the war. Mr. Griswold refused to accept payment because her pulpy legal tender was worth only $4,500 in gold money.

Inflation was no enemy of Mrs. Hepburn; it was a good friend, for, in effect, it had chopped her debt in half. Henry Griswold didn't see it that way. He sued, and the Supreme Court, in a case famous in the history of American legal economics, ruled that if Mrs. Hepburn had borrowed gold, she would have to repay gold. It was the last time a court decison would go against those benefiting from inflation. A few years later the Court reversed itself: henceforth, if the government had decided to go off on a monetary jag and let more buying power out of the dollar, lenders would have to accept repayment of their loans in debased currency.

Hepburn v. *Griswold* should remind us that inflation has its winners, too, often politically powerful winners. And that fact might account for the faintheartedness of official attacks on the problem of the diminishing dollar. One of the largest categories of winners is home buyers who took out a mortgage more than three years ago. The losers, of course, are the people with savings in thrift associations and the banks that lent the money. As Marshall Kaplan of the Federal Home Loan Bank Board puts it, "In the typical portfolio [total loans] of the savings and loan associations, the typical mortgage has an interest rate of 8 to 8½ percent. That coincides roughly with the rate of inflation. The lender is making no money in terms of real dollars. The borrower is getting a free ride. The borrower is essentially not paying any interest in terms of real dollars." The millions who hold these low mortgages are in effect paying no interest, but they can deduct it from their income tax as though they were. What is more, inflation is also wiping out part of the principal they owe on their loan.

People selling houses can be winners, too. In the past decade, the median price of a house has more than doubled, outstripping the pace of inflation generally. On the other hand, the owners of stocks and bonds have been big losers. That has been especially disappointing to stockholders, who for years thought it a truism that stocks were the best hedge against inflation. In fact, securities have done so poorly that many a stockholder would have done better by his money had he put it in a savings and loan association.

As it happens, there are a lot more homeowners than there are stockholders, so the winners far outnumber the losers. And some of the biggest winners are people most often cited as big losers—older persons on Social Security. Social Security does not just keep pace with inflation; it stays somewhat ahead of it. Indeed, the income of people more than sixty-five years of age went up 76 percent between 1970 and 1976, while the cost of living rose only 51 percent. Older persons supplementing their Social Security with private pension plans discovered that the latter payments alone didn't keep pace, but when the two income sources are taken together, it turns out older people haven't suffered a decline in their standard of living, as it is measured in buying power. Thus a big bloc of citizens, who vote in large numbers, have little incentive, based on their experience in the '70s, to get worked up over what for them is the nonproblem of inflation.

After a decade of inflation averaging about 7 percent, most American wage earners are making, in real dollars, about what they were in 1970. They're breaking even. Of course, some occupations have done much better than others. For instance, construction workers, a highly organized group whose services have been much in demand, have more than held their own, while increasingly unpopular and politically weakened groups like municipal employees have lagged behind. Even the jobless enjoy a significant measure of automatic protection from inflation. Thirty-five states have cost-of-living escalator clauses in their unemployment compensation formulas.

Not all the winners at this game collect in money. Politicians, as Milton Friedman has pointed out, also are winners. Inflation allows the government to carry on large and expanded activities without collecting additional taxes. The debt arising from the government expenditures that taxes won't pay for is covered by creating fresh new dollars at the Federal Reserve Board. It's that debt or deficit that drives conservatives and a large part of the public up the wall, although deficits aren't necessarily inflationary, something Herbert Hoover found out when he rolled up one of imposing proportions in 1932. (Hoover's deficit represented some 59 percent of the federal budget that year, as opposed to Carter's 1978 deficit of about $44 billion, or 9 percent of total federal outlays. Hoover got deflation and Carter got inflation, the difference being that under Hoover the total number of extant dollars had been growing catastrophically smaller while the total number under Carter has been getting larger and larger.)

The biggest losers in the game have been rich people who got caught by an inflationary decade with their money in assets that have taken a beating—stocks, bonds, and other sorts of long-term loans like mortgages. So why, then, is there an almost universal call to end the erosion of the dollar and build an economy reminiscent of the Fifties, when the money depreciation figure danced delicately and harmlessly around 2 percent? Part of the furor arises from a mass media whose owners and managers are much more friendly with the creditor than with the debtor class. They fill the air with cries of alarm. The abhorrence of inflation is by no means confined to creditors. Millions of winners in the inflation game—and people who are at least breaking even—make loud noises, too. Unlike the losers, they aren't stirred up enough by inflation to take political action, but they accept the notion that a well-run government doesn't debase its currency.

The reason for this anomaly may be that a lot of inflation's winners don't realize how well off they are. They go to the supermarket each week and are aware that grocery prices are rising. They are less aware that, with the pay raises they've been getting, the mortgage payments for which they once budgeted a third or a quarter of their income are costing them only a sixth or even an eighth of their earnings. In the days of a steady dollar, pay raises were fewer and smaller because they represented an increase in real spending power.

Inflation is not liked, even by people who may profit from it. It adds an uncertainty to a social and economic life that most Americans don't want to see change rapidly or unpredictably. If our inflations were so engineered that everyone knew money would lose, say, 9 percent of its value every twelve months, people could plan for it, take the fact into account, and act accordingly. We blame inflation for robbing us of our peace of mind, and that sense of uncertainty is amplified by a press that reports as high drama the small month-to-month statistical changes. Moreover, uncertain rates of inflation complicate the working lives of business people; calculating future costs and prices is very tricky.

Under the circumstances, it's a brave public figure who'll stand up and say a good word for inflation, as the working person's friend. A few labor-union presidents mumble they're sorry they can't live with the President's wage-price guidelines as they go behind hotel-room conference doors to negotiate big raises that will keep their members abreast of corporate profits; and some economists say they worry over the recessionary dangers of reducing inflation too fast. But you can't find many avowed inflationists who will say they like things as they are. Deflationists are willing to hint publicly that they have no objection to throwing millions of people out of work if it will help their side. Not long ago the Wall Street Journal reported that if business executives "had to choose between continued rapid expansion and a recession, a surprising number say they'd pick a recession." These businessmen understand that ending inflation will take money out of some pockets and put it in others; they know, even if homeowners don't, that it will mean paying interest on the mortgage again.

The pros and cons of inflationary policies have led to disagreements and, sometimes, violent struggles since colonial days; cheap money, or in those days its absence, was at issue in the first armed insurrection against the newly freed and united thirteen states, Shays' Rebellion in Massachusetts in 1786. The farmers in the western part of the state couldn't get enough gold and silver coin—specie, it was called—to pay their taxes and were demanding some kind of paper money.

At various times, various groups have tied their self-interest to cheap or dear money; the farmers of Andrew Jackson's South and West at first were opposed to paper money; they were hard-dollar men who would later switch sides completely. What's so extraordinary about 1979 is the absence of an avowed pro-inflationist political group. The word once had sufficient respectability that, in 1874, Congress could pass a law called "the Inflation Bill." We alone of all of the generations of Americans seem to find no benefit to anybody in devaluing the dollar.

For Americans, a balanced federal budget has become not so much the summum bonum of political economy as a quasi-religious goal. And yet federal budget surpluses have caused no less consternation. In 1836, the Jackson Administration was so disturbed that the government was collecting more than it was spending that it pushed a bill through Congress authorizing the surplus to be lent to the states. But before all the money could be distributed, a financial panic erupted and the plan had to be abandoned. So much for the notion that a solvent, debt-free government guarantees a prosperous nation.

In the 1880s the government income was exceeding its expenses by monumental sums. The Civil War debt was fast vanishing, and a horrified President Cleveland denounced the surplus in terms we now hear regularly used to describe the deficit. He called it an "indefensible extortion, and a culpable betrayal of American fairness and justice. This wrong inflicted upon those who bear the burden of national taxation, like other wrongs, multiplies a brood of evil consequences. The public treasury, which should only exist as a conduit conveying the people's tribute to its legitimate objects of expenditures, becomes a hoarding-place for money needlessly withdrawn from trade and the people's use, thus crippling our country's development, preventing investment in productive enterprise, threatening financial disturbance, and inviting schemes of public plunder."

These salubrious economic conditions, as we might judge them, far from leading to an era of prosperity, were followed by terrible industrial violence, appalling agricultural hardship, one of the nation's bitterest recessions, and the meanest political battle since Andrew Jackson stopped the effete Easterners in control of the Second Bank of the United States from issuing paper money. This time it was the Easterners who'd become the hard-money, gold-standard men, while the farmers of the South and West had become cheap-money inflationists marching behind the Great Commoner, William Jennings Bryan, who wanted to increase the money supply. Conditions were exactly the reverse of today's. Creditors had it all over borrowers as prices dropped in the post-Civil War decades, until by 1888 farmers were paying off their mortgages with dollars whose purchasing power had doubled in twenty years.

Then the years between 1897 and 1914 saw the largest peacetime inflation in American history until our own, but the reason wasn't government action. They struck gold in South Africa, Colorado, and Alaska. Even without resort to printing paper money, the supply of currency rose so steeply that prices went up 50 percent, producing a different set of winners and losers—although in that period times were so good nobody was crying.

Some modern economists (though none of the Milton Friedman stamp) desert the traditional American view that inflation is caused by printing too many dollars. They blame it on everything from unusually severe winter storms to the price of imported commodities—sometimes copper and bauxite, but just now oil. In recent months we have been told that importing so much oil causes an adverse balance of payments, and that this is weakening the purchasing power of the dollar as expressed in yen, Deutsche marks, and Swiss francs. Balance-of-payments totals, plus or minus, are very much like a budget deficit or surplus. In themselves they don't mean much. The figures are a little hard to reconstruct, but it appears to me that from the time of the American Revolution until 1914, the United States never enjoyed a favorable balance of payments, and that span of time covers a lot of prosperous years as well as some very bad ones. Like deficits, it's the extent to which a negative balance of payments tempts the government to print money to pay the debt that can be inflationary and a matter of concern to players of the money game.

Whether constitutionally mandated balanced budgets would produce zero inflation is questionable. Right now there are many pressures on the government other than the modest Carter-era deficits to encourage excessively enthusiastic greenback production—so many, in fact, that the fight seems next to hopeless. Some reasonable people propose striking a balance between winners and losers even as inflation continues to munch at the silken threads of our dollar bills.

The palliative is called indexing. Much of the economy would be indexed or put on a cost-of-living escalator, so that when prices go up, so would salaries and much of everything else. Twenty-one states already have legislation, for instance, permitting variable-rate mortgages; as inflation drives up interest rates, one's mortgage interest payments go up accordingly. In this way the long-term lender, inflation's biggest loser, gets protection. Contracts of various kinds, even Social Security, already are indexed, and there's no reason a lot more things can't be.

Even so, it is impossible to work out a system of universal inflation protection via indexing. Some people invariably will get more help than others. The struggle over who would get indexation protection would undoubtedly leave the politically powerless with a very short dollar.

Those who can protect themselves or even profit from inflation are those who are first to grab the greenbacks as they come off the government printing presses. New bucks, like pre-Steinem chorus girls, only begin to lose their value after they've been around for a while, when the injection of new money has worked its way through the economy and bid the price level up because more dollars are chasing the same amount of merchandise.

As it happens, those who get first crack at the new money are borrowers of large sums of money and firms in such a dominant industry position that they can administer prices and can therefore raise them in anticipation of more inflation rather than in reaction to it. Put another way, since inflation is a backdoor tax hike engineered by national legislators who would rather depreciate money than raise the withholding bite, the same interests and groups that can slide around and avoid paying real taxes will find ways to avoid the covert taxation brought about by inflation. Under any system and any set of policies there will be winners and losers, but in a democracy with decent respect for social justice you don't decide who they will be by operating a blackjack game in which the house always wins.●

ACTION REAUTHORIZATION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. MILLER of California. Mr. Speaker, I would like to share with my colleagues two articles which appeared in the Washington Post concerning domestic volunteer service programs. Both articles speak to the exhaustive set of hearings held by the Select Education Subcommittee in April.

During this 6-day set of hearings criminal allegations were raised and charges of ineffective management were made. As a subcommittee member who sat through the entire 6 days, including one 14-hour session, I can emphatically say that not one piece of evidence was introduced to substantiate the charges against the Agency and local sponsors of volunteers. The hearings did demonstrate that the Agency has effectively carried out its congressional mandate.

The articles follow:

ACTION BATTLES

(By Colman McCarthy)

Lighting fires under a boiling pot and singing war chants as the bodies are brought in for cooking, some right-wing cannibals in Congress are intent on feasting on ACTION. This is the federal agency for voluntary service, directed by Sam Brown—or mis-directed, if you believe the jungle cries of Rep. John Ashbrook of Ohio and Rep. Robert Michel of Illinois.

This pair, which does its best to link American conservatism with bombast and bluster in free-association word tests, was offended by Brown the day Jimmy Carter appointed him to ACTION. To Ashbrook and Michel, the Brown appointment meant that his record of the 1960s—the anti-war marches, the turmoil of the barricades—was suddenly legitimized.

It wasn't long before attacks against Brown became routine, whether particular ACTION programs were "riddled with abuses" or that Brown himself was a reckless lefty "out to change social structures."

The attacks were little more than right-wing ranting. Rather than being the seething radical that fit the biases of Ashbrook and Michel, Brown came to the federal government after earning a solid reputation in state government as the elected treasurer of Colorado.

Within the Carter administration, he has run his programs. Peace Corps, VISTA, Foster Grandparents, and others—well enough to have one of the few agencies to win the President's approval for a substantial budget increase this year.

Brown, with a manner of frankness that many take as brazenness unbecoming a bureaucrat, has provided a target for any number of Washington journalists eager to kiss him off as a loser in the town's power plays. Rowland Evans and Robert Novak, as clairvoyant as blind men in a midnight fog, wrote in February 1978 that "Brown has lost his battle with the White House to keep the Peace Corps in his ACTION agency." Last week, Jimmy Carter told Congress that "the Peace Corps should remain with ACTION."

To John Ashbrook, the higher question is whether Brown should remain with ACTION. A few days ago, the Ohio congressman came forward with accusations that Brown had "devised a scheme" that had "the elements of criminal conspiracy, fraud and unlawful use of appropriated funds."

A series of VISTA grants totalling $4 million appeared to Ashbrook to be rigged—Sam Brown tapping the federal mother lode for his revolutionary friends out in the field. This broke the law, said Ashbrook, and he for one was going to expose the scheming Brown.

The House subcommittee on education held several days of hearings on the Ashbrook claims, including one session that ran on for 14 hours. If ever a politician was given enough time to nail a bureaucrat, it was now. But to date, Ashbrook has produced nothing.

The subcommittee chairman, Paul Simon of Illinois and one of the fairest men in Congress, says with some irritation that, "There is a total lack of substantiatian of Mr. Ashbrook's charges." If anything, said Simon, the evidence suggests that Brown "has gone out of his way not only to do what is legally required but beyond that to avoid even the appearance of impropriety."

Another committee member, George Miller (D-Calif.), agreed. Not only did he see no "substantiation of any hard evidence of any illegality [or] any unethical conduct," but he also believed that apologies to Brown were in order. This sentiment was echoed by Joseph L. Rauh, the lawyer for some of the witnesses put through a fruitless grilling in committee hearings.

Told by some that he has become a nuisance and by others that he is an embarrassment to the committee, Ashbrook is pressing on for more hearings. Brown and his colleagues, he still insists, "clearly did things" to waste taxpayers' money.

With few others perceiving this clarity, Ashbrook's concern about the waste of the public's money ought to be directed to computing the other financial wastes: his own. How much of ACTION's money, in salaries, has been wasted during the agency's defense of itself? How much of the subcommittee's budget has been squandered in giving Ashbrook his air time? What about the expenses of the witnesses summoned from across the country to answer the pointless charges?

Where, in Ashbrook's fury, are the answers to these questions?

PANEL FINDS NO EVIDENCE AGAINST ACTION

Congressional investigators have found no evidence to support charges of wrongdoing in Action, a federal volunteer service program, according to a report made public yesterday.

The House Education and Labor Committee reported on complaints about the policies of Action—an umbrella agency for the Peace Corps and two domestic programs—and its controversial director, former antiwar activist Sam Brown.

In a rebuff to Brown, the House voted May 10 to take the Peace Corps away from Action and give it to a proposed new umbrella agency for foreign aid and overseas programs.

Action, now operating under a $120 million budget, also overseas Volunteers in Service to America called Vista, and the national older Americans volunteer program.

The report said an investigation by three committee members found no evidence to support allegations that Brown and Margery Tabankin conspired to divide up control of Vista's national grant funds, had lobbied illegally or made fraudulent statements.

The report said Reps. Augustus Hawkins and George Miller, both California Democrats, and Edward Stack (D-Fla.) had checked out allegations by Rep. John Ashbrook (R-Ohio) of possible criminal violations by Action leaders.

In a separate report, they said Ashbrook had pictured "a deliberate effort on the part of Brown and Tabankin to misdirect federal funds into the hands of their friends and political cronies."

In a rebuttal, Ashbrook denied he had charged any law violations, and said he had merely suggested that "circumstances surrounding the grants give the appearance of and suggest the possibility of fraud and deceit."

The report did not mention the House vote to remove the Peace Corps from Action.

Apparently to head off more rebuffs, President Carter recently issued an executive order stripping Brown of all control over the Peace Corps while keeping it technically within his agency.

As a result of Carter's order, a Senate committee last week recommended that the Senate keep the Peace Corps in Action.●

LEONARD HALL

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. RHODES. Mr. Speaker, one of our former colleagues, and a man who was a force in American politics for half a century, Len Hall, has passed away.

Len served 14 years in the House, representing part of Long Island, N.Y. He was Republican National Chairman in 1953, and managed the second campaign of Dwight D. Eisenhower for President. I knew Len Hall as a tireless campaigner, a man of strong beliefs, great energy who was at home among all kinds of people. He was outgoing, astute, and energetic, a man who reflected the qualities of leadership.

He served with distinction in the House from 1938 to 1952. I share the gratitude of many Republicans for his 50 years of service to our party organizations. I extend my condolences to his wife Gladys and his family.●

THE INTERPLAY OF SCIENCE AND TECHNOLOGY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. BROWN of California. Mr. Speaker, as the Congress grapples with budgets and proposals to increase productivity and innovation, it is important to consider how science and technology work. I have frequently been amazed at the lack of realization, even among scientists, of the essential need to consider science and technology as one whole.

The Saturday Review published an excellent article on this subject by Isaac Asimov on the occasion of Einstein's birthday centennial and Edison's light bulb centennial. I highly commend this article, and the points the author makes, to my friends and colleagues in and out of Congress.

The article follows:

[From the Saturday Review, June 9, 1979]

PURE AND IMPURE: THE INTERPLAY OF SCIENCE AND TECHNOLOGY

(By Isaac Asimov)

It is easy to divide a human being into mind and body and to attach far greater importance and reverence to the mind. Similarly, the products of the human mind can be divided into two classes: those that serve to elevate the mind and those that serve to comfort the body. The former are the "liberal arts," the latter, the "mechanical arts."

The liberal arts are those suitable for free men who are in a position to profit from the labors of others in such a way that they are not compelled to work themselves. The liberal arts deal with "pure knowledge" and are highly thought of, as all things pure must be.

The mechanical arts, which serve agriculture, commerce, and industry, are necessary, too; but as long as slaves, serfs, peasants, and others of low degree know such things, educated gentlemen of leisure can do without them.

Among the liberal arts are some aspects of science. Surely the kinds of studies that have always characterized science—the complex influences that govern the motions of the heavenly bodies, for instance, and that control the properties of mathematical figures and even of the universe itself—are pure enough. As history progressed, though, science developed a low habit of becoming applicable to the work of the world and, as a result, those whose field of mental endeavor lies in the liberal arts (minus science) tend to look down on scientists today as being in altogether too great a danger of dirtying their hands.

Scientists, in response, tend to ape this Greek-inherited snobbishness. They divide science into two parts; one deals only with the difficult, the abstruse, the elegant, the fundamental—in other words, "pure science," a truly liberal art. The other type of science is any branch that goes slumming and becomes associated with such mechanical arts as medicine, agriculture, and industry—clearly a form of impure science. "Impure" is a rather pejorative adjective. It is more common to talk of "basic science" and "applied science." On the other hand, differentiation by adjective alone may not seem enough. The same noun applied to both makes the higher suspect and lends the lower too much credit. There has thus been a tendency to call applied science "technology."

We can therefore speak of "science" and "technology," and we know very well which is the loftier, nobler, more aristocratic, and (in a whisper) the purer of the two. Yet the division is man-made and arbitrary and has no meaning in reality. The advance of knowledge of the physical universe rests on science and technology; neither can flourish without the other.

Technology is, indeed, the older of the two. Long before any human being could possibly have become interested in vague speculations about the universe, the hominid precursors of modern human beings were chipping rocks in order to get a sharp edge, and technology was born. Further advances, by hit and miss, trial and error, and even by hard thought, were slow, of course, in the absence of some understanding of basic principles that would guide the technologists in the direction of the possible and inspire them with a grasp of the potential.

Science, as distinct from technology, can be traced back as far as the ancient Greeks, who advanced beautiful and intricate speculations. The speculations perhaps tended to become more beautiful, certainly more intricate, but there was no way in which they could have become more in accord with reality. The Greeks, alas, spun their speculations out of deductions based on what they guessed to be principles, and they sharply limited any temptation to indulge in a comparison of their conclusions with the world about them.

It was only when scientists began to observe the real world and to manipulate it that "experimental science" arose. This was in the 16th century, and the most able practitioner was the Italian scientist, Galileo Galilei, who began work toward the end of that century. Thus began the Scientific Revolution.

In the 18th century, when enough scientists recognized their responsibility toward the mechanical arts, we had the Industrial Revolution; it reshaped human life.

Such is the psychological set of our minds towards a separation of science into pure and impure, basic and applied, useless and useful, intellectual and industrial, that even today it is difficult for people to grasp the frequent and necessary interplay between them.

Consider the first great technologist of the modern era, the Scottish engineer, James Watt. Though he did not invent the steam engine, he developed the first one with a condensing chamber and was the first to devise attachments that converted the back-and-forth motion of a piston into the turning of a wheel. He also invented the first automatic feedback devices that controlled the engine's output of steam. In short, beginning in 1769, he developed the first truly practical and versatile mechanism for turning inanimate heat into work and thus started the Industrial Revolution. But was Watt a mere tinkerer? Was he a technologist and nothing more?

At the time there lived a Scottish chemist, Joseph Black, who, in his scientific studies of heat in 1764, measured the quantity of heat it takes to boil water. As heat energy pours into water, he found, its temperature goes up rapidly. As water begins to boil, however, vast quantities of heat are absorbed without further rise in temperature. The heat goes entirely into the conversion of liquid to vapor, a phenomenon known as "the latent heat of evaporation." The result is that steam contains far more energy than does hot water at exactly the same temperature.

Watt, who knew Black, learned of this latent heat and familiarized himself with the principle involved. That principle guided him in his improvements of the already existing steam engines. Black, in turn, impressed with the exciting application of his discovery, lent Watt a large sum of money to support him in his work. The Industrial Revolution, then, was the product of a fusion of science and technology.

Nor is the flow of knowledge entirely in the direction from science toward technology. While many people (even nonscientists) can now recognize that scientific research and discovery, however pure and abstract they may seem, may turn out to have some impure and practical application, few (even among scientists) seem to recognize that, if anything, the flow is stronger in the other direction. Science would stop dead without an input from technology.

In 1581, Galileo, then 17 years old, discovered the principle of the pendulum. In the 1590s, he went on to study the behavior of falling bodies and was greatly hampered by his lack of any device to measure small intervals of time accurately. The first good timepiece was not developed until 1656, when the Dutch scientist, Christian Huygens, applied Galileo's principle of the pendulum to construct what we would today call a "grandfather's clock." The principle of the pendulum, by itself, would have done little to advance science. The application of the pendulum principle and the technological development of timepieces made it possible for scientists to make the kind of observations they could never have made before.

In similar fashion, astronomy could not possibly have progressed much past Copernicus without technology. The crucial key to astronomical advance began with spectacle-makers, mere artisans who ground lenses, and with an idle apprentice boy, who, in 1608, played with those lenses—and discovered the principle of the telescope. Galileo built such a telescope and turned it on the heavens. No greater revolution in knowledge has ever occurred in so short a time as the second it took him to turn his telescope on the moon and discover mountains there. In brief, the history of modern science is the history of the development, through technology, of the instruments that are its tools.

Yet tools do not represent the only influence of technology. The products of technology offer a field for renewed speculation. For instance, although Watt had greatly increased the efficiency of the steam engine, it still remained very inefficient. Up to 95 percent of the heat energy of the burning fuel was wasted and was not converted into useful work. A French physicist, Nicolas Carnot, applied himself to this problem. Involving himself with something as technological as the steam engine, he began to consider the flow of heat from a hot body to a cold body and ended up founding the science of thermodynamics (from the Greek for "heat-movement").

Nor is it true that science and technology interacted only in the past. The year 1979 is, by coincidence, a significant year for two great men who seem to typify the very epitome of the purest of science on the one hand and the most practical of technology on the other—Albert Einstein, the greatest scientist since Newton, and Thomas Alva Edison, the greatest inventor since anybody. This year marks the centennial of Einstein's birth. It is also the centennial of Edison's greatest invention, the electric light. How did the work of each man invade the field of the other?

Surely, the theory of relativity, which Einstein originated, is as pure an example of science as one can imagine. The very word "practical" seems a blasphemy when applied to it. Yet the theory of relativity describes the behavior of objects moving at sizable fractions of the speed of light as nothing else can. Subatomic particles move at such speeds, and they cannot be studied properly without a consideration of their "relativistic motions." This means that modern particle accelerators can't exist without taking into account Einstein's theory, and all our present uses of the products of these accelerators would go by the board. We would not have radioisotopes, for instance, for use in medicine, in industry, in chemical analysis—and, of course, we would not have them as tools in advancing research into pure science, either.

Out of the theory of relativity, moreover, came deductions that interrelated matter and energy in a definite way (the famous $E=mc^2$). Until Einstein gave us this equation, matter and energy had been thought to be independent and unconnected entities. Guided by the theory, we came to see more meaning in energy aspects of research in subatomic particles, and in the end, the nuclear bomb was invented and nuclear-power stations were made possible.

Einstein worked outside the field of relativity, too. In 1917, he pointed out that if a molecule is at a high-energy level (a concept made possible by the purely scientific quantum theory, which had its origin in 1900) and if it is struck by a photon (a unit of radiation energy) of just the proper frequency, the molecule drops to lower energy. It does this because it gives up some of its energy in the form of a photon of the precise frequency and moving in the precise direction as the original photon.

Thirty-six years later, in 1953, Charles Hard Towns made use of Einstein's theoretical reasoning to invent the "maser" that could amplify a short-wave radio ("microwave") beam of photons into a much stronger beam. In 1960, Theodore Harold Maiman extended the principle to the still shorter-wave photons of visible light and devised the first "laser." The laser has infinite applications, from eye surgery to possible use as a war weapon.

And Edison?

The net result of his inventions was to spread the use of electricity the world over; to increase greatly the facilities for the generation and transmission of electricity; to make more important any device that would make that generation and transmission more efficient and economical. In short, Edison made the pure-science study of the flow and behavior of the electric current an important field of study.

Charles Proteus Steinmetz was certainly a technologist. He worked for General Electric and had two hundred patents in his name. Yet he also worked out, in complete mathematical detail, the intricacies of alternating-current circuitry, a towering achievement in pure science. Similar work was done by Oliver Heaviside.

As for Edison himself, his own work on the electric light unwittingly led him in the direction of purity. After he had developed the electric light, he labored for years to improve its efficiency and, in particular, to make the glowing filament last longer before breaking. As was usual for him, he tried everything he could think of. One of his hit-and-miss efforts was to seal a metal wire into the evacuated electric light bulb near, but not touching, the filament. The two were separated by a small gap of vacuum.

Edison then turned on the electric current to see if the presence of the metal wire would somehow preserve the life of the glowing filament. It didn't, and Edison abandoned the approach. However, he noticed that an electric current flowed from the filament to the wire across that vacuum gap. Nothing in Edison's vast practical knowledge of electricity explained this flow of current, but he observed it, wrote it up in his notebooks, and patented it. The phenomenon was called the "Edison effect," and it was Edison's only discovery in pure science—but it arose directly out of his technology.

Did this seemingly casual observation lead to anything? Well, it indicated that an electric current has, associated with it, a flow of matter of a particularly subtle sort—matter that was eventually shown to be electrons, the first subatomic particles to be recognized. Once this was discovered, methods were found to modify and amplify the electron flow in vacuum and, in this way, to control the behavior of an electric current with far greater delicacy than the flipping of switches could. Out of the Edison effect came the huge field of electronics.

There are other examples. A technological search for methods to eliminate static in radiotelephony served as the basis for the development of radio astronomy and the discovery of such phenomena as quasars, pulsars, and the big bang.

The technological development of the transistor brought on an improved way of manipulating and controlling electric currents, and has led to the computerization and automation of society. Computers have become essential tools in both technology and science. A computer was even necessary for the solution of one of the most famous problems in pure mathematics—the four-color problem.

The technological development of a liquid-fuel rocket has led to something as purely astronomical as the mapping, in detail, of Mars and of experiments with its soil.

The fact is that science and technology are one.

Just as there is only one species of human being on earth, and all divisions into races, cultures, and nations are but man-made ways of obscuring that fundamental truth, so there is only one scientific endeavor on earth—the pursuit of knowledge and understanding—and all divisions into disciplines and levels of purity are but man-made ways of obscuring that fundamental truth.●

RADIATION: ONE MASTERED CARCINOGEN AMONG THE PHANTOMS

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. WYDLER. Mr. Speaker, the Nation seems to be working itself into a frenzy over radiation. One demagog follows another to proclaim some fear that ignores scientific evidence. The media fans public fears with eerie extravaganzas on radiation mysteries from Three Mile Island and nuclear weapon tests in past decades.

All of this is perhaps understandable if the prime purpose is to sell printed copy or television time. It is perhaps even understandable, although regrettable, for politicians to exploit the radiation fear. However, I believe my colleagues in the Congress agree that our responsibility is to look beyond this current national mania and recognize the fact about radiation. Only with the real facts in mind can we act wisely on the related public health issues that come before us.

We are concerned with carcinogens, the cancer causing agents. The Congress is called upon to consider carcinogenicity from both radiation and chemicals. It is worth examining where we stand in our knowledge of each type of agent.

We know vastly more about radiation. So complete is the knowledge that major new findings are not expected. In fact, the days of easily productive research on radiation effects are past.

The current research question is, paradoxically, whether the unobservable small effects of low-level radiation really do or do not exist. The effects are so small that members of an interagency Government study were not convinced that they can be identified, even if a sample the size of the national population is studied. Thus, the question of low-level radiation effects has been reduced to a question of what is truly zero, rather than a question about a real danger.

How have we achieved previous successes in understanding radiation effects? An easy answer is ample research budgets over a period of time. True, atomic energy developments have supported this necessary associated research. But modest scientists in this arena also concede that the mechanisms for carcinogenicity of radiation are simple to understand compared to carcinogenicity of various modern chemicals.

These scientists explain that there is nothing subtle about the effects of radiation on living cells. Effects are completely predictable. Radiation that happens to go through a cell of a living being simply disturbs atoms in its path in a well-understood fashion. In what has become almost a tiresome repetition, researchers find this always to be the cell-altering process, regardless of the type of radiation and the nature of the living cell. Scientists understand it so well that they have learned to control these destructive radiation effects to provide beneficial uses through radiation therapy.

Ignorance, rather than knowledge, is the case for the chemical carcinogens. We live in a world requiring frequent contact with many thousands of potentially carcinogenic chemicals. Far from predictable in their effects, the various chemicals seek different parts of the body and even different parts of the cells. Damage to the cells occurs in a myriad of different ways. Our knowledge of the chemical carcinogens is so deploringly limited that the capabilities for causing cancer are quantitatively known for a scant dozen or so of these chemicals. Chemicals are truly the "phantom" carcinogens in our technological society. We do not even know which ones present the most serious threats.

But vastly dissimilar understandings of effects is not the end of the difference between radiation and chemicals. All radiations can readily be measured by basically only two different types of radiation meters, which by now are familiar to the public and easily obtained. In contrast, no standard detection equipment is applicable for a variety of chemicals. Broad-range detectors of potentially carcinogenic chemicals are in a primitive state. Thus, in comparison with radiation, chemical carcinogens are virtually undetectable, as well as unidentifiable.

Mr. Speaker, the effects of radiation are well established, and it is virtually uncontested that any effects from low-level radiation are minimal.

If there are any areas in which the Congress has sufficiently reliable information with which to act responsibly, surely radiation effects is one. Radiation is involved in serious matters in our society, including the healing arts and various forms of energy. Carefully drafted legislation has been, and will be, required on these issues. Our deliberations on the issue of radiation effects should not be clouded by demagoguery.●

GAS PUMPS ON HILL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. MAZZOLI. Mr. Speaker, I was disturbed to read in the Washington Post this morning a story describing a special service on Capitol Hill which provides gasoline at cheap prices and unlimited quantities to certain officers and employees of the Congress.

I have today sent a letter to you, Mr. Speaker, concerning the situation. I insert the Post article and my letter in the RECORD at this point:

[From the Washington Post, June 6, 1979]

GAS PUMPS OF HILL CATER TO WHEELS

(By Bill Peterson)

Psst. There is a place where gas still sells for 67 cents a gallon. It is conveniently located. The service is good. And there are no lines.

The only trouble is that the station has only two pumps. And they are reserved for a few bigwigs.

House Speaker Thomas P. (Tip) O'Neill Jr. (D-Mass.), Majority Leader Jim Wright Jr. (D-Tex.) and Minority Leader John J. Rhodes (R-Ariz.) fill up their Lincoln Continental limousines there. So do Senate Majority Leader Robert C. Byrd (D-W. Va.) and Minority Leader Howard H. Baker Jr. (R-Tenn.).

Senate Majority Whip Alan Cranston (D-Calif.) uses the pumps to fill up his government-owned Mercury, as does Minority Whip Ted Stevens (R-Alaska).

Hardly anyone has even heard of the rest of the folks who use the pumps. George M. White, the architect of the Capitol, for example, has his government-paid chauffeur (salary $22,548) fill up the government-owned Oldsmobile that ferries him back and forth to his home in Georgetown. Edmund L. Henshaw Jr., the clerk of the House, has a Mercury limo and a Ford station wagon signed out to him. Both use the same exclusive pumps.

The powers that be like to keep the pumps very hush-hush. Even regular, everyday senators are not allowed to use them.

When a photographer showed up yesterday

to take a picture of the pumps, he was told he needed permission to do so from the Capitol architect. When he called the architect's office, he was told he had to have permission of the Senate Rules Committee. When he called the Senate Rules Commitee, he was told no dice.

"I don't have authority to grant that kind of request. That's not public territory," said William M. Cochrane, staff director of the Senate Rules Committee. 'That's part of the internal working area of the Senate."

Rules Committee Chairman Sen. Claiborne Pell (D-R.I.) later granted permission. But when a photographer arrived on the scene he was again prohibited from taking any pictures.

The pumps are near the entrance to an underground Senate garage at the intersection of Louisiana and New Jersey Avenues NW. That's about three good stone's throws from the Capitol.

The garage is one of these cozy, well-kept structures that Congress has built for itself and its staff. The public pays upwards of $3.80 a day to park in similar digs. Members of Congress and their staff park free.

The station has two aging pumps. One sells unleaded gasoline to the U.S. Senate, the other sells unleaded Amoco gasoline to the architect's office. In addition to the limos, the pumps provide gasoline to the U.S. Capitol Police, maintenance vehicles and shuttle vans.

Each year bids are opened to suppliers on the gas contracts, according to Elliott Carroll, executive assistant to the architect. The winning bids went for 67 cents last year. That remains the price charged at the pumps. By contrast, service stations in the Washington area charged up to 90 cents per gallon in May, according to the American Automobile Association.

The low prices, however aren't a break for any of the pumps' users. The government picks up the whole tab regardless of the price.

The elite station's biggest customer last year apparently was Speaker O'Neill. He spent a total of $1,720 for gas and oil there during 1978. His limo cost taxpayers a total of $27,256 for the year. In addition to the cost of gas and oil, $22,548 went for his chauffeur's salary, $2,450 for leasing the car, and $538 for tires and chauffeur's uniforms.

Majority Leader Wright spent $26,971 to run his Lincoln Continental, with $1,435 of that going for gasoline. Minority Leader Rhodes spent $26,480, with $1,340 of that for gasoline.

The most controversial autos, however, are those used by employees of Congress. When Rep. Adam Benjamin Jr., chairman of the subcommittee on legislative branch appropriations, questioned Capitol Architect White on his need for a car and driver, White replied with a three-page letter relating that the architect office has had these benefits for these past 10 years.

Besides, he said, others in his office use the car, and he desperately needs it and his driver for meetings of the D.C. Zoning Commission, of which he is a member. The meetings, he said, are often held "in various parts of the District."

"It has been my practice to use my personally owned automobile for evening meetings and for office use on Saturday and holidays," he added.

When House Sergeant-at-Arms Kenneth B. Harding was questioned about the same matter, he replied, "This vehicle is considered an essential tool of the office. A police radio is installed to help me provide more effective service."

He noted that he does not have a government-paid chauffeur and that "all expenses for operation of the car are and have been borne by me personally." Harding's leased Mercury cost taxpayer's $1,900 last year.

At least one congressman, Rep. Lee H. Hamilton (D.-Ind.), was unimpresed with the responses. "I don't think any employee of the Congress should have a chauffeured car," he said in a letter to Benjamin. "If there is anything I can do to help bring such practices to an end, please let me know."

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 6, 1979.

Hon. THOMAS P. O'NEILL,
Speaker of the House, U.S. House of Representatives, Washington, D.C.

DEAR TIP: I share your concern—and that of our Colleagues in the Congress—over reports that employees of the Congress are obtaining low-priced, easily-accessible gasoline in a pump located on Capitol Hill. The *Washington Post* article of this morning was my first notice of the existence of this special arrangement.

The public is, to say the least, outraged and skeptical about the shortage of gasoline in this country.

Many believe that once gasoline prices reach a dollar or so a gallon, gasoline will—magically—become plentiful. This confirms to them that the gasoline crisis is an oil company/government conspiracy.

We Members of Congress are all having a devil of a time trying to answer our constituents' questions and trying to get to the bottom of this crisis.

Now, to add insult to injury, the public reads that certain officials and employees of the Congress are able to obtain gasoline when and in the quantities they wish, at a very modest cost, and with little or no hassle.

A persuasive argument can be made that you and others if the Congressional leadership—who represent the Legislative Branch in an official capacity—should be guaranteed quick access to gasoline for official representational duties.

However, I can see absolutely no justification for providing this same access to other officials and employees of the Congress.

Accordingly, I wish to register my objection to the continuance of this privilege.

And, I would appreciate receiving a list of all those individuals and groups entitled to use this gasoline service.

I understand that our distinguished Colleague, Representative Adam Benjamin, has already begun inquiries to get to the bottom of this matter. I commend these efforts. And, I join other of my Colleagues in the Congress in offering to do anything I can to help to end this abuse.

Expeditious action to terminate those privileges to all but a limited number of high-ranking officials of the Congress would be in the public interest.

All best wishes and warmest regards.

Sincerely,
ROMANO L. MAZZOLI,
Member of Congress.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following vote because of official business. If I had been present, I would have voted as indicated:

On June 6, 1979: Rollcall 183, "yes." ●

WEST TEXAS OPINIONS

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. WHITE. Mr. Speaker, as a U.S. Representative, I make continuing efforts to know and understand the thinking of my constituency on the various problems, questions, and proposals facing our country, as do most of my colleagues in the House of Representatives. Recently, I sent a most comprehensive questionnaire to my constituents in the 16th District of Texas, and I want to share the results with my colleagues. Following is a newsletter I have sent to the media of my district which details these results:

WEEKLY NEWSLETTER, JUNE 4, 1979

FELLOW WEST TEXANS: Eighty-four percent of the people of West Texas favor institution of a liberal alien work visa program with 14 percent opposed to the idea and two percent undecided.

At the same time, 70 percent would penalize employers for knowingly hiring illegal aliens while 26 percent are against this notion and four percent neutral.

These facts were established by over 5,000 responses to my annual questionnaire to the people of the 16th District of Texas.

The alien work visa proposal gained the highest favorable percentage on 22 "yes" and "no" questions posed in the questionnaire.

The second highest vote getter was a proposal to amend the Constitution to require a balanced federal budget with 81 percent indicating approval, 15 percent indicating disapproval and four percent offering no opinion.

I was most gratified to note the high percentage of agreement on these two questions since they have clearly been established as my two major legislative thrusts of the present Congress.

The most evenly split decision was on President Carter's proposal to cut some $600 million from various programs under social security with 47 percent nodding yes and 46 percent no, leaving seven percent undecided. In a companion social security question, only 34 percent favored federal workers being included in the program with 53 percent against, and 13 percent disinterested.

On the Administration's hospital cost containment proposal which calls for mandatory revenue controls if hospitals are not able to keep increases to 9.7 percent or less in 1979, the verdict was: yes, 64 percent; no, 27 percent; no opinion, nine percent.

Fifty-three percent said they do not want federal revenue sharing continued with states, and surprisingly even more, 55 percent, said revenue sharing for local governments ought to be discontinued. On these two questions, 39 and 37 percent voted continuation, and each recorded eight percent no opinion.

Minimum wage increases did not fare well with the people of West Texas with 64 percent voting to delay or rollback scheduled increases, 33 percent approving the increases, and three percent abstaining.

Higher guarantees for farm commodities were nixed by 65 percent with 26 percent agreeing and nine percent not voting.

Is the fuel shortage real? Fifty-five percent of the residents of the 16th District don't think so; 41 percent do, and four percent are undecided. In two related questions, 63 percent turned thumbs down on restricted weekend gasoline sales with 34 percent okaying the idea and three percent with no opinion; and, surprisingly enough in wide-open West Texas, 59 percent voted to keep the 55-mile-per-hour speed limit while 39 percent said repeal it and two percent had no opinion.

Should we pay $2.60 per thousand cubic feet of natural gas to Mexico even though domestic gas is selling for less than $2 and imported Canadian gas goes for $2.16? Forty-nine percent said yes, 44 percent no and seven percent undecided.

The Three Mile Island incident apparently did not dissuade West Texans from endorsing nuclear power development as 67 percent approved continued funding for the Clinch River nuclear breeder reactor project which is designed to extend our uranium resources for electrical power. Only 22 percent said no and 11 percent were indifferent.

A 68 percent majority disapproved the U.S. providing $5 billion in military grants and loans to Israel and Egypt as a means of implementing the Middle East Treaty while only 27 percent okayed the deal with five percent abstaining. These figures were exactly reversed on the proposal that the U.S. sell military hardware to friendly nations.

On two other foreign relations subjects, 50 percent favored withdrawal of U.S. troops from Korea, 42 percent said keep them there and eight percent had no opinion; and 51 percent said give favored nation trade status to Mainland China with 35 percent opposing this question and 14 percent having no opinion.

Would West Texans favor the movable MX intercontinental nuclear missile shuttled from place to place to make them vulnerable to Soviet attack—even if one of the sites were in their part of the country?: yes, 75 percent, no, 16 percent, no opinion, nine percent.

On the question of creating a cabinet level Department of Education, only 36 percent approved with 53 percent opposing and 11 percent remaining neutral.

If it is determined necessary to return to a selective service system or various options, 16 percent of White's constituents would register and classify young men, 21 percent would include women, only six percent would favor conscription into the reserve forces, 20 percent would go for peace time draft, while a very comfortable plurality of 37 percent—and this is surprising—would approve of some form of national service for all young people.

The SALT II treaty proposals did not fare well with only five percent lending strong support and eight percent saying they generally support it. Conversely, 48 percent want to see more protection for the U.S. in SALT II, 19 percent are strongly opposed and 20 percent offered no opinion.

On the question of national health insurance, West Texans indicated their distaste for more federal bureaucracy. Thirty percent said such a plan should be through private premiums only, a like number voted for a combination private-federal effort, only nine percent okayed payroll taxes, 16 percent indicated approval of direct federal funding, and 15 percent said any such plan ought to be earnings based.

The questionnaire concluded that it is imperative that federal spending be reduced, and it then offered 17 areas where such cuts could take place. Ranked in an order determined by first place votes, the results were: social services and welfare, 29 percent; regulatory agencies, 20 percent; international affairs, 19 percent (and this could very well be 23 percent since most of the four percent who penciled in a first choice under "other" indicated foreign aid); housing and urban development, five percent; science and space and national defense, four percent each; labor programs, three percent; education, income security and public works, two percent each; and agriculture, energy, health, resources-environment, transportation, and veterans affairs, one percent each.

The response to my latest questionnaire will be most helpful as I make my legislative decisions during the 96th Congress.

Sincerely, your Congressman,

RICHARD C. WHITE.●

ALTERNATE LIQUID FUELS TECHNOLOGIES

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. WYDLER. Mr. Speaker, I am pleased that today we are beginning what should be an indepth look at alternative liquid fuel technologies. We have a serious fossil energy problem in this country and I think that anyone who buys gasoline understands by now that it is primarily a liquid fuels problem. We are producing only a little over one-half of our crude oil needs and our proven reserves have declined each year since 1970. However, we have certain other fossil energy sources which are not supply limited. Coal in this country should last hundreds of years at today's level of usage. Oil shale is another huge resource. Enhanced oil techniques, if perfected, could permit us to extract the two-thirds of an oil field that we typically leave in the ground.

To be blunt, the Government's track record in the development of substitutes for petroleum products is quite spotty. During the 94th and 95th Congresses we greatly increased funding for coal liquids but have been faced with a series of larger plants which have not performed as we had hoped. Several projects including Coalcon and Synthoil have been canceled before they were even completed. There have been relatively few successes in DOE's enhanced oil recovery program and we have been told for 50 years that shale oil as a large energy source is just around the corner. The time has come for a disciplined research program with commercial synthetic oil as an end result. This will only be achieved through detailed program and project management plans, careful adherence to milestones, and vigorous congressional oversight.

Everyone realizes the time to act is now. Establishing a meaningful program of research, development, demonstration, and incentives for production of petroleum substitutes was a major element in minority energy strategy last year. A broad interest in producing gasoline through indirect liquefaction is developing among our colleagues. There are even hints that the administration is beginning to realize that bigger and better bureaucracies and regulations cannot produce a drop more of oil or oil substitutes; it has set a mid-1980's goal for and established a 60-day study period to reassess the direction of DOE's coal research program. Let us seize this opportunity to at long last bring some sense to DOE's alternative liquid fuels technologies programs.●

HONORING OUR BEAVER VALLEY LABOR HISTORY SOCIETY

HON. EUGENE V. ATKINSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. ATKINSON. Mr. Speaker, it is an unfortunate reality that the historical recognition of the American worker's contribution to this country's growth has never been equal to the magnitude of that contribution. In a sense, the workers have been forgotten by the general historical community. This has been the case for many years. But now, there is a growing concern for the part played by the American worker in the history of this Nation. I feel that such a movement has been a long time coming, and I support it wholeheartedly.

One organization, the Beaver Valley Labor History Society, is dedicated to elevating the awareness of the worker's role in American history. The work of the society has met with international notice. Historians in France and Great Britain have expressed a strong interest in the work of the society, as have historians within this country.

In order to stimulate interest and support for the efforts of the Beaver Valley Labor History Society, a letter from an historian from the University of Pittsburgh, David Montgomery, was forwarded to my office by the society.

At this point, Mr. Speaker, I refer my colleagues to the letter that was sent to Mr. Anthony L. Francschini of the Beaver Valley Labor History Society on April 30, 1979. The text follows:

UNIVERSITY OF PITTSBURGH,
DEPARTMENT OF HISTORY,
April 30, 1979.

MR. ANTHONY L. FRANCSCHINI,
Beaver Valley Labor History Society,
Aliquippa, Pa.

DEAR MR. FRANCSCHINI: Two weeks ago, when I was in Rome for a historical conference sponsored by the Basso Foundation of Italy, I spoke, among other things, about some of the important work now going on the history of American workers. I described the Beaver Valley Labor History Society, and found the European historians who were there intensely interested in learning more about your group. Two of the people present were editors of the British History Workshop Journal. They asked me if I would write an account of the work in Aliquippa for their journal.

I would like to write a short informative piece for them (3 to 4 pages long), and I could do that simply by getting the information from the March, 1979 issue of the Beaver Valley Labor History Journal. There is plenty of the information there. But there are two problems with that approach. First, the British readers are especially interested in knowing how your society got started. Their main interest, after all, is in promoting similar work in their own country. Second, I want to be certain that whatever I say is accurate.

Would you be willing to help me write such an article? I can think of two ways this might be done. You may think of another, better way. One would be for you, or someone in your Society, to send me a short account of how the Society got started. The other would be for me to write a story based on the first issue of your journal and show it to you, or someone your Society selects, so that you could suggest corrections and additions.

There are two other projects in which working people are putting together their own local histories, to my knowledge. One is in the Liverpool area of England, and it is sponsored by the Workers' Education Bureau there. The other is in the coal-steel region of Le Creusot, France where an important oral history museum of the region's economy, helped by government money and the cooperation of the two major labor federations, CGT and CFDT. The Beaver Valley Labor History Society has similar interests to these two projects, but it seems to rest much more on the initiatives of its own members. Your programs and your journal impressed the Europeans to whom I spoke as an important example for future work in their own countries.

Please let me know what you think of the idea of my writing this piece for the History Workshop Journal and how we might cooperate to make it the best possible.

Sincerely yours,

DAVID MONTGOMERY.●

REAGAN SPEAKS OUT ON DRAFT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. PAUL. Mr. Speaker, because I believe the draft is a bad idea militarily, as well as morally, constitutionally, economically, and politically, I was heartened to see the excellent statement by Ronald Reagan in his Citizens for the Republic Newsletter. As the Governor points out, the draft is no way to build a top-notch military reserve.

The statment follows:

DRAFT WON'T BUILD A SPIRITED RESERVE

Restore the draft? Some members of Congress, joined by opponents of the volunteer army, are pushing for either a limited draft or standby registration of all 18-year-olds.

The volunteer army opponents argue that the concept isn't working. They routinely cite instances of months in which recruiting fell to 90 per cent of projects (never mentioning the months in which it has gone over 100 per cent).

In fact, the volunteer army ended 1978 some 2,000 members over strength, due to the fact that more soldiers stayed in than had been predicted. When a volunteer organization's dropout rate declines, it must be doing something right.

A more serious worry is the state of the reserves and the National Guard. Most units are below strength and many are at 50 per cent of normal or less. Advocates of a limited draft claim that, after a brief tour of active duty, the draftees will go into the reserves, bringing them up to strength.

Instituting the draft for this purpose, however, would be an admission by the government—and the Carter Administration—that the reserves have not been made attractive enough to young men and women to stand on their own. Yet, if the volunteer army itself can be made attractive, why can't the reserves?

Some argue for standby registration, claiming that this would greatly speed mobilization in time of emergency. One defense manpower analyst I talked with said that registration would perhaps reduce mobilization time slightly, from 110 to 90 days—at great cost.

Why not put those millions of dollars into program improvements and promotion to make the reserves more attractive to volunteers? The politicians in Washington may be forgetting that they are dealing not with statistics but people.

ALIEN IDEA

These days, the word "registration" to young people is code for "draft," an idea that evokes painful memories of Vietnam for many and an idea that has always seemed alien in a democratic society during peacetime.

When the nation does not face a specific threat (as distinguished from the fact that we live in a world of risks) does it have a legitimate claim to the mandatory service of its young people for the military or any other purpose? Underneath the surface of those dry statistics about military manpower and mobilization requirements is a set of deep philosophical, moral and ethical questions.

While it is true that effective mobilization in time of emergency rests on our ability first to field an effective active army, then call up trained reserves and then build a citizen-conscript army, we don't need to do the latter now in order to get the former two.

Why is it that this nation of innovators has to fall back on the old concept of a wartime draft or registration, instead of coming up with new ways to bring motivated young Americans into the reserves?

Skills training, challenges, adventure and pay incentives—all in the right mixture—if properly communicated ought to go a lot further than computers and draft boards in building a spirited military reserve.●

JOSEPH FRANCIS THORNING

HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mrs. BOGGS. Mr. Speaker, I would like to ask my colleagues to join me in extending our best wishes to the Reverend Dr. Joseph Francis Thorning who has recently celebrated a very special occasion, his 83d birthday.

For many years I have known and respected Father Thorning. It has been a privilege to observe and admire his inspiring lifelong dedication to Christianity, to religious ecumenism, and to works of diplomacy throughout the Americas. I would like to share with you the following tribute to Father Thorning, which appeared as an editorial in the April 25 issue of the Frederick (Md.) news:

EL PADRE'S MEMOIRS

Former Secretary of State Henry Kissinger in jest said his memoirs—now in the making—started with "In the beginning" and end with "and on the seventh day," a bon mot to some of his lesser critics who felt he thought he was the Almighty.

The whole world is waiting for Mister K's memoirs.

Perhaps a smaller part of the world is waiting for the memoirs of a man whose scholarship and genius in international relations, particularly with the Americas, is most noteworthy today on the occasion of his 83rd birthday.

The Rev. Dr. Joseph Francis Thorning, widely known for his ministries and contributions to United States diplomacy as "El Padre de las Americas," is pastor-emeritus of one of Frederick County's most historic churches, Saint Joseph's-on-Carrollton Manor.

Among many credits (his curriculum vitae would read like a catalogue of accomplishments since he began his distinguished career in 1910 at Marquette Academy) is his authorship of two definitive works—*Miranda: World Citizen*, the biography of Francisco de Miranda, the precurser of Latin American freedom, and *Religious Liberty in Transition*, regarded by competent scholars here and abroad as "the premier scholarly work for the ecumenical movement"—predating even John XXIII's Vatican II and written with approval of the Holy See in 1931.

A signed copy, updated in Father Thorning's own handwriting, is one of this column's prized library treasures.

Dr. Thorning, well known in Frederick as he "jogs" and "jawbones" about the community, is the "adopted" patron-son of Dr. Henry Eigelsbach, Betty and family, from where he is—he vows—writing his memoirs.

But he keeps so active, however, filling pulpits, encouraging young people (he led the cheering section for Miss Frederick runner-up Barbara Lee Baetz) and making visitations that we can only hope that he does not put off this mjor work which would be so valuable to the twin cause of peace and ecumenism, for truly, in studying this man's life there unfolds from the record a story of a man years ahead of the history of our time.

Briefly, the young Jesuit priest, in several writings in the early 1930s (after study tours abroad) warned of the unholy "Triple Alliance," of madmen named Adolph Hitler and Benito Mussolini, and admonishing the worldwide readership of *America*, a Catholic publication, that:

"While the bulk of responsible opinion in the Reich has supported the financial reforms of Chancellor (Heinrich) Bruening and the conciliatory policy of Foreign Minister Curtius, the recent elections served notice on the world that Germany can no longer be kept in the role of a subject nation."

He went even further, warning that Hitler was a dangerous man, and that the world would be resigned "to see a new German military machine rise, phoenix-like, from the ashes of defeat and despair."

"Dr. Bruening," he wrote in a personal note to this column in answer to a question, "was chancellor of the Weimar Republic, 28 months—longer than any German chancellor in the interval between World War I and World War II.

"(He) might have saved the German people and the peoples of the globe millions of deaths, crippling wounds, innumerable diseases for which we are all paying in taxes, and they, far worse, in daily, hourly suffering, anguish, agony and deaths everywhere.

"If the allied powers had made the concessions they later made to the Count Franz van Papen scaling down reparations, 'A Knight of Saint Gregory the Great,' Dr. Chancellor Bruening would have saved us all."

In a 1928 series in *America* he wrote on the need for simultaneous disarmament of nations, questioning if arms or words can prevent wars. He called on the "outlawry of war."

A similar writing by the Jesuit in *The Commonweal*, November 1934, stated that the real power in Russia and a force to be dealt with by the world was a man then not so high on the "red menace" ladder—Josef Stalin.

Relating "What I Saw in Russia," Fr. Thorning concluded: ". . . the Russian people, terrorized and panic-stricken by the flashing planes and gleaming guns, would continue to submit for many years to the dictates of Stalin and his successors."

Similarly, after study missions in Japan, he warned in 1940 of the coming attempt of world conquest and told of the Japanese buildup and aiming of its war machine toward Pearl Harbor and the United States.

Fr. Thorning joined with the great writers of his day in warning, as did one correspondent of the *Times* in London in 1934: "What happens in Berlin and Vienna, happens six months later in London."

And as to what happens on this side of the Atlantic, he wrote: "We should not forget that 'what happens in London, sooner or later is very apt to happen in New York.'"

What happened is that power lusts where Godlessness begins, and he saw this—and he reported it, and in his great work, "Religious Liberty . . ." Dr. Thorning tells us that ecumenism is the way.

Happy Birthday, El Padre Thorning. The world awaits the gift of your memoirs.●

BUCHWALD SAYS IT ALL

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. MICHEL. Mr. Speaker, there are times when words are superfluous. So I will simply insert into the RECORD Art Buchwald's column of May 31, 1979, in the Washington Post which says it all concerning the Carter administration and energy:

SHIP OF STATE: TITANIC TROUBLES

(By Art Buchwald)

Capt. Jimmy Carter, formerly of the U.S. Nuclear Submarine Command, was standing on the bridge of the Ship of State staring through his binoculars. "Hard rudder right," he said.

The helmsman said, "It won't go to the right, sir."

The captain said, "All right then, hard rudder left."

The helmsman said, "It won't go hard rudder left, either, sir. What should I do?"

The captain said, "Let's drift until I talk to the crew." The captain grabbed the speaker. "Now hear this. This is your captain speaking. We are heading into rocky waters and I want all congressional chief petty officers topside immediately."

A surly band of CPO's came topside. "Gentlemen, I need your help. I can't steer this ship alone."

"Where are we heading, Captain?" one of them wanted to know.

"I'm not sure, but I'd like to stay on course."

"If you don't know where we're going, how can we help you stay on course?"

"Well, for a start I would like assurance that we have enough fuel to stay afloat."

"How much do we have now?"

"Lt. Schlesinger, how much fuel do we have?"

"I have no idea, sir. I keep getting different reports every hour. All I know is we're going to have to conserve as much as possible."

"Then I guess we better start rationing it," the captain said.

One of the congressional leaders replied, "How?"

"Lt. Schlesinger, do we have a plan?"

"Yes, sir. Here it is."

The chiefs looked it over, "We don't like this plan."

The captain said, "All right, We'll come up with another one. Lt. Schlesinger, do we have another plan?"

"Yes sir. Here's a new plan."

The chiefs studied. "This is worse than the other plan," one of them said.

"Then you people come up with a plan!"

"We don't know anything about conservation," one of them said.

"See here," Capt. Carter said grimly. "I'm in charge and you people must think about the good of the ship. We have to work together or we'll go on the rocks."

Ensign Hamilton Jordan came on the bridge. "Sir, we're taking on water."

The captain got on the phone, "Lt. Blumenthal, you're in charge of damage control. How much water are we taking on?"

"Well, I thought it would be 7 percent, but apparently we screwed up. We'll be lucky if it doesn't go to 10."

"What happened to our plan to reduce the bilge in our tanks?"

"We thought we could keep the boilers from overheating but we were wrong."

"You're a big help, Blumenthal." Thank you, sir."

Capt. Carter hung up and said. "If we can only get through the Panama Canal we'll be alright."

Chief Tip O'Neill said, "I'm having trouble getting the crew to agree to go through the canal."

"Why?"

"The petty officers are being very petty."

"How can I command the Ship of State when no one wants to follow my orders?"

"Why don't you abandon ship?" Chief Kennedy suggested.

"You would like that, wouldn't you, Kennedy? It sounds like mutiny to me."

"No sir, I'll support you as long as you're captain, but any time you want me to take over the wheel just let me know."

The helmsman said, "Captain, we seem to be drifting out to sea. Do you want to set a new course?"

"That's a good idea," the captain replied, "Which way is the wind blowing?"

"Port" someone shouted.

"Starboard," somebody else said.

"Fore," another voice offered.

"Aft," was the last reply.

"Good," said the captain, "Stand by your stations until I come up with another plan."●

FIGHT THE DRAFT

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. MIKVA. Mr. Speaker, sometime in the coming days we will be voting on the defense authorization bill for the fiscal year 1980 which includes the establishment of a system of selective service registration. The bill also calls for the President to submit a plan concerning the feasibility of the resumption of the military draft.

I am opposed to any proposal for resuming any form of the draft during peacetime. Such action contradicts the basic values of a democratic society. It would be a massive invasion of the freedom of millions of young Americans.

Recently, an article by Mr. Paul Katz appeared in the Daily Northwestern. Mr. Katz is a freshman at Northwestern University and is a member of the Progressive Students Coalition. I would like to share Mr. Katz's article with all my colleagues so that they may benefit from this young man's insight. He eloquently refutes claims that the draft is necessary for the national security while reminding us that a large standing Army is more likely to lead us into war than to promote continued peace.

The article follows:

DON'T FORGET VIETNAM: FIGHT THE DRAFT

(By Paul Katz)

As everybody should know by now, there are nine bills before Congress that could reinstate draft registration beginning October 1, 1979.

The purposes of these bills, according to their sponsors, are to increase the preparedness of the United States in case of an emergency; to aid a failing volunteer army and according to Sen. Robert Morgan to demonstrate to "the potential enemies of the United States that we still retain our resolve to fully bear arms should this be the decision of the Congress and the President."

The supporters of reinstating draft registration claim that the Selective Service is not in the working condition that it should be. Rep. John Bennett believes "our mobilization is in a state of disarray."

Figures show that the armed forces have failed to meet their enlistment quotas. The Air Force met only 95 percent of its quota, the Army 93 percent, the Marines 86 percent and the Navy 85 percent. What these figures fail to show is that reenlistments have increased. So the size of the armed forces has remained at 2.1 million persons.

Other supporters say that a result of the volunteer force, the U.S. army reserves have declined to the lowest point in 20 years. According to Sen. Morgan, the individual ready reserve has declined from 900,000 in 1972 to 150,000 today. It must be remembered though that the U.S. was involved in the Vietnam War in 1972, so of course our reserve strength would be high.

The purpose of the individual ready reserve is to provide personnel to fill up the active army in the event of a national emergency. Sen. Morgan claims that a "stand-by draft" would be "essential to ensure that the necessary personnel can quickly be called up and trained."

He says that presently it would take five to seven months before the first induction would occur. Proponents of the draft legislation believe that such a delay added to the amount of time necessary for training would spell defeat for America. There is only one question: who is Congress planning to fight?

Presently we are at peace. There is no direct threat to American security anywhere in the world. Why then is Congress so intent upon reinstating the draft registration and induction? Some people say that you cannot anticipate when a war will occur. So we are better off to be prepared just in case, they say.

In fact, the opposite is true. Wars do not suddenly occur for no reason. Conditions that lead to war tend to be conspicuous years before an actual conflict develops.

Even in the "surprise attack" on Pearl Harbor, it was obvious by the late 1930s that Japan was heading toward potential conflict with the United States. That is why the Selective Service was reactivated in 1938.

This brings us to the next argument in favor of the draft. Advocates say that the very act of registration is a sign to our enemies that we are prepared to defend ourselves. According to them, the draft would act as a deterrent to hostilities. However, this is not the case.

There are also provisions in some bills that will make registration a permanent part of American life by "not allowing the President to suspend registration for more than 90 days in any one year."

Another provision in two of the bills is to move the Selective Service from an independent agency to part of the Department of Defense. Not only would this create an extremely militaristic environment but it would give the department too much power to hold a standing army in peacetime or induct bodies at will.

A large standing army is simply something that should not be tolerated in peacetime. It is against every idea of liberty and freedom upon which this country was founded. In fact, one of the grievances set forth in the Declaration of Independence was, "He has kept among us, in times of peace, standing armies . . ."

A standing army is detrimental to world peace. It is precisely because we had the draft and a standing army in the late fifties and early sixties that the government was able to become involved in Vietnam. If the men were not available to fight, the government would never have been able to involve the U.S. in a war where 50,000 men died for no reason.

Should the government again be allowed to have a standing army, it would be very easy for it to get involved in overseas problems such as Southern Yemen (where President Carter has already sent military advisers).

The reinstitution of the draft and any steps leading to it, such as registration, are an unnecessary abridgement of personal freedom. The United States is at peace. War hawks in Congress, though, seem to think that we need drastic measures to insure that we can mobilize quickly. The same hawks also point to a recent Harris survey showing 66 percent of Americans polled favor military registration and 31 percent oppose it.

Rep. Paul McCloskey (R-Calif) has even gone so far as to say that:

"Duty, honor, country, and a sense of obligation to serve the nation and mankind are very much a part of the ethic of today's youth."

The Congressman makes a good point in saying that duty and honor are very much a part of the ethic of today's youth. It is for precisely these reasons that we oppose reinstatement of the draft registration.

Vietnam is over. We are a new generation. The lessons of Vietnam must never be forgotten, but the times are different and the issue is the reinstatement of an unnecessary and restrictive draft. Apparently some congressmen have not kept abreast of the times nor of the youth's feeling. It's time we let them know how we feel.●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. MAZZOLI. Mr. Speaker, I was necessarily absent from the House on Thursday, May 31, 1979. Had I been present, I would have voted "nay" on rollcall No. 176, an amendment to H.R. 2575 which sought to prohibit the use of funds for research, development, testing, and evaluation of the MX missile system; "nay" on rollcall No. 117, an amendment to H.R. 2575 which sought to prohibit the Secretary of Defense from proceeding with development of the MPS basing mode for the MX missile under certain circumstances; "aye" on rollcall No. 178, final passage of H.R. 2575, the Department of Defense supplemental authorization bill, for fiscal year 1979.●

AMERICAN SCHOLARS INVITE SOVIETS TO CENSOR OUR TEXTBOOKS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. ASHBROOK. Mr. Speaker, I have just learned of a federally funded education program which throws into sharper clarity than ever the moral basis of our détente with the Soviet Union: Indifference to the truth.

With grants from the International Communications Agency, the National Endowment for the Humanities, and several private sources, a professor at Indiana University is directing the American side of a joint United States-Soviet textbook review project. Academics from both countries are reviewing grade-school history and geography textbooks in search of "ideological distortions" in our portrayals of Soviet society, and their portrayals of America.

According to an article in the January-February issue of American Education, Professor Howard Mehlinger hopes that:

> If we can bring about corrections in the textbooks where they are called for, we will be taking at least a small step toward improving relationships between the two countries.

Whether or not Professor Mehlinger has grasped the fact, the Soviet conclusions of this or any such study are preordained. The Soviet deputy minister of education, M. I. Zhuravlyeva, wrote a year ago about Soviet textbooks that:

> Each may see with his own eyes that these books are full of the spirit of peace, cooperation, and respect for the history and culture of other peoples.

Here are some of the statements about American history which appear in Comrade Zhuravlyeva's "peaceful and cooperative" textbooks:

> ". . . the new American Constitution and the constitutions of the states were openly directed against the popular masses."
>
> American frontiersmen waged "monstrous bacteriological warfare" against American Indians.
>
> Northern generals in the Civil War were "secret supporters of the Southerners," and the war itself was "a bitter class struggle, a bourgeois revolution."

The organizers of this project are apparently blind to the fact that the very phrase, "Soviet scholar" is a contradiction in terms. There is no such thing as freedom of academic inquiry in Soviet "scholarship": Research, teaching, and publishing are all state monopolies in which everyone's work is minutely inspected for deviations from the official line. The job of a Soviet historian is to torture his field of study to find "class struggle" as the mystical explanation of every event he examines—not to pursue the truth wherever it may lead. The only honest history behind the Iron Curtain is that published in "samizdat," circulated furtively among tiny bands of dissidents.

It will be interesting to see the revisions in American textbooks that pass muster with the pseudo-scholars of Moscow. What will these new texts say about the Gulag labor camps, the KGB, the forced psychiatric treatment of dissidents? What will they say about the Stalin-Hitler Pact, which carved up Poland and launched the Second World War? What will they say about the destruction of the "kulak" peasants, the exaltation of pseudo-science in the Lysenko episode, the Soviet occupation of Eastern Europe, the continuing suppression of religious minorities? I hope Professor Mehlinger will make public any such revised textbook drafts, so we can all see just how far some American intellectuals are willing to prostitute themselves for the sake of détente.

I am sure that American textbooks can be revised so as to make them palatable to Soviet critics, and I am equally sure that such revised textbooks would not be worth the paper they were printed on. As a price of "improving relationships," the Soviets demand our moral acquiescence to tyranny. Even if that price were the only one we had to pay, it would be too high.●

AMERICA: A TRADITION OF CARING

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. McKAY. Mr. Speaker, each year the Veterans of Foreign Wars conducts its distinguished Voice of Democracy Contest wherein some 250,000 high school students compete for scholarship awards. This program serves the vital purpose of stirring our young people to contemplation about our Nation's purposes and principles, and about the responsibilities of citizenship in our democracy.

The winner this year in Utah's First District is Todd Mikesell of Morgan, Utah, who does a fine job, I believe, in describing the compassion which has historically been a component of our national character.

I commend his essay to the attention of my colleagues:

VOICE OF DEMOCRACY ESSAY BY TODD MIKESELL

As long as there have been ideas, purposes and beliefs, there have been reasons for concern and reasons to care. And what better purpose for caring could there be than, America?

From the time when America was first discovered, people have cared. The Founding Fathers cared enough to fight for Independence, granting a Free America to all citizens. What better start could this country have had? An America that could produce men of high caliber to assemble documents of great importance. These documents, the Constitution and the Bill of Rights, granted Americans rights and freedoms. These men cared a great deal.

In 1861, the Union split, and brother went against brother. The subject of "Cares" followed suit. The North cared to restore the Union and exterminate human slavery in the South. On the other hand, the South cared about hanging on to slavery as a way of life and cared even more about violations on its states rights.

One man in particular was sorrowed at the reality of the divided Cares. He was Abraham Lincoln. While residing in Illinois, as a lawyer Lincoln expounded on the pestilence of secession. "A house divided against itself cannot stand. I believe this government cannot endure half slave and half free."

Abraham Lincoln, after being elected to the Presidency of the United States, cared enough to pursue the means of restoring the separated nation to its original state of being. The United States of America!

I care about America because of men and women like these. They laid the foundation for future growth, and superiority of this Nation among other nations. Another reason I care is that of men giving their lives that this nation may continue to be free and prosper. We should recognize this as a respect for patriotism.

I care about America for some of the freedom that I participate in. The freedom of Religion. To worship how, when, or what I may. The Pilgrims came to America to seek religious freedom. The freedom of speech, Freedom of the Press, and many others along with rights are good reasons to care about America.

I care because America can offer me everything I need to be successful. Education. I can go anywhere in the United States to gain an education, and can practice any vocation anywhere, and that shows me that America wants her citizens to gain Knowledge. America also encourages trade with foreign countries, to offer friendship as a Nation.

America has offered her hand in friendship many times. She thinks about others before herself. World War I, World War II, Camp David are all landmarks in assistance to other nations. America could have sat back, but no, she is a power. A power of hope, courage, respect, and knowledge to many nations, and to me. I Care About America because America itself cares. And I am a part of that along with many others.●

NORTHERN TIER PIPELINE GETS A BOOST FROM CENEX

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. OBERSTAR. Mr. Speaker, consumers, and particularly farmers, in the Midwest received some good news last week with the announcement that CENEX, a farm supply cooperative, would participate financially in the Northern Tier oil pipeline project.

The CENEX decision is a major boost for the pipeline which is badly needed in my home State of Minnesota and throughout the upper Midwest region.

Industrial users, farmers, homeowners, the general public throughout the upper Midwest are faced with drastically reduced supplies of Canadian oil right now, followed by an absolute cutoff in 1982.

We urgently need Alaskan crude as a replacement.

Farmers in our region are already experiencing difficulty in obtaining essential fuel supplies. Without a pipeline, the situation will only worsen.

CENEX, serving 500,000 farm families, operates two refineries and will be the only partner in the Northern Tier project which will be both a shipper and a receiver.

The pipeline will extend 1,568 miles from Puget Sound in Washington across five States to Clearbrook, Minn., where it would connect with an existing pipeline system moving oil to Chicago. It would move 709,000 barrels daily initially and 933,000 barrels at full capacity.

I would like to share with my colleagues an article from the Duluth News-Tribune of June 1, 1979, reporting the CENEX announcement:

CO-OP BACKS OIL PIPELINE

(By Harold Higgins)

ST. PAUL.—CENEX, a farm supply cooperative with a half-million members from Wisconsin to the Pacific Northwest, has invested in the Northern Tier pipeline project and committed itself to buying a large share of the oil carried by the pipeline.

CENEX and Northern Tier officials declined to reveal details of the investment, which was approved Thursday by the co-op's board of directors.

But a reliable source estimated the investment at more than $2 million and said CENEX agreed to purchase 10 to 15 percent of the oil that will flow through the pipeline.

For two reasons, the farm cooperative's participation in the project is of major significance for the pipeline that would stretch from Port Angeles, Wash., across Idaho, Montana and North Dakota to Clearbrook, Minn. At Clearbrook, the pipeline would link up with existing pipelines, including the Lakehead conduit that serves the refineries at Superior and Wrenshall.

First, CENEX will be the only owner of the Northern Tier pipeline that also will be a shipper and receiver of crude. The other investors, who have put up about $16 million thus far, the Burlington Northern, U.S. Steel, Westinghouse, Western Crude Oil, Mapco, Wilwaukee Land Co., Curran Oil Co. and Butler Associates of Tulsa.

Second, the farm cooperative's participation in the $1.6 billion project may cement agricultural support for the Northern Tier route. That is important in an era when farmers are hesitant to let pipelines and powerlines cross their fields.●

NEED TO HELP WELFARE RECIPIENTS GET AN EDUCATION

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. SEIBERLING. Mr. Speaker, today I am introducing legislation to amend a provision in the Food Stamp Act which has made it difficult for welfare recipients to obtain an education. My bill will amend the Food Stamp Act to provide that no educational financial assistance received by AFDC recipients shall be considered as income for the purposes of determining their food stamp benefit.

Presently, the Food Stamp Act requires that, except for amounts paid for mandatory tuition and fees, educational aid in the form of loans, grants, scholarships, and fellowships must be counted as income in determining eligibility and benefit amounts under the food stamp program. Specifically, the act does not allow income deductions for the costs of books, supplies or instructional material and equipment, even if required by the school. For AFDC recipients who are going to school so they can qualify for jobs that will get their family off of welfare, any reduction in food stamps is a serious hardship.

In my district, a young welfare recipient with two children is near completion of her college degree which she hopes will help her get a job to support her family without any help from welfare. However, because she received an educational grant which exceeds her mandatory tuition payment, her family has experienced a reduction of $20 per month in food stamp benefits. This practically forces her to choose between completing her education and feeding herself and her children.

Mr. Speaker, I would like to insert in the RECORD following these remarks a copy of an article from the Akron Beacon Journal which explains the problem my bill seeks to correct.

The article follows:

REDTAPE STUDENT FINDS WELFARE A TRAP

(By Peggy Rader)

The welfare system punishes people who try to escape it, according to a welfare mother and college student, Len Keller.

Ms. Keller, 28, has been on welfare five years and has almost reached her goal of a college degree. But the Summit County Welfare Department recently ruled that her college grant money in excess of tuition costs counts as income and her food stamp allotment has been cut from $115 to $95 a month as a result.

"By counting that extra money as income, they (the welfare department) are telling me to use my school money to raise my children and put food on the table," Ms. Keller said.

"Well, I can't do that because the grant money can be spent only on school related expenses. Nobody can feed two kids and an adult on $95 a month. Of course, if I dropped out of school, my food stamp allocation would go back to $115. The message I'm getting is that if I want to eat, I can drop out."

Ms. Keller lives in Goodyear Heights with two sons, David, 11, and Christian, seven. She went on welfare in 1974 when her husband of seven years left her, she said. She had to quit school at 16 to marry and was left with a divorce and no skills for working outside the home.

The food stamp cutback came last month when food stamp regulations were changed. The grants total $1,862 a year and tuition is $1,023. The difference of $839 is considered income for Ms. Keller although grant restrictions require a job. The court-ordered support payments of $20 a week never came, she said.

"The way the system is set up, it basically encourages you to stay in welfare," Ms. Keller said. "Not only is there no incentive to get out, the system actually puts up obstacles at every corner to keep you stuck right where you are. It's maddening, a bizarre trap."

Dave Richards, head of public education at the Summit County Welfare Department and a former social worker there, said that Ms. Keller is not alone in her problems with the welfare system.

Just by looking at the system's rules and regulations, it isn't evident that obstacles exist, but my experience has been that people have found it very, very difficult to get out of the system," Richards said.

"It appears not to be a very helpful system to anyone trying to escape it," he said. "Women who try to get a better education find a lot of stress with finances, child care, transportation, school work. Nobody in the system really sits down and talks to people in this position and tries to alleviate the problem."

Other welfare department employees said that besides the problem of grant money being counted as income, welfare mothers working on a college degree are now also faced with ineligibility for day care for their preschool children.

"The law and the regulations are in place," Richards said. "No one is saying it's fair, or even right, but we have to carry them out."

Ms. Keller took a high school equivalency test and received a diploma within months of going on welfare. She began attending the University of Akron the same year with the help of an Ohio Instructional Grant and a Basic Educational Opportunity Grant.

"The money I had left over, I've always needed to buy books and supplies, about $75 a quarter, gas and oil for the car (she transferred to Kent State University last fall), which is about $130 a quarter, and lunches on campus," Ms. Keller said.

Her Aid to Dependent Children (ADC) benefits are $235 a month. Rent, which includes heat, is $175 a month. Utilities are about $40 a month.

"That leaves about $20 a month for soap and detergents, clothing, car repairs, laundry and the kids' school supplies. I just don't have any extra money for more food. We have the bare minimum of furniture—table and chairs, a couch, beds. That's it."

Ms. Keller said that when her food stamp cutback was being figured, her grant income was prorated over a 12-month period although the benefits can be used only during the nine-month school year. "That's just one little stupidity inside a big one," she said.

She said university officials have tried to figure out some way to help her, but are afraid that any financial aid would be used against her in cutting her welfare benefits even further.

"If they gave me more money, the welfare department would just figure a way to get it, she said.

"I know some people's reaction is that I should have gotten any job I could and support my kids that way.

"I didn't see any point in trying to support my kids on minimum wage jobs. That kind of life is unstable and deadend. It would have been an eternal rut that we would have been stuck in forever," she said.

"Just because I'm on welfare doesn't mean I have to settle for anything. If you're going to make an effort, you should make it your best. With a good education as a foundation, I can progress. I can find a job that pays enough that I don't have to be ashamed of the clothes I send my kids to school in."

Ms. Keller is a senior majoring in archaeology. She has a 3.3 grade average of a possible 4.0. She knows of several jobs, both in and out of the Akron area, for people with her training in lab techniques and analysis.

Changes in eligibility requirements in January now make college students' children ineligible for enrollment in welfare-funded day care programs.

Ms. Keller is looking for other women in her position and has appealed the reduction in her food stamp allocation. A hearing date is to be set, but several people at the welfare department have said the hearing will change nothing.●

STATE SENATOR PAUL MATIA SPEAKS OUT AGAINST JUDICIAL TYRANNY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. ASHBROOK. Mr. Speaker, State Senator Paul Matia, one of the outstanding legislators in Columbus, recently wrote an excellent article which appeared in the prestigious publication, Buckeye Battleline. In his usual perceptive manner, the Cleveland legislator continued his crusade for judicial reform and cited the dangers of the "new ruling elite disturbingly similar to the royal governors our forefathers ousted many years ago."

Senator Matia hits the nail right on the head. His article is must reading for every American who is concerned about creeping Federal judicial power grabs by Federal district judges such as Ohio's own infamous Judge Battisti. Senator Matia places before us the challenge of bringing some sense of restraint on the runaway judiciary. I am pleased to have been a sponsor of the legislation he urges as a reform.

The Buckeye Battleline is a publication of the United Conservatives of Ohio, affiliate of the American Conservative Union, long a leader in the propeople battles which have been waged over the past decade and a half against liberal intrusions into our homes, schools, and businesses. Senator Matia is to be commended for his forthright, excellent treatise on this important subject, and I include his statement at this point in my remarks:

Senator Matia Says "Stop Judicial Tyranny"

(By State Senator Paul R. Matia)

Now that we have celebrated the bicentennial of our nation's independence, and as we approach the 200th anniversary of the adoption of our Constitution, many thoughtful Americans are becoming increasingly concerned over what appears to be the emergence of a new ruling elite disturbingly similar to the royal governors our forefathers ousted so many years ago—namely, federal judges. Growing numbers of Americans—lawyers, state judges, and laymen—are realizing that the only solution to the increasing abuses of power by federal judges may be to impose upon them the same fate that befell the royal governors 200 years ago—ouster.

In the good old days when judges weren't competing with each other for the "Power Grab of the Month" Award, judges used to exercise what was known as judicial restraint.. Judges voluntarily restrained themselves from becoming involved in every question presented to them and from filling every so-called vacuum in the law. After all, if a legislative body—the duly elected representatives of the people—has chosen not to act in a particular area of the law, it is a perfectly plausible explanation that such legislative body, responding to the wishes of the people as it perceives them, has consciously determined that it does not WANT a law dealing with that subject. Why, then, should a judge take it upon himself to act when the legislature has chosen not to?

In recent years federal judges have intruded into every aspect of government, business, and private life. They are running mental hospitals, prisons and public schools. They are costing taxpayers hundreds of millions of dollars in unnessary expenses for school buses, salaries, fees for so-called "experts", lawyers fees, etc. They have denied parents their right to determine where their children will attend school; they have interfered with the power of school administrators and teachers to maintain order and discipline in the schools; they have even seized entire school systems and deprived the voters of their control over their own schools. One particularly flagrant excuse for a federal judge has even had the temerity to suggest that he has power to impose a tax without a vote of the people!

The most obvious example of dictatorial judicial tactics, of course, is the manner in which the Cleveland school "desegregation" case has been handled by Federal Judge Frank Battisti. Neutral state laws have been superseded, elected public officials have been stripped of their authority, and the school board members, the superintendent, and other parties have been badgered, ridiculed and bullied into submission from the bench. This particular federal judge has a history of behaving in this manner; during the infamous apportionment case in 1971–72, the rights of every citizen in Ohio were violated in the successful effort to impose a blatantly partisan apportionment of the state legislature. And how did the federal appellate process work? Well, the appeal was heard by three judges: the judge who handed down the decision being appealed (imagine), a judge whose son was elected under the apportionment plan being challenged, and a third judge who wasn't able to attend the oral argument. Is it any surprise that the appellate panel found nothing wrong with the original decision?

Many responsible citizens believe it is time for the people to take action to end these abuses. Since the judges apparently will not exercise restraint either over themselves or (through the appellate process) over their fellow judges, it is time to let the voters step in by ending the lifetime tenure of federal judges. Unfortunately, this requires an amendment to the U.S. Constitution, a difficult procedure at best, but there seems to be no alternative with a reasonable prospect of success. One of the most frequently discussed proposals (often referred to as the merit system) would require the President to appoint federal judges from a list of names of qualified individuals submitted to him by a nonpartisan commission. Each appointee would then serve for an initial term of perhaps four, five or six years, after which his or her name would be submitted to the voters with the question, "Should Judge B be retained in office for another term?" If a majority voted "no," Judge B would be ousted from office and a new judge appointed.

Of course, if Congress would exercise the power it has to limit the authority and jurisdiction of the federal courts, constitutional restrictions on judicial tenure might not be necessary. But since Congress does not accurately represent the will of the people, due to gerrymandered districts, excessive power of committee chairmen, and undue influence of special interest groups, it is perfectly clear that no relief will come from Congress.

It is, therefore, necessary for the people, acting through their state legislatures, to demand a halt to federal judges' abuse of power.

The people have been patient long enough. Judges like Battisti can no longer be tolerated. The time for action is now.●

STUDENT SOCIAL SECURITY BENEFITS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. SCHEUER. Mr. Speaker, one of the proposals made by the administration is to phase out the student benefit in the social security program for persons age 18 to 21. I am pleased to include in the Congressional Record a persuasive statement in opposition to the administration proposal. It was written by Dr.

Jean T. D. Bandler, the daughter of Senator Paul Douglas who was an expert on social security himself. I urge that it be carefully considered by my colleagues.

Study Group on Social Security for Families, Children and Youth

Attached is fact sheet number 3, the Threat to Student Social Security Benefits, prepared by Dr. Jean T. D. Bandler, to give background material to those concerned with the Administration's proposal to repeal the provision of present law that continues social security benefits for young people through their college years. It is proposed that this policy be phased out over a four year period.

These are the young people (currently about 800,000) who are being enabled by social security to continue their education either in college or other post-secondary institution because the parent that supported them has died, become disabled or retired. It continues for these students, through the age of 21, the children's benefits paid as one of the social security entitlements earned by the working parent through contributions paid by himself and his employer during his working years. This arrangement constitutes a compact between workers and their government with implicit promises which cannot be lightly abrogated.

Arguments for the amputation of this particular social security entitlement have been put forward by the Administration, the General Accounting Office and some Senators on two grounds. First it is argued that those young people who need help to continue their education can apply for a means-tested Basic Educational Opportunity grant. This shows a lack of understanding of the difference and interaction between a program based on need and one based on what is, in effect, a deferred return on earnings. Like wages, the latter is a "resource" that determines whether "need" exists. If the amount of the social security family grant and any other income is lower than the BEOG family standard, the usual determination of BEOG eligibility is applied to the student social security beneficiary. If social security (and any other income) is high enough, no BEOG is required. Thus no duplication occurs.

This argument of "over-lapping" or "duplication" could be equally well misapplied to almost all social security benefits. Dependent mothers and children could be required to turn to AFDC, the elderly retired and the disabled could be told to seek Supplementary Security Income on a means test basis. But a primary purpose of social security, since its inception in 1935, has always been to minimize the need for public assistance, consistently unpopular with recipient and tax-payer alike. Benefits based on earnings and contributions promote a sense of dignity and independence for young students which has already been recognized in the Civil Services Retirement, Railroad Retirement and veterans program. Why should this group of federal insurance beneficiaries be treated differently?

The second argument put forward is that it is a "fringe benefit" only recently added to the Act and not central to its primary purpose, usually described as protection for the aged and disabled. (In actual fact survivor's benefits were added in 1939, long before benefits for the disabled.) But the whole history of the social security program has been one of gradual enlargement of the program in terms of beneficiaries and scope of benefits. At each stage, however, adequate future financing has been assured through changes in the contribution rate and wage base. To the young social security beneficiary approaching his 18th year, the continuation of his benefit so that he can finish his education is no more a "fringe benefit" than that of the elderly retiree living out his later years in the dignity and security of his promised income.

The question of discontinuing benefits for these students does not appear to be immediately before the House Ways and Means Committee. However, several members of the Senate Finance Committee have indicated their intention to add such a provision to any measure such as that for disability benefits currently pending in the House (HR 2054) if it reaches the Senate. Social security measures, since they involve a tax, must originate in the House but can be amended in the Senate. Thus this must be regarded as an immediate issue.

Elizabeth Wickenden,
Director.

Board of advisors: Hon. Justine Wise Polier, Chairman; Richard Boone of The Field Foundation; Wilbur J. Cohen, University of Michigan School of Education and former Secretary of HEW; Mrs. Helen Gahagan Douglas; Dr. James Dumpson, Assistant Director, New York Community Trust and former Commissioner, N.Y.C. Human Resources Administration; Mrs. Marian Wright Edelman, Director, Children's Defense Fund; M. Carl Holman, President, National Urban Coalition; Dr. Robert J. Kibbee, Chancellor, City University of New York; Dr. Charles I Schottland, former President of Brandeis University and former Social Security Commissioner; and Edwin F. Watson, Executive Director, Child Welfare League of America.

The study group on social security for Families, Children and Youth has been established to focus attention on those aspects of the social security system which particularly affect families, children, students, young workers, low paid workers and members of minorities. Elizabeth Wickenden is its Director and Dr. Jean T.D. Bandler is Research Associate.

The Threat to Student Social Security Benefits

(By Jean T. D. Bandler, DSW Research Associate)

The Carter Administration proposes that Congress phase-out over a four year period social security benefits to post-secondary students ages 18–21. Currently, more than 800,000 post-secondary students receive these benefits, the average benefit is $170 a month, and the total benefit cost is $1.6 billion a year. In order to reduce social security, the Administration recommends that students needing financial aid should apply for income-tested educational grants, instead of receiving social security on the basis of a parent's entitlement. To date, however, the Administration has not recommended any increase in the funding of these educational aid programs to meet the potential demand thus created.

PURPOSE OF THE SOCIAL SECURITY STUDENT BENEFIT

The student benefit continues the traditional social security protection of the child when a wage-earning parent can no longer work and support the family. Established by Congress in 1965 as an extension of the benefits to children under age 18 of retired, disabled or deceased workers, the student benefit assures regular income when parents cannot earn and the child is not expected to be fully self-supporting. The student benefit provides income security to insure against the loss of earnings caused by death, disability or retirement and to encourage the completion of education.

WHAT ARE THE STUDENT BENEFIT CRITERIA?

To be entitled for a social security benefit, (OASDI), a student must be the child of an insured retired, disabled, or deceased worker. In addition, the student must be between the ages of 18 through 21 (benefits continue through the school term of the 21st birthday), study full time at an accredited education institution, be unmarried, and for a full benefit earn less than $3,240 a year with reduced benefits for higher earnings.

WHO IS INVOLVED?

In the 13 years of the student benefit program, over 5½ million students have received benefits. In 1978, over one million students got benefits during the year and 817,506 students currently are receiving benefits.[1]

WHERE DO THE STUDENTS GO TO SCHOOL?

Students must attend an accredited institution on a full time basis. Although some students are still in high school, four-fifths of the beneficiaries attend post-secondary schools and would be affected by the proposed benefit termination. In the student group: 21 percent attend high school; 5 percent attend technical, vocational school; 2 percent attend business, secretarial school; 18 percent attend 2 year college; 51 percent attend 4 year college; and 3 percent attend graduate school.[2]

Although nearly all of the high school students receiving social security benefits attend public school (95 percent), post-secondary student beneficiaries attend both public and private institutions; 71 percent of the college students receiving social security attend public colleges and 29 percent attend private ones; 54 percent of the noncollege, post-secondary students attend public vocational, technical, business, or secretarial schools and 46 percent attend private ones.

WHY IS THERE A LOSS OF PARENTAL SUPPORT?

For the majority of students entitlement is due to the death of a working parent. A second, and growing group, are children of wage-earners who become disabled. An analysis of student beneficiaries in 1978[1] shows that: 60 percent were children of deceased workers; 21 percent were children of disabled workers; and 19 percent were children of retired workers.

THE SOCIAL SECURITY BENEFITS

The amount of the student benefit is related to the parent's entitled benefit amount, which in turn is based on the past earnings level. (The parent's benefit, or primary benefit, replaces a portion of past earnings, with low earners receiving a larger wage-replacement than high earners. The earnings level, it should be noted, is also the basis for the past social security taxes paid by the worker and the employer.) Children of retired and disabled beneficiaries receive 50 percent of the parental benefit and children of deceased workers receive 75 percent, a higher percentage since the parent is dead and therefore not receiving the parental benefit. Total family benefits are limited by a statutory maximum, ranging from 150 percent to 188 percent of the parent's primary benefit. (To maintain the benefit-wage replacement principle, families of low earners receive a smaller family maximum than families of high earners, because the primary benefit is already heavily weighted for low earners.) All benefits are automatically up-dated to reflect cost-of-living increases.

HOW MUCH IS A STUDENT BENEFIT?

The regular monthly benefits are paid on a year-round basis; they are predictable amounts that permit planning and budgeting. In 1977, the median range of student benefits was $125–$166 a month.[3] In 1978, the average monthly student benefit was $170. By basis of entitlement, the average monthly benefit was:[6]

$200 for children of deceased workers;
$158 for children of retired workers; and
$113 for children of disabled workers.

Footnotes at end of article.

FAMILY CHARACTERISTICS OF STUDENT BENEFICIARIES

Based on the loss of parental support due to death, disability or retirement, student benefits are not conditioned on income or assets, need or poverty. Although benefits go to all income level families, they are a vital financial protection for low-income families, minority students, and students from low educational and occupational backgrounds.

HELP TO LOW-INCOME FAMILIES

The majority of social security students come from low-income families and the student benefit is a crucial component of family income.[2]

For college students receiving social security, the median family income is less than 71 percent of the national median for all families with full-time college students. Without the student benefit, family income of the beneficiary group falls to less than 56 percent of the national median.

For non-college post-secondary students receiving social security, the median family income is 54 percent of median income for all families with similar ages of students; without the student benefit, family income falls to 43 percent of the national median.

THE PERCENTAGE OF COLLEGE STUDENTS RECEIVING SOCIAL SECURITY BY FAMILY INCOME:[3]

29 percent of the students had family income under $6,000;

53 percent of the students had family income under $8,000;

71 percent of the students had family income under $15,000; and

84 percent of the students had family income under $20,000.

HELP TO MINORITY STUDENTS

The social security student entitlement reaches a disproportionately high number of minority children whose working parents have died, retired or become disabled. The percentage of minority student beneficiaries, particularly children of disabled workers, has increased rapidly in the past years going from 11 percent in 1928 to 15 percent in 1970 to 22 percent in 1976.

In 1976, 20 percent of these students were Black, compared to 11.5 percent in the general population.[4] Black college students were also more heavily represented in the college beneficiary group than in the general college population; 15 percent of the social security students in college were Black, compared to 11 percent in the general college population.[5] The student benefit program clearly has helped many minority students to continue their education.

HELP TO STUDENTS FROM FAMILIES WITH LOWER EDUCATIONAL AND OCCUPATIONAL LEVELS

The social security student benefits also are a significant help for students to attain higher educational and occupational levels than their parents. College students receiving social security benefits are more likely to have fathers with limited educational and occupational skills than are students in the general college population.

In terms of educational level, 20 percent of the college student social security population had fathers with an eighth grade education or less, compared to only 11 percent of the general college student population. 35 percent of the college student social security population had fathers with less than a high school diploma compared with 22 percent of the general college population.

In terms of occupational level, 48 percent of the college student security population had fathers with "blue collar" occupations (craft, foremen, operators, laborers) compared to 20 percent of the general college student population. 14 percent of the college social security students had fathers with "low-white collar" jobs (sales, clerical) compared to over 26 percent of the general college population. Only 31 percent of the college student social security population had fathers from "high white collar" occupations (professional, technical, managers, proprietors) compared to 48 percent of the general college student population. (Children of farmers were equally represented in both groups at 6 percent.)[2,6]

STUDENT BENEFITS ARE A COMMON FEATURE OF SOCIAL SECURITY PROGRAMS

The social security student benefit is not an idiosyncratic feature, unique to the United States. Most industrial countries cover student benefits in their social security programs, often with more generous age criteria than here. These nations include Australia, Austria, Belgium, Canada, Finland, Germany, Ireland, Italy, Netherlands, and New Zealand. Although one nation has a lower age limit and 3 have a limit of 21 years for 6 countries the upper age limit is higher than in the United States with student benefits usually continuing until 25 years of age.[7]

OTHER SOURCES OF AID FOR STUDENT SOCIAL SECURITY BENEFICIARIES

Because of low family income, most students receiving social security student benefits can expect little, if any, parental aid in meeting educational costs. To help finance education, these students must supplement social security benefits with work and the means-tested educational grants, loans, and work-study programs.

Limited family financial help. More students receiving social security get no financial help from their families than students in the general college group. (33 percent of college social security freshmen had no parental or kin contributions, compared to 28 percent of the non-beneficiary freshmen.) Significantly, those social security students with family financial help received smaller amounts of aid than other college students. (42 percent of the freshmen with social security benefits got less than $1,000 a year from families, while only 28 percent of the general freshman group had this little.)[3]

Work. Social security students show a strong work attachment. In addition to 17 percent enrolled in work-study, 57 percent of the college social security freshmen worked part-time and 7 percent worked full-time for a total of 81 percent employed. (The comparative percentages for the general freshman group were lower: 11 percent work-study, 49 percent part-time, 6 percent full-time, for a total of 66 percent employed.)[3]

Educational aid programs. There are several federally-financed educational grant, loan, and work-study programs that supplement family income to meet a portion of educational costs on a means-test basis. These programs have income and asset tests to determine eligibility and the amount of aid; all sources of family income, including social security benefits, are counted. Because of low income, social security beneficiaries require financial supplementation from more sources and of larger amounts than other college students.[3]

Basic Educational Opportunity Grant (BEOG). These Basic Grants are designed to help needy students and low benefit social security students are heavily represented in the BEOG population. 35 percent of the college social security beneficiaries received supplementary Basic Grants compared to 19 percent of the general college population. The percentage of large Basic Grants for social security students was twice that of other students with 14 percent of the beneficiaries receiving Basic Grants of $1,000 or more, compared with 7 percent of the general college population.[3]

By law, BEOG eligibility and grant size are determined by family income and assets. The Basic Grant must be the lower of either one-half of educational costs or the BEOG formula which is $1800 minus the assumed family contribution. Since educational costs are generally over $3600 a year, most grants are based on the BEOG formula. The formula assumes that 10.5 percent of discretionary family income (total income from all sources, minus a family subsistence allowance based on the poverty lines, federal taxes, and unusual expenses) and 5 percent of all assets (home, savings, stocks, bonds, etc.) over $17,000 will be available for educational expenses. This assumed family contribution is then deducted from the maximum BEOG grant to determine the grant amount. A family at the poverty level ($6,700 for a family of 4) usually qualifies for the maximum grant of $1800; a family of 4 with income of $25,000 and minimal assets will probably qualify for a BEOG of $200.

However, for several years, the actual grants have been lower than the computed grant. The BEOG program is funded through closed ended appropriations and to insure that fixed funds are spread to all eligible students, all grants are cut by a reduction schedule. Currently, there is a 10 percent cut in grants, so that in the 1978–79 academic year the actual BEOG maximum is $1600 rather than $1800.

In an effort to ensure accurate, honest income data, the BEOG application is technical and the process is complex, delayed, and often uncertain.

National Direct Student Loan (NDSL), Guaranteed Student Loan (GSL) 12 percent of the freshmen social security beneficiaries receive federal National Direct Student Loans;[3] at 3 percent, these loans are given through the colleges, cover a portion of educational costs, and are for students demonstrating clear financial need.

In addition 10 percent of the freshmen social security beneficiaries receive Guaranteed Student Loans; these are bank loans, at 7 percent interest. (Generally, these loans are for families with incomes under $25,000 annually.) Borrowing cannot exceed the lesser of either one-half school costs or $2,500.

Work-Study Programs. 17 percent of the freshman social security students were in the work-study programs of part-time employment in a college or public service institution. Eligibility is based on need, payment is usually at or below minimum wage.

STUDENT SOCIAL SECURITY PROGRAM AND EDUCATIONAL AID PROGRAMS

A comparison of the student social security program with the educational aid programs indicates different and complementary purposes rather than conflicting, competing ones.

Educational aid programs—grants, loans, and work-study—supplement low family income to make up a part of the deficit in meeting educational costs during the school year. Like other means-tested programs, the educational aid programs count all family income, including social security benefits, to determine eligibility and amount of aid. Annual reapplication is necessary, and frequently a complex and uncertain process.

By contrast, the student benefit is an insurance program which all workers covered—and taxed—by social security provide for their children so that in the event of retirement, disability or death, there will be predictable benefits for the child to continue education. The benefits are based on past parental earnings, not on a portion of school costs; they are paid for the full year, not the academic year, and are considered a part of family income, not an educational grant. The absence of a means-test is essential for a program that covers all workers. A universal program avoids the dilemmas of disqualifying families who are just above an income maximum, who have special financial needs, or who are faced with unpredicted expenses.

Footnotes at end of article.

The elimination of the student social security benefit would greatly increase the demand on educational aid programs and would substantially raise their costs. However, the Administration has not recommended any increase in funding for BEOG or other student aid programs. Indeed, the budget calls for level funding of most educational aid programs and reduced funding of the Direct Loans.

Eliminating the student benefit would critically slash incomes of vulnerable families in poverty, marginal families, and struggling middle-class families. Their deficits in meeting educational costs would soar and for many students the only alternative is delayed, interrupted or terminated education. The elimination of the social security student benefit would seriously jeopardize equivalent benefits in other programs such as Civil Service, Veterans Dependent Benefits, and Railroad Retirement, Disability and Survivors Insurance. Ending the student benefit would break the social compact between government and citizens, unilaterally cancelling the commitment to younger children who—as orphans or as children of disabled or retired parents—had expected to be entitled to post-secondary student benefits. It would destroy the insurance protection for children that all parents who are currently working and paying taxes thought was provided in the event of parental retirement, disability, or death.

FOOTNOTES

[1] Social Security Administration, "Student Beneficiaries in Current Payment Status", 1976–78.

[2] Philip Springer, "Characteristics of Student OASDI Beneficaries in 1973: An Overview", *Social Security Bulletin*, November 1976.

[3] General Accounting Office, "Information on Social Security Beneficiaries", February 1979.

[4] Barbara A. Lingg, "Notes and Brief Reports. Social Security Benefits for Students, 1965–75", *Social Security Bulletin*, November 1976.

[5] Social Security Administration, "Benefits Awarded and in Current Payment, 1976", to be published in *Social Security Bulletin*, Annual Statistical Supplement, 1976.

[6] Robert I. K. Hastings, "Student OASDI Beneficiaries: Program Utilization and Educational Aspirations", *SSB*, September 1978.

[7] Social Security Administration, *Social Security Throughout the World*, 1977, Research Report No. 50.●

GUNS TO ULSTER

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. WOLFF. Mr. Speaker, the recent licensing of a shipment of guns to the "official" police force in Northern Ireland by the State Department, in conjunction with the British Government, impels me to voice my displeasure at the continuing failure of our Government and the Government of England to address this issue of human rights in Northern Ireland. Neglect exercised by both Governments because of a narrow scope of vision cannot erase or dispel the problem. The source of conflict in Northern Ireland must be attributed to economic and social conditions which have generated the violence and pervading sense of hopelessness that have perpetuated the strife in Northern Ireland.

Although the strife is usually perceived as a sectarian conflict, the real source of the conflict is more universal: the fight of the "haves" against the "have-nots." Only by addressing the economic and social conditions that spawned the conflict can there be a lasting resolution. No government of Northern Ireland can be legitimate nor a police force effective when perceived as an arm of the British Government supporting only the majority without regard to the minority's position. Violence and arms will not ease the strife. Only when a representative self-government gains power, that is willing to tackle the difficult problems that lie ahead, can peace occur. Our country must do all that is possible to achieve this goal, for the advancement of human rights in Northern Ireland and the rest of the world, and to achieve a better quality of life for the citizens of a beleagured Northern Ireland.

I submit this editorial, which appeared in the Washington Post, which raises provocative questions asking whether our State Department's present course of action is aimed at acquiescing to the British's position of benign neglect, or whether their policy is aiming for a real solution to the conflict in Northern Ireland:

[From the Washington Post, June 5, 1979]

EDITORIAL

Fresh reports of the State Department's licensing of an earlier shipment of guns to the police in Northern Ireland raise a nice question. The guns were sent through a friendly British government to a duly constituted uniformed police force—the Royal Ulster Constabulary (RUC)—fighting terrorists. Yet the RUC, though not exclusively sectarian, is still widely perceived as an instrument of the Protestant majority. It has acted against Protestant terrorists but its chief adversaries have been terrorists from the Catholic minority. It has recently been indicted by a commission of the British government itself for mistreating terrorist suspects. Should those 3,000 .357 magnum handguns and 500 .223 automatic rifles have been licensed for sale?

House Speaker Thomas P. O'Neill thinks not. He said the other day that many Irish Americans regard the RUC as an instrument of repression wielded by the British through their Protestant surrogates, and that selling arms legally to the RUC would undermine the successful effort he and others have made to induce Irish Americans to stop running guns illegally to the terrorists of the Irish Republican Army. The new British government responded with prompt and predictable outrage at what it obviously took to be politically motivated interference in a dead serious internal affair. The State Department, as usual, backed the British, stating "our people thought the licensing was all right. There is a government of Northern Ireland. This is for the police force in Northern Ireland."

But of course there is not, in the usual sense, "a government of Northern Ireland." Britain suspended self-rule in Ulster and now rules directly. The British can fairly claim that it is an old IRA tactic to combat the RUC, by propaganda as by bullets. The RUC has indeed a thankless task in its anti-terrorist mission, and its losses—120 men in 10 years—are to be mourned. Questioning the sale of guns to the RUC is a political act. But selling the guns is a political act, too. The answer if there is one, lies in a British initiative aimed at restoring self-government to Ulster. Until that happens, questions will and should be raised about the American government's support of a British policy that does not yet seem fully committed to that goal.●

NUCLEAR ENERGY SAFEST AVAILABLE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. PAUL. Mr. Speaker, the May 21 issue of Research Reports, a weekly publication of the American Institute for Economic Research in Great Barrington, Mass., puts the Three Mile Island accident in perspective.

Far from proving the dangers of nuclear energy—as the zanies contend—the accident showed this form of power generation to be the safest available.

Research Reports is a consistent and articulate voice of the free market. Its editors realize that a strong and free economy needs abundant energy. That is why nuclear power must not be crippled by those who would return us to an economic stone age.

I would like to call this excellent article to my colleagues' attention:

THREE MILE ISLAND IN PERSPECTIVE

Foes of nuclear power have seized the Three Mile Island nuclear incident as the basis for a full-scale attack on nuclear power in this country. Yet, in the end the multilayered safety system for the nuclear reactor at Three Mile Island worked effectively. All electric power generation entails risks, and the risks of nuclear power generation compare favorably with the risks of alternative power sources. Because abundant, cost-effective energy is essential to further economic advancement, Americans probably will accept a larger role for nuclear power eventually. By becoming well-informed now, responsible citizens might help the Nation avoid costly, mistaken energy policies.

Beginning on March 28, 1979 a series of five separate mechanical and human failures led to a shutdown of a nuclear-powered electrical generating plant located on Three Mile Island near Harrisburg, Pennsylvania. For several days the news media were filled with alarming warnings: first, of potential large explosions within the plant; then, of a "China syndrome" core meltdown; and finally, of dangerous releases of cancer-causing or genetic-mutation-causing radiation. Ultimately, all of these warnings proved to be sensationalist and overblown. The plant's multiple safety features functioned effectively, and the reactor was safely shut down. No one was killed. No one was injured. No one was seriously contaminated. Thus, the industry's record of more than 20 years of nuclear electrical generation without a single loss of life as a result of a nuclear accident was preserved.[1]

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[1] Many of the descriptions in this article are based on comments in *Access to Energy,"* Vol. 6, No. 9, published by Dr. Petr Beckmann, Box 2298, Boulder, Co. 80306. We highly recommend that our Members subscribe to *"Access to Energy."* Its articles are both sound and readable. The subscription rate is $12 for 12 monthly issues.

The Three Mile Island incident should not be taken lightly. There probably were bodily dangers to personnel operating within the plant during the crisis and potentially dangerous releases of radiation from the plant also were remotely possible. Moreover, the incident revealed a number of previously undetected design shortcomings and deficiencies in personnel training methods, which certainly need to be modified in the future. These problems notwithstanding, the incident at Three Mile Island was an acid test of nuclear reactor safety under extremely adverse conditions. The results vindicated the safety mechanisms. Even with multiple human errors, redundant reactor safety features, particularly the much-criticized emergency core cooling system (ECCS) and the reactor containment vessel functioned as planned. In spite of a highly improbable chain of failures, disaster was avoided with several lines of defense still in reserve. In the light of such evidence, the Three Mile Island experience should encourage, rather than discourage, a much-needed expansion of nuclear-powered electrical generating facilities in America.

These encouraging aspects of Three Mile Island largely have been obscured by the publicity given to the anti-nuclear hysteria of those long awaiting a much prophesized cataclysmic nuclear failure. That Three Mile Island was less of a "disaster" than many common tragedies such as a collapse of an offshore oil-platform that killed eight persons did not seem to matter to the anti-nuke forces or to the popular press. In the wake of Three Mile Island, a reported 65,000 individuals marched on Washington, D.C. to protest nuclear power, and the news media gave it extensive coverage. Congress approved a 6-month moratorium on construction permits for nuclear reactors and a ban on the operation of new reactors until the Federal Government develops a plan to deal with nuclear accidents. A number of operating reactors were shut down, at immense cost to the public, for a variety of seemingly minute technical reasons. Virtually thousands of articles, editorials and other media messages appeared across the country condemning further use of nuclear reactors for generating electricity.

These reactions, particularly of Congressmen, must be discouraging to anyone even slightly familiar with the weight of scientific evidence, including economic evidence, supporting expansion of nuclear capabilities. Such reactions reflect a most remarkable aspect of the nuclear power controversy, namely, that the risks of nuclear electrical generation almost always are considered in isolation. Seldom are the risks of nuclear power compared to the well-documented risks of generating electricity by other means, such as coal, oil, water, solar devices, or the wind.

Science does not suggest that nuclear power is perfectly safe. There simply is no such thing as 100-percent safe energy conversion on a large scale. Asking for absolutely safe energy is somewhat akin to asking for incombustible fuel. Sound assessment of the risks and benefits of nuclear power must involve comparisons of the risks and benefits of nuclear power to the risks and benefits of alternative power sources.

THE RADIATION CONTROVERSY

The radiation risk is an example. On May 4, 1979 the *New York Times* awarded the center of the front page to a two-column article headed, "Califano Now Says a Cancer Death From Nuclear Accident is Possible." Imagine the fear and anti-nuclear sentiment that this *technically* accurate article might arouse in scientifically unsophisticated readers. However, in perspective the statistics cited were far from bone-chilling.

According to the May 18 issue of *Science* magazine, "a person standing at the north gate of the Three Mile Island nuclear plant for 24 hours a day for 3 weeks following the accident might have received at the most 0.09 rem of additional whole-body radiation." (A rem is a standard measure of biological absorption of radiation). As the data in the accompanying table reveal, 0.09 rem is a minute amount of radiation exposure—a small fraction of the average background radiation to which we all are continuously exposed. Nonetheless, based on scientific studies which suggest that even miniscule levels of radiation are slightly harmful to humans, Mr. Califano had warrant for his conclusion that from 1 to 10 additional cancer deaths due to the Three Mile Island radiation release were possible among the two million persons living near that nuclear plant.[2] What may escape notice is that, in a

Average levels of radiation exposure

Cosmic radiation (sea level)	.026 rem/yr.
Cosmic radiation (Denver, Colorado)	.050 rem/yr.
Soil	.010 rem/yr.
Air	.005 rem/yr.
Food	.025 rem/yr.
Coast to coast jet flight	.005 rem
Chest X-ray	.050 rem
Avg. aggregate for U.S. citizens	.250 rem/yr.

Source: "The Health Hazards of Not Going Nuclear," Dr. Petr Beckmann, Golem Press, Boulder, Co.

But, still anti-nuclear activists repeat the simplistic slogan that even one cancer death caused by radiation is one too many. Moreover, this idealistic view seems to have wide public appeal, regardless of the fact that it ignores the risks of other forms of electrical power generation.

In "The Radiation Controversy," Dr. Ralph E. Lapp, a nuclear physicist, points out that since the early 1920's the effects of radiation on humans have been exhaustively studied and, with the exception of those from very low level radiation exposures, have been accurately quantified.[3] However, similar exhaustive studies have not been carried out for other suspected carcinogenic agents, such as various types of chemical fumes and other air pollutants. In particular, pollutants emitted in huge quantities by oil-fired and coal-fired generating plants have not been studied fully. Some experts believe that when and if such studies are conducted, the results will show that the risk of contracting cancer from the air pollution of fossil fuel-fired plants markedly exceed the risk of contracting cancer from the radiation emissions of nuclear power plants.

Those who condemn nuclear power because of the radiation danger seem not to consider that thousands of persons already die each year in the process of producing energy. These deaths occur from coal mining accidents, refinery fires, natural gas explosions, fuel transportation accidents, drilling accidents, and industrial diseases and accidents associated with the production of power generating equipment. Should not the risks of nuclear accidents be compared with such risks? Is the mere possibility of death from radiation worse than actual death caused by other things?

TIME, PRECIOUS TIME

The Harrisburg incident revealed another important aspect of nuclear-reactor safety. Although an estimated 60 percent of the rods holding the uranium fuel sustained some damage from excess heat, the uranium fuel pellets themselves did not begin to melt. Even if a meltdown had occurred, the concrete building housing the reactor probably would have contained the radiation. That is its designed purpose. Yet, were significant amounts of radiation somehow to escape the containment building, the danger would have increased slowly over a number of days. During that period there would have been time to implement a number of countermeasures. Had all such measures failed, the surrounding population still would have had time to evacuate the area. No other large-scale power generating system has such a long warning time before a major disaster occurs. How much warning time is there before a dam collapses? How much warning time is there when an oil refinery erupts into flames or when gas explodes? How many deaths would occur instantly if an LNG tanker explodes in a major harbor? The advantage of the relative slow rate at which danger increases in a nuclear power accident is given little attention.

The popular news media also often report uncritically anti-nuclear shibboleths concerning problems not peculiar to nuclear power generation. For instance, the nuclear waste disposal problem gets much news coverage. If all of the U.S. power capacity were nuclear, the total amount of wastes generated per person per year would be a piece of matter the size of one aspirin tablet. This could be disposed of easily and safely deep in the earth. In contrast, the amount of wastes presently generated per person per year by coal-fired plants is 320 pounds of ash and other poisons, of which as much as 10 percent is spewed into the atmosphere. While nuclear wastes remain radioactive for centuries, poisons leached from coal ash, including selenium, mercury, and vanadium, remain highly toxic forever.

These and other types of comparisons should be made before this country abandons its nuclear option.

CHOICES FOR THE FUTURE

Most assuredly, the giant advances in material well-being achieved by the industrialized Western countries during the past 200 years would have been impossible had man not applied external energy sources to his advantage. During the hundred years following the Civil War, supplementary energy sources multiplied one million times in the United States. Obviously, the Nation must develop and utilize the most cost-effective, reliable sources of energy to optimize economic progress. Marked reductions in production and use would be reflected in depressed economic activity, massive unemployment, and widespread social unrest.

Perhaps the leaders of the anti-nuke forces are satisfied with their economic scale of living and have no desire to improve it, but we doubt that most Americans hold the same view. As the energy shortage intensifies, Americans almost surely will accept a greater use of nuclear power. By learning now to discriminate between sound scientific arguments and emotional claptrap, responsible citizens can help to reduce or to avoid the pain of severe energy deprivation.●

AFTER THE CHINA HONEYMOON

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. LAGOMARSINO. Mr. Speaker, the following editorial, which appeared in the June 4 edition of the Washington Star, is appropriately entitled "After the China Honeymoon."

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[2] The effects of low-level radiation are the subject of scientific controversy. Many scientists believe that recent studies overestimate the risks of low-level radiation. However, even worst-case estimates indicate that the risks of low-level radiation are very small. population of two million persons, approximately 325,000 cancer deaths would be expected in normal circumstances. Thus, the increased risk of possible cancer deaths from the Three Mile Island radiation release in the worst case possible is so small to be satistically insignificant; measurement inaccuracies alone could account for differences of 10 in 325,000 cancer deaths.

[3] *"The Radiation Controversy,"* Dr. Ralph E. Lapp, The Reddy Communications Company, Greenwich, Ct. 06830, 1979, $2.75.

It details many of the disappointing results of the heralded "normalization" of relations with the People's Republic of China. Many of the predictions that my colleagues and I made during the debate on the Taiwan legislation are, unfortunately for us, proving to be true.

I commend the article to my colleagues:

AFTER THE CHINA HONEYMOON

Granted that some of the early euphoria was sure to wear off. Still, the state of things between this country and the People's Republic of China seems rather a letdown.

The trade negotiations that were supposed to open up an era of mutual enrichment have run into the hard facts of Chinese poverty and American protectionism. So much so that normalization fans who used to bring out the economic arguments first are now saying that, after all, the important element in the relationship is political. As for the political side, the man whose leadership we were counting on seems to be in serious trouble with his power base.

The logic of these developments was there all along, as inescapable as the idea that you can't ignore 900 million people. The Chinese have many wants and little to bargain with in fulfilling them. Among the few products they might hope to sell in the United States, the most promising—textiles—pose particularly acute threats to American industry and American jobs.

No maneuvering by Juanita Kreps and Robert Strauss or their Chinese counterparts over the size of textile import quotas could get past China's lack of money to pay for expensive American technology. Nothing they could do could keep Congress from rejecting a treaty that would allow enough Chinese goods into the country to take sizable markets away from American business and cause sizable numbers of American workers to find themselves out of work.

The trade negotiations took place in a political setting marked by reverses for Deng Xiaoping. As the give-and-take of discussion made clearer the limits of China's immediate resources for modernization, the ambitious plans for new industry identified with the vice premier were modified or scrapped. Weeks before the treaty was signed, there had been a crackdown on the small amount of free speech Peking's Democracy Wall had come to mean. And rumblings from the provinces reminded Mr. Deng and the world that the ousting of the ultra-Maoist Gang of Four had left in bureaucratic power many people more in tune with the Cultural Revolution's ultra-Maoist communism than with free speech, industrialization, incentive pay and Deng Xiaoping.

The Soviet factor is still around, of course, to motivate Sino-American collaboration as it has motivated Chinese efforts to discipline the Vietnamese. But this too has its dangers for the United States. A Vietnam (As in: "Cambodia may prove to be Vietnam's Vietnam.") does not have to be a small country. The PRC, casting about for help against its great neighbor to the west, could involve this country in more than admitting the existence of 900 million people.●

SCIENCE-FICTION WEAPONS?

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. PAUL. Mr. Speaker, instead of disarming, under the guise of SALT treaties; and spending billions defending wealthy allies like Japan and West Germany; and maintaining a mass army to fight the wars of the past; we ought to be investing more money in the capital-intensive, high-technology weapons our system excels in.

We can never match the Warsaw Pact's hordes, nor should we try. We should instead make use of the superiority of our free system over the Communist one.

Instead of negotiating away our advantages, we should be emphasizing them, with the cruise missile, ABM systems, and laser defense weapons.

The latter, far from being science-fiction weapons, are reality, as a recent article in Business Week showed. I would like to bring it to my colleagues' attention.

The article follows:

[From the Business Week, June 4, 1979]

CAN LASERS BE THE ULTIMATE DEFENSE?

The unbeatable defensive weapon is a favorite fantasy of many Pentagon strategists. So swiftly and accurately would it strike that it could shoot down anything and everything an enemy might hurl at the U.S. through the air or from space. It even has a nickname: war-stopper.

Now something very close to that ultimate defensive weapon is rapidly moving from fantasy to reality, and there is a perceptible sense of cautious elation in the hallways near the office of Ruth M. Davis, the Defense Dept.'s deputy under secretary for research and advanced technology and overseer of the Pentagon's work on high-energy lasers. High-powered lasers may not quite fill the bill of war-stopper, but Pentagon strategists do see the promise of an effective defense against a full-scale missile strike and hence an end to the politics of terror that have dominated international affairs for two decades.

"We are well beyond the breakthrough stage" with laser systems, declares Davis. Throughout the defense establishment, the question is no longer whether beams of high-energy coherent light can effectively parry missiles but how soon engineering can make such systems practical. The Pentagon now hopes to have a prototype system ready for shakedown testing by 1982. "The only problem now," says a former high-ranking Defense official, "is one of economics, of cost-effectiveness."

ZAP!

Speed is the laser's big appeal. Its beam shoots out at the speed of light, or nearly 200,000 mi. per second. Fired at a missile or bomber 10 mi. away that was streaking at twice the speed of sound, a laser would zap the thin metal skin of the target before it could move more than 1 in. Furthermore, with computer-steered mirrors, a laser can be fired at target after target in a twinkling. Davis terms a laser's rate of fire "a thousand times faster than any weapon we have now."

Speed, however, is not enough. To qualify as a defense system, a laser must be equipped with controls that not only direct the power-packed photons of light to the target but also keep them on target until it is destroyed, confirm the kill, and then identify and acquire the next target.

Tests last year at San Juan Capistrano, Calif., proved that the laser qualifies on all counts. A prototype system—built for the Navy and the Defense Advanced Research Projects Agency by TRW Inc., with a Hughes Aircraft Co. aiming-tracking subsystem—took on antitank missiles traveling at 450 mph and brought down every one. The number of kills has been cited as four out of four in some industry circles, but a top Pentagon source tells Business Week that there were many more kills—"an astounding number."

MILESTONE

Those tests were an eye-popper for laser backers and doubters alike. Earlier, drone aircraft had been knocked down with lasers, but those targets were comparatively big and slow. The much faster antitank missiles are only 4 ft. long and 6 in. across. William J. Perry, Under Secretary of Defense for research engineering, hails the Capistrano demonstration as "a significant milestone" in the development of laser weapons. Adds Davis: "It changed the minds of a lot of people" who had been objecting to the steadily rising cost of laser projects.

The Pentagon has spent $1.3 billion on high-powered lasers over the past 11 years. A like amount has been invested by roughly two dozen companies and universities, including such leading defense contractors as Hughes, TRW, McDonnell Douglas, Raytheon, Northrop, Lockheed, United Technologies, General Electric, Rockwell International, and Avco. Pentagon intelligence officers estimate that the Soviets have spent more than $5 billion on their laser programs.

One of the toughest engineering problems has been contriving power packages small enough to be carried in aircraft and satellites. The Pentagon's Davis says that "great strides" have been made recently, to the point where lasers now can be flown in airliner-size planes. Even smaller power plants, though, will mean that much more "ammunition" can be carried to sustain longer periods of fire.

THIN AIR HELPS

Efforts to shrink the size of laser systems and design improved aiming and tracking systems for long-range killing efficiency will account for much of the $210 million that the Pentagon wants in fiscal 1980. That represents a 10 percent increase over this year's budget, but it is still a paltry sum by defense-budget standards, so getting congressional approval is not likely to be an obstacle. Says the military assistant to a ranking member of the House Armed Services Committee: "We'll continue to go along with high-energy laser funding. We're cautiously optimistic about the prospects of the laser becoming a weapon."

The Air Force is getting the biggest share of laser funds, because lasers are most effective in the near-vacuum of space and the thin air of the upper atmosphere. Denser air disperses the beam, just as fog scatters the light from a car's headlamps, and rapidly weakens the laser's power. This problem is especially acute for the Navy, which would like to use lasers to help defend its carriers against missile attacks.

To get lasers into this air, the Air Force has converted a Boeing KC–135 tanker plane for use as an airborne laboratory and installed a United Technologies Corp. laser. The results of its tests are highly classified, but they have apparently helped make a believer of Lieutenant General Thomas P. Stafford, the service's deputy chief of staff for research and development. He is now optimistic about deploying a space-defense laser system by the mid-1980s. The Defense Dept.'s Davis seems particularly attracted to the idea of putting lasers on mountaintops, where the bulkiness of a power source would not matter. "The densest part of the atmosphere," she notes, "is the first 1,000 ft."

PARTICLE BEAMS

To sidestep the problem posed by "dirty" air near sea level, some Defense and industry leaders believe that another type of energy beam—the particle beam, which transmits thermal energy in much the fashion of a lightning bolt—may be the way to go. Recent revelations, principally in *Aviation Week & Space Technology* magazine, of what could be intense Soviet research on particle beams have aroused fears in Congress and some defense circles that the Russians are well on their way to a foolproof defense against missiles.

Top Pentagon sources doubt this, and a study by Massachusetts Institute of Technology points to seemingly insurmountable difficulties with such weapons, but the U.S. is nonetheless stepping up its particle-beam research. Defense researchers note that particle beams, which require huge power generators, might be suited for use by the Navy and one day could team with lasers to give the U.S. an impenetrable one-two defensive punch.●

SURVIVOR BENEFIT PLAN FOR MILITARY PERSONNEL

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. BOB WILSON. Mr. Speaker, I would like to call to the attention of my congressional colleagues two items from the June 4 issue of Navy Times relative to the survivor benefit plan for military personnel.

A recently submitted private actuarial review of the SBP cost figures clearly illustrates the serious problems in the plan and the reasons for increasingly low participation, particularly by the enlisted force. The time for action on SBP is now and I hope that needed reforms will be enacted before the adjournment of the first session.

The article follows:

SBP MAKING CASH AT EXPENSE OF RETIREES

(By Andy Plattner)

WASHINGTON.—A private actuarial firm has confirmed that there are major problems in the military's Survivor Benefit Plan.

At the same time, Sen. Sam Nunn (D-Ga.), who was provided with the new figures by the Defense Department, said he expects to hold hearings on efforts to improve the plan in "the next several weeks."

In February, DoD sent Nunn a lengthy report on SBP. That report showed that instead of sharing the costs of the program with military retirees, the government was actually making money. DoD, however, said these figures should be validated by a private actuary.

The validation of those figures shows the government profiting at the expense of retirees far more than first thought.

The original February report showed that at present participation rates, between now and the year 2000 the government would take in $89 million more in charges than it will pay in SBP benefits. The revised figures just sent to Nunn estimate the government's "profit" during this period will be almost $3.5 billion.

This means, unless the program is changed, the government will profit from a program it originally intended to partially fund.

When Congress established SBP in 1972, it intended it to be almost identical to the plan for federal civilian workers. The government would pay about 40 percent of the cost of the benefits and the retiree would pay about 60 percent through reductions in his or her retired check.

However, according to the DoD report, the typical enlisted member now is paying about 125 percent of the cost of providing his widow with benefits. The typical officer's cost of SBP is about 76 percent.

But, the report said, without changes, the typical enlisted retiree in 1987 will pay almost 2½ times what his widow's benefits will be and the typical officer retiring then will pay about 110 percent of the benefits.

These increased costs are mostly the result of increases in Social Security benefits and the relationship they have to SBP.

When a widow receiving SBP reaches age 62 and becomes eligible for Social Security benefits that are a result of her dead husband's military service, her SBP benefits are reduced by that amount regardless of whether she actually receives the Social Security benefits. In many cases, that reduction can entirely wipe out the SBP payment, or at least reduce it substantially.

The DoD report said this offset, as the reduction is called, is the SBP feature that draws the most complaints.

And, sources say, participation rates are going down among people retiring from the military. They say that the rate for 1978 retirees may fall below 50 percent for the first time (enlisted retiree rates have been below 50 percent for some time). Those figures are not publicly available yet.

Although the House twice has passed bills to reduce the Social Security offset, the Senate has not acted. Last year, it ordered DoD to produce the study because of a wide variety of cost estimates on the reduction. It also ordered DoD to make recommendations on suggested changes to improve the program but DoD failed to make any.

This failure was criticized by many congressional officials and association officials. DoD sources say they would like to support the offset reduction but are prohibited from doing so by the White House.

Nunn originally had promised to hold hearings in late February or early March but because of problems with the DoD study and other issues before the committee, those hearings have not been held.

In a speech inserted in the Congressional Record, Nunn said the work done by his subcommittee of the Senate Armed Services Committee last year "indicated some serious inequities in the present system."

He said, "Several outside organizations and experts have been very critical of the DoD study. Rather than again requesting DoD to provide the needed analysis, the committee staff and the Congressional Budget Office are now reviewing the various issues and proposals for changes to the military Survivor Benefit Plan.

"That analysis is not yet completed but my purpose in speaking out today is to assure my colleagues that we are continuing to work on these proposals and that I do expect it will be possible to hold hearings in the next several weeks."

HERE WE GO AGAIN

Unless Congress acts swiftly, two important bills will die in this session.

One is the Defense Officer Personnel Management Act. Without DOPMA, the Navy and the Air Force will have to ask Congress again for officer grade relief or suffer promotion delays and possible demotions.

The other is legislation to improve survivor benefits. Without the SBP changes, many retired members will continue to pay more into SBP than their survivors ever will get out of it.

The Senate Armed Services Committee is where both bills are stuck and it plans no early hearings on either.

Often, when we critize Congress for not doing enough for military people, congressmen remind us of the generous benefits they have voted in the past.

Here, we think, is a good place for the lawmakers to show their concern for service people. Neither DOPMA nor the SBP changes are of major importance to the nation as a whole. But to the members and dependents affected, they are of major importance.

It also may be important to service morale that the Congress gives some evidence that the military does not have the lowest priority in legislative matters.●

THE UNDERUTILIZED SPECIES DEVELOPMENT ACT OF 1979

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. ZEFERETTI. Mr. Speaker, in 1976 this body passed the Fishery Conservation and Management Act. I am proud that I was a strong supporter of that important and comprehensive legislation.

In the last 2 years since implementation of the FCMA however, we have seen little growth and expansion of the American commercial fishing fleet. This is particularly true on the east coast. Ports such as Baltimore and New York have experienced little, if any, new commercial fishing business.

It is clear to me that specific and immediate action is necessary to induce American businesses to invest and develop the commercial fishing industry to take advantage of the world demand for several abundant species that are located off our shores. I refer specifically to the underutilized species, identified as such by the National Marine and Fisheries Service. In the Mid-Atlantic Fishery Conservation Zone there are six such species—two types of squid (loligo and illex), mackeral, butterfish, silver hake (whiting), and red hake. American fishermen are not now harvesting this fish to any significant degree. As a consequence, the United States is losing jobs, export dollars, and the opportunity to develop an industry with almost unlimited growth potential.

Today, on behalf of myself and Chairman JOHN MURPHY, I am introducing legislation which will solve many of the inhibiting factors that have heretofore prevented American business from entering the export market in which there is such a high demand for the species mentioned above. "The Underutilized Species Development Act of 1979" is being proposed to enable American business interests to carry out one of the purposes of the Fishery Conservation and Management Act of 1976—"to encourage the development of fisheries which are currently underutilized by United States fishermen."

Before the FCMA became law, literally hundreds of large freezer/catcher stern trawlers operated freely off our coasts. They harvested not only what we now call "underutilized species," but they also fished for species in demand on the American market—flounder, cod, haddock, and so forth.

During the last 2 years, enforcement of the FCMA has prevented foreign fishermen from harvesting fish for which there is high U.S. demand and harvesting capacity. This is as it should be. But foreign vessels have been allowed to catch the "underutilized species", which last year in the North Atlantic fisheries amounted to more than 180,000 tons.

Why are not Americans harvesting these species? There are several reasons:

First. We do not have the proper equipment. In order to harvest squid and other deep swimming species, it requires stern trawlers of more than 200 feet long. No such vessels exist in the United States today. The last ones that were built were the Seafreeze Atlantic and the Seafreeze Pacific in the mid-1960's. They were an operational disaster.

Second. We do not have experienced crews. Fishing with offshore freezer stern trawlers requires not only special expertise, but a special commitment to the sea. Ships of this class stay at sea for more than 30 days. This is much different than the average American trawler that stays out for 3 to 6 days.

Third. We do not have the shoreside facilities to support fleets of offshore freezer stern trawlers. A significant amount of freezer warehousing and other special equipment is needed to make operating such a fleet viable.

It is my belief, Mr. Speaker, that the legislation Mr. MURPHY and myself are introducing today will go a long way in solving these problems. With careful administration and proper monitoring, the "Underutilized Species Development Act of 1979" will allow the United States to develop a commercial fishing fleet of equal status with the major fleets of the world. It will mean a significant number of jobs in our fishing, maritime, and shipbuilding industries. It will mean more food for our people and those of the world. It will mean a large decrease in our balance of trade deficit. Most importantly it will mean that American ships crewed by American fishermen and sailors will be harvesting the bounty of our seas, as we have never done before.

For all of these reasons, and others that will be discussed in the weeks ahead, I hope all of my colleagues will support the legislation introduced today.●

INDEXING THE TAX BRACKETS TO ACCOUNT FOR INFLATION

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. ROTH. Mr. Speaker, I am pleased to support H.R. 365, the proposal of my distinguished colleague, Mr. GRADISON. For too long, Americans have been ravaged by inflation. This bill does something about the problem; it does not merely decry our inflationary spiral.

H.R. 365 would index the personal exemption, the zero bracket amount (formerly the standard deduction), for the rate of inflation. Effective January 1980, the bill would automatically adjust the individual income tax rates for a trial 4-year period to stop taxpayers from being pushed into higher tax brackets solely because of inflation.

OVERBURDENED TAXPAYERS

What so many people do not understand is that our progressive personal income tax system was designed for a world of stable prices. We levy taxes on dollar amounts with no real concern about the purchasing power of those dollars. Whenever the economy experiences inflation, it is the Federal Government that reaps the benefit at the expense of our already overburdened taxpayers.

This creeping taxation is unlegislated, unvoted, and unsigned. It can be stopped if we take the necessary steps to index the tax structure. For too long, the Federal Government has been taking advantage of the American taxpayer. It is time to leave the hard-earned dollars of American taxpayers alone. This money should never have been taken from him in the first place.

There is substantial precedent for this action. On the outgo side of the budget, we automatically adjust food stamps, social security supplemental income, and even civil service and congressional purchasing power; the time has come to bring the American taxpayer under the same standard.

In the decade 1965–75, the cumulative effects of inflation and all the legislated tax cuts left taxpayers worse off than they would have been if we had merely indexed the system. Without indexing, the well-meaning tax cuts passed by Congress do nothing more than offset the tax increases caused by inflation. A year or so after these so-called cuts go into effect, taxpayers again fall behind due to inflation's unrelenting impact.

I believe that indexing the tax brackets offers a positive approach to our inflationary problem. As our neighbors in Canada discovered after they began indexing in 1974, this approach slows down the growth of government and provides a strong incentive to invest in order to promote long-term economic growth.

I urge my colleagues to strike a blow for the American taxpayer and support the proposal to index the tax brackets.●

HEW DISTORTS LAW TO CONTROL INDEPENDENT COLLEGES

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. GOODLING. Mr. Speaker, imagine what would happen if the Department of Agriculture tried to classify supermarkets as Federal grantees, subject to detailed Federal regulation, on the grounds that some of their customers use food stamps to buy groceries. That is precisely the kind of logic that is being used by the Department of Health, Education, and Welfare in its effort to bring independent colleges under its jurisdiction.

Grove City College is a small, private liberal-arts institution in western Pennsylvania. It prides itself on its independence from the Federal Government, and has made considerable sacrifices to preserve that independence. Grove City has never received, or even applied for, a dime of assistance from Washington.

Enter HEW, with an order for Grove City to sign forms indicating compliance with the title IX regulations against sex discrimination. HEW claims that, since some of Grove City's students are receiving Federal aid as individuals, the college as a whole is a "recipient institution" subject to HEW regulation.

This HEW interpretation is a classic instance of a bureaucracy's impulse to expand its turf far beyond the boundaries of common sense or congressional intent. It flies in the face of the entire legislative history of title IX, as well as the conventional legal definition of the word "receive."

The legal encyclopedia "Corpus Juris Secundum," volume 72, page 643, defines the word "receive" with reference to "a change of possession, as when one parts with the control of a thing and another takes and accepts it." It is obvious that students, not the colleges they choose to attend, are the recipients of Federal grants and loans. All the colleges do is to certify that the students have, in fact, matriculated.

As my colleague Mr. ASHBROOK pointed out a year ago, HEW obtained a written opinion from the Department of Justice on September 23, 1977, which stated that the term "Federal financial assistance" as used in section 504 of the Rehabilitation Act of 1973 in the same context as it is used in title IX "does not include programs of insurance or guarantee." The opinion, signed by Assistant Attorney General John M. Harmon, specified that:

> Neither title VI nor title IX, the two models for section 504, prohibit discrimination in programs receiving Federal aid through insurance or guarantee. Indeed, each expressly excludes such programs. Albeit in an elliptical way.

As Mr. ASHBROOK concluded—

> Legislation by regulation is not consistent with our constitutional structure, or with a scheme of representative democracy, or with good government. The administration of title IX is a textbook example of legislation by regulation. The result is an unprecedented and dangerous Federal intrusion into education at all levels.

Grove City has no objection to equal treatment for male and female students; it was practicing nondiscrimination before HEW was created. But it strenuously objects to being placed under the HEW umbrella. Grove city is determined to stay out of the bureaucratic quagmire which several years ago forced Columbia University to produce a written affirmative action program which ran to some 316 pages and weighed 3½ pounds. At Georgetown University the cost of meeting Federal requirements rose from $16 per student in 1965 to $356 per student a decade later. As former Yale University president Kingman Brewster put it, HEW seems to operate on a philosophy of "now that I have bought the button, I have the right to design the coat."

Recently the Washington Post published a perceptive column by George Will on HEW's use of title IX to attack Grove City's independence. The text of the column follows:

[From the Washington Post, May 24, 1979]

HEW's Grip on Grove City

(By George F. Will)

Grove City College's troubles began, as many American's troubles do, with a letter from the Department of Health, Education and Welfare. It began "Dear Recipient" and ordered the college to sign forms confirming compliance with Title IX regulations against sex discrimination.

Such confirmation is required of institutions receiving federal aid. But Grove City insists that it neither seeks nor receives any aid, and it assumed the letter was a simple mistake. Alas, HEW's mistakes rarely have the virtue of simplicity.

The college president says: "I was told in strong terms that they would 'bring us into compliance one way or another.'" And he began receiving "insistent, harassing and threatening" calls from HEW.

The college, a small institution in western Pennsylvania, considers itself independent and is determined to remain so. HEW claims the college has forfeited its claim to independence. When HEW acted, about 140 Grove City students were receiving federal tuition grants. HEW argues that such aid to students who choose to use it at Grove City constitutes aid to the college.

The college argues that this is a petty justification for extending HEW's jurisdiction to an institution that has made substantial sacrifices—in terms of direct aid it has not sought—to remain outside such federal jurisdiction. The college says tuition grants establish a relationship only between the government and the student, and the college's only role is in certifying to the government that the student has matriculated.

HEW replies that tuition grants enlarge the number of young people who can consider attending college, so Grove City "benefits by having its pool of potential students increased." HEW's position has a certain chilly logic. And it calls to mind G. K. Chesterton's theory that a madman is not someone who has lost his reason, but rather someone who has lost everything but his reason.

The college has no quarrel with Title IX: "As a matter of Christian belief, it has treated males and females equitably since long before HEW was created." The administrative law judge who ruled that he is powerless to overturn HEW's claim of jurisdiction also emphasized that "There was not the slightest hint of any failure to comply with Title IX, save the refusal to submit an executed assurance of compliance. . . . This refusal is obviously a matter of conscience and belief." Indeed it is: The college believes, reasonably, that signing the form would acknowledge HEW's jurisdiction, and that no good can come of that.

The judge held that HEW has "total and unbridled discretion" in requiring compliance forms. The college is challenging this in court, although Congress, the ultimate source of such discretion, should have the sense to slip a bridle on HEW's imperial bureaucracy.

This latest example of HEW's territorial imperative comes as the dust is still settling in Washington from the splendid Jefferson Lectures delivered by Edward Shils of the University of Chicago. Shils argued that government has come to regard universities as instruments of public policy, and the universities have been eager to be used as such.

After 1945, academic ideology favored a society in which government is "ubiquitously active and omnipotent," and government took responsibility for ensuring the supply of the educated manpower needed for a "knowledge-based economy." The economists who argued the need for such manpower, and the scientists who were elevated in social standing by their argument, were academics. The logic of their argument was that academics had an enormous claim on society's resources.

In the 1960s, government's goal became the promotion of equality. Rather than recognize that universities are meritocracies, and inherently unsuited to be instruments for that policy, government set about subverting the essence of universities—the rule of merit. It diluted intellectual criteria with sexual and racial criteria in the admission of students and selection of faculty.

Many academics did not resist the saddles and bridles of regulations that came with government aid and enabled government to treat universities as broken horses. Grove City is suffering, in part, the consequences of this "treason of the clerks," the selling-out of fragile, subtle values. But surely HEW has enough tame horses to ride, and can leave alone the spirited, endangered species represented by Grove City.●

EXECUTIVE AGENCIES ARE PURCHASING VOTES

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. ERLENBORN. Mr. Speaker, it has come to my attention that at least two executive agencies have begun the practice of offering grants to our constituents in return for favorable votes on appropriation measures.

I have received a letter from Joseph D. Duffey, Chairman of the National Endowment for the Humanities which stated in part:

> Please find enclosed a confidential list of institutions in your district which are tentatively scheduled to be awarded Challenge Grants by the National Endowment for the Humanities.
>
> We cannot announce or make these awards until Congress takes final action on the FY 1980 Appropriations Bill. However, *this information about our intent* may be useful to your constituent institutions for planning purposes. (Emphasis mine.)

On an accompanying sheet there is listed an institution in my district which, it is implied, would receive $365,000 if I vote the right way.

At the bottom of the attachment there is a warning that this should not be made public, because it might not come to pass.

Mr. Speaker, shortly after receiving this offer from the National Endowment for the Humanities, I received a similar offer from the Department of Labor.

This offer came in a letter signed by Nik B. Edes, Deputy Under Secretary for Legislation and Intergovernmental Relations. This letter stated, again, in part:

> Please find enclosed the FY 1979 program allocations and FY 1980 preliminary planning estimates for the Private Sector Initiative Program.
>
> The FY 1980 preliminary planning estimates are also based on the assumption that the Congress will act on the President's budget request as proposed.

The attachment, Mr. Speaker, shows that while the 14th District of Illinois is only scheduled to receive about $97,000 in fiscal year 1979, the good people at the Department of Labor have seen fit to allocate over $386,000 for fiscal year 1980 to my district.

Again the implication is clear:

> If you vote the right way, we'll try to get some money pumped into your District. We can't guarantee anything, you understand, but we'll try.

If a businessman or union representative approached a Member of Congress with a similar proposal, there would be no doubt of its illegality.

Suppose, Mr. Speaker, that a businessman or union representative sent a letter to each Member of Congress saying that their Political Action Committee had drawn up preliminary estimates of contributions to reelection campaigns and that the PAC had tentatively decided to donate so many dollars to this campaign or that. These numbers might change, depending upon how a particular Member voted on a particular issue.

If that businessman or that union representative had the bad sense to put something like that in writing, there would be outraged calls for a grand jury investigation.

Mr. Speaker, there are laws on the books which prohibit departments and agencies from lobbying Members of Congress. We are all aware that this law is winked at, and we are lobbied constantly.

These two instances, however, have opened up an entirely new realm of activity. These letters are naked, unashamed attempts to influence my vote, and the vote of every Member who received a similar letter.●

RESOLUTION URGING CONTINUED SUMMER FILL-UP PROGRAM FOR HOME HEATING OIL

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Ms. FERRARO. Mr. Speaker, as you and my colleagues are fully aware, home heating oil is the lifeblood of the northeast region of our Nation. In light of the fact that the major oil companies are presently preoccupied with producing enough gasoline to get us through the summer, there is a growing fear that there will be shortages of home heating oil during the coming winter heating season. I need not tell my colleagues of the havoc and hardships that this could cause. After talking with several independent distributors of home heating oil, I am convinced that efforts must get underway right now to avoid massive supply problems during the winter heating season. The fact that the leadtime needed to deliver home heating oil to individual customers from the point of actual manufacture is often several months, gives great emphasis to the need to correct potential supply problems now.

Traditionally, independent oil distributors have used a "summer fill-up program" under which the distributors deliver home heating oil to their customers during the summer months so that a start-up reserve of home heating oil is in place at the beginning of the heating season. This program has been used by independent oil distributors for many years.

Since oil distributors sell most of their oil during the winter months, there is usually a shortage of capital during the summer. It is impossible to purchase adequate supplies for a summer fill-up program unless the major oil companies allow the independent distributors to purchase oil on credit. The funds are paid back with interest as soon as the oil is delivered to customers. However, many major oil companies have indicated they will curtail or eliminate the extension of credit needed for this program to operate, as well as reduce the amount of heating oil available for delivery during the summer months. This new policy, which I have discussed with several distributors in my district, will mean that many households will enter the winter heating season with either a very low supply of oil, or perhaps an empty tank.

To highlight this potentially dangerous situation, and to make my colleagues aware of it, I have today introduced a sense of the House resolution that would serve notice to the major home heating oil producers that supplies and other services to independent oil dealers should be provided on the same terms and conditions as in the past, so that independent oil dealers can continue their summer fill-up programs. The text of this resolution follows, and I solicit the support and cosponsorship of my colleagues:

RESOLUTION

Whereas there are many regions of our Nation which historically have relied to a great extent on home heating oil for heating purposes,

Whereas there are more than 16 million households in the United States which use heating oil as their only source of heat,

Whereas there has been forecasted a shortage of home heating oil during the coming winter months,

Whereas many households will suffer great discomfort and inconvenience should they not have access to the home heating oil they need,

Whereas the lead time needed to deliver home heating oil to individual customers from the point of actual manufacture is often several months,

Whereas the harsh winter of 1978–79 has depleted the oil supplies of most households,

Whereas many families need home heating oil during the summer months to produce hot water,

Whereas independent oil distributors have traditionally used a "summer fill-up program" which allows customers to begin the winter months with a start-up reserve of home heating oil,

Whereas many major oil companies have indicated they will curtail or eliminate summer oil deliveries to independent oil distributors in sufficient quantities to operate a summer fill-up program, and

Whereas the independent oil distributor has been the fundamental link between the major oil producers and the consumers of home heating oil: Now, therefore, be it

Resolved, that it is the sense of the House of Representatives that the major oil companies should continue to provide supplies and other services to independent oil dealers on the same terms and conditions as historically provided so that such dealers may continue their summer fill-up programs and thereby insure that supplies of home heating oil are in place at the start of the winter heating season.●

A VOICE OF REASON ON NUCLEAR ENERGY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. PAUL. Mr. Speaker, Energy Information, a national weekly newsletter on United States and Canadian energy issues, recently interviewed Dr. Peter Beckmann.

Dr. Beckmann, engineering professor at the University of Colorado and recognized expert on nuclear power, discussed the accident at Three Mile Island and its impact on the development of nuclear energy.

Dr. Beckmann, author of a number of important books and editor and publisher of Access to Energy, is a voice of reason amidst the strident shouts of the antinuclear reactionaries. Here are excerpts from that interview that I would like to call to my colleagues' attention:

NUCLEAR SANITY: AN INTERVIEW WITH DR. PETER BECKMANN

EI. What impact will Three Mile Island have on the development of nuclear power in this country?

BECKMANN. There are two kinds of impact, the technological and the political. On the technological side, I personally feel very much more confident of the safety of nuclear power than I did before. No nuclear engineer ever claimed that nuclear power is perfectly safe. What they claimed and continue to claim is that it is incomparably safer than any other method of generating electricity.

The total casualty toll in Harrisburg is zero dead, zero injured and zero diseased. The media have been quite wrong in suggesting that this was sheer good luck and only a near miss. It was not. For one thing, there was a long, long way to go to a meltdown with plenty of backup systems in between. And for another, even if there had been a meltdown, that would not have been the end of the world. The containment building would have contained the radioactive gases. One of the reasons I feel more confident about this now is that we on Wednesday afternoon (March 28) there was a hydrogen explosion in the containment building.

Two elements of nuclear safety were proved in Harrisburg. One is the defense-in-depth, which no other energy facility can have and the other is the slowness of an accident. If a meltdown had threatened, which it did not, the population could have been evacuated and most probably, and this is of course not certain, but most probably would have returned with no other casualties than the inevitable heart attacks of the elderly and traffic accidents of an evacuation.

Compare this to an 845-megawatt facility of any other type. How do you evacuate people when a dam bursts which can kill more than 100,000 people at a time? How do you evacuate people when you have an air pollution episode such as you had in London in 1952 when there were 3,900 excess deaths within one week? There you didn't get a fifteenth and sixteenth chance.

What we know now in Harrisburg is not merely that if everything goes wrong, nuclear power can still take it without casualties—we knew that before. What we know, in addition, is at least three things. Number one, the emergency core cooling system (ECCS), which had been attacked by nuclear critics as something that would never work or only work in stage experiments, we know now that it came in automatically and reliably, and maintained the pressure in spite of the leak formed by a valve that failed to close. The ECCS is now battle-tested under real conditions.

The second thing that we know that we did not know before is that the containment building will withstand a hydrogen explosion. Its specifications call for withstanding 300-mile-an-hour hurricanes and the impact of a jetliner at landing speeds. Now we know that it will even withstand a hydrogen explosion, so that there is very little chance of radioactive gases getting out.

The third thing that we know is that a core of this type (zirconium core) can withstand not just a minute or so before it melts as was assumed in the Rasmussen Report, but that it can withstand a full six hours of exposure under these conditions. Mind you, the core is damaged, or part of the core is damaged, but not molten. In other words, the Rasmussen Report in that respect is far, far too pessimistic.

The first indications politically are that instead of a backlash, we will get a "forward lash." You would think that when a thing like this happens it would kill the nuclear industry completely. In fact, the Austin referendum (on April 7, Austin, Texas, voted to keep its share of a $2.07 billion nuclear power plant, strongly rejecting an alternate, more conventional, generating facility) is just one of the signs I see that Americans may put off making a decision but when it's time to make it, they make the right one.

EI. Based on what happened at Three Mile Island, do you believe the Nuclear Regulatory Commission's operating standards and procedures are adequate? If not, what changes need to be made?

BECKMANN. We are learning all the time. You cannot foresee all the details. You can only defend against all possible unexpected, unforeseeable events. Nobody foresaw the possibility of somebody shutting off the emergency core cooling supply after it had been activated automatically, which is why you had a freakish sequence of events leading to a hydrogen bubble. We will now have this type of reactor design changed. We will also, I'm sure, see to it that procedures are enforced as strictly in all utilities as they are in the best. But let me say this. More accidents will happen because perfect equipment does not exist. And if it did, there would still be the weakest link in the chain—that is fallible people. But with equal certainty, as I predict that there will be more accidents, I can predict that almost certainly these accidents will be contained by the same principles: Defense-in-depth and time to bolster that defense so that an accident with massive loss of life remains a very remote probability.

EL. What are the accident probabilities associated with nuclear power as opposed to other power sources?

BECKMANN. Compared to coal, or for that matter any other power source, the risks that you take—and you do take some—are trivial. Nuclear power is not perfectly safe but it increases the safety of our present sources incomparably . . . not by a few percent but by factors of ten and fifty. Not only because the probabiilties of an accident are small, but even if an accident does happen, there is very little chance of causing vast death tolls.

EL. What should be the role of nuclear power in this country?

BECKMANN. Nuclear power for me is desirable because it is safe. But there are other considerations. Nuclear power is, number one, unlimited, while oil and gas may get short. However, as long as controls are on and as long as the government policy keeps the oil in the ground, we don't really know how short oil is. But it is a pity to burn oil in power plants instead of using it for chemical feedstocks—it's a waste. In any case, I doubt if oil will be around for too long, that is whether it will be economic to burn it for very long.

Whereas with nuclear power, if you breed fuel from uranium and thorium, you have electric power not for centuries, but for millenia. You have a domestic source of power and you have a reliable source of power. All the utilities that have a nuclear power plant use it for the base load. That is, nuclear power is on all the time, and the other sources come in as needed . . . because it is reliable. Why was it that at four o'clock in the morning when the accident happened, the plant was running at 98 percent of capacity? If nuclear power is uneconomical, as some pundits claim, why is it that less than ten percent of capacity provides more than 12 percent of the power? In other words, why is it that less than ten percent of the horses do more than 12 percent of the pulling? Because they are damned good horses, that's why.

EL. How do you view "alternate" energy source development in this country? For example, solar energy?

BECKMANN. Solar energy is a great thing for the politicians. It is a bad energy source. It is very good for space heating, for a few other applications, but for electricity, it is a rich man's toy. Solar energy can supplement what we need—it can never substitute. Solar energy cannot constitute any appreciable fraction of the 500,000 megawatts capacity of the U.S. unless you de-industrialize the country—which is the real reason for alternative energy sources.

If you want to know realistically where the electrical power can come from, there are only two big answers: Coal and nuclear. Gas and oil are too expensive and are likely to run out. Wind, solar and the other sources can give you kilowatts but not megawatts.

It is just not thinkable that the coal industry—the railroads, the hopper cars and so on—can take on the 12 percent that is now produced by nuclear. Besides which, let me let you in on a secret. The anti-nukes are not anti-nuclear—they are anti-energy. What they are doing to nuclear in the media, they are doing to coal in the back rooms. It is next to impossible to get the federal government to release land for coal mining. We have cases of what I call legal incest when environmental organizations filed suits against the federal government mainly around coal leasing, then moved into the government, defended against their own suits and settled them out of court.

Nuclear energy, because it is abundant and because it is clean—not in spite of it—because it is environmentally benign, is the main target of the anti-energy people. But if they win on nuclear, they will next go to coal, then to oil and then to gas until they have de-industrialized this country and destroyed its society as we know it today.

EL. What is your response to statements made recently by members of Congress with regard to halting nuclear development in this country?

BECKMANN. The politicians who made these statements are cynical even among politicians. When Jerry Brown called for shutting down Rancho Seco, allegedly for safety reasons, he does not in the least mind the dams in his state that sit on earthquake faults and that could kill more than 100,000 people at a time. He is putting his political career above human life. Senator Hart of Colorado called for an evacuation, not officially, but on television, saying that if he were there he would evacuate his family. As chairman of the nuclear regulation subcommittee, when he makes a statement like that, knowing, or at least he ought to know, that there are inevitable deaths in a mass evacuation, when he made the suggestion at a time when no such threat was imminent at Harrisburg, he was consciously or not putting his political career above human life. When Senator Byrd said that the accident that supposedly was never to happen, has happened after all, he displays the same kind of ethics or, more probably, abysmal ignorance. Because the accident that remains highly improbable, is an accident of large scale loss of life.

One statistic, the iodine that escaped at Three Mile Island, gave rise to a radioactive level one-twentieth of the level of iodine radiation that was registered in Pennsylvania after the fallout tests of the Chinese bombs last year. Where was Jerry Brown then? Where was Senator Hart then? Where was Senator Byrd then?

EL. How do you view the current wave of anti-nuclear sentiment?

BECKMANN. Nuclear power is just a symbol. These people are not after safety, they have social engineering motives. The struggle, I believe, will not be resolved by logic, because the people who are funding the hysteria are immune to logic. It will be decided when the power runs out.

EL. What exactly is a meltdown and how does it differ from the accounts that have appeared recently?

BECKMANN. If there is a leak in a nuclear power plant that threatens to expose the core, there is an immediate tripping of the reactor and an immediate termination of the chain reaction. Immediate and automatic. Apart from the chain reaction you also have the heat from the fission products which amounts to only one percent or so of the capacity. That, however, would be enough to melt the core if it was not kept covered by water. Therefore, if the water leaks out, you have among many other safety backups, the emergency core cooling supply which will automatically cover the core with water if the water leaks out—which is what happened at Harrisburg, except that somebody shut it off manually afterwards.

If that should fail, and the core should become exposed, then after some time, the core will melt. It will melt through the pressure vessel and it will melt through the concrete floor of the containment building. It will stabilize; that is, it will solidfy in the ground at some depth up to one hundred feet—and that part is not what constitutes the danger. The danger is the radioactive gases in the containment building. The containment building has one big job . . . to contain the radioactive gases in case of a meltdown, which, as you can already see, is not the end of the world. But even if it should happen that the radioactive gases should get out of the containment building, of which there is very little chance, even then there would not necessarily be massive deaths for two reasons. One is that all of this happens very slowly. You have plenty of time to evacuate. The other is that even if the gases do get out, they will most probably disperse in the atmosphere. Only if you have a very special weather condition, say an inversion that keeps them low to the ground and a wind blows them gently in the wrong direction into a population center—which has not been evacuated, by the way . . . then you will have losses of life. That is why the whole thing is so improbable and that is why Harrisburg was nowhere near a meltdown, let alone a meltdown that kills.

EL. How would you assess the job the government has done in dealing with the problems of nuclear waste and resolving public concern over this issue?

BECKMANN. It has done a lousy job. It is a myth that nuclear waste disposal is an unsolved problem. It is a problem that is artificially being dragged out in Washington. Waste disposal is a non-problem technically; it is a big political problem. The (administration's) Interagency Review Group's solution has been to study the issue to death. When it asked for input from the citizenry, there were eight times more pro-nuclear replies than Ralph Nader and cohorts were able to muster. The result of this was that the revised report was worse than the first—that's how much weight the public has with the people in the various agencies of the Carter administration.

The probability of dying of cancer in the U.S. today is about 19 percent. A small part of that may be caused by radioactivity . . . maybe. But the radioactivity put out by nuclear plants on the average is so ridiculously low that you have to say that it is 100 times less than what you get off the luminous dial of your watch . . . it's five thousand times less than I get by living in Colorado—it's completely absurd.●

FREE ENTERPRISE WEEK

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. BROYHILL. Mr. Speaker, every school child has learned that our country is founded on certain principles, on certain freedoms. Every American knows that our Constitution guarantees that we are free to worship in the manner in which we choose, that we are free to express our beliefs, and that we are free to petition the Government whenever we feel inequities exist.

During this period of congressional debate on our economic ills, as we ponder the cures for inflation and ways in which to ease Government overregulation and its costly impact on business, it is also important to remember one freedom which is not mandated by the Constitution, but which is nevertheless essential to the American way of life. I am speaking of free enterprise.

We toss this term around lightly. Free enterprise. What does it actually mean?

The textbook definition of free enterprise describes an economic system which places the primary importance on private businesses competing in an open marketplace to satisfy the demands of consumers. A necessary ingredient in the free enterprise recipe is the restriction of Government action only to protecting the rights of consumers, rather than acting directly as an economic force.

It is imperative for all of us in the Congress, whether we are from rural North Carolina or from urban New York City, whether we are from the majority or the minority party, to remember this formula for free enterprise, as the success of our economic system depends on the principles espoused in this definition. That is, the success of our economy depends on private business being allowed to continue to operate on its own, to operate with that unique American initiative and innovation, free from the unnecessary and burdensome regulatory constraints imposed by a government possessed by regulatory fever. It is not the function of Government, nor should it be, to direct the day-to-day operations of countless American businesses. If we set up sound and responsible economic policies, the rest will follow.

I have joined with my colleague from Oklahoma (Mr. ENGLISH) in cosponsoring a resolution designating the week starting July 1, 1979, as national "Free Enterprise Week." I urge my colleagues' support of this resolution, as this is an excellent opportunity for us all to reflect upon the proper role of Government in society.●

REPLACEMENT FUELS ACT OF 1979

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. JEFFORDS. Mr. Speaker, today, 19 colleagues and I introduced the Replacement Fuels Act of 1979. This bill is an important first step in establishing a policy of national energy independence. The bill allows the market forces of the free enterprise system to determine the best technology to be used for the replacement of petroleum-derived motor fuels with alternatives. Moreover, the system of mandated market shares established by the bill will result in zero Federal expenditures. Below are some explanatory facts related to both the bill and the technologies which could readily be exploited to provide replacement fuels:

ANALYSIS OF REPLACEMENT MOTOR FUELS ACT OF 1979

I. Section 1 is the title of the bill, as indicated above.

II. Section 2 sets out Congress' findings as to the necessity for replacement fuels to decrease the need for imported crude oil.

III. Section 3 defines the terms used in the bill, including alcohol, replacement fuel, replacement motor fuel, renewable resource, etc., as used in the bill. The term "replacement fuel" is broad enough to include alcohol from grain, cellulous, wood, or any other liquid produced from coal, shale oil or other substance that can be mixed with gasoline and used as a motor fuel. The Secretary of Energy is designated as the major implementer of the program.

IV. Section 4 requires the Secretary of Energy to establish a program to promote the development and use of replacement fuels in the United States. Specifically, the Secretary is required to design a program promoting replacement of gasoline with the maximum percentage of replacement fuel as is economically and technically feasible for use as motor fuel.

V. Section 5 requires the Secretary of Energy, in consultation with the Secretary of Transportation, Agriculture, Commerce and any other appropriate agency, to establish a development plan and production goals for the optimal production of replacement fuel in the U.S. in calendar years 1981 through 1986. The ultimate goal, by calendar year 1992 is to replace 20 percent or more, by volume, of the projected consumption of gasoline used as a motor fuel in the U.S. for that year. The interim goals for 1987 through 1989 is 10 percent replacement, by volume, of the projected consumption of gasoline used as a motor fuel in the U.S. for each of those years.

In developing the plan, the Secretary of Energy is required to identify ways of encouraging the development of a reliable replacement fuel industry, the barriers to its development, and include an estimate of the production capacity of replacement fuel needed to implement this bill's requirements.

The Secretary has 6 months to complete his development plan and production goals and report to Congress.

VI. Section 6 established minimum percentages of replacement fuel to be included in the total quantity of gasoline and replacement fuel sold by any refinery. For CY's 1981 through 1986, to be determined by the Secretary of Energy. For CY's 1987 through 1989, 10 percent. For CY's 1990 and thereafter, 20 percent or more, unless the Secretary establishes, by rule, that 20 percent is inappropriate. The minimum percentages will be based on technical and economic feasibility. Each refiner is required to make annual reports to the Secretary as to the average percentage replacement fuel sold during the preceding calendar year. The Secretary may make adjustments to reduce minimum percentage requirements.

VII. Section 7 sets out the enforcement mechanisms available to the Secretary. Violators are subject to a civil penalty of not more than $1 per gallon for each gallon of fuel not containing a minimum percentage of replacement fuel. When notice of a proposed penalty is issued by the Secretary, two choices are available to the refiner: (1) he may request a hearing before an administrative law judge, or (2) he may institute action in the U.S. Court of Appeals. The Secretary will institute action in the appropriate district court if the civil penalty has not been paid within 60 calendar days after the assessment order has been made.

REPLACEMENT FUEL FACT SHEET

I. THE ENERGY SITUATION IS CRITICAL

A. We import 8 million b/d, at an average cost of at least $19.00/barrel. Recent spot market prices for imported oil have averaged $30 per barrel, and up to $50 in Rotterdam. Almost all observers agree that OPEC oil prices will easily reach well over $20 per barrel by the end of the year. Without some way of putting a lid on OPEC price increases, we are at the mercy of oil producers.

1. We use about 7.4 million b/d of gasoline.

2. CBO estimates that decontrol will cost consumers $12 billion annually by full implementation in 1982.

II. WHAT THE BILL DOES

A. The bill requires that by 1987, 10 percent of all gasoline sold in the United States be composed of replacement fuels. Responsibility is left to industry to determine which fuels. Every shortfall, however, will be penalized at the rate of up to $1.00/gal.

III. THE COST OF REPLACEMENT FUELS IS COMPETITIVE

The virtue of this bill is that it does not dictate the financial arrangements to be made for construction and operation of replacement fuel facilities: once the market share is insured, private industry is free to develop the most efficient and cost-competitive systems it can devise.

A. The capital requirements of this enterprise are less than either the cost of decontrol or continued dependence on oil imports.

B. As the attached charts show, the per-barrel cost of replacement fuels is already competitive with the higher range of current oil costs.

IV. THE TECHNOLOGY IS AVAILABLE

A. Coal liquefaction—The U.S. has 437 billion tons of coal, the most abundant fossil fuel resource available, and we are not making adequate use of it (production is only now returning to 1940s levels, and 140 Federal offices have jurisdiction, but no one office coordinates).

1. 1.6–2.5 barrels of oil equivalent can be produced from each ton of coal.

2. Cost: Reliable estimates put the cost of coal-derived fuels, ranging from methanol to synthetic gasoline, at between $20 and $35 per barrel.

a. Synfuel product plants are estimated to cost between $750 million to $1.5 billion apiece for plants able to produce the equivalent of 50,000 b/d of oil. 10 percent of current consumption would be about 800,000 b/d, so the total requirement would be for 16 plants, at a total cost of $12 billion to $24 billion.

3. Problems: The most critical problem, requiring immediate action, is the long lead time required for the planning and construction of replacement fuel plants. That is why we must move now to insure a market for these products.

B. Alcohol: Alcohol can be made from grain, coal, wood, garbage, or other sources. Alcohol made from cellulose (wood fiber) is expected, for example, to be commercially viable by the end of the year. A bushel of corn yields 2.5 gallons of ethanol, and the byproduct makes a high-protein animal food.

2. Problems: Some have raised the spectre of turning our food supply into fuel; this will not happen, since we have excess grain capacity, and cellulose is not edible. As with coal liquefaction, the big problem is the long lead time required for the construction of the facilities, and the uncertainty of the market; this bill takes care of those problems, if we act now.

C. Shale oil: The technology for deriving oil from oil shale has been known for years. Each ton of oil shale (about a cubic yard) yields a barrel of oil, at the cost of about $20 per barrel. There is enough oil shale in the country to supply our oil needs for up to 50 years.

1. Problems: The main problem with oil shale appears to be environmental; most oil shale is located in areas with little water for processing.

V. COST TO CONSUMERS

A. The cost to the consumer of 10% replacement can be computed:

Cost of a gallon of gasoline	$1.00
Reduced by 10%	—.10
Total	.90

Assuming replacement fuel costs of as much as $55 per barrel refined, the cost of a gallon of replacement: $1.31. Or, 1/10th gallon in each gallon of gas = $0.13/gallon for the cost of replacement fuel.

Total per-gallon cost of the mixture is then:

Gasoline	$0.90
Replacement fuel	.13
Total to consumer	1.03

Thus, even a very conservative estimate shows a price rise of less than 3% at the gas pump, in exchange for energy independence.●

THE "WHEELS" ARE GOING IN THE RIGHT DIRECTION

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. BENJAMIN. Mr. Speaker, earlier today the distinguished gentlemen from California and Louisiana addressed the House regarding an article titled, "Gas Pumps on Hill Cater to Wheels." I wish to take this opportunity to clarify the circumstances surrounding the use of gasoline by Members and congressional employees and to explain the concerns already acted on by the legislative branch Subcommittee on Appropriations.

This fuel is properly purchased by competitive bid at bulk rates and used for government owned or leased vehicles. Any insinuation to the contrary notwithstanding, the Congress would be derelict in its duties if it did not make this fuel available at the most reasonable rate for Government owned or leased vehicles. Allow me to explain.

The Architect has written verification that present procurement procedures date back to 1942. It appears safe to assume that gasoline was purchased for congressional vehicle use in a similar manner since 1909. This, because the Architect has copies of bills for "oats and hay" for the horse used for the Architect's carriage prior to that date.

The bids for bulk fuel sales are made annually with the last contract being awarded in December 1978. Public notice inviting competitive bids was published pursuant to Government procurement regulations and 10 firms were personally invited to bid on the December contract.

One firm, H. P. Kidd, Inc., bid at a price of 54.6 cents per gallon and was awarded the contract. With the inclusion of escalation clauses (which provide for price increases upon certification of cost increases to the suppliers) the June price is 71 cents per gallon.

Although only one bid was received for the current contract, the limited response appears to be the function of the market rather than a lack of competition. Since 1960, producers who have supplied gasoline to the Architect include Sinclair (now Arco), Gulf, Texaco, British Petroleum, and Amoco, this year's supplier.

The savings which have resulted represent the economies of bulk purchases, the elimination of State gasoline taxes and the subtraction of the price component of profit.

A monthly average of 8,091 gallons of gasoline have been pumped at an approximate cost of $5,178 per month for the period, January through June.

The Architect has the responsibility for the purchase of the gasoline. His office distributes the cost to the accounts of the legislative branch. It is not a matter of bigwigs utilizing this service—it is merely a matter of providing gasoline to Government owned or operated motor vehicles at an economical price.

Since the taxpayers' moneys are exclusively used to purchase this fuel, I commend the Architect for acquiring it at a price substantially below that charged at area service stations.

While some would also decry "cutrate" gas being available for limousines, the truth of the matter is that 117 vehicles are fueled by the gas purchased. Of these, 30 are police vehicles, 80 are trucks, vans, and assorted maintenance vehicles and 7 are passenger cars. The latter are provided for the Offices of the Speaker, the majority and minority leaders, the Architect, the clerk, the doorkeeper, and sergeant at arms.

During its hearings this spring, the Subcommittee on Legislative Branch Appropriations examined the use of each of these vehicles. It concluded and the full committee agreed that some changes should be made concerning their availability and use.

I would like to inform the Members that initial modifications are included in the Legislative Branch Appropriations Act for fiscal year 1980 which will be brought to the floor later this month.

At a time when all are especially sensitive to excessive Government spending, I wanted to bring the facts of this matter to the attention of the House. I assure you that our subcommittee is monitoring this situation closely and will continue to do so.

I appreciate the support that the leadership has provided the Legislative Branch Appropriations Subcommittee in attempting to reduce the operating expenditures of the Congress. In the instance of fuel supplies, I commend the congressional system to other units of Government, many of whom are apparently fueling Government vehicles by issuing credit cards and purchasing gasoline at retail stations. The system employed by the Congress is not only cost-effective, but cost accountable. If most Government vehicles were fueled at Government owned and operated pumps, accountability would be improved—and—I am confident that Government would use less fuel at a lower price—thereby making more available for the motoring public and reducing taxes for the general public.

I regret that the story in mention—though generally accurate—through its headline and lead—tended to mislead and inflame an already distraught public. However, I imagine it is better than reading that congressionally owned or leased motor vehicles are purchasing gasoline without competitive bid and an inordinate amount of the vehicles are purchasing the gasoline at some local station thereby inferring a preference to one dealer or another. ●

BACKGROUND ON THE UPCOMING INTERIOR COMMITTEE BILLION DOLLAR BOONDOGGLE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. BROWN of California. Mr. Speaker, if the Rules Committee agrees to a request by the Committee on Interior and Insular Affairs, the full House will soon be faced with the unpleasant task of rejecting a very bad bill. I am referring to the bill H.R. 2609, a bill to more than double construction cost authorizations for title I of the Colorado River Basin Salinity Control Act. The main purpose of this legislation is to authorize construction of the largest desalting plant in the world at Yuma, Ariz., to protect the vested interests of fewer than 150 farms. The total bill to the taxpayers will be more than $1 billion, and under some estimates will reach $3 billion.

Mr. Speaker, there are important issues behind this bill which I have unsuccessfully tried to raise before the Interior Committee. Unfortunately, and in spite of efforts by a minority on the committee, pressures to approve this legislation, without even considering the cheaper alternatives, prevailed.

Mr. Speaker, while I hope the Rules Committee spares the House the trouble of considering this billion dollar boondoggle, I do want to share some brief news clippings which describe the matter.

The news items follow:

[From the San Bernardino (Calif.) Sun State, Jan. 18, 1979]

GAO IS CRITICAL OF COLORADO RIVER DESALINIZATION

(By Doug Underwood)

WASHINGTON.—The General Accounting Office has leveled a sweeping criticism of a proposal to build a $338 million desalinization plant on the Colorado River to meet treaty obligations with Mexico.

The GAO said the plant, which is now estimated to cost twice the $156 million Congress authorized in 1974, is far too costly and is unlikely to solve the problem of salt runoff into the Colorado anyway.

The report of the GAO, which is Cognress' auditing and investigative arm, has not yet been officially released. A draft copy has been circulating since last October.

The GAO estimated if the desalizination plant is built it will cost the United States $338 an acre foot of water to deliver 88,000 acre feet of water to Mexico annually. The GAO also cited a federal study which shows that, even with the plant, salt levels may be significantly higher than projected by the year 2000.

"The (proposed) salinity control program is very costly (and) will reduce salinity less than expected," the GAO said. ". . . The costs to desalinate water have risen to the point where alternatives should be considered."

The GOA recommended that Congress delay federal funding of salinity control projects on the Colorado and require the federal Bureau of Reclamation to work with the states in developing alternative plans.

It indicated BOR should look at such alternatives as diverting highly saline irrigation runoff, which presently flows into the Colorado, and use other federal water to augment the Colorado River flow.

The timing of the official release of the GAO report is considered sensitive. The Carter administration is presently deciding whether it will ask Congress for legislation boosting the authorization level of the desalizination plant to $338 million.

Officials in BOR are pushing for the desalizination plant, which would be built near Yuma, Ariz. But the Carter administration's Office of Management and Budget will have the final say over whether addition funds for the plant are included in Carter's 1980 budget.

Some legislators have begun to question the costs of the desalizination complex, which, according to the 1974 legislation, would also include 16 other saline control projects along the Colorado. "It's the quick, technological fix," said an aide to Rep. George Brown, D-Riverside. "But it's not cost-effective and it may not work."

The proposal to build the desalizination complex came in 1973 after the United States agreed to resolve the problem of increased salt water in the Colorado River that flows into Mexico.

A prime culprit in it has been the Wellton-Mohawk Irrigation District near Yuma. Instead of letting saline runoff from the Wellton-Mohawk flow directly into the Colorado, the United States is now diverting the salt water down a channel to the Gulf of California. But it is a costly process and requires the United States to use other federally stored Colorado River water to meet the U.S. treaty commitment.

The GOA said four of the additional 16 authorized saline control projects along the Colorado will cost $293 million while bringing benefits of only $167 million. The agency said planning for a number of the projects has run into technological difficulties.

Thus the GAO proposed study of different programs and the use of more efficient irrigation systems—to cut down saline runoff. In recent years, the saline content in the river has held steady.

One proposal to resolve the problem has been to shut down or buy out farmers in the Wellton-Mohawk. But the GAO indicated this alternative was politically unfeasible and would disrupt the lives of many farmers.

[From the Tucson (Ariz.) Daily Citizen, Feb. 8, 1979]

De-Salt Project May Mean Fortunes for 150 Southern Arizona Farmers

Washington.—There's a federal program called de-salt, not SALT, and it's not going to get the same headlines in Congress as the new SALT II treaty.

It's a story of a project that will cost U.S. taxpayers one-third of a billion dollars—and provide subsidies of about $2.25 million per farm for 150 farms in southern Arizona.

It was in 1973 that the U.S. government proposed a $156 million de-salting plant on the Colorado River as a way to resolve differences with Mexico. Mexico was unhappy with the salt content in the Colorado, which flows into Mexico.

The river grew salty because farmers in the U.S. irrigate highly salty land and pump the run-off back into the Colorado. While the problem existed for years, it dramatically increased when the Wellton-Mohawk irrigation district, near Yuma, Arizona, was developed by the federal Bureau of Reclamation in the early 1950s.

The 150 farms in the Wellton-Mohawk cultivate 62,000 acres of cotton, alfalfa, and other grain with Colorado River water. Their land is particularly high in salt—and the run-off substantially raised the salt level of the Colorado.

A U.S. commission appointed by President Nixon in 1972 looked at—and rejected as politically unwise—a proposal to buy out the farms causing the problem.

Instead Nixon guaranteed Mexico that the U.S. would improve the water. To do that, Nixon proposed a plant to de-salt the drainage water from the Wellton-Mohawk before it flowed back into the river.

Five years ago, when Congress authorized the project, the cost was estimated at $156 million. But since then the cost has escalated to $338 million—and it's expected to go higher than that.

When it approved the plant, Congress exempted it from the normal cost-benefit analysis which federal water projects undergo. And there was a reason. It would have failed the test.

If the $338 million project is ever built, it will amount, at present costs, to around $2.25 million for every farm in the Wellton-Mohawk. Even at a high price of $1,000 per acre, this is much higher than the $62 million it would cost the U.S. to buy out the farmers.

So isn't there anybody in the Carter Administration—which is supposedly committed to a new era of economical water projects—protesting the spending of $338 million to keep 150 farms in business?

First of all, the project has some loud boosters. Jim Ellingboe, the head of the bureau's planning section, stoutly maintains that the cost of buying out Wellton-Mohawk is greater than building the plant when all costs are added in. He says that other, older irrigation districts along the river are also adding to the salt in the river and it's unfair to single out Wellton-Mohawk as the only culprit.

He acknowledges the saline runoff from Wellton-Mohawk is unusually high. But he says that, unlike older projects, the Wellton-Mohawk's salt run-off has been collected at one point, and can be easily funneled to the de-salting plant.

There are some quiet protesters, though. One federal official working closely with the project called it one of the federal government's "biggest turkeys." An Arizona water official described the Wellton-Mohawk as one of the bureau's most poorly conceived irrigation projects.

And Congress' General Accounting Office, in a draft report which has been circulating since October, but remains unpublished, lambasted the desalting plant as economically, and perhaps technologically, unfeasible.

These protests apparently haven't been heard because the Carter Administration doesn't want to offend the Mexican government. And President Carter certainly doesn't want it to be a topic during his visit to Mexico next week.

State Department officials acknowledge there is nothing in the U.S.'s 1973 agreement with Mexico that states a desalting plant must be the means to improve the quality of Colorado River water.

But the State Department's T.R. Martin said, "If suddenly the desalting plant was abandoned—and I was a Mexican—I would want to know how the U.S. planned to fulfill the agreement."

In his 1980 budget, Carter took the first step to get the project off the ground. He proposed that $38 million be spent on the plant, the bulk of which will go for production of the desalting membranes that filter the water.

However, with the escalated cost, the administration will probably have to ask Congress for a reauthorization of the project. And some congressmen—like Rep. George Brown, D-Calif.—have complained that they don't want to see the project begun until Congress has a chance to debate its new cost.

At present, the U.S. is keeping saline run-off from the Wellton-Mohawk out of the Colorado by diverting it down a channel directly into the Gulf of Caliornia. The GAO concluded this arrangement could be made permanent.

But, without the return flow from the Wellton-Mohawk, it would cost Arizona roughly 200,000 of the 2.8 million acre feet of Colorado River water the U.S. Supreme Court allotted Arizona annually. And when the Central Arizona Project is finished in 1986, Arizona officials feel they will need every drop of their allotment.

A few years ago, Sen. Edward Kennedy, D-Mass., proposed buying out Wellton-Mohawk farmers as a method to provide more Colorado River water to settle Arizona's Indian water disputes. But the idea never went anywhere.

The attitude of Weltlon-Mohawk farmers and Arizona officials is this; It's the U.S. government's problem that Mexico is upset with the salt in the Colorado. Therefore, all U.S. taxpayers should foot the bill to keep them in business.

Critics call the de-salting plant a "quick, technological fix" that may not work, as an aide to Brown put it. And they say that other methods—such as water conservation, improved irrigation techniques, and the abandoning of farm land in arid regions—may be a better solution.

But the plant's supporters feel that growth in the Colorado River basin is inevitable and, as more and more Colorado River water is used, the salt problem is going to get worse.

"After all, how would you put a (cost) benefit on . . . an agreement with a foreign country," Ellingboe said.

[From the San Bernardino (Calif.) Sun, Mar. 21, 1979]

River Desalting Plan a "Boondoggle"—Representative Brown

(By Doug Underwood)

Washington.—Rep. George Brown, D-Riverside, called a Carter administration proposal to build a massive complex a "boondoggle" Tuesday and asked a House subcommittee to look at other alternatives to reduce salt levels in the Colorado River.

Brown, who is waging a one-man campaign against the plant, was opposed by officials of the Carter administration who argued that the plant is necessary to meet treaty obligations with Mexico.

Brown told the House Water and Power subcommittee Tuesday that the plant could eventually cost as much as $1 billion. He said Congress should, instead, consider buying out the 150 farmers in Arizona's Wellton-Mohawk district who are the principle reasons the Colorado has grown more salty.

The subcommitte is considering an administration-proposed bill to raise the funding ceiling on the plant from $61 million to $178 million—and raise the cost of the entire Colorado River desalting program from $155 to $333 million.

Brown called the plant, which will be built near Yuma, Ariz., a "technical fix" that is a "symbol of wrong-headed water policies that will bankrupt this nation . . . I have never heard more people call an already-authorized project a "turkey."

Guy Martin, assistant Interior Secretary for Water Resources, told the subcommittee that the administration still feels the desalting plant is the best option for improving the water quality in the Colorado. He said a study committee is looking at other, less expensive options, but the administration still wants the funding ceiling raised.

The administration asked Congress this year for funds to begin construction of the plant. The project, which was approved by Congress in 1974, was proposed by the Nixon administration as a method to satisfy Mexican concerns with salt levels in the Colorado, which flows into Mexico.

The salt content rose in the Colorado after the federal Bureau of Reclamation developed the Wellton-Mohawk project in the early 1950s. The 150 Wellton-Mohawk farmers, who farm more than 60,000 acres of alfalfa, cotton, citrus, and other crops, irrigate with Colorado River water.

But the land they farm is highly salty and, when their irrigation run-off flowed back into the Colorado, it raised the river's salt level.

The U.S. is presently holding down salt levels in the Colorado by sending Wellton-Mohawk drainage directly to the Gulf of California. But this wastes a great deal of Colorado River water, for which there is expected to be a great need in the future.

Brown argued that if the federal government bought Wellton-Mohawk farmers out at a cost of $2,000 per acre, it would cost only $124 million—compared to the higher cost for the plant.

But Brown also called this a "phony choice" and said the Interior Department hadn't seriously considered other alternatives—such as reducing the volume of return flows from the district, farming crops more compatible with the desert, and taking lands out of production.

State Department and Arizona water officials also testified in favor of the plant. Proponents of the plant argue that other Colorado River irrigation districts also add to the salt in the Colorado and Wellton-Mohawk farmers shouldn't be singled out for blame.

They say the treaty obligations with Mexico and the salt levels in the Colorado are national problems—and all taxpayers should bear the cost of resolving them.

[From the Los Angeles Times, May 8, 1979]

REPRESENTATIVE BROWN CALLS COLORADO RIVER DESALTING PLANT "BOONDOGGLE," FIGHTS TO HALT PROJECT

(By Ellen Hume)

WASHINGTON.—Calling the project a $1 billion "boondoggle," Rep. George E. Brown Jr. (D-Calif.) is fighting to halt development of the world's largest desalting plant near Yuma, Ariz.

The federally funded project was authorized in 1974, without a cost-benefit analysis, to settle a century of controversy with Mexico over salt-polluted water flowing from Arizona's reclaimed farmlands through the Colorado River to Mexico.

Construction cost estimates for the project have escalated from $150 million to $333 million, requiring the Carter Administration to seek a new funding authorization from the House Interior Committee. Brown, who estimates that operating costs would bring the total project cost to $1 billion, hopes to stall the project in the committee with the help of fellow California Democrats Phillip Burton and George Miller. A committee vote is expected Wednesday.

Brown will be armed with a May 4 General Accounting Office report that recommends a temporary moratorium on funding the plant's construction until the Bureau of Reclamation "has reevaluated its feasibility and considered other viable and/or less costly alternatives."

Arizona, California and other neighboring states are in favor of the huge plant because they do not like the alternatives—diverting more Colorado River water to meet the Mexico salinity standards or reducing the use of reclaimed farmlands. Irrigating such lands is the principal cause of the salt pollution.

"The plant is being built to keep fewer than 150 farms and 65,000 acres of land in production in southwest Arizona," Brown complained in March at an Interior Committee hearing. He was referring to the Wellton-Mohawk irrigation district near Yuma, which is considered to be the most important contributor of salt pollution to the river waters flowing into Mexico.

Interior Secretary Cecil D. Andrus has conceded that it would cost $1 million more a year to build and operate the desalting plant for its expected 50-year life than it would to buy out the Wellton-Mohawk water district and impose irrigation restrictions.

But Andrus, who estimates that the desalting project will cost "only a little over one-half of $1 billion," has decided that social, political and other factors are more important.

"A cost-benefit analysis has never been applied to this program, nor do we believe it should be," Andrus wrote Brown on March 16. "The decision to proceed with this project was based on environmental, social and economic considerations, but principally on the desire to maintain the international comity between two nations, with the costs to be borne by the entire nation rather than by the Colorado River Basin states."

Andrus argued last September that buying out the Wellton-Mohawk irrigation district would have "severe environmental socioeconomical and political impacts" on 9,000 persons living and working in the Yuma area.

In addition to bucking the Carter Administration's support for the project, Brown faces an uphill battle Wednesday in the Interior Committee because the project is in Arizona home state of the committee's chairman, Democrat Rep. Morris K. Udall, House Republican Leader John J. Rhodes and Republican Sen. Barry Goldwater, all of whom favor the plant.●

IMPORTANCE OF ADEN

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. FINDLEY. Mr. Speaker, for a long time now I have urged the Carter administration just as I urged the Ford administration to establish diplomatic relations with South Yemen. My interest in the United States taking this step does not stem from any sense of approval for the regime in South Yemen. Indeed, I do not consider diplomatic relations to be a function of approval but merely a facilitator of communication. And communication even with unfriendly governments or regimes we do not admire is a useful tool.

It is particularly critical for the United States to take some sort of an initiative vis-a-vis South Yemen at this time. Soviet influence in Aden is already very strong. Lest that influence become a stranglehold, we should act quickly to provide an alternative to the U.S.S.R. for Aden. This is extremely important because of the geostrategic location of South Yemen. For example, when I have visited South Yemen twice in the past, the Government strongly asserted that it had not and that it had no intention of providing the U.S.S.R. with a military base in Aden. But the Soviets have long pressed Aden for a base there. I note that in one of the articles that I am placing in the RECORD today there is a description of a Soviet naval exercise in Aden. This should be of great concern to all of us. However, the very interesting profile of South Yemen by Marvine Howe for the New York Times comments that the South Yemenis see flaws in their relationship with the Soviet Union and prefer economic ties with the West. I see this as an indication that Aden might well be receptive to diplomatic relations and increased contacts with the West.

I believe that the United States should stimulate an alternative to the U.S.S.R. by opening diplomatic relations with South Yemen and by encouraging trade between this Nation and the West. Even should diplomatic ties initially not produce a warming of relations, we would have more to work with than we do now when there is absolutely no communication between our Government and that in Aden and when trade possibilities are dim because of the lack of formal ties.

I have had direct confirmation from officials that South Yemen will open the door if the U.S. State Department will send a team for the purpose of discussing the possibility of normal relations.

The article follows:

[From the New York Times, May 31, 1979]

SOUTHERN YEMEN BLENDS MARXISM WITH ISLAM AND ARAB NATIONALISM

(By Marvine Howe)

ADEN, SOUTHERN YEMEN, May 20.—Nowhere else in the Arab world has the Soviet bloc penetrated so thoroughly into almost every domain, from politics and national security to education and economic development, as it has in Southern Yemen.

But the People's Democratic Republic of Yemen, as it formally calls itself, is not a member of the Warsaw Pact military alliance nor of the Comecon economic association. And Aden has apparently not allowed the Soviet Union to establish military bases on Yemeni territory.

The leaders of Southern Yemen are striving to do what no other Arab country has done: reconcile Marxism with militant Arab nationalism based on Islam.

A two-week visit to Southern Yemen and many conversations with officials of the ruling Yemeni Socialist Party, ordinary citizens and other Arabs here as well as various foreign observers, indicate that in Southern Yemen, Arab Islamic nationalism is stronger than loyalty to the Soviet bloc, at least for now.

It is not certain what direction the country will take when the younger generation is thoroughly indoctrinated in Marxism.

RELATIONS WITH CHINA COOL

On the surface, Southern Yemen appears to be dominated by the Soviet bloc.

Russians trained and equipped the armed forces, drafted the five-year economic plan, provided the most foreign aid and are active in agricultural development and geological exploration. East Germans run the internal security services and the Ministry of Education. Cubans trained the militia forces and are involved in health care and agriculture.

While China has been a major donor, building roads and setting up factories and a hospital, relations are increasingly cool because of the strong Soviet presence.

The Yemeni Socialist Party was set up last October on the Soviet party model, proclaiming objectives of "proletarian dictatorship and people's democracy."

Abdel Fattah Ismail is Secretary General of the party, heading a 51-member Central Committee and a nine-member Political Bureau. He is also chairman of the Presidium of the Supreme People's Council, making him chief of state.

Mr. Ismail, the 41year-old former head of the National Liberation Front, gained control after a long power struggle with his predecessor, Salem Robaye Ali.

Mr. Robaye Ali sought reconciliation with conservative Arabs, particularly Saudi Arabia, and also favored renewed contacts with the United States while, at the same time, maintaining good relations with the Soviet Union and China.

Mr. Ismail overthrew the President last June and ordered him executed for a "reactionary attitude."

The new pro-Soviet leadership has maintained a certain degree of independence.

"We didn't get rid of the British to give the port of Aden to anyone else," a senior official remarked, denying recurrent reports of Soviet military bases here.

Western diplomats in Aden tend to discount such reports, saying that the Russians are given refueling facilities for ships at the port of Aden but no more. Of two places regarded as possible Soviet bases, Perim Island and Socotra Island, it is pointed out that there is no fresh water on the first and that Canadians were exploring for oil on the second.

ISSUE OF UNIFYING YEMENS

The principal area of discord between Moscow and the leadership here is the issue of reunification of Southern Yemen with the pro-Western nation of Yemen, to the north. President Ismail is a nationalist first and, according to his associates, "obsessed" with the idea of Yemeni unitv.

The Soviet Union is said to have opposed Southern Yemen's border war with Yemen last winter because it feared Aden might lose, which would have meant an end to its own privileged position here. Although Southern Yemen's forces are better organized and equipped, the United States and Saudi Arabia showed they were ready to give Yemen strong support in a confrontation with its Marxist neighbor.

Moreover, impoverished Southern Yemen, with a population under two million, is simply no fighting match for Yemen with its seven million people.

Arab nations, above all Iraq and Kuwait, arranged a halt to the fighting and promoted the unity talks that are now taking place. Formerly an outcast in Arab circles because of its avowed Communism, Southern Yemen has been taken back into the fold since the realignment of most Arab nations against Egypt's separate peace treaty with Israel.

CONSOLIDATING ARAB TIES

The Marxist leadership here, aware of its minority position in the country and not altogether satisfied with its Soviet bloc relations, seems to be seeking to consolidate its Arab ties. A few days ago, Aden was host for a meeting of the Arab People's Congress, which opposes the Egyptian-Israeli treaty. Mr. Ismail pledged that Southern Yemen would reinforce its role in "the progressive Arab national struggle."

The Soviet Union, which gave Southern Yemen $65.5 million in investment aid in 1977, not including military assistance, appears reluctant to take on a continued financial burden and is said to be encouraging the Yemenis to look to their fellow Arabs for more help. Kuwait and Libya in particular are said to be increasing their financial assistance to Southern Yemen and to be gaining influence.

There is also said to be a new receptivity to United Nations aid programs as well as to Western investment. The World Bank is engaged in a $38 million program for port, education and agricultural development and has just arranged a $4 million project for the construction of three vocational schools.

Despite agreements for economic cooperation with the Soviet bloc, Southern Yemen still prefers to trade wtih the nations of the West and with Japan. Britain is said to be the main supplier, with its exports last year reaching about $60 million, overtaking Japan, which was in first place the year before.

Although Yemini officials do not say so publicly, there is growing disenchantment with Soviet aid. Among the complaints are that much of the aid goes to Soviet experts, that the Russians sometimes take twice as long as West Europeans to finish a project, that their medical practices are not so good as those of Cubans and Hungarians, for example, and that Soviet tractors or pumps often are idle because spare parts are unavailable.

Moreover, the Russians are not popular here, according to Yemini and foreign sources.●

STATEMENT OF REPRESENTATIVE J. J. PICKLE ON INTERPARLIAMENTARY UNION CONFERENCE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● **Mr. DERWINSKI.** Mr. Speaker, last Thursday, May 31, I sponsored a special order for the Members of the House who participated in the spring Interparliamentary Union Conference, held in Prague, Czechoslovakia, so that they might report on their experiences and activities while attending the meetings.

One of our distiguished colleagues, J. J. "JAKE" PICKLE, was a member of the U.S. delegation who brought much expertise and knowledge, and was a very effective participant. I insert his very fine remarks at this point:

REMARKS OF CONGRESSMAN J. J. "JAKE" PICKLE

Mr. Speaker, it was my privilege to serve on the Committee on Parliamentary, Judicial, and Human Rights Questions at the Inter-Parliamentary Union meeting in Prague, Czechoslovakia, last month. Our Committee met on four different days, either in making a presentation of matters affecting our particular Committee or in the drafting of the resolutions resulting from our considerations. Although I made the opening statement of the United States to this particular Committee, I also attended the sessions of the Drafting Committee, ably represented by the Honorable Caldwell Butler of Virginia. The United States allowed and accepted a great deal of latitude on the views of all the nations, particularly the smaller nations who had not made contributions over the years to the space program, but who felt that they should have an equal voice in the overall deliberations. All of the sessions were interesting, informative, and cooperative, and I believe the Committee left the framework that will lead to final and satisfactory conclusion at the Caracas, Venezuela, meeting this fall.

The United States was not able to win all of its points, as far as I am concerned, but there was a great deal of give and take. The original resolution was broad enough that I thought it could satisfy all the nations. In two instances, however, this did not prove to be so. I submit the Draft Resolution for the Members to see what specific wording was achieved, and it is as follows:

THE LEGISLATIVE ASPECTS OF SPACE LAW

Draft resolution adopted by the Committee on Parliamentary, Juridical and Human Rights Questions unanimously with two abstentions

Recalling the resolution on space law unanimously adopted by the 52nd Inter-Parliamentary Conference at Belgrade in 1963,

Believing that outer space is the common heritage of all nations and of all peoples in the world community and that only the exploration and peaceful exploitation and use of the resources of outer space can improve the quality of life of all peoples and all nations of the world,

Noting with satisfaction the orderly development of space law through the achievements of the United Nations, and the work of the United Nations Committee on the Peaceful Uses of Outer Space.

Recalling its attachment to the legal principles established by the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies, the 1968 Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched in Outer Space, the 1972 Convention on International Liability for Damage Caused by Space Objects, and the 1975 Convention on the Registration of Objects Launched into Outer Space,

Considering that the spectacular progress of space technology and the increased use of outer space require the elaboration, by means of agreement, of equitable, rational and clearly established legal regulations, and of procedures which effectively ensure respect for them,

Convinced that it is the common interest of mankind to promote the peaceful use of outer space and to advance international co-operation in the space field, for the benefit of all and with due respect for the security and sovereignty of all States,

1. Reaffirms its commitment to the principles of space law and expresses the hope that all States will respect these principles in the exploration and use of space;

2. Invites the National Groups to take action within their respective Parliaments so that the latter continue their efforts with a view to the study and elaboration of legal standards permitting the peaceful use of space, in harmony with the aims and principles contained in the treaties negotiated within the framework of the United Nations, for the benefit of all peoples of the world;

3. Calls on the national Parliaments to use their influence with their respective Governments so that they participate actively in the work of the United Nations Committee on the Peaceful Uses of Outer Space in order to enable it to make proposals with a view to achieving the conclusion of international agreements which:

(a) Complete the draft treaty relating to the moon which should provide that its natural resources be considered the common heritage of mankind and that the benefits derived from those resources be shared equitably by All;

(b) Complete the Committee's efforts to elaborate draft principles governing the use by States of artificial earth satellites for direct television broadcasting, based upon appropriate agreements and/or arrangements between the broadcasting and receiving States (or broadcasting entities duly authorized by the respective States);

(c) Complete the Committee's efforts to elaborate draft principles relating to the legal implications of remote sensing of the earth from space, so that all States have non-discriminatory access to data acquired by remote sensing satellites, without adversely affecting the interests of the countries observed;

(d) Take account of the legal aspects of the use of nuclear power sources in outer space;

(e) Seek to delimit precisely the point at which outer space begins;

(f) Regulate the use of the geostationary orbit, taking into account the interests of all countries, particularly the equatorial countries;

4. Supports the efforts made by the entire international community to promote international co-operation in the peaceful use of outer space, and urges Parliaments and Governments to speed up the negotiations now under way at the United Nations on outer space questions with a view to elaborating norms in conformity with the fundamental principles of inter-State relations, and procedures which effectively ensure respect for them;

5. Urges Parliaments and Governments to devote the necessary attention to the need for the widest possible application of the present international treaties adopted within the framework of the United Nations in the field of space law, and calls on all States which have not yet become parties to those treaties to ratify them or accede to them.

I have a special difficulty in fully accepting the exact wording of Number 3(b) and (f), this section pertaining to the use of artificial earth satellites for direct television broadcasting and the use of the geostationary orbit, particularly with reference to the equatorial countries. In both of these instances it seems to me that if we are to have free and open use of the space and it is to be shared by all nations, whether they have contributed to he space program or not, we cannot give a specific reservation for the countries around the Equator any more than we can give a special exemption for those countries who choose no to allow free broadcast or those who would allow free broadcast. I simply don't think the nations can reserve unto themselves certain exceptions but take advantage of all the other provisions of a free and open space utilization. I would hope that we can be more consistent in our conclusions in the fall meeting.

Overall, the visit to Prague, Czechoslovakia, was a stimulating experience. It was the first time I had visited a nation behind the Iron Curtain. I was a bit disappointed to see that the Czechoslovakian government did not correspond to our government. I recognize, however, that Czechoslovakia has a right to choose their own form of government and presumably they have done that, openly and freely. Quite naturally, I would hope that Czechoslovakia would someday become a true democracy, as it was in the days of the Honorable Jan Masaryk and before. I realize, however, it is not for me to tell the Czechoslovakian people what they should do or how they should run their government. The visit was very helpful, though, and gave me a much better understanding of the problems facing the Czech people.

I have probably the largest Czech constituency of any Congressional District in the United States. At least it is sizeable, and I am extremely proud of the people who came from Bohemia and Moravia, primarily, to settle in this country. In my District there is a Praha, Texas, which is a very small farming community, and which was one of the first Czech settlements in the United States. Many of the families that live in Praha and the surrounding area are direct descendants of the original Czech settlers who came to Texas in the mid-1800's.

The Praha church, St. Mary's Church, was constructed not long after these families came to Praha, and it is one of the most beautiful cathedrals in the Central Texas area. It is here that these people celebrate Veterans Day, the Sunday before our traditional Armistice Day, and thousands of people turn out each year to pay their respects to those people who have given the supreme sacrifice for their country. I have visited Praha dozens of times and come away each time with a new spirit about our democracy and about these good people. They are proud of their Czech heritage, and we can be proud of their accomplishments and contributions.

Father Marcus Valenta and Father Anthony Matula of Praha made it possible for me to make a presentation of an altar cloth to Cardinal Tomascek while I was in Czechoslovakia, where we returned the altar cloth which had been brought over from the old country with the original settlers to the United States. Here again I was quite disappointed to see that there was such a deemphasis on religion that it is practically nonexistent. At least we were told that no one could work for the State very prominently and have very much "religion." I hope that is not saying it too bluntly, but we were given that impression over and over again, although we did attend an Easter service at St. James Church and the church was full on that occasion.

I am hopeful that we can have a continuation of contacts with Czechoslovakia. In many respects it was the cradle of strong and great governments centuries ago, and I hope we can see the day when Czechoslovakia will be completely free of Russian troops and any domination that they might extend over the Czech people. I do not charge that that is so today, but we are quite naturally concerned that 80,000 Russian troops would remain in the outskirts of Prague. At the same time, I am hopeful that we can restore better trade relations with Czechoslovakia. It seems to me that if we can extend Most Favored Nation treatment to Romania and Hungary and now to China, we ought to give this same consideration to Czechoslovakia. However, I realize that an old settlement must be made before we can take that step, and I hope our two nations can resolve this difference soon.●

HOUSING AUTHORIZATION BILL

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 1979

● Mr. McKINNEY. Mr. Speaker, during this afternoon's discussion of amendments to H.R. 3875, the housing authorization bill, I objected strongly to action taken by the Secretary of Housing and Urban Development. The Committee on Banking, Finance and Urban Affairs reported H.R. 3875 on May 10 and within the time period to implement the deferral procedures of the legislative review process. In spite of explicit disapproval of HUD's proposed regulations on thermal requirements for FHA minimum property standards which the Housing Subcommittee passed on a vote of 22 to 6 and which the full Banking Committee specifically cited in the committee report, the Secretary disregarded our actions which would have deferred these regulations for a 90-day period.

I am upset at the Secretary's decision both as a misinterpretation of congressional intent and on the substance of the regulations. Our purpose in disapproving these regulations was to allow the completion of cost-benefit analyses of the impact on masonry construction of increased thermal efficiency construction standards being done for the Department of Energy and the Farmers Home Administration. For a more complete description of our intention I call attention to page 27 of the committee report.

As further evidence of our concern with the Secretary's action I am including in this extension of my earlier remarks a letter sent to the Secretary signed by myself and 14 of my colleagues on the Banking Committee. Also, I would like to have printed an article which appeared in the Legal Times concerning HUD's disregard for Congress:

WASHINGTON, D.C.,
May 30, 1979.

Hon. PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR MADAM SECRETARY: We have reviewed your letter of May 18, 1979, with regard to the Committee's action on the Thermal Requirements for the FHA Minimum Property Standards. It appears that there is some misunderstanding on the part of the Department about the Committee's action.

As your letter states, "Revision No. 6A, Increases in Thermal Requirements for the FHA Minimum Property Standards" was published on April 16, 1979, with an effective date of May 16, 1979. Section 7(o) of the Department of Housing and Urban Development Act of 1965 provides, however, that no rule or regulation can take effect for 20 days of continuous session of Congress after final publication. Since the Congress was in recess between April 10 and April 23, the 20-day period did not expire until May 12, 1979.

Section 7(o) also provides that if within those 20 days the Committee *reports out* a resolution or other legislation disapproving or invalidating any part of a rule, that part of the rule cannot go into effect for 90 days, unless the full House rejects the resolution prior to the expiration of the 90 days. Your letter asserts that such a resolution or other legislation must be "reported to" the House within the 20-day period in order to be effective. Such an assertion is incorrect.

The question of whether, in this case, the Committee reported out the resolution within the 20-day period is not open to debate. The motion of Chairman Ashley, on May 10, 1979 was to "report" H.R. 3875 as amended. After the vote, Chairman Reuss stated, "So the motion is agreed to. The bill is *reported* out." (Emphasis added.) Again, the report on H.R. 3875 (House Report No. 96-154) makes it quite clear, the Committee reported out the resolution as a part of H.R. 3875 on May 10, 1979, two days before the 20-day period expired. In our view, there is no ambiguity on this point. The Committee action on May 10, 1979, was an action which reported out the bill and as such it was an action which satisfies the requirement of section 7(o). We would therefore expect the Department to delay implementation of the part of the rule cited in H.R. 3875 for the 90-day period in compliance with the requirements of section 7(o).

We trust that this letter clears up any misunderstanding the Department may have with regard to the Committee's action.

Sincerely,

Les AuCoin, Don Ritter, Ed Bethune, Jim Hanley, Bill Stanton, Stewart McKinney, Wes Watkins, Henry B. Gonzalez, Jim Mattox, Bill Green, Doug Barnard, Chalmers Wylie, Carroll Campbell, Tom Evans, and Steve Neal.

HARRIS SNUBS CONGRESSIONAL ORDER TO DELAY HOUSING REGULATIONS

(By Ilene Ringel)

The House of Representatives is expected to take revenue on HUD this week for what has been interpreted "as a slap in the face of Congress" when members consider HUD's fiscal 1980 authorization bill. The slap occurred last month when HUD Secretary Patricia Harris decided to change the rules governing legislative reviews of its actions and ignore a congressional order to delay the effective date of insulation regulations.

Harris' actions came after the House Committee on Banking, Finance and Urban Affairs voted 22-6 to delay the effective date of masonry provisions of interim regulations revising the thermal requirements of the Federal Housing Administration minimum property standards for single family construction.

This marked the first time that a congressional housing committee acted to trigger the deferral procedure of the legislative review process.

Under the legislative review procedure which became effective last Oct. 31 (Section 324 of P.L. 95-557, Housing and Community Development Act of 1978), no HUD rules can become effective until 20 days after they are published as final. During that 20-day period, if either the House or Senate housing committee determine that they "violate the intent of Congress," the body can defer effective date of the regulation for 90 days.

The review procedure was adopted as a compromise to a legislative veto when former Rep. Garry Brown (R-Mich.) and others became angered by what they considered to be HUD attempts to thwart the congressional intent of the Community Development Act. HUD has been far from happy with the legislative review process and has sought to have the delay provision deleted from the pending authorization bills. The Senate has included the deletion sought by HUD in its bill.

NO ANALYSIS

The House housing committee decided to disapprove HUD's regulations because HUD had not conducted a cost-benefit analysis of the impact of the regulations on the masonry industry. The same regulations would apply to both frame and masonry structures.

Although HUD authorized such a study, it will not be available until two months after the May 16 effective date of the regulations.

The housing committee voted to delay that effective date so that HUD can reconsider its regulations in light of the forthcoming data.

But in a May 18 letter to the housing committee, Secretary Harris indicated that HUD would not recognize the vote. The regulations are now in effect, she stated.

"Legislation to disapprove all or a portion of this regulation was not reported to either the House of Representatives or the Senate prior to the expiration of 20 calendar days of continuous session of Congress following publication," she said.

Hill staffers said that Harris has rewritten the language of the legislative review procedure to require filing of the deferral motion by the committee within 20 days. But, they noted, the statute states that the bill must be reported out within 20 days. The 20-day period ended on May 12, one staff member said. "We reported out the bill on May 10 and filed it on May 15."

A spokesman for Rep. Stewart McKinney (R-Conn.), one of the leading advocates of the deferral action, said Harris' response "borders on the contemptuous toward the intent of Congress." He said McKinney interpreted the move as "a slap at the committee which has worked so hard to cooperate with the department." McKinney's aide said there is a consensus that an amendment be offered on the floor to strike HUD's regulations on insulation.

Rep. Richard Kelly (R-Fla.), who initiated the deferral action, told Legal Times that HUD's action is educating Congress "to the danger and arrogance of a bureaucratic agency. All they care about is bureaucratic power."

Committee staff also expected that amendments would be introduced soon to strengthen Congress' power over HUD. Although the chances of a legislative veto provision are seen as virtually nil, staffers expect that such an amendment will be introduced; cuts in appropriations are also anticipated. As one staff member put it, "HUD has poisoned the well and has to learn that it will have to drink from it."

TECHNICAL ISSUE?

During the authorization debate, the full House could take action to override the committee's decision to defer the effective date of the regulations. But that action is seen as remote. Six committee members—including Committee Chairman Henry Reuss (D-Wis.) and Housing Subcommittee Chairman Thomas Ashley (D-Ohio)—voted against deferring the regulations because they thought the problem was a mere technical issue. But after Harris' letter, no one will support her, staffers said.

Even if Congress takes no direct action against HUD in this matter, the issue is expected to receive public airing. Members of the masonry industry are expected to seek an injunction blocking the regulations.

In a related matter, the House housing committee is inquiring into the "wide variety of types of rule making activities at HUD." In a committee report accompanying the authorization bill, members noted that HUD issued final rules, interim rules, notices, procedures, guidelines, handbooks, notices of policy clarification, and numerous other forms of regulations.

The committee is concerned about the format under which a rule is issued, because it affects applicability of the legislative review procedure as well as the public's ability to comment upon substantive policy determinations.

The committee said that "in some cases, published regulations have done nothing but restate legislative language; crucial departmental procedures for implementing these laws have been relegated to handbooks or guidelines which are not subjected to the healthy and necessary public comment process." The committee called upon Harris to "take immediate steps to bring greater rationality to the process and to assure that the public's rights are preserved."

Earlier this year, the committee had been concerned that HUD had been deliberately attempting to circumvent review by issuing regulations as guidelines and handbooks. (See Legal Times, March 19, 1979, p. 5.) But staff members now are satisfied that the lack of uniform criteria for determining the form of regulations—plus a history of "handbook" regulations—is at fault, not a deliberate attempt to evade review.●

TAPS FOR THE TAXPAYER

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, June 7, 1979

● Mr. HARRY F. BYRD, JR. Mr. President, I ask to print in the Extensions of Remarks an editorial from the Norfolk Virginian-Pilot of June 1, captioned "Taps for the Taxpayer." The editor of the Virginian-Pilot is J. Harvie Wilkinson III.

The editorial follows:

TAPS FOR THE TAXPAYER

It's just been made official. The overhaul of the carrier Saratoga will go to Philadelphia.

The Saratoga job—together with three other carrier overhauls—would have employed 2,600 persons in Newport News during the next decade. Philadelphia now gets those extra jobs. That's regrettable, but not paramount. Virginians are not yapping for a piece of federal pork.

The Saratoga decision was crass-politics. It was made to redeem an eleventh-hour campaign promise to Philadelphians by Vice President Walter Mondale. The whole purpose of special-interest politics is to quietly please the particular recipient without upsetting the general public. The Carter administration knew Philadelphians would smile, while the rest of America wouldn't know or care.

Well, we at least both know and care. And we think the rest of America would too, if it knew what was happening. Chief of Naval Operations Admiral Thomas B. Hayward argued that "since two-thirds of all Atlantic Fleet carriers are already homeported in Norfolk, far less turbulence to our people will result from a decision favorable to Newport News." A neutral General Accounting Office study estimated Newport News could perform the overhaul for $80 million less than the Philadelphia yard.

Those who think $80 million is peanuts should have heard Senator Harry Byrd May 3 on the floor of the Senate:

"Let us take the $80 million figure, which is used in both the Navy report and the GAO report. If we take the $80 million figure, it means that the additional funds required to perform the work at Philadelphia would consume the total income taxes paid by 64,000 American families with a taxable income of $15,000 a year.

"* * * I do not think Congress should overlook that. These families in the $15,000 bracket are among those who are being greatly hurt by the inflation we have today, and these families should be given great attention by Congress.

"I say again that it takes the total income taxes paid by 64,000 families to make up the difference in cost between doing the work at the shipyard in Virginia as compared to doing the work in the shipyard at Philadelphia."

Senator Byrd, if anything, underestimated the government's robbery. Saratoga is but the first of four carriers scheduled to go to Philadelphia under an overhaul program designed to add five years to the normal 30-year life of our carriers. Sending the Saratoga to Philadelphia builds the work force there. Once that work force is in place, no administration would dare offend Pennsylvania by sending the next three overhauls elsewhere.

Where the politics of planned inefficiency will lead us, heaven only knows. But the next time Mr. Carter starts to preach economy, please remember Saratoga.●

FEDERAL ENERGY MEDDLING

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. PAUL. Mr. Speaker, recently the House of Representatives defeated gasoline rationing, but instituted standby Federal temperature controls.

Rationing has never worked in all of recorded history, since it is only a prelude to the black market. Imagine putting the distribution of gasoline into the hands of the people who run Amtrak.

Only the pricing system allows the fair allocation of scarce resources in an efficient manner, and only pricing—rather than bureaucratic rationing—calls forth greater investment to enlarge the supply.

In energy, as in so much of our economy, government overregulations, overinflation, and overtaxation have damaged the marketplace. The results are the lines we are beginning to see formed, which always indicate a severely distorted market.

Rationing would destroy the market; the House had enough good sense not to take this step.

But, with the aid of a slippery parliamentary maneuver, the House did OK standby temperature controls, without a recorded vote or even a debate. The Department of Energy will be able to order all nonresidential buildings to set their thermostats at 80° in the summer and 65° in the winter. What would this do to grocery stores, for example? Or to sealed buildings not designed to run at these temperatures? Or to sensitive computer installations?

We live in an age when we are told to lower our expectations, drive smaller cars, have cold homes in the winter and sweltering ones in the summer, and decrease our standard of living.

We would need to do none of this, if we allowed the miracle of the market, instead of the dead hand of government, to direct our economy.

By what moral or Constitutional right does Congress presume to tell Americans how to set their thermostats?

The Government is not controlling temperatures; in the final analysis, it is controlling people and their lives.

People's lives and property should not be in the control of the Government planners, but in their own hands.

This is the American way; this is the moral way; happily, it is also the economically efficient way.●

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[1] Live pair.

CARTER EDUCATION DEPARTMENT IS BAD EDUCATION POLICY AND POLITICAL PAYOFF

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. SHUSTER. Mr. Speaker, President Carter's proposal to create the 13th Cabinet Department, H.R. 2444 which would establish a Department of Education not only is bad education policy, it also is bad Government management policy. It would eliminate diversity of educational choice at the local level, and it would establish a Cabinet level bureaucracy larger than the current Departments of Commerce, HUD, Interior, Justice, and State.

Never before has the Federal Government deemed education to be primarily a Federal responsibility. Education always has been a responsibility of the States, a wholesome tradition which should be continued.

President Carter's proposal is nothing more than a blatant political payoff in exchange for the endorsement of his candidacy in 1976 by the Washington education lobby.

The Republican Party Committee, which I chair, has gone on record overwhelmingly in opposition to passage of this politically endorsed, costly Presidential payoff. If Members of this House permit President Carter to cater and cave in to these powerful lobbies, they will commit an injustice to a whole generation of Americans who believe that education should be controlled at the local level, and that Washington should exercise less power over their lives, not more.

At this point I insert into the RECORD the complete text of the Republican Policy Committee, statement opposing H.R. 2444:

POLICY COMMITTEE URGES DEFEAT OF CARTER'S PROPOSED CABINET LEVEL DEPARTMENT OF EDUCATION

The Republican Policy Committee went on record today overwhelmingly in opposition to President Carter's proposed Department of Education. In a formal policy statement Committee Members urged rejection of the Cabinet level department because "creation of a Department of Education would eliminate two great strengths of American education—diversity of choice at the local level which has fostered the intellectual vitality of our system and permits parents and students the wide spectrum of choice in determining what type of schools are best for them, as well as the opportunity to affect those choices at the local level."

H.R. 2444 upgrades the Department of HEW's Office of Education to Cabinet level status and omits numerous education programs scattered throughout the Executive Branch. It would establish the 13th Cabinet Department with a budget of $14.5 billion and 24,300 employees, 14 executive level positions, 61 super grade positions and an additional 15 super grade positions for a 3 year transitional period.

Policy Chairman Bud Shuster (R.-Pa.) commented that this legislation "is yet another example of the two faces of Jimmy Carter. On September 22, 1975," Shuster continued, "Carter told U.S. News and World Report, and I quote: 'There is a crying need to simplify federal education laws and regulations. Education must be substituted for paper shuffling grantmanship.' Unquote. Then on June 8, 1976, candidate Carter told the Cincinnati Enquirer, and again I quote: 'The local and state people ought to run the school system . . .' Unquote."

Shuster said "Passage of this politically endorsed, costly Presidential payoff is nothing more than a raw political expedience, catering and caving in to the powerful education lobbies in Washington. Doing so would be an injustice to a whole generation of Americans. It is bad education policy as well as bad government management policy. Republican policy calls for H.R. 2444's resounding defeat."●

TRIBUTE TO JOHNNIE H. GOODIN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. ANDERSON of California. Mr. Speaker, on May 1, 1979, the duties of representing over 1,600 construction and shipyard workers in California's south bay area changed hands as Johnnie H. Goodin stepped down after serving 9 years as president of the Construction and Shipyard Laborers Union, Local No. 802. This man has earned the respect of community leaders throughout the southern California area for bearing this heavy responsibility for so long and with such persistent dedication. I take pleasure in bringing to your attention at this time a brief summary of the life and career accomplishments of this outstanding citizen.

Johnnie Goodin was born and raised in the small town of Hartford, Ark. While still a young man, he and his family packed up and moved west to California. It was here that he first joined Local 802 in 1940 to start his long years of union membership and activism. This career was interrupted during the war years when he was sent by his country into combat as a U.S. Army radio operator.

Following the end of World War II, he came home to find employment with the Long Beach Naval Shipyard and to resume his union affiliation. A few years later he met the lovely Harriet Hanson, who became his wife on July 24, 1949.

His increasing involvement and devotion as a union member was rewarded as his fellow workers chose him over others to assume leadership positions of the union. Johnnie has served as assistant business manager for Local 802; a trustee for the hod carrier's vacation and pension trust for Los Angeles and Orange counties; and as a member of the negotiating committee for plaster tender locals of Los Angeles and Orange Counties. He helped establish and is past trustee of the laborers' training and retraining trust of southern California. The programs offered by this trust give opportunities to people of the minority community who desire careers in the construction trades.

Mr. Speaker, this man's drive and concern during his years with Local 802 has produced numerous benefits for the hundreds of construction and shipyard workers in southern California. It will not be easy for his successor to match the accomplishments of his 9-year tenure as union president. What he has achieved on behalf of his fellow workers will be long lasting and long remembered.

My wife, Lee, joins me in congratulating Johnnie for a remarkable 39 years of service with the Construction and Shipyard Laborers Union. We hope the future years will bring more success and happiness for him, his wife, Harriet, and their daughters, Diana and Shirley.●

BIA EDUCATION SHOULD BE DELETED FROM DOE

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. McCORMACK. Mr. Speaker, the only Indian tribe in my district, the Yakima Indian Nation, has recently expressed to me its opposition to the transfer of the Bureau of Indian Affairs education programs to the proposed Department of Education. Such a transfer is provided in H.R. 2444, the Department of Education bill, as reported by the House Government Operations Committee. The concerns expressed by the Yakima Tribe, and the overwhelming majority of Indian tribes who do not want BIA education transferred are, I believe valid.

It has been said that the proposed transfer of BIA education has precipitated an unprecedented defense of the Bureau by Indian tribes. Certainly, all has not been well with BIA education programs and the Bureau and the Indian people will be the first to admit that. However, accomplishments have been made over the past few years in the academic achievements of Indian children. Indian tribes are exerting more control over the educational process. Ten years ago, there were two tribally operated contract schools. Today, there are 35 and a number more awaiting contracts when funds are available. For Indians, self-determination in the context of education is becoming a reality, and transfer of education programs will hamper self-determination efforts. Tribes feel that there must be a central place in the Federal Government which is primarily responsible for overseeing the Federal relationship with Native Americans. The focal agency exists, and education is an integral part of that agency. To transfer BIA education to a new and massive Department would be disruptive to the progress which is currently being made.

Congress last year enacted a major law revising the policies and procedures of the BIA's Office of Indian Education. Since enactment of the law, approximately 200 Indian educators, including some from the Yakima Indian Nation, have served on task forces to draw up regulations to implement the new law. Just a week ago, several draft proposals for regulations were published for comment in the Federal Register. As I mentioned before, there are problems within the Bureau's education program. However, those problems have been recognized, and are being addressed through an intensive process of consultation with the Indian community. We cannot through on law bolster the concept of self-determination for the Indian people and with another subject them to a process which they clearly do not want. We have no choice but to vote against the transfer of the BIA education programs.●

CONGRESSMAN DANIELSON COMMENDS HON. LOUISE DAVIS FOR CIVIC LEADERSHIP

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. DANIELSON. Mr. Speaker, it is with great pleasure that I direct the attention of my colleagues to a dedicated and outstanding civic leader in my 30th Congressional District.

Councilwoman Louise Davis of Monterey Park, Calif., whom I am proud to call my very good friend, was first elected to the Monterey Park City Council in 1976. Se served as mayor pro tem from 1978 to April 1979. Louise possesses many fine qualities which have propelled her into a position of leadership and prominence in local affairs.

Among those qualities are a sensitivity, devotion and responsiveness to the people and their needs.

As we are all aware, Mr. Speaker, on the many issues faced by public servants, there often are persuasive arguments both pro and con. My own guide has always been to vote for the benefit of the people, to support positions which are in the public interest, and that of the people generally.

I know that Louise Davis looks upon elective office in a similar manner. People can and do turn to her for help and if it is at all possible, Louise will provide it.

Louise has been an active community leader since 1957, with a broadly based involvement in many organizations, including charitable, education, youth, women's, and civic groups. Predictably, her dedicated efforts have brought her many deserving awards and commendations which bear the words "outstanding," "Woman of the Year," "Most Valuable Citizen," and "Citizen of the Year," to name a few.

Louise and her husband, Bill Davis, are the parents of seven children—Thomas, Carron, Ruth, Paul, John, Mark, and Mary Kate—and the grandparents of nine.

On Saturday, May 26, at the home of our mutual good friends, Mr. and Mrs. Fred Ryan of Monterey Park, Louise was tendered a highly successful dinner in her honor by her numerous friends and supporters. My wife, Candy, and I were also present at that event.

Mr. Speaker, I ask that my colleagues join me in wishing Louise Davis, her husband, Bill, and their family much happiness and success in all of their future endeavors.●

TRIBUTE TO WILLIAM G. BRAY

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. MYERS of Indiana. Mr. Speaker, hundreds of people, from all walks of life, paid their last respects yesterday, June 6, 1979, to our former colleague, Hon. William G. Bray. The tribute, which filled the First United Methodist Church of Martinsville, Ind., reflected the love and respect this man earned during his nearly 76 years, 24 of them in the House of Representatives. Elwood "Bud" Hillis, David Evans, my wife, Carol and I attended the services and on behalf of Bill's many friends here expressed our sympathy to his wife, Esther, and their son, Richard. Many former members of Congress, Governors, Lieutenant Governor, former Governors, and many other dignitaries were in attendance. Participating in the service was the Rev. William Hudnut, mayor of Indianapolis and another former colleague of ours.

He is at rest now in the family plot in White Lick Cemetery, a Quaker cemetery near Mooresville, Ind.

Bill often returned to Washington and most recently attended the former Members activities during which many of us had an opportunity to visit with our respected friend.

During his 12 terms in the Congress, Bill Bray earned the reputation as an advocate of a strong national defense. He served as ranking minority member of the House Armed Services Committee and was constantly out front in support of the development of defense systems that assured this Nation of a position of strength second to none. He felt strongly that this was the best deterrent to war and events of recent years have proven him right time and again.

Although recognized as an expert in the area of defense and world politics, Bill Bray never once lost sight of the people he served so well in Indiana. His reputation for helping his constituents and for keeping in contact with them was also second to none.

Bill Bray was a gentleman, a patriot, a respected Member of Congress. I will miss his good counsel on the many problems now confronting this Nation, for he always brought to any discussion the depth of perception and insight that comes from years of experience and a keen understanding of the political process that is the foundation of our system of government.

Mr. Bray was graduated from the Indiana University Law School in 1927. During World War II he received the Silver Star while serving as an officer with a tank company in the Pacific campaign. He was released from active duty with the rank of colonel. He then served as prosecuting attorney, State legislator before his election to the 82d and 11 succeeding Congresses, serving from January 1951 until January 1975. We loved him and we will miss him.

Our prayers go out to his wife Esther and their son Richard and his fine family who know, as we do, that Bill will be remembered for his devotion to family, friends, and Nation. Such an epitaph is the highest of tributes and serves as not only a tribute to Bill Bray but also an example to others who aspire to positions of leadership and service to their country.●

THE POPE'S VISIT TO POLAND

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. ASHBROOK. Mr. Speaker, I have been cheered by the news reports coming out of Poland regarding Pope John Paul II's visit. To see photos of hundreds of thousands of people pouring into the streets of a Communist nation to hear the words of the Pope is a vision no one would have even dreamed of a year ago. What we are all witnessing is an event of historic proportions, the impact of which will be felt for years to come.

It is a shame that the Communist leaders of Poland do not share my jubilation. They have tried to postpone the Pope's trip and to blackout its coverage in Eastern Europe. What the Communist leaders do not understand is that they cannot forever suppress a people's desire for freedom. Pope John Paul's words are spoken to the people of Poland and the world. No government can stop such a pure and clear voice. The three strongest emotions in the world; freedom, religion, and nationalism are all combining in the personage of Pope John Paul. Against such odds communism can never win out.

The people of Eastern Europe have been enslaved by the military might of the Soviet Union for 24 years. Pope John Paul have been a voice against this tide. He fought for Polish freedom against the Nazi occupation, and he has fought for human rights during his years in the Polish Catholic Church. In his new capacity as head of the Catholic Church he is now doing more to focus attention on the human rights violations of communism better than any one else since Solzhenitsyn. But even more than publicizing the affront to humanity communism represents, Pope John Paul is giving new hope and new life to those who want a free Poland and a free Eastern Europe. At no other time since the outbreak of World War II can we speak in such optimistic tones. How exhilarating the Pope's words are compared to the Rafshooned drivel of appeasement coming out of the Carter White House. I think it is clear who is really concerned about human rights.

The spirit of freedom has been renewed in Eastern Europe. It is now up to the United States and other free nations to help nuture this spirit. Twice before the flame of freedom was sparked in Eastern Europe, and twice before the United States and the West stood back and watched it be ground out under the treads of Soviet tanks. We cannot allow such a crime to happen again. Eastern Europe should be free. The outpouring of public affection for Pope John Paul is only the beginning. We owe it to the people of Poland and to ourselves to not let freedom die.●

THE PLIGHT OF ERNA YURIEVNA LUBENSKAYA

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. KILDEE. Mr. Speaker, I am pleased at this opportunity to participate in the "Shatter the Silence, Vigil 1979." The vigil, sponsored by the Union of Councils for Soviet Jews an behalf of the Soviet Jewish families, gives me a chance to express my concern for the individuals who are being detained in the Soviet Union as a result of that government's repressive emigration policies.

Since the signing of the Helsinki Final Act of 1975, which provided for the pursuit of policies consistent with the basic principles of human rights, it has become increasingly apparent that the Soviet Union has disregarded the human rights provision. Included in the provision is the reunification of divided families whose members live in different countries, for humanitarian reasons, and free travel between countries.

Today, I bring to the attention of my colleagues in Congress the case of Erna Yurievna Lubenskaya. She is alone with her young daughter, Tatyana, struggling to make ends meet until she can be reunited with her husband Valentin in Israel. When the family decided to emigrate to Israel and applied for an exit visa, only Valentin was allowed to leave. They were forced to go through a fictitious divorce so that he could leave. He hoped that his family would soon be allowed to join him. But though he left Leningrad in 1974, Erna and her daughter Tatyana still are in the Soviet Union.

Until April 1974, Erna worked as a chemical engineer at the Severny factory of plastic materials. She was denied an exit visa on the pretense that she had known some secret information, though she never dealt with security matters. Since then, she has worked at menial jobs in factories, and is forced to rent her apartment to provide the necessities of life for herself and her child.

Recently, a new harassment was devised for Erna and other Jews in Leningrad. She, with others who had received refusals to their requests for repatriation to Israel, were called to a special department at the police office. There they were ordered to sign a promise to be silent, not to write protest letters, not to appeal to any authorities, especially abroad. Otherwise, they would be persecuted "in a definite manner." Erna bravely refused to sign such a document. She then was threatened with possible punishment for "living on an income obtained by other ways than work"—that is, by renting out her apartment.

Meanwhile, in Israel, Valentin devotes his days to working for the reunification of his family.

We must continue to speak out for human rights, for as long as there is injustice anywhere its presence threatens justice everywhere.●

ON IMPOSING ONE'S VIEWS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. PAUL. Mr. Speaker, American abortionists have attempted, with the active aid of the national media, to portray the killing of the unborn as a Catholic issue.

As an Episcopalian and a strongly prolife physician, I resent the appeal to religious prejudice present in the abortionists' arguments.

Mr. M. J. Sobran has recently written on this subject in Human Life Review, and I would like to call his excellent article to my colleagues' attention.

ON IMPOSING ONE'S VIEWS

(M. J. Sobran)

I am sometimes asked, when in conversation it transpires that I oppose abortion, whether I am a Catholic.

That this is deemed a pertinent question is a mark of confusion—and of the success of the pro-abortion campaign, which has managed to get an ethical and political problem turned into a credal problem. The result has been to further embitter an already thorny issue.

By now that campaign has popularized the proposition that "when human life begins is essentially a religious question." Accept this, and it follows that those who have no religion can't pretend to know the question's answer, and hence can have no grounds for opposing abortion. A further (and more important) consequence is that a nation which eschews the establishment of religion has an actual obligation not to prohibit abortion. And from this it follows that those who seek to legislate such a prohibition are unassimilable to the form of the polity. Or, not to put too fine a point on it, they are constitutional pests who want to "impose their views" on everybody else.

But that proposition, in the first place, is a cliche. Every human life, like every canine and bovine life, begins at conception. Modern embryology has learned far more than Aristotle or Aquinas could have guessed about this. We know that the individual gets his entire biological make-up, from gender to baldness, when he is conceived; it is merely a silly semantic evasion to talk as if his species weren't part of the bargain. The whole fascination of Louise Brown is that her life, a manifestly human life, began in a test tube, where it would be stretching words to say she was part of her mother's body. Had she been implanted in a cow's uterus she would not have developed into a calf. As soon as her life began it was a human life. That it could not have continued outside a human mother hardly refutes this point. Nor is it obvious what one's views on the supernatural have to do with facts so transparent.

More sophisticated advocates of abortion say that the question is at what point the fetus is "fully" human. This at least acknowledges that we know far more than our ancestors about the continuity of life. Each of us was once a mere embryo, a mere fetus, a mere infant. Embryology is hardly likely to locate a better defining point than conception. The problem is to find moral reasons for distinguishing one phase of life from another for purposes of protection. Can a human life be too trivial to protect?

One philosopher, Michael Tooley, admits that life begins at conception and that it is nonsense to say what humans conceive is not human life. But he proposes as the best criterion of protection-worthiness (or what some call "full" humanity) the capacity for self-consciousness, for awareness of the self as distinct from other persons, that emerges a few months after birth. On this basis Tooley justifies not only abortion but infanticide. His solution may be horrifying, but it is consistent. Above all it does not pretend that only religion can answer what is essentially an ethical question.

Because the Catholic Church has taken an official position on abortion, many find it convenient to reduce the issue to religion. Some of them make thinly-veiled appeals to religious prejudice (or anti-religious prejudice). Others who don't stoop to this have nonetheless sought to identify the anti-abortion movement with the Catholic Church.

This reveals confusion about religion. Not even the Catholic Church has made opposition to abortion an article of faith or "dogma." Its position appeals to what it calls "natural law," or moral reasoning that is independent of divine revelation. This should be obvious enough. Catholics are notoriously among those who try to excite horror against abortion by showing pictures of mutilated fetuses. Whatever one thinks of this, it is not an appeal to faith in things unseen or submission to authority. Like pictures of My Lai, it is an ingenious appeal to our (natural?) loyalty to humanity. It may be simplistic. It is not in the least sectarian. On the contrary.

Why is this so hard for many Americans to understand? Perhaps because most of our non-Catholic religious traditions do depend on revelation for their moral codes, with the result that even popular secularism, rejecting revelation but retaining the Protestant exaltation of individual conscience, finds it hard to grasp a critical moral objectivism. This whole American moral tradition is itself dogmatic—unconditional, not susceptible to moral reasoning—and the assertion that abortion is strictly a religious issue is a dogmatic assertion. I know of no grounds for believing it; I have never heard any presented. Even among non-believers it can only be an article of faith.

This mentality, which presumes that only a faith like its own can animate opposition to abortion, has made it awkward for anyone whose view resembles or coincides with Catholicism's. No matter what he says, no matter what reasons he gives, if his view is the "Catholic" one he faces impregnable skepticism: he is thought to be making rationalizations for repeating what the Catholic hierarchy says. He must strain to show that he has found his own reasons and state them in terms that don't "sound Catholic." It helps, if his listeners aren't utterly bigoted, if he can say he isn't a Catholic. He must overcome a kind of psychological guilt-by-free-association with Catholicism.

But non-Catholics who oppose abortion have become almost invisible in the media, which emphasize the large Catholic portion of the anti-abortion movement, and treat the extremists of that movement as typical of it. The media didn't treat bombers and rioters as the heart and soul of the anti-war and civil rights movements, but this is different. Even nuns and figurines of the Virgin have a way of magnetizing the television cameras, as evidence of the putatively sectarian nature of what is really a humanitarian cause. The issue has predictably become whether "any group" has the right to "impose its views" on the "majority."

These are code-words for an all-too-familiar American bogey, the Catholic power-grab. Liberal opinion-leaders used to denounce this kind of appeal in 1960, but apparently they did so only because they perceived John Kennedy as one of their own. To the extent they are not directly guilty of it, they are guilty of tolerating it—as they emphatically do not tolerate appeals to fears of marauding Negros or scheming Jews. They did not see the Reverend King as a menace to the separation of church and state; they do not raise troubling questions about whether support for Israel reflects special religious interests. Why, then, have they been so cruelly indulgent of the insinuation that the anti-abortion movement is essentially an expression of the constitutional insolence of the Catholic Church?

The irony is that the anti-abortion cause was doing very well in referenda as late as 1972. And what it has sought to do since has been not to "impose its views," but to restore, through persuasion and democratic process, laws passed through the same means (and by non-Catholic legislatures, if that helps); laws suddenly struck down in 1973 by seven men out of two hundred million. When the Supreme Court is voting progressively, liberals seldom complain—or notice—that a tiny minority is imposing its views. In fact judicial fiat and bureaucratic directive have become the preferred liberal modes of doing business with the American people.

We are now hearing the argument that the right to abort is somehow implicit in the First Amendment, as a free exercise of religion. Perhaps the same case could be made for human sacrifice in general, but that is neither here nor there. The humanitarian case against abortion deserves to be considered on its merits, which, such as they are, would stand unaffected if the Pope made abortion a sacrament. And Catholics deserve to be listened to, on this as on other subjects, with as much fairness and candor as if they were non-Catholics.

The bottom line of all government is compulsion. Unless a whole nation could be unanimous, this must always mean the imposition of some people's views on other who do not accept them. Yet the project of American politics has always been to keep compulsion at a minimum, and to keep before us the ideal of government by persuasion. This requires an ethos of fair and civil discussion. The sad fact is that American liberals, normally eloquent champions of free speech, have in this case, by countenancing and encouraging the defaming of anti-abortion forces and the misrepresenting of their goals, done much to corrupt that ethos.●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. McDONALD. Mr. Speaker, due to the grounding of the DC–10 fleet, I found myself stranded on the west coast and thus missed one vote on June 5 and three votes on June 6. I was paired on each vote missed, but unfortunately did not receive a live pair on all the votes. If I had been present I would have voted as follows:

No on Rollcall No. 182—An amendment to H.R. 3875 that sought to make urban counties eligible for urban development action grants if they contain at least one area of physical and economic distress and were cities of at least 50,000 persons before 1960.

No on Rollcall No. 183—Final passage of H.R. 3464, SSI disability amendments.

No on Rollcall No. 184[1]—An amendment to H.R. 4289 that sought to add $125 million for urban discretionary grants for mass transportation.

Yes on Rollcall No. 186[1]—An amendment to H.R. 3875 that sought to waive Davis-Bacon prevailing wage requirements for residential housing rehabilitation projects carried out by neighborhood-based nonprofit organizations and for Indian housing.●

ST. ALBANS VETERANS HOSPITAL

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. ADDABBO. Mr. Speaker, last Friday I was invited to meet with a group of Vietnam veterans at the St. Albans Veterans Hospital in my district in Queens, N.Y. I am pleased to report to the Members that we are getting our money's worth out of funds given to the Veterans' Administration for their facilities, at least insofar as the St. Albans Hospital is concerned.

I was delighted to tour this rehabilitated facility and see the wonderful work that has gone on there. I note that the construction was done under Small Business set aside programs and hospital officials tell me that a marvelous job was done. In terms of my own observations it appeared to me that the St. Albans Veterans Hospital offers all the rehabilitation and medical services that are needed.

But more important are the men who are patients at St. Albans. These included veterans of Vietnam; it was a worthwhile and stimulating opportunity to meet with them and discuss their problems. These veterans who suffered such terrible injuries in that tragic conflict, have no time to feel sorry for themselves. They are involved and concerned citizens whose concerns are focused on what they can do to make themselves full participants in our American way of life.

Their concerns, as expressed to me, dealt with educational benefits which they should be and are not receiving as well as with their rehabilitation. In this regard they are getting the best possible treatment and they know it. They are also concerned with how they, as Vietnam veterans, are perceived by their fellow citizens.

Over and over again came the observations that Americans dwell too much on those veterans who have turned to crime or to drug addiction after their military service. Not enough time and thought goes into the millions of veterans who returned from Vietnam to become useful and productive citizens, they add. There are so many more who have been absorbed back into the mainstream American life than there are those who have run afoul of the law.

These veterans, by virtue of what has happened to them, cannot easily forget Vietnam. But they urge that, as a nation, we go on from this moment looking forward instead of backward. These are brave and dedicated men, fighting a much more difficult battle today than was ever fought in wartime. We should never forget them or fail to understand what they are trying to tell us.

For myself, I came away from this meeting with the Vietnam veterans determined to see that they receive their fair share of benefits. I came away proud that I had had a chance to see bravery at its core. I intend to go back and talk with them again and I would hope that all of my colleagues in this Chamber would do the same in their home districts. No matter how we felt about the war in Vietnam, we cannot help but be extremely proud of those who served there.●

THE CASE FOR SCHLESINGER

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. MURTHA. Mr. Speaker, many people have recently criticized Energy Secretary James Schlesinger for the energy problems facing the United States. The job Secretary Schlesinger has is not easy. The problem of energy in the United States is most difficult. I personally believe James Schlesinger has done as good a job as anyone could have done in this difficult position. I believe he has done an excellent job of identifying the problems and has worked for positive solutions.

I would like to insert into the RECORD an article from the June 7 Washington Post by Joseph Kraft that well outlines the present situation involving Secretary Schlesinger.

The article follows:

THE CASE FOR SCHLESINGER

(By Joseph Kraft)

President Ford fired James Schlesinger as secretary of defense back in November 1975. In consequence, Ford failed to get an arms-control treaty with Russia—a failure that, indirectly at least, cost him the 1976 election.

Though circumstances are different, President Carter understands the lesson of that episode. He will not fire Schlesinger as secretary of energy—despite tremendous pressure—because he knows that the heat would then go on to Jimmy Carter.

In the first case, Schlesinger was dumped just as Henry Kissinger was bringing to a head years of negotiation for a second-stage strategic arms limitation treaty (SALT II). Schlesinger, after having been suspicious of the Kissinger approach, had swung behind the secretary of state. The expectation was that together they would be able to push SALT by the Senate before the 1976 election.

But Donald Rumsfeld—who seems to have engineered the Schlesinger firing and who replaced him at the Pentagon—was, and remains, hostile to SALT II. He successfully fought the arms-control negotiation through 1976. As a result, Ford went into the primaries and election that year without a specific issue on which to define his stance toward the Soviet Union.

Ronald Reagan in the primaries and Jimmy Carter in the general election both enjoyed the luxury of being able to hit out at Ford with the loose charge that he was soft on the Russians. So the firing of Schlesinger made at least a major contribution to Ford's loss in the election.

In the present case, Schlesinger is plainly absorbing punishment that would otherwise go to the president himself. For at every turn, mistakes now being charged against Schlesinger were mistakes made by Carter.

First there was the energy program served up by the administration in the spring of 1977. One clear deficiency was that it emphasized conservation too much and production not enough.

Why? Well, in large part because Carter insisted that the plan be produced within 90 days. That forced Schlesinger to rely heavily on the experts who had been working on energy for the Democratic Congress. Those experts—who had opposed the Ford program, which emphasized production—inevitably tilted toward conservation.

A second mistake came in dealing with the Senate. Russell Long, chairman of the Finance Committee, was not won over to the Carter plan—mainly because it did not stress production incentives enough. But who dealt with Long?

Jimmy Carter, of course. The president's massaging of the senator included two family dinners at the White House. But to this day rapport between the two men is imperfect. The senator, who happens to believe Schlesinger has done a good job, still opposes the president's energy program.

Then came the Iranian crisis, which led to the current shortage. Almost alone in the administration, Schlesinger sensed the truly harsh consequences for the United States and its allies that would follow the ouster of the shah. He worked consistently behind the scenes to try to support Iranian forces friendly to this country.

When the shah fell and the Iranian army dissolved, Schlesinger rightly forecast the difficulties that developed. At that time the president and secretary of state were assuring the country everything would be okay.

Finally, there is the present confusion. Schlesinger has favored the decontrol of oil prices, primarily so that consumers would learn to pay the true replacement price of gasoline.

Carter has affected to back that objective. But he compromised the position by blaming the oil companies for a rip-off, thus confirming consumer suspicions of the companies. He then completed the circle of possible positions by complaining that the country was too suspicious.

To be sure, none of this makes Schlesinger the ideal man for the energy job. He is probably more of a critic than a manager. He prides himself on straight talk and takes particular joy in rude putdowns of foolish arguments. He has a positive faculty for annoying those who agree with him without charming those who disagree.

But Carter does not have available the wealth of talent that would make it easy to spare Schlesinger. To his credit, the president has no taste for making scapegoats of the innocent. Especially when he knows, as he has been saying privately, that if Schlesinger went, the next victim would be Carter.

So he is not going to dump Schlesinger, and there remains only an intriguing question. Which is what it profits the president to allow persons close to him to give the impression that the secretary of energy is on his way out.●

NORWIN HIGH STUDENT ENTERS INTERNATIONAL COMPETITION

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. BAILEY. Mr. Speaker, Randy Ekl of North Huntingdon, who graduates from Norwin High School this year, is a mathematician worthy of distinction. In addition to being one of the school's most outstanding students, he has for the past 3 years been considered one of the Nation's finest analytical minds.

This month he will journey to London, England, to compete in the 21st International Mathematical Olympiad, an event that attracts eight of the world's most talented high school mathematicians and requires nearly 3 weeks of specialized intensive training. West Point is the training center and before arriving there, Randy will visit briefly in Washington to accept a special award from the National Academy of Science.

This outstanding young man's achievements are numerous and at this time I would like to bring a few of them to your attention. He attained a perfect score and placed first in the country in the Atlantic-Pacific Math League. According to his peers and teachers, he has consistently displayed a remarkable understanding and dedication to mathematics which has compelled him to capture top honors in mathematical competition in Westmoreland County and western Pennsylvania at the junior and senior high school levels.

Gary M. Good, department chairperson of Norwin High School's mathematics department, claims that the young Norwin mathematician is indeed "one of the top high school mathematicians in the country and in the world".

It gives me great pleasure to extend my best wishes to this academically talented youth and wish him much success in the upcoming competition, the 21st International Olympiad.●

BORIS DEKHOVICH

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. FLOOD. Mr. Speaker, in these final days before the important summit between the leaders of the Soviet Union and the United States in Vienna, it is important to recall the thousands of Jews living under Soviet rule who have been separated from their families and loved ones by being denied visas to immigrate to Israel.

I would like to bring to your attention, Mr. Speaker, the case of young Boris Dekhovich of Vinnitsa in the Ukraine, who was separated from his family in 1975 when he was singled out and denied permission to leave the U.S.S.R. In Israel, Boris' disabled and aging parents impatiently wait for their son, who remains the only family member able to provide financial support.

Boris was trained as a construction engineer, but the refusal of a visa is due to his Army service, even though he never had access to secret Army material. Boris' continued pleas for a visa have been repeatedly refused by the Government of the Soviet Union.

It is important for us to remember that the U.S.S.R. must fulfill its obligations under the Helsinki agreement. The release of several Russian Jews over the past few weeks provides the basis of hope that the trickle will soon become a flow of emmigration, so that Boris Dekhovich and others like him will be free to leave the Soviet Union to join their waiting families in Israel. We must remember that the fulfillment of human rights, demands freedom of immigration, and nothing less can be required by human decency.●

SUBURBAN CABLEVISION

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. MINISH. Mr. Speaker, TV 3, Suburban Cablevision of East Orange, N.J., which serves my congressional district, has been chosen as the best local origination channel in the country in the annual national programing competition of the National Cable TV Association.

I am pleased that the men and women who daily provide my district with public service programs have won this unique award for excellence in overall community programing. TV 3 is a modest station, and the fact that it beat the giants of the large cities is, I am sure, a subject of deep satisfaction to the station.

The managers and directors of the station—Sal LaMarca, Gilbert Allard, Robert Biloudeau, Robert Greenwood, and Hunter McLean—deserve recognition for their efforts in bringing New Jersey-oriented programs to New Jersey's citizens.

In addition, my constituent, Frederick Sontag of South Orange, national public affairs and research consultant, has been recognized for the TV 3 government specials election interviews and wrap-up programs on which he has served as moderator-anchorperson.

Lee Margulies, broadcast writer for the Los Angeles Times and a contest judge, recently printed a column entitled, "True Alternative: Coming of Age of Cable TV." I submit part of that article for the RECORD.

[From the Los Angeles Times, June 14, 1978]

TRUE ALTERNATIVE—COMING OF AGE OF CABLE TV

(By Lee Margulies)

You wouldn't know it to look at most cable television outfits in the Los Angeles area, but there are signs that the cable industry is making strides toward becoming the true alternative to traditional TV that has long been its potential. Cable can be—and in many parts of the country already is—something more than uncensored, uninterrupted movies and printouts of the news and stocks.

What made this astonishingly clear was seeing the finalists in the annual programming competition sponsored by the National Cable Television Assn. I served as a judge for the awards selection Monday along with Charels R. Allen, head of programming at KCET Channel 28, and Ethel Greenfield Booth, coordinator of community film programs for Filmex and a former cable consultant. Preliminary screening was done by a committee from the cable association.

The impression that emerged most strongly from the viewing experience was that cable television, when it tries, is not so much an alternative to regular television right now as it is a supplement. The movies we get on the local cable systems are one portion of this supplementary service but systems elsewhere are doing much more.

Commercial television, because it is dependent on the financial support of advertisers, is consigned to programming for mass tastes—trying to reach as many people at any given moment as possible. That's why theatrical features are trimmed of explicit sex and bawdy language when they go on the tube, so people who might be offended by such matter won't tune out.

This mass-appeal approach naturally doesn't satisfy everyone all the time, because each individual has his or her own personal likes and interests that represent a minority viewpoint. Public television fills some of these gaps—in such areas as opera and ballet, for instance—but only some of them, and probably not to the extent that devotees of those arts would like.

Enter cable. Unlike conventional broadcasters, who can transmit only one program at a time and thus live or die on how many people choose to watch it, the cable operator offers 20 channels and more, and it makes no difference how his viewers divide themselves among the many choices he offers. Thus it is to his benefit to appeal to as many special interests as possible, people who collectively don't constitute a big rating number but who are motivated enough to pay for the cable service.

The company that seemed to be doing this best in 1977, was Suburban Cablevision of East Orange, N.J., which won an excellence award for overall service. What it offered to its approximately 40,000 subscribers was strong local coverage: high school sports (everything from baseball and football to lacrosse and girls' softball), gospel singing in the park, a health information series, interviews with visiting celebrities, parades, beauty contests, symphonies, even a quiz show for high school students patterned after General Electric's old "College Bowl" series. These were programs that East Orange viewers couldn't get anywhere else, presented with vitality and enthusiasm and without pretensions of grandeur.

Although none of the other finalists in this category measured up to Suburban Cablevision, there were many other examples of interesting programs being done by cable companies across the country—from El Cajon, Calif., where college students produce a weekly news show for the San Diego community, to Portland, Me., where city council meetings are televised in full.●

AN URGENT SITUATION

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. HARRIS. Mr. Speaker, at the end of May, Yakov Rachlenko and Vina Belkina received yet another refusal to their request. They had asked the appropriate Soviet authorities to give them permission to emigrate because they wanted to join the rest of their family in Israel. They have been applying for 6 years, but they are refused each and every time.

I worry about the health of individuals such as Yakov Rachlenko. As he stated in one of his letters to me:

> I served the Army 7 years ago and didn't possess secret information. Even those who had admitted to such information had to wait 3 years until one could be allowed to leave the USSR.
>
> I've been waiting for 6 years. Some of my friends emigrated, some are refused, some are imprisoned, some are in internal exile. Ask the Soviet authorities where I'll be tomorrow. I ask them but they don't answer me. Perhaps, they will answer you.

An unfortunate part of all of these stories is that the Soviet officials will not respond to any correspondence concerning these cases. They give us no answers to our questions about who gets out and why. It is hard for "refuseniks" such as Yakov Rachlenko and his mother Vina Belkina to keep up their spirits. I care very deeply about the fate of these two individuals and others in their situation. I remind all of you not to forget these people. We must all continue to let the Soviet Union know that we support the rights of every individual to a free choice of his or her country of residence. Yakov and Vina have been struggling for too long for the reunification of their family and for their right to live among their own people. I am glad I can assure them that there are many who value their rights.●

DIRECT ELECTIONS TO THE EUROPEAN PARLIAMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues an article from the Wall Street Journal on the direct elections to the European Parliament, to be held June 7 and 10. These elections will mark the first time that the peoples of Europe will go to the polls to elect members of the European Assembly, which is the parliamentary branch of the European Communities. These elections represent a landmark for Western Europe and could have significant ramifications for the future of Western Europe. As a supporter of European unity, I believe that the elections should be observed with great interest. The attached article outlines some of the possible consequences of these developments for the European Parliament in particular and European unity in general.

The article follows:

[From the Wall Street Journal, June 4, 1979]

Europe Goes to the Polls

(By Felix Kessler)

London.—By coincidence, two milestones that link Europe's past and future fall on successive days this week.

Wednesday, June 6, marks the 35th anniversary of D-Day—the Allied invasion of Normandy that led to Europe's liberation in World War II. The day will pass with little, if any, fanfare. Peace and prosperity, and Germany's redemption, are by now taken for granted in Europe.

Europeans are more preoccupied with the following day's events—the world's first international elections. On Thursday, voters in the United Kingdom, Ireland, Denmark and the Netherlands go to the polls to elect their delegates to the European Parliament, the European community's representative assembly. On Sunday, balloting takes place in the five other member nations of the Common Market: France, Germany, Italy, Belgium and Luxembourg.

The elections, in a real sense, are connected to World War II and all the European bloodshed that preceded it. The creation of a popularly elected European Parliament offers proof, according to French President Valery Giscard d'Estaing, that Europe has at last found its peaceful alternative to "the quarrels and battles in which we have excelled for a thousand years."

While the European Parliament has existed for 21 years as a Common Market institution, the representatives until now were appointed by the community's member states and owed their primary allegiance to their own governments. The coming elections in which the seats allotted to each country are based partly on a proportional and partly on a political basis (the four biggest countries will have the same number of seats despite varying populations) are designed to bestow democratic "legitimacy" on the Europarliament. In the process, it may push the member nations closer to the realization of an old dream: A United States of Europe.

The campaigns in the various countries, fought largely on national issues, have obscured the prospects that a more powerful Europarliament could provide new impetus for Europe's unification. Many candidates, on the right and left, in Germany and France and Britain, are convinced that the parliament must tag Europe in this direction—despite the inevitable outcry from individual governments fearing a loss of national sovereignty.

"The world has coagulated around the big powers—the United States, Russia, China, Japan," says Sir David Nicolson, a British Conservative Party candidate for the Europarliament. "In the face of these large centers of influence, a medium-sized European nation like the United Kingdom or France cannot, on its own, have much influence."

Sir David—former chairman of British Airways, current chairman of two other companies and a director or several more—is hardly a radical. Nor is he anti-American. Yet he is convinced that, on the basis of enlightened self-interest, Europe will have to begin asserting a stance more independent of the U.S. on matters ranging from defense to energy to economic policy.

"I believe the parliament will be the catalyst," he says, "the instrument whereby Europe can achieve greater unity."

Significantly, the view that Europe's problems can best be resolved through concerted, European-wide cooperation is one of the few themes on which there has been some broad political agreement—though the diagnoses of just what needs to be done differ sharply.

"More and more, economic problems cannot find their solution at the national level but only within a European context," declares Jean-Pierre Cot, a Socialist member of France's National Assembly. Europe's individual nations, he says, are mere "sub-contractors in economies that are dominated by the United States."

For Mr. Cot, the new parliament's primary function will be to give "a stronger voice to the working class throughout Europe." The Europarliament will function under procedures that should suit Mr. Cot. The parliament's 410 members will be grouped according to political parties, not by nationality. Though the British Labor Party is still officially hostile to membership in the community, some Labor Euro-MPs might find themselves making common cause with their Socialist colleague from Germany or France on issues pitting them against an alliance of British Conservatives and European Christian Democrats.

Socialists are, in fact, expected to form the elected parliament's largest single bloc, followed by the Christian Democrats. Gaullists, Communists and various other parties will also be represented, though it may take time before they form parliamentary alliances.

The trans-national cooperation that Mr. Cot envisages among Socialists has, in fact, already been demonstrated. In Europe's depressed coal-and-steel region, an area that includes the old battlefields of Alsace-Lorraine and the Saar, former national rivalries have been put aside. Socialist candidates from France, Germany and Luxembourg have campaigned on a common program calling upon the European Community to invest in plants and jobs in the region. The Socialists have accused their own governments of being unable to cope with the region's rising unemployment.

The threat to national sovereignty posed by this sort of international collaboration has provoked considerable controversy. In France, the Gaullists charge that the new European Parliament would usurp political power at the expense of the French National Assembly, eroding France's independence. President Giscard d'Estaing, who favors a loose confederation of nations but not a federal Europe, has promised a national referendum before France yields any shred of sovereignty.

The new parliament will include some members actively hostile to its continued existence, and a few even dedicated to sabotaging not only the assembly but the entire European Community concept, which is perceived as an enemy of their national government. (The British Labor Party's program for the coming election, for example, threatens the United Kingdom's withdrawal from the community unless such policies as farm subsidies are changed. The Laborites, however, badly demoralized by Mrs. Margaret Thatcher's election victory, aren't expected to score well in the Europarliamentary elections.)

Even putting aside the hostility of some of its members, the parliament suffers from significant limitations and drawbacks. Its powers have, in the past, been narrowly confined to those of a supervisory body over the European Community's commission, the bureaucracy that administers Common Market finances and policies. The assembly has a limited power to amend commission regulations but, almost unique among parliaments; it can't make laws.

The Common Market's real power lies not even with the commission but is vested in the Council of Ministers—ministers from each member state who, in the give-and-take of late-night bargaining sessions, decide the community's policies on issues ranging from agriculture to terrorism.

For the new parliament to exercise a significant voice in European affairs—to be something more than a spirited debating chamber—its members will have to wrest power from their own national governments. Is this possible? Some Europeans believe that the parliamentarians, psychologically bolstered by the elections, will indeed manage gradually to exert a more influential role in European affairs.

Even without new legislative powers, the parliament could assert its authority over other European Community institutions. The parliament is not empowered to amend the community budget, but it might, as a political lever, stall on approving the budget. It might explore the possibility of holding public hearings to examine a proposed policy or establish investigative committees modeled after those of the U.S. Congress. Hearings on European energy policies or the influence of multinational corporations are just two of the areas already suggested as meriting attention.

How far the European Parliament proceeds along the path to federalism remains to be seen. But Sir David Nicolson, a properly cautious Conservative who's likely to win election, doesn't doubt that a European-wide approach is the better course. "Many things—industry policy, energy, labor laws, transport, social programs and even foreign affairs—can be more effectively managed through the European Community than on a national basis," he says.

A European Parliament that tries to achieve these ends by seeking greater legislative powers would, inevitably, come into conflict with the Council of Ministers. But the prospect doesn't bother Sir David.

"That's what politics is all about," he says. "There will be conflict and compromises, but I believe there will also be progress toward a stronger, more influential European Parliament." ●

THE ARMED FORCES OF THE U.S.S.R.

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. McDONALD. Mr. Speaker, a book entitled: "The Armed Forces of the U.S.S.R." was just issued by Westview Press in Boulder, Colo. The authors are Harriet Fast Scott and William F. Scott, a husband and wife team. The Scotts are unique as experts on the U.S.S.R. They spent two tours in Moscow when Colonel Scott was on active duty in the Air Force. Since Colonel Scott retired from the Air Force they have visited the U.S.S.R. many times, including trips across the U.S.S.R. on the Transiberian Railroad to the Pacific from Moscow. Both Scotts speak and read Russian and are uniquely qualified to evaluate what they see and hear.

Since World War II, many books on the Soviet Armed Forces have been published. Usually, they are what is known as hardware books that describe tanks, planes, ships, and missiles of the Soviet Armed Forces. The Scotts have not dwelled on "hardware." They have portrayed the Soviet Armed Forces as the vast bureaucratic organization it is, listing places, persons, schools, and how it all evolved. From their book, you can get some idea of the thinking of the Soviet military and how differently they view the world. On page 16, the Scotts point out when the Red Army went through one of its biggest expansion periods at the same time as thousands were dying of hunger due to collectivization efforts of Stalin during the 1930's.

On page 57, the Scotts pinpoint the change in Soviet military thinking relative to projection of forces overseas. Quoting from retired Colonel Kulish, who visited the United States, and claims to have many high connections, they quote him as writing:

> In connection with the task of preventing local wars and also in those cases wherein military support must be furnished to those nations fighting for their freedom and independence against the forces of international reaction and interventions, the Soviet Union may require mobile and well-trained and well-equipped forces.

Much of the debate about SALT II will center on verification. The Scotts have come up with a beautiful quote in that regard on page 139.

> In our press it has been noted that we place our rocket equipment so that double and triple duplication are ensured. The territory of our country is huge, and we are capable of dispersing rocket equipment and concealing it well. We create such a system that if some means intended for striking a counter-blow are taken out of commission it is always possible to place into operation duplicative equipment and to strike the target from reserve positions.

On page 297, the Scotts describe the role of the "voyenpred" or military representatives who insures that all military items, emerging from the factories are of the highest quality. They have great power and contrary to the consumer sector of the economy, quality control is excellent in the military sector of the economy.

In chapter 10, the very extensive military training that Soviet youths receive before even joining the armed services is detailed. This has gone relatively unnoticed in the Western press. While parents in the United States fuss over junior ROTC units in high schools, Soviet youngsters goose step down the streets and perform ceremonial guard duty at appropriate monuments to the heroes of World War II. The extent of trained military manpower in the Soviet Union is amazing as Hitler found out in World War II. On page 326 they note that in a period of 48 hours it is estimated the U.S.S.R. would mobilize between 4.5 and 5 million men. The United States in the same period of time could mobilize about 1 million men and try to start up the computer at Selective Service Headquarters to look for possible draftees. Furthermore, Soviet soldiers are given refresher training as noted on page 380, which gives them another advantage over us.

As regards leadership, the Soviets, both military and civilian, tend to stay in their jobs a long time and there is not the shuffle we have every 4 years in our top civilian leadership. Soviet military leaders also tend to stay in their jobs longer, so while the command system is rigid, it is also very experienced. Page 377 discusses the differences in outlook and attitudes these differing systems bring about.

Finally, much of the information published in this book is perishable, such as the name of the commanders. Therefore as changes occur and organizations change, I would hope that Westview Press would have the Soviets revise this book and reissue it, as it should be of invaluable assistance to anyone studying the Soviet Armed Forces.●

A TRIBUTE TO THE WESTERN ASSOCIATION OF COMMUNITY HEALTH CENTERS, INC.

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. DELLUMS. Mr. Speaker, beginning on June 6 in Oakland, Calif., there will be a meeting of the Western Association of Community Health Centers, Inc. (WACHE, Inc.), of my district. This organization holds as its main objective the implementation and furthering of health programs designed to improve the physical and emotional health of areas served by its members.

I maintain that this organization should be lauded for it has proven successful in providing health services to persons who otherwise would not be able to afford health care. In addition, WACHE, Inc., has instituted an aggressive program of preventive medicine. WACHE, Inc., has illustrated community spirit and a genuine dedication toward making the availability of health care a reality for every American citizen. Its high level of commitment stands as a model to those organizations wishing to serve the community. It is my honor to bring its efforts to your attention.●

COMPETITIVE BIDDING ON PUBLIC LANDS

HON. JOE WYATT, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. WYATT. Mr. Speaker, 6 years after the Arab oil embargo, this Nation is once again lining up for short supplies during curtailed operating hours at gas stations. Rather than taking positive steps to prevent a recurrence of the 1973 incident, vulnerability to foreign powers has actually increased twofold. Total petroleum imports from OPEC countries rose from 2.99 million barrels per day in 1973 to 5.65 million barrels per day in 1978. The shortages—and the lines at the gas stations—will continue to grow as long as the Nation's energy policy permits increased supplies from OPEC while domestic potential lies untested and untapped.

As we were considering provisions governing oil and gas exploration and development in Alaska and the leasing of some of the Nation's most valuable lands in terms of energy potential, debate over gasoline shortages and the energy crisis was still ringing in this Chamber.

We are all aware of the need to increase domestic energy supplies in order to reduce imports. At the same time, we are all aware of the special wild and natural values in Alaska which have led to the protective measures designed to permit exploration under environmentally responsible procedures. A premium has been placed on these lands, as evidenced by the competitive bidding provisions in the Alaska lands bill.

While I supported the Breaux-Dingell-Huckaby substitute version of H.R. 39, which also contained a competitive bidding system provision, it is important for my colleagues to remember that oil and gas leasing, even under that system, would have virtually eliminated all but the wealthiest companies from exploring on these publicly owned lands. Independents, the small businessmen in this industry, cannot outbid integrated giants. The impact of those type provisions in Alaska will not be great since the majority of the relatively few companies currently operating in Alaska are large, integrated companies who can afford the greater costs of operating in extreme conditions requiring more detailed seismic work over a longer period of time under the harshest weather conditions and the most stringent environmental protection regulations.

However, in spite of the special conditions which make Alaska somewhat of an exception, enactment of a competitive bidding system establishes an unfortunate precedent of endorsing a system that reduces competition in the petroleum industry. It is imperative that such a system be limited only to the very special conditions in Alaska and not in any way be construed as being applicable to the lower 48 States. Such an extension of applicability would be counterproductive to the Nation's efforts to achieve energy independence.

Although I was not a Member of this body at the time, it must be remembered that upon considering the Outer Continental Shelf Lands Act it was contended that the OCS was a unique situation and that competitive bidding was needed. It was further contended that this was an exception. We have now made another exception. If this continues, we will soon have no exceptions.

Independents drill 90 percent of all exploratory wells in the untested areas seeking new reserves of oil and natural gas. They produce about a third of the total output of crude oil and natural gas in the United States. And, moreover, they made 75 percent of the "significant" U.S. oil and natural gas discoveries. Their operations generally end at the wellhead rather than refineries or retail outlets; thus to stay in business they must continue to explore for new reserves.

A competitive bidding system for all or most oil and gas leases would diminish mineral exploration on the public lands, resulting in a loss of wells drilled, reduced discoveries of critically needed domestic supplies, and a diminution of income from royalties. Royalties last year amounted to a $1.513 billion income to the Treasury (including OCS). Of that amount, $167.3 million was allocated to 23 States, including: $3.3 million to Oklahoma; $3.9 million to Nevada; $6.5 million to Montana; $8.7 million to California; $10.7 million to Utah; $14.6 million to Colorado; $52.9 million to New Mexico; and $61.9 million to Wyoming.

Some will point to the current acreage limitation of 246,080 acres in any one State (except 600,000 acres in Alaska and excluding acquired lands up to 246,080 acres) as a safety valve against monopoly holdings. However, it is a simple procedure to drop some acreage of lower value to gain more valuable acreage elsewhere. Thus, the independents, unable to outbid wealthier companies, would continuously be served the "scraps" where higher risks and lower odds for a favorable return on investment are the standards.

Mr. Speaker, this country needs more of its own crude oil and natural gas. It is only logical that the more companies involved in the effort, the more exploration will occur; and, consequently, more reserves will be discovered in less time. We must encourage the maximum ultimate recovery of our own mineral deposits and promote competition in the petroleum industry.

The existing law which provides for noncompetitive leasing except on known geological structures has served the Nation well. The national interest is best served by continuing this system and by encouraging the broadest possible participation in exploration for oil and gas on the public domain.

In closing, I urge my colleagues to protect the competitive viability of the 10,000 independents in this country by not extending the competitive bidding provision to the lower 48 States.●

COMPREHENSIVE HEALTH CARE IMPROVEMENT ACT OF 1979

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. SABO. Mr. Speaker, today I am introducing the Comprehensive Health Care Improvement Act of 1979.

The proposal is based upon a comprehensive health insurance and catastrophic health coverage bill passed into law in Minnesota in 1975. I was speaker of the Minnesota House at the time, participated in the passage of the bill, and followed the results of the law after enactment. The proposal consists of three major parts: Title I makes comprehensive health insurance available to all persons; title II assists low-income individuals in purchasing insurance; and title III provides catastrophic health coverage for all persons.

Title I aims at the rationalization of the current system of private health insurance. It establishes a standard of "qualified" health insurance and requires that all health insurance plans be plainly labeled "qualified" or "nonqualified." There are four types of qualified plans. A qualified type "A" plan provides benefits at 80 percent of medical costs, limits the 20-percent copayment to no more than $3,000 a year, sets a maximum benefit of not less than $250,000, and a deductible of not more than $150.

A type "B" plan is the same with a maximum deductible of not more than $500 and a type "C" plan is the same with a deductible of not more than $1,000. Health maintenance organization plans are defined as equivalent to a type "A" plan. The bill also defines qualified medicare supplement plans as those with benefits equal to 50 percent of costs not covered by medicare, a maximum copayment of $1,000 a year, and a maximum benefit of not less than $100,000 a year. These standard qualified plans will allow consumers to shop around for coverage by easily comparing premiums of plans of the same qualified level. It will discourage the offering and purchase of substandard plans which do not meet the minimum qualification level.

The bill provides that HEW should delegate certification of insurance plan qualification to State insurance regulatory bodies, whenever possible. It also allows HEW to certify plans if an insurance firm wishes to offer a plan nationwide and wishes to avoid the duplicate work of becoming certified in more than one State.

All business firms which employ 10 or more persons are required to offer type "A" or "B" plans to its employees. There is no requirement that a firm pay for an offered plan, nor is there a requirement that employees accept and pay for a plan. What does occur is that employees will have an opportunity to get qualified comprehensive health insurance at group insurance rates. Group rates are, in almost all cases, much less costly than individual insurance policies. These plans must also cover dependents and must be convertible if the individual leaves the group.

Under the bill States are required to establish a statewide pool of all health insurance companies. This pool will offer qualified health insurance to any individual at group rates. In effect, this provision establishes a group out of all persons not eligible for a regular group plan (the self-employed, employees of firms with less than 10 workers). It also allows firms to pay all or part of the premiums of the pool insurance so that small firms not eligible for group insurance can assist their employees with insurance premiums.

Title II of the bill establishes a program to assist low income persons in purchasing the insurance made available by title I. Most employed Americans have the financial ability to purchase adequate health insurance or have it purchased for them as a fringe benefit of employment. Title I insured that all persons will have the opportunity to purchase qualified plans. Those on medicare and under medicaid already have access to health coverage. This still leaves a number of families who are not covered by medicare, medicaid or an employer-paid group plan whose economic circumstance makes it difficult to purchase health insurance. Title II establishes a Federal-State program to assist low-income individual to purchase type "A," type "B" or medicare supplement plans.

Under the program the Federal Government would pay 50 percent of the cost up to a maximum of $5 times a State's total population. Thus the maximum Federal liability would be about $1.2 billion matched by at least $1.2 billion in State funds for a $2.4 billion program of health insurance for low-income persons.

This would be in addition to medicare and medicaid programs. States would not be required to establish a program and would have wide flexibility in designing the program to suit their own needs. Each State had a different pattern of need because of varying medicaid coverage, different demographic patterns, and varying patterns for existing private health insurance. States would be able to target the low-income program toward those most in need and States would be able to experiment with total subsidy of purchase, cost sharing, or sliding fee schedules.

Title II also has provision for senior citizen couples where one spouse requires long-term nursing home care. Current medicaid income and asset standards often leave the healthy spouse with too little income to remain economically independent. The bill would allow States to set more liberal income and asset requirements in those cases so that the healthy spouse need not be forced to drastically cut his or her living standard.

Title III of the bill establishes a State-Federal program of catastrophic health coverage. State participation would be optional. After an individual had exhausted existing private insurance or medicare/medicaid the State would pay 90 percent of medical costs exceeding $2,500 or of 40 percent of household income up to $15,000, 50 percent of income over $15,000 and less than $25,000 and 60 percent of income over $25,000, whichever is higher. Claiments would not be required to sell their homes, businesses, or other assets to receive benefits.

Title III insures that any citizen no matter what his condition, will not be devastated by a severely expensive illness. It will insure that a person will not face liquidation of the bulk of his assets to pay for a catastrophic illness. Yet the standards of coverage of $2,500 or the 40 percent plus of income threshold for payment will insure that only truly catastrophic illnesses are covered and that adequate incentive for purchase of comprehensive insurance remains.

The Federal Government would pay 50 percent of the costs of the catastrophic program, with a maximum of $1 times the population of the State involved. The maximum Federal cost would be about $220 million with a minimum State match of a like amount. This amount would be more than adequate to pay for the program because title I and title II would have already provided most individuals with adequate health insurance and only truly catastrophic cases would be paid for by the program. The funding level is in excess of the actual experience of the State-administered catastrophic program in Minnesota which has benefit levels equivalent to those provided in this bill.

The bill seeks to rationalize and build upon the existing system of private health insurance, medicaid and medicare. It attempts to make the existing system comprehensive by filling in gaps in the existing system. It does not require a massive change in existing programs or a large governmental organization or financial contribution. Even if every State were to establish low-income assistance and catastrophic coverage programs and to use the maximum amount of Federal funds, the Federal costs would be about $1.4 billion. This would be matched by an equal State contribution, but one that most States are in a better position to afford than is the Federal Government.

In offering this bill I do not feel it is competition with some of the other national health insurance plans being considered. The generosity of benefits provided by these plans is, unfortunately, matched with a cost that I fear will preclude enactment. I have sought to design a bill which can be accommodated within the Federal budget and which can be enacted this year and be in operation next year.●

CONGRESSMAN JOHN BUCHANAN DISCUSSES RELIGIOUS REPRESSION IN THE SOVIET UNION

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. DRINAN. Mr. Speaker, on August 1, 1975, the United States and 34 other nations agreed that religious freedom is a fundamental right that no government ought to repress or curtail. The cosignatory nations to this agreement, the Helsinki accords, included the Soviet Union.

Yet as our colleague John Buchanan points out in an article that appeared in the June 4, 1979, issue of the Washington Star, religious freedom in the Soviet Union has not met the standards laid out in the Helsinki agreements. Serious restraints threaten to wipe out religious observance altogether in the U.S.S.R.

As is widely known, Soviet repression of religious activity is at the heart of the growing movement of Soviet citizens who have asked to emigrate to the United States and other countries.

Just 10 days before President Carter is scheduled to meet with Soviet President Leonid Brezhnev in Vienna to sign the SALT II treaty, it is significant that Congressman Buchanan has brought the issue of religious repression in Soviet Union to our attention. The article follows:

Religious Persecution in the Soviet Union

(By John Buchanan)

The recent arrival in the United States of Gregory P. Vins who was part of the dramatic dissident-spy swap between Washington and Moscow, serves as a profound reminder to the West that religious persecution is a cold reality of everyday life in the Soviet Union.

Vins, a leader of a reform group which broke with the officially recognized Baptist Church, was jailed for the second time in 1975 on a conviction of harming the interests of Soviet citizens under the pretext of carrying out religious activities. His case is symbolic of the harsh recriminations suffered by millions of believers in the Soviet Union regardless of affiliation—for merely trying to practice their faith.

In the 1975 Helsinki accords, the Soviet Union pledged with the 34 other signatory states to "respect the freedom of the individual to profess and practice . . . religion . . . in accordance with the dictates of his own conscience". "The Soviet government however, assumes a fundamental control over religious practices by requiring a church to register with the state in exchange for recognition as a legal body. The price paid for legalization means submitting to other rules, including giving up missionary activities and the right to youth participation in church affairs.

In rejecting the premise of state regulatory authority in order to follow the tenets of their faith, religious believers become the target of a battery of repressive measures. These include dispersals of allegedly illegal religious services and accompanying fines, jailing for those who reject military service on religious grounds and systematic discrimination in employment and education.

A particularly abhorrent phenomenon is the maltreatment of the children of religious parents who are frequently harassed by other students and awarded poor marks in school or publicly berated for professing "anti-Soviet views."

Other methods of persecution are more severe. Vladimir Shelkov, for example, an 83-year-old Seventh-Day Adventist, was sentenced this year to five years in a labor camp for his leadership of an allegedly illegal congregation. In another instance, Anna Chertkova was incarcerated in 1973 in a psychiatric hospital for her "extreme" Baptist beliefs. And in another tragic case, the three children of Maria Suprunovich, a Ukrainian Baptist, were seized by authorities and placed in a state orphanage because their mother gave them religious instruction, contrary to Soviet law.

For many, the systematic practice of religious persecution is so insufferable that they have openly declared their desire to leave—despite the fact that family reunification is the only basis officially recognized by Soviet authorities for emigration. For example, there are more than 10,000 Evangelical Christians, primarily Pentecostals and Baptists, who have indicated they want to get out of the USSR so they may worship freely, yet only seven families to date have been allowed to leave. The names and addresses of these thousands of people, who live in all parts of the country, are listed in a volume to be published early next month by the Commission on Security and Cooperation in Europe.

The document being prepared by the joint legislative-executive monitoring panel in the 1975 Helsinki accords also provides an overview of the broad range of problems experienced by religious believers in the Soviet Union. Much of the information contained in the publication comes from documentation provided by dissident sources in the country, such as the Moscow Helsinki monitoring group.

The plight of the Pentecostals is best reflected in the now famous case of the Vashchenko and Chmykalova families who rushed past Soviet guards at the U.S. Embassy in Moscow last June and have been holed up there ever since. Their action represents a desperate attempt to force official permission to emigrate from the country. To date, interventions on their behalf by American officials, including a petition signed in May by 66 congressmen and four senators, have been futile.

Religious believers in the Soviet Union face two interlinking problems in attempting to practice their faiths—official persecution and the inability to emigrate in order to escape it.

Whether they are Jews, Christians, Moslems or of other faiths, these people are not making unreasonable demands. They seek only to exercise their fundamental human rights guaranteed them under a number of international documents to which the Soviet Union is committed, including the Universal Declaration of Human Rights and the Helsinki Final Act.

The West must be relentless in pressing the Soviet government to honor these pledges guaranteeing the human right to freedom of religion and belief.

Rep. John Buchanan, R-Ala., is a member of the Helsinki Commission and a Baptist minister. He was the earliest congressional advocate for the release of Georgy Vins, the Soviet Baptist leader who was among those included in the recent exchange of five dissidents for two convicted Soviet spies.●

STATEMENT OF CHAIRMAN ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED ON H.R. 4007, TO AMEND THE INTERNAL REVENUE CODE OF 1954

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. ULLMAN. Mr. Speaker, on Wednesday, June 6, 1979, the Committee on Ways and Means favorably reported H.R. 4007. The bill would amend the Internal Revenue Code of 1954 to provide that the provisions which increase the Federal unemployment tax in States which have outstanding loans will not apply if the State makes certain repayments.

I take this occasion to advise my Democratic colleagues as to the nature of the rule that I will request for consideration of H.R. 4007 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a closed rule, with committee amendments only; 1 hour of general debate, to be equally divided; waiving all necessary points of order, and one motion to recommit with or without instructions.

I have requested to be heard before the Committee on Rules.●

TURNING CITIZENS INTO CRIMINALS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. PAUL. Mr. Speaker, I would like to include in the RECORD an article from the winter 1979 issue of Law and Liberty that deserves the attention of all men interested in the rule of law. Despite the brevity of the essay, it includes allegations about the Bureau of Alcohol, Tobacco and Firearms that are extremely serious and that demand a congressional investigation of the Bureau's activities. If there is any truth at all to these allegations, then punitive action should promptly be taken against those officials of the BATF who are responsible for the actions of that agency, and the abolition of the agency itself should be discussed.

I have introduced a bill to repeal the Gun Control Act of 1968, which is the act that the Bureau uses to entrap innocent citizens, and I hope for speedy hearings and favorable action on my bill.

ON TURNING CITIZENS INTO CRIMINALS

(By David T. Hardy)

If firearm ownership is commonplace in America—and surveys repeatedly indicate that it is—then the firearm collectors comprise the aristocracy amid the popular movement. These collectors are virtually a "nation unto themselves", with their own shows, at which they compete in display of their finest firearms, their own organizations, their own specialties—one may choose British military firearms 1760–1945, another may strive to obtain all calibers and chamberings of the Marlin 1893. There are also general collectors, and most specialists have a general collection "on the side," which may feature such favored pieces as the exquisitely crafted Parker shotguns (which begin at about $900), the Winchester Model 21 (the only American shotgun fitted to the individual's dimensions: the "economy" line starts at $3,500), or scarce "presentation pieces," engraved and inlaid pieces given by inventors and companies to both Eastern and Western national leaders. Samuel Colt, in the 1870's and 1880's, created quite a few of these pieces). They have their own magazine now, independent of all other firearm publications, in which it is not uncommon for a collector to take out a full page, tastefully illustrated advertisement to attract collectors for purchase or exchange of a few unneeded pieces.

Even individuals who support strict firearm regulation might well be tempted to consider these individuals a relatively riskless segment of the population. Persons bent upon robbing a drugstore simply do not seek a Winchester 21; domestic homicides are unlikely to be settled at dawn with a cased pair of Durs Egg flintlock duelling pistols. Indeed, the federal agency which enforces the firearm laws, the Bureau of Alcohol, Tobacco and Firearms (BATF), has repeatedly claimed that criminals predominantly use cheap handguns—valued under $50, caliber .32 or less, barrel 3 inches or less. No true collector would even use one of these as a paperweight: the risk of being seen with it by other collectors would be too great.

It is therefore surprising to note that federal agencies enforcing firearm laws have often appeared to devote a large amount of their energies to sending such collectors to jail, and confiscating their collections. It is even more surprising to discover that the federal government itself is becoming a large-scale collector—its collection established primarily by choice items appropriated, without compensation, from these collectors.

In part, the collector's very law-abiding qualities make them perfect targets for law enforcement. The BATF has been faced with some unique bureaucratic difficulties of late. Since 1972, the skyrocketing prices of sugar, main component of "moonshine", has drastically curetailed illegal brewing. Between 1972 and 1978, the number of "stills" raided by BATF dropped from nearly 3,000 to only 381. The Bureau suddenly saw itself faced with obsolescence of its traditional area of enforcement, a rather unique experience in law enforcement (one may imagine the consternation at the Drug Enforcement Administration if the entire drug-using populace suddenly turned to meditation or alcohol). Self-preservation dictated a sudden increase in firearm enforcement. But agents seeking to push up their "body counts" of arrests and firearms seized were faced with serious problems. To invade fields where firearms are feloniously used is apt to prove quite dangerous: it also takes time, and this was unavailable when Washington makes it clear that arrests in your district must be doubled within the next year. A safe and easy target had to be located.

Agents therefore quickly evolved a method of entrapping collectors, through a technique which I term the "implied dealership". This depends upon a clause in the 1968 Gun Control Act which provides that "dealers" in firearms must be federally licensed, and makes it a felony to conduct business of a "dealer" in firearms without such. Private sales of one's own property by a non-dealer are not subject to federal licensing.

The statute contains no definition of "dealer". Nor do the Bureau regulations ostensibly promulgated to clarify and enforce the statute, provide such. Since 1972, the Bureau has actively discouraged applications for licensing, in a political move to create an impression of reduction in "firearms traffic". Under its regulations, for example, the applicant must have business premises separate from his residence and must keep regular "business hours". Collectors who reported sales only to other collectors and hours "by appointment" soon found their licenses being revoked. Moreover, a "dealer's" premises are statutorily subject to search, without warrant or probable cause. Collectors who asked whether licenses were needed were usually informed that five to 10 firearms sales per year did not constitute acting as a "dealer".

Actually, while the statute has no definition, federal appellate courts have defined "dealer" very broadly. They have repeatedly noted that there is no minimum number of sales necessary; that no minimum level of profit from sale of firearms is essential, and that the sole question is whether the jury believes the accused citizen to have engaged in "*any* business" of selling firearms. The Bureau has frequently obtained collections on as few as four to six sales per year, and these have been universally upheld.

The agents thus can easily lead an individual, who all the while believes he is obeying the law, into a felony indictment. Undercover agents approach the collector at a gun show. Their routine is already choreographed and tested in previous cases. Different agents may make one or two purchases at this gun show, followed by a few more at the next gun show, until four to six sales are obtained. The agents offer a very high price and purchase with little bargaining; thus the collector can easily be shown to have made a profit on their sale. As "icing on the cake", they may lead the collector into stating that he could obtain an additional firearm from a different collector for them: at this point he is acting as a broker for matter not already in his collection.

After the evidence is obtained, the collector is indicted on felony charges. The burden on him is immense. Legal defense costs usually run between $3,000 and $20,000. Conviction on the felony count means total loss of right to possess firearms within the United States. It also carries a penalty of 5 years imprisonment and a $5,000 fine.

In an effort to add to these burdens, the Bureau generally confiscates the collector's prize collection. This is done under a provision of the Act which permits confiscation of firearms "involved in or used in or intended to be used in" any violation. The confiscation puts additional financial pressure on a collector who may already be impoverished by the legal costs.

These activities have been frequently reported among collectors, but little work to compile and analyze them has been done. Recently I have had the privilege of serving as project director to a Task Force seeking to compile a comprehensive report on Bureau activities, which report was sponsored by the Second Amendment Foundation. The objective evidence which was compiled on this particular activity proved compelling. I could not escape the conclusion that the Bureau had carefully preyed upon misinformation as to the status of the law, some of which had been given out by the Bureau's own agents, in order to entrap law-abiding citizens and confiscate substantial amounts of their private property for the Bureau's own collection!

First, the Bureau seeks to entrap law-abiding individuals who would not disobey the law if it were not for the agent's activities and deception: it does not aim entrapment at individuals who would violate the law anyway and are but given an opportunity. Many of the individuals contacted, in various parts of the nation, with no opportunity to confer with each other, reported acting on advice of agents that five to ten sales per year of their own firearms did not constitute "dealing". In one especially well documented case, we obtained a government transcript of a recording of the defendant speaking to the agent.

"I don't want to know anybody what does anything wrong with guns. No, I'm serious. I collect, and, to me, there's a lot of fine people collecting. Several chiefs of police, several detectives here, and otherwise... I don't want, I would never want to contribute to anything that might make it look bad for all of us... There's a few people who are making it look bad for the many."

This individual was enticed into the sale of a sufficient number of firearms, his collection was confiscated at a gun show, and, when he filed suit for their recovery eight months later, an indictment was handed down within ten days. He is today a felon on probation. Given that "the first duties of the officers of the law are to prevent, not to punish crime. It is not their duty to incite to crime...", the entrapment of an individual of this type, solely for the virtue of increasing a "body count" of convictions and confiscations, is hardly justifiable conduct on the part of a public agency.

A second reprehensible aspect of the BATF attack on collectors is the tendency to focus on large and expensive collections. Confiscations tend to center upon these collections to the exclusion of the cheap firearms which the Bureau so often claims are the roots of violence. During the course of the study I utilized the Freedom of Information Act to obtain copies of the Bureau's "Reports of Property Subject to Judicial Forfeiture", which gave inventories of seizures by collector name, value, firearms, and ultimate disposal. A few examples will suffice. In one, the Bureau confiscated 83 firearms from a Pennsylvania collector. The Bureau's own appraisal fixed the value at $18,020.00. The collection was devoted primarily to antique Marlin rifles, especially the 1893 model, although some 1881 models in .40-.62 caliber and an especially rare .30-.40 "baby carbine" were included. Only five of the 83 were handguns—and the average handgun appraisal was $116. A second major example also came from Pennsylvania. There, 136 firearms value at $28,335.00 were taken. These included five Parker shotguns (one valued at $1,000), a Winchester model 21 (undervalued at $900), and a number of French and German collector shotguns.

Private reports have also been received (from time frames outside of the period requested under the statute) of numerous confiscations: An Eastern collector reported a seizure of $10,000 worth of items; two years after the confiscation, he has neither been charged with any offense nor has the collection been returned. A South Carolina collector reported seizure of over 100 firearms valued at over $15,000.00. He was acquitted of charges. Two weeks after the acquittal, the Bureau served him with notice of intent to forfeit his collection, maintaining that the criminal acquittal did not bind them in subsequent "civil" forfeiture proceedings. (Further, three persons, in Connecticut, Arizona, and Nebraska, reported that their automobiles were seized on claims that they had used the vehicles to transport firearms).

A third reprehensible aspect lies in the Bureau's use of its powers to furnish its own private collection. The reports obtained through the Freedom of Information Act requests showed that approximately one-third of the collections were being routed back to the BATF with the purpose of acquisition of a "reference collection". The two Pennsylvania seizures mentioned earlier alone contributed 75 firearms valued at $18,000 to this Bureau collection. The collection is not easily filled, obviously, especially with reference to the expensive shotguns: the Bureau apparently needed no less than five Parkers, three of the same gauge. Modern firearms are also found useful. One report from a Texas case disclosed a seizure of 86 firearms valued at over $20,000.00. The local Bureau office chose to keep 48 of these firearms for their local arsenal (and, presumably, for issue to the agents who confiscated them). Interest in filling this collection may explain the Bureau's tendency, reported by several collectors, to dismiss charges or permit pleas to a misdemeanor in the event the collector would permit them to keep the collection. These offers were transmitted through the prosecutor's office to the defense attorney's office: in several cases I was able to contact the defense attorney and confirm that such offers had been made.

Finally, some of the seizures appear to display a vindictive intent. In a famous Texas case, the agents seizing an expensive collection were seen to deliberately drop the firearms to the floor before storing them. Several firearms, in "as manufactured" condition and unfired, were "test fired", greatly reducing their collector value. Despite the dealer's acquittal, agents refused to return the firearms. Even after judgment was rendered in his favor on a civil proceeding, they still refused. Only after contempt proceedings were brought against them did they return the collection, then disclosing that it had been stored in a damp warehouse which had seriously rusted many of the finer pieces. A Colorado defendant reported, and his attorney confirmed, that his collection (including a Parker valued at $10,000) was thrown across the room as each firearm was booked in, and permitted to fall to a concrete floor. A Virginia defendant reported (and, once again, his attorney confirmed) that his firearms were thrown into a 50-gallon drum and wheeled to court in that manner. They were taken out and slammed down in a pile during the trial. When a request was made to treat them more gently, the result was only more violent treatment. In several cases in addition to the Texas one mentioned above, the Bureau refused to return firearms despite acquittal and then brought civil proceedings against the persons to confiscate the collection. Some collectors reported having to give up their collection because the criminal trial had exhausted their financial resources and the legal expense of the fight would be $2,000 or more. The collector, of course, does not recover his attorney's fees in the event he is acquitted, nor secures the return of the firearms. The Bureau, on the other hand, is served by attorneys paid from tax funds contributed to by the dealer.

Is this apparent focus on the law-abiding an isolated occurrence, or part of a general pattern? Since the Bureau does not itemize prosecutions by collector status, it is most difficult to tell. One might expect a rational, albeit ruthless, administrator to focus upon these individuals. As noted above, they are generally naive sorts who believe that "since I am law-abiding, I have nothing to fear from the law", are unlikely to shoot informants, are easily arrested without violence, and in short make a perfect target for a quick increase in arrests at minimal risk. What information we do have suggests that the Bureau has been assessing its probabilities in this manner. During Project CUE, the Bureau published breakdowns of prosecutions in certain cities. In Washington, D.C., for example, out of 1,603 investigations, only 206 dealt with felon in possession of firearms, only 58 with stolen firearms, and only 20 with use of firearms in a felony. Of Chicago's 1,980 investigations, 135 dealt with felony possession, 54 with theft, and only 9 with use in felony. Considering that studies have repeatedly documented that approximately 25 percent of handguns used in crime are stolen, one might expect that more than 3.6 percent of the Bureau's Washington investigations, for example, would deal with firearms theft. But we must reflect that catching firearm thieves and marketers of stolen firearms may be dangerous and difficult, hardly the type of thing to undertake when large numbers of quick arrests are needed.

In short, it appears that the Bureau of Alcohol, Tobacco and Firearms has devoted a significant portion of its investigative and law enforcement efforts to entrapping naive collectors of firearms, of a type unlikely to be contributing to criminal firearm markets. This campaign has enabled the Bureau to boast of impressive statistics of convictions and firearms seizures, with minimal effort and personal risk. It has also permitted the seizure of significant numbers of collector items, of which substantial numbers of collector items, of which substantial numbers are appropriated, without compensation, for the Bureau's own collection. The underlying practice of encouraging, rather than avoiding, crime can hardly be justified: its exploitation for Bureau property gains, or as part of a vengeance motive, is even more repugnant to our institutions.●

BEDELL INTRODUCES CLARIFYING AMENDMENT TO THE ENERGY TAX ACT OF 1978

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. BEDELL. Mr. Speaker, when Congress passed the Energy Tax Act of 1978, we clearly intended that there be an exemption by whatever means feasible from the 4 cents a gallon Federal gasoline excise tax on sales of gasohol. Until recently, the Internal Revenue Service has been providing rebates to gasohol handlers for the excise taxes they have paid on gasoline used to make gasohol. However, an IRS ruling within the past 2 weeks has found that the language contained in the act precludes issuing of such rebates to dealers and jobbers.

Today I am introducing legislation to correct this situation. I believe this legislation should be adopted as swiftly as possible in order to prevent an interruption of gasohol sales should sellers be forced by the IRS ruling to pass along the 4 cent tax to the consumer as a means of recovering their costs.

Gasohol is a blend of 90 percent gasoline and 10 percent ethanol. When jobbers and dealers purchase gasoline for mixing, they are forced to pay the full Federal excise tax to the refiner. The only way most are able to recover their payment to which they are legally entitled to is to obtain a rebate from the Treasury Department. The recent IRS ruling precludes this possibility, however; thus the need for my legislation.

Gasohol offers the promise of significantly increasing our liquid fuels supply and its development should be encouraged as a matter of Federal policy. Congress recognized this fact by enacting the excise tax exemption, and President Carter has since endorsed its permanent extension upon enactment of a windfall profits tax. In addition, Treasury Department and IRS officials have indicated to me that it is their desire that the rebate policy be continued upon enactment of clarifying legislation. It is thus imperative that Congress move quickly to correct the legal complications so that the exemption can be implemented and the interruption of gasohol sales prevented.

As I am sure my colleagues are aware, my own State of Iowa is the leading seller of gasohol in the Nation, having sold over 28 million gallons in the last year. Over half of the gasohol now being sold in Iowa is being done through smaller jobbers who use the rebate method of recovering their tax exemption. I am sure that this percentage is characteristic of the rest of the States where gasohol is sold. Consequently, it is crucial that the necessary technical corrections be made immediately so that these jobbers can continue to expand their sales.

Mr. Chairman, I think that there is general agreement that any alternative fuel that can make a contribution to easing our present dependence upon imported oil should be encouraged. I firmly believe that it is in the national interest to promote the production and use of gasohol, our "home-grown fuel", and I urge that my colleagues support the legislation I am introducing today as a means to that end. The speedy enactment of this legislation will insure that the IRS observes the intent of Congress in implementing the tax treatment of gasohol sales.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subparagraph (H) of section 6416(b)(2) of the Internal Revenue Code of 1954 (relating to specified uses and resales) is amended by inserting "or in a mixture described in section 4081(c)" after "section 4041".

(b) Paragraph (2) of section 4081(c) of such Code (relating to later separation of gasoline) is amended by inserting "(or with respect to which credit or refund was allowed or made by reason of section 6416(b)(2)(H)" after "this subsection".

(c) Any amendment made by this Act shall take effect as if included in the provision of the Energy Tax Act of 1978 to which such amendment relates.●

RHODESIAN SANCTIONS

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. GRAY. Mr. Speaker, the election in Rhodesia is now 2 months behind us. Pressure is building in the Congress to recognize the new Government of Zimbabwe-Rhodesia, and to lift our sanctions against that country.

President Carter is expected to decide later this month whether to lift the sanctions. Before he acts, let us hope that the administration, the Congress and the American people recognize that the question of Rhodesia is much more complex than the simple ideology of conservative versus liberal, as many are making it. This is not the case nor the issue, as pointed out in the following statement by the Barristers' Association of Philadelphia.

I would like to take this opportunity to share with all of my colleagues the text of the Barristers' Association paper on the issue of lifting Rhodesian sanctions.

PAPER BY BARRISTERS' ASSOCIATION OF PHILADELPHIA ON RHODESIAN SANCTIONS

Foreign policy analysts agree by and large that Africa has heretofore not been a focal consideration of American foreign policy. The Angolan civil war, the abortive rebellion in Zaire, the Ethiopia-Somalia conflict, and other recent African crises have pushed this nation toward abandoning its policy of neglect and disdain toward Africa. The Barristers' Association of Philadelphia believes that constructive steps have been taken over the past few years to address an African crises of major proportions, the Rhodesian struggle for majority rule. To such constructive steps are the repeal of the ill-conceived Byrd Amendment which, in contravention of United Nations mandates permitted the importation of chromium into the United States, and the Anglo-American efforts at securing a political settlement which will accommodate the interests of the Patriotic Front, led by Mr. Nkomo and Mr. Mugabe, which group is waging the struggle for majority rule.

In this context and for the reasons advanced hereafter, we bitterly oppose as disingenuous and counterproductive the drive undertaken in Congress to end economic sanctions against Rhodesia and thereby effectively endorse the sham constitutional accord forged by Prime Minister Smith and his black acolytes, Bishop Mizorewa, Rev. Sithole, and Chief Chirau. We submit that the procedural context in which the accord was adopted and the martial setting in which the recent election of representatives to the constitutionally prescribed National Assembly was conducted utterly divest the accord and the election of any probative value with respect to the fundamental question of whether there is real majority support for the Smith internal settlement.

We note that black Rhodesians were not afforded an opportunity to consider the terms of the constitutional accord, although they comprise well over ninety percent of the Rhodesian populace, where as white Rhodesians were permitted to reject or ratify the accord. Therefore, the majority of Rhodesians was denied the right to determine the propriety of constitutional provisions which guarantee to the white minority twenty-eight percent of the seats in the National Assembly, virtually absolute control of the judiciary, police, military, and civil service for several years to come, and other extraordinary prerogatives, including the power to veto any constitutional amendment.

With regard to the election recently concluded in Rhodesia, we note that it was conducted under martial law imposed over ninety percent of the countryside. In many instances, heavily armed soldiers solicited citizens' participation in the election and delivered them to the polling stations. Even if there were no overt threats, and Rev. Sithole vociferously claims that there were, the overwhelming show of force provided a powerful deterrent against massive nonparticipation in the electoral process. Significantly, black Rhodesian university students and supporters of Mr. Nkomo were effectively suppressed by Rhodesian security forces. The Patriotic Front was banned from the electoral process. Under these coercive circumstances, it cannot be gainsaid that the election was fundamentally unfair and without even the appearance of freedom.

We view the Congressional drive to end sanctions against Rhodesia as a transparent effort at providing tacit American support for Mr. Smith, who remains firmly in control of the nation in spite of the forthcoming cosmetic change in the Rhodesian government, which change is symbolized by Bishop Muzorewa, the titular head of the newly elected regime. It is well settled that Mr. Smith is a virulent racist, having expressed on many occasions his belief that blacks are inferior to whites and his intention never to relinquish control to the black majority. Clearly, Mr. Smith must be taken at his word; the constitutional accord and the electoral process are eloquent testimony of his sincerity.

In view of these facts, the leaders of the Patriotic Front have flatly rejected the accord and the election and declared their determination to topple the Smith regime and its black appendages. The lifting of economic sanctions from the Smith regime can only exacerbate the deadly conflict in Rhodesia by providing economic, political, and emotional support for an illegitimate government, a government that has taken no meaningful steps toward majority rule. If the movement to lift sanctions is successful, we foresee an expansion and transformation of the struggle there into an East-West conflict, with the Front Line African states and certain Communist nations aligned with the Patriotic Front, and the United States, other Western nations, and South Africa, which has recently volunteered its assistance to Bishop Muzorewa, supporting the Smith regime. Such a transformation of that conflict would substantially enhance instability in an already volatile region of the world. Additionally, such a transformation of that conflict offers the specter of American intervention in behalf of an unjust cause, a la Vietnam. Our relations with black African states in particular and the Third World in general would suffer incalculable harm as a result of American active support of the Smith regime.

We think that a more reasonable course of action for Congress is to maintain the present sanctions against Rhodesia and impose additional pressures on the parties in the Smith regime to enter into a negotiated settlement with the Patriotic Front; United Nations-supervised elections must be held and the Smith constitutional accord must be abandoned as the governmental framework for any future regime. The United States is poised at a critical juncture in its conduct of foreign policy as it relates to Africa. A misstep could have far-reaching negative consequences, as we have indicated, including the erosion of this nation's power and influence throughout the world. Congress can avoid this eventuality by defeating the proposals pending in both houses of Congress to end economic sanctions against Rhodesia and pushing for a settlement which affords some measure of justice to the parties who have been striving for genuine majority rule, the Patriotic Front. Only then will there be a sound foundation for a lasting peace in Rhodesia.●

GRAIN BOARD BILL

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. NOLAN. Mr. Speaker, the House Agriculture Subcommittees on Livestock and Grains and on Operations and Oversight have held joint hearings on H.R. 4237—the Grain Board bill introduced by Congressman WEAVER. I have cosponsored H.R. 4237 as a means to raise farm income and to improve our trade balance.

During the past decade, the volume of agricultural exports has increased by about two-thirds. For this year's crop, according to projections, 64 percent of the wheat produced domestically will be exported, as will 26 percent of the feed grains, 42 percent of the soybeans, and 48 percent of the rice. In 1978, the value of farm exports exceeded the value of farm imports by $13 billion, which helped offset the U.S. trade deficit of more than $43 billion—a trade deficit which continues to grow because of high-priced imported oil.

The high volume of farm exports means little, however, unless the value at which agricultural commodities are exported also is considered. Unfortunately, the current volume of farm exports has been achieved at the expense of U.S. farmers and the Nation's balance of payments.

In order to make up the shortfalls in grain production in other countries in 1972 and 1973, U.S. farmers were encouraged by the Government to expand their production. But the new export markets were not sustained at a level sufficient to absorb our increased production. Since the United States did not have an adequate grain reserve or commodity loan program, the prices received by farmers dropped below production costs, creating economic havoc in grain producing regions of the country. The unstable prices also threw the cattle cycle out of kilter as the livestock industry was confronted by wide swings in feeding costs.

The United States now has experienced several years of low farm commodity prices. Net farm income in 1976 and 1977 dropped to the lowest point since the depression. Although higher, last year's net farm income, when expressed in real purchasing power, was nearly 40 percent less than in 1973 and thus has not begun to make up for the lean years.

The low price levels mean that we are still exporting our grain for less than it costs to produce it. The low prices led farmers to mine their soil in order to increase their volume of production and marginal returns. But productivity has its limits and commodity prices have failed to keep pace with inflation, particularly as energy costs continue to skyrocket. As Agriculture Secretary Bergland said, it takes about 80 gallons of fuel (directly and indirectly) to work an acre of land, and fuel costs keep going up and up. When farmers cannot recover their production costs for their commodities, they are forced to sell at a loss and to export their equity abroad.

Since the United States is the dominant exporter of agricultural commodities in the world, world grain prices generally follow U.S. prices. The low price supports for U.S. grain forces other exporting nations to lower their grain export prices, thus weakening their farmers and their economies as well. For developing nations, low or fluctuating world prices mean economic instability which will inhibit agricultural development and reduce the incentive for farmers to increase food production. Clearly, the recent history of low or widely fluctuating prices for U.S. grain exports have threatened economic stability and the ability to sustain food production at home and abroad.

Existing U.S. farm and agricultural trade policies are not adequate to raise and stabilize the price of grain. U.S. farmers, therefore, are in a move vulnerable position than ever before. They must depend on the uncertain availability of export markets in order to sustain their income. As the General Accounting Office has pointed out:

> The increased role of agriculture in foreign trade adds to the uncertainties with which the farmer must contend. In addition to the uncontrollable factors which normally affect farming, the farmers now must deal with the unexpected, changing trends of other countries' agricultural sectors, due to natural causes as well as political manipulations.

Instead of formulating a trade policy to raise and stabilize farm income, the White House (and the grain trade) still embrace the romantic notion that we live in a world of free markets and free trade. Nothing could be further from the truth. It has been estimated that over 80 percent of U.S. wheat exports are purchased by state trading corporations of the importing countries. In addition, imports of U.S. farm commodities often are subjected to levies which exceed the original cost of the product itself. The income generated by such import "taxes" does not go to U.S. farmers but to the importing countries which will use the revenue to subsidize their economies and exports.

Free trade obviously is a myth insofar as the trade of grain is concerned. Prof. Willard Cochrane of the University of Minnesota has noted the danger in continuing to believe such a myth. In a world dominated by state trading, Cochrane stated:

The unilateral adoption of a free-market, free-trade policy by the United States would have resulted in considerable damage to the agricultural industry from increased imports and produced few, if any, benefits in the way of increased exports.

The Russian wheat deal of the early 1970's vividly demonstrated the competitive advantage state traders enjoy over private grain traders in the world commodity market. From the perspective of international commerce, U.S. grain exporting firms represent an atomized industry whose bargaining power and resources are inferior to those of state traders (whether U.S.S.R., European Community, Japan, and so forth).

The structure of the grain trade in the United States also belies any notion that free markets or free trade exist. According to the Department of Agriculture, the four companies with the largest amounts of grain sales between 1974 and 1977 accounted for nearly 50 percent of the total sales reported. The next leading four companies accounted for an additional 20 percent of the sales. According to Business Week, Cargill alone accounts for 25 percent of the grain trading business and Continental is next with about 20 percent. Competition among a few big firms which dominate the grain trade, "oligopoly" in the economist's words, is a far cry from free trade.

Farmers, therefore, have two strikes against them as long as the private grain trade dominates our exporting of grain. First, the grain companies are interested in buying grain as cheaply as possible. There is no incentive to share profits of the trade with farmers. And, since the top grain trading companies are privately held, little information exists regarding their profits and methods of operation. Second, the private grain traders do not have a competitive market advantage in a world where our agricultural exports are bought primarily by state traders. What little competition there is among the few big grain traders would lead to bidding prices down in order to obtain sales. The cheap exports have eroded both farm income and the Nation's balance of payments.

Neither U.S. farmers nor the Nation can afford our current grain exporting policy—particularly as imported oil costs continue to rise. By increasing the value of our grain exports our agricultural trade surplus will vastly exceed the 1978 surplus of $13 billion—which is a meager amount when compared to what it should be. It is time for the United States to recognize economic reality and to establish a grain export policy which will substantially increase the grain export prices. I believe the Grain Board authorized under H.R. 4237 is the best means to carry out such a policy.

Congressman WEAVER's proposal for a Grain Board may not be perfect, but it establishes a framework for exporting our grain in a manner which better serves the economic interests of the United States rather than the interests of the private grain trade.

Although the Grain Board bill establishes minimum export prices equal to the current target prices. I believe the minimum export price should not be less than the cost of production. Since the target prices now on the books do not adequately cover production costs my suggestion would, in effect, raise the minimum export prices above the target prices. In determining the price at which U.S. grain may be exported to a particular country, the Grain Board also should take into account the price support levels in the country purchasing our grain and the price at which imported grain typically has been sold to millers in that country.

While the Grain Board proposal has many opponents among free trade economists, administration officials and the grain trade, I believe the momentum in favor of the Board is increasing as more people become aware of what is at stake and what the Grain Board will be able to achieve.

First. The Grain Board will increase substantially the value of our grain exports. While prophets of doom and gloom cry that we will lose our export markets if prices are raised, they fail to understand that exporting grain at less than it costs to produce it is foolish and destructive. If the value of our grain exports were doubled, the volume could be cut in half before our export earnings would be diminished. The prospect of halfing our grain exports is not realistic, but it indicates that with a substantial increase in the value of our exports we could afford to reduce the volume of our exports.

Second. Other grain exporting countries including Canada, Australia, and Argentina will raise their grain export prices when the United States does so. They have been forced to cut their export prices in order to compete with the low U.S. prices. The discussions which Senators MCGOVERN, BELLMON, and MELCHER have had with representatives from the other grain exporting countries make it clear that the others are willing to follow the U.S. lead in raising their grain export prices.

Third. The establishment of a Grain Board will increase the leverage of the United States in the grain export market, thus providing a positive incentive for reopening negotiations for an International Wheat Agreement and for establishing an international cooperative marketing arrangement in the world trade of grains.

Fourth. Although the Grain Board would increase the export price of U.S. grain (and lead to a similar increase in grain prices by other exporting nations), this will not lead to a massive increase in the price of grain for consumers in other nations. The prevalence of import levies and taxes already have pegged consumer prices in other countries well above current world prices. Wheat sells for over $6 per bushel in the European Community and for around $11 per bushel in Japan.

Fifth. Developing nations which rely on grain imports but do not have the money to purchase their requirements, even at today's depressed prices, would still have access to grain through the donation and concessional sales programs under Public Law 480. Higher grain prices actually will reduce the dependence of developing nations on imported grain because their farmers at last will have the financial incentive to grow their own food. The United States cannot feed the world and increased self-sufficiency or self-reliance in developing nations is necessary in order to feed larger populations.

Sixth. Finally, by raising and stabilizing the export price of grains, that Board will substantially improve farm income above the current depressed levels. Whatever modest increase in U.S. consumer food prices might be attributable to higher grain export prices would be more than offset by reducing our trade deficit and by easing inflation.

The economic case for the Grain Board is a strong one. Almost all of us are aware that current farm policy has been a dismal failure. Most recently, Agriculture Secretary Bergland and Senate Agriculture Committee Chairman TALMADGE have joined in urging a sweeping evaluation of U.S. farm policy. Any such endeavor must include an analysis of our agricultural export policy. More of us are becoming aware that our grain export policy not only has sold out our farmers but also is making our trade deficit worse. The Grain Board offers farmers, consumers and taxpayers a way out of our inflationary economic shambles. I urge my colleagues to give the Grain Board the serious attention it deserves.●

PUBLIC OIL AND GAS LANDS LEASING REFORM ACT OF 1979

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. MILLER of California. Mr. Speaker, I am introducing today the Public Oil and Gas Lands Leasing Reform Act of 1979. The purpose of this bill is to eliminate flagrant and longstanding abuses in the noncompetitive leasing program for onshore public oil and gas reserves. The legislation which I am introducing would replace the current "lottery" disposal method with a competitive bidding procedure similar to that used offshore and on certain onshore lands. This legislation would also, by eliminating current abuses, accelerate the safe and efficient production of this oil and gas, while assuring a fair return to the public and adequate competition for the leases.

Three months ago, I drew the attention of this House to the serious problems in the onshore leasing program. "Public Resources and Private Profit" CONGRESSIONAL RECORD, March 15, 1979, page 5377. Since that time, the General Accounting Office has released a new study "Onshore Oil and Gas Leasing—Who Wins the Lottery?" April 13, 1979, which not only confirms many of the charges which I made, but which reiterates most of the critical conclusions made about this program in the 1970 GAO study "Opportunity for Benefits Through Increased Use of Competitive Bidding To Award Oil and Gas Leases on Federal Lands".

Earlier this week, Secretary of the Interior Cecil Andrus announced a series of regulatory and administrative changes in the onshore leasing system designed to eliminate some of the worst abuses. While I applaud the Secretary's action, I must add that statutory reform is also needed. Secretary Andrus has announced his intention to present legislation to the Congress within a few weeks. I would hope that the Congress will quickly consider my legislation, and the proposals by Secretary Andrus and Senator JACKSON, so that these overdue reforms will be enacted during this current session of Congress.

LOTTERY PROGRAM

Under the terms of the Mineral Leasing Act, most of the public oil and gas lands are leased in noncompetitive lotteries under the so-called "simultaneous filing system." Competitive bidding is limited by statute to those lands under which there is a "known geologic structure", as determined by the presence of a producing well. All other lands are leased noncompetitively.

PUBLIC DENIED FAIR RETURN

In the 1970 study, the GAO definitively concluded:

> Under the present leasing system, the rights to federally owned oil and gas are being disposed of at less than their fair market value, GAO continued that Competitive leasing would ensure that lands are leased at prices that more nearly approximate their fair market value.

Under the noncompetitive system, participants in the lottery pay a $10 filing fee to the Government. Winners must also pay a 12½-percent royalty on anything which is produced from the lease. That royalty is substantially below that which used to be the minimum for offshore—16⅔ percent—but which has been increased to more than twice that amount, in some cases, under the Outer Continental Shelf Act of 1978.

Little wonder that GAO has repeatedly expressed concern that the public is not receiving a fair return from the development of its own resources. In one comparison of State lands leased competitively with adjacent Federal lands secured through a lottery, GAO concluded that the Federal rights had been leased for $24 million less than their fair market value, or just 5 percent of FMV. The GAO has recommended, as a general rule, that oil and gas leases on Federal lands be offered competitively.

The legislation I am introducing would convert the leasing program to a 100-percent competitive bid procedure. It would also authorize the use of the types of bidding systems now used on the Outer Continental Shelf, including fixed bonus with sliding royalty, net profit share, and other systems designed to base the lease on the actual value of the resource. "The disposal of the Nation's oil and gas resources under full and free competition," according to GAO, "would be more consistent without free enterprise economy."

LEASE ASSIGNMENT

The switch to competitive bidding would also tend "to reduce or eliminate certain undesirable aspects" of the noncompetitive filing system, according to GAO. Most glaring among these abuses is the common practice of the assignment of leases by successful individuals to third parties, often soon after they were awarded the lease, and for far greater prices than the Government had realized for the original lease.

Both the GAO in 1970, and the Bureau of Land Management in 1978, agreed that the winning applicants "never intended to explore for or develop oil and gas reserves" in many instances. Indeed, less than 5 percent of all noncompetitively awarded leases are developed.

The virtually unregulated ability to assign original leases has fostered the growth of leasing companies, which handle both the original filings and reassignments for individual speculators. The growth of these middlemen indicates how far from its original purpose the noncompetitive system has strayed.

Originally, the program was designed to enable individual citizens to acquire and profit from oil and gas resources. But as we are all aware, such development costs millions of dollars, and few individuals can afford to expeditiously develop on their own. Instead, they—with the help of the filing services—assign their $10 leases for as much as $200,000, in some cases. The public, whose resources are being assigned, receive nothing. Oil companies, which would have to pay the public two or three times the 12½-percent royalty were they bidding on equally unknown offshore tracts, thereby manipulate the system to their own great economic benefit at the expense of the public.

The manner in which this "switch" has occurred is evident from the statistics. Although GAO found that just 6.7 percent of the noncompetitive leases were originally secured by major oil companies, a figure applied more broadly by Secretary Andrus in a letter to me, another 18 percent of the leases were reassigned to the major companies. Thus, major oil companies have secured control of 24 percent of all leases amounting to millions of acres of public land, in a program designed to benefit the average ciitzen. We do not know whether this 24 percent also represents the most potentially lucrative tracts, but that possibility does exist because the companies possess geologic data from adjacent lands which allows them to make more accurate predictions of the tracts' value then either the Government or the leasing companies.

DELAYS IN PRODUCTION

There are virtually no conditions on the assignment of leases. One of the results of this weakness of the present system is that it permits partial assignments in extremely small blocks of land, a practice which GAO concludes "impedes rather than induces the development of oil and gas resources." Other factors which delay development include the extraordinarily low rentals of 50 cents an acre per year (compared to $1 for offshore, and up to $11 for State leases), the letting and assignment of leases without assurances of development, extension of leases without assurances of production, and poor management policies. (See GAO report, 1979, page 9.)

The legislation which I am introducing today will correct this abuse in the current program. No one could secure a lease unless the Secretary of Interior had determined that he possessed "the financial and technical capacity for exploration for, and development and production of, oil and gas." Given the current need to accelerate the production of our national crude supply, it seems entirely absurd to put billions of potential barrels of oil and cubic feet of natural gas into the hands of people who are entirely without the finances or expertise to develop it.

It would be improper to continue to lease these resources to oil corporations which do not expeditiously develop them. My legislation builds on diligent exploration and development requirements recently enacted by Congress. Potential lessees would have to certify that they were performing with diligence on all existing leases before being awarded new leases; no lease could be extended if it were not being diligently developed. In addition, the length of the lease period would be reduced to 5 years, which would stimulate more rapid exploration.

In order to curb the speculative trafficking of oil and gas leases, my legislation establishes conditions on the assignment of leases. Rather than permitting assignment merely for the personal profit of the original lessee, the legislation permits a transfer only if the Secretary determines that "such assignment or sublease would increase exploration for, and development and production of, oil and gas." Any prospective assignee or sublessee would also have to be in compliance with all diligence standards on all existing public oil and gas leases prior to the approval of any assignment by the Secretary. Like the reforms in the bidding process, these reforms of the assignment process will assure that leases for public resources are awarded to those with the ability and the intention of developing those resources safely and expeditiously for the benefit of the American public.

ASSURED COMPETITION

The move to a competitive system, while eliminating from leasing many individuals lacking expertise, could deliver much of these resources into the hands of a few oil and gas corporations. In order to regulate this possible concentration, my legislation restricts joint bidding among major oil companies, as well as placing a ceiling on the amount of acreage which any major company can lease.

The intent of these portions of the bill, as well as that section which authorizes the use of a variety of bidding systems, is to encourage competition for these potentially valuable leases.

Mr. Speaker, the reforms contained in this legislation are very long overdue. The need to move to a leasing system based on competitive bidding has been recognized in the Interior Department since 1935. GAO reports in 1955, 1961, 1970, and 1979 have made similar recommendations. In 1966 and 1968, and now again in 1979, studies from within the Department of the Interior have recommended modification of the noncompetitive leasing program.

MORE DOMESTIC PRODUCTION NEEDED

The situation is more critical today than in the past. President Carter has emphasized the need to expedite the safe development of our domestic oil and gas supplies. It should be apparent that to continue to fling away public resources in a haphazard manner through a lottery, in which there is no assurance that capable parties will either secure or develop leases, is irresponsible public policy.

To perpetuate a system which denies the American public a fair return from the leasing and exploitation of resources which belong to them is similarly without either merit or logic. Nor can we continue a system which allows a small number of powerful oil companies to secure the rights to vital national resources without adequate competition from other interested and capable parties.

The legislation I am introducing today corrects these longstanding flaws. It builds upon the precedents established in recently enacted legislation affecting offshore resources. I am hopeful that the Congress will enact this legislation swiftly so that the effort to maximize the development of domestic energy resources moves ahead in a safe and responsible manner.●

H.R. 3942—AN AVIATION DISASTER

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. ROSENTHAL. Mr. Speaker, the problem of aircraft noise and safety is of immense concern to me and to my constituents, tens of thousands of whom live near or beneath the flight paths of LaGuardia Airport.

Having lost faith in the Federal Aviation Administration, they look to the Congress for relief. But they would not get it here if H.R. 3942 passes. That bill, which is now making its way through the legislative process, is called the Aviation Safety and Noise Reduction Act. No piece of legislation could be more misnamed. One of our colleagues has suggested a more accurate title might be the "Aviation Noise Enhancement and Safety Reduction Act."

H.R. 3942 represents several giant steps backward in the fight to make the skies safer and quieter. Coming as it does in the wake of two of the worst airline disasters in U.S. history—San Diego and Chicago—it is irresponsible and a disaster itself.

I testified this morning before the Interstate and Foreign Commerce Subcommittee on Transportation and Commerce hearings on this bill. It should not be reported to the floor, but in the event it does, our duty will be to defeat the bill or wholly rewrite it.

I am inserting in the RECORD at this point my testimony:

TESTIMONY OF CONGRESSMAN BENJAMIN S. ROSENTHAL

Mr. Chairman, Members of the Subcommittee, I appreciate this opportunity to appear before you today to testify on H.R. 3942, the Aviation Safety and Noise Reduction Act.

Aircraft noise and safety are two subjects of enormous concern to my constituents, tens of thousands of whom live near or beneath the flight paths of LaGuardia Airport. Throughout the day and night, the planes roar overhead. These people are frustrated, angry and bitter. Many have lived in these neighborhoods since before the jets intruded into their lives. They have heard the promises and explanations of the FAA, but these have been drowned out by increasing jet noise. My constituents—like yours, Mr. Chairman, and like millions of other Americans adversely affected by aircraft noise pollution—find the present noise conditions unacceptable.

Aircraft noise pollution is a serious threat to the physical and psychological well-being of over 6 million Americans. In addition to damaging hearing, aircraft noise has been linked to cardiovascular disease, diabetes, arthritis, fetal damage, increased heart rate, and high blood pressure. It interferes with sleeping, listening to radio and television, communicating, reading, and many of our other daily functions. It depreciates the market value of residential property and disrupts schools and businesses. The increased demand for air service resulting from airline deregulation is likely to exacerbate the noise problem and make living conditions even more intolerable for millions unless immediate action is taken.

The bill before this committee is entitled the "Aviation Safety and Noise Reduction Act," and thus presumably contains measures designed to reduce aircraft noise pollution. One of our colleagues has suggested a more accurate name might be the Aviation Noise Enhancement and Safety Reduction Act. I agree. As one who has been active in legislative efforts to control aircraft noise for over 15 years, I must report that this bill will do virtually nothing to reduce aircraft noise levels and will in fact probably result in noisier planes and airports. If enacted, H.R. 3942 will doom thousands of my constituents and millions of other Americans to continued suffering from aircraft noise pollution for years to come.

First, the bill would take all authority for the establishment of "normally compatible" aircraft noise levels away from the Environmental Protection Administration and would give it to the Department of Transportation and its Federal Aviation Administration. Standards for noise measurement were set in 1971 by HUD and accepted by all government agencies except DOT/FAA. To now suggest giving DOT/FAA that kind of authority would be a disaster. It is like asking Idi Amin and the Ayatollah Khomeini to write and enforce a code of human rights. The FAA has repeatedly proven itself insensitive to the needs and concerns of communities and citizens affected by aircraft noise pollution. It has consistently advocated the interests of the airlines over the interests of those who live near our major airports, and should never be made the sole watchdog over noise level violators.

Second, the proposed legislation would gut existing regulations designed to reduce excessive aircraft noise. FAA regulations issued in 1976 gave aircraft owners overly generous deadlines for bringing their planes into compliance with noise standards. H.R. 3942 would scrap these deadlines for two and three-engine aircraft, which are the worst offenders. Over 1,100 planes will thus be freed from existing regulations which require that they be modified to create less noise by 1983 at the latest.

While these planes are to be restricted primarily to small and medium-sized airports, even the bill's sponsors admit that exceptions could be made and that these noise hazards will be allowed to fly in and out of major airports as well. The effect of lifting the current noise standards will be that close to 60,000 flights into and out of LaGuardia Airport each year could be made by airplanes that do not meet FAA noise standards. Over 1.5 million flight operations could be made each year at airports nationwide by non-complying aircraft.

Third, the bill before this Subcommittee would prevent the FAA from imposing any new noise control requirements on aircraft which meet the noise requirements in effect at their date of purchase. A plane purchased in 1981 that met existing noise standards would not have to be modified until after 1991, no matter how cheap the modification nor how improved the state of noise reduction technology. By then many of the neighbors of major airports will be deaf and past caring about aircraft noise.

Fourth, H.R. 3942 would limit the FAA's powers to impose a cutoff date on the manufacture of certain excessively noisy aircraft. The agency moves slowly as it is, but the current proposal would require the FAA to submit proposed restrictions on manufacturing to Congress for study. Either house would be able to veto any manufacturing cutoff date, thus raising the possibility that factories will continue to turn out noisy 727's and DC–9's for years beyond the cutoff dates currently being considered.

Fifth, the bill does nothing to provide the public with immediate relief from oppressive aircraft noise. Current plans for engine retro-fitting, aircraft replacement, noise contour maps and compatibility studies are long-term solutions to noise pollution. While we await the implementation of these proposals, I recommend that aircraft operations during normal sleeping hours be limited in order to provide immediate relief to the 6 million Americans adversely affected by aircraft noise. My legislation, H.R. 170, the Airport Noise Curfew Act, would provide an effective method of implementing this idea. It calls for the creation of a nine-member commission to investigate the establishment of nationwide curfews on airport and aircraft operations during normal sleeping hours.

Nighttime curfews are already in effect at National Airport here in Washington as well as others in the U.S. and abroad. FAA statistics indicate that a curfew between 11 P.M. and 7 A.M. would create only minimal inconvenience for airline passengers. This is not a long-term solution to the problem of aircraft noise by any means, but it would have immediate beneficial impact at low cost and would demonstrate Congress's commitment to reducing noise levels at our nation's airports. The establishment of nighttime curfews would be a good first step in the transition to quieter airport communities.

Mr. Chairman, while my primary concern here is with aircraft noise pollution, I must also point out that H.R. 3942 will severely limit the FAA's ability to implement desperately needed air traffic safety requirements. After 144 people were killed in a mid-air collision over San Diego last year, the FAA proposed a number of regulations designed to decrease the possibility of mid-air collisions and to increase air traffic control over most aircraft. H.R. 3942 would prohibit the FAA from implementing any of these regulations—in the wake of the worst air disaster in U.S. history. 250 million airline passengers a year are being placed in jeopardy for the sake of a few commuter airline operators and private pilots who don't want to be "hampered" by air traffic controllers.

In short, Mr. Chairman H.R. 3942 is a disaster. It would result in noisier planes when we should be striving for quieter airports. It would prevent the imposition of safety standards at a time when more stringent safety requirements are urgently needed. Although the current laws are woefully inadequate, I am forced to conclude that no bill at all would be far superior to this atrocity. H.R. 3942 is clearly designed by the airlines, for the airlines. I urge the members of this subcommittee to defeat this special interest bill. Should it be reported out of committee, I will fight it on the floor, and should it be passed by the House in its present form I will immediately wire the President and urge him to veto it. Congress can and must pass effective noise control legislation, but this bill is not that vehicle.●

JIMMY CARTER AND RHODESIA

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. ASHBROOK. Mr. Speaker, the President is about to formally issue a new policy on Rhodesia. This new policy sounds like many of the commercials on the television. Something is supposed to be "new and improved" and it turns out to be the same old toothpaste. In this case the President is peddling the same, "not enough support from the Rhodesians," line that has already been dismissed by about every eyewitness who has reported on the Rhodesian elections.

Under the "new and improved" Carter-Rhodesian policy the President will "reconsider his decision if the new African Government in Salisbury significantly broadens its support." Now what does this mean? How does one broaden a mandate that already includes an overwhelming majority of parliament seats in an election where nearly 64 percent of the electorate voted? Under these terms the President himself has a pressing need to expand his support since he came to office with only a bare majority of the 56.5 percent of Americans who voted that year. In fact, in a poll taken by the Associated Press-NBC News survey just after the Rhodesian elections the President stood at only 26 percent in popularity among Americans. We can all play these numbers games. However, for Jimmy Carter, the supposed leader of the Free World, to juggle numbers in the face of Soviet-backed opposition to a new African democracy, is an incredible violation of the trust Americans and freedom-loving people throughout the world bestow on the U.S. Presidency. I hope that the 1980 elections prove the lack of credibility Mr. Carter now has among the electorate. He has certainly done all he can to significantly narrow support for his Government.●

COMMENCEMENT ADDRESS BY THE HONORABLE HENRY J. HYDE OF ILLINOIS

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. BAUMAN. Mr. Speaker, our distinguished colleague from the State of Illinois, HENRY HYDE, recently made the annual graduation address at Triton College in River Grove, Ill. This was the 13th annual commencement and it honored 1,300 graduates. I wish to share our colleague's eloquence with the House.

The remarks follow:

ADDRESS BY HENRY J. HYDE

Members of the board of trustees, President Knight, members of the faculty, graduates and friends: Any memorable event is enhanced by sharing it with others—and this evening the excitement, the pride and the sense of accomplishment that you graduates must feel is indeed shared by all the rest of us.

It is traditional for commencement speakers to speak glowingly of the future—for surely the future belongs to you. But so does the past belong to you—and we face the realities of the world disarmed without some understanding of the past.

Woodrow Wilson, when he was president of Princeton referred to the university as society's "seat of vital memory."

The Columnist George Will described Napoleon as ". . . a bloody nuisance richocheting around civilization, making lots of history and orphans. He made so much history because he knew so little. He travelled fast because he travelled light, unencumbered by an educated person's sense of limitations. . .

The great constant throughout the ages has been human nature. We have added to the sum of human knowledge, we have survived the stone age, the dark ages, medieval times, and into the industrial revolution—but still human nature remains the same—capable of great heroism and of great selfishness and greed.

And history teaches us that education is not the same as wisdom—we recall that the Holocaust was initiated by some highly educated people.

We will demonstrate some measure of wisdom however, if we understand that we see so far into the future because we ride on the shoulders of those who have gone before us. "We are dwarfs," said John of Salisbury "standing on the shoulders of Giants."

Surely in today's world, an educated person has lost the right to be bored. Fundamental forces are combining to confront Western civilization with unprecedented challenges—nationalism, ideology, increasing literacy leading to increased political mobilization, urbanization, religion, demographic changes, the redistribution of political and economic power—all are compelling us to face the great unanswered questions of our time.

Do the totalitarian societies possess a strength, a staying power that Western democracies lack?

Does our consumer society—open and permissive, devoted to satisfying every appetite and distracted by drug store pornography and narcotics have within itself the capacity for deferred gratification and discipline that survival may require?

And in what or from where will this inner strength be found? A love of family, of country, or perhaps religion?

You, as people who have begun the life long process of education can begin to ask these ultimate questions, and help find answers as well.

Your studies will have taught you that most Americans are wrong in taking freedom and abundance for granted—that these civilizing forces are rare and short lived in history's cavalcade.

It would be uncharacteristic of me not to inveigh against something, and so I shall identify the object of my protest as cynicism.

The other day I saw a bumper sticker that read "honk if you believe in anything."

And surely the past two decades have been marked by drift and disruption—by loss of faith in our political social and religious institutions. This loss of faith like a skyrocket come to earth, just lays there, spent, indifferent and apathetic.

Even those who reject fashionable cynicism sometimes despair that the world is too big and too complex, and we are too insignificant to make much difference. But this is false. Large movements are composed of a mosaic of individual lives, each joined in a shared effort towards a common goal.

The beginning of wisdom is knowing how much one doesn't know. In that sense, the greater one's education the more humility one should practice.

The role of the thoughtful educated person is to constantly call into question the prevailing assumptions—to keep at arm's length from conventional wisdom. An open, but not an empty mind will result.

We must have great expectations, but not despair when our greatest expectations fail of fulfillment.

Thomas Wolfe in his last novel, "You can't go home again" tells us that progress is never in a straight line, but is like a drunken beggar on horseback—reeling and lurching—but the important thing is not that the beggar is drunken or that the horse is reeling or lurching—but that he is on horseback and the horse is moving forward.

You can teach us never to dwell on our limits, but on our possibilities, because now, of all times, America reaches out for men and women of great enthusiasms and great devotions.

Nothing beautiful, or sensitive or enduring has ever been created by a cynic—

A view of the 90-year-old Michaelangelo standing beneath his nearly completed dome of St. Peter's and looking upward to the sky is not the image of a cynic—

Henry's Adams' description of the cathedral at Chartres as a structure embodying the noblest aspirations of man—the reaching up to infinity—was not written by a cynic.

Can you imagine 11,000 freezing men suffering through the winter at Valley Forge—where 3,000 died—because they and their general were cynics?

And so, you are now better suited to contribute towards the "just society" that is the goal of all civilized people. Your education provides you with confidence and a vision of the future that can be a successful antidote to the deadening self doubt that pervades society. We have not come across two centuries and peopled a continent by doubting ourselves.

You can teach us to welcome each challenge as an opportunity to do our best.

There is a memorable line in Camelot, where King Arthur says ". . . we're all of us tiny drops in a vast ocean, but some of them sparkle."

By your achievement as Triton graduates you are now set apart as belonging to those few who indeed do sparkle.

You have heeded the inner call to excellence—

May it always call to you and may you always answer with the enthusiasms and devotions you share with us this unforgettable evening.●

THE EXPLOITATION OF BLIND WORKERS MUST CEASE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. BIAGGI. Mr. Speaker, one of the most important labor and social issues facing this Congress is the pressing need to provide employment equality with regard to wages for the more than 5,000 blind workers in this Nation. In this week's edition of U.S. News and World Report, an article was included detailing the exploitation of blind employees engaged in jobs which fail to pay these workers the minimum wage guaranteed to all other laborers in this country.

Of special concern is the plight of these several thousand blind workers employed in some 200 "sheltered workshops." These workshops hire blind workers to produce a host of individual appliances from which the workshops in turn sell for millions of dollars of profit. Yet many of these people are paid less than the minimum wage, some as little as 58 cents an hour.

It is a form of special cruelty to provide an opportunity for blind workers to earn a living for the purpose of economic exploitation by their employers. For years, access to the job market was extremely difficult for blind workers. Now, a new problem has emerged—fair access to the basic minimum wage.

I have joined as a cosponsor of H.R. 3764 which would mandate the payment of the minimum wage to blind workers. I consider this bill to be the only just method of rectifying this gross injustice to a select group in this Nation and I trust that my colleagues will give it their full support.

I wish to insert the aforementioned U.S. News & World Report article into the RECORD.

BLIND WORKERS CRY: "END EXPLOITATION"

Sightless people, with union help, are out to change a law that lets employers pay the handicapped less than the minimum wage.

America's blind citizens are rebelling against what they view as exploitation of low-wage handicapped workers by charity groups.

Many blind workers were prepared to press their complaint June 5, when the Labor Department scheduled hearings to review the wages paid by 3,800 "sheltered workshops" across the United States. These shops employ handicapped workers to make such items as potholders, brushes, soap and small electronic parts. Nearly 200 of the shops hire only the blind.

The 50,000-member National Federation of the Blind sought the Labor Department hearings to present evidence that blind workshops earn millions of dollars selling their products at competitive prices while paying workers as little as 58 cents an hour. The group asked the government to require that all employers pay blind workers no less than the minimum wage, currently $2.90 an hour.

Ever since the minimum-wage law was enacted in 1938, all employers have had an option to pay less than the minimum to workers with handicaps that might limit their productivity. This option is rarely used outside of sheltered workshops.

The federation's petition was prompted by widespread unrest among the more than 5,000 employes of blind workshops, some of whom are beginning to join unions. At the Cincinnati Lighthouse for the Blind, for example, administrators now are contesting a vote by workers who chose to be represented by the Teamsters.

James Gashel, an official of the National Federation of the Blind, says the blind workers are responding to a new emphasis on civil rights for people with all sorts of handicaps. Gashel notes: "These people in the workshops are simply saying, 'We have rights, too.' "

Although the current dispute involves only blind workers, experts predict that ultimately it may mean higher wages for all handicapped workers—including thousands employed by Goodwill Industries of America, Inc. Says Noel Price, executive director of National Industries for the Blind and its 134 workshops, "Can we say that we will pay blind workers the minimum wage and ignore the deaf and the mentally retarded?"

MORE OPPORTUNITIES

The dispute over wages for the blind also reflects a dramatic change in the status of handicapped people in the past few years. Once unable to get jobs outside special workshops, the handicapped now are being welcomed into industry at normal wages under new laws that prohibit discrimination.

Blind people have been the chief beneficiaries of this change. Most of them now work alongside sighted workers in private industry. And Gashel insists: "There's nothing about blindness that makes a worker so unproductive that he needs to be paid less than the minimum wage."

Sheltered-workshop operators meanwhile are suffering from their own identity crisis. Says Charles Fegan, executive director of the Columbia Lighthouse for the Blind in Washington, D.C.: "From being the good guys, we've suddenly become the bad guys."

Most of the workshops have been operating for decades as nonprofit charities, often in connection with a social-service agency. Their products are sold mostly to the federal government, although there are retail Lighthouse stores in some cities. During the year that ended Sept. 30, 1978, workshops operated by the National Industries for the Blind reported 125 million dollars in gross sales. Workers averaged $2.85 an hour, but many earned less than the $2.60 minimum wage then in force. Total payroll costs were less than 20 percent of sales, or below the average for labor-intensive industries.

The National Federation of the Blind contends that the money these workshops save under the minimum-wage exemption is being spent on huge salaries and plush offices for the supervisors, who are not blind. Moreover, the federation claims that the savings allow workshops to offer cut-rate prices to such large customers as Procter & Gamble and American Telephone & Telegraph Company.

STAYING PUT

Sheltered workshops also fail to encourage blind workers to seek jobs outside, according to the federation. A 1975 study showed that only 7 percent of all blind-workshop employes ever move into private industry.

Workshop operators defend their record on the ground that blind workers often refuse to go elsewhere. Price of National Industries says workshop profits barely cover the cost of extra services and supervision required by blind workers. A mandatory minimum wage, he adds, would force these workshops to lay off their least productive workers—the people who depend on their jobs the most.

"We don't oppose paying the minimum wage," says Price. "But we do oppose anything that would eliminate job opportunities for the blind."

The national federation insists that the workshops can be operated profitably at the minimum wage with better management. It cites as an example the Blind Industries & Services of Maryland, three sheltered workshops taken over in 1975 by a blind man with a proven talent for management. Employes of the Maryland workshops now average $3.19 an hour—plus vacation, sick leave and pension benefits.

Government officials appear to be listening to these workers' complaints with a sympathetic ear. Assistant Labor Secretary Donald Elisburg, who will decide the minimum-wage issue, says: "I don't see an end to the sheltered workshops—just a diminished role." ●

SCHROEDER COMMENTS ON PRESIDENT'S PAY PACKAGE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mrs. SCHROEDER. Mr. Speaker, yesterday, the President sent to Capitol Hill a proposal for Federal compensation reform. This proposal was referred to the Committee on Post Office and Civil Service, on which I sit. The administration suggests that this proposal is "an integral part" of civil service reform. While I am not convinced that this claim is true, there are numerous similarities between the public relations campaign to pass the Civil Service Reform Act and the campaign being mounted for the pay package. Both campaigns are directed to and feed the popular perception that Federal employees are overpaid, underworked, lazy, impossible to fire, and nonproductive. Civil service reform was touted as being the way to get rid of incompetent civil servants. Pay "reform" is now being sold as the way to cut their pay in the future.

I, for one, am sick and tired of this administration using Federal employees as the scapegoat for all the woes of society. I think it is a bad mistake for the administration to push a proposal which it asserts is aimed at slicing the wages and benefits of these workers. The most incompetent and overpaid Federal workers I have seen are not the air traffic controllers, social security claims examiners, clerks, and computer operators who I have observed. Rather, the most overpaid and incompetent workers I have seen are people like the Secretary of Energy, the President's Economic Advisers, and the big brass in the Pentagon.

The pay package, like the civil service reform, is no where near as draconian as the administration wishes to make it sound. Although you might never know it from the administration's rhetoric, the proposal does not actually reduce anyone's pay. Certain pieces of the bill are worthy of support. Let me comment on certain major parts of it:

The President proposes using a concept of total comparability between Federal wages and fringe benefits and those in the private sector. This is a good idea if the comparison is done fairly and by somebody whose central mission in life is not slashing Federal spending at any cost. I want to be sure that if Federal workers are forced to pay for parking, that fact is taken into account when the comparison is done. The part of the proposal which would allow the President to adjust unilaterally fringe benefits represents an improper delegation from the Congress to the President and I oppose it. Including State and local government employees in the pay comparison is legitimate.

The President proposes putting white-collar workers on locality based pay. This proposal is good, except that it excludes an enormous number of managerial employees. If locality based pay is to be used, it should be used all the way up to the top, especially since top management in the Federal service is almost exclusively white and male. If a female secretary in Alabama is paid less than a secretary in New York, why should a male facility manager in Alabama be paid the same as a facility manager in New York? Moreover, I would like to see whatever legislation passed provide some fairly clear guidance on how the administration is supposed to determine what is an appropriate local wage area.

The President proposes a number of changes in blue-collar pay computation to bring Federal employees more in line with their brothers and sisters in the private sector. Before deciding what makes sense here, I would like to see some good hard data on these workers. Are Federal carpenters paid more than private carpenters in the same area? Will cutting the pay of Federal blue-collar workers have the affect of union busting in some areas? I want to know the answers to these questions.

The President proposes keeping his power to submit alternative pay plans, even when the defects in the comparability system are eliminated. I can understand that the President should be able to make adjustments in a national emergency, but not on the basis of "economic conditions affecting the general welfare," as the law now permits. For the last few years, the President has, through the setting of pay caps, been trying to appease the dragon of inflation by feeding it the pay hikes of Federal workers. From the point of view of economics, this policy has had no effect. From the point of view of Federal workers, this policy has reduced their real wages.

I will continue to listen to the debate on pay "reform." I refuse, however, to be stampeded into voting for bad legislation just because I am trying to prove that I am a bigger skinflint than the next person.●

TV DUMPING

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. MURPHY of Illinois. Mr. Speaker, I have long been concerned about the failure of the Treasury Department to enforce U.S. antidumping laws in a firm and timely manner. Japan's dumping of TV sets in the United States has been particularly illustrative of the Treasury's inability or unwillingness to strictly enforce the Antidumping Act of 1921.

I would like to draw my colleagues' attention to an article I have written on this subject. One item in the article should be corrected. The article refers to the Treasury ordering the Customs Service to "change its formula" for calculating dumping duties on March 30, 1978. The Treasury did not abandon the commodity tax formula as the basis for making dumping assessments. However, Treasury did limit Customs' recommended assessment to the period covering early 1972 through June 1973, which amounted to $46 million.

This was done despite a strong written recommendation by the Commissioner of Customs in March 1978, to proceed with Customs' plan to assess dumping duties through 1976. That assessment totaled $400 million. And I should add that the General Counsel of the Treasury, in a May 31 letter sent to the Chicago Tribune in response to my article—a copy of which he also sent to me—has gone on the record strongly suggesting that the $46 million assessment will be substantially reduced. He said in the letter that new evidence submitted by importers of Japanese TV sets is now being evaluated by the Customs Service, and "Preliminary indications from the Customs staff are that the $46 million assessment vastly overstates the liability for dumping duties which will be owing (sic) for this period."

It should be noted that Customs recommended using the commodity tax method in 1977 because the information originally submitted to Customs by many of Japan's TV makers concerning the foreign market value of the TV sets was found to be unreliable.

Mr. Speaker, the article follows, which appeared in the Chicago Tribune on May 30, 1979:

JAPANESE TV DUMPING: WHOSE SIDE IS OUR TREASURY ON?

(By Representative Morgan F. Murphy)

[Mr. Murphy is the Democratic representative in Congress from Chicago's 2d District.]

Over the last decade, Japan's "dumping" of TV sets has eliminated more than 60,000 U.S. jobs. As Japan's share of domestic color TV sales has grown to approximately 40 per cent of the market, the number of firms manufacturing TVs in the U.S. has been reduced from 25 to 11, six of which are foreign-owned.

The resulting unemployment has not only brought hardship to thousands of families, but also has caused a decline in tax revenues while increasing welfare and unemployment payments.

That's why the Treasury Department's failure to enforce U.S. antidumping laws has remained such a strong concern among many of us in Congress.

["Dumping" is the selling of a product in the U.S. at a price cheaper than it is sold for in the manufacturer's home market. Existing trade laws require the imposition of special customs duties on products that are dumped.]

A federal grand jury investigation and a spate of new press accounts have revealed fresh evidence of TV dumping and tax enforcement of U.S. trade laws. On March 29, a New York-based department store chain pleaded guilty of customs fraud for falsifying invoices on Japanese-imported TVs. The false invoices were pegged at the fair market value of $72 per TV set. In reality, the department store was secretly getting a $25 rebate on each set from the Japanese manufacturer.

These under-the-table payments, customs agents told Time magazine, have been made by virtually all Japanese TV makers [except Sony] and were most frequent during the mid-1970s recession. The rebates were intended to disguise the fact that the TVs had been dumped, enabling importers to undersell American-made sets by as much as $100.

But wait, there's more. Several recent press articles have revealed that the Treasury Department last year blocked a move by customs officials to collect more than $400 million in back duties from Japanese TV makers. The chronology goes like this: In October 1977, the U.S. Customs Service decided to drop its complicated method for assessing dumping duties. Instead, the agency adopted a formula based on the commodity taxes paid by Japan's TV makers to the Japanese government.

Using the new formula, the Customs Service determined that more than $400 million in back duties was owed by Japanese TV makers for the period April 1972 through 1976. That figure reaches about $600 million if 1977 and 1978 imports are included.

The Customs Service was scheduled to send out its notice of revised dumping penalties on March 31, 1978. Shortly before then, Japanese government officials and TV makers went to the Treasury to complain about the pending dumping assessment. On March 30, the New York Times reported, Treasury officials instructed the Customs Service to change its formula and post duties of $46 million for the period covering early 1972 through June 1973.

As Thomas L. Delaney, a senior attorney for the Customs Service, told Time: "Treasury pulled the plug. Out of the blue, they disbanded us. When I protested they told me I would be fired if I continued to protest." Delaney, who had worked for 13 years on antidumping matters was subsequently transferred to a new job.

The Treasury belatedly moved last March to collect some dumping duties. It ordered some 40 U.S. importers to pay the remaining $40 million in dumping penalties that were assessed last year. However, Japan's TV makers have announced—after missing Treasury's "final" deadline—that they will not pay their share of these duties. The matter has been turned over to the Justice Department.

The duties that Treasury is attempting to collect come nowhere near the $600 million that should be collected for the years 1972 through 1978, based on the formula used by the Customs Service in 1977.

Congress has acted responsibly in passing laws aimed at protecting U.S. workers from unfair trade practices; the executive branch, however, has failed to strictly enforce these laws. In response, I have cosponsored legislation in Congress that would improve the enforcement of our antidumping laws. Among other things, the bill would transfer the authority of determining dumping from the Treasury to the U.S. International Trade Commission.

All nations have a stake in promoting free trade; the best way to achieve that end is to make sure that it is also fair trade.●

CUTTING SOCIAL SECURITY BENEFITS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. SCHEUER. Mr. Speaker, proposals to cut back on social security benefits, including the disability insurance benefits in the social security program, have been proposed by the administration.

The following interview with an acknowledged expert on the subject presents a convincing case against the proposed cuts. Wilbur J. Cohen has spent a lifetime working on, with, and for, a sound social security program. I want to insert an interview with him in the CONGRESSIONAL RECORD and urge Members and their staff to read it before voting to cut social security benefits.

SOCIAL SECURITY FOUNDER LOOKS AT ITS FUTURE

Wilbur Cohen, one of the original authors of the Social Security Act, is still one of its strongest defenders. In 1935, he helped draft the original legislation as a staff member of President Franklin Roosevelt's Cabinet Committee on Economic Security. Cohen served in the cabinet of President Lyndon Johnson as Secretary of Health, Education and Welfare. He is currently a professor of Public Welfare Administration at the University of Michigan and serves as chairman of the National Commission on Unemployment Compensation and a member of the National Commission on Social Security.

While in Washington to testify against the Carter Administration's budget cuts, he took time out of his busy schedule to grant this interview with the Machinist.

Q. You were one of the authors of the original Social Security legislation in 1935 and have followed all the changes and additions in the law since that time. With this background, what do you think about the President's proposed cutbacks in benefits?

A. I am very strongly opposed to the Administration's cutbacks in Social Security. People contributed to the system in the belief that the benefit promises being made would be carried out. I think, therefore, that the cutbacks that have been proposed are a very serious undermining of the integrity of the system as well as of people's belief in the integrity of their government.

I don't mean to imply that there can't be some changes in Social Security, but they have to be looked at in their entirety with other elements on financing and the benefit structure. The President did not, as has been the tradition for 45 years, base his recommendations on the advice of any advisory group. In the past, ever since the beginning of the 1935 Act, a group of employers and employees and public representatives have always reviewed proposals and made constructive suggestions.

This was the first time in which this was not done, and there were advisory committees in operation. I actually am a member of one of them created by Congress, and I think that the fact that this procedure was not followed was such a shocking blow to people in the labor movement and to the public generally that they were affronted by this development.

I happen to believe that most of the particular proposals for change are not sound in principle. I recognize that people have different points of view about that and perhaps something has to be worked out which would involve some compromises or adjustments, some plusses and some minuses. But, I do believe that the general idea that there ought to be some cutbacks in Social Security so precipitously done without safeguarding the rights of people is a most unfortunate political development.

Q. Isn't it true that some people have already paid for some of these benefits that will be cutback?

A. People have contributed into the system since 1937 with the belief that they are going to get these benefits. Some of the benefits did not come into being until later and there well could be adjustments in it. But, in my opinion, if there are, they must safeguard the rights of people who are already on the rolls and give people adequate time to adjust. So, I believe not only that these changes should not be made in this budget year, but I don't believe that they should be made in the next year's budget.

Q. How do we make necessary changes?

A. Beginning right in 1934 when the initial law was proposed, there was an advisory committee of employers and union people and public people which went over the proposal. That didn't mean that in every case they were always unanimous on every single point, but the idea was that if the workers of the country were going to contribute to the system and the employers were going to contribute to the system, they ought to have an opportunity to go over it and make suggestions and try to work out something that they were reasonably in agreement on. Again in 1938 and 1939 there was an advisory council; and again in 1948, and in 1971, . . . and in 1975.

Each big change in Social Security was after there had been a lot of conversation, negotiations, participation, and even though everything wasn't unanimous, the participants who were really paying the cost, felt that they had been consulted and had had some input, and then Congress acted on it. This is the first time in 45 years that that that was not done and when it wasn't done by a Democratic administration, of which I had previously been a member of the Cabinet, I was deeply affronted by the procedure.

Q. You belong to such a council right now, don't you?

A. Yes, I am a member of the National Commission on Social Security and there is an employer member of that and a labor member and we will spend the next two years studying the Social Security program. In normal times that would be one of the ways that there would be consultation and something would be worked out. By a democratic process we would reach a conclusion.

I want to make this point—Social Security is quite different from all other aspects of government. Workers contribute a payroll tax, not because a payroll tax is the most progressive way of financing the benefits, but because by paying a payroll tax they have an earmarked right to participate in the process that determines the benefit and financing structure. Now if you've got that kind of a cooperative participatory system. Then you've got to use the cooperative participatory system and not try to make changes without using it. It's not a general revenue program of government. The government is acting as a trustee for the contributors and the beneficiaries in a quite different way than anything else in government, and the present Administration has overlooked that by trying to treat Social Security as if it were a regular budget factor of the general budget. It is not.

That is why many of us feel so offended about the present Administration treating it like a regular budget program when it is not a regular program. It is a separate trust fund with contributions from employers and employees which must be looked at on its own merits as a separate function of government in which the government is acting as a kind of insurance company as a trustee for the people . . . not in terms of how it runs, like the Defense Department or something like that.

Q. How does Social Security compare with commercial insurance companies?

A. Social Security is a giant group insurance program in which the Federal Congress is the Board of Directors of the Social Security system. But it operates in a way quite different from a private insurance company because it has one advantage that a private insurance company does not have. Namely, it can make the coverage compulsory on people to contribute, and there is the taxing power behind the financing plus the full credit and faith of the federal government.

Therefore, it has advantages that a private insurance company does not have. One of the big advantages is that the benefits can be adjusted to the cost of living. There are very few private contracts and private insurance companies where you can get your insurance adjusted to the cost of living because the insurance company has no way after you have paid your premium to adjust the financing. But Social Security not only has the benefits adjusted to your changes in wages, but to the changes in prices, which is one of the factors why a lot of people don't realize that they are getting their money's worth.

One of the big myths about Social Security is that it is a ripoff, that people are paying more than their money's worth. Neither of those two statements is true. Social Security is a giant group insurance which permits large numbers of people to have a tremendous amount of protection at a relatively low cost with a benefit that is constantly changing to the changes in prices. That's insurance you can't buy from any other private group.

Q. Social Security is a lot more than retirement, isn't it?

A. Now there is another myth that ought to be dealt with. A lot of people say, "Well Social Security is just retirement, and all these other frills on it were never originally intended." You have old age retirement, but disability insurance is retirement due to physical disability. Then you have life insurance, which is death, and that's permanent retirement.

So, there is a logical relationship between retirement, old age retirement, disability retirement, and death retirement. They represent a well-rounded program of protecting the American family. I think that the idea of looking at Social Security as family protection is very important and ought to be given increased attention.

Q. Is Social Security going bankrupt?

A. Social Security is not bankrupt now, and it will not be bankrupt in the immediate future. It is true that one can postulate a series of events where it would be bankrupt just like you can postulate that maybe the price of gasoline will be $5 a gallon sometime in the future, too. But the one thing about Social Security that is true, is that for the immediate 25 or 30 years or 50 years, the present law makes the system financially sound. Now, we'll have problems 50, 60, 75 years from now. But that gives us time to work them out. So, I do not think that it is a fair statement to make that Social Security is bankrupt or going bankrupt.

Q. People who favor the cutbacks the President proposed say that they will be made in order to reduce our contributory taxes. Is there some other way we can reduce our contributory taxes and still get Social Security benefits?

A. I think that there are some changes that can be made that would reduce the cost, but on the other hand I think that there are a lot of things in Social Security that need to be improved that would increase the cost. That's the whole point of these advisory councils, to go into all of them and come out with a wellrounded program that will change the financing and change the benefits to meet the greatest needs of the American people.

I do not believe that the present program, in regard to either financing or benefits, should remain exactly as it is. It ought to be modified in relation to experience and the problems and the needs of the American people. But it should not be done on a piecemeal basis such as the Administration has proposed, but should await the full report of the two advisory groups. Then take action on the basis of a well-rounded, intelligent, well-thought-out program.

Q. Part of Social Security is, of course, Medicare. Opponents say that Medicare is in need of major overhaul. What do you think, and what would you do to improve Medicare?

A. Medicare is in need of a major overhaul, but primarily, from the point of view of expanding to meet more of the medical needs of older people. It's a very difficult program because we have to depend on the cooperation of physicians and hospitals to make it successful. But among other things that I would do, I would reduce the (eligibility) age from the present age of 65 to 60. I would provide for a cap on the total costs that an individual would have to pay. I would broaden benefits to include diagnostic examinations, hearing aids, eyeglasses and so on, all of which would increase the cost, but I think would bring much more peace of mind and better medical care to the American people.

Q. Would you include prescription drugs with it?

A. Yes, I would include prescription drugs of a certain limited type to begin with into the Medicare program. Now, those all cost some money, and obviously in a period of inflation we would have to be very careful to only start with those things that would be acceptable.

Q. You mentioned some ways that you thought could be used to interest doctors more in participating in the program.

A. I've given a lot of thought to that. In order to get doctors to cooperate more effectively with the system and to keep the cost of medical care in reasonable balance during an inflationary period, I have proposed that physicians be given medical malpractice coverage as part of their participation in the system. Medical malpractice problems are a tremendous problem to the physician at the present time and in some cases the cost has been overwhelming. Because of the fear of law suits they sometimes give unnecessary tests and groups of tests. One of the suggestions I make is to give every physician $100,000 or $1 million medical care malpractice coverage as payment for their willingness to participate in the Medicare system and to accept full payment from the Medicare system for his services.

Q. What do you think about using general contributions from federal tax revenues for financing Social Security?

A. I favor using some general revenue finances in the system but identifying different kinds of benefits or expenditures for those to be handled through general revenues. My first suggestion is that half of the cost of Medicare be financed by general revenues. I believe that if we did that, we would not have to increase the Social Security tax rate in 1981.

Q. Taking into account the increases in the Social Security contributions and the misconceptions about the program, what are some of the program's important values and what does the future hold for Social Security?

A. I think that the greatest contribution of the Social Security system is peace of mind. I think that it is a very definite economic value. That's why I have automobile insurance on my automobile, that's why I have fire insurance on my house, that's why I carry life insurance; so that if some hazard occurs, you or your family or society will be reasonably protected. You won't have to go on welfare, you won't have to borrow, you won't have to be dependent. And so I think that contributing to Social Security has a very big economic, psychological, political and social value.

In addition, one of the great advantages is that because the Social Security system is a group insurance, you get a lot of protection at a minimum cost. It costs only 1.7 percent of contributions to administer the Social Security system. In other words, instead of 5, 10, 15, 20 percent that a private company has to pay because they have to sell the insurance—I'm not saying that the private insurance company doesn't merit that—but if an insurance salesman has to come to your house, it is obviouly going to cost more. There are no insurance salesmen in Social Security. That whole cost is not found in Social Security because it's compulsory, and it's universal and there are a hundred million paying into the system. The total administrative cost of the cash benefits is 1.7 percent, and even including the Medicare program which costs a lot more, it's only 2½ percent.

Q. What is your estimate that it would cost for the same coverage from a commercial insurance company?

A. If you have individual contracts, the administrative costs are something in the neighborhood of 40 or 50 percent. If you buy an individual contract or annuity, the cost can run anywhere from 30 to 50 percent. If you buy group insurance, the cost is anywhere from 5 to 15 percent. So in either case, the administrative costs savings are very substantial.

But nobody tells the American people that. Here is the government which is responsible for the program, and it does not tell the people that they're getting a good buy. On just that one point you're saving 10, 20, 30, 40 percent. So that when people say "government's a ripoff, government is inefficient," here's one case where the government is efficient, here's one case where they save you money, here's one case where it's not a ripoff, here's a case where you get your money's worth, and I bet you there's not one worker in the United States out of 100 who realizes that.●

GETTING RID OF THE COMPETITION

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. PAUL. Mr. Speaker, there are some businessmen who like, and actively work for, Government regulation. Getting rid of the competition makes life so much easier for the corporate manager, as do guaranteed profits.

We see this in the calls for a Government-business "partnership" in synthetic fuels and other areas. But this can lead to a corporate state, totally inimicable to American traditions and freedoms.

Last Sunday Mr. William Greider, the eloquent editor of the Washington Post's "Outlook" section, discussed those who would turn our country into an occidental Japan, Inc.

I would like to bring excerpts from his column to my colleagues' attention:

THE BUSINESS CRY FOR MORE GOVERNMENT INTERVENTION

(By William Greider)

Lately, I keep running into businessmen and corporate managers whose discontents can be summarized in one whining question: Why can't Americans be more like the Japanese?

A few weeks ago, I listened to a steel company executive holding forth on the awesome competitive powers of "Japan, Inc."—that government-industry partnership of legend that produces so efficiently and sells so aggressively around the world. Big steel is feeling the pain, and this executive thinks America's only choice is to emulate Japan's success: cartelized planning by government and industry, carving up markets, fixing national goals, wages, whatever.

But what happens to the supposed "free enterprise" that business always extols?

"This would be modified free enterprise," the steel man said, without a trace of irony.

It certainly would. Maybe I am misled by idle cocktail chatter, but my impression is that this idea needs to be watched carefully—and chewed on vigorously by all skeptical small-d democrats. The notion of a unified economic system seems so alluring to a particular kind of business manager, especially those who never read any history. They might start with the Old Testament story of Jacob and Esau.

A few months ago, the chief executive of a major chemical corporation was sermonizing over lunch on "free enterprise," berating a table of journalists for not appreciating the marketplace sufficiently. Someone asked how he would remedy the nation's economic ills. Without missing a step, this business leader also began spelling out a moderate version of "Japan, Inc.," a government-business partnership.

Mouths fell open around the table. The man recognized the contradiction—and blushed.

These people would all blush if they recognized the sweet irony of what they are proposing. It is a modern computerized version of FDR's blue eagle—the National Recovery Act, which called for the same sort of cartelized planning in the Depression. These conservative businessmen, without knowing it, are now embracing the old left-liberal idea.

The Supreme Court shot down the NRA eagle as unconstitutional, but in this age of global conglomerate corporations, standing astride national boundaries and doing business in an extraordinary range of products, the idea may have more appeal to that strange conservative mindset that seeks order above all other social values.

If I am right about this (and, as always, I may be wrong), the next decade will produce an upside-down ideological debate on the best economic organization for America. The pro-business conservatives will be leading cheers for vast expansion of government powers. The "reactionaries" will be the new generation of liberals and old-fashioned "free soil" Republicans, people who insist that Americans don't want to be Japanese, that we prefer to remain unruly, disorganized, wildly diverse and individualistic Americans.

Personally, I suspect a lot of Japanese would rather be Americans too. As their young modern society settles into its extraordinary prosperity, I think we will see more of the unruly individualism that produces so many problems for our government and industry. A decade from now, if not sooner, Japan may be bewailing the "decline in productivity" and denouncing the flakiness of its young people.

In the meantime, however, everyone has to concede that the Japanese have successfully channeled their old military zeal (and fierceness) into the pacific and profitable realms of inventive industrial development. The United States, acting on the highest sense of its own self-interest, encouraged this for 25 years, tolerated Japanese dirty tricks in trading and indulged Japan's newfound devotion to pacificism by providing U.S. defenses, free of charge. That era is over and the Japanese may discover that their "cooperative" economic system is not quite so invincible, once the other trading nations, mainly us, demand that we all play by the same rules.

The United States, for instance, spends billions every year across the far Pacific, defending Japan and its trade routes. Japan, I'm told, profited hugely from our two wars in Asia, Korea and Vietnam. Fine, Japan doesn't want to rearm and we should all cheer that noble commitment. But that shouldn't prevent Japan from paying its full, fair share of the bill. They could send us a check every year (so could Taiwan, Korea and the Philippines), and it would virtually wipe out the U.S. trade deficit with Japan, $8 billion to $10 billion this year.

I don't think "Japan Inc." will look quite so awesome once this era of adjustment is settled, but the idea does to many U.S. businessmen, especially if their market is getting picked to pieces by made-in-Japan products. Conservatives in Congress are promoting a new federal department—"the Department of Trade"—which I suspect is a stalking horse for this idea. A new book by a Harvard professor, "Japan as Number One" (Harvard University Press), scolds Americans for not being more all-together like the Japanese.

Ezra Vogel, chairman of Harvard's Council on East Asian Studies, proposes a number of remedies for us, including "*a communitarian vision*. In bygone days of more genuinely free enterprise, the model of the independent trader or businessman, like that of the cowboy, was not only appealing but appropriate . . . business leaders now recognize that this model is no longer appropriate in an era in which large organizations confront complex problems, but they nevertheless lament the loss of our individualistic past. Americans tend to think of the organization as an imposition, an outside force, restraining the free individual. Japanese from an early age are taught the values of group life . . ."

Personally, I prefer to stick with the cowboy.

It feels more American to me, imagining I am a cowboy. Cowboys are what made this country great, also those free-wheeling independent traders whom Vogel regards as archaic. I think we should try to keep thinking of ourselves as cowboys, as long as we can. If I have to choose between illusions, I'll take John Wayne and Gary Cooper over Sony and Toyota. . . .●

CONGRESS SHOULD PAY SOCIAL SECURITY

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. KRAMER. Mr. Speaker, in the few months that I have had the privilege of serving in this Congress, I have found that one of the issues of most concern to my constituents is the issue of participation in the social security system.

Many Americans do not like social security at all and feel that participation should be voluntary. There are many on the other side who feel that if the system is mandatory for some, it should be mandatory for all. The prospect of universal social security coverage, however, is upsetting to many, particularly those under the civil service retirement system, who believe that mandatory universal coverage and merging of the two systems would compromise the benefits which they have earned under the civil service retirement system. And, of course, many individuals feel that social security benefits should be increased in one way or another. Others feel that all or part of social security benefits should be paid out of the general tax revenues rather than just out of the trust funds. And growing numbers of Americans are just plain fed up with the ever-increasing "contribution" levels which are required of them. For more than half of all workers, FICA taxes exceed the amount of Federal income tax paid.

I have grave reservations about the equity of mandating universal social security coverage under the present system because of the effect such an action would have on the retirement plans of the employees covered by plans other than social security. At the same time, it is imperative for the Congress to review the future viability of the social security system. Those who are being called upon to make substantial contributions now should be able to count on the availability of those funds when they reach retirement age.

The social security tax increases passed by the last Congress were not well received by the general public, and frankly, I doubt seriously that any future increase will be possible anytime soon, even if it is determined that the system is again financially insolvent.

Just as the Congress will not discipline itself to live within a finite budget without some external pressure such as by a constitutional amendment requiring a balanced budget, neither will the problems facing the social security system be adequately addressed until Senators and Representatives pay social security taxes.

Thus, today I am introducing a bill requiring mandatory participation in the social security by Members of Congress. In addition, the bill I am introducing provides that if a Representative or Senator is also a participant in the civil service retirement system, the total retirement benefit which he or she may receive as a result of service in the Congress may not exceed the amount to which the Member would be entitled under the civil service retirement system. This provision insures that Members of Congress will not be "double-dipping" as a result of their required participation in the social security system. While it may be considered somewhat harsh by those who argue that, after all, the Member is contributing to both systems, I believe that it is important in this time of public distrust of public officials and resentment of the prerequisites of public office, that Members avoid even the appearance of personal advantage accruing from service in Congress.

I point out that it is not the intent of this legislation to limit the amount of annuity to which a Member may be entitled as a result of any other pension plan or as a result of other civil service. Rather, the limitation applies only to a double computation for the Member's term of service in the Congress.

It should also be noted that participation in the civil service retirement system by Members of Congress is voluntary. Under this measure, Members would still be able to participate in that system, in addition to the mandated social security participation, but they would do so in recognition that for that period of service in the Congress, their retirement annuity from both systems would be limited to what they would receive under the civil service retirement system for that term of congressional service.●

EDUCATION COSTS FOR THE HANDICAPPED

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. DODD. Mr. Speaker, meeting the educational needs of handicapped children must be considered among the greatest goals facing public schools today. To reinforce the efforts of our Nation's school districts, Congress took up the banner by passing section 504 of the Rehabilitation Act of 1973 and then the Education for All Handicapped Children Act in 1975. Taken together, these programs operate as mandates on public school systems to insure that all appropriate services and opportunities are provided to America's 3.7 million handicapped youngsters.

While these Federal mandates have resulted in positive educational results, they have come at great costs to the American taxpayer. The National School Boards Association has completed a national survey of 261 school districts, representing 11 percent of the Nation's public school enrollment, and has determined that special education programs cost approximately $5 billion per annum.

In establishing these programmatic mandates, Congress contemplated Federal payment for a share of the costs. In addressing the Federal budget, I share with my colleagues the need to carefully weigh taxpayer priorities. Given the human needs to be served, the expectations which we, the Congress, have created, and the overall impact that our mandate is having on local property taxes, a maximum Federal funding commitment for the education of handicapped children is vital.

To clarify the local impact of the ongoing program costs to local school districts, I would at this time like to enter into the Record a summary of key points from a very recent National School Boards Association survey which I hope my colleagues will find useful in understanding the problems confronting our local school systems. The text of this summary follows:

A Summary of the National School Boards Association Survey on Special Education Costs for the Handicapped

The Education for All Handicapped Children Act (Public Law 94-142) established a mandate requiring local school districts to provide a "free appropriate education" to all handicapped children and youth in their jurisdictions, between the ages of three and 21 years. In the event that school districts are unable to meet the mandate through the use of their own education facilities, the districts must provide for placement in either residential or non-residential institutions outside the district. This mandate translates immediately into high expenditures for all school districts not sparing those already facing severe revenue shortages.

The National School Boards Association (NSBA) collected data in February and March of 1979, to assess the costs to local school districts for the special education needs of the handicapped. The report titled, "A Survey of Special Education Costs in Local School Districts" includes several significant findings.

The cost differentials between special education and regular education programs will continue to become greater, at least over the next several years. NSBA found that local school district special education budgets are rising at twice the rate (14 percent per year) of local school instructional and operating budgets (7 percent to 8 percent per year). See Table 1 below.

TABLE 1.—PERCENTAGE INCREASES IN SPECIAL EDUCATION BUDGETS, NSBA SAMPLE

Size of district	1976–77 special ed budgets	1977–78 special ed budgets	Percent increase	1978–79 special ed budgets	Percent increase
Up to 999	$390, 659	$691, 830	77. 1	$1, 355, 817	96. 0
1,000 to 2,499	3, 814, 098	5, 116, 812	34. 1	7, 773, 715	32. 4
2,500 to 4,999	8, 966, 380	11, 217, 890	25. 1	14, 903, 621	32. 9
5,000 to 9,999	30, 655, 800	38, 707, 109	26. 3	45, 709, 857	18. 1
10,000 to 24,999	$58, 121, 164	$73, 857, 921	27. 1	$88, 556, 941	19. 9
25,000 or more	400, 701, 885	444, 490, 843	10. 9	499, 167, 312	12. 3
All districts	502, 649, 986	574, 081, 405	14. 2	656, 467, 250	1. 43

The vast majority of school districts must plan on the costs of placing some handicapped students in instructional settings outside of their district facilities. NBSA found the following cost guidelines are valid regardless of location, size or district per pupil expenditure. See Table 2 below.

It costs four times as much as a regular student to place a handicapped student in a non-residential setting.

It costs eight times as much as a regular student to place a handicapped student in a residential setting.

TABLE 2.—OUT-OF-DISTRICT PLACEMENT: AVERAGE PUPIL COSTS, NONRESIDENTIAL AND RESIDENTIAL BY SIZE OF DISTRICT, NSBA SAMPLE

Size of district	Non-residential	Residential
Up to 999	$3, 384	$6, 134
1,000 to 2,499	3, 465	7, 472
2,500 to 4,999	3, 857	9, 548
5,000 to 9,999	4, 504	5, 996
10,000 to 24,999	4, 612	8, 550
25,000 or more	4, 047	18, 632
All districts	3, 978	9, 405

Local school districts identify "federal mandates" to be the most significant factor contributing to rising special education costs. Similar "state mandates" are seen to be the second most important factor.

The size of the school district determines the number and costs of "out-of-district instructional placement" for handicapped students. Small districts must plan to place a much higher percentage of their handicapped student population outside their district probably due to the lack of facilities. Large districts will place a much smaller percentage but will pay extremely high costs for those for whom district facilities are inadequate. See Table 3.

Out-of-district placement declines as school district size increases.

Costs per each out-of-district placement increase as the size of the school district increases.

TABLE 3.—NEED FOR OUT-OF-DISTRICT PLACEMENT, BY NUMBERS AND PERCENT PLACED, NSBA SAMPLE

Size of district	Need for outplacement		Number of pupils placed	Percentage of special education enrollment
	Yes (percent)	No (percent)		
Up to 599	9 (all)		56	11
600 to 999	10 (91)	1 (9)	76	14
1,000 to 4,499	40 (83)	8 (17)	399	7
2,500 to 4,999	37 (82)	8 (18)	872	7
5,000 to 9,999	42 (82)	9 (18)	1, 874	7
10,000 to 24,999	40 (83)	8 (17)	1, 808	3
25,000 or more	27 (68)	13 (34)	7, 164	2
All districts	205 (81)	47 (19)	12, 249	3

The cost ratio between the education of the handicapped and so-called regular student is approximately two to one nationwide according to the NSBA survey results. This cost ratio confirms USOE estimates. However, the cost ratio is very likely to be underestimated since the larger districts averages were not statistically weighted.

School districts often do not calculate transportation costs into the handicapped per pupil expenditures.

Large school districts (10,000 or more pupils) pay the highest costs to educate handicapped students. Their cost ratio between handicapped student and a regular student is 2.10 to 1. Significantly, districts of this size educate 45 percent of all U.S. public school children.

Nationwide, the NSBA respondents identify approximately 9 percent of their total enrollment as in need of special education services as defined by P.L. 94–142.

Nationwide, the NSBA respondents identify approximately 9 percent of their total enrollment as in need of special education services as defined by P.L. 94–142.

There are dramatic differences among school districts. Although the average is 9 percent, individual school districts report special education enrollments in a range of 1 percent to 22 percent of their total enrollment as handicapped.

School districts, on the average, cannot identify how much funding they receive from the federal government. It is difficult for them to separate the federal contributions from the state contributions. They can, however, provide information on total contributions from sources outside their local community.

The school districts surveyed by NSBA are a part of the Association's Federal Relations Network (FRN). The FRN represents nearly every congressional district in the United States. The data reflects response from districts enrolling 4,671,000 full time elementary and secondary pupils, or 11 percent of the total national enrollment.

The full report of the survey results can be obtained from the National School Boards Association at 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.●

THE NEED FOR SAFE NEW HAZARDOUS WASTE DISPOSAL SITES: AN ISSUE WHICH MUST BE ADDRESSED

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. LAFALCE. Mr. Speaker, I want to bring to the attention of my colleagues an article which appeared on the Op-Ed page of the New York Times today which was written by Eckhardt C. Beck, Region II Administrator of the Environmental Protection Agency.

Mr. Beck, in his article, addresses two important aspects of the hazardous waste disposal problems which we need to solve immediately. The first point is that the amount of today's hazardous wastes being disposed improperly comes to approximately 90 percent of that produced. The second point Mr. Beck so aptly makes is that one of the reasons that 90 percent of the wastes continue to be dumped indiscriminately is the public's refusal to permit the location of new and safe hazardous waste disposal sites in their own backyards.

Chris Beck knows this subject, knows it well and speaks from experience. Being the Regional Administrator for Region II, his area includes New York and New Jersey—two States in this Nation which have some of the worst hazardous waste problems. It is to his credit, however, that a suit has been filed in his region in regard to indiscriminate dumping practices and that his office is taking action to pursue the polluters. I speak of the Kin-Buc case in New Jersey.

Few individuals understand the problems connected with hazardous waste disposal more clearly than Chris Beck. I concur with his statement that we must act immediately to remedy what could become a worse situation—that of more and more indiscriminate dumping across our country. I also agree with him that the best way to do that is to allow new and safe hazardous waste disposal sites to be built. If we do not permit new sites to be constructed we may, indeed, be left with a situation similar to the one Mr. Beck so vividly describes:

> * * * 5 million metric tons (wet) of hazardous wastes generated yearly in the United States—enough to fill every street and avenue in Manhattan up to a point where we'd be sloshing around knee-deep in chemicals.

The hazardous waste disposal problems which Chris Beck discusses affect all of us. I am pleased to be able to give you the opportunity to read it.

Mr. Beck's article follows:

[From the New York Times, June 7, 1979]

Keeping Love Canals Out of Our Backyards

(By Eckhardt C. Beck)

The games we play under the laws of nature—particularly those that pertain to the disposal of chemical wastes—seem riddled with mistakes, ignorances, and ultimately, catastrophic excesses.

Our country recently has endured an unprecedented spate of toxic-related episodes, all of which bear some degree of resemblance to New York State's Love Canal, where 300 families had to be evacuated after their homes became dangerously contaminated by poisons leaking from a chemical burial site.

The Love Canal, like other such disasters, involved chemical by-products placed in the ground in ways that are destined to remain an object lesson of how not to dispose of hazardous wastes. Furthermore, there is not even the smallest consolation to be had in the fact that these faulty disposal operations were active decades ago. The Environmental Protection Agency estimates that a significant amount of today's hazardous wastes (about 90 percent) are being disposed of improperly.

The great irony emerging is that both the mistakes of the past and those of the present are leading us to the brink of perpetrating a whole new set of equally serious miscalculations.

It works this way: The typical reaction to a tragedy like Love Canal is to assume that all chemical-waste-disposal methods are inherently unsafe, which leads people to say, "I don't want them dumping it in my backyard."

No one wants "it" dumped in his backyard, of course. So what we are left with is the five million metric tons (wet) of hazardous wastes generated yearly in the United States—enough to fill every street and avenue in Manhattan up to a point where we'd be sloshing around knee-deep in chemicals.

There is, however, one method of disposal that will always be available.

* * * people called midnight dumpers—people who have no qualms about the legality or morality of unloading truckloads of hazardous waste by roadsides, or into water resources, or in residential neighborhoods (that is, literally in your backyard).

In New Jersey, for example, a trucker was recently convicted of releasing 200 gallons of contaminated transformer fluids on top of the Perth Amboy water shed at 5 o'clock in the morning. The midnight dumper will face his sentencing soon, but the wells of Perth Amboy—one of which was closed down—will have to be monitored for the next 50 years at least, and perhaps in perpetuity.

Despite Government efforts to crack down on midnight dumpers, the practice will persist as long as secure hazardous waste-disposal sites are not in operation, and economic pressures, therefore, force many waste-generating industries to take advantage of the criminal services the fly-by-nighters offer.

The hazardous wastes generated in this country are not going to go away. Unlike the debate over nuclear energy, this one does not center on whether to produce such wastes or not. With a mind-boggling $100 billion a year in sales, the chemical industry is firmly here to stay, along with its wastes and the wastes of its clients.

The first thing that must be done to keep midnight dumpers from growing wealthy—as well as to keep them from jeopardizing our health—is to realize that safe, well-designed disposal procedures are available, and that other environmentally-sound methods are being quickly developed as a result of demands in the marketplace. Also, practices like the abominable disposal operation run at Love Canal will be strictly forbidden under a new set of proposed comprehensive regulations.

We must also be concerned with finding sites for new disposal facilities with an emphasis on making them economically accessible to the industries most likely to use them. Such decisions must involve state, county and local officials, as well as concerned citizens, special-interest groups, and of course, the affected industries.

It will not be the most pleasant decision ever made. But it is a far better one than turning to the midnight dumpers, and, in effect, feeding the hand which is now biting us.

Eckardt C. Beck is the United States Environmental Protection Agency regional administrator for New York and New Jersey.●

FAR-REACHING EFFECTS OF INFLATION

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. LIVINGSTON. Mr. Speaker, I am becoming more and more concerned about the spiraling rate of inflation and its effects on our economy and our people.

Recently, I received a letter from a young man in my district, who has stated quite clearly the problems that confront this country and the concerns some of us share about his future and the future of his children.

I would like to enter this letter into the RECORD, because I believe it accurately reflects the serious concerns many of our people feel about the far-reaching effects of inflation.

MAY 18, 1979.

SIR: An article in my newspaper last week stated the new predicted inflation rate for this year. It is forecasted to be 8½ percent by Treasury Secretary Michael Blumenthal. It also provided the inflation rate of 1978, the average, 9 percent.

What these figures mean to me is that a 6-pack can of Cokes presently no longer costs about $1.25 like 2 to 4 years ago, but about $1.75 now. One of my family's cars that cost $3,000 in 1972 now can be bought for no less than about $3,995 as advertised on sale a few weeks ago here. A friend of mine and his wife bought a house last year for about $60,000. His mother-in-law, a local working real estate agent, says it could be sold today for at least $75,000. My tuition for State university fees rose from $800 for the 1977–78 school year to about $1,000 for the 1978–79 school year.

I am very concerned like many others about the cause of this inflation. Nobel-laureate economist Paul A. Samuelson says that if the syndrome in which the budget deficit fights the unemployment problem and the Federal Reserve fights the inflation problem is not reversed, we shall not maintain our growth momentum. And in that way wages and productivity will not be higher in the 1980s than our present low-investment syndrome can produce.

Nobel-laureate economist Milton Friedman says a rising inflation follows each time there has been a rapid growth in the quantity of money. During the brief mini-recession of 1967, consumer prices rose 2.4 per cent per year; during the longer and more severe recessions from December 1969 to November 1970 and from November 1973 to March 1975, consumer prices rose 5.3 per cent per year and 10.8 per cent per year respectively. During the coming recession, he says prices are likely to rise at least 7 per cent per year. I found this in last year's Newsweek published for the week of April 24.

I am inclined to believe from these men, qualified to speak about our economy, that the culprit of our inflation is the Federal government's excessive deficit spending and the making of more money.

If this inflation keeps up, how can I enjoy the small income I shall be earning without spending much of it for just life's necessities?

How can my parents retire comfortably when this inflation takes away from the buying power of their savings? And what about our children, will they possibly grow up with less than what we have had?

Would you please consider this when planning, discussing and legislating laws that would affect the economy of our country.

Respectfully yours,

LEE A. LAMBERT.●

TRIBUTE TO HARRIET HACKNEY

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. LOTT. Mr. Speaker, I was deeply saddened when I received word of the death of Harriet Hackney, a good friend and a loyal servant to this Congress and to the citizens of this Nation. Harriet had a distinguished career of public service, which began with her work as a probation officer for the judicial court system in North Carolina. In 1969 she moved to the Washington area and subsequently worked as legislative assistant to Representative Earl Ruth of North Carolina and as executive director of the Republican Research Committee.

In recent years Harriet has been employed by Business Roundtable and Prudential. Throughout her career she has been active in civic and political organizations, to which she has contributed with zeal.

To any job Harriet undertook she brought more than a mere willingness to perform the task at hand. She faced each challenge with vigor, enthusiasm, and understanding that always produced the finest possible result.

During memorial services here in Washington held on May 22, Representative John McCollister, with whom Harriet had worked, paid tribute to her and spoke of the grief that Harriet's family and friends feel so deeply at this time. I want to share with you what Representative McCollister had to say about the loss of a wonderful American—a true friend, a devoted worker, an inspired leader.

There have been times in my life when I have wondered if I were adequately equipped to do that which was required of me. Never have I felt more inadequate than I do now as I offer a bit of personal testimony about Harriet as we, her family and friends, gather together in this memorial tribute. It is impossible in these few words to capture the burning fire of her personality and her impact on each of us. She meant so very much to each of us. We loved her so much.

I know that she is with God in Heaven.

I know that on the eternal scale of time our time here together is a brief instant.

I know that in a little while we shall be united with Harriet and all of those we have loved.

I know all that—but what a tragedy it is that we have been denied her love and her great gift of friendship.

This is a testimony of head and heart.

Our heads remember her competence. She was very good at her job. She knew people and she knew legislative issues and she knew the inter-relationship of people and issues. She knew the processes of the Congress, the strategic importance of timing. She knew the stresses public life imposes on public officials and how to present a point of view—taking into consideration all the factors—how to present a point of view most effectively.

She was honest. In an environment of dealing with difficult people on difficult issues, she didn't misrepresent her position—she did not sugar-coat disagreement, but faced it—courageously. When she recruited us for any assignment, she never underplayed the difficulty.

And I'm pretty sure that her great organizational abilities are already at work organizing her precinct in heaven.

But it is not our heads which rule us here in this memorial service—it's our hearts.

And our hearts tell us that here among us lived a friend of great capacity for friendship. Harriett lived and worked with great intensity. She felt strongly about people, about issues, about her country and about her family.

Probably it's always been this way, but it seems to me the most urgent sin of these times is the preoccupation so many have about self—and a great unconcern about others.

Sometimes to those of us who have dabbled in politics it seems that no body cares about anything.

The cynics excuse themselves by saying it doesn't make any difference what they do—the system is rotten and they don't count for anything.

The selfish are dedicated to making their lives comfortable. Their biggest problem is the bad grass on the 15th green.

The egomaniacs think the institution or the cause is not as important as their role. They will play only if they can be coach and captain—and keep the score.

Harriett was passionately different. She worried about all of us. When my misadventure with the Senate brought me downtown, she helped so very much to help me be useful. When Lou Frey was not elected governor of Florida, one of her greatest concerns was his welfare. Many of you can testify to her unselfish concern for all of us.

Theodore Roosevelt once said something that has been important to me. He said "far and away the greatest prize life offers is the chance to work hard at work worth doing."

That was Harriett—dedicated, committed, concerned. And, she worked hard—too hard—at everything she did.

I, like you, have lost a dear friend—a remarkable human being. She was one of the most important people I have known. Our lives have been made richer because of her—and poorer now that she is gone.

Lord, we are grateful that our lives have been changed by our friendship with Harriett Hackney. We are grateful that we shall be a little less complacent—a little less concerned with our own comfort—a little more concerned with others and willing to give of ourselves by the example of her life. We pray that Charlie and the children will be consoled—and that all of us who grieve shall be comforted.

We pray in Jesus name.

Amen.●

RESULTS OF O'BRIEN QUESTIONNAIRE—POLL RESULTS SHOW STRONG SUPPORT FOR NUCLEAR ENERGY, DECONTROL OF OIL

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. O'BRIEN. Mr. Speaker, a vast majority of Illinoisans in the 17th District support the continued use and development of nuclear energy according to a survey taken just 1 month after the Three Mile Island accident. Substantial support surfaced in the poll for phased decontrol of domestic oil prices, a windfall profits tax, and enforcement of the 55-m.p.h. speed limit.

These findings are the result of a public opinion poll. Questionnaires were mailed to 190,000 households in Will, Kankakee, Iroquois, and Cook County's Bloom Township. After approximately 4 weeks the return is between 9 and 10 percent. The questions covered issues to be faced by Congress this year.

People overwhelmingly supported a substantial across-the-board cut in Federal spending although it would mean cutting Federal programs they support. Taxpayers want to get Federal finances in order even if it means amending the Constitution. A U.S. constitutional amendment requiring a balanced Federal budget except in times of emergency received an 85-percent favorable vote.

A sharp disagreement surfaced regarding how our social security system should be financed and a slight majority think we should reinstitute the draft.

Regarding health legislation most people favor a program to cover catastrophic illness and do not support the more expensive national health insurance plan. When rating the President, 7 out of 10 people think he is doing a fair to poor job and the Congress came out even worse with 8 out of 10 saying the Congress as a whole could be doing a better job. On the other hand, I was rated excellent to good by over 6 out of every 10 persons.

The exact breakdown of the poll is attached, including county-by-county breakdowns.

SOUND OFF

A PUBLIC OPINION POLL DISTRIBUTED BY CONGRESSMAN GEORGE O'BRIEN, APRIL 1979

[In percent]

	Yes	No
1. Should the U.S. Constitution be amended to require a balanced Federal budget except in times of national emergency?	85	15
2. Would you support a substantial across-the-board cut in Federal spending, even if it meant less funding for Federal programs you favor?	87	13
3. Regarding health legislation, would you support—		
(a) A comprehensive national health insurance program?	31	69
(b) A national insurance program to cover catastrophic illiness?	63	37
(c) Expanded eligibility for medicare and medicaid programs?	38	62
4. To cope with the energy problem, do you favor—		
(a) Enforcement of the national 55 mi/hr speed limit?	77	23
(b) Phased decontrol of domestic oil prices?	63	37
(c) Taxes on "windfall profits" resulting from deregulation?	75	25
(d) Weekend closing of service stations?	26	74
(e) Continued use and development of nuclear energy?	81	19
5. To improve social security's financing, would you—		
(a) Use income tax revenues to pay part of the cost?	52	48
(b) Extend coverage to those now exempt—employees of Federal, State and local government and nonprofit groups?	42	58
(c) Favor President Carter's proposal to tighten disability rules, drop the $225 death payment and reduce several other benefits?	51	49
6. The President has asked Congress to create a Cabinet-level Department of Education. Do you agree with that proposal?	26	74
7. We are currently protected by an all-volunteer army. Should we bring back the draft?	56	44

	Excellent	Good	Fair	Poor	Awful
8. Rate the President	3	14	40	30	13
9. Rate the Congress	2	8	46	34	10
10. Rate your Congressman	23	42	28	5	2

COUNTY BY COUNTY BREAKDOWN

[In percent]

	Bloom Township		Will County	
	Yes	No	Yes	No
1. Constitutional amendment to balance the budget	84	16	85	15
2. Federal spending cut	87	13	87	13
3. (a) Comprehensive insurance plan	44	56	31	69
(b) Catastrophic plan	63	37	66	34
(c) Widened medicare-medicaid	43	57	40	60
4. (a) 55 mi/hr enforcement	71	29	77	23
(b) Phased decontrol	61	39	62	38
(c) "Windfall profits" tax	80	20	76	24
(d) Weekend closings	36	64	26	74
(e) Continued nuclear energy	80	20	81	19
5. Financing social security:				
(a) Income tax revenues	50	50	52	48
(b) Covering exempt groups	48	52	40	60
(c) Reducing benefits	44	56	52	48
6. Create new education department	36	64	27	73
7. Reinstate the draft	52	48	57	43

	Excellent	Good	Fair	Poor	Awful
8 Rate the President—					
Bloom	5	11	41	33	10
Will	4	16	39	29	12
9. Rate the Congress—					
Bloom	4	9	48	25	14
Will	2	9	45	34	10
10. Rate Congressman O'Brien—					
Bloom	17	39	33	8	3
Will	23	41	29	5	2

	Kankakee County		Iroquois County	
	Yes	No	Yes	No
1. Constitutional amendment to balance the budget	83	17	89	11
2. Federal spending cut	86	14	90	10
3. (a) Comprehensive insurance plan	30	70	27	73
(b) Catastrophic plan	60	40	46	54
(c) Widened medicare-medicaid	35	65	26	74
4. (a) 55 mi/hr enforcement	76	24	80	20
(b) Phased decontrol	62	38	72	28
(c) "Windfall profits" tax	75	25	73	27
(d) Weekend closings	25	75	26	74
(e) Continued nuclear energy	81	19	80	20
5. Financing social security:				
(a) Income tax revenues	51	49	52	48
(b) Covering exempt groups	48	52	40	60
(c) Reducing benefits	51	49	53	47
6. Create new education department	23	77	19	81
7. Reinstate the draft	57	43	47	53

	Excellent	Good	Fair	Poor	Awful
8. Rate the President—					
Kankakee	2	13	38	32	15
Iroquois	2	11	36	33	18
9. Rate Congress—					
Kankakee	1	7	46	36	10
Iroquois	2	7	48	31	12
10. Rate Congressman O'Brien—					
Kankakee	25	46	23	5	1
Iroquois	23	42	29	5	1

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PERSONAL EXPLANATION

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. MURPHY of Illinois. Mr. Speaker, on May 30, I was absent because of official business of the House. Had I been present I would have voted on matters coming before the House as follows:

"Yea" on Rollcall No. 174, agreement to the conference report on S. 7, Veterans' Health Care Programs and "yea" on Rollcall No. 175, final passage of the bill H.R. 4035, Egyptian and Israeli Security Assistance.●

ENERGY AND SELF-RESPONSIBILITY

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. ROSE. Mr. Speaker, I wish to call attention of the Congress to a thoughtful examination of the energy dilemma facing the United States. It is written by the distinguished observer, Jonathan Daniels, and was published in the Raleigh, N.C., News and Observer.

[From the News and Observer, Raleigh, N.C., June 5, 1979]

MAN WANTS ENERGY, COMFORT WITHOUT HAZARD

(By Jonathan Daniels)

HILTON HEAD, S.C.—It is, of course, only a coincidence that the near nuclear catastrophe in Pennsylvania came in the year of the anniversary of the world's most classic explosion, when eruption of Mount Vesuvius in the summer of 79 A.D. left Pompeii dead and buried. It does come as a reminder, however, that man has never lived on an entirely safe planet. There are no volcanoes on or near Hilton Head Island but, like California, South Carolina sits above a seismic fault, as a result of which an earthquake shook this area 90 years ago. Some islanders still carry earthquake insurance.

Nobody could point a shaking finger at power companies or government regulatory agencies when Vesuvius blew up. The media did not march a multitude of reporters to the scene. However, one of the best reporters in history, Pliny the Younger, whose uncle Pliny the Elder was one of the casualties, was present—stylus in hand. This younger Pliny wrote:

"We saw the sea sucked away by the heaving of the earth * * * a fearful black cloud forked with great tongues of fire lashed at the heavens and torrents of ash began to pour from the sky.

"Although it was a daytime, we were enveloped by night—not a moonless night or one dimmed by cloud—but the darkness of a sealed room without light."

Some perturbed people here and elsewhere fear that man may now be unintentionally himself preparing such a holocaust, with longer lingering effects. Indeed, they feel that no explosion may be necessary to bring about insidious extermination. Nuclear wastes may be lethal longer than any nuclear blast. And many who have never lifted a hand or raised voice against the busy manufacture of nuclear weapons to kill men are now vociferous against efforts to harness nuclear power to serve men. Indeed, some of these most articulate in this matter are persons whose daily waste of other forms of energy makes efforts to fulfill the new hazardous hope imperative.

There is nothing strange about this in so paradoxical a creature as man. He has always wanted to have his cake and eat it, too, and, if possible, without obesity or indigestion. Today he demands more services than ever before but is indignant about the big government necessary to provide them. He wants cigarettes without nicotine, which provided the only reason for smoking in the first place. His thrift institutions are now chiefly devoted to the promotion of extravagance. On Hilton Head he gets away from the rat race, though here the figurative rodents are running faster than ever at rates once never expected.

So, of course, man wants all his hopes fulfilled without hazard. His predecessors naturally would have preferred horses which proffered themselves to their riders without any preliminary bucking. Steam should have burst no boilers. Electricity should have moved on wires as harmless as twine. And coal miners should have worked in dustless galleries impervious to peril. And fire, of course, should always have been the friend and never the fiend.

Naturally, better things are expected in this age of ostentatious opulence and minimized hardship. Still, sometimes we need to look in our rear-view mirrors and not merely impatiently at the interminable stream of fuel-burning fellow creatures ahead of us. The hazards of the atomic age begin at the gas pump and the electric appliance. Of course, we should expect protection against nuclear power production just as we have become habituated to governmental energy expended to save us from the dangers of aspirin and cigarettes.

The Plinys, Elder and Younger, lived in an age of innocence when flame and darkness could be attributed only to gods. There is little evidence that we have become more godlike. Still, with multiplied powers, many of us seem blind to the possibilities of those powers for good, not evil. The younger Pliny did not describe the last possible time when darkness may be like a sealed room without light—and that regardless of atomic adventuring.

Of course, no headlong haste can be tolerated. Man who boasts of his powers to loose new forces must demonstrate also the power to control them. Energy producers, cannot be permitted to act like idiots with blowtorches. Certainly, they cannot be allowed to poison the wells of the world with the excrement of their premature experimentation. But a generation which could put a man on the moon should be able to make man safe on the earth—and willing to spend as much money and knowledge in undertaking to do so.

Neither needs nor dangers can be lightly dismissed. Still, on a crowded planet of diminishing energies, those who would not dare to light a candle will deserve the dark.●

FIFTIETH ANNIVERSARY OF DELTA KAPPA GAMMA

HON. WAYNE GRISHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. GRISHAM. Mr. Speaker. the Delta Kappa Gamma Society International will be celebrating its 50th anniversary this month. This organization was founded in 1929 in Austin, Tex., and has been honoring outstanding women in education since that time. Today, this society has chapters throughout the world. Ms. Alberta Dredla, one of my constituents from Whittier, Calif., and a teacher for 45 years, has written the following poem to honor the society. I congratulate Ms. Dredla for her inspiring words on this occasion.

We honor the pioneer woman
Who have started us on our way.
We look back at the waves, and the winds
And the rocks that have made them,
That gave purpose and perspective
And strength to their souls.
We recall their deeds
That parade across the years to us,
Yet, as we look backward,
It is only to move forward,
To catch the moving moments of today—
To join winged time,
To lead us far from this hour,
To where dreams of tomorrow become reality
And we seek a wide view.●

KILL THE DEPARTMENT OF EDUCATION BILL

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. RUDD. Mr. Speaker, today the House took up proposed legislation to create a new Federal Department of Education.

I have been greatly interested in the nationwide opposition to this new Federal agency, especially among opinion leaders on the editorial boards of some of our largest and most influential daily newspapers from coast to coast.

The largest daily newspaper in the Nation's Capital has editorialized strongly against passage of this legislation.

Arguments are concise and convincing. I would like to include the editorial at this point in the RECORD:

[From The Washington Post, June 4, 1979]

A BAD IDEA

Once in a while a bill comes along that is so thoroughly bad that most legislators who support it come to regret their vote. Such a bill is the Department of Education plan now nearing crucial votes in the House. If the House does agree to enshrine an insulated, supergraded federal educational bureaucracy in the Cabinet the results are likely to be so costly and unhealthy for American education that many representatives, in retrospect, will be embarrassed to admit they voted "yea."

For one perspective on what is wrong with this idea, consider the nature of its interest-group support. The bill would mainly amputate Education from Health and Welfare and elevate it to Cabinet rank. You might expect that the strongest backers of this idea would be those educational practitioners, promoters and purveyors who stand to benefit most directly from the new department's additional prestige and managerial autonomy—not to mention the larger budgets that its secretary and 90 top-level executives would lobby for. And that's the case. This whole project is backed most loudly by people in the education business—plus some civil-rights groups beguiled by the prospect of gaining, yes, an autonomous Office of Civil Rights.

But it's not backed by all of them. The American Federation of Teachers opposes the department. So do several organizations representing Catholic education. So do spokesmen for a bevy of private colleges and universities. Why do they object? In various ways, they fear that the department would not benefit them—that it is likely to be all too responsive to a rival union, to certain kinds of levels of education. In short, they fear that it would not reflect, recognize or promote the full diversity and richness of American education in its broadest, most basic sense.

That concern is not just hypothetical; it has a good, explicit cause. The primary force behind the bill is the National Education Association, which sold the idea to Jimmy Carter during the 1976 campaign and persuaded many House members and candidates to endorse the concept before they had any reason to weigh it seriously. And if you worry about the potential for arbitrariness and overreaching that a department embracing all of education would possess, you should be even more wary of setting up a multi-billion-dollar grant-and-contract-dispensing agency that is so likely to become the preserve of any one highpowered, rigidly focused group.

Nothing in bureaucratic experience suggests that it would turn out any other way. Look at the problems of weaning the Commerce Department away from its single-purpose constituency. Look at Labor. Better yet, look at two narrower and much more exploitative arrangements—the old Post Office Department and the maritime agencies, with their all-too-cozy ties and mutually supportive alliances with interest groups and friendly congressional committees. That is the real model that House members should keep in mind. Some congressmen who have made casual commitments to the administration or the NEA may find it slightly awkward to back away. But a vote for this regressive, regrettable bill would be much more embarrassing—and impossible to retrieve.●

IS ENTERPRISE SUFFICIENTLY FREE?

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. EDWARDS of Oklahoma. Mr. Speaker, the words "Free Enterprise" have taken a beating recently in the media, on the floor of Congress, and even from some businessmen.

The fundamental question is not whether America has sufficient enterprise, but rather if that enterprise has sufficient freedom from Government interference to perform in a manner profitable to both the consumer and the proprietor.

In a recent editorial in the Oklahoma City Law Journal, J. Landis Fleming put his finger on the problem. I would like to share it with my colleagues:

IS ENTERPRISE SUFFICIENTLY FREE?

(By J. Landis Fleming)

Most people are finally beginning to realize that the energy crisis and any possible economic crisis in the future are the fault of the government in general, and Congress in particular. The government itself is becoming the architect of disaster.

The government has a death grip on the economy, and now it is generally believed and understood that the growth of government and its power over the lives of all citizens threatens to bring on the gradual disintegration of the free society.

The self-styled "humanitarians" who think they can create prosperity by taxing, promising and spending are actually controlling and consuming an increasingly larger percentage of the earnings of the country's productive citizens.

The unfortunate thing about the whole business is the fact that people are not aware of the precarious situation because they are so wrapped up in their own individual concerns and fail to see the direction the country is headed.

Most people do know that, while some government is essential, too much government destroys freedom. Woodrow Wilson put it well when he said, "liberty has never come from the government. The history of liberty is the history of the limitation of government power, not the increase of it."

Free enterprise is built on cooperation. Adam Smith, in his monumental work "The Wealth of Nations," published in 1776, said, "It is not from the benevolence of the butcher or baker that we expect our dinner, but from their regard to their own self interest."

As each person makes it his business to provide for himself and for those for whom he is responsible, he is both a consumer and a producer, and he must cooperate with others. This cooperation benefits the entire society.

Thus the market place, in a free society, becomes the "voting booth," where all citizens vote daily. When we buy we are rewarding the one who sells to us, and he in turn sells us something that we believe is valuable enough for us to pay the price. It is as simple as that.

If the people don't want to buy a certain item, it will cease to be produced. The hula hoop and the pet rock have gone the way of the buggy whip. The computer and the hand calculator, on the other hand, are in great demand and the prices have dropped to a fraction of the original price.

An item is not produced, distributed and sold because a group of bureaucrats thought it should be made available. If the price of any item is too high, it will have to come down or the seller will go out of business.

Thus we "vote" in the market place every day, and the free market becomes the sum of interacting individual decisions. It is the most individualistic and most democratic economic system conceivable. Each "voter" seeks to maximize his rewards and to avoid or cut his losses.●

NO VETERANS' BENEFITS FOR DROPOUTS

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. BEARD of Tennessee. Mr. Speaker, today, I am introducing a bill designed to deny veteran's benefits to individuals who do not complete their initial period of obligated service on active duty. I have been joined by 25 of my colleagues in this effort.

Under present law, anyone serving 181 days on active duty may be eligible for veteran's benefits. At the present DOD first-term attrition rate of 37 percent, approximately 140,000 individuals fall in this category each year. However, my bill would not affect all of these first-term attritions, since it specifically excludes those discharged or released from active duty for a service-connected disability. Nor will it affect individuals who are honorably discharged in order to join the Reserves, or to enroll in an educational program, or for some other reason satisfactory to the Secretary concerned.

With these deletions, applying Department of Defense figures on present attrition rates, my bill would deny benefits to about 98,000 individuals, discharged each year for "failure to meet minimum behavior or performance standards."

These are individuals who have contributed very little to our defense preparedness, and in fact, have cost the taxpayers a large amount of money. Veteran's benefits represent one means of rewarding successful service. It is entirely inappropriate to reward military "dropouts," as is done under present law.

A recent GAO study found that in 1975 alone, the military reported that 12,681 individuals were discharged in lieu of court-martial because of absence without leave (AWOL), at an administrative cost of $152 million. The study also found that 67 percent of all AWOL's occur within the 7- to 30-month range of service—the Government's peak period of unrecouped investment.

With current manpower costs consuming almost 60 percent of the defense budget, the Congress should attempt to encourage better return on this investment. Instead, policies such as rewarding unsuccessful service only drive costs higher.

This bill would encourage more efficient manpower operations in two ways:

First, potential recruits will realize that signing up for 3 or 4 years of military service is a specific commitment, and one which is to be taken seriously. Today's recruits and the individual services tend all too frequently to think of this commitment as a simple contract, which can be easily and painlessly voided. Although this bill does nothing to change the services' policies on granting administrative discharges, it sends recruits and the military services a clear signal that the Congress assigns a high priority to encouraging successful service.

Second, the fact that individuals who are administratively discharged, for reasons other than those allowed under this bill, will not receive benefits would encourage company commanders to work a little more with "marginal" service individuals. At present, administrative discharges are dispersed freely. All too often, company commanders see this as a way to lessen their administrative burdens. However, if they realize that these individuals would lose veterans benefits, I am certain that officers with these responsibilities will make a greater effort to counsel these people, and otherwise assist them in becoming more effective servicemen and servicewomen.

This bill will encourage more efficient operation of the military personnel systerm. It will also insure that payment of veterans' benefits supports the congressional policy of rewarding those who meet their obligations for military service.●

TRIBUTE TO A LADY—MARY NESBIT

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. YOUNG of Florida. Mr. Speaker, this is a very sad period of time for me, for my staff and for many other Members and their staffs who knew and worked with my personal secretary, Mary Nesbit. Mary passed away very unexpectedly last weekend and I have just returned from her funeral in St. Petersburg, Fla. Mary was a very special person and I feel as though a member of my own family has died.

Every Member of Congress has someone on their staff they rely on for those extra special projects. The ones that need that personal touch, the ones that are so delicate that you would handle them yourself if you could stay in one place long enough. In my office, that person was Mary.

She loved her work, she loved her friends, and she was a pillar of strength to her family through some pretty rough times.

She was the first person you saw when you came into my office, and everyone who visited left with a good impression because Mary made them feel my office was theirs.

She always had a kind word and a smile for everyone. In fact, you could always tell when Mary was in a room with a group of people. You could tell she was there from the smiles on everyone's face.

The people in our office were more than just coworkers to Mary. She took an interest in their personal lives and the lives of their families. If anyone had a personal problem or needed a shoulder to cry on, it was usually Mary they turned to.

I signed her mail today, the last group she did for me before she passed on. Just like the thousands of others she has done, these were special because each was so thoughtful and warm. Mary was a professional and she was proud of her work. In fact, there are a lot of people in my district who carry a letter she wrote around with them to show their friends.

Mary's physical presence is gone now, but she has left us with fond memories. The people she touched during her lifetime are very fortunate. We will never forget the love and happiness she spread so willingly to everyone she met.

One of those she came in contact with was Ben Lowe, a columnist for a weekly newspaper in my district. That newspaper, the Largo Leader, published Ben's tribute to Mary, and I would like to include it in the RECORD at this point:

[From the Largo (Fla.) Leader, June 7, 1979]

TRIBUTE TO A LADY—MARY NESBIT

Not many of you have known Mary Nesbit. You should have, though, because ever since Bill Young went to Congress, she has been his personal and executive secretary and she came to Washington with him from her home in St. Petersburg. All of that time, with dignity and devotion, she has dedicated herself to doing what she could for all the people of her beloved Florida, especially this area. She helped with the campaigns but more than that, she worked on the difficult problems and needs of the people and she didn't care if those she helped were rich or poor, black or white, or Republican or Democrat.

A real lady is that way.

She greeted Mr. Young's visitors with a warm hospitality that always made everyone feel at home * * * even in the cold marble of the Rayburn Office Building. She was a remarkable human being and Mr. Young and his entire staff are understandably grief-stricken. She departed quietly and in her sleep Friday night but as long as a lot of people live, she will always remain a symbol of the best that human life can produce. It is time for you to rest now, Mary.

Your friend,

BEN LOWE.●

THE POLISH POPE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. KEMP. Mr. Speaker, the Roman Catholic Church has long been the guiding light of the Polish nation, and this has been dramatically reinforced by the visit of Pope John Paul II to Poland this week.

John Paul's visit has dramatized, as no event has since the Soviet Army installed the present totalitarian regime a generation ago, the hostility of the Polish people to the tyranny they have been compelled to live under by the weight of Soviet military power. Totalitarian leaders have often referred to the supremacy of force: "Power comes from the barrel of a gun." Yet the Pope has come to Poland with a far different message. A generation of crude indoctrination by the Polish Government has failed, and the people of Poland are no respecters of Communist power. I was witness to the devotion of the Polish people to the church and to her teachings when I visited the holy shrine of Our Lady of Czestochowa in 1972 and I was touched by the strength of the people's faith in the face of the Government's open anti-Catholicism.

The groundswell of support the Polish Pope has caused to emerge has been one of the most reassuring demonstrations of the utter failure of totalitarian regimes, and should reinforce the determination of the free world to strengthen its ability to resist Soviet power, whether it emerges in the Third World, Western, or even Eastern Europe.

I ask that the text of the Wall Street Journal's editorial on this subject published in the June 7, 1979, edition of the newspaper be published at the conclusion of my remarks.

The editorial follows:

THE POLISH POPE

Pope John Paul II has fulfilled all the worst fears of Poland's Communist leaders and sent tremors into the Kremlin as well. It cannot be at all comforting to these leaders, who have done what they could for years to discourage and even suppress religious expression, to see vast, enthusiastic crowds of Poles turning out to welcome the Pope. The religious passion of the Poles almost surely represents a passion for greater freedom as well.

The Pope has not flinched from the risks of awakening these passions. Neither has he done it recklessly. It is a mark of his character that he has simply said what he had to say, that religious liberty is a fundamental human right and the state has no moral basis for restricting it.

This bold and forthright declaration, made in the heartland of a Communist state, carries a message for the West as well. It is a reminder to all those Western politicians who profess to believe in human rights that there are precious few such rights tolerated in the Marxist-Leninist dogma. The state arrogates power to itself and gives back very little to the individual.

This is a reminder that the fundamental conflict between the East and the West is a moral conflict. a struggle over what is the proper relationship between state and man. Economic freedom, destroyed by a system that places production in the hands of the state, is but one issue in that struggle.

There has been a tendency among some Western intellectuals and politicians in recent years to define the conflict in the terms that the Marxists themselves prefer. They prefer to see the Marxist state as a benevolent force that conquers human greed, decrees just and equitable distribution of the fruits of production and makes its own demands for moral behavior. The poor and meek are far more likely to inherit the earth in their system, they declare, than in the open, capitalistic societies of the West.

It is not necessary to deny that Marxism has a moral base to say that the real test of a moral order is how willingly it is embraced. Poles did not willingly embrace Soviet Marxism. It was thrust on them in war and it is preserved by Soviet tanks and troops on Polish soil. As the reception given the Pope shows, the moral order of the Roman church *is* embraced in Poland. It is clung to tightly despite the efforts of the state to weaken it or destroy it as a competitive force.

This kind of struggle is an ancient one in Europe. The Roman church has both aligned itself with and struggled against secular powers through its long history. Polish Communists prefer to say today that Poland practices church and state separation, just as it is practiced in most countries of the West. They know, of course, that it is by no means a benign separation. It is only a truce made necessary by their inability to conquer the church.

That inability, as Pope John Paul's visit makes clear, stems from the failure of the state to truly capture the allegiance of the Polish people. There are no spontaneous assemblages of 500,000 Poles to pay honor to Edward Gierek. There are no Silesian miners clamoring to see Communist officials, even though communism supposedly represents the interests of the working man above all else.

Stalin wanted to know how many divisions the Pope commanded, a pointed and cynical assertion of secular power. Mao said that power flows from the barrel of a gun. Earlier cynics have insisted that might makes right, that history books are written by the victors, etc. But the vehemence of these statements itself betrays the uneasiness of political leaders who can command support only through naked force, who do not have a popular mandate. Leaders who command no divisions but who can awaken the human spirit and stir genuine passions are always a threat to their regimes.

It is good for the people of the West to think more about moral authority at a time when the West is constantly accused of decadence by the Marxists. Free institutions do not always succeed in suppressing immorality, but they can only survive by representing superior human values and aspirations. Authoritarian institutions are unaccustomed to such discipline. That is why they always tremble when the human spirit expresses itself as it has in Poland these last few days.●

DR. MILTON FRIEDMAN ON TAX LIMITATION

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. FISH. Mr. Speaker, I am pleased to have this opportunity to share with my colleagues some comments on the issues of tax limitation and the balanced budget by the distinguished economist, Dr. Milton Friedman. Dr. Friedman gave expert testimony before the Judiciary Subcommittee on Monopolies and Commercial Law on May 17. I found his remarks on these important questions very illuminating. Therefore, I would like to submit for my colleagues' review an article by Dr. Friedman published in Policy Review, the quarterly journal of The Heritage Foundation, and entitled "The Limitations of Tax Limitation".

The article follows:

THE LIMITATIONS OF TAX LIMITATION

(By Milton Friedman)

Two down, 48 to go.

The approval on June 6, 1978, by the people of our largest state of Proposition 13—a tax Constitution—has given great impetus to the grassroot movement that Governor Ronald Reagan began in that state five years ago when he sponsored Proposition 1.[1]

The first victory for those who believe that government does not have an open-ended claim on the incomes of Americans came in Tennessee three months ago (March 7, 1978) when the people of that state, by a two-to-one majority approved an amendment to limit the "rate of growth" of state spending to the "estimated rate of growth of the state's economy."

Similar amendments will be on the ballot in a number of other states this fall, and the prospects now look very good for their adoption.

The Jarvis-Gann amendment, Proposition 13, will limit property taxes in California to one percent of assessed valuation. It will restrict increases in assessed valuation to a maximum of 2 percent a year except when property changes hands. In addition, it will require a two-thirds vote of the legislature to raise other taxes. It is estimated that this amendment will cut property taxes by more than half—or by some $7 billion.

Jarvis-Gann, it must be said, has many defects. It is loosely drawn. It cuts only the property tax, which is by no means the worst tax. It does nothing to halt the unlegislated rise in taxes produced by inflation. Proposition 1 was a far better measure and a revised version will be needed even though Jarvis-Gann has passed. Yet I strongly supported Jarvis Gann. It does cut taxes. It does raise obstacles to further increases in government spending. Those in favor of more government spending mounted an expensive fear campaign financed in large part by big business (which apparently allowed its own fear of the politicians in Sacramento to trigger its unerring instinct for self-destruction). In this media blitz, the state employees' union leaders (naturally the core of the opposition) predicted that state services would be drastically cut, that thousands of policemen and firemen would be dismissed, and so forth and so on.[2]

In fact Jarvis-Gann will not have the dire effects its opponents threatened. The California government has a surplus of some $3 billion to offset the $7 billion revenue reduction. The remaining $4 billion is roughly 10 percent of the state and local spending now projected for the next fiscal year. Is there a taxpayer in California (even if he is a government employee) who can maintain with a straight face that there is not 10 percent fat that can be cut from government spending without reducing essential services? Of course, the reallocation of revenues to finance the most essential services will not be an easy or pleasant task but that, after all, is just what we pay our elected representatives for.[3]

Which brings us to an important point of political philosophy. It is my view that it is desirable for the people to limit their government's budget, to decide how much in total they are willing to pay for their government. Having done this, it is desirable for them to delegate to their elected representatives the difficult task of dividing that budget among competing good proposals. The opponents of tax limitation laws charge that we are being undemocratic in proposing to tie the hands of government. After all, they say, don't we elect our state representatives and our congressional representatives in Washington to handle the affairs of government? I believe that if we are going to be effective in passing tax limitation laws, we must understand and make other people understand that these referenda are far from being undemocratic. I believe that the real situation is precisely the opposite.

The problem we face is that there is a fundamental defect in our political and constitutional structure. The fundamental defect is that we have no means whereby the

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Footnotes at end of article.

public at large ever gets to vote on the total budget of the government.

Our system is one in which each particular spending measure is treated separately. For any single spending measure, therefore, there is always a small group that has a very strong interest in that measure. All of us are parts of such small groups. We are not talking about somebody else. As Pogo used to say, "We have met the enemy and they are us."

The vested interests are not some big bad people sitting on money bags; the vested interests are you and me. Each of us is strongly in favor of small measures that will benefit us and each of us is not too strongly opposed to any one small measure that will benefit someone else. We are not going to vote anybody out of office because he imposes a $3 a year burden on us. Consequently, when each measure is considered separately, there is considerable pressure to pass it. The proposers have greater force than the opponents (who are often called "negative" or "obstructionists") and the total cost is never added up.

The purpose of tax limitation is to remedy that defect. It will enable us to say to the legislature, "We assign you a budget. Now it's your job to spend that in the most effective way." The effect of removing this defect is to enable special interests to work for the general interest instead of against it. This is because with a given total budget, a special group that wants a special measure has to point out the other budget items that can and should be reduced. Each item that people want is a good item. There is no pressure on Congress or on the legislature, or very little, to enact bad legislation. The problem is that there is an infinite number of good and desirable proposals and you have to have some device to limit the appetite and that's the function of tax limitation.

The next time somebody says that tax limitation is undemocratic, we should ask him whether that means he is against the First Amendment of the Constitution. Because, after all, the First Amendment of the Constitution limits very clearly what Congress can do. The first Amendment says Congress shall make no laws interfering with the freedom of speech or the free exercise of religion. Consider what would happen if we didn't have that amendment. For any single measure restricting freedom of speech you might very well obtain a majority. I am sure there would be a majority to prevent the Nazis from speaking on the street corner.

There might be a majority to prevent the Seven Day Adventists or vegetarians from speaking—or any other little group you could name. But our Founding Fathers had the wisdom to roll it up into one and say we are not going to let each individual issue be decided separately by a majority vote. They said that we are going to adopt the general principle that it is not the federal government's business to restrict freedom of speech.[4] In the same way, what is being proposed today is the enactment of a principle that a government shall have a budget determined by the voters and that it will have to stay within that budget.

Right now total government spending—state, federal and local—amounts to 40 percent of the national income. That means that out of every dollar anybody makes or gets, forty cents is being spent for him by the bureaucrats whom he has, through his voting behavior, put into office. There is upward pressure on that percentage. The screws will be put on. The real problem for the future is to stop that growth in government spending. Those who are really concerned, who really are fiscal conservatives, should forget about the deficit and pay all their attention to total government spending. As we have seen, California and Tennessee have recently led the way toward the goal of a limit on government spending.

On the federal level, there have been moves to try to get a federal Constitutional amendment providing for a balanced budget. I think, however, that is a serious mistake. It spends the energies of the right people in the wrong direction. Almost all states have a balanced budget provision, but that hasn't kept spending and taxes from going up. What we need on the federal level, as we need it on the state and local level, is not a budget-balancing amendment, but an amendment *to limit government spending as a fraction of income*. Recently a task force of the Southern Governors' Conference, which was headed by Governor James Edwards of South Carolina, has worked extensively to produce a government spending limitation amendment for the federal government.

Congressman Jack Kemp has been pushing for several years now a so-called tax reduction bill (the Kemp-Roth Bill). I support this bill since I believe that any form of tax reduction under any circumstances must eventually bring pressure to bear to cut spending. Moreover, I believe some taxes do more harm than others. There is no doubt that the method by which we collect taxes could be rearranged so as to have a less adverse effect on incentives and production. And, from this point of view, the Kemp-Roth Bill is certainly desirable. We should be clear, however, that it is in reality not a tax reduction bill; it is a proposal to change the form of taxes. As long as high government spending remains, we shall have the hidden tax of inflation. The only true tax cutting proposal would be a proposal to cut government spending. To my knowledge, no one in Washington has yet proposed a genuine tax cutting bill, not President Carter, not the Democrats in Congress, not the Republicans. Every single so-called "tax cut plan" still envisions a higher level of government spending next year and consequently a higher level of taxes, both overt and covert.

There is an important point that needs to be stressed to those who regard themselves as fiscal conservatives. By concentrating on the wrong thing, the deficit, instead of the right thing, total government spending, fiscal conservatives have been the unwitting handmaidens of the big spenders. The typical historical process is that the spenders put through laws which increase government spending. A deficit emerges. The fiscal conservatives scratch their heads and say, "My God, that's terrible, we have got to do something about that deficit." So they cooperate with the big spenders in getting taxes imposed. As soon as the new taxes are imposed and passed, the big spenders are off again, and then there is another burst in government spending and another deficit.

The true cost of government to the public is not measured by explicit taxes but by government spending. If government spends $500 billion, and takes in through taxes $440 billion, which are the approximate figures of President Carter's estimated budget, who pays the difference? Not Santa Claus, but the U.S. citizen. The deficit must be financed by creating money or by borrowing from the public. If it's financed by printing money, that imposes the hidden tax of inflation in addition to the explicit tax. If it's financed by borrowing, then the government gets those resources instead of the private sector. In addition, there will have to be a higher level of taxes in the future to pay the interest or to pay back that debt. Essentially every current piece of wealth in the United States has a hidden tax imposed on it because of the future obligation to pay those extra taxes. In effect, what you have are two kinds of taxes: the open, explicit taxes and the hidden taxes. And what's called a deficit is a hidden tax.

I would far rather have total federal spending at $200 billion with a deficit of $100 billion than a balanced budget at $500 billion. The thing we must keep our eye on is what government spends. That's the measure of the amount of the resources of the nation that people cannot individually and separately decide about. It's a measure of the amount we turn over to the bureaucrats to spend on our behalf. I believe along with Parkinson that government will spend whatever the tax system will raise plus a good deal more. Every step we take to strengthen the tax system, whether by getting people to accept payroll taxes they otherwise would not accept, or by cooperating in enacting higher income taxes and excise taxes or whatnot, fosters a higher level of government spending. That's why I am in favor of cutting taxes under any circumstances, for whatever excuse, for whatever reason.

We have to bear in mind that tax limitation laws are not curalls; they are temporary stop-gaps. They are a way of trying to hold back the tide, until public opinion moves in the direction that those of us who believe in limited government hold to be desirable. Without the support of public opinion all the written laws or constitutions you can think of are fundamentally worthless. One has only to look at the results of trying to transplant versions of the American and British constitutions to other nations around the world. I believe, however, that there is a definite movement in public opinion toward greater skepticism of large-scale government programs. People are aware that they are not getting their money's worth through government spending. Among intellectuals, more and more scholars are coming to the conclusion that many government programs have not had the results intended by their supporters. In journals read by opinion-leaders (for instance, *Commentary, Encounter, Harper's, The Public Interest, The Washington Monthly*), this view is becoming more and more commonly expressed. However, it takes time for such ideas to be accepted by the politicians who, after all, are mostly followers and not leaders of public opinion.

Let me give an example of what I mean. For about 150 years since the birth of our government (until about the late 1920s) there was no general tendency for government spending to get out of hand. Despite the fact that the same pressures inherent in representative democracy were present through this period, state, local and federal spending was still about 10 percent of national income. For the past 40 years, however, there has been a considerable change in these percentages, to say the least.

Except for the Income Tax Amendment, the Constitutional provisions relating to the financing of government were essentially the same as they were in 1789 (and the income tax rate was quite low during this period). The essential difference was that before 1930 or so there was a widespread belief on the part of the public that government should be limited and that danger arose from the growth of government. President Grover Cleveland maintained, for instance, that while the people should support their government, the government should not support the people. President Woodrow Wilson remarked that the history of liberalism was the history of restraints on government power. Almost everyone then agreed that the role of government was to act as a referee and umpire and not as a Big Brother. Once this fundamental attitude of the public changed, however, constitutional restrictions became very much less effective against the growth of government. As we all know, the Supreme Court does follow the election returns (sometimes tardily) and most of the New Deal measures which were ruled unconstitutional by the Court in President Roosevelt's first administration were ruled to be constitutional in the second administration.

The interstate commerce clause as an excuse for federal action is a good case in point. At one time in our history there were transactions which were regarded by the Court and Congress as *intrastate* commerce, but it would take a very ingenious man today to find any transaction whatsoever that the

Supreme Court would not declare to be part of *interstate* commerce. The federal government, basically as a result of this change in public opinion, is now allowed to take all sorts of actions that would have been held *by the public* to be unconstitutional sixty or a hundred years ago.

In the same way, I believe that the effectiveness of tax limitation laws will depend upon their acceptance by the great bulk of the public as part of our constitutional tradition.[5] My own view is that we are seeing a genuine trend in support of the basic philosophy that there should be definite limits on government spending; however, I also believe that such trends take time to solidify and in the meantime I regard tax limitation amendments as a stop-gap measure to hold back the tide.

FOOTNOTES

[1] That proposal was preferable to the one adopted yesterday. It would have limited spending by the state government to a specified and slowly declining fraction of the personal income of the people of California. That amendment was narrowly defeated, as were similar amendments in two other states in recent years.

[2] In their column for the Washington Post on June 1, 1978, Rowland Evans and Robert Novak reported from Los Angeles that some politicians were claiming that the referendum was "a fight between the haves and the have-nots." Evans and Novak concluded that this view was "almost surely wrong." They explained that "On the contrary, the establishment—business, labor, the big newspapers, the academic community, civic groups and practically every important elected official—vigorously opposes the Jarvis amendment."

They went on to point out that "in contrast, the amendment's hardcore support comes from lower income homeowners who are going under because of oppressive taxes. Their ranks, oddly, are swelled by substantial numbers of school teachers and other government workers who are first and foremost taxpayers . . . State Senator Bill Greene, a black Los Angeles legislator, told us he is astounded how many of his constituents are voting for the measure."

[3] It is not without interest that California has the highest paid state legislators in the nation.

[4] It was left to the states to deal with such problems as an immediate danger of violence and so on.

[5] In addition, they will not by themselves prevent all further government intervention. Many of the worst kinds of government intervention do not involve much spending. Some examples are tariffs, or regulation or industry (ICC, FCC, FPC) or the controls on the price of natural gas which have done such tremendous harm in the energy area. All of those involve government intervention into the economy in which the spending element is very small.●

THE SPARTANBURG EXAMPLE

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 7, 1979

● Mr. CAMPBELL. Mr. Speaker, Spartanburg, S.C., which I am privileged to represent, has been cited as one of the top 10 business growth cities in the United States. Most recently, the remarkable economic success story of the enterprising citizens of Spartanburg was told in the May–June issue of "Europe" magazine, which reported on the more than 40 European companies which have located there. This article, which I would like to share with my colleagues, is reprinted with permission below:

More than 40 European companies have invested in excess of $1.8 billion in Spartanburg, South Carolina. More than 1,500 Europeans are believed to live in this small city with its total population of about 46,000. These Europeans employ roughly 4,000 local "Spartans" in the northwestern corner of the state, not far from the Blue Ridge Mountains.

"The key reason why we are here is that Spartanburg is at the very heart of the U.S. textile business," says Dr. Paul Förster, head of the local Hoechst fiber plant. This German company has invested close to $300 million in a facility that now employs more than 2,000 people. Förster believes that roughly 80 percent of all U.S. textile mills are within a 200- to 250-mile radius of Spartanburg.

The city sets on the crossroads of two major interstate highways; it has good rail communications and excellent airports. Further strengthening its international business position is the recent establishment of a foreign trade zone with its own customs facilities.

When Roger Milliken, the U.S. textiles magnate, looked for new textile machinery in the late 1950's he found what he wanted in Winterthur in Switzerland. With orders from his firm and with his encouragement, both the Swiss Rieter company and Sulzer Brothers of Winterthur established operations in Spartanburg. In the mid-1960's the American Hercules company opened a plant and a joint venture with Hoechst, which Hoechst later made all its own.

In 1965 the Karl Menzel Maschinenfabrik became the first German company to start manufacturing in Spartanburg. It saw the opportunities for textile machines, and it grabbed them, with Rudolf Mueller of Neckarsulm in Germany opening the local plant on rented premises.

Today, Mueller, who still runs the Menzel interests in Spartanburg, controls a new factory employing 60 people, a local lumber company, 1,100 acres of investment property, and the Sheraton Motor Inn—a miniconglomerate with annual turnover in excess of $8.5 million.

Word spread quickly through the world of textiles that machinery sales opportunities existed in Spartanburg, and many companies from all parts of Europe started local sales and servicing operations. Bryant Little of England started in the town in this way 20 years ago as the representative for one British group. Today he owns his own company with about 30 agencies. He says that his own firm was worth about $16,000 only 15 years ago and today is worth around $1.25 million.

Spartanburg seems a typical small American city, littered with billboards advertising motels and fast-food restaurants, catering to the automobile and neglecting the original downtown center. Henry Kissinger was based there during World War II. Lindberg flew his Spirit of St. Louis plane to the local airport once. Frederick Dent, the U.S. commerce secretary in the Nixon Administration and the Ford Administration's special trade representative, lives there today.

Some magazines have sought to romanticize the foreign investments there—suggesting that Spartanburg should be renamed "Euroville" or "Europeville." The truth is that, apart from a few European flags in front of some factories dotted along the main highway near the city, there is no obvious indication of European influence in Spartanburg at all. The old white establishment, with its formal bastions, such as the Piedmont Club and the Country Club of Spartanburg (waiting period for a membership is currently eight years) have digested the Europeans without changing their ways. The Europeans have no evident influence in the constant political feuds between the city and Spartanburg County (population almost 200,000) authorities.

As one tours Spartanburg and talks with local people, one wonders why so many Europeans have come here in the last 20 years. Why have so many Europeans decided to make Spartanburg their permanent home? Why are increasing numbers of Europeans investing here?

The answers to these questions show, above all, that Spartanburg is home to a broad range of Europeans, who have sharply differing investment ideas and plans, and that the stories told by these Europeans represent, when taken together, a fascinating insight into European investment in America in general these days.

Spartanburg was first settled before the American Revolutionary War by Scottish and Irish families from Pennsylvania. It gets its name from a division of soldiers once based in South Carolina, known as the Spartans. It is the largest peach-growing area in the United States; but textiles are its prime business, and it is this industrial sector that has provided both the prime foreign investment impetus and the region's volatile history of times of great prosperity and times of severe depression.

Local authorities sought to encourage the foreign investment, while at the same time actively seeking investors from other parts of the United States. About 20 years ago Spartanburg was as sleepy and backward as most southern towns of similar size, say local businessmen, and there were deep fears that cheap textile imports, especially from Japan, were going to ruin the city's economy.

A technical college was established to train people for specific jobs in specific plants. Some tax incentives were offered to new investors. Spartanburg's geographical location was an asset, as were relatively low tax rates, low wage levels, and the lack of trade unions. "People are conservative and independent here," says Bryan Little.

The executive vice president of the local Chamber of Commerce, Richard Tukey, can take much of the credit for enticing investors to the area. He stresses that every effort has been made to welcome foreign executives, their wives, and children and to ensure that foreigners swiftly feel at home in the community.

The local white establishment has probably been more open to foreigners than one might at first expect. Men like Milliken, Walter Montgomery of Spartan Mills, M.L. Cates of Arkwright Mills, and Frederick Dent, president of Mayfair Mills, as well as others, probably realized that their firms would benefit if foreign investment in the area increased.

As the first foreign investors prospered, so the Chamber's Richard Tukey was swift to publicize the success stories. He certainly has done nothing to openly counter the image of Spartanburg as a center of European business and cultural activity. More and more corporate heads have come to look at Spartanburg. A number of big American firms, fed up with unions and high costs of production in the Northeast, have built local facilities. Firms like Michelin have moved in—aware, in particular, that other foreign investors have made good profits in the area.

Some foreign companies have, of course, found themselves in Spartanburg largely as a result of coincidences and luck. For example, Britain's Rentokil company decided some years ago to buy a number of American firms, one of which owned Taco Wood of Spartanburg. This wood-preserving company is located where it is solely because its local president, W.R. Cantrell, was born there and likes it. He and a colleague use the city as their sales base for customers throughout the Southeast. They could do just as well from many other locations.

"I like Spartanburg," says Cantrell. "I like the mild winters and the generally good climate. The chance to go to the mountains for weekends. You can get to the beaches in four hours from here. It's a good place to live."

About 22 per cent of the local population is black, and racial integration has gone well. New and quite expensive housing projects are being developed, indicating considerable prosperity, and lavish mansions are to be found in the plush residential areas on the fringes of city limits.

If the foreigners in Spartanburg are big fish in a small pond, they like it that way. Bryan Little evidently enjoys his self-assured role as unofficial British consul. Local French and Swiss businessmen take pride in being the official consuls of their countries in this city.

The Germans have made an annual Oktoberfest into a big cultural success with the local community. They have also had a tiny influence on eating habits. A rather mediocre delicatessen, known as Ankies, seems to thrive, and Rudolf Mueller, having developed the Sheraton into a well-known restaurant in just three months, can now boast to be the man responsible for the best Wiener schnitzel in the South.

The European influence in Spartanburg has, all the same, been modest. The Spartanburg influence on the Europeans who have invested locally has been tremendous. Richard Tukey reports that an increasing number of Europeans, especially Germans, are showing interest. This is confirmed by local businessmen. Asians have not moved into Spartanburg, and no efforts seem to have been made to encourage them.

Mueller believes that his operations will continue to "grind out profits." Förster believes that Hoechst's local output will double or treble in the next decade. Optimism seems to be widespread, despite the ailment of the textile industry in general. The industrial base is becoming more diverse and therefore stronger; and the conservative politics of the area, combined with the profit potential and the rather unhurried pace of life, has, according to *Money* magazine, made Spartanburg one of the top 10 business growth cities in the United States.

The developments in Spartanburg today seem to point unmistakably to the fact that Europeans can make money in America by many different routes: on a huge direct manufacturing investment scale like Hoechst and Michelin; on a somewhat more modest, but still substantial, corporate manufacturing basis, like Sulzer of Switzerland or Eduard Kuesters Maschinenfabrik of Germany; or on a more individualistic basis like the operations run by Rudolf Mueller and Bryan Little; or just by buying a local firm and leaving it in the hands of competent local people, as Rentokil has done.

Spartanburg isn't a fun place, or a city lacking local social and political problems. It isn't a very attractive place, even though the countryside seems quite pleasant. But here Europeans have found social status and prosperity, and their example is bound to be influential on investors in Europe today as they look for opportunities on this side of the Atlantic.●

HOUSE OF REPRESENTATIVES—*Friday, June 8, 1979*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. Brademas).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, D.C.,
June 7, 1979.

I hereby designate the Honorable John Brademas to act as Speaker pro tempore on Friday, June 8, 1979.

Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious Lord, we humbly ask Your blessing on us and what we do. We acknowledge that we have not done those things that should have been done, nor looked to You for guidance as we ought.

We pray for Your mercy, that You would forgive us and comfort us. Help us, O Lord, to be reconciled to You, and to our brothers and sisters from whom we have strayed.

Always lift us from thought of self and our private concerns, to work and pray together for the good of all. For You are one God and we are one people. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 495. An act to authorize the establishment of the Frederick Law Olmsted National Historic Site in the State of Massachusetts, and for other purposes; and

S. 721. An act to amend the Civil Rights Act of 1957 to authorize appropriations for the United States Commission on Civil Rights for fiscal year 1980.

TRUCK DRIVERS COMPLIMENTED FOR PEACEFUL TACTICS IN WASHINGTON DEMONSTRATIONS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I just want to take this time to briefly compliment the truck drivers who are caught in such a tight, difficult, trying situation with the diesel fuel. I want to compliment them for the way they have behaved. They have been playing by the rules. They have been very mature, most patient in this very trying situation.

Many of us here have complained about other types of tactics used by other groups. I hope we will really reward the truck drivers for their positive, law-abiding, calm approach, and show that we really can understand and hear and act without being hit over the head with a club or kicked or hit or forced into a crisis.

So, Mr. Speaker, I compliment them. I know their tensions are strong for they feel their whole way of life is threatened. They are right. Let us help.

PERMISSION FOR SUBCOMMITTEE ON SURFACE TRANSPORTATION OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. ATKINSON. Mr. Speaker, I ask unanimous consent that the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation be allowed to sit today, Friday, June 8, 1979, while the House is in session under the 5-minute rule.

Mr. Speaker, this has been cleared with the minority, and they have no objections.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERSONAL EXPLANATION

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, during the debate on H.R. 3875, the Housing and Community Development Act of 1979, which occurred on Thursday, June 7, 1979, I was unavoidably detained during the discussion of an amendment offered by Representative Panetta. This amendment was designed to avoid duplicative and unnecessary paperwork on HUD, FMHA, and VA projects. I was in a meeting with Connecticut's Gov. Ella Grasso at the time. Had I been present, I would have voted aye on the Panetta amendment.

SECRETARY VANCE FINDS IMPERFECTION IN RHODESIA

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute.)

Mr. ASHBROOK. Mr. Speaker, I have learned one thing today in driving to the office this morning. I should not be listening to the radio as I drive when Secretary Vance is speaking. He was trying to defend the Rhodesian decision of the President yesterday, and I was listening as I was driving along Shirley Highway. The Secretary said he had noticed some progress in Rhodesia, but it was still an imperfect situation. I almost hit the car in front of me when I heard that.

I wonder if our foreign policy all of a sudden is to reward perfection and be against imperfection. It makes it quite interesting, because I am glad he found perfection in the People's Republic of China whose leaders are unrepentant for the brutal murders of from 20 to 50 million people in the last two decades. I am glad he found perfection in the Soviet Union which systematically denies human rights. I am glad he found perfection in Cuba where peace, brotherhood, and progress prevail.

I am especially glad he found perfection in Panama, whose dictators have oppressed their people. I am even further pleased that he found perfection among the guerrillas, Nkomo's guerrillas, who admit shooting down airplanes as part of their policy.

Mr. Speaker, maybe by that standard it is easy to understand why he did not find perfection in Rhodesia.

LEGISLATION TO PERMIT FOREIGN PHYSICIANS TO PRACTICE IN THE VIRGIN ISLANDS

(Mr. EVANS of the Virgin Islands asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of the Virgin Islands. Mr. Speaker, today I am introducing legislation to amend the Immigration and Nationality Act to exempt the U.S. Virgin Islands from the restriction preventing foreign physicians from practicing medicine in the Virgin Islands public hospitals.

The Virgin Islands are presently faced with an extremely critical shortage of physicians to adequately staff the local hospitals and health facilities. This alarming situation has been precipitated primarily by the inability of the Virgin Islands Government to provide competitive salaries to lure qualified physicians from the U.S. mainland, and, in part, to the geographical isolation of the Virgin Islands to the United States.

Under current Federal law applicable to the U.S. Virgin Islands, foreign physicians can enter the United States as members of the medical profession, but only pursuant to an invitation from a U.S. public or nonprofit, private educational or research institution or agency to teach or conduct research.

This restriction has drastically hurt the Virgin Islands, since our need for qualified foreign physicians is specifically in order to diagnose and treat patients.

As you may know, Mr. Speaker, last April the two hospitals in the U.S. Virgin Islands lost their accreditation. This event represented a very serious blow to the medical wellbeing of Virgin Islanders. One of the major reasons for this severe loss was the shortage of physicians in our hospitals. We are in a crisis situation today.

The bill which I am introducing today is not intended to facilitate the migration of foreign physicians from foreign locations into the Virgin Islands and then into the U.S. mainland. I want to stress this point because my intent is not to provide a mechanism to permit the U.S. Virgin Islands to serve as a conduit to enable foreign doctors to slip into the United States.

I firmly believe that the 120,000 people of the U.S. Virgin Islands, in addition to the 1½ million tourists who annually visit our islands, must be provided adequate medical assistance to which they are entitled.

I urge the House to adopt this legislation.

Thank you, Mr. Speaker.

ANOTHER NEWS MEDIA EVENT

(Mr. ICHORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ICHORD. Mr. Speaker, for years I have reluctantly considered introducing legislation in the form of a constitutional amendment to reverse the case of "Bear" Bryant against The Saturday Evening Post which has done more to contribute to the increasing irresponsibility of a large segment of the national news media than any decision I know.

Today it is practically impossible for any person or entity to sue the news media for libel because of the principles laid down in the Saturday Evening Post case. It used to be that ownerships policed their reporters who might be careless with the facts very carefully and made sure that what they were writing was accurate and true as the newspaper was not only liable for publication of a libel, it was also liable as a disseminator regardless of intent. Responsible news reporting is the lifeblood of this country; why? Because a society such as ours is controlled by public opinion. Who controls public opinion? Any person can control a portion of public opinion if he or she works at the job but to significantly impact upon public opinion, one must necessarily use the news media.

I have just explained why I view present day news reporting in the newspapers, the radio, and television with such great alarm. If the present trend continues I fear for the future of this great Nation and/or the future of one of our unique freedoms guaranteed in our Constitution—freedom of the press.

Mr. Speaker, regardless of how one feels about nuclear power I think that any person if he or she is objective must agree that Three Mile Island was a news media event and was handled irresponsibly in general by the news media. Most of the reporting I saw on the subject was following the old adage that anything which reaches emotions, injects fear, involves sex, human misbehavior, or scandal, is news. I have just read an article in the Atlanta Constitution contending that Bert Lance's indictment was a media event. I do not pass upon the merits of the Bert Lance indictment as I know nothing about the matter except what I have read in print, heard over the radio, or seen on television. All of the foregoing brings me to the matter which prompts me to rise today and that is the media event now occurring in this country brought about the tragic death of 275 persons in the most devastating airliner crash in the history of aviation.

Mr. Speaker, I, again, know nothing personally about the cause or causes of the DC–10 crash except what the news media has reported. But I do know something about air crashes. I have walked away from three crashes and several forced landings. I also know something about airworthiness of airplanes and the strict rules of the Federal Aviation Administration in certifying airplanes for airworthiness. In fact, I personally grounded my own light airplane last week for cracks that had developed in the two propeller spinners of the plane. In short, I know enough about the subject to recognize nonsense and irresponsible editorials by uninformed and ignorant editorial writers such as appeared in the Washington Post on June 6, 1979. To characterize Judge Robinson's decision as a vote of no confidence in the Federal Aviation Administration in view of past strictness and present strictness of the FAA is the height of irresponsibility. My fear is that this piece of trash and similar pieces may frighten the FAA to the extent that unwarranted delays, repressive, unneeded, and unproductive regulations, as well as useless costs will result.

I recognize, Mr. Speaker, that this is an editorial and that the nameless and faceless writer has the right to his opinion as any other American but the constant barrage of supposedly straight line and by-line articles as well as numerous radio and television reports are of similar quality. I place the Washington Post editorial in the RECORD for examination in the light of my remarks and state to Langhorne Bond, FAA Administrator, perform your responsibilities and have the courage to do what is right despite the emotionalism that prevails. Do not let the news media stampede the FAA into turning over the regulation of aviation to the likes of Ralph Nader.

The news article follows:

DOMESTIC AFFAIRS

TRANSPORTATION

FAA administrator Langhorne Bond yesterday announced an indefinite grounding of all domestic DC–10 aircraft and he said he would issue a regulation barring the foreign flights of DC–10s in U.S. air space. The action was taken to determine if the jets have a basic design defect and is the fourth grounding since the nation's worst air disaster in Chicago last month. The order came just before U.S. District Judge Aubrey Robinson was to have heard arguments on his order, issued Tuesday but held up pending a rehearing, that the DC–10 be grounded. McDonnell Douglas, manufacturer of the aircraft, called the grounding "an extreme and unwarranted act."

THE FAA ON TRIAL

Wash. Post, 6/6/79, edit.:

"The decision by District Judge Aubrey Robinson to order all of the nation's DC–10s grounded is an astonishing vote of no confidence in the Federal Aviation Administration. It is rare for a federal judge to overrule a regulatory agency on a technical matter, especially one so clearly committed by Congress to an agency's care as air safety has been to the FAA. But Judge Robinson's action reflects a public sentiment that something is wrong with the plane despite the assurance by the FAA that it is airworthy when faulty engine mounts have been repaired.

"Regardless of what happens to Judge Robinson's order on appeal or on a rehearing and regardless of how many flights it affects, the fact he has entered it will change the focus on the investigations now under way into the May 25 crash in Chicago. The first effort of the investigators will be to determine, precisely, why the engine fell off the wing; that's what the judge has demanded to know before he lets the planes go back into the air. But the investigators will then be forced to concentrate, as they should have all along, on questions concerning the performance of the FAA.

"One question, in light of the judge's order, will be whether that agency has been negligent in the last 10 days in permitting the DC10s to continue to fly after their engine mounts passed new inspection requirements. But another question is of even more importance. That is whether the FAA's inspection requirements are broad enough and its enforcement procedures tough enough to make air travel, on the DC10s and other planes, as safe as it can possibly be.

"The FAA, according to most aviation safety experts, has done a good job in recent years. Certainly, the statistical evidence supports that claim; you are less likely to be killed flying in an airliner than riding in an automobile. The airliners are inspected and maintained in a way that puts to shame the mechanical condition of all other kinds of transportation equipment.

"But doubts persist. That accident in Chicago probably would not have happened if someone had thought of the engine mounts as potential problems years or even months ago and persuaded the FAA to have them inspected regularly. How sure can we be that the thinking is any better now? Maybe the FAA needs to create a special task force to reconsider all of its inspection and maintenance requirements on all airliners. Even if that produced no new rules, it might quiet the growing sense of unease that somewhere in the sky is another plane with a problem no one has yet thought of.

"Such unease reflected by Judge Robinson was encouraged recently when the chairman of the National Transportation Safety Board, James King, said the FAA is not enforcing its existing rules against commuter airlines strictly enough. There have been eight crashes involving small or commuter airplanes in the last 10 months and the safety board has found examples of what Mr. King called 'bad or nonexistent maintenance.'

"If the rapid increase in commercial air traffic since last fall is more than the FAA can handle or if it needs more inspectors or more enforcement powers, now is the time for Federal Aviation Administrator Langhorne Bond to say so. His agency is on trial just as much as the design and maintenance of the DC10 are."

☐ 1010

PROVIDING FOR CONSIDERATION OF H.R. 2641, CIVIL RIGHTS COMMISSION AUTHORIZATION ACT OF 1979

Mrs. CHISHOLM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 272 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 272

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2641) to amend section 106 of the Civil Rights Act of 1957 to raise the limitation on appropriations for the United States Commission on Civil Rights, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. CHISHOLM) is recognized for 1 hour.

Mrs. CHISHOLM. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 272 provides for the consideration of H.R. 2641 which authorizes appropriations for fiscal year 1980 to enable the U.S. Commission on Civil Rights to carry out provisions of its charter.

This is an open rule granting 1 hour of general debate with the time equally divided and controlled by the chairman and the ranking minority member of the Committee on the Judiciary.

Mr. Speaker, H.R. 2641 authorizes such sums as are necessary but not more than $14,000,000 in fiscal year 1980 to expand the Commission's jurisdictional authority to include discrimination on the basis of age and handicap status. The amount authorized is based upon the recognition that additional funds are needed for new personnel and increased activities related to the congressionally mandated review of discrimination in the new jurisdictional areas. These funds will allow the Commission to undertake activities which begin to provide assistance to victims of age and handicapped bias.

Mr. Speaker, the aid provided in H.R. 2641 reflects the Commission's broadened jurisdiction and recognition of the unique barriers confronting handicapped and older Americans. I urge my colleagues to adopt House Resolution 272 so that we might proceed to the consideration of H.R. 2641.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. EDWARDS) for purposes of debate only.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentlewoman from New York for yielding, and I am especially pleased to have the gentlewoman from New York offering this rule. As a distinguished educator, she has brought a needed insight and sensitivity to the Congress and the committees on which she serves. I know she is particularly sensitive to the needs of handicap children in our schools.

My distinguished colleague understands well the importance of providing the necessary resources to the Commission to permit its review of the problems of discrimination confronting the aged and handicapped. The Civil Rights Commission Authorization Act of 1979, as reported, is a necessary step for that review to begin. I urge your support for it and the rule.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 1 hour of general debate for the consideration of H.R. 2641, the Civil Rights Commission Authorization Act of 1979 Under this rule, the bill will be open to all germane amendments. There are no waivers of points of order and this is somewhat of a rarity.

Mr. Speaker, the purpose of the bill made in order by this rule is to authorize $14 million to carry out the provisions of the Civil Rights Act of 1957.

Appropriations for the U.S. Commission on Civil Rights were $10.8 million for fiscal year 1978, and are $10.8 million to date for fiscal year 1979. The President's budget request for fiscal year 1980 is $11.4 million.

This bill authorizes $14 million for fiscal year 1980. This is $2.6 million above the administration's request. The Judiciary Committee contends this increase is necessary due to the Commission's expanded jurisdiction in the field of age and handicap discrimination.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mrs. CHISHOLM. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 279, nays 0, not voting 155, as follows:

[Roll No. 193]

YEAS—279

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Annunzio
Anthony
Ashbrook
Ashley
Aspin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Blanchard
Boggs
Boland
Boner
Bowen
Brademas
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chisholm
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
de la Garza
Derwinski
Devine
Dickinson
Dingell
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Tenn.
Fountain

Gephardt
Giaimo
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Hughes
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCormack
McKinney
Madigan
Maguire
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Ohio
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Pursell
Quayle
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Robinson
Roe
Rosenthal
Rostenkowski
Roth
Royer
Russo
Satterfield
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Stack
Stangeland
Stanton
Steed
Stenholm
Stokes
Stratton
Studds
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Winn
Wirth
Wolpe
Wyatt
Wylie
Yates
Young, Fla.

NAYS—0

NOT VOTING—155

Addabbo
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Atkinson
AuCoin
Badham
Bauman
Beard, R.I.
Bevill
Biaggi
Bingham
Bolling
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brooks
Burton, John
Byron
Chappell
Cheney
Clausen
Clay
Cleveland
Coelho
Collins, Ill.
Conyers
Corman
Cotter
Crane, Philip
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Dicks
Diggs
Dixon
Dodd
Dougherty
Duncan, Tenn.
Eckhardt
Edwards, Okla.
Erdahl
Erlenborn
Evans, Ga.
Fary
Ferraro
Flood
Foley
Ford, Mich.
Forsythe
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Goldwater
Grisham
Hagedorn
Hammerschmidt
Hawkins
Heftel
Hightower
Hillis
Hinson
Horton
Huckaby
Hyde
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kogovsek
Lehman
Leland
Lent
Lloyd
Lott
Lujan
Lungren
McCloskey
McDade
McDonald
McEwen
McHugh
McKay
Markey
Martin
Mathis
Miller, Calif.
Mineta
Mitchell, N.Y.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nelson
Nolan
Oakar
Pepper
Price
Pritchard
Quillen
Rangel
Richmond
Roberts
Rodino
Rose
Rousselot
Roybal
Rudd
Runnels
Sabo
Santini
Sawyer
Scheuer
Schulze
Simon
Smith, Iowa
Spellman
St Germain
Staggers
Stark
Stewart
Stockman
Stump
Treen
Trible
Udall
Vander Jagt
Walgren
Walker
Whitehurst
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Wydler
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

□ 1030

The Clerk announced the following pairs:

Mr. Charles Wilson of Texas with Mr. Andrews of North Carolina.

Mr. Applegate with Mrs. Bouquard.

Mr. Foley with Mr. Davis of Michigan.

Mr. Garcia with Mr. Diggs.

Mr. Biaggi with Mr. Eckhardt.

Mr. Bevill with Mr. McEwen.

Mr. Brinkley with Mr. McDade.

Mr. Brooks with Mr. Whitehurst.

Mr. John L. Burton with Mr. Walgren.

Mr. Heftel with Mr. Sabo.

Mr. Hightower with Mr. Sawyer.

Mrs. Byron with Mr. Hammerschmidt.

Mr. Clay with Mr. Hinson.

Mr. Jones of Tennessee with Mr. Hyde.

Mr. Lloyd with Mr. Jeffries.

Mr. Mathis with Mr. Lent.

Mr. McDonald with Mr. Lungren.

Mr. Cotter with Mr. Martin.

Mrs. Collins of Illinois with Mr. McCloskey.

Mr. Davis of South Carolina with Mr. Williams of Ohio.

Mr. Derrick with Mr. Treen.

Mr. Dellums with Mr. Walker.

Mr. Dodd with Mr. Williams of Montana.

Mr. St Germain with Mr. Quillen.

Mr. Simon with Mr. Schulze.

Mr. Runnels with Mr. Stump.

Mr. Roybal with Mr. Markey.

Mr. Rose with Mr. Leland.

Mr. Price with Mr. Lehman.

Mr. Nolan with Mr. AuCoin.

Mr. McHugh with Mr. Beard of Rhode Island.

Mr. Miller of California with Mr. Bonior of Michigan.

Mr. McKay with Mr. Bonker.

Mr. Ford of Michigan with Mr. Evans of Georgia.

Mr. Dicks with Mr. Deckard.

Mr. Chappell with Mr. Scheuer.

Mr. Addabbo with Mr. Anderson of Illinois.

Mr. Fuqua with Mr. Erdahl.

Mr. Zeferetti with Mr. Mitchell of New York.

Mr. Breaux with Mr. Andrews of North Dakota.

Mr. Conyers with Mr. Frenzel.

Mr. Corman with Mr. Pritchard.

Mr. Flood with Mr. Rousselot.

Mr. Fowler with Mr. Rudd.

Mr. Hawkins with Mr. Bauman.

Mr. Johnson of California with Mr. Badham.

Mr. Mineta with Mr. Archer.

Mr. Murphy of New York with Mr. Forsythe.

Mr. Pepper with Mr. Gilman.

Mr. Rangel with Mr. Goldwater.

Mr. Rodino with Mr. Cheney.

Mrs. Spellman with Mr. Clausen.

Mr. Staggers with Mr. Horton.

Mr. Wolff with Mr. Hillis.

Mr. Nelson with Mr. Lott.

Mr. Ambro with Mr. Lujan.

Ms. Ferraro with Mr. Trible.

Mr. Fary with Mr. Stockman.

Mr. Moorhead of Pennsylvania with Mr. Vander Jagt.

Ms. Oakar with Mr. Wydler.

Mr. Richmond with Mr. Bob Wilson.

Mr. Roberts with Mr. Young of Alaska.

Mr. Santini with Mr. Cleveland.

Mr. Smith of Iowa with Mr. Coelho.

Mr. Stark with Mr. Philip M. Crane.

Mr. Stewart with Mr. Dixon.

Mr. Udall with Mr. Dougherty.

Mr. Wright with Mr. Duncan of Tennessee.

Mr. Yatron with Mr. Edwards of Oklahoma.

Mr. Charles H. Wilson of California with Mr. Erlenborn.

Mr. Zablocki with Mr. Grisham.

Mr. Young of Missouri with Mr. Hagedorn.

Mr. Atkinson with Mr. Johnson of Colorado.

Mr. Bingham with Mr. Myers of Pennsylvania.

Mr. Kogovsek with Mr. Murphy of Illinois.

Mr. Gaydos with Mr. Gibbons.

Mr. Frost with Mr. Huckaby.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 2374, AUTHORIZING ESTABLISHMENT OF OLMSTED NATIONAL HISTORIC SITE IN MASSACHUSETTS

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 282 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 282

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2374) to authorize the establishment of the Frederick Law Olmsted National Historic Site in the State of Massachusetts, and for other purposes, the first reading of the bill shall be dispensed with and all points of order against section 1 of the bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment recommended by the Committee on Interior and Insular Affairs now printed on page 3, lines 5 through 23 of the bill, and all points of order against said amendment for failure to comply with the provisions of section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. Moakley) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. Latta) pending which I yield myself such time as I may consume.

Mr. Speaker. House resolution 282 is the rule providing for the consideration of the bill H.R. 2374, to authorize the establishment of the Frederick Law Olmsted National Historic Site in Massachusetts. It is an open rule that provides for 1 hour of general debate. In addition, it waives points of order against the bill because, as it was originally introduced, section 3 did not comply with section 402 (a) of the Budget Act. Section 3 authorizes new budget authority and would have become effective in this fiscal year, which is not in order under section 402 (a). The waiver is purely technical, however, because an amendment has already been adopted in committee that cures the budget violation.

There is one further Budget Act waiver, of section 401(a) of the Budget Act, which applies to one of the amendments that was adopted in committee. That amendment provides the Secretary of the Interior with what could be considered contract authority and does not limit the authority to amounts provided in appropriations acts. Since the Interior Committee has agreed to offer a floor amendment to take care of the violation, this is also a technical waiver.

Finally, the rule waives points of order against section 1 of the bill under clause 5 of rule XXI. That provision of the rules prohibits appropriations in a legislative bill, and there is language in section 1 of the bill stipulating that the Secretary of the Interior may acquire the Olmsted properties with "donated or appropriated funds." Although standard in this kind of legislation, the language could be considered a minor violation of clause 5, rule XXI, so this waiver was necessary.

Mr. Speaker, Frederick Law Olmsted was a truly outstanding person in our history. He virtually created the disciplines of landscape architecture and of city and regional planning, and he was among this country's first major conservationists. In addition, he was the first to vigorously promote the idea of harmony between nature and the manmade environment in our urban areas. Already a hundred years ago, he was concerned that our cities should be livable; he worked hard to bring greenery and open spaces into our uraban areas. All of us have benefited both directly and indirectly from his contributions to our lives.

Mr. Speaker, the purpose of this legislation is to include Mr. Olmsted's home and office—in Brookline, Mass.—in the national park system. It seems particularly fitting that we should recognize in this manner a man who made such contributions to our awareness of conservation. Also, the bill authorizes the acquisition of the Olmsted Archives, which contain thousands of valuable drawings, prints, and photographs dating back to 1860. The archives are still in Mr. Olmsted's Brookline office and are extensively used as resource materials by States, municipalities, and schools from across the country.

Mr. Speaker, I am in very strong support of this legislation and I urge the adoption of House Resolution 282 in order that the bill might be considered.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the statements just made by the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. Speaker, this rule provides 1 hour of general debate for the consideration of H.R. 2374, a bill to authorize the establishment of the Frederick Law Olmsted National Historic Site in Massachusetts.

There are three separate waivers of points of order in this rule.

First, section 402(a) of the Budget Act is waived. The introduced bill included authorizations which would take effect during fiscal year 1979, but the bill was not reported by May 15, 1978, as the Budget Act requires. Therefore, the waiver of section 402(a) was included. This Budget Act violation is to be cured by amendment on the floor, and therefore, the chairman of the Budget Committee announced he had no objection to the waiver.

Next, the rule prohibiting appropriations on authorization bills is waived. This is necessary because the bill could allow use of existing appropriations for a new purpose, and technically this constitutes an appropriation on an authorization bill.

Finally, points of order are waived against the committee amendment because it provides for contract authority, which is not subject to appropriation as required by the Budget Act. However, this violation is to be cured by amendment on the floor according to the letter of the chairman of the Budget Committee, and therefore, he did not object to the waiver.

Mr. Speaker, the purpose of the bill made in order by this rule is to authorize the Secretary of the Interior to acquire the former home and office of Frederick Law Olmsted in Brookline, Mass., and the Olmsted archival collection which is housed there.

The Secretary is directed to operate the property as a national historic site.

The total estimated fiscal year 1980 authorization for the establishment of the site is $1.1 million, which if appropriated for fiscal year 1980, would be totally spent in that year. Other development, operation, maintenance, and archival preservation costs related to this historic site, though not authorized in the bill, could total $2.5 million within 5 years of acquisition.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 3347, TREASURY DEPARTMENT INTERNATIONAL AFFAIRS AUTHORIZATION

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules and on behalf of the gentleman from Florida (Mr. PEPPER), I call up House Resolution 284 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 284

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3347) to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal years 1980 and 1981, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio (Mr. LATTA). Pending that, I yield myself such time as I may consume.

Mr. Speaker, the resolution provides for the consideration of H.R. 3347—the Treasury Department international affairs authorization.

It is a 1-hour open rule which contains one Budget Act waiver which is purely technical since the Banking Committee cured the violation in markup.

The Banking Committee reported a substitute and the rule contains a number of technical provisions which are routinely in such cases. All are designed simply to insure that members—and the minority in particular—have the same rights they would have if a clean bill had been reported.

The bill is a 2-year authorization for functions in the Department of the Treasury related to economic stabilization and international monetary affairs.

Mr. Speaker, I am aware of no controversy over the rule and I urge its adoption.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 1 hour of general debate for the consideration of H.R. 3347, the Treasury Department international affairs authorization.

The rule waives points of order for failure to comply with section 402(a) of the Budget Act.

The chairman of the Budget Committee has approved this waiver, as a committee amendment will be presented to cure the violation.

The rule also makes the committee

substitute in order as an original bill for the purpose of amendment.

The purpose of H.R. 3347 is to authorize $22,375,000 for the international affairs functions of the Department of the Treasury.

The bill authorizes $22,375,000 for the 490 person-staff for Treasury's international affairs functions plus such sums as may be necessary for increases in salaries and other nondiscretionary benefits.

The Congressional Budget Office estimates that the total cost of this bill will be $23.145 million.

As indicated by the gentleman from Massachusetts, there is no objection to the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 287, nays 3, not voting 144, as follows:

[Roll No. 194]

YEAS—287

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Atkinson
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bowen
Brademas
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chisholm
Clinger
Coleman

Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
de la Garza
Derwinski
Devine
Dickinson
Dingell
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Fish
Fisher
Fithian
Flippo
Florio
Ford, Tenn.
Fountain
Frenzel
Gaydos
Gephardt
Gingrich
Ginn
Glickman
Gonzalez

Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Harris
Heckler
Hefner
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Hughes
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee

Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
McClory
McCormack
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikva
Miller, Ohio
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi

Nichols
Nowak
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Pursell
Quayle
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Robinson
Roe
Rosenthal
Rostenkowski
Roth
Royer
Russo
Satterfield
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack

Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Stack
Stangeland
Stanton
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Ullman
Vanik
Vento
Volkmer
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Winn
Wirth
Wolpe
Wyatt
Wylie
Yates
Young, Fla.
Zablocki

NAYS—3

McDonald
Paul
Symms

NOT VOTING—144

Addabbo
Ambro
Anderson, Ill.
Andrews, N. Dak.
Archer
Aspin
AuCoin
Badham
Bauman
Beard, R.I.
Bevill
Biaggi
Bingham
Bonker
Bouquard
Breaux
Brinkley
Brooks
Burton, John
Chappell
Cheney
Clausen
Clay
Cleveland
Coelho
Collins, Ill.
Conyers
Corman
Cotter
Crane, Philip
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Dicks
Diggs
Dixon
Dougherty
Eckhardt
Erdahl
Erlenborn
Evans, Ga.
Fary
Ferraro
Findley
Flood
Foley

Ford, Mich.
Forsythe
Fowler
Frost
Fuqua
Garcia
Giaimo
Gibbons
Gilman
Goldwater
Grisham
Hagedorn
Hammerschmidt
Harsha
Hawkins
Heftel
Hightower
Hillis
Hinson
Holland
Horton
Huckaby
Hyde
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kogovsek
Lehman
Leland
Lent
Lloyd
Lujan
Lungren
McCloskey
McDade
McEwen
McKay
Martin
Mikulski
Miller, Calif.
Mineta
Mitchell, N.Y.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nelson

Nolan
O'Brien
Oakar
Pepper
Price
Pritchard
Quillen
Rangel
Richmond
Roberts
Rodino
Rose
Rousselot
Roybal
Rudd
Runnels
Sabo
Santini
Sawyer
Schulze
Simon
Smith, Iowa
Spellman
St Germain
Staggers
Stark
Stewart
Stump
Swift
Treen
Trible
Udall
Van Deerlin
Vander Jagt
Walgren
Walker
Whitehurst
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Wydler
Yatron
Young, Alaska
Young, Mo.
Zeferetti

☐ 1100

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Forsythe.
Mr. Addabbo with Mr. O'Brien.
Mr. Staggers with Mr. Pritchard.
Mrs. Spellman with Mr. Anderson of Illinois.
Mr. Rodino with Mr. Archer.
Mr. Richmond with Mr. Gilman.
Mr. Pepper with Mr. Goldwater.
Mr. Fuqua with Mr. Badham.
Mr. Chappell with Mr. Hillis.
Mr. John L. Burton with Mr. Bauman.
Mr. Corman with Mr. Quillen.
Mr. Cotter with Mr. Rousselot.
Mr. Fary with Mr. Rudd.
Ms. Ferraro with Mr. Hinson.
Mr. Moorhead of Pennsylvania with Mr. Horton.
Mr. Murphy of New York with Mr. Cheney.
Mr. Wolff with Mr. Clausen.
Mr. Zeferetti with Mr. Johnson of Colorado.
Mr. Van Deerlin with Mr. Lent.
Mr. Charles H. Wilson of California with Mr. Walker.
Mr. Wright with Mr. McEwen.
Mr. Hawkins with Mr. McDade.
Mr. Giaimo with Mr. Dixon.
Mr. Garcia with Mr. Dougherty.
Mr. Frost with Mr. Erdahl.
Mr. AuCoin with Mr. Erlenborn.
Mr. Ambro with Mr. Swift.
Mr. Bevill with Mr. Treen.
Mr. Biaggi with Mr. Wydler.
Mr. Breaux with Mr. Young of Alaska.
Mr. Johnson of California with Mr. Lungren.
Mr. Santini with Mr. Martin.
Mr. Bingham with Mr. McCloskey.
Mr. Clay with Mr. Schulze.
Mr. Conyers with Mr. Sabo.
Mr. Davis of South Carolina with Mr. Grisham.
Mr. Beard of Rhode Island with Mr. Runnels.
Mr. Nolan with Mr. Rose.
Mr. Hightower with Mr. Price.
Mr. Brooks with Mr. Sawyer.
Mr. Brinkley with Mr. Stump.
Mrs. Bouquard with Mr. Trible.
Mr. Heftel with Mr. Aspin.
Mr. Lloyd with Mr. Andrews of North Carolina.
Ms. Mikulski with Mr. Bonker.
Mr. Mineta with Mr. Cleveland.
Mr. Miller of California with Mr. Coelho.
Mr. Myers of Pennsylvania with Mrs. Collins of Illinois.
Mr. Nelson wtih Mr. Philip M. Crane.
Mr. Young of Missouri with Mr. Davis of Michigan.
Mr. Yatron with Mr. Deckard.
Mr. Udall with Mr. Eckhardt.
Mr. Stark with Mr. Evans of Georgia.
Mr. Stewart with Mr. Findley.
Mr. Dellums with Mr. Charles Wilson of Texas.
Mr. Derrick with Mr. Whitehurst.
Mr. Lehman with Mr. Lujan.
Mr. Gibbons with Mr. Bob Wilson.
Mr. Dicks with Mr. Vander Jagt.
Mr. Diggs with Mr. Mitchell of New York.
Mr. Flood with Mr. Kogovsek.
Mr. Foley with Mr. Jeffries.
Mr. Murphy of Illinois with Mr. Hyde.
Mr. McKay with Mr. Harsha.
Mr. Leland with Mr. Hammerschmidt.
Mr. Huckaby with Mr. St Germain.
Mr. Holland with Mr. Walgren.
Mr. Roybal with Mr. Ford of Michigan.
Mr. Rangel with Mr. Hagedorn.
Mr. Roberts with Ms. Oakar.
Mr. Simon with Mr. Williams of Ohio.
Mr. Smith of Iowa with Mr. Fowler.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CIVIL RIGHTS COMMISSION AUTHORIZATION ACT OF 1979

Mr. EDWARDS of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2641) to amend section 106 of the Civil Rights Act of 1957 to raise the limitation on appropriations for the U.S. Commission on Civil Rights.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2641, with Mr. DE LA GARZA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. EDWARDS) will be recognized for 30 minutes, and the gentleman from Wisconsin (Mr. SENSENBRENNER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this year marks the 25th anniversary of Brown against Board of Education. This landmark Supreme Court decision outlawed State sanctioned racial segregation; it also created the expectation that the phrase, "equal justice under law," carved in stone on the building which is home to our highest court would soon become a realizable goal for all black Americans.

During the intervening years, the legislative and executive branches, at both the Federal and State levels, have, in many instances, promulgated corrective measures. But, too often, the enforcement of such legislation has been sporadic and ineffective.

A quarter of a century has passed since Brown and we have seen that equality of right and opportunity has not been realized by all black Americans; furthermore, we have learned that such opportunity has also been denied to other racial and ethnic groups, to women, and to the aged and handicapped. We have observed a dramatic change in the manifestation of such denials—it is more subtle—thus, we are no longer confronted with the visual impact of "Bull Connor" and his dogs. Racists no longer warn against the "Mongrelization of the races" or proselytize about white supremacy; instead, they preface each statement embracing equal rights for all.

The U.S. Commission on Civil Rights has been accurately reporting these findings and advising the Congress and the President for 21 of those 25 years. It has become our "national conscience," reporting our successes and our failures. It was because of this important and necessary advisory role that the 95th Congress extended the life of the Commission to 1983.

Public Law 95-444 extended the Commission's statutory life for 5 years; authorized appropriations for fiscal year 1979 of "such sums as are necessary"; and broadened the Commission's jurisdiction to review age and handicap discrimination. The House-passed version of that extension legislation differed from its Senate counterpart on, among other things, the issue of appropriated sums; our bill adopted fixed sums for fiscal years 1979 and 1980—the Senate version, which was agreed to in conference, provided for "such sums as are necessary."

House Resolution 2641 amends section 106 of the Commisson's charter (Civil Rights Act of 1957); as introduced, it provided for "such sums as are necessary" for fiscal years 1980 and 1981. The Committee on the Judiciary voted to set forth a fixed amount for the upcoming fiscal year. The recommended amount was $14 million, which is the same amount adopted by the House when it passed the Commission's extension legislation.

This represents a ceiling amount and, as the current and 1978 committee reports note, it is recommended that the Commission use the amounts above the appropriation request for fiscal year 1980 exclusively for purposes of reviewing discrimination in the expanded jurisdiction, age and handicap status. For the most part, the appropriation request for that period seeks to keep the Commission at its current level, that is to say, at the level set prior to the Congress mandating review of these new areas. Thererfore, it is the committee's view, and we believe the House vote on the extension legislation supports this conclusion, that the Commission should begin review of age and handicap discrimination with sufficient resources so as not to take away from important work in its previously mandated areas of review. The committee recommended amount, $14 million, allows for such necessary resources.

The Judiciary Committee has had an opportunity to review its recommendation to the 95th Congress and finds it reasonable; we ask that the same amount, for the same period, be authorized by the 96th Congress.

I urge your support for the bill as reported.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill before us is a straight-out 1-year authorization for the Civil Rights Commission for sums not to exceed $14 million to carry out the provisions of this act for the fiscal year ending September 30, 1980.

The authorization for this Commission has gone up rather markedly in past years. For example, in 1973, the authorization limitation was $6,500,000. For the next 2 fiscal years, 1974 and 1975, a $7 million authorization limitation was enacted by the Congress. In 1976, the amount was $7,893,000; in 1977, $9,540,000; in 1978, $10,480,000; and for fiscal year 1979 there was no ceiling placed on the authorization by the Congress.

So the Congress has been rather generous with the Civil Rights Commission, and the Civil Rights Commission's budget has almost doubled in the years from 1973 through 1979. This is an excessive increase, particularly when this year we are being asked to go up from actual expenditures of $10,387,000 to an authorization ceiling of $14 million. At a time when the public is crying out for austerity in Government and for stretching the tax dollar further, the authorization limit that is contained in this bill should be amended downward to reflect the austere times we are living in.

☐ 1100

There are many other agencies that come under the authorization jurisdiction of the Judiciary Committee that have requested, and have had approved by the committee, cuts in the budget. The Federal Bureau of Investigation is being reduced by 536 permanent positions, with the funding cut of $10,221,000 from the 1980 projection.

The Immigration and Naturalization Service is being slated for a reduction of 574 permanent positions and a funding cut of $18,734,000.

If we are talking about funding cuts and reduction in permanent positions in agencies like the FBI, which combats crime and terrorism, and the Immigration and Naturalization Service, which enforces our immigration laws and attempts to root out illegal aliens in this country, the Civil Rights Commission can share in some of the austerity.

I will be offering an amendment later on today to reduce the $14 million requested for authorization in this bill to the amount that was recommended by the Office of Management and Budget.

Mr. Chairman, I now yield 3 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman, I have a statement here prepared by the ranking minority member of the subcommittee, the gentleman from Illinois (Mr. HYDE).

Mr. Chairman, I would like to insert at this point in the RECORD, the statement by the gentleman from Illinois (Mr. HYDE).

I recognize, of course, that I cannot fill the shoes of the gentleman from Illinois or fill anything of the gentleman's, but I would like to, therefore, rely on his comments which I think are very pertinent.

The statement follows:

STATEMENT OF THE HON. HENRY J. HYDE ON AMENDMENT TO H.R. 2641, THE CIVIL RIGHTS COMMISSION AUTHORIZATION ACT OF 1979

As introduced, H.R. 2641, which will authorize appropriations for the U.S. Commission on Civil Rights, sought an open-ended, two year authorization. During markup in the Subcommittee on Civil and Constitutional Rights, my colleagues and I all agreed that authorizations which do not set some ceiling on the level of appropriations are not very responsible. We did not agree, however, on what the limitation for this Commission should be.

Mr. Sensenbrenner offered an amendment to set the authorization limitation at the same level which the President has requested for the Commission's appropriation—$11,372,000. The gentleman from Massachusetts, Mr. Drinan, however, was much more generous. He offered an amendment which would set the limitation on appropriations at a sum not to exceed $14,000,000 for FY 1980 only.

I had a different approach to the problem; the amendment I offered in Committee, and which I am offering now, seeks to set the limitation on appropriations at $11,000,000, a figure which I feel represents enough of an increase for an agency with no enforcement responsibilities. The Department of Justice, over which the Judiciary Committee also has jurisdiction, has been the victim of significant cuts in two of its most important programs: the Federal Bureau of Investigation, which is being reduced by 536 permanent positions, with its funding cut by $10,221,000 from the 1980 projection and the Immigration and Naturalization Service, which will be reduced by 574 permanent positions with a funding cut of $18,734,000. If these two important activities must suffer funding reductions during the next fiscal year, then the Civil Rights Commission can operate at the same level it did during fiscal year 1979. My amendment would set a ceiling at $11,000,000, which is 2.3% more than the Commission received last year.

There have been a number of allegations that this Commission issues reports that are at best tangential to its Congressionally mandated jurisdiction and which duplicate work performed by other Federal agencies. I agree somewhat with these critics. To its credit, the Commission has prepared several studies which have exhibited outstanding scholarship and have been most helpful to civil rights efforts nationwide. However, I think we could certainly do without certain reports such as "Sex Bias in the U.S. Code" and "Window Dressing on the Set: Women and Minorities in Television". Even if they have merit, which they may, they must appear far down the priority list.

The real battle over how much money the Civil Rights Commission will have during the next fiscal year will be fought in the Appropriations Committee. Nevertheless, I urge this House to continue its fiscal responsibility and reauthorize the Commission at last year's level.

Mr. Chairman, that concludes the statement of the gentleman from Illinois (Mr. HYDE). I would like to be identified with it. He is very knowledgeable in the area of civil rights as a member of that subcommittee.

The gentleman from Wisconsin (Mr. SENSENBRENNER) has indicated that he will offer an amendment which would hold the spending to the level which the OMB suggested. I think that is a very appropriate place to stop in authorizing this Commission's activities this year. I do not think it will hamper the activity at all. It will give our continued support to the Civil Rights Commission's work in its traditional areas without however jeopardizing our dedication to fiscal responsibility.

I yield back the balance of my time, Mr. Chairman.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, I rise in support of H.R. 2641.

I want to comment very briefly on the importance of the work done by the Commission and the necessity not only for its existence, but its expansion.

It is rather sad, I think, and I would hope that most of the Members of the House would share my sadness, to note that after we have had a series of major civil rights laws and an alleged change of climate in this country, racism and discrimination still are deep and systematic and pervasive in America.

We had the Brown decision some time ago, but in every major city and in every State, most of our public schools still remain pretty rigidly segregated.

If we look at the New York Times for today, on the front page there is a story which points out that, despite the fact we have passed a fair-housing law, housing remains pretty much segregated by race in this country today.

If my colleagues would look at the mail they receive from the Justice Department, almost every day they will see a notice where the Justice Department is working on cases in which there are violations of public accommodations laws, violations of title VII, violations of every major civil rights legislation.

Just a few short months ago, when I left one of our major cities, traveling north from there, I was in the company of two other people. We drove about 50 miles north of that major city. I stopped to get a milkshake and the others wanted a milkshake, and we ordered them.

The lady immediately put the milkshakes in cartons to carry out.

I said, "No. We want to drink them here."

She pointed to a sign. The sign said—and this 50 miles away from one of our major cities—the sign said: "We reserve the right to seat our customers."

It did not matter that I was a Member of Congress.

In fact, what I am suggesting to my colleagues is that those cases that go to the Justice Department represent only the tip of the iceberg.

Let me further suggest to you why the work of the Commission must not only be maintained, but expanded.

I am disturbed, and greatly disturbed, as I think every Member of this House ought to be disturbed, by the fact that we see the resurgence of the Ku Klux Klan activities in America.

I thought we had gotten that kind of abominable poison out of the system of this Nation, but we have not.

If you have been following the news reports, you see in Decatur, Ala., where these fools, who I think are latent homosexuals, dressed up in white robes, were attempting to intimidate blacks from having a march; and the blacks have fought back, understandably. This Klan is now boasting about the number of chapters that it has, youth chapters, on college campuses and university campuses.

□ 1120

Surely the work of the Commission is needed more sorely than ever.

I would suggest that we fight against any attempt to reduce funding for the work of the Commission, not so much just on the basis of the added responsibilities of the Commission in terms of taking care of discrimination against the aged and the handicapped, but the Commission needs to have its funds expanded primarily to deal with this new form of racism that is here in America, this sophisticated, subtle, smooth, I call it velvet racism—that is the kind that is the kind that is smooth to the touch, it yields, but it does not confront you, but nevertheless it is there, it is there in every aspect of our lives.

I would urge that we support the work of the Commission, that we defeat any amendments to cut it.

In closing, let me just give the Members one other illustration as to why we need this Commission as a watchdog. The genius of America, the genius of America has created several million new jobs over the past 3 years, almost 3 million new jobs. Yet, the black unemployment rate remains substantially unchanged over the past 3 years.

In addition to that, the black unemployment rate in America has always been twice as high as the white unemployment rate, since the end of World War II. The bottom line is simply this: That while we may have title VII guaranteeing against discrimination in employment, racism still stands at the hiring gates. That is why blacks remain unemployed.

I would urge the Members to fully support this bill before us, and I would specifically urge the Members to defeat any amendment which would seek to cut funding. To cut would be the wrong thing to do, because of the added responsibilities and the climate in which the Commission now operates.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. McCLORY), the distinguished ranking Republican member on the Committee on the Judiciary.

Mr. McCLORY. Thank you very much, Mr. Chairman.

I want to commend the chairman of the subcommittee, Mr. EDWARDS, and the ranking minority member, Mr. HYDE, as well as the other members of the subcommittee on their work on behalf of their legislation. I have been an original sponsor of this legislation and I continue to sponsor it and support it as a very useful tool in connection with reducing discrimination in America.

However, I think the emphasis which was present at the time this Commission was established, the subject of the discrimination against blacks in America, has been sidetracked and diverted so much that we have very little input in so far as that subject is concerned which is the subject to which the gentleman from Maryland (Mr. MITCHELL) made reference. We have moved from discrimination against blacks to discrimination against Hispanics and Latinos, which took up a great deal of the time of the Commission. And soon we got into the subject of discrimination against women, and discrimination against the handicapped, discrimination against the aged. And if it were not for the fact that the committee tried to hold the Civil Rights Commission down, they would be into every conceivable type of discrimination which it thought might make headlines or might attract publicity to the Commission. I have have been one who has admonished the Commission to try to keep its eye on the ball with regard to the major areas of discrimination and try at the same time to point up the improvements that are being made. It seems to me that we can gain an awful lot by showing examples of the reduction in discrimination which occurs when we reduce discrimination in housing and discrimination against women and in other areas of discrimination—because these examples improve our entire society. Yet there has been very, very little emphasis on the numerous examples of improvements in the Commission reports. I think it is unfortunate. I think it has done a disservice by omitting reference to the good things that have happened in connection with our efforts, our efforts here in the Congress and with regard to other legislation directed toward reducing discrimination.

I have an idea that these additional funds are sought under the pretext or under the excuse that they are going to be directed toward the new functions which the Commission has been given with regard to the aged, and the handicapped. These are interesting and they are important. But I just do not know how far reaching the Commission's work should be. It does have limited authority: It points up, it publicizes, it attracts attention; principally attracts attention to itself, it seems to me. And frequently I think that through their reporting of various types of discrimination they tend to divert our attention from ways and means by which discrimination can be reduced.

I think sometimes we lose sight even on the subject of education. In our efforts to provide some magic formula for improving the quality of education we think that through different forms, different techniques, we can do that. But when I think, for instance, that by publicizing a subject such as a teacher's quota and by demanding a certain percentage of black teachers, instead of gaging the quality of the teacher, and by ignoring the fact that the white teacher might provide a better opportunity for a black student than a black teacher, it seems to me we are losing sight of the whole subject of what we are trying to do here in this country—of promoting equality of opportunity for all of our countrymen.

So, I think we should consider the Commission on Civil Rights in perspective, and I think we should recognize its usefulness, its importance. I want to continue to support it. But, I think it is important to keep it in perspective and to try to keep its principal focus on those major areas of discrimination which I think are so reprehensible and to which, it seems to me, we are devoting not enough time, and from which our attention is being diverted as we branch out into those areas which may attract attention but which, it seems to me, do far too little in undertaking to improve the quality of life in America.

Mr. SENSENBRENNER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise to express my strong support for H.R. 2641, the Civil Rights Commission Authorization bill. Since its creation, the Civil Rights Commission has been at the forefront of the movement and effort to protect our citizens against those who wish to deprive them of their rights because of their color, place of origin, religion, nationality or sex.

As an autonomous agency the Commission has undertaken studies into the plight of different minorities in the United States. One of these reports was the October, 1976 publication "Puerto Ricans in the Continental United States: An Uncertain Future." In that excellent study, the Commission looked into the problems faced by Puerto Ricans living in the mainland and discovered that not only do we suffer discrimination on the basis of the color of our skin, but, also, because of language and cultural differences. The number of U.S. citizens who are of Puerto Rican origin continues to grow each year. At present, we are the second largest Hispanic group in the United States and, therefore, studies such as the one conducted by the Civil Rights Commission are of extreme importance in highlighting the problems faced and offering suggestions for improvement.

As with Puerto Ricans, other minorities have been the beneficiaries of Commission's deep commitment. The Commission's goal of focusing on the barriers faced by minorities increases the general public's awareness of their responsibility and duty to insure that our fellow citizens are measured according to their abilities and not discriminated against because of the color of their skin, their language or their name.

Mr. Chairman, I want to urge all my colleagues to support H.R. 2641 and to cast their votes in favor of the Civil Rights Commission authorization bill.

□ 1130

Mr. EDWARDS of California. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Commission Authorization Act of 1979".

SEC. 2. Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

SEC. 106. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act for the fiscal year ending September 30, 1980, and for the fiscal year ending September 30, 1981.".

Mr. EDWARDS of California (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, beginning in line 7, strike out "such sums" and all that follows through "1981" in line 9 and insert in lieu thereof the following: "not to exceed $14,000,000 to carry out the provisions of this Act for the fiscal year ending September 30, 1980".

AMENDMENT TO THE COMMITTEE AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment to the committee amendment offered by Mr. SENSENBRENNER: On page 2, line 10, strike "$14,000,000" and insert therefor "$11,372,000".

Mr. SENSENBRENNER. Mr. Chairman and members of the committee, the amendment that is before us presently reduces the authorization ceiling from the $14 million approved by the Committee on the Judiciary to the sum of $11,372,000. I believe it appropriate at this time to give the members of the committee some information as to the history of the authorization requests of the Civil Rights Commission.

At first the Commission requested $13,572,000 of the Office of Management and Budget. The Office of Management and Budget summarily rejected that request and the Commission came back with a recommendation of appropriation authorization of $11,372,000 which was eventually approved. This is the sum that is in my amendment and represents an increase over last year's authorization of $620,000 or 5.8 percent.

The Committee on the Judiciary was quite a bit more generous with the Civil Rights Commission authorization in approving the $14 million authorization ceiling. That $14 million was more than the original request that was summarily rejected by the Office of Management and Budget. It was more than the second request which was approved by the Office of Management and Budget and sent to Congress by the President when he submitted his budget and it is more than anyone has requested for the Civil Rights Commission during the entire authorization and appropriation process to date.

It is my feeling, and I feel this way very strongly, that the Office of Management and Budget figure of $11,372,000 will be adequate for this commission to discharge its very important function during the coming fiscal year.

At a time of budget austerity when we are being requested to cut back on all kinds of worthwhile programs it seems very foolish to go all the way up to $14 million, which is an increase of $3,248,000 over last year's budget, or a 30.2 percent increase. I would urge the membership of the committee today to support my amendment, to go back to what the Office of Management and Budget and President have recommended so that this Commission would be given a responsible and reasonable increase in its budget authorization rather than a 30.2 percent increase which is far too high.

Mr. VOLKMER. Mr. Chairman, would the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would just like to point out, though, if your amendment is adopted there will be remaining very little funds left to initiate programs and studies on discrimination because of age and handicap which this Congress dictated last year. Is that not correct?

Mr. SENSENBRENNER. I believe the Commission can tighten its belt and conduct the studies mandated to the Commission based on the lower figure.

When Congress is reducing the budget of the FBI, when it is reducing the budget of the Immigration and Naturalization Service with the problems that we have with white-collar crime, with terrorism, with illegal aliens in this country, it seems very, very logical that this Commission, which is merely advisory and which has no enforcement authority, can live with a 5.8-percent increase or $620,000 more than it got last year.

Mr. BUTLER. Mr. Chairman, would the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Virginia.

Mr. BUTLER. To clarify, what happened last year was an expansion of jurisdiction. It was not a mandate to the Commission at all. If they do not have the funds of course they cannot go into that area. That is wise. That is exactly what the Office of Management and Budget said and that is what the Congress said when it got around to appropriating the money last year. The Congress said, "Yes, you are authorized to go into aging but you do not have money for it so, therefore, you are not able to do it."

That was the expression of the Committee on Appropriations and that is the expression of the Office of Management and Budget. Certainly there was no intention in the appropriations process last year to cut down on the traditional areas of concern of the Civil Rights Commission. I am sure the gentleman and I both agree that is not the purpose of this amendment.

Mr. SENSENBRENNER. That is correct.

I thank the gentleman for his remarks.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I appreciate the gentleman's yielding to me.

Following the line of discussion just offered by my colleague from Virginia, I just want to set the record straight.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. SENSENBRENNER was allowed to proceed for 2 additional minutes.)

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield further?

Mr. SENSENBRENNER. I do yield further to the gentleman from Maryland.

Mr. MITCHELL of Maryland. One might deduce, perhaps wrongly, that the action of the Congress in permitting the Commission's going into the problems of the handicapped and our aged citizens and then failing to give them the money to do the job, that would suggest to some that these problems are not significant. I know my colleagues did not want to give that impression. Surely it seems to me that the problems of discrimination against the aged and the handicapped are tremendously important. Therefore, the argument ought to be to put the money in so they can follow through on those problems.

Mr. BUTLER. Mr. Chairman, would the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Virginia.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. SENSENBRENNER was allowed to proceed for 2 additional minutes.)

Mr. BUTLER. Mr. Chairman, would the gentleman now yield to me?

Mr. SENSENBRENNER. I yield to the gentleman from Virginia.

Mr. BUTLER. Certainly the gentleman from Maryland will agree that we have studied the question of the aging and the handicapped pretty extensively in this Congress.

I have before me a photograph of an exhibit we had in an earlier discussion of this on the floor of the House. The photograph shows a very attractive young lady and by her are three stacks of books. I would direct the attention of the Committee to the three stacks of books. Those stacks comprise the studies on aging that we have already had.

The message I wanted to give to the membership when we were discussing this was perhaps we ought to have the Civil Rights Commission directing itself toward the traditional areas of discrimination instead of restudying other areas and that is why I objected to that. I think the message that I had for the membership when I exhibited this was received by the Office of Management and Budget and received by the Committee on Appropriations with some approval.

No, we are not assigning aging or handicapped lower priority at all. What we are saying is that the Civil Rights Commission shoud be studying ethnic, racist, and religious discrimination and staying out of these new areas until we have solved the problems, which as the gentleman from Maryland has suggested, may be getting worse instead of better.

Mr. MITCHELL of Maryland. Mr. Chairman, would the gentleman yield to me?

Mr. SENSENBRENNER. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. There are over 400,000 studies done or books written on research projects on discrimination against blacks in America. Over 400,000. Would the gentleman suggest that because we have completed 400,000 studies on discrimination against blacks in America that discrimination no longer exists? I do not think there is very much merit in showing a compendium of volumes and saying this completes the work of the Commission in those two areas of aging and the handicapped.

The CHAIRMAN. The time of the gentleman has again expired.

□ 1140

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I trust that this amendment will be resoundingly defeated. I think we should point out to the members of the committee that this amount of $14 million is exactly the same amount that we authorized last year for this coming fiscal year. I also point out to my good friend, the gentleman from Illinois (Mr. McCLORY), he not only voted for it, but in the report of last year he said—

> I am satisfied that additional funding is needed to carry out these additional functions and I do not regard the authorization of $12,752,000 for fiscal year 1979 and $14 million for fiscal year 1980 as excessive or inappropriate.

So we are talking about a retreat here. It is a retreat if the amendment of the gentleman from Wisconsin is agreed to. It is a signal of retreat to the constituency out in America, to black Americans, to brown Americans, to the aged, to the handicapped, that we are not willing to go along with what we voted for 1980 last year. That is exactly what we are doing.

Mr. McCLORY. Mr. Chairman, will the gentleman yield to me?

Mr. EDWARDS of California. Yes, I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I just want to point out that the $11 million plus that is being authorized if the amendment is adopted, is an increase over what was used last year. It is true that I suggested they needed additional money, but they will have additional money; not as much additional money as the gentleman in the well might want them to have, but certainly additional money from which they could undertake this additional responsibility.

Mr. EDWARDS of California. Mr. Chairman, the gentleman from Illinois (Mr. McCLORY) has been a stout advocate of civil rights and civil liberties for his entire lifetime and certainly his career in the Congress. I certainly am not being critical, but I do feel it is necessary to make the point that if the amendment is adopted, we are sending out the signal that we are retreating from the position we took last year on civil rights.

Now, the Sensenbrenner amendment would increase the Commission's authorization $271,000 over the amount that was spent last year.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, the amendment which I proposed is a little bit more generous than the amendment that was proposed by the gentleman from Illinois (Mr. HYDE) in committee. My amendment is $11,372,000, which is a $680,000 increase from what was approved last year.

Mr. EDWARDS of California. Well, Mr. Chairman, I thank the gentleman.

If the amendment is approved there is still very little money for the new work that was mandated by Congress. Approval of the amendment would mean that this important work that Congress mandated last year in the 95th Congress cannot even get started. Public Law 95-478 was an amendment which came from another committee of Congress that amended the Older Americans Act and authorized and directed a study on race and ethnicity in Federal programs. It provided that it be done within 18 months and the Civil Rights Commission has not even been able to start on that mandated program, because they do not have any money for it.

The 95th Congress also increased the jurisdiction of the committee and said that the Commission must also study discrimination in America against the aged and handicapped. There will not be substantial money, if any, left in the budget, if this amendment is agreed to, for those important subjects.

Now, even yesterday in the other body, in the Senate, an amendment was agreed to in the authorization bill mandating a study for the Commission to undertake relating to the subject of employment practices under which congressional employees are hired. We know how important that is. That was the case of Davis against Passman that was recently approved by the Supreme Court. We all understand that we have big problems here on Capitol Hill with regard to discrimination in congressional offices and the Senate in its wisdom directed that the Civil Rights Commission study and report on this subject.

The CHAIRMAN. The time of the gentleman from California (Mr. EDWARDS) has expired.

(By unanimous consent, Mr. EDWARDS of California was allowed to proceed for 3 additional minutes.)

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, just as a point of information, is the gentleman suggesting to this body that the additional money which the Commission will have this year will be directed toward studying discrimination in the offices of the Members of the House of Representatives?

Mr. EDWARDS of California. I certainly did not suggest that. I pointed out that an amendment was agreed to by the Senate yesterday directing that the Civil Rights Commission study the issue raised by the Davis against Passman decision of that particular problem.

Another amendment adopted in the Senate yesterday directed the Civil Rights Commission to study discrimination against ethnic Americans, such as Polish-Americans, Spanish-Americans, and Italian-Americans. There is no money for that in this budget, or even less if the amendment of the gentleman from Wisconsin is agreed to.

.The Republican minority views in the committee report, admit, very candidly, that there will not be enough money for these expanded duties. The report says, in the minority views, that the Commission wastes its money from time to time on unworthy projects. I must most emphatically disagree with that allegation. Certainly that is not considered true by most of the people of America.

Actually, for a relatively small amount of money every year the Commission has added substantially to the quality of life in the United States. Certainly it has been truly described as the conscience of America.

Mr. Chairman, I urge the Members not to approve this amendment. Let us not send this message out that the House is retreating and that we are unconcerned about the responsibilities that we have instructed the Commission on Civil Rights to take on to help the handicapped, to help older Americans. The message that we want to send out is that we want the Commission to continue the essential work that it does to reduce racial tensions and make our country the world's model for decency and fair play.

I urge that we defeat the amendment.

Mr. BUTLER. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

I will not use my full 5 minutes, but I would like to address myself to a few points raised by the gentleman from California.

I think also if this is a retreat from anything, it is a retreat from fiscal responsibility to which we have dedicated ourselves this year. Now, when we talk about figures, of course, this House did approve a $14 million authorization on last year, but the ultimate legislation, the product of conference, was an open ended legislation for fiscal year 1979, and the authorization was open ended because at that time the appropriation had been passed somewhere in the neighborhood of $11,093,000 and we had nothing to argue about. That is the working figure that we have for what we spent and we are going to spend in the fiscal year 1979, counting supplemental appropriations which are going to probably be necessary. We are in the neighborhood of $11,093,000 for this year.

Now, what the amendment of the gentleman from Wisconsin would do would increase that amount by substantially to 11 million 3 hundred and some thousand dollars, which is still a substantial increase; but what the bill would do would increase this year's $11 million to $14 million in authorization.

Now, that is a tremendous increase in these times of austerity and the purpose of it is to go into new areas of jurisdiction and new areas of study which the OMB has rejected.

Reading from the Commission's report:

> What would this extra money be used for by the Commission?

It tells us that it allows for six new positions—six new positions, and that all six new positions, it says, will of necessity be housed at the national office.

Now, what that says is all we are doing is expanding the civil rights bureaucracy here in Washington by six people.

□ 1150

Mr. Chairman, that is a poor thing to be doing when we are telling the American people that the proposition 13 syndrome is a message that the Congress of the United States has received and we are trying to hold down the expenditures this year. I am encouraged to note that the subcommittee of the Committee on Appropriations, has at this point suggested an appropriation of $11,230,000, which is even below the authorization suggested by the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

So we are not going to do any damage by agreeing to this amendment; we are not going to do any damage to the funds that they can reasonably anticipate for this Commission this year if we agree to this amendment, but we are telling the American people that we accept the fiscal responsibility they have told us to accept in this Congress.

Mr. Chairman, I urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment to the committee amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question was taken; and on a division (demanded by Mr. SENSENBRENNER) there were—ayes 20, noes 19.

RECORDED VOTE

Mr. EDWARDS of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 130, noes 168, not voting 136, as follows:

[Roll No. 195]

AYES—130

Abdnor
Applegate
Ashbrook
Atkinson
Bafalis
Barnard
Beard, Tenn.
Bennett
Bethune
Bowen
Broomfield
Broyhill
Burgener
Butler
Campbell
Carney
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Devine
Dickinson
Dornan
Edwards, Ala.
Edwards, Okla.
English
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fountain
Frenzel
Gephardt
Gingrich
Goodling
Gradison
Gramm
Grassley
Hagedorn
Hall, Tex.
Hance
Hansen
Harsha
Holt
Hopkins
Hubbard
Hughes
Hutto
Ichord
Ireland
Jenkins
Jones, Okla.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Levitas
Lewis
Loeffler
Lott
McClory
McDonald
Madigan
Marlenee
Marriott
Michel
Miller, Ohio
Montgomery
Moore
Moorhead,
  Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Nichols
O'Brien
Pashayan
Paul
Petri
Railsback
Regula
Rhodes
Ritter
Robinson
Roth
Royer
Satterfield
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Symms
Synar
Tauke
Taylor
Thomas
Ullman
Wampler
Watkins
White
Whittaker
Whitten
Winn
Wylie
Young, Alaska
Young, Fla.

NOES—168

Akaka
Albosta
Alexander
Ambro
Anderson,
  Calif.
Andrews, N.C.
Annunzio
Anthony
Bailey
Baldus
Barnes
Bedell
Beilenson
Benjamin
Bereuter
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Brademas
Brodhead
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Burton, Phillip
Byron
Carr
Cavanaugh
Chisholm
Conte
Coughlin
Danielson
Daschle
de la Garza
Dellums
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Tenn.
Edgar
Edwards, Calif.

Emery
Ertel
Fascell
Fazio
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Gaydos
Ginn
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Heckler
Hefner
Heftel
Hollenbeck
Holtzman
Howard
Jacobs
Jeffords
Jenrette
Jones, N.C.
Kastenmeier
Kildee
Kostmayer
LaFalce
Lederer
Leland
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Murtha
Natcher
Neal
Nedzi
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Rahall
Ratchford
Reuss
Rinaldo
Roe
Rosenthal
Rostenkowski
Russo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Skelton
Slack
Solarz
Stack
Steed
Stokes
Stratton
Studds
Swift
Thompson
Traxler
Vanik
Vento
Volkmer
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Wirth
Wolpe
Yates
Zablocki

NOT VOTING—136

Addabbo
Anderson, Ill.
Andrews, N. Dak.
Archer
Ashley
Aspin
AuCoin
Badham
Bauman
Beard, R.I.
Bevill
Biaggi
Bingham
Bonker
Bouquard
Breaux
Brinkley
Brooks
Burton, John
Carter
Chappell
Cheney
Clausen
Clay
Cleveland
Coelho
Collins, Ill.
Conyers
Corman
Cotter
Crane, Philip
Davis, Mich.
Davis, S.C.
Deckard
Derrick
Dicks
Diggs
Dougherty
Duncan, Oreg.
Early
Eckhardt
Erdahl
Erlenborn
Evans, Ga.
Fary
Ferraro
Flood
Foley
Forsythe
Fowler
Frost
Fuqua
Garcia
Giaimo
Gibbons
Gilman
Goldwater
Grisham
Hammerschmidt
Hawkins
Hightower
Hillis
Hinson
Holland
Horton
Huckaby
Hyde
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kogovsek
Lehman
Lent
Livingston
Lloyd
Lujan
Lungren
McCloskey
McDade
McEwen
McKay
Martin
Mathis
Miller, Calif.
Mineta
Mitchell, N.Y.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nelson
Nolan
Oakar
Pepper
Price
Quillen
Rangel
Richmond
Roberts
Rodino
Rose
Rousselot
Roybal
Rudd
Runnels
Sabo
Sawyer
Schulze
Simon
Smith, Iowa
Spellman
St Germain
Staggers
Stark
Stewart
Stump
Treen
Trible
Udall
Van Deerlin
Vander Jagt
Walgren
Walker
Whitehurst
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Wyatt
Wydler
Yatron
Young, Mo.
Zeferetti

☐ 1200

The Clerk announced the following pairs:

On this vote:

Mr. Archer for, with Mr. Addabbo against.

Mr. Badham for, with Mr. Johnson of California against.

Mr. Philip M. Crane for, with Mr. Corman against.

Mr. Goldwater for, with Mr. Zeferetti against.

Mr. Grisham for, with Mr. Hawkins against.

Mr. Jeffries for, with Mr. Dougherty against.

Mr. Livingston for, with Mr. Horton against.

Mr. Lungren for, with Mr. McDade against.

Mr. Quillen for, with Mr. Gilman against.

Mr. Rousselot for, with Mr. Wolff against.

Mr. Rudd for, with Mr. Richmond against.

Mr. Breaux for, with Mr. Rangel against.

Messrs. GORE, LONG of Maryland, and BROWN of Ohio changed their vote from "aye" to "no."

Mr. ROYER and Mr. FOUNTAIN changed their vote from "no" to "aye."

So the amendment to the committee amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1210

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the chair, Mr. DE LA GARZA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2641) to amend section 106 of the Civil Rights Act of 1957 to raise the limitation on appropriations for the U.S. Commission on Civil Rights, pursuant to House Resolution 272, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McCLORY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 276, nays 14, not voting 144, as follows:

[Roll No. 196]

YEAS—276

Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Applegate
Atkinson
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Blanchard
Boggs
Bolling
Boner
Bonior
Bowen
Brademas
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Chisholm
Clinger
Coleman
Conable
Conte
Corcoran
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
de la Garza
Dellums
Derwinski
Devine
Dickinson
Dingell
Dixon
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Findley
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Fountain
Frenzel
Gaydos
Gephardt
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Hughes
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kemp
Kildee
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Leland
Levitas
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
McClory
McCormack
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Ohio
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Robinson
Roe
Rosenthal
Rostenkowski
Roth
Royer
Russo
Satterfield
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Spence
Stack
Stangeland
Stanton
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Ullman
Vanik
Vento
Volkmer
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Winn
Wirth
Wolpe
Wylie
Yates
Young, Alaska
Young, Fla.
Zablocki

NAYS—14

Ashbrook
Collins, Tex.
Crane, Daniel
Dannemeyer
Hansen
Kelly
Kindness
Leath, Tex.
McDonald
Murphy, Pa.
Paul
Shumway
Solomon
Symms

NOT VOTING—144

Abdnor
Addabbo
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashley
Aspin
AuCoin
Badham
Bauman
Beard, R.I.
Bevill
Biaggi
Bingham
Boland
Bonker
Bouquard
Breaux
Brinkley
Brooks
Burton, John
Carter
Chappell
Cheney
Clausen
Clay
Cleveland
Coelho
Collins, Ill.
Conyers
Corman
Cotter
Crane, Philip
Davis, Mich.
Davis, S.C.
Deckard
Derrick
Dicks
Diggs
Dougherty
Early
Eckhardt
Erdahl
Erlenborn
Evans, Ga.
Fary
Ferraro
Fish
Flood
Foley
Forsythe
Fowler
Frost
Fuqua
Garcia
Giaimo
Gibbons
Gilman

Goldwater
Grisham
Hammerschmidt
Hawkins
Hightower
Hillis
Hinson
Holland
Horton
Huckaby
Hyde
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kogovsek
Kramer
Lehman
Lent
Lewis
Livingston
Lloyd
Lujan
Lungren
McCloskey
McDade
McEwen
McKay
Martin
Mathis
Mattox
Miller, Calif.
Mineta
Mitchell, N.Y.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nelson
Nolan
Oakar
Pepper
Price
Quillen
Rangel
Richmond
Ritter
Roberts
Rodino
Rose
Rousselot
Roybal
Rudd
Runnels
Sabo
Santini
Sawyer
Schulze
Simon
Smith, Iowa
Spellman
St Germain
Staggers
Stark
Stewart
Stump
Treen
Trible
Udall
Van Deerlin
Vander Jagt
Walgren
Walker
Whitehurst
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Wyatt
Wydler
Yatron
Young, Mo.
Zeferetti

☐ 1220

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Abdnor.
Mr. Mineta with Mr. Fish.
Ms. Ferraro with Mr. Quillen.
Mrs. Spellman with Mr. Anderson of Illinois.
Mr. Nelson with Mr. Gilman.
Mr. Frost with Mr. Rousselot.
Mr. Addabbo with Mr. Ritter.
Mr. Bingham with Mr. Grisham.
Mr. Hawkins with Mr. Hammerschmidt.
Mr. Zeferetti with Mr. Bauman.
Mr. Young of Missouri with Mr. Archer.
Mr. Cotter with Mr. Andrews of North Dakota.
Mr. Chappell with Mr. Hillis.
Mr. Brooks with Mr. Hinson.
Mr. Giaimo with Mr. Badham.
Mr. Fuqua with Mr. Carter.
Mr. Garcia with Mr. Cheney.
Mr. Pepper with Mr. Clausen.
Mr. Price with Mr. Kramer.
Mr. Richmond with Mr. Lewis.
Mr. Rangel with Mr. Livingston.
Mr. Biaggi with Mr. Treen.
Mr. AuCoin with Mr. Trible.
Mr. Flood with Mr. Horton.
Mr. Foley with Mr. Hyde.
Mr. Corman with Mr. Davis of Michigan.
Mr. Clay with Mr. Deckard.
Mr. Santini with Mr. Lujan.
Mr. Staggers with Mr. Lungren.
Mr. Stark with Mr. Martin.
Mr. Rodino with Mr. Dougherty.
Mr. Van Deerlin with Mr. Eckhardt.
Mr. Charles H. Wilson of California with Mr. Erdahl.
Mr. Wolff with Mr. Erlenborn.
Mr. Wright with Mr. Mitchell of New York.
Mr. Yatron with Mr. McEwen.
Mr. Murphy of New York with Mr. Aspin.
Mr. Moorhead of Pennsylvania with Mr. Brinkley.
Mr. Udall with Mr. Cleveland.
Mr. Diggs with Mr. Coelho.
Mr. Early with Mr. Philip M. Crane.
Mr. Fary with Mr. Davis of South Carolina.
Mr. Murphy of Illinois with Mr. Evans of Georgia.
Mr. Miller of California with Mr. Forsythe.
Mr. Stump with Mr. Gibbons.
Mr. Stewart with Mr. Goldwater.
Mr. Fowler with Mr. Holland.
Mr. Ashley with Mr. Huckaby.
Mr. Beard of Rhode Island with Mr. Jeffries.
Mr. Bevill with Mr. Johnson of Colorado.
Mr. Boland with Mr. Kogovsek.
Mr. Johnson of California with Mr. Lent.
Mr. Lloyd with Mr. McCloskey.
Mr. Conyers with Mr. McDade.
Mrs. Collins of Illinois with Mr. Myers of Pennsylvania.
Mr. Derrick with Mr. Nolan.
Mr. Dicks with Ms. Oakar.
Mr. Mattox with Mr. Roberts.
Mr. Mathis with Mr. Rose.
Mr. Charles Wilson of Texas with Mr. Rudd.
Mr. Lehman with Mr. Sabo.
Mr. Breaux with Mr. Sawyer.
Mrs. Bouquard with Mr. Schulze.
Mr. Bonker with Mr. Vander Jagt.
Mr. Andrews of North Carolina with Mr. Walgren.
Mr. John L. Burton with Mr. Walker.
Mr. McKay with Mr. Whitehurst.
Mr. St Germain with Mr. Williams of Ohio.
Mr. Smith of Iowa with Mr. Bob Wilson.
Mr. Simon with Mr. Wyatt.
Mr. Runnels with Mr. Wydler.
Mr. Roybal with Mr. Hightower.

Mr. DANIEL B. CRANE changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 721), to amend the Civil Rights Act of 1957 to authorize appropriations for the United States Commission on Civil Rights for fiscal year 1980.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended by striking out "1979" and inserting in lieu thereof "1980".

SEC. 2. Section 104(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(a)(2)) is amended by inserting at the end thereof the following:

"(7) no later than April 1, 1980, the Commission shall study and report to the Congress and the President the legal questions involved in eliminating the legislative branch's exemption from the Civil Rights Act and the Commission shall further in its report recommend the various means to resolve such questions.".

SEC. 3. Section 1975(b) of title 42, United States Code, is amended by adding at the end thereof the following: "The Commission shall continue to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution involving Americans who are members of eastern- and southern-European ethnic groups and shall report its findings to the Congress. Such report shall include an analysis of the adverse consequences of affirmative action programs encouraged by the Federal Government upon the equal opportunity rights of these Americans.".

MOTION OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. EDWARDS of California moves to strike out all after the enacting clause of the Senate bill, S. 721, and to insert in lieu thereof the provisions of the bill, H.R. 2641, as passed, as follows:

That this Act may be cited as the "Civil Rights Commission Authorization Act of 1979".

SEC. 2. Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated not to exceed $14,000,000 to carry out the provisions of this Act for the fiscal year ending September 30, 1980.".

Amend the title so as to read: "An Act to amend section 106 of the Civil Rights Act of 1957 to raise the limitation on appropriations for the United States Commission on Civil Rights.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend section 106 of the Civil Rights Act of 1957 to raise the limitation on appropriations for the United States Commission on Civil Rights."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2641) was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request by the gentleman from California?

There was no objection.

☐ 1230

REPORT ON RESOLUTION PROVIDING FUNDS FOR FURTHER EXPENSES OF COMMITTEE ON HOUSE ADMINISTRATION

Mr. THOMPSON, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-258) on the resolution (H. Res. 268) providing funds for the further expenses of the Committee on House Administration, which was referred to the House Calendar and ordered to be printed.

AUTHORIZING ESTABLISHMENT OF OLMSTED NATIONAL HISTORIC SITE IN MASSACHUSETTS

Mr. PHILLIP BURTON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2374) to authorize the establishment of the Frederick Law Olmsted National Historic Site in the State of Massachusetts, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2374, with Mr. RATCHFORD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. PHILLIP BURTON) will be recognized for 30 minutes, and the gentleman from Nebraska (Mr. BEREUTER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 2374 provides for the establishment of a National Historic Site to honor the pioneering work of Frederick Law Olmsted. This bill follows the most significant and effective efforts of Congressman ROBERT DRINAN to gain recognition for Olmsted's remarkable contributions to the American scene. The Committee on Interior and Insular Affairs thoroughly evaluated this proposal in its usual bipartisan manner and H.R. 2374 represents this effort.

Congressman DOUGLAS BEREUTER was particularly helpful to the committee through his efforts to personally view the site and evaluate the proposal.

Mr. Chairman, the following is a brief explanation of H.R. 2374:

Section 1 of H.R. 2374, as amended, establishes the Frederick Law Olmsted National Historic Site in Brookline, Mass. The Secretary of the Interior is authorized to acquire the home and office of Frederick Law Olmsted, including the documents, equipment, and other materials comprising the Olmsted archival collection. He is also authorized to acquire adjacent lands to properly operate and protect the site.

The committee is concerned that the Secretary act as expeditiously as possible to acquire the property and the archival collection. The committee notes that the archival collection in particular, should be placed under the immediate protection of the Department of the Interior.

Section 2 requires the Secretary of the Interior to administer the historic site in accordance with applicable law. The Secretary is also authorized to enter into cooperative agreements to properly protect and manage the archival collection, and is directed to periodically report his progress to specified committees of the Congress as to the conclusion of the acquisition and protection agreements.

The committee feels that the protection of the archival collection will require considerable expertise in preservation of rare documents which is not available within the National Park Service, and that the Secretary should have the necessary authority to obtain the best possible expertise to carry out the intent of the act.

Section 3 establishes the authorization for funding.

In addition to the efforts of our colleagues, I want to commend our diligent and talented staffers in the person of Dale Crane and Clay Peters for their contributions.

Needless to say, this bill reflects the long standing interest and support of the American Association of Landscape Architects and their local affiliates.

Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. DRINAN) such time as he may consume.

Mr. DRINAN. I am pleased to rise in support of my bill to establish the Frederick Law Olmsted National Historic Site in Brookline, Mass., which I am proud to say is a part of my congressional district.

Mr. Chairman, I cannot thank enough the distinguished gentleman from California (Mr. PHILLIP BURTON) for his leadership in this matter and for the expeditious way in which he has brought this bill to the floor and hopefully into law.

We are also very honored and privileged, Mr. Chairman, to have the support of the gentleman from Kansas (Mr. SEBELIUS), the ranking minority member of the subcommittee, as well as the support of the gentleman from Nebraska (Mr. BEREUTER). I should point out that, to the best of my knowledge, the gentleman from Nebraska (Mr. BEREUTER), a graduate of the Harvard Graduate School of Design, is the first urban planner who has become a Member of our body. He visited the site and has demonstrated extraordinary resourcefulness with regard to this legislation.

Yesterday, Mr. Chairman, the Senate approved similar legislation to designate the Olmsted National Historic Site and to provide permanent protection for the Olmsted archival collection. I do hope that my colleagues will do likewise today.

In the 6 years since I first introduced legislation similar to H.R. 2374, recognition of and appreciation for Olmsted's tremendous contributions to the United States has steadily grown. Today, Olmsted is generally acknowledged as the founder of the disciplines of landscape architecture and city and regional planning, and he is increasingly recognized as a major influence in the history of the United States.

As I am sure my colleagues are well aware, Olmsted was the first to reject the conventional wisdom of the mid-19th century which held that cities were inevitably crowded and ugly. Olnsted recognized that nature had to be brought into balance with man-made environments if cities were ever to be "livable," and thus he began an unprecedented effort to bring greenery and open spaces into the Nation's urban areas.

Olmsted's first park was Central Park in New York City, which was built, as were so many of the urban parks, on a base of dumps and swampland. Sixteen other major urban parks followed, including Jackson Park in Chicago, Belle Island in Detroit, South Park in Buffalo, Golden Gate Park in San Francisco, and the "Emerald Necklace" park system in Boston, which was the Nation's first example of regional planning.

In addition to these parks, Olmsted designed much of the grounds which surround this Chamber, Mr. Chairman, and planned the landscaping for the White House, the Lincoln Memorial, and the National Zoo. Some other significant examples of Olmsted's design include the State capitols of New York and Alabama, the Biltmore Estate in Asheville, N.C., the master plan for Stanford University, which remains the model for campus planners, and the Riverside development in Illinois, which was a very early example of city planning. In all, Mr. Chairman, 48 of the projects he designed have been designated national historic landmarks.

Public Law 94-518, which this House approved about 3 years ago, directed the Secretary of the Interior to study the feasibility and suitability of establishing the Olmsted home and office in Brookline, Mass., as a national historic site. Congress in February, concluded that the Olmsted Associates archival collection, which includes over 150,000 original drawings and plans, 63,000 photographs, and much of Olmsted's original drawing equipment and office furnishings, has "extreme national and international significance,." This collection—still housed in Olmsted's original home and office in Brookline—is the largest and one of the most important sources of information regarding the history of environmental design in the United States.

This collection, Mr. Chairman, is of tremendous value not only to scholars, but to the many agencies and organizations which utilize Olmsted's documents to restore his projects to their original design. Unfortunately, as the Park Service noted in its study, "a potential exists that the (Olmsted) site and collection will be lost forever." Mr. Artemas Richardson, the current owner, who continues to operate Olmsted Associates in its original offices, no longer has the means to maintain the offices and collection. Thus the collection, which is already rapidly deteriorating due to poor storage conditions, may soon be split up and sold.

In the words of the Washington Post, legislation is needed to "protect and preserve the Olmsted legacy." H.R. 2374 would establish "Fairsted," Olmsted's permanent home and office in Brookline, as a national historic site. In addition, it would authorize the Secretary of the Interior to enter into a cooperative agreement with an appropriate entity, such as the Library of Congress or the Harvard Graduate School of Design, to provide for the management of the archival collection. Clearly, in view of architecture's underrepresentation in Americas' parks and historic sites, Fairsted would make a logical addition to the national park system.

Mr. Chairman, I am pleased and proud to point out that this legislation enjoys broad bipartisan support in Congress as well as the support of the administration. H.R. 2374 has been strongly endorsed by scholars in the design and conservation disciplines, and has widespread public backing. I hope that my colleagues will overwhelmingly approve this bill and once again, Mr. Chairman, I commend the chairman of the subcommittee, the gentleman from California (Mr. PHILLIP BURTON), for his expeditious conduct of this legislation.

In closing, I would only add that I consider it particularly appropriate that the national park system, which Olmsted helped to establish, should now be used to protect his work and to celebrate his memory.

□ 1240

Mr. PHILLIP BURTON. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I want to commend the distinguished gentleman from California for bringing out this bill, and the distinguished gentleman from Massachusetts for his lead in getting it before the committee.

Frederick Law Olmsted is not sufficiently recognized for being one of the truly creative minds produced by this country. He is the founder of the science and art, if you will, of landscape architecture and one of the pioneers of land use planning. The great west porch of the Capitol was designed by Frederick Law Olmsted. He is recognized, perhaps, more even in Europe than in this country, as being one of the great creative geniuses of American history.

I think it is entirely fitting that we take this step today to make his home a national historic site where we can preserve for all persons interested in his remarkable collection of writings and drawings and other artifacts.

I have some particular interest in this, because the Olmsted brothers firm, which survived his death for many years was the firm that did the landscape architecture for my family's home in Akron, Ohio, Stan Hywet Hall, which itself is now a museum and historic home.

Mr. Warren Manning of that firm was the landscape architect not only for that, but many other famous houses, including Biltmore in North Carolina. That same firm did a survey for the Akron Metropolitan Park System in the 1920's. Their principal recommendation was that the Cuyahoga Valley north of Akron between Cleveland and Akron must be preserved as scenic or open space for a rural park.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. PHILLIP BURTON. Mr. Chairman, I yield 2 additional minutes to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, that recommendation by the Olmsted brothers firm and that study of the Cuyahoga Valley laid the groundwork for the eventual action of this Congress many years later, 50 years later to be precise, for creating the Cuyahoga Valley National Recreation Area.

The legacy of Frederick Law Olmsted can be seen all over this country and, indeed, the world in terms of awakening people to the importance of protecting natural areas. He is the person who laid out Central Park in New York City and Manhattan Island at a time when people said, "Oh, what is the sense of putting that into a park way uptown where nobody will ever see it?"

That is the kind of vision that we need today and that the gentleman from California in particular has provided. I think it is most fitting that we are giving appropriate recognition by making Frederick Law Olmsted's home a national historic site.

Mr. Chairman, I also commend the gentleman from Nebraska (Mr. BEREUTER) for his interest in this, and the gentleman from Kansas (Mr. SEBELIUS) for his interest and leadership in this field. It is fitting that this is supported on a nonpartisan basis, because this is truly a nonpartisan matter.

Mr. BEREUTER. Mr. Chairman, I yield myself such time as I may consume, and I rise in support of the pending bill.

Mr. DRINAN. Mr. Chairman, will the gentleman yield for a moment?

Mr. BEREUTER. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I want to commend the gentleman once again, but I also want to just say that I misspoke. I want to commend the ranking minority member of the subcommittee, the gentleman from Kansas (Mr. KEITH SEBELIUS), who has also been very, very active, and very resourceful in connection with this legislation.

Mr. Chairman, I thank the gentleman for yielding.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the distinguished chairman.

Mr. PHILLIP BURTON. Mr. Chairman, first, I would like to ask my distinguished colleague how the gentleman feels about receiving this field promotion so early in the game.

I know it would interest the startled response of our dear colleague, the gentleman from Kansas (Mr. SEBELIUS), who I would like at this time to reflect my own warmest commendation for his leadership in this respect, as well as all the matters that are before our subcommittee. Having noted the contribution of the gentleman from Kansas, I would like to emphatically underscore the enormous contribution made by the gentleman from Nebraska (Mr. BEREUTER). I think the gentleman's addition to our committee has already left its very positive impression and mark. I look forward to working with the gentleman in the months and years ahead.

Mr. BEREUTER. Mr. Chairman, I thank the distinguished chairman, the gentleman from California (Mr. BURTON) and appreciate the generosity of his comments, and especially his leadership in bringing this bill to the floor.

I would like also to commend the wisdom and foresight of the gentleman from Massachusetts (Mr. DRINAN) for introducing the legislation.

Mr. Chairman, not wishing to start a border conflict between Kansas and Nebraska, and being mentioned as coming from Kansas in the Washington Post last week, I give all due deference to the ranking minority member, the gentleman from Kansas (Mr. SEBELIUS).

Mr. Chairman, I rise in support of the pending bill, H.R. 2374, to establish the Frederick Law Olmsted Historic Site. It is a noncontroversial measure, but one that is important if we are to move promptly to preserve the historic contributions made by one of our Nation's preeminent landscape architects.

Recognizing that Members of the House may wonder why a Congressman from Nebraska—a freshman at that—is so interested in this particular bill. I would like to begin by addressing that point.

I hold a graduate degree in urban planning from the Harvard Graduate School of Design in Cambridge, Mass., and am, I understand, the first urban planner to be elected to the Congress of the United States. It was as a student that I first learned about the unparalleled accomplishments of Frederick Law Olmsted. As an urban planner, I have developed an appreciation for the contribution he made to my profession and came to recognize the incalculable role he played in improving the quality of life in our Nation's cities.

Needless to say, I was very pleased when as a newly appointed member to the House Subcommittee on National Parks, the bill designating the Frederick Law Olmsted Historic Site, came up for consideration. Because of my background and familiarity with the area, the distinguished chairman of the subcommittee, Congressman PHILLIP BURTON, asked me to take a larger role in the markup of H.R. 2374. Additionally, he authorized my trip to Brookline and Cambridge to review the site and discuss any outstanding questions our committee had with respect to acquiring and preserving the property and Olmsted collection.

There is no doubt in my mind that Congress should designate the Olmsted home and office as a national historic site. A study, authorized by Congress in 1976, and completed earlier this year by the National Park Service concurs with this assessment. Having recently visited the site, I am convinced that the plans, drawings, books, documents, lithographs, slides, office records, photographs, impressive index system, et cetera, constitute a national treasure in a true sense of the word. Their preservation, interpretation, and display will be a major task and one that must begin soon to halt the gradual deterioration of the material and to protect it from complete destruction by fire or other calamity.

After seeing the Olmsted site and material I am, first, entirely convinced that their acquisition and display for public viewing and use is in the national interest; second, that the Olmsted archival material should be kept intact, in one location; and third, that the Olmsted collection will be of greatest interest and significance if it is kept and displayed on the site of the Olmsted office and home. Seeing the materials in conjunction with the picturesque, fully equipped design studies and printing shop will greatly enhance the public's understanding and appreciation of Olmsted, landscape architecture, park planning, and early city planning practices.

While it is certainly only my first, independent impression, I think that some attention might eventually be given to the large open area adjacent to the Olmsted parcel on the south. It would seem to be that the contour of that area and the character of this fine surrounding residential area suggest that a major interpretation center for the Olmsted collection could be built on that site. While some of the archival material can be displayed in the workshop, the fire danger of those wooden structures and the size of the collection will eventually require additional display area if the site is to approach its potential as an historic site. Such a structure could be placed underground, with exterior exposure only on the north side. Since the city of Brookline is already discussing that site as a park, entirely compatible (even complementary) joint usage is a possibility. Parking could be either landscaped, surface parking on that site or underground.

The distinguished chairman of the subcommittee has already discussed the provisions of the bill. I will shortly offer on behalf of the committee a technical amendment inserting several new cost figures which were not available to our committee at the time the report was filed.

I urge my colleagues to support the bill. I think Congress and the American people will be well served by the passage of a bill that will allow us to preserve for all time the genius of a man whose contribution to American life is unquestioned.

Mr. Chairman, I would now like to yield to my distinguished colleague and neighbor from Kansas, Mr. SEBELIUS. I yield 2 minutes to the gentleman.

Mr. SEBELIUS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I will be brief in my remarks.

Mr. Chairman, I support the bill now under consideration which would establish the Frederick Law Olmsted National Historic Site in Massachusetts. Frederick Law Olmsted was America's first and one of our greatest landscape architects. Many of the best of our Nation's city parks were planned by him, and he also exerted considerable influence over the grounds of the U.S. Capitol. One of his predominate themes was to bring nature and the rural scene to the city, and by the end of his career he had exerted a great and significant influence on the field of park planning in the United States.

Mr. Chairman, there are several features of this bill which I would like to highlight.

I believe it should be clarified that it was the committee's intention that all furnishings of the home and office, as existed during the time of Olmsted's occupancy, are authorized for acquisition under this legislation.

The bill also provides in section 2(a) that most, if not all, of the archival collection is to be kept on site. The national significance of this new national park system unit is attained not by the home and office structures alone, but by the combination of the structures and the archival collection.

The committee felt very strongly that the archival collection be acquired very expeditiously, and that protection and preservation work on the collection also begin immediately. Section 2(c) of the bill speaks to this by directing the Secretary of the Interior to submit written progress reports to the committees at 6 and 12 month intervals after enactment. The committee fully expects that very substantial progress on the acquisition and protection arrangements and actions will be reported by the 6-month date, and that the final acquisition and protection arrangements—including cooperative agreements for managing and protecting the collection, if appropriate—be concluded and so reported by the 12-month reporting date. Moreover, the committee expects the acquisition of the Olmsted home and office to be concluded promptly after enactment of this legislation.

The development figure included in this bill is intended to apply to the home and office structures and grounds. It is an interim figure that is recognized as likely to be insufficient for total needs, and should be raised to the appropriate higher level by the Congress upon the submission to the Congress of the general management plan for the area, as required by section 2(c) of the bill.

Mr. Chairman, I believe this is a much warranted new addition to our Nation's national park system, and I highly endorse this bill.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I now yield such time as he may consume to my distinguished colleague, the gentleman from Riverside, Illinois (Mr. MCCLORY).

Mr. McCLORY. Mr. Chairman, I thank the gentlemen of the subcommittee, the chairman, Mr. PHILLIP BURTON, the ranking member, Mr. SEBELIUS, and my colleague in the well, the gentleman from Nebraska (Mr. BEREUTER) for their leadership in connection with this legislation.

□ 1250

While Riverside, Ill., is not my hometown at the present time, it is the town where my roots are and it is the community in which I was born and raised. It is a beautiful community, laid out originally by Frederick Law Olmsted. It is, according to my understanding, the first suburban community, the first planned suburban community in the United States.

This beautiful community of Riverside, Ill., which is laid out with generous amounts of open space provided. It is designed almost as a garden, with the Des Plaines River winding its way along the borders of the community. It is really a jewel insofar as planned communities in our Nation are concerned.

I had the privilege in 1975 of attending as an honored guest the centennial celebration of my native community of Riverside, Ill., where Frederick Law Olmsted was remembered, of course, as the most honored individual in connection with that celebration. One of his descendents came from California to attend the celebration.

I appreciate the reference to Riverside, Ill., made by my colleague, the gentleman from Massachusetts (Mr. DRINAN). It is most appropriate that we recognize the importance of the contribution made by this great American, this forerunner of planned communities, preservation, and conservation. His respect for our natural environment enabled him to plan parks and communities and to enhance our rich heritage of natural beauty in various parts of our Nation and elsewhere in the world.

Mr. Chairman, I am really privileged to have had the opportunity of being born and raised and having grown up in a beautiful community such as the one which Frederick Law Olmsted laid out and designed. I am proud, indeed, to support this legislation.

Mr. BEREUTER. Mr. Chairman, I thank my colleague, the gentleman from Illinois (Mr. MCCLORY), for his fine remarks.

Mr. Chairman, I yield such time as he may consume to my colleague, the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Chairman, I would like to say a few words about Frederick Law Olmsted and also about his son, John, who followed in his footsteps.

These two gentlemen transformed the face of Seattle. Many people today talk about what a beautiful city Seattle is. If we would go back and look at the record, we would find that the beautification of Seattle did not take place in the 1920's, it did not take place in the 1930's, it did not take place in the 1940's, and it did not take place in the 1950's; it took place back in 1910, 1911, and 1912. And it happened because Frederick Law Olmsted came out and did a magnificent job for our city, and his son followed him.

I must admit that most of the money for that purpose came from the miners who went north. The people in the city of Seattle took a goodly portion of that money as they went north, and when they returned with whatever gold they had mined out, took a good portion of it away from them again. But it was for services, mind you.

But we did do very well, and that gave us the wherewithal to beautify our city. If we would go to Seattle today, we would learn that the great forward progress that was made came about when Seattle hired Frederick Law Olmsted and, later on, his son.

So, Mr. Chairman, I am delighted to stand here and pay tribute to this great man.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman from Washington (Mr. PRITCHARD) for his valuable remarks.

Mr. Chairman, I reserve the balance of my time.

Mr. PHILLIP BURTON. Mr. Chairman, I have no further requests for time.

Mr. BEREUTER. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to preserve and interpret for the benefit, inspiration, and education of present and future generations the home and office of Frederick Law Olmsted, the great American landscape architect and designer, is hereby established as the Frederick Law Olmsted National Historic Site.

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, the property comprising the former home and office of Frederick Law Olmsted at 39 Warren Street, Brookline, Massachusetts, together with such adjacent lands and interests therein as the Secretary deems necessary, for the establishment of the Frederick Law Olmsted National Historic Site. The Secretary may also acquire for the purposes of the site all or any portion of the documents, equipment, drawings, and other materials comprising the Olmsted archival collection.

(c) It is the express intent of the Congress that the Secretary should substantially complete the acquisition program authorized by this Act within two years after the date of its enactment.

Sec. 2. The Secretary shall administer the property, including personal property comprising the archival collection, acquired for the purposes of this Act in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

Sec. 3. There is authorized to be appropriated such sums as may be necessary to carry out the purpose of this Act.

Mr. PHILLIP BURTON (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 6, after "designer," insert "there".

Mr. PHILLIP BURTON. Mr. Chairman, I ask unanimous consent that all the remaining committee amendments, except the last committee amendment, be considered as read, printed in the Record, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The remaining committee amendments, except the last committee amendment, are as follows:

Committee amendments: Page 2, line 7, strike the word "as" and in line 8 strike the word "Site." and insert "Site (hereinafter referred to as the 'Site').":

Page 2, line 13, strike the figure "39" and insert "90–101":

Page 2, line 16, strike the words "Frederick Law Olmsted National Historic":

Page 2, lines 20 through 23, strike all of subsection (c);

Page 2, line 24, after "Sec. 2." insert "(a)" and strike the word "property," and insert "Site,"; and

Page 3, following line 4, insert a new subsection (b) and (c) reading as follows:

"(b) The Secretary is authorized to enter into a cooperative agreement with an appropriate entity for the management of the archival collection acquired for the purposes of this Act.

(c) Within three years of the date of enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a general management plan for the Site pursuant to the provisions of sec. 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended. Within six months of the date of enactment of this Act, the Secretary shall submit a written report to the same Committee relating the state of progress of his acquisition and provisions for management and permanent protection of the archival collection. He shall submit a similar report within one year of the date of enactment of this Act to the same Committees indicating the final management and protection arrangements he has concluded for such collection."

AMENDMENTS OFFERED BY MR. PHILLIP BURTON TO THE COMMITTEE AMENDMENTS

Mr. PHILLIP BURTON. Mr. Chairman, I offer amendments to the committee amendments.

The Clerk read as follows:

Amendments offered by Mr. Phillip Burton to the committee amendments: 1. Amend paragraph (b) to the seventh Committee amendment to read:

"'(b) The Secretary is authorized to enter into a cooperative agreement with an appropriate entity for the management of the archival collection acquired for the purposes of this Act; *Provided* That the authority to enter into such agreements or to make payments under this Act for such purposes shall be effective only to the extent, or in such amounts, as are provided in advance in Appropriation Acts.'."

2. After the last Committee amendment, insert the following: Page 2, after line 24, insert:

TITLE II

Sec. 201. The National Parks and Recreation Act of 1978, approved November 10, 1978 (92 Stat. 3467), is amended as follows:

(1) Section 318, re: Point Reyes National Seashore is amended by:

(a) in subsection (a), changing the phrase "numbered 612–80, 008–E and dated May 1978" to "numbered 612–80, 008–F and dated March 1979";

(b) in subsection (b), changing the word "The" at the beginning of section 5(a) to "Except for property which the Secretary specifically determines is needed for interpretive or resources management purposes of the seashore, the ";

(c) in subsection (c), after "May 1, 1978", inserting "or, in the case of areas added by action of the Ninety-Sixth Congress, May 1, 1979", and at the end of the subsection, following the word "property", inserting "that were in existence or under construction as of May 1, 1978";

(d) in subsection (d) changing the phrase "subsection (c)" to read "subsection (c) and (d)", and adding the following at the end thereof:

"(d) The Secretary shall accept and shall manage in accordance with this Act, any land and improvements within or adjacent to the seashore which are donated by the State of California or its political subdivisions. The boundaries of the seashore shall be changed to include such donated lands.".

(2) Section 551, re: the National Trails System Act, is amended in paragraph (9), by adding the following at the end thereof:

"(8) The North Country National Scenic Trail, a trail of approximately thirty-two hundred miles, extending from eastern New York State to the vicinity of Lake Sakakawea in North Dakota, following the approximate route depicted on the map identified as 'Proposed North Country Trail-Vicinity Map' in the Department of the Interior 'North Country Trail Report', dated June 1975. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.".

(3) Section 320, re: Chesapeake and Ohio Canal National Historical Park, is amended by changing the colon following the word "acres" to a period, and by deleting the proviso in its entirety.

Sec. 202. The Wild and Scenic Rivers Act of 1968 (82 Stat. 906), as amended (16 U.S.C. 1271), is further amended in section 5(a) by adding the following new clause at the end thereof:

"(76) Birch, West Virginia: The main stem from the Cora Brown Bridge in Nicholas County to the confluence of the river with the Elk River in Braxton County.".

Sec. 203. The lands designated by Public Law 93–550 as wilderness within the Farallon National Wildlife Refuge, California, shall, following the date of enactment of this Act, be entitled to all of the protection afforded by law or regulation to the lands designated by Public Law 94–567 as wilderness within the Point Reyes National Seashore, California.

Sec. 204. The Act of October 27, 1972 (86 Stat. 1299), as amended (16 U.S.C. 459), is further amended as follows:

(1) In subsection 2(a), change "NRA–GG–80,003–K and dated October 1978" to "NRA–GG–80,003–L and dated April 1979";

(2) In section 6, after "$61,610,000" insert "plus $10,000,000", and after "herein", insert "said total development ceiling to be reduced by $10,000,000".

Sec. 205. The Secretary of the Interior is authorized and directed to acquire by donation, or by purchase with donated or appropriated funds, a suitable collection of whaling artifacts and associated items for preservation and display at the National Maritime Museum located at the Golden Gate National Recreation Area. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $3,000,000 for the purchase of said collection, which sums may be appropriated from the amounts previously authorized for development purposes at said recreation area.

Sec. 206. The Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended (16 U.S.C. 4601–4 et seq.), is further amended as follows:

(1) In section 5, change "Ninety-fifth Congress" to "Ninety-sixth Congress";

(2) In subsection 7(a), within the paragraph numbered (3), change "Ninety-fifth Congress" to "Ninety-sixth Congress"; and

(3) In subsection 7(c), change "expire ten years from the date of enactment of the authorizing legislation establishing such boundaries; and (ii) acquire by donation, purchase with donated funds," to "apply only to those boundaries established subsequent to January 1, 1965; and (ii) acquire by donation, purchase with donated or appropriated funds,".

Sec. 207. The Act of August 18, 1970 (84 Stat. 825), as amended, is further amended as follows:

(1) In section 8 near the end thereof, delete the sentence "Each report and annual listing shall be printed as a House document.", and insert in lieu the following: "Each report and annual listing shall be printed as a House document: *Provided*, That should adequate supplies of previously printed identical reports remain available, newly submitted identical reports shall be omitted from printing upon the receipt by the Speaker of the United States House of Representatives of a joint letter from the chairman of the Committee on Interior and Insular Affairs of the United States House of Representatives and the chairman of the Committee on Energy and Natural Resources of the United States Senate indicating such to be the case."; and

(2) Insert "(a)" after "Sec. 8." and add new subsection (b) as follows:

"(b) Within six months of the date of enactment of this subsection, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive 'National Park System Plan', which document shall constitute a professional guide for the identification of natural and historic themes of the United States, and from which candidate areas can be identified and selected to constitute units of the National Park System. Such plan shall be revised and updated annually.".

SEC. 208. (a) The Secretary of the Interior is authorized to revise the boundaries of the following units of the National Park System:

(1) Carl Sandburg Home National Historic Site, North Carolina: to add approximately seventeen acres.

(2) Chickamauga and Chattanooga National Military Park, Georgia and Tennessee: to add approximately one acre.

(3) Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia: to add approximately twenty acres.

(b) Sections 302, 303, and 304 of the National Parks and Recreation Act of 1978 (92 Stat. 3467) shall be applicable to the boundary revisions authorized in subsection (a) of this section, except that for the purposes of this section, the date of enactment referred to in section 302 of such Act shall be deemed to be the date of enactment of this section.

(c) For the purposes of acquiring lands and interests in lands added to the units referred to in subsection (a) there are authorized to be appropriated such sums as may be necessary, but not to exceed $280,000 for Chickamauga and Chattanooga National Military Park and not to exceed $214,000 for Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park.

SEC. 209. The Secretary of the Interior is authorized and directed to take such measures as may be necessary to provide for the continued protection of the historic Palmer's Chapel in the Cataloochee Valley of the Great Smoky Mountains National Park. The importance of the chapel in memorializing the early settlement of the valley and in providing an opportunity for interpreting the cultural traditions of the former residents of the valley is hereby recognized, and the Secretary is authorized to make suitable arrangements for the history of the chapel to be communicated to park visitors and for the chapel to continue to be used for memorial purposes by former residents and their descendants.

SEC. 210. Section 304(a) of the Act of October 21, 1976 (90 Stat. 2732), is amended by inserting after "to the jurisdiction of the" the following: "Secretary of the Army, the land under the jurisdiction of the".

SEC. 211. The Act of June 30, 1944 (58 Stat. 645), as amended (16 U.S.C. 450bb), is further amended (1) by changing "'Boundary Map. Harpers Ferry National Historical Park,' numbered 385-40, 000D and dated April 1974" to "'Boundary Map, Harpers Ferry National Historical Park,' numbered 385-80,021A and dated April 1979" and changing "two thousand acres" to "two thousand four hundred and seventy-five acres" in the first section; and (2) by changing "$1,300,000" to "$1,600,000" in section 4.

SEC. 212. Subsection 5(b) of the Act of October 13, 1964 (78 Stat. 1087), an Act "To authorize the Secretary of the Interior to cooperate with the State of Wisconsin in the designation and administration of the Ice Age National Scientific Reserve in the State of Wisconsin, and for other purposes," as amended (16 U.S.C. 469h), is further amended by changing "$425,000" to "$2,500,000".

SEC. 213. Section 320 of the Act of October 21, 1976 (90 Stat. 2732), is amended in subsection (j) by changing "$13,000,000" to "$23,700,000".

SEC. 214. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1979. Notwithstanding any other provisions of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

TITLE III

SEC. 301. In order to protect the nationally significant natural, scenic, wildlife, marine, ecological, archeological, cultural, and scientific values of the Channel Islands in the State of California, including, but not limited to, the following:

(1) the brown pelican nesting area;

(2) the undisturbed tide pools providing species diversity unique to the eastern Pacific coast;

(3) the pinnipeds which breed and pup almost exclusively on the Channel Islands, including the only breeding colony for northern fur seals south of Alaska;

(4) the Eolian landforms and caliche;

(5) the presumed burial place of Juan Rodriquez Cabrillo;

(6) the archeological evidence of substantial populations of Native Americans;

there is hereby established the Channel Islands National Park, the boundaries of which shall include San Miguel and Prince Islands, Santa Rosa, Santa Cruz, Anacapa, and Santa Barbara Islands, including the rocks, islets, submerged lands and waters within one nautical mile of each island, as depicted on the map entitled, "Proposed Channel Islands National Park" numbered 159-20002 and dated April 1979, which shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior. The Channel Islands National Monument is hereby abolished as such, and the lands, waters, and interests therein withdrawn or reserved for the monument are hereby incorporated within and made a part of the new Channel Islands National Park.

SEC. 302. (a) Within the boundaries of the park as established in section 301, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands, waters or interests therein by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange or otherwise. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of any right retained by the owner. Any lands, waters, or interests therein owned by the State of California or any political subdivision thereof may be acquired only by donation or exchange. Notwithstanding any other provision of law, Federal property located within the boundaries of the park shall, with the concurrence of the head of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary for the purposes of the park: *Provided*, That the Secretary shall permit the use of federally owned park lands and waters which (i) have been transferred from another Federal agency, or which (ii) were the subject of a lease or permit to a Federal agency as of the date of enactment of this title, for essential national security missions and for navigational aids, subject to such terms and conditions as the Secretary deems necessary to protect park resources.

(b) Notwithstanding the acquisition authority contained in subsection 302(a), any lands, waters, or interests therein, which are—

(1) privately owned on Santa Rosa Island, or

(2) owned wholly or in part by, or which hereafter may be owned by, or under option to, the National Park Foundation, The Nature Conservancy (including any lands, waters, or interests therein which are designated as "Nature Conservancy Lands" on the map referred to in section 301 of this title) or any similar national, nonprofit conservation organization, or an affiliate or subsidiary thereof

shall be acquired only with the consent of the owner thereof: *Provided*, That this restraint on acquisition authority shall not apply in any case in which the Secretary determines that (i) a property is undergoing or is about to undergo a change in use which is inconsistent with the purposes of this title, or (ii) a property described in clause (1) of this subsection (b) is offered by the owner of record as of the date of enactment of this title, for sale or disposal.

(c) (1) The owner of any private property may, on the date of its acquisition and as a condition of such acquisition, retain for himself a right of use and occupancy of all or such portion of such property as the owner may elect for a definite term of not more than twenty-five years, or ending at the death of the owner, or his spouse, whichever is later. The owner shall elect the term to be reserved. Any such right retained pursuant to this subsection with respect to any property shall be subject to termination by the Secretary upon his determination that such property is being used for any purpose which is incompatible with the administration of the park or with the preservation of the resources therein, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right, of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(2) With respect to any property for which a right of use and occupancy is retained, said right may also include the transfer of feral and non-native animals to locations outside of the park and the retention of existing uses (including, but not limited to, grazing activities and operations, and for those lands identified in section 302(b), not to exceed a fifteen-year period for the control and management of feral and non-native animals by selective control techniques used before the date of enactment of this title).

(3) In the case of any property acquired by the Secretary under this title with respect to which a right of use and occupancy was not reserved by the former owner under section 302(c) (1), at the request of the former owner, the Secretary may enter into a lease agreement with the former owner under which the former owner may continue any existing use of such property which is compatible with the administration of the park and with the preservation of the resources therein.

(4) Any right retained pursuant to this subsection, and any lease entered into under paragraph (3), shall be subject to such access and other provisions as may be required by the Secretary for visitor use and resources management.

SEC. 303. (a) The Secretary is directed to develop, in cooperation and consultation with the State of California and various knowledgeable Federal and private entities, a natural resources study report for the park, including, but not limited to, the following:

(1) an inventory of all terrestrial and marine species, indicating their population dynamics, and probable trends as to future numbers and welfare;

(2) recommendations as to what actions should be considered for adoption to better protect the natural resources of the park.

Such report shall be submitted within two complete fiscal years from the date of enactment of this title to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and updated revisions of such report shall be similarly submitted at subsequent two year intervals to cover a period of ten years after the date of enactment of this title.

(b) The Secretary is authorized and directed to enter into and continue cooperative agreements with the State of California for the enforcement of Federal and State laws and regulations on those lands and waters within and adjacent to the park which are owned by the State of California. No provision of this title shall be deemed to affect the rights and jurisdiction of the State of California within the park, including, but not limited to, authority over submerged lands and waters within the park boundaries, and the marine resources therein.

SEC. 304. (a) Subject to the provisions of section 301 of this title, the Secretary shall administer the park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.). In the administration of the park, the Secretary may utilize such statutory authority available for the conservation and management of wildlife and natural and cultural resources as he or she deems appropriate to carry out the purposes of this title. The park shall be administered on a low-intensity, limited-entry basis.

(b) In recognition of the special fragility and sensitivity of the park's resources, it is the intent of Congress that the visitor use within the park be limited to assure negligible adverse impact on the park resources. The Secretary shall establish appropriate visitor carrying capacities for the park.

(c)(1) Within three complete fiscal years from the date of enactment of this title, the Secretary, in consultation with The Nature Conservancy and the State of California, shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive general management plan for the park, pursuant to criteria stated in the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a-1 et seq.). Such plan shall include alternative considerations for the design and operation of a public transportation system connecting the park with the mainland, with such considerations to be developed in cooperation and consultation with the State of California and the Secretary of Transportation. The Secretary shall seek the advice of the scientific community in the preparation of said plan, and conduct hearings for public comment in Ventura and Santa Barbara Counties.

(2) Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to the park.

SEC. 305. The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking with respect to the lands and waters within or adjacent or related to the park, and the head of any Federal agency having authority to license or permit any undertaking with respect to such lands and waters, shall, prior to the approval of the expenditure of any Federal funds on such undertaking or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking and shall give due consideration to any comments made by the Secretary and to the effect of such undertaking on the purposes for which the park is established.

SEC. 306. Within three complete fiscal years from the date of enactment of this title, the Secretary shall review the area within the park and shall report to the President, in accordance with subsections 3(c) and (d) of the Wilderness Act (78 Stat. 890), his recommendations as to the suitability or nonsuitability of any area within the park for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

SEC. 307. The Secretary is authorized to expend Federal funds for the cooperative management of The Nature Conservancy and other private property for research, resources management, and visitor protection and use. All funds authorized to be appropriated for the purposes of the Channel Islands National Monument are hereby transferred to the Channel Islands National Park. Effective October 1, 1979, there are hereby authorized to be appropriated such further sums as may be necessary to carry out the purposes of this title, but not to exceed $500,000 for development and the following amounts for acquisition: $10,000,000 for each of the fiscal years 1980 through 1983, inclusive, such sums to remain available until expended. For the authorizations made in this section, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Chairman, these amendments bring this item into conformity with the Budget Act. I am advised by counsel for the committee that this is the point and this is the time the en bloc amendments should be offered rather than at a later point in time.

The amendments also incorporate all the provisions of H.R. 3757 which were passed in the House last month and which were not included in the Senate passage of S. 495, the companion measure to the legislation we are considering today. In addition to protecting the action of the House with respect to these items, we have also added several items which have come to the attention of the committee in recent weeks.

Section 211 expands the boundary of Harpers Ferry National Park to include a tract of some 470 acres in the Short Hill area near the existing park. This addition is vital to protect the scenic vista down the Potomac River from viewpoints within the park. The prompt action of our colleague from Virginia, Representative JOE FISHER, in bringing this opportunity to the attention of our committee has resulted in our ability to consider this matter today.

Representative HENRY REUSS alerted the committee to the need to increase the authorized development ceiling for the Ice Age National Scientific Reserve in Wisconsin by some $2,000,000. Section 212 is the result of his diligence and should insure the continuing cooperative management of this area by the State of Wisconsin and the National Park Service.

Another addition to this legislation, section 213, is due to the effort and concern of Representative DON BONKER. Thanks to his help, we have identified the need to authorize an additional $10,700,000 to complete the acquisition of the lands authorized for Olympic National Park by the 94th Congress. This amount will insure the complete protection of the magnificent Point of Arches area along the Pacific coast line.

Finally, in section 201 two additional technical corrections are made to the paragraph amending the Point Reyes National Seashore Act. These corrections restraint the retention of life estates to those properties not specifically needed for certain seashore purposes, and place a cutoff date on the construction of buildings on properties within the seashore.

Mr. Chairman, all these amendments have been cleared with the minority, and I ask for their adoption.

The CHAIRMAN. The question is on the amendments to the committee amendments offered by the gentleman from California (Mr. PHILLIP BURTON).

The amendments to the committee amendments were agreed to.

The CHAIRMAN. The question is on the committee amendments, as amended.

The committee amendments, as amended, were agreed to.

The CHAIRMAN. The Clerk will report the final commitee amendment.

The Clerk read as follows:

Committee amendment: Page 4, lines 1 through 3, strike the present text of sec. 3 and insert in lieu thereof the following:

"SEC. 3. Effective October 1, 1979, there and interests in lands; and amount not to exceed $475,000 for the acquisition of lands and inttrests in lands; an amount not to exceed $100,000 for development; and such sums as may be necessary for the acquisition of the archival collection.".

Mr. PHILLIP BURTON (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT TO THE COMMITTEE AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER to the committee amendment: Page 4, delete lines 6 through 8 and insert in lieu the following:

"of lands and interests in lands; not to exceed $514,000 for the acquisition of the archival collection; and not to exceed $200.000 for development."

The CHAIRMAN. The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, this amendment is acceptable to the majority. It follows on with the commitment we made to put a cap on the amounts, as the amendment provides, and I urge its adoption.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman from California (Mr. PHILLIP BURTON).

I would simply like to say that this amendment was expected. It simply closes open-ended language. We had open-ended language only because we were waiting for appraisal results and for results related to development costs conducted by the National Park Service. Those are now available to us.

Mr. Chairman, the language concerned here parallels the language in the Senate bill, and I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. BEREUTER) to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DANIELSON) having assumed the chair, Mr. RATCHFORD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2374) to authorize the establishment of the Frederick Law Olmsted National Historic Site in the State of Massachusetts, and for other purposes, pursuant to House Resolution 282, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 243, nays 41, not voting 150, as follows:

[Roll No. 197]

YEAS—243

Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Annunzio
Atkinson
Bafalis
Bailey
Baldus
Barnes
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Blanchard
Boggs
Boner
Bonior
Bowen
Brademas
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Campbell
Carney
Carr
Clinger
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
de la Garza
Dellums
Derwinski
Dickinson
Dingell
Dodd
Donnelly
Downey
Drinan
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Evans, Del.
Evans, Ind.
Fascell
Fazio
Findley
Fisher
Fithian
Flippo
Ford, Mich.
Ford, Tenn.
Fountain
Frenzel
Gephardt
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kildee
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Leland
Levitas
Lewis
Long, La.
Lowry
Luken
Lundine
McClory
McCormack
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Minish
Mitchell, Md.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Rahall
Railsback
Ratchford
Reuss
Rhodes
Rinaldo
Robinson
Roe
Rosenthal
Rostenkowski
Roth
Royer
Santini
Satterfield
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Spence
Stack
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Ullman
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Winn
Wirth
Wolpe
Wylie
Yates
Zablocki

NAYS—41

Applegate
Ashbrook
Bauman
Bethune
Butler
Courter
Crane, Daniel
Dannemeyer
Devine
Dornan
Duncan, Oreg.
Ertel
Fenwick
Gaydos
Gramm
Hall, Tex.
Hance
Hansen
Ichord
Kelly
Kemp
Kindness
Latta
Leath, Tex.
Loeffler
Long, Md.
Lott
McDonald
Miller, Ohio
Mollohan
Murtha
Paul
Petri
Regula
Ritter
Shuster
Solomon
Symms
Taylor
Young, Alaska
Young, Fla.

NOT VOTING—150

Abdnor
Addabbo
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Archer
Ashley
Aspin
AuCoin
Badham
Barnard
Beard, R.I.
Bevill
Biaggi
Bingham
Boland
Bolling
Bonker
Bouquard
Breaux
Brinkley
Brooks
Brown, Ohio
Burton, John
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Coelho
Coleman
Collins, Ill.
Conyers
Corman
Cotter
Crane, Philip
Davis, Mich.
Davis, S.C.
Deckard
Derrick
Dicks
Diggs
Dixon
Dougherty
Early
Eckhardt
Erdahl
Erlenborn
Evans, Ga.
Fary
Ferraro
Fish
Flood
Florio
Foley
Forsythe
Fowler
Frost
Fuqua
Garcia
Giaimo
Gibbons
Gilman
Goldwater
Grisham
Hammerschmidt
Hawkins
Hightower
Hillis
Hinson
Holland
Holtzman
Horton
Huckaby
Hyde
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kogovsek
Lehman
Lent
Livingston
Lloyd
Lujan
Lungren
McCloskey
McDade
McEwen
McKay
Marriott
Martin
Miller, Calif.
Mineta
Mitchell, N.Y.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nelson
Nolan
Oakar
Obey
Pepper
Price
Quillen
Rangel
Richmond
Roberts
Rodino
Rose
Rousselot
Roybal
Rudd
Runnels
Russo
Sabo
Sawyer
Schulze
Simon
Smith, Iowa
Spellman
St Germain
Staggers
Stark
Stewart
Stokes
Stump
Treen
Trible
Udall
Van Deerlin
Vander Jagt
Walker
Whitehurst
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Wyatt
Wydler
Yatron
Young, Mo.
Zeferetti

☐ 1310

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Mitchell of New York.

Mr. Myers of Pennsylvania with Mr. Quillen.

Mr. Mineta with Mr. Forsythe.

Mr. Addabbo with Mr. Erlenborn.

Mrs. Spellman with Mr. Erdahl.

Mr. Staggers with Mr. Abdnor.

Mr. Cotter with Mr. Andrews of North Carolina.

Mr. Boland with Mr. Archer.

Mr. Zeferetti with Mr. Gilman.

Mr. Wright with Mr. Goldwater.

Mr. Fuqua with Mr. Hillis.

Mr. Nelson with Mr. Horton.

Mr. Frost with Mr. Carter.

Mr. Florio with Mr. Brown of Ohio.

Ms. Ferraro with Mr. Badham.

Mr. Bingham with Mr. Andrews of North Dakota.

Mr. Richmond with Mr. Rudd.

Mr. Rangel with Mr. Rousselot.

Mr. Giaimo with Mr. Sabo.

Mrs. Chisholm with Mr. Hinson.

Mr. Johnson of California with Mr. Hammerschmidt.

Mr. Corman with Mr. Treen.

Mr. Chappell with Mr. Wyatt.

Mr. Breaux with Mr. Wydler.

Mr. Bevill with Mr. Schulze.

Mr. AuCoin with Mr. Sawyer.

Mr. Fary with Mr. Jeffries.

Mr. Anthony with Mr. Hyde.

Ms. Oakar with Mr. Clausen.

Mr. Obey with Mr. Cleveland.

Mr. Pepper with Mr. Livingston.

Mr. Price with Mr. Lujan.

Mr. Rodino with Mr. Marriott.

Mr. Roberts with Mr. Martin.

Mr. Stokes with Mr. McDade.

Mr. Van Deerlin with Mr. Whitehurst.

Mr. Early with Mr. Anderson of Illinois.

Mr. Ashley with Mr. Aspin.

Mr. Beard of Rhode Island with Mr. Barnard.

Mr. Biaggi with Mr. Bonker.

Mr. Garcia with Mrs. Bouquard.

Mr. Foley with Mr. Coelho.

Mr. Flood with Mr. Coleman.

Mr. Rose with Mr. Philip M. Crane.

Mr. Murphy of New York with Mr. Davis of Michigan.

Mr. Moorhead of Pennsylvania with Mr. Deckard.

Mr. Runnels with Mr. Dixon.

Mr. Russo with Mr. Dougherty.

Mr. Simon with Mr. McEwen.

Mr. St Germain with Mr. Fish.

Mr. Stark with Mr. Lungren.

Mr. Davis of South Carolina with Mr. McCloskey.

Mr. Lehman with Mr. Lloyd.

Mr. Diggs with Mr. Vander Jagt.

Mr. Conyers with Mr. Bob Wilson.

Mr. Udall with Mr. Stewart.

Mr. Cheney with Mr. Smith of Iowa.

Mr. Clay with Mr. Roybal.

Mrs. Collins of Illinois with Mr. Nolan.

Mr. Derrick with Mr. Miller of California.

Mr. Dicks with Mr. Evans of Georgia.

Mr. Brooks with Mr. Fowler.

Mr. Brinkley with Mr. Gibbons.

Mr. Eckhardt with Mr. Grisham.

Ms. Holtzman with Mr. Hawkins.

Mr. Holland with Mr. Hightower.

Mr. John L. Burton with Mr. Huckaby.

Mr. Cavanaugh with Mr. Trible.

Mr. McKay with Mr. Walker.

Mr. Yatron with Mr. Williams of Ohio.

Mr. Young of Missouri with Mr. Charles H. Wilson of California.

Mr. Wolff with Mr. Lent.

Mr. Kogovsek with Mr. Murphy of Illinois.

Mr. Charles Wilson of Texas with Mr. Stump.

Messrs. DANNEMEYER, LONG of Maryland, LOTT, ASHBROOK, LOEFFLER, HALL of Texas, and BETHUNE changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 495) to authorize the establishment of the Frederick Law Olmsted National Historic Site in the State of Massachusetts, and for other purposes, a measure similar to the one just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

S. 495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That (a) in order to preserve and interpret for the benefit, inspiration, and education of present and future generations the home and office of Fredrick Law Olmsted, the great American landscape architect and designer, there is hereby established as the Frederick Law Olmsted National Historic Site (hereinafter referred to as the "Site").

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donated, purchase with donated or appropriated funds, or exchange, the property comprising the former home and office of Frederick Law Olmstead at 99–101 Warren Street, Brookline, Massachusetts, as depicted on the map entitled "FRLA–80–001" dated March 1979. Said map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, District of Columbia. The Secretary may also acquire for the purposes of the site all or any portion of the documents, equipment, drawings, and other materials comprising the Olmsted archival collection.

(c) It is the express intent of the Congress that the Secretary should substantially complete the acquisition program auhorized by this Act within two years after the date of its enactment.

Sec. 2. (a) The Secretary shall administer the Site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

(b) The Secretary is authorized to enter into a cooperative agreement with an appropriate entity for the management of the archival collection acquired for the purposes of this Act.

(c) Within three years of the date of enactment of this Act, the Secretary shall submit the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a general management plan for the site pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended. Within six months of the date of enactment of this Act, the Secretary shall submit a written report to the same committees relating the state of progress of his acquisition and provisions for management and permanent protection of the archival collection. He shall submit a similar report within one year of the date of enactment of this Act to the same committees indicating the final management and protection arrangements he has concluded for such collection.

Sec. 3. (a) Effective October 1, 1979, there are authorized to be appropriated from the Land and Water Conservation Fund such sums as may be necessary for the acquisition of lands and interests therein.

(b) There is hereby authorized to be appropriated, effective October 1, 1979, an amount not to exceed $514,000 for the acquisition of the archival collection; an amount not to exceed $200,000 for development; and an amount not to exceed $1,230,000 for the preservation of the archival collection.

Sec. 4. The National Parks and Recreation Act of 1978, approved November 10, 1978 (92 Stat. 3467), is amended as follows:

(a) Section 101(8), re: DeSoto National Memorial, is amended by changing the phrase "changing '$3,108,000' to '$5,108,000'." to read "by changing '$175,000' to '$292,000'."

(b) Section 101(20), re: Pecos National Monument, is amended by changing "$2,375,000" to "$2,575,000".

(c) Section 301, re: revision of boundaries, is amended by changing the words "but not exceed" in the first sentence to "but not to exceed".

(d) Section 301(8), re: Great Sand Dunes National Monument, is amended by (a) changing "one thousand one hundred and nine acres" to "one thousand nine hundred acres" and by changing "$166,000" to "$265,000"; and (b) by adding the following at the end thereof: "The Secretary shall designate the lands described by this paragraph for management in accordance with the adjacent lands within the monument by publication of a notice in the Federal Register.".

(e) Section 302 is amended at the end thereof by changing "section 301" to "title III of this Act".

(f) Section 309(b), re: Fort Union Trading Post National Historic Site, is amended by changing "this Act" in the proviso to "the National Parks and Recreation Act of 1978".

(g) Section 315(a), re: Cuyahoga Valley National Recreation Area, is amended by changing "90,001–A' to "655–90,001–A".

(h) Section 501(a), re: Guam National Seashore, is amended in clause (1) by changing "Anac" to "Anae".

(i) Section 505(f)(1), re: Kaloko-Honokohau National Historic Park, is amended by striking "Kaloko-Honokohau" the first time it appears in the subsection.

(j) Section 507(f), re: Santa Monica Mountains National Recreation Area, is amended by changing "January 1, 1976" to "January 1, 1978".

(k) Section 508(d), re: Ebey's Landing National Historical Reserve, is amended by changing "with donated funds" in the first sentence to "with donated or appropriated funds".

(l) Section 511(b), re: Maggie L. Walker National Historic Site, is amended by changing "at 113 East Leigh Street' to "at 110 A East Leigh Street".

(m) Section 551, re: the National Trails System Act, is amended by—

(1) in paragraph (13), change "(20)" to "(23)";

(2) in paragraph (18), insert quotation marks at the beginning and end of the second sentence; and

(3) in paragraph (21), insert quotation marks at the beginning and end of the second sentence.

(n) Section 601(a), re: Yellowstone National Park, is amended by changing "State of Wyoming" to "States of Wyoming and Montana".

(o) Section 612, re: Albert Einstein Memorial, is amended by changing "access" in the second sentence to "purposes of such memorial".

(p) Section 704, re: Upper Delaware River, is amended (a) in subsection (a) by changing "705(c)" to "704(c)"; and (b) in subsection (f)(1) by inserting the following sentence at the end thereof: "The Advisory Council shall terminate ten years after the date on which it is established.".

(q) Title IX re: Jean Lafitte National Historical Park, is amended—

(1) in section 902(a) by changing "eight thousand acres" in the first sentence to "eight thousand six hundred acres";

(2) in section 904 by changing "section 7" in the first sentence to "section 907";

(3) in section 907(a) by striking the word "and" at the end of the clause numbered (6), changing the period at the end of the clause numbered (7) to "; and", and adding at the end thereof the following:

"(8) two members appointed by the Secretary from recommendations submitted by the Police Jury of Saint Bernard Parish. "; and

(4) in section 907(e) by inserting the following sentence at the end thereof: "The Commission shall terminate ten years from the date of approval of this Act.".

Sec. 5. Notwithstanding any other provision of law, the Secretary of the Interior shall not charge any entrance or admission fee in excess of the amounts which were in effect as of January 1, 1979, or charge said fees at any unit of the National Park System where such fees were not in effect as of such date, nor shall the Secretary change after the date of enactment of this section, user fees for transportation services and facilities in Mount McKinley Park, Alaska.

Sec. 6. The Wild and Scenic Rivers Act of 1968 (82 Stat. 905), as amended (16 U.S.C. 1271), is further amended as follows:

(a) In section 5(b), in paragraph numbered (3), change "(72" to ("75)";

(b) In section 5(b), in paragraph numbered (4), change "(74)" to "(75)".

Sec. 7. Section 3 of the Act of December 2, 1969 (83 Stat. 79), is amended by changing "180,000" to "680,000".

MOTION OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Phillip Burton moves to strike out all after the enacting clause of the Senate bill, S. 495, and to insert in lieu thereof the provisions of the bill, H.R. 2374, as passed, as follows:

That (a) in order to preserve and interpret for the benefit, inspiration, and education of present and future generations the home and office of Frederick Law Olmsted, the great American landscape architect and designer, there is hereby established the Frederick Law Olmsted National Historic Site (hereinafter referred to as the "Site").

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, the property comprising the former home and office of Frederick Law Olmsted at 99–101 Warren Street, Brookline, Massachusetts, together with such adjacent lands and interests therein as the Secretary deems necessary, for establishment of the Site. The Secretary may also acquire for the purposes of the site all or any portion of the documents, equipment, drawings, and other materials comprising the Olmsted archival collection.

Sec. 2. (a) The Secretary shall administer the Site, including personal property comprising the archival collection, acquired for the purposes of this Act in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

(b) The Secretary is authorized to enter into a cooperative agreement with an appropriate entity for the management of the archival collection acquired for the purposes of this Act: *Provided*, That the authority to enter into such agreements or to make payments under this Act for such purposes shall be effective only to the extent, or in such amounts, as are provided in advance in Appropriation Acts.

(c) Within three years of the date of enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a general management plan for the Site pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended. Within six months of the date of enactment of this Act, the Secretary shall submit a written report to the same committees relating the state of progress of his acquisition and provisions for management and permanent protection of the archival collection. He shall submit a similar report within one year of the date of enactment of this Act to the same committees indicating the final management and protection arrangements he has concluded for such collection.

Sec. 3. Effective October 1, 1979, there are authorized to be appropriated not to exceed $475,000 for the acquisition of lands and interests in lands; not to exceed $514,000 for the acquisition of the archival collection; and not to exceed $200,000 for development.

TITLE II

Sec. 201. The National Parks and Recreation Act of 1978, approved November 10, 1978 (92 Stat. 3467), is amended as follows:

(1) Section 318, re: Point Reyes National Seashore is amended by:

(a) in subsection (a), changing the phrase "numbered 612–80,008–E and dated May 1978" to "numbered 612–80,008–F and dated March 1979";

(b) in subsection (b), changing the word "The" at the beginning of section 5(a) to "Except for property which the Secretary specifically determines is needed for interpretive or resources management purposes of the seashore, the";

(c) in subsection (c), after "May 1, 1978", inserting "or, in the case of areas added by action of the Ninety-sixth Congress, May 1, 1979", and at the end of the subsection, following the word "property", inserting "that were in existence or under construction as of May 1, 1978";

(d) in subsection (d), changing the phrase "subsection (c)" to read "subsection (c) and (d)", and adding the following at the end thereof:

"(d) The Secretary shall accept and shall manage in accordance with this Act, any land and improvements within or adjacent to the seashore which are donated by the State of California or its political subdivisions. The boundaries of the seashore shall be changed to include such donated lands.".

(2) Section 551, re: the National Trails System Act, is amended in paragraph (9), by adding the following at the end thereof:

"(8) The North Country National Scenic Trail, a trail of approximately thirty-two hundred miles, extending from eastern New York State to the vicinity of Lake Sakakawea in North Dakota, following the approximate route depicted on the map identified as 'Proposed North Country Trail-Vicinity Map' in the Department of the Interior 'North Country Trail Report', dated June 1975. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.".

(3) Section 320, re: Chesapeake and Ohio Canal National Historical Park, is amended by changing the colon following the word "acres" to a period, and by deleting the proviso in its entirety.

Sec. 202. The Wild and Scenic Rivers Act of 1968 (82 Stat. 906), as amended (16 U.S.C. 1271), is further amended in section 5(a) by adding the following new clause at the end thereof:

"(76) Birch, West Virginia: The main stem from the Cora Brown Bridge in Nicholas County to the confluence of the river with the Elk River in Braxton County.".

Sec. 203. The lands designated by Public Law 93–550 as wilderness within the Farallon National Wildlife Refuge, California, shall, following the date of enactment of this Act, be entitled to all of the protection afforded by law or regulation to the lands designated by Public Law 94–567 as wilderness within the Point Reyes National Seashore, California.

Sec. 204. The Act of October 27, 1972 (86 Stat. 1299), as amended (16 U.S.C. 459), is further amended as follows:

(1) In subsection 2(a), change "NRA–GG–80,003–K and dated October 1978" to "NRA–GG–80,003–L and dated April 1979";

(2) In section 6 after "$61,610,000" insert "plus $10,000,000", and after "herein", insert "said total development ceiling to be reduced by $10,000,000".

Sec. 205. The Secretary of the Interior is authorized and directed to acquire by donation, or by purchase with donated or appropriated funds, a suitable selection of whaling artifacts and associated items for preservation and display at the National Maritime Museum located at the Golden Gate National Recreation Area. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $3,000,000 for the purchase of said collection, which sums may be appropriated from the amounts previously authorized for development purposes at said recreation area.

Sec. 206. The Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended (16 U.S.C. 4601–4 et seq.), is further amended as follows:

(1) In section 5, change "Ninety-fifth Congress to "Ninety-sixth Congress";

(2) In subsection 7(a), within the paragraph numbered (3), change "Ninety-fifth Congress" to "Ninety-sixth Congress"; and

(3) In subsection 7(c), change "expire ten years from the date of enactment of the authorizing legislation establishing such boundaries; and (ii) acquire by donation, purchase with donated funds," to "apply only to those boundaries established subsequent to January 1, 1965; and (ii) acquire by donation, purchase with donated or appropriated funds,".

Sec. 207. The Act of August 18, 1970 (84 Stat. 825), as amended, is further amended as follows:

(1) In section 8 near the end thereof, delete the sentence "Each report and annual listing shall be printed as a House document.", and insert in lieu the following: "Each report and annual listing shall be printed as a House document: *Provided*, That should adequate supplies of previously printed identical reports remain available, newly submitted identical reports shall be omitted from printing upon the receipt by the Speaker of the United States House of Representatives of a joint letter from the chairman of the Committee on Interior and Insular Affairs of the United States House of Representatives and the chairman of the Committee on Energy and Natural Resources of the United States Senate indicating such to be the case."; and

(2) Insert "(a)" after "Sec. 8." and add new subsection (b) as follows:

"(b) Within six months of the date of enactment of this subsection, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive 'National Park System Plan', which document shall constitute a professional guide for the identification of natural and historic themes of the United States, and from which candidate areas can be identified and selected to constitute units of the National Park System. Such plan shall be revised and updated annually.".

Sec. 208. (a) The Secretary of the Interior is authorized to revise the boundaries of the following units of the National Park System:

(1) Carl Sandburg Home National Historic Site, North Carolina: to add approximately seventeen acres.

(2) Chickamauga and Chattanooga National Military Park, Georgia and Tennessee: to add approximately one acre.

(3) Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia: to add approximately twenty acres.

(b) Sections 302, 303, and 304 of the National Parks and Recreation Act of 1978 (92 Stat. 3467) shall be applicable to the boundary revisions authorized in subsection (a) of this section, except that for the purposes of this section, the date of enactment referred to in section 302 of such Act shall be deemed to be the date of enactment of this section.

(c) For the purposes of acquiring lands and interests in lands added to the units referred to in subsection (a) there are authorized to be appropriated such sums as may be necessary, but not to exceed $280,000 for Chickamauga and Chattanooga National Military Park and not to exceed $214,000 for Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park.

Sec. 209. The Secretary of the Interior is authorized and directed to take such measures as may be necessary to provide for the continued protection of the historic Palmer's Chapel in the Cataloochee Valley of the Great Smoky Mountains National Park. The importance of the chapel in memoralizing the early settlement of the valley and in providing an opportunity for interpreting the cultural traditions of the former residents of the valley is hereby recognized and the Secretary is authorized to make suitable arrangements for the history of the chapel to be communicated to park visitors and for the chapel to continue to be used for memorial purposes by former residents and their descendants.

Sec. 210. Section 304(a) of the Act of October 21, 1976 (90 Stat. 2732), is amended by inserting after "to the jurisdiction of the" following: "Secretary of the Army, the land under the jurisdiction of the".

Sec. 211. The Act of June 30, 1944 (58 Stat. 645), as amended (16 U.S.C. 450bb), is further amended (1) by changing "'Boundary Map, Harpers Ferry National Historical Park,' numbered 385–40,000D and dated April 1974" to "'Boundary Map, Harpers Ferry National Historical Park, numbered 385–80,021A and dated April 1979" and changing "two thousand acres" to "two thousand four hundred and seventy-five acres" in the first section; and (2) by changing "$1,300,000" to "$1,600,000" in section 4.

Sec. 212. Subsection 5(b) of the Act of October 13, 1964 (78 Stat. 1087), an Act "To authorize the Secretary of the Interior to cooperate with the State of Wisconsin in the designation and administration of the Ice Age National Scientific Reserve in the State of Wisconsin, and for other purposes," as amended (16 U.S.C. 469h), is further amended by changing "$425,000" to "$2,500,000".

SEC. 213. Section 320 of the Act of October 21, 1976 (90 Stat. 2732), is amended in subsection (j) by changing "$13,000,000" to "$23,700,000".

SEC. 214. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1979. Notwithstanding any other provisions of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

TITLE III

SEC. 301. In order to protect the nationally significant natural, scenic, wildlife, marine, ecological, archeological, cultural, and scientific values of the Channel Islands in the State of California, including, but not limited to, the following:

(1) the brown pelican nesting area;

(2) the undisturbed tide pools providing species diversity unique to the eastern Pacific coast;

(3) the pinnipeds which breed and pup almost exclusively on the Channel Islands, including the only breeding colony for northern fur seals south of Alaska;

(4) the Eolian landforms and caliche;

(5) the presumed burial place of Juan Rodriquez Cabrillo;

(6) the archeological evidence of substantial populations of Native Americans;

there is hereby established the Channel Islands National Park, the boundaries of which shall include San Miguel and Prince Islands, Santa Rosa, Santa Cruz, Anacapa, and Santa Barbara Islands, including the rocks, islets, submerged lands and waters within one nautical mile of each island, as depicted on the map entitled, "Proposed Channel Islands National Park" numbered 159-20002 and dated April 1979, which shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior. The Channel Islands National Monument is hereby abolished as such, and the lands, waters, and interests therein withdrawn or reserved for the monument are hereby incorporated within and made a part of the new Channel Islands National Park.

SEC. 302. (a) Within the boundaries of the park as established in section 301, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands, waters or interests therein by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange or otherwise. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of any right retained by the owner. Any lands, waters, or interests therein owned by the State of California or any political subdivision thereof may be acquired only by donation or exchange. Notwithstanding any other provision of law, Federal property located within the boundaries of the park shall, with the concurrence of the head of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary for the purposes of the park: *Provided*, That the Secretary shall permit the use of federally owned park lands and waters which (i) have been transferred from another Federal agency, or which (ii) were the subject of a lease or permit to a Federal agency as of the date of enactment of this title, for essential national security missions and for navigational aids, subject to such terms and conditions as the Secretary deems necessary to protect park resources.

(b) Notwithstanding the acquisition authority contained in subsection 302(a), any lands, waters, or interests therein, which are—

(1) privately owned on Santa Rosa Island, or

(2) owned wholly or in part by, or which hereafter may be owned by, or under option to, the National Park Foundation. The Nature Conservancy (including any lands, waters, or interests therein which are designated as "Nature Conservancy Lands" on the map referred to in section 301 of this title) or any similar national, nonprofit conservation organization, or an affiliate or subsidiary thereof.

shall be acquired only with the consent of the owner thereof: *Provided*, That this restraint on acquisition authority shall not apply in any case in which the Secretary determines that (i) a property is undergoing or is about to undergo a change in use which is inconsistent with the purposes of this title, or (ii) a property described in clause (1) of this subsection (b) is offered by the owner of record as of the date of enactment of this title, for sale or disposal.

(c) (1) The owner of any private property may, on the date of its acquisition and as a condition of such acquisition, retain for himself a right of use and occupancy of all or such portion of such property as the owner may elect for a definite term of not more than twenty-five years, or ending at the death of the owner, or his spouse, whichever is later. The owner shall elect the term to be reserved. Any such right retained pursuant to this subsection with respect to any property shall be subject to termination by the Secretary upon his determination that such property is being used for any purpose which is incompatible with the administration of the park or with the preservation of the resources therein, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right, of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(2) With respect to any property for which a right of use and occupancy is retained, said right may also include the transfer of feral and non-native animals to locations outside of the park and the retention of existing uses (including, but not limited to, grazing activities and operations, and for those lands identified in section 302(b), not to exceed a fifteen-year period for the control and management of feral and non-native animals by selective control techniques used before the date of enactment of this title).

(3) In the case of any property acquired by the Secretary under this title with respect to which a right of use and occupancy was not reserved by the former owner under section 302(c) (1), at the request of the former owner, the Secretary may enter into a lease agreement with the former owner under which the former owner may continue any existing use of such property which is compatible with the administration of the park and with the preservation of the resources therein.

(4) Any right retained pursuant to this subsection, and any lease entered into under paragraph (3), shall be subject to such access and other provisions as may be required by the Secretary for visitor use and resources management.

SEC. 303. (a) The Secretary is directed to develop, in cooperation and consultation with the State of California and various knowledgeable Federal and private entities, a natural resource study report for the park, including, but not limited to, the following:

(1) an inventory of all terrestrial and marine species, indicating their population dynamics, and probable trends as to future numbers and welfare;

(2) recommendations as to what actions should be considered for adoption to better protect the natural resources of the park. Such report shall be submitted within two complete fiscal years from the date of enactment of this title to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and updated revisions of such report shall be similarly submitted at subsequent two year intervals to cover a period of ten years after the date of enactment of this title.

(b) The Secretary is authorized and directed to enter into and continue cooperative agreements with the State of California for the enforcement of Federal and State laws and regulations on those lands and waters within and adjacent to the park which are owned by the State of California. No provision of this title shall be deemed to affect the rights and jurisdiction of the State of California within the park, including, but not limited to, authority over submerged lands and waters within the park boundaries, and the marine resources therein.

SEC. 304. (a) Subject to the provisions of section 301 of this title, the Secretary shall administer the park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.). In the administration of the park, the Secretary may utilize such statutory authority available for the conservation and management of wildlife and natural and cultural resources as he or she deems appropriate to carry out the purposes of this title. The park shall be administered on a low-intensity, limited-entry basis.

(b) In recognition of the special fragility and sensitivity of the park's resources, it is the intent of Congress that the visitor use within the park be limited to assure negligible adverse impact on the park resources. The Secretary shall establish appropriate visitor carrying capacities for the park.

(c) (1) Within three complete fiscal years from the date of enactment of this title, the Secretary, in consultation with the Nature Conservancy and the State of California, shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive general management plan for the park, pursuant to criteria stated in the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a-1 et seq.). Such plan shall include alternative considerations for the design and operation of a public transportation system connecting the park with the mainland, with such considerations to be developed in cooperation and consultation with the State of California and the Secretary of Transportation. The Secretary shall seek the advice of the scientific community in the preparation of said plan, and conduct hearings for public comment in Ventura and Santa Barbara Counties.

(2) Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to the park.

SEC. 305. The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking with respect to the lands and waters within or adjacent or related to the park, and the head of any Federal agency having authority to license or permit any undertaking with respect to such lands and waters, shall, prior to the approval of the expenditure of any Federal funds on such undertaking or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking and shall give due consideration to any comments made by the Secretary and to the effect of such undertaking on the purposes for which the park is established.

SEC. 306. Within three complete fiscal years from the date of enactment of this title, the Secretary shall review the area within the park and shall report to the President, in accordance with subsections 3 (c) and (d) of the Wilderness Act (78 Stat. 890), his recommendations as to the suitability or nonsuitability of any area within the park for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

SEC. 307. The Secretary is authorized to expend Federal funds for the cooperative management of the Nature Conservancy and other private property for research resources management, and visitor protection and use. All funds authorized to be appropriated for the purposes of the Channel Islands National Monument are hereby transferred to the Channel Islands National Park. Effective October 1, 1979, there are hereby authorized to be appropriated such further sums as may be necessary to carry out the purposes of this title, but not to exceed $500,000 for development and the following amounts for acquisition: $10,000,000 for each of the fiscal years 1980 through 1983, inclusive, such sums to remain available until expended. For the authorizations made in this section, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 2374, was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TREASURY DEPARTMENT INTERNATIONAL AFFAIRS AUTHORIZATION

Mr. NEAL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3347) to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal years 1980 and 1981.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. NEAL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3347, with Mr. MOAKLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, first reading the bill is dispensed with.

Under the rule, the gentleman from North Carolina (Mr. NEAL) will be recognized for 30 minutes, and the gentleman from Iowa (Mr. LEACH) will be recognized for 30 minutes.

Mr. NEAL. Mr. Chairman, I yield myself such time as I may consume.

□ 1320

Mr. Chairman, H.R. 3347 is a routine authorization bill to permit appropriations to meet the expenses associated with the international affairs function of the Department of the Treasury for fiscal year 1980. Since 1934, the Treasury Department has paid such expenses from the Exchange Stabilization Fund, an off-budget fund used principally for exchange market intervention and other international monetary purposes.

Under legislation originating in our Subcommittee of the Committee on Banking, Finance and Urban Affairs last year, which became Public Law 95–612, payment of administrative expenditures were brought under the regular budgetary process. This is the first such authorization bill to come under the new procedure.

The bill authorizes $22,375,000 for the 490-person staff which conducts Treasury's Departments international affairs activities and it authorizes "such additional sums as may be necessary for increases required by adjustments in salaries, pay, retirement, and other employee benefits. * * *" The administration originally sought $377,000 or more than this, but the committee did not feel the full amount was required and cut the authorization amount accordingly.

Mr. Chairman, this amount is less than $24 million authorized for fiscal year 1979. I believe our bill has wide bipartisan support and I urge it adopted by our colleagues.

Mr. LEACH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the bill.

The background of this authorization request is that for 44 years this international section of the Treasury Department was funded out of profits garnered in the Exchange Stabilization Fund. Some of these profits and some of the uses of the money became very controversial 2 or 3 years ago when it became known that some of these funds were used to finance certain discretionary activities of the Secretary of the Treasury, particularly the travel and entertainment involved in the Treasury Department. Congress proceeded to demand that this section be subject to "on" rather than "off" budget consideration. Treasury initially opposed this notion quite violently until suddenly Treasury found itself in the embarrassing position whereby the Exchange Stabilization Fund no longer earned a profit. In fact, today the Exchange Stabilization Fund is at a decided deficit financial position, if one does not include the special drawing rights that it has under its control.

I personally have no objection to the proposed funding of this section of the Treasury and support the bill under consideration today, but I do have objection to the manner in which the Treasury 2 years ago presided over the devaluation of the dollar and also to the decision that was made this past November to proceed to sell a part of our debt obligation abroad.

Largely unnoticed by the public, the Carter administration has embarked on a course of speculation on the American dollar. As a major facet of the dollar rescue program announced last November, the President approved the sale abroad of up to $10 billion of Treasury securities denominated in foreign currencies and subsequently dubbed "Carter Bonds" by the investment community. The purpose of the sale was to derive foreign currencies which would then be available to support intervention by the United States in foreign exchange markets to counter any significant drop in the dollar's value. The essence of this operation is speculation, using borrowed funds with the U.S. taxpayer taking the risk.

To be more specific, two sales have been made to German citizens for approximately 5.538 billion deutsche marks ($2.945 billion). These notes range from 2½ to 4 years in maturity with interest rates ranging from 5.95 to 6.70 percent. One sale has been made to Swiss citizens for approximately 2.015 billion Swiss francs ($1.2 billion). These notes have maturities of 2½ to 4 years and bear interest at 2.35 and 2.65 percent.

The United States has played this high-stakes game before. From 1961 to 1971 the Treasury sold foreign currency notes to monetary authorities in six European countries. These U.S. notes were called "Roosa bonds" and the experience is not encouraging for the new Carter bonds. Last year in an appearance before the International Trade Subcommittee, Treasury Under Secretary Anthony Solomon acknowledged that the Exchange Stabilization Fund, which administers the Roosa bonds, stood as of September 30, 1977, to lose $755 million on Swiss franc-denominated bonds. More recently, as of December 31, 1978, realized losses on such notes retired totaled $845.6 million. Today there has been some improvement in the dollar's value vis-a-vis the Swiss franc, but serious liabilities remained at year end, which resulted in significant further losses as the Treasury finally redeemed in full this year our former Swiss franc debt.

One reason for this enormous taxpayer loss is that on January 20, 1977—the day President Carter assumed the Presidency—the American dollar was worth 2.50 Swiss francs, but today a dollar buys 1.73 Swiss francs. As a result, the Treasury was committed to pay almost a third more on our Swiss debt obligations than we would have if we had been able to hold down rising inflation, restore eroding labor productivity, and reduce our enormous trade deficit.

One justification for the sale of Roosa bonds was that it was a hoped for means of forestalling foreign purchases of U.S. gold as part of a broader effort to maintain the Bretton Woods monetary system of fixed par values and gold convertibility. It is claimed this resulted in our retention of 36 million ounces of gold. But the gold quickly went out the window. In the 10 years when Roosa bonds were being sold and rolled over, the U.S. gold stock decreased from 501.4 million ounces in 1961 to 289.5 million ounces in 1971. That loss of 211.9 million ounces was almost six times the claimed saving of 36 million ounces resulting from the sale of Roosa bonds. In August 1971, the United States finally suspended the convertibility of officially held dollars into U.S. gold.

In retrospect, intervention in the gold market by sale of the Roosa bonds was a very costly operation—approximately $1.422 billion in realized and potential losses as of December 31, 1978. At best, any beneficial results were short-lived. To the extent the sale of bonds may have put off recognition of the basic fact that the U.S. dollar alone simply could not survive the burden of gold convertibility for the entire free world's monetary system, the bonds may have been harmful instruments imposing additional but incalculable costs on the American taxpayer.

In light of the Roosa bonds experience, there is room to question the wisdom of the issuance of Carter bonds. Although no one can foretell the long-term fate of the Carter bonds, the burden of proof is on the administration to show that exposing the American taxpayer to currency speculation financed on margin through the use of borrowed funds is worth the risk. The taxpayer is unfortunately exposed to substantial speculative risk voluntarily assumed by the U.S. Government.

In this connection, sight should not be lost of the vast change that has taken place in foreign exchange risk in comparing Roosa bonds and Carter bonds. During the period 1961 to 1971 when Roosa bonds were being sold, such risk was minimal. The average annual official exchange rate ranged only from 4.319 to 4.312 Swiss francs per $1 U.S. With most major countries adopting flexible exchange rates in March 1973, foreign exchange risk heightened substantially. Accordingly, Carter bonds are being sold in a period of volatile and high risk foreign exchange markets.

If the dollar already has adjusted to a realistic market value, there is little reason for concern. If the dollar still is overvalued, losses will be incurred as adjustment to economic and political reality occurs. If, in fact, the dollar is undervalued, profits will automatically accrue, as they have since November. With a projected program of up to $10 billion of Carter bonds and a real possibility of exceeding that figure, the stakes are high. Moreover, what appeared to be a prudent political risk last November must be revaluated in light of recent dramatic changes in international petroleum pricing. The Carter bond sales, which look good today, may not look so good 2 years from now.

Real question is also raised about the role the Federal Reserve Board has played in the formulation of the administration's dollar rescue policy. Fed Chairman Miller admitted in recent testimony before the House Banking Committee that he was "very much in favor" of bonds being issued in this fashion and that he encouraged Treasury to move in this direction. Yet this is an area of policymaking that traditionally is the province of Treasury. The lines of independence of the Fed would appear to be somewhat obfuscated by active Fed involvement in this kind of Treasury decisionmaking. This is particularly troublesome because it gives the Fed an incentive, which may be unfortunate, to make sure that the policy works. By that I mean that the Fed may be given an added vested interest in keeping interest rates higher than would otherwise be the case in order to protect the dollar, so that Treasury would not realize exchange losses in purchasing deutsche marks to pay back this new U.S. debt.

Given congressional spending profligacy there is an unfortunate case to be made for the Fed to maintain a high interest rate policy today but such rates are accompanied by grave implications for particular segments of the American economy, notably borrowing intensive segments such as agriculture and housing.

In conclusion, I believe it is imperative that the Treasury Department make periodic reports to the Congress stipulating actual or accrued losses or gains which may result from paying off Roosa and Carter bonds. Furthermore, it is my recommendation that in the event the bonds are rolled over at the time of the bonds redemption, Treasury single out any costs as a separate budget line item in order to make clear the bond losses could well be an actual cost to the taxpayer. Given that the taxpayer liability could be extraordinary in the event of further dollar devaluation, it is imprudent for the administration to pursue this dollar support policy without public and congressional awareness and debate. Putting it another way, an Iowa farmer who hedges corn can well see the potential loss because of the extra risk taken. But it is one thing for an individual to risk his own product and labor and another for the Treasury Department to risk the collective tax liabilities of the U.S. citizenry.

Finally, I would just like to stress that it is pleasing for all of us that the value of Carter bonds have so far held up; and, in fact, improved their value. It is also pleasing they have been sold at a lower rate of interest than would have been the case in this country.

But clearly the Treasury Department has embarked on a speculative course of action without public consideration and very little congressional consultation, and I would be hopeful that the Treasury be extremely cautious in proceeding any further in this direction.

With these concerns in mind I do support this bill with the exception of an amendment that is going to be offered by the gentleman from Ohio (Mr. WYLIE).

Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. I too support the bill, Mr. Chairman, with the exception of section (b) of the bill. As the gentleman from Iowa (Mr. LEACH) has already said, I will be offering an amendment when the amendment process starts here momentarily to strike out section (b). Section (b) is a section which authorizes to be appropriated such money as may be necessary. In other words, this is an open-ended appropriation section.

And I have consistently opposed open-ended appropriations. I do not think there will be too much controversy on my amendment.

With that thought in mind, I would respectfully urge that when the time comes you support my amendment.

Mr. LEACH of Iowa. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I am in opposition to this bill because I think it is something that institutionalizes international inflation.

At the time the Exchange Stabilization Fund was set up in 1934, it coincided with the date when inflation became a deliberate policy in this country with the gradual removal of anything backing our dollar. Systematically we did remove the backing of our currency and totally eliminated anything intrinsically valuable related to our currency by 1971.

Even though this fund was important throughout the years to adjust for the inflations of different currencies, it has not been until recent years that it has dealt with billions of dollars. This is the vehicle that is used to exchange these billions to adjust for the ever fluctuating values of national currencies.

There is an international crap game going on and we are participating in it, and the Exchange Stabilization Fund is the committee that acts as our participant in this crap game. Not only does the crap game work with the government's wheeling and dealing and exchanging currencies, trying to adjust for the money that has no value, but business people and bankers do the same thing. Last year it was reported that $50 trillion was exchanged in this crap game.

Eventually the crap game will quit. There is no question about that. This will fall apart in the 1980's and it will usher in economic chaos and political turmoil in this country and we should be prepared for it. We should be aware of the fact of what we are doing here.

The $22 million has nothing to do with the exchanging of dollars. This is only to operate the fund. As we pointed out in the past, in less difficult times with our money they made a profit, they actually had enough money to pay the wages and all of the travel expenses. Today they are working at a loss. They have a deficit in the last 18 months of $300 million.

In dealing with foreign currency denominated bonds, they lost $841 million as of the end of last year. This is our vehicle for this adjustment. It is obviously made worse by this open-ended authorization.

The amendment certainly will improve it. But, when you look at the larger picture, that has nothing to do with trying to address the problem of what inflation is all about. I suspect we will have to continue to participate in this type of gimmickry and this type of fraud and deceit on the American people, because we deal in money that has no value. But we will continue to do it until the people discover, which they are discovering every day, that the money has no value.

Today all we have to do is to ask the American taxpayers, how do they adjust? They adjust one way. We adjust by these exchange currencies and these funds. But the American taxpayer adjusts only one way: By paying more to live. They are getting desperate about this. It is very confusing about what is happening in the international money markets and what we have done to our money. The sole cause of this confusion is that the money is paper, and this is the vehicle we have to continue with in order to perpetuate the fraud.

So, I think it would be wise, if you are really concerned about inflation, to register a vote here against the international crap game that is going on.

Mr. SOLOMON. Mr. Chairman, would the gentleman yield?

Mr. PAUL. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, being a new Member in this House, I am not familiar with this off-budgeting procedure, which I understand is fiscal gimmickry. But, is it true that this board used to operate, used to pay its own expenses without looking to the Congress to appropriate money?

Mr. PAUL. Yes; this is exactly right. They were able to manage so-called profits by the exchange of currency enough to pay their expenses.

Now, can we be any more suspicious if the Treasury comes to us and says "We would like for this to be a budgetary item." We should only be distrustful of something like that. The reason they need it in the budget is that they need cash from the American taxpayer, and that is the crime of it all.

So, yes, it used to fund itself. Last year they funded it and this year again they are doing it, but we have a responsibility of calling this to the attention of our colleagues and the people of this country.

Mr. SOLOMON. If the gentleman would yield further, I am very suspicious of that too.

Let me ask the gentleman this: Why can they not pay their own way now? What has happened that they have to look to us for money? Is it because the American dollar has been devalued so much?

Mr. PAUL. My own estimation would be is that our dollar is so weak that we have lost so much in our trade, and I would not claim to be an expert on that, but that would be my suspicion. The weakness in the dollar would represent the loss of the money that we have had, and we are showing net losses with this fund.

☐ 1330

Mr. SOLOMON. Mr. Chairman, I wonder what the gentleman thinks causes this weakness of that dollar.

Mr. PAUL. There is only one thing that causes the weakness of the dollar and that is the expansion of the money supply. This is done principally for one reason, to finance debt and, secondarily, to keep that game going on in the banking and business world that has become dependent on the ever-increasing credit. The credit expansion to finance debt is the reason that this is all passed onto the average American in high prices.

Mr. SOLOMON. Is it not also true, Mr. Chairman, that the industrialized nations with currency such as the Swiss franc, the French franc, the German deutsche mark, is it not true these industrialized nations have been begging the United States of America to balance their budget so that we can stop printing counterfeit money at the rate of 30 and 40 and 50 and 60 billion dollars a year?

Mr. PAUL. They have been begging us to do that and it might be wise to look at what the Swiss do. They stay out of the International Monetary Fund and they have prices that are stable or dropping. They have relatively no inflation.

Mr. SOLOMON. Mr. Chairman, so the truth of the matter is the reason we must now appropriate these funds which used to be taken care of by themselves is because the American dollar has devaluated, inflation is rampant in this country, breaking the backs of the American people and it is caused by the U.S. Congress with these hell-bent-for-leather spending sprees that have been on for the last 5 years that has raised our national debt from $500 billion to $900 billion in just 5 years, and that is an 80-percent increase in our national debt. This body ought to be ashamed of what they have done to the value of the American dollar in this country today. Is that not right?

Mr. PAUL. I think the gentleman is exactly right. Even though this is a more difficult example of how we handle our inflation, I do think by your comments you have brought it to light to show how this Fund represents how we do things here in Congress.

Mr. SOLOMON. I appreciate the gentleman's calling this to our attention and I am going to cast a protest no, too.

Mr. LEACH of Iowa. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. NEAL. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska (Mr. Cavanaugh).

Mr. CAVANAUGH. I thank the chairman for yielding and it is with great reluctance I rise in opposition to the legislation.

I would first like to commend the chairman and ranking minority member for what I consider to be outstanding work on an outstanding piece of legislation.

I have rarely cast protest votes as a Member of this House but in this instance I feel compelled to do so. This is not based upon the merits of the legislation. I think it is both wise and appropriate that the Congress exercise its authorizing jurisdiction over the Department of International Affairs but I believe the handling by this Department of its responsibilities with regard to advising our representation to the International Monetary Fund has not been in the best interests of this country. In particular, the interjection of the United States into the political situation that now evolves in Nicaragua and the recent handling of that matter by the International Monetary Fund and the direction given our delegate by the Department of International Affairs of the Department of the Treasury was wrong and seriously threatens our Nation's interest in both the operation of the International Monetary Fund as well as our future political interest in Central America. I, therefore, find myself incapable of supporting this legislation in spite of the outstanding job that Chairman Neal has done in the preparation and presentation of this meritorious bill to the Congress.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses; and for other purposes" approved November 8, 1978 (Public Law 95–612; 92 Stat. 3092), is amended—

(1) by inserting "(a)" after "Sec. 5.";

(2) in subsection (a), as so designated by paragraph (1), by inserting "and $22,375,000 for fiscal year 1980" after "1979"; and

(3) by adding at the end thereof the following new subsection:

"(b) There are authorized to be appropriated for each fiscal year, after fiscal year 1979, listed in subsection (a) such additional sums as may be necessary for increases required by adjustments in salaries, pay retirement, and other employee benefits authorized by law and for other nondiscretionary costs.".

Mr. WYLIE (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDMENT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wylie: Strike all after the enacting clause, and insert in lieu thereof the following:

That section 5 of the Act of November 8, 1978 (92 Stat. 3092) is amended by inserting "and $22,375,000 for fiscal year 1980," after "1979,".

Mr. WYLIE. Mr. Chairman, my amendment, simply stated, would strike out language on page 2 which says, "There are also authorized to be appropriated for each fiscal year listed in subsection (a) such additional sums as may be necessary for increases required by adjustments in salaries, pay, retirement, and other employee benefits authorized by law and for other nondiscretionary costs."

Now that language, of course, is the open-end appropriation language which we have seen in legislation over the years. The language is vague and Congress has taken the position of being in opposition to open-ended appropriations. As has been stated by the gentleman from Iowa (Mr. LEACH), back in 1934 Congress did appropriate $2 billion to get this exchange stabilization fund started and over the years it has been a successful fund and they have taken care of their own administrative costs. Last year we decided that administrative costs ought to be an on-budget item.

I feel all the administrative expenses of all the departments as far as that is concerned should be on-budget items. I agree with that philosophy. I think that Congress ought to have an opportunity to look at them.

However, Mr. Chairman, we frustrate that goal if we authorize appropriations on an open-ended basis and I think in the interest of getting some handle on administrative costs we are authorizing that we ought to have an exact amount in the bill so we will know where we are going and what we are doing and that we should not authorize the open-ended appropriation which is authorized in this bill.

Mr. NEAL. Mr. Chairman, will the gentleman yield to me?

Mr. WYLIE. I will yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, I thank the gentleman for yielding. I think the gentleman is suggesting a very constructive change through his amendment and we on this side are prepared to accept it.

Mr. WYLIE. Mr. Chairman, I thank the gentleman very much for his support of my amendment and his willingness to accept the amendment.

I might ask the ranking minority member if he would care to speak to the amendment.

Mr. LEACH of Iowa. I might say, as I indicated earlier, I am in complete agreement with the gentleman's amendment and we wish to accept it.

Mr. WYLIE. I thank the gentleman for his support.

Mr. LEACH of Iowa. As far as I know, we have no more amendments on this side of the aisle.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WYLIE).

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The Committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. MOAKLEY, Chairman of the Committee of the Whole House on the State of the Union reported that that Committee, having had under consideration the bill (H.R. 3347) to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal years 1980 and 1981, pursuant to House Resolution 284, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. ASHBROOK. Mr. Speaker, I demand a separate vote on the so-called Wylie amendment.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Strike all after the enacting clause, and insert in lieu thereof the following:

That section 5 of the Act of November 8, 1978 (92 Stat. 3092) is amended by inserting "and $22,375,000 for fiscal year 1980," after "1979,".

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read a third time.

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The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore, announced that the ayes appeared to have it.

Mr. PAUL. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 179, nays 96, not voting 159, as follows:

[Roll No. 198]

YEAS—179

Akaka
Albosta
Ambro
Anderson, Calif.
Annunzio
Bailey
Baldus
Barnes
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Blanchard
Boggs
Boner
Bonior
Bowen
Brademas
Brodhead
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carr
Clinger
Conable
Conte
Corcoran
Coughlin
D'Amours
Danielson
de la Garza
Dellums
Derwinski
Dingell
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Edgar
Edwards, Ala.
Edwards, Calif.
Ertel
Evans, Del.
Fascell
Fazio
Fenwick
Findley
Fisher
Fithian
Flippo
Ford, Mich.
Ford, Tenn.
Frenzel
Gaydos
Gephardt
Ginn
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Guyer
Hall, Ohio
Hamilton
Hanley
Harris
Heckler
Hefner
Heftel
Hollenbeck
Howard
Hutto
Ireland
Jenkins
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kildee
Kostmayer
LaFalce
Leach, Iowa
Lederer
Leland
Long, Md.
Lowry
Luken
Lundine
McClory
McCormack
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Minish
Moakley
Moffett
Mollohan
Moore
Murtha
Natcher
Neal
Nedzi
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Regula
Reuss
Rhodes
Rinaldo
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□ 1350

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Mitchell of New York.
Mr. Myers of Pennsylvania with Mr. Quillen.
Mr. Mineta with Mr. Forsythe.
Mr. Addabbo with Mr. Erlenborn.
Mr. Staggers with Mr. Erdahl.
Mr. Cotter with Mr. Abdnor.
Mr. Boland with Mr. Andrews of North Dakota.
Mr. Zeferetti with Mr. Andrews of North Carolina.
Mr. Wright with Mr. Archer.
Mr. Fuqua with Mr. Gibbons.
Mr. Nelson with Mr. Goldwater.
Mr. Frost with Mr. Hillis.
Mr. Florio with Mr. Horton.
Ms. Ferraro with Mr. Carter.
Mr. Richmond with Mr. Badham.
Mr. Bingham with Mr. Rudd.
Mr. Rangel with Mr. Rousselot.
Mr. Giaimo with Mr. Sabo.
Mr. Johnson of California with Mr. Hinson.
Mr. Corman with Mr. Hammerschmidt.
Mr. Chappell with Mr. Treen.
Mr. Breaux with Mr. Wyatt.
Mr. Bevill with Mr. Wydler.
Mr. AuCoin with Mr. Schulze.
Mr. Fary with Mr. Sawyer.
Mr. Anthony with Mr. Jeffries.
Ms. Oakar with Mr. Hyde.
Mr. Pepper with Mr. Clausen.
Mr. Price with Mr. Cleveland.
Mr. Rodino with Mr. Livingston.
Mr. Roberts with Mr. Lujan.
Mr. Van Deerlin with Mr. Martin.
Mr. Early with Mr. McDade.
Mr. Ashley with Mr. Whitehurst.
Mr. Beard of Rhode Island with Mr. Anderson of Illinois.
Mr. Biaggi with Mr. Aspin.
Mr. Garcia with Mr. Barnard.
Mr. Foley with Mr. Bonker.
Mr. Flood with Mrs. Bouquard.
Mr. Rose with Mr. Coelho.
Mr. Murphy of New York with Mr. Coleman.
Mr. Moorhead of Pennsylvania with Mr. Philip M. Crane.
Mr. Runnels with Mr. Davis of Michigan.
Mr. Simon with Mr. Deckard.
Mr. St Germain with Mrs. Spellman.
Mr. Stark with Mr. Dougherty.
Mr. Davis of South Carolina with Mr. McEwen.
Mr. Lehman with Mr. Fish.
Mr. Diggs with Mr. Lungren.
Mr. Conyers with Mr. McCloskey.
Mr. Udall with Mr. Lloyd.
Mr. Cheney with Mr. Vander Jagt.
Mr. Clay with Mr. Bob Wilson.
Mrs. Collins of Illinois with Mr. Stewart.
Mr. Derrick with Mr. Smith of Iowa.
Mr. Dicks with Mr. Roybal.
Mr. Brooks with Mr. Nolan.
Mr. Brinkley with Mr. Miller of California.
Mr. Eckhardt with Mr. Evans of Georgia.
Mr. Holland with Mr. Fowler.
Mr. John L. Burton with Mr. Broomfield.
Mr. McKay with Mr. Grisham.
Mr. Yatron with Mr. Hawkins.
Mr. Young of Missouri with Mr. Hightower.
Mr. Wolff with Mr. Huckaby.
Mr. Charles Wilson of Texas with Mr. Trible.
Mr. Kogovsek with Mr. Walker.
Mr. Charles H. Wilson of California with Mr. Williams of Ohio.
Mr. Lent with Mr. Murphy of Illinois.
Mr. Alexander with Mr. Stump.
Mr. Atkinson with Mr. Tauke.
Mrs. Chisholm with Mr. Ratchford.
Ms. Holtzman with Mr. Gilman.
Mr. Long of Louisiana with Mr. Brown of Ohio.
Mr. Mikva with Mr. Jeffords.
Mr. Rahall with Mr. Marriott.
Mr. Waxman with Mr. Railsback.

Mr. BEREUTER and Mr. WHITTAKER changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal year 1980.".

A motion to reconsider was laid on the table.

Mr. NEAL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 976) to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal year 1980, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act of November 8, 1978 (92 Stat. 3092) is amended by inserting "and $24,000,000 for fiscal year 1980," after "1979".

MOTION OFFERED BY MR. NEAL

Mr. NEAL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NEAL moves to strike out all after the enacting clause of the Senate bill, S. 976, and to insert in lieu thereof the provisions of H.R. 3347, as passed, as follows:

That section 5 of the Act of November 8, 1978 (92 Stat. 3092) is amended by inserting "and $22,375,000 for fiscal year 1980," after "1979,".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3347) was laid on the table.

GENERAL LEAVE

Mr. NEAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill just passed.

The SPEAKER pro tempore (Mr. MOAKLEY). Is there objection to the request of the gentleman from North Carolina?

PERSONAL EXPLANATION

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, earlier today I was absent during four rollcall votes, because I was attending the graduation of my 13-year-old daughter, Eugenie Marie, better known as Genie, from the Country School in Easton, Md. During those impressive ceremonies Genie Bauman won two special awards for excellence in English prose and in history, the highest honors for her class in both subjects.

Had I been present earlier I would have voted as follows on the rollcalls:

Rollcall No. 193, adoption of the rule on H.R. 2641, the Civil Rights Commission authorization: Vote, "no."

Rollcall No. 194, rule for H.R. 3347, Treasury Department international affairs authorization: Vote, "no."

Rollcall No. 195, Amendment by Mr. SENSENBRENNER reducing the authorization in H.R. 2641 from $14 to $11 million: Vote, "yes."

Rollcall No. 196, final passage of H.R. 2641: Vote, "no."

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the gentleman from New York (Mr. ROSENTHAL) as to the program for the balance of the week and for the next week.

Mr. ROSENTHAL. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from New York.

Mr. ROSENTHAL. Mr. Speaker, the program for this week has been concluded.

The program for the House of Representatives for the week of June 11, 1979, is as follows:

On Monday, June 11, the House meets at noon. There are no bills scheduled on the District Calendar, and there are no bills on the Suspension Calendar. The House will again consider H.R. 2444, Department of Education Organization Act. We will vote on amendments and on the bill and complete consideration of same.

On Tuesday, June 12, the House meets at noon. There are no bills scheduled on the Suspension Calendar. The House will consider House Resolution 198, to dismiss contested election in Maryland's Seventh District; and H.R. 111, to provide for the implementation of the Panama Canal Treaty of 1977. There will be votes on amendments and on the bill, and the House will complete consideration of that bill. We will stay in later than usual on Tuesday, if necessary, to complete this bill that day.

On Wednesday, June 13, the House will meet at 10 a.m. and will consider H.R. 4388, energy and water appropriations for fiscal year 1980, subject to a rule being granted; and H.R. 4390, legislative appropriations for fiscal year 1980, subject to a rule being granted.

☐ 1400

On Thursday, June 14, the House will meet at 10 o'clock a.m., to consider H.R. 4394, HUD-independent agencies appropriations, fiscal year 1980, subject to a rule being granted, and also H.R. 3821, intelligence and intelligence-related activities authorizations, fiscal year 1980, an open rule with 1 hour of general debate.

On Friday, June 15, the House will meet at 10 o'clock a.m., and will consider H.R. 4393, Treasury-Postal Service appropriations, fiscal year 1980, and H.R. 2462, maritime authorizations, fiscal year 1980, an open rule with 1 hour of general debate.

The House will adjourn by 3 p.m. on Friday and by 5:30 p.m. on all other days except Tuesday and Wednesday.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. RHODES. Mr. Speaker, will the gentleman tell the House if he really expects to complete the Department of Education bill on Monday?

It is my understanding that there are already over 200 amendments in the Record on this bill and, unless we intend to go very late on Monday, it does not seem that that is a realistic objective.

Mr. ROSENTHAL. If the gentleman will yield, it is my understanding that the chairman of the subcommittee, the distinguished gentleman from Texas (Mr. Brooks), has every intention of finishing it. I think the gentleman from Arizona is failing to take into consideration an important parliamentary matter concerning a significant number of amendments.

Mr. RHODES. Mr. Speaker, I note that the gentleman has designated Tuesday as a possible late night. I will ask the gentleman, is it the opinion of the majority leadership that the schedule for Wednesday, Thursday, and Friday, insofar as it pertains to the appropriations bills, is firm, and that if there is any unfinished business from Monday and Tuesday, that that business will go over to another date and it will not interfere with the proposed appropriations bills?

Mr. ROSENTHAL. That is absolutely correct.

Mr. RHODES. I thank the gentleman.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, I just wanted to inform the House that I understand a request will be made by the gentleman from Wisconsin (Mr. Zablocki) to send the State Department authorization bill to conference on Monday, probably at the beginning of the day. That being the case, a motion will be offered to instruct the conferees to insist upon the langauge dealing with the sense of Congress on Rhodesia-Zimbabwe, so that may entail some debate at the beginning of the day on that motion.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ROSENTHAL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ADJOURNMENT TO MONDAY, JUNE 11, 1979

Mr. ROSENTHAL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 o'clock noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT ON H.R. 3580

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight, June 8, 1979, to file a report on the bill (H.R. 3580) to provide for establishment and coordination of rural development policy and to extend for 2 years the authorization of appropriations for carrying out title V of the Rural Development Act of 1972.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

RATIONING GASOLINE AND CONTROLLING ITS PRICE

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PAUL. Mr. Speaker, when I was 6 years old, my dad could fill up his truck with 20 gallons of gasoline for $3. Today, I can do the same.

In 1941, regular gas was 15 cents a gallon. Using the American silver coins that were minted as recently as 1964, I can still buy 20 gallons of gas for six silver quarters or three silver half dollars.

In terms of silver, a gallon of gas is the same price today, or less, than it was in 1941. Fifteen cents in face value silver coins brings almost 92 cents in today's baloney sandwich coins.

Gasoline—despite OPEC, the Department of Energy, and all the government redtape and disincentives—is still an unbelievable bargain.

The Federal budget, on the other hand, has increased more than 600 percent in terms of silver, since 1941. If gas had gone up as much, we would be paying $5.83 a gallon, in today's paper money.

The lines and shortages we see in the gasoline market today are caused entirely by Federal regulations and controls. If we want to keep reasonably priced gasoline, and have plenty of it, we need to get the Federal Government out of the energy business.

The only way to allocate fairly a scarce commodity like gasoline is the price system. And the price system can only function fully in a free market.

Recently, the American Institute for Economic Research, in Great Barrington, Mass., published an excellent analysis of gasoline pricing and gasoline rationing. I would like to insert it in the Record at this point:

Rationing Gasoline and Controlling Its Price

American shoppers are accustomed to finding what they want when they want it, with their frustrations usually limited to discovering that what they want costs more than what they want to pay. Thus, the prospect of long lines at filling stations, closed pumps, and empty tanks is shocking to Americans. In their anger, many consumers evidently have concluded that the shortage of gasoline has been artificially created by oil companies and must be solved by government action. Administrative rationing, price controls, and punitive taxation of those who gain from higher prices have been among the suggested actions. Such measures would not solve the problem even though they appear feasible. The production and consumption of petroleum products differ from other economic activities in ways that foster the sort of misguided policies that have been adopted to date, but we know of no reason to believe that they are exempt from the effects of price changes. Most of the increase in the price of gasoline during recent years has reflected general inflating rather than supply shortages. Before substantial reductions in gasoline consumption occurs, its price apparently will have to rise much higher.

There is not enough gasoline; the shortage is real. We are confident in this assertion because there never is enough of anything that people buy. That scarcities seldom are troublesome in the United States is testimony to the effieciency of the price system as it allocates the production and consumption of most goods and services in our private property, market economy.

The price system fosters a balance between consumption and production at the maximum practicable volume from a given level of productive capacity. In countries where some other system, such as "central planning," is used to allocate resources and distribute output, consumers are used to doing without or to obtaining what they want, via favoritism, black markets, or waiting in long lines. In general, a "shortage" in the sense of consumers being unable to purchase what they want, at the going price, in the amounts they want is prima facie evidence of interference preventing voluntary transactions among individuals.

From time to time there are marked changes in the supply of or the demand for specific commodities that are reflected in marked price changes. Most such changes are accepted by consumers and producers without demands for government intervention. Presumably this reflects a recognition that such intervention would create an imbalance between supply and demand and cause harm to producers, consumers, or both. For example, there now is a raisin "shortage" in the

U.S. because of adverse weather conditions in raisin producing areas. Consequently, the price of raisins have risen markedly. Yet, there is no public outcry that raisins be rationed, that their price be controlled, or that the growers who were skillful or lucky enough to produce raisins be taxed particularly heavily.

Evidently something about the production and consumption of oil in general and gasoline in particular sets them apart from other economic activities. Otherwise, in the present circumstances the prices would rise to whatever level would balance supply and demand, with those willing to pay the price getting the product. At some price (whether it is $.90, $1.00, or even $2.00 per gallon we do not know) there would be "plenty" of gasoline because consumption would be smaller and supplies larger.

THE VULNERABILITY OF PETROLEUM PRODUCTION

From its beginning, petroleum production has involved large fixed investments and low marginal costs. In other words, large outlays, are needed to produce even one barrel of oil, but once oil begins to flow, relatively little additional outlay is needed to produce at the capacity of the facility. This is a characteristic of the oil business. Consequently, oil producers have a large incentive to produce as much as possible, which is one reason why there often have been gluts of oil.

Because the costs of oil production largely are sunk costs, or costs for assets in place, the oil industry is highly vulnerable to punitive taxation and to expropriation. Once in place, what can be done with an oil production network other than to use it close to its capacity, regardless of marginal costs or marginal tax rates? If the members of OPEC originally had demanded the royalties and taxes they now demand, the oil companies would not have erected oil production facilities in those countries. However, once the investments in those facilities were made, the oil companies had little choice but to continue to pump oil there. The alternative was to abandon the facilities and lose those multi-billion dollar investments.

The decision to rely on foreign oil in order to avoid developing higher-cost domestic energy sources was made over 25 years ago, when the United States became a net importer of oil. For more than 15 years, Americans benefitted from that decision in the form of low-cost oil and other sources of energy. However, when OPEC raised the price of oil, the economic advantage to Americans from pumping crude in those countries rather than the U.S. was wiped out. But still imports continued at high volumes, because the producing facilities in fact were in place in the OPEC countries and not in this country.

By applying price ceilings on domestic crude oil, U.S. political and administrative leaders curtailed the returns to those who had invested in domestic crude oil operations, and thereby eliminated much of the financial incentive oil companies would have had to build crude capacity in the U.S. in order to get out of OPEC's grasp. The imposition of price ceilings on domestic crude also demonstrated to oil producers that U.S. officials would prey on the vulnerability of petroleum producers, as did OPEC. Thus was removed another incentive to invest in additional domestic crude capacity.

Consider what would happen if, say, sugar exporting countries somehow managed to raise the price of sugar to a level that made growing and processing sugar beets a more viable activity in the United States. Would American farmers maintain or expand production if they faced forced sales of beet sugar at a price below that of imported sugar? Would suppression of the price received by domestic producers be viewed as sound policy? The answer obviously is "no"; yet, that is exactly what has happened with oil.

While the Government's ceilings against the high prices charged by petroleum producers receive widespread publicity, the governments' stake is largely unnoticed. According to the Los Angeles *Herald Examiner*, the price of a gallon of gasoline made from crude oil imported from Saudi Arabia has these components:

Product costs of which dealer profit is 1.2 cents and oil company profit is 2.0 cents	25.8
Domestic governments	20.6
Saudi Government	33.5
Total	78.9

We are not able to substantiate the accuracy of these estimates, but clearly governments receive the major portion of what consumers pay for gasoline. Furthermore, a key result of Federal energy policy has been to prevent domestic producers from receiving an amount comparable to the share that accrues to the Saudis (or other OPEC nations) for imported oil. Without the rhetoric concerning "oil company profits," it should be stressed that a substantial portion of any increase in receipts to domestic producers that constitutes a "windfall" gain rather than a payment for development new high-cost sources would be taxed as corporate or personal income, even without a special tax.

GASOLINE CONSUMPTION

The consumption of petroleum in general, and gasoline in particular, also is capital intensive. One needed not invest much to consume raisins, but a substantial capital investment such as an automobile or heating system is needed to burn oil. Moreover, an individual's purchases of gasoline are affected by a wide variety of other comparatively inflexible factors, such as where he lives, works, and must shop. In addition, outlays for gasoline are often small in relation to the total costs of switching to alternatives. For example, with gasoline at $.80 per gallon, an individual who drives 15,000 miles a year could save $500 per year by switching from a car that gets 12 miles per gallon to one that gets 24. If he moved closer to his place of work, say, and reduced his annual driving to 10,000 miles, he would save $333. Savings of such magnitudes hardly seem enough incentive to prompt large numbers of persons to buy a new car or relocate. Perhaps those changes will not be made until gasoline costs $1.00 or $1.50 per gallon.

In the jargon of economists, the demand for gasoline is inelastic, which means that a change of a given percentage in the price will result in a smaller percentage change in consumption. The elasticity of demand for gasoline has been estimated by economists to be from –0.1 in the shortrun to –1.0 in the long run. These figures indicate that although a 100 percent increase in price might produce only a 10 percent decrease in consumption soon afterward, that price increase would cut consumption in half after a number of years. Thus, the price system requires patience, which is not a characteristic for which politicians are known. Furthermore, the price changes must be real changes, not simply nominal changes in a rapidly depreciating paper currency. The limited constraint on consumption of the earlier OPEC price hikes probably is attributable in part to the rapidity with which the general purchasing power of the dollar has decreased.

The increases in gasoline prices in 1973 and 1974 were from unusually low levels by historical standards. The 1974 average relative price of gasoline was only slightly above the relative prices during much of the 1950s and 1960s, when suburbia had its greatest growth. Between 1974 and 1978 the relative price of gasoline actually decreased, although the nominal price rose about 20 percent. Most of the increases in gasoline prices over the years reflected general inflating. Gasoline at 15 cents per gallon in 1941 was more expensive in relation to other things than it was at 61 cents per gallon in 1978.

Government energy policy during the past 25 years succeeded in providing relatively cheap gasoline to the American consumer, and that "success" is the heart of the current problem. American consumers probably will not substantially reduce their consumption of gasoline (or other forms of energy) until relative prices change enough to give them more satisfaction from spending their money on other goods.

RATIONING

Having found that U.S. reliance on foreign oil no longer keeps prices down and that price controls on domestic oil have diminished domestic production and encouraged more imports, the politicians and bureaucrats now seem intent on trying administrative rationing as a means of continuing to provide relatively cheap gasoline to American consumers. Allegedly their motivation is a concern for "the poor," because "if gasoline prices go up, only the rich will be able to afford gasoline." That such claptrap receives serious attention in Congress should be an embarrassment to every member of Congress. The official "poor" presumably do not drive much. As for the "rich," can anyone seriously believe that rationing would prevent them from obtaining the gasoline they wanted?

Administrative rationing proposals tacitly involve the assumption that bureaucrats know the amount and price of gasoline that will best satisfy the needs and wants of consumers. Such plans disregard the preponderant evidence that the most efficient way of determining this is the price system. If the purchasing media in the hands of consumers are viewed as ration coupons, it is evident that a rationing system for gasoline (and everything else) already is in place. All that needs to be done is to limit the supply of purchasing media to an amount sufficient to purchase the volume of things available. How much is spent on gasoline then is a matter for each consumer to decide for himself. Presumably he will adjust his outlays so that the last dollar spent on gasoline satisfies his needs and wants (Can anyone separate the two?) to the same extent as the last dollar spent on anything else. Price rationing is the best plan for reducing oil imports drastically, because it offers consumers the choice of meeting OPEC's demands or of spending their dollars on other things.

Gasoline price increases during 1979 may be the first real test of consumers' appetite for gasoline relative to that for other things. Patience is needed now to allow that test to take place, including the effects that occur over a period of years. For the consumption of gasoline to be reduced, difficult and unwelcome choices will have to be made. Such choices will be postponed as long as gasoline is relatively cheap.

VIETNAM WAR VETERANS

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEDERER. Mr. Speaker, on this the week after Vietnam Veterans' Week, I would like to pause in the business of the House to honor our soldiers of the Vietnam war.

Our Nation, for many reasons, is anxious to put this war behind us. Unfortunately, the veterans who fought in this war and it was a war are often lost in the abyss of our collective desire to forget the Vietnam war. The difficult and often impossible tasks and obligations which the Vietnam war veterans were asked to face are often lost in the ambiguity of the war itself.

We cannot afford to forget the Vietnam war veteran. For a nation which forgets its veterans loses its very soul.

So I hope Vietnam Veteran Week was not an end to our remembering those who served so well, but a beginning.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Lewis) is recognized for 5 minutes.

● Mr. LEWIS. Mr. Speaker, while I was present in the House for the debate on H.R. 2641 the Civil Rights Commission authorization bill and voted for amendment to the same, urgent district business caused me to be off the floor at the time of final passage. If I had been present I would have voted "aye."●

RHODESIA BLUNDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Findley) is recognized for 5 minutes.

● Mr. FINDLEY. Mr. Speaker, the President's decision not to lift U.S. sanctions against Zimbabwe-Rhodesia is a tragic one.

It totally ignores the significant advances made toward black-majority rule in Zimbabwe-Rhodesia. It refuses to give any hope to those who seek a peaceful resolution of the conflict in Zimbabwe-Rhodesia. And it makes U.S. policy toward that new government hostage to the desires of those who do not share our aspirations for democracy and human rights.

In a shocking statement, the President concluded that the April elections had been neither free nor fair. It is difficult to conceive of any President of the United States making such an observation in the light of the overwhelming evidence to the contrary presented by credible and respected individuals such as Allard Loewenstein, Bayard Rustin, other Freedom House observers, and the observers sent by the American Conservation Union.

I very much agree with the June 8 Washington Post editorial on this point which I am placing in the Record after my statement.

Compare the electoral process and its results, the formation of the new black-majority government, and the other aspects of the significant progress toward black majority and democratic rule in Zimbabwe-Rhodesia with the available alternatives. Patriotic Front leader Robert Mugabe, a self-proclaimed Marxist, has stated that he is committed to a one-party state and considers elections a "luxury." Joshua Nkomo has refused to participate in elections until he is in office; he stated in a May 1979 U.S. television appearance that he would not stop fighting to go to an all-parties conference. Should either of these individuals come to power the prospects for real democracy in Zimbabwe-Rhodesia would be slight.

And it is wrong to magnify the strength of the Patriotic Front and denigrate the chances for survival of the Muzerowa government. Despite their pledges to disrupt the April elections, Mugabe and Nkomo failed to do so * * * Mugabe and Nkomo are not allies, but are bitter adversaries. The Patriotic Front is not a united front at all.

The large turnout at the April elections and the mood of those voting underlined the ardent desire of the people of Zimbabwe-Rhodesia for a peaceful transfer of power from white to black as opposed to the bloodshed and terror promised by the Patriotic Front.

The President's statement has also legitimized the blackmail of the United States by other nations. But the United States should not succumb to blackmail by any nation—in Africa or elsewhere. In 1978, 13.9 percent of U.S. oil imports came from Saudi Arabia in contrast to the 11 percent of U.S. oil imports purchased from Nigeria. If oil imports dictated our Middle East policy, there would be no Egyptian-Israeli peace treaty today. Indeed, since we obtain another 15 percent of our imported oil from Libya and Algeria, taking such an argument to its logical conclusion would have frightening consequences for U.S. foreign policy.

It is, therefore, unfortunate that not only Members of Congress but also our Secretary of State Cyrus Vance chose to repeat and broadcast threats by certain governments against ours on the Zimbabwe-Rhodesia issue, thereby giving such threats greater credibility than they would otherwise have. Such prophecies may, of course, be self-fulfilling. In the meantime, they make the United States look weak and unprincipled.

The objective of most African governments is black-majority rule in Zimbabwe-Rhodesia. They want to know that the United States shares this objective and is working to that end. For 2 years, the United States made futile calls for an all-parties conference. This approach got us nowhere. Now we have the opportunity to achieve that objective by encouraging the Muzorewa government to implement black-majority rule and democracy in Zimbabwe-Rhodesia, and yet we are not taking it.

And there is greater flexibility for implementing black-majority rule in Zimbabwe-Rhodesia than many here in the United States argue. A black majority exists in both houses of Parliament and in the cabinet. The Prime Minister and the President of the country are black.

The lingering white privileges or safeguards in Zimbabwe-Rhodesia are a frequent feature of the transfer of power from white to black in Africa. Indeed, safeguards existed at one time in Tanzania, Kenya, and Zambia. The white privileges/safeguards in Zimbabwe-Rhodesia will expire in 10 years. Meanwhile they are designed to give the white minority some assurance that they will have a continuing place in Zimbabwe-Rhodesia. Even so, these entrenched privileges can be modified and abridged through legislative and governmental processes, before the end of that 10-year period.

The President's decision on Zimbabwe-Rhodesia, therefore, is misguided and tragic. And it ignores the realities both inside Zimbabwe-Rhodesia and in the region. I urge my colleagues in the House to call on President Carter to reconsider his mistaken policy.

The Washington Post article follows:

[From the Washington Post, June 8, 1979]

THE PRESIDENT'S RHODESIA BLUNDER

Is it not possible for Jimmy Carter to say, just once, that the elections in Zimbabwe Rhodesia were an impressive feat for a place that had never had multiracial elections before; that they were a lot more impressive than the fake polls and military grabs by which power is sorted out in most other African countries; but that hard considerations of national interest compel the United States to limit the political credit it can give to these elections now?

If the president did say something like that—he said something very different yesterday in announcing that the elections were not "free and fair" enough to justify his lifting of sanctions now—he would dissolve the better part of the resistance that has plagued his Rhodesia policy. For the resistance does not come primarily from disagreement with the substance of the policy. That substance comes down to an effort to coax the two sides into a deal that will 1) produce a representative government, 2) end the civil war raging between them, 3) nip the threat of Cuban-Soviet intervention and 4) keep the United States on the sweet side of black Africa and white Africa alike. Few Americans would carry their respect for Bishop Muzorewa into support for a wider war, and certainly not by beating Britain, which is chiefly responsible for Rhodesia, to a sanctions decision.

Many Americans, however, are appalled by the *impression* of its policy the administration has conveyed. They think the administration is ignoring fairness and impartiality in order to court those black African states, mostly petty dictatorships or paper democracies, that insist that no Rhodesian government with even one white fingerprint on it deserves the time of day. This distorts the views of a good number of officials. But it is a distortion fed by the administration's own acts and words, and it accounts for the puzzlement and hostility that its policy has stirred even in quarters where a sympathetic reaction might be expected.

In this light, Mr. Carter's statement yesterday was something of a blunder, and an especially untimely one given that the question of lifting sanctions comes up in the Senate as early as next Monday. He was not content to say that the elections did not meet his "free and fair" test and that his decision served the American interest. He did not have the political tact to show himself more than grudgingly open to the substantial progress made toward democratic rule in Salisbury, and eager to preserve and consolidate those gains by helping to end the imminent threat posed to them by the war. He had the clumsiness to virtually dismiss Prime Minister Muzorewa and the arrogance to say that his decision was in the interest of the people of Zimbabwe Rhodesia—this despite the fact of their participation in the recent poll.

Can Jimmy Carter's policy be saved from Jimmy Carter? Tune in on the Senate Monday.●

SECRET SERVICE CRACKS SUSAN B. ANTHONY COIN CAPER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Annunzio) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I wish

to report that the Secret Service has solved the theft and premature sale of the new Susan B. Anthony coins.

In the middle of May, I began seeing reports in coin publications and newspapers that a number of the new Susan B. Anthony dollars were in the hands of coin dealers. This disturbed me since these coins were not scheduled to be released until July 2, 1979. I ordered my staff to begin an investigation. The staff discovered that the coins first began appearing at a coin show held in Detroit on April 28. Further investigation showed that the U.S. Mint had distributed some 10,000 coins to 20 coin equipment manufacturers for testing purposes. Officials of the Federal Reserve Bank of New York carried specimen coins in their pockets to show to bankers. The Detroit branch of the Federal Reserve Bank had distributed over 11,000 coins to 120 banks in Michigan. Some of those banks received up to 2,000 coins, ostensibly for training and educational purposes. One of those banks in turn had loaned 250 coins to a large retailer. The staff also discovered that a New York bank had received a shipment of 2¼ million Susan B. Anthony coins.

These coins remain the property of the United States until July 2. A release of July 2 was chosen so that everyone would have an equal opportunity to obtain the coins. It was totally unfair to me that some coin dealers had these coins in advance, while the thousands of coin collectors who played by the rules would have to wait until July 2. In addition, I felt that these few insiders could make tremendous profits by having these coins illegally in advance.

On May 18, I sent a letter to Attorney General Bell, asking the Justice Department to conduct an investigation. On May 21, the Secret Service was called into the case and a team led by Special Agent Frank McDonnel began its work. By May 30, that team had located the coin dealer who had paid $2,100 for 1,300 Susan B. Anthony dollars. Then, the Secret Service hit an apparent dead end. The coin dealer did not know the name of the person he obtained the coins from. Agent McDonnell's team was not to be thwarted, however. Using other leads, they centered their investigation on the Michigan National Bank. The bank had been sent 2,000 Susan B. Anthony dollars by the Detroit Federal Reserve Bank. These coins were supposed to be kept in a vault at the bank. On Monday, June 4, the Secret Service arrested an official of the bank.

The Secret Service and its agents, especially Frank McDonnell, are to be commended for their work in solving this case. They had two handicaps they had to overcome: First, they had no idea how many coins were illegally in circulation or where they had come from. At the time of their investigation, nearly 250 million coins had already been struck and distributed to Federal Reserve banks, coin equipment manufacturers, and some commercial banks throughout the country. Second, the Federal Reserve banks planned on making massive distributions of the coins to thousands of banks beginning the first week of June in order to make the coins available to the public on July 2. After those distributions had begun, the difficulties encountered by the Secret Service would have multiplied a hundredfold.

The Secret Service overcame these and other obstacles and solved the case quickly and efficiently. I have sent a letter to Director Knight of the Secret Service congratulating Agent McDonnell and his agents for their excellent work. Too often, law enforcement officers are maligned rather than given the praise they justly deserve. I take this opportunity to publicly thank the Secret Service for acting promptly to protect the average coin collector from this rip-off scheme.●

DECONTROL AND "PREVAILING WINDS" POLITICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

● Mr. ALEXANDER. Mr. Speaker, coming to grips with this Nation's energy dilemma continues to elude the Congress and the President.

Earlier this week it was my privilege to address a noon luncheon of the American Bus Association membership. I would like to share with my colleagues the remarks I made to that group on these and other energy-related matters.

It is time that this Nation comes to grip with realities of the energy problem. We have observed the results of the politics of appearance.

DECONTROL AND "PREVAILING WINDS" POLITICS

(By Bill Alexander)

The writer and critic, H. L. Mencken, once observed that "for every problem there is a solution that is simple—but wrong."

Those who oppose decontrol of domestic oil prices are taking a position which is not only simple but popular—and just as wrong.

It must be obvious that there is no simple solution to the problem. There is no simple, readily available fuel to replace oil. There is no crash research and development program underway which will result in an immediate technological solution. There is no easy fix for the economic dislocations caused by the energy crisis.

The only solution is to arrive at self-sufficiency by developing the proper energy mix which will contribute to our continued growth as a nation. The needed mix will certainly include fossil fuels—because we cannot now dispense with them—but must also include new technologies for production of power from nuclear, solar, wind, ocean thermal, wave and tidal, hydrogen, fusion, biomass conversion and alcohol fuel sources and liquified coal.

When our Founding Fathers wrote the Declaration of Independence, they affirmed our inalienable right to "the pursuit of happiness." Since the beginning of this century, we've been pursuing it by car.

For most of us though, happiness is a new car, boat, plane, camper, electric blanket, microwave oven or some other object that depends upon energy consumption from manufacture to use. The question facing the American people and their elected representatives today is how to slow down our pursuit of consumer happiness long enough to make sure our children will have the same inalienable right.

Not since the days of the Great Depression has the Congress faced a burden of responsibility to match that imposed by the current energy crunch. The realities of our predicament—dwindling domestic fuel supplies, overdependence upon foreign oil producers, oil-fired inflation—make it imperative that the Congress act in a responsible and responsive way to not only meet the present crisis but to provide for our energy future.

Yet, recent events indicate that for some members of the Congress, it is "politics as usual." Recently, the House voted down the President's standby emergency gas rationing plan—not because it wasn't needed, but because the issue presented a political opportunity. The plan, despite its flaws, was probably the best compromise attainable. It was certainly the most favorable plan to states like Arkansas.

A few days later, a majority of House Democrats voted in favor of a non-binding resolution opposing the Administration's plan for decontrol of domestic oil prices. The vote was another example of "prevailing winds politics" designed to demagogue the consumer price issue. In fact, that vote had a lot more to do with 1980 presidential politics than it did with energy.

The era in which we live is dominated by the politics of appearance. The Democratic Caucus vote last week conveyed the appearance of opposition to higher gas prices. Unfortunately, we are not dealing with appearance, the oil shortage is real.

And these are the realities: The U.S. is consuming more than 20 million barrels of oil per day and about 7.5 million of those barrels come from foreign sources—mostly from the OPEC countries of the middle East—a fragile, unstable, and volatile area, at best. Iran, just a year ago, was one of our staunchest allies and a dependable supplier of oil. Today, they have closed their doors to our ambassador. Saudi Arabia, long the most moderate of the OPEC nations, has joined other oil producing countries in a policy of punitive escalation of prices. Our support of the Mideast settlement has made the U.S. a target of the Arab oil weapon.

Yet we have done nothing to halt our addiction to foreign oil. We have become a nation of oil junkies, willing to pay any price to maintain our $50 million-per-day foreign oil habit. Nobody even blinks when OPEC announces a new price hike, yet there is a howl of protest in the Congress and among certain presidential contenders when it is proposed that domestic oil prices be allowed to rise to a level which will encourage expansion of proved reserves while forcing conservation of dwindling supplies.

The fact is, we have no choice but to allow decontrol of domestic oil. Voluntary conservation measures have failed. Rationing plans, even the best of them, are unfair, ineffective and potentially ruinous. There are lots of other simple solutions—but they are all wrong too!

We have got to stop kidding ourselves and demonstrate the resolve to start paying the true price of our energy needs.

However, the oil industry should not be given a license to steal. It has been estimated that decontrol of domestic oil would result in windfall profits of about $7 billion per year—and that estimate is probably too conservative. I favor a windfall profits tax on all earnings in excess of those reported by the oil companies on December 31, 1978. In addition, 100 percent of the revenue captured by the tax ought to be spent for the development of alternative energy sources and the expansion of domestic oil reserves.

A tax on windfall profits was successfully used during World War II. If the energy crisis is really the "moral equivalent of war", it ought to be used again.

And because the energy crisis is not only real but immediate, we need to accomplish the following without delay:

We must encourage fuel conservation through the use of mass transit and public transportation.

We must increase our exports to maintain the value of the dollar during this critical transition period until we can lessen our dependence upon foreign oil.

We must adopt policies which will encourage immediate expansion of proved reserves of domestic oil. The Congressional Office of Technology Assessment estimates that at $22 a barrel, which is just about the world price, oil companies would be able to nearly double our current domestic reserves to 25 billion barrels. New offshore well-exploration could be increased by providing a system of tax rebates to companies successful in finding new sources. Removal of existing tax advantages enjoyed by oil firms doing business with certain overseas suppliers would also make domestic reserve development a more attractive and profitable prospect. The importance of reserve expansion is underscored by the fact that only about a two year supply of oil remains in our domestic reserves!

We must improve the energy efficiency of all our home, industrial and transportation equipment—especially private vehicles.

We must proceed immediately with a comprehensive study of the full potential of biomass conversion, alcohol fuels and coal liquification.

Yesterday the House Democratic Steering & Policy Committee approved a national mobilization effort for the development of synthetic fuel as an alternative to petroleum. The alternatives for the development are gascohol, coal liquefication & oil shale. The proposal was submitted by Majority Leader Jim Wright to the President this morning. The President enthusiastically supported the initiative stating, "The most frustrating problem I have faced during my term as the President has been the energy dilemma. I have often been discouraged by the inability of industry and government to work together for the achievement of a meaningful program".

To stimulate development of these alternate sources a number of major initiatives have already been planned to help small towns and rural areas approach energy self-sufficiency. One key initiative will be to provide $11 million in grants, low-interest loans and guarantees for the construction of 100 small-scale plants to produce alcohol for use as a motor fuel.

Our nation is in a period of transition from the Oil Age to an era which must rely on non-depletable energy sources. To develop those sources will require the expenditure of significant portions of our national wealth and will test our National resolve. But it will be an investment in our energy future which will yield returns far beyond our expenditures. Unless we are willing to make that investment, we can sit back and watch our standard of living diminish along with our dwindling supplies of oil.●

FIFTIETH ANNIVERSARY SEASON OF ROBIN HOOD DELL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Lederer) is recognized for 5 minutes.

Mr. LEDERER. Mr. Speaker, I am delighted to share with my colleagues in the House today a congratulatory message sent by President Carter on the 50th anniversary season of the Robin Hood Dell:

The White House,
Washington, D.C., May 29, 1979.

To The Friends of Robin Hood Dell: Rosalynn and I take great pleasure in extending our congratulations to you on the occasion of the opening of the fiftieth anniversary season of Robin Hood Dell. We send special greetings to Maestro Eugene Ormandy and the members of the Philadelphia Orchestra.

The history of Robin Hood Dell is a success story—appropriately being celebrated with the performance of Beethoven's Ninth Symphony—which inspires its own Ode to Joy. The Dell has made invaluable contributions to the cultural vitality of the City of Philadelphia and afforded great pleasure to all who participate in the Summer Festival, which at the new Dell has been broadened to include ballet and opera as well as the orchestra.

Your Philadelphia plan, worked out by Fredric Mann, has been a model for the Nation and the world for voluntary partnerships between private citizens and local government. The Dell's policy of free admission has allowed many citizens who might not otherwise have such an opportunity to enjoy artistic performances of the highest quality.

This is a proud occasion for all of you, and I am happy to commend you for your dedication and hard work over the past decades. You have my best wishes for an equally successful future.

Jimmy Carter.

REGARDING H.R. 4136, CHILD NUTRITION ACT

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, today the Committee on Education and Labor unanimously directed me to bring up under suspension an amended version of H.R. 4136, a bill to amend the Child Nutrition Act of 1966 to extend the authorization of appropriations contained in section 7 of such act. This amended version of the bill corrects a technical violation of the Budget Act which was contained in H.R. 4136 as originally reported by the committee.

Since this bill may soon be on suspension, I would like to include it in the Record today for the information of the Members.

H.R. 4136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Child Nutrition Act of 1966 is amended—

(1) in subsection (a)(1), by striking out "and for each of the fiscal years ending September 30, 1979, and September 30, 1980" and inserting in lieu thereof "and for each succeeding fiscal year ending on or before September 30, 1982";

(2) in subsection (c), by striking out "and the succeeding fiscal year" and inserting in lieu thereof "and for the three succeeding fiscal years'; and

(3) in subsection (i), by striking out "For the fiscal years beginning October 1, 1977, and ending September 30, 1980" and inserting in lieu thereof "For the fiscal year ending September 30, 1978, and for each succeeding fiscal year ending on or before September 30, 1982".

That section 7 of the Child Nutrition Act of 1966 is amended—

(1) in subsection (a)(1), by striking out "1½ percent" and inserting in lieu thereof "1.49 percent".

(2) by amending subsection (a)(5) to read as follows:

"(5) Funds made available to States under this subsection and under section 13(k)(1) of the National School Lunch Act shall be available to meet the costs of the administration of any programs authorized under this Act (other than programs authorized under section (7) or any programs authorized under the National School Lunch Act.";

(3) in subsection (e), by striking out "and the succeeding fiscal year" and inserting in lieu thereof "and for the three succeeding fiscal years";

(4) in subsection (i), by striking out "For the fiscal years beginning October 1, 1977, and ending September 30, 1980" and inserting in lieu thereof "For the fiscal year ending September 30, 1978, and for each succeeding fiscal year ending on or before September 30, 1982"; and

(5) by adding at the end the following subsection:

"(j)(1) States which are responsible for the administration of programs under this Act and under the National School Lunch Act shall administer such programs in a manner which substantially complies with the applicable standards established by the Secretary under paragraph (2) or under any other provision of this Act or the National School Lunch Act. Whenever the Secretary determines after consultation with the State educational agency, that in the administration by a State of any program under such Acts there is a failure to substantially comply with any applicable standard established by the Secretary or that the administration of any such program is otherwise seriously deficient, the Secretary may withhold from the State some or all of the funds made available to the State under this section or under section 13(k)(1) of the National School Lunch Act, or both, unless the State takes appropriate corrective action within the period of time specified by the Secretary. The Secretary may make the funds withheld under the preceding sentence available to the State from which funds have been withheld upon a determination by the Secretary that there is no longer a failure to comply with applicable standards established by the Secretary with respect to the programs involved and that the administration of such programs is no longer deficient.

"(2) The Secretary shall establish standards for the administration of programs under this Act and under the National School Lunch Act to ensure that programs are administered by the States in a proper and effective manner. Not later than thirty days after the date of the enactment of this subsection, the Secretary shall develop, and publish in the Federal Register, the standards proposed to be established under this paragraph. Such standards shall not take effect until the end of the sixty-day period beginning on the date of such publication in the Federal Register, during which period the Secretary shall provide the public with opportunity to comment thereon.".

Sec. 2. The amendments made by paragraphs (1) through (4) of the first section of this Act shall take effect on October 1, 1979. The amendment made by paragraph (5) of such section shall take effect on the date of the enactment of this Act.

Amend the title so as to read: "A bill to amend the Child Nutrition Act of 1966 to extend the authorizations of appropriations contained in section 7 of such Act, and for other purposes.".●

MSHA TRAINING COURSES ARE SERIOUS BUSINESS

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, on page 13669 of the Congressional Record of June 6, 1979, a Member of the other body has discussed at some length and outrage a piece of material distributed during a training course held during April in Albany, Oreg., by the Mine Safety and Health Administration.

Of course, I share the sense of outrage that such lewd, crude, and lascivious trash should have been introduced into a training course under the misnomer, "The Situation Adaptability Evaluations for Management Personnel."

MSHA training courses are serious business. They deal with matters of life and death. They should not be occasions of levity.

Because the Committee on Education and Labor sits in oversight of the Mine Safety and Health Administration, I inquired into the background of this unfortunate incident as a matter of course. I would be derelict in my duty as chairman of the committee if I did not share my findings with the House.

The so-called "test" was given to a MSHA instructor by a company official enrolled in a previous class. In the interest of "livening-up" the presentation, the instructor used it unofficially as a tension reliever during a long training session.

This was done without the authority of the Assistant Secretary of Labor for Mine Safety and Health, Mr. Robert B. Lagather, or any of the instructor's superiors in MSHA. And I might say to you that no one is more embarrassed or more apologetic about the incident than they.

I am advised that the instructor has been suspended for 30 days and relieved of any further supervisory responsibility. Moreover, he has been told in language which I believe Mr. Lagather is quite competent to handle that any repetition of such an incident will result in the instructor's immediate dismissal. I congratulate Mr. Lagather on his forthrightness in dealing with this unfortunate situation.

I regret very much that MSHA's side of the story was not included in the Congressional Record at the same time the incident was inserted by a Member of the other body.

The whole incident is extremely regrettable, for it comes at almost the same time that the U.S. Third Circuit Court of Appeals has just given a strong affirmation to the miner training program operated by MSHA.

Since the MSHA training courses were initiated some time ago, I am convinced that the lives of many miners have been saved. The courses are effective and have received high marks from virtually all mining personnel who have taken them.

I know Mr. Lagather and his staff at MSHA are working diligently to improve and perfect the training courses.

And I am confident that one instructor in Oregon is going to take a little more serious view of his job in the future.●

EXXON SAYS NUCLEAR POWER MORE COSTLY THAN COAL

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, in the Washington Post for June 6, Mr. Dan Dorfman reports that a confidential internal study by Exxon Corp. raises serious questions about the economics of nuclear energy and the industry's expenditure of over $150 billion for nuclear plant construction. Mr. Dorfman points out that all the talk of nuclear energy being cheap may be strictly a myth.

Lest anyone think that Exxon may have an interest in downgrading nuclear, the company operates the Nation's largest uranium mine and also has substantial holdings in the coal industry. The full text of the Post article follows these remarks:

Nuclear Power Cost Questioned by Exxon

(By Dan Dorfman)

Despite the nation's worst nuclear accident at Three Mile Island, the nuclear industry is hardly ready for the pallbearers. There are 66 nuclear plants in operation in the United States, another three are in the start-up phase, and the government is not about to close them all or to ban new ones. In spite of the horror story and the ensuing outcries, a nuclear referendum was approved in Austin, Tex., another got the green light in California, and a recent Washington Post poll found that a sizable majority of the public, 63 percent, favored continued expansion of nuclear power if safety regulations are tightened. The obvious reason: It's supposedly a cheap way of solving our energy woes.

Well, as it turns out, all that talk of nuclear energy's being cheap—compared, say, with the cost of producing coal—may be strictly a myth.

This assumption, by no means revolutionary, is now documented—not by the antinuclear forces but by none other than Exxon Corp., the world's largest petroleum company. In effect, Exxon, in an internal, unpublished study by a team of its top researchers, raises serious questions about the economics of nuclear energy and the industry's expenditure of over $150 billion for nuclear plant construction.

I'm told that Exxon's nuclear division—the company operates the nation's largest uranium mine, in Douglas, Wyo.—was so upset by the economic conclusions of the study that it tried to have it killed. It has been kept under wraps because it also contained Exxon's internal energy projections. The study was completed some two and a half years ago, but the cost figures—nuclear power compared primarily with coal—are regarded as still valid today (after factoring in inflation).

My information comes from the loquacious Dr. Richard Hellman, at one time assistant to the chairman of the Federal Power Commission, a leading expert on nuclear energy, and currently professor of economics at the University of Rhode Island. I had heard that Hellman had been given a private briefing by Exxon's researchers on the findings of the nuclear study. I rang him up and he confirmed it.

Elaborating on that briefing, Hellman told me the researchers who undertook the study—which was mandated by Exxon's top management—weren't very enthusiastic about the future of nuclear power, based on their findings. They concluded, the good professor said, that there was no competitive advantage to nuclear power, that the use of coal was at least as cheap or cheaper, and that a meaningful nuclear investment by Exxon was questionable until the problems (both in safety and in economics) could be resolved. That's what Hellman was told in late 1977, when he met with the research group, and he got pretty much the same gloomy reading in updated conversations just recently.

Here are Exxon's cost assumptions for a 1,000-megawatt nuclear plant in New England that would have been started at the time of the study for operation in 1985. On the investment side, the construction of such a nuclear plant would run $1.2 billion. A similar-size steam coal plant with flue gas desulfurization equipment runs $875 million, or $335 million less; a steam coal plant without such equipment runs even less at $645 million.

Considering the much greater expenditures required for the construction of a nuclear plant versus coal, one might well have expected substantial savings in total energy production costs of a nuclear plant. But the Exxon study clearly shows that such savings are simply not there. For example, the cost of running a nuclear plant is 5.07 cents per kilowatt hour. A steam coal plant with the sulfur-removing equipment is a bit higher at 5.11 cents per kilowatt hour, but only by 0.04 cents. That's hardly worth the added $335 million construction outlay, says Hellman. However, the coal plant without the sulfur-removing feature, according to the Exxon study, carries a considerably lower operating cost of 4.06 cents per kilowatt hour. And that's more than a whole cent, or 20 percent, cheaper than the nuclear plant.

Hellman, whose own studies indicate that nuclear energy is even more expensive than Exxon suggests, says that a nuclear plant, to make sense economically, should be operating at 70–75 percent of capacity. But on a year-in, year-out average, he tells me, nuclear plants have been running at about 55-percent capacity. Last year, the operating capacity was about 62 percent, and this year, says Hellman, the rate should be worse because of shutdowns.

Hellman, by the way, is not unmindful of the hazards of coal, the terrible blacklung disease and pollution. But he argues there are inherently greater risks in nuclear power from potential meltdowns and low-level radiation. Hellman adds to this the unsolved nuclear waste problem, reiterates "the lack of economic feasibility," and asks, "Why are we going nuclear when there's no excuse for for it . . .?" ●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted to:)

Mr. Grisham (at the request of Mr. Rhodes), for June 8 on account of official business.

Mr. Frost (at the request of Mr. Wright) for today on account of personal illness.

Mr. Rangel (at the request of Mr. Wright) for today on account of official business.

Mr. Rodino (at the request of Mr. Wright) for today on account of illness in the family.

Mr. Corman (at the request of Mr. Wright) for today on account of official business.

Ms. Ferraro (at the request of Mr. Wright) for today on account of necessary absence.

Mr. Williams of Ohio (at the request of Mr. Rhodes) for today on account of official business.

Mr. Lehman (at the request of Mr. Wright) for today on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Whittaker) to revise and extend their remarks and include extraneous material:)

Mr. Lewis, for 5 minutes, today.

Mr. Findley, for 5 minutes, today.

(The following Members (at the request of Mr. Lederer) to revise and extend their remarks and include extraneous matter:)

Mr. Weaver, for 10 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Alexander, for 30 minutes, today.
Mr. Lederer, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Whittaker) and to include extraneous matter:)

Mr. Paul.
Mr. Lungren.
Mr. Roth in two instances.
Mr. Broomfield.
Mr. Derwinski in two instances.
Mr. Dornan.
Mr. Buchanan.
Mrs. Heckler.
Mr. Snyder.

(The following Members (at the request of Mr. Lederer) and to include extraneous matter:)

Mr. Jacobs.
Mr. Rosenthal.
Mr. Heftel.
Mr. Rangel.
Mr. Drinan.
Mr. Rodino.
Mr. Stokes.
Mr. Boland.
Mr. Peyser.
Mr. Mazzoli in two instances.
Mr. Cavanaugh.
Mr. Kildee.
Mr. Fithian.
Mr. Scheuer.
Mr. Moorhead of Pennsylvania.
Mr. Stark.
Mr. Traxler.
Mr. McDonald.

ADJOURNMENT

Mr. LEDERER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until Monday, June 11, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1772. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1979 and budget amendments for fiscal year 1980 (H. Doc. No. 96–145); to the Committee on Appropriations and ordered to be printed.

1773. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on the study to establish maximum and minimum standards for funds set-aside and contributions made to those funds by blind persons licensed by States and territories to operate vending facilities on public and private premises under the Randolph-Sheppard vending program, pursuant to section 210 (a) of Public Law 93–516; to the Committee on Education and Labor.

1774. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on the study of unlicensed adoption placements, pursuant to section 204 of Public Law 95–266; to the Committee on Education and Labor.

1775. A letter from the chairman of the board, Student Loan Marketing Association, transmitting the sixth annual report of the association, covering calendar year 1978, pursuant to section 439(n) of the Higher Education Act of 1965; to the Committee on Education and Labor.

1776. A letter from the Assistant Attorney General for Legislative Affairs, transmitting the first report of the activities of the Department's Public Integrity Section, pursuant to 28 U.S.C. 529; to the Committee on the Judiciary.

1777. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Des Moines River Basin, Iowa and Minnesota, in response to resolutions of the Senate Committee on Commerce and the House Committee on Public Works adopted July 10, 1945, and July 1, 1958, respectively (H. Doc. No. 96–146); to the Committee on Public Works and Transportation and ordered to be printed.

1778. A letter from the Secretary of Agriculture, transmitting the annual global assessment of food production and needs for fiscal year 1979, pursuant to section 408(b) of the Agricultural Trade Development and Assistance Act of 1954, as amended; jointly, to the Comimttees on Agriculture and Foreign Affairs.

1779. A letter from the Secretary of Agriculture transmitting the second revision to the regulations governing operations under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, pursuant to section 408(d)(3) of the act; jointly, to the Committees on Agriculture and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BRADEMAS: Committee on House Administration. House Resolution 268. Resolution providing funds for the further expenses of the Committee on House Administration; with amendment (Rept. No. 96–258). Referred to the House Calendar.

Mr. FOLEY: Committee on Agriculture. H.R. 3580. A bill to provide for establishment and coordination of rural development policy and to extend for 2 years the authorization of appropriaitons for carrying out title V of the Rural Development Act of 1972; with amendment (Rept. No. 96–259). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RODINO (for himself, Mr. Danielson, Mr. Kastenmeier, Mr. Mazzoli, Mr. Hughes, Mr. Harris, Mr. Mikva, Mr. Barnes, and Mr. Railsback):

H.R. 4395. A bill to require the public disclosure of lobbying and related activities; to the Committee on the Judiciary.

By Mr. DRINAN:

H.R. 4396. A bill to direct the Secretary of Energy to establish a system of research, development, and demonstration of energy-conserving industrial technologies; jointly, to the Committees on Science and Technology and Banking, Finance and Urban Affairs.

By Mr. EDWARDS of Alabama:

H.R. 4397. A bill to amend the Occupational Safety and Health Act of 1970 to improve the administration of such act, to establish more efficient regulatory procedures for carrying out such act, and for other purposes; to the Committee on Education and Labor.

By Mr. EVANS of the Virgin Islands (for himself, Mr. Mitchell of Maryland, Mr. Won Pat, Mr. Dellums, and Mr. Burgener):

H.R. 4398. A bill to amend the Immigration and Nationality Act to provide that certain restrictions on the issuance of nonimmigrant visas to alien doctors will not apply to doctors coming to practice at public hospitals or clinics in the Virgin Islands; to the Committee on the Judiciary.

By Mr. FUQUA:

H.R. 4399. A bill to amend the Technology Assessment Act of 1972 to make needed changes in the structure and operations of the Office of Technology Assessment, and otherwise to improve the administration of that act; to the Committee on Science and Technology.

By Mr. LOEFFLER (for himself and Mr. Anderson of Illinois):

H.R. 4400. A bill to reduce permanently the level of the Federal civilian work force; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mr. MINETA:

H.R. 4401. A bill to establish a program for replacing, by 1987, 10 percent or more of the gasoline consumed in the United States with alcohol and other replacement fuels derived from coal and renewable resources; to the Committee on Interstate and Foreign Commerce.

By Mr. MATHIS:

H.J. Res. 357. Joint resolution to designate August 1980 as National Sport Aviation Month; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 117: Mr. Robinson.

H.R. 1013: Mr. Addabbo, Mr. Albosta, Mr. Bedell, Mr. Bonior of Michigan, Mr. Butler, Mr. Chappell, Mr. Dougherty, Mr. Duncan of Oregon, Mr. Edgar, Mr. Evans of the Virgin Islands, Mr. Forsythe, Mr. Green, Mr. McClory, Mr. McKay, Mr. McKinney, Mr. Minish, Mr. Mitchell of Maryland, Mr. Moorhead of Pennsylvania, Mr. Murphy of New York, Mr. Ottinger, Mr. Patten, Mr. Patterson, Mr. Preyer, Mr. Richmond, Mr. Rodino, Mr. Sabo, Mr. Scheuer, Mr. Stokes, Mr. Weiss, Mr. Whitehurst, Mr. Zablocki, and Mr. Danielson.

H.R. 1495: Mr. Treen.

H.R. 2129: Mr. Dellums, Mr. Danielson, Mr. Gray, Mr. Fazio, and Mr. Harris.

H.R. 2769: Mr. Abdnor, Mr. Badham, Mr. Burgener, Mr. Collins of Texas, Mr. Conable, Mr. Derwinski, Mr. Duncan of Oregon, Mr. Evans of Georgia, Mr. Findley, Mr. Gingrich, Mr. Kindness, Mr. Lagomarsino, Mr. McDonald, Mr. Mollohan, Mr. Moorhead of California, Mr. Royer, Mr. Rudd, Mr. Van Deerlin, Mr. Whitehurst, Mr. Won Pat, and Mr. Charles Wilson of Texas.

H.R. 3169: Mr. Williams of Montana, and Mr. Corman.

H.R. 3301: Mr. D'Amours, Mr. Dellums, Mr. Huckaby, Mr. Hollenbeck, Mr. Long of Maryland, Mr. McDade, Mr. Nichols, Mr. Ottinger, Mr. Rinaldo, Mr. Stack, Mr. Steed, Mr. Wylie, Mr. Yatron, and Mr. Young of Missouri.

H.J. Res. 213: Mr. Broyhill.

H.J. Res. 219: Mr. Bafalis, Mr. Buchanan, Mr. Carr, Mr. Cheney, Mr. Coelho, Mr. Conte, Mr. Corrada, Mr. Daschle, Mr. Derwinski, Mr. Dornan, Mr. Dougherty, Mr. Duncan of Tennessee, Mr. Evans of Georgia, Mr. Fazio, Mr. Findley, Mr. Fithian, Mr. Flood, Mr. Frenzel, Mr. Fuqua, Mr. Gilman, Mr. Ginn, Mr. Hinson, Mrs. Holt, Mr. Horton, Mr. Howard, Mr. Hyde, Mr. Jenkins, Mr. Jenrette, Mr. Jones of North Carolina, Mr. Kramer, Mr. Lagomarsino, Mr. Lott, Mr. McDonald, Mr. Madigan, Mr. Martin, Mr. Mavroules, Mr. Moffett, Mr. Mollohan, Mr. Montgomery, Mr. Murphy of Pennsylvania, Mr. Nolan, Mr. Patten, Mr. Paul, Mr. Pepper, Mr. Perkins, Mr. Robinson, Mr. Sabo, Mr. Scheuer, Mr. Sharp, Mr. Shumway, Mr. Simon, Mr. Snyder, Mr. Spence, Mr. Stack, Mr. Stratton, Mr. Tauke, Mr. Udall, Mr. Vento, Mr. Weaver, Mr. Whitehurst, Mr. Whitley, Mr. Bob Wilson, Mr. Winn, and Mr. Leach of Louisiana.

H.J. Res. 238: Mr. Alexander, Mr. Ambro, Mr. Anthony, Mr. Barnard, Mr. Bedell, Mr. Boner of Tennessee, Mr. Bowen, Mr. Brinkley, Mr. Brooks, Mr. Phillip Burton, Mr. Chappell, Mr. D'Amours, Mr. Robert W. Daniels, Jr., Mr. Danielson, Mr. de la Garza, Mr. Dingell, Mr. Dougherty, Mr. Edwards of California, Mr. Fauntroy, Mr. Fish, Mr. Fisher, Mr. Flippo, Mr. Ginn, Mr. Hall of Texas, Mr. Hamilton, Mr. Jeffords, Mr. Jenkins, Mr. Johnson of Colorado, Mr. Jones of Tennessee, Mr. Leath of Texas, Mr. Lowry, Mr. Lungren, Mr. Pickle, Mr. Roberts, Mr. Royer, Mr. Santini, Mr. Satterfield, Mr. Sebelius, Mr. Sharp, Mr. Shelby, Mr. Stenholm, Mr. Synar, and Mr. Wyatt.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

140. By the SPEAKER: Petition of Sirri Atalay, President of the Turkish Senate, and Cahit Karakas, President of the Turkish National Assembly, Ankara, relative to amnesty for children on the occasion of the International Year of the Child; to the Committee on the Judiciary.

141. Also, petition of Clifford Barrister, New York, N.Y., relative to redress of grievances; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 111

By Mr. KRAMER:

—Page 98, Section 102, line 21, after "Panama." insert the following:

"The Republic of Panama shall be defined for purposes of this section as that country governed by that national government having been installed in Panama chosen by free national elections in which all population groups and political parties have been allowed to participate, where with respect to such elections, impartial, internationally recognized political observers have reported said elections have been conducted in a fair and successful manner and the President has reported the same to Congress."

—Page 157, Section 250, after line 8, insert the following:

"(1) No payments may be made to Panama under this section if the Panama Canal's operating expenses exceed its revenues."

And redesignate subsequent sections accordingly.

—Page 168, Section 374, Line 2 after "Panama", insert the following: ", defined for purposes of this section as that country governed by that national government having been installed in Panama chosen by free national elections in which all population groups and political parties have been allowed to participate, where with respect to such elections, impartial, internationally recognized political observers have reported said elections have been conducted in a fair and successful manner and the President has reported the same to the Congress,"

EXTENSIONS OF REMARKS

NICARAGUA AND THE DEPARTMENT OF THE TREASURY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. KILDEE. Mr. Speaker, although I feel that it would be irresponsible to oppose H.R. 3347, the bill providing the authorization for the international affairs operations of the Department of the Treasury, I would like to express my concern over one of the recent actions taken by the Department. They made a decision to support the request of the Government of Nicaragua for financing from the International Monetary Fund.

I find that decision regrettable. The Somoza regime has systematically violated human rights. Even from a strictly pragmatic point of view, the loan is unwarranted because the conditions of stability necessary for repayment of the loan are not present.

This week's events in Nicaragua amply demonstrate the lack of wisdom in that decision. They have emphasized the instability in Nicaragua. They have also demonstrated that President Somoza has no commitment to basic rights. He has declared a state of siege under which all constitutional guarantees are suspended. It will mean that people will be arbitrarily arrested and incarcerated without trial. It has already resulted in a suspension of the freedom of the press.

In addition to being poorly considered, the action of the Department of the Treasury may have contributed to the events which took place this week. I do not know how President Somoza can interpret the action as anything other than an indication of support for his regime. It certainly does not encourage him to try to work out an accommodation with the political opposition in Nicaragua. President Somoza's obstinate refusal to take account of that opposition can only give greater credibility to the radical elements in the opposition.

I am submitting for the Record a letter which was sent to Secretary Blumenthal, his response to that letter, and a followup letter which I sent to Mr. Blumenthal. I must admit that my support of H.R. 3347 is less than enthusiastic because of the recent decision made by the Department. I support it only because I feel that the international operations are necessary and nations other than Nicaragua will benefit from those operations.

The letters follow:

House of Representatives,
Washington, D.C., May 10, 1979.

Hon. W. Michael Blumenthal,
Secretary of the Treasury,
Department of the Treasury,
Washington, D.C.

Dear Mr. Secretary: Next Monday the Board of Directors of the International Monetary Fund will be meeting to decide on a $65 million loan to the government of President Anastasio Somoza Debayle in Nicaragua. We would strongly urge that the U.S. Executive Director to the Fund vote against any such loan to the Nicaraguan government.

First, any attempt to provide economic support to Nicaragua would serve to impede the resolution of that country's political and economic crisis. At this time, virtually all sectors of the Nicaraguan population, including those who participated in last fall's international mediation, are united in their opposition to President Somoza. Nicaragua's economy, crippled by strikes and a state of war that has existed since last September, will improve only as a political solution acceptable to the broadest majority is found.

An IMF loan such as the one being considered would constitute an international vote of confidence in the discredited Somoza regime. Further, it would free much limited government funds for the purchase of even more weapons and supplies for the National Guard, which at this time is the only force sustaining the regime. Forty-three percent of Nicaragua's national budget currently goes to military expenditures. Any monies provided by the IMF, or subsequently by private lending institutions, will only serve to prolong Somoza's ability to rule through force against the will of the broadest majority.

Second, even by conventional economic standards, the IMF loan is unlikely to have the desired effects. Stimulating exports and curbing imports by devaluing currency is largely irrelevant to Nicaragua's problems. Last year, in fact, the country registered a positive trade balance, and imports were automatically curbed by the decrease in purchasing power of those on strike or affected by the political disturbances.

Moreover, a loan will contribute to a deterioration in the living standards of people who have already endured great hardship. Unemployment in urban areas is expected to reach 47 percent by June, and prices of foodstuffs rose as much as 40 percent following the recent devaluation of the cordoba. Other economic austerity measures such as cuts in already limited government spending on social services will further shift the burden of the IMF stabilization program to those least able to bear it.

Last October when the United States indicated that it opposed President Somoza's request for a $20 million IMF loan, Somoza withdrew his proposal. The reasons for opposing Nicaragua's request for a loan last fall have multiplied and become more salient in mid-1979. Any lending to the Somoza government at this time is both irrational on eco-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

nomic grounds, and indefensible in light of the current political situation.

Respectfully,

Tom Harkin, John Cavanaugh, Paul Simon, Donald Pease, Howard Wolpe, Rick Nolan, Michael Barnes, Ted Weiss, Tom Daschle, Robert Drinan, Andrew Maguire, Berkley Bedell, Gerry Studds, Bennett Stewart, Christopher Dodd, Fred Richmond, William Brodhead, John Seiberling, Edward Markey, Tony Hall, Donald Edwards, Augustus Hawkins, Ron Dellums, Peter Rodino, John Conyers, Patricia Schroeder, Toby Moffett, Richard Ottinger, Adam Benjamin, John Burton, Edwin Forsythe, Leon Panetta, Alvin Baldus, Pete Stark, Robert Edgar, Dale Kildee, Thomas Downey, David Bonior, George Miller, Timothy Wirth, James Weaver, William Green, Clarence Long, Raymond Lederer, Shirley Chisholm, Robert Garcia, Dan Glickman, *Members of Congress.* Paul Tsongas, *U.S. Senator.*

THE SECRETARY OF THE TREASURY,
Washington, D.C., May 15, 1979.

Hon. DALE E. KILDEE,
House of Representatives,
Washington, D.C.

DEAR MR. KILDEE: Thank you for your letter of May 10 urging that the United States oppose requests by the Nicaraguan Government for balance-of-payments financing from the International Monetary Fund (IMF). I have considered this matter carefully and concluded that the United States should not oppose the requests.

Before explaining the reasons for this decision, let me emphasize that our position on the IMF requests is in no way an act of political support for the Nicaraguan Government and should not be so interpreted. Our attitude toward the Nicaraguan Government has been made clear by the State Department. We deeply regret that the Nicaraguan Government has been unwilling to work toward a democratic solution to its political crisis. This has led the United States to take a number of steps, such as the withdrawal of the U.S. military mission, and a general reduction in U.S. diplomatic presence. We deplore the continuing violations of human rights that have occurred in recent weeks, and we remain convinced that the overall situation in Nicaragua cannot substantially improve without a resolution of the deepening domestic political crisis.

Let me also emphasize that respect for human rights is a fundamental element of U.S. foreign policy. We have launched major initiatives to promote that objective, initiatives which I strongly support, and I believe we must use all appropriate policy instruments to that end.

The IMF, however, is not an appropriate instrument for these efforts, and an attempt by the United States to introduce human rights considerations into IMF decisions, by opposition to the financing request for Nicaragua, would be a serious mistake. It would be seen as a U.S. move to politicize the IMF—an institution that has remained remarkably free of political interference, and whose continued success requires that it remain that way. Politicization of the institution would severely damage it and harm the interests of the United States and other member countries for the following reasons.

The IMF is the centerpiece of our efforts to promote a stable and smoothly operating international economic system, and improve the economic well being of people throughout the world. It can further these interests only so long as it is permitted to serve the purposes for which it is intended.

Every member of the IMF has both legal rights and obligations—including the right to receive financing when experiencing balance of payments difficulties, and the obligation to provide financing when its balance of payments is strong. Each IMF member has a quota, and is legally obligated to make subscription payments to the IMF equal to that quota. Thus the member's quota determines its obligation to provide financing. It also determines its access to IMF resources.

If a member develops a balance of payments problem and adopts an economic stabilization program giving substantial justification of the member's efforts to overcome its difficulties, that member is entitled to use its currency to purchase freely usable currencies under the IMF's regular credit facility in an amount determined mathematically by its IMF quota.

If a member in balance of payments difficulty experiences a temporary shortfall in its export earnings due to circumstances largely beyond its control, and cooperates with the IMF to solve its payments difficulties, that member can use its currency to purchase freely usable currencies under the IMF compensatory financing facility, also in an amount determined by its IMF quota.

Under its charter, decisions on IMF operations are made only on the basis of economic and financial criteria. Application of human rights considerations to IMF transactions would represent an effort to deny a country the rights in the IMF to which it is legally entitled. Not only would this be inequitable, it would determine members' willingness to meet their IMF obligations. It could also invite other countries to raise political objections to IMF transactions, including possibly those involving the U.S. (The U.S. has drawn from the fund on 24 occasions in amounts totaling $6.5 billion.)

The IMF is the world's central monetary institution and is unique. It is not a development bank or AID agency and differs fundamentally in character, purpose and operation from development banks and AID agencies. The IMF's purpose is to promote international monetary cooperation, and to help provide the framework for an open, growing world economy.

The IMF's membership is widespread and spans a broad political spectrum. Despite the conflicts—political, social and even military—that have arisen among members from time to time, the membership and the IMF as an institution have carefully respected the rules in the charter, recognizing that all benefit from the universal system represented by the IMF, and that all lose from politicizing the institution.

This matter must therefore be seen not just as a Nicaraguan issue, but also as an issue involving the policies and practices of the IMF. Nicaragua is a member of the IMF, has met its legal obligations, and should be treated accordingly. The financing it has requested is available to all members who meet the criteria, and Nicaragua has met the criteria. For these reasons, the United States did not dissent from the IMF action.

I hope you will find this response helpful in explaining the U.S. position on the requests from the Government of Nicaragua for balance of payments financing from the IMF. If I can be of further assistance on this matter, please do not hesitate to call me.

Sincerely,

W. MICHAEL BLUMENTHAL.

MAY 21, 1979.

Hon. W. MICHAEL BLUMENTHAL,
Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: Thank you for your May 15, 1979, response to the letter of May 10, 1979, which was sent by a number of my colleagues and me. I must admit that I am disappointed with your response for several reasons.

First, I would like to point out that I have consistently opposed amendments to authorization and appropriations bills for multilateral institutions which would have prohibited any of the funds being used for specific countries. At the time of these amendments, the Administration quite correctly argued that it could not place such limits on the funds that it contributed. They also said that the United States only had one vote in such agencies, but assurances were given that judicious use of that vote would be made. Apparently, that pledge was not serious.

Second, in consideration of any loan, the ability to repay should be a consideration. In such a calculation, the stability of the government involved should be a factor. Recent events would indicate that the Somoza regime is not stable. To quote your response: ". . . . the Nicaraguan Government has been unwilling to work toward a democratic solution to its political crisis." The existence of such a "political crisis" makes the ability of the Somoza regime to repay the loan questionable at best.

Finally, I would point out that in similar circumstances last fall, our own role postponed the approval of a request by Nicaragua.

I find the argument that we should not consider our own policy in casting our vote to be inadequate. It disappoints me that the United States government may have contributed to the continuing violation of human rights within Nicaragua.

Once again, I appreciated your consideration of our original request.

Sincerely,

DALE E. KILDEE,
Member of Congress.●

COURT STREET CARNIVALE

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. RICHMOND. Mr. Speaker, those of us in Congress who represent densely populated inner-city districts are constantly reminded of the vital importance of community spirit in the preservation and revitalization of our neighborhoods.

An outstanding example of community cohesiveness will come to life in my Brooklyn Congressional District on Sunday, June 24, as residents of the Carroll Gardens and Cobble Hill communities celebrate the revitalization of the important Court Street business district during the Court Street Carnivale.

On the day of the carnivale, 20 blocks along Court Street will be transformed into a traffic-free, day-long festival.

The Court Street Carnivale will run from Atlantic Avenue, through the Cobble Hill and Carroll Gardens brownstone communities, to Nelson Street, beginning at 11 a.m. and continuing until 6 p.m. Highlights of the festival include: participation of the Court Street merchants, offering a superb mix of southern Italian and Middle Eastern food; old-fashioned outdoor sidewalk sales; an endless parade of crafts, antiques, and collectibles; rides and games; and entertainment throughout the day.

The carnivale is a production of the Carroll Gardens Association. However, planning and administration of the event are being handled by an ad hoc Court Street Carnivale Committee. The committee is made up of residents and merchants from the area.

As congressional representative of the Carroll Gardens and Cobble Hill communities, I am honored to present the opening remarks at the carnivale. The opening ceremony will begin at noon in Carroll Park—on Court Street. Many local and State legislators, as well as political, civic, and community leaders will be present.

Mr. Speaker, Brooklyn's Court Street Carnivale serves as a national model of the community and neighborhood pride upon which our great American cities have been built.●

FEDERAL AVIATION ACT

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. SNYDER. Mr. Speaker, my colleague and ranking minority member of the Public Works and Transportation Committee, BILL HARSHA, in a recent insertion in the RECORD made reference to some matters on which our committee had expressed themselves last year when we reported out the airline deregulation bill. I would specifically like to call attention to Mr. HARSHA's comments relating to section 408 of the Federal Aviation Act regarding airline mergers and acquisitions, and I would like to associate myself with those remarks.

It was the intent of the committee in amending the Federal Aviation Act to judge airline mergers on traditional antitrust principles established by the Clayton and Sherman Acts as applied to mergers in unregulated industries. Congress did not intend for airline mergers to be scrutinized on vague public interest grounds when they withstand antitrust examination.

The new act intends to permit those mergers that will serve to benefit the public even though they may violate the Clayton Act. Only in this respect is public interest to be taken into consideration. In other words, if a merger proposal is worthwhile to the public despite some anticompetitive impact, it should be permitted.

The Civil Aeronautics Board has been directed by the act to allow maximum statutorily defined play of free market forces, in the airline industry. This includes mergers that do not violate the antitrust laws, or that, while violating antitrust provisions, are still congruous with the public interest.

The Congress also made perfectly clear in its directive to the CAB that there should not be any transition policy with regard to airline mergers. A wait-and-see policy on these mergers would be inconsistent with the rapid deregulation we envisioned and that the Board is effecting.

All too often, administrative agencies have not adhered to legislative intent, and as ranking minority member of the Aviation Committee, I am concerned with the direction deregulation will ultimately take the airline industry in years to come if the congressional intent is not adhered to.

Most any member of our committee would agree with me when I say that the 95th Congress probably spent as much or more time on the airline deregulation bill as it did on any other piece of legislation. Therefore, I feel our committee has a responsibility to monitor the implementation of this legislation and to assess how closely our directive are followed.●

COORDINATION AMONG OPEC STATES URGED

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. ROSENTHAL. Mr. Speaker, on June 1, the commentary entitled "Coordination Among OPEC States Urged" was broadcast on the official Saudi Arabian radio. The statement declares that the Saudis are against the United States, Japan, the other industrial nations and the multinational oil companies stockpiling oil. It further states that a limited number of multinational oil companies have manipulated oil prices so that they have made extravagant profits at the expenses of exporters and consumers.

The Saudis plan to propose three OPEC solutions at the June 1979 OPEC session. First, through OPEC coordination abolish oil companies' direct dealings with oil markets such as Rotterdam and restore a unified OPEC price. Second, limit or prohibit oil sales to the industrialized states if they continue to maintain stockpiles. Third, reduce the control of the multinational oil company over financing, supply and control of oil.

Price manipulation has been indulged in by most OPEC members. The multinational oil companies have probably indulged in the same sport as they are in the business of making profits rather than protecting the public good or welfare of this or any other nations. It is essential that we discover—with or without Saudi aid—and disclose such price manipulations and profiteering.

In the past and the present the multinational oil companies, Exxon, Socal, Texaco, and Mobil—the partners in ARAMCO—working together with the Saudis, have bilked the U.S. Treasury through the scam called the foreign tax credits—actually royalties—claimed by ARAMCO. It is time that someone protect the U.S. public. And, it is time we ended the allowance of disguised royalty payments as foreign tax credits claimed by U.S. oil companies. Therefore I urge you, my colleagues, to support the bills introduced by CHARLES VANIK, FORTNEY STARK, and GERALD SOLOMON, and to urge our colleagues on the Ways and Means Committee to act promptly and correctly to end the foreign oil tax credit.

Further if OPEC wishes to reduce, limit the role of U.S. multinational oil companies in the financing, exploration, development, transportation, marketing, and control of foreign crude oil, it is necessary that this Nation establish a nonprofit corporation to purchase all the petroleum and petroleum products imported to the United States. Though it should have been done before, it is absolutely necessary now. Therefore, I urge you, my colleagues, to sponsor and support H.R. 3604 to legislative fulfillment.

I urge my colleagues to read the Saudi statements as it provides us with insight concerning the official Saudi position rather than garbled version(s) or scenarios provided by the administration or media commentators.

The statement follows:

COORDINATION AMONG OPEC STATES URGED

It appears that OPEC countries are about to enter a war of real confrontation with a number of parties. The oil-producing countries can no longer yield to additional pressures, and they can no longer remain uninvolved while viewing a number of alarming scenes on the oil markets. Despite all this, they are being asked to adopt measures that contradict their own interests.

The operation by certain major powers of huge oil stockpiles or price manipulations by companies at the expense of the producing countries and at the expense of the countries of the world which are aspiring for more development and prosperity, all these negative manifestations in the relations between the producing countries and the various parties must be resolved in favor of our countries, our peoples and resources.

What is happening now is that the industralized states, which have resorted to stockpiling, are not contributing to the long-term solution of the problem. They are complicating it and causing us to be more cautious toward each other. However, they will not force us to adopt haphazard steps that would exhaust OPEC's reserves and its huge deposits or to rely on an uncertain future. The practical solutions to lessen current tensions on world oil markets are available and capable of absorbing many strong collisions which might occur. The leading solutions are perhaps the following:

First, the establishment of full coordination among the OPEC countries themselves for the adoption of measures to confront the world companies and to abolish the present measures in the interest of the peoples of the region and their entities. This coordination must provide abolition of direct dealings with the oil markets and provide commitments to a unified price which must be agreed upon again by the OPEC countries. It must also remove the world companies' opportunity to manipulate prices if we reach agreement on a balanced policy that would thwart many of the companies' aims of overthrowing OPEC after succeeding in their efforts to shake it from within.

Second, reappraisal of open dealings with industrialized states on the basis of a true assessment of their requirements in order to prevent any form of oil supply to them if they continue to stockpile and demand increased production on the pretext of meeting the world's requirement for oil.

Third, an analysis of the conditions of world markets to determine their requirements and define the methods of dealing with them in a manner that would reduce the control of the world companies over financing, supply and control of oil.

What the world companies are attempting is a kind of war against the OPEC countries in order to create an atmosphere of hatred toward it and to mobilize feelings to pave the way for any vengeful step that is concealed behind their envious ambitions and policies.

It is indeed regrettable to say that these plans began to bear fruit in the absence of actual and total coordination among the region's states. The industrialized states and the world companies have benefited from the varied prices among the OPEC states by presenting the case to world public opinion in a manner that could at least be described as unjust. We are in a dangerous phase and we must make efforts to achieve this coordination to avoid any unexpected dangers.●

TRUTH EVADES JACK ANDERSON AGAIN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. McDONALD. Mr. Speaker, from December 30, 1978, through January 9, 1979, a delegation from the House Armed Services visited Ireland, Norway, Switzerland, Egypt, and Israel studying civil defense, received a status report on the strategic arms limitation talks and met with the leaders in Egypt and Israel relative to the current peace efforts. A report of this trip was made and issued on March 8, 1979.

On May 31, 1979, columnist Jack Anderson made some comments on the Ireland portion of that trip and true to form, his report was about 98 percent wrong. A copy of the transcript of Anderson's statement is inserted at this point:

Congressional Delegations on Tour

(By Jack Anderson)

Congressmen are the world's most determined travelers. Each tourist season they set out from Capitol Hill in droves to explore the world. Such is the scope of this great migration that it can be said that the sun never sets on Congress while it's out of session. Well earlier this year, Congress declared a brief recess and the Congressmen took off into the wild blue yonder. Well, I've just seen the confidential cables on some of their trips. One delegation was headed by Georgia Congressman Larry McDonald. He belongs to the House Armed Services Committee. Well, this gives him clout with the Air Force so he pre-empted an Air Force plane from another Congressional group with less clout. Now this group was on its way to study subway systems in faraway cities. McDonald was eager to visit Ireland. This was necessary, he insisted to study Ireland's civil defense system. But Ireland doesn't have a civil defense system to speak of. The U.S. Embassy cabled back diplomatically, let me quote, "Irish efforts in this direction are modest, indeed."

Meanwhile, the Air Force put a special plane at McDonald's disposal so the Congressmen toured Western Europe in style. They brought along their wives to study the women's angle. Now according to the cables, McDonald ordered six limousines for his party in Ireland but later he became apprehensive about this extravagance and changed his mind. Instead, he requested only one limousine—for himself and his wife. He let the rest of the party travel by bus.

Of course, not all our wandering legislators are glorified sightseers. In the world outside, where a large part of the U.S. budget is being spent, Congressional delegations have uncovered waste. But most of them have merely contributed to the waste.

Now I will just try to cover the major errors in Mr. Anderson's statement. First, it was not a "brief recess" as my colleagues will recall. It was election year and the Congress quit in mid-October. Second, our delegation "pre-empted" no one's plane. Third, subway systems are an integral part of most nations' civil defense systems, as Mr. Anderson should know. Fourth, Ireland does have a civil defense system on which it spends more capita than we do. Fifth, we did not have a special plane, but one from among the squadron at Andrews Air Force Base that is supposed to furnish aircraft for all three branches of Government for travel. Sixth, I ordered no limousines. They were ordered by the State Department and I canceled them as soon as I learned about them. Seventh, we all took one bus the remainder of the trip and all rode together. Eighth, my trip was ordered and approved by the chairman of the House Armed Services Committee. I do not believe I have any more "clout" with the Air Force than any other congressional delegation designated by a committee chairman to travel.

In sum, Jack Anderson does a disservice to the U.S. Congress and the United States with these statements of his containing all these falsehoods, and I believe the record should be set straight.●

SYSTEM FOR HOSPITAL UNIFORM REPORTING

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. ROTH. Mr. Speaker, it is ironic that at a time when Congress is considering legislation to contain hospital costs, we are now faced with a pending regulation by the Department of Health, Education, and Welfare that would increase hospital costs by adding substantially to the regulatory burden that hospitals must bear.

Hospital administrators in my district have expressed grave concern over these proposed regulations—known by the acronym "SHUR"—or system for hospital uniform reporting.

I find three major flaws in these pending regulations:

First. The high dollar cost forced on hospitals in order to comply with the reporting requirements.

Second. The likelihood that hospitals will need to keep two sets of books—one for HEW and one in order to properly manage the hospital.

Third. The lack of any discernible benefit to result from this reporting system.

Moreover, these reporting requirements appear to go beyond the intent of Congress in enacting the medicare-medicaid antifraud and abuse amendments of 1977. Although the legislative history indicates that the current medicare-medicaid reimbursement system was not to be combined or replaced with a uniform reporting system, HEW's proposal does so. In addition, experts in the field of accounting have noted that the principles underlying the two systems are incompatible.

I believe that the authority on which this proposal is based should be repealed. That is why I have cosponsored H.R. 3795, introduced by my friend from Ohio, Mr. Kindness. I urge my colleagues to join me in cosponsoring this important legislation.●

POPE JOHN PAUL II

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. DERWINSKI. Mr. Speaker, the whole world is watching the dramatic trip of Pope John Paul II, to Poland, his native land. Aside from the religious motivation of the trip, it represents a tremendous breakthrough in the government control of information, which is standard practice in Communist countries.

I believe the Members will be especially interested in a statement by Aloysius A. Mezewski, president of the Polish American Congress in reference to the trip of Pope John Paul II, and its impact on Americans of Polish descent. I wish to insert it at this point:

Pope John Paul II's Trip to Poland

During the current visit of Pope John Paul II to his native Poland, American Polonia shares the joy and the awareness of this momentous event with the Polish nation, deeply conscious of the beneficient and transcendental contributions the Catholic Church has been making and continues to make to Poland's founding and development in terms of spiritual and cultural values and its indestructible "will to be".

We are deeply aware and appreciative of the fact that the first Polish Pope's visit to his native land constitutes a unique and epoch-making fact in the millennial annals of the Catholic Church in our ancestral home.

And on this singular occasion Americans of Polish origin and heritage do underscore the unbreakable ties which spiritually and culturally exist between them and the country of their origin.

The sense, substance and relevancy of these ties are best demonstrated on that forever memorable day of October 16th, when the first Pole was elected the Supreme Pontiff of the Roman Catholic Church. Americans of Polish origin shared with the Polish nation the unbounded joy, pride and thanksgiving stemming from that singular event.

Thus, aware of this kinship and spiritual and cultural ties with the land of our ancestry, we hope that Pope John Paul II's visit to Poland will open and facilitate a way to resolution of many conflicting problems that exist between the Church and the secular authorities in Poland.

We would like to see the construction of many more new churches than heretofore, to satisfy the spiritual needs of the expanding population; taking in America the freedom of information for granted, as a natural right, we would like to see Poland's mass media more accessible to religious matters, and we would like to see the circulation restrictions placed on such Catholic publications as the renown and respected "Typodnik Powszechny" lifted.

Thus watching with anxiety and concern many seemingly insurmountable problems and challenges of contemporary Poland, we sincerely hope that the Pope's visit to his native land wil pave the way for a more equitable, just and proper attitude of the Communist government toward the religious life in Poland and its most important representative, the Roman Catholic Church now headed by a great Son of Poland.

We extend to His Holiness our most sincere wishes that his visit to his homeland will bring him great joy and everlasting encouragement to his native land.●

INTELLIGENCE BUDGET TOTAL SHOULD BE DISCLOSED

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. MAZZOLI. Mr. Speaker, when the House takes up H.R. 3831, to authorize appropriations for the intelligence and intelligence-related activities of the U.S. Government, I intend to offer an amendment to require the President to disclose the total amount of the National Foreign Intelligence Program (NFIP) appropriations for fiscal year 1980.

For the benefit of my colleagues I would like to insert in the RECORD at this point a fact sheet outlining the arguments in favor of my amendment.

FACT SHEET ON DISCLOSURE OF THE NATIONAL FOREIGN INTELLIGENCE PROGRAM (NFIP) APPROPRIATION

ARGUMENTS FOR DISCLOSURE

1. Article I, Section 9, Clause 7 of the Constitution requires the disclosure of some significant spending figures for every activity of government, intelligence included.

2. In testimony before the House and Senate Select Committees on Intelligence, Admiral Turner indicated that an overall budget figure would really tell our enemies very little. Admiral Turner stated that he personally felt that a sharp fall or rise in the budget could and ought to be made known to the public.

3. The present administration will not oppose disclosure of a single budget total (preferably the appropriation figure).

4. The secrecy of all matters touching on intelligence has been a principal cause of CIA and other intelligence abuses in the past. Better accountability may produce better intelligence and more importantly, less unchecked abuses of power within the intelligence community.

5. The recommendation of the Rockefeller Commission: "Congress should give careful consideration to the question whether the budget of the CIA should not, at least to some extent, be made public."

6. The Senate Select Committee Report on S. Res. 207 concluded that, although it felt the constitutional issue had not been resolved, that as much information as possible about appropriations of any kind ought to be made public, consistent with national security. It found that disclosure would increase confidence in, and provide legitimacy to intelligence agencies.

7. During his confirmation hearings as DCI, James Schlesinger said in regard to publication of the gross figure for national intelligence: "I think the security concerns are minimal. The component figures I would be more concerned about, but for the gross national intelligence program figures, I think we could live with that on a security basis." He went on to say that our enemies already know (the budget) in the first place and it's broadly published.

8. Conclusion of the Church Committee was: "The Committee agrees that there will be pressure for more detailed revelations, but the Committee views such pressure as a sign of a healthy democracy. If a decision is made not to disclose further information, disclosure can be resisted as successfully in the future as disclosure has been resisted in the past."

9. Claims about damage to the national security resulting from publication of the aggregate figure for each intelligence agency must be viewed in the light of far more detailed, and continuing, exposure of the budgets of other agencies vital to the national security. Disclosure of funds appropriated for the Department of Defense and the Atomic Energy Commission did not and does not reveal vital national security information.

10. Senator Symington noted, there's nothing secret about the cost of a nuclear aircraft carrier or the cost of the C–5A. But knowledge of the cost does not equal knowledge of how the weapons operate or how they would be utilized. Similarly, knowledge of the overall cost of intelligence does not in any way entail the release of information about how the various intelligence groups function, or plan to function.

11. In a society based on the consent of the governed, the burden of proof must be on those who oppose disclosure. They must prove, not that disclosure of the information would lack utility, but rather that disclosure of the information would clearly be damaging. The DCI has weighed those arguments and found that the gains resulting from disclosure outweigh the risks.

12. No witness before either the Senate Select Committee or its predecessor testified that the disclosure of an aggregate figure being recommended by the Select Senate Committee would damage the national security.

13. If the House votes to disclose an aggregate figure for any given year, the House will be able to determine the effect of such disclosure the coming year. The House would thus be in a better position to weigh the need for any consequences of annual disclosure of an aggregate figure or other, more detailed figures.

ARGUMENTS AGAINST BUDGET DISCLOSURE—WITH REBUTTALS

1. The best argument against disclosure is the "nose-under-the-tent" theory. Soonor or later all secrets are revealed, and to deliberately hasten the process by publishing any budget information is folly if we truly wish to give our intelligence services a reasonable chance to acquire vitally needed intelligence. It seems certain that, no matter what figures are released, if at least one is released, debate on how much further disclosure is appropriate thereafter is inevitable. In other words, budget disclosure would raise more questions than it answers.

Rebuttal: The Church Committees conclusion is the best rebuttal: "The Committee agrees that there will be pressures for more detailed revelations, but the Committee views such pressure as a sign of a healthy democracy. If a decision is made not to disclose further information, disclosure can be resisted as successfully in the future as disclosure has been resisted in the past."

2. Budget disclosure is not a panacea for past wrong doing; there are ways and means within Congress to oversee intelligence activities and to legislate what ought to be legislated. Alternative and perhaps much more valuable means of reporting about intelligence activities may aid public understanding, and boost the credibility of the CIA and other agencies.

Rebuttal: Disclosure of total NFIP appropriations is not intended to be a panacea. However, it is one step in not only constructively informing the public about intelligence activities, but this disclosure will also help increase the presumption of openness surrounding intelligence activities. This prosumption will strengthen public support for intelligence activities and for truly necessary secrecy regarding intelligence matters.

3. Releasing a CIA budget figure will identify intelligence trends and indicate to our enemy what we are doing.

Rebuttal: Such trends cannot be deduced from disclosure of a single aggregate figure. If these trends could be so deduced, Admiral Turner, former Director Schlesinger, and others would oppose such disclosure. They have had many opportunities to do so and have not.

4. Since disclosure of an intelligence appropriation figure will be meaningless without disclosure of what the money is being used for, there will be increased demands for additional budgetary information, and, in due course, more and more information about U.S. intelligence activities will be revealed. While such a revelation will be very useful to an adversary possessing a sophisticated analytic capability, it will be meaningless to even generally well-informed members of the public.

Rebuttal: Disclosure of an aggregate figure will show, relative to other programs, what our national commitment is toward intelligence. For example, for the average taxpayer a legitimate question is: "during this time of fiscal restraint is the intelligence community tightening its belt?" Or from another perspective; "Is national security being compromised by deep budget cuts in intelligence programs?"

5. Congress has given specific committees responsibility for intelligence oversight and should respect those committees' capabilities in carrying out this change. Further, the budget figures are available for all members to review.

Rebuttal: One of the enumerated responsibilities in the House and Senate resolutions creating each of the oversight committees is to debate the question of budget disclosure for the intelligence community. Clearly, creation of these committees was not intended to block budget disclosure, but—in part at least—to promote discussion of the question.

6. Some observers believe that 200 years of consensus on the issue of the secrecy of matters touching on our national security ought not to be rejected in exchange for a worthless gesture towards a public that no longer rages about abuses of the past.

Rebuttal: As noted above, disclosure is not a worthless gesture. Rather it allows the public to address some serious questions about our national intelligence posture. Frankly, if there was still a rage about past abuses, this disclosure might be harder to support. It could be discredited as an over reaction. Now budget disclosure can be considered in calm reflection and, hopefully, approved.●

AMTRAK, COMMONSENSE, AND THE ROLE OF CONGRESS

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. CAVANAUGH. Mr. Speaker, the current congressional effort to stay the execution of an effective, nationwide passenger rail system is an excellent example of the role of Congress to delay, block or hopefully reverse ill-conceived executive initiatives.

While commonsense alone should have dictated a major Federal program of revitalizing rail service in all regions of the United States, it has taken a determined effort in both Houses merely to slow down the Department of Transportation's headlong rush to dismantle 43 percent of that system. Few have been fooled by the attempt to portray this massive cutback as "corrective surgery" or a mere "streamlining" of an overextended rail network to make it more cost-effective. Rather, the Department of Transportation's scheme has been appropriately compared to the infamous efforts in Vietnam "to save a village by destroying it."

The paucity of Federal support for passenger rail service is well documented in a recent study published by the U.S. Conference of Mayors, which indicates that since 1971, when Amtrak was created, less than 3 percent of Federal transportation subsidies has gone to Amtrak—only $2.6 billion out of $94.5 billion. Furthermore, New York Times Columnist Tom Wicker, in an excellent article describing Federal Government's shortsided failure to respond to the energy crisis by encouraging rail travel, points out that the administration has proposed to increase Federal funding for highway construction by 6 percent at the same time it planned a 1-percent cutback in Amtrak funding. As we move toward consideration of Amtrak's fiscal year 1980 authorization, I hope that my colleagues in the House will take the time to read Wicker's commonsense analysis, which I am inserting in the RECORD. I also hope that officials at DOT and the White House will take note:

REPRIEVE FOR AMTRAK

(By Tom Wicker)

Amtrak, threatened only a few weeks ago with emasculation, may be at least partially rescued by a combination of ridership gains forced by the energy crunch and vigorous rail buff lobbying. Not that the needed commitment has as yet been made to develop first-class rail passenger service; but at least the Administration's meat ax appears to have been stayed for a while.

And why not? With President Carter complaining daily that he cannot persuade the American people that the energy crisis is real, it would hardly make sense to cut in half what little rail passenger service the nation has. With every sign pointing to more, not less, restraint on private auto travel in the future, Amtrak needs to be strengthened, not truncated.

Yet, remarkably, the Administration is proposing to shift money saved in all passenger appropriations to highway funding. Even as it prepared to slash Amtrak funds by about 19 percent next year, a 6 percent increase to $6.93 billion in highway construction money was requested.

Apparently for the main purpose of saving $1.4 billion over five years—about the cost of New York's proposed Westway for automobiles—the Department of Transportation sent Congress a plan to lop off 12,000 miles (43 percent) of Amtrak routes and some of its most popular trains. Transportation Secretary Brock Adams offered the argument that this rock-bottom system should be sustained in case energy shortages made it necessary someday to expand rail service; but in the meantime, he insisted, Congress would not support a larger system that could not pay for itself.

Congress had 90 days to forbid the Transportation Department to put the cuts into effect. The deadline came and went in late May without Congressional action; but such are the vagaries of legislative procedure that planned appropriations and authorization amendments will apparently save some of what had been scheduled for the ax—for example, Congressional sources believe, "The Montrealer" from Washington through New England to Canada, and one of two heavily traveled New York-to-Florida trains.

Although final amounts have not been agreed upon, a House committee is recommending substantially larger Amtrak appropriations than the D.O.T. requested; a Senate committee recommends more than the D.O.T. but less than the House. The route prunings still scheduled, moreover, will require up to two years to put into effect; depending on circumstances, some might yet be avoided.

When Amtrak was created in 1971, it had no employees, no tracks, no rolling stock, no stations, no nothing. Congress gave it only $40 million for starters; while appropriations have grown, they have been decided annually, denying the possibility of long-range planning. No recent Administration has believed in rail passenger service more than grudgingly; as a result Amtrak has been the red-headed stepchild of American transportation.

Yet, it has survived and grown, if not into a good service at least beyond most expectations. When gasoline shortages materialized this year, people began flocking back to trains. Advance bookings are up 90 percent over last year. Trains leaving Chicago for the West Coast are now fully booked and last winter over 70,000 callers were unable to make reservations on New York-to-Florida trains.

As a result, and because of assiduous lobbying by rail service supporters, Congress may be somewhat more in the mood to concede at least some value to Amtrak. The Senate recommended, for example, $3 million and the House $18 million more than the D.O.T. for assisting states that want to pay for additional Amtrak service; and the House recommended for 1980 a ratio of 80 percent Amtrak and only 20 percent state funding for such additional service (rising to 50/50 in 1982).

But this is only the merest start on what needs to be done, if a really useful rail passenger system is to be re-established. Long-term financing to make possible long-term planning is essential. More capital funds are needed to upgrade equipment and roadbed if passengers are to be attracted on more than an emergency, no-gas basis. A stable route structure, complementing airline and bus service, needs to be established.

Another prospect worth exploring is a return of the old railway postal service. Mail subsidies are a traditional way to encourage transportation development, as with the embryo airlines in the 1930's; the intercity postal trucks in use now burn millions of gallons of gas but cannot carry passengers; and in any case, mail delivery could hardly be worse. Amtrak already serves 20 of the 21 cities where the Postal Service's bulk mail centers are located, and one study shows Amtrak can also handle first-class mail for distances up to 1,000 miles.

Above all, Amtrak needs what is not yet in sight—an Administration and a Congress enthusiastically committed to rail passenger service. Besides, a President who started cutting highway funds and building up the railroads might find it easier to persuade people there really is an oil shortage.●

ITALIAN NATIONAL DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. RODINO. Mr. Speaker, I want to recognize the Italian Nation and its people today on the 33d anniversary of the founding of the Italian Republic.

The major role that Italian society has played in the foundation and development of Western civilization is very important when we look at modern day Italy. The land of Michaelangelo, Botticelli, Da Vinci, Verdi, and Puccini, and Galileo, Marconi, and Fermi, holds special meaning for Americans and the world as we pay tribute to today's democratic Italy.

The emergence of an Italian Republic after World War II was inspiring to all of us who watched totalitarianism take hold on other parts of Europe and around the globe at that time. I served during the war in Italy with the 1st Armored Division of the U.S. Army. After the war ended, I became involved in a letterwriting campaign from the United States when Italy elected its new parliament. During that election, the Italian people made a commitment to rebuild their nation into a strong democratic state.

Since that time, Italy, like many other nations, has confronted its share of difficulties—a struggling economy, high unemployment, social unrest, and incidences of domestic terrorism. However, in meeting these adversities, the Italian people have demonstrated the strength of character and resoluteness of will which marks their great history. In this context, tht Italian Republic will enter its 34th year with the experience of overcoming several crises within the framework of the democratic principles established in 1946.

Mr. Speaker, all Americans are pleased by Italy's steadfast commitment to preserve their democracy, but I know that Americans of Italian descent are especially proud.

I am privileged to count myself among the millions of Americans of Italian origin who have brought the richness of the Italian culture to our land and enhanced our American way of life. The many contributions of these Americans continue to grow in the arts and the fields of science, medicine, education, law, and government.

As we all join in paying tribute to the Italian nation and its people on their 33d anniversary as a Republic, I want to take this opportunity to reaffirm the friendship between our two countries and look to a bright future.●

THE PAY OF FEDERAL EMPLOYEES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

Mr. DERWINSKI. Mr. Speaker, as ranking minority member of the House Post Office and Civil Service Committee, I am interested in the practical proposals contained in the President's Federal pay reform package.

Therefore, I was pleased to see the positive editorial response in this morning's Washington Post, which follows my remarks. It is especially important to note that in addition to his civil service reform legislation, the President is to be further commended for his efforts to help improve the efficiency of the Federal bureaucracy:

The Pay of Federal Employees

The President's proposed changes in the way federal salaries are calculated won't do much for his popularity with civil servants. If adopted, they would eventually cut the amount of money the government pays its employees by about $3 billion a year. While that will be hard for civil servants to accept, the fact is that the Carter proposals go in the right direction. They are an obvious next step in the prolonged effort to make government salaries fully comparable to those paid by private industry.

The central, and most controversial, item in this new plan is that which would include the value of fringe benefits when federal and nongovernmental salaries are compared. These benefits, estimated to run about 30 percent of the real cost of the government payroll, are not counted now.

It may have been a proper accounting technique to disregard such costs when the civil servants won their struggle some years back to make the government pay "comparable" salaries. But as the fringes—pensions, vacations, medical benefits and so on—have increased dramatically in value in both the public and private sectors, excluding them distorts "comparability" beyond recognition. Most employees in private industry began long ago to count the value of those benefits when comparing job offers from different employers.

The president's other big change would be to break up the nationwide pay scale for white-collar workers. This would mean that prevailing local wage rates would be taken into account when federal salaries were set. Given the difference in the cost of living between Washington and, say, Plains, Ga., there is an argument for making government salaries reflect local conditions. Large private companies know they must pay more in Washington or New York than they pay in many southern and southwestern communities for the same quality of worker.

If Congress goes along with the president on all this, Mr. Carter will have fulfilled one of his major campaign promises. His civil service reform legislation, which passed last year, provided the government with some of the flexibility it needs to deal with a large, and sometimes blundering, bureaucracy. His pay proposals would go a long way toward quieting the constant (and growing) complaint from business organizations, state and local governments, and also ordinary citizens that federal salaries are too high. As unwelcome as the pay proposals may be to federal employees, eliminating the basis for that widespread complaint may be more important to their economic welfare in the long run.

BANKING LEGISLATION—TRANSACTION ACCOUNTS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. ROUSSELOT. Mr. Speaker, many of us in the House of Representatives have received large amounts of mail concerning a decision handed down on April 20, 1979, by the U.S. Court of Appeals for the District of Columbia which held that share draft accounts offered by credit unions, automatic transfer accounts offered by commercial banks and remote service units operated by savings and loan associations violate Federal statutes which prohibit the payment of interest on demand deposits.

The court acknowledged that present law is obsolete, but ruled that the courts and banking agencies lack the power to act in the face of existing Federal statutes. However, the court permitted the accounts and services to be offered until January 1, 1980, to give Congress time to resolve the policy issues raised by the decision.

The Subcommittee on Financial Institutions of the House Banking Committee, on which I formerly served as ranking minority member, held 3 days of hearings on transaction account legislation on May 15–17, 1979, and additional hearings are planned on June 12–14. The hearings have focused on Subcommittee Chairman St Germain's bill, H.R. 3864, which would repeal the prohibition against the payment of interest on demand deposits and would confer transaction account powers upon all federally insured depository institutions which presently lack them. The subcommittee will also consider H.R. 4305, a bill sponsored by Congressman Annunzio which purports to legalize the accounts and services which the court found illegal.

On the first day of hearings, May 15, I testified before the subcommittee and presented my views on the implications of the court decision. Although I stated that I had some reservations regarding H.R. 3864, I also expressed my firm belief that—

> Congress is not going to tell the millions of customers of depository institutions that they must give up services which they have found to be convenient.

While my statement does not point to an easy way out of the current dilemma, I can assure my colleagues that strenuous efforts are being made to find a solution which can be enacted before the court-ordered suspension takes effect.

In the hope that the full text of my statement will be helpful to my colleagues and to their constituents who have an interest in the transaction account issue, I am inserting it in the Record at this time:

Statement of John H. Rousselot

Mr. Chairman and Members of the Subcommittee: I am grateful to the distinguished Chairman of the Subcommittee on Financial Institutions for the opportunity to testify on a matter which is of great importance, both to customers of depositor institutions and to the institutions themselves, namely the future of transaction accounts on which interest is paid notwithstanding the long statutory prohibition against the payment of interest on demand deposits.

It is a privilege to appear on the same panel with the distinguished former Senator from New Hampshire, Tom McIntyre, who so ably championed the cause of financial reform during his tenure as Chairman of the Subcommittee on Financial Institutions of the Senate Banking Committee. It is no coincidence that the Senator and I represent, respectively, the Northeastern United States and California in the West, areas which have seen the fiercest competition for retail deposits and in which the demand for new financial services has been greatest.

I also want to acknowledge my successor as Ranking Minority Member of the Subcommittee, the distinguished Representative from Ohio, Chalmers Wylie. To be ranking on such an active subcommittee is always a challenging job, but the recent court decision has made it even more so. You have my best wishes and full moral support.

In my statement I shall discuss the recent history of the Subcommittee's consideration of financial reform legislation, set forth some basic facts which I believe the Subcommittee should keep in mind as it grapples with the issues raised by the court decision, and make several specific recommendations concerning the direction in which the Subcommittee should move as it attempts to respond to the mandate of the Court of Appeals.

RECENT BACKGROUND

Chairman St Germain, Senator McIntyre, and I share vivid recollections of the debate which took place during the 93d Congress and which resulted in Federal ratification of what was then referred to as the NOW account "experiment." The original two-state experiment was quickly expanded to include the rest of New England. While not everyone is totally delighted with conditions in the New England financial markets today, I believe it is safe to say that none of the dire predictions which were made when Congress considered the NOW account legislation has come to pass.

In 1975 the House defeated a proposal to extend NOW accounts nationwide, but at the end of the 95th Congress, New York was added to the list of States in which Federally-chartered depository institutions could offer NOW accounts. In 1975–76 this Subcommittee conducted a series of extensive hearings, popularly known as the "FINE study" on the subject of financial reform. Although many excellent proposals were considered and a valuable record was made, the results of the Study were inconclusive.

The entire period has seen "piecemeal" movement in the direction of authorizing all depository institutions to offer interest-bearing transaction accounts, primarily as a result of what might be called "creative interpretations of the statutes which govern the powers of depository institutions by the authorities which regulate those institutions. Unless the Court of Appeals decision is set aside between now and the end of this year, or another stay of its order is granted it appears that Congress will have to face the unpalatable decision of whether to enforce the prohibition against the payment of interest on demand deposits or to cast it aside, once and for all.

FACTS WHICH LEGISLATORS MUST FACE

Recent hearings held both on and off Capitol Hill on the various proposals to improve alternatives available to small savers have been marked by some fairly heavy rhetoric. Spokesmen for savers' organizations have complained that inflation and high taxes wipe out the interest on their savings and even part of the principal. Spokesmen for depository institutions argue that they cannot earn a sufficient return on their assets to improve their payments to savers. It is important to recognize that the underlying cause of the increased tension between savers and depository institutions is the inflation from which this country has suffered ever since it tried to provide guns for the war in Vietnam and butter for the ambitious "Great Society" social programs at the same time.

Inflation at the rate we have experienced in the post-Vietnam war period plays havoc with interest rate ceilings on rates paid to savers and charged to borrowers, which were established in quieter times. Volatile money market conditions create especially serious difficulties for thrift institutions, whose business of financing housing necessarily involves long-term commitments. The inability or unwillingness of responsible Federal authorities, and I refer primarily to the Board of Governors of the Federal Reserve System, to control inflation has caused the instability in financial markets which we have all decried. Savers, borrowers, and depository institutions are the victims of this governmental neglect.

Legislators should bear in mind that there are millions of customers of depository institutions who are using, and benefiting from, the services which the Court of Appeals held violative of Federal law. The court itself had the interests of these customers in mind when it stayed the effective date of its suspension order until January 1, 1980.

Credit unions have nearly a million members with share draft accounts, and these accounts total more than $800 million. More than three quarters of a million commercial bank customers are utilizing automatic transfer accounts, with total deposits of more than $6 billion. Moreover, we know that many banks have been offering automatic transfer services to selected customers for years. In fact, when the Federal financial institutions regulators promulgated their automatic transfer regulations last fall, a number of bank executives remarked that they never thought they lacked the authority to offer what they considered to be "overdraft protection" to checking account customers who had money in their savings accounts.

Remote service units have proven to be a valuable service for customers of savings and loan associations. One large California association operates 32 remote service units at "convenience booths" in high traffic locations. Remote service units enable customers to save not only time but also gasoline, which is of great importance, especially in gasoline-starved Southern California. Frankly, I do not understand what the court had in mind when it held that withdrawls from RSU's are functionally equivalent to a check, given that there is no negotiable instrument with which a third party can be paid. Nevertheless, thrift institutions do offer so-called "bill-payer" and "telephone transfer" accounts which may operate beneath a legal cloud under the reasoning of the court decision.

We need to be mindful of the fact that customers of depository institutions have plentiful alternatives to traditional checking and savings accounts, and the existence of these alternatives contributes to the pressure for financial reform. Money market mutual funds, some of which pay interest at rates in excess of ten percent, and most of which permit shareholders to write checks in amounts above a specified minimum, have enjoyed phenomenal growth and now hold more than $20 billion. Sears has announced plans to sell its obligations to customers in small denominations, beginning next year. Many of the innovative services which are now being developed challenge not only regulation Q and the prohibition against the payment of interest on demand deposits but also the restrictions against interstate bank branching contained in the McFadden Act. The advent of electronic fund transfer services poses a formidable threat to traditional notions of what constitutes a "branch."

Finally, it must be recognized that many depository institutions, particularly those which are located in the most competitive market areas, will need to obtain new powers so that they can improve their earnings and their ability to compete for retail deposits. At the same time, the managers of many of these same institutions are either opposed to new grants of authority or are prepared to accept them reluctantly. This is because they prefer to specialize in the financing of agriculture, in the case of many small banks, or housing, in the case of most thrift institutions. They have no desire to see their institutions become "homogenized," yet the market, much more than the Congress or any other power is forcing them to move in that direction.

WHAT IS TO BE DONE?

There are a number of suggestions which I would offer as a set of appropriate responses to the circumstances which have been discussed above:

1. The most effective single action which could be taken to reduce the pressure on our nation's financial system would be to restore monetary stability. The cause of inflation is not mysterious. Inflation results from the creation of money at a faster rate than is justified by the ability of the economy to increase the production of goods and services.

The cure for inflation is not to go to the opposite extreme, to suddenly and dramatically reduce money growth and bring on a severe recession, for this creates the demand for "countercyclical" spending and "cheap" money which serves as an excuse to crank up the engines of inflation for another ride on the inflation roller coaster. The cure is for the Federal Reserve to announce that it is going to gradually reduce the rate of money growth to realistic levels and keep it there, and then for the Fed to achieve its announced goals. Organizations of savers and of depository institutions should use their considerable influence to encourage the Fed to adopt this course. Even Members of Congress can be of some help in promoting this cause.

2. Congress should provide some tax incentives for the small saver. At present, the balance is heavily tilted toward debt and consumption, instead of toward savings and investment. The explosion of consumer debt which has reached a peak in recent months shows that the small saver understands this. I am confident that if the balance is tilted the other way, the saver will respond, and accordingly have introduced two bills, H.R. 734 and H.R. 735, which would exclude from gross income the first $1,000 and $2,000, respectively, of interest earned on savings held in depository institutions. There are several other proposals which provide other tax incentives to savers, and I am hopeful that they will receive serious attention by the Committee on Ways and Means, on which I serve.

3. Some form of relief should be afforded as soon as possible to the millions of customers of depository institutions who are presently using the services which now stand to be suspended under the court decision. Congress has a mandate and an incentive to address the larger policy issues raised by the court decision, and I hope that it can fulfill this mandate. At the same time, I firmly believe that Congress is not going to tell the millions of customers of depository institutions that they must give up services which they have found to be convenient. In my judgment, this assurance should be provided as soon as possible, and does not have to be done at the expense of broader financial reform legislation.

4. Depository institutions which presently lack the authority to offer transaction accounts, consumer loans, and variable rate mortgages should be granted these powers. Of course, I am speaking primarily of Federally-chartered savings and loan associations, assuming that credit unions will ultimately be confirmed in their ability to offer share draft accounts.

The new powers will not be welcome on the part of all of these institutions, but they are needed by many, and I believe the thrift industry will be severely handicapped in its ability to compete against other depository institutions, as well as non-depository, institutions. The grant of new powers may be coupled with a phaseout of regulation Q over a period of years sufficiently long to enable the industry to adjust to its new competitive environment and sufficiently short to provide an incentive to make the necessary adjustments. Five years seems like a reasonable period to me. The increasing competitive strength of credit unions and money market mutual funds which are not subject to regulation Q suggests that the importance and utility of this regulation are likely to decline in any event.

Throughout the consideration of financial reform legislation it should be borne in mind that the objective is not for Congress to replace one "structure" of financial institutions with another, nor to dictate to institutions how they should manage their new powers, for Congress is not wise enough to make these decisions. Instead, Congress should establish a legislative framework within which institutions can adapt to meet the needs of the marketplace.

In conclusion, I would like to comment briefly on the Chairman's bill, H.R. 3864. Certainly the combination of the repeal of the prohibition against the payment of interest on demand deposits with the grant of authority to offer transaction accounts is a simple and direct way to respond to the court decision. However, I do have two major reservations:

First, I am concerned that it may not be possible to achieve enactment of this simple and direct proposal before the clock runs out on the millions of customers who will suffer if the court-ordered suspension of services should take effect. It would not surprise me if the Chairman shared this concern about his own bill, but I am sure he will do his best to meet the court's deadline.

Second, I note that H.R. 3864 differs from a similar bill which the Chairman introduced last year, in that it applies to all Federally-insured depository institutions, not just to Federally-chartered institutions. I have a basic philosophical objection to removing from the States the authority to determine the extent of the powers to be exercised by their chartered institutions. Although I appreciate the frustration on the part of my colleagues with the policy decisions made by many States when they exercise their sovereign powers—the impractical usury statutes which some States have adopted are a good example—I still believe there are values worth preserving in the "dual banking" system. After all, it was the "dual banking" system which made NOW accounts possible in New England.

I thank the distinguished Chairman and Members of the Subcommittee for giving me the opportunity to testify on the legislation and wish them every success in dealing with the complex issues which it raises.●

BOSTON COLLEGE HONORS VICE PRESIDENT MONDALE

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. BOLAND. Mr. Speaker, on May 21, 1979, I was pleased and honored to be able to attend the commencemnet exercises at Boston College. The ceremony was an impressive one—degrees were conferred on graduates of eight schools and colleges. These graduates, as well as the entire Boston College community, are to be congratulated. Rev. J. Donald Monan, S.J., the president of Boston College, and his faculty and staff have made Boston College one of the premier educational institutions in the world.

At the commencement ceremonies, Boston College conferred an honorary doctor of laws degree on Vice President Walter Mondale. The degree recognized the Vice President's many contributions to the Nation, both as U.S. Senator and as Vice President. Certainly, all of us present concurred in Boston College's decision to honor this "beloved tribune of the Republic."

After receiving his degree, the Vice President addressed the convocation on the question of the SALT II agreement. Mr. Speaker, I have never listened to a better commencement address. The Vice President's excellent appeal for ratification was powerful and to the point—without ratification of a SALT II agreement, this Nation, and the rest of the world, faces the very real risk of nuclear conflagration. A great deal of debate has already occurred on the agreement and the Vice President addressed that debate in his speech. His talk was convincing as well as inspiring and I believe it should be widely disseminated.

Mr. Speaker, Boston College's 1979 commencement was a memorable event for all who attended. In large part, that memory was due to the quality of the Vice President's speech. I consider myself privileged to have heard it firsthand. I want to take this opportunity to insert into the Record the Vice President's degree citation as well as a copy of his important speech:

Degree Citation—Walter F. Mondale, Doctor of Laws

In 1976, in his forty-eighth year, he was summoned by the people of the United States to the chair once occupied by Theodore Roosevelt, John Adams, and Thomas Jefferson. Schooled in the practice of Law in his native Minnesota, he was first appointed, then twice elected, to the United States Senate. In all the seasons of political life he has won the warm confidence of the American electorate and the affection of a multitude of friends. Boston College rejoices to greet as an honorary Doctor of Laws this beloved tribune of the Republic, who represents to all our people and to the nations abroad the candor and honor of America at its best.

Speech by Vice President Mondale

A year ago, an exhibit opened here in Boston that attracted thousands of viewers. It showed the treasures that had been excavated from the ruins of Pompeii.

Hundreds of thousands of Americans have been drawn in terrible fascination to the volcanic relics of that disaster, the child with his dog, the merchant in his store, the table set for breakfast, all frozen in time by the eruption of Mount Vesuvius.

More than curiosity about Roman life and art has made the story of Pompeii so compelling. What touches deep chords in us is the totality of the disaster, its suddenness, its power, its ability to destroy in a few moments the fruits of centuries.

For us, Pompeii is a distant mirror. For we, too, live in the volcano's shadow.

I've been in public life now for nearly 20 years, and in politics for nearly 30. If you ask me what single issue concerns me most about the world in which our children will live, I would have no difficulty in saying what that is. It is the fear that the world would resort to the use of nuclear weaponry.

No other danger jeopardizes so completely the legacy of our civilization. And no other peril threatens to trivialize so utterly the hopes and dreams that a college commencement symbolizes.

As the Holy Father said in his first encyclical:

"Man lives increasingly in fear. He is afraid that his genius and initiative can radically turn against himself. He is afraid that it can become the means for unimaginable self-destruction, compared with which all the cataclysms and catastrophes of history seem to fade away."

From that awful fear is born an awesome responsibility. For unlike a volcano, nuclear weapons are built by nations. And unlike a volcano, the power to reduce the risk of nuclear warfare is held in human hands.

I believe that the new Strategic Arms Limitation Treaty represents a historic chance for our country to seize that responsibility, and to reduce that risk.

The SALT treaty, as one observer has said, must not only be approved by the Senate. It must be ratified, understood, sanctioned, and affirmed.

Our decision on SALT rests on our ability to sort out the good arguments from the bad, the responsible questions from the demagoguery. What muddies the decision are questions that rest on false assumptions. This morning I want to look at three bad questions about SALT, and three good ones as well.

The first bad question is this: "American power in the world has declined, and now we are number two. Why should we sign a treaty that codifies our inferiority? Why should we agree to carve our weakness in marble?"

But to ask that question is to believe a profoundly inaccurate premise. Economically, politically, militarily, and socially, the United States of America is the strongest nation on earth, and we will remain so. Our defenses are unsurpassed, and our will to resist is firm. And there is no American general or admiral who would exchange our forces with those of any other nation, now or in the foreseeable future.

Let me give you a sense of the massive power we possess. Each warhead on one of our Poseidon missiles is two times more destructive than the atomic bombs dropped on Hiroshima and Nagasaki. One Poseidon submarine carries more than 140 of these warheads. And each Poseidon can deliver more destructive force than all the bombs, nuclear and conventional, that were dropped during World War II. We have 31 such submarines. And they carry only a portion of our more than 20,000 nuclear weapons.

In only one realm does the Soviet Union compete with us. Because the Soviets invest a tragically high proportion of their resources in military spending, they have achieved rough strategic equivalence with us.

That does not mean that the Soviets have in any way undermined the strength of our deterrent forces. It does not mean that they have achieved strategic superiority. And it does not mean we are weak.

It means that we are in overall balance. And to remain in balance, we are forced to match what they do, and they are forced to do the same, in a spiral of ever-increasing risk and cost. But the stark reality is that neither of us can win an all-out arms race. It is a futile search for temporary advantage. The more each side builds without restraint, the more each nation is impoverished, and the less secure each nation and the world become. Sheer sanity, common sense, and a decent respect for mankind call upon our generation to do something to stop this insanity before we are destroyed.

We are not in decline. To point to weapons systems that Soviets have built which we do not possess, is to forget that we unilaterally chose not to build them because we do not need them.

To incant the names of nations whose friendship we have lost, is to ignore the new bonds of friendship we have built with countless nations that celebrate the rebirth of democracy and human rights. To bemoan the limits that responsibility places on our power, is to shirk our new maturity that tells us that there is not an American solution for every world problem.

We are not number two. We are secure today. We are taking steps to ensure that we will remain secure tomorrow, and we will never sign a treaty with any nation that makes a single compromise with that strength.

The second bad question I have heard recently is this: "The Russians are our enemy. Why should we give them this treaty as a gift?" But the SALT treaty is not a gift to the Soviets. It is an agreement that serves the security interests of our nation and of the world.

We are not seeking to reach a strategic arms agreement with the Soviet Union in order to do them a favor. This agreement is in our interests, and in the interest of international security. It doesn't weaken us; it strengthens us.

You have permitted me to serve in this highest councils of government. I sit on all the crucial advisory and policy bodies bearing on American defense. And I can guarantee you that no President, not this President, and not any other, and no military establishment, and no civilian advisors, would ever for a single moment permit the security of this nation to be in doubt. Never. That is not the issue. The issue is to get out of this insanely escalating race into an enforceable agreement that will permit us first to cap, then restrain, then reduce and someday eliminate the unbelievable risk of nuclear annihilation from the face of the earth. To prevent holocaust: that is our interest. That is the Soviet interest. And that is the challenge for all of us in this generation.

The third bad question I hear is this: "Why should we trust the Russians to live up to the terms of this agreement?"

It is a bad question, because it imposes that the SALT agreement is based on trust. Nothing could be further from the truth. This treaty is based on the hard-nosed reality of suspicion. The diplomatic language of the SALT negotiations is not so polite as to ignore the sad lessons of history, that nations sometimes lie and cheat to serve their ends.

Soviet compliance with the terms of this treaty can be verified every step of the way. We have a multi-billion dollar intelligence network second to none in the world. We have photographic satellites, radar stations, and monitoriing devices that keep us in astonishingly close touch with Soviet military activity. And the SALT agreement expressly forbids the use of any methods to interfere with our surveillance.

This treaty is not built on trust: it is built on technology, American technology, the finest in the world.

It is also built on seven years' experience with Soviet behavior in SALT ONE. In that agreement, a standing body was established to deal with allegations on misconduct. Every single issue our country brought to that body was resolved to our satisfaction.

As we decide on SALT, let us ask instead the truly important questions.

First, will this treaty really stall the arms race? It will. It will place important limits on missiles, bombers, weapons, warheads, and new systems. Let me give you just one example. Today the Soviet Union has about 2500 long-range missiles and bombers. Under the terms of the SALT treaty, they must dismantle 250 of them. Without the treaty, we estimate that they could have up to 3000 strategic missiles and bombers by 1985, one-third more than the total they're permitted under this agreement. And if they build to that level, we would have no alternative but to keep pace, at an additional cost approaching $30 billion. Not one of those dollars would buy us more security. SALT will prevent that senseless waste. SALT will stall the arms race.

Second, will SALT really make us more secure? It will. By stalling the arms race, it stabilizes the strategic balance. By sustaining the rules of verification, it blocks the route to cheating and camouflage. By capping the warhead totals, it lessens the likelihood of nuclear war. By forging the link of mutual interest with the Soviets, it eases East-West tensions and opens new paths to Detente. By slowing the arms spiral, it tells other nations that we mean business in our opposition to nuclear proliferation. SALT makes us more secure.

Third, and finally, is this really the best treaty we could get? It is. When President Carter meets with President Brezhnev next month in Vienna, he will conclude a negotiating process that in fact has lasted ten years, led by three Presidents of both parties.

Hundreds of highly-trained technical specialists have worked on the negotiations in Geneva, people like Professor Donald Hafner of Boston College. Countless military experts have been asked for their advice. Members of Congress from both parties have been involved. Our allies have been closely consulted, especially in the last two years as we have moved to resolve the most difficult questions.

In its breadth and complexity, this treaty exceeds all other arms control agreements combined. In its intensity and comprehensiveness, these negotiations are without parallel in history, unless it be the time the sons of Saint Ignatius and the sons of Saint Dominic clashed over grace and free will.

Could we have come up with a treaty that cooled down the arms race even more dramatically? But the deepest possible cut is exactly what this country has always wanted. And what we have achieved is the biggest possible reduction that ten years of painstaking negotiation could produce.

Could we have made the Soviets agree to further concessions? That's what every American President every day of these ten years has aimed for, and the treaty we have today reflects that relentless bargaining. And that is why your two outstanding Senators, Ted Kennedy and Paul Tsongas, have lent their support to SALT, and for that they deserve our gratitude.

It is futile to compare this treaty to one we might have produced had we been negotiating with ourselves. The alternative to this treaty is no treaty at all. And so we must compare it not with some fond hope, but with the grim strategic outcome that would exist in the absence of this accord.

If the treaty is not ratified, the U.S.-Soviet arms race will spiral upward. We will spend billions and billions for new weapons that buy us absolutely no advantage. When the horror of nuclear proliferation rears its head, we will have little authority to speak out against it. Every nation with which we want to enter serious negotiations will surely question our sincerity. Above all, our cherished identity as a peace-loving people will be dogged by skepticism and smirking disbelief. And to be seen as a hypocritical nation, with peace on its lips and war in its heart, is a risk we must never, never run.

Someday, perhaps, we will have a world without nuclear weapons. And someday, perhaps, nation will not fight with nation, and, as the Bible foretells, the lion shall lie down with the lamb, and the swords shall be beaten into ploughshares.

It is not a hapless vision. It is the hope that buoys us through a thousand storms. It's the lifeblood of the college education we celebrate together today. And occasionally the world is blessed with a signal that these hopes are not in vain, a sign like the fragile new miracle in the Middle East.

The dream of disarmament, the dream of peace: as visions go, they remain peaks in the distance. But the SALT treaty is a step toward them. And as we move in their direction, let us link our own efforts to the ancient quest from which they spring. It was the Jesuit philosopher Teilhard de Chardin who described that quest this way:

"Someday," he said, "after mastering the winds, the waves, the tides, and gravity, we shall harness for God the energies of love. And then, for the second time in the history of the world, man will have discovered fire." ●

DEFENSE FUNDING NEEDED—NOT NEW DRAFT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. PAUL. Mr. Speaker, our colleague, the Honorable PHILIP M. CRANE, is one of the most eloquent Members of this House.

Recently he made an excellent statement on the draft and national defense, that I would very much like to bring to my colleagues' attention. We all need to listen to PHIL CRANE:

DEFENSE FUNDING NEEDED—NOT NEW DRAFT

The recent calls for reinstatement of the draft have alarmed Americans all across this country, and well they should have. In times other than those in which a country is involved in hostilities or about to go to war, the draft is a form of involuntary servitude which imposes unnecessary restrictions on the freedoms of draftees and their families alike. Some of our distinguished colleagues have argued that economies can be made by abolishing the present volunteer system and returning to the draft. It is widely accepted, however, that there is little or no money to be saved in such a move unless the salaries paid to draftees is reduced to a subsistence level. Such a salary, though, would be a grossly unjust and unfair compensation for the interruption of these young people's educations, careers, and lives, to say nothing of the injustice of receiving such a minimal reward for the loss of their 13th Amendment rights—which call for the protection of citizens from involuntary servitude.

But the real question involved here is who will shoulder most of the manpower costs to maintain a top-flight military. If the draftee is paid a fourth of what he might otherwise earn in the job market, he is in effect assuming a 75-percent tax burden. It seems to me that those of us outside the military have the responsibility of assuming these costs, not those we have asked to serve.

Therefore, I am not in favor of a return to registration for the draft because, it seems to me, doing so would be putting the camel's nose into the tent to facilitate an eventual return of the full Selective Service System. Granted, the volunteer system does have problems, but they will not be correctly and responsibly solved by reinstating the draft. Rather, what is needed is increased funding in this area to enable the Armed Services to attract more highly qualified personnel away from careers in the private sector. Such funding will allow the military to offer competitive salaries. The result will be a stronger, more efficient, and more capable fighting force capable of insuring the continued free existence of the United States and her people.●

THE FRATERNAL ORDER OF POLICE YOUTH CAMP IN NASHVILLE, TENN.

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. BONER of Tennessee. Mr. Speaker, I rise today to bring to the attention of my colleagues and the American public an outstanding program in an active and positive organization in the city of Nashville. The Andrew Jackson Lodge No. 5 of the Fraternal Order of Police in Nashville, Tenn., every summer conducts a camp for underprivileged boys and girls of the Nashville area. The members of the Nashville Police Department give their time and money to operate this worthwhile camp. Many of the kids who attend come from broken homes or homes where one parent or the other is serving time in jail. The kids are taught personal hygiene, responsibility, a spirit of competition, and a respect for authority. Numerous sports-related activities are conducted in which the youngsters are evenly divided into teams and the members of the winning team in each event are rewarded with a popsicle for their achievement.

Three camps of 1 week each will be conducted this summer. I believe this is an excellent opportunity for the underprivileged youth of Nashville to grow both physically and mentally. They are shown by instruction and example the direction their lives should take. If it were not for the FOP camp in Nashville, many of the young people of this area would be lost to drugs and a life of crime.

I commend the police officers of Nashville for their efforts in providing this much-needed service to the Nashville community. Many times our law enforcement personnel do not receive the proper credit for their accomplishments. This is one of the best methods to prevent crime: Showing the youth of our Nation, tomorrow's leaders, that someone cares about their future.●

DRIVE TO MODIFY CONSTRUCTION GRANT RULES

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. TRAXLER. Mr. Speaker, frequently, attempts by the Congress to deal with significant national and local problems go awry, because of the bureaucracies charged with implementing them. All of us are keenly aware of the need to have a healthy and clean environment to benefit the public welfare. One such program is the EPA construction grants program for wastewater treatment.

The Appropriations Committee recently made a significant reduction in the fiscal year 1980 budget request for the Environmental Protection Agency's construction grants program. Many Members have been receiving complaints about the inability or failure of EPA to speedily process grants to local communities for wastewater treatment construction. There is growing concern on the part of municipal officials, contractors, and engineers about the impacts of these delays upon the health of our populace and this being a major factor in the rapidly escalating costs of constructing these vital projects. I call to my colleagues' attention an effort by the American Consulting Engineers Council to help the Congress, through oversight, to insure the prompt and correct implementation of the construction grants program. I am including an excerpt from the Air/Water Pollution Report of June 4, 1979:

ACEC SPEARHEADS DRIVE TO MODIFY EPA CONSTRUCTION GRANT RULES

The American Consulting Engineers Council is spearheading a drive to prod Congress into holding oversight hearings on Environmental Protection Agency's wastewater treatment construction grants program with an eye toward modifying the program to eliminate some of the agency's current cumbersome requirements. ACEC's Larry Bory said last week that engineers and state and local officials from more than two dozen states would converge on Washington during June and July to lobby their Congressmen for changes in the EPA-administered program (A/WPR, May 28, 1979, p. 211).

Bory said the pilgrims had reached "consensus" on five key short-term goals: (1) force EPA to approve facility plans or designs within 90 days, with automatic approval if EPA has not made a decision; (2) amend the Clean Water Act to permit combined grants for facilities plan and design steps; (3) eliminate retroactive application of EPA grant requirements; (4) relax Federal procurement rules for small communities; (5) and change some "extremely burdensome" procurement requirements for engineers. The movement—which is calling itself "Operation PUMP" (Program to Untangle Municipal Projects)—also has a long-term strategy aimed at removing EPA from day-to-day management of the program and turning it over to the states.

Bory said ACEC had already expressed similar sentiments to top EPA construction grant officials, but "the EPA's attitude seems to be this is just another example of engineers' trying to increase their profits." He said the group hopes to convince Rep. Norman Mineta (D.-Calif.), chairman of the House Public Works Subcommittee on Oversight and Review, to hold hearings on the issue. The group also ultimately hopes to prod Sen. Edmund Muskie's (D.-Me.) Environmental Pollution Subcommittee to hold similar hearings, though Bory said the Muskie subcommittee has been less than eager in the past to examine this issue.●

RECOGNITION OF MR. EDWARD G. GORMAN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. DORNAN. Mr. Speaker, of the 14 jeweled communities which constitute California's 27th district, the city of Redondo Beach stands out with distinction, rich in its blending of community progress, industry, citizenship, and recreation. Situated on the blue Pacific Ocean, just north of a peninsula named for its abundance of green by the exploring Spaniards, Redondo Beach has long been a beautiful place to live and work.

In thriving Redondo Beach, a distinguished gentleman has the privilege of representing this ctiy as its chamber of commerce president. During 1978–79, he has served honorably, and for this service he will be remembered at the 58th Annual Chamber Installation and Awards Banquet on July 11, 1979.

Mr. Speaker, Edward G. Gorman is appreciated by Redondo Beach and the citizens of my district for quite a number of reasons. During his term as chamber president, he has been successful in bringing forth and overseeing some innovative programs instituted by the chamber. A sand ski championship, truly a "world-wide" media event, had its roots in the Gorman presidency. Southlanders also remember and appreciated the Redondo Beach Super Bowl Sunday featuring the largest 10-km cross-country run in the Los Angeles area. In addition to these great programs, Ed also saw, as a cosponsor, to the success of a series of seven jet ski races in the pier/King Harbor area.

Ed's credentials as a hard worker in government and industry are evident. He was employed by the firm of Rockwell International as executive advisor, later becoming a consultant for them. Since 1971, he has practiced law in Redondo's Riviera Village. His admittance to the New York State Bar took place in 1963. Eight years later, he was admitted to practice law in the State of California.

Representing the Redondo Beach chamber, Ed Gorman continued such widely supported events as the International Surf Festival, the South Bay Medal of Valor Ceremonies, Easter sunrise observances and "Redondo Beach Day" at both the State Capitol and the Los Angeles County Fair.

Mr. Speaker, it truly is a pleasure to inform my colleagues in the House of Representatives of the work of an outstanding individual, one Edward G. Gorman. I know the residents of his jeweled community, Redondo Beach, as well as those in the Gorman family—Joanne, Monica, David, and Nikki, would like to thank Ed for a superb job as chamber of commerce president.●

SUPPORT BUILDS FOR SYNTHETIC FUEL LEGISLATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, my legislation to produce 500,000 barrels of synthetic fuel daily has recently received a good deal of press attention. In these articles the need for Government support of synthetic liquid fuels and synthetic chemical foodstocks is clearly outlined. As chairman of the Subcommittee on Economic Stabilization, which produced this legislation, I believe that prompt passage of the bill is highly desirable.

Our current oil shortage has led us to an increased dependence on unreliable foreign imports. America's growing energy needs are met with more expensive and shrinking supplies from abroad. Furthermore, our own limited supplies are diminishing in geometric proportion. Yet we have abundant reserves of coal which can be processed into natural gas and petroleum products. As our situation becomes more desperate, the importance of quickly moving ahead in the development of a viable synthetic fuels industry is self-evident.

At this time I would like to include in the RECORD articles from the New York Daily News, Washington Post, Wall Street Journal, and New York Times discussing the Moorhead synthetic fuel legislation:

[From the New York Daily News, June 7, 1979]

CARTER AND DEMS GUSH OVER SYNTHETIC OIL, GAS

(By Jerome Cahill)

WASHINGTON.—House Democratic leaders said yesterday that President Carter has agreed to join them in a large-scale government program to develop synthetic gasoline and oil out of coal, oil shale and other abundant domestic resources.

Majority Leader Jim Wright (D-Tex.) told reporters that Carter extended his blessing to the plan during a White House breakfast meeting with congressional leaders as a long-term solution to the nation's energy troubles. He said the program could cut U.S. oil imports by as much as 2.5 million barrels a day by 1985.

TO INCLUDE SUBSIDIES

White House Press Secretary Jody Powell was a good deal more cautious about the congressional proposal. Asked to confirm Wright's statement that Carter is endorsing the plan, Powell said Carter was "somewhat encouraged" about the prospect of a consensus developing in Congress, but refused to go into detail.

The heart of the House leaders' program

is a bill approved by the House Banking Committee that would provide direct loans and loan guarantees for the construction of synthetic fuel plants and up to $2 billion in federal price subsidies.

In addition, Wright and the Democratic Policy Committee in the House are backing amendments that would give the President sweeping powers to ease environmental restrictions on pipeline projects and to initiate emergency measures to conserve gasoline and oil.

The synthetic fuels bill, sponsored by Rep. William Moorhead (D–Pa.) whipped through the Banking Committee on a 30–1 vote early in May without stirring much opposition. It had the strong backing of congressmen from coal-producing states, but also won the support of advocates of so-called "biomass" energy projects, which convert garbage, woodchips, corn stalks and other plant life into gasoline substitutes.

EXPECT FIGHT FROM NUKE FOES

However, congressional sources predicted the amendments being pushed by Wright would stir up bitter opposition from environmentalists, advocates of solar energy, and foes of nuclear energy.

Despite the prospects for a fight, House leaders appear determined to push their energy proposals as alternatives to the gasoline rationing and conservation measures that have been defeated soundly in Congress.

[From the Wall Street Journal, June 7, 1979]

CARTER, CONGRESS LEADERS AGREE TO BACK PLAN FOR BIG PURCHASES OF SYNTHETIC FUEL

WASHINGTON.—President Carter and top congressional leaders have agreed in principle to support a new program under which the federal government would purchase large amounts of synthetic fuel.

Sources said the congressional leaders went to the White House yesterday to urge Mr. Carter to agree that he would sign such legislation as a way to spur the production of synthetic fuels, such as gas and liquid fuels made from coal, oil made from shale and alcohol fuel made from farm products.

In addition, the Senators and Representatives, including House Speaker Thomas O'Neill (D., Mass.) and House Majority Leader James Wright (D., Texas), also proposed that the package include legislation giving the President the power to expedite construction of energy projects, such as the proposed oil pipelines from California to Texas.

Despite the agreement in principle, the sources said there so far isn't any agreement on the details of the legislation or the amount that would be spent on it.

The House leaders are envisioning a massive package that would quadruple the cost of an already costly bill that the House Banking Committee has approved. That measure would set a national goal of producing 500,000 barrels of synthetic fuel daily within five years, roughly the total amount of oil currently used by the Defense Department. The defense agency would have up to $2 billion to buy such fuel. In addition, the Energy Department would get millions more in order to guarantee loans for the construction of synthetic-fuel plants.

The Congressmen see the legislation as a bold stroke to ease U.S. dependence upon the world oil-producing cartel and help achieve energy independence, which they see as a military, economic and strategic necessity.

Mr. Carter also favors greater synthetic-fuels production as a way of loosening the grip of the oil cartel. In recent weeks, the White House has even been preparing an international proposal to be presented to U.S. allies this month that calls for expanding the synthetic-fuels industry in all Western nations.

But White House officials were far less expansive or specific than congressional leaders about the details of the new legislation. According to them, Mr. Carter cautioned the leaders that he'd have to review carefully the cost of any such plan, and that it probably couldn't be funded out of the regular federal budget. It might come out of the proposed windfall-profits tax on oil-company revenues, they said.

White House aides also noted that the Carter administration has sent Congress proposals covering some of the same areas raised in the congressional plan but that these have been rejected. They said the administration welcomes the congressional proposal, however, as an indication the government finally may be able to take some bold action to increase energy supplies.

[From the New York Times, June 6, 1979]

PLAN TO COUNTER THE OIL CARTEL

The Iranian revolution has again exposed the utter vulnerability of the United States to interruptions in oil supply. The rapid run-up in prices resulting from the subtraction of a couple of million barrels a day has still not run its course.

Saudi Arabia, the reluctant dragon, has now announced that it regretfully is raising the price of its Berri-field crude to $17.87 a barrel as a means of achieving "stability" in world oil prices before the June 26 meeting of the Organization of Petroleum Exporting Countries. And Iran itself has raised the price of its crude again.

With other OPEC countries charging from $1 to $5 more than Saudi Arabia, the oil cartel has already exploited the interruption of supply from Iran to achieve the 50 percent price increase that was predicted for this year. This will add about $22 billion to the United States' oil import bill, which last year came to $43 billion, and will cost the world as a whole an extra $70 billion. Moreover, it is imposing severe pressures on both inflation and production, threatening the United States and world economy with another siege of stagflation.

The paramount issue here is how to deal with the threat of future interruptions in oil supply, whether in Iran (as may happen again, with Arabs in the Persian Gulf oil center fighting Government troops, and with the Soviet Union hoping to swing Iran into its orbit) or elsewhere in the troubled Middle East, North Africa or other parts of the third world.

A proposal by three leading members of Washington's foreign-policy community could provide a much greater degree of protection of the economy than is likely to result from the unaided market response to OPEC's concerted strategy and soaring prices.

Lloyd Cutler, a lawyer who has taken on various negotiating jobs for Secretary of State Cyrus R. Vance; Paul R. Ignatius, president of the Air Transport Association and a former Secretary of the Navy, and Eugene M. Zuckert, a lawyer and former Secretary of the Air Force, have drawn up a plan by which the United States could create a synthetic oil industry capable of producing 5 million barrels a day—about half the country's current import requirement—within the next five to 10 years from sources such as shale, tar sands, heavy oils, coal and farm crops.

In essence, the plan calls for the establishment of a Government corporation to do what the United States Government has done before in other national emergencies. During World War II, the Government solved critical shortages of natural rubber, aluminum and steel by building plants operated by private companies under leases or management contracts.

During the Korean War, another method was used. The Government entered into market-guarantee contracts with private industry to build new aluminum, copper and nickel capacity. The private companies, under these agreements, obtained private financing, received five-year tax amortization certificates, and gave the Government the option to buy, at specified or prevailing market prices, any part of the output that could not be sold to military or commercial users. The long-run cost of these projects to the Government was negligible, since the new capacity was privately financed and the Government later resold excess inventories to private buyers or to the original producers at higher prices than it originally paid.

The authors now propose a similar plan for energy. Through joint Government-industry efforts, the nation would create a synthetic oil industry in much the same way that it once created a synthetic rubber industry and doubled its nonferrous metal capacity.

The Government would subsidize the difference, if any, between the cost of synthetic fuel and current market prices, using the additional supplies to reduce imports or build up stockpiles. Either way the leverage of OPEC would be reduced, and this might lower world prices for the country's remaining needs.

Unquestionably, the initial costs would be high. Synthetic fuels are likely to cost between $5 and $10 a barrel more than imported crude for several years to come. Even if the world market price climbs enough to make the costs of synthetic competitive, private companies might be hesitant to take the risk of huge investments without some price guarantees, lest OPEC cut the price once new synthetic capacity has been installed. The planners estimate the one-time investment cost at roughly $20 billion for each million barrels of synthetic capacity, or $100 billion for the proposed program. But the cost to taxpayers would be much less. With OPEC now free to manipulate the world oil price and arrest supplies, the program could actually mean net savings as well as far less economic vulnerability.

A bill with provisions similar to the authors' plan has been introduced in Congress by Representative William S. Moorhead, Democrat of Pennsylvania. It calls for Government measures to achieve a national production goal of "at least 500,000 barrels per day of crude oil equivalent of synthetic fuels and synthetic chemical feedstocks" within five years. The Democratic majority leader, Representative James C. Wright Jr. of Texas, has said that he would favor a much larger production target for synthetic fuel. The House Banking Committee has approved the Moorhead bill by 39 to 1, but it is still waiting for White House support.

Those who believe the United States needs such a plan believe that it would give this country a positive means of regaining control of its own destiny and of striking back at the oil cartel.

GETTING TOGETHER ON GAS PRODUCTION

(By Joseph Kraft)

Thanks to gas lines and soaring prices, the irresistible power of an idea whose time has come is now on the verge of asserting itself in the American approach to the energy problem. The idea is government partnership with industry in the production of synthetic gasoline.

Known technical possibilities abound. Programs for putting them to work are now popping up all over Washington.

Among the technical possibilities, probably the most dramatic center around the use of coal as a base. The United States has hundreds of millions of tons of unused coal. The coal can easily be changed to methanol, which can then be treated to produce high-octane gasoline. Department of Energy officials figure synthetic gasoline produced that way could be sold commercially at about $1.30 per gallon.

Synthetic gasoline can also be produced from shale, and from tar sands, which are both plentiful in this country and abroad. Another potential source is dosing gasoline with various forms of alcohol to produce gasohol.

Price has been the principal obstacle to development of synthetic fuels. Before 1973, when gas was going for around 30c per gallon, there was no point in even thinking much about synthetics. The mushrooming of prices in 1974 set in motion some thought about government stimulus for more production. Among other people, Vice President Nelson Rockefeller and Sen. Adlai Stevenson developed proposals.

Even then, however, more conservation looked like a more attractive alternative than more production. As it happens, industrial users have cut back heavily on consumption of energy. Whereas it used to require about one-percent growth in energy consumption to yield a one-percent gain in gross national product, now a half-percent increase in energy consumption is enough to accommodate a one-percent rise in economic activity.

But experience since the Iranian troubles cut oil supplies last fall has revived the idea of stimulating more production for two reasons. First of all, it has become clear that while conservation is useful, it is no answer.

By accident or design, the oil exporting countries grouped in the OPEC cartel can always cut back production more than the importing countries can cut consumption. The present world shortage is apt to be repeated over and over again.

Moreover, prices have been rocketing upwards. Last week six different OPEC countries raised prices in a move capped by Algeria which drove the price of crude, which started this year around $12 a barrel, to $21 per barrel.

That increase will probably be generalized at an OPEC meeting in Geneva on June 26. The price of gasoline, now running at over 80 cents per gallon in the United States, will almost surely rise to over $1.25 before the year is out. So, synthetic gasoline could be competitive, provided a way could be found to ensure industry against sudden cuts in OPEC prices designed to wipe out the competition.

In these conditions there has been a sudden resurgence of interest in programs for government partnership with industry in the production of synthetic gasoline. The most advanced project is a bill put forward by Rep. William Moorhead (D-Pa.) that would amend the Defense Production Act of 1950 to provide up to $2 billion in guarantees for production of synthetic fuels.

The Moorhead bill passed the Banking Committee by a 39 to 1 vote on May 8. It will probably clear the House early next month, and then move on to the Senate.

The administration has a variety of programs for subsidizing synthetic crude production and gasohol. The proposed windfall tax on oil profits, for example, includes an Energy Security Fund that would make money available for new production.

Many private individuals and groups have been pushing the idea in various ways. Prof. Walt Rostow of the University of Texas has one plan. Felix Rohatyn, the financier who helped rescue New York City from bankruptcy, has another. A third is being circulated by three prominent Washington attorneys—Lloyd Cutler, Paul Ignatius and Eugene Zuckert.

Exactly which one of these proposals will prevail is not clear. Nor when. Free enterprise freaks, suspicious of any cooperation between government and business, oppose the plans root and branch. There is also opposition from consumer groups and inside the administration on the grounds that the oil industry will reap a bonanza.

But the 39 to 1 vote for the Moorhead bill in the Banking Committee reflects the political realities. Price hikes and shortages have demonstrated overwhelming support for the production answer to the energy problem. "In the next few weeks," an Energy Department official said the other day, "It's going to be a flood."

[From the Washington Post, May 5, 1979]

SYNTHETIC FUEL SUBSIDY ADVANCES QUIETLY

(By George C. Wilson)

A House subcommittee that usually stays on the fringes of national energy policy has quietly approved a bill that would provide up to $2 billion to subsidize the synthetic fuel industry.

Chairman William S. Moorhead (D-Pa.) of the economic stabilization subcommittee championed the bill in an attempt to force the Carter administration to push American industry into large-scale production of synthetic fuels.

The president, under the legislation the subcommittee approved Thursday by voice vote, would use the $2 billion to make up the difference between the price of synthetic and natural fuels. The Pentagon, which uses about 500.000 barrels of fuel a day, would be a likely customer for the synthetic fuel.

One congressional source characterized the subsidy package as "a sleeper" that is the biggest step any subcommittee has yet taken toward a government-backed synthetic fuel industry.

If the $2 billion in subsidies failed to encourage industry to build synthetic fuel plants, the legislation would authorize the government to build them itself and then lease them to private operators.

Fuel produced by squeezing oil from shale would be eligible for subsidies, as would fuel produced by turning coal into gas or liquid fuel. Such processes have drawn fire in the past from environmentalists on grounds they are unacceptably destructive.

Garry DeLoss, an energy specialist with the Environmental Policy Center, said yesterday he was not aware the subcommittee had approved the measure, adding that his organization is "in principle" against subsidies for producing oil from shale and coal.

Moorhead and his allies counter that the time has come for the federal government to engage in a bold program to lessen American dependence on foreign oil by stimulating synthetic fuel production.

The subcommittee amendments to the Defense Production Act, which expires Sept. 30, would direct the president to achieve within five years "a national production goal of 500,000 barrels per day crude oil equivalent of synthetic fuels and synthetic chemical feedstocks."

The newly approved bill also would allow the president to organize corporations to achieve that goal.

Fuel from coal gasification, coal liquefaction, conversion of shale, lignite, peat, solid waste "and the conversion of any organic material into fuel" would all be eligible for the federal subsidies.

Backers of the bill include Koppers Co. Inc. of Pittsburgh, which is in Moorhead's congressional district. The bill is expected to go before the parent House Banking Committee next week.

The Moorhead subcommitte amendments are likely to be challenged on jurisdictional grounds by House committees that traditionally handle energy legislation.●

BROOMFIELD DISAPPOINTED IN PRESIDENT'S RHODESIAN POLICY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. BROOMFIELD. Mr. Speaker, as one who has supported the policy of encouraging majority rule in Rhodesia, I was deeply disappointed at the President's decision Thursday to continue economic sanctions indefinitely against that nation.

While the new government of Prime Minister Muzorewa has a long way to go before attaining the standards we have raised, I believe our policy should be to encourage the progress they have made.

The recent elections in Zimbabwe may not have been all that the President had oped for but they were an impressive feat in a country where the black majority previously had no voice. We should recognize that achievement and have the courage to praise it.

The President's decision to ignore these facts only places added obstacles in the path of the new government. It lends encouragement to its enemies and renews the possibility of a bloody war.

Mr. Speaker, the following editorials from today's Washington Post and the June 11 issue of U.S. News & World Report speak eloquently on this subject.

The articles follow:

THE PRESIDENT'S RHODESIA BLUNDER

Is it not possible for Jimmy Carter to say, just once, that the elections in Zimbabwe Rhodesia were an impressive feat for a place that had never had multiracial elections before; that they were a lot more impressive than the fake polls and military grabs by which power is sorted out in most other African countries, but that hard considerations of national interest compel the United States to limit the political credit it can give to these elections now?

If the president did say something like that—he said something very different yesterday in announcing that the elections were not "free and fair" enough to justify his lifting of sanctions now—he would dissolve the better part of the resistance, that has plagued his Rhodesia policy. For the resistance does not come primarily from disagreement with the substance of the policy. That substance comes down to an effort to coax the two sides into a deal that will 1) produce a representative government, 2) end the civil war raging between them, 3) nip the threat of Cuban-Soviet intervention and 4) keep the United States on the sweet side of black Africa and white Africa alike. Few Americans would carry their respect for Bishop Muzorewa into support for a wider war, and certainly not be beating Britain, which is chiefly responsible for Rhodesia, to a sanctions decision.

Many Americans, however, are appalled by the *impression* of its policy the administration has conveyed. They think the administration is ignoring fairness and impartiality in order to court those black African states, mostly petty dictatorships or paper democracies, that insist that no Rhodesian government with even one white fingerprint on it deserves the time of day. This distorts the views of a good number of officials. But it is a distortion fed by the administration's own acts and words, and it accounts for the puzzlement and hostility that its policy has stirred even in quarters where a sympathetic reaction might be expected.

In this light, Mr. Carter's statement yesterday was something of a blunder, and an especially untimely one given that the question of lifting sanctions comes up in the Senate as early as next Monday. He was not content to say that the elections did not meet his "free and fair" test and that his decision served the American interest. He did not have the political tact to show himself more than grudgingly open to the substantial progress made toward democratic rule in Salisbury, and eager to preserve and consolidate those gains by helping to end the imminent threat posed to them by the war. He had the clumsiness to virtually dismiss Prime Minister Muzorewa and the arrogance to say that his decision was in the interest of the people of Zimbabwe Rhodesia—this despite the fact of their participation in the recent poll.

Can Jimmy Carters policy be saved from Jimmy Carter? Tune in on the Senate Monday.

MUZOREWA DESERVES A CHANCE

(By Marvin Stone)

The question of lifting the trade embargo against Zimbabwe Rhodesia, a small country halfway around the world, is not a theoretical exercise for the United States. If we continue sanctions, we give a signal to the Nkomo and Mugabe guerrillas that they can move at will to destroy the new government of Bishop Abel Muzorewa, a black moderate. Thus would go the only visible hope of avoiding a bloodbath.

Timing could not be worse. President Carter has committed himself to a decision before the middle of June, a decision to be based on a finding that the recent election either was or was not fairly conducted. Pressures on the President are so intense that he might have to ignore the expressed wish of the Senate to end sanctions.

What Carter and the United States desperately need is more time to watch developments, persuade doubters, gather support and dispel certain myths about Zimbabwe. Muzorewa deserves a chance to show what he can do in the face of both besetting dangers and nebulous opportunities.

Some of the elements to be weighed:

ELECTION ARGUMENTS

A mass of evidence on both sides seems to boil down to the conclusion that the election of Muzorewa went forward with irregularities, but was spectacularly fair considering the obstacles imposed by his Soviet-supported enemies. The percentage of eligibles voting doubled that of Americans in the last congressional election.

UNBALANCED CONSTITUTION

The small white minority gets a disproportionate 28 percent of the parliamentary seats for a limited period. This serves not only to reasure the whites against death or dispossession during the transit to complete black rule, but is a practical measure to prevent precious know-how from fleeing the country before it gets started. Forgotten in the uproar has been the fact that Zambia, Tanzania and Kenya began exactly the same way.

AFRICAN ENMITY

Warnings against lifting sanctions have been received over and over from black African states, and now comes one from Julius Nyerere, respected elder statesman of Tanzania. But no one really can sort out the expected propaganda from serious intent.

NIGERIAN OIL

The most frightening deterent to recognition of Zimbabwe Rhodesia is the intimation by Nigerians, now America's second-largest source of imported oil, that they would reexamine their relations with the United States. They are misguided in their opposition to giving Muzorewa breathing space, but they should not believe that they can dictate U.S. foreign policy by shutting off oil.

TRADE HUNGER

Peace and commerce could mean everything to Zimbabwe's neighbors. Zambia, one of the protesters, already has itself breached the U.N. embargo and is trading with Zimbabwe to stave off bankruptcy. How long will it take these neighboring countries to acknowledge their own interest?

BLACK VOTE

A massive loss of black support in the United States could kill Carter's hopes for re-election. But it is not clear how far black Americans have been mesmerized. Lobbying organizations such as the Black Caucus and TransAfrica do not necessarily benefit all U.S. blacks when they back one black faction against another abroad. In any case, it should be assumed, in a decision of such magnitude, that Carter is believable when he says he will not tailor his actions to the pursuit of popularity.

Under all these circumstances, it would take extraordinary courage to lift sanctions and take other steps aimed at survival of the compromise government. The President's task is made no easier by Andrew Young, his man at the U.N. who seems, in his stridency, to weigh altogether too many issues facing the U.S. in terms that are exclusively black or white. This issue must be viewed in another context: Should the U.S. be a party to strangling the Muzorewa regime in its infancy?●

RHODESIAN ELECTIONS WERE NOT FREE AND FAIR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. STOKES. Mr. Speaker, I rise on this occasion to extend my commendation to President Carter for his decision not to lift economic sanctions against Zimbabwe Rhodesia. His determination that the election in Rhodesia was not free and fair and that American interests would not be best served by lowering economic barriers was a proper decision.

No election held pursuant to a constitution ratified only by the white minority and in which certain parties were excluded can be considered fair. No election in which significant numbers of blacks were forced to vote by security forces and in which a secret ballot was not guaranteed can be termed free. The President's determination that the election was not free and fair is most definitely correct. More importantly, however, President Carter acted in the best interest of the United States. By lifting sanctions now, the United States would completely forfeit its capacity to function as the facilitator of a negotiated settlement in Rhodesia.

The effect of this action would be to send exactly the wrong message to black African leaders in the frontline states and throughout the continent. American credibility with virtually all of black Africa and much of the Third World would suffer tremendously as our commitment to majority rule would be seriously called into question. This would carry with it major economic and diplomatic consequences. Stop for a moment to consider what the effect on our current energy and gasoline problems would be if the United States hastily moved to lift sanctions against Rhodesia and Nigeria (America's second most important source of foreign oil) cut off its oil exports to the United States in response.

By lifting sanctions now and recognizing the Muzorewa government, the United States would greatly risk being drawn into a de facto alliance with South Africa, which would undermine American interests throughout Africa. South Africa has already offered substantial aid to Muzorewa and anounced its intention to create a southern Africa military "fortress" in which Rhodesian leaders will cooperate.

Mr. Speaker, again I extend my sincere appreciation to the President for his just decision. I urge my colleagues in the House to extend their full support to him on this decision.●

TRIBUTE TO BETTY

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. LUNGREN. Mr. Speaker, this week Betty Wilcox will retire after 19 years of teaching in Long Beach schools.

Her friends and students are planning a "Tribute to Betty" celebration this weekend back in Long Beach, and I would like to share the achievements of this remarkable woman they will pay tribute to.

Mrs. Wilcox is an example of the Horatio Alger story in action.

She was born and raised in rural Iowa. She attended a one-room rural school until eighth grade, and graduated from high school with a normal training certificate.

She began teaching in 1938 with her high school education. While she was teaching in rural Iowa schools, she completed a 2-year teacher training course and became principal of her school.

In 1949, Betty came to southern California. She taught in Redondo Beach schools and went to UCLA at night. She eventually received her B.A. and an M.A. as well.

In 1957 she began teaching in Long Beach schools.

She pioneered the remedial reading program in Long Beach and the first Long Beach reading workshop.

She designed textbook guides for English and social studies, and trained innumerable student teachers.

The Long Beach Press Telegram and the Long Beach Teachers Association awarded her their Golden Apple Award for teaching excellence.

In 1974 she was nominated by the Long Beach Unified School District for California Teacher of the Year. In 1975, she was nominated Outstanding Secondary Educator in America.

In 1977, she was given the PTA Honorary Certificate of Merit Award.

This weekend, however, Betty Wilcox will retire from her long teaching career.

Through the years she has given inspiration and served as a model for hundreds of children. She is loved by parents, students and her fellow professionals alike.

We all wish her a well deserved rest. Long Beach will miss her. But I know that taking her place in the Long Beach schools will be many she inspired to pursue a teaching career when they passed through her classes as young students.●

SULLIVAN, 90, WON FAME ON DIAMOND

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mrs. HECKLER. Mr. Speaker, baseball is an important facet of American life, and John J. "Jack" Sullivan was a prominent figure in that sport. His outstanding career was highlighted in 1976 whe he was inducted into the Hall of Fame.

Professionally, Jack Sullivan was respected and personally he was admired by his community. Jack Sullivan passed away earlier this week, and I would like to take this opportunity to share with my colleagues the article that appeared in the Taunton, Mass., Gazette, about this exceptional individual:

SULLIVAN, 90, WON FAME ON DIAMOND

John J. "Jack" Sullivan of 31 Vaillancourt St., retired firefighter and one of the city's best-known baseball players, died Monday at his home after a brief illness. He was 90.

He was the husband of the late Celia A. (Donahue) Sullivan.

For 34 years he was employed as a firefighter with the Taunton Fire Department, until retiring in 1951.

But Sullivan was perhaps better known for his interest and participation in local baseball circles. During the 1920's, when amateur and semi-professional teams thrived in this area, he played second base for the former Whittenton Athletic Association team, while his brother Harry, played first.

The club was a member of Class "B" of the former New England League circuit and played games in Brockton, Portland, Me., Lewiston, Me., and in the Blackstone Valley League.

From 1922 to the early '30's, he coached St. Mary's High School baseball squads and its stars such as Arthur "Buck" Mahoney.

Sullivan also was associated with Little League baseball in its early years in the city. He coached Taunton High School baseball teams during the war years.

In April of 1973, he, Albert Weygand and William E. Chamberlain met to recall their memories of early sports, a reunion recorded in the Gazette.

Sullivan was inducted into the Portland, Me., Hall of Fame in 1976.

He was born in Taunton, son of the late James J. and Honora (Mulcahy) Sullivan, and had been a lifetime Taunton resident. He was educated in city schools and was a communicant of Immaculate Conception Church.

He is survived by three sons, John J. Sullivan Jr., and Edmund J. Sullivan, both of Taunton, and James H. Sullivan of Attleboro, magistrate of the Fourth District Court in that city.

Also a daughter, Mrs. Cecelia K. DeChamplain of Taunton; and 21 great-grandchildren. He was the father of the late Francis J. Sullivan, formerly of Centerville.●

SOCIAL SECURITY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. SCHEUER. Mr. Speaker, I include in the CONGRESSIONAL RECORD a statement by the International Association of Machinists on social security which appeared in the Machinist. My colleagues should read this statement carefully before undertaking to tinker with the social security system.

The statement follows:

SOCIAL SECURITY: BEST INSURANCE BUY

At the beginning of each month, nearly 34 million Americans open the most important piece of mail they receive, their Social Security checks.

For millions of these beneficiaries, it is their only source of income, the difference between destitution and dignity. For at least 13 million, the checks mean that they are able to live above the poverty level determined by the U.S. Government.

Most of these beneficiaries realize that Social Security is the best type of insurance they can get for the money they paid into the system over the years. In fact, Social Security Administration actuaries point out that the benefits cannot be compared on a dollar and cent basis with any private policy because Social Security cannot be duplicated by any private insurance carrier. It is a life, accident and health insurance policy for every worker.

Social Security is universal. This means that 100 million are paying into the system which maintains very low administrative costs, something private carriers could never duplicate.

It also contains hospital and medical coverage and it is portable. This means that you do not lose your benefits if you change jobs, stop paying for months or years because of unemployment, other hardship or illness. It is broad, applying no means test or requiring no minimum earned to qualify.

UNDER ATTACK

Despite these advantages, Social Security has been under attack ever since it came into being as an idea.

Although Social Security Systems were in effect as early as the 1880s in Germany and 1911 in England, the United States did not adopt a system until 1935—part of Franklin D. Roosevelt's New Deal.

The original Act set up an old age assistance or retirement program to insure that Americans would no longer have to endure hunger and lack of shelter as hardships of old age. The program included a set of provisions to finance Social Security on taxes paid by employers and employees equally.

The Act provided a period of adjustment with enrollment and contribution collections beginning in 1937 and payments beginning in 1940. That gave the opposition time to mount a campaign against both the provisions and philosophy of the Act.

As opponents of progress always do, they first attacked Social Security as "coming too soon." The day Roosevelt announced he was considering help for the aged, the *New York Times* ran a subheadline that said "Time is Not Ripe for Old Age Insurance."

When the "too soon" argument failed, the right wing left its closet of greed and attacked Social Security openly. Republican Presidential candidate Alf Landon called it "a cruel hoax" in the 1936 Presidential campaign and lost in a landslide. Then the right wing took the issue to court and Social Security was victorious after a 1937 Supreme Court decision upholding the validity of both the taxing and benefit provisions.

BENEFITS BROADENED

Over the years, the IAM and other forces for progress were able to broaden Social Security, always after a tough battle in Congress.

Now the system includes the original old age retirement benefits currently paid to 22 million retired Americans.

The system has been broadened to provide family income in the case of death of the bread-winner and to provide against loss of income due to permanent disability. Those provisions are explained on the next page.

In 1965 the Act was again broadened, this time to remove the threat of insecurity arising from medical bills for those over 65 and those permanently disabled. This is the Medicare section of Social Security. Part A of Medicare covers hospital insurance and Part B covers medical bills. Part B is "voluntary" and requires an additional monthly payment by beneficiaries. This was a sop to the American Medical Association and a burden for retirees. The fact that 95% of beneficiaries chose to pay for the extra coverage did not convince the AMA of the foolishness of "voluntarism."

Many improvements remain to perfect the Social Security System's financing and delivery. What is not needed are amendments to weaken existing benefits.

1964 CAMPAIGN ISSUE

Over the years since the adoption of Social Security, opponents have sought to weaken it. In 1964 Republican Presidential candidate Barry Goldwater hinted he would repeal it. He later backtracked, after even Republican newspapers chided him. But his advocacy of repeal was seen as one factor in his resounding defeat.

Almost yearly, the *Reader's Digest* runs a story about how bad and fiscally shakey the system is.

Now, an attempt to weaken the Social Security System is being mounted by the Carter Administration.

This attempt is different for two reasons: It is the first time a Democratic President ever suggested gutting the Social Security System; it is the first time that a President has made any recommendations on Social Security without first consulting the Advisory Council on Social Security.

Three Social Security experts including Nelson H. Cruikshank, President Carter's own counsellor on aging, have testified against Carter's proposed cuts.

After their testimony, Rep. Robert F. Drinan (D, MA), a member of the House Select Committee on Aging, commented: "I have before me a statement by Stanford Ross, commissioner of Social Security (about the cuts). I must say it is very embarrassing for a Democrat who supports the Administration to hear two, three, four experts on Social Security come and say that none of the Administration proposals should be adopted. It is very embarrassing for Democrats."

GOOD INSURANCE AT ANY AGE

Social Security is the All-American life insurance policy.

While usually thought of as a retirement benefit, Social Security provides an umbrella of coverage to workers of all ages. When a worker covered by Social Security dies—at any age—survivors' insurance begins paying monthly benefits to widows, widowers and dependent children. In the case of workers who die at a young age, those benefits may far surpass the premiums paid in.

Take the profile of a young, male, production worker in a manufacturing plant who dies in his early thirties. Upon his death, a monthly survivors' benefit is paid to:

His widow at age 65 or at age 60 with a reduced benefit. The choice is hers.

His widow at age 50 if she is disabled.

His widow at any age if she has a dependent child under age 18 or a disabled child who is entitled to Social Security.

His unmarried children under age 18, or 22 if full-time students, and those 18 or over if they become disabled before reaching 22.

His dependent parents age 62 or older.

His divorced wife if she is not married and is either caring for a dependent child under 18 or disabled, or if she is 62 and was married to him for at least 10 years.

There are extensive benefit tables under the various circumstances. But a rule of thumb is that each surviving dependent, with the exception of an aged widow or parent, will receive a monthly benefit amounting to three-quarters of the benefits the deceased worker would have received if he or she lived to retire at age 65.

Social Security will pay a surviving widow or widower at age 65 the full monthly benefit of the deceased spouse. At age 60 the early benefit is reduced to 71½% of the spouse's full benefit, for life. A disabled survivor can collect a monthly benefit at age 50 of 50% of the deceased's age-65 benefit. The closer to age 65 the survivor is, the smaller the reduction.

A survivor forfeits the monthly benefit upon marriage. A widow under age 60 who remarries a worker covered by Social Security, will continue to receive survivors benefits for her dependent children by her first husband. Survivors' benefits for children are not stopped or reduced, even if their mother remarries and their new stepfather adopts them and contributes to their support. Adoption of a lone, surviving child will not disqualify that child for survivor's benefits.

Children's benefits cease when they reach 18 or when they marry. The benefits continue to age 22 for fulltime students. One of President Carter's especially painful proposals would eliminate the student benefit for orphans, age 18 to 21.

As with retired workers, Social Security payments to a surviving dependent are reduced if the dependent works and earns more than the earnings limit for the year. In 1979, that limit is $4,500 for those over 65 and $3,480 for those under age 65. However, if a mother works and earns enough to reduce her benefits, her earnings will not reduce the monthly survivors' benefits paid to each of her dependent children.

Social Security also includes a $255 lump sum death benefit paid to a deceased worker's spouse living in the same household. If there is no spouse, the benefit is paid to whomever pays the burial expense or directly to the mortician. While the $255 does not pay even most funeral expenses in most parts of the USA, it does serve another useful purpose. It serves as a trigger for survivors to collect other benefits they might be entitled to but aren't aware of.

INSURANCE FOR EVERYONE

One of the biggest myths about Social Security is that it is only for people over 65. A fact, realized by far too few Americans, is that for more than 20 years, Social Security has included a disability insurance program for all American workers, regardless of age.

If you become totally disabled, at any age, you can start collecting monthly benefits just as if you had reached retirement age.

To be eligible, you need medical proof from your doctor, hospital, or clinic where you have had treatment, and it should show you are unable to do any sort of substantial work for pay because of physical or mental disability, and this disability has lasted, or can be expected to last, not less than 12 months. You must be "fully insured" and have worked under Social Security for five years (20 quarters) during the last 10 years prior to your disability.

Special provisions are in force for younger workers. A worker who becomes disabled between 24 and 31 years old qualifies for disability benefits if he worked in one-half of the quarters between the time he is 21 and the time he is disabled. A person disabled before age 24 is eligible if he worked six quarters of the last 12. There are special rules for disabled blind people.

When a disabled worker applies for Social Security disability benefits, he or she will be considered for vocational rehabilitation. Disability benefits can be denied if a worker refuses, without good cause, to accept counseling, retraining or other services made available through state vocational rehabilitation agencies.

If a disabled worker returns to work in spite of his disability, Social Security benefits will continue during a trial work period of up to nine months, not necessarily consecutive. A worker capable of doing substantial work after nine months, continues to receive benefits for an adjustment period of three additional months.

There is a waiting period of five months after a disability begins before benefits will be paid. If a worker returns to work and subsequently becomes disabled within five years, benefits will start without another five-month waiting period, provided the second disability is expected to last 12 months or more.

The amount of your monthly disability benefit is the same as the amount of the retirement benefit you would get if you were already 65. Payments you may be receiving as military disability pay are not offset against Social Security benefits. Combined Worker's Compensation and Social Security benefits cannot go above 80% of your total average earnings before you became disabled.●

THE YOUNG MEN WHO NEVER CAME BACK

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. JACOBS. Mr. Speaker, the Reverend Russel Blowers of Indianapolis is my kind of minister:

> The merry month of May in Indianapolis. USAC and CART lawyers racing each other to the courtroom. Bloody Mary breakfasts and prestigious patio parties, 33 millionaire playthings pampered and polished, 400,000 human beings paying to be squeezed into or near to a 2½-mile oval; backyard barbecues and topping off the tank; a 4-day weekend. The delights of suburbia.
>
> Haven't we forgotten someone? Is the music turned so high we cannot hear the bugle playing taps? Are we staying so long at the shopping mall that we do not have time to remember Bunker Hill and Antietam, Chateau-Thierry and Guadalcanal, Pusan and Danang? Here and there in peacetime America a motley group of patriots gathers (mostly old soldiers in tight uniforms) to keep a rendezvous, to hear a speech, to wave a flag, to listen to the flat bugler and dab eyes with crumpled kleenex. But not much more. Mercifully, they sleep through our May orgy, those young men who never came back from our foreign wars. They are deaf to the roar of the greatest spectacles in racing, blind to the greatest spectacle in forgetfulness. Their young lives were the currency that paid for all this. Can we not find time to remember, and give praise to God?
>
> —REV. RUSS BLOWERS.●

TIME TO FIGHT OIL MONOPOLIES

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. FITHIAN. Mr. Speaker, I am privileged to join today as a cosponsor of the Energy Antimonopoly Act of 1979, which is being introduced by my colleagues Mr. UDALL and Mr. SEIBERLING. This bill amends section 7 of the Clayton Act to prohibit 16 of the largest oil companies from acquiring any company with assets exceeding a value of $100 million.

As the energy crisis facing America has deepened, many of us have awaited some signal of corporate responsibility from the oil giants. We have watched their earnings and profits rise, hopeful of increased exploration for new oil and gas. We have sought their support for necessary energy conservation. We have urged restraint in fuel price increases.

Instead, the oil giants have responded to the energy crisis with price gouging, supply manipulation and an apparent failure to turn their capital toward developing new oil and gas resources.

No one can ignore the enormous wealth and economic power of the oil giants. Clearly, they control a disproportionate share of the American economy.

The major oil companies, out of 1 year's cash flow, could buy every single share of the American steel industry. If Exxon went on a buying spree, it could acquire out of accumulated cash alone the assets of J. C. Penney, DuPont, Goodyear and Anheuser-Busch.

No one expects big oil to buy the steel industry, or Exxon to buy those four large corporations. But recent history suggests that the scenario may not be too far off.

According to a report recently released by the Federal Trade Commission, oil companies now own, in whole or part, three of the top four coal producers and three of the top four uranium producers. Since 1973, oil firms have acquired companies with over $4 billion in assets in the mining and manufacturing sectors of the economy alone.

In 1974, Mobil Oil invested its excess profits not in oil and gas exploration, as their corporate advertising suggests, but in a takeover of Marcor, a $2.8 billion diversified corporation whose assets include Montgomery Ward. Arco bought Anaconda 2 years ago, with massive holdings in the copper industry. Exxon has just announced its intention to acquire Reliance Electric Co., a firm with assets of more than $100 million. The top 20 oil companies all have similar acquisition records.

What do these conglomerate mergers mean for our economy? They produce no new oil or gas, create no new jobs, and do nothing to help the fight against inflation. They diminish the competition which is the cornerstone of our free enterprise system. They increase the size of corporate bureaucracy, which is as wasteful and senseless a growth in the Government bureaucracy.

Worst of all, this epidemic of giant oil empire building does nothing to reduce America's reliance on imported petroleum. It just makes big oil richer, but diverts capital which could be allocated to oil and gas exploration.

With President Carter's regrettable decision to phase in decontrol of oil prices prematurely, oil company profits will balloon—yielding some $22 billion by 1985 even if the proposed windfall profits tax is enacted. Oil companies now crying about the windfall profits tax plan claim that they need additional profit to find more oil and gas. The record suggests otherwise.

Since 1972, oil prices have risen by 164 percent, but oil production in America actually has dropped by 8 percent. Rather than investing price-related profit increases in energy research, exploration, and development, oil companies have invested it in department stores, shoe manufacturers, insurance companies and almond orchards.

It is time to stop this buying binge before big oil gains control of an even larger share of the American economy. The answer to our energy problems is not to give the oil giants a stranglehold on wider segments of our economy, but rather to encourage diversity and competition among energy companies and energy sources. I urge my colleagues to join me in support of the Energy Antimonopoly Act of 1979.●

SPEEDING UP DISABILITY PAYMENTS TO THE TERMINALLY ILL

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. ROTH. Mr. Speaker, the average terminal illness costs $20,000 per patient. The trauma, which affects not only the patient, but also his family and loved ones, can be devastating to all involved.

It is a terrible oversight that under the present social security disability law, a terminal patient receives no help during the time when he is most in need. Every claimant for disability insurance must sit out a 5-month waiting period. For the terminally ill, that is a period during which their physical condition is rapidly declining. For some, this period constitutes the rest of their lives.

Clearly, the terminally ill are deserving of their earned disability benefits while they are still alive. Very often, the first checks arrive the day, the week, or the month after the disease has taken its final toll.

I have cosponsored legislation that will eliminate the disability waiting period for the terminally ill.

H.R. 3992, introduced by our colleague, Mr. CHAPPELL, already has more than 25 cosponsors. I urge the rest of my colleagues to join me in sponsoring this long overdue humanitarian legislation.●

ENERGY CRISIS

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. PEYSER. Mr. Speaker, I am inserting in the RECORD today an article that appeared in the June 8 edition of the New York Times written by Samuel J. Lefrak.

I think what is said here is of great importance and something that we in Congress and the executive branch should look at.

ENERGY CRISIS

(By Samuel J. Lefrak)

I began thinking about the energy situation in 1973, the year of the oil embargo. It seemed to me that my company had two choices. We could live in fear every time a sheik or an OPEC member became angry with the United States, or we could find a way to make ourselves independent.

Of course, we began by taking all the necessary energy conservation steps. We installed more efficient boilers, invested in insulation and solar energy. But the final answer was to find sufficient oil and gas in the United States to be independent of outside forces.

I had heard a good deal about "wildcatters," adventurers who would go out into the unexplored areas and discover oil.

Basically, my information came from the movies. You remember this scene—when an oil derrick begins spouting an ocean of oil and the onlookers go crazy with excitement.

With small knowledge and no experience, my company decided to go into the energy exploration business. We studied the economics of oil exploration and traveled into the West and South into oil country to find oil and gas.

We learned it takes talented people, geologists, geophysicists and petroleum engineers to find oil and gas.

We learned that the small independent companies and not the majors do most of the wildcatting in the United States.

We learned that it takes a lot of money to find oil and gas. And we learned that if you want to get into oil and gas exploration you have to risk your money because no bank, insurance company, pension fund or government agency will lend a small independent so much as one dime for exploration.

We started exploration. What happened? Our first successful oil well was in Roberts County, Texas. We found natural gas in Dewey County, Oklahoma. We are currently drilling or participating in approximately 100 wells annually. We have been lucky, but we have proven that we can find energy domestically.

Best of all, we are now energy independent. We are consuming less than we are producing.

What is the message in all of this? The message is that there is oil in the United States and we have got to go out there and get it! We have an emergency that is equivalent to a war. Dependence on foreign oil is eroding our coutnry through inflation and destroying the value of the American dollar and changing the fabric of American life.

There are very few people who have sufficient private capital to go out to explore for oil but there are many talented oil men, men who can really smell oil and feel it through their fingertips, who need money to get started. Meanwhile, exploration rigs are rusting from non-use.

My own small experience has proved to me that there are oil and gas reserves to be found within the United States and there are people out there who can find it.

The government has taken a position of heavy taxation for the oil companies. That's counter-productive and is not going to create more energy or lessen our dependence on foreign oil. As long as we are dependent on foreign oil, inflation will rage and the dollar will deteriorate with the resultant, traditional social disintegration that follows in the wake of inflation.

Let's not concentrate on taxing the oil companies. Let's tax ourselves but do it creatively.

This is what I have in mind:

My experience has shown me that we have much undiscovered energy that can be utilized but a lack of capital has prevented exploration. What is needed is a National Energy Fund that will finance the exploration and development of our own energy resources.

A fund can be created in the same way we financed World War II. Instead of War Bonds, let's have Energy Bonds. Industrial corporations, banks, pension funds and insurance companies should be compelled to invest a specific portion of their earnings or assets in these bonds.

These funds could then be made available through a National Energy Bank to finance exploration or technical research in alternative resources.

In World War II, we planted victory gardens to augment the country's food production. Children collected tin cans and tin foil.

The National Energy Fund is a return to the "do-it-yourself" principles of our country. The energy is out there waiting. The people who can do the job are ready.●

THE OLDEST MAN IN NEW YORK

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. RANGEL. Mr. Speaker, I would like to bring to the attention of my colleagues an article written in the New York magazine, dated May 28, 1979, describing one of New York's oldest senior citizen's who should be commended for his outstanding contributions to the city of New York and who resides in my district. He should also be commended for his longevity in life and should be a guiding example to the many of us who have not yet had the pleasure of reaching the ripe age of 106 years.

I encourage my colleagues to read the article which I insert into the RECORD, "The Oldest Man in New York."

THE OLDEST MAN IN NEW YORK

(By Terry Clifford)

"First thing I do every morning," says Mr. Henry Jones, who is 106 years old, "I get me a cup of black coffee, eat two raw eggs, and have a drink of whiskey. Then I'm gone with the wind."

The oldest New Yorker goes off for his constitutional through the bleak streets of Harlem. "The more I move, the better I feel," he explains. "A bed is no good for me; it takes my strength." The day we met, Henry told the story of his life while puffing on a Camel. He has smoked a pack a day for most of his life.

"I was born in St. Kitts, British West Indies, when they drove all the dogs out of town on St. Patrick's Day," says Henry, meaning March 17, 1873. The only child of a full-blooded Cherokee Indian mother and a native West Indian father, Henry came here with his family when he was three and has lived in New York "on and off for about 85 years."

"New York used to be a heavenly place, a garden city," recalls Henry wistfully. "But now you better not go out 'cause there's all these animals, lions and tigers, on the streets looking for trouble, and your life's in danger."

Henry studied to be "a surgical doctor" for six years at Tuskegee Institute, but his chronic asthma prevented him from entering that profession. "That's the way it was," he recalls. "I was outdone." Henry, however, kept up his interest in medicine, inspired by his Aunt Elizabeth, a mid-wife who once worked as a maid for Lillian Carter.

"I can find medicine everywhere I go, even in New York City. See that tree out there?" says Henry, pointing to the backyard of his West 127th Street building. "Its leaves, boiled, are a sure cure for bunions." Henry knows how to keep his legs from becoming stiff ("Rub a slice of lemon down the back of them") and how to prevent spring fevers ("Eat a bit of sulfur"). For muscle cramps, he recommends a few drops of turpentine on sugar. "Ain't no need of being scared of turpentine," he says reassuringly. "Just a few drops every few months will straighten you right up."

Henry is happy with "a bowl of lettuce with vinegar and stronger pepper" for dinner; he loves all raw vegetables and has never eaten much meat. "Me and rabbits are just about first cousins," he says, grinning and showing his four remaining teeth.

Henry's jobs have included harvesting clams and oysters in Baltimore, plowing mules in Georgia, picking peanuts on President Carter's father's farm, and performing as a high diver in the Ringling Bros. Circus. He worked for three railroads, the merchant marine, and the United States Postal Service (before blacks were allowed to carry mail). He was a stevedore on Pier 2 in South Brooklyn when a 150-pound weight fell on his chest, laying him up in the Swedish Hospital in Brooklyn for a year and a half. Later, as Jimmy Walker's chauffeur, he drove the dapper mayor around in a white English Steamer.

"I always loved to gamble," says Henry, who ran his own casino. Later on, he was a New York City landlord. And on another occasion, Henry Jones was a self-described "shylocker," getting 25 cents on the dollar. Henry figures he had about $14,000 lent out when "Roosevelt came to be president and wanted all the gold in Washington." The banks closed and Henry "almost went bum bum." But he always managed to find a little work because "I would just love to have some jingle jingle in my pocket." And when he had it, he shared it, and still does. "If I got 2 cents," says Henry, "I'm willing to turn one loose to those that need it."

Henry married in 1914 and had four children, all of whom he has outlived. In 1933, a few years after his wife's death, Henry took up with another woman. "I got hold of this here gold grabber," he remembers, smiling. "She took my apartment, my furniture, everything. I was like the song says—a matchbox could hold my clothes."

A few years ago, Henry escaped from a nursing home and got himself a place in Harlem, saying he preferred living with rats and roaches to being in one of those demoralizing institutions. Someone informed Essie Davis, who runs the Golden Star Senior Citizens Club on West 127th Street about his plight. Miss Davis, an elderly lady who was caught in the crossfire between John Dillinger and the FBI, sent Henry some food and aid, and eventually moved him into a clean one-room apartment above the club.

These days Henry is a supremely active member of the Golden Star Club, delivering meals, newspapers, and good cheer to homebound elderly people in Harlem. He squires old folks who cannot travel alone around the city, and dances vigorously at parties. Last summer, he slipped away from some timid folk he had taken to Coney Island and boarded the Cyclone.

"I have no advice, no blah, blah, blah," says Henry Jones, when asked what others can do to live as long as he. "God Almighty made me. His will brought me to what I am. Ain't nothing but God Almighty's will. If it's not in His will, you're a dead duck." ●

HUMAN RIGHTS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. ANDERSON of California. Mr. Speaker, much has been said and much has been written about this administration's campaign on behalf of basic human rights throughout this world. I think the President has won some real concessions in his fight, and for these the world should be thankful. But from time to time the President, and this Congress, have been criticized for singling out human rights violators on a selective basis. There is no room for pragmatism in dealing with this issue, the argument goes.

If one were to examine the record of this Congress, it would be seen that we have not always been evenhanded in our criticisms. Some of our more conservative Members have spoken out against repressive leftwing governments, while rushing to the defense of rightwing human rights violators. And we have also seen some liberal Members speaking critically of these same rightwing nations, but defending leftist governments that obviously violate their citizens' rights.

I have tried to be more consistent on this question, generally voting to reduce our foreign aid to countries, rightwing or left, that seem to systematically deprive their own citizens of those basic rights that Americans long ago learned to take for granted.

Frankly, I think there might be instances of overwhelming strategic importance that call for us to deal with the problem more pragmatically. But this should be a pragmatism based on our national security, and not necessarily the ideology of the nation involved.

Mr. Speaker, I would like to share with our colleagues an open letter that was printed in last week's Washington Post. Its author, Joan Baez, is someone with whom I have often disagreed in the past. She has espoused leftwing causes, and was a virulent opponent of this Nation's involvement in Southeast Asia. One might expect her, then to remain silent on the oppressive Government of the Socialist Republic of Vietnam. But in this letter, Ms. Baez is openly critical of that Government and the wanton disregard it daily demonstrates for its people's basic human rights.

We would all take note of this letter, and learn to recognize and label repression, whether it comes from the left or right.

OPEN LETTER TO THE SOCIALIST REPUBLIC OF VIETNAM

Four years ago, the United States ended its 20-year presence in Vietnam. An anniversary that should be cause for celebration is, instead, a time for grieving.

With tragic irony, the cruelty, violence and oppression practiced by foreign powers in your country for more than a century continue today under the present regime.

Thousands of innocent Vietnamese, many whose only "crimes" are those of conscience, are being arrested, detained and tortured in prisons and re-education camps. Instead of bringing hope and reconciliation to war-torn Vietnam, your government has created a painful nightmare that overshadows significant progress achieved in many areas of Vietnamese society.

Your government stated in February 1977 that some 50,000 people were then incarcerated.* Journalists, independent observers and refugees estimate the current number of political prisoners between 150,000 and 200,000.

Whatever the exact figure, the facts form a grim mosaic. Verified reports have appeared in the press around the globe, from Le Monde and The Observer to the Washington Post and Newsweek. We have heard the horror stories from the people of Vietnam—from workers and peasants, Catholic nuns and Buddhist priests, from the boat people, the artists and professionals and those who fought alongside the NLF.

The jails are overflowing with thousands upon thousands of "detainees."

People disappear and never return.

People are shipped to re-education centers, fed a starvation diet of stale rice, forced to squat bound wrist to ankle, suffocated in "connex" boxes.

People are used as human mine detectors, clearing live mine fields with their hands and feet.

For many, life is hell and death is prayed for.

Many victims are men, women and children who supported and fought for the causes of reunification and self-determination; those who as pacifists, members of religious groups, or on moral and philosophic grounds opposed the authoritarian policies of Thieu and Ky; artists and intellectuals whose commitment to creative expression is anathema to the totalitarian policies of your government.

Requests by Amnesty International and others for impartial investigations of prison conditions remain unanswered. Families who inquire about husbands, wives, daughters or sons are ignored.

It was an abiding commitment to fundamental principles of human dignity, freedom and self-determination that motivated so many Americans to oppose the government of South Vietnam and our country's participation in the war. It is that same commitment that compels us to speak out against your brutal disregard of human rights. As in the 60s, we raise our voices now so that your people may live.

We appeal to you to end the imprisonment and torture—to allow an international team of neutral observers to inspect your prisons and re-education centers.

We urge you to follow the tenets of the Universal Declaration of Human Rights and the International Covenant for Civil and Political Rights which, as a member of the United Nations, your country is pledged to uphold.

We urge you to reaffirm your stated commitment to the basic principles of freedom and human dignity . . . to establish real peace in Vietnam.

JOAN BAEZ,
President, Humanitas/International Human Rights Committee.

CO-SIGNERS

Ansel Adams, Photographer.
Edward Asner, actor.
Albert V. Baez, Ph.D.
Joan C. Baez.
Peter S. Beagle, Writer.
Hugo Adam Bedau, Professor of Philosophy, Tufts University.
Barton J. Bernstein, Professor of History, Stanford University.
Daniel Berrigan.
Robert Bly, Poet.
Ken Botto, Artist/Photographer.
Kay Boyle, Professor, San Francisco State University.
John Brodie, Broadcaster.
Edmund G. "Pat" Brown, Former Governor, State of California.
Yvonne Braithwaite Burke, Former U.S. Congresswoman.
Henry B. Burnett, Jr., Editorial Chairman, Politics Today.
Herb Caen, Journalist.
David Carliner, General Counsel, American Civil Liberties Union.
Cesar Chavez, Union Leader.
Richard Pierre Claude, Editor, Universal Human Rights.
Bert Coffey, Immediate Past Chairman, California Democratic Party.
Norman Cousins.
E. L. Doctorow, Writer.
Benjamin Dreyfus, Attorney.
Ecumenical Peace Institute Staff.
Mimi Fariña, Entertainer, Executive Director, Bread and Roses.
Lawrence Ferlinghetti, Poet.
Douglas A. Fraser, International President, United Auto Workers Union.
Dr. Lawrence Zelic Freedman, Foundations Fund Research Professor in Psychiatry, University of Chicago.
Joe Fury, Producer.
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Herbert Gold, Writer.
David B. Goodstein, Publisher.
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Bill Graham, Producer.
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Nat Hentoff, Writer.
Rev. T. M. Hesburgh, C.J.C., President, Notre Dame University.
John T. Hitchcock, Professor of Anthropology, University of Wisconsin.
Art Hoppe, Journalist.
Dr. Irving L. Horowitz, President, Transaction/SOCIETY.
Henry S. Kaplan, M.D., Stanford Medical Center.
R. Scott Kennedy, Resource Center for Nonviolence.
Roy C. Kepler, Member, War Resisters League.
Seymour S. Kety, Professor of Psychiatry, Harvard University.
Peter Klotz-Chamberlin, Resource Center for Nonviolence.
Jeri Laber, Executive Director, Fund for Free Expression.
Norman Lear, Producer.
Philip R. Lee, M.D., Professor of Social Medicine, University of California at San Francisco.
Alice Lynd.
Staughton Lynd.
Bradford Lyttle.
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Bob T. Martin, News Editor, the Country Almanac.
James A. Michener, Writer.
Marc Miller, Director, Fund for Free Expression.
Edward A. Morris, Attorney.
Mike Nichols, Producer.
Peter Orlovsky, Poet.
Michael R. Peevey, President, California Council for Environmental and Economic Balance.
Geoffrey Cobb Ryan, Director, Fund for Free Expression.
Ginetta Sagan, Director, Humanitas/I.H.R.C.
Leonard Sagan, M.D., F.A.C.P.
Charles M. Schulz, Cartoonist.
Ernest L. Scott, Publisher.
Jack Sheinkman, Secretary-Treasurer, A.C.T.W.U.
Jerome J. Shestack, President, International League for Human Rights.
Gary Snyder, Poet.
I. F. Stone.
Rose Styron, Writer.
William Styron, Writer.
Lily Tomlin, Actress/Comedienne.
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Lina Wertmuller, Film Director.
Morris L. West, Writer.
Dr. Jerome P. Wiesner, President, Massachusetts Institute of Technology.
Jamie Wyeth, Artist.
Peter Yarrow, Entertainer.
Charles W. Yost, Special Adviser, Aspen Institute.

(NOTE.—Titles and/or affiliations listed for identification purposes only. No organizational endorsements implied.) ●

SOUTH AFRICAN GOVERNMENT REFUSES TO LIFT BANNING ORDER ON FATHER MKHATSHWA

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 8, 1979

● Mr. DRINAN. Mr. Speaker, the South African Government's banning of Father Smangaliso Mkhatshwa, a black Catholic priest has raised the wrath of hundreds of Catholics and other concerned individuals in this country. This banning order has prevented Father Mkhatshwa from preaching, writing, or otherwise engaging in any of the activities which his faith and his chosen career require of him.

Late last year I met Father Mkhatshwa in South Africa and pledged my support for efforts to lift the banning order that has been imposed on him. In March 30, I met with South African Ambassador Donald Sole to protest the banning. After a terse exchange of views, Ambassador Sole was unwilling to comprehend the injustices that are being lodged against Father Mkhatshwa and the other 140 South Africans who are forced to bear the burden of being banned.

I call the attention of my colleagues to an article on this meeting which appeared in the recent edition of America, the National Catholic Weekly.

The article follows:

A CALL TO PROTEST: WHAT HAPPENED?

On Feb. 3, 1979, I published in America "A Call to Protest," urging readers to protest to South Africa's Ambassador Donald B. Sole the "banning" of a Catholic priest, Father Smangaliso Mkhatshwa in Johannesburg.

On March 30, Ambassador Sole visited me in my office, conceding that the volume of mail to him had been impressive. The Ambassador, however, is not yielding in any way on the legality or the appropriateness of the silencing and banishment for five years of the black priest who is the executive director of the Catholic bishops' conference of the eight southern African nations.

Ambassador Sole specializes in technicalities. He noted that Father Mkhatshwa could not have been banned as claimed for recommending disinvestment of American corporations in South Africa, since such advocacy is not, contrary to popular opinion in the United States, a crime. He also pointed out that Father Mkhatshwa has not exercised his statutory right to obtain from the Government in writing those reasons for his banning, which the minister of justice can disclose "without detriment to public policy." I have written to Father Mkhatshwa about this right, but undoubtedly he and the other 140 persons banned in South Africa concluded that an appeal for reasons to the Government would be futile.

In responding to the many readers of America who wrote him, Ambassador Sole tried to manipulate the words of the Holy Father in Mexico to suggest that Father Mkhatshwa had violated the directives of the Holy See. Sharp rebukes for such tactics caused him to desist from the contention that Father Mkhatshwa had gone beyond the role of a Catholic clergyman.

Ambassador Sole communicated with his Government about the many letters that came to him from American Catholics. He declined to show me the letter that he received back from his Government.

On March 30 I told Ambassador Sole in my office that my conclusion was that neither he nor his Government cared about the opinions of American Catholics who wrote requesting a rational explanation of why a Catholic priest, contrary to the fundamental principles of international law and basic justice, was prohibited from exercising his right as a citizen and as a priest in South Africa.

In response, Ambassador Sole could only stammer that these Catholics were seeking to interfere with the internal governance of his country.

When I showed Ambassador Sole the very large file of letters I had received, he appeared to be a bit taken aback but still unrelenting. I asked him whether there was anything that American Catholics could do to prevent the further banning of Father Mkhatshwa. The Ambassador was impressed at my insistence and finally suggested that I could write to a high-ranking South African prelate whom he named. He said that his Government was favorably disposed to this bishop because he was not political. The Ambassador urged me to keep secret my plea to the prelate in question so that his Government would not feel overpressured. I am writing to the person designated with some hope but no certainty that good results will follow.

Ambassador Sole represents and symbolizes the adamant determination of his Government to do everything that is necessary to inhibit and prevent the organization of the 17 million black persons in South Africa. He let it slip out that Father Mkhatshwa was banned because he was a member of a black political party. The Ambassador was clearly impressed at the militancy of the 2 million Catholics in South Africa and in effect conceded that the Government is determined to prevent any further Catholic activities designed to bring about political equality for the blacks of South Africa.

Ambassador Sole reflects that determination and has sought in several ways to "cool" those Catholics in America who want to encourage Catholics and others in South Africa to rise up against apartheid.

Ambassador Sole is annoyed but not yet shaken at the many Catholics who have written him to protest the banning of Father Mkhatshwa. Additional letters might persuade Ambassador Sole to urge his Government to relax its punishment of this 32-year-old, dynamic graduate of Louvain who, if he could exercise his priesthood, would be a tremendous influence in all of southern Africa.

I urge those who want justice in South Africa to send their protests about the injustice done to Father Mkhatshwa to South Africa's Ambassador to the United States, His Excellency Donald B. Sole; South African Embassy; 3051 Massachusetts Ave.; Washington, D.C. 20008.●

SENATE—*Monday, June 11, 1979*

(Legislative day of Monday, May 21, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

"God of our life, through all the circling years,
We trust in Thee;
In all the past, through all our hopes and fears,
Thy hand we see.
With each new day, when morning lifts the veil,
We own Thy mercies, Lord, which never fail."

—Rev. Hugh T. Kerr, 1916.

O Lord, in the crucial days in which we live and work, grant us an abiding sense of the transcendent and the eternal. Bless all who labor here with pure hearts, clear minds, sound judgment, and steadfast dedication. And to the President, his counselors, and all others in authority give Thy grace in abundance and that higher wisdom which comes from above that justice and peace may prevail at home and throughout the world. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 a.m. tomorrow morning.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized.

Mr. TOWER. Mr. President, I yield 5 minutes out of the minority leader's time to the distinguished Senator from New Mexico.

RECOGNITION OF SENATOR DOMENICI

The PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank my good friend from Texas for yielding me 5 minutes of his time.

ENERGY SUFFICIENCY

Mr. DOMENICI. Mr. President, when this Congress convened earlier this year, one of the first speeches I made on the Senate floor concerned the need to break the OPEC cartel or to do whatever we could to move in that direction.

I introduced into the Record at that time an article on how this might be accomplished that appeared in Harpers magazine. Nothing has happened in the intervening quarter of a year to make me change my mind: Breaking the cartel through a policy of energy proliferation still remains one of the essential tasks confronting America.

It has been obvious for some time that a Manhattan project-type approach is needed. That project, carried out at Los Alamos, N. Mex., committed the full resources of the Nation to the production of the atomic bomb. The outcome of the war depended upon the success of those scientists who worked in what all of us who lived in New Mexico at that time knew only as "The Secret City." Such an all-out, production-oriented project worked then. It will work now. It is the only way to achieve even a semblance of energy self-sufficiency for America by 1988.

For the past 6 weeks, I have attempted to decide just what legislative policy, in the form of specific measures, would best start us on the road of breaking the cartel. Just this past weekend, I note that the Washington Post carried two articles on this issue. In one, "A Plan to Boost U.S. Oil and Break OPEC's Grip," a plan put forth by Paul Ignatius, Eugene Zuckert, and Lloyd Cutler is outlined. Later in that same issue of the newspaper, Hobart Rowen comments on the idea of moving aggressively in the syn-fuels area as one true way to help end America's dangerous dependence on foreign nations for more than half of our petroleum needs.

Quite astonishingly, neither of these articles mentions a proposal remarkably similar to the Ignatius-Zuckert-Cutler plan—the visionary approach recommended more than 3 years ago by the late Vice President, Nelson Rockefeller. This plan was formally presented to the Senate October 20, 1975, in the form of S. 2532, and hearings were held on the Rockefeller energy independence authority (EIA) in the spring of 1976—almost exactly 3 years ago.

I find it truly a tribute to the grand vision, the ability to discern the policy behind a problem, and remarkable farsightedness of the late Nelson Rockefeller that now, in a different form—but a form so like his plan as to be essentially the same thing—his proposal is drawing so much attention and praise. I think we must acknowledge our debt to his plan, which would have put this Nation in so much better an energy posture today if it had been adopted by the Congress.

During the past 6 weeks of my review of the proper vehicle for pushing an all-out offensive against our dependence on foreign oil, I have reviewed many bills and proposals. I am especially mindful of H.R. 3930, introduced by Representative Moorhead and approved by the House Committee on Banking, Finance and Urban Affairs. This bill contains a sound and logical approach to truly beginning to bring synthetic fuels from such things as oil shale, coal gas, and coal liquids into commercial production as soon as possible. I am concerned that H.R. 3930 fails to address one of the most central issues now hindering commercial development of syn-fuels, and that is the issue of the extremely time-consuming regulatory process that now surrounds such development. That problem must be addressed in any new program. If and when H.R. 3930 comes to the Senate, I will work to amend it to provide for the kind of expedited regulatory and review process that Vice President Rockefeller provided for in his energy independence authority.

I am also aware that this week will see the introduction of a major piece of legislation on the Senate side that attempts to enhance production of energy from near-term and syn-fuel sources. This bill, at least as I understand it, contains

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

an expedited regulatory process that is quite good, but it fails to provide for an independent authority, apart from the present Department of Energy, with specific production goals and with the kind of other authorities that I believe we find addressed in the energy independence authority proposed by Vice President Rockefeller.

When Vice President Rockefeller introduced this bill I was one of those who was most enthusiastic about the plan. I still am. I am not concerned by the recognition that private enterprise has been unable to move forward. After all, we face a national emergency in which the economics of syn-fuel and related energy development are not yet feasible without substantial Government aid. I believe in the free enterprise system, but I also believe in the Rockefeller plan.

When the Vice President testified in 1976 about his proposal before our Banking Committee, he made some points that bear repeating. I quote from part of his remarks:

> Between now and 1985, our energy needs will grow by 36 percent. If we continue our current course and continue to regulate oil and natural gas prices at current levels, if we do not develop our current reserves, if we fail to increase the generating capacity of nuclear plants, if we do not adopt a strong program of conservation, and if we fail to commercialize new sources of energy, such as gas and oil from coal and shale, we will be importing between 50 and 60 percent of our oil in 1985. And, it will cost us in foreign exchange not $30 billion, as it will this year, but $50 billion by 1985. It is obvious what a threat of an embargo would do to our national security and defense capabilities under such circumstances . . . I am hesitant even to speculate on the kinds of economic, political, and military pressures that could be imposed on this nation if we continued to be more than 50 percent reliant on foreign sources.

How those words ring truer than ever today. And, indeed, we are worse off than Mr. Rockefeller's gloomy assessment indicated. We are already—6 years ahead of his prediction—50 percent reliant on foreign sources for petroleum. We will already spend at least $50 billion this year for foreign oil. By 1985, under present policy, we will be much worse off than the Vice President feared. His prognosis was right; his program is right.

When the Vice President made his proposal, we had no Department of Energy, of course. So, he talked about the Federal Energy Administration and its relationship to the EIA. If we merely substitute the words Department of Energy whenever Mr. Rockefeller referred to the FEA, his initiative is more relevant today than even 3 years ago. His bill is better than anything since proposed and remains the best vehicle for beginning a serious legislative discussion of how to produce syn-fuels and other alternates. In my intensive review of other legislation, and in my attempts to develop an entirely new program of my own to introduce, I have failed to improve on the EIA concept of Vice President Rockefeller.

I also note that many persons and organizations supported this bill and testified on its behalf 3 years ago: Then-FEA head Frank Zarb; professor of economics and history at the University of Texas, Walt W. Rostow; Lane Kirkland of the AFL–CIO and the AFL–CIO Executive Council; Andrew Biemiller, director, Department of Legislation, AFL–CIO, testified on its behalf; Russell J. Cameron of Cameron Engineers, Colorado; the Treasury Department; investor experts; and many in private industry. This wide-ranging support still exists, I believe, now that we have seen that our failure to take action has exacerbated our reliance and made us more vulnerable than ever to another embargo or another Iran.

The Rockefeller notion of an independent, production-oriented authority, similar to the authorities that helped us so much in rubber during World War II, does not imply a lack of confidence in the Department of Energy. That Department, which I have supported strongly, has a definite place in the research and development of energy resources. However, it seems to me that we are most likely to get a production-oriented policy off the ground as soon as possible if we establish an independent authority, which has definite commercial goals and which has broad power in the area. Certainly, the important research and development projects, and the critical basic research programs, that are supported by the Department of Energy, are needed, as are the regulatory and investigatory activities undertaken by DOE.

I close, Mr. President, by noting that even the excellent scientists working on the frontier of technology at such extraordinary laboratories as Sandia and Los Alamos in my State told me on my last trip home that the time was now for action in the field to prove commercialization and to get some barrels of oil produced as soon as possible. They said that they could spend another decade improving and honing technology for synfuels, but that we needed action now. I believe that too.

I ask unanimous consent that an article in this morning's Washington Post, written by Spencer Rich and titled "As Oil Price Rises, So Does Cost for Synthetic Crude," be printed in the RECORD at this time, as well as the other two articles in the Washington Post to which I have referred.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

AS OIL PRICE RISES, SO DOES COST OF SYNTHETIC CRUDE

(By Spencer Rich)

In December 1972, the prestigious National Petroleum Council reported that if it became necessary to make synthetic oil from the nation's shale reserves the selling price would be about $8.29 a barrel, including shipping costs. If the synthetic crude oil were made from coal, the NPC estimated the cost at $7.75 to $8.25 a barrel.

The price of imported crude oil at that time was less than $3.50 a barrel.

Today, as a result of price-setting by the Organization of Petroleum Exporting Countries, crude is selling for $16 to $18 a barrel—and increases of $3 to $4 a barrel are expected to be forthcoming. Spot prices have hit $30 a barrel. Even allowing for inflation since 1972, the NPC estimates for synthetic crude don't match the current import price.

"You would think that as the market price of natural petroleum went up," said one Canadian expert, "the price of synthetics would become attractive" and U.S. companies would begin producing synthetic crude.

It hasn't happened that way.

Instead, "Every time the OPEC price goes up," said Harvard economist Hendrick Houthakker, a member of the Council of Economic Advisers during the Nixon administration, "the price of synthetics goes up with it."

Since the 1972 NPC report, the oil industry has repeatedly raised its cost estimates for producing synthetic crudes—syncrudes—on a large scale. No matter how high the OPEC price, the projetced costs of shale oil and liquid crude from coal have always managed to jump a few dollars higher.

Today, industry is talking $20 to $35 a barrel for syncrude, a price increase of 250 to 400 percent, compared to a cost of living increase of about 80 percent since 1970. Oil companies say it is still more profitable to look for conventional oil than to produce synthetic crude and that new technical and environmental problems on synthetics are being discovered all the time.

As a result, there still isn't a single major synthetic crude plant in the United States and none is under construction. And the oil industry has spent paltry amounts on research and development in synthetics.

Synthetics production doesn't require extremely exotic techniques: extraction of oil from shale by heating the marlstone rock to about 900 degrees has been accomplished here and in other countries. During World War II, Germany produced 100,000 barrels a day of airplane gasoline made from coal—a technique copied by South Africa's SASOL I plant, which is now being enlarged.

The remarkable climb in the projected cost of synthetics since 1972 raises questions: Have estimates deliberately been inflated by industry (and as a result by U.S. agencies depending on the industry for information) because it doesn't want to invest in costly conversion plants when there is plenty of profitable liquid oil in the world? Do they fear that the relatively cheap production of syncrude would force a ceiling on the price of imported and domestic conventional crude?

A synthetics expert at the House Commerce Committee suspects this may be the case. The leap in the estimated synthetics price, the expert said, could reflect the fact that "the industry is not particularly interested in bringing it on" because "they've got plenty of" existing conventional sources "and they're making plenty of money. . . . I think as the OPEC price went up, they continued to up their synthetic estimates without a particularly close look."

It's interesting to trace the parallel course of skyrocketing OPEC prices and syncrude calculations.

In mid-1973, when the price of conventional crude was still about $3.50 a barrel, Massachusetts Institute of Technology President Jerome B. Wiesner told a House hearing that oil from shale could be produced for $4.50 a barrel in constant dollars (a price not adjusted for inflation)—even lower than the NPC estimates.

On June 22, 1973, Charles DiBona, now head of the American Petroleum Institute but then the president's energy adviser, estimated a price of $5.50 to $7 a barrel.

Then, at the end of 1973, came the Arab oil embargo, and the OPEC price rises started.

At first there was little corresponding increase in the estimated cost of syncrude.

Early in 1974, Deputy Energy Administrator John Sawhill gave the same $5.50-to-$7 estimate that DiBona had given a half-year earlier. The National Academy of Engineering said oil from shale would cost $6 to $8 a barrel (using the richest shales) and crude produced from coal liquefaction perhaps $8 to $9 a barrel.

A Navy study predicted that the price of imported crude would rise to $13.60 a barrel by 1977 (impressively hitting the ultimate figure almost on the nose), but that oil from shale might be produced for $8.77 a barrel, and synthetic crude from coal for about twice that.

The Federal Energy Administration's November 1974 "Project Independence" report speculated that the world price for crude might drop back to $7 or so a barrel. Because of uncertainty over prices, it calculated the profitability of shale and coal syncrude on the assumption that in 1985, the market price of oil might be either $7 a barrel or $11 (both in 1974 dollars).

It concluded that synthetics would be only "marginally economic" $7 a barrel but "at $11 they are economic."

By 1975, however, the estimated costs for synthetics caught up with OPEC prices and began surpassing them. The OPEC import price was around $13.

The Oil Shale Corp. (TOSCO) told a House hearing that if it could get funding it could produce oil competing with "today's price for Middle East sweet [low-sulfur] crude landed in U.S. ports . . . for $13.15 a barrel." A government task force estimated the cost of oil from shale (in 1975 dollars) at $10 to $13 and syncrude from coal at $19 to $26 a barrel. Standard of California put the figures at $17 for shale oil and $30 for syncrude from coal.

Today, the estimated costs are comfortably beyond the $16 to $18 price of world market OPEC oil. The Department of Energy is now talking $22 to $25 a barrel for oil from shale, and for synthetic crude from coal, in the upper $20's.

What accounts for this amazing upward flight of the estimated costs of producing syncrude, paralleling the upward flight of OPEC cartel prices and far outstripping the general rise in the cost of living?

One explanation is that the oil and coal industries clearly haven't pressed too hard on research and other spending to make the technological breakthroughs that would assure low production costs for syncrude.

A Census Bureau study for the National Science Foundation shows total spending in 1978 by U.S. industries to research and develop syncrude production was $23 million for shale and $178 million for coal, including some government subsidies.

Department of Energy sources say these figures may be understated because some of the research and development costs may be tucked away in other accounts.

But even if the figures were doubled, they are peanuts compared with the $7.8 billion the Census Bureau calculates the oil industry spent in 1977 exploring for conventional sources of oil and gas in the United States and surrounding waters.

The U.S. government isn't doing all that much either. President Carter's request for all syncrude projects for fiscal 1980 is about $285 million—$70 million less than fiscal 1979. DOE spokesmen say several projects flopped and one is to be funded from the oil windfall profits tax. Some consider this a strange posture in an administration with apparently deep concern for the nation's energy problems.

Another explanation of the rocketing cost estimates on syncrude—one widely shared by respected engineers and economists—is that many of the optimistic earlier projections really were based on inadequate engineering and economic studies, and those projections couldn't take into accounts the pressure of inflation, especially in construction costs.

Harry Perry, a chemical engineer who was coal research director of the U.S. Bureau of Mines and is now with Resources for the Future, said that inflation, added environmental cleanup requirements, higher capital costs, and exhaustive engineering studies that uncover unforeseen problems are what account for the big boosts.

"The closer you get to building the plant the more you take a real hard look on the ground and the more the costs go up," he said.

Also the costs of heavy construction, coal and borrowing money have risen rapidly.

Perry; Dr. Robert Stobaugh, director of Harvard Business School's energy project, and many others stressed that until plants are actually built, first a small one, then a good-sized one, all the problems and costs can't be known.

Still another factor is that oil companies fear they will plunk down huge amounts of money—$1 billion to $2 billion for 50,000 to 75,000-barrels-a-day commercial sized plants to convert shale or coal into crude at $20 to $30 a barrel—then see the Saudis cut the guts out of the market by lowering the price for convention crude.

"Keep in mind any time the Saudis want they can break the bank," said Dr. Larry Goldmuntz, a consultant and science planner.

To counter this fear, a House Banking Committee bill authorizes $2 billion in subsidies to cover losses if the market drops below certain target prices.

There also is the inertia factor: the oil and coal companies are accustomed to producing conventional forms of fossil fuels. The oil industry is making money. Why go into expensive new technologies?

"The mentality of the oil companies is to drill," said a Fluor executive. An Exxon executive said recently that the decision not to undertake certain projects "is purely economic": right now oil companies can make more money by drilling for new oil.

Meanwhile, however, several companies are moving cautiously into syncrude. Occidental, which has taken over one of the oil shale tracts leased from the government in the West, is experimenting with an underground ("in situ") shale method that would avoid some environmental problems and produce oil for sale at a price, after upgrading and shipping, of $19 to $24 a barrel. With a proposed tax credit on shale sought by DOE, this could translate to oil at about $14 to $20 a barrel—a price competitive in the world market.

Union Oil is going ahead with a $130 million, 9,000-barrel-a-day pilot plant. And Exxon and Shell, fairly bullish on Canadian tar sands, are negotiating for big plants (100,000 barrels a day or so) that will cost $5 billion and $4 billion, respectively.

Former Rep. Charles Brown, then representing TOSCO, warned Congress a few years ago that big oil was unlikely to invest much in syncrude production until it had sucked most of the easy conventional crude out of all the nooks and crannies of the earth.

"Major oil companies are generating substantial internal capital and have AAA credit," he said, "but drilling for conventional petroleum is their primary business, and it has priority claim on their capital. They say, quite frankly, that synthetics must come later, after Alaska, after the North Sea and after offshore drilling of petroleum."

Companies like Union, Occidental and the Canadian tar sand venturers insist that they are serious and will go ahead.

As soon as the tax credit is passed, said Union's Tom Hairston, "you will see very fast whether we'll start pouring concrete."

Seeking Ways To Dent OPEC's Power Over U.S.

(By Hobart Rowen)

Rep. John B. Anderson of Illinois, a progressive Republican and one of the most highly respected public servants of any party, leaned across his desk in the Longworth Office Building and stabbed a finger in the air.

"If we've got 300 years of coal in the ground, we are damn fools if we aren't sending a very strong signal to OPEC right now," Anderson said.

" 'We've got a way of out-foxing you,' we ought to tell them. 'We aren't going to sit there, fat, dumb and happy while you set the price and tell us how much oil we can have.' You know, we're like a guy hitting himself on the head with a hammer to see how long it will be before he gets a headache."

Price-gouging by the Organization of Petroleum Exporting Countries has got white-haired John Anderson, the latest Republican presidential candidate, as angry as he can be. He is not alone. For the first time since OPEC lowered the boom on an unsuspecting world in 1973, there is a growing consensus that some countervailing power must be brought to bear to out-fox the cartel.

Presidential aides are trying desperately to formulate a plan that Jimmy Carter can present to the Tokyo economic summit at the end of the month that will encourage oil-consuming countries to shun spot market prices that are more than double the official OPEC list.

It is doubtful that the Europeans—especially the French—who sickeningly toady to the Arabs—will do much to help. But for the first time, an American administration seems willing to explore ways of trying to dent OPEC's power beyond trusting the dubious magic of decontrol.

Arthur M. Okun, the innovative economist who headed Lyndon Johnson's Economic Council, argues that the basic tactic should be "to shake the premise that oil in the ground is worth more than oil that they pump." What Okun suggests is a Manhattan Project type of endeavor to create new energy resoures—something of the scale and urgency of the effort that produced the atom bomb during World War II.

One of the most promising ideas comes from three members of the Washington Establishment with close ties to the top corporate structure of the country. Lloyd Cutler, senior partner of one of Washington's biggest law firms; Paul Ignatius, former secretary of the Navy; and Eugene Zuckert, former secretary of the Air Force, propose a $100 billion, government-financed effort to create a synthetic oil industry capable of producing 5 million barrels a day. That's equal to a bit more than half the current import level.

Their model for a Petroleum Reserve Corporation is the highly successful World War II effort that from scratch created a synthetic rubber industry when the Japanese cut us off from most of our natural rubber imports.

The Cutler-Ignatius-Zuckert plan would have the government finance and build synthetic oil plants to be operated or leased by private companies. The technology is no mystery—just expensive.

They point out that Germany fought the last war with synthetic oil produced from coal. It also can be squeezed out of heavy oils, shale, tar sands and farm crops.

"A standing capacity to produce 5 million barrels daily from indigenous sources would be of incalculable value to the United States and the free world—whether or not this capacity is continuously used," they said. Thus, if OPEC decided to pump more oil, the plants could be shut down, or production limited. The government, not the private operators, would take the risk.

If the cost seems high, the authors of the plan point out that 5 billion barrels a day of imported oil cost $25 billion a year—and the price moves up at OPEC's whim.

But what a national insurance policy! This nation no longer would be vulnerable politically, economically and strategically to OPEC. Under the authors' concept, the Petroleum Reserve Corporation could finance plant construction by selling bonds, or through a windfall tax yielded by decontrol.

A high government official said that Cutler, Ignatius and Zuckert "are on the right track." And a variety of bills to do something beyond mere decontrol of domestic oil prices are in the congressional hopper.

Anderson and some of his colleagues, including James J. Jeffords (R–Vt.), coincidentally have introduced a Fuels Replacement Bill. It would require refiners to substitute synthetic oil, alcohol or other fuels up to 10 percent of their refinery mix by 1987.

Jeffords told reporters, "If this idea is so sound, you might ask, 'Why hasn't the Department of Energy suggested it?' One DOE spokesman gave me a candid answer that isn't likely to be repeated publicly: The DOE considered it, but hasn't used it because the oil companies didn't like it."

It rings true. But the best news in a long time is that elsewhere in the government, and among public-spirited citizens, ideas that neither the oil companies nor OPEC may like are being pursued with vigor.

A Plan To Boost U.S. Oil and Break OPEC's Grip

(By Paul R. Ignatius, Eugene M. Zuckert and Lloyd N. Cutler)

The price of imported crude oil has increased by 50 percent this year, and it now appears that the real price of imported oil will double again within the next 10 to 20 years.

We are entering an era of chronic oil shortage, and much of the available supply is subject to sudden and periodic interruption because it is produced in areas of recurring political turmoil.

To cope with these dangers, it is useful, of course, to conserve and to stimulate the discovery and production of additional petroleum supplies. But that is not sufficient. We need to create a substitute for natural petroleum. Because of the long lead times involved, we need to do so at once.

The United States could create additional capacity from synthetics—a vast oil reserve, in effect, that could be called into use to overcome shortages or to hold down the world price of oil if the OPEC cartel is trying to move prices upward. This would give us the leverage we have lacked on oil prices and also insure a less bumpy transition to the distant future of alternative fuels. In this uncertain world, this is an insurance policy we need to buy—now.

The United States, if it has the will, can create a synthetic oil industry capable of producing 5 million barrels a day—more than 20 percent of our current needs. This can be done within five to ten years from sources such as shale, tar sands, heavy oils, coal and farm crops.

The synthetic fuels program would draw upon the proven experience of the innovative government-industry programs developed to meet comparable materials shortages in World War II and the Korean War.

Three months after the attack on Pearl Harbor in December 1941, 90 percent of the world's natural rubber facilities came under the enemy's control. By 1945, when World War II ended, 87 percent of the rubber consumed in the United States was synthetic. Nearly all of it came from government-owned plants built during the war with Reconstruction Finance Corporation financing and operated by private industry.

Other critical materials shortages during World War II, notably in aluminum and steel, were met by additional plant capacity financed by the Defense Plants Corporation and other government agencies and operated by private companies under leases or management contracts.

In the Korean War we also faced serious shortages. This time we developed another method, under which the General Services Administration entered into market guarantee contracts with private industry to build new aluminum, copper and nickel capacity.

Under those agreements, the private firm obtained private financing to build specified facilities in exchange for 5-year tax amortization certificates and the government's commitment to purchase, at specified prices or prevailing market prices, any part of the output that could not be sold to military or commercial users. Some of these facilities employed known processes with predictable costs (e.g., primary aluminum reduction), but others involved new products (e.g., ferronickel) with uncertain costs and marketability.

The long-run cost of these programs to the government was negligible. Most government-owned World War II plants were sold to their private operators or others at prices that largely recouped government costs. Under the Korean War market guarantee contracts, the new capacity was privately financed. The government did have to purchase some aluminum and other materials in excess of its own stockpile goals, but these excess inventories were later resold to private buyers or to the original producers at higher prices than the government had paid.

Today, about half the petroleum we use is imported. More than half of our imports and even higher percentages of European and Japanese imports come from the Middle East. Our heavy dependence on these sources makes us highly vulnerable to sudden upward price movements resulting from interruptions to supply or from the actions of OPEC.

Moreover, no one can be certain, looking ahead to the next five or ten years, that this oil will continue to flow uninterruptedly to our shores. Political changes, terrorist activities, overt military action and natural disasters could lead to a significant reduction or even a halt of deliveries. Each time one of these contingencies occurs, the stress on the economic and social fabric of the industrial democracies will be enormous. The risks of not trying to correct the present situation are too great to bear.

The Department of Energy is pursuing a broad program to advance technology in a number of energy areas. Promising long-range applications such as laser fusion, and medium-range applications such as those based on solar technology, are expected to emerge. The substitute fuel program would not replace these DOE research efforts. But it would help greatly to fill the gap in the years before the DOE program can meet a significant portion of our energy requirements.

Our concern is the immediate future, the next five to fifteen years. For this period our present program relies primarily on savings from conservation and the increased output from domestic petroleum resources. The president estimates that the various conservation measures outlined in his April 5, 1979 program, together with new domestic oil production resulting from decontrol, will save from 864,000 to 1,539,000 barrels a day. Since we are using upwards of 20 million barrels a day—about half of it imported—we will still be heavily dependent on foreign oil even if the program produces savings at the high end of the estimate.

Substantial additional supplies can be attained only if we undertake an expedited program to produce synthetic oil from sources and technologies that are already at hand. The production program would be based on today's technology. Through joint government-industry efforts, we would create a synthetic oil industry in much the same way we created a synthetic rubber industry almost 40 years ago and doubled our nonferrous metal capacity almost 30 years ago.

ADDING OPTIONS

The technology of synthetic oil is not in an early stage of research and development comparable to the intercontinental ballistic missile in 1950, the moon-landing program at its outset in 1960, or laser fusion today. It is a proven technology. Germany waged World War II on synthetic fuel produced from coal. South Africa has been producing synthetic oil since 1955 and has under construction a much larger production facility. In the United States, a number of studies as well as prototype developments contemplate the eventual production of synthetic oil from coal.

Synthetic crude oil (comparable in its characteristics to import crude oil) can also be produced from oil shale, which is also available in enormous quantities in the United States. There are large deposits of oil shale in Colorado, Utah and Wyoming, although environmental and other problems associated with its use and disposal appear difficult to overcome at present. Fortunately, there are important oil shale resources in Kentucky, Ohio, Indiana, Tennessee, and Alabama that seem to be generally free of the problems with Western shale. The Canadian tar sands can also be converted into fuels with existing technology.

The production program might also include substitute fuels made from farm crops. Fuel mixtures of alcohol made from farm crops and gasoline have satisfactorily powered automobiles and agricultural vehicles and offer the provise of saving worthwhile amounts of gasoline.

Large quantities of petroleum products or substitutes like alcohol could be made with known technology at costs of production still above the present world prices of natural petroleum and its products. But while the future course of world oil prices remains uncertain, the trend will surely be upward in real terms—the only question are how sharply upward in real terms and how soon.

A standing capacity to produce 5 million barrels daily from substitute sources would be of incalculable value to the United States and the free world—whether or not this capacity is continuously operated. Its existence—in operation or standby—would cushion the potential consequences of future political shocks, such as occurred in Iran this year and may well occur there or in other vital production centers again and again. By adding a significant additional operating or standby source of supply, we would also tend to dampen the inevitable upward trend of oil prices. And it would be an important step in developing the synthetic fuel capacity that will certainly be needed when conventional oil sources run down.

Depending on cost-price relationships, the political stability of the world oil trade and balance-of-payments considerations, the

United States and its friends would have several valuable options they do not now enjoy.

1. We could currently market and consume the new output, if necessary, by subsidizing any difference between production costs and market prices, and reduce imports by an equal amount. This might in turn lower world prices for the remaining oil that we must import.

2. We could currently purchase the new output and stockpile it as insurance against future political shocks.

3. Whenever supplies of natural petroleum at prevailing prices are deemed more attractive, we could shut down some or all of the new plants. In the case of those privately built under market guarantee contracts, we would pay the owners a standby fee to cover their loan amortization needs plus a reasonable return on equity, with the right to order them reopened whenever it becomes timely to shift to option 1 or 2.

A NEW CORPORATION

To carry out such a program, the United States should create a Petroleum Reserve Corporation, under the leadership of a proven business executive like John deButts, the recently retired chairman of AT&T. The corporation would be authorized to design and execute the program to create up to 5 million new barrels of petroleum and alcohol capacity a day. It would be authorized to issue federally guaranteed bonds. It would have authority to build new plants to be initially owned by the government (financed by its bond issues or perhaps by using part of the proceeds of the proposed windfall profits tax) and operated by private industry under leases or management agreements.

It would also have authority to enter into market guarantee agreements for new plants to be built and owned by private industry, with a government commitment to a) buy any part of the output that is not commercially sold, or b) pay the subsidy needed to make commercial sales, or c) order shutdown and pay a standby fee to cover amortization of debt and a reasonable profit, with the right to order reopening at any later time under option a) or b).

The corporation would analyze the feasibility of achieving its goal by employing various mixes of the sources, technologies and financing options available, and would then design its program and negotiate its contracts to suit.

The corporation would also be empowered to finance the building of plants in Canada (e.g., for tar sands) and perhaps elsewhere, under firm intergovernmental agreements for making the output available. It could also be authorized to enter into joint ventures with other nations, under which they would participate in the financing risks in exchange for the right to a share of the output. It would also serve as a focal point for helping to identify environmental issues relating to the production program that require prompt resolution by the president.

Estimates used by energy planners suggest that the one-time investment cost might be $20 billion to $40 billion for each 1 million barrels of synthetic capacity—or $100 billion to $200 billion for the proposed program. The cost to the taxpayer, however, is likely to be much less, depending on how many of the plants can be privately financed under market guarantee contracts on the extent that other countries participating in the governmental financed contracts, whether any government-financed plants ultimately can be sold to private industry.

Recently, the Japanese and the West Germans agreed in principle to participate in a U.S. Government-sponsored substitute fuel venture and to contribute half of its expected $700 million cost. While the ultimate cost to the taxpayer could be significant, it pales beside the fact that we already incur a trade deficit in the range of $30 billion a year for each 5 million barrels a day of oil we import, even at the current $17- to $20-a-barrel price, which seems likely to increase with every passing year.

Looking at the downside risks of our petroleum future, to invest in a 5 million-barrel-a-day synthetic production program is a worthwhile insurance premium. Once this capacity exits, we could respond more flexibly to any future energy development. If real oil prices stay level or go down, we could place the capacity in standby, and this would be our only cost. Or, if we preferred to reduce our oil imports, we could operate the capacity at the additional cost of any required operating subsidies.

If real oil prices continue to go up—which now seems the most likely possibility—the plants would be self-supporting or close to that, and most of our investment would be returned.

ADDITIONAL ADVANTAGES

Apart from what it would do to resolve our present petroleum predicament, the proposed program would have other valuable psychological and economic advantages.

First, it would give us all the psychological lift of "doing something" instead of just doing without. It would employ our managerial, technological, engineering and organizing talents to achieve a productive rather than a restrictive result.

Second, if present expectations of a natural or induced recession by 1980–81 prove correct, the program would stimulate the capital goods, and construction markets at the very time when a stimulus would be helpful.

Third, the program would give us a vehicle for acting jointly with other concerned industrial democracies to meet the joint actions of OPEC in a non-confrontational manner that OPEC's members could not oppose and might even support.

The public reception to such a program should be highly favorable. The right time to adopt it is now.

Mr. DOMENICI. Mr. President, I wish to quickly discuss the plan that was submitted by Vice President Nelson Rockefeller over 3 years ago. After, obviously, a great deal of study and research, he introduced in behalf of President Ford a Federal energy administration program which he called EIA.

I believe that even though that was thought to be somewhat ahead of its time, if that were looked at again today we will find that it is far better than anything we have proposed to this point to bring energy independence to America.

That bill basically provided for a commission with a president and executive officer, with $25 billion in grant authority and $75 billion in loan authority, and it said to them:

> Get on with determining energy projects that are needed for this country, find out their feasibility, help them with money or loans, and let this rotate for 10 years and we will have projects onstream in this country.

It also provided for an expedited approach to the permanent system and the environmental impacts and other regulatory requirements so that we could get on with this job.

I am reminded that that particular approach received tremendous support from such people as Frank Zarb, Walt Rostow, Lane Kirkland of the AFL–CIO, and Andrew Biemiller, and many others.

It appears to me that approach which would set up a commission of that type and then ask the private sector to submit proposals and then help them get on with producing synthetic fuels is still the best approach for America.

In my remarks today I recap some rather startling testimony given by then Vice President Rockefeller about the United States and its state of dependence by 1985. I will not repeat them, but I will just say that almost every one of the ominous predictions that if we did not do this, that, and the other, we would be in this predicament by 1985 have already come to be and now fester America's economic scene and its people. They are already here.

It did not take until 1985 for us to be 50 percent dependent on foreign oil. It did not take until 1985 for us to export $50 billion a year of our money. It did not take 1985 to arrive for oil to be worth $20 a barrel on the average and rising. These were the predictions that he made then when he said:

> We must do something dramatic and different.

They are already here.

Decontrol of our American domestic oil is a must, but it must be accompanied by an American program as farsighted as anything we have tried in the past, marrying the private sector with the best of public capacity and ability, and that is what the Rockefeller plan basically did.

It may need some changing and modifying here and there, but I submit that with a few suggested changes, and we will try to do that in the next 2 or 3 days, that it should receive support from many Senators as we move in the direction of producing synthetic fuels of a given amount by a given date. We know we have the basic resource. We have just to find the mechanism to expedite it.

I thank the Chair, and I thank my friend from Texas.

Mr. TOWER. I yield back the remainder of the minority leader's time and, at the request of the majority leader, I yield back the remainder of his time.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDENT pro tempore. The Senator from Wisconsin, under the previous order, is recognized for not to exceed 15 minutes. The Senator from Wisconsin.

ILLUSIONS OF ARMS CONTROL

Mr. PROXMIRE. Mr. President, the SALT II Treaty's statement of principles should be amended to require a sharp reduction in land based missile forces as a goal for the next round of negotiations. I will recommend language guiding our negotiators to reduce the land-based forces on both sides to a range of between 500 and 800 ICBM's each. Without such a goal for SALT III, the military planners in both countries will find ways to substitute one missile for another under the SALT II caps and never really achieve any reductions.

The key weakness of SALT II is not the Backfire bomber, the number of large Soviet missiles or even U.S. rights to supply Europeans with the cruise missile. The overlooked critical element is the internal bureaucratic forces in each country which will find ways to substitute new weapons for those foreclosed under SALT II.

There will be no true arms control until we can control the central economic pressures to build more weapons that are inherent in both the Soviet and American systems of government. Mandating actual reductions for SALT III is the only way of controlling these internal pressures for substitution and the only way of assuring Americans that the SALT process is not a subterfuge for redirecting the arms race into more promising areas of technological progress.

Mr. President, this is the trouble with the SALT Treaty. The concept is excellent, and certainly living in a nuclear age all of us want a limitation on arms, want to avoid the incredible catastrophe of a nuclear exchange between the Soviet Union and this country. But the SALT Treaty, as designed, does not do it, because all that does is set up certain limitations and make exceptions that permit the technology to be channeled into other areas.

Arms are not accumulated by random choice. There is a pattern to the arms industry in both countries. In many ways the pattern of weapons procurement is as important to arms control as is the final product. A change in the pattern may only result in a change in the product, a substitution rather than a curtailment. Engineers are shifted from project A to project B and we call this arms control.

THE SOVIET ARMS COMMUNITY

Little is known about how defense decisions are made in the Soviet Union. Therefore speculation is by necessity the rule rather than the exception. In the broadest sense the Soviet economic system works by virtue of the principle of central planning with specific goals matched to a rather inefficient allocation of resources. The forces of the market play a modest role in determining this allocation—perhaps giving rise to modifications from time to time to satisfy some consumer demands but not much more than this. The mirror image of this is the U.S. system whereby the market determines the resource allocation and the Government influences this only marginally.

The importance of the role of central planning for arms control cannot be overemphasized. There are several economic factors at work here. The first is 5-year cyclical planning and resource allocation. The system of matching resources with output objectives has created a huge standing bureaucracy in the U.S.S.R. It is the nature of this bureaucracy to resist innovation, to change slowly, and to protect its perceived self-interests. The planning cycle being longer and more complex than most countries, it is difficult to interrupt it or to change its momentum.

What does this have to do with arms control? Well, it means that the military industrial complex in the Soviet Union—that peculiar alliance of metal eaters (heavy industry), the powerful military hierarchy, and the bureaucrats of the Gosplan, will find substitutes for any military programs artificially curtailed by SALT. They will fight to retain their allocation, their scheduling, their output, their workforce, their preeminent role in Government and in the party. Certainly there will be pressures for transferring more resources to light industry, agriculture or consumer goods. But just as certainly the metal eaters will compete for these resources with equal if not greater vigor.

Second, the Soviet procurement system is characterized by a series of design bureaus that have no analog in the West. It is the Soviet's limited concession to competition. A number of design bureaus have been identified in the strategic missile business—perhaps four or five. Each bureau has its own design team, its own engineers and its own related production facilities.

Whereas U.S. corporations compete up through the flyoff stage, in the Soviet system, each bureau is allowed to design, test, and eventually produce its missile system. The reward seems to be in how many of what design bureaus missiles get deployed. In the second generation of missile systems, for example, the SS-7 and SS-8 came from different design bureaus although they were compatible in technology and mission. Both were deployed. The SS-8 bureau received a far smaller deployment indicating some rewards to the SS-7 division, but the point remains that both were deployed.

The reason is obvious. There is a make-work, metal consuming goal, or objective built into the design bureau system. Each month, each year, each planning cycle, the design bureaus are expected to consume a given amount of steel which is delivered to them from a plant which in turn must fulfill its daily, weekly, and monthly production objectives. Slowing down or shutting off this standing requirement, which is what we, of course, try to do with the strategic arms limitation, try to slow it down, cut it off, would send a shudder through the metal industry.

In practical terms this means that for arms control to be successful in the Soviet Union, there must be some control over the design bureau system. If every bureau is allowed to pursue its own course of action by initiating a design on a follow-on system as soon as the current system is in testing, then there will be an endless succession of missile systems coming off the production line. It is true that these new systems may be constrained in size by SALT II, but it is not true that they will be any less threatening to our land-based missiles.

If I may provide an example that is current to SALT II. There is a common perception that only one "new" missile will be permitted to each side under the provision of SALT II. This is true. But it is true only in a technical, definitional sense. There can be many new missiles deployed in addition to the one so frequently talked about, so long as all the others are only marginally bigger or smaller than those they replace. Thus the Soviets will deploy not just one "new" missile, but under the modernization clause of the treaty, they will deploy several other missile systems as replacements for the current fourth generation. This fifth generation will be about the same size as the fourth generation replacements so we will define them as "modernized" and, under this slight of hand, dismiss them as not "new."

The fallacy of this rationale is that the modernized missiles will have greater accuracy than the replaced missiles—thus compounding the already feared threat to our land-based missile forces. Call them what you will, new or modernized, the Russian design bureaus will pump them out until we find some arms control within the Soviet system itself.

THE U.S. ARMS COMMUNITY

We know much more about how the U.S. procurement system works—so much more in fact that it is sometimes difficult to generalize about it since circumstances differ in each case. Nonetheless, a few observations are in order.

From a bureaucratic point of view, U.S. strategic weapon programs are influenced by interservice rivalries and parochialisms; by pressures for employment and local economic considerations; and by business planning pressures. Each of these domestic conditions made arms control more difficult than simply reaching sublimit totals in a treaty.

Esprit de corps is a necessary part of our military system. But it does have certain drawbacks. Each service tends to hold on to its missions and goals with a ferocity unmatched this side of open warfare. The Air Force's desperate fight for the B-1 bomber is a good case in point. To lose the new bomber was to imperil the bomber mission, a reduction in pilots, and a possible cut in appropriations. The demise of the triad was cited as a justification for continuing the B-1 even though the development of the cruise missile actually added a new leg to the existing retaliatory system.

The Army fought for the ABM, the Navy fought for the Polaris (opposed by the Air Force), and the Marine Corps hangs on to its close support mission. It is the natural thing for them to do but it is not always in the best interests of the Nation or arms control.

Employment also plays a significant role in weapons decisions. Former Secretary of the Treasury John Connally testified before Congress that he did not care if Lockheed performed its contract well under the Lockheed loan guarantee plan:

> What do we care whether they perform? We are guaranteeing them basically a $250 million loan. What for? Basically so they can hopefully minimize their losses, so they can provide employment for 31,000 people

throughout the country at a time when we desperately need that type of employment. That is basically the rationale and justification.

When the B-1 program was under attack in Congress, B-1 subcontractors in every State were asked to lobby their Senators and Congressmen citing the need for local employment. Shareholders of Rockwell International were asked to write to Congress citing the need for a healthy company (and continuing high dividends).

Business reasons also contribute to arms production pressures. Lockheed's former corporate chairman, Robert E. Gross, once said:

> I must submit to you that these systems are getting to be—(sic) there seems to be fewer and fewer of them and the competition for them is very, very severe and intense. If we miss one we may have lost a major part of our industrial life.

So the large defense corporations attempt to fit follow-on defense activity into logical sequences so that the work force and overhead can be distributed most efficiently. The consequence of this sound business planning for arms control is political pressure for defense dollars and major defense programs.

There are many other factors that could be considered in this context. The oversupply of prime contractors, the undersupply of subcontractors, the lack of competition, the "Government will bail you out" financial insurance, the conflict of interest in hiring former defense officials. All of these contribute to the difficulty in achieving true, lasting arms control under the American system.

So where does this leave us, Mr. President? It leaves us in a situation of uncertainty. We know that there has been progress in obtaining some modest limited arms control objectives in SALT II. But we also know that the bureaucratic forces in both countries currently are fighting any actual reductions in defense spending or specific weapon curtailments. They are looking for replacement concepts to keep people employed, to keep the design bureaus open, to keep the funding and the prototypes flowing.

It would seem that there will be no arms reductions until there is a method of restraining the internal economic factors in both countries. This is the great unresolved arms control issue that stands before us—the pressures to deploy an MX, a new generation of highly accurate ICBM's, new bombers, new mobile ABMS.

It is my conclusion that we must provide guidelines to the negotiators of both countries so that SALT III will not be an excuse for further capping, but will embody actual, meaningful decreases in strategic weaponry.

To that end, it is my intention to offer an amendment to the statement of principles accompanying the SALT II Treaty that would set a specific numerical goal of reducing to a range of 500 to 800 the land-based missiles of both nations.

POPE JOHN PAUL II'S VISIT TO AUSCHWITZ AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, last Thursday, Pope John Paul II made an historic visit to the Auschwitz concentration camp, where many hundreds of thousands of people perished just 35 years ago at the hands of the Nazis. During his visit, the Pope knelt before the Wall of Death, prayed in the dungeon cells of condemned prisoners, and spoke about the horrors of genocide, John Paul said:

> It is necessary here to think with fear of how far hatred can go, how far man's destruction of man can go, how far cruelty can go.

Auschwitz he continued:

> Is the testimony of war. If there is some bitterness in what I said, it is not to accuse anybody, but to remind you.

Mr. President, I hope the Pope's words remind all of us that genocide is man's most shameful crime. And I also hope the Pope's words remind the Senate that it has failed to ratify the Genocide Convention, a document that makes genocide a crime under international law.

The convention has been before this body for almost 30 years. Too much time has passed without Senate approval. Much too much time. Our silence on this matter has besmirched the reputation of this body and of the United States.

Ratification would allow the United States to join the 83 nations that have already acceded to the treaty. Ratification would place us alongside our NATO and SEATO allies as signatories. Mr. President, the United States stands alone among the major powers on this issue. We alone have stood still while other nations have moved forward.

If the United States is to join the international community in the attempt to insure that genocide never occurs again, the Senate must ratify the Genocide Convention.

Mr. President, I yield back the remainder of my time, and I yield the floor.

The PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia is recognized for not to exceed 15 minutes.

USING AMERICA'S ENERGY RESOURCES

Mr. ROBERT C. BYRD. Mr. President, on June 26, OPEC meets in Geneva to review its current oil pricing policy. There is not much evidence to suggest that OPEC is going to hold the line on further oil price increases. Prices are almost one-third higher than they were last December, and most OPEC members advocate additional increases.

The rapid escalation in oil prices has changed the picture with regard to synthetic fuels made from coal. Oil and gas substitutes made from coal, which some thought would not be practical for years, are now emerging as sensible alternatives to foreign oil. Whether it be the solvent refined coal (SRC) process or others, it is clear that our national energy policy should be to cut our dependence on imported oil with such substitutes.

Last week, the Senate passed a resolution offered by Senator HUDDLESTON, which several Senators have cosponsored, including myself, stating that very policy. The resolution requested the President to submit a plan to the Congress enumerating ways to substitute our plentiful coal supplies for foreign oil. This Nation has the capability and technological expertise to develop means of utilizing the resources we have. It is imperative that Government and industry make a full-scale effort to spur the production of synthetic fuels.

Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 12 o'clock noon, with Senators permitted to speak therein up to 5 minutes each.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1980

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 428, which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (S. 428) to authorize appropriations for fiscal year 1980, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Department of Defense Authorization Act, 1980".

TITLE I—PROCUREMENT

AUTHORIZATION OF FUNDS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1980 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $946,400,000; for the Navy and the Marine Corps, $4,392,000,000; for the Air Force, $8,099,300,000, of which $243,100,000, is authorized to be appropriated for the United States contribution of its fiscal year 1980 share of the cost of the acquisition by the North Atlantic Treaty Organization of an Airborne Early Warning and Control System (AWACS).

MISSILES

For missiles: for the Army, $1,205,300,000; for the Navy, $1,535,200; for the Marine

Corps, $20,500,000; for the Air Force, $2,213,900,000.

NAVAL VESSELS

For naval vessels: for the Navy, $5,791,600,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,525,000,000; for the Marine Corps, $13,000,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $336,800,000.

OTHER WEAPONS

For other weapons: for the Army, $170,500,000; for the Navy, $153,000,000; for the Marine Corps, $25,200,000.

AUTHORITY OF SECRETARY OF DEFENSE IN CONNECTION WITH THE ACQUISITION OF THE AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) BY NATO

SEC. 102. During fiscal year 1980, the Secretary of Defense is authorized, in carrying out the Multilateral Memorandum of Understanding Between the Ministers of Defense of the North Atlantic Treaty Organization on the NATO E-3A Cooperative Programme, signed on December 6, 1978—

(1) to wave reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

(A) auditing;
(B) quality assurance;
(C) codification;
(D) inspection;
(E) contract administration;
(F) acceptance testing;
(G) certification services; and
(H) planning, programing, and management services;

(2) to waive any surcharge for administrative services otherwise chargeable; and

(3) to assume in connection with the NATO E-3A Cooperative Programme for fiscal year 1980 contingent liability for—

(A) program losses resulting from the gross negligence of its contracting officers;

(B) identifiable taxes, customs, duties, or other charges levied within the United States on the program; and

(C) the United States share of the unfunded termination liability.

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

AUTHORIZATION OF FUNDS

SEC. 201. Funds are hereby authorized to be appropriated for fiscal year 1980 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $2,933,900,000.

For the Navy (including the Marine Corps), $4,513,296,000.

For the Air Force, $4,324,100,000.

For the Defense Agencies, $1,110,000,000, of which $33,400,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

M-X MISSILE PROGRAM

SEC. 202. (a) In addition to the funds authorized by section 201, there is authorized to be appropriated for the use of the Air Force for fiscal year 1980 the sum of $670,000,000 which may be used only for research, development, test, and evaluation on the M-X missile program. None of the additional funds authorized by this section may be obligated or expended on such program for a period of 60 calendar days following the day on which the Secretary of Defense submits a written report to the Committees on Armed Services of the Senate and the House of Representatives describing the final decisions approving the specific characteristics of the M-X missile program, including, but not limited to, the missile size and design, basing and movement mode, natural resource considerations, costs, and schedule for deployment. Such report shall be submitted on or before October 1, 1979.

(b) In the event that the final decisions on the M-X missile program referred to in subsection (a) include approval of any basing system for the M-X missile other than a land based system, the President or other officer designated by the President for such purpose shall certify to the Congress in writing that, in his judgment, a land based system is not in the best interest of the national security of the United States and that the approved basing system (other than a land based system) is either militarily more effective than any land based system or less costly and equally or more effective militarily than any land based system. Such certification shall accompany the report required by subsection (a) of this section.

(c) Notwithstanding the provisions of subsection (a), funds for the M-X missile program authorized by such subsection may be obligated or expended before the expiration of the 60-day period referred to in such subsection if each House of Congress agrees to a resolution of its own House approving the report referred to in such subsection (hereinafter in this section referred to as a "resolution of approval").

(d) Funds for the M-X missile program authorized by subsection (a) may not be obligated or expended if, before the expiration of the 60-day period referred to in such subsection, either House of Congress agrees to a resolution disapproving the report referred to in such subsection (hereinafter in this section referred to as a "resolution of disapproval").

(e) (1) Consideration by the Senate and the House of Representatives of resolutions of approval and resolutions of disapproval shall be governed by the procedures set forth in this subsection. This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in each House in the case of resolutions described by this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(2) Any resolution of approval and any resolution of disapproval introduced with respect to a report referred to in subsection (a) shall be referred to the Committee on Armed Services of the Senate or the House of Representatives, as appropriate.

(3) If the committee to which a resolution of approval or a resolution of disapproval has been referred has not reported it at the end of 10 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution of approval or resolution of disapproval which has been referred to the committee.

(4) A motion to discharge may be made only by an individual favoring the resolution of approval or resolution of disapproval, as the case may be, may be made only if supported by one-fifth of the Members of the House involved (a quorum being present), and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a resolution of approval or resolution of disapproval); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(5) (A) The provisions of subparagraphs (B) through (F) of this paragraph shall be applicable in the case of a resolution of approval or resolution of disapproval in the House of Representatives.

(B) When the Committee on Armed Services of the House of Representatives has reported, or has been discharged from further consideration of, a resolution of approval or a resolution of disapproval, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) Debate on any such resolution in the House of Representatives shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. Only an amendment to change a resolution of approval to a resolution of disapproval or to change a resolution of disapproval to a resolution of approval shall be in order. Debate on any such amendment shall be limited to 1 hour. No other amendment to, or motion to recommit, a resolution shall be in order. It shall not be in order to move to reconsider the vote by which an amendment to a resolution is agreed to or disagreed to or by which a resolution is agreed to or disagreed to.

(D) Motions to postpone, made with respect to the consideration of a resolution of approval or resolution of disapproval, and motions to proceed to the consideration of other business, shall be decided without debate.

(E) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any resolution of approval or resolution of disapproval shall be decided without debate.

(F) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any resolution of approval or resolution of disapproval and amendment thereto shall be governed by the Rules of the House of Representatives applicable to other resolutions and amendments in similar circumstances.

(6) (A) The provisions of subparagraphs (B), (C), and (D) of this paragraph shall be applicable in the case of a resolution of approval or resolution of disapproval in the Senate.

(B) Debate on any resolution of approval or resoluton of disapproval, and any amendment thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Only an amendment to change a resolution of approval to a resolution of disapproval or to change a resolution of disapproval to a resolution of approval shall be in order. Debate on any such amendment shall be limited to 1 hour, to be divided between, and equally controlled by, the mover and manager of the resolution, except that in the event the manager of the resolution is in favor of such amendment, the time in opposition thereto shall be controlled by the minority leader or his designee. Debate on any debatable motion or appeal in connection with such a resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. The majority leader and the minority leader, or either of them, may, from the time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of an amendment, debatable motion, or appeal.

(D) A motion to further limit debate is not debatable and no motion to recommit is in order.

TITLE III—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 301. For the fiscal year 1980, each component of the Armed Forces is authorized an end strength for active duty personnel as follows:

(1) The Army, 776,700.

(2) The Navy, 524,000.

(3) The Marine Corps, 189,000.

(4) The Air Force, 557,300.

DISCONTINUANCE OF OVERSEAS TRAVEL AND TRANSPORTATION ALLOWANCES FOR DEPENDENTS OF LOWER ENLISTED GRADES

SEC. 302. (a) Subsection (a) of section 406 of title 37, United States Code, is amended by striking out "A" at the beginning of such subsection and inserting in lieu thereof "Except as provided in subsection (i) of this section, a".

(b) Subsection (h) of section 406 of such title is amended by striking out "In" at the beginning of such subsection and inserting in lieu thereof "Except as provided in subsection (i) of this section, in".

(c) Section 406 of such title is further amended by adding at the end thereof the following new subsection:

"(i) A member of a uniformed service in the pay grade of E-1, E-2, E-3, or E-4 (2 years or less service) is not entitled—

"(1) to travel and transportation in kind for his dependents, to reimbursement therefor, or to a monetary allowance in place of that transportation in kind for any travel and transportation of such dependents to or from any place outside the United States;

"(2) to the movement of such member's household effects to or from any place outside the United States; or

"(3) to the transportation of a motor vehicle of such member to or from any place outside the United States.".

(d) The provisions of section 406(i) of title 37, United States Code, as added by subsection (a) of this section, shall not apply in the case of travel or transportation described in such section 406(i) if the travel or transportation was authorized by orders issued before the date of enactment of this section; nor shall the provisions of such section apply in the case of any such travel or transportation if the travel or transportation is authorized in connection with the termination of the duty assignment of a member of a uniformed service assigned to a station outside the United States and the duty assignment of such member to such station was made by orders issued before the date of enactment of this section.

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO AUTHORIZED STRENGTHS OF RESERVE GENERAL AND FLAG OFFICERS

SEC. 303. (a) Section 3218 of title 10, United States Code, is amended by striking out "and those serving in the National Guard Bureau" and inserting in lieu thereof "those serving in the National Guard Bureau, and those chargeable under section 3202 of this title".

(b) Section 5457(a) of such title is amended by inserting after "rear admiral" a comma and "exclusive of those chargeable under section 5442 of this title,".

(c) Section 5458(a) of such title is amended by inserting after "combined" a comma and "exclusive of those chargeable under section 5443 of this title,".

(d) Section 8218 of such title is amended by striking out "and those serving in the National Guard Bureau" and inserting in lieu thereof "those serving in the National Guard Bureau, and those chargeable under section 8202 of this title".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO REPORTS TO CONGRESS ON ACTIVE DUTY PERSONNEL REQUIREMENTS OF THE MILITARY DEPARTMENTS

SEC. 304. (a)(1) Section 686 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 39 of such chapter is amended by striking out the item relating to section 686.

(b) Paragraph (3) of section 138(c) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(3)" at the beginning of such paragraph;

(2) by redesignating clauses (A), (B), and (C) of the second sentence of such paragraph as clauses (i), (ii), and (iii), respectively;

(3) by striking out "It shall also include" at the beginning of the third sentence of such paragraph and inserting in lieu thereof the following:

"(B) The Secretary of Defense shall also include in the report required under subparagraph (A) of this paragraph"; and

(4) by adding at the end of such paragraph the following new subparagraph:

"(C) The Secretary of Defense shall also include in the report required under subparagraph (A) of this paragraph the following information with respect to each military department:

"(i) the estimated requirements in members on active duty during the next fiscal year;

"(ii) the estimated number of commissioned officers in each grade on active duty and to be promoted during the next fiscal year; and

"(iii) an analysis of the distribution by grade of commissioned officers on active duty at the time the report is prepared.".

TITLE IV—RESERVE FORCES

AUTHORIZATION OF RESERVE COMPONENT STRENGTHS

SEC. 401. (a) For the fiscal year 1980, the Selected Reserve of each Reserve component of the Armed Forces shall be programed to attain an average strength of not less than the following:

(1) The Army National Guard of the United States, 355,700.

(2) The Army Reserve, 197,400.

(3) The Naval Reserve, 87,000.

(4) The Marine Corps Reserve, 33,600.

(5) The Air National Guard of the United States, 92,500.

(6) The Air Force Reserve, 57,300.

(7) The Coast Guard Reserve, 11,700.

(b) Within the average strengths authorized in subsection (a) for fiscal year 1980, each component of the Armed Forces is authorized an end strength of no more than the following numbers of Reserve component members serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the Reserve forces:

(1) The Army National Guard of the United States, 6,244.

(2) The Army Reserve, 4,288.

(3) The Naval Reserve, 1,707.

(4) The Marine Corps Reserve, 67.

(5) The Air National Guard of the United States, 1,560.

(6) The Air Force Reserve, 681.

(c) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year; and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

REPEAL OF SECTION 309 OF TITLE 37, UNITED STATES CODE, RELATING TO ADDITIONAL PAY FOR PERFORMANCE OF ADMINISTRATIVE DUTY BY OFFICERS OF THE NATIONAL GUARD AND RESERVE COMPONENTS

SEC. 402. (a) Section 309 of title 37, United States Code, is repealed.

(b) The table of sections at the beginning of chapter 5 of such title is amended by striking out the item relating to section 309.

(c) The amendments made by this section shall become effective on the first day of the first month following the month in which this section is enacted.

TITLE V—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTHS

SEC. 501. (a) For the fiscal year 1980, the Department of Defense is authorized an end strength for civilian personnel as follows:

(1) The Department of the Army, 357,500.

(2) The Department of the Navy, including the Marine Corps, 305,200.

(3) The Department of the Air Force, 240,700.

(4) Activities and agencies of the Department of Defense (other than the military departments), 77,500.

(b) In computing the authorized end strength for civilian personnel there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program, and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(c) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized by subsection (a) of this section but such additional number may not exceed one-half of 1¼ per centum of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

(d) In activities engaged in maintenance, construction, and repair, the Secretary of Defense shall manage manpower resources in a manner that will insure that these activities are provided sufficient civilian manpower to fulfill work requirements for which funds have been appropriated.

TITLE VI—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOADS

SEC. 601(a) For the fiscal year 1980, each component of the Armed Forces is authorized an average military training student load as follows:

(1) The Army, 54,865.
(2) The Navy, 61,913.
(3) The Marine Corps, 22,618.
(4) The Air Force, 43,249.
(5) The Army National Guard of the United States, 7,985.
(6) The Army Reserve 4,772.
(7) The Naval Reserve, 906.
(8) The Marine Corps Reserve, 3,156.
(9) The Air National Guard of the United States, 1,958.
(10) The Air Force Reserve, 1,276.

(b) In addition to the number authorized in subsection (a), each component of the Armed Forces is authorized a military training student load to be utilized fully for one station unit training of not less than the following:

(1) The Army, 19,603.

(2) The Army National Guard of the United States, 6,631.

(3) The Army Reserve, 1,556.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized in subsection (a) for fiscal year 1980 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustments shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components in such manner as the Secretary of Defense shall prescribe.

TITLE VII—CIVIL DEFENSE

AUTHORIZATION FOR APPROPRIATIONS

SEC. 701. There is authorized to be appropriated for fiscal year 1980 for the purpose of carrying out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251–2297) the sum of $106,800,000.

INCREASE IN AMOUNTS THAT MAY BE APPROPRIATED FOR CONTRIBUTIONS TO STATES FOR PERSONNEL AND ADMINISTRATIVE EXPENSES

SEC. 702. The last proviso of section 408 of the Civil Defense Act of 1950 (50 U.S.C. App. 2260) is amended by striking out everything after the last semicolon and inserting in lieu thereof "appropriations for contributions to the States for personnel and administrative expenses under section 205 shall not exceed $40,000,000 per annum.".

MATCHING REQUIREMENT FOR CONSTRUCTION OF EMERGENCY OPERATIONS CENTERS

SEC. 703. Title II of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281–2286) is amended by adding at the end thereof the following new section:

"SEC. 206. Notwithstanding any other provision of this Act, funds appropriated to carry out this Act may not be used for the purpose of constructing emergency operations centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this Act for such purpose.".

TITLE VIII—GENERAL PROVISIONS

AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE

SEC. 801. (a) Section 802 of title 10, United States Code (article 2 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(a)" before "The" at the beginning of such section; and

(2) by adding at the end thereof the following new subsections:

"(b) The voluntary enlistment of any person who has the capacity to understand the significance of enlisting in the armed forces shall be valid for purposes of jurisdiction under subsection (a) of this section, and a change of status from civilian to member of the armed forces shall be effective upon the taking of the oath of enlistment.

"(c) Notwithstanding any other provision of law, a person serving with an armed forces who—

"(1) submitted voluntarily to military authority;

"(2) met the mental competency and minimum age qualifications of sections 504 and 505 of this title at the time of voluntary submission to military authority;

"(3) received military pay or allowances; and

"(4) performed military duties;

is subject to this chapter until such person's active service has been terminated in accordance with law or regulations promulgated by the Secretary concerned.".

(b) Section 836(a) of such title (article 36(a) of the Uniform Code of Military Justice) is amended by striking out "The procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals," and inserting in lieu thereof "Pretrial, trial, and post-trial procedures, including modes of proof, for cases arising under this chapter triable in courts-martial, military commissions and other military tribunals, and procedures for courts of inquiry,".

AMENDMENT TO THE STRATEGIC AND CRITICAL MATERIALS STOCK PILING ACT

SEC. 802. The Strategic and Critical Materials Stock Piling Act (60 Stat. 596; 50 U.S.C. 98—98h–1) is amended by adding at the end thereof the following new section:

"SEC. 11. Notwithstanding any other provision of law, on and after the date of enactment of this section or on and after June 30, 1979, whichever is later, the President shall not prohibit the importation from Zimbabwe-Rhodesia into the United States of any material determined to be strategic and critical pursuant to the provisions of this Act, nor shall he prohibit trade in lawful goods between Zimbabwe-Rhodesia and the United States.".

POLARIS SUBMARINE STUDY

SEC. 803. (a) The Congress finds that the Soviet Union's intercontinental ballistic missile capability is steadily increasing and that the United States Minuteman Intercontinental Ballistic Missile is becoming more vulnerable. The Congress further finds that it is essential to the national security of the United States that the Navy's fleet of Polaris submarines should not be deactivated until the Navy has thoroughly studied all aspects of extending the life of the Polaris fleet.

(b) None of the funds authorized to be appropriated by this or any other Act may be used for the purpose of deactivating any of the Navy's Polaris submarines earlier than 1 year after the date of enactment of this Act.

(c) The Secretary of the Navy shall prepare and submit to the Congress, at the earliest practicable date, a study including plans, schedules, cost estimates, and an evaluation of maintaining Polaris submarines in full operational status or for transferring the Polaris submarines to a standby operational status and maintaining them in such status during fiscal year 1980 and the 5 succeeding fiscal years through 1985. Such study shall be submitted to the Committees on Armed Services of the House of Representatives and the Senate not later than January 1, 1980.

SELECTED ACQUISITION REPORTS ON CERTAIN DEFENSE SYSTEMS

SEC. 804. Subsection (a) of section 811 of the Department of Defense Appropriation Act, 1976 (Public Law 94–106, 89 Stat. 531) is amended to read as follows:

"(a) Beginning with the quarter ending December 31, 1979, the Secretary of Defense shall submit quarterly to the Congress written selected acquisition reports for those major defense systems which are estimated to require a total cumulative financing for research, development, test, and evaluation in excess of $75,000,000 or a cumulative production investment in excess of $300,000,000. The report for the quarter ending December 31 of any year shall be submitted within 20 days after the President transmits the Budget to Congress for the ensuing fiscal year; the quarterly reports for the other three quarters of any year shall be submitted within 30 days after the end of each fiscal year quarter. If one or more preliminary reports are submitted for any quarter of any year, the final report for such quarter shall be submitted to Congress within 15 days after the submission of the last preliminary report for such quarter.".

ASSISTANCE TO THE 1980 WINTER OLYMPIC GAMES

SEC. 805. (a) Notwithstanding any other provision of law, the Secretary of Defense is authorized—

(1) to provide logistic support and personnel services to the XIII Olympic Winter Games;

(2) to lend and provide equipment to the Lake Placid Olympic Organizing Committee; and

(3) to provide such other services as the Lake Placid Olympic Organizing Committee may consider necessary and the Secretary may consider advisable.

(b) There is authorized to be appropriated to the Secretary of Defense for fiscal year 1980 an amount not to exceed $10,000,000 for the purpose of carrying out subsection (a). No funds may be obligated or expended for such purpose unless specifically appropriated for such purpose.

RECESS UNTIL 12 NOON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12 noon today.

The **PRESIDENT** pro tempore. Without objection, it is so ordered.

Whereupon, at 11:27 a.m., the Senate took a recess until 12 noon.

At 12 noon, the Senate reassembled when called to order by the Presiding Officer (Mr. HARRY F. BYRD, JR.)

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DeConcini). Without objection, it is so ordered.

Mr. STENNIS. Mr. President, what is the pending order of business?

The PRESIDING OFFICER. The pending order of business is S. 428, which is before the Senate at this time.

Mr. STENNIS. Mr. President, for the time being, we do not have controlled time on this bill or on the amendments, which is entirely satisfactory to the floor managers of the bill, the Senator from Texas and me. However, we do hope that in the course of time, perhaps this afternoon, later in the afternoon, the leader will see fit to seek an arrangement for controlled time.

I mention this not for the purpose of cutting anyone off or leaving anyone out. On the contrary, I mention this for the purpose of lending regularity and orderly presentation of the bill within a reasonable time, with assurance to all that the ground rules will be along the line of whatever may be agreed to by the Senate. The committee does not make the rules. It merely accepts the orders of the Senate, through its leaders, and through its members.

Mr. President, as is usual with a very comprehensive bill of this kind, certain additional assistance will be needed on the floor. Therefore, I ask unanimous consent that the following members of the Armed Services Committee staff have the privilege of the floor during the debate on S. 428: Frank Sullivan, John Roberts, and Louise Hoppe.

I make the same request for a member of my staff who sometimes works on these matters, Mr. Rex Buffington, as well as such other staff members for whom the Senator from Texas may wish the privilege of the floor.

Mr. TOWER. Mr. President, will the Senator accept an amendment to his request?

Mr. STENNIS. Yes.

Mr. TOWER. To include Rhett Dawson, Alton Keel, Ron Lehman, and Ed Kenney.

The PRESIDING OFFICER. Without objection, the request of the Senator from Mississippi, as amended by the Senator from Texas, is agreed to.

Mr. STENNIS. Mr. President, there will be some others as we reach other portions of the bill for whom either one of us may ask that privilege.

Mr. President, I propose to give an outline of the major items that are in this bill for the consideration of the Membership. Preliminarily, I refer to the great care and exhaustive preparation by the staff and by the membership of our committee in going into every major phase, and most of the minor phases of this bill, as it concerns policy and as it concerns military and civilian manpower, firepower, and weaponry of all kinds as it may pertain to all of the ramifications of this worldwide military program. This is not a casual thing by any means. I do not claim that we do more work than any other committee or group. I do point out with emphasis here with reference to our recommendations that there is a very exhaustive consideration given to the matters which follow the preparation by a group of very skillful members of the professional staff composed of young ladies as well as men who are particularly versed by training and by experience in the respective roles that they play.

They are quite willing and do assist on various subject matters and help each other. In that way they bring to us for the benefit of the Senate and the country, very skillful and very exhaustive work in the preparation of this bill.

This bill is to be distinguished, Mr. President, from a supplemental authorization bill that we have had this year for fiscal year 1979. That bill has already been passed by the Senate by an almost unanimous vote in its final form, and within a very few days we will go to conference with the House of Representatives with whom there are not many items in disagreement. I think we will have a bill agreed to in conference this week anyway and be back on the floor with it then. It is safe to say that those bills are supplementary to each other and complement each other, too, because they largely pertain to programs that are multiyear programs.

Mr. President, last year when we finally finished the appropriations bill that was based largely on an authorization bill, like the one we have now. It turned out that that appropriations bill was the largest defense appropriations bill that Congress had ever enacted in the history of our Nation in peace or in war. That was $117.3 billion which is the figure as I remember. The bill before us today in many ways goes over the same territory and the same jurisdiction. It will form the basis of the appropriations bill that will run some $7–$10 billion more than the appropriations bill last year. But the increase does not represent a great deal except inflation and the rise and fall of various weaponry programs that vary in amount from year to year.

But by any consideration this is a massive bill for fiscal year 1980. It covers all major phases of our worldwide military programs and touches on substantial portions of all of our weaponry including ships, aircraft, and tanks for the military services.

It also makes a survey of the new fields of weaponry that are being developed and provides research money for research and development in some areas for these vast programs.

This bill before us today proves that there is no end in the foreseeable future to any susbtantial reductions of our military programs either in dollars or in personnel, although the committee examined the entire bill with this in mind.

And I hope that our efforts will be followed by committees in the future years that will make that same effort, Mr. President. I do not say that it cannot be done. I merely say that the evidence is that the demands for the next few years do not appear to call for a substantial reduction in these amounts. But of course we hope for better developments in that field. I think that one of the great things that the military and civilian personnel—from the service secretaries on down in the civilian employment and from the Chiefs of Staff in the military department—could do is to make a special effort to emphasize the saving of money whenever possible. We must spend money in a prudent manner and make those dollars go as far as they will.

I say it has gotten to where it is not a lost art in Government but it certainly is a neglected art in the way money is spent, to make it go farther, to buy more, or to avoid spending the money unless it is necessary. To express it another way, spend the money with a view of trying to save a part of it. I have been disappointed frankly that we do not have more effort along that line. I think the taxpayers are entitled to it and are awakening to the fact that they are not getting enough effort out of Government. Those who represent the taxpayer must make those dollars go as far as they possibly can and save some when they can. I include our own group—Congress, of which I am a Member—in that category. I think we have to go back and pick up a lot of the so-called old-fashioned ideas and practices that are spoken of now somewhat in derision by some thoughtless people. What made America great is hard work and the wise spending of money, the wise use of credit, and making the dollar go farther or as far as it can.

If we go back to those practices we solve some of our troubles. Until we do go back to them we will not solve them. I am thinking about inflation. I would like to see in all departments of the Government a more conscious effort to utilize and save manpower, get along on less employees. That does not mean to go ahead and fire all your people, but through attrition amazing things can be done in reductions.

I think if we open and close these debates and our committee meetings more on a note like that it might do good.

Mr. President, three different subcommittees, major subcommittees, worked on various aspects of this bill, and then parts of it were taken up by the Committee as a Whole.

Under the peculiar rules of the Senate, a large committee such as this finds it impossible to appoint as many major subcommittees as it would like to, but has to resort to full committee hearings on many major matters, with some of our more experienced and trained membership concentrating on the subject matter of those particular hearings and preparing the proof for the full committee.

There are just not enough days in the month and enough months in a year for our membership or the membership of this committee to give the fullest consideration to all the items it has to consider in these massive bills.

But we actually had a total of 45 days of hearings which were held by both the subcommittees and the full committee. A number of markup sessions were held over a 3-week period on this bill. Many issues were debated vigorously by the committee membership. However, I am pleased to report a bill that has the unanimous approval of the committee.

There are matters in here about which there is a difference of opinion and about which there is controversy. In the MX matter, for instance, we worked very hard, called back competent witnesses here and there on various points until we got a situation worked out that included the necessary money and carried some language with it. That was before the President's decision with reference to the MX.

Now, each of the subcommittee chairmen will report in detail on the recommendations of the programs within their jurisdictions, and I would like to especially recognize the hard work done by the subcommittee chairmen. One of these is Senator CULVER, the chairman of the Research and Development Subcommittee, ably assisted by Senator WARNER, his ranking minority member there, and all the other members of the subcommittee. They took an active, diligent part.

Another chairman of a subcommittee, Senator NUNN, chairman of the Manpower and Personnel Subcommittee, together with Mr. JEPSEN, the ranking minority member and other members of the subcommittee; Senator HARRY F. BYRD, JR., of the General Procurement Subcommittee together with Senator GOLDWATER, the ranking minority member. Senator CANNON and Senator GOLDWATER, greatly assisted the full committee in the consideration of the tactical air items. Senator TOWER, our ranking minority member of the full committee, contributed greatly to this bill, and I would like to especially thank him for his valuable assistance.

Mr. President, it is not a formality. Every member of this committee contributed to the writeup and final fixation of the bill, the amounts of money, and the language. I am trying to compliment these gentlemen here—assistance from all the minority members and all the new members of our committee. They are working out mighty well and learning more and more about the subject matter. Many of them came there already versed in it, and they have made very significant contributions here. I think this bill is going to move along very smoothly because of their work.

Mr. President, a total of $40.123 billion is requested for authorization of funds for procurement, research and development, and civil defense.

The bill, as reported from the committee, recommends $40.086 billion, a decrease of $37 million below the President's request. Changes in manpower strengths and policies in the bill will result in savings of $53 million from those in the President's request.

The net impact of the bill is, therefore, $90 million below the President's request. This level is consistent and is within the budget resolution. That budget resolution and its committee cause a lot more work on the part of our committee, but they do a very fine job among difficult circumstances. I commend them highly for it, led by the Senator from Maine (Mr. MUSKIE) and the Senator from Oklahoma (Mr. BELLMON), both of whom are very diligent and very effective, as are all the members of the Budget Committee.

Now, Mr. President, I think this bill today represents a new start that is going to be meaningful in the building of modern ships for a more modernized and a more ship-worthy Navy.

There is no use of reviewing all the difficulties that we have been through. The Navy in the last few years has had problems with matters of management, matters of personnel, matters of money, and matters of ships. There were differences of opinion, honest as they were, about which ships to build. Last year the bill which Congress passed was vetoed by President Carter because it had a nuclear aircraft carrier in it.

I am not trying to discredit the President or criticize him. I knew he was within his constitutional rights, and I felt he was honest about it. Nevertheless, it added to the trouble. This year we have a modified *Kennedy*-class carrier in this bill. President Carter recommended a CVV medium-sized carrier for this year. Our committee considered his recommendation to the extent that we did not put in a nuclear carrier of the type we did last year that brought his veto. Perhaps a majority of us had the nuclear-powered carrier as a first choice.

But all the committee members today go along on the idea of making a second choice as to our judgment of a carrier. We put in one of the so-called *Kennedy* class, named for the late President Kennedy. I bring it up at this point to emphasize that it is definitely an illustration of the legislative and the Presidential group coming together, as I believe they will. I am also hoping that the House of Representatives will see fit to agree to a *Kennedy*-class carrier, as will the President, so that we may move forward with an effective weapon in this field.

I really think we ought not to stop with just building one more new carrier. I am convinced—and I have not been convinced until this year—that we are going to need more than one new carrier.

Let us get together this year, by all means, on a carrier that has meaning. If the Senator from Texas were to rise to the suggestion, I might yield to him at this point for a discussion on that matter. I will be glad to yield.

Mr. TOWER. Well, the Senator from Texas always rises when a carrier is mentioned; but I will say more with respect to that later.

Mr. STENNIS. Well, the Senator from Texas always has something to say for carriers, and he will defend that forcefully later, I am sure.

Once again this year, the committee spent many long hours reviewing the status of our Navy shipbuilding program including what kind of aircraft carrier should be approved to keep airpower at sea. The relative capabilities and costs of the various aircraft carrier alternatives were considered carefully by the committee. A modified *Kennedy*-class, large-deck carrier proved to be the preferred choice for authorization rather than the requested CVV medium carrier.

The modified *Kennedy*-class carrier will carry 50 percent more aircraft than the one recommended by the President. It is better suited for high threat scenarios, has better sea keeping ability on the high seas, thereby allowing greater flexibility and safety in aircraft operations, and is less vulnerable.

The committee felt that the added cost of $143 million is a reasonable price to pay for substantial increase in capability. I also want to note that the CVV is as yet a "paper carrier" whereas the *Kennedy*-class carrier is a "tried and true" fighting ship.

That is, one similar to it has already been built, the kinks worked out of it, and put in operation, and it is a working, going-to-sea fighting ship.

The committee is recommending several initiatives designed to place VSTOL aircraft at sea at an early date including $49 million for conversion of an existing LPH to a light VSTOL carrier, $25 million for research and development for a new light carrier, and $42 million in long lead for an additional LSD-41 to help offset the loss of Marine amphibious lift represented by conversion of the LPH.

I tell you, I am making all these abbreviations that the Navy have coined and used to describe the different types of ships, but I do not like the system of acronyms. I would rather use the English language. But it is rather well understood by the membership of Congress as a whole, that these ships have had such prominent roles that these have become working words, anyway.

So, to summarize, the committee's shipbuilding program, a total authorization of $5.8 billion—which is, incidentally a $0.4 billion reduction from the request of $6.2 billion—is recommended.

The committee recommends denial of the request for the DDG-2 modernization program. The committee is of the opinion that essentially the same modernization can be accomplished through the fleet modernization program at a significantly reduced cost. The committee recommends deferral without prejudice of $154 million for 5 TAGOS ships.

For those who might be interested in that item, there are three of them in the House bill, which automatically makes the matter come up for further consideration at the time of the conference.

The committee also recommends approval of:

$1,121 million for a Trident submarine.

$408 million, a $53 million reduction, for an SSN-688 nuclear attack submarine.

$820 million for a DDG-47 Aegis destroyer.

$1,204 million for 6 FFG-7 guided missile frigates.

$44 million for the carrier service life extension program.

$170 million, which is a $130 million reduction from the amount requested, for cost growth/escalation.

Now, that cost growth escalation is partly controllable sometimes, and partly not controllable. We thought it better to put the burden on those who are spending the money to try to hold that figure down, and if we had to, we could pick up the difference later.

Now, coming to the MX missile that we have heard so much about in the last few days. These are very complex systems. They are difficult to understand. It is easy, you know, sometimes to just pick up a person on the street who has a second opinion about it, and find out he does not know anything about it, although he claims to and thinks he does. But when you get down to the nub of things, and try to make decisions about these awfully important matters, it is altogether a different situation. I would judge we will have some wholesome debate here on the floor about this MX matter. We have had some wholesome debate in our committee about it, too, I think what we have framed here is rather firm, strong, worthwhile conclusions on conditions that will largely prevail. I do think we will have to find out what the membership thinks, and then what the membership of the House thinks, as well as the President.

Concerning the growing vulnerability of the land-based intercontinental ballistic missile force, our long-ranged missiles, the committee recommends approval of the request of $760 million for full-scale development of the MX missile and the basic system. This is a very expensive program. The press asked me the other day how much it would cost in all. No one knows. The estimates are very large. We are dealing with missiles designed with a radius of 6,000 miles.

It will mean many billions of dollars. This is $670 million for getting into the full-scale development of the missile itself. Part of this is to be spent on the basic system, the system that is going to be used as a base for these missiles. They are not launched by air. They travel in the air under their own propulsion, but these are missiles that are based on the ground.

The committee is also recommending a provision that requires the President and the Secretary of Defense to report no later than October 1, 1979, on the final characteristics of the missile system. After such report, no funds may be spent, according to the terms here, for the program for 60 days thereafter unless each House, the Senate and the House of Representatives, passes a resolution of approval within that period.

The provision also contains a mechanism for either House by resolution to disapprove the MX program as reported within the 60-day period, in which event no funds may be spent for it in fiscal year 1980. This is a limitation on the money.

That language was worked on repeatedly. We called back witnesses to testify about it. Secretary Brown and Under Secretary Perry testified. I am not given to praising people as an indoor sport or in any other kind of way, more particularly here in the Senate Chamber, but those are two very capable, effective men, in my opinion. Neither dogmatic, autocratic, nor self-advertising, but really on the merits they have knowledge of their subject matter. They impress me a great deal, not only in this field but in others. Their consideration of this matter has been exhaustive, and their conclusion not perfect, of course, but very worthy.

Since we finished this bill the President has made a further announcement about his plans for this very missile that is to come in and pick up the job by 1985. On the matter of our intercontinental missile that he recommends, it would be of the large type, not the Navy type but the large type, 92 inches across the head of the missile, which is larger than what we have now. The basing part of it, as he said, would be decided later.

That matter is before the Senate, of course. The committee has approved this approach, but the Senate has control over that situation.

I would like to have everyone speak on it who might wish to, but I believe in the end that this is in the neighborhood of the best kind of plan or restriction that we can have.

Mr. President, these are the committee's thoughts. They can be modified a little in view of what the President has said, but I believe as a whole this substantially covers the situation. We have other language that the House of Representatives has worked on, which we will presumably be in the conference on this bill. Out of all of that I am sure will emerge some kind of a safe, worthy disposition of this MX missile matter.

I never did say anything about the total cost of this matter. I am not trying to dodge the issue, but I warn it will be a very large amount with which we are dealing, something that will cost many, many millions of dollars.

Mr. President, we in the committee have jurisdiction and responsibility over manpower. We undertook to take notice of a serious and growing problem that is affecting our military readiness overseas, particularly in Europe, in the number of dependents of our military personnel.

It is unusual for a committee to express this much concern or try to form definite regulations concerning a matter like this. I am sure the committee would not be doing it unless they thought there was a very grave and serious problem which has been brought about gradually by this large number of dependents of our soldiers being placed in Western Europe, more particularly by the Army because that is where such a high percentage of the manpower is. I think this growing, large number is not only unnecessary but is a menace to the operation of our mission in the event there should have to be a quick mobilization or getting ready for the big moment, should there be an attack.

I got into this a couple of years ago and was astounded to find—I thought we found that there were 350,000 of these dependents of our military personnel over there. But, as it turned out, there were so many that there were 20,000 more than that. There were close to 370,000. I was not on a mission to try to bring anyone home as a person or as an individual, or trying to take anything away from anyone. What I was thinking about was the military preparedness and the effectiveness of our men there, should there be an emergency. I felt that we were not prepared to get those dependents out of there without taking days and days to do it and giving them the highest possible priority—they would be entitled to that—and to save their lives at the expense of slowing down other items that were supposed to be flying in and out of that area which would be affected, as a battlefield.

I decided that Congress ought to try to do something about it, because the military was not doing enough about it. Since then, we ran into witnesses like General Haig and other who have expressed the gravest concern about it. At the same time, under our system, these officers do not feel free to express themselves fully because it is kind of taboo to be saying anything adverse about it. Those of us who have dealt with these matters and their testimony under circumstances like that can read between the lines more than what is actually said. So we have tried to bring about some rules and regulations that will gradually bring this number down and find a way, by moving slowly, that will serve the good purposes just as well and thereby eliminate the problem that goes with it.

One thing is for a shorter term of duty there for a number of these units. As I say, letting this number build up should not have happened. I was convinced that unless we did something about it, other branches of the Government were not going to do enough. I think that this opinion is shared by virtually every member of our committee, even though I speak for the committee as a whole, as to the way they express themselves.

The fact is that for the last 10 years, while military personnel overseas has declined by 33,000, the number of dependents has increased by 70,000. In other words, we are bringing down our military numbers there, but letting the dependent numbers grow. One has to agree that they are impediments to a degree, militarily. Should there be an emergency or an attempt by the Soviets to come across. The dependents would have to be taken out first. The average cost—and I was not motivated, and I do not think the committee was, by any desire to save money at this point—per dependent has now run up to $4,665 per year, for a total cost of $824 million for Army dependents alone, in Europe alone. That is a case where we are just pitching in another slug of money. We have been doing this for years now, trying to make up for the deficiencies of the total volunteer force concept. It is going down, it is not working, it is not coming up to expectations. So throw in a slug of money here, pay them more money for volunteering, give them a bonus for reenlisting, and give their dependents a big vacation. When they get over there, it is not such a big time or vacation, either.

That is just about what has happened. My point is that I am not going to punish any dependent, of course, but something has to be done to protect against these conditions. That sum of money has gotten to the point where we just do not have an extra billion dollars to throw in for this or throw in for that.

This large number of dependents in Europe brings into question the adequacy of an evacuation plan and creates financial problems for a great many military families. Military commanders, in testimony before the committee, have also outlined this problem. But the Department of Defense has not proposed a plan to reduce the number of dependents overseas. There is where the recommendation ought to come from. There is a restraining hand or a reluctance somewhere.

The committee recommends several steps to reduce the number of dependents below the level now contained in last year's Appropriations Act:

First, an amendment to discontinue the payment of travel for dependents, household goods, and automobiles for junior enlisted personnel in the future. That is junior; that means for the privates and the corporals.

Well, someone says, you are discriminating against them; you have given it to the sergeants' families. Well, the sergeant is supposed to be worth more to the Army than a private; otherwise, he would not be a sergeant. So, as I said, we are not trying to reduce all of these dependents. We are trying to get it to manageable levels and where it has more reason and common sense behind it. As a matter of fact, I think they are using this as an inducement in their enlistment effort.

So, we would merely discontinue this payment for travel costs of dependents, household goods, and automobiles for junior enlisted personnel in the future. The Department of Defense began paying these allowances last October, and personnel currently overseas or with orders would not be affected. The amendment would continue the current policy of paying cost-of-living and station unit housing allowances. The committee feels that this travel entitlement has served as an enticement for increased numbers of dependents overseas without full recognition of the various problems such young families face and the effects on unit readiness. Such personnel would still be entitled to bring their own military gear and personal effects.

Second, the committee recommends denial of the requested increase of 300 civilians for the Army for increased personnel support in Europe, primarily for child care, and a reduction of 200 military and 2,500 civilians involved in overseas dependent community support.

In other words, they carry these dependents over there, many of them do, without the consent of the military and then we have to set up all these services.

(Mr. LEVIN assumed the chair.)

Mr. STENNIS. Mr. President, third, an increase of 500 military in order to allow the Army to test the effects of an 18-month tour for single or unaccompanied soldiers overseas. Testimony before the committee by many military commanders indicated that such a policy would reduce the number of dependents and would also increase readiness.

There is a significant phase of this testimony. This will be discussed by the Manpower and Personnel Subcommittee who actually took this proof. But I have been interested in it for several years as a flaw in our system, and begged them to do something about it, or start to do something about it. Instead of that, it grew steadily worse.

These commanders are now coming in here. They did not volunteer. They were picked up. But they testified before our committee on this plan, where we are going to test the effects of an 18-month tour for single or unaccompanied soldiers overseas. They thought it would reduce the number of dependents and also increase readiness.

Fourth. The Secretary of Defense is requested to report on the implementation of these recommendations and other management actions planned to reduce the number of dependents overseas by 10 percent by the end of fiscal year 1980 from current levels and by 30 percent within 5 years.

That is a very gradual, slow, but persistent effort.

I think more and more of the words of the late general and late President Eisenhower who, more than any other one person, I believe, was the father of the NATO Alliance. His testimony and prestige helped put this matter together and helped to pass it here in this very body.

I remember what he said, the main thing was, after all, a commitment, a showing of purpose by our country with some force of military men. He did not think it would take a great knowledge. If he could see and hear now that we are debating here, more or less begging to put some kind of restriction, some kind of restriction on the military, and filling up Western Europe with all these dependents—I have given the figures already. Even with drawing down some of the military, the dependents there are increasing.

I have not heard any military argument, about the military side, purely that they thought this helped. They think it will all help.

They are talking about the steadiness of the family relationship. Of course, we have to consider that. We can consider putting more emphasis on the old-time family relationship here at home. We have to hold down some of these dependents in Europe until this matter can be gotten under manageable terms, and make some showing and find a better way than to let everybody do as he pleases.

We sent competent people over there from our staff to examine these facts and look at it to see what was happening. There is no doubt about the situation, the way they found it. We have been listening to this half-baked testimony that was making excuses for things rather than trying to find solutions.

This is a very serious problem that must be resolved. It is not the intent of the committee to treat military personnel or their dependents harshly and we are not suggesting that the number of dependents overseas be zero, or anything like that. Rather, we recognize and support the contribution to our national security by military families who endure the many hardships of military life.

But this tying in, these billions of dollars—nearly a billion dollars each year—and this harum scarum, no-system way of taking care of them over there is the wrong thing to do. It must be remedied, one way or another.

RHODESIA

The committee is recommending a provision that mandates the end of trade sanctions against Rhodesia on the date of enactment or on June 30, 1979, whichever is later.

Now, that matter has been debated and redebated, and voted on and revoted on here in the Senate many times, including just last week. It was passed on here by the resolution of the Senator from Virginia (Mr. HARRY F. BYRD, JR.), and passed by an overwhelming vote that related to the sentiments of the Senate. That vote was over 2 to 1. It can be very well expressed here on this amendment that just brings this thing to a dead issue and a dead stop, too, if the amendment is accepted on the date here as I have outlined.

WINTER OLYMPICS

There is a small item here, quite a small item, regarding the 1980 Winter Olympic Games. It refers to this emergency situation. It involves $10 million. That is an international concept.

I was not too happy with that, anyway. We had precedent for it. The idea here is that these matters can become international incidents and quite disquieting. We had it happen a few years ago, as we remember.

This is a little commonsense and good will item. I would not vote in favor of putting the military in any activity unless it was something of this kind that related to international affairs.

The committee recommends a provision that authorizes up to $10 million for assistance to the 1980 Winter Olympic Games. Except for emergency situations, the use of Armed Forces personnel and equipment should be used only for specialized services that are uniquely within the competence of the Department of Defense and cannot be provided from other sources.

STRATEGIC AND THEATER NUCLEAR FORCES

We have several items here that go to make up our big program in strategic forces, nuclear forces, and these are all important, part of a highly important part of our military preparedness. We do not want to think about such a war, much less think about starting one. We just want to have proper preparation to prevent one. We do not want anyone to make the mistake of calculating, as they see it, that we are unprepared to the extent we can be caught napping, or that if we are attacked with nuclear weapons.

We took that once at Pearl Harbor and we will not take it again.

This will be debated a great deal in the so-called SALT agreements.

But here, the reality now, inflation, blood, and money.

Several important programs are included in this bill to improve and modernize our strategic forces.

Cruise missiles will play a major role

in our future strategic and theatre nuclear forces by planning and changing the present, but pray God not to ever have to use them.

The committee recommends approval of research and development and procurement funds for cruise missiles as follows:

[In millions]

	R. & D.	Procurement
Air-launched cruise missile (ALCM)	$90	$364
Sea-launched cruise missile (SLCM)	140	23
Ground-launched cruise missile (GLCM)	44	25

The committee recommends approval of the research and development requests for the following strategic and theatre nuclear programs:

[In millions]

MX missile	$670
Cruise missile carrier aircraft	30
B-52/air-launched cruise missile	184
Ballistic missile defense	229
Trident II missile	41
Pershing II	145

The committee continues to be concerned with the problems of communicating with our submarine force and with indecision on the site selection for the extremely low frequency (ELF) system. The committee recommends that $13 million of the $20 million authorized for fiscal year 1979 be removed from the ELF program and be used as a financing adjustment to reduce the new budget authority for fiscal year 1980 Navy research and development program. The remaining $7 million may be expended to resume advanced development of the ELF system if a site is selected and the President approves such a site for development of the ELF system. The fiscal year 1980 request of $14 million is reduced to $7 million, again conditioned upon a decision by the President to deploy the ELF system at a particular site.

The committee recommends the addition of $2 million for a study of the potential for using laser communications to communicate with patrolling submarines. That is another phase of this possibility.

AIRCRAFT

The committee recommends the following major changes to the aircraft procurement request:

Addition of $352 million for a total of $926 million for 25 F-18 fighter aircraft;

Addition of $89 million for 6 A-6E attack aircraft;

Addition of $149 million for 12 A-7K attack aircraft for the Air National Guard;

Addition of $80 million for 8 C-130H for the Air National Guard and Reserves; and

Denial of $68 million for the advance procurement for AWACS.

The committee also recommends addition of $180 million for research and development for the AV-8B VSTOL aircraft for the Marine Corps. That is outside the budget. It was left out of the regular budget, as we understood, not because of its lack of worth and value but on the priority selection. It is an expensive program, however, and it is very much in keeping with the needs of the Marine Corps. It carries with it the idea of a possible new type aircraft for many other missions than we have now. That is the vertical takeoff type. This has been approved. This is a step forward, and we will get into the big money a little later.

The committee recommends approval of the request of $465 million for 24 F-14 fighter aircraft, $803 million for 144 A-10 attack aircraft, $889 million for 60 F-15 fighter aircraft, $1.4 billion for 175 F-16 fighter aircraft, and $246 million for 3 AWAC's aircraft. They are very expensive but are highly valuable as radar receivers. We did strike out the money for the future longtime lead items.

TRACKED COMBAT VEHICLES

These are highly important instruments. It has taken a long time for us to get this new tank to where it is workable. We are building more of the older, proven tanks. Some years ago, we finally abandoned a tank because it was taking so long and the unit cost was going to be so much that we just stopped and started over, because we decided it was too sophisticated. About 8 years have passed, and now we are at the same place on another tank. We cannot get it going just right, and perhaps it is too sophisticated. Maybe we have to go back to the old bang-bang type, after all, a simple product, for this mission, but we are not giving up yet. We do have funds here for continuing this advanced type.

The committee recommends denial of $217 million for the procurement of 251 M-60 series tanks and $52 million for 56 combat engineer vehicles that the Army requested to extend the M-60 production line during the introduction of the XM-1 tank into production. To offset this reduction, the committee recommends the addition of $60 million to convert an additional 251 M-60A1 tanks to the M-60A3 configuration. The committee recommends approval of $563 million for procurement of 352 XM-1 tanks in 1980. The committee recommends an addition of $55 million for a total authorization of $225 million for 208 fighting vehicle systems.

Many Senators are aware of the problems experienced by the XM-1 tank during recent testing. I believe that the committee has taken positive steps to insure that the Army demonstrates much greater mission reliability for this tank prior to the beginning of production in 1980. We have earmarked $18 million which the Army did not request to examine various fixes for low-reliability components on this tank in rigorous operational testing. Also, we have earmarked an additional $14 million for a backup diesel engine for the XM-1 in the unlikely event that the tank's turbine engine does not perform as expected.

I believe these safeguards will allow us to support an increased procurement level for the XM-1 in 1980.

MANPOWER

I will summarize briefly the committee recommendations on military and civilian personnel strengths, and I ask unanimous consent that the detailed tables outlining the strengths for each Service be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

	Fiscal year 1980 request	Committee recommendation	Change from request
ACTIVE FORCES			
Army	774,000	776,700	+2,700
Navy	528,000	524,000	−4,000
Marine Corps	189,000	189,000	0
Air Force	559,000	557,300	−1,700
Total	2,050,000	2,047,000	−3,000
RESERVE FORCES			
Army National Guard	355,700	355,700	0
Army Reserve	197,400	197,400	0
Naval Reserve	48,900	87,000	+38,100
Marine Corps Reserve	33,600	33,600	0
Air National Guard	92,500	92,500	0
Air Force Reserve	57,300	57,300	0
Coast Guard Reserve	11,700	11,700	0
Total	797,100	835,200	+38,100
CIVILIAN PERSONNEL			
Army	360,000	357,500	−2,500
Navy/Marine Corps	304,700	305,200	+500
Air Force	241,400	240,700	−700
Defense agencies	79,000	77,500	−1,500
Total	985,100	980,900	−4,200

Mr. STENNIS. Mr. President, the committee recommends a total active duty military end strength of 2,047,000 or a 3,000 reduction. The committee recommendation is based on an increase in Army manpower consistent with deferral of troop withdrawal from Korea and on reductions in overseas and foreign military sales adjustments, personnel and dependent support, and increases in intelligence, aircraft maintenance and the Air Force airborne command posts.

We have made adjustments here in connection with the changed situation in Korea—the changed situation there as conditions have developed that are new and different from what they were when the President was planning to withdraw the troops there. I do not know to what extent he has changed his plans, but it will require some change in manpower. We pass on that only once a year, and we had to put it down.

For the military reserves, the committee recommends a total average strength of 835,200 which includes an increase of 38,100 for the Naval Reserves. The committee recommends a total civilian end strength of 980,900, a 4,200 reduction. The committee believes the reduction in civilians can be accommodated through attrition.

The committee is also recommending several other provisions that are related to military personnel.

First. The committee adopted an amendment to provide that a person becomes subject to military justice by taking the Oath of Enlistment or by voluntarily accepting military duties and military pay and to clarify and reaffirm the statutory powers of the President to promulgate the "Manual of Courts-Martial."

Second. The committee approved an amendment to provide for the counting of Reserve general and flag officers of all services, serving on active duty, against only the active duty strength authorizations.

Third. The committee accepted an Administration proposal to eliminate administrative duty pay for certain Reserve unit commanders.

CIVIL DEFENSE

For civil defense, the committee recommends a total authorization of $107 million, a $2 million reduction.

Mr. President, that concludes my formal remarks. There are other matters here in which I am greatly interested. We probably will have some amendments from the floor.

By and large, I believe that the Members are rather well satisfied with our bill, as I said. They are not skimpy in making recommendations here, and they are not holding back in their recommendations for this bill. And the committee urges that it do pass.

I hope the leader will give us the right of way and the membership will cooperate and we can go right on through until we finish this bill.

Mr. President, I am glad the Senator from Texas is on the floor. He had a lot to do with getting this bill together and I know he will have something worthwhile to say. I yield the floor, Mr. President.

The **PRESIDING OFFICER**. The Senator from Texas.

Mr. **TOWER**. Mr. President, I first thank my distinguished colleague for his kind remarks about me. I have always admired his skillful leadership in marking up and bringing to the floor a military procurement bill. There is probably no more complex piece of legislation that the Senate is required to consider than military procurement and probably none of greater technical content that is sometimes difficult for lay people to understand.

Those of us who devote a great deal of time to this are aware of the enormous magnitude of the responsibility that we have to authorize defense programs in an era when they are becoming increasingly sophisticated and increasingly costly.

Mr. President, I also join with the distinguished chairman in thanking the staff members of the Armed Services Committee without whose professionalism and expertise it would be impossible for us to put a bill of this type together.

Mr. President, I support S. 428, as reported by the Armed Services Committee. It recommends an authorization of $40.086 billion for military procurement and research and development, which is slightly less than the President's budget request of $40.123 billion.

I support this bill as reported, but I must say that in my personal opinion it is not adequate. It simply does not provide for sufficient defense capital to meet our security objectives and to counter the projected threat.

Heaven help us if we get much in the way of proposed cuts in this budget. It is certainly not too high. It is too low.

I have come to the reluctant conclusion, however, that this is about the best we could do given the restraints within which we had to operate. We did manage to meet some critical requirements not provided in the budget request. This was made possible only through recommending offsetting reductions or deferrals after an exhaustive process of examining the time urgency of requirements and subsequently reordering priorities.

The chairman of the committee has already outlined the major provisions of the bill and I shall not be repetitious. I wish to highlight some provisions, emphasizing changes recommended by the committee.

First, the recommended authorization for Navy shipbuilding includes $1.760 billion for a 90,000-ton conventionally powered, *Kennedy*-class CV aircraft carrier in lieu of $1.617 billion for the new design, 60,000-ton, medium-class CVV carrier requested. The amendment to make this substitution was strongly supported by the committee. The committee concluded that the small additional cost of $143 million was well justified considering the substantial gain in capability. The *Kennedy*-class CV carries 50 percent more aircraft, is better suited for high threat scenarios, has better sea-keeping characteristics in high sea states allowing greater flexibility and safety in aircraft operation, and is less vulnerable. An additional consideration of the committee in reaching a decision on the carrier was the fact that the CVV requested was a new-design ship and, hence, presented a greater potential for cost growth and ship construction difficulties than the proven *Kennedy*-class CV.

It should be noted that the total recommended authorization of $5.791 billion for Navy shipbuilding is $382.2 million below the President's request. This net reduction is principally due to two committee actions—first, the decision to recommend deferral, without prejudice, of the authorization of five TAGOS ASW ships, and second, the recommendation to delete the request for the DDG-2 class. It was felt that this could be performed through overhaul and upgrade under the fleet modernization program, as the chairman has mentioned.

The fact that the recommended authorization for Navy shipbuilding is less than the request is simply a consequence of the budget restraints within which the Committee had to operate and is an indication of the inadequacy of the budget in that the committee strongly feels that the President's shipbuilding program is inadequate, as is indicated in our committee shipbuilding report. We have urged that every effort be made to increase future shipbuilding requests, not decrease them.

Mr. President, if we proceed along the present course we are going to lose naval supremacy in a decade. Two Chiefs of Naval Operations, Admiral Holloway and Admiral Hayward, have both indicated that we cannot continue on our present course and expect to match the threat posed by the ever-expanding Soviet Navy.

The Soviets in 25 years under Admiral Gorshkov have gone from a coastal navy to a blue water navy with great global capability and although they exceed us now in numbers of ships we currently have more tonnage. However, that is a slight advantage, that is represented by the additional dimension of the aircraft carrier and one that is going to be wiped out because in addition to numbers the Soviets are going to have the tonnage. They are now matching or surpassing us in terms of total naval tonnage constructed every year. And more of their resources are going into the building of capital ships.

And at some point we are going to have to face up to the necessity to accelerate our own shipbuilding program, or we are going to be in dire straits.

It seems to me that in face of the expanding Soviet threat it is foolish of us not to authorize another nuclear carrier. I think that perhaps the majority of us would like to authorize another nuclear carrier but the administration will veto us if we do because the administration will determine it is too costly. That is the only reason. I think everyone recognizes the additional capability that a nuclear carrier gives us. No, the administration says it costs too much. What that is saying is that we cannot afford the best to defend the United States. We have to take second best.

In fact, over the life of the ship, a nuclear carrier would not cost us more and in view of escalating energy prices would probably cost us less than a conventional carrier of comparable size.

(Mr. TSONGAS assumed the chair.)

Mr. **TOWER**. But we think only for today and not for tomorrow so we think about what today's costs are I am afraid and not what tomorrow's capabilities are going to be.

So, many of us reluctantly settled for the CVV or for the CV. Although the administration recommended yet an even lighter carrier we felt that this was the minimum that we could do.

I note the House has contained a CVM in its bill. We have a CV in ours, and I hope it will be the least we can get. I hope at some point the President will reconsider his opposition to nuclear carriers, particularly when you consider that the Department of Defense has indicated that we really should be deploying on a full-time basis a fleet in the Indian Ocean to protect our vital sea lanes, the vital lines of communication for the transport of Middle Eastern oil. Here are supply lines which are vulnerable now, and we do not have the ships. We do not have the ships to maintain an adequate task force in the Indian Ocean and, at once, maintain a credible sea defense capability in the western Pacific. We have to draw down on our resources.

So I think we are being penny-wise and pound-foolish in terms of our shipbuilding program and in terms of what the administration has requested.

We need another SSN; we need the TAGOS; we need so many different ships, and we are not getting them in this budget and, at a time when the Soviets are building capital ships and we are building fewer of them.

I might note the Soviets are building aircraft carriers, and we have a hard time trying to justify getting carriers into our budget. The day of the carrier certainly is not past, and in terms of peacetime maritime operations there is no substitute for the carrier. Aside from its capability in a shooting war, it is certainly an excellent peace-time system to enable us to deploy credible force in any part of the globe in a relatively short period of time, to show the flag, so to speak.

The carrier is useful as a precision instrument of diplomacy, and I hope we will consider building more carriers and not less.

We should have a task force in the Indian Ocean; we should have one in the Norwegian Sea to confront that great Soviet buildup near the Kola Peninsula, but we do not. Should we get into a general conflagration our Navy will have to fight one engagement at a time.

Moving on to aircraft procurement, the committee-recommended authorization is about $600 million above that requested. The committee identified several critical needs which were not being met within the budget request.

An additional $352 million has been requested for 10 F-18 fighter aircraft, and $90 million for 6 A-6E Navy attack aircraft for the Navy. The Navy indicated in testimony that the minimum tactical aircraft requirements would not be met by the procurement request, and that a tactical aircraft shortfall would be experienced over the next 5 years. The committee also strongly felt that the F-18 production rate should be increased in order to accrue production cost savings more rapidly with the additional early production of this new advanced fighter airplane.

The committee also recognized two critical Air National Guard aircraft requirements which were not in the request, namely, the committee recommended authorization of $149 million for 12 A-7K attack aircraft, and $80 million for 8 C-130H air transport aircraft. Both these recommendations were strongly supported by the committee and are consistent with past committee positions.

The Guard testified again this year before our committee as to the continuing requirement for these aircraft.

Mr. President, generally speaking, the Armed Services Committees of the respective houses have had to constitute themselves as the principal advocates of adequate support for our Guard and support forces. The regular military establishments, of course, base their priorities on the regular forces. I am sure they would be delighted to have additional support for the Reserves if the administration would recommend an adequate defense budget. Since that is not the case, it is usually the Guard and Reserve that have to take what is left over. So the committee on its own initiative has done these things for the Guard, when you consider the Guard's responsibilities, where a lot of our tactical airlift capability is in the Guard, so they should have modern aircraft, capable aircraft. The entire training responsibility for all of the A-7's is lodged in the Air National Guard. Therefore they should have the A-7K's.

The committee, in making these recommendations, has recognized that we would really like to do more with the Guards and the Reserves, but again budgetary restraints have been placed upon us. I would have liked to have gotten another couple of C-9's for the Navy. They desperately need that aircraft capability, but we just simply did not have the authorization money available.

In missile procurement, the committee recommended authorization of $4.975 billion, an amount approximately $100 million below the request.

For the procurement of tracked combat vehicles, the committee recommended authorization of $1.538 billion, about $168 million below that requested.

The total recommended authorization for research and development was $13.551 billion, which is less than $10 million above the President's request. Included within this recommended authorization is an amount of $180 million added by the committee to continue research and development of the AV-8B VSTOL aircraft by the marines.

The Marines indicated in testimony that this is one of their highest budget priorities and their No. 1 aviation budget priority. The Department of Defense had denied this Marine budget request because of its imposed budget restraints. The committee continues its support of te AV-8B program and, hence, has recommended the addition of the required funding.

It is really a pity that we have to turn the Marines down, or would have had to turn them down because of budgetary considerations, a program they consider vitally important in putting most of their close support eggs in the AV-8B basket, and I think that even though this admittedly is going to be a costly program in the future we should meet this requirement and we should expand our defense budget to what it should be to accommodate all of these critical requirements we have rather than, in effect, setting a budget ceiling and saying, "Only so much for defense. Let us see what we can fit into it."

I think sometimes we ignore the No. 1 responsibility of the Government of the United States which is to assure the securiy of its people to be able to defend the territorial and political integrity of the United States. It is the highest priority we have. Sometimes we treat it as if it had no greater priority than some programs of rather dubious value that have met a lot of taxpayer resistance.

It should be noted that this addition was offset by a number of reductions in the R. & D. area resulting in a net increase of only $10 million.

As is required, the Armed Services Committee also makes recommendations for military and civilian end strengths.

The recommended end strength for active duty personnel was 2,047,000, a reduction of 3,000 below that requested. For reference, the end strength at the end of 1978 was 2,040,700.

The recommended end strength for civilian personnel was 980,900 a reduction of 4,200 below that requested.

The end strengths for the Selected Reserve forces were approved as requested except for the Naval Reserve. The committee recommended an increase of 38,100, to an end strength of 87,000 for the Naval Reserve. The committee has recommended a stabilized Naval Reserve strength of 87,000.

Mr. President, that concludes my discussion of some of the major changes recommended in the fiscal year 1980 authorization. The provisions will be discussed more in detail by members of the committee and in the ensuing debate.

I support the bill, as I have stated. It is my personal conviction, however, that it does not correspond with an adequate level of defense spending, and I will note why I have this view.

First, I have a growing concern, in fact, an uneasiness, with the continuing adverse trend in the U.S./Soviet military force balance. I believe most members of the Senate Armed Services Committee share this concern. In the committee hearings this year, we have repeatedly heard our military experts present these trends and express their concerns.

For example, in the area of strategic forces, we are all now familiar with the reality that the former U.S. position of strategic superiority has slowly eroded to what is now referred to as "essential equivalence". This continuing trend will result in our land-based ICBMs being vulnerable to a Soviet first strike in the early 1980s. It is envisioned that the mobile missile concept (MX) will provide a solution by the late 1980s. However, even for this approach, I am not certain at this point if the fiscal year 1980 funding requested will be adequate.

In the area of maritime forces, for the second year in a row, our Chief of Naval Operations has testified that the trend in U.S./Soviet maritime force levels is not acceptable and is a matter of serious concern. I have already discussed these force levels in connection with our shipblilding program, and will therefore not dwell on that matter further, except to reiterate what I have said, that we had better apply ourselves to a more vigorous shipbuilding program or we are going to find that our Navy cannot perform all the roles and missions that we expect of it; and if we do not take some action we are going to have to start revising some of our strategic objectives. We are going to have to change some of our strategic doctrine if we are not going to fund the forces, be they strategic or be they maritime forces, that will support our global policy.

In the area of theater nukes—I should say nuclear forces; the term "nukes" has an evil connotation—the trend again is ominous. General Haig, U.S. Commander in Chief, U.S. European Command, testified before the Senate Armed Services Committee this year that the Soviets have now transformed Western superiority in theater nuclear forces into current Soviet advantage. General Haig went on to indicate that it is increasingly urgent to remedy imbalances in our theater nuclear capabilities vis-a-vis the Soviets. I must agree with General Haig's assessment.

Finally, in the area of conventional forces, it is well known and accepted that the United States and its NATO allies suffer a disadvantage relative to the Soviet Union and the Warsaw Pact in conventional forces.

In addition to these adverse trends in military force balance, the second disturbing trend is the increasing share of its resources that the Soviet Union devotes to military spending. This increasing investment in future military systems can only further exacerbate the adverse trends. The fact is the Soviet Union is outspending the United States in defense spending, and that while our total defense outlays have remained essentially constant (in 1980 dollars) at a level of $125 billion for over a decade—if you exclude the wartime expenditures of the United States in Southeast Asia, during that same period, Soviet expenditures have steadily increased from a point of approximately equal expenditure to a point today where they are outspending us by $50 billion.

We cannot even get a measly little $2.5 billion extra added on to our budget just so that we can spend a little more in constant dollars than we have spent, recognizing the need for an increase in terms of real buying power of 3 percent. We have barely met the inflationary factor this year, if we have done that, when you refigure the inflationary projections. But we tend to relegate defense spending to a level of importance that falls behind, I guess, a few social amenities that we want for ourselves.

It becomes a question of national will—and I think the Nation has a will. I think the people generally would like to see us spend more on this. The surveys indicate as much. But Congress has some special constituency programs that it is not about to reduce spending for to accommodate additional defense spending. We cannot even get 2 or 3 billion in addition, while the Soviets already spend $50 billion a year more than we do.

If this trend continues, we had better be prepared to accept the military inferiority of the United States. I do not believe that is what the American people want.

I believe the President and the Congress had better wake up to the fact that the American people do not want that.

It should also be noted that in this country total defense spending has dramatically decreased relative to nondefense spending during the last 25 years. In the mid 1950's defense outlays and nondefense outlays were approximately equal at a level of $125 billion in 1980 dollars. Today, defense outlays as proposed for fiscal year 1980 are about the same amount in constant dollars, but nondefense outlays have climbed markedly to the level above $400 billion. From the level of approximately equal spending in the mid 1950's, nondefense spending now outstrips defense spending about 3 to 1.

We get this guns versus butter argument. There is nothing more dishonest that anybody in public life can suggest to the people of the United States than that we have to make a decision between guns or butter. We belong to a society that can produce both.

If we increase defense spending it is not going to reduce the amount of food, clothing, and shelter that is provided for the people of this country. The private sector can do that very well if we let them alone. Wasteful Government spending programs are not butter. Wasteful social programs that have outlived their usefulness, regulatory programs that impose a burden on the economy, do not contribute to the sustenance of human life in this country.

We belong to a society that can produce enough if it wants to defend itself and feed itself. In World War II we produced not only guns and butter for ourselves but for our allies as well. In those days we also produced energy for them, too. Of course, today we try to discourage domestic production of energy by regulations, but that is another story and I will not get into that.

Mr. President, the bottom line of what I am saying is that I am convinced we must increase our defense budget to guarantee our national security. I rather suspect that when next year's defense budget is recommended by the administration it will be inadequate because they will try to balance it, and down in the Office of Management and Budget we will be hearing from everybody, from HUD, from HEW, from all the other agencies. They will feel the pressure so they will make these great decisions at OMB to cut the amount requested by the Secretary of Defense, reduce the defense budget. They will probably get an inadequate budget next year, but next year I propose to raise it. I will offer an amendment to increase it if it is not adequate, and I think we shall make an issue of that. I think the American people should be made aware of the fact that if we continue our present course we are going to be No. 2. The Soviets are going to be the most powerful nation in the world. They are going to be the dominant influence on the world. If you think that is not going to affect daily lives here in this country, Mr. President, you are wrong. When they become the dominant political influence, they are going to have the dominant influence over the world's economy. See where that puts us, a nation that is no longer self-sufficient, that is dependent upon external sources of supply and dependent upon external markets.

Finally, it is my conclusion, Mr. President, that I only support this bill reluctantly—everything that is in it we need—reluctantly because it is not enough. I wish it was more. I am sure if the American people understood what was happening they would want it to be more. Most Americans think we spend much more than we do on defense. They took a survey and I think half of them think we spend half of our budget on defense. We spend much less than half of our budget on defense. The Department of Health, Education, and Welfare spends more than the Defense Department. That is something the American people are not aware of. I think if the American public understood the inadequacy of what we are doing they would demand that we spend more. I still do not believe the people of the United States are prepared to accept the consequences of the Soviets becoming the most powerful nation in the world and perhaps so measurably superior that they will dictate the kind of political and economic climate we have in this world.

I urge the Senate to adopt S. 428. I hope there will be no killer amendments offered to this defense spending bill, no substantial cuts. I certainly hope nobody comes in here with one of those meat-ax amendments to cut it 5 percent, and let somebody arbitrarily make the decision where to cut it.

In the final analysis, it is my conclusion, Mr. President, that the defense spending level rcommended in this bill is not adequate and that future defense spending must be increased. My personal fear is that we are rapidly running out of time to correct the situation. I believe the majority of my fellow committee members share this view. I have also reluctantly concluded that the recommended authorization of S. 428 as presented is about the best we could do, given the budget ceiling within which we had to work. I, therefore, join the chairman in supporting the fiscal year 1980 Defense authorization bill, S. 428, and urge its adoption by the Senate. It is the product of long and extensive debate and study by the committee and deserves the strong support of this body.

This is the least we can do, Mr. President. I join the chairman in urging the Senate to adopt this bill substantially as it has been reported by the Committee on Armed Services.

Again I want to thank the chairman for his cooperation with me, for his never failing to consult me on important matters to the community and the committee I thank our intrepid staff for having done a marvelous job.

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I rise in support of S. 428, the pending fiscal year 1980 defense authorization bill.

Before proceeding further, I commend the chairman of the Armed Services Committee, the able senior Senator from Mississippi, for his capable leadership in the complex and difficult area of national defense matters. The chairman of the committee (Mr. STENNIS) is an inspiration to the Senator from Virginia and I think to all members of the Armed Services Committee because of his conscientious dedication and hard work involving the defense of our Nation.

No one is more diligent or hard working or more knowledgeable on this bill than our chairman.

I might say, too, that the Armed Services Committee has an excellent leadership team in the Senator from Mississippi and the senior Senator from Texas (Mr. TOWER).

It is my privilege this year to serve as chairman of the Subcommittee on General Procurement. I want especially to recognize the work of Senator GOLDWATER as the ranking minority member of the subcommittee. His work and understanding of military matters were of great value to the subcommittee in both the hearings and subsequent deliberations on the military bill. I also acknowledge the support and hard work of other subcommittee members—Senator JACKSON, Senator CANNON, Senator HART, Senator MORGAN, Senator TOWER, Senator THURMOND, and Senator JEPSEN.

I shall confine my remarks at this time to the defense program areas covered by the Subcommittee on General Procurement.

GENERAL PROCUREMENT SUBCOMMITTEE RESPONSIBILITY

The General Procurement Subcommittee reviewed Defense procurement programs in the amount of $11.5 billion.

The subcommittee held hearings on all programs falling within its jurisdiction. In addition, the staff performed additional detailed review of programs to assist in program recommendations.

Senator STENNIS has already provided an overall review of the pending bill, and the committee report provides additional detail on each of the recommended changes. In the interest of time, I propose to discuss only three programs, the new Army XM–1 tank program, the Army M–60A3 tanks recommendations, and the Army Infantry and Calvary fighting vehicle programs.

ARMY XM–1 TANK

In reaching a decision on the proper procurement level for the Army's XM–1 tank in 1980, the committee had to deal with a particularly acute dilemma. On the one hand, our armored and mechanized infantry forces must be modernized, and our troops need the increase in armor protection and performance that the XM–1 tank represents. On the other hand, the XM–1 engine displayed problems during recent operational tests, and we do not want to introduce a tank in our forces that cannot be maintained at high levels of readiness.

We have recommended as the Army requested, a sizable increase in procurement for the XM–1 in 1980—an increase of 242 tanks over the 1979 authorization of 110 tanks. At the same time, we have earmarked $17.6 million in development money for additional testing—funds that the Army did not request—to require the Army to put the XM–1 tank through another rigorous operational test to insure that fixes applied to the tank have, in fact, improved mission reliability. These tests would be conducted before this tank enters full-scale production. Also, we have earmarked $14.2 million to continue development of a back-up diesel engine for the XM–1 in case the turbine engine in the XM–1 fails to meet expectations.

NEW PRODUCTION M–60A3 TANKS, COMBAT ENGINEER VEHICLES, AND CONVERSIONS OF M–60A1 TANKS TO THE M–60A3 CONFIGURATION

The sum of $268.3 million has been deleted for production of 251 M–60A3 tanks and 56 combat engineer vehicles. As an offset, $60 million has been added to provide 251 additional conversions of older M–60A1 tanks to the A3 configuration. The net reduction in these three line items is $208.3 million.

The Army proposed procurement of these M–60A3 tanks and combat engineer vehicles to extend the production of present general tanks while the new XM–1 tank enters production. The committee recommendation will:

Provide 14 months of production overlap, probably as much as 21 months, if foreign military sales now contemplated take place;

Provide the same number of advanced M–60A3 tanks to the Army's tank force—at a lower cost—through conversions of existing tanks.

This approach is consistent with the committee's position on M–60 production last year when the committee substituted 240 conversions for 240 new production tanks within a total Army request for 480 new production M–60A3's.

INFANTRY FIGHTING VEHICLES AND CAVALRY FIGHTING VEHICLES

The committee added $55 million to the Army's request of $170.4 million for 208 of these vehicles. Testimony has revealed that the Army substantially underestimated the cost of these vehicles in the 1980 budget submission. Initial estimates of the additional funds needed to procure 208 vehicles in 1980 ranged between $75 million and $97 million. Recent information indicates that these vehicles can be obtained for an increase of $55 million.

Though it is distressing to see the lack of control of this program that the Army has exhibited, the committee feels that these vehicles must be put into the field to replace the obsolete personnel carriers we now employ. We feel, however, that the Army must be put on notice that this much-troubled program needs closer supervision. Further cost growth must be contained if this program is to contribute to large-scale force modernization.

Mr. President, I urge full support of the pending bill by each member. I believe it is a good bill. I am sure there will be some who would want more dollars for defense and some who would want less. On the whole, however, I believe this bill is a responsible one that will maintain the necessary research and development programs and procurement of weapons for a strong defense posture.

Mr. President, the total budget authorization for national defense for the fiscal year 1980 is $136 billion. Of that total of $136 billion, procurement of weapons systems and research and development—the two together—will cost $40 billion. Another way of saying that, Mr. President, is that of our total defense costs, only 29 percent will go for procurement of weapons systems and for research and development.

Before closing, there is one other item that I want to mention. The chairman touched on it briefly. In the measure now pending before the Senate is an amendment which the committee approved by a vote of 13 to 3. This amendment, which is now part of the basic bill before the Senate, would mandate the lifting of the embargo on trade which now exists with the nation of Rhodesia. Two weeks ago, the Senate of the United States, by a vote of 75 to 19, stated that, with the installation of the black majority government in Rhodesia, the International Security Assistance Act of 1978 had been complied with and urged the President not to enforce sanctions against Rhodesia. By a later vote that same day, the Senate, by a vote of 83 to 11, expressed the view that it is the congressional finding that the President should determine that the law has been complied with and that sanctions against Rhodesia should be lifted.

The President has, over the weekend, refused to lift the sanctions. The amendment which the Committee on Armed Services wrote into the pending legislation would mandate the lifting of sanctions with the signing of the current legislation or by the end of June, whichever comes later.

Mr. President, I assume—I do not want to assume, but, Mr. President, I should think there would be little opposition to the committee amendment dealing with the lifting of sanctions against Rhodesia. The Senate itself is already on record, by an overwhelming vote, as urging the President to lift the sanctions. I cannot conceive that the Senate would urge the President to do something and then, when he fails to do it, would take the position that the Senate itself is not willing to do what it urged the President to do. I think, in the interest of fairness to the 6 million citizens of Rhodesia, the sanctions should be lifted at the earliest possible date.

I think it is important to point out also, Mr. President, this being a military authorization bill, that by delaying the lifting of sanctions against Rhodesia, we play directly into the hands of the Russian-oriented guerrilla terrorists who are seeking to overthrow the new black government of Rhodesia. The significance of Rhodesia to the United States from a military point of view is this: Most of the world's chrome can be found in only three countries: Rhodesia, South Africa, and Russia. The bulk of the world's chrome is in Rhodesia. If a Russian-oriented government takes control in Rhodesia, that means that Russia would control not only the chrome in her own nation, but also the chrome in Rhodesia, leaving only South Africa where any quantities of chrome could be obtained.

So there is every reason, Mr. President, for the Senate to approve the action of the Armed Services Committee in mandating the lifting of sanctions against Rhodesia.

Mr. STENNIS. Mr. President, I wish to say a word of thanks to the Senator from Virginia for the work he has done on this bill, the hearings he held, and his attention, as always, to his assignments, to his work, and his attention on the floor, as well as in the committee. He is the only one I know of who really can be in two places at once.

I thank the Senator.

Mr. CULVER addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CULVER. Does the distinguished chairman wish me to proceed at this time?

Mr. STENNIS. Yes.

Mr. CULVER. Mr. President, it has been my privilege this year to serve as chairman of the Subcommittee on Research and Development of the Armed Services Committee. From that perspective, I would like to make a few brief comments on this bill, particularly title 2, that portion of the bill which authorizes funds for Department of Defense Research, Test and Evaluation.

First, I want to express my appreciation to Chairman STENNIS for his leadership and support throughout the past few months as we reviewed the budget request and developed our recommendation.

Next, I would like to acknowledge the help of the other members of the subcommittee, particularly Senators EXON and LEVIN who took the lead in reviewing the various parts of the budget request and in developing recommendations regarding antisubmarine warfare, fleet air defense, and Army tank and antitank programs.

I would also like to acknowledge the very responsible role played by Senator WARNER as the ranking minority member of the subcommittee. I am pleased to be able to say that it was his leadership, in significant part, that helped make possible the report of the subcommittee to the full committee, which was unanimous. Senator WARNER played a major role in achieving this and I greatly appreciate his support and help.

In addition, Mr. President, I want to acknowledge the outstanding work of the Senate Armed Services Committee staff members who were assigned to this particular subcommittee, specifically Mr. George Riedel on the majority side, and Mr. Rhett Dawson on the minority side, who helped in the examination of the R. & D. budget.

Mr. President, the Department of Defense request for research and development for fiscal year 1980 was $13.5 billion, an increase of 10.5 percent over that appropriated in fiscal year 1979. S. 428 recommends an increase of about $10 million over the defense request, a very modest change in the total. However, this does not mean we did not review the budget request in careful depth. The net change of $10 million results from reductions of $380 million and additions of $390 million.

The Subcommittee on Research and Development held 10 hearings as part of their budget review. These hearings covered all of the major areas of the defense research and development program. The Department of Defense research and development program involves over 750 program elements, with many of these program elements divided into a number of separate projects. It is, indeed, a very challenging task to understand and develop budget recommendations. I do not intend to cover the entire scope of the programs as reviewed by the committee; that is detailed in the report accompanying the bill. However, I would like to briefly discuss two major areas—those groups of programs known as technology base; and the strategic nuclear programs.

TECHNOLOGY BASE

About 17 percent or $2.3 billion of the Department of Defense research and development budget is devoted to programs known as the technology base. These are the programs that support basic research and very early exploratory development of technologies which have promise for future application. These funds will be used to support thousands of projects in universities, private companies and Department of Defense laboratories. This is the base from which we will draw our defenses of the future. It has been the technology base which has allowed us to meet the challenges of the past without resulting to overwhelming numbers of forces such as done by the Soviet Union.

The amount requested by the Department of Defense this year for the technology base is 15 percent above that appropriated for fiscal year 1979. This would allow for about an 8 percent real growth in this critical area. I was particularly disturbed to learn during the hearings that the funding for the technology base had remained essentially constant over the past 5 years, despite efforts of the Senate Armed Services Committee to strengthen it. This bill authorizes the full Department of Defense request for the technology base and will provide real growth for this critical area.

I think it is important that my colleagues in the Senate and the American people understand the strength of the commitment of this administration and the Senate Armed Services Committee and hopefully the Senate to providing a strong technology base. Unfortunately, to most people, the words "technology base" mean very little because it suggests things like laboratories and computers which most of us do not understand and are happy to quickly pass by. However, the administration proposed and this bill authorizes an increase of over $450 million from last year's program for the technology base in advanced technology programs. To provide such a large increase in light of competing claims on budget dollars is a measure of the strength of the commitment that we can all understand. With all the pressures to fund other defense programs, it is truly significant that an increase of $450 million is provided for the technology base.

STRATEGIC PROGRAMS

Let me turn briefly to strategic nuclear programs included in this bill. This bill provides for major modernization of every leg of the strategic triad. The funding for research and development for strategic programs is about $2.3 billion, an increase of 17 percent over fiscal year 1979. This year we will hear many analyses of the strength of our forces and their prospects for the future. The simple facts are that this bill provides for strengthening of every part of our strategic forces.

For our bomber forces we are continuing the development of the air-launched cruise missile and the modification of the B-52G. Ninety million dollars is provided to continue development of the air-launched cruise missile and $365 million is provided for the start of serial production with the procurement of 225 missiles; $658 million is provided for modification of the B-52 fleet both to upgrade the offensive avionics and to modify the B-52's to carry the cruise missile. This funding will insure that the first B-52 squadron equipped with air-launched cruise missiles will become operational in 1982.

Recent developments in Soviet air defense capabilities confirm the wisdom of shifting from the large manned bomber to the cruise missile for penetrating Soviet air defense. Those who decry cancellation of the B-1 have not yet comprehended that we have not weakened our bomber leg, but have in fact leapfrogged one generation of Soviet air defense development and have taken steps to insure that we will be able to penetrate those air defense and strike targets in the years ahead.

Thirty million dollars is provided to continue the development of a cruise missile carrier aircraft as a follow-on to the B-52. I anticipate that the field of candidates would be narrowed down to two aircraft by the end of this year. We are proceeding on an orderly and well-paced program to provide for an aircraft when the B-52 is no longer capable of performing its mission.

The sea-based leg of our strategic triad remains our most survivable. This bill provides for improvements in that leg to insure its strength and survivability in years ahead. The bill authorizes the procurement of 82 Trident I missiles and the eighth Trident submarine. It also authorizes a broad range of research and development programs that will strengthen the force in the years ahead. These include $40 million for advanced studies of the Trident II missile and over $200 million for programs to insure the security of our submarine force and to explore accuracy improvements for the SLBM's.

For the MX missile program $670 million is authorized. The future of the land-based ICBM force is one of the most challenging problems we face. It is challenging from the technical, the military, the political, and the arms control perspectives. There are conflicting views on the need for such a system. There are many views of what size of missile should be built and how it should be based. We need to be as confident as is possible that we are pursuing the right course because the program is lengthy, expensive and very important to our national security. We must not be rushed by short-term political pressures—the stakes are too high.

In summary, Mr. President, the research and development portion of this bill enjoys the unanimous support not only of the entire subcommittee, but of the full committee. It provides for the basic research and technology base that will insure our strength into the future, while at the same time we modernize not only our strategic forces which I have covered in some detail, but our general purpose forces as well.

Mr. STENNIS. Mr. President, will the Senator yield to me, briefly?

Mr. CULVER. I am delighted to yield to the distinguished chairman of the committee.

Mr. STENNIS. Mr. President, I count it a privilege to say these words of commendation to the Senator from Iowa. He took over the chairmanship of this subcommittee. I will not describe how difficult the subject matter is—except to say that it is very involved. It is voluminous in content and deep in technology. A great deal is required in the way of patience and endurance and determination. The Senator has met the requirements of this position, and more, in a very fine way, and he kept up with the problems and stayed ahead on his hearings and was prompt and decisive in his report.

Of course, he was ably assisted by others, including the ranking minority member, the Senator from Virginia. They worked together and proved to be effective. We owe him a special debt of gratitude.

In the old days, there was not a chance to go into the matter of R. & D. and the technology part, as he has explained. We had to have an especially good staff member, for one thing, and that is what we have. We had to have men who would go into it with determination. We owe him a special debt of gratitude, as chairman.

He is the successor to former Senator McIntyre of New Hampshire, whom we all recall as one who mastered this subject, also.

Mr. CULVER. I thank the distinguished chairman very much.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, before I begin my remarks, I wish to comment briefly on the performance of Senator CULVER as chairman of the Research and Development Subcommittee.

I believe I have served on that subcommittee every year I have been on the Armed Services Committee. I can say, without fear of being contradicted, that it is a most exacting chairmanship. It entails more money and research into more weapons systems than any other subcommittee. I compliment Senator CULVER on what I consider to be an outstanding job, particularly because he came to the subcommittee without any great prior knowledge of his responsibilities. It has been a pleasure to serve with him. The report he has just made is indicative of the type of work we can expect from him in the future.

Mr. CULVER. Mr. President, I thank the distinguished Senator from Arizona for his very kind remarks. I emphasize that whatever success we have had this year on the subcommittee in performing our responsibilities, we owe him an enormous debt. Even though we scheduled these hearings a 8 o'clock in the morning, there never was a day that the distinguished Senator from Arizona was not there before anyone else. I really appreciate his contributions, which were invaluable.

Mr. GOLDWATER. I thank the Senator.

Mr. President, Senator CANNON and I were given the responsibility of Chairman STENNIS of reviewing tactical air items and jointly proposing a recommendation to the Senate Armed Services Committee.

This year, considerations proved to be especially difficult. There were tactical aid items not included in the President's budget, but strongly supported by the committee in past actions and direction, totaling approximately $1.5 billion. Our budget recommendation, as presented, reflects a net increase over the budget request for tactical air items of about $500 million, which is $1 billion less than that required as based on past committee positions.

That these additional requirements will not be met is simply a consequence of the budget constraints within which we had to operate. The budget was not adequate to meet all the tactical air requirements. Mr. President, this is a common problem throughout the Armed Services Committees of the Senate and the House.

When I look at the balance between the Soviet tactical air fleet, for example, and ours, and I see them with approximately 9,500 tactical aircraft—many of them as new this year—and I look at our own Tactical Air Forces, some of the aircraft go back to the early 1950's, and we have about 5,000.

So what I have been hearing about a so-called arms race between the United States and Russia—and this will apply throughout the entire course of the discussion of this authorization bill—has not been a race, unless you want to call that mythical race between the tortoise and the hare a race. In this case, the hare happens to be the Soviet Union, and they are way out in front, and we are just plodding along. If we have enough time and are not faced with any problems of emergency, maybe the old tortoise can catch up.

I make this announcement at this time because I will continue to press for more money for defense purposes. We are sadly behind the Soviet Union at a time when we need not be or should not be.

I, Mr. President, do not fear a war between the Soviet Union and the United States. This has never happened. We have historically defended the Soviets. They have historically defended us. What bothers me, though, is our decreasing ability to meet our promises to our allies and friends around the world. We only have to witness Korea, Vietnam, what happened in Angola, and other parts of the world, where probably the major reason we did not present a stiffer and a more solid front was the fact that we did not have the equipment to do it with. So I have said that the budget was not adequate to meet all the tactical air requirements.

Mr. President, as Senators know, the total recommended authorization for military procurement and research and development is slightly less than the President's request. So the increases in the tactical air area were offset by recommended reductions in the other areas. That this had to be done is again an indication of the inadequacy of the budget.

Other requirements are going unmet or are being deferred. We simply cannot continue year after year to put off defense expenditures until "next year." The consequence of this practice has caught up with us. We are running out of time to correct the situation. We are going to have to bite the bullet and increase future defense spending.

As I have mentioned, the committee-recommended authorization does include some critical tactical air items which were not included in the fiscal year 1980 Defense Department budget request.

First, the committee has recommended authorization of $352 million for 10 additional advanced F–18 fighter aircraft and $90 million for 6 very old A–6E attacker aircraft.

Mr. President, Senators may recall that there was a so-called fly-off between two aircraft, and the now designated F–16 was the winner. However, the difference between the F–16 and the now-designated F–18 were so minute that we could actually build both of them without any hesitancy, and we are going to have an urgent need for tactical aircraft coming into the inventory well up into the 1980's and probably the 1990's. And my aeronautical guess is that the F–18 and the F–16 will be the two aircraft that will carry on with the F–14 and the F–15 remaining in the inventory and very adequately filling the bill they were designed for, one for the Navy and one for the Air Force.

The same applies to buying more of the A–6E aircraft, which is a Grumman attack airplane used in Vietnam with tremendous success. It is really the only all-weather day/night attack aircraft we have. Their combat losses have been very low. Their losses or attrition in training and ordinary use have been very low. It is an excellent aircraft. I have had the pleasure of flying it and while it is an old airplane, as we compare new aircraft to old, it does have decided advantages over anything that we know the enemy to have at the present time.

The Navy indicated in testimony to the committee that the minimum aircraft requirements were not being met. The Chief of Naval Operations testified that the budget did not provide for procurement of sufficient fighter/attack aircraft to maintain current force levels.

The committee recommended authorization of a total of 25 F–18s, which is still less than the required F–18 production originally presented by the Navy and supported by Congress. The budget constraints within which the committee had to operate simply did not allow us to restore this original production schedule.

The committee action to increase F–18 procurement is consistent with Department of Defense and congressional intent to purchase aircraft in more economical quantities and is consistent with DOD and congressional desire to move toward the purchase of less expensive, more maintainable aircraft. The committee recommendation will provide for a more rapid advance along the production "learning curve," reducing out-year procurement costs, and will accelerate delivery of approximately one squadron of F–18 aircraft by 1 year.

The committee recommendation to add six A–6E attack aircraft recognizes that the A–6 aircraft is the only true all-weather, day/night attack aircraft of the Navy and Marines. It has the most advanced adverse weather capability in the world today. The Marines have indicated that the A–6 mission is one of their most vital combat requirements. Both the Navy and the Marines have recently been forced to reduce A–6 squadron strengths to 10 operational aircraft.

The committee also recommended the

addition of $149 million for 12 A-7K aircraft for the Air National Guard. These aircraft are two-seat trainer aircraft which are fully combat capable. Further, the committee has recommended authorization of the addition of 12 C-130H transport aircraft for the Guard. The committee has determined that congressional action must be taken in order to meet the Guard needs.

Now many people question why an A-7K or why a two-seater aircraft of the A-7 category. The A-7, I will have to say, is one of the finest airplanes to fly. One does not really need two-seat instruction to become proficient in this aircraft as one needs in most of our other high performance aircraft. But what we were faced with in this aircraft in trying to give instrument instruction or what we call under the hood to make a pilot proficient in instrument weather and night weather was a two-seater. Otherwise, it required two A-7s to go up in flight so that one could receive instrument instruction and the other would fly observation on his wing. This does not sound like it would create a lot of monetary problems but it certainly has created them and we are buying the 12 A-7K for the Air National Guard.

I might add in addition something that we did not know of at the time this was prepared. We have tried the heavy Gatling gun that is used on the A-10 on the pod of the A-7 and the pilots whom I have talked with speak very highly of it. We were afraid it might be just too much gun for the aircraft, but it seems to handle it very well and this 30 millimeter high velocity 6,500-rounds-a-minute gun can destroy any tank that we have ever heard of or seen.

Now in addition, Mr. President, the committee recommended authorization of $180 million to continue development of the AV-8B VSTOL aircraft—that is vertical landing and take-off aircraft—for the Marines. This Marine Corps request was deleted from the fiscal year 1980 Department of Defense budget by the Office of the Secretary of Defense. Congress and the Senate Armed Services Committee have consistently supported this program. Last year, the Marine Corps request for the AV-8B was reduced by the Defense Department, and the Congress restored the funding back to the level required. The Marines have testified that this is one of their highest priority programs and the committee concurs with the priority of the AV-8B and continues to give this program its strong support.

This airplane, my colleagues will remember, was designed and first built by the British and it was in England that I first saw the aircraft fly. It actually takes off vertically and can very rapidly accelerate to around 400 knots. It can return to base and land vertically just as a helicopter sets down. The new version of this aircraft will give it much extended range. In fact, one of the criticisms of the original AV-8 was that it did not have what we call much legs. Now this aircraft can be flown from the west coast to the Hawaiian Islands without any trouble. It can carry a greatly increased bomb load. While the original AV-8 with its load of bombs and napalm, and so forth, had a combat radius of about 40 or 50 miles, this one similarly loaded can extend its combat radius out into the hundreds of miles.

It was my pleasure to have a flight in this aircraft this year. I will have to admit that prior to handling it I had some feeling that it was a little, it might be a little, stiff, but it is a very, very highly maneuverable aircraft and one I hope we continue to sponsor.

By the way, the original purchase involved 100, after which the aircraft would be made by McDonnell Douglas of the United States. That is where it is being made today, with its very fine Rolls-Royce engine and the improvements that are encompassed in it.

This is the only aircraft we have in our entire inventory, both military and civilian, with the exception of one test prototype by General Electric, which can fill the bill of vertical takeoff and landing.

I will say this: Eventually this country will have to get into the development and production of vertical takeoff and landing aircraft because airports are getting to be too far out of town to be reached economically and safely by surface transportation.

I see the day coming, if we can get the United States off its duff, to build these vertical takeoff aircraft so they can leave literally from downtown Washington and take you to either Baltimore or to Dulles, and the same would apply to any city in the country.

Mr. President, the committee also made numerous recommendations to reduce or delete funding in the tactical air area, both in research and development and in procurement. These items are discussed in detail in our committee report. I have chosen not to go into detail on these items but simply to summarize some of the changes the committee made to address requirements not met by the President's request.

It is my personal view that we still have a long way to go in addressing other critical needs not contained in the budget request. However, I support the fiscal year 1980 Department of Defense authorization bill, S. 428, as reported from the Senate Armed Services Committee, and I urge my colleagues to lend their support to this bill.

I know it is always an easy temptation to try to attach amendments to this bill that will cut down on the building of this type of weapons system or that type of weapons system, and particularly now at this time of this year when we are faced with a SALT agreement that none of us has seen, that we do not know what it will do relative to conventional weapons or whether we will be allowed to continue to build certain conventional weapons so as to catch up in the terrible position in which we find ourselves.

(Mr. EXON assumed the chair.)

For example, I mentioned tactical aircraft. We have not quite 10,000 tanks, and they have 51,000 tanks. They far outnumber us in ships at sea. In fact, our Navy is in the worst shape it has been in, this century. It is far worse than it was prior to Pearl Harbor, and nobody thought it could get worse than that.

We have the continuing problem with the volunteer Army, Navy, Marines, Coast Guard, and Air Force, but I am happy to say that the committee, chaired by that eminent Senator from Georgia (Mr. NUNN) has reached a decision on any conclusion respecting the registration of all 18-year olds, providing they are mentally and physically capable, not to push a rifle onto their shoulders or put a monkeywrench into their hands, but to have them available in the event we have to go to war.

I do not think anybody at this moment can see any reason for this country's finding itself in war, but I am not naive enough, looking back in history, to see that in 7,000 years of our history we have had 40 wars going on during that time, to feel that we have reached that beautiful day in our history when warfare will not be necessary. I wish I had the feeling that I would be around when this happened, but I have my doubts.

This bill we are introducing today is a product of long and careful study by the Armed Services Committee and particularly by the staff of the committee. Mr. President, you are a member of the full committee, and I know you have had ample opportunity to watch how our staff members apply themselves, how they study the issues, how they go out into the field and get acquainted with what the actual needs are.

So I urge all Members of the Senate to give close support to this authorization bill. It is not a time in our history when we should be cutting.

I yield the floor.

UP AMENDMENT NO. 235

(Purpose: To revise reporting requirements regarding salaries paid to officers of Federal Contract Research Centers from federal funds)

Mr. CULVER. Mr. President, I have an amendment to the bill which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa (Mr. CULVER) proposes an unprinted amendment numbered 235.

Mr. CULVER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, and the following new section:

"SECTION —. Subsection (a) of section 407 of Public Law 91-121 (83 Stat. 208) is amended to read as follows:

'SEC. 407. (a) After September 30, 1979 the Secretary of Defense shall notify the President of the Senate and the Speaker of the House of Representatives annually of any officer or employee of a Federal Contract Research Center whose annual compensation paid out of any Federal funds exceeds level II of the Executive Schedule in subchapter II of Chapter 53 of Title 5 U.S.C. Such notification shall include a detailed statement of the reasons therefor.' "

Mr. CULVER. Mr. President, this amendment goes to address a current problem in defense contracting for special research activity in the so-called Federal contract research center in the country. These are organizations which provide technical work and advice to the Department of Defense. They are nonprofit organizations which exist outside services command structures so as to be able to offer independent judgments and recommendations.

Mr. President, since 1970 there has been an amendment on the statute books which has limited employees of these FCRC's to a maximum annual salary level of $45,000 from Federal funds unless the Secretary of Defense makes exceptions and the exceptions are reported to Congress.

This is in line with the need for the Government to exercise, of course, some management control over the FCRC's since they are exempt from the normal competitive marketplace.

However, the $45,000 level of 1970 would be equivalent to a salary of over $80,000 in 1979. The paperwork involved in granting exceptions has become a troublesome and bureaucratic burden. In the first 6 years following the adoption of this amendment there were only four or five exceptions requested annually. Now there are about 100 exceptions requested annually.

(Mr. JOHNSTON assumed the chair.)

There are now six Federal Contract Research Centers in the country. They are in the Aerospace Corp., the Mitre Corp., the Lincoln Laboratory-MIT, the Institute for Defense Analysis, the Center for Naval Analysis, and the Project Air Force Division of the Rand Corp.

Mr. President, I think it is important that we modify the original amendment to bring it more in line with its original intent, and that is for the Secretary of Defense and Congress to provide a degree of control over the top FCRC salaries, and to do so without creating unnecessary paperwork.

The amendment that I have proposed would do two things. First, it would tie the level of salaries which require special attention to the executive level II salary as opposed to an arbitrary dollar figure. For 1980 I expect the executive level II salary to be $57,500. Next, the amendment would require a report of all FCRC officers who receive salary above that of executive level II. This report would clearly indicate to Congress how many executives were exceeding the executive level II salary level and would give Congress the necessary information to exercise appropriate oversight.

Mr. President, this amendment, while providing for appropriate adjustments, would not raise any salaries, nor would it result in greater expenditure from Federal funds for FCRS's. It would restore the original intent of the amendment, that is to exercise oversight over the salaries paid to senior FCRC officials, but it would do so in such a manner to reduce unnecessary paperwork. It is estimated that the number of people exceeding the executive level II salary in 1980 will be about 8 people, as opposed to the 96 which now exceed the $45,000 level.

Mr. President, I understand that this amendment has been thoroughly discussed with the minority side. I will have no further comments at this time, but at the appropriate time will urge its adoption.

Mr. WARNER. Mr. President, I rise in support of this amendment. First, however, I would like to thank the distinguished Senator from Iowa for his remarks in my behalf in connection with the responsibility that we shared as members of the Subcommittee on Research and Development, Senator CULVER as chairman and I as the ranking Republican member of that subcommittee. I have felt that at all times the chairman handled every issue evenhandedly, and that the subcommittee staff was made available for the benefit of all members of the committee at all times.

We had a very heavy schedule of items to consider, and I felt that it was representative of his foresight that we scheduled those meetings early in the mornings, at such times as Senators have a minimum of interruptions and distractions from other senatorial duties.

Mr. President, returning now to the specific amendment we are considering, which I support, I feel that it will now enable the public to more accurately know the level of these salaries, rather than having the matter handled administratively within the Department of Defense. As a former Secretary of the Navy, I had a great deal of association with the Center for Naval Analysis, one of the Contract Research Centers in question, and also with the individuals who unselfishly, in many respects, serve in these very important positions, rendering invaluable help not only to the Department of Defense and to the national defense effort, but to the whole of the United States.

Therefore, I commend the distinguished Senator from Iowa for calling up this amendment. It is a reasonable amendment, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

Mr. EXON. Mr. President, I would like the right to ask some questions on the amendment before we vote on it.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Before I do that, I would like to rise at this time in support of the Defense Department authorization and appropriation for fiscal year 1980 generally, as it has been presented by our most able chairman. It has been my pleasure, as a new Member of this body, to serve on the Armed Services Committee under the distinguished leadership of our chairman, the Senator from Mississippi, and it certainly has been a most enlightening experience.

I happen to feel that the Armed Services Committee and the role that it plays so far as the defense of the United States and the defense of the free world now and in the future are concerned, will encompass the most important votes I will cast while a Member of this body.

I also thank the members of the staff for all their assistance to me as a new Member, and both the majority and minority members of the committee, who gave a great deal of help. We did not agree on all issues, but, save for two issues, those being, first, the matter of the resurrection of some kind of a draft registration, and second, the matter of Rhodesia which was referred to earlier on this floor by the distinguished senior Senator from Virginia, I would suspect that most of the issues would and should go through without extensive debate.

I would hope that very few if any Members of the Senate would see fit to cut down the amount of money that we have come up with and recommended in the bill as now before us, because if anything, I suspect most of us feel, after our hard work and diligence, that probably we should be spending more money on defense rather than less, and I thought of that once again as I listened to the comments of the distinguished Senator from Arizona on this floor a few moments ago.

Suffice it to say that I think we can move swiftly ahead on most of the provisions of the bill before us without a great deal of debate. However, I must ask some questions before we vote on the amendment of our good colleague from Iowa (Mr. CULVER).

As I understand it, the amendment would merely waive the requirement we now have for the Secretary of Defense to exempt salaries from approximately a $45,000 salary level to about $57,500; is that correct?

Mr. CULVER. Yes. At the present time, as a result of an amendment that Congress adopted in 1970, the Department of Defense is limited in the amount of money that it can pay to senior officers of Federal Contract Research Centers to $45,000 unless an exception is granted.

Now the equivalent level of salary, given inflation during the intervening 9 years, would be about $80,000. The Secretary of Defense, as it is suggested, in spite of this statutorily imposed limit, is entitled to waive that requirement in any instance that he, on his own determination, feels appropriate or necessary to get the expertise required. As a result, while there were only about eight cases in 1970 that required waivers, now, because of this disparity in salary levels, it has turned into a bureaucratic paperwork jungle, with all these waivers.

All this amendment does is simply lift the level from $45,000, where it was pegged in 1970, to $57,500, or the executive 2 level today; and it also permits higher salaries where necessary to be paid, but it would then require a report back to Congress in those instances.

So it is really an effort to cut down on the unnecessary paperwork burden that characterizes the program today, and return to the original intent of Congress, which is to assume some management control over the number of these people, and to express the concern of Congress that it not be a program abused by wasteful salary remuneration.

Mr. EXON. I thank the Senator. I would just make the point that one of the concerns some of us have with regard to our defense expenditures is that entirely too much of our defense expenditures, as compared with the Soviet

Union, goes for salaries rather than new types of weapons or improvements of the weapons we have.

It seems to me, therefore, although I recognize this is not a significant matter insofar as total expenditures are concerned, that we in effect are saying, are we not, if we accept this amendment, that the level of salaries up to the $57,000-plus category will be automatic, and will not require any special instructions or paperwork from the Department of Defense or its chief? Is that not correct?

Mr. CULVER. The distinguished Senator from Nebraska is correct. I want to emphasize to him that this amendment would not, in and of itself, raise any salaries. It would not, in and of itself, require any greater expenditure of money from the Federal Government than is currently the case, nor would it result in greater expenditure for Federal funds for these FCRC's themselves. But it would, as I emphasized, restore the original intent of the amendment, and that is to exercise some oversight over these salaries paid, but it would do so in such a manner as to reduce the unnecessary paperwork.

Mr. EXON. So that we understand what we are doing, it would make it easier and simpler to raise salaries?

Mr. CULVER. The salaries will not be raised. In fact, today if you have a $45,000 cap, you go up to the laboratory at MIT and you say:

> This is the independent judgment and information we want from the scientific community that is participating in this nonprofit research center activity. What will it cost to get the expertise?

They say, "$60,000."

We say:

> Fine, you are hired, but before we hire you we have to go through this procedure involving a waiver because of the law that has been on the books since 1970.

The only thing that will change in this adjustment of salary level is not that anyone's salary will be raised, but when they say it is going to cost $60,000 to get the work done, it is automatic and will not require a waiver. So it will just eliminate the waiver so you do not get into this paperwork. The salary paid in 1970 for this sophisticated scientific technical consultative help obviously needs adjustment.

We are paying it now, but we will just not have to pay it plus having the paperwork headache. That is all. We are just going to try to make some adjustments to minimize the number of waivers you have to have. For example, we have to have 96 waivers now. With this change, we will only need eight waivers. Every time we have a waiver the Secretary of Defense has to come back to the Congress and say, "We waive these eight and this is what we are paying them now for this work." So we still have control over it. It will not change any salaries. That fellow who wants $60,000 will not get $61,000, he will not get $70,000 or $80,000. But unbeknown to him it is not going to be such a paperwork headache to hire him. That is all it is.

Mr. EXON. As I understand, the Armed Services Committee did not take any action pro or con when this matter was brought before it.

Mr. CULVER. That is right. This was a matter that was subsequent to the consideration by the full committee on the pending bill, but it is a matter that was recommended to us by the Department of Defense as something that would be extremely helpful to them administratively to cut back on paperwork. I think that is something that the Congress and the country is anxious to do.

Mr. EXON. Mr. President, I thank my distinguished colleague from Iowa. I will vote against his amendment but I suspect that I should not and I will not delay the actions of the Senate by asking for a rollcall vote. I thank the Chair.

Mr. CULVER. Could I ask the Senator from Nebraska a question? I wonder why he is voting against it.

Mr. EXON. I think I stated that to some extent in my remarks. I certainly feel that regardless of the explanation, regardless of the fact that I suspect some paperwork will be cut down, in essence what this amounts to is making it easier to raise salaries for outside consultants who are necessary. I would much prefer, as one Member of the Senate, to leave this to the decision of the Department of Defense under the authority that they presently have.

Mr. CULVER. I perhaps have failed to adequately and properly explain the amendment to the distinguished Senator from Nebraska. I have enormous respect for him. I know how conscientiously he approaches these matters. I have been extremely impressed with his contributions to our committee this year.

I just would like to emphasize again, while respecting his views on this, that this amendment would not raise any salaries in itself.

Mr. EXON. But it would make it easier to raise salaries. That would be a fair way to state it, would it not?

Mr. CULVER. It would reduce the paperwork necessary to pay prevailing market rates for the trained technical personnel necessary for the operation of the FCRC.

Mr. President, I would like to have a vote on the amendment.

Mr. STENNIS. Mr. President, may I say that this amendment as originally passed, I believe in 1970, was to meet a special situation and it performed well. But time has now run, it seems to me, where it ought to be revised, modified, and brought up to date. I support the amendment. I am glad to see such uniform support of it after it has been more fully considered.

UP AMENDMENT NO. 235

Mr. CULVER. Mr. President, before asking for a vote, may I ask unanimous consent to make a technical modification in the amendment? It reads: "at the end of the bill." It should read: "at the end of the committee substitute."

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment as modified, is as follows:

> At the end of the committee substitute, add the following to read as follows:
>
> "Section . Subsection (a) of section 407 of Public Law 91–121 (83 Stat. 208) is amended to read as follows:
>
> " 'SEC. 407(a). After September 30, 1979 the Secretary of Defense shall notify the President of the Senate and the Speaker of the House of Representatives annually of any officer or employee of a Federal Contract Research Center whose annual compensation paid out of any Federal funds exceeds level II of the Executive Schedule in subchapter II of Chapter 53 of title 5 U.S.C. Such notification shall include a detailed statement of the reasons therefor.' "

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. STENNIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, under a special arrangement there was one amendment regarding Selective Service registration that was from our Subcommittee on Personnel. We reserved the consideration of that amendment until after a meeting. Notice has gone out that we will meet when the Senate recesses this afternoon in room S. 126, on the first floor adjoining the elevator. That meeting will be at 5:30, or, if the Senate recesses earlier, when the Senate does recess. It will be on this amendment which has been approved by our subcommittee on the matter of registration. I make that announcement so that all will know that meeting is still scheduled.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PRYOR). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I yield to the Senator from Colorado.

Mr. HART. Mr. President, I wish to add a word of support for this bill, and especially of support of the naval shipbuilding program recommended in the bill.

First, I thank the distinguished chairman of the Committee on Armed Services, the Senator from Mississippi, for his leadership in dealing with the very difficult questions that the committee faced this year on naval matters. He has, again, shown his accustomed acumen in dealing with both the substance and the procedures of these issues. The fact that we have offered here a well-considered and, I think, forward-looking program is due, I think, in great part to his tireless work. I think the Senate owes him a strong vote of thanks.

Mr. President, I have a few amendments to this bill which deal with naval matters, but those amendments in no way suggest that the basic shipbuilding package proposed in this bill is not sound.

I firmly believe it is the best package

that could be put together in the face of the difficult financial, technical, and political problems naval shipbuilding today faces.

A brief review of the program contained in this bill clearly shows the limited options which faced the committee in its deliberations.

First, the bill includes two submarines, both nuclear powered: A Trident ballistic missile submarine and a 688 class attack submarine. Frankly, neither of these ships in my judgment, is an ideal choice.

The Trident's huge size—about 18,000 tons—not only raises its cost to well over $1 billion, it also raises some concerns about its potential vulnerability to the nonacoustic submarine detection systems we know the Soviet Union is attempting to develop. The SSN-688 attack submarine is also overly expensive for the capability it provides. We need to move toward smaller, less expensive nuclear submarines and also toward conventional submarines for some missions—as the Senate Armed Services Committee has urged for some time.

However, the choice is not whether to build smaller, cheaper submarines this year or to build what has been recommended. The choice is the Trident and the SSN-688 or nothing. Clearly, the committee recommendation is correct, when seen in this light. The Trident is a needed component of our least vulnerable strategic force, the ballistic missile submarine force. The attack submarine remains the single most effective type of ship in naval warfare. We should not endlessly permit the Navy to acquire submarines of either type that are larger and more costly than necessary, or we will have too few submarines for our missions.

Indeed, we are now building attack submarines at a rate of only 1 per year, which would ultimately lead to a force of only 30 attack submarines. But given the limited options, the committees recommendations are the best interim solution, as we move forward aggressively to develop new options.

The committee has taken a progressive position in relation to the next most important shipbuilding program, the aircraft carrier program. The committee has approved what I sincerely hope will be the last large, catapult aircraft carrier we ever build, a carrier of the *Kennedy* class. This decision recognizes both the political obstacles and the financial questions which surround the nuclear powered carrier, yet also acknowledges the weaknesses of the administration's arguments for its proposed carrier, the CVV. At approximately equal acquisition cost, the *Kennedy* will carry 50 percent more aircraft, has four propellers instead of two for better survivability and maneuvering, has four elevators instead of two for better responsiveness, and is less likely to experience massive cost overruns than the new design CVV. If we are going to build a final large carrier, the *Kennedy* is clearly the correct choice among the three available types.

I would not support buying any large carrier if that is all we were doing. There is little difference between 11 and 12 large carriers, in terms of the opponent's ability to concentrate against so few targets with overwhelming power. But what the committee has proposed is not just a large carrier, but rather a carrier "package." Coupled with the last big carrier are a series of moves forward toward small carriers for V/STOL aircraft, carriers which we can afford in sufficient numbers to prevent overwhelming concentrations against each single ship. Specifically, the committee recommends:

First. Conversion of an LPH amphibious ship to the first light carrier. This will permit us to put a light carrier to sea within 1 or 2 years, reducing the deployment pressure on the large carriers and allowing us to develop operating experience with V/STOL carriers and aircraft.

Second. Long-lead money for the LSD-41, the first in a new class of amphibious ships. These ships are badly needed by the Marine Corps to replace older LSDs which will be wearing out in the mid-1980s. Assurance of this class will help make up for the loss in peacetime lift caused by the conversion of the LPH to a light carrier (even after conversion, this LPH would still be usable as an amphibious ship in an emergency).

Third. A sum of $25 million has been provided for continued design work on a new construction light carrier. A similar amount of money was provided last year; unfortunately, a loophole in the appropriations conference report allowed the Navy to spend the money for designs of other types of ships, which it did. Not one dime of that $25 million went to light carrier design, which I frankly consider outrageous, since the intention of the Congress and the interest of the Senate in the light carrier was abundantly clear. I hope the Appropriations Committee will take such action as may be required to insure that this $25 million does go for design work on a new light carrier, as is the intent of this bill.

Fourth. For continued R. & D. of the AV-8B+, a naval version of the Marine Corps Advanced Harrier AV-8B, $5 million. The AV-8B+ would incorporate into the AV-8B certain features which are useful for naval purposes, such as a radar, inertial navigation, and possibly more thrust. As a recent study has clearly shown, the AV-8B+ can give us effective and mission-capable naval V/STOL by the mid 1980's, instead of having to wait until the late 1990's, as the Navy now plans. Indeed, the Navy's official plans for V/STOL increasingly give the impression that the Navy hopes V/STOL will never be developed, and that they can continue forever with all their naval air "eggs" in the small number of big carrier "baskets." If that is the case, the Navy will sail into the next century as the Spanish Armada sailed against England: In the expectation of a miracle.

The carrier package proposed in this bill—and it is as a package it must be considered—moves the Navy forward, as the Congress must be prepared to move it forward, whether or not it wants to move. It strengthens the "Navy of the past," the big carrier Navy which defeated Imperial Japan, with one last big carrier, and at the same time moves toward the "Navy of the future," a Navy designed to fight the modern Soviet Navy with more and smaller ships. I think the chairman and the other members of the committee are to be congratulated for their progressive stance on the carrier question, and I strongly urge the Senate to accept the committee's recommendations, as they accepted essentially the same carrier "package" last year.

In terms of surface warships, the committee recommends one DDG-47, a ship to carry the antiair/antimissile Aegis system plus six FFG-7 frigates. As in the case of the submarines, the committee had to choose between very limited options. The Aegis system is the best air defense system we have or will have for some time, and the DDG-47 is clearly the most cost-effective ship to carry it. Unfortunately, it is difficult to be confident that Aegis will be in the fleet in adequate numbers in time to deal with the current threat, or that it will be adequate against the threat which will face it when it is deployed in numbers in the 1990's.

A system which takes close to 30 years for development and full deployment gives the opponent a large opportunity to design new offensive systems optimized against it. It is somewhat symptomatic of our preference for large, complex solutions to problems, which take so long to become operational that they do not improve the net naval balance, instead of less complex approaches such as point defense which could be in the fleet more quickly.

As escort ships of traditional type go, the FFG-7 is a reasonable ship. I cannot show great enthusiasm for it, because I have not seen convincing evidence that traditional design escort ships are of much use against modern submarines. However, the committee has again taken a reasonable and prudent approach, approving six of the traditional frigates but at the same time directing, in its report, that the future escort ship, the DDX, reflect new and innovative concepts, even if that means it will not much resemble traditional destroyers. Within the limits posed by the available options and within the context of directing the development of new and more attractive options for the future, the committee's recommendations on surface ship construction are worthy of the full support of the Senate.

These ships constitute the basic shipbuilding recommendations for fiscal year 1980. There are only 10 new ships in the program, plus the light carrier converted from an LPH. In my view, this is not an adequate program, especially in submarines. But in order to offer an adequate program, two fundamental changes are necessary:

First. We must abandon the continental strategy this administration has adopted, and instead adhere to the maritime strategy which our geography, our economy and our social and economic strengths logically dictate. Funding for ground forces is important, but it can only be second in priority to adequate funds for naval forces and our naval-related ground force, the Marine Corps.

Unless we can control the seas, land forces are meaningless, unless we seek war with Canada or Mexico. Our current priorities, where we are steadily cutting naval funds in favor of funding for ground forces in central Europe, are not logical and should be reversed.

Second. We must develop new options for ships and aircraft for the Navy. As this bill shows, options today are very limited: Too often we must choose between building overly expensive ships or ships of questionable effectiveness, or building no ships at all. In the not-too-distant future, current ship types will be so clearly obsolete that, facing the same choice, we will have to build no ships. We must move forward rapidly, as this bill attempts to do, to create new options: Smaller, less expensive nuclear submarines; conventional submarines; small, fast surface ships such as hydrofoils; air-capable surface escorts; and small carriers for V/STOL aircraft. It is nonsense to urge such things only for the next century; we needed them 10 years ago—we are already too late. We must move now and move quickly, lest we find ourselves building not a Navy, but a naval museum. The opponent is no longer the carrier navy of Imperial Japan, nor Third World countries which we can bombard with impunity from our large carriers, but the modern Soviet Navy with over 300 submarines. This bill carries forward the work of the Senate over the past several years, moving toward a new Navy. It prudently builds some traditional systems while preparing the way for new ships and concepts. It is the best shipbuilding bill possible under the current false assumptions of a continental strategy and within the very limited current options. I urge my colleagues to support it.

Mr. President, I thank the chairman of the committee for his time.

Mr. STENNIS. Mr. President. I thank the Senator for his very fine contribution again this year, for putting this bill together in substantial parts, and particularly with reference to the ships and the ships of the future. He is an innovator and a thinker in those directions and already has made quite an impression.

I promise the Senator that I will work even harder this year on this appropriation, if we get this money authorized. I certainly will try to follow through in connection with the money, and I believe that idea will prevail this time.

The Senator has helped in this entire bill. I believe it is going to meet the requirements of the Senate and will be considered favorably in conference with the House.

Mr. HART. I thank the chairman.

Mr. STENNIS. Mr. President, the Senator from Georgia is in the Chamber. I hope he sees fit to seek the floor. He is the chairman of one of our subcommittees.

Mr. WARNER. Mr. President, will the Senator from Georgia yield?

Mr. NUNN. I yield.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I join the chairman, Mr. STENNIS, in his praise for the distinguished service rendered to the committee by the Senator from Colorado. Senator HART has participated actively in most of the decisions taken by the Senate Armed Services Committee this year and he has contributed greatly to our understanding of those complex matters. As chairman of the Subcommittee on Military Construction and Stockpiles, of which I am a member, Senator HART deserves special praise. It was a most difficult assignment. He handled it even-handedly and made the staff available to all members of the committee, and I wish to show my appreciation.

I also congratulate the distinguished Senator on the foresight and the vision he is applying toward the changes we need in the U.S. Navy. I hope in the future to be able to join him on many of these innovations.

Mr. HART. I thank the Senator.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I support the committee's recommendations for the fiscal year 1980 military authorization bill.

Our distinguished chairman has already given an overview of the committee's actions. I do not intend to restate the disturbing military trends in light of the continuing quantitative and qualitative expansion in military power of the Soviet Union, but it is clear that the United States must develop and maintain a strong defense posture and, together with our allies, must work to fulfill our commitment to maintain a military balance in the world.

The committee recommendations on the fiscal year 1980 authorization bill provide $40 billion for procurement and research and development. As I have emphasized before, the quantities of equipment and material to be purchased are not large—408 Air Force aircraft, 119 Navy aircraft, and 10 new Navy ships, for example, are scarcely sufficient to replace normal attrition in the ship and aircraft inventories.

We continue to face the problem that rising manpower and other operating costs have taken up more of the defense budget and that the unit cost of individual weapon systems continues to rise rapidly. The committee, in this bill, continues its efforts to arrest these trends. However, while some small savings in manpower are possible and necessary this year, in my opinion, we are no longer at the point where large manpower reductions can be made.

As chairman of the Subcommittee on Manpower and Personnel, I will highlight the committee's recommendations on manpower and related items authorized in the bill.

OVERALL MANPOWER RECOMMENDATIONS

The committee recommends an active-duty military end strength of 2,047,000 for fiscal year 1980, a net reduction of 3,000 from the request. The committee recommends a civilian end strength of 980,900, a net reduction of 4,200 from the request. The committee also recommends an increase of 38,100 to requested Reserve strengths, including an increase of 1,500 reservists for full-time active duty reflecting increased reliance on Naval Reserve manpower.

A number of amendments related to manpower were also adopted by the committee. The effect of these actions would save $53 million from the President's fiscal year 1980 budget request and about $130 million per year in future years, which could be used to increase weapon inventories and improve the readiness of our forces.

OVERSEAS TROOP DEPLOYMENTS

Part of our review of the current and needed defense posture includes hearings on the defense force structure—the number of divisions, air wings and ships—for which manpower and budget dollars are authorized, and hearings on overseas troop deployments. The committee recommendations support a level of 493,000 overseas troops for fiscal year 1980 as a strong, credible and critical part of America's defense and commitments.

The recommended level of overseas troops includes no further withdrawal of combat troops from Korea. The committee continues to be concerned about the possible risks to the current military balance of any further withdrawals and the recommended level reflects the President's action to defer a judgment on further troop withdrawals pending a reassessment of intelligence data indicating an increased threat.

Planed overseas troop deployments requested in the President's budget did include troops in Taiwan for the Army and in Iran for all services that will now not be needed and the recommendation reflects these recent changes with a decrease of 1,200 military from the request.

The cancellation of foreign military sales to Iran also has a significant effect on the number of persons involved in these sales activities, and the committee recommendation reflects a reduction of 2,200 military and 200 civilians for these adjustments.

DEPENDENTS OF MILITARY PERSONNEL OVERSEAS

The committee is very concerned about the serious and growing problem of the large number of dependents of military personnel who are now overseas, particularly in Europe.

In the past 10 years, the number of military personnel in Europe has declined by about 33,000, while the number of dependents has increased by 70,000. To put it another way, the number of dependents per military member in Europe has increased by 47 percent. The Army has estimated the average cost of each of these dependents is $4,465 per year for a total of $824 million for the Army alone for Europe alone. Over the past year, there has been substantial confusion on the number of dependents. Last year, DOD estimated the number of dependents at 336,000. Now, DOD estimates 371,000. In testimony before the subcommittee, one DOD witness indicated this number would increase to 395,000 in fiscal year 1980, but later in a statement for the record, he said there would be no material increase.

The fiscal year 1979 Department of Defense Appropriations Act includes a provision limiting the number of dependents overseas at 350,000. Despite this provision in law, the number has been exceeded and will probably grow.

The large number of dependents in Europe:

Adversely affects readiness;

Brings into question the adequacy of evacuation plans; and

Creates financial problems for many military families.

Military commanders, including General Haig, have outlined this problem, yet, the Department of Defense does not appear to take the problem seriously and has not proposed a plan to reduce the number of dependents.

The basic point is that we have troops in Europe to defend our national security and to deter aggression against our NATO Allies. In the name of making recruiting for the volunteer force more attractive, readiness is being impacted and a terrible injustice is being done to the young men who are going to Europe and trying to defend this country and taking their families with them.

The committee recommends five basic steps to reduce the number of dependents below the level now contained in the Appropriations Act;

A denial of an increase of 300 civilians for the Army for increased personnel support in Europe, primarily for child care and physical recreation activities;

A reduction of 200 military and 2,500 civilians in overseas dependent community support functions, commissaries, postal services, recreation, libraries, transportation services, education programs and similar activities.

An increase of 500 military in order to allow the Army to test the effects of an 18-month tour for single or unaccompanied soldiers overseas. The Army has conducted a study of such a program but has not yet tested it. Many military commanders have indicated that such a policy would reduce the number of dependents and would also increase readiness.

The committee adopted an amendment to discontinue the payment for travel of dependents, household goods, and automobiles for junior enlisted personnel in the future. The Department of Defense began paying these allowances last October and personnel currently overseas or with orders would not be affected. The amendment would continue the current policy of paying cost-of-living and station unit housing allowances. The committee feels that this travel entitlement has served as an enticement for increased numbers of dependents overseas without full recognition of the various problems such young families face and the effects on unit readiness.

The committee requests the Secretary of Defense report by December 31, 1979 on the implementation of these recommendations and other management actions planned to reduce the number of dependents overseas by 10 percent by the end of fiscal year 1980 from current levels and by 30 percent within 5 years.

INTELLIGENCE

The committee recommends an increase of 300 military and 200 civilians to improve intelligence analysis capabilities in the intelligence organizations of the military services and the Defense Intelligence Agency. Recent trends in the reduction of manpower for intelligence analysis must be reversed. While the United States must continue to invest in high technology systems for intelligence collection, it must not neglect the need to train and maintain an adequate number of expert analysts to give meaning to the intelligence data we collect. Recent experience with a reevaluation of North Korean military forces illustrates this point. Top-quality line analysts are needed for basic intelligence analysis of economic, social, political and military conditions throughout the world, and especially in the Third World, as well as in scientific and technical analysis. These personnel are not for intelligence collection or covert activities.

ALL-VOLUNTEER FORCE

The committee continues to be concerned over the many problems with the current policies of the All-Volunteer Force. The military services are encountering increasing difficulty in recruiting sufficient manpower to meet active duty levels. The Selected Reserve—the units that would augment active military forces in a mobilization—are over 30,000 below authorized strength. Despite additional recruiting incentives, the Selected Reserve manpower continued to decline over the past year. According to testimony, the Individual Ready Reserve, the primary source of trained individuals for replacement and augmentation in emergencies, is 500,000 below mobilization levels for the Army alone.

There are critical shortages of doctors and certain other skilled personnel in both active and Reserve components.

Recognizing large existing shortages of pretrained manpower, testimony indicated that the Department of Defense intends to seek legislation to recall Vietnam veterans first to active duty in case of an emergency. Legislation would be necessary since such veterans have completed all active and Reserve duty and now have no further military service obligation. That is, the Department is recommending that veterans who have already served and are not now members of the Ready Reserve and who recognize they have no further military obligation would still be called first before any individual who had never served. The committee recommends that this policy be rejected.

But I think the Members of this Senate should realize that that is the current status of our mobilization capability. I think the Senate and the United States should realize that if we have an emergency tomorrow morning or next week or next month the current plans of the Department of Defense are to call up Vietnam veterans who have already served rather than going back to any kind of compulsory service. That is the first course of action now.

I do not think the country recognizes it. I do not believe it has been sufficiently explained, and I do not believe my colleagues here in the Senate realize that this is where we stand with our current All-Volunteer Force.

Testimony presented to the committee indicates very severe problems in the event of mobilization. Indeed, the military cannot now meet military manpower mobilization requirements. This is a most serious problem confirmed by mobilization exercises over the past year, that calls for action by the Department of Defense and by Congress.

RECOMMENDATIONS BY SERVICE

I would now like to review the recommendations for each service.

ARMY

The committee recommends an increase of 2,700 military and a decrease of 2,500 civilians in the Army.

The Army request for manpower assumed the withdrawal of about 7,000 Army personnel from Korea. The committee recommends an increase to Army strength for the number of troops scheduled to be withdrawn and associated training and support, offset by the planned manning of the 2d Infantry Division in the United States after withdrawal. The effect of this change would be to add 6,300 military spaces and to decrease 500 civilian spaces from the budget request.

In training, the committee recommends a reduction of 1,700 military spaces which would have been associated with increases in the length of initial skill and functional training. During fiscal year 1979, the Army is continuing to test alternatives to Infantry One Station Unit Training but the budget request provides for the implementation of the full One Station Unit Training concept at the beginning of fiscal year 1980. The committee fully supports the expansion of One Station Unit Training as in the President's budget, including the full implementation of Infantry One Station Unit Training in fiscal year 1980, and adopted an authorized student load of 27,790 to be utilized solely for One Station Unit Training.

While the requested total Army military strength would increase by only 200, the number of officers requested increases by 2,000. The number of officers in combat units would actually decrease by 100, while the number of officers in central support and management headquarters would increase by 1,100, the number of officer students would increase by 400, and officers in other activities would increase by 600. The committee recommends a denial of one-half of this increase in officers, a reduction of 1,000 from the requested level.

The fiscal year 1980 Army budget includes a plan for 65 percent of new recruits to be high school graduates instead of the 70 percent in 1978. Because of the high attrition areas of nonhigh school graduates, the committee recommends that quality in recruiting be maintained and recommends an associated reduction of 400 spaces which would not be needed if this quality is maintained.

I have already referred to other changes for the Army related to overseas and foreign military sales adjustments, dependent support and intelligence.

For the Army National Guard and Army Reserve, the committee recommends the authorization level requested by the President.

NAVY

For the Navy, the committee recommends a reduction of 4,000 military and an increase of 500 civilians.

The Navy continues to face very serious personnel problems. Recruiting shortfalls continue. Testimony indicates that Navy strength may fall short by at least 6,000 personnel and perhaps much more this year. Shortages in critical skills remain. Navy desertion and AWOL's continue at historical highs. Admiral Hayward testified this year that part of the reason for the early deactivation of 20 Naval Reserve ships is the inability to man those ships with the necessary active duty personnel. It appears that we have now reached the point of being unable to man the fleet under the current policies of the all-volunteer force and these problems will worsen as the number of ships hopefully begins to increase in future years. The reduction of 4,000 military personnel in the Navy should take some pressure off recruiting and encourage the Navy to solve at least some of its personnel problems.

The Navy budget includes a request for 1,200 instructor and training support personnel in positions that the Navy states that it does not intend to man when Navy training is at high levels. The committee reduced the Navy request for these 1,200 spaces.

The Navy also plans to increase the number of officers by 700—no increase for ships but an increase of 100 for central support and management headquarters and 600 students. The committee denied the requested increase for central support and management headquarters (−100).

In several support activities, the Navy plans significant decreases in the Selected Reserve and civilian personnel but plans increases in active military personnel above the actual fiscal year 1978 manning levels. In R. & D. base operating support, central logistics, and central support the Navy plans to decrease civilians by over 16,000 to decrease Selected Reservists by over 14,000 but to increase active duty military by 2,200. These are the areas of lower priorities for active duty personnel where the Selected Reserve could be better utilized. The committee denied the requested increase of 2,200 military in these support activities.

The committee recommends an increase of 1,200 civilians for aircraft maintenance. The budget request proposes to eliminate these 1,200 positions. While the number of Navy aircraft is declining, the reduction in maintenance personnel and workload will also result in a decline in the operational readiness rate of Navy aircraft. This increase in civilian personnel is intended to maintain readiness rates.

The subcommittee recommends a level of 87,000 for the Naval Reserve. This is an increase of 38,100 over the President's budget and would provide for stability at the level authorized for the past 2 years. This increase would add about $76 million to the President's budget and would provide for additional personnel including manpower for high priority missions and technical skills.

The committee again emphasizes the need for better utilization and new and meaningful missions for the Naval Reserve. As I mentioned earlier, the budget includes the premature deactivation of 20 Naval Reserve ships. The total number of Naval Reserve ships will decline to a total of 41 in fiscal year 1980. While all of the Naval Reserve ships are not being eliminated, the loss of these 20 destroyers is a significant loss in mission for the Reserves. Many of these ships are very old and would require extensive overhauls to be kept in service. The committee recommends an addition of 1,500 reservists for full-time active duty to provide for additional support for the Naval Reserve and to provide manpower for the full-time manning that could be used for some of the better ships or other high priority units. These full-time reservists would provide needed support instead of regular active duty Navy personnel who could be assigned to other tasks.

I have already referred to the basis for recommended changes as a result of overseas and foreign military sales adjustments, dependent support, and intelligence.

MARINE CORPS

The subcommittee recommends approval of the requested Marine Corps military, civilian and Reserve strengths.

AIR FORCE

For the Air Force, the fiscal year 1980 budget does not include manpower spaces for the operations and maintenance of the three airborne command posts for the Commander in Chief, Europe; the Commander in Chief, Pacific; and, the Commander in Chief, Atlantic. This program has high priority and the committee recommends restoring this budget deletion of 1,300 military and 100 civilian personnel.

In training, the committee recommends a reduction of 800 military associated with increases in skill training and a reduction of 300 military spaces associated with a planned reduction in the quality of Air Force recruits from 85 to 83 percent high school graduates.

I have already referred to adjustments for overseas and foreign military sales, dependent support, and intelligence.

The committee recommends the President's requested level for the Air Force Reserve.

DEFENSE AGENCIES

The committee recommends an end strength of 77,500 civilian spaces for the Defense agencies which is about the number of people actually employed in fiscal year 1978 and planned for fiscal year 1979. This level is a reduction of 1,500 spaces from the President's request with reductions in unfilled or transferred positions and dependent support, offset by an increase of 100 civilian spaces for the Defense Intelligence Agency.

COAST GUARD

The committee recommends approval of the request of 11,700 for the Coast Guard Reserve.

MILITARY DISCIPLINE

On this very important subject the committee approved an amendment which we feel will improve military discipline.

The Court of Military Appeals has ruled, under the so-called "Catlow-Russo" decisions, that where there is a defect in the service member's enlistment, resulting from recruiter misconduct or some other factor, that defect deprives the court-martial of jurisdiction to try the accused for offenses committed in the military. The effect is to allow persons who commit offenses in the military to go without punishment. This problem has been highlighted by all four service chiefs. The committee amendment provides that a person becomes subject to military justice by taking the Oath of Enlistment or by voluntarily accepting military duties and military pay. This is not a provision to condone recruiter malpractice but simply provides that those who commit crimes in the military should be subject to military justice.

The committee also approved a legislative proposal by the Department of Defense to confirm the President's authority to promulgate the Manual of Courts Martial.

RESERVE PAYS

The committee adopted a Department of Defense proposal to eliminate administrative duty pay of up to $20 per month for certain Reserve unit commanders. The Department of Defense had also proposed eliminating the additional uniform allowances for Reserve officers of $50 every 4 years, but the committee rejected this proposal.

OTHER ACTIONS

The committee also recommends:

Approval of the requested authorization of $10 million for the purpose of providing assistance for the 1980 Winter Olympic Games.

This would be up to $10 million and, of course, would have to be funded in detail by the appropriations committees.

Second, the committee passed an amendment to provide for the counting of reserve general or flag officers serving on active duty against only the active duty strength authorization.

An amendment to require that the officer grade distribution report be required as part of the annual manpower requirements report rather than separate reports.

An amendment to require in law that the Department of Defense manage manpower resources to insure maintenance related activities have sufficient personnel to meet funded workload requirements because of their importance to readiness. Some of these activities are industrially funded.

The committee rejected a proposal to repeal the provision in the fiscal year 1978 Department of Defense Authorization Act requiring a reduction in the number of general officers and high grade civilians by the end of fiscal year 1980.

The committee also rejected a proposal to exclude civilians working in industrially funded activities from the authorized end strength.

Mr. President, with this review of the manpower authorizations and related actions recommended by the committee, I again urge support of the bill. I also want to thank the members of the Manpower and Personnel Subcommittee for their assistance—Senator JEPSEN, Senator BYRD of Virginia, Senator CULVER, Senator EXON, Senator WARNER and Senator COHEN.

Mr. STENNIS. Mr. President, will the Senator yield to me before he yields the floor? I want especially to commend the Senator for his fine work, and that of the Senator from Iowa (Mr. JEPSEN), and other members of that very fine subcommittee.

Year after year they work on this manpower problems, and just the fact that they are working on it is a signal influence for good. They have a way of getting into the things that count, and they leave them in better shape than when they found it.

I want to commend them highly, too—for going into this matter about the Army dependents that becomes more and more of a problem. It seems to me, Mr. President, that it actually has just been neglected year after year. It is another evidence of permissive softness that seems to be growing in mysterious ways, which are contrary, at least to my own concept, of bone and muscle military personnel who are the kind required, especially on this frontier of service.

So I think the Senator has made a fine contribution here, and I believe it will be followed up. The facts compel it, you might say. I thank him again for his very fine work.

I believe he mentioned the cost in this dependents picture. That is not the primary purpose at all, as I see it, but it is certainly entitled to some consideration. It is almost $1 billion extra or a total for those in Western Europe of the Army alone is $870 million?

Mr. NUNN. I believe it is all, not just Army, but it is for Western Europe alone.

Mr. STENNIS. Yes, Western Europe alone.

I thank the Senator.

Mr. NUNN. I thank the chairman.

UP AMENDMENT NO. 236

(Purpose: To prohibit use of funds for acquisition of the KC-10A aircraft, the military counterpart of the DC-10, until the aircraft is determined by the Secretary of Defense to be structurally sound)

Mr. PROXMIRE. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk will read as follows:

> The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 236.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 13, between lines 2 and 3, insert the following:
>
> REQUIREMENT RELATING TO THE STRUCTURAL SOUNDNESS OF THE KC-10A AIRCRAFT
>
> SEC. 103. None of the funds authorized to be appropriated by this Act may be obligated or expended for the procurement of the KC-10A Advanced Tanker Cargo Aircraft (ATCA) until (1) the Federal Aviation Administration has reinstated the type certificate required for the commercial operation of the DC-10 aircraft, and (2) the Secretary of Defense has notified the Congress in writing that the KC-10A aircraft is structurally sound.

Mr. PROXMIRE. Mr. President, the purpose of this amendment is to place certain restrictions on the KC-10A advanced tanker cargo aircraft (ATCA) program before the aircraft in this bill are accepted by the Air Force. Specifically it requires that the KC-10A, which is the military version of the commercial DC-10, must first be recertified as airworthy by the normal certifying agency, the Federal Aviation Administration, and the Secretary of Defense must inform the Congress that the KC-10A is structurally sound, before any funds can be obligated or spent on planes ordered in this bill.

This amendment does not delete funding from the bill. It does not cancel any contracts. It does not terminate the program. It does not change the conditions of the ongoing contract.

What it does is protect the Air Force and the taxpayers from the Government accepting the responsibility and the liability of having to repair aircraft with inherent design defects.

The Air Force and the Congress should not allow any of the KC-10A's ordered in this bill to be accepted for military duty until it can be proven beyond any question and to the satisfaction of the experts who are now studying the issue, that the DC-10 and the KC-10A, which are 88 percent common aircraft, are structurally sound and totally fit for military duty.

Mr. President, it is not my intention to prejudge the outcome of the current investigation into the crash of American Airlines flight 191, a DC-10, which resulted in the death of 274 people.

It may or may not be accurate as one newspaper article put it that the—

> DC-10 has a long history of major and minor incidents which have plagued the big McDonnell Douglas jet almost since the day the first of its kind rolled off the assembly line.

But the Federal Aviation Administration has stated that there—

> is reason to believe the model DC-10 series aircraft may not meet the requirements of the Federal Aviation Act . . . in that it may not be of proper design, specification, construction, and performance for safe operation.

The manufacturer, McDonnel Douglas has denied that there are any basic design flaws in the DC-10 and is fighting the FAA order withdrawing what is called the "type certificate" for the DC-10—the document that certifies the airworthiness of the aircraft. Without a "type certificate," no commercial aircraft can fly in this country.

Critics of the DC-10 point to this most recent crash as just another example of the aircraft's basic problems. They make note of the crash of a DC-10 in 1974 when a Turkish airlines flight from Paris lost a rear cargo door and all aboard were lost. The cargo door was also involved in an incident on an American Airlines flight in 1972 but with no fatalities. An investigation by the FAA determined that the cargo door design was "an inelegant design worthy of Rube Goldberg." As a result new doors were installed and the floors of the aircraft were strengthened.

Minor incidents occurred in 1974, 1976, and 1978. Whether or not any or all of these accidents and incidents reflect on the planes basic airworthiness is now impossible to say. Nonetheless, it is a severe enough a problem to ground the fleet until an exhaustive review of the DC-10 is accomplished, including the hydraulic system, pylon engine assembly, maintenance procedures, cracks in the aft bulkhead, and various safety procedures during crises.

I have no intention of placing blame on the manufacturer, the FAA, or the airlines for this most recent crash the DC-10 crash at O'Hare in Chicago last month. We simply do not know all the causes of this crash or how the safety problems can be rectified.

We do know that the agency responsible for airlines safety has withdrawn its approval for the DC-10 to fly and there is a strong suspicion that modifications will have to be made in the structure of the aircraft itself and possibly in the operating and maintenance techniques.

Now, what does this mean for the KC-10A. As I have said the KC-10A is the military version of the DC-10. It shares 88 percent common features. In fact, the only major differences between the two are the KC-10A has a refueling boom and bladders to hold the aviation fuel in place of the internal passenger seat arrangements. The external features of the plane, the engines, the pylons, the hydraulics, the bolts, the aft bulkhead structure are exactly the same.

The aircraft bear similarities in another important way. The ATCA program was managed under a new procurement contract which calls for making maximum use of a commercial product. The Air Force, consequently, did not develop or engineer this aircraft. They simply held a competition or flyoff based on commercially available aircraft which could be modified easily for the tanker and cargo role. The KC-10A was not built from scratch for a military mission. It was adapted from a commercial DC-10.

Furthermore, the airworthiness standards established for the KC-10A are certified by the FAA—the civilian agency rather than by the military itself.

It works this way. The FAA first certified that the DC-10 was airworthy by issuing a "type certificate" for that class of aircraft. Then the FAA was required to issue a "type certificate" for the KC-10A based on the DC-10 certificate plus the peculiar items exclusive to the KC-10A.

The ATCA contract specified that McDonnell Douglas must provide a "type certificate" to the Air Force before any aircraft can be accepted. This is a sound safeguard and the Air Force should be complimented for insisting on this provision in the contract.

However, it is not foolproof. Although

the Air Force requires a "type certificate" for the KC-10A, progress payments for the aircraft can and will continue right up to the time of transfer to the Government. This means that it is probable, under the contract, that the Air Force would continue paying for an aircraft that has been refused a type certificate by the FAA. The safeguard is at the point of accepting or rejecting the aircraft upon delivery. There is no safeguard on continuing to finance and pay for a faulty aircraft in the interim. We could end up in the unenviable situation of having a number of KC-10A ready for transfer to the Air Force, having been almost completely paid for by progress payments, and then finding out that the aircraft has structural defects and is not airworthy. That would force the Air Force to either seek structural changes by the manufacturer, and it is not clear who would pick up that bill, or asking for the progress payments back—an almost unthinkable event given the close working relationships between such manufacturers and the Air Force.

Mr. President, we should not allow ourselves to be put into this situation. Under no conditions should this Government be put in a situation of having to continue paying for a plane that could be certified as not airworthy.

On the other hand, we should not automatically assume that the KC-10A will be declared a hazard. It could be found that some other, nonmanufacturing elements, were at fault. Whatever the final result, we need to build some protection for the taxpayers and the Air Force into this bill before us.

My amendment does just that by allowing the contract to continue in force but by stipulating that no funds in this bill can be obligated or spent until the certification is restored and the Secretary of Defense tells us that the plane is basically sound.

During the fiscal year 1979 bill the Congress approved two ATCA's. These aircraft will be ready for delivery in October and December of 1980. It could reasonably be expected that the current problems will be solved by that time. In any event, my amendment does not touch these two aircraft. What it does do is to preclude the Air Force from obligating any funds eventually appropriated until we know for sure what the safety problems are with the KC-10A. Since the production option of four aircraft recommended in this bill will not be made until December 1, 1979, this amendment should not work a hardship either on the Air Force or on the manufacturer. But it does express the will of the Senate that these funds, even though approved, cannot be obligated and spent until we receive full assurances that the plane is structurally sound enough to carry out its mission.

I think it would be helpful, Mr. President, to remember back a few years to the time when this body debated the C-5A. There were many here in the Senate who argued that the C-5A was a sound aircraft, that the manufacturers claims about the reliability and strength of the C-5A wings were to be believed, that it was inappropriate to question the technical judgment of the Air Force and Lockheed when it came to such matters as the load bearing capabilities of the C-5's wings.

Today, in this bill, there is $78.6 million to fix the wings of the defective C-5A's. The entire wing fix program, which has been passed on to the Air Force and the taxpayer to fund instead of the manufacturer who produced a faulty plane, will now total $1.3 billion. Let me repeat that—the U.S. Government, the Air Force, and the taxpayer must now foot the bill to the tune of $1.3 billion to fix the wings of all 77 C-5A's, because this Congress and a prior administration did not see fit to insist that the manufacturer deliver a plane that was without defect. We knew it had problems, we knew it was defective, and instead of forcing the manufacturer, Lockheed, to repair the planes at their cost, now we are paying them with tax dollars to do just that.

The analogy between the C-5A and the KC-10 is not precise for many reasons—different contracts were involved, procurement techniques have changed and so has the oversight atmosphere here in Congress. But the principle is the same. We must take every precaution against once again accepting any military aircraft that are not ready to fulfill their stated mission.

Mr. STENNIS. Mr. President, I will not take but a minute. The Senator from Wisconsin has called this to my attention a few minutes ago. I commend him for his alertness in getting into this matter and proposing this safeguard which, as a member of the committee, I am glad to support.

Let me just say this, Mr. President: I have been noticing these air disasters. In fact, it seems miraculous to me that we have no more of them than we do. But this time the FAA and others involved, developed the facts and gave them out to the public and to Congress. I think that has done a lot of good, just to bring it all out and let us know, rather than let it come out piecemeal. It underscores and gives us an impression, rather than going along 8 or 9 months after a thing like that has happened and then giving a version of it. It is still an important matter, but it just does not make the impression. So I am glad to see what I hope is a change of policy in getting into these things in a hurry and giving us the facts and the reasons. Maybe this amendment is one of the preparations for the future with reference to such matters.

I have not had a chance to get into this amendment with other members of the committee, but I hope they will support it.

Mr. TOWER. Mr. President, I have studied the amendment. Furthermore, we have been in touch with the Air Force, and the Air Force seems to have no objection to this amendment. I know of none on this side, so I am prepared to accept the amendment of the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank my good friends from Mississippi and Texas. I appreciate their support of the amendment very much.

Mr. STENNIS. I suggest that the Senator from Wisconsin continue his efforts here. This is a new matter, and we will be going to conference soon, I hope, and if he will continue his efforts we will join him, of course.

The PRESIDING OFFICER (Mr. BAUCUS). The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (No. UP 236) was agreed to.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 237

(Purpose: To correct technical errors in titles I and III of the bill)

Mr. TOWER. Mr. President, I send to the desk a technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an unprinted amendment numbered 237.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 4, strike out "$2,213,900,000." and insert in lieu thereof "$2,225,900,000."

On page 28, line 11, strike out "one half of".

Mr. TOWER. Mr. President, this is a conforming amendment which corrects two minor errors in the bill and which does not change the bill in substance.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

● Mr. BELLMON. Mr. President, I would like to congratulate the Senate Armed Services Committee, its chairman, Senator STENNIS, and its ranking member, Senator TOWER, for presenting a fiscal year 1980 defense procurement authorization before the Senate which, in addition to the sound recommendations it makes for maintaining U.S. strategic deterrence competence and insuring U.S. conventional military capabilities, is within the target set for national defense in the first concurrent budget resolution.

The defense authorization for $90 billion in BA for military procurement, R. & D., other defense activities, and military and civilian personnel is approximately $200 million below the requested amount. It is to the credit of all members of the Armed Services Committee that the committee was able to report a bill which achieves priority U.S. defense objectives and also supports Congress' efforts to seek fiscal restraint through the budget process.

Mr. President, as the Senate is aware, the issue of defense spending was a principal concern during formulation of the budget resolution. The Senate Budget Committee provided a good deal more defense spending flexibility than the House. In conference, the Senate Budget Committee achieved most of its defense spending target, raising the House target by nearly $2.0 billion in budget authority and insuring that U.S. security requirements could be met, especially in those areas of the defense budget most directly related to combat readiness and effectiveness.

I support S. 428 from the standpoint of its national defense merits and also because it is fiscally responsible. I would remind the Senate that the judgment that this bill fits within the budget resolution targets also assumes certain pay and operating efficiencies and restraint in other areas of the defense budget.

Mr. President, I want to close by also urging the Senate Armed Services Committee to strive, during its conference with the House, to achieve a final procurement figure which is close to the Senate bill and which will not place the budget resolution in jeopardy. The House Armed Services Committee procurement recommendation is approximately $2.4 billion over the Senate's version. This amount is so large that merely splitting the difference may not suffice. A conference result substantially above the Senate's version would not only threaten the fiscal year 1980 defense target in the budget resolution, it could also jeopardize the Senate's assumptions leading to balanced budgets in 1981 and 1982. Senator Stennis and Senator Tower have a difficult conference task before them, but I encourage them to seek a result which will preserve the recommendations of the Senate Armed Services Committee and also support the budget process.●

ZIMBABWE RHODESIA AND MR. ANDREW YOUNG

Mr. HARRY F. BYRD, JR. Mr. President, several weeks ago, from Canberra, Australia, Ambassador Andrew Young determined with his characteristic vision that the elections in Zimbabwe-Rhodesia were a "fraud."

The Senate perhaps may find of interest the views of the Australian Parliamentary delegation whose members, unlike Mr. Young, were in Zimbabwe-Rhodesia at the time of the elections rather than in Australia. As did virtually all other international observers, the Australian observers found the elections to be fair and democratic.

Radio Australia News, on June 7, characterized the report of the delegation as follows:

> An Australian Parliamentary delegation who observed the recent election in Zimbabwe Rhodesia has declared that most voters saw it not as a choice between parties, but as a means to peace. The three members of the all-party delegation made verbal reports to Federal Parliament today. Liberal Party representative, Mr. Roger Shipton, said the committee agreed unanimously that the election had been fair and democratic. The Constitution was more flexible than they had expected and it gave a proper and legitimate majority rule. The Labour Party representative, Mr. Bryant, said the committee members had not come back starry-eyed about the country's future, but were more optimistic than pessimistic.

It is certainly regrettable that the President has elected to ignore the facts as reported by countless eyewitness observers and has chosen instead to follow the misguided advice of the zealots and extremists in the administration who apparently dominate our African policy.

Mr. President, I also offer for the information of Senators three articles which have appeared in the foreign press which may be of interest.

The first is entitled "Russia Defies Rhodesia Trade Boycott." and it is from the London Daily Telegraph of May 28, 1979.

The second is headed "The Pots and the Kettle," and it appeared in the London Daily Telegraph of May 31, 1979.

The third item is an editorial entitled "Black and White," also from the Daily Telegraph of May 31.

Finally, Mr. President, three articles from the press in the United States may be of value to the Senate in considering the question of sanctions against Zimbabwe-Rhodesia.

First, from the Peninsula Herald of Monterey, Calif., is an article entitled "U.S. Vulnerable to Embargo on Chromium." This article appeared on April 18, 1978, but its thesis is valid today.

Second, in the Washington Post of June 9, 1979, appeared an important report on the reaction of the Marxist-dominated Patriotic Front to President Carter's regrettable decision to refuse to discontinue trade sanctions against Zimbabwe-Rhodesia. The article is entitled "Guerilla Leader Hails Carter Move as Rejection of Muzorewa Government."

The article is important because it shows that the terrorist leaders would refuse to participate in any election in which the Muzorewa government was a participant.

Finally, Mr. President, yesterday's edition of the Wall Street Journal contained an excellent editorial entitled "Rhodesian Gauntlet."

I ask unanimous consent that the articles from the British and American newspapers be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the London Daily Telegraph, May 28, 1979]

RUSSIA DEFIES RHODESIA TRADE BOYCOTT

(By Norman Kirkham)

Russia has been buying chrome and tobacco worth many millions of pounds from Rhodesia in contravention of United Nations sanctions, while arming and financing the guerrila war against the Salisbury Government.

A report compiled from Western diplomatic sources for the United Nations Sanctions Committee says clandestine trade between Salisbury and Moscow is being conducted through Swiss "front" companies.

Much high-grade chrome supplied to Russia has been resold at a handsome profit to America. Secret chemical tests have given evidence of its origins.

GUNS FOR GUERRILLAS

According to the well-documented report, Russia first began dealing with the Smith Government in Salisbury at least eight years ago. The trade has remained consistent in recent times.

While shipments of chrome, tobacco and maize have continued to flow to Europe from Southern Africa, Russia has poured guns, ammunition and missiles into Zambia for Mr. Joshua Nkomo's 10,000-strong Rhodesian guerrilla army.

More weapons from Russia and Eastern Europe have gone to Mozambique to equip Mr. Robert Mugabe's forces, and Russian aid here is now increasing rapidly.

The report says that the captain of one Soviet cargo ship, asked in Mozambique how he reconciled the secret trade with his country's ideology, replied: "Russia is interested only in doing business."

Many of the exports to Russia were channelled through Mozambique in the earlier years of the economic blockade of Rhodesia. More recently, ports in South Africa are believed to have been used.

Rhodesian exports have gone to Rumania, Bulgaria and Czechoslovakia also in the last few years.

The report says that as long ago as 1970, Rhodesian chrome ore was being sold to Moscow and then passed on to America at a profit.

CHEMICAL TESTS

Colt Industries of Pittsburg who carried out chemical tests on "Russian" chrome had informed the American State Department that their results suggested strongly that some of the ore had come from Rhodesia.

The report to the United Nations gives information on exports of tobacco and maize through Mozambique to Russia which continued even after President Machel closed his frontier with Rhodesia.

On March 23, 1976 the 6,555-ton Soviet vessel Mikhail Kedrov loaded 2,100 tons of Rhodesian tobacco at Maputo. The ship sailed on April 1 just after the border was closed.

Later that year more tobacco and maize from Salisbury were loaded on Russian ships at Maputo, and the freighter Grekov became a regular caller there. Agents in Maputo were acting for the Russian Besta Line.

The sanctions breaking traffic was not handled at the usual cargo berth in Maputo. Pontoons at nearby Matola were used.

[From the Daily Telegraph, May 31, 1979]

THE POTS AND THE KETTLE

Africa was once called the "dark continent." The appropriateness of this description has lately been underlined by the news that a hundred children have been butchered on the orders of Col. Bokassa, the self-crowned emperor of the Central African Republic. This crime, for all its bestiality, is only the latest in a long list of atrocities perpetrated by this latter-day African Herod.

Only a few years ago, the world learnt of Bokassa's penchant for personally beating political prisoners to death. This did not cause an international outcry at the time, however, because the hostile attention of "liberal" opinion was almost exclusively focused on Rhodesia.

Times have not changed. Hypocrisy is still the prevailing element in today's conventional wisdom about Africa. What are the moral credentials of those countries and organizations demanding Rhodesia's surrender to the gunmen of the Patriotic Front? How qualified are they to decide what constitutes a peaceful and democratic solution in Rhodesia? To what extent do they practise what they preach?

Let us begin with the United Nations, which recently declared the Rhodesian elections "null and void," despite a peaceful 64 per cent turn-out of voters in a country infested by terrorists. What are its claims to moral purity?

The answer is nil. The great majority of its member states are dictatorships whose devotion to freedom and the rule of law is no more than skin-deep. At least a hundred countries, according to Amnesty International, practise imprisonment without trial, political repression and torture. Furthermore, as the BBC's chairman, Sir Michael Swann, has pointed out, "of the 144 countries in the United Nations only 30 or so have a broadcasting system or a Press that can be described as even remotely free."

Liberty, then, is a rare commodity and getting rarer every year. According to the American organisation, Freedom House, the proportion of the world's population deprived of basic freedoms has grown from 64 per cent to 80 per cent since 1973.

Not only is freedom in short supply, but so is justice. For all of the UN's talk of liberation and human dignity, a *Sunday Times* report revealed that the UN failed to investigate 100,000 complaints against abuses of human rights between 1970 and 1976. Only allegations involving its *bêtes noires,* such as South Africa, Chile and Israel, were followed up with promptitude. The truth is that "the United Nations" in the words of William F. Buckley, Jr., "is the most concentrated assault on moral reality in the history of free institutions, and it does not do to ignore that fact or, worse, to get used to it."

What about the independent states of Black Africa? How clean are their hands on the subject of human rights? What examples of peaceful and stable government do they offer to the scrutiny of impartial observers?

Almost all Black African states are ruled by dictators who tend to succeed each other with bewildering and blood rapidity. To quote Amnesty International, in the three-period 1975–1977 alone, 21 out of 37 sub-Saharan African states experienced coups, attempted coups, civil wars and treason trials. As for Britain's ex-colonies, their record has been "reactionary almost everywhere." to quote our former UN representative, Lord Caradon.

The unliberated face of Black Africa becomes most vivid close to when one looks at particular countries in detail. Take BURUNDI, for instance, where a quarter of a million Hutu tribesmen were massacred by the ruling Tutsi in 1972; or ETHIOPIA, whose tyrants have tortured and murdered thousands, leaving their dead bodies to rot in the streets of towns and villages.

In CHAD, a dictatorship since the early 1960s, religious believers have suffered persecution and death at various times. Thousands of Christians were killed in the early seventies, for example, and in November, 1973, the then President had 12 pastors buried alive.

EQUATORIAL GUINEA is another classic African horror story. President Macias Nguema's regime, according to a report of the International Commission of Jurists, practises torture and forced labour and the country is racked by mass unemployment, food shortages, disease and malnutrition. A quarter of the population is now in exile and two thirds of the 1968 National Assembly, plus nearly all the then Ministers and their senior civil servants, have simply disappeared.

It is especially ironic that Rhodesia's most vocal critics, all of whom are putting pressure on Mrs. Thatcher not to lift sanctions and recognise Bishop Muzorewa's Government, are themselves despotisms that do not remotely fulfill the famous "Six Principles" applied to Rhodesia.

NIGERIA's democratic constitution was suspended over 11 years ago and she is presently governed by a military dictatorship. Freedom of the Press is substantially restricted, for as a Nigerian newspaper put it, "it is not the duty of the Press to fill the gap left by the banning of political parties."

Nor is ZAMBIA, despite President Kaunda's windy rhetoric, exactly a citadel of freedom. His ruling party's monopoly of power is formally enshrined in the Zambian Constitution and the country's judiciary has long since lost its independence. Zambian law further permits indefinite detention without trial, and Kaunda has used this power against political opponents on several occasions.

Then there is TANZANIA, another one-party state with a puppet judiciary and, according to Amnesty International, a sizeable number of political prisoners. President Nyerere is fond of hectoring Rhodesia on the subject of human rights, yet his government has had no compunction in forcing millions of unwilling peasants into collectivised villages.

It is also worth remembering, after the universal jubilation on the fall of Idi Amin, that the deposed dictator's crimes did not prevent him being elected to the presidency of the Organization of African Unity. Mass murder in Uganda was apparently less heinous than a restricted franchise in Ian Smith's Rhodesia.

There are those, like the former UN Secretary-General, U-Thant, who dismiss these facts as the "teething troubles" of young nations. How, then, do they explain the lack of political freedom and economic progress in Liberia, which has been an independent, self-governing state since 1847? Can this euphemism, moreover, be applied to developments that have resulted in millions of innocent deaths since the late 1950s? No, the truth lies elsewhere, in the fact that Western freedoms and Western political structures were prematurely imposed on a continent that was not ready to benefit from them. Because of dogmaitc impatience, Western policymakers forgot the wise words of that great champion of freedom, John Stuart Mill, who warned in his essay "On Liberty" that it is perhaps hardly necessary to say that this doctrine [liberty] is meant to apply only to human beings in the maturity of their faculties."

All this is now water under the bridge, but our new Conservative Government has the opportunity of perhaps saving Rhodesia from the fate that has befallen so many of her neighbors. That means abandoning double standards and opposing terrorists like Nkomo, whose party (ZAPU) declared even in the mid-sixties that "we cannot agree to multiracial nonsense. The rivers of Zimbabwe are to turn red with the blood of white tyrants and their children."

[From the Daily Telegraph, May 31, 1979]

BLACK AND WHITE

Bishop Abel Muzorewa's 17-man biracial Cabinet, which will assume power in Zimbabwe Rhodesia at midnight tonight, looks quite a well-balanced mixture. Of the five whites in it, Mr. IAN SMITH, as Minister Without Portfolio, will be able to act as chief spokesman for the interests of the white minority. He will be an invaluable link between the mainly white-officered Armed Forces and Bishop MUZOREWA, who, as well as being Prime Minister, takes over himself the key war Ministries of Combined Operations and Defense. Mr. SMITH also has a continuing role to play on the international plane. He has frequently made it clear that he wants to retire once international recognition has been achieved.

Of the four other whites in the Cabinet, Mr. David Smith, a Scot regarded as one of the more liberal members of the Rhodesia Front party, retains his former post as Finance Minister. He reportedly agreed at Bishop MUZOREWA's urging to postpone his planned retirement. In rebutting criticisms of his biracial government-forming, the Bishop has repeatedly and forcefully made the point that Rhodesia Zimbabwe needs the skills and experience of the white minority for its future prosperity and drawn attention scathingly to what has happened in other African countries which have allowed, or encouraged, the minorities to be driven out. This argument, of course, cuts no ice with Messrs MUGABE and NKOMO but it is a sensible one as well as a brave one, as the experience of Kenya shows.

It would be absurd to expect everything to be plain sailing for Bishop Muzorewa's Government. Arrests yesterday of members of Mr. SITHOLE's party, which is remaining in opposition, are a foretaste. The war continues its toll. But surely the West must wish the Bishop and his colleagues well. More than that, the West, Britain in particular, should move swiftly to grant them material and political support. Sooner rather than later, that means of recognition and ending sanctions.

[From the Monterey, (Calif.) Peninsula Herald, April 18, 1978]

U.S. VULNERABLE TO EMBARGO ON CHROMIUM, STUDY SAYS

(By Michael Woods)

WASHINGTON—America is more vulnerable to a foreign embargo on chromium—an indispensable ingredient in tool, stainless, and other so-called "specialty" steels—than it is to an embargo on any other natural resource, including oil.

This is the conclusion of a new study, conducted for four different federal agencies, to assess the consequences of America's growing dependence on foreign sources of chromium.

Domestic industry uses about 1.2 billion pounds of chromium each year in metals for high-strength bolts, automobile engines, machine tools, jet engines, chemical processing equipment, food storage and transport tanks, automobile trim, and other items.

CARTEL COUNTRIES

Although the world has enough chromium to last for centuries, fully 97 percent of the reserves are in the chromium cartel countries of South Africa and Rhodesia. Within as little as 20 years, these two African nations will have the only remaining high-grade reserves.

The stage thus is set for a "natural monopoly" on chromium, that could result in embargoes with severe economic consequences for U.S. industry, the National Research Council (NRC) concluded.

NRC conducted the chromium study for the U.S. Department of Energy, the U.S. Bureau of Mines, the National Aeronautics and Space Administration, and the Federal Preparedness Agency.

WELL-JUSTIFIED FEARS

NRC concluded that fears about growing U.S. reliance on foreign sources of chromium are well-justified. The fears have grown more persistent with domestic unrest in chromium-rich parts of Africa that led the U.S. to halt all chromium imports from Rhodesia last year.

Only the Philippines, Turkey, and parts of the U.S.S.R. have important chromium deposits, and these will be either exhausted or insignificant within 20 to 75 years. There are no important domestic deposits of the metal.

Likewise, NRC concluded that no substitutes for chromium now exist or are likely to be developed for high strength steels, high-temperature metals, and corrosion-resistant alloys essential for a variety of critical products.

The study estimates that U.S. consumption of chromium could be reduced by as much as one-third within five years without major economic dislocations by substituting aluminum, titanium and plastics for chromium in certain other products.

Also required would be intensified stockpiling of enough chromium for the U.S. to withstand an embargo lasting five years. Both conventional stockpiling, and a potentially more economical "floating stockpile" were recommended.

The floating stockpile would permit continued use of chromium in auto hubcaps, flatware, coins, and other items that could be easily collected and recycled.

EXPLORATION

Intensified exploration for chromium deposits in the Americas does offer the possibility of alleviating dependence on the chromium cartel in the distant future. But NRC believes that there is virtually no prospect of discovery of important new chromium deposits in the continental United States.

And an intensified research program on chromium conservation measures offers the potential for further reducing U.S. chromium consumption within perhaps 10 years.

But NRC concluded that neither stockpiling, intensified exploration, nor conservation "can protect the United States completely against the possibility of disruption or drastic shortage of chromium supply."

NRC also recommends a basic research program for developing a chromium substitute for use in stainless steel, high-temperature steel, and certain other alloys.

"Although this is a long-term program with little chance for early success, it is the only technical possibility for eliminating U.S. vulnerability to a long-term chromium embargo."

[From the Washington Post, June 9, 1979]

GUERRILLA LEADER HAILS CARTER MOVE AS REJECTION OF MUZOREWA GOVERNMENT

(By David B. Ottaway)

MAPUTN, MOZAMBIQUE.—Black nationalist leader Robert Mugabe today warmly welcomed President Carter's refusal to lift economic sanctions on Zimbabwe-Rhodesia and said his decision amounted to an American rejection of Bishop Abel Muzorewa's government.

"Our hope is that the Carter administration will persist to the end with this stand to support the complete dismantling of the Smith-Muzorewa regime and create a clear path to the transfer of power to the people of Zimbabwe as a whole," Mugabe said in a statement issued today.

In an interview before President Carter's announcement Thursday Mugabe said he was ready to consider new British proposals for ending the guerrilla war in southern Africa but virtually ruled out the possibility he ever would agree to participate in any future elections with Zimbabwe-Rhodesia's first black prime minister, Bishop Muzorewa.

He also said a new round of negotiations over Zimbabwe-Rhodesia sponsored by London and Washington would have to be held directly between the guerrillas and Britain and exclude the Muzorewa government.

"It's still the same regime," Mugabe said, referring to Muzorewa's warning to Mozambique and Zambia to stop aiding the guerrillas and the renewed Rhodesian bombing of his camps in northern Tete Province here earlier this week.

"It's the same policy, and I don't think there will be any change," he said. "There cannot be any compromise with [the Muzorewa government.] Negotiations must be between us and Britain," the former colonial power.

Although his comments in an interview with three western journalists followed previously stated policy, timing of them underlined the enormous difficulty Washington and London face in either trying to broaden the MUZOREWA government to include the Patriotic Front leaders or to arrange for negotiations between the two sides.

Mugabe warned that if the objective of new British-American proposals was "to marry" the Patriotic Front guerrilla alliance to the new Muzorewa government, he would "of course, not" consider them. Mugabe and Joshua Nkomo lead the Front.

As for allowing Muzorewa to participate in new elections arranged by Britain and the United States, Mugabe said he did not think the bishop could "satisfy the test of eligibility" because of what he called Muzorewa's growing "criminal" record of murdering and hanging Africans.

A special British envoy is scheduled to make a tour of the front-line African states that support the guerrillas and to hold talks with Mozambican officials and Mugabe here June 17.

Mugabe seemed extremely relaxed and confident about the way the war is going and seemed mostly concerned about possible Western military assistance for the Muzorewa government, should President Carter ultimately decide to lift economic sanctions.

Even if Washington were to lift sanctions against the Muzorewa government at some point in the future—which he said would be a "very unfortunate thing"—the crucial question for Mugabe is diplomatic recognition of the Salisbury leadership.

"What matters really is relations," he said. "Will it be possible to have harmonious relations with the United States and Britain? These are the questions that Britain and the United States must answer now."

In any case, he said, recognition would not basically alter the prospects for the military defeat of the new black-led government in Salisbury.

"This would only lengthen our struggle but not affect our strategy to achieve (military) victory," he said.

"Our position is very strong," he added, asserting that it was "within our power" to keep lines of communication disrupted inside Zimbabwe-Rhodesia.

He said his Zimbabwe African National Union had so far fully "liberated" one-third of the country, "semi-liberated" another third and controlled 1.3 to 1.5 million of the country's total 6.8 million blacks.

He dismissed as totally ineffectual the current Zimbabwe-Rhodesian policy of arming thousands of African "auxiliaries" loyal to the bishop as a way of combating the guerrilla forces.

"Fortunately this has also meant arming us," he said. "Quite a lot of materiel has come our way."

Explaining for the first time details of the unity agreement he reached in talks May 10–12 with Nkomo, Mugabe said it provided for the Front to be led by a 12-man Coordinating Council and an eight-member Defense Council with each side providing half the number. He and Nkomo would take turns heading the coordinating body, each serving as chairman for a month at a time while the other would lead the Defense Council.

A proposed Joint Operations Command still had to be constituted, he said.

"I shouldn't pretend this is the best possible," he said.

"But there is a far better understanding than there was before and the opportunity has been created for greater military cooperation."

The two rival guerrilla factions of the Front agreed to unite their military units for attacks on selected targets inside Zimbabwe-Rhodesia and agreed to try to train together again, he said. There would not be, however, total military integration of the two forces as he had hoped, he added.

Both Nkomo and Mugabe have been under mounting pressure from the front-line states, Cuba and the Soviet Union to unite their political parties and military forces in one body.

[From the Wall Street Journal, June 11, 1979]

RHODESIAN GAUNTLET

As required by the Case-Javits amendment of 1978, President Carter has delivered his finding on whether the recent Rhodesian elections were free and fair enough to justify our lifting trade sanctions against the country's new black regime. The President said the Rhodesian elections did not pass the test. He made his announcement in the face of a Senate vote last month that declared, by a margin of 75 to 19, that the Rhodesian vote had in fact passed the Case-Javits test. Mr. Carter threw down the gauntlet not only to the new government in Zimbabwe Rhodesia, but to the United States Congress.

Since the Carter administration took office, it has been running a policy that tried to unseat the white minority regime of Ian Smith and in effect transfer power to black nationalist guerrillas led by Joshua Nkomo and Robert Mugabe. The policy appealed to both the views of the administration's Africa specialists and the domestic political calculations of the White House. The Carter people said its goal was to bring about black rule and democracy in Rhodesia.

But Mr. Smith outfoxed them by bringing about a black-dominated regime, elected in a substantially democratic process, in which Messrs. Nkomo and Mugabe did not participate. The administration, forced to choose between its guerrillas and its attachment to progress towards democracy, showed every sign that it was going to opt for the former. This little piece of tawdriness from an administration so fond of proclaiming its high-mindedness made people very angry. The Senate resolution was meant to warn the administration to stop using this cracked moral perspective as the basis for U.S. African policy.

Mr. Carter quite obviously did not want to lift the embargo, and so last week he announced that he wouldn't do it. But in his announcement he went on in some detail about just why the new Rhodesian regime isn't good enough for us to trade with. He said there had been "some very encouraging progress" in Rhodesia, and that the actual voting in the April elections there "appears to have been administered in a reasonably fair way under the circumstances." But, he went on, the Rhodesian constitution simply isn't up to snuff. Only the whites got to vote on the transition last year. The new arrangements still reserve "extraordinary power" to the white minority and permit them veto power over big constitutional changes.

In light of this continuing massive failure of democracy, President Carter said, he was justified in preserving the embargo.

Now there's certainly a respectable case the President could have made for not lifting the sanctions totally and immediately. We certainly do have to think of our relations with Rhodesia's black-ruled neighbor states, and the President might also have said that he wanted enough flexibility to give him continuing leverage on the new Salisbury regime. But the President did not simply appeal to the Senate and the country on these prudential grounds. Instead he did more of the thing that's been getting everyone so mad at his Africa policy in the first place, which is to yell at the Rhodesians in the voice of outraged morality when the morality of the issue is in fact not on his side.

There are going to be moves in the Senate now to lift the sanctions whether the President wants to or not, and it's not hard to see why. The Constitution quite explicitly gives Congress control over our trade, and for the President to ignore the spirit of its legislation in the insulting way he's done on Rhodesia is a recipe for trouble. In fact the President has been delivering a fair amount of this kind of contempt for the Senate lately. There was his refusal to consult the Senators on the break with Taiwan, a failure the Senate has recently denounced in a resolution. There's been his more recent statement that if the Senate doesn't give him his SALT treaty, he might decide to enforce its provisions anyway.

President Carter ought to review this list of affronts to congressional sentiment and prerogatives if he ever wonders why he has trouble lining up support for, say, legislation to implement the Panama Canal Treaty. Certainly he can choose to ignore legislative intent and the clear judgment of Congress and, as he put it, "do everything I can, within my power" to follow an opposite policy. But he should not be surprised if Congress strikes back in similar spirit. He is inviting an eye-gouging contest that will not be good for the Presidency, for Congress or for the nation.

RHODESIAN SANCTIONS: AN IRONIC RESULT

Mr. HARRY F. BYRD, JR. Mr. President, I have today obtained some interesting statistics from the U.S. Bureau of Mines. The figures show an interesting result of the 1977 decision to reimpose full trade sanctions against Zimbabwe-Rhodesia.

In 1975, when the United States permitted the importation of Rhodesian chrome, 30 percent of high-carbon ferrochrome came to the United States from Rhodesia, 29 percent from South Africa, and the balance from other sources.

In 1978, after the reestablishment of full sanctions and imposition of a requirement for country-of-origin certification, zero percent of high-carbon ferro-chrome came to the United States from Rhodesia, 83 percent from South Africa, and the balance from other sources.

In short, a prime beneficiary of Mr. Andrew Young's sanction policy has been the ferro-chrome industry of the Republic of South Africa.

I do not understand why Mr. Young is determined to deny to the moderate majority black government of Zimbabwe-Rhodesia the opportunity to compete with the white-minority government of South Africa in U.S. markets. His logic here, as elsewhere, escapes me.

TAX SIMPLIFICATION AND REVISION

Mr. HARRY F. BYRD, JR. Mr. President, each year the tax laws seem to become more and more complex. Not only is the average citizen having trouble understanding the tax law, so also are professional tax advisers.

Congress must reverse this trend.

In recent years more and more complaints about tax complexity have come from full-time tax practitioners. They now find it increasingly difficult to give competent tax guidance to their clients.

Highly sophisticated tax lawyers are beginning to characterize the tax code as a verbal maze which defies comprehension with any reasonable expenditure of time and effort. The very professionals who may appear to benefit from complexity are increasingly calling on the Congress for relief from complexity.

Simplicity is also important because it aids in administering the tax law. Inevitably, when rules become so difficult to understand, errors and mistakes increase. Voluntary compliance suffers. Enforced compliance also suffers, since complex rules are equally hard for revenue agents to understand and remember.

As a result, the tax system is becoming a tax lottery favorable for the person who accidentally or deliberately understates his tax.

All of these factors become steadily worse as confusion, mistakes, and uneven enforcement begin to breed increasing disrespect for the law itself.

The real question today is what, as a practical matter, can be done about the situation.

Three basic approaches have been suggested.

The first would be to adopt a new and significantly different tax structure with fewer deductions and exemptions and lower rates. Such a tax system may have great appeal and clearly would be simpler. On the other hand, the adoption of any such system soon seems unlikely.

A second approach would be to appoint a large number of extremely able people, and ask them to rewrite the code from stem to stern, not changing the overall structure of the system but making the operating rules simpler. This approach may also have considerable appeal, because we all like the promise of a complete one-shot cure for any problem.

On the other hand, the intellectual difficulty of such a feat is impossible to exaggerate. The time such a review would take would be tremendous, and congressional review of the final product would be extremely difficult.

The third approach is a gradual step-by-step attack on the problem.

The Subcommittee on Taxation and Debt Management of the Senate Finance Committee, of which I am chairman, plans to use this third approach to work toward simplifying the Tax Code.

Beginning with hearings on June 22, dealing with several bills and simplification proposals, the subcommittee intends to conduct a systematic review of the Tax Code.

Specfiic code sections and groups of sections will be considered and revised in a series of proposals. Each separate proposal may be relatively narrow in scope, but as they accumulate in number, the significance of the overall effort will gradually become apparent.

At the congressional staff level, a step-by-step review of the code has already begun. Tax Committee staff personnel are working with the Department of the Treasury, the Internal Revenue Service, and members of the professional tax community in developing proposals to simplify the Tax Code.

The subcommittee's hearings on June 22 are the first in a series of hearings directed toward an orderly review of the tax law. Future hearings will be scheduled as the Finance Committee staff develops proposals with sufficient detail and thoroughness to warrant subcommittee consideration.

While the focus of the review process is upon tax simplification, it will, by necessity, uncover problems which ought to be corrected relating to the way various code sections are working in light of their underlying policy.

The subcommittee and the Finance Committee, in these hearings, are taking a new departure. Instead of enacting into law unproven tax concepts under extreme time pressures, the subcommittee will seek to improve tax laws in light of the experience of tax professionals in Government and private practice.

This represents a serious commitment to make the present tax laws more workable, understandable, and logically consistent.

The Subcommittee on Taxation and Debt Management's hearing on June 22 will include testimony on the subject of tax simplification, including suggestions for specific proposals for future consideration. We will proceed to a series of specific proposals on which work has already been done, beginning with two bills which have been introduced in this body by Senators LONG and DOLE and in the House of Representatives by Mr. ULLMAN and Mr. CONABLE.

The first bill deals with installment sales. The basic principle of section 453 of the code is that, if you sell property for payments which you are not going to be receiving until some future years, you can defer the tax until you get the money. Out of this basically simple concept has arisen a statute which has given rise to a tremendous amount of litigation. One rule, for example, is that no more than 30 percent of the selling price can be received in the year of sale, a requirement which on its face hardly seems very complicated. In practice, however, it has generated a large amount of controversy and accordingly, it is proposed to eliminate that rule completely.

The bill also contains a good example of simplification combining with structural revision, namely, the elimination of a problem involving sales between related parties. This change will add one more rule and several more lines to the code, but it is agreed that, in practice, the section will work better and give rise to fewer disputes.

The second bill contains several different items connected with procedure and administration. Not a single one involves a major tax policy issue, but each one makes the law slightly easier to live with.

Let me give one example. The law today requires that the gift tax return for the calendar year of the fourth quarter be filed on February 15. Most individuals sit down to review their taxes every year, but it is normally in connection with preparing the income tax return, which is not due until April 15.

It is in the course of this annual review that the individual himself, and particularly his professional adviser, is most likely to discover that a gift tax return ought to be filed and, by then, it is likely already to be too late. The proposal will simply move this gift tax return date to April 15. By permitting the gift tax records and requirements to be reviewed at the same time as the income tax records and requirements, voluntary compliance with the law is made far easier.

In addition to the two bills which

have been introduced, the subcommittee will also receive testimony on the topic of stock attribution. A specific legislative proposal has been developed by the American Bar Association which is currently being reviewed in depth by the Joint Committee staff. Stock attribution has been dealt with repeatedly by Congress. Each time, it has been treated differently than the last occasion. It is now time to stand back and look at the resulting mosaic to determine whether more uniform attribution rules, which would be easier to remember and easier to apply, can be adopted.

Let me conclude my remarks on a note of caution.

We must remember that this hearing is only the first step in a long and difficult process.

Every sentence in the code was put in for a reason. Even rules which, in hindsight, seem too complicated or simply wrong were, at one time, believed by able people to be proper legislation. To revise or eliminate these provisions, accordingly, is not a quick or easy task but one which, itself, requires discussion, analysis, and research.

At no point will any one glamorous bill fix up the Internal Revenue Code once and for all. Furthermore, even after all this effort, the code will not be a simple document. Any law which attempts to deal fairly with the entire financial lives of 200 million people living in a very diverse economy cannot be simple. Preparing the annual tax return will still be difficult and unpleasant.

On the plus side, however, is that the tax community and the general public will be able to see that we are, step-by-step, addressing their problems and making the code more workable. This will inevitably arouse support and perhaps even enthusiasm.

In view of the fact that it is the tax community, both in private practice and in the Internal Revenue Service, upon which we must rely to translate our legislation into a functioning system, the benefit to our country will have to be significant.

DIANA MAUPIN: A LADY OF UNFAILING GRACE

Mr. HELMS. Mr. President, this past weekend I spent a substantial amount of time catching up on a number of things that of necessity had been laid aside over a period of weeks. In the process, I came across a newspaper clipping about a lady named Diana Maupin.

Diana Maupin? Hers is not a name familiar to many Senators—except, possibly, those who attended the Wednesday morning prayer breakfasts when she, along with Dewey Bartlett and others, were special objects of prayer. Both Dewey and Diana confronted the same terminal illness; they both faced the inevitable with the same cheerfulness and hope and faith.

Dewey and Diana never met, except by telephone. But they were friends. I recall talking with Dewey in the cloakroom about Diana's courage and determination. He expressed a desire to talk with her. I got her on the telephone, and the two of them chatted, swapping encouragements and words of faith.

I cannot remember precisely when I first met Diana Maupin, but it must have been about three decades ago. She was then the young and beautiful wife of Armistead J. Maupin, Jr., now one of North Carolina's most prominent attorneys. She was one of those truly remarkable people whose zest for living prompted a loving interest in almost everybody and everything. She never lost a trace of her beauty, nor was her zest for living diminished by the malignancy that was tugging her toward eternity.

She was active in countless aspects of community life in Raleigh. She participated as a talented actress in the Little Theater productions there. She was actively involved in politics—when she perceived a candidate or a cause in whom or which she believed. She worked tirelessly, for example, in Senator Goldwater's campaign for the presidency in 1964. Barry had no more faithful worker in the vineyards that year.

And, Mr. President, she loved animals—dogs, cats, horses; all animals had a friend in Diana Maupin. She was responsible for the reactivation of the Wake County SPCA, and thanks to her that organization is today a thriving and exceedingly useful haven for animals that otherwise would be homeless or hungry or sick.

On the day that she passed away, one of the Raleigh newspapers called me for a comment. There was no really adequate way to pay tribute to her. I recall groping for words, describing her as a lady of unfailing grace—which she was. And I commented that if the Lord allowed little kittens and puppies and rabbits in Heaven, surely Diana had been greeted that morning by a thousand of them which she had befriended through the years.

Mr. President, you may ask why this Senator from North Carolina is speaking today about Diana Maupin. That is easy to answer. It is because the spirit and the love and the dedication of Diana Maupin, all combined, are what life is all about. I yet feel heartbreak when I ponder that she is gone. So do countless others of her friends. But the point we should remember is that we were blessed by having known her.

She slipped away into eternity, Mr. President, holding her prayer book in one hand, and a tiny stuffed animal in the other. An hour or so before, she had told her family once more of her great love for them. And she had smiled as she recalled the happy days.

So she left precisely as she had lived—with grace, and faith, and cheerfulness. Her legacy to all of her friends is that her love was genuine, and her concern for others was sincere.

She was a lady of unfailing grace.

WHERE IS YOUR TRACTOR?

Mr. HELMS. Mr. President, the question of parity prices and how they might be assured was much on the national mind in January and February, and no doubt will continue to be of concern as long as farmers are faced with constantly increasing costs of production for their crops because of spiralling inflation and its consequent economic dislocations.

Some of the farmers who came to Washington in the "tractorcades" asked for Government guarantees for prices of their crops in the form of direct subsidies. Others asked for guarantees by legislative fiat—that is, to make it illegal for anyone to buy or sell crops at prices less than the parity level. Neither of these suggestions has proved acceptable, and no new legislation affecting farm programs is anticipated this year.

Another of the frustrations expressed by many farmers—including many thousands who did not come to Washington—is the difficulty confronting the family farm in merely trying to survive in today's world. While the question of farm prices is certainly central to that problem, even more important is the question of just what kind of commitment this Nation has to family farming as a way of life.

Most farmers who speak or write to me are eloquent in their commitment to family farming as a way of life. Farming to them is more than a business or a way to earn an income—it is the very essence of the values they adhere to, and cherish for their children and their grandchildren. I personally am not convinced that large numbers of farmers really want massive Federal controls of their farms that would be the consequence of direct subsidies or coercive legislation. They know all too well that Federal controls inevitably come with subsidies.

Recently I noted an article written by Mr. Oren Long for the New Farm magazine entitled "Where Is Your Tractor?" Not everyone will agree with all of the views expressed by the author, and the piece does not pretend to be the whole answer to all of the problems and inequities faced by farmers. But as we begin to consider the direction we want to move in assuring the survival, and indeed, the advancement, of the family farm, I believe the point of view expressed by Mr. Long is a good point of reference for us to begin. I commend the article to my colleagues, and ask unanimous consent that it be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Where Is Your Tractor?

(By Oren Long)

It would be difficult to find a subject more on the minds of farmers these days than the activities of the American Agricultural Movement (AAM) and its goal of 100 percent of parity. I have heard comments by farmers that range all the way from "it's the greatest thing that could possibly happen to agriculture," to "if the American Agricultural Movement is successful in reaching its goal of 100 percent of parity, the American farmer is finished—and so is this country." So the idea of parity income for farmers is begging to be discussed. It may be a good idea, but we won't know that for sure until a lot more questions have been asked.

It appears to me that the supporters of the AAM base all their arguments for improving agriculture on economics. They try to give us the impression that this is the only important consideration. But while it is obvious that profit must be important to any farmer who wants to stay in business, there are other considerations that draw a man to farming which are equally important, perhaps even more so. This is certainly true for me. I gave up a government job where I was paid far more than I was worth to become a full-time farmer where I am probably worth far more than I am paid. My only regret is that I did not do it sooner.

Still, every farmer must turn a profit. Yet I wonder if the family farm would ever be able to compete with big business if farm income was guaranteed at 100 percent of parity? Personally, I doubt it! Parity of income would make general agriculture extremely attractive to a corporate structure with plenty of surplus capital to invest. Asking government to guarantee agricultural profits is totally unacceptable because any system based on such guarantees would inevitably put agriculture in an economic straitjacket.

Government would be forced to demand that we surrender our economic independence as the price for a guaranteed profit, and farming would become just another overregulated industry.

Even if farmers would be willing to tolerate such bureaucratic control of their farms the long-range consequences to agriculture would be disastrous, just as they have been for the business world. Small business is finding it increasingly difficult to survive the never ending demands and restrictions of government agencies, but the giants are prospering. Big business not only finds it much easier to tolerate government regulations, it quite often benefits from them. And government influence has already produced much the same results in agriculture. Many USDA programs designed to help the small farmer have ended up helping the large farmer more. In short, asking government to help protect the family farm may be a way to destroy it.

So it comes down to a question of just how much farmers are willing to pay for economic security. Well, I'm not willing to pay that kind of a price; and I don't believe that most farmers are willing to pay it either, even though a growing number of them say they are. They instinctively dislike government; they know it doesn't work. Once forced to face the practical realities of bureaucratic control, most farmers would soon agree that asking government for a guaranteed profit is a cure that's worse than the disease.

If, as I contend, most farmers will not trade their independence for parity income supported by government guarantees, what is the alternative? In my opinion it is being willing to recognize that farm income is generally not sufficient to support the high level of agricultural technology that many farmers like to use. I do not believe that anyone can spend his way to prosperity—especially not a farmer. Yet a lot of people try; and I suspect that much support for the American Agricultural Movement comes from this group who are attempting the impossible.

The simple, but encouraging, fact is that the solution to low farm income generally lies well within the resources of every farmer. It may not be the most fashionable way to farm these days, but any farmer can make a good living if he has the intelligence to practice self-restraint in his use of agricultural technology and works to become as self-sufficient as he possibly can. And not only will he make a good living doing so, he will also keep his independence and become a better farmer in the process.

When America was first settled the population was largely agrarian. In order to survive, the people were forced to practice such values as honesty, frugality, piety, independence, thrift, hard work, and especially self-reliance; and a man's character was measured by how well he embodied these social virtues. The people prospered; and so did America. We had a lot to be proud of.

Well, all that has changed now. Our values and goals can be measured almost exclusively by the conspicuous consumption of goods and services, by how much money we make. Our values and goals no longer have any connection to character, integrity, or virtue. Oh we still talk a lot about these qualities of character, but it's all sound and no substance. Our values have changed to reflect our growing tastes, our great expectations, and our emphasis on quantity at the expense of quality.

The rural people have always been the last reservoir of those virtues and traditions that make a nation strong, that give it character and pride. But beginning with World War II, the American farmer was subjected to an educational campaign designed to persuade him that he was a deprived citizen, that his work was drudgery and his future was bleak. Its goal was to whet his appetite for all the goods and services that his city cousins were enjoying. However, before industry could tap this huge rural market, they first had to convince the farm population that such traditional values as self-reliance and thrift were old-fashioned, that they no longer had any relevance or value in the modern world.

Well, this educational campaign has been highly successful. Most farmers are now joining their city cousins in believing that consumption is the road to happiness; that things, not people, produce joy and hope. But even more important, industry has convinced the farmer that agriculture should be seen as just another business which can prosper by using all the technology that industry can produce. The result—we have produced a community-killing agriculture; the rural population is being systematically depleted; urban instability and madness are slowly but surely infecting the rural backroads of America; and caravans of tractors are on the highways carrying farmers to the Nation's capitol to beg government to guarantee them the kind of profits they need to rescue themselves from years of poor judgment, lack of self-restraint and excessive desires.

We have seen farming evolve from a way of life where the farmer produced primarily for his own consumption and sold the surplus, to a business where he now produces primarily for the market and buys most of what he needs. And, just as did the native on the Pacific island, we farmers have paid, and will continue to pay, a high price, for what we have been told is the necessary course of progress.

There is essentially no cure for this National disorientation; because there is no going back in time to a day when individual conduct, values, and goals were governed primarily by tradition. Even so, our choice of values, goals, and way of life remains an individual decision. In short, every farmer can still make a choice as to what kind of agriculture he will practice, what kind of values and traditions he will pass on to his children, his community and to succeeding generations.

So, if you want to pay the price to have farming become primarily a business supported by government guarantees, better get your tractor out on the highway. But if you want it to remain primarily a way of life that is generally free of government interference, better leave your tractor in the barn. This is an important decision for every farmer to make; because the "farm problem" is primarily the consistent refusal by many farmers to recognize that there is no middle ground, no alternative which will allow him to enjoy the best of both worlds; to have his profits guaranteed and to be independent at the same time. In other words, it is time for those farmers who support the American Agricultural Movement to face the fact that there is no "free lunch" being served in Washington, D.C.—or anywhere else!

MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS

Pursuant to the authority of the order of the Senate of June 7, 1979, the Secretary of the Senate, on June 8, 1979, received a message from the President of the United States, submitting the nomination of John T. Rhett, of Virginia, to be Federal Inspector for the Alaska Natural Gas Transportation System, which was referred to the Committee on Energy and Natural Resources.

MESSAGES FROM THE HOUSE

At 11:02 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3464. An Act to amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program, and for other purposes; and

H.R. 4289. An Act making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes.

The message also announced that Mr. Beard of Tennessee was appointed as a manager of the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 429) to authorize appropriations for fiscal year 1979, in addition to amounts previously authorized for procurement of aircraft, missiles, naval vessels, and other weapons, and for research, development, test, and evaluation for the Armed Forces, and for other purposes, vice Mr. Treen, excused.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 3464. An Act to amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program, and for other purposes; to the Committee on Finance.

H.R. 4289. An Act making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes; to the Committee on Appropriations.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–1572. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report covering the activities of the Rural Electrification Administration for fiscal year 1978; the Committee on Agriculture, Nutrition, and Forestry.

EC–1573. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the 1979 Global Assessment Report; the Committee on Agriculture, Nutrition, and Forestry

EC–1574. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on 3 construction projects to be undertaken by the U.S. Naval Reserve; to the Committee on Armed Services.

EC–1575. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on 7 construction projects to be undertaken by the Army National Guard; to the Committee on Armed Services.

EC–1576. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to amend section 6956 of title 10, United States Code, to eliminate the dates for submission of nominations to the United States Naval Academy; to the Committee on Armed Services.

EC–1577. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, reporting certain facts relating to legislation being considered by Congress which would freeze entrance fees; to the Committee on Energy and Natural Resources.

EC–1578. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders in the cases of certain aliens who have been found admissible to the United States under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–1579. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in 1,387 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens; to the Committee on the Judiciary.

EC–1580. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the annual report for FY 1978 of activities under the Rehabilitation Act of 1973, as amended; to the Committee on Labor and Human Resources.

EC–1581. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the operation of the special pay program for medical officers of the Commissioned Corps of the Public Health Service; to the Committee on Labor and Human Resources.

EC–1582. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the study to establish maximum and minimum standards for funds set-aside and contributions made to those funds by blind persons licensed by States and Territories to operate vending facilities on public and private premises under the Randolph-Sheppard vending program; to the Committee on Labor and Human Resources.

EC–1583. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report entitled "Adoptions Without Agencies," together with a highlight summary; to the Committee on Labor and Human Resources.

EC–1584. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals, June 1979; to the Committee on Appropriations, the Committee on the Budget, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Select Committee on Indian Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, and the Select Committee on Small Business: jointly, pursuant to order of January 30, 1975.

EC–1585. A communication from the Assistant Attorney General, Department of Justice, transmitting, pursuant to law, a report on the activities and operations of the Public Integrity Section; to the Committee on Governmental Affairs and the Committee on the Judiciary, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication transmitted by the Assistant Attorney General, U.S. Department of Justice, relative to the activities and operations of the Public Integrity Section, be referred jointly to the Committees on Governmental Affairs and Judiciary.

This has been cleared with the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM–277. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on Commerce, Science, and Transportation:

"Resolutions memorializing the President, the Secretary of Commerce and the Congress to use the powers of their respective offices to declare Georges Bank a marine sanctuary

"Whereas, under the provisions of the Marine Protection, Research and Sanctuary Act of 1972, the Secretary of the Department of Commerce of the United States is empowered to designate applicable ocean territories as marine sanctuaries so that such areas can be given priority in the conservation, preservation and enhancement of fishing and food production over other offshore uses; and

"Whereas, observing that escalating food costs pose as great a threat to the consumer as rising energy costs, New England fishermen and conservationists have formally petitioned the Department of Commerce to have 20,000 square miles of the area commonly known as Georges Bank declared a marine sanctuary; and

"Whereas, emphasizing the importance of Georges Bank as a national food resource and the significance of said request is the fact that in the last year New England's fish landings were over 680 million pounds with over 70 per cent thereof going to the tables of American families, constituting 17 percent of the edible fish harvested annually in the United States; and

"Whereas, while Massachusetts' one billion dollars annual fishing and tourism industry is to be protected, the express purpose of current efforts is to establish the priority of fisheries protection and food production in the Georges Bank region, and to require that all non-fishing activity in the area be consistent with the continued vitality and productivity of this biological resource; and

"Whereas, with the exception of the dumping of toxic material, the petitioners do not intend that any specific non-fishing activity will be absolutely prohibited within the proposed boundaries of the Georges Bank Marine Sanctuary, but only that those activities, as required by title III of the aforementioned act, be subjected to a certification process, and that they be found consistent with fisheries management and protection before being permitted to proceed; therefore be it

"*Resolved*, that the Massachusetts House of Representatives, sensitive to the important position which Georges Bank occupies in the economic life of the Commonwealth and the Nation, unites in common purpose with Marine Conservationists and Fishing industry representatives in urging President Carter, Commerce Secretary Kreps and the Congress of the United States to affirm and reinforce the findings of said concerned parties and to implement their reasonable petition by declaring Georges Bank to be a marine sanctuary; and be it further

"*Resolved*, that copies of these resolutions be sent by the Clerk of the House of Representatives to the President of the United States, the Secretary of Commerce, the presiding officer of each branch of Congress and to each member thereof from this commonwealth."

POM–278. A resolution adopted by the Legislature of the State of Illinois; to the Committee on Commerce, Science, and Transportation:

"SENATE RESOLUTION No. 137

"Whereas, It is the determined opinion of this Body that all citizens of our State should have access to information and entertainment provided by a local "AM" radio station; and

"Whereas, There are 128 "AM" radio stations licensed by the Federal Communications Commission to serve the citizens of Illinois; and

"Whereas, 81 of these stations are forced by F.C.C. regulations to cease all operation at sunset daily; and

"Whereas, 62 of these affected stations are located in communities which have no other local "AM" broadcast service at night; and

"Whereas, The effect of the "sunset shutdown" is to deny local A.M. service to 3 million of our citizens; therefore, be it

"*Resolved*, by the Senate of the Eighty-first General Assembly of the State of Illinois, that we respectfully urge the U.S. Congress and the F.C.C. to examine the use of the amplitude modulation ("AM") radio broadcast band and to assign such spectrum and distribute licenses so as to ensure that each community in the Nation, regardless of size, is provided with local full-time radio broadcast service; and be it further

"*Resolved*, That a suitable copy of this preamble and resolution be sent to the President of the Senate, Speaker of the House of Representatives and each member of the Illinois Congressional Delegation."

POM–279. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Commerce, Science, and Transportation:

"RESOLUTION

"A resolution urging the President, Congress and the Secretary of Transportation to retain the Amtrak North Coast Hiawatha in the National Amtrak Transportation System

"Whereas, the North Coast Hiawatha provides vital passenger travel from Chicago to Seattle, including direct service to Winona, the Twin Cities, St. Cloud, Staples, Detroit Lakes and Moorhead-Fargo; and

"Whereas, our people utilize this passenger train in their business, schooling and recreation; and

"Whereas, the dangerous shortage of crude oil worldwide has prompted the United States to consider closing gasoline stations on weekends and to ban Sunday driving; and

"Whereas, passenger travel by rail is energy efficient and provides an alternative to the private automobile; and

"Whereas, in the event of national or international emergency, passenger trains offer the best possible method of large scale movement of people; Now, therefore,

"Be it resolved, by the Legislature of the State of Minnesota that the President of the United States, the Secretary of Transportation and the Congress act quickly to retain the North Coast Hiawatha and to improve and revitalize service on the National Amtrak Transportation System.

"Be it further resolved, that the Secretary of State of the State of Minnesota transmit copies of this resolution to the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Secretary of Transportation, and the Minnesota Representatives and Senators in Congress."

POM-280. A concurrent resolution adopted by the Legislature of the State of New Hampshire; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION No. 9

"Whereas, in 1945 the McCarran-Ferguson Act (Title 15, United States Code, Sections 1011–1015) was enacted into law; and

"Whereas, in that Act it was stated that 'Congress declares that the continued regulation and taxation by the several states of the business of insurance is in the public interest' "; and

"Whereas, in the course of such regulation, the several states have encouraged and required continued improvements in insurance coverages and the provision of insurance at reasonable rates; and

"Whereas, the several states have continually reviewed, experimented with, and altered various approaches to regulation in an effort to assure the public of the availability of insurance at the lowest practicable cost; and

"Whereas, the business of insurance has developed a competitive structure; and

"Whereas, the public has benefited from the competitive structure of the insurance industry including at the retail level a wide variety of organizations, often small businesses, intensely competing, and from regulation of the industry by the several states; and

"Whereas, federal regulation has repeatedly been shown not to be a panacea; and

"Whereas, it is becoming increasingly clear that the establishment of federal regulation increases the cost of government, often increases the cost of products and services to the consumer, and often without providing offsetting benefits to the public; and

"Whereas, federal regulation often adds confusion and delay; and

"Whereas, there has been no showing that the several states cannot continue to regulate the insurance industry; and

"Whereas, there has been no showing that federal regulation of the insurance industry by limiting state regulation and permitting the application of the federal anti-trust laws will have a salutory effect upon the industry or otherwise benefit the public; and

"Whereas, it is often necessary, subject to state regulations, to pool the resources of several insurance companies in order to provide for coordinated actions to provide effective insurance coverage of certain risks and to provide the public with reasonable prices, efficiency in which the services are rendered at reasonable cost, and innovation in which new products and services are made available; and

"Whereas, officials of the federal government have publicly, although unofficially, recommended amending the McCarran-Ferguson Act so as to limit state regulation of the business of insurance; now, therefore, be it

"Resolved, by the Senate, the House of Representatives concurring:

"That the general court respectfully memorializes the Congress of the United States to reject any legislation amending the McCarran-Ferguson Act (15 U.S.C. SS1011–1015, 59 Stat. 33 (1945)).

"Be it further resolved, that copies of this resolution be forwarded to the Secretary of the United States Senate, the Clerk of the United States House of Representatives, and to each member of Congress from this state."

POM-281. A joint resolution adopted by the Legislature of the State of California; to the Committee on Governmental Affairs:

"SENATE JOINT RESOLUTION No. 5

"Whereas, California statutes provide for the reimbursement of local governmental agencies for state-mandated programs; and

"Whereas, The federal government can mandate programs for state or local governments to implement without being required to reimburse such governments for the costs involved in carrying out such programs; and

"Whereas, In order to implement new programs and provide increased levels of service as required by the federal government, the states must incur significant costs which must be paid for out of state revenues, existing or to be raised by the imposition of additional taxes; and

"Whereas, There exists, throughout the United States, a growing resentment of the heavy burden of taxation and an active rejection of existing and proposed levels and methods of revenue raising; and

"Whereas, The public outcry against taxation makes it increasingly difficult for the states to raise the revenues necessary to finance the programs and services which the states are required to provide by the federal government; and

"Whereas, It is a matter of simple equity that a level of government which establishes programs or services in the public interest should provide the means for financing those programs and services; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact a law providing for federal reimbursement of state and local governments for the costs involved in complying with federally mandated programs; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-282. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Energy and Natural Resources:

"SENATE JOINT RESOLUTION No. 23

"Memorializing Congress to legislate on geothermal resources and to appropriate money for research and demonstrator

"Whereas, It is essential that the United States reduce its dependence on foreign oil and focus its efforts upon the development of the plentiful and renewable sources of energy available in this country; and

"Whereas, The State of Nevada has potentially great reserves of such energy in the form of geothermal resources; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of Nevada, jointly,* That the legislature of the State of Nevada hereby urges the Congress of the United States to pass legislation on geothermal resources and appropriate the money necessary for research and demonstration of the use of geothermal resources; and be it further

"*Resolved,* That copies of this resolution be transmitted forthwith by the legislative counsel to the President of the United States, the Vice President as presiding officer of the Senate, the Speaker of the House of Representatives and the members of the Nevada congressional delegation."

POM-283. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Labor and Human Resources:

ASSEMBLY JOINT RESOLUTION No. 28

"Memorializing the Congress of the United States to enact legislation which would return to the states the right to regulate or participate in the regulation of safety and health in mines

"Whereas, The existence of the small mine operator, who plays an important part in the mining industry, is endangered by the effect of the Federal Mine Safety and Health Act of 1977 (P.L. 95-164); and

"Whereas, That act defines a mine to include areas and activities not normally considered part of a mine; and

"Whereas, that act has caused a further erosion of the basic rights of states by excluding any participation by a state in the regulation and inspection of mines with respect to mine safety and health standards; and

"Whereas, There are distinct differences in mining operations across the nation which are best understood and regulated on the state level rather than on the national level which is inflexible and incompatible with the needs and conditions of mining operators in many states; and

"Whereas, The right of a state to develop its own regulatory program and perform its own inspections of mines relating to safety and health standards should be preserved; and

"Whereas, Accident statistics of the mining industry have shown significant improvement in mine safety where there has been cooperative programs between state agencies, private industry and labor; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of Nevada, jointly,* That the legislature hereby memorializes the Congress of the United States to enact legislation which would return to the states the right to regulate or participate in the regulation of mines with respect to mine safety and health standards; and be it further

"*Resolved,* That copies of this resolution be prepared and transmitted forthwith by the legislative counsel to the Vice President of the United States as presiding officer of the Senate, to the Speaker of the House of Representatives and to all members of the Nevada congressional delegation; and be it further

"*Resolved,* That this resolution shall become effective upon passage and approval."

POM-284. A joint resolution adopted by the Legislature of the State of North Carolina; to the Committee on Commerce, Science and Transportation:

"HOUSE JOINT RESOLUTION 769

"A joint resolution petitioning the Congress of the United States to take steps, consistent with first amendment rights, to discourage the showing of motion picture and television films depicting excessive crime, violence and immorality

"Whereas, incidence of crime and violence in America have been increasing at an alarming rate for several decades, and continues to increase, with the result that in many parts of America people are no longer able to walk the streets in reasonable safety and peace; and,

"Whereas, the increase in crime, violence, and immorality among the young people of America is especially distressing, and threatens the very survival of America as a land where people can strive for self-fulfillment in a climate of peace, order, and mutual respect; and

"Whereas, motion pictures and especially television programs exert an increasingly strong effect upon attitudes and actions of our children; and

"Whereas, increasingly motion pictures and television programs not only depict crime, violence and immorality in their grossest and most brutal forms, but also sometimes tend to justify and glorify them, with the result that the sensitivities of young people are blunted, and respect for human personality and dignity and for human life itself is declining; and

"Whereas, the Congress of the United States has been vigilant and effective in protecting our physical environment against pollution by irresponsible persons, while at the same time respecting property rights; and

"Whereas, a clean environment wherein the mind and spirit may develop is of greater importance than a clean physical environment; and

"Whereas, we believe that it is possible to protect the higher values of human existence without destroying the great principles of human freedom;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

"Section 1. The General Assembly of North Carolina respectfully petitions the Congress of the United States to devote its best legal and philosophical resources to the task of producing legislation which will protect our society especially our young people against the destructive effects of motion pictures and television programs which depict, justify or glorify excessive crime violence or immorality but which will at the same time respect and protect the great human rights which are guaranteed by the First Amendment to the Constitution of the United States.

"SEC. 2. The Secretary of State is directed to deliver a certified copy of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to all members of the North Carolina delegation in the Congress of the United States.

"SEC. 3. This resolution is effective upon ratification.

"In the General Assembly read three times and ratified, this the 1st day of June, 1979"

POM-285. A concurrent resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Governmental Affairs:

"A resolution relative to the reimbursement of the state by the federal government for programs by Congress

"Whereas, the federal government of the United States, by actions of both the legislative branch and the executive branch, requires the states to implement new programs and provide increased levels of service under existing programs; and

"Whereas, in order to implement new programs and provide increased levels of service as required by the federal government, the states must incur significant costs which must be paid for out of state revenues, existing or to be raised by the imposition of additional taxes; and

"Whereas, there exists, throughout the United States, a growing resentment of the heavy burden of taxation and an active rejection of existing and proposed levels and methods of revenue raising; and

"Whereas, the public outcry against taxation makes it increasingly difficult for the states to raise the revenues necessary to finance the programs and services which the states are required to provide by the federal government; and

"Whereas, it is a matter of simple equity that a level of government which establishes programs or services in the public interest should provide the means for financing those programs and services; now, therefore, be it

"*Resolved* by the senate, the house of representatives concurring.

"That the legislature of the state of New Hampshire respectfully memorializes the President and the Congress of the United States to undertake such actions as may be necessary to ensure that the federal government reimburses each state for all costs incurred with respect to implementing new programs or providing increased levels of service under existing programs pursuant to any law enacted by the United States Congress after January 1, 1980, or any executive order or regulation issued by the President of the United States after January 1, 1980; and be it further

"*Resolved*, that the clerk of the senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each senator and representative from New Hampshire in the Congress of the United States."

POM-286. A resolution adopted by the board of directors of the Las Virgenes Municipal Water District, Calabasas, Calif., requesting the immediate review and revision of the apparent EPA policy which would deny construction grant funding for cost-effective water reclamation projects; to the Committee on Environment and Public Works.

POM-287. A petition from a private citizen, relating to SALT II; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES SUBMITTED DURING THE RECESS

Pursuant to the authority of the order of the Senate of June 7, 1979, the following reports of committees were submitted on June 8, 1979:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment:

S. 948. A bill to amend the Public Utility Regulatory Policies Act of 1978 (92 Stat. 3117) to revise the limitation on size of small hydroelectric power projects (Rept. No. 96-204).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with amendments:

S. 1119. A bill to direct the Secretary of the Interior to report to the Congress on plans or projects affecting the territories and possessions of the United States, and for other purposes (Rept. No. 96-205).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN (for Mr. STENNIS), from the Committee on Armed Services, without amendment:

S. 975. A bill to authorize appropriations for fiscal year 1980 for intelligence activities of the U.S. Government, the intelligence community staff, the Central Intelligence Agency retirement and disability system, and for other purposes (Rept. No. 96-206).

By Mr. STEVENSON, from the Committee on Commerce, Science, and Transportation, with an amendment:

H.R. 1786. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes (Rept. No. 96-207).

By Mr. STEVENSON, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 181. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 1786. Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Emmett John Rice, of New York, to be a member of the Board of Governors of the Federal Reserve System.

(The above nomination from the Committee on Banking, Housing, and Urban Affairs was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CHILES (for himself and Mr. SASSER):

S. 1305. A bill to require that any train carrying hazardous materials shall be operated with a device which records the speed at which the locomotive is traveling, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1306. A bill to require the National Transportation Safety Board to have priority over investigations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CHILES:

S. 1307. A bill for the relief of Gerald W. Frye; to the Committee on the Judiciary.

By Mr. JACKSON (for himself, Mr. BRADLEY, Mr. BUMPERS, Mr. ROBERT C. BYRD, Mr. CHURCH, Mr. CRANSTON, Mr. DOMENICI, Mr. DURKIN, Mr. FORD, Mr. HATFIELD, Mr. HUDDLESTON, Mr. JOHNSTON, Mr. MAGNUSON, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. RANDOLPH, Mr. STEVENS, Mr. TSONGAS, and Mr. WEICKER):

S. 1308. A bill to set forth a national program for the full development of energy supply, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TALMADGE (for himself, Mr. MCGOVERN, and Mr. DOLE):

S. 1309. A bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. TALMADGE (by request):

S. 1310. A bill to amend the Food Stamp Act of 1977 to improve food stamp program fiscal accountability through reductions in inaccurate eligibility and benefit determinations and intensified fraud detection and recovery procedures; and to remove specific dollar limitations on appropriations while continuing to limit expenditures to available funds, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHILES (for himself and Mr. SASSER):

S. 1305. A bill to require that any train carrying hazardous materials shall be operated with a device which records the speed at which the locomotive is traveling, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1306. A bill to require the National Transportation Safety Board to have priority over investigations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

RAILROAD SAFETY

● Mr. CHILES. Mr. President, I am today introducing two bills aimed at making our railroads safer.

The legislation comes because of the dismal safety records of many of our railroads which carry toxic chemicals from one end of America to the other.

Most days, you only have to glance at the morning paper to read of train derailments and the resulting injuries and deaths to understand why this legislation is needed and needed now.

Senator SASSER, who joins with me in introducing these two bills, and I have held hearings on railroad safety.

The first hearing was here in Washington last year after 15 persons were killed when a train exploded 34 hours after it derailed in the heart of Waverly, Tenn.

The hearing also followed a train wreck in Youngstown, Fla., where eight persons were killed after they breathed fumes as they drove on a highway near a derailed train.

We heard testimony from others who were near those wrecks who did not die, but who will carry scars, both physical and mental, from those wrecks for the rest of their lives.

A second hearing by Senator SASSER and myself was held in Crestview, Fla., on April 12 of this year, 4 days after an L. & N. freight train derailed as it crossed a trestle over the Yellow River.

The chemicals from the ruptured and split tanker cars on that derailed freight train spilled into the Yellow River and spewed into the atmosphere causing the evacuation of 5,000 nearby residents.

The Federal Railroad Administration tells us that the train derailed because it was exceeding posted speed limits which had been placed on that track because of the many, many other train wrecks which have occurred in northwest Florida.

Now railroad officials who testified before us in Crestview indicated they did not believe the train was speeding.

They said that after a local resident who happened to be driving on a road parallel to the railroad tracks about 2 minutes before the derailment, testified that he was traveling at 55 miles per hour and the freight train was pulling away from him.

The first bill Senator SASSER and I am proposing today would require that speed recorders be placed aboard the control locomotive on every train carrying hazardous materials.

The second bill we are proposing would make the National Transportation Safety Board (NTSB) the lead agency at the site of a train derailment.

It would give the NTSB the same right it now has at the site of airplane accidents.

The need for this legislation is apparent when you talk with persons who have been in on investigations of train wrecks and they tell you of the way each Federal agency goes about its own mission with little if any regard to the missions of other agencies.

The resulting confusion can be deadly to the people who live nearby and to the many local law enforcement and civil defense workers who must assist at the train wreck site.

Mr. President, I trust my colleagues will look at the safety records of railroads in their own States and join with Senator SASSER and me in taking these steps toward making the transportation of deadly cargoes safer.

I ask unanimous consent that both bills be printed in the RECORD at this point.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hazardous Materials Safety Act of 1979".

SAFETY REQUIREMENTS

SEC. 2. (a) Not later than 6 months after the date of enactment of this Act no person shall operate a railroad engine which serves as the control locomotive for any train carrying hazardous materials (as defined in section 103(2) of the Hazardous Materials Transportation Act (49 U.S.C. 1802)) without a device or devices making a record of the speed at which the locomotive travels and which provides the engineer or operator of the locomotive with a view of such speed. The device shall function so as to be correct within 4 miles per hour of the actual speed.

(b) Locomotives operated or used exclusively within designated yard limits in switching or transfer service need not be equipped in accordance with the provisions of this section.

(c) Each railroad subject to the provisions of this Act shall timely notify the Administrator of the Federal Railroad Administration (hereinafter referred to as the "Administrator") of the date that each control locomotive comes into compliance with the provisions of this section. The notification shall include the date of installation, the identification number of the device installed, the serial number of the locomotive, and such other information as the Administrator may require.

(d) Each railroad subject to the provisions of this section shall maintain a list or schedule of the locomotives required to be equipped in accordance with the provisions of this section. The list shall include the date that the device referred to in subsection (a) was calibrated and found to be functioning in accordance with the provisions of this section, and such other information as the Administrator shall require. In the event of an accident or of a disciplinary action in which a railroad employee is charged with excessive speed, the records of calibration, such other records as the Administrator may require and the device referred to in subparagraph (a), shall be given into the custody and control of the Federal Railroad Administration employee in charge at the scene of such accident or disciplinary hearing in all cases except where an investigation is to be conducted by the National Transportation Safety Board under the provisions of the Independent Safety Board Act of 1974 (Public Law 93–633). In such instances, such records and device shall be given into the custody and control of the investigator in charge.

CIVIL AND CRIMINAL PENALTIES

SEC. 3. (a)(1) Any person who is determined by the Secretary of Transportation (hereinafter referred to as the "Secretary"), after notice and an opportunity for a hearing, to have knowingly violated any provision of this Act shall be subject to a civil penalty of not more than $10,000 for each violation, and if any such violation is a continuing one, each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(2) A civil penalty assessed under paragraph (1) may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the persons charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(b) Any person is guilty of a criminal offense if he willfully violates any provision of this Act. Upon conviction, such person shall be subject for each offense, to a fine of not more than $25,000, imprisonment for a term not to exceed 3 years, or both.

(c) Any person is guilty of a criminal offense if he willfully destroys, removes, or tampers or causes other persons to so act, with the device referred to in subsection (a) and the records required under subsection (d) for the purpose of concealing or altering data which has been, or will be, recorded by the device.

INVESTIGATION PRIORITY

SEC. 4. Section 304(a) of the Independent Safety Board Act of 1974 is amended by renumbering paragraphs (2) through (9) as (3) through (10) and by inserting immediately following paragraph (1), the following new paragraph:

"(2) Any investigation conducted by the Board under paragraph (1) shall have priority over all other investigations conducted by Federal or State regulatory agencies. In carrying out an investigation under paragraph (1) the Board shall make provision for the appropriate participation of such agencies in its investigation. Participating agencies shall not participate in the Board's determination of cause, probable cause or causes of such accidents.".

INSPECTION AUTHORITY

SEC. 5. Section 304(b) (2) of the Independent Safety Board Act of 1974 is amended to read as follows:

"(2) Any employee of the Board, upon presenting appropriate credentials and a written notice of inspection authority, is authorized to enter any property wherein a transportation accident has occurred or wreckage from any such accident is located and do all things therein necessary for a proper investigation, including taking custody for examination or testing of any vehicle, rolling stock, track, or pipeline facility or any part thereof, which is determined to be requisite for the purpose of the investigation. The employee may inspect, at reasonable times, records, files, papers, processes controls, and facilities relevant to the investigation of such accident. Each inspection, examination or test shall be commenced and completed with reasonable promptness and the results of such inspection made available.".

S. 1306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) section 304(a) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903) is amended by adding at the end thereof the following new paragraph:

"Any investigation conducted by the Board under paragraph (1) shall have priority over any other investigation conducted by any other Federal or State regulatory agency. In conducting such investigations the Board shall make provision for the participation of such Federal or State agencies in its investigation except that such agencies may not participate in the determination of the Board with regard to the cause or probable cause of the accident under investigation.".

(b) Section 324(b) (2) of such Act of amended by—

(1) striking "investigation." at the end of the first sentence and substituting "investigation, including taking custody for examination or testing or any vehicle, rolling stock, track, or pipeline facility or part thereof, which is determined to be required for the purpose of the investigation."; and

(2) inserting after "inspection" in the third sentence ", examination or test".

By Mr. JACKSON (for himself, Mr. Bradley, Mr. Bumpers, Mr. Robert C. Byrd, Mr. Church, Mr. Cranston, Mr. Domenici, Mr. Durkin, Mr. Ford, Mr. Hatfield, Mr. Huddleston, Mr. Johnston, Mr. Magnuson, Mr. Matsunaga, Mr. Metzenbaum, Mr. Moynihan, Mr. Randolph, Mr. Stevens, Mr. Tsongas, and Mr. Weicker):

S. 1308. A bill to set forth a national program for the full development of energy supply, and for other purposes; to the Committee on Energy and Natural Resources.

ENERGY SUPPLY ACT

● Mr. JACKSON. Mr. President, I am today introducing an omnibus energy bill outlining a national program to accelerate the development of domestic energy supplies. This is a bipartisan effort—as it should be—and I am pleased to be joined by my senior colleague from Washington State, the President pro tempore, Mr. Magnuson; the majority leader, Mr. Robert C. Byrd; the majority whip, Mr. Cranston; the minority whip, Mr. Stevens; and the ranking minority member of the Energy and Natural Resources Committee, Mr. Hatfield.

We are joined in this effort by Mr. Church, Mr. Johnston, Mr. Bumpers, Mr. Ford, Mr. Durkin, Mr. Huddleston, Mr. Metzenbaum, Mr. Matsunaga, Mr. Tsongas, Mr. Bradley, Mr. Randolph, Mr. Weicker, and Mr. Domenici. I welcome the cosponsorship and support of these Members.

I view this legislation as the opening round in a renewed effort by the Congress to respond to the demands of the American people for action. Our people are angry. They are frustrated, and they are lashing out in search of scapegoats They are demanding action and leadership.

I believe the American people are tired of confrontations. They want—and indeed they deserve—cooperation. It is only through cooperation—between governments, business, and all sectors of our society—that we will be able to meet the challenges presented by the energy crisis.

The energy crisis knows no party lines. We must have an all-out bipartisan effort if we are to overcome the immediate emergency and the long-range prospect of energy shortages and high prices. I am pleased to say this effort today represents that philosophy.

My legislation does three basic things: First, it provides for an expedited decisionmaking process by establishing a strategy for identifying and advancing nonnuclear energy projects. All too often energy projects which have the potential for making this country more energy independent face endless delays because of institutional and bureaucratic impediments. Second, the bill provides the necessary emergency authority to manage short-term shortages. And lastly, it provides the incentives we need to fully develop and exploit synthetic fuels—the projects which will ultimately lead us away from highly unstable foreign sources of energy.

More specifically, my bill would:

Provide a centrally coordinated procedure for prompt Federal approval of nonnuclear energy projects determined to be in the national interest;

Establish a mechanism and timetables for affirmative action to solicit and act on proposals for commercial demonstrations of nonnuclear energy technologies;

Authorize funds for fiscal year 1980 and subsequent years for designated energy development, demonstration, and commercialization projects;

Require a prompt report from the Secretary of Energy detailing and evaluating options for oil exploration and production in non-OPEC countries;

Require prompt establishment and implementation of a 5-year program for leasing onshore Federal lands for oil and gas exploration and development;

Set mandatory production levels for alcohol fuels (gasohol) and require short-term conversion from oil to natural gas and wheeling of nonoil fired electricity to systems dependent on oil;

Establish incentives to advance the commercialization and use of solar energy, wind, urban waste, and other renewable energy systems.

Mr. President, in recent years much energy legislation has been enacted by Congress—in fact few issues have occupied more of our time—and yet little progress has been made toward taking advantage in a responsible way of the vast energy resources our Nation possesses.

And little progress has been made toward the goal of energy independence—the banner under which we have legislated our energy programs over the years. Today, we are more dependent than ever on Mideast oil. In 1973, the United States imported 6.3 million barrels a day. Today the imports total 9.1 million barrels daily. And the cost of that oil has skyrocketed. Our imported oil bill in 1973 was about $8 billion. This year we will pay out more than $50 billion. And no relief is in sight. The OPEC nations fully intend to ration oil by price, a mechanism which can and will be economically debilitating to many nations.

Let me put this in perspective, Mr. President, with an example. Heating oil on the world spot market has reached an unbelievable price of $52 a barrel. Crude oil is approaching $40 a barrel. Crude oil on the world market sold in 1973 for just $1.70 a barrel.

This is affecting every importing nation of the world and every area of our Nation. Every segment of our economy is affected. The raging inflation we are experiencing cannot be brought under control until we get a grip on our energy problems.

Now we are experiencing serious shortages of gasoline and diesel fuel. The fishermen in my home State of Washington are fighting for their economic survival because of diesel shortages and because prices have gone through the roof. The farmers in my State have not enough diesel with which to power their machinery. And now the truckers who move vital products on our Nation's highways say they can no longer survive. Today, they are threatening a nationwide walkout. We face serious shortages of heating oil this winter and the prospect of brownouts and blackouts because of electricity shortages. Is it any wonder people are frustrated and lashing out at anyone within earshot?

Recent developments in the Middle East have dramatized how our energy supplies are vulnerable. Those developments have aggravated the strategic and economic danger that has always marked our heavy dependence on the OPEC nations to meet our crude oil needs. It is imperative that action be accelerated now to bring new domestic oil and other energy resources on line to limit oil imports.

Mr. President, the measures which I am introducing today are not set in concrete. Constructive comment and improvements will be welcomed and carefully considered by the Committee on Energy and Natural Resources. The present energy emergency demands our immediate attention—and immediate action. I have assigned this measure top priority among the business now before the committee. My goal is to bring this bill back to the Senate for enactment before the August recess. Hearings will begin shortly. The Congress, the administration, the energy industry, consumer, and environmental groups must all participate in this effort to respond to the present emergency. Working together, we can find the answers and mount a program that will provide the Nation with an adequate—and secure—energy supply while at the same time protecting our environment and strengthening our economy.

I ask unanimous consent that a summary of the bill and the text of the measure be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 1308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Supply Act".

TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress finds and declares that—

(a) the dependence of the United States upon foreign petroleum sources continues to increase despite the policy initiatives which have been taken;

(b) recent developments in the Middle East highlight and aggravate the strategic and economic threat of such dependence; and

(c) there are significant opportunities for Federal initiatives to increase domestic energy supplies and to improve the capability of domestic energy systems to manage available resources.

PURPOSE

SEC. 102. The purpose of this Act is to—

(a) provide authorities for the Secretary of Energy to assist in expediting and in financing of projects which will increase domestic energy availability or improve the ability of energy systems to manage the available supplies;

(b) to authorize the appropriation of moneys for certain projects;

(c) to test the commercial, environmental, and social viability of various oil shale technologies;

(d) to provide incentives to encourage overseas oil exploration;

(e) to establish an oil and gas leasing program on Federal lands;

(f) to provide for the use of alcohol produced from renewable resources as a motor vehicle fuel;

(g) to provide for the conversion of certain commercial and industrial facilities from petroleum to natural gas or coal, and for the transfer of electrical power from coal, hydroelectric and nuclear power generation facilities to oil burning facilities during emergency oil shortages; and

(h) to provide incentives to advance the commercialization and use of solar energy systems, urban waste, and other renewable energy systems and Federal initiatives in the use of alcohol blended fuels for motor vehicles.

TITLE II—PRIORITY ENERGY PROJECT ACT

SEC. 201. This title may be cited as the "Priority Energy Project Act of 1979".

PURPOSES

SEC. 202. The purposes of this title are—

(a) to provide for a coordinated, prompt, and simplified process for Federal approval of non-nuclear energy facilities that are determined to be in the national interest;

(b) to expedite the Federal approval process without expanding or diminishing existing substantive Federal authority over proposed energy facilities and without unduly interfering with the present statutory authorities and responsibilities of individual Federal agencies; and

(c) to foster integration of local, State, and Federal procedures for permitting, licensing, and approving energy facilities which are determined to be in the national interest.

DEFINITIONS

SEC. 203. As used in this title the term—

(a) "approval" means any permit, license, lease, right-of-way, or other grant issued by an agency of Federal, State, or local government;

(b) "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation;

(c) "energy facility" means any physical structure, including any equipment, building, mine, well, rig, pipeline, transmission line, processing facility, transportation device, manufacturing facility, or installation which will facilitate energy conservation and invention, exploration, development, demonstration, transportation, production, or commercialization of any form of energy other than atomic energy, including, but not limited to, any facility owned or operated in whole or in part by Federal, State, or local government or any combination thereof;

(d) "Federal agency" means an executive agency as defined in section 105 of title 5 of the United States Code;

(e) "person" means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust estate, or any entity organized for a common business purpose, and any instrumentality of Federal, State, or local government;

(f) "priority energy project" means a project which has been determined by the Secretary of Energy to be in the national interest pursuant to his authority under section 204 of this title;

(g) "project" means any plan, proposal, scheme, or undertaking to build, install, or in any other way produce an energy facility;

(h) "Secretary" means the Secretary of Energy; and

(i) "State" means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

AUTHORITY TO DESIGNATE PRIORITY ENERGY PROJECTS

SEC. 204. The Secretary of Energy is hereby authorized to designate a proposed energy facility as a priority energy project pursuant to the procedures and criteria provided in this title.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 205. (a) Any person planning or proposing an energy facility may apply to the Secretary of Energy for an order designating such facility as a priority energy project.

(b) The Secretary shall publish notice of the filing of the designation request, together with a description thereof in the Federal Register; and interested persons shall be afforded thirty days thereafter within which to submit written comments for the Secretary's consideration.

PROCEDURE AND CRITERIA FOR DESIGNATING PRIORITY ENERGY PROJECTS

SEC. 206. Not later than forty-five days after receipt of an application authorized under the previous section, the Secretary shall determine whether the proposed energy facility is of sufficient national interest to be designated a priority energy project and shall publish his decision in the Federal Register. In making such a determination the Secretary shall consider—

(a) the extent to which the facility would reduce the Nation's dependence upon imported oil;

(b) the magnitude of any adverse environmental impacts associated with the facility and the existence of alternatives that would have fewer adverse impacts;

(c) the extent to which the proposed facility would make use of renewable energy resources;

(d) the extent to which the proposed facility would promote energy conservation;

(e) the extent to which the proposed facility would contribute to the development of new production or conservation technologies and techniques;

(f) the time that would normally be required to obtain all necessary Federal approvals and the adverse impacts that would result from delay in completion of the proposed facility; and

(g) the degree of specificity in describing the proposed facility in the application.

EXTENSION OF DEADLINES

SEC. 207. The Secretary may extend the deadline for receiving public comments under section 205(b) and the time for ruling on an application for priority energy project status under section 206 if such application is incomplete or if more time is necessary to afford interested parties a reasonable time to comment.

RELATION TO NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 208. A determination by the Secretary under section 206 of this title is not a major Federal action within the meaning of section 102(2) of the National Environmental Policy Act of 1969.

EARLY ACTION REQUIREMENT

SEC. 209. The Secretary shall encourage prospective applicants under section 205 to contact the Office established under section 223 and to file applications for any necessary Government actions or approvals with the appropriate agencies as soon as possible in order that any eventual action or decision may be expedited. The Secretary shall consider any failure to contact the Office for Priority Energy Projects in a timely fashion in making his determination on an application under section 205.

FEDERAL AGENCIES REQUIRED TO SUBMIT INFORMATION

SEC. 210. Not later than thirty days after notice appears in the Federal Register of an order designating a proposed energy facility as a priority energy project, any Federal agency with authority to grant or deny any approval or to perform any action necessary to the completion of such project or any part thereof, shall transmit to the Secretary of Energy—

(a) a compilation of all significant actions required by such agency before a final decision on any necessary approval(s) can be rendered;

(b) a compilation of all significant actions required of the applicant before a final decision by such agency can be made;

(c) a tentative schedule for completing actions listed in subsections (a) and (b) of this section; and

(d) all necessary application forms which must be completed by the priority energy project before such approval can be granted.

PROJECT DECISION SCHEDULE ESTABLISHED BY THE SECRETARY

SEC. 211. (a) Not later than sixty days after designating a proposed energy facility as a priority energy project, the Secretary, in consultation with the appropriate Federal, State and local agencies, shall publish in the Federal Register a Project Decision Schedule containing deadlines for all Federal actions relating to such project. The Project Decision Schedule shall clearly identify the order in which licenses, permits and other Government approvals must be obtained by the priority energy project before such project can be completed. The Project Decision Schedule may also suggest concurrent review of applications and joint hearings by agencies of Federal, State, and local governments.

(b) The deadlines in the Project Decision Schedule shall be consistent with the deadlines submitted to the Secretary under section 210 unless the Secretary determines that different deadlines are essential in order to expedite and coordinate Government review.

(c) Except as provided by section 213, all deadlines in the Project Decision Schedule shall be consistent with the statutory obligations of Federal agencies governed by such Schedule.

(d) Notwithstanding any other provision of Federal law, the deadlines imposed by the Project Decision Schedule shall constitute the lawful decisionmaking deadlines for reviewing applications filed by the priority energy project.

(e) Upon the petition of any agency with authority to approve or disapprove any application, or of any priority energy project, the Secretary may revise any procedure, extend any deadline, or modify in any other way, the Project Decision Schedule at any time prior to completion of such project: *Provided*, That no extension shall be granted unless the Secretary determines that such agency or priority energy project has exercised all due diligence in attempting to comply with the Schedule and that it would be impracticable for the agency to reach a decision or complete the required action within the specified time.

DELEGATION OF DECISION AUTHORITY TO THE PRESIDENT

SEC. 212. If a deadline on the Project Decision Schedule for a final decision or action by a Federal agency has elapsed and such agency has not made the decision or performed the required action, the President may make the decision or perform the action in lieu of the Federal agency. The President shall not make a decision pursuant to this section unless there has been notice and an opportunity for public comment on such decision. The decision of the President pursuant to this section shall be final.

EXCEPTIONS TO PROCEDURES REQUIRED BY OTHER LEGISLATION

SEC. 213. In circumstances of exceptional national need, the Secretary may establish a deadline for Federal agency action in a Project Decision Schedule that is shorter than the minimum period required under existing legislation: *Provided*, That such deadline shall not require a final agency action or decision less than one year after the initial Project Decision Schedule has been published in the Federal Register.

CERTIFICATION OF COMPLETED FEDERAL AGENCY REVIEW

SEC. 214. (a) If the Secretary determines that all Federal agency actions and approvals necessary to the completion of a priority energy project have been granted, the Secretary shall certify the same to the project. Such certification shall indicate the expiration date of any Federal approvals that have been granted to the project.

(b) A certificate issued by the Secretary under subsection (a) of this section shall constitute conclusive evidence in any judicial or executive proceeding that all necessary Federal permits have been granted for the duration specified on the certificate.

REQUEST FOR STATE COOPERATION AND INFORMATION

SEC. 215. (a) The Secretary shall notify the Governor of any State within which any portion of a priority energy project would be located and shall request the Governor to supply—

(1) a compilation of significant actions required by the State and local governments before the priority energy project can be completed;

(2) a compilation of significant actions required of the applicant before a final decision can be made;

(3) a tentative schedule for completing the actions listed in subsection (a) of this section; and

(4) all necessary application forms which must be completed by the applicant before such approval can be granted.

(b) The Secretary may provide any assistance authorized by law to assist State and local authorities in complying with requests for cooperation from the Secretary.

DECISION SCHEDULES FOR STATE AND LOCAL AUTHORITIES

SEC. 216. (a) The Secretary shall transmit to the priority energy project all information received from State and local governments pursuant to requests from the Secretary under section 215.

(b) The Secretary, after consultation with State and local authorities, shall propose a voluntary decision schedule to assist State and local authorities in coordinating their activities with actions by the Federal Government.

(c) The Secretary shall keep apprised of the processing of applications for priority energy projects by State and local governments. If the Secretary determines that a priority energy project is being delayed or threatened with delay by the inability or unwillingness of any State or local government to implement a schedule for timely review and decision, the Secretary shall notify the Governor of such State and transmit to the Congress a statement describing the delay, the causes thereof, and recommending actions to alleviate or prevent the delay.

(d) The Secretary may participate or intervene in the proceeding of any State or local agency which permits such participation or intervention in order to request such agency to adopt procedures recommended by the Secretary.

PRECEDENCE OVER OTHER LAWS

SEC. 217. Notwithstanding any other provision of law, the actions of Federal officers or agencies pursuant to this title shall not be subject to judicial review except as provided in this title.

DECISION REGARDING PRIORITY ENERGY PROJECT STATUS

SEC. 218. A decision of the Secretary granting or denying an order designating a proposed energy facility as a priority energy project or granting or denying an extension under section 207 shall not be subject to judicial review under any law except as required by the Constitution of the United States.

OTHER ACTION PURSUANT TO THIS ACT

SEC. 219. (a). Except as provided in section 218, claims alleging that an action taken pursuant to this title will deny rights under the Constitution of the United States, or that an action is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right may be brought not later than the sixtieth day following the date of such action, except as required by the Constitution of the United States.

(b) For the purposes of this title, any action by any Federal agency or officer relating to a priority energy project shall constitute an action pursuant to this title.

TIME BAR; JURISDICTION OF THE COURT OF APPEALS

SEC. 220. (a) Any claim arising out of action pursuant to this title shall be barred unless a complaint is filed prior to the expiration of the time limits prescribed by this title.

(b) Any such complaint shall be filed in the United States court of appeals for the circuit in which the priority energy project or the most significant portion thereof would be located. Such court shall act as a special court and shall have exclusive original jurisdiction to determine such proceeding in accordance with procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have original jurisdiction of any such claim in any proceeding instituted prior to or on or after the date of enactment of this Act.

(c) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court and such court shall render its decision relative to any claim within ninety days from the date such claim is brought unless such court determines that a longer period of time is required to satisfy requirements of the United States Constitution.

SUPREME COURT REVIEW

SEC. 221. (a) The Supreme Court shall have exclusive authority to review any interlocutory judgment or order of the court of appeals pursuant to this title and the appellant must file a petition for certiorari or a certification as provided in section 1254 of title 28, United States Code, within fifteen days after the decision of the court of appeals or his appeal shall be barred.

(b) Any review by the Supreme Court shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court and the court shall render its decision relative to any claim within forty-five days from the date such claim is brought unless the court determines that a longer period of time is required to satisfy requirements of the United States Constitution.

INJUNCTIVE RELIEF

SEC. 222. No court shall have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this title except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this title.

OFFICE FOR PRIORITY ENERGY PROJECTS WITHIN THE DEPARTMENT OF ENERGY

SEC. 223. The Secretary shall establish an Office for Priority Energy Projects within the Department of Energy which shall assist the Secretary in the performance of his duties under this title.

EFFECTIVE DATE

SEC. 224. The provisions of this title shall become effective thirty days after the date of enactment of this Act.

EXPIRATION OF AUTHORITY

SEC. 225. The Secretary's authority under section 204 shall expire seven years after the date of enactment of this title. Notwithstanding the previous sentence, the provisions of the title shall continue to be applicable to all energy facilities designated as priority energy projects prior to the expiration of the Secretary's authority under section 204.

TITLE III—DEMONSTRATIONS OF NEAR-TERM ENERGY TECHNOLOGIES

SEC. 301. Pursuant to the authority granted in the Federal Nonnuclear Energy Research and Development Act of 1974 (88 Stat. 1878), as amended, the Secretary is hereby directed to request the submission of proposals from persons offering to participate in projects which will demonstrate on a commercial scale any of the technologies set forth in section 6(b) (3) of said Act.

SEC. 302. Within six months from the date of enactment of this Act, the Secretary shall make the request directed by section 301 of this Act by publication in the Federal Register and by such other notice as he customarily uses to request proposals for major research and development undertakings.

SEC. 303. The request shall encompass all of the technologies set forth in section 6 (b) (3), and shall invite proposals which would utilize any of the forms of Federal assistance which are set forth in section 7 of the Federal Nonnuclear Research and Development Act, as amended. The request shall remain in force for two years.

SEC. 304. The Secretary shall review each proposal submitted pursuant to section 301 of this Act in accordance with the provisions of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended; and within three months from the date of such submission, he shall transmit such proposal to the Congress together with his comments and recommendations.

TITLE IV—DEPARTMENT OF ENERGY PROJECT AUTHORIZATIONS

SEC. 401. (a) Effective for fiscal year 1980 and for subsequent fiscal years, there are hereby authorized to be appropriated to the Secretary of Energy the following amounts (based on January 1979 price levels plus or minus such amounts if any as may be justified by reason of ordinary fluctuation in construction cost indices applicable to the types of construction involved):

(1) Solvent Refined Coal I (Project 78-2-d), not to exceed $500,000,000;

(2) Solvent Refined Coal II (Project 78-2-d), not to exceed $700,000,000;

(3) High Btu Coal Gasification Plant (Project 76-1-b), not to exceed $600,000,000;

(4) Low Btu Coal Gasification for Fuel Gas (Project 78-2-c), not to exceed $75,000,000;

(5) 50 MWe Geothermal (Project 76-3-a), not to exceed $175,000,000;

(6) 50 MWe Geothermal (pursuant to section 201 of Public Law 93-410), not to exceed $50,000,000 for loan guarantee authority, and an appropriation of $10,000,000 in borrowing authority;

(7) High Btu Coal Gasification Plant (Project 77-1-b), not to exceed $600,000,000;

(8) Low/Medium Btu Coal Gasification, large industrial (Project 76-1-c), not to exceed $250,000,000;

(9) Low Btu Coal Gasification plant, large utility (Project 77-1-c), not to exceed $400,000,000;

(10) Fluidized bed combustion plant (Project 76-1-d), not to exceed $300,000,000;

(11) Second 50 MWe Geothermal (Project 76-3-b), not to exceed $175,000,000;

(12) Oil Shale Above Ground Report (as authorized by section 19(b)(5) of Public Law 93-577), not to exceed $150,000,000;

(13) Urban Waste and Industrial Waste Conversion (pursuant to section 19(y) of Public Law 93-577), not to exceed $300,000,000 for loan guarantee authority, and an appropriation of $60,000,000 in borrowed authority;

(14) Oil Shale, In Situ Plant, not to exceed $130,000,000;

(15) Fuel Cells, demonstration program for utility, industrial, and residential purposes, $250,000,000:

Provided, That, not to exceed $286,500,000 of the total amount authorized above may be appropriated in 1980: *And provided further*, That the amounts authorized for each such project shall supersede any other authorization for such project.

(b) Section 408 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) is amended by deleting paragraph (1) and inserting in lieu thereof the following new paragraph (1):

"(1) 'small hydroelectric power project' means any hydroelectric power project which is located at the site of any existing dam, which uses the water power potential of such dam and which has not more than 25,000 kilowatts of installed capacity;".

TITLE V—OIL SHALE

OIL SHALE COMMERCIALIZATION TEST PROGRAM

SEC. 501. (a) The Secretary of Energy (hereinatfer referred to in this Act as the "Secretary") shall in accordance with this title and with such rules and regulations as he shall promulgate hereunder—

(1) establish a Federal program to determine the commercial viability of three oil shale retorting technologies;

(2) invite submission of proposals from interested persons for the design, construction, and initial operation of Federal oil shale commercial demonstration projects (hereinafter referred to in the title as "projects");

(3) select from the proposals submitted the three most attractive projects, based on the criteria of subsection (b) of this section, each employing a different oil shale retorting technology: *Provided*, That the Secretary may select fewer projects if, in his judgment, there are not three projects with different technologies which are technically feasible: *Provided further*, That if the Secretary selects three projects at least one of these projects must employ an above ground retorting technology; and another project must employ an in-situ process;

(4) enter into contracts with the persons submitting the selected proposals for the design, construction, and initial operation of the federally owned oil shale commercial demonstration projects: *Provided*, That the Secretary may choose not to enter into any contracts if, in his judgment, the terms and conditions of the contracts with persons submitting the selected proposals will not achieve the purposes of this section as set forth in subsection (d): *Provided further*, That any such contracts shall be expressly contingent upon the availability of such funds as are authorized and appropriated in future Acts.

(b) The Secretary shall, in making his selection of the projects, consider—

(1) the commercial promise of the technology proposed to be used in the project;

(2) the social and economic impact of the proposed project on the local communities which would be most directly affected;

(3) the environmental impact of the project, including, but not limited to, water consumption, water pollution, and air pollution;

(4) the thermodynamic balance of the technology to be used in the project;

(5) whether the technology to be used in the project has been successfully operated on a continuous basis on a small but significant scale; and

(6) the health and safety aspects of the technology.

(c) No project shall be larger than a modular size, capable of producing between two thousand and ten thousand barrels per day.

(d) The purpose of the program authorized by this title shall be to test three oil shale retorting technologies so as to determine—

(1) their commercial viability;

(2) their environmental impact, including, but not limited to, water consumption, water pollution, and air pollution;

(3) their health and safety aspects, including, but not limited to, any carcinogenic effect;

(4) their effect on regional and local agricultural production;

(5) their social and economic impacts; and

(6) their thermodynamic balances.

LOCATION OF THE PROJECTS

SEC. 502. (a) All of the projects authorized by this title shall be located at a single site: *Provided*, That should the Secretary determine that location of all the projects at a single site is not feasible, he may choose multiple sites. The projects shall be located on either (i) lands of the Naval Oil Shale Reserve or (ii) unleased public lands on which the mineral rights, in the opinion of the Secretary of the Interior, are unencumbered by prior claims: *Provided*, That in considering the location of the projects, the Secretary shall give priority to the lands of the Naval Oil Shale Reserves: *Provided further*, That the Secretary shall not select a tract of public lands unless he determines that by locating the projects on public lands he will obtain information on commercial viability not attainable on the lands of the Naval Oil Shale Reserves. In determining the location of the projects, the Secretary shall give particular consideration to the availability of water, land for waste disposal, environmental baseline and resource information, and the proximity to transportation, power and other local services.

(b) Prior to the selection of any public lands to carry out the purposes of this title, the Secretary shall consult with the Secretary of the Interior and obtain his written consent for the use of the selected public lands for the projects authorized by this title.

(c) Prior to giving the written consent required by subsection (b) of this section, the Secretary of the Interior shall withdraw the selected lands for a period of time sufficient to carry out the purposes of this title. Upon the publication of the Secretary's evaluation required by section 504 of this title, such withdrawal shall terminate.

(d) For the purposes of this section, the term "withdraw" or "withdrawn" mean withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land, other than "property" governed by the Federal Property and Administrative Services Act, as amended (40 U.S.C. 472) from one department, bureau, or agency to another department, bureau, or agency.

COORDINATION WITH LOCAL GOVERNMENTS

SEC. 503. (a) Prior to the selection of any project, the Secretary shall consult with the Governor of the State and officials of each political subdivision affected. The Secretary shall consult with these officials throughout the program both directly and through the advisory panel created by section 507 of this title.

(b) Prior to the selection of any project, the Secretary, taking into consideration all reasonably available forms of assistance under this title and other Federal and State statutes, shall determine that the impacts resulting from the proposed projects have been fully evaluated by the Secretary and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner under section 509 of this title, other provisions of law, or by other means to finance community planning and development costs resulting from such projects.

CRITERIA FOR EVALUATION OF THE PROJECTS

SEC. 504. (a) The Secretary shall evaluate the commercial viability and the social and environmental impacts of the technologies tested by the projects authorized by this title. This evaluation, which shall be published within one year of the completion of the program established by this title, shall be based on the following criteria—

(1) whether the products can be sold at a price which is competitive with imported crude oil;

(2) whether the technologies can be operated on a commercial scale in compliance with the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151-1175) and the Clean Air Act, as amended (42 U.S.C. 1857 and following);

(3) the economic, social, and environmental consequences of energy alternatives of oil shale production;

(4) the effect on regional and local water supplies of the projects and the commercial operation of the technologies tested by the projects;

(5) the effect on regional and local agricultural production of the projects and of

commercial operation of the technologies tested by the projects;

(6) the health effects on workers and other persons of the projects and of commercial operation of the technologies tested by the projects, including, but not limited to, any carcinogenic effects;

(7) the thermodynamic balance of each technology; and

(8) the impacts on local communities which would be most directly affected by an oil shale industry.

(b) The published evaluation required by this section shall also include a recommendation from the Secretary regarding the disposition of the test facilities at the termination of the program.

PUBLIC PARTICIPATION

Sec. 505. Prior to completion of his evaluation of the commercial viability and the social and environmental impacts of the technologies tested by the projects, the Secretary shall provide an opportunity for at least one public hearing in the area which would be most directly impacted by commercial development of oil shale.

PATENTS

Sec. 506. (a) The title to any invention made or conceived by a participant in performing work for the program authorized by this title shall vest in the United States, and if patents on such inventions are issued they shall be issued to the United States: *Provided*, That the Secretary may not exercise the discretion to waive all or part of the rights of the United States under section 9(c) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908(c)).

(b) The Secretary may grant licenses in any invention to which title is vested in the United States as a consequence of the program authorized by this title: *Provided*, That he may not exercise the discretion to grant exclusive or partially exclusive licenses under section 9(g)(2) of the Federal Nonnuclear Energy Research and Development Act of 1974 (43 U.S.C. 5908(g)(2)).

(c) When a person participating in the program established by this title holds background patents, trade secrets, or proprietary information necessary to the commercial operation of any technology used in the projects authorized by this title, he will be required to grant licenses in said invention, trade secret, or proprietary information to responsible parties on terms that are reasonable under the circumstances. Nothing in this title shall be construed to affect the ownership of background patents, trade secrets, or proprietary information which a person brings to a project authorized by this title.

(d) A person participating in the program authorized by this Act shall have a nonexclusive paid-up license to any invention made or conceived during the course of the program authorized by this title.

SOCIAL AND ENVIRONMENTAL IMPACT ADVISORY PANEL

Sec. 507. (a) There is hereby established a panel to advise the Secretary on matters relating to the program authorized by this title, including, but not limited to, impacts on local governments, the State, the environmental and health and safety effects of the test facilities, and the means, measures, and planning for preventing or mitigating such impacts.

(b) The panel shall consist of ten members, including—

(1) a representative of the Council on Environmental Quality appointed by the Chairman thereof;

(2) a representative of the Department of the Interior appointed by the Secretary of the Interior;

(3) a representative of the Environmental Protection Agency appointed by the Administrator thereof;

(4) a representative of the State appointed by the Governor thereof;

(5) three elected representatives of local government appointed by the Regional Council of Governments of the area most directly affected by the projects; and

(6) three representatives of citizen environmental groups appointed by the Chairman of the Council on Environmental Quality.

(c) Members of the panel who are employees of the Federal Government, a State, or local government shall serve without additional compensation as such. All other members shall receive $100 per diem when actually engaged in the performance of the duties of the panel.

(d) The Secretary shall reimburse all panel members for necessary travel and subsistence expenses incurred by them in the performance of the duties of the panel.

(e) The panel is authorized to employ two professional and one nonprofessional staff members for the purpose of facilitating its work. The staff members shall be hired in accordance with the will of the majority of the panel members.

(f) The panel shall terminate no later than six months after the publication of the Secretary's evaluation required by section 504 of this title.

SALE OF PRODUCTS

Sec. 508. (a) In administering the projects authorized by this title, the Secretary shall use, store, or sell the shale oil produced.

(b) Notwithstanding any other provision of law, any commercially valuable product produced by projects located on public lands shall be disposed of during the continuation of the program at public sale to the highest qualified bidder.

(c) Any commercially valuable product produced by projects located on the Naval Oil Reserves shall be disposed of during the continuation of this program in accordance with title 10, United States Code, section 7430.

(d) All revenues received by the Secretary from the sale of any commercially valuable product shall be paid into the Treasury of the United States.

IMPACT ASSISTANCE

Sec. 509. (a) In accordance with such rules and regulations as the Secretary, in consultation with the Secretary of the Treasury, shall prescribe, and subject to such terms and conditions as he deems appropriate, the Secretary is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, this title to guarantee and make commitments to guarantee the payment of interest on, as the principal balance of, obligations for such financing issued by the State or local governments.

(b) Prior to issuing any guarantee under this section, the Secretary shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

(c) The amount of obligations authorized for any guarantee under subsection (a) of this section is $20,000,000 per year for fiscal years 1980 and 1981. This money shall remain available until utilized: *Provided*, That such obligations guaranteed or committed to be guaranteed which may be outstanding at any time in any fiscal year shall not exceed the aggregate of the total amount authorized pursuant to this section for that fiscal year and all preceding fiscal years.

(d) If, after consultation with the State or local governments, the Secretary finds that the financial assistance program of subsection (a) of this section will not result in sufficient funds to carry out the purpose of this section, the Secretary may make direct loans to the State or local governments for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Secretary shall prescribe: *Provided further*, That the Secretary may waive repayment of all or part of a loan made under this subsection, including interest, if the State or local government involved demonstrates to the satisfaction of the Secretary that, due to a change in circumstances, there will be net adverse impacts resulting from the projects authorized by this title that would probably cause such State or local government to default on the loan.

(e) The Secretary is further authorized to make grants to the State or local governments for studying, and planning for the mitigation of the potential economic, environmental, and social consequences of the projects authorized by this title and for establishing related management expertise.

(f) At any time the Secretary may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by section 510 of this title, the debt obligations guaranteed under this section.

(g) When one or more local governments would be eligible for assistance under this section, but for the fact that construction and operation of the projects occurs outside its jurisdiction, the Secretary is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

(h)(1) Such amounts as may be necessary for direct loans and grants pursuant to this section shall be available as provided in annual authorization Acts and shall be requested in fiscal year 1980, and in subsequent fiscal years.

(2) There is hereby authorized to be appropriated, for fiscal year 1980, $200,000 for grants to be used to carry out the purposes of this section.

THE FUND

Sec. 510. (a) There is hereby created within the Treasury of the United States a special fund designated as the "Oil Shale Commercialization Test Special Fund" (hereinafter in this section referred to as the "fund") which shall be available to the Secretary without fiscal year limitation as a fund for the purposes of carrying out the program authorized by section 509 of this title.

(b) There is hereby authorized to be appropriated to the fund for administrative expenses for fiscal year 1980, $200,000 and from time to time such other amounts as may be necessary to carry out the purposes of the fund including, but not limited to, the payment of interest and principal and the payment of interest differentials and redemption of debt.

(c) All payments on obligations, appropriate expenses (including reimbursements to other government accounts), and repayments pursuant to operations of the Secretary under this section shall be paid from the fund subject to appropriations. If at any time the Secretary determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

(d) If at any time the moneys available in the fund are insufficient to enable the Secretary to discharge his responsibilities authorized by section 509 of this title, the

Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations or other moneys available under subsection (b) of this section for loan guarantees authorized by section 509 of this title. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act; and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(e) The provisions of this section do not apply to direct loans or planning grants made under section 509 of this title.

STATE LAW

SEC. 511. (a) Nothing in this title shall be construed as affecting the obligations of any person receiving a contract pursuant to this title to comply with Federal and State environmental, land use, water and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

(b) Nothing in this title shall be construed as superseding, modifying, or otherwise affecting, in any way or to any extent or in any manner, directly or indirectly, any State law or regulations, or any rule of law, governing or otherwise involving the appropriation, use, diversion, allocation, or other State administration and control of water and wather rights.

REPORTS

SEC. 512. (a) The Secretary shall submit a report to the Congress within one hundred and eighty days after the enactment of this title setting forth a comprehensive plan for the acquisition of information and the evaluation of the environmental, economic, social, and technological impacts of the program authorized by this title. In preparing such a comprehensive plan, the Secretary shall consult with the heads of the Environmental Protection Agency, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Agriculture, and the Department of the Treasury. The plan shall include, but not be limited to, the following:

(1) Information about the projects which might be funded by the program established by this title;

(2) Any significant economic, social, and environmental impacts which may result from any activity included in the program;

(3) the extent to which it is feasible to commercialize the technologies used in the projects authorized by this title;

(4) proposed regulations required to carry out the purposes of this title;

(5) a list of Federal agencies, governmental entities, and other persons who will be consulted or used to implement the program established by this title;

(6) the methods and procedures by which the information gathered under the program established by this title will be analyzed and disseminated;

(7) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect;

(8) the methods and procedures to insure that the projects will be no longer than necessary to demonstrate the commercial viability of the technologies; and

(9) an evaluation of the various means of using any commercially valuable product produced during the program.

(b) The Secretary shall annually submit a detailed report to the Congress concerning the actions taken or not taken by the Secretary under this title during the preceding fiscal year including, but not limited to—

(1) a discussion of the status of each project financed under this title including progress made in the development of such projects, and the expected or actual production from each project, including byproduct production therefrom, and the distributions of such products and byproducts;

(2) a detailed statement of the costs of the program established by this title;

(3) data concerning the environmental, social, and economic impacts of each such project and the actions taken or planned to prevent or mitigate such impacts;

(4) the administrative and other costs incurred by the Secretary and other Federal agencies in carrying out this program; and

(5) such other data as may be helpful in keeping the Congress and the public fully and currently informed about the program authorized by this title.

(c) The reports required by subsection (b) of this section shall be a part of the annual reports required by section 657 of the Department of Energy Organization Act, except that the matters required to be reported by this section shall be clealy set out and identified in such annual reports.

(d) The reports required by subsections (a) and (b) of this section shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate.

TAX-EXEMPT BONDS

SEC. 513. With respect to any obligation which is issued after the enactment of this title by, or on behalf of, any State, or local government and which is guaranteed under this title, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided*, That the Secretary shall pay to such issuer out of the fund established by this title such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (1) on obligations of said issuer, if any, or (2) on other obligations with similar terms and conditions, the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

PUBLIC DISCLOSURE

SEC. 514. Information collected by the Secretary as a result of the activities authorized by this title shall be cataloged and, upon request, any such information shall be promptly made available to the public in a form and manner easily adaptable for public use, except that this subsection shall not require disclosure of matters exempted from mandatory disclosure by section 552(b) of title 5, United States Code. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974, and section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, also shall continue to apply to any information obtained by the Secretary which is subject to such provisions.

FINANCIAL RECORDS

SEC. 515. Recipients of contracts under this title shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any project and such other records as the Secretary may require to facilitate an effective audit. The Secretary and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other directly pertinent documents.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 516. There is authorized to be appropriated $1,000,000 for fiscal year 1980 to carry out the provisions of this title, other than sections 510 and 511 hereof.

DEFINITIONS

SEC. 517. For the purposes of this title the term "person" means an individual, partnership, association, society, joint stock company, firm, company, corporation or other business organization.

TITLE VI—STUDY OF WORLD OIL SUPPLY AND PRODUCTION OPPORTUNITIES

STUDY REQUIREMENTS

SEC. 601. (a) Within six months from the date of enactment of this Act, the Secretary of Energy shall transmit to the Congress a report detailing and discussing the available options for increasing the exploration for and production of oil in countries which are not members of the Organization of Petroleum Exporting Countries.

(b) The report shall include, but need not be limited to—

(1) an evaluation of the potential for increasing the number of oil producing countries as well as the potential for increasing production in countries presently producing oil;

(2) an evaluation of present United States initiatives for encouraging the development of new foreign oil sources, including United States participation in bilateral and multilateral organizations; and

(3) the costs and benefits to the United States of alternative initiatives to encourage the exploration for and production of foreign oil supplies such as loan guanantees or tax incentives to domestic or foreign corporations, joint ventures or other arrangements with foreign governments by the United States, and initiatives through multilateral organizations.

TITLE VII—OIL AND GAS LEASING

FIVE-YEAR LEASING PROGRAM

SEC. 701. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall establish and implement pursuant to the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181–287), and the Acquired Lands Leasing Act of 1947 (30 U.S.C. 351–359) an oil and gas leasing program for onshore Federal lands. The leasing program shall consist of a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five fiscal years following establishment or revision of such schedule. The Secretary shall revise the schedule annually to cover the ensuing five fiscal years.

(b) In preparing and revising the leasing program, the Secretary shall consult with the Secretary of Energy regarding the national need for exploration and development of oil and gas from onshore Federal lands and shall seek the views of the Governors of the affected States, and other interested groups and individuals in determining which land should be leased.

(c) The Secretary shall establish the leasing program for fiscal years 1981 through 1985, no later than January 1, 1980. He shall revise the program on or before January 1 of every year thereafter. Establishment or revision of the leasing program shall not be subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969. The program and each revision thereof shall be submitted to the Congress and published in the Federal Register.

(d) The Secretary shall report to the Congress no later than January 1, 1981, and yearly thereafter, on his efforts pursuant to this title regarding the leasing of, and exploration and development activities on, such lands.

(e) Nothing in this section shall be construed to prevent the Secretary from leasing lands prior to development of the leasing program, or from leasing lands not included in the program.

COMPETITIVE LEASING

SEC. 702. (a) As soon as possible after the date of enactment of this title, the Secretary shall identify those areas which he determines to be favorable for the discovery of oil or gas (hereinafter referred to as "favorable petroleum geological provinces"). Areas which are determined by the Secretary to be within favorable petroleum geological provinces shall be leased only by competitive bidding.

(b) Leasing shall not be undertaken by the Secretary on those lands where applicable law prohibits such leasing or on those units of the National Wildlife Refuge System where the Secretary determines, after having considered the national interest in producing oil and gas from such lands, that the exploration for and development of oil and gas would be incompatible with the purpose for which such unit was established.

(c) At such time as paying quantities of oil or gas are discovered under a noncompetitive lease issued pursuant to applicable law the Secretary shall suspend all further noncompetitive leasing in the area and shall determine the favorable petroleum geological province or provinces in proximity to such discovery.

EXPLORATION AND DEVELOPMENT PLANS

SEC. 703. (a) Prior to any exploration activities on a lease issued under applicable law after the date of enactment of this title, the Secretary shall require the lessee to describe exploration activities in an exploration plan. He shall approve such plan if such activities can be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(b) Subsequent to a discovery of oil or gas in paying quantities, and prior to developing and producing such oil and gas, the Secretary shall require the lessee to describe development and production activities in a development and production plan. He shall approve such plan if such activities may be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(c) The Secretary shall monitor the performance of the lessee and, if he determines that due to significant changes in circumstances regarding that operation, including environmental or economic changes, new requirements are needed, he may require a revised development and production plan.

(d) If the Secretary determines that immediate and irreparable damage will result from continuation in force of a lease, that the threat will not disappear and that the advantages of cancellation outweigh the advantages of continuation in force of a lease, he shall suspend operations for up to five years. If such a threat persists beyond such five-year suspension period, he shall cancel a lease and provide compensation to the lease under such terms as the Secretary establishes, by regulation, to be appropriate.

DECISION DEADLINES

SEC. 704. (a) Notwithstanding any other provision of law or regulation, whenever, the Secretary receives an application for an oil and gas lease pursuant to applicable law he shall, in addition to any other requirements of applicable law, follow the procedures set forth in this section.

(b) Any decision to issue or not to issue a lease shall be accompanied by a statement setting forth the reasons for the decision including the reasons why oil and gas leasing would be compatible or incompatible with the purposes for which the lands involved are being administered.

(c) If the Secretary determines that the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 do not apply to his decision, the Secretary shall render his decision within six months after receipt of a lease application. If such requirements are applicable to the Secretary's decision, he shall render his decision within three months after publication of the final environmental impact statement.

SEC. 705. Any action taken or determination made by the Secretary under the authority of this title shall not be vacated or modified by any court unless such action or determination is found to be arbitrary or capricious.

TITLE VIII—GASOHOL

PURPOSE

SEC. 801. The purpose of this title is to promote the use of alcohol blended fuels in the United States.

DEFINITIONS

SEC. 802. As used in this title the term—

(a) "alcohol" means methanol, ethanol, or any other alcohol which is produced from renewable resources and which is suitable for use by itself or in combination with other fuels as a motor fuel;

(b) "alcohol-blended fuel" means any fuel consisting of a mixture of gasoline and alcohol motor fuel;

(c) "alcohol motor fuel" means alcohol produced for use as a motor fuel;

(d) "commerce" means any trade, traffic transportation, exchange, or other commerce—

(1) between any State and any place outside of such State; or,

(2) which affects any trade, traffic, transportation, exchange, or other commerce described in subparagraph (1).

(e) "motor fuel" means any substance suitable as a fuel for self-propelled vehicles designed primarily for use on public streets, roads, and highways;

(f) "refiner" means, for purposes of this title, any person engaged in the refining of crude oil to produce motor fuel, including any affiliate of such person, or any importer of gasoline for use as a motor fuel;

(g) "Secretary" means the Secretary of Energy;

(h) "United States" means each State of the several States and the District of Columbia;

(i) "ultimate purchaser" means with respect to any item, the first person who purchases that item for purposes other than resale; and

(j) "renewable resource" means any substance which is a source of energy, and which is available in an inexhaustible supply in the foreseeable future.

PROGRAM

SEC. 803. The Secretary shall establish pursuant to this title a program to promote the use of alcohol-blended fuels in the United States. The purpose of the program shall be to replace gasoline used as a motor fuel with an alcohol-blended fuel containing the maximum percentage of alcohol motor fuel as is economically and technically feasible for use as a motor fuel.

STUDY

SEC. 804. (a) The Secretary, in consultation with the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and other appropriate agencies, shall conduct a study to determine—

(1) the most suitable raw materials, other than petroleum or natural gas, for the production of alcohol motor fuel; and

(2) the nature of the alcohol motor fuel distribution system and the various production process, using feedstock other than petroleum and natural gas;

that will be necessary for the rapid development of an alcohol motor fuel industry. Such study shall identify ways to encourage the development of a reliable alcohol motor fuel industry and shall identify the technical, economic, and institutional barriers to such development, and shall include an estimation of the production capacity of alcohol motor fuel needed to implement the provision of this title.

(b) The Secretary shall report to the Congress not later than six months after the date of enactment of this title on the results of the study described in subsection (a), together with such legislative recommendations as may be appropriate to further the purpose of this title.

PRODUCTION GOALS

SEC. 805. The Secretary, by rule, within six months after the completion of the study in section 704 set production goals for the production of alcohol motor fuel in the United States in each of the calendar years 1981 through 1990. In setting such goals, the Secretary shall take into account the availability of reliable sources of alcohol produced from renewable resources. The production goal for alcohol motor fuel for calendar year 1981 shall be not less than 1 percent by volume of the projected consumption of gasoline used as a motor fuel in the United States for that year. The production goal for alcohol motor fuel for calendar year 1985 shall be not less than 5 percent by volume of the projected consumption of gasoline used as a motor fuel in the United States for that year. The production goal for alcohol motor fuel for calendar year 1990 shall be not less than 10 percent by volume of the projected consumption of gasoline used as a motor fuel in the United States for that year.

ALCOHOL-BLENDED FUEL REQUIREMENTS

SEC. 806. (a) The total quantity of gasoline sold annually in commerce in the United States by any refiner for use as motor fuel shall contain, on the average, not less than the percentage alcohol motor fuel by volume set forth for the calendar years shown in the following table:

Calendar year:	Percentage alcohol motor fuel by volume
1981	1 percent.
1982	Determined by the Secretary under subsection (b) of this section.
1983	Determined by the Secretary under subsection (b) of this section.
1984	Determined by the Secretary under subsection (b) of this section.
1985	5 percent.
1986	Determined by the Secretary under subsection (b) of this section.

Calendar year:	Percentage alcohol motor fuel by volume
1987	Determined by the Secretary under subsection (b) of this section.
1988	Determined by the Secretary under subsection (b) of this section.
1989	Determined by the Secretary under subsection (b) of this section.
1990	10 percent.

(b) Not later than July 1, 1980, the Secretary shall prescribe, by rule, the percentage alcohol motor fuel by volume required to be contained, on the average, in the total quantity of gasoline sold annually in commerce in the United States in calendar years 1982 through 1984 and 1986 through 1989 by any refiner for use as a motor fuel. Such percentage shall apply each refiner, and shall be set out for such calendar year at a level which the secretary determines (A) is technically and economically feasible, and (B) will result in steady progress toward meeting the percentage alcohol motor fuel by volume required pursuant to this section for calender year 1990.

(c) Each refiner shall report annually to the Secretary the percentage alcohol motor fuel by volume contained on the average in the total quantity of gasoline for use as a motor fuel that refiner sold during the preceding calender year.

ENFORCEMENT BY THE SECRETARY

SEC. 807. (a) Any person who violates any requirement of section 806 is subject to a civil penalty of not more than $1 per gallon for each gallon of fuel sold that is not in compliance with section 806. Such penalties shall be assessed by the Secretary.

(b) (1) Before issuing an order assessing a civil penalty against any person under this section, the Secreary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect within thirty days after the date of such notice to have the procedures to paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

(2) (A) Unless an election is made within thirty calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, or order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before a hearing examiner appointed under section 3105 of such title 5. Such assessment order shall include the hearing examiner's findings and the basis for such assessment.

(B) Any person against whom a penalty is assessed under this paragraph may, within sixty calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further actions as the court may direct.

(3) (A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty.

(B) If the civil penalty has not been paid within sixty calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2) or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3) the Secretary shall recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or final judgment shall not be subject to review.

ALCOHOL DISTILLATION FUEL REQUIREMENTS

SEC. 808. (a) Any person constructing a facility to distill alcohol for motor fuel use shall use fuel sources which are renewable.

(b) The Secretary shall, six months after enactment of this title, promulgate, by rule, procedures for certifying that any facility built for alcohol distillation pursuant to this title comply with the following priorities of fuel use:

(1) First priority for fuel sources to operate such distillation facilities shall be given to renewable energy resources.

(2) Last priority for fuel sources shall be given to petroleum, petroleum derivatives, and natural gas.

(c) The Secretary may by waiver authorize the use of subsection (b) (2) fuel sources upon finding that it would be economically or technically infeasible to comply with the requirements of subsections (a) and (b), above.

PROCEDURES FOR RULEMAKING

SEC. 809. Any rulemaking by the Secretary pursuant to this title shall be, unless otherwise provided in this title, in accordance with section 501 of the Department of Energy Organization Act of 1977.

AUTHORIZATION OF APPROPRIATIONS

SEC. 810. There is authorized to be appropriated to the Secretary to carry out section 805 and section 806 not to exceed $1,000,000 for fiscal year 1979.

TITLE IX—SHORT-TERM INITIATIVES

SUBTITLE A—FUEL SWITCHING

PURPOSES

SEC. 901. The purposes of this title are—

(e) to direct the Secretary of Energy to identify commercial or industrial facilities which are presently using petroleum as fuel and are presently capable of using natural gas or coal;

(b) to require those facilities identified to switch to natural gas or coal if such fuel is available to them; and

(c) to provide an expedited process whereby the facilities identified will be able to acquire natural gas for fuel use.

DEFINITIONS

SEC. 902. For the purpose of this subtitle, the term—

(a) "Secretary" means the Secretary of Energy;

(b) "Commission" means the Federal Energy Regulatory Commission;

(c) "natural gas" means either natural gas unmixed, or any mixture of natural and artificial gas;

(d) "petroleum" means crude oil and products derived from crude oil, other than synthetic gas derived from crude oil, liquid petroleum gas, liquid, solid, or gaseous waste byproducts of refinery operations which are commercially unmarketable, either by reason of quality or quantity, as determined by the Secretary, or petroleum coke or waste gases from industrial operations;

(e) "coal" means anthracite and bituminous coal, lignite, and any fuel derivative thereof; and

(f) "Administrator" means the Administrator of the Environmental Protection Agency.

FACILITY IDENTIFICATION

SEC. 903. Within thirty days after the date of enactment of this subtitle, the Secretary shall identify those commercial and industrial and utility facilities presently using petroleum as a fuel which are also presently capable of using natural gas or coal in lieu of petroleum.

NOTIFICATION

SEC. 904. Within fifteen days of identifying the facilities pursuant to section 903, the Secretary shall notify the person responsible for the operation of each facility that the facility is subject to the provisions of this subtitle and will be required to switch fuel from petroleum to natural gas or coal.

PROGRAM IMPLEMENTATION

SEC. 905. (a) The Secretary shall require the identified facilities to begin using natural gas or coal as a fuel within thirty days after receipt of the notification, unless an exemption is granted pursuant to this section.

(b) (1) Upon receipt of the notification required by section 904, the facility operator shall be required to take immediate steps to switch fuel from petroleum to natural gas or coal.

(2) The facility operator shall submit his fuel switching plan to the Secretary within thirty days after notification. The fuel switching plan shall identify—

(A) the type and source of fuel to be used by the facility;

(B) any impediments to its implementation; and

(C) the timing and manner of its implementation.

(3) The facility operator shall implement his fuel switching plan as soon as practicable, unless he is required by the Secretary to modify it or unless he seeks an exemption.

(c) (1) If the facility operator believes that implementation of a fuel switching plan is not feasible, or will not result in backing out petroleum imports, or will impose a severe economic hardship, he may petition the Secretary for an exemption from the requirements of this subtitle.

(2) The Secretary shall review the petition for an exemption and shall determine within thirty days whether granting an exemption is in the public interest. If so, he shall grant an exemption.

(3) If the facility is not granted an exemption, the facility operator shall submit and implement his fuel switching plan pursuant to subsection (b).

NATURAL GAS AVAILABILITY

SEC. 906. (a) Within forty-five days after the date of enactment of this subtitle, the Commission shall establish a procedure for granting a transportation certificate upon application to enable those required by the Secretary to switch to natural gas to contract for the purchase of the necessary natural gas, and to contract for the transportation of such natural gas.

(b) The certificate procedure shall not be subject to the certificate requirements of the Natural Gas Act (52 U.S.C. 717).

(c) The price charged for transportation of natural gas to be used by the facilities required to switch fuels under this subtitle shall be subject to the fair and equitable transportation cost requirements of title III of the Natural Gas Policy Act of 1978 (92 Stat. 3381).

(e) Upon receipt of the facility operator's proposed fuel switching plan pursuant to subsection 905(b), the Secretary shall transmit such plan to the Commission.

(f) If the Commission determines that the source of natural gas to be used under the fuel switching plan would be used by a higher priority user if it were not used by the facility required to switch fuels, the Commission shall so notify the Secretary who shall grant an exemption from the fuel switching requirement.

(g) The Commission shall, by order, require any pipeline to transport natural gas, and to construct and operate such facilities for the transportation of natural gas as it determines necessary to carry out the fuel switching requirements of this subtitle. The costs of any construction or transportation ordered under this subtitle shall be paid by the purchaser of natural gas under the contract with respect to which such order is issued. No order to transport natural gas under this subsection shall require any pipeline to transport natural gas in excess of such pipeline's available capacity.

COAL AVAILABILITY

SEC. 907. (a) If the facility operator proposes a fuel switching plan utilizing coal, the Secretary, in consultation with the Administrator, shall determine whether such plan requires a waiver of any State standard or limitation respecting control or abatement of air pollution, if such State standard or requirement is in effect pursuant to section 116 of the Clean Air Act as amended (42 U.S.C. 1857d-1).

(b) If the Secretary determines that a waiver is necessary, he shall notify the President who shall issue such a waiver for the duration of the fuel switching plan.

FUEL USE ACT EXEMPTION

SEC. 908. Facilities required to switch to natural gas, which are subject to the requirements of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3289), shall be granted a two-year exemption from the requirements of title III of such Act, such exemption to take effect upon the implementation of the fuel switching plan and to expire no later than thirty months after the date of enactment of this subtitle.

GENERAL RULEMAKING AUTHORITY

SEC. 909. The Secretary and the Commission are authorized to perform any and all acts, and to issue such rules and regulations, as they may find necessary or appropriate to carry out the functions of this subtitle.

ENFORCEMENT

SEC. 910. (a) It shall be unlawful for any person to violate any provision of this subtitle, or to violate any rule, regulation, or order issue pursuant to the provisions of this subtitle.

(b) Whenever it appears to the Commission or the Secretary that any person is engaged or about to engage in any act or practice which constitutes or will constitute a violation of any provision of this subtitle, or of any rule or order thereunder, the Commission or the Secretary may bring an action in the District Court of the United States for the District of Columbia or any other appropriate district court of the United States to enjoin such act or practice and to enforce compliance with this subtitle, or any rule or order thereunder.

(c) In any action under subsection (b), the court shall, upon a propor showing, issue a temporary restraining order or preliminary or permanent injunction without bond. In any such action, the court may also issue a mandatory injunction commanding any person to comply with any applicable provision of law, rule, or order, or ordering such other legal or equitable relief as the court determines appropriate, including refund or restitution.

(d) (1) Any person who knowingly violates any provision of this subtitle, or any provision of any rule or order under this subtitle, shall be subject to a civil penalty, which the Commission or the Secretary may assess, of not more than $5,000 for any one violation.

(2) For purposes of paragraph (1), the term "knowingly" means the having of—

(A) actual knowledge; or

(B) the constructive knowledge deemed to be possessed by a reasonable individual who acts under similar circumstances.

(e) Any person who willfully violates any provision of this subtitle, or any rule or order thereunder, shall be subject to a fine of not more than $50,000, or to imprisonment for not more than one year, or both, for each violation.

(f) For purposes of this section, each day of violation shall constitute a separate violation.

JUDICIAL REVIEW

SEC. 911. The judicial review provisions of section 702 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3331) shall apply to this subtitle, except that any reference to the Secretary in such section shall also be deemed to be a reference to the Commission.

EXPIRATION

SEC. 912. The provisions of this subtitle shall expire two years after the date of enactment.

SUBTITLE B—ORDERS FOR TRANSFERRING ELECTRIC POWER

DEFINITIONS

SEC. 950. For the purpose of this subtitle, the term—

(a) "Secretary" means the Secretary of Energy;

(b) "Commission" means the Federal Energy Regulatory Commission;

(c) "Utility" means any entity which owns or operates electric generation, transmission or distribution facilities, regardless of whether it is investor owned, publicly owned or cooperatively owned;

(d) "Incremental costs" means all operating and maintenance costs, including the replacement cost of fuel, that would not have been otherwise incurred if the utility service had not been furnished; and

(e) "Person" means any individual, partnership, corporation, utility or other entity organized for a common business purpose.

AUTHORITY TO ORDER TRANSFERS AND WHEELING TO DISPLACE OIL-FIRED POWER

SEC. 951. (a) Notwithstanding any other provision of law, the Secretary shall have authority to order or renew an order for the generation, delivery, interchange, transmission, distribution or purchase of electric energy for a period not to exceed thirty days if he finds that such action—

(1) will reduce the amount of oil consumed by electric utilities; and

(2) will be in the public interest.

(b) No order shall be issued or renewed under subsection (a) unless the Secretary determines that such order—

(1) is not likely to result in a reasonably ascertainable uncompensated loss for any electric utility;

(2) will not unreasonably impair the reliability of any electric utility affected by the order;

(3) will not impair the ability of any electric utility affected by the order to render adequate service to its customers.

(c) The Secretary may issue or renew an order under subsection (a) upon his own motion or upon complaint, with or without notice, and with or without an opportunity for a hearing by interested parties.

COMPENSATION

SEC. 952. (a) The Commission, after notice and a hearing held either before or after an order under section 951 takes effect, shall prescribe the rates for compensation and reimbursement of any electric utility required to generate, deliver, interchange or transmit electricity under section 951.

(b) The rates established under subsection (a) shall be the minimum rates which include—

(1) for any utility which is required to generate electricity for transfer to another utility—

(A) an amount equal to the incremental cost of generating and transmitting power pursuant to the Secretary's order;

(B) a reasonable additional fixed amount per kilowatt hour to cover unquantifiable costs; and

(C) a reasonable amount for the use of the utility's generating capacity;

(2) for any utility which performs any transmitting or passthrough service—

(A) an amount equal to the incremental cost in transmitting power; and

(B) a reasonable additional fixed amount per kilowatt hour to cover unquantifiable costs.

(c) No charge shall be made, demanded or received by any utility for any service provided pursuant to an order authorized by section 951 unless such charge is consistent with rates established by the Commission pursuant to this section.

(d) Upon application by any utility seeking compensation or reimbursement for services supplies pursuant to an order under section 951, the Commission shall establish rates under subsection (a) on an expedited basis pursuant to procedures established for setting rates under the Federal Power Act as amended (16 U.S.C. 791(a) and following).

LIMITS ON PERCENTAGE ADDERS

SEC. 953. (a) This section applies to all electric rates which are filed or which are required to be filed under the Federal Power Act as amended.

(b) For purposes of this section, "percentage adder" means any component of a rate under which component revenues are determined as a percentage of the sum of incremental or out-of-pocket costs related to fuel, transmission losses, labor, maintenance, gross receipts taxes, startup, and shutdown.

(c) In any transaction, no percentage adders may result in an amount of revenue which exceeds—

(1) Two (2) mills per kilowatt/hour for any utility which is the source of the electricity; or

(2) One (1) mill per kilowatt/hour for any utility which performs only transmitting or passthrough services.

(d) Each public utility—

(1) shall revise any rate schedule and tariff filed under this part, to limit any percentage adders in accordance with paragraph (c) of this section; and

(2) shall file any other rate or rate change under this part after the date of this section in compliance with paragraph (c) of this section.

(e) All rate schedules required to be revised by this section shall be filed no later than thirty days after the effective date of this section, and shall be effective five (5) days thereafter, subject to subsequent review for compliance with paragraph (c) of this section.

ENFORCEMENT

SEC. 954. (a) It shall be unlawful for any person to violate any provision of this subtitle or any rule or order under this subtitle.

(b) (1) Whenever it appears to the Commission or the Secretary that any person is engaged or about to engage in any act or practice which constitutes or will constitute a violation of any provision of this title, or of any rule or order thereunder, the Commission or Secretary may bring an action in the District Court of the United States for the District of Columbia or any other appropriate district court of the United States to enjoin such act or practice and to enforce compliance with this subtitle, or any rule or order thereunder.

(2) In any action under paragraph (1), the court shall, upon a proper showing, issue a temporary restraining order or preliminary or permanent injunction without bond. In any such action, the court may also issue a mandatory injunction commanding any person to comply with any applicable provision of law, rule, or order, or ordering such other legal or equitable relief as the court determines appropriate, including refund or restitution.

(3) (A) Any person who knowingly violates any provision of this subtitle, or any provision of any rule or order under this subtitle, shall be subject to a civil penalty, which the Commission or Secretary may assess, of not more than five thousand dollars for any one violation.

(B) For purposes of this paragraph, in the case of continuing violation, each day of violation shall constitute a separate violation.

(c) (1) Any person who knowingly and willfully violates any provision of this subtitle shall be subject to—

(A) a fine of not more than five thousand dollars; or

(B) imprisonment for not more than two years; or

(C) both such fine and such imprisonment.

(2) Any person who knowingly and willfully violates any rule or order under this subtitle shall be subject to a fine of not more than five hundred dollars for each violation.

(3) For purposes of this subsection, each day of violation shall constitute a separate violation.

(4) For purposes of this section, the term "knowingly", when used with respect to any act or omission by any person, means such person—

(A) had actual knowledge; or

(B) had constructive knowledge deemed to be possessed by a reasonable individual who acts under similar circumstances.

JUDICIAL REVIEW

SEC. 955. (a) Any person aggrieved by any order issued by the Secretary pursuant to section 951 may at any time before the ninetieth day after the date of such order file a petition with the United States court of appeals for the circuit wherein such person resides or maintains his principal place of business, for judicial review thereof.

(b) Any judicial proceeding pursuant to this section shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court and such court shall render its decision relative to any claim within ninety days from the date such claim is brought unless such court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(c) The judgment of the court affirming or setting aside, in whole or in part, any order under section 951 shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(d) No court shall have jurisdiction to grant any injunctive relief against the issuance of an order under section 951 except in conjunction with a final judgment entered in a case involving such order.

SEC. 956. Any person aggrieved by any final rule or order issued pursuant to sections 952 or 953 may obtain judicial review of such rule or order pursuant to the provisions governing judicial review under the Federal Power Act, as amended.

TITLE X—RENEWABLE ENERY RESOURCES

PURPOSE

SEC. 1001. The purpose of this title is to provide incentives for increasing the supply of energy from renewable energy resources.

NATIONAL GOAL

SEC. 1002. A national goal is hereby established that, as part of our Nation's total energy supply in the year 2000, a minimum of twenty quadrillion British thermal units of energy shall be supplied from renewable energy resources.

INFORMATION DISSEMINATION

SEC. 1003. (a) With respect to the information, training, education, and other outreach services referred to in this section, it shall be the policy of the Secretary to utilize to the maximum extent feasible State and local government organizations, the Energy Extension Services, the regional Solar Energy Research Centers, and other such regional entities that are responsible for solar energy activities.

(b) The Secretary shall establish the Solar Heating and Cooling Information Center (hereafter referred to as the Center) for the purpose of providing information services to the public and to the regional entities referred to in section 5(a).

(c) The information services provided by the Center shall include, but not be limited to—

(1) retrieval and dissemination of materials relating to the development and commercialization of solar energy system to—

(3) Federal, State, and local government organizations,

(B) universities, colleges, and other nonprofit organizations, and

(C) private persons, upon request, in appropriate cases;

(2) development of materials specifically designed to assist—

(A) architects,

(B) builders,

(C) contractors,

(D) installers,

(E) officers of financial institutions,

(R) building appraisers, and inspectors,

(G) State and local officials,

(H) manufacturers, and

(I) other persons who are involved in the development and commercialization of solar energy systems, and

(3) development and implementation (where appropriate) of training, education, and other outreach programs specifically designed to assist in the development and commercialization of solar energy systems.

(d) The Secretary shall coordinate the activities of the Center, the Energy Extension Services, the Solar Energy Research Institute, the regional Solar Energy Research Centers, and other regional entities involved in providing the services referred to in this section.

IN-HOUSE FEDERAL ENERGY INITIATIVES

SEC. 1004. (a) Effective one hundred and eighty days after the date of the enactment of this Act, the head(s) of each Federal agency(s) responsible for the construction of any new civilian Federal building shall require that any such Federal building shall include passive solar energy systems, and active solar energy systems unless the head of such Federal agency determines that such active solar energy systems are not cost-effective.

(b) For the purposes of this section, an active solar energy system shall be considered cost-effective if the original investment cost differential can be recovered over the expected life of the Federal building, using a cost criteria based on undiscounted constant dollars, maintenance costs of no more than 1.5 per centum of the active solar energy system cost per year, and regional fuel cost escalation rates as determined by the Department of Energy, under title VIII of the Department of Energy Organization Act of 1977.

(c) Parts (a) and (b) of this subsection shall not apply to those buildings which are designated to operate without heating, cooling, or hot water systems.

(d) For purposes of this section, a Federal building is considered a "new Federal building" if the final design of that building is completed after the date prescribed in subsection (a).

FEDERAL FLEET GASOHOL INITIATIVE

SEC. 1005. (a) Effective one hundred and eighty days after the date of enactment of this Act, the head of each Federal agency operating a fueling station for Federal civilian gasoline motor vehicles located in the United States shall require that such fueling station shall dispense only gasoline incorporating 10 per centum alcohol by volume.

(b) Effective one hundred and eighty days after the date of enactment of this act, the head of each Federal agency operating a retail gasoline supply outlet shall require that gasoline incorporating 10 per centum alcohol by volume be made available for retail sale.

(e) Alcohol purchased or produced to comply with the provisions of this section shall be derived from sources other than fossil-fuels.

(d) The head of said agency shall procure quantities of alcohol as required by this section in such a manner as to promote the development of those sources which provide the least potential for environmental degradation.

FEDERAL POWER MARKETING ADMINISTRATION INITIATIVES

SEC. 1006. (a) The Administrators of the Alaska Power Administration, the Bonneville Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, and the Western Area Power Administration are authorized to enter into agreements to purchase and to guarantee the purchase of power from generating facilities utilizing renewable energy resources proposed for construction by non-Federal entities.

(b) The said Administrators are authorized to construct and operate generating facilities, other than hydroelectric facilities: *Provided, however*, That no such facility may be constructed unless the Administration (1) has made a public offer to purchase or to guarantee the purchase of the power from a comparable facility at a just rate if such facility is constructed by a non-Federal entity, and (2) Administrator has received no offer from a non-Federal entity to construct such generating facility within one hundred and eighty days after the date of the public offer required by this subsection.

FINANCIAL INITIATIVES

SEC. 1007. (a) The Secretary is authorized to establish within the Office of the Assistant Secretary for Conservation and Solar Programs a Solar Energy Loan Program.

(b) The purpose of the Solar Loan program is to provide reasonable credit terms for the purchase and installation of solar energy systems by owners or builders of commercial and residential structures.

(c) Not later than ninety days after the date of enactment of this Act, the Secretary shall establish a Solar Loan Program Office which shall provide low-interest loans to owners and builders of commercial or residential structures for the purchase or installation of solar energy systems in such structures and which meet the requirements of this section.

(d) Any such loan shall be made at an interest rate which is 6 percentage points below the current maximum interest rate permitted on a mortgage insured under section 203(b) of the National Housing Act.

(e) Loans may be made under this section only if—

(1) the term of repayment does not exceed thirty years, except that there shall be no penalty imposed on the borrower if he or she repays such loan or advance of credit at any time before the term of repayment expires;

(2) the amount of such loan does not exceed $10,000 per unit in the case of any single family residential structure, $5,000 per unit in the case of any residential structure with two or more dwelling units (not to exceed $500,000 per loan), and $200,000 in the case of any commercial structure;

(3) the solar energy system purchased and installed with such loan is covered by an agreement which contains at least the following warranties—

(A) that the installer or manufacture, or both, will remedy any defect in the system or component (including if necessary, repair or replacement at the site) without charge and within a reasonable time, in instances of defects in materials, workmanship, or installation which become evident within one year of the date of installation or such longer period as the Secretary determines is reasonable; and

(B) that the installer will provide, without charge and within fifteen days before the expiration of the warranty, an onsite inspection of the system and components for the purpose of discovering and remedying any defects which may be present;

(4) the security for such loan is acceptable to the Secretary; and

(5) the solar energy system financed by such loan is purchased and installed after the date of enactment of this Act.

(f) The Energy Conservation in Existing Buildings Act of 1976 (Public Law 94-385, as amended by Public Law 95-619) is amended by adding a new paragraph after section 412(9)(F) as follows:

"(G) materials associated with passive and active solar energy systems; and",

and redesignating section 412(9)(G) as section 412(9)(H).

(g) There is authorized to be appropriated to the Secretary not to exceed $100,000,000 for the fiscal year ending September 30, 1980, for expenses associated with the Solar Energy Loan Program.

WIND ENERGY INITIATIVES

SEC. 1008. The purpose of this section is to establish the following wind energy program objectives:

(a) to reach by fiscal year 1986, a total megawatt capacity in the United States from wind energy systems of at least five hundred megawatts, or which at least five megawatts shall be provided by small wind energy systems; and

(b) to reduce by the end of fiscal year 1986, the average cost of electricity produced by installed wind energy systems to a level competitive with conventional energy sources;

and to authorize the Secretary to establish the necessary program to accomplish these objectives.

ESTABLISHMENT OF RESEARCH, DEVELOPMENT, AND DEMONSTRATION WIND ENERGY SYSTEMS PROGRAMS

SEC. 1009. (a) The Secretary shall establish such research, development, and demonstration programs as the Secretary determines are necessary to meet the purposes of this Act including programs—

(1) to promote the coordination and acceleration of research, development, and demonstration of wind energy systems and components thereof; and

(2) to promote the coordination and acceleration of research, development, and demonstration of systems and components which could be used in applications which are dependent for their energy on the wind.

(b) In carrying out the provisions of subsection (a), the Secretary is authorized—

(1) to establish procedures to allow any public or private entity wishing to install a wind energy system in any new or existing facility to apply for Federal assistance in purchasing and installing such wind energy system;

(2) to enter into an agreement with any entity applying under paragraph (1), based on the need to obtain scientific, technological, and economic information from a variety of wind energy systems under a variety of circumstances and conditions, for the design, purchase, fabrication, testing, installation, and demonstration of such a system;

(3) to provide as part of any agreement entered into under paragraph (2) a portion of the purchase and installation costs of any wind energy system not to exceed a sum equal to the difference in the capital cost which corresponds to the amount by which energy costs from such wind energy system exceeds energy costs from a conventional energy system, which payment shall be contingent upon terms and conditions prescribed by the Secretary including an express agreement that the entity which whom the agreement is entered into shall (in such manner and form and on such terms and conditions as the Secretary may prescribe) observe and monitor (or permit the Secretary or his agents to observe and monitor) the performance and operation of such wind energy system for a period of five years, and that such entity (including any subsequent owner of the facility containing such system) shall regularly furnish the Secretary with such reports on the facility containing such system as the agreement may require; and

(4) to terminate Federal subsidization of purchases of wind energy systems by profit-making entities when the Secretary determines that wind energy system have become competitive with conventional energy sources or September 30, 1986, whichever occurs first.

(c) The Secretary, in accordance with the applicable provisions of sections 7, 8, and 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906, 5907, and 5908) and with such program guidelines as the Secretary may establish, shall enter into such contracts and make such grants as may be necessary or appropriate for the development of wind energy systems for commercial production and utilization.

(d) The Secretary is authorized to award contracts for the demonstration of prototype wind energy systems, and, when appropriate, for the utilization of such systems in existing facilities. Title to and ownership of the demonstration systems so constructed and of wind energy systems installed under this Act may be conveyed to purchasers of such systems under the terms and conditions prescribed by the Secretary, including an express agreement that any such purchaser shall (in such manner and form and on such terms and conditions as the Secretary may perscribe) observe and monitor (or permit the Secretary to observe and monitor) the performance and operation of any such wind energy system for a period of five years and that such purchaser (including any subsequent owner of the system) shall regularly furnish the Secretary with such reports on such system as the agreement may require.

(e) The Secretary shall enter into arrangements with appropriate Federal agencies to carry out such projects and activities with respect to Federal facilities (including demonstration projects) as may be appropriate for the demonstration of wind energy systems which are suitable and effective for use in Federal facilities.

(f) The Secretary shall, as deemed appropriate, undertake other projects or activities (including demonstration projects) which further the purposes of this Act.

CRITERIA FOR PROGRAM SELECTION

SEC. 1010. The Secretary shall set priorities which are, as far as possible, consistent with the intent and purpose of this Act and which are set in accordance with the following criteria:

(a) the operations and maintenance costs of wind energy systems shall be minimized;

(b) programs conducted under this Act shall be established with the express intent of bringing wind energy system costs down to a level competitive with energy costs from conventional energy systems; and

(c) encouragement shall be given in the conduct of programs under this Act to those projects in which funds are provided by private, industrial, agricultural, or governmental entities or utilities for the purpose of sharing with the Federal Government the costs of purchasing and installing wind energy systems.

MONITORING, INFORMATION GATHERING, AND LIAISON

SEC. 1011. (a) The Secretary, in coordination with such Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of wind energy systems installed under this Act;

(2) collect and evaluate data and information on the performance and operation of wind energy systems installed under this Act; and

(3) from time to time carry out such studies and investigations and take such other actions (including the submission of special reports to the Congress when appropriate) as may be necessary to assure that the programs for which the Secretary is responsible under this Act effectively carry out the purposes of this Act.

(b) The Secretary shall also maintain continuing liaison with related industries and interests and with the scientific and technical community in order to assure that the projected benefits of programs under this Act are and will continue to be realized.

STUDIES AND DISSEMINATION OF INFORMATION

SEC. 1012 (a) The Secretary shall assure that full and complete information with respect to any program, project, or other activity conducted under this Act is made available to Federal, State, and local authorities, relevant segments of the economy, the scientific community, and the public so that the early, widespread, and practical use of wind energy throughout the United States is promoted to the maximum extent feasible.

(b) The Secretary shall—

(1) study the effects at varying levels of the widespread utilization of wind energy systems on the existing electrical utility systems;

(2) determine the necessity for a program of incentives to accelerate the commercial application of wind energy technologies; and

(3) investigate the export potential of wind energy systems and methods of facilitating their widespread use in other nations (especially in nations with agreements for scientific cooperation with the United States).

ANALYSIS OF APPLICATION AND SYSTEM DESIGN

SEC. 1013. The Secretary of Energy shall—

(a) initiate and conduct an "application and system design study", cooperatively with appropriate Federal agencies to determine the potential for the use of wind systems at specific Federal installations; and this study shall—

(1) include an analysis of those sites that are currently cost-effective for wind energy systems, using life-cycle costing techniques, as well as those which would be cost-effective at expected future market prices;

(2) identify potential sites and uses of wind energy systems at the following agencies as well as any others which the Secretary of Energy deems necessary:

(A) the Department of Defense,

(B) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration and the Federal Highway Administration);

(C) the Department of Commerce;

(D) the Department of Agriculture; and

(E) the Department of the Interior;

(3) provide a preliminary report to the Congress within nine months following the enactment of this Act;

(4) include the presentation of a detailed plan for the implementation of energy systems for power generation at specific sites in Federal Government agencies to Congress within twelve months following the enactment of this Act.

(b) initiate and conduct a study of the options available to the Federal Government to provide for the adequate growth of the wind industry and to include such possible incentives as government funding, loan guarantees, tax incentives, the operation of pilot plants or production lines and other incentives deemed worthy of consideration by the Secretary of Energy. A preliminary report shall be submitted to Congress within six months following the enactment of this Act;

(c) initiate and conduct a study involving the prospects for applications of wind energy systems for power generation in foreign countries, particularly lesser developed countries and the potential for the exploration of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Secretary of Energy deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act; and

FEDERAL WIND UTILIZATION PROGRAM

SEC. 1014. (a) There is hereby established a wind energy commercialization program for the accelerated procurement and installation of wind systems for power production in Federal facilities.

PURPOSE OF PROGRAM

(b) The purpose of the program established by Section 1013(a) is to:

(1) accelerate the growth of a commercially viable and competitive industry to make wind systems available to the general public as an option in order to reduce national consumption of fossil fuel;

(2) reduce fossil fuel costs to the Federal Government;

(3) stimulate the general use within the Federal Government of methods for the minimization of life cycle costs; and

(4) develop performance data on the program established by Section 563.

ACQUISITION OF SYSTEMS

(c) The program established by section 1013(a) shall provide for the acquisition of wind systems and if needed associated storage capability by the Secretary for their use by Federal agencies. The acquisition of wind systems shall be at an annual level substantial enough to allow use of low-cost production techniques by suppliers of such systems. The Secretary is authorized to make such acquisitions through the use of multiyear contracts. Authority under this part to enter into acquisition contracts shall be only to the extent as may be provided in advance in appropriation Acts.

ADMINISTRATION

(d) The Secretary shall administer the program established under Section 1013(a) and shall—

(1) consult with the Secretary of Defense to insure that the installation and purchase of wind systems pursuant to this part shall not interfere with defense-related activities;

(2) prescribe such rules and regulations as may be appropriate to monitor and assess the performance and operation of wind systems installed pursuant to this part; and

(3) report annually to the Congress on the status of the program.

SYSTEM EVALUATION AND PURCHASE PROGRAM

(e) (1) PROGRAM.—The Secretary shall establish, within sixty days after the date of the enactment of this part, a wind systems evaluation and purchase program to provide such systems as are required by the Federal agencies to carry out this part. In acquiring wind systems under this part, the Secretary shall insure that such systems reflect to the maximum extent practicable the most advanced and reliable technologies and shall schedule purchases in a manner which will stimulate the early development of a permanent low-cost private wind production capability in the United States, and to stimulate the private sector market for wind systems.

(2) OTHER PROCUREMENT.—Nothing in this part shall preclude any Federal agency from directly procuring a wind system (in lieu of obtaining one under the program under subsection (a)), except that any such Federal agency shall consult with the Secretary before procuring such a system.

ADVISORY COMMITTEE

(f) (1) ESTABLISHMENT.—There is hereby established an advisory committee to assist the Secretary in the establishment and conduct of the programs established under this part.

(2) MEMBERSHIP.—Such Committee shall be composed of the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the General Service Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the chairman of the Federal Trade Commission, the Postmaster General, and such other persons as the Secretary deems necessary. The Secretary shall appoint such other nongovernmental persons to the extent necessary to assure that the membership of the committee will be fairly balanced in terms of the point of view represented and the functions to be performed by the committee.

ENCOURAGEMENT AND PROTECTION OF SMALL BUSINESSES

SEC. 1015. In carrying out the purposes of this Title, the Secretary shall take steps to assure that small businesses will have realistic and adequate opportunities to participate to the maximum extent practicable in the programs conducted under this Act.

DEFINITIONS

SEC. 1016. For the purpose of this title—

(a) the term "Secretary" means the Secretary of the Department of Energy;

(b) the term "renewable energy resource" means any energy resource which has recently originated in the Sun, including direct and indirect solar radiation and intermediate solar energy forms such as wind, ocean thermal gradients, ocean currents and waves, hydropower, products of photosynthetic processes, organic wastes, and others;

(c) the term 'solar energy system" has the meaning provided by Public Law 95-619, section 241, which amends the National Housing Act;

(d) the terms "Federal building" and "Federal agency" have the meaning provided by Public Law 94-385, section 303;

(e) the term "entity" means any "person" or "municipality" as those terms are defined in the Federal Power Act;

(f) the term "passive solar energy system" means space heating and cooling systems that make most efficient use of, or enhance the use of, natural forces—including solar insolation, winds, nighttime coolness, and opportunity to lost heat by radiation to the night sky—to heat or cool living space by the use of conductive, convective, or radiant energy transfer. Passive solar systems include—

(1) direct gain glazing systems—the term "direct gain glazing systems" means the use of south-facing (plus or minus 45 degrees of true south) panels of insulated glass, fiberglass, or other similar transparent substances that admit the Sun's rays into the living space where the heat is retained. Glazing is either double-paned, or single-paned equipped with movable insulation.

(2) indirect gain systems—the term "indirect gain systems" means the use of panels of insulated glass, fiberglass, or other transparent substances that direct the Sun's rays onto specially constructed thermal walls, ceilings, rockbeds, or containers of water or other fluids where heat is stored and radiated;

(3) solaria/sunspace systems—the term "solaria/sunspace systems" means a structure of glass, fiberglass, or similar transparent material which is attached to the south-facing (plus or minus 45 degrees of true south) wall of a structure which allows for air circulation to bring heat into the residence, and which are able to be closed off from the residential structure during periods of low solar insolation; and

(f) thermal pond systems—the term "thermal pond systems" means containers, such as tanks or water bags, filled with water or other fluids which when placed on rooftop, capture the Sun's rays and radiates stored heat directly into the residence and makes use of movable insulation to regulate heat absorption and radiation;

(g) the term "Administrator" means an Administrator of a Power Marketing Administration;

(h) the term "just rate" means a rate based on the marginal cost of the production of electricity from a new conventional peaking power electrical generator.

(i) the term "wind energy system" means a system of components which converts the kinetic energy of the wind into electricity, including all components necessary to provide electricity for individual, agricultural, industrial, and governmental use and use by utilities; mechanical energy; or heat energy;

(j) the term "small wind energy system" means a wind energy system having a capacity of less than one hundred kilowatts; and

(k) the term "facility" means any building, any commercial, agricultural, or industrial complex, or any device which employs wind energy systems, and the land necessary for such building, complex, or device.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1017. There is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1980, the sum of $200,000,000 to allow the Secretary and other agencies of the Federal Government to carry out this Act, of which $100,000,000 is to be used for the programs authorized in sections 1013 and 1014 of this title.

SUMMARY OF MAJOR PROVISIONS

Title I recites the bill's overall findings and purposes and summarizes the objectives of each title. Among other things, it declares that recent developments in the Middle East have highlighted and aggravated the dangers that attend our nation's continued reliance on foreign oil sources. It emphasizes that there are significant opportunities for Federal initiatives to increase our domestic energy supplies and to improve the management of our available resources.

Title II proposes a "Priority Energy Project Act of 1979." It would centralize responsibility for a coordinated process for speeding Federal approval of non-nuclear energy facilities determined to be of national interest. Its objective is to overcome the delay, indecision and inertia that have plagued Federal action over the years. The Secretary of Energy would be authorized to designate any proposed non-nuclear energy facility as a priority energy project. Given this designation, the Secretary would be given central responsibility for moving the project through the bureaucracy. Deadlines would be set for all Federal actions. If an agency fails to meet its deadline, the President would be empowered to act in its stead. Judicial review would be conducted on an expedited basis. And provision is made to coordinate the actions of the Federal and state and local governments without impinging on the substantive and procedure requirements of state and local law. If the Secretary determines that a priority project is being unduly delayed at the state or local level, he would notify the Congress and recommend measures to overcome the delay.

Title III calls for an affirmative action program to bring about the prompt demonstration of promising near-term non-nuclear technologies. The Secretary would be directed to *solicit* proposals for commercial demonstration of any of the energy technologies covered by the Non-nuclear Energy Research and Development Act of 1974, including solar, geothermal, synthetic fuels and conservation technologies. Time would be of the essence. Proposals would have to be reviewed within 90 days and transmitted to the Congress with recommendations. The goal is to *mandate* action under the 1974 Act.

Title IV provides funding for fiscal year 1980 and subsequent years for a variety of energy development, demonstration and commercialization projects. Solvent refined coal, high and low Btu gasification projects, geothermal energy, oil shale, fuel cells, fluidized bed combustion, and urban and industrial waste. It would also increase the number of small hydroelectric power plants eligible for Federal assistance.

Title V mandates a major program to determine the commercial viability of our vast oil shale resources. It calls for the solicitation of proposals for the design, construction and initial operation of three Federally-owned demonstration projects including both above-ground and in-situ retorting technologies. Provision is made for careful evaluation of environmental and social and economic impacts on local communities. The projects would be carried out on the Naval Oil Shale Reserves or other unleased public lands. The title is virtually identical to legislation passed by the Senate late in the 95th Congress.

Title VI calls for an immediate study of world oil supply and production opportunities in non-OPEC countries. The study would evaluate alternative policies for increasing exploration and production and would assess present United States initiatives and the potential for new oil discoveries.

Title VII would launch an immediate five-year program to lease on-shore Federal lands for oil and gas exploration, development and production. It would require expedited decisions on leasing applications and expanded use of competitive bidding. Provisions are included to assure the protection of non-energy resources on the lands involved. The title is patterned after the oil and gas leasing provisions approved by the Committee on Energy and Natural Resources last year during its consideration of the Alaskan national interest lands.

Title VIII provides for a gasohol program. It requires the Secretary of Energy to set mandatory annual production levels for alcohol fuels for the period 1981 through 1990. The alcohol content of gasoline would be increased from 1 percent to 10 percent over the 10-year period. The title also requires a study to determine methods of encouraging the development of a reliable gasohol industry and to establish production goals for the 1981-1990 period.

Title IX advances two proposals designed to bring about short-term relief from oil imports now being used for industrial and electric power generation purposes—oil to gas or coal conversion and the wheeling of electric power. The Secretary of Energy, in cooperation with the Federal Energy Regulatory Commission, would be required to implement a two-year program to require any petroleum facility with a natural gas or coal capability to switch to the alternative fuel to replace the oil being used in its operation. The FERC would be directed to order the installation of transport facilities needed to accommodate such changes, but would be required to give high priority users preference where purchase applications involve the same natural gas supply.

The title would also authorize the Secretary of Energy to order utilities to generate, transfer, wheel or purchase electric power whenever he determines such action would reduce the amount of oil consumed by electric utilities. The Secretary's order could last only thirty days, but it could be renewed at any time. The FERC would set the rates that could be charged for generating and transmitting power pursuant to an order from the Secretary.

Title X proposes a broad-based "Omnibus Solar Energy Commercialization Act" to advance the commercialization and use of solar, wind, urban waste, and other renewable energy systems. The title provides for the inclusion of cost-effective solar systems in new Federal buildings, the construction of renewable energy generating facilities by the Federal power administrations and Federally-subsidized low-interest loans for the purchase and installation of solar energy systems. The title would also mandate the sale of gasohol by Federal agencies operating fueling stations for Federal civilian motor vehicles and retail gasoline outlets in the United States.●

By Mr. TALMADGE (for himself, Mr. McGovern, and Mr. Dole):

S. 1309. A bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. TALMADGE (by request):

S. 1310. A bill to amend the Food Stamp Act of 1977 to improve food stamp program fiscal accountability through reductions in inaccurate eligibility and benefit determinations and intensified fraud detection and recovery procedures; and to remove specific dollar limitations on appropriations while continuing to limit expenditures to available funds, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. TALMADGE. Mr. President, I am today introducing two bills that amend the Food Stamp Act of 1977.

The first bill, S. 1309, would increase the food stamp program's fiscal year 1979 authorization for appropriations by $620 million.

The second bill, S. 1310, an administration request bill, would—in addition to removing the ceilings on appropriations for the food stamp program—make improvements in the program designed to reduce error and fraud. The provisions in the bill for reducing error and fraud could result in savings of over $150 million annually.

Senator McGovern, the chairman of the Subcommittee on Nutrition, and Senator Dole, the ranking minority member of that subcommittee, are joining me in introducing the bill to increase by $620 million the food stamp program's fiscal year 1979 authorization for appropriations.

The appropriations ceiling for the fiscal year 1979 food stamp program is part of the Food Stamp Act of 1977. The Senate bill did not contain it, but in conference on the 1977 Act, the House ceilings for fiscal years 1978 through 1981 were incorporated into the final bill. The appropriations authorization for the program in 1979 is $6.159 billion.

The appropriations "caps" established in the House bill allowed for a 10-percent margin for error over and above the then-current cost estimates for the revised food stamp program as envisioned by the House. This margin was meant to be a "buffer" against unforeseen economic changes.

However, the changes agreed to by the conference committee and, ultimately, by both Houses and the President, cut this "margin for error" to less than 9 percent. More importantly, food price rises are outstripping the buffer.

The bill I am introducing today is urgently needed. It would, by increasing the authorization ceiling for 1979, insure that food stamp program participants will not experience a reduction in their food stamp allotments this summer and fall. Both the Congressional Budget Office and the administration estimate that the authorization for appropriations currently provided for the food stamp program will be insufficient to cover expected costs this year. This situation is the result of the increase in participation due to elimination of the purchase requirement and increased food-price inflation. It is important to remember that the majority of this "shortfall" is directly due to significantly changed economic conditions—and assumptions about the future—conditions that the food stamp program is designed to react to, but conditions that even the best budget analysts did not predict 2 years ago and do not agree on even today.

Since enactment of the Food Stamp Act of 1977, average monthly food stamp benefits have climbed by more than 15 percent, pushed up by larger food stamp allotments indexed to higher food prices and the absence of any corresponding rise in income available to poor food stamp recipients.

Changes in the cost of food are the basis for changes in food stamps allotments. Projections of food-price inflation have changed dramatically from early 1977, when the economic assumptions for the appropriations ceilings were established. Using fiscal year 1976 as a base period, 1977 projections of food price rises indicated a 16.9-percent increase by 1980 and a 21.8-percent increase by 1981. However, using this same base period, food prices are now expected to average more than double those rates, a 38.2-percent increase by fiscal 1980 and a 48.1-percent increase by fiscal 1981.

In plain terms, the unanticipated and extremely rapid increase in food prices is primarily responsible for the "shortfall" between the 1979 appropriations ceiling and anticipated program costs. In addition, a larger than expected number of new recipients has the potential of widening the shortfall created by food-price inflation even further.

If the current authorization ceiling for fiscal year 1979 remains in effect, it will produce serious consequences for food stamp recipients. Section 18(b) of the Food Stamp Act of 1977 states that—

> . . . If in any fiscal year the Secretary finds that the requirements of participating States will exceed the limitation set herein, the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with the provisions of this subsection.

In other words, if the authorization levels are insufficient, allotments to recipients will have to be reduced. This would be totally contrary to the purpose of the food stamp program. Poor people who are participating in the program, because of insufficient purchasing power will have their food stamp benefits reduced because of higher food prices, further reducing their food purchasing power. A period of sharply escalating food prices is precisely when these recipients need adequate food stamp benefits the most. These are people who are powerless to alter the course of food price inflation and who, without this bill, will be heavily penalized for this same inflation.

This bill is simply a recognition of the fact that food stamp program costs for fiscal 1979 have increased significantly above those estimated in 1977. Congress does not have the time to enact any measures that will affect the 1979 program costs, though we must seriously consider these measures for fiscal 1980 and 1981. If this bill is not expeditiously considered and enacted into law, millions of Americans who are currently participating in the program will find their meager food purchasing power further reduced.

The $620 million increase in the 1979 program cap is based on the latest high-end estimate for the 1979 program of the Congressional Budget Office. The high-end estimate is based on an assumption of a continual increase in food stamp participation throughout the remainder of fiscal 1979—increasing from 19.1 million persons in March to an average of 20 million persons in the final quarter. The high-end estimate is also based on an assumption that the cost savings of the 1977 act (approximately $105 million this fiscal year) have already been achieved in the months January through April. The high-end estimate further includes the assumption that any seasonal decline in participation, which normally occurs in the summer months, would be offset by increases in unemployment and continual increases in participation associated with the elimination of the program's previous purchase requirement. The administration's high-end estimate differs by $30 million, based on essentially the same assumptions.

The Food Stamp Act of 1977 is legislation that insures that truly needy Americans will be able to obtain a more nutritious diet. It contains provisions that will protect against the program abuses of the past and limit eligibility for benefits. I believe that it would be poor public policy to shut our eyes to changing economic conditions and to compound this mistake by assuming that the poor are the best suited to make sacrifices, because of these changed conditions. This is what we would be doing if the bill I am introducing today is not enacted.

This bill is emergency stop-gap legislation. Although there have been various proposals discussed that would reduce the cost of the food stamp program, it is impossible for any of them to be enacted and implemented in time to have an effect during this fiscal year.

II.

In recognition of the need to enact program improvements for 1980 and beyond, I am today also introducing the administration's Food Stamp Act Amendments of 1979. This bill would make changes in the 1977 act that would complement one of that act's major thrusts, the tightening up of program operations.

REDUCTION IN FOOD STAMP ERROR AND FRAUD

Title I of the bill would reduce food stamp program error rates and fraud by, first, establishing fiscal liability for States with excessive error rates; second, introducing extensive fraud detection and recovery procedures; third, permitting States to use optional retrospective accounting and periodic reporting of income to determine program eligibility and benefits with greater accuracy; and fourth, enhancing the States' ability to conduct computer matching of income records. All of these changes have been recommended by the Department of Agriculture's inspector general, who recently testified in favor of these provisions before the Subcommittee on Agriculture, rural development, and related agencies of the Senate Committee on Appropriations. The changes proposed in title I of the bill would save over $150 million in 1980 and larger amounts in succeeding years, according to the administration.

The bill would establish a system for imposing fiscal liability on States with high error rates that fail to reduce them below a prescribed target. Each year, each State would be assigned a target to reach, and States would be liable for 100 percent of the food stamp benefit dollars issued in excess of the target. As a result of this system, most States will reduce their error rates below the targets. Each succeeding year, the targets will be further reduced so that the error rates are steadily pushed down to lower levels. Thus, the savings from this provision will grow over time.

Title I of the bill also would provide States with more tools with which to lower their error rates. It would provide a State the option of establishing monthly retrospective accounting and periodic income reporting. Under this system, some households would be required to provide periodic reports, usually on a monthly basis, of actual income and household circumstances in a prior month. These reports would become the basis for benefits issued to the household in a future month. Households required and failing to provide the reports would not receive any further benefits. In areas with the necessary computer capability to operate this system, important error rate reductions can be achieved. Demonstrations have found this system to be effective in reducing error rates in the AFDC program.

The bill would provide States with more tools and incentives for antifraud activities. It would require applicants to provide social security numbers. It would also give the States access to data from other Federal programs. The administration also supports additional legislation that would give States access to social security wage records and unemployment compensation records so that computer matching could be conducted, and ineligibles weeded out.

The bill would also require that a person disqualified from food stamp program participation, because of fraud, must, as a condition of eligibility, repay the amount of stamps fraudulently received in order to be reinstated in the program after the disqualification period ends.

Finally, title I would allow States to keep 50 percent of all fraud claims they collect. This should operate as a significant incentive for the States to recover more of these claims.

FOOD STAMP FUNDING

Title II of the bill would remove the specific dollar authorization ceilings for the food stamp program contained in section 18(a) of the 1977 act. However, I wish to emphasize that this bill retains the language added by the Congress in 1977 in sections 4(a) and 18(b) of the act. This language places a clear congressional limitation on food stamp entitlements. The language specifically limits food stamp allotments in any fiscal year to the amounts appropriated for that year. If insufficient amounts are appropriated, benefits would have to be reduced. The change proposed is simply to remove the specific dollar ceilings and not to remove or undo the entire spending limitation provision enacted in 1977.

Most food stamp recipients are elderly, disabled, or children in one-parent households. They are genuinely poor. The average food stamp family has a gross income of only $3,600. The average family receives an average monthly food stamp benefit of only 30 to 35 cents per person per meal. While it is imperative that we control costs wherever possible, failure to provide an appropriate level of spending for the program would come down most harshly on those people who are poor and least able to afford the cruelties of inflation and unemployment.

I urge my colleagues to join me in supporting an increase in the food stamp program 1979 spending ceiling and to aid the Committee on Agriculture, Nutrition, and Forestry in its deliberations on program changes for fiscal years 1980 and 1981.

Recently, I wrote the Secretary of Agriculture expressing my concern about the increase in participation in the food stamp program during fiscal year 1979. In particular, I wanted to know why the administration implemented the elimination of the purchase requirement prior to implementing the other provisions of the Food Stamp Act of 1977 that established more restrictive eligibility standards. I ask unanimous consent that there be printed in the RECORD the text of my letter to the Secretary and the Secretary's reply.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
April 9, 1979.

Hon. BOB BERGLAND,
Secretary, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: I understand that food stamp program participation increased from 16.1 million persons in December 1978 to 17.8 million persons in January 1979. I also understand that the Department's preliminary data for February 1979 indicate an increase of 1.1 million participants over January 1979, bringing participation up to 18.9 million persons. The Congressional Budget Office states that, after seasonal adjustments were computed, food stamp program participation increased by 10 percent in January 1979 and 5.8 percent in February 1979.

Although the Food Stamp Act of 1977 was not fully implemented in January and February 1979, these new participation figures and the increased costs of the food stamp program are a matter of concern to me and the other members of the Committee on Agriculture, Nutrition, and Forestry.

In order that we may have a better understanding of what is taking place, I would appreciate your providing answers to the following questions, along with any other detailed information you believe would be helpful:

(1) Why did the Administration implement the elimination of the purchase requirement prior to implementing the other provisions of the 1977 Act that established more restrictive eligibility standards?

(2) How many of the new participants who came into the program in January and February 1979 does the Administration estimate will be removed from the program by July 1, 1979 (when the more restrictive eligibility standards of the 1977 Act are due to be implemented fully)?

(3) Would it be accurate to attribute all of the increased program participation in January and February 1979 to the elimination of the purchase requirement?

(4) What level of participation is the Administration projecting for the period March 1 through September 30, 1979? How much of this increase in participation should be attributed to the elimination of the purchase requirement and how much to food price inflation and unemployment? What amount of appropriations does the Administration now believe will be necessary to provide sufficient funding for the program for fiscal year 1979?

(5) What portion of the increased funding requested by the Administration for the 1980 program should be attributed to the elimination of the purchase requirement and what portion to food price inflation and unemployment?

With every good wish, I am,

Sincerely,

HERMAN E. TALMADGE,
Chairman.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 5, 1979.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter concerning participation changes in the Food Stamp Program in January and February 1979.

We are enclosing our answers to each of your questions. In addition, we are enclosing a copy of testimony that Deputy Secretary Williams recently presented before the Subcommittee on Domestic Marketing, Consumer Relations and Nutrition of the House Agriculture Committee. Mr. Williams' testimony examines in some detail the background and issues facing the food stamp program in fiscal 1979.

If we can be of any further assistance, please let us know.

Sincerely,

BOB BERGLAND,
Secretary.

Enclosures.

Question 1.—Why did the Administration implement the elimination of the purchase requirement prior to implementing the other provisions of the 1977 Act that established more restrictive eligibility standards?

Answer.—Most States eliminated the purchase requirement (EPR) on January 1, and instituted the tighter eligibility and benefit provisions on March 1. This was done for several reasons.

The Administration had originally planned to implement both EPR and the eligibility changes at the beginning of the 1979 fiscal year. However, due to the complexity of overhauling all food stamp eligibility and benefit rules, and the times States needed to implement them, this turned out not to be possible.

During the period for comments on the proposed regulations, States insisted they needed more time to implement eligibility changes due to all the retraining of staff and reprogramming of computers. Because the Department felt that insufficient leadtime could result in a substantial increase in errors, States were allowed until March 1 to implement the new eligibility rules.

However, many States also commented that EPR could be implemented far more rapidly and was administratively simple. Therefore, they requested that EPR be implemented earlier. In addition, the Department, States and other commenters were concerned that EPR be implemented in time for the winter, with its increased heating bills. The Department received substantial comment that the purchase requirement creates the most severe hardship in the winter, when some poor families are forced to choose between paying heating bills and food stamps.

Before acting to implement the regulations in two phases, we consulted with the Office of the General Counsel to determine the legality of this implementation plan. FNS was informed that such a plan was legally acceptable as long as no break of more than 90 days occurred between the implementation of EPR and the implementation of the new eligibility rules. In fact, the great majority of the states implemented the two phases within 60 days of each other.

Budgetary factors were also analyzed prior to the issuance of final implementation rules, to determine the impact of the January-March two-phase implementation plan. The budget analysis indicated that the cap would not be breached in FY 1979 under the January–March implementation schedule. CBO budget estimates yielded the same conclusions.

This analysis subsequently proved incorrect for several reasons:

1. Inflation in food prices has exceeded earlier expectations. The cost of the Thrifty Food Plan was expected in the January budget calculations to rise to $200 for a family of four on July 1, 1979. More recent data indicates it will instead go to $204. In addition, inflation will increase participation somewhat, although the magnitude of this increase cannot be predicted precisely.

2. Prices for items other than food also have risen sharply. As a result, greater than expected increases will occur on July 1 in the maximum shelter/child care deduction, the standard deduction, and the OMB poverty guidelines, which are the basis for the program's income eligibility standards. Altogether, considering both food and nonfood items, rising prices have been a leading factor in driving up program costs. Present data indicate that the 1979 cap would not be breached at this time if inflation had not drastically exceeded the levels anticipated when the 1977 Act was enacted.

3. The number of people entering the program because of the elimination of the purchase requirement (EPR) will be greater, for the year as a whole, than expected. The January budget calculations, which had to be completed before EPR came into effect in most states on January 1, assumed EPR would add 2.8 million people by the end of the fiscal year. Data on January, February, and March now indicate EPR could add as much as 4.35 million people by the fiscal year's end. This increase in EPR's effect is due in part to higher than expected rates of growth in rural areas. Preliminary reports show that between December and February, participation increased 33% in sparsely populated areas, but only 7% in urban areas. Recent evidence also suggests that many elderly persons are now entering the program.

4. The people who are coming onto the program because of EPR are coming on sooner in the year than anticipated. The calculations for January budget assumed that 25 percent of the total number of people to be added by year's end would come on in January, February, and March. This assumption was based on a fairly even phase-in rate, which would have had about 80 percent of the new participants added by July 1, in constant increments from January through June. The Congressional Budget Office anticipated an even slower phase-in rate, bringing in only 35 percent of the new participants by July 1 in roughly constant increments. However, data now in hand for January, February, and March show that more than 60 percent of the total number of people to be added by year's end have already come on as of March 31. We do know that the increases are now slowing down substantially. But, the fact that these new participants will be receiving food stamps for more months of FY 1979 than earlier anticipated does add costs.

5. The people who are coming into the program because of EPR are poorer than anticipated. The January figures assumed that the new participants would have higher incomes on average, and hence receive lower food stamp bonuses, than participants already on the program at the time EPR came into effect. The data for January, February, and March indicate that the average incomes and bonuses of new participants do not differ appreciably from those already on the program. As a result, not only are there a greater number of new participants (points 1

and 2 on page 2), but these new people are eligible for more food stamps per person.

6. Recent flooding in the south and middle west has necessitated emergency issuance of food stamps to some households affected by disasters. This is only a minor factor compared to the preceding points, but, like them, increases costs for reasons that could not have been foreseen in early January.

Programs costs for fiscal year 1979 will be somewhat lower than they would have been had all program changes been implemented in October 1978, as originally planned, since the elimination of the purchase requirement will be in effect for nine months of this fiscal year rather than twelve. Later implementation was due to the complexity of completely overhauling all certification and issuance rules and to States' need for adequate lead-time to retrain all staff, reprogram computers and develop necessary materials.

Question 2.—How many of the new participants who came into the program in January and February 1979 does the Administration estimate will be removed from the program by July 1, 1979 (when the more restrictive eligibility standards of the 1977 Act are due to be implemented fully)?

Answer.—Our preliminary participation reports show that approximately 2.262 million persons became participants in the Food Stamp Program during January and February 1979 for reasons other than normal seasonal growth in winter months. Additional data is now being collected that will indicate how many of these new participants will have become ineligible for benefits once the new eligibility provisions are fully implemented. Until this data has been analyzed, it is difficult to estimate the precise number of participants that will be removed from the program. Our current estimate is that approximately 6% of these new participants, or 132,000 persons will become ineligible for additional benefits once the new eligibility provisions are fully implemented.

Question 3.—Would it be accurate to attribute all of the increased program participation in January and February 1979 to the elimination of the purchase requirement?

Answer.—The elimination of the purchase requirement was only one of several factors contributing to the increased program participation in January and February. In December participation in the Food Stamp Program was approximately 15.9 million persons. Our projection of February participation, based on reports received to date is 18.467 million, or an increase of 2.567 million persons over December. Of the total increase, 305 thousand is attributable to normal seasonal increases in program size which occur in the absence of any program change. The rest of the increase in participation, 2.262 million, occurred for several reasons. Besides the elimination of the purchase requirement, which was the most important reason, the following other factors were involved.

1. Food price inflation.—rapidly rising food costs, which increase households' living expenses and also push up food stamp program benefits (due to the regular adjustment of allotment levels) may have attracted some new food stamp recipients. The normal seasonal adjustment mentioned earlier is based on past years' experience when food prices and allotment levels were rising more moderately and, therefore, may understate the influx of new participants due to this year's rapid food price inflation.

2. Higher participation among households already certified.—In the past, at any point in time, there have always been a substantial number of households certified to receive food stamp benefits but not participating in the program because they could not afford the purchase requirement. Due primarily to elimination of the purchase requirement as well as higher allotment levels, food price inflation and media exposure, it is likely that a greater percentage of households certified are taking advantage of the food stamp program benefits. Data from several states substantiates this.

3. Media discussion of program.—Due to the major program changes being implemented in recent months as a result of the 1977 law, the food stamp program has received an extraordinary amount of television, radio, and newspaper coverage. It is very likely that this publicity has caused more people to be aware of and apply for program benefits.

Because of the nature of the factors listed above, it is not possible to say exactly how much of the 2.262 million increase in participation is attributable to each factor. It is probable that the great bulk of the increase (beyond the seasonality factor) is a result of eliminating the purchase requirement. However, it is clear that these other factors have also had an impact on participation levels.

Question 4.—What level of participation is the Administration projecting for the period March 1 through September 30, 1979? How much of this increase in participation should be attributed to the elimination of the purchase requirement and how much to food price inflation and unemployment? What amount of appropriations does the Administration now believe will be necesary to provide sufficient funding for the program for fiscal year 1979?

Answer.—As mentioned in the answer to question 3, participation in the Food Stamp Program in February was 18.467 million. In March, it was about 19.121 million. In the third quarter of the year (April-June) we expect participation to average as much as 19.5 million. In the fourth quarter (July-September), we anticipate participation to average as much as 19.7 million participants.

The increase in participation after February may be attributed primarily to elimination of the purchase requirement. Other factors contributing to higher participation will be projected increases in unemployment levels and rising food prices. Each increase of a tenth of one percent in unemployment adds about 75,000 people to the program. Rising food prices generate higher benefit levels and make the program more attractive to eligible nonparticipants. The participation increases from the elimination of the purchase requirement, rising unemployment, and rising food prices will be offset to some extent by reductions in participation due to recertification of the entire caseload and seasonal adjustment factors, mentioned above.

The Administration now believes that an additional appropriation of $794 million more than projected in the President's January budget submission is necessary to assure that *pro rata* benefit reductions are not required this summer. (It is possible that additional outlay needs will not turn out to be this great, but the additional budget authority is necessary at this time). This means that the fiscal year 1979 appropriation will need to be $6,809 million rather than the prior estimate of $6,015 million.

It is important to note that participation increases are only one of several factors causing program costs to rise above previously expected levels. Other factors, as noted in answer to Question No. 1, include: (a) inflation in food and non-food prices; (b) the fact that the new participants are poorer than expected; (c) the fact that the new participants are responding to EPR sooner in the fiscal year than expected; and (d) emergency issuance of benefits to households affected by recent flooding in the south.

Of these, inflation has been particularly important. When the Food Stamp Act of 1977 was enacted, the Congressional Budget Office predicted that food prices would rise between 3% and 4% per year for each of the four years of the bill. It was on the basis of these estimates that the specific figures in the food stamp "cap" were calculated.

However, food prices are now projected to rise 22% in the first two years since the bill's passage. Had food prices risen at the rate originally predicted by CBO' rather than at the rate they have actually risen, the appropriation request for the food stamp program in 1979 would be at least $800 million lower, and we would not be in danger of breaching the cap in 1979.

Rising food prices push up the cost of the Thrifty Food Plan, the basis for allotments used in benefit calculations. The Thrifty Food plan cost for July through January 1979, expected in the President's most recent Budget to be $200, will in fact go to $204 according to Bureau of Labor Statistics figures released a few days ago. In addition inflation contributes to participation increase. The combined impact of higher bonus costs (due to Thrifty Food Plan increase) and higher participation have significantly raised the total program cost.

Question 5.—What portion of the increased funding requested by the Administration for the 1980 program should be attributed to the elimination of the purchase requirement and what portion of food price inflation and unemployment?

Answer.—In the President's 1980 Budget, submitted to the Congress in January, the Administration requested $573 million in increased funding for fiscal 1980 over fiscal 1979. Approximately $237 million of this increase is attributable to rising food prices. Another $112 million is attributable to unemployment, which is expected to be higher in fiscal 1980 than in fiscal 1979. The remaining $224 million of the $573 millions stems from the fact that the 1977 Act's provisions will be in effect for the entire year in fiscal 1980, rather than only part of the year as in fiscal 1979. During fiscal 1979, participation will have increased as a result of the Act's elimination of the purchase requirement, but the cost of this increase is felt only for nine months—and with a phase-in. In fiscal 1980, no further participation increases due to the elimination of the purchase requirement are anticipated. However, the cost of the increases accumulated by the end of fiscal 1979 is borne for the entire fiscal 1980. This is the reason for the $224 million in increased funding attributable to implementation of the 1977 Act.

Since the President's 1980 Budget was prepared, the Administration has received new data on the economic outlook for fiscal 1980 and on the impacts of the 1977 Act's provisions. Based on these data, it now appears virtually certain that additional funds for fiscal 1980 will be needed, beyond the level requested in the President's Budget. Two main factors are behind this. First, food prices have been rising faster than expected. Although some tapering off of inflation increases is still anticipated in fiscal 1980, recent large increases in fiscal 1979 have pushed price levels higher than the President's Budget anticipated they would be at the start of fiscal 1980. Second, the fiscal 1979 effects of the elimination of the purchase requirement have exceeded the estimates used in the President's Budget. More new participants have come on the program than expected, and they are poorer than was projected in the Budget. Even though the elimination of the purchase requirement is not anticipated to have new effects on fiscal 1980, the fiscal 1979 effects carry over.

New data on the effects of the 1977 Act's provisions are now being received every week. It is still too soon to predict the revised fiscal 1980 total program cost precisely. Nevertheless, current evidence indicates that virtually none of the added cost in fiscal 1980, relative to fiscal 1979, will be attributable to further participation increases in fiscal 1980 due to the elimination of the purchase requirement.

STATEMENT OF JIM WILLIAMS, DEPUTY SECRETARY

Mr. Chairman and Members of the Committee: I appreciate the opportunity to appear before you today to discuss the funding crisis the good stamp program faces in the final months of this fiscal year. We also look forward to returning on May 22 to discuss in more detail the Administration's food stamp legislative proposal.

The costs of the food stamp program are rising in 1979, and will substantially exceed the costs predicted when the Food Stamp Act of 1977 was enacted. While there are a number of reasons for this, the most basic reason is the upsurge in food prices since 1977. When the Food Stamp Act of 1977 was enacted, the Congressional Budget Office predicted that food prices would rise between 3% and 4% per year for each of the four years of the bill. It was on the basis of these estimates that the specific figures in the food stamp "cap" were calculated.

However, food prices are now projected to rise 22% in the first two years since the bill's passage. Had food prices risen at the rate originally predicted by CBO, rather than at the rate they have actually risen, the cost of the food stamp program in 1979 would be $745 million lower, and we would not be in danger of breaching the cap in 1979. Increased food prices are the single most important factor that has increased food stamp costs.

A second factor now also exerting upward pressure on costs is the impact of the elimination of the purchase requirement—particularly in rural areas. When the 1977 Food Stamp Act was enacted, the Department estimated a net increase of 2.4 million new participants due to the new Act. This represented the net effect of both increases in paricipation due to the end of the purchase requirement, and of decreases due to the termination of households with the highest income levels. However, due in significant part to the rapid growth of participation in rural areas, we now believe the net increase will more likely be in the range of 3.0—3.5 million persons. Preliminary reports show that between December and February, participation increased 33% in sparsely populated rural areas, but only 7% in cities.

Historically, rural areas have had far lower participation rates than urban areas. A study conducted by the University of Mississippi in 1974 found that elderly poor in rural areas had particular difficulty in participating. The Department has received reports from a number of State food stamp administrators in recent months that many elderly persons now appear to be entering the program.

It is important that the Subcommittee understand that these new participants are not persons who are newly eligible. The 1977 Act did not expand eligibility for food stamps; it reduced it. There are now over 3½ million fewer persons eligible than before. The new participants have always been eligible for food stamps, but they did not participate chiefly because they could not afford to purchase their stamps.

Indeed, these new persons now coming onto the program are poor—in fact, they are somewhat poorer than we had anticipated. They are not persons at the upper end of the food stamp eligibiilty scale. The low incomes of the new recipients is a factor in increasing food stamp costs. Since the new participants are, by and large, somewhat poorer than expected, they receive somewhat larger benefits than had been predicted.

The main reason, of course, that the benefits of the new EPR families are significantly higher than had been predicted when the 1977 Act was passed is food price increases. The rise in food prices has significantly increased the cost of each new household signing up for food stamps.

Another factor affecting 1979 program costs is the fact that the new households are entering the program sooner in the fiscal year than anticipated. We had assumed that 25 percent of the total number of the new participants would be added to the program in January, February, and March. We assumed a fairly even phase-in rate, which would have had about 80 percent of the new participants added by July 1, in constant increments from January through June. The Congressional Budget Office assumed an even slower phase-in rate. However, data now in hand for January, February, and March, as well as early data from April, indicate most new participants had actually entered the program by April.

While 17.5 million persons participated in January and 18.6 million in February, the rate of increase has slowed significantly since then. Preliminary data indicate that 19.1 million persons participated in March and that the April figure, when available, will represent no more than 1 percent increase over the March figure.

We now estimate that participation will average 19.3 million during the third quarter of FY 1979 and 19.1 million during the fourth quarter, although these predictions still contain some elements of uncertainty.

Nevertheless, the fact that the new participants entered the program more rapidly than expected and hence will participate for more months in 1979 than expected—is another factor with a cost impact.

Let me note in passing that program costs for fiscal year 1979 will be somewhat lower than they would have been had all program changes been implemented in October 1978, as originally planned, since the elimination of the purchase requirement will be in effect for nine months of this fiscal year rather than twelve. Later implementation was due to the complexity of completely overhauling all certification and issuance rules and to States' need for adequate leadtime to retrain all staff, reprogram computers and develop necessary materials.

Two final factors increasing food stamp costs are inflation in non-food costs, and the recent flooding in several parts of the country. As shelter and utility costs rise, food stamp shelter deductions increase. In addition, the floods have necessitated the emergency issuance of food stamps to thousands of households, especially in Mississippi and Alabama.

Based on the most current information available, the Department now estimates that the requirement for new budget authority in the food stamp program in fiscal 1979 will be between $6.562 billion and $6.812 billion. With the additional $338 million in carryover funds, this represents a total program level of between $6.9 and $7.15 billion.

Last week the House adopted an amendment to the third concurrent budget resolution offered by Rep. Paul Simon which included a provision to provide room in the 1979 budget resolution for the additional food stamp funding that is needed. However, such additional funding cannot currently be authorized under Section 18(a) of the Food Stamp Act of 1977.

Section 18(a) limits budget authority for 1979 to $6.159 billion. This falls $424–$674 million below the estimated funding need.

In accordance with provisions of the 1977 Act, the Department is now setting up the machinery to reduce benefits or terminate the program this summer. Within the next 10 days, the Department will issue regulations requiring all States to add a new final calculation into their computers that reduces benefits to all households by a specified percentage. In initially writing the program, States will put in a zero percent reduction. However, once the computer program is in place, States will be able on fairly short order to replace the zero with a positive percentage if directed to do so by the Department. We will be requiring States to take these steps now, so that benefit reductions can be put into effect as early as July 1, if necessary.

If the food stamp authorization ceiling in section 18(a) is not removed and funds are not appropriated, we have three basic alternatives:

Cut benefits for all households by one-third each month in July, August, and September

Cut benefits in half for August and September, or

Close the program down for September.

The Administration does not favor these alternatives. We strongly believe that the necessary funds should be provided so that food stamp benefits, which currently average 33 cents per person per meal, are not slashed for the elderly, the disabled, the unemployed, the working poor, and the welfare mothers and their children. These are the people who comprise the overwhelming bulk of the food stamp recipient population. Food stamp recipients are poor. Over half of all families in the program have gross incomes of less than $3,600 a year. Three-quarters have gross incomes below $4,800 a year. This is well under half of the $11,546 yearly income the Bureau of Labor Statistics reports an urban family of four needed in 1978 to live on a low budget. With these stiff cutbacks in the nutritional support that the food stamp program provides, these families cannot live without suffering.

While seeking legislation to change the food stamp "cap" provisions, the Department is also proposing legislation to make other basic changes in the food stamp program. The legislation is designed to reduce error and fraud in the program, and realize savings. The changes we propose would save over $150 million in 1980 and larger amounts in succeeding years. The centerpiece of these provisions is a major campaign to drive down food stamp error rates. The legislation establishes a system for imposing fiscal liability on States with high error rates that fail to reduce them below a prescribed target. Each year, each State will be assigned a target to reach, and States will be liable for 100 percent of the food stamp benefit dollars issued in excess of the target. We expect that as a result of this system, most States will reduce their error rates below the targets. Each succeeding year, the targets will be further reduced so that error rates are steadily ratcheted down to lower levels. Thus, the savings from this provision grow over time.

Our legislative proposal also provides States with more tools with which to lower their error rates. It provides a State option for monthly retrospective accounting and periodical income reporting. Under this system, households are required to provide periodic reports, usually on a monthly basis, of actual income and household circumstances in a prior month. These reports become the basis for benefits issued to the household in a future month. Households failing to provide the reports do not receive any further benefits. In areas with the necessary computerized capability to operate this system, important error rate reductions can be achieved. Demonstrations have found this system to be effective in reducing error rates in the AFDC program.

The Administration bill also provides States with more tools and incentives for anti-fraud activities. The bill requires applicants to provide social security numbers, and gives States access to Social Security wage records and unemployment compensation records so that computer matching can be conducted, and ineligibles weeded out.

The bill also requires that a person disqualified from food stamps for fraud must, as a condition of eligibility, repay the amount of stamps fraudulently received in order to be reinstated in the program after the disqualification period ends.

Finally, the bill provides that States shall keep 50% of all fraud claims they collect. This should operate as a significant incentive to recover more of these claims.

These provisions, which comprise Title I of the bill, have been designed cooperatively with the Department's Inspector General. We look forward to returning in two weeks to discuss these provisions in more detail.

Title II of the proposed bill removes the specific dollar authorization ceilings for food stamps in Section 18(a) of the Act. However, we wish to emphasize that we are retaining in full the language added in 1977 by Representative Mathis in Sections 4(a) and 18(b) of the Act. This language places a clear Congressional limitation on food stamp entitlements. The language specifically limits food stamp allotments in any fiscal year to the amounts appropriated for that year. If insufficient amounts are appropriated, benefits would have to be reduced. In this sense, Representative Mathis' effort to make food stamps operate more as a discretionary program rather than as an entitlement program would still be served. The change we are proposing is simply to remove the specific dollar ceilings, and not to remove or undo the entire Mathis amendment. The experience of the past two years have shown that the specific dollar ceilings are not workable. It is simply not possible to forecast the economy in advance with sufficient precision to establish rational ceilings.

These new provisions we are proposing are in addition to the provisions of the 1977 Act that tighten the program significantly. In accordance with the 1977 Act:

The program's net income limits have now been lowered substantially (for example, income limits for four person households were reduced $1,200) and categorical eligibility for all public assistance and SSI households has been ended.

The old, open-ended itemized deductions have been eliminated and replaced by standardized deductions with maximum limits.

Households owning luxury cars are now ineligible for food stamps.

Persons found to have committed fraud are disqualified.

Persons who have voluntarily quit a job are disqualified.

Students who are or could be claimed as tax dependents are ineligible unless their families are also poor enough to qualify.

Full-time students must also register for work half-time during the school year and full-time during summer vacation.

We are now beginning to receive information from some States on the results of the provisions reducing the income limits and replacing itemized deductions with standard deductions. In Florida, 55% of the caseload had benefits reduced or itemized (most of these cases involved benefit reduction, not benefit termination). In New Hampshire, the figure was 80%. In Maine, 75% of the caseload was adversely affected, while 72% in Oregon were reduced or terminated. These are all States that converted their caseloads by computer, and hence have data available at this time on the impact of the new provisions.

Overall, several million persons will be subjected to benefit reductions or terminations. The 1977 Act, unlike much welfare legislation of recent years, contained no provisions to "grandfather" or "hold harmless" persons who were being adversely impacted. We supported that decision at the time, and continue to support it now. These provisions of the 1977 law were intended to retarget benefits, and to help defray a portion of the costs of the new families who would enter the program due to the elimination of the purchase requirement.

Although the people whose benefits are now being reduced or terminated do, by and large, have higher incomes than the new recipients entering the program, it is not really accurate to describe most of these people as anything other than low income. Many of you have received letters from these citizens describing the difficulties they are experiencing in getting along with fewer or no food stamps during these inflationary times.

The point I am making is that significant benefit reductions are already taking place. We do not believe it would be sound policy to impose further, deeper benefit cuts because food prices have risen faster than anticipated because more poor persons in rural areas are now enrolling for food stamp benefits for which they had always been eligible.

We are vigorously enforcing implementation of these new income eligibility requirements. We directed States to implement the new rules for all new applications and recertifications no later than March 1 and to complete conversion of the entire food stamp caseload no later than June 30. These new rules have been implemented everywhere in the United States, with the sole exception of some counties in Wisconsin. The State of Wisconsin will, within a matter of days, receive a rather severe fiscal penalty from the Department.

I would also note that the Department has proposed over $500 million in reductions in other Food and Nutrition Service programs as part of the 1980 budget, and that the House Budget Committee has adopted these reductions. We are appreciative of the support for these reductions from members such as Rep. Panetta, who chairs the Budget Committee's task force on legislative savings.

These reductions come from families who are far less in need than those on food stamps. For example, while about 12% of the population is eligible for food stamps, between 30% and 40% of all schoolchildren are eligible for free and reduced-price lunches. Our proposal for modest reductions in the eligibility limits for these meals would save $165 million.

Similarly, we provide $700 million a year in school lunch subsidies to families who are essentially over twice the poverty line. These families receive about as much per lunch in subsidy as the average food stamp recipient with far less incomes receives for each meal. Our proposal merely to reduce the school lunch subsidy for families in these middle and upper income brackets from 32 cents a lunch to 27 cents a lunch saves an additional $146 million.

We believe that these, as well as our other Child Nutrition proposals, warrant support. It makes far more sense to make these reductions in benefits for families who can better afford a little belt tightening than to exact one-third or one-half benefit cuts from those low-income families who must depend on food stamps.

Earlier, I noted how low the incomes of food stamp families are. These families also have few assets. 60% have no liquid assets at all. 64% do not own a car. 71% do not own a home. Elderly food stamp households are more likely to own larger amounts of liquid assets or homes than other food stamp recipients.

Sometimes we hear discussion of students or strikers receiving food stamps. But the number of students receiving stamps has been steadily reduced in the last few years due to new provisions enacted by Congress. Students and strikers combined now comprise under 1% of the food stamp caseload.

Moreover, the majority of adult food stamp participants are either working full time or are unable to work because of age, disability, or responsibility for children or incapacitated adults. Only 15% of all heads of food stamp households are employable persons who are unemployed.

Last week, a team of doctors who had examined hunger and malnutrition among poor children in America in the late 1960's, and who recently conducted a follow-up study, testified before the Senate Agriculture Committee that the food stamp program has been a striking success in reducing the hunger and malnutrition that scarred many of America's poor areas 10 years ago.

"Everywhere we looked in 1967 we found hungry children suffering the diseases that malnutrition cause," the doctors reported. "Now, in those same areas, there is no where the same evidence of gross malnutrition we saw then."

"In the Mississippi delta, in the coal fields of Appalachia and in coastal South Carolina—where visitors 10 years ago could quickly see large numbers of stunted, apathetic children with swollen stomachs and the dull eyes and poorly healing wounds characteristic of malnutrition—such children are not to be seen in such numbers today."

The doctors reported a 33% decline in infant mortality, and stated that "infant deaths from diarrhea, influeza, pneumonia and immaturity, many related directly to poverty and malnutrition, have declined 50% or more." These changes have not been due to any overall improvement in living standards, the doctors told the Senate Committee, but rather to food programs and especially to food stamps. The doctors told the Committee that "the food stamp program does more to lengthen and strengthen the lives of disadvantaged Americans than any other noncategorical social program," and "is the most valuable health dollar spent by the federal government."

They also observed that "Despite the improvements, hunger is still a problem. By not feeding people properly, especially children, you are creating even greater problems for the future."

This Department is determined to run a tight, efficient food stamp program. The legislative proposal we are presenting will give us important new tools to reduce food stamp overpayments. But we do not support cutbacks in food stamp benefits. Such cutbacks would turn the clock back on the work of the past 10 years, work which—perhaps more than anything else done in this country over the past decade—demonstrates the compassion and qualities that make this country great.

Mr. TALMADGE. In addition, Mr. President, I ask unanimous consent that there be printed in the RECORD the text of the two bills I am introducing today, a section-by-section analysis of the administration bill prepared by the Department of Agriculture, and the Secretary's letter transmitting the administration bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 18(a) of the Food Stamp Act of 1977 is amended by striking out "$6,158,900,000" and inserting in lieu thereof "$6,778,900,000".

S. 1310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food Stamp Act Amendments of 1979".

TITLE I—REDUCTION IN FOOD STAMP ERROR AND FRAUD

OPTIONAL RETROSPECTIVE ACCOUNTING

SEC. 101. Section 5(f) of the Food Stamp Act of 1977 is amended to read as follows:

"(f) Household income for those households that by contract for other than an hourly or piecework basis, or by self-employment, derive their annual income in a period of time shorter than 1 year, shall be calculated by the State agency for the purpose of determining household eligibility by being averaged over a 12 month period. For those households that receive nonexcluded income of the type specified in subsection (d)(3) of this section, such income shall be calculated by being averaged over the period for which it is provided. State agencies shall elect and use one of the following two methods in calculating income for all other households:

"(1) Taking into account the income reasonably anticipated to be received by the household in the certification period for which eligibility is being determined and the income that has been received by the household during the 30 days preceding the filing of its application for food stamps so that the State agency may reasonably ascertain the income that is and will be actually available to the household for the certification period; or

"(2) Using income received in a previous month as the basis, in accordance with standards prescribed by the Secreary, except for the month of application and subsequent months specified by the Secretary for newly applying households (other than households reapplying within 30 days after the end of a prior certification period). The Secretary may make modifications or exceptions to this method of income calculation with respect to households experiencing sudden and significant losses of income or the addition of a new member, households in immediate need in accordance with the provisions of section 11(e)(9) of this Act, and other classes of households if the Secretary determines that this method of income calculation would be impracticable to administer or would cause serious hardship for such households, such as migrant farmworker households. In promulgating regulations governing such method of income calculation, the Secretary shall consult with the Secretary of Health, Education, and Welfare to ensure that, to the maximum extent feasible and consistent with the purposes of the applicable Acts, households receiving income under title IV–A of the Social Security Act who apply for participation in the food stamp program shall have their income calculated on a consolidated and comparable basis.".

PERIODIC REPORTING

SEC. 102. Section 6(c) of the Food Stamp Act of 1977 is amended by striking everything after the first sentence and inserting in lieu thereof the following:

"(1) State agencies that elect to use a system of retrospective accounting in accordance with section 5(f)(2) of this Act shall require certain categories of households to file periodic reports of household circumstances in accordance with standards prescribed by the Secretary. Other State agencies, which have received the approval of the Secretary, may also require such categories of households to file periodic reports. Each household that is not required to file such periodic reports on a monthly basis shall be required to report or cause to be reported to the State agency, on a form designed or approved by the Secretary, changes in income or household circumstances that the Secretary deems necessary in order to assure accurate eligibility and benefit determinations.

"(2) Any household that is required to file a periodic report under paragraph (1) of this subsection shall (A) if it is eligible to participate and has filed a timely and complete report, receive its allotment, based on the reported information for a given month, within 30 days of the end of that month, unless the Secretary determines that a longer period of time is necessary, (B) have available special procedures that permit the filing of the required information if all adult members of the household are mentally or physically handicapped or deficient in reading or writing skills to such a degree as to render them unable to fill out the required forms, and (C) be afforded prompt notice of failure to file any report in a timely manner or failure to file a complete report and be given a reasonable opportunity to cure that failure (with any applicable time requirements extended accordingly) and to exercise its rights under subsection 11(e)(10) of this Act.

"(3) Reports required to be filed under paragraph (1) of this subsection shall be considered complete if, in accordance with standards prescribed by the Secretary, they contain sufficient information to enable the State agency to determine household eligibility and allotment levels. All report forms shall contain a description, in understandable terms in prominent and bold face lettering, of the appropriate civil and criminal provisions dealing with violations of this Act, including the prescribed penalties. The reporting requirements prescribed by paragraph (1) of this subsection shall be the sole such requirements for reporting changes in household circumstances for participating households. In promulgating regulations implementing the reporting requirements of this subsection, the Secretary shall consult with the Secretary of Health, Education, and Welfare to ensure that, to the maximum extent feasible, households that are required to file reports under this section and that receive assistance under title IV–A of the Social Security Act, which are required to file comparable reports under that Act, shall be provided the opportunity to file reports concurrently for purposes of both Acts.".

STATE LIABILITY FOR ERRORS; PROVISION OF INFORMATION

SEC. 103. Section 16 of the Food Stamp Act of 1977 is amended by adding at the end thereof new subsections (f) and (g) as follows:

"(f)(1) The Secretary shall, as of October 1, 1979, institute an error liability program under which each State agency shall pay to the Secretary or have withheld by the Secretary, as described in paragraph (5) of this subsection, the amount by which the dollar value equivalent of the State agency's payment error rate, as determined by the Secretary, for each 6 month period exceeds, other than for good cause as determined by the Secretary, the dollar value equivalent of either (A) the State agency payment error rate for the base period less a national annual rate of error reduction, as determined by the Secretary, taking into account program circumstances and rates of error reduction in comparable Federal or federally assisted public assistance programs, or (B) the national standard payment error rate for the base period, whichever is higher.

"(2) As used in this subsection—

"(A) 'base period' means, for fiscal year 1980, the 6 month period beginning January 1, 1978, and ending June 30, 1978, and for any fiscal year thereafter, the 6 month period beginning October 1 and ending March 30 of the prior fiscal year;

"(B) 'payment error rate' means the percentage of all food stamp allotments that are issued in a given period by a State agency to households that fail to meet the eligibility requirements of sections 5 and 6 of this Act, are overissued to eligible households, and are underissued to eligible households;

"(C) 'national standard payment error rate' means the weighted mean payment error rate for all State agencies determined by the Secretary; and

"(D) 'dollar value equivalent' means the value of allotments determined by multiplying a given error rate by the dollar value of all of the allotments issued by a State agency during the particular period in question.

"(3) The Secretary shall conduct a study to determine whether it is feasible to include in the calculation of each State agency's payment error rate and of the national standard payment error rate invalid decisions by each State agency denying eligibility to households that are eligible. If the Secretary determines that such a change in the method of calculation is feasible, the Secretary shall implement changes in the method of calculating payment error rates for the purposes of this section.

"(4) The Secretary shall, not later than October 1, 1984, unless studies and experience in the food stamp program and public assistance programs demonstrate that this would not be equitable or would not effectuate the purposes of this Act, establish a national payment error rate.

"(5) If the Secretary makes a claim against a State for payment under paragraph (1) of this subsection, that State may seek administrative and judicial review of such claim under section 14 of this Act. If such claim is ultimately determined to be valid or is not contested by the State, it shall be collected by the Secretary through withholding amounts otherwise payable to the State agency pursuant to subsection (a) of this section or other mechanisms authorized by the Federal Claims Collection Act of 1966.

"(g) The Secretary and State agencies may require, obtain, and use social security numbers assigned to members of households applying for or participating in the food stamp program under the same terms and conditions as the Secretary of Health, Education, and Welfare and State agencies are authorized to do under title IV–A of the Social Security Act. The Secretary and State agencies shall also have access to data from other Federal programs for individual food stamp program applicants and participants who receive benefits under title XVI of the Social Security Act and may use such data, under the same terms and conditions as are provided to the Secretary of Health, Education, and Welfare under title XVI of the Social Security Act.".

REPAYMENT FOR FRAUDULENT CONDUCT

SEC. 104. Section 6(b) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: "After the specified period of disqualification pursuant to findings under paragraphs (1) and (2) of this subsection, no disqualified person shall become eligible to participate in the food stamp program unless and until such person agrees either to (A) a reduction in the allotment of the household of which such person is a member or (B) at the individual's option, to repayment in cash (except that thereafter if such member fails to repay in cash, the household shall be subject to appropriate allotment reduction), in accordance with a reasonable schedule as determined by the Secretary that will be sufficient over time to reimburse the Federal Government for the value of the coupons obtained through fraudulent conducted.".

STATE SHARE OF RECOVERIES

SEC. 105. Section 16(a) of the Food Stamp Act of 1977 is amended by inserting before the period at the end thereof the following: "as well as to permit each State to retain 50 per centum of the value of all funds or allotments recovered or collected by it through prosecutions or other State activities directed against individuals who fraudulently obtained their allotments as determined in accordance with section 6(b) of this act. The officials responsible for making determinations of fraud under section 6(b) shall not receive or benefit from revenues retained by the State under the provisions of this subsection".

LIMITATION ON INCREASED COST-SHARING

SEC. 106. Section 16(c) of the Food Stamp Act of 1977 is amended by inserting "(1)" after the phrase "State agency" and inserting before the period at the end thereof the following: "and (2) whose rate of invalid decisions in denying eligibility as calculated in the quality control program conducted under subsection (d)(1) of this section is less than a nationwide percentage that the Secretary determines to be reasonable".

CONFORMING AMENDMENTS FOR RETROSPECTIVE ACCOUNTING AND PERIODIC INCOME REPORTING

SEC. 107. Section 3(c) of the Food Stamp Act of 1977 is amended to read as follows:

"(c) 'Certification period' means the period for which households shall be eligible to receive authorization cards. For those households that are required to submit periodic reports as provided in section 6(c)(1) of this Act, the certification period shall be at least 6 months but no longer than 12 months. For households that are not required to submit periodic reports, the certification period shall be determined as follows:

"(1) In the case of a household all of whose members are included in a federally aided public assistance or general assistance grant, the period shall coincide with the period of such grant.

"(2) In the case of all other households, the period shall be not less than 3 months: *Provided*, That such period may be up to 12 months for any household consisting entirely of unemployable or elderly or primarily self-employed persons, or as short as circumstances require for those households as to which there is a substantial likelihood of frequent changes in income or household status, and for any household on initial certification, as determined by the Secretary.".

SEC. 108. Section 5(d) of the Food Stamp Act of 1977 is amended by inserting after the comma in clause (2) the following: "subject to modification by the Secretary in accordance with section 5(f)(2) of this Act,".

SEC. 109. Section 11(e)(4) of the Food Stamp Act of 1977 is amended by inserting immediately after "subsection" the following: ": *Provided*, That the timeliness standards for submitting the notice of expiration and filing an application for recertification may be modified by the Secretary in accordance with section 5(f)(2) and 6(c) of this Act if administratively necessary".

CONSUMER PRICE INDEX

SEC. 110. Section 5(e) of the Food Stamp Act of 1977 is amended by inserting "for all Urban Consumers" after "Consumer Price Index".

TITLE II—FOOD STAMP FUNDING

APPROPRIATIONS CEILING

SEC. 201. The first sentence of section 18(a) of the Food Stamp Act of 1977 is amended by striking out everything after "1978" and inserting in lieu thereof the following: ", and such sums as may be necessary for the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.".

SECTION-BY-SECTION ANALYSIS PREPARED BY THE DEPARTMENT OF AGRICULTURE

TITLE I—REDUCTION OF FOOD STAMP ERROR AND FRAUD

Retrospective accounting

Section 101 of the bill would amend section 5(f) of the Food Stamp Act of 1977 to allow States the option of determining a household's eligibility and benefits for the current month based on a past month's income.

Since it is easier to accurately determine past income than to anticipate future earnings, it is expected that this provision, in conjunction with the provisions for periodic income reporting contained in the bill, will lower quality control error rates in those States that elect to use retrospective accounting and periodic income reporting. For a household that is newly applying for program participation, the State agency would continue to base the household's allotment for the month of application on that month's income. The Secretary may also specify the use of prospective income accounting in determining allotments for up to two months subsequent to the month of application.

The additional months of anticipated income calculation have been established for two purposes. First, this will assist in promoting greater conformity with those months for which AFDC benefits will be determined on a prospective basis in States operating a retrospective budgeting system for their AFDC caseload. Second, since some households initially applying for food stamps have often experienced a recent loss in income (such as loss of a job or desertion by a spouse), this allows a household to participate when it most needs benefits, rather than requiring the household to wait one or two months for the loss of income to be reflected in its allotment.

For example, if a wage earner was laid off from work in late November and applied for benefits prior to the end of the month, the household's November allotment would be based on income actually received for the month of November. Both the December and January allotments could be based on anticipated income. If retrospective accounting were used for these months a hardship would result since the December allotment could be based on October earnings and the January allotment based on November earnings, even though no income was available to the household during December or January.

The use of retrospective accounting may result in serious hardship for a small number of households that are participating in the program on an ongoing basis, such as those experiencing a sudden and significant loss of income. To prevent this hardship from occurring, the bill further authorizes the Secretary to prescribe exceptions or modifications to retrospective accounting for certain households. Such exceptions or modifications would include special procedures, such as the use of supplemental payments, for these households. The Department of Health, Education, and Welfare has proposed that supplemental payments be paid in certain cases in its regulations authorizing the use of retrospective accounting systems in the AFDC program.

It is expected that this provision, along with the provisions contained in sections 102, 108, and 109 of the bill will result in a savings of $20 million in fiscal year 1980, and greater savings in subsequent years.

Periodic reporting

An integral part of the retrospective accounting system described in section 101 of the bill is a periodic reporting system. Therefore, section 102 of the bill would amend section 6(c) of the Act to provide that certain categories of households submit periodic reports of their circumstances, in accordance with standards prescribed by the Secretary. States would have to require periodic reports from these categories of households if the State has received approval from the Secretary to determine income on a retrospective basis. Other State agencies may require reports from these categories of households if they have received approval from the Secretary. These households would have to file reports in order to continue to receive benefits. Since it may not be necessary for all households to submit periodic reports, such as households with stable income, section 102 authorizes the Secretary to determine which categories of households must submit these reports. Households required to submit periodic reports less often than monthly, such as quarterly, will be required to report to the State on changes as they occur, unless such changes occur in a report month.

For households that must submit periodic reports, the bill further requires the States to provide the household with its allotment within 30 days of the end of the reporting month, unless the Secretary determines a longer period of time to be administratively necessary. This provision will keep the gap between the household's circumstances and receipt of the allotment that reflects these circumstances as short as possible.

States must also develop procedures for obtaining information from households that are unable to submit reports because all adult household members are mentally or physically handicapped or deficient in reading or writing skills to such a degree as to render them unable to fill out the required forms.

Reports are to be considered complete if, in accordance with standards prescribed by the Secretary, they contain sufficient information to determine the household's eligibility and allotment.

Section 102 further requires the States to promptly notify households that have failed to submit a report in a timely manner or to file a complete report and provide adequate time for the household to cure that failure. This provision will help assure that households are not automatically terminated when circumstances beyond their control prevent them from submitting their reports on time or a misunderstanding of the report form prevent them from completing all necessary items on the form. Although households that have failed to submit a report in a timely manner or to file a complete report would be reinstated if they took the required action, these households would not be guaranteed an allotment within the normal timeliness standards. Households that fail to take the required action within specified time frames would be terminated.

The bill specifies that households are entitled to a notice of adverse action when benefits are reduced or terminated as a result of these reporting requirements. The notice may be provided on or before the date the allotment is normally scheduled to be received, and may be issued with reduced benefits or in lieu of terminated benefits. If a hearing is timely requested, households will be allowed to continue to participate and receive benefits on the basis authorized immediately prior to the notice of adverse action.

State liability for errors

Section 103 of the bill would amend section 16 of the Food Stamp Act of 1977 by adding a new subsection (f) to require the Secretary to establish an error liability program as of October 1, 1979, and authorize the Secretary to set performance standards for each State. To avoid fiscal liability, a State must meet one of two standards. For States whose error rate is less than the national average during a base period the standard that must be met would be the national standard payment error rate. This standard would be the weighted mean cumulative allotment error rate for all State agencies (payments to ineligibles, overissuance, and underissuance) during a base period. Some States may have error rates considerably above the national standard, and it would not be realistic to expect an immediate reduction of these rates below the average. For these States the standard that must be met would be a specific rate of reduction determined by the Secretary in light of program circumstances and error reductions in comparable public assistance programs.

The amount of the fiscal liability would equal the value of the erroneous allotments issued in excess of the performance standard for each State. (The amounts issued represent a more precise standard than the amounts authorized, because less than 100 percent of the benefits authorized in a given month are actually issued to and used by households. Minor imprecisions in issuance data, such as end-of-month certifications where stamps are actually issued in a subsequent month, are far more isolated and minor, and are too insignificant to affect the basic validity of state-by-state monthly issuance totals as the data to be used in these computations.)

New section 16(f)(1) includes a "good cause" provision, under which the Secretary may reduce the State's liability if he determines that the excessive error rate is due to circumstances beyond the State's control, such as a disaster that significantly disrupts program operation. However, the Secretary will define "good cause" narrowly. In defining good cause narrowly, the Secretary will take into account the regulations promulgated by the Secretary of Health, Education, and Welfare in this regard, and the fact that States do not pay any share of benefit costs in the food stamp program and will not suffer any loss for food stamp overpayments unless a penalty is imposed.

New section 16(f)(3) requires the Secretary to study the feasibility of including invalid decisions (i.e., decisions by the State agency that deny or terminate participation to eligible households) in the State agency's payment error rate and of the national standard payment error rate, and requires the Secretary to include invalid decisions in the error rate liability system if this proves to be feasible.

New section 16(f)(4) requires the Secretary to establish a national error standard by October 1, 1984, unless program experience and studies show this is inequitable or would not effectuate the purposes of the Act. This provision indicates that after five years, the Secretary will replace the national weighted mean (the national standard payment error rate) with an absolute error rate standard. The absolute standard would be established in accordance with the experience of the food stamp program and other programs in error rate reduction, studies and demonstrations, and other available data.

New section 16(f) is expected to improve program operations by providing administrative incentives to reduce errors, thus, reducing the cost of errors to both the program and participants. It is expected that this section, along with the provisions contained in new section 16(g) added by this section and sections 104–107 of the bill, will result in savings of over $130 million in fiscal 1980.

Provision of information

Section 103 of the bill would further amend section 16 of the Act by adding a new subsection (g) authorizing the Secretary of State agencies to require provision of social security numbers as a condition of eligibility for food stamps.

This would permit an individual to be barred from receiving food stamps if that individual has been assigned a social security number but refuses to provide it to the State agency. Individuals not previously assigned a social security number could also be prevented from participating in the program unless the individual applies for and subsequently furnishes a social security number.

The income and resources of the individual disqualified for failure to provide a social security number would be counted in the same way an individual's income and resources are counted when a person is disqualified for fraud or for failure to meet the student work registration requirement during the school year. New section 16(g) will facilitate the use of computer matching techniques that compare the earnings reported by food stamp households against available wage records and thus allow States to more readily identify those households that have unreported earnings or have reported their earnings incorrectly.

In addition, States will be able to match social security numbers to prevent duplicate participation. The Department intends that an individual entitled to emergency service under section 11(e)(9) of the Act be permitted to furnish a social security number after receiving his first allotment. In this way, an individual who cannot furnish his social security number, or the numbers of all members of his household, before the timeliness standard elapses for providing expedited service will not have benefits delayed simply because a social security number cannot be immediately furnished. In addition, households that have not been previously assigned a social security number and must apply for one would be eligible to participate while waiting for a number to be assigned.

The principal intent of new section 16(g) is to use social security numbers to cross-check information provided on food stamp applications with information in Social Security Administration wage and benefit records and information in State unemployment compensation files. This would enable States to identify and take action to correct those situations where a food stamp participant has either reported his income incorrectly, or has reported receiving no earnings or benefits when he is, in fact, employed or receiving a benefit payment.

To effectuate this intent, the Administration strongly supports two accompanying provisions. One provision would require that Social Security Administration wage and benefit records be made available to any State agency and the Department of Agriculture when requested by them for the purpose of determining a household's eligibility for food stamp benefits. This provision, along with the provision requiring recipients to provide social security numbers, would allow the States and the Department of Agriculture to compare the earnings reported by food stamp households against the wages the employer reports were paid.

Since access to wage and benefit information from the Social Security Administration would provide an independent method of verifying income, participants will be discouraged from incorrectly reporting income and those that do incorrectly report their income can be more easily detected. As a result, errors in determining eligibility can be reduced and fraud and abuse can be curbed.

The second accompanying provision that the Administration supports would authorize State agencies administering unemployment compensation programs to disclose certain information in unemployment compensation files. This information will also be useful in verifying and auditing applications through computer matching and other techniques.

The specific words for the two accompanying provisions—that would provide the Secretary and State agencies access to Social Security Administration records and unemployment compensation records—are not included here because the Administration believes that it is best to let the relevant Committees provide the actual language to be used.

Finally, new section 16(g) provides State agencies with access to the same data from other federal sources, with respect to SSI recipients, that the Social Security Administration has access to under title XVI of the Social Security Act. The one exception is that new section 16(g) would not provide access to tax information, since this is governed by the Internal Revenue Code.

Repayment for fraud

Section 104 of the bill would amend section 6(b) of the Food Stamp Act of 1977 to allow States to collect fraud claims through a reduction of the food stamp allotment. Allotment reductions would be imposed when a recipient who had been disqualified for fraud and had not paid a fraud claim reentered the program after the disqualification period. If the individual who committed fraud does not agree to a reduction in the household's allotment or does not agree to pay the fraud claim in cash, this amendment would allow the State agency to disqualify the individual until the person agrees to repay in cash or agrees to the allotment reduction. The income and resources of the individual disqualified for failure to repay the fraud claim would be counted in the same way an individual's income and resources are currently counted when that person is disqualified for fraud or for failure to meet the student work registration requirement during the school year.

In order to collect fraud claims, States must currently rely on voluntary repayment by the household or incur the expense of initiating a civil court action to obtain repayment. Section 104 provides a simple and efficient mechanism for collecting fraud claims and provides a penalty if repayment is not made. As a result, it is anticipated that the percentage of fraud claims collected will substantially increase without increasing the administrative costs of collecting these claims. These tougher collection procedures should also discourage persons from committing fraud.

State share of recoveries

States are currently required to return to the Federal government all funds collected from households that have repaid the value of any food stamps that were overissued to them. Section 105 of the bill would amend section 16(a) of the Act to allow each State to retain 50 percent of the funds it recovers or collects from persons that have committed fraud as determined in accordance with section 6(b) of the Act. This provision will provide an incentive for States to pursue collection of fraud claims, particularly in those cases where recoupment or disqualification is ineffective because the household is ineligible.

The bill further specifies that the salaries of persons involved in making fraud determinations will not benefit from the amount of such recoupments or collections. This prohibition on the use of revenues collected in this manner will protect the impartiality of officials making fraud adjudications.

Limitation on increased cost-sharing

Section 106 of the bill would amend section 16(c) of the Act, which authorizes the Secretary to pay 60 percent of the administrative costs of those States that have a quality control error rate of less than 5 percent. Under the current Act, the number of invalid decisions made by a State agency is not taken into account when determining if a State is entitled to 60 percent funding. Therefore, a State could receive enhanced funding even though it improperly denies a substantial number of households. Section 106 would correct this situation by requiring that a State's rate of invalid decisions must also be considered before the State is entitled to enhanced funding. In addition to having a quality control error rate of less than 5 percent, a State's rate of invalid decisions must be less than a nationwide percentage determined by the Secretary as reasonable, in order to receive the 60 percent funding.

Conforming amendments for retrospective accounting and periodic income reporting

Section 107 of the bill would amend the definition of "certification period" as contained in section 3(c) of the Food Stamp Act of

1977. Since section 102 of this bill would allow States to require that certain households submit periodic reports, thereby obtaining current information, the certification period of these households need not be as short as they would otherwise be. Therefore, lengthening the certification periods of households required to submit periodic reports will eliminate unnecessary recertifications while at the same time assuring that these households are periodically subject to a complete reexamination of their circumstances.

Section 108 of the bill would allow the Secretary to modify section 5(d)(2) the Act for the purpose of implementing the monthly reporting and retrospective accounting provisions contained in sections 101 and 102 of the bill. Section 5(d)(2) of the Act excludes income of less than $30 in a quarter if it is received too infrequently or irregularly to be reasonably anticipated.

It may be necessary to modify this provision of the Act so that the limit below which irregular or infrequent income does not have to be counted is converted to a monthly amount rather than a quarterly amount to make it easier for households submitting periodic reports to determine when these small amounts must be reported. In modifying this provision, the Secretary would, of course, not raise the maximum limit to more than $30 in a quarter.

Another provision of the Act that may need to be modified for the purpose of implementing monthly reporting and retrospective accounting is section 11(e)(4), which prescribes timeliness standards for handling recertifications. Since these specific timeliness standards may not be applicable in a periodic reporting and retrospective accounting system, section 109 of the bill would allow the Secretary to modify these standards for households subject to periodic income reporting and retrospective accounting. Any modified standards prescribed by the Secretary would still have to provide households a reasonable opportunity to be notified of the expiration of their certification period and to reapply, as well as ensuring that eligible households that did reapply experience no interruption in their benefit cycle.

Consumer price index

Section 110 of the bill would amend section 5(e) of the Act in recognition of the development of a new Consumer Price Index since the Food Stamp Act of 1977 was passed. Therefore, it is necessary that the Act be amended to specify which Consumer Price Index will be used in the food stamp program. The Consumer Price Index for All Urban Consumers better reflects the food stamp caseload than does the alternative Consumer Price Index, which covers only urban wage and clerical workers.

TITLE II—APPROPRIATIONS CEILING

Section 201 removes the specific dollar appropriations ceilings of section 18(a) of the Act. However, the language of section 18(b) of the Act is retained. That language provides that if in any year, insufficient funds are available to provide the entitled benefit levels to eligible households that apply, then benefit levels shall be reduced. It is not possible to forecast the economy in advance with sufficient precision to establish rational ceilings. The remaining language of section 18 (b) will maintain Congress' ability to control food stamp costs.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., May 21, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a bill to amend the Food Stamp Act of 1977, as amended. Also enclosed is a copy of the section-by-section analysis explaining the provisions in the bill.

The provisions of Title I of this bill seek to reduce food stamp error and fraud by establishing fiscal liability for States with excessive error rates, intensified fraud detection and recovery procedures, retrospective accounting and periodic reporting, and provisions which enhance a State's ability to conduct computer matching of income records. These provisions are explained in more detail below.

Title II of the bill would remove the specific dollar appropriation ceilings contained in Section 18(a) of the Food Stamp Act, while still placing a limitation on food stamp costs. These appropriation ceilings are no longer appropriate due in significant part to the extraordinary increase in food prices and other economic changes. For example, the estimates used to establish these ceilings were based on the assumption that food prices would rise at an annual rate of between three and four percent and unemployment would continually decline. However, food prices are now projected to rise at a far higher rate during 1978 and 1979 and we are projecting somewhat higher levels of unemployment in 1980.

Although the bill would remove the specific dollar appropriation ceilings, the language that places a clear Congressional limitation on food stamp entitlements would be retained. This language requires that benefit levels be reduced if funds available in any year are insufficient to provide the entitled benefit levels to eligible households. In this way, food stamp costs can be controlled without having to forecast the economy in advance with sufficient precision to establish rational ceilings.

Provisions are included in Title I of the bill which would result in some major reductions in costs without depriving those truly in need. These savings can be accomplished by reducing overpayments and intensifying fraud detection and the recovery of fraudulent overissuances. We anticipate savings of over $150 million from these provisions in fiscal year 1980. A description of these provisions is outlined below:

1. Sections 101 and 102 of the bill would allow States the option of computing a household's eligibility for the current month based on a past month's income. In addition, certain households would be required to submit periodic reports of their past income. Since changes in income will be reported more frequently and since it is easier to accurately determine past income rather than anticipate future earnings, this provision will provide States with an additional tool to lower quality control error rates. Special protections are included in the bill for those households that may suffer a severe hardship from having to submit periodic reports or having their income computed on a retrospective basis.

2. Section 103 of the bill would establish a system for levying fiscal sanctions on States with high error rates that fail to reduce them below a prescribed target. Each year, each State would be assigned a target to reach, and States would be liable for all food stamp benefits issued in excess of the target. This provision is expected to improve program operations by providing administrative incentives to reduce errors and thus reduce the cost of errors to both the Food Stamp Program and participants.

3. Section 104 of the bill would provide tougher collection procedures in cases of fraud by allowing States to collect fraud claims through a reduction in the food stamp allotment and allowing States to disqualify persons that do not agree to pay. States must currently rely on voluntary repayment or incur the expense of initiating civil court action to obtain repayment. In addition to increasing the percentage of fraud claims collected, these tougher collection procedures should discourage persons from committing fraud. The bill would also provide an incentive of States to pursue collection of fraud claims by allowing States to retain 50 percent of the funds collected. Currently States must return all of these funds to the Federal Government.

4. Section 103 of the bill is also designed to discourage and detect error and fraud. This section requires food stamp recipients to provide social security numbers. The intent is to use the social security numbers in computer matching and other techniques to compare the income reported by food stamp households against wage and benefit information in the files of the Social Security Administration and against information in State unemployment compensation files. These matching techniques will allow States to more readily identify those households that have unreported earnings or have reported their earnings incorrectly. As a result, errors in determining fraud and abuse can be prevented. Accordingly, the Administration strongly supports enactment of provisions providing the Department and State agencies access to the Social Security Administration files and to State unemployment compensation files. The specific words for these provisions are not included here only because the Administration believes that, given possible issues of Congressional Committee jurisdiction, it is best to let the relevant Committees provide the actual language to be used. We do consider such provisions to be an integral part of this bill.

We urge prompt and favorable consideration of this draft bill.

A similar letter is being sent to the Speaker of the House.

The Office of Management and Budget advises that the enactment of this proposed legislation would be in accord with the President's program.

Sincerely,

BOB BERGLAND,
Secretary.

ADDITIONAL COSPONSORS

S. 445

At the request of Mr. PERCY, the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 445, the Regulatory Reform Act of 1979.

S. 737

At the request of Mr. STEVENSON, the Senator from North Carolina (Mr. MORGAN), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Kansas (Mrs. KASSEBAUM) were added as cosponsors of S. 737, a bill to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the right to engage in commerce.

S. 948

At the request of Mr. JACKSON, the Senator from Idaho (Mr. CHURCH), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. STEVENS), and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of S. 948, a bill to amend the Public Utility Regulatory Policies Act to revise the limitation on size of small hydroelectric power projects.

S. 1090, S. 1091, AND S. 1092

At the request of Mr. TALMADGE, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1090, S. 1091, and S. 1082, bills to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 with regard to church plans.

S. 1119

At the request of Mr. JACKSON, the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 1119, a bill to direct the Secretary of the Interior to report to the Congress on plans or projects affecting the territories and possessions of the United States, and for other purposes.

S. 1165

At the request of Mr. BELLMON, the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 1165, a bill to amend chapter 105 of title 10, United States Code, to provide for increases in the amount of the monthly stipend paid to participants in the Armed Forces health professions scholarship program.

S. 1166

At the request of Mr. BELLMON, the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 1166, a bill to provide a permanent extension for the exclusion from gross income of certain amounts received under certain education programs for members of the uniformed services.

S. 1211

At the request of Mr. CRANSTON, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1211, a bill to amend the Social Security Act to extend medicaid eligibility to certain low-income pregnant women.

S. 1248

At the request of Mr. STEVENSON, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1248, the Comprehensive Counter-Terrorism Act of 1979.

SENATE JOINT RESOLUTION 64

At the request of Mr. CHAFEE, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of Senate Joint Resolution 64, to authorize construction of a memorial to the men and women who have served in the U.S. Navy.

SENATE RESOLUTION 181—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. STEVENSON, from the Committee on Commerce, Science, and Transportation, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 181

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 1786, a bill to authorize appropriations to the National Aeronautics and Space Administration for fiscal year 1980 for research and development, for construction of facilities, and research and program management, and for other purposes. Such waiver is necessary to permit consideration of a budget amendment submitted by the President to the Congress on May 14, 1979, recommending the enactment of additional budget authority for the National Aeronautics and Space Administration for the Space Shuttle program for fiscal year 1980.

The shuttle program consists of two major funding elements: design, development, test and evaluation (DDT&E) which supports system development, and production which supports manufacture of the second, third and fourth flight orbiters. The additional authorization is necessary to complete critical development tasks on the most efficient schedule and thereby avoid restructuring both the DDT&E and production programs and incurring the substantial cost penalties associated therewith. The Space Shuttle program, a complex, high technology activity, is at a very intensive stage of development and at a very high spending rate; therefore, the transfer of funds from the production program to the DDT&E program, the most viable option in the absence of the budget amendment, would necessitate deferral of the production program activities. It is estimated that the orbiter vehicles in the production program would be delayed 6–12 months each with a cost increase of as much as $500 million. The budget amendment was submitted to maintain existing work schedules to the greatest possible extent to avoid the substantial cost penalties and to assure the availability of the space shuttle fleet to meet critical civil and defense requirements. Delay in fleet availability to users would incur additional cost penalties also approaching $500 million.

AMENDMENTS SUBMITTED FOR PRINTING

ADDITIONAL LOAN GUARANTEES FOR PILOT ENERGY PROJECTS—S. 892

AMENDMENT NO. 226

(Ordered to be printed and to lie on the table.)

Mr. LUGAR submitted an amendment intended to be proposed by him to S. 892, a bill to extend the authorization of appropriations for carrying out rural development research, small farm research, and small farm extension programs.

● Mr. LUGAR. Mr. President, today I am submitting an amendment to S. 892 which increases the amount of money available for Federal loan guarantees to pilot alcohol plants from $180 million to $500 million. My amendment also directs the Secretary of Agriculture to give priority in granting loan guarantees to proposals which utilize Government price-supported agricultural commodities and to new and innovative technologies.

As many of my colleagues know, the 1977 Farm bill authorized the Department of Agriculture (USDA) to provide loan guarantees of up to $60 million to no more than four pilot alcohol plants. USDA received about 30 applications and granted loan guarantees to four plants totaling $42.7 million.

When the Agriculture Committee met recently to consider S. 892, a bill to extend rural development research under the 1972 Rural Development Act, an amendment was offered to increase the number of loan guarantees to pilot alcohol plants from the existing 4 to 16, with the additional loan guarantees not to exceed $15 million per project. The amendment was changed to provide that $180 million in loan guarantees would be available without specifying the maximum guarantee per plant, nor the number of plants to be guaranteed. This action by the Agriculture Committee was significant, but it does not go far enough.

Given the energy situation, our Government must act to promote the rapid development of alternative sources of energy. Alcohol fuels can provide a partial answer to our gasoline shortage problem. Even if alcohol fuels could only replace 1 to 2 percent of this country's gasoline needs, we should actively pursue this alternative.

I believe that the Federal Government must increase its investment in the development of new and innovative alcohol fuel technology. That is why I offer this amendment to increase the amount of money available for loan guarantees from $180 million to $500 million. As in the committee bill, my amendment does not specify the number of projects to be guaranteed per project.

Public interest in constructing alcohol production facilities is strong. My staff and the staff of the Senate Agriculture Committee have received numerous inquiries about further Federal assistance for the construction of gasohol plants. Commercial alcohol production plants require enormous capital investments, usually in the tens of millions of dollars. I believe that $500 million in loan guarantee authority represents a realistic but prudent amount given the extensive interest in gasohol, the large sums of money necessary to construct plants, and the need for the Federal Government to encourage the development of alternative energy sources.

I want to emphasize and reiterate that I am talking about $500 million in loan guarantees, not direct Government expenditures. Under existing law, in order for USDA to approve a loan guarantee, USDA must be assured that the project is financially sound and would result in a positive energy balance. If USDA receives worthy proposals totaling only $150 million, $200 million, $400 million, or whatever, then only that amount of loan money would be guaranteed. But if worthy proposals totaling $500 million were received, then my amendment would provide sufficient authority to guarantee all of those worthy projects. I am hopeful that worthy proposals totaling $500 million will be submitted, and that additional alcohol production facilities can be brought on line in the near future, thereby making more gasohol available for distribution and sale.

My amendment also directs the Secretary of Agriculture, when considering loan guarantee proposals, to give priority to those proposals which utilize Government price supported commodities. If alcohol fuels became a viable market for these commodities, their prices would rise, assuming other factors remained the same, and the costs to the Government for the price support programs would decline, or maybe even cease. Farmers would receive more income from the marketplace, instead of from the Federal Treasury.

My amendment also directs the Secretary to assure that loan guarantees be for projects that would result in new and innovative technologies. Alcohol can be distilled from many sources and in many ways. This Federal program should encourage the continuation of research in this area which already has resulted in innovative technologies.

Mr. President, our Nation is engaged in a monumental struggle not only to disengage from our dangerous dependence on foreign oil, but also to assure adequate supplies of energy simply to keep businesses operating and our citizens employed. An essential element in the solution to this problem is our emphasis on technological innovations. We have met difficult challenges in the past through our unsurpassed achievements in technology. The Federal Government has played an important role with the private sector in the past in developing new ways to produce our way out of difficult situations. I firmly believe that similar successes can be accomplished through the same essential partnership of private enterprise and Government. Adoption of my amendment will enhance that partnership in a significant way.●

DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1980—S. 428

AMENDMENT NO. 227

(Ordered to be printed and to lie on the table.)

Mr. TSONGAS submitted an amendment intended to be proposed by him to S. 428, a bill to authorize appropriations for fiscal year 1980, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes.

ECONOMIC SANCTIONS AGAINST ZIMBABWE-RHODESIA

● Mr. TSONGAS. Mr. President, tomorrow I intend to propose an amendment to S. 428, the Department of Defense authorization bill for fiscal year 1980. My amendment will delete the language ordering the President to remove economic sanctions against Zimbabwe-Rhodesia and will substitute the following:

ECONOMIC SANCTIONS AGAINST ZIMBABWE-RHODESIA

SEC. 802. It is the sense of Congress that the President shall remove economic sanctions against Zimbabwe-Rhodesia when he determines, after consultation with Great Britain and other interested states, after periodic monitoring of events in Zimbabwe-Rhodesia to determine whether there is a broadening of political participation and movement toward genuine majority rule, and after consultation with Congress, that the removal of such sanctions is in the national interest of the United States.

My amendment will permit my colleagues to support the President's determination that sanctions against Zimbabwe-Rhodesia remain in force. I believe that the President has decided on a prudent, yet flexible, course of action. I think his decision reflects a growing realization in Congress than an immediate lifting of sanctions is not in our national interest. Conditions in Zimbabwe-Rhodesia are unstable and unpredictable. The new government has no support in the community of nations. An immediate removal of sanctions would alienate many African nations, some of whom are important to the United States politically, strategically, and economically.

Congressman JOHN ERLENBORN is part of this new congressional awareness. He has voted for the removal of sanctions in the past, but is now opposed to such action. I urge my colleagues to consider carefully Mr. ERLENBORN's commonsense approach to the sanctions issue. I ask unanimous consent that Mr. ERLENBORN's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 4, 1979.

DEAR COLLEAGUE: On foreign policy questions, we try to apply two tests.

Is it in the national interest of the United States?

Will it make common sense to the constituents we try to represent?

In that light, let us discuss Rhodesia, for you will soon have to vote on whether the U.S. should lift economic sanctions against Rhodesia.

Most of the rhetoric in Congress in recent weeks has zeroed in on whether the recent Rhodesian election was "free and fair" and therefore, whether the U.S. should unilaterally cancel economic sanctions.

To us, that's the wrong question. Whatever opinion you have about the validity of the Rhodesian election (and there are legitimate arguments on both sides), the key point is this. Now is not the time for Congress to take action on the sanctions question.

Not acting now makes common sense.

Not acting now is in the U.S. national interest.

Consider these points: First, Bishop Abel Muzorewa just assumed office. Who knows whether he will be a genuine leader or a puppet? Let's wait several months and find out.

Second, the black African nations feel very strongly that no government which includes Ian Smith can be trusted. Black African leaders are vehemently opposed to lifting sanctions and will surely try to punish whoever lifts the sanctions first.

One such nation is Nigeria, which supplies the U.S. with 15 percent of our oil imports—some 1 million barrels of oil per day. When our constituents are already worried about gasoline shortages this summer, why risk rash action by the Nigerians to interrupt oil supplies or jack up the prices?

By hastily lifting sanctions, Congress would play right into the hands of the Soviets and Cubans, who could assume the mantle of "defenders of the cause of black majority rule" while painting us as "agents of continued colonial domination."

Third, let's remember that Rhodesia is primarily a British problem. We should let the British assume the lead, not take them off the hook. The new Conservative government says it will not take any action on sanctions until after the Commonwealth Conference in Zambia in August and probably not until the question comes up in Parliament in November.

Clearly, it makes sense and is in the U.S. national interest for Congress to take no action on Rhodesia at the present time.

What if an amendment is offered on the House floor to force the lifting of sanctions? Your "No" vote need not reflect your views on the validity of the Rhodesian election. Your "No" vote can reflect simply your belief that now is not the time for Congress to act.

Sincerely,

JOHN N. ERLENBORN,
DON J. PEASE,
Members of Congress.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. Chairman, I wish to announce that the Subcommittee on Federal Spending Practices and Open Government will be holding 1 day of hearings on "Oversight on the Inspector General's Office of the Department of Energy, and the Agency for International Development." This hearing will be on Wednesday, June 13, 1979, at 10:30 a.m. in room 1224 of the Dirksen Senate Office Building.●

SUBCOMMITTEE ON ANTITRUST, MONOPOLY AND BUSINESS RIGHTS

● Mr. METZENBAUM. Mr. President, the Judiciary Subcommittee on Antitrust, Monopoly and Business rights will hold hearings on S. 1246, the Energy Antimonopoly Act of 1979, on June 19 and 21, 1979.

The hearings will be held in room 5110, Dirksen Senate Office Building, both days. On June 19, the hearing will begin at 10 a.m., and on June 21, it will begin at 9:30 a.m.●

ADDITIONAL STATEMENTS

CAUSES OF INFLATION

● Mr. DOLE. Mr. President, I am pleased to insert in the RECORD an article which appeared in the Sunday, June 10, Washington Star written by one of this country's most distinguished economic thinkers, the former Chairman of the Federal Reserve, Arthur Burns. In all my years in Washington, I have known few so dedicated in his work and his Nation. That work is far from over, especially now as we wander, seemingly dazed and uncertain, through an economic fog caused by Government's excessive belief in itself.

Arthur Burns pegs the blame for today's inflation squarely where it belongs: At the doorstep of intrusive Government. Yet, in his words, "inflation is a disease that can be conquered if people generally will make it their business to do so."

It is our business, Mr. President, and it must be every American's business. We must conquer inflation, not through some quick fix as those who urge price and wage controls would believe possible. No such instance exists. Instead, we must reconcile ourselves to painful solutions, to balancing the budget, to promoting productivity as a weapon against inflation's scourge.

We must develop an energy policy that leads us to the day when America is truly self-sufficient. But, first and foremost, we must make Government our servant, instead of the other way around. And, therefore, I would recommend the sober realities as presented by Arthur

Burns against all the rhetoric and promises so endemic to this political city. He shows us a way out of our current dilemma; we ignore his advice only at our own peril.

Mr. President, I ask that the following article be printed in the RECORD.

The article follows:

BLAME INFLATION ON GOVERNMENT

(By Arthur F. Burns)

Four years ago, when this year's graduating class entered college, our country was just beginning to recover from a severe business recession. Since then, our economy has rebounded with considerable vigor. The volume of our national production, the number of people having jobs, the flow of incomes to individuals, the profits of business firms have all greatly expanded. As far as skilled and experienced labor is concerned, our country is now enjoying full employment. To be sure, statisticians still report that many individuals are out of work. But such reports require careful interpretation. They include some people who are in the process of changing jobs; they include many uneducated and unskilled youngsters who are priced out of the labor market by our minimum wage laws; and they also include many individuals—both young and old—who find it agreeable to live off unemployment insurance, food stamps, and welfare checks. There is certainly no shortage of jobs today for enterprising, educated, ambitious men and women.

But while our nation has made huge gains in production and employment during the past four years, we have entirely failed to bring inflation under control. In fact, the rate of inflation has quickened during these years. During 1976, the consumer price level rose less than 5 percent; during 1977, the increase of prices reached 7 percent; during 1978, it reached 9 percent; and in the past few months consumer prices have moved up at a still faster rate.

The inflation that has been raging in our country is weakening the economy and posing a serious danger to our nation's future. Inflation is not only eroding the purchasing power of everyone's money income. It is also reducing the willingness to save. It is driving up the level of interest rates. It is affecting adversely both stock and bond prices. It is having capricious effects on the distribution of wealth and income. It is hitting many of the poor and elderly especially hard. It is frustrating much of personal planning—whether for retirement, or travel, or the education of one's children. It is increasing the risk premium that attaches to new business investments. It may before long lead to recession and extensive unemployment.

More ominous still, by causing disillusionment and breeding discontent, inflation is exciting doubts among people about themselves, about the competence of their government, and about the free enterprise system itself.

If inflation proceeds at an annual rate of 10 percent in the future, and it has been even faster so far this year, a dollar five years hence will buy only as much as 62 cents can now buy. Twenty years hence when many of this year's college graduates will have children entering college—a dollar will buy only as much as 15 cents today.

I am often asked how individuals can protect themselves against inflation. The awful truth is that no protection is available for the average man or woman. Wealthy individuals, to be sure, may be able to find an inflation hedge by diversifying their investments in real estate, foreign currencies, gold, commodities, jewelry, paintings, and the like. Moderately well-to-do individuals may for a time hedge against inflation by buying a home, or, if they already have one, by buying an additional house or apartment and renting it out. Most people, however, have only modest savings, and the best that they are generally able to do is to put their savings in a bank. But if inflation continues at anything like the rate of recent years, the interest they earn on their deposits will not even suffice to compensate for the loss of purchasing power caused by inflation. In other words, every dollar put in the bank will shrink in value, year after year.

I stress these facts because it is important that all of us, especially our young people, join the fight against inflation. Inflation is a disease that can be conquered if people generally will make it their business to do so.

There are many causes of inflation. Some arise from within a country, as when demands for goods and services exceed the available supply, or when workers press for increases in wages that exceed improvements in productivity, or when businessmen seek to enlarge their profit margins through higher prices. International factors play a role, as when oil-exporting countries raise the price of oil.

It is nevertheless the duty of our federal government under existing law to serve as the balance wheel of the economy, and that involves an obligation to restrain or to offset upward pressures on the general price level that arise in the private economy. Our government has performed this function badly in recent times; and it is therefore basically responsible for the persistent and unprecedentedly rapid inflation that has occurred in our country since the mid-1960s.

Federal spending first exceeded $100 billion in 1962. In other words, it took our nation about 175 years to reach that lofty expenditure level. But by 1971, federal expenditures already exceeded $200 billion, so that it took only nine years to lift spending by the second $100 billion. In 1975 federal spending passed the $300 billion mark, so that it took only four years to add still another $100 billion. In 1977 federal spending crossed the $400 billion mark, so that the fourth $100 billion was added in just two years.

Contrary to widespread opinion, this acceleration of federal spending has not been due to the cost of our national defense. On the contrary, national defense has been accounting for a shrinking fraction of the federal budget. The explosion that has taken place in federal spending since the mid-1960s reflects partly the inflation of costs and prices, but it is largely due to the proliferation of social programs—to more and more spending on education, health, community development, food stamps, income security, veterans benefits, and so on.

Federal spending is apt to be more inflationary than private spending, first, because government is typically less efficient; second, because government has encumbered itself with especially high labor costs; third, because monetary authorities cannot realistically offset an upsurge of federal spending to the same degree as an upsurge in private spending.

The relentless increase of federal expenditures of course led to higher taxes, and that in turn has retarded improvements in productivity that historically had served our nation by holding prices down. In addition, our federal government has proved itself incapable of limiting its spending to the amount it is prepared to raise in taxes. Year after year, both when business was good and when business was sluggish, our government has had to supplement its tax revenues by borrowing money. Not only has deficit finance become a chronic part of governmental practice, but the size of the deficits has increased sharply during the past decade.

When the federal government persistently runs deficits, it keeps pumping more money into the pocketbooks of people than it withdraws in taxes from their pocketbooks. This excess of money released by the government is bound to have its effects on prices in the marketplace. That is the way our current inflation was started in the mid-1960s and that is the major way in which it has been nourished since then.

Federal regulatory policies have also contributed fuel to the fires of inflation. By raising minimum wages, by raising farm price supports, by restricting imports from abroad, by imposing new and costly regulations on industry, our government has in effect legislated a heavy dose of inflation during the past few years.

An inflationary psychology now pervades our country. Businessmen, farmers, bankers, trade union leaders, factory workers, and housewives are generally proceeding on the expectation that inflation will continue to be our nation's way of life. Workers insist on higher wages to offset future increases in consumer prices as well as the increases they recently experienced. Employers are inclined to agree to substantial wage increases because they feel that their higher costs can be recovered through higher prices. Bankers insist on higher interest rates because they expect to be repaid in cheaper dollars. Borrowers are willing to pay the higher interest because they prefer to buy a house or an automobile now rather than later when prices will probably be higher. Besides, borrowers too are confident that they will be able to repay their loans in cheaper dollars. Thus, the process of inflation is now being fed by widespread and growing expectations that inflation will continue in the future.

We read in our newspapers of lively debates in Washington about whether the federal budget deficit should conform next year to the president's recommendation or be some $5 billion lower, or whether interest rates should remain at their present level or move up another one-fourth or one-half per cent. The differences involved in such debates about the desirable direction of our public policies are not unimportant. And yet, I dare say, the economic world would be much the same whichever of these alternatives for the budget or for interest rates was adopted.

In today's environment, if we are to make serious headway in the fight against inflation, it is first necessary to turn inflationary psychology around—that is, to make people feel that inflation can be, and that it probably will be, brought under control. Such a change in national psychology cannot be accomplished by marginal adjustments of public policy. In the present stage of inflationary fever, fairly drastic therapy is needed. In my judgment, a congressional commitment to a balanced federal budget would go a considerable distance in assuring the American people that our governmental bias toward larger spending and borrowing is finally being curbed and that we may therefore look forward to a dollar of more stable purchasing power.

Such expectations would be enhanced if our government simultaneously announced a clear-cut policy of dismantling or reducing much of the regulatory apparatus that has been running up costs and prices. I have in mind a wide range of reforms—such as rescinding the Davis-Bacon Act, which escalates construction costs, eliminating further increases in the minimum wage called for by existing law, establishing a substantially lower minimum wage for teenagers, eliminating or reducing farm price supports, eschewing new protectionist measures and weakening those now in force, reducing regulations that encumber the energy industry, trucking, and other branches of transportation, and lightening the heavy burdens imposed on business by overzealous health, safety, and environmental regulations. The cost-raising measures now imposed by our government cannot be swept away quickly or entirely; but the mere announcement of a comprehensive program of specific actions to restore freer markets would be psychologically constructive at this time.

Whether the administration's crumbling wage and price guidelines are worth shoring up is uncertain at best. But the chances of their making a modest contribution to solving the inflation problem might at least be improved if high government officials stopped saying that a 10 percent wage increase, such as was recently worked out in the trucking industry, is really a 7 percent increase, and if the president set a moral example for working people by reducing his own salary by, say, 10 percent and by calling on all political appointees and also on the members of Congress to do likewise.

By voting so decisively for Proposition 13, the citizens of California in effect demonstrated their disenchantment with the ever-expanding state and local spending programs that their legislators kept contriving. The example set by California has been followed by other states, and echoes of the newly articulated fiscal conservatism have even reached our National Capital. The American people have made it clear that they regard inflation as our country's Number One problem. The federal government has begun to respond to this national conviction, but the response as yet has not been sufficiently decisive. Much therefore remains for our citizens to do.

We, as a people, need to insist that the essential functions of our federal government be financed without injuring incentives to work, save, and invest. We need to avoid the temptation of calling upon our government to solve every economic and social problem through the expenditure of public funds.

We need to recognize that whatever dreams we may have of a good society, cannot be realized if our government fails to conduct its financial affairs responsibly.

And we need to become more energetically involved in the political processes of our nation—by helping to elect officials who demonstrate a keen and informed awareness of what inflation is doing to our country, by frequently communicating with our governmental representatives, and by holding them responsible for their actions. By becoming serious inflation fighters, we will help to assure a better future for ourselves, for our families, and for our country.●

INSURANCE SAFEGUARDS FOR THE ELDERLY

● Mr. CULVER. Mr. President, last week Senator BAUCUS and I introduced S. 1295, the Senior Citizen Health Insurance Reform Act of 1979. This legislation marks an important step toward protecting our elderly population from deceptive and unscrupulous tactics in the sale of health insurance. It would establish a voluntary program of certification for those companies who sell health insurance designed to supplement medicare and would stiffen penalties for certain unethical sales practices by insurance companies and agents.

Numerous studies and investigations in recent years have documented what may well be a $1 billion a year fraud in the sale to senior citizens of health insurance policies that are supposed to supplement medicare coverage. Instead of filling the gaps in medicare benefits, much of the insurance sold to the elderly merely duplicates coverage already held and returns as little as 20 cents in benefits for every dollar paid.

Within the past year, both the House and Senate Committees on Aging have uncovered numerous cases in which senior citizens were duped into buying 10, 20, as many as 70 policies. Their life savings have been consumed by annual insurance premiums in the thousands of dollars as a result of high-pressure sales tactics and misrepresentations that are often used to prey on the aged. In many instances, elderly victims found that in spite of all their premiums and all their policies, a variety of escape clauses in their contracts left them with little or no additional coverage.

In July 1978, the Federal Trade Commission (FTC) reported that one-quarter of our elderly who attempt to purchase extra insurance to cover medicare gaps are actually sold unnecessary, costly and overlapping coverage. The report pointed out that lack of consumer information, unscrupulous sales tactics by some firms and agents, and a lack of uniformity in policies had created considerable confusion among consumers and caused higher health costs for elderly persons living on fixed incomes.

While incomes have risen slowly if at all for most elderly citizens, health care costs have skyrocketed. In 1966, the year that medicare went into effect, older Americans paid an average of $445 per capita for health care. By 1977, annual per capita expenditures for health care among the aged had increased to $1,738. During this period medicare's share of the health care bill decreased from 46 to 38 percent, leaving the elderly with nearly four times the dollar exposure to health care costs as was the case in 1966.

In an attempt to offset the potentially bankrupting effect of a catastrophic illness, most senior citizens have turned to private health insurance policies to supplement their medicare coverage. Two-thirds, or 15 million out of 23 million older Americans, have such a policy, sometimes called medigap insurance. It is not uncommon for the elderly to purchase more than one policy, nor is it uncommon for insurance salesmen to try to sell more than one policy to an older person. Many elderly are persuaded that if one extra policy provides this much protection, surely two, or three, or four, will meet all their needs.

Unfortunately, it does not work that way. And it does not work that way by design. Many policies contain fine print which says that only one policy will pay in the event of an illness, the result being that elderly who are paying premiums on several policies can only collect benefits under one of them. Another favorite ploy is the preexisting condition clause which postpones for as long as 2 or 3 years the effective date of coverage for previous illnesses. In the meantime, some agents will return to the policyholder and convince him or her that a new, "better" policy is needed. The waiting period, then, starts over again.

Mr. President, while it may not be possible to guarantee that no elderly person is sold an unneeded health insurance policy or one that fails to provide all the needed benefits, it certainly is possible to reduce substantially the fraud and abuse that currently exists in the medigap insurance field. The legislation Senator BAUCUS and I have proposed addresses the major weaknesses in existing protections for the elderly as they attempt to obtain coverage for their health care needs. These shortcomings included a lack of information concerning the actual value of the hundreds of supplemental health insurance policies available in the market and inadequate protection against unscrupulous tactics by companies and agents selling such policies.

S. 1295 calls upon the Secretary of Health, Education, and Welfare to establish Federal minimum standards and to certify those policies which conform with these standards. The insurance companies could then advertise this Federal certification and display an emblem approved by the Secretary. This would provide the elderly considering medigap policies a standard by which to judge and an assurance that at least the policy they are considering is not deceptive.

Even good policies can be presented in a deceptive manner, however, and can lead to high premiums for duplicative coverage. To address the problem of unethical sales practices, this bill institutes Federal criminal penalties for those who knowingly sell a health insurance policy to a person eligible to participate in a Federal health insurance program, such as medicare, when such a policy substantially duplicates insurance protection already owned. It also makes it a felony for any salesman to pretend to be a representative from medicare as a means of getting in the door or inducing the elderly to buy insurance. In addition, the bill makes it illegal for a company to sell insurance through the mail which has not been approved by the appropriate State insurance commissioner. This later provision was requested by a number of State insurance commissioners to help them keep substandard policies out of their jurisdictions.

The evidence of abuses accumulated by the House and Senate Aging Committees and other Federal, State, and private investigations is overwhelming. Iowa insurance commissioner, Herbert Anderson, in responsing to a recent questionnaire sent out by the House Select Committee on Aging, indicated that his office has received complaints on a wide variety of deceptive and illegal practices that have been inflicted upon Iowa's elderly by insurance agents and companies. These abuses are particularly prevalent among senior citizens living in rural areas where health care fears are heightened by lower access to medical facilities and where a lifetime of self-reliance makes the elderly perhaps more inclined to preserve their independence by supplementing medicare through private insurance.

These individuals are also less likely to have access to group health plans and other independent supplemental benefit plans available to their urban counterparts. Since it is the individual health insurance policies in which most abuses are found, and since rural elderly have few options to individual plans if they wish to supplement their medicare benefits, the protections proposed by the

Senior Citizens Health Insurance Reform Act are particularly important to this highly vulnerable, highly targeted segment of our elderly population.

Not all senior citizens are touched by these abuses nor are most insurance companies or agents guilty of the kinds of misleading and fradulent practices that have been brought to light. But these abuses are too prevalent and too costly to the Nation's elderly for us to delay action on these much-needed reforms. I hope Congress will move swiftly to enact this legislation.●

ZIMBABWE-RHODESIA

● Mr. BELLMON. Mr. President, as the Senate knows, the people of Zimbabwe-Rhodesia have participated in their first relatively free elections. Compared to the way many current governments came into power, the process was exemplary. Regrettably, President Carter has declined to recognize the legitimacy of the new black-white coalition government and has refused to end our participation in economic sanctions against the African nation.

Considerable amounts of rhetoric have poured forth from the White House in an attempt to explain the President's position. The alleged rationale behind President Carter's refusal to end sanctions against Zimbabwe-Rhodesia centers around a professed belief that the elections were not free because one minority party did not win as many seats as desired. Obviously, this argument is absurd, and the Senate voiced this opinion in its recent vote on the resolution concerning this question.

Mr. President, I would like to be so bold today as to suggest that the President of the United States has a much more fundamental reason for his decision to ignore the strides toward self-government made by the people of Zimbabwe-Rhodesia. Looking at world events, reviewing the economic condition of the United States, sensing the national apprehension concerning our energy supply, and reading between the lines of President Carter's statement about this matter, I say the reason the administration will not recognize Zimbabwe-Rhodesia or lift the sanctions is because the opponents of that southern African nation have us over a barrel—an oil barrel to be exact.

During the past 6 years, the United States has increased its appetite for foreign crude oil from about 20 percent of our needs to nearly 50 percent of our needs. We, the largest user of energy in the world, are dependent on the good will of foreign nations for our energy supplies—in fact, for our way of life. All of us in this body are aware of the part the OPEC nations play in the international petroleum market. Today, we are waiting in service station lines to purchase our $3-limit of gasoline in part because one OPEC nation has fallen to revolutionaries who will not or cannot meet production schedules.

And today also, we are waiting in line—or at least the administration is waiting in line to learn what amount of independence we will be allowed to exercise in our foreign policy decisions concerning Africa. If we are too independent, we face the potentially disastrous cutoff of oil supplies from Nigeria, the OPEC nation which provides us with the second largest portion of our imported oil. This, then, is the real reason President Carter has chosen to continue sanctions against Zimbabwe-Rhodesia. Similar potentially paralyzing constraints await U.S. foreign policymakers in other parts of the world in the immediate future.

Our fuel dependency also has made it impossible for us to act assertively in the Middle East to bring an end to life-threatening tensions. We fear the stemming of the crude oil tide from Saudi Arabia, our largest oil supplier.

We have allowed the United States to become a "have-not" nation kowtowing to the "have" nations; yet, our Nation has a 1,000-year supply of energy reserves in the ground waiting to be developed. All that is needed is the economic incentive, freedom from Government redtape and capital to do the job.

Mr. President, I do not wish to strut about this Chamber saying, "I told you so," but I have to say that this result was predicted when the Federal Government shortsightedly clamped the manacles of control on oil and gas production. Our budding subservience to the oil-exporting nations will continue to grow until our domestic energy production increases to meet a greater portion of our demand. The first step toward independent foreign policy was taken when the President decided to allow the controls in the Energy Policy and Conservation Act to expire over the coming 18 months.

The lifting of controls will not open a floodgate on increased energy production overnight. Much time will pass before U.S. exploration and production will make up for the supplies we lost to inaction over the past 6 years. But if market forces are allowed to act, we will get to the point where we can again supply the bulk of our own energy needs and where we can again decide our foreign policy independent of the whims and aspirations of other nations.

The one thing I see coming which could slow our advance is the imposition of a so-called excess profit tax. Billions of dollars will be needed to bring on the additional energy production our country must have. For proof of this, we need only to look at the multibillion-dollar costs incurred on the North Slope of Alaska or in the North Sea of Europe before 1 barrel of oil flowed to market. Let us not destroy the momentum the President has created by imposing a so-called excess profits tax which will take essential funds away from energy production. We too dearly need the direct benefit of domestic energy supplies and the indirect benefit of international independence which is the keystone of a great nation.●

THE EFFECTS OF ERISA ON CHURCH PENSION PROGRAMS

● Mr. TALMADGE. Mr. President, on May 7, I introduced S. 1090, S. 1091, and S. 1092, bills to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 with respect to church plans. At that time, I had inserted in the Record a number of letters I had received from interested church groups. Since the bill was introduced, I have received some additional letters, and ask that they be printed in the Record.

The letters follow:

Church of the Brethren,
Elgin, Ill., April 30, 1979.

Regarding: Church Plans.

Senator Herman E. Talmadge,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Talmadge: The Church of the Brethren Pension Plan is one of over twenty-five religious denominations which share a mutual concern about the effect of ERISA on traditional church pension programs. We have expressed individually and through our Church Alliance for the Clarification of ERISA these concerns.

We appreciated very much your introducing and co-sponsoring legislation with Senator Lloyd Bentsen last year designed to clarify the church plan definition of ERISA and to allow denominational workers to have greater retirement annuity benefits.

Your introducing and co-sponsoring legislation supported by the Church Alliance for the Clarification of ERISA during the current session of the Senate would be most appreciated.

Sincerely,

Joel K. Thompson,
Executive Secretary,
Church of the Brethren Pension Board.

The Wesleyan Pension Fund, Inc.,
Marion, Ind., May 4, 1979.

Senator Herman E. Talmadge,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Talmadge: Every religious organization that has been around very long has a church pension plan. In fact should you research the records you will find that the church actually pioneered providing for the aged and widows. When you understand the nature and commitment of the institution plus the desire of the church to be fair to the social and economic teaching you will understand why we honor our men by providing for their retirement needs.

"By and large these institutions are served by devoted persons who make sacrifices, rarely own property, live on limited income and serve wherever they are called. Early in our history, the need arose for provisions for them that come from their age or disability or their survivor at the time of death. Consequently, church pension plans are older than the life insurance industry in the United States.

The denomination I serve is one of the youngest church communions and our board began its operation in 1947 and has operated under charter here in Indiana. Because of certain things included and also omitted in the employee retirement and income security act of 1974 better known as (Erisa), the denomination, along with most other denominations, has become increasingly aware of the effect that is occurring upon our church pension plan and benefit programs. The effect is a strange one. As a matter of fact, in regard to vesting and funding, our plan exceeds the requirements expected under Erisa. However, in regard to reporting requirements in relationship to units serving the church in its various benevolence, missionary and any educational outreach the law has now tended to separate us from almost a half of a century of service such as institutions by 1982. In addition to that, there are other injustices placed upon church employees by not according to them retroactive computation advantages for their employees to build up their pension in their final years, that are important to employees of other institutions. We are grateful to you and to Senator Bentsen as well as Representative Conable of New York for introducing legislation in the last session. We are calling upon many of concerned Senators and Representatives to join you.

Along with representatives of some 25 or 30 other denominations participating in the Church Alliance for clarification of Erisa, we have been attempting to express the mutual concern that we have no record of church organization, of this broad base, Catholic, Protestant or Jewish, in order to make such a presentation to those who can correct the situation by legislation.

Your introduction and cosponsoring the legislation needed in this situation is most appreciated. Should I be of assistance in any way please let me know.

Very truly yours,
JOHN E. STOREY,
Executive Secretary.

BOARD OF PENSIONS OF THE
CHURCHES OF GOD,
Findlay, Ohio, May 1, 1979.
Re: Church Plans.
Senator HERMAN E. TALMADGE,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR TALMADGE: The General Eldership of the Churches of God in North America had it's beginning in 1825 in the State of Pennsylvania and was incorporated in 1867 by a special act of incorporation by the General Assembly of the State of Pennsylvania. This charter was amended in 1885, 1903 and 1968. There was an amended name change to Churches of God, General Conference, in January 1975.

For a number of years we had small individual State Conference plans, but in 1971 these were all placed together into one plan to cover all pastors and churches associated with the Churches of God. The purpose was "to operate and administer the Church Pension Plan of the Churches of God in North America, for the Administrative Council of the Churches of God in North America."

We deeply appreciate your introduction and co-sponsoring legislation with Senator Lloyd Bentsen last year to clarify the church plan definition of ERISA and to allow denominational workers to have greater retirement benefits.

We would encourage you to re-introduce such legislation in the present sessions of the Senate.

Our denomination, Churches of God, General Conference, is one of the oldest in the United States, but we have been small in size. Therefore, we have the problem of our pastor moving from the pastorate of a local church to an Administrative role in our denomination, or to our single educational institution and then back to the pastorate. This creates unbearable difficulties for our retirement plan under present ERISA guidelines. We need your support in definition of "Church plan" so that church related agencies are recognized as part of a church or convention of churches and entitled to participate in a church plan.

Our churches, along with the other members of the Church Alliance for Clarification of ERISA encourages your introducing and co-sponsoring the legislation in this session of the Senate.

Sincerely,
DARRELL PRICHARD,
Administrative Office,
Board of Pensions.

THE BOARD OF ANNUITIES AND RELIEF,
Atlanta, Ga., April 20, 1979.
Senator HERMAN E. TALMADGE,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR TALMADGE: The Presbyterian Church in the United States was born in Augusta, Georgia in 1861. Since that time, it has maintained offices in the State of Georgia. Presently its national headquarters are located at 341 Ponce de Leon Avenue, N.E., Atlanta.

The Pension Agency of this Church is the Board of Annuities and Relief. It administers pension programs for all our ministers and their dependents, as well as for all other church employees. Health care and assistance programs are also administered by this Board.

You and Senator Lloyd Bentsen of Texas, in 1978, introduced and co-sponsored Senate legislation designed to correct for Church Pension Plans certain problems created by the Congress' enactment in 1974 of the Employee Retirement Income Security Act. The church people of America were grateful for your concern and support in this matter.

Because the last Congress did not get to this matter, we again invite and urge you to introduce and co-sponsor, perhaps with Senator Bentsen, the same or similar legislation designed to clarify the church plan definition of ERISA, enabling denominations to provide greater retirement annuities than they otherwise may. You doubtless know that the need is for "legislation to amend Section 3(33) of the ERISA of 1974 and Section 414(e) of the Internal Revenue Code of 1974 relating to the definition of 'church plan' so that church-related agencies like this Board are recognized as part of a church or convention of churches and entitled to participate in a church plan."

The Honorable Barber Conable, Jr. of New York has already in this session reintroduced legislation in the House of Representatives in the form of H.R. 1576, 1577 and 1578.

Unless there is some relief from ERISA, our Church Plans, long established and often 100% funded, will be reduced in membership as well as in potential benefits. Presbyterians are greatly concerned about the 1982 required removal of employees of church agencies from such plans. Also, ministers on study leave or special assignments may be unable to continue pension participation. There is great concern over losing Church Plan status, either by mistake or default, and therefore never being able, because of IRS proposed regulations, to regain it. Increased cost of legal, actuarial and audit fees, adding nothing to the soundness of the Plans as a result of ERISA, will greatly reduce benefits to annuitants.

In consideration of these and other factors, our church people in Georgia, as well as across America, will be grateful for the reintroduction of last year's legislation on this subject.

With my very best personal wishes to you at this time, I am

Cordially yours,
CHARLES C. COWSERT,
Executive Secretary.

CHURCH OF THE BRETHREN,
Elgin, Ill., April 30, 1979.
Regarding: Church Plans.
Senator HERMAN E. TALMADGE,
Russell Senate Office Bulding,
Washington, D.C.

DEAR SENATOR TALMADGE: The Church of the Brethren Pension Plan is one of over twenty-five religious denominations which share a mutual concern about the effects of ERISA on traditional church pension programs. We have expressed individually and through our Church Alliance for the Clarification of ERISA these concerns.

We appreciated very much your introducing and co-sponsoring legislation with Senator Lloyd Bentsen last year designed to clarify the church plan definition of ERISA and to allow denominational workers to have greater retirement annuity benefits.

Your introducing and co-sponsoring legislation supported by the Church Alliance for the Clarification of ERISA during the current session of the Senate would be most appreciated.

Sincerely,
JOEL K. THOMPSON,
Executive Secretary,
Church of the Brethren Pension Board.●

WINDFALL PROFITS AND SOCIAL SECURITY TAX RELIEF

● Mr. ROTH. Mr. President, when the Senate Finance Committee begins its consideration of the windfall profits tax, I intend to propose an amendment to use a portion of the tax revenues from decontrol and the windfall profits tax to roll back social security taxes.

I believe it is now apparent the President's plan to decontrol domestic oil prices will not be blocked by Congress. I believe it is also likely that some form of windfall profits tax will be enacted.

I support a windfall profits tax and I believe the tax can be restructured to make it tougher than the President's proposal. A stiffer windfall profits tax could be achieved by broadening the tax base. By phasing out the amount of oil subject to the tax at a slower rate, a tougher tax would be imposed on old oil. Careful consideration should also be given to the treatment of new oil. The basic question is what effect if any the OPEC tax would have on new exploration and production.

Properly drafted, a revised windfall profits tax and a social security tax rollback would promote energy conservation and production and offset the drag on the economy.

Unless action is taken, the higher oil prices and increased social security taxes will deliver a one-two punch to all Americans. The higher taxes and energy prices will further increase inflation and impose a tremendous drag on the economy.

Under the present law, the already high social security taxes are schedued to increase substantially in 1981. The tax rate is scheduled to increase from 6.13 to 6.65 percent and the wage base will increase to $29,700. The maximum social security will increase from $1,404 to $1,975, a tax increase of $571.

The budget resolution just adopted by the Senate assumes these tax increases will go into effect as scheduled. I think this is a mistake. I believe these tax increases can be rolled back without jeopardizing the financial stability of the social security system.

A tough windfall profits tax and the higher corporate income taxes resulting solely from decontrol would raise at least $50 billion between 1980 and 1984. Approximately $35 billion of this revenue could be used to roll back the higher social security taxes facing the American people in 1981 and 1982.

I also believe consideration should be given to channeling the balance of the decontrol revenues into a crash research and development project on alternative forms of energy. Special emphasis should be given to a program to increase the gas efficiency of cars.

In addition, we must insure that the increased oil company profits not subject to the windfall profits are used to increase energy supplies for the American people.

This type of package would be much more effective than the President's proposal, which would provide more money for increased spending by bureaucrats at the Department of Energy.

Mr. President, my proposal would provide relief to consumers and promote energy conservation and production. The social security tax rollback will offset the inflationary impact of decontrol and ease the impact of higher oil prices on the economy. Increased research and development funding will promote alternative forms of energy, and a properly drafted windfall profits tax will insure that decontrol leads directly to increased energy production.●

REPORTING REQUIREMENTS UNDER S. 2, THE PROPOSED SUNSET ACT OF 1979

● Mr. **BUMPERS**. Mr. President, last Thursday I testified before the Governmental Affairs Committee against S. 2, the sunset legislation.

I had previously asked the Congressional Service to prepare an analysis of the reporting requirements of S. 2, and I would like to bring this report to the attention of Senators and staff.

There can be no question that the paperwork that would be generated under sunset would be staggering, and the costs exorbitant. Any Senator who is concerned about the needless proliferation of reports that can only contribute to a growth in the executive and congressional bureaucracy ought to examine this report.

Mr. President, it is becoming increasingly evident that S. 2 is the bureaucratic response to the bureaucracy. It represents an admission that we are not exercising our oversight responsibilities, but says, in effect, if the executive branch will generate a few more trainloads of paper, we will examine it.

Mr. President, I submit for printing in the Record the Congressional Research Service analysis.

The analysis follows:

Reporting Requirements Under S. 2, the Proposed Sunset Act of 1979

S. 2, the proposed "Sunset Act of 1979," was introduced on January 15, 1979. In its central thrust, the legislation provides that most Federal programs would be subject to automatic termination unless Congress voted to reauthorize them after a comprehensive review undertaken over a 10-year schedule. Detailed procedures for the review are set forth in the bill. This analysis focuses on some implications of such a review for the institutions responsible for conducting it. Reporting requirements of the bill for administrative departments and agencies, the President, congressional committees, and the congressional support agencies are described.

ADMINISTRATIVE DEPARTMENTS AND AGENCIES

1. The Office of Management and Budget (OMB) and the departments and agencies shall assist the General Accounting Office (GAO) in compiling a comprehensive inventory of Federal programs. (Sec. 203)

2. Not later than six months before the completion date for congressional reexamination reports on a program, each affected department and agency shall submit to OMB and the appropriate House and Senate committees a report on the program with respect to eight topics: program objectives; relevant emerging trends; any conflicting or duplicative programs; the number and types of the program's beneficiaries; the program's overall effectiveness; its cost-effectiveness; relative merits of achieving the program's purposes by other means; and information on the program's impact on regulation, privacy, and paperwork. (Sec. 302(d) OMB shall submit comments on this report as it deems appropriate to the committees. (Sec. 303(a))

3. For programs reviewed by committees in 1981, the committees and department or agency may "provide for a more appropriate time for submission of the report. . . ." (Sec. 303(b))

4. The Commission on the Organization and Operation of Government established by S. 2 is authorized to request all available information useful to its work from departments, agencies, independent instrumentalities, or other executive authorities. (Sec. 405(c))

5. The Commission shall be subject to the Federal Advisory Committee Act, including its reporting requirements. (Sec. 410)

6. The OMB Director shall provide the President with an evaluative report to be forwarded to Congress with the Presidential Management Report that ranks Federal programs. (Sec. 602(a)) In the OMB report, the Director shall identify any programs that are contradictory to other Federal programs and recommend corrective legislation. The Director shall also recommend termination or modification of any programs whose relative ineffectiveness no longer justifies continued Federal expenditures or justifies only a lower level of Federal expenditures. (Sec. 602(b))

7. The Budget and Accounting Act (31 U.S.C. 15) is amended to require the submission of agency budget requests at the initiative of any congressional committee, at any time after the day when the president transmits the budget to Congress. (Sec. 701)

8. Nothing in S. 2 shall require public disclosure of matters made secret and properly classified by Executive order in the interest of national defense or foreign policy, or which are otherwise specifically protected by law. Nothing in the Act shall require any Senate committee to disclose publicly information governed by S. Res. 400, 94th Congress, or any other Senate rule. (Sec. 702)

9. Upon request, heads of any administrative agencies shall provide to Senate and House committees with legislative jurisdiction over a program being reviewed such studies, information, analyses, reports, and assistance as the committee may request. (Sec. 704(a)(1))

10. Not later than six months before the first reauthorization date for a program under the Act, the head of any agency who is requested by a Senate or House committee shall review the agency's current regulations that the committee specifically has requested be reviewed and shall submit a report to the Senate or House, setting forth the regulations that agency intends to retain, eliminate, or modify if the program is reauthorized, and stating the basis for its decision. (Sec. 704(a)(2))

11. On or before October 1 of the year preceding the Congress in which a program's reauthorization date occurs, the President shall submit to Congress a Regulatory Duplication and Conflicts Report for all such programs scheduled for reauthorization in the next Congress. (Sec. 704(b)(1)) Each Regulatory Duplication and Conflicts report shall identify duplication or conflict in Federal regulatory policies and in Federal regulatory policies vis-a-vis State or local governments' policies; it shall contain recommendations addressing the conflicts or duplications. (Sec. 704(b)(2))

THE PRESIDENT

1. The Commission shall be subject to the Federal Advisory Committee Act, thus extending the President's reporting responsibilities under that law. (Sec. 410)

2. Not later than the first day of February in the first session of the 97th, 98th, 99th, and 100th and 101st Congresses, the President shall submit an anlysis and plan for the reform of 16 regulatory agencies, grouped by functional subject area. Dates and groupings are specified in S.2. (Sec. 502(a)) Information to be included in the plan is spelled out, as well. (Sec. 502(b)) The legislative plan shall include specific legislation and may include eight specific kinds of recommendations listed in the bill. (Sec. 502(c)) Along with each plan submitted by the President, the Chief Executive shall report and make recommendations on the cumulative impact on four specific industry groups of all Government regulatory activity reviewed to that date. (Sec 502)(f)

3. At the beginning of the 97th Congress and every two years thereafter, the President shall submit to Congress a report on the management of the executive branch on the same day that the budegt is transmitted to Congress. (Sec. 601(a)) The Management Report shall rank programs' effectiveness as "excellent," "adequate," and "unsatisfactory," and compare them to all other programs in that agency. Ranking shall be based on statutory design, effectuation, and management. (Sec. 601(b)). The Management Report shall include the President's reasons for the program designations and rankings. (Sec. 601(c)) It shall include a list of the programs or areas the President recommends for administrative or congressional improvement during that Congress. (Sec. 601(d)) The Report shall include the OMB Director's report and recommendations on management. (Sec. 601(e)) The President may submit additional reports to Congress supplementing or revising his recommendations in the Management Report. The OMB Director may submit supplementary reports to the Presidents as well. (Sec. 603)

4. On or before October 1 of the year preceding the Congress when a program's reauthorization date occurs, the President shall submit to Congress a Regulatory Duplication and Conflicts Report for all programs schduled for reauthorization in the next Congress. The Report shall identify duplicative or conflicting Federal regulatory policies and Federal regulatory policies that duplicate or conflict with State or local rules or policies. The Report shall make appropriate recommendations. (Sec. 704(b))

CONGRESSIONAL COMMITTEES

1. Each congressional committee reporting a bill or resolution authorizing new budget authority for a program not included in the

Fiscal 1979 budget shall include in its report a statement of the functional and subfunctional category to which the program is assigned for purposes of the Sunset Act. Where appropriate, conferees shall include a similar categorization in their joint statement on the bill or resolution. (Sec. 3(b))

2. Each committee with legislative jurisdiction over a program exempted from review under the Sunset Act shall review and report "to the extent that the committee deems appropriate" on the program at least once during each sunset reauthorization cycle, during the Congress in which the applicable reauthorization date occurs. (Sec. 102(c))

3. The committees with legislative jurisdiction over affected program and the House Committee on Rules and the Senate Committee on Rules and Administration shall have jurisdiction over all measures proposing changes in reauthorization dates and exemptions under the Sunset Act. (Sec. 104(c)) The respective Rules Committees shall report with recommendations any such measures previously reported favorably by the authorizing committees within 30 days (not counting days when the Senate or House is not in session), beginning the day after measure is referred. (Sec. 104(d)) The Rules Committees' recommendations shall include statements concerning the effect of the proposed change on the sunset reauthorization schedule, the effect on jurisdictional and reauthorization responsibilities and workloads of congressional authorizing committees, and any suggested grouping of similar programs to make more effective conversions. (Sec. 104(e)) Any such proposed changes reported by a committee before July 1, 1980, shall be referred to the respective Rules Committees, which shall report an omnibus measure with recommendations by August 1, 1980. (Sec. 104(f))

4. The inventory of Federal programs established by the Sunset Act shall not in any way bind the committees under the Act and shall not infringe on their legislative and oversight responsibilities. (Sec. 201(b))

5. Each Senate and House Committee shall review the draft program inventory and advise GAO of any recommended revisions by March 1, 1980. In consultation with the committees, GAO shall report a revised program inventory by May 1, 1980. (Sec. 204)

6. After the Director of the Congressional Budget Office (CBO) has compiled a list of all laws related to programs subject to reauthorization, the authorizing committees shall study the list and make any recommendations they consider appropriate. (Sec. 205(c))

7. Each Senate and House committee shall conduct a comprehensive reexamination of selected programs within its jurisdiction. (Sec. 301(a)) In selecting programs for review, each committee shall consider the length of time the program has been in effect, the extent to which it appears to require significant change, available committee resources for reexaminations across a broad range of programs, and the desirability of examining related programs concurrently. (Sec. 301(b))

8. The 1981 funding resolution and similar resolutions for the first session of each Congress initially reported by each Senate committee shall include a plan for program reexamination, including programs to be reexamined and reasons for selecting them; scheduled completion date (no later than the end of the Congress preceding the reauthorization date in the Act, unless the committee provides a special explanation, except that programs selected for the 96th Congress may be submitted at any time until February 15, 1982); and estimated cost. Beginning in 1981, the report accompanying the funding resolution for the first session of each Congress shall include in its reexamination plan a description of the components of reexamination and a statement of who will conduct the reexamination. (Sec. 302(a))

9. To coordinate program reexamination, each committee shall in preparing its plans consult with appropriate Senate and House committees and inform itself of related activities by the congressional support agencies and administrative agencies. (Sec. 302(b))

10. Each committee shall prepare and have printed a report on each program reexamination. (Sec. 302(c)) It shall set forth findings, and shall include to the extent the committee deems appropriate: program objectives; relevant emerging trends; programs with potentially conflicting or duplicative objectives; number and types of program beneficiaries; program effectiveness; program cost-effectiveness; relative merits of alternative methods of achieving the program's objectives; and program impacts on regulation, privacy, and paperwork. (Sec. 302(d))

11. The final report of the Commission on the Organization and Operation of Government shall include the comments of the appropriate congressional committees. (Sec. 403(b))

12. Nothing in the Act shall require public disclosure of matters specifically and properly classified by Executive order to be kept secret in the interest of national defense or foreign policy or otherwise protected specifically by law. Also, nothing in the Act shall require any Senate committee to disclose publicly information whose disclosure is governed by S. Res. 400, 94th Congress, or any other Senate rule. (Sec. 702)

13. Agencies shall provide congressional authorizing committees such studies, information, analyses, reports, and assistance as the committees may request. No later than six months before the first reauthorization date for a program, the administrative agency, when requested by a Senate or House committee, shall review current regulations and report on the agency's intention to retain, eliminate, or modify the regulations if the program is reauthorized. On or before October 1 of the year before the Congress of program's reauthorization date, GAO shall furnish each Senate and House authorizing committee with a list of prior program audits and reviews completed during the previous six years. The congressional support agencies shall furnish to each congressional committee any information, analyses, and reports it requests to assist in conducting program reviews or evaluations. (Sec. 704(a))

14. The President's Regulatory Duplication and Conflicts Report shall be referred to the authorizing committees with jurisdiction over the affected programs. (Sec. 704(b)(3))

15. The chairman of the authorizing committee with jurisdiction over a program shall introduce a required reauthorization waiver resolution not later than the fifth day (not counting days when the Senate or House as the case may be, is not in session) when either of the following occurs: a bill authorizing new budget authority for the program has been under consideration for at least 15 hours, without an agreement to limitation of debate; or the President has vetoed and either House has sustained the veto of a bill authorizing enactment of new budget authority for the program. (Sec. 705(b)) The waiver resolution shall be referred to the appropriate authorizing committee, except that after September 1 of the second session of a Congress the committee shall be automatically discharged and the resolution placed on the appropriate calendar. (Sec. 705(c))

16. The Senate Committees on Governmental Affairs and on Rules and Administration and the House Committees on Government Operations and on Rules shall review and report on operation of procedures established by the Act not later than December 31, 1986, and each five years thereafter, setting forth their findings and recommendations. (Sec. 706).

CONGRESSIONAL SUPPORT AGENCIES

1. The Comptroller General and Director of the Congressional Budget Office, in cooperation with the Director of the Congressional Research Service (CRS), shall prepare an inventory of Federal programs. (Sec. 201(a)) The Comptroller General shall compile and maintain the inventory, and CBO shall provide budgetary information. (Sec. 201(b)) Not later than January 1, 1980, the Comptroller General, after consultation with CBO and CRS, shall submit the program inventory to the Senate and House. (Sec. 201(c))

2. GAO, in consultation with CBO, shall group each program into one functional and one subfunctional category only, consistent with the structure of the 1921 Budget and Accounting Act. (Sec. 201(d))

3. The program inventory shall set forth for each program: Specific provisions of law authorizing the program; authorizing committees with jurisdiction; a brief statement of purpose(s); committees with jurisdiction over legislation providing new budget authority for the program; administering agency and, if applicable, its subdivision; any grants-in-aid provided by the program; its next reauthorization date; a unique identification number liking the program to the functional category structure; the year the program was established and the year, if any, when it expires; where applicable, the year new budget authority was last authorized and when current authorizations expire. (Sec. 201(e)) The inventory shall contain a separate table listing programs not required to be reauthorized by sunset procedures (Sec. 201(e))

4. As determined by CBO, the program inventory shall set forth whether new budget authority for each program is authorized for a definite period, authorized in a specific dollar amount but without time limit, authorized without time or dollar limit, not specifically authorized, or permanently provided (Sec. 201(g))

5. For each program or group of programs CBO shall provide the following information: Amounts of new budget authority authorized and provided for each of the four preceding fiscal years and where applicable, the four succeeding fiscal years; the program's functional and subfunctional category currently and in the fiscal 1979 budget; its identification code and appropriation account title. (Sec. 201(h))

6. GAO, CRS, and CBO shall permit mutual exchange of information to aid in compiling the program inventory. (Sec. 202)

7. Each Senate and House committee, CBO, and CRS shall review the draft program inventory and not later than March 1, 1980, advise GAO of any recommended changes. Not later than May 1, 1980, GAO in consultation with the Senate and House committees shall report a revised program inventory to the Senate and House. (Sec. 204)

8. After the close of each session of Congress, GAO shall revise the program inventory and report the revisions to the Senate and House. (Sec. 205(a))

9. After the close of each session, CBO shall prepare a report, for inclusion in the revised inventory, on each program (previously existing and new), including the amount of newly authorized budget authority and the amount of new budget authority for the current and each of the five succeeding fiscal years. If no new budget authority is authorized or provided, or is authorized or provided for in indefinite amount, CBO shall make projections based on the amount needed to maintain current services. (Sec. 205(b))

10. Not later than a year after the first or

any subsequent reauthorization date, CBO, in consultation with GAO and CRS, shall compile a list of provisions of law related to all programs subject to reauthorization date for which new budget authority was not provided, to be included in the preceding report. (Sec. 205(c))

11. GAO and CBO shall include in their respective reports an assessment of the adequacy of the functional and subfunctional categories for grouping programs. (Sec. 206)

12. CBO shall tabulate and issue an annual report on measures reported by a committee of either House that authorize enactment of new budget authority for programs. (Sec. 207(a)) If shall include an up-to-date tabulation for the fiscal year and the succeeding four fiscal years of the amounts of budget authority authorized by law or proposed in any measure reported by a Senate or House committee, or the amounts necessary to maintain current services for programs in the inventory. (Sec. 207) (b))

13. CBO shall issue period reports on programs and laws scheduled for reauthorization in each Congress. The reports shall identify each provision of law authorizing enactment of new budget authority and the title of the appropriation bill that would provide new budget authority. (Sec. 207(c))

At least once every year for two years after submission of the final report of the Commission on the Organization and Operation of Government, GAO shall report to Congress on the status of actions taken on its report. (Sec. 403(c))

15. GAO and CBO shall submit along with the required analysis of regulatory agencies a report assessing each of the agencies to be included in the President's reform plan. (Sec. 503(a))

16. GAO and CBO shall submit not later than June 1 of each year in which a Presidential regulatory reform plan is submitted a complete and thorough analysis of the plan. (Sec. 503(b))

17. On or before October 1 of the year before a program's reauthorization date, GAO shall furnish to the authorizing committees a list of prior audits and reviews of the program during the preceding six years. (Sec. 704(a) (3))

18. GAO, CBO, OTA, and CRS shall furnish to each Senate and House Committee any information, analyses, and reports that the committee may request to assist in reviewing or evaluating programs. (Sec. 704 (a) (4)) ●

THE RECYCLING OF AMERICA

● Mr. STAFFORD. Mr. President, in 1976, Congress enacted the Public Buildings Cooperative Use Act (P.L. 94–541). The cornerstone of that law is the authorization for the acquisition and recycling of older buildings, where appropriate, into new Federal office space.

In its current issue, Time magazine carries an interesting article examining the resurgent interest in new uses for older buildings.

Not long ago, another major publication, the Washington Post, carried a column by Neal R. Pierce entitled, "Making the Feds Good Neighbors." This column analyzed the accomplishments of former General Services Administrator Jay Solomon in areas such as the acquisition and conversion of historical buildings for new Federal office space.

Because of the wide interest in this issue, Mr. President, I ask that these two articles be printed in the Record.

The articles follow:

[From Time, June 11, 1979]

The Recycling of America—Old Buildings Make New Landmarks

Of all American characteristics, none perhaps has been more enduring than the national preoccupation with newness. This trait nourishes invention, but faddishness as well. Its least attractive symptom may be Americans' rejection of almost anything old that is not a marketable antique. In no aspect of the nation's life has this been more evident than in the reckless, relentless assault on old buildings and neighborhoods. The "pull-down-and-build-over spirit," as Walt Whitman dubbed it, has been incalculably costly in terms of aesthetics, energy and the sense of continuity that binds communities and generations together.

And yet, if the past decade has produced a single cultural bench mark of note, it has been the remarkable turn-about in Americans' estimation of their bricks-and-mortar legacy. In their new appreciation of the old, well-made, neglected structures in their midst, one New Yorker notes wryly, city dwellers resemble the estimable *bourgeois gentilhomme* of Moliere's play who discovers to his delight that he has unconsciously been speaking prose all his life.

In cities and towns across the country, the great urban renewal juggernaut of the 1950s and early 1960s has ground to a halt in uglification or nullity. The eccentric souls who argued that new is not necessarily better no longer have to prostrate themselves before bulldozers to make their point. They have been joined by civic leaders, foundations, architects and businessmen who can cite scores of projects in which outmodeled buildings have been rehabilitated and have in many cases revitalized moribund inner-city districts.

More than 500 U.S. cities now have preservation ordinances aimed specifically at saving honorable structures from the wrecker's ball. A raft of federal, state and local laws provide financial incentives to adapt disused buildings to creative new uses. The U.S. Department of the Interior has boosted its funding of such projects from $300,000 in 1968 to $60 million this year, as much in realization of their economic potential as appreciation of their historic value. Old courthouses, railroad stations, firehouses, police stations, armories, ice houses, hotels, office buildings, factories, warehouses, schools and department stores have found a lively new lease on life. They are what one Interior Department official calls "the last frontier" for urban rediscovery.

From San Francisco's pioneering Ghirardelli Square and Boston's celebrated Faneuil Hall—Quincy Market complex, from Manhattan's reclaimed SoHo district to Sacramento's rehabilitated Skid Row, the emphasis is not so much on reverential restoration of old buildings as on their modernization and re-use without distortion of their original character. While this trend was long resisted by architects who feel that their role is to leave their own creative imprint on the cityscape, many of the nation's top architectural firms have joined the movement to preserve and refit. Three years ago, for the first time, the venerable American Institute of Architects gave official recognition to their work by allotting four of its coveted annual Honor Awards to renovation projects, several of them quite modest. This week at its convention in Kansas City, no fewer than six of the 15 A.I.A. awards will go to recycled buildings.

The broad interest in recycling is illustrated by a traveling exhibition called "Buildings Reborn: New Uses, Old Places." Circulated by the Smithsonian Institution, the recyclorama was originally scheduled for a 22-city tour but is now booked into 67 cities, with 48 more on the waiting list. "Buildings Reborn" was organized by New Yorker Barbaralee Diamonstein, author of a handsome book by the same name (Harper & Row; $10) and herself a pioneer in the movement. Says Diamondstein, a former White House aide and a charter member of the New York Landmarks Conservancy. "Adaptive re-use [of old buildings] is moving from erratic initiative, a loft here, a firehouse there, to become a superb planning tool. It's no longer just a question of restoring a mansard roof or a neo-classic colonnade but of looking at entire neighborhoods and districts. Now I look for us to move from buildings reborn to communities reborn."

The main impetus has come from the environmentalist movement. Conservationists recognized that the preservation of man-made environments and the re-use of finite resources should be as much a matter of concern as the natural ecology. Energy shortages and the faltering economy gave the movement immediacy. Old buildings, one critic has noted, are "a kind of stored-up energy," and they are in place, whereas the steel, glass and aluminum devoured by skyscrapers and shopping centers require huge quantities of energy to produce and assemble. (According to one federal study, an existing building can operate for 16 years on the amount of energy it takes to build the structure from scratch.) Also, in most instances, though by no means all, a staunch old building can be converted for modern usage at less cost than equivalent new construction.

Social critics believe that the Bicentennial kindled a new respect for the nation's physical heritage. More subtly, in the post Viet Nam-Watergate years, many people have become skeptical of massive government programs of any sort. The recycling movement is usually planned and executed locally, on a relatively small scale. Then too there seems to be a growing nostalgia for an earlier age. Notes Sociologist Amitai Etzioni: "The trend to preserve and recycle is not an isolated thing but part of the social fabric. Faced with recession and inflation, Americans are very down on their national future. That is why we have this romanticization of the past. The feeling that 'we are kings of the world, modernity is terrific' is gone. Now glass and streamlining symbolize coldness, impersonality, gas guzzling. Today we find warmth and comfort in more traditional buildings." Adds Hugh Hardy, whose New York architectural firm, Hardy Holzman Pfeiffer Associates, won an A.I.A. award for its transformation of the St. Louis Art Museum: "Doing alterations used to be like raising pant legs and fixing cats. But the public has forced the architectural profession into re-use. The notion of history has become acceptable; in architecture, people have taken a more humanistic, less mechanistic view."

Indeed, the emphasis of the A.I.A. citations for recycled buildings is as much on their designers' "respect" for the values of the old as on their innovative treatment of the space at hand. In adapting the 123-year-old Mechanics Hall in Worcester, Mass., the Boston firm of Anderson Notter Finegold retained a historical consultant to examine early photographs of the cast-iron facade under a microscope in order to authenticate construction and ornamental details. The hall, which in its heyday was graced by such luminaries as Thoreau, Emerson, Mark Twain, Dickens, Caruso and Teddy Roosevelt, had been used as a shabby roller-skating rink before it was closed down by the fire department in 1973. The restoration, with enthusiastic financial support from the community, has brought back a magnificent 1,500-seat concert hall in its original colors, which had been obscured under 18 layers of paint. The only major exterior change has been the addition of a lobby in the rear to accommodate fire exits; this glass-curtained annex, showing the original masonry, adds excitement to the building. The $2.3 million cost of restoring the hall so far, including extensive mechanical installations, came to around $50 a square foot, much less than a wholly new building would have cost.

On Louisville's historic Main Street, where four decaying blocks have been placed on the National Register of Historic Places, temporarily ensuring their survival, several abandoned hulks have already been recycled. Cited by the A.I.A. is the Louisville Museum of Natural History and Science, which consists of several buildings, behind a single cast-iron facade. The interior is in fact almost entirely new construction, highlighted by a soaring five-story atrium and chrome-and-steel display space on 19 levels. The $6 million undertaking, funded by a local bond issue, a federal grant and corporate and private donations, is a key element in state and city plans to revivify the city's crumbling waterfront with a mixture of restorations and ambitious new buildings.

St. Louis, which is also engaged in a major waterfront reclamation project as well as several residential rescues, was cited by the A.I.A. for its imaginative conversion of the St. Louis Art Museum, designed for the 1904 St. Louis World's Fair by Cass Gilbert, a leading architect of the Beux Arts school. The airy building, with a 78-ft.-high vaulted ceiling, had over the years become so cluttered and partitioned that it looked more like a warren than a pleasure dome. Hardy Holzman Pfeiffer Associates gutted the interior to restore the structure's openness—and in the process increased the display space by 10,000 sq. ft. Windows were added, and the walls resurfaced in soft French gray.

Chicago, which has lost a number of classic buildings—notably Louis Sullivan's Chicago Stock Exchange—managed to save its old public library building after several attempts to replace it with a modernistic structure. The 1897 building had long been inadequate for the central library; it was reincarnated as a branch library and a cultural center, in large part through the efforts of Mrs. Richard Daley, widow of the mayor. Though its vast mosaic-lined entrance halls and twin marble staircases leave little room for a functional library, the interior has been restored in all its original *quattrocento palazzo* splendor at a cost of $12 million. Architect Gerrard Pook of the 99-year-old firm of Holabird & Root points out that a new central library with the necessary 300,000 sq. ft. could have been built for the same price, but many Chicagoans feel that the A.I.A. award-winning restoration is at least partial atonement for the other great buildings they have lost.

More specialized ventures recognized by the A.I.A. were the conversion of a lecture hall into gallery space and construction of an underground auditorium by Herbert S. Newman Associates at Yale's Center for American Arts, and the creation of a striking office complex within a four-story 1896 bank building in Princeton, N.J. Interestingly, Michael Graves, 44, who was responsible for the design, achieved prominence in the early 1970s as a leader of a highly theoretical group of architects specializing in abstract form. Graves has since redesigned some two dozen old buildings, and is currently converting a 1906 railway station in Millburn, N.J., into an office complex.

New York City is in the forefront of the recycling movement today, after a late start, prior to which it permitted developers to demolish such treasures as the old Metropolitan Opera House, Pennsylvania Station and the Ritz-Carlton Hotel. The city has now extended historic landmark status to more than 500 individual structures and 37 historic districts encompassing 12,000 buildings.

The SoHo district in lower Manhattan is perhaps the most influential example of recycling in the U.S. Almost entirely through individual effort, SoHo (short for south of Houston Street) has been transformed from a dreary sprawl of outmoded factories and warehouses into a thriving residential district. Fortuitously, the new environmental awareness of the mid-1960s coincided with a shortage of studio and gallery space for artists. Moving clandestinely at first, since the old industrial buildings were not then zoned for residential use, artists found that they could rent loft space at bargain prices; moreover, the high-ceilinged rooms were ideal at a time when the vogue was for monumental canvases. The five-by-six-block district now has some 8,000 residents, 85 art galleries, 30 restaurants, 60 boutiques, two museums and more than a score of centers for the performing arts. The area, once known as Hell's Hundred Acres, has become, in one resident's words, "the Upper East Side of downtown Manhattan."

In terms of property values—and tax revenues—an intelligent renovation program can have a dramatic effect on a city's fortunes. One of the most striking examples is in Sacramento, where a 28-acre swath of slum and Skid Row has been lovingly restored. In 1965 the decrepit area was assessed at $2.8 million, and values were sliding fast. Today "Old Sac," only a few blocks from the state capitol's golden dome, is conservatively assessed at $68 million, while private and government investment in the area has exceeded $100 million. In the process, dozens of buildings have been rehabilitated. Recalls Architect Robert McCabe: "Ten years ago there were drunks lying in the gutters and $10 girls hanging out the windows. Now parents bring their kids here for the afternoon." More than 160 businesses are flourishing in the area, and at least as many more are waiting for buildings to be converted. During the May jazz festival, 100,000 people jammed into the area, which in the bad old days would have had a weekend population of perhaps 300.

While recycling fervor is a fairly recent national phenomenon, one of the first large-scale, successful urban-rescue efforts was mounted as early as 1955 in Savannah, Ga. This beautiful 18th century port city, still laid out in green squares and broad avenues, boasts more than 1,500 buildings of architectural distinction, with some fine examples of Federal, Regency and Greek Revival from the 18th and 19th centuries. Yet in the early 1950s, Savannahans were abandoning their legacy, leaving buildings to vandalism and fire. Finally, when Isaiah Davenport House, the city's oldest building and by then a sleazy rooming house, was threatened with demolition, a group of civic-minded women banded together to become the Historic Savannah Foundation. They not only saved Davenport House—it is now a museum—but have gone on to restore more than 1,000 other buildings for residential, commercial and office use. In addition, a $7 million federal grant has been used to rehabilitate the waterfront. Other federal funds helped restore two rows of 19th century town houses. All their efforts have changed Savannah into an illustrated walking tour and given the city a $75 million-a-year tourist industry.

Social critics are quick to point out the dangers inherent in overly exuberant recycling. One is what planners call "boutiquification," in which remodeled quarters tend to be filled with souvenir shops, candlemakers and T shirt dispensers. A more serious problem is what the English referred to as gentrification: the process by which affluent couples take over and rehabilitate rundown districts, leaving no place for their former low-rent occupants to go. This has not been allowed to happen in Savannah and other cities where minority groups, assisted by token loans, have been able to rehabilitate their own neighborhoods with sweat equity. Such programs benefit not only minorities but the cities as well.

To many citizens, city planners and architects, recycled buildings and blocks are no longer a trend but a new and rewarding way of life. Says George M. Notter Jr., chairman of this year's A.I.A. awards program for extended use: "We're a young country and we've been looking for a long time to find ourselves. Now we are just beginning to look at ourselves. When you appreciate where you've been, you have a better chance of deciding where it is you want to go."

MAKING THE FEDS GOOD NEIGHBORS

The most acknowledged legacy of Jay Solomon is the strong start he made at cleaning up the corruption at the General Services Administration.

But there's another legacy: In two years on the job, Solomon did more to make the federal government a supportive (and physically attractive) neighbor in cities across the nation than virtually all his predecessors combined.

When Solomon took office, the government's 15-year-old art-in-architecture program, which permits a small percentage of the cost of new federal building to be used for works of art, had been pared down and was actually in a state of suspension. Solomon restored full funding, and expanded the arts program to include restored and renovated buildings as well as brand new ones. And the art selected—the National Endowment for the Arts was given a major voice in choosing artists—went beyond painting and sculpture into crafts, photography, earthwork, tapestries and light works made with prisms.

GSA-commissioned works of art, Solomon insisted, "are not just decorations" but an "integral part" of federal buildings. Those structures are often a focal point of the city and should "set an example" for local governments and businesses. Yet all too often, he said, federal buildings have been unimaginative, oppressive intrusions into city centers.

Design improved markedly under Solomon, with selection of high-quality architects and an end to the political influence and favoritism of prior regimes. Equally significant, the government became a chief exponent of historic preservation as it sought office space.

On cost alone, Solomon acknowledged, a new building is often a better bet. But restoration of historic buildings can be justified, he said, "on their value to a community, their importance to the environment and the heritage of this country."

The idea of Solomon as historic preservationist has an ironic twist: In earlier years, on the Chattanooga Urban Renewal Board, he told me, he was one of the "the people who bulldozed hundreds of old dwellings and demolished an entire historic hill overlooking the Tennessee River. I'm a product of that." But today, he added, "I'd be fighting on the side of all the little old ladies in tennis shoes who were fighting me. I was wrong. I admit that today."

Using 1976 legislation that encouraged GSA to renovate old buildings for federal use and permitted "mixed use"—stores, galleries, restaurants in government office buildings—Solomon tried to make historic preservation and recycling "paramount."

Perhaps most important, Solomon pursued with almost evangelistic fervor President Carter's urban-policy directive—spelled out in an executive order last summer—to give "first consideration" to cities' central business areas in locating federal offices. Any agency trying to make or renew a lease for office space outside a downtown had to get a waiver from Solomon. Intense pressure was placed on high-ranking GSA officials, plus regional administrators, to conform. The president's order, Solomon said, had good reasons: to provide accessible jobs for poor people and minorities, to bolster fiscally imperiled inner cities, to place offices convenient to public transportation.

Results are already apparent. Between last August and February, 57 separate federal leasing actions transferred 420,000 square feet of federally leased office space from suburbs to downtowns. Among chief beneficiaries have been cities of 100,000 or less where peripheral shopping centers have been springing up and draining offices as well as retailing from downtowns. Solomon, in fact, discontinued federal lease on 50,000 square feet of office space in a shopping center he'd developed himself years before, moving the workers into downtown Chattanooga. Says Solomon: "My friends—where I made money—are saying 'You're a traitor! What are you doing talking about downtowns? You made your money out in the suburbs—come back.' "

Years of dogged pursuit of the Solomon set policy will be required to undo the harm done cities by federal worker pullouts of the last two decades. Many federal executives prefer suburban sites near their own homes and instinctively resist the new policy line.

In times of fiscal stringency that bar new programs, such management reforms may be the only significant payoff of Carter's urban policy. But the GSA administrator must be personally concerned. All of Solomon's innovations could prove ephemeral unless the new GSA administrator, the White House staff and the Office of Management and Budget show the same level of commitment that Jay Solomon had in his brief but memorable Washington career.●

REPORT OF THE BRITISH OBSERVATION TEAM

● Mr. HELMS. Mr. President, since this body may well be called upon to debate the Rhodesia issue once more within the next few days, I think that it would be worth while for every Member to study with careful attention the report of the British observation team to Prime Minister Thatcher.

It is becoming more and more evident that United States and British policy is intertwined, and it behooves all Senators to have a good understanding of the report upon which British policy will be based. It is particularly important to study the section which gives the team's conclusions as to the supposed exclusion of Mr. Mugabe and Mr. Nkomo from the electoral process.

Mr. President, I ask that the report of the British observation team to Rhodesia be printed in the Record.

The report follows:

REPORT TO THE PRIME MINISTER ON THE ELECTION HELD IN ZIMBABWE/RHODESIA IN APRIL 1979

(Signed by Viscount Boyd of Merton, Viscount Colville of Culross, Lord Elton, Sir Charles Johnson, and Mr. Miles Hudson)

PARTIES TAKING PART IN THE ELECTION

UANC: United African National Council leader: Bishop The Hon. A. T. Muzorewa.

ZANU: Zimbabwe African National Union leader: Rev. The Hon. Sithole.

ZUPO: Zimbabwe United Peoples' Organization leader: Senator Chief The Hon. J. S. Chirau.

UNFP: United Peoples' National Federation Party leader: Senator Chief K Ndiweni.

NDU: National Democratic Union leader: Mr. H. Chihota (This Party only contested one province).

PARTIES BASED EXTERNALLY

The Patriotic Front embraces two parties:

ZAPU: Zimbabwe African Peoples' Union leader: Mr. Joshua Nkomo.

ZANU: Zimbabwe African National Union leader: Mr. Robert Mugabe (this party is not to be confused with Mr. Sithole's ZANU).

The military wing of Mr. Mugabe's ZANU is ZANLA—Zimbabwe African National Liberation Army.

OUR TASK AND ITINERARY

1. You sent us to observe the elections in Zimbabwe/Rhodesia and to report to you the circumstances in which they were held. Polling for the 72 common roll seats took place from 17–21 April. The count took place on 23 and 24 April. The election for the 20 white seats had already taken place, only 4 being actually contested.

2. We all arrived in Salisbury on 13 April (preceding all other observers). Lords Colville and Elton had to return to the UK on 22 April, the remaining three staying until 29 April.

3. On our arrival in Salisbury, we were offered a series of detailed briefings by the administration. These we accepted. We received explanations of the arrangements for polling and the preparations which had led up to it. The security situation was very frankly disclosed. Our many questions were readily and fully answered, and extra material supplied whenever requested.

4. We were already aware of the criticisms of the election which were current throughout the world. As well, therefore, as testing these with the authorities wherever and whenever the opportunity occurred, we pursued our own informal inquiries among those holding as wide a range of opinion as we could muster. In the course of our inquiries within Rhodesia we travelled over 2000 miles, visited 66 polling stations and prisons, and observed the counting of votes in 17 centres. (See Appendix A). We talked to the leaders of all the political parties except Mr. Chihota, whose party only contested one electoral district, and whom despite all our efforts we failed to contact. We also had a talk with Mr. Ian Smith. We were given comprehensive briefings by the security forces and the District Officers in four electoral districts. We had meetings with many individuals and organizations under arrangements not made by the authorities. A number of the individuals were people chosen for their known dissent from the administration. We examined exhaustively the entire membership of the National Election Directorate as well as the statistician to whom they had entrusted the calculation of the size of the electorate. In the field we talked with countless individuals including members of all the services, all branches of the civil service, prisoners, detainees, clergy and private people both in the towns and in the countrside. We also used our eyes and our cameras.

5. The lack of easy communication between the UK and Rhodesia had led the authorities to make their own arrangements for the international observers and press to travel as widely as possible during the elections; we were invited to join this itinerary. This we felt to be unsatisfactory; not only would there be doubt whether our steps might have been guided so that we would only see what we were meant to see, but we also feared that the size of the proposed groups would tend to create an artificial atmosphere and obscure accurate observation. Since we made this known at once, the authorities, with very good grace, offered an alternative for our group alone. In the larger towns we would split into pairs and travel by car, and for the four days when we were not in Salisbury we would be taken by air to a centre where, after local briefing, we could choose our own tour of the country areas. We were given the use of a Dakota for longer trips, and more importantly a Cheetah helicopter of the Rhodesian Air Force which could carry our party wheresoever was desired. Only by this method could we have visited the Tribal Trust Lands. At times we were able to travel by air in three separate parties. For the count we were provided with light aircraft.

6. The area of Rhodesia is 151,000 square miles. We were thus constrained by the time involved even in air travel; and we could not but cooperate with the extreme care which was being taken by the Security Forces for our personal safety. These two factors did limit the places we could visit. Although we never arrived at any rural polling station without someone knowing it at least briefly in advance, this was not the case in urban areas. We are certain that people or events were not manipulated for our benefit. We were alert to this possibility and selected the people with whom we talked in a way which we believe produced for us a true sample. For instance, one of our number who visited a prison was able to select detainees for interview at random and use one of them as an interpreter in speaking to those whose English was poor. He was thus able to require all officials to withdraw out of earshot. He is confident that the available assembly had not been deliberately selected and that those who spoke to him did so freely.

7. We also interviewed officials at the polling stations; the local party representatives whenever present, members of the Security Forces on duty in each place, and above all the bystanders and the voters. It is true that by these means we are unlikely to have had contact with many who did not wish to vote, and if there had been a very low turn-out we would have had to concede this to be a serious flaw in our investigations. It is in any case a defect, but one which we found no means of overcoming consistent with observing the poll itself where it was taking place. Any language difficulties were easily overcome by interpreters we found we could trust; many people speak English anyway. We can emphatically say that colour was no bar to free and friendly conversations. Indeed we were struck by the evident frankness and goodwill which had been established between the races.

THE NATURE OF THE VOTE

8. It soon became clear that this election was different from the normal one in which the voter is asked simply to express a preference between candidates or parties within the frame-work of a generally agreed constitution. The first decision an elector was asked to make was whether he would vote at all. There were many pressures exerted on him by both sides on this matter which we deal with later, and his response had a profound meaning of which, in general, he was aware. The question which he thus answered one way or the other was whether or not his country should proceed on the broad principles of the constitution under which the election was operating.

9. This point was brought home to him in a number of ways. The election manifestos of the UANC, ZANU and ZUPO all made clear that they would, if elected, uphold the 1979 constitution (see note below). All the propaganda supplied by the authorities, which we deal with later, implied that a vote would give support to the concept of a majority rule government on the basis of the arrangements agreed. The political parties based outside Rhodesia—the Zimbabwe People's African Union (Mr. Nkomo) and the Zimbabwe African National Union (Mr. Mugabe, and not to be confused with the Reverend N. Sthole's ZANU inside the country) made it clear from the start that they were opposed to the election primarily because they had not been involved in fram-

ing the constitution and that they would try by every means possible to disrupt the elections for this reason. The often used phrase—"we voted for peace"—implies a view, right or wrong, that if the new constitution was accepted, this would lead to an end of the war. Those who made this remark were, therefore, in effect, voting for the new arrangement by the very fact of going to the poll. A typical remark made by an ordinary black farmer at Protected Village 6 at Madziwa was—"This election is for one Zimbabwe for you and for me."

10. We have had to bear in mind that no coherent and legal campaign took place to persuade people to express dissatisfaction with the constitution by refraining from voting. We believe that the administration might actively have discouraged such a campaign. There was, we heard, a demonstration at the University at Salisbury with such an intent, but the demonstrators were prevented by the Police from leaving the campus.

11. Yet, the great jubilation among blacks and whites when the high poll was announced before the count had even started must lead to the conclusion that the election was not merely about which party would win but contained within it a further, and perhaps more profound, question.

12. Whether or not the constitution would lead to the benefits claimed for it was beside the point for our purposes. We were not called upon to make political judgments of that nature. It was the intentions of the voter when he voted that we wished to probe and we are satisfied that the election did in fact constitute a kind of referendum on the constitution.

13. The second question the voter was asked was, of course, which of the parties shown on the ballot paper he supported. We will examine the validity of the answer to this question at a later stage.

Note: The manifestos put out before the election included the following remarks:

UANC—"The UANC Government will uphold and protect the constitution of Zimbabwe."

ZANU—"ZANU shall uphold the constitution of Zimbabwe and shall protect it against any arbitrary or unconstitutional government of the day."

ZUPO—"ZUPO will uphold the spirit and integrity of the 1979 constitution without adding to, or detracting from, it."

The UNFP manifesto does not assist on this point since this party advocated a federal system.

THE ELECTORAL SYSTEM USED AND THE LACK OF AN ELECTORAL ROLL

14. The Electoral Act 1979 provided an elaborate system for the determination of 72 Common Roll constituencies and 20 White Roll constituencies. However Chapter XI of the Act fundamentally modified this requirement for the election which we observed, and provided that the Common Roll seats should be dealt with thus:

(a) The Country is divided into 8 Electoral Districts, with numbers of seats varying according to the estimated number of voters (see Appendix B);

(b) Any party may nominate a list of candidates for one or more of these Districts;

(c) The ballot papers simply show the name and symbol of each party standing in the District with a space for the voter's cross;

(d) Everyone may vote provided that he or she is over 18 and has been resident in the country for at least two years, or who is a returning resident: citizenship is not a criterion.

15. There were 441 static and 244 mobile polling stations, which provided about 2,000 polling places.

16. The electoral system used, was that of the party list by Electoral District whereby seats are allocated in proportion to the valid votes cast by each party in each District with the proviso only that any party receiving less than 10% of the vote in a District receives no seats.

17. A national registration of the population is in process but is complete in certain districts only. We were told that the original intention of the Transitional Government had been to conduct the first elections on the basis of a constituency-based electoral roll, but political and Parliamentary delays had left insufficient time for this to be achieved, even by April 1979. Furthermore, it was thought that an electoral roll would allow the guerillas to victimise those who had registered (see paragraph 21).

18. We do not consider that the lack of an electoral roll automatically invalidates the election. This is no novelty in Africa. The first elections in Mocambique and Gabon were carried out without registration of voters; in Swaziland there was registration but no requirement of citizenship. In Angola there is no registration, but neither has there been an election. The advantages and disadvantages must be weighed.

ADVANTAGES

19. For a number of reasons, not least the unacceptability to most countries of a Rhodesian passport, many of the ordinary residents of the country of all races are not registered citizens; it was not thought that they should be disenfranchised on that account.

20. All sectors of the population are suffering from a continuing war which brings with it much intimidation and harassment of the rural black population and has driven white farmers, in some cases, into the towns. Very substantial shifts of the black population have taken place, and this continues. Some have even left for Mocambique or Botswana, since a part of each border arbitrarily divides certain tribes; however, such are the privations in Mocambique that black Rhodesians have been returning steadily into Manicaland. It follows that a constituency-based electoral roll could well have disqualified from voting those whom the war had displaced within the country since their registration. Returning residents who had missed the registration would also have been disenfranchised. Moreover, one District Commissioner told us that those who were not allowed to vote for those reasons would not understand it. We note that frustration was thus engendered in voters' minds during the election in Equatorial Guinea, according to the U.N. Mission which observed the constitutional process in that country in 1968; There the problems arose not from a war but from purely administrative causes.

21. Of much greater significance is the weapon for intimidation which registration would have delivered to the guerillas. Since many people in an area have identical names and for other normal reasons a card would have had to be issued. This would have given the guerrillas, set on disrupting the elections, four strong opportunities for pressure. They would have intimidated people from registering in the first place; if that failed they could exert pressure to have the cards destroyed; if that failed they could intimidate the voters from going to the polling station; or more simply they could have driven off the voters from the area over a period, knowing that these people could vote nowhere else.

DISADVANTAGES

22. These mainly arise from the political deductions which will be drawn from the percentage of the voters who turned out either by Electoral District or nationally. We do not attach much importance to the more obvious criticism, that voters may have entered Rhodesia for the occasion from neighbouring states. The Zambian border consists of the Zambezi river (with only three crossing points since the Kazungula ferry was disabled); about a third of the Botswana border is an uninhabited Park, whilst for the rest and for the South African border we were told that the people were leaving Rhodesia to join their tribal kin rather than entering the country, and in North Matabeleland there is no cross border tribal connection. This leaves the Mocambique border which is largely unmarked and is only mined around Umtali. While we were merely able to check the central part of this border, neither officials, the local party members nor the public said that they had heard of Mocambiquans entering Rhodesia, though Rhodesians who had fled or been abducted had been returning with the blessing of President Machel whose food supplies are low. Moreover in other parts of that border are several areas where the Security Forces have excluded all civilians, and another large Park.

23. The real difficulty derives from the exercise carried out by Dr. Myburgh in estimating the 1979 voting potential from a base of the last national census in 1969. We are no experts in demography, whereas he is accepted as such. Appendix C is the official statement which he has published, and we asked him questions in elucidation. Whilst his estimated voting population of 2.8m blacks and 100,000 whites may have no specific rival figure except that produced by the World Bank (3.5m), we were bound to conclude that Dr. Myburgh had had to make certain assumptions, particularly in relation to women and repatriation of foreign men who became unemployed in Rhodesia. As to women, there appears to be no empirical material as to migration and Dr. Myburgh had not sought information or opinions from other African countries. Accordingly, we conclude that it would not be safe to form any exact judgment based solely on a percentage turn-out of voters using a precise national figure of 2.9m potential voters.

24. The subdivision of the electorate among the eight Electoral Divisions also causes problems. A timely Press Statement was issued on Day 4 of the election by the National Electoral Directorate, which is in Appendix D to this report. It explains that the subdivision was calculated without regard to the movement of population in recent years as a result of the guerilla war. This, in our view, is true. Quite independently of Dr. Myburgh's calculations, District Commissioners outside the larger urban areas had also been keeping a tally on the population within their areas; as a result of our questions substantial differences appeared between Dr. Myburgh's "normal times" estimates and the population actually estimated to be in many of the districts in April 1979. This also accounts for the Electoral District where the votes cast exceeded the estimated electorate.

25. Two further points should be made about these differences:

26. Certain parts of the country, notably those where the guerilla influence of ZANLA or ZIPRA (or both) is at its greatest, are liable to be over-represented in the new House of Assembly, at least until the war ends and the population return to their normal homes.

27. Both the turn-out and the percentage of spoilt papers may be presented as possessing a significance in the assessment whether or not the elections were free and fair. These two matters need separate discussion:

(a) The low turn-out in Matabeleland may indicate the success of guerilla intimidation by both guerilla armies, and/or deliberate abstentions, because of the absence from the ballot paper of a party led by Mr. Nkomo. Such conclusions may be misleading if the available electorate was smaller than estimated.

(b) The figures of spoilt papers, by contrast, are expressed as a percentage only of the voters who actually presented themselves to vote and need not similarly be vitiated.

SUMMARY

28. The lack of an electoral roll is not unprecedented in Africa.

29. On balance its absence enabled more people to vote, because of population shifts away from their normal homes.

30. The black electorate of 2.8m is an estimate based upon a ten-year-old census and certain assumptions. Some of the assumptions are uncheckable, we think there could be a considerable margin of error.

31. The break down of that total among the Electoral Districts (which forms the basis of numbers of Common Roll seats for each District) bears little comparison with the numbers actually on the ground during the election. There had been a substantial shift of population from the Tribal Trust Lands into towns and cities.

32. Whilst some of this shift may have nevertheless resulted in people remaining within their Electoral District, others certainly migrated across these boundaries.

33. Some tens of thousands of Rhodesians were, voluntarily or not, abroad in Botswana, South Africa and Mocambique; only from the latter country, we are told, had they been returning in any number in time for the election. On the other hand there was no evidence of an influx of foreigners seeking to vote.

34. There were also active guerillas, most of whom are Rhodesian, in Zambia, to a lesser extent in Mocambique and at large in Rhodesia.

35. In these circumstances it would be unwise to draw political conclusions from the percentage national turn-out based on the authorities' figures, let alone from turn-out in individual Electoral Districts.

36. However, even if the figure of 2.9m was indeed an under-estimate—and we do not necessarily accept that it was since there is no conclusive evidence either way—the turn-out was impressive against any reasonable estimate of the total electorate so far produced: even if the figure of 3.5m was right, more than 50 percent of the electorate voted.

37. We therefore conclude that the lack of electoral roll did not invalidate the election.

GENERAL BACKGROUND

38. It was at once clear to us that the legislation passed by the Transitional Government and the way in which it was being implemented under the guidance of the National Electoral Directorate would produce election machinery of a sophisticated nature. The poll and the count, and the behaviour of the officials concerned were intended to be of the calibre of what we expect in the United Kingdom. We have therefore not hesitated to judge those matters according to the strictest standards. An additional feature not normal in this country was the need to keep safe that most precious commodity, the ballot papers, until they could be counted; since a ballot box blown up or burnt could have had a disproportionate effect on the result for a whole Electoral District. We found the authorities equally aware of this, and their precautions were successful.

39. It is much more difficult to form any judgment about the effect of the various pressures which have been exerted on the black population. All electioneering involves persuasion, and all electorates might be said to need political education, but it is no help to assess what we have seen and heard in Rhodesia by reference to the effect it would have had on the British voters.

40. In the Tribal Trust Lands the black population in normal times live in kraals (or villages) of various sizes; in each the people are largely interrelated, and authority consists of the kraal headman, and through him ultimately the chief. There is no question of women taking part in any decision-making process. When in their villages, the young men would normally work in the fields or with the cattle since they lead (or led) a basic subsistence agricultural life. Prosperous African farmers growing cash crops are the exception. Many of the men work in the towns or at European farms or mines, and, if they do not have their families with them, return for holidays and sometimes weekends to their kraals.

41. The customs and beliefs of the African people are at least as complex as those added to them by western Christian culture. Many people believe in the existence of spirits which have a profound influence on every aspect of life or death. Indeed a leading figure in the UANC (Mr. Chikerema) referred, at a press conference after the election on 27 April, to the help that the spirits had given him. Furthermore, apparently innocent phrases are widely recognised as carrying the implicit and inescapable threat of death. It must always be remembered that this can be used to induce terror by those who seek to influence the conduct of others by the use of threats.

42. The guerillas (to use the most neutral phrase we can find) know these characteristics well, of course, and their training is directed to making use of them. If the tribal authority of the kraal headman is removed, or subverted, the kraal is at a loss; in particular there is nothing to stop the young men from doing exactly as they please. In addition to breaking down the tribal structure, the guerillas have also driven back the manifestations of Government administration, and consequently the Government's authority. It is not therefore surprising that, in some cases, we were led to expect nothing much to be left but fear and superstition, and blind obedience. This would be the more pronounced since in the course of the guerilla war the Security Forces have done some unpleasant things to the rural population which undoubtedly have been interpreted as retaliation. Where the villagers had been made to collaborate with the guerillas, such as by growing or providing food for them, crops and cattle have been destroyed. Of course, both sides want information about the other and threats may be used to ensure silence, or to elicit answers.

43. What we have said might lead to the conclusion that the people we saw cowed, surly and unable to take any initiative. Even those in the towns should not be exempt since most have families in the Tribal Trust Lands through whom intimidation can be brought to bear. No doubt such thoughts lay behind the forecasts or fears of a miserably low poll.

44. On the contrary the people we saw at country polling stations gave no appearance of being under threat. Many had dressed up for the occasion; none refused to talk to us though some of the women were shy. At one village in the North East we spoke to a group of farmers sitting under a tree: they were the heads of family of a kraal who had been moved en masse by the guerrillas a substantial distance to the Mocambique border and had been ordered to grow crops for the guerrillas; their own crops and clothes other than what they carried with them were burnt, and so were their huts. They had just been found and brought back by the Security Forces after six weeks' absence and were awaiting debriefing. They had all just voted and we asked them why: they said they were sick of the war, of having no clothes and no food, and wanted a return to normality. Two days later, a young country-woman when asked the same question replied promptly and firmly that she had voted because her vote would help the man she had chosen to be Prime Minister. The great majority of the countless people whom we asked said that they had "voted for peace".

45. We think that in the rural areas the pressures of the war may actually have strengthened the determination of people to vote, except where they were terrorised into staying away. We believe that in general they knew the object of casting their vote. We certainly did not receive an overall impression that people had voted because they had been forced to do so.

46. Nevertheless the pressures expressly related to the election were by no means the monopoly of the guerrillas. First we will describe these other pressures.

THE NATIONAL ELECTORAL DIRECTORATE CAMPAIGN

47. The Directorate, under Mr. Malcolm Thompson, consisted of seven members and a secretary, including the Registrar-General and representatives from the Ministries of Information and Internal Affairs, Army and Police. They were appointed in January 1979 and had been told to organise the Common Roll election. There had been no political interference. They told us that they had four objectives:

(a) To educate and motivate 2.8m largely illiterate Africans into a democratic process which was alien to their culture and tradition;

(b) To organise an election in a time of war;

(c) To keep the polling stations and the voters safe;

(d) To convince reasonable opinion outside the country that the elections were free and fair.

48. It was clear to us during our stay in Rhodesia that the whole apparatus of Government was available for those tasks. Although we are certain that the election was run in a way which was impartial as between the parties, we also have no doubt that there was a high degree of motivation to ensure that there was the largest possible turn-out of voters and that they should be sufficiently educated to cast valid votes. NED members variously said, "Our prime aim is to get the maximum number of papers in the boxes"; "Our survival depends on persuading the world that the election is free and fair, and so we can gain recognition".

49. We would not wish to criticise most of the educative work of the Directorate. From what we saw at the polling stations, they and the parties had instilled a substantial degree of political awareness, which even included the implications of the UK General Election. The mechanism of voting was almost universally understood, the women of all ages were as assiduous to vote as were the men. Nor can we find fault with the two slogans adopted: "We are all going to vote", and "That is what the people want".

50. The range of leaflets and strip cartoons used in the campaign appear as Appendix E. We put it to the Directorate that some of these appear to have promised too much. They did not accept this. A group of senior black policemen whom we met denied that the campaign amounted to intimidation, because, they said, to the words of encouragement to vote there was *not* added ". . . or else". Mr. Ian Smith did agree that there was a point in our criticism.

51. The authorities were clearly in a dilemma. On the one hand they were dealing with a largely illiterate electorate, the vast majority of which had never voted before. Certainly in the Tribal Trust Lands, the women had never been included in any decision-making process and they were being called upon to take full part in a sophisticated election. There were the obvious and considerable pressures of the guerillas directed to preventing any vote at all. There was a great deal of explaining to be done. On the other hand it was certain that if too much pressure was brought to bear, it would be said that the election was "rigged". We are clear that in no case did the authorities attempt to direct the vote towards any political party; that was left to the political

parties themselves. But it is true that the whole weight of the administrative machine was exerted in order to try to get as many people to the poll as possible. We are satisfied that no actual threats were used by the authorities. It is interesting to remember that in Australia voting is compulsory.

52. We are of the view that the authorities went to the limit of the permissible in its propaganda and in a few cases beyond it. But in the circumstances of the time, with intimidation and murder rife throughout the country, we conclude that on balance the pressures exerted by the Directorate in its propaganda were not of such a nature that the result of the election should on that account be described as invalid.

THE POLITICAL PARTIES' CAMPAIGNS

53. After a short time at the beginning of the election campaign when, in a limited number of areas arrests were made for minor thuggery and intimidation, we were told on all sides that the parties did not indulge in intimidatory tactics. Political parties had to obtain permission from the police to hold meetings. In the event this was in the nature of a formality and we were told that in no case was a meeting not allowed to take place. No complaints were made to us by any political party on this point. We accept that there was no question of the authorities trying to prevent a political meeting. If anything, the authorities tried to see that there was maximum political activity.

54. There was no repetition of the clashes which attended political activities in the early 1960's. Certainly the authorities advised moderation, and we heard of no incidents which had caused the parties to complain about each other. Considering that the UANC appeared to have far superior badges, flags, posters, hats and other accoutrements we were agreeably surprised that the other parties expressed so little envy.

55. This is not to say that the opposing policies were not advocated to the public. There were many political meetings (see Appendix F) and heavy canvassing in urban areas. In the countryside, however, the candidates had, not surprisingly perhaps, needed encouragement to venture forth, because of the guerrillas. It was clear that the war did have an effect in reducing normal party activity in rural areas.

56. We do not consider that the parties provided the electorate with any more than the normal political persuasion; neither do we believe that, in the event, rural voters, informed at least by word of mouth and radio, suffered from any significant lack of knowledge upon which to choose the party which they preferred. It may be worth noting that, where people were voting for "peace", this could have been just as much the result of the politicians' campaign, all of whom promised a policy for peace, as of the National Electoral Directorate's propaganda to the same effect.

TRANSPORT OF VOTERS BY EMPLOYERS AND THE SECURITY FORCES

(a) *By employers*

57. There has been encouragement by the Directorate for employers to assist in the electoral process: A number of different methods were used to convey employees to the polling stations, and we sought to discover whether it would have been practical for an employee to have remained behind. Some employers arranged transport for their workforce department by department, and we think it would have been a brave person who did not join the rest on the truck. One Government workshop in Salisbury had arranged for the vehicle to go at given intervals, so that the employees had several chances; and some were encouraged each time to stay in each department so as to keep the work going. A small butcher had been asked by his employees to take them to the poll, and all had been on the truck. In European farming areas transport was arranged by the farmers, and at one place we were told that only the most pregnant women, the sick and the infirm were left behind—but it was pointed out that with the numbers at the polling station a person could dodge round and avoid the voters queue. And, of course, anyone could spoil their paper, or leave it blank. Both the Africans and the White Farmers Union denied bringing pressure to bear.

58. Where we do have our doubts are the instances where mobile stations visited, by arrangement, European farms to collect the votes; we observed one such exercise, with the workforce and families already assembled and waiting. We cannot see how they had any option but to vote. This was the only place where the arrival of the helicopter produced no noticeable signs of enthusiasm.

59. But it would be wrong to judge this aspect of the election purely by European standards. It is the African-Rhodesian tradition to proceed by consensus. In the Tribal Trust Lands, decisions are arrived at by the gradual emergence of such a consensus which is then enunciated by the chief and adhered to by all. The fact that the whole of the workforce of a farm goes to the poll is not, therefore, surprising if the general view is that they should vote. Furthermore, in the rural areas it was often necessary for the farmer to provide transport and time-off so that the workers could vote. If the farmer had not done so no one could have voted at all. The same was often true in the mining and industrial areas.

60. It is extremely difficult, therefore, to give a final judgement on the issue of whether undue pressures were exerted by employers to get their workers to vote. It is also possible, of course, that undue pressures were not in fact brought to bear, but that in the minds of the workers they were. It was said that in some cases employers threatened workers with dismissal if they did not vote but we saw no evidence of this. All we can say is that in our widespread programme of visits we saw no signs of reluctance to go to the polling stations.

(b) *By the security forces*

61. A certain amount of transport, led by mine-proof vehicles was provided, although vehicles were in short supply. That this was wise is proved by several incidents of civilian transport taking people to vote, thereby detonating land-mines with the deaths and horrific maiming and injuries which these devices can cause. We do not consider that military transport so used amounted to intimidation. The vehicles were too precious to be sent unless a request was received, and all that they did was to collect those who were waiting beside the road. We saw one truck arrive from a village 7 km away, in an area where guerilllas were present. Some of the villagers had made their own way to the polling stations the previous day, and this truck contained all of the rest of the villager's voters who, evidently, had been encouraged by what the others had told them. They did not look like people voting as a result of pressure, nor did they say anything of the kind. Indeed, at Victoria Falls we heard that some voters from the Tribal Trust Lands had preferred to vote in the town rather than at the local polling stations provided for them. They had waited by the road, but there was not enough transport to bring them all in, even though the parties helped with their own vehicles.

62. Escorts were also provided on foot by the Security Forces; one such group of 100 would-be voters was ambushed by 20 guerillas; they lay down, as they had been told, and the guerillas were driven off. Everyone then proceeded on their way with the escort and cast their votes (and one slight casualty was given treatment). Without the escort they would, we are sure, have run away, and we incline to think that this was (as claimed) an example of protection being granted to voters rather than any form of coercion.

63. We were also told that in a number of cases people asked to be taken to the polling stations by the Security Forces so that they could give the excuse to the guerillas afterwards that they were forced to go. We believe this to be true.

64. It is also worth noting that the UN Mission which observed the referendum and election in French Somaliland in 1977 said the following:

"All transportation was provided free and, in addition, free food was made available in some areas for nomads coming from long distances. Both of these facilities—transport and food—were essential if the voters were to exercise their voting rights."

PROTECTED VILLAGES

65. The collection of the rural population into large settlements behind wire and with a permanent guard force pre-dated the 3 March Agreement by some time. It had, as its purpose, keeping the farmers and villagers free of guerilla intimidation and denying the latter the food and solace which they could otherwise easily obtain. Its disadvantage, from the administration's point of view, was that intelligence became much harder to acquire.

66. The Transitional Government decided to take action on protected villages, since these were an emotional issue and a matter for hostile propaganda. Some were dispersed, with the result, we understand, that the inhabitants tended to get to another such village still existent, and ask for admittance. Having visited several such villages and talked to their inhabitants we are sure that they are no "concentration camps". To the families who live there the system has its inconveniences. The main one is the distance which lies between the village and families' farm land which they continued to cultivate unless they had been given other land closer by. Apart from that these protected villages were, we heard from their inhabitants, a haven.

67. If the war ended, said some old men in such a village in Manicaland, they would wait a while and then go back to their kraals. They had all voted, but they said that nobody had come in from the Tribal Trust Lands to do so, because of fear. The vast majority of those living in protected villages voted on the first day. We talked to many of them after they had voted. We are quite clear that they do not look upon their residence in such villages as an imposition, but as a relief; and that the system of protected villages did not constitute intimidation by way of forcing people to vote.

SECURITY FORCE AUXILIARIES

68. These started as private armies owing allegiance to UANC or ZANU: Chief Chirau had none. There is no denying that in their early days, they were out of control and were intimidating people on their respective party lines.

69. There has been a rapid and very recent development whereby most (but not all) of the units are being integrated into the Security Forces. Where this is so, they have their own section commanders but are effectively under the control of army, police or special branch. They are having their successes, but leadership is a problem. They include among their numbers former guerillas who have been converted, and captured guerilla diaries show that the Auxiliaries are depriving the guerillas of food and local contacts. The Security Forces say that they have weeded out almost all of the riff-raff who had at one time been on strength; and the contingents which we saw were plainly an integral part of the more traditional force

providing protection for a polling station. There are still a few units, which have a primarily political allegiance, operating in areas of intensive guerrilla activity. The most we could discover about their behavior was from a Brigadier in command of a Joint Operation Committee, who hesitantly guessed that they provided reassurance to the population rather than the reverse.

70. There was a reason why we saw little of them: they had not usually been deployed in the close guarding of polling stations lest the suspicion, or perhaps the actuality, of political party influence might have emerged.

71. It is not for use to criticise the growth and development of these forces; it does appear to us that they have been mostly brought under control, that they offer a useful role for the converted guerilla and that they add to the numbers of anti-guerilla forces, with a particular suitability for deployment in the Tribal Trust Lands. That is where they have been during the election and on balance we would estimate that they have helped to counteract guerilla intimidation without replacing it with an equal pressure in another direction; but we could not be certain that in some cases the SFAs did not pressurize people to vote for their particular political party.

CENSORSHIP

72. We investigated the matter of censorship. We were told that there were two kinds in operation:

(a) Military Censorship. During the election this only applied to the internal press and all restrictions on the external press had been lifted. The internal press was required to submit copy in terms of Section 42a of the Law and Order Maintenance Act. This only applied to military matters. Editors could publish copy on anything else as they pleased.

(b) D Notices. These had been issued to cover mention of the names of Mr. Nkomo and Mr. Mugabe and their parties. Photographs of them were not allowed. The National Security Committee, however, could give permission for publication.

73. It was, however, true that a number of publications had been banned. It was impossible for us to be certain whether this had happened purely on military grounds or whether there may have been other political reasons for the banning. It was certainly true that the media—press, radio and television—were clearly in favour of the holding of the election and hoped for a high turn-out. We saw no articles, for instances, urging people not to vote. We were told that this would have been possible but we are by no means certain about this. Very wide powers were available.

74. We can understand the necessity for military censorship but we had to address our minds to the problem whether a free and fair election could be held in this environment. There were, of course, frequent broadcasts from outside the country aimed at disrupting the whole election and hoping to influence people not to vote. On top of this there was, of course, guerilla activity with the same purpose in mind.

75. On balance we believe that, although censorship certainly did not operate so as to give any preference to any party competing in the election, it may well have prevented the mounting of a campaign against voting at all. This has to be set against the other pressures to which we have referred. We therefore conclude that censorship in itself did have an effect on the election although not to the extent that it invalidated the results.

MARTIAL LAW

76. By way of suggestion that the elections could not have been free or fair, critics have said that "martial law covers 85% of Rhodesia, an admission that civil administration has broken down in most of the country". It is true that martial law has covered approximately 70% of the country since September 1978 but we looked into the implications of that fact to see whether this constituted intimidation by the authorities. In fact the legal situation is much more complex than this criticism suggests, since the majority of activities frequently associated with martial law can also in Rhodesia lawfully be carried out by the civil authorities and the Security Forces under Emergency legislation. Ordinary civil law has, in fact, not broken down.

77. Martial law was introduced in September 1978. We were told that its application was in practice limited to four main areas—trials, punitive action, detention and curfew.

78. Trials under martial law were held only when persons had been involved in crimes connected with terrorism and where the necessary witnesses were either unavailable or would themselves have been murdered had they given evidence.

79. As far as punitive action is concerned, in the early stages of the operation of martial law it was possible for an officer of the rank of Major or above, or the civilian equivalent, to order the burning of huts, the destruction of crops and the slaughter of cattle when in his view the population had been helping the guerrillas. This authority was rescinded early in 1979 and no such action could be taken without express authority from the Joint Operations Committee in Salisbury. This led to a great reduction in the number of such incidents.

80. Detentions without trial were possible under the Emergency Powers Legislation without the use of martial law. We were told by the Commissioner of Police that 232 persons were detained under this category on 16 April, 1979, the day before the election. To this figure must be added those detained under martial law. In particular we were told that about 100 persons were taken into custody just before the election because of evidence discovered during the raid on Francistown in Botswana on 12 April. 13 detentions under martial law took place during the week of the elections. The total figure of detainees of 4000 given to us by the representatives of ZAPU, whom we interviewed, was of a completely different order of magnitude to that supplied to us by the authorities. We are of the view that total detentions were very considerably less than the ZAPU figure.

81. Curfews cover wide areas of the country. They are imposed under the Emergency Powers Legislation. But martial law allows authorities to arrest anyone breaking the curfew and he or she can be shot. This, admittedly draconian, measure is, we were told, rarely used and only if the guerillas are directly involved. The curfew does, however, have a very direct impact on the lives of large sections of the population, particularly among the large majority who have no wrist watches: it is resented by them. As far as the election is concerned we neither heard nor saw any evidence to the effect that the imposition of a curfew prevented people from voting.

82. We set out at Appendix G what we were told had been the use of martial law in three large operational areas, in Mount Darwin, Gwanda and Umtali.

83. It is essential to appreciate that in all areas covered by martial law the police are still operating in the normal way. For instance in connection with the elections there have been the usual political activities prior to the poll, including many meetings. Meetings in martial law areas needed permission, which we were told was always granted subject to conditions as to the time of the day. In 1979, unlike the interparty warfare and intimidation in 1962–63 to which the Pearce Commission referred and which is still vividly remembered, the parties have campaigned peacefully. There was, as we have said, a certain amount of thuggery and intimidation by party supporters in urban areas, in January. This led to 123 arrests, and 99 people appearing in the ordinary criminal courts on fairly minor charges (59 were from UANC, 64 from ZANU). Even then events were local. In Manicaland there were no election-connected offenses committed at all. Similarily at 100 meetings in South Matabeleland there were no criminal arrests.

84. Finally, we were told that one reason why martial law has been retained is that it can be used by the rural population as a reason for their saying to the guerrillas that they have been forced to vote, thus protecting them from reprisals.

85. Our conclusions were as follows:

a. We accept that the imposition of martial law may well have been necessary for security reasons.

b. In the early stages of the application of martial law, its use was probably unnecessarily severe.

c. To a large extent this has been rectified.

d. In the run up to the election and during the electoral process itself martial law did not inhibit political activity.

e. Martial law has been supplementary to the civil law and has not replaced it.

f. If anything, the punitive action which had been taken, although arguably necessary from the security point of view, would have dissuaded people from voting rather than encouraging them to do so.

INTIMIDATION BY THE GUERILLAS

86. Mr. Nkomo's guerillas (ZIPRA) are trained in Zambia and Angola. They are based in Zambia and Botswana. We were told that there were 16,000 under training, 3,000 outside Rhodesia but fully trained and 2,700 inside Rhodesia. Mr. Mugabe's guerillas (ZANLA) are trained in Ethiopia, Libya and Tanzania, and enter Rhodesia through Mocambique. We were told that there were reserves of 13–17,000, of whom 6,000 are under training and 9,300 operating in Rhodesia. The two groups fight each other, some say with even greater ferocity than they fight the Security Forces, but this has mainly occurred in South Matabeleland, especially Filabusi, and West Victoria.

87. The war has been going on since 1972. The following table gives an idea of the intensity:

Total deaths attributable to the war from 1 March 1978 to 31 March 1979	6,471
Average daily death toll	16.3
Security Force deaths	322
White civilians	*257
Black civilians	2,821
Guerillas	3,071

*This figure includes 105 victims of the two Viscount aircraft which were shot down.

88. 1,111 schools have been closed, many of which are locally supported missionary schools. The guerillas have a proven record of atrocities and bestiality which beggars description. The population of Rhodesia knows well of their activities in this respect. It has been the avowed intent of both factions to wreck the election, and the Rhodesian authorities responded with a massive call-up of army, airforce and police reservists, which had the effect of precluding all but a comparatively few incidents. There were 13 attacks on polling stations during the election.

89. It is not our task in this respect to relate the detailed assessment of guerilla aims, training, methods of operation and discipline which have been fully explained to us. After careful investigation we are satisfied that, in the Tribal Trust Lands especially, the

guerillas with the help of the mujibas (young guerilla auxiliaries) have for some months been terrorising and indoctrinating the black population not to vote. Their psychological approach has been most professional and they have been assisted by broadcasts from Maputo, Lusaka and elsewhere, in English and three important African languages. We must therefore try to assess whether this intimidation has, by itself or in combination with other factors, led to the elections being other than free.

90. In the end our assessment must be a matter of impression, built upon what we have seen and heard directly and indirectly from the people themselves. Of the guerrillas' activities of which we heard directly during the election the most spectacular examples were:

a. On the first evening of the election guerrillas burnt out 24 sq. km of the Mtilikwe Tribal Trust Land, south of Lake Kyle: 75 percent of the kraals were destroyed and the huts were still smoking when we over-flew part of the area 36 hours later. Where the inhabitants went we do not know but they were driven out first.

b. The almost complete failure of the polling station at Tadyanemhando in Central Manicaland at which in three days only 221 people voted.

c. Within Inyanga district of North Manicaland there were three rural polling stations; the guerrillas cleared the population from an area of 30 km round the polling stations and told them to go into the hills and stay there. The District Commissioner estimated that 50 percent of the voters in that whole northern area had been frightened and stopped from voting.

d. North of Ndanga hospital polling station, south east of Fort Victoria, some local people had set out to vote. The guerrillas had been informed by the mujibas of this. The group was turned back and told to hide in the hills.

e. The District Commissioner at Mount Darwin said that in one area where there was a considerable guerrilla presence it had been impossible to put in a mobile unit. He also said that at Pachanza the guerrillas had raided a Protected Village, cut the wire and driven numbers of the people out into the hills. Some had drifted back and voted in other areas.

91. No doubt there were other similar stories; we know of these either because we were on the spot or else were dissuaded from visiting polling stations such as Tadyanemhando, or St. Mary's Mission in North Inyanga because the guerrillas had effectively brought all activity to a halt.

92. The figures of total votes indicate, however, that very many of the people from the rural areas did vote; they may have moved into the cities, or walked considerable distances into urban polling stations rather than vote at the stations provided in their own Tribal Trust Lands. We were told of this, for instance, by party workers at Umtali and Rusape. We heard increasingly as the election proceeded that some guerrillas were telling the local population that they could vote if "forced", or that they could vote "though it would make no difference". This applied both to ZANLA and ZIPRA guerrillas: it had no pattern and appeared, like many other things, to depend on the whim of the unit leader.

93. Then there was a pattern which we observed in the detailed daily reports from the polling stations on Days 4 and 5 when we were in Matabeleland and Manicaland respectively. On Day 3, mobile polling stations which had been waiting at Plumtree (on the Botswana border) suddenly received crowds of cheerful local voters, who said they now thought it safe to vote. Similarly, in an Umtali township party workers said that on Day 4 they saw people they knew who had come in 35 km to vote, having waited in fear two days to see if it was safe to vote. More party workers told us the same story of people in the Chiduku Tribal Trust Land, near Rusape, who after guerilla pressure waited for two days before voting, many preferring to walk into the towns of Rusape and Inyazura rather than visit the three polling stations in their Tribal Trust Land. Inyanga told us the same story.

94. It was also clear that in many cases guerilla attacks had not deterred people from voting:—

a. On the Tuesday evening (the first day of voting) Dotito (north east of Mount Darwin) was attacked, with mortars, rockets and copious small arms fire. Some 10 km away, but within sight and sound, voters were still arriving at the nearby polling station at Nyanzunza next morning. And at Dotito itself the voting figures below show that in spite of the attack people came to vote in some numbers on the third day. The overall results exceeded the expectations of the authorities.

First day	2,426
Second day	92
Third day	326
Fourth day	87
Fifth day	—
Total	2,931

b. South of Fort Victoria in the Nyajena Tribal Trust Land, which has many guerillas, a mobile station was ambushed on its way in to collect votes from a crowd. As we left we heard that 266 voters had remained until it eventually arrived, though many more had been expected.

c. At Zaka we were informed that the Security Forces, prior to the election, had found that the local people wanted to vote, but were afraid. They were told that the army would be around to protect them. Our informant had been on duty on the Tuesday morning 2 km from the town when he saw a crowd walking in: one by one they began to run, and apparently they beat on the gate leading to the polling station, which was not yet open, in their eagerness to vote.

95. Above all, when we asked the voters why they had come to the polls their answer was almost always that they had voted for an end to the war, for peace, for a return to normality. There was no doubting the profundity of these feelings.

96. On balance, we think that such sentiments combined with other factors. Those who waited heard that it was safe to vote; some moved out of their immediate area to other polling stations; the Security Forces were seen to be around and the guerillas remained mainly inactive. Thus a five-day election and the availability of mobile stations, even in areas beset by guerrillas, provided for the electorate the opportunity to vote, which many of them took.

97. We do not consider that intimidation by either group of guerrillas so impeded the elections that overall they must be regarded as invalid.

THE ABSENCE FROM THE ELECTION OF MR. NKOMO'S AND MR. MUGABE'S PARTIES

98. We are aware of the criticism leveled against the elections because supporters of either wing of the Patriotic Front were not presented with candidates for whom they could vote. Of itself, of course, the absence of candidates cannot be held to invalidate the election unless they were prevented from standing. On this latter point we were given a mass of evidence to the effect that Mr. Nkomo and Mr. Mugabe could indeed have taken part in the consultations leading to the adoption of the constitution and also that they could have returned and freely taken part in the election together with their parties after 3 March agreement on the constitution and, indeed right up to the poll (see Appendix II).

99. We think that three separate groups of people should be considered. First, there are the leaders themselves and their closest colleagues. On them we hesitate to make a definite judgment because we did not have the opportunity to meet Mr. Nkomo or Mr. Mugabe to hear their version of the story. Our tentative view is, however, that either or both of them could quite well have participated in the consultations leading to the constitution. They could, too, have presented themselves and their parties at the election itself provided they were prepared to eschew violence. In the light of the statements in Appendix II we do not believe that the administration could possibly have arrested them or their lieutenants, had they sought to take part in the election. They chose, for their own reasons, not to take part and we cannot accept that such a choice automatically imposes a veto on the validity of the whole electoral process.

100. It could be that the election is open to more criticism on the grounds that the ordinary voter had no opportunity to select a party which represented the aims of either Mr. Nkomo or Mr. Mugabe. Among the ordinary potential voters we include Rhodesians in the guerilla forces, and we next consider them.

101. We are clear that the authorities did try to induce the guerrillas themselves to return and to take part in the election. There have been various offers of an amnesty in recent months. Recently, there was the Safe Return Policy, which involved dropping of leaflets in Rhodesia and Mocambique, and the use of radio and word of mouth. It bore some fruit but the result was not dramatic. This was followed by the guarantee which is attached as Appendices I and J issued in late March, which was publicised by radio, television and newspapers, as well as being distributed by hand through all available agencies; again the response has been limited. Both UANC and ZANU sent brave volunteers to make contact with the guerillas, to offer a cease-fire under the Transitional Government, but this had come to nothing when three parties of volunteers were murdered.

The main reason why none of these initiatives have been very successful is that in the guerilla groups' discipline is kept by draconian methods: to pick up and read a leaflet being execution. Even strip cartoons have been a failure. As a result many guerillas have not known of the amnesties; interrogation of prisoners shows that some have, but do not believe them. They are quite sure that on surrender they will be instantly shot.

102. All the same, some news has been getting through; guerillas who have been captured are invariably converted. The main reason is that they are not, as they expect, shot but are well treated. The more important co-operate by writing letters, such as those in Appendices K and L and by revisiting their old operational areas with the Security Forces.

103. The guerillas, of course, knew of the election which they had been ordered to disrupt. We would, therefore, not have expected many of them to vote. We cannot accept the argument that inability to vote for a party whose cause was being actively pursued by force of arms must invalidate the election in which the rest of the population was participating. We noted, however, that the political process represented by the new constitution and the election had not been lost on the guerrillas. We were told, by people whom we believe to be in touch with the guerillas, that not a few were "sitting on the fence" and were likely to decide, though not necessarily at once, whether they would accept a black Government formed and operating as a result of the election.

104. Lastly there is the electorate at large, who may have felt themselves deprived of a proper political choice because of the absence of either Patriotic Front party on the ballot paper. We concentrated on collecting their views in Matabeleland. There Mr. Nkomo had

for long been seen by the amaNdebele people as their own leader, although he would not acknowledge so restricted a position for himself. Chief Ndiweni's UNFP stood for a federal system, in an attempt to preserve the distinct identity of the amaNdebele people, but his party was only formed four months prior to the election, and he himself had had no part in formulating the constitution. The other parties had selected amaNdebele candidates to stand for the two Matabeleland Electoral Districts, but it could be argued that their influence would not suffice to protect their tribal interests within predominantly Shona parties. We therefore asked a random selection of the public in Matabeleland this question: "Would the election have been fairer if there had been on the ballot paper a party, headed by Mr. Nkomo, for which you could have voted if you so wished?" This complicated question we put through interpreters, and carefully checked to ensure that the answers truly related to the question. There were some who said they did not know; some that for themselves it was not unfair, but that they knew others who thought to the contrary. One group after careful thought said that the election was unfair because it was being held while Mr. Nkomo was not there. Another group, standing not 200 yards from Mr. Nkomo's house in Bulawayo, said that the election would have been fairer had he come back and stood; but that he had not done so "because he only wanted to win."

105. We appreciate that these people, interviewed in the vicinity of polling stations, were unlikely to include anyone who had chosen to dissociate himself from the election because of the lack of a Nkomo party. Further it must bear some significance that the turn-out in the Electoral District of Matabeleland South was the lowest in the country; and that the spoilt papers in the Matabeleland Electoral Districts was high, again especially in Matabeleland South. This is where Mr. Nkomo was brought up. These indications cannot be ignored.

106. It is, however, our considered conclusion that the verdict on the absence of Mr. Nkomo and, by inference, Mr. Mugabe was given by the size of the poll and the number of valid votes cast. People were able to register a protest against the omission of Mr. Nkomo and Mr. Mugabe from the ballot papers either by not voting at all or by spoiling their papers, and on this latter point some did so. The fact was that the majority of the electorate did cast a valid vote positively in favour of the parties who did stand.

THE POLL

107. Upon arrival at a polling station, a voter went through the following procedure:—

a. The voter was subject to a cursory body search;

b. The voter was observed and if necessary questioned on eligibility to vote.

c. If accepted, the voter put both hands in the machine which could detect the invisible marking fluid on the fingers.

d. If accepted, the voter had the fingers of both hands immersed in the invisible marking fluid.

e. A ballot paper was then stamped, with a round or triangular stamp containing a single letter, and issued to the voter .

f. The voter then went to the polling booth, marked the paper and folded it in four so as to show the stamp.

g. The voter then personally placed the folded paper in the box.

108. That was the theory. We looked carefully for irregularities or abuses at each stage, and we should say at once that we only received three complaints from party officials and candidates whom we met at all the polling stations we visited.

109. *Searches* These were entirely for security purposes. In towns women were searched by regular or reservist women police, but these were insufficient in number to cover rural stations; there, the women were asked to leave their hand baggage (but not their babies) outside. This was done because there are numbers of trained female guerillas within Rhodesia. We heard of no objections to the searches and were not able to find any instance of weapons, etc. being found.

110. The person who had to check the voter's *credentials* was usually black. Frequently he was not local to the polling station. In very few places were documents asked for except to check a person who was for some reason suspect. We therefore consider whether the two criteria of residence and age for voting are likely to have been adhered to.

111. *Residence in Rhodesia for two years.* We were told that 19,000 people, of all races, had entered the country within the last two years, of whom many were white. All of these had immigration documents; some would no doubt be under 16, while others would have been returning residents who we were told were entitled to vote. To this official figure we ourselves would add some thousands of people returning from Mozambique who certainly went through no immigration procedure but would have been allowed to vote anyway as returning residents.

112. Only in one single case did we hear of a person being turned away from a polling station on the residence qualification.

113. *The requirement to be 18 years old.* The police members of the National Electoral Directorate told us that it was not unreasonable to assume that there were 750,000 people in the country aged 14 to 18. At all polling stations which we visited, except for one (and we almost always asked this question), some people had been turned away as being under age. We witnessed people being turned away and also a few others, who had been so requested, returning with documents to establish their age. We noted three things:—

a. Almost without variation, only a handful of people had been turned away as being under age. This followed a constant geographical pattern and was the same whether we inquired on Day 1 or Day 5. Both sexes were about equally involved overall. At one Bulawayo township some girls repeatedly presented themselves, though under 18, but the polling staff dipped their fingers and that ended it; this was an isolated instance.

b. Some polling stations were staffed entirely by teachers who, naturally, said they could tell ages without much difficulty. At these stations there was no increase above the general average of numbers turned away.

c. The large majority of people stopped on suspicion of being too young readily and truthfully gave their age, even if the answer was 16 or 17. It was thought either that they did not know the age limit or that they had been swept up in the general enthusiasm; and when detected left without any complaint.

114. We think the *marking fluid* and the *machine* were wholly effective to prevent double voting. It may to some extent have deterred people in the Tribal Trust Lands from voting, and voters everywhere tended to look with wonder at their hands after dipping them; at some stations they were allowed to look again in the machine to see the difference. The system instantly detected the minimal numbers who, we were told, came to vote again. (An affidavit on this point is attached at Appendix M).

115. *Stamping the papers* There is in the Electoral Act a provision which allows papers to be counted as good votes if they do not bear the polling station stamp, provided that the total in any complete Electoral District does not exceed 5% of the total votes cast (s. 79(7)). If the number exceeds 5% none of them may be counted. This provision was, we were told, inserted simply to allow for human errors, but it was criticised before the election as a method whereby the vote could be rigged. In the event in no Electoral District was the percentage over 5%.

116. *Marking the papers* produced the most problems, though even here the incidence of difficulty was not very great. The officials, in all areas, were quick and efficient. In some, particularly in rural, polling stations each person was given a verbal explanation what to do. However—

a. In order to help the voter large placards had been issued to each polling station with a blown-up picture of a blank ballot paper, and instructions in Shona or Sindebele. Where these are hung varied as between polling stations, but in many cases such a placard was placed, occasionally flat, in each polling booth. These placards tended to bear a number of marks against various parties, and it seems likely that voters in some cases marked the placard and may have left their ballot papers blank. Some presiding officers had noticed or anticipated this, and had hung the cards elsewhere or shortened the string on the booth pen so that the card was out of reach. We think quite a number of spoilt papers occurred where such preventive measures were not taken. However, the total number of such incidents could not have been very great since in no case were there more than nine such marks and the average was three or four.

b. The Electoral Act (s. 65 normally, but for this election s. 175(11)) allows the presiding officer to help a voter make his mark. This, of course, had to be done for the blind but some of the old men and women also needed assistance. In the event such action was comparatively rare, as in many cases there was a dialogue with the polling officers, even from inside the booth. We do not know what was said since our interpreters were not allowed inside the polling station; however, in one case such an exchange prevented an old man marking the wall card. Where physical help was needed we were told that the voter almost always knew which party he wanted to vote for, e.g. "The hoe" (UANC). On the fifth day at Inyanga the presiding officer said she had helped 25–30 voters, by steering their hand, but all had known which party they wished to support. However, earlier in the election we did find one presiding officer who was using this power unnecessarily and one or more of the parties had begun to complain about him.

117. Problems arose over placing the *paper in the box*, through voters requiring constant reminders to fold their paper on emerging from the booth; and because the papers had to be folded twice in order to be put in the box.

118. In general, we would make the following comments about the polling stations, their staff and the conduct of the election:—

a. Although some ingenuity had been used in certain places to adapt unlikely buildings into polling stations, heads and hands of the voters were *not* visible from outside the polling booths.

b. The polling station staffs were mainly civil servants (teachers, agricultural and veterinary officers, etc., with senior presiding officers, sometimes sent out from Salisbury). They appeared to us to be meticulously adhering to their instructions and behaving in a totally impartial manner. Indeed this was a hindrance to our inquiries, since they were quite unable to tell us anything of how far the voters had travelled.

c. Occasionally we saw the padlock on a box hanging unsealed, but it always transpired that the key was locked up elsewhere. Little things like this had clearly on occasion gone wrong, but they were technicalities.

d. At most polling stations a contingent from at least one of the parties was present. Only on the occasion mentioned in 116 (b) above and in one or two other minor cases had they any criticism or complaint whatever, either of the election machinery or of each other's activities. In many places there were bands of supporters engaged in "singing and dancing", often in rival groups. But the atmosphere was of a carnival rather than a fight for victory; the voters had put on their best clothes; the rival parties picked up and returned their opponents' posters and flags; the factions sat in a row on a wall side by side; the candidates would sometimes talk to us as a group rather than individually. Our overwhelming impression was that the parties and the voters were participating in what they considered to be a most important occasion, and that they were thoroughly enjoying it. There was also a surprising degree of sophistication. At polling stations in different types of areas, many voters were aware of the international implications both of their own election and of that shortly to be held in the United Kingdom.

e. In three polling stations we found the police checking people at the door for eligibility to vote. This was, of course, wrong and it was immediately corrected when pointed out. Because of the circumstances in which this happened and the general atmosphere of co-operation between the polling staff and the voters which we noticed, we do not believe there was any underhand purpose. The polling staffs were extremely busy and, wrongly, the police had been asked to help in order to speed up the process of voting.

f. We must mention one incident which may be thought to constitute more than a technical irregularity. There was an arrangement whereby a static polling station could, with the authority of the provincial Joint Operation Command (and, we believe, of the National Electoral Directorate) turn itself into a mobile, even though the presence throughout the five days had been advertised as being in one place. In the Mutasa district of Manicaland, a static station had been set up at the school of Tadyanemhando. The school had been shot up by guerillas on Easter Saturday; on the Monday or Tuesday morning many of the men left for the week to work on European tea farms. They would by then have known that the station was due to be open on Saturday when they would have returned to their rural homes. It was known that the population was interested in voting, but they said they wanted an escort. The Security Forces did escort them on foot to the station, but we were told that they refused to vote on arrival. They were mainly women, and it was thought that a guerilla or fellow-traveller was in each group. Thus, having collected a mere handful of votes, on Friday morning the station was closed and sent elsewhere. The decision may or may not tactically have been justified, but the process whereby an advertised polling station could thus be removed before the end of the election seems to us a flaw in the arrangements made.

g. The National Electoral Directorate had told us that in some cases the polling stations' staffs had required a direction by authority before they would act. This was said to derive from fear of guerillas since they would then give the direction as their excuse for acting. Consequently a general direction was given under the Emergency Powers (Election) Regulation 1979 and failure to comply with this was made an offence. We have heard of two cases where teachers nevertheless refused to participate; at Shabani they were fined about £ 15 and at Beit Bridge they still await trial. In the situation which faced the authorities we do not consider this to be a serious matter.

h. Some criticism has been made about the bussing of voters across the boundaries of Electoral Districts. For instance, in Mashonaland West, where six seats were to be filled, Mr. Chikerema had been placed at the sixth position in the UANC list: so the UANC had to win all six seats if he was to be elected. In this Electoral District the turnout was 114.8% of the official estimate of the population. Even if bussing was a contributory cause of this, of which we cannot be sure, there was nothing illegal in such a practice since people could vote anywhere within the country. We thus do not feel the need to make any comment on this matter.

119. Our general conclusion was that the procedures at the polling stations were properly conducted, that the vote was secret and that no pressures were brought to bear on the voters during the process of voting. It was indeed a remarkable feat to man so many stations in time of war and with no comparable precedent. It would have been surprising if there had been no irregularities.

THE COUNT

120. Three of us were able to observe the count at the counting stations mentioned at Appendix A. The procedures used were very similar to those in this country. They were as follows:—

a. At the end of polling on Saturday, 21 April, all ballot boxes were sealed and taken to a well guarded place of security. We had no reports of any attacks on these places and we personnally checked a number of them where we found nothing out of order.

b. When counting began on 23 April, the ballot papers were checked against the total number issued, less those returned unused. Only minor discrepancies were found.

c. The ballot papers were then divided into the various political parties.

d. Papers which were regarded as possibly spoilt were separated, checked by the presiding officer and if still regarded as spoilt were counted as such.

e. The ballot papers for the various parties were counted.

f. The result was comunicated to Salisbury by telephone followed up by a written communication.

g. All the ballot papers were sealed in boxes and delivered to Salisbury. The boxes can only be opened by an order of the High Court.

121. In all the polling stations visited, party representatives were present as scrutineers during the counting process and were allowed to observe every stage of the proceedings. We made a point of asking whether they had any complaints. They all, without exception, declared themselves to be fully satisfied.

122. We were particularly interested in the spoilt papers for obvious reasons and we all made a point of examining them. The majority of them were blank. Some had more than one mark on them. Some had large crosses covering the whole paper and a few had the names of Mugabe or Nkomo or even Smith written over them.

123. There is no doubt in our minds that many of these papers were deliberately spoilt. It is impossible to be precise as to what percentage of papers were in this category but it is relevant that the percentages of spoilt papers in Matableland South (9.7 percent) and Matabeleland North (6.25 percent) where Mr. Nkomo was still a considerable force to be reckoned with, was much higher than the overall average of 3.55 percent. Of course, the fact that this was the first election in the country on a one man one vote basis and that the electorate was, to a considerable extent, illiterate, would certainly mean that the percentage of spoilt papers would be far higher than that in Britain where this varies between 0.1 percent and 0.2 percent. But even taking this into account, it is certainly true that there was a measure of deliberate spoiling.

124. There were some variations in the counting stations as to the precise interpretation of a spoilt paper. In particular, in some cases, when there were crosses against three of the parties, the fourth one, unmarked, was taken to mean the party for which the voter had voted. However, these variations were very minor and could have had no effect on the result. We do not hold the view that the overall figure of 3.55 percent spoilt papers was excessive and it certainly should not be regarded as invalidating the election.

125. Our conclusion was, therefore, that the count was properly conducted and that the results did represent a true reflection of the way people had voted.

THE RESULT

126. The electoral system used is described in paragraph 16. The election was conducted separately in eight provinces.

127. Four parties (United African National Council, United National Federal Party, Zimbabwe African National Union, Zimbabwe United Peoples' Organization) contested all eight provinces. One, the National Democratic Union, only contested Mashonaland East. The symbols used are shown at Appendices N. & O. In our view these symbols were clear and the voters had no difficulty in distinguishing between them.

128. The overall results were:

Party	Votes	Percent	Seats
UANC	1,212,639	67.27	51
ZANU	262,928	14.58	12
UNFP	194,446	10.79	9
ZUPO	114,570	6.36	0
NDU	18,175	1.00	0

There were 66,319 spoilt papers—3.55 percent of the total poll.

129. There were 1,802,758 valid votes. This represents 62.16 percent of the estimate of the electorate made by the authorities (2.9m) or 51.51 percent of the higher estimate of 3.5m mentioned by Lord Goronwy-Roberts in his exchange with Lord Hatch in the House of Lords on 3 April 1979, (Hansard—columns 1791 and 1792), and by the latter in his letter to the Telegraph of 10 April 1979. (The figure published in Rhodesia immediately after the election, indicating a total of 64.5 percent, included spoilt papers.)

130. Detailed figures broken down by provinces are as follows:

MASHONALAND EAST

	Votes	Seats	Percent of valid votes
NDU	18,175		3.31
UANC	428,599	15	78.17
UNFP	20,292		3.70
ZANU	39,461		7.20
ZUPO	41,767		7.62
Total	548,294		100.00

Note: There were 11,302 spoilt papers representing 2 percent of the total votes cast.

MASHONALAND CENTRAL

	Votes	Seats	Percent of valid votes
UANC	138,360	5	80.67
UNFP	9,598		5.59
ZANU	16,968		9.90
ZUPO	6,582		3.84
Total	171,508		100.00

Note: There were 4,160 spoilt papers representing 2.36 percent of the total votes cast.

MASHONALAND WEST

	Votes	Seats	Percent of valid votes
UANC	245,737	6	83.42
UNFP	12,941		4.40
ZANU	24,682		8.37
ZUPO	11,228		3.81
Total	294,588		100.00

Note: There were 8,938 spoilt papers representing 2.94 percent of the total votes cast.

MANICALAND

	Votes	Seats	Percent of valid votes
UANC	97,994	6	53.65
UNFP	8,398		4.60
ZANU	69,136	4	37.85
ZUPO	7,115		3.90
Total	182,643		100.00

Note: There were 5,308 spoilt papers representing 2.82 percent of the total votes cast.

VICTORIA

	Votes	Seats	Percent of valid votes
UANC	75,403	6	56.14
UNFP	13,543	1	10.08
ZANU	35,549	3	26.46
ZUPO	9,840		7.32
Total	134,335		100.00

Note: There were 7,300 spoilt papers representing 5.15 percent of the total votes cast.

MIDLANDS

	Votes	Seats	Percent of valid votes
UANC	137,120	7	60.62
UNFP	24,006	1	10.62
ZANU	47,525	3	21.00
ZUPO	17,551		7.76
Total	226,202		100.00

Note: There were 10,855 spoilt papers representing 4.57 percent of the total votes cast.

MATABELELAND SOUTH

	Votes	Seats	Percent of valid votes
UANC	10,318	1	20.00
UNFP	30,318	3	58.90
ZANU	7,365	1	14.30
ZUPO	3,502		6.80
Total	51,503		100.00

Note: There were 5,534 spoilt papers representing 9.70 percent of the total votes cast.

MATABELELAND NORTH

	Votes	Seats	Percent of valid votes
UANC	79,108	5	40.84
UNFP	75,350	4	38.90
ZANU	22,242	1	11.48
ZUPO	16,985		8.78
Total	193,685		100.00

Note: There were 12,922 spoilt papers representing 6.25 percent of the total votes cast.

131. Of the 4,263 people in prison who were eligible to vote, 80.5 percent actually voted; however in Matabeleland, where the poll was, as expected, low, only 51.4 percent chose to vote.

CONCLUSION

132. Our conclusions were:

a. Although not specified in our terms of reference our investigations were throughout coloured by the phrase—"free and fair"—which has become common currency in this matter.

b. In our view the elections were "fair" in the sense that the electoral machinery was fairly conducted and above serious reproach. In arriving at this conclusion we have applied the strictest Western European criteria.

c. The question whether the election was "free" is more complex. There is no doubt that the people who actually voted were free to choose which party they wished to support. It is true that in conditions of war, and with the other pressures which we have described, it would have been impossible to hold a fully free election in the sense that everyone qualified to vote could either do so or abstain precisely as he or she wished. However, in our opinion, neither individually nor in conjunction did these pressures amount to such curtailment of freedom or imposition of direction as to invalidate the election. On the contrary the people expressed their own view, in numbers which demonstrate a significant judgement on the constitutional basis of the election itself. They also exercised their right clearly to choose the party which they wished to lead the next Government.

d. Finally we note that neither Patriotic Front party proffered candidates for election. Despite this we think that the result represented the wish of the majority of the electorate of the country however calculated.

Appendix A

POLLING STATIONS VISITED

Mashonaland East

Salisbury

Mabvuku township hall.
Tafara school.
Sanlam Shopping Centre, Highlands.
Highlands municipal office.
Gwinyai school, Harare.
Nharira school, Harare.
Old superintendent's office, Harare.
Workington Shopping Centre.
Waterfalls, Seven Miles Hotel.
Waterfalls District Municipal Office.
St. John's Ambulance Association HQ, Salisbury Central.
Arcadia Community Centre (twice).
Zimbabwe Social Centre, Highfield.
Belvedere.
Chikurubi maximum security prison (mobile).
Coventry Road/Sir James Macdonald Avenue (mobile).
Social Centre Area 2, Kambuzuma.
Rutenda Hall, Mafakose.
Post Office Training Centre.
Machipisa.
Ardbennie.
Greystone Park school.
Christchurch, Greystone Park.
District Commissioner's Office, Market Square.
Mobile 10—Kingsway/Railway Avenue.
Marandellas.
Dombo Tombo.

Mashonaland Central

Mount Darwin.
Nyembiri.
Dotito school.
Bveke.
Nyanzunza.
Centenary East Sports Club.
Chawanda.
Nyamzizi.
Mudzengerere.
Madziwa Protected Village 6.
Butleigh Farm, Mtepatepa (mobile).
Bindura.
Trojan Nickel Mines (mobile).

Victoria

Fort Victoria District Commissioner's Office, Gutu; Dewure Business Centre, Bikita; Ndanga hospital, Zaka.

Matabeleland South

Gwanda; Thornwood Mines; Kezi; Essexvale; Medweni, and Colleen Bawn (mobile).

Matabeleland North

Bulawayo: Iminyela township; Tshabalala township; Belmont, 97 Mafeking Road, Bellevue.

Manicaland

Umtali: All 5 static polling stations; Matasa centre; Mutasa Protected Village 16; Inyanga; and Rusape.

Mashonaland East: Salisbury-David Livingstone School (three times); Goromamonzi; Marandellas; Seki; Wedza; Concession; Mtoko; and Mazoe.
Mashonaland West: Gatooma.
Mashonaland Central: Mount Darwin.
Midlands: Que Que, Umvuma.
Matabeleland South: Filabusi, Gwanda.
Matabeleland North: Bulawayo.
Manicaland: Rusape, Umtali.

ESTIMATE OF POTENTIAL BLACK VOTERS IN 1979

(By Dr. C. A. L. Myburgh)

Because of marked demographic differences between (a) the locally born, and (b) the foreign born segments of the black population and the fact that the ratio between the two groups is changing, separate calculations were made for each of these groups.

For the locally born, the 1969 census proportion of persons aged 18 years and over, viz. 39.8 per cent, was applied to the estimated number of locally born blacks as at the end of March, 1979. This gave a figure of 2.60 million. Similarly, for the foreign born element the 1969 census proportion of persons aged 18 years and over (86.9 per cent) was applied to the appropriate segment of the March 1979, population estimate to give a figure of approximately 240 thousand. This latter figure reduces the 230 thousand when known foreign born adult male immigrants over the last two years are deducted, as they would not have the required residential qualification. Thus the combined total black potential comes to 2,830,000, nay, 2.8 million.

The use of the 1969 aged distributions is consistent with the demographic theory of a stable population which is commonly used in demographic studies of under developed countries. This theory of a stable population is also used for a large segment of our post-1969 population estimates in view of the fact that we do not have complete records of all births, deaths and migrants.

The estimate of the 1979 voting potential is based on the smoothed 1969 census age distribution, so that account has been taken of errors in the ages reported at census date. However, the estimate does not take account of unknown omissions from the 1969 census. On the other hand neither does it allow for the unknown post-1969 emigration of locally born and the post-1969 migration of foreign born women. However, the emigration of foreign born men is estimated from employment data.

The rate of natural increase used in making the post-1969 population estimates is a constant 3.6 per cent per annum derived from the 1969 census, for estimation purposes this figure is kept constant because, at this stage, it is not known to what extent the pre-1969 upward trend in this rate has been retarded or reversed in more recent years.

The increasing acceptance of family planning has certainly had some effect on the past trends, but changes in the birth rate would have little or no effect on the 1979 adult population as those were all born before the 1969 census. While an adjustment to the birth rate would affect the total population estimate, it would necessitate making a compensatory adjustment to the proportion of adults used in calculating the potential voting population.

The main factor contributing to the upward trend in the rate of natural increase prior to 1969 was probably a decrease in the death rate following the extension and improvement of health services. This trend probably continued beyond 1969, although in the last few years this has been retarded, if not reversed, by the terrorist activities and the resulting war situation.

Any attempt to quantify all the unknowns referred to would be speculative. Bearing in mind that some of these unknowns would raise the estimate while others would reduce it, it is considered that the estimate of 2.8 million is the best figure that can be produced at present.

ESTIMATE OF POTENTIAL BLACK VOTERS

The size of the black electorate will obviously come under scrutiny in assessing the percentage poll at the forthcoming election for the 72 Black Common Roll seats. As previous estimates had been made some months ago the Election Directorate requested the Director of Census and Statistics to prepare an up-to-date estimate. The Director's assessment based on the March, 1979, population estimate and the basis on which it has been made is attached.

The Director, Dr. C. A. L. Myburgh, who has been Director of Census and Statistics since January, 1963, is a member or fellow of various international statistical organizations. He has been involved in demographic studies since 1945 and was awarded the PhD for his demographic studies in 1954 and elected to the International Institute for the Scientific Study of Population shortly afterwards. On various occasions he has been consulted on demographic matters by the census authorities of Malawi and Botswana, the heads of the demographic section of the United Nations Economic Commission for Africa and by the World Health Organization.

Appendix D

(Press Statement)

VOTE PERCENTAGES EXPLAINED

The following statement was issued today (April 20) by the Election Directorate:

As there is some confusion relating to the calculation of the percentage of votes cast in the General Election, the Election Directorate points out that for the purpose of this calculation a potential electorate of 2.9 million was used.

The Director of Census and Statistics has estimated the potential black electorate at 2.8 million as at March 31, 1979. To this must be added the potential white electorate, which is approximately 100,000.

Allowance must also be made for those eligible voters unable to vote because they are outside Rhodesia and no postal voting facilities are available for this election. In these circumstances the Directorate considers 2.9 million a reasonable estimate against which to calculate the overall percentage poll, as was explained at the Election Directorate briefing on the evening of Monday, April 16.

The Directorate also draws attention to the fact that it is misleading to calculate percentage polls in individual electoral districts on the estimated voting potential in each of these districts. In the first place these estimates were made for the purpose of calculating the number of parliamentary seats and were based on the normal estimated population of each administrative district. No account was taken of movement of population, particularly to the urban areas, in recent years as a result of the terrorist war, as this would have been impossible to calculate and in any event would have given a false picture on which to base parliamentary representation.

In this particular election a voter is free to vote at any polling station in the country and is not restricted to his own district. The Directorate is aware that there has been a significant movement of people from some Tribal Trust Lands to urban centres immediately before and during the election so that they can cast their votes free from intimidation. In many cases this movement has involved crossing electoral district boundaries.

While a comparison between the actual voters in any of the electoral districts with the estimated voting potential in that district gives an indication of the turnout of voters in the area, it cannot be taken as an accurate assessment of the percentage of the actual voters in that district during the election who have cast their votes. The only reliable calculation, therefore, is that based on the estimated potential electorate in the nation as a whole.

APPENDIX F

ATTENDANCES: POLITICAL MEETINGS (UANC AND ZANU ONLY)

Date	Place	Numbers attending
UANC		
Feb. 9, 1979	Bulawayo	21
Feb. 10, 1979	Chiwundura TTL	3, 000
Feb. 10, 1979	Urungwe TTL	2, 000
Feb. 17, 1979	Redcliff	2-3, 000
Feb. 17, 1979	Gatooma	3-400
Feb. 25, 1979	Sakubva	250
Feb. 24, 1979	Marandellas	2, 800
Feb. 24, 1979	Bulawayo	300
Feb. 25, 1979	Mkoba	400
Feb. 25, 1979	Umvuma	500
Mar. 3, 1979	Dangamvura	300
Feb. 4, 1979	Salisbury	200, 000
Mar. 3, 1979	Amaveni	500
Mar. 3, 1979	Zwimba TTL	2, 000
Mar. 10, 1979	Sinoia	350
Mar. 10, 1979	Norton	1, 000
Mar. 11, 1979	Lalapanzi	100
Mar. 10, 1979	Bulawayo	5-6, 000
Mar. 17, 1979	Chipinga	200
Mar. 18, 1979	Mashaba	1, 500
Mar. 17, 1979	Zwimba TTL	15, 000
Mar. 24, 1979	Zaka	2, 500
Mar. 24, 1979	Bulawayo	6, 000
Mar. 24, 1979	Umtali	3, 000
Mar. 24, 1979	Lions Den	700
Mar. 18, 1979	Makuti	400
Mar. 24, 1979	Mangula	350
Mar. 25, 1979	Lundi TTL	600
Mar. 25, 1979	Bukwa Mine	1, 000
Mar. 29, 1979	Bikita	500
Mar. 30, 1979	Chiredzi	1, 000
Mar. 31, 1979	Mtoko	8-900
Mar. 31, 1979	Sinoia	500
Mar. 31, 1979	Lions Den	600
Mar. 31, 1979	Mangula Mine	600
Mar. 31, 1979	Mtoroshanga	800
Mar. 28, 1979	Glendale	1, 200
Mar. 29, 1979	Bindura	1, 400
Mar. 28, 1979	Mazoe	2, 000
Apr. 1, 1979	Bulawayo	25, 000
Mar. 31, 1979	Wankie	450
Apr. 4, 1979	Nkai	1, 000
Apr. 4, 1979	Kezi	600
Apr. 6, 1979	Beit Bridge	1, 150
Apr. 8, 1979	Gwelo	7, 500
Apr. 8, 1979	Sanyati TTL	1, 500
Apr. 8, 1979	Norton	300
Apr. 7, 1979	Umvukwes	350
Apr. 7, 1979	Centenary	400
Apr. 8, 1979	Shamva	1, 000
Apr. 6, 1979	Urungwe	5, 000
Apr. 7, 1979	Kariba	4, 000
Apr. 6, 1979	Wedza	800
Apr. 7, 1979	Macheke	600
ZANU		
Feb. 10, 1979	Salisbury	4, 000
Feb. 17, 1979	Mkoba Township	1, 500
Feb. 17, 1979	Gwelo	200
Feb. 25, 1979	Sakubva	2, 500
Feb. 19, 1979	Birchenough Bridge	1, 500
Feb. 19, 1979	Chipinga	800
Feb. 24, 1979	Sinoia	300
Feb. 21, 1979	Sinoia	240
Feb. 25, 1979	Bulawayo	1, 500
Mar. 4, 1979	Salisbury	16, 000
Mar. 3, 1979	Senka Township	150
Mar. 10, 1979	Chipinga	3, 500
Mar. 11, 1979	Sengwe TTL	1, 000
Mar. 10, 1979	Enkeldoorn	200
Mar. 8, 1979	Gwanda	250-300
Mar. 17, 1979	Dangamvura	700
Mar. 18, 1979	Kamativi	42
Mar. 24, 1979	Mashaba	100
Mar. 23, 1979	Arcturus	150
Mar. 24, 1979	Bromley	200
Mar. 22, 1979	Marandellas	1, 200
Mar. 24, 1979	Sipolilo	350
Mar. 21, 1979	Karoi	250
Mar. 25, 1979	Lalapanzi	150
Mar. 24, 1979	Amaveni	200
Mar. 28, 1979	Nkai	500
Apr. 1, 1979	Salisbury	200
Mar. 31, 1979	Salisbury	400
Mar. 30, 1979	Sengwe TTL	500
Mar. 30, 1979	Marandellas	250
Apr. 1, 1979	Marandellas	250
Mar. 31, 1979	Karoi	200
Mar. 31, 1979	Ruda	100
Mar. 31, 1979	Inyanga	200
Mar. 31, 1979	Sabi TTL	200
Mar. 29, 1979	Inyati	500
Mar. 29, 1979	Nyamandhlovu	400
Mar. 29, 1979	Tjolotjo	400
Mar. 27, 1979	Essexvale	300
Mar. 27, 1979	Plumtree	550
Mar. 30, 1979	Wankie	200
Apr. 8, 1979	Epworth Mission	200
Apr. 8, 1979	Salisbury	2, 000
Apr. 4, 1979	Selukwe	1, 500
Apr. 7, 1979	Chiwundura TTL	100
Apr. 3, 1979	Que Que	300
Apr. 4, 1979	Que Que	[1] 800
Apr. 5, 1979	Mzarabani TTL	300
Apr. 2, 1979	Doma Sports Club	1, 000
Apr. 7, 1979	Banket	100
Apr. 8, 1979	Mangula	400
Apr. 7, 1979	Wedza	400

[1] 2 meetings.

Note: A great many meetings were held in addition to those given. As the vast majority of these other meetings were UANC, those UANC meetings where numbers attending were less than 500 have been excluded. Very few ZANU meetings have been excluded and these were meetings of under 100 people.

Appendix G

MARTIAL LAW

Fort Darwin

The whole sub-J.O.C. is under martial law except Centenary. There is a dusk to dawn curfew. Wide powers are available so long as the incident is guerilla-inspired. The Security Forces arrest, and hand over to a court convened by the Martial Law Administrator. The President would have to have legal qualifications; the other members would normally be the District Commissioner and a prominent local civilian. The police would prosecute and the defendant could be legally represented, and is so informed.

There have been no cases in this area and no such court has been convened.

Gwanda

There have been 74 pre-emptive detentions, the last in late February.

There has been one court martial. One of a European farmer's work-force set up a guerilla ambush, in which the farmer was killed by a rocket. The key witnesses had given statements under caution but had then joined the guerillas, leaving insufficient evidence for the normal criminal courts.

Umtali

There have been 20 people detained for assisting guerillas with food and information.

There have been seven courts martial, with no acquittals nor quashing on review. None of the defendants chose legal representation.

There have been two death sentences:

a. A commercial driver was taken by guerillas to a kraal where the kraal headman said he was to be shot, and he was. The headman pleaded guilty and was executed.

b. The wife and child of a European farmer were killed as a result of collusion between one of their farm workers and the guerillas. The farm worker pleaded guilty.

In neither case would it have been possible to obtain witnesses, since no witnesses would have been allowed to live.

The other cases were much less serious.

Appendix H

EVIDENCE PRODUCED ON THE PATRIOTIC FRONT'S NON-PARTICIPATION IN THE ELECTION

Mr. Ian Smith, interviewed by J. Humphreys of the B.B.C., March 3, 1978.

I.S. "I have made it clear that if they (P.F.) wished to come back and participate peacefully then they may do so and that door is still open."

Mr. Ian Smith, interviewed by Walter Cronkite of C.B.S., March 3, 1978.

I.S. "As far as I and indeed the three internal black leaders with whom I have been holding the negotiations are concerned we have all made it clear that if any of these (P.F.) people wish to return, providing they come as men of peace and decide that they will forgo terrorism and work with us constitutionally for a peaceful settlement, that will welcome their participation. It is now up to the people concerned to make up their minds as to whether they wish to return and participate or whether they wish to stay out in the cold."

Mr. Ian Smith, interviewed by B.B.C. television on December 5, 1978.

I.S. "I want to remind you that we have opened the door to the Patriotic Front so that they are staying out of their own volition. Now under those circumstances we have no option but to carry on without them."

Rev. Sithole in programme "Meet the Leaders" on R.B.C. T.V., March 26, 1978.

Rev. Sithole. "Right from the beginning the external leaders were invited to join the talks but they refused to come back into the country and join us. The reason why they have refused to come back is that they know they are massively rejected by the people in this country. But even deeper than that they have a very strange philosophy which is quite unacceptable to most of us.

Namely, they feel very strongly that all power should be handed over to the P.F., but we do not subscribe to that view. We feel very strongly that all power must be handed not to a particular political leader or to a particular political organization, but to the people of this country, then in turn the people of this country will delegate this power at free elections to the leaders of their own choice. The invitation to the external leaders is still open. They can come and participate in free elections like anybody else, but certainly no special place will be created for any of them, just as in the agreement no special place has been created for any of the internal leaders. What is important is that they should come back and submit themselves to the verdict of the people of this country no matter what external support they may get. The crucial question is the verdict by the people of this country."

Mr. Ian Smith, interviewed by the B.B.C., June 15, 1978.

I.S. "We have made an offer inviting Messrs. Nkomo and Mugabe to come in and participate in our agreement on an equal footing with the rest of us . . . We could very easily close the doors and keep it to ourselves, but we are prepared to invite them in on exactly the same conditions as the rest of us are participating."

Mr. Ian Smith, interviewed by Mr. Carl Rowan of C.B.S., June 30, 1978.

I.S. "Another point I would make to you is that we have invited Mr. Nkomo and Mr. Mugabe to come back and to participate on an equal footing with the other black leaders who are in the country, so the fact that they are not here is their fault, no one else's."

Mr. Ian Smith, interviewed by Mr. Alan Ryskind of Human Events, June 29, 1978.

I.S. "We don't exclude Nkomo and Mugabe. We have invited them to participate."

Mr. Ian Smith, interviewed by Mr. P. Younghusband of Newsweek, June 29, 1978.

I.S. "I think the first point I should make is that we have never objected to speaking to Nkomo and Mugabe. In fact we have invited them in to participate in the Transitional Government. I believe this is a very generous attitude on the part of the people who are in control."

Rev. Sithole interviewed by Alan Ryskind of "Human Events," June 29, 1978.

Rev. Sithole. "Now whoever wants to be a leader must subordinate himself to the verdict as will be given by the people at a General Election. Now these present arrangements include, therefore, all the forces, internal forces, external forces as well."

Question. "Well can Mr. Nkomo and Mr. Mugabe come here as well?"

Rev. Sithole. "They can come anytime, it is open, and their protection is guaranteed like the protection of everyone else."

Question. "You still welcome them to come in and participate in an election?"

Rev. Sithole. "Indeed, indeed, we are urging them to come in and participate in the elections."

Rev. Sithole, interviewed by Carl T. Rowan (WTOP), June 30, 1978.

Rev. Sithole. "Joshua Nkoma is welcome. Anytime he likes to come and participate he can do so. His security is guaranteed by the Transitional Government so that if he chooses to stay out, certainly he is exercising his own right."

Mr. Ian Smith, interviewed by Stephen Bradshaw (BBC), July 17, 1978.

I.S. "I think we must get the record straight and make it clear that Mr. Nkomo has not been excluded. Time and time again, the members of the Executive Council has actually asked Mr. Nkomo and in fact, Mr. Mugabe to come in and they will be given equal standing and equal facilities with the other members of the Transitional Government."

Statement by Bishop Muzorewa, July 26, 1978.

"We have never been averse to the participation of the Patriotic Front in our Transitional Government. Indeed we have repeatedly stated that there are two empty chairs for Mugabe and Nkomo on the Executive Council and that we want all people to participate in an all party election."

Rev. Sithole interviewed by Miss June Goodwin (Christian Science Monitor), August 24, 1978.

Rev. Sithole. "The Patriotic Front is welcome to return home and participate in a general election."

Mr. Ian Smith, interviewed by Mr. Sandy Gall of I.T.N., December 8, 1978.

Question. "Could you foresee by any stretch of the imagination a situation where perhaps Mr. Mugabe and Mr. Nkomo could also be included in a National Government?"

I. S. "We have invited them to participate in our conference which led to the March 3rd Agreement. At least a dozen times subsequently we have invited them to come back and participate and offered them the same position as the rest of us in the Transitional Government, seats on the Executive Council, Ministers in the Ministerial Council but they have not accepted because they believe they have the support of the British and the U.S. Administrations and indeed they have today and the Administrations of these two countries are opposed to us. This puts the Patriotic Front in a very powerful position where there is a chance that they can come in without going through an election and being all powerful.

Rev. Sithole, interviewed on RBC–TV, January 21, 1979.

Rev. Sithole. "The point is Nkomo and Mugabe are not interested in coming back to the country and participating in a general election. If they decided tomorrow to come back and live under the law like everybody else and participate to bring about a majority rule agreement they are welcome but if they say no then they are free to say "no". If they say "yes" they are free to say that."

Mr. Ian Smith, interviewed by Mr. Lionel Williams (SABC) February 1, 1979.

I. S. "They (British and U.S. Governments) make lame excuses as to why they can't go along with it (Transitional Government) because we haven't brought in the Patriotic Front. But they fail to give us credit for the fact, and tell the world the truth, that we invited the Patriotic Front to come in. And they didn't come in."

Mr. Ian Smith, interviewed by Mr. Rudolf Starner of Tiroler Nachrichten (Innsbruck, Austria), February 20, 1979.

I. S. "As far as the leaders of the Patriotic Front are concerned we have told them many times and repeated it only the other day, that if they wish to return and participate they may do so—the door is open. There is only one condition—that they must work constitutionally and peaceful as opposed to using force and intimidation."

Mr. Ian Smith, interviewed by Mr. Ian Mills, March 9, 1979.

I. S. "I should think about a dozen times over the last 12 months we have invited them in, we have offered their leaders a seat in the Executive Council, and the subsequent right to appoint Ministers to the Ministerial Council, we have offered for them to participate in these elections. Only the day before yesterday, I think it was, we issued another invitation to them to come in. They won't come in, because they know they can't win." ●

ORDER FOR RECESS TODAY UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, are there any orders for recognition of Senators on tomorrow morning?

The PRESIDING OFFICER. There are not.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow. This is in place of the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees have been recognized under the standing order tomorrow, I be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME PENDING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at the conclusion of the order for recognition of the junior Senator from West Virginia tomorrow, the Senate resume consideration of the pending business, the military authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEETING OF COMMITTEE ON ARMED SERVICES TODAY

Mr. STENNIS. Mr. President, I announce to the membership of the Committee on Armed Services that the meeting we were planning for that committee will be held in the Appropriations Committee room, S. 126, which is on the first floor, next to the elevator, and we shall start in 5 minutes. We have a matter pending there on the registration that we shall take up. If we put such things as that on our communications, we would save a little time.

Mr. President, that completes my announcement. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will recess in just a moment. I hope that the Senate will complete action on this bill tomorrow. The managers of the bill (Mr. STENNIS and Mr. TOWER) will be here at 10:30 in the morning to start on the bill. I hope that any Senators who have amendments will be prepared to offer them. At this moment, I cannot see anything that would keep the Senate from having a long session tomorrow, if need be, to finish the bill. So I suggest that Senators be prepared to have a lengthy session tomorrow in an effort to conclude action on this legislation. Tomorrow is Tuesday. That only leaves Wednesday and Thursday of this week so far as Senate floor work is concerned.

There will be rollcall votes tomorrow, undoubtedly.

That is about it, as far as the program is concerned. I am ready to recess the Senate unless a Senator seeks recognition.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until tomorrow morning at 10 o'clock.

The motion was agreed to; and, at 4:28 p.m., the Senate recessed until tomorrow, Tuesday, June 12, 1979, at 10 a.m.

NOMINATIONS

Executive nomination received by the Secretary of the Senate June 8, 1979, under authority of the order of the Senate of June 7, 1979:

ALASKA NATURAL GAS TRANSPORTATION SYSTEM

John T. Rhett, of Virginia, to be Federal Inspector for the Alaska Natural Gas Transportation System (new position).

HOUSE OF REPRESENTATIVES—*Monday, June 11, 1979*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. BRADEMAS).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
June 7, 1979.

I hereby designate the Honorable JOHN BRADEMAS to act as Speaker pro tempore on Monday, June 11, 1979.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious Father, we come before You asking Your blessing upon us. As You have revealed Your Word to the prophets in days past, so make us aware of our responsibility in our day and time.

We acknowledge that through Your creation we are brought into a unity that expresses itself through the common concerns of life. Remind us, O Lord, of the need for commitment to each other and our dependence upon one another. Help us to experience the joy and satisfaction that comes through caring for people in need.

Be with us this week, Heavenly Father, and cause Your peace to be in our hearts. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ASHBROOK. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker pro tempore's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 305, nays 8, answered "present" 2, not voting 119, as follows:

[Roll No. 199]

YEAS—305

Abdnor
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boland
Boner
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, S.C.
Deckard
Derwinski
Devine
Dicks
Dingell
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Tenn.
Fountain
Fowler
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hamilton
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffries
Jenkins
Johnson, Colo.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
Madigan
Maguire
Markey
Marlenee
Marriott
Mathis
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan

Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Pepper
Perkins
Pickle
Preyer
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rinaldo
Ritter
Roberts
Robinson
Roe
Roth
Rousselot
Roybal
Royer
Runnels
Sabo
Satterfield
Sawyer
Scheuer
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Zablocki

NAYS—8

Broomfield
Goodling
Jacobs
Mitchell, Md.
Schroeder
Volkmer
Walker
Young, Alaska

ANSWERED "PRESENT"—2

Bonker
Williams, Mont.

NOT VOTING—119

Addabbo
Akaka
Albosta
Ambro
Anderson, Ill.
Andrews, N.C.
Aspin
Badham
Beard, R.I.
Beilenson
Bingham
Boggs
Bolling
Bonior
Bouquard
Breaux
Brown, Ohio
Burton, John
Byron
Campbell
Chisholm
Clausen
Collins, Ill.
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Dickinson
Diggs
Dixon
Dodd
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Eckhardt
Evans, Ga.
Fary
Flood
Foley
Ford, Mich.
Forsythe
Frenzel
Frost
Fuqua
Garcia
Goldwater
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hanley
Heckler
Hillis
Holtzman
Ichord
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kindness
Kogovsek
Lloyd
Lott
Lujan
McHugh
McKay
McKinney
Marks
Martin
Mavroules
Miller, Calif.
Mineta
Moorhead, Pa.
Murphy, N.Y.
Nelson
Nichols
Ottinger
Paul
Pease
Petri
Peyser
Price
Pritchard
Pursell
Ratchford
Rhodes
Richmond
Rodino
Rose
Rosenthal
Rostenkowski
Rudd
Russo
Santini
Schulze
Shannon
St Germain
Staggers
Steed
Stokes
Stratton
Traxler
Treen
Trible
Watkins
Wilson, Bob
Wilson, C. H.
Wright
Wydler
Young, Mo.
Zeferetti

☐ 1210

So the Journal was approved.

The result of the vote was announced as above recorded.

☐ 1220

REPORT ON RESOLUTION OF INQUIRY DIRECTED TO THE PRESIDENT

Mr. DINGELL, from the Committee on Interstate and Foreign Commerce, submitted a privileged report (Rept. No. 96-261) on the resolution (H. Res. 291) a resolution of inquiry directing the President to provide Members of the House with information on the energy situation, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT ON H.R. 4057, FOOD STAMP ACT AMENDMENTS OF 1979

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight, June 11, to file a report on the bill (H.R. 4057) to amend section 18 of the Food Stamp Act of 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us why he cannot just meet the normal deadline in the normal process and why he needs unanimous consent?

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I would be glad to yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

As I understand it, the bill has been reported as of early last week, and, because the bill deals with an emergency extension of the Food Stamp Act, the effort here is to try to expedite it and get these reports in. I believe the minority has concurred in this unanimous-consent agreement of the committee.

Mr. ROUSSELOT. Further reserving the right to object, I am not so concerned about how much interest there is. I am sure there is a great deal of interest in the food stamp bill. But why is it necessary to accelerate it beyond the normal process? That is all I am asking. Are we going to take it up this week?

Mr. PANETTA. If the gentleman will yield further, I believe it will be scheduled for next week. I am not certain about that as to its exact scheduling. I do know that the chairman of the committee in conjunction with the leader of the minority in the committee has asked that this unanimous consent be obtained today so that we can try to get the report to the Members if we do take it up next week.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ENERGY RESEARCH AND PRODUCTION OF THE COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET ON WEDNESDAY, THURSDAY, AND FRIDAY OF THIS WEEK WHILE THE HOUSE IS IN SESSION

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Energy Research and Production of the Committee on Science and Technology may be permitted to meet on Wednesday, Thursday, and Friday of this week, starting at 9:30 each day, in spite of the fact that the House will be in session during part of those times.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, is this for hearings only?

Mr. McCORMACK. If the gentleman will yield, yes. In response to the question of the gentleman from California, this is for the purpose of hearings only.

Mr. ROUSSELOT. There will be no markup?

Mr. McCORMACK. There is no legislation to be marked up.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CAPITOL PAGE SCHOOL AWARDS ASSEMBLY

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOAKLEY. Mr. Speaker, last week, the Capitol Page School presented awards to those students who excelled in various areas throughout the school year. We sometimes forget that our pages are also students; that they begin their day before dawn; that they work longer and harder than nearly anyone here. I am especially pleased that in spite of these limitations, we have some excellent students. We are proud of them all.

In England, a mother once wrote the headmaster at Eaton:

> Don't teach my boy poetry. He's going to stand for Parliament.

Mr. Speaker, I am sure that our pages are taught poetry as well as biology and mathematics while here they skirt the edges of history. They may yet stand for election some day.

Mr. Speaker, I am pleased to include in the RECORD the order of ceremonies for the 1979 Capitol Page School Awards Assembly:

CAPITOL PAGE SCHOOL AWARDS ASSEMBLY, MAY 31, 1979

Flag Salute, Kim Knoll, President, Senior Class.

Citizenship Medal—American Legion, Ben Heimsath and Louise Ichinose.

Civitan Honor Key Award, Dina Morielli.

Harvard Book Award, Marty Henn.

Danforth Award, Verian Dunbar and Maria Keebler.

Kiwanis Award, Bob Bean.

Rensselaer Award, Ed Brading.

Bausch and Lomb Award, Mark Riegel.

Journalism Award, Connie Young.

Academic Advancement—Senior, Jim Neidert and Junior, John Harris.

Women's Bar Association of the District of Columbia: Thomas Clements, Robert Holste, Kim Knoll, Thomas Pierce, and Mark Workman.

National Merit Scholarship Finalist, Mark Riegel.

National Merit Scholarship Finalist for Outstanding Negro Students, Brian Mitchell.

Declamation Award, Ronald Campbell.

French Award, James Miller.

Physics Award, Chris Crain.

Leadership Award, Kim Knoll.

Special Recognition Award, Verian Dunbar.

Debate Tournament Champion, Connie Fore.

Faculty Award, Bob Bean.

Salutatorian Medal, Ben Heimsath.

Valedictorian Medal, Dina Morielli.

School letters—Service, Achievement: Bob Bean, Ron Campbell, Tom Clements, Verian Dunbar, Connie Fore, Ben Heimsath, Robert Holste, Kim Knoll, Kelly Landolphia, Mike McGaughey, Dina Morielli, Jim Neidert, Mark Riegel, Bassanio Winston, and Connie Young.

School Star: Maria Keebler and Jim Neidert.

Varsity Basketball Awards: Fred Beal, Herb Harris, John Harris, Ron Rutledge, Phil Marley, Mike McGaughey, Jim Neidert, Carol Wagner, Jimmy Nowell, Bert Ralston, Larry Tolliver, and Mark Workman.

Varsity Star: Bob Bean and Bassanio Winston.

Most Valuable Player, Herbert Harris.

Cheer Leaders: Kay Alston, Kim Denney, Sharon Jordan, Laurie Kianka, Maria Keebler, and Marcie Sims.

Star: Maria Keebler.

National Honor Society: Judy Bell, Ron Campbell, Tom Clements, Susanne Cox, Ben Heimsath, Robert Holste, Louise Ichinose, Paul Milner, Brian Mitchell, Dina Morielli Mark Riegel, Bassanio Winston, and Mark Workman.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Arizona.

Mr. RHODES. I thank the gentleman for yielding.

Mr. Speaker, on behalf of myself and the gentleman from California (Mr. ROUSSELOT), who is the chairman of the Republican Personnel Committee, I would like to associate myself with the remarks of the gentleman from Massachusetts (Mr. MOAKLEY). I am equally proud of all of our pages. They do keep an extraordinary schedule and they work very hard.

I thank the gentleman for taking this time to recognize our most enthusiastic employees—our pages.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman for his remarks.

POPE JOHN PAUL II'S VISIT TO POLAND SUBJECT OF SPECIAL ORDER JUNE 14

(Mr. ZABLOCKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZABLOCKI. Mr. Speaker, I take this time to advise my colleagues that Thursday next, June 14, I will address the House and ask, Mr. Speaker, that our colleagues join me in commenting on the courageous and historic visit of Pope John Paul II to Poland.

In visiting his cherished homeland Pope John Paul II rekindled religious inspiration and renewed Judeo-Christian principles evident not only in the Poles, but in believers everywhere. Mr. Speaker, the historic visit of Pope John Paul II to Poland bears significance for countless peoples of the world.

His courageous journey in which he espoused the fundamental precepts of Christianity in a country which adheres to an atheistic philosophy is to be admired and commended. In the same vein, the Government of Poland is to be applauded for graciously receiving the Pope and cooperating by permitting ceremonies in keeping with the Holy Father's spiritual mission. It is my hope that the Government of Poland will show the same respect for spiritual freedom to the people of Poland as was shown the Pope.

Mr. Speaker, perhaps Pope John Paul II best summarized the spirit of Christianity in his closing remarks before leaving Poland when he said:

> I beg you never to lose your trust. Do not be defeated; do not be discouraged; do not on your own cut yourselves off from the roots from which we have our origins . . . and never lose your spiritual freedom, with which "He makes a human being free."

NO MOTION TODAY TO INSTRUCT CONFEREES ON STATE DEPARTMENT AUTHORIZATION BILL

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I take this time only to inform my colleagues that there will be no motion offered today to instruct the conferees on the State Department authorization bill, on the other body's language regarding lifting sanctions against Rhodesia. Last week the gentleman from Wisconsin (Mr. ZABLOCKI) did me the courtesy of informing me this bill would be subject to a request to send it to conference today. I learned only within the last hour that in fact it will not be, so I am sorry if I have discommoded any of my colleagues, but I operated on the information available to me at the end of last week.

I hope we will be told prior to the time that this comes up again so that those interested in the issue will be able to deal with it.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

The gentleman from Wisconsin, indeed, tried to reach the gentleman from Maryland. Further, I thought my staff had advised his staff that, the request for conferees would not be made today. It may be that—I am not saying it is certain—we may request conferees for the State Department authorization bill Wednesday. The Secretary of State will be before the Foreign Affairs Committee tomorrow, and I thought it just and proper that we withhold the request for conferees until hearing from the Secretary.

Mr. BAUMAN. I cannot imagine what difference anything he would say would make on this issue, frankly.

Mr. ASHBROOK. Mr. Speaker, will my colleague yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I appreciate my colleague's yielding. I appreciate my colleague's bringing this to the attention of everybody in the body. It has been my experience that normally it is brought up when the votes are not there, so maybe that is the reason it is going to go over.

UNCONSCIONABLE DECISION TO GRANT FUNDS TO LEGAL AID SOCIETY OF NORTHEAST MINNESOTA RATHER THAN JUDICARE SYSTEM OF NORTHWEST MINNESOTA LEGAL SERVICES

(Mr. STANGELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STANGELAND. Mr. Speaker, a little noticed, but very significant event took place recently in the Seventh District of Minnesota which I would like to share with you today.

The Legal Service Corporation, created by an act of Congress in 1974 to provide financial support for legal assistance in noncriminal proceedings to persons financially unable to afford legal services, recommended that funds be granted to the Legal Aid Society of Northeast Minnesota. The Legal Aid Society was deemed by the Legal Services Corporation to be the most desirable and cost-effective vehicle to deliver civil legal assistance to the low-income persons of Cass, Crow Wing, and Aitkin Counties. This decision was made despite overwhelming support from the client community, the three county bar associations, governmental agencies, and county boards and senior citizens groups urged that the judicare system provided by the Northwest Minnesota Legal Services was the preferred approach. The Legal Services Corporation indicated the Legal Aid Society was given preference, because it was more cost effective. Yet, the actual request in the three-county grant application by the Northwest Minnesota Legal Services was approximately one-half of what is projected to be paid to staff the Legal Aid Society of Northwest Minnesota. This complete oversight of the preferred method by which to deliver a cost-effective, responsive legal system to low-income persons in these three counties is unconscionable, and is another incidence of the Federal Government's arrogance in ignoring the will of the people.

□ 1230

BREAKING OUR WORD IN PANAMA

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. FENWICK. Mr. Speaker, we are very soon going to be voting on legislation to implement the treaties involving the Panama Canal. I would like, therefore, to enter into the RECORD this excellent editorial which appeared in the New York Times:

BREAKING OUR WORD IN PANAMA

It is an unhappy fact of American politics that reason stops at the edge of the Panama Canal. Members of Congress who are kind to children and profess respect for law turn into scofflaws when the subject of Panama arises. Now they are threatening to undo 14 years of work by four Presidents by billing the Republic of Panama for as much as $4 billion in "closing costs" for transferring the Big Ditch to its lawful new owner by the year 2000. If they get their way, the United States would be in violation of the letter and spirit of canal treaties ratified only last year.

The House will vote on Tuesday on legislaton to put the new treaties into effect before Oct. 1, when the existing covenant expires. Those who failed in their opposition to any "giveaway" of the canal now attempt to nullify the treaties by backdoor stealth. Their argument—led by Representative George Hansen, an Idaho Republican and chairman of the Save Our Canal Committee—is that the Administration promised not to tax Americans a dime for the transfer cost. But, Mr. Hansen contends, taxpayers will be "paying" in the form of higher toll fees, forfeited debt payments, termination costs and turned-over equipment—totaling perhaps $4 billion.

Mr. Hansen's arithmetic is dubious. It is not taxpayers but canal users who will pay the major share of the costs of removing American installations from the Canal Zone. The Administration estimates that the total transfer bill will be around $870 million, or $42 million a year, of which not a dollar will go to Panama. It supports an implementation measure introduced by Representative John Murphy, a New York Democrat, who opposed the treaties. Using his own formula, Mr. Murphy calculates total transfer costs at $660 million.

But the canal scofflaws are not really arguing about arithmetic; they want to nullify the treaties, and will use any stick, big or little, to do the job.

The new agreement expressly asserts that there will be no charge for any transfer of property, and that the canal will be turned over to Panama in 2000 without lien or debt. If the Hansen proposal were adopted, or if Congress passed no implementation measure, Panama would have grounds for denouncing the new treaties and calling for the immediate removal of American forces from the Zone. This is the worst-case scenario and is surely unlikely—but then who would have thought that a hundred Congressmen would sign the Hansen proposal?

America's self-respect and credibility are at stake. The United States has made a carefully considered bargain with tiny Panama; to disown it meanly would diminish our honor and sow fresh dismay about the erosion of executive authority. So obvious a point ought to worry Congress, even its canal scofflaws.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2444) to establish a Department of Education, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MATHIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 308, nays 28, not voting 98, as follows:

[Roll No. 200]

YEAS—308

Abdnor
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Carney
Carr
Carter
Cavanaugh
Chappell
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Devine
Dickinson
Dicks
Dingell
Donnelly
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Tenn.
Fountain
Fowler
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jenkins
Johnson, Colo.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Long, La.
Long, Md.
Lowry
Luken
Lundine
Lungren
McCloskey
McCormack
McDade
McEwen
McHugh
Madigan
Maguire
Markey
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pepper
Perkins
Pickle
Preyer
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rinaldo
Roberts
Robinson
Roe
Rosenthal
Roybal
Royer
Runnels
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Shelby
Shumway
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thompson
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Zablocki

NAYS—28

Archer
Ashbrook
Bauman
Broomfield
Brown, Ohio
Cheney
Collins, Tex.
Crane, Daniel
Derwinski
Goodling
Gradison
Hansen
Harsha
Jeffries
Latta
Loeffler
McClory
McDonald
Mitchell, Md.
Quayle
Ritter
Roth
Rousselot
Sensenbrenner
Shuster
Symms
Thomas
Young, Alaska

NOT VOTING—98

Addabbo
Akaka
Albosta
Ambro
Anderson, Ill.
Ashley
Badham
Beard, R.I.
Bingham
Bolling
Bonior
Bouquard
Breaux
Burton, John
Byron
Campbell
Chisholm
Collins, Ill.
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Diggs
Dixon
Dodd
Dornan
Duncan, Oreg.
Eckhardt
Evans, Ga.
Fary
Flood
Foley
Ford, Mich.
Forsythe
Frenzel
Frost
Fuqua
Giaimo
Goldwater
Hammerschmidt
Hanley
Heckler
Holtzman
Ichord
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kindness
Lloyd
Lott
Lujan
McKay
McKinney
Marks
Mavroules
Miller, Calif.
Mineta
Moorhead, Pa
Murphy, N.Y.
Ottinger
Pease
Petri
Peyser
Price
Ratchford
Rhodes
Richmond
Rodino
Rose
Rostenkowski
Rudd
Russo
Santini
Schulze
Simon
St Germain
Steed
Stockman
Stokes
Traxler
Treen
Watkins
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wright
Wydler
Young, Mo.
Zeferetti

□ 1240

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2444, with Mr. NEDZI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, June 7, the gentleman from Texas (Mr. BROOKS) had 1 hour and 6 minutes of debate remaining, and the gentleman from New York (Mr. HORTON) had 8 minutes of debate remaining.

The Chair now recognizes the gentleman from New York (Mr. HORTON).

□ 1250

Mr. HORTON. Mr. Chairman, I had no further requests for time on Thursday, and accordingly I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I had no further requests for time on Thursday, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the substitute committee amendment printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate section 1.

Section 1 reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Department of Education Organization Act".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—FINDINGS AND PURPOSE

Sec. 101. Findings.
Sec. 102. Purpose.
Sec. 103. Prohibition against Federal control of education.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

Sec. 201. Establishment.
Sec. 202. Principal officers.
Sec. 203. Office for Civil Rights.
Sec. 204. Office of Postsecondary Education.
Sec. 205. Office of Elementary and Secondary Education.
Sec. 206. Office of Special Education and Rehabilitation Services.
Sec. 207. Assistant Secretary for Vocational and Adult Education.
Sec. 208. Office of Educational Research and Improvement.
Sec. 209. Functions relating to education of overseas military dependents.
Sec. 210. General Counsel.
Sec. 211. Inspector General.
Sec. 212. Intergovernmental Advisory Council on Education.
Sec. 213. Interdepartmental Education Coordinating Committee.

TITLE III—TRANSFERS

Sec. 301. Transfers from the Department of Health, Education, and Welfare.
Sec. 302. Transfers from the Department of Labor.
Sec. 303. Transfers from the Department of Defense.
Sec. 304. Transfers from the National Science Foundation.
Sec. 305. Transfers from the Department of Justice.
Sec. 306. Transfers from the Department of Housing and Urban Development.
Sec. 307. Transfers from the Department of the Interior.
Sec. 308. Effect of transfers.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

Sec. 401. Officers and employees.
Sec. 402. Experts and consultants.
Sec. 403. Reduction of positions
Sec. 404. Exclusion of overseas school personnel from limitation on positions.

PART B—GENERAL PROVISIONS

Sec. 421. General authority.
Sec. 422. Delegation.
Sec. 423. Reorganization.
Sec. 424. Rules.
Sec. 425. Contracts.
Sec. 426. Regional and field offices.
Sec. 427. Acquisition and maintenance of property.
Sec. 428. Facilities at remote locations.
Sec. 429. Use of facilities.
Sec. 430. Copyrights and patents.
Sec. 431. Gifts and bequests.
Sec. 432. Working capital fund.
Sec. 433. Funds transfer.
Sec. 434. Seal of department.
Sec. 435. Annual report.
Sec. 436. Authorization of appropriations.
Sec. 437. Relationship to General Education Provisions Act.
Sec. 438. Technical advice.
Sec. 439. Alternative administrative structures waiver.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Sec. 501. Transfer and allocations of appropriations and personnel.
Sec. 502. Effect on personnel.
Sec. 503. Agency terminations.
Sec. 504. Incidental transfers.
Sec. 505. Savings provisions.
Sec. 506. Separability.
Sec. 507. Reference.
Sec. 508. Amendments.
Sec. 509. Redesignation.
Sec. 510. Transition.
Sec. 511. Office of Personnel Management report.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

The CHAIRMAN. Are there any amendments to section 1?

AMENDMENTS OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer amendments.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. ERLENBORN: In the following places, strike out the word "Education" and insert in its place "Public Education and Youth":

On page 51, in line 20;
On page 53, in lines 4, 5, and 7;
On page 55, in line 19;
On page 57, in lines 12 and 14;
On page 64, in lines 9 and 10, and 12;
On page 98, in lines 16 and 17, and 24;
On page 99, in lines 6, 10, 19, 20 and 21, and 22 and 23;
On page 100, lines 4, 17, and 19;
On page 101, in lines 5, 9 and 10, 13, and 16, and 23;
On page 102, in lines 13, 15, and 25;
On page 103, in lines 11 and 13; and
On page 104, in line 17.

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, I ask unanimous consent that these amendments may be considered, although they address parts of the bill other than section 1. The amendments amend title 1, as well as other titles, to change the name of the Department, and the amendments in those parts other than section 1 are merely conforming amendments.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, I ask unanimous consent that the amendments may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, I offer this amendment to change the name of the proposed Department of Education. I think that the fact the administration sent this bill up here with the present title is indicative of the fact that they were moving in haste and did not give full and due consideration to what they were doing.

Mr. Chairman, just 2 or 3 years ago we created a Department of Energy. Now, we all know the tendency in Washington and elsewhere to refer to agencies of the Government by the initials of the name. So the Department of Energy is now universally referred to as "DOE." If we were to accept the title of this new department as proposed by the administration, it would also be "DOE."

Obviously this would be confusing. It would either require that everyone use the full name of each department, "Department of Energy" and "Department of Education," and eschew the universal and long-held practice of referring to a department by its initials or by an acronym.

To avoid this confusion I am proposing that we change the name of this department to the "Department of Public Education and Youth." I think the title, "Public Education and Youth," is more accurate a description of this department.

First of all, the Federal Government is involved only in public education, and so we should help to allay the fears of the private education community by making a reference in the title to public education.

Though there are manpower training programs and other adult programs in the Federal Government, none of those manpower training or adult education programs have been transferred, pursuant to this bill or the administration's proposal, into this new Department of Education. So the sole mission of the Department will be the public education of youth.

Therefore, Mr. Chairman, I think the proper title for the proposal before us is the "Department of Public Education and Youth," and I hope that the Members will support my amendment.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

I would point out, Mr. Chairman, that the bill explicitly provides that one of the purposes of the Department is to "support more effectively States, localities, and public and private institutions, students and parents in carrying out their responsibilities for education."

I believe that this language that we have in the bill is quite appropriate in the light of the contributions which private education has made and will continue to make to our American education system at all levels. The thrust of our educational programs has been to treat public and private education without differentiating between the two.

Mr. Chairman, this amendment would

run counter to that thrust, and I would, therefore, oppose the amendment.

Mr. HORTON. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I think this is a frivolous amendment. It does not have any substantive value.

I know that the gentleman from Illinois (Mr. ERLENBORN) is opposed to the bill. What he is proposing is an acronym for the name of this agency that would spell D-O-P-E-Y.

I think it is very frivolous, and we ought to do away with the amendment very quickly.

I might point out with regard to the substance of the gentleman's argument that there are several departments that do not go by their initials. For example, the Department of State is not "DOS," the Department of Agriculture is not "DOA," the Department of Justice is not "DOJ," the Department of the Interior is not "DOI," and the Department of Commerce is not "DOC."

So, Mr. Chairman, I urge the defeat of this amendment.

Mr. BURGENER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, would the chairman of the committee be kind enough to engage in a very brief colloquy with me?

Mr. BROOKS. Surely.

Mr. BURGENER. While this is not directly related to the amendments before us, I do want to ask a question early on in the debate.

There is in the Department of Health, Education, and Welfare the President's Commitee on Mental Retardation. This is created by Executive order, as are many Presidential commissions. It is placed in HEW for housekeeping purposes.

My question is this: Is there direction anywhere in this legislation as to where various commissions and boards would go under the new organization? The one about which I inquire is the President's Committee on Mental Retardation, otherwise known as PCMR.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the chairman of the committee.

Mr. BROOKS. Mr. Chairman, I do not know what agencies or programs the gentleman is talking about specfically, but those that have to do with education would come from HEW into the Department of Education, and those that are primarily concerned with health might remain in HEW.

Mr. BURGENER. Mr. Chairman, the reason I am familiar with this one is that I did serve as chairman of it a few years ago. I was vice chairman and a member of the committee, and I have a very special interest in it. I have been advised by the commission that their functions are primarily health-related, and, therefore, under this proposed reorganization they would much prefer to remain under and be more effective under the umbrella of Health, rather than under the proposed Department of Education.

Mr. BROOKS. Mr. Chairman, I would be inclined to agree with the gentleman.

Mr. BURGENER. Mr. Chairman, I thank the gentleman very much for his response.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1300

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote.

A recorded vote was refused.

So the amendments were rejected.

AMENDMENTS OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. ERLENBORN: In the following places, insert the word "Public" before the word "Education":

On page 51, in line 20;
On page 53, in lines 4, 5, and 7;
On page 55, in line 19;
On page 57, in lines 12 and 14;
On page 64, in lines 9 and 12;
On page 98, in lines 16 and 24;
On page 99, in lines 6, 10, 19, 20, and 22;
On page 100, in lines 4, 17, and 19;
On page 101, in lines 5, 9, 13, 16, and 23;
On page 102, in lines 13, 15, and 25;
On page 103, in lines 11 and 13; and
On page 104, in line 17.

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read ad printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc, in spite of the fact that some of the amendments go to other titles of the bill. This again is in the nature of conforming to the principal change in the title.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, before we move on beyond the title of the new Department, let me again suggest to the House the confusion that would arise with two DOE's. The last amendment was not agreed to, possibly because the acronym for the Department of Public Education and Youth would be D.O.P.E.Y., or dopey. So I am proposing at this time a different change in the title of this new Department. These amendments would change the name of the Department to the Department of Public Education, DOPE. These amendments would be addressed to the concerns of the private education community, church-related schools, and so forth, that the Federal Government was moving into educational policymaking and would destroy their ability as private institutions not publicly supported to set their own educational policy. I think it should be the rule that the Federal Government leaves the private sector alone so that we can continue the diversity, the rich diversity in education that we have enjoyed in the past.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, I have just been penciling this out several times, and I find that it comes out to DOPE. That is "dopey." Would that be to countenance the use of narcotics in education? Or how does it relate to narcotics? Why would the gentleman want to interject, shall we say, that into the proposed Department?

Mr. ERLENBORN. Mr. Chairman, I really had not thought of it in those terms.

Mr. JACOBS. I was afraid of that.

Mr. ERLENBORN. I was thinking more on the intelligence level rather than the use of narcotics.

Mr. JACOBS. I understand. I wonder if everybody will understand, since it is, at best, ambiguous.

Mr. ERLENBORN. With the evidence of what is going on in some of our schools, it might have a dual application.

Mr. JACOBS. So that this would amount to an official recognition rather mainland China; the new Department mainland China; the new Department would recognize the use of narcotics in education?

Mr. ERLENBORN. As I understand it, the next Attorney General recently has said that he is in favor of legalizing marihuana. It likely will be the policy of this administration to legalize the use of marihuana, and since marihuana is already used extensively in our public school system, I think that the application of this acronym will have a dual application both to the intelligence level of those who propose the Department and also the practices in the schools.

Mr. JACOBS. So the gentleman is proposing that the Congress recognize the use of narcotics in education?

Mr. ERLENBORN. To not recognize it is to have one's eyes closed.

Mr. JACOBS. So the gentleman urges the adoption of the amendments on that basis?

Mr. ERLENBORN. I urge the adoption of my amendments.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendments which are basically the same as the previous amendments. I urge their defeat, because they are frivolous and of no substantive value. The Department of Education is a good title for this Department. I urge the defeat of these amendments.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words, and I oppose the amendments for the same basic reason and ask for a "no" vote.

☐ 1310

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 17, noes 39.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1320

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 52, noes 310, not voting 72, as follows:

[Roll No. 201]

AYES—52

Abdnor
Ashbrook
Bauman
Brown, Ohio
Carney
Cheney
Cleveland
Collins, Tex.
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Devine
Dickinson
Erlenborn
Gibbons
Goodling
Green
Guyer
Hagedorn
Hansen
Holt
Jeffries
Latta
Leath, Tex.
Loeffler
Lungren
McClory
McCloskey
McDonald
McEwen
Miller, Ohio
Myers, Ind.
O'Brien
Paul
Petri
Quayle
Robinson
Roth
Rousselot
Satterfield
Sawyer
Sensenbrenner
Shumway
Shuster
Snyder
Stangeland
Stump
Symms
Taylor
Thomas
Walker

NOES—310

Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Daniel, Dan
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derwinski
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Grassley
Gray
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jenkins
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pepper
Perkins
Peyser
Pickle
Preyer
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts
Roe
Roybal
Royer
Runnels
Sabo
Santini
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

NOT VOTING—72

Addabbo
Ambro
Anderson, Ill.
Badham
Bolling
Bonior
Bouquard
Breaux
Brown, Calif.
Burton, John
Campbell
Collins, Ill.
Conyers
Corman
D'Amours
Danielson
de la Garza
Derrick
Dicks
Diggs
Dingell
Dornan
Eckhardt
Edwards, Calif.
Evans, Ga.
Fary
Flood
Foley
Forsythe
Frenzel
Fuqua
Goldwater
Gramm
Hammerschmidt
Harsha
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kindness
Lloyd
Lott
Lujan
McKay
Marks
Mikva
Mineta
Moorhead, Pa.
Murphy, N.Y.
Pease
Price
Rhodes
Richmond
Rodino
Rose
Rosenthal
Rostenkowski
Rudd
Russo
Schulze
Steed
Stockman
Treen
Waxman
Wilson, Bob
Wilson, C. H.
Wright
Wydler
Young, Mo.
Zeferetti

☐ 1330

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer a number of amendments, and I ask unanimous consent that they be considered en bloc. They incorporate only the technical changes required to create an independent Office of Education rather than a Cabinet Office of Education.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. McCLOSKEY:

On page 51, in line 19, strike "Department" and insert in lieu thereof "Office".

On page 52, table of Contents, Title II, strike "DEPARTMENT" and insert in lieu thereof "OFFICE";

Table of Contents, Sec. 207, strike out "Secretary" and insert in lieu thereof "Commissioner"; and

Table of Contents, Sec. 434, strike out "department" and insert in lieu thereof "office".

On page 53, in line 3, strike "Department" and insert in lieu thereof "Office";

In line 4, strike "Department" and insert in lieu thereof "Office";

In line 5, strike "..."Secretary" means the Secretary" and insert in lieu thereof "..."Commissioner" means Commissioner"; and

In line 6, strike "..."Under Secretary" means the Under Secretary" and insert in lieu thereof "..."Deputy Commissioner" means the Deputy Commissioner".

On page 54, strike out lines 14 through 25, and on page 55, strike lines 1 through 16 and insert in their place the following:

"SEC. 101. The Congress of the United States finds that—

"(1) education is fundamental to the development of the individual and to the growth of the Nation;

"(2) the current structure of the executive branch unnecessarily submerges the Office of Education in the large and unwieldy bureaucracy of the Department of Health, Education, and Welfare, which of necessity directs its primary attention to the problems of health and welfare;

"(3) the primary responsibility for education has been and should remain with State and local governments, public and non-public institutions, communities, and families;

"(4) there is a continuing need to ensure equality of educational opportunity and to improve the quality of education and it is appropriate that there be an independent Office of Education in the Federal government to coordinate assistance to State and local governments; and

"(5) the number, fragmentation, and complexity of Federal education programs has created management problems at the Federal, State, local, and institutional levels, which should be ameliorated by separating, simplifying, and decreasing the size of the U.S. Office of Education."

On page 55, in line 19, strike "Department" and insert in lieu thereof "Office";

In line 21, strike "Department" and insert in lieu thereof "Office"; and

In line 25, strike "Department" and insert in lieu thereof "Office";

On page 56, in line 25, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 57, line 9, strike "DEPARTMENT" and insert in lieu thereof "OFFICE";

Line 12, strike "department" and insert in lieu thereof "office";

Line 12, strike "Department" and insert in lieu thereof "Office";

Line 13, strike "Department" and insert in lieu thereof "Office";

Line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 15, strike "Department" and insert in lieu thereof "Office";

Beginning on line 17 and ending on line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 19 and ending on line 20, strike "Department an Under Secretary" and insert in lieu thereof "Office a Deputy Commissioner";

Line 21, strike "Under Secretary" and insert in lieu thereof "Deputy Commissioner";

Line 22, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 23, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 24, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 25, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Beginning on line 25 and ending on page 58, line 1, strike "Under Secretary" and insert in lieu thereof "Deputy Commissioner".

On page 58, line 2, strike "Department" and insert in lieu thereof "Office";

Line 2, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 5, strike "Secretary and Under Secretary" and insert in lieu thereof "Commissioner and Deputy Commissioner";

Line 8, strike "Department" and insert in lieu thereof "Office";

Line 9, strike "Secretaries" and insert in lieu thereof "Commissioners";

Line 9, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 18 and ending on line 19, strike "Department" and insert in lieu thereof "Office"; and

Line 19, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 59, line 16, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 17, strike "Department" and insert in lieu thereof "Office";

Line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 21 and ending on line 22, strike "Department" and insert in lieu thereof "Office";

Beginning on line 22 and ending on line 23, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Line 24, strike "Secretaries" and insert in lieu thereof "Commissioners".

On page 60, line 2, strike "Secretary shall delegate to the Assistant Secretary" and insert in lieu thereof "Commissioner shall delegate to the Assistant Commissioner";

Line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 7, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 10, after the word "Office", insert "of Civil Rights";

Line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 16, strike "Secretary and the Congress by the Assistant Secretary" and insert in lieu thereof "Commissioner and the Congress by the Assistant Commisioner"

Line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 19, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 21, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 61, line 6, after the word "Office" insert "of Civil Rights";

Line 23, strike "Department" and insert in lieu thereof "Office"; and

Line 25, strike "Secretaries' 'and insert in lieu thereof "Commissioners".

On Page 62, line 1, strike "Secretary" and insert in lieu thereof "Commissioner"

Line 1, after the word "Office" insert "of Post Secondary Education"

Line 3, strike "Secretary" and insert in lieu thereof "Commissioner"

Line 3, after the word "Office" insert "of Post Secondary Education"

Line 4, strike "Secretary" and insert in lieu thereof "Commissioner"

Line 7, strike "Department" and insert in lieu thereof "Office"

Line 9, strike "Secretaries" and insert in lieu thereof "Commissioners"

Line 10, strike "Secretary" and insert in lieu thereof "Commissioner"

Line 12, strike "Secretary" and insert in lieu thereof "Commissioner"

Line 13, after the word "Office" insert "of Post Secondary Education"

Line 16, strike "Department" and insert in lieu thereof "Office"

Line 18, strike "Secretaries" and insert in lieu thereof "Commissioners"

Line 19, strike "Secretary" and insert in lieu thereof "Commissioner"

Line 21, strike "Secretary" and insert in lieu thereof "Commissioner"

Line 21, after the word "Office" insert "of Special Education and Rehabilitation Services"; and

Line 22, strike "Secretary" and insert in lieu thereof "Commissioner".

On Page 63, line 1, strike "SECRETARY" and insert in lieu thereof "COMMISSIONER";

Line 3, strike "Department" and insert in lieu thereof "Office";

Line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 5, strike "Secretaries" and insert in lieu thereof "Commissioners";

Line 6, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Line 8, strike "Secretary shall delegate to the Assistant Secretary" and insert in lieu thereof "Commissioner shall delegate to the Assistant Commissioner";

Line 9, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 12, strike "Department" and insert in lieu thereof "Office";

Line 14, strike "Secretaries" and insert in lieu thereof "Commissioners";

Line 15, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 15, after the word "Office" insert "of Educational Research and Improvement";

Line 16, strike "Department" and insert in lieu thereof "Office";

Line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 19, after the word "Office" insert "of Educational Research and Improvement"; and

Line 22, strike "Department" and insert in lieu thereof "Office".

Page 64, line 4, strike "Department" and insert in lieu thereof "Office"; and

Line 9, strike "Department" and insert in lieu thereof "Office".

Page 65, line 5, strike "Secretary" and insert in lieu thereof "Commissioner".

Page 66, line 4, strike "Under Secretary" and insert in lieu thereof "Deputy Commissioner"; and

Line 21, strike "Secretary" and insert in lieu thereof "Commissioner".

Page 68, line 1, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 11, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Line 14, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 68, line 21, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 71, line 19, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 72, in line 4, strike "Department" and insert in lieu thereof "Office";

In line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 7, strike "Department" and insert in lieu thereof "Office";

In line 10, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 13, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 25, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 73, in line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 8, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 11 strike "Secretary" and insert in lieu thereof "Commissioner";

In line 14, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 20, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 74, in line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 8, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 10, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 75, in line 10, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 16, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 76, in line 2, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 17, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 17, strike "Department" and insert in lieu thereof "Office".

On page 76, line 23, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 77, in line 1 strike "Secretery and the Department" and insert in lieu thereof "Commissioner and the Office".

In line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 10, strike "Department" and insert in lieu thereof "Office"; and

In line 15, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 78, in line 17, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 79, line 7, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 80, in line 2, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 11, strike "Department" and insert in lieu thereof "Office";

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 25, strike "Department" and insert in lieu thereof "Office".

On page 81, in line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 7, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 7, strike "Department" and insert in lieu thereof "Office";

In line 8, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 10, strike "Department as the Secretary" and insert in lieu thereof "Office as the Commissioner";

In line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 15, strike "Department as the Secretary" and insert in lieu thereof "Office as the Commissioner";

In line 22, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 23, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 25, strike "Secretary or the Department" and insert in lieu thereof "Commissioner or the Office".

On page 82, in line 1, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Beginning on line 12 and ending on line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 19 and ending on line 20, strike "Secretary or the Department" and insert in lieu thereof "Commissioner or the Office";

In line 22, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 83, in line 1, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 2, strike "Department" and insert in lieu thereof "Office";

In line 4, strike "Secretary" an insert in lieu thereof "Commissioner";

In line 8, strike "Department" and insert in lieu thereof "Office;

In line 11, strike "Department" and insert in lieu thereof "Office";

In line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 15, strike "Department" and insert in lieu thereof "Office";

In line 19, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 24, strike "Department" and insert in lieu thereof "Office".

On page 84, in line 2, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 23, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 85, in line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 9, strike "Secretary or in the Department" and insert in lieu thereof "Commissioner or in the Office";

In line 10, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 17 and ending on line 18, strike "Secretary" for Department" and insert in lieu thereof "Commissioner for Office"; and

In line 19, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 86, in line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 14, strike "Department" and insert in lieu thereof "Office";

In line 22, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 25, strike "Department" and insert in lieu thereof "Office".

On page 87, in line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 8, strike "Department" and insert in lieu thereof "Office";

In line 11, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 16, strike "Department" and insert in lieu thereof "Office"; and

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 88, in line 2, strike "Department" and insert in lieu thereof "Office"; and

In line 14, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 89, in line 1, strike "DEPARTMENT" and insert in lieu thereof "OFFICE";

In line 2, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 3, strike "Department" and insert in lieu thereof "Office";

In line 3, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 9, strike "Department" and insert in lieu thereof "Office";

In line 11, strike "Department" and insert in lieu thereof "Office";

In line 13, strike "Department" and insert in lieu thereof "Office";

Beginning on line 16 and ending on line 17, strike "Department" and insert in lieu thereof "Office"; and

Beginning on line 24 and ending on line 25, strike "Department or the Secretary" and insert in lieu thereof "Office or the Commissioner".

On page 90, beginning on line 2 and ending on line 3, strike "Department and the Secretary" and insert in lieu thereof "Office and the Commissioner";

In line 4, strike "Department or the Secretary" and insert in lieu thereof "Office or the Commissioner";

In line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 17, strike "Secretary or the Department" and insert in lieu thereof "Commissioner or the Office";

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 20, strike "Secretary or the Department" and insert in lieu thereof "Commissioner or the Office."

On page 91, in line 8, strike "Department" and insert in lieu thereof "Office"; and

In line 14, strike "Secretary" and insert thereof "Commissioner".

On page 92, in line 6, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 24, strike "Department" and insert in lieu thereof "Office".

On page 93, in line 5, strike "Department" and insert in lieu thereof "Office".

On page 94, beginning on line 4 and ending on line 5, strike "Department" and insert in lieu thereof "Office";

In line 9, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 10, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 11, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 12, strike "Department" and insert in lieu thereof "Office".

On page 95, in line 21, strike "Department" and insert in lieu thereof "Office"; and

In line 22, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 96, in line 19, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 21, strike "Department" and insert in lieu thereof "Office".

On page 97, in line 16, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 98, beginning on line 6 and ending on line 7, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 7, strike "Department" and insert in lieu thereof "Office";

On page 98, strike out lines 10 through 17 and insert in lieu thereof:

"Sec. 508(a) Section 19(d)(1) of title 3 of the United States Code is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

On page 98, strike out lines 18 through 24 and redesignate the following subsections accordingly.

On page 99, strike out lines 4 through 6 and redesignate the following subsections accordingly.

On page 99, in line 10, strike out "Under Secretary" and insert in lieu thereof "Commissioner"; and

In line 19, strike out "Assistant Secretaries of Education (6)" and insert in lieu thereof "Deputy Commissioner".

On page 100, in line 4, strike "Officers, Department of Education, (5)" and

Insert in lieu thereof "Assistant Secretaries and principal officers, Office of Education (11)"; and

Beginning on line 16 and ending on line 17, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 101, in line 5, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 9, strike "Department" and insert in lieu thereof "Office".

On page 101, strike out lines 11 through 13 and insert in lieu thereof the following:

(4) in section 314, by striking out "Secretary of Health, Education and Welfare" and inserting in lieu thereof "Commissioner of Education";

On page 101, strike out lines 16 and 17 and insert in lieu thereof the following:

"Health and Human Services, the Commissioner of Education,"; and On page 101, strike out lines 23 and 24 and insert in lieu thereof the following: "thereof "Health and Human Services, the Commissioner of Education,".

On page 102, in line 13, strike "Department" and insert in lieu thereof "Office";

In line 15, strike "Department" and insert in lieu thereof "Office"; and

In line 25, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 103, in line 11, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 13, strike "Department" and insert in lieu thereof "Office"; and

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 104, line 14, strike "Secretary" and insert in lieu thereof "Commissioner of the Office of Education".

On page 104, strike out lines 17 and 18 and insert in lieu thereof the following: "Health and Human Services, the Commissioner of Education,".

On page 105, in line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 15, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 106, in line 4, strike "Department" and insert in lieu thereof "Office"; and

In line 19, strike "Department" and insert in lieu thereof "Office".

On page 106, line 25, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 107, in line 5, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 9, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 14, strike "Department" and insert in lieu thereof "Office".

Mr. McCLOSKEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendments be dispensed with, and that they be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California that the amendments be considered en bloc?

There was no objection.

Mr. McCLOSKEY. Mr. Chairman, this amendment would cause a very simple change in the bill. It would make the new Office of Education just that, an office of education. It would not elevate the present Office of Education to Cabinet level. The Commissioner of Education would remain a Commissioner of Education; he would not be a Cabinet-level Secretary of Education. The rest of the amendments carry out that theme.

This amendment, Mr. Chairman, is based upon the acceptance of the primary argument for separating the Office of Education from HEW, and that is because the umbrella of Health and Welfare, the budget, the problems, and the policy decisions of Health and Welfare have submerged the Office of Education to the point where if your constituents wish to get a decision on education, or if your State Superintendent of Public Instruction wishes a decision on public education, he cannot get it. It seems to me, in reviewing the arguments of the distinguished chairman, the gentleman from Texas, in favor of a new Cabinet-level Department of Education, we will note that in his advocacy he concedes that there will be no policymaking. There is no national education policy.

☐ 1340

Clearly we do not want a national education policy. If you will look at the Office of Education it is essentially a collection of some 150 programs which assist and coordinate assistance to local and State school districts. It is not a policymaking office; its programs either assist, coordinate or it merely writes checks for formula distribution of moneys such as the ESEA or impact aid programs.

It is absurd and bizarre to add a new Cabinet officer who will not have a policy advisory capacity to the President of the United States. There is no reason for a Cabinet officer to sit in the Cabinet to add to the debate, to add to the discussion, to add to the complexity of governmental decision if that Cabinet officer has no rights and no power and is desired by the Congress not to create a Federal education policy.

Let us look at what is our primary task in this Congress. I think all of us have conceded from the day we took our oath in January that our mission was to cut the size, cost and complexity of government. We seek to assign one task of government to one level of government.

There is no need for a local school board, a county school board, a State department of education and, also, a Federal cabinet department of education when we have clearly specified that the Federal function should be nothing more than to assist and coordinate.

The findings of the proposed amendment I offer states this:

> The current structure of the Executive Branch unnecessarily submerges the Office of Education in the large and unwieldy bureaucracy of the Department of Health, Education and Welfare.

That, the chairman has said and the ranking minority member has said, and the primary reason for this bill is conceded, is to get education out from under this all-encompassing umbrella of HEW.

We recognize in the findings: "The primary responsibility for education has been and should remain with State and local governments, public and nonpublic institutions, communities and families."

We accept that it is appropriate that there be an independent Office of Education in the Federal Government to coordinate this assistance. We recognize that the number, the fragments and the complexity of the Federal education programs has created management programs and that we can solve that management program by creating this separate office.

I ask if in any of the debates there has been a valid argument made as to why the head of the Office of Education ought to be at Cabinet level when there is no national education policy and it is our direction there not be a Federal education policy.

We have found that excellence in education has essentially come from the bottom, not the top. I would challenge anyone in this Chamber to point to one Federal mandate, one Federal policy that has provided excellence in education. Excellence may come from an excellent teacher, an excellent principal, an excellent school board, an excellence at the local level which provides an example with which others compete.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. McCloskey was allowed to proceed for 1 additional minute.)

Mr. McCLOSKEY. The best of our teachers will concede, and the members of the NEA who have lobbied for this bill will concede that they do not want Federal direction, they do not want Federal policy, they do not want Federal control of education. But by creating a cabinet level office we infer that the next step is a Federal education policy.

If there were one example we could find of excellence coming from Federal policy I might have a different view on this legislation but it seems to me appalling in a year where we are cutting the size of Government we should create a new cabinet office. To do so runs counter to the other trends we have pursued in the 96th Congress to date.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. Glickman and by unanimous consent Mr. McCloskey was allowed to proceed for 1 additional minute.)

Mr. McCLOSKEY. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman's amendment is a very important amendment and I would perhaps, to go over the same territory, point out that the gentleman proposes separating the Office of Education but not elevating it to Cabinet-level status.

Mr. McCLOSKEY. That is corrcet.

Mr. GLICKMAN. Mr. Chairman, where would, physically, that Office of Education be? That is, under whose jurisdiction?

Mr. McCLOSKEY. It would be under a commissioner of education who would have the same powers that the proposed Secretary of Education would have had except he or she would not be a Cabinet officer.

Mr. GLICKMAN. Would it still be within HEW's umbrella?

Mr. McCLOSKEY. No. The purpose of the amendment is to take education out from under HEW.

There is no way, with the responsibilities that Secretary Califano or any of his successors may ever have, that they will be able to devote time to the problems of education. That has proven true over the last decade.

Mr. GLICKMAN. Mr. Chairman, I think the gentleman's amendment speaks to the fact that education needs separate status but does not need Cabinet-level status.

Mr. Chairman, as one who has spent some time on a school board I think this is a productive amendment and I urge it be adopted.

Mr. STANGELAND. Mr. Chairman, I move to strike the last word and will speak in support of the amendment.

Mr. Chairman, I rise in support of the amendment of the gentleman from California. I think it to be an excellent one. I served on the subcommittee that studied the Cabinet-level Department of Education and studied this bill and reported the bill out to the full committee.

Mr. McIntyre testified before that committee. The question was asked, could we not do this reorganization within the present structure. The answer was, well, we could but we really have not looked at that alternative, we would rather have this alternative of a separate Cabinet level.

In this morning's Washington Post, Mr. McIntyre has an article rebutting some of the Post editorials on the Cabinet-level department. One of the things Mr. McIntyre says is—

> The issue before the House involves a choice between 2 alternatives. Members can vote for a Department of Education or by voting nay on the question they can retain the status quo.

That is apparently wrong because we do not have to accept the status quo. There is another alternative, another choice and I think the gentleman from California has given us that opportunity.

Many of the Members have said one of the reasons they are voting for the Cabinet-level department is to break up HEW and the gentleman's amendment will break up HEW and bring education out of that bureaucracy.

Mr. McIntyre goes on to make the point:

> Shifting education programs to a separate department would directly eliminate most of the bureaucratic layers necessitated by the HEW structure.

The gentleman's amendment will eliminate that bureaucratic lair.

Mr. McIntyre goes on to say:

> It would save money by eliminating 450 Federal positions. In fact, the bill before the House requires these positions be cut within 2 years.

Let me say that if those 450 positions can be eliminated under the bill before us they will be eliminated under this amendment as well.

Mr. McIntyre goes on to say:

> A second question raised by the Post is what effect the proposed reorganization might have on the Federal role in education. The same question needs to be asked regarding the current organization. What would keeping the education programs in HEW mean to education policy making?

No matter what amendment we put on this bill saying we are not going to have Federal policy, it is clearly the intent of the Federal policymakers to establish an educational policy on the Federal level.

Mr. McIntyre goes on to say:

> But the historical lack of an effective administrative structure has not in any way hindered the growth of Federal education programs. What it has hindered is the kind of management control over such programs that would insure a better return on tax dollars.
>
> As long as education programs remain sandwiched in HEW between the Government's giant health and welfare function, full management control will remain elusive.

What is the bureaucracy's intent?

Mr. McIntyre goes on to say later in the article:

> Instead of being buried 3 levels deep in a $200 billion bureaucracy where only the professional draftsmen can keep track of them, such programs will be exposed to the full light of public notice.

I submit, adopting the amendment of the gentleman from California will take education out of that bureaucracy. It will assure those people who are concerned about the role of the Federal Government in education that this department or this agency will not be policymaking.

Let me say that in our subcommittee representatives of the National School Boards Association, representatives of the National State Legislatures, representatives of the National PTA came to us and all made the qualification that they were for the cabinet-level department so long as it did not get into the Federal policy, so long as it did not establish Federal policy.

□ 1350

Well, I submit that the intent down the road is that there will be a Federal policy in education. Adopting the amendment of the gentleman from California will assure this body, will assure this country, that we will have a separate Department of Education. It will be visible. It will have emphasis, but it will not get into the policymaking points in education.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, at the outset I would indicate that I certainly respect the good intentions of the gentleman from California (Mr. McCLOSKEY); however, I would like to point out that both the gentleman from California (Mr. McCLOSKEY) and the gentleman from Minnesota (Mr. STANGELAND), both members of the committee, have consistently opposed this legislation.

As a matter of fact, the arguments that they make for creating a separate office of education are in line with the arguments that those of us who support the Department of Education have made consistently, namely, to get it out of the bureaucracy of HEW. One of the arguments that I made during the general debate the other day was that it is important to create a Department of Education so that we can get it out of the HEW bureaucracy and eliminate the 450 bureaucratic jobs that are now involved because of its location in the Department of HEW; so the arguments that they are using for creating a separate entity or a separate organization apart from HEW are the same arguments that we used for creating the Department of Education.

Now, they are inconsistent in proposing a separate office of education without department status.

What does it do? It degrades education.

The gentleman from California in his general argument has tried to indicate that not creating the Department of Education, but taking the education division out of HEW will solve the problem some people have with the Federal direction of education.

Well, now, that is not going to do it any more than the Department of Education is. I feel that the bill that is before us, which does have a prohibition against Federal direction of education, is sufficient, especially if we maintain oversight and make certain that the mandates of Congress are carried out. I am opposed to the direction of local education or State education by the Federal Government; but the establishment of an office of education as a separate entity is not going to solve that problem.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I will when I get through.

But the point I am making is that by just creating an office, a separate office, we are degrading education.

Now, one of the most serious problems we have in this country involves education. We spend billions of dollars each year on education and a lot of it is wasted in paperwork. It is wasted in the bureaucracy. It is wasted in not getting programs to the people who want them.

Now, what the gentleman from California and the gentleman from Minnesota want to say to us is, "Yes, we agree with that, but we do not want a Department of Education. We are going to keep it down at some independent level. True, it will report to the President, but it will not have secretary status."

Now, education is too important for that. The fact that we create a Department of Education is not in and of itself going to create Federal intervention in the process of decisionmaking by State and local boards of education. We are not setting up a board of educaiton. We are setting up a Department of Education. I think that this amendment degrades the stature of education as far as the Federal Government is concerned. I urge my colleagues to vote against it.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I will be happy to yield.

Mr. McCLOSKEY. Mr. Chairman, the gentleman is correct. I took the gentleman's argument that the gentleman made last Thursday in support of this bill. Ninety-eight percent of those arguments are in favor of taking this office out from under HEW and I concede the virtue of that point.

But would the gentleman advise the committee what additional benefits the head of the Office of Education will have by being a Cabinet Secretary, what benefit will there be for the Nation?

Mr. HORTON. In and of itself, the Secretary of Education would be a member of the Cabinet, so he would be at policymaking level as far as the Federal Government is concerned and not at some independent level where he would not have the status.

Mr. McCLOSKEY. But the gentleman has already conceded, however, that that Cabinet-level officer will not advise the President on educational policies, because we are not permitting the Federal Government to set educational policies. What is the value of his advice if there is not policy?

Mr. HORTON. I will recoup my time, if you please.

Education policy as it relates to the Federal handling of education is a matter that has to be determined at the Federal level.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON), has expired.

(At the request of Mr. STANGELAND, and by unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I will be glad to yield to the gentleman from Minnesota.

Mr. STANGELAND. Mr. Chairman, I thank the gentleman for yielding. I just have a couple of questions. Was there evidence or testimony in our committee as to the quality of education in this country as compared to any other country in the world?

Mr. HORTON. I do not recall, but I have a recollection that there was concern about the quality of education in this country, yes.

Mr. STANGELAND. I think, if the gentleman would read the committee records, they would show that.

Mr. HORTON. I sat there for all of it, but I just do not recall.

Mr. STANGELAND. It would show that our educational system was the best in the world and in comparing our educational system with those countries that have——

Mr. HORTON. Best compared to what? I will recoup my time. Compared to what? We have a deficiency in the ability to educate people in this country. We need to train and educate people so that they can handle jobs in this country. That is one of the problems we have with the underemployment problem that we face. We face it with minorities. We face it with Vietnam veterans. We face it with all groups of people. The number of people that are not educated today is really uncalled for. We should have a better means of providing the facilities and providing the means at the Federal level to educate people and we are not doing it.

I am not satisfied with the educational facilities we have and the ability we have to train and educate our people. Perhaps the gentleman is, but I am not.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield on that point?

Mr. HORTON. I yield to the gentleman from California.

Mr. McCLOSKEY. Based on that concept, with the Department of Veterans Affairs having a larger budget than Education, would the gentleman propose a Cabinet-level Secretary for Veterans Affairs?

Mr. HORTON. We are talking about the Department of Education. We are not talking about something else now. That is what is before us.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield further?

Mr. HORTON. I would be glad to yield to the gentleman from Minnesota.

Mr. STANGELAND. Mr. Chairman, the testimony showed that we still have the best system of education, the most innovative, the most flexible and the most progressive. We are comparing that educational system with those developed countries throughout whose total existence the Federal Establishment has been responsible for education. Ours has been diverse and it has been innovative. It has been imaginative and progressive because it has been run by State and local control.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has again expired.

(By unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. HORTON. Mr. Chairman, the point that I would like to make to the gentleman is that we have not delivered in this country. We are not delivering the education that we should be delivering. It is costing a lot of money and much of it is tied up in paperwork and tied up with the bureaucracy. The reason for establishing a Department of Education is to remove some of that bureaucracy, to remove some of that paperwork, to get rid of the log jams and the obstacles to providing the funds, the Federal funds, that are being utilized today for education.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from California. I think as I sat here listening to the argument that this amendment really gets to, if not the heart, at least one of the principal differences that divides those who support the Department of Education and those who do not. We hear the proponents of this amendment, we hear them telling us that the way to raise the prestige of education is by passing legislation in Washington and creating new Government structure.

Now, I said last week when we were debating this, what conceit those people have who think that putting a "made in Washington" stamp on something makes it better.

Education to the extent that it has prestige gains that prestige by what is happening in the classroom, by the quality of the education that is delivered to the child, not by what kind of government structure we create here in Washington.

I am afraid that if we stay here too long, we begin to see Washington as the heart, the soul, the brain of this country, as the sole place where you do things that are worthwhile or not worthwhile. We ought to spend a little more time back in our constituencies to find out what they think of what we are doing here, how much more faith they have in what they do at the local level and then I think we would support the amendment offered by the gentleman from California.

□ 1400

This does address something that has been a concern of many Members. Some have even made tentative commitments to vote for the Department of Education because of that concern, and that concern is the massive size of the Department of Health, Education, and Welfare Most of the size of that Department is in the appropriations and the manpower for the Health and Welfare portions of the Department. Actually, the Office of Education is a very small part of HEW, but there is that concern that HEW is too large, too massive, and it is not manageable.

We have heard at least one Secretary of HEW make that observation. It is not a manageable department, and there is that concern.

To the extent that is our concern, this amendment addresses that concern in the same way that the proposal before us for the Department of Education would do so. It strips out from HEW the Office of Education functions.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to my colleague, the gentleman from Minnesota.

Mr. STANGELAND. Mr. Chairman, I appreciate what my colleague, the gentleman from Illinois (Mr. ERLENBORN) is saying. He is saying that we should be listening to what the people of this country want, and I think they are saying they want less bureaucracy and less Washington establishment.

I ran a poll in my district and received replies from 12,000 respondents. Eighty-three percent were against the Department and 17 percent for. I dare say that most of the districts in rural America would give that kind of response. They do not want more bureaucracy in Washington. They want to solve their problems locally.

Mr. Chairman, I say that our education system is strong because there is a strong local involvement.

Mr. ERLENBORN. Mr. Chairman, I thank my colleague, the gentleman from Minnesota (Mr. STANGELAND).

I might say, from talking to my colleagues on both sides of the aisle, that I understand the same sort of questionnaire or poll results are coming back in one congressional district after another.

Mr. Chairman, I heard my good colleague, the gentleman from New York (Mr. HORTON) talking about stripping away the superstructure to do away with paperwork and cut down on the amount of time that is spent. We do not save any paperwork for our State education agencies, or local education agencies, or our school boards, we do not save any time for our classroom teachers by creating a Department of Education. Let me tell the Members whose time we are saving. We are saving the time of the Washington bureaucrats.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will yield in a moment.

Yes, it is very clear that they can pump out rules and regulations faster if they are autonomous and they do not have to go through the structure of HEW. So to the extent the proposal for a Department of Education saves time and saves paperwork, it is here in Washington that we see those savings.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 5 additional minutes.)

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, the gentleman is arguing now for the McCloskey amendment, which would create a separate Office of Education outside of HEW. It would use the same personnel and the same organization that the Department of Education, which is the subject of H.R. 2444, would use.

Mr. ERLENBORN. Mr. Chairman, will the gentleman get to his question?

Mr. HORTON. Mr. Chairman, the question is this: I am wondering how the gentleman can indicate how we are saving paperwork by this proposal?

Mr. ERLENBORN. Mr. Chairman, the gentleman was not listening to me. I said, the gentleman from New York claims there would be a saving in paperwork, and I am saying this——

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I decline to yield at this point.

I am saying the only savings in paperwork the creation of the Office of Education would achieve would be that paperwork that would be involved in the issuance of rules and regulations, paperwork that is occasioned at the Federal bureaucratic level.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the gentleman from New York.

Mr. HORTON. How is the gentleman going to say that by creating a separate Office of Education we are going to save paperwork?

Mr. ERLENBORN. Mr. Chairman, if the gentleman will let me get to that point and allow me to recapture my time, I will answer the question.

The creation of an Office of Education would save all of the same Federal bureaucratic paperwork the creation of a Department of Education would save, so they would both effect the same amount of that kind of savings.

But let us look at where the savings in paperwork ought to be accomplished. That is in all the forms that go out to the States for applications for narrow categorical grants under the current law, all of the forms that are generated by that Washington bureaucracy through the rules and regulations.

How would this Office of Education save paperwork? If we did not have to have the massive size and complexity to justify the existence of a Cabinet-level department, we could begin to move with an Office of Education in the direction in which we ought to move, and that is toward block grants for education and toward education revenue-sharing. Ultimately we could conceive of a small Office of Education sending out checks under a formula to our local school districts and saying, "Here, use these dollars to help in the educational process. You make the decision at the local level. You know what your problems are and how to resolve those problems. But don't discriminate."

There will be some limits as to what they can do with this money, but very few. We can move in that direction with an Office of Education, but we could never move in that direction with a Department of Education. We would have a massive Cabinet-level Department of Education that required that size, required that personnel, required that complexity, and, yes, required that policymaking function to justify its existence.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, this debate really comes down to the point of whether this office will be headed by a commissioner or by a Cabinet Secretary, and I would like to ask my colleague, the gentleman from New York (Mr. Horton) this question: Is it not true that a commissioner does not rate a Government limousine, and a Secretary does?

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, that is one difference, but if the gentleman will allow me to say so, that is about the only difference involved, because what the gentleman from California (Mr. McCloskey) is attempting to do is to set up an Office of Education, using the same personnel, the same structure, and the same organization as the Department of Education, but he would call it an Office of Education.

My point is that if the gentleman is for one, he ought to be for the other. And it is inconceivable to me that the gentleman in the well, the gentleman from Illinois (Mr. Erlenborn), would be for this Office of Education when it is going to be doing the same thing as the Department of Education.

Mr. ERLENBORN. Mr. Chairman, it may be inconceivable to the gentleman, but let me say there is one basic difference.

If the gentleman were listening, he would have heard me say that just a moment ago. We do not get Federal policymaking, we do not get massive size and complexity to maintain the Office of Education, but we do get those things to maintain a Department of Education.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, I think the gentleman from New York (Mr. Horton) has made the case. The ranking minority member has just said the only difference between these two offices is that the Cabinet Secretary gets a limousine and a commissioner does not. I think this Congress ought to cast a vote opposing limousines and make this an office instead of a Cabinet position.

Mr. ERLENBORN. Mr. Chairman, I do agree with the gentleman in saying the amendment should be supported.

I think we are making a decision now as to the future course of the Federal Government's involvement in education. Will it be limited, or are we going to move toward a massive intrusion by Federal level into what had been done at the State and local level?

Mr. Chairman, I yield back the balance of my time.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, it is with some degree of reluctance that I oppose this amendment because it is authored by my very distinguished and respected colleague, the gentleman from California (Mr. McCloskey) who is opposed to this bill, as I am.

In evaluating my opposition to the amendment, I want to be very fair and honest insofar as the principles of my opposition to this new Cabinet-level Department are concerned.

The only advantage to the amendment, as compared to the proposal in the bill, is that it does not create a Cabinet-level office. I am opposed as a matter of principle to the creation of a new Cabinet-level office, unless there is a national policy that must be conducted only by a Cabinet-level officer. I do not support the creation of separate, independent units such as the Veterans' Administration or the Office of Education, which has again only a narrow parochial interest group as its clientele. That is very, very bad government.

I oppose the amendment because it creates this agency and because what it does is destroy an important balance within HEW that I think is very important and that was enunciated when HEW was created in the first place, and that is that the forces within HEW should balance themselves off.

If we took the education component out of HEW, we would in effect be creating three new agencies, because the health people, the health clientele, would surely in a short period of time be urging and demanding and seeking and perhaps achieving their own department, and the remnant department would be the social welfare component of the agency. It is enormously important for the triparte thrust of that agency to keep them together.

What I would have supported, had someone offered the amendment, is the creation of an Under Secretary for HEW to be responsible for the education component.

☐ 1410

It may well be that no one is offering such an amendment because it really is not necessary. The President himself can do that by reorganization proposal. All of the deficiencies that the Administration suggests are inherent in the education component; that it takes 8,000 days to process an application, or 154 days to do this, or 23 days to do this, all of those things can be corrected by Executive Order. The management efficiency can be corrected any time the President wants by submitting a reorganization plan. So while I appreciate the thrust of the gentleman's amendment, I oppose it because it creates this new agency, takes the education component out of HEW, and I think does disservice to the pyramid form of Government.

Mr. Chairman, I would urge defeat of the amendment.

Mr. BROOKS. Mr. Chairman. I move to strike the requisite number of words.

Mr. Chairman, a principal reason for establishing a Department of Education is to provide, for the first time, a Cabinet-level advocate for education who has direct access to the President and who is accountable to the Congress and the public.

Administration spokesmen who appeared before the committee said that President Carter has expressed concern on several occasions that education issues are rarely brought to his attention at Cabinet meetings. He has said that education issues take less than 1 percent of his time.

The Department of Education that will be established by this bill will have a budget of $14.5 billion. It will have more than 24,000 employees. It will be larger than the Departments of State, Interior, Justice, Commerce, and Energy. The head of that Department will be a person of stature and influence in the administration and in discussions in the Cabinet That is what we want for education, and that is why we are proposing the establishment of this Department.

An upgraded Office of Education, no matter how efficiently it is run, will not command this attention. It will not provide the broad-based leadership that is needed to help our schools and our children meet the challenges and problems ahead.

The amendments should be rejected.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. McCloskey).

The question was taken; and on a division (demanded by Mr. Horton) there were—ayes 30, noes 37.

RECORDED VOTE

Mr. McCLOSKEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 114, noes 257, not voting 63, as follows:

[Roll No. 202]

AYES—114

Abdnor
Archer
Ashbrook
Bafalis
Bauman
Bennett
Bereuter
Broomfield
Brown, Ohio
Broyhill
Campbell
Carney
Chappell
Cheney
Cleveland
Clinger
Collins, Tex.
Conable
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Deckard
Derwinski
Devine
Dickinson
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Gibbons
Glickman
Goodling
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hansen
Harsha
Hillis
Hinson
Holt
Hopkins
Hyde
Jacobs
Jeffries
Johnson, Colo.
Kelly
Kemp
Kramer
Lagomarsino
Latta
Leach, La.

Lederer
Lee
Lent
Livingston
Loeffler
Long, Md.
Lungren
McClory
McCloskey
McDonald
McEwen
Martin
Mavroules
Miller, Ohio
Moore
Moorhead, Calif.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.

Nelson
Obey
Panetta
Paul
Quayle
Railsback
Regula
Ritter
Roth
Rousselot
Sabo
Satterfield
Sawyer
Schroeder
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe

Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stump
Symms
Tauke
Taylor
Thomas
Vander Jagt
Walgren
Walker
White
Whitten
Williams, Mont.
Wylie

NOES—257

Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Carr
Carter
Cavanaugh
Chisholm
Clay
Coelho
Coleman
Conte
Corcoran
Cotter
Coughlin
Courter
Daniel, Dan
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
English
Ertel
Evans, Ind.
Fascell
Fazio

Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ichord
Jenkins
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leath, Tex.
Lehman
Leland
Levitas
Lewis
Long, La.
Lowry
Luken
Lundine
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marlenee
Marriott
Mathis
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Mikva

Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts
Robinson
Roe
Rose
Rosenthal
Roybal
Royer
Santini
Scheuer
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Solarz
St Germain
Stack
Staggers
Stark
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Wampler
Watkins
Waxman
Weaver

Weiss
Whitehurst
Whitley
Whittaker
Williams, Ohio
Wilson, Tex.

Winn
Wirth
Wolff
Wolpe
Wyatt
Yates

Yatron
Young, Alaska
Young, Fla.
Zablocki

NOT VOTING—63

Addabbo
Ambro
Anderson, Ill.
Badham
Bolling
Bonior
Bouquard
Breaux
Burton, John
Clausen
Collins, Ill.
Conyers
Corman
D'Amours
Danielson
de la Garza
Derrick
Diggs
Dornan
Eckhardt
Evans, Ga.
Fary

Flood
Foley
Forsythe
Frenzel
Fuqua
Goldwater
Hammerschmidt
Ireland
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kindness
Leach, Iowa
Lloyd
Lott
Lujan
McKay
Marks
Mineta

Montgomery
Moorhead, Pa.
Price
Rhodes
Rodino
Rostenkowski
Rudd
Runnels
Russo
Schulze
Seiberling
Spellman
Steed
Treen
Wilson, Bob
Wilson, C. H.
Wright
Wydler
Young, Mo.
Zeferetti

☐ 1420

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Johnson of California against.

Mr. Badham for, with Mr. Addabbo against.

Mr. Goldwater for, with Mr. Anderson of Illinois against.

Mr. Kindness for, with Mr. Dornan against.

Mr. Rudd for, with Mr. Clausen against.

Mr. Schulze for, with Mr. Lott against.

Mr. Wydler for, with Mr. Fuqua against.

Mr. Montgomery for, with Mr. Jenrette against.

Mr. Runnels for, with Mr. Mineta against.

Mr. LONG of Maryland changed his vote from "no" to "aye."

Mr. BUTLER changed his vote from "aye" to "no."

So the amendments were rejected.

The result of the vote was announced as above recorded.

☐ 1430

Mr. BROOKS. Mr. Chairman, I move to strike the last word.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from California.

Mr. DELLUMS. I thank the distinguished Chairman for yielding to me.

Mr. Chairman, at this point I would like to clarify an issue dealing with the role of educational television and radio in the new department. Does the Chairman agree that a major priority of the Secretary in fashioning the administrative structure of the new department should be to coordinate educational television and radio?

Mr. BROOKS. Mr. Chairman, I want to say to my distinguished friend, as I understand it, the Secretary of HEW, The Commissioner of Education, and the Assistant Secretary for Education now are assigned certain responsibilities relating to the development, production, promotion, and distribution of television and radio programs under sections 207, 303, and 611 of the Elementary and Secondary Education Act of 1965. I feel that it is very important that the Secretary of Education provide for a means of coordinating such functions within the new department. It may well be that a separate office will be the most effective means of meeting that objective. However, I do not feel that a formal office for educational television and radio support should be mandated in H.R. 2444. I say this for one reason: the field of audiovisual and information technology as it relates to education is such a revolutionary area that its administration by the Department of Education should not be locked in by a statutory requirement. The Secretary should have the flexibility to adapt the administrative structure to foster the efficient development, production, promotion, and distribution of all audiovisual and information programs, including, but not limited to, educational television and radio.

Mr. DELLUMS. I thank the Chairman, and I hope that this discussion makes clear to the Secretary of the new Department of Education the importance Congress places on an effective support mechanism for these programs.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not know if anyone in this House is going to be influenced by what anyone says, or is interested in what anyone has to say. But I would like to speak to the issue as to whether or not we should have a separate Department.

I was very much in favor of the Department of Education when I came down here; and still, after I had been here for 2 years, I thought it was a wonderful idea. I spoke and wrote in favor of it and mentioned it in my campaign in 1976. I did not stress it in 1978, because I was beginning to be doubtful, and I am more doubtful with every passing day. I am more frightened of the effect of a uniform Federal policy. A letter from the White House endorses the Department as improving "the management and efficiency of Federal education programs." What could be more terrible, what could be more frightening, than to have Federal TV and radio blasting out into every school with all the money of the Federal Government back of it—uniform, clear, irresistible because it will not cost a dime, because it is all paid for down here in Washington, with no check on it locally.

To suggest to the Members where we are going with Federal control, here is a little story: There is a small college in western Pennsylvania that never took a dime from the Federal Government, never, because they wanted to be free and independent. It is a Presbyterian college, and they do not believe in taking State money. Now what is going to happen? They have a fine program which everybody admits is fine, with no sex discrimination in their athletics or anywhere else. They were ordered to sign forms showing compliance with title IX. They refused to do it. They were addressed as "Recipient" and since they were not a recipient, they did not feel it applied to them. This is what happened in the colloquies that went back and forth: "We are going to get you to comply one way or another." Now what is HEW doing? They are threatening to remove the students' grants and loans. If you cannot control a college directly, if you cannot get them to sign the forms, if you cannot get them to comply, if you cannot get them to do what Washington says, you take away the students, or make them pay, make the students who cannot afford to go to college except with aid pay, take that aid away from them. This is what I fear from Washington; this is what we are already getting. What would we get if we have a great big department? I do not see how we can tamper with the diversity and the whole intricacy of our local education system as it now stands.

How can we have education so bureaucratized? In France, I am told, right now if it were 10 o'clock in the morning in the third grade they would be on the same page of the same book in every single one of the nation's schools. This is what centralized education does. We say, Look, it does not have to be that way and it would not if we could give out just blanket educational grants and let the States decide where it is going to go. But the minute we have categorical grants, we have to find out what they are doing. We cannot take money out of the pockets of the people without making sure the funds are properly spent when we take money for a specific purpose. This is the trouble. We are going to have control whenever we have Federal programs.

There comes a time when we have to pause, and maybe this is just it. Of all the things we should not fool around with, it is education. Of all the things that need diversity, innovation, experiment, independence—independence above all of the Federal Government itself it is education.

Mr. Chairman, I yield back the balance of my time.

Mr. GOODLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there are two things that concern me as I listened to the discussion the last couple of days. First of all, I have a feeling that we in the House still have the idea that if we have a problem in this country, all we have to do is have some Federal legislation and that will take care of it. Our people back home used to think that that is the way things work, but they became disillusioned. They realize we cannot fix it so now they are saying just the opposite. But apparently we have not gotten that message yet in the House of Representatives.

Let me give you a couple of illustrations about Federal aid to education. Let me show you where it does work and where it does not work. Before I do that, let me preface my remarks by saying that in 21 years of public education, I found each class to be equal to or better than the class before in spite—in spite of what we have gone through during the sixties, in spite of the deterioration of the home situation, in spite of the fact that we are now mandated to educate all youngsters, not the way it used to be when some people went to school and some never went to school, some stayed till 7th or 8th grade—we now educate all of the youngsters. Let me tell you, of course, the average then will be different when you take an average of results.

Second, we hear people say, "But the employer says I do not get good students." The competition is great for good students, and if an employer employs a student simply because he went to high school, or simply because he had a high school diploma, he should get burned because, you see, we are called upon to educate all youngsters.

□ 1440

Mr. Chairman, if you insist that each youngster—and this is what a Department of Education could bring—each youngster is going to have to pass some national examination in order to be promoted in grade, you are going to destroy public education. You cannot put a quart in a pint. Therefore, you wonder why bathrooms are destroyed, fires are set, all sorts of vandalism takes place. If you sat in the Greek class and you did not understand Greek you would be frustrated also. So are youngsters where we try to force them to pass some kind of competency examination when they do not have those kinds of capabilities.

Now going back to the programs that have been successful from the Federal level, Mr. Chairman, elementary, secondary education title I specifically has been a successful program. It has been successful because on the Federal level we have provided funds. But we did not tell them what to do back in the State or back in the local government. We said:

> Here is money. We want you to do something for these youngsters but we are not telling you how to do it.

It got off to a slow start, Mr. Chairman, but it is working well at the present time.

Vocational education is another example of where Federal dollars helped. Again, however, we did not tell them how to do it. We said, "We provide you the money, we want you to do certain things, you come up with the idea, State and local government, and we will have a better program." We did.

Let me give you two quick examples of where Federal Government interference almost destroyed public education.

No. 1. Modern mathematics. Modern mathematics came upon the scene of public education simply through Federal dollars, Federal encouragement, Federal grants. No one was prepared to handle that. The teacher was not prepared to handle it. Parents could not help the students, because they did not know what they were talking about and we had a destructive situation in the whole business of mathematics.

Let me give you another example. If there are any nonspellers in the Congress of the United States, in many instances you can thank the Federal Government for that. It was Federal grants, Federal direction, Federal encouragement that brought about the teaching of reading without phonics. All of a sudden we got a whole crop of youngsters who could not spell. They could not hear. They could not hear sounds. That was brought about by Federal encouragement, Federal involvement.

The second thing that concerns me about those who say, "Well, perhaps we should vote for this program," is that the teachers want it. Now, I do not know if you have been back to the grassroots but let me tell you, the teachers who are in the trenches day in and day out do not want a Department of Education. Yes, there are people back there who are mouthing what their parent organization in Washington is saying. That is part of their job.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. GOODLING was allowed to proceed for 5 additional minutes.)

Mr. GOODLING. There are those people from back in your district who are encouraging this program. They are mouthing what is being told them in Washington, D.C. However, if you get back to the trenches, Mr. Chairman, they are saying, "Please, help us with your dollars; we know our local government is strapped, but do not send us any more paperwork, do not send us any more mandates, do not send us any more Federal programs. Give us an opportunity to teach reading, writing and arithmetic."

Third, if you really want to help, if the Federal Government really wants to help education back home, the best way to do it is to take these dollars that you are talking about pouring into a Department of Education and send it back to those local districts and let them reduce their pupil-teacher ratio in kindergarten and first and second grades. Do that and you will help youngsters. The die is already cast by the time they get to third grade. If you have not done the job in kindergarten, first and second grades, you probably are not going to be able to do it. So give them an opportunity to do it on the levels. Send those dollars back which would go into a Department of Education, reduce pupil-teacher ratio and give those youngsters and those teachers who are teaching them a fighting chance which they do not have now. They do not need more bureaucracy.

Federal education will bring about several things. As I mentioned, one thing it will bring about in all probability will be some kind of competency examination to determine whether a youngster may or may not be promoted. That would destroy education for the masses. It would have to do that.

Second, it could mean a national curriculum. I certainly do not believe that this country in any way can tolerate a national curriculum generated by people down here.

Some of your people who are promoting a Department of Education think it will be staffed by people, administrators, and teachers who have been in the trenches and on the front lines for 10 or 15 years. You and I know when you staff a Federal bureaucracy you staff it with dreamers. You staff it with people who have to justify their position and their salary and certainly the people back home in the trenches are not asking for that kind of staffing.

I would hope you would very seriously consider what we are doing and also consider how well we have done in spite of all the declines in the whole idea of a strong family, in the whole idea of parents and relatives being totally involved in this business of education and the whole idea of education for the masses. Let us continue to give our public system an opportunity to do well. All we have to do is simply let more money back in the local district or send more money back for them to spend on education.

Mr. LEVITAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise at this point specifically for the purpose of responding to the comments made by the distinguished gentleman from Pennsylvania and the distinguished gentlewoman from New Jersey. I think their remarks are of sufficient significance and import that they should not be ignored. I say this because I agree with much of what they said.

There is too much Federal interference in education, especially excessive regulation. There is too much grabbing by Federal authorities and interfering with decisions made both at public and private educational institutions. Many if not most of the programs that have been put in place in the last 10 or 15 years in the name of education have not been successes and, indeed, in some instances have been disasters.

All those things are true. I will join with the gentlewoman from New Jersey (Mrs. FENWICK) and the gentleman from Pennsylvania (Mr. GOODLING) to take those legislative actions necessary to deal with those problems. The fallacy, however, in their arguments is that they have nothing to do with this legislation at all. This legislation does not create a single new Federal program. It does not create any new Federal power. Not only does it not create new bureaucracy, it actually reduces the present bureaucracy. It adds not one single dollar, not one single regulation to what exists today and, indeed, it gives us mechanisms for cutting back on the regulations that exist at the present time.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to my colleague.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding.

I think if the experience of the past in the creation of Cabinet-level departments had been what you say this new Education Department is supposed to be, many others would be willing to join you. However, exactly the opposite has happened. If we are to use historical perspective.

I see no guarantees in this legislation that show us that it will not grow, that it will not be the normal grasping bureaucracy looking for more and more authority, more and more rules and regulations, and be very much detrimental to education in this country.

□ 1450

Mr. LEVITAS. Mr. Chairman, let me say to my colleague, the gentleman from California, who is not only eloquent, but with whom I agree on many issues, that I think one of the differences between this bill before the House today and that which has been before the House on other occasions deals specifically with the two points that the gentleman from California has mentioned. This is the first piece of legislation, to my knowledge, that has even come before the Congress creating a new agency or a new department in the Government which has in it a statutory limit on the number of personnel in that department and, indeed, requires a reduction in the number. The only significant way for that number to be increased in the future will be for the Members of this Congress to act irresponsibly. We can act and have acted irresponsibly in the past, but now we have a statutory mechanism for assuring that we may not in the future or at least we will be held accountable for such action.

Second, it is the first agency or department in Government ever to be proposed that from the outset has built into it a legislative veto over its rules and regulations from the outset.

What we are doing in this proposal is different. I think we cannot simply say that, because there have been mistakes in the past, we cannot do a better job in the future. What we are trying to do is a better job.

One of the reasons Government has mucked up and messed up education so much in this country is that it has been buried in the bowels of HEW and scattered throughout the bureaucracy.

Now we are going to put the spotlight on them. Now we will have an opportunity to assess their activities, which we have not been able to do in the past.

If you think that HEW has done a good job of running the education programs, as the gentleman from Pennsylvania has indicated they have not done, if you think HEW has done a good job, leave it in HEW. Let Joe Califano continue to run it; but if you want to make it accountable, if you want to reduce the bureaucracy and let aid to education be effectively administered and let the local people continue to control these programs, as section 103 of this bill requires, it requires local control, then I suggest you should support this legislation.

Let us not visit all the sins of the HEW administration upon this new effort, which I suggest will improve, rather than diminish the program of education.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I will be happy to yield to my colleague, the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I thank my colleague for yielding further and I appreciate the gentleman's comments.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

(At the request of Mr. ROUSSELOT, and by unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I am happy to yield.

Mr. ROUSSELOT. Mr. Chairman, my understanding is that the Senate legislation does not have the one House veto provision. The gentleman from Georgia and I have supported that concept time and time again. A lot of times conferees keep taking this provision out in the Senate and other pieces of legislation where we have tried to place it.

What guarantees do we have that in conference this will not be taken out?

Mr. LEVITAS. Well, first of all, let me say that I cannot tell the gentleman that I have any guarantees. I have had a different and more favorable response from the administration on this particular legislation than we have on previous ones; but I will be happy to ask my distinguished chairman, the chairman of the full committee, if it is the gentleman's intention to fight for the House position on the——

Mr. ROUSSELOT. On the veto provision?

Mr. LEVITAS [continuing]. On the veto provisions, which I am sure the gentleman will do.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the distinguished gentleman from Texas.

Mr. BROOKS. It is my opinion and my feeling that we will stay with the language of the committee bill straight through. I do not plan on changing.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I am happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, would the gentleman oppose it if it came back from conference without that veto provision?

Mr. BROOKS. No; I am not that arbitrary.

Mr. LEVITAS. I will.

Mr. ROUSSELOT. Well, the fact that the gentleman from Georgia will oppose the conference report if the one-House veto is taken out in conference is a positive note.

Mr. LEVITAS. I will not only do that, if I am given the opportunity I will offer a motion to recommit with instructions and I suggest it will have the same fate that the FTC met in the last Congress.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's comments, because I think that is an important commitment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I would be happy to yield to my colleague, the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the gentleman makes a very important point, I think, about the fact that this bill does contain a provision to cut back the number of personnel in this Department. I think the number is 450.

The gentleman is aware, however, that really will not even change the ratio of the number of employees in the Department to the number of school districts around the country. It is one and a half to one, as we are creating it, and that that cutback will not even change that ratio.

Also within the Department, I think the gentleman will agree, that we did make a provision to allow it to expand at 50 people a year, which means that within a decade we would get back that whole 450 plus.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has again expired.

(At the request of Mr. WALKER, and by unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I am happy to yield to the gentleman.

Mr. WALKER. Mr. Chairman, is it not the case, that without statute we will be able to expand the Department by 50 employees a year?

Mr. LEVITAS. Yes. It would be expandable by only 50 employees a year, which if we look at the record of other agencies in Government, that is unusually small; but I think even more important is the fact that we have cut back and it will take 10 years for it to get back to present level, and incidentally, as I said the other day during debate, I would like to see it cut back even further and will support, with the gentleman from Pennsylvania, efforts to do so; but I think the important thing is it is the first time that an agency of Government will have been established or continue to exist which would require statutory enactment to raise its personnel level.

Now, that is a rather unprecedented action by this Congress; so I think it has more than just symbolic significance.

Mr. WALKER. Mr. Chairman, if the gentleman would yield further, I thank the gentleman for that observation, because I think it is an important one; but what I am trying to get across is that there is some movement adrift among proponents of this Department that would make you think this is a no-growth Department. In fact, even with the provisions that are in there, it is a growth Department. It does have the ability to expand in the future and I think that those of us who opposed the Department are opposed to it, because we fear that kind of expansion.

Mr. LEVITAS. Well, I will join with my colleague, the gentleman from Pennsylvania, and see if we in future years can reduce, rather than increase, the size of this Department.

I think as it becomes a more efficient mechanism, rather than the mess that we now have in HEW, perhaps we can accomplish that purpose. I would hope to join the gentleman in any efforts to do that.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I would be happy to yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, I appreciate the gentleman's comments. I share the same concern with the gentleman about unlimited growth coming as a result of the creation of this department as it has in the creation of previous departments.

I support fully the cap on employment levels as contained in the bill; however, I do not think this satisfactorily really addresses the problem.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has again expired.

(At the request of Mr. KRAMER, and by unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. KRAMER. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I would be happy to yield.

Mr. KRAMER. Mr. Chairman, I thank the gentleman for yielding.

The reason I say that is the following: Let me give some examples of what has happened in other departments.

In the Department of Energy, for example, in 1977 to 1978, although employment within the Department increased only 3 percent budget authority for the Department increased 62 percent.

In the Department of HEW between 1968 and 1978, whereas employment increased 47 percent, budget authority increased 363 percent.

For the Department of Transportation for the years 1968 through 1978, whereas employment increased 25 percent, budget authority increased 108 percent; so that does not necessarily mean, I draw the conclusion, that there is a necessary correlation between capping authority of employment, putting a cap on employment, and thereby assuring a cap on budget authority.

I am going to be offering an amendment in a few minutes which will attempt to do just that. It will, in effect, limit increases in budget authority in the new Department to cost-of-living increases, as measured by the Consumer Price Index.

I would hope, based on the statistics that I have given and the gentleman's own experiences, that the gentleman would be supportive of that type of amendment.

Mr. LEVITAS. Mr. Chairman, let me say this to the gentleman. The figures the gentleman has referred to about the Department of Energy, for example, are to me very disheartening. The reason those things occurred is because this Congress did not take the steps to stop that.

I do not think, however, as I said before, that that is relevant to the question of whether we should or should not establish a Department of Education. There are legitimate arguments upon which reasonable people can disagree against the Department of Education. There are legitimate arguments.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has again expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 1 additional minute.)

Mr. LEVITAS. Mr. Chairman, those arguments do not deal with whether or not we are going to create a national curriculum, because we cannot under section 103 of this bill. It will not be an expanding bureaucracy in terms of personnel, because we have limited and capped it, unless this Congress does otherwise.

I think it becomes extremely important for this Congress at the outset to place those limitations on this new department and in the future exercise the responsibility and exercise the courage not to continually increase either personnel or programs beyond that which this Congress believes is appropriate.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I am happy to yield to the gentleman.

Mr. KRAMER. Mr. Chairman, in light of what the gentleman is saying and in light of my amendment, can the gentleman comment as to whether or not he would be supportive of that amendment?

Mr. LEVITAS. If the gentleman is talking about administrative costs, I would certainly support that amendment.

If the gentleman is talking about programs, I cannot address myself to that, because I do not know what programs we are talking about. It may be, for example, that we would eliminate the impact aid program and increase block grants, which I believe the gentleman may prefer.

☐ 1500

Mrs. CHISHOLM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to speak briefly as to why this department, this separate Department of Education, should be rejected at this particular juncture.

I think we have to recognize that if we are going to speak about a separate Department of Education, that said department would include the majority of educational components in the different agencies in this country. As we take a look at this separate Department of Education which is now moving through the House, we see quite clearly that this is not really a separate Department of Education but a potpourri of a few things that have been put together in order to give the semblance of a Department of Education.

I think we have to recognize that when we are dealing with education and children, the child cannot be thought of in a vacuum, and we have to take into consideration a combination of factors that go into the making of a child in the education arena—for example, health, welfare, and education, HEW. To think that we are going to be able to develop educational programs and have a particular department addressing itself only to education and not take into consideration the other components that would have a direct bearing in terms of any national policy that we might want to move toward is, I think, the wrong approach.

It is important to recognize that we are moving more and more in terms of the federalization of education. It took a number of years to get the lay citizens of this country and to get the parents to become involved in the education of their children. We have known for far too long that the professional organizations in this country, generally speaking, have not looked took kindly upon the participation of parents and the people out there in the community in terms of the whole educational structure.

I can see quite clearly down the line that in the event we put together this separate Department of Education, it is going to move in the direction of a real professionalization of education at the expense of the child, the parents, and the lay citizens of this country, and, even further, at the expense of the local school boards and the local school agencies whose responsibility it is to make the final determination pertaining to the education of children and to their families.

I think we must be very objective today. I know that promises have been made. I know that persons have commitments to keep, and I know that persons have appointments to keep, but we must remember that this is a very, very crucial and a very important issue. It is an issue that has to do with our role as national representatives bequeathing a legacy to the children of this country.

So I beg of the Members today to please reject this separate Department of Education, because in reality it is not a separate Department of Education. Looking ahead to the tremendous numbers of amendments that are going to be offered on this floor today, it is quite clear that everybody is going to be trying to pull out their particular fiefdom. I do not think a great deal of thought and analysis and clarification for the future of education in this country has been afforded. I do not think a complete analysis has been made.

So I would hope that we will continue to leave education where it belongs and continue to delegate it to the States in this Nation. I hope that we will continue to recognize that we can clean up some of the acts of HEW and not remove the component sources from HEW in terms of dealing with the child's life and thus his health, welfare, and education.

On this basis I am going to ask the Members of this House to reject this department. I mean this very deeply. I speak to the Members now not as a politician, but as an educator by profession. I ask the Members to reject this separate Department of Education today, because it is not really a Department of Education, and I ask them to take into consideration all of the parts of the whole child.

The CHAIRMAN. If there are no further amendments to section 1, the Clerk will designate section 2.

Section 2 reads as follows:

DEFINITIONS

Sec. 2. (a) As used in this Act, unless otherwise provided or indicated by the context, the term "Department" means the Department of Education or any component thereof; the term "Secretary" means the Secretary of Education; and the term "Under Secretary" means the Under Secretary of Education.

(b) As used in this Act, the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(c) As used in this Act, unless otherwise provided or indicated by the context, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(d) As used in this Act, unless otherwise provided or indicated by the context, the words "private" and "private educational" refer to independent, nonpublic, and private institutions of elementary, secondary, higher, and postsecondary education.

(e) As used in this Act, unless otherwise provided or indicated by the context, the terms "office" and "unit" include any office, institute, council, unit, organizational entity, or component thereof.

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate title I.

Title I reads as follows:

TITLE I—FINDINGS AND PURPOSES

FINDINGS

Sec. 101. The Congress of the United States finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is a continuous need to ensure equal access for all Americans to educational opportunities of a high quality;

(3) the primary responsibility for education resides with States, localities, and private institutions;

(4) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(5) the current structure of the executive branch fails to recognize the importance of education and does not allow sufficient Presidential and public consideration of education issues;

(6) there is a need for improvement in the management of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;

(7) there is a need for improved coordination of Federal education and related programs; and

(8) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

PURPOSES

Sec. 102. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment at the Federal level and will enable the Federal Government to coordinate its education activities more effectively. The major purposes of the Department are:

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every American;

(2) to support more effectively States, localities and public and private institutions, students, and parents in carrying out their responsibilities for education;

(3) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and the sharing of information;

(4) to improve the management and efficiency of Federal education activities;

(5) to increase the acountability of Federal education programs to the President, the Congress, and the public;

(6) to encourage the increased involvement of the public, parents, and students in Federal education programs; and

(7) to improve the coordination of Federal education programs.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

Sec. 103. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system; over any accrediting agency or association; or over the selection of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent specifically authorized by law.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Walker: On page 56, in line 17, strike out the "and";

In line 19, strike out the period and insert in lieu thereof "; and" ; and

After line 19, insert the following:

(8) to promote in all public schools providing elementary or secondary education a daily opportunity for prayer or meditation, participation in which would be on a voluntary basis.

Mr. WALKER. Mr. Chairman, this amendment, as read by the Clerk, is designed to put this department in the business of promoting school prayer.

Today, if we take a look at the schools across this country, we find they have purposely designed themselves to serve the needs of "the whole child." Our schools today are involved in the home life of their children, in their sexuality, in their eating habits, in their vocational training, in their entertainment and recreation, in their ability to drive a car, and in their physical health and well-being. All aspects of the child's life are addressed, in addition to teaching basic skills such as reading, writing, and arithmetic.

There is one, though, that we have overlooked. We do everything to serve that child except look at his or her moral and spiritual well-being. That seems to be the only thing in the child's life that we are specifically ignoring as a nation.

I do not think that we can teach morality, and I do not think we can in the public school teach spirituality. We should not embark upon any course which would do that. But we can establish the condition's under which individual expressions and thoughts can be encouraged.

I would remind the Members that we believe that right here in this Chamber. Every day we begin our sessions with a prayer. We believe such prayer contributes something to the sessions and to the deliberations of this House. I think that it would be agreed that in many aspects of our lives prayer is important. Those of us who go to political meetings across this country often see them opened with prayer because we believe that it contributes something. I think we ought to have the same kind of thing happening in our schools on a daily basis.

We start our day here in the House of Representatives with a prayer because we do not hold to the idea that there is something divisive about prayer. We believe that we can have a nation of pluralistic outlook, and that that is really the true nature of this society. We believe that God in His wisdom is certainly not surprised by our differences of opinion and differences in theology. The divisiveness lies in us, not in Him.

It is much less dangerous to encourage prayer and meditation and recognize the strength in our pluralistic society and accept our diversity than it is to impose upon society the only option of secularism. That is what we do in our schools today, and we ought to get back to the business of prayer.

We are not a wholly secular society. Our schools should not pretend that we are a wholly secular society. We are a people who pray, and prayer should be a part of school life so that it can be a more important part of each child's life.

No one is suggesting that we establish only one way of praying, just that a time for prayer be included as a part of a school day.

Do we really believe what we say in the "Pledge of Allegiance" when we say this is "one nation under God, indivisible"? Well, if we do mean that, it seems to me our schools should become a forum for expressing that thought each day.

We have spent too much time during the last couple of decades denying a basic right to our children: The right to a free exercise of religion within that phase of their life which consumes a good part of their life, namely, their experience in school.

Mr. Chairman, I say again that we are a praying people, and we should be promoting the idea that our children should be able to pray in schools.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I believe that in the gentleman's basic philosophy of Government he thinks that certain things or certain decisions should be left up to local governments and State governments in the field of education. I believe that was the gentleman's direct statement?

Mr. WALKER. Yes, I would agree with the gentleman.

Mr. VOLKMER. Yet this amendment here would dictate from the Federal Government a policy to the local people, would it not?

Mr. WALKER. I would say to the gentleman that the problem for the local school districts today is that the Federal Government has already dictated a particular philosophy with regard to prayer. It is the Federal Government that said the local school districts cannot allow prayer in their schools, so this is our opportunity to allow the local school districts to have that option once again. That is specifically the intent of this amendment, to get it back to the local areas where they used to decide to have prayer on a daily basis.

□ 1510

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. WALKER) has expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. If required prayer is unconstitutional, as the Supreme Court has said, and if that is so, that is the law of the land at the present time.

Mr. WALKER. I would disagree with the gentleman on that.

Mr. VOLKMER. The gentleman does not believe that it is?

Mr. WALKER. No. There are already school districts in the State of Massachusetts which are operating under a provision where they do allow prayer and meditation in each school.

Mr. VOLKMER. I did not say "allow;" I said "required."

Mr. WALKER. They have the requirement of prayer and meditation in Massachusetts' schools, which has been ruled constitutional. That is a way of attaining the goal which I am addressing.

Mr. VOLKMER. It can be done on a local level?

Mr. WALKER. It can be done on a local level, that is right.

Mr. VOLKMER. It does not have to be dictated by Washington?

Mr. WALKER. This amendment says nothing about dictating it. All it says is that it shall be the policy of the Department to promote school prayer. I think that because the Federal Government has promoted antiprayer for so long, it would be a very good thing for this Department to begin to look at it from the other direction.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what we are dealing with in this legislation is purely and simply Government reorganization. We are taking a number of existing programs that are now scattered about the Government and putting them into a more coherent, logical structure. That is all. We are not touching matters of educational policy.

This amendment raises a most profound question of public policy, one that has been the subject of great controversy and extensive litigation for years. There are deep divisions within the religious community itself over the wisdom of such an amendment. If Congress is to take any action in this area it should only be after long and careful study by the appropriate committee and after full and mature deliberation and debate on the House and Senate floors.

An amendment called up in connection with another bill and considered only under the 5-minute rule does not offer any opportunity for such deliberation and debate. We can only act on the basis of emotion in such circumstances and, I submit, that is not the manner in which a responsible deliberative body should act on a subject of such import.

I urge you to reject this amendment. Let us get on and decide whether we want to establish a Department of Education, and leave the question of prayers in the public schools to the proper forum and to a more fitting occasion.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I want to concur in the remarks that have been made by my chairman. This amendment goes to the substantive problem of prayer in schools. We should not be grappling with substantive issues in a reorganization bill.

The Committee on Government Operations is not the committee of original jurisdiction. There is another committee of this Congress that is responsible and has jurisdiction over this particular area. It is a very controversial area. I think that it would be more appropriate to have this matter taken up in that committee, have the whole matter aired in hearings there, and not handle it by way of amendment here.

The other concern I have is that, under this particular section where the Congress declares that the establishment of the Department of Education is in the public interest and will promote the general welfare, et cetera, this amendment would add: "* * * to promote in all public schools providing elementary or secondary education a daily opportunity for prayer or meditation, participation in which would be on a voluntary basis."

That would seem to me to create some very serious constitutional problems. The Department would be responsible for promoting these opportunities for prayer.

I am not opposed to the concept, but I do not think that this is the proper place. I think it does raise some very serious constitutional questions.

Mr. LaFALCE. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. LaFALCE. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment of the gentleman from Pennsylvania. I am very much in favor of this amendment, and would like to explain my belief that it will be found to be constitutional.

The establishment and free exercise of religion clauses of the first amendment have been the focus of some of the most controversial, most difficult and most dramatic litigation to come before the courts in recent years.

The Supreme Court has held that the establishment clause was violated by State-sponsored devotional activities in public schools. I believe that the amendment before us, however, respects the admonition that government must refrain from establishing an official religion, and at the same time encourages an activity which serves permissible secular ends.

The Supreme Court has never considered the constitutionality of a State-mandated moment of prayer or silent meditation at the beginning of each school day. I have reason to believe, however, that the Court would find no constitutional objection to such an activity. Justice Brennan, in his oft-quoted language from a concurring opinion in *Abington School District* v. *Schempp*, 374 U.S. 203 (1963), had this to say about the observance of a moment of silence at the opening of class:

> The second justification (for prayer and Bible reading exercises) assumes that religious exercises at the start of the school day may directly serve solely secular ends—for example, by fostering harmony and tolerance among the pupils, enhancing the authority of the teacher, and inspiring better discipline. To the extent that such benefits result not from the content of the readings and recitation, but simply from the holding of such a solemn exercise at the opening assembly or the first class of the day, it would seem that less sensitive materials might equally well serve the same purpose. . . . It has not been shown that reading from the speeches and messages of great Americans, for example, or from the documents of our heritage of liberty, daily recitation of the Pledge of Allegiance, *or even the observance of a moment of reverent silence at the opening of class*, may not adequately serve the solely secular purposes of the devotional activities without jeopardizing either the religious liberties of any members of the community or the proper degree of separation between the spheres of religion and government. *Abington School District* v. *Schempp*, 370 U.S. 203, 280–81 (Brennan, J., concurring) (emphasis added).

Several other Federal and State courts have also come to this conclusion, and have found no constitutional violation in setting aside a moment at the beginning of the school day for silent meditation. In fact, in *Gaines* v. *Anderson*, 421 F. Supp. 337 (D. Mass. 1976), a three-judge Federal district court held constitutional a statute which provided for a 1-minute period reserved for silent meditation or prayer. The statute read thusly:

> A period of silence not to exceed one minute in duration shall be observed for meditation or prayer, and during any such period silence shall be maintained. St. 1966, ch. 130; Mass. Gen. Laws, ch. 71 Sec. 1A. as amended St. 1973, ch. 621.

The court found the prescription of a moment of silence to be a valid exercise of the legislature's power in that it served such permissible secular ends as stilling the tumult of the playground and inculcating self-discipline and respect for authority. The court found meditation to be "not necessarily a religious exercise," and held that the addition of the phrase "or prayer" to the statute did no more than reflect a "legislative sensitivity to the first amendment's mandate to take a neutral position that neither encourages nor discourages prayer." 421 F. Supp. 337, 343 (1976).

In addition, the Supreme Court of New Hampshire has twice advised that State's legislature that statutes permitting a period for silent meditation at the beginning of each school day would be constitutional. "Opinion of the Justices," 228 A. 2d 161 (S. Ct. N.H. 1967) and "Opinion of the Justices," 307 A. 2d 558 (S. Ct. N.H. 1973).

The amendment before us concerns an activity that differs significantly from cases in which it has been held that the first amendment was violated. I believe that by providing for silent meditation or prayer on a voluntary basis, we avoid the aura of Government sponsorship which the U.S. Supreme Court has found to violate the first amendment.

The establishment clause is only violated by the enactment of laws which establish an official religion, regardless of whether those laws operate directly to coerce nonobserving individuals The bottom line, however, is that while Government establishment of religion must be resisted, the free establishment of religion should be encouraged. Neither the purpose nor the primary effect of this amendment would be to advance or inhibit religion. In fact, I feel that the present restriction against school prayer is an inhibition against a free observance of religion, which would be ameliorated by this amendment. Therefore, I urge you to support this amendment.

Mr. BROOKS. Mr. Chairman, I am still opposed to the amendment.

Mr. JOHNSON of Colorado. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I had not intended to take part in this debate. However, this is a subject which will evidently provoke a recorded vote, and I do believe that there should be some discussion from the point of view which I intend to bring up. I do not think that this is an issue which should be considered in the light of the devout versus the unbelievers.

I am a member of the board of trustees of one of the larger protestant seminaries in this country, and I am vitally opposed to this particular amendment. The constitutional question is not as serious for me as is the coercive aspect of public prayer. I think you will find that if we have a public education policy which encourages prayer, it will inevitably be coercive on the students. I do not see that there is any way that this can be avoided. I have noted that the people who argue in favor of this amendment—and I am not accusing any of those who vote for this amendment of being that way—but I have noted back home in my own district that the people who promote this amendment and the people who promote this kind of public policy tend to feel that those who do not support it are somehow not quite as strong in their faith, do not have the strong beliefs, are not as devout as those who do support it. I think that we should lay that particular idea to rest.

When I first came back to the Congress, I participated in some of the prayer groups that were around here, and I am not trying to cast any aspersions on those who do. This is a very delicate area. I think we all have to acknowledge this. But I am reminded about what Jesus said about prayer. He said, "if you pray in public, you have your reward, because people have seen you pray in public." He said, "If you really want to pray, you will get in the closet and pray by yourself."

Mr. ASHBROOK. Did he really say that?

Mr. JOHNSON of Colorado. Yes, He really did say that. If we take a look at the Bible we will see many things in there.

One of our very prominent ministers in the last century said this about public prayer:

> Whenever the President wishes to do a particularly wicked deed, he bends his public knees, bows his public head, prays to his public God in whose name all evil commences.

I think that is a characteristic we find with public prayer and public exhibitions of religious expression. I think we have that tendency, we have that coercive aspect to public prayer, and I do not think we ought to encourage that kind of activity in a public education program. I did not want to let this amendment go without expressing that point of view.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I certainly agree with the gentleman that there should be nothing about this that would divide believers and nonbelievers by whether or not they support this amendment. But I would say to the gentleman that I would hope that he would not include the prayer that we begin each of these sessions with as being coercive in nature, as having all of the problems with it that the gentleman expressed in his statement.

I do not see any difference in each individual having an opportunity to pray in school, to exercise that which we deem as an extremely important part of the official functions of this House.

Mr. JOHNSON of Colorado. I am not saying that we should do away with the prayer that we open this body with. However, I would say that that has little or nothing to do with the prayers that are offered as individuals. It is a public performance, a public ceremony. It has nothing to do with the prayers we offer as individuals, that we hope would be offered to establish a relationship with our Lord.

☐ 1520

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Would the gentleman say this is a valuable part of the traditions and the practices of this House?

Mr. JOHNSON of Colorado. Yes; it is a part of our public tradition, a part of public ceremony. It is a part of a religious expression of belief. I do not think it is saying that we set time aside and say, "You fellows go out here and pray now. We are going to set aside this time for you and let you have this opportunity to pray." You can go pray by yourself, as you should.

I do not think that you are doing the same thing when you set aside a particular time for these children to pray.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. JOHNSON) has expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. JOHNSON of Colorado was allowed to proceed for 2 additional minutes.)

Mr. WALKER. If the gentleman will yield further, I would like to make a point. I think the reason why it was included as part of our tradition, because we feel as a body it has some ultimate good connected with it.

What I am saying is I think that that same kind of ultimate good can be practiced on a public basis with regard to the public schools.

I thank the gentleman.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I would be glad to yield to the gentleman from Illinois.

Mr. HYDE. I think the gentleman makes an excellent point. This is not a simple matter at all. I would like to respond that man is a social being and that there is nothing wrong with communal prayer. I do not recall the Sermon on the Mount occuring with anybody being sent to closets to pray. There is nothing wrong with communal prayer. I think that the Government ought to be neutral, at least, rather than hostile to prayer.

I have always been amused in an ironic sort of way that a kid can tell a teacher to do something obscene, and that will be defended as a right of free speech, but God help anyone who says, "Our Father, who art in heaven * * *" in school; he is violating the law.

The result is that this so-called wall of separation resulted in the Government—from the Supreme Court, not this body—being hostile to any form of recognition of the Fatherhood of God. It is a delicate matter, but public prayer I only say is certainly nothing to be disparaged. I do not think the Bible disparages.

Mr. JOHNSON of Colorado. I agree with the gentleman. I am not trying to disparage. I agree with much of what the gentleman said.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. JOHNSON) has expired.

(At the request of Mr. LAFALCE and by unanimous consent, Mr. JOHNSON of Colorado was allowed to proceed for 1 additional minute.)

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from New York.

Mr. LAFALCE. Prior to 1963, in the Supreme Court decision, the question of prayer in the public schools was considered constitutional. So that was the common practice in virtually every school in the country.

My question to the gentleman is, does the gentleman think the practice in the United States from 1776 through 1963, whereby prayers were recited and the Bible was read in the public school system, does the gentleman think that had a good or harmful effect overall?

Mr. JOHNSON of Colorado. I think overall it probably had a good effect.

Mr. LAFALCE. I thank the gentleman very much.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. MILLER of California. I would like to associate myself with the remarks of the gentleman in the well. I think he has given a very sensitive and personal statement. I think it is the right one. I think this is a matter of private and personal exercise. It is one thing to have prayer in this Chamber when nobody is here, for the most cases, and it is another thing to tell a small child that they must pray at that moment at that time; and all of a sudden it becomes a disobedience problem. It becomes a behavior problem, much more coercive. I think that child can pray with his family at home or by himself, and he can be taught that by the family, not by some superintendent of schools.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. JOHNSON) has again expired.

(At the request of Mr. LEVITAS and by unanimous consent, Mr. JOHNSON of Colorado was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Georgia.

Mr. LEVITAS. I would like to also pursue this just a little bit further, if I may.

First of all, the gentleman is knowledgeable about this subject and I would appreciate his comments. There is nothing today that prevents any individual person from praying in school if they want to pray, is there?

Mr. JOHNSON of Colorado. Not that I know of.

Mr. LEVITAS. As a matter of fact, I would assume millions of students pray each day in school. Certainly many of them do so frequently right before examinations.

Mr. JOHNSON of Colorado. Or during.

Mr. LEVITAS. With great fervor and little effect, I might add.

The fact is that there is a difference between individual prayer and an organized prayer voluntary or otherwise, is the point I believe the gentleman is making.

Mr. JOHNSON of Colorado. Certainly.

Mr. LEVITAS. To take it a step further, the gentleman from New York (Mr. LAFALCE), who supports this amendment, as I understand it, has an amendment that will be offered shortly emphasizing the fact that the parents of a child have the primary responsibility for their education.

I would suggest that in something as sensitive and important as religious observance and prayer, that certainly their home and their particular church or synagogue or other institution or affiliation has the primary responsibility and not some public institution. Let us not let the Secretary of Education make regulations about prayer. That would be a serious power of intrusion into our lives to a Government bureaucrat.

Mr. JOHNSON of Colorado. I thank the gentleman.

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I will yield to the gentleman from Nebraska.

Mr. CAVANAUGH. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman from Colorado and wish to associate myself with his remarks. In addition I wish to point out that the amendment of the gentleman from Pennsylvania would directly offend the constitution of my State of Nebraska and directly interfere in the historical right of the people of Nebraska and every other State of the Union to decide what would and would not be permissible forms of instruction in their schools. By mandating that the Department of Education actively engage in the "promotion" of prayer in all schools we would, in effect, be allowing the Federal Government to dictate religious instructions to our schools which are not operated according to the wishes of the people of the several States.

Article VII, section 11, of the Nebraska constitution provides:

> All public schools shall be free of sectarian instruction.

In 1902 the supreme court of Nebraska in the case of *State ex. rel. Freeman* v. *Scheue et. al.*, 65 Neb. 853, 91 N.W. 846 concluded that compulsory prayer in the public schools of the State of Nebraska offended the State constitution and stated:

> All that is intended to be said is that such matters (prayer), being the subject of sectarian differences, are excluded by the express words of the constitution from being taught or in any degree countenanced, in educational institutions maintained to any extent by the public funds.

The amendment by the gentleman from Pennsylvania (Mr. WALKER) would abolish the standards and protection which the people of the State of Nebraska have sought to establish for their own educational system and substitute a system in which the Federal Government seeks to promote religious practices decided in Washington to be beneficial. I cannot support an amendment which would directly offend the educational standards long established and happily practiced in my own State of Nebraska.

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Georgia.

Mr. McDONALD. Extending the gentleman's presentation further, does the gentleman have any problem or objection to the tax support of the chapel say at West Point or Annapolis or the Air Force Academy?

Mr. JOHNSON of Colorado. No; I do not have any problem with that, because I think at that point the United States is educating these particular individuals. I do not see any need for us to have to have Presbyterian and Baptist and Catholic and Jewish facilities on every one of those posts. We have a chaplain at every military post that is supported by the Federal Government. That is what those schools are essentially, military installations.

Mr. McDONALD. I thank the gentleman for yielding, but I do not believe that the purpose of the amendment of the gentleman from Pennsylvania was to suggest that it be either a Jewish or Catholic or Protestant prayer, but whether or not they should have the opportunity for a voluntary expression of prayer I believe in the Netcong Community decision in the Federal Courts, it was held students coming together on their own after school could not have prayers. Is the gentleman aware of that decision?

Mr. JOHNSON of Colorado. I do not want to get involved with constitutional argument about some of the Supreme Court decisions in that regard and how they have been interpreted. As a matter of fact, I think some of those interpretations are rather silly. For example, in our town, they have stopped schools from presenting Christmas plays. That is ridiculous in my opinion. But that has nothing to do with imposing as this amendment does a policy of promoting prayer in the public schools.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words, and rise in support of the amendment.

Mr. Chairman. I rise in support of the amendment of the gentleman from Pennsylvania. I want to congratulate him on offering it here today. I think this is an issue which ought to be debated anywhere, any place at any time, and I think, to say that this is not a proper formum to discuss this amendment is not appropriate.

I have a feeling that the gentleman from New York (Mr. Horton) and the gentleman from Texas (Mr. Brooks) are suggesting that we ought to wait and go to the Judiciary Committee, but history has shown that the Judiciary Committee just does not bring this issue up or does not want to discuss it.

I had an experience on that myself in 1971 when the gentleman from New York, Mr. Celler, was a chairman of that committee. I thought we ought to have some hearings on a constitutional amendment to permit prayer in public schools. There was a lot of public feeling at that time. Mr. Celler indicated that he did not want to hold hearings in that regard.

I said, "Well, Mr. Celler, in order to satisfy some of the people who are asking me to do something about this issue, I may have to file a discharge petition."

He said, "Well, my boy, that is your prerogative within the rules of the House and may I suggest that you do that."

As many of the Members know, I did file a discharge petition. When we got 218 names on the petition the resolution came out on the House floor for debate. We received 62 more votes than half, but 21 less than the two-thirds needed for a constitutional amendment.

□ 1530

The Netcong case was mentioned here a little while ago by the gentleman from Georgia, and it was, indeed, the Netcong case that caused the issue. I do not believe that the Engle against Vitale case, which was decided in 1962, directly said that it was unconstitutional to permit prayer in public schools. But in the Netcong case the Supreme Court of the State of New Jersey said that schoolchildren could not congregate in a gymnasium before school took up to read the Chaplain's prayer from the Congressional Record. The court said that was a violation of the Constitution and cited the Engle case, even though those students when the gong rang for secular pursuits dispersed and went about their secular pursuits for the day. Many schools across the United States of America have acted based on that decision. I might say that the Supreme Court of the United States denied certiorari which I thought was a mistake; the Court had a wonderful, glorious opportunity to clear up this whole issue, but the Supreme Court of the United States denied certiorari and, therefore, left that decision as the law, which in effect said public school students cannot meet in a public school building for voluntary prayer because it is unconstitutional because there are some public funds involved. So I think it is appropriate that we talk about this issue today, and if the gentleman from Pennsylvania (Mr. Walker) can get his amendment adopted as a part of this bill today, I congratulate him and I support him.

I prefer the constitutional amendment route. More than that, I support the principle. It seems to me that when schoolchildren were denied the opportunity, or when public schools stopped starting the day for the schoolchildren with a prayer and the Pledge of Allegiance to the Flag, we lost something important to our way of life, and in the process of losing that something we got away from a practice that was very near and dear to our democracy for 192 years in the United States of America.

I notice in the amendment offered by the gentleman from Pennsylvania (Mr. Walker), it says, "To promote in all public schools * * * prayer * * *." I am a little bit uncomfortable with the word "promote." I might prefer the word "permit," but I think it is important to establish the principle, and I think we ought to go on record today as saying we are in favor of allowing prayer in public schools. We think any forum is a proper forum to say so, if done on a voluntary basis, and I think it must necessarily be encouraged on a voluntary basis.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

The problem I have is that the place where the gentleman has chosen to amend is in section 102 which are the purposes which are enumerated in this particular bill, and there it says:

> The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment * * * The major purposes of the Department are:

What the gentleman from Pennsylvania (Mr. Walker) attempts to do is to show that one of the major purposes of the Department is to promote—that is not permit but it is to promote—these opportunities for prayer, et cetera.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Horton, and by unanimous consent, Mr. Wylie was allowed to proceed for 2 additional minutes.)

Mr. HORTON. If the gentleman will yield further, it seems to me that this is an appropriate place because the Federal Government is directing that this Department promote those opportunities, and it seems to me that is much more than the permissive attitude that the gentleman from Ohio would like to have.

Mr. WYLIE. As I say, I might be a little bit comfortable with the word permit. But, as distinguished between whether we are going to go on record in favor of voluntary prayer in a public school, which I think ought to be permissible and as long as it does not interfere with secular pursuits and as long as it is not a prayer which is prescribed by the Government, then I think the practice ought to be encouraged at every step of the way. That is the reason I am supporting the concept of the gentleman's amendment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I think the point has been made here about the use of the word "promote," that it sounds as though it were a mandatory kind of function. I will say to the gentleman that he need not fear on this. It is language which is also included in other sections of the purposes. For instance, we are going to promote improvement in the quality and usefulness of education by promoting research and evaluation and sharing information. This is standard language for purposes and would have to be implemented through legislation later on. We simply want to get on the record that one of the purposes of this Department should be to speak to areas of education of Federal concern. Certainly one of the major changes that was made in education in this country was done by the Federal Government by withdrawing prayer from the public schools. Therefore, one of the purposes of this Department should be to promote the idea that prayer should be back in the schools, but it is going to have to follow with legislative authority in order to carry it out. This is just an expression of sentiment; it demands no requirements whatsoever. It is a place where it can fit into this bill. I would say that the gentleman from New York opposed me in committee when I asked that a report of school prayer be included in this Department.

Mr. WYLIE. The gentleman is using boiler plate language in his amendment, then, but it is his understanding from this colloquy that it certainly would be permissive, there would not be anything compulsory about it, and it would merely be for those students in the public schools who want to meet in a prayerful setting and use a public school building to do so. Is my understanding correct?

Mr. WALKER. I thank the gentleman for that clarification. That is absolutely the case.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Walker and by unanimous consent, Mr. Wylie was allowed to proceed for 2 additional minutes.)

Mr. WALKER. If the gentleman would yield further, I would say to the gentleman that the committee of jurisdiction, I assume in this case the Education and Labor Committee, would have to set the permissive standard under which the promotion would take place. There is nothing mandatory about this language whatsoever. It is not included in an operational section of the bill. It is simply set forth as a purpose of the Department to move toward the promotion of school prayer. I think it is entirely appropriate and it is permissive by definition.

Mr. WYLIE. Again I want to compliment the gentleman for his amendment. I think he is making a real contribution to the debate on this bill here today and I support him.

Mr. EDWARDS of Oklahoma. Would the gentleman yield?

Mr. WYLIE. I will be glad to yield to the gentleman.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

I am very much in support of voluntary prayer in the schools, but I must say this amendment does bother me. I think despite any kind of a colloquy we may have here on the floor, and despite any kind of a record we may try to make legislatively in the CONGRESSIONAL RECORD, there is a sizable difference between "permit" and "promote." There is a sizable difference when we begin to say that the Federal Government, in creating a department, shall be in the business of promoting.

I will say to the gentleman from Ohio we have shared the opposition to what the Government and Government agencies do when they promote things. How do they promote things? They promote with enticements, inducements, withholding money, all kinds of ways that a Federal agency has the power to promote, which it has been asked to promote by this Congress, and so I would just say to the gentleman that I am very concerned about this amendment because there is a sizable difference between permitting prayer, which I favor, and promoting prayer, which I am not certain at all that I can support.

Mr. WYLIE. Would the gentleman support the amendment if we deleted the word "promote" and substituted "permit?"

Mr. EDWARDS of Oklahoma. I would say to the gentleman I probably would support him in that case. That would make it a totally different amendment, a totally different intention.

AMENDMENT OFFERED BY MR. ERDAHL TO THE AMENDMENT OFFERED BY MR. WALKER

Mr. ERDAHL. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> The amendment offered by Mr. ERDAHL to the amendment offered by Mr. WALKER: In paragraph (8) which would be added by the amendment, strike out "promote" and insert in its place "permit".

The CHAIRMAN. The gentleman is recognized for 5 minutes in support of his amendment.

Mr. ERDAHL. Mr. Chairman, basically my amendment addresses a concern many of us have. While probably we question whether voluntary prayer should be prohibited in schools, we also question whether it should, by statute or direction from this body, be promoted. Neither should specific or sectarian prayers be prescribed.

It seems to me the thing we want to have, with the idea of maintaining local control as has been espoused here this afternoon and last week, is to allow at least for the permission to allow voluntary prayer in schools. So, I think this is a reasonable amendment, and I would hope that the body would concur in it.

Mr. PEYSER. Mr. Chairman, I was in my office a few minutes ago and I was listening to the debate on television when I heard this "prayer amendment" offered. I found it really hard to believe that we were back at this point again, because I remembered in November of 1971 when the prayer amendment was first on the floor of the House. At that time the Members across the board were being threatened by groups throughout this country, highly organized groups that if we did not support the prayer amendment they were going to run candidates against us and put up billboards in our districts, and they were going to make it impossible for people against prayer to be elected.

□ 1540

I remember being very concerned over this issue. I was a freshman at that time and I looked on this and I remember saying to myself, you know, when I went to public school they had prayer. It was not so bad and it really did not seem to bother me or hurt me and I was really thinking of voting for this issue combined with the fact that I had all these people who were going to go out and vote against me and run opposition, I was really on the verge of voting for the prayer amendment.

I started talking to some people who were telling me what happened to them in school, people who were of different faiths than I am and people who were exposed to a different religious experience explaining to me the impact prayer in school had on them and it was not at all that easy and it was not that simple and it did create problems for them.

Then I began thinking, why do we really have to do this, most religious leaders in this country were in opposition to prayer in the schools, any sort of prayer in school. This surprised me because at first I thought, well, that was sort of a religious amendment and, therefore, religious leaders would be very supportive of this. However, religious leaders were not at all supportive of this. This was in 1971 and I am confident nothing has happened to change their point of view since then.

At that time Carl Albert was Speaker of this House and it was very seldom, that he took the well of the House but he took it on that day, on November 8, 1971. On that day the House was filled. There were no empty seats because of the level of this debate. I was so impressed with what the former Speaker said that I copied it down and I have actually had this card in my wallet since November 8, 1971. I just went looking through my wallet now to see if I could find this and here it is. Thank goodness, for once I kept a scrap of paper and could lay my hand on it when I wanted it.

This is what the Speaker of the House said on November 8, 1971, dealing with prayer in the schools:

> Any voluntary prayer, any nondenominational prayer, is not theology. Any interference by an official at any level is a violation of freedom of religion. I am not prepared to let the meddling hand of government at any level in any degree be placed on any man's altar.

I think that thought is as true today as it was then and I hope that any effort at this time of putting prayer back, permitting prayer, promoting prayer in the public schools will be put to rest overwhelmingly by this Congress and voted down.

I yield back the balance of my time.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

I thank the gentleman. I would like to rise to say that I am prepared to accept the amendment as offered by the gentleman from Michigan (Mr. ERDAHL) to change the word from "promote" to "permit".

Mr. PANETTA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, very briefly I do not think the issue here is whether we are for or against prayer or for or against God. I think what needs to happen on the floor of the House is a recognition of our oath of office which requires that we be sensitive to the Constitution, the requirements of the Constitution.

The first amendment makes it very clear there ought to be separation of church and state. Indeed, our forefathers built it into the Constitution by stating that—

> The Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof.

Why did they do that? Because obviously many of our forefathers were escaping religious persecution in which the state had a tremendous role to play in terms of dictating what kind of religion would be practiced in those particular States.

How do we interpret that particular amendment? In our process of government the Supreme Court interprets what the Constitution means or does not mean. The Supreme Court has spoken very clearly on this issue in stating that this amendment to the Constitution prohibits any kind of affirmative role by government that either mandates prayer or dictates what kind of prayer should take place in the school. I think that is very clear.

The question then is whether we are going to take any action on the floor of the House which injects the government into an affirmative role in this area.

Whether you use the word "promote" or whether you use the word "permit", any time you mandate some kind of affirmative action by the Government, it means we are going to have to issue rules and regulations, it means we are going to have to take regulating action, indeed it means the Department is going to have to take deliberate steps which are violative of the interpretation of the Supreme Court.

I think the Supreme Court has spoken clearly on this issue. I think the Constitution has spoken clearly on this issue. If we want to change it, it ought to be changed through a constitutional amendment, but it ought not to be backdoored through an amendment that raises all kinds of very serious questions regarding our Constitution process.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I will be happy to yield.

Mr. FASCELL. Mr. Chairman, I want to associate myself with the remarks of the gentleman. I ask the gentleman, by changing this language from "promote" to "permit" does it not strike the gentleman this is the making of a policy decision which will be incumbent upon the new Secretary of Education, and the very thing most of us are trying to do in protection of local education is being subverted by the very language of this amendment?

Mr. PANETTA. I think the gentleman is absolutely correct. Having worked in the Office of Education I can tell you that the language of the amendment "to permit in all public schools providing elementary and secondary education a daily opportunity for prayer" is an affirmative mandate by the Congress. I think there is no way around that. We are, in fact, dictating that they go ahead and issue rules and regulations permitting this kind of prayer. I think that is violative of the Constitution and the interpretation of the Constitution by the Supreme Court.

Mr. WYLIE. Mr. Chairman, would the gentleman yield?

Mr. PANETTA. I will be pleased to yield.

Mr. WYLIE. I thank the gentleman for yielding.

The gentleman did mention the U.S. Constitution says that the Government shall not promote a religion. There is indeed a prohibition against promotion of a religion by the Government. I would note that the Supreme Court mentioned that particular phrase in its decision. It said nothing about "or permit the free exercise thereof," which is also in that article of the Constitution.

I submit that the court in the Netcong case, when the court said that a group of students could not meet in a gymnasium voluntarily before school take up and read the chaplain's prayer from the Congressional Record, were not permitting the free exercise thereof. So I think that case was contrary to the permission clause of the Federal Constitution. I think if the Congress of the United States can go on record here today and say as a matter of policy—and I think if this issue were placed on the ballot that it would be passed overwhelmingly by 70 or 75 or 80 percent of the American people, we would like to have some leeway in permitting prayer in public schools on a voluntary basis.

I wonder if the gentleman had given thought to that other part of the constitutional provision which says "or permit the free exercise thereof"?

Mr. PANETTA. If I may redeem my time, Mr. Chairman, I think, in fact, what we have now is a permission that people can freely exercise that right on a voluntary basis.

There is nothing in the law that prohibits a child in school from exercising that right to voluntary prayer. This injects the Government on an affirmative basis.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. LaFalce and by unanimous consent Mr. Panetta was allowed to proceed for 1 additional minute.)

Mr. LaFALCE. Will the gentleman now yield to me, Mr. Chairman?

Mr. PANETTA. I yield to the gentleman from New York.

□ 1550

Mr. LaFALCE. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from New York.

Mr. LaFALCE. Mr. Chairman, the gentleman from California has indicated that the Supreme Court has spoken clearly in opposition to an amendment of this nature.

I am wondering if the gentleman could advise me of the decision. I am aware of the Engel decision, whereby they invalidated a State-composed prayer. I am also aware of the Abington decision in 1963 where in the concurring opinion of Justice Brennan, he indicated quite clearly that an amendment of this nature would be constitutional, rather than unconstitutional. I ask to be educated further.

Mr. PANETTA. Well, if I might respond, I think the issue here again if we combine all the cases——

Mr. LaFALCE. Mr. Chairman, the gentleman said the Supreme Court has spoken clearly on the constitutional issue.

Mr. PANETTA. If we combine all the cases that have been addressed here, the clear issue is whether the Government takes an affirmative role in promoting prayer. When we put down an amendment that says to permit or to promote or to do whatever, we are injecting the Government into an affirmative role.

I think clearly that raises constitutional questions. I think if it is going to be directed, it ought to be directed via a constitutional amendment, not in the form of an amendment that tries to tell the Department of Education it shall, in fact, do something the Court says cannot be done.

The CHAIRMAN. The time of the gentleman from California (Mr. Panetta) has again expired.

(At the request of Mr. Walker, and by unanimous consent, Mr. Panetta was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I just wanted to make a clear point here, the gentleman went through and I think made an excellent point about the fact that there would be a lot of power that would flow to the Federal Government here and so on from prayer.

I assume then the gentleman believes that is also true of all the rest of the things that are under the purposes of the department, too, that those same kinds of power from the gentleman's experience within the department will be there for every one of these other seven or eight items that are a part of the purposes in this bill; is that correct?

Mr. PANETTA. Clearly, that is a question that I think has to be addressed in the whole issue of creating a Department of Education; but as part and parcel of that, to include prayer which I think clearly raises a constitutional issue seems to me to be going beyond.

Mr. WALKER. So in other words, when it says here, if the gentleman will yield further, when it says here that we are going to get involved in State and localities and public and private institutions and all this kind of thing, that same kind of power is going to be wielded there as outlined in the purposes section; is that not true?

Mr. PANETTA. If I am not mistaken, the gentleman has been making those arguments over the last several weeks. I would think the gentleman would concur with that.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Erdahl) to the amendment offered by the gentleman from Pennsylvania (Mr. Walker).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Walker), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1600

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. Walker) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 255, noes 122, not voting 57, as follows:

[Roll No. 203]

AYES—255

Abdnor
Akaka
Albosta
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Boner
Bonker
Bowen
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Derwinski
Devine
Dickinson
Donnelly
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Ferraro
Fish
Fithian
Flippo
Florio
Ford, Tenn.
Fountain
Fowler
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Goodling
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Leland
Lent
Lewis
Livingston
Loeffler
Long, La.
Lujan
Luken
Lungren
McClory
McDade
McDonald
McEwen
Marlenee
Marriott
Martin
Mathis
Mavroules
Mica
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Obey
Pashayan
Paul
Pepper
Perkins
Petri
Pursell
Quayle
Quillen
Rahall
Regula
Rinaldo
Ritter
Roberts
Robinson
Roe
Roth
Rousselot
Royer
Runnels
Santini
Satterfield
Sawyer
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stockman
Stratton
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Winn
Wolff
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Zablocki

NOES—122

Anderson, Calif.
Ashley
AuCoin
Baldus
Barnes
Bingham
Blanchard
Bonior
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Corcoran
Deckard
Dellums
Dicks
Dixon
Dodd
Downey
Duncan, Oreg.
Edgar
Edwards, Calif.
Fascell
Fazio
Fenwick
Findley
Fisher
Foley
Ford, Mich.
Frost
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Hall, Ohio
Harris
Hawkins
Holtzman
Horton
Howard
Jeffords
Johnson, Colo.
Kastenmeier
Kildee
Kogovsek
Kostmayer
Leach, Iowa
Lehman
Levitas
Long, Md.
Lowry
Lundine
McCloskey
McCormack
McHugh
McKinney
Maguire
Markey
Matsui
Mattox
Mazzoli
Mikva
Miller, Calif.
Moffett
Nedzi
Nolan
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Peyser
Preyer
Pritchard
Railsback
Rangel
Ratchford
Reuss
Richmond
Rose
Rosenthal
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Solarz
Spellman
Stack
Stark
Stewart
Stokes
Studds
Stump
Swift
Synar
Thompson
Udall
Ullman
Van Deerlin
Vento
Waxman
Weaver
Weiss
Williams, Mont.
Wirth
Wolpe
Yates

NOT VOTING—57

Addabbo
Ambro
Anderson, Ill.
Badham
Beilenson
Bolling
Bouquard
Breaux
Conyers
Corman
Crane, Philip
D'Amours
Danielson
de la Garza
Derrick
Diggs
Dingell
Dornan
Drinan
Eckhardt
Fary
Flood
Forsythe
Frenzel
Fuqua
Goldwater
Hagedorn
Hammerschmidt
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Lee
Lloyd
Lott
McKay
Madigan
Marks
Mineta
Moorhead, Pa.
Pickle
Price
Rhodes
Rodino
Rostenkowski
Rudd
Russo
Schulze
Shuster
Steed
Treen
Wilson, Bob
Wilson, C. H.
Wright
Wydler
Young, Mo.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Ambro for, with Mr. Johnson of California against.

Mr. Breaux for, with Mr. Mineta against.

Mr. Fary for, with Mr. Conyers against.

Mr. Dornan for, with Mr. Eckhardt against.

Mr. Shuster for, with Mr. Diggs against.

Mr. Schulze for, with Mr. Drinan against.

☐ 1620

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LEE. Mr. Chairman, I was unavoidably absent when the vote occurred on the Walker amendment to permit prayers in public schools on a voluntary basis. Had I been present on rollcall No. 203, I would have voted "aye."

AMENDMENT OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKELTON: Page 56, line 22, insert "(a)" immediately after "Sec. 103.", and on page 57, after line 7, insert the following new subsection:

(b) No funds provided under any program administered by the Secretary or the Department may be suspended, terminated or otherwise withheld from any educational institution, school or school system on the basis of any requirement imposed by the Secretary or the Department relating to curriculum, program of instruction, administration, personnel, the selection of library resources, textbooks or other instructional materials, except where specifically authorized by law.

Mr. SKELTON. Mr. Chairman, I wish to rise in support of this amendment to the Department of Education Organization Act. I am pleased to say that I have cosponsored this amendment with my distinguished colleague from Texas, KENT HANCE.

No one in this Chamber can dispute the fact that the most critical problem facing us today deals with limiting Federal control over educational policy. This is the concern we have heard repeatedly from all of our constituents. Indeed support and passage of this legislation hinges upon resolution of this problem.

Of course the language in sec. 103 of H.R. 2444 helps in dealing with these concerns. This section, entitled "Prohibition Against Federal Control of Education" specifically states the areas where are "off limits" to Government regulation.

However, it is my feeling and the feeling of so many of my colleagues, that the language of this section does not have the full force and effect that is needed. This prohibition must be clarified and reinforced. We must assure the role of local school districts and States in determining educational policy.

My amendment is intended to do just that. It is intended to prevent Department of Education officials from using the monetary stick in areas where they are specifically prohibited from making policy. The amendment clearly states that no funds administered by the new Department could be suspended, terminated or otherwise withheld on the basis of any requirement relating to curriculum, program of instruction, administration, personnel, the selection of library resources, textbooks or other instructional materials. While my amendment does not mean Federal money provided by a Federal department will become free of Federal control, it does keep out the Federal Government where the Federal Government does not belong.

We have all seen it before * * * overzealous, bureaucrats in each and every Government agency, develop regulations in areas that do not fall under their responsibility. We must prevent this. We cannot allow any Government official to just pay lip service to the expressed intention and concern of this Congress.

I feel strongly that we must stop this where we can. This amendment is a step in that direction. I urge support for my amendment.

Mr. HANCE. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Texas.

Mr. HANCE. Mr. Chairman, this amendment is intended to allow our schools as much local autonomy as possible. And I think that Chairman Brooks has done an outstanding job in working this out with us. Hopefully, we will move for its acceptance.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Texas.

Mr. BROOKS. I want to thank the gentleman for his cooperation and think this would be a constructive improvement on the language. I certainly have no objections, if my colleague, the gentleman from New York (Mr. HORTON) has none. We would be perfectly willing to accept it.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from New York.

Mr. HORTON. I will be glad to accept the amendment. I think it is an extension of the prohibition against Federal control of education, section 103, which we already have in the bill. I think this just further carries out that. I would urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. Skelton).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LAFALCE

Mr. LaFALCE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LaFalce: Page 54, lines 22 and 23, strike out Section 101(3) and insert (3) Parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;

Mr. LaFALCE. Mr. Chairman, this amendment would simply clarify the primary parental role regarding the education of children within the United States and clarify that the role of the State is to be supportive of that primary parental role.

I would hope that it could be accepted.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. LaFALCE. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I will be happy to accept the amendment, I think it is a good amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. LaFalce).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kramer: Page 57, immediately after line 7, insert the following new section and conform the table of contents accordingly:

LIMITATION ON FUTURE GROWTH OF BUDGET AUTHORITY

Sec. 104. It is hereby declared to be the intention of the Congress to limit any growth in the total amount of budget authority which is to be provided for all functions and offices transferred to or otherwise established in the Department, including functions and offices transferred or established subsequent to the effective date of this Act, so that the total amount of such budget authority will not exceed the sum of—

(1) the budget authority which is available for the functions and offices transferred by this Act (including functions and offices the transfer of which is delayed to a date subsequent to the effective date of this Act) for the fiscal year in which this Act takes effect, and (2) an amount equal to the product of the amount described in paragraph (1) multiplied by the aggregate percentage increase in the Consumer Price Index for all Urban Consumers between the beginning of the fiscal year in which this Act takes effect and the beginning of each subsequent fiscal year.

Mr. KRAMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. KRAMER. Mr. Chairman, as I think all of us recognize today, the budget of our country is really uncontrollable and out of control. The gentleman from Georgia, several hours ago, in his remarks, indicated that it was the intention of the creation of this Department that there be indeed no new programs. I could not agree with that intention more.

What my amendment will do, if it is accepted, is in fact, insure that the purpose for which this Department is being created, in other words, streamlining and making it more efficient, will indeed be assured.

This amendment would, in effect, cap the budget authority of the new Department of Education at the level, as specified in this legislation, with allowances for cost-of-living increases every year, tied in with the Consumer Price Index. That is all it does.

□ 1630

In my home State of Colorado we have a provision such as this that we passed several years ago that limited spending 5 percent, 7 percent across the board. It has worked quite effectively.

This is more flexible in that we do not go with a flat percentage, but the idea is, indeed, the same. It is offered in the context of the need to restrict future Government spending and reduce the Federal deficit.

We must begin to assert our willingness to take positive steps to this end rather than continuing to talk about it. Much concern has been expressed about the inevitability of budget growth in a new department, and there is reason for this concern. Let us look at the historical precedent. The Education Division itself has grown from a budget in 1953 of $235 million to the $14.5 billion contained in this bill today. That only represents 8 percent of the funds spent in total on education in this country. Ninety-two percent of the funds continue to come from State, local, and private sources.

Let us not forget about the history of other departments which we have created in this country in recent years under the guise of efficiency and streamlining. Let me give the Members some very interesting statistics very quickly.

The Department of Energy in 1977 had a budget authority of $6.6 billion. In 1979, today, that authority has grown to $12.6 billion, or a 91-percent increase in budget authority.

There is a cap on employment in this bill which I fully support, but that alone will not solve the problem.

By comparison, in that same Department of Energy where the budget authority increased from the 1977 to 1978 period 62 percent, employment increased only 3 percent. So, employing a cap on employment is no assurance of controlling expenditures within a department.

In the Department of HEW from 1968 through 1978 their budget authority grew 363 percent. Employment at the same time grew only 47 percent. In the Department of Transportation in the period of 1968 to 1978 their budget authority grew 108 percent and employment only 25 percent.

The gentleman from North Carolina (Mr. Fountain) has said that this new department will become another monster in the Federal Government, and it is going to grow and grow and grow. My amendment would assure that this will not happen. It will allow reasonable growth; it will allow for inflation; it will allow for increases in the Consumer Price Index. But, it will not allow for the mushrooming expansion that we have seen in departments such as HEW, Energy, and Transportation, and all of the rest.

Let us see what some of the principal proponents for this new department have in mind. The NEA is quoted in the Arizona Gazette for February 24, 1979, as having as one of its goals a 400-percent increase in Federal funding of public education, amounting to a third of the total cost.

Reader's Digest quotes the NEA Executive Director on NEA's ultimate goal:

> To tap the legal, political and economic powers of the U.S. Congress. We want leaders and staff with sufficient clout that they may roam the halls of Congress and collect votes to reorder the priorities of the United States of America.

In NEA's position paper on the Department of Education legislation it states:

> A Department of Education would probably be granted more funds for education earlier in each fiscal year.

This amendment would declare this Congress intention that this Department should not grow at a rate greater than that of the general economy. It would impose on this one department a reasonable limitation. It would serve as a positive indication by this Congress that we are willing to take the hard steps that are necessary to curb the future growth of Government.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. Kramer was allowed to proceed for 1 additional minute.)

Mr. KRAMER. Thank you, Mr. Chairman.

It is our intention in future years that the addition of new initiatives will require that old ones be reexamined and priorities be placed on existing programs and new ones.

The only people who fear this amendment are those who do, indeed, intend that this Department be used to greatly expand the Federal funding of education and thus greatly expand the role of the Federal Government in education. This amendment is consistent with the arguments that the intent of reorganization is to consolidate, to streamline, and to save taxpayers' dollars. And it is consistent with the provision in the bill that is already there which restricts the growth of future employment levels in the Department. It is not duplicative of this provision, but a desirable complement to it.

With that explanation, Mr. Chairman, I hope that the Members will see fit to support this reasonable spending limitation for future years in the Department of Education and start putting our Federal fiscal house down the road toward soundness and fiscal responsibility in the years to come.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Pease and by unanimous consent, Mr. Kramer was allowed to proceed for 1 additional minute.)

Mr. PEASE. Would the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Ohio.

Mr. PEASE. I do not wish to make a judgment about the gentleman's amendment, but it does disturb me somewhat that he uses the analogy of the Department of Energy. Is the gentleman suggesting that in this period of energy crisis the Federal Government ought not to be spending more money for energy research to solve these problems?

Mr. KRAMER. I am not suggesting any criticism or any recommendations about the spending of any particular department at this time. I am simply pointing out what has happened historically, and I have taken it basically in the three new departments that have been created in relatively recent years and shown what has happened with mushrooming budgetary authorities over the period 1968 to 1978 for some of them, and over the last couple of years for the Department of Energy.

Mr. PEASE. If the gentleman will yield further, does not the employment cap or ceiling, as he suggested in his remarks, in the Department of Energy suggest that the increasing budget authority has gone into research?

Mr. KRAMER. I thank the gentleman for the reminder. Did the gentleman want a response?

Mr. PEASE. If I might.

Mr. KRAMER. I think the only thing my comment suggests is there is no necessary correlation between capping a figure on employment and capping budgetary expenditures. I think for those in the Chamber who feel that by capping employment we have solved the problem of increasing budget expenditures, we have, indeed, not.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Lagomarsino, and by unanimous consent, Mr. Kramer was allowed to proceed for 1 additional minute.)

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I want to commend the gentleman for his amendment and associate myself with his remarks.

Mr. Chairman, I am disappointed that one of the top priorities of this Congress—supposedly elected in the midst of a massive taxcutting spirit—is to create a new Federal department.

I am sure that many of my colleagues campaigned on the basis of their taxcutting fervor. Almost all of them—at one time or another—probably lambasted the Federal Government for its size and inefficiency. I know its one of the issues I campaigned hardest on, and it is why I am opposed to a Federal Department of Education.

We have heard time and again how huge the Department will be, how much it costs, how much more paper it will produce. And most of us have heard from our constituents, who are fed up with big Government and big taxes. That is why I am disappointed that we are spending so much time considering something that taxpayers clearly do not want.

I am not opposed to the improvement of our educational system. I agree that it should be one of our highest priorities. But it has traditionally been reserved for local governments—for towns and cities—to decide on their own local needs. If we decide to spend this money at all, we should decide to send it to the local governments, to the individual classroom, where education really takes place. A new department downtown, deciding on abstract national education policy, is not going to have much of an effect on individual schoolchildren in my district, or any other district.

One of my biggest worries—one that has been mentioned many times today—is that we are creating a lobby for specialize categorical grants. I am not opposed to the intentions of categorical grants. Often that is the only good thing about a categorical grant. But they are misdirected so many times, and end up in the hands of crafty lobbysts who have managed to comply with the application requirements. The grants just do not seem to be solving the problems they are addressed to.

And now we are thinking about creating a Federal department, with a huge corps of Government workers that will have a vested interest in maintaining categorical grants. We all know how hard it is to abolish or restrain an agency once it has been started.

As I say, Government regulations and Government bureaucracy is something we all condemn. It is something we all claim to be against. I think we should live up to our promises, show that we are serious about cutting the budget, and vote against this Department. I know that many of my constituents are watching my vote, and I am glad to take this opportunity to express my views on big Government.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Let me say, Mr. Chairman, the amendment would improperly impose on this new Department a very unique requirement. The Congress, if it so chooses, can, through careful control of the appropriations process, accomplish the purpose of this amendment.

If the legislation is subject to annual consideration by the authorizing and appropriation committees, it would not be germane. It would not even be germane except it is just an expression of intent. Congress should not appear to bind itself on succeeding Congresses in this way.

I would accordingly say that this kind of an amendment should not burden and be put upon any legislation and I would ask the Members to vote in opposition to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. Kramer).

The question was taken; and the Chair announced that the noes appeared to have it.

RECORDED VOTE

Mr. KRAMER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1640

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Colorado (Mr. Kramer) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 187, not voting 63, as follows:

[Roll No. 204]

AYES—184

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
Bafalis
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Derrick
Derwinski
Devine
Dickinson
Donnelly
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Ferraro
Findley
Fish
Flippo
Fountain
Gaydos
Gephardt
Gilman
Glickman
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hall, Tex.
Hance
Hanley
Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Kazen
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler

Lujan
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKinney
Marlenee
Marriott
Martin
Mathis
Mazzoli
Mica
Miller, Ohio
Minish
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Neal
Nelson
Nichols
O'Brien

Panetta
Pashayan
Paul
Petri
Pickle
Quayle
Regula
Ritter
Robinson
Roth
Rousselot
Royer
Runnels
Santini
Satterfield
Sawyer
Schroeder
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Skelton
Slack
Smith, Nebr.
Snowe

Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Williams, Ohio
Wilson, Tex.
Winn
Wylie
Yatron
Young, Fla.

NOES—187

Akaka
Albosta
Alexander
Anderson, Calif.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Chisholm
Clay
Coelho
Coleman
Collins, Ill.
Conte
Cotter
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Dicks
Dixon
Dodd
Dougherty
Downey
Duncan, Oreg.
Early
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Fascell
Fazio
Fisher
Fithian
Florio

Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Garcia
Giaimo
Gibbons
Gingrich
Ginn
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Harkin
Harris
Hawkins
Heftel
Holtzman
Horton
Howard
Hughes
Jenkins
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
Madigan
Maguire
Markey
Matsui
Mavroules
Mikulski
Mikva
Miller, Calif.
Mitchell, Md.
Moakley
Moffett
Mollohan
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi

Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roe
Rose
Rosenthal
Roybal
Sabo
Scheuer
Seiberling
Shannon
Simon
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Whitley
Whitten
Williams, Mont.
Wirth
Wolff
Wolpe
Yates
Zablocki

NOT VOTING–63

Addabbo
Ambro
Anderson, Ill.
Badham
Beilenson
Bolling
Bouquard
Breaux
Brown, Calif.
Conyers
Corman

Crane, Philip
D'Amours
Danielson
de la Garza
Diggs
Dingell
Dornan
Drinan
Eckhardt
Fary
Flood

Forsythe
Frenzel
Fuqua
Goldwater
Hagedorn
Hammerschmidt
Hansen
Jenrette
Johnson, Calif.
Jones, N.C.

Jones, Okla.
Lloyd
Lott
McKay
Marks
Mattox
Michel
Mineta
Moorhead, Pa.
Price
Rhodes

Roberts
Rodino
Rostenkowski
Rudd
Russo
Schulze
Shuster
Stark
Steed
Stewart
Treen

Weiss
Wilson, Bob
Wilson, C. H.
Wright
Wyatt
Wydler
Young, Alaska
Young, Mo.
Zeferetti

☐ 1700

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Addabbo against.

Mr. Schulze for, with Mr. Johnson of California against.

Mr. Shuster for, with Mr. Eckhardt against.

Mr. Wydler for, with Mr. Flood against.

Mr. Badham for, with Mr. Conyers against.

Mr. Philip M. Crane for, with Mr. Diggs against.

Mr. Goldwater for, with Mr. Weiss against.

Mr. Hansen for, with Mr. Drinan against.

Mr. Michel for, with Mr. Fary against.

Mr. KAZEN changed his vote from "no" to "aye."

Mr. MOLLOHAN and Mr. MURTHA changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Ashbrook: on page 57, line 7 strike "law."

And insert in lieu thereof the following language: "by federal statute. Regulations issued by the Department of Education shall not have the standing of a federal statute for the purposes of this section."

Mr. ASHBROOK. Mr. Chairman, I would particularly like to call this amendment to the attention of the proponents of this bill, particularly those who have looked with pride on section 103 as permitting local control. I hope my good colleague, the gentleman from Georgia (Mr. Levitas), is on the floor, because in particular I want him to peruse this amendment.

Most of the proponents of this bill have talked about the intrusion of the Office of Education into local schools. I will say categorically as a Member who has been on an Education Committee for 19 years that there is nothing in section 103 that would in any way inhibit the new Department of Education from doing precisely what has been done before by the Office of Education in HEW. Their record of intrusion and control is just like a road map, and we put exactly the same language in here.

Let us go back 7 years. We had a busing amendment; we had a conference with the Senate; we were held up for months until they arrived at the language we have here: "There shall be no busing except where authorized by law."

Now, what do we mean by "authorized by law"?

We mean regulation, we mean court orders, we mean any color of authority.

Where do we think the regulations that relate to boys' and girls' choirs come from? By law.

Where do we think the regulations that intrude in saying to Dayton, Ohio, who a principal shall be and who shall be appointed? By law, by color of authority. That is what "law" means.

By putting that one word in there, we have negated the whole purpose of the section.

What I would offer is this: If we are serious about insulating local schools from intrusion, the words I have offered are in my opinion much better. I am saying, ". . . to the extent specifically authorized by Federal statute."—period.

I go on to say: "Regulations issued by the Department of Education shall not have the standing of a Federal statute for the purpose of this section."

If we leave those two words, "by law" in there, all that is, is a code word leading to bureaucracy.

Are we going to stand here and say they have acted illegally when they have intruded in our schools? Every Member who has taken the well has indicated that they were opposed to control. My friend, the gentleman from Georgia (Mr. Levitas), pointed out areas of invasion of school districts.

I will ask the Members, I will very honestly ask my friend, the gentleman from New York (Mr. Horton), and I will ask my friend, the gentleman from Texas (Mr. Brooks), if they believe that under section 103 the new Department of Education could not do precisely the same thing the Office of Education has done, if it could not become involved in fraternities and sororities, if it could not become involved in separate banquets in the schools, and if it could not become involved in boys' choirs and girls' choirs.

Every one of these invasions of local school authority came by law. We do not think they acted illegally, do we? Of course not. They acted by law, by their interpretation of law, by the interpretation of law giving them the authority by regulations they had implemented under the law.

Unless we put in the protection of saying, "by Federal statute,"—period—we have absolutely promulgated a meaningless sentence.

Now, if that is what we intended to do, fine, let us vote on it and let us find out. If we intend to do that, if we want to give the new Department of Education the precise authority that the Office of Education in HEW has had, let us find out so we can now go ahead, and let us not stand up here and say we are trying to protect local school districts from the controls that emanate from Washington.

We know how they do it. They do it by law. They do it precisely in the way that this would be authorized in section 103.

☐ 1710

By my amendment we are delineating and we are saying "by Federal statute." "Federal statute" means us; it does not mean somebody sitting down on Pennsylvania Avenue. It does not mean some court. It means the U.S. Congress "Federal statute" period. I do not know how one can make it any more clear than that.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I just want to be clear on what the gentleman is saying. As I read the rest of the amendment, however, I gather that the purpose of it is to say that there cannot be any regulations; is that correct?

Mr. ASHBROOK. There cannot be any regulations in section 103 that involve control of local school districts. Precisely. That is exactly what I am saying.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Ashbrook) has expired.

(By unanimous consent, Mr. Ashbrook was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, I will say to my friend, the gentleman from Florida, that is where the regulations come from. They come from law. We pass the law. They pass the regulations. They invade local school districts under color of law. We have never voted on them specifically. We have given them the authority. So I am saying only where we directly say in a Federal statute we want this to be an educational policy. At that point, we clearly become engaged in control or direction of local school districts. But we have done it with the Congress assembled, a vote of the House and the Senate, signed by the President, which is entirely different from somebody sitting behind a desk and saying, "Oh, I think I can become involved in sororities, I think I can become involved in fraternities, I do not really believe that boys choirs or girls choirs should be separated; therefore, under the authority I think I have I will promulgate a regulation." Let us say no to that type of involvement.

I would say to all of the Members that if we want to honestly say, as a matter of policy, that local school districts should do ABC or XYZ, let us have the honesty to do it ourselves by statute.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Ashbrook) has again expired.

(On request of Mr. Panetta and by unanimous consent, Mr. Ashbrook was allowed to proceed for 2 additional minutes.)

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, I guess the question I have is: When we do pass statutory law, then that becomes incumbent upon departments and agencies to issue regulations and rules that define what that statute states.

Mr. ASHBROOK. That is where the problem is coming from.

Mr. PANETTA. I understand that. But I do not take it that the gentleman's amendment is intended to limit what may be those rules and regulations to implement statutory law.

Mr. ASHBROOK. Absolutely not. If they want to say that, they have to have a report. But when you are talking about controls, if you want prohibitions against Federal control, certainly you better not give Federal authorities the ability to become involved in local school districts.

Mr. PANETTA. The gentleman is not taking away from the departments or agencies the ability to issue those rules and regulations; what the gentleman is saying is that those rules and regulations will not have the standing of a Federal statute.

Mr. ASHBROOK. They will not have the standing of a Federal statute to the extent that section 103 applies. It says "for the purpose of this section." If we are going to be honest about it, then we cannot let that loophole in, because that loophole is where the controls are going to come from.

Mr. PANETTA. I think we have to be honest with a court as to what the statute means or does not mean.

Mr. ASHBROOK. Yes. And if the Supreme Court in effect tells us we have to do something, then at least we would have to go with a Federal statute to do it. We will cross that bridge when the time comes. It would not be someone sitting downtown somewhere and saying, "Yes, a court said something." At least by limiting it to ourselves the Federal statutes, the courts operate as they will, but we do have some control over the bureaucracy. From my point of view, if we do not put the leash on them, they will do exactly what they have done for the last 10 years.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I am very much concerned about this statute, precisely the problem I discussed this morning concerning that small college. There was a regulation because the law said you can withhold federally-funded schools. The law did not say you cannot strike any school through the students. But it was interpreted that way, and the administrative law judge had to interpret it that way. But what worries me about this amendment—and I am willing to vote for it—I wish the gentleman would have stopped at "Federal statute" period. There have to be some regulations there. In some areas some regulations have to be promulgated and obeyed.

Mr. ASHBROOK. But not as to control.

Mrs. FENWICK. No. Would it damage the gentleman's amendment if we did end it "Federal statute" period?

Mr. ASHBROOK. It would damage it to the extent that then we would not have a positive statement saying a regulation would not have the standing of a statute, because they are operating now within the statute. And I think if we open that up, we might just as well say "by law."

Mrs. FENWICK. But if we ended it with "a Federal statute" period, that would not be sufficient?

Mr. ASHBROOK. I think it would not.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Ashbrook) has again expired.

(On request of Mr. Levitas and by unanimous consent, Mr. Ashbrook was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, the gentleman mentioned my name in reference to this amendment.

Mr. ASHBROOK. Right.

Mr. LEVITAS. I have heard the amendment read, I have read the amendment, and on this occasion I agree with the gentleman.

Mr. ASHBROOK. I thank my colleague.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Ashbrook).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: Page 56, line 22, insert "(a)" after "Sec. 103." and page 57, after line 7 insert:

"(b) No provision of law shall be construed to authorize the Secretary to issue any regulation, rule, interpretation, guideline, or order which requires, as a condition of eligibility to receive Federal assistance, or otherwise, the transportation of students or teachers (or the formulation or adoption of any plan for such transportation) to achieve racial balance in or to carry out a plan for the desegregation of any educational institution, school, or school system."

Mr. BROOKS. Mr. Chairman. I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. Brooks) reserves a point of order on the amendment.

Mr. ASHBROOK. Mr. Chairman, plain and simple, this is a busing amendment. I think the Members have gotten the drift. About 80 to 90 percent of our constituents, black, white, of all races, when polled, are against forced busing, forced racial balance schemes. Over the years we have placed many amendments in the Record, we have placed many amendments on the books. More often than not, they have been weakened. As I said on the previous amendment, I sat on the conference for 4 or 5 months. Finally, the language was derived that there shall be no busing except where ordered by law. That is just in effect saying there will be busing. The court may take a different position. but I think we can at least have some degree of control over our own creation, the Department of Education. Regardless of what courts might say, regardless of what the constitutional situation might be as interpreted by the courts, I believe the Congress should at least be on record telling in enforceable language the Department of Education that they shall not become involved at any level, no matter what color of law they operate under in busing, forced busing, busing schemes of any kind.

I urge my colleagues to adopt it, as we have adopted busing amendments in the past, and possibly—just possibly, this time we can make one stick.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Texas (Mr. BROOKS) insist upon his point of order?

Mr. BROOKS. Mr. Chairman, I certainly do.

The CHAIRMAN. Does the gentleman wish to be heard on his point of order?

Mr. BROOKS. Mr. Chairman, I certainly do.

The CHAIRMAN. The gentleman from Texas (Mr. BROOKS) is recognized.

Mr. BROOKS. Mr. Chairman, I want to say that just a simple reading of the amendment says that it is going to try to make a plan of desegregation of any institution.

□ 1720

I do think we can have any such plan really in that fashion. I do want to make a point of order against the amendment under rule XVI, clause 7, which requires amendments to be germane to the subject under consideration.

In order to be germane, an amendment must have the same fundamental purpose as a bill under consideration.

The purpose of H.R. 2444 is to establish a Department of Education. It deals only with the organizational structure of that Department. Amendments affecting programs or assigning new duties to the Secretary or his assistants and employees that are not now authorized by law are not consistent with that organizational purpose and therefore should be ruled out of order.

A further test might be that such an amendment would certainly not be sent to the Government Operations Committee if it were offered as a bill on the floor of this Congress.

The CHAIRMAN. The gentleman from Ohio (Mr. ASHBROOK) is recognized on the point of order.

Mr. ASHBROOK. Mr. Chairman, even the most strict reading of the preamble clause of this bill, which, as my colleague has indicated, has come out of the Government Operations Committee—not the Judiciary Committee, not the Education Committee, it has come out of the Government Operations Committee—even the most strict interpretation if you read the preamble, they talk about every facet of education, promoting education, making reports available; every particular facet of education that relates to elementary and secondary schools, is reposited in the Department of Education.

I do not think there is an American, let alone a Congressman, who believes that busing in one way or another is not a part of education. I do not believe there is a Member of this Chamber who believes in one way or another busing will not be under consideration by the newly created Department of Education, and for all those purposes, I believe it to be absolutely germane. I hope the Chair will so rule.

The CHAIRMAN. The gentleman from Illinois (Mr. ERLENBORN) is recognized on the point of order.

Mr. ERLENBORN. Mr. Chairman, I understood the chairman of the committee, in pressing his point of order, to say that the rule requires that nothing in the bill go beyond the purpose of the bill. He said the purpose of the bill was to create the structure of the Federal Department of Education. It had to do with structure only.

I call the attention of the Chair to section 439 of the bill as reported by the committee.

It says:

> Notwithstanding any other Federal law which provides that a single State or local government, department, agency, multimember board or commission, or other organizational unit, or specific officer within a department, agency, multimember board or commission of State or local government, must be established or designated to administer any grant-in-aid program of the Department, upon certification by the appropriate executive or legislative authority of the State or local government responsible for determining or revising the organizational structure of such government that such provisions prevent the establishment of the most effective and efficient organizational arrangements within the State or local government, the Secretary may waive such provisions and approve other State or local administrative structures or arrangements, when he determines that the objectives of the Federal statute authorizing the program will not be thereby endangered.

Mr. Chairman, I submit this is basically amending the General Education Provisions Act, which has nothing to do with the structure of the Federal Government. The General Education Provisions Act provides for the structure within a State that applies for Federal funds and requires that there be a State lead agency.

Now, I submit that, therefore, by amending the General Education Provisions Act, which has nothing to do with the structure of the present Office of Education or the proposed Department of Education, this bill goes beyond what the chairman claimed was merely the structure of the new Department of Education. This is a direct amendment or indirect amendment to the General Education Provisions Act, and, therefore, I think the bill goes well beyond the original structure; and the point of order is not well taken.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Might I speak further upon the point of order just briefly to say to my distinguished friend from Illinois, if he thinks a point of order lies in some other part of this legislation, at the appropriate time I wish he would offer it. I would be pleased to have it ruled on.

I have no objection to his making such a point of order.

I am talking about this one. If the gentleman is for it, let us talk about this one. This one is a violation. No question about it.

The CHAIRMAN. The Chair is prepared to rule.

Section 103, title I, mandates how existing education laws are to be construed in several diverse respects. Section 103 does contain certain limitations upon the statutory constructions of several authorities of the Secretary to control education programs.

The amendment is a further restriction on construction of other authority of the Secretary in construing existing education law, is germane to title I and the Chair therefore overrules the point of order.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment deals with the functions and authorizations of programs transferred by the bill and seeks to attach to those programs and functions a prohibition concerning transportation of students.

The substance of the programs and the functions transferred are beyond the scope of this purely organizational measure. This is not the proper vehicle for consideration of a substantive educational policy issue such as busing.

H.R. 2444 is concerned with reorganizing existing Federal education programs in a manner that will hopefully best produce a comprehensive, cohesive Department of Education. The bill does not presently relate to substantive educational policies, and it is most inappropriate to consider busing in connection with this bill right now.

This amendment would have a long-term effect, if adopted, on educational policies in this country. It is an issue that requires hearings, investigations, and debate. It should not be attached to a reorganization measure.

I would ask for a "no" vote on the amendment.

Mr. PANETTA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, my colleagues, this is not a new issue that has been debated on the floor of the House. I just want to make a few points in dealing with this whole area of remedies. Where there has been deliberate discrimination, there must be solutions. We ought not to forget the fact that busing did not simply fall out of the sky, that indeed, it really takes place in school systems that have been found by a court of law to have discriminated. Where there is discrimination there has to be a remedy.

This has been the whole problem in dealing with this issue.

What type of remedy do we have where children are segregated by virtue of their race?

The courts have developed remedies that involved busing, but there are other remedies that have also been implemented. We do not have a right in this country unless there is a remedy, and the problem is what kind of remedy do we bring to bear in school systems that have been deliberately segregated?

Busing is one of those remedies that has been applied. It has not always been successful. It has not always been effective. There are problems with implementing busing in many districts, but it has also worked very well in school systems that have prepared the community and that have done it in a responsible way.

What this amendment will do is prohibit any kind of transportation whatsoever in order to implement a desegregation plan. We have normally been concerned about the neighborhood school, and whether we would bus a child away from the neighborhood school. That has been the text of the amendments that we have dealt with before in the House of Representatives.

What this amendment will do is essentially prohibit the transportation of students or teachers anywhere, even if it is to their nearest school. I think this amendment goes far beyond, the concerns of the Members of the House and the concerns of the American people with this issue.

□ 1730

It is a sensitive area. Certainly we ought to be sensitive to the remedies. But, let us also be sensitive to the problem of discrimination and the desperate effort to try and find answers. Let us not inhibit that effort through this kind of legislation.

Mrs. FENWICK. Would the gentleman yield?

Mr. PANETTA. I yield to the gentlewoman.

Mrs FENWICK. I would like to associate myself with the gentleman's remarks. I do not think any parent of any race really likes busing. But, it has become a symbol of the intention of this country to protect all of our children and give them an equal education. And when the courts find deliberate discrimination has been practiced, we must have such a recourse. And I hope very much this amendment will be defeated.

Mr. PANETTA. I thank the gentlewoman and I yield back the balance of my time.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

It is my understanding the House had intended to adjourn by 5:30. I shall be very brief. I do not know whether 5:30 is still the plan or what it is at this time.

I rise to obviously oppose this amendment. I have opposed it each time it has been offered. I take the time to merely state to my colleagues, that I wish you had been on the floor of the House this morning at 9:15. I wish you had been here. At 9:15 this morning we had the pleasure of having the parents of our Capitol Hill pages who were graduating and also the Pages themselves, who, by the way, are completely mixed. You have seen the pages, black and white working here together, both boys and girls. And when I spoke to the pages and their parents, I said this is what I think America is all about, somehow or another bringing people together, bringing them together so that they can work in harmony and in understanding. It was a beautiful experience.

That is why it is so bitter for me to sit here this evening and hear this amendment being offered, because I do not know exactly what the gentleman's intentions are. But there is no doubt in my mind that the effect will be to create further division in America, and God knows we do not want any more of that. We are already divided enough.

Why keep fanning the flames by this kind of amendment on busing to achieve school desegregation. That is not the issue concerning me.

The issue is whether or not the Federal Government, the State governments and city governments are going to put enough money into those still separate black schools so that they will be so good, and so excellent in terms of teacher-pupil ratio, in terms of curriculum, and in terms of everything else. They will be so excellent that white children will be begging to be bused into the black schools in the urban cities. That is what I would like to see happen.

But, it is not going to happen, and until that does happen I think we must have busing as a remedy. I urge that this awfully—I was starting to say vicious, but I do not want to say that—this amendment that has the potential for further dividing this Nation and fanning the flames should be defeated.

Mr. Chairman, I yield back the remainder of my time.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I will not take 5 minutes but, you know, the unspoken word is "coercion." Coercion, that is the problem with busing as interpreted and as imposed by the courts. There is no busing law that has ever come out of this body or the other body but some judge, Federal judge in response to a study by a Professor Coleman from Chicago, who has since repudiated his own findings, decided that unless you forcibly conscript schoolchildren and bus them, and homogenize them, the black student is not getting a good education unless he sits next to the white student. No, that is coercion and conscription and it is nonsense.

We have got in Chicago, and I do not represent Chicago, 20 percent white, 80 percent minority and some bureaucrat is saying unless you come up with a plan that I approve, that HEW approves, you are not going to get any of your tax money back.

Busing is great if people want to do it, if they do it with the consent of the governed. But, it is being imposed not by the laws passed by this body, but by bureaucrats and by a court, which is out of date, because the father of busing has repudiated it. It does not work, it is not successful, it is counterproductive, it polarizes people, and we ought to pass the laws here and support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. MITCHELL of Maryland. Mr. Chairman, I demand a division.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote. A recorded vote takes priority.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 135, not voting 72, as follows:

[Roll No. 205]

AYES—227

Abdnor
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Biaggi
Blanchard
Boner
Bonior
Bowen
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Donnelly
Downey
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Ferraro
Fish
Fithian
Flippo
Florio
Ford, Mich.
Fountain
Frost
Gaydos
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Gradison
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jones, Tenn.
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lujan
Luken
Lungren
McDade
McDonald
McEwen
Marlenee
Marriott
Martin
Mathis
Mattox
Mica
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Pashayan
Patten
Patterson
Paul
Petri
Pickle
Pritchard
Pursell
Quayle
Ratchford
Regula
Rinaldo
Ritter
Roberts
Robinson
Roe
Roth
Rousselot
Royer
Runnels
Santini
Satterfield
Sawyer
Sebelius
Sensenbrenner
Shelby
Shumway
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stangeland
Stanton
Steed
Stenholm
Stump
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Vanik
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Wilson, Tex.
Winn
Wylie
Yatron
Young, Alaska
Young, Fla.
Zablocki

NOES—135

Akaka
Albosta
Alexander
Ashley
AuCoin
Baldus
Barnes
Beard, R.I.
Bedell
Bereuter
Bingham
Boggs
Boland
Bonker
Brademas
Brooks
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conable
Conte
Daschle
Dellums
Derrick
Dicks
Dixon
Dodd
Duncan, Oreg.
Edgar
Edwards, Calif.
Erdahl
Ertel
Fascell
Fazio
Fenwick
Findley
Fisher
Foley
Fowler
Garcia
Gilman
Gonzalez
Gore
Gray
Green
Harkin
Harris
Hawkins
Holtzman
Horton
Howard
Johnson, Colo.
Kastenmeier
Kildee

Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McCormack
McHugh
McKinney
Madigan
Maguire
Markey
Matsui
Mavroules
Mazzoli
Mikva
Miller, Calif.
Mitchell, Md.
Moffett
Mollohan
Nolan
Oberstar
Obey
Ottinger
Panetta
Pease
Pepper
Perkins
Peyser
Preyer
Quillen
Rahall
Railsback
Rangel
Reuss
Richmond
Rose
Rosenthal
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Solarz
St Germain
Stack
Staggers
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Udall
Ullman
Van Deerlin
Vento
Volkmer
Waxman
Weaver
Whitley
Williams, Mont.
Wirth
Wolff
Wolpe
Yates

NOT VOTING—72

Addabbo
Ambro
Anderson, Ill.
Andrews, N.C.
Aspin
Badham
Beilenson
Bolling
Bouquard
Breaux
Brown, Calif.
Byron
Conyers
Corman
Crane, Philip
D'Amours
Danielson
Davis, S.C.
de la Garza
Diggs
Dingell
Dornan
Dougherty
Drinan
Eckhardt
Fary
Flood
Ford, Tenn.
Forsythe
Frenzel
Fuqua
Goldwater
Goodling
Hagedorn
Hammerschmidt
Harsha
Heftel
Hughes
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kelly
Lloyd
Lott
McKay
Marks
Mineta
Montgomery
Moorhead, Pa.
Murphy, N.Y.
Price
Rhodes
Rodino
Rostenkowski
Rudd
Russo
Schulze
Shuster
Stark
Stockman
Treen
Vander Jagt
Weiss
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wright
Wyatt
Wydler
Young, Mo.
Zeferetti

□ 1750

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Johnson of California against.

Mr. Fary for, with Mr. Stark against.

Mr. Montgomery for, with Mr. Drinan against.

Mr. Dingell for, with Mr. Conyers against.

Mr. Dornan for, with Mr. Diggs against.

Mr. Philip M. Crane for, with Mr. Weiss against.

Mr. Shuster for, with Mr. Eckhardt against.

Mr. Schulze for, with Mr. Flood against.

Mr. MARRIOTT and Mr. JEFFORDS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

● Mr. GOLDWATER. Mr. Chairman, for the past year a number of educators have taken the opportunity to let me know of their interest in creating a new Cabinet-level department to administer the more than 260 Federal aid-to-education programs. Why, I ask them? What can a new appendage of this bureaucracy in Washington do to improve the learning experiences of students, in the case of my congressional district, as far as 3,000 miles away? As it is, the cost of the Federal role in education has mushroomed and it seems as though serious problems of one kind or another plague our school systems continuously.

If this proposal becomes law a new organization will be entrenched in the Federal maze of regulatory authority. The $14 billion it will take to run this outfit promises no brighter prospect for managing our schools than a vigorous shakeup of the existing structure at HEW would do. What can a staff of 16,000 bureaucrats—that is the number of employees slated to call the shots for this new Department—what can they do to help a second grader in my district with a reading problem? How will a youngster with a learning disability be any better off with this new Federal Department? This is where the real crisis in education is—in the classroom. The States and localities are best able to make decisions affecting pupils in our public schools. I am not convinced that an expanded Federal role for financing education programs will make any positive contribution to the important matter of teaching students the essential skills they need to have.

The more thought I give to this proposal the more irate I become. Surely the originators of this idea foresaw the explosion of redtape and despised paperwork which will burden school administrators. There is the danger that this institution will forge a national policy for education, something which would be oblivious to the local concerns of every school district. The quality of education stands to gain nothing when this new Department will become, as one newspaper editorial put it, "a creature of its clientele." It is no secret that the Carter administration got behind this bill because the President received the support of a powerful education lobby in the 1976 election campaign. For one group to exert its influence by dominating a Government agency would make a mockery of a public responsibility too sacred to be marred by petty politics.

So when I am approached by teachers and administrators on this measure I listen to their arguments that taking the "E" out of HEW will help them have a stronger voice in taking control of their schools. I tell them that a little reform within HEW itself would be a better way to get a handle on the mammoth role our Federal Government already plays in the educational process.

Then I ask them just how certain they are that they will be better off with a U.S. Department of Education. Usually I get a shrug of the shoulder.

Mr. Chairman, there is an awful lot which needs to be done in making our schools better for its students. I think the less involved the Federal Government is in making these changes, the better we will be. This bill is a move in the wrong direction for public education in this country. I urge its defeat. ●

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Nedzi, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2444) to establish a Department of Education, and for other purposes, had come to no resolution thereon.

PROPOSAL FOR LEADERS OF MEXICO AND CANADA TO CONVENE NORTH AMERICAN SUMMIT ON ENERGY

(Mr. HAGEDORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. HAGEDORN. Mr. Speaker, my friend and colleague in the Minnesota delegation, Congressman Arlan Stangeland of the Seventh Congressional District, has taken a bold step toward meeting the challenges of the energy crisis by introducing a concurrent resolution along with Senator Dole in the Senate that will help our Nation work with our partners in this crisis as to how it affects North America.

Congressman Stangeland has taken the lead in the House with his proposal that the President call upon the leaders of Mexico and Canada to convene a North American summit meeting on energy. He is to be commended for his approach to the problem that, if not settled to everyone's satisfaction, could cause a disruption to the good relations that we presently enjoy with our neighbors to the North and South.

One of the principal criticisms of the United States is that we use too much energy relative to the rest of the world's population. By working with our geographic neighbors to cut down on U.S. consumption and by discussing the mutual benefit of pooling technological advances and presenting a united front, we will take an important step toward improving our posture throughout the world.

As Congressman Stangeland so ably stated in his remarks to the House on May 21, the primary benefit to be derived from such an energy summit will be a united effort addressing energy issues on an international basis rather than selfishly approaching these concerns on a national level. He has asked us for support and I urge my colleagues to seriously consider this matter and give him your backing in this important endeavor.

For the further information of the Members of the House, I would like to insert into the Record a copy of Congressman Stangeland's testimony before the Senate Subcommittee on International Trade of the Committee on Finance when he discussed this matter on June 6, 1979:

Statement of Hon. Arlan Stangeland

SUMMARY

The military and economic security of the United States and its major allies is seriously threatened due to the large dependency the U.S. and other oil consuming nations have on OPEC. These foreign imports adversely affect all oil consuming nations and their economies due to the drastically increasing price of crude oil.

North America possesses substantial energy resources. Mexico has large crude oil and natural gas supplies which must be developed to complement Mexico's growing economy. Canada possesses large tar sands resources, along with oil and natural gas. The United States has huge coal and oil shale reserves, along with its crude oil and natural gas supplies.

There are many benefits of mutual cooperation. Improved economies due to supply diversification, better transportation systems for the raw materials necessary for energy production, better refining utilization, technology sharing and improved environmental coordination are a few of the potential benefits that could result from a North American energy summit meeting.

Finally, reconsideration of laws and treaties so as to encourage cooperation between these countries is essential. Considering comprehensive energy policies may also be beneficial to all parties concerned.

For these reasons, a North American energy summit meeting would be beneficial to the entire North American continent.

NORTH AMERICAN ENERGY SUMMIT MEETING

INTRODUCTION

Mr. Chairman and Distinguished Senators, the military and economic security of the United States and its major allies are seriously threatened due to the critical energy situation that is currently confronting the world's oil importing countries. Since the United States uses one-third of the world's energy, this security threat is due in a large part to our country's increased dependency on foreign oil imports necessary to alleviate the growing shortfall between domestic petroleum production and consumption. Moreover, stagnant U.S. energy production over the last two years, despite the addition of Alaskan North Slope crude to our domestic supplies, coupled with the multiple repercussions of the Iranian situation, have increased the possibilities of a major global energy shortage by the 1980's.

In 1959, for example, the United States received 70 percent of its oil imports from countries that comprise the Organization of Petroleum Exporting Countries. In 1978, the United States received 83 percent of its crude oil imports from these same countries. While this amounts to an increase of 13 percent, it is essential for an accurate comparison to note that the total volume of imports has expanded dramatically. In 1971, the United States imported 3.9 million barrels per day (MMD/D) at a price of $4 billion to the foreign oil producers. 1979 estimates indicate that the United States will import between 8.5 to 9.0 MMB/D, costing in excess of $50 billion. According to the United States Department of Energy, crude oil and petroleum imported from OPEC members have increased 20 percent per year since 1970.

Particularly disturbing about this trend and similar trends in other oil consuming nations is the apparent unwillingness on the part of these nations to establish a viable international energy policy. Unfortunately, as United States imports multiply, there is an increasingly stronger likelihood that oil imports will unduly influence American foreign policy. For this reason, the growing dependency on politically precarious supplies of foreign oil poses major economic, political and social ramifications to all nations.

To a lesser extent, Canada has also been subject to large imports from OPEC. Up until 1973, Canada was self-sufficient for its crude oil requirements. As of November, 1978, Canada received 75.1 percent of its oil imports from the OPEC cartel, amounting to a volume of 477,000 barrels per day.

While these figures are substantially smaller than U.S. oil import figures, it is important to recognize the adverse economic reverberations resulting from the large price increases for crude oil, even though a particular country's imports may not be great compared to those of the United States. For example, in 1972, Mideastern crude oil was selling for $2.80/barrel. As of April 1, 1979, this same oil was selling for at least $14.54/barrel, with all indicators pointing to another price increase later this month. The effect of such price increases on a particular country's currency and balance of payments is readily apparent and will continue to devastate the economies of all oil consuming nations, particularly the developing countries, until the price is stabilized by either reducing demand or augmenting the supply of crude.

NORTH AMERICAN ENERGY RESOURCE BASE

Unlike many regions of the world that depend upon oil imports, North America possesses substantial energy resources for development and diversification. For example, while factors such as economics, distribution systems, social considerations, national pride and other considerations may prevent the optimal use of our oil resources, nevertheless, the estimated ultimate recoverable conventional oil resources of the North American continent amount to 200 billion barrels. Additionally, each country has large reserves of various other energy resources. The development of these sources will help stabilize the North American economy while also benefitting other oil consuming nations that are compelled to rely on OPEC. By even marginally increasing the supply that is available to these other countries, the world oil situation should improve.

MEXICAN ENERGY RESOURCES

Mexico probably best exemplifies this continent's energy wealth. While Mexico now ranks sixth in world crude oil reserves with over 40 billion barrels, estimates range over 100 billion barrels for potential oil reserves. Additionally, as Mexico's oil production increases, available natural gas supplies will correspondingly increase.

The critical question to consider in evaluating Mexico's energy resources is the timetable by which these resources should be developed. President Lopez Portillo has repeatedly stated that Mexican oil reserves will be developed at a rate compatible with Mexico's economy and not subject to foreign pressures or a desire to rapidly expand its oil industry. On the surface, such action may seem contrary to the best interests of Canada and the United States, two natural customers for Mexican crude. Nevertheless, it is imperative that the United States and Canada realize that development of the Mexican oil fields be undertaken in such a manner as to benefit all countries involved. Furthermore, since Mexican oil is sold at or above the OPEC price, the major advantage of this supply source is its relative security as compared to that of unstable Persian Gulf crude oil. In order to best assure a continued supply of safe crude oil imports from Mexico, a healthy Mexican economy is essential. All-out production, while superficially attractive to oil consuming nations such as Canada and the United States, may cause spiralling inflation due to the rapid expansion of revenue entering Mexico's economy. In fact, several experts contend that the Iranian turmoil has been at least partially caused by an unstable economy, due to a rapid influx of revenues incapable of productive use by Iran's economy.

The development of a market for Mexico's natural gas supplies could also affect the amount of future Mexican oil exports to the United States. Since the Mexican domestic market for natural gas cannot use all the natural gas from rapidly developing southern oil fields, a market, such as the United States, is significant. Without natural gas sales to the United States, Congressional Research Service estimates that Mexico may have to lower its oil production goals by as much as 25 percent. Furthermore, strong political opposition toward hydrocarbon exports to the United States has developed due primarily to the United States government action vetoing a price previously agreed to by Pemex and a consortium of U.S. companies for Mexican natural gas. While Mexican officials felt that the price of $2.60 per thousand cubic feet was equitable, the United States feared that this might immediately trigger an increase in the price for Canadian natural gas. This intervention by the U.S. government was interpreted by Mexico as a rebuff, particularly disturbing since a large pipeline from the Reforma oil fields to an area near the Texas border was already under construction.

CANADIAN ENERGY RESOURCES

Another North American neighbor with substantial energy resources is Canada. While Canadian tar sands located in the province of Alberta may be considered an unconventional source of oil, commercial development has commenced and, with the constantly increasing price of crude oil, may become a viable energy source in the not-too-distant future. Other energy resources located in Canada are ample supplies of natural gas and crude oil. While the Canadians use substantially all of their crude oil for domestic requirements, there is a considerable amount of natural gas exported to the United States.

U.S. ENERGY RESOURCES

The United States is blessed with huge deposits of coal and oil shale, in addition to its oil and gas reserves. Coal is the nation's most abundant energy resource and estimates place these resources at between 10–12 trillion tons, 6 percent or 640 billion tons of which can be considered our present day reserves. At current consumption levels, this is enough coal for several hundred years.

Additionally, the U.S. has vast reserves of oil shale in Colorado, Utah and Wyoming containing an estimated 1.8 trillion barrels of oil. This amounts to roughly three times the amount of known crude oil reserves of the Middle East.

It becomes apparent that the North American continent offers adequate energy supplies to meet its needs. Due to the great potential for development of traditional and nontraditional energy sources, a pragmatic approach to our mutual and separate energy needs would mandate an energy summit meeting to discuss international cooperation in this area. I will now discuss some of the benefits that may accrue to each country.

BENEFITS OF MUTUAL COOPERATION

Notwithstanding OPEC's domination of the international petroleum market, there are several benefits for a country in diversifying its oil supply. A major problem of our current energy situation is the uneven distribution of available crude oil, heavily concentrated in the Persian Gulf, and the disastrous effect any supply interruption can have on the world oil market. Diversification of crude oil suppliers by a particular oil consuming nation such as the United States and Canada, will help reduce that nation's unhealthy reliance on a single or few exporters. For that reason, programs such as that initiated by the World Bank to stimulate non-OPEC, developing countries' ability to produce oil, are essential.

Applying this premise of supply diversification to this situation, the development of a stable supply of Mexican crude oil and natural gas can benefit both the U.S. and Canada. Obvious benefits accrue to Mexico if this development occurs at the proper rate for the Mexican economy. Therefore, improving Mexico's economy is in the best interests of all concerned parties.

Improved trade and economic relations among the nations in the area of energy policy would provide several other benefits. The implementation of a better transportation system for oil and gas is vitally important in order to more effectively utilize our resources. Presently, efforts to transport crude oil and natural gas to market are often duplicative and inefficient, thereby contributing to spot shortages. An example of the failure to maximize the use of pipelines between countries is the development of a large pipeline from Mexico's southern Reforma oil fields. This pipeline comes within 130 miles of the Texas border and could easily be extended to provide for natural gas shipments to the United States. To date, no action has been taken due to political and other problems.

In addition, Mexico would benefit by developing United States and Canadian markets for its products due to their geographical proximity to Mexico. By selling its oil to the U.S. and Canada, Mexico would be able to sell its oil at world prices without the correspondingly large transportation costs other producers must consider.

Apart from pipeline and transportation cost advantages, improved utilization of existing refining capacity may result from mutual cooperation. Currently, there is a limited amount of crude oil swapping between the United States and Canada. These efforts must continue and intensify. It seems incongruous that eastern Canadian refineries operate at a relatively low level of refining capacity while the U.S. is suffering from a lack of refining capacity. International cooperation and coordination could rectify this problem while also better furnishing specific refineries with the type of product that is best suited for its particular operation.

Notwithstanding the fact that most of Mexico's surface exploration and drilling is supplied by Pemex, the supplemental use of United States technical expertise could greatly facilitate the development of oil and natural gas. Technology could also be shared with Canada in order to assist that country in the development of its Alberta tar sands.

Finally, closer cooperation between our countries will remove some of the uncertainty about domestic and foreign environmental regulations that has led, in the past, to delay or abandonment of important energy projects. Environmental coordination is an important area that must be considered at any energy summit meeting if we are to aid in the development of mutually beneficial energy projects for the future.

OTHER CONSIDERATIONS

Improvement of trading relationships among the North American countries may require the consideration of other issues, either separately or during a meeting of the North American leaders. One such area deals with the encouragement of trade between the North American countries by the enactment of laws and treaties conducive to this goal. For example, under the Natural Gas Policy Act of 1978, Mexican natural gas is priced incrementally in the American market, as compared to the "rolled-in" pricing of Alaskan natural gas. "Rolled-in" pricing averages the cost of supplemental gas with cheaper existing supplies whole incremental pricing places the entire expense of the supplemental gas on the end user. Averaging the price of natural gas from Mexico with that of existing supplies may assist Mexico in developing a strong market for its natural gas. Other considerations in this regard involve the establishment of trade quotas, preferential tax treatment and other trading incentives by the various countries in order to promote the preferred relationships between the North American countries.

Secondly, rather than discussing a particular energy problem in a vacuum, discussions could cover comprehensive energy policy. The development of nuclear and solar, along with other nontraditional energy sources, should be discussed in conjunction with oil and gas development. To carry this a step further, non-energy issues, such as immigration and agricultural trade, could be included. It is my contention that such a unified, comprehensive approach to energy and other common problems will greatly improve our quality of life on the North American continent. It is for these reasons that I am urging the President to join with the leaders of Mexico and Canada to convene an energy summit meeting.

DISAPPROVAL OF FOREIGN MILITARY SALES TO SAUDI ARABIA

(Mr. STUDDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUDDS. Mr. Speaker, I am today introducing concurrent resolutions calling for the disapproval by Congress of three proposed sales of management and contracting services by the U.S. Army Corps of Engineers to the Government of Saudi Arabia.

I take this action not because I object absolutely to the purpose of these proposed sales—although I do oppose going forward with the transactions at this time—but because I believe very strongly that we need to reassess our entire relationship with the Government of Saudi Arabia in light of a number of factors which I will detail later in this statement.

Several weeks ago, I suggested that we make a symbolic cut in our military aid program to Israel as a penalty for that nation's inexcusable decision to continue the construction of new civilian settlements in the West Bank. I favored this step as one fully consistent with President Carter's request that we take every possible measure to "wage peace" in the Middle East. At that time, I also stated my belief that we need urgently to take a new look at our policy toward one of the nations which has done the least for peace in recent months, the Kingdom of Saudi Arabia. In particular, I suggested that we reexamine the role of the U.S. Army Corps of Engineers in Saudi Arabia, and the introduction of these three concurrent resolutions today is meant to stimulate just such a reexamination.

The particular proposed management and contracting services which are the subject of these resolutions involve first, $556 million for the construction of an infantry center and school at Khamis Mushayt; second, $238 million for the construction of an engineer center and school at the King Khalid Military City; and third, $216 million for the construction of a signal center and school at Taif. The questions which need to be raised, however, involve the whole scope and effect of the Army Corps gargantuan operations in Saudi Arabia.

Any Member of Congress who has had trouble getting a harbor in his district dredged or a dam repaired would be intrigued to learn that the U.S. Army Corps of Engineers is building a $7 billion military city, complete with air-conditioning, a swimming pool, indoor and outdoor firing ranges, riding stables, a stadium, and a race track in the middle of the Saudi Arabian desert. The corps has supervised the construction of a villa for VIP's in Khamis Mushayt, a theater in Tabuk, a lavish $40 million officers' club in Riyadh, and a television network for the entire nation. Now they are planning the construction of a $3 billion military academy for 1,500 cadets in an area outside the capital city, a project expected to cost a tidy $2 million—that's $2 million—per student.

The United States has a mammoth weapons supply and military construction relationship with Saudi Arabia. The $20 billion the Saudis anticipate spending with the Army Corps alone makes that operation the single most expensive military-related international sales program in the history of the world. In addition the kingdom has purchased some of the most sophisticated and deadly weapon systems in the U.S. arsenal, including the F-15 aircraft.

In recent years, administration spokesmen have argued that Saudi Arabia could be counted upon to play a surrogate's role for the United States in Middle East and Persian Gulf politics. The Saudis, they claimed, would hold down oil prices, act with moderation on Arab-Israeli issues, discourage the growth of Arab radicalism, and—in cooperation, hauntingly enough, with Iran—they would act as a pillar of pro-Western military strength and stability in the region.

This picture has changed drastically during the past 6 months and we need desperately to alter our own thinking and our own policies to reflect these changes. I am aware that vast differences exist between the situation now in Saudi Arabia and the events which we have seen unfold in Iran during the past year. But I also believe that there are enough similarities, particularly with respect to the influence of our military policies and cultural attitudes on the societies involved, to merit some degree of comparison.

Even more dramatically than Iran, Saudi Arabia is experiencing the transfiguring effects of incalculable petroleum wealth. They have more money than anyone was ever meant to have, but all their financial and international power rests on the narrow base on this one resource, the development and production of which employs only a tiny fraction of the Saudi people. The government has sought to spread the wealth through socially progressive housing, education, and health initiatives. As in Iran, however, reports of widespread corruption and waste within the royal family are beginning to cause resentment and stimulate some dissent among those outside the inner circle of power.

A people bound over centuries to a traditional and simple way of life has been exposed—in a time span which history will view as no more than an instant—to the heady and disturbing challenges of a rise to international prominence in financial circles, massive military expansion, and a huge influx of foreign contract seekers and workers—including 30,000 Americans. A society whose leaders remain capable of ordering female relatives stoned to death for adultery are now in a position to make decisions which directly and devastatingly affect every corner of Western civilization.

It is vital to recognize the rapid nature of these changes. As the Assistant Deputy Minister of Information for Saudi Arabia recently wrote:

> The most critical characteristic revealed by the study of the culture and history of Saudi Arabia is the newness of its political organization as a national state. It must be emphasized that it was only 3 generations ago during the reign of King Abdul Aziz Al Sa'ud that the Kingdom was organized in what can be regarded as a modern form . . . A sense of international political power and influence in the world community were not manifest until the establishment of OPEC in 1960. Even then, this sense of power in the global arena was really dormant until OPEC was forced to launch its embargo in the aftermath of the Ramadan War of 1973.

Unlike other societies with heavy Muslim populations, such as Iran, Egypt, India, and Turkey, Saudi Arabia has no past history of national identity or broadly based civilization. Islam is not only a force unifying the Saudi population, it is the sole reason for the nation's existence. Religious leaders have an enormous influence within the country, and Saudi Arabia's image of itself as the center of Islam—the home of Mecca and Medina—is incalculably more vivid than any image as an anti-Communist bulwark or friend of the West which the United States might seek to impose.

Anger at Westernization, anger at militarism, and anger at corruption, coupled with a strong desire for religious purity and unity all played a role in Iran's tragedy; all have a potential role to play in the future internal politics of Saudi Arabia, and it does not take much imagination to see the United States being cast as the primary villain once again.

It is we who are asking the Saudis to help the Middle East peace plan, when our ally Israel is continuing to build new settlements on the West Bank and is refusing even to discuss the issue about which the Saudis probably feel most strongly—the status of East Jerusalem. It is we who are asking them to keep oil prices from rising even higher and faster, and asking them at the same time to produce more oil, even though we realize that to the extent they agree, they damage their own narrow national interests and risk their leadership position within OPEC. It is we who are encouraging them through our massive military supply operations to involve themselves in the perilous and often incomprehensible games played by the major superpowers of the East and West.

Finally, it is we who are selling them—under the official imprimatur of the U.S. Army Corps of Engineers—some of the most lavish and extravagant facilities since the days of Nebuchadnezzar. All this we expect to see absorbed by a society whose population, using the most generous estimate, is about equal to that of Florida, which has a literacy rate of perhaps 20 percent, half of whose population is below the age of 19, and which is located temporally in the middle of an Islamic fundamentalist revival and spatially in the most politically and militarily volatile region of the world.

There is no question that Saudi Arabia is a different and probably far more internally cohesive nation than Iran. Their population is homogeneous; their students abroad spend their time studying, not demonstrating; their leadership is more personally secure than the egocentric and self-aggrandizing Shah; and the 1975 succession to power of King Khalid was handled smoothly and with considerable national maturity.

There is no question either that the United States has important financial and security interests in common with Saudi Arabia. As recent events have made clear, however, our differences of viewpoint in critical areas are also substantial. This may be inevitable. Perhaps it is true, as the Pulitzer prize-winning historian Barbara Tuchman wrote a short time ago that:

> It has been the great delusion of American policy that advantageous alliances can be formed with politically incompatible governments. The damage wrought by the partnership with South Vietnam needs no reminder. The value of Nationalist China as an ally was illusory, of czarist Russia in the first world war illusory, and of Soviet Russia in the second, while essential during the fight, a prelude to antagonism. Experience should suggest some implications.
>
> The Arab countries, whatever their nominal status, are authoritarian in one shape or another, except for unhappy Lebanon whose fate is not encouraging. Since none is a democracy in nature and structure, there is none on which we can rely with assurance that some new twist of inter-Arab rivalries or internal factions or Soviet allurements could not turn it around overnight.

How can we depend on the Saudis as an ally when we cannot even understand them? On the single most important foreign policy issue of this decade, our leaders did not know what the nation with whom we have the largest arms supply relationship in the world was going to do. The best minds in the State Department, the Defense Department, and the CIA all grossly underestimated the severity of Saudi reaction to the signing of the peace treaty between Israel and Egypt. In April, for example, we had testimony in the Foreign Relations Committee that the Saudis, despite their unhappiness with President Sadat, would still meet their commitment to finance the purchase of F–5's by Egypt. In May, the answer was that they might finance this purchase. Now in June, we are told that the deal is off.

As was the case in Iran, we seem to be out of touch with what is really going on. Nor does it appear likely that we are going to find out given New York magazine writer Tad Szulc's report that our CIA chief in Jidda was kicked out of the country 2 months ago for trying "to ferret out some hard facts about the mounting intrigues within the sprawling royal family."

The three concurrent resolutions I am introducing today will, I hope, assist in generating a reassessment of what has become a mutually schizophrenic relationship between the United States and Saudi Arabia. This action is not motivated by anger or criticism at the Saudis for I believe that they are attempting to act responsibly given their perception of their own nation's best interests. My real concern is whether present U.S. policy toward that nation—and particularly our policy of foreign military sales—is genuinely serving the best interests of either our nation or those of the kingdom.

It should be remembered, after all, that we had friends in some very high places in Iran, just as we now have friends in some very high places in Saudi Arabia. We may be able to protect our friends from Communists, but we cannot protect them from the anger—or perhaps simply the second thoughts—of their own people.

HOUR OF MEETING ON TOMORROW

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 a.m. on tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ASHBROOK. Reserving the right to object, Mr. Speaker, could I ask my colleague, the gentleman from Texas, what the other half of that schedule will be? When will the Committee rise tomorrow night?

Mr. BROOKS. Until we complete the bill, which I hope will be early in the afternoon.

Mr. ASHBROOK. To complete the bill, but not beyond what point, did my colleague say?

Mr. BROOKS. Well, I get pretty tired in the evening and my wife expects me home for supper generally; but I might eat late.

Mr. ASHBROOK. Further reserving the right to object, is my colleague saying we will not go later than 6:30 or 7 tomorrow?

Mr. BROOKS. I would hate to go much further than that.

Mr. ASHBROOK. Mr. Speaker, I am constrained to object unless we would make a commitment not to go later than 6:30 or 7.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I will be glad to yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I was just going to ask if the gentleman is going to object.

Mr. ASHBROOK. I am inclined to, yes. If we could get a commitment when the Committee will rise tomorrow night, I think that would be very appropriate.

The SPEAKER. The Chair feels that that is a prerogative of the House and not one single Member. If the gentleman wants to object, he can object.

Mr. ASHBROOK. Mr. Speaker, I will then take the prerogative I have. I will object.

The SPEAKER. Objection is heard.

Mr. BRADEMAS. Mr. Speaker, I move that when the House adjourns today it adjourn to meet at 11 a.m. tomorrow.

The SPEAKER. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—"yeas" 110, "nays" 26.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 234, nays 67, not voting 133, as follows:

[Roll No. 206]

YEAS—234

Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bailey
Barnard
Barnes
Beard, R.I.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Carr
Carter
Cavanaugh
Chappell
Clausen
Cleveland
Coelho
Conte
Cotter
Courter
Danielson
Daschle
Davis, Mich.
Dellums
Derrick
Dicks
Dixon
Dodd
Donnelly
Downey
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Fountain
Frost
Garcia
Gaydos
Gephardt
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Heckler
Hefner
Heftel
Hillis
Holland
Howard
Hubbard
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Long, La.
Lowry
Lujan
Luken
McCloskey
McHugh
Markey
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mica
Mikulski
Mikva
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moore
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Pursell
Quillen
Rahall
Railsback
Ratchford
Richmond
Rinaldo
Roe
Roybal
Royer
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Shelby
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Synar
Traxler
Udall
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Weaver
White
Whitehurst
Whitley
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wylie
Yates
Young, Fla.
Zablocki

NAYS—67

Abdnor
Archer
Ashbrook
Bafalis
Bauman
Bereuter
Brown, Ohio
Campbell
Carney
Cheney
Clinger
Collins, Tex.
Conable
Corcoran
Crane, Daniel
Crane, Philip
Dannemeyer
Deckard
Derwinski
Dickinson
Erdahl
Erlenborn
Gilman
Gingrich
Hansen
Huckaby
Hyde
Kindness
LaFalce
Lagomarsino
Lee
Lewis
Livingston
Loeffler
Lungren
McClory
McDonald
McEwen
Mathis
Michel
Miller, Ohio
Moorhead, Calif.
O'Brien
Pashayan
Paul
Petri
Pritchard
Quayle
Regula
Ritter
Robinson
Roth
Rousselot
Sensenbrenner
Shumway
Snyder
Solomon
Stangeland
Stockman
Symms
Tauke
Taylor
Thomas
Trible
Walker
Whittaker
Young, Alaska

NOT VOTING—133

Addabbo
Albosta
Ambro
Anderson, Ill.
Annunzio
Ashley
Badham
Baldus
Beard, Tenn.
Beilenson
Bethune
Bingham
Bolling
Bouquard
Breaux
Broomfield
Brown, Calif.
Burton, John
Butler
Byron
Chisholm
Clay
Coleman
Collins, Ill.
Conyers
Corman
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Davis, S.C.
de la Garza
Devine
Diggs
Dingell
Dornan
Dougherty
Drinan
Duncan, Oreg.
Eckhardt
Emery
Evans, Ga.
Fary
Findley
Flood
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Fuqua
Giaimo
Goldwater
Goodling
Green
Guyer
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Hammerschmidt
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Hawkins
Hightower
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Hollenbeck
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Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kelly
Lloyd
Long, Md.
Lott
Lundine
McCormack
McDade
McKay
McKinney
Madigan
Maguire
Marks
Martin
Mazzoli
Miller, Calif.
Mineta
Mollohan
Montgomery
Moorhead, Pa.
Myers, Ind.
Neal
Patterson
Price
Rangel
Reuss
Rhodes
Roberts
Rodino
Rose
Rosenthal
Rostenkowski
Rudd
Runnels
Russo
Santini
Schulze
Sharp
Shuster
Slack
Stark
Stump
Swift
Thompson
Treen
Ullman
Vander Jagt
Watkins
Waxman
Weiss
Whitten
Wilson, Bob
Wilson, C. H.
Wright
Wyatt
Wydler
Yatron
Young, Mo.
Zeferetti

☐ 1810

Mrs. SNOWE changed her vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

A MEDAL FOR JOHN WAYNE?

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. HYDE) is recognized for 15 minutes.

Mr. HYDE. Mr. Speaker, as a member of that group described by Theodore White as "* * * the primitives out beyond the mountains," I should not have been surprised that some liberal commentators have ridiculed the recent congressional legislation awarding John Wayne a gold medal.

Wayne has always been an object of patronization—if not scorn—to establishment liberals who see him as the quintessential superpatriot, chauvinist, jingoist, gun-toting, green-beret-wearing, flag-waving Hollywood sheriff.

One columnist in the Chicago Tribune said, "To fail to dissent from this extravagance is to betray millions of American men who made contributions to their country far, far surpassing what John Wayne did * * * John Wayne is a professional entertainer. He deals in make-believe." This writer made a point of the fact that while he was in Guam during World War II, Wayne was making movies in Hollywood, having never served in our Armed Forces.

Another columnist, the Washington Post's Henry Fairlie, heads his Sunday piece, "John Wayne Doesn't Deserve Any Medals." He makes the extraordinary statement that he has "yet to meet anyone from any walk of life who thinks the award is appropriate." The fact that Fairlie is British and a luminary of the eastern establishment might account for the narrow range of his acquaintance. Fairlie states flatly that—

> John Wayne has contributed nothing to the welfare or progress of the American people beyond what has been demanded of him in the normal pursuit of his career and its pecuniary rewards; he has set no example of exceptional endeavor or duty which mothers might repeat to their infants . . . The sad fact that he is dying of cancer is of no relevance in determining whether he should be singled out for one of the highest awards of the state. It is impossible to discover any tenable ground for bestowing the honor.

Anyone like Wayne, who saw some honor in resisting the communization of Indochina has to be a special object of liberal criticism. The very success of the antiwar movement (which considered Wayne's Green Beret film such an affront) has resulted in hundreds of thousands of pitiful refugees, starved, beaten, and drowned, trying to escape the nightmare created by our withdrawal. The voices of those who did escape and now crowd the refugee camps of Thailand and Malaysia—or who drift in leaky vessels pleading for someone to let them come ashore, constitute an intolerable reproach to the antiwar movement's faulty insight about ultimate events in Southeast Asia and its pretentions to have preempted compassion.

In reading these journalistic detractors, a sense that something is missing from their harsh ungenerous summaries of Wayne's life is inescapable. But Wayne would not ask for generosity or sympathy—only to be treated with fairness, and so, in rebuttal, a few salient facts:

In "Duke, the Story of John Wayne" by Mike Tomkies (Regnery 1971) the author states:

> During World War II Wayne, well into his thirties, was rejected for military service. He was anything but pleased. But the fact remains that in such films as "They Were Expendable," a Jack Ford semidocumentary picture about the small high-powered torpedo patrol boats in the first frantic days of America's entry into the war in the South Pacific, Wayne could do more for his country and its fighting men's morale than he could have done fighting in the front lines himself.
>
> But Wayne wasn't satisfied with merely making films about the war. He wanted to be out there himself, to go personally and do what he could for the boys fighting the war.
>
> In 1944 he went. He spent three months taking camp shows to the Pacific war fronts. He performed as close to the action as he was permitted to get—in mangrove swamps and in twenty-five-foot-high kumi grass. And when he got back to America, he did not

> launch into rhetorical eulogies about what he had seen. He told it like it was—simply and strongly.
>
> "What the guys out there need," he said, "are more letters, cigars, snapshots, phonograph needles, and radios. And, if you can spare 'em, cigarette lighters. I can't say it strongly enough. Those guys are in a hell of a war. It's not only fighting, but work and sweat. There where 130 degrees is a cool day, where they scrape flies off, where matches melt in their pockets and bombs take legs off at the hip. I've worked on stages built of old crates, with the guys sitting in the mud and rain for three hours waiting for someone like me to say, 'Hello, Joe.' We've got to do more for 'em."
>
> Wayne had worked from dawn till midnight and past visiting every hospital he could find, trying his best to meet every wounded man in them. He didn't mention any of that, however.
>
> It's possible that Wayne's sense of superpatriotism began in the war years. He has frequently been derided for his hawkish attitudes, but in stars like Wayne and Bob Hope, America's fighting men have long found moral support. When Wayne made The Green Berets in 1967—to show his country just what the boys in the U.S. Special Forces were going through in Vietnam—it was only an extension of the kind of work he has been doing for more than twenty-five years.

In "Shooting Star," a biography of John Wayne, by Maurice Zolotow (Simon and Schuster, 1974) it states:

> Wayne had tried to enlist as soon as war was declared. He had been rejected because he was thirty-four years old, was married, had four children, and a defective shoulder. He attempted to enlist twice more and once he flew to Washington to plead with (Director John) Ford, by now a lieutenant commander in the Navy, to help him get a post in the Navy. He failed. This was a bitter disappointment to Wayne. He had let down his father once more and, thank God, Doc Morrison wasn't around to see him.
>
> He was able to go to the war zones many times with the USO entertainment units, but he has always been hesitant to publicize both his rejection by the services and his USO appearances.

The Defense Department, during the Vietnam war, had encouraged the Screen Actors Guild and the Hollywood Overseas Committee headed by George Chandler, to organize groups of movie stars to tour the combat zones. In 1966 Wayne was free of his movie commitments, and, accompanied by Paul Keyes, then the head writer of the Dean Martin show, over he went. Let Zolotow tell the story:

> . . . Wayne wanted Keyes to travel with him to help him work out gags and wisecracks for some of the personal appearances, though he did not want to play from a stage to huge audiences as Bob Hope did, for he knew he was not the kind of experienced raconteur who could hold a live mass audience. He did hope to appear before small informal groups and, most of all, according to Keyes, "to get close to the men who were in combat, go to war zones, go into hospitals. He told them never to make advance announcements of his appearances at any camp, so if he were rerouted, nobody would be disappointed."
>
> Keyes was awed by the tirelessness of John Wayne. For three weeks he was awed. He says, still shaking his head in wonderment, "He kept going from six o'clock in the morning until ten or eleven at night. I was forty-two years old at the time. I had two lungs. I was in good condition. I could not keep up with him. He had in him some peculiar drive which is beyond my understanding. And, on his orders, we went as close to the firing line as we could go. He went by plane—helicopter—boat."
>
> Wayne went down into the holds of ships where the heat was 145° F. He talked to the sailors down below. He was air-lifted to aircraft carrier decks by ropes dangling from helicopters. Once, at Chu Lai, while conversing with men of the 7th Marine Regiment, he was almost killed by bullets from Viet Cong sharpshooters. The shots came out of the surrounding jungle. He did not run.
>
> I remember one day at Pleiku, Keyes says. We were going over in a chopper. They radioed us to get out fast as an attack was in progress. Duke said the hell with that. He was landing. We did. They were attacking. Duke stepped out. He walked around the area. He introduced himself. You can imagine a G.I.'s feeling when that hand clasped his shoulder. Suddenly he heard a familiar voice saying just simple things like, "Hello, I'm John Wayne, and I want you to know a lot of folks back home sure appreciate what you are doing."
>
> Some of them, I guess damn near all of them, they had loved him since they were little, they remembered him as Sergeant Stryker in Sands of Iwo Jima, they had grown up on Wayne pictures, and here's Stryker in person.
>
> Some of them just started crying. They couldn't believe it was really him. And Duke would start blubbering too.
>
> This is what he wanted to do. He hated putting on a regular show with some patter and prepared gags. Sometimes I gave him lines that fitted a situation at an Army base. Most of the time it was just his walking around and shaking hands with strangers.

Wayne was hospitalized on this tour and treated for severe eye inflammation in the Third Field Hospital, where he visited patients in the neuropsychiatric ward.

When he returned home he was determined to make a movie about what he saw. Every major studio stayed away from making a movie about the most unpopular war in our history, and Wayne was told he would be the brunt of some criticism if he did so.

While Wayne opposed what many were calling President Johnson's "no-win" policy in Vietnam, he felt strongly that America should support its men in the far-away jungles who were, after all, doing their duty. With draft cards and American flags being burned, civil disobedience and campus rioting mounting, it was time for someone to take a stand. Zolotow tells it best:

> And he could not forget what he had seen in Vietnam. He was haunted by the vision of the American Marine, the man in combat boots, lonely, frightened, confused, and yet courageous, doing what had to be done, fighting an ambiguous war, sitting in bunkers surrounded by jungles out of which machine-gun fire would suddenly burst, a damp mist-laden atmosphere of heat and stink, dead and wounded, men in field hospitals, and so, no matter how logical were the objections, from a business standpoint or publicity angle, he would always growl, staring stubbornly into space, "I owe this picture to them."
>
> "On the level of his animal emotions, he was not making a propaganda movie. He wanted to express his sense of man's bravery in fighting a war whose purposes he does not comprehend, who is living by the code of the military, who is rendering a service to his community by following the orders he is given.
>
> Wayne was going to impart a meaning to those sacrifices in the only way he knew how, in the way he—when Ford directed him—had done in They Were Expendable. One's devotion to the Army, to America, to the country, and to God transcended defeat or victory, for man could only find validity in his existence by serving institutions greater than himself.

In a very distinctive way, John Wayne has symbolized to the world all of the ideals most of us believe America ought to stand for—freedom, justice, bravery, patriotism, loyalty, and the willingness to fight for these ideals if necessary. Revisionist historians notwithstanding, Wayne's movie, "The Alamo," recalls a chapter in our Nation's past that is worth remembering.

In a society drenched with cynicism, and in the age of the antihero, Wayne has stood up for his beliefs. In so doing, he has been the surrogate for millions of less talented and inarticulate Americans whose very existence is ignored or misunderstood by liberal columnists who choose to belittle him.

John Wayne a mere entertainer? Not hardly. While the intellectuals and opinion molders of our society are suffocating us with their liberal guilt and celebrating the likes of Jane Fonda and Daniel Ellsberg, old John Wayne stands up for another set of ideals that has been around a lot longer than the New Left.

In an era of diminished masculinity, he has been a man both on and off the screen. His movies have a message all right, one that has earned him the contempt of those whose world is circumscribed by the hopelessness and despair of liberal chic.

Great Britain has bestowed knighthood on some of its performers, Sir Laurence Olivier and Sir John Gielgud, for example. I do not demean their great contributions to the world's culture. But John Wayne's value to his countrymen goes well beyond his career as an actor. Now in his third major battle against cancer, he has enriched the lives of a lot of us with hope, pride, and an example of rare personal courage.

A medal for John Wayne?

Only if it is solid gold.

☐ 1830

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. HYDE. With pleasure I yield to my friend, the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

I want to commend the gentleman in the well for putting in the RECORD of this body a proper tribute to a man I think is one of the great Americans of our time and who has certainly created an idealism that all of us look up to.

I regret a little the emphasis that somehow the liberal antiwar movement would condemn John Wayne. I suppose I am classed as a liberal in this body, and I was active in the antiwar movement. I doubt that whether a person is a liberal or a conservative really plays much part in the question of the value of John Wayne, because John Wayne's most recent political action as a national leader was to suggest what is anathema to most conservatives that we ratify the Panama Canal treaties, and it is only that reference in the gentleman's comments that disturbs me. I think that those values for which John Wayne stands go far beyond whether he is a liberal or a conservative. Many of those of us who opposed the war and who had been classified as a liberal probably think as much of John Wayne as any conservative might think.

As I say, I commend the gentleman for the recognition of John Wayne. I would hope that we could go beyond this division that has existed in the past between liberals and conservatives in recognizing this system of values. These are not liberal and conservative values that John Wayne represented, and I think his position on the Panama Canal is fully as courageous as perhaps opposition to the war.

Mr. HYDE. I think the gentleman has made a fine comment. I do not agree that there is no distinction to be made between liberals and conservatives. While I am sure there are some enlightened liberals such as the gentleman who recognized John Wayne for the great American he is, I am sure statistically those who condemn the granting of a gold medal to him are perhaps 100 percent within the liberal camp. I know of no conservatives who are critical of John Wayne's being recognized by his country.

Mr. McCLOSKEY. I share the gentleman's condemnation of anyone of any stripe who would condemn John Wayne at this particular time in history, and I hope my conservative friends will listen to John Wayne when he admonishes us that perhaps the ratification of the Panama Canal treaties is not a bad thing to do in the interests of this Nation.

Mr. HYDE. I have agreed with John Wayne on almost all but one of his positions. The gentleman has agreed with him, I am sure, on most occasions. I salute him for his enlightening position.

Mr. McCLOSKEY. I thank the gentleman for his comments. I once had the privilege of serving in the Marine Corps when every Marine who served in Korea as he passed through either Camp Pendleton or Camp Lejeune, went to a movie house in Oceanside, Calif. If there were four movies, then there were always three that had John Wayne films—the Sands of Iwo Jima, Tarawa. When I was in the Marine boot camp training, the Marine ideal of World War II was not the shadow theory or something else, it was John Wayne essentially that represented what American military men's ideals could be.

Mr. HYDE. I just want to make a sincere request of my dear friend, the gentleman from California, Mr. MCCLOSKEY, that he use his influence with the antiwar movement to extend half as much compassion toward those languishing in the refugee camps of Thailand and Malaysia and the boat people as they did for the Government of North Vietnam during the war.

Mr. McCLOSKEY. If the gentleman will yield, I agree with what the gentleman has said, and I hope he may have noticed that Joan Baez, for example, who spent some time in Hanoi while American B-52's were bombing it, recently came out with a strong criticism of the denial of human rights by the North Vietnamese Government. I hope as the Vietnamese experience recedes into the background of our memories that we will find people on both sides exercising some compassion and some change of position, that none of us need to be locked into a position merely because we felt something 3 years ago, 5 years ago, or 10 years ago.

Mr. HYDE. Many of the heroes of the antiwar movement refused to accept that, and so we thank God for small blessings for those who did.

I thank the gentleman for yielding.

The SPEAKER pro tempore. The time of the gentleman has expired.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GILMAN) is recognized for 5 minutes.

● Mr. GILMAN. Mr. Speaker, in my capacity as a member of the U.S.M.A. Board of Visitors, I participated, on Wednesday, June 6, in graduation ceremonies at the U.S. Military Academy in West Point, N.Y.

Consequently, I missed two rollcall votes.

The first was on the final passage of H.R. 3464, the Supplemental Security Income—Disability Amendments of 1979. Had I been present, I would have voted "yes."

I was especially disappointed to miss the amendment introduced by my colleague, the gentleman from New York (Mr. FISH) which would have increased the authorization for section 3 capital improvements money under the Urban Mass Transportation Administration discretionary grant program.

With the current gas shortage striking very hard at the northeast, steps to improve our mass transportation facilities, especially to outlying suburban and exurban communities, should be a top priority to Congress. With the rejection of this amendment, I hope we will not be in the position of doing too little, too late in the face of a growing gas shortage.

I deeply regret that I was unable to be present to lend support for this worthy amendment.

On Thursday afternoon, June 7, I was granted a leave of absence, before the adjournment of the House, to participate in a Post Office and Civil Service Committee investigation of the Los Angeles bulk mail center. My absence extended through Friday's session.

While on official business, I was absent during the following votes:

On Thursday, I missed rollcall No. 192, the vote on the rule for H.R. 2444, the bill to establish a Department of Education. The rule passed 293 to 73. Had I been present, I would have voted "yes."

On Friday, I missed the following votes:

Rollcall No. 193: The rule for the consideration of H.R. 2641, to raise the authorization level for the Civil Rights Commission. This rule passed 279 to 0. I would have voted "yes."

Rollcall No. 194: The rule for the consideration of H.R. 3347, the Treasury Department International Affairs authorization. This rule passed 287 to 3. I would have voted "yes."

Rollcall No. 195: The Sensenbrenner amendment to H.R. 2641, to reduce the authorization level of the Civil Rights Commission to $11.37 million. This amendment failed by 130 to 168. I would have voted "no."

Rollcall No. 196: Final passage of H.R. 2641. This bill passed 276 to 14. I would have voted "yes."

Rollcall No. 197: H.R. 2374, final passage of the act to establish the Frederick Law Olmsted National Historic Site. This bill passed 243 to 41. Had I been present, I would have voted "yes."

Rollcall No. 198: Final passage of H.R. 3347, to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal years 1980 and 1981. This bill passed 179 to 96. I would have voted "yes." ●

SOVIET MILITARY POWER INCREASING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLOMON) is recognized for 15 mintues.

Mr. SOLOMON. Mr. Speaker, I rise today to speak on an issue that concerns me greatly—that is, the decline of the U.S. defense posture. I believe that for the first time in history, we face the prospect of seeing the Soviet Union gain a clearcut strategic military superiority over the United States.

Consider what individuals who have been in the top echelon of the U.S. national security structure have said regarding the status of this Nation's position of power vis-a-vis the Soviet Union. Former Secretary of Defense Melvin Laird:

> Since 1972, virtually every segment of the Soviet civilian economy has fallen upon hard times, and indicators suggest even gloomier economic times are ahead. Yet, instead of diverting resources from the military to the civilian sectors of its economy, the Soviet Union has increased military spending each year since the signing of SALT I. In every vital phase of military preparedness, the Russians are now outspending us both in dollar terms and as a percentage of Gross National Product . . . I submit that the Russians would not be willing to cheat and sacrifice in the quest of military dominance unless they intend to exploit that dominance, once it is attained. I think Soviet leaders contemplate threatening the use of their superiority to drive the United States into headlong retreat and isolation from its vital interests around the world.

Think of what former Secretary of Defense Donald Rumsfeld had said, while keeping in mind the SALT Treaty is to be signed within the week.

> The Kremlin is behaving as though it is determined to increase Soviet military programs whether we show restraint or not; Soviet military programs which we observe and

> measure exceed those necessary of deterrence; and the magnitude of the Soviet military effort, impressive by any standard, continues at a momentum that it has displayed for more than a decade.

And finally, James Schlesinger, former Defense Secretary, CIA Director, and currently Secretary of Energy:

> A specter arises from the steady expansion of the military power of the Soviet State, other margins of the Eurasian continent—Japan, Korea, the Middle East—are similarly exposed to the growing reach of Soviet military power and the psychological aura it increasingly conveys. . . . The underlying reality is that at no point since the 1930's has the Western World faced so formidable a threat to its survival.

Let us examine the evidence for these alarms, bearing in mind that the Soviet economic base across-the-board is about one-half of ours. The following trends in defense spending in themselves are sufficient reason for concern: First, in 1958 the Soviet Union spent 8 percent of its GNP on defense, in 1975 it spent 15 percent of its GNP for defense purposes and is projected to spend 18 percent for its 1980 defense budget. Since SALT talks began in 1969, Soviet defense expenditures have increased more than 50 percent, both in absolute terms and as a share of the Soviet GNP. Second, U.S. "real dollar" defense spending has been declining steadily since about the time SALT I discussions began. And third, the Soviet Union is outspending the United States in total military capability by $50 billion a year.

In May 1972, the two superpowers agreed to limit their strategic forces by signing SALT I. One of the major concessions of the United States was the surrender of its superior AMB technology in exchange for Soviet guarantees to limit their offensive potential against American ICBM's by staying within a certain light category of Soviet ICBM developments. Congress was given the impression that light categories limited Soviet ICBM's with a throwweight of 2,000 pounds, a weight not thought to be sufficient to destroy American silos. However, in 1975 it was revealed that the Soviets were deploying so-called light ICBM's with a throwweight over 7,500 pounds, far in excess of anything that Congress had expected when it ratified SALT I.

Since SALT I, the United States has not completed or deployed one single major new strategic offensive or defensive weapons system. We have terminated production of Minuteman III and Poseidon missiles, but follow-on weapons have not been forthcoming. The B-1 bomber has been canceled; the MX-ICBM has been delayed and the only ABM system deployed since that time has been dismantled.

Conversely, during the same period, the Soviet Union has developed an entire new family of four ICBM's, three of which are MIRVed; a new class of missile carrying submarines; a new SLBM (the SS-N-8); and a supersonic bomber, the Backfire, capable of controlling the vital sea lanes of the North Atlantic and Mediterranean, of constituting a threat to NATO land forces and territory, and of operating against the United States. The Backfire is currently being produced at the rate of 36 to 50 per year and by the early 1980's the Soviet Union will have approximately 400 in place. For the first time, that Soviet union will have more strategic bombers than the United States with its 20-year-old B-52's—a fact as unprecedented as it is ominous.

Trends in the area of civil defense are equally startling. The Soviet Union has reportedly spent approximately $1 billion a year over the past 20 years on civil defense. Their longstanding and massive civil defense program, has been expanded and intensified during the 1970's.

The United States has no significant civil defense program and, compared to the Soviets, we appear to have abandoned the concept altogether. I believe the Soviet emphasis on civil defense constitutes a new and fourth leg in their strategic system which could be exploited tremendously in future political and military crises. It is entirely conceivable that the Soviet Union will have four essential and secure components in its strategic arsenal (a quadrad concept) compared to the distinct possibility that the United States will shortly be reduced to one.

In conventional forces, Soviet production rates are much higher than those of the United States in most weapons categories. They have 6.5 times more battle tanks deployed than the United States, including 3,000 T-72's, which are considered better than any tank in the current NATO arsenal. They have more than three times as many armored personnel carriers; four times as many artillery tubes; and nearly three times as many tactical combat aircraft. Finally, they have a significantly superior air defense system in Europe to that of NATO, with 3,500 air defense guns and 1,500 SAM launchers in Eastern Europe alone.

In seapower, the United States has reduced its Navy by over 50 percent in the last 10 years, from 976 to 453 ships, while the Soviet Navy has registered the largest gains in its entire history.

Between 1965 and 1973, Soviet "out of area" operations grew at an annual rate of 25 percent. Soviet naval incursions into the Caribbean Sea, the Indian and Pacific Oceans, and other vital waterways, constitute a direct threat to historic Western and U.S. sea lanes. The Soviet capacity to support military land operations in areas such as the Middle East, Southeast Asia, and Africa, has already profoundly influenced events there.

I believe the SALT Treaty which our President is going to sign with the Soviet Union within the next 2 weeks is fraught with danger for U.S. defense. SALT is the cornerstone of our overall strategic, political and defense objectives. (And the entire foundation is now shown to be a weak and insufficient frame upon which to build an adequate and effective defense.)

A close examination of the three points of our strategic Triad points out glaring weaknesses.

The first arm of our Triad defense is our ICBM's. In an article entitled the "Strategic Forces Triad: End of the Road?" in the summer edition of Foreign Affairs, Colin Gray states that by the early 1980's, "the United States will be unable to repose confidence in the ability of all save a small fraction of its silo-housed missile force to ride out a Soviet Union first nuclear strike." It is already evident in mid-1979 that the Russians have developed and will continue to pose a threat against our silo-based ICBM system.

Our ICBM's are the most powerful, accurate and easily dispatched arm of our Triad defense system. Yet they are undergoing a dangerous threat from the Soviets and the prospect of complete obsolescence within a few years.

Second in the Triad is our manned penetrating bombers. As we all know, the Carter administration canceled the development funding for the B-1 bomber without any concessions from the Soviet Union in the SALT talks, yet allowed the development of the Backfire under the treaty agreements. And in the place of the B-1, the B-52, limited by the technology of the 1950's, is to be outfitted with cruise missiles and under the new SALT, these missiles face severe range constraints and are thus of restricted strategic value.

Finally, the third part of our Triad system, America's submarine fleet, is outnumbered and intelligence sources acknowledge that the Soviets have developed a far superior sub.

The concessions currently given the Soviet Union in SALT II will inevitably lead to the slippage of the United States to the No. 2 position between the superpowers. None of this would matter if we were merely playing a numbers game with the Soviet Union. I raise the alarm because these numbers portend something very dangerous and threatening to the United States and entire free world. The evidence shows that from 1972 to 1977, the period of SALT I, the Soviet Union spent more on arms than in the 5 previous years. The United States has for the past decade chosen to cut back on its defense posture in real terms while the Soviet Union has chosen to build up its military capabilities by about 4 to 5 percent in real terms per year for the last decade. As a result, despite a GNP that is only about half as large as ours, the Soviet Union now outspends the United States on defense by 25 to 45 percent. In terms of investing in future defense capabilities, namely in procurement and research programs, the Soviet Union spends twice as much as the United States. In specific areas of military forces, namely strategic nuclear forces, the Soviet Union spends 2½ times as much as we do.

It is apparent now that the Russians are busy developing nuclear weapons beyond their defensive needs. They are evolving these weapons as a tool to extend their political power around the globe, consistent with the Communist doctrine of world domination. The Soviets have exploited every ambiguous phrase in SALT I, making the arms limitation talks just another weapon in their arsenal of world conquest.

My quarrel, therefore, is not with those who wish to see some control placed on the awesome prospect of total nuclear armament, nor is it with those who believe in the hope of a negotiated and sane end to the pyramiding arms race. What I argue against, and what I will work to change, is the policy of unilateral concessions by the United States. We will never achieve peace through weakness. We know the Communist philosophy and the steps they are taking to implement that philosophy. Our strength is needed to fight this philosophy and preserve our way of life and sense of world order.

Alexander Solzhenitsyn, a man as familiar as anyone with the intent and purpose of the Soviet Union, has warned the West repeatedly that a failure of will would lead to its destruction. It is against this failure of will of the United States that I argue. It is our will for a strong defense, our will to develop our technology to its fullest, and our will to preserve our way of life that will keep America free and the world safe and at peace.

LAFALCE INTRODUCES SIX BILLS TO ENCOURAGE PRODUCTIVITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 20 minutes.

● Mr. LAFALCE. Mr. Speaker, the lagging rate of productivity growth in this country is our most serious long-term economic problem. Higher productivity rates lead directly to economic growth, more employment opportunities, higher wages, and bigger profit margins without inflation. Without meaningful increases in productivity, wage and price increases are directly translated into a higher rate of inflation.

Throughout the 1970's, there has been a clear trend toward a diminished rate of productivity growth, which has substantially added to inflationary pressures on the economy. During 1978, the rate fell below 1 percent; and the Government's figures for the first quarter of 1979 point to an annual productivity decline of 4.6 percent. If that trend is not reversed, little progress can be expected from the fight against inflation; and the chances for long-term economic growth will be severely reduced.

Today, I introduced six bills which should help provide solutions to the problem of our lagging rate of productivity growth. This package of six bills is only a first step toward solving this momentous problem, but a start must be made, unless we want to continue to experience a declining rate of productivity growth. I want to take this opportunity to commend the distinguished Senator from Texas (Mr. BENTSEN), who has introduced these bills in the Senate and who has, as chairman of the Joint Economic Committee, helped focus attention on productivity.

Mr. Speaker, let me now briefly discuss each of the six bills which I am introducing today.

THE FEDERAL GOVERNMENT PRODUCTIVITY DATA ACT

While we know a great deal about productivity in the private sector of the economy, little is known about the productivity of the Federal Government, although many taxpayers suspect that substantial portions of the Federal Government are unproductive. The Federal Government Productivity Data Act will help correct this serious deficiency in our knowledge.

Currently, the Bureau of Labor Statistics (BLS) measures the productivity of nearly two-thirds of the civilian employees of the Federal Government; but participation by Federal agencies is entirely voluntary. This bill will make that participation mandatory.

The BLS does not presently publish data on an agency-by-agency basis, which severely restricts the value of its data. This bill would require the BLS to publish data on that basis, so that the Congress and the general public will be able to determine which agencies and departments are productive and which are not.

This bill would also require the BLS to conduct periodic studies comparing productivity in those activities performed by both the public and the private sectors. Both could probably learn a great deal from each other's experience in promoting productivity.

The BLS currently issues data only on labor productivity, which ignores input from capital, energy and materials. This bill directs the BLS to conduct an evaluation of the cost and feasibility of collecting and processing data which would be necessary for the development of measures for multiple-factor. If the costs are low enough and if no massive problems with redtape are encountered, the Congress could then direct the BLS to develop multiple-factor productivity measures.

THE LABOR PRODUCTIVITY AND TRAINING ACT

This bill would require that 5 percent of CETA training funds be targeted at workers unemployed because of productivity improvement programs. It calls on CETA administrators to emphasize on-the-job retraining programs, as practiced routinely and effectively in Japan, and the sharing of retraining costs by the private employers and the Department of Labor.

This aspect of the bill is directed at that genuine fear that new machinery and productivity improvement programs will result in increased unemployment and layoffs. Neither labor nor management have successfully addressed this problem and this bill could help fill that void.

The bill also requires the Secretary of Labor to conduct a thorough survey of all Federal labor training programs and then submit recommendations to the Congress for revisions to promote increased labor productivity and to retrain workers, before they become unemployed because of productivity improvement programs. I believe that labor would be much more supportive of productivity improvement programs, if retraining would occur before, rather than after, lay-offs due to improvements in productivity.

Mr. Speaker, one of the chief components of higher productivity growth is research and development. R. & D. can produce advances in technological knowledge, which can be applied to reduce the costs and increase the speed of the production process. Total R. & D. spending in this country has steadily declined from over 3 percent in the early 1960's to just over 2 percent in 1977; and there is no sign that this trend is being reversed.

The other four bills which I am introducing today would provide significant tax incentives for research and development. Three of them are specifically targeted at small businesses which are often in the forefront of technological development and which are most likely to have their planning processes affected by tax incentives.

THE RESEARCH PROMOTION ACT

This bill would provide an incentive for innovation by enabling small, research-oriented firms to apply the 10 percent investment tax credit to current R. & D. expenditures. The provisions of this bill are limited to those firms with less than $250 million in sales that devote more than 2.5 percent of their sales revenue to research, and only that portion of R. & D. in excess of 2.5 percent of sales would be eligible for the investment tax credit.

THE RESEARCH TAX INCENTIVE ACT

This bill would stimulate expenditures for R. & D. equipment by allowing taxpayers the option of applying either a 20-percent tax credit with normal-life depreciation or a 5-year straight-line amortization with the present 10 percent credit to investments in R. & D. equipment. For investments in research structures which are not presently eligible for the investment tax credit in most cases, this bill would allow the option of using either a 10-percent tax credit with normal-life depreciation or a 5-year straight-line amortization.

The bill does provide a recapture provision in the event that firms subsequently change the use-designation of the investment to something other than research. Eligibility for these incentives would be strictly limited to firms with less than $250 million in annual sales, which spend more than 2.5 percent of their sales revenue on R. & D.

THE NEW FIRM INCENTIVE ACT

This bill would provide new firms with a 10-year period in which to carry forward and offset losses incurred in each of their first 3 years of existence. According to the Department of Commerce Domestic Policy Review Task Force on Innovation, a number of new technology-oriented firms have suffered losses during their first 3 years which exceed their projected earnings over the normal 7-year loss carry-forward period. This causes some firms to reduce R. & D. expenses, in order to raise taxable income to take full advantage of those loss carry-forwards. The bill is intended to rectify this situation.

THE PATENT DEPRECIATION ACT

According to the tax code, firms making R. & D. expenditures for capital are permitted to depreciate that property over a period of not less than 5 years. However, when a patent is granted as a result of that same R. & D. work, Internal Revenue Service regulations stipulate that the undepreciated cost must be amortized over the 17-year life of the patent. This bill would remove this inequitable requirement that such patents be depreciated over 17 years and would allow a 5-year depreciation for capitalized expenses related to patentable innovations.

Mr. Speaker, there can be no overnight solutions to declining productivity; and there are certainly no surefire solutions to this important economic problem. Nevertheless, a start must be made, if this country is going to begin to reverse this alarming trend toward absolute declines in productivity. I hope that all of my colleagues will carefully consider the six bills which I have introduced today, because they represent the first step toward a comprehensive solution to the most important economic problem facing this country at the present time.●

A NATIONAL AGRICULTURAL COST OF PRODUCTION BOARD IS NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. Glickman) is recognized for 5 minutes.

● Mr. GLICKMAN. Mr. Speaker, I would like to draw Members' attention to hearings on H.R. 1050 to be held Wednesday, June 13 by the House Agriculture Subcommittee on Department Investigations, Oversight, and Research, chaired by Representative de la Garza. H.R. 1050 is a bill I have introduced which would establish a National Agricultural Cost of Production Board. House cosponsors are Messrs. Mathis, Hefner, Fountain, Rose, Preyer, Akaka, English, Brown of California, Erdahl, Wolpe, Gudger, Jones of North Carolina, Stockman, Neal, Evans of Georgia, Simon, AuCoin, Richmond, Williams of Montana, Hightower, Dan Daniel, Fowler, Sebelius, Whitley, Jeffords, Barnard, Huckaby, Trible, Jenrette, Whittaker, Roe, Bowen, Cavanaugh, Andrews of North Carolina, Andrews of North Dakota, Pickle, Nolan, Coelho, and Carter. Senator Robert Morgan has introduced the bill in the Senate.

Rising prices are plaguing every area of the economy. Farmers, particular, feel this pressure since the prices they receive for their crops have not appreciated significantly, if at all, during this inflationary period. But the prices of raw inputs, land values and energy, for example, have been skyrocketing. The result is a severe cost-price squeeze. Farmers are not expecting any substantial improvement, either. As self-employed, small businessmen they are not eligible for regular cost-of-living increases.

The Government farm program, designed to insure a stable agricultural economy, uses cost of production figures and formulas as the basis for determining target prices, which in turn are used to set deficiency payments. There is a great controversy over what factors should be considered in establishing their figures and formulas and, of course, on their eventual interpretation and application.

Clearly, we need to have cost of production figures and formulas. But we need to make sure that the figures are meaningful and realistic. I share the concern of many farmers that the figures are not. And those farmers, the very people most affected by cost of production determinations, have no formal input into the process.

H.R. 1050 would address this inadequacy. The bill would establish a National Agricultural Cost of Production Board which would be comprised primarily of full-time farmers. The Board members would be charged with reviewing the cost of production figures and formulas and make recommendations to the Secretary of Agriculture based on their findings.

The bill would insure that the activity of the Board would not be an exercise in futility. Many times thoughtful, insightful advisory board opinions fall on deaf ears or are not considered at all. The bill provides accountability to the Board's input by requiring the Secretary of Agriculture to comment on its recommendations whether or not the Secretary agrees with them. And an annual report on the Board's findings must be submitted to both the House and Senate Agriculture Committees.

Although the bill is not a panacea to the problems farmers are encountering in trying to maintain viable operations in the fact of skyrocketing inflation, it does focus on the very important issue of determining fair costs of production. Through the more effective input that would be provided by the Board, the voice of farmers may hopefully become a more meaningful element in these basic Department of Agriculture decisions.●

ANNOUNCED POSITIONS ON ROLLCALLS 184 TO 198

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Nelson) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, I was absent on Wednesday, Thursday and Friday of last week on official business in my district and was not able to vote on several measures before the House. If I had been present I would have voted against on Rollcall No. 184, for on Rollcall No. 185, for on Rollcall No. 186, for on Rollcall No. 187, for on Rollcall No. 188, for on Rollcall No. 189, for on Rollcall No. 190, for on Rollcall No. 191, for on Rollcall No. 192, for on Rollcall No. 193, for on Rollcall No. 194, against on Rollcall 195, for on Rollcall 196, for on Rollcall 197, and for on Rollcall No. 198.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Ottinger) is recognized for 5 minutes.

Mr. OTTINGER. Mr. Speaker, I was unavoidably detailed in my congressional district and, therefore, missed the first two pro forma votes today. On Rollcall No. 199 to approve the Journal and No. 200 to go into committee, had I been here I would have voted, "aye."

CANAL WORKERS SUPPORT BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 5 minutes.

● Mr. AuCOIN. Mr. Speaker, as the House considers the Panama Canal implementing legislation this week, H.R. 111, I hope my colleagues will take into consideration the rights and interests of the American canal workers who consider the passage of this bill essential.

On June 11, 1979, the Wall Street Journal carried an article describing this delicate situation. I insert the article into the Record and I commend it to the attention of my fellow colleagues:

Anxious Panama Canal Workers Vow Job Actions if Treaty Measures Fail

(By Beth Nissen)

Panama Canal Zone.—As the U.S. Congress renews debate on the troubled legislation to implement the Panama Canal treaties, feelings among canal workers affected by the bill run as deeply as the canal locks themselves. Morale is low; tension is high and threats spill over in a steady stream.

"If that bill doesn't go through in Washington, the ships won't go through down here," says canal pilot Fred Hoppe, as he steers a Louisiana-bound tanker full of 330,000 barrels of Alaskan crude oil through a canal lock. "None of us really like that legislation, but it's all we have to fight for."

Many of the 14,500 American and Panamanian canal workers dismiss a closing of the 50-mile-long waterway as too dramatic, but most agree some kind of spontaneous job action would probably follow a failure by Congress to pass the legislation for turning over the canal to Panama, which is scheduled to come to a vote in the House tomorrow. The Senate has yet to act.

"The unions won't go out," says George Booth, a canal electrician and a Panamanian. "It will be the workers, one by one." Charles Wicks, an American lockmaster, disagrees. "The job action will be that people will just quit. The effect will be the same as a strike, only more permanent."

EARLY-RETIREMENT PROVISION

The key point in the implementing legislation for canal workers is a special early-retirement provision, nicknamed "18–48" because it would permit workers to retire after 18 years of service at age 48. That provision drew strong protest in the House Panama Canal subcommittee from the Post Office and Civil Service Committee, which contends the special provision is unduly generous and costly. Usual federal terms allow retirement after 30 years of service at age 55.

Without the early retirement benefit, defenders of the implementing legislation predict heavy losses of skilled mid-career canal workers, many of whom are already anxious about their futures after Oct. 1, when ownership of the canal is turned over to Panama. "They need us to keep the canal running and to train Panamanians to do these difficult jobs," says Capt. Hoppe as he pilots his 103-foot-wide tanker through a 110-foot-wide channel. "Without special incentives, why should we stay?"

So the canal workers wait, worry and closely watch the powerful pilots union, which previously has effectively closed the canal twice in job actions. "Everybody goes when the pilots go," says Ranger Hubert, a Panamanian rigger. "The ships stay out in the ocean and we stay home."

STATUS AS INDEPENDENT CONTRACTORS

The 220 pilots—all Americans except two—are trying to negotiate commercial status for themselves as independent contractors. "If that fails, and the bill fails, we're backed into a corner," says Norman Werner, president of the Panama Canal Pilots Association. "Then we'd start to put pressure on, probably slowing down to 12 ships a day from about 38."

"They could certainly get the world's attention." say Paul A. Simoneau, labor relations director of the Panama Canal Co. "We don't make shoes down here."

The impact of a canal closing or slowdown would be especially severe on some canal-dependent nations, such as Ecuador, Peru and Colombia. But the U.S. also would be hit. About 300,000 barrels of crude oil pass through the canal daily from the Alaskan North Slope to U.E. refineries.

U.S. exports—especially price-sensitive grain shipments to the Far East—would also be affected. But the real sting of a disruption in canal operation would be political, with Congress feeling a tidal wave of wrath from shipping interests forced to find alternative means of transport. "You can bet if this bill doesn't go through, I'll go to Washington for scalps," fumed one anxious American shipper."●

CHESAPEAKE BAY RESEARCH COORDINATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 5 minutes.

Mr. BAUMAN. Mr. Speaker, I rise in this Chamber to bring the attention of the Nation to the serious hazards faced by the Chesapeake Bay. There are over 8 million people in the region surrounding the Chesapeake Bay and many of us have a growing concern over the continuing, and seemingly inexplicable, problems of the largest estuary on this continent and the most abundant storehouse of seafood in the world.

I realize that this condition has not been overlooked by the Congress. Through a variety of programs, conducted by an almost equal variety of Federal agencies, the Congress of the United States has allocated countless millions in research into the complicated problems that plague the Chesapeake. However, while these expenditures have been made with the very best of intentions, they have frequently failed to produce the results expected. One prominent student of the history of this research told me recently that—

> When a major problem occurs, legislators tend to dump money on it and hope that it will be understood in one day and cured in two. I suppose this is the old syndrome of treating symptons rather than curing diseases. Available dollars are chased by competing research proposals (an economic fact of life). These are usually high visibility glamour projects which many times tend to be more for show than results since, by the time research results or possible corrections are ready, the problem may no longer be in the public spotlight—another one usually having taken its place.

This, I believe, is an accurate summary of our efforts to save the Chesapeake Bay in the past. In attempting to address the emergency situations that have faced the bay, Congress has conferred broad legislative mandates for research to a number of Federal agencies. Today, there are over 60 Federal, State, and local agencies that have a legislative mandate to conduct research on the Chesapeake Bay which are funded in whole or in part by the Federal Government. This does not suggest that there are this many agencies 'conducting vital research projects. If that were true, we might not be experiencing the difficulties we are. No, they merely have the mandate to conduct this research, and we can surely expect that when the next catastrophe strikes, they each request increased funding so that they can carry the functions that intrigue them so little normally.

What is most disturbing, however, is the near certainty that when the spotlight shifts away from the Chesapeake once again, the research results will end up on some shelf collecting dust. Whatever had been learned will either become lost or hopelessly dated, and the mysteries that surround the bay and explain its decline will remain.

These events are of great concern to those of us who love the bay, because we are witnessing the deterioration of the bay and its resources. We believe that what is needed is a permanent focal point in the Federal effort relating to research on the Chesapeake. The research of past projects must be indexed and categorized and we must find out exactly what it is we have accomplished over the years through our research effort. Then a group of the top governmental and scientific personnel must be summoned to determine where we must go from here. They must spell that course out so that all the available resources of the region may be brought to bear in the area where each can be most effective. In short, the Federal Government must get its act together. We must find out where we have been and we must find out where we must go to get results.

I am introducing legislation today that will do that. That bill, the Chesapeake Bay Research Coordination Act of 1979, H.R. 4417 is the most recent descendent of legislation that I have introduced in every Congress since I was first elected in 1973. Last year, the immediate predecessor of this bill was passed unanimously in two committees of the House and by unanimous vote in the full House of Representatives.

This year, I am pleased to announce that an identical bill to the one I have introduced in this body has been introduced by my colleague from Maryland in the other body, Senator CHARLES MATHIAS. With his dilligent and capable efforts in the other body, I am sure that we will secure final passage of this much needed legislation in this Congress.

In addition, I have been joined by my able colleagues from Maryland MARJORIE HOLT and BARBARA MIKULSKI. Their support for this legislation as cosponsors, indicate that there continues to be strong bipartisan support for this initiative and that it receives the endorsement of those who are familiar with the problem. Hopefully, the bill we have introduced will finally turn the tide in favor of preservation and protection of the Chesapeake Bay.

A copy of the bill follows:

H.R. 4417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Chesapeake Bay Research Coordination Act of 1979".

FINDINGS AND STATEMENT OF PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the Chesapeake Bay area is one of the greatest national resources in the United States of America, continuously serving the people of Maryland, Virginia, and the other States as an abundant source of seafood, recreation, beauty, and enjoyment;

(2) the Chesapeake Bay area serves as one of the world's major waterways, each year carrying millions of tons of waterborne shipping to and from all parts of the globe;

(3) the productivity and beauty of the Chesapeake Bay area in recent years has been diminished and threatened by water pollution, shoreline erosion, and excessive sedimentation;

(4) numerous Federal agencies have initiated and supported research projects to study, manage, enhance, protect, preserve, or restore the resources of the Chesapeake Bay area; and

(5) the various research projects relating to the Chesapeake Bay area could be more effectively coordinated in order to obtain maximum benefits.

(b) The purposes of this Act are—

(1) to provide for the rational and effective planning and coordination of federally supported research aimed at increasing fundamental knowledge in support of wise management of the Chesapeake Bay system;

(2) to identify key resource management information needs and specify a coherent program of research that will respond to these needs;

(3) to identify the needs and priorities for such additional research projects as are required for the improvement of fundamental knowledge about the Chesapeake Bay;

(4) to assure a comprehensive and balanced approach to federally supported research on the Chesapeake Bay;

(5) to encourage the utilization of the results and findings of research projects, and of other relevant information, in the management decisionmaking processes which impact on the Chesapeake Bay; and

(6) to foster public understanding of the role of the Chesapeake Bay as a unique national resource, the greatest natural ecological entity of its kind in the United States.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "Chesapeake Bay area" means the waters of the Chesapeake Bay (including the tributaries to the extent of Chesapeake Bay tidal action), the lands within and under such waters, and the wetlands adjacent to such waters;

(2) the term "research" means the endeavor to discover, develop, and verify knowledge and a careful and critical inquiry or examination in seeking facts or principles;

(3) the term "research effort" means the aggregate of all research projects in the Chesapeake Bay area;

(4) the term "research project" means any research or study for the purpose of promoting the understanding, the improved management, and the protection of the marine or coastal related resources of the Chesapeake Bay area (including those relating to water quality, coastal zone management, navigation, shoreline erosion, fisheries, shellfish, and wildlife) which is funded in whole or in part by any department, agency, or independent establishment of the Federal Government;

(5) the term "Secretary" means the Secretary of Commerce; and

(6) the term "Administrator" means the Administrator of the Environmental Protection Agency.

OFFICE FOR CHESAPEAKE BAY RESEARCH, PLANNING, AND COORDINATION

SEC. 4(a)(1). There is established in the Department of Commerce an independent establishment known as the Office for Chesapeake Bay Research, Planning, and Coordination (hereafter referred to in this Act as the "Office").

(2)(A) The Office shall be headed by a Director who shall be appointed by the President in consultation with the Secretary, the Administrator, the Secretary of the Army, and the Secretary of the Interior, and who has knowledge and experience, in research efforts on the Chesapeake Bay. There shall also be in the Office a Deputy Director who shall be appointed by the Secretary. The Deputy Director shall perform such functions as the Director may from time to time prescribe.

(B) Before making any appointment under subparagraph (A), the President shall seek the recommendations of the Governor of Maryland and the Governor of Virginia with respect to individuals who are qualified to serve as the Director and Deputy Director.

(3) The Director may appoint such additional personnel for the Office as he deems desirable, and as is provided for under this Act.

(b) The Office, after consultation with the Chesapeake Bay Research Board, shall—

(1) ensure the existence of a Chesapeake Research Exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning all research which is ongoing, completed, or for which funds have been requested, and which is conducted in or affects the Chesapeake Bay area;

(2) review and evaluate, on a periodic basis, and in a manner consistent with an acceptable scientific peer review process, the research effort—

(A) to ascertain the extent, if any to which any research project for which funds have been requested complies with the Research Plan established by the Research Board;

(B) to make recommendations to the Federal department, agency, or independent commission from which funds have been requested for a research project on the relationship of that project to the research effort; and

(C) to make recommendations to the Research Board on possible revisions to the Research Plan;

(3) identify the need for, and the priority of, additional research projects which could be of benefit to such area;

(4) establish an effective mechanism for coordinating the research projects with the research of State and local government agencies for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area;

(5) remain cognizant of ongoing research projects and assist in the dissemination of the results and findings of such projects;

(6) conduct periodic meetings with representatives of the departments, agencies, and independent establishments of the Federal Government having responsibility for the administration of research programs in the Chesapeake Bay area, representatives of appropriate State, regional, and local agencies, and representatives of the scientific community, in order to obtain and exchange information relating to such programs;

(7) determine existing Federal and State programs on the Chesapeake Bay and annually update this inventory;

(8) plan and conduct a conference on Chesapeake Bay affairs at least once every two years;

(9) submit an annual report to the Congress and to the Secretary within the period of one year after the members of the Research Board are appointed with respect to the administration of this subsection, together with any recommendations for improving the research effort or other related activities; and

(10) perform such other activities as are consistent with the purposes of this Act.

(c) The Office may—

(1) recommend to the appropriate Federal, State, and local government agencies improved methods for the carrying out, in an orderly, efficient, and balanced manner their activities relating to the development, use, and conservation of the resources of the Chesapeake Bay area;

(2) consider the need for, and desirability of, public works and improvements relating to the water resources in the Chesapeake Bay area or any portion thereof;

(3) consider means of improving and maintaining the fisheries of the Chesapeake Bay area; and

(4) recommend means of improving the environmental quality of the Chesapeake Bay area.

(d)(1) The Secretary shall make available, without reimbursement, to the Office such administrative services and temporary staff as may be reasonably required by the Office to enable it to carry out its functions under this Act.

(2) The Office may request from any department, agency, or independent establishment of the Federal Government (A) any information concerning grants made by such department, agency, or establishment for research in the Chesapeake Bay area, and (B) any other assistance or information which the Office deems necessary to enable it to carry out its functions under this Act. Each such department, agency, or independent establishment shall furnish, with or without reimbursement, to the Office any such assistance or information so requested consistent with other Federal law.

CHESAPEAKE BAY RESEARCH BOARD

SEC. 5. (a) There is established a committee to be known as the Chesapeake Bay Research Board (hereafter referred to in this section as the "Board").

(b)(1) The Board shall consist of—

(A) two members selected by the Governor of Virginia;

(B) two members selected by the Governor of Maryland;

(C) eleven members selected by the Secretary, in consultation with the Administrator, the Secretary of the Army, and the Secretary of the Interior, from among individuals who, by reason of their knowledge and experience, are qualified to perform the functions of the Board; and

(D) the Director of the Office, who shall serve ex officio as a nonvoting member.

(2) Before selecting members under paragraph (1)(C), the Secretary shall seek the recommendations of the Governor of Maryland and the Governor of Virginia with respect to individuals who are qualified to serve as members of the Board and shall insure that the interests of State and local government, industry, the public, and the scientific and environmental communities are represented.

(c) The Chairman of the Board shall be elected annually by the membership of such Board.

(d) The Board shall—

(1) develop a Chesapeake Bay Research Plan consistent with the missions and interests of appropriate agencies and States, and update this program annually to reflect changing priorities and Federal and State management needs;

(2) advise the Director of the Office with respect to the carrying out of the duties and responsibilities set forth in this Act; and

(3) review, evaluate, and comment upon the annual report submitted pursuant to section 4(b)(9) and provide any comments or recommendations which it may have for improving the effectiveness of the Office (with such review and evaluation and any such comments and recommendations being submitted as an appendix to such annual report).

(e) Members of the Board (other than those who are employees of the Federal Government) may, while engaged in business for the Board, receive compensation for travel expenses and per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated to the Office to carry out the purposes of this Act the sum of $500,000 for each of the three fiscal years ending on September 30, 1980, September 30, 1981, and September 30, 1982.

RELATIONSHIP OF ACT TO EXISTING FEDERAL, STATE, AND LOCAL POWERS

SEC. 7. (a) Nothing contained in this Act shall be construed to affect the jurisdiction, powers, or prerogatives of any existing department, agency, or officer of the Federal Government or of any State or local government.

(b) In administering this Act and in submitting the annual report pursuant to section 4(b)(9) the Secretary, the Office, and the Research Board shall make such recommendations as may appear appropriate with respect to any existing laws which may affect or be involved in the research effort.

TERMINATION

SEC. 8. This Act and the authority conferred by this Act shall terminate three years after the date of its enactment. At such time the Secretary, in consultation with the Administrator, shall submit to the Congress an evaluation of the effectiveness of the Office and of this Act. In the preparation of such report, comments shall be solicited from Federal agencies, the Governors of Maryland and Virginia, and the research institutions, industries, and environmental and citizen's groups concerned with the Chesapeake Bay.

THE DRAFT IS TOO IMPORTANT TO TREAT AS A SIDE ISSUE

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, in a few days the Armed Forces procurement authorization bill covering weapons and research for fiscal year 1980 will be on the floor. The bill includes an amendment, adopted by the Armed Services Committee, requiring all males reaching 18 after December 31, 1980, to register with the Selective Service System.

While this draft registration amendment may escape the rule against nongermane amendments, it is obviously a separate subject from materiel procurement and ought to be debated as a freestanding issue and not tucked away in a routine authorization bill. That reason alone would be enough to support striking the draft registration provision when the bill reaches the floor of the house.

But there are other reasons. The Armed Forces have stated that in a emergency they would require inductees 30 days after a mobilization is proclaimed. The Secretary of Defense, the Director of the Selective Service System, and an independent study by the Congressional Budget Office have all stated that the Selective Service System can deliver inductees within the required time without advance registration. This being the case, it seems obvious that there is some other motive behind the registration proposal.

In fact, there is no mystery: The chairman of the Subcommittee on Manpower and Personnel of the Senate Armed Services Committee, recently conceded that the registration proposal is the first step in reviving the draft. That brings me to the third objection. No case has been made as to the necessity either for resuming the draft or for universal military and civilian service. Since such an action could only be justified by a clear and compelling national security need, the failure to confront the matter as a separate issue is tacit admission that resumption of the draft cannot be justified at this time. It is significant that the Secretary of Defense and the Secretary of the Army both take the position that the All Volunteer Force is working successfully and that the draft is not needed.

Two recent editorials in the Akron Beacon Journal have contained outstanding summaries of the issue, both with respect to the draft and the proposed registration of 18 year olds. The full text of the editorials of May 23 and April 13, 1979 follows:

DRAFT IS TOO IMPORTANT TO TREAT AS A SIDE ISSUE

This country may or may not need to resume peacetime draft registration. There is room for widespread honest differences of opinion on the matter, and it takes no PhD in statistical analysis to perceive that these differences exist.

But it is patently absurd for anybody in the Congress to treat this as a sort of Subtopic B in this "larger question": Do the armed services need authorization to spend $40 billion on weapons and research in the next fiscal year?

Yet this is precisely what the House Armed Services Committee has done, and what some members of the Senate Armed Services Committee are urging their committee to do in closed-door sessions this week.

Akron's Rep. John Seiberling is abundantly right in protesting that such a major issue "should not and must not be quietly shepherded through Congress as part of a routine annual authorization."

Such a back-door approach effectively throttles full public and congressional debate on the question—and if there is any question before this society that needs full and free debate before action is taken, it is anything moving us back toward the draft.

The clue to the Senate committee's possible action was a hearing Monday called so hastily that draft opponents were given only three days' notice.

Sen. Sam Nunn (D-Ga.), the committee's manpower subcommittee chairman who has been urging resumption of draft registration, gave a curious and inconclusive explanation.

The committee had planned to treat registration as a separate issue later in the year, after completing action on the weapons bill, he said. But now it feels it is "under pressure" to link the two issues in one bill because that's what the House committee did almost two weeks ago—calling for registration of all 18-year-old men to start in 1981.

"It is not clear that we will," he said. But also: "It is not clear that we won't."

This is obviously not some routine matter to be tucked away in a bill about something else and slipped through. It is a top-ranking major issue over which the public is sharply and hotly divided.

It ought to be treated as one—to be handled alone, with the greatest opportunity possible for full debate and public discussion before any decision is reached on it.

THERE IS CLEARLY NO NEED TO RESUME THE DRAFT NOW

The opposition voiced by congressman John Seiberling and others to a resumption of the military draft is justified—at least at this time.

Neither the Department of Defense nor those in the Congress who have been advocating a resumption of the draft have yet made a good case for doing so. President Carter has offered no evidence that the draft should be resumed or, for that matter, that the current all-volunteer military is the failure some claim.

Even so, some top military officers and a few powerful congressmen have been raising a lot of loose talk about returning to the draft and, perhaps, instituting a system of universal military and civilian service for all 18-year-olds, male and female.

This effort has been creeping along, somewhat in the same manner that the United States crept into its involvement in Southeast Asia in the 1960s.

Mr. Seiberling, 39 of his Democratic and Republican colleagues in the Congress and a wide range of organizations have now performed a useful service by voicing strong opposition to these efforts. Mr. Seiberling's initiative, contained in a letter to the President, should at least cause the administration and other members of Congress to move slowly in considering any resumption of the draft.

Strong support for Mr. Seiberling's position has come from Milton Friedman, a conservative economist. Writing in Newsweek, Mr. Friedman noted that he had served as a member of the President's Commission on an All-Volunteer Armed Force, and that top military officers were extremely reluctant to move away from the draft in 1973.

"The military, and their allies on the Hill, have been chafing at the bit ever since," Mr. Friedman wrote. "They have taken every opportunity to renew the battle for conscription, and no doubt they shall continue to do so.

"The fact is," he continued, "that the volunteer force is working extremely well. The average score of recruits on mental-aptitude tests is far higher today than it was under the draft. Quality has risen and every service has been able to meet its overall quotas."

A return to the draft or the institution of compulsory military and civilian service would cause convulsions throughout the country and would affect every parent and young person. As Mr. Seiberling and Mr. Friedman point out, such a move would be neither logical nor wise at this time.●

RULES PROCEDURE FOR SELECT COMMITTEE ON COMMITTEES

Mr. PATTERSON. Mr. Speaker, pursuant to rule XI clause 2 I submit the rules procedure for the Select Committee on Committees.

Rule 1. The Rules of the House of Representatives are the rules of the Select Committee on Committees, its subcommittees, and its task forces. The rules of the Committee, as far as applicable, shall be the rules of any subcommittee or task force of the Committee.

Rule 2. The regular meeting day of the Committee shall be the first Wednesday of each month when the House of Representatives in session, pursuant to clause 2(b) of Rule XI of the Rules of the House of Representatives. Additional meetings may be called by the Chairman of the Committee, as the Chairman deems necessary, or at the request of a majority of the members of the Committee, in accordance with clause 2(c) of Rule XI of the Rules of the House of Representatives. The determination of the business to be considered at each meeting shall be made by the Chairman subject to clause 2(c) of Rule XI of the Rules of the House of Representatives. A regularly scheduled meeting need not be held if there is no business to be considered.

Rule 3. A majority of the members shall constitute a quorum of the Committee for taking any action, except that two members shall constitute a quorum for taking testimony.

Rule 4. A member of the Committee may vote by proxy on any measure or matter before the Committee and any amendments or motions pertaining to such a measure or matter. Each proxy to be effective shall be signed by the member of the Committee assigning the vote and shall contain the date and time of day when the proxy is signed. Each proxy authorization—

(a) shall be in writing;

(b) shall assert that the member is absent on official business or is otherwise unable to be present at the meeting of the Committee;

(c) shall designate the person who is to execute the proxy authorization; and

(d) shall be limited to a specific measure or matter and any amendments or motions pertaining to such a measure or matter.

A proxy may contain more than one authorization. Proxies may not be counted in determining whether a quorum is present.

Rule 5. The Chairman of the Committee may name any subcommittees or task forces of the Committee and may designate the chairman or any subcommittee or task force named by the Chairman. The Chairman of the Committee and the ranking member of the minority party on the Committee—

(a) shall be ex officio members of all subcommittees and task forces;

(b) shall be authorized to vote on all measures and matters before the subcommittees and task forces, and any amendments or motions pertaining to such measures or matters; but, unless they are regular members of the subcommittee,

(c) shall not be counted in determining whether a quorum or any subcommittee or task force is present, except that they may be counted in determining whether a quorum of any subcommittee or task force is present for the purpose or taking and receiving testimony.

Rule 6. If the Chairman of the Committee is not present at any meeting of the Committee, the ranking member of the majority party on the Committee who is present shall preside at that meeting.

Rule 7. Each meeting (including the markup of legislation) of the Committee or any subcommittee or task force of the Committee shall be open to the public, except when the Committee, subcommittee, or task force (in open session and with a majority present) determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public.

Rule 8. Each hearing conducted by the Committee or any subcommittee or task force of the Committee shall be open to the public, except when the Committee, subcommittee, or task force (in open session and with a majority present) determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because the disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or any rule of the

House of Representatives. No testimony taken and received in any session of the Committee closed to the public may be released or used in public sessions without the approval of a majority of the Committee.

Rule 9. During the taking and receiving of testimony by the Committee, the Chairman shall provide adequate time for the questioning of witnesses by all members of the Committee and shall provide at least five minutes to each member who requests the time to question each witness. The Chairman shall, as far as practical, recognize alternately the members of the Committee from the majority party and members of the Committee from the minority party.

Rule 10. Selection of witnesses for Committee hearings shall be made by the Chairman. A list of proposed witnesses shall be submitted to the members of the Committee for review sufficiently in advance of the hearings to permit suggestions by the Committee members to receive appropriate consideration.

Rule 11. The Committee shall make a public announcement of the date, place, and subject matter of any Committee hearing at least one week before the commencement of the hearing. If the Committee determines that there is good cause to begin the hearing sooner, it shall make the announcement at the earliest possible date.

Rule 12. The Committee shall keep a complete record of—

(a) all members of the Committee present at any meeting or hearing of the Committee;

(b) all action taken by the Committee;

(c) all testimony taken and received by the Committee; and

(d) the votes of each member of the Committee on any question on which a rollcall vote is demanded.

Supplemental materials may be inserted in the record upon the approval of the Chairman. The record of the Committee shall be available for public inspection at reasonable times in the offices of the Committee.

Rule 13. When approved by a majority vote of the Committee, an open meeting or hearing of the Committee may be covered, in whole or in part, by television broadcast, radio broadcast, and still photography (or by any such methods of coverage), subject to the provisions of clause 3 of rule XI of the Rules of the House of Representatives. Such coverage shall be in accordance with the provisions described in clause 3(f) of Rule XI of the Rules of the House of Representatives. In order to enforce this rule and to maintain an acceptable standard of dignity, propriety, and decorum, the Chairman may order such alteration, curtailment, or discontinuance of coverage as considered necessary by the Chairman.

Rule 14. No report of the Committee shall be made public without the approval of a majority of the members of the Committee, except that, when the House of Representatives has adjourned, subcommittees or task forces of the Committee may by a majority vote and with the express permission of the Committee submit reports to the Committee and simultaneously make the reports public. Factual reports by the Committee staff may be printed for distribution to the members of the Committee and the public only after approval by the Chairman.

Rule 15. The Chairman of the Committee is authorized:

(a) to appoint either on a permanent basis or as experts or consultants such staff as he considers necessary;

(b) to prescribe the duties and responsibilities of such staff;

(c) to fix the pay of such staff;

(d) to terminate the employment of any such staff as he considers appropriate; and

(e) to authorize reimbursement for members and staff for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

Rule 16. In addition to his other responsibilities, the Chairman of the Committee—

(a) shall prepare for each session of the Congress a budget;

(b) shall establish such procedures as the Chairman considers are necessary to prevent the unauthorized disclosure of any information received, or testimony taken and received, by the Committee or its staff; and

(c) shall establish such other procedures and take such actions as may be necessary to carry out these rules and to facilitate the effective operation of the Committee.

Rule 17. The Rules of Procedure of the Committee may be amended only after the proposed amendment has been sent to all members of the Committee at least one week before final action on the amendment is taken, and the amendment is approved by a majority of the members of the Committee.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JONES of North Carolina (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. CORMAN (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. DORNAN (at the request of Mr. RHODES), for Monday, June 11, 1979, on account of death in the family.

To Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. BAUMAN, for 5 minutes, today and to include extraneous matter.

Mr. ZABLOCKI, for 1 hour, on Thursday, June 14, after the close of business and all other special orders.

(The following Members (at the request of Mr. TRIBLE) and to revise and extend their remarks and include extraneous matter:)

Mr. HYDE, for 15 minutes, today.

Mr. GILMAN, for 5 minutes, today.

Mr. SOLOMON, for 15 minutes, today.

(The following Members (at the request of Mr. SYNAR) to revise and extend their remarks and include extraneous matter:)

Mr. WEAVER, for 10 minutes, today.

Mr. LAFALCE, for 20 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Ms. HOLTZMAN, for 5 minutes, today.

Mr. NELSON, for 5 minutes, today.

Mr. OTTINGER, for 5 minutes, today.

Mr. AUCOIN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. TRIBLE) and to include extraneous matter:)

Mr. SHUMWAY.

Mr. WYDLER.

Mr. FINDLEY.

Mr. DERWINSKI in two instances.

Mrs. HECKLER.

Mr. GILMAN.

Mrs. HOLT.

Mr. MILLER of Ohio in three instances.

Mr. LAGOMARSINO.

Mr. LENT.

Mr. LOEFFLER.

(The following Members (at the request of Mr. SYNAR) and to include extraneous matter:)

Mr. ASPIN in two instances.

Mr. ANDERSON of California in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. BROWN of California in 10 instances.

Ms. HOLTZMAN in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. GUARINI.

Mr. NELSON.

Mr. STOKES in two instances.

Mr. HEFTEL.

Mr. DRINAN in two instances.

Mr. MOORHEAD of Pennsylvania.

Mr. HAWKINS in three instances.

Mr. EDGAR.

Mr. WIRTH.

Mr. FORD of Tennessee.

Mrs. SCHROEDER in two instances.

Mr. ROBERTS.

Mr. MCDONALD in five instances.

Mr. STARK.

Mr. MIKVA.

Mr. BOWEN.

ADJOURNMENT

Mr. SYNAR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 37 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, June 12, 1979, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1780. A letter from the Secretary of Agriculture, transmitting the annual report of the rural Electrification Administration for fiscal year 1978, pursuant to section 10 of the Rural Electrification Act of 1936, as amended; to the Committee on Agriculture.

1781. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrrals of budget authority as of June 1, 1979, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 96-147); to the Committee on Appropriations and ordered to be printed.

1782. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Army National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

1783. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Naval Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

1784. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report on activities under the Rehabilitation Act of 1973, covering fiscal year 1978, pursuant to section 404 of the act; to the Committee on Education and Labor.

1785. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend section 4170 of the Revised Statutes of the United States (46 U.S.C. 39), to simplify the issuance of a new document upon sale or transfer of a documented vessel of the United States; to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on Allocation of Budget Totals by Program pursuant to section 302 (b) of the Congressional Budget Act of 1974 (Rept. No. 96-260). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee on Foreign Affairs. Report on allocation of budget totals under the first concurrent resolution on the budget for fiscal year 1980 (Rept. No. 96-262). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 7. A bill to facilitate the implementation of monetary policy and to promote competitive equality among depository institutions; with amendment (Rept. No. 96-263). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 4057. A bill to amend section 18 of the Food Stamp Act of 1977; with amendment (Rept. No. 96-264). Referred to the Committee of the Whole House on the State of the Union.

ADVERSE REPORTS

Under clause 2 of rule XIII,

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. House Resolution 291. Resolution of inquiry directing the President to provide Members of the House with information on the energy situation. Adverse (Rept. No. 96-261). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GOODLING:

H.R. 4402. A bill to amend title 10, United States Code, to provide improved educational assistance benefits for persons enlisting in the Army; to the Committee on Armed Services.

By Mr. LaFALCE:

H.R. 4403. A bill to prevent inequities in the administration of income determinations pertaining to low-rent housing; to the Committee on Banking, Finance and Urban Affairs.

H.R. 4404. A bill to provide a program within the Comprehensive Employment and Training Act to retrain workers about to be laid off due to productivity improvement programs, and for other purposes; to the Committee on Education and Labor.

H.R. 4405. A bill to amend the Internal Revenue Code of 1954 to provide incentives for research and development by providing an increased investment credit or the allowance of rapid amortization, and for other purposes; to the Committee on Ways and Means.

H.R. 4406. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax for certain research and experimental expenditures; to the Committee on Ways and Means.

H.R. 4407. A bill to amend the Internal Revenue Code of 1954 to provide that research and experimental expenditures in connection with a patent may be amortized for any period of not less than 60 months; to the Committee on Ways and Means.

H.R. 4408. A bill to amend the Internal Revenue Code of 1954 to provide that net operating losses incurred by a corporation during its first 3 taxable years may be carried over to the next 10 taxable years; to the Committee on Ways and Means.

H.R. 4409. A bill to improve the reporting on productivity data in the Federal Government and for other purposes; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

By Mr. LOEFFLER (for himself and Mr. Anderson of Illinois):

H.R. 4410. A bill to reduce permanently the level of the Federal civilian work force; to the Committee on Post Office and Civil Service.

By Mr. PEASE (for himself and Mr. McCloskey):

H.R. 4411. A bill to amend section 8118 of title 5, United States Code, to provide for physical examinations with respect to claims for compensation for work injuries, and to provide that continuation of pay under such section shall not begin until the fourth day of disability; to the Committee on Education and Labor.

By Mr. STACK:

H.R. 4412. A bill to authorize the distribution of sample ballot card information and voter instructional material, to establish procedures and methods for the distribution of elector and candidate information, and for other purposes; to the Committee on House Administration.

H.R. 4413. A bill to establish a program to develop, maintain, and monitor marine artificial reefs in waters of U.S. jurisdiction; to the Committee on Merchant Marine and Fisheries.

By Mr. THOMAS:

H.R. 4414. A bill to amend the Federal Mine Safety and Health Act of 1977 to provide that the provisions of such act shall not apply to stone mining operations, sand and gravel mining operations, or certain surface construction operations; to the Committee on Education and Labor.

By Mr. VANDER JAGT:

H.R. 4415. A bill to amend the Internal Revenue Code of 1954 to encourage the use of alcohol as an alternative fuel for motor vehicles by allowing the rapid amortization of facilities producing alcohol for use as such a fuel; to the Committee on Ways and Means.

By Mr. AKAKA:

H.R. 4416. A bill to clarify that the S.S. *United States* may operate in the domestic and/or foreign commerce of the United States and between foreign ports; to the Committee on Merchant Marine and Fisheries.

By Mr. BAUMAN (for himself, Mrs. Holt, and Ms. Mikulski):

H.R. 4417. A bill to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Science and Technology.

By Mr. SANTINI:

H.R. 4418. A bill to provide for certain lands to be held in trust for the Moapa Band of Paiutes and to be considered to be a part of the Moapa Indian Reservation; to the Committee on Interior and Insular Affairs.

By Mr. STARK (for himself, Mr. Edwards of California, and Mr. Dellums):

H.R. 4419. A bill to abolish the death penalty under all laws of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. DORNAN (for himself and Mr. Solarz):

H.J. Res. 358. Joint resolution calling upon the United States to Counter Genocide in Equatorial Guinea; to the Committee on Foreign Affairs.

By Mr. DORNAN (for himself, Mr. Lagomarsino, Mr. Robinson, Mr. Goldwater, Mr. Annunzio, Mr. Montgomery, Mr. Nowak, Mr. Murphy of Illinois, Mr. Young of Alaska, Mr. Kemp, Mr. Bob Wilson, Mr. Flood, Mr. Lloyd, Mr. Stangeland, Mr. Carter, and Mr. Ottinger):

H. Con. Res. 134. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States; to the Committee on Foreign Affairs.

By Mr. STUDDS:

H. Con Res. 135. Concurrent resolution disapproving the sale of management and contracting services to Saudi Arabia; to the Committee on Foreign Affairs.

H. Con. Res. 136. Concurrent resolution disapproving the sale of management and contracting services to Saudi Arabia; to the Committee on Foreign Affairs.

H. Con. Res. 137. Concurrent resolution disapproving the sale of management and contracting services to Saudi Arabia; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

217. The SPEAKER presented a memorial of the Legislature of the State of California, relative to federally mandated programs; to the Committee on Government Operations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. RAHALL:

H.R. 4420. A bill for the relief of Luis Paco Adongay; to the Committee on the Judiciary.

By Mr. SIMON:

H.R. 4421. A bill for the relief of Zahid Saqib; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 96: Mr. Satterfield and Mr. Bennett.

H.R. 190: Mr. Nelson.

H.R. 197: Mr. Corrada, Mrs. Fenwick, Mr. Flood, Mr. Gray, Mr. Marlenee, Mr. Mathis, Mr. Mazzoli, Mr. Mitchell of Maryland, Mr. Murphy of Pennsylvania, Mr. Patten, Mr. Pepper, Mr. Scheuer, and Mr. Yatron.

H.R. 598: Mr. Erlenborn.

H.R. 601: Mr. Carney.

H.R. 745: Mr. Markey and Mr. Downey.

H.R. 770: Mr. Young of Alaska.

H.R. 1050: Mr. Andrews of North Dakota, Mr. Pickle, Mr. Nolan, Mr. Coelho, and Mr. Carter.

H.R. 1060: Mr. Howard.

H.R. 1105: Mrs. Spellman.

H.R. 1143: Mr. Anthony.

H.R. 1173: Mr. Dannemeyer and Mr. Burgener.

H.R. 1677: Mr. Corcoran and Mrs. Spellman.

H.R. 1785: Mr. Addabbo, Mr. Yatron, Mr. Snyder, and Mr. Lehman.

H.R. 2129: Mr. BEILENSON.

H.R. 2542: Mr. MCKINNEY, Mr. NOLAN, Mr. DELLUMS, Mr. BONKER, Mr. MOLLOHAN, and Mr. LEWIS.

H.R. 2663: Mr. RATCHFORD, Mr. CORRADA, Mr. STENHOLM, Mrs. SPELLMAN, Mr. ECKHARDT, Mr. DICKS, Mr. KILDEE, Mr. BIAGGI, Mr. WILLIAMS of Montana, Mr. NELSON, Mr. THOMPSON, Mr. MOAKLEY, Mr. HOLLENBECK, Mr. MONTGOMERY, Mr. LEACH of Iowa, Mr. KOGOVSEK, Mr. WHITEHURST, Mr. HORTON, Mr. HALL of Ohio, Mr. CARTER, Mr. HUTTO, Mr. MARKEY, Mr. FISH, Mrs. FENWICK, Mr. WHITTAKER, Mr. PATTEN, Mr. LONG of Maryland, Mr. ROE, Mr. MCCORMACK, Mr. ERDAHL, Ms. MIKULSKI, Mr. MURPHY of New York, Mr. WALGREN, Mr. MURPHY of Illinois, Mr. DE LA GARZA, Mr. ROSENTHAL, Mr. MYERS of Pennsylvania, Mr. HOPKINS, Mr. BLANCHARD, Mr. TAUKE, and Mr. DIXON.

H.R. 2773: Mr. KELLY.

H.R. 3227: Mr. CORMAN.

H.R. 3383: Mr. PHILIP M. CRANE, Mr. BEVILL, Mr. COLLINS of Texas, Mr. DANIEL B. CRANE, Mr. ROBERT W. DANIEL, JR., Mr. DEVINE, Mr. DORNAN, Mr. GINGRICH, Mr. GRASSLEY, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. LOTT, Mr. RUNNELS, Mr. STANTON, Mr. SYMMS, Mr. WALKER, Mr. WHITEHURST, Mr. WILLIAMS of Ohio, and Mr. YOUNG of Alaska.

H.R. 3545: Mr. KOGOVSEK, Mr. MITCHELL of Maryland, Mr. CARTER, Mr. MINISH, Mr. STOKES, Mr. GONZALEZ, Mr. LEACH of Louisiana, Ms. OAKAR, Mr. PATTEN, and Mr. OTTINGER.

H.R. 4023: Mr. HAGEDORN, and Mr. HARSHA.

H.R. 4117: Mr. EVANS of the Virgin Islands.

H.R. 4262: Mr. BARNES, Mr. DRINAN, Mr. VENTO, Mr. OBERSTAR, Mrs. SPELLMAN, Mr. WOLPE, Mr. MURPHY of Pennsylvania, and Mr. MAVROULES.

H.J. Res. 330: Mr. MADIGAN, Mr. SEBELIUS, and Mr. FLOOD.

H. Con. Res. 26: Mr. COURTER.

H. Con. Res. 122: Mr. LEDERER, Mr. WALGREN, Mr. LENT, Mr. RICHMOND, Mr. WON PAT, Mr. LEE, Mr. GUARINI, Mr. RANGEL, Mr. ADDABBO, Mr. VENTO, Mr. DOWNEY, Mr. GILMAN, Ms. OAKAR, Mr. MYERS of Pennsylvania, Mr. MAVROULES, Mr. MOTTL, Mr. BARNES, Mr. DELLUMS, Mr. CONTE, Mr. YATRON, Mr. CARNEY, Mr. WOLPE, Mr. STRATTON, Mr. HOLLENBECK, Mr. MCKINNEY, Mr. PEYSER, and Mr. WEISS.

H. Con. Res. 128: Mr. D'AMOURS, Mr. O'BRIEN, Mr. KASTENMEIER, Mr. HAGEDORN, Mr. VENTO, Mr. KILDEE, Mr. YOUNG of Missouri, Mr. EVANS of Delaware, Mr. WHITEHURST, Mr. AUCOIN, Mr. BENJAMIN, Mr. GRISHAM, Mr. FLORIO, Mr. JEFFORDS, Mr. EDGAR, Mr. WILLIAMS of Ohio, Mr. COLEMAN, Mr. PANETTA, Mr. DELLUMS, Mr. BEDELL, Mr. PEPPER, Mr. BURGENER, Mr. DORNAN, Mr. LAFALCE, Mr. WOLFF, Mr. FLOOD, Mr. WILLIAMS of Montana, and Mr. WOLPE.

PETITIONS, ETC.

Under clause 1 of rule XXII,

142. The SPEAKER presented a petition of the city council, New York, New York, relative to proposed cutbacks of Amtrak routes, which was referred to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2444

By Mr. McCLOSKEY:

(Amendments in the nature of a substitute to title II.)

—strike out all from line 8 on page 57 to line 16 on page 68, inclusive, and insert in place of the stricken material:

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Under Secretary shall also be responsible for intergovernmental relations in the Department. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) In addition, there shall be in the Department five officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The officers appointed under this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;

(2) public information functions;

(3) management and budget functions;

(4) planning, evaluation, and policy development functions;

(5) encouraging and monitoring involvement of parents, students, and the public in departmental programs; and

(6) providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities.

(d) Except as otherwise provided by this Act—

(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisons of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, vested in the Secretary by section 301(a)(3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competititve service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services and public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS–18 of the General Schedule by section 5332 of such title.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 204. There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate to the Office.

OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES

SEC. 206. There shall be in the Department an Office of Special Education and Rehabilitation Services headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting special education and rehabilitation services as the Secretary shall delegate to the Office and shall serve as principal adviser to the Secretary on matters affecting special education and rehabilitation services.

ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION

SEC. 207. There shall be in the Department an Assistant Secretary for Vocational and Adult Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 208. There shall be in the Department an Office of Educational Research and Improvement headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions of the Department concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate to the Office.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

SEC. 209. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense, the director of which shall be one of the officers appointed under section 202 of this Act.

GENERAL COUNSEL

SEC. 210. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

OFFICE OF THE INSPECTOR GENERAL

SEC. 211. (a) Section 2(1) of the Inspector General Act of 1978 is amended by adding "the Department of Education," after "the Department of Commerce,".

(b) Sections 11 (1) and (2) of such Act are amended by adding "Education," after the word "Commerce,".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 212. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter in this section referred to as the "Council").

(b) The Council shall—

(1) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs;

(3) promote better intergovernmental relations; and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators, and teachers;

(C) five representatives of public and private postsecondary education, including board members, administrators, and professors; and

(D) four members of the public, including parents of students and students.

In making appointments to the Council, the President shall select individuals who represent a diversity of geographic areas and demographic characteristics.

(2) The Under Secretary shall be an ex officio member of the Council.

(3) Each member shall have a term of four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointment to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.

(e) The Secretary shall furnish such staff, services, and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

SEC. 213. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this section as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

In addition, the Committee shall review and assess the state of involvement and participation of students and parents in the overall education decisionmaking process and in specific education programs.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions, and boards that the President may from time to time deem appropriate.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

—Strike out all from line 8 on page 57 to line 16 on page 68, inclusive, and insert in place of the stricken material:

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Under Secretary shall also be responsible for intergovernmental relations in the Department. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary, and Under Secretary or in the event of vacancies in both of those offices.

PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) In addition, there shall be in the Department four officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The officers appointed under this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;

(2) public information functions;

(3) management and budget functions;

(4) planning, evaluation, and policy development functions;

(5) encouraging and monitoring involvement of parents, students, and the public in departmental programs; and

(6) providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities.

(d) Except as otherwise provided by this Act—

(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, vested in the Secretary by section 301(a)(3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions; and

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SEC. 207. There shall be in the Department an Assistant Secretary for Vocational and Adult Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education.

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(b) Sections 11 (1) and (2) of such Act are amended by adding "Education," after the word "Commerce,"

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

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In making appointments to the Council, the President shall select individuals who represent a diversity of geographic areas and demographic characteristics.

(2) The Under Secretary shall be an ex officio member of the Council.

(3) Each member shall have a term of four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

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(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions, and boards that the President may from time to time deem appropriate.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

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SEC. 202. (a) There shall be in the Department five Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

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(1) congressional relations functions;

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(3) management and budget functions;

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(5) encouraging and monitoring involvement of parents, students, and the public in departmental programs; and

(6) providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities.

(d) Except as otherwise provided by this Act—

(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

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(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

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(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

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PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

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(3) management and budget functions;

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(5) providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities.

"(d) Each of the officers appointed pursuant to subsections (a), (2), and (c) shall, in the performance of his or her duties, encourage the involvement of parents, students, and the public in departmental programs."; and

(d) Except as otherwise provided by this Act—

(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

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(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS-18 of the General Schedule by section 5332 of such title.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 204. There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private as the Secretary shall delegate to the Office

OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES

SEC. 206. There shall be in the Department an Office of Special Education and Rehabilitation Services headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting special education and rehabilitation services as the Secretary shall delegate to the Office and shall serve as principal adviser to the Secretary on matters affecting special education and rehabilitation services.

ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION

SEC. 207. There shall be in the Department an Assistant Secretary for Vocational and Adult Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 208. There shall be in the Department an Office of Educational Research and Improvement headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions of the Department concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate to the Office.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

SEC. 209. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense, the director of which shall be one of the officers appointed under section 202 of this Act.

GENERAL COUNSEL

SEC. 210. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

OFFICE OF INSPECTOR GENERAL

SEC. 211. (a) Section 2(1) of the Inspector General Act of 1978 is amended by adding "the Department of Education," after "the Department of Commerce,".

(b) Sections 11 (1) and (2) of such Act are amended by adding "Education," after the word "Commerce,".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 212. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter in this section referred to as the "Council").

(b) The Council shall—

(1) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs;

(3) promote better intergovernmental relations; and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators, and teachers;

(C) five representatives of public and private postsecondary education, including board members, administrators, and professors; and

(D) four members of the public, including parents of students and students.

In making appointments to the Council, the President shall select individuals who represent a diversity of geographic areas and demographic characteristics.

(2) The Under Secretary shall be an ex officio member of the Council.

(3) Each member shall have a term of four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.

(e) The Secretary shall furnish such staff, services, and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

SEC. 213. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this section as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

In addition, the Committee shall review and assess the state of involvement and participation of students and parents in the overall education decisionmaking process and in specific education programs.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions, and boards that the President may from time to time deem appropriate.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

—Strike out all from line 8 on page 57 to line 6 on page 68 inclusive and insert in place of the stricken material:

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Under Secretary shall also be responsible for intergovernmental relations in the Department. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) In addition, there shall be in the Department five officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The officers appointed under this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;

(2) public information functions;

(3) management and budget functions;

(4) planning, evaluation, and policy development functions;

(5) encouraging and monitoring involvement of parents, students, and the public in departmental programs; and

(6) providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities.

(d) Except as otherwise provided in this Act—

(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

SEC. 203. No individual may be appointed to an office created by section 201 or 202 unless he or she was an elementary, secondary, or postsecondary education teacher or administrator during at least eighteen of the twenty-four months preceding the date on which his or her nomination is submitted to the Senate for confirmation.

OFFICE FOR CIVIL RIGHTS

SEC. 204. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, vested in the Secretary by section 301 (a) (3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS-18 of the General Schedule by section 5332 of such title.

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(2) make recommendations for the improvement of Federal education programs;

(3) promote better intergovernmental relations; and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators, and teachers;

(C) five representatives of public and private postsecondary education, including board members, administrators, and professors; and

(D) four members of the public, including parents of students and students.

In making appointments to the Council, the President shall select individuals who represent a diversity of geographic areas and demographic characteristics.

(2) The Under Secretary shall be an ex officio member of the Council.

(3) Each member shall have a term of four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.

(e) The Secretary shall furnish such staff, services, and support as shall be necessary for the operation of the Council.

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SEC. 214. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this section as the "Committee").

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(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

In addition, the Committee shall review and assess the state of involvement and participation of students and parents in the overall education decisionmaking process and in specific education programs.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions, and boards that the President may from time to time deem appropriate.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

H.R. 3996

By Mr. GLICKMAN:

—Section 104 is amended by striking "1979" from line 10 of page 52 and inserting "1980" in lieu thereof; by striking "1979" from line 13 of page 52 and inserting "1980" in lieu thereof; and by striking everything after the word "by" on line 14 of page 52 through line 19 of page 52, and inserting in lieu thereof the following: "the Corporation in accordance with the provisions of this Act."

Section 111 is amended by striking the word "subsections" on line 12 of page 61, and inserting the word "subsection" in lieu thereof; by striking lines 13 through 15 on page 61; and by inserting "(1)" in lieu of "(m)" on line 16 of page 61.

Section 114 is amended by striking "1979" on line 21 of page 63 and inserting in lieu thereof "1980".

Section 117 is deleted from the bill, and subsequent sections of Title I are renumbered accordingly.

Section 120 is amended by striking the number, "$591,000,000" on line 15 of page 79 and inserting in lieu thereof the number, "$718,000,000"; by striking the number, "$598,000,000" on line 16 of page 79 and inserting in lieu thereof the number "$753,450,000"; by striking the number "$230,000,000" on line 21 of page 79, and inserting in lieu thereof the number "$171,000,000"; by striking the number, "$253,000,000" on line 24 of page 79, and inserting in lieu thereof the number, "$231,000,000"; and by striking the quotation mark and period (".) at the end of line 23 on page 81; and by inserting a new subparagraph "(3)" as follows:

"(3) During the fiscal year ending September 30, 1980 the Board of Directors of the Corporation shall analyze each of its routes and the passenger trains operating thereon and shall determine, on the basis of that analysis those trains and routes which will continue in operation during the fiscal year ending September 30, 1981; provided, any reductions in trains, routes or service shall not exceed $30,000,000 in the aggregate; and, provided further, that the Board's analysis must give weight, among other factors, to the present and future energy needs of the nation, the percentage of increase or decrease in ridership of each train examined, and the potential for each train given a minimum reasonable quality of service in terms of roadbed, track, equipment, on-time performance and scheduling.

Section 126, "Rail Service Pending Reroutings", is stricken in its entirety and the subsequent section in Title I is renumbered accordingly.

—On page 72, beginning on line 20, delete "Where reductions in operating expenses can be obtained, the" and insert in lieu thereof, "The".

—On page 73, immediately after the word, "if", on line 2, insert the following: "the passenger mile per train mile on such train, as reported by the Corporation, for the period from January 1, 1979, through the date of enactment of this Act has increased by not less than ten percent over the passenger mile per train mile on such train during the same period of the preceding calendar year or".

—On page 73, after line 15, add the following: "Passenger mile per train mile calculated by the Corporation for purposes of this subsection shall be based on assumption that regional and national motor fuel shortages and retail motor fuel price increases of at least the magnitude occurring during the period from January 31, 1979, through the date of enactment of this Act, will continue during the fiscal year ending September 30, 1980."

—On page 89, line 1, insert the following immediately after "for restructuring.", "Within one year of enactment of this Act, the Corporation shall report to the Congress on its plans for implementing the proposed route restructurings subject to this paragraph, including any findings that such restructuring proposals are not economic or are no longer appropriate in light of increased ridership."

H.R. 4388

By Mr. WILLIAMS of Montana:

—Page 13, line 10, strike ".", and insert ", none of the funds appropriated in this bill shall be used for the construction or land acquisition for the re-regulating dam at Libby Dam, Montana."

H.R. 4390

By Mr. SOLOMON:

—Page 30, Section 305, line 1, after "exceeds" strike out the following: "by more than 7 percent"

EXTENSIONS OF REMARKS

CONTROLLING THE HIGH BLOOD PRESSURE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. STOKES. Mr. Speaker, it is with a great sense of pride and pleasure that I take this opportunity to introduce and commend a distinguished group of black health professionals dedicated to discovering methods to arrest high blood pressure in high risk populations. The Black Health Providers Task Force on High Blood Pressure Education and Control will be making its recommendations to the National Heart, Lung and Blood Institute this month after a 20-month examination and consensus building system on health provider roles in the detection, treatment, and management of hypertensive patients.

In a collaborative effort to develop an effective program for combating high blood pressure, these diligent health professionals from the disciplines of medicine, nursing, dentistry and pharmacy as well as the student affiliate organizations are recommending legislative and administrative steps to arrest this devastating disease. The task force members from the legal and legislative professions are advisers in those areas, as well as representatives from national associations of optometry, podiatry, and psychology. The National Association of Black Social Workers is also providing consultative assistance.

MEMBERS OF THE TASK FORCE

Arthur H. Coleman, M.D., Chairperson, Immediate Past President, National Medical Association.

Donald R. Ware, M.D., M.P.H., Cochairperson, Medical Officer, National High Blood Pressured Education Program.

Ophelia Long, R.N., Vice Chairperson, National Black Nurses Association.

Charles Curry, M.D., National Medical Association.

Gertrude Hunter, M.D., National Medical Association.

Carrie Rogers, R.N., President, National Black Nurses Association.

Lauranne Sams, R.N., Ed. D., Immediate Past President, National Black Nurses Association.

Francis Davis, D.D.S., National Dental Association.

Harvey Webb, D.D.S., Immediate Past President, National Dental Association.

Clyde J. Hatch, Sr., R.Ph., Regional Director, National Pharmaceutical Association.

Leonard L. Inge, R.Ph., Immediate Past President, National Pharmaceutical Association.

James N. Tyson, R.Ph., Executive Director, National Pharmaceutical Association.

Winston A. Griner, M.D., Student National Medical Association.

Eugene Wright, M.D., Student National Medical Association.

Marie Holliday, D.M.D., Student National Dental Association.

James Fryer, R.Ph., Vice President, Student National Pharmaceutical Association.

Heidi Anderson Harper, R.Ph., Student National Pharmaceutical Association.

James Abernathy, II, J.D., National Bar Association.

Raymond L. Johnson, J.D., National Bar Association.

Donna R. Richardson, R.N., J.D., National Bar Association.

Yvette Hutchinson, Formerly, Office of Congressman Louis Stokes.

Helene Colvin, Legislative Assistant, Office of Senator Paul Tsongas.

Millicent Gorham, Health Legislative Assistant, Office of Congressman Louis Stokes.

Ruth King, Ed.D., Association of Black Psychologists.

Raleigh Bynum, O.D., National Optometric Association.

Frank Fields, D.P.M., National Podiatry Association.

Herbert B. Lassiter, Executive Secretary, BHPTF.

Linda Thigpin, Public Affairs Advisor, BHPTF.

Estella Lazenby, BHPTF, Conference Manager.

High blood pressure is a major chronic disease which affects an estimated 35 million Americans. Since the inception of the NHLBI high blood pressure education program, dramatic improvements have been observed in the overall national picture. Since 1972, deaths from strokes are down 20 percent. Deaths from heart attacks are down 16 percent. The number of hypertensives cognizant of their conditions has increased significantly, as has the number of hypertensives receiving treatment.

Although progress has been improving with respect to control of blood pressure in the black community, the black community is still at great risk to the sequelae of uncontrolled high blood pressure—stroke, congestive heart failure and kidney failure. Currently, it is estimated by DHEW's National Center for Health Statistics that there is a 66-percent greater prevalence of high blood pressure in the black community than in the general population. The fatal stroke rate is 3 to 5 times higher among blacks than in the general population. This differential has been confirmed in a number of local studies, including a 1978 NHLBI-sponsored random probability sampling in Maryland. The Maryland investigators have concluded that "a black person with high blood pressure is much more likely to have diastolic blood pressure above 100 mm Hg than a white person and is much more likely to need drug therapy." This higher prevalence among blacks translates into a greater risk of disease often associated with high blood pressure, especially strokes and ischemic heart disease for this segment of the population.

In review of this data, the task force first established a standard for elevation of blood pressure at which a patient would be determined to be hypertensive. The task force accepted the diastolic blood pressure defined by the Joint National Committee on Detection, Evaluation and Treatment as a basis for confirming high blood pressure. The Joint National Committee was a composite of professional and voluntary health organizations which included such groups as National Medical Association, American Medical Association, American College of Cardiology, and the American Heart Association.

Once a standard definition of high blood pressure was agreed upon, the task force then turned its attention to the established goal: to obtain consensus on the role of black health care providers in the detection, treatment and management of hypertensive patients.

In an attempt to develop the aforementioned, the task force developed a unique process that involves consensus of role by ambulatory site on the one hand and function at that site on the other. These roles were looked at in an intradisciplinary fashion with validation of these roles accomplished through preliminary probability samplings of the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

membership. Later, these roles were again viewed in an interdisciplinary fashion with review by the policymaking bodies of the constituent organizations.

In addition, informal briefing sessions were conducted for executives of national black organizations like NAACP, National Urban League, World Community of Islam in the West, African Methodist Episcopal Church, Panhellenic Council, National Office of Black Catholics, and the Masonic complex, to ascertain their perceptions of their role in a collaborative national effort to arrest high blood pressure in the black community.

This month, the task force, under the cosponsorship of the White House and NHLBI will bring together representatives from the Federal Government, foundations, private industry and health interest groups to discuss the recommendations developed by the task force. Also, there will be workshops involving these participants aimed at developing quantifiable goals and objectives that address barriers in the following subject areas: finance, health delivery systems, health manpower, provider education, and, community organization and education.

Mr. Speaker, it is clear that the monumental task performed by the task force is consistent with the interests of the administration in health promotion and disease prevention. Moreover, the process that the task force developed should be considered as a model for consensus building and program implementation in other health control efforts. Without a doubt, the implementing of the task force's recommendations in reducing high blood pressure, will enhance the lives of many Americans and save many, many more.

I would like to extend a heartfelt thanks to each individual task force member for a job well done.●

THE WITHDRAWAL OF U.S. TROOPS FROM SOUTH KOREA

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. ASPIN. Mr. Speaker, new, widely publicized intelligence community estimates of North Korean military strength have cast doubts on the wisdom of the Carter administration's plan to withdraw all American ground forces from South Korea by 1982. The new estimates reveal a North Korean army with more troops, tanks, artillery, and armored personnel carriers than was once thought to be the case. Whereas the South Korean military—even without the assistance of American troops—has been considered superior to the North on the ground but numerically inferior in the air, it now appears that the North has the edge in ground forces as well.

This discovery obviously raises questions: Can the South Koreans manage the defense effort without the presence of U.S. ground forces? What would be the political and military consequences of continuing the planned U.S. withdrawal schedule? The bottom-line question: Should President Carter continue to pull troops out on schedule, or should the plan be altered in light of this new military intelligence?

BACKGROUND

Early in the 1976 Presidential campaign, candidate Jimmy Carter promised, if elected, to remove American troops from South Korea. A few months after taking office, he announced his plan. The 33,000 men of the 2d Infantry Division including support units would be withdrawn over a 5-year period, beginning with a 6,000-man withdrawal in 1978.

In April 1978, President Carter announced a change in schedule: only 3,400 troops would be taken out of Korea during that year, with the balance to be removed in 1979. (Thus far, none of the remaining 2,600 troops have been withdrawn.)

By no means was this plain ever intended to entail a withdrawal of U.S. military commitment to South Korea. The 9,000 U.S. Air Force tactical air personnel would remain, as would 6,000 U.S. Army personnel for logistics support and command-control-communications. The U.S. Government would augment South Korean strength in compensation for withdrawing troops. About $800 million in equipment, left by the departing units would be transferred to the South Korean army at no expense to the Republic of Korea (ROK) Government. Foreign military sales credits would be offered to the ROK, with appropriate weaponry made available on a priority basis. The United States would undertake a special effort to support ROK self-sufficiency in defense industries. Joint military exercises with the ROK forces would continue. Finally, U.S. troops stationed elsewhere in the Pacific would be available for reinforcement in the event of war with North Korea.

The question to consider, therefore, is not whether the United States should continue its commitment to South Korea; that was never in dispute. The question is whether the Carter administration's troop withdrawal schedule should be altered.

THE NEW MILITARY PICTURE

It has long been perceived that the North Koreans had the edge in air forces. The ROK, however, had generally been given the edge in ground forces, a fact always cited in defense of withdrawing U.S. troops.

Then last month, new CIA/DIA intelligence estimates were released which confirmed Army findings of last November which show that the North now has numerical superiority on the ground as well. Estimates of North Korean ground forces have gone from 450,000 to between 550,000 and 600,000; the number of divisions and brigades from 29 to 37; the number of tanks by 35 percent, and of artillery tubes and armored personnel carriers by about 20 percent.

Consequently, the ratio of North to South Korean forces—at least in terms of gross numbers—has changed dramatically.

	Ratio—North:South	
	1977 estimate	Current estimate
Ground Forces Manpower	0.9:1	1.1–1.2:1
Tanks	1.5:1	2.1:1
Artillery	1.9:1	2.3:1
Armored Personnel Carriers	1.9:1	2.3:1

A sudden increase in estimates of enemy strength in a politically sensitive area such as Korea naturally is cause for suspicion both as to timing and to accuracy. But apparently this is real. What has been going on is a gradual buildup over the past decade which until recently has gone largely undetected.

The reason for the previous underestimation has to do with the way North Korean forces are deployed. Specifically, many small North Korean military units are scattered around the countryside. Units once thought unaffiliated to any other unit, have now been identified as belonging together. It is this new intelligence discovery that has sharply increased the number of divisions.

Nearly all of the additional manpower, and all of these newly discovered and newly identified forces, are in the rear areas where our intelligence efforts were not concentrated. We once thought that the entire North Korean military effort—not unlike the ROK's—was dedicated to "forward defense," but now it seems that they have adopted more of a "defense-in-depth" deployment strategy.

Several interpretations could be mustered to explain this.

One possibility is that the North Koreans plan for offensive warfare, but have now adopted an echelon (or "wave") doctrine similar to that of the Chinese and Warsaw Pact armies.

Another possibility is that the North Koreans fear a South Korean attack, perhaps a farfetched idea to many Americans, but not an unreasonable interpretation considering, first, the intense insularity and paranoia of the Kim Il-sung regime and, second, a 1974 CIA study allegedly concluding that the ROK might provoke a war with the North if President Park Chung-hee felt that his government was in danger of being toppled by radical forces from within.

Probably a major factor in the North Korean expansion is their recent realization that neither the U.S.S.R. nor the People's Republic of China would likely come to their aid in a war with South Korea. The Soviets have increasingly detached themselves from the North Koreans, militarily and diplomatically; the Chinese have been drifting toward Japan and the United States, in pursuit of rapid industrialization, and would surely be risking their long-range plans by intervening on behalf of North Korea in a war fought against American (and, indirectly, Japanese) interests.

These interpretations are not mutually exclusive. All suggest an additional North Korean capability to sustain battle and to do so autonomously. This may have offensive or defensive implications; given the extreme secrecy in North Korean Government policymaking and military planning, there is no way to infer which.

Statistics, of course, can be misleading. The ROK has M-60 and M-48 tanks, while North Korea has T-54s and T-34s, tanks of a far older model and probably less reliability. (The same is true in the sea and air: the South has destroyers and modern F-5 and F-4 aircraft; the North has small patrol boats and aging Il-28, Mig-15 and Mig-17 aircraft.) Moreover, the rugged terrain around the demilitarized zone (DMZ) would make invasion a challenging task against an extended and trained force.

However, the ROK has problems, too. Seoul, the capital city, lies only 26 miles from the North Korean border. A swift attack might eventually be contained by the ROK army, but quite possibly not before the North reached Seoul, a naturally very sensitive vulnerability to South Koreans.

"Cross-compartmentalization" of the terrain along the DMZ also poses a problem for the South Korean defense. Mountain ridges running north and south would prevent the South Korean command from quickly shifting its forces laterally to reinforce a threatened sector. Now that the ROK is faced with an enemy larger than was once thought, this obstacle to maneuver takes on more importance.

U.S. GROUND FORCES: SHOULD THEY STAY?

Two things should be emphasized regarding the relative significance of the 2d Infantry Division in South Korea. First, the troops are there primarily as a deterrent to war, a guarantee that the United States would become involved in any combat there, and, thus, a sign of American commitment to South Korea and to Asian allies generally, especially Japan. Second, the U.S. ground forces would not make very much difference in a war from a military standpoint. With or without the 2d Division, it is conceivable that, under certain circumstances, the North Koreans could stage an invasion and make it as far as Seoul anyway.

The troops that President Carter plans to withdraw constitute less than 6 percent of the total active ground force strength in South Korea. The ROK has, in addition to its 510,000 ready ground forces, another 1.1 million men in the Army reserves (as does North Korea). In other words, by the time the war begins, and particularly as the war transpires, the relative significance of the American forces will become slighter still. (The United States could reinforce the 2d Division with troops now stationed elsewhere in the Pacific or even in the continental United States, but they and their equipment would have to be air- or sea-lifted, and so would take some time to arrive. Even then, their numbers would be very small in comparison with those the ROK can rapidly mobilize.)

The American commitment would be clear and present even if the 2d Infantry Division departed; there would still be 16,000 U.S. military personnel, thousands of U.S. dependents, and substantial American tactical airpower.

If, however, the presence of the 2d Division is more politically than militarily significant to begin with, and if the U.S. Government plans to remain committed to the defense of South Korea even after the ground forces are withdrawn, then the administration's plan seems ill advised at this time.

Withdrawal of forces, in the wake of the new estimates of comparative military strength, would have substantial political impact—all the more since everyone recognizes the primarily political import of the troops' presence. Withdrawal would make Asian allies edgy about the nature of the American role in the entire region. It would probably incite still more crackdowns on domestic dissidents in South Korea, and possibly provide additional incentive to the ROK to develop its own nuclear arsenal. It would also worsen historically spiteful relations between the two Korean Governments, at a time when some evidence suggests that the North might be more inclined toward serious negotiations than has been the case for several years.

Cumulatively, these consequences would heighten tension in northeast Asia, and could increase the chances of war between North Korea and South Korea.

ECONOMICS

The economics of this troop withdrawal program are also questionable. If the United States were to phase out its entire commitment—pull out all troops and military equipment, deactivate the 2d Infantry Division, and redeploy all other forces intended for reinforcement on the Korean peninsula—then cost savings would be substantial, probably around $13 billion a year. In the administration's plan, however, the ground forces are only to be withdrawn, not dismantled.

Thus, the Department of Defense has calculated that the withdrawal will, in fact, cost more money—about $1.5 billion to $2.4 billion—in fiscal year 1978 dollars—broken down as follows:

	($million)
1. Removal of select 2d. Div. equipment	5-10
2. Transfer to ROK of 2d. Div. equipment	800
3. Military construction needed to rebase 2d. Div	300-800
4. Mechanization of 2d. Div	380-760
TOTAL	1,485-2,370

This may be an overstatement. Further mechanization of the division does not have to be a part of the withdrawal plan, particularly if the division is reequipped, retrained, and redeployed for certain non-European contingencies. Thus, withdrawal costs, per se, may fall more in the region of $725 million to $2 billion.

Further, DOD failed to consider long-term savings resulting from elimination of the need to transport so many American servicemen—and their personal logistics supplies—from the United States to South Korea and back on a regular basis. This savings would amount to $40 million a year, meaning that the initial cost of the withdrawal plan could conceivably be recovered in as few as 18 years. Still, $725 million or $2 billion is a large capital expenditure for a plan of dubious political or military merit.

WITHDRAWAL IN PERSPECTIVE

The withdrawal of all U.S. forces from South Korea should remain our ultimate goal. However, it should be viewed in the broader context of relaxing tensions and reaching a state of peace between North and South Korea. Removal of U.S. troops should be contingent on mutual force reductions, confidence-building measures and other favorable political developments between the two Governments. The troop presence should also be used as a bargaining lever to help achieve those goals.

It should be kept in mind that the administration's withdrawal schedule was planned at a time when North Korean ground forces were believed to be 18 to 25 percent smaller and when they were thought to have nearly 30 percent fewer tanks and nearly 20 percent fewer artillery tubes and armored personnel carriers than they are estimated to have today. To continue withdrawing, undaunted, along the same course and the same schedule, even while the military situation has changed in a fairly dramatic way, would be political folly and may further set back the possibilities of a peaceful settlement.

Rather than arbitrarily withdrawing troops, the United States should recognize the political value of its military presence and encourage serious military and political negotiations between North and South Korea. Until now, the United States has allowed the Republic of Korea to dominate all consideration of negotiations and to establish the terms under which they would proceed. The Republic of Korea refuses even to consider military talks, although the North Koreans—whether sincerely or for propaganda purposes—have offered several proposals in recent years.

This situation should be changed. The United States should not allow its foreign policy options to be determined by a country it is supposedly protecting. It should take the initiative instead. Troops should be withdrawn eventually, but the United States must first move to create the political context within which they can be withdrawn sensibly, unprovocatively, purposefully.

It is interesting to note, in this regard, that Japan's much-noted objections to the troop withdrawal plan focused not so much on the withdrawal itself as on the absence of any attempt to couple the plan with negotiations toward a settlement on the Korean peninsula.

Implementing a withdrawal plan that was conceived in the heat of a presidential campaign, and drawn up when the military and political situation in Korea was different, would send the wrong signals, would severely limit America's capacity to serve as a facilitator of peace and may, like many other good intentions, backfire disastrously.●

TRIBUTE TO PAUL BELL

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. LEWIS. Mr. Speaker, if as Emerson once said, "the test of whether one had succeeded in life lies in whether or not other lives have benefited"—then Paul Bell's life and career is an endless mosaic of successes.

Born in McPherson, Kans., Paul Bell moved to Redlands at the age of 6 and completed his public school education in that city's schools. He proceeded to attend the University of Redlands with the hope of eventually becoming a dentist. A graduate of the class of 1941, he had begun his fifth year toward that goal when Pearl Harbor and the onset of World War II changed his plans—and eventually enriching the lives of thousands of youths in the San Bernardino area. Enlisting in the Army Air Force as a private shortly after the beginning of the war, he went on to attend officers training school and in 1945, was discharged as a captain and in January of 1979, retired from the Reserves with the rank of lieutenant colonel. Shortly after his discharge Paul Bell accepted a position with the San Bernardino School District as a teacher at Arrowview Junior High School. It has been at this same school that his love of children, and of all humanity, has come to fruition. For 34 years, he has helped shape the lives of countless young people, exposing their minds to the noble concepts of love of country, of their fellowman, and of God. Today, many children of his former pupils are also experiencing the joy of learning from this same man.

During his three and one-half decades at Arrowview, Paul Bell has been the only adviser for that school's student government. A firm believer that to be a good citizen one must be prepared to participate, he has given countless extra hours to this organization in the hope of guiding young citizens as they learn that the "good" things in life must be earned, and that playing an active role in their community and Nation is an integral part of achieving thir goal.

During the 1950's, Paul managed the swimming pool for the San Bernardino City Recreation Department for the summer months. Hired primarily to set up the swimming program, he again gave 110 percent of himself, and the youngsters who would have spent many hours in idle time were instead "turned on" to swimming. Long a sports fan, Paul continues to officiate at collegiate-level sports events throughout the area.

One other important part of Paul's life must be mentioned—his love of God and his work with Calvary Baptist Church in San Bernardino. For many years he has ushered at this church and is known to the children in the congregation—for some mysterious reason—as the "candy man." He has also devoted many long hours to his job as chairman of its special property committee, which was instrumental in developing plans, and needed resources, for its fellowship hall. He also serves on the alumni board of the University of Redlands, his alma mater.

By all standards, Paul Bell must be considered a lucky man. He has a loving wife, Sue, and three Children—"Chip," Patty, and Jeff—who bear testimony to the family life in which they were nurtured. But, if we remember his belief that one earns the good things he experiences in his life the blessings he now experiences are the result of a life spent serving and inspiring others.

Being one of those who was "turned on" by the inspiration of his example, it is a pleasure to join with all of his family and so many friends in paying tribute and saying thanks to Paul Bell.●

HENRY L. GAGNE

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mrs. HECKLER. Mr. Speaker, in towns and cities across the Nation, there are certain rare and special individuals who give so much of themselves to their communities—and do so without compensation. Henry L. Gagne of Taunton, Mass., was such an individual, and last month, he was posthumously awarded the Jaycees' "Distinguished Service Award." This is a prestigious and well-deserved recognition of his active community service and selfless concern for others. It is a privilege to have this opportunity to share with my colleagues his outstanding record of public service:

HENRY L. GAGNE, DIED JAN. 13, 1979

Firefighter at Camp Myles Standish during its early construction days in 1942.

Enlisted in the Navy Seabees as a firefighter and served in Saipan. Discharged in December 1945.

Returned as a firefighter at Camp Myles Standish until it was closed by the Government.

Went to work as an auto mechanic at Newton Motor Sales in Newton, Mass, where he was employed for over 21 years.

In 1970 he opened his own garage which he operated until the time of his death.

He was a member of Civil Defense for many years and had been appointed its Deputy Director about 1 year previous to his death.

FLOODLIGHT TRUCK

Used on many occasions by the fire depart during night fires. Used by the police department during grappling operations and SCUBA diving operations at drownings in Sabbatia Lake. Used at night as a beacon for persons lost in the woods.

SCUBA TRUCK

He built and maintained a converted Army truck for the use of the Taunton Police Department SCUBA diving team and received an award from that department for his good work and dedication in 1975.

JAWS OF LIFE

Taunton was one of the first cities to receive a set of "Jaws of Life" which no one knew how to operate. Henry learned how to operate this unit on his own time and then gave lessons to the police department by letting them practice on "Junk" cars which he had in his yard.

FLOOD DANGERS

Whenever there were threats of floods in the city, Henry always took on the assignment of watching Moreys Dam. Several years ago when there were severe threats, Henry took the full week off from work (without pay) so that he could keep City Hall informed at all times about the rising water.

DUNK TANK

He built a dunk tank such as he had seen on TV and used it at "Kiddies Day". All the materials he used in the construction of this unit came from his own supply. He was never paid by the City of Taunton for any of his work or materials used. Any money that he made with this unit was given to the "Kiddies Day Fund."

"KIDDIE TRAIN"

He built two small trailers which he would tow around the grounds with a riding lawn mower and give the small children a ride.●

NEW ASSISTANCE FOR SMALL BUSINESS OFFERED

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. LENT. Mr. Speaker, as one who has held a lifelong belief that small businesses form the backbone of our economy—indeed, of our Nation—and who has continually fought in the U.S. Congress for legislation to encourage the growth and development of small business, and to curb the Federal Government's regulatory and financial strangulation of small business, I would like to call to the attention of my colleagues a most important avenue of aid for them.

One of my constituents, and a valued friend, Dr. Thomas V. Sobczak, Ph. D., of Baldwin, N.Y., has developed a major new service which deserves attention from any friend of small business.

Briefly, Dr. Sobczak has formed an organization called the Little People's Productivity Center (LPPC). LPPC is designed to provide small businesses with information about simplified business systems they can use at a fraction of the cost large productivity centers assess.

Dr. Sobczak's innovative concept is to modify and simplify super systems developed and used by big government, big business, and big education so that a small business can enjoy their advantages without having to go bankrupt purchasing expensive hardware and software. For example, Dr. Sobczak has simplified a large-scale inventory production control system to operate on an HP65 calculator. In fact, wherever possible, his adaptations are oriented to the use of manual effort and calculators.

The simplified systems are designed to be of use to small manufacturers, job shops and distributors, but are also valuable to individuals who simply want to keep abreast of the state-of-the-art in the business systems field.

Dr. Sobczak's LPPC offers assistance for small business in such areas as Order Entry Sytems, Inventory Control, Work-in-Process Systems, Project Cost Control, Factory Data Collection, Classification and Coding, Symbology and Scanners, Accounts Receivable, Factory Control Systems and Productivity.

It is easy to see that use of the LPPC simplified business system offers substantial benefits in better operation of small businesses. But Dr. Sobczak does not stop there. With typical brilliant vision, Tom Sobczak is projecting the LPPC as a major force working for small businessmen in such areas as reducing costs and prices through volume buying; scholarships for small business research; generating real influence on behalf of small business in the redtape jungles of big government in Washington; and in securing a fair share of government-sponsored research beneficial to small business.

Mr. Speaker, this short summary of the new Little People's Productivity Center in Baldwin, N.Y. does not do real justice to the major benefits it offers to its members, nor to the brilliance of the concepts involved in its founding and development. But I hope it will serve to acquaint official Washington, and especially my colleagues with this tremendously valuable new service available to small manufacturers, job shops, and distributors all across our Nation at one-fiftieth the cost of joining a large productivity center.

In truth, Tom Sobczak has conceived a major and positive program for assisting the harried small businessman to better meet and overcome his many problems. It is a contribution to progress and improvement in productivity in our great country.

I urge my colleagues to direct the attention of their small business constituents to the LPPC, and I am confident that its benefits, so readily apparent, will persuade small businesses across the Nation to beat a path to Tom Sobczak's door.●

THE BOSTON GLOBE OPPOSES H.R. 2609 AND INCREASED COSTS OF THE YUMA DESALTING PLANT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. BROWN of California. Mr. Speaker, I have on several occasions brought to my colleagues attention H.R. 2609, a bill to more than double authorizations for title I of the Colorado River Basin Salinity Control Act. This is the legislation which, if approved, will allow the construction of the largest desalting plant in the world to keep fewer than 150 farms in operation in southwest Arizona.

As an opponent of rushing ahead with this proposal before cheaper alternatives are examined, I was pleased to see an editorial from the Boston Sunday Globe opposing this waste of taxpayers' money. I only have one problem with the editorial, and that is that they seriously underestimate the true costs of this project by relying upon the administration's official version. The House Interior Committee has already added $23 million to the administration's sliding cost estimate, making even the "official" version a $201 million increase in appropriations. In testimony before the Senate, the Department of Interior stated that eventual construction costs could rise to over $500 million, up from the present estimate of $356,400,000.

Finally, and this point is most important, none of these estimates include operation and maintenance costs, which are a fixed future cost to the taxpayers, which could run anywhere from $700 million additonal money to $2 billion over the lifetime of the desalting plant.

Mr. Speaker, I urge a careful review of H.R. 2609, and commend the following editorial to my colleagues.

The editorial follows:

[From the Boston Sunday Globe, May 27, 1979]

THE PRICE OF A SWEET RIVER

In the wondrous world of Washington politics $178 million is not much, and so, with a minimum of debate, key committees in the House and Senate have now approved a $178 million increase in the appropriation for what by a factor of 10 would be the world's largest desalinization plant. That sum would bring the total price tag for the facility, to be located on the Colorado River near Yuma, Ariz., to $333 million.

That $178 million could be committed so nonchalantly in an era of supposed government austerity is bothersome. Even more troubling is the light the Yuma project casts on the nation's system of water-project politics, where the sums are counted not in the millions but in the tens of billions.

The high-energy, high-cost desalinization plant is advertised as a demonstration of the United States' fidelity to a 1944 treaty with Mexico which guarantees that nation 1.5 million acre-feet of Colorado River water annually. Yet it is just a Band-aid remedy.

As water from the upper Colorado has been diverted to new development and to agricultural irrigation projects, the decreasing stock of fresh flows combined with the increased salinity resulting from its passage through southwestern farmland has made the water flowing into Mexico too saline to serve that nation's agricultural needs.

Mexico complained earlier in the decade, and the proposed solution was construction of the huge Yuma facility. Now, before work has even begun, its costs have doubled. And absolutely nothing has been done to halt the ever-expanding use of the Colorado River's water, both to serve new development and to irrigate more land. Without a halt the Colorado's waters will become ever more saline, the demand for more desalinization plants ever louder and the burden on the taxpayers of the whole nation ever greater.

If the Congress is serious about its commitment to austerity, it will consider whether it might be more economical to encourage less water-intensive agriculture around Yuma and/or to buy out the farmers whose lands are irrigated by the Colorado. It will consider whether the nation as a whole should finance the economic growth of one region. It will consider whether the Southwest has been sufficiently aggressive in pursuing conservation measures that could make the water it does have go further. Finally, it will demand that the executive branch undertake a comprehensive review of the long-range plans for the Colorado.

The State Department has pressed for quick action on the desalination plant as a sign of good faith toward Mexico. That has new political appeal because of Mexico's emergence as a significant oil and natural gas producer. Yet the nation's shortsighted, piecemeal approach to the Colorado's waters only guarantees recurrent and more severe problems in the future. And when we have to confront those problems, the $178 million now proposed for a temporary Band-aid solution really will look cheap.●

UNCIVIL SERVICE

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. SHUMWAY. Mr. Speaker, the cover story in the June 11 issue of U.S. News & World Report was entitled "Bureaucrats—How Good, How Bad." Coincidentally, after reading that article, I was treated to a first-hand experience of the "how bad" aspect of bureaucracy, courtesy of the Department of Labor as well as CETA. While I have had few opportunities to delve deeply into bureaucratic mysteries thus far in my congressional career, this recent ordeal has firmly convinced me of one fact: at least some employees of the so-called fourth branch of Government are uncaring, unresponsive, and unwilling to correct either of the former faults.

The details of this remarkable series of events will require some time to tell. However, I urgently appeal to my colleagues to read on, for surely their comments as to whether or not this constitutes "routine response" will be vital to me.

Within my congressional district, a Federal investigation is being conducted by the Department of Labor's Office of the Inspector General into alleged misconduct on the part of a local CETA official. For the better part of 3 weeks, enormous front page stories depicting this probe have appeared in the Stockton Record, my hometown daily newspaper. While I could hardly help but be aware of the matter considering the intensive coverage given to it, I determined to remain out of the picture. To my way of thinking, it was prudent, just, and responsible to permit what I assumed to be a fair and impartial investigation to proceed without my intervention.

However, on June 7, I received a telephone call from an investigative reporter who has been making every effort to present the facts in this case to the public. He contacted me, I believe, out of total frustration; this is, after all, a Federal matter, and I am the legislator with Federal jurisdiction most readily available to him.

This reporter outlined some alarming circumstances to me: he spoke of his belief that evidence was being confiscated, that files were being withheld, that those conducting the investigation on various levels were speaking from more than one side of their respective mouths, and that impropriety was perhaps rampant.

After hanging up, I considered his remarks carefully. Now, I should point out here that my chief objective in this job, while it may perhaps seem naive to seasoned congressional veterans, is to restore faith in Government. I could not help but be reminded of events a few years back—events involving the term "confiscated evidence" and the like—which probably did more to damage American trust in Government than any other single domestic incident. It seemed to me that the time had come to seek some answers. The most efficient approach, I believed, would be to request an objective, knowledgeable and impartial briefing from the appropriate individual in the Washington-based office of either DOL or CETA. My intention was simply to clear up confusion, to prevent the facts from being misrepresented in the press or by word of mouth and, of course, to see justice served.

Therefore, I instructed a member of my staff to contact the Labor Department and arrange an appointment for me with whomever qualified to deliver such a briefing. My aide was told by Labor to contact Mr. William Harris' office; Mr. Harris apparently heads up CETA's Investigations and Compliance Office. Upon so doing, my staff member was again referred elsewhere, this time to a Mr. Bryan Walsh. When Mr. Walsh was reached, his response was as follows: "How did you get my number? I'd like to know who is routing these calls to me." It seems he had received more than one congressional inquiry in this regard. He further stated that not only had he nothing to do with the investigation—he was not aware of the fact that there was any investigation. My aide assured him that we knew there was, as did anyone else capable of reading the newspapers. He seemed surprised, and indicated that he would call back.

Mr. Walsh's return call had quite a different tone. By this time, not only did he know there was an investigation—he was quite well informed as to exactly who was in charge of it. Mr. Walsh instructed my aide to contact Mr. Stuart Edders, national office coordinator for the Inspector General's Office, who was in charge of the probe.

This was done. My staff member explained my goal to Mr. Edders: securing a briefing to preclude further rumors and suspicions. He replied that DOL's policy specifically prohibits the briefing of Members of Congress during such investigations in the interest of avoiding any prejudice should the probe in question reveal a criminal case. However, Mr. Edders did suggest that we contact Labor's Legislative Office. What, inquired my aide, would they be able to do for us that Edders' office could not?

Well, he said, really all they can do is to confirm that there is an investigation going on.

He was assured by my aide that we were fully cognizant of the investigation; once again the newspaper coverage was mentioned.

He seemed alarmed. "Newspapers? What newspapers?" he said. He had not been apprised of any press coverage. What did it say? Who did the papers claim was conducting the investigation?

Now, to me, this chain of events is asinine. As an attorney, I fully respect the need to preclude potential prejudice in cases which may turn out to be criminal; I am well aware of the fact that disparaging news coverage can result in difficulty when it comes to insuring "fair trials." However, in this instance my efforts sought only to prevent such prejudicing actions; my objective was to do away with rumor and innuendo. Certainly I did not expect the Inspector General to come to my office and proclaim the guilt or innocence of the party in question.

Individuals at Labor and CETA with whom conversations took place appeared determined to be as unhelpful and challenging as possible. The ridiculous insistence on denying that there was any investigation is what baffles me most—in each instance, the conversations were commenced by mentioning the frustrations of the press. Obviously we knew there was an investigation going on; we would not have been calling otherwise.

Most irritating of all was the response of Mr. Walsh: what right has a "public servant," answerable to Congress and the American people, to inquire where I "got his number?" Is he occupying some ivory tower where he may be reached only by a privileged few? Hardly.

And what of Mr. Edders? Is he so given to handing out pat responses that he cannot any longer comprehend the human element in such situations? Has he forgotten that he, like Mr. Walsh, like every other individual including myself whose salary is footed by the taxpayers, has a mandate to serve those taxpayers?

The concept of "public service" is clearly in need of rejuvenation. I would like to conclude by saying that this is not the end of the matter where I am concerned: if my congressional office experienced such a stone wall when attempting to confront the bureaucracy in a reasonable manner, what on Earth must happen when the average citizen takes the same course? I shudder to think.

If any prejudicial coverage is given to this proceeding, it will surely be the fault of impenetrable bureaucrats, rather than that of those seeking to implement freedom of the press.●

CAPITAL PUNISHMENT: MISGUIDED JUSTICE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. STOKES. Mr. Speaker, the recent electrocution of John Spenkelink may signal the opening of the floodgate to the inhumane act of capital punishment in this country. Capital punishment, often used as a synonym for "justice," will undoubtedly work disproportionately against certain segments of the American population—minorities, the disadvantaged, and the poor. John Spenkelink and the many minorities on death row in this country are prime examples of this.

I, like many of my colleagues, believe that capital punishment is cruel and unusual punishment. Instead of being a form of "justice" for victims of criminal acts, it victimizes human beings incarcerated in our penal institutions.

The more financially fortunate criminals will avoid the electric chair. The criminals who become State witnesses or cooperate in other instances may receive lesser convictions. But, inevitably, the disadvantaged and minorities will be faced with the real possibility of being executed. This constitutes, in my mind, a sort of irresponsible game of Russian roulette with people's lives in the name of "justice."

Therefore, Mr. Speaker, I would like to take this opportunity to enter into the RECORD, a column, which appeared in the June 4, 1979 edition of the Washington Post on capital punishment. It was written by Tom Braden and is the finest treatise I have ever read on this subject.

[From the Washington Post, June 4, 1979]

IT JUST WORKS OUT THAT WAY

(By Tom Braden)

The remarks of John Spenkelink's accomplice in murder seems to me to say a great deal about capital punishment. Asked to comment on Spenkelink's death sentence, a drifter named Frank Brum, who turned state's evidence and was thereafter freed, had this to say:

"I didn't intend for John to take the rap. It just worked out that way."

This is what I find wrong with capital punishment in our land and why I think we ought to abolish it. The parceling out of the death penalty is subject not only to whim, to prejudice, to local passion, to the manner in which those who represent what is called the state happen to feel on a given day. It is also subject to chance.

Here are two men who actually did murder another. One goes free, the other is sentenced to die. "It just works out that way."

But isn't there something unjust about it? And now that Spenkelink has been electrocuted, if we should some day say, "Yes, there is something unjust about it," it's too late, isn't it?

Take another example. San Francisco Supervisor Dan White shoots his city's mayor, then walks down the hall, enters the office of fellow Supervisor Harvey Milk, and shoots him. White's penalty is seven years and eight months in jail. "It just works out that way."

I wish it didn't work out so very frequently that the man who draws the death penalty is poor. It may be that during my lifetime there have been people placed in the electric chair or hanged who were accustomed to wearing three-piece suits before they committed their crimes. Is it faulty memory on my part that I cannot name one? Every death sentence that has been carried out and which comes now to mind has been that of a very poor man. "It just works out that way."

Supervisor White had very good legal counsel. He was an educated man. After his crime, he recorded a confession that was said to have been very moving and to have much influenced the jury in its decision to award him the lightest of penalties.

John Spenkelink, on the other hand, had—by all accounts—very poor legal counsel. Nor did he have access to a recording machine to say how he felt about what he had done. Nor the brain to have thought to do so, nor the language ability to have done it well.

Besides, Spenkelink was unimportant, a nobody. White was a somebody. "It just works out that way." I realize that the Supreme Court has tried to bring state laws into an area of definiteness and that it has to some extent succeeded. But the precise definition of what constitutes a capital crime was never the main problem with capital punishment. Because no matter how the death sentence law is written in any of the states of the union, death penalties go on being handed out almost exclusively to poor people, including an astonishingly disproportionate number of black people.

Capital punishment is wrong because it is unfair. Proponents of the death penalty say, yes, but all life is unfair. People commit crimes. Some of them get caught and some of them don't. That's unfair, too, and we have to live with it.

The trouble with this argument is that every unfairness except the death penalty is subject to correction. When we kill a man we put him beyond recompense. We may sometime decide that the death penalty is Russian roulette and that the only fair thing to do is to get rid of it, thus preventing ourselves from making a mistake or committing a crime of exercising final judgment according to the income of the judged and the ability of his lawyers.

But the problem is, of course, that John Spenkelink is dead.●

ARMENIAN INDEPENDENCE OBSERVED

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

Mr. DRINAN. Mr. Speaker, May 28 marked the anniversary of the formation of the independent Republic of Armenia in 1918, formally recognized by the Treaty of Sevres which granted the Armenian people the right to self-determination over most of their historic homeland. This date reminds us of the Armenians' historical, moral, and legal claim to their lost independent state.

Surviving for over 3,000 years as a people is a formidable achievement for any group. Geographically located at the crossroads of civilizations, the Armenians weathered centuries of foreign invaders. As the first people to adopt Christianity as a state religion they were subjected to endless harassment. In spite of these difficulties, Armenian culture flourished, producing magnificent works of art, architecture, literature, and scientific achievement.

From 1894 to 1896 under the tyrannical rule of the Ottoman Empire, they experienced the massacres of the despot, Abdul Hamid. Then in 1915 the first genocide of the 20th century was planned and executed on the Armenians, as recorded in the proposed "paragraph 30" of the United Nations study of the "Question of the Prevention and Punishment of the Crime of Genocide." Over 1½ million helpless people were slaughtered and the rest were forcibly deported, so that where a great people were once assembled, few remained.

In order to survive, the Armenians battled against enormous odds to fight off their oppressors, and finally established their independence in 1918 with the help of President Wilson and the Allied Powers. The Armenians hoped that they could finally live in peace and build their country.

This hope was soon dispelled as the forces of Turkey and the Soviet Union invaded and crushed the Armenian state in its infancy. The republic was conquered on December 4, 1920.

Today the Armenians are a people in exile. Scattered all over the world, they cry out for justice, while making significant contributions to their adopted homelands. In the United States, the Armenian population contributes to the arts, education, business, and other areas. Their support for democratic principles has been steadfast over the years.

While the Armenians contribute and dedicate themselves unselfishly, they maintain their aspirations of achieving their national goals. It is our duty to understand their problem, and help their cause.

For too long the Armenian genocide has gone unnoticed. For too long the significance of May 28, 1918, and December 4, 1920, has been ignored. For too long their human rights have been passively overlooked. Hopefully, the day will soon arrive when the Armenian case will receive the attention it deserves.

PET OWNERSHIP AND THE ELDERLY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. BIAGGI. Mr. Speaker, in last Sunday's Parade magazine a most interesting article appeared focusing on the largely overlooked issue of the psychological benefits of pet ownership. The article concludes that for special segments of the population, pet ownership is vital to mental health. One such group is the elderly.

I have introduced legislation H.R. 1911 which recognizes the inherent value of pet ownership for the elderly and handicapped. My legislation would ban the prohibition of pets from federally subsidized housing for the elderly and handicapped. This would result in those tenants living in this type of housing to own pets. In the interest of fairness, this right is not extended to animals which pose a health or safety threat.

The fact is pet ownership is important to the mental health of many senior citizens. As I have pointed out on other occasions, the demographics to a rapid increase in the number of senior citizens in this Nation. Within this phenomenon is the fact that those elderly living alone are growing at an especially rapid rate. For example in my home city of New York, those elderly living alone comprise the fastest growing segment of the entire over 65 population. For the older person living alone a pet can comprise the only form of companionship. It can help promote safety for a senior citizen. A pet can aid in mobility for a handicapped person.

As chairman of the House Select Committee on Aging's Subcommittee on Human Services I intend to conduct hearings in New York City in the very near future on my legislation and the issue of pet ownership for the elderly and handicapped. I urge my colleagues to bring to my attention any instances that they are aware of elderly or handicapped tenants living in Federal subsidized housing who may have faced eviction due to pet ownership.

At this point in the Record I insert the Parade magazine article entitled "Best Friend—Best Therapy?"

"BEST FRIEND" BEST THERAPY?

(By Lawrence Galton)

At the University of Maryland Hospital in Baltimore not long ago, 64 men and 28 women became the subjects of a study that was to upset the notions of many physicians.

All had been hospitalized because of heart attack or severe chest pain, indicating serious heart disease. All recovered after treatment in intensive-care units and in time went home.

But while in the hospital, all had been studied intensively not just in terms of their disease. Dr. Erika Friedmann and other investigators had made a special study of factors in the patients' lives—environmental stress, economic status, social contacts, and others which might have any influence on the course of their illness.

One factor stood out: of the 92 patients, 39 did not own pets. Within a year of their hospital admission, 11 of these patients had died. In contrast, all but three of the 53 pet owners were alive at the end of the year.

The findings, as the journal of the American Medical Association notes, "fly in the face of the advice given by some physicians to dispose of pets because they might be an unnecessary burden." On the basis of her study, Dr. Friedmann has urged that "pet ownership should be investigated as a therapeutic tool."

Recently the recuperative effects of pets have been coming in for increasing study. And the gratifying, even somewhat astonishing findings have application to problems other than heart trouble.

In Britain, for example, investigators set out to determine the effects of pets on social attitudes and mental and physical health in people aged 75 to 81. Some of the subjects, who lived alone in an urban area of Hull, East Yorkshire, were given budgerigars because the small, colorful birds are easy to care for.

Several study groups were set up. Groups 1 and 2 owned TV sets; groups 3 and 4 did not. The investigators expected that a pet might be less significant in the life of an older person who owned a TV set than one who did not, but they wanted to find out definitely through comparison.

Members of groups 1 and 3 were given budgerigars, and those in groups 2 and 4 received begonia house plants.

The presence of the birds made a consistent, significant difference in the lives of the study subjects, while the presence or absence of TV sets had no detectable effect.

Not only was there a surprisingly intimate attachment to the birds, but investigators "found in our visits that they had become such a powerful tool for conversation that they could even displace the monotonous awareness and discussion of past and pending medical ailments."

In the U.S., Dr. Samuel A. Corson and his colleagues at the Ohio State University Department of Psychiatry, Columbus, have been exploring "pet-facilitated psychotherapy" in a psychiatric hospital and a nursing home.

These studies began almost fortuitously. Corson had set out to observe the effects of stress on dog, hoping to gain insights into the effects on humans. A "dog ward" was established at the Ohio State University Psychiatric Hospital.

Some patients, especially adolescents who had been uncommunicative throughout their hospital stay, began to ask to play with or help take care of the dogs.

So the Corson team began to plan a study. They chose 50 of the most seriously ill patients, who had not responded to traditional forms of psychiatric treatment.

Animals from the "dog ward" were introduced to the patients—in the kennels, on the patient ward, even to patients who spent most of their time in bed.

Only three refused to accept a dog. All the others soon were showing a degree of improvement—in some cases, remarkable improvement.

Sonny, a 19-year-old psychotic, had spent almost all of his time lying in bed, barring all efforts of the staff to get him to move about. He refused to participate in occupational, recreational or group therapy, did not respond to drugs. Before scheduled shock therapy was started, a wirehaired fox terrier named Arwyn was brought to Sonny.

What followed astonished the researchers. Sonny tumbled the dog about joyously, asked where he could keep her, followed her when she jumped to the floor. He soon opened up to therapy and to other patients, later recovered and was discharged.

Marsha, a 23-year-old licensed practical nurse had been brought to the hospital disoriented, shouting "destroy the world." Diagnosis: catetonic schizophrenia. Drug treatment failed to help. Electroshock—25 sessions of it—did no good. She had become increasingly withdrawn, frozen, almost mute.

For the first few hours after being given a dog, she remained withdrawn. But then she began to communicate with the dog; and when the pet was taken away, she went after it. Before long she was walking and stroking the dog and soon communicating with other patients about the pet. Later she, too, was discharged.

Despite the program's success, it had to be stopped. Research funds ran out; the dog colony had to be disbanded. However, the Castle Nursing Homes in Millersburg, Ohio, took most of the dogs and carried on research.

There the pets were welcomed by the elderly residents, many of them bedridden or in wheelchairs. Well-trained wirehair fox terriers and small poodles (miniatures, teacups) proved to be especially appealing to love-hungry, depressed, withdrawn residents and those with low mobility.

"These dogs," report the researchers, "with their resiliance, aggressive friendliness, good humor, and playfulness, served as effective ice-breakers and social matchmakers."

After relating positively to the pets, the elderly residents began to relate to other residents and nursing home personnel. One spoke his first words in years, exclaiming in delight: "You brought that dog!"

"Use of pets," says Dr. Corson, "is not a cure but rather a facilitator. It doesn't cure old age, but we think it can bring these patients out emotionally so they think better of themselves and interact more effectively with others. And it can bring them out physically because they often begin to romp or walk with the dog."

Pet-facilitated psychotherapy is still in its early stages. More research is needed on selecting and training appropriate dogs or other pets to meet particular needs of patients in mental health hospitals or other custodial institutions, including nursing homes—and, possibly, Dr. Corson says, some penal institutions as well.

"Eventually," he says, "we would like to have a properly funded research and training program for pet animals and therapists to develop Feeling Heart dogs to do for mental health programs what Seeing Eye dogs do for the blind."●

ENERGY AND THE RADIATION MYTH

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. WYDLER. Mr. Speaker, our once dynamic society is shackling itself in an energy myth. This myth has developed a cult following that is increasingly strident. The myth is that nuclear energy presents unusual dangers from radiation. This myth is being used to stop the peaceful applications of nuclear energy.

For the Congress to responsibly discharge its legislative and oversight functions, we must dispel this myth and use the facts about radiation. Actually, nuclear energy results in less radiation exposure to the public than energy from coal and far less than from natural gas. Yet repeatedly the Congress stresses radiation from nuclear energy, although not from these other more significant sources. It appears that the Congress has unwittingly been enveloped in this radiation myth.

How can we dispel this myth so we can objectively consider the important energy issues before us? First of all, the facts about radiation exposures must be presented in a way that can be commonly understood.

RADIATION FROM COAL

We, and our forefathers, have always lived immersed in a sea of natural radiation. It showers down upon us from the sky, is emitted from atoms in our own bodies, and is emitted by the soils below us and stones around us in our buildings. The fact that it is emitted by the soils and stones is the key to understanding the radiation exposures from coal. Although it is primarily carbon, coal is typical of other rocks and soils by containing minute quantiites of the radioactive elements uranium and thorium. Even though there are only a very few radioactive atoms for every million atoms of carbon, 1 million tons of coal are consumed each year in a single powerplant. That means that the tons of uranium and thorium contained in the coal are removed from their underground protection for humans and brought to the surface of the Earth. A small fraction is emitted by the smokestacks and settles down among us, producing a surface film of these radioactive elements on the Earth.

This surface film of radioactive elements from coal energy sounds frightening. But actually, radiation doses from coal or nuclear energy are among the least of the various radiation doses we all unavoidably receive. Coal energy results in an average of 0.1 millirem dose per year to the general public—the term millirem is a unit of radiation dose. Nuclear energy results in an average of one-third this dose. These small exposures should be compared to the approximately 100-millirem minimum dose received from a chest X-ray, or individually received each year from the unavoidable cosmic rays, body-generated radiation, and terrestrial radiation that I have mentioned. While remembering that radiation exposures from coal and nuclear energy are minute, we should recognize that the average radiation dose to the public from a single full-size powerplant is greater when it is coal-fired than when it is nuclear.

GREATEST FROM MEDICINE, BUILDINGS, AND GAS

Although radiation from any source of energy is small, let us turn to the energy source that results in the far largest radiation exposures. This is natural gas. Natural gas originates underground in regions containing radon, which emits radiation. Radon is a gaseous daughter element of radium. Radon flows along in the natural gas pipes, but is not burned by the pilot lights and burners of the unvented cooking stoves in homes. Only part of the population has natural-gas stoves, but the average dose to the Nation is 10 millirem per year from this source. We see that natural gas results in a hundred times greater radiation dose to the public than coal, and still greater than from nuclear. Yet the doses from this highest-radiation energy source, natural gas, is less than one-tenth of the radiation dose that the public receives from natural sources.

In being objective, we must remember that radiation doses from energy are among the least of the man-caused doses. Radiation from the healing arts, principally medical X-rays, results in a national average of about 85 millirem per year, which is many times more than even from the high-radiation natural gas. So also is the increased radiation exposure from living in brick or stone houses, rather than wood. The bricks or stones contain the radiation-producing uranium and thorium. Normally, residency in brick houses adds about 50 millirem per year doses, but some of our very massive stone buildings here on Capitol Hill add much more.

We see that energy production is a small part of the radiation doses we receive and that nuclear is among the least of these. But this is a narrow view of the hazards from energy. The real concern about fatalities from the normal day in, day out, production of energy is actually about the pulmonary ailments from the nitrogen oxides and sulfur oxides from burning of fossil fuels, principally coal. A full-size coal-fired plant results in over a dozen, generally unidentified, deaths per year largely from this cause. In contrast, a nuclear plant might result in a single death from all causes in perhaps 2 years of operation. When all is considered, coal-powered electricity steadily kills, but nuclear rarely does.

THREE MILE ISLAND

Particularly in the aftermath of the Three Mile Island incident, it is appropriate to consider radiation exposures from accidents at nuclear plants. We accurately know the radiation doses from that accident, where now-corrected plant inadequacies resulted in very substantial releases of radioactive gases from within the reactor. As I recently explained, we well understand the effects of radiation. Thus we know that perhaps one unidentifiable person might get cancer from this radiation release. This was a bad radiation release, hopefully not to be repeated. The Congress now has the opportunity to know the harm to the public from a nuclear accident, particularly compared to the harm from properly operating energy alternatives. Perhaps one fatality will eventually result from the radiation released during the worst 3 days of the Three Mile Island accident, but gaseous emissions from the Nation's coal-fired plants during these same days will result in scores of fatalities. Thus, during these days, overwhelmingly more fatalities resulted from coal-plant normal operations than from this worst of nuclear accidents. Yet, ironically, news media were quiet about coal, but deluged us with frightening nuclear coverage.

Mr. Speaker, we all deplore deaths due to any cause. In facing facts, we contend with the hazards as they really are, especially from radiation. I trust that my colleagues will dispel the erroneous myth of radiation danger being only from nuclear energy while they are dealing with the important energy problems which we face. The energy needs of this Nation require that we face realities.●

THE LONG GREY LINE—1979 EDITION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. GILMAN. Mr. Speaker, on Wednesday, June 6, the class of 1979 was commissioned at the U.S. Military Academy at West Point, in my 26th Congressional District in New York.

I had the honor to accompany this year's commencement speaker, Charles W. Duncan, Jr., the Deputy Secretary of Defense, to West Point for a most memorable morning and afternoon.

This year's edition of the "Long Grey Line" which included 864 new military officers, represents the last all-male graduating class (with the first female cadets being commissioned in June 1980.)

I was pleased that among the class of 1979 are 12 young men from the 26th District: Thomas J. Alfonso, West Nyack; John J. Cook III, the cadet first captain, from Highland Falls; Anthony A. Cucolo III, Suffern; Donald R. Curtis Jr., Newburgh; Brendan F. Flanagan, West Point; Jeffrey Grindrod, Monroe; Vincent Marucci Jr., Tappan; Chris T. Mitchell, Newburgh; Joseph A. Sladewski, Newburgh; Nicholas E. Smith, Newburgh; Victor A. Sweberg, Highland Falls; and Richard H. Hoff, West Point.

Mr. Speaker, I take pride in noting that both Lieutenants Cook and Sweberg, were listed as distinguished graduates of the class.

As this point in the RECORD I would like to insert for my colleagues' review, the text of Deputy Defense Secretary Duncan's address to the West Point class of 1979:

I am happy to be here, and to share with all of you this very special occasion, the Commissioning of the Class of 1979. As much as we agree that we're happy to be here, we recognize that this day—this ceremony—is made great not by our presence—but by what this Academy means to our Nation—what its contributions have been for almost 200 years—what they most certainly will be in the future—and, most importantly, by our great expectations for these First Classmen as they make a momentous new beginning in their lives.

In a few moments you First Classmen will make the transition from Cadet to Officer. You will pass from these stone and ivy precincts into a turbulent world, one in which you will assume a position of leadership, command, and responsibility in our Nation's Armed Forces.

I want to discuss with you today the characteristics of that complex world, the role that must be played by the United States, as a major world power and, inevitably, the leader of the free world; and also the role that must be played by you as the leaders of the Nation's Armed Forces in the twenty-first century.

The world is increasingly interdependent. Today, as never before, the United States depends upon, and must cooperate with, other nations in international, political, economic and military affairs. As a Nation, and as individual citizens, we have entered an era of unprecedented demands and challenges. Let's look at some of them.

Energy consumption has increased sharply. Petroleum supplies have proved exhaustible and progressively more expensive to exploit. We and our allies must learn to live in an age of perpetual energy crisis. We have become increasingly dependent on foreign sources. We are linked by a thin lifeline of tankers to the oil fields of the Persian Gulf—and the vital lines of friendship that link us to the nations that possess that oil seem at times equally thin. Alternative energy sources must be developed as an urgent national priority. To not do so is to permit a situation where any disruption in a tenuous supply relationship could cause grave economic, political and security problems.

The world's population continues to grow rapidly, increasing the contrasts and tensions between rich and poor nations. We face conflicts and competition between the developed nations of the West, and the undeveloped nations of the East and South. There is no way to ignore these differences in wealth; the world is too small, and the impact of events abroad too great for us to enjoy the luxury of isolation.

We face severe competition on the economic front, from friends and potential enemies alike. The strength of our economy, the strength of the dollar, and the balance of trade impact all our lives directly—in the prices we pay, the jobs we have available to us, the variety of products we can buy, and in many other ways.

And lastly, the destructive power of nuclear weapons continues to cause grave concern. The strategic nuclear balance has moved through several phases since the first explosion of a nuclear weapon in 1945. From then until roughly the end of the '40s and early '50s nuclear weapons were an exclusive U.S. monopoly. Although the Soviets had nuclear weapons in the '50s, they lacked our ability to deliver them. This has been called the era of massive retaliation. By the late 1950s, the Soviets had introduced a new system for delivery of nuclear weapons—the intercontinental ballistic missile—and, as history shows, they began prematurely to exploit their new capability by generating pressure on vital U.S. interests. We recognized that we could be attacked, and the age of U.S. invulnerability was over. We were moving towards mutual deterrence; a recognition of mutual vulnerability. An important consequence of this development was the birth of serious and increasing interest in arms control, of efforts to deescalate nuclear tensions, to reduce the size of nuclear arsenals, and the aggressive pursuit of nuclear non-proliferation. These efforts began in the Administration of President Johnson and have continued through the Administrations of President Nixon, Ford and Carter. In 1945, it seemed unthinkable that our national existence could ever be menaced by another power. But today that is the case. The world is turbulent; it is changing.

All of this means that we must maintain and improve the quality of political relationships, not only with our staunch allies, and friendly or neutral nations, but also with those with whom we compete. The world has come so close to international anarchy, both political and economic, that we must provide strong leadership to ensure the survival of that complex mix of social and political values we call freedom. The absence of such leadership will result, almost inevitably, in domination by whatever country has the strength and the will to dominate. The United States alone among world powers has the capacity to lead by example, and not by domination. It alone can serve as a symbol of the aspirations of other countries and individuals for peace, freedom and well-being.

For the United States, leadership must have as its foundation a high sense of confidence in our own national security. National security is not simply military strength, though military strength is a requisite of national security. The United States is by most measures the strongest nation on earth. No other country can match us in economic power, political and social cohesion, technological proficiency, international friendship, and national will. Only in military strength is one country, the Soviet Union, comparable.

Both national security and the exercise of leadership require military strength above all. We need military strength to have the capacity to wage peace. This is not novel. General George Washington spoke of the lasting need for the capacity to wage war in his message to Congress of December 3, 1793. He said: "There is a rank due to the United States among nations, which will be withheld, if not absolutely lost, by the reputation of weakness—if we desire to avoid insult we must be ready to repel it; if we desire to secure peace—it must be known that we are at all times ready for war."

Today, as in the past—we do not seek war, but we must be ready for it; by being ready, we hope to prevent war. To not be ready is to increase its likelihood. We have the ability and the will to ensure that our military strength remains unchallengeable.

We must budget for adequate strategic and conventional forces, for the necessary modernization of those forces, and to ensure that a satisfactory balance is maintained between us and the Soviet Union. In addition to doing what is necessary to ensure a strong defense posture, we must also seek equitable and verifiable arms control agreements which limit the military competition between the Soviet Union and the United States, and which deescalate international tensions.

Let's look at the situation today. What is the overall balance? It is one of rough equivalence. In strategic nuclear forces, the United States is ahead in some areas: deliberable warheads, heavy bomber numbers and payload, submarine quality and alert rates, and generally (but decresingly) in missile accuracy. The Soviet Union leads in other areas: missile throw-weight, missile numbers and the total number of delivery vehicles. Neither the United States nor the Soviet

Union is in a position today to exploit their strategic weapons without running the unacceptable risk of catastrophic retaliation. That is equivalence.

The trends in both the nuclear and the conventional military balance, however, are most disturbing. We can only speculate as to the reason why the Soviet Union has concentrated its resources to produce military weapons. The one output of Soviet society where achievements are readily apparent is the buildup of military strength. The Soviet failure to compete successfully in other areas may have increased their incentive to continue this buildup. Perhaps they have decided that military power is the only strength that is readily obtainable and, therefore, is the only way they can obtain global influence and geopolitical advantage.

We cannot define Soviet intentions with confidence, but we can see what they do—we can measure their actions. There is no doubt that Soviet military power today is much greater than it was in the 1960's. There has been a steady increase in Soviet military spending during each one of the last 15 years. The annual rate of increase has averaged between four and five percent in Soviet buying power. Their spending total today substantially exceeds our own. But how much is not certain; it may be as much as 45 percent; it certainly is no less than 25 percent.

As a result of these steadily rising outlays, Soviet armed forces have improved substantially in both strategic and conventional terms. The Soviets are developing a fourth generation of intercontinental ballistic missiles, significantly improved in accuracy and equipped with multiple independently-targetable warheads (MIRV's). The Soviets also continue to build new strategic submarines and new types of submarine-launched ballistic missiles equipped with MIRV'd warheads. They also have the mobile, MIRV'd SS–20 intermediate-range ballistic missile and the Backfire bomber. Finally, Soviet conventional forces have grown substantially in size. In light of the steady buildup the military balance is necessarily a matter of concern to us all.

We must prevent the present unfavorable trends in U.S. and Soviet defense expenditures from developing into real asymmetries between Soviet military strength and that of the United States. We must and intend to carry out agressive force modernization and improvement programs. Our strategic programs are designed to improve all three components of the strategic triad—submarines, bombers, and land-based missiles—ICBM's. Late this year we will begin to deploy the Trident I missile in our submarine fleet, and we will introduce the new Trident Submarine beginning 1981. Our cruise missile programs will greatly enhance the penetrating capability of our bombers. I also believe it is important that we address the question of the survivability of our land-based ICBM force. This is an issue the President is considering right now.

The Administration recognizes that we must increase our defense effort, and this emphasis is reflected in the real growth increases in the President's defense budgets for Fiscal Years 1979 and 1980.

To prevent asymmetries, military strength must be accompanied by equitable and verifiable arms control agreements, such as the SALT II treaty that will be signed at the Summit Meeting in Vienna this month.

The SALT II agreement was preceded by SALT I, which enshrined the principle of mutual vulnerability through the adoption of stringent limits on ICBM systems. When we undertook to negotiate SALT II, continuing the efforts of the previous Administration, we had four objectives. The first was to obtain more comprehensive ceilings on strategic systems than had been the case under SALT I. Secondly, we sought equal ceilings. Thirdly, we sought lower ceilings; and fourth, we sought qualitative ceilings. I believe the record shows that to a satisfactory degree we have obtained every one of these four objectives.

The SALT II treaty will contribute to stability in the U.S.-Soviet balance by improving predictability in strategic force requirements. The strategic forces that we have are being improved, and are of sufficient strength, diversity and survivability so that the Soviets will not have an incentive to strike first, even in a crisis situation. SALT II is not an end to the U.S.-Soviet military competition. Nor does it signal an end to the political competition: that competition has deep roots in history and philosophy, in cultural experience—indeed, in aspirations. It will continue for a long time to come. But it must be conducted safely and responsibly. In a variety of ways, from the most serious—the idea of liberty, to the most trivial—the appeal of bluejeans, the United States is the leader of the world. We are doing well in the long-term historical competition with the Soviet Union; the challenge is to achieve excellence in that area of national security where the competition is most intense, military strength.

And what role will you new officers play in this competition? As soldiers, you will be the first line of defense. As leaders, you will provide examples to the Nation, and to the world. In a very real sense, you newly Commissioned Officers will join an elite group of officers who protect our society, teach its virtues and encourage our national will.

Since 1945 and the dawn of the nuclear age, war has come in Korea, in Vietnam, and in the Middle East. The key forces in these conflicts have been the land armies that engaged in battle. The individual soldier armed principally with his own courage and dedication remains the essential element of our national defense. It's fitting to remember this on the 35th Anniversary of June 6, 1944.

Military leadership requires special dedication, special strength of character. You have chosen a difficult profession. The qualities of boldness, imagination and intelligence that have marked West Point graduates of the best—Bradley, Eisenhower, Patton—are no less essential to the officers of the Class of 1979. Your task is a demanding one.

The American people and the rest of the free world look to you to defend their security and their honor in a troubled and dangerous world. I know they can count on you. Best wishes and congratulations.

Thank you.●

GEORGE BUSH SPEAKS FROM EXPERIENCE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. DERWINSKI. Mr. Speaker, there is a tendency of the press to attach political motivation to every address and statement by candidates for public office. In my judgment, this constitutes oversimplification and is actually unfair to the individual speaking out on a particular subject.

More specifically, I refer to an address by our former colleague, George Bush, before the World Affairs Council in Philadelphia on June 6. With service as U.S. Ambassador to the United Nations; head of the U.S. diplomatic mission to the People's Republic of China; and Director of the CIA; George Bush speaks from a position of experience in foreign affairs which few public officials can match. Therefore, I wish to insert his address in the Record at this point:

Address of Hon. George Bush Before the World Affairs Council

One of the foremost issues of our time—the issue that I would like to discuss with you this afternoon—is what role America should now play in the world.

Standing here in the shadows of so much history, I am inevitably reminded of the glories of our past, and surely, one of the most inspiring is one whose anniversary we celebrate today—D-Day in Europe, 35 years ago on June 6th, 1944. Even our foes conceded that warfare had never known an undertaking comparable in breadth of conception, grandeur of scale, and mastery of execution. A million and a half Americans, another million Britons and Canadians, and thousands of others from Europe were hurled across the English Channel in an invasion that reshaped the course of history.

Suddenly, America stood front and center on the world stage. Many of you shared the same experience I had—coming home from the war, still a kid, but immensely proud.

Henry Luce, with typical bravado, claimed that we had entered "the American century," and indeed, we seemed to stand astride the western world like a colossus.

There, at the beginning of the postwar period, with less than one twentieth of the world's population, we had built an economy that overflowed with abundance. Our technology was pre-eminent. We were not only self-sufficient in energy but accounted for over 60 percent of the world's oil production. Our armed forces enjoyed a monopoly in atomic power.

But more than that, we held out a message to men and women everywhere—a message of hope that in the modern world, all things were possible; that even the poorest of nations could snap the chain of poverty, that even the most oppressed people could put an end to tyranny, and that all men everywhere could finally enjoy decent lives. And the United States was prepared to help: not only would we share our technology, but we would share our riches as well.

We were not entirely unselfish; we were looking for new markets and we also wanted stronger allies to help defend ourselves against expanding communist power. But in the deluge of revisionist history now being written, attributing suspicious motives to men like Harry Truman, George Marshall, Dean Acheson, Dwight Eisenhower and the rest, we should be very clear-minded about our history. Let me read a brief excerpt from an editorial that the London Times published about America ten years after D-Day: "It is worth saying once again", the editors wrote, "that no nation has ever come into the possession of such powers for good or ill, for freedom or tyranny, for friendship or enmity among the peoples of the world, and that no nation in history has used those those powers, by and large, with greater vision, restraint, responsibility and courage."

Yet, how far away all that seems now. The nation we knew then is not the nation we know today. The glories of the past were real but now they seem faded; our power has now shriveled. What we see today is not a nation standing tall in the community of man but a nation that is confused, tentative and drifting, toward an uncertain future.

We have lost our competitive economic edge. The sharp decline of the dollar, especially in comparison to the mark and yen, is but one sign among many. In several critical sectors—automobiles, airplanes, steel and even electronics—other nations are cutting deep inroads into America's trading strengths. Over the past 20 years, the United States has had the lowest record of capital investment in new plants and equipment of any major industrial democracy. The work forces of other nations are rapidly outstripping us in productivity. The average worker in a steel mill in Kimitsu, Japan, for example, can now turn out three times as much steel as the average worker in Gary, Indiana. As our investment in research and development has begun to dry up, we have also seen other nations close the technological gap. From 1971 to 1976, for example, the number of patents issued by Washington to U.S. firms has dropped by 21 percent while the number issued to foreign companies has increased by 16 percent, to account for one of every three U.S. patents now issued. And during this same period, through mismanagement and faint-heartedness, we have let our destiny slip through our hands into the clutches oil sheikdoms that most Americans had never heard of 20 years ago. It is a depressing tale, and this time, no one even claims to see a light at the end of the tunnel.

Militarily, the picture is no less gloomy. The best that can be said about our military strength today is that we have fallen from a position of superiority to one of relative equality; some would even say inferiority, and they can reel off a frightening list of numbers to support their case—the 5 to 1 Soviet advantage in military tanks, the 11-to-1 Soviet advantage in medium-range bombers; their 2½-to-1 advantage in naval vessels; their 9-to-1 advantage in military divisions. But what really disturbs me are not the current numbers but the trend lines. The fact is that over the past decade, the Soviets have engaged in a massive, unprecedented buildup in their military arms and with or without SALT, they easily could far outdistance us in the 1980's. Yet the United States continues to flounder. Our naval fleet today is smaller than at any time since the thirties; our army is smaller than at any time since the demobilization following World War II; and many of our B–52's are older than the men who fly them. No wonder our allies are scared.

Diplomatically, our retreat is even more apparent. In the Far East, after our stinging defeat in Vietnam, we see the Soviet fleet now calling at Cam Ranh Bay and Soviet TU95D bombers flying out of DaNang, while Soviet-backed soldiers from North Vietnam run roughshod over Cambodia. Our friends in Korea fear—with good reason—that we may soon abandon them militarily, while our friends in Taiwan speak openly of betrayal. Along the southern rim of Asia, two of our alliance systems built a quarter of a century ago—SEATO and, more recently, CENTO—have fallen apart. Along the so-called northern tier, even the President's National Security Adviser, Zbigniew Brezinski, admits there is an "arc of crisis." Americans have been chased out of Afghanistan, our influence is waning in Pakistan, we have been forced out of Iran and our relations with Saudi Arabia have badly soured.

The litany of trouble is long and, unfortunately, growing larger still. In Africa, Soviet-backed forces now control Ethiopia, tightening the noose around the Arabian peninsula; in the meantime, Cuban surrogates—some 40,000 strong by the State Department's latest count—have apparently infested at least 16 countries, the Marxist-armed guerrillas threaten to set fire to Rhodesia and other parts of southern Africa. Even in our own hemisphere, there is mounting concern that anti-American guerrillas will soon battle their way to power in several Central American countries.

There are bright spots on the diplomatic horizon, of course, but the tide is running against us; and all about us, we hear voices asking whether the American century has ended. How right they are to ask—and how difficult it is to answer.

Looking over the past quarter century, it is clear that the decline of American power did not begin with Jimmy Carter, nor should all of our problems be heaped upon his doorstep. Long before he left Plains, Georgia, both the Soviets and the nations of OPEC were flexing their muscles.

My quarrel with the Carter Administration, then, is not that it is the source of our difficulties, but that it seems so helpless in overcoming them. Unfortunately, this administration has neither a vision of America's role in the world nor even a clue of how to get there. Instead, its foreign policy seems like a tiny sail boat adrift on a violent sea, tossed in one direction or another by every new gust of wind. Neither friend nor foe can look upon us for steady, reliable leadership, and they are naturally beginning to pursue their own course, independent of American interests.

Harold MacMillan, chose by Winston Churchill years ago as his successor at Number 10 Downing Street, has said: "Europeans have to deal with the weakest American administration in my lifetime." And there are many others—both publicly and privately—who are joining him. The International Institute for Strategic Studies in London commented two weeks ago in its annual report, that the Carter Administration presents "a complicated and, at times, confused picture to the world." The President's personal style, the report continued, has left him unable "to provide the cohesion and consistency required to make the American system of government function effectively."

But perhaps the most damning indictment is the assertion that as Americans look to Washington, D.C. for leadership, "often they see paralysis, stagnation and drift." And that, my friends, is the assertion of the President himself, delivered just twelve days ago.

This perception of weakness is thus widely shared, and no wonder. How can our allies depend on us, after all, when our government one day promises that it will stand by an old friend, Taiwan, and then the next day abrogate our national defense treaty with them, admitting that it never even tried to negotiate the guarantee of a peaceful solution. What world leaders will gamble on the United States after watching the Chancellor of West Germany, Helmut Schmidt—at our urging—courageously call for development of the neutron bomb and then the next day have our President yank the rug out from under him? What nation will join us in condemning foreign invasions and internal repression while our chief spokesman at the U.N. calls the Cubans a stabilizing force and says that the Ayatollah Khomeni will be remembered as a saint in Iran? This vascillation—this splendid oscillation—has not only endangered U.S. interests, but has made us the butt of jokes around the world. President Carter, says British historian Paul Johnson, is like a cushion, for "he always bears the impression of the last person who sat upon him."

Ladies and gentlemen, we can reverse the decline in American power and influence around the world. And indeed, we must, for without a strong, steady voice for peace in world affairs, there is a growing possibility that the world will slide into a new age of darkness. But the record of the past two-and-one-half years leaves no doubt that this administration has neither the capacity nor the courage to guide us out of the valley and up onto the high road again.

This administration has been tested, and it has failed. Now is the time for a new generation of leaders to come forward—a generation tempered by the lessons of the 60's, hardened by the lessons of the 70's, and ready to give America new inspiration and confidence in the 80's.

You may rightly ask: but what can we do? Can we shape the world so that it is less dangerous and more hospitable to man's hope for peace? And my answer is that certainly we can—so long as we choose not only new leadership but also new directions for our foreign policy.

In the coming months, as a candidate for the Persidency, I will lay out the kinds of foreign policy initiatives that I would pursue in office. I know from experience in three posts dealing with foreign policy and national security that no single individual is capable of understanding all the nuances of every foreign issue.

I welcome the advice from the best minds in the country, and with their help, I want to develop a solid, workable set of policy initiatives.

Today, in the time remaining, let me sketch out for you the major directions that I believe that policy should take.

First, we must recognize once again that America's strength abroad depends first and foremost upon America's strength at home. Unless we have a vibrant, growing economy, bringing the rate of inflation down and the value of the dollar up, our voice will always be soft and muffled in the chanceries of the world. Japan and West Germany speak with authority today, not because they have large, standing armies, but because, through discipline and sound financial policies, their economies are the miracles of our age. Nations look to them not just for trade and financial assistance, but for wisdom.

The first priority of the next administration, then, is to put our economic house in order. That means not only balanced budgets in Washington brought about by less federal spending, but reductions in taxes, reductions in regulations, and incentives for private investment that will inject new vitality into our economy. Over the past few weeks, voters in both Great Britain and Canada have marked their ballots in favor of less government and more freedom for private enterprise; now in 1980, America must do no less.

Of the many economic issues that cut across international borders, none is more important than energy. Today our economy is locked in a painful vise, pinned down on one side by our inability to produce more domestic energy and on the other by an international cartel whose desire for profits seems almost infinite. And worst of all, as the squeeze grows tighter, we are totally incapacitated by our own internal voices of distrust and defeatism.

I believe the United States must devise an emergency energy program as broad in concept and as grand in scale as the landing on the beaches of Normandy 35 years ago. As a first order of business, the President should convene a domestic summit conference that brings together leaders of government, of industry, of academe, of consumer interests, of farming and others. Together, in open session and before national television cameras, let us thrash out our differences, expose our weaknesses, reach an understanding on the magnitude of our difficulties, but most important resolve upon a national plan of attack.

Certainly, there are hard choices to be made—paying domestic producers the world price of oil will inevitably mean higher prices at the pump; greater use of coal will inevitably mean less rigorous environmental standards; a crash program in synthetic fuels will inevitably cost money. But the price of indecision, of continual deadlock will be much, much higher. The only way we're going to break this hammerlock and regain control of our own destiny is to stop dithering and start producing—it's that simple.

In addition, I would urge that when the President meets this month in Tokyo with heads of other industrialized democracies, that as his highest order of business, he seek to develop a concerted plan of action for dealing with the nations of OPEC. The consumer nations are capsizing in the same boat together; to rescue ourselves, it is imperative that we finally begin rowing together. We ought to explore not only ways to conserve more energy and share our shortages—as we have—but how he can strengthen our negotiations with the major producing nations. If a concerted strategy can be hammered out in Tokyo, there may be considerable merit in an international summit conference drawing together the major consumer and producer nations.

And let me emphasize this point: our dealings with OPEC can and should be conducted in a spirit of cooperation, not recrimination. I know the leaders of many of those nations: they look to the West both for trade and security; their economic future is linked to ours; in particular, they do not want to be dominated by the Soviet Union; thus it is just as much in their interest as in ours that relations between us be fruitful and prosperous in the years ahead.

A second important goal for the next administration is for the United States to repair and strengthen our alliance systems around the world. There is no better place to begin than right here in our own hemisphere. For the cliches of the past—that our fate is linked to those of Mexico and Canada—have now become a haunting reality. Sophisticated observers say that the Mexicans—and perhaps Canadians—would not be interested in an economic union with the United States, but there is no way to be sure until we open serious discussions. That we should do immediately.

In recent weeks, there have been recurring themes that the United States would also be well served by shoving around some of our other allies, especially the Japanese. I can't imagine a more wrongheaded solution to our problems. Let us be tough in negotiations; let us be certain that we achieve a square deal in international markets. But we must lead—not bully.

All of us are sick and tired of the feeling that America is being shoved around; but the answer is not simply to shove back. The answer is to begin rebuilding an international friendship, let's stick by it. America should make only those promises it can keep—but it must keep every promise that it makes.

A third goal of American foreign policy is to halt the downward spiral in America's military security. For all the complaints about Jimmy Carter selling out to the military industrial establishment, the truth is that this administration has willingly presided over the worst crippling of our military forces in 25 years. Under this administration alone, we have cancelled the B-1 bomber, cancelled a nuclear carrier, suspended production of the neutron bomb and Minuteman III, postponed the MX missile, delayed the Trident submarines, delayed an attack submarine, and cut back plans for modernizing the fleet. And what have we gotten in return? A SALT II treaty that a majority of the members in the Senate are already gagging over, and the looming possibility that during the 1980's, the United States for the first time in history will be vulnerable to Soviet nuclear blackmail. That is why so many Senators like Sam Nunn of Georgia are arguing—correctly, in my opinion—that the SALT treaty must not be viewed in isolation; instead, the Senate must seize this opportunity to review our entire military posture, to review the record of Soviet misbehavior and mischief making—and then to help the nation set a firmer course for the future.

The terms of the SALT II treaty, of course, are not yet published and it would be premature to comment now upon the problems of verification and military balance that seem to arise. As you can see, I am skeptical about the terms, but let's put aside definitive judgments until the President and Secretary Brezhnev publish the document.

In the meantime, there is one point that I would like to make about SALT—and if there is only one thought that I leave you with today, it would be this: once the treaty is signed by the President, it is essential for American security that it be debated in an atmosphere of civility and mutual trust. Frankly, I have been appalled by the President's recent suggestion that those who oppose the treaty are warmongers. Not only is that blatently untrue, but it demeans the high office—and more than that, it poisons the atmosphere for a reasoned, careful debate.

Nor is it reasonable for the administration to insist that the Senate consider the SALT treaty on a take-it-or-leave-it basis without paying any attention to the technical details; those details are precisely what it took our government seven years to negotiate; they are the heart of the treaty, and as an equal partner in the treaty process, the Senate has a duty to review them closely.

Let me close with this thought. In discussing the decline of American power, many point—as I have here today—to our numerical disadvantages in economic productivity, in military arms and even in countries won or lost. All these things are true and very real. But the root causes of our difficulties, I believe, is not physical in nature; it is more truly psychological.

To be a great power, a nation must strive for greatness. It must have an inner spirit, an essence that catapults it forward. Americans had that inner drive when many of us came home from the war, 35 years ago. But somewhere along the way, our spirits have ebbed; our nerves have failed.

I believe in America.

I believe in the greatness of our past.

But more than that, I believe in the greatness that can be our future.

We still have it within us to overcome every challenge, to rise above every difficulty, to soar like an eagle—if only we believe in ourselves once again and in the goodness of our purpose.

Thirty-five years ago today, President Franklin Roosevelt led the nation in prayer, asking for divine blessings upon American sons who were landing at that hour on the beaches of Normandy. "They will need Thy blessing," he prayed. "Their road will be long and hard. For the enemy is strong. He may hurl back our forces. Success may not come with rushing speed, but we shall return—again and again . . ."

Today, ladies and gentlemen, we must take up our march once more, recognizing that we may be hurled back, that success may not come with rushing speed, but even in the face of adversity, we shall return—again and again.

Thank you very much.●

JOAN HAYES

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. HEFTEL. Mr. Speaker, we live in an era sadly marked by increasing density and shrinking privacy. All too often the rights of the citizen are grievously encroached upon by a society that many people feel no longer cares about their welfare. Fortunately, our country is blessed with a few unheralded individuals who selflessly give of themselves to improve the quality of life for all.

Such an individual is Hawaii's Joan Hayes. With inspiring dedication, Joan Hayes has made an inestimable contribution to her community through a constant vigil against the harmful physical and mental effects of excessive noise. Founder of Citizens Against Noise, Ms. Hayes' organization has served as a prototype for communities throughout the United States and abroad who have joined her fight for noise control statutes.

Joan Hayes' magnificent service over the past 9 years has won her the wholehearted appreciation and admiration of all Hawaii Nei. Today I am delighted to announce that her tireless efforts have been officially recognized through her selection as one of the first Hawaiian winners of the Thomas Jefferson award for outstanding community service. Her selection makes her eligible for national honors which she so richly deserves.

In their wisdom, the members of the House of Representatives of the Hawaii State Legislature have seen fit to pass a resolution commending Ms. Hayes for her achievements, and I ask that it be reprinted in the RECORD following my remarks.

I am sure that all of my distinguished colleagues join with me today in applauding the meritorious distinction bestowed upon Joan Hayes and in extending to her our sincere gratitude for her exemplary concern for the Hawaiian community.

CONGRATULATING JOAN HAYES ON WINNING A THOMAS JFFERSON AWARD FOR COMMUNITY SERVICE

Whereas, although the problems of living in a growing community are often overwhelming to citizens who feel they have no recourse, sometimes an individual comes forward who unselfishly devotes unstinted time and energy to finding practical solutions to these problems; and

Whereas, Joan Hayes has made an inestimable contribution to her community during the past nine years through her patient, determined battle to prevent the harmful physical and mental effects of excessive noise; and

Whereas, the creative campaign of the organization which she founded, "Citizens Against Noise," has become a model for community noise abatement activity both nationally and internationally; and

Whereas, her leadership has finally won recognition through her selection as one of the first Hawaiian winners of the Thomas Jefferson award for outstanding community service; and

Whereas, she is considered by the Honolulu Advertiser, local sponsor for the awards, to be a strong contender for national recognition in July; and

Whereas, the persistence, persuasiveness, and thorough research of Joan Hayes and "Citizens Against Noise" have won the respect of lawmakers and government agencies and have resulted in the passage and enforcement of significant noise-restricting laws and regulations; now, therefore, be it

Resolved by the House of Representatives of the 10th Legislature of the State of Hawaii, Regular Session of 1979, That Joan Hayes be congratulated on receiving the Thomas Jefferson Award and accorded the gratitude of her fellow citizens for her quite dedication to the work of the organization which she founded for the benefit of the residents of Hawaii; and be it further

Resolved, That certified copies of this Resolution be transmited to Joan Hayes; George Chaplin, Honolulu Advertiser Editor-in-Chief; Steve Martin, President of "Citizens Against Noise;" and Ms. Cynthia Collum, Director, American Institute for Public Service.●

ANDERSON FOR PRESIDENT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. FINDLEY. Mr. Speaker, last Friday, June 8, one of our colleagues, John B. Anderson of my home State of Illinois, announced his candidacy for the office of President of the United States. He has completed 19 distinguished years as a Member of this body.

What better training ground for the Presidency could one have? Half of those years he served in leadership capacity.

He is an eloquent spokesman for a progressive, problem-solving sole for the Republican Party. More than that, he is a fine, decent person whose modest origin in mid-America has given him a priceless compassion for those who must struggle for advancement.

Since his announcement, I have heard many words of praise for him. People of various political viewpoints agree that he is electable: he can inspire the broad support from all segments of the population and all areas of the country that is essential to victory in November 1980.

The problem, of course, is the nomination. I hope John's legion of friends can inspire the intraparty support that will win him the nomination.

The words of Congressman Anderson's "Statement of Candidacy" are rooted deeply in this valuable experience and his long service to the Republican Party and the Nation. They show his potential for leadership. I ask permission to insert Mr. Anderson's statement into the Congressional Record so that all may learn of this bright prospect for the highest office in our land. For my part, I am proud to serve on his advisory committee, to support his candidacy and to count him a trusted friend.

Congressman John B. Anderson
Statement of Candidacy

What impels a man or woman to seek the highest office in the land—the Presidency of the United States?

I can only offer you in a personal testament my own reasons.

I am a second generation American born of an immigrant father who came here at the turn of the century, echoing the thoughts of Goethe:

"America, thou hast it far better than the Old World."

For some two decades I have served in the Congress during some of the most turbulent events of the history of our Republic. I have watched five Presidents and ten Congresses grapple with the issues that have tested the very fabric of our democratic society, woven as it is from the diverse strands of many nationalities, cultures, and beliefs.

During those years we have, under the executive leadership of both parties, contended with the forces that wrestle for power and influence in what remains the greatest experiment in democratic government in the history of mankind.

There have been moments of victory, and moments of defeat, in that continuing struggle.

As we confront the agenda of the 80's, the occasion is once again piled high with difficulties as we seek the ultimate objective of managing our affairs in such a way that we can maintain our freedom as a nation while assuring our citizens the right to fulfill their aspirations to a better life for themselves and their children.

Only a little more than half of our eligible voters participated in the last Presidential election, saying in effect, that they did not believe that their vote could really make a difference. Many of them look upon government as an impersonal monolith that will carry on regardless of their wishes and quite impervious to the claims that they would make against it.

I seek the Presidency out of a profound sense of obligation to demonstrate that there are ways to assure the American people that we are still the last best hope of mankind. That government does exist to serve the needs of all those who make up the mosaic of a country founded on the premise that men were born to be free.

For more than a decade now historians have decried the lack of a public philosophy. Even the word "crisis" has become a cliché, used to describe virtually every situation where easy answers are not available. One writer even gloomily offered the conclusion that the "cupboard of ideas is bare." New Frontiers do not lead us to a new land of promise; Great Societies turn out to be a hollow, unfulfilled dream; New foundations appear to be sagging even before the cornerstone has been put in place.

It would be partisan in the extreme to suggest that all our ills bear the stamp of President Carter, but it is nonetheless true that the present administration has in large degree lost the confidence of the American people. It has temporized and vacillated while problems have multiplied at an almost unbelievable rate. In a period when Congress seeks to reassert its authority over both domestic and foreign policy, it has a responsibility to deal with issues in a way that demonstrates a recognition of the national interest. All too often this has not occurred.

Clinton Rossiter, a great student of the American presidency, said that the more Congress becomes, in Burke's phrase, " 'the confused and scuffling bustle of local agency,' the more the presidency must become a clear beacon of national purpose." Today that beacon has become shrouded in the politics of confusion and indecision.

Is this ordeal of democracy the inevitable product of our system of government? Are we—like other nations and other civilizations of the past—plunging toward an irreversible decline? I reject such gloomy prophecies absolutely. Coherence and clarity of purpose are what we Americans seek—a new national purpose which means that every American will come to believe that each has a role to play in the solution of problems that involve us all.

William Butler Yeats wrote, "Things fall apart, the center cannot hold." The challenge to today's political leaders is to restore that vital center that can bind our nation and society together—to breathe life into the spirit of community that is the mortar of a house united.

Today the ambiguity of national purpose is reflected in a scene, where in the case of energy and diminishing energy resources we are a nation at war with ourselves, battling one another for what we consider our fair share of the fading American dream. But the more we fight, the more we deplete our individual and national energies, resources and potential. I believe that the restoration of purpose, so essential to our future, lies not at either extreme of the ideological spectrum, but is firmly planted in the center.

The problem in calling a truce in this new battle of competing interests is that most people don't recognize we are at war, for we are not fighting against each other, as we see it—we're simply looking out for ourselves.

We must recognize that we are all members of one or more special interests and that the way to restore a common interest—the way to nurture the vital center—is not by declaring war on competing factions, but rather by enlisting them in the unifying cause of a larger national purpose. This will be the principal task of our nation's 40th president.

I believe that government—for all the stigma that term bears these days—can still represent an answer to some of our problems. We cannot dispense with government and substitute a vacuum of lack of commitment and concern. That would only serve to invite social anarchy and promote a goal of national selfishness. What we must do is to bend government to our national purpose, channel its energies in constructive directions and bring it under such control that it serves its citizens and not itself.

The dynamics of a democratic society require individual effort and individual participation. It also requires something more than a perception of certain issues as being the sole responsibility of an elitist group and alien to the interest or capabilities of the average citizen.

As long as 25 million Americans live below the poverty lines;

As long as millions more are discriminated against because of race;

As long as unemployment persists, particularly among our young people and especially among black youth, a shocking 36.9 percent of whom cannot find jobs;

As long as problems like these ravage our Nation, we cannot remain indifferent.

All this will require a president of strength and vision.

Such a chief executive must force a searching and critical evaluation of our role in creating an America yet to be. If there is a desire to reclaim basic American values of thrift, decency, concern and compassion—and I believe there is—it cannot be a self-indulgent egocentric enterprise where we simply chant our own individual mantra. Those values have to be translated into a system of thought where we view ourselves and one another as part of a far larger enterprise—the building of a more just society.

A revival of national purpose can take many forms, but it must be built on the part that each of us can play, both as individuals and collectively. That I believe is what Lincoln meant when he spoke of government of the people, by the people, and for the people.

Others may boast of superior organization or financial resources. Still others speak in glittering generalities of their talents for leadership. I want to arouse an appeal to the conscience and reason of America, to speak of the America yet to be. To return to the spirit that made America great. For all of these reasons I am announcing today I am a candidate for President of the United States. Yes, I am a dark horse. I do not pretend that the task will be easy, or the burden light. Yet nourished in the soil which was the heartland of the Republican party, I believe I know and share the aims and aspirations of the average American.

There must be a new hope that we can reclaim the promise that has always been ours, but that in recent years has been layered over with cynicism, and despair. Let us recreate in ourselves hope that with God's help and our endeavor we will all be present at a new creation.●

WHATEVER HAPPENED TO PUBLIC ACCOUNTABILITY?

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. HAWKINS. Mr. Speaker, at the heart of the American democratic system lies the fundamental belief in elected representatives being accountable to their constitutents—the American public. Keeping this in mind, I want to share with my colleagues three newspaper articles, two from the Washington Post and one from the New York Times, all having to do with the subject of economic policy. Dated almost one day after another, these articles clearly point out the glaring conflict, confusion, and inadequacy inherent in this administration's efforts to save our beleaguered economy.

On June 7, the President is quoted as saying, "I will never fight inflation by deliberately throwing millions of Americans out of work." Appropriately so, he made this statement while speaking to a gathering of the newly formed United Food and Commercial Workers Union. Two days later, however, on June 9, his chief economic advisor, Treasury Secretary W. Michael Blumenthal, said in a speech to a Princeton University alumni group:

> We're imposing very severe limits on Government spending and are pursuing a tight fiscal policy * * * I believe that the President will achieve a balanced budget for 1981 * * * we're following a policy dedicated to business incentives.

I submit that these statements are a prime example of "saying one thing, but actually doing another." On the one hand, the President is echoing the law, as stated in the Full Employment and Balanced Growth Act of 1978, which requires that price stability be achieved through methods that do not impede achievement of the goals and timetables for the reduction of unemployment to 3 percent adult and 4 percent overall by 1983. However, 2 days later his chief economic adviser, who we must assume also speaks for the President, tells another group of people that the President will balance the budget by following the very policies which have proven time and time again to throw thousands, and at times millions, of people out of work; have increased payments out of the Treasury in the form of unemployment compensation, food stamps, and welfare payments, and have produced further inflationary trends through skewed tax incentives.

If all of this is not confusing enough, 1 day later, on June 10, we find that the Congressional Budget Office "privately" forecasts a full-fledged recession this year and through most of 1980, with inflation continuing at a double-digit pace and the jobless rate lurching up to an unconscionable 7.5 percent. Also, as if executive accountability is not troublesome enough, the news report says that these CBO calculations were made known privately to some congressional Members before final passage of the first concurrent resolution on the budget last month. This, unfortunately, raises the specter of lack of congressional accountability, too, not only to other Members of Congress, who may have voted differently on the resolution had they been aware of the CBO's forecast, but even more importantly, to the American people who are looking to the Congress for leadership in dealing with the problems of the economy.

I urge my colleagues to read the following articles:

[From the Washington Post, June 10, 1979]

MAJOR RECESSION NOW FORECAST BY HILL BUDGET OFFICE

(By Art Pine)

The nonpartisan Congressional Budget Office has privately warned Congress to expect a full-fledged recession this year and through most of 1980, with inflation continuing at a double-digit pace and the jobless rate rising to 7.5 percent.

The updated forecast, decidedly gloomier than those of the administration and the CBO thinkers in January, reflects the recent weakening in the economy and the impact of the sharp oil price increases this year by the Organizing of Petroleum Exporting Countries.

The predictions were prepared too late for Congress to use in setting its initial fiscal 1980 budget targets last month, but the House Budget Committee reportedly is revising its forecast in line with that of the CBO.

If the CBO forecast proves accurate, it could add at least $6 billion and potentially a good deal more, to the budget deficit next year and dash plans by Congress and the administration to balance the federal budget in fiscal 1981.

The forecast contains these elements:

The nation's economy will fall into a recession later this year, with the growth rate slowing to an average 2.4 percent for 1979 and 1.3 percent for 1980, implying at least three quarters of actual decline, possibly through this time next year.

Inflation will continue at a double-digit pace, with consumer prices rising an average 10.1 percent this year and slowing to an average 8.3 percent in 1980. Consumer prices rose 9 percent in 1978.

The nation's unemployment rate, now 5.8 percent of the work force, will begin rising this summer to an average 6.9 percent for 1980, with joblessness climbing to a peak of about 7.5 percent in the second half of next year.

The combination of figures would appear to show the economy in a recession, with double-digit inflation, beyond the start of the primary elections next spring and well into the campaigns for the presidency and for congressional races.

Although the downturn that the CBO predicts would not be anywhere near as serious as the 1974–75 recession, it still would be visibly more serious than economists were forecasting earlier this year.

The White House has predicted that the economy will slow only moderately this year and then begin improving early in 1980, with only a slight rise in the jobless rate and inflation slowing from 1978 levels. Officials have indicated that they plan to revise their forecast.

The economic assumption on which last month's congressional budget resolution was based showed the economy growing by 2.1 percent both this year and next, with inflation averaging 8.4 percent in 1979 and slowing to 7.8 percent in 1980.

The new CBO forecast makes it almost certain that Congress will have to revise its budget targets drastically when it enacts its final budget resolution later this year.

The changes also could heighten the split between liberals and conservatives. Although the budget, liberals may try to stimulate the economy if a recession comes.

Under the 5-year-old congressional budget process, the lawmakers set initial spending and tax-receipt targets early in the spring, and then turn them into binding spending ceilings by mid-September.

The CBO forecast was in line with recent economic indicators that have showed the economy weakening and job growth slowing visibly. Some economists say the nation already has begun sliding into a recession. The major question has been how deep the downturn will be.

Although the CBO prediction was described as preliminary, the agency is expected to publish a slightly more pessimistic forecast sometime in July. CBO economists have one of the better track records among economic forecasters.

The CBO calculations were made known privately to congressional leaders before final passage of the initial budget resolution last month, but sources said the two Budget committees decided to shelve them for the moment in what was described as a gamble that the economy might improve.

Until only recently the statistics that economists use to forecast economic behavior have been clouded by the impact of bad weather last winter, the Teamsters union strike in April and other factors.

[From the New York Times, June 9, 1979]

BUDGET IN BALANCE IN 1981 IS FORECAST—BLUMENTHAL SAYS GOOD ECONOMIC INDICATOR AND TIGHT FISCAL POLICY WILL ACHIEVE GOAL

PRINCETON, N.J., June 9.—Favorable economic indicators, coupled with the Government's current tight fiscal policy, will make it possible for President Carter to present a balanced budget for the 1981 fiscal year, Secretary of the Treasury W. Michael Blumenthal said today at Princeton University.

Mr. Blumenthal gave no figures, but his remarks to an alumni group came only a few days after the Administration completed its spring preview of the 1981 budget.

"We're imposing very severe limits on government spending and are pursuing a tight fiscal policy," he said. "And I believe that the President will achieve a balanced budget by 1981, which, parenthetically, is a promise he made in his campaign. But there will be no tax cuts until that is accomplished."

The 1981 fiscal year begins on Oct. 1, 1980, only five weeks before Election Day. If Mr. Carter's budget survives in Congress after its presentation in January 1980, he would enjoy a significant campaign advantage if he should seek reelection.

LAST SURPLUS IN 1969

The last balanced budget was in the fiscal year 1969, when there was a surplus of $3.2 billion.

The biggest obstacle that Mr. Carter faces in balancing the budget is the risk of a recession this year or in 1980. A significant downturn in business activity would weaken employment and undercut income tax revenues possibly enough to keep the budget in the red.

Secretary Blumenthal, however, said he did not expect the economy to suffer a recession severe enough to jeopardize the balanced budget. Spiraling energy costs and a major decline in productivity notwithstanding, he said he believed that the country would instead ease into a moderate slowdown, assuming that wholesale food prices continue to decline and the housing market stabilizes.

"There's been an abysmal performance in productivity," he reported. "We're not increasing our productivity, and that's the factor which prevents us from absorbing inflationary shock.

"Thus, we're following a policy dedicated to business incentives. We're freeing the country as quickly as possible from the excessive regulatory restraints that are holding down the productivity of the American economy. We are emphasizing increasingly the supply side of the equation rather than fiddling with the demand side. That's how we'll get results."

[From the Washington Post, June 9, 1979]

Carter Says He Won't Impose Mandatory Curbs

Washington.—President Carter said emphatically today he will not fight inflation by imposing mandatory wage and price controls.

In a speech to the new United Food and Commercial Workers Union, he appeared to scotch some speculation that he might have to scrap his 7 percent "voluntary" wage-price guidelines in the face of rising inflation.

"I will not slap mandatory government controls on wages and prices just through the 1980 elections and then later watch inflation skyrocket out of control," the President said.

"I will never fight inflation by deliberately throwing millions of Americans out of work."

His remarks came after a federal appeals court temporarily stayed a lower court order telling Carter to stop threatening companies which violate his guidelines. Organized labor favors mandatory wage-price controls.

Saying he will not make decisions simply because they might be politically popular, Carter spoke out against selfishness by Americans.

"I am tired of seeing America pulled apart by selfishness," he said. "Our country was not built by people who said 'me first, me last and me always.'

"I did not campaign across this country with my family for two or three years just to sit in comfort in the White House, or to read in future history books I was once President of the United States.

"I sought this office to lead—to face problems regardless of their difficulty. If the decisions I must make to safeguard the future of our country cost me some political support, then let the chips fall where they may."●

PLAN TO PROVIDE 5 MILLION BARRELS PER DAY

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, by the most conservative projections, world oil prices (measured in 1979 dollars) will reach at least $25 per barrel by 1985. Indeed, if we allow for even a modest inflation-adjusted dollar (5.5 percent) with which to pay for that oil, the price has been projected to be in the range of $35/bbl. In these days of predicted double-digit inflation, the $35/bbl. figure may be too modest.

Clearly the time is upon us to take the necessary steps to insure against those possibilities. There are some very real and immediate forms of remedy we can turn toward. In particular, we can begin using existing and commercially successful technology. A national goal by which we would have at least 5 million barrels of crude oil equivalent daily in the form of synthetic fuels and stocks by the mid- to late-1980's is not unrealistic.

Mr. Speaker, one of the more provocative proposals being circulated along these lines is that prepared by Lloyd Cutler, Gene Zuckert and Paul Ignatius. They suggest that we can create such an industry capable of producing 5 million barrels per day within the next 5 to 10 years. They propose we draw upon the experience of our past, during World War II and the Korean war, when we developed a number of Government-industry programs to deal with shortages in critical materials.

I believe their proposal deserves the careful reading and study of all of my fellow colleagues. I include their plan to provide up to 5 million barrels of oil per day from substitute sources in the Record at this point.

The plan follows:

A Plan to Provide Up to Five Million Barrels of Oil Per Day From Substitute Sources

INTRODUCTION

The United States, if it has the will to do so, can create a synthetic oil industry capable of producing 5 million barrels per day—over 20% of our current needs—within the next five to ten years from sources such as shale, tar sands, heavy oils, coal, and farm crops. The synthetic fuels program would draw upon the proven experience of the innovative government-industry programs developed to meet other material shortages in World War II and the Korean War.

Three months after the attack on Pearl Harbor in December of 1941, 90 percent of the world's natural rubber facilities came under the enemy's control. By 1945, when World War II ended, 87 percent of the rubber consumed in the United States was synthetic. Nearly all of it came from government-owned plants built during the war with Reconstruction Finance Corporation money and operated by private industry.

Other critical materials shortages during World War II, notably in aluminum and steel, were met by additional plant capacity financed by the Defense Plants Corporation and other government agencies and operated by private companies under leases or management contracts.

In the Korean War we also faced materials shortages. This time we developed another method, under which the General Services Administration entered into market guarantee contracts with private industry to build new aluminum, copper and nickel capacity. Under these agreements, the private firm obtained private financing to build specified facilities, received 5-year tax amortization certificates, and gave the government the option to buy, at specified or prevailing market prices, any part of the output for five years that could not be sold to military or commercial users. Some of these facilities employed known processes with predictable costs (*e.g.*, primary aluminum reduction) but others involved new products (e.g., ferronickel) with uncertain costs and marketability.

The long run cost of these programs to the Government was negligible. Most of the Government-owned World War II plants were sold to their private operators or others at prices that largely recouped their costs. Under the Korean War market guarantee contracts, the new capacity was privately financed. The Government did have to purchase some aluminum and other materials in excess of its own stockpile goals, but these excess inventories were later resold to private buyers or to the original producers at higher prices than the Government had paid.

OUR PRESENT PREDICAMENT

About half of the petroleum we use is imported. More than half of our imports and even higher percentages of European and Japanese imports come from the Middle East. Our heavy dependence on these sources makes us highly vulnerable to sudden upward price movements resulting from interruptions to supply or from the actions of OPEC. Moreover, no one can be certain, looking ahead to the next five or ten years, that this oil will continue to flow uninterruptedly to our shores. Political changes, terrorist activities, overt military action, and natural disasters are among the possibilities that could lead to a significant reduction or even a halt of deliveries. Should this happen, the effect on the United States economy and our way of life would be extremely serious. The risks of not correcting the present situation are too great to bear.

THE SHORTCOMINGS OF OUR PRESENT PROGRAM

The Department of Energy (DOE) is pursuing a broad program to advance technology in a number of energy areas. Promising long-range applications, such as laser fusion, and medium range applications such as those based on solar technology, are expected to emerge from the DOE program. The substitute fuel program would not replace these DOE research efforts. But it would help greatly to fill the gap before the DOE programs, even if they achieve technical success, can fill a significant portion of our energy requirements.

Our concern is the immediate future, that is, the next five or ten years. For this period our present program relies primarily on savings from conservation and the increased output from domestic petroleum resources. Only limited progress has been made in conserving energy, and more clearly needs to be done. The President's decision to decontrol the price of U.S. crude oil is intended to stimulate domestic production. He estimates that the various conservation measures outlined in his April 5, 1979 program, together with new domestic oil production resulting from decontrol, will provide savings of from 864,000 to 1,539,000 barrels per day. Since we are using upwards of 20 million barrels per day—about half of it imported—we will still be heavily dependent upon foreign oil even if the program produces savings at the high end of the estimate.

Substantial additional supplies can be attained if the United States undertakes an expedited program to produce synthetic oil produced from sources and technologies that are already at hand. These supplies, together with the stimulus expected from the President's program, will help to provide the energy security the United States and its friends need in the critical period before solar and other energy applications are capable of making their full contribution.

A PROGRAM TO PRODUCE SYNTHETIC OIL

The production program would be based on today's technology. Through joint government-industry efforts, we would create a synthetic oil industry in much the same way that we created a synthetic rubber industry almost 40 years ago and doubled our nonferrous metal capacity almost 30 years ago.

The technology of synthetic oil is not in an early stage of research and development comparable to the intercontinental ballistic missile in 1950, the moon-landing program at its outset in 1960, or laser fusion today. It is a proven technology; Germany waged World War II on synthetic fuel produced from coal. South Africa has recently announced a program to produce oil and gasoline from coal. In the United States, a number of studies as well as prototype developments contemplate the eventual production of synthetic oil from coal.

Synthetic crude oil [comparable in its characteristics to imported crude oil] can also be produced from oil shale which, like coal, is available in enormous quantities in the United States. There are large deposits of oil shale in Colorado, Utah, and Wyoming. Environmental and other problems associated with its use and disposal, however, appear exceedingly difficult to overcome at the present time. Fortunately, there are important oil shale resources in Kentucky, Ohio, Indiana, Tennessee, and Alabama that seem to be generally free from the problems with Western shale. The Canadian tar sands can also be converted into fuels with existing technology. The production program might also include substitute fuels made from farm crops. Fuel mixtures of alcohol made from farm crops and gasoline have satisfactorily powered automobiles and agricultural vehicles, and offer the promise of saving worthwhile amounts of gasoline.

Large quantities of petroleum products (or substitutes like alcohol) could be made with known technology but at costs still above the present world prices of natural petroleum and its products. But while the future course of world oil prices remains uncertain, the trend will surely be upward in real terms—the only questions are how sharply upward in real terms and how soon. A standing capacity to produce 5 million barrels daily from indigenous sources would be of incalculable value to the United States and the free world—whether or not this capacity is continuously operated. Its existence—in operation or standby—would cushion the potential consequences of future political shocks, such as occurred in Iran this year and may well occur there or in other vital production centers again and again. By adding a significant additional operating or standby source of supply, it would also tend to dampen the inevitable upward trend of oil prices.

Depending on cost-price relationships, the political stability of the world oil trade, and balance of payments considerations, the United States and its friends would have several valuable options they do not now enjoy:

(a) We could currently market the new output by subsidizing the difference, if any, between cost and market prices, and reducing imports by an equal amount (which might in turn lower world prices for our remaining needs).

(b) We could currently purchase the new output and stockpile it as insurance against future political shocks.

(c) Whenever supplies of natural petroleum at prevailing prices are deemed more attractive we could shut down some or all of the new plants. In the case of those privately built under market guarantee contracts, we would pay the owners a standby fee to cover their loan amortization needs plus a reasonable return on equity, with the right to order them reopened whenever it becomes timely to shift to option a) or b).

PROPOSED PETROLEUM RESERVE CORPORATION

To carry out such a program, the United States should create a Petroleum Reserve Corporation, under the leadership of a proven business executive such as John deButts. The Corporation would be authorized to design and execute a program to create up to five million new barrels of petroleum and alcohol capacity per day, utilizing sources such as shale, tar sands, heavy oils, coal and farm crops. It would be authorized to issue bonds guaranteed by the United States. It would have authority to build new plants to be initially owned by the Government (financed by its bond issues or perhaps by using part of the proceeds of the proposed windfall tax) and operated by private industry under leases or management agreements. It would also have authority to enter into market guarantee agreements for new plants to be built and owned by private industry, with the triple option of a) buying any part of the output that is not commercially sold, b) paying the subsidy needed to make commercial sales, or c) ordering shutdown and paying a standby fee to cover amortization of debt and a reasonable profit, with the right to order reopening at any later time under option a) or b). The Corportaion would analyze the feasibility of achieving its goals by employing various mixes of the sources, technologies and financing options available, and would then design its program and negotiate its contracts to suit.

The Corporation would also be empowered to finance the building of plants in Canada (*e.g.*, for tar sands) and perhaps elsewhere, under firm intergovernmental agreements for making the output available. It could also be authorized to enter into joint ventures with other nations, under which they would participate in the financing risks in exchange for the right to a share of the output. It might also serve as a focal point for helping to identify environmental issues relating to the production program that require prompt resolution by the President.

PRELIMINARY COST ESTIMATE

A rule-of-thumb used by energy planners suggests that the one time investment cost might be $20 billion for each one million barrels of synthetic capacity—or $100 billion for the proposed program. The cost to the American taxpayer however, would be much less to the extent that the plants can be privately built under market guarantee contracts and to the extent that other countries participate in the governmental share of the financing. Recently, the Japanese and the West Germans have agreed in principle to participate in a U.S. Government-sponsored substitute fuel venture and to contribute half of its expected $700 million cost. With the participation of other governments and private industry, the American taxpayers' share of the capital cost of a 5 million barrel per day substitute fuel program might be held to a capital investment of $50 billion or less. Judging by the experience of World War II and the Korean War, even this investment would ultimately be recouped by selling the Government's share of the new plants to private industry. Moreover, to put a $50 billion capital investment into perspective, we presently incur a trade deficite of more than $25 billion per year for each 5 million barrels per day of oil we import.

Looking at the downside risks of our petroleum future, $50 billion is a worthwhile insurance premium, much of which might be financed by the proposed windfall profits tax. Once the capacity is in being, we could respond more flexibly to any future energy development. If real oil prices stay level or go down, we could place the capacity in standby and this would be our only cost; or, if we preferred to reduce our oil imports, we could operate the capacity at the additional cost of the required operating subsidies. If real oil prices continue to go up—which seems now to be the most likely of all the possibilities—the plants would be self-supporting or close to that and most of our investment would be returned.

ADDITIONAL ADVANTAGES

Apart from what it would do to resolve our present petroleum predicament, the proposed program would have other valuable psychological and economic advantages:

(a) The program would give us all the psychological lift of "doing something" instead of just doing without. It would employ our managerial, technological, engineering and organizing talents to achieve a productive rather than a restrictive result.

(b) If present expectations of a natural or induced recession by 1980–81 prove correct, the program would stimulate the capital goods and construction markets at the very time when a stimulus would be helpful.

(c) The program would give us a vehicle for acting jointly with other concerned industrial democracies to meet the joint actions of OPEC in a non-confrontational manner that OPEC's members could not oppose and might even support.

The public reception to such a program should be highly favorable. The right time to adopt it is now.●

SANCTIONS IN RHODESIA

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. FORD of Tennessee. Mr. Speaker, last week the President announced his decision on the lifting of sanctions imposed against the government of Rhodesia. On the face of it, this decision was the President's assessment about the fairness of the constitution under which the Government of Bishop Muzorewa was brought to power. But, far beyond a simple judgment about the elections held in April lies the series of signals which we must send to our friends in the Third World about how we interpret that phrase "human rights."

It is difficult for us, here in the United States, to know what kind of standards are appropriate to judge a political event in a faraway land. Should we measure it as an event in a series, tending in "the right direction?" Or, should we take it as a phenomenon, without an internal context, understandable only against our own set of beliefs and values?

We cannot pretend to understand the complexities which have shaped the history of race relations in Rhodesia. However, we can, within the terms of our own historical experience, come to grips with a few simple facts which dictate our national interest in this situation. I believe that this is the best and the only criteria which we can use to pass judgment. It is not in our self-interest to pereptuate bloodshed and carnage. It is not in our self-interest to ignore the advice and warnings of our precious allies in Rhodesia's neighboring states. It is not in our self-interest to make our allies turn to Cuba and the Soviet Union for aid and armaments as they have already promised to do. It is not in our self-interest to twist the definition of "democracy" to fit into a situation created to perpetuate oligarchy.

Mr. Speaker, the President has shown us the benefits of persistence and compassion by his good works in the Middle East. Now is not the time for the Congress to begin to seek shortcuts in building a lasting peace in Rhodesia. The United States today is the most powerful country in the world because our laws and doctrines give practical meaning to the ideals of human justice. We must not forget that world relations are acts among people and that these actions derive their strength only in their ability to make the world a healthier and a more stable place to live.

Finally, I wish to call to the attention of my colleagues an article which appeared in the New York Times (written by Tom Wicker). I believe that it places the Rhodesian dilemma within a context appropriate to the current situation:

Now that Bishop Muzorewa is in power in Zimbabwe Rhodesia and Ian Smith is more or less out, the new Prime Minister and his Government have three high-priority tasks—none of which would be aided by American action to lift economic sanctions.

First, Bishop Muzorewa needs to demonstrate some appreciable measure of independence from Mr. Smith and the white minority that still holds major Cabinet positions and 28 percent of the seats in Parliament. This won't be easy because the white parliamentary bloc can prevent any constitutional change; and if the Government improves currently inferior services (such as medical care and education) to the black majority at the expense of the vastly better services provided for the white minority, whites may begin to abandon the country in greater numbers.

But without a believable show of independence, the Muzorewa Government has little hope of accomplishing its second high-priority task—to win over, however gradually, some of the thousands of blacks either fighting in the Patriotic Front guerrilla forces or supporting one of the Patriotic Front parties in their unwillingness to take part in the Muzorewa Government. These parties believe that no Government arranged by Ian Smith could be anything but a front for continued white dominance; they view Bishop Muzorewa himself as a weak and willing tool of Mr. Smith.

The third necessity for the Bishop—making visible progress toward ending the guerrilla war and bringing peace to Zimbabwe Rhodesia—patently depends on the first two. His Government has no hope of achieving peace and stability unless the P.F. parties can be brought into some kind of arrangement acceptable to all sides; and that can't be done as long as those parties regard the new Government as a tool of the white minority.

If President Carter determines by his June 15 deadline that he should lift sanctions, that would no doubt give the Muzorewa Government a boost and probably shore up the staggering Rhodesian economy. But it would not demonstrate the Government's independence of white control or attract the P.F. parties to its support; and therefore it would not help bring an end to the war.

It could have the opposite effect. The new Government might then appear to have been accepted and propped up by the West without its having done anything to appeal to the Front. Not much would be likelier to cause the Front to prepare itself for a long fight by new calls for help from the Soviet Union, Cuba, East Germany and China.

How could that be in the American interest, let alone that of southern Africa? On the other hand, constructive pressure on the Muzorewa Government to move toward its necessary goals might well be brought by the promise of an end to sanctions—perhaps progressively—as progress is demonstrated. The Bishop may need as much Western help in combating Mr. Smith and the white minority as in fighting the Patriotic Front; but the more he is helped to cope with the former, the better chance he has to deal with the latter.

All that argues against precipitate action by Mr. Carter. But he is under severe pressure from influential senators to lift sanctions immediately. Strong public opinion also supports an end to sanctions, despite the fact that the Front parties, whose guerrilla actions finally forced the whites to accede to a form of majority rule, are excluded from the new Government; and even though the whites, who for more than a decade resisted majority rule, retain a major share of power.

American opinion also seems heavily impressed with the fact that an election was conducted with relative success, in contrast to the continuing guerrilla activity of the Patriotic Front. The Front and its fighters—not least because of shorthand press coverage—are widely seen here in their worst light as "terrorists" or, more often as "Marxist terrorists." Since they are almost always called "black Marxist terrorists" as well, many Americans tend to resent them on all three counts—failing to see they are also black nationalists, black anticolonialists and, in the eyes of much of the world, black freedom fighters.

Some of them surely are Marxists, but no more so than much of the third world the United States has to deal with; and they could more likely be kept from becoming Soviet or Chinese puppets if the West were to view their nationalist aspirations sympathetically rather than letting Communist nations provide their only support. But a shortsighted American public approves one faction primarily because it was seen to have held an election, however tardily, and rejects another because its adherents are viewed only as "black Marxist terrorists."

This phenomenon is bound to remind blacks of the racial struggle in the South 20 years ago. In those days, if a white racist sheriff announced he had decided to stop beating blacks over the head with his billy club, whites were sure to urge black "militants" to give up their demonstrations for equal rights. The sheriff had "compromised," hadn't he? ●

SAN ANTONIO SUFFERS EXORBITANT ELECTRIC BILLS DUE TO RATES FOR SHIPMENT OF COAL

HON. TOM LOEFFLER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. LOEFFLER. Mr. Speaker, I want to share with my colleagues a letter which I have just sent to the Chairman of the Interstate Commerce Commission, Mr. A. Daniel O'Neal. It addresses a very real difficulty facing American consumers today—the problem of obtaining energy for their homes and businesses at a reasonable cost. Due to the haphazard, chaotic policies emanating from our Federal Government, this issue has become one of especially critical importance to the citizens of San Antonio, Tex. An immediate remedy is essential as current ICC policy is neither viable nor tenable.

The text of the letter is as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 7, 1979.

Mr. A. DANIEL O'NEAL,
Chairman, Interstate Commerce Commission, Washington, D.C.

DEAR MR. CHAIRMAN: I am appalled to learn that the Commission rendered a decision last Friday allowing the Burlington Northern Railroad yet another rate increase for transporting coal from Gilette, Wyoming to San Antonio, Texas.

In 1972, the municipally owned utility in San Antonio, in a carefully reasoned attempt to control fuel costs, invested $250 million in the installation of a coal fired generation unit. Since 1972, the citizens of San Antonio have experienced not the anticipated savings but rather a 133% increase in their electric bills. Decisions like the one made Friday indicate that there is no end in sight especially in light of the fact that a rate increase was granted last December, only six months ago.

I understand that this latest decision has been issued on an interim basis pending resolution of the ultimate coal rate structure for the movement of Western coal. I further understand that the Commission is reevaluating market dominance situations. It is incumbent upon the Commission to address the outrageously unfair situation in San Antonio in its determinations. In fact, the Commission must do so.

Sincerely,

TOM LOEFFLER. ●

UNITED PARCEL SERVICE VERSUS THE U.S. POSTAL SERVICE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mrs. SCHROEDER. Mr. Speaker, I am sure that many Members, like myself, receive letters from constituents asking about the different parcel post rates between the U.S. Postal Service and the United Parcel Service. I recently received such a query from Mr. Kenneth R. Reeves of El Cerrito, Calif. In order to answer his question properly, I asked the U.S. Postal Service and the United Parcel Service to explain. Mr. Reeves' letter, together with the letters I received from William F. Bolger, the Postmaster General, and James F. Fort of United Parcel Service, are as follows:

EL CERRITO, CALIF.,
March 27, 1979.

Hon. PATRICIA SCHROEDER,
House of Representatives,
Washington, D.C.

DEAR MADAM: As a member of the House Civil Service and Post Office Committee can you tell me why parcel post rates are so high?

We recently had three packages to ship back to the east coast, with fifty dollars of insurance on each. One weighed three pounds, one four, and one five pounds.

The Postal Service wanted $3.46 for the 3# pkg: United Parcel, $1.64

The Postal Service wanted $3.85 for the 4# pkg: United Parcel, $1.94

The Postal Service wanted $4.24 for the 5# pkg: United Parcel, $2.23

In other words, for what the Postal Service wanted a total of $11.55, United Parcel was willing to deliver for $5.81.

I'm sure I do not have to remind you that the Postal Service is an arm of MY government; that it has yet to show a "profit" and that it is being supported by public (taxpayer's) funds.

To my knowledge, United Parcel is not subsidized, and it has to show a profit to pay it's stock holders. Yet it does the job for half the cost my government postal service wants to charge.

Why?

Your comments will be appreciated.

Sincerely,

KENNETH R. REEVES.

UNITED PARCEL SERVICE,
April 18, 1979.

Hon. PATRICIA SCHROEDER,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSWOMAN SCHROEDER: Thanks for sending me the letter from Kenneth R. Reeves about parcel post rates.

The wide discrepancy between UPS and parcel post rates on Mr. Reeves' packages can be explained this way: generally, I believe, the Postal Service considers uninsured parcel post rates to be the benchmark of parcel post rates. On an uninsured basis, Mr. Reeves' three packages would have cost $9.00 via parcel post.

Of course, as you know, UPS rates include liability up to $100 of value. Mr. Reeves' calculation of UPS rates were correct.

You should know that if Mr. Reeves had been shipping, for example, 31, 32 and 33 pound boxes he would have found parcel post rates lower than UPS rates. I attach an exhibit from a current Postal Rate Commission case which shows a comparison of the rates. The pink shaded area shows where parcel post rates are lower than ours.

As you well know, parcel post must, by law, pay its costs. It is nearly doing this at the present time. UPS, as Mr. Reeves says, is not subsidized and does make a profit. You and I have talked before about how we do this at competitive rates. It's a combination of personnel selection, training and supervision, good systems, owner management, careful engineering and a lot of other things.

I hope this is responsive to your letter and to Mr. Reeves' inquiry. If you want to explore more fully let me know and I will be glad to develop more data.

Sincerely,

JAMES F. FORT.

THE POSTMASTER GENERAL,
Washington, D.C., May 18, 1979.

Hon. PATRICIA SCHROEDER,
House of Representatives,
Washington, D.C.

DEAR PAT: This is in response to your correspondence of April 6, on behalf of Mr. Kenneth R. Reeves of El Cerrito, concerning the difference in rates between that of the United States Postal Service and United Parcel Service (UPS).

UPS from its origin has been dedicated, designed and directed toward the handling of one item, parcels, and even those on a very selective basis. Conversely, the Postal Service—or more appropriately the old Post Office Department—was designed to handle products varying in size and weight from the smallest letter to the largest package. Because the UPS has selected the market it serves, its operations are economical. The Postal Service system is vulnerable to other organizations segmenting portions of the bulk mail business and offering them at lower prices. As these organizations take more and more of the lucrative portion of the parcel business, the net impact is to raise postal costs and rates.

The Postal Reorganization Act, the basic charter under which we operate, indicates that revenues from each postal service shall cover those costs attributable to that service and make a reasonable contribution to the institutional costs of the Postal Service. The parcel-post rates recommended to the Governors of the Postal Service by the Postal Rate Commission last May—and now in effect—are specifically designed to comport with this criterion. Thus, parcel-post services are not subsidized.

In their most recent rate decision, the Postal Rate Commission made a special calculation designed to demonstrate that the provisions of Section 2401(i) of Title 39 U.S. Code have been met. That provision is designed to limit the effect Congressional appropriations might have upon moderating the parcel-post rates through contributions to our fixed costs. The Commission's calculations indicate that less than two cents per parcel is received in the form of Congressional contributions to the fixed costs of the Postal Service. In exchange for the two-cent-per-parcel appropriation, the public is assured readily available postal service to and from every hamlet in the nation.

We are acutely aware of the need for more responsive, economical parcel service and are attempting to recover some of the lost parcel business. For example, we recently announced that we would implement reduced bulk parcel post rates for parcels mailed under certain prescribed conditions. However, the United Parcel Service petitioned for and was granted a temporary injunction on these proposed changes. Accordingly, they will not be implemented until this matter is resolved.

Mr. Reeves' letter to you talks about the United Parcel Service making a profit and yet the Postal Service does not and our rates are higher. We are not engaged in our activities to make a profit. The current law, however, anticipates that we will live within our income, including subsidies. I'm happy to state that in Fiscal Year 1979, which closes September 30, we anticipate showing an income-over-expense surplus of some $180 million. This financial position will aid us in avoiding further price increases until about March or April 1981.

Sincerely,

WILLIAM F. BOLGER.●

SPECIAL TRIBUTE TO LIBBY CLARK

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. HAWKINS. Mr. Speaker, to the people of Los Angeles, Calif., the name of Libby Clark brings to mind the epitome of a dedicated, successful, and well-loved individual whose main objective throughout her outstanding career has been the development and growth of the Los Angeles community and organizations in the metropolitan area. A woman whom I have had the pleasure of knowing for many years, Libby Clark has always worked long and diligently to better interracial and intercultural understanding and exchange in a city of many diverse ethnic groups.

Today, as her professional colleagues and members of the community prepare to honor her with a dinner-dance tribute on the occasion of her retirement from the county of Los Angeles-University of Southern California Medical Center, I am extremely proud to share with my colleagues some of the many remarkable aspects of Libby Clark's long career.

In a timespan of nearly 40 years, Libby Clark has been a general news reporter, special assignments reporter, social news reporter, women's page editor, section editor, managing editor, publisher, owner and operator of a public relations agency, public information officer, and senior personnel officer.

A product of the Columbia University School of Journalism, Miss Clark was affiliated with publications such as the Chester Times, the Chester, Pa., publication where she began her journalist career; the Pittsburgh Courier (Philadelphia and west coast editions); the Chicago Defender (Golden West edition); and the Los Angeles Sentinel. In 1952, Libby Clark founded and published Femme, a magazine for the black woman and her family. Three years later, she began Libby Clark Associates, a public relations agency which she owned and operated until 1969, at which time she accepted the post of public information officer for the new Martin Luther King, Jr. County General Hospital. Six months later, at the request of the late William Barr, executive director of the department of charities (health services), she was transferred in the same capacity to the Los Angeles County-University of Southern California Medical Center, from which she will be retiring this summer.

As public information officer during the ensuing 8 years, she edited two prize winning employee publications, "The Headliner" and the "Central Issue." For 5 consecutive years, the newsletters won top honors over 34 other county publications. In 1977, Miss Clark was elevated to the position of senior personnel officer from which she will officially retire on August 1.

As part and parcel of her career as a journalist, Libby Clark has traveled extensively throughout Europe, Africa, Scandinavia, the Orient, Mexico, and the United States.

In addition to Femme magazine, Libby Clark's published works include "Communication in the Community," which explains the use of media resources in the community and "Counting Noses," a booklet on marketing in the black community.

Libby Clark has been the recipient of many community, national, and citizenship awards. Foremost among these are: Outstanding Citizen Award, city of Los Angeles (1971); Lyndon B. Johnson Presidential Citation (1968); Angel Award, L.A. Central City Association (1969); Mary McLeod Bethune Award, National Council of Negro Women (1968); Distinguished Citizen, Association for the Study of Negro Life and History (1967); Women of the Year, Los Angeles Sentinel (1966); Outstanding Contributor, 28th Street YMCA 1970); and many many others, far too numerous to mention in this space.

Libby Clark is not only known as an energetic journalist and public relations specialist, but also as an effective and committed community organizer. Miss Clark founded and is president of Pyramid 1,000, an organization of 1,000 black women, which focuses on socioeconomic issues and increased representation of black women in the political arena, and she also organized and serves as president of the Palm Springs-Desert Chapter of the National Association of Media Women.

As can be seen from the above awards and honors, Libby Clark is one of those unique individuals whose personal energies, intellect, and commitment have really made a difference in the livelihood and cohesiveness of the Los Angeles community. I, and all of those who have come into contact with her over the years, wish Libby Clark the best of everything in the years to come.●

OIL DECONTROL

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. WIRTH. Mr. Speaker, on numerous occasions I have spoken in this Chamber about the severity of our energy crisis and about the need to fashion a sensible policy for pricing our energy resources.

Despite the rhetoric that too often accompanies discussions about energy today, the matter is really one of economics. We must understand the relationships between supply and demand—relationships that have been obscured by Federal regulations—and move toward correcting the current disasterous situation. As a society, we must pay in the marketplace the true replacement price of energy sources because only then will the economy make rational decisions on which sources it wishes to use—particularly with regard to alternative energy sources.

I would like to continue to build the record of opinion on the need to remove price controls from energy by including, for my colleagues' information, a thoughtful article on this subject from the New Republic.

[From the New Republic, May 26, 1979]

TANK QUEUES

For two years now President Carter has been predicting the imminent exhaustion of the world's oil supplies, but not until long lines began to form at California gas stations two weeks ago did the message finally begin to get through. Having predicted that the sky was falling, he must have taken some satisfaction in seeing a few pieces at last crash to earth. At a meeting with business leaders at the White House, Carter couldn't resist an I-told-you-so, scolding the American people for their refusal "to face the inevitable prospect of fuel shortages." He also took the opportunity to criticize Congress for its rejection of his gasoline rationing proposal, American consumers for their profligate use of fuel, and skeptics for trying to blame the shortage on the oil companies.

But Carter's own words dramatized his administration's confusion. Carter didn't acknowledge that the current gasoline allocation system is responsible for much of the mess. Neither did he concede that his own insistence on keeping price controls on gasoline have kept consumption higher than it otherwise would be. Nor did he mention that he has encouraged conspiracy theories about the oil companies, the same ones he now dismisses, by blaming them every time his energy proposals have run into opposition.

For all its public relations value to the Carter administration, the shortage of gasoline in California doesn't offer persuasive evidence that the world is rapidly running out of oil. The shortage is partially the result of a series of bad breaks beyond any American's control, partially the result of a self-feeding panic psychology, and partially the result of misguided government policies.

The most visible cause of the shortages in California and elsewhere is the overthrow of the shah of Iran last January, which led to a 69-day shutdown of oil production by the world's second largest supplier. The halt in shipments reduced US imports of oil by 600,000 barrel a day, about seven percent of normal supply. In March the new regime began pumping oil again, but at a lower level than before. Meanwhile OPEC had used tight world supplies as an excuse to raise its price to $14.50 a barrel, with member nations permitted to add on whatever surcharge the market would bear. After Iranian production resumed, Saudi Arabia agreed to cut back its output to keep world prices high. But while total world production was falling, demand for gasoline by American consumers continued to grow. US consumption rose four percent during the first three months of 1979; in California it jumped 17 percent.

Ordinarily these changes might have had no serious repercussions, but they came at a time when gasoline supplies were already low. Last summer the Carter administration, fearing wintertime shortages of home heating oil, had urged refiners to shift production from motor gasoline to what are known in the industry as "middle distillates"—diesel fuel and home heating oil. The refiners did as requested. Unfortunately last fall proved to be unseasonably warm, stimulating Americans to drive more and consume more gasoline than usual. By the end of November gasoline stocks were depleted to a level regarded by the Department of Energy as the bare minimum. During the winter oil firms managed to rebuild their inventories somewhat, but the Iranian crisis and the driving surge that hit in the first quarter of the year reduced them back to dangerously low levels.

The immediate problem in California, and in a few isolated parts of the country like Washington, D.C., is that once people heard about the impending shortage, a lot of them went out and filled up their tanks. The average credit card purchase in California during the first week of panic buying was only three dollars—less than half the usual average. One reason gas stations were running short of supplies is that a lot more motorists than usual were driving around with full tanks.

American oil companies might have softened the impact of the drop in Iranian production by buying more oil from other suppliers on the "spot" market. But DOE strongly discouraged them from doing so because it hoped to force OPEC to cut its price. Faced with depleted stocks even before the peak summer driving season had begun, the major oil companies and the nation's independent refiners began this spring to reduce their shipments to retail dealers.

Here is where the real trouble began. Under DOE rules, a refining company that wants to reduce the amount of gasoline it provides to its dealers must follow an "allocation" formula. The allocation rules in effect freeze supply patterns. The purpose is to prevent refiners from favoring their own stations and cutting off independent and small retailers. The problem is that the rules make it next to impossible for refiners to shift supplies around to meet changes in demand. When California drivers increased their consumption sharply this year, dealers had no way to accommodate the higher demand and soon ran short in that state.

Any allocation rules would tend to inhibit needed adjustments, but DOE's regulations have a more serious flaw. Until March 1, the allocation rules were based on supply figures for 1972—meaning that stations were allotted gasoline supplies based on what they sold in a corresponding month seven years ago. To get an idea of what this means, take two hypothetical stations which sold the same amount of gas in 1972. One has doubled its business since then; the other has had its sales cut in half. Under the DOE rules, each would get the same allocation. On top of this problem is DOE's confusion. In the last four months, refiners have been saddled with three successive sets of allocation rules. Under the first, allocations were calculated using 1973 as the base period. On March 1, DOE changed the base period to 1978, applying the new rules to shipments in March, April and May. On June 1 the base period was supposed to be changed to 1977, but now DOE says the 1978 base period will be used until the end of September. There are some exceptions to the rules for stations that have drastically increased sales since last year.

The allocation rules deserve most of the blame for the long lines in California, but not all. Curiously, there is no shortage of crude oil there; in fact there is a glut. California's real problem lies with its refineries. In the first place, most of them are designed for light grades of crude, and much of the crude now available in California is heavy-grade Alaskan oil. The Alaskan oil is also high in sulphur content, so cleaning it up to meet California's unusually high anti-pollution standards is particularly expensive. Heavy grade crude oil also yields less gasoline per barrel than lighter grades.

Refineries present a problem elsewhere, namely that there aren't enough of them to keep up with rising demand. So far this year American refiners have been producing just about as much gasoline as possible, but they're strapped by insufficient capacity. Why don't firms build more gasoline refineries? Mainly because there are federal price controls on gasoline but not on other petroleum products such as home heating oil.

The method of the current price controls is not to hold down prices but to freeze profits at their 1973 level. A retail dealer figures the price he can charge this way. He takes the selling price on each grade of gasoline as of May 15, 1973. He adds to that the difference between his cost per gallon then and his cost now. Then he adds up to three cents per gallon for cost increases attributable to wages and utilities, and then costs due to increased rent and to the installation of the vapor recovery systems required by the Environmental Protection Agency. Then he adds on all his state and federal taxes to get the maximum legal selling price. But there is another wrinkle. If at any time a dealer has charged less than the maximum, he can "bank" the difference and add it on whenever he thinks the market will bear it.

The rules are so complicated that it's impossible for the average driver to know whether or not he's being charged a legal price and many dealers say it's hard for them to figure it out themselves. But the crucial feature is that a dealer cannot increase his total profit margin over what it was in 1973 (except by adding on "bank" costs): if it was a penny then, it can't be more than a penny now. Federal price rules apply to refiners as well as retailers, and here again the point is to restrict the total profit margin. A refiner who invests in new facilities can pass through the cost of interest on its borrowed funds and the cost of depreciation, but not a return on its investment. Consequently the refiner has no incentive to expand its refining capacity. DOE's own Office of Competition blames DOE price rules for discouraging investments in new refining facilities.

The disincentive to refinery investment has especially constricted the production of unleaded gasoline, which requires more expensive gasoline than leaded gasoline. Gasoline price controls have been in effect since 1973, which means they inhibited investment just when it was needed to accommodate the increased demand for unleaded gas mandated by new federal emission standards. Demand for unleaded gasoline has soared in recent years. In 1975 unleaded accounted for only 13 percent of total gasoline consumption; this year it will account for 42 percent. But refinery investment hasn't kept pace with the increase, and there is little hope that it will in the near future. DOE Deputy Secretary John O'Leary told Congress last December that no major refinery expansions or improvement are scheduled for the next two years, and he blamed it on his own department's price rules.

Carter hasn't handled these problems very well. His own Energy Department has documented the harm done by price controls on gasoline, but Carter and his inflation chief Alfred Kahn take the silly view that controls can't be lifted when prices are rising. Meanwhile, however, DOE has quit discouraging American refiners from buying on the spot market, reasoning that any oil is better than none. It has also announced that it may increase the permissible margin of profit on gasoline prices, which would provide a slightly greater incentive for refiners to expand capacity. The Energy Department also has begun to reexamine a potentially disastrous policy—encouraging refiners to shift production from gasoline to home heating oil well before the end of July, which is when the shift normally would occur. Changing over early would severely aggravate the relatively mild shortage the country is now enduring.

But the ultimate answer to the current problems, and the only way to ensure that they don't become permanent, is to eliminate DOE's regulations on gasoline prices and allocations. Price decontrol would promote the president's own oft-stated goal of conservation; it would also provide a sorely-needed boost to refinery investment. The way to prevent windfall profits by the oil companies is by a wellhead tax on domestic production of crude oil. (See "The Moral Equivalent of Verdun," TNR, April 14.) With such a tax in place, price controls on gasoline would be superfluous. With or without such a tax, gasoline price controls encourage excessive consumption of gasoline, thereby aggravating the oil crisis and increasing our dependence on OPEC. And as the current lines at service stations demonstrate, gasoline price controls—like any other price controls—cause needless shortages, confusion and misallocation of resources.

The only way to prevent gasoline shortages is to allow the price to rise in order to bring supply and demand into balance. Repealing the current rules for allocation would serve a related purpose—to let supplies be shared on the basis of market conditions and not old retail ledgers. That way the present shortage, which so far has caused distress only in California, can be spread more evenly over the entire country. That would be fairer and considerably less painful.●

PERSONAL EXPLANATION

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. HAWKINS. Mr. Speaker, due to the fact I had to be in my district in Los Angeles, Calif., on June 6 because of a death in my family, I was unable to be present on the floor for consideration of rollcall No. 186, an amendment to the Housing and Community Development Act of 1979, which would have exempted HUD-assisted Indian housing from coverage under Davis-Bacon. Had I been present for the vote, I would have voted "No." ●

CANAL CLOSING FEARED

HON. DAVID R. BOWEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. BOWEN. Mr. Speaker, the Washington Star of June 8, contained an article titled "Canal Closing Feared if Panama Bill Loses", which covers testimony of Lt. Gen. Dennis P. McAuliffe, Commander of the U.S. Southern Command. General McAuliffe's statements reinforce the position taken by many Members that failure to pass management legislation could lead to the closing of this strategic waterway.

Mr. Speaker, the following is a reprint of an excerpt from that press report:

CANAL CLOSING FEARED IF PANAMA BILL LOSES

(By Jeremiah O'Leary)

The commander of U.S. military forces in Latin America has warned that House failure to pass legislation implementing the new Panama Canal treaties could lead to closing of the vital waterway.

Lt. Gen. Dennis P. McAuliffe of the U.S. Southern Command, testifying before the House Panama Canal subcommittee yesterday, said that unless Congress passes the controversial bill Tuesday "there will be an adverse reaction among the 4,000 Americans and the Panamanians who work at the canal because they depend on it for their living.

"We would be faced with a shutdown because there would be no basis for paying them," he said.

McAuliffe told the panel he expected there would be turbulence, violence and chaos in Panama if the U.S. violates the treaty or Congress fails to pass the legislation. . . .

McAuliffe, looking ahead in his testimony to Oct. 1 when the treaty goes into effect, said, "The Panamanians are planning to march into the Canal Zone bearing flowers. . . . They may be coming with rocks in their hands unless implementing legislation is passed. There also will be a hostile Panama and some hostile acts against Americans in the Zone area.

"Panama would have ample right to declare the treaty null and void in such a case . . . ," McAuliffe said. "I shall have ample authority to defend the canal in these circumstances and I shall do so unilaterally if we do not have the cooperation of the Panamanian National Guard. I have forces enough to defend the Canal Zone and I can call on more."

In such a hostile environment, the general said he could defend American lives and property, but probably could not guarantee that the canal could be kept operating.

"It wouldn't have to be a very large or sophisticated attempt to put the canal out of business," he said. "All they would have to do would be to lob a few shells at places where canal employees were concentrated every once in a while and we couldn't keep it open."

The two-day hearings that ended last night ostensibly were to investigate whether Panama has been supplying arms to the Sandinista rebels in Nicaragua.

Brandon Grove, deputy assistant secretary of state for inter-American affairs, told the subcommittee it was a mistake to link the decision on the Panama implementing legislation with Panama's activities against the Somoza government.

"The purpose of the legislation is to establish the framework for the exercise of the rights and discharge of responsibilities by the U.S. under the treaties," Grove said. "The subject matter under discussion today, although important, bears no legal or practical relation to that purpose. Neither the Panama Canal Treaty nor the Neutrality Treaty governs the conduct of relations by Panama or the U.S. with third countries.

"We would not tolerate an attempt by Panama to seek to use the treaty as leverage to influence U.S. policy in other areas. Panama will, with justification, reject such an attempt on our part if the issue before the subcommittee today is injected into the legislation," he said.

Grove concurred with McAuliffe that U.S. failure to perform its obligations under the treaty could place in jeopardy the right of the United States to remain there.

He said the United States is disturbed by actions taken by the Nicaraguan government, including violations of human rights. But he said the United States is also concerned by the activities of outsiders, whether Panamanians or others, who are feeding the flames of the Nicaraguan civil war.●

RESULTS OF 10TH CONGRESSIONAL DISTRICT OF ILLINOIS CONSTITUENT QUESTIONNAIRE

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. MIKVA. Mr. Speaker, more than 15,000 residents of the 10th Congressional District in Illinois have expressed their views on the issues facing the country in response to my 1979 constituent questionnaire. This survey is of tremendous assistance to me as the Congress makes its decisions and I would like to share the results of the survey with my colleagues.

One of the most important issues facing Congress today is energy and one of the most striking divergence of opinion was expressed on an energy question. Asked about the amount of money the Federal Government spends on energy research, 63 percent of the respondents felt that more should be allocated, while only 9 percent want less money spent and 17 percent indicated that present spending levels are adequate. Clearly, there is an overwhelming consensus of opinion that we need to step up our efforts in researching alternative energy sources. Just as clearly, however, there is no consensus on ways to solve our energy problems. The issue of decontrol produced the smallest difference of opinion, with 43 percent indicating they favor decontrol of gasoline prices and 46 percent favoring maintaining the controls. A similarly small margin is reflected in response to the question of the United States doing more in the international arena to break the OPEC oil cartel.

Strong sentiment was expressed on two environmental questions. Nearly twice as many people would like to see more money spent on the environment and natural resources than less, and a clear majority indicated their belief that there should be no relaxing of clean air and water pollution standards. Taken together, the responses show a strong majority of my constituents favor a continued commitment to a cleaner environment.

On the subject of foreign policy there was strong support for two of President Carter's recent decisions. The decision to establish diplomatic relations with mainland China, not a reality at the time of the survey, was supported by 72 percent of the respondents and the poll reflected a 68 percent favorable sentiment on the question of negotiating a SALT treaty.

Large majorities were reflected on two other issues facing the Congress. By a 3 to 1 margin the poll favors the enactment of a Federal law to ban the sale, manufacture and distribution of handguns, except for the police, military, and licensed pistol clubs. I have introduced a bill in this Congress, as I have in every other Congress I have been a Member, to achieve that end.

By a 2-to-1 margin respondents favor Federal legislation to limit the percent of increase in charges that hospitals make for their services. This indicates strong support for the hospital cost containment legislation that is presently before the Congress.

The results of the entire survey are included below.

1. Further efforts to reduce the federal budget deficit will involve difficult choices when Congress considers this year's appropriations bills. What are your priorities for the next budget? Below is a list of items that makes up most of the federal budget, along with the percentages of the total budget now being allocated to that item. For each item, please indicate whether you think the item should receive more of the budget, less of the budget or remain the same.

[All numbers are in percent]

	Respondent No. 1			No response
	More	Less	Same	
National defense (23.2 percent)	26	33	30	11
Social security (20.7 percent)	18	30	41	11
Income security and public assistance (including railroad and Federal employee retirement, supplemental social security, school lunches, food stamps) (11.5 percent)	7	55	26	12
Health care (10 percent)	27	26	35	12
Education and social services (including job training, aid to handicapped and elderly) (6.2 percent)	30	23	36	11
Veterans benefits (4.1 percent)	11	27	51	11
Transportation (3.5 percent)	26	29	34	11
Natural resources and environment (2.3 percent)	34	19	34	12
Revenue sharing (1.8 percent)	14	33	40	13
Energy research (1.7 percent)	63	9	17	11
International affairs (1.5 percent)	9	38	41	12
Agriculture (1.3 percent)	16	30	43	12
Space, science, and technology (1.1 percent)	26	26	37	11
Commerce and housing (0.6 percent)	13	34	41	12

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THE OLIN E. TEAGUE VETERANS' CENTER

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. ROBERTS. Mr. Speaker, on Saturday, May 12, 1979, friends, associates, and colleagues alike gathered at a ceremony in Temple, Tex., to pay tribute to former U.S. Representative Olin E. (Tiger) Teague and to rename the Veterans' Administration Center there in his honor. The Olin E. Teague Veterans' Center was designated by the 95th Congress (Public Law 95-353) in recognition of Congressman Teague's outstanding and dedicated service to the United States and to the veterans of this country. For 18 years as chairman of the House Committee on Veterans' Affairs he led that committee and the entire Congress through unparalleled legislative achievement in veterans' medical care, compensation, pension, and education benefits. He revolutionized the veterans affairs system. The medical center which bears his name in Temple will continue in that tradition by providing quality and compassionate care to those who have sacrificed so much in service to this Nation.

I would like to submit for the RECORD a tribute to Congressman Teague which appeared in the Temple Daily Telegram on Friday, May 18, 1979. In doing so I join with the members of the House Committee on Veterans' Affairs in saluting a strong American, a gifted legislator, and a true humanitarian.

OLIN E. TEAGUE VETERANS' CENTER FITTING TRIBUTE TO "MR. VETERAN"

If ever there was a man who deserved to have a Veterans Administration or any other government facility named for him, it is Olin E. Teague.

And if ever there was a Veterans Administration facility that deserved to bear his name, it is the one in Temple.

Many years ago, in this former Army hospital in Temple, Teague was recovering from World War II combat wounds when he decided to seek the post in Congress that later earned him the title "Mr. Veteran."

For 18 years, Teague was chairman of the House Veterans Affairs Committee. He has been the author of more veterans legislation than any other member of Congress, including the Korean War veterans bill, which also was the pattern for the Vietnam War veterans plan. As his former colleague U.S. Rep. Jake Pickle of Austin, said last Saturday at the Olin E. Teague Veterans' Center Rededication, "Tiger" Teague has been the symbol of leadership for the Veterans Administration for over 30 years.

So it was fitting last Saturday that everybody who is anybody in veterans organizations in the United States gathered in Temple, not just to rename a Veterans Administration facility, but to pay tribute to Teague.

It was unfortunate that Teague was ill and could not attend, but the presence of his colleagues, friends and admirers made it a great day nevertheless. The remarks were fitting, the praise for Teague well-deserved, and the sincerity of the occasion was a tribute to those who had a part in its success.

Oliver Meadows, a longtime friend of Teague's former staff director of the House Veterans Affairs Committee and also a former national commander of the Disabled American Veterans, was a superb master of ceremonies. The teamwork of the Veterans Administration—especially V. J. Belda, director of the Temple Center—and the various veterans organizations who participated made it a memorable occasion.

As former U.S. Rep. W. R. Poage said, this is the first of probably many honors for the former congressmen from College Station, a truly great American.●

EDITOR'S REPORT: CARTER'S GUTLESS ENERGY PROGRAM FALLS SHORT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. LAGOMARSINO. Mr. Speaker, I would like to share with my colleagues the following Los Angeles Herald Examiner "Editor's Report: Carter's Gutless Energy Program Falls Short," written by William Randolph Hearst, Jr. I believe the editorial, which appeared on Sunday, June 3, offers a fine analysis of the problems with the President's program.

[From the Los Angeles Herald Examiner, June 3, 1979]

EDITOR'S REPORT: CARTER'S GUTLESS ENERGY PROGRAM FALLS SHORT

(By William Randolph Hearst Jr.)

President Carter's press conference offered little in the way of solving the energy crisis, except details of how to handle the gasoline shortage. It did nothing to advance the SALT II Treaty, except give him a chance to reaffirm his own position. I gathered he wants it signed.

It did nothing to mollify Congress or garner support for his programs.

What it did was display a "new" president. Gone was the apprentice president. Gone was the presidential candidate. Carter stood on his own two feet, and doing so, stood taller. He seemed to be a confident professional. He handled the press skillfully, turning aside personal issues such as Sen. Kennedy's turf-pawing at the campaign's starting gate, or questions about his own helicoptering on a fishing trip. He even managed a couple of amusing sallies, albeit some of them wry.

Energy—specifically the shortage of oil, gasoline and natural gas—is the nation's most pressing problem, and the confident-appearing national leader merely muddled around with the same ideas and phrases that had turned off Congress much earlier and has left the country disturbingly unimpressed. Some of what Carter had to say about energy—again, specifically oil—just did not make sense, yet it is part of his energy "program."

To be specific:

Speaking of the proposed special tax on windfall profits for oil companies when prices are decontrolled, Carter said, ". . . We are only willing to let the oil companies keep, out of each dollar increase in prices, about 29 cents. The rest goes to either local or state or federal governments or to the owners of land where oil is produced.

"The income for the federal government from the windfall profits tax brought about by decontrol of oil will go into an energy security fund. A substantial portion of this fund will be used to pay to poor families for the increased cost of oil and other energy. The rest of it will go, as I said, for rapid transit and to produce additional supplies of oil."

By the president's estimates, the windfall profits from decontrol will be less than $4 billion per year during the five-year period it will take to decontrol oil prices.

Just about every expert in the oil industry says it will take at least $25 billion each year over the next five years to carry on the search for oil at the present level of exploration.

The average annual earnings of the entire oil industry, including last year when prices were highest in history, have been less than $15 billion.

This means that the industry needs at least $10 billion more each year in annual earnings during the next five years just to finance continuing search for oil at its present level.

If the petroleum industry were to be allowed to keep every penny of this so-called "windfall profit" it would still experience a $6 billion annual shortfall of money needed to explore for new oil.

Geologists say the oil is there—it merely has to be found. Nobody in the entire world knows how to find it better and quicker than the exploration companies now in business. For the most part, these are not big-name companies. They are outfits that are small in comparison, well-heeled though they might be. It takes many millions merely to set up an organization to do the exploring and drilling.

The greatest area of misinformation in the oil mess is about who owns the oil and who is profiteering. For the most part, the big oil companies, Exxon, Shell, Mobil, Texaco, et al., are middlemen. They buy their crude oil at the well head, transport it to refineries where it becomes gasoline, heating oil or heavy industrial oil, then sell it to retail outlets that display their emblems. The retailers are, in majority, independent businessmen.

There may, indeed, have been some hanky-panky. There may, indeed, have been some withholding of gas from the market and some sneaky price boosts. These things can be controlled, possibly by exposure alone. The gas station owner in Queens, New York, who withheld gas from the market on Memorial Day morning and then opened up for motorists returning home after posting prices of $1.30 a gallon, should have his name spread before the public.

It is known, also, that some unscrupulous oil producers have found a way to "launder" their "old oil" so they can sell it as "new oil," on which higher prices are permitted.

It was this sort of thing that President Carter was trying to pinpoint when he called the White House meeting with the oil company moguls on Thursday and another meeting with consumer advocates on Friday.

There is enough blame in all of this to spread around in thick layers, but the point is not to find culprits but to find energy. We cannot continue to use more and more petroleum products each year and then simply kick the oil companies because they do not have sufficient stocks on hand to meet our demands.

There are basic facts we must face:

1) We have discouraged the search for new oil, especially domestic oil, by clamping a lid on profits and making it imprudent for oil companies to invest in exploration.

2) OPEC nations, especially the Arabs, are not going to let us have their oil in whatever quantity we wish, on our terms. Henceforth, they are going to husband their diminishing supplies.

3) We have permitted our appetite for oil to increase with each passing year, pigheadedly refusing to believe that there really is a shortage. (Nothing disgusts me more than to listen to people who know nothing at all about the industry stating categorically that there is plenty of oil—that the oil companies are just hoarding it for higher prices. That is simply untrue.)

I cannot shake the feeling that Carter's end-of-week meetings with oil industry leaders and consumer advocates was mostly window dressing, calculated to show the public that something was being done in Washington about this tragic situation.

If that is so, it means that once again we are being forced into finding solutions to the most grave problems of our time with nothing but last-minute, jerry-built programs. For, as of now, nothing resembling an energy program exists in this nation.

Carter now commences his five-year decontrol program, and that can only be regarded as a step in the right direction. But it is a discouragingly tiny step.●

ALBERT PICK, JR. AWARD TO FORMER SECRETARY OF DEFENSE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mrs. SCHROEDER. Mr. Speaker, the following speech was delivered by Robert McNamara, President of the World Bank and former Secretary of Defense, at the University of Chicago on May 22, 1979, following his receipt of the Albert Pick, Jr. Award. I feel its importance is paramount in our reevaluation of national security as we move deeper and deeper into the nuclear age. Since we are standing on the doorstep of the MX, the Trident II missile, the cruise missile, and particle beam weapons, Mr. McNamara's comments are especially relevant and timely.

When Mr. McNamara served as Secretary of Defense in the 1960's, he was not normally equated with the long-haired hippies who so strongly advocated an end to the war in Vietnam and deescalation of the arms race with the Soviet Union. Little more than a decade later, Mr. McNamara is advocating many of these same principles—more security through economic aid to developing countries rather than less security through increased military budgets and development of nuclear arsenals. If only our military leaders and our youth had reached this kind of consensus before MIRV, before high-energy lasers, and before time-urgent hard-target kill capability, SALT would be something that we passed around our dinner tables, rather than something we needed to pass through the Senate. I hope Mr. McNanama's plea does not go unheard, and that it has not come too late.

REMARKS BY ROBERT S. MCNAMARA FOLLOWING RECEIPT OF THE ALBERT PICK JR. AWARD

It seems to me that what the Directors of the Albert Pick, Jr. Fund, and this great university had in mind in establishig this award honoring international understanding was to point out that we need to think more profoundly about the new kind of world that is emerging around us.

The old order is certainly passing. Perhaps the beginning of its breakdown can be dated from that cold December day in 1942 when a few hundred yards from where we are now sitting the first nuclear chain reaction began. The consequences of that event were to transform our whole concept of international security because now Man had the capacity not merely to wage war, but to destroy civilization itself.

If I may on this occasion speak quite personally, I had of course to wrestle with the problem of the fundamental nature of international security during my tenure as U.S. Secretary of Defense, and in 1966 I spoke publicly about it in a speech to the American Society of Newspaper Editors meeting in Montreal.

My central point was that the concept of security itself had become dangerously oversimplified. There had long been an almost universal tendency to think of the security problem as being exclusively a military problem, and to think of the military problem as being primarily a weapons-system or hardware problem.

"We still tend to conceive of national security," I noted, "almost solely as a state of armed readiness: a vast, awesome arsenal of weaponry."

But, I pointed out, if one reflects on the problem more deeply it is clear that force alone does not guarantee security, and that a nation can reach a point at which it does not buy more security for itself simply by buying more military hardware.

That was my view then. It remains my view now.

Let me be precise about this point.

No nation can avoid the responsibility of providing an appropriate and reasonable level of defense for its society. In an imperfect world that is necessary. But what is just as necessary is to understand that the concept of security encompasses far more than merely military force, and that a society can reach a point at which additional military expenditure no longer provides additional security.

Indeed, to the extent that such expenditure severely reduces the resources available for other essential sectors and social services—and fuels a futile and reactive arms race—excessive military spending can erode security rather than enhance it.

Many societies today are facing that situation. Certainly the world as a whole is. And any sensible way out of the problem must begin with the realization of the dangers and disproportionate costs that extravagant military spending imposes on human welfare and social progress.

Global defense expenditures have grown so large that it is difficult to grasp their full dimensions.

The overall total is now in excess of $400 billion a year.

An estimated 36 million men are under arms in the world's active regular and paramilitary forces, with another 25 million in the reserves, and some 30 million civilians in military-related occupations.

Public expenditures on weapons research and development now approach $30 billion a year, and mobilize the talents of half a million scientists and engineers throughout the world. That is a greater research effort than is devoted to any other activity on earth, and it consumes more public research money than is spent on the problems of energy, health, education and food combined.

The United States and the Soviet Union together account for more than half of the world's total defense bill, and for some two-thirds of the world's arms trade.

And yet it is not in the industrialized nations, but in the developing countries that military budgets are rising the fastest.

On average around the world, one tax dollar in six is devoted to military expenditure, and that means that at the present levels of spending the average taxpayer can expect over his lifetime to give up three or four years' of his income to the arms race.

And what will he have bought with that? Greater security?

No. At these exaggerated levels, only greater risk, greater danger, and greater delay in getting on with life's real purposes.

It is imperative that we understand this issue clearly.

The point is not that a nation's security is relatively less important than other considerations. Security is fundamental.

The point is simply that excessive military spending can reduce security rather than strengthen it.

In the matter of military force—as in many other matters in life—more is not necessarily better. Beyond a prudent limit, more can turn out to be very much worse.

And if we examine defense expenditures around the world today—and measure them realistically against the full spectrum of actions that tend to promote order and stability within and among nations—it is obvious that there is a very irrational misallocation of resources.

Is there any way, then, to moderate the mad momentum of a global arms race?

No very easy way, given the degree of suspicion and distrust involved.

But as one who participated in the initial nuclear test ban arrangements, and other arms limitation discussions, I am absolutely convinced that sound workable agreements are attainable.

These matters clearly call for realism. But realism is not a hardened, inflexible, unimaginative attitude. On the contrary, the realistic mind should be a restlessly creative mind—free of naive delusions, but full of practical alternatives.

There are many alternatives available to an arms race. There are many far better ways of contributing to global security. I suggested a number of those ways in my address in Montreal in 1966, pointing out the importance of accelerating economic and social progress in the developing countries. When, two years later, I left the Pentagon for the World Bank this was an aspect of world order with which I was particularly concerned.

Eleven years in that institution, combined with visits to some 100 of the developing countries, have contributed immeasurably to my international understanding. They have permitted me to explore the whole new world that has come to political independence—in large part over the past quarter century.

I have met the leaders of this new world—their Jeffersons and Washingtons and Franklins—and have sensed their pride and their peoples' pride in their new national independence, and their frustrations at their economic dependence.

I have shared their sense of achievement at the remarkable rate of economic growth which many of them attained, largely by their own efforts. But I have been appalled by the desperate plight of those who did not share in this growth, and whose numbers rose relentlessly with the great tide of population expansion.

There are today more than one billion human beings in the developing countries whose incomes per head have nearly stagnated over the past decade. In statistical terms, and in constant prices, they have risen only about two dollars a year; from $130 in 1965 to $150 in 1975.

But what is beyond the power of any set of statistics to illustrate is the inhuman degradation the vast majority of these individuals are condemned to because of poverty.

Malnutrition saps their energy, stunts their bodies, and shortens their lives. Illiteracy darkens their minds, and forecloses their futures. Preventable diseases maim and kill their children. Squalor and ugliness pollute and poison their surroundings.

The miraculous gift of life itself, and all its intrinsic potential—so promising and rewarding for us—is eroded and reduced for them to a desperate effort to survive.

The self-perpetuating plight of the absolute poor tends to cut them off from the economic progress that takes place elsewhere in their own societies. They remain largely outside the entire development effort, neither able to contribute much to it, nor benefit fairly from it.

And when we reflect on this profile of poverty in the developing world we have to remind ourselves that we are not talking about merely a tiny minority of unfortunates—a miscellaneous collection of the losers in life—a regrettable but insignificant exception to the rule. On the contrary, we are talking about hundreds of millions of human beings—40% of the total population of over 100 countries.

Is the problem of absolute poverty in these nations solvable at all?

It is. And unless there is visible progress towards a solution we shall not have a peaceful world. We cannot build a secure world upon a foundation of human misery.

Now how can we help lift this burden of absolute poverty from off the backs of a billion people? That is a problem we have been dealing with at the World Bank intensively for the past six or seven years.

It is clear that we in the richer countries cannot do it by our own efforts. Nor can they, the masses in the poorest countries, do it by their own efforts alone. There must be a partnership between a comparatively small contribution in money and skills from the developed world, and the developing world's determination both to increase their rate of economic growth, and to channel more of the benefits of that growth to the absolute poor.

Most of the effort must come from the developing countries' own governments. By and large they are making that effort.

In the past decade, the poor nations have financed over 80% of their development investments out of their own meager incomes. But it is true they must make even greater efforts. They have invested too little in agriculture, too little in population planning, and too little in essential public services. And too much of what they have invested has benefitted only a privileged few.

That calls for policy reforms, and that is, of course, always politically difficult. But when the distribution of land, income, and opportunity becomes distorted to the point of desperation, political leaders must weigh the risk of social reform against social rebellion. "Too little too late" is history's universal epitaph for political regimes that have lost their mandate to the demands of landless, jobless, disenfranchised, and desperate men.

In any event, whatever the degree of neglect the governments in the poor countries have been responsible for, it has been more than matched by the failure of the developed nations to assist them adequately in the development task.

Today, Germany, Japan, and the United States are particularly deficient in the level of their assistance.

The case of the United States is illustrative. It enjoys the largest gross national product in the world. And yet it is currently one of the poorest performers in the matter of Official Development Assistance. Among the developed nations, Sweden, the Netherlands, Norway, Australia, France, Belgium, Denmark, Canada, New Zealand, and even—with all its economic problems—the United Kingdom: all of these nations devote a greater percentage of their GNP to Official Development Assistance than does the U.S.

In 1949, at the beginning of the Marshall Plan, U.S. Official Development Assistance amounted to 2.79% of GNP. Today, it is less than one-tenth of that: .22% of GNP. And this after a quarter-century during which the income of the average American, adjusted for inflation, has more than doubled.

There are, of course, many sound reasons for development assistance.

But the fundamental case is, I believe, the moral one. The whole of human history has recognized the principle that the rich and powerful have a moral obligation to assist the poor and the weak. That is what the sense of community is all about—any community; the community of the family, the community of the nation, the community of nations itself.

Moral principles, if they are really sound—and this one clearly is—are also practical ways to proceed. Social justice is not simply an abstract ideal. It is a sensible way of making life more livable for everyone.

Now it is true that the moral argument does not persuade everyone.

Very well. For those who prefer arguments that appeal to self-interest, there are some very strong ones

Exports provide one out of every eight jobs in U.S. manufacturing, and they take the output of one out of every three acres of U.S. farm land—and roughly one third of these exports are now going to the developing countries..

Indeed, the U.S now exports more to the developing countries than it does to Western Europe, Eastern Europe, China, and the Soviet Union combined.

Further, the U.S. now gets increasing quantities of its raw materials from the developing world—more than 50% of its tin, rubber, and manganese plus very substantial amounts of tungsten and cobalt, to say nothing of its oil.

The U.S. economy, then, increasingly depends on the ability of the developing nations both to purchase its exports, and to supply it with important raw materials.

And the same sort of relationship of mutual interdependence exists between the other industrialized countries—the Common Market, and Japan—and the developing world.

Thus, for the developed nations to do more to assist the developing countries is not merely the right thing to do, it is also increasingly the economically advantageous thing to do.

What will it cost the United States and the other industrialized countries to do more?

Far less than most of us imagine.

The truth is that the developed nations would not have to reduce their already immensely high standard of living in the slightest, but only devote a minuscule proportion of the additional per capita income they will earn over the coming decade.

It is not a question of the rich nations diminishing their present wealth in order to help the poor nations. It is only a question of their being wlling to share a tiny percentage—perhaps 3%—of their incremental income.

It is true that the developed nations, understandably preoccupied with controlling inflation, and searching for strucutral solutions to their own economic imbalances, may be tempted to conclude that until these problems are solved, aid considerations must simply be put aside.

But support for development is not a luxury—something desirable when times are easy, and superfluous when times become temporarily troublesome.

It is precisely the opposite. Assistance to the developing countries is a continuing and moral responsibility, and its need now is greater than ever.

Will we live up to that responsibility?

As I look back over my own generation—a generation that in its university years thought of itself as liberal—I am astonished a the insensitivity that all of us had during those years to the injustice of racial discrimination in our own society.

Will it now take another 50 years before we fully recognize the injustice of massive poverty in the international community?

We cannot let that happen.

Nor will it happen—if we but turn our minds seriously to the fundamental issues involved.

Increasingly the old priorities and the old value judgments are being reexamined in the light of the increase degree of interdependence that is developing among nations—and it is right that they should be.

Once they are thought through, it will be evident that international development is one of the most important movements underway in this century.

It may ultimately turn out to be the most important.

Our task, then, is to explore—to explore a turbulent world that is shifting uneasily beneath our feet even as we try to understand it. And to explore our own values and beliefs about what kind of a world we really want it to become.

It was T. S. Eliot, in one of his most pensive moods, who wrote:

"We shall not cease from exploration
And the end of all our exploring
Will be to arrive where we started
And know the place for the first time."

Thank you, and good evening.●

FED UP WITH THE FED

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. McDONALD. Mr. Speaker, everyone agrees that the dollar has become weaker and weaker in the world's money markets. Everyone agrees that greater trust in the dollar is needed. Continued deficit spending by the Federal Government, combined with easy money as national policy, have joined to keep inflation rampant and confidence in the dollar down. Responsible legislation to remedy the problem really has not emerged from the Congress. H.R. 7, the "Monetary Control Act of 1979" will increase our monetary problems, not help them, in my view. Barron's Weekly contains an excellent editorial commentary on this whole problem in its June 11, 1979 issue. The editorial, which follows, should be required reading for all Members of Congress before they vote on this piece of legislation.

"FED UP WITH THE FED"

U.S. MONEY MANAGEMENT GOES FROM BAD TO WORSE

By and large we're as affable as the next man (who around here happens to be a duly licensed curmudgeon), but over several decades of spiraling inflation, we have taken an increasingly dim view of those who manage the nation's finances. Back in the late 'Sixties, when the American currency, thanks to the easy money policies pursued by the Federal Reserve Board under William McChesney Martin, had become the target of ferocious assault, we repeatedly—"Sound as a Dollar: The Money Managers Have Fallen Down on the Job," *Barron's*, Oct. 9, 1967; "Another Day, Another Dollar: U.S. Money Managers Have Forfeited World Confidence," *Barron's*, March 18, 1968—questioned the soundness and wisdom of this country's monetary policies. Mr. Martin subsequently gave way to Dr. Arthur Burns, who despite an imposing conservative facade, publicly endorsed federal wage and price restraint and wound up presiding over—indeed, in his official capacity, heavily contributing to—the devaluation of the dollar. To serve as a central banker, as *Barron's* again reminded its readers early last year, when G. William Miller took over at the Fed, one needn't be a flimflam man, but it helps.

In voicing such sentiments, we used to be as lonely as a Maytag repairperson, but no longer. On the contrary, criticism of U.S. money management, past and present, lately has begun to swell. Thus, the prestigious American Economic Review has just published a scholarly critique of Dr. Burns' eight-year tenure at the Fed, which, in effect, concludes that from 1971 through early 1978, when he reluctantly left the scene, the good professor made one costly blunder after another. In the opinion of William Poole, Professor of Economics at Brown University and former member of the Federal Reserve staff: "As a result of Burns' policy of reducing the announced money-growth targets while permitting the actual rate of money growth to rise, the new Federal Reserve chairman was left with . . . the legacy of an inflationary policy and also a significant public relations problem." To judge by a recent column by William Safire, headlined "Fed Up with the Fed," the incumbent has succeeded in making a bad state of affairs worse. "William Miller has been to the Federal Reserve Board," so Safire scathingly wrote, "what Stansfield Turner has been to the CIA: a disaster."

Bill Safire, whose villains usually operate in less rarefied circles and who tends to see things in down-to-earth terms, may have overstated the case; for the moment, "near-disaster" will do. Be that as it may, since moving from Textron to the Fed, Mr. Miller, like his predecessor, has made one mistake after another. Time and again, for example, the new chairman of the Board has publicly predicted an imminent peak in interest rates, only to be confounded by yet another turn of the screw. All last summer and well into fall, he watched complacently (along with his alleged mentor at the helm of the Treasury) as the dollar plunged relentlessly to new lows, only taking fright, and belated action, at the eleventh hour, when foreign exchange markets throughout the world were bordering on panic. Since the turn of the year—this is the thrust of Safire's savage attack—Miller has stood idly by "in the midst of an economic emergency," while inflation, unchecked by the Fed, for the second time in half a decade has revved up to dangerous double-digit rates.

For its failure to act decisively, the Fed, to be sure, scarcely lacks explanation (a recent piece in a leading business daily offered no fewer than seven, ranging from "operational difficulties" to "social sea-changes" and "extreme uncertainty.") In view of the enormous growth of the Eurodollar market, the world of finance, it's said, has grown too complex for simple monetary solutions. Housing must be sheltered, so runs another argument, nor can one put in jeopardy the social gains of recent years. The U.S. may be on the brink of recession, at which point, in the light of hindsight, the current indecisive stance will prove correct. Or the reason—as one unexpectedly candid official replied when asked why the Fed had made no move to tighten credit—may be simply "We're afraid to."

All kinds of excuses for doing nothing. Yet where its own interests seem to be at stake, the Federal Reserve lately has been energetic and effective. Last week, to illustrate, with vigorous Fed support, the House Committee on Banking, Finance and Urban Affairs approved the "Monetary Control Act of 1979," a measure which aims to discourage the growing exodus of member banks from the Federal Reserve System. Soothingly designated a bill "to facilitate the implementation of monetary policy and to promote competitive equality among depository institutions," the bill in fact has alarming and ugly implications. Despite mounting public concern over excessive regulation, the proposed act would extend federal reserve requirements to non-member banks. Still worse, it would lower across-the-board the total of deposits that must be kept in the form of reserves, thereby freeing up a huge quantity of money for lending and investing and, potentially at any rate, adding ponderably to inflationary pressures. One version of Murphy's Law holds that every successor invariably falls short of his predecessor. Martin to Burns to Miller tends to prove the point.

A devout believer in the original Murphy's Law—anything that can go wrong will—we had qualms about Mr. Miller from the start. Thus, back in March 1978, when our colleagues in the financial press were hailing his debut before the Senate Budget Committee. *Barron's* took a dimmer view. "After several close encounters with the credibility gap that frequently yawns between official words and deeds, the market reacted skeptically to Mr. Miller's strictures. After a brief burst of strength early in the week, on great (and overblown) expectations over the rescue operation supposedly launched by Washington and Bonn, the dollar again turned weak. Even as Chairman Miller was speaking, the greenback in several strategic foreign exchange markets, notably Tokyo, approached or touched new lows. To one who regularly chronicles the foibles and follies of the mighty, such universal mistrust seems singularly well advised. Despite the plaudits which he tended to evoke in the press, Chairman Miller's testimony strikes us as something of a mixed bag."

As events were quick to show, it's the sorry mixture as before. With one basic change: unlike his predecessors, William Miller scarcely bothers to pay lip service to the necessity, let alone desirability, of sound money. Thus, throughout most of last year, as the dollar went from bad to worse, the Fed kept hands off. To be sure, unlike the Secretary of the Treasury, who hailed the plunge in the greenback as a "contribution to the stability of the international monetary system," Mr. Miller kept his own counsel. But actions—or inactions—speak louder than words. Meanwhile, as inflation kept gaining momentum, Miller time and again threw the weight of his office against tighter credit. Two months ago, indeed, the country witnessed the incredible spectacle of the Secretary of the Treasury, far and away the world's greediest borrower, openly—and, for several weeks, vainly—urging the guardian of the nation's currency to raise interest rates.

As Bill Safire aptly put it: "Here we have one of the great economic turnabouts of recent history: the Treasury, traditionally in favor of easy money to finance Government spending, is pleading with the Fed to apply the brakes on money to defend the dollar, while the Fed, traditionally the cautious restrainer of inflation, is now worried more about the immediate social effects of restraint."

All of which brings us to the "Monetary Control Act of 1979," which finds the Fed, as usual, lining up on the wrong side. Just how wrong may perhaps be gathered from the name of the chief sponsor: Rep. Henry Reuss (D., Wis.), easy money advocate par excellence, whose chief claim to fame lies in his unforgettable forecast a few years ago that if the Treasury ever stopped buying and selling gold at $35 an ounce, the price would fall to six bucks or so (Friday's quote: $280). The Congressman was off by a factor of 50 on that issue, and the odds against his being right on this one strike us as comparable. True, apart from its perennial indecisiveness and lack of will, the Federal Reserve faces a new headache: the accelerating tendency of members to jump ship. In the past half dozen years or so, irked at the mounting costs and dubious benefits of membership, nearly 350 banks have withdrawn, dropping member bank deposits from 80 percent at the start of the decade to roughly 70 percent of the total today. The Reuss solution, like the Fed's, is to extend the requirement to hold non-interest-bearing reserves to non-members, thereby curtailing, or removing altogether, the financial incentive to defect. Nothing like a touch of compulsion, as statistics long ago learned, to whip dissenters into line.

The stick—and the carrot, which is even more alarming. For the pending legislation also provides for slashing reserve requirements on demand deposits and wiping them out on savings. All told, according to official estimates, the moves would lower required reserves by $18 billion of high-powered money, thereby creating the potential for a nearly tenfold increase in bank loans and investments, to say nothing of the U.S. money supply. FRB officials scoff at such projections. Through open market operations, they suggest, the central bank would mop up the excess reserves. Perhaps, but decades of perennial expansion of the U.S. monetary base, as well as a succession of film-flam men at the top, argue strongly against taking such a chance. Fool me once, shame on you. Fool me twice—or time after time—and you too can be chairman of the Fed.

—Robert M. Bleiberg.●

NEED TO RELEASE SHCHARANSKY INCREASES AS HEALTH DETERIORATES

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. DRINAN. Mr. Speaker, reports have surfaced recently that Anatoly Shcharansky's health is deteriorating rapidly. Shcharansky, who is serving a 13-year sentence on trumped-up charges of conspiring with "agents of the United States Government," remains behind bars in Christobol Prison at Tartaria, east of Moscow.

Anatoly Shcharansky is only 31 years old and yet the harsh prison conditions coupled with inadequate medical attention is now taking its toll.

An article in today's Washington Post by Keith Richburg reports on the recent status of Mr. Shcharansky's health problems. At such a crucial time in United States-Soviet affairs, it is my sincere hope that, on humanitarian grounds, Anatoly Shcharansky can be released soon.

The urgency of this case cannot be understated. Shcharansky was unjustly convicted nearly a year ago for crimes he did not commit. Surely, Anatoly Shcharansky has suffered enough.

The Washington Post article follows:

[From the Washington Post, June 11, 1979]

SHCHARANSKY, IN A SOVIET PRISON, REPORTED AILING

(By Keith Richburg)

The health of Soviet dissident Anatoly Shcharansky is deteriorating rapidly, according to a letter said to have been sent out of the Soviet Union's Chistobol prison by a fellow inmate.

Shcharansky's health problems have long been known, but the latest message—received in Israel Friday and relayed to his wife, Avital, in New York—indicates that the 31-year-old prisoner's condition is worsening, that he is losing weight rapidly, and that he is not getting medical attention.

Shcharansky "suffers from strong headaches," the message said, according to the translation provided by his wife. "He has constant shivering fever, and he is losing weight drastically. There is definitely some dangerous process taking place, maybe in the brain," according to the translated message.

The identity of the Christobol inmate who wrote the letter is being protected for fear of Soviet reprisal, Mrs. Shcharansky said. Political prisoners are not allowed to discuss health matters in their allotted monthly letters out of the prison, and Mrs. Scharansky said the news of her husband's health was written in code.

A Shcharansky letter to his mother, received May 10, indicated that he was losing his sight and suffering the same kind of severe headaches described in the more recent message. "When I read or write, my eyes and then my head begin to hurt," Shcharansky wrote then.

The latest news of Shcharansky's health was received as his wife was en route to Washington to attend the annual policy conference on Soviet Jewry, a three-day gathering that began yesterday. On Thursday, President Carter leaves for Vienna and a summit conference with Soviet President Leonid I. Brezhnev, highlighted by their signing of the new strategic arms limitation treaty (SALT II).

Shcharansky, a computer technician, became a cause celebre in the West when he was first refused an emigration visa and then arrested for treason in March 1977, accused of working for the CIA. President Carter personally intervened on Shcharansky's behalf.

Shcharansky was convicted in July 1978, sentenced to 13 years in the Christobol prison at Tataria, east of Moscow. The timing of the trial, conducted while Secretary of State Cyrus R. Vance was meeting in Geneva with Soviet Foreign Minister Andrei Gromyko to discuss SALT II, was interpreted then as a rebuke to Carter's human rights policies.

Mrs. Shcharansky, in Washington yesterday, said she had no plans to meet with Carter to ask him to intervene again on her husband's behalf when he meets with Brezhnev. She said she was somewhat encouraged, however, by what western analysts interpret as a Kremlin move to better relations with the United States, as evidenced in the release of five Soviet dissidents in a prisoner exchange last month.

The national conference on Soviet Jewry was scheduled for this week before the Carter-Brezhnev summit was planned. Mrs. Shcharansky, who has been in this country for about three weeks, has traveled widely in the west since her husband's arrest to seek support on his behalf.●

REAR ADM. WILLIAM LAWRENCE, JR.

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mrs. HOLT. Mr. Speaker, I would like to take this opportunity to inform my colleagues that Rear Adm. William Lawrence, Jr., has recently been named the 23d recipient of the National Football Foundation and Hall of Fame's Gold Medal.

Admiral Lawrence, currently Superintendent of the Naval Academy, was president of his 1951 Academy class. He played both football and basketball and led the establishment of the brigade honor concept. Following graduation, he completed flight school and was assigned to a fighter squadron.

Admiral Lawrence made two cruises to Vietnam and was shot down over North Vietnam in 1967. For 6 years he was a prisoner of war. Following his release he was awarded numerous decorations including the Silver Star, the Bronze Star, the Navy Commendation Medal, and the Distinguished Service Medal for the leadership and bravery exhibited as a prisoner of war.

Throughout his career, Admiral Lawrence, has consistently demonstrated a fierce loyalty and duty to his country. I can think of no one more deserving of the National Football Foundation and Hall of Fame Gold Medal than him.●

EXPLANATION ON VOTE MISSED ON JUNE 7, 1979

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 11, 1979

● Mr. EDGAR. Mr. Speaker, on Thursday, June 7, 1979, I had business that required my presence in Pennsylvania. Therefore, I was unable to vote during the session Thursday. Had I been present during the vote on the final passage of H.R. 3875, the Housing and Community Development Act of 1979, I would have voted "yea".●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, June 12, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 13

9:30 a.m.

Select on Ethics

To continue hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.

6226 Dirksen Building

Judiciary

Administrative Practice and Procedure Subcommittee

To receive testimony from officials of the Environmental Protection Agency concerning the administration's regulatory reform efforts, including the implementation and effect of Executive Order 12044.

357 Russell Building

10:00 a.m.

Armed Services

Military Construction and Stockpiles

To receive testimony on a proposal to realign Fort Dix, New Jersey.

212 Russell Building

Banking, Housing, and Urban Affairs

To hold hearings on the nomination of Andrew A. DiPrete, of Rhode Island, to be a member of the Federal Home Loan Bank Board.

5302 Dirksen Building

Commerce, Science, and Transportation

Communications Subcommittee

To resume hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.

235 Russell Building

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To continue hearings on S. 950, proposed Omnibus Solar Energy Commercialization Act.

3110 Dirksen Building

Environmental and Public Works

Water Resources Subcommittee

To continue hearings on S. 703, to provide for the study, advanced engineerings, and design and/or construction of certain public works projects for navigation and flood control on rivers and harbors in the United States and trust territories.

4200 Dirksen Building

Finance

To continue mark up of S. 505 and 507, proposing reform of the administrative and reimbursement procedures currently employed under the medicare and medicaid programs, and S. 570, to establish a system of stand-by percentage limits on allowable rates of increases in hospital revenues (Hospital Cost Containment).

2221 Dirksen Building

Governmental Affairs

To continue hearings on S. 2, to provide for a review of Government programs every 10 years.

3302 Dirksen Building

Judiciary

Business meeting, to consider S. 961, to expedite trials of persons charged with Federal crimes; S. 400, to relieve six Pennsylvania libraries from liability of repaying monies they received as disaster relief payments as a result of Hurricane Agnes; S. 648, to relieve the Marlin Toy Products, Inc., for settlement of all its claims against the U.S.; S.J. Res. 43, proclaiming March 21, 1980, as National Energy Education Day; and pending nominations.

2228 Dirksen Building

10:15 a.m.

Finance

Business meeting, to resume mark up of S. 505 and 507, proposing reform of the administrative and reimbursement procedures currently employed under the medicare and medicaid programs, and S. 570, to establish a system of stand-by percentage limits on allowable rates of increases in hospital revenues (Hospital Cost Containment), to be followed by consideration of the nominations of Arthur L. Nims, III, of New Jersey, to be a Judge of the U.S. Tax Court, and Richard B. Lowe, III, of New York, to be Deputy Inspector General, Department of Health, Education, and Welfare.

2221 Dirksen Building

10:30 a.m.

Conferees

On S. 429, authorizing supplemental funds for fiscal year 1979 for defense weapons procurement and research, development, test, and evaluation programs of the Department of Defense.

S-407, Capitol

Foreign Relations

Closed business meeting, on the impending SALT treaty.

S-116, Capitol

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To hold oversight hearings on the activities of the Office of Inspector General, for both the Department of Energy and the Agency for International Development.

1224 Dirksen Building

2:30 p.m.

Foreign Relations

To hold hearings on S. 493, proposed Deep Seabed Mineral Resources Act.

4221 Dirksen Building

3:15 p.m.

*Labor and Human Resources

Business meeting, to mark up S. 570, to control increases in hospital revenues (Hospital Cost Containment).

4232 Dirksen Building

JUNE 14

9:30 a.m.

Agriculture, Nutrition, and Forestry

Foreign Agricultural Policy Subcommittee

To hold oversight hearings on the implementation of the international grain agreements.

322 Russell Building

Commerce, Science and Transportation

Consumer Subcommittee

To hold hearings to examine the activities and policies of the Consumer Product Safety Commission in the area of chronic hazards as it relates to consumer products.

5110 Dirksen Building

Select on Ethics

To continue hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.

1202 Dirksen Building

10:00 a.m.

Appropriations

Labor-HEW Subcommittee

To mark-up proposed budget estimates for fiscal year 1980 for the Departments of Labor and Health, Education, and Welfare.

S-207, Capitol

Commerce, Science, and Transportation

Communications Subcommittee

To continue hearings on S. 611, and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.

235 Russell Building

Energy and Natural Resources

Energy Regulation Subcommittee

To receive testimony from the Energy Information Administration on the current energy supply situation.

3110 Dirksen Building

Environment and Public Works

To hold hearings on the nomination of Victor Gilinsky, of Maryland, to be a Member of the Nuclear Regulatory Commission.

4200 Dirksen Building

Finance

To continue markup of S. 505 and 507, proposing reform of the administrative and reimbursement procedures currently employed under the medicare and medicaid programs, and S. 570, to establish a system of stand-by percentage limits on allowable rates of increases in hospital revenues (Hospital Cost Containment).

2221 Dirksen Building

Governmental Affairs

To continue hearings on S. 2, to provide for a review of Government programs every 10 years.

3302 Dirksen Building

*Judiciary

To resume hearings on S. 382, to strengthen and facilitate the carrying out of antitrust and procompetitive policies of the Federal Government, and to increase competition in regulated industries.

2228 Dirksen Building

Rules and Administration
Business meeting, to consider the nominations of Thomas E. Harris, of Virginia, and Frank P. Reiche, of New Jersey, each to be a Member of the Federal Election Commission, and other committee business and legislative and administrative business.
301 Russell Building

Select on Indian Affairs
To hold hearings on S. 668, to allow the Cow Creek Band of the Umpqua Indians of Oregon to file a claim with the U.S. Court of Claims for alleged failure of the United States to fulfill treaty obligations.
6226 Dirksen Building

10:30 a.m.

Banking, Housing, and Urban Affairs
To hold oversight hearings on the activities of financial institutions relative to the sale of insurance.
5302 Dirksen Building

2:00 p.m.

Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold hearings on proposed supplemental funds for fiscal year 1979 for the food stamp program.
322 Russell Building

2:30 p.m.

*Veterans' Affairs
To hold hearings on S. 689, proposed Veterans' Disability Compensation and Survivors Benefits Act, and S. 754, proposed Veterans Insurance Amendments Act.
6226 Dirksen Building

JUNE 15

10:00 a.m.

Commerce, Science, and Transportation
Communications Subcommittee
To continue hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.
235 Russell Building

Environment and Public Works
To resume oversight hearings on the General Services Administration's leasing and new construction policies of Federal buildings.
4200 Dirksen Building

Governmental Affairs
To resume hearings on S. 445 and title 5 of S. 2, to require that all Federal agencies conduct a regulatory analysis before issuing regulations and to prevent unnecessary or harmful procedures which has led to economic inefficiencies that disrupt the operation of a free enterprise system of the U.S.
3302 Dirksen Building

JUNE 18

9:30 a.m.

Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 231, 700, 1003, and 1065, bills to provide for the enactment of efficient tax incentives for research and development innovation in the field of U.S. exports.
2221 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on S. 864, to establish an office within the Department of Commerce, which would promote and encourage the formation and utilization of export trade associations.
5302 Dirksen Building

* Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcasting uses of the electromagnetic frequency spectrum.
235 Russell Building

Environment and Public Works
Water Resources Subcommittee
To resume hearings on S. 703, to provide for the study, advanced, engineerings, and design and or construction of certain public works projects for navigation and flood control on rivers and harbors in the United States and trust territories.
4200 Dirksen Building

2:00 p.m.

Judiciary
To hold hearings on the nomination of Patricia M. Wald, of Maryland, to be U.S. Circuit Judge for the District of Columbia Circuit.
2228 Dirksen Building

JUNE 19

9:30 a.m.

Commerce, Science, and Transportation
To resume oversight hearings on the trucking industry's economic regulation by the Federal Government, focusing on household moving and the problems confronting both the household goods carriers and the consumers they serve.
235 Russell Building

*Energy and Natural Resources
To hold oversight hearings on the activities of programs administered by the Surface Mining Control and Reclamation Act of 1977.
3110 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
To resume oversight hearings to explore the areas of basic learning skills used in elementary and secondary schools.
4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on S. 864 to establish an office within the Department of Commerce, which would promote and encourage the formation and utilization of export trade associations.
5302 Dirksen Building

Commerce, Science, and Transportation
Communications Subcommittee
To continue hearings on S. 611 and 622, bills providing for the development of domestic, international, and rural broadcasting stations, focusing on the implementation of cable television, the National Commission on Spectrum Management, and public resource fee schedules for nonbroadcast uses of the electromagnetic frequency spectrum.
1202 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To continue hearings on S. 703, to provide for the study, advanced engineerings, and design and or construction of certain public works projects for navigation and flood control on rivers and harbors in the United States and trust territories.
4200 Dirksen Building

Foreign Relations
To receive testimony on the proposed ratification of the new International Sugar Agreement.
4221 Dirksen Building

Judiciary
Antitrust, Monopoly, and Business Rights Subcommittee
To hold hearings on S. 1246, to prohibit the growth of a monopoly power forming among major petroleum companies, and to encourage oil companies to put profits back into oil exploration, research, and development.
5110 Dirksen Building

JUNE 20

9:00 a.m.

Veterans' Affairs
To hold hearings on veterans' claims for disabilities resulting from the effects of nuclear weapons testing.
6226 Dirksen Building

9:30 a.m.

Judiciary
To hold hearings on the nomination of Bailey Brown, Tennessee, to be a U.S. Circuit Judge for the Sixth Circuit.
2228 Dirksen Building

Labor and Human Resources
To hold hearings on S. 446, proposed Equal Employment Opportunity for the Handicapped Act.
4232 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To resume hearings on S. 796, proposed Railroad Deregulation Act.
235 Russell Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
To hold hearings on pending proposals for the John F. Kennedy Center relating to the payment of outstanding bonds and the issuing of free tickets.
1114 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To hold joint hearings with the Subcommittee on Resource Protection on proposed legislation relating to the release of hazardous substances into the environment.
4200 Dirksen Building

Labor and Human Resources
*Health and Scientific Research Subcommittee
To hold hearings on S. 568, to provide for the potential contribution and advancement of women in scientific, professional, and technical careers, and on proposed national health insurance programs.
457 Russell Building

3:30 p.m.

Labor and Human Resources
Health and Scientific Research and Subcommittee
To resume markup of S. 772–787, S. 1045, and S. 1075, bills to require drug companies to conduct postmarketing and scientific investigations of approved drugs, to transmit drug information to patients and health professionals regarding the use of approved drugs.
S–207, Capitol

JUNE 21

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.
6226 Dirksen Building

*Energy and Natural Resources

To resume oversight hearings on the activities of programs administered by the Surface Mining Control and Reclamation Act of 1977.

3110 Dirksen Building

Judiciary

Antitrust, Monopoly, and Business Rights Subcommittee

To resume hearings on S. 1246, to prohibit the growth of a monopoly power forming among major petroleum companies, and to encourage oil companies to put profits back into oil exploration, research, and development.

5110 Dirksen Building

Labor and Human Resources

To continue hearings on S. 446, proposed Equal Employment Opportunity for the Handicapped Act.

4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Financial Institutions Subcommittee

To hold hearings on proposed legislation to establish financial reform programs.

5302 Dirksen Building

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To continue hearings on S. 796, proposed Railroad Deregulation Act.

235 Russell Building

Environment and Public Works

Environmental Pollution Subcommittee

To continue joint hearings with the Subcommittee on Resource Protection on proposed legislation relating to the release of hazardous substances into the environment.

4200 Dirksen Building

*Labor and Human Resources

Health and Scientific Research Subcommittee

To continue hearings on S. 568, to provide for the potential contribution and advancement of women in scientific, professional, and technical careers, and on proposed national health insurance programs.

457 Russell Building

JUNE 22

9:30 a.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 1063 and 1062, bills to provide for the structural simplification of the Internal Revenue Code.

2221 Dirksen Building

10:30 a.m.

Commerce, Science, and Transportation

To hold hearings to investigate whaling activities that take place beyond the jurisdiction of the International Whaling Commission.

235 Russell Building

JUNE 25

9:30 a.m.

Finance

Taxation and Debt Management Subcommittee

To hold hearings on S. 192 and 208, bills to provide for the tax treatment of foreign investors for property located in the United States.

2221 Dirksen Building

Judiciary

Improvements in Judiciary Machinery Subcommittee

To resume joint hearings with the Subcommittee on Constitution on S. 678, to reform and restructure the Federal judicial system, S. 295, to establish within the Judicial branch a system for investigating and resolving allegations that the condition or conduct of Federal judges is or has been inconsistent with good behavior required by the Constitution, and S. 522, to clarify the authority of the judicial councils to deal with instances of judicial misconduct.

6226 Dirksen Building

10:00 a.m.

*Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings to investigate the environmental effects of low level radiation.

4232 Dirksen Building

2:00 p.m

Finance

Energy and Foundations Subcommittee

To resume oversight hearings on the implementation of the energy taxation policy for tax proposals relating to energy production.

1224 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To resume markup of S. 772-787, S. 1045, and S. 1075, bills to require drug companies to conduct postmarketing and scientific investigations of approved drugs, to transmit drug information to patients and health professionals regarding the use of approved drugs.

EF-100, Capitol

JUNE 26

9:00 a.m.

Labor and Human Resources

To hold hearings on S. 1076, proposed Multiemployer Pension Plan Amendments Act.

4232 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

To resume oversight hearings on the trucking industry's economic regulation by the Federal Government.

235 Russell Building

10:00 a.m.

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To hold hearings on S. 734, proposed Federal Power Marketing Revolving Fund Act.

3110 Dirksen Building

Environment and Public Works

Water Resources Subcommittee

To hold hearings on proposed cost sharing factors for water resources projects.

4200 Dirksen Building

Labor and Human Resources

Education, Arts, and the Humanities Subcommittee

To hold hearings on proposed authorizations through fiscal year 1964 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.

1114 Dirksen Building

JUNE 27

9:00 a.m.

Labor and Human Resources

To continue hearings on S. 1076, proposed Multiemployer Pension Plan Amendments Act.

4232 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

To continue oversight hearings on the trucking industry's economic regulation by the Federal Government.

235 Russell Building

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.

6226 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and the Humanities Subcommittee

To continue hearings on proposed authorizations through fiscal year 1984 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.

1318 Dirksen Building

JUNE 28

10:00 a.m.

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To resume hearings on S. 734, proposed Federal Power Marketing Revolving Fund Act.

3110 Dirksen Building

Environment and Public Works

Environmental Pollution Subcommittee

To resume joint hearings with the Subcommittee on Resource Protection on proposed legislation relating to the release of hazardous substances into the environment.

4200 Dirksen Building

Labor and Human Resources

Education, Arts, and the Humanities Subcommittee

To continue hearings on proposed authorizations through fiscal year 1984 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.

4232 Dirksen Building

JULY 10

10:00 a.m.

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold oversight hearings on the implementation of the Outer Continental Shelf Leasing program.

3110 Dirksen Building

JULY 11

9:30 a.m.

Labor and Human Resources

To hold hearings on the workplace, employment and training and their perspectives for the coming decade, and will focus on the Federal role in public sector employment and training policies and programs.

4232 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on the certification and inspection procedures of the DC-10 and other types of aircraft.

235 Russell Building

JULY 12

9:30 a.m.

Labor and Human Resources.

To continue hearings on the workplace, employment and training and their perspectives for the coming decade, and will focus on the Federal role in public sector employment and training policies and programs.

4232 Dirksen Building

Veterans Affairs

To hold oversight hearings on the efforts made by the Veterans' Administration to provide information on benefits due incarcerated veterans.

6226 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue hearings on the certification and inspection procedures of the DC-10 and other types of aircraft.

235 Russell Building

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To resume oversight hearings on the implementation of the Outer Continental Shelf Leasing program.
3110 Dirksen Building

JULY 16

10:00 a.m.
Energy and Natural Resources
To hold hearings on S. 730, to provide for the establishment of the Energy Corporation of the Northeast designed to bring together the States, Federal Government, and private industry in a creative effort to deal with the energy problems of this area.
3110 Dirksen Building

JULY 17

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold joint hearings with the House Subcommittee on Science, Research and Technology of the Committee on Science and Technology, to examine U.S. policies and initiatives of the U.S. Conference on Science and Technology for Development.
5110 Dirksen Building

JULY 18

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To resume joint hearings with the Subcommittee on Resource Protection on proposed legislation relating to the release of hazardous substances into the environment.
4200 Dirksen Building

JULY 19

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To hold oversight hearings on the implementation of the Education for all Handicapped Children Act of 1975 (P.L. 94–142).
4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Parks, Recreation, and Renewable Resources Subcommittee
To hold hearings on S. 1104, to provide for the establishment of the Channel Islands National Park.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To continue joint hearings with the Subcommittee on Resource Protection on proposed legislation relating to the release of hazardous substances into the environment.
4200 Dirksen Building

JULY 20

9:30 a.m.
Finance
Tourism and Sugar Subcommittee
To hold hearings on S. 589, 749, and 940, bills to provide for the applicability of tax rules affecting foreign convenience.
2221 Dirksen Building

JULY 24

9:30 a.m.
Labor and Human Resources
To resume hearings on S. 446, proposed Equal Employment Opportunity for the Handicapped Act.
4232 Dirksen Building

JULY 25

9:00 a.m.
*Veterans' Affairs
To hold hearings on S. 759, to provide for the right of the United States to recover the costs of hospital nursing home or outpatient medical care furnished by the Veterans' Administration to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts.
6226 Dirksen Building

JULY 26

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94–142).
4232 Dirksen Building

JULY 30

10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 1300, proposed International Air Transportation Competition Act.
235 Russell Building

JULY 31

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education for all Handicapped Children Act of 1975 (P.L. 94–142).
4232 Dirksen Building

AUGUST 1

10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1300, proposed International Air Transportation Competition Act.
235 Russell Building

AUGUST 2

10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 1300, proposed International Air Transportation Competition Act.
235 Russell Building

CANCELLATIONS

JUNE 14

2:00 p.m.
Labor and Human Resources
Health and Scientific Research Subcommittee
To resume mark up of S. 772–787, S. 1045, and S. 1075, bills to require drug companies to conduct post-marketing and scientific investigations of approved drugs, to transmit drug information to patients and health professionals regarding the use of approved drugs.
4232 Dirksen Building

JUNE 21

2:00 p.m.
Labor and Human Resources
Health and Scientific Research Subcommittee
To continue mark up of S. 772–787, S. 1045, and S. 1075, bills to require drug companies to conduct post-marketing and scientific investigations of approved drugs, to transmit drug information to patients and health professionals regarding the use of approved drugs.
EF–100, Capitol

SENATE—*Tuesday, June 12, 1979*

(Legislative day of Monday, May 21, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. J. JAMES EXON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Give us the upward reach to the hand of God. Give us the outward reach to the hand of man, that hand in hand with Thee and our fellowman we may make life's pilgrimage with grace and dignity—in sickness and in health, in plenty and in want, in peace and in war.

Breathe into us such a sense of Thy presence and power that Thy wisdom may become our wisdom, Thy will our will and every task a sanctified labor.

May all who work in this Government so serve as to be ministers of Thy divine purpose.

And to Thee shall be all the praise and thanksgiving. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 12, 1979.

To the Senate:

Under the provisions of rule I, section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable J. JAMES EXON, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. EXON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE SENATE AGENDA

Mr. ROBERT C. BYRD. Mr. President, beginning with July time will become a precious commodity. I have kept my commitment to avoid Friday sessions of the Senate through the end of June. I think we have had two Friday sessions this year, and specifically they occurred on January 19 and February 9.

As I stated in the beginning, however, once we reach July, Friday sessions will become necessary and some Saturday sessions will be required. A look at the Gregorian Calendar as well as the Senate Calendar makes this very apparent. After today only 10 working days remain, Mondays through Thursdays, prior to the July 4 holiday.

Beginning with July 9, the date of our return from the Independence Day holiday, only 24 working days will be available, and this includes every Saturday before the August recess begins. Hence, after today a total of only 34 working days remain, including four Saturdays, prior to September 5, the date the Senate comes back from the August recess.

With a look at the calendar we find ourselves in June. What is so rare as a day in June? Today is June 12. Look down the road between now and September 5 and it may appear that we have lots of time, almost 3 months, but a close look at the calendar of working days for the Senate shows only 34 working days after today—including four Saturdays—prior to September 5. If those four Saturdays were eliminated we would only have 30 working days between now and September 5.

During the aforementioned 34 working days, the Senate should try to dispose of all appropriations bills—and we have not disposed of one yet because we have been waiting on the House of Representatives to send over those appropriations bills, so we have all the appropriations bills—13 regular appropriations bills—in addition to one or more supplementals ahead of us. During the aforementioned 34 working days the Senate should also try to dispose of as many expiring authorization measures as possible, and there are several already on the calendar.

In addition thereto, it is hoped that such legislation as hospital cost containment and any energy measures can also be handled.

Once we reach September and the frost begins to gather on the pumpkin, the days begin to shorten more and more and the shadows become longer, the second concurrent budget resolution must be adopted by the 15th of that month and any remaining appropriations bills, together with windfall profits tax legislation, and so forth, should be completed—in addition to our getting a good start on the SALT treaty debate in September.

There will be no "holidays"—quoted for emphasis—no holidays once the August recess is behind us, with the exception of the weekend of Thanksgiving in the event the Senate has not completed work on the SALT treaty by Thanksgiving.

It is hoped that SALT will be the final work completed before adjournment sine die for this session. I would hope to see us complete the work on the treaty—whether it is voted up or down, whether there are modifications, reservations, understandings, amendments, whatever, I hope it will all be completed by Thanksgiving. If it is not, we will have to come back after Thanksgiving and stay until Christmas, and if it is not finished then, we will come back beginning on the 3d day of January and we will just keep going without a break except for Christmas holiday. There is still a Santa Claus.

As is clear from the above, once we reach July, the Senate will have to drastically intensify its floor work with long days and Saturday sessions a necessity, a necessity, not because I said so, not because I want them—I do not want them—but they will become a necessity from there on through to adjournment. I hope that all Senators will recognize the urgency of seizing time by the forelock, because we do not have much of that forelock left before the middle of the year will be gone, and keeping our noses—long, short, romanesque, whatever—to the grindstone once the July 4 break is behind us.

Finally, in light of the above, it is to be hoped that committees will refrain from reporting out legislation that is not absolutely necessary for passage this year. The leadership has given committees Fridays, and as much other time as possible, to work on measures that had to be reported. But the time will be here very soon, when the Senate will be in on Fridays and on Saturdays. I hope, may I repeat, that committees will refrain from reporting out legislation that is not absolutely necessary for passage this year. There just simply will not be enough time left to take up legislation that does not have the highest priority.

In saying this, I say it with deep appreciation for the cooperation and the understanding that I have received from all Senators on both sides of the aisle. I feel it imperative that all Senators be informed of the kind of workload we have left, and the increasingly restricted time that we have in which to do business.

There remain 31 expiring authorizations to be completed by October 1, 1979, the end of the fiscal year, when all of these public laws will expire. I believe seven of these have not yet been reported. That is about as clearly as I can lay out the stark outlines of the workload that remains to be done.

I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I thank the majority leader. I especially thank him for giving us this insight into the future schedule of the Senate for the remainder of this year, and maybe even into next year, which is a terrifying thought. I cannot remember a single time in my career in this body or, for that matter, in private life before that, when I have reached for the forelock of time. [Laughter.]

I have to commend the majority leader for the energetic statement and descriptive statement that he made in that respect.

Seriously, Mr. President, I thank the majority leader for his remarks. I have one or two questions, if I may. First of all, though, I would like to say that I completely agree with the majority leader that it is going to be a busy session with the work he has outlined, that is, the regular appropriations bills, plus the necessary authorizations or reauthorizations, plus SALT. That is more than enough for a whole year, and I agree with him that the Senate would be best served and, indeed, the country would be best served, if legislation that is not absolutely essential is deferred at least until the next session of Congress.

I hope committee will, in fact, take heed of the majority leader's recommendation in that respect, and I would urge the minority members of committees to do so as well. There will be time enough in the next session or succeeding session to do the things that need to be done, but not at this time.

Saturday sessions? I do not believe there are many people in the Senate who would bridle at the thought of Saturday sessions if they had a good idea as to when they were going to be held. I know I do not. If we can plan on it it is not nearly so much of a problem.

In anticipation of some such announcement of the majority leader—and it will be no surprise to my colleagues, those who read the RECORD, that the majority leader and I confer informally from time to time when these things are discussed—but after he brought to my attention the possibility that we would have Saturday sessions in July, I began to try to identify the Saturdays we might be in session. I rather suspect the majority leader would not want to be bound at this time, but I wonder if he could give us any further insights?

Mr. ROBERT C. BYRD. Well, the distinguished minority leader, who is my friend from ankle to forelock—if I may use the word "forelock" again—knows I do not like Saturday sessions. I do not like them. I detest them. The only reason I have said we will have to have them is simply because the calendar is just running out. With only 34 days—including Saturdays—between now, after today, and September 5, I felt the Senate would just out of necessity have to meet on those four Saturdays, beginning with the 14th of July extending through the 21st and the 28th of July and through the 4th of August.

Naturally, if our work can be expedited and time agreements can be reached, and we can handle the calendar without being in all four of those Saturdays, I would be the first to say, "Hallelujah."

If they could all be eliminated, I would say, "Hallelujah, hallelujah." However, I do not think this to be a likely prospect.

I am giving the minority leader as forceful and as meaningful a response as I can. I do not want to be in on those Saturdays.

I do not want to be in on all four of them. I do not want to be in on three of them, I do not want to be in on two of them, and I do not want to be in on one of them, but it depends on how the work goes, and I think that in order to be on the safe side and the realistic side, it seems to me at this point we ought to just say very likely we will have to be in on all of them.

If we can work out time agreements, and if we can have long sessions daily and fewer rollcalls and get the work done, then maybe we will not have to be in on all four.

Mr. BAKER. Mr. President, I thank the Senator.

I am going to advise my Members and those on this side of the aisle that we should plan on Saturday sessions on the 14th, the 21st, and the 28th of July, and probably on the 4th of August.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. There is some possibility that we can avoid it, but it is by no means sure.

May I ask the majority leader another question in that respect?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Will there be any days during the week when we could reasonably expect late sessions or other days on which we could depend on the Senate not being in quite so late? For instance so far this session the majority leader has agreed and has arranged the schedule of the Senate so that we were in to a certain hour on Mondays, and later, somewhat later, on other days. Does the Senator anticipate any such schedule in July?

Mr. ROBERT C. BYRD. I would not. I have indicated to Senators that through the first 6 months we would have no Monday sessions beyond 6 or 6:30 p.m. I will try to continue that schedule.

I have said that we should count on night sessions Tuesdays and Wednesday nights through June. I think as we now look down the road and see this workload of legislation building, we cannot assure that there will not be the necessity for lengthy sessions on Thursdays and, possibly, even Friday nights as well during that period.

So, what I am saying is that as I look forward I can only assure the minority leader that we will not be in late on Monday nights once we get into July—Monday nights still 6 or 6:30; and if we can get our work done, I certainly would like not to have late evenings on Fridays. So one should count on long sessions on Tuesdays, Wednesdays, and Thursdays, and I would not rule out evening sessions on Fridays, once we reach July.

May I say in the regard also there ought to be a time down the road when committees should stop meeting and reporting out bills. There is just no point in reporting them out because we are not going to be able to handle those measures except for those that have high priority.

But I think the key to this is time agreements. If we can get time agreements and schedule measures sequentially, where possible, then Senators will know how to arrange their schedules accordingly. So I hope we can get time agreements. We are just going to have to have them, or we will be in session after the snow flies.

I would rather be here on Saturdays than to be here until Christmas. So it is going to be most helpful if we can get time agreements.

Mr. BAKER. Mr. President, if the majority leader will yield for 1 additional moment, I have advised him previously that I agree with him that the time has come for taking up and disposing of appropriation and authorization bills if we can, in view of the other matters we have before us.

I agree to help him as far as I can to get out as soon as possible; but if that is going to happen, we have to stop the mill from grinding out bills as soon as possible. Otherwise we are spinning our wheels, trying to dispose of matters on the calendar while the calendar fills up.

I assure the Senator that I will work with the standing committees and other committees on our side, and urge them to do the same.

Mr. ROBERT C. BYRD. Of course, there will be measures such as revenue measures to come over from the other body. We cannot handle them until they come over; we cannot initiate them. The Finance Committee obviously, for example, will probably have to have meetings farther into the session than some other committees would.

Some bills will remain on the calendar, and they will just have to be there until next year. We cannot gorge ourselves with legislation to the point that we cannot force it down the legislative esophagus.

I hope this discussion has been helpful. I am sure our colleagues will be alert to it now, and with the assurances of the distinguished minority leader that we can work together to get time agreements, this gives me hope.

Mr. GOLDWATER. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Did the distinguished Senator from Arizona have a question, or wish to make a statement? If so, I yield the floor to him.

Mr. GOLDWATER. I had a question. I think I know the answer. I was going to ask the majority leader if there might not be some possibility of doing away with the August recess, so that we could enter the period after Labor Day with nothing to do but the SALT agreement.

Mr. ROBERT C. BYRD. That would please me. The Senator has almost left me speechless, but it would please me. I had much rather give up the August recess and get out of here for good, and not come back until the middle of January or the latter part of January; but I doubt whether that would be agreeable to all of our colleagues, some of whom have children and would like to spend a little time with their children before they go back to school. Some Senators have August vacations scheduled already.

Mr. GOLDWATER. I agree with that. I have 10 grandchildren, myself.

Mr. ROBERT C. BYRD. The Senator has 10? I only have 6.

Mr. GOLDWATER. That is the end of the line, too.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Connecticut (Mr. RIBICOFF) for 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

NATIONAL HEALTH INSURANCE

Mr. RIBICOFF. Mr. President, an hour from now the President will state his position on national health insurance. The President will set forth the first phase of his proposal in detail and will ask Congress to act on it during this session.

With this health care plan, the major health insurance proposals are on the table. Careful analysis of these proposals produces an encouraging result—one which is overlooked by those who would rather highlight differences, controversy, and politics. The similarities between the proposals put forward by President Carter, Senator KENNEDY, and Senator LONG are significant, are numerous, and far exceed the remaining differences.

National health insurance was first discussed as a serious political issue at the Bull Moose Convention in 1912. Since President Franklin D. Roosevelt's Committee on Economic Security endorsed a compulsory national health program, we have had a series of national health bills in Congress. President Truman actively pushed a comprehensive health plan to be financed by social security taxes. It was defeated after intensive lobbying by business groups, private insurers, and the American Medical Association.

We have taken important steps toward a national health system. In 1965, as part of President Johnson's Great Society program, Congress created the medicare program for the elderly and medicaid for the poor. But these are the only concrete programs to emerge from 30 years of debate. Amid the debate there has been confusion, rhetoric, and disagreement on basic principles.

It is the natural desire of each proponent of a particular approach to national health insurance to emphasize the unique characteristics of his approach and to highlight the differences from other well-known proposals. As a result, the debate is polarized. It is, therefore, important to place the three major proposals before the Senate in an historical context. When this is done, the areas of agreement among the proposals are significant and substantial.

In the past, Senator KENNEDY has proposed the Kennedy-Corman bill which would nationalize our health care payment system. This bill would substantially supplant private health insurance. The plan would cost at least $40 billion in general revenues and another $40 billion in social security taxes.

A month ago, Senator KENNEDY publicly announced his latest proposal for a progressively financed comprehensive health insurance program for all Americans using Government regulated private insurance. Senator KENNEDY's proposal envisions a comprehensive health care system implemented in phases or stages although all the phases would be spelled out in one piece of legislation and enacted at the same time. His proposal makes extensive use of the private health insurance industry as the primary method for providing health insurance coverage to the American people. In fact, Senator KENNEDY goes further in this direction than most other proposals by assigning the private health insurance industry the responsibility for the administration of health insurance for the poor as well as the employed population. Senator KENNEDY's proposal would be financed through income-related premiums. The proposal involves rigorous budget controls and reimbursement reforms as well as incentives to individuals and insurers, States, and providers to keep down health care costs.

Senator LONG and I for the last 6 years have introduced legislation which would provide catastrophic health insurance (paid for by a payroll tax and administered by the Federal Government), would expand and reform the medicaid program, and would provide certified private basic health insurance policies for noncatastrophic health expenses. Recently, Senator LONG has introduced legislation incorporating new approaches to these same goals, such as catastrophic coverage achieved by mandating employers to provide the coverage.

President Carter's proposal to be announced today will advance us significantly along the road to the enactment of a national health insurance proposal. Phase 1 of this plan draws upon the wisdom of previous national health insurance proposals. He has attempted to balance the need to solve our health care problems with our resources to solve these problems.

President Carter would mandate employers to provide employee coverage for all medical expenses over $2,500 a year. In addition to this catastrophic coverage, policies would cover prenatal and infant care up to age 1. The President's proposal would create a program called "Health Care" which would replace medicare and medicaid. This would involve a substantial expansion ($15 billion) of assistance to the aged and the poor. The proposal also contains important cost control and system reform provisions.

A careful examination of the current proposals of President Carter, Senator KENNEDY, and Senator LONG shows that a consensus is developing on key issues.

President Carter, Senator KENNEDY, and Senator LONG agree that we must phase-in a national health insurance program. This is very important. If the last 15 years have taught us anything, it should be that implementation of a program is crucial—and that it is difficult. From my experience in developing programs—as a Congressman, as a Governor, as Secretary of Health, Education, and Welfare, and as a Senator—I am convinced that the right approach to national health insurance is the step-by-step approach.

When one looks at the proposed first phase of the Carter plan, the first phase of the Kennedy plan, and the Long proposals, the first phase each envisions is not dissimilar.

All three agree that the current medicaid program is inadequate. They all agree that a program providing health care for the poor must have uniform standards and a more substantial Federal role.

President Carter, Senator LONG, and Senator KENNEDY all agree that a first phase must include improvements in the medicare program. Due to the dramatic increase in health care costs, the amount the elderly are paying in real terms is greater than when medicare was first enacted. All three proposals would place a cap on the medical expenses an elderly person would have to pay and would broaden existing hospitalization benefits.

The vast majority of our citizens are employed or are the spouse or dependent of an employed individual; President Carter, Senator LONG, and Senator KENNEDY all agree that for these citizens, mandated coverage by private employers is the proper approach.

The plans put forward by Senator KENNEDY, Senator LONG, and President Carter all agree that use of the private health insurance industry should be the dominant method of health care delivery. All the plans build upon the strengths of the private health insurance industry. This is a significant area of agreement which did not exist until very recently.

President Carter, Senator LONG, and Senator KENNEDY all agree that the costs to the Federal budget must be as limited as possible. At the same time they all agree that health care for the poor, the elderly and the unemployed is the responsibility of the Federal Government and must be paid for out of the Federal budget.

On the important issues of cost controls and system reforms, the thrust of the Carter and Kennedy proposals are similar while Senator LONG has not yet presented his position. Both the Carter and Kennedy proposals involve some budgeting and cost controls. Both plans involve fee schedules for doctors and capital controls.

In addition both President Carter and Senator KENNEDY have proposed that physicians be required to accept both medicare and medicaid patients if they accept either, and that such physicians cannot charge the patient more than a Government approved negotiated fee.

Also significant is the recent introduction by Senators DOLE, DANFORTH, and DOMENICI of their own health insurance proposal. While the bill only covers catastrophic health costs, the Republicans are also constructively joining the debate.

National health insurance is doable. We can have it during this Congress. Because it is doable, the major participants in this debate have a heavy obligation to the American people to act responsibly.

First, it is essential that the Finance Committee hold hearings on each of the major proposals. President Carter's proposal has just today been announced. It deserves serious consideration and analysis. It is essential that the different groups in our society with a deep interest in health care have an opportunity to testify publicly on this major legislative initiative by the President. Similarly, Senator KENNEDY's proposal was just made public a month ago. This far-ranging and innovative proposal also has not been the subject of Finance Committee hearings. While Senator DOLE's bill was discussed during the hearings held in March on Senator LONG's bill, Senator DOLE's bill had only been introduced the day before the hearings began and most witnesses did not address it in detail.

Second, it is now necessary that we put together enactable national health insurance legislation. While there are significant areas of consensus as outlined, there are obviously substantial and important differences which remain on both substance and timing.

But we have an opportunity to enact national health insurance legislation during this Congress. For the first time responsible spokesmen are moving significantly toward a common position. It is essential that we submerge personalities for the common good. Now is the time for statemanship. There is enough credit to go around. Working together we can pass landmark national health insurance legislation.

Mr. President, I ask unanimous consent that the President's message to the Congress announcing his national health plan proposal, a summary fact sheet describing the proposal and the Carter administration's outline of a fully implemented national health plan be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

To the Congress of the United States:

Today I am proposing to the Congress a National Health Plan. This major new initiative will improve health care for millions of Americans and protect all our people against the overwhelming financial burdens of serious illness.

It has been 30 years since President Truman challenged Congress to secure for all Americans access to quality health care as a matter of right. It has been nearly 15 years since the Congress, responding to the leadership of Presidents Kennedy and Johnson, finally enacted Medicare and Medicaid. Now, after a decade and a half of inaction, it is time to move forward once again.

I have consulted with the Congress, with consumers, with leaders of labor, management, and the health care industry, and have carefully weighed every option. My proposal is practical, premised on effective cost controls, and consistent with sound budget practices. It will:

Protect all Americans from the cost of catastrophic illness or accident

Extend comprehensive health coverage to almost 16 million low-income Americans

Provide coverage for prenatal, delivery, postnatal, and infant care, without cost-sharing

Establish Healthcare, which will provide more efficient Federal administration of health coverage for the poor and the elderly

Reform the health care system to promote competition and contain costs

Create both the framework and the momentum for a universal, comprehensive national health plan.

PROTECTION FROM CATASTROPHIC EXPENSES

No American should live in fear that a serious illness or accident will mean bankruptcy or a lifetime of debt. Yet today over 80 million Americans are unprotected against devastating medical costs, and millions more can lose the protection they now have because of unemployment or the death of a working spouse.

This National Health Plan will protect every American from the serious financial burden caused by major illness and injury. All employers will provide catastrophic coverage for full-time employees and their families, with subsidies to ease the burden on small businesses. No family will be required to pay more than $2,500 for medical expenses in a single year. Americans who are not covered elsewhere can obtain affordable catastrophic coverage from a special Federal program. Under this special program, no one will be denied coverage because he or she is labelled a "bad medical risk."

EXPANDED BENEFITS FOR THE ELDERLY

The cost of health care falls most cruelly on America's older citizens who, with reduced incomes, have the highest medical expenses. Because Medicare places limits on hospital days and places no ceiling on out-of-pocket expenses, serious illness threatens senior citizens with loss of their homes and their life savings. Under the National Health Plan, the elderly will have unlimited hospital coverage and will be required to pay no more than $1250 for medical expenses in a single year.

Today, the elderly also face heavy financial burdens because physicians increasingly charge more than the Medicare fee. Under the National Health Plan, physicians would be prohibited from charging elderly patients more than the allowable fee.

IMPROVED PROGRAM FOR THE POOR

The National Health Plan also provides expanded benefits for the poor. The Plan will extend comprehensive coverage—full physician, hospital and related services—to all Americans with incomes below 55% of poverty ($4200 for a family of four). In addition, persons with incomes above 55% of poverty will be able to "spend-down" into comprehensive coverage if their medical expenses in a given year reduce their income to the eligibility level. A family of four with an income of $4500, for example, will be covered after $300 of medical expenses. Under these provisions, 15.7 million poor people, including 1.2 million elderly, will receive comprehensive coverage for the first time.

Today the existence of 53 separate State and territorial Medicaid programs impedes efficient management. Under the National Health Plan, the administration of programs for the poor and the elderly will be significantly upgraded by the creation of a single new Federal program—Healthcare. Healthcare will improve claims processing, reduce error rates in eligibility determination, and facilitate detection of fraud and abuse.

HEALTH SERVICES FOR MOTHERS AND INFANTS

Prevention is the best way to eliminate the suffering and cost of illness, and one of the most effective preventive health measures we can take is to assure health care for expectant mothers and infants. We have been far too slow to learn this lesson. Our infant mortality rates are higher than those of eleven other nations. This inexcusable record can and will be corrected.

Under the National Health Plan, employers will provide employees and their families with coverage for prenatal care, delivery, and infant care to age one, without any cost-sharing. A high priority in future years must be to expand this coverage to include children up to age six. The employer provisions of the Plan, combined with the Child Health Assurance Plan I have already proposed for low-income expectant mothers and children, will assure that no newborn child in this country will be denied the chance for a full and productive life by the high costs of health care.

EXTENDED INSURANCE COVERAGE

Today, many employees and their families suddenly lose all health coverage when the employee is laid off or is between jobs. Under the National Health Plan, employer-based insurance policies will be required to maintain coverage for 90 days after employment ends. In addition, employer-based policies will be required to maintain family coverage for 90 days after an employee's death, and to cover dependents until age 26.

COST CONTAINMENT

A renewed emphasis on cost containment must accompany new health benefits. The American people now spend over 9% of the Gross National Product on health services—$200 billion a year. Hospital costs in America are rising $1 million an hour, 24 hours a day. It is time to draw the line.

The National Health Plan is premised on passage of strong hospital cost containment legislation, which will save the American people $53 billion over the next five years, including $28 billion in Federal, State, and local expenditures. The Nation cannot afford expanded coverage without hospital cost containment legislation. In addition, my National Health Plan proposes a $3 billion annual limit on hospital capital expenditures. This Nation cannot support more duplicative facilities and more unnecessary equipment. We must not add to the 130,000 excess hospital beds we now have. We must and we will insure that needed extensions in coverage do not become the excuse for further waste.

This Plan will also provide for a mandatory fee schedule for physicians who serve Healthcare patients. The fee schedule will curb excessive inflation in physician fees and will reduce the disparities in fees paid to rural physicians as compared to urban physicians, and primary care physicians as compared to specialists. Over time, the new fee schedule will help produce a better geographic distribution of physicians and increase the availability of primary care services.

The Healthcare fee schedule will provide a model for private health insurance plans. Private plans will publish the names of physicians who agree to adhere to the Healthcare fee schedule for all their patients. To assure that Blue Shield and similar organizations reexamine their physician reimbursement policies, the Plan will prohibit physician domination of the governing boards of these organizations.

INCREASED COMPETITION

Competition has been weak in the health care industry because a very high percentage of costs are paid by third parties, and because patients generally cannot determine or shop for the services they need. In recent years, however, health maintenance organizations (HMOs) have injected important competitive forces into the health care system. The National Health Plan will encourage further competition by giving employees and Healthcare beneficiaries new financial incentives to enroll in HMOs or other cost-effective health plans.

Employers will be required to make equal contributions to the various health plans they offer their employees. Employees who choose more cost-effective plans will either pay lower premiums, receive additional compensation, or receive expanded health benefits.

The Healthcare program will pay a fixed amount on behalf of elderly beneficiaries who choose to enroll in HMOs. If the HMO can provide the standard Healthcare benefit package for less than the fixed amount, it must offer additional health benefits to the patient.

The Plan also promotes competition by requiring Healthcare to use competitive bidding to select private companies to perform claims processing and related functions. Demonstration projects by the Department of Health, Education, and Welfare have shown that this change will produce significant administrative savings.

FRAMEWORK FOR A COMPREHENSIVE PLAN

A universal, comprehensive national health insurance program is one of the major unfinished items on America's social agenda. The National Health Plan I am proposing today creates both the framework and the momentum to reach that long-sought goal. In future years, the Plan can be expanded to include all low-income persons. Employer coverage can be made more fully comprehensive, with subsidies to ease the burden on small businesses. First-dollar coverage for preventive services can be extended throughout early childhood. I am today sending to the Congress an outline of a fully comprehensive plan which builds upon the significant health care improvements that I am asking the Congress to enact this session.

Consistent with current budgetary constraints, new Federal spending for the National Health Plan will not begin until FY '83. When the Plan is fully implemented, the Federal budget cost in 1980 dollars will be 18 billion and the premium cost to employers and employees will be $8 billion. A substantial portion of these expenditures reflect reduced out-of-pocket expenses for individuals and reduced spending by State and local governments for their health programs. These expenditures are a social investment in the future of our children, the economic security of our elderly, and the well-being and peace of mind of all Americans. They are an investment in a more effective and efficient health care system. Over time, the Plan's emphasis on prevention, competition, and cost containment will reap important dividends for our Nation and its people.

I urge the Congress not to lose this precious opportunity for progress. The real needs of our people are not served by waiting and hoping for a better tomorrow. That tomorrow will never come unless we act today. The National Health Plan I propose will provide millions of our citizens with better health, greater economic security, and more productive, dignified, and hopeful lives. The American people have waited long enough. I call on the Congress to act without delay.

JIMMY CARTER.

THE WHITE HOUSE, *June 12, 1979*.

SUMMARY FACT SHEET: PRESIDENT CARTER'S NATIONAL HEALTH PLAN LEGISLATION

I. THE BASIC APPROACH

President Carter is committed to a universal, comprehensive National Health Plan that—

Provides basic health coverage—hospitalization, physician services, lab-tests, X-ray and preventive care—to all Americans;

Systematically contains health cost inflation; and

Reforms the health system to improve the quality, efficiency and availability of health care services.

In a time of budgetary restraint and concern about inflation, it is not possible to enact a full universal, comprehensive plan. Accordingly, in order to address the most pressing health needs of the nation, the President has decided to send the Congress an outline of a complete National Health Plan and propose legislation embodying Phase I of that Plan. The Phase I legislation will:

Achieve universality by setting a limit on the out-of-pocket costs faced by American families as a result of major illness. This dramatically improves protection for 56 million workers and their families (who will have a $2,500 limit) and 24 million aged and disabled who do not now have such protection (and who will have a $1,250 per person limit);

Achieve universality by providing all pregnant women and children in the first year of life with critical pre-natal, delivery, and infant services;

Achieve greater equity by extending fully subsidized comprehensive care to an additional 15.7 million aged and non-aged poor;

Hold down costs through physician reimbursement reform and limits on capital expenditures as a complement to the already pending hospital cost containment bill; and

Reform the health care system by enhancing competition, increasing access to needed health care services, emphasizing prevention and improving the management of public health care programs.

In so doing, the Phase I legislation will take a major step toward a fully developed, universal, comprehensive National Health Plan.

II. THE BASIC PROBLEMS

A National Health Plan—not just a National Heatlh Insurance proposal—is needed because this nation's Health Care system, despite its many strengths, also has serious flaws:

Inadequate Coverage:

18 million Americans have no health insurance

19 million Americans have inadequate health insurance

An additional 46 million have inadequate protection against the cost of major illness.

Escalating costs

Total health costs in 1979 are 9.1 percent of the GNP ($206 billion)—and will rise steeply to 10.2 percent of the GNP ($368 billion) by 1984 without hospital cost containment.

Federal health costs in 1979 are 12.7 percent of the Federal budget ($62 billion)—and will rise steeply to 14.5 percent of the budget ($110 billion) in 1984 without hospital cost containment.

Other System Failures. For example:

There is little competition even though the Administration is removing barriers to the growth of alternative methods of health care delivery and reimbursement. There are not yet enough Health Maintenance Organizations to give many consumers a real choice, although with 8 million members, HMO's are emerging as a significant element in health care.

There is an insufficient emphasis on prevention, primary care and outpatient services. Existing insurance often does not cover these more effective, less expensive services.

51 million Americans live in medically underserved areas.

III. THE BASIC STRUCTURE

President Carter's National Health Plan legislation proposes two basic structures that will help meet immediate needs and that can be expanded to achieve a universal, comprehensive plan (as described in the outline submitted to the Congress with the proposal).

Healthcare will be a new umbrella Federal insurance program that will consolidate Medicare and Medicaid in a single administrative structure, that will introduce needed economies and efficiencies and that will reduce fraud, abuse and waste in public health financing program.

It will, to the maximum extent possible, use the private sector—on a competitive bid basis—to perform critical administrative functions.

It will provide comprehensive coverage to the aged, the disabled and the poor.

It will offer insurance against major medical expenses, on an optional basis, to other individuals and to small firms unable to obtain such coverage from private carriers at a reasonable price.

The Employer Guarantee builds on present group coverage and the strengths of the private insurance system. It is the fundamental mechanism for ensuring coverage for American workers and their families.

Many employers presently offer insurance to employees; the "employer guarantee" mandates that all employers provide minimum coverage. In phase I, employers will be required to provide full-time employees and their families both a standard package of benefits and protection against the costs of major illness.

Subsequently, the employer guarantee can be expanded to require provision of comprehensive health care coverage by reducing the level of employee cost-sharing.

IV. IMPACT OF PHASE I

President Carter's National Health Plan Legislation will significantly improve health protection for every American: the aged and the disabled, the poor, the employed and their families, and all others.

A. The aged and the disabled

Phase I will improve coverage for all 24 million now receiving Medicare—

For the first time, the cost-sharing faced by the aged and the disabled will be limited—to $1250 per person. (At present the aged and the disabled must pay coinsurance of 20 percent on all Medicare physician services.)

After the first day, the aged and the disabled will be entitled to an unlimited number of fully subsidized hospital days. (At present, the number of fully subsidized days is limited.)

The aged and the disabled will not face extra physician bills beyond those covered by Healthcare because physicians treating aged and disabled patients will be able to charge no more than the publicly set fee. (At present, physicians treating Medicare patients can charge extra, and about half do.)

Phase I will increase the number of low-income aged and the disabled receiving fully-subsidized care by 1.2 million, from the 4 million presently receiving Medicaid to 5.2 million who will be covered under Healthcare.

B. Low-income

Phase I will provide fully subsidized comprehensive coverage to an additional 14.5 million non-aged low-income persons, as well as continuing to provide such coverage to the 15.7 million presently receiving Medicaid.

The legislation will automatically make eligible for comprehensive care an additional 10.5 million non-aged poor with incomes below 55 percent of the poverty standard, who are not on Medicaid.

In addition, the legislation will propose a "spend-down" provision to cover all those poor with incomes above 55 percent of the poverty standard. If a family of four has income of $5100 and it expends $1000 or more on medical expenses, it then "spends-down" to or below the 55 percent of poverty level ($4100 for a family of four) and becomes eligible for a year's fully-subsidized comprehensive care under Healthcare. An estimated 4 million will enter Healthcare by this route each year.

C. Employed

The mandated employer coverage required by the Phase I legislation will protect 156 million full-time workers (25 hours per week, 10 weeks) and their families by limiting out of pocket expenses to $2500 in a year. It will also provide prenatal, delivery and first year care without any patient cost-sharing.

Fifty-six million will receive protection against major illnesses that they do not have at present.

These 56 million and tens of millions who already have group coverage against major illness will receive other improved benefits because the employer guarantee requires that:

The employer plan offer a full benefit package (hospital, physician, lab, x-ray, preventive and mental health services) that would be available after $2500 in out-of-pocket expenses had been incurred.

The employer plan pay at least 75 percent of the mandated premium costs; and

The employer plan continue to provide insurance 90 days after termination of employment.

The employer plan cover all dependents until age 22 (26 if in school) and for 90 days subsequent to the death of the worker.

The employer plan cover the mother and infant benefit discussed above.

D. All others

For the non-aged/non-disabled, non-poor, and non-employed—many of whom often have a difficult time obtaining individual insurance—Healthcare will

Offer protection against the costs of major illness—by paying a premium to Healthcare, individuals can obtain a policy that limits out-of-pocket expenses to $2500.

Offer just prenatal, delivery and first year care without any patient cost-sharing.

These individuals include the part-time employed, early retirees, divorcees and partially disabled individuals who do not qualify for Medicare.

V. OTHER PLAN FEATURES

A. Financing

1. The Aged and the Disabled. The present payroll tax of 1.05 percent on both the employer and the employee will continue to be paid to the Health Insurance Trust Fund. But there will be no payroll tax increases under Phase I. Similarly, the aged and the disabled will continue to pay a premium for physicians services (presently $98), but the cost of this premium will count towards the $1250 per person out of pocket limit. In short, other than the premium for physician services, benefits for this group will be financed out of Trust Fund and general revenues.

2. The Low-Income, Benefits will be financed out of general Federal and State revenues. States will continue to contribute in an amount approximating what they otherwise would have paid under Medicaid, reduced by fiscal relief.

3. The Employed. Employers will pay at least 75 percent and employees at most 25 percent of the premium costs of the mandated plan. The National Health Plan Legis-

lation will also address two special aspects of the employer mandate.

For the low wage or high risk employer, Phase I will provide a full subsidy for premium costs that, due to the mandate, exceed 5 percent of payroll.

For the low-income worker with a family, Phase I will expand the Earned Income Tax Credit—beyond the expansion already proposed in the Administration's welfare reform proposal—to help defray employee premium costs.

4. All Others. The benefits offered to this group will be financed out of general revenues and individual premium payments to Health-care.

B. Administration

The private insurance industry will administer the "employer guarantee" consistent with National Health Plan standards. It will, of course, continue its role of underwriting and marketing private coverage to employed groups and individuals both within the standards and beyond those minimum requirements.

The Federal government will administer Healthcare but make maximum use of private industry as carriers and claims handlers on a competitive bid basis. It will take over from the States the claims processing and reimbursement function and merge this function for both the low income and aged and disabled populations in order to reduce error and waste to the greatest extent possible in Federally-financed health programs.

The States will continue their traditional functions of certification and licensure of health facilities and personnel as well as general regulation of private insurance. They will continue to determine eligibility for those who qualify for Healthcare through AFDC.* The Federal government will determine eligibility for other low-income entrants to Healthcare, although States may undertake this function for the newly eligible if they meet performance standards.

C. Reimbursement

1. Hospitals. The Administration's Hospital Cost Containment legislation will establish the conditions for reimbursing hospitals and holding down costs in this most inflationary sector of the health care industry.

2. Physicians:

A mandatory fee schedule will be established in order to protect the aged and the disabled from extra physician charges and to increase physician participation in the low-income program. This schedule will be developed, in the first instance, by setting a standard fee at the Medicare average in States or Sub-State areas and then raising substandard Medicaid fees in those areas to that level over time. Physicians cannot charge—or be reimbursed—above the fees established in the schedule. A process of negotiation will be established for subsequent fee schedule changes.

On the private side, the Healthcare fee schedule will serve as an advisory schedule for physicians serving those covered by the "employer guarantee." The names of physicians who are willing to adhere to the schedule will be published in order to increase consumer choice. A commission will be established to look at reimbursement questions and to advise whether more stringent measures are necessary to hold down health costs and increase physician participation in the public programs.

D. System reforms

1. The Phase I legislation will include the following system reform elements:

Increased competition through development of HMOs and other alternative delivery and reimbursement systems, greater employee access to and incentives to use efficient health plans and greater consumer information about doctors fees.

Limits on capital expenditures to reduce excess hospital capacity and to curb proliferation of expensive, unnecessary high technology equipment.

Strong emphasis on prevention.

Creation of a voluntary Reinsurance Fund that will allow HMOs and firms to buy protection against the costs (over $25,000) of truly extraordinary illness, thus providing protection for businesses to self-insure and have a direct interest in cost containment as well as giving HMO's umbrella protection in handling high risk populations.

A five-year plan to assess needs and the adequacy of Federal health programs.

2. Other Administration initiatives will complement the Phase I bill; including:

Health planning legislation

Health manpower legislation to improve physician distribution, both in terms of needed specialties and geography

Mental health legislation

Health promotion and other initiatives to prevent disease, illness and injury.

E. Fiscal Relief

There should be significant fiscal relief in the program. Approximately $2 billion in fiscal relief will be distributed to State, county and local governments in each of the first two years of the program.

VI. COSTS

There will be no Federal expenditures under the National Health Plan Legislation until Fiscal 1983.

The costs of the program in the first full year of operation are as follows (this assumes 1980 population as well as 1980 dollars):

NET FEDERAL BUDGET AND EMPLOYER COSTS

[In billions, 1980 dollars]

	Federal	Employer
Aged and disabled	$3.9	
Improved catastrophic	(1.8)	
Improved subsidy for poor and near poor	(2.1)	
Low income (nonaged)	10.7	
Full coverage	(6.9)	
Spend down protection	(3.8)	
Employed:		
Employer guarantee		$6.1
Low-income worker: Premium subsidy	.9	
Small employer premium subsidy (for mandated coverage)	.7	
All others	.5	
Health care buy-in	(.3)	
Prevention	(.2)	
Administration	2.1	
Tax effects	−.6	
Total	18.2	6.1

Note: Assuming 1983 dollars and 1983 population, very preliminary estimates of the Federal cost of phase I are in the range of $23,000,000,000 to $25,000,000,000. In the coming weeks, the administration will work with CBO and others to refine these estimates.

VII. RELATION OF PHASE I TO A FULLY IMPLEMENTED NATIONAL HEALTH PLAN

Phase I is structured so that it can easily be converted into a universal, comprehensive plan.

For the aged and the disabled, cost-sharing could be reduced further and a drug benefit added.

For the poor, the low income standard could be raised from 55 percent of the poverty line to the poverty line itself, increasing the number of low income Americans who receive fully-subsidized comprehensive coverage.

For the employed, the employer guarantee could be extended beyond full-time workers to part-time workers. Cost-sharing could be reduced and deductibles eliminated, converting catastrophic coverage to comprehensive coverage.

For the non-aged, non-poor, non-employed, comprehensive coverage could be required, but there could be subsidized premium costs and cost-sharing for the near poor.

For all mothers and children, the prenatal, delivery and infant benefit could be extended through the child's sixth year without patient cost-sharing.

The fully implemented National Health Plan would also meet a fundamental requirement: Total health system costs under the fully implemented plan, with both dramatically expanded coverage and effective cost containment, would be less than the present health system with its inadequate coverage and without effective cost containment.

This will result in the achievement of one of President Carter's fundamental goals. The costs of vitally needed care benefits for those lacking adequate health insurance must, to the greatest extent possible, be offset by savings from cost containment in the inflationary health care industry.

APPENDIX: COMPARISON OF THE COSTS OF PRESIDENT CARTER'S NATIONAL HEALTH PLAN LEGISLATION (PHASE I) WITH THE HEALTH CARE FOR ALL AMERICANS ACT

The Administration's legislative proposal and the proposal announced several weeks ago present their costs in two different ways. In order to understand the differences between the two proposals it is helpful to compare them both ways. This is done below assuming 1980 dollars and 1980 population counts.

(When the Health Care For All Americans Act was announced it was costed in 1980 dollars using estimated 1983 population counts. By using 1980 population counts, the estimates below reduce the costs of the Health Care For All Americans Act slightly.)

The Administration's approach looks primarily at net Federal budget and employer costs because taxpayers and employers are the ones being asked to shoulder the cost of new benefits. The costs to employers are especially vital in determining the employment and inflation effects of National Health Plan proposals. When viewed this way, the net costs of the two proposals are as follows:

[In billions]

	Phase I	Health care for All Americans Act
Federal	+$18.2	+$30.7
Employer	+6.1	+33.1
Cost	+24.3	+63.8

The approach taken by the advocates of the Health Care For All Americans Act is to look at these and other costs now borne by individuals and state and local governments as well in order to determine the effect of National Health Plan proposals on total health system costs.

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* Long-term care is not part of Phase I. The present Medicaid long-term care program will continue as a separate State-run program for the categorically eligible with the present Federal-State matching rates.

[In billions]

	Phase I	Health care for All Americans Act
Federal	+$18.2	+$30.7
Employer	+6.1	+33.1
Individuals	−4.0	−25.4
State/local	−2.0	−2.7
Cost	+18.3	+35.7

* Includes reduced out-of-pocket and premium costs.

THE CARTER ADMINISTRATION'S OUTLINE OF A FULLY IMPLEMENTED NATIONAL HEALTH PLAN

The Carter Administration is firmly committed to a universal, comprehensive National Health Plan. This white paper provides an outline description of such a plan when fully implemented, and relates it to the Phase I legislation which the President is proposing.

I. BACKGROUND

The National Health Plan, and the Phase I legislation which serves as its foundation, derive from the President's commitment to the goals of universal, comprehensive coverage.

A. Early commitments

President Carter has been working to improve health care since his days as Governor of Georgia. During the 1976 Presidential campaign, before a group of Black medical students, he first set forth his vision of the ideal health care system, including:

Universal, mandatory coverage;

The same comprehensive benefits for everyone, including preventive care;

A variety of financing sources;

Strong cost and quality controls and incentives for system reform; and

Phasing of implementation according to national priorities, dealing with the most severe unmet health care needs first.

B. Presidential principles

In July 1978, the President reiterated his support for universal and comprehensive coverage, to be achieved through a mixture of public and private financing. He issued a set of specific principles to guide the design of a tentative plan.

These principles remain the touchstone of the proposal the Administration is presenting today. They are notable because they call for a National Health Plan much broader in scope than simple insurance improvements—a plan that includes other steps required to address the critical problem of health cost inflation and to expand access to care for millions of underserved Americans. The principles are:

1. The plan should assure that all Americans have comprehensive health care coverage, including protection against catastrophic medical expenses.

2. The plan should make quality health care available to all Americans. It should seek to eliminate those aspects of the current health system that often cause the poor to receive substandard care.

3. The plan should assure that all Americans have freedom of choice in the selection of physicians, hospitals, and health delivery systems.

4. The plan must support our efforts to control inflation in the economy by reducing unnecessary health care spending. The plan should include aggressive cost containment measures and should also strengthen competitive forces in the health care sector.

5. The plan should be designed so that additional public and private expenditures for improved health benefits and coverage will be substantially offset by savings from greater efficiency in the health care system.

6. The plan will involve no additional federal spending until FY 1983, because of the tight fiscal constraints and the need for careful planning and implementation. Thereafter, the plan should be phased in gradually. As the plan moves from phase to phase, consideration should be given to such factors as the economic and administrative experience under prior phases. The experience of other government programs, in which expenditures far exceeded initial projections, must not be repeated.

7. The plan should be financed through multiple sources, including government funding and contributions from employers and employees. Careful consideration should be given to the other demands on government budgets, the existing tax burdens on the American people, and the ability of many consumers to share a moderate portion of the cost of their care.

8. The plan should include a significant role for the private insurance industry, with appropriate government regulation.

9. The plan should provide resources and develop payment methods to promote such major reforms in delivering health care services as substantially increasing the availability of ambulatory and preventive services, attracting personnel to underserved rural and urban areas, and encouraging the use of prepaid health plans.

10. The plan should assure consumer representation throughout its operation.

C. Consultation

At the same time that the President issued the principles, he asked that the tentative plan serve as a basis for consultation with Congress, State and local officials, interest groups and consumer representatives. He told Secretary Califano:

"I am directing you to develop a tentative plan as soon as possible which embodies these principles and which will serve as the basis for in-depth consultation with the Congress, State and local officials, interest groups, and consumer representatives. You should then provide me with detailed recommendations so that I can make final decisions on the legislation I will submit to the Congress next year."

The President also requested analysis of options for phasing toward a fully implemented plan, as follows:

"To respond fully to my economic and budgetary concerns, you should develop alternative methods for phased implementation of the plan."

D. Legislative approach

The approach that emerged from the phasing analysis and the consultation process was that the President would:

—present an outline of the full universal and comprehensive plan to the 96th Congress; but

—ask for legislative consideration of only the first phase at this time.

As Secretary Califano said when he announced the President's decision in March of this year:

"Since January, my colleagues and I have consulted scores of Congressional leaders, committee and subcommittee chairmen, and health industry experts. With few exceptions, the overwhelming sentiment among legislators is that the 96th Congress cannot and will not digest a complete national health plan in one bite."

Many members asked that the President send a Phase I bill to the Congress and accompany it with a description of the total plan.

II. SUMMARY: THE FULLY IMPLEMENTED NATIONAL HEALTH PLAN

When fully implemented, the National Health Plan (NHP) will guarantee universal comprehensive health insurance for every American, using a mixture of financing sources and preserving a significant role for the private insurance industry.

General structure. The two basic structural entities established in Phase I will continue:

HealthCare—a public plan providing comprehensive coverage to the aged, the disabled, the poor and the near poor, and offering comprehensive coverage to individuals and firms unable to obtain such insurance in the private sector.

The employer guarantee—employers will be required to purchase qualified comprehensive plans for their employees from private insurors or HealthCare, and to pay at least 75 percent of the premium.

Eligibility. Every American will be covered by HealthCare or a qualified private plan meeting HealthCare standards. Using the estimated U.S. population in 1980 of 231 million as a base, this includes:

Employees and their dependents—160 million persons—will be covered by the employer guarantee.

The aged and disabled—29 million persons over 65 or eligible for disability benefits—will be fully covered by HealthCare.

Low income—37 million persons with incomes up to the federal poverty level ($7500 for a family of four in 1980 dollars)—will be fully covered by HealthCare.

Others—5 million persons who are neither poor nor aged and who do not have salaried incomes—will be required to purchase qualified private insurance plans or HealthCare coverage (with premium costs prorated for the near poor). This mechanism will achieve universal, mandatory coverage.

Benefits. HealthCare and all qualified private plans will be required to incorporate uniform covered services and patient cost-sharing provisions.

The comprehensive package of covered services will consist of:

Unlimited hospital, physician and diagnostic services;

Specific amounts of other services with annual limits:

100 days of care in a skilled nursing facility*

100 home health visits

20 days in a mental hospital

$1000 in outpatient mental health care

Cost free prenatal, delivery and both preventive and acute child health care up to the age of 6, as well as cost free preventive care for all ages, based on a lifetime health monitoring program; and

Outpatient prescription drugs in excess of $250 per person annually.

The cost-sharing provisions will provide incentives for outpatient and preventive care and protect all Americans against large expenditures by:

Elimination of deductibles (except for drugs);

An equal coinsurance rate of 25 percent across all covered services (except that there will be no coinsurance on prenatal, delivery, child health care up to the age of 6, or on other preventive care);

A limit on annual out-of-pocket expenses for covered services in excess of $1500 per family or $750 per individual; and

Prohibition of cost sharing for the poor and more limited cost sharing for the near poor.

Financing. NHP will use a mixture of public and private premium financing while taking a number of steps to maximize equity:

Necessary subsidies for the poor, the near poor, the aged and disabled, low income workers and low wage employers will be provided through public general revenues.

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* This benefit is included as a transitional service to help persons with acute problems to return to their communities. Long term care will be a separate program.

Current Medicare payroll taxes will be retained but not increased.

Employers will be required to pay at least 75 percent of any mandated premium; employees, up to 25 percent.

Competition will be encouraged because private insurors will be free to price large groups plans at rates reflecting actual costs. At the same time these plans will have to compete with a HealthCare premium controlled for inflation—thus preventing exorbitant prices.

Every worker will be insured individually; in families with two wage earners dependents can be included in either worker's plan. This will discourage employers from seeking out "secondary" wage earners for whom they now pay no premium.

Reimbursement. Reimbursement and cost containment policies under NHP must attempt to resolve the key tension between the desire to expand coverage and the need to contain costs:

Hospitals will be paid by public and private insurors according to limits prescribed in the program that evolves from the Administration's hospital cost containment proposal.

HealthCare will pay physicians according to areawide fee schedules; physicians will have to accept the fee as payment in full and will not be allowed to bill patients for extra amounts.

The schedules will serve to advise privately insured patients of reasonable physician fees and to encourage them to shop for less expensive care. If private fees are not kept within reasonable limits voluntarily, consideration will be given to other measures to contain physician costs.

Incentives for competition will include favorable reimbursement policies for Health Maintenance Organizations (HMOs) and other organized settings.

Employers will be required to offer employees coverage by any qualified HMO in the area and to make equal contributions to the health plans they offer their employees. Employees will then have an incentive to choose more cost effective plans.

A commission will be established to determine whether physician reimbursement policies are containing costs sufficiently and achieving broad provider participation in HealthCare.

Administration. The fully implemented NHP will preserve a major role for private insurors while providing uniformity of coverage:

Private insurors will market and underwrite qualified insurance plans for most current beneficiaries, add new beneficiaries through the employer guarantee and increase income by bidding on claims processing for HealthCare.

HealthCare will consolidate Medicare and Medicaid administrative functions and standarize eligibility, benefits, and reimbursement policies.

System reform initiative. NHP is designed as an umbrella to include non-insurance provisions addressing problems in the way the health care system operates. Some of these initiatives will be included in the Phase I legislation; others involve separate but complementary legislative or administrative steps. They include:

Limits on hospital capital growth.

Incentives for competition, primarily through HMO development and expansion and consumer information about physicians' fees.

Expansion of utilization review.

Establishment of a new process to assess and coordinate federal grant efforts in light of expanded insurance coverage, including submission of a five year plan beginning with the first year of Phase I implementation.

Incentives for redistribution of physicians.

Technology assessment.

Improved delivery of services: primary care in underserved areas; mental health; prevention.

Government-wide efforts to prevent accidents and eliminate occupational or environmental causes of disease.

Costs. When fully implemented, NHP will meet a fundamental requirement: Total health system costs, including dramatically expanded coverage and effective cost containment, will be less than those of the present health system with its inadequate coverage and lack of effective cost containment.

III. THE FULLY IMPLEMENTED PLAN COMPARED TO PHASE I

A. General structure

The two basic structures of the fully implemented National Health Plan (NHP)—the public plan, Health Care, and a requirement that employers purchase qualified insurance for their employees—will be established in Phase I.

These two entities are the key to a smooth transition from Phase I to the fully implemented plan. Once they are in place, several fairly simple expansions will lead to deeper and broader coverage for all.

1. Health Care. For Health Care, expansion will take two forms:

The most significant improvement will provide fully subsidized coverage for all of the Nation's poor—by raising the income standard below which every person is eligible.

Nearly all aged and disabled will already be enrolled; their insurance will be improved by providing greater protection against out-of-pocket expenses.

2. Employer guarantee. Expansion of the employer guarantee will also be of two types:

Here the most significant improvement will be in the nature of insurance. Qualified plans will be required to incorporate uniform cost sharing provisions with greater protection against out-of-pocket expenses, thus providing comprehensive coverage to all working families.

Employers will assume responsibility for part time as well as full time employees.

B. Eligibility

When fully implemented, NHP will mandate basic health insurance for all Americans. Several mechanisms will be used to move the four population groups—the low income, the aged and disabled, the employed and others—toward this universal comprehensive coverage.

1. Low Income. There are roughly 37 million persons at or near the federal poverty level who are not aged or disabled. Of these, 15.7 million now receive fully subsidized coverage through Medicaid. In Phase I, HealthCare will establish a national minimum low income standard at 11 percent of the federal poverty level, regardless of family composition—thus adding 10.5 million persons to those who already have fully subsidized public coverage. The other 10.8 million persons in the low income group will be eligible to "spend down" to the 55 percent standard and obtain subsidized coverage thereafter. Roughly 4 million are expected to do so.

The fully implemented plan will raise the low income standard to full poverty level. Thus all 37 million low income persons will receive fully subsidized coverage with no "spend down" required.

2. Aged and disabled. There are roughly 29 million persons over 65 eligible for disability assistance. About 24 million currently receive Medicare benefits: another 4 million are poor and receive full subsidized coverage through Medicaid. Phase I will bring another 500,000 aged and disabled who are under the 55 percent of poverty standard, but not now covered, into HealthCare.

NHP will bring in the other 400,000 aged and disabled previously excluded from Medicare, thus covering all 29 million.

3. Employed. Of the 156 million full time employees and their dependents, 128 million are currently covered by employer group plans. A total of 56 million are not adequately protected against major illness—the 28 million without employer group coverage and 28 million more whose employer group coverage is deficient in this respect. Phase I will require all employers of full time workers to provide HealthCare or qualified private group plans, with catastrophic coverage. This will ensure that all 156 million full time workers and their dependents are covered by employer group plans and that 56 million within this group receive the protection against major illness they lacked before.

NHP will require employers to cover part time workers and their dependents. (A part time worker is defined as one who works less than 10 weeks, 25 hours a week for the same employer.) This expansion will mean that employers are responsible for coverage of an additional 4 million persons.

4. Others. Dealing with the 9 million persons who are not categorized as low income, aged, disabled or employed full time is more complicated. Some persons without salaried incomes are covered by individual plans, which are usually very inadequate. Some are not covered at all. Phase I will allow individuals who desire to do so to purchase insurance from HealthCare that is similar to the minimum employer guarantee plan. In addition, the "spend down" program described for the low income group will also be avaliable to the 4 million part time employees who are not yet covered by the employer guarantee, and to others, after they use a sufficient amount of income for medical care.

With the fully implemented NHP, mandatory universal coverage will be achieved because all persons will be required to purchase qualified plans from private insurors or HealthCare (with premiums prorated for the near poor).

5. Results:

Every American will be fully covered by HealthCare or a qualified private plan.

Providers will be put on notice that no person is a poor risk because of inability to pay.

C. Benefits

The element of a health insurance plan known as "benefits" is really a combination of two features.

Which services are covered by the plan.

What out-of-pocket expenditures by individual patients for covered services are required. This is known as patient cost sharing. (It does not include premium payments, which are discussed in Section D.) Cost sharing may take the form of deductibles or coinsurance—a consistent percentage of the cost of specified services. Total out-of-pocket spending by an individual may be limited to a specific amount.

1. Covered services. The services covered in Phase I and under the fully implemented plan will differ only slightly. Phase I will establish a lean but comprehensive package of required services for HealthCare and all qualified private plans. Physician, diagnostic and hospital services will be covered on an unlimited basis. Specific home health, skilled

nursing facility and mental health services will also be covered.

Prenatal, delivery and all health care during the first year of life will be included for pregnant women and children in HealthCare or covered by the employer guarantee. Because of the importance of this benefit in preventing disease and improving health status, it will also be available to any person not otherwise covered, at a nominal premium. No cost sharing will be imposed on these maternal and infant care services.

NHP will build on Phase I by:

Adding outpatient prescription drug coverage. Unlike other benefits, this would operate on a $250 deductible basis for administrative ease and to target coverage on those who must take medication on a long term basis.

Adding complete child health care up to the age of 6, as well as preventive services for all persons, consisting of periodic checkups and counseling according to a life-time health monitoring program. No cost sharing will be imposed on these services.

2. Cost sharing. While eligibility is the key variable in moving to a fully implemented plan for the poor, the transition from Phase I to NHP turns on cost sharing for most other persons.

The poor and near poor. Poor persons eligible for Health Care will pay no cost sharing in Phase I. Under NHP, the same full subsidy will be provided, but, as noted, to a larger number of covered poor. Near poor persons enrolled in HealthCare will face a 25 percent coinsurance rate across most covered services, but these payments will be subsidized for those just over the poverty line.

The aged and disabled. In Phase I, existing cost sharing arrangements (Medicare deductibles) will apply, but no aged or disabled person will pay more than $1250 for covered services annually. Under NHP, a 25 percent coinsurance rate across all covered services except prevention will be used instead of deductibles, and the limit on out-of-pocket expenditures will be lowered to $750 per person annually.

Employer guarantee. Persons included in the employer guarantee in Phase I will be protected against out-of-pocket expenses for covered services in excess of $2500 annually; the same limit will apply to families or individuals. Insurors will be able to require any form of patient cost sharing they wish as long as it does not exceed the limit. Under NHP the catastrophic limit will be lowered to $1500 per family and $750 per person. Deductibles will be eliminated (except for drugs) and cost sharing in any qualified plan will be limited to a maximum of a 25 percent coinsurance rate across all covered services except prevention.

Results:

Establishment of a precedent-setting prevention benefit for all persons, including complete health care for children up to the age of 6, designed to turn the direction of health care from curing to caring.

A drug benefit with a moderate deductible which will free those who must pay for medication on a long term basis from a major financial burden—especially important for the aged living on fixed incomes.

Substantial protection against out-of-pocket expenditures for every American.

Powerful incentives for outpatient care achieved by eliminating deductibles and establishing a maximum coinsurance rate across services.

Phased implementation of cost sharing above the poverty standard to avoid work disincentives.

D. Financing

Financing—who pays for the insurance policy in the first place—affects the affordability and the equity of the plan. Both Phase I and NHP will retain the two current sources of financing in addition to some State and local revenues:

General revenues will be used to cover the poor; to subsidize the aged (in conjunction with current payroll taxes); to subsidize the near poor, and to offset adverse employment effects of mandated insurance.

Premiums paid by individuals or employers will be the predominant method of financing insurance.

1. General revenues. In the transition from Phase I to NHP, general revenue financing will expand as the number of persons with subsidized coverage increases. The aged will continue to pay 25 percent of the Healthcare premium—an amount similar to the Part B Medicare premium—with any part not covered by the current payroll tax subsidized by general revenues. Increased use of payroll taxes to finance improvements for the aged is undesirable because of inflationary impact and competition with other Social Security needs.

2. Premiums. Under NHP, as in Phase I, employers will pay at least 75 percent of premium costs and employees up to 25 percent. With full implementation, the premium structure will be altered in several ways. There are many advantages to retaining premiums—among them ease of administration and minimal disruption of current patterns. However, premiums alone are not designed to vary according to ability to pay. Thus, as coverage expands and financial burdens increase it becomes more important to deal with certain problems:

Competition will be encouraged because private insurors will be free to price large group plans at "experience" rates, reflecting actual costs of care. The HealthCare premium will be set at the current areawide rate for small groups and individuals—generally higher than private large group rates.

Increased premium burdens may exacerbate a tendency for firms to discriminate against the "primary" wage earner in a family, who carries insurance for himself and his dependents. Under NHP, every worker will have to be individually insured, to prevent employers seeking out "secondary" wage earners for whom they now pay no premium. Dependents will be dealt with through a premium structure that allows their coverage through either of two wage earners in a family.

Larger premiums will also pose disproportionate burdens for small, low wage firms and for near-poor workers. Gradual implementation of broader benefits (and, consequently, gradual growth of premiums) will give firms time to adjust and lessen the need for subsidies in the plan's early years. The subsidies established during Phase I will be expanded as necessary.

3. Results:

Continuation of employer payment of at least 75 percent of the premium.

Enhanced competition among plans without subjecting employers or individuals to exorbitant premiums.

Avoidance of adverse employment effects.

Provision of needed premium subsidies to the poor, the near poor, the aged and disabled, and low wage firms.

E. Reimbursement

The way in which Phase I and NHP pay providers will be the keystone of an aggressive effort to contain costs and foster more efficient delivery of care. This is crucial to resolving the dilemma that stands in the way of full implementation: Expansion of coverage costs more money—yet we need to control disproportionate growth of the health sector and to limit federal budget increases.

Ideally, NHP reimbursement and cost containment policy will bring health cost inflation in line with GNP growth and, to the maximum extent possible, finance new expansion through savings in health care costs.

The fully implemented NHP will build on three elements in Phase I:

Hospitals will be paid according to a single reimbursement policy for public and private insurors that is expected to evolve from the Administration's current hospital cost containment proposal.

Physician reimbursement reform will feature a mixture of mandatory controls for HealthCare and voluntary steps on the private side.

Competitive incentives to enrollment in Health Maintenance Organizations (HMOs) and other organized care settings will be established.

1. Hospital cost containment. Phase I recognizes—as does current Administration policy—that spiralling hospital costs are a major cause of health care inflation, requiring sustained efforts at containment. National and State limits on capital growth will also be established. The Administration's hospital cost containment proposal is designed as a transitional program, providing for establishment of a commission to consider future policy. Under a fully implemented NHP, hospital reimbursement can be expected to evolve further as a result of the commission's recommendations.

2. Physician's fee. Phase I will establish areawide physician fee schedules for HealthCare, based on current Medicare rates but reducing urban/rural and specialty differentials. Low Medicaid fees will be phased up to the average Medicare level; providers now charging fees over the limit will be held harmless for two years.

The fee schedules will be mandatory for HealthCare and physicians will not be permitted to bill patients for additional amounts.

Published fee schedules, together with a list of physicians who accept them as payment in full, will serve to advise privately insured patients of reasonable fee levels and to encourage them to shop for less expensive care.

To aid in making the transition to the fully implemented NHP, a commission will be established to consider whether costs for privately insured physician services are being contained by the voluntary provisions of Phase I, to whether the absence of mandatory controls on the private side has adversely affected provider participation in HealthCare and access to care for public beneficiaries.

3. Competition. Phase I and NHP will provide incentives for enrollment in HMOs, Independent Practice Associations (IPAs) and other organized care settings. These incentives recognize that organized settings internalize cost containment measures and can replace certain forms of regulation for their enrolled population. They include:

Requiring employers to offer coverage by any qualified HMO in an area.

Requiring that employers make equal contributions to the health plans they offer their employees. Employees will thus have an incentive to choose more cost effective plans.

Requiring that for subsidized beneficiaries, HealthCare reimburse HMOs and other organized settings at rates that encourage competition with the fee-for-service sector.

As we move to a fully implemented NHP, consideration will also be given to changes in the tax laws to discourage spending for benefits outside the plan and to provide a disincentive to high provider fees.

4. Future options. The importance of correcting the underlying causes of runaway health costs—an absence of market forces and the ability of providers to determine the type and quantity of service purchased—cannot be over-emphasized. HMOs, which have reduced total costs dramatically, are a key element in this strategy. NHP must be structured to pass on these savings to the consumer, thus encouraging greater and greater competition.

At the same time, the Administration recognizes the limits on competitive forces in a system traditionally characterized by third party payments and cost-plus reimbursement. If the combination of hospital regulation, physician reimbursement reform and competitive incentives does not subtantially lower health care cost inflation and ensure provider participation in Health-Care, stronger and more comprehensive measures may be needed.

One method that has been suggested is a national health budget set by the Congress (or some other, newly created, national entity) in relation to GNP and allocated to hospital, physician and other sectors. Rates could be negotiated by providers, consumers and insurors to meet the sector allocation.

F. Administration

In accord with the goal of a significant role for private insurors, the fully implemented NHP will minimize disruption of existing administrative arrangements. At the same time, it will provide appropriate regulation of private plans and shift some public functions from States to the federal level to enhance equity.

Again, the two basic structural elements established during Phase I will provide the foundation for additional change.

1. HealthCare. HealthCare will be the key to increasing uniformity of treatment for public beneficiaries. During Phase I, Medicare and Medicaid rate setting will be merged and claims processing will be contracted to private firms on a competitive basis. Eligibility determination will remain split, with States continuing to certify current low income recipients whose eligibility is linked to welfare, and the federal Social Security Administration certifying the aged and disabled, as they do now. For the newly-entitled poor (55 percent of poverty and spend-down eligibles) the federal government will be responsible for eligibility and intake, although States can elect to operate these functions under performance contracts.

When fully implemented, NHP will ensure uniformity of treatment for all those in need of subsidies through HealthCare. The combination of federal standards and private claims processing will improve efficiency of operation, prevent waste and fraud, and mitigate providers' and consumers' problems with the current Medicaid program.

2. Employer guarantee. The employer guarantee will move toward similar uniformity on the private side, but with insurors retaining the essential functions of marketing and claims processing. During Phase I and subsequently, the federal government will be responsible for certifying the benefits, catastrophic coverage and the consumer protections offered by qualified private plans.

3. Results:

The important coordination of public and private standards to provide nationwide uniformity.

A major role for private insurors and increased income from claims processing.

Steps to increase equity and encourage competition.

G. System Reform Initiatives

Many serious problems in the U.S. health care system will not be relieved by insurance changes alone. NHP is designed as an umbrella, incorporating important non-insurance system reform supplements to guarantee access to care, limit and improve distribution of resources and promote efficiency. Phase I and a fully implemented NHP will deal with these problems in a very similar way.

1. Elements in Phase I legislation. The Phase I legislation itself will contain:

A new process for assessing health care needs and the adequacy of federal grant programs, in conjunction with insurance, to meet the needs. Beginning with the first year of Phase I implementation, this process will require the Secretary to submit a five year plan for each relevant federal program. It will subsequently serve as a guide to expansion from pre-Phase I efforts to initiatives consistent with the complete plan.

Strengthening the health planning program by imposing national and State limits on hospital capital spending, as noted.

Measures to increase competition by encouraging HMO enrollment, as also noted.

Expansion of utilization review.

2. Other initiatives. In addition, the following legislative and administrative initiatives already under way will be part of the Phase I and NHP system reform effort:

Revising federal health manpower policy to discourage increases in physician supply and to provide incentives for change in specialty and geographic distributon.

Seed money to expand HMOs and other innovative settings, helping to ensure consumers a wider choice among delivery systems.

Improving efficacy and productivity through assessment of new technology and procedures.

Expanding programs that provide basic primary care for the neediest of the nation's underserved areas.

Implementing fully the proposed Mental Health Systems Act now before the Congress.

Continuing to build disease prevention and health promotion through preventive dental services in Title I schools; anti-smoking, drinking moderation, nutrition and exercise campaigns; effective screening programs, and community based health fairs.

Expanding government-wide efforts to eliminate the causes of disease through prevention of accidents and through occupational and environmental health programs.

3. Results:

Coordination among federal grant efforts, while maintaining Congressional jurisdiction and valuable oversight of individual programs.

Important incentives for change not possible with an insurance initiative alone.

IV. CONCLUSION

In summary, it is rarely possible to solve every problem in an important sphere of our national life with a single bill. Proceeding step by step, we can help millions of people—people whose needs must not go unmet while we wait for the noble dream of comprehensive coverage for all to be realized.

Medicaid, Medicare and the proposed Child Health Assurance Program (CHAP) are incremental in nature. Phase I of the National Health Plan will be another, very major step toward equitable, adequate and cost conscious health protection for all Americans.

At the same time, as we approach our ultimate goal the broader vision must be clear. The National Health Plan set forth in this paper provides the context for orderly growth toward the universal comprehensive coverage this Administration supports.

RECOGNITION OF SENATOR ROBERT C. BYRD

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

OMNIBUS ENERGY BILL

Mr. ROBERT C. BYRD. Mr. President, yesterday a critical step was taken in this Nation's struggle to achieve energy security and reduce our dangerous dependence on foreign oil. Senator JACKSON, together with 18 cosponsors from both sides of the aisle, introduced an omnibus energy bill directed toward achieving maximum use of our domestic energy resources. Responding to the urgent need to accelerate the development of domestic energy supplies and to remove governmental impediments to the approval of important energy projects, the distinguished Senator from Washington has written legislation which should bring domestic energy sources to their fullest potential in the shortest possible period of time. I am pleased to join in cosponsoring this legislation.

This bill is ambitious and broad in scope. First, it proposes a strategy for overcoming the inertia and indecision which have plagued energy policymaking in the past. It offers a method for expediting administrative review of energy projects determined to be in the national interest. This is not to say that substantive and procedural requirements of Federal, State, and local law will be ignored. But the permitting and review process must be accelerated if we are to catch up to our energy demands.

Second, utilities and other industrial plants must be mandated to switch from oil to natural gas and especially to coal. We can ease the oil supply shortage and bring down exorbitant OPEC prices if demand for imported oil can be reduced. We have the available coal resources to make this hope a reality if we can muster the will to implement coal conversion and other programs to bring about this result.

Finally, this legislation would bring about prompt commercialization of synthetic fuel techniques by providing sufficient funding to fulfill the promise of this country's enormous energy potential. It is estimated that we can replace millions of barrels of oil per day with synthetic fuels derived from coal if we move to develop large-scale coal gasification and liquefaction projects. The same can be accomplished through the development of oil shale, geothermal, solar, and other energy technologies.

It is inevitable that some of these measures will be controversial. In the next weeks, the final shape of this legislation will be hammered out in committee and everyone will have an opportunity to contribute to this effort. But it is my belief that this bill should receive the highest priority and that divisiveness and parochialism should not be allowed to interfere in the consideration of this critical piece of legislation. We must send a message to the OPEC nations and to the American people that the U.S. Senate and Congress as a whole can and will act effectively and responsibly in the face of this energy crisis. Our economic survival and national security depend on this cooperative effort.

(The following remarks by Mr. MELCHER were made later in the proceedings and are printed at this point by unanimous consent.)

A COUNCIL OF OIL IMPORTING NATIONS

Mr. MELCHER. Mr. President, the current OPEC prices now being charged for oil throughout the world are 35 percent higher than they were 6 months ago, the spot market on oil being set up as high as $35 a barrel. The impact of these OPEC price increases on the U.S. economy is staggering. It is also staggering on all the other industrial nations and oil-importing nations.

I think we are heading, unless we can reduce the level of those expenditures, not just for a recession here in the United States, but for a deeper economic downturn than that. I think there could well be a worldwide depression.

I think it is about time, Mr. President, that we recognize that if we are going to deal with OPEC, we will have to deal in a combined way, all the importing nations joining together, and I shall shortly introduce a bill to direct the President to form a Council of Oil Importing Nations which will deal collectively and deal from strength, our industrial strength and our economic strength, with the OPEC countries, and will be willing to use economic and political sanctions against OPEC if this continuing escalation of prices becomes more staggering than it is right now.

It is for that reason that I draw the attention of the Senate to this bill, which I think is a very important and necessary item agenda this year. It is about time the United States and other oil-importing nations band together to use their united strength in dealing with this problem.

Mr. President, the latest set of economic figures shows that, for the first 4 months of 1979, inflation in the United States is running at an annual rate of 13.4 percent. This is almost 5 full percentage points more than the inflation rate last year and is quickly reaching critical levels. It is no coincidence that the last time the United States suffered from double digit inflation was in 1974 during the first OPEC oil crisis. In 1974, OPEC increased its base price from $2.50 a barrel to almost $10 a barrel which resulted in an escalation chain reaction costing American consumers $100 billion, according to a 1975 Brookings Institution study. During the last 6 months, OPEC has increased prices 35 percent to an average OPEC price including surcharges of $17.11 a barrel, with some oil on the spot market going for better than $35 a barrel. The inflationary impact of this latest round of price increases has the potential for being even more economically devastating than the one-shot increase in 1974. There is no indication of restraint by OPEC now, but instead a continuous climb in oil prices during the balance of this year.

The seriousness of the current situation lies not only in the recent round of increases in OPEC base prices but also in OPEC's new system of setting prices. This system permits each individual oil producer in OPEC to tack on their own additional surcharges on top of the base price, removes the last semblance of internal discipline from OPEC pricing policy and lays the groundwork for an uncontrolled escalation in the price [illegible] OPEC crude oil. Some oil industry and Government spokesmen are already predicting prices of $25 to $30 a barrel for OPEC oil as early as 1980.

The impact of the recent OPEC price increases on the U.S. economy are staggering. Government estimates indicate that the April increase in OPEC prices alone could add more than 1 percent to the inflation rate, almost a full percent to the unemployment rate, and cut economic growth for 1979 by 2.5 percent. Economist Arthur Okun estimates that every $1 price increase by OPEC adds $4 billion to U.S. prices and drains $4 billion from U.S. consumer pocketbooks. In short, OPEC price increases almost completely undermine our attempts to bring about a stable economic condition by reducing inflation without throwing the country into a serious recession. The irony is that, no matter what efforts we make domestically, OPEC pricing policies could make our efforts totally ineffective. Our balance-of-payments deficit is almost certain to exceed last year's $28 billion deficit and remain one of the strong factors causing inflation.

OPEC price increases will also undermine our efforts to further economic cooperation with the Europeans and the Japanese. Japan is at the mercy of OPEC for nearly 100 percent of its crude oil. The April price increase has pushed up the Japanese inflation rate for this year by some 2.5 percent. They will also have to devote ever larger portions of their foreign exchange earnings to bringing in the same quantity of oil, and in order to earn the foreign exchange this requires they will most likely have to become even more predatory in their trade policies, further undermining the economic stability of the industrialized world and souring international relations.

Europe does not fare much better. The recent OPEC increases have set off another round of double digit inflation in Western Europe. This is a major blow to European efforts to come out of a half decade of high inflation, record postwar unemployment and sluggish growth. After seeing inflation fall from the European Community average of 10.5 percent in 1977 to a more bearable 7.5 percent last year, the EC's Consumer Price Index bolted back in the first 4 months of this year to an annual climb of 13 percent. Some inflation-prone countries like Italy are experiencing inflation of 20 pecent. What is worse is that the latest April price increase has not even had time to completely ripple throughout the European economy, and government leaders there like the United States are predicting that things will get much worse.

The new oil prices are also slicing deeply into Europe's balance of payments. The EC nations had managed to whittle down their $18.5 billion trade deficit brought on by OPEC's first oil jolt, to a little more than a billion dollars in 1978. However, following the OPEC price increase in December the Community's deficit increased sharply in January and is now running at almost four times the average monthly deficit rate in 1978.

The less developed nations of the world will suffer most of all. In many of these nations it is not a question of lowering their standard of living to meet the escalating OPEC price demands—they are already living on the thin edge of a meager survival and there is no way they can devote even more of their resources to paying for oil.

Developing countries have piled up huge external debts to pay for oil imports. According to the International Monetary Fund, their debt is a third larger—in relationship to economic output—than in 1973. In 1978, payments for debt interest and principal amounted to about 13 percent of their export earnings against a barely manageable 10.6 percent in 1973.

Their problems will be further worsened by the fact that the nations of the industrialized world will have less of their resources to commit to helping the less-developed nations. For years now we have been trying to get Japan and the nations of the Common Market to commit more of their resources to assisting the Third World. They have been gradually coming around to the point where they are willing to cooperate more, but continued OPEC oil price increases will put a stop to this. Also, new U.S. efforts to help developing countries become more self-sufficient in areas like agriculture are likely to go down the drain without adequate supplies of reasonably priced oil.

In short, the oil importing nations are confronted by a vicious cycle of ever-increasing prices, with dangerous economic and financial consequences, leading to a lower level of economic growth for us all. It is equally clear that the oil importing countries to date have not come up with a way to cope with the problems posed by continually escalating oil import costs. This is not just a temporary problem triggered by the Iranian revolution—it is likely to stay with us until we once again become energy self-sufficient. We face a most serious threat to a U.S. recession, a likely depression not just for us but a world depression. A divided approach and timid half measures will not only prove to be useless, but will also assure a stagnated world economy. In short—a 1980 worldwide industrial catastrophe.

So far the only joint international reaction to the recent OPEC price increases and the dangerous changes they have made in the pricing system itself has been for the International Energy Agency to pass a nonbinding resolution calling for a reduction in oil demand on the part of its 20-member nations by about 5 percent.

That is a worthy goal but not enough. The time is long overdue for the oil importing countries to get down to the serious business of coordinating their dealings with OPEC. It is urgent that the oil importing nations develop a method of restraining the pressure that OPEC is creating to outbid one another for crude, which will continue to push prices higher and higher. This is particularly important since unrestrained competition boosts prices for marginal volumes higher without bringing forth additional production, and excessive premiums will inspire OPEC to set prices even higher, and add to the upward spiral.

Shortly, I am going to be introducing a bill that I believe will provide a means for real coordination of oil importing nations' efforts to deal with OPEC. My bill will call on the President to negotiate with other oil importing countries to establish an international Council of Oil Importing Nations (COIN) with the authority to negotiate a base price for OPEC oil at approximately May's average level. COIN will also have the authority to take economic and political sanctions against OPEC nations that continue to set surcharges that are not reasonable but are only raw price gouging. COIN will also have authority to use sanctions against importing nations that take part in unrestrained bidding for oil.

COIN can work because OPEC depends as much upon our economic and strategic capabilities as we depend on its oil. COIN's bargaining strength is our industrial supplies, our agricultural supplies, and our technology which OPEC needs.

But we can only bring about a proper relationship with OPEC through unified action by the oil importing countries. Until now, we have been stymied by our own dislike for cartel-type organizations and because of the lack of leadership. But OPEC has never questioned its own right to act as a group on setting oil prices and the oil importing nations had also better learn to work together if they are going to survive the OPEC price onslaught.

The importing countries must approach OPEC jointly, have confidence in their economic, political, and strategic strength and act accordingly. My bill will take a first, long step in this direction to demonstrate that the United States is not afraid to take the lead in dealing with OPEC, and is offering to cooperate with all other oil importing nations to set equitable international oil prices. What is at stake is the economic well-being, the political stability, and strategic capabilities of us all. The protection of these interests through cooperation of oil-importing nations is the only feasible policy that can provide for the prosperity and security of oil importing and oil exporting nations alike.

RECOGNITION OF THE MINORITY LEADER

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader.

DEATH OF JOHN WAYNE

Mr. BAKER. Mr. President, the American people have suffered a poignant and very personal loss with the death of John Wayne yesterday.

Mr. Wayne had long since transcended the status of a motion picture star, though he remained to the very end one of the most enduring and successful box office attractions in Hollywood history.

But he was more than an actor. He was the personification of a great many traits we like to think of as special American traits: courage, honor, strength, good humor, patriotism.

With the passing of John Wayne, we lose the certain promise of being grandly, vigorously entertained by his future portrayals of men of justice—fearless, honest, larger-than-life men who would remind us of no one more than John Wayne himself.

But we lose something more important than that. We lose a certain nobility befitting a man known to his friends as "the Duke." We lose a gentle man who never changed his real name from Marion Michael Morrison. We lose the quiet man who accepted applause and affliction with equal grace and inner strength. We lose a man whose joy of life, and whose struggle for life, were stirring reaffirmations that life even in the stress of our times is very much worth living.

We lose a great friend of the American people, and we feel that loss very keenly today.

I know my colleagues join me in expressing our deeply felt sympathy to Mr. Wayne's family in its time of sorrow.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have a request for time from the leader's time this morning by a Member on this side of the aisle. If I could have a moment to inquire as to the Members' whereabouts, I will be prepared to make a further announcement with respect to the disposition of this time.

I ask unanimous consent that it may be in order to suggest the absence of a quorum, with the time to be charged equally against the time of the two leaders.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I have an order for 15 minutes, do I not?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may yield 5 minutes to the distinguished Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. I thank the distinguished majority leader.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Wisconsin.

FURTHER REGIMENTATION OF AMERICAN LIFE THREATENED

Mr. PROXMIRE. Mr. President, it is about time we realize the potential threats we have to the freedom of America and the threat of further regimentation of American life. Think of the endless list of regulations well-meaning people would impose on the economy right now:

First, the polls indicate that the overwhelming majority of American people now favor mandatory wage and price controls, which would mean that we would be putting business and labor into a straitjacket, and we would be making the most important economic decisions in our economy by political determination and by political pressure.

Second, draft registration for all 18-year-old males has been recommended by the Manpower Subcommittee of the Senate Armed Services Committee. Of course, that is not a draft but is a first step, and a big one.

Third, the rationing of gasoline. A standby program has been passed by the

Senate and has been strongly recommended by President Carter.

These proposals all run directly counter to the real genius and distinction of the American economic system. Every one of these would limit freedom. Every one would create a big, expensive bureaucracy. Each would throw in the sponge on reliance on voluntary action to achieve the social end and would rely on mandatory coercion.

Not one of these programs has worked in peacetime. Most recently, wage and price controls were a disaster in the 1971–1973 fiasco.

For each of these proposals there is a far better solution in the marketplace. For example, wage and price controls are a way of closing our eyes to the necessity of restrained fiscal and monetary policies that would indeed be painful and very possibly move us through a long recession. But it is one way, the one sure way, to get on top of inflation.

The draft would avoid the costly necessity of paying young men and women what is necessary to require their services, but it is the wrong way. It is a way that would shift the cost to the young people who would be required to serve.

Gasoline rationing is a way of pretending that there is a better way than the market for allocating scarce resources. But there is not.

Here are three excellent examples of why our system often works badly and why the problem so often is in Washington, with too much decentralized direction of the economy.

DEMONSTRATION OF COMMITMENT TO HUMAN RIGHTS THROUGH RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, on May 6, the New York Times reported a series of murders in racially torn Sri Lanka. While racial and religious strife between the Singhalese majority and Tamil minority go back more than 2,000 years, this new round of violence is causing increasing alarm. Within the last 2 years, a Tamil youth separatist group has claimed responsibility for the killings of at least 14 police officers. Nearly all the victims have been Tamils and officials speculate that these people have been marked for execution as traitors because of their collaboration with the Singhalese dominated authorities. The youth group pledges that similar violence will continue in the future.

I am sure my colleagues would agree that such destruction of human life is deplorable. Yet, at the present time, the United States is in a weak position to condemn these murders. Indeed, while such slayings do not constitute genocide, by refusing to ratify the Genocide Convention, the Senate has weakened its moral position not only with respect toward genocide but toward any other violation of human rights.

Ratification of the Genocide Convention would provide concrete demonstration that the United States is indeed committed to upholding the integrity of all human existence. Our approval of the treaty would leave no doubt as to the basic beliefs held by this Nation on such a vital issue.

I strongly urge my colleagues to affirm and document our commitment to life by supporting the ratification of the Genocide Convention.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader.

Mr. BAKER. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 6 minutes remaining.

Mr. BAKER. I yield 5 minutes to the distinguished Senator from Iowa.

Mr. JEPSEN. I thank the distinguished minority leader.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Iowa.

COSTLY REGULATIONS HURT THE SMALL PRODUCER

Mr. JEPSEN. Mr. President, one of the reasons I am so concerned about excessive Government regulations is that they often impose heavier costs to small producers. These small businessmen have less output over which to spread their costs, and thus, they wind up paying more to comply with Government regulations.

A perfect example of this situation is described by Mr. Leo H. Miller from Lenox, Iowa. As superintendent of Lenox Municipal Utilities, Mr. Miller has had difficulty in bearing the costs of new EPA standards for safe drinking water. His article, entitled "New Water Regulations Could Be Costly to the Consumer," which appeared in the June 1978 issue of Public Works magazine, details some of the problems of the small producer in today's overregulated economy. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW WATER REGULATIONS COULD BE COSTLY TO THE CONSUMER

(By Leo H. Miller)

Most of the families in the City of Lenox can yet remember the drought and depression of the 1930's. You can also remember the abbreviations such as WPA, AAA, CCC and many others. These were programs by the Congress to help people—to put people to work and survive a terrible time in history.

Today, in the water industry, we have a similar set of abbreviations such as MCL, SDWA, IPR, EPA and others that have been instituted by the Congress that may or may not protect your health. You can be certain that they are going to cost you money—very much money in the form of your cost for water. These abbreviated terms do not have the same effect on you, the consumer, as did these terms we heard and read about in the depression years.

Please understand that we are not opposed to anything that actually proves to protect your health; we are reluctant to make expensive modifications of treatment facilities and techniques when historic evidence of the necessity for such modifications is less than compelling.

At this point you are wondering what this article is all about. We also know that you are saying: "Uh-huh, they are going to raise rates." You may be correct, but we will hope not at this time.

We hope most of you have read and heard, via the media, of the Safe Drinking Water Act. This is a new law by Congress that sets new strict standards for water. Your state Department of Environmental Quality has primacy of the act in Iowa (or a better word would be enforcement of the act) with authority to be even more regulatory or strict than the federal act. Some states have chosen to let the federal agency handle the enforcement and implementation of the Act. It will be impossible in this article to explain the Act, as this would take the entire newspaper, and those of you that have even seen a *Federal Register* or the *Iowa Code* or rules, will know that it is written by lawyers, chemists, PhD's and professionals and in most cases can only be understood by those that authored the law.

The greatest effect of the rules on your Waterworks at this time is the term MCL which stands for Maximum Contamination Level. The rules state that you must have a turbidity of one part per million or less. The rules also state that we must notify the public whenever we exceed the MCL. We are exceeding the MCL on turbidity in that we are running from 1.1 parts per million to as much as 4.7 parts per million. In prior years we were only concerned with turbidity in excess of five parts per million which was an acceptable standard.

Think for a minute what five out of one million really means—now also think of what the cost to you, the consumer, will be should we be forced to expensive measures to insure that this level be one part per million or less based on the following possible cures:

The least expensive would be with full time operation of the treatment plant which we do not have at present. This would require at least 1.5 full time certified operators at a minimum cost of $18,000 per year which would mean a fixed cost added to your water bill of $30 per year.

Should it turn out that the settling basin just doesn't have detention time sufficient for treatment and the filters just don't have the capacity and efficiency to meet the standards, then we are talking of monthly water bills of $15 or more, plus the additional fixed costs, capital costs and operation costs.

The federal Act has a provision for variances, or exemptions by the entity with primacy enforcement responsibility, from certain parts of the Act—one being that turbidity levels can be raised from one to five turbidity units providing the Waterworks can demonstrate that the higher turbidity does not do any of the following:

1. Interfere with disinfection;
2. Prevent the effect of disinfectant agents throughout the distribution system;
3. Interfere with microbiological determination; and

4. That you do not exceed five units in two consecutive days.

Historically, the first three items above have been demonstrated.

As we read the above, we began to feel relieved of a pressing problem until we were told by the Iowa Department of Environmental Quality that more proof would be required before a variance would be granted and if granted it would only be for a time period allowing for major construction improvements to take place. This is why the statement was made earlier in this article that the primacy entity could make stricter rules than the Congress.

This is something for you, the consumer, to think about—is there really a danger to my health, or is the greatest danger I face today the cost of bureaucracy? Cancer and viruses seem to be blamed on everything—mostly unproven. Is the worst cancer of all the rules and regulations by the commissions and agencies that eat into my income and savings?

At this writing we have had very understanding people in the Department of Environmental Quality and in the Environmental Protection Agency. They want to help and guide us but they work under the rules and statutes and have a job to do. We want you to understand what is taking place. We think the new standards are too strict—we are convinced that we have never delivered a water to the consumer that has posed a hazard to human health and we want you to know what is being forced upon us.

It is just as simple as "cream always comes to the top of the milk." The Congress making the laws and the state agencies making the rules do not realize that the problem is different for a waterworks with six hundred customers as compared with the waterworks with six or ten or even one hundred times that number. They have just never considered that six hundred customers cannot bear the burden of cost of operators, chemists and laboratories that are really necessary to meet the rules and standards that have been imposed. We are not opposed to the rules or anti-EPA; we just want a line drawn between the standards a small surface supply can meet and the ones a larger surface supply can meet—with reasonable and equal charges to the customer.

Comments in the *Federal Register* state that economic impact on the small systems would be severe—that EPA should provide grants. The intent of Congress was that the cost of the Act would be borne by the water system and thus you, the consumer. The Congress hoped that the small systems would be consolidated into larger systems so that the costs would be shared by a larger number of customers. This we agree with and would hope that the State and its agencies would pursue this avenue rather than pursing the avenue of rules now existing that may take so long that the "cream on top of the milk might sour" before anything is proven, solved or changed and the consumer overcharged.

We have pursued studies and had talks as to the possibility of taking water from the City of Creston as long ago as 1957. We met with and agreed to participate in studies with the Southern Iowa Rural Water District. We met with the Adams County Rural Water Committee as long as eight years ago and more recently had made inquiries with that committee and the City of Corning. All of these had storage problems, cost problems and numerous other problems. We still hope that the plan for the Southern Iowa Rural Water District will proceed but this could be ten or more years away.

We feel the Congress, the State Legislature and the Agencies should have more concern as to whether the communities have water at all—than to be so concerned with improving a water that has no proven history of effecting the health of the consumer.

MCL—Maximum Contamination Level—can be bacteria, turbidity, inorganic chemicals, organic chemicals, radium-226, radium-228 and others. At this time your water is exceeding only the turbidity level. Do not let the word contaminated disturb you. Heretofore, we would not have used the word except when talking about microbiological contamination—mainly coliform bacteria.

As the preamble to the annual report clearly states "should you have questions please contact the Superintendent's office and have them answered."

TRIBUTE TO JOHN "DUKE" WAYNE

Mr. JEPSEN. Mr. President, last night, June 11, 1979, America and freedom-loving people everywhere lost a great friend and one of the last true standard bearers of the American spirit, a spirit that desperately needs to be revitalized today in these times of challenge and change.

It is with a deep sense of personal loss that I stand before this body today to honor John Wayne. John Wayne was born in Winterset, Iowa, and part of his boyhood was spent there.

Along with all Americans we Iowans are proud of John Wayne, his accomplishments in the arts, and his contributions to the Nation.

Through his movie roles and private life, he personified the strength, courage, and individualism that are the American character.

John Wayne is an institution in himself, an institution every bit as American as apple pie. He has given countless hours of time and effort through the years for civic and charitable organizations.

I ask that the Senate, Congress, and the American people remember and honor the virtues and the qualities that John Wayne portrayed on and off the screen.

America lost a true patriot; the world lost a true friend. John Wayne left a legacy of creative individualism that will serve as an example to all Americans for generations to come.

Mr. President, I now yield back the remainder of my time to the distinguished minority leader, Senator BAKER.

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader.

Mr. BAKER. Mr. President, I have no further requirement for my time. I am prepared at this time to yield it back unless the majority leader asks me to yield the remainder of my time to him.

Mr. ROBERT C. BYRD. No.

Mr. BAKER. Mr. President, I yield back the time remaining under the standing order.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business of not to exceed 5 minutes, and that any Senator may be recognized therein up to 5 minutes.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for morning business having expired, morning business is closed.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1980

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of S. 428, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 428) to authorize appropriations for fiscal year 1980, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Mississippi.

Mr. STENNIS. Mr. President, may we have the attention of the Senate?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Mr. STENNIS. On the pending bill, S. 428, that we took up yesterday, we made considerable progress here in disposing of several amendments. Preliminary consideration was given to a great number of subjects.

This brings us down now to what we might call the hard core amendments which have been filed or which the committee otherwise has been able to learn about.

Mr. President, I have enjoyed listening to the exchange between our two floor leaders. I want to commend them highly for the work they have done in this session and for the substance of the things they have accomplished during this session. The volume of important business that has been transacted here on the floor and in the committee rooms has been several times more than the entire annual sessions consumed 20 or 25 years ago. There has been a tremendous increase in volume. It is just unbelievable until you look at the records and see where the actual buildup is. It is a reality. These leaders have to deal with it.

The imposition on top of all these processes that the legislative budget resolution requirements have imposed on all of us, the leadership included, have made the burden much greater. But the benefits therefrom are tremendous—the influence of the Budget Committee itself and the budget resolution for a ceiling with reference to the deficit. It has had a tremendous value for the good. It has helped to gradually reduce the deficit.

With all those things added together it takes a man some while to stay around here before he realizes how much these leaders are doing and how much it adds up to. I commend them highly. In fact, I have not heard any criticism from anyone except a person who might not have a chance to be informed fully as to what all they have done.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for his kind remarks.

Mr. STENNIS. Mr. President, our Committee on Armed Services has endeavored to go over all the amendments which have been filed on this bill. We have endeavored to consider the subject matter of what we understand may be amendments. We are very proud to announce that we think we are ready now to proceed in debate on any or all of those amendments. We open the doors of the church, so to speak, with reference to the disposition of these amendments. We have the facts available and we will give those facts to the adverse side, if I may use that term, if that will hasten along the disposition of this legislation.

I have one special word about the matter we had up yesterday, the so-called registration proposal.

Our committee met yesterday afternoon at 4:30 o'clock in this building where we had almost all members present. We had a very good discussion of this matter of the registration amendment with reference to supplementing the so-called volunteer enlistment program. We had already had hearings on the subject; after that discussion, the committee voted 12 to 5 in favor of reporting the subject matter as a bill, not as an amendment.

There are various reasons for that, but we will not go into that now. It can, nevertheless, be taken up, if someone wishes to, as a proposed amendment from the floor. But if it goes the route of a bill, of course, that requires 3 days to let anyone file a supplemental view or a minority view as they may see fit. Then under the Senate rules there would be 3 more days required, unless there is unanimous consent, before it could be taken up as a bill.

The rest of the story on this matter is that in no way are we trying to cut off bringing the subject up. This same subject matter is pending in the House of Representatives as part of their defense authorization bill. They will pass on that within a week or so. Then there will be a conference. We have control, to that extent, as to what we will do on this important matter. Frankly, I do not want the Senate conferees to have to pass on that subject matter in conference with the House until the Senate membership has had a chance here on this floor to vote on that subject. It is a far-reaching policy.

So it was to meet that situation that we have revised things. However, I repeat that anyone can offer that subject matter as an amendment if they wish.

Now back to the situation here. I do not have any request, Mr. President, from any particular Senator that his amendment be called up. But we are ready with reference to these amendments, as I have said. There is one amendment to eliminate the F-18 program from the bill; another one for certain add-ons, a few matters that were passed on in the committee; certain other amendments relating to ships; certain other amendments with reference to the AV-8B—this is just for illustration—an amendment that relates to the Marines certain items that could not get into the budget but which are in this bill. Other amendments relate to the A-7K, just illustrating; some amendments we have heard about with reference to the Minuteman II and Minuteman III; certain other amendments relating to strategic initiatives; certain amendments regarding industrial funds for civilians, which we have had before; another one regarding entitlement for legal assistance; matters pertaining to Rhodesia, and I have no definite information on anyone's plans there; other matters about the MX where there may be an amendment, and so forth. There are a few other relatively minor matters.

I think we have had good debate on the bill so far. If I may say, there has been a splendid presentation by the subcommittee chairmen and others who have spoken in presenting this bill, and some cautionary points made by some other Members.

Mr. President, we are ready for the amendments or third reading, whichever the Senate might prefer.

GRADUATION AT FORT M'NAIR

(Mr. HEFLIN assumed the chair.)

Mr. TOWER. Mr. President, I have just returned from the National War College at Fort McNair, where I was privileged to address the 33d annual graduating class. It was a splendid group of military officers of the Army, Navy, Air Force, Marine Corps, and Coast Guard, at the commander-captain-lieutenant colonel-colonel level. In addition, some Foreign Service officers and officers of other agencies were in that graduating class. I must say, I am impressed by the quality of these young officers, who will be the leadership in the armed services over the next 10 to 15 years. I am hopeful that the Congress of the United States will provide them with the resources necessary to provide for this country the kind of defense it ought to have, the kind of defense the people expect.

I think I can attest to the quality of the leadership that we have in the armed services. These are not self-serving men and women; they are men and women who are strongly dedicated to their country. Although they come from a fine tradition, they are an improvement over our military officers of the past. They are better educated, more widely experienced, they understand more of geopolitics, more of international relations and the art of diplomacy than do many Members of Congress. As a matter of fact, I have observed in the Western World that there is a splendid level of cooperation and respect between and among the military officers of these countries that is not always matched on the political level. They seem to be better diplomats than some of our senior politicians in the Western countries.

I bring this up simply because I wanted another opportunity to comment on my concern that we are not spending enough for defense. We have the leadership, we have the manpower resources. I am not certain that we are going to provide them with the weapons systems necessary to maintain the United States as a first-rate military power.

Again, I note that I believe that this budget is too low, that in the future, we are going to have to increase military spending substantially if we are not to place these fine military leaders that we have at what may be a decisive disadvantage in the confrontations of the future.

Mr. President, I hope that our colleagues who want to offer amendments to this bill will be forthcoming. I have advised Republican Members that we are considering this bill and welcome the opportunity to consider their amendments. It is hoped that we can dispose of this bill today. I believe that we can if Members are forthcoming who want to offer amendments to the bill and bring them here so that we may act on them expeditiously. Otherwise, if we have to offer several hiatuses during the consideration of the bill today and waste time with quorum calls, I think we must expect that we cannot finish the bill today. So I urge any of my colleagues who have amendments to present them to the Senate for consideration at the earliest possible moment today.

Mr. President, I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, we feel responsibility here. This bill has been set for special order and, as I say, we are ready, the committee is ready.

I take the liberty of calling the authors of some of these amendments now to see if there is anything they can do or what they can do about getting over here. As I say, we are ready for the amendments or third reading, whichever the Senate may decide. I think some will want to come and present them.

Mr. TOWER. It may be, Mr. President, that our colleagues are going to have the option of bringing their amendments here this morning or this afternoon for consideration or having them considered very late tonight. I hope they will exercise the former option rather than the latter, because the majority leader has indicated his intention of staying here late this evening to finish the bill if possible. I think Members should be advised that if they would prefer to be at home at a reasonable hour this evening, they might be well advised to come and offer their amendments now.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I want to express the hope that Senators will come to the floor and call up their amendments. Time is running. The managers of the bill are patient. They have been executing their duty on the floor; they are ready to discuss any amendment that any Senator wishes to call up. We cannot make progress on the bill unless the Senators will come to the floor and call up their amendments, or we go to third reading.

We can proceed to third reading if there are no further amendments, and I think Senators certainly ought to be warned of the possibility of that happening. For the moment, I will suggest the absence of a quorum. I may make it go live in an attempt to get Senators here to call up amendments.

I understand that some Senators are down at the White House also. I would hope the White House would schedule its meetings with Senators early in the day; otherwise those Senators, I think, are going to miss some votes. No Senator can be guaranteed that there will not be a vote while he is down at the White House, nor can he be guaranteed against tabling any amendment, or that the Sergeant at Arms will not be instructed to compel the attendance of absent Senators.

The Senator from Arizona (Mr. DeCONCINI) will call up an amendment in a moment. Before he does that, let me say I would hope that the cloakrooms will alert Senators who may be down at the White House that there may be a rollcall vote before long. An amendment will be called up within a couple of minutes.

Can the Senator from Arizona indicate whether or not he wants a rollcall vote on his amendment?

Mr. DeCONCINI. Mr. President, I am not prepared at the present time to ask for a rollcall vote, until I have discussed the matter with the distinguished floor manager.

Mr. ROBERT C. BYRD. Very well, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would not take this time except for the fact that no Senator is seeking the floor at the moment.

Mr. President, I would like to make a brief statement in support of the defense authorization bill. I also would like to express a special note of gratitude to the members of the Armed Services Committee, and to the very able chairman, the distinguished Senator from Mississippi (Mr. STENNIS), for the continuing contribution they made to the Nation in helping to oversee our national defense. They have made a continuing contribution to the Nation in helping to oversee our national defense.

The committee has given its usual careful consideration to assuring that our security needs are being met.

The committee has spotlighted a major problem confronting our defense effort. The cost of merely operating our defense structure day-to-day has grown dramatically in proportion to the amounts we can invest in equipment for the future. Operating expenses now account for 61 percent of the defense budget, while the portion available for investment in equipment and facilities has steadily declined to 39 percent.

Part of this is due to the problem of inflation. Inflation is eating into our defense structure, just as it is eating into every other sector of the economy. The result is that although absolute defense spending has increased significantly, the number of military units or quantities of equipment have not increased.

For these reasons, Mr. President, it is more imperative than ever that we make each defense dollar count. And I believe that is what the legislation before us does.

To a number of administration requests, the committee responded that there must be more savings, that cost increases must be absorbed, and that economies must be achieved by increased cooperation among the three armed services. I support the committee's firmness in these cases.

The committee recommends full-scale funding of the MX missile. The President has now announced his support for the mobile MX, and I strongly support that decision. The development of the MX missile in mobile form appears to be the best available means of countering the increasing vulnerability of our land-based missile force. This action will also preserve the triad structure of our strategic defenses.

The committee also recommends continued authorization of increased funding for our NATO commitments, and I support that decision. As the committee points out in its report, since 1974 our NATO-related defense expenditures have had an average annual real growth rate of 3.3 percent. This is a commendable accomplishment, a feat that should be made known to our allies, and to those who would oppose us.

Mr. President, this bill achieves the desired objective of maintaining our security, but at a cost lower than both the administration's request and the House committee version. It is a bill in keeping with both the demands and the temper of the times.

Mr. President, I congratulate Mr. STENNIS, Mr. TOWER, and the other members of the committee.

Mr. President, I am ready to yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOREN). Without objection, it is so ordered.

UP AMENDMENT NO. 238

(Purpose: To prohibit certain functions of the Department of Defense from being contracted out to private contractors)

Mr. DeCONCINI. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DeCONCINI) proposes an unprinted amendment numbered 238.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert a new section as follows:

RESTRICTIONS ON CONTRACTING WITH PRIVATE CONTRACTORS FOR THE PERFORMANCE OF CERTAIN FUNCTIONS

SEC. . (a) It is declared to be the policy of the United States that those provisions of Office of Management and Budget Circular A–76 (issued on August 30, 1967, and reissued on October 18, 1976, June 13, 1977, and March 29, 1979) which prohibits the use of private contractors for the purpose of avoiding personnel or salary limitations and which prohibit personnel actions in violation of civil service personnel regulations should be binding on the Department of Defense.

Mr. DeCONCINI. The purpose of this amendment is to help assure that possible impacts on military capability are given proper weight in the process through which the Department of Defense decides whether to contract functions out to private firms. The decision to convert a function to performance by contractors and their employees, in my judgment, is not without considerable security significance in many cases. Yet, to my knowledge, there currently are no explicit statutory guidelines with respect to this issue. My amendment is intended to begin the process of developing an appropriate set of guideposts by identifying some of the fundamental considerations that should be taken into account.

Thus, it would require an assessment of security-related technical or specialized content of the tasks in question, the relevance to mobilization capability and combat readiness, and the possible need for, or desirability of, preserving organizational continuity and control over the exercise of the function.

The Department of Defense has been under growing pressure over the last few years to reduce its civilian and military manpower to the bare minimum necessary to carryout its fundamental mission—to protect and promote the security of the United States.

This tendency has been especially evident with respect to civilian personnel levels. In order to avoid impairing military readiness, the Department, OMB, and the Congress concur in reducing OMB in-strengths as a means of adapting to tightening manpower constraints. The bill before us, for example, cuts another 4,200 permanent positions from the administration's civilian work force request, while adding "on balance" 35,100 positions to the uniform forces.

To this must be added the impact of the Leach amendment, which limits overall Federal employment to fiscal 1977 levels. As part of the effort to achieve the reductions mandated in this provision, OMB has lowered Department of Defense civilian instrengths still more sharply, even though civilian employment in the Department of Defense has been on the decline for several years.

Taken together, these factors have produced a reduction in Department of Defense civilian manpower of several thousand positions.

Yet, there has been no corresponding reduction in workload. The logical, technical and support tasks performed by civilians are integral to our overall defense posture. They are, by and large, indispensable elements of an effective combat-ready armed force.

As a result, the Department has been compelled to convert an ever-increasing number of its functions to performance by private contractors. On March 29 of this year, for instance, the Department announced that functions involving 34,100 positions were being reviewed for possible conversion to performance by private contractors during fiscal 1979–80.

I have no quarrel with farming out activities which are fairly routine, which have no highly specialized military substance, or which have a fairly tangential relationship to the mission capabilities of our Armed Forces, provided that it can be shown that such activities can be done more efficiently and at less cost by the private sector. However, I think we must be extremely careful when it comes to highly technical tasks and functions which are directly connected to actual or potential military performance requirements. To put functions of such a critical character outside the lines of authorized and direct control of our defense agencies is, in my judgment, a risky proposition at best.

My amendment seeks to fill what I believe is a serious policies lapse in this regard by establishing a framework for discriminating in a systematic way between tasks and programs that would be suitable for contracting out, given the special responsibilities of the Department of Defense, from those which would not. It stipulates the basic criteria that I believe should be met before simple cost comparisons between in-house performance and conversion to private contractors are made. In these turbulent and dangerous times, we cannot afford to be penny-wise and pound-foolish where the military security of our country is at stake. While I would not pretend that my amendment is the ultimate solution to the complex set of issues posed by defense contracting, I believe it is a step in the right direction.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, at the desk is my amendment, and I ask that it be modified as I have submitted it.

The PRESIDING OFFICER. The amendment will be so modified.

The modified amendment is as follows:

At the appropriate place in the bill insert a new section as follows:

RESTRICTIONS ON CONTRACTING WITH PRIVATE CONTRACTORS FOR THE PERFORMANCE OF CERTAIN FUNCTIONS

SEC. . (a) It is declared to be the policy of the United States that those provisions of Office of Management and Budget Circular A–76 (issued on August 30, 1967, and reissued on October 18, 1976, June 13, 1977, and March 29, 1979) which prohibit the use of private contractors for the purpose of avoiding personnel or salary limitations and which prohibit personnel actions in violation of civil service personnel regulations should be binding on the Department of Defense.

(b) A commercial or industrial type function of the Department of Defense that is being performed by Department of Defense personnel at Davis-Monthan Air Force Base on January 1, 1979, may be contracted out to a private contractor after the date of enactment of this Act only if the performance of such function by a private contractor—

(1) will not adversely affect technical, scientific or other skills necessary to critical military capabilities;

(2) will not adversely affect the emergency combat readiness or potential mobilization capability of any armed force; and

(3) will not adversely affect the continuity, control, or accountability on the part of the Department of Defense.

(c) The Secretary of Defense shall submit a written report to the Congress on February 1 of each year describing the extent to which commercial or industrial type functions were performed by Department of Defense personnel and the extent to which such functions were performed by private contractors during the fiscal year preceding the fiscal year in which the report is submitted. The Secretary shall also include in such report an estimate of the percentage of commercial and industrial type functions of the Department of Defense that will be performed by Department of Defense personnel and the percentage of such functions that will be performed by private contractors during the fiscal year in which such report is submitted.

Mr. DeCONCINI. Mr. President, I ask at this time, without losing my right to call up the amendment and proceed with the amendment, that it be laid aside. I ask unanimous consent that that be ordered.

Mr. STENNIS. Mr. President, if I may respond to the Senator, I am in sympathy with him on the matter of laying aside the amendment. There are certain matters about it which he may want to modify further. We may have further suggestions to make about the amendment. If the Senator will withdraw the amendment, without prejudicing his rights to assert it later, I will be glad to see him take that step.

Mr. DeCONCINI. Mr. President, I am willing to do that and continue to discuss it with the chairman and the ranking minority member. I thank them for their understanding and help in this area.

Mr. President, I ask unanimous consent that the amendment be laid aside, without losing my right to bring it up later.

The PRESIDING OFFICER. The Senator may withdraw his amendment and reserve the right to reoffer it. That is his right.

Mr. DeCONCINI. I so request.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. STENNIS. Mr. President, if I may have the attention of Senators, even though I have nothing to announce for immediate consideration, I believe progress has been made here with reference to other matters.

For example, the Senator from Colorado (Mr. HART) has an amendment concerning the F–18's. It is an amendment that is identified by the F–18 program, wherein he would propose to strike those planes from the bill. It involves 25 aircraft.

He has an amendment on another subject, regarding only $8 million and another amendment regarding $3.1 million. The first one relates to modular ship construction efforts, and the $3.1 million refers to the APRAPS.

The Senator from Colorado has arranged his schedule so that he can be here at 1:45 today. If he can get the floor at that time, he intends to take up those amendments then.

There is a matter—not in the form of an amendment, but it is a related matter—that concerns the passage of this bill, the so-called registration bill, referred to sometimes as the registration amendment. That is a matter we mentioned this morning. It was passed on by the committee last night by a vote of 12 to 5. It was reported favorably—a bill concerning registration.

That subject, as a whole, is here; and the Senator from Texas and I think we are within bounds in calling for an expression of the situation. We are ready to express our position about it. We will try to do so near the time when the Hart amendment comes up or when it is finished.

The DeConcini amendment definitely will be before the Senate later. I ask the Senator from Texas: Has anything official been done with reference to the

Schmitt amendments? We have the Schmitt amendments, and the Senator from Texas has been concerned about them. He has been working on the possibility of bringing up those amendments. Has that been disposed of?

Mr. TOWER. I say to the chairman that I will talk to Senator SCHMITT and see what his disposition is of the amendments, whether or not he wants to press them.

Mr. STENNIS. Could we say that the Senator will be ready about the time we take up the Hart amendment, so that we can discuss it while we are still on the matter?

Mr. TOWER. I will be prepared at that time.

Senator BELLMON has indicated his readiness to bring up his amendment, pending some scrutiny of it by Senator NUNN. Then, aside from Senator COCHRAN's amendment, that will pretty well dispose of them.

Mr. STENNIS. I think we could take up the Bellmon amendment now, if the Senator from Oklahoma is ready. Senator NUNN left word about it with me.

Has the Senator from Texas, who has been very successful about these matters, anything else to announce?

Mr. TOWER. I do not have anything more. Except for Senators BELLMON, COCHRAN, and SCHMITT, there are no amendments on this side.

Mr. STENNIS. Mr. President, the majority leader, the Senator from West Virginia, has entered the Chamber.

We just said that the Senator from Colorado (Mr. HART), who has a major amendment, will be here at 1:45. I have conferred with him on the telephone. At or near that time, the leadership proposes to bring up the subject of the registration. There is a bill here, and any Member can offer an amendment. I wonder whether we can have some discussion of it. It has been agreed that the Schmitt amendments will be discussed about that time.

I have been trying to reach other Senators whose names are on the list of those with prospective amendments, relatively minor amendments, but I have not been able to reach all of them.

I suggest to the majority leader that unless there is something else to do, in addition to the Bellmon amendment, we might take a recess until sometime near 1:45.

Mr. ROBERT C. BYRD. Why could Senators not come to the floor now? It is only 12:40. I am asking a rhetorical question. I do not expect the chairman to know where Senators are.

Mr. STENNIS. I understand.

Mr. ROBERT C. BYRD. It is 12:40, and to have a recess until 1:45 would mean that an hour and 5 minutes could not be utilized.

I ask our cloakrooms to get in touch with Senators who have amendments and press them to come to the floor, because an hour and 5 minutes now will mean an hour and 5 minutes tonight. I hope Senators understand that.

Mr. STENNIS. Is there any announcement on the MX matter?

The MX—is there any announcement on that?

Mr. TOWER. Senator GARN decided not to offer it.

Mr. STENNIS. Has the Senator announced it?

Mr. ROBERT C. BYRD. Does the Senator have an amendment?

Mr. NELSON. I may have.

Mr. STENNIS. I have been calling the Senator from Wisconsin. He has been tied up. If I could have a chance to confer with the Senator from Wisconsin we might talk about his matter some.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, reporting now to the floor leader here, we have reached an agreement with reference to another matter, the Nelson amendment, which will have to be redrafted. I ask that that be continued over until 1:45. We have these other matters set, as the leader knows. If Senator BELLMON cannot be here now it could be carried over to 1:45. It would be well, I think—but that is up to the others—to just leave this bill now until 1:45. I am going to lunch. [Laughter in galleries.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the galleries. There is nothing funny about going to lunch, except I do not get to go very often, and that is not funny.

Mr. STENNIS. I will be back though.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. STENNIS. Yes.

Mr. NELSON. I have a conference, I am chairman of the conference, on small business legislation with the House Small Business Committee, and I have a meeting with the chairman of the House Small Business Committee at 1:30. The conference starts at 2. Is the expectation that this measure will be finished today?

Mr. ROBERT C. BYRD. I would certainly hope so.

Mr. STENNIS. I think it is a good chance.

Mr. TOWER. Mr. President, if the Senator will yield, I think we can dispose of his amendment in 2 or 3 minutes.

Mr. NELSON. I request then that one of my staff members meet with the staff of the Committee on Armed Services, and then when the amendment is agreed upon I would be happy if the chairman would submit it in my behalf if I am not here.

Mr. STENNIS. All right. We will submit it for the Senator from Wisconsin.

Mr. NELSON. All right.

RECESS UNTIL 1:45 P.M.

Mr. ROBERT C. BYRD. Mr. President, I would not recess but just put in a live quorum and get Senators here were it not for the fact that the Committee on Foreign Relations has been holding hearings since 11 o'clock this morning in connection with the Rhodesia matter which bears heavily on this bill, and the chairman, the ranking Member, and I do not want to interrupt that committee in its deliberations. I understand it will probably complete its work by 2 or 2:30 today. There are some other committee meetings that ought not to be interrupted today, the Ethics Committee hearing being one.

So I think the chairman of the Senate Armed Services Committee is wise in suggesting a recess until 1:45 p.m. Sometimes a recess can mean greater progress in the long run.

So I ask unanimous consent that the Senate stand in recess until 1:45 p.m. today.

There being no objection, the Senate, at 12:55 p.m. recessed until 1:45; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. FORD).

UP AMENDMENT NO. 239

(Purpose: To strike funds for the F/A-18 Naval fighter/attack aircraft program)

Mr. HART. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Colorado (Mr. HART) proposes an unprinted amendment numbered 239:
>
> On page 10, line 18, strike "$4,392,000,000" and insert in lieu thereof "$3,374,400,000";
>
> On page 13, line 12, strike "$4,513,296,000" and insert in lieu thereof "$4,161,796,000".

Mr. HART. Mr. President, the amendment before the Senate would delete from the bill $1.328 billion for research and development and procurement of the F/A-18 naval fighter/attack aircraft.

The F/A-18 is a fighter/attack aircraft for the Navy. It is intended to replace the A-7 attack aircraft and the F-4 fighter/bomber. It is also intended to reequip the fighter wings of the Marine Corps.

The principal feature of the F/A-18 that causes this Senator most concern is the fact that it depends on catapult launch. Therefore, it locks us into the large aircraft carriers that this Senator strongly believes we should be departing from as quickly as possible.

The fact that we are proposing to procure this high performance catapult-launched aircraft for the future means inevitably that we will need more large carriers. The fact is that we need fewer large carriers and more carriers generally; and because of the enormous expense of the large carriers, we can afford too few. It is my contention that what we need are more aircraft carriers with different kinds of aircraft on them, and that means inevitably we will have to build smaller aircraft carriers.

We have growing problems in the Third World that require this country's presence and particularly its maritime and naval presence. We need to be more places at the same time. To do that, we need more aircraft carriers, not fewer, and that means we need to build different kinds of carriers.

We all know the vulnerability of the large carrier, of putting too many eggs in too few baskets; and that is what the

F/A-18 aircraft would continue in terms of the force strength of our Navy.

We need to make decisions today. We cannot wait until the year 2000 because of the long leadtime in the building of ships. The decisions of 1978, 1979, and 1980 are crucial to the kind of Navy we are going to have and the ability of that Navy to carry out its mission and our role around the world for the next two or three decades.

Mr. President, we have the classic chicken-and-egg problem here. Big carriers mean more catapult-launched aircraft. Catapult-launched aircraft mean more big carriers. At some point this cycle must be broken. If we do not do it with the F/A-18 aircraft, we are inevitably committed to large aircraft carriers into the 21st century.

Somewhere we have to say, "Stop." We have to break this cycle. The time has come for a change, and I think this is the place for the change.

Mr. President, the F/A-18 weakens the big carrier, compared to using F-14's and A-7's. The main threat to the carrier from the air is massed missile attacks, not enemy tactical aircraft with iron bombs.

Thus, what we need is an interceptor aircraft rather than a fighter, an aircraft which can shoot down many missiles simultaneously.

The argument is not whether the F-18 is a good or bad fighter; that is irrelevant. A fighter is not the kind of aircraft needed to protect our aircraft carriers.

The F-18 is only a fighter. It can only take on one target at a time.

The F-14 is what is needed. It is an interceptor. It can track and shoot down as many as six incoming missiles at once.

Mr. President, the A-18 also weakens the carrier. The Congressional Budget Office naval issues paper for this year pointed out that an equal-deckspace load of A-18's is less capable than a load of the existing A-7. Yet the A-7 aircraft costs less than $10 million per aircraft, compared to over $17 million for an A-18, and that cost is rising.

Mr. President, the F/A-18 program will not save this country any money.

Despite the increase in the planned F/A-18 buy this year from 800 to 1,366 aircraft, unit cost only fell about $300,000 per aircraft, which is not significant at all. Normally, such an enormous increase in the buy would substantially reduce unit costs. Since this did not occur when the buy for this aircraft was substantially increased, it suggests that unit costs would have increased substantially without the increase in the buy.

Mr. President, how long can we go on increasing the buy to keep down the unit costs? When does the actual cost increase become openly apparent?

Final program costs cannot be accurately calculated, but it appears retaining the F-14/A-7 combination would be much more effective than going to the F/A-18, and might also be cheaper. Even if F-14 unit costs are higher than F-18 unit costs—and the uncertainties in F-18 costs are such that this is not clear—the A-7 is so much cheaper that the total package cost of the F-14/A-7 alternative may be less—possibly substantially less than the F/A-18.

This amendment does not mean ultimately fewer aircraft for the Navy. Canceling the F/A-18 means more procurement of F-14's and A-7's in the future. And I strongly support that, Mr. President, because I think it is the direction that we should go.

The Navy has itself tried to cancel the F-18 program in the past. The Navy memo to the Secretary of Defense, in late 1977, asking for cancellation of the F/A-18 program stated, according to published reports:

> The major maritime air threat of the 1980s is the Backfire bomber . . . the Navy must be capable of defecting or deterring this threat. It is clear that the F-14 offers such a capability. The F-18 does not . . . the F-18 is not, as is often stated, a lower cost complement to the F-14. It is rather a low capability substitute.

This is the Navy leadership talking as of 2 years ago.

The Navy paper goes on to say:

> The F-18 cannot replace the F-14. Even if used only for unilateral intervention, the Navy must be able to face down Soviet naval intervention. This requires F-14-line air defense effectiveness which the F-18 does not have. The F-18 (A-18) won't be much different from the A-7E in attack effectiveness, except for survivability (better), payload versatility (worse), and fuel required (worse, if the performance advantage is used.)

Again, this is the Navy talking. Last year, Secretary of the Navy W. Graham Claytor stated before the Senate Armed Services Committee, when asked his personal opinion about the F-18:

> My personal view was, and still is, that if I were making the decision right down to the limitation on the budget that we foresee, I would be prepared, I would prefer to go with an all F-14 Navy fighter force, use extended A-7's for Navy light attack, and the AV-8B for the Marines and get by without the F-18.

Mr. President, that is the Secretary of the Navy talking.

General Wilson, the Commandant of the Marine Corps, was asked last year what he would do if he had to choose between the AV-8B and the F-18. He replied on the record:

> I would say that if I had to make a choice between the two, I would take a fighter gap, as it were, sometime in the late 1980's, and not have the F-18.

Mr. George Spangenberg, the highly respected former Director of the Evaluation Division of Naval Air Systems Command testified to the committee in 1975 that:

> Summarizing, it is clear that the F-18 is neither effective, nor cost effective, in either fighter or attack roles. It is vastly inferior in capability to the F-14 at about the same total cost, somewhat less capable and considerably more expensive than the (20 year old) F-4, and is inadequate in range and more costly than the A-7. There is no justification for continuing the program.

Nor do Navy junior officers seem enamored of the F-18. One lieutenant wrote in the September 1977 Naval Institute Proceedings that:

> In both the fighter and attack versions, (the F-18) offers a marginal advancement, at best, over the aircraft it is programmed to replace . . . The F-18 is not a good interceptor.

I interrupt, Mr. President, to say that this is a Navy combat flight lieutenant. He goes on to say:

> It is incapable of the semi-autonomous operations routinely flown by F-14's . . . The Russians have the ability to fire large numbers of antiship missiles from a strike group within a matter of minutes. The F-18 can lock up and shoot down only one at a time. In theory, one F-14 can engage and destroy six incoming antiship missiles simultaneously; it will require six F-18's to do the same job. . . . Given the Soviet capability to saturate a target, the F-18 is clearly a less than adequate addition to our defenses . . . Instead of extolling the virtues of the F-18, we should be sounding a warning for our carrier defenses. It won't do any good to have half the air wing playing Red Baron while the carrier is sinking.

Once again, Mr. President, that is a Navy officer writing in the Naval Institute Proceedings.

Another Navy pilot recently wrote in a letter to Aviation Week:

> The F-18 was designed to be a small, low cost complement to the Navy's F-14 force. These design criteria were evidently not attained, since the aircraft is neither small nor low cost. When and if the F-18 enters the inventory five years from now, it will barely be able to compete with the MIG-23, a threat that today has been operational for nearly half a decade . . . My opinion is shared by the vast majority of tactically current fighter crews with whom I have been associated in the past few years. It was reemphasized as a consensus by the cream of the crop of naval fighter aviation during the 1976 Fighter Symposium—yet no one seems to want to listen.

This is what the pilots say when they can speak freely—I note that the same was withheld on this letter—as distinguished from when they appear before the Tactical Air Subcommittee with all the admirals listening.

Mr. President, in summary, the F-18, as I have indicated, perpetuates the large carrier Navy. That is exactly the kind of Navy that we should be headed away from.

At the same time it weakens the big carrier, compared to the existing F-14 and A-7 aircraft.

It will not save money; indeed, it may cost more than continuing procurement of the F-14 and A-7 for our naval fighter and attack aircraft.

The Navy itself, as I have indicated, has recognized the deficiencies of the aircraft and has sought to kill the program.

Mr. President, I think this is a critical issue. It is one that I attempted to raise before the Senate last year.

With the funds that we are proposing to spend on this aircraft, we could supplement the F-14 and A-7 buys for the future and have a much stronger Navy.

In my judgment, Mr. President, by canceling the F/A-18 program, we could put its place reengining of 360 existing

A-7's. We could purchase as many as 485 new A-7's. We could increase the total buy of F-14 aircraft by almost 200 and we could purchase over 300 AV-8B's for the Marine Corps and still save the taxpayers several billions of dollars.

Mr. President, procuring this aircraft makes no sense whatsoever from any point of view: the survivability of the carrier, the types of carriers that we want, the long-range best interests of the Navy and of this country's national security, and also the very performance of the aircraft which we can replace with much better and more capable aircraft.

Mr. President, I yield the floor.

Mr. STENNIS. Mr. President, if I may have the attention of the Senator from Colorado, of course I am willing and want him to have such time as he may need. I wish his attention, though, now.

I address this to the Senator from Colorado, if I may: he has presented this matter here, and it is not a simple thing. I know how sincere the Senator is about these matters. Could we have a reasonable time limit, though, now since the Senator made his opening argument, say 35 minutes to the side? Is that agreeable?

Mr. HART. Twenty minutes to the side.

Mr. STENNIS. We might need a little more, since we have not used any time yet.

Mr. HART. All right.

Mr. STENNIS. Is that agreeable?

Mr. HART. That is fine.

Mr. STENNIS. I understand it is agreeable with the Senator from Texas.

So, Mr. President, I ask unanimous consent that further debate on this amendment now pending by the Senator from Colorado be limited to 35 minutes additional for each side, that it be under the control of the Senator from Colorado and the floor manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. I thank the Senator from Colorado.

I hope the Senator from Arizona will see fit to ask for recognition. He and the Senator from Nevada were representing the full committee when they held hearings on this entire matter, and I hope he will seek the floor.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. I yield the Senator 20 minutes and such additional time as he may need.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I thank my chairman.

I rise in opposition to the amendment by the distinguished Senator from Colorado. It is with a sense of disappointment, of having seen this play acted out before, of having heard the same dialog before that I learn of the amendment to terminate the F-18. We have heard the arguments before, several times before, in past years as well as this year, in Dear Colleague letters, in committee, as well as on the floor of the Senate.

These arguments have failed in the earlier proceedings, not for any lack of energy or any lack of opportunity for a full hearing, but rather for much more fundamental reasons. There were fatal flaws in reasoning, the arguments were refuted, and the uniformed Navy and the Secretary of Defense strongly supported the F-18 program as essential to the future of the Navy.

I will address the four main arguments in turn. The distinguished Senator from Colorado has argued that the main obstacle to V/STOL, and to a shift from the current structure of our Navy to one having a larger number of small carriers is the F-18. This is completely incorrect for several reasons, and shows a serious misunderstanding of the fundamental factors bearing on the issue of the type of Navy we need and can afford.

First, the F/A-18 provides the Navy with more flexibility in designing its current and future carriers than if the Navy were to continue procurement of the aircraft which will be replaced by the F-18. The F-18 replaces two different types of aircraft, will require less (not more) support than these older aircraft. The F-18 fighters will require less deck space, less space below decks, less pilot, and support personnel, and less fuel than the alternative force. Especially important, the F-18 has better carrier suitability in terms of required wind over the deck for launch, better visibility and better handling characteristics when approaching the carrier for landing. All of these F-18 characteristics give the Navy greater flexibility in designing future carriers than it has now. The F-18 will be able to operate effectively and efficiently from the largest carriers or from carriers considerably smaller than the smallest carrier now operating, or that has emerged from Navy studies as being effective, survivable, and reasonably efficient over the long term.

More critical to the case espoused by my colleague from Colorado is the immaturity of the V/STOL technology, and fundamental facts that the complex subsystems and configuration needed for V/STOL capability inevitably impose performance and cost penalties during the performance of other aspects of an aircraft mission. These facts are well-known, have been fully documented in technical studies by the Navy, have been fully explored in committee hearings. In fact, as was stated last year by the chairman of the TAC Air Power Subcommittee Senator CANNON, when the Senate was considering a similar amendment:

> The facts are that V/STOL technology is not developed sufficiently at this point in time to provide aircraft that are competitive in weight and cost with conventional high performance airplanes such as the F-18. As our committee hearings brought out this year and is reflected in the committee report on the Navy V/STOL program, there is a significant weight and cost penalty with designing a V/STOL plane to do the same mission as its conventional counterpart. This weight penalty can be 30 to 50 percent and the cost penalty can be in the range of 30 to 40 percent, according to current Navy estimates.

Mr. President, I do not like to report that. I am rather ashamed as an aviation enthusiast that our country does not lead the world in V/STOL capability, but it does not. In fact, the earliest date that a V/STOL aircraft will be in production is in the 1993-97 time period, according to Navy testimony.

The primary reason for not proceeding with V/STOL now is that V STOL technology is not ready. To do as the amendment proposes would be to take enormous risk to the security of the United States, at a time when our surface fleet is short of ships, and when a large proportion of its tactical aircraft are becoming overage and obsolete. Even for those who favor the introduction of V/STOL in small carriers, it should be clear that technical and operational prudence dictates a careful measured period of development and operational testing before risking fundamental change to our proven primary naval capabilities. To slow or terminate the F-18 now would leave a gap of years before any modern replacement could be introduced.

It would cause a disastrous delay in modernization of the Navy's fighter/attack force, would necessitate huge expenses to conduct programs to extend the life of aircraft already obsolete for the military environment of the 1980's and 1990's, and terminate the major effort of the Navy to reduce its tactical fighter operation and support cost.

Thus, it is clear that the primary reason for not proceeding with V/STOL at this time is not the F-18, but the immaturity of V/STOL technology and the inability of V/STOL to match the performance capability and cost obtainable from the conventional fighter aircraft today.

The second of the major arguments deals with the capability of the F-18. Proponents argue that introducing the F-18 will weaken our naval aviation forces. The Navy has testified that the F-18 will strengthen our forces. For the attack mission, it was testified that the payload-range of the F-18 and A-7 are approximately the same, and the survivability of the F-18 is far superior to the A-7. The F-18 also has the high performance necessary to survive enemy ground defense and to engage and defeat fighters.

The mission equipment on the F/A-18 represents the current state of the art, including the most capable ground attack radar in the U.S. inventory, the Hughes APG-65. Compared to the A-7E the F-18 has 22 percent greater maximum speed at sea level with the same load; 90 percent higher thrust-to-weight ratios for combat maneuvering and 20 percent better bombing accuracy. Higher survivability in a hostile environment is measured by: system redundancy; greater agility which results in 25 percent less time over the target than the A-7E; and self-defense capability against enemy fighters which the A-7E lacks. Quoting the testimony of a Navy attack pilot who had recently flown the prototype of the F-18:

> The performance levels, to me, were almost mind boggling compared to aircraft I have flown before. When I initially started flying it I discovered that I was flying tactics and maneuvers, missile evasion maneuvers, dive bombing maneuvers, low altitude ingress

> maneuvers, pop-up details, etc., that we are using today. . . . Basically, the aircraft opened up a whole new arena of tactics and applications which I think are going to greatly increase the survivability of the aircraft in the fleet. They say in the fleet "speed is life" and it would be very nice to have an aircraft that has the kind of performance that you feel you can go into that kind of combat arena and come back out again.

In aerial combat, the prototype F–18 demonstrated outstanding qualities moving Admiral Turner to testify regarding the F–18:

> We are very pleased with the results, they confirm our hopes and expectations about the fine design of the aircraft, the role for which it was produced and optimized. Clearly it is a pre-eminent dog fighter.

To sum up, in the air superiority mission, the F–18 will out-perform existing fighter aircraft in air-to-air combat with enemy fighters. The APG–65 radar provides the F/A–18 with track while scan, look down and multitrack capability superior to all U.S. fighter aircraft except the F–14. Compared to the F–4J, the F/A–18 has 25 percent greater acceleration, 35 percent greater rate of climb, 60 percent greater turn performance, and 25 percent greater fighter escort range. Thus, the modernization of the fleet by replacing A–7 with F–18 will mean a dramatic increase in the air defense capability with the carrier since F/A–18 has an excellent radar and air-to-air missile system and the A–7 has no air defense capability whatsoever.

Third of the arguments made against the F/A–18 is it will not save money. These arguments are wrong. They are usually made on the basis of comparing the cost of aircraft which have been in production for 10 or 15 years with costs of the F–18 in its first or second year. Apples to apples comparisons by the DOD of the total life cycle costs of the F–18 and conceivable alternatives show that the F–18, even with the higher costs inevitably encountered early in new programs, does break even then produces lower costs for the Navy and the taxpayer.

The reason is that the Navy has made a very significant effort in the F–18 program to achieve major cost savings. For example, since the F–18 serves in both the fighter and attack roles, production costs are significantly reduced by the longer production run. Equally important, the reduction in the number of types of aircraft that must be supported also reduces cost. Supply and maintenance officers will both reap enormous benefits from the commonality of the F–18 and A–18. The supply depot need stock only about 4,000 items to support the F–18 Hornet compared about 12,500 for the F–4 and 8,000 for the A–7. Those 4,000 items will support both the F–18 and A–18 resulting in a 5 to 1 reduction for an all F/A–18 wing.

Another example is the F–404 engine in F–18. It is in the same thrust class as the J–79 engine powering the F–4, but it has 40 percent fewer parts, four times the reliability, much lower maintenance, and much lower fuel consumption.

Overall, the operating cost of the F–18 is 50 percent less than the F–14, 25 percent less than the F–4 and 15 percent less than the A–7. By emphasizing reliability and maintainability from the start, the Navy expects to achieve higher readiness rates with less manpower and at lower costs than currently required. Contrary to Senator HART's mistaken arguments, it is abundantly clear that the F–18 will reduce costs for the Navy finally.

What kind of support does the F/A–18 have? This program has been the subject of close scrutiny and intense debate since its initiation in 1975. In that time period, it has had the full support of the uniformed Navy and each Secretary of Defense. The current Chief of Naval Operations, Admiral Hayward, made his position clear regarding the F–18:

> In view of the essential role of this important tactical aircraft, I give my strong personal support to the F–18/A–18 program.

Secretary Brown has also decisively supported the F–18 program.

Perhaps of equal significance are such statements as those of pilots who have flown the prototype F–18, which I read to you earlier, and those of Admiral Turner. For example, as you know, the Navy and the Air Force have had to cope with serious engine difficulties in several programs. Admiral Turner testified recently regarding the excellent dependability and performance exhibited by the propulsion system of the F–18, and said that it "warms the cockles of the heart."

The record is clear, based on statements from senior officials of the uniformed Navy and the Defense Department, and from those close to the test and evaluation of the F–18 that it has very strong support.

Thus, the arguments made against the F–18 are easily refuted, and they have been refuted year after year. They have not improved with age, where each succeeding month the excellent progress of the F–18 through its flight test program provides the best evidence that the F–18 will make a distinguished record when it enters service in the Navy.

What are the reasons now for proceeding rapidly with the planned F–18 introduction into the Navy?

First, the DOD planned purchase of only 39 tactical aircraft for the Navy is the lowest since before World War II.

I might repeat, Mr. President, what I said yesterday: The Russian air arm has over 9,400 tactical aircraft, and we number just in excess of 5,000; and we are buying 39 tactical aircraft. As reported earlier this year by the Congressional Research Service, this quantity is far short of the DOD estimates that purchases of about 180 fighters and attack aircraft is needed annually to maintain Navy and Marine force levels and prevent excessive aging. Proceeding with the F–18 program as proposed in the defense bill in the Senate is the single crucial step which can be taken now to deal effectively with the tactical aircraft shortfall, to reverse the trend of increasing unit procurement costs, and higher operating and support costs.

Second, a carrier air wing containing the F–14 and F/A–18 will be decidedly superior to any other air wing mix. It will provide the Navy commander with the versatile force, giving him options to meet a variety of threats and operational demands, and have considerable more capabilities in fighter and attack missions. It will also complement the F–14A in its interceptor role.

It is clear that the Navy's attack squadron and the Marine fighter squadron urgently need upgrading with the F–18. They will increase capability and reduce costs. It is for these reasons, and with the evidence cited before, that I urge the defeat of this amendment.

I might close, Mr. President, by very briefly stating that we will all remember, a few years ago, the flyoffs between what is now the F–18 and what is now F–16. The F–16 won. The F–18 is now in production, and while I have never had the pleasure of a flight in that aircraft, I am looking forward to it.

The test pilots I have talked to at Edwards Air Force Base say it is hard to distinguish between the characteristics of the two. But I do know, and I can say this, that the Air Force is very much interested in obtaining the A version. The A is the attack version, that would be used for close air support in lieu of other craft that we now have.

The F–18 is a highly maneuverable aircraft, capable of carrying very large amounts of weapons, and it also has a thrust-to-weight ratio, Mr. President, that is very difficult to believe once you see it, and realize that after about 15 or 20 minutes of flight, the thrust-to-weight ratio would be such as to theoretically do do away with the need of a wing.

I am not advocating that that happen, but once you get more thrust than you have wing, you have a rocket. That is what it amounts to.

So, Mr. President, with all the respect I have for Senator HART, his great studies and interest in the Navy, I have to disagree with him on this particular issue.

(During Mr. GOLDWATER's remarks, Mr. MOYNIHAN, followed by Mr. HARRY F. BYRD, JR., and Mr. MOYNIHAN again, assumed the chair.)

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, I yield myself 5 minutes.

I would like to respond briefly to the arguments of the Senator from Arizona.

First of all, he discusses the overall performance capabilities of the F18/A18. I would cite, as I did in my opening remarks, a study done this year on naval budget issues by the Congressional Budget Office. This compares the performance of the F18/A18 to the F–14 and A–7.

> The conclusions of both discussions can be briefly stated: The F–14 would be more cost-effective than the F–18 for defending ships at sea from air attack. As a result, the F–14 would be the best fighter for both offensive and defensive sea control missions in the event of a war with the Soviet Union.

It goes on to say what the distinct advantages of the F–14 are.

> The F–14 is cost-effective for the fleet air defense mission for several reasons. First, it has a larger and more powerful radar than the F–18, which gives it an advantage in engaging enemy bombers at long ranges. In ad-

dition, the F–14 is equipped with the Phoenix air-to-air missile system. The combination of the radar and the Phoenix system enables the F–14 to launch missiles at long range against as many as six incoming targets simultanously. Finally, the F–14's two-man crew makes it possible to us these systems to greatest advantage in demanding situations such as enemy jamming of the F–14's radar and missiles.

It goes on to say:

A close examination of the capabilities and costs of attack forces that take an equal amount of carrier deckspace reveals that the A–7E force actually is more effective than the A–18 force in many combat environments, even when performance estimates made by the Navy and the A–18's contractor are assumed.

The Senator from Arizona further says that the technology for V/STOL is immature. The argument behind this amendment is not that the F–18 or A–18 should be totally replaced with V/STOL. I am an advocate of that and I think it should come into the fleet in the 1980's and 1990's. I am arguing the moneys instead to be used to increase the F–14 and A–7. I am not advocating that the F–18 be replaced by V/STOL in the short term.

I would also point out with regard to some of the performance characteristics the Senator has discussed about the A–18, its maximum performance requires the use of afterburner, which dramatically lowers the airplane's range.

Mr. President, I point out once again, this is a fighter aircraft. The Senator from Arizona spends a great deal of time saying what a good fighter aircraft this is. I do not quarrel with that. I think it is a very good fighter aircraft. As I have pointed out before and will point out again, it is going to cost a lot more money than the Navy said it originally would, and I think those costs are going to soar as we get into the eighties. But leaving the question of cost aside, it is a very good fighter aircraft.

The issue is not whether it is a good or bad fighter aircraft; the issue is do we need another fighter aircraft to defend the carriers. The answer is no. This aircraft can only engage one incoming missile, and the fact is that the carriers will be barraged by mass missile attacks. That is what we need to engage and that is what the F–14 is prepared to do. So if you care about protecting the carriers what you want is more F–14's and not more A–18's. Those can only engage and knock down one missile at a time. They are fighter aircraft, designed to fight other aircraft.

The F–14 is overwhelmingly more capable in performing the mission of protecting the carrier than the F–18 is.

I would point out, Mr. President, three paragraphs from a story in the Washington Post of February 16, 1979:

More bad news is due to be released today by the Pentagon in a report that shows that the Navy plane developed to bring down soaring aircraft costs, the F–18 fighter, has gotten more expensive.

Instead of the Pentagon's 1975 prediction that, after allowing for inflation, this aircraft would cost $15.8 million a copy for 700 F–18's, the Pentagon's new estimate is $17.4 million even after doubling the order to 1,366 planes.

"Some big cost overruns are hidden in there," said one Government procurement specialist. "Doubling the order should have brought the unit price way down, not up."

The unit price is still going up as the purchase increases.

Mr. President, I yield myself 2 more minutes.

During hearings before the Senate Armed Services Committee I asked the Chief of Naval Operations:

Of how much significance is the supersonic performance of the A–18 given its very high fuel consumption at supersonic speeds and given that we have no ordnance which can be carried at supersonic speeds?

Admiral HOLLOWAY. Some ordnance, both air to air and air to ground, can be carried and delivered at supersonic speeds, but typical attack missions are subsonic until delivery.

That is a crucial point with regard to the performance of this aircraft.

Finally, Mr. President, I would point out that the Senator who overwhelmingly is recognized and acknowledged for his superior understanding of tactical aircraft, the Senator from Arizona, testified in 1976 before the Appropriations Committee as follows:

Mr. Chairman, I recommend the F–18 program not be approved because other alternatives appear to offer the Navy a more effective fighter in the TAC force. I have stressed my concern over the program cost but it is not the estimated amount that bothers me as much as what we will get for that amount. I think for the time being we will be better sticking with the proven system like the F–14, whose capability and cost although high is known and in hand rather than proceeding with an unknown.

Mr. President, I could not agree with that statement more. I wish the Senator from Arizona still shared that sentiment.

Mr. GOLDWATER. Will the Senator yield me 3 minutes?

Mr. STENNIS. I yield.

Mr. GOLDWATER. I did not get the name of the report the Senator referred to.

Mr. HART. This was a statement by the Senator.

Mr. GOLDWATER. No; I mean the report.

Mr. HART. Senate hearings before the Committee on Appropriations for fiscal year 1976.

Mr. GOLDWATER. I mean the name of the report, the first one the Senator referred to.

Mr. HART. It is the Congressional Budget Office Naval Budget Issues for fiscal year 1980.

Mr. GOLDWATER. Which organization?

Mr. HART. The Congressional Budget Office.

Mr. GOLDWATER. I do not know who their test pilots are but I will try to find out. As far as the remarks I made 2 years ago, if it were 2 years ago I would make them again because the aircraft was not even contemplated at that time. It is now built. It is more expensive but everything we are going to buy in this bill is more expensive.

I remember when the F–14 was $9 million and now nobody knows what it is. It is something around $30 million. I remember when the F–17 was talked about as being a $3.5 million airplane. Now we do not know. It is something between $9 million and up. We cannot control inflation.

Mr. STENNIS. Mr. President, I yield 3 minutes to the Senator from California.

Mr. HAYAKAWA. I thank the Senator from Mississippi.

Mr. President, I rise to oppose the amendment by my distinguished colleague and friend from Colorado.

Mr. President, I rise not only to support a very effective and necessary Navy aircraft program, but also to support our intellectual and legislative honesty. The Navy F/A–18 program has been thoroughly debated in the Congress since 1975. Culmination of this debate occurred last year when the first increment for procurement of production aircraft was being considered for fiscal year 1979. Both authorization committees and both Appropriations Committees recommended that the Navy F/A–18 program be funded to proceed in accordance with the schedule which the Congress had previously approved in fiscal years 1976, 1977, and 1978. The final opposition to doing so was an amendment offered on the floor of the Senate by Senator HART when he recommended that the F/A–18 program be killed. That amendment was defeated by a vote of 68 to 22, and funding for the F/A–18 program on the basis of the original schedule was approved.

At this time, when we are faced with a repetition of opposition to this program which the Navy has so strongly and steadfastly justified for 4 successive fiscal years, an appeal to the logic of this body seems the most appropriate defense against this new onslaught.

I wish to quote from the committee reports of the House and Senate Armed Services and Appropriations Committees on fiscal year 1979 defense authorization and appropriations. Their specific and similar recommendations concerning the F/A–18 program were as follows:

From the House Armed Services Committee Report No. 95–1118 dated May 6, 1978:

The program submitted last year for the new F–18 aircraft included a scheduled procurement of nine F–18's in fiscal year 1979. In the conference report on last year's Defense Department Appropriation Act, it was directed specifically that the F–18 program be maintained on the schedule submitted. In the authorization request submitted this year, however, only five F–18 aircraft were included.

Extensive testimony in committee hearings indicated no reason other than budgetary constraints for the reduced procurement of this aircraft. The committee believes that a first year procurement schedule of nine aircraft is conservative, as the first year procurement schedule for the F–15 aircraft was 30 and for the F–16 aircraft 105.

The F–18/A–18 system has made all scheduled testing milestones of a very thorough research and development program. Information received in the course of the hearings indicates that reducing the Fiscal year 1979 procurement from nine to five and correspondingly delaying the follow-on procurement schedule would result in potentially increased costs and that would approach $1 billion.

The Committee, therefore, recommends a total authorization of $488.5 million for procurement of nine F-18 aircraft, an increase in authorization of $138 million over the request. Correspondingly, increases have been provided in Title II of the bill for the R&D portion of the program to ensure that the F-18 remains on the eschedule approved by Congress.

From the Senate Armed Services Committee Report No. 95–826 dated May 15, 1978:

The Navy's fighter aircraft modernization program is proceeding at too slow a pace. The budget request for fiscal year 1979 included only 29 new fighter aircraft for the Navy and Marine Corps—24 F–14s and 5 F–18s. The committee is not satisfied that either of these procurement programs is proceeding at the annual production rate required.

Last year the committee recommended that F–14 production be stabilized at a 36 per year rate, rather than increased to 60 a year for a 3-year period to be followed by shut-down of the production line as had been proposed in the fiscal year 1978 budget request. The committee also recommended fully funding the F–18 with a production build-up rate of 9 aircraft in fiscal year 1979 and 30 aircraft in fiscal year 1980. However, the budget program presented this year was for 24 F–14s in fiscal year 1979 with advance procurement for 24 in fiscal year 1980, only two-thirds the recommended rate. For the F–18 the request was for 5 aircraft in fiscal year 1979 with advance procurement for 15 aircraft in fiscal year 1980, about half the recommended rate. The committee recommendation restores funding for the 36 per year F–14 production program and the 9 to 30 F–18 production program. The committee reiterates its recommendation from last year that both of these fighters should be funded as planned.

There has been considerable controversy, both within the Navy Department and by some of the aircraft manufacturers, over the issue of comparing the F–14 and the F–18 fighter aircraft. On this point the committee's position has been and continues to be that these aircraft are complementary, not competitive. The F–14 is designed for the fleet air defense mission and excels in that role whereas the F/A–18 is designed for fighter-attack missions and will be optimized for those roles. The complementary character of these two aircraft will enhance the Navy's tactical aviation force and both programs are required.

The presently approved Department of Defense force structure for Navy carrier-based fighter-attack squadrons is for 18 squadrons of F–14s and 6 squadrons of F–18s to meet the 24 fighter squadrons required and programmed for the 12 carriers. In addition, 24 squadrons of A–18s are programmed to replace the present A–7's in the light attack force. The committee is concerned that this planning approach does not provide for an equal quantity of F–14s on all of the carriers (instead, it would have six carriers with 24 F–14s and six with 12 F–14s); nor does it recognize the increased air defense capability provided by the A–18 (which is basically identical to the F–18 in configuration and in capability). The committee believes that the Navy and Defense Department should address these concerns and decide on the optimum mix of F–14s and F/A–18s to provide a balanced force for the 12 carriers. This decision should recognize that the F–18 and A–18 are basically identical, a fighter-attack aircraft that can perform the attack/strike mission and also complement the F–14 for fleet air defense.

F/A–18 Hornet:

The request is for $311.9 million for 5 F/A–18s and $38.6 million for advance procurement for 15 F/A–18s in fiscal year 1980. As discussed above, the committee recommends restoring F/A–18 procurement to the original production plan which was for 9 F/A–18s this year and 30 in fiscal year 1980. The committee added $117.6 million for 4 more F/A–18s in fiscal year 1979 and $16.4 million in advance procurement to support 30 F/A–18s in fiscal year 1980, for a total increase of $134.0 million.

From the House Appropriations Committee report No. 95–1398 dated July 27, 1978:

A total of $311,900,000 was budgeted to procure an initial production quantity of five F–18 Hornet fighter aircraft. In addition, $38,600,000 was budgeted in advance procurement funding which will lead to a buy of 15 F–18 aircraft in fiscal year 1980.

Congress appropriated $29,000,000 in advance procurement funding in fiscal year 1978 in order to buy tooling and long lead-time items for the initial production of nine F–18 aircraft in fiscal year 1979, followed by 30 production aircraft in fiscal year 1980. It can be seen this planned program has been essentially cut in half. Our testimony indicates this cutback in the program will stretch out the production program and increase procurement cost by about $427,000,000. Furthermore, the initial operational date will slip by six months.

The Committee considers the proposed program stretchout to be unnecessary and recommends a total of $433,500,000 to buy nine F–18 aircraft, an increase of $121,600,000 and four aircraft above the budget request. Furthermore, a total of $55,000,000 in advance procurement funding is recommended, an increase of $16,400,000 above the amount budgeted in order that 30 additional aircraft might be budgeted in fiscal year 1980.

From the Senate Appropriations Committee report No. 95–1264 dated October 2, 1978:

F–18 fighter aircraft.—The House provided $433,500,000 for the procurement of nine F–18 aircraft and $55,000,000 in advance procurement funds. The Committee recommends the full authorization of $429,500,000 to buy nine aircraft and $55,000,000 for advance procurement, a reduction of $4,000,000 under the House allowance.

F–18 Hornet fighter aircraft. $429.5 million is recommended for the procurement of F–18 Hornet fighter aircraft. The sum recommended and $29.3 million in prior year advance procurement funds provide $458.8 million for the procurement of the first nine production aircraft. An additional $40.7 million is recommended for the procurement of initial spares. The F–18 is a single seat, twin jet engine, carrier based, multimission tactical aircraft. It employs Sparrow and Sidewinder air-to-air missiles and the M–61 gun and will be the Navy's primary fighter for tactical air power projection both over land and at sea. The F–18 will replace aging F–4 and eventually A–7 aircraft. The F–18 will be a primary weapon system for the Navy and Marine Corps. $55.0 million is recommended for advanced procurement to support future buys of F–18 aircraft.

Has anything changed that should alter the course of the F/A–18 program since the decisive authorization and appropriations actions of the Congress in fiscal year 1979? The necessity for the Navy and Marine Corps to replace their aging and obsolescent inventories of A–7 and F–4 aircraft still exists and is becoming more acute. The need for the Navy and Marine Corps to modernize their tactical air capabilities to meet the projected threat is still valid and is recognized by Congress. The great advantages in cost, support requirements, and personnel of reducing the number of types of tactical aircraft on our carriers by replacing both the F–4 and A–7 with the F/A–18 is becoming ever more important in this era of military personnel and fiscal austerity. Let us, therefore, act with consistency to confirm what has already been firmly established as a wise and prudent course to follow—the continuation on schedule of an F/A–18 program for the Navy and Marine Corps which is now well into full-scale development and proving in test results to be sound in concept, design, and engineering. I strongly recommend, with solid conviction, a vote against the amendment.

Mr. THURMOND. Mr. President, I rise in opposition to the pending amendment which would strike from the bill all funds for the F–18 aircraft.

This aircraft is needed to supplement the fighter and attack capabilities of Navy aviation. It will replace the older F–4's and A–7's currently in the Navy inventory. The F–18 fills the dual role of air-to-air fighter and attack aircraft. This will simplify logistics, training, and maintenance for the simple reason that when the conversion is complete, there will be only one aircraft to support, whereas there are currently two aircraft to support.

Mr. President, I would also like to list other advantages the F–18 will provide in making our aircraft carriers effective fighting platforms into the 1990's and beyond. There include:

First. The F–18 and F–14 can perform all the tactical aviation jobs required of carriers;

Second. The F–18 compliments the F–14 by performing the strike, strike escort, and close air support missions where the agility of a smaller aircraft pays off;

Third. The F–18 will require less deck space, 25 percent fewer technicians, and 40 percent fewer officers than required by the current F–4/A–7 force;

Fourth. The aircraft it replaces are the products of design dating back to the 1950's and we must modernize our weapons systems if the carrier force is to be effective in the years ahead; and

Fifth. In testimony before our committee, Adm. Thomas Hayward, Chief of Naval Operations, testified that "the F/A–18 program promises significant economic benefits when the planned production rate is achieved in a few years."

Mr. President, in conclusion, I find the committee's position fully justified. While the Navy requested only 15 F/A–18's in this budget, our addition of 10 aircraft to that number should enable the manufacturer to achieve a higher production rate earlier and bring about a reduction in the unit procurement cost.

In conclusion, I urge this amendment be rejected.

Mr. STENNIS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 11 minutes remaining.

Mr. STENNIS. I shall use only 2 or 3 minutes.

Mr. President, this is a plane that is well advanced in the family of planes, and there are several families, as is well known—some for the Navy, some for the Air Force and Marine Corps, even others for the Army. But this plane is not on a trial run. It is already in production and rates very high with most of those who are knowledgeable in this field. We have the Senator from Nevada, who has been chairman of our Tactical Air Subcommittee for a number of years and is a noted pilot in his own right, as is the Senator from Arizona, who also served on that subcommittee. This year, we called on them in a special way to take the lead, nevertheless, in full committee hearings, on the subject of all tactical air. They responded and the entire subcommittee, as I recall, was for the plane, endorsed the budget figure, and even went beyond that to increase the annual production up to what they thought was a more reasonable rate.

Though there is opposition that we greatly respect here, from the Senator from Colorado, at the same time, the committee considered this seriously, and anything costing $1 billion is serious. We did not just approve it in a casual way. I do not want to back the committee, but I certainly think it is a matter that we could not afford, at this time, to abandon.

The Senator from Texas could not be here at this particular moment, and the Senator from Arizona is here to represent the Senator from Texas and answer questions and anything else. So, again, making clear that I support this figure that is already in the bill and, hopefully, will not be amended out. I do not care to take any more of the Senate's time. I shall now yield the floor, and, also, if there is no more time to be used, I am willing to yield back my time.

Mr. HART. If there are no other arguments, Mr. President, I am prepared to yield back my time. I should like to get the yeas and nays. I do not know if we have sufficient Senators here.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. All right, Mr. President. The yeas and nays have been ordered. We yield back our time.

Mr. HART. I yield back the remainder of our time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Colorado. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Carolina (Mr. Hollings), the Senator from Kentucky (Mr. Huddleston), and the Senator from Rhode Island (Mr. Pell), are necessarily absent.

I further announce that the Senator from Nevada (Mr. Cannon) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "nay."

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 18, nays 78, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—18

Bayh
Hart
Hatfield
Javits
Kassebaum
Leahy
Lugar
McGovern
Metzenbaum
Muskie
Nelson
Pressler
Proxmire
Ribicoff
Riegle
Stevenson
Weicker
Williams

NAYS—78

Armstrong
Baker
Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hatch
Hayakawa
Heflin
Heinz
Helms
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kennedy
Laxalt
Levin
Long
Magnuson
Mathias
Matsunaga
McClure
Melcher
Morgan
Moynihan
Nunn
Packwood
Percy
Pryor
Randolph
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Young
Zorinsky

NOT VOTING—4

Cannon
Hollings
Huddleston
Pell

So Mr. Hart's amendment (UP No. 239) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 240

(Purpose: To provide R. & D. funding of $8 million for a new line item, Ship Systems Engineering Standards, and $3.1 million for a new line item, APRAPS)

Mr. HART. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. (Mr. Harry F. Byrd, Jr.). The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Colorado (Mr. Hart) proposes an unprinted amendment numbered 240.

Mr. HART. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 12, strike "$4,513,296,000" and insert in lieu thereof "$4,524,396,000".

Mr. STENNIS. Mr. President, these matters are important. Let us have quiet.

The Senator is agreeable to a very short time on this amendment, as I understand.

The PRESIDING OFFICER. Senators will please take their seats.

Mr. STENNIS. Mr. President, this is a matter that was before the Senate last year. The Senator from Colorado is willing to have a division of time, 10 minutes to each side, controlled in the usual way, and I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HART. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HART. Mr. President, this amendment would provide $8 million for one of the two elements of the former Seamod program, ship systems engineering standards. The amendment would establish a new line item in the bill for Ship Engineering Standards.

This program, in combination with a program called combat systems architecture, together form what was formerly called the Seamod program.

The purpose of Seamod is to modularize shipboard weapons and sensors.

Mr. STENNIS. Mr. President, may we insist upon quiet? I will not ask for order any more, just enough quiet so we can be heard.

The PRESIDING OFFICER. The Senator may proceed.

Mr. HART. Mr. President, the hulls of modern ships last 30 years or more, but weapons and sensors change rapidly, and that means that they become obsolete long before the hull is worn out.

That leaves us with a choice of either sailing with obsolete weapons and sensors, or spending huge amounts, often several hundred million dollars per ship, to rip out all the old weapons and sensors and put in new ones.

Seamod would resolve that dilemma and it would modularize weapons and sensors so that one could just, if you will, "unplug" one set of weapons and plug in a new one. No more expensive rebuilding of ships would be required and no more ships would be at sea with obsolete weapons and sensors, because we could not afford the time or money to rebuild them.

Seamod was strongly supported by Congress last year; $7.7 million was authorized and appropriated, even though there was no request in the budget. Over 90 Senators voted for the add-on for Seamod. This year's budget request contains money for half the program, the combat systems architecture, but forgot about the other half, which is the ship systems engineering standards. Unless money is also provided for this portion of the program, we will develop the weapons and sensors themselves but not know how to integrate them into actual ships. Supporting this amendment merely pushes forward what 90 Senators voted to do last year.

The objective, Mr. President, is to have this system ready for the new destroyer, the DDX. The DDX, which is now being designed, is supposed to be ready by 1984. Unless we proceed on both portions of Seamod so it will be ready by then, the DDX will not be modular and it will be locked into the obsolete-weapons-and-sensors problem that I have outlined. We can both save money and have a better new generation of destroyer by making it modular. We need the $8 million for this aspect of the program, to keep Seamond on schedule for the DDX.

The Secretary of the Navy, Mr. Claytor, has expressed his strong interest in and support for this concept.

The recent study by the Atlantic Council, called "Securing the Seas," which was produced by a study group that I think many Senators are familiar with, has also strongly endorsed this concept.

This study group was chaired by Paul Nitze and Leonard Sullivan. I read from its findings and recommendations as follows:

> Naval forces require a long lead-time in decisionmaking, design, procurement, construction, deployment, use, and modification. Ships decided on today may not be initially deployed for 10 years, and they may then have a service life extending for another thirty to fifty years. The original missions of combatant ships are generally made obsolete by their mission-related equipment rather than by the condition of their hulls, propulsion systems, and living spaces. The sensors, aircraft, missiles, torpedoes, mines, ECM equipment, and other hardware deployed on them are certain to have much shorter life cycles than the ships themselves.
>
> Technology now makes possible the packaging of most weapons and other onboard equipments—including computers—in individual modules. Even power supplies, wiring, and cabling can now be made more versatile (through the use of multiplexing and optical fiber wiring) so they can be used to interconnect vastly different equipment components. While such design practices may somewhat increase the initial cost of the hull, in all likelihood this additional expense would be repaid severalfold in extended useful life and delayed obsolescence.
>
> This modular design approach will also permit the gradual but continuous improvement of standardization and interoperability.

Mr. President, in summary, this will require a small amount of money to develop an option which would potentially save billions while improving our naval capability.

Mr. President, a second part of this amendment has to do with the program called APRAPS, which means active/passive reliable acoustic path sonar.

The amendment would provide $3.1 million in R. & D. for the program in fiscal year 1980. The program was terminated by the Navy in 1978, but can easily be restarted.

There are three basic reasons for the program:

APRAPS is the only active shipboard sonar recently in R. & D. All other sonar R. & D. is focused on shipboard passive systems—sonars which depend on hearing the noise generated by the opposing submarine. The problem with this is that diesel-electric submarines operating on battery generate very little noise, and it is extremely difficult to detect them with passive sonars. The U.S.S.R. today has over 150 diesel-electric attack and cruise missile subs.

In addition, the Soviets may have in the near future a very quiet nuclear sub, or one which achieves nuclear sub performance with an advance technology nonnuclear powerplant. These would also be largely immune from passive detection, unless they were going at high speed.

Thus, I think it is highly imprudent for us to put all our chips on passive detection. We also need to keep R. & D. in active systems going. APRAPS is the best—really only—way to do that.

APRAPS is the only reliable acoustic path shipboard sonar we have in R. & D. Most sonars, especially traditional active sonars, are often rendered ineffective by ocean conditions. Layers of temperature cause sound paths to bend, giving distorted readings of a submarine position. Reliable acoustic path sonars avoid this problem, and thus promise much more effective performance.

They are especially needed in the Mediterranean, where ocean conditions make normal sonars ineffective much of the time. RAP sonars promise a big jump forward—but only if we keep them alive. This amendment will do that.

APRAPS is the only active shipboard sonar we can use on high-speed ships, such as hydrofoils and surface effect ships. Hydrofoils and SESes promise a major jump in speed—up to 100 knots—over traditional ships. This speed can be very useful in anti-submarine warfare, where today, a modern nuclear powered submarine is often faster than the destroyer which is supposed to chase it.

But, APRAPS is the only active sonar these ships can use. Traditional active sonars require an enormous "bow dome," which cannot be fitted on a hydrofoil or an SES.

Unless we continue APRAPS, hydrofoils and SESes will be helpless against quiet submarines—diesel-electric subs and future quiet nuclear subs.

This $3.1 million should be used to demonstrate the prototype APRAPS on a hydrofoil during the next 12 months.

Mr. President, I ask unanimous consent to print in the RECORD a paper entitled "APRAPS Demonstration of Hydrofoil Ship ASW Mission Effectiveness."

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

APRAPS DEMONSTRATION OF HYDROFOIL SHIP ASW MISSION EFFECTIVENESS

SUMMARY OF TECHNICAL CONCEPT

It is proposed to conduct a demonstration of a hydrofoil using an Active/Passive Reliable Acoustic Path Sonar (APRAPS) that will exploit deep ocean sonar technology. The APRAPS is a dipping sonar—a deep acoustic unit consisting of a high-power acoustic projector array and a directional receiving array. It will be deployed by a high-speed winch to Reliable Acoustic Path (RAP) depth to conduct active acoustic search and screening over large areas. The APRAPS combines extremely wide area coverage, afforded by active search at RAP depth, with rapid deployment and retrieval times, thus permitting high speeds of advance.

The prototype APRAPS system, installed on a hydrofoil, would provide initial target detection using sprint and search tactics. In order to demonstrate the full capability of APRAPS as part of a total ASW system for a hydrofoil, it is proposed to demonstrate it in conjunction with two additional subsystems. The first is an overboard dispenser for ERAPS sonobuoys, which will be used to maintain contacts, made initially by APRAPS, while the hydrofoil is underway at high speed. The second is an MK–32 triple tube torpedo launcher and control panel which will carry the torpedo, MK–46–1. A signal processor installed in a transportable van will be provided to process both APRAPS and ERAPS systems.

The proposed test will also, it should be noted, demonstrate a single-ship attack capability with no use of a helicopter.

PROPOSED DEMONSTRATION

The demonstration unit shall be placed aboard the Highpoint (PCH–1) for a demonstration in the Pacific. It is recommended that a site approximately 250 miles southwest of Port Hueneme, California, be considered. However, other deep water Pacific areas off the coasts of Washington state or Alaska would also be feasible for RAP demonstration.

The demonstration will be a comprehensive test of hydrofoil ASW tactical capabilities. It is specifically designed to simulate the type of tactics that PHM-class hydrofoils, similarly equipped, might conduct in the Mediterranean in operations against the Soviet diesel electric and nuclear submarine threats.

Among the tactics to be simulated will be those of a hydrofoil pouncer for use in the Mediterranean environment for follow-up target localization of passive initial detections made by the TACTAS ship. In its pouncer tactic, the hydrofoil equipped with APRAPS would be used for final localization against a fast nuclear submarine. Localization of fast nuclear submarines is currently a very difficult problem in the fleet, and requires the use of active sonars. The extremely good mobility of hydrofoils, in conjunction with the wide zones of coverage achievable with APRAPS, could make a significant contribution to solving this problem.

The ASW attack demonstration will first involve the use of APRAPS to make the initial submarine detection. Next, the hydrofoil would immediately deploy off-board sensors (ERAPS), which would be radio-linked to the hydrofoil. The hydrofoil pouncer would then move in for the attack using the offboard sonobuoy position to guide its attack for launch of the MK 46–1 torpedo.

PROPOSED SCHEDULE, 12 MONTHS TO COMPLETE

After contract award, a contractor would design and fabricate an APRAPS deep acoustic unit, sea cable, winch, handling machinery, offboard sensor dispenser and link package, and shipboard signal processor. The subsystems would be checked out and fully tested first on a barge. Wherever feasible, existing ERAPS technology and component designs would be employed to reduce cost, risk, and to shorten development time. After preliminary barge tests, the fully transportable (modular) sonar system would be installed on Highpoint (PCH–1). Operational test plans would be prepared for the at-sea demonstration. Submarine services and hydrofoil support services would be provided by the Navy. The at-sea demonstration performed in distinct parts could be completed in less than a month. Overall APRAPS prototype development and demonstration could be completed in less than 12 months after contract award.

COST SUMMARY—$3.1 MILLION

The complete development and demonstration, as briefly described in this paper could be conducted for $3.1 million. This budget estimate assumes all anticipated submarine and hydrofoil services are provided by the Navy in accordance with an agreed-to schedule.

BENEFITS OF THIS DEMONSTRATION TO THE NAVY

The Navy's ASW capability will benefit from the vast active area search rate and high speed of advance this system provides—the result of combining the high-speed advantages of the hydrofoil with the reliable long-range acoustic coverage of the RAP sonar. The hydrofoil ships, equipped with APRAPS and employing the sprint and search technique, will provide the surface Navy with the capability to detect, pursue, and attack evading high-speed submarines.

The demonstration itself should provide the Navy with considerable operational experience and permit it to test out possible solutions to several ASW issues, including:

Demonstration of the initial detection and rapid localization of the ultra quiet diesel electric submarine during screening in a high noise environment such as the Mediterranean.

Validation of the use of fast hydrofoils in ASW, and, in particular, the use of active sonar pouncers as a localization complement to passive detection.

Development and test of the concept of using offboard sensors for a timely attack by the same ship that makes the initial detection, without the additional use of a helicopter.

Successful ASW demonstrations using the PCH-1 with APRAPS will expedite the eventual ASW utilization of the PHM-class hydrofoils.

Mr. HART. Mr. President, I urge my colleagues to accept and endorse this amendment which contains small amounts of money for both these systems which I think would be so extremely important to the Navy in the future.

I reserve the remainder of my time.

Mr. STENNIS. Mr. President, I shall be brief. This is a matter of importance and interest to the membership.

The Senator has, in effect, two amendments here. One is what he calls the Seamod, as he has gone over it, and there is another one that we just as well mention with it. They call it the APRAPS, relating to sonar, with the possibility of circumspecting ships.

A year ago these two items were approved by the Senate and went to conference. I believe they were accepted there but lost out in the appropriations.

We did not put it in on first consideration this year. We have talked about the situation here. The Senator from Texas had to leave the Chamber, but I mention it to the Senator from Virginia. We can recommend and do recommend that we accept these two items. They were approved last year, and they are looking into future, experimental R. & D., we will accept these items. We will take them as far as we can.

I hope the Senator from Virginia will agree. I know the Senator from Arizona and I talked about it a little earlier in the afternoon.

I yield 5 minutes to the Senator from Virginia.

Mr. WARNER. I thank the Senator.

Mr. President, I wish to commend the distinguished Senator from Colorado for his vision and diligence in looking to the Navy of the future. It is commendable particularly for the distinguished Senator from a landlocked State to spend so much time in connection with salt water items. It is essential that we also look forward because naval systems take time. As an example, it takes ships 7 to 10 years from the drawing board until they join the fleet as operational units.

The minority have looked over these amendments and are prepared to accept them. Insofar as I know, there is no expression of opinion from the minority side. I suggest the matter be addressed to a voice vote.

Mr. STENNIS. Mr. President, may I ask does anyone else wish to say something here on this matter?

I thank the Senator from Virginia, and we yield back the time.

Will the Senator make the motion for the adoption of both of them at one time?

Mr. HART. Yes.

Mr. President, I yield back the remainder of my time and I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

(Putting the question.)

The ayes appear to have it. The ayes have it.

The amendment was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. I thank the chairman of the committee.

Mr. STENNIS. Mr. President, being certain, does the motion carry both amendments?

Mr. HART. That is correct.

The PRESIDING OFFICER. It does.

Mr. STENNIS. I thank the Chair.

Mr. President, according to my list here the Senator from Oklahoma (Mr. BELLMON) has an amendment. We are down to it now. I hope he can be immediately notified.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 241

(Purpose: To provide for adjustments in the stipend paid under the Armed Forces Health Professions Scholarship Program)

Mr. BELLMON. Mr. President, I have an amendment at the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report. The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 241.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . (a) Subsection (d) of section 2121 of title 10, United States Code, relating to the monthly stipend paid to persons participating in the Armed Forces Health Professions Scholarship Program, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end of such subsection the following new paragraph:

"(2) The amount of the monthly stipend, specified in paragraph (1) and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Secretary of Defense for each school year beginning after September 30, 1979, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5325 of title 5, United States Code) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends".

(b) No person shall be entitled to any benefits by virtue of the amendments made by subsection (a) for any period before the date of the enactment of this section.

Mr. BELLMON. Mr. President, this amendment is intended to provide relief to the Armed Forces health professions scholarship program.

As all Members know, there is a real shortage of medical doctors which has plagued the armed services clear back to the time we stopped drafting doctors.

The Armed Forces health professions scholarship program is a major source of the present and future supply of doctors and other medical people to help meet the health needs of our servicemen and servicewomen.

This amendment will provide the annual cost-of-living increase for the Armed Forces health professions scholarship program in the same manner as the national health scholarship program which furnishes the Nation with public health service doctors. The national health scholarship program already includes annual cost-of-living increases which cause a disparity between the two programs. As of July 1, 1979, the national health scholarship monthly stipend will be $453 per month compared to the Armed Forces health scholarship monthly stipend of $400 per month.

The national health scholarship program was able to fill all 4,553 of its slots in calendar 1978, while the Armed Forces program fell short. They were able to fill only 1,209 of 1,343 available slots.

I believe by ending the inequity in the monthly stipend between these two very similar Government-supported programs we can go a long way toward easing the recruitment problems that we have for the medical doctors scholarships for the armed services.

Mr. President, the House defense authorization bill has a provision taking care of this annual cost-of-living increase to the Armed Forces health professions scholarship recipients. I strongly urge the Senate to adopt this amendment and cure this inequity.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER (Mr. METZENBAUM). The Senator from Mississippi.

Mr. STENNIS. On this amendment, the sole purpose is to modify the law to the extent that recruitment for Public Health Service in the military can be more nearly equal so far as inducements are concerned, this amendment has been carefully screened. The language has been carefully screened. Provided that it will not be retroactive, the effect of it is that the medical people who come in under this amendment will, hereafter have the benefit of the cost-of-living increases that apply in so many areas.

It is drawn, as I say, so that it excludes any retroactive effect. For the fiscal year 1980, according to the figures here, its cost is $3.2 million. Thereafter, for the 5 years we ran it up and it would be a total, a cumulative, cost for those 5 fiscal years of $33.8 million. We tried to figure this matter out. I have not been happy here over automatic increases regardless of the quality of work performed. But in this field of professional competition, so to speak, between the different departments of Government, it looks like we do not have much choice here except to amend this law so as to iron out this wrinkle in the law.

The Senator from Oklahoma is one of the real guardians of the Treasury anyway—it is his amendment—so I am relying on his judgment for it. We are glad to go into this. Speaking for myself—and the Senator from Texas is here—I support the amendment.

Mr. TOWER. I believe the Senator from Oklahoma has come up with a constructive amendment. We do have the problem of a shortage of medical personnel in the armed services. It is true that the Public Health Service has somewhat more attractive programs from the financial standpoint, and I think this tends to equalize things and gives the services a fair crack at the available people. Therefore, I would express my support for the amendment offered by the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I appreciate the position taken by both the manager of the bill and the distinguished Senator from Texas (Mr. TOWER). I have no further comment to make on the amendment and I would be happy to have it decided on a voice vote.

Mr. STENNIS. Mr. President, we thank the Senator again for his services on this matter with respect to this amendment, and we will do the best we can in conference with it. I think a voice vote will be sufficient.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

Mr. TOWER. I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 242

(Purpose: To restrict the use of funds for development of the Extremely Low Frequency (ELF) Communication System)

Mr. STENNIS. Mr. President, will the Chair indulge me for just a moment, please?

Mr. President, this morning we had an amendment up here. I have authority, with a memorandum left here and by word of mouth, too, from the Senator from Wisconsin (Mr. NELSON) in which he asked me to submit this amendment to the Senate for him.

For that purpose, Mr. President, I send to the desk an amendment here for the Senator from Wisconsin, and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BOREN). The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Mississippi (Mr. STENNIS) for Mr. NELSON proposes an unprinted amendment numbered 242.

Mr. STENNIS. Mr. President, I ask unanimous consent that further and complete reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Add the following new section to Title II of the committee substitute:
>
> SEC. 203. None of the funds authorized to be appropriated by this Act for the development of the Extremely Low Frequency (ELF) communication system may be obligated or expended for the development of such system unless the President certifies to the Congress in writing that the use of funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system, and in no event may any of the funds authorized to be appropriated by this Act be used for full scale development or construction of another test-bed facility for an Extremely Low Frequency (ELF) communication system.

● Mr. NELSON. Mr. President, S. 428, the fiscal year 1980 defense authorization bill, authorizes the expenditure of $13.5 million for the Navy's Extremely Low Frequency (ELF) Communications System. The Senate Armed Services Committee has recommended that this expenditure be divided equally between unobligated fiscal year 1979 appropriations for Project ELF and fiscal year 1980 funds authorized in this bill.

Project ELF has been beset by controversy ever since its inception more than a decade ago, and continues to be challenged over questions concerning its biomedical/ecological impact, physical placement, and necessity for national security. The Navy has spent well over $150 million already on the project.

Controversy intensified and sharpened when in its budget submission for fiscal year 1977, the Navy, for the first time, requested congressional approval to advance from the research and development phase to the full-scale development of the ELF project, which is in fact the first stage of actual construction.

Congress denied the Navy its request for full-scale development funds in fiscal year 1977, fiscal year 1978, and again in fiscal year 1979, drawing on specific criteria fashioned by the Senate Armed Services Committee in 1976. In its consideration that year of H.R. 12438, the fiscal year 1977 military procurement bill, the committee laid down three conditions precedent to its approval of full-scale development (Senate Report 94–978):

First. Completion of studies of the environmental and biological impact of the Seafarer system and the conclusion that the system poses no unacceptable environmental or biological hazards;

Second. Selection by the Navy of a candidate site; and

Third. A firm plan including a schedule to begin installation of the system at the selected site.

The House Armed Services Committee concurred in the establishment of this framework (conference report 94–1004), as did the Appropriations Committees. As the House Appropriations Committee noted:

> Approval of (Full Scale Development) could imply congressional acceptance of the SEAFARER concept, and the Committee is not prepared to make that commitment until all of the environmental impact, site selection and cost questions are definitely resolved.—House Report 94–1231.

The legislative history shows that the Senate has consistently adhered to this formula. After the Armed Services Committee deleted full-scale development funds from the Navy's fiscal year 1978 budget request, the former chairman of the Research and Development Subcommittee, Mr. McIntyre, and I engaged in the following colloquoy on the Senate floor:

> Mr. NELSON. Last year's conference report on H.R. 12438, the fiscal year 1977 military authorization bill, contained very specific criteria governing the sequence of events that must be followed by the Navy before the Congress will authorize Full Scale Development . . . Am I correct in assuming that when the Committee voted to delete the requested funding for Full Scale Development for fiscal year 1978 it was simply underscoring and re-emphasizing this procedure?
>
> Mr. MCINTYRE. The Senator from Wisconsin is quite correct. The Committee's position on that central point this year is identical to its reasoning last year.

The Navy came back to the Congress last year, again seeking funding—$6.3 million—to commence "engineering development," the new terminology for full-scale development in fiscal year 1979. Again, the Senate Armed Services Committee disapproved these funds on the basis of the prerequisites to approval Congress mandated in 1976.

As passed by the Congress, H.R. 10929, the fiscal year 1979 Department of Defense Authorization Act, contained explicit language restricting the use of funds authorized for ELF in that bill. Section 202 of the bill prohibited the use of any funds until such time as the President provided written certification to the Congress that the use of funds for the development of the ELF system is in the national interest, that a site has been selected for the deployment of the system, and that the President has approved the selected site for system deployment. Furthermore, the Congress directed that its absolute ban on use of funds for full-scale development, in place since fiscal year 1977, be continued through fiscal year 1979. The language of section 202 is as follows:

> EXTREMELY LOW FREQUENCY (ELF) COMMUNICATION SYSTEM
>
> SEC. 202. None of the funds authorized to be appropriated by this Act for the development of the Extremely Low Frequency (ELF) communication system may be obligated or expended for the development of such system unless the President certifies to the Congress in writing that the use of

funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system; and in no event may any of the funds authorized to be appropriated by this Act be used for full scale development or construction of another test-bed facility for an Extremely Low Frequency (ELF) communication system.

To date, the President has made no certification.

Mr. President, since half of the $13.5 million slated for Project ELF in S. 428 will come from the funds authorized for fiscal year 1979, section 202 applies in full to that portion. However, the other $6.75 million is newly authorized for fiscal year 1980, and so S. 428 controls its dispensation.

Unlike last year's defense authorization bill, S. 428 contains no language specifically directing the uses to which ELF funds may be put. The only language concerning ELF is found in the Armed Services Committee's report on S. 428 (Rept. No. 96–197):

> (T)he committee recommends $6.75 million be authorized to resume advanced development of the ELF system if a site is selected and the President approves such a site for deployment of the ELF system. If the President approves such a site for deployment, the committee will entertain a reprogramming request for additional advanced development funds. The committee anticipates that none of the funds authorized or reprogrammed for Fiscal Year 1980 will be used for full scale development of the ELF system.

Judging by the committee's comments, it intends to continue in fiscal year 1980 the restrictions conditioning the use of ELF funds set out in section 202 of the fiscal year 1979 defense authorization bill. However, committee report language does not have the binding force of law. In my judgment, it is critical that we give the Navy and the President the clearest possible congressional direction concerning Project ELF's future course.

The amendment I am offering today would simply put back last year's language in this year's bill. It would continue in force the clear congressional policy governing the progress of Project ELF, and is consistent with what I understand to be the committee's legislative intent in S. 428.

Mr. President, I yield the floor.●

Mr. STENNIS. Mr. President, this item is for the Navy's extremely low-frequency communication system. That is an item that relates to—it is a forthcoming, it is a very delicate subject. It is sensitive in many ways. It relates to communications with certain ships. It has been on the drawing board now for about 10 years. Last year we agreed on some language. Certain notifications would be made back to Congress with a lapse of time. The selection of the site would have to be fully disclosed and the reasons therefor certified by the President of the United States before the money could be spent.

That was agreed upon as a reasonable regulation as well as a limitation. I remember the other Senator from Wisconsin (Mr. PROXMIRE) agreed thereto.

This year we have brought the bill back with that language somewhat modified, without any intention, however, on the part of our committee to substantially change the situation. There was some disagreement about that, as viewed by the Senator from Wisconsin. So, after reviewing that matter again this morning, at his request we agreed to ask the Senate to restore the language which has been the law applicable to fiscal year 1979, which is rapidly coming to a close.

So by the adoption of this amendment, the Senate would reaffirm the same law we passed last year with reference to our current budget, and let it go forward through fiscal 1980.

We have present here the Senator from Texas (Mr. TOWER); he was present, as I recall, at some of those conferences. Does the Senator wish to respond?

Mr. TOWER. I would simply say that, on behalf of the minority, we are prepared to accept the amendment offered by the Senator from Wisconsin through his surrogate, the distinguished Senator from Mississippi, and we have no objection.

REDUCTIONS IN ELF FUNDING AND INCLUSIONS OF RESTRICTIVE LANGUAGE

Mr. PROXMIRE. I strongly support the action by the chairman (Mr. STENNIS) and my colleague from Wisconsin (Mr. NELSON) in reinserting the limiting ELF language from last year's bill into the fiscal year 1980 military procurement bill.

Last year's authorization provided funding for ELF only on the fulfillment of several conditions: A finding of national interest, a requirement for site selection, and approval by the President of that site. The language also stipulated that under no circumstances could funds authorized by the act be used for full scale development or for construction of additional test-bed facilities.

Incorporation of this language in the fiscal year 1980 military authorization procurement bill will continue in force the prior restrictions on these funds and will allow the Congress to participate in any final decision for the development and deployment of ELF.

This is a proper safeguard which will serve the purposes of all parties.

The reduction in funding for ELF in this bill is fully warranted. We should not establish any reserve which could be automatically called into play once a Presidential decision is made. To have a reserve on hand, pending an Executive decision, would limit the options available to the Congress.

Furthermore I note that the committee has made an encouraging move to explore alternative technologies to the ELF by adding $2 million for blue-green laser research. There has been considerable discussion in recent years among technical experts that the ELF program would not provide the security needed for communicating with our submarine force during wartime. When the sanguine/seafarer program was shifted to ELF the major difference, aside from the size of the deployment area, was the change in the mission of the program. No longer would the communications system itself be safe from nuclear attack. ELF cannot operate, once attacked, as could sanguine/seafarer. As now constituted, ELF will be used in pre-crises situations and for tactical communications rather than in the aftermath of a nuclear exchange.

This greatly restricts its usefulness and calls into question the need for the program in light of the current TACAMO communications system—that the General Accounting Office says is more cost effective.

The committee's actions in reducing funding and in providing the restrictive language from last year's bill is the proper course of action.

Mr. STENNIS subsequently said: Mr. President, I have a special matter here. Earlier today we agreed upon and settled the Nelson amendment, and included his statement in the RECORD.

He requests me now to ask unanimous consent, which I now ask, that the names of our colleagues, Senators LEVIN, RIEGLE, and PROXMIRE, be added as cosponsors to the Nelson ELF amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I move the adoption of the amendment, and hope it will be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, as the next matter we have, the Senator from New Mexico (Mr. SCHMITT) has a matter regarding certain strategic weapons and situations with reference to our strategic forces. Can the Senator from Texas inform me——

Mr. TOWER. I think we should notify him with a quorum call.

Mr. STENNIS. Mr. President, for the purpose of attempting to locate Senator SCHMITT, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, the overall process of seeking limitations on the availability of strategic arms appears to date, in some persons' minds, to have operated to the net disservice of this country and the free world. What it further will hold, only time will tell. However, if the present trends continue, that future looks bleak, looks bleak indeed.

We have moved from a capacity to control the actions of those who would destroy freedom to an inability to exert such control with confidence. As examples of the severity of our situation one needs only to note the following developing threats to the conduct of a rational foreign policy:

Item: Early in the 1980's a Soviet threat destroying the bulk of our ICBM force in a preemptive first strike will be a credible threat.

Item: The Soviets already have overwhelming superiority in numbers of conventional tactical arms and available men in both its active and reserve forces.

Item: The Soviet Navy now has the capability to interrupt our essential oil supply lines and other supply lines necessary to our national economy and national defense.

Item: Soviet civil defense effort is now of significant magnitude to be interpreted by many as having strategic significance.

Item: Soviet antisatellite development is reaching a point that threatens our defense capabilities in both treaty verification and in defense communications.

And, finally, Soviet encouragement of unrest in lesser developed countries threatens the sources of supply of essential resources for ourselves and for the free world.

Mr. President, my concern today is over the first item that I mentioned, our vulnerability to the Soviet ICBM force, and, more specifically, our short-term vulnerability to that force, which has been developed to unprecedented levels under the umbrella of the SALT I Treaty, with all its good intentions on the part of the American people.

That threat is probably best illustrated by my quoting Secretary Brown in the Department of Defense Annual Report for the fiscal year 1980:

> It is quite conceivable at some point in the early mid-1980's that the Soviets with a first-strike could eliminate the bulk of our ICBM silos and still retain a large number of warheads in reserve.

Mr. President, the ICBM force is a unique and essential leg of the Triad of our strategic deterrent forces. It represents the most accurate, large payload that can hit hard targets as necessary in the Soviet Union. I should always qualify, and hope that I will remember most of the time to qualify, it represents the threat to hit those targets. God forbid that we ever have to have anything more than a credible threat. If we ever have to use any nuclear weapons we will have lost in our endeavors to protect this Nation and protect the world and freedom.

The other two legs of the Triad, which include the sea-launched ballistic missiles and our bomber force, have different, although equally essential, roles to play. Sea-launched ballistic missiles or SLBM's are smaller. They cannot hit the hard targets and at present, at least, are significantly less accurate than are the ICBM's.

Our bomber force is particularly important because of their susceptibility to recall in an escalating crisis, but nevertheless require a long delivery time for specific threats, are vulnerable if we do not get them off the ground, and are subject to Soviet defenses. Their most effective use in the selective delivery of cruise missiles is inhibited because the cruise missile is not yet fully developed nor deployed.

Mr. President, I think it is important to note in this question of vulnerability that the President's decision, one which I suspect at least in part the Congress will go along with, to commit to the development of a new MX missile system, is important to this issue but is important in the longer term.

The full capability of the MX, barring any unforeseen difficulties with it, will still not be available until late in the next decade, at the earliest. In the meantime, the threat discussed by Secretary Brown exists. MX will not remove that threat in the near term. The Trident submarine, with all its capability, will not remove that threat in the near term and is, as I have indicated, not a substitute at this point in time for land-based ICBM systems.

I have indicated to my colleagues and to the Armed Services Committee a package of four items which would, in my estimation and with my study, go a significant distance toward mitigating the threat posed by the near-term Soviet ICBM force. The proposals that I submitted to my colleagues include the substitution of 100 Minuteman III ballistic missiles, for the less capable non-MIRV'ed, Minuteman II's; the extension of the procurement of Mark 12-A warheads to include these new missiles; the acceleration of the extended-life battery program for the Minuteman fleet; and the acceleration of an air-launched control system, commonly known as the ALCS phase III, which would increase the effectiveness of the Minuteman system and would also be applicable and is planned to be applicable to the MX system of the future.

The advantage of this package is that it represents no new programs and, thus, no significant startup costs. The Minuteman III's are in storage, ready for insertion in silos; the Mark 12-A warhead program is on track. The air-launched control system and the extended-life battery programs would only be accelerated, and commitment to that system and those programs has already been made. The total package would significantly improve our ICBM capability and provide for 200 additional warheads 4 years ahead of the availability of MX and, maybe more importantly than that, would grant us additional and greater flexibility for the use of the Minuteman fleet, with or without a first strike. More specifically, the air-launched control system is estimated to provide a force multiplier by a factor of two or three over our current system, which depends on fixed, ground-based control, control which is vulnerable in itself to a preemptive first strike.

The total cost of this package, if it were implemented over a 3-year period, would be $305.1 million by present estimates. The fiscal year 1980 costs would be $74.1 million; the fiscal year 1981 costs, $112.1 million; the fiscal year 1982 costs, $118.9 million. These are very, very modest expenditures considering the vulnerability that we face and the total cost of the long-term alternatives which we must pursue.

Mr. President, I say again, the essential agreement here is on the question of our short-term vulnerability and, therefore, the vulnerability of our foreign policy to a threat which is not only credible but, without the will and the action in the present, will be unanswered. It is my understanding, Mr. President, that the committee, its distinguished chairman and the ranking minority member, share my general concern with respect to the vulnerability issue, although they may not share in all particulars the proposed solutions to that short-term problem. I should like to ask if the committee foresees, in the near future, the possibility of a significant study of this issue which, unfortunately, Mr. President, seems to be one of general awareness, but very low visibility, at the present time.

Mr. STENNIS. Mr. President, in response to the Senator from New Mexico, I refer to the Senator from Texas. He and I discussed this matter, and I hope he will outline his thought.

Mr. SCHMITT. I am happy to yield to the Senator from Texas for a reply.

Mr. TOWER. Mr. President, I think the Senator from New Mexico has certainly been correct in bringing this matter of our strategic gap to the attention of the Senate. I think that the objectives sought by the Senator from New Mexico are unassailable, and he has raised concerns that I think are held in common by all of us. I believe it is incumbent on the Committee on Armed Services to look into this whole matter of the time frame in which we shall face maximum vulnerability and consider options on how to deal with this problem.

Looking at the proposals of the Senator from New Mexico, I am not prepared at this time to pass on the efficacy of all of these proposals. I know that some are contentious. If some are inviting controversy simply because of some anticipated limitations that might be imposed on us by the Strategic Arms Limitation Treaty—which, of course, has not yet been presented to us and not been acted upon—I tend not to have too great sympathy with constraints of that kind.

I think we ought to look at these options on the basis of their merits. However, I do not think that, at this point, the Armed Services Committee has had the opportunity to consider some of these proposals offered by the Senator from New Mexico and to look at the pros and cons of them. There is one proposal that he makes, however, that I think there would be virtually no disagreement on. That is the proposal to accelerate the ALCS system, or the air-launched command system, because I believe that it provides us with the potential for long-term optimization of Minuteman targeting utility at relatively low cost.

I think better management of our surviving forces in the event of nuclear attack enables us to respond far more effectively.

There is a provision in the House bill which authorizes a $10 million expenditure for the purpose sought by the Senator from New Mexico. I suggest we might seriously consider acceptance of the House provision when we go to conference.

I think we would want to maintain

some degree of flexibility in dealing with the House conferees. For that reason, there would be some reluctance, I think, to accept this now as an amendment to this bill. But the whole matter should and must be studied.

Indeed, I think that there will be more illumination of this problem when we hold hearings on the Strategic Arms Limitation Treaty, which the Armed Services Committee intends to do. We will be calling witnesses and asking them some pretty tough questions.

I think this whole problem is going to be explored fairly thoroughly in those hearings, with the illumination of that problem. I expect we will ask questions on what steps can be taken to ameliorate our vulnerability during the so-called protected timeframe of the treaty.

Certainly, I can assure the Senator from New Mexico that the ranking Republican member has very intense interest in this matter. I would hope the committee, and I believe that the chairman is not unfavorably disposed toward this, will study this matter very carefully.

I think it is useless just to promise to hold hearings. We could do that today and not do anything about it. I think the important thing is that we accept some responsibility for making a thorough study of this matter, part of which could be undertaken during the course of our hearings on SALT II.

With that assurance on my part, and whatever assurances the chairman feels that he might be able to make under the circumstances, I would hope that the Senator, having performed a valuable service by offering his amendments, would withdraw them and let us consider this matter further in the Armed Services Committee.

Mr. STENNIS. Mr. President, if I may respond further, let me say that we would emphasize, too, that so far as hearings are concerned, at this stage of our session, the session is well over into the midterm. The time for more extensive hearings has passed, so we cannot pile too many promises on top of each other about hearings. We want to learn what the facts are and then have an indepth study by the staff, which would be transmitted on to the membership. One place for some questions to be covered would be the SALT hearings. We would move right into any spots or points that have been developed and get testimony of witnesses on that.

I think that at this stage of the session that is the way to approach this highly important matter.

I also commend the Senator for working on these amendments and bringing this up in the vivid way he has. If he defers in bringing up his amendments now, he is not detracting one bit from his idea nor his work.

I think he has effectively gotten at the matter. As far as we can, in this method, we will go into it further.

Mr. SCHMITT. Mr. President, I greatly appreciate the assurances of both the distinguished Senator from Mississippi and the distinguished Senator from Texas on this matter.

I know that they and their committee have far greater expertise, because that is their job to have greater expertise, than I have in this matter.

I have spent a considerable amount of time over the last several months studying this particular issue along with the very closely related issue of SALT II, and I think it is absolutely clear that we cannot treat one without the other.

The distinguished chairman is absolutely correct that this is an issue that must be dealt with in as great depth as required during the examination of SALT II. It is in the environment of our vulnerability to ICBM's that the SALT II will be implemented and will carry its first years, and that is, right now, for the United States and for the free world, a negative environment.

It is not one in which all aspects of SALT, all the beneficial aspects of SALT that we would all hope would be there, necessarily will bear fruit, if we have not fully understood and taken whatever steps may be deemed appropriate and necessary to mitigate this threat or at least mitigate the consequences of the threat.

I am going to say this is the only package that could be studied. I know it is not. There are some very advanced possibilities in improving the accuracy of our SLBM force to the point where it starts to have a credible threat against ICBM's, or whatever other forces need to be threatened.

I also realize that one reason we have been caught by this strategic gap, as the Senator from Texas calls it, or the vulnerability issue, is a consequence of history, a consequence of a delay in the MX program, which in its original conception would have filled in this gap. But that delay has occurred. To a great degree, that is water under the bridge. We certainly now are faced with a situation that, to say the least, is negative.

So, with the assurances of the two distinguished Senators that they will ask their staff to study this issue, and that it will become an issue of concern and examination during the SALT II hearings and in other appropriate situations, I will not today push the amendments that I have drafted.

I think the Senators will find they are technically sound amendments. I would recommend them to the staff. As they study them, I certainly will cooperate with the committee and the staff in further examination.

I am very pleased with the remarks of the Senator from Texas that the air launch control system is favorable in his mind. I suspect it may also be favorable in the minds of the rest of the committee. Having been on a conference or two myself, I know it is wise to maintain some flexibility, but that is probably the best of the package. I certainly hope that it will be given very close and favorable consideration in conference.

With that, Mr. President, I will not offer the amendments.

I again thank the distinguished chairman and the distinguished ranking member for their consideration and cooperation in this matter, Mr. President.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER (Mr. NUNN). The Senator from Mississippi.

Mr. STENNIS. Mr. President, let me again thank the Senator from New Mexico. He made a real contribution here. The text of his amendments will be the start of the special study we have outlined here.

Mr. President, I commend the Senate as highly as I can for the way the Senate, as a body, has handled the MX question yesterday and today, which probably will be the last day of this debate. Rather than a lot of accusatory statements or a great deal of feeling about it one way or another, we have had very careful language before the Senate, from our bill and from our report, on the MX.

The Senator from New Mexico has come in here with some very fine suggestions, constructive suggestions, and that is the way the Senate is treating this highly important and very difficult subject.

It is an encouraging situation to those of us who have dealt with the matter for weeks and weeks. I believe the American people should be given some idea about what the problem has been. It is encouraging to have 100 Members in virtual agreement—for the time being, at least—with reference to the approach to this problem.

I would like someone more eloquent to be able to tell that story to the American people.

Mr. SCHMITT. Mr. President, I wish to say one further word: I think a great deal of credit is due the Senator from Mississippi and the Senator from Texas for the responsible way in which they have encouraged the Senate to debate these and other issues.

If there is one committee that does its homework in the Senate, it is the Armed Services Committee.

It is extremely important that the American people realize that the Senate and the entire Congress realizes the seriousness of our situation. It is going to be focused in the SALT debate. It is focused to a lesser degree, but no less important degree, in the current deliberations on the floor of the Senate with respect to this bill.

There are both short- and long-term considerations about which the American people are concerned and about which we are concerned. Final resolution is not clear, and I think that, in itself, is lending to a very responsible consideration of these issues.

Once again, I think no small amount of credit goes to the two distinguished Senators who are managing this bill.

Mr. TOWER. I thank the Senator for his gracious remarks.

Mr. STENNIS. I thank the Senator.

AMENDMENT NO. 227

(Purpose: To substitute new language for committee language ordering the President to remove economic sanctions against Zimbabwe-Rhodesia)

Mr. TSONGAS. Mr. President, I call up amendment No. 227.

The PRESIDING OFFICER (Mr. BAUCUS). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS), for himself and Mr. KENNEDY, Mr.

Metzenbaum, Mr. Stewart, and Mr. Bradley, proposes an amendment numbered 227:

On page 33, line 1, strike all through line 13, and insert the following:

ECONOMIC SANCTIONS AGAINST ZIMBABWE-RHODESIA

Sec. 802. It is the sense of Congress that the President shall remove economic sanctions against Zimbabwe-Rhodesia when he determines, after consultation with Great Britain and other interested states, after periodic monitoring of events in Zimbabwe-Rhodesia to determine whether there is a broadening of political participation and movement toward genuine majority rule, and after consultation with Congress, that the removal of such sanctions is in the national interest of the United States.

Mr. STENNIS. Mr. President, will the Senator yield for a question?

Mr. TSONGAS. I yield.

Mr. STENNIS. This is an important proposal, the amendment that is offered by the Senator from Massachusetts. I am sure it is of vital concern to every Member.

We have disposed of a great number of minor amendments today. Some are major amendments, and this is a major one. We have another highly important amendment, but we may be approaching the end of consideration of the bill, this subject having been before the Senate recently.

Will the Senator consider a time agreement now on the debate? I have no desire to be stingy with time. We are concerned with the certainty of time.

Mr. TSONGAS. I would be amenable.

Mr. STENNIS. Does the Senator wish to suggest a time? The leader is not here at this moment, but we can get him here. Does the Senator want an hour to each side?

Mr. TSONGAS. If we could have an hour on each side and if Senator Byrd and Senator Helms find it agreeable, that would be fine.

Mr. STENNIS. I believe it would be agreeable. Let us send up a trial balloon, and if we get consent, I might help convince them. I suggest that the Senator ask unanimous consent that an hour be allowed to each side, in the usual form.

Mr. TSONGAS. I so move.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Let us have it stated, so that it will be in the Record, that debate on this amendment will be limited to 1 hour to each side, and the time will be controlled by the Senator from Massachusetts, for the amendment, and by the chairman of the committee, in opposition to the amendment.

Mr. TSONGAS. If the Senator will yield on that point, I do not believe the chairman of the committee is in full opposition to the amendment.

Mr. STENNIS. I am really speaking as floor manager of this bill. That was the reference I made to myself. I am the floor manager of this bill. The proposal of the Senator from Massachusetts, if I heard it correctly, is to strike out what we have in the bill.

Mr. TSONGAS. And substitute—yes, that is right.

Mr. STENNIS. I would be backing the committee, as it sent the bill to the floor with the amendment sponsored by Senator Byrd.

Mr. TSONGAS. I am in perfect agreement on the time limitation, so long as whoever controls the time on my side happens to agree with me.

Mr. STENNIS. I think we can work it out. I do not want to control the time. I would be glad to have someone else control it.

Mr. TOWER. The proponent of the amendment controls the time on his side.

Mr. TSONGAS. I am persuaded by that.

Mr. TOWER. That is the usual way we do things around here. The chairman of the committee controls the time in opposition, unless he favors the amendment. Then it is controlled by the minority leader or his designee. That is the usual form.

May I suggest, however, that the Senator from Massachusetts withhold his request for a unanimous-consent agreement at the time, which I am prepared to accept. But I think there are some bases I must touch, particularly with members of the Foreign Relations Committee, on the Republican side of the aisle. Therefore, I suggest that the Senator withhold his request for controlled time, for the time being.

The PRESIDING OFFICER. Does the Senator withdraw his request?

Mr. TSONGAS. I do.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I am offering this amendment to S. 428, the Department of Defense fiscal year 1980 authorization bill. My amendment deletes language in the bill ordering the President to remove economic sanctions against Zimbabwe-Rhodesia. It substitutes language providing the President with a prudent, yet flexible, approach to the sanctions issue. My amendment instructs the President to lift sanctions only after he has accomplished three tasks. First, he must consult with Great Britain. Second, he must periodically monitor events in Zimbabwe-Rhodesia to determine whether there is a broadening of political participation and movement toward genuine majority rule. Third, he must confer with Congress regularly on the sanctions issue. And last, he must determine that lifting sanctions is in the national interest of the United States.

I believe that this amendment sets out for the President a balanced, constructive approach to the question of economic sanctions against Zimbabwe-Rhodesia. There are a number of sound, commonsense reason why lifting sanctions is now unwarranted and dangerous to our national interest.

First, consider the new government of Zimbabwe-Rhodesia. It inherits a civil war which rages more intensely every month. It rules by a constitution which entrenches white control over the government indefinitely. It is embarrassed by one political party which refuses to take the seats in Parliament it won in the election. This government is ruled by a man whose political experience is by all accounts limited and whose popular support is in grave doubt. It is surrounded by hostile black states and beseiged by two guerrilla armies. Instability and unpredictability define the new Zimbabwe-Rhodesia. Should the United States rush in to support this regime? Would it not be wiser to wait and see what develops?

The second sound reason for caution and flexibility is the restraint of our allies in Europe, especially the British who exercise a special relationship with Zimbabwe. Prime Minister Thatcher of Great Britain promised in her election campaign to immediately lift sanctions and recognize the new government in Zimbabwe. But what happened? Maggie Thatcher has now assumed her office, and with all the realities and responsibilities in clear focus, she has decided to go slow on sanctions, very slow. It is an important decision and she intends to proceed cautiously. Should we approach the problem differently? Should we rush in where Maggie Thatcher fears to tread?

What about the rest of Europe, indeed, the rest of the world? Has any country moved to lift sanctions? Has any country anywhere decided to recognize Zimbabwe-Rhodesia? The answer is no. If the Senate votes today to lift economic sanctions, the United States will have earned the dubious distinction of being the first country in the world to openly support a government condemned around the world as colonialist and preserving minority rule.

There is, however, one country which is actively supporting the Salisbury regime. Cash, arms, and equipment flow into Zimbabwe from one country and that country is South Africa. South Africa, whose formal policy of apartheid systematically deprives blacks of all political rights, has struck an informal alliance with Zimbabwe. Bishop Muzorewa and his foreign minister have declared their open acceptance of South African support. Is this budding alliance something the Senate wishes to join? Is it the Senate's wish that we join the forces of minority rule in Southern Africa? I think not. Cooler heads must prevail.

How does black Africa regard this new government in Zimbabwe-Rhodesia? This is a question which I invite my colleagues to consider carefully. Black Africa cares about this issue deeply. Minority rule in southern Africa offends and threatens every black African state. They have spoken out in no uncertain terms against the new regime in Salisbury.

Zambia—This is a country ravaged by air and ground attacks from Zimbabwe; her economy is near collapse due largely to depressed copper prices; the capital of the country has been hit by commandos from Zimbabwe; many civilians have lost their lives. Yet, Zambia condemns the Salisbury regime as racist and vows to fight on.

Mozambique—This nation, like Zambia, is militarily weak and economically impoverished. Mozambique has suffered great destruction from the Zimbabwe Air Force and Army. Many civilians have died; many economic assets have been destroyed. Yet, Mozambique also remains committed to genuine majority rule in Zimbabwe.

The other states neighboring Zimbabwe—Angola, Botswana, and Tanzania—all condemn the new government, refuse to recognize it, and have voiced their dismay over the last Senate vote to lift sanctions.

Some of my colleagues might argue that these African states are not representative of African opinion. The idea is that these states are too involved in the fight to have a dispassionate opinion. Let us look at the statements of moderate, even pro-capitalist states in Africa.

Kenya is an example. A long-time American friend in East Africa, Kenya has offically urged "all peace-loving nations" not recognize the Muzorewa-Smith "puppet" regime. Kenya is a stable, pro-free enterprise, moderate African state.

Ivory Coast, a growing economic power in West Africa and a staunch ally of the West, has officially called on the United States not to lift sanctions.

Sudan, a key friend to the United States in the Horn of Africa, with great economic potential and strategic importance, has condemned last month's Senate vote and has urged that sanctions remain in force.

Liberia's President Tolbert represents America's oldest ally in Africa. He has written that he would regard the lifting of economic sanctions as disastrous.

Senegal, another moderate Africa state, has conveyed its opposition to lifting sanctions.

The list goes on. It includes Nigeria, the economic and political powerhouse of Black Africa. Nigeria opposes the lifting of sanctions so strongly that they are considering cutting off oil supplies to the United States. We should realize that Nigeria needs all the oil revenue it can get. Nigeria has also been a friend to us in Africa, helping us through the recent oil shortage by increasing production. But the sanctions issue touches Nigeria deeply. They seem willing to inflict tremendous costs on themselves just to tell us how important it is to leave sanctions in force.

I do not applaud Nigeria's use of the oil weapon. In fact, I will do all I can to prevent them from using it. My home State of Massachusetts depends heavily on imported oil and I want no oil embargo.

But it strikes me as especially pointless if the Senate infuriates black Africa over this issue. It is clearly contrary to our national interest to act now on the sanctions issue. There is no good reason to provoke Nigeria or any other Africa state. Why lengthen service station gas lines in the name of haste and poor judgment on the sanctions issue?

I would like to close with one final point.

We are not the only super power following events in southern Africa. We have a rival, the Soviet Union, and that rival is looking for an entree into southern Africa. In Zimbabwe, in Namibia, and in South Africa, the Soviets hope to make great strides at America's expense.

But it so happens that the Soviets are inept in Africa. They have lost almost every foothold they ever had there. Their inability to meet the needs of African development means failure for the Soviets again and again.

Africans know this. The Soviets know this. But for some reason, many of my colleagues in Congress think the Soviets are an irresistible force in Africa.

The fact of the matter is, and I say this as someone who lived in Africa for 2 years, that the Soviets can only thrive if we, the United States, nourish them. Only through our needless failures in Africa do the Soviets advance. History is clear on this point. Ethiopia and Angola are the most recent examples. Soviet success depended directly on American blunders.

Today, the Senate can set in motion a tragedy. We are on the brink of making the fundamental error the Soviets are waiting for in Zimbabwe. The question is whether we will side with white minority rule. We should know by now that the forces of history are moving against the minority regimes of southern Africa. The Soviets know this. They are sitting back and waiting for frustrated African nationalists to give the Soviet Union an entree.

Today, the Senate has a choice. My colleagues can vote for a prudent, cautious approach to the sanctions issue, or they can play into the hands of the Soviets and lift sanctions now. The choice is clear. Commonsense and our national interest point to one path. I request support on the amendment.

But I wish to make it very clear. If Senators vote to lift the sanctions they are going to hand black Africa over to the Soviets. That is the sum and substance of what Senators are going to do. However the Senate votes, whether it chooses to support my amendment or not, I want Senators to know what they are doing so that at no point down the road can they say "I wasn't aware of the consequences." These are the consequences and I hope that the Senate at this point will show its judgment, its concern about its future and for once not try to give the Soviets something they cannot get themselves.

Thank you, Mr. President.

Mr. McGOVERN. Mr. President I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. May I inquire does the Senator from Ohio know we are under controlled time.

Mr. METZENBAUM. I am not aware of that.

Mr. TOWER. We are not.

The PRESIDING OFFICER. The Chair informs the Senator there is no agreement on time at this point.

Mr. STENNIS. I think there was when I left the Chamber. When I got back it was off.

All right.

The PRESIDING OFFICER. The Senator from Massachusetts withdrew his request for the time agreement.

Mr. STENNIS. Excuse me.

I thank the Chair.

Mr. METZENBAUM. Mr. President, I wish to take this opportunity——

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I do not know what happened to the Senator from Massachusetts. He was speaking and someone put in a quorum call. He may still wish to speak. He has given up the floor without protecting himself, but someone should protect him if he wishes to retain the floor. He was speaking.

The PRESIDING OFFICER. The Senator yielded the floor.

Mr. TSONGAS. I yield to the Senator from Ohio.

Mr. ROBERT C. BYRD. Oh, the Senator yielded?

The PRESIDING OFFICER. No. The Senator yielded the floor.

Mr. ROBERT C. BYRD. All right. Very well.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I want to take this opportunity to commend Senator TSONGAS for the courageous and principled stand he has taken on the question of Rhodesia. The Senator has shown an impressive ability to identify this Nation's true interests and I am pleased to join him as a cosponsor of this amendment.

Mr. President, I believe that the Senate acted prematurely last month by expressing support for lifting the economic sanctions now in force against Zimbabwe-Rhodesia.

That action was premature, because it amounted to an endorsement by the Senate of a government whose legitimacy is widely challenged, whose cohesion is in doubt and whose ability to command the support of its own people is open to the most serious question.

And such action remains premature.

It is premature, because Britain, the nation with direct responsibility for Rhodesia, has not as yet taken any new initiatives whatever on this issue. And in spite of Mrs. Thatcher's statements during the recent campaign, the shape of future British policy will not become clear until the upcoming Commonwealth meeting has concluded.

This Nation has no responsibility whatever to move out in front of Britain on the Rhodesian issue.

There is no reason for this Nation to move alone—or even worse, hand-in-hand with South Africa—to recognize a government that is opposed by every single state of black Africa.

And there is no reason whatever for this Nation to show such enthusiasm for a government that still has much to prove, particularly to its own people.

We have heard repeatedly that the Muzorewa Government was installed as the result of reasonably free and fair elections.

That may or may not be true—there are persuasive arguments on both sides. But there is no question at all about the fact that the elections were held on the basis of a constitution that was submitted for approval to a mere 4 percent of that country's population.

That 4 percent was defined by race.

Only whites were allowed to vote.

The constitution they approved is riddled with loopholes that make meaningless its guarantees of fundamental human rights.

The constitution preserves for a tiny minority, defined by race, a degree of control that is inconsistent with the principle of majority rule.

The government that is based on that constitution is the direct successor of the illegitimate and openly racist Ian Smith regime.

Now that some would like to believe that Mr. Smith has become a statesman, there may be a tendency to forget that the government he led until recently was and remains illegal in international law.

Now that Mr. Smith is a part of a government that purports to represent the black majority, there may be those who want to forget the racist laws that he inflicted upon Rhodesia. And there may well be those who do not remember, or choose not to remember, that Mr. Smith has publicly referred to black Africans as "Baboons."

Many of us may forget that. But I do not believe that anyone in Africa has forgotten it.

And I do not believe either that those who advocate our support for the current Rhodesian government fully understand just what is at stake there.

For black Africa, the issue in Rhodesia has little or nothing to do with political ideology or with the personalities and programs of the various leaders.

I believe that for blacks in Africa and in this country as well the issue in Rhodesia is simple and straightforward. The issue is racism—the racism that for 400 years or more has condemned black people to the unspeakable horrors of slavery and to the profound humiliation of colonial rule.

That issue—racism—is the one issue that unites all Africans.

It is the issue that calls forth the strongest passions and the most profound beliefs.

And if we in America believe that we can ignore that issue, we do so at the greatest peril to our future relations with Africa.

I do not doubt for a moment that Bishop Muzorewa and his colleagues are sincere, honest people.

I do not intend to cast aspersians upon their credentials as authentic African Nationalists. And I hope that they will, in fact, be able to bring about a solution that will end the violence and the bloodshed in their country.

But the fact is, Mr. President, that this government has a lot to prove.

This government must prove that it can, in fact, move the country toward full majority rule.

This government must show that it can rally its own people behind it.

This government must show that it can come to terms in one way or another with the African Nationalists who are now in armed opposition.

And this government must prove to its own people and to the people of Africa as a whole that it is more than a puppet regime, more than a convenient instrument for perpetuating minority rule.

If the new Rhodesian government can do those things, then I believe that it should have our support.

But, Mr. President, there is no evidence that the new government has as yet accomplished any of those things.

There is no evidence that success in any of these areas is even remotely possible within the bounds of the current constitution.

And there is no reason for this Nation to change its policy until we see clear and unambiguous evidence of substantial progress toward greater democracy.

Mr. President, I do not believe that a change in our policy at this time will serve the cause of peace in Rhodesia. It will serve only to harden the opposition, to estrange us from all of black Africa, and to tempt the Africans to call upon the Soviets and the Cubans for assistance.

And I cannot accept, Mr. President, the argument that I have heard in some quarters that African opinion does not matter.

I have heard it said that Africans do not know what free elections are all about.

I have heard it implied that the barbarous Idi Amin regime is the norm for Africa, rather than the gruesome exception.

I have heard that black Africans cannot govern themselves.

I have heard that they are somehow or other "not ready" to undertake the responsibilities that our own country assumed 200 years ago.

I have heard these arguments about Africa. And not too many years ago, all of us heard them about blacks here—in this country.

All of us know that those arguments are false. Those arguments are repugnant. They are reprehensible and they are racist to the core.

African opinion matters—it matters a great deal.

In the long run, Africa has incalculable strategic and economic importance for this country.

And in the long run, our relations with Africa will depend heavily upon the degree to which we adhere to our own highest principles on this issue.

Once again, Mr. President, I commend the junior Senator from Massachusetts for his outstanding leadership on this vital issue and I urge in the strongest terms that his amendment be adopted.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, in due course I will present for Senator CHURCH, the chairman of the committee, and myself and several other members of the Committee on Foreign Relations, a substitute or a perfecting amendment, as the technical situation may require, for the Tsongas amendment, without in any way derogating, Mr. President, from the initiative and the intelligence which dictated Senator TSONGAS' work.

I would like to tell the Senate about it before I offer it, and give the Senate the genesis of this amendment, which is not any idea, any new idea, of mine, but which came out of the necessities of the situation which we faced in the long day of hearing of the Secretary of State, consultation by the Secretary of State with the President, and the resultant reflection of a point of view to us.

Mr. President, I start with this proposition: I believe it is a rather solemn duty of every Member of this body, if we can—and I emphasize those words "if we can"—that we should not divide the Senate in a party sense on issues of foreign policy.

If we can—and sometimes that may be necessary, but if we can—avoid it we ought to avoid it. Indeed, it is probably proper to say that if we can we should try to avoid acerbic differences even in the Senate, avoid any cleavage in the Senate, on major issues of foreign policy.

This particular issue is extremely sensitively balanced, and I would like to lay before the Senate briefly the considerations on both sides.

On the one side, of those who would lift the sanctions, the argument is a very strong one: We at last have some kind of a government in Rhodesia which has black representation. Now, it is true that the whites tricked up the constitution so that, at least according to its terms, they have the main portfolio for the next 10 years, anyway, unless they change. But considering the fact that they are an infinitesimal part of the population in Rhodesia, and that the hewers of wood and drawers of water overwhelmingly outnumber them, and that they at long last have a prime minister who is black and three-quarters of the legislature that is black, it is very doubtful that, notwithstanding the terms of the constitution, it is likely to last in the face of operative reality.

That is one argument; and that therefore, it being a beginning, we ought to encourage that beginning and not rebuff it, and, in a sense, impliedly encourage the guerrillas—or the Patriotic Front; I have no desire to call it names at all—who are trying to bring down this particular regime.

These are very potent arguments, and for this reason, Mr. President: There is no doubt about the fact that the Patriotic Front is being harbored in neighboring states, including a frankly Communist state, Mozambique, and that notwithstanding all of this high-falutin talk about our being the first to lift the sanctions. The fact is that the United Nations will never lift them so long as the Russians have a veto. In addition, the United Nations is now, as we all know, very heavily dominated by African-Asian nations, which have different ideas from those of other people.

But what is even more important is that the Soviet Union, without expressly violating the sanctions—because they are not sending anything, as far as we know, into Rhodesia per se—are supplying the Patriotic Front, which is, for practical purposes, tearing up the sanctions between countries.

So those in favor of lifting the sanctions have a right to ask, "What kind of nonsense is this? The Soviets are absolutely doing as they please, but we say to the United States, 'Don't you be the first to lift the sanctions; no, no, no, that's a no-no.' "

The President says, with a great deal of importance to it, that if we lift the sanctions it will only result in escalating the violence, that it will only impede efforts in the blacks' own area, that it could have very serious repercussions on what we are attempting to accomplish toward peace in Namibia, that it would be engendering more war rather than peace in the hope of a solution, and that we would promote rather than discourage the violence which now goes on in that country.

There is no doubt about the fact that black Africa is dead set against lifting these sanctions. There is no question about that. And I think Senator METZENBAUM is correct when he says, and I think we all realize it, that African opinion is important. It is dignified, and must be respected and regarded.

That is the dilemma in which the committee found itself. I had hoped that we could develop an amendment to this bill to replace the amendment which is in it lifting the sanctions, which would preserve the power of Congress to lift the sanctions and would preserve the power of the President to have some maneuvering room.

He needs maneuvering room, Mr. President, in the interests of the nation, because the British, who are the technical government or governing authority over Rhodesia, have orders-in-council, as they call it, which continue these sanctions until November 9, 1979. Therefore, they will not face this issue until about that time. I think it would be highly imprudent for the United States to proceed in this matter without at least an effort to coordinate with British policy, considering the background of the British-United States plan, and so forth. Obviously, if we lifted the sanctions now, the fat would really be in the fire, even though the Conservative Party has stated as one of its campaign promises that it will lift the sanctions. We all know that when a government gets in power it may have different ideas and different motivations.

So there is the mosaic of the situation.

The amendment in the bill as reported to which I refer, to wit, to give the President maneuvering room and to continue the control of the Congress over the situation by giving it a veto if the President decided that he would lift the sanctions after a given time, seems to result in a big struggle, a tug of war between the President and Congress. He feels that under the United Nations Participation Act he is entitled to exercise this power. We have on one occasion set it aside as to chrome, and we may set it aside again if we wish; but that was repealed, so there is some substance to his feeling that it is a power which we want him to exercise alone, or which, by precedent, he is entitled to exercise alone. In any case, we could not agree with the President on such an amendment.

Under these circumstances, the committee has now given profound consideration to what might be done, in a day of hearings with the Secretary and a day of discussion among its members, and has come up with a proposal which I shall in due course, for the chairman of the committee and myself, submit to the Senate.

Under this proposal, we are trying to maintain the same situation which obtained when we passed the Case-Javits policy originally, which goes back to 1978. Under that, we lifted the sanctions by law, assuming that we could pass such a law through the House and obtain the President's signature or override his veto if he decided to veto it.

The proposal which I shall lay before the Senate continues that way of dealing with the situation, but it gives to the President the opportunity to justify a continuance of the sanctions if he can, without giving a congressional veto and running into that conflict between the President and Congress on this particular power respecting sanctions.

The amendment, which has now been approved by a vote of the committee of 8 to 1, with nine members present, would substitute other language for section 802 of this bill, which is before all Members and which I would like to read so that it becomes clear exactly what we are talking about.

Section 802 is found at page 33 of the bill. It first specifies what is to be amended, and then goes on, on page 33, lines 6 through 13, as follows:

> "Notwithstanding any other provision of law, on and after the date of enactment of this section or on and after June 30, 1979, whichever is later, the President shall not prohibit the importation from Zimbabwe-Rhodesia into the United States of any material determined to be strategic and critical pursuant to the provisions of this Act, nor shall he prohibit trade in lawful goods between Zimbabwe-Rhodesia and the United States.".

The amendment which I shall propose strikes that language, and proposes to insert in lieu thereof the following:

> SEC. 802. In furtherance of the foreign policy interests of the United States, the Government of the United States shall not enforce sanctions against Rhodesia after December 1, 1979, unless the President certifies to the Congress in writing addressed to the Speaker of the House and the President of the Senate that the national interest of the United States requires the sanctions to be continued and specifies his reasons therefor.

That is the end of the substitute.

Bearing in mind, Mr. President, the following factors, the committee by this vote now commends this provision to the Senate:

First, it maintains the power of the Congress to lift the sanctions, and that is exactly the way in which the original basis for this policy, Case-Javits, read. The language of that I would again like to repeat for the Senate because it is important in having an understanding of this thing. It begins exactly the same way as the language which I have just referred to, to wit, "In furtherance of the foreign policy interests of the United States, the Government of the United States shall not enforce sanctions against Rhodesia after"—and that date was December 31, 1978. We have moved that date ahead now to take account of the British situation which will mature, which must mature, at least on or about November 9.

Second, it requires the President to do what he has not done in respect of Case-Javits, and which I blame myself for. We should have written into that the requirement which is now written here, that is, that he must formally address the Congress in writing and give his reasons. We left it open. What the President chose to do is to do it in a press conference and a press release. I do not think that is the way government ought to be run. So we have locked that up here.

Bear in mind, Mr. President, that we have a lot of bills, and that we can put a lifting of the sanctions on any bill we choose if the votes are here—and the votes are here to override a veto—to put it on any bill we please, and bear in mind now the promise of the President that he will report to us every month on the situation and also the testimony of the Secretary of State, which he gave us this morning, in which he said what would have been appropriate for the President to have included in saying what he did. Again I would like to quote the President because I think all of these things are important. He said in his press statement:

> After the most careful and thorough consideration I have made a decision on the Zimbabwe-Rhodesia sanctions. First, I am absolutely convinced that the best interests of the United States would not be served by lifting the sanctions.

That is the President's quote.

Had he added there "now" or "for the time being," it would have made all the difference between black and white. But he did not. The Secretary of State this morning testified that that is what it means, that it means for the time being, and we are taking him at his word in this substitute which we are offering.

UP AMENDMENT NO. 243

Mr. JAVITS. So, Mr. President, for Senators CHURCH, MCGOVERN, BIDEN, PERCY, MUSKIE, ZORINSKY, and HAYAKAWA, I send an unprinted amendment to the desk in lieu of the amendment which is before the Senate and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from New York (Mr. JAVITS), for himself and Senators CHURCH, MCGOVERN, BIDEN, MUSKIE, ZORINSKY, PERCY, and HAYAKAWA, proposes an unprinted amendment numbered 243 in lieu of amendment 227:
>
> In lieu of the language proposed to be inserted, insert the following:
>
> SEC. 802. In furtherance of the foreign policy interests of the United States, the Government of the United States shall not enforce sanctions against Rhodesia after December 1, 1979, unless the President certifies to the Congress in writing addressed to the Speaker of the House and the President of the Senate that the national interest of the United States requires the sanctions to be continued and specifies his reasons therefor.

Mr. CHURCH. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. CHURCH. Mr. President, I hope the Senate will give very serious consideration to this proposal. It bears the strong endorsement of the Senate Foreign Relations Committee. We would not offer it but for the fact that the present bill contains a provision which would lift the sanctions at this time, were it to become law.

Let me say at the outset that the Secretary of State made clear in his testimony before the committee today that, in his judgment, the President will veto the military procurement bill if it contains the provision lifting sanctions against Rhodesia at this time.

The distinguished Senator from New York has properly pointed out that there is no justification, no reason that serves our own national interests, for the United States to be the first country to lift sanctions against Rhodesia.

Senator Javits has also reminded us that the British Government, which has legal ties with Rhodesia, and recognizes its historic responsibility in connection with that country, must decide what to do on the question of sanctions in the fall, no later than November. Meanwhile, we have an opportunity to observe the progress of the Salisbury government; to determine whether it acts in its own right and not simply as a front for the white elements which constitute only 4 percent of the population; and whether it continues to make progress toward a larger measure of majority rule, and thus demonstrates its entitlement to legitimacy.

Let me say, Mr. President, I am encouraged by developments in Rhodesia. I believe that the recent elections there constitute a great step forward. Furthermore, I am optimistic that the next few months will demonstrate that this government has earned recognition by the way it performs in office. But we cannot know that today. All that we can know today is that this government in Salisbury is not recognized by any country in the world, and that if the United States rushes in making a premature judgment even before Great Britain can act, then we shall invite very serious consequences upon our own position in Africa. We have to expect that our own influence throughout all of black Africa will be gravely diminished. We may even be the objective of reprisals that could be very damaging. And all of this is quite unnecessary.

On the other hand, if the Senate were to adopt the amendment recommended by the committee, we will have sacrificed nothing. It still will be within the power of the Congress after December 1 to lift the sanctions.

In fact, the amendment calls for the lifting of the sanctions on December 1 unless the President can present a persuasive case to the Congress that it would not be in our national interest to do so.

What this amendment obtains for us is time—time to be certain we are doing the right thing; time to give the United Kingdom, the government that has the primary responsibility, an opportunity to act; time to avoid the costly mistake of rushing to judgment on an issue of this sensitivity, one that has taken on a certain symbolic significance that could gravely affect the American position throughout all of black Africa.

I think the case for adopting the committee's recommended substitute for the earlier amendment offered by the distinguished Senator from Massachusetts (Mr. Tsongas) is a very persuasive one. I commend Senator Tsongas for his initiative in bringing this matter to the Senate floor by offering his amendment. I commend him further for having agreed to substitute in its place the amendment recommended by the committee.

This is not a matter we should take lightly. Nothing is to be gained for the United States by rushing to judgment on the Rhodesian question, and a great deal could be lost. On the other hand, if we approve the amendment, nothing will be lost and much could be gained. Therefore, I strongly urge the Senate to approve the substitute offered by members of the committee, led by my good friend and colleague (Mr. Javits), who suggested the language at a special meeting of the committee, which was called for that purpose this afternoon.

I know there are other Members who wish to speak to the subject. For that reason, Mr. President, I yield the floor.

Mr. MOYNIHAN and Mr. McGOVERN addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. McGOVERN. Mr. President, I want to take just a very few minutes, first of all, to express my appreciation to the Senator from New York (Mr. Javits) for assisting the Senate and, I think, the entire country in a very difficult issue. The Senate Committee on Foreign Relations has been in session for most of this day, beginning with the Secretary of State's testimony at 11 o'clock this morning and including some 2 hours in an executive session this afternoon. I think it is fair to say that we examined every aspect of the Rhodesia issue and the language that Senator Javits has suggested, which was overwhelmingly endorsed by the members of the Committee on Foreign Relations and which I am happy to cosponsor, has helped us to avoid what I think are several very costly and needless confrontations.

It was agreed by the clear majority of members of the committee that we do not want a confrontation with black Africa on this issue, that it is not in the interests of the United States to put ourselves in that position, which we very clearly would have had we moved unilaterally today to lift sanctions.

Second, it would have been a clear departure from our position of cooperating with the British in an area of the world where they have had a 100-year special legal and historical relationship. As has been pointed out here several times, for us to act this quickly on this issue would, for the first time, have placed us at odds with British policy.

Mr. CHURCH. Will the Senator yield on that point?

Mr. McGOVERN. Yes, I yield to the Senator from Idaho.

Mr. CHURCH. To my knowledge, no other country besides Rhodesia, and possibly South Africa, favors lifting the sanctions against Rhodesia at this time. I know that most of our allies and friends, including Great Britain, France, Germany, Egypt, and nearly all of the African states, are opposed to lifting the sanctions now. These are the very countries with which we normally attempt to coordinate our policy. Does not the Senator feel that, in the light of the nearly unanimous opposition to any unilateral action on the part of the United States lifting sanctions at this time, it would be a very grave mistake for us to do so; that it would not only weaken our position in Africa but tend to affront our allies; and that, therefore, no American interest would be served by a precipitate decision on this delicate issue, as contained in the version of the bill brought to us by the Committee on Armed Services?

Mr. McGOVERN. That is my very strong judgment, I say to the Senator. I think not a single country around the world has yet recognized the Government of Rhodesia. Not even South Africa has recognized the Government of Rhodesia. I do not know of any government that has made a move at this point to lift sanctions.

As a matter of fact, states that are very important to the United States, in Africa and elsewhere, have spoken out very strongly against the lifting of sanctions now. That does not mean that, a month or 2 months or a few months down the road, when we can assess the situation further, some of them may not move in that direction, including ourselves. But at least as of now, what we know is that all of Africa, all the governments of Africa as well as states around the globe, are opposed to the lifting of sanctions.

The Nigerian Government, that supplies us with 16 percent of all the oil we import, has gone so far as to say that if we were now to lift sanctions, they would have to cut off oil exports to the United States. I would have to say that I am uncomfortable in the face of that kind of ultimatum, but nevertheless, it is one of the realities we have to consider. We have been on the receiving end of oil embargoes before. I would not let that one threat determine American policy, but I do think it is an indication of how strongly even a government that is comparatively moderate, like Nigeria, among the most important countries in Africa, feels on that issue.

Why take this risk? What is there to be gained by moving now, alone, as the only country in the world to break sanctions?

Mr. SARBANES. Will the Senator yield on that point?

Mr. McGOVERN. Yes; I yield to the Senator from Maryland.

Mr. SARBANES. In his testimony this morning and then in the questioning period subsequently, the Secretary of State discussed at some length the role which the United Kingdom has now undertaken, subsequent to the election of the new government. I think it is very important in considering this matter to appreciate the fact that the sanctions upon Rhodesia were imposed at the initiative of the United Kingdom. The unilateral declaration of independence made by Ian Smith was, in effect, directed against the United Kingdom. It was subsequent to that declaration that the United Kingdom sought the sanctions in the United Nations. As the Senator from South Dakota has pointed out, the United Kingdom has, of course, a long historic tie with Rhodesia and with this problem.

The Secretary of State outlined for the Foreign Relations Committee the fact that the United Kingdom had now undertaken extensive consultations in the area both with the people in Zimbabwe-Rhodesia, and in other nations in Africa. The United Kingdom has the Commonwealth Conference coming up in Lusaka in August. The orders in council by which the United Kingdom continued sanctions were issued for a 1-year period on November 9 of last year. If the British Government is to continue sanctions this November when the 1-year period expires then a further order in council must be promulgated this coming November.

In other words, the matter of continued British sanctions must come up automatically for review this November.

We have tried throughout our consideration of this issue to move in tandem with the United Kingdom. We have, I think it is fair to say, deferred to some extent, to the United Kingdom as the prime actor with respect to this problem.

It should be underscored that as a legal matter, sovereignty with respect to Zimbabwe-Rhodesia, as I understand it, still is in the United Kingdom.

Mr. McGOVERN. It is still part of the British Empire, legally speaking.

Mr. SARBANES. Given this legal situation, it seems to me prudent and good sense that we ought not move in this matter until the new government in the United Kingdom has an opportunity to examine the matter and to reach a decision on how it thinks it is proper to proceed. We would then have the benefit of the United Kingdom's substantive judgment on a matter for which it has long had sole or prime responsibility.

The amendment now offered by the Senator from New York, as an amendment to the amendment of the Senator from Massachusetts, would give to the U.S. Government and to the Congress of the United States the benefit of the United Kingdom's substantive judgment with respect to this issue.

It seems to me a much more sensible way to proceed, and I therefore underscore the point the Senator from South Dakota is making.

Mr. McGOVERN. I think the Senator's point is very well taken.

The United States has a great many special burdens that we carry around the world. The attempt to arrive at a settlement in the Middle East is one of those where we, in a sense, have been the point man in trying to work out a settlement in that very difficult part of the world.

The House is now debating the question of implementing the Panama Canal Treaty, which is another area where we have had a long and historic special relationship.

The President leaves in a few days to negotiate the final conclusion to the SALT discussions.

We do not need at this point to take on the leadership on another very complicated question that historically has been an area of special British responsibility. As the Senator from Maryland has said, legally speaking, Zimbabwe-Rhodesia is still part of the British Commonwealth system.

So it was the judgment of the committee, and I think it is fair to say the overwhelming judgment of that committee, that we at least ought to defer any action on the lifting of sanctions until the British Government has had a chance to continue the negotiations they have underway there at the present time, that they will continue, and then we will have the benefit of those efforts known to us sometime on or before early November.

Yet having said all that, Mr. President, there was a strong feeling inside the Committee on Foreign Relations that we should recognize the real progress that has been made toward majority rule in Rhodesia, of election of a black prime minister, the fact that some two-thirds of the people of that country participated in that election, albeit an election that was conducted under rather questionable constitution, nevertheless, the committee recognized that real progress had been made toward majority rule, and the President recommended that.

I was at the White House along with numerous other Senators 5 days ago when the President made his decision. He pointed out at that time to all Senators and Congressmen who were at the White House that he recognized real progress had been made in Rhodesia. He went so far as to say that if he had been voting in the recent election, he would have voted for Bishop Muzorewa. He expressed gratitude that the bishop stayed inside the country and continued this fight for majority rule all these many years. The President clearly left open the possibility that in the next few months, if we see continued progress toward majority rule, that he, himself, without any nudging from the Congress, may see fit to lift sanctions.

I think the language Senator JAVITS has come up with today, which was adopted by an 8-to-1 vote in the committee, is a very practical and statesmanlike resolution of the issue now before us.

I want to express my personal appreciation to Senator HAYAKAWA, who feels somewhat differently on substantive matters relating to Rhodesia than I do, and that Senator CHURCH and others do, who, nevertheless, agreed to support this particular compromise that is now being offered as a substitute.

Every member of the Subcommittee on African Affairs, which I have the privilege to chair, supports this compromise proposal.

I want to express my appreciation and admiration to the Senator from Massachusetts (Mr. TSONGAS) who has consistently reminded us of our obligations to racial justice in our policy in Africa and elsewhere around the world, who had a perfectly fine proposal before the Senate that he has been willing to let be set aside in order, apparently, that this more acceptable language can be offered.

Mr. President, I hope very much that the Senate will adopt the proposal offered by Senator JAVITS.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I am pleased to yield to the Senator from Illinois for a brief comment.

Mr. PERCY. I appreciate that very much because I would like to respond to the Senator from South Dakota as a cosponsor to the pending amendment.

Mr. President, my litmus test which I outlined to the Foreign Relations Committee that would have to be met in any resolution or amendment offered on the floor is simply to be certain that such a measure would not in any way remove an incentive from the Zimbabwe-Rhodesia Government to continue progress, the very real progress, that has been made.

I think we must recognize that conditions are quite different than they were before, and only an extremist would not admit that there has been a change, and a change for the better.

Now we need added incentive, not a disincentive, to continue to broaden that base and to solidify and strengthen the government. It can only be strengthened as it draws in the moderates. It will never draw in the extreme left, the extreme radicals who will never be satisfied until such time as they are actually running the country under their form of totalitarianism.

But if we can have a broadly based government that provides majority rule but also embraces and provides for protection of the white minority—that provides a way for them to continue their participation in the economic and social life of the country, rather than go the route of some countries in southern Africa that have driven out the very people who were able to strengthen the economy—then we should do everything possible to encourage it.

The pending amendment seems to take into account that there has been progress made. It keeps the incentive for strengthening the process and continuing toward the end of the year to meet those standards established by most countries of the world.

I would hope this amendment would be supported. It provides adequate flexibility. It does not deprive the President of his prerogatives. It does require that he report back to the President of the Senate and the Speaker of the House if he does not believe in the national interest to lift those sanctions by year end, a target date that is reasonable and fair.

It enables us to set a course and requires that the President justify to Congress exactly why he does not lift those sanctions, if he does not, and only the national interest must be the basis for his decision. But certainly an important feature of the amendment is that it recognizes progress has been made. I urge the Senate to support the pending amendment.

I thank my distinguished colleague for yielding.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from New Jersey yield for a parliamentary inquiry?

Mr. BRADLEY. I would prefer to make my speech, if possible.

Mr. HELMS. Mr. President, I just want to know if the Chair has any plans about the recognition of Senators. The proponents of this amendment are in the four corners now, and I think it is about time the other side was heard.

I ask unanimous consent that after the distinguished Senator from New Jersey is recognized, the Senator from North Carolina be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Mr. President, reserving the right to object, there are some of us who want to be heard on this matter, too. I wonder whether the Senator from North Carolina has in mind any kind of procedural motion that would shut off further debate.

Mr. HELMS. No, I do not.

I say, further, that if the Senator from Texas wants to speak or the Senator from Virginia wants to speak, it suits me fine to stand in line. We are moving on toward 11 minutes past 5 o'clock, and the Senators who sat and agreed with the President wholeheartedly last Thursday, when he announced that he was going to refuse to lift sanctions, have monopolized the floor. I just want the other side to be heard.

Mr. TOWER. I agree with the Senator from North Carolina. I just want to make sure that the members of the Armed Services Committee have a chance to be heard.

Mr. HELMS. That is fine.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. BRADLEY. Mr. President, I reserve my right, and I am glad to yield to the Senator from Mississippi.

Mr. STENNIS. If the Senator will yield to me for an observation, Mr. President, I have had a good rest here, so far as the bill is concerned, and I have listened to the speeches very closely. However. I think the author of this amendment, the Senator from Virginia, should have a very early chance. He has carried the battle not only on this amendment, on this bill, but also on other amendments on this subject. I am sure every Member will be willing to give him that courtesy.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina?

Mr. STENNIS. I object.

Mr. HELMS. I withdraw it, Mr. President.

The PRESIDING OFFICER. The request is withdrawn.

Mr. STENNIS. Mr. President, I hope the Senator from Virginia will ask for recognition after the Senator from New Jersey has finished his speech.

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

THE RIGHT POLICY FOR THE UNITED STATES IN ZIMBABWE-RHODESIA

Mr. BRADLEY. Mr. President, since 1966, the United States, in compliance with its U.N. commitments, has maintained economic sanctions against a white-minority regime which in 1965 illegally seized power in Zimbabwe-Rhodesia. We have done this to apply pressure for black majority rule in that country and to demonstrate our support for racial equality to the countries of black Africa and the rest of the world.

Mr. President, from the start, the sanctions policy has been the right policy for the United States; it is no less the right policy for the United States today.

As a democratic and egalitarian nation, it has been—and should be—U.S. policy to foster genuine majority rule in Zimbabwe-Rhodesia. We should not support highly disproportionate white representation and privileged bastions of white control in a country which is over 96 percent black.

Yet this is precisely what the present political structure does. Whites only had the right to vote in the referendum which established the present constitution.

Under this constitution, whites, who constitute 4 percent of the population, are assured 28 percent of the seats in the country's chief lawmaking body. This same constitution establishes white-dominated commissions which control the posts of power in the ministeries of justice, defense, internal security and the civil service. While this is an improved state of affairs over the unconscionable one which preceeded it, no stretch of the imagination can accept this as genuine majority rule. It is at best a way-station, at worst a pretense. It is not consistent with the character of our Nation to recognize this poor substitute as the genuine article, and it is not consistent with our national interests to do so.

As a nation which seeks to improve its relations with the nations of black Africa and all nations which bear the scars of colonialism, it has been—and should be—U.S. policy to demonstrate its belief in national self-determination and racial equality. Our policy of sanctions has scored impressive results in hastening progress toward majority rule and in strengthening our credibility with black African and other nations.

Two recent events vividly demonstrate the positive effect of our strong stand against minority rule on relations with black Africa. Some 10 days ago, the nations of black Africa joined with the United States in opposing efforts by several Arab countries to deprive Israel and Egypt of their membership in the World Health Organization.

Then last week, at the pre-conference of nonalined nations in Sri Lanka, these same nations opposed similar efforts to block the participation of Egypt in the full conference of nonalined nations that will take place in Havana. These recent developments boldly illustrate the salutory impact that the continuing demonstration of American commitment to racial justice in Zimbabwe-Rhodesia can have on our relations with the countries of black Africa.

It would be a great misfortune to dissipate these foreign policy gains by reversing what has been a prudent and sensitive course of action. It would be a sad mistake to signal to the world that the United States had lost interest in the achievement of full participation and majority rule in Zimbabwe-Rhodesia. It would be a monumental political blunder to permit the Soviet Union and its Cuban allies to gain from our lost opportunities in Africa, for without question they would profit from impaired U.S. credibility and seize the moment to strengthen their position with the parties of the Patriotic Front and with the frontline states of black Africa.

The present circumstances in Zimbabwe-Rhodesia do not justify a change in U.S. policy. The conditions which the Congress laid down in the Case-Javits amendment have not been met. The Salisbury group banned the political parties of the Patriotic Front from the April elections and has not shown willingness to enter negotiations on all relevant issues as required by the amendment. The new constitution continues to entrench white minority control and the government it produced carries the taint of illegality.

It is significant that no other nation has moved to lift sanctions. The United States should not be in haste to break ranks on such a complex and sensitive matter. Even the new conservative government in Great Britain is awaiting the outcome of the meeting of members of the Commonwealth in August. All the countries of black Africa remain adamant in their rejection of the Muzorewa government. Nigeria, Liberia, Kenya, good friends of the United States in Africa, have warned that they would view the termination of sanctions as an unfriendly act. Nigeria has indicated that it may use its oil and other economic wealth to support its opposition to the Salisbury regime.

Those who favor an end to sanctions contend that the April elections enjoyed an impressive turnout and that the political process was far more open and democratic than those in most countries with which the United States has relations. The democratic failings of so many nations today indeed is regrettable, but we must bear in mind that in Zimbabwe-Rhodesia the issue of more open elections is not the only one. This is a country with a history of outrageous racial injustice. This history demands that in measuring the progress of events, progress toward racial equality and full participation by the majority, be measured most heavily.

Those who wish to lift sanctions point out that other former colonies, such as Tanzania and Kenya, preserved some element of white control in their transitional governments. While it is true that whites have been given special transitional functions in other emerging black nations in the past, nowhere were black people excluded from participating in the approval of their constitution, and nowhere did a constitution entrench white political control for 10 years or more.

The enactment of the Case-Javits amendment expressed the belief of Congress that it is the proper role of the President to make such decisions.

The President has chosen a flexible course by leaving sanctions in place and committing his administration to a regular review of developments in Zimbabwe-Rhodesia. He has promised to make monthly reports on these developments to Congress. This course leaves available to the United States the option of responding to new progress toward genuine majority rule in the future.

The United States must continue to press all parties toward broad participation, toward an end to the violence, and toward an enduring political solution.

President Carter has reaffirmed the Nation's commitment to this proper direction. He has made this decision in accord with authority granted to him in law by Congress.

I urge my colleagues to join with me in supporting this wise and honorable policy. I urge Senators to support the amendment of the Senator from Massachusetts or at least, in a spirit of compromise, to support the wise amendment of the Foreign Relations Committee.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, first I commend the Senator from Massachusetts (Mr. Tsongas). He has been thoroughly consistent throughout the debates on this question of Rhodesia.

On May 15 the Senate by a 74-to-19 vote declared that sanctions should be lifted. The Senator from Massachusetts (Mr. Tsongas) was one of those 19 who voted in the minority. His position today is clearly consistent with what he did on May 15.

I hope that the other Members of the Senate will be as consistent as is the Senator from Massachusetts in dealing with this matter.

I think it is important for the Senate to realize and to reflect again on what the Senate formerly did on the 15th day of May 1979.

The Senate passed the following resolution, which says:

> The Congress finds and declares, with respect to section 27 of the International Security Assistance Act of 1978 that—
>
> (1) the Government of Zimbabwe Rhodesia has demonstrated its willingness to negotiate in good faith at an all-parties conference, held under international auspices, on all relevant issues; and
>
> (2) Zimbabwe Rhodesians have approved through free elections the transfer of power to a black majority government.

And then the resolution further states that, all of the requirements of the 1978 law having been substantially complied with, the santcions against Zimbabwe-Rhodesia should be lifted.

That is what the Senate said on May 15.

The Senate on May 15 said sanctions should be lifted and urged the President to lift the sanctions. Is the Senate going to march up the hill on May 15, get to the top of the hill, and when the President huffs and puffs, the huffing and puffing blow the Senate down from the crest of the hill to the bottom? I do not think so.

This is a responsible body. It took positive action on May 15. It urged the President to lift the sanctions. The President refused to comply.

Mr. President, this matter of sanctions has a number of ramifications. One is the question of fundamental fairness to the more than 6 million Rhodesians, most of whom are black.

Why should Rhodesia be singled out for economic warfare after the people of that country took steps to install a black government? Zimbabwe-Rhodesia has a black government today. The Senate of the United States stated that those elections complied with the requirements set forth under a previous law.

Mr. President, another extremely important aspect of the question of the continuation of an economic embargo against this nation is that the continuation of the embargo plays directly into the hands of the Russian-oriented terrorists. Mr. Nkomo and Mr. Mugabe, who are seeking to take over the Government of Rhodesia by force.

Those two Russian-oriented terrorists did all that they could to sabotage the elections which took place in Rhodesia recently.

There is another aspect that I think is important to consider and that was a major reason, a fundamental reason, that the Committee on Armed Services approved the amendment which is now a part of the bill before the Senate today, and that is that Rhodesia, along with South Africa and Russia, three countries, have virtually as a practical matter all of the world's chrome supply. There are small deposits elsewhere, but as a practical matter those three countries have the bulk of the chrome now existing in the world.

If these Russian-oriented terrorists succeed in getting control of the Rhodesian Government, as they possibly will if the United States continues its embargo, that will mean that the Soviet Union will control not only the chrome in its own country, but also the vast supplies of chrome which are in Rhodesia.

So I think from the point of view of the national military interests it is vitally important that the embargo be lifted. Mr. President, what more do Mr. Carter, Ambassador Young, the extremists in the State Department, want from Rhodesia? Elections have been held. A black government has been installed. The Senate of the United States stated on May 15:

> (1) the Government of Zimbabwe Rhodesia has demonstrated its willingness to negotiate in good faith at an all-parties conference, held under international auspices, on all revelant issues; and
>
> (2) Zimbabwe Rhodesians have approved through free elections the transfer of power to a black majority government.

In the name of fairness what more does the State Department want? What more does our distinguished President want?

Mr. President, the Senate spoke clearly, spoke strongly, spoke firmly. It stated 3 weeks ago that the sanctions against Rhodesia should be lifted and it urged the President to lift those sanctions.

Now the proposal which is in the bill today, approved by a 13-to-3 vote by the Senate Armed Services Committee, would do exactly what the Senate specified on May 15 should be done, namely that the sanctions should be lifted. The proposal would mandate the lifting of the sanctions.

Mr. HELMS. Mr. President, will the Senator yield for a question?

Mr. HARRY F. BYRD, JR. I yield to the distinguished Senator from North Carolina.

Mr. HELMS. I do not want the Senator to lose his right to the floor.

Mr. President, does the able Senator from Virginia remember the proposal made on this floor that the United States send a team of observers to Rhodesia to observe the April elections there?

Mr. HARRY F. BYRD, JR. Yes; I remember that very well.

Mr. HELMS. Does the Senator recall the outcome of that proposal?

Mr. HARRY F. BYRD, JR. The outcome, as I recall, was that the Senate of the United States voted to do just that.

Mr. HELMS. The United States sent no observers, but the Conservative Party of Great Britain, which is now, of course, the administration of Prime Minister Thatcher, did send a team.

Just this very day, I would say to my friend from Virginia, the distinguished chairman of the Committee on Foreign Relations (Mr. Church) and this Senator met with a member of that team, Mr. Miles Hudson, and he said in effect:

> Let me say at the outset that for years I have been against lifting sanctions. I was political secretary to Sir Alec Douglas Home when he was Foreign Minister, and I made eight trips to Rhodesia attempting to negotiate with the Smith Government. But I went back to what is now Zimbabwe-Rhodesia. I saw what happened. I saw voters lined up for more than a mile in many instances in Rhodesia, all of them happy and delighted to vote, with the opportunity to vote.

Mr. Hudson said:

> I have the distinct impression, based on observing the elections, that they were remarkably fair and free.

He went on and he said:

> The problem, as I see it—

This was in conversation with Senator Church and me—

> The problem, as I see it, is whether Britain and the United States are going to allow Prime Minister Muzorewa to survive.

He emphasized the point that the Senator from Virginia just made that the terrorists are motivated, financed, and armed by Communist elements, the Soviet Union, et al, and he asked:

> How can we expect Prime Minister Muzorewa's government to survive if we continue the sanctions? We have got to help him continue the momentum in building freedom in his country and in building commerce.

This man, whose name is Miles Hudson, is now absolutely in favor of lifting sanctions. He is now a private citizen and not a member of the British Government, but I was deeply impressed with his candid testimony.

I will say to my distinguished friend from Virginia that I have no problem with working out a schedule with Great Britain so that this Nation and that nation will simultaneously lift sanctions. I think that suggestion makes sense.

But to sit here in this Chamber, as I

have this afternoon, and hear Senators, who do not know one jot or tittle about it, condemn the way those elections were held, and implicitly condemn Prime Minister Muzorewa, was a little bit more than I could take. And that is the reason why I made the point a while ago that these Senators had gone into a four-corner defense—and the distinguished Senator from New Jersey, who was a renowned basketball player, knows what I am talking about when I refer to a four-corner defense.

I appreciate the eloquent statement by the able Senator from Virginia. I appreciate his taking the initiative in the Committee on Armed Services to have his amendment be made part of the bill. The amendment should stand. I suspect the President may find somewhere down the road that, on this issue, he does not need any enemies as long as he has some of the friends he has in the Senate.

The Senator's amendment should stay in the bill; let this bill be passed by the Senate, sent to the House; and by the time that a normal period of time has elapsed, I am confident, Mr. President, that there is a good possibility that this situation will be worked out.

But if this Senate should unwisely strike Senator Byrd's amendment, based on uninformed comments made today in this Senate; if the Senate votes to strip this bill of the Harry F. Byrd, Jr., amendment, then I am fearful of the consequences. It is time to stop playing domestic politics with the future of Zimbabwe-Rhodesia.

One more thing, and I will not intrude further upon the distinguished Senator's time. I suspect that the Senator from North Carolina knows Bishop Muzorewa about as well as anybody in this Senate. It was on my initiative last year that he came to this country. The Senator from Virginia and many other Senators met with him. But maybe there is one episode which I mentioned this morning in the Committee on Foreign Relations which the Senator from Virginia does not know about.

Last fall I was in the middle of a political campaign in North Carolina. I took a day off from that campaign and quietly escorted Bishop Muzorewa to Asheville, N.C. We did not notify the press, we did not seek publicity.

Bishop Muzorewa was converted to Christianity and taught the English language by a dear little lady who is now a retired Methodist missionary. Today she lives in a Methodist home in Asheville. I escorted Bishop Muzorewa there to be reunited with that little lady, and I will say to my friend from Virginia that I have never had a more touching experience. I thought of the impact that this little lady had had by dealing with this African youth so many years ago, taking the time to teach him and form his character. And now he is in a position to turn the continent of Africa around—away from socialism and communism and toward economic stability, toward progress, jobs, and a higher standard of living for the people of that country.

Yet I hear on this floor:

> Oh, well, they have not satisfied me. Muzorewa may be all right, but he has not satisfied me.

Well, I say "baloney," Mr. President. This man has done everything this Senate asked him to do with the Case-Javits amendment of last year. As the Senator from Virginia said, free and fair elections were held, and I expect a lot freer and a lot fairer than a good many elections in our own country.

I know of Bishop Muzorewa's effort to meet with the so-called frontline countries, the Patriotic Front, as they call themselves. I saw the invitation when it went out. But, as the Senator from Virginia said, every condition laid down last year by this Senate was met by Muzorewa and, as the Senator also asked, what more can we expect of them?

What more will we demand? On top of that, on May 15, this Senate spoke loud and clear, not merely to the President of the United States but to the people of Rhodesia. And not only to them, but to the rest of our allies, such few as we may still have around the world, whose reaction was, "Well, maybe the United States will stick with her friends for a change."

So if the Senate, having marched up that hill, as we did on May 15, now tiptoes down again, it will not only be a mistake, it will be a tragedy.

I apologize for intruding on my friend's time, but I am very grateful to him for having sponsored this amendment, and I do hope that the Senate will see, in its wisdom, the absolute necessity of keeping it a part of this bill.

Mr. HARRY F. BYRD, JR. Mr. President, I thank the able Senator from North Carolina. I think he brought out a very important point when he told the Senate of the views of this British observer, who went to Rhodesia feeling that the sanctions should not be lifted, but after observing the conditions there and observing the elections, now feels that they should be lifted.

I regret that the United States did not send observers. As I recall, the Senate passed a resolution to do that, but it was defeated in the House of Representatives, if my memory is correct.

Mr. HELMS. The Senator is correct.

Mr. HARRY F. BYRD, JR. The question of whether the elections were free and proper elections has already been determined by the Senate. It was determined by the passage of an amendment presented by the able Senator from Pennsylvania (Mr. Schweiker) and perfected by the majority leader of the Senate. That has been established. That is a part of the Record. It is on page S5908 of the Congressional Record of May 15.

Various individual Members of the Senate may not feel that the elections were appropriate, and so forth, but the Senate as a whole adopted the Schweiker-Robert C. Byrd amendment on May 15, and in the spirit of cooperation and conciliation with the President of the United States did not mandate at that time the lifting of the sanctions, but expressed the will of the Senate that the sanctions should be lifted.

And what did the President do? He totally ignored the wishes of the Senate in that regard. That is the problem with the amendment now before the Senate. It is totally meaningless, because, after saying the sanctions shall be lifted, it then says:

> Unless the President certifies to the Congress in writing addressed to the Speaker of the House and the President of the Senate that the national interest of the United States requires the sanctions to be continued and specifies his reasons therefore.

Which he did on television just the other day. So that is just totally meaningless.

Mr. HELMS. If the Senator will yield, there is no requirement that he be anything other than subjective in whatever he says at that time; is that not correct?

Mr. HARRY F. BYRD, JR. That is correct. That is totally correct.

Mr. HELMS. So it is a meaningless amendment.

Mr. HARRY F. BYRD, JR. I think one of the great problems that the American people face is the lack of confidenc in public officials and the lack of confidence in Congress. Yet how can they have confidence in Congress or in public officials, if those public officials reverse themselves on these vital issues, so that the public has no way of knowing where anyone stands, whether they are serious when they pass legislation and resolutions, or whether they are doing it from some ulterior motive?

To me it seems completely logical, the Senate 3 weeks ago having by formal vote said—and I will read it again—

> (1) the Government of Zimbabwe Rhodesia has demonstrated its willingness to negotiate in good faith at an all-parties conference, held under international auspices, on all relevant issues; and
>
> (2) Zimbabwe Rhodesians have approved through free elections the transfer of power to a black majority government.

That therefore the sanctions against Zimbabwe-Rhodesia should be lifted.

I just cannot conceive that the Senate of the United States would take an official action of that type on May 15 and reverse that action on June 12.

Does the Senator from California wish to speak?

Mr. HAYAKAWA. I thank the distinguished Senator from Virginia. I would only take a very few minutes to ask for a little information that has not yet been included in the debate, so far as I remember.

The purpose of Senator Javits amendment is to give an extension of time. The question is, time for what?

Obviously, it gives the President a longer time—something like 6 months—in which to evaluate the progress being made by Bishop Muzorewa as Prime Minister of Zimbawe-Rhodesia. It obviously gives Bishop Muzorewa also a little further time to push his regime a little farther along toward representative democracy. I cosponsored this resolution with Senator Javits, and I am going to vote for it, but I am going to give you the arguments against it, because I almost feel like saying that I cosponsored it not out of any overwhelming conviction of its wisdom, but out of a spirit of cooperation with the President and the administration.

I believe that before the world we ought to present a united front, if we can, and it is with great difficulty that I do so at this moment.

Do not forget that if we give Muzorewa more time and President Carter more time, we are also giving Mugabe and Nkomo more time. If I were they, I would say, "We have 6 months to wipe out that Zimbabwe Government, and we are going to do it." It can strengthen their resolve to heighten their guerrilla activities against the Muzorewa regime. I would hope it would also heighten Muzorewa's resolve to defend it, and to extend democracy within his borders. But do not forget, when you give an extra free thing to one side of a deal, you are also giving an extra free thing to both sides.

There have also been some mistaken impressions uttered today on this floor. It has been assumed that if we lift sanctions against Rhodesia, all black Africa will be against us. Mr. President, that is rubbish.

Yesterday I had a long conversation with the Ambassador of Somalia. He raised the question, "When are you going to lift the sanctions against Rhodesia?"

I asked, "Do you want to see them lifted?"

He said, "Of course we do."

So I pursued the question a little further, and learned from him that a large number of West African nations are also ready to recognize Zimbabwe and Muzorewa. Those nations include Zambia, Mozambique, Tanzania, Angola, and other West African nations. They need, however, the leadership of one of the great countries, whether the United States or the United Kingdom, it does not matter to them.

So let us not hesitate in lifting the sanctions out of fear or nervousness about what other black African nations will do. They may say one thing in public, but they say something entirely different in private.

Then one final point, Mr. President. Let me call attention to the fact that Zambia, Mozambique, Tanzania, and Angola, which are neighboring countries immediately surrounding Zimbabwe-Rhodesia, all have diplomatic relations with the United States. We have ambassadors there, and they have ambassadors here.

We have trade relations with all four of these nations. But are we interested in democracy throughout the world or are we not? Each one of these, Zambia, Mozambique, Tanzania, and Angola, are not democracies at all, but miserable, tyrannical dictatorships. Of those four nations, three never have had an election to ratify their president. The one nation that has had an election is Zambia. Kenneth Kaunda won that election in 1973 by outlawing the other parties. In 1978 he was challenged from within his own party. That was the only party there was left. But he changed the rules of the party to disallow the other candidates so he won the election. That is the kind of election they have in Zambia. And, as I say, in Mozambique, Tanzania, and Angola, they do not have elections at all. And this we are comparing favorably against the enthusiastic elections held in Zimbabwe when 65 percent of the population took part.

Are we criticizing that in light of the fact that in the last District of Columbia elections we only had 18 percent of the people taking part? This is the kind of hypocrisy I cannot understand.

Nevertheless, Mr. President, let me say that insofar as Senator JAVITS' amendment does work out a schedule in cooperation with the United Kingdom, insofar as it represents the spirit of cooperation with the President and the administration, I have decided, as I say almost against my better judgment, to support this amendment. My friends are very distressed with me, but that is the way it is.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. HARRY F. BYRD, JR. I yield to——

The PRESIDING OFFICER. Is the Senator yielding for a question?

Mr. HARRY F. BYRD, JR. Yes, I yield for a question.

Mr. TOWER. Mr. President, I ask unanimous consent that the Senator from Virginia be allowed to yield to me without losing his right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Reserving the right to object, and I have no intention of objecting to the request of my good friend from Texas, a number of us have been seeking the floor.

Mr. TOWER. I withdraw that request. The Senator from Virginia has yielded to me for a question. I will proceed to frame a question.

I might note that the proponents of this measure have made all of the speeches here today. I think about 8 or 9 proponents have spoken, and the Senator from Virginia is the only opponent to the proposed amendment who has spoken. So I do not think the opponents of the measure can be accused of denying the proponents the opportunity to speak. I see there are many to speak.

I will ask a question of the Senator from Virginia. I wonder if the Senator from Virginia is aware that in trying to judge the democratic performance of the present government and its predecessor in Zimbabwe, we are insisting on a standard of representative democracy in Zimbabwe that we do not insist upon anyplace else. We are requiring some kind of extraordinary democratic performance that we do not seem to insist other nations have.

I wonder if the Senator from Virginia is aware that in complaining about the election that was held in Zimbabwe the Nigerian Government in its declaration had this to say: "The Federal Military Government"—that is the Government of Nigeria—"has no desire to dignify the sham elections that have just taken place in Zimbabwe."

When was the last time the Federal Military Government in Nigeria held elections?

I wonder if the Senator from Virginia is aware that we tend to sometimes expect too much of countries without a lengthy tradition of self-government, without the experience of the institutions of self-government we in the United States have had.

I wonder if the Senator from Virginia is aware of the inclination to label the Government of Zimbabwe as presently constituted as a racist government because it has tolerated some white participation, the implication being that if it would eliminate any white participation it would no longer be considered a racist government.

I wonder if the Senator from Virginia is aware that there seem to be those who keep prophesying the ultimate collapse of the recently elected Government in Rhodesia, and are trying to make this a self-fulfilling prophecy by making it as difficult as possible by creating as difficult as possible a political and economic climate in that country to virtually assure the destruction of that government ultimately.

Is he aware that there are those who insist that the violent and radical elements be included in that Government and to do so would be to sow within it the seeds of its own destruction; that the continuation of economic sanctions against Rhodesia creates the kind of political climate in that country that makes it very difficult for that Government to succeed?

I wonder if he is aware that the British Government has probably already come to the conclusion that these elections were as fair as they could be under the circumstances. The British have a great deal of experience in this. As a matter of fact, the man they sent to monitor the elections was the former colonial secretary, Sir Allen Boyd. Perhaps the British Government would like to know that it is not alone in moving toward lifting the sanctions against Rhodesia.

I wonder, too, if the Senator from Virginia is aware that, by virtue of the raw materials, principally chrome, which would be useful to the United States, which are produced by the Government of Rhodesia, and which desperately wants to be our friend, we are acting contrary to the national interest if we continue to maintain this sanction simply to satisfy some domestic political considerations. I think in large measure that is what we do.

I wonder whether the Senator from Virginia is aware, and I ask him if he is aware, that the proposal which has been offered does say that the sanctions shall not be enforced after December 1, unless the President certifies to the Congress in writing that the national interest requires the sanctions to be continued. How easy will it be for the President to yield to political pressure to make such a certification based on grounds that many of us would have to not agree with?

I thank the Senator from Virginia for yielding to me for this somewhat lengthy question. I would be delighted to hear his response.

Mr. HARRY F. BYRD, JR. I thank the Senator from Texas. My reply to each of those questions framed by the Senator from Texas is in the affirmative.

Before yielding the floor, which I shall do in just a moment, I again want to point out that the Senate, by a 74-to-19 vote on May 15, settled the question insofar as the Senate is concerned as to the free elections in Zimbabwe-Rhodesia.

Seventy-four Members of the Senate called on the President to lift the sanctions. I cannot conceive that those 74

Senators, or any appreciable number, would reverse themselves 3 weeks later and vote against lifting the sanctions.

(Mr. McGOVERN assumed the chair.)

Mr. MATHIAS. Mr. President, in 1780, the revolutionary government of the United States commissioned Francis Dana to be its representative at the court of Catherine the Great in St. Petersburg. The Russian Government, however, questioned the constitutional process by which the United States had attained their independence and perhaps doubted whether the Continental Congress accurately represented a majority of the American people.

Francis Dana was not received as minister by the Empress and the process of promoting a better relationship between Russia and America was delayed a few years longer. It is one of the obscure ironies of history that Dana's young clerk, John Quincy Adams, was to return to St. Petersburg many years later to be himself the Minister of the United States to the Tsar of all Russia.

From an academic point of view—de jure—Catherine's advisers may have been correct in rejecting the suit of a feeble government led by a small band of patriots, each of whom was ripe for hanging if he were ever captured by King George's soldiers. But history has shown that there were other factors at work besides the slow, stately and orderly progression of events in an enlightened and rational society. Nationalism was showing its potential. The practical problems presented by miles of ocean and miles of wilderness were being encountered. Passions of people with a perception of injustice were aroused. More than theories was influencing the development of new states and new powers.

It is useful to remember this experience in our own history as we consider policies with respect to Zimbabwe-Rhodesia.

My attitude, prior to the Senate debate on May 15, 1979, was as consistent and correct as that of the ministers who advised Catherine the Great. I voted repeatedly to maintain U.S. support for the economic sanctions imposed on Rhodesia by the United Nations. I insisted on the strictest standards for the proposed elections and I voted against sending Senate observers to judge that election process, because such action might be interpreted as prior acceptance, or at least condonation, of the electoral system.

The election took place from April 17 to April 21, 1979, and, as a result, Bishop Muzorewa was installed as Rhodesia's first black prime minister on May 29. Coincidentally, a new government had come to power in London with a prime minister who had campaigned for a change in policy on Rhodesia, but with a foreign minister thought to have more moderate views.

At that point, I thought an appropriate time had come to do what Catherine's ministers presumably did not do—to stop and review all the circumstances.

Although Rhodesia's constitution was ratified by only 4 percent of its people, the important question unanswered then and unanswered today is whether it would be accepted by a larger proportion or by a clear majority. Some evidence on this point is offered by reports that 60 percent of all eligible voters actually participated. President Carter concluded that the elections were "reasonably fair."

The new government was biracial and even included the former prime minister, Ian Smith. It was not proven that it would either move with purpose to fulfill the aspirations of a majority of its citizens or whether it would attempt to sustain the status quo, in which a 4 percent white minority would dominate a 96-percent black majority beneath a thin veneer of black officeholders. The outward and visible signs indicated some progress, but the inward and spiritual signs were not yet manifest.

Accordingly on May 15, 1979, I voted with the overwhelming majority of the Senate to ask the President to make a finding of fact and decide the issue of maintenance of the sanctions in a manner consistent with his view of the situation. To anyone who followed that debate it was clear that the Senate, in effect, was freeing the hands of the President from the bonds of policy inherited from his predecessors and indicating to him the Senate's perception that the passage of time and the march of events demanded that he examine the issue anew.

Our colleague, the distinguished chairman of the Foreign Relations Committee (Senator CHURCH), summarized the intent of the Senate action this way:

> It merely expresses the sense of the Congress that the President, not later than 10 days after the installation of the black majority government . . . make his findings as called for under present law.
>
> It goes on to express the sense of the Senate that on the basis of the evidence we have before us we believe he ought to make findings that would have the effect of lifting sanctions.

The President has now made his findings. On June 8, he announced that he has determined the "best interests of the United States would not be served by lifting sanctions." The President stated that "although there has been some very encouraging progress made in (Zimbabwe-Rhodesia) the action taken has not been sufficient to satisfy the provision of United States law described in the so-called Case-Javits amendment."

The Senate must now decide whether it will accept or contest that judgment.

Several thoughts occur at this juncture. One is that we still do not know much about the competence, the authority or the real intentions of the new government of Rhodesia. While it should not be condemned for lack of evidence, neither can it be endorsed on the same ground. It seems to me that movement in the direction of developing genuine democratic institutions must be welcomed and applauded. Lack of such progress would be valid ground for withholding support and maintaining a critical posture. I would like to convey to Bishop Muzorewa that our policies are not set in stone, and that the course and speed with which they will move are subject to forces that he can help shape.

Then there is the legal problem to immediate unilateral lifting of sanctions embodied in the fact that we are bound by treaty to honor them. This treaty obligation arises from the United Nations Charter, which was signed by President Truman and ratified as a treaty by the U.S. Senate in 1945. In its entire history, the U.N. Security Council has adopted only two resolutions under chapter VII of the U.N. Charter—on the Korean war and on Rhodesian sanctions. These resolutions, unlike other Security Council and General Assembly resolutions, which are only advisory, are binding on the members of the United Nations. A resolution taken under chapter VII of the charter, therefore, has the same force as a treaty commitment.

In recent days, the Senate has been showing a proper concern for the way in which the Mutual Defense Treaty between the United States and the Republic of China was terminated. It ought to be equally concerned at the possibility of action that would do even greater violence to our international reputation for being faithful to our word. While some may feel that one treaty is not as binding as another, I think it would be difficult to make a convincing case that such distinctions exist beyond our own preferences and prejudices. So it seems to me that some time is needed to examine the legal foundation on which we stand and to explore the means by which we can properly change our policies, if and when we decide to do so.

The considerations involving the nature of our treaty commitment merge with our relations with Great Britain with whom we have been closely coordinating our policy on Rhodesia. Britain's former foreign minister, Dr. Owen, clearly wanted to stand pat. Her new foreign minister, Lord Carrington, says he wants to consider the impact of new developments and, over a period of months, will announce his Government's current position. He is obviously not ready to do so now.

A seasoned statesman, known and respected in the United States, Lord Harlech, known to many members of the Senate, has been recruited to assist in this essential and important task. His appointment is an earnest of the sincerity and integrity of the study. Respect for the government of a close ally would counsel against an immediate change in policy, particularly were such a change considered premature or ill-timed. Lord Carrington must have an opportunity to ponder his policy without the pressure of unexpected, independent actions in Washington where he has a right to expect patience and cooperation.

Nations must, as we say in our Declaration of Independence, give "a decent Respect to the Opinions of Mankind." That applies to Rhodesia and it applies to the United States. It is not always easy to determine accurately just how outsiders looking in will judge a given situation, but in this case we are offered two early opportunities to measure world sentiment.

One of these assessments will surely be made by Rhodesia's peers when the Organization of African Unity meets next month in Monrovia, the capital of Liberia. The OAU summit meeting will provide an appropriate and timely forum for the expression of African views on the question.

A month later the British Commonwealth heads of government will be convened by Queen Elizabeth in Lusaka. This will be a different kind of jury, not exclusively African, but nonetheless peers whose verdict will carry weight.

Both verdicts are worth attending.

Finally, and perhaps most importantly, the people of Zimbabwe-Rhodesia must be heard. That will take time. Dr. Gallup's writ does not run in those parts with the same precision that it does in our country. But people will make their wishes known even without the benefit of opinion polls. They will vote every day in the way they go to work, the way they pay their taxes and obey the laws or, God forbid, in the way they use their guns.

I have concluded, therefore, that for the time being I will support the maintenance of the United Nations sanctions against Rhodesia, but that my attitude will be subject to change as conditions change, or are proved to have changed. Today, I shall vote to approve the Javits substitute.

But, Mr. President, I will weigh future decisions against Gov. Adlai E. Stevenson's perceptive definition of a free society as "a society where it is safe to be unpopular."

Mr. JAVITS. Mr. President, I thank the Senator for a very perceptive, sensitive, and thoroughly informed presentation in this case.

Mr. MATHIAS. I thank the Senator.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, several times during the debate this afternoon it has been mentioned that the Senate should not march up the hill on May 15 and then tiptoe back down again, or march down again. But I submit, perhaps, having been up the hill, the view might be a little better from the top of the hill. Maybe a little better light has been shed on some of the issues surrounding the situation with regard to Zimbabwe-Rhodesia, in the meantime, than was known at that time.

I do not hold with those who say that just being absolutely consistent with our vote at that time is what the Senate should do.

Mr. President, I support President Carter's recently articulated position on Zimbabwe-Rhodesia. The President complied with the mandates of the Case-Javits amendment and determined that the recent electoral process was not free and fair and that sanctions should not be lifted at this time. The President did not foreclose future lifting of sanctions should the present government demonstrate a significant broadening of its base. President Carter felt that his decision was in the national interest, that the U.S. proper role is to encourage further progress toward both genuine majority rule and an end to the conflict, not to take sides with warring factions.

Let us be honest enough to state on this floor the facts that cast such a suspicious cloud on this recent election.

First, the April elections were conducted on the basis of a constitution that was approved in a January referendum in which only whites were allowed to vote.

Second, there are reserved to the 4 percent minority, 28 white assembly members who have veto power over constitutional reform proposals.

Third, the constitution gives the minority continued control over the army, the police, the judiciary, and the civil service.

Fourth, with respect to the "transitional" 10-year arrangement, 10 years is an excessive period for any type of transition and nothing of substance is even promised after 10 years other than a "review" by a 5-member commission, 3 of whom would most likely be white.

Mr. President, these features plus the martial law circumstances of the elections are what has raised such grave doubts throughout black Africa about the intent of Ian Smith's regime. The United States and the U.S. Senate should not be so presumptuous as to go about blithely endorsing this type of arrangement.

I believe that the President has acted wisely and that his position should be upheld. I intend to support efforts to sustain that position and maintain sanctions. This Senate should learn from Great Britain, which is listening to its Commonwealth members, to the OAU and to the world community before taking any precipitous action.

Much has also been made this afternoon, Mr. President, regarding the fact that Great Britain did send an observer, or an observer team, to the elections. But I submit it would be hard for any Senator in this Chamber to go in his home State and consider a line of people going into the polls, whether it be in Richmond, Va.; or Charlotte; or Raleigh; Durham; Columbus, Ohio; New York City; or anywhere else; and vouch for the fact that those were, in fact, free and fair elections. It is not just that simple.

That is the reason why when that was up for a vote, as to whether we were going to send a group over there, I voted against that provision because I did not see that we could go in when we could not vouch for them in our country by watching people march in and out of the booth, as to whether it was, in fact, a free and fair election.

So I think, Mr. President, that the Javits compromise proposal which has been put forward is a wise compromise for us to follow. It gives time to determine what the early actions of the new regime will be in Zimbabwe.

The President has repeatedly said that this not forever, that his decision in this regard is not something that is locked in concrete, or carved in stone. It is something that will be under continual assessment. That is a matter that is exactly what is needed to see what occurs in this particular situation.

Mr. President, I ask unanimous consent to have printed in the RECORD the editorial from the New York Times of Monday, June 18, entitled "The Middle Course On Rhodesia."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE MIDDLE COURSE ON RHODESIA

President Carter has defined a right and expedient new policy for Rhodesia: It stays in step with Britain's Conservatives. It protects Western interests in black Africa. It preserves a hope for ending the civil war and keeping the Russians out. The only trouble is, it offends the Senate and perhaps the House, too, and the sense of fairness of many Americans. They don't understand why we should be boycotting a new black-white regime whose election looked more democratic than any other recently held in black Africa.

The President's answer relies on history and the American national interest, but he has not explained it well. Zimbabwe Rhodesia, unlike most African states, remains a ward of the world because its colonial white minority of 4 percent has long defied an orderly transition to black majority rule. Only when pressed by world sanctions and challenged in a civil war did that minority even pretend to admit some blacks to leading positions. Even then the whites alone wrote a new constitution, preserving white power in the army, courts, police and civil service and protecting their hold on most of the valuable land. Whites alone were allowed to vote on that constitution; parties tied to the guerrillas were banned. Only then were the remaining blacks invited to elect representatives to Parliament.

Most black Africans are not impressed, therefore, by the democratic ritual of that last election. Nor do they think that Rhodesian whites have passed enough power to blacks. They still support the guerrillas and they warn the West of retribution—and Soviet intervention—if London and Washington rush to help the new Government of Bishop Muzorewa.

Most members of Congress seem unmoved by these global stakes. They think guerrillas and their Soviet sponsors should be defied. Some of them also think the West should stand by the beleaguered whites of southern Africa. So Congress demanded an end to sanctions, if Mr. Carter found the recent election fair and free. This legal formula forced the President to denounce the election. But he really objects to the pace of progress toward black rule and to an alliance with South Africa in defense of white rights. He proposes instead a sensible middle course.

There has been some encouraging progress, the President says, but not enough. So instead of recognizing the new Zimbabwe Rhodesia, he would periodically send diplomats to check on further progress and keep the sanctions in place so Americans and Britons can bargain for more black rights.

This course recognizes reality: the Muzorewa Government still lacks necessary appeal among Rhodesian and African blacks and cannot be safely anointed from London and Washington. It also recognizes, however, that simply waiting for the Patriotic Front guerrillas to seize Salisbury is no more humane or democratic.

Mr. Carter's policy would put significant pressure on both Rhodesian camps. It gives the Muzorewa Government a chance and incentive to win more concessions from whites and to demonstrate a wider appeal to blacks. The guerrillas, in turn, would be on notice that time may no longer be on their side. If they reject genuine reconciliation, the Muzorewa regime may evolve without them. The Russians may not help them much while Moscow and Washington are engaged in the more important business of arms control. And if the Muzorewa regime grows in stature, the neighboring African states may come to like peace on their borders.

The President's course has been coordinated with the new British Government. It will not satisfy those who regard the Bishop as irreparably tainted by his compromises with Ian Smith. Nor will it please those who attach excessive value to the formalities of his election. But neither will it leave the West embarrassingly aligned with either the guerrillas alone or with the whites of Africa. The new American plan may work no better than the old, but it is shrewd and prudent.

The PRESIDING OFFICER (Mr. McGovern). The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, a month ago, on May 15, when the matter of Zimbabwe-Rhodesian sanctions first came before this Congress, I was one of the small minority of Senators who voted, in effect, with the President and against the resolution which instructed him forthwith to determine that the conditions of the Case-Javits amendment had been met with and accordingly to lift sanctions.

I felt at that time that, having asked the President to report to us on the elections in Rhodesia, and related matters, that it was scarcely appropriate to tell him in advance what to report.

Once again, I will vote to support the President. I do so out of respect and affection for him, and out of a profound concern for the Presidency itself, which remains our central institution so far as the conduct of foreign relations is concerned. On both counts, I find it proper to allow the President additional time to work out our response to the profoundly new situation in Zimbabwe-Rhodesia, and especially to do so in concert with the new British Government. This is, after all, primarily a British responsibility.

I will support the amendment being offered by my revered senior colleague, Senator Javits, and Senator Church on behalf of the Committee on Foreign Relations.

I realize that this may not be the view of many Senators. Yet I hope there might be those willing to reconsider their position.

This prospect would be considerably brightened if the President, himself might reexamine his own position. Hence, I speak both to my colleagues and, in the hope that he might be following our debate, to the President.

This is not the first time I have spoken on this subject. It is the second time. Just a year ago, on the Senate floor, I raised what probably to the administration seemed a curious set of questions. It had to do with its choice of words in describing what was going on in that part of the world, and what we were trying to do there.

I was raising George Orwell's point about the corruption of democratic dialog under the constant pounding of totalitarian propaganda.

It is not a small point. In truth there is scarcely a more important issue in our age. Allow me to restate, in part, what I said on July 25, 1978:

> For some time, the Secretary of State, who is a distinguished and capable American statesman, in referring to the parties to the dispute on Rhodesia, has spoken of "the Patriotic Front," on the one hand, and "the Salisbury group," on the other. I am quoting from notes of a public presentation in which he spoke, about "the Patriotic Front and the Salisbury group."
>
> Now, "the Patriotic Front" is made up of forces supplied by and backed by the totalitarian powers, the Soviet Union and China. One from the east and one from the west; one based in Mozambique, and one based in Zambia.
>
> The "Patriotic Front" represents the armed component of totalitarianism, a philosophy which they openly espouse. They are elements of Soviet-Chinese power in that part of the world.
>
> Who would not wish to be with "the Patriotic Front"? What man whose heart is not stirred by the prospect of joining the Patriots! Who, by contrast, would wish to be with "the Salisbury group"? It sounds like a mining concession put together by investment bankers in London.
>
> Do not suppose there are not consequences. Years ago Disraeli, in one of the novels, remarked that 'Few ideas are correct ones, and none can ascertain which they are. But it is with words we govern men.'
>
> On the 17th of July, in a State Department briefing, the spokesman for the Department of State made the following statement:
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> "There cannot be a peaceful settlement unless the liberation forces and the Salisbury parties are satisfied. What we are seeking is an agreement by all parties to fair elections under neutral transition arrangements. Should the patriotic front make a demand which is inconsistent with fair elections, we would oppose it just as we would reject demands by the Salisbury parties which would deny fair elections."
>
> The use of those terms, the choice of those words, is fatal to the object of neutrality. I repeat, the choice of such words is fatal to the object of neutrality. When you have described one side as "the liberation forces" and the other side as a group in the capital, you have summoned all the imagery of political legitimacy of the 20th century and put it on the one side and denied it to another. That is not only fatal to neutrality but, I suggest, it is fatal to clear thinking about this phenomenon.
>
> It is thus important that we convey the impression that we understand the difference between national liberation on the one hand, and the progressive brutalization of politics which is being carried on by the Soviets in the name of national liberation. And, so far as southern Africa is concerned, the Administration's policy has become controversial because many feel that it is simply losing sight of these distinctions.

I hope I will not be misunderstood if I say that there was not the least response to my remarks from the White House or the Department of State, although they were widely reprinted.

Surely, my point was clear. The administration was giving the impression that the United States in Rhodesia was siding with the enemies of democracy and liberalism.

That impression continues. Just a few days ago, on June 9, the Washington Post editorial put the matter as plainly as anyone could:

> Many Americans are appalled by the impression of its policy the administration has conveyed. They think the administration is ignoring fairness and impartiality in order to court those black African states, mostly petty dictatorships or paper democracies, that insist that no Rhodesian government with even one white fingerprint on it deserves the time of day. This distorts the views of a good number of officials. But it is a distortion fed by the administration's own acts and words, and it accounts for the puzzlement and hostility that its policy has stirred even in quarters where a sympathetic reaction might be expected.

Obviously, this is a matter not easily made clear. Having served at the United Nations, I know how easy it is for American diplomats, and for that matter American political leaders, to go along with the language of the totalitarians. But I know also that this must be resisted.

I would go so far as to say that almost the central political issue of our age is who is going to define what is democratic, what is liberal.

Who is to define what constitutes proper democracy, the democracies themselves or democracy's enemies? For onto six decades now, our democracy has been under assault by totalitarian regimes who claim that our system is not democratic at all, while theirs is. Their effort in this is unremitting. And, increasingly, they—and others with no interest in a democratic order—come to define the terms, while we increasingly allow them to do so.

(Mr. TSONGAS assumed the chair.)

Mr. MOYNIHAN. Mr. President, we do this for a variety of reasons: On the one hand, sheer exhaustion with the effort at resistance; on the other hand, something close to appeasement as one or another alleged "strategic" or "diplomatic" interest is advanced to counsel silence.

The pattern is everywhere: counsel silence with regard to the Soviets, lest our "strategic" interest in SALT be jeopardized; counsel silence with respect to Africa, lest our diplomatic "leverage" be dissipated, or our oil imports be jeopardized.

In the meantime, our most precious and important source of influence and leverage gradually disappears—our ability to defend the legitimacy of our own system of politics and society. Allow the dictators to define what is or is not democracy and they will define ours away.

It is a measure, or so I would contend, of the sensitivity of the American people to just this subject that they have displayed the unease about Zimbabwe-Rhodesia concerning which the Washington Post has commented upon.

Is there not one first fact? In all of Africa's 45 nations there are two—Gambia and Botswana—which Freedom House classifies as free.

And I am happy to see that our beloved former colleague, the head of Freedom House, Senator Clifford Case, is in the Chamber. Of all the 45 nations of Africa, two are classified as free. But now a new nation has come on the scene, following as free an election as you are likely to get anywhere in similar circumstances. To pick away as to just how free this election was is to suggest some other motive altogether.

In Africa, I believe it is a motive born of the dismal political arithmetic of the continent itself where the democracies are indeed outnumbered by their opposite or near opposite 43–2. It is in the interests of the nondemocracies to seek and to promote that which is nondemocratic. But what jars so is the impression that our own democratic Government could somehow become part of an antidemocratic enterprise. It is as if the century's fundamental political argument which I have noted—the one over the power to define what is and is not democratic in politics—has gone unnoticed by the leaders of the world's most important democracy.

There is a second fact. The armed opponents of the present Government of Zimbabwe-Rhodesia are not only backed by the totalitarian Soviet Union and the Chinese, they aver their complete adherence to the totalitarian standards of that regime. One of them, Robert Mugabe, in the Washington Post of April 17, 1978, has defined his own position. He advocates a one-party state because the "multi-party system, unless it is particularly desired by the people, is a luxury in a state which should concentrate on policies and the transformation of society." Zimbabwe's army, he says, "must be our army * * * pure and simple." Spoken like a man who has absorbed the Maoist dictum that political power grows out of the barrel of a gun.

The New York Post, in its editorial comment on June 9, 1979, quoted Mr. Joshua Nkomo, Mr. Mugabe's "co-president" in the "Patriotic Front." Broadcasting over Moscow radio recently, Mr. Nkomo said:

> Relations between the freedom fighters and the Soviet Union are excellent. The Soviet Union and other Socialist countries enjoy total freedom—they are free from exploitation and all other forms of oppression. . . . Our friendship with the Soviet Union are openly encouraging us to dedicate to fighting for our freedom. Our pains are their pains, our suffering their suffering.

Thus Mr. Nkomo on the world's most powerful totalitarian state.

If there were just some trace in the President's statement of June 7, or Secretary Vance's testimony before the Senate Foreign Relations Committee this morning that our Government knows who the enemies of freedom are in that distant country, things would be so much easier. But there was none. The President and Secretary seemed almost embarrassed to have to report that Bishop Muzorewa seems to have been installed in an election in which almost two-thirds of the population voted. Clearly they expected otherwise. Clearly they had been counseled otherwise.

How is one to take issue with the comment of the Wall Street Journal just 2 days ago which said:

> Now there's certainly a respectable case the President could have made for not lifting the sanctions totally and immediately. We certainly do have to think of our relations with Rhodesia's black-ruled neighbor states, and the President might also have said that he wanted enough flexibility to give him continuing leverage on the new Salisbury regime. But the President did not simply appeal to the Senate and the country on these prudential grounds. Instead he did more of the thing that's been getting everyone so mad at his African policy in the first place, which is to yell at the Rhodesians in the voice of outraged morality when the morality of the issue is in fact not on his side.

It would seem clear that the great majority of Americans, and certainly the majority of this Senate, share the Journal's judgment as to the rights and wrongs—largely defined—of this issue.

It is past the time when this situation can be retrieved, the dilemma resolved? We are obligated to try. A consistent and sustainable viewpoint is expressed by the AFL–CIO, for example, in a letter sent by George Meany to President Carter on June 7, 1979. The labor movement expresses its support for the continuation of the economic sanctions, but clearly in the context of strengthening the legitimacy of, and therefore the prospects for, the Muzorewa government. It proposes reasonable criteria for the removal of the sanctions including the retirement of Mr. Smith from the government, the elimination of the minority veto by reducing by eight the number of seats in the parliament reserved for the white minority, support for—and here an American contribution would be perfectly consistent with even the maintenance of sanctions—a program for the training of Blacks in and for the civil service, a guarantee of free trade union activity, assurance of due process of law, especially as it relates to the rights of groups and individuals.

This is very close to the position of Freedom House, which holds that sanctions should be lifted as soon as possible and in phase with continued progress. I should think that an approach of this sort might once have enjoyed the support of a majority in this body. It may yet do.

For, as I said at the outset, that civically responsible "center" of our public life, on which we really rely for effective governance, could almost disappear on this question. I have great personal respect for those among my colleagues who have been leaders of the effort to remove the sanctions against Rhodesia, but I have grave concern over the consequences should they come to be perceived in the world as the makers and leaders of American Africa policy.

On the other hand, my views as to the situation created by current policy as generated by the executive branch are also a matter of public record.

Finally, Mr. President, and I hope the President of the United States might hear these words, I suggest that this is not an isolated predicament as it affects cooperation between executive and legislature in foreign affairs. It is, in fact, a paradigm for the dilemma we face on SALT. For there, we will be presented with a treaty that is not easy to accept, but one equally hard to reject. The acceptance of bad policy hurts us; the repudiation of a President weakens us. How much will the Nation gain from either course?

Yet this seems to be the condition of our politics these days. As one who endorses the endeavors of the President, as one who entirely supports his efforts and applauds him for his energy, I should think he would want to counsel with us as to the origins of our common problem: His and ours.

And yet, I am disturbed by the growing sense that this is somehow more his problem than ours, more for him to understand how and why his foreign policies are made and unmade in a context of declining political support. But there is only so much we can do, perhaps only one thing—and that is to urge him to look closely about, in an effort to understand why things have come to this pass.

I will vote with the President today in the hope of giving him time to do better than we have so far done.

In closing, I hope he will recognize, as we all do, the extraordinary contribution of my revered senior colleague in making some satisfactory outcome at least possible.

Mr. THURMOND addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. THURMOND. Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. I wonder if we could get some idea as to when the Senate can come to a resolution of this matter. We have had a good discussion pro and con and on both sides of the aisle.

The manager of the bill is here, Mr. STENNIS; the ranking manager is here, the two chief authors of the amendment are here. Could we vote, say, by 7 p.m. in relation to the amendment?

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes. The Senator from South Carolina has the floor.

Mr. JAVITS. Mr. President, will the Senator from South Carolina yield to me?

Mr. THURMOND. Yes.

Mr. JAVITS. I am more than willing to see a unanimous-consent agreement. But I do think though to fix a time without seeing what Members want to speak and how much time is unfair for one Member to take the time. Personally I need 5 minutes, and I will happily work out anything the Senator suggests.

Mr. ROBERT C. BYRD. All right.

Mr. SCHWEIKER. I would like to have 5 minutes.

Mr. PRESSLER. Five minutes.

Mr. THURMOND. I would like about 12 minutes.

Mr. HELMS. Five minutes.

Mr. HUMPHREY. Ten minutes.

Mr. EXON. Five minutes.

Mr. LEVIN. Three minutes.

Mr. STENNIS. Mr. President, I want 1 minute.

Mr. HARRY F. BYRD, JR. Three minutes.

Mr. TOWER. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. The Senator from South Carolina has the floor.

Mr. THURMOND. I yield to the distinguished Senator from Texas.

Mr. TOWER. Rather than set a time certain why do we not agree to, say, 45 minutes to a side?

Mr. ROBERT C. BYRD. I think we can do less than that because the Senators have indicated how much time they want, and if we could just get consent that they be allowed to speak, then we can vote.

Mr. THURMOND. Mr. President, some of us have been sitting around for a long time while some Members of the Senate have spoken at length. But I personally do not intend to speak for possibly more than 12 minutes.

TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I ask unanimous consent——

Mr. CHURCH. I would like to have 5 minutes.

Mr. ROBERT C. BYRD. Mr. Levin 3 minutes.

Mr. President, I ask unanimous consent that the following Members be recognized each for the time designated: Mr. Javits 5 minutes, Mr. Church 5 minutes, Mr. Tsongas 5 minutes, Mr. Thurmond 15 minutes, Mr. Schweiker 10 minutes, Mr. Helms 5 minutes, Mr. Pressler 5 minutes, Mr. Humphrey 10 minutes, Mr. Exon 5 minutes, Mr. Harry F. Byrd, Jr., 3 minutes, Mr. Stennis 3 minutes, and Mr. Kennedy 5 minutes.

Mr. JAVITS. Mr. President, will the leader yield? The list read is not necessarily the order of speaking.

Mr. ROBERT C. BYRD. Not necessarily in that order.

Mr. SCHWEIKER. May I say, some of us have not spoken once. I have been here for 2 hours. There are a number of names in that list of Members who have spoken twice, and I hope they will have the courtesy of letting a Senator speak once before those who have spoken twice.

Mr. JAVITS. Fine.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank all Members.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 15 minutets.

Mr. THURMOND. Mr. President, section 802 of the procurement bill provides:

> On and after the date of enactment of this section or on and after June 30, 1979, whichever is later, the President shall not prohibit the importation from Zimbabwe-Rhodesia into the United States of any material determined to be strategic and critical pursuant to the provisions of this Act, nor shall he prohibit trade in lawful goods between Zimbabwe-Rhodesia and the United States.

In other words, Mr. President, after the date of enactment the President of the United States shall not prohibit trade between the United States and Zimbabwe-Rhodesia in material determined to be strategic and critical or trade in lawful goods. Mr. President, I think that is a reasonable provision to put in this bill.

The Zimbabwe-Rhodesian elections were given a clean bill of health by the 200-odd newsmen who covered them and by some half dozen observer teams from different countries. These observers ranged from conservative to left-of-center liberals. Among the American observers, for example, were Bayard Rustin, who played a leading role in our own black civil rights movement, and former Representatitve Allard K. Lowenstein of New York, who, as the Senators will recall, played a leading role in opposing the Vietnam war.

As examples of how the large international corps of press correspondents viewed the election, I want to quote one brief statement from the New York Times and another one from the Washington Star.

John Burns, the New York Times correspondent in Rhodesia, wrote:

> A common view was that the election, despite a number of important qualifications relating to the methods used to get voters to the polls in tribal areas, probably was one of the fairest ever held in Africa and, as an influential American delegation put it, freer than most that are held in the Third World.

The Washington Star correspondent, Lawrence Pintak, reported in much the same terms:

> The first universal suffrage election here has left the general impression that the exercise was largely free of overt government intimidation and marks a positive step toward true majority rule.
>
> Despite the fact that 72 international observers and more than 200 reporters—most of the latter eager to find fault—scoured the vast country for five days in search of irregularities, few concrete examples were uncovered.

Mr. President, the sanctions that were imposed on Rhodesia constituted an act of folly from the very first. If we wanted to be consistent about imposing economic sanctions on countries which do not have majority rule, we would have had to impose such sanctions on something like 90 percent of the member nations of the U.N. But to continue to impose sanctions against Rhodesia after that country has taken the difficult and dramatic step to majority rule would be worse than folly—in my opinion it would be the height of immorality, and treason to the cause of world freedom.

The choice in Zimbabwe-Rhodesia is brutally simple. On the one hand we have the black majority government which has just been elected, and recently installed, which is strongly anti-Communist and pro-Western, and which is committed to the free enterprise system and to continued cooperation between the races. On the other hand, we have the two guerrilla movements, led by Joshua Nkomo and Robert Mugabe, which are armed and guided by the Soviet Union, China, Cuba and the other Communist states; which are committed to the mass expulsion of the white minority from Rhodesia and have already engaged in dozens of bloodthirsty massacres against both blacks and whites; which have made no bones about the fact that they intend to impose a one-party Marxist dictatorship if they come to power.

I fail to understand how anyone who claims to believe in human rights can support the latter alternative.

I am convinced that the great majority of the American people and a substantial majority in Congress believe that the time has come to review our policy and to terminate the terribly damaging sanctions against Zimbabwe-Rhodesia. If Ambassador Andrew Young and the other extremist elements who have been advising the President on African affairs succeed in persuading the President that the sanctions must remain in force until the guerrillas are brought into the Zimbabwe-Rhodesian Government, they will not succeed in creating the kind of coalition government they sometimes seem to be talking about—they will succeed, instead, in completely destroying a democratically elected government that offers the only hope of peace and stability and freedom for the people of Zimbabwe-Rhodesia, and installing in its stead a bloodthirsty Marxist dictatorship subservient to Moscow.

Since Ambassador Andrew Young believes that the Cubans played a stabilizing role in Angola, it is possible that he would welcome such a development. But it would not be welcomed by Congress and American people because they know only too well that Marxism has nothing in common with freedom—for either black men or white men.

Mr. Stanton Evans, an observer to the elections, quoted Bishop Muzorewa, who is now prime minister, as saying:

> We have seen what has happened in other nations where people have become too emotional about their independence. The whites panicked and left, and those countries have suffered as a result. People are starving in Mozambique. We do not want that to happen here. We want our independence to be meaningful, so that the country prospers and people do not go to bed hungry.

When Reverend Sithole, Bishop Muzorewa's principal opponent, was asked by the press whether the fact that the new Parliament would have 28 seats reserved for whites would not make it suspect in the eyes of "the international community," he shot back:

> Perhaps if the international community did not have a double standard, they would understand our situation here. If some outside force had killed Mr. Smith, killed Bishop Muzorewa, killed Chief Chirau and killed myself, then proclaimed themselves the government of the country, no doubt the international community would have recognized them immediately.

According to Mr. Evans, this response brought a storm of applause from the press.

I note that the Senate recently voted to make Uganda once again eligible for American foreign aid, now that the brutal dictatorship of Idi Amin has been overthrown. I think this makes sense. On the other hand, it is necessary to weight the fact that the Idi Amin government was overthrown primarily as a result of an invasion by the armed forces of Tanzania, a country which is officially a one-party state, where the government owns all the media and strikes are illegal, where there are some thousands of political prisoners, and where, according to the authoritative report, "Freedom in the World"—torture and killing by the security services appears to be common. Nor can we ignore the fact that the country responsible for overthrowing the Idi Amin regime has for the past 2 years been placed in the second lowest category from the standpoint of human rights by the widely respected Freedom House survey of world freedom. It ranked just a shade above Angola and Mozambique, but substantially below Rhodesia—Rhodesia as it used to be, not as it is today.

I want to point out again that I am in favor of trading with the new Ugandan Government and of supporting it with American foreign aid. But I think that Congress and the administration would be grossly inconsistent if they now failed to grant precisely equal treatment to the democratically elected black majority government of Zimbabwe-Rhodesia.

Mr. President, I support the language of section 802 and therefore will vote against this amendment. On May 15, the Senate, by a vote of 74 to 19, urged the President to lift sanctions against Zimbabwe-Rhodesia. The President having refused to do so, I feel that the Senate must act today without further delay. The newly installed Government of Zimbabwe-Rhodesia deserves the support of the United States.

Mr. President, in closing, I want to say in simple words that we ought to acknowledge Zimbabwe-Rhodesia and lift the sanctions for two reasons.

First, it is the right thing to do. There is no question about that. People who are familiar with the situation generally feel that it is the proper thing to do under the present circumstances, and that it would be unfair to do otherwise.

Next, in our own interests, in the interests of the United States, we should lift these sanctions and should trade with Rhodesia. We bought chrome from Rhodesia at about half the price that we later had to pay to the Soviet Union; The Soviet Union obtained chrome from Rhodesia, and I am informed that they mixed it with the chrome of the Soviet Union and sold it to the United States at a much larger price.

How asinine can we be? How foolish can we be? Why do we play about like this? Why not be frank and do what we ought to do?

Mr. President, I want to say further that we have taken the wrong stand in giving aid or comfort or sympathizing with the guerrillas who have been trying to destroy Zimbabwe-Rhodesia and take over that country, and install a Marxist government. Instead of standing by the democratically elected president, Bishop Muzorewa, which we should be doing, I think we make a great mistake when we encourage those guerrillas who would turn that country into a Marxist government.

It is to the advantage of the United States to stand with governments that oppose communism. We must not give aid or comfort to guerrillas who would overthrow a democratic government and install a Marxist government.

I say to the Senate today, Mr. President, that we had better be on guard to try to protect this Nation from the purposes and the goals of the Soviet Union. They are trying to spread their sphere of domination. Communist aggression is evident today through the world, and as much as we can aline ourselves with free nations, independent nations, which are not connected with the Soviet Union and the group of nations working with it to spread communism, the better for the United States.

I hope that this amendment will be defeated.

The **PRESIDING OFFICER**. The Senator from Pennsylvania is recognized for 10 minutes.

Mr. **SCHWEIKER**. Mr. President, on May 15, by a vote of 75 to 19, the Schweiker-DeConcini resolution was adopted. It stated:

> The Congress finds and declares, with respect to section 27 of the International Security Assistance Act of 1978, that, number one, the Government of Zimbabwe-Rhodesia has demonstrated its willingness to negotiate in good faith at an all-parties conference held under international auspices on all relevant issues, and, number two, Zimbabwe-Rhodesians have approved, through free elections, the transfer of power to a black majority government.

Mr. President, nothing could be much clearer than that. If we stood 75 to 19 at that point for that position of American foreign policy, where are we today? What has happened that in any way has changed the situation different from the findings of that particular resolution?

I might say that, as I analyze what the other side is doing, first in the first amendment to the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and in the second amendment of the Senator from New York (Mr. JAVITS), it seems to me that instead of finding some common ground, instead of trying to come together in a meaningful way, the essence of the other side is purely delay, delay, delay.

During the first proposal when we considered this, the idea was to delay for 45 days. This was back in May. If we would just delay for 45 days, we could then somehow miraculously resolve the issue. I was one who went along with that. I was one who said, "That makes sense. Let us delay for 45 days so the President has time to consider all the factors and to weigh them. But let us also instruct him as to what the mind of the Senate was." We did that.

Then after election we heard the next proposal was to delay until the Commonwealth meeting in August. That was the next party line that was handed out, if we would just delay until the Commonwealth meeting so that Great Britain would not be embarrassed in the Commonwealth meeting.

The alternative presented this evening is another delay, only this time it is until December 1, 1979, this delay, a 45-day delay, an August delay, and now a December 1 delay. I think we ought to be frank and candid and say that all we are doing in delay and delay is to let Bishop Muzorewa slowly dangle in the breeze. Forty-five days would not do it, so we voted for 45 days. Then we say let us help Great Britain get over the Commonwealth meeting and delay it until then. Now we say let us delay it until December 1. If we wait until December 1, then we will give the President the right to renege on the whole delay and say in his judgment for the national interest he can decide not to do it after waiting until December 1.

It is pretty clear what is going on here. I hope my colleagues will not be duped by it. We do not really want to come to grips with it, to really judge what the election meant. We do not really want to say that a black majority government was democratically elected in Zimbabwe-Rhodesia. That is what this is all about. That is what the amendment to the amendment to the amendment means.

The tragedy is, in addition to letting Bishop Muzarewa dangle in the breeze, because that is what they are doing, because they risked their neck against a death list published by the other side to go to the polls to vote to stand for democratic procedures, we are letting him dangle now until December 1 so he can get struck down one way or another politically or through some other connivance.

The tragedy is that the President had an opportunity to grasp the common ground the Senate gave him in May when 75 Senators came together. If he really wanted to be a leader and a statesman, all he had to say a few days ago was something to the effect that we made tremendous progress, that it looks like we are going to have a coming together of these sides. And if the Bishop Muzorewa government would do these one, two, three, four specific things, which were reasonable, which were moderate, which were obtainable, then in fact we might have some leverage on both sides to get together and some leverage that would be productive and effective.

So the golden opportunity that the Senate gave the President he threw down the tube, he threw away, and now we are reverting back to the hard line approach.

I listened very intently to the President's statement on Zimbabwe-Rhodesian sanctions and I could not have heard a much more hard line retrenchment, go-back-to-square-one approach. Did I listen wrong? No, I did not listen wrong. Listen to what Mr. Mugabe had to say in the Washington Post on June 9. He said:

> Black nationalist leader Robert Mugabe today warmly welcomed President Carter's refusal to lift economic sanctions on Zimbabwe-Rhodesia and said his decision amounted to an American rejection of Bishop Abel Muzorewa's government.

Twisting in the wind, that is what he called it. He goes on:

> "Our hope is that the Carter administration will persist to the end with this stand to support the complete dismantling of the Smith-Muzorewa regime and create a clear path to the transfer of power to the people of Zimbabwe as a whole," Mugabe said in a statement issued today.
>
> In an interview before President Carter's announcement Thursday Mugabe said he was ready to consider new British proposals for ending the guerrilla war in southern Africa but virtually ruled out the possibility he ever would agree to participate in any future elections with Zimbabwe-Rhodesia's first black prime minister, Bishop Muzorewa.
>
> He also said a new round of negotiations over Zimbabwe-Rhodesia sponsored by London and Washington would have to be held directly between the guerrillas and Britain and exclude the Muzorewa government.

You cannot have it clearer than that. He is honest, straightforward, and frank. All we have done is throw the whole ball game to him in the name of delay and inability to decide, setback, and so forth. We threw away the opportunity that we had. It is rather tragic that we have done it this way because we had a common point to really solve some problems.

In essence now he have lost a great opportunity.

I think Mr. Vance said it very well.

He said there was a new reality in Rhodesia. That is what he said when he met with Lord Carrington, a new reality. Some of us hoped that was exactly what we were going to base our foreign policy on. But it was not. The President denied the new reality after Vance had stated it very succinctly and clearly.

All the Carter administration has done is to bury its head in the sand and pour cement around it. We are back to that square again and have placed ourselves in concrete. Mr. Carter said we have to throw out the constitution, hold another election, do this and that, and then maybe we will recognize them.

I get a little upset when I hear about throwing out their constitution because it does not meet our standards. What standards are they? What standards are they? The women of this country never ratified our Constitution. They were not allowed to vote. What standard was that? By our standard we ought to throw out our own Constitution because the women never voted it in. Certainly the blacks could not vote it in because they were all slaves. What standard is this that we are applying to Zimbabwe-Rhodesia that their constitution is not good enough for us and yet we did not let the women or the blacks approve our Constitution, or the poor. The poor could not vote back then. If you did not have a certain amount of property you could not vote. What a standard maker we are, and how higher than thou, holier than thou, we are in our approach to this matter. But we are going to hold out until they have a better constitution than we have and do the things right that we took 200 years to straighten out.

He did not say there was a 10-year clause in this and after 10 years it all reverts back to a black majority government deciding what kind of a constitution they want so they can correct all these inequities in 10 years. It took us 200 years to do that with the Voting Rights Act in 1965. It took us until 1921 to give the women the right to vote. So where is this America is only right and everybody else is wrong?

I think, Mr. President, it is pretty clear that they do not want middle ground in the White House; they do not want leverage to really work out a settlement. They just want to freeze the status quo. That is the tragedy of this situation.

Those of us who labored for middle ground so that we could see the evolution of a democratic Zimbabwe have been sold down the drain and we have been turned upon, ignored in terms of new reality. And now we are back to this, a bitter, bloody fight day after day. It will not be productive for anybody. But I certainly support Senator Byrd because I think he is basically right, since we have to make these decisions either/or, and since the President has thrown out the opportunity we had.

I support Senator Byrd's resolution, because that is the only choice the President gives us and I think it comes closest to doing what I intend it to do. I thought I was being a gentleman and did not mandate it so they would have some leverage to do these things that need to be done as statesmen. But they did not use that leverage and they have gone back to the hard-line bit and we never see that leverage. To delay the thing to December 1 is just ridiculous.

Mr. President, the issue before us today goes beyond a determination of the validity of the administration's policy toward Zimbabwe-Rhodesia. The Senate forcefully expressed itself on that score last month through the overwhelming passage, by a vote of 75 to 19, of the Schweiker-DeConcini amendment to the State Department authorization bill. The President's decision involves a shameless affront to a consensus painstakingly achieved. It represents a needless, shortsighted polarization on an issue demanding compromise and reason.

The President announces that economic sanctions will be retained indefinitely against Zimbabwe-Rhodesia because of its alleged imperfections. This is a cynical response which substitutes a misguided moralism for a considered judgment of objective conditions. It is certainly not a statesmanlike assessment of the "new reality" which has emerged in that beleaguered country. Even Mr. Carter admitted the recent elections appeared "to have been administered in a reasonably fair way under the circumstances."

Apparently, the new black majority government, in the President's mind, fails to satisfy the criteria established by present law. But the President's convoluted arguments do not even provide a yardstick by which this government could measure its viability. No definition of additional "progress" was offered to supplement Mr. Carter's assertion that "some very encouraging progress" had been made.

How, indeed, has the administration measured the progress achieved thus far? It spurned the transitional government's invitation to monitor the April elections. Through the application of contorted logic, it was assumed that to do so would confer legitimacy on the transition process and compromise our supposed impartiality. Yet now we learn that a decision characterized as "right and decent and fair" conveniently overlooks the favorable testimony of outside observers and news media. It accommodates the power-hungry schemes of marxist and terrorist guerrilla leaders unalterably opposed to the kind of compromise on which the new government is based.

Are we prepared to undermine the progress that has been made by blindly pursuing our present bankrupt policy? Or is it not time to reverse this policy and avert the rendezvous with disaster which our current stance encourages by default?

The President's glib recitation of the alleged defects of the Zimbabwe-Rhodesia Constitution was notable both for inaccuracy and supreme arrogance. The essence of self-determination for Zimbabwe-Rhodesia is that the method by which the country is governed should be determined by the country's citizens and not by the governments of Britain, America, Nigeria, or the so-called front-line states. Zimbabwe-Rhodesia's Constitution is a contractual agreement negotiated by one white and three black political parties in March 1978, and endorsed by a 64 percent voter turnout in April 1979. The minority safeguards approved by blacks—and there were similar safeguards in the Anglo-American plan—were considered desirable during a transitional period to preserve white skills. Neighboring African countries ignored this transition and paid the price of a white exodus and subsequent economic dislocation.

Furthermore, it is quite inaccurate to say that the Constitution gives the white minority continued control over the Army, police—which are 80 percent black—judiciary and civil service. What the Constitution does provide is that the management, not the political control, of those agencies will be in the hands of persons of demonstrated competence and experience for a brief period of 5 to 10 years. The functioning of those agencies will be under the control of predominantly black political ministers. There is nothing in the constitutional arrangement to block the rapid advancement of blacks to additional positions of leadership.

Clearly, certain aspects of the constitutional settlement need further refinement, but the transition to true black majority rule cannot be accomplished overnight. Is the United States so arrogant as to assume that the people in Zimbabwe-Rhodesia cannot make the necessary changes during a specified timeframe? We denied the fruits of democracy to many of our own people for an unconscionably longer period. In fact, some would say we took 200 years.

As black civil rights leader and observer of the Rhodesian election, Bayard Rustin, has cogently noted:

> I do not think the (Zimbabwe Rhodesia) constitution is ideal, but neither was the American Constitution when it was established. It did not permit blacks, women or poor people to vote and it did not contain a Bill of Rights.

Mr. President, I do not quarrel with the notion that the government of Bishop Muzorewa needs to demonstrate expanded support to insure its viability. Furthermore, I believe we must consult closely with the British in devising a policy which meaningfully addresses the "New Reality" in Zimbabwe-Rhodesia which Secretary Vance has described. What I reject is the administration's fatuous assumption that the "imposed" participation of the Patriotic Front is a necessary condition for the international acceptability and internal stability of the new regime. Despite repeated invitations to cooperate peacefully in the difficult transition to black majority rule, the guerrilla leaders have flatly opposed any formula which did not involve an outright concession of power.

The administration should attempt to build upon the progress already made, instead of irresponsibly calling for the effective dismantling of the constitutional, democratic framework emanating from the Salisbury agreement. The President's action has taken us directly back to square one. The Front refuses to participate peacefully. This exposes the administration's unrealistic expectations that its discredited policies might yet be salvaged.

This warmed-over version of the defunct Anglo-American plan is clearly inconsistent with the objective realities in Zimbabwe-Rhodesia, as well as with the British Government's current attempt to define a more responsible course of action. The rationale offered for this stance is that, by continuing to keep Zimbabwe-Rhodesia's economy in a precarious position—along with its new government—we can limit adventurism by outside forces. Logic would again argue just the reverse.

By virtue of the fact that last month's vote on the Schweiker-DeConcini resolution only recommended, but did not mandate, changes in our present policy, the Senate demonstrated its willingness to work with the President toward a reasonable course. Indeed, the amendment offered by the distinguished majority leader, in conjunction with the Schweiker-DeConcini measure, gave the President until June 30 to assess the available evidence of Rhodesian compliance with present law. The President's decision unilaterally ruptures that consensus. Let us not forget that the Senate voted on the basis of the conditions set forth in present law, and not on the arbitrary attachment of other, undefined demands which transcend the scope and intent of that amendment.

How much time must elapse and how many new conditions must the Muzorewa government meet before its legitimacy is validated? Is not a 64-percent voter turnout sufficient indication that the present consitutional settlement is acceptable to the people of Zimbabwe-Rhodesia themselves? How can we credibly demand that Zimbabwe-Rhodesia now demonstrate its long-term survivability, when the retention of sanctions jeopardizes this goal?

By its action last month, this body spurned partisanship and empty posturing and assumed a mantle of leadership which has been sorely lacking. Yet the manifestation of leadership should not be interpreted as an attempt to usurp the President's constitutional prerogative in making foreign policy. As a co-equal partner in the decisionmaking process, Congress has every right to express itself on the criteria for a change in our Rhodesian policy. We promulgated it last year and the President accepted. What the Congress has the right to impose, it also has the right to withdraw.

Mr. President, I urge my colleagues to address soberly the consequences of a continuation of present administration policy. Let us be clear that we maintain an abiding interest in the development of a democratic Zimbabwe-Rhodesia on a continent notable for petty dictatorships and paper democracies. Indeed, the "moral posturing" of many of these states on the Rhodesian question represents the height of hypocrisy. It would be especially tragic if the United States, long the proponent of political liberty and democratic pluralism, were to give less than full support to a fledgling constitutional democracy. How conveniently we omit references to morality in normalizing relations with totalitarian states when it is deemed in our interest to do so.

If a constitutional democracy under black majority rule fails now, or founders because the United States did not actively support it with the timely lifting of sanctions, the probability is strong that Zimbabwe-Rhodesia ultimately will be ruled by forces hostile to the West and to democratic government. With a realistic policy, the United States can encourage the kinds of desirable reforms in Zimbabwe-Rhodesia which are precluded by clinging to outmoded concepts.

I urge my colleagues to reassert the enlightened leadership necessary to save our policy from self-destruction.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. EXON. I thank the Chair.

Mr. President, about 4 hours ago, I walked on the Senate floor with my friend from Virginia (Mr. HARRY F. BYRD, JR.), because I was very interested in the debate that would follow. I have not been disappointed, Mr. President. When I looked forward to coming to the U.S. Senate, I knew there would be days like this when I would listen to some of the best logic and some of the best oratory that I had ever heard. I have been very much impressed with the very forthright positions that have been announced by those who have very legitimate differences of opinion on this critical issue.

Mr. President, I rise to support the position of the distinguished Senator from Virginia. I hope that, without too much ado, we can finally come to a vote on this matter—once again, not to be repetitious, but to say once again that I hope that the Senate of the United States will not reverse a policy that we established on May 15 last. But I say that the Senate has reversed itself many times in the past and if it does so again tonight, I think we are taking a step backward.

What I have heard in the debate today convinces me that one thing comes through very loud and very clear: that is the fact that anyone stepping back from the heat of the battle would have to agree that the United States of America does, indeed, have a fumbling, bumbling policy as far as Africa is concerned. I have heard statements made here by people who, I am sure, made them in good faith, with regard to the fact that the elections there were not right, they were not proper. We can think back, you know, to a few weeks ago, when we were prepared for the fact that there were not going to be proper elections in Rhodesia. In fact, it was said that probably no more than 19 or 20 percent of the people would vote there. Ambassador Young, I think, was the leading wedge to prepare us in advance that those elections, regardless of how they came out, could not be good.

But what does the record show? It shows that in the elections in Rhodesia, in April, 63.8 percent of the eligible people voted in that country, in a democratic election, although it might not have been perfect. Let us compare that, if you will, with the percentage of people in the United States of America who have voted in recent elections. Compare it, now, with the 63.8 percent that voted in April in Rhodesia. In the United States in 1978, of the eligible voters, only 37.9 percent cast ballots; in 1976, only 50.4 percent; in 1974, 39 percent; in 1972, 55.7 percent; in 1968, 60 percent; and, way back in 1964, 62 percent.

I suggest to my colleagues in the U.S. Senate that, regardless of how imperfect that election over there was, it was certainly as perfect as most of the elections that we hold in the United States of America and, indeed, there are probably few, if any, Members that serve in the U.S. Senate today that were elected in an election where 63.9 percent of the people in their States voted.

I am also struck, Mr. President, with the fact that we Americans still are idealists beyond any reasonable bounds. We still cringe at the fact that, just because Nigeria—and the point was made here in debate—that Nigeria does not like it, Nigeria does not like what happened over there and they do not think the elections were fair; if we lift our sanctions, Nigeria might penalize us by reducing some of our treasured oil supplies, those treasures that, sometimes, I am afraid Americans will do anything to obtain.

Mr. President, I must say that I wonder what the people in Rhodesia think of us today. What is it that we want them to do? I think that is a legitimate question. I would say that if we do not lift the sanctions and help that elected government, regardless of how imperfect that election might have been, unless we recognize that it was an election where a substantial amount of the people came out, I suggest that America, once again, is sending a signal to Africa that "We will not even lift sanctions against you when you do what we basically asked and wanted you to do."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EXON. I thank the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 5 minutes.

Mr. PRESSLER. Mr. President, this particular vote is a very difficult one. I rise as one who supports the concept of lifting sanctions. Indeed, I so voted recently. Since the vote in the Senate, at least two or three things have occurred that may make it a different situation.

In the last vote, we urged the President to lift sanctions, then waited for the President's decision. The President subsequently decided not to lift those sanctions at this time, although he left a wide latitude of options, month by month, in his proposal. Also since the vote, the British have held their elections and have, I think very wisely, elected Margaret Thatcher their Prime Minister. The matter will come up for review in the Commonwealth Parliament, the Parliamentary Union, meeting in August or September. Yesterday, we learned of the Tsongas amendment, which would have, essentially, kept the situation as it presently is.

We have had a debate here on whether or not the Senate should act to lift the sanctions which the President decided against. Under our system of formulating foreign policy and under the concepts that have been laid down from Arthur Vandenberg and others, it is my feeling that the Senate should participate in formulating foreign policy, and should go out of its way to assist the President in leading us in foreign policy. In this case, it is my feeling that if the Senate felt so strongly that it was going to make it a law, that it was going to go on record not just as recommending but as requiring the President, we should have done that prior to his making his decision. To reverse the President at this point would create a very difficult situation in Rhodesia and in terms of our overall African foreign policy.

I might also say that we must consider the implications of this whole matter in the sense that we are importing about 12 percent of the oil that we import from Nigeria. Certainly, we would not make the foreign policy decision based on pure economics, but we must work toward a compromise settlement.

I believe that the compromise amendment that has been offered, and worked out in the Foreign Relations Committee, I believe, this morning, and is supported by my colleague (Mr. HAYAKAWA), is an agreeable compromise.

But I also say that I am insistent that those sanctions be lifted on December 1, 1979. I hope that the President gets a loud and clear message that the period of time is to be used to see and to consult with the British as to their preference, that is, it is their initiative.

Also, it is my hope that the President will look closely at the margin of the vote that we witnessed here about 3 weeks ago, and that month by month he has the option to lift those sanctions.

I shall cast my vote very reluctantly, but in the interests of what I think is a very proper and very carefully drafted compromise amendment.

I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 10 minutes.

Mr. HUMPHREY. I thank the Chair.

Mr. President, in April, some 64 percent of the eligible resident voters of Rhodesia turned out to participate in an election which was called remarkably fair by a great many observers. Even one of the opponents of Bishop Muzorewa, Mr. Sithole, some 5 days before the elections praised them as being fair.

The Senate some 3 weeks ago, by a vote of 74 to 19, proclaimed for its part it considered the election to be both free and fair.

I wonder how many of the dictators in Africa whom President Carter seems so afraid of offending would be willing to hold elections as free and as fair as those conducted in Rhodesia or would be willing to conduct any kind of elections, fair or otherwise.

In essence, it seems to me, Mr. President, what the President has proposed to do is add a few more innings to the ball game to see if the guerrillas, the vicious, bloody, Communist backers, cannot win it in a few more innings.

It is very unfair and a shameful policy, in my opinion.

Let us face it, Mr. President, what is occurring here in the Senate Chamber is a contest between the President and this body. I can understand why certain Members, why any Member on occasion, would support the President. I can especially understand it if the Members are of the same party. But this is not a partisan issue.

The question which we are facing today is a question of fairness. Does the United States keep its word or does it not? Does the United States support democracy or does it not? Does the United States have one set of standards for certain countries and another set of standards for other countries?

Those are the questions to be decided here, Mr. President. It is not a partisan question at all.

I believe very sincerely the President is mistaken in this, as he was mistaken in his actions with regard to the Panama Canal and with regard to his actions in pulling the rug out from underneath our allies in Taiwan.

The Senate would be fully justified today in parting company with the President on this issue. Indeed, I would suggest we would bring shame upon this body and ourselves if we did not.

I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Michigan is recognized for 3 minutes.

Mr. LEVIN. Mr. President, I support the amendment offered by Senator JAVITS and other members of the Foreign Relations Committee. The amendment provides the vital element of flexibility—today a prerequisite to effective foreign policy.

At this critical juncture in the political evolution of Zimbabwe-Rhodesia, we should grant the President the authority to bring about a timely renewal of trade relations with Zimbabwe-Rhodesia, but without inflexibly tying his hands. The delicacy of the matter is manifest, and has been established this morning once again by Secretary Vance.

In adopting the Javits proposal, Mr. President, the Senate sets the direction and boundaries of foreign policy without needlessly restricting it.

If we adopt the Javits amendment, we also will avoid adopting legislation which would prevent us from moving quickly as the events of Africa move quickly.

Mr. President, I commend Senator JAVITS and the other Members who cosponsored this amendment for the reasoned wisdom embodied in their amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the unused portion of my time be transferred to the junior Senator from Iowa.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. JEPSEN. I thank the Chair.

Mr. President, it is true that, to a degree, Rhodesia's constitutional formula for allocating power today gives whites disproportionately advantages. But the formula is explicitly transitional. And complaints about deviations from "one man, one vote" should not issue from the United States where, under permanent constitutional provisions, 14 States with 4.7 percent of today's population have 28 percent of the Senate seats. Rhodesia has done what the American Founding Fathers did when they resolved the dispute between the big and little states at the Constitutional Convention in 1787. That is, Rhodesia has accommodated constitutional arrangements to powerful interests.

And the United States should not be sniffy about nations that expand democracy step-by-step through constitutional evolution. In 1790, suffrage in America was, primarily, the right of wealthy white males; and not until 1964 did all blacks have an effective right to vote.

There was pressure on all Rhodesians to participate in the elections. But the terrorists used bombings and killings to discourage voting, which they called a "war crime." About 60 percent of the eligible electorate voted anyway in Rhodesia.

I might compare that, in 1978, in Andrew Young's and President Carter's Georgia, the figure was 18.6 percent.

Methodist Bishop Finis Crutchfield, a long-time friend of Muzorewa who currently serves the Houston area, said on Sunday, June 10, 1979—last Sunday—of Muzorewa, in a speech he was giving at the 50th anniversary celebration of the congregation in the Boston Avenue Church:

> "He is a long-time friend, and we correspond regularly. I pray for him every day, but I fear there are just too many strikes against the type of government he is trying to form for it to succeed."
>
> Crutchfield mentioned other factions vying for recognition in Zimbabwe-Rhodesia, including individuals heavily supported by Communist Cuba, but important among the obstacles, in his opinion, is refusal by the U.S. government to lift sanctions imposed by our State Department, and therefore, to recognize the Muzorewa government.
>
> "Muzorewa is a man of great faith," said Crutchfield. "He cannot be held responsible for everything someone else in his country does.
>
> "When we have recognized almost every tin horn government in Africa, including some established by Communists, I can't understand why the United States will not recognize this good man who wants to begin with a free election, and to establish a democratic form of government."

The Anglo-American plan for Zimbabwe-Rhodesia calls for some 24 seats exclusively reserved for whites—yet the Senator from Ohio complains that the internal settlement reserves some 28 seats. Are we really concerned about the principle involved or are we arguing about four seats?

Provisions for white control of important government positions were agreed to by the various internal black groups involved in the internal settlement. They were agreed to, Mr. President, for one reason and one reason alone: Black and white factions alike shared a deep and genuine concern for the security, economy, and well-being of all Rhodesians.

The various factions agreed that they should do all they could possibly do to encourage the white minority—with its bureaucratic and economic skills—to remain in Rhodesia.

American policy, I am sorry to say, has had the effect of thwarting the hopes and aspirations of those who seek peaceful change in Zimbabwe-Rhodesia; of those who would avoid the political and economic pitfalls of the majority of post-colonial Africa; of those who—under the most desperate circumstances—are attempting as best they can to bring order out of chaos, and establish the democratic process in Zimbabwe-Rhodesia.

The amendment before us, Mr. President, asks us to wait: To wait while this newly elected government fights for its very survival; to wait while the front-line states surrounding Zimbabwe-Rhodesia tighten their grip in the whole of southern Africa; to wait, every minute we debate here, for the Russian advisers and their Cuban surrogates to continue to move the troops and the guns down to the borders of Rhodesia.

I fear that if we wait too long—perhaps even as soon as December—the situation may deteriorate. Not necessarily because the new government is inept, or because it does not enjoy popular support, but simply because the United States did not act, when it had ample time, to support its interests in southern Africa.

Some of my colleagues are concerned about the consequences of lifting sanctions, as well we should be. But do my colleagues believe that they will be able to establish amicable and useful relations with the leaders of the so-called "patriotic front"? With Nkomo, with Mugabe?

I submit, Mr. President, that the questions before us are those of choice and of leadership. We can choose to support the government we prefer, or be inevitably left with a government chosen for us. We cannot be certain that the lifting of sanctions will lead to a peaceful conclusion of the present conflict. But we can be certain of one thing: Without at least tacit support of the United States the Government of Zimbabwe-Rhodesia cannot long survive in its current form as long as its principal enemies are actively supported and encouraged by the Soviet Union, which has been admitted by some of the proponents of the amendment—including one of its sponsors—even as late as today.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JEPSEN. Mr. President, will the Senator from North Carolina yield me 2 minutes?

Mr. HELMS. I yield 2 minutes to the Senator.

Mr. JEPSEN. I thank the Senator from North Carolina.

This brings me to my final point, Mr. President, the issue of leadership.

Prime Minister Ian Smith, for all his faults and shortcomings, asked a rather piercing question several months ago. He asked the government of the United States:

> Are you or are you not the leader of the free world?

We are the United States. If we need fear the retribution of smaller states; if we, in effect, must rely on the limited power of a newly elected government (which badly needs our support) to secure our interests; or if we allow the raw power of hostile governments to determine the ultimate outcome of the Rhodesian crisis; then, Mr. President, there is indeed reason for deep concern about the future of U.S. foreign policy.

The President has continued to delay; the Senate now has an opportunity to act. I would have preferred the President do this himself—but I believe that it is fully within the bounds of the Senate's powers to narrow the language found in the bill before us, and I believe it is in our interests to do so.

Mr. President, I yield back the remainder of my time to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, it is time for the Government of the United States to keep faith with the people of Zimbabwe-Rhodesia. It is time for the United States to lift sanctions. This is the bare minimum of what we should do as a nation—and it is long overdue.

Just a few weeks ago, on May 15, by a stunning majority, the Senate went on record declaring that the elections in Zimbabwe-Rhodesia were free and open, and that the transitional government of Rhodesia had made a good faith attempt to negotiate with the Patriotic Front guerrillas.

The Senate said, in effect, that the terms of the Case-Javits amendment had been met.

Case-Javits was the standard set up by Congress and signed into law by President Carter, to be applied to Rhodesia. If Rhodesians met those standards, they and we were told, then sanctions would be lifted.

An overwhelming majority of Senators, more than three-fourths of the Senate, stated that, indeed, Zimbabwe-Rhodesia has met those standards.

But now, President Carter has chosen to retain sanctions for the moment, apparently ignoring the strong expression of the U.S. Senate—no other light can be put on it.

Instead, the President appears to be setting up a new standard for Zimbabwe-Rhodesia. He has stated that he will review the situation there periodically—to see if improvements have been made. "To see if improvements have been made"—what sort of subjective standard is this, Mr. President?

Is not the strong expression of more than three-fourths of the U.S. Senate good enough for President Carter?

I should think so, but, obviously, it is not. So, once again, the President finds himself in a dilemma. Ignore the Congress, pursue a bankrupt policy, and face the possibility of legislative override of that policy—or "nonpolicy", as I have heard it described recently.

Mr. President, I do not desire to be in this position today. I have kindness in my heart for President Carter. As I have told the President on a number of occasions, I do not see a partisan confrontation over the question of lifting sanctions against Zimbabwe-Rhodesia.

But the President's actions leave no other course of action open, if we are to honor our commitment to the people of Zimbabwe-Rhodesia, if we are to deal with them in good faith equal to that which they have demonstrated.

Mr. President, there are some who, lately, have thrown up still another in what seems like an indeterminable list of arguments for delay on lifting sanctions against Zimbabwe-Rhodesia.

Here, I speak of the argument now making the rounds that we must wait for Great Britain. After all, it is argued, Rhodesia is—first and foremost—Britain's problem, Britain's former colony.

Mr. President, the United States has interests in Zimbabwe-Rhodesia that are different from those of Great Britain. We have no colonial interest there; we were not Rhodesia's colonial master, with all of its attendant problems, and with the national trauma of Rhodesia's defiant break with its former master. Thus, our interests and Britain's do not coincide as much as some would have Senators believe.

Our interests are strategic, with our national need for Rhodesia's vital high-grade chromium ore, and equally as important, we have a critical stake in a peaceful southern Africa. That peace and stability will be enhanced by recognition of Zimbabwe-Rhodesia. The guerrilla war will wind down; the Zimbabwe-Rhodesian model will be there for South Africa, proving that a multiracial government popularly elected can work. If for no other reason than avoiding race warfare in South Africa we should recognize Zimbabwe-Rhodesia today.

Mr. President, I am persuaded by those who carelessly warn of an oil embargo by Nigeria if the United States moves to lift sanctions. Nor, I might add, are a number of high-ranking Africa specialists in the State Department, who have made it clear that potential losses of Nigerian oil will be made up from other sources. The entire matter is open to question when one considers that Nigeria must have a daily influx of oil revenues in order to keep its fragile economy in good operating order. Thus, Nigeria needs us as much as we need Nigerian oil—and their threat to us just doesn't stand the test of credibility.

Mr. President, we have the opportunity today to lift the sanctions against Zimbabwe-Rhodesia. There are rumors of amendments to be offered again attempting to stall the inevitable, to delay, to give a bankrupt policy more time to prove its bankruptcy. I have a feeling, though, that people have had enough of delay for no reason, and want to see sanctions lifted with all deliberate speed. That is why I feel that the actions of the Committee on Armed Services is a proper one, and I give it my wholehearted support. Attempts to bring about further delay are no good. It is time for us to keep faith with the people of Zimbabwe-Rhodesia, and move to lift sanctions.

Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I think that, under the agreement, I have 5 minutes. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, I am strongly opposed to lifting economic sanctions against Rhodesia at this time, and therefore I support the amendment proposed by Senators Church, and Javits. The President's determination not to lift sanctions deserves the support of the Senate: President Carter has made a wise decision, one that is clearly in our best national interest.

Those who wish to lift sanctions must bear the burden of proof.

Proof that they will not set back our political and economic interests throughout Africa, including those with Nigeria which is our second largest supplier of oil.

Proof that they will not open the door wider to Cuban and Soviet involvement, further reducing the prospects for peace in southern Africa.

Proof that they are abiding by the international obligations of the United States to enforce sanctions mandated by the UN Security council.

Proof that the recent elections in Rhodesia were free and fair, despite the evidence of intimidation in and around the polls, and despite the fact that the constitution on which they are based was agreed to by only 3 percent of the Rhodesian population.

Proof that we maintain close consultations and coordination with our British and other European allies, all the Rhodesian parties and the African States, all of which have infinitely more at stake in Rhodesia than the United States.

Those who would lift sanctions have not demonstrated any of this. They ask the United States to move unilaterally in disregard of our United Nations obligations and our relationships with our British allies. They ask us to take the onus first for lifting sanctions on our own, rather than formulating our policy carefully and in concert with our allies and African States. They ask us to unravel the new and important relationships we have established throughout Africa, for the sake of a white-controlled status quo in Rhodesia. The facts in each of these areas clearly demonstrate the inappropriateness of lifting sanctions at this time.

The United Nations Association, the Lawyer's Committee for Civil Rights, and the National Bar Association have already submitted reports on Rhodesia commissioned by Senator McGovern and me and 10 other senators. These reports address our international legal obligations, the New Rhodesian Constitution, and whether and to what degree the recent elections were free and fair.

First, these three independent reports all categorically state that in lifting sanctions the United States would be violating its treaty obligations. The National Bar Association states:

> The United Nations Charter is a binding treaty of the United States. The charter was submitted to the Senate for ratification as a treaty and was considered a treaty in the ensuing debates.

As my colleagues are aware, the Constitution states that—

> All treaties made, or which shall be made under the authority of the United States, that the supreme law of the land * * *

As a member of the United Nations, the United States has a legally biding obligation to comply with the Security Council's mandatory sanctions on Rhodesia. Far from vetoing these sanctions, as we had the authority to do as a permanent member of the Security Council, the United States actively supported sanctions, and until the present time, we have abided by our U.N. obligations. Arthur Goldberg, not only a former Supreme Court Justice but our Ambassador when the United Nations adopted mandatory sanctions in 1966, says that—

> All members of the United Nations, as a result of these resolutions of the Security Council, including our own, became legally obligated to apply these sanctions * * *

In 1974, Secretary of State Kissinger wrote to Senator Long:

> The Rhodesian sanctions were adopted by the Security Council in accordance with provisions of the United Nations Charter concerning mandatory resolutions. I continue to believe that the United States should abide by its charter obligations which became applicable when the sanctions resolutions were adopted with U.S. support.

The Congress should not now unilaterally supersede obligations freely undertaken by the United States at the U.N. Security Council. We should not invite other nations to flout at will the mandatory decisions of the Council—decisions over which we have veto power, and decisions which we have always sought to sustain since the inception of the United Nations. If the sanctions are to be rescinded, we should seek to do so at the U.N. Security Council, not in the U.S. Congress.

Second, all of our independent reports agree that the January constitution does not meet the definition of majority rule. The lawyers' committee report states:

> The retention of control in the hands of whites and the disproportionate voting system, are in fundamental disagreement with the concepts set forth by the international community.

According to the National Bar Association:

> The white minority, comprising no more than three percent of the population, is given perpetual control over several critical institutions of power, including the police, the armed forces, the civil service and the judiciary.

The United Nations Association report concludes that:

> The Rhodesian constitution does draw distinctions based on race in the rights accorded individuals to participate in the process of governance. . . .

This is a constitution which does not protect basic human rights and which does not provide a foundation for true self-determination. This is a constitution which perpetuates the status quo enjoyed by the tiny white minority for nearly 90 years. I ask my colleagues, how can such an unjust constitution, one on which only the 3-percent white minority was allowed to vote, provide the basis for a free and fair election?

Third, all of our independent reports conclude that the recent elections in Rhodesia were neither free nor fair. Not only were the patriotic front and political detainees excluded from participating in the election, but there was no provision for equal representation and equal voting rights. According to the United Nations Association:

> The constitution approved by the white electorate * * * specifically provides for separate electoral processes for white and black racial groups.

The National Bar Association report elaborates:

> White Rhodesians were permitted to vote twice—once for white representatives to the House and Senate, and once for black representatives to the House and Senate. On the other hand, black Rhodesians were permitted to vote only for black representatives to the House and Senate.

This is against the background of a constitution which grants the white minority, composing 3 percent of the population, 28 percent of the House seats, and 33 percent of the Senate seats. In the face of such facts, how can any objective observer conclude that the recent Rhodesian election was either "free" or "fair"?

Mr. President, lifting the sanctions will intensify the civil war in Rhodesia. It would signal U.S. intervention on one side of this civil war. It would lay the groundwork for increased intervention in the future. It would compound the suffering of the Rhodesian people.

It is a tragic irony that the opponents of sanctions wish the United States to take the first responsibility for lifting them. Why should we? Why should not the first choice be made by the sovereign power, Great Britain, in consultation with us and other members of the U.S. Security Council? If sanctions are to be lifted against the widespread and justified opposition of Africa and the world, then the United States should not rush to assume the burden and the blame for such an action.

Nor should we forget that lifting the sanctions will increase the opportunities for Soviet and Cuban influence in southern Africa. If we side with one side of the conflict, we should not be astonished if the other side turns to the Soviets and their allies for assistance. I find it perplexing that those Senators who are most concerned about Soviet activity in Africa are the ones who wish to lift sanctions.

Mr. President, I believe that we and our allies have an opportunity to help bring about a peaceful transition to genuine majority rule in Rhodesia. We have an opportunity to achieve beneficial and lasting relations with the nations of Africa. We have an opportunity to pursue our best interests and abide by our international commitments. Let us not undermine these major opportunities today by voting to remove unilaterally the sanctions against Rhodesia.

I request that a memorandum on Rhodesian sanctions, prepared by the Washington Office on Africa, be printed at this point in the Record.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

Lifting Sanctions: The Road to Disaster in Rhodesia

1. Lifting sanctions will intensify, not stop, the war.—The removal of sanctions will enable the Muzorewa-Smith regime to get more

military aid and weapons to step up its prosecution of the war. The Rhodesian Information Office has publicly stated that it wants "access to weaponry . . . which we have been denied these many years." Bishop Muzorewa recently indicated that he is not interested in negotiating with the Patriotic Front (Washington Post, June 3). Support for his government will only increase his intransigence and the possibility of full-scale war in the entire region. Raids into neighboring countries have continued following the April elections and the Bishop's party has openly pledged to bring down the legitmately elected government of President Kenneth Kaunda in Zambia. Bishop Muzorewa is expected to sign a defense pact with South Africa, setting the stage for a full-scale civil war and a deadly North-South, East-West confrontation with the United States on the side of one faction backed by South Africa, in opposition to the rest of Africa and the eastern bloc.

2. The removal of sanctions would be the first step towards costly U.S. involvement.—

Resuming trade with Rhodesia would be the beginning of growing demands for U.S. aid and support. The economy is in shambles. War costs are running at more than a million dollars a day, exports have fallen sharply and so has farm production—the backbone of the country's finances. Without huge injections of foreign aid and an end to the war the country cannot hope to recover. As the *Economist* reported on May 26, "The capacity for increased production simply does not exist . . . Five years ago the abolition of sanctions would have transformed the economic position in Rhodesia; today, mainly because of the war, this is no longer so."

If the United States commits itself economically, it will have a bigger stake in maintaining the Muzorewa-Smith regime in power. In the words of New York Times columnist Anthony Lewis, the U.S. would run "the risk of being drawn into responsibility for the survival of the Muzorewa Government: the risk of finding ourselves in a southern African quagmire."

3. Lifting sanctions would invite greater Soviet and Cuban support for the Patriotic Front.—

If the U.S. backs the Muzorewa-Smith regime, the Russians and Cubans will be asked to increase their support to the Patriotic Front and the front-line states. Their popularity and credibility as the friends of African liberation would be enhanced while the U.S. would be thoroughly discredited as an ally of white racism. If Carter lifts the ban, America will be the loser. According to the *U.S. News and World Report* on June 4, "Russia and Cuba would wind up big winners. Ending sanctions would be seen as a sign that the U.S. had lost interest in a settlement that included the rebel Patriotic Front. Black states would reject idea of a peaceful solution, ask Moscow and Havana to intervene. Within a short time, all of southern Africa could become an East-West powder keg."

4. Removing sanctions would irreparably damage America's relations with Africa.—

African nations which have good relations with the U.S., such as Nigeria, Liberia and Kenya, have warned Americans that they would view the lifting of sanctions as an unfriendly act against the whole of independent Africa. The Organization of African Unity Secretariat issued a statement on May 22, warning all nations who are tempted to lift sanctions, "Recognition of the government of Muzorewa cannot be an easy way out of a complex problem. . . . While there is still time they should work towards an internationally accepted solution in Zimbabwe. To defy reason and African opinion is to plunge themselves into a situation the consequences of which they cannot predict."

One consequence could well be a cutback of oil from Nigeria which supplies the U.S. with approximately a million barrels a day, about one in every eight gallons sold here, worth more than $5 billion annually. Nigeria is displaying a new willingness to use its oil as political leverage against Rhodesia and South Africa. For example, Nigeria recently refused to allow British companies to bid on a contract worth $200 million for port construction. Lifting sanctions could well jeopardize U.S. trade with Nigeria—America's biggest market in Africa with U.S. exports just under one billion dollars and investments worth $1.2 billion.

5. Many influential American groups have called for the retention of sanctions.—

Trade unions, churches, citizens groups and Black American leaders have raised their voices to urge the President and the Congress not to lift sanctions. The NAACP, the United Steelworkers of America and the U.S. Catholic Conference took public positions in favor of maintaining sanctions when they testified at hearings held by the House Foreign Affairs Subcommittees on Africa and International Organizations. Many other organizations have issued statements in support of sanctions including the United Auto Workers, Americans for Democratic Action, the National Council of Churches, Lutheran World Ministries, and the United Presbyterian Church. The United Nations Association, Lawyers' Committee for Civil Rights Under Law and the National Bar Association have issued reports on the constitution and the elections concluding that majority rule has not been achieved and that elections were not free or fair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, we are coming to the close of the debate. I am speaking; others will speak; Senator CHURCH will close the debate so far as we are concerned. However, I should like to explain to the Senate why I did what I did.

This is a very close question. There is no question about that. It is a matter of judgment on either side. But I wish to emphasize one thing. What I am advocating here is not designed to bail out the President or to please the President. I have every respect for the President of the United States, for the office, but we can disagree very sharply with the man.

I agree with Senator MOYNIHAN: I do not think the President gave this case its due. But that does not mean that we should not. I do not think he put it to the country as ably as he should have. But that does not mean we should overlook the basic facts, and the basic facts are these:

In this particular case, at this particular moment, the side effects of the medicine are worse than the disease. That is what it is all about. In other words, with the complete uncertainty of what this will do so far as our allies are concerned, whether in NATO or any other place, of what it will do in Africa, of what it will do to our economic interests vis-a-vis Nigeria and oil—Nigeria is now our second largest supplier—and based upon an assessment—I take seriously what Senator JEPSEN has said, and I challenged the Secretary on that today—based upon an assessment in which it does not seem to us in the Foreign Relations Committee that this Muzorewa government is likely to be undone by December 1, and based very seriously upon the December 1 date, I am not kidding about that, I can promise that to the Senate, and let us remember again that it has been said here by Senator JEPSEN the Senate now has an opportunity to act. It does. But it also has an opportunity to act on December 1, or it can act on October 1, or it can act 15 days from now. This is no unique opportunity. We can put this on any bill we want to any time that we think the situation requires it.

Then Senator SCHWEIKER said we do not want to come to grips with the issue. The point is we do want to come to grips with the real issue which is to bring free and democratic government to Rhodesia and not to have a worse civil war than we have today and with all of Africa hostile to what the United States is seeking to accomplish there and with the United States out there as the strikebreaker. It may be justified, but not this minute, not now, not until we give this whole proposition an opportunity to unravel and, Mr. President, with all respect to the President of the United States I warn him not to misinterpret the Senate. If the Senate votes for this amendment, the Senate is not voting to give the Patriotic Front its head; on the contrray, it is voting to give this government which is there a real opportunity to put the situation together as Mr. Case and I originally proposed that it should way back in 1978.

Finally, Mr. President, when I supported, and I did support the Schweiker-DeConcini effort, I supported it because by then the Senate had clearly determined that it wanted to make the finding respecting the Muzorewa government that it did and the point then was to keep it from going overboard as we are trying to keep it from going overboard now and to get a little more time in which to develop just exactly the situation we have developed where the President has stated his position and where you are beginning to smoke out when this thing really can be brought to a conclusion.

With the British bound to act by November 9 this December 1 date is exactly the right date and the Senate preserves in this amendment its authority. It says the sanctions shall terminate. We are not surrendering anything to the President. The sanctions shall terminate on December 1 unless and we can make any other disposition we want to at any time. The only point is let us not do it now because now it would be counterproductive to our country and counterproductive, in my judgment, to the ultimate peaceful resolution, as peaceful as it possibly can be, of the situation in Rhodesia and give the Muzorewa government the best possible chance.

For all of those reasons, I hope the amendment will carry.

And I ask unanimous consent that an article generally supporting the same approach by my colleague in the Case-Javits amendment, Clifford Case, in the New York Times of Friday, June 1, be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

LIFT THE SANCTIONS ON RHODESIA, GRADUALLY

(By Clifford P. Case)

Should the United States lift the economic sanctions on Rhodesia? Yes, but gradually, as Zimbabwe is further democratized by its new black Government.

Sanctions, meanwhile, are crippling the country's economy and must hamper the new leaders in acting to benefit black Zimbabweans. Disillusionment with the black-elected regime would help only the guerrillas.

It has been argued that even 500 deaths a month are necessary to force "all parties"—black and whites inside Rhodesia, and the insurgents outside—to a negotiating table. But that argument, if ever defensible, has had no validity since mid-April. Then, an outpouring of black voters elected Bishop Abel T. Muzorewa the new Prime Minister. A team of nine American observers on the scene (sent by Freedom House), which included Bayard Rustin, Allard K. Lowenstein and five political and social scientists, concluded that the election was a relatively free expression of the people's will.

There were, of course, fearful terrorist threats against the voting. The ensuing martial law had a coercive as well as reassuring effect. There were strong pressures—by Government, employers and political parties—to get out the vote. Clearly, however, a majority of the eligible voters resisted pressures not to vote, and many others resisted pressures to vote. Balloting was secret and arrangements were adequate to assume a majority preference. Few ballots were defaced to show rejection of the Constitution or the election. To be sure, some censorship and detention of some leaders restricted those who would oppose the voting. Yet, on balance, in the view of the observers, who have watched elections in a total of 26 other countries, the Rhodesian polling was freer than anything earlier in that country, freer than in all but one frontline state, Botswana, and freer than in most developing countries.

The Constitution under which the election was held is indeed flawed. Only whites could vote to accept it—but when whites alone were yielding power. (Under the American Constitution, it took more than a century for blacks and women to gain suffrage.) The "entrenched clauses" assuring some white power for 10 years under the Constitution were a compromise that the black parties to the internal settlement accepted to secure wider political power now, and—no small matter—to encourage whites to use their skills and capital in Zimbabwe rather than flee.

What should America do? The Senate has voted a "sense of Congress" resolution that would lift sanctions within 14 days of the installation of a black-majority Government. President Carter promises to decide by mid-June. He is under increasing pressure to lift sanctions, and is said to feel committed to base his decision on last October's Case-Javits Amendment to the International Security Assistance Act, which obligates the President to end sanctions when he decides that "all parties" have negotiated in good faith and that a freely elected Government as been installed.

The Senate found that the Case-Javits test for lifting sanctions had been met. Some dispute this. I suggest that Case-Javits no longer provides the criteria that are applicable to new conditions in Zimbabwe. Case-Javits said that in certain circumstances the President should lift sanctions—if, for example, it was still appropriate to hold an "all parties" conference. It did not say that in no other circumstances should sanctions be lifted.

Conditions have changed.

Rhodesia has made racial discrimination illegal. A majority of voters have spoken eloquently. A black Prime Minister is inaugurated. He is appointing key ministers and other officials. He has called upon the insurgents in and out of the country to participate in building a new society.

In Zimbabwe Rhodesia, the success of the Muzorewa Government offers the best chance for developing a multi-racial, democratic state with protection of human rights for both the majority and minority.

The American people, I believe, are increasingly convinced this is so, and want the Muzorewa Government to be given a chance to succeed.

President Carter should acknowledge that dramatic changes in Rhodesia now transcend Case-Javits.

Despite the Senate, sanctions should not be lifted immediately. Rather, the United States should lift them as soon as the Muzorewa government demonstrates that it is indeed governing, and is moving toward greater democratization

A black parliament will want to do more for black education, medical care and employment. It will want to open new lands to black settlement. That Government should increase its control over the army (already 85 percent black) and other security services, lift censorship except where it can be shown to be directly related to the insurgency, and make clear that detainees will either be tried for specific crimes or progressively released.

Demeaning or ousting Bishop Muzorewa to satisfy the front-line states would not enhance the democratic process in Zimbabwe. It would open America's human rights policy to the charges of cynicism and hypocrisy.

The United States should move neither too fast nor too slow in lifting sanctions.

The first would invite greater Soviet aid for the guerrillas. The second would force Bishop Muzorewa to accept South African military assistance. Present United States policy moves us closer to that second quagmire. Certainly front-line states would not welcome such expansion of the bloody conflict.

We should, then, announce soon that—assuming continued democratic progress, and continued independence of white minority control—the United States will discuss with Zimbabwe Rhodesia the lifting of sanctions and the granting of formal recognition.

The PRESIDING OFFICER. Does the Senator from Mississippi seek recognition?

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

The Chair will inform the Senator the agreement that Senators who have not spoken previously will be given first preference.

Mr. CHURCH. It is my understanding, based on the previous conversation I had with the distinguished chairman, Mr. STENNIS——

Mr. STENNIS. Excuse me. My attention was diverted.

Mr. CHURCH. I am simply saying, based on our previous conversation, it is my understanding that it is your intention to make a motion to table the pending amendment.

Mr. STENNIS. With the hope of those who wish to speak have had a chance to speak then I would.

Mr. CHURCH. If there are others who have not yet spoken who wish to speak, I am glad to defer to them; if not, I have a few concluding remarks to make on behalf of the amendment.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, first of all, I commend my colleague, the Senator from New York, for the excellent closing argument he has made. I join him in that argument. I associate myself with his remarks.

One rather crucial fact has not figured prominently in this debate. It is that the sanctions imposed by the United Nations on Rhodesia several years ago, and generally observed by the nations of the world, have never brought down the Salisbury government. The sanctions have not worked.

By the same token, if we lift the sanctions, we shall not save the government in Salisbury.

This is not a question of substance. It is a question of symbolism.

If the government in Salisbury is going to be saved, it must save itself by demonstrating that it is the authentic instrument of the majority of the people of Rhodesia.

If by its actions it demonstrates that it is not a front for the white population which constitutes only 4 percent of the total, but is in fact the instrument of the black majority, then the government will survive. Of one thing I can assure this Senate: It matters not whether we lift the sanctions or continue to impose them.

I commend the present authorities in Salisbury for having conducted a fair election. It constitutes their best claim for legitimacy and if, in the months to come, this government performs in such a way as to attract the respect of those witnessing its actions, if it acts in such a way as to strengthen and consolidate the support of the people who live in Rhodesia, then I have no doubt but that the sanctions will, in due course, be lifted and the world will come to accept the Salisbury government as legitimate.

But no one who opposes this amendment has been able to explain why it is necessary for the United States to prejudge these questions. Why we must rush to judgment? Why must we be the first to lift the sanctions, despite the fact that all of Africa is against it, all our allies are against it, and we are on notice that the first country to act prematurely, without having put this new government to the test of proving its legitimacy, will pay a high price in lost influence in Africa and may indeed be the object of reprisals.

Now, why, Mr. President, should we do it?

The PRESIDING OFFICER (Mr. STEWART). The Senator will suspend. His time has expired.

Mr. CHURCH. I hope we will not. I hope we will support the amendment recommended by the Foreign Relations Committee.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Does the Senator from Idaho wish any additional time?

Mr. CHURCH. If there is any additional time, yes.

Mr. TSONGAS. I yield 2 minutes to the Senator from Idaho.

Mr. CHURCH. I thank the Senator.

Taking up, then, where I left off, Mr. President, why should we be the first to rush to judgment? We are not responsible for the problems that exist in Rhodesia. We did not create them and there is no American solution for them.

We have no tie, we have no bond, we have no historic responsibility for this country. Can we not, at least, show a decent respect for our closest and best ally, the British Government, which does have a bond, a tie, and a responsibility, by allowing them to act first? Is that so much to ask? We know that they must make their own decision before the month of November is out. How much sense it would make simply to defer to them. When they have made their decision, we will have in our possession far more evidence upon which to judge the legitimacy of this new government in Rhodesia, and we will be in a much better position to act wisely for the United States.

Give the President that much time, give ourselves that much time. This is all we ask, for it will remain in our power, once 6 months have passed, to lift the sanctions if it then seems to serve our national interest to do so.

To act now would, be a grave mistake for which we will pay a high price. No Senator to whom I have listened has given us one good reason why we must act so quickly, or explained how our interests would be advanced by preempting the British in a decision of this kind.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Massachusetts.

Mr. TSONGAS. I thank the Chair.

I have said my piece previously, and I will simply say I introduced my amendment because I was concerned—not concerned about Zimbabwe-Rhodesia but concerned—about the United States, our country, and what indeed our long-time interests are in the whole of Africa.

It seems to me even though my amendment has been substituted for that the compromise that has been arrived at by Senator JAVITS and Senator CHURCH is one that I can accept. I certainly would have preferred my own, but it is a step in the right direction. If Senator HAYAKAWA can compromise, so can I, and I urge support for that amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I hope the Senate, having marched up the hill on May 15 will not now turn around and march down the hill.

Mr. President, on May 15 the Senate said this by a vote of 75 to 19:

> The Congress finds and declares that the Government of Zimbabwe-Rhodesia has demonstrated its willingness to negotiate in good faith at an All-parties conference held under international auspices, and Zimbabwe-Rhodesians have approved, through free elections, the transfer of a power to a black majority government.

Then the remainder of that resolution, which was approved by a vote of 75 to 19, says that sanctions should be lifted.

Now, Mr. President, the proposal of the Senator from Massachusetts and the Senator from New York would go directly counter to that. It would not accomplish the purpose which was sought by the Senate on May 15.

Mr. President, what is the alternative to the black Muzorewa government in Rhodesia today? The alternative would be the Russian-oriented terrorists, Mr. Nkomo and Mr. Mugabe, who are seeking to take over the government. The Senate recognized that on May 15 and voted to lift the sanctions.

Mr. President, having expressed itself, having taken firm action on May 15, I hope the Senate will follow through today, adhere to what it did before, and vote down the proposal of the Senator from Massachusetts and the Senator from New York, and sustain the Committee on Armed Services, which, by a 13-to-3 vote, approved the amendment which is now in the bill.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Mississippi.

Mr. STENNIS. Mr. President—and I shall be quite brief—I have not taken any part in the debate on this subject today or heretofore. But the Senate, in very positive terms just a few days ago, May 15, made this vote of 75 to 19 with regard to the sanctions.

Now, with great deference to the two authors of these amendments here tonight, it does not move the problem forward one iota. It does not solve anything. It leaves the problem where it was, except it goes backward and repudiates the vote taken here a few days ago.

Mr. President, this bill contains over $40 billion in authorizations for all of our major military procurement. In addition, it sets the levels for the active military and reserves in all the services and sets the ceiling for the civilian employees. The Appropriations Committees are waiting, I mean literally waiting, for the final figure from these authorization bills.

The supplemental authorization bill for the 1979 budget, has not even been completed yet. The conference on this bill is meeting in the morning.

Other bills have not passed, and they must move forward. Great work has been done this year, though, on them and on other matters.

Now, with great deference, everyone has had a chance to speak, as I understand it. On these two amendments now, Tsongas proposal and then the substitute proposed by the Senators from Idaho and New York, a motion to table, as I understand, if it is sustained, will wipe the slate and carry the second along with the first.

In that spirit of trying to get a conclusion and move this bill on and also the subject matter, I move to table the Tsongas amendment.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

U.S. POLICY TOWARD ZIMBABWE-RHODESIA

● Mr. DURENBERGER. Mr. President, I rise in support of the compromise substitute amendment offered by the distinguished chairman and ranking member of the Committee on Foreign Relations. I believe that this amendment offers the most promising alternative for maintaining the U.S. national interest in contributing to a peaceful resolution of the conflict in Zimbabwe-Rhodesia.

In May, I joined with 74 of my colleagues in climbing to what the senior Senator from Virginia called "the top of the mountain" in supporting a sense of the Senate resolution calling on the President to lift economic sanctions against Zimbabwe-Rhodesia. I made the climb because I felt that this was the best option open to the Senate to force the President to clarify U.S. policy in light of the elections which took place in Zimbabwe-Rhodesia in April. This resolution, which did not have the force of law, was based on the provisions of the Case-Javits amendment which Congress passed last year. Our objective in all this must be, as always, to contribute to a peaceful transition to a biracial society built on effective majority rule and the safeguarding of minority rights.

The provisions of the Case-Javits amendment notwithstanding, the issue before us is more than an evaluation of the freeness and fairness of the April 20 elections. It is a question of what is going to be the role of the United States in Africa, and particularly in efforts to bring about a new order in Zimbabwe-Rhodesia. Therefore, I oppose the immediate lifting of sanctions for the following reasons.

While there is no way of being sure of the ramifications of our actions, it seems to me that such a move is likely to lead to a hardening of positions and an intensification of the warfare.

The United States would run the risk of losing our influence and ability to exercise leverage with all concerned parties. By all concerned parties, I mean with the Muzorewa government, with Ian Smith, with Mugabe and Nkomo, with black Africa as a whole, with South Africa and with Great Britain. The success thus far of U.S. peacemaking efforts in the Middle East demonstrates the importance of maintaining our influence with all parties. While my confidence is limited in the capabilities of the Carter administration to wage effective diplomacy in Africa, nevertheless, I believe that this is the strategy we need to pursue. A peaceful resolution to the civil war must be a cornerstone of our policy. To lift sanctions when such a move would hinder rather than help our peacemaking efforts is unwise, unrealistic, and dangerous.

I also believe that the timing of our actions is such that an immediate lifting of sanctions would threaten our political, economic and strategic interests on the African continent. It is not in our interest to create openings for Cuban intervention and Soviet expansionism which endangers our strategic interests in southern Africa. It also is not in our interest to ignore our important economic relations with African nations. To recognize these realities is not to kowtow to pressure from other countries. Rather, it is to call upon the President to step up our efforts to use our leverage to work out a solution to the problems and to protect our national interests which are at stake.

I do not believe that major foreign policy decisions should be made only on the basis of subjective judgments of another country's electoral process. Were the elections free and fair—compared to what? To Rhodesia's past? To the United States when blacks and women were disenfranchised? To the rest of Africa?

We have been engaged in a polemic over the elections in which the opponents of sanctions dismiss the glaring inequities in the Constitution, while proponents—including the President—refuse to recognize the legitimate progress that has been made by Bishop Muzorewa and other members of his government. But elections are not an end in themselves. They are a means to the end of creating a new political system.

This is not to say that we ignore the elections, but rather that they be but one of the factors considered by the Senate in making our decision. I agree with the Senator from Virginia when he says our earlier vote was an endorsement of a free and fair election. Whatever other problems surround the elections, a significant percentage of people did turn out to vote for peace and against war. For the first time, the people of Zimbabwe-Rhodesia were presented with a potential avenue for peaceful change and they expressed their support of—and hope for—peaceful change.

For these reasons, I do not believe that an immediate lifting of sanctions would serve the interests of the people of the United States or Zimbabwe-Rhodesia. Sanctions are not really what is at issue here; it is the future freedom of a people, it is the relationship between countries and it is, hopefully, the end of a civil war. It was the guerrilla warfare, not the sanctions, which brought Ian Smith to the negotiating table. There is ample evidence that sanctions have been and continue to be violated by American, British and other corporations. What is at issue is how best to bring about peaceful change and how best to protect the interests of the people of Zimbabwe-Rhodesia and of the people of this country. These objectives are better served by close cooperation with our ally, Great Britain and by diplomatic efforts on all fronts to get concerned parties to be more flexible.

At the same time, we must not belittle the progress made by the Muzorewa government as President Carter continues to do. We must maintain our flexibility and move to lift sanctions as soon as such a move will serve the objectives. It is not that sanctions are in our interest, but rather that an immediate lifting of sanctions is not in our interest.

This amendment presents us with the most flexible policy approach offered to date and one which allows us to continue to cooperate with the British and to work through diplomatic channels with all interested parties to make greater progress toward a peaceful transition. Therefore, I give my support to the Church-Javits amendment.●

RHODESIA: CHANGING THE RULES TO CHANGE THE WINNERS

● Mr. DOLE. Mr. President, once again the issue of sanctions against the new Government in Zimbabwe-Rhodesia has come before the Senate. Once again we are asked to pass judgment on this inequitable approach to foreign policy where a racial double standard is, ironically, the administration's primary tool. The Senate is asked to ratify, long after the fact, the imposition of sanctions which were a questionable part of U.S. foreign policy. Last year the Senate agreed that these sanctions—the ostensible purpose of which were to encourage the movement in Rhodesia toward black majority rule—ought to be lifted when significant and good-faith efforts were made by the Government and people there to reach certain specific goals. There had to be an attempt at reconciliation among the parties and there had to be installed a popularly elected, black-majority Government. Mr. President, these goals have been accomplished. It seems to the Senator from Kansas, however, that because the administration now finds recognition of Zimbabwe-Rhodesia still inconvenient to its present policy in Africa, that it wants to close its eyes to the tremendous progress that has been made.

In fact it seems the administration is determined to fight the case for the popular front, those Marxist guerrillas who reject all solutions except those arising from violence and terrorist acts. I quote the Washington Post's lead editorial of last Friday:

THE PRESIDENT'S RHODESIA BLUNDER

> Is it not possible for Jimmy Carter to say, just once, that the elections in Zimbabwe Rhodesia were an impressive feat for a place that had never had multiracial elections before; that they were a lot more impressive than the fake polls and military grabs by which power is sorted out in most other African countries; but that hard considerations of national interest compel the United States to limit the political credit it can give to these elections now?
>
> If the president did say something like that—he said something very different yesterday in announcing that the elections were not "free and fair" enough to justify his lifting of sanctions now—he would disolve the better part of the resistance that has plagued Rhodesia policy. For the resistance does not come primarily from disagreement with the substance of the policy. That substance comes down to an effort to coax the two sides into a deal that will 1) produce a representative government, 2) end the civil war raging between them, 3) nip the threat of Cuban-Soviet intervention and 4) keep the United States on the sweet side of black Africa and white Africa alike. Few Americans would carry their respect for Bishop Muzorewa into support for a wider war, and certainly not by beating Britain, which is chiefly responsible for Rhodesia, to a sanctions decision.
>
> Many Americans, however, are appalled by the *impression* of its policy the administration has conveyed. They think the administration is ignoring fairness and impartiality in order to court those black African states, mostly petty dictatorships or paper democracies, that insist that no Rhodesian government with even one white fingerprint on it deserves the time of day. This distorts the views of a good number of officials. But it is a distortion fed by the administration's own acts and words, and it accounts for the puzzlement and hostility that its policy has stirred even in quarters where a sympathetic reaction might be expected.
>
> In this light, Mr. Carter's statement yesterday was something of a blunder, and an especially untimely one given that the question of lifting sanctions comes up in the Senate as early as next Monday. He was not content to say that the elections did not meet his "free and fair" test and that his decision served the American interest. He did not have the political tact to show himself more than grudgingly open to the substantial progress made toward democratic rule in Salisbury, and eager to preserve and consolidate those gains by helping to end the imminent threat posed to them by war. He had the clumsiness to virtually dismiss Prime Minister Muzorewa and the arrogance to say that his decision was in the interest of the people of Zimbabwe Rhodesia—this despite the fact of their participation in the recent poll.
>
> Can Jimmy Carter's policy be saved from Jimmy Carter? Tune in on the Senate Monday.

Mr. President, there is a limit to what we can expect the people of Zimbabwe to do in order to accommodate our desire to stay on the good side of a few petty dictatorships. Do we expect Bishop Muzorewa to show his independence from Ian Smith's regime by repudiating the peaceful settlement, throwing the white minority out of the government and reneging on the transitional safeguards for the minority? This would lead to a white exodus, a temporarily ruined economy, and an imminent takeover of the reins of power by the Soviet-backed Patriotic Front.

LIFT THE SANCTIONS

Perhaps it is not politically expedient to the administration's foreign policy objectives to lift the sanctions immediately. Perhaps the United States has reached the position where we must consult with the nondemocratic nations of southern Africa before we reach a decision, or reverse a policy originally based on principle. In such a case we ought to seek a compromise so that at least the progress already made toward black democratic rule is not endangered. The people of Zimbabwe-Rhodesia need our help now. Continuing the sanctions serves no constructive purpose. The United States ought to remove itself from this conflict by raising the sanctions and allowing the Zimbabwe parties to reconcile their differences themselves. We should be on the side of peace, not terror; compromise and reconciliation, not obdurance and ideological ranting. It is the hope of this Senator that we learn from our past and not continue to make the same mistakes in the future. Mr. President, I ask that an article on this theme by Michael A. Samuels, of the Center for Strategic and International Studies at Georgetown University, be printed in the RECORD.

The article follows:

LESSONS OF RHODESIA

> There are some lessons to be learned from the U.S. dilemma over Zimbabwe Rhodesia. They apply to the conduct of U.S. foreign policy generally.

The first relates to the sanctions. And it is this: No American administration should submit to mandatory, internationally dictated sanctions placed by the United Nations Security Council *without prior consultation with the Congress.*

The use of economic sanctions is viewed by most countries, especially in the Third World, as an important instrument of international pressure. The U.N. charter, however, concerned about giving authority for such a punitive act to the General Assembly where a majority could be swayed by moods of the moment, reserved the responsibility for the Security Council where major powers hold a veto.

In a period such as this, when consensus has disappeared from behind American foreign policy, there may be no issue that would justify such sanctions. So U.S. diplomats should work to keep votes on mandatory sanctions from appearing before the Security Council. When they fail, the executive branch should neither vote for them nor abstain, without gaining congressional assurance that U.S. participation in such sanctions would be ensured. Thus continuing U.S. vetoes of sanctions resolutions would be a wise course of action at this time.

It is better to suffer the short-term criticism after a veto than the longer-term criticism that would come from not abiding by an international sanctions commitment. Look at Rhodesia: From 1966 to 1971, we enforced sanctions; under the Byrd Amendment, from 1971 to 1977, we did not; from 1977 to now, we did; sometime this summer, given the mood in Congress, we may not. This behavior reflects domestic moods and lack of consensus rather than realities in Zimbabwe Rhodesia.

The second lesson is that when problems excite strong, conflicting emotional extremes of support, especially when they raise racial questions, and they are not of much strategic importance, then the United States should not be in the forefront of international activity trying to solve the problem.

Two points are of interest here. One is that few international issues will claim sufficient domestic interest to excite conflicting strong emotions. At the moment, perhaps only southern Africa with its tangle of race, Christianity, freedom, and anti-Communism questions is such an issue.

The other is that there must be some means available for skillful diplomacy. Military and development assistance, and covert assistance are important tools that the United States can only use under a combination of favorable circumstances, given our constitutional processes and the evolution of the relationship between the president and Congress over foreign policy.

The only place where a national consensus has made this possible is the Middle East. No other area seems to lend itself to such treatment at this time.

One of the best arenas in which to apply these lessons is Southern Africa. If there were justification for an "American" (or Anglo-American) plan to solve that complex of problems now called Zimbabwe Rhodesia, which I doubt, that time has ended. Let there be an Anglo plan, or an African plan, or a Zimbabwe plan. American diplomacy might try to urge others into the breach, especially those Africans, such as the "front-line" states, the Nigerians, or some leading moderates, who have had us carrying their water for the last few years. There are, after all, some problems for others to resolve. Let's encourage them to do so.●

COSPONSORS OF JAVITS-CHURCH UP AMENDMENT NO. 243

Mr. JAVITS. Mr. President, I ask unanimous consent that there be added to the Rhodesia amendment, which I sponsored earlier today, Senator Levin and Senator Chafee.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion of the Senator from Mississippi to lay on the table the Tsongas amendment No. 227. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), the Senator from Rhode Island (Mr. Pell), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Michigan (Mr. Riegle), are necessarily absent.

I further announce that the Senator from Nevada (Mr. Cannon) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Michigan (Mr. Riegle), would each vote "nay."

Mr. STEVENS. I announce that the Senator from North Dakota (Mr. Young) is necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. Young), would vote "yea."

Mr. HARRY F. BYRD, JR. May we have order, Mr. President?

The PRESIDING OFFICER (Mr. Melcher). The Senate will be in order. We must have order.

The clerk may proceed.

The call of the roll was continued.

Mr. STENNIS. May we have quiet, Mr. President?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. We are having a vote, and we must be in order for that vote to proceed. The voting will be suspended until the Senate is in order. All discussion must cease while the vote is being taken. There is no need to clear the well. The Senate is not in order.

The clerk will proceed.

The call of the roll was resumed.

Mr. TOWER. Regular order. Regular order, Mr. President.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 52, nays 41, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—52

Armstrong
Baker
Bellmon
Bentsen
Boren
Boschwitz
Burdick
Byrd,
Harry F., Jr.
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durkin
Exon
Ford
Garn
Goldwater
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Morgan
Nunn
Packwood
Pressler
Proxmire
Randolph
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker

NAYS—41

Baucus
Bayh
Biden
Bradley
Bumpers
Byrd, Robert C.
Chafee
Chiles
Church
Cranston
Culver
Durenberger
Eagleton
Glenn
Hart
Hatfield
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Percy
Pryor
Roth
Sarbanes
Stafford
Stevenson
Stewart
Stone
Tsongas
Williams
Zorinsky

NOT VOTING—7

Cannon
Gravel
Inouye
Pell
Ribicoff
Riegle
Young

So the motion to lay on the table amendment No. 227 was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to inquire as to how many more amendments remain on this bill.

Mr. STENNIS. Mr. President, we have a report of different amendments, some of which are minor amendments. We have three or four. I think they will all be settled on a short colloquy.

Mr. NELSON. Mr. President, may we have order? I cannot hear the Senator.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator for calling for order. Every Member is interested in the situation here, I am sure.

There are only three or four minor amendments which I think will be settled with language or with some kind of an adjustment on small figures.

In order to prepare for a highly important conference on this bill, there is a special matter, Mr. President, if I may call it to the attention of the Senate, and that is with reference to the registration bill or the registration proposal that the Senate Armed Services Committee did not have ready to pass upon to make a part of this bill. It is part of the problem, all right, but it is not a part of the bill.

Yesterday, after the regular session, in a session with 17 members voting, the committee voted 12 to 5 in favor of the bill as proposed by the Senator from Georgia (Mr. Nunn), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), and the Senator from North Carolina (Mr. Morgan) requiring a registration. That vote was 12 to 5.

However, we voted it out in the form of a bill. That involved a parliamentary situation whereby there are 3 days required for minority views to be filed, or special views, and then 3 days on the Calendar. Time would be taken up in that way. So we reported it as a bill rather than an amendment. I believe it is fair to say that the same amount of sentiment as 12 for the substance of the measure as well as 5 against.

Now, we are faced with a situation where the House of Representatives has not yet passed the bill, but that committee over there voted 25 to 3 and voted in a similar provision in their bill, which is coming up in the House in about a week or 10 days, or certainly there will be a drive to finish it before the next recess, which is 2 weeks beyond this week.

Now, time has run out. Appropriations bills are clamoring for attention. Those conferences are going to have to be held, and we do not want to be caught—I am just speaking for myself now—in a conference with the House on a matter of major importance without some kind of an expression from the Senate. Everyone will vote how they see fit, but we need an expression here, from this body, on that highly important subject before we can properly represent the situation or the problem in the conference. I hope that there can be, I think there must be, an arrangement, if it is at all possible to get, after proper debate, a vote of some kind indicating the position of the Senate on that highly important matter. Frankly, I hope we do not have to go to conference without that expression.

Senator NUNN and Senator BYRD are authors of the bill. I wish that they would express themselves, and anyone else, as far as that is concerned, but let them express themselves, and some arrangement, I think, will have to exist. We can take care of these short amendments, I think, mighty quickly, without rollcall votes, but we do need a rollcall vote on this measure.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, at the appropriate time, I shall try to explain the bill which has been recommended by the Armed Services Committee.

Mr. STENNIS. Mr. President, let us have real quiet at this time.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, at the appropriate time, I shall be delighted to explain the bill that emerged from the Senate Armed Services Committee in detail. I will try to give a brief summary and not take up undue time of the Senate at this juncture: It is a bill that provides for registration alone. This means names and addresses. It does not provide for classification. As a matter of fact, it suspends classification, which would otherwise take place under existing law, for a period of 12 months, during which time the President is to review the fairness and equity of the classification laws that were in existence when registration was suspended in 1975. The President is to report to the Senate and to the House and to the country by July of 1980, after which, the Congress of the United States can take any of the changes suggested by the President and work its will with respect to classification. So this is a registration bill of males.

It is a very important measure. There are those who have asked why it should come up on this bill. I think a brief summary of what has transpired in the Armed Services Committees on both sides is important for that answer.

First of all, we have had hearings in the Subcommittee on Manpower on the question of registration in recent months. We have had not only one hearing, we have had several hearings, and we have had asked almost every witness who appeared questions about registration. We also gave the opponents of registration an opportunity to be heard. It was our intention to bring this up as a separate matter if it received the affirmative vote of the Armed Services Committee. We had not anticipated bringing this up on this bill.

When we had our subcommittee markup on manpower, we did not propose this as an addition. When we had our full committee markup on this authorization bill, this amendment was not proposed, even though I was a cosponsor of it, Senator BYRD was a cosponsor of it, and Senator MORGAN was a sponsor of a very similar bill, which has been merged into this bill. This really is the Byrd-Morgan-Nunn bill that is before the Senate now.

We also have a majority report. Minority views have not yet been filed but there will be minority views. They have 3 days to file their views. The majority report is now being circulated. It contains basically the information that we have been able to gather on this subject.

The question is, Why bring it up tonight? Why bring it up on this bill? The reason is rather simple: The House Armed Services Committee has passed registration as a part of their authorization bill. This means that if the full House goes along with the Armed Services Committee, we are going to be in conference, with this item as one of the most important items.

This is something that affects potentially every American household. It certainly is not a subject to be taken lightly. We are not treating it lightly. But I think I would be derelict in my duty as chairman of the subcommittee dealing with this if I did not do all I can to give the Senate of the United States an opportunity to work its will on this particular measure before we go to conference.

It is obvious that the Senate Committee on Armed Services favors this bill. It is obvious that I favor it, having cosponsored it. It is obvious that we think it is in the interest of our national security. If we go to the conference, the House, if it passes the legislation, I am sure, will be adamantly in favor of it. So there is a strong chance that it will come back as a part of the conference report.

If it comes back as part of the conference report on the authorization bill, that means that there will not be an opportunity to amend it. That means that it will be debated only as part of the overall conference report. Unless there are specific instructions on it, it means that the vote would be basically up or down on the overall authorization bill, with never an opportunity fully to explore and amend and work our will on the important subject of registration.

That is the reason that I am about to offer this as an amendment tonight. If the people who are opposed to this—and I know there are a good many who are opposed. I have no way of knowing whether there are a majority for it or against it. But if those people who are opposed want to give the Senate an opportunity to discuss this measure fully, to deliberate on it during the daylight hours, then I shall be perfectly agreeable—and I believe that Senator BYRD, Senator MORGAN and, I believe, the chairman and other members of the committee, will be agreeable—to have a time certain for the presentation of the Senate bill, rather than bringing it up as an amendment on this bill.

If we can get a time agreement, whether it is 3 days from now, whether it is tomorrow, whether it is next week, if we can get a time certian that will give us an opportunity for the Senate to work its will before we go to conference with the House on this measure, then I would certainly be willing not to bring it up as an amendment on this bill. In fact, that is my preference, but I cannot, in good conscience, not do everything possible, from my own individual point of view, to give the Senate a chance to be heard on this rather than have it come back in a conference report.

So, Mr. President, that is an explanation of the procedure without getting into the substance as to why this is being contemplated as an amendment tonight. I shall be delighted to hear from those who oppose this.

Again, if they would agree to a 1-day debate, if they would agree to a 2-day debate, if they would agree to a 3-day debate, or even a 5-day debate, I am not in any way trying to confine the Senate to a limited time on this, but we do have to agree on the issue before it goes to conference or the Senate may never have a chance to work its will in a way that is part of our regular process.

Mr. HATFIELD. Will the Senator yield?

Mr. NUNN. Mr. President, I have had time yielded to me by the majority leader, so I shall defer to him.

Mr. ROBERT C. BYRD. Mr. President, does the Senator wish to address Senator NUNN?

Mr. HATFIELD. I do.

Mr. ROBERT C. BYRD. I yield to the Senator from Oregon.

Mr. HATFIELD. I thank the majority leader.

Mr. President, I do not think that there is anyone who attempts to accommodate colleagues any more than I do on various issues that we have to confront. I must say that, as of this moment, I cannot agree to any time limitation. I do not sense that there is any great emergency, that there is any great need or call to make this decision now, or in the next week or the next 2 weeks. I only remind the Senate that Secretary Brown himself, in a letter to

Senator COHEN, has already indicated that the administration is not asking for this.

I received a call from the White House this afternoon, since they know of my very adamant position in opposition to the revival of the draft, and the White House is certainly not asking for this. I think that, between the White House and the Pentagon, if there is any great need or any great urgency in making this determination—let us not kid ourselves, this is the first step back to the odious system of drafting against their will of our young people into the military service.

I think there are some very profound questions that relate beyond the question of military service. The Senator has indicated that this only relates to the registration of males. I think, with the strong affirmation that we have been making in different affirmative action programs to eliminate discrimination in the country at large, in our educational institutions and places of employment, we would have to give serious consideration as to whether or not such a registration should not include females as well as males.

That is just one, what we would call, issue that is of great profound consequence that would take far more time to discuss and debate than an hour, or 2 hours, or a day.

I do not feel we should be coerced by the Armed Services Committee at this time to either go into the night—and I might say to the Senator in all due kindness, I am prepared to speak the rest of the night, if necessary, or to take up any time schedule the Senator from Georgia wishes to establish on the Senate.

But I want to say that I am not ready to make any time agreement on this debate. I have many amendments that will be offered if this comes in the form of a bill or any other vehicle, because I have only indicated one of the many issues that will be very important to debate.

Let me indicate another very simple but profund issue.

Let us bear in mind, this is the first step back to establishment of the draft. I think we want to reassert again those debates that perhaps were on the limitation on the war powers of the President.

I am fully persuaded if we had not had a draft in existence, in place, pulling up the 18-year-olds initially, I say about the war in Vietnam, we would not have been in the war as long as we were.

I think the war powers of the President given under the draft have to be considered.

So there are many profound issues that cannot be determined by this Senate, as much as I would like to accommodate the Senator from Georgia, in time to meet his conference committee schedule.

I only say, I want to put the Senate on notice that I am ready at any time to engage in the debate on this issue.

As the late Robert Taft of Ohio said:

> The draft is more characteristic of a totalitarian system of government than of a democracy that strikes the very philosophy of our whole system of government.

I think those are issues that will have to be debated.

I think we have to look at the youth today, after the assassination of John F. Kennedy, Bobby Kennedy, Martin Luther King, the Vietnam war, Watergate, all the other things that stirred our young people into great agitation and irresponsible action in many instances.

Things are calm and quiet today. I do not think we want to move quickly upon something that could rally again and incite the kind of extremism and the kind of polarization among our young people that the restoration of the draft, even the first step toward it, would create.

That is another great issue to be confronted in this debate.

I say simply, there are many facets of this that do not lend themselves to an easy solution or to a quick decision. Therefore, I could not agree to a time agreement, as one Senator speaking only for himself.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, obviously, we cannot decide this issue this evening.

I wonder if we could, however, agree on a course of action. It seems to me, there are two courses of action. One is for the Senator to offer his amendment to this bill. The other is for the Senate, if it is willing to consent, to agree that the bill may be called up at a designated time and date, or within a period of time, say within the next 2 weeks, or some such, and let the Senate proceed with the bill that is before us.

We are told that there are a few minor amendments that can be accepted with a voice vote. That could be done. The vote on final passage that we are all left with could be had tomorow at 12 noon.

That way, there would be no more votes today. This bill would go to conference. The Senator from Georgia and others who are cosponsoring his bill would be assured that at some point within the next few days the Senate would take up the measure.

I understand from the distinguished Senator from Oregon that he would not agree to a time limitation on that bill at this time. I think we would just have to take our chances. But we would at least give assurance to the Senator from Georgia that his bill would be taken up, that the Senate would debate it, and that in the meantime, this bill will be voted on, final passage, within the next 15 minutes if the amendments, remaining amendments, are minor and can be accepted, or if it would take more time and the managers of the bill were willing to dispose of those amendments, that we could then put the final vote over until tomorrow. We could move the bill to third reading this evening without any further rollcall vote and have a final rollcall vote tomorrow.

So if I may bring it to a head, I am prepared to make a consent request.

The distinguished minority leader is asking me to yield.

Mr. BAKER. Mr. President, only for a moment.

I want to say that I have no desire to press this matter, but I do think there is much to commend the idea of setting a time certain to consider this bill, not a time limitation, and I think that procedure outlined by the majority leader has benefit.

Mr. BUMPERS. Will the Senator yield?

Mr. BAKER. I would hope the distinguished Senator from Oregon might consider, and I am not suggesting he take a time limitation on this measure, but for the sake of scheduling, and the majority leader and I are deeply engaged now in scheduling activity, that we might agree to a time certain or in a certain area of time this bill might be called up.

Mr. ROBERT C. BYRD. I thank the minority leader.

Mr. BUMPERS. Will the Senator yield?

Mr. ROBERT C. BYRD. I would be glad to yield, but I hope I am not yielding, though, for a discussion of the issues.

May I first yield to the Senator from Virginia and then I will yield to the Senator.

Mr. HARRY F. BYRD, JR. I thank the majority leader. I shall be very brief. The able Senator from Georgia has so thoroughly covered this matter that I will not take the time of the Senate.

I do want to take this moment, however, to associate myself completely with everything the Senator from Georgia said. I stand side by side with him. He is totally convinced. I am totally convinced. The Armed Services Committee, for the most part, is totally convinced, by a vote of 12 to 5, that it is vitally important that this measure be enacted.

The problem that the Senate faces, as has been explained to the Senate by the Senator from Georgia and the Senator from Mississippi, if the Senate does not permit a discussion of this before a conference report comes out, the Senate may be denied that opportunity and none of us wants to see that happen.

Mr. ROBERT C. BYRD. I yield to the Senator from Arkansas.

Mr. BUMPERS. If the majority leader will yield, I would like to make this observation.

At the moment, I am not sure how I will vote. It is my present intention to support the Senator from Georgia on the substance of the legislation. But to my distinguished colleague and good friend from Oregon, who speaks very persuasively and always with deep conviction, I would like to reiterate the point that the Senator from Georgia made. That is, that the House has this in its bill, and if we do not get a time agreement so that this matter can be debated here, and some of us who are undecided on it, or close to being undecided on it, have a chance to hear the debate and make a sensible decision on it, there will not be any debate, because the Armed Services Committee will go to conference with the House and, based on the 12 to 5 vote in the Armed Services Committee, will promptly recede to the House position which already has registration in it.

It will come back as a conference report and not be debated. We will have to either accept the conference report in full or reject it in full.

So if there is no time agreement, it means we will never hear the debate and the conference report will, obviously, everybody knows, be accepted overwhelmingly.

I strongly urge the opponents of this proposal to accept a time agreement so all of us have an opportunity to at least hear the debate.

Mr. SARBANES. Will the Senator yield on that point?

Several Senators addressed the Chair.

Mr. BUMPERS. I do not have the floor.

Mr. ROBERT C. BYRD. Mr. President, I have not offered, but the Senator from South Dakota indicated a request for me to yield to him.

Mr. McGOVERN. Mr. President, I think Senator HATFIELD has made the basic argument that needs to be made against this procedure.

I simply would like to add that I do not understand the logic in trying to add a measure of this importance to a military procurement bill. That never has been done before in the history of the country.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. STENNIS. We were given jurisdiction over all personnel matters and related matters some 3 or 4 years ago, by special statute.

Mr. McGOVERN. I do not object to the committee having jurisdiction. I concede that point. I object to a matter involving selective service being attached to a military procurement bill. It is not the committee jurisdiction that I am questioning at all.

This is a matter that goes far beyond the purview of weapons procurement, as Senator HATFIELD has said. It goes right to the heart of fundamental questions of personal freedom.

Congress is on record as favoring an equal rights amendment to the Constitution, which many people interpret to involve women and military registration or military conscription. That is an issue that will have to be examined in some depth.

However, I think it is a very dangerous and ill-advised procedure for us to be put in the position, because of the action of the other body, that we have to rush through a measure of this consequence.

The fact is that the President has made quite clear, in communications that have been sent to members of the Foreign Relations Committee today, that if we stay with the amendment of the Senator from Virginia with respect to Rhodesia—and apparently that is the wish of the Senate—this bill is going to be vetoed, anyway.

There is going to be ample time to talk further about Rhodesia. There will be ample time to deal with a number of issues that are raised by the legislation.

It is my understanding that the committee, whose jurisdiction I do not challenge, had very brief hearings on this matter. The public witnesses, if my information is correct, were called and told to appear and testify on about 24-hours notice. They had about 2½ hours to testify.

If we are going to seriously consider the matter of compulsory registration, which is probably the first step back to the draft, we should have several weeks of public hearings on this matter before it ever comes to the floor of the U.S. Senate.

So I agree entirely with the point raised by Senator HATFIELD. I, too, have a number of issues I want to raise on this matter—as to cost, the bureaucracy involved, and various other issues that have been referred to.

I hope there will not be any effort to try to put this on the agenda with any kind of limitation on it.

Mr. ROBERT C. BYRD. Mr. President, we are really getting nowhere. I am going to yield to the chairman, and then I am going to move to recess until tomorrow, and we will stay with this bill.

Before Senators leave, that does not mean there will not be another rollcall vote. I ask Senators to remain just a few minutes.

Mr. STENNIS. Mr. President, as always, I greatly admire the Senator from Oregon. He stood up here and spoke as a Senator should speak: He spoke from his heart, from his mind, and from principle. But I have stood right with him.

I am not willing for this bill to become law until there has been a chance for it to be debated fully, not blended into some kind of conference and brought in here and be told to take it or leave it. That is not the way. We want to get at this matter on the merits. That is why I am urging that some time be set, and I suggest the last week in June, for a real debate—2 days, 3 days if necessary—and let us get at this matter on the merits. I hope that happens.

Let us not tie up the whole bill. Let us get into these little amendments tonight, and we can put this bill to third reading, and so forth.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. STENNIS. There is no coercion. The Senator used the word "coercion." He should take it back.

Mr. HATFIELD. Mr. President, I back the Senator from Mississippi and the Senator from Arkansas in raising this issue as to whether or not the Senate would be privileged to vote on the merits of the case or forced into a conference report vote. Therefore, as I said before, I would be very happy to listen to a proposal. But tonight I would not be willing to enter into an agreement, because I have not had time to confer with colleagues on this matter. My time has been taken up primarily with other hearings that have kept me from being involved in this issue.

So I urge the majority leader and the Senator from Georgia not to propound a request tonight but to give us a chance to confer with our colleagues of like mind and see where we stand and where we want to move on this matter.

Mr. NUNN. Mr. President, I would be delighted to wait until tomorrow. My understanding was that this bill was being brought to final passage tonight, and I am concerned about not only the substance of this but also the parliamentary situation.

I might also say that there is a body of information directly relevant to this issue that is classified. The chairman of the committee and the chairman of the subcommittee, as well as Senator JEPSEN, have written to the Secretary of Defense, and we have asked that this information be declassified. We have had to have closed sessions on it in the past because it is not declassified. It relates to mobilization and our capability to mobilize, and it goes directly to the capability of the United States to defend itself in a national emergency.

I might add that it conveys information which would lead anyone who had studied national security matters with objectivity to believe not only that we have problems but also grave problems that jeopardize our national security.

I do not pretend that registration is going to solve all those problems, but I do believe that at some point during the course of the debate on this issue, we will have to have an executive session.

As a word of notice to the administration, I add that I find it puzzling, inconsistent, and I would say perplexing that, on the one hand, the Secretary of Defense, speaking for the administration says that this measure is not needed. On the other hand, he says the present system is totally inadequate. Then he also says that we have to classify information that is directly relevant to the question of the American people making a determination on this matter.

I do not believe that this kind of information is a secret to our would-be adversaries. I believe it is a secret to the American people. I believe it will have to be discussed by the Senate as a whole, in an executive session, at some point, in order to arrive at some rational conclusion on this important issue.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. If I will continue to yield—and I hope Senators will forgive me for not yielding—we are not going to settle this issue tonight.

Mr. STENNIS. We could have third reading.

Mr. ROBERT C. BYRD. We cannot get to third reading unless Senator NUNN is willing to forgo offering his amendment.

Mr. NUNN. Not until we have some agreement.

Mr. STENNIS. We do not have to leave this bill open to further amendment. We could make an exception as to this amendment.

Mr. ROBERT C. BYRD. Let me see if we can get this request agreed to.

Mr. President, I ask unanimous consent that, with the exception of possibly Mr. NUNN's offering his amendment on behalf of himself and the other cosponsors, no further amendments be in order after this evening, except those amendments that have been referred to by the distinguished chairman of the committee as minor amendments—and he knows whose amendments they are; with the understanding that there will be no rollcall votes on those amendments; with the understanding, then, that the bill would not be open to further amendment, except the amendment by Mr. NUNN and amendments thereto.

Then the Senate would go over until tomorrow, and it would stay on this bill. It would start on it in the morning. Mr. HATFIELD has indicated flexibility on his part, and it might be that an arrangement could be worked out tomorrow whereby another vehicle could be used. I am not attempting to say what might happen, but he has indicated the desire to be flexible.

Senator NUNN has indicated that he would not call up his amendment tonight; so the same flexibility is shown there.

This would permit the Senate to go out tonight, it would complete action on all other amendments, and it would leave open only that one amendment, and Mr. NUNN would not waive his rights to offer that amendment tomorrow.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. STENNIS. We have an unfinished part of the amendment by the Senator from Michigan (Mr. LEVIN), which I think will be settled with a colloquy. Senator BAYH has worked out language on his amendment which makes it acceptable all the way around, I am sure.

Senator DECONCINI is working out the language which he will furnish. Senator COCHRAN has a minor amendment the same way. Senator STEVENSON has one that I understand perhaps we can settle in a colloquy here.

That is the subject matter. Does the Senator want to give us unanimous-consent agreement on that?

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Washington.

Mr. MAGNUSON. Mr. President, I hope we can get at this bill tomorrow because it is holding up all the appropriations bills. The supplemental appropriations bills are awaiting this bill, and all the appropriations bills are held up.

I do hope the Senator from Georgia and the Senator from Oregon will agree to setting aside this matter temporarily and taking it up at another time because every appropriations bill is now being held up and all of the supplementals are held up waiting this defense appropriations authorization bill. I hope that we can resolve this tomorrow and get going and make it a separate issue.

I agree with the Senator from Oregon that it should be separate.

Mr. DOMENICI. Mr. President, I reserve the right to object.

Mr. BUMPERS. Mr. President, has the majority leader proposed a unanimous-consent request?

Mr. ROBERT C. BYRD. I have, yes.

Mr. BUMPERS. Mr. President, I have to reserve the right to object because I wish to offer an amendment. I will be willing to have a 1-hour time agreement, with 30 minutes on each side. I may offer it and I may not. But I wish to reserve the right.

Mr. STENNIS. No. I think if we have other amendments, except this one we discussed, we should stay in session and try to finish them tonight.

Mr. ROBERT C. BYRD. Go ahead.

Mr. STENNIS. The chairman of the Appropriations Committee has been very mild in stating the situation confronting this Senate. We are here to serve the Senate, but we have already served it with magnificent cooperation here and have finished this bill, I think, except for that one amendment.

I say to the Senator that we can take his amendment up tonight and just present it on its merits.

Mr. BUMPERS. Are we ready for third reading on the bill?

Mr. STENNIS. No.

Mr. BUMPERS. Why is it necessary that I bring it up tonight then rather than tomorrow?

Mr. ROBERT C. BYRD. The request was that we dispose of all amendments tonight with no rollcall votes on them, with the exception of an amendment by Mr. NUNN which he may or may not call up.

Mr. JACKSON. And to go to third reading.

Mr. ROBERT C. BYRD. Go to third reading? No. We could not go to third reading tonight. But the agreement would preclude any other amendments.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. DOMENICI. Mr. President, I reserve the right to object. I have an amendment I wish to offer here. I want to object.

Mr. TOWER. Mr. President, if the Senator will yield, I wish to ask the Senator from Arkansas a question. We thought we told everyone who had amendments that we would try to finish tonight. This is one brandnew one on us.

Could the Senator from Arkansas tell us something of the substance of the amendment?

Mr. BUMPERS. I can tell the Senator the substance of the amendment. If I offer it it would be in either one of two forms. It will be to substitute nuclear carrier for the diesel carrier, the *Kennedy*-class carrier, or it will be to abolish and delete the *Kennedy* carrier, one or the other.

I do not understand the sanctimony of offering the amendment tonight when we are going to carry the bill over until tomorrow.

Mr. STENNIS. It is obvious, Mr. President, that a bill of this magnitude has to come to third reading sometime, and it is a question here that we finish it all tonight except this one amendment. Apparently we cannot finish. The reasons have been given here, and I just hope the Senator will come on and make his statement here tonight about his amendment. It is always, what he says, important. I mean that. But let us go with the bill. I will accept the amendment if I can.

Mr. BUMPERS. How many amendments are pending?

Mr. ROBERT C. BYRD. It is my understanding, based on the chairman's enumeration here——

Mr. STENNIS. Four have already been worked out really. It is just the formality.

Mr. ROBERT C. BYRD. A half dozen or less minor amendments were worked out and likely to be accepted without a rollcall vote.

Mr. STENNIS. Mr. President, if the Senator will yield, I know what he is going to debate. He told me. If he will get off there in the corner and put his thoughts together, he can make that speech tonight, and formalize it and put it in the RECORD tomorrow. He will preserve his point.

Mr. BUMPERS. These sessions are just overwhelming, I say to the majority leader. I feel something right here that is in my heart. What if I elect to ask for a rollcall vote on the amendment?

Mr. ROBERT C. BYRD. Of course, we could stay.

Mr. TOWER. We could stay.

Mr. ROBERT C. BYRD. We could stay.

Mr. HATFIELD. Stay.

Mr. ROBERT C. BYRD. I think the managers of the bill would like to dispose of all other amendments with the possible exception of an amendment which may or may not be called up. That would be put over until tomorrow. If Mr. NUNN does not elect to call that up then we would have final passage tomorrow. If he does, we will deal with that situation at a later time.

Mr. TOWER. Mr. President, will the majority leader yield?

Mr. BUMPERS. What is the difference in Mr. NUNN being given the reservation and option of offering or not offering his amendment tomorrow and me offering or not offering my amendment tomorrow?

Mr. ROBERT C. BYRD. Only this difference: The amendment the distinguished Senator from Arkansas is talking about will probably be disposed of in 1 hour or less, I am perfectly willing to say, but the amendment that is being offered by Mr. NUNN is going to require many hours of debate. And it is hoped that by the time we all get a little sleep, if we can sleep, that this business between Mr. NUNN and Mr. HATFIELD could be worked out to where the amendment might not be offered to this bill and would be called up at a later date, or if it is going to be offered to this bill we would know in the morning and we could get started.

Mr. BUMPERS. I ask for the same courtesy, I say to the majority leader, and I am willing to accept the 1-hour time agreement right now. As I say, I may withdraw the amendment, but I may not. I might want a rollcall vote on it. If we are not going to third reading tomorrow, not going to pass the bill tomorrow, I do not understand why it is out of order to ask for an opportunity to present this in the morning.

Mr. ROBERT C. BYRD. It is not out of order at all.

Mr. BUMPERS. I would rather debate it. Actually, I am sorry I do not have the amendment to go right now. I wish to debate it right now. These Senators are ready to go, and I know they have their wives home waiting for them in wild anticipation. [Laughter.]

I know that Senator PERCY, based on his attire, is just bursting to hear this argument tonight.

But taking in consideration my deference to my colleagues, I wish to really offer the amendment tomorrow.

Mr. ROBERT C. BYRD. The Senator certainly has the right to offer the amendment.

Mr. TOWER. Mr. President, speaking for the minority on the committee, I think we wish to press on tonight. We have already shot dinner hour anyway. I think we should go ahead and consider except for the amendment of the Senator from Georgia, if it is offered. So far as we know the only controversial amendment would be the amendment of the Senator from Arkansas. So I suggest that we agree to control time on it, and I suggest that we get the yeas and nays on it, and then we will have a time certain that we can vote on it tonight and Senators will be informed about when the record voting will end tonight.

So I strongly urge that because the managers of the bill have to go to a conference on the supplemental tomorrow, and Senators heard what the chairman of the Appropriations Committee said, that they cannot move until we get through the conference report on the supplemental authorization. That is what we are scheduled to do tomorrow morning.

So I hope that we stay here, take up those amendments that require rollcall votes tonight, and do them. I will be delighted to stay and accommodate the Senator from Arkansas and dispose of his amendment tonight.

Mr. SARBANES. Mr. President, will the Senator yield on that point?

Mr. ROBERT C. BYRD. Mr. President, I have the floor.

I yield to the Senator from Maryland.

Mr. SARBANES. Is the Senator from Texas telling us we need to follow this procedure because we need to move on the supplemental tomorrow and that is the reason we need to settle this bill; is that my understanding?

Mr. TOWER. We will have to postpone the conference on the supplemental. I was just moved by the entreaty of the Senator from Washington about the difficulties we pose to the Appropriations Committee. Everybody was advised we would try to finish this bill tonight.

Mr. BUMPERS. Not everbody.

Mr. TOWER. We would stay late and finish tonight. I think we ought to proceed on that course to the extent that we can.

Mr. SARBANES. I see a conflict here between the assertion that we must complete this bill along the lines that the chairman of the Armed Services Committee and the chairman of the Appropriations Committee have put forward, which is an argument. I understand and, at the same time, reserving the possibility that the registration amendment, which will take days if it is proposed to this bill, is going to be held out as a possibility of being offered to this legislation. I do not understand how you square those two things.

If we have got to move on this bill in order to respond to the problem that the Appropriations Committee is raising, then we are not going to be able to consider the registration matter as an amendment to this legislation because it is clear that matter, if it is brought up to this bill, is going to involve days of debate. It has been conceded by the chairman of the subcommittee himself, who has sketched out that we need an executive session, we need to declassify information. Very fundamental issues have been raised which will have to be discussed. So I do not see how you square, on the one hand, the urgency to move this bill through, which I can understand, with, at the same time, reserving as a potential amendment to the bill an issue which will, in fact, delay the bill for a very long period of time.

Mr. ROBERT C. BYRD. Mr. President, we were on this bill yesterday all afternoon and I think we had many quorum calls because no Senators were here, no Senators wanted to call up amendments.

We met early this morning, at 10:30, when we began on the bill. No Senators came to the floor offering to call up amendments. I took the microphone a number of times to urge Senators to come to the floor, call up their amendments, even recessed at one point because no Senators were here to call up amendments.

It is about like I have seen this thing happen so many times. We got a day or 2 and Senators do not want to come to the floor and call up amendments, and in many instances they cannot, they are attending other committees, attending other matters that are important, and they cannot come. But then when we get into the afternoon and into the shadows of the evening Senators are here and they want to call up their amendments. We are getting nowhere.

UNANIMOUS-CONSENT AGREEMENT

I ask unanimous consent—the Senator from Arkansas has a right to call up an amendment—that there be a limitation of not to exceed 1 hour on an amendment by Mr. Bumpers, and that he be permitted to call it up tomorrow when the Senate resumes consideration of this bill; that the Senate dispose of all other amendments this evening, with the understanding there will be no rollcall votes thereon, and if any be ordered they will be put over until tomorrow to go back-to-back behind the Senator from Arkansas' amendment, and that the amendment by Mr. Nunn, if he calls it up, may not be precluded.

This would mean that on tomorrow we have one amendment by Mr. Bumpers which would be under a time limitation, and undoubtedly a rollcall vote if he wants to ask for it, and if he does not, fine; and the possible offering of the other amendment by Mr. Nunn.

Hopefully, Mr. Nunn, overnight, Mr. Hatfield and others of like mind can get together and we can find our way out of this situation tomorrow.

So I make that request. If it is not clear, I will restate it.

Mr. TOWER. Mr. President, reserving the right to object, I wonder if we could get the Senator from Arkansas to introduce his amendment tonight to make it the pending business? He will have a little time to draft it so we can make it the pending business.

Mr. STENNIS. We can be ready.

Mr. ROBERT C. BYRD. How about that, Mr. Bumpers?

Mr. BUMPERS. I am not prepared to do that.

Mr. GOLDWATER. Mr. President, reserving the right to object, does this do away with any more rollcall votes tonight?

Mr. ROBERT C. BYRD. It would preclude any, it would obviate any more rollcall votes tonight.

Mr. GOLDWATER. No more rollcall votes tonight.

Mr. ROBERT C. BYRD. If the request is agreed to.

Mr. GOLDWATER. I urge the Chair to use his usual good judgment. [Laughter.]

Mr. DOLE. Mr. President, reserving the right to object, just very quickly, this does not make any agreement with respect to Mr. Nunn, as to any amendment or substitutes if offered?

Mr. ROBERT C. BYRD. It would simply mean that once we proceed tomorrow no amendment would be in order other than the amendment by Mr. Bumpers and any amendments thereto, and the amendment by Mr. Nunn if he decides to call it up on this bill.

Mr. STENNIS. That is good.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

Mr. STENNIS. I thank the leader very much.

Now, Mr. President, we will have those matters tomorrow, rollcall vote if desired, and any rollcall, and final passage after that has been disposed of; is that correct?

Mr. ROBERT C. BYRD. How about those other amendments tonight?

Now, Mr. President, if we may have order——

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. It is my understanding there are Senators who have minor amendments, using the word of the chairman, that he wants called up tonight, and the committee will be agreeable to accepting them, and the Senate can accept them on voice votes tonight. So if Senators who have those amendments will stay around the Senate will dispose of those amendments.

Mr. STENNIS. Do we have those amendments ready?

UP AMENDMENT NO. 238 AS MODIFIED

(Purpose: To prohibit certain functions of the Department of Defense from being contracted out to private contractors)

Mr. DeCONCINI. Mr. President, I have an amendment at the desk which I called up earlier in the day. I call it up again at this time, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DeConcini) proposes an unprinted amendment numbered 238, as modified.

Mr. DeCONCINI. I ask unanimous consent that further reading of the amendment not be necessary.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert a new section as follows:

RESTRICTIONS ON CONTRACTING WITH PRIVATE CONTRACTORS FOR THE PERFORMANCE OF CERTAIN FUNCTIONS

Sec. . (a) It is declared to be the policy of the United States that those provisions of Office of Management and Budget Circular A-76 (issued on August 30, 1967, and reissued on October 18, 1976, June 13, 1977, and March 29, 1979) which prohibit the use of private contractors for the purpose of avoiding personnel or salary limitations and which prohibit personnel actions in violation of civil service personnel regulations should be binding on the Department of Defense.

(b) A commercial or industrial type function of the Department of Defense that is being performed by Department of Defense personnel at Davis-Monthan Air Force Base on January 1, 1979, may be contracted out to a private contractor after the date of enactment of this Act only if the performance of such function by a private contractor—

(1) will not adversely affect technical, scientific or other skills necessary to critical military capabilities;

(2) will not adversely affect the emergency combat readiness or potential mobilization capability of any armed force; and

(3) will not adversely affect the continuity, control, or accountability on the part of the Department of Defense.

(c) The Secretary of Defense shall submit a written report to the Congress on February 1 of each year describing the extent to which commercial or industrial type functions were performed by Department of Defense personnel and the extent to which such functions were performed by private contractors during the fiscal year preceding the fiscal year in which the report is submitted. The Secretary shall also include in such report an estimate of the percentage of commercial and industrial type functions of the Department of Defense that will be performed by Department of Defense personnel and the percentage of such functions that will be performed by private contractors during the fiscal year in which such report is submitted.

Mr. DECONCINI. Mr. President, the amendment has been modified and we have worked out the problems with the distinguished chairman, the staff, and the ranking minority member. I thank them sincerely for addressing this problem, which deals with a particular area of what is known as the Military Aircraft Storage and Disposal Center (MASDC) operation at Davis-Monthan Air Force Base.

This is a very important project, which has been in standing for many, many years since the Second World War, and is a project that has the expertise of being able to dismantle surplus Air Force equipment, inventory it, and keep it available for various uses, including sales to foreign military operations and transfers to other defense-related operations within our own Government.

This particular amendment only asks that in any consideration of contracting out top priority be given national security and the best interest of the operation of the Defense Department.

Mr. STENNIS. Mr. President, if the Senator will yield, that language bears out the agreement that we made between ourselves and the staff. I hope the amendment will be accepted.

Mr. TOWER. Mr. President, if the Senator will yield, that is my understanding of the agreement, and I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment (UP No. 238, as modified) was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I yield to the distinguished junior Senator from Mississippi.

UP AMENDMENT NO. 244

(Purpose: To amend Title 10 of the United States Code to increase the Federal share of the amount paid to certain administrators and instructors in the Junior Reserve Officers' Training Corps)

Mr. COCHRAN. Mr. President, I call up an amendment which I have at the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the amendment be considered as read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

"SECTION . Section 2031(d)(1) of Title 10, United States Code, is amended by striking out 'one-half' and inserting in lieu thereof 'sixty percent'. This amendment shall take effect on October 1, 1979."

Mr. COCHRAN. Mr. President, this amendment relates to the problems of the Federal Government in helping pay for the cost of our Junior Reserve Officer Training Corps activities in high schools around the country. We have discussed the amendment with the distinguished chairman of the committee, who has done a marvelous job, in my opinion, Mr. President, in presenting to the Senate this legislation, which is very important to our country.

We are confronted with problems about the education of students in military matters and trying to encourage them to consider military careers; and in this way the Federal Government can reflect, I think, its commitment to assure that this educational option is made available to more of our young people in this country.

I think the amendment is acceptable. It provides a modest increase in the Federal contribution to the expense of instructors and the administration of our Junior Reserve Officer Training Corps.

Mr. STENNIS. Mr. President, I find this amendment would strengthen that important program, junior ROTC. These teachers are retired officers, and this amendment pertains to that part of their salary that is not related to retirement. I think it is a good amendment, and I hope it will have the support of the Senate.

Mr. TOWER. Mr. President, I commend the Senator from Mississippi for his initiative in offering this amendment, and I urge the Senate to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi.

The amendment (UP No. 244) was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Does the Senator from Michigan seek recognition?

Mr. STENNIS. I yield to the Senator from Michigan.

UP AMENDMENT NO. 245

Mr. LEVIN. Mr. President, the purpose of the amendment I had intended to offer at this time was to reduce the authorization bill before us by $370 million.

The PRESIDING OFFICER. Is the Senator offering his amendment?

Mr. LEVIN. I send the amendment to the desk, and I will later withdraw it.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. LEVIN. I ask unanimous consent that the reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 11, line six, strike the number "$5,791,600,000" and insert in lieu thereof, the number "$5,421,400,000".

Mr. STENNIS. Mr. President, may we have it quiet? This is a matter of large significance.

The PRESIDING OFFICER. The Senate will be in order.

Mr. LEVIN. Mr. President, the purpose of the amendment which I have withdrawn, which has now been sent to the desk, is to reduce the authorization bill before us by $370 million. Those dollars will be saved if we cancel one of the four hulls of the so-called Aegis ships, instead of building that Aegis ship from scratch, as authorized in the bill.

Mr. President, my amendment would have proposed saving the taxpayers $370.2 million in fiscal year 1980, while at the same time enabling the Navy to meet its most urgent needs—improved antiair warfare (AAW) capabilities—more quickly than permitted under the committee's shipbuilding program now before us.

This substantial savings—without reduction in our defense capabilities—would be accomplished by taking advantage of the unexpected addition of two unplanned ships to the Navy force structure—two of the four guided missile destroyers originally intended for Iran.

Let me explain to my colleagues why I say that two of these four formerly Iranian DDG-993's are "unexpected" and "unplanned" assets for the Navy by providing a brief history of how these ships became part of the fiscal 1979 defense budget.

As most of my colleagues know, all four of these ships originally were ordered by the now-deposed Shah of Iran for his navy. During the final days of the Shah's regime, his government cancelled the order for two of these four ships.

Our own Defense Department then decided to substitute these two ships for two other vessels it was requesting in the fiscal year 1979 defense supplemental so as to take advantage of the greater overall military capabilities and lower costs of these DDG-993's compared to those it planned for in its original supplemental budget.

When the Shah's regime fell, the new Government of Iran cancelled the order for the second two DDG-993's, and it is these which represent the unplanned, unexpected addition to our naval force structure. They are a net addition of two ships.

However, because these are capable ships, and ships which make a useful contribution to our overall naval strength, the Senate in its wisdom decided to purchase all four DDG-993's.

I have no quarrel with that decision to buy all four of these ships, Mr. President, because I think we should not miss the opportunity to purchase more naval capabilities for less dollars. And while I would have preferred that two of these ships be purchased in fiscal year 1979 and two in fiscal year 1980, as the administration stated was desirable, that question is behind us.

The Senate in its wisdom decided that all four ships should be purchased in the fiscal year 1979 defense supplemental budget, Mr. President, and my amendment today would not have been an attempt to reopen the issue raised during debate on the supplemental as to when these ships should be authorized.

The question which would have been presented to the Senate by my amendment would not have been "whether" to purchase any of these four Iranian destroyers, but "how" to make the best use of these ships and the most efficient use of our scarce defense resources.

My amendment would have provided that one of those two ships which are a net addition to our Navy should be used as an Aegis ship rather than our building a new Aegis ship from scratch in fiscal year 1980 as approved by the Committee on Armed Services.

As contained in the fiscal year 1979 supplemental, the four Iranian DDG-993's carry the most modern AAW system currently available to our fleet today, the Tartar D missile/computer system. The Navy intends to use ships with this system as complements to the even more advanced Aegis platforms, as our committee report on S. 428 describes on page 56.

In fact, the Navy is planning to modernize 10 of our existing 23 DDG-2 class destroyers by installing the Tartar D system on them.

However, there is general consensus among members of the defense community that this Nation should move as quickly as possible to introduce Aegis ships into our fleet, and this is what my amendment was intended to do.

The Secretary of the Navy, W. Graham Claytor, Jr., testified to our committee that the greatest threat to our fleet, today and in the future, is expected to be cruise missile-carrying Soviet bombers and cruise missile-carrying submarines. He stated that Aegis is our best AAW system and the only one considered fully capable of meeting this threat.

> The stretchout so far as the workload in the shipyard is concerned, which would concern us because of the money, would not be too serious because the stretchout would handle a dip and a peak in such a way as to level the shipyard off during that period in a reasonably satisfactory way—so 30 months' delay and $450 million.
>
> Chairman STENNIS. And you do recommend it?
>
> Secretary CLAYTOR. Well, I would recommend it if I had the money, yes. We would recommend it except for fiscal constraints, as we so often say here.

My amendment would have allowed the Navy to follow this recommendation and still stay within reasonable "fiscal constraints," Mr. President.

Despite his own earlier statements, Secretary Claytor contradicted himself in a letter to the committee during the last days of its deliberations on the fiscal year 1980 shipbuilding program to declare that "there were substantial risks" in this conversion, and that it would mean "an unnecessary perturbation of present workload at the yard."

However, the Navy informed me that actual construction on the fourth Iranian DDG-993 would halt for only 6 months to allow delivery of the Aegis system to catch up to the hull construction work, and that such a closing-off of the hull would not negatively affect other construction at the shipyard.

Indeed, it also has been suggested that closing off the hull for these 6 months might allow the shipyard to transfer workers from this vessel to the first three formerly Iranian DDG-993's for this period and thus possibly accelerate work on these platforms. This might lead to an earlier delivery for these ships.

I have been informed by the Navy that, in any event, adoption of my conversion proposal could result in delivery of a second, vitally needed Aegis ship—the first was authorized in fiscal year 1978 and already is under construction—to the fleet between 3 and 6 months earlier than if such a ship were authorized as the committee suggests in S. 428.

Lastly, the Tartar D ship capabilities lost by this Aegis conversion could be replaced by extending the DDG-2 destroyer modernization program I mentioned previously by one more ship. The Navy originally intended to modernize 23 DDG-2's with Tartar D, but revised the program downward to 10 ships because of funding problems.

Our committee solved those funding problems in S. 428 by approving an important change to the DDG-2 modernization program for fiscal 1980, Mr. President. It now is possible to extend this program by at least one more ship, obtain essentially the same Tartar D capabilities and still save significant amounts of money.

Mr. President, the national security requirements to obtain a second Aegis ship as rapidly as possible, given the background of an extremely tight Federal budget, argue persuasively that we convert this formerly Iranian DDG-993 to Aegis, save millions of dollars and free scarce resources to meet our other national priorities.

I am convinced that the benefits of obtaining an Aegis ship more quickly and at a reduced price outweigh any alleged risks of such a conversion as I propose. The opportunity to obtain the same defense capabilities at a $370.2 million savings in fiscal 1980 should not be rejected. I hope it will be utilized at a later date.

AEGIS SHIP CONVERSION PROPOSAL; TWO WAYS TO VIEW COST SAVINGS

Savings during fiscal 1979 and fiscal 1980

	Million
Cost of DDG-47 Aegis ship proposed by committee in fiscal 1980	$820.2
Cost of Aegis system to be put on Iranian DDG 993	450.0
Cost of Iranian DDG 993 in fiscal year '79	314.0
Total cost of fiscal year '79 ship and fiscal year '80 Aegis system	764.0
Net savings in the price of one Aegis ship measured in this way	56.2

CBO estimates of fiscal year '80 system + fiscal year '79 ship = $725.0 million; net savings = $95.2 million.

Savings in fiscal 1980 by conversion program which subsumes the $56.2 million measured above (or the CBO net of $95.2 million)

	Million
Cost of DDG 47 Aegis ship proposed by committee in fiscal year '80	$820.2
Cost of fiscal year 80 Aegis missile/computer system	450.0
Net savings in fiscal year '80 through conversion	370.2

Mr. President, Mr. STENNIS, our chairman, has agreed to give me the opportunity to appear before the Appropriations Subcommittee that he chairs before it finally marks up the appropriations bill, including this Aegis ship. So I will have the opportunity to argue the merits of this approach at that time.

With that understanding, Mr. President, I will not pursue the amendment at this authorization stage, and will withdraw the amendment after allowing the chairman (Mr. STENNIS) to comment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

Mr. STENNIS. Mr. President, may I ask the Senator, does he withdraw his amendment now?

Mr. LEVIN. I do indeed, with that understanding.

Mr. STENNIS. I did not get that point.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. TOWER. Mr. President, the amendment proposed by Senator LEVIN to delete an Aegis ship from the fiscal year 1980 request and convert one of the Iranian ships to an Aegis configuration should be rejected. The committee considered this proposal by Senator LEVIN and overwhelmingly defeated it.

Senator LEVIN is proposing to delete the fiscal year 1980 Aegis ship request ($820.2 million) and add $450 million to convert the last Iranian DDG-993 to an Aegis ship. The conversion of one of the Iranian ships to Aegis at the expense of the fiscal year 1980 Aegis ship requested should be not supported. We need more ships, not less, to which the Chief of Naval Operations has testified and with which I strongly concur, as do a majority of the members of the committee.

This proposal would save $370.2 million but at the expense of one Iranian DDG-

993, a Tartar capable antiair warfare ship.

Secretary Claytor indicated in testimony before the committee that this conversion can be done, but that he had serious reservations in that experience to date in the Aegis shipbuilding program was not sufficient to contract confidently for the Aegis conversion. He expressed concern that the inevitable delay in ship construction and necessary contract negotiation might lead to a repeat of past problems with shipbuilding claims.

Furthermore, Admiral Meyer—Aegis program manager—has pointed out that the Iranian hulls do not provide the enhanced survivability features of the Aegis design ship.

In short, this option has been considered. The Senate Armed Services Committee, the Chief of Naval Operations, and the Secretary of the Navy have concluded that the associated risk is not acceptable, especially at the expense of the fiscal year 1980 Aegis ship. This proposal should be defeated by the Senate.

Mr. STENNIS. Mr. President, as to the statement made by the Senator from Michigan, I agree and will be glad to have him come in his capacity before our subcommittee to make his statement about the proposal he has. I do not agree as to some of his conclusions, but we will certainly be glad to have him appear, and I appreciate the attitude he has taken.

Mr. LEVIN. I thank my colleague and friend from Mississippi.

Mr. STENNIS. Mr. President, the Senator from Indiana (Mr. BAYH) had a matter here that he was interested in. As I understand, his amendment now has been redrafted in keeping with an agreement that we had. If that is so, I am willing to just offer it for him.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

UP AMENDMENT NO. 246

(Purpose: To more efficiently manage the Department of Defense civilian force)

Mr. BAYH. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Indiana (Mr. BAYH) offers an unprinted amendment numbered 246:
>
> On page 28, line 17, after "construction," insert "engineering acquisition,".

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 28, line 17, after "construction," insert "engineering acquisition,".
>
> On page 28, line 21, strike out "for which funds have been appropriated." and insert in lieu thereof, ", for which funds have been appropriated, on a schedule consistent with the requirements of national security and military readiness.".

Mr. BAYH. Mr. President, I ask unanimous consent that my staff assistant, Mr. Chris Aldridge, be granted the privileges of the floor at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I understand that this amendment has been cleared with the chairman of the Armed Services Committee as well as the chairman of the Subcommittee on Manpower and Personnel. This amendment proposes to make changes in section 501(d) of the bill which addresses the problems associated with the imposition of statutory end strength ceilings at Department of Defense installations which are "industrially funded."

For some time now, I have been concerned about the practice of the Department of Defense of requiring certain of their industrial/commercial type activities to have onboard no more than a certain number of people at a given day of the year which is usually the end of the fiscal year. These activities—public shipyards, weapons support centers, aircraft rework facilities, and other facilities which support the commercial/industrial base of the Department of Defense—cannot always match their work cycles with that of the given year for which a specific manpower level is authorized. While I believe that such manpower ceilings may be only barriers to more efficient manpower management, a view supported by the General Acccounting Office in its reports on this issue, I also think the Senate Armed Services Committee has taken an important initiative in providing in law section 501(d) which requires that—

> In activities engaged in maintenance, construction, and repair, the Secretary of Defense shall manage manpower resources in a manner that will insure that these activities are provided sufficient civilian manpower to fulfill work requirements for which funds have been appropriated.

In order to improve this section of the committee bill, I am proposing adding the activities engaged in "engineering acquisition" to those specified. An example of this kind of installation is the Naval Avionics Center in Indianapolis, Ind., which provides electronics engineering services for the components of the naval air systems command. Angle rate bombing systems for the A-4 and AV-8 aircraft, as well as computer guidance systems for the Polaris and Poseidon submarine-launched ballistic missiles are among the projects involving the services of the NAC. Inclusion of this language would also extend the concern of the committee to the other avionics facilities as well.

My second proposal would simply add at the end of the section the phrase, "on a schedule consistent with the requirements of national security and military readiness." This would address the problem caused by substantial buildups in backlogs at such installations as the naval air rework facilities where testimony indicates that a decrease in manpower levels, because of the Leach amendment to the civil service reform bill has helped result in a 100-percent backlog increase in the repair of airframes and engines. This certainly is not consistent with the requirements of national security or military readiness.

It is my hope that the committee's action will put an end to this recurring and chronic problem which finds industrially funded installations whose work has already been funded, forced to let full-time and temporary workers go at the end of the fiscal year, only to be rehired if the Department of Defense in allocating ceiling points in the next fiscal year adds back workers thus setting in motion the same cycle. This is not good management. It does not help build morale for the Federal workers involved. It does not give us a better management grip on this problem which is necessary if we are to get the maximum value for our defense manpower dollar.

To this extent, I would hope that the chairman of the Senate Armed Services Committee would follow suit with our colleagues in the House who want to take a comprehensive look on this whole problem of using manpower ceilings which may rob us of vital efficiencies we could otherwise obtain through their relaxation. In this connection, I understand that the chairman might be prepared to write a letter to Secretary of Defense asking for such an assessment in time for consideration of the fiscal year 1981 DOD authorization bill. It might be helpful if in his assessment, the Secretary of Defense could use some of the end strength flexibility of 1¼ percent in excess of those employees authorized by law to operate one or more activities without ceiling controls. If this could be done and a report received, I think we would all be a much better position next year to judge the success of our efforts today. I hope the chairman could respond to these concerns.

Finally, I want to thank the distinguished chairman of the Subcommittee on Manpower and Personnel for recognizing the gravity of this problem and helping to include section 501(d) in the bill. I am sure that by working together we can work out a solution to this problem which will benefit the country as a whole and strengthen our national defense. I am hopeful that the Senate will see fit to accept the amendments I have offered and want to thank the committee for its consideration.

Mr. STENNIS. Mr. President. will the Chair indulge us for a moment? I was under the impression that the Senator's amendment had been fully cleared. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, does the second part of the Senator's amendment read as follows:

> On page 28, line 21, strike out "for which funds have been appropriated." and insert in lieu thereof, ", for which funds have been appropriated, on a schedule consistent with the requirements of national security and military readiness.".

Mr. BAYH. That is correct.

Mr. TOWER. The Senator from Texas is prepared to accept the amendment.

Mr. STENNIS. Mr. President, I am glad to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, those are all of the amendments that we know of. Under the previous order of the Senate, as I understand, with the exception of two amendments, the one by the Senator from Arkansas and the one by the Senator from Georgia, no other amendments are in order. Is that correct?

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. STENNIS. Will the Chair give a ruling about some special kind of third reading with those two exceptions, just for certainty?

The PRESIDING OFFICER. The Chair rules that those are the only two amendments in order for tomorrow, and amendments to the amendments. That is the Chair's understanding of the unanimous-consent agreement.

Mr. STENNIS. Will the Chair repeat that?

The PRESIDING OFFICER. The Chair's understanding of the unanimous-consent agreement reached a few moments ago is that only the amendments of the Senator from Arkansas and the Senator from Georgia would be in order tomorrow morning, and amendments thereto.

Mr. STENNIS. If the Chair thinks that sufficiently covers the situation, that is all right.

The PRESIDING OFFICER. The Chair does.

Mr. STENNIS. Mr. President, I want to especially thank the Senator from Texas. He is not the only one but he is a great one who has had a lot to do with putting this together and presenting this bill, as have all members of the committee. I say this is a 17-man bill. Everyone contributed something.

Mr. TOWER. Mr. President, I thank my distinguished chairman for his gracious remarks and say what a pleasure it is to work with him year after year in formulating the authorization legislation for our hardware procurement.

As usual, he has done a superb job. It has been a privilege to work with him.

Mr. STENNIS. Mr. President, I thank the Senator. I thank all of our colleagues. They have been pretty light on us during the consideration of this bill.

Mr. TOWER. But it is not over yet, Mr. President.

Mr. STENNIS. They have cooperated pretty well so far.

COSPONSOR OF BELLMON AMENDMENT NO. 241

Mr. HUDDLESTON. Mr. President, earlier today the Senate accepted an amendment by the distinguished Senator from Oklahoma (Mr. BELLMON) relating to the shortage of doctors, of medical personnel, in the armed services. I was not here at the time to offer my support of that amendment. I ask unanimous consent that I be listed as a cosponsor of that amendment.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

● Mr. DOMENICI. Mr. President, I would like to commend Senator STENNIS, chairman of the Armed Services Committee, and Senator TOWER, the ranking member, for their responsible leadership in presenting a fiscal year 1980 defense procurement authorization bill which will help insure the continued security of this Nation.

At the same time, I am pleased to note that the amount authorized for military procurement in S. 428 is within the national defense target contained in the first concurrent budget resolution. While I have no doubt that the Armed Services Committee was required to make difficult decisions regarding defense priorities to achieve this result, I believe that the final result adequately meets national security objectives.

I note in particular the Armed Services Committee's recommendations to modernize U.S. strategic capabilities, including full-scale R. & D. for the MX missile and funding for cruise missile deployment. The Armed Services Committee has also recommended actions to improve NATO's theater nuclear capabilities, an important objective in view of Soviet advances in that field, and has continued to support programs designed to upgrade our ability to help defend Western Europe.

At a time when the United States depends, more than ever, upon interaction with and access to all parts of the globe for its economic well-being, it is incumbent upon the Senate to help assure that America also possessess the necessary strength to preserve its global interests and to help support the interests of its allies. Moreover, at a time when the Senate will be asked to judge the merits of a strategic arms control agreement, it is essential that the overall U.S. defense posture be sound so that this assessment can occur within a stable context.

It is my belief that this defense procurement bill adequately addresses this requirement and I will support its passage.

Mr. President, I would also like to briefly express my thanks to the Armed Services Committee for including recognition of our country's six military junior colleges. Because of the long and distinguished record of these junior colleges, the committee has recommended an increased allocation of 30, 2-year, Reserve Officer Training Corps Scholarships.

Several months ago I introduced legislation, cosponsored by my distinguished colleague from Alabama (Mr. STEWART), that would authorize additional ROTC scholarships for cadets at the six military junior colleges located in New Mexico, Alabama, Georgia, Missouri, and Pennsylvania. Knowing the important contribution our Armed Forces Reserve and National Guard play in our national defense structure, the military junior colleges can help reduce the shortfall in officers in a 2-year period of time. I think it important to point out that these junior colleges will commission approximately 243 second lieutenants this year, and anticipate commissioning 463 in 1980.

While my bill would have allowed considerably more ROTC scholarships to the junior colleges, I am extremely pleased the committee has taken this step toward recognizing and acknowledging the valuable service the junior colleges have provided to this Nation's defense needs. Naturally, I am most optimistic that this allocation will be increased in future years.

I am personally acquainted with the outstanding leadership and instructional facilities provided by our New Mexico Military Institute in Roswell, N. Mex. I am confident the five other junior military colleges throughout the United States are also doing their share in producing trained, dedicated officers who are helping alleviate the shortage in the Reserve components while contributing to our country's national security requirements.

Again, I want to thank the committee for its recognition of our military institutions, and to thank them overall for a balanced and responsible defense procurement authorization bill.●

● Mr. RIEGLE. Mr. President, the Senate is now considering S. 428, the fiscal 1980 Department of Defense authorization bill. This bill would authorize the appropriation of over $90 billion in budget authority and would result in an estimated $59 billion in outlays during fiscal year 1980 alone. If this bill were fully funded, it would add billions of dollars to each Federal budget for years to come.

The Congress must scrutinize programs in this bill as closely as it has scrutinized spending under many programs that address the needs of the disadvantaged, the sick and the elderly. It is often harder to vote for savings in defense programs.

However, at least one item in this bill should trouble those who are advocates of a strong military as well as those who are most concerned with waste in the defense budget.

Mr. President, I would like to highlight that section of the bill today. The course of action proposed by the Armed Services Committee would not only waste hundreds of millions of tax dollars, but also delay by many months the delivery of an advanced ship badly needed by the Navy.

Title I of the bill includes $820.2 million in budget authority for a DDG-47 Aegis destroyer. This would be only the second ship to provide the U.S. fleet with the highly advanced Aegis air defense system. The Armed Services Committee bill would authorize appropriations for the Navy to contract with the Ingalls Shipbuilding Division of Litton Industries to construct this Aegis ship on a *Spruance*-class hull, which is built in the Pascagoula, Miss., shipyards.

An alternative exists that is clearly preferable. Four *Spruance*-class hulls are now being constructed in that shipyard under an order placed by the Shah of Iran in 1974. Those ships were to be equipped with the Tartar air defense system, which is older and far less capable than the Aegis system now desired by the U.S. Navy. Earlier this year, the new Iranian Government canceled its order for the ships and the U.S. Government now must decide the best way to use those Iranian hulls.

The Armed Services Committee recommendation is to complete the hulls with the Tartar air defense system ordered by the Shah.

The question is: Why should the Aegis program not take advantage of the work completed to date on the Iranian hulls?

Navy Secretary Claytor has testified that the last of the four Iranian hulls could be completed as an Aegis ship.

According to CBO estimates, if that were done the U.S. Navy could have a second Aegis ship 6 to 12 months earlier than otherwise would be possible. CBO also estimates that by taking advantage of the Iranian order, the total cost for the second Aegis ship would be about $725 million, or a savings of $100 million from the funding level contemplated in the bill now before the Senate.

There simply is no good reason for completing that Iranian hull with the older Tartar air defense system. Indeed, the Senate Armed Services Committee in 1975 refused to authorize a nuclear cruiser that was to be equipped with this same Tartar weapons system. The committee report stated:

> The Committee has carefully considered this request and believes it inappropriate to build any ship, and especially a nuclear ship, with a weapons system that is clearly inadequate to meet the projected threat within a relatively short time period after delivery of the ship.

I believe this decision is of grave importance. Early delivery of an Aegis ship is especially valuable to a battle group because Aegis is not only itself more capable, it also can extend the defensive capability of nearby Tartar ships beyond their own inherent limitations.

A recent Congressional Research Service comparison of the Tartar and Aegis systems describes recent advances in Soviet antiship missile technology. It states:

> As the Soviets acquire these new missiles and modern platforms like the Backfire bomber from which to launch them, they will be able to threaten all existing U.S. anti-air warfare (AAW) systems with saturation; i.e., accurately-delivered missiles in such numbers and at such speed that the firepower of systems like Tartar and Terrier will simply be overwhelmed.
>
> The Navy has recognized this need, and for that purpose, has ordered the AEGIS area defense system designed for use with the new Standard Missile II (SM II) missile. Although it is a costly system, the Navy has considered that without it, U.S. carrier battle groups operating in the "high threat" parts of the world will be dangerously vulnerable to the anti-ship missile threat posed by Soviet forces.

Mr. President, the Senate has yet to act on the appropriations bills that will determine the future of the Iranian hulls.

The House has favored using at least one Iranian hull in the U.S. Navy's Aegis program.

I believe the Senate also should approve that course of action because it would save the taxpayers hundreds of millions of dollars and result in a more capable U.S. Navy.

I intend to press for reprograming of the Defense budget to take advantage of the opportunity provided by the cancellation of the Iranian order. I urge my colleagues to consider the facts presented in the CRS report and to support completion of at least one Iranian hull as the Aegis ship included in the bill now before us.

Mr. President, I ask unanimous consent to have the report printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

To: Hon. DONALD RIEGLE.

From: JAMES M. MCCARTHY, Foreign Affairs Defense Division.

Subject: Fact sheet on advantages of Aegis over Tartar AAW systems, as requested.

1. The following summary outlines the features of Aegis that are superior to the Tartar-D naval AAW system. No attempt to weigh these advantages against possible benefits of Tartar-D improvements or early deployment, cost, availability, is undertaken in this paper.

The Navy's functions require that its ships be able to move freely in all of the world's oceans. The primary threat that could inhibit the Navy's free movement at sea comes from the Soviet Naval Forces. The Soviet Union has developed a substantial capability for attacking the U.S. Navy's surface forces with missiles launched from aircraft, submarines, and surface ships. That capability is being significantly upgraded as new anti-ship missiles continue to be introduced into Soviet forces. Improvements expected over the next 10 years will include speed, flight profile, radar cross-section, electronic counter-measures, and accuracy. As a result, it will become increasingly difficult for U.S. defensive systems to detect, track, and react fast enough to these missiles to protect U.S. ships from destruction. As the Soviets acquire these new missiles and modern platforms like the Backfire bomber from which to launch them, they will be able to threaten all existing U.S. anti-air warfare (AAW) systems with saturation; i.e., accurately delivered missiles in such numbers and at such speed that the firepower of systems like Tartar and Terrier will simply be overwhelmed.

Defense against this missile threat is the responsibility of fleet air defense. The Navy has developed the concept of defense in depth against such attacks, with the intent of destroying attacking forces as far from the U.S. battle group as possible. As longer-range missiles of improved accuracy give the Soviet Union an increased "stand-off" capability however, the likelihood of engaging Soviet naval bombers—the principal threat—before they launch their missiles will be reduced. Accordingly, the job of fleet air defense will fall increasingly to the second echelon of defense in depth, known as area defense. The Navy has recognized this need, and for that purpose, has ordered the Aegis area defense system designed for use with the new Standard Missile II (SM II) missile. Although it is a costly system, the Navy has considered that without it, U.S. carrier battle groups operating in the "high threat" parts of the world will be dangerously vulnerable to the anti-ship missile threat posed by Soviet forces. The following summary briefly describes the strengths and advantages of the Aegis system in comparison with the Tartar-D anti-air system (the most modern until Aegis) and highlights the critical areas of improved capability necessary to insure the survival of U.S. surface forces.

2. In assessing the potential effectiveness of the Aegis weapons system against anti-ship missiles, six key factors should be considered: (1) detection, (2) reaction time, (3) firepower, (4) area coverage, (5) susceptibility to electronic counter-measures, and (6) system availability.[1] The diagram below illustrates these elements.

The detection probability is affected by conditions such as the size of the target, altitude, presence or absence of ECM, and the operability of installed radars.

Time is a particularly critical factor in intercepting an attacking missile. Firing time is maximized if detection takes place outside the envelope of the defensive missile's capability so that the attacking missile can be engaged as early as possible. If detection occurs inside the defensive missile's envelope, every second of reaction time decreases the time available to fire the defensive missile. Available firing time is compressed as the speed of the attacking missile increases.

The search radar of an AAW system should provide sufficient reaction time once the initial detection of a possible threat is made. Reaction time after initial detection consists of the time required to: establish a track, recognize the target as an attacker, and designate the target to the fire-control radar. The fire-control radar will, in turn, further establish the track of the attacking missile and then "lock on" the target.[2] In addition, the defensive missile's launcher must be armed with missiles and slewed to the direction of the oncoming target.

The adequacy of the system's firepower to counter multiple missile attacks simultaneously is another primary requirement. Not only is the number of missiles in the magazines an important factor in determining the firepower of an AAW system, but the time taken for initial loading and reloading must also be considered in many situations.

Area coverage is limited to the missile's range/altitude envelope including the minimum range required for the missile to arm after it is launched.

The susceptibility of a system to ECM is a significant factor in its performance. ECM or jamming can materially reduce the detection range. It increases the time needed to react, and it may decrease the probability of a successful hit on target.

System "availability" is simply the reliability with which its radars, computers, fire-control systems, launchers, and missiles function properly.

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[1] See Bowen, Alva, et al. *Nuclear-Powered Aegis Ship Alternatives*, Congressional Research Report 78-56F, March 6, 1978, pp. 18-20.

[2] Since the Aegis radar functions as both detection and fire-control radar, the second track and "lock on" functions are not part of the Aegis system reaction time.

3. The Aegis system, the most advanced shipboard SAM (surface-to-air missile) system now in production, has been designed to initially complement and eventually replace the Tartar missile system. A comparison of the two systems follows, using the above mentioned requirements for an effective AAW system.

Initial detection of the target is significantly enhanced by the Aegis SPY-1 radar system, which sweeps by means of electronically activating discrete elements of the antenna through 360 degrees at least once every second. In contrast, the Tartar-D's radars have rotating antennas which can sweep through 360 degrees in about four seconds. Further, since the SPY-1's electronic signal transmissions are computer-controlled, the sweep can be varied instantly and flexibly to confirm detections, establish tracks, examine a high activity area, and provide missile control, whereas the Tartar-D's radar follows a rigid pattern.

Target detection, tracking, and evaluation is essentially a manual process for the Tartar-D system as now configured, whereas in the Aegis system it is completely automatic and therefore faster as well as more certain. With the Tartar system the target must be designated to the fire-control radar, which in turn must make its own detection. The missile fire-control system must then "lock on" the target or commence to track it automatically with the fire-control radar. Because of this, the Tartar-D system would be easily saturated by both low- and high-threat targets.[3] In contrast, the Aegis SPY-1 system functions as both a search and fire-control radar. Proponents of the Tartar system have stated that, after the Automatic Detection and Tracking (ADT) system is incorporated into the Tartar system, its capability to detect low- and high-threat targets will be equivalent to the Aegis system. However, the Aegis' SPY-1 system retains not only the faster rate of speed and a greater degree of flexibility in its radar system but will also be capable of automatic detection, tracking, *and* fire-control—all within one system. Thus, the Aegis system, with no target designation process, can commence firing with significantly less delay than the Tartar system. Comparison of the approximate maximum available firing time for the Aegis and Tartar-D system are shown below.

Approximate maximum available firing time

[In seconds]

System	Attacking missile speed		
	Mach 1	Mach 2	Mach 3
Tartar-D -----	138	69	46
Aegis --------	228	114	76

It should be noted that the Tartar systems can track targets with speeds up to Mach 3, whereas the Aegis is capable of tracking missiles of even greater speeds.

In the Aegis system, radar is capable of tracking both the missile and the target, and through data link, it directs the missile on an intercept trajectory. The Tartar system, on the other hand, must have one of its three guidance radars dedicated individually to each missile throughout its flight. The firepower of the Aegis system is significantly greater than that of the Tartar system because the Aegis system has four computer-controlled illuminators, and these need to illuminate only during the terminal phase of the missile's flight. Future improvements in the Tartar system—for example, the Standard Missile Mid-course Modification—could give this system increased firepower by allowing it to engage more than three targets simultaneously. However, Aegis-equipped ships would have to be present to assume in-flight control of the missiles fired from the Tartar ships. Moreover, given the present low funding support for the research and development, testing, and initiation of production, it is doubtful that either the ADT or the Mid-course Guidance modifications will be introduced into the fleet by 1982. The Aegis system should be in operation by 1983.

The area range of the Tartar-D system is currently limited by the performance envelope of the SM-1 (MR) (Standard Missile-1 Medium Range), which has a range of approximately 25 nautical miles.[4] The Aegis system will employ the SM-2 (MR) and (ER) (Extended Range), which have ranges of approximately 40 and 80 miles respectively. Although it is likely that the SM-2 will eventually be put on Tartar ships as well, the Aegis system retains one major advantage—the ability to direct the missile to the target by means of inertial navigation, command mid-course corrections, and terminal homing. This will result in a much more efficient trajectory which in turn yields effective range increases of 60 percent for the MR model and over 100 percent for the ER model.

The Aegis' system SPY-1 radar can, through computer control, transmit on a variety of frequencies, making it difficult to jam. This and other design features permit the Aegis system to operate against heavy ECM with relatively small degradation in system effectiveness. In contrast, the SPY-48A radar of the Tartar-D system, lacking the adaptability of the SPY-1, has a considerable degradation of performance in a severe electronic jamming environment.

The Aegis system provides for constant checkup and oversight of its components and subsystems more sufficiently than the Tartar system. The Mk 1 operational readiness test system (ORTS) actively monitors the state of readiness of each of the major elements of the system and reports the results of this checkup to the Mk 1 command and decision center. Testing of the Aegis system from 1973 to 1977 using various missiles was generally successful against a variety of targets.

5. In each of the six categories described in Part III, the Aegis system shows a distinct advantage over the Tartar system. Although the Aegis will be more costly, it will provide better defense against anti-ship missiles and aircraft by allowing our ships to detect these threats and react effectively in time to nullify a large number of them.●

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[3] An example of a low-threat target is a subsonic target having a relatively large cross section in a clear ECM environment.

[4] *Jane's Weapons Systems, 1978.* Ninth Edition. Edited by R. T. Pretty. p. 109.

DAVIS-BACON ACT IS A HEAVY BURDEN

Mr. HATCH. Mr. President, often we find that Uncle Sam's right hand does not have the foggiest notion about what his left hand is doing. An excellent illustration of this is found in the Carter administration's continued bungling of the fight against inflation. When the President announced his "voluntary" wage and price control program, he pointed out that the Federal Government would henceforth only deal with companies adhering to the program's cost guidelines.

At the same time the White House is seeking to pressure the private sector into compliance with one Federal program to keep costs down, another Federal program, the Davis-Bacon Act statutes requiring payment of prevailing wages is being enforced by the Department of Labor at a cost estimated by the General Accounting Office to exceed several billion dollars every year. More than $700 is added to the cost of virtually every new home built in America today because of the unnecessary added costs imposed by Davis-Bacon.

In a recent editorial by the Honolulu Star-Bulletin provides a very useful discussion of this issue which I strongly commend to my colleagues. I ask unanimous consent it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DAVIS-BACON ACT IS A HEAVY BURDEN

When President Carter announced his voluntary anti-inflation plan last October, he said government agencies would try to limit their purchases to companies that complied with his wage-price guidelines.

But government policy is not consistent in attempting to hold down costs in dealing with the private sector of the economy. The Davis-Bacon Act, which affects wages paid to workers on federally funded construction projects, has the opposite effect.

Under the law, which was passed in 1931, in the depths of the Depression, the government must require that prevailing wage rates in the area in question be paid to workers on federally funded projects.

The original purposes was to protect local wage scales at a time of heavy unemployment. Since then the law has developed into an unnecessary burden on the taxpayer and a significant source of inflation.

The New York Times has disclosed a draft report by the General Accounting Office that charges that in nearly 50 years of administering the Davis-Bacon Act, the Labor Department has never been able to develop an adequate system to collect information on construction wages and determine what wage levels should be set. The GAO report calls for repeal of the act as outdated, unnecessary and inflationary.

The law's mandate that prevailing wage rates be the standard has meant in practice usually union rates. The result is that the government does not seek the lowest bids available on its projects. The taxpayer makes up the difference.

The Chamber of Commerce of the United States has estimated that the act adds $2.9 billion a year to the nation's construction costs. It says the cost of homes in Hawaii would decline by $700 if the law were repealed.

Economist Milton Friedman has observed, "By some strange coincidence, the 'prevailing' wage specified by the Department of Labor almost always turns out to be the highest union wage within a very large geographic area around the place in question."

Although demand for repeal of Davis-Bacon is growing, union opposition make repeal unlikely. However, President Carter has appointed a task force to examine the impact of the law. This task force may recommend legislative changes to reduce inflationary effects, or improvements through executive action.

Davis-Bacon amounts to a special-interest tax on all federally funded construction projects on behalf of the construction unions.

If it was a tolerable burden in past years when inflation was a less serious problem, it cannot be justified when the president is calling for sacrifices from business and labor.

A NEW WAY TO GET HYDROGEN GAS FROM COAL

Mr. HATCH. Mr. President, more has been written in recent months about alternative energy sources than at any other time in our Nation's history. The papers are full of articles about what the Department of Energy is doing or what they are not doing, what the big oil companies are doing, and the reactions of the American people to this battle over energy policy.

Americans are waking up to energy issues. They have begun to discover the serious flaws in the administration's energy policy. They yearn for energy independence. They support whatever measures are necessary to rid ourselves of the albatross we know as the foreign oil cartel.

Using our technological expertise, one such process has recently surfaced. It entails a way to get hydrogen gas from coal more efficiently than we have in the past. In this dramatic new process by Connecticut chemical engineers, Robert W. Coughlin and M. Farooque, they have shown that we can actually produce the same amount of hydrogen as we have been for half the energy input using electrolysis in a coal slurry.

I urge my colleagues to consider this process on its merits. I believe it to be a milestone in energy research. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A New Way to Get Hydrogen Gas From Coal Is Shown

A new process for producing hydrogen gas from coal was reported by chemical engineers at the University of Connecticut.

The new "electrochemical" process produces pure hydrogen by applying an electric current to a slurry of powdered coal and water. The process operates at mild temperatures, even as low as room temperature, instead of the 1,200 to 2,700 degrees Fahrenheit required for the processes currently used in the petroleum industry.

The new process also requires only about half the electricity used to produce hyrdrogen by the classical electrolysis of water in which an electric current is used to break down water into oxygen and hydrogen.

Hydrogen is a vital industrial element used for refining gasoline and other fuels and for producing ammonia for fertilizer. It also is a major raw material for the chemicals industry.

The element was once a byproduct of petroleum refining but in recent years has been in heavy demand as the refiners push to "upgrade" the gasoline and other fuels they squeeze out of each barrel of crude petroleum. The amount of hydrogen in a petroleum product determines its liquidity. Therefore, to turn the heavier, more tarry parts of crude oil into liquid fuels hydrogen must be added. An industry refining engineer noted that as the oil industry has turned to heavier, sulphur-laden crude oils in recent years, demand for hydrogen has boomed.

VARIOUS METHODS

There are several hydrogen-producing methods dating back to the early 1800s. The electrolysis of water, usually taught in high school chemistry courses, isn't widely used except where electricity is unusually cheap. Methods used around the turn of the century to produce "coal gas" for lighting involved reacting steam with coke or iron, or both. Methods for producing gasoline or other "synthetic" fuels from coal, such as used in Germany during wartime, involve the production of hydrogen.

The methods being used in the petroleum industry involve reacting steam with natural gas or other hydrocarbons from petroleum. These reactions have to take place at extremely high temperatures and pressures, however.

The new electrochemical process is described by Connecticut chemical engineers Robert W. Coughlin and M. Farooque in the May 24 issue of Nature, a British scientific magazine.

In the process, two electrodes, one positive and one negative, are inserted into a slurry of coal and water. When an electric current is applied to the electrodes, the carbon atoms in the coal begin combining with the oxygen atoms from the water to produce carbon dioxide and carbon monoxide. This releases the hydrogen atoms from the water. The positively charged hydrogen atoms are pulled to the negative electrode and come off as pure hydrogen gas.

SOURCE OF ENERGY

The researchers called the process "coal-assisted water electrolysis." To break water molecules apart into oxygen and hydrogen requires a set amount of energy. In conventional electrolysis all this energy is from the electric current but in the coal-assisted electrolysis only half the energy comes from the electric current. The remaining half comes from the coal itself, the researches explained. Thus, the process requires only half the electrical energy of conventional electrolysis.

The engineers said that their small laboratory device produced pure hydrogen while operating at room temperature. They suggested it might work even more efficiently, requiring less electricity, if it were operated at higher temperatures, and, perhaps, with catalysts.

One unusual aspect of the process was that the carbon dioxide and hydrogen gases produced were relatively free of any impurities such as sulphur compounds even though some of the coals contained sulphur. Other processes often produce polluting sulphur compounds.

In an interview, Mr. Coughlin noted that although the researchers had demonstrated an entirely new process their device was only a small bench-model. A rough economic analysis, however, indicated that at its present state of early development the process might be competitive with the older processes for gasifying coal that are being developed for large-scale production of synthetic fuel gases.

S. 600—CONGLOMERATE MERGER BILL

Mr. HATCH. Mr. President, in spite of the excellent advocacy of two of my colleagues, Senator Edward Kennedy and Senator Howard Metzenbaum, the proposed "Small and Independent Business Protection Act of 1979" has had rough going all over this country. People are starting to wake up that we are not the predominant economic international power we once were immediately following World War II. In fact, we are competing against foreign government subsidized international cartels and are taking some very bad beatings throughout the world. My two colleagues have named this anticonglomerate merger bill the "Small and Independent Business Protection Act of 1979." If there was ever a misnamed bill, it is this one.

One of the more interesting short editorials concerning this matter appeared in the Wall Street Journal on Tuesday, May 22, 1979, and is entitled "Kennedy's 'Big Is Bad' Bill." I commend this excellent short analysis of the problem and suggest that, as it almost always the case when liberal political philosophers tinker with the economic system, the free enterprise system is in danger and consumers, typified as the American public, are the big losers.

I ask unanimous consent that the article entitled, "Kennedy's 'Big Is Bad' Bill" be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Kennedy's 'Big Is Bad' Bill

(By Kenneth W. Dam)

Defenders of the antitrust law often deny that it equates bigness with badness. But the "big is bad" slogan will become the law of the land if Sen. Edward Kennedy's proposed "Small and Independent Business Protection Act of 1979" passes.

S. 600, or the conglomerate merger bill, as it's also known, would prohibit the merger of U.S. companies with $2 billion in assets or sales and severely restrict mergers of somewhat smaller companies. The measure is aimed at so-called conglomerate mergers between companies in different lines of business.

Present antitrust already raises some obstacles to such combinations, as well as horizontal and vertical mergers. But under S. 600, no showing of anticompetitive danger would be required to bar mergers involving firms with assets or sales of more than $2 billion. The proposed law simply assumes that big companies have unfair advantages and that smaller is beautiful.

The Kennedy bill has been attacked on a number of grounds, not least for the implication that size is inherently evil. Serious studies have long since discredited this notion. And if size is an evil, why limit the scope of the bill to mergers; why not simply order the government to bust up any firm that has had the "luck" (skill?) to grow beyond a certain point?

But the really striking fact about the arguments put forth by proponents of measures like S. 600 is that they are out of date. For all one can divine by reading the testimony in favor of the Kennedy bill, we might be living in an economic Fortress America, where neither imports nor exports have any bearing on competition or on the economic well-being of the American people.

That might have been true during the period of American economic hegemony that followed World War II. But now the U.S. is only one of the world's major trading countries. Foreign consumers are no longer dependent on American goods, and here at home the pressure of import competition constitutes a major constraint on price increases and profit margins.

DOMINANCE IN AUTO INDUSTRY

Yet business critics continue to talk, for example, about the dominance of four companies in the American automobile industry. A glance down Constitution Avenue should convince any objective observer that all those Volvos, Volkswagen, Renaults, Datsuns and Toyotas cannot be ignored for mere arithmetic convenience. Only one firm makes consumer sewing machines in the U.S., yet well over half of U.S. consumption is imported.

How can Congress hope to make sound policy on the basis of numbers that mask, rather than reveal, the underlying realities?

If U.S. firms are to be prevented from enjoying some of the financial and management advantages achievable by conglomerate merger at the same time that their foreign competitors can reap those advantages, then the U.S. economy will be less productive. Efficiency is especially important in view of the fact that in many countries major industries receive assistance from their governments in the form of guarantees, subsidies or even equity participation. With increasing frequency developing countries, such as Korea, are finding markets in the developed world by these techniques. The ability to diversify risk and to tap broader sources of capital may be crucial to the survival of competing U.S. firms in the 1980s.

Conglomerate merger is one of the principal devices by which weak firms are strengthened and resources flow between industries. Firms facing strong import competition must be strengthened, or resources must be transferred from those firms to industries enjoying greater international comparative advantage.

Conglomerate merger is a more promising device to bring capital and better management policies to revitalize troubled firms than is governmental adjustment assistance, which too often turns out to be burial insurance and which few analysts believe will ever work to turn around weaker firms. And when resources must be transferred out of an industry that is no longer viable, even with better management and adequate finance, conglomerate merger is often a more palatable and efficient technique than is the alternative market process in which the uncompetitive firm simply wastes away, losing key employes and allowing obsolescent plant and equipment to deteriorate.

Conglomerate merger is also an alternative to more interventionist policies followed in other countries. One such alternative is protection. But tariffs and quotas are antithetical in spirit to the antitrust laws and certainly not in the consumer interest. Also at odds with U.S. tradition are forced reorganization of industries, a policy followed in Japan and France, and government mandated production-allocating cartels, such as the European steel cartel.

An even more ominous interventionist alternative is nationalization or, what amounts to nearly the same thing, massive direct subsidization of ailing firms. This policy has been pursued in a number of countries, sometimes dressed up as a socialist policy but often pursued as a straight bail-out by more conservative governments.

For example, the British have in the past decade taken over one internationally weak sister after another, under both Labor and Conservative governments. The Heath government's takeover of Rolls-Royce in 1971 set the trend. In 1975 the British decided to make a virtue of necessity by converting most of these ailing firms into subsidiaries of the National Enterprise Board. The NEB is in form a public corporation but the reality is that it is a conduit for massive amounts of public funds into companies that are unable to turn themselves around because neither new management nor better financial practice seem to follow the infusion of tax money into public sector industrial firms. British Leyland, one of NEB's principal holdings, had a net loss including extraordinary items of about $77.5 million last year.

EXPERIENCE IN ITALY

The same pattern has been followed in Italy. The Italian Industrial Reconstruction Institute (IRI) dominates large sectors of Italian industry, including steel and shipbuilding. Much of the IRI empire dates back to the Fascist period. It was run in the immediate post-war period according to commercial criteria. But in the 1960s IRI was increasingly used to bail out industries in trouble. The most spectacular example was the acquisition of a controlling interest in the giant chemical firm Montedison, which continued thereafter to lose money on a scale which threatened the solvency of the IRI itself. In 1978 Montedison lost nearly $300 million. Italsider, an Italian state-owned steel company, lost over $400 million in 1977, the latest year for which figures were available.

The United States has had little experience with direct intervention. The principal example is Lockheed. We were fortunate that the Lockheed experiment was limited to loan guarantees and that it worked out as well as it did. Those who fear that Lockheed is a bad precedent for the future should be reluctant to close off a private sector alternative. We increase the likelihood of future bail-outs if we foreclose conglomerate mergers now.

Another international issue not considered by proponents of the conglomerate merger bill is how it would affect investment decisions. When industries stop growing but are still reasonably profitable, managements naturally consider investments outside the boundaries of the firms as they then exist. Although increased dividends are an alternative, they attract double income taxation and thus may not be in the interest of stockholders.

If many domestic mergers are now to be foreclosed, the incentive for foreign investment will be increased. The tendency will be to drive domestic firms toward becoming multinationals. One need bear no populist grudge against foreign investment or multinationals to deplore rules that bias firms in favor of foreign as opposed to domestic investment. The conglomerate merger bill thus could result in exactly what the critics of multinationals deplore—the exporting of jobs.

HOUSE ACTION ON PANAMA CANAL TREATIES

Mr. HATCH. Mr. President, the Carter administration yesterday requested the House leadership to postpone further consideration of H.R. 111, the Panama Canal implementation legislation. This action was taken, because of estimates that the legislation remains 20 to 25 votes short of passage.

While I, of course, have never been a supporter of the treaties, I think that it is worth noting that much of the difficulty that has arisen with respect to the implementation legislation might have been avoided had the House been accorded its proper constitutional role in the treaties themselves. During the course of debates on the treaties last year, this body rejected an amendment which would have insured a direct role for the House of Representatives in this process.

At the time, I argued that article IV, of section 3, clause 2 of the Constitution was specific with respect to the role of "Congress" in the process of disposing of territory and property belonging to the United States. In its entirety I, the appropriate language reads:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

"Congress," of course, means the Senate and the House acting concurrently.

While it is clear that the Senate stands alone in its responsibility to offer "advice and consent" to the President in the area of treatymaking, it is just as true that some forms of treaties do not become fully operative without the action of both Houses of Congress. The Panama Canal treaties are an example of this.

The relevant distinction was laid down well in *Foster* v. *Nelson* 27 U.S. 253.314. There, the court observed that treaties, as with the laws of the United States and the Constitution itself, were part of the supreme law of the land under article VI of the Constitution. This was true, however, only when the treaty "operates of itself, without the aid of any legislative provision." In other words, only those treaties which were "self-executing," and in need of no further legislative effectuation, were to become fully effective following Senate ratification.

Where the treaty affects powers or relationships that are spelled out in the Constitution, the treaty must comply with the constitutional provisions. Treaties, no more than statutes, can circumvent the terms of the Constitution. Just as the actions of this body can be rendered void, because they conflict with the Constitution, so can the treaty actions of this country.

The Panama Canal treaties are non-self executing treaties, because they involve the disposition of both territory and property of the United States; namely, the Canal Zone. Thus, under the terms of article IV, section 3, clause 2 of the Constitution, the House of Representatives is accorded a role. The treaties, in the words of Justice Marshall in Neilson require that the "legislature must execute the contract, before it can become a rule for the Court."

In practice, this principle has been honored for nearly two centuries. As early as 1796, in connection with the Jay treaties between the United States and Great Britain, controversy arose with respect to the role of the House in appropriating funds necessary to carry it out. The House concluded by appropriating the money, as well as adopting a resolution outlining the criteria for House involvement in the treaty process. The resolution stated:

> When a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend for its execution as to such stipulations on such law or laws to be passed by Congress, and it is the constitutional right and duty of the House of Representatives in all cases to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgement may be most conducive to the public good.

Thus, a role is prescribed for the House in certain types of treaties, and not simply a pro forma role. The House is expected to bring to bear the same weight of judgment in legislative actions affecting treaties that it brings to bear on any other form of legislative action.

The House role does not end with its constitutional responsibilities under article IV. Under article I of the Constitution, it is specified that—

> All bills for raising revenue shall originate in the House of Representatives . . . no money shall be drawn from the Treasury,

but in consequence of appropriations made by law.

It is pursuant to this provision of the Constitution, as well as to its general "housekeeping" responsibilities, that the House is now acting with respect to the implementation legislation. The implementation legislation that the House is presently considering (at least until the administration called for its delay) is absolutely necessary if the canal treaties are to take full effect. Despite what the administration has suggested, the House actions are not a charade; they are not a mere formality; rather, they are essential to the canal treaties.

The House, in my opinion, has acted responsibly thus far in according substantial debate and discussion to the financial aspects of the disposition of the canal. It is that body which has primary responsibility for insuring against abuse of the Federal Treasury. I find it interesting that the relatively conservative estimates of the House Merchant Marine and Fisheries Committee suggests that the cost of the treaties to the U.S. taxpayer will be in the neighborhood of $720 million. In addition, canal users, which translates into American consumers, will be paying an additional $2.8 billion between now and the end of the century. Another $650 million in property transfers will be involved. All of this, despite the promises of the Carter administration that there would be no additional and no hidden costs to the treaty.

It is for exactly this reason—the revelations of the House concerning costs of the canal treaties—that the House is given an indirect role in the treaty-making process. It is a further illustration of the doctrines of "separation of powers" and "checks and balances" that the founders were so careful to include within the fabric of the Constitution.

Mr. President, I would also like to note that a number of new constitutionally related concerns have arisen in the House concerning the treaties. Most center around the propriety of the new Panama Canal Commission which is an executive agency to be appointed by the President partly from among U.S. citizens and partly from among Panamanian nationals. Dr. Charles Breecher, a former State Department official and an officer of the American Society of International Law, has noted the following objections to the formation of the Commission: First, article III, section 3 (establishing the Commission) invests in nonresident aliens the authority of the U.S. Government; second, it violates the 14th amendment's "privileges and immunities" clause by prohibiting American citizens from any opportunity of ever filling a specific number of positions on a U.S. Government agency; third, the Panamanian nationals on the Commission are not subject to Senate advice and consent, or impeachment, per article 2, section 2 of the Constitution; and fourth, the terms of the Commission place unconstitutional restrictions upon the ability of the President to exercise his full article 2, section appointment power.

Had the Senate accepted my amendment last year to accord the House their due role in the canal treaties, I strongly believe that the path of the treaties would have proven a far smoother one than has been the case. There would have been no need for Congress to legislate in an atmosphere of last-minute chaos. There would have been an opportunity for the House to fully consider the implications of the treaty free from the threats and rumors that invariably characterize legislation racing with deadlines. There would have been no intervening congressional election to upset the cast of congressional characters. And the attitude of the House toward the treaties and toward the administration's case might have been a far more receptive one.

The action of this body, and the action of the administration, last year, in defeating an honest effort to enable the House to assert its proper constitutional prerogatives has proven a classic illustration of legislative shortsightedness.

RECOGNITION FOR A NATURAL RESOURCE

Mr. ROBERT C. BYRD. Mr. President, 50 years ago yesterday, William D. Boyce, a Chicago publisher, passed away. In itself, the anniversary of this death might not be especially noteworthy. However, William Boyce was perhaps one of the most influential Americans of the last 100 years, for he was the founder of the Boy Scouts of America, and Scouts all over this country are today commemorating his death with memorial observances.

The international Scouting movement is said to have had its origins in Britain in the first decade of this century, immediately following the Boer War. Lt. Gen. Robert S. S. Baden-Powell, the brilliant and famous commander of the British garrison at Mafeking, had authored a book on Scouting which became extremely popular in England. Encouraged by concerned youth workers to put his Scouting ideas to practical use on a large scale, Baden-Powell established the camping program that launched the Scouts in Britain.

In 1910, Boyce, while visiting in London, found himself hopelessly lost in one of that city's notorious fogs, whereupon a British Boy Scout came to his rescue. Upon investigation into this new organization, Boyce became so impressed with its philosophy and activities, that he enlisted the aid of others in establishing Scouting in the United States. In 1916, the Congress granted a Federal charter to the Boy Scouts, and its scope and program have expanded steadily since that time.

Large numbers of American men have successfully completed the challenging program of the Scouts, achieving the coveted goal of becoming an Eagle Scout, and literally millions have reached one of the many levels of scouting offered in the Boy Scout program. The famous "Boy Scout Handbook," filled with scouting lore and inspirational material, has itself been printed in 22 million copies since its initial edition, and many copies are passed from hand to hand and are in continuous use.

Our country owes an incalculable debt to the scouting movement. Patriotism, responsibility, self-discipline, reverence, character, and values are nurtured by outstanding institutions in our society. But few organizations can equal the Boy Scouts in success, longevity, or scope of activities.

Mr. President, I want to commend the Boy Scouts of America for the excellent record that it has made since its foundation. And I want especially to salute the millions of Scouts and the men and women who give so generously of their time in sponsoring scouting activities in order to contribute to the strength of our country and our society. Truly, the Boy Scouts of America is one of our finest national resources.

S. 1212—EXTENDING THE PRESUMPTIVE PERIOD FOR VETERANS WITH SYRINGOMYELIA

Mr. HART. Mr. President, on May 22 I introduced S. 1212, a bill to extend the presumptive period for veterans who suffer from syringomyelia—a severe neurological disorder. Unforunately, the bill was not reprinted in full in the May 22 Record, leaving out a section requiring a review of the presumptive periods established by the Veterans' Administration for all neurological diseases.

A second error—this one typographical—would require that a veteran be rated at least 18 percent disabled, rather than the standard 10 percent, before becoming eligible for VA disability benefits.

Mr. President, I ask that the corrected version of S. 1212 be printed in the Record, together with my floor statement upon its introduction.

The statement and bill follow:

Statement by Senator Hart

Mr. President, syringomyelia is a rare but physically devastating disease caused by deterioration of the spinal cord and the medulla—the nervous tissue at the base of the brain which controls several vital life functions. The symptoms of this disease are muscular wasting and weakness, sensory defects, and digestive disorders.

The early manifestations of syringomyelia, like those of multiple sclerosis, are difficult to diagnose. Under current law, there is a seven-year presumptive period during which a veteran suffering from multiple sclerosis can receive disability compensation from the Veterans' Administration (VA). But, despite the fact that these diseases have similar symptoms and are equally difficult to identify, a veteran whose case of syringomyelia cannot be accurately diagnosed within one year of his or her separation from military service cannot be granted service connected disability compensation.

I first became aware of this inequity when a young Vietnam veteran came to me seeking assistance. This veteran had experienced many of the symptoms of neural disorder within one year of his separation from military service. The VA had denied any consideration for VA service-connected compensation simply because it was medically difficult to diagnose syringomyelia in its early stages.

Mr. President, the bill I am introducing today will extend from one to seven years the presumptive period during which a veteran suffering from syringomyelia can obtain service-connected disability benefits if it is determined that this disease was aggravated by military service. Second, this bill will require the VA to conduct a study to determine if the existing presumptive periods for other neurological disorders should be extended beyond the current one-year presumptive period.

This legislation is supported by the American Legion, which adopted a resolution at its national convention last summer calling for swift congressional action to extend the presumptive period for syringomyelia. Additionally, the Denver City Council passed a resolution last year called for the Congress to review the disparity between the presumptive periods established for similar diseases in determining a veteran's eligibility for disability benefits.

I ask that the Denver City Council Resolution No. 29 be printed in the Record at this point.

The resolution follows:

Resolution No. 29

Whereas, under existing Federal law relating to veterans' disability benefits, the Veterans Administration is the only Federal agency whose administrative determinations, regarding the eligibility of veterans for disability benefits, are not subject to review by the Federal judiciary; and

Whereas, this denial of judicial due process, although not yet adjudicated as such, appears to be clearly contrary to the spirit and intent of the United States Constitution; and places an unfair burden on veterans as a class; and

Whereas, under the provisions of Title 38 USC Section 312 there is a disparity between statutory presumptive periods of certain neurological diseases, by which service-connected disability benefits are established for veterans; specifically, the presumptive period for multiple sclerosis is 7 years, although for a very similar disease known as syringomyelia the presumptive period is only 1 year; and

Whereas, this disparity has caused great hardship for veterans such as Mr. Billy Tilmon of Denver, who was discharged from the Army in 1968, but whose symptoms of syringomyelia and syringobulbia were not diagnosed until 1971, which was too late for him to claim veterans' disability benefits;

Now, therefore, be it resolved by the Council of the City and County of Denver:

Section 1. That the Council hereby urges the Congress of the United States to enact legislation allowing veterans the right to seek judicial review of adverse administrative decisions made by the Veterans Administration.

Section 2. That the Council further urges the Veterans Affairs Committees of both Houses of Congress to review the disparity between presumptive periods of certain neurological diseases to ensure that the same presumptive period is established for similar diseases for the purpose of determining veterans disability benefits.

Section 3. That the Clerk of the City and County of Denver shall attest and affix the seal of the City and County of Denver to this resolution, and that copies hereof be transmitted to Senator Alan Cranston and to Representative Roy Roberts, respective Chairmen of the Veterans Affairs Committees of the United States Senate and House of Representatives; to the Honorable Members of the Colorado delegation in Congress; to Mr. Max Cleland, Director of the Veterans Administration; and to President Jimmy Carter.

Mr. President, I believe that this bill will rectify longstanding inequities in the awarding of legitimate benefits to veterans because they suffer from neurological diseases which cannot be accurately diagnosed within the current one-year presumptive period.

S. 1212

A bill to amend section 312(a) of title 38, United States Code, to provide that certain veterans who suffer syringomyelia will be presumed to have incurred or aggravated such disease in military service if such disease is developed within seven years after the veterans' discharge or release from the armed forces, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 312 of title 38, United States Code, is amended by adding at the end of clause (5) the word "or", and by adding after clause (5) the following new clause:

"(6) syringomyelia developing a 10 per centum degree of disability or more within seven years from the date of separation from such service;".

Sec. 2. (a) The Administrator of Veterans' Affairs shall conduct a study to determine whether a presumption of service connection should exist with respect to any neurological disease other than syringomyelia when such disease develops in a person after such person has served in the armed forces of the United States.

(b) The Administrator shall submit the results of the study required under subsection (a) to the Congress within one year after the enactment of this Act together with such recommendations for legislative action as the Administrator deems appropriate, including recommendations regarding the period any presumption of service connection should extend with respect to any neurological disease after a person has been separated from military service.

COMPREHENSIVE HEALTH CARE REFORM PROPOSAL

Mr. SCHWEIKER. Mr. President, I am today announcing the outlines of legislation I will soon introduce on the subjects of health care cost containment, catastrophic health insurance, and preventive health care.

This comprehensive approach to the fundamental problems facing our health care delivery system will: First, reduce health-cost inflation by encouraging large employers to offer their employees at least three competitive health insurance plans and by requiring that at least one plan offered by all employers contain a 25-percent, cost-sharing provision for hospital services up to 20 percent of family income in order to be tax deductible; second, provide all Americans with protection against the costs of catastrophic medical expenses through tax incentives to the private sector and improvements in the medicare program, and third, encourage preventive health care by requiring that any tax deductible health insurance plan must contain a prescribed level of preventive benefits.

My package is designed to respond to three pressing health care needs that are inextricably linked: hospital cost containment, catastrophic health insurance, and preventive health care. Hospital cost containment has been the subject of intense debate in Congress for the past 2 years. Escalating medical costs have caused increased public demands for improved health insurance coverage, particularly against catastrophic health care expenditures. There is also growing awareness throughout our society of the advantages of preventive health care and the need to improve access to it.

Despite these clear public needs, Congressional action in all three areas has been delayed by growing disenchantment with Government regulation as a solution to social problems, fewer Government dollars with which to attack them, and increased reluctance to pump scarce resources into the Washington regulatory pipeline. In the health field, more and more experts are concluding that fundamental reforms of the basic structure of our health care delivery system are imperative if permanent solutions to these problems are to be found.

I believe escalating health care costs result not from a lack of regulatory controls on the industry but from the noncompetitive structure of the third-party health care reimbursement system. This system has been encouraged to spread by our Federal tax laws, which give generous deductions to individuals and employers for purchasing broad and inefficient health insurance coverage. To break this inflationary spiral, we need to encourage consumers to participate in health care pricing decisions and stimulate competition in the health insurance industry.

My proposal will change the nature of these tax incentives to encourage the patient to pay a larger share of short-term hospital care expenses, thereby bringing the patient back into pricing decisions. It will also re-orient health insurance coverage to protect against the costs of high cost illness, and encourage better health through preventive care.

REDUCING HEALTH COST INFLATION

THE PUBLIC NEED

There is no question about the need to reduce the unacceptable escalation of medical costs in this country. In 1950, the average cost per patient day in one of America's hospitals was $15.62. By 1978, it had risen to $227.52, an increase of almost 1,400 percent. During that same period, consumer prices as a whole had risen by less than 200 percent. Thus, the cost of a day in a hospital from 1950 to 1978 rose by more than seven times the rate of all other prices in the economy. Within the last 5 years, moreover, the cost of an average patient day in one of America's hospitals has almost doubled, whereas overall prices during the same period increased by less than 50 percent. Rising hospital costs account for more than 40 percent of all health expenditures and have thus been a primary cause of comparable increases in all health care costs.

The Federal Government has a direct impact on this problem because of its impact on the Federal budget. The Federal Government will spend about $54 billion in fiscal year 1980 on various health related programs. Of this amount, Federal expenditures for hospital care will be about $35 billion, an increase from 1969 of $28 billion or about 450 percent. By 1984, Federal taxpayer expenditures for hospital care will reach $48 billion, an increase of over 90 percent from their estimated 1979 level.

GOVERNMENT RESPONSE TO THE PROBLEM

In recent years Congress has not been unaware of growing public alarm over rising health care costs. As the ranking Republican of the Senate Human Resources Committee and its Health Subcommittee, I have worked for years in searching for ways to attack it. One of our primary initiatives has been the Health Planning and Resources Development Act of 1974, which has attempted to encourage the States and local communities to make more effective use of our health care resources by reducing the duplication and proliferation of health services, facilities, and equipment. In addition, I have authored legislation to promote the growth of health maintenance organizations, which encourage more economical ways to deliver quality health care by emphasizing preventive and ambulatory services through internal cost containment mechanisms. Finally, recent medicare and medicaid legislation has attempted to discourage fraud and abuse and encourage greater efficiency in services reimbursed by the Government under these programs.

While I believe these congressional actions hold great promise, it must be admitted that their full impact will not be felt, nor their success known, for a number of years. Meanwhile, growing public concern over ever-increasing rates of inflation requires more immediate action.

Recently, the Carter administration sent to Congress the third in a series of legislative proposals designed to reduce hospitals costs by Federal regulation. The bill would place hospitals under a form of price controls whenever their rate of expenditures rose by more than HEW-calculated standards. Thus, the administration's plan to reduce health care costs would focus on Federal revenue caps.

While I share the administration's goal of reducing hospital costs, I believe its proposed solution would do more harm than good. Aside from a disturbing number of technical difficulties in the way the program is designed, the administration's regulatory policy will do nothing to attack the fundamental causes of health cost inflation, which are rooted in the third-party reimbursement system. Establishing an HEW bureaucracy to control hospital expenditures will itself be inflationary. It will lead to anticipatory price increase and higher administrative costs. It will adversely affect quality of care by arbitrarily limiting national health expenditures and inject the Federal Government into medical decisionmaking. And it will preclude promising private sector efforts to attack the problem in a nonregulatory fashion, such as the voluntary effort and action I will suggest here today.

The administration is attempting to build public support for this simplistic regulatory strategy by making it the centerpiece of its anti-inflationary program. It argues that we do not have time to attack the more basic causes of health care inflation because the problem of general inflation requires more immediate action. Recent evidence, however, has shown that this line of reasoning is deceptive, since the President's cost containment bill will have only a negligible impact on the rate of inflation in the economy as a whole. This point was originally argued by Prof. Martin Feldstein before our Health Subcommittee. A recent study by Data Resources, Inc., confirming his findings, estimates that the impact of the President's cost containment bill on inflation in the general economy over the next 5 years will be only one-tenth of 1 percent annually—see table 1. This is understandable since hospital expenses represent only 3.5 percent of the gross national product.

TABLE 1.—RATES OF INFLATION IN THE ECONOMY WITH AND WITHOUT THE ADMINISTRATION'S COST CONTAINMENT BILL

[Annual percentage rates of change CPI—All urban consumers]

	1979	1980	1981	1982	1983	1984
No cost containment program	8.9	7.6	7.1	7.0	6.8	6.6
Administration cost containment program	8.9	7.6	7.0	6.9	6.7	6.5
Difference	0	0	−.1	−.1	−.1	−.1

Source: The Macroeconomic Implications of the Hospital Cost Containment Act of 1979, prepared by Data Resources, Inc. (May 1979).

Thus, we should not be driven into a simplistic regulatory solution to a complex health care problem by the administration's argument. Health care cost inflation is a serious problem in its own right because of the devastating effects medical bills can have on those who bear the brunt of them. While the number of people who actually incur large medical bills is not large in number relative to the entire population, the fact remains that almost everyone in our society is a potential candidate for their devastating effects. As a result of this fear, many people are spending large amounts of money on inefficient health insurance protection. In addition, Government expenditures on health through medicare, medicaid, and other public programs are rising so quickly that precious resources are being diverted from other social problems. Thus, we should not be pushed into ineffective regulatory solutions in hopes that they will reduce inflation in the general economy. But we should look for effective long-term solutions to health cost inflation because it squanders resources badly needed in other areas

THE FUNDAMENTAL CAUSES OF HEALTH COST INFLATION

Contrary to arguments made by the administration, escalating health care costs result not from a lack of regulatory discipline, nor from the unwillingness of the medical community to do something about them. They result from the fact that 90 percent of the Nation's hospital bills are paid by insurance companies or other third-party payors not directly involved in setting the price for that care. An arrangement in which the patient (or consumer) demands a level of service set primarily by the doctor—or supplier—with a third party picking up the tab, represents a "blank check" arrangement that is bound to be inflationary

In addition, Federal tax laws which allow employers and employees to deduct cost of health insurance premiums have encouraged individuals to purchase as much insurance as possible for routine medical services. Over the last quarter century, the percentage of out-of-pocket expenses paid by the patient once he goes to the hospital has fallen from 50 to 10 percent. Patients, therefore, have little incentive to monitor the cost of services provided by the doctors and hospitals. By the same token, doctors and hospitals have litttle incentive to monitor costs since insurance companies or other third parties to the arrangement are paying the bills. Ultimately, the cost is borne by the patient in the form of increased insurance premiums, in turn increasing his demand for more insurance and more services and aggravating the inflationary spiral.

Another reason for health care cost inflation is a lack of competition in the health care industry. While the reasons are varied and complex, a basic cause is the fact that few individuals have the opportunity to make price-conscious decisions between alternative insurance plans. Generally, an employer makes the choice of a health plan on behalf of his employees. Where alternatives are available, employees do not always realize the direct financial benefits for choosing more efficient plans. This lack of competition gives insurers little reason to aggressively control costs.

Clearly, Government-imposed price ceilings will not be an effective solution to this problem. What is needed instead are incentives for the various parties in this structure—patients, doctors, hospitals, and insurance companies—to monitor costs and participate more effectively in health care pricing decisions.

PROPOSED COST CONTAINMENT STRATEGY

Mr. President, I propose to attack the problem of health cost inflation by encouraging competition and encouraging the patient to participate in pricing decisions.

My bill will require that employers with more than 200 full-time employees, as a condition of deducting premium contributions from their gross income, offer their employees the choice of at least three health plans.

In addition, certain new tax conditions would apply to any employer regardless of size. Each plan he offers must be sponsored by a different organizational entity so as to insure true competition. In addition, the employer would have to make the same dollar outlay for health benefits per employee, whether that outlay went entirely to the employee's insurance carrier or was divided between premium payments and rebates to the employee.

If an employee chose a plan whose premium cost was less than the employer outlay per employee, he would be entitled to receive the difference between the outlay and the cost on a tax free basis. This would insure that employees receive some direct financial reward for choosing lower cost, more efficient health plans. Throughout this process, the role of collective bargaining agents would be preserved.

In order to encourage the consumer to participate in health pricing decisions, my bill will also require that one of the plans offered by all employers, and by the Government to its employees, contain substantial cost-sharing provisions. At least one offering must contain an annual copayment rate for hospital services of at least 25 percent, effective until annual family medical expenses exceed 20 percent of adjusted gross income. Frequently, this plan will have the least expensive premium payments of those offered by the employer. Where the cost is less than the employer outlay, a tax-free rebate would result.

Requiring three health plans to be offered to employees by large firms will work to lower health costs in several ways. Since it is generally the employer who makes the choice of a health benefits plan for his employees, the forces of competition are often precluded from operating within employee groups. If that choice is passed through to the employees themselves, more competitive alternatives will become available. Employees could compare notes and force insurance plans to improve benefits and lower premiums to accommodate their needs. This process will be encouraged by the availability of tax free rebates. Competition will also encourage health plans to provide clearer informational material to individual subscribers, thereby enhancing general understanding of the salient differences between various types of plans. "Multiple choice" marketing of health plans will force the insurers to monitor the cost, quality, and overall efficiency of doctors and hospitals in an effort to make premiums and benefits more competitive. It will thus encourage people to choose the lower cost health plan and thereby promote cost containment even where the patient does not directly pay for the service or is otherwise indisposed to be conscious of price. Finally, multiple choice creates a climate in which innovative health care plans with internal cost containment mechanisms will flourish. The "multiple choice" concept was originated by Dr. Walter McClure of Interstudy, and I believe it will be a major contribution to pro-competitive efforts in the health care industry.

Encouraging employees to select a high coinsurance plan will also have significant results.

Studies done by noted health economists have shown that reinvolving the patient in hospital care pricing decisions will result in considerable savings. If third-party payers picked up 85 percent of the hospital bill instead of the present 90 percent, then the dollar value of ineffectual hospital care and testing eliminated by doctors and patients acting together would exceed the Congressional Budget Office's estimates of the administration plan's savings.

Such a modest change in health care financing would save more than the administration's plan because patient cost-consciousness will be aroused. Currently, for every 10 cents a patient had to pay, a third party paid 90 cents. If the patient paid 15 cents for every dollar's worth of care he received, the third party payer would finance 85 cents. The financial leverage facing the patient would be fundamentally altered. Instead of each $0.10 patient payment resulting in a $0.90 insurance side payment, my plan would encourage a 25-percent patient payment and a 75-percent insurance company payment. Bearing a greater percentage of the direct cost, the patient would lower his demand for some health services. There are studies available, however, showing that this should not affect the quality of health care if it is appropriately linked to ability to pay. I have great confidence that patients and doctors working together will be better able to eliminate wasteful medical practices than the Department of Health, Education, and Welfare. One would certainly expect that those with the greatest amount of self-interest in cutting wasteful hospital expenses would do a better job than those far away from the scene. It is for this important reason that I have rejected the regulatory approach suggested by the administration and sought instead to find a way to increase patient cost consciousness.

COST IMPACT OF PROPOSED COST CONTAINMENT STRATEGY

Table 2 summarizes the estimated annual savings from my plan to the Federal, State, and local governments, and to the private sector.

TABLE 2.—*Annual fiscal impact on Schweiker comprehensive health plan*

	Billion
I. Federal Government:	
Savings from hospital cost containment[1]	−$2.5
Cost of medicare improvements	0.8
Reduction in tax revenue[2]	1.5
Net savings	0.2
II. State and local government:	
Savings from hospital cost containment[1]	−0.7
Reduction in tax revenue[2]	0.2
Net savings	0.5
III. Private sector:	
Savings from hospital cost containment[1]	−4.3
Reduction in taxes	−1.7
Cost of preventive health programs[3]	2.0
Cost of catastrophic pooling program	1.0
Net savings	3.0
Summary of fiscal impact:	
Savings from hospital cost containment[1]	−7.5
Cost of medicare improvements	0.8
Cost of preventive health programs[3]	2.0
Cost of catastrophic pooling program	1.0
Net savings	3.7

[1] Assumes that 41 percent of population enrolls in 25-percent copayment plan.

[2] Government revenues fall because business deductions rise by $8 billion, reflecting the cost of new expenditures for catastrophic health insurance premiums and preventive health initiatives. Government revenues rise because itemizable deductions for medical expenses falls due to universal catastrophic health insurance.

[3] It is believed that preventive health measures will result in significant systemwide savings due to lower expenses required to treat illness diagnosed early and a reduction in the amount of production lost because of worker illness. But no savings are included as an offset against $2 billion in new preventive expenditures.

Table 3 states the estimated impact over the next 5 years, assuming gradually increasing acceptance of the 25 percent copayment option.

TABLE 3.—ANNUAL HOSPITAL EXPENDITURES, 1980–84

[In billions of dollars]

	1980	1981	1982	1983	1984	Total
No plan	93.6	104.9	117.4	131.7	147.9	595.5
Schweiker plan	91.2	100.4	110.4	121.6	134.1	557.7
Savings	2.4	4.5	7.0	10.1	13.8	37.8

HOSPITAL SAVINGS UNDER THE SCHWEIKER COMPREHENSIVE HEALTH PLAN, 1980–84

[In billions of dollars]

Year	Total	Private sector	State and local government	Federal Government
1980	2.4	1.4	0.2	0.8
1981	4.5	2.6	.4	1.5
1982	7.0	4.0	.7	2.3
1983	10.1	5.8	1.0	3.3
1984	13.8	7.9	1.4	4.5
Total	37.8	21.7	3.7	12.4

Assumptions:

1. Enrollment changeover to 25 percent co-payment option:

1980, 18 percent of privately employed population.

1981, 29 percent of privately employed population.

1982, 41 percent of privately employed population.

1983, 53 percent of privately employed population.

1984, 65 percent of privately employed population.

2. Estimates of national hospital expenditures in 1979 and 1984 without a policy change are those provided by the Administration.

3. Hospital expenses between 1979 and 1984 at a constant rate during the period.

4. An employee who elects the 25 percent co-payment will order 20 percent less in hospital services than one who has an 18 percent co-payment policy.

5. Doctors will treat medicare and medicaid patients in the same manner as they will treat privately funded patients. Since private patients will be cutting back on their purchases somewhat, doctors will treat publicly funded patients with somewhat lower resources than otherwise, too.

While equal employer contributions with tax deductible premium rebates has not been made available nationally as an incentive to encourage conservation of medical resources, empirical examples do exist where savings have been achieved through competition between various plans, copayments for medical expenses, and preventive coverage.

In 1978 the University of California offered several plans to its 80,000 employees. Included among them were first dollar coverage plans, health maintenance organizations (HMO's), and low-option plans with copayments and deductibles. The low-option plan requires a $100 deductible and a 20 percent copayment up to a level of $3,100 in medical costs, for employee premium savings over a basic and major medical package of $61 per month. Of the 80,000 employees in the University of California system, 23,000 prefer this plan even though there are no provisions for tax free premium rebates and they are losing an $11 subsidy per month from the university. As an institution, the university does not provide "self-insurance" for the first $700 of out-of-pocket payment which is required before the plan covers 100 percent of medical costs, so individuals are willing to bear the risk of paying $700 in order to save $61 per month.

The State of Hawaii offers an instructive case of competition in health care plans. Hawaii has two dominant medical insurance plans, Hawaii Medical Service Association (HMSA) and the Kaiser Foundation Health Plan, Inc., an HMO. Competition between these two plans has required emphasis on appropriate utilization of services by its members and cost containment in all areas of health services. While HMSA had been functioning since the 1930's, the Kaiser Foundation only entered the Hawaiian market in 1958. Since the entry of Kaiser, HMSA has expanded its benefits and further emphasized cost containment in order to compete. In 1960 HMSA instituted first dollar coverage for such preventive services as biennial physical examinations, routine well-baby checkups, and immunizations. In addition Kaiser's presence in Hawaii prompted HMSA to develop its own HMO package. Competition from HMSA, on the other hand, has forced Kaiser to keep its premium rates competitive.

CATASTROPHIC HEALTH INSURANCE

My bill will insure that all Americans have "minimum catastrophic protection" to protect them against the cost of all medical expenditures—other than long-term nursing care—over 20 percent of annual family income. For the employed population, tax deductions for insurance premiums will not be allowable unless a plan contains this minimum level of protection. Additional Federal payments will finance catastrophic protection for the elderly under medicare; and a special insurance pooling arrangement will be used for small-firm employees, uninsurable risks, and those without access to health insurance.

CURRENT HEALTH NEEDS

Until recently, there were large numbers of Americans without health insurance. This led to a host of private and governmental efforts to increase the general availability of health insurance coverage. As a result of such efforts, we find that today more than 90 percent of all Americans have access to some form of public or private health insurance coverage. Much of that coverage is inadequate, but the fact that most Americans have some form of insurance coverage is quite significant. It means that the primary challenge facing us today is to reorient existing insurance arrangements rather than supplant them with a Government-run insurance program.

While there are many areas for possible improvement in insurance coverage across the Nation, available statistics indicate that a primary need is to improve protection against the expenses of catastrophic illness. Statistics on the number of Americans without catastrophic coverage range from the administration's figure of 40 percent to the Health Insurance Institute's estimate of 12 percent. Clearly, millions of Americans now live with the fear that a serious injury or illness will lead to bankruptcy, yet a large number of insurance plans do not contain adequate coverage of these costs. As my colleagues are aware, no feature of national health insurance has more popular support or is demanded more often than improved protection against catastrophic health costs.

The need for catastrophic insurance is particularly strong among our elderly citizens who tend to have higher medical expenses than other segments of the population. Current medicare benefits, with high copayments and deductibles, a 150-day hospital confinement limit, and no upper ceiling on patient cost-sharing, give our elderly citizens little protection against very high hospital bills.

Many Americans, moreover, are without any health insurance coverage, not because they do not have access to health benefits plans, but because changes in circumstances have caused their coverage to lapse. Individuals who fall into this "gap" include the temporarily unemployed, children previously covered under their parents' health plans who lose coverage upon reaching the age of maturity, and spouses and children covered under a family plan whose health coverage ceases due to the death of an insured head of household. Additionally, many employer plans do not cover spouses and family members.

PROPOSED CATASTROPHIC PLAN

My bill will insure the availability of catastrophic health insurance protection to the entire population without an additional Federal program and at a cost to the Federal Government of only $0.8 billion. This additional Federal cost will result almost entirely from adding catastrophic benefits to the medicare and medicaid programs. For the rest of the population, catastrophic coverage will be made available through some relatively simple adjustments in the existing private insurance market.

A. For employed individuals and their families: Rather than establish a Government-run catastrophic insurance program, I propose to utilize the tax code to require health benefits plans of employers with more than 50 employees to contain catastrophic benefits. Under current law, employers may for tax purposes deduct from their gross income any contributions they make for employee health benefits plans. In addition, these employer contributions are not included in the employee's taxable income.

My bill would require that any health benefits plan would have to contain minimum catastrophic coverage if the employer and the employee were to continue to receive the benefit of these deductions and exclusions. For these purposes, minimum "catastrophic" coverage would be defined as complete coverage, without copayments, of medical expenses incurred annually by an individual and his family in excess of 20 percent of the family's adjusted gross income. Relevant medical expenses would include inpatient hospital care and certain other medicare-covered expenditures.

I have chosen a percentage of annual income as the catastrophic threshold rather than a fixed dollar level because I believe any determination of which expenses are catastrophic in nature depends on family income. A $10,000 hospital bill might not impair the well being of a wealthy family, but it would create unbearable financial strain for a family with a $15,000 income. For reasons of equity, then, catastrophic expenses should be measured in proportional terms, reflecting differences in the ability to pay a hospital bill of a given size.

Available information indicates that catastrophic benefits, when added to existing health insurance policies, are relatively inexpensive, depending on the level of underlying basic coverage. Therefore, most large employers would probably be able to absorb the cost of these additional benefits without undue hardship. However, my bill would not specify who would pay the cost of these health insurance premiums. That decision would be left to the collective bargaining process.

B. For employees of small firms and of those without employer health plans:

For those who work for small employers (fewer than 50 employees) and for those without access to any employer health benefits plan, my bill would use a "pooling mechanism" to provide catastrophic health insurance protection.

Toward this end, my bill would provide that insurance carriers would be required, as a condition of participating in Federal health programs such as medicare and medicaid, to enroll such individuals in proportion to their business in any State. States would be encouraged to set up programs to keep track of whether insurance companies were meeting this obligation and to assign to carriers individuals without access to employee health plans. Since this mechanism would in effect make these enrollees members of larger groups, the cost of their premiums would in most cases be low enough for them to afford. However, my bill would specify that premiums charged such individuals could be no higher than a fixed percentage, for example, 125 percent, above the rate charged to large group enrollees for similar protection in the same geographic area.

It is generally difficult for individuals who do not belong to large employee groups to purchase catastrophic or other health insurance protection at a reasonable premium. This is because large groups require lower marketing costs. They also enable insurance companies to estimate risks more accurately and spread those risks across a large number of individuals. Thus, in order to make catastrophic insurance available to individuals who are not members of large employee groups without resorting to a Government insurance program, a mechanism must be used to include small or nongroup enrollees in larger insurance pools.

An additional function of this mechanism would be to relieve small employers of the additional paperwork and cost of administering a catastrophic health benefits plan. However, small employers would be required to assist their enrollees in contacting the State agencies administering the assignment program.

The pooling mechanism could not be used by individuals eligible for catastrophic insurance under government plans, such as medicare, medicaid, or veterans' health benefits.

The catastrophic threshold and definition of medical services included in it would be defined in the same way as it is for large employer health benefits plans.

C. Medicare: Under current medicare law, an individual must not only pay a $160 deductible under part A and a $60 deductible under part B, but he must also continue to bear a portion of his hospital costs through ongoing copayments, regardless of how large his medical expenses become. These copayment rates include $40 per day for the 61st through the 90th day per benefit period and $80 per day for the 60-day lifetime reserve. Medicare will not pay hospital costs after the 150th day. These limitations clearly do not provide adequate protection against the costs of catastrophic illness for our Nation's elderly.

My bill would eliminate the 150-day hospital confinement limit and revise the current copayment provisions. An individual would have to pay 20 percent of the cost of hospital care regardless of how many days he was in the hospital except that once coinsurance payments under part A and B reached 20 percent of income in any one year, all coinsurance requirements would cease.

The additional cost to the Federal Government of these provisions would be about $800,000 per year.

D. Uninsurable risks: Any individual who could not get catastrophic insurance in the private marketplace at a reasonable cost because of poor health would be eligible to participate in the pooling mechanism outlined above. A maximum premium cost would be defined as a fixed percentage, for example, 125 percent of large group rates in the geographic area. Any additional expenses would be borne by the insurance plan itself but should not inordinately raise premium rates since the number of individuals involved is relatively small.

E. Temporarily unemployed spouses, dependents, and those who lose coverage due to change of circumstances: My plan would further condition employer deductions and employee exclusions on "extension of coverage" provisions. An individual would have to remain covered for at least 6 months after termination of employment if he had been on the job and enrolled in the plan for at least 30 days. In addition, spouses and children under the age of 25 would have to be covered by catastrophic benefits and remain covered for at least 6 months in the event of the death of the employee-policyholder.

HEALTH PROMOTION DISEASE PREVENTION BENEFITS

I believe that in addition to a cost containment mechanism and plans for catastrophic coverage, a health plan should contain a health promotion-disease prevention benefit package. Prevention is the most effective method for cost containment, and the cost of prevention itself is usually extremely low relative to the cost of medical care for the disease in question. Preventive measures are also indicated since for many diseases our therapies remain imperfect and total cures are not yet possible.

My plan includes six prevention benefits:

First. Maternal care.
Second. "Well-baby" clinic services.
Third. Childhood immunizations.
Fourth. Hypertension screening.
Fifth. Cervical cancer screening.
Sixth. Periodic health examinations.

The National Center for Medical Statistics reports that between 1930 and 1945 medical advances permitted the average life expectancy to increase by almost 6 years; during the 1945 to 1960 interval life expectancy increased by approximately 4 years; and most recently between 1960 and 1975 the increase was less than 3 years. Conversely, the cost of health care and hospitalization has increased exponentially in recent years.

The total cost of illness, which includes estimates of the short- and long-term medical cost of disease as well as the wages lost to illness and the effect on gross national product, has increased dramatically. In 1963 the total cost of illness was $93.5 billion whereas in 1972 it was $188.8 billion. In summary, a dollar spent on medical care is buying less and less in terms of national health.

Two types of preventive measures offer great promise for containing health costs and improving both the length and quality of life. Primary prevention measures when applied to the healthy, general population prevent the development of certain diseases. Secondary prevention measures are screening procedures that detect the presence of early disease in the population, thereby permitting early treatment and preventing serious morbidity and mortality from the disease.

At a time when Federal budgetary austerity is limiting the amount of resources available for national health missions, we must be diligent in our efforts to insure that these limited means are used to improve health in the most effective manner. It is interesting to note that in 1976 the Federal expenditure for all prevention and health promotion programs, including environmental programs, was only 2.6 percent of the total Federal expenditure for health care and research.

Prevention and promotion measures, aside from the traditional public health procedures that deal with sanitation and immunization, are a relatively new and underdeveloped approach to health. A number of preventive interventions, such as alterations in the environment, socioeconomic status or family structure, are beyond the scope of our current health care system or are not presently amenable to legislative action. In other health care areas we have not yet developed sufficiently reliable or proven prevention techniques for inclusion in a general health plan. For example, behavioral based health problems such as smoking, alcohol or drug abuse, and violence, are difficult to prevent by the available health education methods. Nevertheless, it makes no sense to wait for all of the answers, we should move ahead with preventive programs of proven value.

The six preventive health benefits in my proposal must be provided in the insurance plans offered by employers who seek special tax status, as well as in plans offered under the State-administered pooling arrangements. These benefits offer a combination of primary and secondary preventive measures.

First, the health insurance plans will be required to offer maternal care, that is, medical examinations, treatment, and counseling for pregnant women, delivery services, and post-partum care. Infant mortality in the United States is excessive: Over 50,000 infant deaths occur each year. One of several responsible factors is inadequate pre- and postnatal care.

This tragic problem is also addressed by the second benefit in my plan: The provision of newborn care and well-baby clinic services during the first year of life. These measures are necessary to prevent and treat the nutritional and infectious problems that are a major health problem for infants and children. In addition, well baby services permit the detection of congenital deformities and diseases and allow the early application of corrective procedures to prevent lifelong disability.

Also included in the benefit package are vision and hearing examinations for children between the ages of 2 and 6 years. The third benefit directed to child health is the provision for childhood immunizations including DPT, polio, measles, mumps, and rubella. The value of this program for the prevention of death, suffering, and deformity has been proven over several decades.

In the early 1950's, 20,000 Americans were afflicted each year with poliomyelitis and the consequent burden of illness in dollars and quality of life was enormous. During the 1970's, following the use of polio vaccines, the total number of polio victims has been less than 100. Whooping cough, diphtheria, tetanus, and smallpox have been nearly eradicated by immunization. The incidence of measles has declined from 442,000 cases in 1960 to 24,000 cases in 1975.

The importance of these statistics is illustrated by the fact that 1 of every thousand children with measles will die and in 1964 rubella caused 20,000 permanent congenital defects in the offspring of infected mothers. However, we must take note of a disturbing trend; namely, that participation in immunization programs is declining. If this trend is not reversed the unexposed and non-immunized children will be at a risk for major and costly epidemics of these diseases.

The final three prevention benefits are directed to the adult population. Hypertension screening will be provided over the lifespan starting with teenagers. Cardiovascular disease is the leading cause of death and contributes the major burden of illness in this country; hypertension, in turn, is one of the most common and damaging forms of cardiovascular disease. It is estimated that over 25 million Americans have high blood pressure and that at best 40–45 percent of these are receiving adequate treatment.

Hypertension was calculated to contribute $16 billion to the cost of illness in 1975. The estimated annual savings to the national economy by successfully treating all hypertensives would be approximately $8 billion. Since the cost of detection and treatment programs are estimated at about $5 billion, this translates to a net yearly benefit of $3 billion.

The second adult prevention program provides screening for cervical cancer in women by means of the pap smear test. Cancer detection and control studies indicate that the best cancer prevention investment in terms of initial dollar effects on a cost-effective ratio, is the detection of cervical cancer. Finally, I propose to provide periodic health examinations and counseling every 3 to 5 years for the adult population. Counseling services include education about health promotion measures (that is, diets, methods to stop smoking or drinking and exercise programs) as well as the explanation of therapeutic programs for diseases discovered during screening (that is, blood pressure control programs or management of diabetes).

Although the cost effectiveness of periodic exams in the well population is still controversial, the continuing advent of new diagnostic and screening techniques and continuing therapeutic advances should progressively enhance the potential benefits of periodic examinations.

A relative lack of previous experience with national efforts at providing prevention programs makes it very difficult to cost account this prevention-promotion package. Many people in the well population, particularly the young, are already receiving some of these services, but for the most part they are paying for this out of pocket or are receiving benefits as part of an HMO plan.

The provision of these services as benefits in a health insurance plan would insure utilization of a wider scope of prevention programs by a larger segment of the population. Estimates provided by the private health insurance industry indicate a per-capita cost of between $2 to $10 per year for adults and approximately $10 per year for children.

I estimate that the total yearly cost to the private sector for this preventive package will be approximately $2 billion. The provision of counseling services as an adjunct to the medical and screening services contained in the package would probably cost an additional $7 per capita.

If these preventive health measures were followed nationwide, they almost certainly would pay for themselves. First, there is the obvious savings from the early diagnosis of a problem with minimal financial outlay, thereby eliminating large therapeutic and disability expenses in the future.

Second, preventive health programs eliminate some of the major reasons for lost production in our economy. Lost production from sick leave exceeds that from labor strikes by an overwhelming factor. Finally, there is the very human factor behind preventing illness. When the incidence of illness falls, fewer Americans must suffer its debilitating physiological and psychological effects. I feel these three saving make an overwhelming case for preventive medicine.

Cost-effective studies are underway for prevention programs and clear effectiveness has been demonstrated for programs such as maternal care, immunization and hypertension screening. One must bear in mind that short-term savings in dollars are not likely with preventive measures.

The payoff is long term through the prolongation of life—avoidance of premature death—and improvement in the quality of life. My proposal recommends using the savings from hospital cost containment to finance this innovative preventive health program. Increasing patients' cost consciousness in the manner that I have outlined earlier will lower national hospitalization expenses by approximately 6 percent annually.

CONCLUSION

In sum, Mr. President, I believe that in national health policy we are faced with three primary interrelated needs—cost containment, catastrophic health insurance, and preventive care—which must be addressed with a unified, comprehensive program. My bill will attempt to do just that.

The fundamental cause of rampant health cost inflation and lack of catastrophic and preventive health insurance benefits is a noncompetitive third party reimbursement system weighted too heavily toward first-dollar hopsitalization coverage. Scarce resources and disenchantment with Government regulation make it unlikely that yet another public program will be the solution.

In this situation, we can use tax incentives to offer Americans a tradeoff: If they are willing to pay slightly more in copayments for low cost medical care, they can save enough money to obtain catastrophic protection and preventive care. In addition, they can stop the health cost inflationary spiral without new Government regulation. We can also use tax incentives to help restore competition to health care by giving our citizens a greater variety of health insurance choices and insuring that they will save money on premiums if they choose more efficient providers of care.

I believe this approach to be more realistic, more effective and clearly less costly, than the Government regulation route. I look forward to working with my colleagues in the House and Senate, and with all interested parties, to perfect the details of this proposal as it is converted into legislative language.

As we pursue the debate on hospital cost containment and national health insurance for the remainder of this session, I intend to advocate as forcefully as I can this nonregulatory approach to insuring that all Americans have access to quality health care at a reasonable cost.

Mr. President, I ask unanimous consent to print in the RECORD a summary of my comprehensive welfare reform proposal.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF SENATOR SCHWEIKER'S COMPREHENSIVE HEALTH CARE REFORM PROPOSAL

I. Basic Principles:

The bill will address the health care issues of hospital cost containment, catastrophic health insurance, and disease prevention in a comprehensive and consistent manner.

It will do so, not with further regulation or by setting up costly new government programs, but by rearranging federal tax incentives to attack the root cause of all three problems: a third-party reimbursement system, subsidized by federal tax deductions for health insurance premiums, that is noncompetitive and too heavily oriented toward providing first dollar insurance coverage used primarily or short-term hospital care.

Under this "third-party reimbursement system," 90 percent of all hospital bills are currently paid by insurance plans or government programs. Consequently, neither patients, doctors, nor hospitals have adequate incentives to hold down the prices of health care. Escalating costs, in turn, lead people to demand more insurance coverage for the relatively low-cost hospital services they encounter most often—broadening the range of services subject to third-party reimbursement but leaving people unprotected against the less frequently encountered catastrophic or preventive care expenses. Moreover, there is little competition in the health care system to help break this inflationary spiral.

The bill will change the third-party reimbursement system in a way that will attack the problems of rising costs, inadequate catastrophic coverage, and limited availability of preventive care.

(1) To reduce health cost inflation, it will—

(a) Encourage competition by requiring large employers, as a condition of deducting premium contributions from their gross income, to offer their employees the choice of at least *three* competing health plans.

(b) Encourage the patient to participate more actively in hospital service pricing decisions by requiring that at least one employee health plan offered by *all* employers contain a 25 percent cost-sharing provision for hospital services, effective until medical expenses exceed 20 percent of adjusted gross family income. The employer would have to make this option available to his employees in order for the premium costs of any health plan he offers to be deductible from his gross income.

(c) Ensure that employees will receive a direct financial reward for choosing a high-deductible or other low-cost health plan in the form of tax-free premium rebates.

(2) To provide all Americans with a minimum level of catastrophic protection, the bill will utilize a combination of (a) additional prerequisites for tax deductible insurance plans, (b) state-administered insurance pooling arrangements, and (c) increased Medicare benefits.

(3) To encourage preventive care the bill will require that all insurance plans receiving favorable tax treatment contain a specified minimum level of health promotion/disease prevention benefits, without copayments.

COST IMPACT

Total new federal outlays under the plan would be approximately $.8 billion per year, primarily for new medicare benefits. Projected savings to the federal government from the additional copayment provisions alone would be $2.5 billion per year.

The cost to the private sector will be about $3 billion per year This will be offset by projected savings to the private sector from the annual copayment provisions alone of approximately $5 billion per year.

Therefore, the bill will offer the American people a tradeoff: if they are willing to share a little more of their short-term hospital costs through copayments, they can save enough money to obtain catastrophic protection and preventive care.

II. Cost Containment Provisions:

A. To encourage competition:

In order for an employer to deduct his contributions to employee health benefits plans from his gross income for federal tax purposes—

1. If he has more than 200 full-time employees, he must offer them the choice of at least three health insurance plans.

2. Each plan must be sponsored by an organizational entity independent from the sponsors of the other plans he offers.

3. An employer, regardless of the number of employees he has, must make the same dollar outlay for health benefits per employee (whether that outlay goes entirely to the employee's insurance company or is divided between premium payments to the insurance company and rebates to the employee.)* An employer's outlay per employee for health benefits (though usually referred to an "employer contribution") is a known category and would not be hard to determine for purposes of administering the law. It is an amount set by the employer in advance on an annual basis through negotiations with employee representatives.

In addition:

Outlays per employee could not be lowered after the bill's effective date.

Outlays per employee could not exceed the amount of the highest cost plan actually selected by at least 25 percent of the employees. (This will ensure that an employer can not use an artificially high outlay level to funnel tax free income to his employees.)

4. If an employee chooses a plan whose premium cost is less than the employer's outlay per employee, he will be entitled to receive the difference between the outlay and the cost of the plan on a tax-free basis (or he could receive the payment in the form of other tax-free fringe benefits). Currently, few employers pass on such premium savings directly to their employees, giving them little incentive to choose lower cost plans.

EXAMPLE 1—EMPLOYER'S TOTAL OUTLAY PER EMPLOYEE: $2,000

	Plan 1	Plan 2	Plan 3
Total premium cost	$2,000	$1,000	$500
Employer contribution to plan	2,000	1,000	500
Employee contribution to plan	0	0	0
Refund to employee (employer outlay minus total premium cost)	0	1,000	1,500

EXAMPLE 2—EMPLOYER'S TOTAL OUTLAY PER EMPLOYEE: $600

	Plan 1	Plan 2	Plan 3
Total premium cost	$1,000	$500	$250
Employer contribution to plan	600	500	250
Employee contribution to plan	400	0	0
Refund to employee (employer outlay minus total premium cost)	0	100	350

5. The definition of health plans that must be offered will be as unrestrictive as possible. Generally, it will include all standard insurance arrangements certified under state laws, as well as health maintenance organizations and prepaid group practices.

6. The rights of collective bargaining agents will be preserved by requiring that health plan alternatives be offered to the employees through them.

B. Consumer Cost-Sharing:

In order for any employer to continue to deduct any health insurance contributions from gross income, he must offer his employees at least one plan which includes an annual copayment rate for hospital services of at least 25%, effective at least until annual medical expenses exceed 20% of adjusted gross family income. The availability of tax free rebates (described above) will encourage employees to select this option, since it will frequently have a much lower premium cost than the other plans offered. A 25% cost-sharing plan would also have to be offered to government employees.

COST IMPACT

Negligible cost to federal and state governments

$7.5 billion per year savings to the health system as a whole ($2.5 billion to the federal government and $5 billion to the private sector.)

III. Catastrophic Provisions:

A. For large-firm employers and their families:

1. In order for premium costs to be tax deductible by employers or employer contributions to be tax exempt for employees, the plan for which the premium was paid must contain a minimum level of catastrophic protection for the employees and their families. Also, catastrophic coverage must continue for at least 6 months after an employee left the job.

2. This requirement will apply only to firms with more than 50 full-time employees and only to policies covering full-time employees.

3. The minimum level of catastrophic coverage will be full payment of all "medical expenses" (as defined under Medicare, excluding long-term nursing home care) incurred annually in excess of 20% of adjusted gross family income.

COST IMPACT

Negligible cost to federal and state governments

Negligible cost to private sector but $6 billion financing burden shifted from employees to employers.

B. For small firm employees (less than 50 employees), uninsurable risks, self-employed, and those without government or private insurance—

1. States will be encouraged to set up a mechanism for assigning such individuals to insurance companies in proportion to their business in the state.

2. In order to continue participating in federal programs, an insurance company will have to enroll assigned individuals and provide them at least with catastrophic protection (as defined in section A, above). The premiums charged to assigned individuals can be no more than 125% of their comparable large-group rates for similar protection in the same geographic area.

3. Employers whose employees were eligible for the pooling arrangement will have to assist them in contacting the state assignment agency.

COST IMPACT

Negligible cost to federal and state governments

$1 billion cost to private sector

C. For the Elderly—

Medicare will be restructured to provide catastrophic benefits.

Under current law, an individual must pay a $160 deductible under part A (hospital insurance) and a $60 deductible under Part B (physician services insurance). There are also copayment requirements for hospital care: $40 per day for the 61st through the 90th day, and $80 per day for days he draws from a 60-day lifetime reserve. There is also a 150-day limit on covered-hospital days.

The bill will eliminate the 150-day limit and revise the copayment rates. An individual will have to pay 20% of the cost of hospital care regardless of the number of days he is in the hospital. However, once part A and B copayments reached 20% of annual net income in any one year, all copayment requirements would cease.

COST IMPACT

$0.8 billion per year to federal government.

IV. Preventive Benefits:

In order for an employer to deduct the costs of health insurance premiums or an employee to exclude employer contributions from taxed income, the plan for which the deduction is claimed must contain:

1. Comprehensive (prenatal and perinatal) maternal care;

2. "Well-baby" clinic services, including 3–6 visits, newborn nursery screen, vision and hearing exams;

3. Childhood immunizations;

4. Hypertension screening every three years up to age 30 and annually thereafter;

5. Pap smears once a year for three years, and once every 5 years thereafter;

6. Periodic physical examinations.

COST IMPACT

Negligible cost to state and federal governments.

$2 billion per year cost to private sector.

This requirement would apply only to firms with more than 50 employees. Employees of firms with less than 50 employees would receive these preventive benefits through the state-administered pooling mechanism described in section III, B above. The individuals eligible for the pooling arrangement would also receive the preventive benefits, with the same 125 percent premium cap that applies to catastrophic benefits.

SALT II

Mr. STEVENS. Mr. President, there have been numerous statements and speeches about the prospective SALT II Treaty expected to be signed during the June 15–18 summit meeting in Vienna. I especially recommend to my colleagues Senator JACKSON's most recent comments on this issue made during a commencement address at Seattle University.

As chairman of the Armed Services Subcommittee on Arms Control and a member of the Select Committee on Intelligence, the Senator from Washington is extremely well versed on this subject. His knowledge commands respect on both sides of the aisle and his speech should be required reading in preparation for the forthcoming debate.

Concerns are expressed about SALT II's failure to provide for genuine mutual arms reduction and its effects upon global politics. Senator JACKSON labels it "a charter for massive Soviet strategic building * * * an ironic outcome for a so-called arms control agreement."

As evidenced throughout the world, military force equals political power. Since the Soviet Union has an undisputed conventional superiority coupled with the codification of strategic supremacy under SALT II, Senator JACKSON stated that:

> The real danger ahead is the Kremlin's political use of strategic superiority as an umbrella under which to pursue a series of probes to expand Soviet power and weaken the position of the United States. The fateful question for us in whether the United States can conduct an effective foreign policy . . . from a position of strategic inferiority.

I ask unanimous consent that Senator JACKSON's entire statement on SALT be printed in the RECORD at the conclusion of my remarks.

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*However, he could make a different level of contribution for individual, as opposed to family plans, as long as it was the same per employee for each sponsoring entity.

Senator JACKSON played a critical role during the consideration of the first accord, and I have no doubt that he will be equally effective in pursing the difficult goal of mutual arms reduction while assuring the continued security of the free world.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

COMMENTS ON SALT BY SENATOR HENRY M. JACKSON

The pursuit of arms control in this dangerous nuclear age is a demanding task, particularly demanding because we deal with a determined adversary—an adversary with an imperial tradition and imperial expectations.

Like so many others, I am disappointed at the outcome of the SALT II negotiations. A decade of the "SALT process" has been accompanied by an unparalleled Soviet strategic buildup. When the process started, the United States was ahead in almost all categories of strategic nuclear power. Before 1985, when the Administration's proposed SALT II treaty would expire, the United States will be behind in almost every category, including number of missile warheads.

The adverse shift in the strategic equation is bound to have far-reaching effects upon world politics. Even when the Soviet Union was in a state of admitted strategic inferiority, it exploited targets of opportunity to strengthen its influence and to undermine Western security. One recalls the confrontations over Berlin and the Cuban missile adventure. In these earlier probings the strategic inferiority of Soviet power inhibited the Soviet leaders in confronting the West. But as the Kremlin becomes confident of possessing strategic superiority—combined with Soviet conventional superiority in local situations—the willingness of the Soviet leaders to confront and intimidate the United States and its allies will grow correspondingly.

Many Americans just don't want to think about these things: the only scenario they have thought about is a devastating nuclear exchange with tens of millions of casualties and utter destruction on each side. "Since we will both be dead," they say, "more or less power makes no difference."

The odds are there will not be a nuclear war. Rational leaders know that a nuclear exchange is self-defeating. The real danger ahead is the Kremlin's political use of strategic superiority as an umbrella under which to pursue a series of probes to expand Soviet power and weaken the position of the United States. The fateful question for us is whether the United States can conduct an effective foreign policy—one which will assure our national security—from a position of strategic inferiority. Can we bargain confidently and stubbornly, can we stand up to Soviet blackmail, can we hold our ground in crisis situations—from a position of relative military weakness?

What comes into play here is the psychological self-confidence of our leaders and, just as important, the self-assurance of the American people. Insecurity over the adequacy of our military deterrent, among our leaders or within the nation, can be perilous in its consequences: in times of crisis it can prompt either excessive reactions or underreactions and appeasement.

On October 6, 1938, following the Munich summit, as the policy of appeasement lay in ruins, Neville Chamberlain said in the House of Commons:

"Our past experience has shown us only too clearly that weakness in armed strength means weakness in diplomacy."

This year—four decades after Munich—what the world needed from SALT II was a treaty that would stabilize the strategic balance through substantial reductions in the strategic forces of both the United States and the Soviet Union—a genuine move toward mutual disarmament. In 1974 and 1975 I outlined and urged just that sort of treaty. In March 1977 President Carter proposed significant mutual force reductions and a ban on the deployment of new ICBM's. I strongly supported that proposal. But the Administration retreated at the first Soviet objection: it did not have the conviction even to try to convince the Russians.

So the SALT II treaty turns out to be a charter for a massive Soviet strategic buildup. What an ironic outcome for a so-called arms control agreement! In SALT II our side accepted serious constraints on our most promising new theater system, cruise missiles, while not counting hundreds of Soviet medium range missiles—which aggravates a growing theater nuclear imbalance at the expense of the security of our allies. And our side allowed the Soviets to have crucial strategic forces, including the Backfire bomber and the most lethal ICBM's, without any quid pro quo for the United States. And since, with SALT, Soviet strategic power will continue to grow, we are now forced to increase our own strategic arms budget—an increase we wanted to avoid.

Had the U.S. Administration stuck with its proposal for significant mutual reductions, had it not retreated, there would now be either a better, more equal, balanced and verifiable agreement, or the world would have fewer illusions as to the Soviets' real commitment to genuine arms control.

The Senate has a constitutional responsibility not only to give or withhold its consent to the Administration's proposed treaty, but to give its advice as well. I am confident the treaty can be improved and that when the Senate has had a full opportunity to study the treaty it will act to amend its most serious shortcomings and to plug its many loopholes.

I, for one, intend to articulate the American view and vision for a peaceful world, and to protect our bargaining position for genuine, mutual arms reduction.

ALASKA PUBLIC RADIO STATIONS

Mr. STEVENS. Mr. President, Alaska has one of the best systems of public radio stations in the Nation. The 11 stations, with several more planned, are tied together by the Alaska public radio network, which provides national public radio programing and allows the stations to share programs.

A recent article in Alaska Fest magazine detailed the Alaska public radio stations. They are a great asset to my State and I hope the other Members of the Senate will review the article.

I ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CREATIVE COMMUNICATIONS

(By Patricia Jelley Benz)

Music, news and talk shows are standard radio fare across the United States. But shows with names like "Eskimo Tales," "Mukluk Telegraph" and "Bush Pipeline" are pure Alaskan.

Radio has been entertaining people for over 50 years and has only recently been overshadowed by television as the major source of information and entertainment in the American home. But in Alaska, radio is playing an important role in solving the state's age-old distance and communications problems.

"In Alaska, public broadcasting is different in every market, and plays a much more important role in Alaska than in any other place in the country," explained Michael Porcaro, executive director of the Alaska Public Broadcasting Commission. In many bush communities, public radio is the only broadcast medium available. "Without a radio station folks have no entertainment; they have no source of news. There are no telephones in a lot of these places, so the radio station, in many cases, has to act as a point-to-point communications source."

Alaska's 11 public radio stations are located in Barrow, Bethel, Kotzebue, Dillingham, Juneau, Fairbanks, Anchorage, Petersburg, Wrangell, Kodiak and Ketchikan. There's a noticeable difference between bush and urban stations. In the bush, public radio is the main source of information and entertainment, while in urban Alaska, public radio shares the air waves with commercial stations.

In the communities of Barrow, Kotzebue, Bethel, Dillingham, Wrangell and Petersburg, public radio is the only licensed station in the area. As Rosie Porter, formerly of KYUK-Bethel, pointed out, "Rural radio needs to be all things to all people because it's all we have; we just can't turn the dial and hear another station."

It's this monopoly on the audience that makes bush broadcasting so exciting. "Bush radio can be so imaginative, so interesting because it's more than just background noise or something to listen to while you are doing something else," explained Jim Tighe of KSKA-Anchorage. "I think its made a difference out there," added Alex Hills, KSKA's station manager and former manager of KOTZ-Kotzebue. "People really appreciate having the radio station and they let you know it."

Both Hills and Tighe found that after being morning disc jockeys on bush stations, people in the villages treated them like close friends. "After all, you were there for breakfast every morning electronically," explained Tighe. He added that "people from the villages would come up to me and recite almost word for word something I had said or done on the air which I would no recall of doing. It's really an incredible feeling."

While the audience gets to know the disc jockeys by listening to the radio regularly, the disc jockeys get to know the audience through the message service. Some telephones exist in the bush, but the service is not always reliable. So people send messages to one another over the radio. "Listening to the village hotline is part of the village routine," said Tighe. "Of course it's also a way of keeping up with the gossip. One of my favorite messages was 'I am arriving with nothing but the berries.' I envisioned someone at the airport stark naked with nothing but a sack of berries!"

The content of the messages varies. "It's anywhere from some real critical emergency situation, to grandpa sending a message back to the village saying that he left his false teeth on the dresser and please send them down so he can chew his meat," said Hills. Michael Porcaro recalled a message where a man in Bethel told the combination to a safe so his partner could open it to make a deposit.

"Bush broadcasting is like day and night between what you'd hear in Anchorage or any other city," explained Tighe. He once did a broadcast in Nome sitting in a chair in a street interviewing passersby. Scott Diseth of KDLG-Dillingham once proclaimed on the air: "This show is coming to you from me in my underwear!" Few people believed him until they discovered his clothes drip drying in the control room. (Scott's snow machine had broken through lake ice on his way to the radio station.)

The public radio stations in urban Alaska differ from bush stations. The public stations don't have to appeal to the mass audience; they can instead focus on programming not provided by other stations. But it's a mistake to think that public radio in urban Alaska serves an elite audience.

Bruce Theriault of KTOO-Juneau commented: "Public radio is motivated in a different way. There's room and need for both kinds of radio. We're primarily concerned with entertainment and dispersing information. Our end product is programming. We don't have to aim for the common denominator. We can afford to appeal to different audiences; we can specialize and get more involved with the community without risks of commercial sanctions. Public stations can have greater freedom, although not all of them use it. We are not afraid of different voices. We want to be a forum for public discussion."

In its role as a forum for public discussion, public radio appears to have affected the electorate in some areas of Alaska.

Rosie Porter of Bethel claimed that an in-depth radio series on various issues appearing on the 1976 ballot changed the expected voting patterns in that community. "The voters were informed and highly selective in what they voted for instead of just voting 'yes' arbitrarily on each issue," she said. Porcaro mentioned that radio coverage of the 1976 general election was an important step in the education of Alaska's voters. "It was an education for people to hear that day who the new president was. This had never happened before. Radio has been going on for 50 years, and this was the first time Alaska was really tied together. Everyone in the bush realized their vote counted; they heard it count."

One focus of public radio is public involvement, particularly in governmental processes. "One of the crises in this state is that governmental entities making decisions are genuinely seeking public input, but the public hearing process does not always work well," said Theda Pittman, executive director of the Alaska Public Radio Network. "Through public participation programs, public stations can do things on the air to assist in making the governmental process two-way."

For example, in late February, the legislative two-way audio conferencing system was used for a press conference between Alaska Sen. Ted Stevens at his office in Washington, D.C. and news directors at public stations in Anchorage, Fairbanks, Kotzebue, Ketchikan and Juneau. The conference was also aired on the intrastate circuit so that public stations not participating in the conference could still broadcast it.

Radio has also been educational in terms of language. All rural stations have some degree of bilingual programming. Natives in the audience seem to appreciate being able to listen to the radio in their first language.

Sometimes bilingual programs take an interesting twist. When Alex Hills was station manager at KOTZ-Kotzebue, he received a grant from a local native association to pay Eskimos to tell stories on the air. As the only non-Eskimo speaking employee of KOTZ, Hills taped the tales and broadcast them without knowing the content. On one occasion he discovered an Eskimo who instead of telling traditional Eskimo tales was in fact relating his experiences as an employee of Alaska Airlines."

The influence of the radio stations has even extended beyond Alaska. "KDLG-Dillingham received its first ever signal report from Australia," said station manager Les Robinson. "A listener wrote that he picked us up in late November using an antenna one-quarter of a mile long!"

While the stations serve their respective communities, the Alaska Public Radio Network was formed to fill the needs of the stations themselves. The 11 stations incorporated the Alaska Public Radio Network, (APRN), last summer. The network and 10 of the 11 member stations receive funding from the Alaska Public Broadcasting Commission. Each station also receives community support in the form of money, in-kind contributions or underwriting from local businesses.

Before the network was formally incorporated, it was "simply the mechanism for the Alaska stations to share programming intrastate," said Pittman. Now the network provides its member stations with National Public Radio (NPR) programming, which amounts to 12 to 14 hours a day of information and entertainment, and "Capital Connection," daily coverage of the Alaska legislature.

The APRN's programming priority is news, including legislative coverage and a year-round statewide news service. "Capital Connection," provided free to member stations by a part-year network staff in Juneau, "is a cost efficient, unique program service which for practical reasons no single member is prepared to provide to others," Pittman commented. Throughout the legislative session the show will run five days a week, 15 minutes a day with 10 extra minutes of actualities, or raw news material, such as interviews, which does not fit into the regular newscast. "Capital Connection" is fed to member stations at 6 p.m. (Pacific Standard Time) weekdays. The actual boadcast time is left up to each station. The program's been well received in communities across the state, Pittman said. "Last year we received a letter from a person in the bush who wrote, 'I learn more from "Capital Connection" than I do from my legislator.'"

Currently, the major programming goal of the network is to find funding which will allow the news service to operate year-round instead of just during the legislative session. Possible funding sources are state and federal governments, private individuals, foundations and corporations. The plants for the year-round news service have not been finalized. One approach being considered is a magazine-type format which Pitman suggests would allow content to include hard news, feature stories, commentary, analysis, personality profiles and coverage of special events such as the Iditarod sled dog race or annual convention of the Alaska Federation of Natives.

"I envision the news service being a co-op effort with member stations contributing material and staff time. There also should be some means of reimbursing stations which submit stories," she added. Pittman hopes the program will ultimately run daily, but actually expects it to start on a weekly basis; what happens will depend on the amount of funding received and member support.

Several communities in Alaska are in the process of applying for public radio stations. Homer has received a construction permit for a station which should be on the air shortly, and Haines, McGrath and Sand Point have applications pending with the Alaska Public Broadcasting Commission.

The Alaska Public Radio Network is growing as more communities seek to utilize radio as a means of communication. For news, entertainment, local gossip or native lore, public radio is filling a vital need in Alaska.

RICHARD L. PETER

Mr. STEVENS. Mr. President, when so much attention is focused on Alaska, it is a pleasure to commend a person who has helped voice the history of that great State—Mr. Richard L. Peter of Juneau.

When Richard Peter came to Alaska in 1942 it was as a medic with the U.S. Army, stationed at Excursion Inlet. Because of his skill and interest in communications, Mr. Peter went to work immediately for what was then Juneau's only radio station, KINY. For 25 years he collected, wrote, edited, and broadcast the news, serving as a major voice in the communications system of southeast Alaska. As station manager, he moved with KINY into the era of television, continuing his careful, well modulated account of daily events, an account both accurate and eloquent. His integrity as a reporter was matched only by his wit and quick thinking. His audience could never tell when gaps in delayed-time coverage of events outside the State forced Dick Peter to ad lib.

In 1966 Richard Peter entered the Alaska State Senate, serving as Juneau's Senator until 1968. During Alaska's Centennial Year, 1967, he created the State motto, "North to the Future."

Not content to rest with dual careers in radio and politics, Mr. Peter went on to college, graduating in 1972 from Ohio Northern University with a law degree. Since that time, he has worked as an assistant attorney general for the State of Alaska.

An historian as well as a poet, Mr. Peter has recorded in poems and verse plays much of the history of southeast Alaska. His published works include, the "Ballad of Joe Juneau" and "Voices from Alaska's Past." He served as coeditor of, One Hundred Years of Alaska Poetry and has served on the board of the Poetry Society of Alaska since its inception.

As a poet, a dramatist and a Shakespearean interpreter, Richard Peter has enriched the life of southeast Alaskans by giving them the best the English language has to offer. Maintaining a high standard of excellence in radio and television broadcasting, and introducing many Alaskans to the medium of poetry as a means of communication, Richard Peter has consistently given voice, not only to the daily events of the State of Alaska, but also to the vision that is Alaska's.

Richard Peter will be retiring later this summer, Alaska will miss him. Upon his retirement from the State of Alaska, I would like to commend Mr. Peter for his service and for the model of excellence he has set. His integrity, as a member both of the news media and of the community of Juneau, has given us an example and an inspiration.

MAURICE ABRAVANEL, MUSIC DIRECTOR AND CONDUCTOR OF THE UTAH SYMPHONY

Mr. HATCH. Mr. President, Maurice Abravanel, music director and conductor of the Utah Symphony, has announced his retirement at the end of the current season. Under his leadership of 32 years, the Utah Symphony has grown into one of the major cultural resources of the United States. His dedication to quality and access to the arts have come to be known and respected not only by the people of Utah, but nationwide. His 6 years of service from 1970 to 1976 on the National Council on the Arts provided enlightened leadership and inspiration at the Federal level. The Utah Symphony is losing a great musician and an impressive leader in the retirement of

Maestro Abravanel. I am proud to join the entire Utah community in honoring and thanking him for the achievements of the past and the lasting music which will nourish our memories of this special individual in the future. We are deeply in his debt.

U.S. POLICY TOWARD ZIMBABWE-RHODESIA

Mr. HATCH. Mr. President, more than a month ago, in a fair and democratic election, the people of Zimbabwe-Rhodesia spoke. They said to us in no uncertain terms that they want peace: Peace which can carry in itself, after years of senseless hostility and bloodshed, the sweet promise of reconciliation, understanding, and love; peace which can provide the long-desired opportunity for everybody to build up a better future for the coming generations; peace which can teach both children and parents to smile; peace which can restore the faith of the people in the endless beauty of life.

By voting overwhelmingly for a peaceful future, the people of Zimbabwe-Rhodesia also told us that they positively disagree with the militant philosophy of the two principal guerrilla leaders. Joshua Nkomo and Robert Mugabe. They thus clearly indicated that neither Nkomo nor Mugabe have the support of the majority of Rhodesians. Finally, Rhodesia's peaceful election demonstrated that the vast majority of Rhodesians fully endorses the internal settlement.

In the light of these facts, it is easily understandable that the outcome of Rhodesia's first democratic election was celebrated by both black and white Rhodesians.

Needless to say, the opinion of the Carter administration is distinctly different. President Carter, confronted with the undeniable facts of the Rhodesian election and the unambiguous resolution of the U.S. Senate expressing support for the immediate lifting of sanctions and thus calling the election free and fair, announced on June 7 that he will maintain sanctions against Zimbabwe-Rhodesia. In his vigorously worded statement, the President of the United States bore witness to his political inability to recognize the facts of political life and to act accordingly. His arguments on behalf of his policy—or, better to say, nonpolicy—toward the new government and the biracial nation of Zimbabwe-Rhodesia are well known: American recognition would only trigger further Soviet and Cuban adventurism in Africa; and such a policy could reverse gains allegedly made by the Carter administration in black Africa, anger American blacks (who are a prime Carter constituency), and embitter the guerrilla leaders, Joshua Nkomo and Robert Mugabe.

As I said before, such arguments are not only unsound and unconvincing, but they also bear witness to this special incompetency and absolute lack of common sense of the current administration.

Africa, as it stands today, is a continent that is suffering beyond measure from political division, military irresponsibility, and economic weakness. Failure to attempt to effect a change in these negative factors could lead to anarchy which would be far more dangerous to the United States—and eventually to the entire world—than the vague possibility of violent Soviet response. Moreover, I do believe that the United States owes some display of courage to the rest of the world. This courage demands of us that our policy shall not be beset by mysterious fears but by values which can further positive development, reasonable international order, and political harmony. A continuation of the administration's Africa policy—or nonpolicy to use a more apt word for its inadequacy—would only further anarchy in Africa and encourage small terrorists groups to disregard the legitimate opinion of a majority. Herein lies, in my opinion, the real danger for the people of the black continent and not the furtherance of positive development like the recent election in Zimbabwe-Rhodesia.

In view of the total inability of the Carter administration to form a sound and reasonable Africa policy, it is the constitutional duty of the Congress of the United States to shape the very principles of such policy.

First the United States must have the courage to recognize the new realities in Africa, including the possibility of multiracial governments in various countries. Second, the United States must support countries which have expressed their choice to build up a democratic society. Third, the United States must discourage terrorism and political adventurism in Africa. Fourth, in the formulation of our Africa policy, greater weight should be given to our global-national interests rather than to domestic, political considerations alone.

Unless we understand the political necessity of these principles, our policy toward Africa will remain skewed, counterproductive, and will inevitably fail.

ECONOMIC SANCTIONS AGAINST ZIMBABWE-RHODESIA

Mr. HATCH. Mr. President, the decision by the President last week to continue the economic sanctions against Zimbabwe-Rhodesia has presented the U.S. Senate with what amounts to a slap in the face. This body voted overwhelmingly, 75 to 19, to show its belief that the new government had met the requirements of the Case-Javits amendment of 1978.

I believe that we here in the Senate should make a careful examination of the facts surrounding the sanctions, and then make a decision on whether to continue them or not. In making this assessment of facts, we should pay particular attention to the people in Zimbabwe-Rhodesia. I had delivered to my office a rebuttal to the President's statement. The new prime minister of Zimbabwe-Rhodesia, Bishop Abel Muzorewa, has issued this statement and I call it to the attention of my colleagues. I ask unanimous consent to have it printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

A Commentary on the President's Zimbabwe Rhodesia Statement

On June 7 President Carter issued a statement saying that he had decided not to lift sanctions against (Zimbabwe) Rhodesia. Certain extracts from the President's statement are printed below, with comments.

I am . . . convinced that the best interests of the people of Rhodesia would not be served by the lifting of sanctions.

The Prime Minister of Zimbabwe Rhodesia, Bishop Mouzorewa, comments as follows:

"I wonder in what way it is in the interests of the people of my country to be subjected to sanctions which deny them the right to trade freely, which deny them employment opportunities and which deny them increased educational opportunities."

The elections were held under a constitution that was drafted by and then submitted only to white Rhodesians, only 60 percent of whom approved it. The black Rhodesians who constitute 96 percent of the population never had a chance to vote for or against this constitution.

The Prime Minister comments as follows:

"The facts are that the Constitution was drafted by a committee of legal experts representing the three black parties and one white party comprising the Transitional Government.

"The white referendum in January was held because of an election promise by Mr. Ian Smith to his white electorate, and it overwhelmingly approved the transfer of power from the minority to the majority. Furthermore, the official team of British observers who monitored the April election, led by Lord Boyd, reported that the high percentage poll demonstrated a significant judgment on the constitutional basis of the election and they affirmed that the election did, in fact, constitute a referendum on the constitution itself."

More than 70 percent of Rhodesia's White, Coloured and Asian voters turned out to vote in the January referendum. Approximately 84 percent of those voting expressed approval of the new constitution.

There is no provision for a referendum in the defunct Anglo-American proposals.

The constitution preserves extraordinary power for the 4% white minority. It gives this small minority a vastly disproportionate number of votes in the Parliament; continued control over the army, police, judiciary and civil service; and a veto over significant constitutional reform.

The comment of Bayard Rustin, civil rights leader and observer of the Rhodesian elections, is revelant:

"I do not think your constitution is ideal, but neither was the American constitution when it was established. It did not permit black, women or poor people to vote and it did not contain a Bill of Rights. If black Rhodesians are prepared, and they are in great numbers, to go out and vote for a constitution I do not particularly like—that is that there should be twenty-eight seats—that is their business."

The essence of self-determination for Zimbabwe Rhodesia is that the method by which the country is governed should be determined by the country's citizens and not by the governments of Britain, America, Nigeria or the so-called frontline states. Zimbabwe Rhodesia's constitution is a contractual agreement negotiated between one white and three black political parties in March, 1978 and endorsed by a 64 percent voter turnout in April, 1979. The minority safeguards approved by blacks (and there were similar safeguards in the Anglo-American plan) were considered desirable during a transitional period to preserve white skills and confidence in circumstances which in neighbouring African countries had led to white flight and economic disintegration.

It is worth noting that transitional constitutional arrangements in other African countries have given far greater political power to minority groups. In Tanzania (1960) 30 percent of the seats in the legislature were reserved for minority groups representing one percent of the population. In Kenya (1960) 30 percent of the seats in the legislature went to minority groups totalling 4 percent of the population.

The United States constitution gives 34 percent of the seats in the Senate to the 6.7 percent of the population that happens to live in the seventeen least populous states (1970 census). That 34 percent has absolute veto power over any proposal to amend the constitution.

It is unreasonable to cavil about constitutional devices which curb the power of simple majorities to effect radical constitutional change. The U.S. constitution is loaded with far more elaborate devices than are contained in the constitution of Zimbabwe Rhodesia. Such devices are the essence of minority safeguards. They protect against the capricious whim of majorities to overturn the contractual political order. To protest them is to protest that a horse is a horse.

It is quite inaccurate to say that the constitution gives the white minority continued control over the army, police, judiciary and civil service. What the constitution does is to provide that the management, not the political control, of those agencies will be in the hands of persons of proved competence and experience, who for a while for obvious reasons will be white. The functioning of those agencies will be under the control of predominantly black political ministers. There is nothing in the constitutional arrangements to preclude the rapid advancement of blacks, though the arrangements are designed, with the approval of blacks, to ensure that advancement is linked with capability.

It is worth recalling that in 1969 the U.S. Senate adopted by a vote of 77–3 a resolution offered by Senator Cranston declaring it to be the sense of the Senate that "when the United States recognizes a foreign government and exchange diplomatic representatives with it, this does not of itself indicate approval of the form, ideology or policy of that government."

While the Case-Javits Amendment called for the free participation of all political groups in the election, the internal wings of opposing parties were banned. They were unabe to participate in the politcal process; they were prohibited from holding meetings or political rallies or advertising their views in the news media.

It has been made abundantly clear on innumerable occasions that the leaders of the Patriotic Front were invited:

(a) to participate in the constitution-making process of March, 1978;

(b) to take seats in the Executive Council of the Transitional Government; and

(c) to contest the April, 1979 elections. All these invitations were rejected. The leadership of the Patriotic Front said it would continue to pursue its political objectives by violence, and it threatened to destroy the electoral process.

Documentation is available from the Zimbabwe Rhodesian Information Office.

After the Patriotic Front shot down a civilian airliner, with considerable loss of life, in September, 1968, the organisation's internal wings, ZAPU and ZANU, were banned. The government nevertheless continued to hold open the door to them to participate in the elections, and made it clear that if they wished to participate peacefully in the electoral process the ban would be immediately lifted.

It is a gross distortion of reality to pretend that the Patriotic Front were not given every encouragement and opportunity to participate in the elections. The plain fact is that they excluded themselves. In doing so they failed totally to accomplish their avowed objective of destroying the elections, and they failed to prevent Bishop Muzorewa from obtaining an outright majority of the votes cast in heavy (64 percent) polling.

The Rhodesian authorities have expressed their willingness to attend an all-parties meeting, but they have not indicated that they are prepared to negotiate seriously about "all relevant issues," as our law specifies.

On October 20, 1978 the four members of the Executive Council of Rhodesia's Transitional Government (Chirau, Muzorewa, Sithole and Smith) met in Washington with representatives of the British and American governments. They discussed attendance at an all-parties conference and agreed upon an agenda proposed on the British-American side. The U.S. record of the meeting contains the following statement by the Acting Secretary of State, Mr. David Newsom:

"I feel that, unless there are other points to be made, we have understood today your willingness to attend an all-parties conference on the basis of no pre-conditions and adequate preparation, and that you have with us identified these elements which should form the subject matter of a discussion at such a meeting."

It was understood on the Rhodesian side that a conference would quickly be called. It never has been, obviously because the Patriotic Front refused to participate.

We will, of course, continue to keep the question of our observance of sanctions under review. Along with the British, we will particularly look for progress towards a wider political process and more genuine majority rule.

It is interesting, in the context of the President's reference to "a wider political process", to note that Robert Mugabe has "virtually ruled out the possibility he ever would agree to participate in any future elections with Zimbabwe Rhodesia's first black prime minister, Bishop Muzorewa" (the Washington Post, June 9). He said, according to the newspaper report, that a new round of negotiations over Zimbabwe Rhodesia sponsored by London and Washington would have to be held directly between the guerrillas and Britain to the exclusion of Muzorewa's popularly elected government. Mugabe would not consider any proposals "to marry" the Patriotic Front to the Muzorewa government.

No other government on earth has formally recognised the Rhodesian government.

The Chairman of an Australian Parliamentary Committee says he is disappointed with the United States decision to continue economic sanctions against Zimbabwe Rhodesia. Mr. Roger Shipton, who is Chairman of the Parliamentary Committee on Foreign Affairs and Defense, described President Carter's decision as a setback not only to Zimbabwe Rhodesia but to the Western world as well. He said the President missed a great opportunity to show leadership against communist powers, particularly communist backed insurgents.

A. J. FLETCHER: NEVER LESS THAN THE BEST

Mr. HELMS. Mr. President, never a day passes that I am not reminded of a remarkable man who for nearly four decades ranked second only to my father in terms of his impact upon my life. His name was Alfred Johnson Fletcher, but nobody knew him by that name. He was "Mr. A. J."

Mr. A. J. passed away a few weeks ago at age 91, and at his funeral services in Raleigh the church was packed with friends who loved him. Governor Hunt was there, as were dozens of other officials of my State, along with leaders of business and industry. But the "little people" whom Mr. A. J. loved, and to whom he meant so much, were there, too.

The last time I saw this good friend was just before Christmas of last year. I stopped by his office at WRAL–TV in Raleigh. There he was, at his desk busily planning for 10 and 20 years from now. Old age may have pursued Mr. A. J., but it never caught him. He was living proof of General MacArthur's observation years ago that age is a state of mind. By that standard, Mr. A. J. was in his prime almost until the day he died.

Mr. President, I first met this remarkable man in 1941. He was already one of our State's most prominent attorneys and businessmen. He had founded at least a dozen successful businesses, including an insurance company, a radio station, a perpetual care cemetery, a laundry-dry cleaning establishment—the list is almost endless. He never associated himself with anything that did not measure up to excellence.

I remember when my friendship with Mr. A. J. began, but I do not know why he took a special interest in me. I know only that there was never a day when he was not eager to extend to me a helping hand. I worked with him on many of his special projects, one of them being the establishment of a television station in Raleigh. Later I was to purchase a small interest in that company, and become his close associate.

I said a moment ago, Mr. President, that I do not know why Mr. A. J. took a special interest in me, or why he was always so generous in being helpful to me. It may have been our almost identical philosophies concerning government and economics. Or it may have been that both of us came from rural, humble beginnings. Whatever his motivation, I shall always count his friendship as a very special blessing.

Mr. Fletcher loved this country with a passion seldom matched by others and never exceeded. He loved our Constitution, and the liberties that great document intended to insure and preserve. He believed that every man, woman, and child should understand that the miracle of America is the free enterprise system, and he often noted with dismay that this system was being eroded by a rushing trend toward centralization of power in Washington, D.C. He disdained able-bodied people who did less than their best. At the same time, his heart was as big as a mountain for the unfortunate—the sick, the handicapped, the disadvantaged.

He became a multimillionaire, but wealth to him was something to be used constructively, to be invested to produce jobs, to fill needs, to help people help themselves.

Probably his most special project was the nonprofit National Opera Company which he founded many years ago. He had no quarrel with those who preferred contemporary, modern music. But he felt that children ought to be exposed to opera, and that young people with promising voices ought to have an opportunity to expand their horizons. So he founded what is now known as the National Opera Company, and he assembled each year the most talented young singers to be found, preferably in North Carolina but not confined to our State. He hired, with funds from his own pocket, talented teachers and directors who each year formed troupes of young opera singers to go out to the small communities, and to the schools, for performances of opera in English.

I recall the day that the one millionth school child attended a performance of the National Opera Company. That was a landmark for Mr. A. J. Then he began working on the second million. Today, more than three decades since the beginning of the National Opera Company, "alumni" of that organization—singers who got their first chance to use their talents as the result of Mr. Fletcher's interest—scores of them are singing professionally in Europe, in this country, and other parts of the world.

Mr. President, I have no more than scratched the surface in telling about Mr. A. J. Fletcher. There is far more that could be told about this son of a Baptist circuit-riding mountain missionary. I have never known a man who loved his father more.

A few days before Christmas a few years ago, Mr. A. J. drove over to the place of his birth in western North Carolina. He surveyed the majesty of the mountains. He thought of the days that his missionary father rode horseback through those hills. Then Mr. A. J. stopped at a church founded by his father. It was a Saturday afternoon, and the pastor of the church was preparing his sermon for the following morning.

Mr. Fletcher did not identify himself immediately. He merely asked to see the sanctuary. After standing silently for a few moments, he asked the pastor if the church had any special need. The pastor mentioned the church's hope to be able to build, one day, a new Sunday school building. But, the pastor said, the cost was prohibitive. Mr. A. J. thought for a moment, then made an offer to the pastor: If the congregation would raise and pledge half of the cost, he (Mr. Fletcher) would take care of the other half. Within a few months, work had begun on the construction of the Sunday school building.

Mr. President, I hope I may be forgiven for having dwelt so long on the life of this incredible American. As I said at the outset, Mr. A. J. Fletcher's friendship was one of the special personal blessings which I have enjoyed.

I learned from him many things, not the least of which is the value of personal effort and personal responsibility. I can never measure up to him in either, but I can try. And sometimes in trying to conduct my duties as a Senator, and particularly when I know that my position is headed for certain defeat, I think of the identical advice given me long ago by my own father and later by Mr. A. J. Both of them counseled that the Lord does not require us to win, but He does expect us to try.

Mr. A. J. won a lot, because he never stopped trying. And his immortality is that he cared about principle, and he loved his God and his country. His epitaph is that he never did less than his best—and that is a worthy lesson for all the rest of us.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PROPOSED NATIONAL HEALTH PLAN—MESSAGE FROM THE PRESIDENT—PM 80

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent:

To the Congress of the United States:

Today I am proposing to the Congress a National Health Plan. This major new initiative will improve health care for millions of Americans and protect all our people against the overwhelming financial burdens of serious illness.

It has been 30 years since President Truman challenged Congress to secure for all Americans access to quality health care as a matter of right. It has been nearly 15 years since the Congress, responding to the leadership of Presidents Kennedy and Johnson, finally enacted Medicare and Medicaid. Now, after a decade and a half of inaction, it is time to move forward once again.

I have consulted with the Congress, with consumers, with leaders of labor, management, and the health care industry, and have carefully weighed every option. My proposal is practical, premised on effective cost controls, and consistent with sound budget practices. It will:

—protect all Americans from the cost of catastrophic illness or accident

—extend comprehensive health coverage to almost 16 million low-income Americans

—provide coverage for prenatal, delivery, postnatal, and infant care, without cost-sharing

—establish Healthcare, which will provide more efficient Federal administration of health coverage for the poor and the elderly

—reform the health care system to promote competition and contain costs

—create both the framework and the momentum for a universal, comprehensive national health plan.

PROTECTION FROM CATASTROPHIC EXPENSES

No American should live in fear that a serious illness or accident will mean bankruptcy or a lifetime of debt. Yet today over 80 million Americans are unprotected against devastating medical costs, and millions more can lose the protection they now have because of unemployment or the death of a working spouse.

This National Health Plan will protect every American from the serious financial burden caused by major illness and injury. All employers will provide catastrophic coverage for full-time employees and their families, with subsidies to ease the burden on small businesses. No family will be required to pay more than $2,500 for medical expenses in a single year. Americans who are not covered elsewhere can obtain affordable catastrophic coverage from a special Federal program. Under this special program, no one will be denied coverage because he or she is labelled a "bad medical risk."

EXPANDED BENEFITS FOR THE ELDERLY

The cost of health care falls most cruelly on America's older citizens who, with reduced incomes, have the highest medical expenses. Because Medicare places limits on hospital days and places no ceiling on out-of-pocket expenses, serious illness threatens senior citizens with loss of their homes and their life savings. Under the National Health Plan, the elderly will have unlimited hospital coverage and will be required to pay no more than $1,250 for medical expenses in a single year.

Today, the elderly also face heavy financial burdens because physicians increasingly charge more than the Medicare fee. Under the National Health Plan, physicians would be prohibited from charging elderly patients more than the allowable fee.

IMPROVED PROGRAM FOR THE POOR

The National Health Plan also provides expanded benefits for the poor. The Plan will extend comprehensive coverage—full physician, hospital and related services—to all Americans with incomes below 55% of poverty ($4200 for a family of four). In addition, persons with incomes above 55% of poverty will be able to "spend-down" into comprehensive coverage if their medical expenses in a given year reduce their income to the eligibility level. A family of four with an income of $4500, for example, will be covered after $300 of medical expenses. Under these provisions, 15.7 million poor people, including 1.2 million elderly, will receive comprehensive coverage for the first time.

Today the existence of 53 separate State and territorial Medicaid programs impedes efficient management. Under the National Health Plan, the administration of programs for the poor and the elderly will be significantly upgraded by the creation of a single new Federal program—Healthcare. Healthcare will improve claims processing, reduce error rates in eligibility determination, and facilitate detection of fraud and abuse.

HEALTH SERVICES FOR MOTHERS AND INFANTS

Prevention is the best way to eliminate the suffering and cost of illness, and one of the most effective preventive health measures we can take is to assure health care for expectant mothers and infants. We have been far too slow to learn this lesson. Our infant mortality rates are higher than those of eleven other nations. This inexcusable record can and will be corrected.

Under the National Health Plan, employers will provide employees and their families with coverage for prenatal care, delivery, and infant care to age one, without any cost-sharing. A high priority in future years must be to expand this coverage to include children up to age six. The employer provisions of the Plan, combined with the Child Health Assurance Plan I have already proposed for low-income expectant mothers and children, will assure that no newborn child in this country will be denied the chance for a full and productive life by the high costs of health care.

EXTENDED INSURANCE COVERAGE

Today, many employees and their families suddenly lose all health coverage when the employee is laid off or is between jobs. Under the National Health Plan, employer-based insurance policies will be required to maintain coverage for 90 days after employment ends. In addition, employer-based policies will be required to maintain family coverage for 90 days after an employee's death, and to cover dependents until age 26.

COST CONTAINMENT

A renewed emphasis on cost containment must accompany new health benefits. The American people now spend over 9 percent of the Gross National Product on health services—$200 billion a year. Hospital costs in America are rising $1 million an hour, 24 hours a day. It is time to draw the line.

The National Health Plan is premised on passage of strong hospital cost containment legislation, which will save the American people $53 billion over the next five years, including $28 billion in Federal, State, and local expenditures. The Nation cannot afford expanded coverage without hospital cost containment legislation. In addition, my National Health Plan proposes a $3 billion annual limit on hospital capital expenditures. This Nation cannot support more duplicative facilities and more unnecessary equipment. We must not add to the 130,000 excess hospital beds we now have. We must and we will insure that needed extensions in coverage do not become the excuse for further waste.

This Plan will also provide for a mandatory fee schedule for physicians who serve Healthcare patients. The fee schedule will curb excessive inflation in physician fees and will reduce the disparities in fees paid to rural physicians as compared to urban physicians, and primary care physicians as compared to specialists. Over time, the new fee schedule will help produce a better geographic distribution of physicians and increase the availability of primary care services.

The Healthcare fee schedule will provide a model for private health insurance plans. Private plans will publish the names of physicians who agree to adhere to the Healthcare fee schedule for all their patients. To assure that Blue Shield and similar organizations reexamine their physician reimbursement policies, the Plan will prohibit physician domination of the governing boards of these organizations.

INCREASED COMPETITION

Competition has been weak in the health care industry because a very high percentage of costs are paid by third parties, and because patients generally cannot determine or shop for the services they need. In recent years, however, health maintenance organizations (HMOs) have injected important competitive forces into the health care system. The National Health Plan will encourage further competition by giving employees and Healthcare beneficiaries new financial incentives to enroll in HMOs or other cost-effective health plans.

Employers will be required to make equal contributions to the various health plans they offer their employees. Employees who choose more cost-effective plans will either pay lower premiums, receive additional compensation, or receive expanded health benefits.

The Healthcare program will pay a fixed amount on behalf of elderly beneficiaries who choose to enroll in HMOs. If the HMO can provide the standard Healthcare benefit package for less than the fixed amount, it must offer additional health benefits to the patient.

The Plan also promotes competition by requiring Healthcare to use competitive bidding to select private companies to perform claims processing and related functions. Demonstration projects by the Department of Health, Education, and Welfare have shown that this change will produce significant administrative savings.

FRAMEWORK FOR A COMPREHENSIVE PLAN

A universal, comprehensive national health insurance program is one of the major unfinished items on America's social agenda. The National Health Plan I am proposing today creates both the framework and the momentum to reach that long-sought goal. In future years, the Plan can be expanded to include all low-income persons. Employer coverage can be made more fully comprehensive, with subsidies to ease the burden on small businesses. First-dollar coverage for preventive services can be extended throughout early childhood. I am today sending to the Congress an outline of a fully comprehensive plan which builds upon the significant health care improvements that I am asking the Congress to enact this session.

Consistent with current budgetary constraints, new Federal spending for the National Health Plan will not begin until FY '83. When the Plan is fully implemented, the Federal budget cost in 1980 dollars will be 18 billion and the premium cost to employers and employees will be $8 billion. A substantial portion of these expenditures reflect reduced out-of-pocket expenses for individuals and reduced spending by State and local governments for their health programs. These expenditures are a social investment in the future of our children, the economic security of our elderly, and the well-being and peace of mind of all Americans. They are an investment in a more effective and efficient health care system. Over time, the Plan's emphasis on prevention, competition, and cost containment will reap important dividends for our Nation and its people.

I urge the Congress not to lose this precious opportunity for progress. The real needs of our people are not served by waiting and hoping for a better tomorrow. That tomorrow will never come unless we act today. The National Health Plan I propose will provide millions of our citizens with better health, greater economic security, and more productive, dignified, and hopeful lives. The American people have waited long enough. I call on the Congress to act without delay.

JIMMY CARTER.

THE WHITE HOUSE, *June 12, 1979.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States received earlier today, relative to his proposal for a national health plan, be jointly referred to the Committee on Finance and the Committee on Labor and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 10:06 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 721. An act to amend the Civil Rights Act of 1957 to authorize appropriations for the United States Commission on Civil Rights for fiscal year 1980.

The message also announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 976. An act to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal year 1980.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3875. An act to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

At 11:38 a.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bill, with an amendment in which is requests the concurrence of the Senate:

S. 495. An act to authorize the establishment of the Frederick Law Olmsted National Historic Site in the State of Massachusetts, and for other purposes.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by its title and placed on the calendar:

H.R. 3875. An act to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGOVERN, from the Committee on Agriculture, Nutrition, and Forestry, with amendments and an amendment to the title, and with amendments to the preamble:

S. Res. 90. Resolution requesting the Secretary of Agriculture to make a study of the programs administered under the National School Lunch Act and the Child Nutrition Act of 1966 (Rept. No. 96-208).

By Mr. HART, from the Committee on Armed Services, without amendment:

S. 1319. An original bill to authorize certain construction at military installations, and for other purposes (Rept. No. 96-209).

S. Res. 182. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1319. Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services:

Robert Burns Pirie, Jr., of Maryland, to be an Assistant Secretary of Defense.

(The above nomination from the Committee on Armed Services was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. STENNIS. Mr. President, as in executive session, I report and send to the desk certain nominations which have been approved by the Armed Services Committee without opposition. All the requirements of law have been met and the rules of the committee. They relate to the civilian office of the Chief of Staff of the Army and routine nominations within the military.

The PRESIDING OFFICER. The nominations will be received.

Mr. TOWER. Mr. President, I hope we can act expeditiously on these nominations. They cleared the committee without any opposition at all, and I hope we can proceed to dispose of them.

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nomination of Lt. Gen. Edward Charles Meyer, U.S. Army, to be general and Chief of Staff of the U.S. Army. Other nominations in the Army include Lt. Gens. John Adams Wickham, Jr., and Volney Frank Warner to be generals; Maj. Gen. Hillman Dickinson to be lieutenant general; and five in the Army Medical Department to the grade of brigadier general (list beginning with Col. Frederick Charles Biehusen); in the Navy and Marine Corps, Rear Adm. Charl T. Hanson, U.S. Navy, to be vice admiral and Maj. Gens. John H. Miller, Edward J. Bronars, and William J. White, USMC, to be lieutenant generals; and, in the Air Force, Lt. Gen. William Y. Smith to be general and Maj. Gen. John Steven Pustay to be lieutenant general. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. The nominations will be placed on the Executive Calendar.

Mr. STENNIS. In addition, Mr. President, there are 1,891 in the Regular Army for promotion to the grade of colonel and below (list beginning with Charles D. Herrera); in the Navy there are 34 various temporary and permanent appointments and promotions in the grade of lieutenant commander and below (list beginning with Duane Coyle), 945 temporary promotions to the grade of W-3 and W-4 (list beginning with Ernesto A. Aban), and in the Marine Corps and Marine Corps Reserve there are 339 appointments to the grade of lieutenant colonel (list beginning with Charles N. Adams); and, in the Air Force and Air Force Reserve, there are 55 appointments to the grade of lieutenant colonel and below (list beginning with Thomas B. Carleton); in the Air Force Reserve there are 58 for promotion to the grade of lieutenant colonel (list beginning with Maj. Daniel H. Ackermann) and in the Regular Air Force there are 1,021 promotions to the grade of first lieutenant (list beginning with Barton L. Abbott). Since all of these names have appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of May 21 and June 4, 1979, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RIBICOFF:

S. 1311. A bill to authorize two additional Assistant Secretaries of Commerce; to the Committee on Governmental Affairs.

By Mr. NELSON (for himself, Mr. WILLIAMS, Mr. JAVITS, Mr. MOYNIHAN, Mr. RIBICOFF, Mr. KENNEDY, Mr. BAKER, Mr. BELLMON, Mr. BRADLEY, Mr. DANFORTH, and Mr. HATFIELD):

S. 1312. A bill to amend the Comprehensive Employment and Training Act to provide work and training opportunities to assist families to become economically self-sufficient, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN:

S. 1313. A bill to amend the Federal Water Pollution Control Act, as amended; to the Committee on Environment and Public Works.

By Mr. STEVENS:

S. 1314 A bill for the relief of Moon Sun Park; to the Committee on the Judiciary.

By Mr. RIEGLE:

S. 1315. A bill for the relief of Roger Eric Lord; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 1316. A bill to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes; to the Committee on Governmental Affairs

By Mr. JACKSON (by request):

S. 1317. A bill to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program; to the Committee on Energy and Natural Resources.

By Mr. GLENN:

S. 1318. A bill to amend title 13 of the United States Code to provide a limited exemption to the Bureau of the Census from the provisions of section 322 of the act of June 30, 1932; to the Committee on Governmental Affairs.

By Mr. HART (from the Committee on Armed Services):

S. 1319. A bill to authorize certain construction at military installations, and for other purposes. Original bill reported and placed on the calendar.

By Mr. McCLURE:

S. 1320. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax for the purchase of an electric vehicle or for converting a vehicle powered by an internal combustion engine to electric power; to the Committee on Finance.

By Mr. SIMPSON:

S. 1321. A bill to amend section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a)) to require certain information concerning each principal owner of any building or space to be leased by the Federal Government; to the Committee on Environment and Public Works.

By Mr. SIMPSON (for himself and Mr. WALLOP):

S. 1322. A bill to amend the authorization for the Jackson Hole Snake River local flood protection project, Wyoming; to the Committee on Environment and Public Works.

By Mr. BAYH:

S. 1323. A bill to terminate the authorizations for Lafayette Dam and Reservoir, and Big Pine Dam and Reservoir, in the State of Indiana; to the Committee on Environment and Public Works.

By Mr. SIMPSON:

S. 1324. A bill to require the Inspector General of the General Services Administration to conduct audits of financial transactions authorized under the Public Buildings Act of 1959; to the Committee on Governmental Affairs.

By Mr. RANDOLPH:

S. 1325. A bill to provide for post-closure liability and compensation for claims arising from discharges from hazardous waste management facilities permitted under subtitle C of the Solid Waste Disposal Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BAYH:

S. 1326. A bill to amend title 18 of the United States Code to impose criminal penalties on persons who fire firearms or throw objects at railroad trains; to the Committee on the Judiciary.

By Mr. HART:

S. 1327. A bill to amend the Fair Labor Standards Act of 1938 to exempt full-time students serving as resident assistants and resident counselors in private nonprofit institutions of higher education from that act, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF:

S. 1311. A bill to authorize two additional Assistant Secretaries of Commerce; to the Committee on Governmental Affairs.

● Mr. RIBICOFF. Mr. President, at the request of the Secretary of Commerce, I am introducing legislation to authorize two additional Assistant Secretaries of Commerce. As in the case of the present eight Assistant Secretaries, the positions would be filled by nomination by the President, subject to Senate confirmation, with compensation at Level IV ($50,000 per annum) of the Executive Schedule.

The Secretary of Commerce advises that these positions are required in order to establish the positions of Assistant Secretary for Public Affairs and Assistant Secretary for Economic and Statistical Affairs.

I ask unanimous consent that the text of the bill and the accompanying statement of the purpose and need be printed in the RECORD.

There being no objection, the bill and statement were ordered to be printed in the RECORD, as follows:

S. 1311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there shall be in the Department of Commerce, in addition to the Assistant Secretaries provided by law as of the date of the enactment of the Act, two additional Assistant Secretaries of Commerce who shall be appointed by the President, by and with the advice and consent of the Senate. Each such Assistant Secretary shall perform such duties as the Secretary of Commerce shall prescribe.

(b) Paragraph (12) of section 5315 of title 5, United States Code, is amended to read as follows:

"(12) Assistant Secretaries of Commerce (10).".

STATEMENT OF PURPOSE AND NEED

The attached bill authorizing two additional Assistant Secretaries of Commerce is required in order to establish the positions of Assistant Secretary for Public Affairs and Assistant Secretary for Economic and Statistical Affairs.

The Assistant Secretary for Public Affairs:

Would plan, develop, and implement a coordinated public information program throughout the Department;

Would be the principal advisor to the Secretary on public affairs matters;

Would coordinate information activities of the Department's 13 operating units which constitute the world's largest organization for the gathering, anlyzing and dissemination of economic, demographic, scientific and technological information including some of the most important data the Government compiles;

Would be the primary liaison for the Department with the business community and the White House and other Government organizations in public affairs matters.

At present these functions are assigned to a Director of Public Affairs appointed by the Secretary of Commerce. However, experience has shown that effective performance of such a wide range of responsibilities requires an official whose level of authority and position of trust is attested to by an appointment by the President, with the advice and consent of the Senate. In interchanges both within Government and with the external information community, an individual in such a high-level position will be able to participate with increased impact and influence in public affairs matters. This is especially needed in the light of the assignment to the Director of Public Affairs of responsibility for the Department's Publications Standards and Development Division. The Department issues more than 4,000 publications annually. These publications constitute 22 percent of the dollar sales of all Government publications purchased through the Government Printing Office, more than those of any other Government agency. The new responsibilities include ensuring conformance to standards of quality, effectiveness and necessity; providing guidelines on editorial policy; and providing editorial assistance to Departmental operating units in the preparation of publications.

Examples of public relations activities essential to the success of basic federal programs and recently undertaken by the Department include:

(1) the public affairs and information activities required to implement the President's new drive to increase exports in order to reduce the Nation's record trade deficit and strengthen the dollar. This effort is expected to become the greatest sustained export promotion campaign in the Nation's history, enlisting the support of thousands of business firms, both those new to exporting and those with the potential for increasing their present sales abroad. Public affairs and information activities will play a key role in gaining the necessary cooperation; and

(2) the massive public information effort being undertaken by the Census Bureau which is designed to help make the 1980 Decennial Census the most accurate ever taken by emphasizing the importance to all Americans, their families, and their city and state of being included in the enumeration.

Finally, the statutory mission of the Department of Commerce is to encourage, serve and promote the Nation's economic development and technological advancement. Its most important tool in this undertaking is information—all of which, directly or indirectly, requires the professional leadership of the Director of Public Affairs in order to facilitate its maximum use by the public. The Director of Public Affairs ranks with other top-level policymakers in the Department of Commerce and sits in its highest councils. That individual's peer relationship and effectiveness in achieving success of the policies and programs concerned would be greatly enhanced if he had the title of Assistant Secretary for Public Affairs.

The Assistant Secretary for Economic and Statistical Affairs would be the principal adviser to the Secretary of Commerce and to other officials within the Department on economic and statistical matters; would serve as the Department's liaison with the Council of Economic Advisers, the Council on Wage and Price Stability, and other high-level economic and statistical officials of the Government; and would exercise policy direction and general supervision over the Bureau of the Census, the Bureau of Economic Analysis, and the Office of Federal Statistical Policy and Standards.

Presently, these functions are assigned to the Chief Economist for the Department. However, experience with this arrangement has shown that performance of these functions could be improved by making clear that this official has the confidence of the President and the Administration. A person appointed by the President, by and with the advice and consent of the Senate would be better able to participate in and have an impact upon departmental and government-wide economic and statistical policy decisions. This is especially true in light of the following recent major expansions in the duties and responsibilities of the Chief Economist.

First, the responsibilities of the Chief Economist in the area of economic forecasting have increased due to the regular participation of the Department in interagency forecasting exercises. Other agencies (the Council of Economic Advisers, and the Treasury and Labor Departments) are represented in this forecasting exercise by Presidential appointees at the Assistant Secretary level or its equivalent.

Second, the Assistant Secretary for Economic and Statistical Affairs will have primary responsibility for improving the coordination and effectiveness of the entire Federal statistical program. This responsibility arises from the transfer, under Reorganization Plan No. 1 of 1977, and Executive Order 12013, of functions and personnel from the Statistical Policy Division of the Office of Management and Budget to the newly created Office of Federal Statistical Policy and Standards within the Department of Commerce, under the direct supervision of the Office of the Chief Economist.

Third, the Assistant Secretary will have responsibility for building and supervising an industrial economic analysis staff. For years the industrial analysis capability of the Federal Government has been inadequate to meet the Nation's needs. The Department was instructed by the President as part of Reorganization Plan No. 1 of 1977, to strengthen its capabilities generally and specifically to provide certain needed information and analysis to the Council on Wage and Price Stability. Included in the Department's efforts has been the recent establishment of the Office of Industrial Economics, which would be supervised by the proposed Assistant Secretary.

Finally, while supervision of the Census Bureau is not a new function, it is one of increased importance due to the approach of the 1980 Decennial Census of Population and to the vastly increased use of Census Bureau data for the allocation of Federal funds under revenue sharing, Comprehensive Employment and Training (CETA) programs, and other programs. The Director of the Census Bureau is a Presidential appointee (Level V), and it would seem appropriate that supervision at the Department level also be by a Presidential appointee.

Subsection (b) of the draft bill would amend 5 USC 5315(12) to reflect these additional positions of Assistant Secretary.●

By Mr. NELSON (for himself, Mr. WILLIAMS, Mr. JAVITS, Mr. MOYNIHAN, Mr. RIBICOFF, Mr. KENNEDY, Mr. BAKER, Mr. BELLMON, Mr. BRADLEY, Mr. DANFORTH, and Mr. HATFIELD):

S. 1312. A bill to amend the Comprehensive Employment and Training Act to provide work and training opportunities to assist families to become economically self-sufficient, and for other purposes; to the Committee on Labor and Human Resources.

WORK AND TRAINING OPPORTUNITIES ACT OF 1979

Mr. NELSON. Mr. President, today Senators WILLIAMS, JAVITS, MOYNIHAN, RIBICOFF, KENNEDY, BAKER, BELLMON, DANFORTH, BRADLEY, HATFIELD and I are introducing the Work and Training Opportunities Act of 1979. The legislation represents the jobs part of President Carter's welfare reform package that was submitted to Congress on May 30, 1979. The cash assistance portion of the welfare reform legislation—the Social Welfare Reform Amendments of 1979—was submitted as a separate bill by Senator MOYNIHAN and others last Wednesday.

I am introducing the welfare reform jobs bill at the request of Secretary of Labor Ray Marshall on behalf of the Carter administration.

The administration's welfare reform jobs bill is designed to move persons in welfare-eligible families off the welfare roles and into productive jobs. A coordinated effort to place persons in unsubsidized jobs in the private sector or in regular public employment would be established in each State. If all else fails, some 400,000 new job training and public service employment positions would be made available to provide employment or training to the breadwinner of a welfare-eligible family.

The Department of Labor estimates that approximately 600,000 jobs would be obtained annually in the private sector and in regular public employment through a State-coordinated job search assistance component of the welfare reform jobs bill. 500,000 placements would be made during the job search portion of the program, and another 100,000 persons will be gainfully employed in the private sector through the use of incentives such as the WIN tax credit and expanded CETA on-the-job training programs.

For those unable to find employment opportunities, the legislation would establish 375,000 new public service jobs and set aside 170,000 of the current 270,000 CETA title II-D public service employment positions for AFDC recipients, as well as make available 25,000 job training positions. The Labor Department expects 1.4 million persons to be employed or trained for employment in this portion of the program annually.

The employment and training opportunities program's gross cost for the first year, 1982, would be $5 billion, mostly for 400,000 new CETA employment and training positions. The new additional cost of the program, however, would be $2.7 billion. $2.3 billion would be saved in welfare costs such as food stamps, medical assistance and AFDC expenditures as families become self-sufficient.

Mr. President, the administration's bill has been carefully targeted to make maximum use of the Federal expenditures devoted to job and training programs for the economically disadvantaged. The program will be restricted to those families most in need of economic assistance, thus stretching available dollars while helping the largest number of families possible. Furthermore, the proposed work and training program will improve and refocus existing employment programs for the unemployed. No new bureaucracy will be established to operate the jobs portion of the welfare reform program.

The existing employment and training programs that serve as the principal source of assistance to welfare recipients are the work incentive program (WIN), the job service, and the Comprehensive Employment and Training Act (CETA).

The WIN program, however, is not available in all parts of the country and often is not well coordinated with other job and training programs. The job service is responsible for serving as a labor exchange for all unemployed workers and, consequently, has not always been able to focus on the most disadvantaged in the workforce, such as welfare families. Neither WIN nor job service was established for the purpose of creating jobs or providing training on a large scale. So in 1973, Congress enacted legislation to establish the CETA programs and a network of administrating agents—prime sponsors—to perform this role.

Over the past 2 years, the CETA system demonstrated its capacity to create a large number of jobs in governmental units and community based organizations. But as the jobs and training program grew, a number of serious questions about the operation of the CETA program were raised. As a result, the CETA Amendments of 1978 refocused the program on the employment needs of the chronically unemployed, strengthened the role of the private sector in program planning and operations, and made a multitude of changes in the way the CETA programs are operated by prime sponsors.

Yet, even with the services directed to low-income persons through WIN, job service, and CETA, there remains a large unmet need for employment and training assistance among those families who are considered economically disadvantaged. The Department of Labor estimates, for example, that about two million members of welfare eligible families, most of whom are receiving no employment related assistance at this time, would seek jobs and training under the employment portion of the administration's welfare reform package.

Mr. President, as I stated earlier, a central feature of the Work and Training Opportunities Act of 1979 is that it requires no major new bureaucracy. Instead, it will coordinate and augment the resources of programs that Congress has already authorized and funded to assist the unemployed in securing suitable employment. To accomplish this, this legislation would add a part E to title II of CETA to establish a job search assistance program and a work and training opportunities program.

Title II-E authorizes the Governor of each State to develop, in conjunction with CETA prime sponsors, the job service, and the State welfare agency, an annual plan for a coordinated system to refer welfare-eligible persons to unsubsidized jobs. The job search assistance program established in each State would encompass and expand current WIN activities. The program would provide a full range of job search and employability development service to eligible applicants.

Those unable to find jobs after 8 weeks of job search under the job search assistance program would then be eligible to enter the federally assisted work and training opportunities program, administered by the CETA prime sponsors. During participation in a job or training position, the participants will receive a wage to reduce or eliminate their family's need for welfare. Attempts to place workers in unsubsidized employment would continue during this phase of the program. Persons unable to find a job by the end of 78 weeks would have to reenter the job search assistance program for an additional 8 weeks of intensive job search before becoming reeligible for a federally assisted job or training position.

Mr. President, this act is intended to strengthen and build upon current employment and training programs. The bill emphasizes increased coordination among the job service, State and local officials, and the CETA and WIN programs. It will bring together, if successful, a great many resources toward the objective of increasing family economic self-sufficiency, a goal that is widely supported among all Americans. Assistance under this legislation will include the WIN tax credit, on-the-job training, public service employment, classroom training, and placement services.

Mr. President, very few people are satisfied with the current welfare system and no one is more aware of this fact than elected representatives at all levels of government. In fiscal year 1978, the AFDC program alone cost $12.2 billion, with State and local governments picking up approximately 45 percent of the cost and the remainder being paid by the Federal Government.

But the real cost cannot be measured because the waste of human resources, family breakups and the loss of individual self-esteem are not easily measured. According to every study that I have seen, the overwhelming majority of people on welfare want to work and do take on part-time or intermittent full-time work every year. But many of them lack available opportunities for employment, are the first laid off whenever there is an economic slump, or do not have the necessary skills to find a job that pays a living wage.

The facts on the employment status of welfare families are revealing. In 1977, over 60 percent of the 3.8 million families with children with incomes below the poverty line had either a part-time or full-time worker. One million of these families were headed by women, many of whom had to have their earnings supplemented with welfare.

We can and should try to improve our welfare programs. One of the most important steps that can be taken, in my judgment, is to help welfare families get a pay check that comes from an employer rather than a publicly financed grant from a welfare agency.

As chairman of the Labor and Human Resources Subcommittee on Employment, Poverty, and Migratory Labor, I will hold very thorough hearings on this legislation and any other welfare jobs bills that have been or will be introduced in this Congress. The subcommittee also will look at the various employment approaches to welfare reform that are currently underway or will be beginning in many different localities.

A series of supported work demonstration projects in both urban and rural areas show some promising signs of being effective for certain groups of hard-core unemployed, including some welfare recipients. The Department of Labor has initiated a variety of welfare reform demonstrations with CETA prime sponsors. And there are many other innovative projects that have been undertaken in many other parts of the country, each of which will increase our ability to develop an employment program to help welfare families become dependent upon themselves, instead of the Government, for their own well-being.

Mr. President, I ask unanimous consent that material prepared by the Department of Labor pertaining to the introduction of the Work and Training Opportunities Act be printed at this point in the RECORD, together with the text of the bill as proposed by the administration.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE

SECTION 1. This Act may be cited as the "Work and Training Opportunities Act of 1979".

ESTABLISHMENT OF PROGRAM

SEC. 2. Title II of the Comprehensive Employment and Training Act is amended by adding at the end thereof the following new part:

"PART E—WORK AND TRAINING OPPORTUNITIES FOR FAMILY SELF-SUFFICIENCY

"STATEMENT OF PURPOSE

"SEC. 241. It is the purpose of this part to enhance the self-sufficiency of families with children who could otherwise be dependent upon welfare assistance and to enable adults in such families to contribute productively to the economy of their communities and of the Nation. In furtherance of such purpose, this part provides for programs of job search assistance designed to assist members of such families in seeking job opportunities in the private and public sectors which are not federally-supported, and for programs which provide federally-assisted work and training opportunities for principal earners in families with children who cannot find employment in the regular economy and might otherwise have to rely upon their eligibility for welfare assistance to provide sufficient income to support their families.

"SUBPART 1—JOB SEARCH ASSISTANCE PROGRAMS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 251. There are authorized to be appropriated such sums as may be necessary to carry out this subpart.

"FINANCIAL ASSISTANCE

"SEC. 252. (a) The sums which shall be made available from appropriations to provide financial assistance under this subpart for each fiscal year shall be apportioned by the Secretary on an equitable basis, in accordance with subsection (b), among the States for the purpose of carrying out programs under this subpart, and among Native American entities described in section 302(c)(1)(A) of this Act for the purpose of carrying out job search assistance programs described in section 254(c) of this Act. The Secretary shall ensure that apportionments are made available within each State on an equitable basis among geographical areas served by prime sponsors.

"(b)(1) Payments of financial assistance under this subpart may be made on the basis of estimates, pursuant to paragraph (2), but adjustments shall be made in the amount of any payment to the extent that the payments previously made were more or less than the amounts which the Secretary determines to be appropriate in view of the number of participants actually served.

"(2) The Secretary shall first apportion not less than 85 percent of the funds for this subpart among the States on the basis of appropriate factors, including taking into account the relative numbers of recipients of aid to families with dependent children under title IV–A of the Social Security Act in each State and the relative costs of providing necessary services under this subpart in each such State, as estimated by the Secretary on the basis of the most recent satisfactory available data. The remaining funds shall be made available from time to time, as the Secretary determines to be appropriate, to provide financial assistance under this subpart (including financial assistance for Native American entities described in section 302(c)(1)(A) of this Act).

"(c) Financial assistance made available among the States for use in carrying out programs under this subpart shall not exceed 90 percent of the costs of carrying out programs in each such State. Non-Federal contributions shall be in cash.

"ELIGIBLE INDIVIDUALS FOR JOBS SEARCH ASSISTANCE

"SEC. 253. Eligible individuals for assistance under this subpart shall be individuals (1) who are determined by the job search assistance program, in accordance with section 255(c)(1) of this Act, to be adults in families which meet the eligibility standards for aid to families with dependent children under title IV–A of the Social Security Act, or (2) who are registered under title IV–C of the Social Security Act with the work incentive component of such job search assistance program.

"DESCRIPTION OF JOB SEARCH ASSISTANCE ACTIVITIES AND SERVICES

"SEC. 254. (a) Job search assistance programs under this subpart shall consist of appropriate services and activities, as described in subsection (c) of this section, designed to enhance opportunities for eligible individuals to secure earned income through regular employment.

"(b) With respect to each State for which the Secretary has approved a comprehensive State plan under section 255 of this Act, job search assistance services and activities under this section shall be carried out pursuant to the provisions of such comprehensive State plan, and of cooperative arrangements thereunder between the State and prime sponsors designed to enable such services and activities to be provided on a coordinated basis in particular prime sponsor areas.

"(c) Services and activities provided for participating individuals by job search assistance programs under this subpart shall include but not be limited to—

"(1) assessments of the skills and needs, and of the employability potential, of each individual;

"(2) preparation of an employability development plan for each participating individual during the initial eight-week job search period, pursuant to arrangements which will minimize the burden on such individual and maximize coordination with the prime sponsor, thereby facilitating the further review and revision of such plan from time to time after the conclusion of such eight-week period in the case of individuals who are participating in work and training under subpart 2 of this part;

"(3) counseling and testing;

"(4) reasonable job search expenses, including transportation and child care expenses;

"(5) job search programs to provide employment and training opportunities in the private or public sectors, which are not supported under this part, including (A) for each such individual, an intensive job search program for an eight-week period, and (B) in the case of any such individual who has not been otherwise placed in employment after eight weeks of participation in a job search program, (i) if such individual is eligible for work and training under subpart 2 of this Act, referral to the prime sponsor for placement in a work and training position under subpart 2 of this part, or (ii) if such individual has not been placed in or is not eligible for work and training under subpart 2 of this part, continuing job search assistance as appropriate for each such individual;

"(6) provision of urgently needed services determined by appropriate professional staff to be necessary to cope with work-impairing and emergency problems, but only if the participating individual approves or requests such services, including immediate medical, dental, clothing, and similar basic needs, during the eight-week job search period, with continuity in the provision of such services as may still be needed after such individual has accepted employment not supported under this part;

"(7) provisions of counseling, child care, health, rehabilitation, remedial services, and other supportive services which are needed to enable participating individuals to accept and to continue in employment not supported under this part;

"(8) referrals to employment and training opportunities in the private or public sectors which are not supported under this part;

"(9) job development, including job restructuring and related services, especially the development of new careers and efforts to overcome sex-stereotyping, including development of and referral to job opportunities for participating individuals in occupations which have traditionally been limited predominantly to persons of the opposite sex;

"(10) development of and referral to job opportunities involving flexible working arrangements, including part-time work and flexible working hours especially designed to meet the needs of single parents of young children;

"(11) group job search activities and other innovative job search activities; and

"(12) in the case of eligible individuals who have been placed in work and training positions under subpart 2 of this part, the provision of follow-up services to provide referrals and other information with respect to the availability of job opportunities in the regular economy which are not supported under this part.

"(d) The comprehensive State plan (and annual program modifications thereof) submitted by the Governor of each State under section 255 of this Act shall be accompanied by a description of cooperative arrangements (including any agreements) which shall be entered into by the State and each prime sponsor within the State for the purpose of carrying out job search assistance services and activities under this section in each prime sponsor area, including coordination of the responsibilities of State agencies and the prime sponsor. Such cooperative arrangements shall be considered provisions of the comprehensive State plan.

"COMPREHENSIVE STATE PLANS

"SEC. 255. (a) In order for each State to receive financial assistance to carry out job search assistance programs under this subpart, the Governor of each such State shall submit to the Secretary a comprehensive State plan which shall set forth the administrative system designated for carrying out the State's responsibilities with respect to job search assistance programs under this subpart and the manner in which the work incentive program under title IV–C of the Social Security Act will be coordinated as a component within such system.

"(b)(1) Each comprehensive State plan shall be prepared as a long-term plan setting forth the programmatic and administrative arrangements to ensure that job search assistance programs throughout the State are designed and implemented in a manner consistent with the requirements of this subpart. Annual program modifications of the long-term plan shall be submitted to the Secretary for approval.

"(2) Job search assistance programs under this subpart shall be planned and implemented throughout each State on the basis of areas which shall be coterminous with each prime sponsor area within the State and with subareas within the State prime sponsor area (as described in section 101(d) of this Act).

"(c) The Secretary shall, after consulting with the Secretary of Health, Education, and Welfare, approve a comprehensive State plan under this section (including annual program modifications thereof) only if satisfactory provisions are set forth for—

"(1) administration of a job search assistance intake process, including determinations of eligibility with respect to individuals applying for assistance under this part, verifying the statements and information submitted in connection with applications, and taking any appropriate actions with respect to such applications;

"(2) assessing needs for supportive services under this subpart, and specifying annually the total level of resources to be devoted to supportive services out of the funds made available under this subpart;

"(3) providing job search assistance, including supportive services, under section 254 of this Act throughout the State;

"(4) arranging for the provision of job search assistance services, including supportive services, through public and private agencies and organizations, including project applicants such as community-based organizations, after affording such agencies and organizations the opportunity to submit applications to provide such services;

"(5) assuring that health, vocational rehabilitation, child care, and other supportive services will be provided in accordance with regulations issued under section 257 of this Act;

"(6) assuring that supportive services necessary to enable individuals to participate in employment or training will be provided, based on an appraisal of the individual's need for such services, involving professionals in the fields of employment and training and supportive services together with the individual, with periodic reviews by such professionals to assure that needed services are being provided to such individual;

"(7) assuring that assistance will be provided to single parents of young children 6 years of age or younger who desire employment and training services and opportunities under this part;

"(8) making determinations as to whether a bona fide job offer has been refused without good cause, in accordance with section 266 of this Act;

"(9) maintaining an administrative review process, including opportunities for hearings and appeals with respect to determinations of eligibility for programs under this part and determinations described in subparagraph (8);

"(10) making referrals to the appropriate prime sponsor, for placement under subpart 2 of this part in work and training positions, of principal earners in families with children who have participated in an eight-week period of job search assistance under this subpart, unless it has been determined that, during such eight-week job search period, a bona fide job offer was refused without good cause by such person in accordance with section 266 of this Act;

"(11) entering into cooperative arrangements with prime sponsors to provide appropriate services for participating individuals throughout the job search period and to enable the prime sponsor to join in the assessment of employment-related needs and the development of employability plans for such individuals, with special provisions after the fifth week of an individual's eight-week job search period to enable the prime sponsor to assess the particular employment and training needs, based on experience during the job search period, of individuals who might be referred to the prime sponsor at the conclusion of the eight-week period for placement in a work and training position under subpart 2 of this part;

"(12) coordinating, to the maximum extent feasible, job search assistance programs under this subpart with economic development and community development activities within the State, and such other activities assisted by the Federal government or State or local governments as are related to employment and training;

"(13) making appropriate arrangements with the private sector (including private employers and associations thereof) to provide job search assistance services and activities, in conjunction with private industry councils established under the private sector initiatives program authorized by title VII of this Act;

"(14) specifying annually any services under the provisions of this or any other Act which will supplement services provided under this subpart for recipients of aid to families with dependent children, and assuring that in no event will the total level of such services under this subpart be used to supplant services otherwise provided during the preceding year under this or any other Act;

"(15) assuring that during each year there will be no reduction in the proportionate amount of resources devoted to services per recipient of aid to families with dependent children in such State (whether from Federal or non-Federal contributions) from the amount so provided during the preceding year under this subpart and under title IV–C of the Social Security Act.

"(d) The State plan shall set forth procedures, in accordance with regulations issued under section 257 of this Act, to assure that job search assistance programs in such State will transmit promptly to the appropriate State welfare agency such notifications as may be required by regulations concerning determinations made with respect to any individual who is registered with a work incentive program under title IV–C of the Social Security Act and participating in a job search assistance program under this subpart, including notifications whenever any such individual—

"(1) has been placed in employment not supported under this part or has been placed in a work and training position under subpart 2 of this part; or

"(2) has not been so placed at the conclusion of eight weeks after such individual began an eight-week job search period under section 254 (c) (5) (A) of this Act.

"DEVELOPMENT AND REVIEW OF COMPREHENSIVE STATE PLANS

"SEC. 256. (a) The long-term comprehensive State plan and annual program modifications thereof shall be prepared and developed with the active participation of the State employment and training council (established in accordance with section 110 of this Act). Such council shall continually monitor the arrangements for carrying out the job search assistance programs in its State and shall during each year review the comprehensive State plan and the annual program modifications thereof and make such recommendations for changes as it deems desirable.

"(b) Each State shall, in the development of its comprehensive State plan and annual program modifications thereof, actively involve the participation of all prime sponsors in the State and the State welfare agency, the State employment security agency, and the agency responsible for services under title XX of the Social Security Act. The proposed comprehensive State plan and annual program modifications thereof shall be transmitted to each such prime sponsor and State agency to afford an opportunity for review and for any recommendations for changes to be taken into account before the Governor officially submits the plan to the Secretary for approval, and shall likewise be made available to the general public for comments.

"(c) Any prime sponsor may appeal to the Secretary, when the comprehensive State plan (or any annual program modification thereof) has been submitted to the Secretary for approval, stating any reasons for dissatisfaction with arrangements thereunder for carrying out job search assistance programs in the area served by such prime sponsor (including reasons for failure of the prime sponsor and the State to enter into cooperative arrangements). The Governor of the State shall be afforded the opportunity to respond to such appeal.

"(d) Changes may be required in the comprehensive State plan or any annual program modification thereof as conditions for approval if the Secretary determines that arrangements thereunder for the provision of job search assistance services and activities, or for the coordination thereof, in any prime sponsor area are not satisfactory in view of the purposes of this subpart.

"(e) With respect to any State for which no comprehensive State plan has been submitted to, and approved by, the Secretary to carry out job search assistance programs under this subpart, or with respect to any State or area thereof where the Secretary determines that job search assistance programs under this subpart are not being satisfactorily implemented, the Secretary shall use funds made available for use in such State under section 252 of this Act to make payments directly to public agencies or private nonprofit organizations for the purpose of carrying out job search assistance programs in such State or area.

"REGULATIONS

"SEC. 257. (a) The Secretary shall issue regulations to carry out the purposes of this subpart only after the Secretary of Health, Education, and Welfare has agreed to such regulations.

"(b) Regulations issued under subsection (a) of this section shall include provisions—

"(1) establishing eligibility requirements under clause (1) of section 253 of this Act, which are consistent with eligibility standards for aid to families with dependent children under title IV–A of the Social Security Act and shall be revised at least annually to update such requirements;

"(2) ensuring that health, vocational rehabilitation, child care, and other supportive services will be provided in accordance with criteria approved by State agencies determined by the Secretary of Health, Education, and Welfare to be responsible for such services.

"SUBPART 2—FEDERALLY ASSISTED WORK AND TRAINING OPPORTUNITIES

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 261. There are authorized to be appropriated such sums as may be necessary to carry out this subpart.

"FINANCIAL ASSISTANCE

"SEC. 262. (a) The sums which shall be made available from appropriations to provide financial assistance under this subpart for each fiscal year shall be apportioned by the Secretary on an equitable basis, in accordance with subsection (b), among prime sponsors for the purpose of providing work and training opportunities under this subpart, and among Native American entities described in section 302(c) (1) (A) of this Act for the purpose of providing work and training opportunities described in section 265(a) of this Act.

"(b) (1) Payments of financial assistance under this subpart may be made on the basis of estimates, pursuant to paragraph

(2), but adjustments shall be made in the amount of any payment to the extent that the payments previously made were more or less than the amounts which the Secretary determines to be appropriate in view of the number of participants actually served.

"(2) The Secretary shall first apportion not less than 85 percent of the funds for this subpart among prime sponsors on the basis of appropriate factors, including taking into account the relative numbers of recipients of aid to families with dependent children under title IV–A of the Social Security Act in the area served by each prime sponsor and the relative average costs of providing each work and training opportunity under this subpart in each such area, as estimated by the Secretary on the basis of the most recent satisfactory available data. The remaining funds shall be made available from time to time, as the Secretary determines to be appropriate, to provide financial assistance under this subpart (including financial assistance for Native American entities described in section 302(c)(1)(A) of this Act).

"ELIGIBLE PARTICIPANTS FOR FEDERALLY-ASSISTED WORK AND TRAINING OPPORTUNITIES

"SEC. 263. (a) For purposes of this subpart, an eligible participant shall be an individual whom the job search assistance program under subpart 1 of this part determines, at the time of referral to the prime sponsor for placement in a work and training opportunity under this subpart, to be an individual who—

"(1) has participated in a job search assistance program under section 254 of this Act for a period of eight weeks prior to the time such individual is placed in a work and training position under this subpart;

"(2) has not, since the beginning of such job search period, refused a bona fide job offer without good cause, in accordance with section 266; and

"(3) is the principal earner in a family with a child.

"(b) In placing eligible participants in work and training positions under this subpart, equal opportunities shall be made available to individuals who qualify under clauses (1) and (2), respectively, of section 253 of this Act.

"COST LIMITATIONS

"SEC. 264. (a) Not more than 20 percent of the total funds made available to a prime sponsor under this subpart may be used for the costs of administration of programs under this subpart (including the provision of training and supportive services) and related allowable costs (such as supplies, materials, and equipment) incurred by the prime sponsor, project applicants, or subgrantees or contractors, in accordance with such regulations as the Secretary shall prescribe.

"(b) The remaining funds available to each prime sponsor under this subpart shall be used for wages (including compensation for time spent in training) and employment benefits to persons placed in work and training positions in accordance with this subpart.

"FEDERALLY-ASSISTED WORK AND TRAINING OPPORTUNITIES

"SEC. 265. (a) The Secretary shall provide financial assistance to enable prime sponsors and Native American entities described in section 302 (c)(1)(A) of this Act to provide work and training opportunities (including any combination thereof) to eligible participants under this subpart, including—

"(1) the provision to eligible participants of public service employment opportunities in activities and projects that may also include individuals participating under part D of this title;

"(2) the provision to eligible participants of training and other services and activities described in part B of this title, including classroom instruction, skills training, on-the-job training, and appropriate work experience;

"(3) the provision of appropriate supportive services necessary to enable eligible participants to undertake and continue in work and training under this subpart;

"(4) appropriate provisions for flexible working arrangements such as part-time work and flexible working hours, with special efforts to provide such opportunities during hours which accommodate the needs of single parents of young children, including hours of work enabling single parents of young school-age children to be at home when their children are out of school and at home without suitable care;

"(5) in the case of any eligible participant who leaves a work and training position under this subpart due to incapacity or a short-term job (as shall be defined in regulations issued by the Secretary), appropriate provisions assuring, to the maximum extent feasible, that a similar work and training position to that which was vacated by such individual shall be available under this subpart upon the eligible participant's return; and

"(6) referrals to jobs in the private or public sectors which are not supported under this Act.

"(b) (1) No individual shall participate in work and training under this subpart for more than seventy-eight weeks (without excluding therefrom any time such individual spent away from such work and training during such period) unless such individual has participated in a renewed job search period of eight weeks (as described in section 254(c)(5)(A) of this Act) during or at the end of each such seventy-eight week period.

"(2) Notwithstanding section 121(c) and section 122(h)(2) of this Act, eligible participants who have not found jobs which are not supported under this part after eight weeks of renewed job search activity (as required pursuant to paragraph (1) of this subsection) may again participate under this subpart in other work and training positions which shall be designed to enable such individuals to move into employment not supported under this part as soon as possible. In no event may any such individual participate in work and training under this subpart for further periods of 78 weeks unless such individual has completed a renewed eight-week job search period during or at the end of each such 78-week period as required by paragraph (1) of this subsection.

"(c) The Secretary shall provide financial assistance to a prime sponsor under this subpart only if—

"(1) satisfactory provisions are set forth in the prime sponsor's comprehensive employment and training plan under section 103 of this Act (including its annual plan for carrying out activities under this title) for providing work and training opportunities described in subsection (a) of this section; and

"(2) the prime sponsor has made appropriate arrangements with the job search assistance program under subpart 1 of this part which are designed to assure a continuous sequence of services for individuals participating in activities under subpart 1 and this subpart.

"SPECIAL CONDITIONS

"SEC. 266. For purposes of eligibility for participation in a work and training position under this subpart, determinations as to whether an individual has refused a bona fide job offer without good cause shall be made in accordance with standards and procedures which the Secretary shall prescribe by regulation. An individual shall not be found to have refused a bona fide job offer without good cause if—

"(1) the rate of pay for the job offered to such individual is less than the highest of—

"(A) the Federal minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938;

"(B) the applicable State or local minimum wage; or

"(C) the rate of pay for persons employed in equal work by the same employer in the same establishment;

"(2) the conditions of work or training are unreasonable for such individual because of the hours of work, geographical location, health or safety conditions, or similar factors;

"(3)(A) in the case of the only adult (other than an aged, blind, disabled, or incapitated individual) in a family with one or more children 6 years of age or younger, the job offered to such individual would make it impractical to provide suitable care for any such child; (B) in the case of the only adult (other than an aged, blind, disabled, or incapacitated individual) in a family with one or more children over 6 years of age but under 14 years of age, the job offered to such individual would involve hours of work which would make it impractical for such individual to be at home during hours when any such child is out of school and at home without suitable care; or (C) in the case of any other individual, the job offered to such individual would provide total weekly earnings lower than an amount equal to the hourly minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938 multiplied by 40 hours;

"(4) the job offered is available due directly to a strike, lockout, or other labor dispute; or

"(5) the job offered is for less than 4 weeks."

DEFINITIONS

SEC. 3. Section 3 of the Comprehensive Employment and Training Act is amended by adding at the end thereof the following:

"(32) The term 'family with a child' means a family which includes at least one child who is (A) an individual under 18 years of age, or (B) in the case of an individual attending elementary, vocational, or secondary school, or participating in a training program meeting criteria established by the Secretary, an individual under 21 years of age.

"(33) The term 'principal earner' means an individual who is a member of a family in which no other individual is already participating in a work and training position under subpart 2 of this part and who—

"(A) based on the six-month period immediately preceding application for assistance under this part, is (i) the parent who was the sole adult earner in the family, or (ii) either the parent in the family who had the largest total amount of earned income during such period or the parent in the family who worked the largest total amount of hours during such period, or (iii) either of the parents in the family if no parent had any earned income or each parent had an equal amount of earned income or worked an equal amount of hours; or

"(B) is the spouse of a parent who would qualify under subparagraph (A) if (i) the parent who qualifies under subparagraph (A) is not employed or in training after an eight-week period has concluded, and (ii) a succeeding eight-week period has occurred, and (iii) the spouse has completed an eight-week job search period under section 254 (c)(5)(A) of this Act (which may be concurrent with the other spouse's eight-week job search period); or

"(C) is another member of a family in which the parent or spouse who would otherwise qualify under subparagraph (A) or (B) of this paragraph has died or is disabled or incapacitated or otherwise not currently available for work."

AMENDMENTS TO PART D OF TITLE II

SEC. 4. Effective with respect to fiscal year 1982—

(1) Section 233(a) of the Comprehensive Employment and Training Act is amended to read as follows:

"Sec. 233. (a) Of the funds made available for carrying out this part, the Secretary shall apportion not to exceed 62.5 percent thereof or, if lower, an amount which is equal to the sums made available for carrying out the provisions of this title other than this part and part E, among prime sponsors (taking into account the factors set forth in section 262(b)(2) of this Act) to provide public service employment opportunities for (1) principal earners in families with children who are eligible under section 236(a)(2) of this Act as receiving or eligible for aid to families with dependent children under title IV–A of the Social Security Act, and (2) individuals who are eligible under section 236(a)(1)(B) of this Act in the case of recipients of general welfare assistance for whom the provision of public service employment opportunities under this part would be the most effective use of available resources, as demonstrated to the satisfaction of the Secretary by the Governor of the State providing such general welfare assistance. The funds so apportioned shall be used in accordance with section 232(b) of this Act. The remainder of the funds made available for carrying out this part shall be allocated by the Secretary in accordance with subsection (b) of this section."

(2) The second sentence of section 233(b) of such Act is amended by inserting "remaining" before "amounts".

(3)(A) Section 236(a)(1) of such Act is amended by striking out "who is" and inserting in lieu thereof "who (A) is" and by inserting after "or" the following: "(B) is receiving general welfare assistance approved by a State welfare agency, or".

(B) Section 236(a)(2) of such Act is amended by striking out "who is, or whose family is receiving aid to families with dependent children" and inserting in lieu thereof "who or whose family is receiving or meets the eligibility standard for aid to families with dependent children", and by striking out "or who" and inserting in lieu thereof "and who has concluded an eight-week period of job search as described in section 254(c)(5)(A) of this Act, or (3) who".

EFFECTIVE DATE

SEC. 5. The amendments made by this Act shall be effective beginning October 1, 1981.

Statement by Secretary of Labor Ray Marshall on Welfare Reform Proposal

It is a great pleasure to send to Congress today the Work and Training Opportunities Act of 1979—the jobs and training part of our welfare reform proposal.

We have long known that millions of poor Americans could lift themselves out of poverty if they had the chance.

There is no question that they have the motivation. Applicants for the Work Incentive Program (WIN), the Job Service, and Comprehensive Employment and Training Act (CETA) programs far outnumber the positions available.

There is no question that this country would benefit from expanded work opportunities. The persistence of large-scale poverty and unemployment is very costly in human and material terms. Our society must provide the work opportunities needed so the poor can help provide the goods and services our communities need.

And, especially in inflationary times, our society needs the productivity that better-trained, fully-employed workers can provide.

For these reasons, we are submitting to Congress an ambitious program that will help over two million Americans each year obtain work and training in both private and public jobs.

This is a carefully-targeted program that will make the most use of the limited funds available. It differs from our proposals two years ago by providing assistance only to those families most in need, and by building on programs already in place.

The Act will provide aid in several ways. First, someone eligible for or on welfare can enter the Job Search Assistance Program designed to place applicants in unsubsidized jobs.

If unsuccessful, an applicant can then receive CETA training and work, earning a wage adequate to support his or her family. The applicant remains on the CETA payroll for 18 months. After 18 months, the applicant would reapply for unsubsidized jobs through the Job Search Assistance Program before becoming eligible again for a CETA position.

This program's cost for the first year, 1982, would be $5 billion, mostly for 400,000 new CETA positions. The net cost, however, would be $2.7 billion because of the $2.3 billion saved in welfare costs as families become self-sufficient.

It is a sad irony that our society—with such a strong work ethic—support able-bodied adults on welfare rather than provide them with work.

Together with our current jobs and Humphrey-Hawkins initiatives, this proposal can help end this tragic waste of our human resources. I believe the key to dignity and self respect is a paycheck not a welfare check.

Along with the President, I urge that Congress give this welfare reform proposal its full and prompt consideration.

Summary of the Proposed Work and Training Opportunities Act of 1979

The proposed Work and Training Opportunities Act of 1979 is designed to provide the opportunity for parents in welfare eligible families to support their families through work.

Currently:

Over 2 million families receiving AFDC each year could benefit from employment assistance. The cash assistance component of welfare reform will increase this number. Current employment programs under WIN and CETA provide help to only a small fraction of these families. Greater coordination is also required among all the elements of the job and training system—WIN, the Job Service and CETA—as well as closer ties with social service and community development programs.

Proposal:

The President's proposal would build on existing employment and training programs to provide expanded job and training opportunities for adults in welfare eligible families. No new federal, state or local bureaucracy would be required.

Under the proposals, each year about 2 million persons would be provided assistance in improving their employability and finding public or private jobs. Over 600,000 full-time job and training opportunities would be provided—400,000 of them through an expansion of CETA jobs and the remainder through private sector job development and retargeting of existing CETA resources.

The proposal would add a Part E to Title II of the Comprehensive Employment and Training Act (CETA) which would authorize two new programs:

(1) The Job Search Assistance Program—Under this program, the Governor of each state would develop an annual plan for a coordinated system to refer AFDC-eligible adults to unsubsidized jobs. The Job Search Assistance Program, which would encompass current WIN activities, would provide a full range of job finding, employability assessment and supportive services to eligible applicants. CETA prime sponsors, the Job Service, and the State welfare agency must be actively involved in the development of the program. All applicants must participate in the Job Search Assistance Program for eight weeks before becoming eligible for placement in a subsidized job or training position. Services provided through cooperative arrangements between the state and the local employment and training systems will include:

Instruction in job search techniques;

Group job search activities;

Private sector job development;

Referrals to unsubsidized jobs;

Arrangements for supportive services, such as child care transportation, and medical care;

Short term remedial services;

Employability development planning; and

Referral to federally-assisted work or training.

The Federal Government would pay 90 percent of the cost of the program. States would pay the remaining 10 percent. Funds would be allocated among states by a formula based on the relative number of AFDC recipients within each state and allocated to local areas within states on a similar basis.

(2) The Work and Training Opportunities Program—Those unable to find jobs after eight weeks of job search would be referred to the local CETA prime sponsor for placement in a federally-assisted job or training position.

While participating, they would receive a wage which either greatly reduces or eliminates their family's need for welfare. Attempts to place workers in private sector jobs would continue while they are in federally-assisted positions. If no job is found for them by the end of 78 weeks, they would reenter the Job Search Assistance Program for another eight weeks of active job search before becoming reeligible for a federally-assisted job or training position.

Program Administration and Funding—Funds are allocated among CETA State and local prime sponsors according to the relative number of recipients of AFDC in each area and the relative cost of providing work or training opportunities in that area.

As in existing CETA programs, the Federal Government will pay 100 percent of allowable costs. In addition, from the funds currently available to prime sponsors for employment programs under the existing Title II–D of CETA, 62.5 percent will be earmarked to serve welfare eligible families.

Eligibility—Participants must be adults in AFDC-eligible families and only one job or training position per family will be allowed under this part of CETA.

Program Activities—These will include on-the-job training positions in the private sector; public service employment; vocational and remedial training; and supportive services such as day care which enable participants to undertake employment.

Wage Structure—The program will use the CETA Title II–D wage structure, which uses a wage index adjusted from a 1979 national base of $7200 according to differences in local area wages.

Special Features:

Most participants will receive a mix of work and training. Effort will be made to provide skills and work experience which lead to useful jobs in the regular economy.

Flexible hours and part-time work will accommodate the needs of single parents with young children.

One of the goals of this program is to give people work that needs to be done in local communities. It will emphasize work that is not currently being done by local and state governments, especially community economic development projects.

Linkages will be developed with the Private Sector Initiative Program (PSIP) for private sector job development and on-the-job training.

Program Costs and Impacts:

Estimated cost of the job program is $2.7 billion. The gross cost is $5 billion but $2.3 billion in savings in other assistance programs such as welfare, Food Stamps and Medicaid will result from the increased earnings of participants.

The Administration estimates that in its first full year of operation—1982—the Work and Training Program will remove more than 1.5 million people from poverty.

THE WORK AND TRAINING OPPORTUNITIES ACT OF 1979 DETAILED FACT SHEET

INTRODUCTION

The "Work and Training Opportunities Act of 1979" will provide the opportunity for parents in welfare-eligible families to support their families through work.

This program will provide about 400,000 new CETA job and trainnig positions to low-income family breadwinners, and will help over two million each year to obtain work and training in both the private and public sectors. These will include not only current and newly eligible welfare recipients, but also many people who are eligible for welfare but have not applied.

Under the program state and local employment and training agencies will (1) place eligible jobseekers in unsubsidized employment in the private and public sectors; (2) provide training for those who need it; and (3) create federally-assisted jobs for those unable to locate unsubsidized employment. It will do this by expanding and coordinating current job and training programs for low-income families.

Together with the reforms proposed for the Aid to Families with Dependent Children (AFDC) program, the Work and Training Opportunities program will substantially improve the incomes of millions of poor families. In its first year, 1982, the work and training program will remove over one and a half million persons from poverty. Most important, it can provide them a permanent way out of poverty.

The proposal is a more targeted version of the job component of the Program for Better Jobs and Income proposed by the Administration two years ago. It differs from the earlier proposal in two important ways: 1) assistance has been limited to those families most in need; and 2) it builds on job and training programs enacted last year for disadvantaged workers.

THE NEED FOR AN EMPLOYMENT APPROACH TO WELFARE REFORM

Most people agree that society should provide a basic income for those unable to support themselves or their families. At the same time, people generally favor helping low-income people to help themselves. Our welfare system does not live up to these expectations. Benefits for those unable to work are inadequate in many parts of the country. And many able and willing people, who could contribute to their own support, must rely on welfare because of inadequate skills and work opportunities.

Most of the poor who are able to work do in fact work, but usually in low paying and sporadic jobs. In 1977, more than three-fifths of the 3.8 million families with children with incomes below the official poverty line had either a part-time or a full-time worker. Over a million of these families were headed by women most of whom supplemented their meager earnings with welfare. Yet, only one-fifth of these working poor families had a worker who was able to find a full-time, year-round job. In addition, almost three million other families with children live close to the poverty line despite the efforts of one or more family workers.

While we must continue to improve our welfare programs, it is clear we must also ensure that poor people have every opportunity for self-support. We are proposing an employment approach to welfare reform that will:

Help people secure stable employment with an adequate income for their families in both the short and long run.

Reduce welfare caseloads, and thereby reduce taxpayer burdens and release funds for those clearly unable to work.

Help make our nation more economically productive by placing formerly unemployed people in useful jobs.

Provide useful services for communities.

Increase the supply of skilled workers and thereby reduce both inflationary pressures and unemployment.

Current Employment and Training Programs for Low-Income Families

The principal employment and training programs now serving welfare recipients are the Work Incentive Program (WIN), the Job Service, and the Comprehensive Employment and Training Act (CETA).

The WIN program provides training and helps AFDC recipients obtain permanent jobs. To encourage business participation, it also provides a tax credit to employers for part of the wages paid to a welfare recipient. Last year about 300,000 WIN participants obtained unsubsidized jobs. Employment and training services were directly provided to another 110,000. But with its current structure and funding, WIN is still unable to serve a major portion of the 2.3 million persons who currently register with the program each year. In many areas of the country no WIN program has been funded and in others better coordination between the State-run WIN program and other job and training programs could greatly improve the access of welfare clients to the full range of available employment assistance.

The nationwide Job Service provides a labor exchange, matching private employers with job-seekers. However, its major mission is to serve as a general labor market intermediary for all unemployed workers. Moreover, neither WIN nor the Job Service can create jobs or provide training on a large scale.

CETA is a state and locally administered program which provides training and employment opportunities in communities throughout the country.

As part of the Administration's Economic Stimulus program, CETA has created over 1.3 million job and training positions since President Carter took office. Most of those jobs were intended to help workers who had become unemployed as a result of the economic downturn in 1973–1974. As general economic conditions have improved, the CETA program has been refocused on the job and training needs of chronically unemployed and underemployed workers. Title II of the CETA reauthorization legislation enacted last fall established a permanent program to improve the skills of disadvantaged workers. Also, Title VII of CETA established the Private Sector Initiative Program (PSIP) to help train and place CETA participants in permanent unsubsidized jobs.

While these programs are major steps in helping disadvantaged workers, there is still a large unmet need for employment and training assistance among the economically disadvantaged in the United States. It is estimated that about 2 million persons must be provided employment assistance and about 600,000 new full-year job or training positions must be found or created to meet the need for such help among welfare eligible families. Greater coordination is also required among all the elements of the job and training system—WIN, the Job Service and CETA—as well as closer ties with social service and community development programs. The Work and Training Opportunities program will thus coordinate, refocus and build upon existing programs to serve the special needs of these families.

THE WORK AND TRAINING OPPORTUNITIES ACT OF 1979

The Work and Training Opportunities Act of 1979 requires no major new Federal, State or local bureaucracy. Instead, it will coordinate and augment the resources of existing programs. To accomplish this, the Act would add a part E to Title II of CETA to establish a new Job Search Assistance Program and a Work and Training Opportunities Program.

Title II–E authorizes each state government to establish a Job Search Assistance Program. In this program, the Governor would develop an annual plan for a coordinated system to refer welfare-eligible persons to unsubsidized jobs. The Job Search Assistance Program, which would encompass current WIN activities, would provide a full range of job finding and employability development services to eligible applicants. CETA prime sponsors, the Job Service, and the State welfare agency must be actively involved in the development of the plan.

Those unable to find jobs after eight weeks of job search could then enter the Federally-assisted Work and Training Opportunities Program carried out by CETA prime sponsors. While enrolled, they would receive a wage which either greatly reduces or eliminates their family's need for welfare. Attempts to place workers in unsubsidized jobs would continue while they are in federally-assisted positions. If no job is found for them by the end of 78 weeks, they would reenter the Job Search Assistance Program for another eight weeks of active job search before becoming reeligible for a federally-assisted job or training position.

The principal features of the Work and Training Opportunities Act are:

JOB SEARCH ASSISTANCE PROGRAM

Program Administration and Funding:

Administrative system designated by the Governor, with comprehensive state plan developed in consultation with CETA prime sponsors, the State welfare agency and other concerned agencies.

Funds are provided to states according to a formula which takes into account the number of recipients of Aid to Families with Dependent Children within the state and the relative cost of providing necessary services. States must allocate funds to local areas on a similar basis.

The Federal Government will pay 90 percent of the program costs. States will pay the remaining 10 percent.

Eligibility:

All adults in families with children eligible for welfare (Aid to Families with Dependent Children).

Program Activities:

Services provided through cooperative arrangements between the state and the local employment and training systems will include:

Instruction in job search techniques;
Group job search activities;
Private sector job development;
Referrals to unsubsidized jobs;
Arrangements for supportive services, such as child care, transportation, and medical care;
Short term remedial services;
Employability development planning; and
Referral to federally-assisted work or training.

Duration:

Eight weeks of active job search.

FEDERALLY ASSISTED WORK AND TRAINING OPPORTUNITIES

Program Administration and Funding:

Administered by the state and local employment and training system (CETA).

Funds available for this program are allocated among prime sponsors according to the relative number of recipients of AFDC in each area and the relative cost of providing work or training opportunities in that area.

As in existing CETA programs, the Federal Government will pay 100 percent of allowable costs.

In addition, from the funds currently available to prime sponsors for employment programs under the existing Title II–D of CETA, 62.5 percent will be earmarked to serve welfare eligible families.

Eligibility:

Participants must:

Be eligible for welfare (Aid to Families with Dependent Children).

Be the sole parent in a single parent family with children or, the principal earner in a two parent family with children.

Have participated in the job search assistance program for 8 weeks.

Only one job or training position per family under this part of CETA.

Program Activities:

The state and local employment and training system (CETA) would provide these services:

On-the-job training positions in the private sector;

Public service employment;

Vocational and remedial training; and

Supportive services which enable participants to undertake employment.

Wage Structure:

CETA Title II–D wage structure, which uses a wage index adjusted from a 1979 national base of $7200 according to differences in local area wages.

Equal pay for equal work.

Special Features:

Mix of jobs with training for most participants.

Part-time jobs for mothers with children.

Non-traditional jobs for women.

Linkages with other Federal agencies for development of useful job and training positions.

Linkages with Private Sector Initiative Program (PSIP) for private sector job development and on-the-job training.

Duration:

Maximum of 78 weeks in subsidized work or training position.

Period renewable upon completion of another eight-week job search.

RATIONALE FOR PROGRAM FEATURES

The design of the job search component will ensure improved planning and delivery of employment and training services. It requires cooperative planning between state and local agencies for the delivery of employment and training services in a comprehensive, coordinated fashion at the local level.

The delivery system makes the best use of the unique capabilities of existing agencies and organizations. Because state governments generally pay welfare costs, states have a strong incentive to provide all able-bodied welfare recipients with private and public job opportunities. For this reason, the welfare reform proposal would have each state plan and implement the job search assistance program in cooperation with local prime sponsors. Because subsidized jobs and training must be created at the local level according to community needs and special problems, CETA prime sponsors would operate the Federally-assisted work and training program. It is also important that employment programs for welfare families be integrated with similar programs for other disadvantaged workers.

Restricting subsidized jobs and training to one per family will guarantee that the work will go to those families with the fewest opportunities, whose principal worker cannot find a better job.

The eight-week initial job search will help ensure that the subsidized jobs go only to those who cannot find work in the private sector.

Part-time job opportunities make it possible for mothers of school-age children to work but also be with their children before and after school.

Requiring an intensive job search after 78 weeks can help prevent subsidized jobs from becoming a permanent alternative to private employment. Requiring participants to accept a private job, for which benefits from the Earned Income Tax Credit are payable, is another way of ensuring that these positions will be temporary for most participants.

Allowing renewed subsidized work or training after the recurring job search provides an employment alternative to welfare for those few persons unable to find other work or who live where private sector jobs don't exist.

ESTIMATED WORK AND TRAINING PLACEMENTS

An estimated two million people annually will seek and obtain employment assistance under this program. This assistance will include the WIN tax credit, on-the-job training, public service employment, classroom training, and placements in unsubsidized private jobs. The exact mix of public and private placement will be decided by program officials on the basis of local experience with existing programs and the findings of pilot projects. However, here is a tentative distribution, consistent with estimates of employment demand and budget limitations:

	Placements	Service years
Current programs [1]	430,000	198,000
Private sector:		
Unsubsidized placements during job search	498,000	NA
Expanded WIN tax credit during job search	43,000	20,000
OJT under new CETA Title IIE	54,000	25,000
New subsidized work and training: New CETA title II–E	942,000	375,000
Total	1,967,000	618,000

[1] Includes earmarking of about 170,000 CETA title II–D jobs for AFDC recipients.

PROGRAMS COST

The Employment and Training Opportunities program will achieve its objective at a relatively low cost, by focusing on families for whom substantial expenditures in welfare, food, medical and other benefits would otherwise be paid and by redirecting existing employment and training services. The net costs of the program in fiscal year 1982 will be limited to $2.7 billion As shown below, the program will cost $5.0 billion in gross new outlays, with $2.3 billion offset by reduced spending for welfare and other kinds of assistance.

Fiscal year 1982 Federal cost estimates for the work and training opportunities program

[Dollars in millions]

Employment and training demand met by current programs:	
WIN tax credit (3,000 slots)	($26)
Training under CETA title IIB (25,000 slots)	(138)
PSE under CETA title IID (54,000 slots)	(704)
Job search assistance and other services under WIN	(385)
Total costs met by current programs	(1,253)
Gross costs above current programs:	
OJT under new CETA title IIE (25,000 slots)	154
Work/training under new CETA title IIE (375,000 slots)	4,646
Redirection of additional CETA title IID (116,000 slots)	—
Expansion of job search assistance programs	187
Gross new outlays	4,987
Offsets above current programs:	
AFDC single parent	428
AFDC two parent	363
Medicaid	286
Hold harmless	47
Food stamps	277
Housing assistance	100
Unemployment insurance	71
Earned income tax credit	251
Increase in social security tax revenues	352
CETA title VII, PSIP savings	50
State contribution to job search assistance program (10 percent)	57
Total new offsets	2,282
Net cost of job program	2,705

CHARACTERISTICS OF JOB AND TRAINING PARTICIPANTS

Most participants will probably be female heads of families. The great majority will have only one or two children, although at least one child is likely to be under age 6. Most will be high school graduates, and two-thirds will have had recent, but limited work experience.

FISCAL YEAR 1982 CHARACTERISTICS OF PARTICIPANTS IN WORK AND TRAINING OPPORTUNITIES PROGRAM

Characteristics	1 parent	2 parent	Total
All participants (percent)	67	33	100
Sex:			
Male	6	79	30
Female	94	21	70
Race:			
White	52	79	61
Nonwhite	48	21	39
Age:			
Under 21	13	5	10
21 to 30	43	35	40
31 to 40	27	29	28
41 to 45	16	26	19
55 and over	1	5	3
Education:			
Less than grade school	8	17	11
Less than high school graduate	40	42	41
High school graduate	52	41	48
Family size:			
2	44	--------	30
3	27	35	30
4	14	27	18
5	6	18	10
6 or more	9	20	12
Age of youngest child:			
Child under 6 present	60	66	62
Child between 6 and 14	34	28	32
Only children over 14 present	6	6	6
Region:			
Northeast	23	21	22
North Central	25	26	25
South	34	30	33
West	18	23	20
Recent work experience:			
Not in labor force past year	5	5	5
Looked but did not work	30	11	24
Worked:			
1 to 13 weeks	17	13	16
14 to 26 weeks	18	24	20
26 weeks or more	30	47	35
Public job weeks worked	23	26	24
1 to 13 weeks	35	28	33
14 to 26 weeks	20	21	20
27 to 29 weeks	17	16	17
40 or more weeks	28	35	30
Average (weeks)	23	26	24

TYPES OF JOBS TO BE CREATED

All jobs in this program will be created by the local CETA employment and training system.

Most participants will receive a mix of work and training. Effort will be made to provide skills and work experience which lead to useful jobs in the regular economy.

Flexible hours and part-time work will accommodate the needs of single parents with young children.

One of the goals of this program is to give people work that needs to be done in local communities. It will emphasis work that is not currently being done by local and state governments, especially community economic development projects.

Although local discretion will determine the exact mix of jobs, a recent national study found that localities could use at least 1.6 million low-skill workers for these tasks.

426,000 jobs for paraprofessionals in the schools.

230,000 jobs providing social services to the elderly and the sick.

148,000 jobs building and repairing local recreation facilities.

141,000 jobs improving public safety.

147,000 jobs providing child care and other social services to children.

77,000 jobs weatherizing and rehabilitating homes to save energy.

64,000 jobs improving school facilities.

62,000 jobs in the cooperative extension service.

57,000 jobs cleaning up neighborhoods and controlling insects and rodents.

51,000 jobs monitoring air and water quality.

42,000 jobs providing health care.

41,000 jobs in other environmental programs.

40,000 jobs working in national and state forests.

40,000 jobs running local recreational programs.

30,000 jobs involving cultural activities.

23,000 jobs aiding in waste treatment and recycling.

9,000 jobs in fire protection and prevention.

Not all the jobs created by this program will be run by state and local governments. Many of the jobs and training slots will be in community organizations which already carry out public service projects in the CETA programs.

● Mr. WILLIAMS. Mr. President, I am pleased to join my colleagues in introducing the Work and Training Opportunities Act of 1979, the jobs component of President Carter's new proposal for greatly improving the Nation's system of public welfare payments.

I am particularly pleased that my distinguished colleague from New Jersey (Mr. BRADLEY) has joined in sponsoring this legislation and shares my general views regarding it. Senator BRADLEY has persuaded me to cosponsor the other bill in the welfare reform package, the Social Welfare Reform Amendments of 1979. From our respective vantage points, we will have an exceptional opportunity to coordinate the development of these complementary legislative proposals.

The President's new program holds great promise for bringing a large measure of order and human justice to a welfare system that has become chaotic, inequitable, and wastful of both human and financial resources.

Complex relationships in this two-part program require careful study, but it is clear to me that the broad, fundamental principles of the proposal are sound.

Its primary thrust is directed at opening new avenues of employment for primary wage earners in every poor household with children. Hundreds of thousands of recipients of public assistance are eager to work, but cannot find a job that suits their family responsibilities. The Work and Training Opportunities Act of 1979 will afford them thorough, individualized help in lifting themselves out of the cycle of poverty.

By providing both employment and cash assistance for low-income families with children—even families with both parents in the household—this legislation would eliminate the incentives for family breakups that characterize the existing welfare system.

By making jobs available for many poor families with children, we would be taking a long step toward the goal of full employment: A dignified job for every American who is willing, able, and seeking work.

By making work more rewarding than public assistance and by assuring that regular employment has greater financial returns than subsidized public jobs, we would provide new inspiration for those who have lost hope of rising to the mainstream of personal achievement.

The Work and Training Opportunities Act, which we introduce today, draws upon the wealth of experience we have had in recent years with the work incentive (WIN) program and the Comprehensive Employment and Training Act (CETA) programs.

You will recall, Mr. President, that the CETA programs were significantly revised last year. The focus of CETA was shifted to provide employability development for the chronically unemployed in low-income families. Far greater emphasis was placed on skill development according to individualized plans to suit a participant's special needs. Specific elements of CETA were designed to strengthen opportunities for transition into permanent, rewarding jobs in the private sector.

Many of these improvements in CETA were suggested by the welfare reform proposal of the administration, the program for better jobs and income, submitted 2 years ago to the Congress. The task now is to build upon these advances and complete the project with the enactment of a Work and Training Opportunities Act.

The first major feature of this bill is a broadly conceived and greatly strengthened job search assistance program, which would be centrally designed by each Governor in active consultation with all employment and training agencies under his or her jurisdiction in the State. All adults in welfare-eligible families with children would be offered assistance, including a thorough evaluation of their employment and training needs, help in developing job search skills, and a battery of supportive services to enhance their chances of successful placement in stable, unsubsidized employment.

The second major feature of the bill is a work and training opportunities program, which would be administered by CETA prime sponsors at the local level. One adult in each welfare-eligible family with children would be afforded a work-and-training position if the job search failed, after 8 weeks of intensive effort, to provide them with an unsubsidized job. After completion of an employment-training period of not more than 18 months, the participant again would enter an 8-week job search with new skills and new confidence and a much better chance to find permanent employment.

Mr. President, these work-and-training positions should not be viewed as dead-end jobs in public service employment. Just as the CETA statute now requires, these positions would be designed to meet the specific needs of each participant for new skills and new determination to cope with the challenge of finding and holding a job in their community. Moreover, a significant number of these positions would be on-the-job training in private business, including nontraditional occupations for women.

It is important to note that upwards of 70 percent of the participants in the work and training opportunities program are expected to be women who are either head-of-household or principal earner in a family with children.

It is also important to realize, however, that the President's proposal as submitted would obtain a large portion of its work-and-training funds from the present title II–D transitional public service employment program under CETA. This program presently provides jobs and related training for economically disadvantagerd, chronically unemployed single persons and childless couples as well as public assistance recipients with children.

By transferring up to 62.5 percent of the title II–D funds to a new program assisting only families with children, there is a risk that childless persons would be consigned to remain in the poverty cycle until they have children and become eligible for work-and-training assistance.

Welfare prevention is as important a national goal as welfare remediation, in my view, and it is important to insure that this legislation provides opportunities for parents of the future, who might otherwise find it necessary to accept public assistance, as well as today's parents from poor families.

Mr. President, in transmitting the bill to the Congress, Secretary of Labor Marshall recognized the plight of the poor within the context of the need for welfare reform:

> In 1977, more than three-fifths of the 3.8 million families with children with incomes below the official poverty line had either a part-time or a full-time worker. One million of these families were headed by women who supplemented their meager incomes with welfare. Only about one-fifth of the families of working poor had a worker able to find a full-time, year-round job.
>
> For the most part, the poor who can work do work, even though the jobs they get are usually low paid and intermittent. In 1977, 74 percent of the male heads of poor families with children worked; 39 percent of them worked full-time year-round. 38 percent of the female heads of poor families with children worked, 8 percent of them full-time year-round.
>
> The work effort of the poor reaps too meager a return to lift them out of poverty. Full time work at minimum wage will not bring a five person family out of poverty.

In a given year, the current welfare system brings one-third of the 25 million people living in poverty above poverty line income. In the course of a decade, only 1 percent of this group had incomes below the poverty line in every year of the decade. These figures document a perpetual churning of low-income people above and below the poverty line, rather than satisfactory progress in bringing the poor into the mainstream of the labor force.

The Congress last year reshaped CETA to end this churning that results from placing a premium on placements rather than people. Providing work and training opportunities for the structurally unemployed received endorsement not only because of the equities involved in providing new opportunities for the poor, but because of its counter-inflationary impact.

The administration's proposal would continue in this vein. Emphasis, as in CETA, is heavily placed upon private sector cooperation and involvement.

It is estimated that 2 million participants, receiving or eligible for AFDC benefits, would be served in the first year under the Work and Training Opportunities Act of 1979. Nearly a half-million participants would be placed in unsubsidized employment during the first 8-week job search period as a result of improved job-search support, expanded tax credits to employers hiring program participants, and the range of skills already possessed by the participants. A total of 620,000 CETA positions would be targeted to provide employment and training opportunities for about 1,500,000 persons, in accordance with individual employability plans, when an 8-week job search was unsuccessful. A new title II–E would be added to CETA establishing 375,000 new work-and-training positions for 940,000 persons and 25,000 new on-the-job training positions to be developed for 54,000 others, in cooperation with private industry councils under title VII of CETA. An additional 475,000 persons would receive services with funds transferred from programs now in operation.

I can assure my colleagues that the committee will carefully consider how this variety of program resources can be combined to produce the most realistic, effective, and streamlined program at the local level.

The efficient functioning of the job search assistance program is essential. Under the current program, AFDC benefits may be reduced if a participant refuses to accept a bona fide job offer or fails to undertake the job search altogether. Under this work test, a participant is required to accept a job regardless of the prospects of maintaining it or advancing to better permanent opportunities. Moreover, participants can simply go through the motions of job search by evincing qualities which discourage employers from hiring them. Despite their coercive nature, the work tests have had practically no effect in prompting people to take dead end jobs.

It is clear from this experience that the practice of slotting people in jobs for the purpose of recording a job placement must be discredited and replaced with a profound concern for the quality and stability of the job. The new job search assistance program is a promising step in that direction.

Mr. President, an effective linkage of work and welfare has been long in coming, perhaps because experience always has difficulty in keeping pace with aspiration. I believe that experience garnered under WIN and CETA, and during our analysis of the better jobs and income program last session, has paved the way for this legislation.

This proposal would end the practice of putting program performance before the well-being of those the program is designed to benefit. But it also offers welfare administrators help in streamlining their programs and determining which services are best to deliver. It is a rational, commonsense approach building on the best of what has gone before it.●

Mr. JAVITS. Mr. President, I am pleased today to join my colleagues, the chairman of the Committee on Labor and Human Resources (Mr. Williams), of which I am one of the senior members, and the chairman of the Subcommittee on Employment, Poverty and Migratory Labor (Mr. Nelson)—I am the ranking minority member of the subcommittee—in becoming a cosponsor of the work and work training component of the administration's new welfare reform program. The program is being presented to Congress as two separate bills—a cash assistance bill and this job and job training initiative. I have authored and already introduced my own bill—S. 965—to amend title IV of the Social Security Act (cash assistance) and have described on a previous occasion the reasons for the approach I decided to take in regard to the cash assistance feature of much needed welfare reform (Congressional Record) April 10, 1979; S4337–S4341. Therefore, I am joining my colleagues today in cosponsoring only the work and work training component of the administration's welfare reform program.

The key principle that underlies the bill we are introducing today is that the poor can have dignity and can break out of the dependency syndrome through the opportunity for employment and employability development. While most have subscribed to this basic principle of human development, our various approaches toward realizing the objective of self-sufficiency for the poor have diverged somewhat, with some emphasizing the need to improve the incentives to work and others urging tougher penalties for those who do not seek work.

The Work and Training Opportunities Act would emphasize a "self-help" approach to getting the employable poor and their families off cash assistance and into unsubsidized employment by authorizing the provision of federally subsidized, temporary employment and training opportunities for the unemployed poor.

The fundamental proposition embodied in this bill is that after a period of intensive, State-coordinated and assisted job search activities and services—including skills assessment; employability development planning; counseling; child care; health and rehabilitation services; job development and appropriate referral to unsubsidized jobs—those "principal earners" in AFDC and AFDC-eligible families who are still unable to find employment will be referred to the appropriate CETA prime sponsor for work and work training opportunities.

The main objective and thrust of this program will be to place employable, but presently unemployed principal earners into unsubsidized employment by having a State-coordinated and administered job search system for the poor. I use the word "system" advisedly because all of the required backup and supportive social and human services would be coordinated into this system based upon an "Employability Development Plan" for each individual. There would be a concentration of these and other types of supportive services not only upon referring the unemployed to productive employment but also upon assisting the poor to hold on to the jobs in which they are placed.

Subpart 1 of the bill, therefore, would afford us a continuum of human development services leading ultimately to self-sufficiency for principal earners and their families presently on or eligible for AFDC.

For those who are unable to find employment even with this intensive job search and supportive assistance system, a number of temporary work and training opportunities would be made available as a safety net. The administration proposes to target about 170,000 of the existing 270,000 CETA title II–D jobs at principal earners in AFDC-eligible families and to add some 370,000 new opportunities under the proposed title II–E of CETA, for a total of 540,000 tightly targeted work and work training opportunities.

In my judgment, the design of this bill is entirely sound and completely compatible with the thrust of the Comprehensive Employment and Training Act, as amended last year. But we are breaking new ground today and very careful consideration needs to be given to the implicit and explicit assumptions that are at the heart of this proposition, particularly in regard to the safety net of work and work training opportunities that is proposed to be established.

For example, I believe the Congress needs to satisfy itself that the provision of job training, remedial education and other job preparatory activities will be an integral part of each participant's experience in the program. In addition, the private sector and local educational agencies need to be directly involved in the planning and design of local programs of employability development.

It is critically important, in my judgment, that the opportunity costs of not working, as opposed to working, be increased substantially for the poor, by upgrading their skills to the point where they could conceivably earn far more than local minimum wages or even CETA wages. In that way work will be more attractive than cash assistance, and unsubsidized employment will be more attractive than subsidized employment under part E of CETA.

If this program does not provide these kinds of incentives through self-motivated employability development and advancement, the danger, of course, could be that placement in CETA title II–E jobs may become an end in themselves for some of the unemployed poor or, worse still, that receipt of cash assistance may become the end in itself. Intensive job training and remedial education plus the active participation of private business and local education seems to me to be the necessary ingredients in avoiding these dangers.

These are important, but by no means insurmountable or incalculable risks. and I believe that the administration and the Congress, collaborating in a bipartisan spirit would deal with them.

At the end of this process I look forward to enactment of a comprehensive welfare reform program; one which combines a cash assistance element—to provide adequate fiscal relief for our already overburdened cities and a national minimum benefit standard for the poor—and a work and work training element—to help the employable poor search and find productive job opportunities and to provide necessary training and temporary transitional employment opportunities.

Mr. President, this is a critically essential program dealing not only with relief, but the dignity of the poor, and an opportunity for each person who is poor, including the employed poor, one of the most sympathetic of all those who need Government help, to break and end the poverty syndrome.

I shall work hard for this measure.

JOBS FOR WELFARE RECIPIENTS

● Mr. KENNEDY. Mr. President, I am pleased to cosponsor the Work and Training Opportunities Act of 1979.

There is no greater purpose that this body can have than to assure employment opportunities to everyone in this country who is able to work. And it is essential that we do so for those who are on welfare and who need employment. Any commitment to bring people out of poverty entails a commitment to training and jobs for those people.

The proposal being submitted today strongly improves our efforts to insure that people have a chance. It does so in two ways. First, it sets up a systematic job serach and placement approach for people who are on welfare and who are able to work. This approach ties in the State and the employment service, together with other organizations, such as the CETA prime sponsor, to find a job for a welfare recipient which matches his or her talents. Second, it sets up a new job program in CETA for those who can work and contribute, but for whom no private job or regular civil service job can be found. The bill would add 400,000 new CETA jobs for this pool and also transfer 170,000 other CETA jobs to this pool.

If we enact this legislation, then most of those who are on welfare and who can work will be able to work. There is little question that most of them want to work. Employment opportunities for these people tend to be sporadic. But, most of the adults on welfare do work when they can find employment.

Mr. President, I have two concerns with this legislation that I hope we can address during the legislative process. One has to do with the fate of the structurally unemployed who are not AFDC recipients. Another has to do with the training which is given to those who are employed in title II–E, the new section established in this legislation.

There will be about 600,000 jobs specifically for welfare recipients if this legislation is enacted. These come from the 400,000 new jobs created and the 170,000 jobs reserved for them from the current section II–D. The people who were on welfare but get work in these slots will not, of course, be on welfare anymore.

State governments will save more money when these people are placed than when other people—who are not on welfare, and who do not collect other assistance—are placed. Therefore, the strong incentive will be to use as many slots as are allowable for people coming off welfare. I am concerned about the possibility that other people may now find it difficult to find a CETA slot. These others are primarily the single people and the childless couples who are structurally unemployed. They also need these jobs and whatever training goes with them. They tend to be younger than welfare recipients, and the training and job habits that they acquire will be useful over a longer period. They also have no other assistance program to fall back on. I hope that we can insure that the welfare jobs program does not overwhelm the rest of the jobs program for the structurally unemployed, and that we can insure that jobs will be available for these people as well.

My other concern goes to the amount of training that people in the jobs program will get. While this is a program which provides a salary for a day's work, we cannot overlook that this program is supposed to be for those who are unemployed primarily because they do not have the skills which the private sector needs. If they are to get these jobs they must have the training which makes them useful to the private sector. While the new program removes some of the disincentives to providing such training, there may not be a sufficient positive incentive for providing training to those who are in these jobs. We must insure that the States and localities have the incentive to give people in the welfare jobs program the tools by which they can get long-lasting jobs in the private sector or the regular public service.

Mr. President, I am encouraged that we can create a regular vehicle by which those who can work and who are on welfare will be able to move into a job. A systematic approach to finding jobs for such people, and the provision of such jobs when private sector jobs do not exist for them, is a major improvement in our assistance system. We reap the benefits of their work. They reap the financial and personal rewards of working.

I look forward to working with Senator NELSON, the administration, and my colleagues in reforming and improving our jobs system to make it more responsive to the welfare recipient who can work.●

By Mr. MOYNIHAN:

S. 1313. A bill to amend the Federal Water Pollution Control Act, as amended; to the Committee on Environment and Public Works.

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill to amend the Clean Water Act of 1977 that is designed to permanently extend the obligation period for Federal wastewater construction grant funds from 24 to 36 months. While such a simple measure perhaps seems unimportant in consideration of the larger issues of environmental policy, it is a measure which I hope many of my colleagues in the Senate will agree is necessary to meet the worthy objectives of the Clean Water Act. These, simply stated, provide that grants' funds will be used to construct projects that will have appreciable impact on our efforts to clean up our Nation's waterways.

The amendments to the Clean Water Act adopted by the Congress in 1977 have, for the most part, greatly assisted the efforts made in the construction grants program, which is, I might add, our country's most extensive and expensive public works program. The 1977 amendments did, however, establish new requirements for the program that have made the timely processing of project applications even more difficult than previously. Though these requirements do mandate that a more considered and rational policy be applied to the utilization of grants funds, the reduction in time for allocation of these moneys, also passed in that act, has been counterproductive to that goal. The shortened interval for obligation of funds is often in direct conflict with the intent of these other measures, and in fact makes it impossible to pursue a reasoned process toward responsible allocation of Federal funds. The efficiency of operation of this program should be judged by the construction of projects serving the greatest need and providing the largest degree of pollution control. The shortened obligation period has, on the other hand, created an incentive for States to quickly spend their allocated funds on projects that may serve a lesser need or may achieve smaller gains in improved environmental quality.

We all hope to attain the objectives of the Clean Water Act as rapidly as possible. However, haste alone will not help us to these ends. Our policies must assure that there be a minimum of delay and waste in achieving our environmental objectives which are better served by using the resources available in an optimal manner. It is with this aspect of good public policy in mind that I offer this amendment. I look forward to my colleagues' support in this matter.●

By Mr. JACKSON (by request):

S. 1317. A bill to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program; to the Committee on Energy and Natural Resources.

● Mr. JACKSON. Mr. President, I am introducing a bill to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program (IEP). Without this extension, companies that participate in the voluntary agreement and plan of action to implement the IEP will be subject to prosecution under the antitrust laws. Under the voluntary agreement, the oil companies can cooperate to help the U.S. restrain petroleum demand and meet our IEP commitments. Oil companies are presently exempt from prosecution for participation in the voluntary agreement by the Energy Policy and Conservation Act, but the exemption expires at the end of this month.

The administration has requested that the exemption be extended as part of the Department of Energy Housekeeping Act of 1979 which it sent to Congress on June 5. I am introducing the extension as a separate measure today to facilitate the administration's request. Otherwise consideration would probably be delayed while Congress considered the other eight titles of the administration's proposal.

In order to provide background information on the exemption, I ask unanimous consent that the Department of Energy's comments on section 201 of the proposed Housekeeping bill be printed in the RECORD. The bill I am introducing today contains the same language as section 201.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY COMMENTS ON SECTION 201 OF THE DOE HOUSEKEEPING ACT OF 1979

"Section 201 would amend section 252(j) of EPCA by changing the expiration date of that section from June 30, 1979 to January 19, 1986. The main purposes of this proposal are:

(1) to extend until the later date the antitrust defense afforded by section 252(f) of EPCA to U.S. oil companies participating in the Agreement on an International Energy Program (IEP); and

(2) to match the duration of section 252 with that of the IEP, which can be terminated 10 years after January 19, 1976, the date upon which it became definitively effective, if the parties so choose.

This extension of section 252 will permit the continued essential participation of U.S. oil companies in the IEP.

There are presently 20 signatories to the IEP, consisting of most of the principal industrialized oil consuming nations. The agreement requires each country to establish an emergency petroleum storage program, and to have a means for restraining demand for petroleum products in the event of an interruption of petroleum supplies to the IEP countries in an amount which exceeds 7 percent of normal consumption during a defined base period.

Section 252 of the Energy Policy and Conservation Act (EPCA) sets out procedures applicable to the development or carrying out of voluntary agreements to implement the allocation and information provisions of the international energy program. Pursuant to this authority, effective March 21, 1976, U.S. oil companies entered into the Voluntary Agreement and Plan of Action to Implement the International Energy Program (41 F.R. 13998, April 1, 1976) (the Voluntary Agreement). At present, 21 U.S. oil companies, including both major international oil companies and independent oil companies, are participants in the Voluntary Agreement. The procedures provided in Section 252 are the only means by which a defense to the antitrust laws can be made available with respect to U.S. oil company participation in the development or carrying out of voluntary agreements.

The antitrust defense made available by Section 252(f) is essential to the participation of U.S. oil companies in the Voluntary Agreement and, through it, in the IEP. The IEP, in turn, can effectively function only with participation by U.S. and foreign oil companies which are primary sources of information about conditions in the international oil market and would be the primary actors in redistributing oil if the IEP's emergency sharing provisions were activated. The Department of Energy, the Department of Justice and the Federal Trade Commission have closely monitored industry participation in the IEP. In their reports to Congress, the Justice Department and the Federal Trade Commission have concluded that no anticompetitive activities have been carried out and no anticompetitive effects have been incurred by reason of industry activity under the Voluntary Agreement.

The utility of the IEP and the necessity of oil industry participation in the IEP have been graphically demonstrated in the past several months, when curtailment of exports from Iran has created dislocations in the international oil market. In this period, the IEA's Standing Group on Emergency Questions (SEQ) and Standing Group on the Oil Market (SOM) have held frequent consultations with the Industry Advisory Board (IAB) to the IEA and the Industry Working Party ((IWP) to discuss the nature, extent and effects of the shortfall in world oil supplies. These consultations (which were monitored by U.S. Government observers from the Departments of Energy and Justice and from the Federal Trade Commission) have enabled the IEA and its member governments to take concerted action to reduce dislocations.

If the antitrust defense provided for in Section 252(f) were no longer available for U.S. oil company activities in connection with the IEP, those companies woulld cease their membership on the IAB and IWP and their subcommittees and as Reporting Companies in the IEA data system. Without U.S. oil company coorperation, the IEA information and emergency allocation systems would be ineffective and the IEP's purpose would be frustrated.

The bill does no more than extend the time Section 252 is effective. All of the other conditions and safeguards presently incorporated in that Section, and which have proven to be effective, including reports to Congress by the antitrust enforcement agencies, public notice of industry meetings, attendance at industry meetings by U.S. Government representatives and taking of verbatim transcripts or full and complete minutes, will remain unchanged."●

By Mr. GLENN:

S. 1318. A bill to amend title 13 of the United States Code to provide a limited exemption to the Bureau of the Census from the provisions of section 322 of the act of June 30, 1932; to the Committee on Governmental Affairs.

● Mr. GLENN. Mr. President, the 1980 Decennial Census, mandated by the Constitution, is close upon us.

Counting more than 220 million Americans requires a veritable army of workers who must be housed, along with the data they are collecting.

To accomplish this enormous task, the Census Bureau has determined that it will need to rent some 400 offices across the country.

The Economy Act of 1932 prohibits the Federal Government from leasing space for more than 15 percent of the fair market value of a property. Many older buildings, ideal for census purposes, have an assessed value sufficiently low that the current, inflated rental market would prevent the Bureau from taking advantage of them, while remaining within the confines of the law. This situation could, in some instances, force the Bureau to pay a higher rent for office space simply because a newer building carried a higher price tag. Too, establishing fair market value for a property is a time consuming and costly process, out of proportion to the task at hand.

For these reasons, I am introducing today a bill to allow the Census Bureau a one-time, temporary variance from the 1932 law. I want to emphasize that this is not a blanket exemption nor is it any type of "carte blanche." It simply replaces the fair market value standard with a fair annual rental yardstick only for purposes of taking the 1980 Decennial Census. The Bureau projects that its costs will come within 5 percent of the $30 million already budgeted for this item.

A Census Bureau survey estimated that 40 percent to 50 percent of the offices it needs to rent will be affected by the restrictions of the 1932 act. Telephone lines and numbers and printing, among other arrangements essential to a successful and complete 1980 Census must await completion of lease agreements. I ask the Senate's cooperation in the expeditious passage of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That (a) subchapter I of chapter 1 of title 13, United States Code, is amended by adding at the end thereof the following new section:

"§ 15. Leases for 1980 decennial census

"The 15 percent limitation contained in section 322 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 278a) shall not apply to leases entered into by the Secretary for the purpose of carrying out the 1980 decennial census, but no lease may be entered into for such purpose at a rental in excess of 105 percent of the appraised fair annual rental of the leased premises, or a proportionate part of the appraised fair annual rental in the case of a lease for less than a year.".

(b) The table of sections for such subchapter is amended by adding at the end thereof the following:

"15. Leases for 1980 decennial census.".●

By Mr. McCLURE:

S. 1320. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax for the purchase of an electric vehicle or for converting a vehicle powered by an internal combustion engine to electric power; to the Committee on Finance.

CREDIT FOR QUALIFIED ELECTRIC MOTOR VEHICLES

● Mr. McCLURE. Mr. President, today I am reintroducing legislation to provide for a tax credit of up to $1,000 for purchasing an electric vehicle (EV). I first introduced similar legislation in October 1977. Those amendments were designed to encourage the production of electric vehicles and give a tax incentive for businesses that purchase electric vehicles.

Today I am introducing legislation to give a tax credit for the purchase of an electric vehicle, or for retrofitting an existing vehicle in order to make it a qualified electric vehicle. The credit is equal to 10 percent of the cost of the electric vehicle and is not to exceed $1,000.

I do not believe that any smaller amount offers an adequate incentive for purchasing an electric vehicle. The present price differentials for electric vehicles, based on approximately comparative performance and size specification, usually exceed $1,000, based on present levels of production. These differentials will, of course, decrease as production levels increase. During the next few years, however, I believe that we should assume at least a $1,000 differential.

If we have learned nothing else in the last few years, we have learned the necessity for husbanding our precious supplies of oil. Oil must be diverted from uses for which substitutions are available and conserve for its most essential functions. We must have the oil to provide petrochemical feedstocks for synthetic fibers, for clothing, building materials, and insulation. We may someday find we desperately need oil for the base for synthetic food supplements—if we do, it must be there.

Further, we cannot continue to produce food as cheaply as we have without fertilizers, and we as yet have no adequate substitute for petrochemicals in the manufacture of these fertilizers. And feeding people is not enough. We have to think of their health. We depend on petrochemicals for antibiotics and other medicines as well as for the latest in medical devices, such as artificial heart valves. These are applications for which, unlike transportation, there is no practical substitute for petroleum. If we continue burning petroleum merely to power our cars, ours will go down in infamy as the generation that foolishly squandered all of this precious resource.

One way to change the transportation energy base would be to shift a greater share to urban use of electric vehicles, which indirectly allow a greater share of coal and nuclear reserves to go for transportation needs. As we are seeing, it is imperative that we find alternative sources of energy.

Over the long run, this will not present an unsolvable problem. The physical supply of energy is bountiful, but it is man's technology which must improve to take advantage of it. We must also learn to husband our resources, using the precious, finite fuels for top priorities, where substitutes are not yet available. And, a switch to electric vehicles would allow in the future a greater use of the virtually infinite sources, such as coal, solar energy, geothermal energy, and the energy from nuclear breeder reactors. The name of the game should become, "Use oil only where you can't use something else."

Rural America also has a large stake in the future use of electric vehicles. One of the most important points I want to make today is that by easing the unnecessary use of fossil fuels in combustion engines, we will be allocating the various forms of available energy in a more efficient way. If tomorrow's farmer has enough gasoline and diesel fuel for his trucks and tractors, it will be precisely because these fuels were not used by commuters who were given a reasonably clean and economic alternative.

If proper uses are not made of available resources, ultimately everyone suffers. The commuter depends upon the farmer for food and it now seems that the farmer, at least in the short run, may depend upon the commuter for fuel.

Aside from the need to allocate petroleum reserves to the most essential applications, shifting the transportation energy base away from petroleum would have the obvious benefit of lessening our dependence upon foreign oil. Last year's expenditures on foreign oil were $42 billion; this year the price is expected to reach from $52 to $55 billion.

We use a full quarter of our oil in the transportation sector. In this scenario, shifting transportation away from a petroleum base could lead to huge savings. This would reduce the flow of U.S. dollars overseas, strengthening the dollar and allowing for greater flexibility in our foreign policy.

Gasoline prices are soaring, and even at these higher prices there is a shortage in supply. The public is screaming for an alternative. OPEC's price hikes have made the electric vehicle alternative more and more attractive; but then, does not OPEC stand for Organization to Promote Electric Cars?

The introduction of EV's in the early 1980's will provide urban areas with a nonemitting automobile to replace some gasoline vehicles. The latter vehicles will still be emitting considerable amounts of hydrocarbon, carbon monoxide, and nitrogen oxide pollutants even when they are attaining the toughest legislatively mandated emission standards of 0.41, 3.4, and 1 grams per mile, respectively, for the above pollutants.

In actual practice, however, gasoline vehicles tend to exceed the emission standards due to a combination of factors including adequate carburetor adjustment, fouled spark plugs, and poisoned catalytic converters.

At this time about 80 metropolitan areas in the United States are in violation of the air quality standard for ozone. Under the Clean Air Act Amendments of 1977, those areas have until no later than 1987 in order to attain that standard.

In many of those regions, the substitution of new vehicles (emitting less hydrocarbons than the older vehicles which are replaced) will not be sufficient by itself to allow the region to be in compliance with the ozone standard. Those regions will have to resort to additional programs which would be costly to implement.

For example, vehicle emission inspection and maintenance programs are likely as are controls on the use of vehicles. Such controls might include parking taxes (or prohibitions), freeway lanes restricted only to buses or carpools, reduced activities of taxicabs, vehicle free zones, and so forth.

It is obvious that a technological expedient, such as the use of electric vehicles, would go far to alleviate many of the potential costs and personal mobility restrictions which are possible when a metropolitan area must use transportation controls in order to attain the air quality standard for ozone by 1987.

In conclusion, electric vehicles are a needed alternative to help from squandering the world's petroleum resources and our Nation's wealth and to safeguard the environment. The electric vehicle is the logical choice, but first we must see that the commuter has that choice to make.

We must do every thing we can to see that the truth of this situation is put before the public. I believe the average citizen has no idea what already is, and what could be, available in the electric car field.

I further believe that if he knew, he would be significantly more interested trying one out. Once that demand begins market forces will take over, and you and I will not be stuck having to make embarrassing explanations to our grandchildren about why we burned such valuable and useful substances as oil and natural gas liquids, in the face of excellent alternatives.●

By Mr. SIMPSON:

S. 1321. A bill to amend section 7(a) of the Public Buildings Act of 1957 (40 U.S.C. 606(a)) to require certain information concerning each principal owner of any building or space to be leased by the Federal Government; to the Committee on Environment and Public Works.

● Mr. SIMPSON. Mr. President, earlier this year the Committee on Environment and Public Works voted unanimously to impose a moratorium on all nonemergency prospectus approvals submitted by the General Services Administration. This action was based in part upon the highly publicized revelations of corruption, scandal, and mismanagement within the agency. However, the committee's concern also involved the pressing need to examine the soundness of the present national buildings policies and programs, to evaluate the administrative arrangements within GSA in carrying out the policies, and to review the prospectus approval process and the proper congressional role in buildings projects. The Public Buildings Act has not been completely reviewed for 20 years, and I am pleased that review is now underway. On

June 6, the committee began the first in a series of hearings which will continue this Friday, June 15, with a hearing on leasing practices at GSA.

Today, I am introducing a bill which I believe will be pertinent to the hearing Friday. It would amend the Public Buildings Act, providing that lease prospectuses include certain information about the owners of leased buildings. Very often, Government leases run into millions of dollars and such leases can be highly lucrative to individuals. Improper leasing priorities could, I believe, lead to favoritism, mismanagement or corruption. While certainly most lessors are quite reputable, that is not to say there are no scoundrels involved in that arena of Government participation.

It is exceedingly important that the Congress have access to biographical and other personal information as to who the owners or lessors are when Congress must act to approve or disapprove leases costing millions of dollars and extending over terms up to 20 years. The Government's leasing budget is massive and growing at an alarming rate. For instance, over a half billion dollars will be spent on leasing during fiscal year 1979.●

By Mr. SIMPSON (for himself and Mr. WALLOP):

S. 1322. A bill to amend the authorization for the Jackson Hole Snake River Local Flood Protection project, Wyoming; to the Committee on Environment and Public Works.

JACKSON HOLE LEVEES

● Mr. SIMPSON. Mr. President, during the 95th Congress, the Senate on three separate occasions approved a proposal that was sponsored by my distinguished predecessor, the former senior Senator from Wyoming (Cliff Hansen). That proposal required the U.S. Army Corps of Engineers to administer the operation and maintenance of the local flood protection project at Jackson Hole, Wyo. I am submitting similar legislation today.

Testimony and documents developed in the 95th Congress indicate that the project at Jackson Hole had been inadequately designed and constructed, a fact that totally distorted the amount of local maintenance costs required to be assumed by local citizens. Serious flood problems along the Snake River persist. Tens of thousands of dollars in property damage have already been sustained in the spring of this year. This bill would correct the serious deficiencies created by the project's inadequate design.

I ask unanimous consent that the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the project for Jackson Hole Snake River local protection and levees, Wyoming, authorized by the River and Harbor Act of 1950 (Public Law 81–516), is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to replace eroded fill material, place riprap, and to take such action as is necessary to preserve the integrity of the levee system.●

By Mr. SIMPSON:

S. 1324. A bill to require the Inspector General of the General Services Administration to conduct audits of financial transactions authorized under the Public Buildings Act of 1959; to the Committee on Governmental Affairs.

● Mr. SIMPSON. Mr. President, I am introducing this bill today to amend the Public Buildings Act to mandate that the Inspector General of the General Services Administration conduct annual audits of the Public Buildings Service and report upon his findings directly to the Congress. Testimony has been presented recently to committees of the Congress expressing the concern that past audits within GSA have often been too few and sporadic. Through this bill we hope to correct this deficiency.●

By Mr. RANDOLPH:

S. 1325. A bill to provide for post closure liability and compensation for claims arising from discharges from hazardous waste management facilities permitted under subtitle C of the Solid Waste Disposal Act, and for other purposes; to the Committee on Environment and Public Works.

HAZARDOUS WASTE POST CLOSURE LIABILITY ACT

● Mr. RANDOLPH. Mr. President, the new Solid Waste Disposal Act subtitle C program for the proper management of the 50 million tons of hazardous wastes produced every year by American industries can never be successful until adequate and acceptable treatment and disposal facilities to properly handle these potentially dangerous wastes are constructed. A recent study by the General Accounting Office concluded:

> Without adequate, environmentally sound disposal and treatment capacity, the intent of RCRA to insure public health and safety cannot be achieved. Adequate capacity is not available to handle the amount of waste generated, and techniques to reduce waste volumes requiring disposal will not alleviate this problem. Attempts to obtain new sites are hindered by public opposition and even existing environmentally safe facilities are jeopardized at a time when volumes of waste are growing.

The 1976 act provides a comprehensive Federal regulatory program which will track wastes "cradle to grave" and assure that the treatment and final disposal facilities satisfy stringent environmental safeguards. The Environmental Protection Agency will insist that the highest standards of today's technology will be employed to safely handle these wastes. While there have been several highly publicized incidents of damage from the mismanagement of these chemical wastes from years past, we can be confident that modern facilities employ techniques unavailable, in many cases, only a generation ago.

Regulations which the Environmental Protection Agency will promulgate late this year will require facilities to use environmentally approved treatment and disposal technology. The regulations will also provide that firms operating such facilities be able to demonstrate the financial ability to pay for any unanticipated damages which, despite the latest technology and the watchful eye of Government regulators, might possibly occur. The currently proposed regulations require firms to have $5 million available for such contingencies.

Firms operating such facilities will also be required to set-aside funds during the operating life of the facility to pay for the routine care and maintenance of the site into the future. But, under the regulatory program as it presently stands, there is a gap in protection to the public because there is no requirement or mechanism to assure that funds will be available to clean up and restore the site in the event of unanticipated environmental contamination which takes place after closure of the site, or to compensate any victims of such an incident. Private mechanisms do not seem to be available to adequately cover this post closure liability. Many firms may choose not to expose themselves to this uncertain risk of great duration and needed facilities may therefore not be built.

That lack of mechanism to deal with post-closure liability should be remedied.

Today I submit legislation to fill that gap and provide a mechanism for accumulating funds during the operating lives of hazardous waste management facilities that will be available to pay damages and liability claims caused by facilities which have been managed in accordance with their permits and operating plans approved by the Environmental Protection Agency or a State agency designated by the Agency to manage the hazardous waste program. The General Accounting Office agrees that such protection is needed, and found that liability insurance is not available to provide this protection.

Initially, the Agency proposed post-closure liability insurance for permitted disposal facilities to protect the public from damages in later years. However, this insurance covered only claims resulting from damages to persons or property, not the costs to correct problem sites or minimize further pollution. This type of insurance, however, does not appear to be available, from private insurers and, even if it were available, the Agency estimates that the premiums would be prohibitively expensive.

In lieu of private insurance, the National Solid Wastes Management Association recommended the creation of an industrywide federally administered trust fund, funded by a surcharge on disposal.

The Comptroller General then recommended "legislation to create a self-sustaining national trust fund, supported by fees assessed on the disposal of hazardous wastes, to cover all post-closure liability and any necessary remedial actions for sites permitted under the act to prevent continued contamination." It is my understanding that the Environmental Protection Agency supports the recommendation, and is preparing a legislative proposal along those lines.

The legislation which I introduce today was developed by the National Solid Wastes Management Association as described in the GAO report. It may not be the final answer, but it has the benefit of solid thinking on this important problem and represents a good point to begin discussions. I endorse the goal and concept of this legislation, while reserving the likelihood that modifications might further refine and improve it.

In particular I have reservations about the bill's provisions for preemption of State liability laws. I do not believe such preemption is desirable or appropriate for hazardous wastes. It is included in this bill for purposes of generating discussion of the concept. It may be appropriate, however, to preempt separate State compensation funds or duplicative fees. I am offering the bill at this time so that the Environment and Public Works Committee might have a suitable vehicle to consider the special needs for postclosure liability for permitted facilities, and the relationship of that problem to adequate waste treatment and disposal capacity.

We will address this matter as we look at the larger problem of liability and compensation for hazardous materials released into the environment and cleanup funds for inactive disposal sites. This will occupy much of the committee's time during the balance of this session.

By providing the fund contemplated in this bill, the Congress would assure property owners in communities with hazardous waste facilities that we recognize that they are, in a sense, being asked to do a thankless job for the rest of society—handling these noxious wastes. Subtitle C says, in essence, take these wastes where they can be properly managed, not dumped down the storm sewer or along the side of the road. This legislation would provide assurance that these wastes can be taken into a regulated facility and if anything should happen to go wrong, there will be a mechanism to keep innocent people from suffering the loss. That is only fair.

I would add a note addressing the fiscal impact of this proposal. The fund which this legislation would create would consist wholely of money assessed against operators of treatment and disposal facilities. No taxpayer dollars are involved. In essence, the fund is a risk pool mechanism to substitute for the lack of available commercial insurance. Its contributions come from those facility operators who operate facilities which have been approved by our regulatory agencies. Only facilities permitted under subtitle C of the Solid Waste Disposal Act will be eligible to participate in the fund.

I ask unanimous consent that the bill text and summary be printed in the Record.

There being no objection, the bill and summary were ordered to be printed in the Record, as follows:

S. 1325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hazardous Waste Post-Closure Liability Act".

DEFINITIONS

Sec. 2. For the purposes of the Act, the term—

(a) "fund" means the fund established by section;

(b) "person" means an individual, firm, corporation, association, partnership, joint venture, or governmental entity;

(c) "Secretary" means the Secretary of the Treasury;

(d) "Administrator" means the Administrator of the Environmental Protection Agency;

(e) "hazardous waste incident" means any occurrence or series of occurrences, which results in the discharge of hazardous wastes from a hazardous waste management facility injurious to, or creating an imminent threat of injury to, any person or property;

(f) "hazardous wastes" means any solid waste which meets the criteria established by or is listed by the Administrator pursuant to section 3001 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6901 *et seq.*, or any solid waste, or combination of solid waste, which because of its quantity, concentration or physical, chemical, or infection characteristics may—

(A) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;

(g) "claimant" means any person or the government of the United States or any agency thereof, or the government of a state or a political subdivision thereof, who asserts a claim under this Act;

(h) "hazardous waste management facility" means any facility which stores, treats, or disposes of hazardous wastes pursuant to a permit issued under section 3005 of the Solid Waste Disposal Act, 42 U.S.C. 6901, *et seq.*, or has been certified as properly closed pursuant to section 10;

(i) "person in charge" means the individual immediately responsible for the operation of a hazardous waste management facility;

(j) "guarantor" means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator of a hazardous waste management facility;

(k) "discharge" means any emission from a hazardous waste management facility and includes any releasing, spilling, leaking, seaping, pouring, emitting, emptying, or dumping;

(l) "solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923);

(m) "storage", when used in connection with hazardous waste, means the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste;

(n) "treatment", when used in connection with hazardous waste, means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;

(o) "disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

(p) "damages" means any monetary sum representing any loss sustained by a claimant to which he is entitled to reimbursement for under this Act, and shall also include any cost relating to compliance with any injunctive relief awarded pursuant to state or federal common law, statute, or constitution.

PREEMPTION

Sec. 3. Except as provided in this Act—

(1) No action may be brought in any court of the United States, or of any state or political subdivision thereof for any damages arising from a hazardous waste incident, and

(2) No person may be required to contribute to any insurance fund or any other fund the purpose of which is to provide compensation to any person or for any claims which are subject to compensation hereunder.

FUND ESTABLISHMENT, FINANCING, AND ADMINISTRATION

Sec. 4. (a) There is hereby established in the Treasury of the United States a Hazardous Waste Post-Closure Liability Fund, not to exceed two hundred million dollars ($200,000,000). The fund shall be available to satisfy any claim asserted under this Act and shall be administered by the Secretary as specified in this title. The Secretary may sue or be sued on behalf of the fund.

(b) The fund shall be constituted from the premiums collected by Secretary pursuant to subsection (c);

(c)(1) The Secretary shall set and collect from the operator of a hazardous waste management facility an annual nationally uniform premium based upon the amount of hazardous wastes received for storage, treatment, transporting or disposal in the hazardous waste management facility, provided that wastes for which a premium has already been collected shall be exempt from subsequent premiums.

(2) The Secretary may promulgate reasonable rules and regulations relating to the collection of the premium authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall become effective on the date specified therein, but no earlier than the nintieth day following the state the modifying regulation is published in the Federal Register. Any modification of the premium shall be designed to as sure that the fund is maintained at a level not less than one hundred million dollars ($100,000,000) than two hundred million dollars ($200,000,000). No regulation that modifies premiums, nor any modification of such a regulation, whether or not in effect, may be stayed by any court completion of judicial review of that regulation or modification.

(3)(A) Any person who fails to pay the premium as required by the regulations promulgated under paragraph (2) shall be liable for the payment thereof and the Secretary is hereby authorized to bring suit in any court of the U.S. to collect such premiums and may, in addition thereto be awarded interest and costs. Until such premiums are paid in full, such person shall be deemed to have failed to establish financial responsibility as required by this Act and section 3004 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6901 et seq.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution pursuant to section 3008(d) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6901 et seq.

(4) The Secretary may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

(d)(1) The Secretary shall determine the level of cash fund required in order to meet current probable obligations of the fund.

(2) The Secretary may invest and reinvest any excess in the fund, above the level determined under paragraph (1), interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the fund shall be credited to and become a part of the fund.

(e) If at any time the moneys available in the fund are insufficient to meet the obligations of the fund, the Secretary shall issue notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary. Redemption of these notes or obligations shall be made by the Secretary from moneys in the fund. These notes or other obligations shall bear interest at a rate determined by the Secretary, taking into consideration the average market yield on outstanding marketable obligations or comparable maturity. The Secretary shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public transactions of the United States.

DAMAGES COMPENSABLE BY THE FUND

SEC. 5. (a) Claims for damages arising out of a hazardous waste incident which asserted under Federal or State common law, statute, or constitution shall only be asserted under this Act subject to whatever defenses may be available under such law or laws.

(b) During the operation of a hazardous waste management facility and prior to certification of proper closure pursuant to section 10, the fund shall be available to satisfy the amount of a claim which is or may be asserted against an owner, operator, or guarantor pursuant to subsection (a) and exceeds the limitations on financial responsibility set forth in section 6: *Provided that,* in the event that it can be established that the damages were caused solely by a knowing or willful violation of any Federal, State or local standard or permit condition designed to protect the environment or public health, the fund may sue and collect from the owner or operator any sums distributed by it pursuant to this Act.

(c) After the operation of a hazardous waste management facility has ceased and following certification of proper closure pursuant to section 10, the fund shall be available to satisfy any amount of a claim which is or may be asserted against an owner, operator, or guarantor pursuant to subsection (a): *Provided that,* in the event that it can be established that the damages were caused solely by any knowing or willful violation of any term or condition of a certification of closure issued puruant to section 10, the fund may sue and collect from the owner or operator any sums distributed by it.

FINANCIAL RESPONSIBILITY

SEC. 6. During the operation of a hazardous waste management facility and until certification of closure pursuant to section 10, the operator of a hazardous waste management facility shall, in accordance with regulations promulgated by the Administrator establish and maintain financial responsibility sufficient to satisfy claims for damages arising from hazardous waste incidents cumulative up to $5,000,000.00. Financial responsibility may be established by anyone, or any combination of the following methods: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any surety bond filed shall be issued by a bonding company authorized to do business in the United States.

NOTIFICATION

SEC. 7. In addition to any other notice requirement provided by law, any person in charge of a hazardous waste management facility which is involved in a hazardous waste incident, shall immediately notify the Administrator and the Secretary of the incident, as soon as he has knowledge thereof. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any such person or his employer in any criminal case, other than a case involving prosecution for perjury or for giving a false statement.

LIABILITY OF THE FUND AND PROCESSING OF CLAIMS

SEC. 8. (1) The Secretary shall promulgate regulations establishing procedures and standards for the appraisal of any claim against the fund. Such standards to the degree practicable, shall incorporate those principles for determining the degree of culpability necessary to substantiate the claim, the persons entitled to damages, and the calculation of the amount of damages all of which have been established under appropriate common law, statute, or constitution.

(2) Prior to the certification of proper closure pursuant to section 10, the fund shall be liable only for damages claimed in excess of the limitations on financial responsibility set forth in section 6. In order to establish the liability of the fund, it shall be necessary for any claimant to:

(a) Either (i) obtain a final judgment against the owner, operator, or guarantor of such facility or (ii) accept any good faith offer of settlement made by such owner, operator, or guarantor up to the maximum limitations of his financial responsibility required under section 6.

(b) In any lawsuit filed against an owner, operator, or guarantor:

(i) Both the plaintiff and defendant shall serve the Secretary with all papers filed in the case including pleadings, motions, and briefs.

(ii) Either party may interplead the insurance fund and the fund may intervene in the action as a matter of right.

(iii) If the parties have properly notified the Secretary of the commencement of any such lawsuit, the fund shall be liable for any amount of any judgment in excess of the maximum amount of financial responsibility required by section 6, regardless whether the fund was made a party to the lawsuit or not. In the event of any proposed settlement between the claimant and the owner, operator, or guarantor up to the maximum limitations of financial responsibility required under section 6, the fund shall not be liable for any amount of damages claimed in excess thereof unless the fund (whether or not it has been made a party to any lawsuit) has been notified of the offer of settlement by both the claimant and the owner, operator, or guarantor making the settlement offer and the fund has concurred with the settlement.

(3) Following certification of proper closure pursuant to section 10. the fund shall be directly liable for any claim for any amount of damages compensable under this Act, whether or not a claim for such damages is first filed with the owner, operator, or guarantor of the hazardous waste management facility involved in the hazardous waste incident. Suit may be brought in the proper court directly against the fund: *Provided* that the owner, operator, or guarantor of the hazardous waste management facility involved may intervene as a matter of right.

JURISDICTION AND VENUE

SEC. 9. (a) Jurisdiction: The District Courts of the United States have exclusive jurisdiction regardless of the amount of controversy for any action brought under this Act against the fund, any owner, operator, or guarantor of any hazardous waste management facility for damages arising from any hazardous waste incident.

(b) Venue: Actions brought against an owner, operator, or guarantor of an affected hazardous waste facility shall be brought in the U.S. Court for the judicial district in which such owner, operator, or guarantor shall have its principal place of business or where the hazardous waste incident giving rise the claim occurred.

CERTIFICATION OF PROPER CLOSURE AND CLOSURE FUND

SEC. 10. (a) The Administrator shall promulgate regulations requiring each owner or operator of a hazardous waste management facility to establish and maintain a fund sufficient to cover any costs incurred in the proper closure of the facility and any post closure maintenance, cleanup, or monitoring necessary to assure that no hazardous waste incident occurs at that facility.

(b) Prior to the permanent closure of a hazardous waste management facility, the owner or operator shall notify the Administrator. At any time after the receipt of the notice of closure, but prior to the third year following closure, the Administrator shall inspect the hazardous waste management facility and should he determine that the facility has been closed in compliance with the Solid Waste Disposal Act and that there is no substantial risk of a hazardous waste incident occurring at the facility, he shall certify that the facility has been properly closed. The certification may contain whatever conditions the Administrator considers reasonably necessary to protect human health and environment including but not limited to restrictions upon the future use of the real property upon which the hazardous waste facility is located. Should these conditions or restrictions be violated by misconduct within the privity of knowledge of the owner or operator, or where the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by a responsible Federal official, including access to the property for cleanup and removal of any hazardous waste incident, he shall be liable for any claims under this Act without any limitation.

(c) Any such certification or denial thereof shall become final unless, no later than 15 days after the certification or denial the owner or operator, or any interested party files a request for a hearing pursuant to sections 556 and 557 of Title 5 of the United States Code. Final decisions of the Administrator made under this subsection shall be reviewable pursuant to section 702 of Title 5 of the United States Code, in the district courts of the United States.

HAZARDOUS WASTE POST-CLOSURE LIABILITY ACT

SUMMARY

The Resource Conservation and Recovery Act of 1976 established the first federal program to control the tremendous amount of hazardous wastes produced and discarded by society. The regulations developed under that Act, which set strict performance and operational standards for hazardous waste storage, treatment and disposal facilities, are the first line of defense against future environmental damage resulting from inadequate handling of hazardous wastes.

Development of stringent regulations above, however, is not the full solution to the problems of hazardous waste. There remains a need both—

To develop an adequate number of environmentally safe facilities for the management of hazardous wastes, and

To assure that, should there be any discharge of hazardous waste, there will be money available to compensate for any damages caused.

In response to these needs, the National Solid Waste Management Association has proposed a "Hazardous Waste Post-Closure Liability Act," to create a Fund which would be available to hazardous waste management facilities which have received proper permits, during operation of the facility, to cover all damages beyond the first $5 million, which must be paid by the facility operator; after proper closure of the site, to pay for all damages.

HOW THE FUND WORKS

The fund is created entirely with funds paid by disposal facilities through an annual assessment from each facility which treats, stores or disposes of hazardous waste, based on the quantity of waste handled. Each waste stream is subject to the surcharge only once: If payment is made while the waste is in storage, the premium is not paid again when the waste is transferred to a disposal facility. No public moneys go into the fund.

All damages awarded by the Court will be paid without limit. If, at a particular time, the total amount in the Fund is less than the amount needed to compensate for claims, the Secretary of the Treasury shall issue interest-bearing notes to generate the revenues necessary to pay the established claims. These notes will be redeemed by future monies paid into the Fund.

The law would establish a certain dollar ceiling on the Fund. When the Fund reaches that amount, premiums will not be assessed until the Fund is used, and the balance falls below a certain level. If it becomes apparent that the annual premiums are too low to maintain an adequate reserve in the Fund, the premium can be adjusted by administrative regulations. Regardless of the amount in the Fund, however, all damages will be paid with funds assessed against disposal facility operators.

The Fund is the only mechanism through which a person can be compensated. The Act would preempt duplicative state laws. Such state funds would be totally unnecessary since the Fund would compensate all injured parties and pay all remedial expenses for site clean-ups if such are necessary.

WHAT OWNERS/OPERATORS OF HAZARDOUS WASTE FACILITIES MUST DO

A Hazardous waste facility can only operate if it receives a permit as specified in the subtitle C regulations. Only permitted facilities are eligible to participate in the Fund.

During operation of the facility, the Fund is available to pay for claims asserted against the facility above $5 million. The owner/operator is responsible for the first $5 million: in order to receive his permit, he must demonstrate his ability to pay that amount though evidence of insurance, guarantee, surety bond, or self-insurance. The $5 million financial responsibility level reflects the level set in proposed EPA regulations to implement the more confined financial responsibility sections of Section 3004.

Before a facility can receive a permit to begin construction, the owner/operator must establish a plan for its eventual closure which complies with the closure requirements outlined in the regulations. When the operator wants to close the facility, he advises the U.S. EPA or authorized state, and after completing the requirements for closure, the designated official agency may award the facility a certificate of proper closure. Once the facility is "properly closed," the Fund is available to pay all the damages which a court identifies as due an injured party.

Of course, if the damage done during or after closure results from his willful violation of regulations, the owner/operator remains fully liable for all costs and the Fund may recover any disbursements from the offending party.

HOW CLAIMS ARE PROCESSED

The Secretary of the Treasury will develop regulations which will spell out procedures for appraising the merits of claims against the Fund. These regulations will address

What is necessary to substantiate a claim,

Who is entitled to damages, and

How to calculate the amount of damages to be awarded

To establish the liability of the Fund, the claimant must

Obtain a final judgment against the owner or operator, or

Accept any good faith settlement offer made by owner or operator to the $5 million limit of his responsibility.●

By Mr. BAYH:

S. 1326. A bill to amend title 18 of the United States Code to impose criminal penalties on persons who fire firearms or throw objects at railroad trains; to the Committee on the Judiciary.

RAILROAD VIOLENCE AND VANDALISM PREVENTION ACT OF 1979

● Mr. BAYH. Mr. President, today I am introducing legislation which is designed to help put a stop to criminal violence and vandalism committed on the Nation's railroads. There is an urgent need to provide more effective enforcement to help prevent such acts. This bill makes it a Federal crime for a person to shoot at, or propel an object at, a train if such act could reasonably be expected to cause physical injury or death. Vandalism on the railroads has become a nationwide epidemic which is costing the railroads and ultimately commuters millions of dollars annually. More tragically, it also has resulted in deaths and injuries.

In 1977 there were 110,854 reports of criminal vandalism. Through September 1978 (the latest figures available), there were 70,559 reports. There were over 11,000 reports of stoning of trains and 714 shootings in 1977. Through September 1978, there were over 6,000 stonings and 450 shootings at trains. In December a conductor was shot and killed while riding in a caboose near Michigan City, in my own State of Indiana. He was shot in the head by a .22 caliber rifle. Persons committing such crimes must realize that their actions are very serious and will not be tolerated by the Federal Government.

Currently, there exist several Federal criminal statutes which address railroad crimes, but those statutes have limited scope and do not cover the very real and growing problems of shootings and stonings of trains resulting in serious injuries.

Mr. President, the Senate passed a bill similar to the one I am introducing today in 1970 but unfortunately the House failed to take action. I am hopeful that in this session of Congress both Houses, as well as the administration, can agree on a method of insuring the physical safety of both railroad workers and passengers.

I should point out, Mr. President, that there are those who say that these crimes should be under the jurisdiction only of State and local authorities and not the Federal Government. Let me emphasize that this legislation would in no way eliminate State or local criminal jurisdiction in this area. These governments would continue to have jurisdiction and I would encourage them to enforce their laws in a vigorous manner. My bill would simply supplement these efforts with Federal resources. There should be no doubt that where safety in interstate commerce is concerned the Constitution gives the Federal Government a major responsibility which it must fulfill. Moreover, there have been instances which indicate that some local authorities, because of the many responsibilities which they must shoulder, have only a slight interest in pursuing incidents of vandalism which occur on trains which simply pass through their jurisdictions.

Mr. President, I hope that the Railroad Violence and Vandalism Prevention Act can assist us in controlling the growing number of acts which endanger the safety of commuters, railroad workers and the very valuable equipment needed to keep our interstate system functioning. People who work on or use our railroads should not have to fear for their physical well-being as a consequence of using these facilities. I hope that the Senate will study this measure and move toward its adoption. I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That this Act may be called the Railroad Violence and Vandalism Prevention Act of 1979.

SEC. 2. That Title 18 of the United States Code is amended by adding the following new section:

"§ 1993. Committing acts dangerous to persons on board trains

"(a) Whoever knowingly throws, drops, projects, or in any manner propels any object at or upon any railroad train, railroad engine, railroad motor unit, or railroad car used by any common carrier that engages in the transportation of passengers or property by rail in interstate commerce shall, if such throwing, dropping, projecting, or propelling could reasonably be expected to cause physical injury to a person, be guilty of a felony and be punished as provided in subsection (c) of this section.

"(b) Whoever knowingly fires any firearm at any railroad train, railroad engine, railroad motor unit, or railroad car used by any common carrier that engages in the transport of passenger or property by rail in interstate or foreign commerce shall be guilty of a felony and be punished as provided in subsection (c) of this section.

"(c) The penalties for the offenses defined in this section are as follows:

"(1) For violation of subsection (a) or (b) of this section—

"(A) that results in the death of a person, a fine of not more than $100,000, or imprisonment up to the duration of defendant's life or both;

"(B) that results in physical injury to, but not the death of, any person, a fine of not more than $100,000 or imprisonment for not more than six years, or both.

"(2) For a violation of either subsection (a) or (b) of this section not resulting in physical injury to or the death of any person, a fine of not more than $5,000 or imprisonment for not more than one year, or both.

SEC. 3. The table of sections for chapter 97 or Title 18 of the United States Code is amended by adding at the end the following new item: "1993. Committing acts dangerous to persons on board trains.".

SEC. 4. Section 1991 of Title 18 of the United States Code is amended,

(1) by striking out ", in any Territory or District, or within or upon any place within the exclusive jurisdiction of the United States," where it appears in the first paragraph;

(2) by striking out ", within such jurisdiction," where it appears in the second paragraph; and

(3) by inserting "used by any common carrier by railroad that engages in the transport of passengers or property by rail in interstate or foreign commerce" immediately after "locomotive" appears in each of the first two paragraphs.

SEC. 5. Section 1992 of Title 18 of the United States Code is amended by striking out "train, engine, motor unit, or car used, operated, or employed in interstate or foreign commerce by any railroad" and inserting in lieu thereof the following: "Railroad train, railroad engine, railroad motor unit, or railroad car used by any common carrier by railroad that engages in the transport of passengers or property by rail in interstate or foreign commerce."

SECTION-BY-SECTION ANALYSIS

Section 1. This section establishes the name of this legislation as the Railroad Violence and Vandalism Protection Act.

Section 2. This section makes it a Federal crime for anyone to knowingly throw objects at a railroad train if such act could reasonably be expected to cause physical injury. Subsections (b) of this section makes it a crime to fire a firearm at a railroad train. Subsection (c) of this section establishes penalties for violations of subsections (a) or (b).

Section 3. This section amends the table of contents for chapter 97 of Title 18.

Section 4. This section eliminates the exclusive Federal jurisdictions requirements currently found in Title 18.

Section 5. This section eliminates the current jurisdictional requirement that the railroad train must actually be operating in interstate commerce.●

By Mr. HART:

S. 1327. A bill to amend the Fair Labor Standards Act of 1938 to exempt full-time students serving as resident assistants and resident counselors in private nonprofit institutions of higher education from that act, and for other purposes; to the Committee on Labor and Human Resources.

● Mr. HART. Mr. President, the Department of Labor has determined that students serving as college dormitory counselors or resident advisers are "employees," to be paid in accordance with the minimum wage provisions set forth in the Federal Fair Labor Standards Act. Although some schools pay minimum wage, most award resident assistants with free room and board, academic credit, or a reduction in tuition. The position of many colleges is that resident assistants are primarily engaged in activities educational in nature and that the value received by these persons for their activities as resident assistants is more appropriately viewed through an analogy to athletic scholarships and grants-in-aid.

The Department of Labor intends to take legal action against schools not paying minimum wage to resident advisers in their dormitories, and will ask courts to require back-pay penalties. Legislation I am reintroducing today will eliminate the need for such lawsuits and resolve this situation by exempting full-time students serving as resident assistants from the minimum wage provisions of the Fair Labor Standards Act of 1938.

Although the resident assistant programs of many colleges are primarily for the benefit of outstanding students selected to serve as resident assistants, these programs also provide a means of liaison between the school's administration and the residents in each resident hall. In addition, they assist in fostering a living and learning climate which offers each student an opportunity to grow in a variety of directions while enjoying the values of an undergraduate college community.

The colleges and universities that are now, or shall soon become, involved in litigation with the Department of Labor, have no desire to violate the Fair Labor Standards Act or any other law. They believe the relationship between the school and the resident assistant is not an employment relationship, but is rather a fellowship award. It is a just and logical one and should be upheld.

Mr. President, when I introduced this legislation in the 95th Congress, it was endorsed by a number of national educational associations. I am pleased the following groups support this measure:

American Council on Education.

American Association of State Colleges and Universities.

Association of American Universities.

Association of Catholic Colleges and Universities.

Association of Jesuit Colleges and Universities.

National Association of College and University Business Officers.

National Association of Independent Colleges and Universities.

Association of College and University Housing Officers.

In addition, colleges and universities across the Nation have taken an active interest in this measure.

I hope Congress will act expeditiously in its consideration of this legislation. It provides a fair and equitable resolution to a problem confronting a large number of institutions of higher education. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(e)(1) of the Fair Labor Standards Act of 1938 is amended by striking out "paragraphs (2) and (3)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(b) Section 3(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) Such term does not include any individual certified by a private nonprofit institution of higher education to be a full-time student at that institution and employed by that institution as a resident assistant or resident counselor living in a resident hall or dormitory of such an institution.".●

ADDITIONAL COSPONSORS

S. 94

At the request of Mr. BENTSEN, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 94, a bill to amend the Internal Revenue Code of 1954 to allow homemakers to establish individual retirement accounts.

S. 112

At the request of Mr. DOLE, the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 112, a bill to allow for the repeal of the carryover basis provisions.

S. 115

At the request of Mr. MATHIAS, the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 115, the Third Party Privacy Act of 1979.

S. 219

At the request of Mr. PACKWOOD, the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 219, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 336

At the request of Mr. MATHIAS, the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 336, a bill to amend the Internal Revenue Code of 1954 to provide that a married individual who files a separate return may be taxed at the same rate as an unmarried individual.

S. 380

At the request of Mr. DURKIN, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 380, a bill to amend the Bank Holding Act of 1956.

S. 451

At the request of Mr. SCHWEIKER, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 451, the diabetes research and training amendments and the National Diabetes Advisory Board Extension Act.

S. 737

At the request of Mr. STEVENSON, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 737, a bill to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the right to engage in commerce.

S. 808

At the request of Mr. DURKIN, the Senator from Florida (Mr. STONE) was added as a cosponsor of S. 808, a bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pensions to widows of such veterans.

S. 819

At the request of Mr. PRESSLER, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 819, a bill to amend the Clean Air Act to promote the use of alcohol as a motor fuel and as an additive to motor vehicle fuels, and for other purposes.

S. 864

At the request of Mr. DANFORTH, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 864, the Export-Trade Association Act of 1979.

S. 1065

At the request of Mr. DANFORTH, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 1065, a bill to provide an income tax credit to corporations for contributions for basic research.

S. 1085

At the request of Mr. COCHRAN, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1085, a bill to amend the Internal Revenue Code of 1954 to provide that the mileage rate used to determine the amount allowable as a deduction for the business use of automobiles shall be the same as the rate used to reimburse Federal employees.

S. 1107

At the request of Mr. STEVENSON, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 1107, the Youth Opportunity Wage Act of 1979.

S. 1137

At the request of Mr. COCHRAN, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of S. 1137, a bill to direct the Administrator of the Environmental Protection Agency to request the National Academy of Sciences to conduct a study concerning standardizing certain tests for determining potential carcinogenicity, and for other purposes.

S. 1163

At the request of Mr. DOLE, the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 1163, a bill to allow for the repeal of the carryover basis provisions.

S. 1222

At the request of Mr. HUDDLESTON, the Senators from Virginia (Mr. HARRY F. BYRD, JR. and Mr. WARNER) were added as cosponsors of S. 1222, a bill to repeal section 125 of the Clean Air Act.

S. 1222

At the request of Mr. FORD, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 1222, a bill to repeal section 125 of the Clean Air Act.

S. 1268

At the request of Mr. BAYH, the Senator from Arkansas (Mr. BUMPERS), the Senator from Maryland (Mr. SARBANES), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Alabama (Mr. STEWART) were added as cosponsors of S. 1268, the Gasohol Marketing Freedom Act.

S. 1287

At the request of Mr. GOLDWATER, the Senator from Arkansas (Mr. PRYOR), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of S. 1287, a bill to repeal the earnings ceiling of the Social Security Act for beneficiaries age 65 or older.

S. 1308

At the request of Mr. PRESSLER, his name was added as a cosponsor of S. 1308, a bill to set forth a national program for the full development of energy supply, and for other purposes.

SENATE JOINT RESOLUTION 24

At the request of Mr. MATSUNAGA, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of Senate Joint Resolution 24, to require improvement and expansion of the collection, analysis, and publication of statistial data relating to workingwomen.

SENATE JOINT RESOLUTION 43

At the request of Mr. DURKIN, the Senator from Indiana (Mr. BAYH), the Senator from Montana (Mr. BAUCUS), the Senator from New Mexico (Mr. DOMENICI), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of Senate Joint Resolution 43, to proclaim March 21, 1980, "National Energy Education Day."

SENATE JOINT RESOLUTION 73

At the request of Mr. HEINZ the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of Senate Joint Resolution 73, establishing "National Hawk Watching Week."

SENATE RESOLUTION 182—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. HART, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 182

Resolved, That pursuant to section 402 (c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1319, a bill to authorize appropriations to the Department of Defense for military construction programs for fiscal year 1980, and for other purposes.

Such waiver is necessary to permit the consideration of legislation authorizing new budget authority for fiscal year 1980 for military construction programs of the Department of Defense. The Committee on Armed Services was unable to consider and dispose of the proposed legislation prior to May 15, 1979, because of the unusually heavy legislative workload of the committee early in the session coupled with the uncertainty over the National Defense functional target levels established in the First Budget Resolution, which was not enacted until May 24, 1979.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 1319 as reported by the Committee on Armed Services.

AMENDMENTS SUBMITTED FOR PRINTING

COMMUNICATIONS ACT AMENDMENTS OF 1979—S. 611

AMENDMENT NO. 228

(Ordered to be printed and referred to the Committee on Commerce, Science, and Transportation.)

Mr. PACKWOOD submitted an amendment intended to be proposed by him to S. 611, a bill to amend the Communications Act of 1934, as amended, to provide for improved domestic telecommunications and international telecommunications, rural telecommunications development, to establish a National Commission on Spectrum Management, and for other purposes.

DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1980—S. 428

AMENDMENT NO. 229

(Ordered to be printed and to lie on the table.)

Mr. STONE submitted an amendment intended to be proposed by him to unprinted amendment No. —— to S. 428, a bill to authorize appropriations for fiscal year 1980, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources will hold hearings on S. 446, the Equal Employment Opportunity for the Handicapped Act of 1979, on Wednesday, June 20, and Thursday, June 21, 1979. The hearings will be held at 9:30 a.m. in room 4232, Dirksen Senate Office Building. For further information, contact Darryl Anderson of the committee staff at 224-3674.●

SUBCOMMITTEE ON PARKS, RECREATION, AND RENEWABLE RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of public field hearings before the Subcommittee on Parks, Recreation, and Renewable Resources, Committee on Energy and Natural Resources.

The hearings are scheduled for July 3 beginning at 8 a.m. at the Theater of the Blue Mountain Community College in Pendleton, Oreg., and on July 6, beginning at 8 a.m. at the Chemeketa Community College, Building 1, room 116, in Salem, Oreg. Testimony will be heard on proposals resulting from the administration's Roadless Area Review and Evaluation (RARE II).

For further information regarding the hearing, you may wish to contact Mr. Thomas Williams at 224-7145.

Those wishing to submit a written statement for the record should write to the Subcommittee on Parks, Recreation, and Renewable Resources, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, yesterday, 19 other Senators and I introduced S. 1308, a proposed Energy Supply Act, calling for a broad range of actions to accelerate domestic energy programs. I wish to announce that the Committee on Energy and Natural Resources will hold a public hearing on title II of the bill on Wednesday, June 20, 1979. Title II is a proposed Priority Energy Project Act to expedite Federal actions on nationally significant energy projects and facilities. The hearing will begin at 8 a.m. in room 318 of the Russell Senate Office Building—the Senate Caucus Room. Public hearing on other titles of the bill will be announced in due course. Jim Pugash and Owen Malone of the committee staff is available to answer questions concerning this hearing on 224-0611 and 224-7141●

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION, AND FEDERAL SERVICES

● Mr. GLENN. Mr. President, I wish to announce a hearing which will be held by the Subcommittee on Energy, Nuclear Proliferation and Federal Services of the Committee on Government Affairs.

On Friday, June 22, 1979, at 9:30 a.m., the subcommittee will hold a hearing on S. 742, the Nuclear Waste Management Reorganization Act of 1979. The hearing will be held in room 6226 of the Dirksen Senate Office Building.

If you have any questions regarding this hearing please contact the subcommittee staff at 4-2627.●

SUBCOMMITTEE ON PARKS, RECREATION, AND RENEWABLE RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, and scheduling of a public hearing before the Subcommittee on Parks, Recreation, and Renewable Resources of the Committee on Energy and Natural Resources.

The hearing is scheduled for July 19, 1979, beginning at 10 a.m., in room 3110 of the Dirksen Senate Office Building. Testimony will be heard on S. 1104, a bill to establish the Channel Islands National Park in the State of California.

For further information regarding the hearing, you may wish to contact Mr. Thomas Williams at 224-1745.

Those wishing to submit a written statement for the RECORD should write to the Subcommittee on Parks, Recreation, and Renewable Resources, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON OVERSIGHT OF THE INTERNAL REVENUE SERVICE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the oversight of the Internal Revenue Service Subcommittee of the Committee on Finance be authorized to meet during the session of the Senate on Thursday, June 21, 1979, beginning at 1:30 p.m. to hold a hearing on the availability of employment stock ownership plans for railroads.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today beginning at 11 a.m. in order to hear Secretary Cyrus Vance on the President's decision on Rhodesia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Commitee on Foreign Relations be authorized to meet during the session of the Senate today beginning at 2:30 p.m. to hold an executive session in order to discuss the committee's position on the Rhodesian issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to meet during the session of the Senate on Wednesday, June 20, 1979, beginning at 2 p.m. to hold a markup session on Federal crop insurance legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Energy Conservation and Supply of the Committee on Energy and Natural Resources be authorized to meet during the sessions of the Senate today and tomorrow to consider S. 950, the Omnibus Solar Energy Commercialization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

LIFTING SANCTIONS AGAINST RHODESIA

● Mr. HUMPHREY. Mr. President, Thursday afternoon President Carter announced his decision to maintain economic sanctions against Zimbabwe-Rhodesia until, and I quote:

> The new bi-racial government there makes progress toward genuine majority rule.

Obviously, the President and his advisers have not been observing the same elections as the majority of my colleagues in the U.S. Senate who voted 75 to 19 to terminate sanctions against Rhodesia. If the recent changes that have taken place in Rhodesia do not represent progress toward "genuine majority rule," what does? What other ruling elite of any other African country would peacefully hand over the reigns of power in a peaceful and orderly manner? If such a transition were to take place in any Communist nation, the rest of the world would be dumbfounded.

The President went so far as to admit that "the actual voting in April was conducted in a reasonably fair way under the circumstances."

Elections were held, Mr. President, in which more than 60 percent of the black population participated freely and under very adverse conditions; namely, harassment by guerrilla leaders.

Moreover, the Government of Rhodesia granted an unprecedented amount of freedom of maneuver to observer teams sent to assess the election. Observer teams were taken to polling areas under Rhodesian control as well as to areas where guerrillas had managed to scare off the voters. Thirty foreign correspondents and 70 international observers witnessed the polling. Freedom House sent an observer team. Their report states:

> Despite some shortcomings the country has never had so inclusive and free an election. The elections in most underdeveloped countries are less free (than the one in Rhodesia). In a world in which peaceful changes do not and cannot occur all at once, this election is a useful and creditable step toward the establishment of a free society in Zimbabwe-Rhodesia.

Notwithstanding his praise for the fairness of the Rhodesian election, the President declared the elections invalid, because the new Rhodesian constitution gives the white majority a disproportionate vote and a veto over any significant reform of the constitution. Mr. Carter also refused to accept the results of the election, because the Patriotic Front Organization had not participated in the elections.

Mr. President—no matter how you look at it, a black majority government has been installed in Rhodesia.

The Rhodesian Government, it should be stressed, asked all parties to participate in the election provided they agree to a cease-fire first. Two groups, however, refused. The first is ZAPU (Zimbabwe African People's Union) led by Joshua Nkomo, who believes that he and his guerrilla army can prevail by force of arms. The second is ZANU (Zimbabwe African National Union), led by Robert Mugabe, who is a Marxist Leninist and is hardly an advocate of participatory democracy. Both groups threatened to disrupt the elections by guerrilla attacks, and they tried their very best. The guerrillas receive arms and training from Soviet and Cuban advisers.

Mr. President, the vast majority of this body feels that Zimbabwe-Rhodesia has complied with the conditions set forth in the Case-Javits amendment to the International Security Assistance Act of 1978 and that our economic sanctions should be lifted. Perhaps the most disturbing portion of President Carter's statement concerning sanctions is his contention that his decision was "right and decent and fair."

What is right, Mr. President, with a decision that undermines the honest attempt of Rhodesian blacks and whites to live in harmony?

What is decent, Mr. President, with a decision that encourages ruthless, Communist-backed and armed guerrillas to continue their senseless and unconscionable acts of violence against both the black and white citizens of Zimbabwe-Rhodesia?

And finally, what is fair, Mr. President, with a decision that, summarily, invalidates the results of an election which—by any reasonable standards—was as fair, if not fairer, than those held by many nations with which we have full diplomatic relations? ●

ADDRESS BY McGEORGE BUNDY

● Mr. MOYNIHAN. Mr. President, the outgoing president of the Ford Foundation, McGeorge Bundy, recently delivered an important and insightful valedictory address to the 30th annual conference of the Council on Foundations. In view of the thoughtfulness and erudition of his remarks, of the continuing role of private philanthropy in American society, and of the leadership and distinction that have marked his stewardship of the Nation's largest foundation, I ask that the text of his statement be printed in full in the RECORD so that it may be available to our colleagues and to a wider audience.

The statement follows:

Remarks by McGeorge Bundy

I have had some trouble deciding what to talk about today. In just two weeks I shall no longer be at the Ford Foundation. It is therefore not my business to speak about future program priorities or even to join in discussion of what foundations as a goup should be doing next. Yet it hardly seems right to change the subject entirely and end this meeting with a discussion of some other public issue. So at least three excellent speeches are inappropriate. Let me take a minute to tell you what you are escaping.

If I were to talk about the general situation of foundations I would give major attention to the halving of the excise tax in 1978. You will find almost no one outside Congress and the foundation world who knows it happened, but I think it reflects a most significant set of gains, in the way we explain ourselves to Congress, in the way we work together, and in the general public's attitude toward what we are and do. In this speech I would embarrass the Council's leaders and lawyers by extravagant praise, and I would warn all the rest of us against any neglect of the lessons of 1969. I might even admit that the Ford Foundation was once part of the problem and claim that more recently it has been part of the solution.

If I were to talk about the program emphasis of foundations as a whole, I would be tempted to dwell on two old favorites: The cause of equal opportunity and the need for work on transnational problems. Given our own historic emphasis at the Ford Foundation, this could sound like an appeal to "be like us," but this undelivered speech would not be that at all—it would instead be an effort to show how many needs and opportunities there are in these two large areas where foundations very different from ours could make highly significant contributions. Above all, and essentially, it would be an argument that both real racial fairness and adequate understanding of great transnational questions still elude us as a people, and that both are central to our prospect of a decent future.

And if I were to talk about more general questions of the day I would probably hesitate between inflation and SALT and then settle on the latter because there my own incompetence is less. Today is not the day.

The subject I have left is a hard one, and yet I think it is really the only one that makes sense here and now: I want to attempt a sketch of what I think I have learned about the qualities that are needed in a foundation for effective program work. I shall be drawing on my own experience, but I am not trying to tell you how well we do it at Ford. I have been learning from the effective work of many other foundations and also from many mistakes or failures of our own.

I find four elements that are common to any really effective program, and I am going to borrow from the military to make them easier to remember. In the Department of Defense when they talk about strategic nuclear matters, they are constantly inventing new acronyms. One of the more recent, and one of the most important, is C^3I; it stands for Command, Control, Communications, and Intelligence, and it describes the elements that are essential to the process of managing our enormously powerful strategic forces so that in fact they will be able to do—and not do—what is necessary for credible deterrence and so for strategic stability. C^3I is both the brains and the central nervous system of these forces. With a different I and three different C's, I want to talk about C^3I in foundation work.

But there are more obstacles to be cleared away first. First: We are a very varied lot, and in describing one good way of work I am not trying to say it is the only one. I have an acronym for this, and it is I^3C. There are at least three I's and one C that can define what many foundations do, and may do very well indeed: C, as you might guess is for Communities, and the I's are for Individuals, Institutions, and Inherited Interests. Good work can be done with any one of these four kinds of targets, responding to their own best estimate of what they need most, and very often that work itself will be marked by some of the qualities I have in mind.

Second: The qualities a foundation's program work should have are also the qualities that should mark its grantees. Indeed it will be reasonable to take most of my analysis as no more than a description of the ideal grantee, and if you think of it that way you can then say that the task of the foundation is simply to identify and then to assist people and institutions that have these qualities.

At last we are ready to begin.

The first C is Commitment, and the simplest mark of commitment is persistence. Serious program work takes time, so it requires a firm decision to enter a field and stay with it for a period of years. A problem that is important enough to deserve a major commitment from trustees and the careful attention of staff is one that will very seldom be resolved in a year or two. Moreover time is needed, in most cases, to know whom to work with, and to be known in turn, so that people who have better ideas than yours will know where to find you. Time is needed, most of all, to be able to give staying power to those whose work may make a difference.

Even more important than time is determined purpose. The foundation that wants to make a difference by a sustained program effort has to have a clear understanding of its reasons for choosing a given program area. It must be able to answer the question: why pick this field? It must believe in its decision hard enough to put up with failure and, sometimes, controversy. It must also be an enormous difference between what is willing to ignore shifting fashion. There is merely "in the news" and what is durably important. As new "hot topics" crowd the TV screen, as news magazines compete to do their often brilliant cover stories and then hurry on to the next single-shot seven-day wonder, as the celebrity, not the subject, becomes the focus of attention, it becomes more and more tempting to do what is visible right now. True commitment implies an almost opposite way of deciding what matters.

Because commitment implies a settled belief in the importance of a chosen field, it requires a basic sympathy with at least some of the people at work there. If you go in for the support of the social sciences, you will get nowhere if you think all social scientists are hopeless. You may well have a reformist concern: you may think something is wrong with social science (and you may be right), but it is almost never wise for a foundation to enter any field without doing its best to find, and to work with, people who are already working in that field in ways that relate to the reasons for the foundation's own commitment.

Not the least virtue of the first C is that it is a powerful reinforcement to the second and third, which are Criticism and Catalysis. Criticism can be a massive analytic attack on a given evil: Gunnar Myrdal on American racism may be the paradigm. It can also be criticism of an institution, and then, very often, commitment is what makes such criticism effective: the knowledge that the Ford Foundation would honor its general commitment to the performing arts has had much to do with the persuasiveness of its counsel on matters of management and audience-building in recent years. Criticism also means self-criticism—a willingness to learn from both failure and success—and I myself prefer this way of describing that process to the more pretentious word evaluation, with its overtones of autopsy. Evaluation too often merely looks back; criticism and self-criticism look all around to look ahead.

I would include under criticism all that the tax law includes under "nonpartisan analysis, study, or research." At its best such analysis will in some way be critical of what exists, will be a guide to what needs doing, will have consequences for the underlying purpose of the given program.

Catalysis, in chemistry, is the causing or accelerating of change by the addition of a substance that is not permanently affected by the reaction. It is a good shorthand word for what nearly all foundations are trying to do, the I^3C foundation along with everyone else. An individual grants program is intended to change the level of opportunity and achievement for those selected; a program of institutional support is intended to reinforce or repair a valued enterprise—and so on. But a program commitment, above all, is intended to get some durable result, to limit some evil or advance some good, and nearly always the hope is that the resulting change will somehow be much larger than anything the foundation itself contributes directly—and that sooner or later the foundation will go on, essentially intact, to another commitment. We do hope, and we should, that if our programs are well conceived and executed they will "cause or accelerate" change.

This way of work is at once presumptuous and modest. It is presumptuous because we do indeed assert our right and responsibility for choosing the program areas we work in and the objectives we support, and now we add that we hope our choice may influence the choices of others. Even if the purpose is as clearly virtuous as racial fairness, particular ways of advancing it can arouse high feelings. Who appointed us? The question is entirely understandable, and it is important to respect it, though not to let it scare us off.

Fortunately the presumption is indeed matched by modesty: we can help, but we can almost never do anything important alone. Our appeal must be to forces much larger than ours—if indeed there is to be significant change it will be the result of decision and action by others. In our very large and diverse society it can hardly be otherwise, and when we move to the transnational scale the point is still more obvious.

Catalysis, in philanthropy, can imply nothing more complicated than the effective encouragement of a single individual whose work changes things—Jonas Salk and his vaccine. Or it may transform a part of an institution—Edward Harkness by building Houses at Harvard and Colleges at Yale successfully engaged those institutions in changes that now represent an investment many times greater than his own. More broadly, one can hope to engage other donors—the challenge grant is a simple example—or to enlist general public support by showing what can be done.

Nowadays catalysis, like criticism, usually involves government at one level or another. The sessions of this conference, like many before it, have been heavily engaged with the behavior and misbehavior of government, and indeed I myself would argue that in thinking about children and youth, the hardest question of all is how to use the almost inevitably blunt instrument of political process and action to improve the real conditions of real life for real children. Yet the very difficulty of the question, for any foundation with a commitment in this area, creates a challenge to try to help answer it. We may well conclude, here and elsewhere, that government cannot do everything, but I think we are long past the point at which we can resolve the problem by telling the government to do nothing. If what we really want is to make things better, the changes we seek will largely be changes in the way governmental forces work. We cannot remind ourselves too often of the quite elementary reality that education itself, especially in schools, is overwhelmingly a governmental activity.

There is nothing new about the philanthropic ambition to be catalytic, and nothing radically new about the large role of government. What is perhaps new is some feeling that because government is now so big, the role of philanthropy is correspondingly reduced. I profoundly disagree with any such feeling. Both criticism and catalysis become more important than ever as governmental activity grows, and I think the evidence of the last decade is that at least where there is commitment behind its work, a foundation can engage in both at the same time. A cat can look at a king, and in dealing both critically and catalytically with government in the United States the only thing a committed foundation has to fear is fear itself.

I is for Imaginative force. I borrow the phrase from Whitehead, who uses it, in the climactic chapter of his Adventures of Ideas, to describe the quality he finds essential to his concept of adventure as a necessary element of any great civilization. I of course intend nothing so grand, but I do intend the analogy.

Whitehead tells us that all civilizations reach a point where they must renew themselves or face decline, and he thinks the result depends on the presence or absence of I.

"Perhaps the society in question lacks imaginative force. Staleness then sets in. Repetition produces a gradual lowering of vivid appreciation. Convention dominates. A learned orthodoxy suppresses adventure.

There may be high survival power. For decadence, undisturbed by originality or by external forces, is a slow process. But the values of life are slowly ebbing. There remains the show of civilization without any of its realities.

"There is an alternative . . . A race may exhaust a form of civilization without having exhausted its own creative springs of originality. In that case, a quick period of transition may set in, which may or may not be accompanied by dislocations involving widespread unhappiness . . .

"[Or] sometimes adventure is acting within limits. It can then calculate its end, and reach it. Such adventures are the ripples of change . . . by which an epoch of given type preserves its freshness. But, given the vigour of adventure, sooner or later the leap of imagination reaches beyond the safe limits of the epoch.

"A race preserves its vigour so long as it harbours a real contrast between what has been and what may be; and so long as it is nerved by the vigour to adventure beyond the safeties of the past. Without adventure civilization is in full decay."

You can withdraw the analogy yourself, and even adjust it to your taste. Who cannot call to mind a fine program that has gone dead by thoughtless repetition? And are not our greatest successes those which have included the adventure of seeking and finding the work that should come next, even at the price of dislocations and unhappiness? No one who considers the history of the population problem can fail to recognize that what was pioneering in the 1920s was merely middle-class convenience by the 1950s and that the front line of the '50s is not a good guide to what is needed in the '80s. And where is there a better example of imaginative force at work than in the successive adventures—of ideas and then of action—that marked the work in this field of John D. Rockefeller III?

Imaginative force—we need it to get started; we need it to keep moving; we need it to move on. We even need it when the time comes to stop, to do something else. The regular renewal of its imaginative force is absolutely indispensable to the excellence of any institution, and precisely because a foundation can so easily rest on its traditions, the need for that force in foundations is exceptionally great.

But as the need is great, so is the opportunity. The foundation, after all, does not need to rely on itself alone for the necessary feats of imagination; it can build on the insight and understanding of others. In philanthropy it is not necessary to have good ideas yourself; it is necessary only to be alert to the best ideas of others. Imaginative force alone is not enough—it needs commitment, inescapably, and usually all three C's at once. Of course you need money too—money is what gets us in the game to start with. But just as all the megatons in all the warheads of all the strategic forces are nothing without the military C^3I, so in programmatic philanthropy dollars will do little without commitment, criticism, catalysis, and imaginative force. And when we have all four in right array, it is quite wonderful to see what the dollars can do.

Commitment may be misguided, criticism may be wrong, catalysis may not work, and imaginative force can mislead. So in programmatic philanthropy failure will be frequent, and merely ordinary success will be the usual result. But when you get all four right at once, the result vastly outweighs all those inevitable costs. Again each of us can think of his own example, and again I am content to take as mine the work of John Rockefeller in population.

Because we are free, we are free to fail. But are we really free not to try? ●

CONGRESS NEGLECTED CHILDREN

● Mr. MATHIAS. Mr. President, Thomas Carlyle said that:

> Youth is to all the glad season of life, but often only by what it hopes, not by what it attains or escapes.

These words of Carlyle came to mind after I read Gordon Chaplin's article, "Congress' Neglected Children," in the Washington Post of June 3, 1979.

That piece paints a picture of the plight of some of our House and Senate pages that deserves, even demands, the Senate's immediate attention. There are immediate problems with housing, supervision, educational quality, and safety. But beyond these obvious problems are much deeper ones that suggest Members of Congress are failing to fulfill their moral responsibility to these young people who come here with high hopes and dreams.

What are we as Members doing to insure that the impressions of these youthful workers are accurate and fair? What can we do now to assist each of them to insure that the time spent here is an educational experience, not an exercise in partisan politics? What can we do, that we are not doing, to help set the moral tone of public service which should be imbued in them during their service here?

The record of the page system has been studied quite extensively as the Chaplin article indicates. Recommendations have been made and Congressman PAUL SIMON has tried to tackle the problem in the House this session with legislation.

But the time to act is now. We must give aid to the principal of the page school, John C. Hoffman. It seems inescapable that the Senate and House must rectify this situation at once. The welfare of these youths is directly in our hands. This in loco parentis role for us is a present reality which must be dealt with responsibility.

Congress should immediately review schooling needs, housing needs, counseling needs, and funding needs of all pages and make recommendations for quick action. We have no problem in imposing requirements on other government agencies and the private sector when we discover a problem. We should have no less hesitancy to do so in this instance when, as Pogo puts it, "the enemy is us."

I ask that Mr. Chaplin's article be printed in the RECORD.

I also invite my colleagues to join with me in setting our house in order on this score. If it is necessary to alter the page system, then we must alter it. But let us exercise the prime responsibility of securing the well-being of these pages as our first order of business.

Mr. Chaplin's article follows:

CONGRESS' NEGLECTED CHILDREN

(By Gordon Chaplin)

Laurence Tolliver, 14, the youngest page in Congress, spends a lot of his time poised on the edge of the Senate chamber rostrum with every muscle in his small round body at attention. He's like a bird dog at point.

Across perhaps 20 feet of blue-and-white pile carpet, up the right aisle, at a desk four places in along the last row on the Democratic side, is the object of Tolliver's attention: his sponsor, Sen. Edward M. Kennedy (D-Mass.).

Tolliver's eyes follow Kennedy's right hand when the senator reaches for a bill or a memo or when the senator's hand rises to scratch his scalp or smooth his hair, because Tolliver wants to be the first page to get there when Kennedy snaps his fingers.

At any signal Tolliver is an iron filing suddenly within range of a powerful magnet. It's a little awesome, as if the attraction is so strong that the boy will end up *stuck* to the man. He always stops in time, though, listens and then tears off on the errand—a message, a glass of water—and then back to the rostrum, waiting for his favorite time, when Kennedy talks and Tolliver can memorize the words.

Maybe after four years Tolliver will understand how Kennedy always makes himself the focal point of everything. In 1984, according to Tolliver's blueprint, Kennedy will be president and Tolliver will be starting his sophomore year at Harvard.

Kelley Landolphi, 17, tries to look and act as much like his sponsor as possible. He doesn't have all that far to go, even though House Speaker Tip O'Neill is old enough to be Landolphi's grandfather. To start with, Landolphi is what is called heavyset, around 200 pounds. Like the speaker, he likes to belly up to things in an expansive way. One of his favorite positions is the Boston caucus-table pose—feet way back, hands flat on the table top, head forward, eyebrows down. He's got the Boston political hello down pretty well, too: "Hawaya?"

Landolphi also has the right connections: his father (from an Italian family) is a successful restaurateur in a Boston suburb, his mother (from an Irish family) is a Democratic committeewoman and was a college friend of John Kennedy's. These connections, he will admit with a smile, certainly didn't hurt when his original sponsor, Rep. Michael Harrington (D-Mass.) was voted out of office and Landolphi needed someone else.

O'Neill was glad to take him on, and, other pages have noticed, since then Landolphi's rise through the ranks has been pretty fast. He's been working for only eight months, but already he's a documentarian, responsible for ringing the bells for votes, raising the flag on the roof of the House, carrying the word from the speaker's office about which bills are scheduled for debate.

On his off-hours Landolphi likes to wear a Boston College parka, a gift, he says, from the college president, the Rev. J. Donald Moanan—a good man, one of the best, says Landolphi. He says he provided Moanan with a little information about a political group.

Susanne Cox, 17, was appointed in January through the good offices of her home congressman, James R. Jones (D-Okla.), but is still a low-level running page who spends most of her time in the tunnels between the Capitol and various House office buildings, wandering down endless corridors with bulky packages and seeing very little of the real action on the House floor or in the cloakroom. Cox is unhappy, therefore, with what she feels are "injustices" in the system . . . people coming up fast because of who they are. It's monotonous in the tunnels, and when you get back from an errand you're ordered out on another one by someone who might be younger than you are, or less senior.

However, things may improve. Her congressman may get his own patronage slot from the House Personnel Committee and appoint her to another seven months. In spite of his lack of clout, that would give her enough seniority to make it out of the tunnels, onto the floor and maybe even into the cloakroom, where she could start to get to know more congressmen. "It's limitless, what you can do with that kind of contact," Cox says. "If there's one thing you learn here, it's that eventually everything goes back to politics."

> "From my earliest days as a a knickers-clad page boy, I had heard whispers of what senator might be entertaining his secretary on the office couch, which senator's legs had betrayed him in chambers or in a hide-away office after a five-martini lunch, and what senators had their hands out."—Bobby Baker, in "Wheeling and Dealing."

What's amazing is that more pages haven't gone on to make the kind of name for themselves as the most famous of them all, Baker, who probably was only a little more ambitious than the rest. It would be hard to find anybody more open and vulnerable than Capital pages to the beguiling three-ring power circus that is the American political system.

Imagine: instead of sex, pimples, rebellion and rock-and-roll, you're worrying about rollcalls, cloakroom clout, patronage and favors. You argue party politics instead of baseball scores with your peers. You can go places in the Capitol where only the mightiest are allowed, such as the Senate Marble Room.

You know all the secret offices and when not to knock on the doors. You can walk into maybe 10 legislator's offices on a slow day, sit down and chat with them about anything you want, including the possibility of a discreet phone call to a contact in a university admission office.

You might be only 16, but it doesn't take you long to forget it, because your parents are hundreds of miles away (except for a minority whose parents live in Washington), you're making more than $7,000 a year, and outside of work and a little perfunctory schooling you're totally on your own. Do the pages listen when they're told, "It's too much too soon; being a page can ruin you; I've seen it happen"?

Many of them obviously do. Over the years eight pages have gone on to become congressmen themselves; four have become House officials, six Senate officials. However, as one teacher at the Capitol Page School says, "If 45 percent of the pages end up in some kind of politics, it's not too hard to imagine a lot of them using their special knowledge and contacts in back rooms."

Some ex-pages feel compelled as a kind of exorcism to write seamy novels or exposés about their experiences. Such as Politico, privately published by 19-year-old Eric Brauner: "On the political intrigues of the Washington elite . . . with its underlying theme the ruthlessness and isolation of politics."

Steven R. Valentine, sponsored by Sens. Birch Bayh (D-Indiana), John V. Tunney (D-Calif.), and Rep. Robert Casey (D-Texas) in the early 1970s, spent a lot of time after his appointments expired trying to peddle what he said was information about homosexual congressmen's exploits with two pages, drug rings, pornographic literature and high-ranking members of the Nixon administration. When nobody bought it, he included it in his own memoirs, published by a small Midwestern press, which he then donated to the Senate library:

"To say that I lived an unusual or extravagant life for a 16-year-old . . . is an understatement . . . A page has such freedom and money that he or she quite literally can try to live out his/her every fantasy no matter how daring . . . We witnessed the Watergate drama firsthand; we saw the obvious drinking problems of high-ranking senators and House members; and we saw their often Machiavellian use of power. We saw it as no more than a very few young teen-age Americans can see it during any given year. What does this do to a young man or woman 15 or 16 years of age?"

A former teacher at the Capitol Page School says the fast life on the Hill may have contributed to two incidents that have turned this year into "a bad year for the page system." In one, last August, a high-ranking page was arrested for selling marijuana to a First District vice detective, in part of what police called "a large overall undercover investigation."

The page pleaded guilty to one count of violating the Controlled Substances Act with multiple sales in quantities of over an ounce. A second defendant in the case is still at large.

In the other incident, in March, a page was arrested and charged with assault with a deadly weapon, after allegedly fracturing the skull of a congressional intern with a four-and-a-half-foot two-by-four, breaking his nose and lacerating his forehead.

"These are awfully young kids with a lot of money and no supervision at all," the former teacher says. "They get into a lot of things. What things? What else would I be talking about but booze, sex and dope."

This might actually be the year Congress decides to alter the page system, not that it hasn't been suggested before. But the system, like politics itself, operates through frequently illogical, sacred quirks and whims, contacts and taboos, and hasn't changed too much since the first pages were appointed in the beginning of the 19th century, except to include women and blacks, to expand, and apparently to get more self-conscious and elitist.

There seem to be as many different ways to get to be a page as there are to get into politics. If a senator or representative rates a patronage slot (Democrats have 53 of 65 House positions, 18 of 31 in the Senate) he can arrange for the appointment himself. If not, he might be able to find someone else to make the appointment. Contacts generally mean more to Democrats; Republicans select more competitively (some claim as many as 50 rejections to one acceptance). However, each member has his own procedure, as do the various committees that have to pass on the applicant. In the end, Capitol Page School principal John C. Hoffman says, "You know who gets the appointment."

Pages have traditionally been teenagers—now 14 through 18—for practical reasons. Pages are gofers. They're supposed to be small enough to be unobtrusive running errands on the chamber floor, unsophisticated enough that cloakroom gossip is beyond them, and energetic enough to go more than 10 miles a day carrying messages. Duties are partisan, like everything else in the pages' lives, but because there are so few Republican slots in the House, Democrats end up filling some of them. Many don't object, because the Republican system is neither as extensive nor as based on favoritism.

The scary part of the system, the part that they think about changing every once in a while but never seem to get around to, is that nobody and nothing officially functions in loco parentis. The pages, except for the 20 or so whose parents are already in the Washington area, are really political orphans, with very little to fall back on except the system and how they play it.

Practically everybody on the Hill is superior to them, but no one is directly responsible for them. Their schooling is haphazard, because no one feels responsible for making it better. They are expected to find their own apartments (which must be approved by Senate or House supervisors) because there's no official page housing.

There is no one person designated to advise them, supervise them, or solve personal problems for them; they have to develop a contact themselves—maybe a friendly aide in their sponsor's office, in a very rare case the sponsor himself, a secretary to the doorkeeper in the House or the sergeant-at-arms in the Senate.

"The kids are purely and simply being exploited," the former teacher says. "What you have is cheap, eager labor fueled by unsophisticated idealism and ambition. If the kid comes to understand what's happening to him, it can make him or her very cynical very early. It's not easy to worship somebody or something the way many of them do and then to realize that the person just doesn't really care about them, and that there's no real place for them in the system."

"I would never want a child of mine to be a page," says a congressional supervisor who works with them daily. "You get a terrible education, you work 14-hour days, you're in danger of being mugged or worse on your way home. And for what? It's all for some senator or congressman who might not even know you name."

All of which does not mean some parents are unhappy with things the way they are. Kelley Landolphi's mother personally inspected one of the rooming houses suggested by the doorkeeper's office and found it "very satisfactory," owned by a lady who has catered to pages for 30 years, who keeps strict parietal rules and maintains close personnel contact with her tenants. Anne Klopfer, 72, the owner, says she can only take in seven boys at a time, usually from the same congressional offices, and that the number of rooming houses like hers is decreasing.

Susanne Cox's mother has never seen her daughter's apartment, which the page rents with one roommate, and remembers that when she first learned there was no dormitory she "was shocked, because when Susanne worked as a page in the state capitol, there was dormitory space provided. I figured that if they had dormitories on the state level, they would certainly have them on the federal. It's definitely a worry. They don't seem to understand that the pages are still children, no matter how mature and self-sufficient they might seem."

Propositions for reform have been floating around for years, but so far most have failed to jell. Anything to do with congressional perquisites and patronage is always touchy, the area of responsibility is spread out and ill-defined, and pages are low-priority anyway. One reform, considered off and on since 1965, would require pages to be high school graduates, eliminating the need for schooling and close supervision. The last time it came up was in 1973: the Senate passed it, but the House didn't.

The way the system is run now, a page can be appointed to a term of anywhere from eight weeks to two years in the House and four years in the Senate. Reformers feel this term should be standardized to one school year or one semester to prevent what one teacher calls the "easy-come, easy-go syndrome" in classrooms.

The history of failed housing reforms goes back to 1943, when a House bill was filed "to provide for the acquisition and maintenance of suitable accommodations for the pages." It never reached the floor, even when it was introduced a few years later. Three subsequent bills failed too. A Select Committee on the Welfare and Education of Congressional Pages held hearings on the matter in 1964 and recommended either raising the required age or building a dormitory. Nothing. Nothing either out of the Joint Committee on the Organization of Congress in 1965.

Finally, in 1971, $50,000 was appropriated to enable the architect of the Capitol to develop studies and prepare preliminary plans and cost estimates to buy a site and construct a school/dormitory. In 1973 $1.45 million was appropriated to buy the site, and it was approved by the House Office Building Commission. Then the effort was deflected by a Senate bill to raise the age of pages to 18 to 21, making the dormitory superfluous. The bill failed to pass the House, but by that time the whole dormitory matter had sunken into limbo, where it is right now.

Yes, the pages have schooling; it's their only real ongoing program, and even that didn't exist before 1926. They were taught more or less continuously in the basement of the Capitol until 1945, when Sen. Harold Burton (R-Ohio) submitted this report to the Joint Committee on the Organization of Congress:

"There were desks, but water was dripping from the ceiling onto the desks and the plaster was falling down. A piece that had fallen had just missed a boy. There were no blackboards in the rooms, and there was no adequate lighting . . . they have no laboratory, no library, nor any modern school facilities at all."

The present school facilities are up under the eaves at the Library of Congress where six teachers, a principal who doubles as a counselor, and a secretary work. The school is part of the District school system, and staff members are school system employes. In 1976 student complaints initiated a report by a House Education subcommittee which called the "inadequacy" of this setup a "reflection on Congress." The report was never published, and no action was taken.

John C. Hoffman, the school principal, agrees it's mostly the fault of Congress. The appointment schedule keeps the student body changing all the time; he has only four hours a day starting at 6:15 a.m. for classes, sometimes less; his students complain to their sponsors if they get low grades. It seems to him that Congress doesn't pay much attention except to investigate and criticize. When he asks for more staff and better equipment, he says the lawmakers pretend he doesn't exist.

"It's kind of a two-faced approach," he says. "The politicians say they think these kids are important, but they act exactly the opposite. We have not been treated like an elite school here, not all. We could use more teachers and better equipment, but we don't get it. I've been advocating the formation of a committee that could be our guardian angel and advocate in Congress.

"This year's the first time we've had anything like that, and it hasn't met often. As far as discipline, we have no real control either. Are you going to tell a congressman or a senator what to do with his kid?"

The curriculum at the Capitol Page School does not acknowledge the exposure the students are getting to national politics. There are no special seminars on the events students watch every day from the Senate or House floor, only a guest lecturer once a month. The senior government course is taught by a social studies teacher with no special training. Last year the French and Spanish teacher was absent from Nov. 8 to April 17 without a replacement.

"Hopefully, if we get the extra teacher we requested, we can do some of the things we should be doing," Hoffman says. "But right now we're locked in. When a kid gets a bad grade, he goes to the politicians, and I get investigated. Well, at least they don't ask to have grades fixed and things."

More student complaints this year have resulted in yet another investigation, this time by the General Accounting Office. A preliminary draft of the study points out that although the secretary of the Senate and clerk of the House were, according to the Legislative Reorganization Act of 1946, supposed to "enter into an arrangement with the D.C. Board of Education on education for pages," no such arrangement exists. "Without an arrangement," the study says, "it is difficult for the Board of Education to know exactly what services Congress expects it to provide, under what circumstances, and for what reimbursement."

The GAO study says reports sent by the school to Congress "do not provide information showing what the school is doing to improve page academic performance and school operations," nor apparently whether an individual page needs special attention.

Last year, the GAO study says, 18 out of 107 students were performing below their required minimum grade averages. Such students can be expelled by Congress, but, Hoffman told the GAO, on the few occasions when a student is dismissed, Hoffman is not told the reason.

The GAO report, according to congressional sources, was considered by the staff of the doorkeeper's office and the Senate sergeant-at-arms, among others, and was felt to be something of a "whitewash." So now the doorkeeper and the sergeant at arms are preparing their own reports and Rep. Paul Simon (D-Ill.) has filed a bill to establish a congressional board with total control over all aspects of the school, including the appointment of teachers.

A preliminary draft of doorkeeper James T. Molloy's report goes to the heart of the matter: "If Congress is to continue to enjoy the services of young people serving as Capitol pages, it should also assume some responsibility for the welfare of those young people during their terms of service. Improvements in the system would also assuredly improve the quality of services to the members in that they would be served by a healthier, better educated, and morally sounder group of individuals.

"In essence, some changes should be made, or the entire system should be revised to utilize individuals who need not be provided an education. . . . Unfortunate experiences over the years point to a need for a local individual responsible for each page. A work supervisor should not be expected to cope with non-work-related difficulties such as legal problems and physical and mental or emotional crises."●

CENTENNIAL OF THE MISSISSIPPI RIVER COMMISSION

● Mr. JOHNSTON. Mr. President, it is a simple name, the Mississippi River Commission: seven men given charge of the Mississippi River 100 years ago. Their task is not so simple.

By 1879, the need for navigation improvement and flood control was a generally accepted fact. Disastrous floods were familiar experiences, and waterborne commerce had difficulty in navigating because of shifting channels, shoals, and snags.

It was also apparent that a Federal authority would have to govern all work done on this major interstate waterway.

On June 28, 1879, Congress authorized the formation of a seven-member commission with authority to direct all works along the Mississippi, while the regular Army Engineer organizations were to be restricted to work on the tributaries.

As created by the act, the Mississippi River Commission (MRC) was to consist of three officers of the Corps of Engineers, one of whom would be president; one member from the U.S. Coast and Geodetic Survey; and three civilians, two of whom would be civil engineers. All appointments would be by the President of the United States, after confirmation by the Senate.

Members of the first MRC were Col. Quincy Gilmore, President, Col. Cyrus Comstock, and Col. Charles Suter, all from the Corps of Engineers; Henry Mitchell of the Coast and Geodetic Survey; civil engineers James Eads of Lawrenceburgh, Ind., and B. M. Harrod of New Orleans; and Benjamin Harrison of North Bend, Ohio, who 10 years later would be President of the United States. The Secretary of the original MRC was Capt. Smith S. Leach.

This seven-man executive body, reporting directly to the Secretary of War, had a manifold mission. Among its tasks were:

To direct and complete surveys then underway on the river between Head of Passes near its mouth in Louisiana to its headwaters in Minnesota.

To make additional surveys, examinations, and investigations—topographical, hydrographical, and hydrometrical—of the river and its tributaries.

To correct, permanently locate and deepen the channel, and protect the banks.

To improve and give safety and ease to navigation.

To prevent destructive floods.

To promote and facilitate commerce, trade, and the postal service.

To submit completed plans, together with cost estimates, to the Secretary of War for transmittal to Congress.

To report in full upon the practicability, feasibility, and probable cost of the various plans deemed necessary.

To enable the MRC to complete these duties, the Secretary of War was authorized to detail to it necessary officers, men, vessels, and instruments from both the Corps of Engineers and the Coast and Geodetic Survey.

The first meeting of the MRC was held in Washington on August 19, 1879, and headquarters was established in St. Louis. For administrative purposes, the MRC created the First and Second Districts at Memphis, Tenn.; the Third District at Vicksburg, Miss.; the Fourth District at New Orleans, La.; and the Fifth (Dredging) District at Memphis, Tenn. The headquarters remained in St. Louis until December 1929, when it moved to its current location in Vicksburg.

Congress several times modified the Act of 1879 which had created the MRC, in some cases expanding its jurisdiction and revamping the basic concept of the MRC by the Flood Control Act of 1928.

Despite its changing mission over the years, the MRC today still retains the original mixture of Army Engineers, a Coast and Geodetic Survey—now the Ocean Survey—representative and civilian members prescribed by the founding Act of 1879.

Today the Commission of Maj. Gen. Robert C. Marshall, President, Maj. Gen. E. R. Heiberg III, and Brig. Gen. William E. Read, from the Army Corps of Engineers; Rear Adm. Allen L. Powell of the National Ocean Survey; Mr. Roy T. Sessums of Metarie, La., and W. R. Hall of Memphis, Tenn. There is one civilian vacancy.

The general duties of the MRC include the recommendation of policy and work programs, the study of and reporting upon the necessity for modifications or additions to the flood control and navigation project, recommendations upon any matters authorized by law, making inspection trips, and holding public hearings. The work of the MRC is directed by its President and carried out by the three Army Engineer districts at New Orleans, Vicksburg, and Memphis.

In the past 50 years, the concepts and protection works of the Mississippi River Commission have been tested six times by major floods, and they have withstood the challenge. Not one Federal levee built to grade and section has failed. Flood-ways have diverted excess flows, and the channel improvement works have functioned.

Indeed, three times in this decade, waters from across our Nation have pushed the Mississippi River into major floods, but areas that would have been inundated a half century ago were protected. In the largest of these events, the 1973 flood, damages prevented by Corps of Engineer projects are some $19.5 billion, at 1979 price levels. In the smaller—but still major—flood of this spring, damages prevented were estimated at $13 billion. To date, American taxpayers have invested just over $2½ billion on this project, so the return to the Nation has been substantial. However, there was severe damage in incompletely protected backwater areas, primarily to agricultural lands.

The floods emphasize the need to complete the Mississippi River and tributaries project, as quickly as possible, so that our Nation can profit from full utilization of the agricultural and industrial potential of the area, and the residents of the Lower Mississippi River can work and play, safe from devastating floods.

In summary, the members of the Mississippi River Commission and their staff have well served this Nation for 100 years, and the Nation has gained from the expertise, dedication, and hard work of these distinguished Americans. As the organization begins its second century of service, I believe it is appropriate to congratulate them on their birthday and to promise to continue our support of the commission's highly beneficial work.●

THE LESSONS LEARNED FROM THE CALIFORNIA WATER CRISIS AND HOW THEY APPLY TO THE ENERGY SHORTAGE

● Mr. DURENBERGER. Mr. President, all too often, the Nation is presented with an unfavorable view of California. Our mass media seem to take delight in concentrating on a few regretful events as if they somehow typified California or all Californians.

However, I recently heard of a different California than the one I had grown accustomed to hearing about in our newspapers and on television. This California clearly demonstrates at least two points very vividly. First, it shows how Americans can respond to a crisis when they understand and believe it. Second, it clearly demonstrates one of the major problems with our current national energy plan.

Mr. President, I include in the Record a copy of a staff report titled: "Citizen/Government Response to a Crisis—The California Drought of 1977."

The report follows:

Citizen/Government Response to a Crisis—The California Drought of 1977

In 1977, the drought in California reached the crisis stage. Literally no rain had fallen in the State for two years, and there was no projected end to the drought. In fact, in 1977, the reservoirs received less than 5 percent of their normal rainfall. The great water shortage impacted both the supply of electricity and the availability of water for basic needs including irrigation, drink and sanitation.

The State, County and local municipalities worked closely with the citizens of California and successfully passed through a crisis greater in magnitude than any of the energy crises we have yet experienced.

In trying to formulate a National Energy Plan that will see the U.S. through its current energy shortage and transition into a "new energy age", it might be useful to review the California situation and how both the government and citizens worked together.

The first and possibly most significant factor was that nearly all Californians believed there was a water shortage. Pictures and/or visits to their local reservoir were vivid reminders that no rain had fallen. The only major area of dispute was how much longer the drought would last. But essentially, there was no credibility problem.

Virtually all government officials and utility spokesmen were consistent in their description of the facts. They did not attempt to convince the people that the drought would continue for an extended additional period of time, or that it would soon end.

They dealt with the existing shortage, the known information, and the need to take actions to deal with the current problem in case the situation did not improve.

The second factor was that the State government worked closely with the local governments and relied primarily on the latter to cope with the shortage, except where water was needed and could be shipped across counties.

The counties and cities established daily quotas for use by individuals in their homes, and for various businesses. Each county and city allocation was different depending on which reservoir(s) they were tied into, and the severity of the shortage. There were significant differences between Northern and Southern Californians. For example, in Marin County, each person was "allocated" 46 gallons of water per day vs. in Los Angeles County, the allocation was about 100 gallons per day. (A bath normally uses 30 gallons.) In Marin County in 1976, certain uses of water were banned, such as watering your lawns by sprinkler/hose, and washing your car unless you used "re-cycled" water from your bath or dish sink. However, in 1977, the County removed the restrictions but instead relied on economic incentives alone. The citizens were told how much they could use and it was up to them to decide how they would use their individual allocation.

Daily averages were monitored, and the monthly water bill informed each consumer of their consumption. In fact, the people were taught how to and actually monitored their own water meters. Various penalties were established for violations based on the degree and frequency of violation(s). These penalties ranged from a warning to paying a fine, to ultimately having your water supply turned off. No exemptions were allowed, and businesses that relied on water (except car washes, unless they used re-cycled water) were allowed extra allocations, but they had to pay a premium rate on top of their normal water fee.

The third factor was information. All consumers were kept fully informed on the daily status of the shortage—whether they were meeting their daily quota. In addition, they were literally bombarded with information on a multitude of ways by which they could voluntarily reduce consumption.

First, they were informed of how much water was consumed in various activities ranging from flushing the toilet to taking a bath/or shower. to brushing their teeth or washing their dishes by hand vs. a dishwasher. Then they were told and shown through the mass media, including newspapers, radio and television how they could conserve on these uses.

Second, various cities and counties gave away water conservation devices, such as new shower heads and even bricks to put in their toilets. And information, lots of information.

Thus, the citizens were informed of what they had to do, how they could do it, and what would happen if they didn't do it! And they believed, and got through a severe situation—in fact, most people used less than their allocations. They found new ways to keep their lawns and flowers alive. They set up contests to see who could conserve more. They were creative within the limits. They adapted and cooperated.

How does this compare with the energy situation?

In the first and probably most significant instance, there is little acceptance of the notion that there is a real energy crisis, let alone even an energy shortage. Most Americans are confused, and if there is any consensus, it centers on at least two central themes: "it is a hoax perpetrated by the oil companies to drive the price up; or, the Federal Government, including the President, the Department of Energy, and the Congress are inept, at best."

Credibility decreases in inverse relation to the increase in prices.

Each "target" of the consumer's wrath contradicts both itself and the other targets as well, time and again. There is no leadership, there is no consensus, and there is no equity, but there is dismay.

Government policies are inconsistent. There are few clear goals for people to try to attain, except in vague, nebulous concepts such as drive 15 miles and/or one day less a week, or don't exceed 55 mph. Most significantly, there are no consistent sets of incentives or disincentives so that, individuals can respond voluntarily, but face penalties if they don't meet specified objectives.

Furthermore, information, such as it is, has contributed to the problem, not helped resolve it. In fact, at least one point is generally agreed upon. Most Americans do not believe that the energy crisis or shortage impacts them equitably, and worst of all, that most of the proposed solutions put forth to date have been inequitable.

In conclusion, the lessons to be learned from the California water crisis include the following points. First, a majority of Americans must believe there is a real problem. Credibility is the key. Credible information must be constant, pervasive and comprehensive.

Second, the authority to deal with the problem must, in the first instance, be delegated out of Washington, D.C. The States, counties and local governments know the needs of their citizens and which sacrifices can be made far better than does the Federal Government. In the second instance, if and only if, they are unable to meet their goals, then the Federal Government should preempt.

Third, clear goals and objectives, which are equitable and attainable, must be established and communicated. People must be told what must be done, how it can be achieved voluntarily, but also how it will be enforced if they fall short. The point here lies in a combination of voluntary and mandatory measures coupled with appropriate incentives and disincentives.

Mr. President, to summarize the message, it is clear to me that moral equivalents of war are meaningless. In the absence of an ability to observe the preceeding three lessons, we must either take bold, courageous and unpopular mandatory measures, or be willing to face the threat of a complete disruption of the American economy and way of life. But most of all, we must never lose faith in our Nation and its citizens. We, the people, have demonstrated time and again that we can do almost anything we want to when we believe in what we are doing.●

WARNING LABELS ON ALCOHOLIC BEVERAGES

● Mr. RIEGLE. Mr. President, on May 7 of this year, the Senate approved S. 440, my bill to revise and extend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. The Senate also approved an amendment to that bill, offered by the Senator from South Carolina, Mr. THURMOND, which would require health warning labels on all alcoholic beverages containing more than 24 percent alcohol by volume.

When the Nation is losing $43 billion a year because of alcohol abuse, when at least 1,500 babies annually may suffer birth defects because of their mothers' drinking, when alcohol-related deaths may run as high as 205,000 per year, when liver cirrhosis ranks as the sixth most common cause of death in the United States—with up to 95 percent of the bases estimated to be alcohol related—and when alcohol is being recognized as a major factor in cancer, heart disease, suicide, industrial accidents, crime, and violence, consideration of warning labels and other means of alerting consumers to the risks of alcohol abuse are long overdue.

Mr. President, the Senator from South Carolina (Mr. THURMOND), first introduced such an amendment in 1972, but has failed to have it considered on the floor until this year. In 1978, he persuaded Senator HATHAWAY, then the chairman of the Subcommittee on Alcoholism and Drug Abuse which I now chair, to hold hearings on his bill. Those hearings were held in Washington on January 31, 1978, concentrating on the specific question of whether labels should be placed on alcoholic beverages to warn women of the danger to their unborn children of drinking during pregnancy.

Evidence of the potential damage of alcohol consumption to the fetus is overwhelming. Excessive alcohol consumption during pregnancy can cause birth defects including congenital abnormalities, growth retardation, and functional abnormalities. These tragic consequences could be avoided if expectant mothers were aware of the risks they may run by drinking during their pregnancy.

Dr. Gerald Klerman, Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, Dr. Ernest Noble, then Director of the National Institute on Alcohol Abuse and Alcoholism, and Dr. Donald Kennedy, Commissioner of the Food and Drug Administration, were in agreement that the evidence of danger to the fetus from alcohol consumption was sufficiently strong to warrant a warning to pregnant women. Indeed, 6 months prior to the hearing, on June 1, 1977, Dr. Noble had issued a warning to pregnant women that a risk of damage to the fetus was established with ingestion above 3 ounces of absolute alcohol or 6 drinks a day. During the same week, the National Council on Alcoholism issued a warning to pregnant women cautioning them to abstain from alcoholic beverages completely during pregnancy.

Dr. Kennedy, pointing out that manufacturers understandably dislike branding their products as safety or health hazards, stated that he could see "no legitimate argument against providing such warning labeling where scientific basis for the labeled warning is sound, particularly when the given products have otherwise been exempted from more direct health regulation, as tobacco and alcohol have been." He added that "even if only a small number of people change their behavior . . . they have a right to know what the Government had legitimately concluded about scientific evidence." He added, "People who decide what behavior to adopt in face of the warning label may choose to take the risks, but at least they have done so on an informed basis."

Mr. President, the Bureau of Alcohol, Tobacco, and Firearms considered requiring a warning label on alcoholic beverages to warn of the fetal alcohol syndrome, but has decided to postpone such action pending a public awareness campaign conducted in collaboration with the beverage alcohol industry. I commend them for this effort and will be watching closely the results of this campaign. This effort should not preclude, however, consideration of other prevention efforts, including warning labels.

In considering warning labels, however, I think it is necessary to consider the many other health hazards associated with alcohol consumption. I think we also have the responsibility to question whether any warning label should be required on wine and beer as well as distilled spirits. Would a warning restricted to the fetal alcohol syndrome imply that this was the only danger of excessive alcohol consumption? Would a warning required only on distilled spirits mislead the public into believing that excessive consumption of beer and wine holds no danger?

In order to supplement the testimony presented at the legislative hearings on January 31, 1978, the Subcommittee on Alcoholism and Drug Abuse is putting together a compilation of views and information concerning these issues. Responses are being solicted from a wide variety of interested parties, including the beverage alcohol industry, to the following questions:

First. Would warning labels be effective in raising public awareness of the health hazards involved in the use of alcohol?

Second. Should such warning labels, if any, be of a general nature, or should they address specific dangers such as the fetal alcohol syndrome, driving impairment, et cetera?

Third. Should Congress consider requiring a rotating system of labeling? (For example, Congress could require that 10 percent of the labels contain a warning about the fetal alcohol syndrome, 10 percent on driving impairment, et cetera.)

Fourth. Should such warning labels be required on beer and wine as well as on distilled spirits?

Fifth. Should beer and wine containers be required to indicate the percentage of alcohol per volume?

Sixth. Should warning labels also be required on advertisements of alcoholic beverages?

Mr. President, I am hereby inviting all interested parties to submit comments on these important issues prior to June 22, 1979, for consideration by the Subcommittee on Alcoholism and Drug Abuse.●

THE ELECTED ASSEMBLY OF EUROPE

● Mr. MATHIAS. Mr. President, I would like to congratulate the members of the European Community for taking an unprecedented step toward fulfilling a dream of the founders of the post-war Western Europe—a united European Parliament—by holding the first direct elections for the European Assembly. Over the past 3 days, 180 million eligible European voters have had the opportunity to elect directly 410 representatives to the European Parliamentary Assembly. Advocates of a united European Parliament believe that direct election of parliamentary representatives—instead of their nomination by the national parliaments of the member states—will pave the way for an active legislature instead of the "debating club" that exists at present. Even though the voter turn out in this election was lower than expected, direct elections symbolize the European Community's desire to further democratize its electoral process.

Since the signing of the Benelux agreement providing for free trade agreement in 1944, a customs union among Belgium, Luxembourg, and the Netherlands, several measures have been taken to integrate the nations of Europe. The Treaty of Paris, which established the European Coal and Steel Community, was signed in 1951. Three years later the Treaty of Rome formally institutionalized the European Economic Community and in 1976, the European Council signed a final agreement calling for direct elections of a European Parliamentary Assembly.

The Parliamentary Assembly will largely be responsible for drawing up the European Community's budget. In this capacity, the Assembly will have direct influence over issues of prime importance to the European Community and the opportunity to develop common policies, thereby reducing regional discrepancies. It is also interesting to note that the European Parliament is the only international body able to enact legislation directly binding on the countries that belong to it.

This movement toward greater integration in Europe may bring about a fundamental change in the traditional outlook the United States has had toward the nations of Europe in the past. This move toward universal sufferage marks a turning point in the creation of a more united Europe—a federation of nation-states. The ramifications of this trend are profound. Economic, agricultural and foreign policies of member nations will have to be revised to accommodate a unified Europe. The creations of the European Monetary Fund, designed to reduce the fluctuation of the currency value of the European Community vis-a-vis the United States, is an example of this trend. Such a trend merits the warm support and encouragement of the United States and sets forth an important example of regional cooperation which should continue to be followed.●

DIRECT ELECTION

● Mr. **PRYOR.** Mr. President, frequently during the course of recent hearings on Senate Joint Resolution 28 opponents of the measure maintained that the electoral college works to the advantage of small States. It is urged that the constant two electoral votes granted to each State regardless of size provide small electoral vote States with more influence than their population would otherwise warrant. As far as I can determine, this reasoning is flawed in several important respects.

First, students of the political process have long suspected that voting power is not directly related to electoral strength and that casting electoral votes in State blocs might well provide citizens of large States with a disproportional opportunity to affect elections. I would like to call to the attention of my colleagues the following chart, which displays the results of a computer analysis by mathematician John Banzhaf III on the question of small versus large State influence:

PRESENT ELECTORAL COLLEGE

State name [1]	Population, 1960 census	Electoral vote 1964	Relative voting power [2]	Percent excess voting power [3]	Percent deviation from average voting power [4]
Alabama	3, 266, 740	10	1. 632	63. 2	−3. 0
Alaska	226, 167	3	1. 838	83. 8	9. 2
Arizona	1, 302, 161	5	1. 281	28. 1	−23. 3
Arkansas	1, 786, 272	6	1. 315	31. 5	−21. 9
California	15, 717, 204	40	3. 162	216. 2	87. 9
Colorado	1, 753, 947	6	1. 327	32. 7	−21. 1
Connecticut	2, 535, 234	8	1. 477	47. 7	−12. 2
Delaware	446, 292	3	1. 308	30. 8	−22. 3
District of Columbia	763, 956	3	1. 000	. 0	−40. 6
Florida	4, 951, 560	14	1. 870	87. 0	11. 1
Georgia	3, 943, 116	12	1. 789	78. 9	6. 3
Hawaii	632, 772	4	1. 468	46. 8	−12. 8
Idaho	667, 191	4	1. 429	42. 9	−15. 1
Illinois	10, 081, 158	26	2. 491	149. 1	48. 0
Indiana	4, 662, 498	13	1. 786	78. 6	6. 1
Iowa	2, 757, 537	9	1. 596	59. 6	−5. 2
Kansas	2, 178, 611	7	1. 392	39. 2	−17. 3
Kentucky	3, 038, 156	9	1. 521	52. 1	−9. 6
Louisiana	3, 257, 022	10	1. 635	63. 5	−2. 9
Maine	969, 265	4	1. 186	18. 6	−29. 5
Maryland	3, 100, 689	10	1. 675	67. 5	−. 4
Massachusetts	5, 148, 578	14	1. 834	83. 4	9. 0
Michigan	7, 823, 194	21	2. 262	126. 2	34. 4
Minnesota	3, 413, 864	10	1. 597	59. 7	−5. 1
Mississippi	2, 178, 141	7	1. 392	39. 2	−17. 3
Missouri	4, 319, 813	12	1. 710	71. 0	1. 6
Montana	674, 767	4	1. 421	42. 1	−15. 5
Nebraska	1, 411, 330	5	1. 231	23. 1	−26. 9
Nevada	285, 278	3	1. 636	63. 6	−2. 8
New Hampshire	606, 921	4	1. 499	49. 9	−10. 9
New Jersey	6, 066, 782	17	2. 063	106. 3	22. 6
New Mexico	951, 023	4	1. 197	19. 7	−28. 9
New York	16, 782, 304	43	3. 312	231. 2	96. 8
North Carolina	4, 556, 155	13	1. 807	80. 7	7. 4
North Dakota	632, 446	4	1. 468	46. 8	−12. 8
Ohio	9, 706, 397	26	2. 539	153. 9	50. 9
Oklahoma	2, 328, 284	8	1. 541	54. 1	−8. 4
Oregon	1, 768, 687	6	1. 321	32. 1	−21. 5
Pennsylvania	11, 319, 366	29	2. 638	163. 8	56. 8
Rhode Island	859, 488	4	1. 259	25. 9	−25. 2
South Carolina	2, 382, 594	8	1. 524	52. 4	−9. 5
South Dakota	680, 514	4	1. 415	41. 5	−15. 9
Tennessee	3, 567, 089	11	1. 721	72. 1	2. 3
Texas	9, 579, 677	25	2. 452	145. 2	45. 7
Utah	890, 627	4	1. 237	23. 7	−26. 5
Vermont	389, 881	3	1. 400	40. 0	−16. 8
Virginia	3, 966, 949	12	1. 784	78. 4	6. 0
Washington	2, 853, 214	9	1. 569	56. 9	−6. 8
West Virginia	1, 860, 421	7	1. 506	50. 6	−10. 5
Wisconsin	3, 951, 777	12	1. 788	78. 8	6. [illegible]
Wyoming	330, 066	3	1. 521	52. 1	−9. 6

[1] Includes the District of Columbia.

[2] Ratio of voting power of citizens of State compared with voters of the most deprived State.

[3] Percent by which voting power exceeds that of the most deprived voters (deviations).

[4] Percent by which voting power deviated from the average of the figures in col. 4.

Source: Study prepared by John F. Banzhaf III, 100 Park Ave., N.Y.C., based upon work reported in: 19 Rutgers Law Review 317–43 (1965) and 75 Yale Law Journal 1303–38 (1966). Computer calculations made under direction of author by Prof. Martin A. Jacobs, Director of Mathematics, Fairleigh Dickinson University, Teaneck, N.J., on University's G.E.–235 Time-shared computer system.

Note: Minus signs in tables I–III indicate less than average voting power.

Mr. President, this study clearly supports the proposition that residents of large States possess magnified power in Presidential elections. For example, Banzhaf calculated that voters in the largest—in 1960—State, New York, had a power index 3.312 times that of voters in the District of Columbia.

Second, convincing evidence exists which details the detrimental effect of the electoral college on small-State voters. The following compilation of campaign stops of the four major candidates in the 1976 Presidential election unmistakably demonstrates that voters in small States, including my State of Arkansas, were largely ignored by Presidential hopefuls, while citizens of large States were visited frequently:

CANDIDATE STOPS ALONG CAMPAIGN TRAIL—1976

State	Electoral votes	President Ford, Sept. 14 to Oct. 31	Senator Dole, Aug. 20 to Nov. 2	Senator Mondale, Aug. 15 to Nov. 2	Governor Carter, Sept. 1 to Nov. 2	Total
Alaska	3	0	0	0	0	0
Wyoming	3	0	0	0	0	0
Vermont	3	0	1	0	0	1
Nevada	3	0	0	2	0	2
Delaware	3	0	1	0	0	1
North Dakota	3	0	1	0	1	2
South Dakota	4	0	1	0	1	2
Montana	4	0	1	1	1	3
Idaho	4	0	0	0	0	0
New Hampshire	4	0	1	1	0	2
Hawaii	4	0	0	0	0	0
Rhode Island	4	0	2	0	0	2
Maine	4	0	2	1	1	4
New Mexico	4	0	2	1	1	4
Utah	4	0	1	0	1	2
Nebraska	5	0	4	1	0	5
West Virginia	6	0	1	0	0	1
Arizona	6	0	0	0	1	1
Arkansas	6	0	1	0	0	1
Oregon	6	1	2	2	1	6
Colorado	7	0	2	2	1	5
Mississippi	7	4	1	0	1	6
Kansas	7	0	8	1	0	9
Oklahoma	8	1	2	0	2	5
South Carolina	8	1	4	0	2	7
Iowa	8	3	5	4	0	12
Connecticut	8	0	2	2	2	6
Kentucky	9	0	1	0	0	1
Washington	9	1	2	2	0	5
Alabama	9	1	1	0	1	3
Louisiana	10	5	6	0	1	12
Minnesota	10	0	1	4	2	7
Maryland	10	0	2	1	1	4
Tennessee	10	0	2	0	1	3
Wisconsin	11	1	3	8	3	15
Georgia	12	0	2	1	11	14
Virginia	12	2	4	1	3	10
Missouri	12	2	10	4	3	22
North Carolina	13	1	4	1	1	7
Indiana	13	1	3	5	4	13
Massachusetts	14	0	1	0	1	2
Florida	17	2	7	3	4	16
New Jersey	17	3	3	4	1	11
Michigan	21	1	3	5	4	13
Ohio	25	2	11	16	9	38
Illinois	26	11	9	10	7	37
Texas	26	2	8	2	7	19
Pennsylvania	27	4	7	8	8	27
New York	41	11	8	13	10	41
California	45	11	11	10	11	43
Total	535	71	153	118	116	452

Furthermore, the pecularities of the electoral college affect the allocation of candidates' resources making, in the view of political scientist Steven Brams, "the largest States the most attractive campaign targets—even out of proportion to their size—which would not be the case if the electoral college were abolished and Presidents were elected by direct popular vote." Mr. President, I include charts provided by the Carter and Ford campaign committees setting forth media expenditures in the 1976 contest broken down by States in the RECORD at this time:

MEDIA EXPENDITURES FOR THE CARTER CAMPAIGN: TV, RADIO

States by population	Electoral votes	Expenditures
Alaska	3	
Wyoming	3	
Vermont	3	$6,150
Nevada	3	
Delaware	3	
North Dakota	3	
South Dakota	4	5,321
Montana	4	5,453
Idaho	4	
New Hampshire	4	
District of Columbia	3	84,408
Hawaii	4	9,928
Rhode Island	4	24,769
Maine	4	15,804
New Mexico	4	18,466
Utah	4	
Nebraska	5	
West Virginia	6	24,242
Arizona	6	2,666
Arkansas	6	14,180
Oregon	6	41,480
Colorado	7	30,525
Mississippi	7	32,545
Kansas	7	9,775
Oklahoma	8	37,123
South Carolina	8	64,762
Iowa	8	46,578
Connecticut	8	40,554
Kentucky	9	49,182
Washington	9	28,249
Alabama	9	87,792
Louisiana	10	88,787
Minnesota	10	77,546
Maryland	10	77,546
Tennessee	10	118,610
Wisconsin	11	41,756
Georgia	12	4,759
Virginia	12	96,337
Missouri	12	114,055
North Carolina	13	108,310
Indiana	13	104,651
Massachusetts	14	86,350
Florida	17	371,018
New Jersey	17	3[illegible], 401
Michigan	21	59,288
Ohio	25	430,033
Illinois	26	320,884
Texas	27	459,333
Pennsylvania	27	461,312
New York	41	756,541
California	45	780,908
Total		3,333,032

1976 STATE-BY-STATE SPENDING IN THE GENERAL ELECTION BY THE PRESIDENT FORD COMMITTEE

	Electoral vote	Local spot television	Local print advertising	Survey research	Organizational support
Alabama	9	$42,500	$11,000	$6,200	$16,300
Alaska	3	7,200			16,100
Arizona	6			500	12,100
Arkansas	6			300	3,700
California	45	619,000	89,000	54,470	312,000
Colorado	7			6,990	22,000
Connecticut	8	55,000	400	11,100	31,700
Delaware	3		1,100		7,900
Florida	17	147,000	27,000	24,934	64,800
Georgia	12				14,700
Hawaii	4	9,000			19,400
Idaho	4				7,700
Illinois	26	294,000	75,000	25,520	165,400
Indiana	13	67,000	18,000	4,286	42,900
Iowa	8	55,000	21,000	14,840	25,800
Kansas	7				1,900
Kentucky	9	26,000		6,754	30,800
Louisiana	10	61,000	10,000	6,754	8,200
Maine	4	14,000			10,400
Maryland	10	67,000	6,000	10,559	73,500
Massachusetts	14				15,200
Michigan	21	178,000	58,000	2,014	44,900
Minnesota	10				10,800
Mississippi	7	22,000	8,000	11,140	16,300
Missouri	12	143,000	31,000	8,710	49,000
Montana	4	7,000	3,000		7,300
Nebraska	5				$8,700
Nevada	3	$15,000			11,200
New Hampshire	4				9,800
New Jersey	17		$73,000	$26,818	9,100
New Mexico	4	11,000		3,250	15,900
New York	41	664,000	134,000	34,979	246,200
North Carolina	13	51,000	37,000	10,979	73,900
North Dakota	3	10,000			9,000
Ohio	25	278,000	100,000	22,859	136,100
Oklahoma	8	39,000	14,000	3,800	14,500
Oregon	6	61,000	15,000	3,800	24,100
Pennsylvania	27	331,000	124,000	32,556	155,900
Rhode Island	4	25,000		2,360	7,500
South Carolina	8	44,000	16,000	3,950	15,800
South Dakota	4	7,000			11,800
Tennessee	10	54,000		13,887	23,200
Texas	26	217,000	36,000	36,000	170,900
Utah	4				5,900
Vermont	3			1,127	11,800
Virginia	12	67,000	16,000	12,344	81,500
Washington	9	83,000		8,127	28,200
West Virginia	6		100		5,300
Wisconsin	11	67,000	29,000	17,803	27,100
Wyoming	3				5,100
District of Columbia	3	85,000	600		1,800

Mr. President, I think there is little doubt that under direct election candidates will continue to spend large amounts of time and money in large States where, as the senior Senator from Arizona has said, "the ducks are," but no longer will they be able to write off entire States as is the common practice now. As Doug Bailey, campaign consultant and media manager for the Ford-Dole campaign, explained to members of the Judiciary Subcommittee on the Constitution earlier this year:

> The electoral college system gives absolutely no incentive to swell your winning margin in a State where you think you are going to win, and it gives you no incentive whatsoever to try to cut your losses, or do anything, in a State where you think you are going to lose * * *
>
> * * * * *
>
> As a result, I think the record will show that we spent not one dime more in the State of Wyoming than we spent in the District of Columbia, and both got *nothing* in terms of media money, in terms of organizational effort, and I think it is accurate to say in terms of candidate campaigning, as well. (Emphasis added) ●

PAT GRAHAM AND NIE

● Mr. JAVITS. Mr. President, several weeks ago I learned to my great regret that Patricia Albjerg Graham, the distinguished educator who has served for the last 2 years as Director of the National Institute of Education, will be resigning from that position on June 15 to return to Harvard.

I think it a sign of her outstanding scholarship that she has become the first professor to fill the Charles Warren Chair in the history of education at Harvard. Dr. Graham's credentials as a teacher and scholar on the history of education have served NIE well, and she has proven to be an exceptionally talented and capable administrator of one of the most critical functions of the Federal effort in education—research.

Mr. President, all of us know that research in any area requires sustained support and patience. This is particularly true of research in education which, unlike research in the physical and biological sciences, involves examining the complex human interaction of teaching and learning.

MANAGEMENT IMPROVEMENT

Dr. Graham's first act at NIE was to hire two extremely capable deputies—Michael Timpane and Gladys Chang Keith Hardy. I am pleased that both deputies will remain at the Institute and continue to manage and further develop the programs and policies they had such a large hand in shaping.

Here is what the three of them, and NIE, have accomplished:

First. In the last year, NIE was successfully reorganized, reducing the number of major administrative units from 8 to 4, and the number of program divisions from 29 to 16. Of the 16 top leadership positions within NIE, half were recruited from outside and half were promoted within the agency. This combination helped provide vital new ideas and directions while retaining the experience of those employees who have contributed to the development of the Institute.

Second. NIE's affirmative action record is laudable: 7 of the top 16 positions are filled by women, while minority representation has grown from zero percent in 1977 to 31 percent today.

Third. A concentrated effort has been made to increase the number of teachers and practitioners involved in the peer review of research proposals. For example, 4 classroom teachers were on the 12-member site review team for the Center for the Study of Reading. Quite clearly, the views of these teachers will help insure that research will be more likely to help improve practice.

Fourth. As many of my colleagues are

aware, NIE has, in the past, had a difficult relationship with the regional educational laboratories and research centers which NIE inherited from the Office of Education in 1972. This year NIE announced long-term institutional relationships with 15 of the 17 labs and centers, along with specific criteria and procedures for subsequent reviews of these institutions.

Fifth. Funding for basic research now, for the first time, accounts for about one-fifth of NIE's program budget—an essential change if NIE is to attract the finest minds to investigate fundamental issues in education.

NEW RESULTS

Management improvements are not the only good news about the NIE. The agency's important research work is now producing significant results. For example:

Project Freestyle, a 13-part television series modeled after "Sesame Street" and the "Electric Company," designed to show 9- to 12-year-olds the world of work, reached 1,490,000 households over 229 PBS stations last fall. Special materials were prepared so that teachers could use the series in classrooms and 75 percent of the teachers surveyed recommend the program "without reservation," many of them wishing for additional episodes;

Last September, NIE completed the most comprehensive evaluation ever of title I of the Elementary and Secondary Education Act—an essential guide to the Labor and Human Resources Committee during its consideration of the reauthorization of title I in the last Congress;

Instructional materials developed with NIE support are being used by over 5.3 million students in over 18,000 schools;

An estimated 2 million people view college-level courses broadcast under the auspices of the University of Mid-America, a media experiment involving 11 universities in 7 States;

A landmark NIE study of violence and vandalism in schools was completed last year and now stands as the basic reference for assessing the severity of this problem;

A successful model work-study program for high school dropouts was developed by NIE in Philadelphia and the Department of Labor has adopted the model in four cities under the Youth Employment Demonstration and Training Act; and

NIE's reading specialists helped the Internal Revenue Service simplify this year's instructions for form 1040—NIE estimates that 13 million adults had difficulty with the very technical instructions included in the 1978 IRS package.

Mr. President, I would continue this litany by citing special analyses of school finance issues, examinations of the effect of collective bargaining on schools, evaluations of the quality of tests available for non-English speaking children, special teachers guides in areas such as reading instruction as well as the cognitive development of children, and a joint project with the National Science Foundation examining the cognitive processes involved in mathematics learning.

But I believe the point is clear: NIE in the last several years has demonstrated not only its utility to teachers, administrators, and children, but also a productive record that justifies our confidence in its work. And that is why the conferees on the 1978 education amendments of which I was one, commented upon the "unique contributions" the agency is able to make to both practitioners and policymakers.

LITERACY AND EFFECTIVE SCHOOLS

On the firm foundation I have just described, the agency is now mounting two important new thrusts in its research program: An examination of literacy requirements and their implications for education; and analysis of the characteristics of effective schools.

With respect to literacy, the word is used with the broad connotation of mastery of the fundamental skills of reading, writing, and mathematics which are essential for functioning in our complex society. Too many adults in America are functionally illiterate, and this problem is particularly severe among poor and minority populations. Thus, the Institute's primary goal of increasing educational equity makes it essential to address the question of how to raise literacy levels.

Major new work by NIE in this area will result from grants competitions on the topics of teaching and learning. The agency will continue to concentrate its efforts on the middle years, grades 4 through 8, where the current alarming decline in basic skills achievement first begins to appear.

In addressing the question on effective schools, NIE's 1980 programs will examine topics such as teaching techniques, school management, uses of tests, bilingual programs, desegregation, and the educational influences of families and communities. In short, NIE will be examining local school practice and the community context within which education occurs in order to identify those characteristics common to good schools.

After a somewhat tortuous start, NIE's recent record demonstrates the foresight and efficiency of establishing a national program of education research support in the Education Amendments of 1972.

In my view, Patricia Graham deserves a great deal of credit for the Agency's recent progress, and although she is moving on to a challenging new assignment, in which we wish her well, I know she will continue to keep a weather eye out for NIE's continued advancement and improvement.●

SUPPORT FOR FEDERAL HOUSING PROGRAMS

● Mr. RIEGLE. Mr. President, Edward Brooke who was for several years the distinguished ranking minority member of the Senate Banking Committee recently sent Senate and House conferees on the fiscal 1980 first budget resolution a letter urging the Congress to strongly support Federal housing programs.

That letter had over 400 signers from 48 States.

The comments made in that letter are still pertinent because the Senate has yet to consider the fiscal year 1980 authorizations and appropriations for housing. Therefore, I would like to share this letter with my colleagues, and I ask that the letter be printed in the Record.

The letter follows:

National Low Income
Housing Coalition,
Washington, D.C. May 11, 1979.

Senator Edmund S. Muskie,
Chairman, Senate Budget Committee,
Washington, D.C.

Dear Senator Muskie: The National Low Income Housing Coalition and the more than 300 undersigned organizations strongly support inclusion in the First Concurrent Budget Resolution of at least $28.7 billion for assisted housing under Function 600. We also urge the inclusion of the $0.5 billion provided under Function 370 for the new low income Home Ownership Assistance Program of the Farmers Home Administration.

These budget authority levels fall far short of the amount required either to meet existing need or to maintain the current level of federal commitment to dealing with the critical housing problems faced by low income people. The Congressional Budget Office estimates that they will suffice to fund fewer than 300,000 units of public housing or Section 8, and about 7,500 miles for low income purchases in rural areas. Moreover, there will be little impact on outlays in fiscal 1980, and the maximum outlay impact in any single year, if the House amount is approved by the conferees, will be $1.2 billion—less than 0.3% of the entire budget resolution.

This year makes the first time since the lifting of the housing moratorium in 1975 that an Administration has failed to request funds for an additional 400,000 units of assisted housing through HUD's lower income programs. The 300,000 units provided for in the House Budget Resolution is a substantial cut below this year, when Congress provided for 326,000 units. It is a 42% cut from the 517,000 unit level actually achieved in 1976.

The cut in housing assistance for low income people comes at a time when they, more than others, are faced with hardship caused by inflation and rising housing cost. There are some six million households living in substandard housing. The vast majority are lower income households who can afford no better. The cuts already made in housing programs—in the name of controlling inflation—place on these low income people a disproportionate share of the burden of dealing with problems which they did not cause and of which they are the chief victims.

We urge your adoption, as the best alternative before you, of the $28.5 billion level for assisted housing included in the House Budget Resolution. Even this is $1.4 billion below the 1979 appropriation and $6 billion below current policy, which allows for estimated inflation.

Sincerely yours,

Edward W. Brooke,
Chairperson, National Low Income
Housing Coalition.

For the following national organizations:

American Association of Homes for the Aged.
American Baptist Churches, U.S.A.
American Association of Retired Persons.
American Friends Service Committee.
Americans for Democratic Action.
Campaign for Housing.
Center for Community Change.
Conference on Alternative State and Local Public Policies.
Consumer Federation of America.
Council of State Housing Agencies.
Emergency Land Fund.
Federation of Southern Coops.
Housing Assistance Council.
Industrial Union Department, AFL–CIO
International Union, UAW.
League of Women Voters of the U.S.

Lutheran Council in the U.S.A.

Lutheran Housing Coalition.

Migrant Legal Action Program.

National Association for the Spanish-Speaking Elderly.

National Association of Home Builders.

National Association of Housing and Redevelopment Officials.

National Association of Social Workers.

National Committee Against Discrimination in Housing.

National Conference of Catholic Charities.

National Housing Law Project.

National Council of LaRaza.

National League of Cities.

National Leased Housing Association.

National Hispanic Coalition for Better Housing, Inc.

National Neighbors, Inc.

National Retired Teachers Association.

National Council on Aging.

National Rural Housing Coalition.

National Tenants Organization.

National Urban Coalition.

National Urban League.

National Women's Political Caucus.

Network.

Office of Church and Society, United Church of Christ.

Rural America Coalition.

Southern Christian Leadership Conference.

Southern Poverty Law Center.

Southern Regional Council.

Suburban Action, Inc.

The Children's Foundation.

United Methodist Board of Church and Society.

United Neighborhood Centers of America.

U.S. Catholic Conference.

U.S. Conference of Mayors.

Washington Office, National Council of Churches.

Washington Office, United Presbyterian Church.

Center for National Policy Review.

Raymond Nathan, Director, Washington Ethical Action Office, American Ethical Union.

Stanley Knock, National Division, Board of Global Ministries, United Methodist Church.

Rev. Keith D. Martin, Associate Director, The Churches' Center for Theology and Public Policy.

STATE AND LOCAL ORGANIZATIONS

ALABAMA

Alabama Cooperative Association.

Alabama Housing Coalition.

Alabama Coalition Against Hunger.

Alabama Council on Human Relations.

Alabama Community Services Administration.

Alabama Migrant and Seasonal Farm Workers Council.

Alabama Democratic Conference—Black Political Caucus.

Legal Services Corporation of Alabama.

Legal Services of North Central Alabama.

Southeast Alabama Self Help Association.

Birmingham Area Legal Services.

National Welfare Rights Organization, Alabama Chapter.

American Civil Liberties Union, Alabama.

Greater Gadsden Tenants Organization.

Etowah Quality Life Council, Inc.

Town of Uniontown.

Concerned Citizens of District 4.

Presbyterian Community Ministries, Inc.

Community Action Agency of Huntsville.

East Geneva County Senior Citizens Center.

Montgomery Improvement Association.

Montgomery Improvement League of Jackson—Ferry Road-North Court Street Vicinity.

Operation Impact.

Mayor John Ford, Tuskegee.

Mayor Jerry Cooper, Pritchard.

N.A.A.C.P.—Lawrence, Montgomery, Aliceville & Carrollton Counties.

ALASKA

Coalition for Economic Justice (Anchorage).

ARIZONA

PPEP (Phoenix).

San Carlos Tribe.

ARKANSAS

Arkansas Community Action Agency Association.

Arkansas Housing Development Corporation.

Arkansas River Valley Action Coalition (Russellville).

EOA of Pulaski County (Little Rock).

Greater Little Rock Urban League.

Office of Human Concern, Rogers.

Save the Children Arkansas Delta Project (Madison).

Town of Madison.

CALIFORNIA

California Coalition for Rural Housing.

People's Housing, Inc. (Topanga).

People's Center for Housing Change (Topanga).

West San Gabriel Valley Fair Housing Council (Temple City).

Western Park Apartments (San Francisco).

Legal Action for Better Housing (Los Angeles).

Patrick Dunlevy, Rent Control Alliance/Housing Action Project (Santa Barbara).

COLORADO

Colorado Association of Local Housing Authorities.

Colorado Health Systems Agency.

Archdiocese of Denver.

Mexican American Development Association.

City of Boulder Housing Authority.

City of Rifle Housing Authority.

Kendall Heights Apartment Tenant Organization (Rifle).

Community Services of Colorado West, Inc., Counties of Mesa, Montrose, Delta, Gunnison.

Retired Senior Volunteers of Colorado West.

Lower Valley Hospital Association (Fruita).

Foster Grandparents of Colorado West.

CONNECTICUT

State of Connecticut Central Housing Committee.

Connecticut Association for United Spanish Action.

Governor's Office for State of Connecticut.

Capital Region Council of Churches.

Dwelling Development Corporation (West Hartford).

Hartford Architectural Conservancy.

LaCasa Puerto Rico, Antonio Sota, Exec. Dir. (Hartford).

New Haven Urban League.

Bureau of Housing, Hartford, Michael Duffy, Chief.

Putnam—Thompson Community Council, Putnam.

David Pels, Staff Attorney, Connecticut Legal Services.

DELAWARE

League of Women Voters.

Wilmington N.A.A.C.P.

New Horizons Fair Housing Task Force (Wilmington SMSA).

Community Action of Greater Wilmington.

DeLaWarr Community Action of New Castle.

Independent Living (Wilmington).

Poverty Resource Action Center (Wilmington).

Housing Counseling Service of South Wilmington.

Middletown-Odessa-Townsend Community Action.

Peoples Settlement Parity Development Corporation.

DISTRICT OF COLUMBIA

Metropolitan Washington Planning and Housing Assoc.

Office of Social Development, Archdiocese of Wash.

Parish Outreach Project—NCCC.

Associated Catholic Charities.

Holy Name Parish.

Holy Redeemer Parish.

Immaculate Conception.

St. Aloysius Parish.

St. Anthony Parish.

St. Francis DeSales Parish.

St. Martin's Parish.

St. Matthews Parish.

St. Paul & Augustine Parish.

Shrine of the Sacred Heart Parish.

FLORIDA

Florida Nonprofit Housing Corporation (Sebring).

Melvin Adams, Director, Dade County Department of Housing and Urban Development.

Charles Cox, Executive Director, Hardee Housing Coalition (Wauchula).

Arthur Lawson, Executive Director, Gretna Self-Help Housing.

Steve Mainster, Executive Director, OMICA Housing (Homestead).

Larry Johnson, Director, Southern Florida Rural Housing.

Louis Kellman, Executive Director, Homes in Partnership (Apopka).

GEORGIA

Coretta Scott King.

Georgia American Civil Liberties Union.

Georgia Housing Coalition.

Georgia Poverty Rights Office.

Georgia Clients Council.

Southern Regional Council.

Southern Christian Leadership Conference.

Georgia Citizens Coalition for Hunger.

Burke County Improvement Association.

N.A.A.C.P. of Burke County.

Burke County Black Coalition, Inc.

Hart County N.A.A.C.P. (Atlanta).

Metro Fair Housing Services (Atlanta).

Interfaith Housing, Inc. (Atlanta).

Farm Workers Housing Alliance (Atlanta).

Urban League of Atlanta.

Macon City Council Housing Advisory Committee.

Kingston Garden Tenants Organization.

Warner-Robbins Tenants Association.

Macon Branch of N.A.A.C.P.

Milledgeville City-Wide Tenants Association (Macon).

Gainesville Public Housing Tenants Association.

Hall County Branch of N.A.A.C.P. (Gainesville).

Brooks Stillwell, Savannah City Council.

Black Summit Organization (Savannah).

N.A.A.C.P. of Savannah.

Westside Community Action (Savannah).

Savannah Area Minority (Savannah).

Garden Homes Tenants Association (Savannah).

Neighborhood Housing Services of Savannah.

Baldwin Park Neighborhood Association (Savannah).

Historic Savannah Foundation.

Hitch Village Tenants Association (Savannah).

Alderman Leon Chaplin, Savannah City Council.

Wynder Public Housing Tenants Association (Wynder).

IDAHO

Association for Inner Community Development (Hayden Lake).

IOWA

Legal Aid Society of Polk County (Des Moines).

ILLINOIS

Illinois League of Women Voters.

Business and Professional People for the Public Interest (Chicago).

Leadership Council for Metropolitan Open Communities (Chicago).

Concerned Citizens of Jane Addams (Chicago).

Tenants Task Force of Chicago.

Community Thrift Clubs of Chicago.

Community of United People (Chicago).

Housing Committee, Land of Lincoln Legal Assistance Foundation (East St. Louis).

Exie Johnson, President, Long Grove Union Council (Chicago).

Rogers Park Tenants Council (Rogers Park).

Consumer Education Committee of the Prince Hall Mason's of Illinois.

North Shore Interfaith Housing Council (Wilmette).

INDIANA

Indiana Housing Coalition.

Department of Community Development, Columbus.

KANSAS

Northwest Kansas Planning & Development Committee (Hill City).

Development Services of Northwest Kansas (Hill City).

Geni Harold, E.C.K.A.N. (Ottawa).

Sidney Bull, Director, Kansas City Human Relations Department.

Teri Tork, Topeka Housing Information Center.

Melissa Stachacz, NEK-CAP, Inc. (Horton).

KENTUCKY

HEAD Corporation (Berea).

Appalachian Foothills Housing Agency (Grayson).

Appalachian Research and Defense Fund of Kentucky, Inc.

Kentucky Mountain Housing Development Corporation (Manchester).

CHASE-OPTIONS (Martin).

Center for Housing Alternative (Prestonburg).

Frontier Housing (Moorhead).

Interfaith Housing (Pineville).

LOUISIANA

Catholic Social Service, Diocese of Lafayette.

Catholic Social Service, Diocese of Houma-Thibodaux.

Diocese Office of Community Life (Baton Rouge).

Housing Unit, New Orleans Legal Assistance Corp.

MAINE

York-Cumberland Housing Development Corp. (Gorham).

Down East Housing (Brunswick).

MARYLAND

Maryland Association of Housing and Redevelopment Agencies.

Thomas Cook, Director, Community Development Admin., Maryland Department of Economic and Community Dev.

Montgomery County Housing Opportunities.

Dorchester County Community Action Agency.

Southern Maryland Tri-County Community Action Agency.

Citizens for Fair Housing (Baltimore).

Legal Aid Service Bureau (Baltimore).

Greenbelt Homes, Inc. (Greenbelt).

St. Ambrose Housing Center (Baltimore).

MASSACHUSETTS

Mass. Law Reform.

Mass. Union of Public Housing Tenants.

Citizens Housing and Planning Association (Massachusetts).

Rural Housing Improvement, Inc.

Montachusetts Opportunity Council.

Brightwood Corporation.

Housing Allowance Project, Inc. (Springfield).

Worcester Tenants Association, Inc.

Community Team Work, Inc., (Lowell).

United South End Settlements (Boston).

Cape Cod and Islands Tenants Council.

MICHIGAN

Detroit League of Women Voters.

MINNESOTA

Urban Coalition of Minneapolis.

St. Paul American Indian Center.

Hispanos En Minnesota.

Legal Aid Society of Minnesota.

St. Paul American Indian Movement.

St. Paul Tenants Union.

Community Development Corporation of the Archdiocese of St. Paul/Mpls.

Little Red School House (Minneapolis).

Minnesota Recipients Alliance.

Handicap Housing Services, Inc.

Legal Services Advocacy Projects.

Southern Minnesota Regional Legal Services.

Lois Enebo, Executive Director, Senior Housing, Inc. (Minneapolis/St. Paul).

Metropolitan Coalition for Family Housing (St. Paul).

Minnesota Tenants Union.

Park Cooperative Apartment (Minneapolis).

Willard Homewood Organization (Minneapolis).

Elliot Park Neighborhood, Inc. (Minneapolis).

Common Space, Inc. (Minneapolis).

West Bank CDC (Minneapolis).

Powderhorn Residents Group (Minneapolis).

Coalition for the Defense of Neighborhood Priorities (Minneapolis).

Nicollet Island Project (Minneapolis).

Phillips Neighborhood Improvement Association (Minneapolis).

Cedar-Riverside Project Area Committee (Minneapolis).

Seward West Redesign, Inc. (Minneapolis).

Powderhorn Community Council (Minneapolis).

Northside Residents Redevelopment Council (Minneapolis).

Southside Neighborhood Housing Services (Minneapolis).

Sabathani Community Center (Minneapolis).

South Central Minnesota Economic Opportunity Corp. (Winona).

MISSISSIPPI

Catholic Charities, Jackson.

MISSOURI

Missouri Coalition for Housing.

American Friends Service Committee of St. Louis.

Metro Housing Resources (St. Louis).

Alliance Against Racist and Political Repression (St. Louis).

Freedom of Residence (St. Louis).

Lutheran Family and Children's Services (St. Louis).

Delta Area Economic Opportunities Corporation (Potageville).

Economic Opportunities Corporation of Greater St. Joseph (St. Joseph).

Human Development of Metropolitan St. Louis.

Jefferson-Franklin Community Action Corporation (Hillsboro).

Missouri Ozarks Opportunity Corporation (Richland).

Wayne Hall, Executive Director, Northeast Community Action Agency, Inc. (Kirkville).

Wilma Hayden, Bowling Green N.E. Community Action Coalition.

Bill Crawford, Ozark Action (White Plains).

Betty Shankle, Curls Realty (Kansas City).

Martha Anderson, Central Missouri Counties Human Development Corporation (Columbia).

Patty VanWeldon, Ozark Area Community Action Corp. (Springfield).

Dee Nicholas, Missouri Valley Human Resources and Dev. (Corrder).

Norma Purdy, Greenhills Resources Corporation (Trenton).

Pat Lainhorf, Community Services, Inc. of Northwest Missouri (Maryville).

Diane Williams, Housing Development and Information Center (Kansas City).

Robert Bowman, Merrimac Regional Planning Commission (Rolla).

MONTANA

Citizens Involvement Committee (Great Falls).

NEBRASKA

League of Women Voters of Omaha.

League of Women Voters of Nebraska.

United Methodist Metropolitan Ministries of Omaha.

NEW HAMPSHIRE

New Hampshire Legal Assistance.

New Hampshire Housing Commission.

State Representative Conrad Quimby.

Southeastern New Hampshire Community Development Corp.

Southeastern Community Services (Milford).

New Horizons (Manchester).

New England Non-Profit Housing Development Corp.

Strafford County Community Action Committee, Inc.

NEW JERSEY

New Jersey Tenants Organization.

Jersey City N.A.A.C.P.

East Orange Community Homes.

Downtown Urban Housing Corporation (Jersey City).

Village Revitalization Project (Jersey City).

Marion Gardens Tenants Association (Hoboken).

1308-1312 Washington Street Tenants Association (Hoboken).

Ciudanos Unidos Pro Nueva Accion (Hoboken).

Por La Genta (Hoboken).

Puerto Rican Action (New Brunswick).

Greater New Brunswick Tenants Organization.

Hispanic Coordinating Committee of Middlesex County.

Puerto Rican Action Committee of Vineland.

Puerto Rican Legal Committee of Newark.

Political Unity Associates of Jersey City.

Puertorriquenos Asociados for Community Organization, Inc.

NEW MEXICO

Ixtlan Housing Corporation (Carlsbad).

El Centro (Loving).

Eddy County Community Action Agency.

NEW YORK

New York Rural Housing Coalition.

Suffolk Interreligious Coalition for Housing (Suffolk County, Long Island).

Bedford-Stuyvesant Restoration Corporation.

Chautauqua Opportunities.

Chautauqua Home Improvement Corporation.

Clara Fox, Director, Settlement Housing Fund (New York).

Catholic Charities of Watertown.

Division of Housing, Catholic Diocese of Buffalo.

North County Senior Coalition, Inc. (Massena).

The Association of Government-Assisted Housing, Craig Singer, Executive Director.

Tri-County Housing Advocacy Coalition of Chautauqua, Cattarauqus, Allegany Counties.

New York City Housing and Community Development Coalition.

Pratt Institute Center for Community and Environmental Development.

Center for UPA-3 (Loisaida).

Rensselaer County Organizations United for Senior Endeavors, Standing Committee on Housing.

Marie Hogg, Executive Director, Housing Assistance Center of Niagara Frontier, Inc. (Buffalo).

Housing Action Council (White Plains).

NORTH CAROLINA

Economic Development, Inc. (Rocky Mount).

Coastal Progress, Inc. (New Bern).

Salisbury-Roanoke Community Services Council (Salisbury).

Residents Advisory Council to the Housing Authority of the City of Charlotte.

North Central Legal Assistance Program (Durham).

Economic Improvement Council (Edington).

Legal Services of Southern Piedmont, Inc. (Charlotte).

NORTH DAKOTA

Legal Assistance of North Dakota.

Southeastern North Dakota CAA.

Plains Public Interest Alliance.

Community Action Program, Region VII, Inc. (Bismarck).

OHIO

Coalition for Ohio Appalachian Development.

Ironton/Lawrence County Area Community Action Organization.

Tri-County Community Action Agency (Athens).

K.N.O.H.O.C.O. Tri-County Commission (Wausau).

Guernsey/Knoble/Monroe Tri-County Community Action Committee.

Muskingum Economic Opportunity Action Group, Inc. (Zanesville).

Ross County Community Action Commission (Chillicloth).

OKLAHOMA

Retail Clerks International Union Local 73 (Tulsa).

OREGON

Oregon Legal Services.

Legal Aid Services (Portland).

Lane County Clients Council (Eugene).

PENNSYLVANIA

Housing Association of Delaware Valley (Phila.).

Tenant Action Group (Philadelphia).

Metropolitan Tenants Organization (Pittsburgh).

Brenda Maisha Jefferson Jackson, Vice President, State Tenant Organization of Pennsylvania.

Dr. David P. Birch, Ministries Consultant, Synod of the Trinity, United Presbyterian Church (Camp Hill).

RHODE ISLAND

Rhode Island Legal Services.

Rhode Island Housing & Mortgage Finance Corp.

SOUTH CAROLINA

Tudor Woods Tenants Organization (Spartanburg).

SOUTH DAKOTA

Interlakes Community Action Agency (Madison).

TENNESSEE

State Representative Dedrick (Teddy) Withers.

J. Deotha Malone, Vice Mayor (Gallatin).

Mary Anderson, Exec. Dir., Lebanon Housing Authority.

Juanita Turner, Asst. Dir., Mid Cumberland Community Action Agency (Smyrna).

Dave Ettinger, Legal Services (Gallatin).

East Tennessee District Development Corp.

TEXAS

Texas Housing Development Corporation.

Black Residents Organization (Austin).

UTAH

Utah Issues.

Utah Housing Coalition.

Crossroads Urban Center (Salt Lake City).

VERMONT

Vermont Low Income Advocacy Council.

VIRGINIA

Southwest Virginia Housing Coalition.

Wise County Housing Coalition.

Buchanan County Housing Group.

Tri-County Housing.

Virginia State Legal Aid Society Support Center.

WASHINGTON

Washington State Low-Income Housing Conference.

Good Housing for Low-Income Citizens (Bellingham).

Peninsula Area Council.

WEST VIRGINIA

Coalfield Housing Corporation (Beckley).

North Central West Virginia Community Action Association (Fairmont).

North Central West Virginia Low Income Housing Corp.

South Western Community Action Council (Huntington).

WISCONSIN

Wisconsin Rural Housing Coop.

Wisconsin CAP Director Association.

WYOMING

John Cummings, Wyoming Department of Economic Planning & Development (Cheyenne).●

PETRODOLLAR RECYCLING AND THE INTERNATIONAL MONETARY SYSTEM

● Mr. JAVITS. Mr. President, I have risen on numerous occasions recently to discuss with my colleagues the problems facing the international monetary system. I now bring to the attention of my colleagues a significant international debate that is underway among the World's Central Bankers on whether some form of control should be imposed on the Eurocurrency markets.

Total deposits in the international banking system now exceed $800 billion. Even if interbank transactions are excluded, its net-size is close to $500 billion. As the London Economist recently pointed out, this is roughly one-fifth of the combined domestic money stocks of the seven major industrialized countries.

Central bankers have become concerned about these funds, which have been described by some as highly fluid "stateless money." Federal Reserve Chairman Miller, for example, believes that some form of reserve requirement should be imposed on Eurocurrency deposits while other Central Bankers, particularly Sir Gordon Richardson of the Bank of England, have argued that such reserves are not necessary and, anyway, would not impose the type of control of the Eurocurrency markets that is being sought. Both sides of the debate agree, however, that not only is there a need for greater information about the size, nature, and lending practices of the banks operating in these markets but also for greater actual supervision of the activities of these banks and adjustments in domestic banking regulations to fit this new international reality.

This debate over how to control Eurocurrency market lending comes at an especially critical time for the maintenance of the international economic system. We are once again facing an unconscionable increase in the price of oil by OPEC, which, in turn, is once again putting great pressure on the balance-of-payments of the oil-importing countries. While the present situation does not appear to be as serious as the situation in 1973 and 1974 when OPEC quadrupled its prices, we are once again facing a difficult and potentially dangerous period when the recycling of petrodollars from the OPEC countries to the oil-importing developing countries will become of critical importance.

The one alarming fact about today's situation is that, as opposed to the 1973 and 1974 period, these oil-importing developing countries have already accumulated a heavy outstanding external debt. According to the OECD, the gross debt of nonoil developing countries last year reached $283 billion against $62 billion in 1970. It is estimated that the debt will rise to $274 billion in 1979. More importantly, the private sector banks are providing the main support for this debt, with 50 percent of all developing countries' risks as opposed to 36 percent 5 years ago.

With the expected deterioration in the current account deficits of the non-OPEC developing countries in 1979 and 1980, these countries will find themselves faced with the need for both increased aid and commercial borrowing. It is the latter source of funds which will bear the major brunt of the financing since we cannot expect, in this period of severe budgetary restraint, that the industrialized countries will increase their concessional assistance to the Third World.

The concern for prudence in international lending that is reflected in the debate over controlling the Eurocurrency markets will, on the one hand, make it more difficult for the developing countries to borrow indiscriminately as they did in the 1973–74 period. On the other hand, the integrity of the international monetary system will be maintained by a closer scrutiny of the lending practices of these international banks. This new phenomenom will put great pressure on the borrowing countries to demonstrate greater responsibility for the proper management of their economies and on the IMF, which will have to continue to play an extensive role in analyzing the credit worthiness of these countries and in developing a closer working relationship with the commercial banks.

Mr. President, as my colleagues are aware, the health of the international economy and especially of the monetary system has been of primary concern to me as ranking minority member of the Foreign Relations Committee and as a senior minority member of the Joint Economic Committee. We are once again facing a situation fraught with great danger, but we are finally beginning to assimilate the lessons of the post-1973 period and the new prudence that we are witnessing with respect to international lending may permit the necessary recycling with new safeguards for the integrity for the international monetary system. We in the Senate and especially in the Foreign Relations Committee must watch this situation very closely and be prepared to act, if necessary, to insure that the international economy will not break down under the onerous yoke of new OPEC price increases.

Mr. President, the London Economist and the World Business Weekly have been following developments with respect to these issues very closely. I request that two recent editorials that appeared in the World Business Weekly and the London Economist analyzing the twin phenomena of the new international demand for capital and the need for control of the Eurocurrency markets be printed in the RECORD.

The editorials follow:

[From the Economist June 2, 1979]

CONTROLLING THE EUROMARKETS

The days of the free-for-all in Euromarkets are over. After years of argument, central banks in Europe and America now agree that something needs to be done to control the hitherto unbridled expansion of "offshore" lending by international banks. Even the Bank of England, which remains unconvinced by many of the more extreme accusations levelled against the market (eg, that it adds to international liquidity and hence fuels world inflation), has come to accept that the sheer weight of money involved justifies a closer watch.

Since 1973, the Eurocurrency market has grown by an extraordinary 25 percent per annum, far faster than the 10 percent growth in the combined domestic money supplies of the seven major industrial countries (the United States, Canada, Japan, France, West Germany, Italy and Britain). Total deposits in the international banking system now exceed $800 billion. Even if interbank transactions are excluded, the net size of the market is believed to be close on $500 billion. That is roughly one fifth the size of the combined domestic money stocks of these seven countries.

Central banks are becoming increasingly uneasy about the way Eurodeposits are used. Roughly half the loans made with them have gone to help poor countries finance their balance-of-payments deficits. By recycling petrodollars, commercial banks gave such countries time to adjust to the huge rise in oil prices at the end of 1973. On the whole, central banks applauded them for doing so. But now central bankers, especially at the German Bundesbank, argue that, by continuing to make huge credits available on easy terms, commercial banks have encouraged developing countries to go on living well beyond their means.

BUT WHAT'S THE ANSWER?

What should be done to control the activities of international banks and curb, if need be, the explosive growth of Eurocurrency credit? Central banks have been even slower to agree a cure than they have been in diagnosing the disease.

Even so, they are now moving much closer together. For some time, the Americans have been clamouring for the imposition of reserve requirements on Eurocurrency deposits. This, they believe, would help slow down the lending process. The idea is impractical. To make it work, all banking authorities would have to join in. Otherwise commercial banks would simply move to those financial centres that opted to stay out of the scheme. The Americans and Germans have already discovered how difficult it can be to make the imposition of reserve requirements stick—even at home. In America, banks have been withdrawing from the Federal Reserve system to avoid the American peculiarity of receiving no interest on required reserves. West German banks have been evading domestic reserve requirements by passing more and more lending business through their Luxembourg subsidiaries, over which the banking authorities at home have virtually no control.

Many central banks do not rely solely on reserve requirements to control monetary growth at home. They feel that reserve requirements will prove insufficient to control credit expansion in the Euromarkets. They would get themselves into a fruitless game of leap-frog with the commercial banks, which would continually be finding ways to avoid holding reserves; e.g., by developing an international commercial paper market in which they would act as agents, instead of putting loans on to their own books. Much better, central bankers say, to supervise the activities of the Eurobanks more closely and adjust banking regulations to fit these new international considerations.

It looks as if the Americans are beginning to see the force of these arguments. Recently, their treasury undersecretary for monetary affairs, Mr. Anthony Solomon, admitted that the imposition of reserve requirements was "not necessarily the central thrust of U.S. policy" on the question of Euromarket control. The secretary of the treasury, Mr. Michael Blumenthal, now says that it is just one of "a variety of additional measures" which the Americans are looking at.

The Americans say that the most important first step is to ensure that other banking authorities get a better handle on what their own banks are doing internationally, by bringing their reporting and supervisory techniques up to American standards. Until recently, most European banking authorties scrutinized the domestic books of their banks and turned a blind eye to the activities of overseas subsidiaries. Now they all agree that they must get consolidated statements from their banks and impose the same rules over the whole spectrum of their banks' operations as they already do on domestic business. The British and Swiss have already acted. The West Germans would like to, but must change their banking law first.

FIRST SUPERVISION, THEN WHAT?

Once international bank supervision has been tightened further controls could prove unnecessary. As banks come up against lending limits imposed by their supervisory authorities, they will be forced to scale down their international activities anyway. Interestingly, American banks have become less aggressive than European banks in making international loans since the American banking authorities started making warning noises a year ago.

If further controls are required, rather than resort to reserve requirements central banks should consider: (1) Extending the reach of their domestic monetary policies by widening the traditional definition of domestic money to include offshore deposits. Euromarkets do not exist in isolation. In large part they are merely extensions of domestic money markets. If Eurodollars did not exist, international borrowers would be queuing up to borrow ordinary dollars direct from banks in America. The American authorities would then have to choose between releasing reserves to accommodate them and accepting a credit squueze. (2) Using domestic interest rates to regulate international credit demand. As interest rates rise in America, so do Eurodollar rates. Eventually a point could be reached where international borrowers cannot afford to borrow more, though by pursuing this offshore goal, the Fed would risk messing up its domestic policy.

Developing countries already seem to be feeling the pinch in servicing their international debt. Some (eg, Brazil) are trying to encourage more borrowing in the home market instead of continued reliance on the Eurodollar market. Governments or state agencies in several others are losing their appetite for international bank loans.

Central banks should not try to control too much too quickly. They should give the measures already in the pipeline a chance to work, prepare the groundwork in case more needs to be done—and keep their eyes open meanwhile.

CAN THE BANKS KEEP UP WITH SECOND-WAVE CAPITAL DEMAND?

There are few documents so damning of lending on the international capital markets as a report on loans to foreign states issued by a select committee for the British government.

It states in essence that those who have arranged such loans appear to have disregarded the financial resources of state borrowers.

"By means of exaggerated statements in the prospectus, the public has been induced to believe that the material wealth of the contracting states formed sufficient security for the repayment of the money borrowed," it charges. Such transactions demand "much censure."

If anyone detects a surprising sudden British assault on the uncontrolled nature of the Euromarkets, they can relax. The report was published in 1875 after a string of defaults had ended a quarter century of boom for foreign bond issues on the London Stock Exchange.

The power of the report lies in the strong sense of deja vu that it creates in light of the international capital market's response to what has become in recent weeks the second wave of the oil crisis. After a period in which the pattern of international lending had become somewhat diffuse, the prospect now facing international banks is a return to the function that triggered the Euromarket's explosive growth during this decade—the recycling of oil surpluses toward oil deficits.

Bank for International Settlements reports in late 1977 began to show countries of the Organization of Petroleum Exporting Countries becoming net borrowers from the private sector banks. It was a year later—even as the crisis in Iran was brewing—that BIS figures showed the same countries reducing their deposits with these banks.

The figures reflected the strange and rapid way in which the 1973 oil problem had been resolved. Three factors combined to allow people to forget, for a while, about 1973.

First the industrial nations, with the exception of the U.S., radically slowed the growth of their oil imports.

The second factor was the completely unexpected pace of OPEC imports. According to Morgan Guaranty, the 13 OPEC states took in $660 billion between 1974 and 1978 in export (chiefly oil) revenues. They somehow managed to spend $500 billion in a spree that grew at an annual rate of 38% in cash terms.

Third, when the Western economies pulled out of their mid-1970s recession, the balance of the supply and demand for oil was helped by non-OPEC oil discoveries—chiefly the North Sea, Mexico and Alaska—with the result that last year world demand for OPEC oil was slightly below the 1973 level.

So the recent structure of the international capital market could scarcely have been predicted four years ago. The funds have been coming out of the industrial nations to be loaned again via the international banks to the developing nations. The developing nations have been borrowing more than they strictly need to finance their reduced current account deficits in what continues to be a borrowers' market. This is partly because surplus countries like Switzerland and West Germany felt obliged to match the prime deficit country, the U.S., in money-printing to prevent their strong currencies rising too fast against the all-important dollar. It is partly because a growing throng of international banks emerged ready and eager to foster the flow of funds.

At a moment when the pace of increases in oil prices is causing alarm, it is natural that bank analysts are again focusing on the extra funds that OPEC will have at its disposal and the extra needs for funds that will be created in the less developed countries that don't have oil. The question is whether the international banks, which have now emerged as the main channel through which balance of payments financing takes place, will be allowed, able or willing to repeat their post-1973 performance.

Barring unforeseen circumstances, the necessary adjustment will be of a smaller order of magnitude than the last time. Oil revenues of OPEC countries rose by $78 billion to $106 billion between 1973 and 1974, while their current account surplus rose by $62 billion to $68 billion. This time, assuming that average oil prices for 1979 are 25 percent more than in 1978 (though this assumption now looks optimistic), OPEC oil revenues will increase by some $30 billion. Both Citibank and Morgan Guaranty estimate that the 1979 OPEC current account surplus will be just about double that for 1978 at $25 billion.

On the demand side, the effect of the 1973 oil price rise on non-OPEC, less-developed countries was to trigger a rapid deterioration in their balance of payments. The problem started with oil and was then compounded by the effects of the recession in the developed world.

This time, according to Morgan Guaranty, the current account deficits of non-OPEC developing countries should deteriorate by some $7.5 billion to an estimated $35 billion—with roughly half the rise credited to oil prices. The newest estimate by the Organization for Economic Cooperation & Development is that the non-oil exporting developing countries will this year suffer a 14 percent increase in their current account deficit to $45 billion.

It is clear, therefore, that the size of the initial shock of OPEC's price moves on developing countries is smaller this time. Citibank estimates that the transfer of resources to OPEC between 1978 and 1979 will be less than 1 percent of the GNP of the non-OPEC, less-developed countries, whereas between 1973 and 1974 it was 2.5 percent of GNP.

The recent rise in the debt of the developing countries has been very marked, partly because they have been taking advantage of the market to build reserves against just the sort of setback that is now occurring. According to the OECD, the gross debt of non-oil developing countries last year reached $238 billion (of which one-third was offset by reserves) against $62 billion in 1970. The OECD estimates that this gross figure will rise to $274 billion in 1979. To put this in perspective, the average non-oil developing country now has external debt equivalent to 25 percent of its gross domestic product.

It is clear, too, that private sector banks are now the mainstay of this accumulated debt. They account for 50 percent of all less-developed country risk, against 36 percent five years ago.

It is much more in the particular cases than in the global figures that the problem is to be found. Turkey, for instance, has debt of over $12 billion, yet it has no visible way of servicing this debt as virtually all its export earnings will be required to match its oil bill. In South Korea, the Philippines, India and Thailand, oil accounts for 20 percent of all imports. The debt of Chile, Morocco and Pakistan already approaches the equivalent of one-half of GNP. The servicing of Poland's debt alone requires one-half of its export earnings: the impact of the new oil shock will depend upon the speed with which the Soviet Union passes on higher oil prices. But an oil-induced recession in the Western economies would hurt Poland, as it would all the other developing economies.

Contrary to past practices, a loan to a developing country is no longer an abstract and unquantifiable risk. The efforts of the Bank for International Settlements, together with other international agencies, have seen to it that the necessary information is available. And the pressure is there to use it.

It is ironic that a new campaign which is building up to apply some sort of uniform controls to Eurocurrency market lending should coincide with the moment when the need for Euromarket recycling may suddenly increase.

These considerations may alter the form in which some of the recycling takes place. They may pull some of the loans onshore, toughen the conditions and make the more questionable loans more expensive again.

The new constraints, coupled with the desire of banks to profit from their overseas activities, may, however, lead to changes. They may put a selective damper on the syndicated bank loan—the instrument through which the bulk of recent balance of payments financing has taken place. They may increase the importance of project-related finance. Some bankers wonder wistfully whether the increasingly institutionalized international bond market might not be harnessed to provide a greater proportion of long-term, fixed-rate funds for developing countries.

The new emphasis on prudence in international bank lending may also raise the importance of the International Monetary Fund as an arbiter of creditworthiness—uncomfortable for the fund though this would be. The chief concern of the IMF's managing director, J. de Larosiere, is that overseas aid, the only really solid "transfer of resources," is on the wane. Far from achieving the United Nations' target of 0.7% of GNP, the industrialized countries have dropped their proportion of aid to 0.3% of GNP. Mr. de Larosiere argues that "there is nothing in the present state of deflationary chain reactions in the industrialized world (stagnation feeding inflation) that would argue against an increase."

It is unfortunately under just such conditions that domestic politics make aid most difficult. With International agencies like the IMF and the World Bank under-equipped financially, and with international bond investors evidently unwilling to make the same mistakes they made in 1973, it is the international banks that have stepped in to provide "aid" in the form of loans that are apparently perpetual. In this activity the banks have provided Western governments with a soft option and one which could very likely lead to tough decisions later.

The most effective solution now is that an increased emphasis on banking prudence rather than a crisis will see to it that funds are provided to the developing world in a way which faces up to reality.●

THE LEGISLATIVE OVERSIGHT ACT OF 1979

● Mr. BAUCUS. Mr. President, there is no greater challenge before this Congress than the challenge of bringing the Federal bureaucracy under control. Citizens in Montana, and throughout the country, are fed up with their Federal Government. They believe that it is too large, that it is insensitive to their regional and individual needs, and that it is not accountable to them or their representatives.

I ran for the Senate in part because I am dedicated to bringing the Federal Government under control. I continue to believe that we must abolish outdated agencies, eliminate excessive and anticompetitive regulation, reduce bureaucratic redtape, and design programs and guidelines that are responsive to all the constituencies that the programs are set up to serve.

While we may look to the administration for some leadership in these areas, we in the Congress must hold ourselves accountable for the failures of our Government agencies to perform responsively and responsibly.

There is no more effective way for this Congress to bring the Federal Government under control than to exercise fully and effectively its oversight function.

However, more than 300 Members of the 96th Congress have sponsored over 40 different substantive proposals to improve congressional oversight activities. The question is why are so many different proposals pending and which, if any, of them will really make a difference in the quality of congressional oversight?

There are sunset proposals which would have each agency self-destruct if the Congress does not affirmatively act to extend the life of the agency. The sunset proposal gives the Congress an impetus—the deadline of an agency's extinction—to consider the agency's past performance.

There are legislative veto proposals which would permit the Congress to overturn specific agency regulations.

These and the other regulatory reform proposals now before the Congress each have merit.

But these proposals do not include the basic tools which Congress needs to perform its oversight function. Each suggested mechanism lacks specific goals and objectives by which each agency can be judged. At present oversight is performed on an ad hoc basis without performance standards. It is my belief that without performance standards it is extremely difficult to make an objective determination whether an agency has performed up to public and congressional expectations.

It is for this reason that last Thursday Senator TSONGAS and I jointly introduced S. 1304, the Legislative Oversight Act of 1979.

Mr. President, I request that a copy of S. 1304 be printed in the RECORD at the end of my statement. It is companion legislation to H.R. 65 sponsored by Congresssman DERRICK and cosponsored by over 120 Members of the House of Representatives. This legislation is known as the sunrise bill because it mandates congressional oversight at the time of an agency's or authorization bill's inception. It attempts to provide the Congress with an oversight framework that has, up to now, been missing.

Basically, the bill would require that all legislation authorizing new budget authority or tax expenditures state the specific objectives and planned annual accomplishments of the program. It would also require agencies to report annually the progress achieved in meeting those objectives and goals. Each agency will report to the Congress utilizing the criteria that the Congress has determined will be used to analyze agency accomplishments. These will serve as vital objective oversight tools.

Clearly, the Congress already has the ability to create specific objectives and planned annual accomplishments for a program. However, this bill would make a permanent commitment to such an approach. It would also discipline the often diffuse oversight activities of Congress and transform the exercise of oversight into a careful examination of agency performance, using measurable goals and quantifiable standards.

The Congress will no longer simply rely on the agency's self-assessment or on the assessment of outside interest groups. Rather the Congress will judge each agency based on its ability to meet the goals and objectives that the Congress prescribed at the time the agency was created. Sunrise legislation takes the oversight function of agency accomplishments out of the realm of interest group politics and places it in the realm of objective analysis.

I support this approach because it emphasizes both congressional and agency accountability. It forces the Congress to be more specific about what it wants from executive agencies and similarly requires the agencies to be accountable to legislative goals and objectives.

S. 1304 also would require that reports accompanying authorization bills and resolutions describe the objectives and planned annual accomplishments of the program's activities in greater detail, including information on the relationship of the proposed program and activities to other programs having similar or related objectives. In addition, reports would be required to contain an assessment of the degree to which the program and activity being reauthorized has accomplished previously stated objectives.

Within 6 months after the enactment of the sunrise bill, the Comptroller General, in consultation with the Director of the Office of Management and Budget, would be required to develop a catalog of interrelated programs and activities to help committees detect programmatic overlap and determine which programs were doing the best job in each area.

The President would be required to relate his annual budget figures in each area to the extent to which that agency had met its year's goals and objectives. This would require the President and the Office of Management and Budget to review and consider the same oversight assessment data as Congress.

I believe that the Legislative Oversight Act of 1979 will require greater specificity in setting program objectives, will provide the Congress continuing information on the extent to which programs are achieving their stated objectives, and will require periodic review of all new authorizations and tax expenditures.

I want to emphasize that I will not consider these reforms to have been successful if they do not also lead to an actual reduction in agency and congressional paperwork. There is too much paperwork now. Agencies are preparing over 2,100 reports to the Congress a year at a cost of $44.2 million to taxpayers.

But these current reports are too much of the wrong kind of information. S. 1304 would require the Congress to better define its basic information needs and thereby eliminate the need for much of the material now being produced.

The Congress can thereby minimize the latitude for embellishments and obfuscation. Furthermore, the reports are to be submitted through the Office of Management and Budget, which presumably would insure that report formats are appropriate to the requirements of S. 1304. But the clear intent is that the focused reports required by this bill will supplant current paperwork excesses.

I do not want to represent S. 1304 as a panacea for regulatory reform. Certainly we need to guard against such a proposal ending up as mere boiler plate language on authorization bills. We would need to insure that it would not become another Federal statute that is ignored as much as it is followed. But we do believe that in its present form it represents a basic principles that Senator Tsongas and I hope our colleagues will consider, comment upon, and offer suggestions to. We do believe that the sunrise legislation can lead to a major improvement in the way Congress conducts its oversight business.

The 96th Congress has been alternatively referred to as the "Oversight Congress" and the "Do Nothing Congress." It is my earnest hope that these terms do not become synonymous.

We have the opportunity to activate some basic oversight procedures. I hope in the forthcoming consideration of regulatory reform we will consider adoption of these principles as presented in the legislation Senator Tsongas and I have introduced. The text of S. 1304 follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Legislative Oversight Act of 1979".

FINDINGS AND PURPOSES

Sec. 2. (a) The Congress finds that there is a recognized need for more effective oversight of Federal programs and activities in order to conserve and use more efficiently increasingly scarce Federal budget resources; that a major barrier to effective oversight is the lack of adequate specificity in the statement of objectives in the laws authorizing numerous Federal programs and activities; and that the Congress lacks continuing information on the extent to which programs and activities are achieving their stated objectives.

(b) The purpose of this Act is to improve congressional oversight of Federal programs and activities by—

(1) requiring greater specificity in establishing the objectives of Federal programs and activities;

(2) providing for continuing information from agencies administering Federal programs and activities on the extent to which such programs and activities are achieving their specific objectives; and

(3) requiring periodic review of programs and activities to assure that budget resources are used efficiently in meeting national needs.

TITLE I—REQUIREMENTS FOR AUTHORIZATION BILLS

REQUIREMENT THAT BILLS INCLUDE STATEMENTS OF OBJECTIVES AND REQUIREMENTS FOR PRODUCTION OF CERTAIN INFORMATION

Sec. 101. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority or provides new or increased tax expenditures, as defined in section 3(a) of the Congressional Budget and Impoundment Control Act of 1974, or which provides new spending authority as defined in section 401(e) of the Congressional Budget and Impoundment Control Act of 1974, unless such bill or resolution includes—

(1) a statement of the specific objectives and planned annual accomplishments of each program being authorized; and

(2) a requirement that the agency or agencies administering each such program report annually to the Congress specified information which the Congress determines will best assist it in evaluating the extent to which the program is meeting the objectives and accomplishment plans set forth in the bill or resolution pursuant to paragraph (1).

The objectives, planned accomplishments, and information reporting requirements set forth in the bill or resolution pursuant to this section shall be stated in such terms as will require the agency or agencies administering the program, in the annual reports, to provide concise measures of all of the costs and accomplishments of the program and of each of the major activities comprising the program, to compare the costs and accomplishments of such activities within the program where appropriate, and to compare the costs and accomplishments of the program to those of other governmental and nongovernmental programs having similar or related objectives.

AGENCY REPORTS

Sec. 102. On October 15 of each year, each agency administering a program authorized under legislation to which section 101 applied shall submit, through the Director of the Office of Management and Budget, a brief report to the Congress on the extent to which such program, including the activity or activities comprising such program, is meeting the specific objectives and annual accomplishment plans set forth in that legislation. Such reports shall comply with the requirements set forth in the legislation pursuant to section 101 and shall emphasize, to the extent practicable, quantitative measures of all program costs and accomplishments, including comparisons of costs and accomplishments between the program set forth in the legislation and other governmental and nongovernmental programs having similar or related objectives. Reports may also contain such additional information on costs, accomplishments, and deficiencies as the head of the administering agency may deem appropriate. In order to assist the Congress in determining whether programs should be reauthorized, modified, or discontinued, the agency report submitted with respect to any program in the year preceding the expiration of a multiyear authorization for such program shall summarize the significant findings contained in each of the annual reports which have been submitted with respect to that program since its most recent authorization was enacted.

TITLE II—REQUIREMENTS FOR REPORTS ACCOMPANYING AUTHORIZATION BILLS

STATEMENT OF OBJECTIVES, IMPACTS, AND COSTS

Sec. 201. (a) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority or provides new or increased tax expenditures, as defined in section 3(a) of the Congressional Budget and Impoundment Control Act of 1974, or which provides new spending authority, as defined in section 401(c) of the Congressional Budget and Impoundment Control Act of 1974, unless the report accompanying such bill or resolution contains a statement which—

(1) sets forth the specific objectives and planned annual accomplishments of each program being authorized, its expected

economic and social impact on individuals or groups intended to be served and upon others whom the program will directly affect, the relationship of all expected costs of the program to such planned annual accomplishments and to other governmental and nongovernmental programs and activities having similar or related objectives, and the necessity for, appropriate extent of, and anticipated duration of Federal support of the program;

(2) identifies potentially or actually conflicting, overlapping, or duplicative programs and activities in other governmental and nongovernmental programs, and explains the relationship of such programs and activities to the program being authorized;

(3) identifies previous efforts to accomplish the objectives of the program, and compares the costs and accomplishments of such efforts to the expected costs and accomplishments of the activities to be authorized; and

(4) where provisions of Federal law conflict with the objectives of the program being authorized or are obsolete in relation to the objectives of such program, sets forth recommendations for eliminating such conflicting or obsolete provisions.

(b) When an existing authorization of budget authority or tax expenditure is to be continued under a new authorization, the report submitted pursuant to this section shall contain, in addition to the statement required by subsection (a), an assessment of the degree to which such program or tax expenditure has met previously stated objectives.

CATALOG OF INTERRELATED FEDERAL ACTIVITIES

SEC. 202. In order to assist the Congress in preparing the statements required by section 201, the Comptroller General of the United States in consultation with the Director of the Office of Management and Budget, within six months after the date of the enactment of this Act, shall publish a descriptive catalog of interrelated Federal activities, including tax expenditures, organized according to such classification scheme or schemes as may be deemed appropriate to the requirements of section 201. Such catalog shall include—

(1) comparisons of program costs (including non-Federal costs and, to the extent practicable, costs per unit) and accomplishments among programs having similar or related objectives, using, insofar as possible, information developed by agencies in reports submitted pursuant to section 102;

(2) descriptions of program interrelationships, including identification of duplicative or overlapping programs and activities, and identification of provisions of law which authorize activities for which funds were not provided in the most recently concluded fiscal year and which may be obsolete; and

(3) descriptions of State and local government programs and private activities having similar or related objectives, including information on program costs and, to the extent practicable, costs per unit.

The Comptroller General shall periodically update the catalog, or sections thereof, with due consideration for the legislative programs of the various committees of the Congress; emphasize in the initial version of the catalog those activity areas expected to receive earliest consideration by the Congress; and provide such assistance to the committees of the Congress as may be necessary for fulfilling the requirements of sections 101 and 201.

TITLE III—PRESIDENTIAL BUDGET RECOMMENDATIONS

SEC. 301. The annual budget submitted by the President in accordance with section 201 of the Budget and Accounting Act, 1921, shall describe briefly the relationship between his recommendations on program budgets and the program accomplishments reported pursuant to section 102 of this Act.

TITLE IV—AUTHORIZATION TIME LIMIT; CERTAIN OBLIGATIONS NOT IMPAIRED

AUTHORIZATION TIME LIMIT

SEC. 401. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority or provides new or increased tax expenditures, as defined in section 3(a) of the Congressional Budget and Impoundment Control Act of 1974, or which provides new spending authority, as defined in section 401(c) of the Congressional Budget and Impoundment Control Act of 1974, for a time period exceeding five years.

CERTAIN OBLIGATIONS NOT IMPAIRED

SEC. 402. Nothing in section 401 shall be construed to impair or prevent—

(1) the payment of interest or the repayment of principal due lenders on debt instruments of the United States Government or its agencies irrespective of the date the obligations involved were incurred or the date such payment or repayment may be due; or

(2) the payment to individuals of benefits to which they are entitled by virtue of payments made by them and deposited directly or indirectly into Federal trust funds.

TITLE V—MISCELLANEOUS PROVISIONS; EFFECTIVE DATE

EXERCISE OF RULEMAKING POWERS

SEC. 501. The provisions of this Act (except sections 102, 301, and 502) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

EFFECTIVE DATE

SEC. 502. Except as provided in section 202, the provisions of this Act shall take effect on the first day of the second session of the Ninety-sixth Congress.●

A LONGER TERM APPROACH TO RESEARCH AND DEVELOPMENT

● Mr. JAVITS. Mr. President, the problems we face in the United States today with respect to the decline in industrial innovation and productivity are well documented. Inflation has cut sharply into actual purchasing power and investment in research and development as a percentage of GNP and of total Federal budget outlays has fallen significantly. Productivity growth and the trade performance of U.S. industry as compared with these in other industrialized countries are declining and our historic strength in technological innovation, which has been the foundation of both our domestic prosperity and our ability to compete in world markets, is being aggressively challenged by our traditional trading partners.

These trends are highlighted in two excellent speeches entitled "Conditions for Technological Progress" and "Technological Innovation: How Do We Reverse the Decline?" delivered by Reginald H. Jones, chairman and chief executive officer of the General Electric Co., long a champion of technological innovation. As Mr. Jones so accurately underscores, other advanced industrialized countries have been investing much more of their GNP in new plant and equipment than we have since the 1950's. According to his figures, France and Germany are investing proportionally twice as much, and Japan three times as much, as the United States in new ventures, new technology, and new plant and equipment. In light of these figures, how can we realistically expect to sustain our present standard of living with this kind of a showing?

Federal funding of R. & D. in the United States, especially in basic research, has dropped off in real terms, and Federal efforts to foster technological change through support of R. & D. in the private sector have met with only limited success. At the same time, private research managers report a heavy shift in emphasis to lower risk, shorter term projects designed to improve existing product lines or to comply with growing regulatory requirements. Rather than take the risk on long-range investment, private firms prefer to seek alternative investment opportunities and cut back on R. & D. This attitude is perceptively highlighted by Mr. Jones when he says that the U.S. businessman is being encouraged to "Think small and play it safe."

Mr. President, I believe that vigorously and strategically channeled support of scientific and technological research and development is vital to continued economic growth and job development in this country. What the economy requires is longer term, higher risk investments which emphasize technological innovation in the industrial sector and which are implemented through Government and private industry cooperation. Mr. Jones makes some excellent suggestions on how we can address the "innovation recession" we are experiencing today, and I urge my colleagues to give careful consideration to his recommendations. I ask that these two speeches be printed in the RECORD.

The speeches follow:

CONDITIONS FOR TECHNOLOGICAL PROGRESS

(By Reginald H. Jones)

The period in which Thomas Edison and the other electrical pioneers came forth with their flood of world-changing inventions, at the end of the nineteenth century, was particularly propitious for technological progress in the Western world. There was optimism about science and technology, optimism about the idea of progress itself. Evolution, just creeping into popular thought, seemed to suggest that change is natural, not unnatural, and might even have the blessings of the Creator.

Moreover, there was lively respect for the inventors and for the businessmen who backed their inventions with obviously risky investments. A poor boy like Tom Edison had a chance to make a fortune—and keep it—if he had, in Horatio Alger's phrase, "pluck and luck." And the government, a relatively modest institution, was more concerned with helping the process along than with bringing it to heel.

Of course we should not oversimplify. There were concerns, well-founded concerns, about businessmen who abused their powers, and the first great wave of antitrust reform marked the end of the century in the United States. There were also those who feared the new technology. But their reservations were overcome by the popular enthusiasm for the flood of benefits.

History suggests that there are times that are propitious for technological progress and times that are not. Jean Gimpel, the French historian, has written about the technological revolution of the Middle Ages—the breakout of new technology in agriculture, mining, energy, construction, and manufacturing that brought widespread prosperity and the age of the cathedrals in Western Europe. It peaked out toward the end of the thirteenth century and was followed by a century of famine, plague, and economic stagnation. Could such a collapse happen again? I'm not suggesting we could have such a drastic falling off, but that fascinating cycle of growth and decline has been evident many times, in many places, and we do not understand the process very well.

But if I may offer the speculations of a mere businessman, based largely on experience in the United States, I think we can identify several factors related to technological progress.

One is the concept of seed corn. Another is the concept of risk. Still another is the politics of envy. And ultimately, the question of human freedom. Dare we trust ourselves?

SEED CORN

This Symposium is concerned with invention. Arnold Toynbee, in his final book, *Mankind and Mother Earth,* says that the most important invention of the human race was the invention of plant and animal husbandry. When man tamed a few plants and animals—and there's some evidence that this was really done by the women while the men were out hunting—he assured himself of a steady food supply and was able to set about the work of creating civilizations.

The crucial discovery was that by saving some of the seeds for next year's planting and by saving some of the lambs and calves to breed and sustain the flocks, the continuation and expansion of the wealth of the tribe were assured. And a shudder of fear went through any community that was forced by famine to eat its seed corn or to slaughter all the yearlings.

The same thing applies to industrial societies and business firms. Every year, some part of the total output—some seed corn—has to be saved and reinvested in new technology and the modernization or expansion of the industrial machine.

This is the process of capital formation. And nations that neglect their capital formation find themselves susceptible to scarcity, inflation, unemployment, and declining standards of living.

In recent years, the United States has been eating into its industrial seed corn. There has been an increasing emphasis on consumption, especially in the form of government services, and a corresponding loss of incentives for savings and investment. As a consequence, our productivity advances in the 1970's have declined to one half the rate of the previous two decades—along with our capacity to provide advances in real income and jobs for a growing labor force.

Other nations have done better than we. France and West Germany have been investing about two times, and Japan about three times, as much of their GNP in new plant and equipment, and both their productivity and their national output have been growing about two or three times as fast as that of the United States. We share with the United Kingdom this record of neglecting our capital formation. In the same period, our investment in research and development has also been faltering, declining from 3 percent of GNP in 1964 to 2.2 percent today, while other industrial nations have been stepping up their R. & D. The U.S. Patent Office reports that foreigners now receive 37 percent of all U.S. patents, compared with only 20 percent in 1960.

The results of this neglect of our industrial seed corn are apparent not only in the chronically high inflation and unemployment of the U.S. economy, but also in the decline of our international trade position.

This problem of capital formation is at last beginning to receive serious attention in Washington, and this year's tax legislation will probably include some small overtures toward a reduction in the corporate tax rate, a liberalization of the investment tax credit, and more favorable taxation of capital gains—all designed to give business the confidence and the funds to invest in new technology and plant expansion. Taxes, however, are only part of the problem. Business also needs evidence that the government is really serious about holding down public spending, slowing inflation, and lifting the heavy hand of regulation from the economy.

Nations that neglect their seed corn cannot expect technological or economic progress.

TAKING RISKS

Another condition for technological progress is the willingness to take risks. The search for new knowledge, the development of new technologies and new businesses, is inherently risky. Failures outnumber successes, but there is no progress without risk-taking. Unfortunately—and this is not a problem confined to the United States—there is a growing aversion to risk in the industrial democracies.

Having learned the trick of self-sustaining economic progress through capital formation, we begin to overestimate our powers. We start to believe that, if we really want to, we can protect everybody from the risks and vicissitudes of life. We dream of Utopia.

Unfortunately the road to Utopia leads to bankruptcy. Here in the United States, the fastest growing element of the federal budget is that portion designed to protect us against the risks of unemployment, sickness, and old age—the so-called transfer payments by which money is transferred from the producers to the non-producers in our population. In ten years, this item has increased from 25 percent to 40 percent of the federal budget. It is the major driving force that has brought our federal budget to the astounding level of half a trillion dollars a year, not to mention the growing cost of state and local governments.

With so much of the nation's resources channeled into government programs—some useful and some of doubtful value—it is no wonder that we have less left over for investment in new technology and plant expansion.

Another aspect of the search for a risk-free society is the surging drive against environmental pollution and the side effects of new technology. These are legitimate concerns in an advanced industrial society. Technology has created problems, and better-managed technology will be needed to solve them.

Yet Aristotle warned us that every virtue, if carried to excess, becomes a vice. And here again, there is a danger that nations will try to do too much, too fast, or go too far in their headlong drive to remove every possible statistical risk of contamination or danger. A vast regulatory bureaucracy has blossomed in this country whose purpose is not to advance technological progress, but to hold it in check. The heavy hand of government is being felt by universities as well as business, and several university presidents have told me they are deeply concerned about its insidious effect on academic freedom. Thus they can sympathize with the businessman's despair over the bureaucratization of our economy.

Perhaps the most important effect of this effort to eliminate all possible risks in industrial life is the slow exhaustion of the spirit of enterprise. A company may wish to invest in a new factory, a new mine, a new power plant. But any such project faces a thicket of regulatory barriers, battles with bureaucrats, capricious interruptions, and costly delays. Faced with such uncertainties, and living with inflation and a tax system that penalizes success, many companies today will not take the risk. Instead, they will search for safer, quicker, and unfortunately less productive ways to earn a return on their available capital.

A society that has an aversion to risk will not experience much technological progress.

THE POLITICS OF ENVY

A problem related to the aversion to risk is the politics of envy. In Tom Edison's day, some people resented the rich man's mansion on the hill, but most people saw it as an inspiration: they, too, could aspire to a mansion on the hill. The chance to strike it rich as a powerful motivator of economic progress. And it still works when it is free to operate.

But increasingly, the political rhetoric of this country, as well as Europe and the less-developed countries, is the politics of envy. Instead of encouragement for the individuals and companies that take major business risks, they meet resentment—their losses ignored, their profits deplored. The whole structure of government is directed toward the redistribution rather than the creation of wealth. The impulse to reduce everyone to a common level, to assure not quality of opportunity but equality of results—no matter how poor the results—is in many places the prevailing philosophy. And it stands in the way of technological and economic progress.

This is reflected in the tax structure of many countries, including the United States, where high taxes on capital gains and other income effectively suppress savings, investment, and business risk-taking. The tax system has been especially discouraging to individual inventors and entrepreneurs who are trying to issue new equity to fund a small business venture. Capital gains taxes have increased so sharply since 1969 that venture capital for new enterprises has virtually dried up.

In a conversation with Alan Greenspan, the economist, a few weeks ago, he commented that we have lost sight of the value of the lottery as a motivator of economic progress. In most state-run lotteries, it's the big prizes that attract most people—even though they know the odds are heavily against winning anything at all. But by taxing away the gains of those investors who take a chance on high-risk technology or new ventures, we are teaching our businessmen to think small and play it safe.

Many of today's technologies involve massive investments, long payback, and uncertain return. Unless the rewards become more closely commensurate with the risks, for corporations as well as individuals, many technological opportunities will remain unfulfilled.

THE ANTI-TECHNOLOGY MOVEMENT

Finally, there is the anti-technology movement. It was and is a minority movement, according to all public opinion surveys. But it is an articulate and well-organized minority, wise in the ways of the media, adept in politics and legal maneuver, and driven by the energy of the true believer. Moreover, in this country it has moved into positions of power in the federal and state regulatory bureaucracy. The ability to issue licenses and permits, to bury a new technology under a blanket of regulations, to frustrate new capital projects with the power of infinite delay, now rests in many agencies with people who are fundamentally opposed to the industrial society.

There are many motivations at work, but I think these people are primarily driven by fear. Fear of technology, fear of complexity, fear of change. Fear of the unpredictable consequences of human freedom. And these fears are starting to infect the rest of us. So we begin to encounter not merely predictions, but organized efforts to achieve limits to scientific inquiry; limits to technological innovation; limits to economic growth.

Those of us with positions of responsibility in academic or corporate life cannot ignore the critics' concerns and fears. They must be studied with respect and honesty; and where problems emerge they must be acknowledged, understood, and resolved. Science and engineering can no longer expect the blind faith that it enjoyed in the earlier years of this century. Social responsibility is expected of all of us.

But that is different from accepting limits to science and technology. The problems of this hungry and yearning world cannot be solved without technological progress and economic growth. With economic growth we will have the resources to do what needs to be done. Without it, we will have scarcity, inflation, and perpetual fighting over shares.

What's the prognosis? Progress or decline? My remarks this evening have been in a cautionary mode, but I am optimistic about the outcome. Any objective assessment of the situation would have to include the positive factors:

. . . the grand momentum of science and technology, a human enterprise that transcends national and cultural boundaries;

. . . the growing awareness—around the world—of what it takes to achieve and sustain technological progress;

. . . the persistent rejection, by most of the people, of the anti-technology movement;

. . . and most importantly, the irresponsible curiosity that keeps drawing mankind forward toward new knowledge, new ways of doing things—as demonstrated at this Symposium.

What we must avoid is a loss of nerve. What we must resist is the stifling of the human spirit. What we must maintain is our faith in the human adventure.

Technological Innovation: How Do We Reverse the Decline?

(By Reginald H. Jones)

The United States has, in the past century, been the technological society *par excellence*. More than any other people, the Americans have exuberantly sought, bought, and used the products of science and technology. They've made folk heroes of scientists and inventors like Albert Einstein and Thomas Edison.

This friendly atmosphere has helped us build a broad and deep technological infrastructure. The United States has bred or attracted the best scientists in the world, to judge by the Nobel prize record. The great industrial research laboratories and first-class schools of science and engineering have flourished here. Our long experience with machines has produced not only superb engineers, but also a nation of do-it-yourself mechanics. High technology is still our special strength in world trade, high productivity is still the basis of our two-trillion-dollar economy, and as a symbolic proof of the people's deep love affair with technology—we were the first nation to send humans to the moon and back—and engineering feat eagerly monitored in every home on our own television sets.

PRIDE AND FALL

But pride goeth before a fall. Just about the time that Neil Armstrong was taking that "one giant step for mankind," we began to assume that we could take our technological and economic leadership for granted. A counterculture essentially opposed to the industrial society rose first to public attention, and then to positions of power. Investment in technological innovation was moved to a lower priority, and we began directing more of the nation's resources toward other issues associated, we said, with the quality of life and social and economic justice.

Now, there is no doubt that an advanced technological society can and should concern itself with social problems that are stoically accepted in other societies. But we have found that if a nation rushes pell-mell toward Utopia regardless of the cost, and neglects its industrial base, there are consequences. Inflation, unemployment, declining productivity, trade deficits, disenchantment with government, loss of international position—all these are related, quite directly, to our recent neglect of the science and technology that energize our economic processes.

And so there is—fortunately—a growing consensus that we've got to do something about it before it's too late.

EVIDENCE OF DECLINE

The measures of the problem are well known. Over the past fifteen years, expenditures for research and development in the United States have not kept pace with the growth of the economy. In proportion to the gross national product, R&D spending has declined 25 percent since 1964.

During this same period, many other industrialized nations, including Japan and West Germany, have been increasing the share of their GNP spent on research and development. The U.S. Patent Office reports that foreigners now receive 37 percent of all U.S. patents, compared with only 20 percent in 1960.

What's more, these other nations recognize that R&D is only the first step in the innovation process. To complete the process, the knowledge produced by research must be translated into commercially viable products. This usually involves substantial investment in new plants, modern machinery and equipment, market development, employee training, and similar expenditures. These downstream expenditures comprise up to 90 percent of the total investment required for a successful innovation.

Therefore, as a matter of official policy backed up by tax structure, the other advanced industrial nations have since the 1950's been investing much more of their GNP in new plant and equipment than we have in the United States. In France and Germany, they are proportionally investing two times as much, and in Japan three times as much, as we are in new ventures, new technology, and new plant and equipment. And their productivity has been increasing two or three times as fast as ours.

The results are seen in every home—the familiar Japanese and European products that Americans buy for both quality and price. The results are also seen in two horrendous trade deficits on the order of $30 billion dollars a year, back-to-back, that the United States has had to accept in the past two years.

The consequences of this decline are not only a matter of commercial concern. They are directly related to the decline of U.S. power and respect in the world.

I am not moved often by magazine covers, but a few weeks ago *Business Week* carried a special report on the decline of American power. And on the cover was a closeup of the face of the Statue of Liberty—with a tear rolling down her cheek. I got a lump in my throat.

WHAT TO DO?

The economic and political implications of the decline in technological innovation are a matter of growing national concern. The President has initiated a domestic policy review of the subject. An Industrial Innovation Coordinating Committee has been established under the Secretary of Commerce and is to report its recommendations to the President next month. The Committee for Economic Development is about to publish a deep and comprehensive study of the problem, with extensive recommendations. There is increasing Congressional interest in the need for tax incentives to stimulate R&D as well as business capital investment, as evidenced by the proposals of Senator Danforth.

As a company that has, for a hundred years, built its business on technological innovation, General Electric is concerned and has some thoughts on the subject which I would like to air in this lecture.

Let's start with tax policy. In a nation where government takes, transfers, and spends nearly 40 percent of the nation's output, tax policy is obviously a very big factor. And unfortunately, under the Keynesian economics of the past few decades, our tax structure has been sharply tilted against savings, investment, and innovation.

To repeat the fundamental point: R&D is critical to successful innovation, but it is only the first step in the process. Turning new ideas and inventions into commercially successful businesses requires extensive and risky investments in new plant and equipment and market development that cost as much as ten times as much as the original investment in R&D.

Therefore a tax policy that aims to reverse the decline in technological innovation cannot be directed at R&D alone, but must address the larger problem of declining business capital investment—*including* investment in R&D.

The Congress took a first step in that direction with its 1978 tax bill, which reduced both corporate and individual income tax rates, made the investment tax credit permanent at 10%, and reduced the capital gains rates for corporations and individuals. This was an important initiative, but additional tax changes are required to improve the crucial ratio of risk to reward which is the basic determinant of the level of business investment in the process of innovation.

Such changes would include programmed, year-by-year reductions in the corporate tax rate. They would include improved capital recovery allowances to make up for the underdepreciation caused by inflation. They would include relief from the double taxation of corporate dividends. They would include additional improvements in the tax treatment of capital gains and losses, extension of the investment tax credit to new buildings, and a reduction in the marginal tax rate on *all* individual income from 70 percent to 50 percent. Any or all of these tax changes would improve the climate for business investment, including investment in R. & D. and innovation.

In addition to tax changes aimed at improving the overall climate for business investment, it may be worthwhile to have supplemental tax incentives targeted specifically at R. & D. We must stress, however, that R. & D. incentives cannot be a substitute for the tax policy changes needed to improve the risk/reward ratio and thereby raise the general level of investment. Of themselves, R. & D. incentives would not be effective in stimulating innovation. They can only work effectively in a favorable investment climate.

Given that proviso, here are some principles that should govern the design of tax incentives for R. & D.:

First, the incentives should be broadly based, and should not be restricted to certain types of R. & D. activity or certain politically chosen technologies. The objective of increasing successful innovations is more likely to be achieved if resource allocation is basically left to the marketplace rather than the politicians or some central bureaucracy.

TAX PROPOSALS AT A REASONABLE COST

Similarly, the incentives should be nondiscriminatory or neutral in their application—that is, they should be available to all taxpayers. There will be tremendous political maneuvering to try to limit the incentives to firms located in economically depressed areas, or companies in designated industries, or small business or some other politically favored group. But the incentives have the best chance of stimulating a broad, nationwide resurgence of innovation if they are available to all companies and all parts of the country.

Here are some R&D incentives that might be instituted at relatively modest cost to the Treasury:

1. Flexible depreciation for equipment and special-purpose structures used in R&D. The taxpayer could elect to depreciate his investment in such assets in full in the year of acquisition, or over any other period, depending on his financial circumstances.

2. Flexible depreciation for externally acquired patents and other intangible items of technology, such as know-how, secret processes, and the like. As the Japanese have demonstrated, technology acquired from others can be very effective in stimulating economic growth. Yet the provisions of existing law discriminate against patents and other intangible technology assets acquired from others. This is because such technology must be capitalized whereas expenditures for internally generated technology are deductible for taxes as incurred. The unequal treatment of externally and internally acquired patents and technology discourages the purchase and commercialization of new inventions, and limits the market opportunities of inventors.

3. Here's an idea: how about allowing a special deduction equal to 120 percent of R&D expenditures? Such a provision would cost about $2.4 billion a year. It would reduce the effective tax rate for those companies that are efficiently investing in R&D—thus increasing their cash flow for additional innovation.

4. Another tax possibility is modification of Treasury Regulation 1.861-8 relating to the allocation of expenses to foreign-source income. This regulation would be modified so that only that portion of R&D expenses which is directly related and traceable to foreign earnings would be treated as a deduction from foreign-source income. This change would remove a potential disincentive for investment in R&D, and also reduce the pressure to transfer R&D work overseas in order to avoid a loss of foreign tax credits.

Specific tax incentives for R&D such as these could provide additional impetus to research and development. However, an acceptable level of R&D and successful innovations in the United States can be achieved on a sustained basis only in an environment conducive to business investment generally. Therefore government policies aimed at improving the climate for investment must be given top priority.

OVER-REGULATION

Another major obstacle to technological innovation today is excessive government regulation of industry and technology. This is a familiar subject at Washington University, where Professor Murray Weidenbaum has made himself the world's leading expert on the costs of regulation. Dr. Weidenbaum says that on the basis of a conservative estimating procedure, the total costs of Federal regulations came to more than $102 billion last year. And those regulations have been imposed without any visible effort to determine whether the benefits justify the enormous costs. Dr. Weidenbaum doubts it. "Take the job safety program" he says. "Despite the array of regulations, inspections, and proceedings—and of course the billions of dollars devoted each year to meeting the Federal safety standards—we see no improvement in the statistics on days lost due to job health and safety hazards."

No matter; we have a regulatory bureaucracy that is suspicious of business, scared of technology, and determined to save us from every possible statistical risk of contamination or danger. And working hand-in-glove with the regulatory agencies—in fact, providing much of their manpower—are the so-called "public interest groups" and "public interest lawyers" whose holy duty, as they see it, is not to encourage technology but bring it to heel.

The capacity of these people to inhibit investment in new technology cannot be overstated. Many a business entrepreneur—facing the prospect of lawsuits, regulatory hearings, paperwork, battles with bureaucrats, capricious interruptions, mandated expenditures on non-essentials, and enemies armed with the weapon of infinite delay—will simply refuse to risk his time or money on a high-technology project. Instead, he'll settle for the familiar technology, the quick-payout investment. He'll learn what they want him to learn: "Think small and play it safe."

That is a tragic loss to society. What we need is not an end to government regulation, but some reasonable accommodation—some effort to balance the benefits against the costs—some encouragement for those who are willing to risk their time, talents, and money in ventures that could make life better for our people.

REVITALIZING UNIVERSITY RESEARCH

Aside from taxes and regulations, what else can we do to stimulate technological innovation? One necessary element must be to revitalize university research.

Federal support in constant dollars for university research stopped growing in 1968 and remained flat until 1977. The lack of growth during the period led to an aging faculty, obsolete equipment, and the inability of universities to shift research emphasis as new fields emerged. Last year brought a slight upturn in university research, but there is no assurance that this will continue. Perhaps the government's grant funds for university research should be tied to the growth rate of the GNP, as a matter of policy. This would provide the universities with the planning stability they need.

Part of the problem the universities brought on themselves years ago by pricing their grant proposals at incremental costs, and failing to charge sufficient overhead to pay the full costs of maintaining and operating a research facility. Consequently, as I know from my experience as a University trustee, most universities are losing money on each dollar of government contract or grant that they receive. University grants and contracts must be increased to cover full costs, or their facilities for R&D will deteriorate to the danger point.

IMPROVE PATENT PROTECTION

Yet another essential element of any program to stimulate technological innovation is to enhance the quality of patents and reduce the time and cost of patent enforcement.

For example, the present practice of awarding patents to the "first to discover" leads to extensive and expensive litigation. Awarding on the basis of "first to file" would virtually eliminate these cost and uncertainties. Experience indicates that in the great majority of cases "first to file" is also "first to discover," and in those cases where this is not so, the first inventor could get a royalty-free license.

Patent cases have become so complex and technical that questions have been raised about the capacity of the traditional judicial system to deal with them. Differences in interpretation among courts now lead to a great game of maneuvering to get the trial conducted in the location favoring one or the other of the adversaries. A single specialized patent appeals court would eliminate much of this difficulty. If voluntary binding arbitration were permitted, there could be a further reduction of the time and costs of patent disputes.

The antitrust laws and their interpretation also stand as a barrier to technological innovation. For example, if a large company patents an invention and that invention succeeds in dramatically increasing the company's market share—or even promises to—then a competitor can sue the company for monopolization of the market. That should be changed. Increased market share that results from new technology should not be considered in monopoly cases. Otherwise, why bother to risk the money on developing new products and bringing them to market?

Another problem is the extremely provincial view of the courts in considering antitrust cases. Antitrust law and a vast majority of antitrust litigation were developed at a time when international competition was largely irrelevant to most such actions. How times have changed! Today, the most powerful competition that U.S. companies face are the fast-growing foreign multinational companies. Aided and abetted by their governments, they are not only taking business away from us in world markets, but also successfully invading the U.S. market—as our $30 billion trade deficits amply demonstrate. Yet antitrust cases are being conducted on the spurious assumption that the only competition that counts in U.S. competition; that U.S. companies must be broken up or limited while foreign governments are doing everything in their power to increase the size and capability of our foreign competitors.

High technology products and farming products are this country's most important remaining advantages in world trade. Many of the most promising new technologies require the scale of worldwide markets in order to justify their costs. Antitrust polices that inhibit our ability to compete worldwide in the arena of high-technology are flatly contrary to the public interest.

One could go on at length with further specific recommendations, and I'm sure that the forthcoming government and industry studies of innovation will do so. But the fundamental need is a social and political climate that favors technological progress. We used to have it. We don't anymore.

THE ANTI-TECHNOLOGY MOVEMENT

There is an infection in the body social, and it is the antitechnology movement. It was and is a minority movement, according to all public opinion surveys. But it is an articulate and well-organized minority, wise in the ways of the media, adept in politics and legal maneuver, and driven by the energy of the true believer.

Moreover, in this country it has moved into position of power in the Federal and state regulatory bureaucracy. The ability to issue licenses and permits, to bury a new technology under a blanket of regulations, to frustrate new capital projects with the power of infinite delay now rests in many agencies with people who are fundamentally opposed to the industrial society.

There are many motivations at work. Many people have acquired a vested interest in the growth industries of regulation and "public interest law." But most of these people and their supporters are well intentioned persons who are driven with fear: fear of technology; fear of change; fear of the unpredictable consequences of human freedom. And their fears are beginning to infect the rest of us. Thus we begin to accept limits to scientific inquiry; limits to technological innovation; limits to economic growth.

The fears and concerns of the critics must be recognized and addressed, but we cannot let them bring the grand enterprise of science and technology to an ignominious halt.

We are taught that the tree of knowledge bears dangerous fruit. But even more deadly is the tree of ignorance. If science has brought us problems—as it has—then the answer is more knowledge, not less. If technology has brought us problems—as it has—then the answer is better managed technology, not a slow slide back to the poverty and squalor that most people had to endure in the falsely idealized past.

The question we are discussing here is not only a question of economic vitality and international competition. It is whether this society, the pioneering technological society, has the courage to press on with its great experiment in human freedom.

Civilizations rise and fall. It could happen here. I hope we will not find ourselves accused by future generations of failing to act when the challenge was presented.●

DOT'S PROPOSAL TO REDUCE AMTRAK SERVICE

● Mr. WEICKER. Mr. President, I would like to commend to the attention of my colleagues an article entitled "White House Rethinking Proposed Amtrak Cuts" which appears in today's Washington Post.

On May 24, Senator HATFIELD and I introduced a resolution of disapproval of the final DOT recommendations for a restructured intercity rail passenger system. DOT's recommendation would eliminate 12,000 miles, or 43 percent, of the present rail services at a time when the Nation is looking to alternative modes of transportation due to the severe energy shortage. Unfortunately, the Senate was not afforded the opportunity to vote on the resolution.

However, when the Senate considers S. 712, the Amtrak Improvement Act of 1979, I will join with Senators CHURCH, SCHMITT, BAUCUS, HATFIELD, MELCHER and others in an attempt to restore the route cuts made by DOT. I strongly urge the support of my colleagues for this effort.

I might point out that during May, Amtrak reported a 72½-percent increase in the volume of ticket sales compared to the same month in the previous year. This increase incurred despite the fact that Amtrak presently does not have available sufficient equipment to operate current routes efficiently and at proper levels of service. Amtrak's president, Alan Boyd, has been forced to "mend and make due" by ordering the renovation of 84 cars that were "in the boneyard".

Mr. President, Amtrak has not been given adequate funds to enable it to make the capital acquisitions necessary for it to operate an efficient rail service. Amtrak has been caught in the classic catch-22 situation. When it was created, Congress did not think it would work. Thus, Amtrak was not given enough money to build equipment to enable it to meet its needs efficiently, and accordingly the public has not used it in large numbers. Then, Congress says, "I told you it wouldn't work. We are not going to give Amtrak any more money."

Amtrak must be given sufficient funds to enable it to make the capital acquisitions to operate its routes efficiently and at proper levels of service. I urge the support of my colleagues in seeing that Amtrak is given necessary funding to purchase the equipment if needs for the increased services which it must provide to help meet the Nation's severe energy shortage.

Mr. President, I ask that the article referred to be printed in the RECORD.

The article follows:

[From the Washington Post, June 12, 1979]

WHITE HOUSE RETHINKING PROPOSED AMTRAK CUTS

(By William H. Jones)

Faced with a sudden ridership explosion on Amtrak trains, the Carter administration is beginning to have second thoughts about its proposal to eliminate 43 percent of the nation's rail passenger service next fall.

Administration sources confirmed yesterday White House domestic policy officials, working with the Department of Transportation, have begun a review of the Amtrak proposal. Officials said letters from senators and congressmen have been piling up in the office of Transportation Secretary Brock Adams urging a review of the cuts.

"Our business is topping out . . . because we're out of equipment," with no potential for increasing the number of passenger cars Amtrak has in less than about three years' time, Boyd said in an interview.

Gasoline shortages and fears about the ability of some people to travel this summer by automobile, combined with the long United Air Lines strike and the crush caused by the grounding of the DC10 airliners, have brought more customers to Amtrak than at any time since it was formed by Congress in 1971.

During May, Amtrak reported yesterday, the dollar volume of ticket sales soared 72½ percent to $33 million compared with $19 million in the same month last year. Advance reservations are running 90 percent ahead of the 1978 levels and some trains now are carrying standing passengers.

The rediscovery of the railroads came as Congress was confronted with the administration's Amtrak cutback proposals, first announced in January.

But Amtrak President Alan Boyd warned yesterday that even if there is a policy change, there is no way the rail system can build up a fleet of passenger cars fast enough to handle sudden travel demands.

Since neither house acted last month to veto the Carter plan, Amtrak is required to eliminate services over 43 percent of its 27,000-mile system as of Oct. 1. Two-dozen long-distance trains would be stopped and rail services to such cities as Atlanta, Indianapolis and Dallas-Fort Worth would be ended.

Later this month, DOT and Amtrak officials will sit down to review a new survey of passenger ridership being developed by the government-subsidized railroad, which could lead to some changes in the administration plan.

"If Amtrak comes up with the figures . . . we don't want to be locked in" to cutting out trains with new-found riders, that may make them potentially viable in the long run," DOT spokesman Jerry Klingerman said yesterday.

At the same time, Klingerman emphasized that DOT "remains happy" with the 43 percent cutback now contemplated and he noted that many of the trains now being crowded—such as the Los Angeles-San Diego route—are among those that would be continued in any event.

"We aren't doing this [cutback] with a vision of penalizing anybody," Klingerman added, pointing to DOT statistics showing that 91 percent of current riders still would receive rail service under the proposed cutback. The cutbacks are designed to reduce the federal subsidy to Amtrak by $1.4 billion over the next five years.

The DOT spokesman and Amtrak's Boyd also agreed that the biggest question about the new boom in rail passenger business is: How long will it last? "There is an energy crisis and we expect to spot shortages (of gasoline) . . . but as people get more used to it, who knows whether this Amtrak increase will be there," said Klingerman.

Boyd said a true picture of the permanent ridership gain won't be available until September figures are gathered—the first month after a normal increase experienced every summer. Only at that time can Amtrak consider placing orders for new passenger cars, he added. There was a similar—but smaller—gain in Amtrak business after the Arab oil embargo in 1974 although most riders returned to their cars thereafter.

But the Amtrak chief executive said he expects a different reaction this time. "Trains are in fact capable of being energy-efficient on a relative basis," Boyd said. "As the reality of the energy shortage permeates the consciousness of more people, there's going to be greater and greater demand for alternative forms of transportation, which will be proved by the railroad."

Boyd also emphasized yesterday that he does favor some cutback in Amtrak's routes, because he doesn't have available equipment to operate current routes efficiently and at proper levels of service. Amtrak begins the summer of 1979 with record demand but 100 fewer passenger cars than a year ago—all of which had been owned by private railroads and were built decades ago.

"We're trying to mend and make do," said Boyd, who has ordered renovations for 84 cars that were "in the boneyard" and put a hold on plans to send 300 old cars to the scrap heap. Amtrak officials also have been asked by Boyd to contact the one remaining U.S. passenger car manufacturer—Budd Co.—about when new Amtrak cars could be placed into production. Separate contacts are being made with the railroads of Mexico and Canada, and West European manufacturers, about the availability of any cars.

Amtrak ordered 284 new bilevel cars for service in the Western states from Pullman Inc. in 1975 but because of strikes, only 23 are in service today. And Pullman has announced plans to retire from rail passenger car manufacturing business when the current production run is completed.

Meanwhile, Boyd is operating perhaps the only billion-dollar corporation in America that has no idea about what services it can offer after Oct. 1. Boyd must make decisions on such things as whether to accept reservations after that date for trains due to be dropped, whether to order tickets and timetables and whether to order food stocks for dining and snack cars.

The Senate is scheduled to take up Amtrak legislation later this month but the House is not expected to act until July, at the earliest. Boyd conceded that he may not know the fate of Amtrak until late in the summer, since many congressmen have amendments planned that would exempt certain trains from the proposed cutback.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification I have just received.

The notification follows:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., June 7, 1979.

In reply refer to:
I-5954/79

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-40, concerning the Department of the Army's proposed Letter of Offer to the Netherlands for defense articles and services estimated to cost $21 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

[Transmittal No. 79-40]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: The Netherlands.

(ii) Total estimated value: $21.0 million.

(iii) Description of articles or services offered:

Eight (8) AN/TPQ-36 mortar locating radar, related equipment, and spare parts.

(iv) Military department: Army (VIC).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: June 7, 1979.●

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on June 11, 1979.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 11, 1979.

Dr. HANS BINNENDIJK
Committee on Foreign Relations,
U.S. Senate,
Washington, D.C.

DEAR MR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle East country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.●

PAN-AFRICAN CONFERENCE ON REFUGEES

● Mr. KENNEDY. Mr. President, last month an extraordinarily important conference convened in Arusha, Tanzania to discuss the critical issue of African refugees. Now numbering well over 3 million, African refugees are spread across the continent, creating growing humanitarian problems in many countries.

Sponsored by the Organization of African Unity, the United Nations High Commissioner for Refugees, and several other governmental and voluntary organizations, the Pan-African Conference on Refugees is the first attempt by Africans to face the growing crisis among African refugees.

As President Nyerere of Tanzania states in his eloquent opening address to the conference:

> If our claim to speak for Africa has any meaning, then these 3.5 million refugees are our responsibility . . . They are victims of forces beyond their control; it could happen to any of us. The manner in which they now unavoidably look to us for succour may be the way we ourselves will tomorrow be looking to others.

Few countries, and few leaders, have a more distinguished record in responding to the needs of refugees than President Nyerere and Tanzania. One of the poorer countries of the world, Tanzania has nonetheless welcomed and resettled over 200,000 African refugees. This underscores a point sometimes forgotten by many Americans, in our understandable preoccupation with Indochinese refugees—that many countries have joined the effort, in differing ways to assist the world's refugees, including some developing countries, such as Tanzania, who can afford it the least.

Hopefully, the concluding documents of the Arusha Conference will lay the basis for more effective governmental and international action in support of African refugees. I commend the Department of State for its participation in the conference and for its strong support of its work.

Mr. President, I commend to the attention of Senators the very thoughtful address of President Nyerere in opening the Conference on African Refugees, and the statement of Frank Sieverts, Deputy Assistant Secretary of State for Refugee and Migration Affairs. I ask that they be printed at this point in the RECORD.

The material follows:

PRESIDENT NYERERE'S SPEECH AT THE CONFERENCE ON THE SITUATION OF REFUGEES IN AFRICA: ARUSHA, 7TH MAY 1979

Mr. Chairman: Your Excellencies: Ladies and Gentlemen. First, it is my pleasant duty to welcome to Tanzania all the delegates to this Conference, and all those from other countries who will assist the Conference in its work—not forgetting the interpreters: We hope that you find in this Conference Centre all that you need for efficient work, and that you find in Arusha and elsewhere in Tanzania all that you need for a pleasant stay in our country.

This Conference is about people; about the prospects, and indeed the very life, of people who are now, or may in the future be, forced to flee from their homelands and seek refuge in another country in order to escape persecution, or death, or starvation. There are now about 3.5 million such refugees in Africa. Nine African countries have a smaller population than that: All these men, women, and children, are Africans for whom the Governments and Liberation Movements represented in this Conference are severally, and through the O.A.U. jointly responsible.

Thus, if our claim to speak for Africa has any meaning, then these 3.5 million people are our responsibility. This Conference has to face up to the implications of our common humanity with these millions of souls. They are victims of forces beyond their control; it could happen to any of us. The manner in which they now unavoidably look to us for succour may be the way we ourselves will tomorrow be looking to others.

But we have to be realistic and hardheaded about this problem of refugees. We have, in particular, to recognise that it is not getting smaller. In 1967 there were less than three quarters of a million refugees in Africa; in 1977 alone, 700,000 new refugees crossed the borders of Africa. 1979 does not appear so far to be reversing the upward trend, despite some recent very welcome repatriations of those whom changed circumstances or policies have allowed a safe return to their homes.

This Conference has to deal with a continuing problem and one which will not just go away by itself if we do nothing. Even if there was not a single new refugee in Africa from this day forward, it is relevant to remember that a refugee stays a refugee for up to 70 years if we do not make provision for his or her integration into our societies. Either we make arrangements whereby refugees can become self-supporting, or they have to be fed for a life time by the sweat of the rest of Africa's people. Our work at this Conference is of long-term importance—or it should be.

Yet I want to emphasize that this Conference is about people, not about things, or cattle. Refugees have only one thing in common—that they have fled from their country. Even the cause of their flight will be different. It may be persecution, or social upheaval, or war—or it may be famine which causes a disregard of borders. The refugees are usually, but not quite always, without property or means of earning a living. But apart from the fact of seeking refuge they are as varied as Africa's people are varied. The will be of many ideologies or of none, of many different religions, and many different cultures. They may be nomadic or pastoral, just as they may be agriculturalists or urban workers. They will have different levels of education; they will be different in ambition, and in character. All refugees are certainly victims, but they do not consequently lose their individual ideas about life and their own purpose. They will include the ambitious, the optimist, the pessimist, the honest hard working men and the sly delinquent; the persons who will make the best of things, and the man who will grumble about everything. And so on. Generalisations about refugees are very dangerous; all that can safely be said is that they have sought refuge.

Further, a particular host country may at different times, or even simultaneously, have different and antagonistic waves of refugees from a neighbouring country which is going through a long period of social and political disturbance. Yet all refugees are individuals with a right to life in Africa. All need a chance to recreate their lives in Africa, and to regain the dignity of being self-reliant and making a contribution to the development of our continent.

But it is not only the refugees and the circumstances of their flight which differ. So do the conditions and the circumstances of the countries to which the refugees flee. All are poor countries—that is as much as can be said. A few—like Tanzania—have areas of under-utilized land on which refugees can be settled if there is an investment of capital. But this is unlikely to be the most productive land, and in some countries—like Djibouti or Algeria—it will be waterless desert requiring at least very heavy investment in irrigation schemes. And some countries have no spare land at all; Burundi and Rwanda are already so over-populated by nationals that they need to find opportunities for emigration. And while professionally trained refugees can—perhaps after language courses—be found useful work, the unskilled urban refugee creates a big problem for countries already at their wits end to deal with urban unemployment.

Yet refugees are in no position to consider the problems of the country they flee to. And fortunately our independent states have not had to bear the whole burden alone. The United Nations High Commission for Refugees, and the Voluntary Agencies, have given and continue to give tremendous help to any African Government which appeals for assistance and is willing to cooperate with them. We in Tanzania have found these bodies helpful as regards the initial problem of providing food, medical supplies, etc. as a matter of emergency relief. We have also found them willing and able to help in the planning and execution of long-term re-settlement schemes. Indeed, in this country we have a number of rural settlement schemes which have now, through the cooperation of the Government, the UNHCR and Voluntary Agencies, become self-reliant communities, producing their own food and selling cash crops sufficient to meet their other expenses. In some cases these refugee settlements have already been passed over to the Government for normal administration on the same terms as other villages and development schemes of the country.

I would therefore like to use this opportunity to pay tribute to the office of the High Commissioner for Refugees, and to the personnel and supporters of the religious and other charitable voluntary agencies which have assisted my country in this work for Africa's people. Without their investment of capital, and their skilled and professional personnel, we would not have been able properly to meet our responsibilities to these victims of racism, colonialism and social change in Africa. And in paying this tribute I do not believe that I do so only on behalf of Tanzania; the reports submitted to the various United Nations Committees show clearly that Tanzania's experience with these organizations has been shared by all other African countries which face this problem and which try to deal with it.

But although this external help has proved vital, I repeat: the refugees of Africa are primarily an African problem, and an African responsibility. This has been fully acknowledged by the OAU which has called upon all its members to accede to the UN Convention of 1951 and the UN Protocol of 1967. Thirty three African states have done so out of an OAU membership of 46. The OAU has also drawn up, and adopted at the Heads of State and Government Meeting in 1969, its own OAU Convention on Refugees.

This OAU Convention recognises the need for a humanitarian approach to the problems of refugees, and sets out the basic rights and duties, both of the refugees and of the receiving States. In particular—and this is very important to peace in Africa—the Convention states clearly that "The grant of asylum is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member State". Further, it acknowledges that no person should be compulsorily or forceably returned by an African state to the territory he has left and where his physical integrity or liberty would be threatened. At the same time, the OAU Convention excludes acts of subversion by refugees against the territory they have left, and exempts criminals from the protection of refugee status.

This Convention should be the basis of legal, social and economic provision for refugees in our continent. It was adopted and signed by 41 Heads of Government and State at the 1969 Addis Ababa meeting. Yet only 18 nations of Africa have ratified it. And ten years have passed.

The OAU Convention was the indirect product of the very serious and useful Conference on Legal, Economic and Social Aspects of African Refugee Problems, which was held in October 1967. That Conference discussed the refugees under three principle categories. First, the political refugees, who are mostly urban dwellers, and to a greater or lesser extent educated people. At that time it was envisaged that most of these would come from the parts of Africa still dominated by colonialists or racialists, and it is still true that many of such people are from South Africa, Rhodesia or Namibia. But the political and social upheavals in free Africa have now also contributed to the numbers of political refugees, and unfortunately it is not always the case that giving refuge to such people is accepted as "not being an unfriendly act". My own country has experience of this, and of the pressures which can be applied by other African states calling upon a host nation either to repatriate particular refugees forceably or at least to withdraw their permission to stay.

The second category of people recognised is the Freedom Fighters, who are in a special position. The OAU recognizes their right to pursue the struggle for liberation, and the right of the host country to aid them with the full approval and support of the OAU if its Government so decides. Thus Freedom Fighters need to be distinguished from other refugees, for the United Nations and other international bodies do not recognise them as refugees at all. And their needs are different; this Conference can appropriately leave this matter to the OAU Liberation Committee.

The third category of refugees is by far the most numerous. It consists of men, women and children fleeing from war, from racial, religious, or cultural persecution or conflict, and from famine or other natural disasters. For a minority of these refugees the problem from which they are fleeing is a temporary one; sometimes it is only a matter of a few weeks until they can go back home. But although virtually all refugees initially expect to return home at some time, there will very often be large numbers of people who will be unable to return home safely for months or years to come. It is impossible to deal with these refugees as if all that is required is temporary relief from distress. They must as quickly as possible be given a means of producing or earning their own livelihood. The only practical way of proceeding is to work as if they are likely to be permanent inhabitants of their host state. Investment to meet their needs will never be wasted in the growing African economies even if these refugees should all in the future return to the place from whence they come. For repatriation does take place; for example some 70,000 Mozambican refugees returned from Tanzania to their homeland after the Portuguese colonialists were defeated.

The 1967 Conference discussed the problems and needs of these different groups of refugees at various times. For there is always the immediate need for emergency aid. Then there is the onward movement, or long terms, aspect of their rehabilitation.

About the immediate problem there is very little which can usefully be said—but there is a lot which has to be done. People arrive in their hundreds or thousands, hungry, thirsty, without shelter, and with no more possessions than they can carry on their back. They have to be fed, housed and provided with emergency medical needs if epidemics (which would also affect the local population) are to be avoided.

In Africa, some of the rural or small town refugees are on occasions able to take refuge with their kin, at least in the first instance, because our borders cut across traditional tribal groupings. Indeed, it is reported that in countries like Cameroon and Gabon, where refugees from Equatorial Guinea have entered in large numbers, this type of settlement has become long-term and dominant. It should not be assumed, however, that it is therefore without cost to the host government. Improved and expanded schools, health and other public services are required, in addition to specific arrangements for these families who have no kin or who for other reasons cannot be locally integrated.

The medium- and long-term settlement of refugees does, however, raise many points of principle and of policy. Perhaps the most basic among these is that while refugees need special help if they are to re-establish their lives and to be integrated among the population of the host country, they must not be given a privileged position, with greater services and a better standard of living than the local inhabitants—who may be very poor indeed. The UNHCR has recognized this: so has the OAU. It is for this reason that we in Tanzania have been able to develop, in cooperation with the U.N. and Voluntary Agencies, area settlement schemes which deal with the special needs of the refugees and at the same time uplift the productive capacity and the social provisions for all the people living nearby.

But settlement in the country of first refuge is not always possible. Countries like Botswana and Lesotho, for example, cannot possibly absorb all those who flee to them from Rhodesia and South Africa. Onward movement has to be organized. And then the question arises—movement to where?

The 1967 Conference acknowledged the need for the refugee burden of Africa to be shared with some concept of equality among all African states. It has not happened yet. Thus, at the end of 1977 Mozambique had about 70,000 refugees—apart from the Freedom Fighters—of whom one quarter were under 14 years of age. Tanzania has currently about 200,000 refugees; Zaire and Angola still have even larger numbers despite recent organized repatriations. But some countries—particularly those in West and North Africa (except for Algeria)—have only one or two hundred refugees. It is impossible for something to be done about this disparity—either for some of the less affected states to provide rural refugee settlements or for them at least to contribute to the heavy local costs involved for the countries which do give such hospitality?

The Addis Ababa Conference of 1967 made

a large number of recommendations also, especially concerning the kind of legislation which would safeguard the social and economic rights of refugees while taking full account of the problems and needs of local people. It made suggestions about the vexed problem of the right to work; it set down guidelines related to the land settlement of refugees and the development of integrated settlements which would benefit both the refugees and the local population. Further, there was in 1967 a discussion, and some indication of a possible way forward about the problem of travel documents for refugees and how this could be dealt with on an African basis—a matter of great importance to countries like Botswana and Swaziland. There were proposals also for an "African Bureau" under the auspices of the O.A.U., which could help cooperation among African States over refugee problems. It was suggested that this could act as a clearing house to coordinate scholarship needs and offers, at the same time as helping qualified refugees to get jobs in Africa rather than—as at present—expensive expatriate personnel being recruited to fill needs for which no citizen is available. Indeed, most of the subjects on the Agenda of this Conference were the subject of discussion and recommendation in 1967.

Your Conference should therefore be considering Africa's experience in the light of the earlier debates and of what has been done over the last twelve years. And certainly, since 1967 many countries have done a very good job in coping with large-scale new influxes of refugees, giving them somewhere to stay and food to eat. Some countries have made progress in developing integrated settlement schemes; some have been generous with scholarships for refugees from Southern Africa. In all these cases there will be some experience which can help this Conference to deal with the continuing problem.

In addition, there has been general acceptance of the principle of "non-refoulement", which precludes the returning of any refugee to the country from which he is fleeing or has fled. Unfortunately, however, this principle has been broken by some countries on certain occasions—with subsequent and to be expected death of the refugees returned. Where criminal acts are involved, and a just legal system exists, this principle does not apply. But when a tyrant demands a refugee on the grounds that he or she is a criminal, there is no justification in humanity for surrendering the person to him. Nor, when a refugee offends against the laws or security of a host country, is there any excuse for returning him to countries like Smith's Rhodesia, apartheid South Africa—or Amin's Uganda. The accused should either be dealt with inside the host country, or expelled to another refuge with the help of the High Commissioner for Refugees. I hope that this Conference will reaffirm Africa's commitment to the principle of non-refoulement; it is a basic humanitarian law. These results from the 1967 Conference have been important. But there were other recommendations.

I do not know how many African nations have amended their ⅔ legislation where necessary, or already have satisfactory laws governing the rights and status of refugees. But I doubt if the figure is large, and I do know that we in Tanzania have not made any changes. In any case, it is certain that this meeting cannot be told anything very much about progress in sharing the burden which refugees cause for some nations. And I am not aware either that there has been any concerted or coordinated African action to deal with the question of travel documents—although again, some countries do a very great deal unilaterally on this matter.

And education? At what point do refugee children become eligible for secondary or technical education on the same basis as nationals—or do they remain aliens forever? Which countries have carried out the O.A.U. Council of Ministers' recommendation that Refugees should not be charged the economic school or college fees? Which countries have even worked out a coherent policy on these things, let alone implemented it? And so on. Honest reporting on all these subjects of discussion in 1967 are likely to be depressing.

Why is this? I do not believe it is a result of ill will, but rather that all the Government of Africa are busy, and hard pressed, trying daily to perform the miracle of the five loaves and two fishes. They are subject to many pressures from their people and on behalf of economic interests elsewhere. And there is no countervailing pressure in support of the refugee victims of injustices and oppression. The only pressure is our own awareness of Africa's unity and of our common humanity with our brothers and sisters. It appears that this is not a very strong pressure in comparison with others to which we are subject.

But there is a further problem,— the problem of bureaucratic organization. In most of our countries the Ministry of Foreign Affairs deals with matters connected with international organizations and the O.A.U. The Home Ministry deals with refugee matters inside the country. A Ministry of Lands has to be involved in any land settlement, an Education Ministry for matters related to schools or school fees, and Regional Authorities on integration with local people—and so on. It needs a major effort if young and poor countries are to overcome the resulting problem of organization and coordination, and to ensure that refugee policy is clearly worked out and then efficiently implemented.

At O.A.U. level also there is the problem of too much to do and too few resources with which to do it. Heads of Government Meetings, and even Foreign Ministers' Meetings, usually go on long into the night, and still many important issues are not adequately considered. And when a decision is made, there remains the question of its implementation. Individual states do not always carry out agreements reached with and by the representative at OAU Meetings.

Mr. Chairman, I have talked for a long time. And it may be that I have not been very diplomatic. But this is not because I am unconcerned with the matters you will be discussing. It is because I am concerned, and because I am hoping that if we recognize what is, then we shall be able to get on with the work of making what is into what should be.

Our resources are very limited, and the demands made upon us are very large. But I do not beileve that dealing with the problems of 3.5 million people, and giving them a chance to rebuild their dignity and their lives, is an impossible task for 46 nations and their 350 million inhabitants.

Your Excellencies: you have my good wishes for your Conference, and for your success intranslating its decisions into action by Africa's Governments.

Thank you.

STATEMENT BY FRANK A. SIEVERTS

Our presence here reflects the interest in Africa, and refugees, by senior leaders of the U.S. Administration: President Carter, Secretary of State Cyrus Vance, and Ambassador to the United Nations Andrew Young. It also responds to the strong interest of our new U.S. Coordinator for Refugees, former Senator Dick Clark, who previously served as Chairman of the U.S. Senate Subcommittee on Africa, and who visited Africa many times. Now an Ambassador-at-Large, Dick Clark has asked me to express his best wishes to this Conference, and his personal regret that he could not be here.

In thinking about refugees in Africa, it is clear that the first and greatest contribution is African. You provide the essential first asylum. You provide the land for settlement. You share your education and health facilities. Refugees have become part of the development needs of many countries in which they have found refuge.

All of us listened with the greatest interest and respect to the statement yesterday by President Nyerere. Far from being the collection of pleasantries that one sometimes hears in a welcoming speech, the President's statement was a serious and substantial contribution to the work of the Conference.

President Nyerere called the refugees "primarily an African problem and an African responsibility." He said it was necessary to be realistic and hardheaded about them. I am sure all of us—and the refugees—would agree. He stressed that granting asylum is not to be regarded as "unfriendly" by any other state. Would that this intelligent philosophy were equally respected in other parts of the world.

UN High Commissioner for Refugees Poul Hartling followed with this thoughtful and moving statement. It was indeed right for him to stress the responsibility of the international community to provide support for refugees in a manner consistent with the needs and aspirations of Africans themselves. In his words also, we were reminded of the great contribution made by Africa towards meeting the refugee challenge. For it is Africa that provides the basics: asylum, the means for subsistence, and a place to stay.

This was well expressed by the Chairman of the Planning Committee for this Conference, Mr. Antoine Noel, in his introductory statement, when he said:

"Africa is finding its own answers—based on its traditions—to solve this problem. In a world ruled by egoism, Africa has chosen to be generous. In a world ruled by hatred, Africa has chosen cooperation. Solidarity, understanding and reflection, let us be guided by this continent's ideals. At the same time, we should have the courage and the will to keep in sight the daily realities of the peoples and countries we serve. In the final analysis, let us endeavour to attain practical objectives which Africa might make its own."

Let me discuss briefly two aspects of refugee assistance in Africa that are important to our country, and possibly to other industrialized nations in a position to contribute to such assistance. One is the desirability of a multilateral, international approach to refugee assistance. The second is the importance of planning ahead to try to foresee the financial and other requirements of refugee assistance.

This Conference is itself an expression of the usefulness of a multilateral structure for addressing refugee problems. The same point applies, in our view, to refugee assistance in specific cases. While each country takes the lead in arranging assistance for the refugees that have come into its territory, to the extent that assistance from outside is needed, there are significant advantages to a multilateral approach. It enables the international community to put the needs of each situation into an overall perspective. It helps eliminate political implications that can arise from involvement on a bilateral basis. This we know can be a difficult problem where refugees result from extreme political tensions or even conflict, as so often is the case.

Obviously, this endorsement of the multilateral approach does not reduce the concern of donor countries for the immediate plight of particular groups of refugees. But rather than attempting a series of bilateral relations for refugee assistance, with a consequent multiplication of structures and networks, we have found it generally advantageous to provide our assistance on a multilateral, international basis. This approach also provides a framework for an equitable apportionment of support among the donor countries, so each can bear its fair share.

To accomplish this we have come to rely

on a number of organizations and individuals, starting with the UN High Commissioner himself and his able associates responsible for assistance for Africa. The UNHCR by its mandate and structure is in a key position to evaluate and assess the needs of refugees, and to express them to the world community. We have welcomed the central place in its programs that the UNHCR has given to Africa. This priority has been further enhanced under the leadership of the present High Commissioner, whose personal interest and commitment to Africa have been made clear to us during this meeting, and in his three previous visits to the area.

May I also refer to the work of the International Red Cross, both the ICRC and the League. The ICRC is often in the front lines—literally—of assistance to refugees and other persons affected by armed conflict and political tensions. Responding purely on the basis of need, without regard to politics, the ICRC has brought medical aid and relief to those in the greatest conditions of suffering. It acts in the name of the Geneva Conventions of 1949, to which virtually all our governments have acceded, and the spirit of the new Protocols to the Convention, recently concluded in Geneva, which particularly address the humanitarian problems arising from internal conflicts and wars of national liberation.

The ICRC fulfills its humanitarian mandate also through its Central Tracing Agency, which helps reunite families the world over, and by its program of humanitarian visits to prisoners of war and other detainees. These visits are carried out without political implications, and have come to be accepted as the standard means of assuring that treatment of POW's is consistent with basic humanitarian requirements.

In this regard I would like to express our support for the appeal recently issued by the ICRC to the parties involved in the continuing grave conflict in Southern Africa. Based on the Geneva conventions, the appeal calls for observance of basic humanitarian principles in the treatment of prisoners of war and other victims of armed conflict: surely it is in everyone's interest—and particularly in the interest of the individual Africans who are the most frequent victims of the conflict—that these principles be universally observed.

The League of Red Cross Societies serves as a link among the National Red Cross Societies of all countries. We are glad to note that the League has embarked on a new program to help strengthen and develop the Red Cross and Red Crescent Societies of each country of Africa. In some places Red Cross is strong already. Elsewhere it is just beginning. As a movement it has shown itself to be adaptable to the humanitarian needs of every country. The form this adaptation may take can vary from place to place. The substance of commitment by Red Cross remains universal.

May I take a moment also to speak of the private voluntary organizations that play such important roles in providing international assistance to refugees in Africa, many of which are represented at this Conference. The multilateral approach I have described could not function without the work of the many good people who serve in the name of these organizations. Their motivation may be spiritual and idealistic, their contributions are eminently practical and down to earth. They epitomize the philosophy of the American Quaker, Douglas Steere, who wrote that "work is love made visible." Often they serve as the operating arms of the UNHCR for the purpose of bringing assistance directly where it is needed.

This brings me to what we as governments of industrialized nations can do to help. Although our assistance is usually not as direct as that of the UNHCR, the Red Cross, and of the voluntary agencies, it is clear that industrialized countries have provided and I am sure will continue to provide major financial assistance to make these programs possible. We have heard already of the donations from the EEC, recent and planned, and that of course is most welcome. The European countries represented here have long ties of history with Africa, which provide additional reason—if it is needed—for their generous contributions of food and funds.

In keeping with our support of the multilateral principle, most U.S. contributions for African refugees have been channeled through UNHCR and other organziations, including the ICRC. In this year, for example, our basic donation to the UNHCR general program for Africa and to the ICRC's Africa program is at a level of ⅓ (33 percent). Members of the U.S. Congress particularly concerned with African Affairs and refugee problems, such as Rep. Stephen Solarz, Chairman of the House African Subcommittee, who recently visited Tanzania, and Senator Edward Kennedy, Chairman of the Senate Judiciary Committee and a strong supporter of refugee programs, have urged us to continue our funding at the ⅓ level for African refugee programs, and this we hope to do. This is a higher percentage level than is applied by the United States Government to its financial contributions to most other international programs, and responds to the growing support in our country for Africa generally and the needs of the refugees in particular.

In addition to our support for the general African programs, the United States has also responded to special appeals for Africa. For example, we have supported the UNHCR's program to assist refugees returning for resettlement in their former homelands in Zaire. In combination with other contributions, these funds have made possible the provision of seeds, tools, farm implements, and other basic necessities to enable these refugees to start their lives again. The United States also contributed to the recent special appeal issued on behalf of refugees in the Sudan.

This brings me to the second general point I want to address. In addition to the multilateral, international approach to assistance, we also want to call attention to the need for advance planning to foresee the requirements of refugee developments. This is important both for the management of the program in the field, and for the sake of donor governments, who are ruled in these matters by a budget process that takes little account of needs or developments that happen at short notice.

All of us recognize the difficulty of looking ahead. One never knows for sure how many refugees will come, or when. One always hopes the causes that give rise to refugees will ease, and that a reconciliation will be found. Even to predict a large movement of refugees may not be free of political implications.

At the same time, the need for orderly planning is evident, and we hope this can be done in ways that overcome the problems. It is a challenge to the international organizations, particularly UNHCR, and to the countries directly affected. My government has encouraged UNHCR to strengthen its planning capability, as devoted to Africa, and to refugee problems elsewhere. We know the High Commissioner and his associates are taking this seriously, and are projecting their needs ever farther into the future, with a higher degree of concreteness than has been possible in the past. This is a capability that must be consciously built up, with qualified managers devoted to it just as they are devoted to the day to day needs of a refugee situation.

But the rewards of planning can be significant. It enables the country concerned to fit the refugees into its own situation, and to see them in the context of its development needs. It enables the UNHCR and other assistance agencies to organize their work, retain the right staff, and realize economies of advance purchase of needed supplies, avoiding the often exorbitant costs of last minute contracting and transportation. Having worked some years ago on the relief supply needs of the Nigeria conflict, I remember that food was provided costing as little as 10 cents a pound—with a dollar a pound for transportation.

For the donor countries, advance planning makes possible a timely commitment of financial support, and when this is known in advance, it is our experience, and I believe that of others, that the contributions can be larger, since they can be fitted into overall budgets, rather than drawing on necessarily limited contingency funds provided for emergency purposes. In some cases refugees and development needs compete for the same funds. From experience we have learned that planning and development go hand in hand. To the extent possible refugee needs should be fitted into a similar process.

Finally, the planning process can be linked to training programs to enlarge the number of persons qualified to see to the needs of refugees. Such training programs can range from courses of study for people in the field, to better equip them to manage a refugee camp or project, to advanced seminars in the legal and human rights of refugees, similar to the workshop sessions that will take place at this conference.

In conclusion, may I express our appreciation to the organizers of the Conference for inviting the United States and other non-African countries as observers, and to the government and people of the United Republic of Tanzania for giving us such a good welcome. It is a privilege to take part in this meeting, and in common with other observer governments we wish it all possible success.●

INFLATION: A STRONG RESOLVE TO DEAL WITH THE PROBLEM

● **Mr. GARN.** Mr. President, several weeks ago, Utah was privileged to receive a visit from Gov. Henry C. Wallich of the Federal Reserve Board. The occasion was a meeting in Ogden, Utah, sponsored by the Ogden Chamber of Commerce and Westminster College of Salt Lake City.

Governor Wallich has served very capably on the Federal Reserve Board, demonstrating a keen insight into the economic problems and potential of the country. Drawing on these abilities, Governor Wallich presented in his remarks an excellent analysis of the current inflationary economy in which we all are living. Although I may differ on one or two of Governor Wallich's recommendations, his understanding of the problems is sound.

As he points out, Mr. President, everyone is aware of inflation, from the ordinary householder, whose decisions about whether to save or to buy a new refrigerator before the price rises out of reach "become gnawing problems," to the people who have retired, who under inflation are the "worst off." There is no way to adequately invest for the future. With returns below the inflation rate, the private investor "loses money on every dollar he invests." The same is true for parents trying to save for their children's college.

If it is true then that everyone is so aware of the costs of inflation and all are adversely affected by it, then why, as Governor Wallich asks, "is it that we have made so little headway against it?" His answer is instructive, to the Senator from Utah and to all of my colleagues:

> The basic reason is that in fighting inflation we are still violating the first rule of economics that there is no such thing as a free lunch. We delude ourselves if we believe that a cure will not be painful and costly. But the ultimate pain and cost of letting inflation go on is far greater. There is no way of "living with inflation." Unattended, it will accelerate in the future as it has done in the past, contrary to many predictions, and will end up by destroying our market economy.

Mr. President, this is absolutely true. I cannot stress it enough. In the U.S. Senate we have not begun to make the kind of sacrifices that are necessary to bring inflation to a halt. We do a lot of window dressing, a lot of window dressing. When it comes right down to it, too many of us are unwilling to allow our pet project to be curbed, and all of the expensive programs of the Government are pet projects to someone.

I will say this. I will continue to work to bring a halt to the inflationary impact of Government. Hardly a day passes when I am not approached by someone who praises my anti-inflation stands but then has a worthwhile program that demands special treatment. Well, we cannot give all of the projects special treatment. Right now, the only special treatment is the project that is cut—that is the exception rather than the rule. We are going to have to agree to cut our pet programs. If we are to control inflation, then we are going to have to make the hard decisions and pay the price. If we do not make these hard decisions, then I think that the voters will have some easy decisions to make in 1980.

Mr. President, what is needed is not more window dressing, not more hand wringing about the problems of inflation. "What is needed," in the words of Governor Wallich, "is a strong resolve to deal with the problem."

Mr. President, I ask unanimous consent that the remarks of Governor Wallich be printed in the Record.

The address follows:

What Inflation Has Done to Us

(Remarks by Henry C. Wallich)

It is a pleasure to address this dinner gathering of the Chamber of Commerce of Ogden on the subject of inflation. I had been told that there would be an audience with ladies and inflation is a topic that is of special concern to them. Certainly, today there is no reason for an economist to try to explain what inflation means.

This small coin that I hold in my hand symbolizes what has happened to our dollar. It is a Susan B. Anthony dollar, which will be put into circulation the first week in July and may eventually replace the one-dollar bill. The Susan B. Anthony dollar is very handy, a little bigger than a quarter. It will buy for you more or less what a quarter used to buy during the early 1940's. I am speaking, of course, in terms of averages. Some things have gone up much more. When I started to work in New York City in 1935, a subway ride cost a nickel. Recently I paid 50 cents. A copy of the New York Times then cost two cents. It costs 20 cents today.

The Susan B. Anthony dollar is a good way of reminding ourselves what has happened to our money. In practical terms, replacing the depreciated dollar bill by a small coin is a very good idea. It will save the Government money, because even if it circulates rapidly it will wear out much more slowly than a dollar bill. It costs 3.3 cents to coin a Susan B. Anthony dollar, and 1.9 cents to print a dollar bill. But the dollar bill, on average, lasts only 18 months, and the less it buys, the more carelessly people treat it, stuffing it into their pockets instead of carefully placing it in their wallets.

In introducing this coin, the United States will be following the example of many other countries, including Switzerland and Germany, whose money has preserved its value better than ours. Swiss francs and German marks circulate in the form of coins and over there they also have two- and five-franc and D-mark pieces. A five-franc piece is worth about $3.00. They are easy to handle and give you an agreeable sensation of having a pocket full of solid money.

But the Susan B. Anthony dollar's main virtue, I hope, will be to teach us a lesson. The lesson is that we must do something to preserve the value of our money, or it will shrink. The dollar is now what a quarter was at one time. The nickel buys little more than what a penny used to buy, and there is a real question whether the Government is well advised in continuing the expense of minting billions of pennies instead of allowing the nickel to become our smallest unit. We would all have a lot of time making change and unfortunately a price difference of a penny hardly is any difference anymore. The main objection to such procedure is the surge of inflation that would result if vendors were to round prices up instead of down to the nearest nickel. The new dollar will serve its purpose if it reminds all of us of inflation. Perhaps such a remainder is not needed, but what is needed is a strong resolve to deal with the problem. This problem affects everybody, although it takes a somewhat different form for people in different situations.

Let me examine for a moment a few familiar cases. First, there is the family that is trying to make ends meet. In an average family, they probably more or less keep up with inflation, with pay checks generally rising with prices. But that is not always the case, and in any event they can never be sure. What if one year there should be no pay raise? Or what if the main breadwinner should lose his job? Ordinary household decisions, moreover, become gnawing problems. Should the family buy new furniture, or a new car, before the price goes up? If they do not, they will probably have to pay more later. But if householders try to buy ahead, and something then goes wrong with a pay raise or job, can their payments be met? Inflation creates insecurity and tension.

If the family is young, and has small children, there may be the question of how to prepare for college. With the price of college education going up 10 percent per year, as it has been doing, there is no way of setting aside, from today's pay, an annual sum that will be of much use 18 years from now. At today's rate of inflation, the half-time life of money is only 7.2 years. Many people seem to think that the best way to save for college expenses is to buy a house and hope that its value will have risen enough when the time comes so that they can put a second mortgage on it. Few parents will be happy to have to gamble in this way for the future of their children.

That gets us to the role of the homeowner in inflation. On the surface, he is the big beneficiary. The price of the average home has risen from $27,383 in 1971 to $55,058 in 1978. Those who bought their home with a mortgage have seen the value of their equity in the house rise proportionately much more. Nevertheless, most homeowners do not seem to be happy. They find taxes and utility costs rising, and many do not like the idea of trying to cash in on their capital gains by refinancing. As a result, people take drastic political action, such as the passage of Proposition 13 in California. That helps to hold down real estate taxes. But for people who want to buy a house even this is only a partial help, because the effect of Proposition 13 in the opinion of many seems to have been to drive up further the price of California real estate and to put it further out of reach of new buyers.

Worst off probably are people who have retired, or are planning to do so soon. Private pensions cannot be reliably indexed to inflation, because the payor may not be able to perform. Putting money in a savings bank means putting it under a Government-mandated interest rate ceiling which for years now has not allowed the saver to keep up with inflation. The great popularity of money market certificates, of which over $100 billion have been issued since June 1, 1978, by banks and thrift institutions, attests to the savers' deep concern over this situation. But a saver who can put up $10,000 for such a certificate may not always be what is frequently called a "small saver." Consequently, he probably pays a substantial income tax. If so, the yield to him after tax and inflation is still negative. If he puts his money into bonds, the same applies. He may get a good interest rate, but inflation and taxes makes his yield negative. He loses money on every dollar he invests. In addition, if inflation should accelerate, he runs a risk with respect to the market value of his investment.

Finally, if the saver invests in common stock, he comes up against one of the great puzzles confronting present-day investment strategy. In abstract logic, common stocks over time should keep up with inflation, unless some drastic changes have befallen American corporations and their profits. But the fact is that stocks have not been a good inflation hedge. As inflation has progressed, stock prices, on average, have remained roughly constant. That means that stocks have become cheaper each year in real terms. If one adjusts the Dow-Jones index for inflation, he finds that, in real terms, the stock market is now where it was in 1954. Foreign investors seem to think that American industry is for sale cheaply and are moving in. American investors and their advisers seem to believe that 9 per cent interest is better than 5 per cent in dividends, even though stocks by and large are backed by real assets while bonds are fully exposed to inflation.

Faced with these unattractive alternatives, the saver who hopes to retire on his or her savings is in a losing game. Such persons might ask what depreciates faster—people or money. Our senior citizens deserve better than that.

But it is not only the consumer who suffers from inflation. The businessman, the farmer, the worker, also are victimized. The businessman probably finds the uncertainty with such inflation confronts him to be its most damaging consequence. Future costs, future selling prices, future taxes, all become a gamble. Everything becomes more risky. To make an investment, the margins must be much more attractive than they would need to be if prices were stable and predictable. The tax system, moreover, makes nonsense of normal business calculations. The businessman is now allowed to charge off what it would cost to replace the wear and tear on his machinery and equipment. Rather, he can charge only at the price at which he bought the equipment, perhaps many years ago. When the time comes to replace it, he must go out to borrow new money because the money the tax law allowed him to set aside via depreciation has become inadequate. The tax law treats as profits money that should be set aside for future replacements. As a result, profits are overstated. The stock market recognizes this by putting a very low value, in terms of price/earnings ratios, on the profits of most corporations. That, in turn, makes it difficult to sell new stock for financing of new investment. Inadequate investment leads to inadequate productivity, and inadequate productivity, as I said earlier, leads to more inflation.

The farmer, too, is hit by inflation. A few weeks ago, a group of farmers came to Washington to ask the Government for relief from their financial pressures. It was pointed out to them, in the press and elsewhere, that farmers for many years have benefited from the great rise in the price of farmland. That, in fact, has been one of the principal returns to farming. But, in this regard, farmers are in the same position as homeowners. Rising land prices do not mean cash in the bank to pay bills or interest, and so the farmer faces a liquidity squeeze. The problem of the young farmer who wants to buy a farm is even more serious.

The worker, too, and—if he is organized, his union leader—faces difficulties from inflation. A powerful union may be able to take care of its members by making wage demands sufficiently larger than the rate of inflation. But if they do this, they expose themselves to public criticism and governmental pressure. A responsible union leader is bound to be seriously concerned about what he would be doing to the trade-union movement and to the entire country by enforcing a settlement that would break the President's guidelines. On the other hand, a labor leader who does not do all that he can for his people may find himself voted out of office. Wherever we look, inflation breeds insecurity and conflict.

If inflation is so universally damaging, why is it that we have made so little headway against it? In particular, why is it that in the year in which the Government made the fight against inflation its number-one priority, inflation has once more accelerated into the double-digit range? The basic reason, I believe, is that in fighting inflation we are still violating the first rule of economics that there is no such thing as a free lunch. We delude ourselves if we believe that a cure will not be painful and costly. But the ultimate pain and cost of letting inflation go on is far greater. There is no way of "living with inflation." Unattended, it will accelerate in the future as it has done in the past, contrary to many predictions, and will end up by destroying our market economy.

What we shall have to do, in broadest terms, is this:

(1) Allow for somewhat greater slack in the economy in the form of more excess capacity and unemployment that we would ordinarily want to accept. We must reject speculative calculations of the amount of output that we would be sacrificing by such a policy. That additional output would never be available in an economy wracked by inflation as ours is. At the same time, we must continue to compensate decently those who, for shorter or longer periods, suffer unemployment. We can immediately reduce the worst part of our unemployment, that of teen-agers, by lifting temporarily or, better, permanently the minimum wage restrictions that militate against employment of teenagers.

(2) We must end the many activities of the Federal Government that spawn inflation, including numerous forms of regulation.

(3) We must bring Government expenditures under better control. While I do not believe that a Constitutional amendment for an ever-balanced budget is a practical answer, we can and should set firm limits on Government expenditures.

(4) We should pursue a strong anti-inflationary monetary policy, taking advantage of the fact that while monetary policy works only with a lag on employment and output, its effect on prices, which works by affecting peoples expectations, can be much quicker.

(5) We should implement guidelines of the kind established by the President and support them, together with a real wage guarantee or some other use of the tax system to restrain the wage-price spiral.

(6) We should reform the tax system to strengthen our productive forces and eliminate the existing bias against productive activities.

The execution of such a policy would have to take many forms. It will encounter resistance and will require courage and steadfastness. I have no doubt that the solution to the problem of inflation is in our hands. The cost of victory in this struggle may be high, but the cost of losing would be incalculable.●

INDOCHINESE REFUGEES: JOURNEY TO LIMBO

● Mr. KENNEDY. Mr. President, the flow of Indochinese refugees has reached crisis proportions in Southeast Asia today. Last month alone, nearly 60,000 new boat refugees joined some 80,000 boat refugees already piled on the beaches of Southeast Asia. In addition, some 90,000 Cambodian refugees have fled into Thailand, adding to the 135,000 refugees already languishing there, many for several years.

Clearly, the crisis of people in Southeast Asia is getting worse each day—outpacing the ability of the international community to respond, and creating intolerable burdens for the countries of the region.

Nowhere in the media has the crisis of refugees from Indochina been reviewed with greater thought and more careful detail than in a series of special articles in the Philadelphia Inquirer last week, written by staff reporter, Larry Eichel. Entitled "Journey to Limbo," the Inquirer articles outline the critical problems confronting the world community in responding to an escalating flow of refugees. It describes the tragic conditions under which most refugees live, waiting in the hope of finding an open door somewhere, anywhere.

But as disturbing as the conditions are in the field, the article focuses on an even more sobering fact: One-half of the nearly 1 million Indochinese refugees who have fled their homes since 1975 have moved during this past year alone. And there is no end in sight.

It is rare, Mr. President, to see such exhaustive and thoughtful writing on the Indochinese refugee problem, and I commend the Philadelphia Inquirer for undertaking such an important task. Mr. Eichel's effective reporting serves to remind us what many tend to forget—that the refugees from Indochina have a compelling claim upon our attention and concern. We must continue to respond to the urgent resettlement needs of Indochinese refugees, and to join with other countries in helping to cope with this human tide of misery.

I urge my colleagues to review the Inquirer's extensive report on the Indochinese refugee problem, and I ask that they be printed in the Record.

The articles follow:

Seeking Haven, Finding None, Looking West

(By Larry Eichel)

Nong Khal, Thailand.—In Room 23, Building 7, Keo Chanthavy is waiting. He is waiting to leave.

He has been waiting for 3½ years with his wife and six children in a camp with 40,000 others like them. He will be waiting for years to come.

He is one of the people who have journeyed to limbo.

He is an Indochinese refugee, part of one of the most massive and unexpected population shifts in recent world history. It is an exodus that could take on historic proportions and have a major impact on the world and, in particular, on the United States.

So far the U.S. government has rescued 200,000 Indochinese refugees from limbo. It has specific plans to rescue 119,000 more.

But there are 55 million people in Indochina, and no one knows how many will want to be rescued. This is a world problem, America says. This is an American problem, the world says.

The problem is growing, not diminishing, and America probably will have to help resolve it, perhaps by opening its doors even wider. There could well be a million Southeast Asians in America by the 10th anniversary of the fall of Saigon.

When the Western world thinks of refugees, it sees Vietnamese boat people: capsizing fishing boats; starving children; rusted freighters, their decks jammed with people and their holds filled with gold, searching for ports taht will permit them to land.

There are such people, thousands of them. But they are only a small part of the exodus.

Keo Chanthavy, like most of the refugees rotting from hunger and boredom in the camps of Southeast Asia, did not escape by boat. He came by land. He is not Vietnamese. He is Laotian. And, like so many others, he has scant hope of going anywhere—anywhere but Room 23, Building 7 of the camp at Nong Khai.

They have come from all across Indochina. And they keep coming—men, women and children, by land and sea—despite the uncertain future that awaits them.

In the last four years, well over 900,000 people—the equivalent of half the population of Philadelphia—have fled. Last year alone, about 450,000 fled Indochina, far more than in 1975, when non-Communist governments fell and desperate people clung to the runners of rising helicopters as the Americans evacuated in a hurry.

Last month, more refugees—between 35,000 and 50,000—escaped from Vietnam, Laos and Cambodia than at any other time since the fall of Saigon. This means that the problem is more serious than ever.

Each day, old lives are abandoned throughout Southeast Asia:

An ethnic Chinese merchant, whose Saigon bicycle shop was confiscated by the government, fled rather than accept a new life as a farmer in the jungle.

A Hmong warrior from the Laotian hill country, who fought the Communists for 10 years in a secret army funded by the United States, ran from an extermination campaign of bombings and gas attacks.

A Khmer farmer escaped from Cambodia lest the authorities discover his secret past—he had been a teacher—and execute him for it.

They have found a world that is not ready for them, a world swamped with more refugees than at any time since World War II: Burmese in Bangladesh, Filipino Muslims in Malaysia, Ethiopians in the Sudan, Angolans in Zaire, Palestinians throughout the Mideast, even Haitians in Florida—perhaps 13 million in all.

Yet the Indochinese are different from the others. They seek permanent haven, not temporary shelter. With few exceptions, they have no intention of ever going home.

They are not just running from one country. They are running to another, to, if they can, the United States. Nearly all of them want to resettle in the West, in countries they have come to know through the wars that have marred their lives.

And that is what makes their situation so tenuous. The refugees need Asian countries to give them temporary asylum and Western countries to offer them new homes. If they gain asylum but no assurance of resettlement, they must wait in the limbo of a refugee camp. Sometimes, that wait can be too much to bear.

At a camp on Bintan Island, Indonesia, a refugee—distraught because he and his family had not been accepted for resettlement—recently committed suicide.

"We will have more of that, I am sure, if the rich countries go on dragging their feet," one Asian diplomat said.

One rich country that Asia thinks is dragging its feet is the United States.

The movement of refugees to America has slowed in recent weeks and is scheduled to stop in two weeks for lack of money. The funds are tied up in the House Appropriations Committee, which has shown no hurry to act.

Such a stoppage, refugee officials believe, would be a disaster. "I'm afraid we would see a tragic increase in deaths and drownings at sea, because boats full of refugees would be refused permission to land," said former Sen. Dick Clark (D., Iowa), the State Department's coordinator for refugee affairs.

So far, about 320,000 have been resettled in Western countries; 300,000 have settled, for now, in neighboring Communist countries; and 280,000, like Keo Chanthavy, await their futures in camps that range from surprisingly good to utterly squalid.

Even those numbers understate the magnitude of the exodus. They tell how many succeed in escaping. No one knows how many others tried to leave and failed, or died somewhere along the way.

"The situation is growing worse, obviously, rather than better," said Clark, who visited the region last month. "In talking with the refugees themselves and the leaders of nations, I got the distinct impression that the numbers, if anything, are going to increase from the current level."

He said that with the knowledge that in April 26,000 Vietnamese boat people, a one-month record arrived in Southeast Asian nations.

"It now appears to me that there will be at least 500,000 in the camps, virtually double the current number, by next May 1, even though we (the United States) are increasing our intake," he concluded.

For the United States, the movement of refugees out of Indochina may produce the largest legal influx of any one group since unlimited legal immigration ended three generations ago. The influx is already the largest since the arrival of 260,000 Cubans fleeing communism in the early 1960s.

In the last four years, the U.S. government has admitted more than 200,000 Indochinese, including 130,000 immediately after the fall of Saigon. The Carter Administration plans to admit at least another 119,000 Indochinese by Oct. 1, 1980. Privately, administration officials speak of the program continuing for years to come, provided that Congress approves the funding.

And the influx will broaden even further. Starting next May, refugees who came to the United States in 1975 will be eligible for citizenship—and thus eligible to bring in their spouses, parents, siblings and children through normal immigration channels. Those channels could produce 20,000 additional immigrants a year.

"I don't think there's any end to it, not in terms of Indochinese going to the United States," said one of America's senior refugee workers in Southeast Asia. "If not as refugees, they'll come as immigrants . . . They are our next great immigrant group. And I, for one, welcome them."

Depending on what action the President and Congress decide to take, anywhere from 500,000 to 1 million Southeast Asians could be on U.S. soil by 1985—the 10th anniversary of American withdrawal from Indochina. The higher figure would match the number of Irish who immigrated here in the 10 years following the Great Potato Famine.

The influx of Indochinese is much less visible now than it was in 1975. This time, there are no huge reception camps such as Fort Indiantown Gap, near Harrisburg. This time, the newcomers, aided by local sponsoring agencies, are moving directly into the American mainstream, many into shabby apartments in low-income areas. But they are coming just the same.

To say that the refugees—those who come to the United States and those who resettle elsewhere—are fleeing an ideology is to dismiss a highly complicated phenomenon with a cliche.

Some are literally running for their lives. Others do not like the lives that the Communists have offered them, or they wish to be reunited with relatives in the West. A few are exploiting a situation that offers a once-in-a-lifetime opportunity to start a new life in the West.

Keo Chanthavy, a humble farmer, left because the Laotian Communists wanted to confiscate some of his rice.

This sustained exodus is very different from the panic of 1975. This time, escapes are planned months in advance, and they often involve substantial amounts of money and the complicity of the government.

Some Vietnamese, particularly those of Chinese descent, have been aided in their departures by Vietnamese officials who, in return for bribes, look the other way.

In other cases, the government's involvement has been far deeper. Provincial security chiefs have been known to act as travel agents, purchasing the boats, organizing the groups, providing buses to take the passengers to the dock and exacting as much as $4,000 in gold per adult (children go half-price) for their services.

PAY PERSPECTIVE

"The fact that they pay doesn't make them any less refugees," said Leo Cherne, chairman of the New York-based International Rescue Committee. "Refugees almost always have to pay their way out one way or another."

How many will ultimately join the exodus can only be speculated. Past estimates, expert and otherwise, have always been low. Much depends on how hard Vietnam tries to stop people from leaving—and it is not trying very hard now—and how hard neighboring countries try to prevent them from arriving.

A Vietnamese official said last week that at least another 400,000 to 600,000 people want to leave southern Vietnam.

"Given a time frame of five years, I think the figure could reach, in conservative terms, 2 million," said Home Minister Tan Sri Ghazali Shafie of Malaysia, which along with Thailand, has borne the brunt of the refugee movement.

No nation in East Asia has escaped involvement with the exodus, though many have tried.

Cambodians flee on foot to Thailand and, surprisingly, to Vietnam. Loatians, including the battered remnants of the U.S.-funded secret army of Hmong (Meo) warriors who had fought the Communists in Laos, continue to cross the Mekong River to seek refuge in Thailand. Last year, Vietnamese went overland to China before the border was closed.

The Vietnamese who leave their country in boats can end up almost anywhere—including the bottom of the South China Sea. Although most of the media accounts of the exodus have focused on the tramp steamer Hai Hong, which trundled through Southeast Asian waters with 2,500 refugees aboard last November, and on other refugee freighters, only five such boats have appeared to date.

The vast majority of the boat people have embarked in smaller, far less seaworthy vessels ranging in length from 30 to 60 feet. They face attacks from Thai pirates, assaults by typhoons, shortages of food and water, breakdowns of engines and hostile, sometimes violent, receptions when they try to land. And there is the fear that when they do land, they will be towed back out to sea. If that happens, the process, with all its risks, starts all over again.

Those who survive—at least one out of every four refugees does not, according to refugee workers—have found a first asylum in Malaysia, Thailand, Indonesia, the Philippines, Hong Kong and Macao, all relatively close by. A few thousand, amazingly, have journeyed as far as Australia, 2,500 miles away. Those rescued at sea by commercial ships have been deposited in Singapore, Taiwan, South Korea and Japan.

Upon arrival, the refugees face another difficult task—surviving the camps. Too often, there is little to eat, nothing to do, the constant threat of disease and the latent fear that the camp will be home for years to come.

At Pulau Bidong, a volcanic island 12 miles off the coast of Malaysia, 36,000 people are jammed together on 85 acres, totally dependent on supplies that can be delivered only by tiny fishing boats over often impassable seas. The housing is so inadequate that newcomers must either buy shacks made of bamboo and sugar bags from outgoing refugees at exorbitant prices or build their own, an option that requires the purchase of tools and supplies on a flourishing black market.

In Nong Khai, a seemingly permanent refugee city of 40,000 in the dust of northeast Thailand, the drone of the Hmong funeral dirge, played on a long, double-shafted reed pipe by a man who hops and whirls like a dervish, has become almost as familiar as the rumble of air-conditioned buses bringing in Thai tourists every afternoon or the sight of privileged Lao refugees leaving camp for a game of tennis. The funeral is almost always for an undernourished child, whose parents, trusting in witch doctors, failed to go to the camp hospital until it was too late.

How long refugees must wait for resettlement depends on who they are and where they find asylum. The time in limbo may be as litle as two months; for some, it already has been four years. For the ailing, the aged and the unlucky, there may be no life after Nong Khai or Pulau Bidong.

"We will go anywhere, but no country has interviewed us," said Ngo Kim Xe, a Vietnamese boat person of Chinese descent, a former hospital secretary who waits, with his wife and three children, in a beachfront camp on Malaysia's east coast. There is something approaching desperation in his voice. "Do you know when the United States will interview us? I have a cousin there. Are the Australians coming? I have a friend there . . .

"We have no regrets about leaving Vietnam," he said, despite the fear that he may have to stay inside his barbed wire enclosure, sleeping in the dust, with no walls to protect him from the wind, for years to come. "We understood that it would be tough. This is temporary misery, that's all. When we get out, we have our future. That is enough."

The presence of the refugees has strained the economic and diplomatic patience of the first asylum countries—most of which have trouble enough feeding their own people—even though the United Nations High Commissioner for Refugees (UNHCR) provided $42 million to operate the Indochina camps last year and expects to spend at least $62 million this year.

And the presence of refugees, particularly those of Chinese descent, has inflamed ethnic hostilities that are never far below the surface in countries such as Malaysia.

As the flow continues with no sign of stopping, the welcome grows ever cooler. Malaysia, the principal destination for the boat people, often does not allow "seaworthy" boats to land, so many refugees scuttle their boats upon landing to avoid being pushed back out to sea.

"The Malaysian standard of what is 'seaworthy' keeps going down," said a high State Department official. "In the first asylum countries, things are at a flash point."

The UNHCR, which has offices throughout the region, is supposed to make sure that neighboring countries grant the refugees first asylum, meet their needs for food, shelter and medical care, and help them resettle in permanent homes. But the agency has no power of enforcement.

Nowhere is that lack of power more evident than in Asia, where there is no tradition of political asylum. In other parts of the world, custom dictates that a refugee be granted temporary haven in the first country the refugee reaches. Some nations have codified the practice by signing a protocol that established the UNHCR. None of Indochina's neighbors have signed the protocol.

Some of these countries consider the refugees to be illegal aliens and use that designation as justification for turning them away or making them serve month-long sentences in detention before they are placed in a formal camp.

In Thailand, the detention center may be a stockade or just a plot of dusty ground enclosed by barbed wire. In Malaysia, it may be a small warehouse in which 750 people eat, sleep and brood on a bare concrete floor that they must share with their garbage and their wastes.

These people certainly are not criminals. Many might not be considered refugees in the usual sense of the word.

Most are not seeking temporary refuge from battle; in Vietnam, the war ended four years ago. With several notable exceptions, they are not fleeing government reprisals such as death or imprisonment.

Their motives for leaving Indochina are political, economic and sometimes simply personal.

A former captain in the South Vietnamese army, upon release from two years in a political prison called a "re-education camp," finds that he is no longer considered a full-fledged Vietnamese citizen. This classification bars him from any decent job and his children from higher education.

A Laotian restaurateur learns that he must get official permission every time he slaughters a chicken.

And so, in a tradition as old as mankind, they emigrate. They go somewhere else in search of a better existence.

The existence may be worse.

Resettlement programs currently in operation are not broad enough to handle the present camp population, let alone those who are preparing to leave their native lands or those already en route.

Only four countries are resettling refugees in more than token numbers. The United States has accepted roughly 70,000 (not counting the 1975 evacuation), most of them Vietnamese boat people. In the next 17 months, the Carter Administration plans to take at least 119,000 more.

France has let in more than 50,000, most of them land people from Laos. It plans to take 1,000 a month indefinitely, although that figure includes some who emigrate legally from Vietnam.

Australia has resettled 18,000, mostly boat people, and plans to take at least another 14,000 by mid-1980.

Canada has absorbed 8,500 and plans to take an additional 5,000 this year.

Most resettlement countries, with the exception of the United States, are extremely selective. They look for people whose job training, language skills or previously settled relatives will make for relatively easy adjustment in the new homes.

"It is sad," said Pham Van Sang, a Vietnamese boat person who waits for a resettlement offer, "but we are goods on the open market."

Unless the big four do more and other countries make significant entries into the resettlement business, there is a very real danger that people like Keo Chanthavy will become permanent refugees and haunt the region economically and politically for years to come.

Senior officials in Singapore, Australia and the Philippines have warned that such refugees could become the Palestinians of the Far East.

In the Nong Khai camp, 15,000 refugees are into their fourth or fifth year of residence. Dozens of 3-year-old children have known nothing but camp life. The camp has such a backlog of people eligible for resettlement in the United States that American workers do not even open files on newcomers until the refugees have been in camp a year. And the backlog keeps growing, with no end in sight.

"Laos is slipping into Thailand," said one diplomat in Bangkok.

The U.S. sense of obligation to the refugees stems from the American role in the wars of Indochina. Many Asian leaders assert that the full debt will have been paid only if the United States takes all the refugees that no one else wants—both land people and boat people.

Current U.S. policy divides refugees into five categories and 15 subcategories to determine priority for resettlement. The policy recognizes a special debt to individuals who fought alongside American soldiers, served the American government or worked for American firms. It also gives priority to Vietnamese boat people over refugees who traveled cross-country from Laos and Cambodia.

According to refugee workers, all the refugees—even those who have not talked to a representative of a foreign government in years—express blind faith that the United States will rescue them from a lifetime of limbo in the camps.

But even such a strong advocate of refugee admission as Sen. Edward M. Kennedy (D., Mass.) says that the country can do only so much, that "the United States has not and is not expected to accept an unlimited number of refugees."

The question is where to draw the line.

"GRAY AREA"

"Where does political persecution end and mass migration begin?" former Sen. Clark asked, repeating a question that is beginning to trouble American officials. "We have to look at that, not just in Southeast Asia, but in terms of the rest of the world. It is a very gray area. It is a policy question, almost a philosophical question, that we haven't had time to face, simply because the numbers have grown so fast . . .

"It's clear now that our current policy amounts to this: Anyone who flees a Communist country and shows up at a refugee camp can be considered for acceptance . . . As the years (since the end of the Vietnam war) pass, the situation becomes increasingly blurred. We ought to be thinking about how many we are prepared to take."

One factor affecting the extent of refugee admission is cost. Official figures suggest that the U.S. government makes an initial outlay of $2,000 to $3,000 for every refugee it accepts. That includes transportation, initial settlement costs incurred by state and local governments and financial support for the voluntary agencies—such as Church World Service, the U.S. Catholic Conference and the International Rescue Committee—that do the interviewing in the camps in Asia and the work back in America to find sponsors for refugee families.

If Congress approves the State Department's request for $140 million for fiscal 1980—and an additional $104 million for this fiscal year that is tied up in a House committee—the United States will have spent $550 million on refugee assistance to Indochina between April 1975 and October 1980.

There also is a matter of precedent. How will the handling of this situation apply to others that seem likely to arise in an era when the United States is pulling back from international commitments, implicit and explicit, made years ago?

"In some ways," said an American diplomat in Tokyo, "the problem has already become more one of migration than of refugees. It is a problem of such magnitude that it has swamped our previous definitions and our mechanisms for dealing with it.

"We haven't come face-to-face with the implications of our own position. We see moral and legal obligations to accept refugees. We talk 50,000 or 100,000, maybe 250,000 before we're finished. But are we prepared to talk 2 million? And if we're prepared to take them from Indochina, will we take them from China, as it loosens its borders, or, in the future, Taiwan, Iran, Africa, South Korea?

"Our instincts are generous: *We'll take more. We'll spend more money*. But there are limits, even for us. We're going to have to reach some moral, theoretical and yet very practical definition that says, 'You are a refugee and you aren't.' "

A special commission, established by Congress last year and headed by former Gov. Reubin Askew of Florida, is beginning a comprehensive review of American immigration and refugee policy. And congressional committees, under Kennedy in the Senate and Rep. Elizabeth Holtzman (D., N.Y.) in the House, have initiated hearings on an administration proposal to revise refugee policy.

"Until now," Clark said, "we have carried out our refugee programs through what is essentially a patchwork of different programs that evolved in response to specific crises. The resulting legislative framework is inadequate to cope with the refugee problem we face today."

Present law allows the government to admit only 17,400 refugees a year and to admit them only from Communist regimes in Eastern Europe and "repressive" governments in the Mideast. Refugees from other areas have been let in through the attorney general's current power to overlook normal immigration quotas and parole groups into the country on an emergency basis.

Application of the parole authority to the Indochinese situation has produced chaos. Last year, the rules of the game changed constantly as Attorney General Griffin B. Bell, who thinks that the parole authority makes for bad government, reluctantly tried to adapt policy to events.

Legislation backed by the administration would create a "normal flow" of 50,000 refugees a year into the United States, with no geographic restrictions, and would give the President explicit permission to increase the flow in emergencies, such as the situation in Southeast Asia. Through Clark, President Carter has already said that he would use that power to admit 7,000 Indochinese a month for the next 17 months.

But even those numbers, as ambitious as they are, may not be ambitious enough.

In Vietnam, Laos and Cambodia, the governments continue to tighten controls on everyday life. Shortsighted planning and bad weather have produced major food shortages. Fighting continues in Cambodia, and the potential remains for war along the border between Vietnam and China. Vietnam's ethnic

Chinese find themselves less welcome than ever.

And some of the area's people, no doubt, will see the broadened American program as an invitation to emigrate.

The exodus is far from over.

A HEYDAY FOR PIRATES, A NIGHTMARE FOR 240 "SITTING DUCKS" AT SEA

(By Larry Eichel)

PALAU BIDONG, MALAYSIA.—The 72-foot lighter KG0729, three days out of Rach Gia, Vietnam, with 240 refugees aboard, stopped in the water somewhere in the Gulf of Thailand. The bilge pump had expired; the boat was taking on water.

As the men huddled below deck and stared at the pump, a steel-hulled fishing boat, bigger than the refugee vessel, appeared on the moonlit horizon. Thinking that help had arrived, Tuan Trong Toan, a Vietnamese physician of Chinese descent, blinked an SOS with a flashlight.

The fishing boat, as if responding to the plea, drew closer. As it approached, the refugees noticed that the boat, painted red and green, had Thai writing on its side. Its smiling crew members, now only a few yards away, threw out ropes, and the refugees tied the two boats side by side.

The strangers invited about 40 refugees to jump across to the fishing boat. When the refugees were on board, the strangers cut the ropes, pulled out butcher knives, steel bars, hammers and other weapons and sailed away with their prisoners.

They were not fishermen. The refugees of the KG0729, like thousands of refugees before them, were being attacked by Thai pirates.

PRIME TIME

Pirates have infested the Gulf of Thailand for years, with minimal interference from the authorities. Piracy is flourishing now.

Not all pirates are bloodthirsty; there are some gentlemen among the thieves. Some refugees tell of buccaneers who merely line up the victims, strip them of jewels and watches and depart. Pirates have been known to give refugees food, repair a disabled craft and even tow a boat toward shore.

The passengers of the KG0729 were not so fortunate.

On the night of Nov. 10, 1978, the pirates lined up the refugees they had shanghaied and took their valuables at knife-point. But the situation quickly flared out of control.

One refugee refused to open his mouth to allow the pirates to check for gold dental work. The pirates beat him on the cheeks until his lips opened and, when there was no gold, slit his throat.

Another refugee, Luong Bot Chau, a baker from the Cholon section of Saigon who had grown fat since his youth, could not remove his gold wedding ring. While his wife watched in horror, the brigands beat him on the head with a steel bar until he lost consciousness. Then the pirates put his left hand on the wooden rail of the ship and chopped off the ring finger.

TORTURE

"After that, they used a dull, rusty knife to cut his throat," said Nguyen Duc Tien, who watched the torture. "It seemed like it took 30 minutes to draw blood."

Impatient, the pirates eventually clubbed Luong to death and tossed his body into the sea.

The pirates bound the hands of the other prisoners and shoved them into the ship's refrigerated hold, where they crashed headfirst into piles of fish, blocks of ice and each other. The pirates locked the hold and steered the boat back to the refugee craft.

Pulling alongside, the pirates ordered the remaining male refugees off the KG0729 onto the pirate ship. Most refugees did as ordered. Luong Thai Phat did not.

"He jumped into the water," his wife, Ta Tich, recalled. "They'd already beaten him twice with a steel bar. One of the pirates, holding a knife in his teeth, jumped in after him, caught him and dragged him back onto the ship."

The pirates tied Luong's hands and feet, clubbed him in the stomach and neck, stabbed him and tossed him overboard. His mother, Troung Hue Anh, 67, who lost four sons before the night was over, saw it all.

RAPE

Meanwhile, the women on the KG0729 were facing a different ordeal. Six pirates searched them brutally. Truong Hue Anh was buffeted about the face before her gold necklace was torn from her.

Rain pounded the deck. The pirates shoved the women below to facilitate more thorough searches. All the clothes were ripped off several younger women. The pirates chose two of the women who, howling futilely, were dragged back onto the deck. The pirates nailed the hold shut. Then they raped both of the women repeatedly. At length, the pirates threw the two victims into the hold and nailed it shut again.

On the pirate ship, the refugee men, bodies stiffened by the detention in the refrigerated hold, were told to climb onto the deck and jump across to the refugee boat.

"As we stood on the edge, preparing to jump across, the pirates came up behind us, kicked us in the back and sent us sprawling into the water," Nguyen Duc Tien said. "They hadn't even untied our hands. I thought I was going to die. But I had loosened the ropes in the hold, and I freed my hands and swam to our boat."

Those who could swim survived. Those who couldn't didn't. Twenty men drowned, bringing the death toll for the night to nearly 30.

RAMMING

After the pirates had sailed off, the refugees, numb from the three-hour ordeal, sat on the deck in the silence of shock, interrupted only by sobbed and whispered attempts to count the dead.

Their ordeal was not over.

Not until it was about to happen did the refugees realize that the pirate ship was bearing down on the KG0729 at full speed with the obvious intention of finishing off the witnesses.

The first ram was a direct hit on the stern, destroying the toilet and creating a massive gash just above the water line. The pirates rammed the bow on the second charge and the side on the third, leaving the refugees for doomed.

But the KG0729 refused to go down.

The survivors shook off the paralysis of grief and set to work binding the ship's wounds with their clothes, repairing the engine and the bilge pump. Amazingly, they were under way by morning, heading southwest for an encounter, to their relief, with the Malaysian coast the next night.

Now they sit here, in a refugee camp, and wait.

THIRTY THOUSAND MORE FLEE CAMBODIA: POL POT LOYALISTS FLOOD THAILAND

BANGKOK.—More than 30,000 Cambodian civilians and troops loyal to ousted Premier Pol Pot, fleeing a stepped-up offensive by Vietnamese-led forces, escaped into Thailand yesterday, Thai authorities said.

The governor of Chantaburi, a major Thai city in the border region, said in a telephone interview that the latest Cambodian exodus was under way near the Thai border town of Ban Bung Chanang. He gave no details and said he was awaiting reports from officials he had sent to the scene.

Military sources in Chantaburi said the Cambodians, many of them Pol Pot loyalists, had come in "very fast." Authorities said they believed that Vietnamese-led forces were close behind the refugees.

Thai officials also said they have tightened security along the border for fear that the fighting between remnants of the Pol Pot regime and Vietnamese-led troops of the new government of President Heng Samrin might spill over into Thailand.

In the last six weeks, more than 100,000 Cambodians have fled to Thailand, but Thai officials forced most of them to return to their homeland. Authorities have let them travel border trails in Thailand to crossing points away from the battle zone, prompting veiled protests from Vietnam that Thailand was abandoning its neutrality.

Yesterday, however, Vietnam denied a foreign press report that some Vietnamese officers had threatened a possible attack on a key Thai town on the Cambodian border.

Some Thai newspapers have carried the foreign report quoting Vietnamese officers as saying that they could take the border town of Aranyaprathet "in five hours if necessary."

A report from Vietnam's official news agency, monitored in Bangkok, said the agency was "authorized to declare that this report was a fabrication with the bad intention of sowing discord between the Thai people and the people of Vietnam."

Vietnam and its Cambodian-exile proteges invaded Cambodia on Christmas Day and toppled the Chinese-backed Pol Pot regime by mid-January. Pol Pot loyalists fled to the hills to fight a guerrilla war against the Vietnamese-led forces of the new government that have been trying to sweep the country clean of resistance.

THEIR FATE HINGES ON DEFINITION

(By Larry Eichel)

Any person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear . . . unwilling to return to it—U.N. Convention Relating to the Status of Refugees.

HONG KONG.—In the first half of 1978, at least 160,000 Vietnamese of Chinese descent, concerned by the mounting tension between Vietnam and China, crossed into China.

The newcomers, most coming from what had been North Vietnam, were told by China that they would have to live on government-run collective farms. Many had been merchants and fishermen back home; they found the idea of becoming farmers repugnant.

They started looking for a way out of China, and they eventually found one.

In December, junks began ferrying them up the China coast to Honk Kong. By mid-May, more than 15,000 expatriate Vietnamese (Part of 27,000 refugees in all) had arrived and were being held in detention while the British crown colony—which already has 4.7 million residents on 404 square miles and is worried about mushrooming emigration from China—pondered what to do with them.

HAZY STATUS

Are they refugees? Or are they illegal immigrants? Are they Vietnamese? Or did their stay in China make them Chinese?

On the answers to these questions the fate of thousands of people will turn.

Hong Kong wants them to be considered illegal immigrants for a simple reason. A 1974 agreement between China and Hong Kong requires China to take back anyone who gets caught sneaking across the border into the crown colony.

"We hoped China would assume responsibility for them," a government spokesman said, "but the Chinese have indicated they will not."

Once Hong Kong gives up on China—and it has not yet—it will have to ask the United Nations High Commissioner for Refugees (UNHCR) to accept the people as refugees and start processing them for resettlement in the West. At the moment, however, the UNHCR is not interested.

NO EVIDENCE

"The UNHCR maintains the principle that if these people were accepted by China and treated as Chinese citizens and then came to Hong Kong as a third country, then we have nothing to do with it," said Angelo Rasanayagam, the agency's representative in the colony, "unless there is evidence of persecution by China, which there is not."

In other words, they were refugees when they left Vietnam for China, but not when they arrived in Hong Kong.

One reason that the UNHCR is not eager to assume the burden of these status-less people is the attitude of the United States.

Edward Kreuser, the U.S. consul here, explained: "We've told them (the UNHCR) that if these people departed Vietnam by boat and only stopped in China for repairs and recuperation and never resettled there, we'll consider them. If they departed Vietnam by land, they're out of our program."

Nearly all of the refugees involved departed by land. So they are out.

Further complicating the issue is the fact that the refugees have destroyed their personal documents and have worked out elaborate and totally false tales to explain how they got here without once touching soil.

"It is said that around Canton there are 150,000 people who came into China and don't want to stay," the government spokesman said.

Hong Kong can hardly wait.

[From The Philadelphia Inquirer, May 21, 1979]

FOR THE MANY WHO FLEE, A MULTITUDE OF MOTIVES

(By Larry Eichel)

PULAU BIDONG, MALAYSIA.—Truong Nguyen Phat never hesitated.

He fled Vietnam, the interpreter said, to find freedom. He could not live with the Communist regime.

They never hesitate. Ask the question of any of 280,000 refugees who sit, awaiting resettlement, in the camps across Southeast Asia and the answer would be predictable.

Freedom. All Indochina yearns for democracy. Escape from communism. The same answers, always the same.

Yet the real reasons that well over 900,000 men, women and children have fled Indochina in the last four years and continue to flee at the rate of 25,000 and more a month have little to do with ideology. The cliches mask a remarkable variety of motivations. The variety suggests the complexity of the refugee problem with which the free nations, and especially the United States, have yet to come to terms.

"I left because I was afraid I'd be drafted to fight in Cambodia," Truong, 23, an ethnic Chinese, said after 15 more minutes of generalities.

He had come here on a boat with 150 others, leaving his elderly parents and 11 brothers and sisters back in Cholon, the Chinese section of Saigon. "I never told them I was leaving," he recalled. "A friend of mine said, 'Let's go,' and we left."

Truong's motive for joining an exodus, an exodus that could bring 1 million Indochinese to the United States, is not typical. No one's motive is.

Some leave lest they confront a future that promises harassment or imprisonment for themselves and their children. They were soldiers, bureaucrats and business executives under the ousted regimes in Vietnam, Laos, Cambodia. They know that they would have had trouble finding work if they stayed. And they know that their children, barred from any higher education, could expect nothing more from life than wading through rice paddies behind water buffaloes.

Others are literally running for their lives. The Hmong hill people of northern Laos, who fought the Communist Pathet Lao for 13 years as a secret army funded by the U.S. Central Intelligence Agency (CIA), are fleeing an extermination campaign being waged against them by Laotian and Vietnamese troops.

Cambodians run from the gunfighting that continues in their country and from the political executions that have been a fact of life in that traditionally gentle land for last four years.

But not all refugees have had their lives threatened, nor have they been singled out for persecution. For many, the situation at home is unpleasant rather than desperate. They leave because they choose to—and because the opportunity to do so exists.

Among them are members of the ethnic Chinese minority in Vietnam and the ethnic Lao majority in Laos, people who have suffered severe economic setbacks and dramatic changes of life-style under Communist rule. Their businesses have been seized, their rice harvests trimmed, their incomes cut and their food consumption reduced. Many of them, city-dwellers for years, have been confronted with the prospect of going to "new economic zones" in the wilderness—where they are equipped with sharp sticks and bags of seeds and told to create a thriving agricultural commune.

The fact that the current Communist governments of Indochina have provided little evidence that they can rebuild their war-ravaged countries, feed their citizens or do anything other than fight makes the idea of leaving that much more tempting.

There are some who leave to join relatives in the West or to escape a life whose emptiness is beyond the control of any government.

"As the years pass, what is really going on, in terms of motives, becomes more blurred," said former Sen. Dick Clark (D., Iowa), the U.S. coordinator of refugee affairs. "They were, presumably, clear for the people who were evacuated from Vietnam in 1975. But four, five, six, seven years later . . . Well, we have to look at that."

Whatever the motive, the exodus has historic implications for the United States. More than 200,000 Indochinese refugees have resettled there since 1975. Another 119,000 are scheduled to go there in the next 17 months. And there is no end in sight, either to the flow out of Indochina or the flow into the United States. The flow could well produce the largest influx of any one group since the end of unlimited immigration three generations ago.

PUSH AND PULL

The United States is involved in a push-pull mass migration. Conditions in Indochina push would-be refugees. News of resettlement opportunities in the West—where, after all, *the streets are paved with gold*—pull.

"There is a danger of creating a self-generating monster that will live for years beyond its normal life," said one representative of the United Nations High Commissioner for Refugees (UNHCR). "The more the West accepts, the more will leave Indochina. In Vietnam, particularly, everyone listens to the Voice of America and British Broadcasting. Those stations report every step of every new resettlement program."

The migration goes beyond the legacy of radios that the West left behind when it fled. Refugees come to the United States, build up a little nest egg and send money back home. The folks back home use the money to buy their way out.

"I had many reasons for leaving," said Khong Trong Hinh, a former public prosecutor in My Tho, Vietnam. "I believe that Vietnam has no future. The actions of the Communist regime will guarantee that Vietnam is going to be a vrey undeveloped country for at least 100 years. And we are Catholic. Sooner or later, our religion will be killed by the Communists."

Nguyen Van Dai, now languishing in a refugee camp at Cherating, Malaysia—which looks like Dachau with palm trees—was an instructor at the South Vietnamese military academy when Saigon fell. Like every ranking officer, Capt. Dai, 38 and a graduate of the University of Indiana, was shipped off to a political prison called a re-education camp.

"They just put us out in the jungle near the Cambodian border," he recalled. "There were no facilities. We stayed in the open air, rain or shine, until we cut down enough trees to build a house."

The re-education lessons concentrated on the glorious victory of Vietnam, the glorious future of Vietnam and the criminal behavior of the imperialist Americans. But as the days passed, the lessons disappeared, leaving only the back-breaking work of assaulting virgin jungle.

The only drinking water was the rain that collected in old bomb craters. At another re-education camp, such water, unboiled, caused a typhoid epidemic that killed 20 "students." The only food was rice, half a bowl a day, plus cakes made from a mildly poisonous root powder that could cause a man's legs to swell.

UNEMPLOYABLE

It was 24 months before Capt. Dai's wife and two sons were allowed to visit him, 32 months before he was released. He returned to Saigon (by then named Ho Chi Minh City), eager to find a job and thus avoid placement in a new economic zone. But to get a job, he had to show his identification papers, and his papers identified him as an unemployable. To survive, he would have had to sell his belongings on the black market.

So he decided to leave. A friend in Hong Kong sent him $3,200, enough to buy passage out for one adult and one child.

"I asked my wife to go with my 13-year-old son, but she refused," Dai said. "She said if I went to America, I might be able to do something for the whole family since I knew the country and the language."

So he left with one son, age 10, and she stayed with the other.

"Sometimes when my boy is about to fall asleep, he'll ask if I know what his mother is doing now, or if she has enough to eat," he said. ". . . When I think of Vietnam, I think of all I've lost. But I dont' regret what I've done. For me, it was no longer a place to live. It was a place to leave."

"Why do they leave, given the risk?" asked one American student of Southeast Asia. "How harsh can life be? It's no picnic, but we're talking about an area which has been in upheaval for two generations. Doesn't that give people the ability to endure suffering?"

Vietnam's ethnic Chinese, who over the last year have made up 70 percent of the boat people in flight, have their own reasons for taking to the seas. They were, by and large, merchants rather than bureaucrats, shopkeepers rather than soldiers. With few exceptions, they had done nothing to incur the undying wrath of the new regime.

As tensions grew last year between Vietnam and China, they began to feel some discrimination. But their lives remained largely untouched until March 23, 1978, the day communism arrived in Cholon.

Communist cadres informed the shopkeepers of Cholon, Saigon's vast Chinatown, that their stores belonged to the state. The government confiscated Lu Thanh's plastics factory and Ta Hao's liquor dealership.

"On March 23," said Ta Mao, 38, now at a camp in Macao, "a man drove up in a lorry, came in and said he wanted to buy everything in the store. He had his men load it into the lorry. Then he drove away.

"A week later, he came back with a form letter saying that I had donated my property to the state. He told me to sign it, if I didn't sign it, I would have to go to prison. I signed it."

Others were told that the government had, in fact, paid for their businesses but the money was in a bank account from which, alas, withdrawal was impossible.

TOLD TO MOVE

Once the businesses were taken, the shopkeepers had nothing to do. And the government was not going to tolerate idleness. The merchants were told to move to new economic zones.

"They said we did not have to go," said Lu Thanh, a husband and father now resettled in Australia, "But if we did not, our children would be forbidden to go to the university and our rice ration card would not be renewed."

While offering assurances that they would go off to the wilderness, many Chinese merchants, urbanites all their lives, planned escapes. Despite the confiscations, most still had enough gold to buy their way out. One such refugee, upon acceptance for American resettlement told an immigration officer that he was carrying gold and jewels worth $113,825.

Before leaving, Lu Thanh gave the new economic zone a try.

"They had said we were going to an agricultural development," he said, recalling his trip to the jungle 150 miles from Saigon. "But they were not being honest. They wanted us to start the development. There was no water, no housing, no tools, no building materials."

A few weeks after his arrival, he bribed his family's way back to Saigon aboard a supply truck, dug out the gold he had buried in the backyard and became a refugee.

"Why do we leave?" repeated Dr. Vu Van Dzi, a physician whose service in the South Vietnamese army cost him 27 months in a re-education camp. "I have an added reason, based on my medical research. After seeing the Communists, after looking at their physiques, their mental attitudes, the way they rear their children, their attitude on religion, I have concluded that they have transformed the Vietnamese people into a subhuman race.

"Look at the Communist soldiers, especially the young ones. They are very short and have signs of the bone deformation that results from malnutrition. They lie about everything and are inflicted with numerous neuroses. In Saigon, they wash fish in the toilets, they put pigs in the elevators . . ."

For most of the people of Indochina, the war between the Communists and their foes ended four years ago. But in the hill country of northern Laos, the fighting foes on. There, Pathet Lao troops, aided by Vietnamese regulars, are trying to wipe out a hill tribe called the Hmong.

Until the early 1960s the Hmong, also known as the Meos—small, tan people given to black tunics with sashes of pink and green and a passionate hatred of the Vietnamese—lived peacefully in the mountains, growing rice and corn for food and opium for cash.

In 1962, they gladly accepted weapons and advisers from the CIA and formed an army to resist the Pathet Lao, whom they saw as agents of the hated North Vietnamese. For 13 years, this secret army, which numbered 40,000 at its peak, bore the main burden of fighting in northern Laos. The Hmong suffered an estimated 30,000 casualties.

In 1975, a few months after the cease-fire that preceded the Communist takeover, their leader, Maj. Gen. Vang Pao, led 14,000 of his warriors to sanctuary in Thailand. Ever since, those who stayed behind have been subjected to repeated bombings, heavy artillery, gas and defoliation agents in a campaign that borders on genocide.

"PICKING US OFF"

"In the first few months after the cease-fire, the Pathet Lao would come to our villages and try to figure out who had been the soldiers," said Ky Pao Yang, 30, one of the warriors who stayed behind. "When they identified one, they waited until he was alone in the fields, far from the village. Then they shot him. They were picking us off one by one."

Rather than wait his turn, he fled the village with his family in October 1975 and escaped to Phou Bia Mountain, a massive 9,000-foot peak overlooking the Plain of Jars. He lived there in relative safety until early last year, when Vietnamese officers took charge of the anti-Hmong campaign.

Suddenly, the Hmongs' remote mountain enclaves were under constant bombardment from rockets, 105-mm howitzers, 130-mm cannons and three-a-day bombing raids by a half-dozen captured American B–40s and B–51s. Some of the bombs contained gas.

"After the bombs exploded, the air was full of red and green vapors," Ky Pao Yang said. "When we breathed the air, we became sick to our stomachs, and some of us came down with fever. Three children died from it. Another time, a liquid came out of the bombs. It coated the leaves, and when a man touched the leaves, he would scratch until he bled all over. If the liquid got into your eyes, it would blind you."

On Oct. 18, 1978, the Pathet Lao and the Vietnamese moved up the mountain and forced a pitched battle. Nearly 300 Hmong died that day; another 3,000 were taken prisoner, including Ky Pao Yang's wife and six children.

He hid in the jungle with other survivors until the Pathet Lao chased them out. For the next month, they waited in a cave on the Nam Seng River, eating only leaves, roots and an occasional banana, hoping for news of the prisoners but hearing none.

In early January, when the bombing ceased, they left the cave and returned to their village on Phou Bia Mountain. The place was empty, the crops destroyed, the houses burned to the ground. Outside the village were dozens of corpses.

"We had set out from the cave in hopes of helping our families," Ky said sadly. "But we had no idea where they were. We had no ammunition, and we had no food. If we stayed, the Vietnamese soldiers would come after us. When we saw what had happened to our village, we had no choice but to leave Laos."

In late January, Ky crossed the Mekong River into Thailand, as 80,000 Hmong had done before him.

"I read the newspapers every day: boat cases, boat cases," said Dr. Levi Roque, a Filipino doctor who treats Hmong refugees at Nong Khai camp. "I never read about the Hmong. And they're still fighting. The Pathet Lao are massacring them. They're political refugees, not economic ones. They don't have any money. They're the real refugees. And yet they have to sit around for years when they get here. We do all we can for them, but many are so undernourished that they die."

And then there are the ethnic Laos who flee Laos. Of all the refugees in Indochina, they are the most difficult to understand. They are not fleeing a war, nor are they an oppressed minority. Their motives are suspect, if only because their escapes are almost risk-free.

Some of the 68,000 Laos now in the land camps of Thailand are officers from the previous government's army. They, like their South Vietnamese counterparts, were arrested by the Communists and sent to "seminar"—the Laotian version of a reeducation camp—where they were put to hard labor with one day off in every 15. Upon their release or escape from seminar, they left Laos without hesitation.

But most of the Laos in the camps are economic refugees, fleeing a system of controls that has only recently been imposed. That system requires them to register all their belongings and get approval from local authorities before disposing of even the most insignificant possession.

EAT AND WORRY

"If your child goes to school and tells the teacher you had chicken for dinner, you may be in trouble—unless you got permission to kill the chicken," said Kham Sing, a Lao refugee who lives at the camp at Ubon Ratchathani, Thailand. "Of course, you can always cover yourself by buying another chicken. But it gets a little harder when you're talking about a pig, a cow or a buffalo. You may get sent to seminar."

Others said they left because their government-mandated activities made it impossible for them to earn livings.

"I was made to work three or four days a week for the government, planting rice and digging irrigation canals," said Nguyen Van Phuoc, a carpenter. "That made it hard to get business. And people didn't want to hire me anyway, because they were running out of money."

They left because they did not like the new rules, not because they were being persecuted—and because escape was so easy.

Khamchureun Si, an elderly farmer who has been a refugee for nearly three years, left when he learned that the government was going to confiscate some of his rice.

Tank Kok Deng left because the new economic rules made it difficult for him to run his restaurant.

Vanna Bouaphaphong, 36, a Buddhist monk, left because he did not think that the Communist reforms conformed to the doctrine of Buddha.

Vag Chandra, who served the Communist government for three years as a bureaucrat, left because he had been implicated—wrongly, he contends—in a scandal within his agency.

"No question, a lot of Lao are leaving on account of the economic conditions," a refugee worker concluded. "They feel they're being punished economically for political reasons, whether that's true or not. I think the restraints on individual freedom are important, too. They can't go to the pagoda any more, and the pagoda was of tremendous importance in village life. They're leaving because their way of life has been killed."

"Say what you will about why the Lao leave, but remember this," said an American refugee worker in Bangkok. "They can't go back."

The Cambodian refugees, many of whom are confined in the camp at Aranyaprathet, just across the Cambodian border in Thailand, are easier to understand. They leave their homeland out of fear.

Those who left in 1975, immediately after the Khmer Rouge takeover, felt that their past associations would mark them for execution. Recent history proved their fears well-founded. Others with potentially fatal pasts stayed until they felt execution was imminent.

Thousands more have left Cambodia in recent months as fighting continues between the Vietnamese-backed government and the guerrillas of the ousted Khmer Rouge. It is difficult to tell how many of the Cambodian refugees actually are members of the Khmer Rouge. Many are being detained in a camp in Thailand's Trat province, off-limits even to the UNCHR. Thousands wander along the border, some of them crossing into Thailand to escape the fighting, then crossing back a few days later. How many will remain in Thailand or seek resettlement in the West is unclear.

WAITING TO RETURN

Most Cambodians have no idea that resettlement is available when they cross into Thailand, and many ultimately reject it, preferring instead to wait in a duty compound—a prison really—for a political development that will allow them to go home.

"The Cambodian refugees, as a group, are different from other refugees," said a UNHCR official. "They're not switched on to the world. They're totally afraid and bewildered."

The population statistics at Aranyaprathet demonstrate just how different the Cambodians are. At other camps, there are nearly as many women as men. At Aranyaprathet, men outnumber women 3–1. When a man has to escape from Cambodia, he rarely has time to pick up his family; and the trek through the jungle is hard on women and children.

Seng Horl had been a teacher in the Cambodian capital of Phnom Penh before the Khmer Rouge takeover in 1975, a fact that marked him for execution. But he had kept his background secret and had gone to a farm in the Battambang district, the part of Cambodia nearest Thailand, and had lived in peace for three years. In July 1978, his secret was uncovered, and he was arrested and taken to an execution center.

RUBBING FREE

One night, while the guards were busy shooting another prisoner, Seng Horl and a cellmate stood back-to-back and rubbed against each other until the ropes binding their hands came undone. They pried open the shackles that held their ankles, jumped out a second-story window, hid in the woods for four days and then hiked for seven nights until they reached Thailand and Aranyaprathet.

There Seng Horl waits for news of his family and the political situation inside Cambodia. He asks only for refuge in the classic sense. He asks for shelter until it is safe to go home.

THE CHILDREN, PAWNS IN AN EXODUS

(By Larry Eichel)

PULAU BIDONG, MALAYSIA.—Many Indochinese refugees have no idea why they have thrown themselves on the uncertain mercy of the world.

They are too young to know.

Nearly half the 36,000 inhabitants of this teeming island camp are school-age or younger. One of every three refugees in Thailand is under the age of 12. Everywhere else, the numbers are much the same.

The children here, many of them naked or clad only in cotton shorts, chase each other up and down the camp's dusty paths or play in the rusting green hull of a beached trawler that once carried 575 refugees from Vietnam.

They rush down to the beach to stand in line for a ration of rice or climb the hill to gather firewood. They relieve themselves wherever they please. They follow any stranger, particularly an American, for hours on end, apparently deriving endless fascination from the exercise. It is something to do.

Many attend English or French classes for an hour a day. The classes give a semblance of normality to the children's lives, but an hour is not enough time to make a lasting impression on the mind of an 8-year-old. The lessons are quickly forgotten.

Ask why they are here and they laugh. Or they mouth cliches that they have heard at home, about freedom and human rights and life in the United States.

Who can even guess how the experience will scar them, how their lives will be shaped by the boredom, the malnutrition, the disease, the constant press of peolpe, the lack of schooling and the potentially shattering experience of watching parents become paralyzed by inactivity.

In a way, the children of Pulau Bidong are lucky. Their stay will be measured in months. In Thailand, some Lao and Hmong children have spent four years in refugee camps, with no prospect of leaving. Their wounds could be profound.

The children who suffer the most—and who create the most severe problems for refugee officials—are those known as "unaccompanied minors."

The fact that a child arrives in camp as an orphan is sometimes quite deliberate. Many Vietnamese parents, lacking the money to pay for the entire family's escape by boat, decide to send just their children out. Some families, well-versed in the intricacies of the American resettlement program, send out one child as an "anchor," knowing that the child's acceptance by the United States will make it possible for the rest of the family to join the child.

In other cases, though, separation is accidental. Sometimes captains of small refugee boats, fearing they are about to be discovered by Vietnamese marine police, pull out to sea before all the passengers have boarded—leaving parents on shore and children at sea. Sometimes parents die during the voyage, leaving the children alone.

And there are others, like the girl, 11, from Can Tho province named Huynh Bich Phuong.

Her father, a major in the South Vietnamese army, was sent to a reeducation camp in 1975. He has been there ever since. In 1976, her mother went to visit him, leaving the girl in the care of a friend. Her mother never got to the re-education camp. She never got home. She simply disappeared.

The friend took care of Phuong, a vibrant child with long black hair and a quick, shy smile, for the next two years. She took Phuong along last Nov. 24 when she, her husband and her own two daughters sailed as refugees to Malaysia.

But now the friend wants to terminate the relationship with Phuong; she says she does not want to be saddled with the girl in a new life overseas. She wants Phuong considered an unaccompanied minor.

"My mother's friend makes me feel that I am a burden to her," Phuong said, giving words to thoughts no 11-year-old should have to think. She bowed her head and stared at her rolled-up blue jeans.

"She makes me clean the floor, wash the dishes and carry the water up to the house (a one-room bamboo shack where 19 people live). She won't let me go to school. She tells me not to worry, that there will be foster parents for me in the United States . . .

"My father wrote that I should go to the U.S. without him. He told me that America is a powerful country. That's all I know."

CUSTOM BARS A NEW LIFE

(By Larry Eichel)

NONG KHAI, THAILAND.—Chue Dua Her sees nothing wrong with having two wives. Unfortunately for him, U.S. immigration officers don't agree.

The difference of opinion has kept Chue—who for 13 years helped the United States fight its "secret" war against the Communists in Laos—in a refugee camp here in the dustbowl of northeast Thailand while thousands of his fellow Hmong warriors have begun new lives in America.

"When I was interviewed by the United States," Chue said, "the man told me to tell the truth about my wives. 'If you lie and we find out about it, you'll never be accepted,' he said. So I told the truth. And they refused to accept me. They didn't ask me how many wives I had when they asked me to fight for them."

U.S. immigration law is clear; polygamists need not apply, even if they killed hundreds of Pathet Lao with their bare hands in pursuit of some policy developed in Washington.

"Someone I know who has two wives has gone to the States with both of them," Chue said bitterly, waving his arms in a manner most uncharacteristic of the normally passive Hmong. "He told the interviewers that one of them was his sister. Maybe the American government has a special category for liars."

Hmong society, while very much male-dominated, permits a man to have two wives only under carefully delineated circumstances. About 10 percent of the Hmong men at Nong Khai are thought to be polygamous.

If a man's married brother dies, the surviving man is expected to marry the widow. If a man's first wife cannot bear children, the fatherless husband is expected to find a second, fertile wife.

The latter rule explains Chue's wife surplus. His first wife, Yang Moa, failed to provide a child in 13 years of marriage. So he added Mang Tho, 17, to the household in 1975 as wife number two. She promptly supplied a son.

"In our society, a man with no children has no one to take care of him when he gets old," Chue, 50, explained, sitting in a barracks room with wife number one—a middle-aged woman with gold teeth—to his right and wife number two—the glowing young mother—to his left. "They tell me it's different in America. The government takes care of you."

He is prepared to jettison wife number two if that will mean an airplane ticket to the United States.

"It's no problem," he said, calmly puffing a cigarette as if it really were no problem. "We've discussed it and worked it out. They (the wives) accept my decision." Both smiled in apparent agreement.

"They know one of them has to stay. If I get a good job, I'll send money back to support her," he said, gesturing to wife number two.

"But I don't know if it will work. Maybe the Americans will say I'm cruel if I can throw away a wife and child just to get to the U.S."

HOW ESCAPE CAN BE RISKY OR SIMPLY ROUTINE

(By Larry Eichel)

MANILA.—No one noticed the two giant cooking pots floating in the darkness of the harbor in Vung Tau, Vietnam.

Vo Duc Thanh, 25, was swimming behind one of the pots. For more than three years he had been obsessed with the idea of escaping from Vietnam. A former second lieutenant in the South Vietnamese army, he was a man with no money and no future.

Using forged identity papers, he had obtained a job with the national fishing fleet. He had purchased three hand grenades and a stolen M–16 rifle through contacts in Saigon. A friend had joined the plot, adding a .45-caliber pistol to the arsenal.

Now, just before midnight on July 16, 1978, they were putting their plan into action. They were swimming toward the DN102, the 45-foot fishing boat on which Vo Duc Thanh was employed, and they were pushing the cooking pots in front of them.

The pots had not been part of the original plan. The pots had been added as passenger vessels when the men remembered, at the last minute, that their wives could not swim.

On such matters as cooking pots does one of history's major movements of people depend. The exodus has drawn well over 900,000 Indochinese from native lands, resettled a relative few of them, left hundreds of thousands to languish in camps across Asia and littered the bottom of the South China Sea with the remains of many thousands more.

Most in the exodus, a six-week examination of the refugee problem by The Inquirer has determined, want to settle forever in the United States. By 1985, a decade after the end of American involvement in war in Indochina, at least 500,000 and perhaps a million Indochinese may have sought peace in America.

Sought it as dramatically, in some cases, as did Vo Duc Thanh.

He sneaked his co-conspirators onto the fishing boat and hid them under a pile of nets in the ice compartment. Then he assumed his normal duties. At 7:30 the next morning, when the boat and its companion vessel, the DN101, were well out to sea, he dug out the M-16 and the pistol, uncovered his wife and their friends, and hijacked the DN102 and the DN101.

The hijackers forced the four crew members of each boat into the ice compartment of the DN101, which appeared the more seaworthy of the vessels, and abandoned the DN102 after stripping it of food and fuel. They sailed southwest, the direction of Malaysia.

Or so they thought. In fact, they were sailing due east, toward the southern Philippines.

It didn't much matter. The next afternoon the propeller fell off; the boat wasn't going anywhere.

GREEK AID

But luck was with them. They had only a few hours to contemplate their fate before the Greek cargo vessel Agios Giorgios spotted their white flag and welcomed them aboard, hijackers and crew alike. After confiscating the weapons, the Greek captain fed them for three days, then dropped them in a life-boat a few miles off the island of Dalupiri in the northern Philippines. They reached shore easily and now live at a refugee camp outside Manila.

Vo Duc Thanh and his fellow hijackers hope to go to the United States. Their former prisoners have divided loyalties. Five of them have asked to return to Vietnam. The other three, young fishermen all, want to be considered refugees. They, like almost everyone else in the refugee world, want to become Americans.

Few of the refugees leaving Vietnam, Laos and Cambodia have to resort to hijacking. Some escapes involve similar or greater risks; others are almost routine. A refugee rarely knows in advance which variety is likely to result.

Cambodian refugees used to be gunned down by Khmer Rouge border guards as they sneaked up to the Thai border. Now Khmer Rouge refugees are gunned down by troops from the new Cambodian government.

Among refugees starve to death on the long walk down from their mountain strongholds in Laos. Or they are picked off by government snipers. Or they drown in the night when their frail bamboo floats disintegrate in the swift current of the Mekong River—the border between the peril of Laos and the safety of Thailand.

Ethnic Lao refugees, unlike the Hmong, generally cross into Thailand without incident. The Lao have money, and money can buy safety.

Vietnamese refugees generally have money, too, but, for them, safety is rarely for sale—even if they buy their way out. The South China Sea is a little harder to cross than the Mekong River.

Many Vietnnamese, including most of the ethnic Chinese, have bought their way out by paying government run syndicates more than $2,000 in gold per adult, half-price for children, for a place on a boat. At one time, such highly organized rackets, usually run by provincial security chiefs, were operating in two provinces and three cities.

For a relatively few refugees, that gold has bought the safety of a freighter. The freighters may be horribly uncomfortable, but they rarely sink. For all the media attention the refugee freighters get, there have been only five of them so far carrying a total of 12,000 passengers.

The vast majority of boat people, even of those who pay, end up on much smaller, equally crowded and far less seaworthy wooden vessels.

Such boats, despite their frailty, often do make it to their destinations on schedule after voyages lasting three or four days. The cramped passengers suffer nothing more than hunger, seasickness, diarrhea, claustrophobia and the constant fear that disaster is imminent.

NOT ALL SURVIVE

Other groups are less fortunate. They are attacked by pirates, plagued by faulty engines, thrown off course by incompetent navigators, tossed around by typhoons, weakened by a lack of food and water and pushed off the Malaysian or Thai coastline by hostile police several times before they scuttle their boat and, perhaps, are allowed to land. Rarely does everyone aboard survive such a voyage.

Some boats—at least a fourth and maybe half, the experts say—are lost at sea. If only a fourth were lost last year, then so were at least 22,000 boat people.

Among the confirmed losses were 189 passengers of the BT0007 who died off the coast of Kuala Trengganu, Malaysia, last Nov. 21. Vuong Quoc Thang, 41, one of the 61 survivors, told what happened:

"In the morning, we landed on the coast near Kuala Trengganu, but the townspeople pelted us with stones. The police, after chasing the people away, aimed their M-16s at us, tied our boat to theirs and pulled out to sea.

"They towed us right toward the sandbar (that blocks the mouth of the Trengganu River). Then, without warning they cut the rope with a knife. They knew exactly what would happen. We hit the sandbar. The first wave turned the boat to the right and the second to the left. The third wave knocked it over.

"My wife was below deck. She never had a chance. I jumped up on top of the hull and tried to hang on. Twenty fishing boats were in sight, but none of them came to help.

"At the beginning, there were 50 of us on top. The waves knocked us off one by one. By the time a helicopter arrived to pluck us off the boat, there were only 11 of us left." (The 50 other survivors swam until they were picked up.)

Twenty-seven of Vuong Quoc Thang's relatives were on the BT0007, including his wife, his three children, his mother, three sisters and a brother.

Vuong Quoc Thang survived. So did one nephew.

As Yia Teng Moa stood on the banks of the Mekong, looking across to Thailand, he knew that his days of running were almost over.

The Hmong warrior had been fighting the Communists since he joined the C.A-backed secret army of Maj. Gen. Vang Pao in 1965. But for the last four years, since the Communists took over Laos, he had been doing more running than fighting—dodging the bombs, bullets and gas attacks. He was 48, old enough to recognize a lost cause.

Eleven days earlier, he had led 68 persons—seven families—out of the beleaguered Hmong hamlet of Muong Aa, in the shadow of Phou Bia Mountain. They had walked in daylight only in the higher elevations; as they came down toward the river they had traveled by night; they had eaten only leaves, roots and grass.

They had been lucky. They had not been shot at or bombed. They had lost just one man, who had stepped on a land mine.

Now Yia Teng Moa had to get himself and his family across the river. There was one problem. Like most Hmong, he could not swim.

Thai authorities estimate that 35,000 Hmong have died trying to escape, many of them in the river. In a single day, Thai police at Nong Khai have fished from the river as many as 27 bodies, some still lashed with vines to the bamboo stalks they use as floats, some riddled with bullets.

Yia Teng Moa had a slightly different plan. He took out two rectangular four-liter canteens made from translucent Esso gasoline jugs. He would seal them to keep air in and water out and strap them to his chest and back. They would serve as a life jacket.

His sons, aged 5 and 6, presented more of a challenge. For them, he fashioned a tiny raft of six stalks of bamboo and covered the raft, top and bottom, with a waterproof parachute cloth. He put the boys on the raft, then wrapped the parachute around it, creating a cocoon. Finally, he tied the raft to his waist and waded into the deep and broad river, pulling the cocoon behind him.

The swift current caught him immediately and dragged him downstream while he paddled and kicked furiously. Gradually he drew closer to the other side; after an hour, he struggled onto the Thai shore.

The others made it, too, many of them using stalks of bamboo.

Yia Teng Moa untied the cocoon, extricated his frightened but dry sons, and let the empty parachute drift downstream. With the boys at his side, he lay among the bushes and rested, waiting for morning.

"It seemed to me," he said later, remembering that moment, "that we had been reborn."

For Lam Van Hien, 57, who owned a 45-foot fishing boat, leaving Vietnam proved neither difficult nor expensive. The only problem was finding a destination. That took him 69 days and 2,500 miles.

It wasn't so much a problem of navigation, although the fisherman was guided only by a dime-store compass and a map of Asia, torn from a high school geography book, on which the vast South China Sea was half an inch across. It was a matter of finding a place that would let his family stay.

Lam Van Hien packed his wife, six daughters and two sons on the fishing boat, the VT724, and slipped out of Vung Tau at midnight on April 17, 1977. There was no moon. The seas were calm.

Hoping to spare his daughters an encounter with Thai pirates, Lam headed the boat more south than west, coming upon the Malaysian coast at Kuala Dungun. The Malaysians allowed the boat to land and gave Lam supplies but told him that he could not stay.

The VT724 sailed down the Malaysian coast, putting in at Padang Endau and at Mersing. At each stop, the reception seemed a little more hostile. Or perhaps the Lams, and the 63 refugees sailing alongside them in two other boats, were getting a little more desperate.

Next they stopped at Singapore, where, they figured naively, they could hop a freighter to California, which was where they really wanted to go. But the Singapore marine police never let them near the fourth-busiest harbor in the world. They let the Lams rest for an hour in the tiny nation's territorial waters, gave them rice and fuel and towed them out to sea.

The Lams headed south toward Bangka, an Indonesian island about 200 miles away. But on the way, the VT724 struck a coral reef, ripping a gash in the hull. They bailed for hours until they could float the boat off the reef, for days until they found a harbor where they could make repairs.

ISLAND-HOPPING

When the VT724 was fixed, they trudged on, island-hopping south and east, unsure of where they were going or why. The seas were rougher, the reefs more numerous, the navigation more demanding. They would stop at many an island, hoping that the inhabitants might give them food. More often than not, the island turned out to be uninhabited.

Friendly Indonesians in the port of Surabaja, Java, recommended Australia as a final destination. Lam had never considered that possibility, but it sounded like a good idea.

They pressed eastward, arriving in early June in the port of Kupang on the island of

Timor, the last stop before the 400-mile run across the Timor Sea to the northern coast of Australia. They were not sure whether their boat, dangerously waterlogged, or Lam, weakened by tuberculosis, would make it.

They sent a telegram to the Australian embassy in Jakarta, Indonesia, asking for permission—and transporation—to enter Australia. They waited for an answer. After 10 days without a response, they plunged on, heading for Darwin, the only real town on Australia's vast northern coast.

After three days on storm-tossed seas, they spotted land—a vision of sand, scattered trees and dark green hills in the distance. They had missed Darwin by nearly 300 miles and had landed on one of the loneliest coasts in the world.

They cruised the shoreline, looking for signs of life. They waved at passing airplanes. The hours of searching became days. Despair deepened as their food disappeared. They had come a long way to starve.

On the third such day, Lam saw a wisp of smoke rising above the coast and docked the boat at a place called, it turned out, Attack Creek. A few of the refugees hiked inland, following the wisp for hours.

The smoke led them to a piece of heavy grading equipment—and the man who was driving it on a little used track through the salt brush. The man went for help, and the refugees were saved.

"They were extraordinarily lucky," said J.R.M. MacKellar, Australia's minister of immigration and ethnic affairs. "In the 500 miles west of Darwin, there might be 27 people."

They were sitting in the woods, all 25 of them, relaxing and, in a quiet way, celebrating. Their four-night walk from Battambang, Cambodia, to Thailand was almost over. The border was only a mile away. It was 4:30 p.m., Aug. 4, 1978. In a few minutes. they would walk the final mile.

Then gunfire. From the left, the right and the rear. Twelve Khmer Rouge soldiers, 50 yards away. Three would-be refugees fell dead. Others ran.

Hen Soth dove into the undergrowth, trying to hide. A soldier ran right over him. When the Khmer Rouge has passed, Hen Soth and five others sprinted to the west, the direction of the border.

In the distance, they heard gunfire. They kept running through the woods. A land mine exploded just to the left, covering Hen Soth with dust and sending a piece of shrapnel flying through a companion's neck and out his mouth.

They kept running for more than an hour, knowing they had crossed the border but wanting proof before they stopped. Finally they saw a Thai farmer working his fields and turned themselves in.

Of the 25 men who had celebrated their escape from Cambodia, 16 escaped. The other nine died.

Through his contacts as a driver on the Saigon-to-My Tho bus route, Tsan Sui-sang knew that the chief of security in My Tho was allowing ethnic Chinese to organize "escapes" from Vietnam—if they could pay the price. Tsan, who was of Chinese descent, decided to form a group of his own. He abandoned his bus route to devote full time to his new work as a travel agent.

In My Tho, he secured a 66-foot boat and, in Cholon, the Chinese section of Saigon, he found his passengers, 348 of them. He collected eight taels of gold (an amount equal to more than 10 ounces and worth well over $2,000) for each adult and three taels for each child. He agreed to take a few passengers who were ethnic Vietnamese, but he warned them to learn a few words of Cantonese just in case someone decided to check.

The day before Tsan's group was to depart, the My Tho security chief made a special trip to Tsan's house in Saigon to pick up the gold, more than $500,000 worth.

"He was so pleased with my work that he decided to let me and my family go for free, as a commission for a job well done," Tsan said.

The 348 travelers assembled at 5 the next morning at a spot 24 miles outside Saigon. There six government buses, compliments of the chief, picked up the emigrants and took them right to the dock in My Tho. A few police stood guard while the boat was loaded, to make sure that there would be no interference from someone who might not understand local politics.

The voyage did not go as smoothly as the preparations.

"We had four sailors among the group, but they all got seasick right away," Tsan said. "I had to drive the boat. I'm a bus driver, not a boat captain. I had no idea where we were going."

They wanted to go to Malaysia but, after three days and three nights, they ran into an Exxon oil drilling platform near Borneo. The oil workers let them onto the platform and radioed the Malaysian navy which sent a minesweeper the next day to ferry them to a camp.

There was nothing very dramatic about Vong Phraphone's trip from Laos to Thailand, which is precisely the point. Ethnic Lao refugees do not have horror stories to tell. For almost all of them, crossing the Mekong River border is not dangerous at all.

Some swim across. Some steal a boat. Others swim across, steal a boat and come back to pick up the rest of the family. Less adventurous souls pay $500 or so to be ferried across.

Or they do what Vong did. He was pressed for time. A former army captain, he had escaped six months earlier from seminar, a Laotian political prison. Friends had told him that authorities were about to rearrest him.

He worked out a deal with the border guards, who could be most understanding when the price was right. For $250, they would let Vong, his wife and five children cross the river. Not only that, they would provide the rowboat.

A week later, at 3 a.m., Vong paid the guards, picked up the boat and took his family to Thailand.

Truong Minh Nhon, a Vietnamese of Chinese descent, was not sure exactly what was going on. The man who had sold him his passage out of Vietnam had never told him where he would be going or how he would be getting there.

Truong, his wife and baby had first gone from Saigon to the port of Ben Tre. They had boarded a tiny sampan, which had taken them to a fishing boat. The fishing boat had sailed for seven hours before—miraculously, it seemed—pulling alongside a freighter called the Skyluck.

They had climbed onto the deck of the freighter, where they found 1,000 other refugees, which was confusing. More confusing was the fact that the freighter stood at anchor for three more days while 2,000 more refugees climbed on.

"Now I think it was all planned that way," Truong would say later. "But then, I wasn't sure about anything."

The freighter was crowded—Truong's family learned that they had to sleep sitting up—but the food was ample, the weather benign and the seas tolerable.

Late one night, the people in Truong's section of the ship were told that it was time to leave. Six hundred of them climbed down into lifeboats and headed for a nearby shore.

On the way, they noticed that someone had painted over three letters of the ship's name. Instead of Skyluck, the name now was Kylu.

They landed on a tiny island—a large rock, really—which, it developed, was Philippine territory near the larger island of Balabac. By dawn, the Kylu was gone, apparently scared away by a fishing boat before it could finish dumping its human cargo.

MANY CASUALTIES OF EXODUS REMAIN AS QUESTION MARKS FOR KIN

(By Larry Eichel)

PULAU BIDONG, MALAYSIA.—Phan Thi Thanh Thuy stayed behind when the KG0098 left the Kien Giang province of Vietnam last Oct. 1, carrying her parents, two brothers and four sisters, and about 300 other refugees.

Now she cannot find her family.

Their fate is unknown, unlike those who have set out in search of haven and have gone to known deaths.

A week later the Skyluck, with its three missing letters painted back on, sailed into Hong Kong harbor carrying 2,647 refugees. It sits there now, its passengers still on board.

The passengers left on the island, including Truong, were rescued by the Philippine navy and are at a refugee camp 400 miles west of Manila.

The following is an excerpt from the diary of Tan Thi Cuc, a 22-year-old Vietnamese woman of Chinese descent, who journeyed from Vietnam to Malaysia aboard the VT126, a 60-foot fishing boat jammed with 305 refugees. It describes the final night and day of her journey:

This is the first time I can feel the fate of a refugee in a strange land. All the people on ship are nervous. It has been so long since they had anything to eat or drink. I have so little room to sit that my knees touch my breasts.

The seas are so rough that we think we won't survive until morning. But we do. We are crawling along the Malaysian coast, keeping a safe distance until we can find a place to land.

At 10 a.m., we see a boat on the shore—the VT72, also from Vung Tau. Perhaps we have found a place to land. Maybe everything will be all right.

We make a 90-degree turn and race full speed toward the beach. But the waves are so high, I'm sure the boat is going to sink. All of us are shouting and waving. We are getting closer. We can see the Malaysians on the shore. Why don't they wave back. My little brother jumps into the shallow water Now all the women and children are jumping.

Oh, my God, it is so terrible, just like a nightmare. Everyone is in the water. The people are screaming. Someone is shouting that we must have courage. All we have to do is get to shore and it will be over. Nothing can happen to us. We haven't done anything wrong. All we've done is run away from the Communists.

When fishermen rescued a 17-year-old girl in Puerto Princesa, the Philippines, two months ago, she said she was the only survivor among 50 Vietnamese boat people. She watched her friends die, one by one, she said, and survived 140 days on a coral reef by eating dead seagulls and drinking water that collected in the hull of an abandoned ship.

A 31-year-old man, rescued near Taiwan late last year, reported that some of the 34 survivors of his group of 119 boat people had kept alive by cannibalizing the remains of those who had not survived.

Some of the disasters that strike the boat people leave no survivors to tell tales.

Boats leave Vietnam and never are heard from again, boats such as the KG0098. When it left Vietnam, it was heading for Malaysia.

Phan Thi Thanh Thuy had remained in Saigon to complete the paperwork connected with the government's confiscation of the family construction supply business.

On Nov. 14, according to plan, Thuy sailed on another boat to Malaysia and was placed in the island camp here. Her parents had told her that she should write to an aunt in California who would coordinate a family reunion. But she lost the aunt's address when pirates attacked the refugee boat and ransacked her luggage. So much for the plan.

The months passed. Thuy received no news of her family. She applied for and received admission to the United States. Alone.

"I want to go, but I'd like to find my family first," she said in quiet Cantonese. "I have no idea what happened to them. I've written a friend in Hong Kong who should have my aunt's address. I've asked the United Nations for help. I worry about it all the time. I always try to think positive, that they are somewhere in Malaysia. I do not dare to think that something has happened to them."

An American who heard Thuy's story asked a representative of the United Nations High Commissioner for Refugees to search the records for any evidence of her parents' boat.

Eventually, an answer from the agency came in the mail:

"We have looked through our files, but to date KG0098 is not listed with us."

THIRTY-SIX THOUSAND CONDEMNED TO THIRST ON A ROCK IN THE SEA

(By Larry Eichel)

PULAU BIDONG, MALAYSIA.—From a distance, the island seems to fulfill the dream of a tropical hideaway, with twin beaches of sparkling white sand, towering coconut palms swaying in the breeze, carefree children playing in the surf and, above it all, a volcanic cone soaring 960 feet into the air, majestic and safely extinct.

But the beaches are littered by pits of raw garbage, deposits of human waste and skeletons of abandoned refugee boats. The green of a once virgin landscape has been sullied by thousands of blue plastic sheets—the roofs of thousands of small bamboo shacks. The whole island bears the unmistakable stench of too many people in too little space.

Nine months ago this dot in the South China Sea was uninhabited, and for good reason. Pulau Bidong is scarcely more than an overgrown rock.

That rock now houses the largest camp for Vietnamese boat people in Southeast Asia. It has become one of the most densely populated spots on earth.

Crammed together on 85 acres are 36,000 refugees. They are suffering through the present in search of a future. They are the human debris of an exodus from Indochina that has drawn well over 900,000 people from their homelands. The exodus has cast thousands of them upon shores all over Asia.

The refugees who wound up on Palau Bidong are prisoners as surely as if they were surrounded by iron bars or barbed wire instead of water.

Their lives consist of frantic nonactivity. There is constant movement and there is constant noise, but nothing happens.

A trip to the supply warehouse, the beachfront black market or the administration building is an event to be savored and stretched out to fill the emptiness. The cooking of meals and the gathering of firewood become day-long activities, preferable to staring at the walls of a crowded hut.

When it rains, the narrow drainage ditches that run alongside dirt pathways become torrents, trapping people inside their shacks for hours on end. The water drains into a vast, open sewer behind the beach; some refugees live in houses built on stilts in the sewer.

It is a world that strips an individual of dignity. There is no privacy for someone who must share a 16-stall open-air latrine with 36,000 others. There is no peace in cohabiting a one-room shack with 8 or 18 or 34. Theirs is a lonely crowd.

Night is a blessing. Darkness lends an illusion of escape. Darkness draws a curtain on those who wander at all hours in search of something, anything, to see or do. Darkness affords a sense of security. And only darkness can create the fiction of solitude.

Pulau Bidong is not a typical camp; it is the worst. In a region that has become a purgatory for Indochinese, it is a hell. The mystery is that this physical and psychological cesspool has somehow managed to escape disaster. So far.

It hasn't been ravaged by a fatal epidemic of cholera or typhoid, even though refugees live above their own garbage dumps, drink polluted water and have been so weakened by malnutrition that their resistance to disease has all but disappeared.

It hasn't been swept by fire, despite the fact that 4,000 bamboo shacks—and 4,000 open cooking fires—cover the parched landscape.

It hasn't been torn by rioting, even though the mere presence of 36,000 strangers, jammed together with nothing to do but worry about the future, produces an explosive mix of anxiety and boredom.

People do smile here. Births outnumber deaths 5–1. Hopes for the future survive the hardship of the present. Better here in the dust and the mud, they say, than home in Vietnam.

They live for the day when the faceless voice on the loudspeaker system, which drones day and night, will announce their names and tell them that the Americans, Canadians, Australians or French want to interview them about resettlement—about leaving Pulau Bidong.

Here survival is a constant struggle. The water supply is meager and under constant threat of contamination by the sea. The food supply, beyond the coconuts that plunge dangerously from treetops at irregular intervals, is nonexistent.

DISTANT PORT

The nearest port capable of providing such essentials is Kuala Trengganu, 2½ hours away by boat. But the town, located on a river, is not the best of ports. The river has a sandbar blocking its mouth.

This sandbar effectively discourages all but the smallest fishing boats from entering the port. Some days, the waves that swirl around it form a virtual wall, blocking the river and putting the port out of commission.

Last December, the sandbar was impassable so often, and the seas so rough, that food had to be dropped from helicopters on Pulau Bidong to stave off mass starvation. In January, refugees received only 80 percent of the normal rice ration, 50 percent of the flour and fish sauce, 12 percent of the fresh vegetables, 6 percent of the meat and none of the powdered milk.

Given the scarcity of food available through legitimate channels, a beachfront black market flourishes, preventing a bad situation from getting desperate. Still, hundreds of Vietnamese families, used to one meal of soup and two meals of rice each day, have to get by on two soups and one rice.

Visitors to such an island invariably wonder why Malaysian authorities decided to put 36,000 refugees on it.

"The Malaysians were desperate," said Rajagopalan Sampatkumar, a representative of the United Nations High Commissioner for Refugees (UNHCR). "They were trying to drive home a point to the rest of the world and, in my opinion, they were successful."

The point being driven home was that Malaysia, a developing nation of 12 million people, did not have the economic resources to cope with thousands of Vietnamese refugees and that the industrialized nations had better take those refugees out of Malaysia in a hurry.

But the truth is more complex. The Malaysians are not opposed to refugees in general, only to certain refugees. The Vietnamese refugees, most of whom are ethnic Chinese, are the certain refugees, the wrong sort.

ETHNIC BIAS

Malaysia has ethnic diversity: 44 percent Malay, 36 percent Chinese, 10 percent Indian and 10 percent everything else. Despite this diversity, the Malays behave as if they were the nation's only ethnic group. Their language is the official language, their Islam the state religion, their privileged status written into the constitution. Ten years ago, rioting between Malays and Chinese killed hundreds.

The Malay-dominated government readily accepts refugees whose presence will add to the tenuous Malay plurality—nearly 100,000 Muslims from the Philippines, another 1,500 Muslims from Cambodia. But the Malay authorities are reluctant to take, even temporarily, refugees whose presence might enlarge the Chinese minority.

"We are restructuring our society, and you are adding Chinese," Malaysian Home Minister Tan Sri Ghazali Shafie has said of the current influx. "A new kind of Chinese. It is bad enough to integrate the local Chinese."

Nowhere is the pro-Malay, anti-Chinese feeling more pronounced than in Trengganu Province, where most of the Vietnamese refugees have had the misfortune to land. Thengganu is poor, rural and totally dominated by Muslims, who make up 92 percent of the population. In this province, business and government observe Friday as the day of rest.

At first, boat people were housed on a reasonably comfortable river island, Pulau Besar, that was far more accessible than Pulau Bidong. At low tide, refugees could and did wade across to the mainland to sell their gold and purchase food, clothing, radios and watches.

Local officials looked the other way until one refugee was struck and killed, accidentally, by a car. News reports of the accident angered a local extremist Malay youth group. The group wrote to the newspapers and the police, asking: "What are these pig-eaters doing in our community?"

It was more a demand than a question. The "pig-eaters," the Vietnamese, would have to be isolated from the community to prevent violence.

TARGET OF BLAME

In subsequent months, arriving refugees were stoned on the beaches by angry villagers, who blamed the outsiders for inflation, poor catches by local fishermen, an increase in venereal disease and a decline in the number of giant turtle eggs found on the shore.

"Malaysia has no place for such people," one high government official said. "We cannot risk our people being influenced by their unhealthy thoughts."

And so, last July 24, the first refugees were transferred to Pulau Bidong.

"All of a sudden, people were there," recalled Datin Ruby Lee, whose Malaysian Red Crescent Society (the Muslim Red Cross) had to provide for them (with UNHCR money).

"No welcome mat, just a barren island. How do we get food to them? We end up using four refugee boats to carry supplies. You can't pick up the phone and ask how it's going out there. It's so far away you can't even send out smoke signals. And what about water?"

Indeed, water is the most trying problem here, as it is in most refugee camps in Malaysia and Thailand. As the dry season began this spring, less than half of Pulau Bidong's 69 wells had water in them; in some, the water had a yellow cast and the smell of human waste.

So most of the water had to be imported on two barges, each of which rents for $14,000 a month and must travel more than 100 miles from the island to the nearest port that can handle their bulk. The method of distributing the water to 36,000 refugees demonstrates the fundamental cruelty of Pulau Bidong.

The barge sits about 100 yards off shore, prevented from getting any closer by a coral reef that surrounds the island. A fire hose, kept afloat by a string of black oil barrels, connects the barge to the beach.

On the beach sit three long rows of boxlike containers of gray fiberglass, open at the top, each about three feet wide by six feet long by five feet deep. A man stands at the far end of the first row, hose in hand.

Without warning, water begins to surge through the hose into the first container. The container fills rapidly, and the man drags the hose, its nozzle furiously spouting liquid, to the next container drenching the sand in the process.

SEA OF THIRSTY

The beach is a sea of teenage boys, dressed only in shorts, racing toward the gray containers, dragging along a bewildering assortment of cans, bottles and barrels, anything that will hold water. They bang into the containers and each other, dipping furiously for the precious liquid. Some break through the crowd and tumble into the containers, sending more water splashing onto the beach and soiling what remains inside.

Soon the crowd is so dense with shouting, scrambling teenagers that the man with the hose has to fight his way from one container to the next. Since the flow of water never stops, more and more of it spills onto the sand. Finally, the man starts using the hose as a gun, blasting his way to the next container.

The word that the water is flowing races through the camp. Some families, who live far up the distant hills, know that it is hopeless; the water will be gone before they can get to the beach. Besides, even if they made it in time, they would be hard-pressed to lug more than a gallon or two back home.

Others sprint to the beach even as the first-comers are trying to fight their way out with overflowing buckets, some dangling from thick wooden sticks with a boy on either end, others leaking steadily on the race home. The beach is soaked and the dusty main path to it has turned into a mud lane.

Within an hour, the water is gone; 25 percent, perhaps more, has been wasted.

Those who have failed to get enough must pray for rain or stand in line for hours at a well or map a plan of attack for the next barge, which will arrive in four or five days.

On the surface at least, Pulau Bidong is the best organized camp in Southeast Asia. The camp has been divided into seven zones, each with an elected leader, assistant leader and secretary. The zone officers choose the camp officers, who in turn appoint chairmen of seven committees—supply, construction, medical and sanitation, information and culture, security, interpreting and administration. Fifteen hundred people participate in committee activities.

FORM OVER FUNCTION

So far the structure has been more impressive than the performance. The committee network has been weakened by the departure for resettlement of its strongest leaders. There is tension between ethnic Vietnamese and ethnic Chinese, people who would have nothing to do with each other if they weren't in the same refugee camp.

"We can only do so much," said Le Van Ngon, of the security committee. "We have no laws. We can't punish anyone. And the Malaysians don't care what happens between two refugees. We get more complaints about the mail than anything, the way the Malaysians censor it or don't send it out at all. But we can't do anything about it."

"We need leadership," said Duong Minh Phuoc, the former chief of interpreting. "What we have is bureaucracy."

Little gets done. Although the official camp school can handle only a fourth of the 10,000 refugees who want English lessons, the interpreting committee sees the language efforts of the camp's Protestant church (there also are a Catholic church and a Buddhist pagoda) as a threat to its authority. Each church has its own makeshift bamboo edifice.

There are plans for setting up a crude hospital with 32 beds and an operating room, but only plans. There is talk of replacing the fetid beachfront outhouse with a new one that would use the flushing action of the waves. It is talk, just talk.

One service the camp committee system does deliver is health care. Pulau Bidong may have the highest doctor-patient ratio of any town—let alone any refugee camp—in the entire world. At one point, there were 60 doctors here for 25,000 refugees, or one for every 416 persons.

The abundance of doctors results from the fact that virtually all doctors who lived in South Vietnam before 1975 were drafted into the army as captains. After 1975, the Communists hauled away all captains, doctors included, for long stays at re-education camps. Upon their release, the doctors were given papers that prevented them from practicing medicine. A lot of doctors became boat people.

With all those doctors, the medical committee has established health centers in each of the seven camp zones in addition to a central infirmary.

"If we had enough medicine, I don't think we'd have any real problems at all," Nguyen Duc Tien, chief of the medical committee, said. "Right now, we have five days of medicine left."

SCABIES APLENTY

The most prevalent ailment is scabies, a skin rash caused by a lack of bathing, from which 80 percent of the refugees suffer. Benzene ointment would cure it, but benzene ointment isn't available.

Other common problems include colds and intestinal diseases such as diarrhea and malnutrition. A minor epidemic of hepatitis—108 cases, but none fatal—struck the camp in December.

"That shouldn't happen again," Dr. Vu Van Dzi said, "because we have more good drinking water and more cutting tools so people can chop down trees (for firewood) and boil their water before they drink it. We use axes and saws to fight hepatitis."

More conventional methods are used to combat other diseases. In the first two weeks of February alone, 2,348 refugees were vaccinated against cholera and 3,684 against tuberculosis. The statistics are exact. One way refugees keep themselves busy is by counting things. The camp keeps up-to-date statistics of almost everything.

Anyone with a truly acute medical problem must be taken to the hospital in Kuala Trengganu. Permission for such a trip takes time. Finding a boat takes time. And the boat ride itself, something of an adventure for the hale and hearty, can be a trauma for someone who is sick.

While there have been relatively few deaths—26 between Oct. 1 and Feb. 16—some of the deaths might have been preventable in a different setting. Most who die are very young; the lack of food hits them hardest.

"Here," the doctor said, "children die of diarrhea and measles."

One day a few months ago, a flight bag containing three apples was stolen from a sleeping American who was at Pulau Bidong to interview refugees for resettlement in the United States. Upon discovering the theft, the American and his colleagues announced that they would not conduct another interview until the bag was returned.

The people of Pulau Bidong went into collective shock. They had devoted considerable time and effort to keeping the Americans and officials of other embassies happy. They had built for such dignitaries a private outhouse with a bathing stall. They had set up a 150-member Service for Delegations crew—SFD printed on their special brown T-shirts—to keep the foreigners' teacups filled, handle their baggage, prepare their meals and fan the island's obscenely fat flies away from their food until they were ready to eat it. Their worst fears were that the foreigners would go away one day and not come back.

A morning passed before tempers cooled and the Americans resumed their interviews on the condition that, from then on, guards would watch over them while they slept.

The interviewers, particularly Americans, are the royalty of this island, their presence a continuing affirmation that there is life after Pulau Bidong.

Watching the interviewers, or just being near them, is a favorite refugee pastime, as if proximity somehow enhances speedy departure. To control the crowds, the camp committee has roped off an area around the administration building where interviews are conducted, using two parallel strands of heavy green rope, as if for a boxing ring. At ringside, the refugees stand four and five deep 15 hours a day.

Diec Thoai Phong, 16, an ethnic Chinese girl from the Cholon section of Saigon, had been waiting nearly three months for her interview. She looked nervous as she walked into the administration building leading two younger brothers and three younger sisters, all neatly dressed and respectfully quiet.

She sat down across the picnic table from Peter Downs—35, an ebullient missionary's son who grew up in Thailand and spent three years as a social worker in Vietnam—and his clerk and interpreter, both refugees. The other children filed in on either side of her.

Downs had to decide, subject to later confirmation and documentation, how strong a claim these six children had on American resettlement.

"You hold the future of their hopes of getting off the island in your hands," he said. "You have to be very careful with that power."

He looked over a sheet of biographical data previously prepared by a camp committee.

"OK," he said, thinking aloud, "we know that Diec Thoai Phong had seven years of schooling and worked one year in the family bakery. She speaks Vietnamese and Cantonese. Her parents are still in Cholon. She has two brothers who were in Thailand and just arrived in Montana, but she can't use them to qualify because they haven't been there long enough . . .

FAMILY PROBE

"Wait a minute. We've got to figure out the family configuration here." Indeed, the bulk of most interviews is spent sorting out relationships, trying to mesh the Western and Eastern concepts of family.

"Who is Chung Tu Muoi?" Downs asked.

"She's my aunt," the girl answered.

"Is she at this camp now?"

"Yes."

"Now we've got to figurge out whether to lump the children with the aunt. If we don't, we can leave her (the girl) as the principal applicant, and she'll be category 1-B (high priority) as an unaccompanied minor. If we do, she loses that and becomes 4-B (low priority)."

He paused to think.

"I can't do it. I've got to make her 4-B. If the aunt weren't here, there wouldn't be any problem. But since the aunt's older, I have to lump them together. Sometimes you have to be a genius to figure out these categories."

He turned to Diec Thoai Phong.

"You'll have to apply to other countries," Downs said. "Do you understand?"

She said she did. And she left, followed by the others, her face masking her disappointment.

"No other country will take them," Downs said. "After a few months, we'll take another look at them. We'll probably end up taking her."

The catch is that Diec Thoai Phong and her brothers and sisters will have to spend most of 1979 at Pulau Bidong.

In another part of the building, a happier scene was unfolding. Tran Nhu, 47, a sweater maker from Cholon, was being formally accepted for resettlement by the United States along with his wife, mother, sister and five children. Speaking through a translator, immigration officer Charles Aycock told them to stand and raise their right hands.

"Have you ever been arrested for any reason?" the translator asked.

"Khong," they said tentatively, Vietnamese for "No."

"Have you ever committed any crime for which you were arrested?"

"Khong."

"Have you ever been a member or associated with the Communist Party?"

"Khong!"

They further denied, as all refugees must, that they had been users of or dealers in drugs, had engaged in commercialized sexual activity or been married to more than one person at any one time. Tran Nhu answered a few other questions, filled out a sheet stating the family's assets and signed an affadavit. And then they left, thanking the immigration man.

In his seven months at Pulau Bidong, Tran Nhu had been rejected by every country that had sent interviewers. Now the United States was taking him because no one else would.

"This is the happiest day," he said. It did not need to be said.

There are moments when life here is almost normal.

At the Buddhist pagoda on the hill overlooking the sea, an artist watches with pride as his student paints a clay figure of one of the Heroes of the Three Dynasties.

At the infirmary near the administration building, 50 expectant mothers listen to two women gynecologists discuss the final months of pregnancy and the initial weeks of motherhood.

And at night, when the midday heat is gone, young couples stroll down to the beach where a famous Vietnamese folksinger, a refugee like the rest, performs at a makeshift nightclub called the New Starlett.

There, in the intimacy of candlelight, they sit at tiny bamboo tables, sip their coffee and listen to familiar tunes. And they pretend, for a few minutes, that they are sitting somewhere else.

NOT ALL IN THE EXODUS WAIT IN SQUALOR FOR RESETTLEMENT

(By Larry Eichel)

SINGAPORE.—More than 400 refugees have been given temporary asylum here in old British naval officers' quarters that are so comfortable they are called "the five-star hotel."

In Hong Kong, 300 refugees live in a real hotel, with telephones, private baths, waiters and, until recently, color televisions in every room.

In Macao, south of Hong Kong, each refugee family has a private room in a renovated century-old convent that has full plumbing and electricity.

And at Motobu on the island of Okinawa, 200 persons await resettlement in luxurious apartments built three years ago for a Japanese exhibition called Ocean Expo 76.

Not all refugees live in squalor. Not all first-asylum countries feel compelled to treat their temporary guests like their poorest citizens.

The finer refugee locales are unusual, but at none of the facilities cited above, nor at the ones in Manila or Taiwan, are refugees treated as prisoners. They do not pay for housing. They are not gouged on black markets. They are free, more or less, to come and go as they please, and they are free to work in the world outside.

The wages they earn are often quite low. But since the United Nations pays their living expenses they can put some money away. By the time they leave for resettlement, some refugees, especially those from Hong Kong, look like typical American tourists, laden with portable hairdryers, cameras and stereo cassette players.

Singapore's Hawkins Road camp, located about 15 miles from the city center, sits on a lush green hillside that is cooled by a constant breeze. The complex contains 18 two-story buildings, each with two full kitchens and bathrooms; and each room has a ceiling fan for those days when the breeze disappears.

The United Nations High Commissioner for Refugees (UNHCR) gives each family a monthly stipend that works out to $1.20 a day, which, given the prices at the market a mile away, is sufficient. The camp offers English classes, an infirmary, a library, and concerts and plays put on by the refugees. It does not have gates, fences, locks or guards.

In Hong Kong, the entire refugee population used to live in hotels, including the Mayfair, located on Nathan Road in the heart of the colony's main shopping district. The Mayfair's proprietor, a Vietnamese expatriate named Chui Put Tsang, was charging the UNHCR $10 a day per refuge for room and board.

That price was high—considering that as many as six persons lived in one rather worn room—but Chui did provide wall-to-wall carpeting, color televisions and three bountiful meals each day in a penthouse dining room.

As the refugee population of the colony grew, the UNHCR persuaded the Hong Kong government to convert an old military installation called Shamshuipo into a camp for 4,000. Costs there would be $3.20 a day per person.

Angelo Rasanayagam, the UNHCR's representative, told Chui that he would have to lower his prices or lose his business. Chui reluctantly agreed to trim his rate from $10 to $4.50. A few days later, hotel employes removed the televisions and pulled up the carpeting. And the food, while still more than ample, wasn't quite as bountiful as it had been.

In the camp at Shamshuipo, the refugees live in Quonset huts, stucco barracks and huge army tents, all jammed with endless rows of bunk beds. The only way people can have privacy is by draping blankets from the top bunk, creating a private space underneath.

What makes Shamshuipo so pleasant for refugees is the money. Each person, regardless of age, is given $12 a week for food, and adults can make another $60 a week in factories nearby.

On Okinawa and in Macao, the accommodations are even better. At the Expo facilities and at the convent, each family has a private room and ready job opportunities—in the sugar cane fields of Okinawa and in piece work (such as attaching plastic leaves to plastic flowers) in Macao. And most of the refugees there know that a plane ride to the United States, Canada or some other promised land is down the road.

"I'd like to go to the U.S., too, but I can't because I'm not a refugee," said Kwok Siu Lim, an employe of the Mayfair in Hong Kong. "The refugees are very lucky. When they leave here, they look like rich people. Sometimes, I think I'd like to be a refugee, too."

RIP-OFF: REFUGEES BUY LOW, SELL HIGH—TO EACH OTHER

(By Larry Eichel)

NONG KHAI, THAILAND.—Life in a refugee camp teaches survival, patience and how to rip off someone else.

This camp of 40,000 has, as do many others, a thriving economy fueled by the gold that some refugees bring with them and the cash that others receive from relatives overseas.

Many capitalists start small. They rent a pedicab for 50 cents a day and start a water-delivery business. They buy low at the Thai-run electric water pump at the front of the camp and sell high to the Hmong refugees who live at the back.

But the big money is in real estate. The camp has an active and lucrative market in which refugees are both buyers and sellers of property.

Construction of residential barracks by the Thai government hasn't kept pace with the increasing population. So newcomers often must buy a barracks room for $75 or $100 from someone who already has one. Prices for commercial real estate are much higher.

Commercial real estate? In a refugee camp?

Indeed, stores and restaurants occupy every inch of available space along the camp's three main streets, which form three-fourths of the perimeter of the oppressively dusty central square and athletic field.

The stores, supplemented by a giant produce market toward the rear, sell cigarettes, cosmetics, medicines, tape cassettes, eggs, bread, chewing gum, milk and cookies. They offer a full range of services, including barbering, dentistry, radio repair and photography. One shop, whose sign identifies it in English as Refugee Photo, was doing a thriving business in family portraits.

No one lives on these streets. The property values are too high. One family recently paid $800 for a prime restaurant location.

At Ubon Ratchathani, another large camp at Thailand, the range of housing prices is such that $50 buys a barracks room near what used to be a kennel for American military guard dogs. The area is called "The Slums."

Five hundred dollars buys a detached four-room bamboo house on a secluded lot, far from the hustle and bustle of the central business district. The area, which looks like a subdivision, is called "The Suburbs."

The central business district is almost entirely owned by Laotians of Chinese descent who, upon their arrival in camp, bought all of the stores at fabulous prices. One entrepreneur spent a reported $2,000 to build a casino; Thai officials have refused to allow it to open.

At both Nong Khai and Ubon Ratchathani, some refugee women have attracted a loyal following of Thai customers to the world's oldest profession.

The situation at Pulau Bidong, Malaysia, is different—and worse. The Malaysian Red Crescent has not built any living quarters there since last fall. Now, with even the most marginal land occupied, housing prices are astronomical. At one point last December, some two-room houses sold for more than $1,500.

One recent arrival at Pulau Bidong paid $400 for a one-room shack that fronts on a vast open sewer. For his money, he got the land and the frame. No walls, no roof.

Another, Pham Van Sang, built a one-room house on the only available land—on a hill far from food, water and the administration building. The wood was free for the cutting, but he had to pay $10 for a saw, $15 for a hammer, $20 for 40 canvas sacks to line the walls and $40 for the eight sheets of blue plastic he used for a roof. By the time he was finished, he had sold his wedding ring and spent more than $300.

Consumer prices are higher on the frantically busy black market at Pulau Bidong than in the stores of Nong Khai or Ubon Ratchathani. At the camps in Thailand, the refugees' relatively easy access to the outside keeps prices inside within reason. At Pulau Bidong, refugees have easy access only to the South China Sea.

Black-market goods are brought to the Pulau Bidong camp by Malaysian fishermen, who sail to an unhabited part of the island after midnight and moor offshore. Using flashlights, the fishermen and their refugee retailers bargain in code. Once deals are made, the refugees swim out to the fishing boats, hand over the money and pick up the merchandise.

On the black market, a 5-cent bag of salt costs 50 cents and a 15-cent air mail envelope goes for $1.

All transactions on the black market are conducted in Malaysian currency—unfortunate, since many refugees have American dollars with them. Money changers, some of whom are Malaysian policemen, charge as much as 30 percent for their services, further increasing the level of prices.

"I supply food and make a living," said one refugee black marketeer. "A man has to eat. If the authorities gave us enough food, there wouldn't be a black market."

TOUGH TALK, SOFT HEARTS

(By Larry Eichel)

KUALA LUMPUR, MALAYSIA.—On Jan. 16, Prime Minister Datuk Husein Onn announced that his country would not accept any more boat people.

On Feb. 1, Hussein said any boat people who tried to land on Malaysian shores would be chased away.

On March 15, he said it again: No more boat people would be allowed to land.

In the two months between the first announcement and the last, Malaysian authorities permitted more than 5,000 Vietnamese boat people to land, to register with the United Nations High Commissioner on Refugees (UNHCR) and to take up residence in Malaysian refugee camps. Refugees continue to land here almost daily; in April alone, 10,000 arrived.

The prime minister's statements served as a classic example of the reaction by the nations of Southeast Asia to requests for first asylum from the hundreds of thousands who are fleeing Vietnam, Laos and Cambodia and seeking resettlement in the West.

The neighboring nations want to appear inhumane. They try to generate bad publicity.

The sham inhumanity is a defense—an ineffective defense—against inundation by the refugees. More than 900,000 Indochinese have abandoned their homelands in four years, and the refugee flow, more than 35,000 last month, is higher than ever. It is something that nearby nations are not inclined to encourage.

"The only time the Philippine government has ever been angry with me was when I praised them publicly for how well they were treating the refugees," said a foreign refugee worker in Manila. "They're afraid it'll get back to Vietnam, and they'll be inundated with refugees."

Such pursuit of bad publicity goes against the grain of any government. It is even more confounding coming from leaders of Third World countries who complain constantly about the negative images that their governments have in the West. But when it comes to the refugee crisis, such behavior has become standard operating procedure.

Malaysia and the Philippines talk tough because it serves their purposes to do so. They hope that their words will scare would-be refugees away from their shores, reassure their own citizens that everything is being done to prevent the refugees from landing, and pressure Western nations to resettle them as soon as possible.

The pressure has been felt by the United States, which plans to accept 119,000 Indochinese over the next 17 months. And as the refugee population grows in Southeast Asia, the pressure will mount for America to admit more of them.

"It would be relatively easy to deal with them if these people were in fact enemies," said Malaysian Home Minister Tan Sri Ghazali Shafie, who often makes the refugees sound like enemies. "We would annihilate them . . .

"But do we destroy scared women and children thrown overboard because their boats are sinking? What kind of people are we if we just watch them drown in front of our eyes or, worse still, if we shoot their boats so that they drown?"

Malaysia, the Philippines, Thailand and Indonesia have declared their doors closed to boat people. In fact, though, their doors are open to some degree. Only Singapore and, until recently, Taiwan have been as hard-hearted in deed as in word.

"Governments do engage in tough talk, but they might also mean business," said Rajagopalan Sampatkumar, regional representatives of the UNHCR. "They don't want to be totally inhuman, but if forced into a particular situation, they might not hesitate to carry out their threats. Our concern is that the countries never get pushed into a situation."

The countries wish that the refugee problem would simply go away. They have problems enough of their own; this one, they feel, has been thrust upon them by the accident of geography. Malaysia, across the Gulf of Thailand from Vietnam, did not participate in the Vietnam war and never thought of itself as a neighbor of Vietnam until 52,000 refugees washed up on its eastern shore last year.

"I hear the United States is building a wall along the Mexican border to keep out illegal aliens," said a Malaysian navy captain, making a point that Americans hear often in that peninsular nation. "That's what we're trying to do here."

But they cannot do it. Malaysia has a special anti-refugee flotilla to patrol 400 miles of coastline; the flotilla consists of 10 boats. The Philippine and Indonesian navies have an even more impossible task in trying to watch thousands of islands. That is why the politicians resort to words instead.

Though Malaysia is not as heartless as it would like potential refugees in Vietnan to believe, it is not the epitome of kindness either. Its attitude toward refugees has hardened in recent months.

More boats are being refused permission to land, though the fact that a boat is pushed away from one part of Malaysia does not prevent it from landing at another. Refugees often succeed on their third or fourth try. But even the persistent ones are having trouble now, as evidenced by the sudden increase of arrivals in Indonesia, the logical next stop for Malaysia's rejects.

Refugees who do manage to land in Malaysia find themselves being held in detention for up to a month—it used to be a few days—before they are allowed into a camp or put in a boat to be pushed back out to sea. In a few cases, refugees who had sunk or damaged boats beyond repair in hopes of forcing Malaysia to keep the human cargo have been held until the next boat arrives, then loaded aboard and towed away.

Being towed may well be the most risky part of any refugee's journey. Since last fall, nearly 300 refugees have drowned while being towed by marine police. Those who survive such a tow face more time at sea, more time in which disaster may strike.

Playing hide-and-seek with an inhospitable nation can be a deadly game. One recent evening, a 50-foot boat carrying 106 refugees tried to land on the Malaysian refugee island of Pulau Bidong. It got within 100 yards of shore before two naval launches cut it off and escorted it out to an anchored Malaysian Minesweeper.

The next morning, the minesweeper towed the refugee boat away. The next evening, the boat landed on the coast about 40 miles south of Pulau Bidong. The boat and its passengers were allowed to stay. But the boat was destroyed—and three refugees died during the landing.

The tough talk from the capitals of Southeast Asia serves purposes other than putting a scare into the emigres. It is good for domestic consumption in such places as the east coast of Malaysia, where local residents—most of them poor Muslims of Malay stock—resent the invasion by middle-class Vietnamese, most of whom are ethnic Chinese.

The tough talk performs the same function in the Philippines, where the very poor, who are in the majority, assume that the refugees are eating better than they are.

"If we didn't have martial law, there would surely be a mammoth (anti-refugee) rally in the slums," said Philippine Foreign Minister Carlos Romulo, one of the region's most skilled practitioners of tough talk. Earlier this month, there was an anti-refugee demonstration in Thailand.

Shooing refugees with words is also intended to impress foreign listeners. It is part of a game of diplomatic "chicken" and it bears this suggestion: If Western countries don't start taking more refugees faster, there will come a day when we can no longer be responsible for what happens to them here.

Malaysia, like other first-asylum nations, refuses to consider building new camps to relieve the overcrowding at such hellholes as Pulau Bidong. To do so, the Kuala Lumpur government fears, would be to admit to the world that the refugee problem is likely to be with Malaysia for years.

"In some cases, host countries purposely allow camps to become overcrowded and squalid as a way of discouraging further arrivals and encouraging other countries to resettle more refugees," said former Sen. Dick Clark of Iowa, now the U.S. coordinator for refugee affairs.

Asian officials pull out all the verbal stops when confronted with a large refugee freighter such as the Hai Hong (which anchored off Malaysia with 2,504 aboard), the Tung An (which sits in Manila Bay with 2,363) or the Huey Fong (which went to Hong Kong with 2,700). The political leaders hope in such straits to take maximum advantage of the international attention that the appearance of such a ship commands.

They make the argument that the passengers of such a ship are not refugees, implying a connection between the size of the vessel or the amount of money spent for escape and an individual's status. They even claim, as Hong Kong's secretary of security did when the Huey Fong arrived in the British crown colony's waters last Dec. 23, that "(we) are dealing with a ship . . . not with refugees."

THE OTHER SIDE

It may be unfair to punish the refugees for the behavior of the Vietnamese officials who have dumped unwanted citizens on the high seas for profit; unfair, but understandable. The arrival of such a ship is a shock to the receiving nation; it strains government relief services and raises the specter of more ships to come.

"We are not saying no to just one ship or 2,700 refugees," Hong Kong's chief spokesman, John Slimming, said a few days after the Huey Fong arrived. "We are saying no to the very real possibility of scores of ships and tens of thousands of refugees."

Four weeks later, Hong Kong said yes and allowed the Huey Fong's passengers to land. Three weeks after that, another freighter, the Sky Luck, arrived with 2,647 more refugees, as if to confirm the colony's worst fears. And the war of words started all over again.

The Philippine government behaved much the same way when confronted with the Tung An, a 1,600-ton freighter of Panamanian registry that arrived in Manila Bay on Dec. 27 with 2,363 refugees aboard. For nearly two months, the government refused to allow the refugees off the horribly crowded ship and made constant noises about forcing the ship to sail on. Lest the

Western countries were not paying attention, Foreign Minister Romulo drew up an order to have the ship forced out to sea. Then he summoned Manila's entire diplomatic corps to an emergency meeting.

"We had to do something, otherwise no one would have taken us seriously any more," an informed source in Manila explained.

Predictably, President Ferdinand Marcos overruled Romulo the next day, allowing the government to appear both firm and humane at the same time. Since then, the tough talk has continued.

"The people of the Tun An thought this whole thing was a picnic," Deputy Foreign Minister Jose Ingles said recently. "They brought their thermoses and Parisian parasols. When they ask our social workers to go shopping for them, they pass out American $100 bills . . . They complain about overcrowding on the Tung An. It's not our fault. They came in overcrowded."

HUSHED HUMANITY

What Ingles did not mention was that his government had quietly taken all of the refugees off the Tung An and placed them on two 329-foot LSTs that had been stationed alongside the freighter. LSTs are long and wide flat-bottomed vessels that can carry tanks. While life on the LSTs was not easy, it was a vast improvement over the refugees' existence on the freighter, increasing their living space at least fivefold.

No longer would they have to sleep sitting up. They could take showers and see movies. They were given two well-balanced meals a day, with individual portions of chicken, greens, egg and rice carefully wrapped in plastic bags. At last report, they had requested a volleyball net.

"Once it gets around that we give them lavish treatment," Ingles said, "they'll all start coming here."

Under current Philippine policy, refugees who do manage to slip into Philippine waters are to be given asylum—but in the water, not on land. The refugees are to sit on their boats until they are resettled. By this tactic the Filipino leaders hope to induce speedier resettlement.

When the refugees do not have a boat on which to wait, confusion is likely to arise.

In early February, the freighter Sky Luck dropped 600 refugees on a big rock—a Philippine rock—400 miles southwest of Manila. The regional military authorities, realizing that the refugees could not survive on the tiny island, brought them into the provincial capital and started building them a camp—without informing the government in Manila. When informed, officials there were furious, having lost an opportunity to pressure the West by, in effect, holding the refugees hostage.

The regional authorities reportedly were threatened with courts-martial for having acted too humanely.

Thailand and Indonesia have behaved much like Malaysia and the Philippines. Their border patrols push off a boat from time to time; their governments occasionally announce that they will not accept any more refugees. But, in fact, many get through. Nearly 7,000 got through Thailand's supposedly closed door last year. So far this year, Indonesia has admitted about 15,000.

Of all the Southeast Asian countries, only Singapore currently is as tough as its word, a toughness made possible by geography. The nation, only three times the size of the District of Columbia, is enforcing an almost total ban on the arrival of refugees.

The only boat people Singapore does accept are those rescued at sea by crews of large commercial vessels whose next port of call is Singapore. Such refugees are offered temporary asylum subject to two restrictions: The nation that owns or registers the ship must guarantee that the refugees will leave Singapore for resettlement within 90 days, and the total number of refugees in Singapore may not exceed 1,000.

"You've got to grow calluses on your heart or you just bleed to death," Prime Minister Lee Kuan Yew said last fall after imposing the policy.

Refugee officials believe that some Indochinese are almost certainly drowning at sea as a direct result of Singapore's policy. Almost every large vessel traveling in Southeast Asian waters has Singapore, the fourth busiest port in the world, on its itinerary. And Singapore's policy seems to encourage captains of such ships to pass up sinking refugee boats, even though the law of the sea demands that aid be given in such situations.

The Republic of China (Taiwan), which is too far from Vietnam for most refugee boats to reach, had been taking an even tougher line than Singapore until, at American urging, it began moderating its policy in March.

Under its old policy, Taiwan accepted only those refugees rescued by its own vessels. Foreign ships, even those that listed Taiwan as first port of call, could not deposit refugees there. Boat people could set foot on Taiwanese soil only to climb onto a bus bound for the airport.

The Republic of China made the British freighter Wells Park, which arrived last Oct. 4 with 346 newly rescued refugees, wait at anchor for 12 days until the British government sent in two chartered Boeing 707s to fly the refugees to London.

WORLD DECRIAL

For such behavior, Taiwan got an international lambasting. Critics asked how a nation that advertises itself as "Free China" could be so cruel, especially when many of the refugees were ethnic Chinese.

But Taiwan's attitude appeared to be at least partially defensible. As an international nonentity, lacking a seat in the United Nations, Taiwan could not avail itself of the services of the UNHCR, either to care for the refugees or to resettle them. The government had to fund its own camps in the Pescadore Islands—the camps now have about 800 inhabitants—and hope that the United States would handle the resettlement.

On March 14, the government eased up. Under its new policy, temporary asylum will be granted to all ethnic Chinese refugees rescued by foreign ships that have Taiwan as first port of call, and permanent resettlement will be provided for up to 1,000 refugees.

Hong Kong, despite its new verbal toughness and enactment of new laws aimed at punishing the captains of refugee freighters, has developed an image as the soft touch of the refugee world.

The freighters have been the target of Hong Kong officials ire; small boats land there without resistance. In late February, 1,600 boat people arrived in a week. In May, that many came in a single day. As a result, the colony's refugee population has swelled to 27,000. Such numbers suggest that its days as a soft touch may be about over.

A Successful Escape to a Different Kind of Purgatory

(By Larry Eichel)

MACAO.—He had already made three attempts at leaving Vietnam by boat. In the first, the plan had fallen apart; in the second, the boat had been discovered by border police; in the third, the organizer had absconded with the money.

So Vuong, 20, the son of an imprisoned former business executive, decided to try something different. He left Saigon by truck, beginning what turned out to be a six-month, 3,000-mile land and sea journey that would bring him to this tiny Portuguese enclave on the south China coast, 40 miles from Hong Kong.

Now, as he sits and waits in a crumbling hilltop convent, he knows that his hopes of a life in America may never be fulfilled—because of the escape route he chose.

He made the mistake of going through China.

Vuong chose the route last spring, when relations between Vietnam and China were deteriorating and China was urging Vietnam's ethnic Chinese to return across the mountains to the motherland.

Though he was of Chinese descent, Vuong wanted no part of the motherland. But he did want to leave Vietnam, and there was a rumor that legal channels existed for Vietnamese refugees, once in China, to get to Hong Kong or Macao and from there to America.

He decided to try. He paid more than $1,200 to a lower-level bureaucrat in Saigon for papers identifying him as a government worker. Then he hopped on a government truck and rode to Hanoi.

He stayed in Hanoi for only a few hours, long enough to buy a train ticket to the border town of Dong Dang, 100 miles away. At the border, he found three other would-be refugees and a guide. The guide led the four over the mountains, around the last Vietnamese checkpoint and through Friendship Pass to China.

The Chinese sent him to a nearby refugee camp, where he promptly inquired about the application for resettlement in America. Resettlement, he was told, was not available.

"I ran to the post office and cabled my relatives in Hong Kong and America," he said recently, recalling his dejection. "I wanted them to tell the people in Vietnam that they shouldn't try to follow my route."

Back at the camp, he heard that refugees might be able to get abroad through Canton. So he sneaked out of the camp, paid a local resident to buy him a train ticket and headed off to the great metropolis of south China, more than 500 miles away.

Canton, he found, was full of Vietnamese who were eager to leave for the West—and no exit was available. All Vuong could do was sign a petition that said: We are not Chinese; we are Vietnamese refugees. We ask that you get us the assistance of the United Nations for resettlement.

Provincial officials rejected the petition. If the refugees insisted on maintaining their Vietnamese identity, the officials said, China would have no choice but to ship them home. (Chinese authorities have since conceded that Vietnamese refugees may leave if they can find countries to take them.)

Some refugees acceded to the government's demands and reported, reluctantly, to the state-owned resettlement farms. Others, like Vuong, stayed in Canton, hiding in the homes of friends and relatives while continuing to seek a way out.

After a few months, Vuong heard that an unofficial exit route did exist, and that government officials would make no attempt to stop him from using it. In early October, he took a train from Canton to Beihai, a port just north of the Vietnamese border.

Beihai was swarming with Vietnamese refugees, all of them said to be eager to leave China. Among them were more than 1,000 fishermen, originally from northern Vietnam, who were angry that the Chinese wanted to turn them into farmers. They, and their junks, were available—for a fee—to ferry other refugees up the coast to Macao and Hong Kong.

At a teahouse near the docks, Vuong spent four days looking for the best deal. He ended up paying three gold rings, three watches and $300 worth of Chinese currency to secure his passage on a motorless 25-foot junk, stocked with enough black-market rice, salt and fish for an 800-mile journey against the wind.

The junk, carrying 28 refugees, sailed into the Gulf of Tonkin on Oct. 12, inching south along the coast before turning northeast. The destination was Hong Kong.

"When the wind was with us, which was rare, we made headway," Vuong said. "When it was against us, or when it was too strong, we dropped sail and headed for shelter in the lee of an island or the Chinese shoreline. We had to bail all the time to keep the boat from sinking."

The voyage took two months. On the night of Dec. 12, the refugees, who had run out of drinking water, saw the lights of a city in the distance. They sailed into a harbor that they thought was Hong Kong. In fact, they had landed in Macao—and in trouble.

They had left China, the country that had given them shelter from Vietnam. In the eyes of the world, they were now runaways, not refugees.

"There's no happy or easy solution to the problem of people like Vuong," said a U.S. State Department official. "Our program doesn't admit them. We don't have a program for Vietnamese who left Vietnam by land instead of boat. Vuong's between a rock and a hard place."

PROFITEERING FROM PLIGHT OF REFUGEES

(By Larry Eichel)

UBON RATCHATHANI, Thailand.—The stream of thousands of refugees into this country and others in Southeast Asia has brought an influx of millions of dollars in relief funds. And the presence of all that money has provided splendid opportunities for local officials who run refugee camps to pad their pockets.

The corruption is modest in most places. Policemen and guards take a few Malaysian ringgit or Thai baht for looking the other way while refugees smuggle goods for the black market or make unauthorized excursions into town.

But here in poverty-stricken northeast Thailand, graft has become big business.

"It's hardly fair to mention corruption in this country," a foreign refugee official said. "But this camp is horribly corrupt. It's amazing how there never seems to be enough food for the refugees."

According to numerous sources, local officials are skimming off some food—primarily rice—from the camp storehouse and selling it in town for their own profit. Or they are allowing local merchants to shortchange the camp on its orders for goods, in exchange for kickbacks. Or both.

What happened at Ubon Ratchathani—where refugees live in a sprawling, dusty, former U.S. Air Force ammunition dump—is that the camp population grew too quickly for anyone to control.

At the end of 1976, it had 800 residents. A year later, it had 13,000. By the end of 1978, the population had swelled to more than 30,000. Now no one knows how many people live here—and that is precisely the problem.

By keeping the exact population a secret from the United Nations High Commissioner for Refugees (UNHCR), the agency that pays the tab, local officials give themselves a certain flexibility as to how much food to buy, how much to deliver to refugees and how much to bill to the UNHCR.

"The most simple version goes like this," a UNHCR representative said. "The Thais say there are 40,000 refugees here when there really are 30,000. They bill us for 40,000 and pocket the difference. Nice and neat."

A more subtle rice-skimming scheme focuses on distribution. Somehow, the practice has developed here of issuing identification cards—which must be shown to get food—only to refugees who are at least 12 years old. The practice allows camp officials to ignore the fact that a man has five hungry children under age 12 back in the barracks. The refugees stretch the rice to make do.

Sometimes camp officials wait two or three months before issuing ID cards to new arrivals. This allows the officials to have more money coming in without having more food going out. Or they simply skimp on quality; maggots are found in the meat with alarming regularity.

These ingenious and lucrative ploys were not devised by provincial Thai bureaucrats. Any credit must go to the refugees themselves.

The camp, in its early months, had a highly developed committee of refugees, consisting primarily of former officers from the Laotian military, who determined the best ways to rip off their fellow refugees.

"One officer got so rich here that when the U.S. accepted him he didn't want to leave," one refugee said.

The Thais used such corruption as a pretext for disbanding the refugee committee. Then, according to the sources, the Thais merely took the profits themselves.

WHERE THE REFUGEES WANT TO GO, THE PAPERWORK IS PAINFULLY SLOW

(By Larry Eichel)

HONG KONG.—Phong Tai Hai wants to go to America. She *insists* on going to America.

"If another country takes me, I won't go," said the 45-year-old Vietnamese woman, who has been waiting here since an American aircraft carrier rescued her and 415 other refugees from their foundering fishing boat last August. "I'll stay in Hong Kong until I can go to the States."

The Pentagon used to describe the war in Vietnam as a battle for the hearts and minds of the Vietnamese people. If that is so, then the American venture there cannot be judged a total failure.

By all accounts, nine out of every 10 of the 280,000 Indochinese now waiting in refugee camps in non-Communist Southeast Asia want to resettle in the United States. Many are so insistent on pursuing their American dreams that they reject offers of resettlement from other nations, thus prolonging indefinitely their residence in limbo.

"A lot of (Vietnamese) refugees think there are only two countries in the world: Vietnam and the United States," said Galen Beery, who heads the American resettlement program in Malaysia. "If you so much as talk to one of them, he assumes (that) if he digs in his heels and waits, he'll get into the U.S. We tell them they're supposed to be refugees, and refugees are supposed to go to any place that will take them."

But few countries will take Indochinese refugees. Despite continuing efforts of the United Nations High Commissioner for Refugees (UNHCR) to "internationalize" the refugee problem, only four nations—the United States, France, Australia and Canada—have accepted more than 5,000 refugees for resettlement and have plans to accept more in the future.

The United States, the leader in the field, resettled 130,000 Indochinese immediately after the fall of Saigon in 1975; it has taken another 70,000 since then, and it plans to accept 119,000 more in the next 17 months, once funding for the program, now tied up in the House of Representatives, is approved by Congress.

In years to come, the flow of refugees to America is unlikely to diminish. Some observers think that it could grow to historic proportions. A bill now before Congress would, for the first time, give the United States a national policy on refugees—and a long-term commitment to resettling them.

Over the next 12 months, the United States will admit 84,000 refugees; France, 13,000; Australia, 10,500; Canada, 5,000; and West Germany, 4,000. The rest of the world will watch.

"Other European countries are not involved," said Col. Pierre Roux, a French refugee worker in Bangkok. "I think they should be. Otherwise, the problem will never be solved."

The newly expanded American resettlement program will likely bring order to a disordered portion of U.S. foreign policy.

For a time last year, as the tide of refugees swelled beyond all expectations, U.S. policy guidelines were changing almost monthly. Interviewers in the field were in a constant fog as to how many refugees should be chosen for resettlement and how they should be chosen.

"The executive branch was put in the position of waiting repeatedly until the number of refugees in the countries of first asylum reached crisis proportions—and then declaring an emergency," said former Sen. Dick Clark of Iowa, now the U.S. coordinator of refugee affairs.

Some refugees suffered from the chaos. In Singapore, Dua He Cuong, 27, a former soldier in the South Vietnamese army, was tentatively accepted by the United States last September. Two months later, he was rejected; three months after that, he was once again accepted. By then, he and his family had already taken, reluctantly, an offer of entry into Canada.

The U.S. system is now consistent. But it remains cumbersome, somewhat unfair and horribly slow.

"Delays are likely to occur for the refugees at any processing step," concluded the General Accounting Office, the watchdog agency of Congress, in its study of the American system.

In the American system, not all refugees are created equal. American interviewers are asked to sort them into five categories and 15 subcategories. In general, the bureaucratically precise categories serve the purpose of giving resettlement priority to refugees who have close ties, by background or through relatives to the United States.

Category 1, first priority, is reserved for refugees with close relatives in the United States and unaccompanied children with no relatives outside Indochina.

Category 2, second priority, goes to former employes of the U.S. government.

Category 3, which has five subcategories, is reserved primarily for former soldiers and former officials of ousted Indochinese governments. Individuals in this category and the next may be accepted by the United States only after being rejected by other countries.

Category 4, lowest priority, is a catch-all for everyone not included in the other three.

Category 5, totally separate from the others, is a special congressionally mandated program for Cambodians.

No other nation has as its express policy such explicit criteria for selection. Interviewers from Australia, Canada and France are free to pick anyone whom they think would adjust well to life in their countries.

"We have a different system, but it comes down to pretty much the same thing," said Col. Roux of France, whose nation has been resettling 1,000 refugees a month for four years. "We're looking for former employees, soldiers, civil servants, family reunions, people who speak French. We're looking for people with links with France. Sometimes we take people with no links. We're very flexible."

Flexibility sometimes goes hand-in-hand with arbitrariness. In one case, the French took a 14-year-old boy and his 10-year-old sister, both of whom were suffering from a chronic nerve disease, but not the 30-year-old aunt who had brought them out of Vietnam.

"Their parents (still in Vietnam) told me to take care of them," said the tearful aunt as she stood on the beach of the refugee camp at Pulau Bidong, Malaysia, and waved goodby to the departing children. "I want to take care of them. But I don't meet the conditions of any country. Who will take care of them in France?"

The U.S. selection system has more than categories to guide it. There is a general principle that boat people should get preference over land people, a principle considered unfair by many refugee workers and some members of Congress. It is also considered unfair by the Thai government, which has given the land people temporary asylum—asylum that, in many cases, has lasted four years, with no end in sight.

Of the Indochinese refugees accepted by the United States in the last 12 months, 67 percent were boat people. Of those to be accepted in the next 17 months, 71 percent will be boat people, according to tentative guidelines for the selection process.

"But we wish to retain flexibility in allocating numbers," Clark said. "We might be able to move toward a 50-50 split between land and boat cases."

One reason that boat people, who are almost exclusively Vietnamese, have been given preference is that the United States had closer links with Vietnam than with Cambodia or Laos, from which most of the overland refugees come.

Another reason is pure pragmatism: The United States wants to prevent more boat people from drowning. Because many of Indochina's neighbors do not want boat people, their officials often push the boats back out to sea, sometimes to disappear. Resettling high numbers of boat people, U.S. officials hope, will save the lives of boat-people-to-come by making it more palatable for such first-asylum countries as Malaysia to let the boats land.

Refugees traveling overland from Laos and Cambodia generally have not been turned away by officials at the border of adjacent Thailand.

"The issue isn't whether to be equitable among individual refugees," said Henry Cushing, deputy director of refugee affairs at the State Department. "We're all for equity, but there may be an overriding concern, such as saving lives."

In Malaysian camps housing boat people, refugees wait three months to be interviewed by U.S. representatives. In Thai camps for the overland people, they wait at least a year.

Tran Nhu, a Vietnamese sweater merchant with no connections to the United States, leaves for America after nine months in a Malaysian boat-people camp. Ly Pao Vang, a Hmong warrior from Laos who fought for 13 years in a secret army funded by the U.S. Central Intelligence Agency, still is waiting for resettlement after nearly four years in a Thailand-people camp.

In a Malaysian camp, a U.S. immigration officer admits 300 applicants from Category 4, the lowest resettlement priority, in a matter of hours. In a Thai camp, 40,000 applicants fitting Category 3, a higher priority, have been identified but not yet given permission to emigrate.

"Of course the emphasis on the boat people bothers me," said a top American refugee official in Thailand. But a UNHCR official took another view: "Without the drama of the boat people, we wouldn't have any programs for the land people."

The Hmong, an ethnic minority whose members formed the backbone of American resistance to the Communists in Laos, are the principal victims of the system. So few spots on the resettlement checklist are available for them that American officials in Thailand have developed an unofficial point system—in addition to the five categories and 15 sub-categories—to assist in deciding who will go to America and who will continue to wait. Points are awarded for military rank, length of service, amount of American training, knowledge of English, eminence in the community and severity of wounds suffered in combat. It is an attempt to provide rationales for impossibly arbitrary decisions.

Aside from the inherent difficulty in applying U.S. standards with any fairness, the main problem with the American program is its pace.

"The American procedure depresses everyone," said M. J. R. MacKellar, Australia's minister of immigration and ethnic affairs. "The Malaysians and Thais feel like there's never any actual movement of people out of their camps."

The American resettlement program has been so slow that 57 percent of the refugees consigned to the teeming Malaysian island of Pulau Bidong list Australia as their first choice, even though almost all of them are believed to prefer the United States. The reason is simple: Australia moves refugees out of camps in a few weeks, while the United Stats takes the better part of a year.

"We will be taking a close look at our system of processing refugees," Clark said. "By streamlining the procedures, we hope to shorten the time refugees spend in camps, cut down on the backlog of cases to be processed and reduce costs."

Still, the situation is likely to get worse before it gets better. The refugee program is almost out of money, and supplemental funds for the fiscal year ending Sept. 30—money to transport refugees to the United States—are snarled in Congress. The transporting of refugees will stop next week, refugee officials say. It could be six weeks or more before the movement resumes.

"I'm afraid it will take more drownings out there to push the money through," a State Department official said.

A refugee arriving at a camp such as Pulau Bidong fills out a blue card that is an official registration with the UNHCR. The card, which includes skeletal biographical data, is given to representatives from the resettlement country that the refugee lists as a first choice. The refugee waits to be interviewed. If the first choice is the United States, the wait will be two or three months.

When the refugee's turn finally comes, he or she will be interviewed not by an employe of the U.S. government but by a member of an American voluntary agency—one of several private, non-profit groups that are working under contract with the State Department.

The voluntary agency workers tend to be former Peace Corps volunteers, children of Asian missionaries, self-described "Asia freaks" or veterans of the Vietnamese migration of 1975.

During the interview, the volunteer worker checks the information already compiled and gathers whatever else is needed to make a tentative decision on the refugee's category.

If the applicant fits Category 3 or 4, as about 75 percent do, he or she is told to apply to at least one other country, usually Australia or Canada. The applicant also is told that he or she must resettle there if accepted. If the refugee is rejected by that country—and most are—then he or she can become eligible for reconsideration by the United States after waiting two or three months.

If the applicant fits category 1 or 2, as about 25 percent do, the interviewer opens a file on the refugee after making sure that the person is not polygamous and does not have a drug habit or some other problem that would be grounds for automatic disqualification. The file is taken back to the main office, where volunteer agency workers attempt to verify the information on which the categorization is based.

For instance, if a refugee claims to have a close relative in the United States, the volunteer worker contacts the American Red Cross, which attempts to locate the relative. If the applicant claims to be a former U.S. government employe, the volunteer worker contacts the government agency involved.

All this usually takes a month or two. Then the refugee is reinterviewed by a State Department official, who checks over the application, and, finally, by an immigration officer, who completes the admission process by swearing in the refugee.

That means that the refugee will be going to America. It does not mean that the refugee will be going to America anytime soon.

Unlike Australia and France, which have refugee assimilation centers on their own soil, the United States sends refugees directly into the community where they will resettle. It is a system that has advantages and disadvantages; the main disadvantage is that it is slow.

Before a refugee can leave for the United States, he or she must have a sponsor in America. The sponsor can be a private welfare agency, a church, a community group or a family. But it takes time for the New York-based American Council of Voluntary Agencies to find the right sponsor.

It takes additional time for the sponsor to find the refugee a place to live and furnish the residence with a bed or two and a few pots and pans. It takes time for the paperwork to go from Southeast Asia to New York to the sponsor, then back to New York and out again to Southeast Asia.

When the paperwork does get back to Asia, the volunteer agency worker notifies the local office of the International Committee for European Migration (ICEM) which, despite the geography in its name, has the job of finding airline seats for refugees bound for America as well as for Europe.

Once an airline reservation has been made, the refugee is moved to a transit center and housed there for a week or so of medical checks and processing of identification papers.

Finally, if no serious medical problems are detected, the refugee finally boards an airplane for the United States.

Total elapsed time, Indochina to America: five to nine months.

The slow pace bothers Tan Sri Ghazali Shafie, the outspoken Malaysian home minister. His suggestion for speeding up the process: Resettlement countries should stop being so choosy.

"What I am saying is that there is a lot of dishonesty here, because countries do not in fact treat these people as refugees but (as) people from whom immigrants would be selected. This is the attitude that is worrying me—the bugbear—because it leaves the problem of residue. What happens to the unwanted refugees?"

That question has not been answered.

JAPAN: GENEROUS ON AID TO CAMPS ABROAD, BUT STINGY ON ADMISSION

(By Larry Eichel)

TOKYO.—When other countries describe their programs for resettlement of refugees, they speak in terms of thousands, sometimes in terms of hundreds of thousands.

Japan speaks in terms of three.

That is the number of Vietnamese boat people who have been allowed to become permanent residents of Asia's wealthiest nation.

The number is deceptively high. The three individuals constitute one family.

Since 1975, nearly 2,000 Indochinese boat people have been deposited in Japanese ports after they were rescued at sea by large cargo or fishing vessels that happened to have Japan as next port of call.

Until last April, there was no question of their staying. It simply wasn't done. Then the Japanese cabinet, reacting to mounting international criticism, adopted a resettlement policy, one that had taken a special task force seven months to draft.

The conditions were all but impossible for any refugee to meet. To qualify, an applicant needed a permanent job and, more important, a sponsor or foster parent willing to guarantee that the refugee would never become a financial burden to the state.

To no one's surprise, few refugees qualified. Critics kept maligning Japan, even though the nation was moving—slowly—toward a more open policy on other fronts.

In November 1978, Japan abandoned a policy of requiring resettlement guarantees from all foreign-flag vessels that bring refugees to Japan; Tokyo accepted instead a blanket guarantee from the United Nations and the United States that the refugees eventually would be given permanent homes outside Japan.

Removing the requirement eliminated one reason that vessels headed for Japan often ignored refugee boats in distress.

Japan also became the second biggest financier of refugee camps in Southeast Asia, giving $10.2 million to the United Nations High Commissioner for Refugees (UNHCR) this year and pledging $11.5 million next. The money, however, was widely interpreted as an attempt to buy off the critics—a form of diplomatic hush money.

In the face of the new criticism, and at the insistence of Foreign Minister Sunao Sunoda, who was hearing the criticism directly, the government set up another task force.

"Our minister says we have to do something," said Mitsuru Eguchi, the director of Japan's refugee program. "Perhaps, in a symbolic way, we can contribute to the resettlement effort."

Would resettling 1,000 refugees a year in a nation of 113 million be sufficiently symbolic? a visitor wondered.

"Out of the question," Eguchi said, "Too big."

In early April, the government announced that Japan would resettle up to 500 refugees, although no time limit for accepting them was given. It also said that refugees with job guarantees would no longer need financial sponsors and would be given language and vocational training.

Western diplomatic observers offer several reasons why Japan has been loath to undertake more than a modest resettlement program.

With 113 million people living in a nation two-thirds the size of California, Japan does have a population density problem. And Japan never has had a tradition of encouraging immigrants. With the future of nearby Taiwan and South Korea in question, it has no apparent desire of developing such a tradition.

In addition, there is the undeniable element that the Japanese love Japan the way it is—the most racially homogeneous major nation on Earth.

"The Japanese don't want them," said the Rev. Martin Clarke of Caritas, a Catholic relief agency that looks after refugees. "To leave a ghetto of Vietnamese here would be very cruel."

Others cite language difficulties and the fact that the Vietnamese—like the 650,000 Koreans and 100,000 Chinese who now live in Japan—could never become citizens and thus never could qualify for welfare or retirement benefits.

Besides, Japanese officials say, most of the refugees want to go to the United States, not Japan.

Such talk angers Hitoshi Mise, a Japanese who is the UNHCR representative here.

"Of course, refugees don't want to stay here," he said. "Look what the U.S. does for its refugees. It gives them money, finds them sponsors, helps them find jobs, makes them eligible for welfare. Japan wants them to do all this for themselves. It's impossible. . . . If the government here had programs, if it offered the refugee social security and some sort of permanent status, more refugees would want to stay."

Before the government announced its new program, Mise had chosen 11 refugees, all of them in their late teens and early 20s, for an intensive language course, financed by the UNHCR, in the hope of grooming them for resettlement in Japan.

It was considered, for Japan, a major refugee program.

"The refugees are Asians, and the Japanese are Asians," Mise said. "There has to be some common ground."

AUSTRALIA: QUICK THOUGH CHOOSY IN RESETTLING REFUGEES, BUT MOOD IS CHANGING

(By Larry Eichel)

SYDNEY, AUSTRALIA.—When Vietnamese refugees started arriving at Darwin and other outposts along the coast of this country's "Top End," they were hailed as heroes, courageous people who dared to attempt a seemingly impossible 2,500-mile voyage in fishing boats barely fit to cross a river.

With little fuss, the boat people were granted permanent residence in Australia—plus welfare benefits, housing and job placement—even though strict immigration laws would have barred their entry had they arrived any other way.

That was early 1977. As the months passed and the boat people kept on coming, the welcome disappeared, submerged in white Australia's fear.

"It's a fear that the vast masses in Asia, living in crowded conditions, will decide to fill up our open spaces," one senior Australian bureaucrat said privately. "If there is a threat to us, it won't come on destroyers. It'll be unarmed people in small boats walking up on the beach and saying, 'Here we are.'"

Government officials decided they had to stop the flow, but they couldn't just push the boats back out to sea. Where were the refugees who already had bypassed—or been refused by—Malaysia, Singapore and Indonesia supposed to go next?

The government decided to stop the direct boat arrivals by creating a far easier route to Australia. Australia would begin selecting refugees for resettlement from the boat camps of Malaysia and Indonesia.

"Australia was going to take refugees its way and no other way," said M. J. R. MacKellar, the minister of immigration and ethnic affairs.

It was willing to be a place of final resettlement, but not a first port of call.

The policy, announced nearly 18 months ago with support from Malaysia and Indonesia, has all but halted direct boat arrivals. Refugees continue to enter the country through official channels.

At last count, Australia had taken in more than 18,000 Indochinese, including the 1,719 who made it all the way in 47 small boats. By the middle of next year, Australia will have taken in 32,000 Indochinese, placing it third—behind the United States and France—in the number of refugees resettled.

In terms of refugees per capita (a term government officials here love to use), Australia can claim to be the most receptive nation for refugees in the world.

Refugee workers from other countries greet that claim with cynicism. When it comes to choosing refugees, Australia is very picky.

Australia has no fixed criteria. The officials seem to like young couples with small families, job skills and some command of English—and preferably couples with some relatives already in Australia and few relatives back home who might decide to join the couple in their new homeland.

"We have been accused of taking only the cream," acknowledged Ian Simington, MacKellar's chief deputy. "We have also taken some illiterate fishermen and absolute peasants. They've been giving our social workers nervous breakdowns."

The pride of the Australian effort is its speed. Once accepted, a refugee is whisked off in a matter of days from Southeast Asia to one of 12 hostels in Australia, most of them near the larger cities. At the hostels, where the architecture is a mixture of garden apartment and Quonset hut, they are given three meals a day, clothing, toilet articles, health care, language training, job counseling and spending money—the equivalent of $50 a week.

Few stay in a hostel for more than a few months. Most seem unable to abide the food there, and they soon learn that their welfare benefits actually increase if they leave. They settle in small enclaves, usually in the outer suburbs. Most eventually find jobs.

Despite the apparent success of the program, popular remains fragile. A Gallup Poll last year found that 77 percent of those surveyed opposed giving "special preference" to the Vietnamese.

"Make no mistake," one prominent politician said, "the issue of the Vietnamese refugees is the big sleeper of Australian politics."

Labor leaders, confronted with 7 percent unemployment after years of rates of only 1 or 2 percent, are concerned that the Vietnamese will take union members' jobs.

The extreme left portrays the emigres as reactionaries who betrayed the revolution in Indochina. The extreme right calumnates them because they are Asians.

"We support reuniting Asian families—back in Asia WHERE THEY BELONG," a right-wing newsletter screamed. "Australia now has a WIDE-OPEN DOOR to all and any Southeast Asians, diseased, insane, illiterate, criminal, it does not matter."

The chief minister of the Northern Territory, where most of the small boats have landed, warns that Australia will become an Asian nation within 10 or 15 years. The territory's best move, he says, would be to secede from Australia and join Malaysia, which has taken a harder line on refugees.

"Every time a boat arrives in Darwin, a nervous flutter passes through the body politic," Simington said, "The reaction is hostile and unthinking."

The government frets that a freighter stuffed with 3,000 refugees might appear one day off Darwin.

"If that happened, we'd jump up and down and say how upset we were," Simington said, "but we'd eventually have to take them. And when we did, the real political problems would start. It would absolutely polarize the issue.

"I honestly believe it would be the end of our program. I'd clean out my desk. It would be a sad way for it all to end."

AT RAINBOW'S END, HOLES IN THE CEILING

(By Larry Eichel)

Two holes gape in the ceiling. Paint tumbles from the walls in giant chips. Windows are cracked around the edges. From time to time, the heat and hot water work. Occasionally, even the elevator does.

On May 3, the Department of Licenses and Inspections of the City of Philadelphia, citing more than 200 violations in housing, fire and electrical codes, declared the apartment building, a 106-unit complex in the 5000 block of North Camac Street, "unfit for human habitation."

This building is inhabited by 100 Indochinese refugees who have come from the debilitating camps of Malaysia and Thailand. It is home, their first home in America.

It will have to do. They have nowhere else to go.

The building is a symptom of the problems with America's resettlement effort. Quietly, people who have fled Southeast Asia are being tucked into disheveled corners of this country.

Since Saigon fell in 1975, 200,000 people from Vietnam, Laos and Cambodia have been plucked from Asian camps and deposited on American streets. The U.S. government is prepared to admit 119,000 more in the next

17 months. But there are 55 million people in Indochina, and thousands of them flee each month.

The trend is of more than academic interest to Philadelphia. The city and its Pennsylvania suburbs already have an estimated 6,000 Indochinese, most of them in West Philadelphia, Logan and Germantown.

That makes the Philadelphia area the largest refugee center east of the Mississippi River. Only Los Angeles, San Francisco, San Diego and Houston have substantially larger Indochinese populations.

One of those new Philadelphians, Au Te, lives with his wife and four children in the apartment with the holes in the ceiling on the seventh floor of the building on North Camac Street.

A policeman and butcher in Saigon, Au Te bought his family's way out of Vietnam last November for more than $5,000 in gold. They sailed for Malaysia aboard a 70-foot fishing boat with 441 other refugees. They spent five months in a Malaysian refugee camp before being flown here for resettlement.

He does not complain about the apartment; he points to the holes in the ceiling without comment. He notes that the landlord does seem to be repairing the building.

REALISTIC

But he has seen enough of the present to know that hardship is not a thing of the past.

"They've been refugees for months, and when they arrive here, they think they've come to the end of the road," said Cindy Coleman, a local refugee worker. "They think it's time for them to be rewarded. But they find out they're still refugees—and they're going to be refugees for a while. They expect too much, and now they're getting less than ever before."

It is a quiet disappointment, not often noticed, particularly officially.

"It's not what the United States ought to do for people we invite into our country," a senior State Department official said.

"The dedication of hard-working individuals, rather than an effective management system, is largely being relied on to help integrate the refugees," concluded a study by the General Accounting Office (GAO), the watchdog agency of Congress. "It appears this is being accomplished despite the absence of, rather than because of, a comprehensive national refugee resettlement policy."

Of the 200,000 Indochinese refugees already resettled in the United States, about 9,000 are in Pennsylvania. The only states in which more have been resettled are California and Texas. There are only 2,000 in New Jersey and 200 in Delaware.

The federal government, hoping to prevent large numbers of Indochinese from settling in any one area (as happened with the Cuban refugees in Miami), has tried to distribute them throughout the country. That effort has largely failed. Once admitted to the United States, the refugees have flocked to warm-weather, coastal states—primarily to California.

Officially, there are 55,000 Indochinese in California. Unofficial estimates, based primarily on state welfare data, suggest that the real number may be closer to 80,000.

All of the figures will balloon in coming months if, as expected, Congress eventually approves long-delayed supplemental funding for refugee programs. The nation will experience an influx of refugees comparable to the one that followed the collapse of South Vietnam four years ago.

ATONEMENT

In 1975, when Americans seemed to respond collectively to the refugees in a kind of national atonement for the prior decade of war, the federal government set up reception camps at military bases—including one at Fort Indiantown Gap near Harrisburg—to ease the transition of 130,000 Vietnamese into American society. It paid local non-profit groups known as voluntary agencies $500 per person to help the refugees move out of the camps and into the real world.

That resettlement effort has been cited as evidence that Indochinese can become productive members of American society. Examples of that success abound in the Philadelphia area:

In Logan, a former Hmong warrior has become a social worker.

In South Philadelphia, a onetime school principal is running a thriving Vietnamese restaurant.

In King of Prussia, a former owner of a rubber plantation has found new success as a business executive.

Nationally, the unemployment rate among Indochinese refugees is 5.1 percent, below the average for all workers in this country. And while 33.1 percent of all refugees are still receiving some form of public assistance (many do not earn enough on the job to support their usually large families), only 11 percent are totally dependent on welfare.

But now the war, and the collective American welcome to its victims, is beyond immediate recollection. The problems today are internal: a need for gasoline, a shrinkage of the value of the dollar. Yet the refugee problem is more pressing than ever.

Officials in Washington say they sense that a national commitment to the exiled Indochinese has all but dissipated. They say that if America is to continue admitting substantial numbers of refugees in inflationary times, it must do so as quietly and as inexpensively as possible. Since 1975, Congress has appropriated more than $1 billion for refugee resettlement—about $550 million through the State Department and $505 million through the Department of Health, Education and Welfare.

This time, there are no Fort Indiantown Gaps to ease the transition from one culture to another. Too costly. The entire task, starting with the meeting of dazed families at the airport, falls on the local voluntary agencies that sponsor the refugees.

UNREALISTIC

It is a system that appears to work better in principle than in practice.

In principle, it is a people-to-people program: one sponsoring American family helping one incoming Vietnamese family. In practice, particularly in big cities such as Philadelphia, the sponser is often an institution, a voluntary agency—not a family. The refugee family must depend on an overloaded social worker who has 25 or 30 other families to look after as well.

"It's not an ideal situation," said Michael Blum, executive director of the Nationalities Service Center, 13th and Spruce Streets, which has sponsored 590 refugees into the Philadelphia area so far this year.

The voluntary agencies feel as if they have been asked to fashion a sociological miracle. To do so, they are given $350 per refugee, only $250 of which actually filters down to the local level. Considering inflation, that is less than half the amount they were able to use in 1975. When the federal money stops flowing, as it has in recent weeks, the agencies must operate totally on their own funds, hoping for eventual reimbursement.

In 1975, the task was sociologically easier. The agencies were dealing with refugees who had the benefit of a transition period in American camps and who, compared with the recent arrivals, were far better acquainted with Western customs. The GAO found in its study that the current refugees are generally less educated, less skilled, less able to speak English and, as a result of their long stays in Asian camps, more laden with serious medical and psychological problems than the previous refugees.

"There were a lot of problems with the camps like Indiantown Gap," said Ms. Coleman, who heads a mental health program for refugees. "But maybe they weren't so bad after all. There was a feeling there of working together to solve problems. That's not the feeling you get now."

The present $350-per-refugee allotment is supposed to cover housing, transportation, English classes, vocational training, personal counseling and day-to-day crisis management for Asians bewildered by the American way of eating, shopping, banking and learning.

UP THE ANTE?

Congress has been asked to raise the amount to $500 in the fall, but the prospects of this, given the budget consciousness gripping Capitol Hill, are not great.

In addition to the per-refugee grants, the U.S. government is spending about $3.8 million in Pennsylvania (about $2.3 million of it in the Philadelphia area) on supportive services. The money, part of the federal Indochinese Refugee Assistance Program, is channeled to local agencies through the State Department of Public Welfare.

One study, already a year behind inflation, suggested that the cost of proper resettlement for the first nine months is $877 per person—or more than twice what is actually available.

"The government has always relied on voluntary agencies, because it's cheaper," said Diana Brown, who heads the local refugee program run by Catholic Social Services. "They want to increase our responsibilities without increasing the money."

So resettlement, in some cases, is approaching a point where it may consist largely, as one worker here put it, of "throwing a family into a shabby apartment, making sure their welfare checks start coming and saying, 'Good Luck.' "

"It's pretty shortsighted when you think about it," Ms. Coleman said. "You end up with a lot of refugees with severe emotional trauma."

More trauma is on the way. The Carter Administration plans to admit at least 7,000 Indochinese a month for the next 17 months. Only once since 1975 have that many refugees come to this country. The month was March 1979. The result was chaos.

"They keep telling us, 'If you think you have problems now, wait a few months,' " Ms. Brown said. "The floodgates are about to open."

When they do, the voluntary agency people say, the flood may swamp the small core of dedicated workers who have been putting in 14-hour days and seven-day weeks for months.

Church-based agencies, such as the U.S. Catholic Conference (which handles 38 percent of current resettlements nationally), Church World Service (16 percent) and Lutheran Immigration and Relief Services (12 percent), appear better able to cope with the refugees to come; they have already-established networks of thousands of local churches and millions of parishioners.

FEELING THE BURDEN

The other agencies such as the International Rescue Committee (11 percent), and the American Council for Nationalities Service (12 percent), will feel the burden more directly.

Wells Klein, executive director of the New York-based American Council, says that the impact is already being felt; there have been cuts in the service delivered to refugees after their first few days in the country.

"I don't want to overstate this," Klein said. "It's not a total disaster, but it is hurting . . . We can accommodate the numbers the government is talking about. But we're in a growth period, and there are growing pains."

The growing pains are being felt here by the Nationalities Service Center (NSC), which is affiliated with the American Council. NSC is responsible for placing Au Te and the others in the "unfit" building on North Camac Street.

Blum, its executive director, said there was a difficulty of finding housing for refugees. He conceded that the agency has placed some refugees in inadequate housing and does not have enough case workers to tend to their needs.

"We made a decision some months ago that our main goal was to help get people out of the camps in Malaysia and Thailand," Blum said.

"We've talked with our staff a lot, including our workers who are Indochinese, about this. We've asked them, 'Is this the thing to do—to take refugees as quickly as the federal government can process them, even though it means not giving them the personal attention we would like to give them?' They tell us we've made the right choice.

"The decision we've made is that the refugees are better off here, even in less than perfect conditions, than in the camps in Asia . . .

"We know how to do ideal resettlement. We're aware of the housing code violations. But refugees are going to be living in the housing where poor people live. Poor people don't live in good housing in this city."

HALT AT CAMAC

No more refugees will be housed in the building on North Camac Street until the NSC is convinced that repairs are being made.

Local resettlement agencies are trying to make up in coordination what they lack in staff and funds.

A Southeast Asian agency task force meets at the NSC headquarters each month to discuss joint problems and attempt to avoid duplication of effort. The voluntary agencies have been joined at recent meetings by representatives of the Red Cross, the Health Department, Community Legal Services, the Child Guidance Clinic, the Philadelphia School District and the State Department of Public Welfare.

The welfare department has felt particularly overwhelmed by the recent influx and the prospects of its continuing indefinitely.

"I hardly knew this whole refugee business existed," said Arthur Sokolove, head of the Boulevard District the busiest welfare office in the state. "Then one day I get a call from NSC that I'd be getting 12 to 15 families a week and that 200 people would be arriving in two days . . .

"I'm not complaining. I mean, obviously, these people are eligible for assistance. No question. But we have a job freeze here, and no one on our staff speaks any of their languages. We've given the responsibility for the refugees to one worker. Once the load reaches 200 to 300 families, though, I don't know what I can do."

FOR BOY ALONE, A FOSTER FAMILY

(By Larry Eichel)

He wore a baseball cap, with the brim turned up, and a faded sweatshirt sporting likenesses of Robert Redford and Paul Newman. And he carried everything he owned in a single plastic bag.

The 12-year-old Vietnamese refugee, just off a 31-hour flight from Kuala Lumpur, Malaysia, wandered wide-eyed through the customs area of Philadelphia International Airport.

Nguyen Thanh Quoc Hai was arriving in his new country. Alone.

A translator from the Lutheran Children and Family Service, his sponsors in the United States, spotted Hai and escorted him into a side room. There an immigration officer checked Hai's documents, the most important contents of the plastic bag.

Minutes later, Hai was riding in a social worker's car, marveling at the miracle of automobile air-conditioning, asking whether American police would allow him to keep his collar-length hair and telling how he had come to be here.

He had left Vietnam, he said, without meaning to. He had sailed out from his home of Kien Giang with a fishing captain for whom he had worked since dropping out of school three years before. Only when the boat was far out to sea had he realized that it was heading for Malaysia. And by then it was too late.

He had spent five months in a refugee camp, on an island called Pulau Tengah. During that time, he had written 15 letters to his parents, three brothers and four sisters back in Vietnam, explaining what had happened and expressing his sorrow. He had received no reply.

"In the camp," he said through the translator, "I was told secretly that when you leave to come to the United States, you will never have any regrets."

"Those golden ideas," said social worker Paul Kupferschmidt, shaking his head. He had heard the words before.

The car stopped in front of a rambling stone house in Mount Airy. There, in the company of three other young Vietnamese, Hai would spend his first week in the United States. There he would wait until the agency found him a home.

Philadelphia's Lutheran Child and Family Service is known throughout the refugee world for the work it does with the most difficult kind of refugee, the kind the bureaucrats call the "unaccompanied minor." Since 1975, it has found foster homes for 85 Indochinese youngsters. Hai would be the 86th.

"We've had very few that we would have to consider failures," said Dale Dye, whose job it is to match a refugee child with an American family. "Maybe four out of 85 haven't worked out. We had two ethnic Chinese boys who became convinced their foster parents were spying on them . . .

"People call us up fairly often and ask if we have any Vietnamese babies to adopt. But these aren't adoptions, and the kids are almost always teenagers. The younger they are, the easier they are to place. We still need families, especially for the older kids."

Ms. Dye did not anticipate any problems placing Hai. His documents said he was 12 years old. Unlike a lot of other refugee children she had placed in the past, Hai really did seem to be as young as he claimed.

On his second morning in America, after he had bought his first pair of blue jeans, and eaten his first lunch at Gino's, he sat in the kitchen of the house in Mount Airy and listened while Ms. Dye, through a translator, briefed him on what to expect.

"In American families, all the children are expected to help around the house, sons as well as daughters," she said.

Hai nodded in response to the translation.

"In an American home, just because the child is older doesn't mean he will get more respect. This has probably caused more confusion for Vietnamese children than anything else. It's just the way American children are."

"Do the children argue with each other?" Hai asked, "Who would settle the argument?"

"If it's minor, whichever kid yells the loudest usually wins," Ms. Dye said. "If it's major, the parents will settle it . . . When you go into your new family, they'll treat you very special for a while. There won't be any arguments. You'll get whatever you want. Once they really accept you, then they won't be afraid to argue with you . . .

"Many Vietnamese young people are shocked about American schools," she said. "Unfortunately, many American children don't treat their teachers with respect. We are not proud of this. We hope that you, as a good Vietnamese young man, will continue to respect your teachers and not learn bad manners from Americans. We want your family in Vietnam to be proud of you."

She talked more about school and home, about the difference in customs.

"Your foster parents will be getting paid for taking you in. That doesn't mean they won't love you. It's just the way it is . . . Do you have any questions?"

"I want to have rice," he said. "Do you have oriental food in the United States?"

"Yes, it can be bought," she said.

"I'd like to call my parents in Vietnam on the telephone," he said.

"Mr. Binh," she said to the translator, "tell him stamps are cheaper."

After the session, Ms. Dye was ecstatic, Hai was obviously bright and remarkably outgoing. She would have to choose from three families that wanted him. But the choice would be a pleasant one.

"This kid," she said, "anyone would love."

The job of loving Nguyen Thanh Quoc Hai was given to Ernie and Nellie Ziegler of Telford, Montgomery County. They are deeply religious people who have cared for 11 foster children in the last 14 years.

They had seen a television documentary on the problem of Vietnamese boat people; they had decided to become part of the solution. They had been so eager to have an Indochinese foster child that Ziegler, a silver solderer by trade, had converted the garage into an extra bedroom.

By the time Hai arrived at the Zieglers' split-level home on the fringe of suburbia, he had been given a thorough medical examination and a tour of an American school. He had visited another Vietnamese boy living with a foster family. And he had spent hours staring a snapshots of his four new sisters, memorizing their names—Jennie, Mary Jo, Barbie and J. J.

They were all in the living room that afternoon waiting to meet him. After the introductions, they talked.

"How about his parents?" Ziegler asked. "Are they alive?"

"So far as we know," said Paul Kupferschmidt, the social worker, recounting the story of Hai's accidental emigration. He said the boy's father drove a three-wheeled taxi back in Vietnam, then asked: "Hai how do you feel about your parents?"

"I miss my parents when I go to bed or when I am alone," the boy said through a translator.

"He won't be alone much here," Mrs. Ziegler said, smiling.

"I'm sure at times he'll be depressed," the social worker said. "Once the novelty of being here wears off, it's all going to come down on him one day. It happens to all of them. It's to be expected."

Mrs. Ziegler looked concerned. She turned to the translator.

"Please tell him that if we offend him in any way, especially while he's learning English, it will be totally accidental," she said. "We would never do it on purpose."

"I'll be a very, very good boy so I can stay very long, not short," Hai said.

While the adults kept talking, Barbie, the 11-year-old, deposited herself next to Hai on the couch and presented him with a gift—a crayon drawing of a horse and a tree. Then she picked up a picture book called "Scenic America," and they flipped through it together, giggling in unison.

"This is going to be fun," she said, beside herself with pleasure. "I can't believe he's finally here."

U.N. CHIEF URGES WORLDWIDE RELIEF

UNITED NATIONS.—Secretary General Kurt Waldheim has appealed for worldwide help in solving "the serious humanitarian problem" of the Indochinese refugees.

Waldheim said the problem had reached crisis proportions and asked for help on an emergency basis. He said he has sent requests for both money and resettlement opportunities "to those countries which have the means to be more cooperative."

He said the nations of Southeast Asia cannot be expected to cope alone with hundreds of thousands of refugees who have fled Vietnam, Laos and Cambodia.

Waldheim made his appeal late yesterday during a press conference concerning his recently completed world tour, which included a visit to Southeast Asia.

"There are no quick solutions," he said.

In a related development, about 1,200 Cambodian refugees were being brought to Bangkok from temporary camps in eastern Thailand to begin journeys to resettlement in Western countries. All the refugees crossed into Thailand in recent weeks, fleeing Vietnamese-led forces of the new Cambodian government. Those forces were trying to destroy Khmer Rouge troops loyal to ousted Premier Pol Pot.

A Thai military spokesman said yesterday that 138,000 Cambodians had fled to Thailand since January. More than 50,000 are still in the country, although the majority had been pushed back into Cambodia in accordance with Thai policy.

Those figures do not include 160,000 Laotian, Hmong and Cambodian refugees in Thai camps.

A Crisis That Begs Humane Settlement, or Death Will Win

(By Larry Eichel)

For a fleeting moment early this spring, there were signs that the international community was on its way toward solving the crisis of the Indochinese refugees.

It was only an illusion.

Now the "boating season" has arrived in the seas of Southeast Asia. More refugees are fleeing Indochina than ever before. The optimism is gone.

In the refugee world, optimism is a fragile commodity.

A few months ago, refugees were actually leaving the camps of Southeast Asia faster than new ones were arriving. Negotiators seemed to be making progress toward establishing an international refugee transit center on an island in Indonesia. The deputy of the United Nations High Commissioner for Refugees (UNHCR) went to Hanoi and was told that Vietnam wanted to set up a system of legal emigration.

"There is the feeling of optimism, and I think we share that," formed Sen. Dick Clark of Iowa said the day after he was confirmed as the U.S. coordinator for refugee affairs.

But now, new refugees are entering the camps *three and four times* faster than old ones are departing for resettlement. The international transit center in Indonesia has been agreed to in principle, but not in fact. Legal emigration from Vietnam is still just so much conversation.

"My attitude has changed," Clark said after viewing the crisis up close. "The situation is clearly intolerable."

The only action toward alleviating the crisis—too many people leaving Indochina with no prospect of finding new homes—has been a decision by the Carter Administration to admit at least 119.000 refugees from Vietnam, Laos and Cambodia into the United States in the next 17 months.

Even that step has been blunted by a delay in congressional funding that threatens to halt the U.S. admissions program by the end of this week. And that delay, which is expected to last well into the summer, could blossom into a cutback of the whole U.S. refugee effort.

"I do not believe that we, as elected officials, can tell the American people that vitally important domestic programs will have to be reduced or terminated while continuing to follow a (refugee) policy that will require billions of dollars (to) be spent over the coming years," Sen. Walter D. Huddleston (D., Ky.) said.

Rep. Clarence Long (D., Md.), chairman of the House subcommittee that has been holding up the money, said that he had no doubts about admitting Soviet refugees, but that he wondered whether the Indochinese were "our kind of people."

Except for the plans to expand the American program, the international response to the crisis has been tentative and fragile. Past progress seems less and less significant as more and more refugees arrive in Malaysia, Thailand, Indonesia, Hong Kong and the Philippines.

As a series of articles in The Inquirer last week has shown, Indochinese refugees are flooding Asian camps. They keep coming, with no end in sight. Last month, a record 26,000 boat people and at least 9,000 overland refugees left Indochina. Last week, 3,089 refugees arrived in Hong Kong in a single day.

Since 1975, more than 900,000 Indochinese have fled their homelands—including, significantly, half that number just last year. Officials in Asia estimate that another 500,000 to 2 million will joint the exodus in the next few years.

ENDLESS FLOW

The continuing combat in Cambodia between the Khmer Rouge and the new Vietnamese-backed government has produced a renewed flight of tens of thousands Cambodians into Thailand, supplementing the seemingly endless flow out of Laos.

In Vietnam, tensions between northerners and southerners reportedly continue to fester. The flow of refugees from there, which had consisted mostly of the ethnic Chinese minority in 1978, now includes large numbers of ethnic Vietnamese.

Should Hanoi decide to collectivize the still privately-owned farms on the Mekong Delta, millions of Vietnamese farmers would suddenly have reason to think about leaving, just as the ethnic Chinese merchants of Saigon did when their stores were confiscated.

"We've given up predicting," said Galen Beery, America's chief voluntary agency representative in Malaysia. "The numbers have always been double what we expected."

Regardless of the ultimate numbers, action will have to be taken in some of these areas:

Stopping, reducing or regularizing the flow of people out of Indochina.

Easing the difficulty that boat people have in finding a place to land by establishing an international island processing center.

Encouraging countries that offer temporary asylum to grant permanent resettlement to refugees who might adapt well to life in those countries.

Helping refugees to return to their homelands when possible.

Improving the quality of life in the refugee camps by giving the UNHCR more money and getting stronger action by UNHCR officials.

Finding more countries to accept refugees for resettlement.

VIET OFFER

Vietnamese Foreign Minister Nguyen Duy Trinh announced in January that his country would allow malcontents to leave legally—by airplane, presumably—unless they owed Vietnam military service, worked in critical occupations or faced criminal charges. Earlier this month, Vietnam offered to hand over 10,000 refugees in June to countries ready to give them permanent homes.

"It's an effort to embarrass the United States," a senior State Department official said of the Vietnamese offer. "Vietnam knows we can't take 10,000 just like that. It's a ploy to counter the criticism that they've been encouraging people to leave."

In any event, such departures have not yet begun, and the announcements by Vietnamese officials have not reduced the flow of boat people. But the legal exodus remains a goal that Rep. Elizabeth Holtzman (D., N.Y.), for one, thinks is worth pursuing.

"Certainly, the direct emigration of Vietnamese refugees to countries of resettlement would not only minimize the tragic loss of life, but would also relieve the countries of first asylum of the difficult burdens which have been placed upon them," Rep. Holtzman said.

But such a "regularization" has problems of its own. It would not end the flow of refugees. The program surely would not be broad enough to encompass all the people who would want to leave. And many of them might refuse to apply, fearing that they, like dissidents in the Soviet Union, would face years of harassment before actually being allowed to leave.

What is more, those who wish to come to the United States would have legal difficulties entering the country, since current American laws limit such migration to spouses and children of permanent U.S. residents (those who have lived here for two years) and to spouses, parents and siblings of U.S. citizens. Few Vietnamese have lived in this country long enough to become citizens.

DIPLOMACY

Another method of reducing the flow at the source would be for the United States to give Vietnam diplomatic recognition and negotiate a method of refugee departure—as has been done for dissidents and Jews in the Soviet Union—or at least provide aid to Indochinese countries in the form of food. Neither possibility seems likely at the moment.

Such aid, said the head of the UNHCR, Poul Hartling, might "influence the decisions both of those who might wish to repatriate voluntarily and those who might otherwise consider leaving for economic reasons."

Diplomatic pressure may already have stopped the Vietnamese government's organized dumping of ethnic Chinese onto the high seas in exchange for gold.

"If they succeed in continuing this practice of dumping, they will have set a horrible precedent for dealing with a troublesome minority," said M. J. R. MacKellar, Australia's minister of immigration and ethnic affairs.

Most of the activitiy in search of solutions to the refugee crisis has focused on the idea of setting up an island processing center, a step that, Western diplomats hope, would relieve the pressure on first-asylum countries. The establishment of such a center might avert incidents like the one that occurred late in March off the east coast of Malaysia.

A boat carrying 227 Vietnamese refugees landed near the Malaysian town of Mersing, but its passengers were refused asylum by local authorities. Police towed the boat back out to sea. While being towed, the boat capsized. One hundred and four men, women and children drowned. The police watched and laughed. It had happened before. It will, no doubt, happen again.

A CATCH

Acting on behalf of the Association of Southeast Asian Nations (ASEAN), Indonesian Foreign Minister Mochtar Kusuma-atamaja has offered his nation's Galang Island, a former pineapple plantation south of Singapore, for such a center. But there are strings attached, significant strings.

ASEAN will establish such center only if resettlement countries guarantee that all refugees will be removed from the island within a reasonable time; that Indonesia may halt arrivals at any time; that the UNHCR and/or resettlement countries will pay the bill.

Those conditions present obstacles, though perhaps not insurmountable ones, in the eyes of American diplomats, as do Mochtar's statements that the population of the island could not exceed 10,000.

"That would be useful—for about a month," said one well-placed American diplomat. "I think they would be willing to allow more as it went along, assuming no problems developed. But Mochtar has to be cautious for domestic reasons.

"The guarantee is more of a problem. If we have to give absolute guarantees to accept people, we're going to have to select what refugees are transferred from existing camps to the island. We'd want to choose people who we'd be prepared to take eventually, even if they had low priority and might have to sit there for a few years waiting their turn. I'm not sure ASEAN sees it that way.

"We look at the island as an opportunity to expand the first-asylum capacity of Southeast Asia, to buy time. ASEAN sees it as a way to put the problem out of the way and get it over with."

LITTLE ACCORD

Ten days ago, representatives of 24 countries met in the Indonesian capital to discuss the establishment of the center. All they could agree on was that such a center was a good idea and that the UNHCR should study it.

They failed to resolve such issues as whether refugee boats would be allowed to go directly to the island; whether any land refugees would be transferred there from Thailand; whether Hong Kong, not an ASEAN member, would be allowed to participate; and how the project, which would cost more than $18 million the first year, would be financed.

Permanent resettlement of refugees in first-asylum countries is favored by the UNHCR but is, in the view of the U.S. General Accounting Office (GAO), among others, "unattainable" because of the ethnic differences and hostilities among Asian peoples. The one exception is the possibility that some ethnic Laos might eventually be given permanent homes in Thailand.

"Thai and Lao are almost the same people," a Thai refugee worker said. "You see a Lao walking down the street, and you think he's Thai. Thai is big brother. Lao is little brother. Thai and Lao have always been close in language, culture and way of life."

Although Thai officials are reluctant to discuss the matter, foreign refugee officials believe that once the population in the land camps starts to show a steady decline—there are 200,000 refugees there now, counting the recent and perhaps temporary influx of Cambodians—the Thai government will allow a substantial number of ethnic Laos, perhaps 20,000, to stay. The government clearly has no interest in offering homes to the Cambodians or the fiercely independent Hmong hill people of Laos.

A RETURN?

Voluntary repatriation, which is not viable yet on any substantial scale, may become more common if the fighting in Cambodia ever stops and if some refugees who have been waiting in camps for years decide to give up and go home. There have been reports of a few ethnic Laos returning from Thailand to Laos without reprisals.

As for money, the UNHCR is in desperate need of contributors. Last year, more than half of the $42.3 million it spent on camps for Indochinese refugees came from the United States and Japan. Only five other countries—Australia, Britain, Norway, West Germany and the Netherlands—provided as much as $1 million.

Over the last four years, the United States has given $58 million to the UNHCR, more than half the agency's Southeast Asian budget.

This year, the UNHCR will spend at least $62 million, and it has no idea where all the money is coming from.

It also has no idea where the money is going, its critics claim. It gives money to such countries as Thailand and Malaysia to run the camps but makes relatively little effort to watch what is done with the money. According to the GAO, the watchdog agency of Congress, one reason that the camps are so bad is that "UNHCR regional office and field representatives appeared to be apathetic . . . in getting deficiencies remedied."

But all these issues are secondary compared to resettlement. Resettlement opportunities must be expanded so that first-asylum countries know that allowing a refugee to enter does not mean having to give the refugee haven forever.

PRESSURE ON

By dramatically increasing its quota to 119,000 over the next 17 months, the United States hopes to pressure Canada and Australia to increase their programs and West Germany and other European countries to become major participants. A much-ballyhooed conference on the problem in Geneva last December produced only 11,000 new resettlement slots. That many refugees come out of Indochina every 10 days now.

"The United States (cannot) continue to shoulder a disproportionate share of the burden of providing relief and resettlement," former Sen. Clark said. "This is a human tragedy that recognizes no national borders, and its solution must include the concerted efforts of the entire international community."

Another American diplomat put it more bluntly: "I've always thought that if we didn't take half, no one else would lift a finger . . . When it finally comes down to it, other countries tell us, 'It's your problem.'"

The months to come will indicate the degree to which the rest of the world is prepared to share the American burden and how large that burden will ultimately be.

"If we fail, it is not a reflection on a group of officials," said Rajagopalan Sampatkumar, UNHCR representative in Malaysia. "It goes to show the hypocrisy of the international community as a whole."

Tan Sri Ghazali Shafie, the Malaysian home minister, said: "To the rest of the world I would like to give notice that there is a limit to our endurance. If this exodus is not stopped at the source, and if resettlement of these people is not done quickly . . . then I am afraid Malaysia may have to reconsider her attitude towards this problem."

Which is one way of saying that more refugees will die.

EVEN IN FLIGHT, THERE IS A RESISTANCE MOVEMENT TO WHAT THEY LEFT BEHIND

(By Larry Eichel)

ARANYAPRATHET, THAILAND.—Cambodian refugees engage in a number of activities in camp here. They study English and French. They carve traditional Buddhist figures in soft stone.

And they plan guerrilla raids back into Cambodia.

Some refugees, army officers in Cambodia and Laos before the Communist takeovers there, are still fighting four years later. They use the Thai refugee camps, most of which are only a few miles from the Cambodian and Lao borders, as bases for modest resistance movements. At night, they slip out and return to their homelands, to perform acts of sabotage.

"We used to have more than 1,000 people in our (Cambodian) resistance group, some of them in camp, some of them in Thailand but not in the camps, some of them still in the Cambodian jungles," said Tith Sarun, the leader of the 7,400 Cambodians here and a former air force captain. "We kept our guns hidden across the border."

In 1975 and 1976, when the Khmer Rouge government was carrying out mass executions and forcing city-dwellers to the countryside, the resistance had high hopes. Men like Tith Sarun passed up chances to resettle in America to stay and fight.

"We had a 10-day battle with the Khmer Rouge three years ago, 400 of us against 600 of them," he said. "But we weren't well trained, our leadership was poor and our weapons, too. We ended up losing our camp in Cambodia . . . If we could occupy a small part of the jungle as a base, perhaps people would join us. But now that the Vietnamese forces have taken control, it may be too late for us."

The Laotian resistance, which operates out of camps at Nong Khai and Ubon Ratchathani, works in a similar fashion.

At Nong Khai, Laotian resistance members sneak out of camp, meet on the Thai side of the Mekong River, uncover boats hidden on the bank and cross into Laos, where they spend their days ambushing convoys and sniping at Pathet Lao soldiers and their Vietnamese mentors. On the way back to Thailand, they often pick up would-be refugees and bring the newcomers along.

"When I got here, I asked a friend in the underground to pick up my mother, four brothers and one sister next time they went over," said Nguyen Van Phuoc, explaining how his family had just arrived.

It is impossible to determine how much these resistance movements have accomplished. It may be remarkable enough that they exist.●

NUCLEAR POWER

● **Mr. DURKIN.** Mr. President, the recent accident at the Three Mile Island Nuclear Station has raised fundamental questions about the safety of nuclear powerplants and the future role of nuclear power in our energy future. Whatever happened at the plant, the public deserves to know. Making hurried or misinformed judgments about this accident will not well serve the public interest. In an effort to insure that all the facts about this accident are brought forth in a timely and dispassionate manner, the President has appointed a commission to thoroughly investigate this accident and to make recommendations on how to avoid such accidents in the future.

In appointing the chairman of this commission, the President had to find a man who would not be swayed by the enthusiasms of the moment, a man whose intellectual capability and integrity cannot be questioned. I am proud to say that in seeking a man with these credentials the President chose a citizen of New Hampshire, Dr. John G. Kemeny, president of Dartmouth College.

Recently, the Boston Globe published an article by Charles Kenney entitled "Kemeny: Man in the Middle." I urge my colleagues to take the time to read the story of this truly extraordinary American who has been catapulted into the center of this important public issue. I ask that the text of this article be printed in the RECORD.

The text follows:

KEMENY: MAN IN THE MIDDLE: HIS PROBE OF THREE MILE ISLAND ACCIDENT COULD AFFECT THE FUTURE OF NUCLEAR POWER

(By Charles Kenney)

WASHINGTON.—John G. Kemeny has spent most of his adult years leading the relatively quiet, reflective life of a philosopher, mathematician and president on the bucolic campus of Darthmouth College in Hanover, N.H.

One day last week, with not a single ivy-draped wall in sight, Kemeny sat down to face the glare of network TV lights and a crowd of reporters in a hearing room at the New Executive Office Building just around the corner from the White House.

As chairman of what has come to be known as the Kemeny Commission—the President's commission to investigate the nuclear accident at Three Mile Island—Kemeny has taken on the task of finding out what happened at the Pennsylvania power plant, how it happened and why.

It is the most public and pressure-packed role of Kemeny's life. His commission's findings could well have a profound impact on the future of nuclear power in America.

Those who know Kemeny best say he is a brilliant mathematician and philosopher, utterly honest, and perhaps uniquely suited to make the enormously complex subject of the nuclear accident understandable to the American people.

One of his Dartmouth colleagues worries that Kemeny's lack of experience in Washington politics could inhibit the commission's investigation. But the comments of Dartmouth Prof. Thomas Kurtz, with whom Kemeny created BASIC, a widely used and easily understood computer language, indicate the high regard in which Kemeny is generally held.

"He's a master at tackling complex technical problems and being able to describe to other people what's going on," says Kurtz.

Last summer, Kurtz says, Kemeny gave a one-hour lecture to a group of Dartmouth alumni and their wives on Einstein's theory of relativity "and made it understandable."

"He's been a success at everything he's tackled," says Kurtz. "He believes that all problems are solvable."

During an interview with The Globe last week on his 53d birthday, Kemeny said one of his major goals with the Three Mile Island report, which must be presented to the President by Oct. 25, is to make it understandable to the general public.

"There will be technical volumes to the report," Kemeny said during the interview, "and then a Volume One, a little paperback that's written in language anyone can understand."

Leonard M. Rieser, Dartmouth provost and a friend of Kemeny, said: "I can predict that anything he writes will be highly readable and understandable. He will aim to convey, not obfuscate, information."

Kemeny said he approached the task with no preconceived notions about nuclear power. His only public statement on the issue was a speech last September when he decried oversimplification of the issue by pronuclear and antinuclear groups.

"I don't plan to tell you what I think the solution is to this (nuclear) problem for many reasons—one of which is I don't know," he said at the time.

Last week, Kemeny said he is "beginning to get some of the pieces" to a solution. "By Oct. 25, I've got to know the answer."

"I'm not 100 percent sure I'll be right, but I will have a conviction (on the issue) by then," he said.

David T. McLaughlin, president of the Toro Co. of Minneapolis and chairman of the board of trustees at Dartmouth, says Kemeny "has a capability to retain a great deal of objectivity in the face of highly detailed and sometimes conflicting information."

"He doesn't go in to things with a preconceived decision or conclusion," McLaughlin says, "and he usually comes out with the best answer."

Kemeny, who is a Democrat, patiently sits through hour after hour of exceedingly complex technical testimony from those involved with Three Mile Island, including representatives of the Nuclear Regulatory Commission (NRC). Occasionally, as he chain-smokes cigarettes through a cigarette holder, he asks straightforward questions or interjects simple statements aimed at clarifying some of the more complex testimony.

During a break in the hearings, Kemeny shakes his head in disbelief and says: "We know in retrospect that there were plenty of incidents (at Three Mile Island) that show the operators that what they were doing was wrong.

"They were constantly shutting off water when they should have been pumping in water like mad," he says.

Kemeny said last week that operators on duty at the plant during the accident were faced with a situation for which they were unprepared and untrained.

"There are certain technical flaws an operator should not be allowed to make," Kemeny said in suggesting that the more efficient use of computers might be one way to make nuclear plants safer and more reliable.

Kemeny says he believes the creation of computer models to simulate possible malfunctions in nuclear facilities is one of the recommendations his panel will probably make.

"If you can simulate space shots, nuclear plants are not that much more complex," he says, adding that it might be possible to leave computers in virtual control of nuclear plant operations.

At Three Mile Island, he says, "There was too much information" in the control room at the time of the accident. He said the staggering array of control room lights and dials contributed to the confusion.

"There was no system of priorities" during the accident, he says. "You need a few key indicators. Computers can help. Computers can ask the key questions."

In addition to creating a computer language, Kemeny also conceived of a time-sharing system that allows many people to use a single computer simultaneously.

Kemeny says the commission's work has gone well thus far, and he says there has been "absolutely no political pressure" on him or the commission to slant its report. "This is probably as apolitical a commission as has ever been put together," he says. "I'm very happy with the composition of the commission. Our only goal is to find the truth."

Gordon McDonald, a Dartmouth professor of environmental science who is on leave working in Washington, says Kemeny is "extraordinarly fair and will try to assess things as he sees them." But McDonald is concerned that Kemeny may not be "knowledgeable enough about the Washington bureaucracy and how to penetrate that bureaucracy in order to get the kind of answers he and the commission are interested in."

Berl Bernhard, a Washington lawyer and Dartmouth trustee who knows Kemeny well, says the Dartmouth president must be "constantly attentive to unseen political forces . . . He needs to be forever alert because none of these commissions operates in a political vacuum in Washington, D.C. None."

When the commission's work is done, Kemeny says, he will definitely return to Dartmouth, and he says when his days as president there are over he will return to full-time teaching. As president, he has taught math courses every year, attracting as many as 120 students to his classes on calculus.

Kemeny, who is Jewish, was born in Budapest. He fled Hungary with his parents when the Nazis invaded. They emigrated to the United States in 1940 on the last neutral passenger ship to leave Italy.

He lived in Queens in New York City, and went to Princeton University, from which he graduated summa cum laude.

Kemeny's years at Princeton were interrupted when he was drafted into the Army. Even though he was still in his teens, his extraordinary mathematical capabilities were recognized by the government—he was sent to Los Alamos, N.M., for his Army stint to work on the Manhattan Project, the development of the atomic bomb.

"I was opposed to the Vietnam War, but it was a totally different atmosphere in World War II," Kemeny says. "We were fighting Hitler and he was building a bomb so we had to build one. I still believe the bomb was a good thing. The dropping of the first bomb was justified because more people would have been killed if the war had gone on for another year, which I think it would have."

But Kemeny says he has "serious questions whether the second bomb should have been dropped."

On Aug. 6, 1945, the United States dropped an atomic bomb on Hiroshima, Japan. It dropped a second one on Nagasaki, Japan, three days later.

After graduating from Princeton, Kemeny was selected to spend a year as a research assistant to Albert Einstein.

He became an authority in mathematics and philosophy and went to Dartmouth, where he was named chairman of the math department at the age of 29. He has taught math and philosophy and written books on both subjects.

His ambition in life, says Kemeny, "was to become president of Dartmouth."●

RETRODOLLARS, NOT PETRODOLLARS

● Mr. KENNEDY. Mr. President, I would like to place in the RECORD a summary of a report by Massachusetts Fair Share entitled, "Retrodollars, Not Petrodollars: Energy Conservation in Massachusetts State Buildings."

According to the study, the energy consumption in State buildings could be cut by 45 percent.

The side benefits from this program were equally impressive. The report noted:

> A comprehensive retrofitting program in state buildings will have major positive effects on the Massachusetts economy. Retrofitting 3,000 state buildings would yield about 2,400 man-years of direct employment and two to three times that number of indirect jobs. Conserving energy in these state buildings would also cut $80 million from the state's energy bill during the first ten years of the program. And the savings would accelerate after the tenth year.

I commend the study to my colleagues and ask that it be printed in the RECORD.

The report follows:

SUMMARY

Massachusetts should place a major emphasis on energy conservation in state buildings. Energy conservation generates construction jobs, raises incomes, provides the basis for tax relief, reduces dependence on foreign energy sources, and cuts the waste from government expenditures.

Conservation and solar energy development are needed because Massachusetts consumers, businesses and governments are paying through the nose for energy. Heating oil prices have doubled during the past four years, while the state energy budget increased from $25 million in 1974 to $50 million in 1978. And, energy prices are still a leading cause of today's inflation.

The Office of Energy Resources, the state's energy office, is devoting the majority of its efforts to conservation policies and programs. The energy office has worked with the Executive Office of Administration and Finance to obtain more funds for conservation improvements in state buildings.

The state could continue to expand its retrofitting program, since energy prices are high and rising so quickly. The largest program that could be reasonably imagined today would involve 45 percent energy savings in 3,000 state buildings, and would cost about $83 million. To get this retrofitting program started, the state could invest $20 million in some 722 structures to achieve 45 percent energy savings.

These conservation improvements should be financed with debt. Today's energy economics are such that the cost of the energy saved will greatly exceed the amortized cost of the improvements *plus* the interest cost of the conservation bonds.

A comprehensive retrofitting program in state buildings will have major positive effects on the Massachusetts economy. Retrofitting 3,000 state buildings would yield about 2,400 man-years of direct employment and two to three times that number of indirect jobs. Conserving energy in these state buildings would also cut $80 million from the state's energy bill during the first ten years of the program. And the savings would accelerate after the tenth year.

Municipalities could also create jobs, lower taxes, and cut the waste out of government expenditures by retrofitting municipal buildings and financing the improvements with bonds. Energy conservation in municipal buildings will prove to be a lucrative investment for the cities and towns of the Commonwealth, because Massachusetts has received $25 million in federal conservation grants for local schools and hospitals. Vigorous enforcement of Article 22 of the State Building Code (the "energy code") will result in even more energy savings.●

AMERICAN BUSINESS LOOKS TO CHINA—SECRETARY KREPS ADDRESSES ALUMINUM INDUSTRY LEADERS

● Mr. RANDOLPH. Mr. President, there is already evidence that normalization of relations between this country and the Peoples Republic of China can significantly broaden the horizon of world markets for American goods and services.

Viewed against the background of a continuing and increasingly serious deficit trade balance that has plagued our economy in recent years, this could be a highly significant development.

It is too early, however, to make an accurate assessment of what the total effect may be. Questions remain as to how quickly, how fully, and in what form the potential benefits may be realized.

We will, I am sure, be watching this situation with keen interest in the coming months as the answers begin to more clearly emerge.

Some clues, however, can be gleaned from a speech by Commerce Secretary Juanita Kreps to a recent meeting of the Aluminum Association in White Sulphur Springs, W. Va., where I was privileged to introduce her.

Her remarks provided a clear-cut, concise outline of the opportunities, limitations, challenges and problems which are inherent in this new East-West trade concept and a preliminary assessment of the chances for success and fulfillment.

She spoke from personal and direct knowledge because of her participation in the recent trade agreement negotiations in Peking.

It was a highly effective presentation—of the type which has become the Secretary's trademark since she assumed direction of the Commerce Department.

I was impressed, as I believe you will be, by her evident grasp of the subject and I welcome the chance to share her thoughts. I ask that the text of her speech be printed in the RECORD.

The text follows:

CHINA TRADE SPEECH

(By Juanita Kreps)

China trade has been center stage in the interests of western businessmen for several months now. Recent dramatic and fast-moving changes in China's international policies, including a new acceptance of international trade as a means of economic growth, have dazzled the west.

Over the last 18 months, China sharply increased visits of its commercial representatives to western countries. Similarly, there has been an increase in western businessmen's trips to China. A number of new economic and commercial agreements have been negotiated with western governments, including our new trade agreement. The first of some 10,000 students from China due to attend western colleges and universities have already arrived. China has accepted the idea of using western credits to assist in financing its imports, and the first large loans from a western source have been negotiated.

Discussions have moved rapidly on many billions of dollars of Chinese purchases in the west, and contracts for more than a few billions have been signed.

These events, along with the restoration of formal U.S.-China diplomatic ties, have generated great interest about China in American and western business circles.

Indeed, reactions this year were euphoric in many instances. Businessmen considering China see nearly a billion people with huge unsatisfied wants. Bankers focus on China's virtually untapped borrowing possibilities. And the lure of the country's oil is seen as the key to China's ability to finance its growth.

The Commerce Department's China Division is swamped with up to 250 phone calls and 100 letters a day. Among the more unusual queries: what are the market prospects in China for storm-windows? For deodorants? For plant food for african violets? One caller was trying to set up a "sister city" program between the United States and China.

We consider this volume and variety of interest a good thing and are trying to satisfy each request for information and guidance, though our information is not always encouraging.

For we have insisted that evaluations of the China trade be realistic. One must note, for example, that China has a per capita income of only about $400, less than that of many developing nations, and that it will have great difficulty in coping with significant quantities of imported western equipment, let alone paying for it.

More revealing, however, have been recent actions of the Chinese themselves. Beijing recently suspended $2.1 billion of Japanese contracts covering projects primarily in the steel and petrochemicals sector. While the Chinese have indicated that "suspension" does not represent a cancellation of the contracts, their actions do reflect a reappraisal of their initial plans. They told us of the need to reorder their modernization priorities away from heavy industry towards energy and transportation.

The question is: what are the prospects for China's trade with the West over the next several years? Whose guess is more reliable—that of those who expect a trade bonanza, or those who dismiss China as a relatively impotent trader?

For the years immediately ahead, the truth lies somewhere between these extreme views.

To begin, China is a nation of about a billion people, with many unsatisfied wants; it does have an enormous land mass with vast, often untapped natural resources; it has embarked on an extremely ambitious 10 year modernization program; and it does have a largely untapped capacity for borrowing in the West.

From these facts it is tempting to conclude that China offers a vast market for western goods in the years immediately ahead. Indeed, news articles earlier this year included projections that China will import over $200 billion from the West in 1978–85, and that Chinese imports will soar from $8.5 billion in 1978 to $50 billion in 1985.

Closer examination, however, makes these scenarios seem unlikely. There are at least two fundamental constraints on the ability of any developing economy to induce rapid growth through imports: one, limits of the imports it can afford; and two, limits on the rate at which it can efficiently absorb technology.

What can China afford? We know that any nation's ability to import is basically limited to what it can pay for with earnings from exports, plus the funds it can obtain from foreign borrowing and foreign investment. China, as a result of its long-standing policy of self-reliance has not recently been a major trading nation. Exports to hard currency destination were only about $6.6 billion in 1977 and will probably reach $8.2 billion in 1978—roughly equivalent to the export levels of Singapore, Malaysia, or Romania.

China will nonetheless be pressing hard to expand its exports, as a principal means of financing its huge import needs. But this can be accomplished only gradually. It takes time to develop export capabilities and markets, and moreover, China's industries must also supply the needs of China's own growing population and modernization program.

Oil exports, metals, and mineral deposits offer promising export prospects, possibly enabling financing of large quantities of imports. But it will take considerable time to develop existing deposits and to explore new areas.

Consequently, while revenues from oil, metals and mineral sales through 1985 will be important, they will be inadequate in themselves to support China's import drive.

Similarly, China's net earnings from invisibles (tourism, Chinese business activities in Hong Kong, shipping, and remittances) should grow steadily. But starting from an estimated 1979 level of $1.1 billion, invisibles are unlikely to be a key factor in hard currency earnings through 1985. As an interim means of financing development projects, the Chinese have expressed strong interest in joint ventures, production sharing, and compensatory trade. Work is now underway on a Chinese joint venture law. The implications of this for U.S. businesses is clear: a company that proposes some arrangement that avoids or minimizes short term cash payments may have a competitive advantage.

With respect to credit, China has a 1979 hard currency debt level of only about one billion dollars and can therefore expect few problems in borrowing large sums in the West. One U.S. banker has said he thought China could borrow 30–35 billion dollars by

1985. Given China's ambitious development plans, however, even these amounts of credit may prove to be a significant constraint.

The second limiting factor—China's ability to absorb sophisticated western technology efficiency—is difficult to predict. Certainly, the ability to use imported technology effectively has been a factor in slowing the pace of orders to the West, and in the decision to shift more of the modernization effort toward the development of agriculture and light industry. China's leaders want to modernize, but they recognize that they cannot afford to waste resources in doing so. Thus, although they seek to proceed rapidly, they now recognize constraints on their pace of development.

Thus, projecting China's trade with the West through 1985 is an exercise in uncertainty. Nevertheless, much can be learned by reasoned estimates about China's import plans and export capabilities, as well as its borrowing potential and willingness to take on debt to the West.

Several scenarios for China's trade with the West can be sketched out. Selecting from those that seem reasonable, we judge that China's annual imports from the West could reach $20–25 billion by 1985, totalling from $110 billion to $135 billion over the 1978–85 period. While these amounts are less than some cited earlier, they are nevertheless impressive.

But they are tentative estimates. In the final analysis, the totals will be set by the speed with which China wishes to push ahead; its success in exporting; and its willingness to borrow. On balance, we do not believe that China's imports are likely to go much more above the range indicated.

Over the longer term—beyond 1985—China's imports may be considerably more impressive. The successful implementation of the 10-year plan for modernization of industry, and the production related to oil deposits now being explored, could generate the exports needed to make China a major trading force in the world economy.

The United States has an important stake in trade with China. Prompt governmental action to resolve remaining barriers to U.S. trade with China and aggressive selling by U.S. business could yield perhaps $15 billion of U.S. exports through 1985, with an even bigger trade volume in the years to follow. But unless both government and business act quickly and effectively, our share of the trade under the 10-year plan ending in 1985 will be much more modest and our longer term prospects impaired.

This raises the question: where do we stand now on government actions to provide a proper trade environment for U.S. businesses to develop trade with China?

First, we have completed the claims and assets agreement, which I signed last week. You will recall that Secretary Blumenthal negotiated this agreement in China and initialed it. Its signing removes legal barriers to shipping, air traffic and general direct commerce.

Second, we negotiated a trade exhibitions agreement that will allow commercial exhibits between our two countries.

We also concluded four scientific agreements likely to have some commercial benefits, particularly those that relate to exchange of technical information and to management.

Third, we have initiated negotiations on both maritime and aviation agreements. Once concluded, these will obviously facilitate normal commercial relations between our two countries.

Finally, we negotiated and initialed a full trade agreement with China during my visit. This agreement meets all the requirements of the Trade Act of 1974. It provides for reciprocal MFN treatment, protects against market disruption by imports, extends patent and copyright protection, sets out conditions for banking and resolution of commercial disputes, and contains a number of provisions to facilitate doing business in China.

I know you are interested in the possible impact of U.S. exports of the PRC's recent reconsideration of its trade priorities. During my talks with Vice Premier Deng and other Chinese leaders, we spoke at length about the readjustment of their modernization plans. They assured me that these changes do not mean diminished markets for the U.S. The Vice Premier was emphatic in his statements that the U.S. share of their market must come to equal Japan's: $6 million annually, compared to our 1978 level of $1.1 billion.

In summary, China is going to be an important market in the years ahead—maybe not as big as some reports would indicate—but large enough to command our attention. In the longer term, one needs only to visualize a China that not only has the enormous population, vast territory, and natural resources that it has today, but has also the ability to export to the West. No major trading nation can afford to neglect either the immediate or the longer-range potential of the China market.

But neither can we afford to neglect other export markets. Our continuing balance of payments deficits dramatize our need to move aggressively in the international market place. There are few markets in which we lag as far behind as we do in the communist countries. Few areas have the potential for expansion of U.S. exports that is evident in the Soviet Union and Eastern Europe, as well as China. For example, in 1977 the Soviets bought $9.5 billion of manufactured goods from the West. Only half a billion—less than 6 percent of the total—came from the United States.

I recognize that growth of U.S. trade with the communist countries has been handicapped by legislative and other restrictions.

But we are trying to mitigate these problems. We seek a strong enduring expansion of commercial relations with the Soviet Union, Eastern Europe, and China. And we believe we are making progress.

Our efforts with the communist countries are only a small part of the Administration's campaign to redress our trade balance. Last September, the President announced a National Export Policy expansion as an important national priority. The Administration is committed to a stronger emphasis to stimulation of a growth of U.S. exports around the world.

We in government will do what we can to provide an improved climate in which American firms can compete successfully in world export markets. American business must also respond vigorously. As you know, you meet tough competition in every market today.

But American industry can regain lost markets and develop new ones. Moreover, your ability to do so will play a key role in defending the dollar and determining the outcome of a host of domestic economic problems, including employment and inflation.

So, I urge you to pursue opportunities wherever they may lie—whether in the U.S.S.R.—or China—or in even lesser known markets. You can be sure that our competitors will be there. And we simply must be there, too—equally competitive, equally cost-conscious, and in the best American business tradition, far ahead in the state of our technology. On this traditional edge of superiority rests our great strength in the world's new markets.●

DIRECT ELECTION

⊙ Mr. BAYH. Mr. President, concern was voiced at recent hearings on Senate Joint Resolution 28 that the abolition of the electoral college would result in an increased role for the national media in presidential campaigns coupled with an erosion of grassroots political organization. It is interesting to note, however, that many competent practitioners of the political process do not concur with this assessment. In fact, Mr. Douglas Bailey, an effective Republican political consultant and media manager for the Ford-Dole campaign, envisions just the opposite outcome.

Following his testimony on March 30 of this year, Mr. Bailey was requested by Senator HATCH to comment on the assertion of Curtis Gans that "should this Nation move to a system of direct popular vote for President, what few remaining incentives to political organization would be lost."

Mr. President, I ask that Mr. Bailey's response to the Senator's question be printed in the RECORD.

There being no objection, the material referred to was ordered to be printed in the RECORD, as follows:

BAILEY, DEARDOURFF & ASSOCIATES, INC.,
Washington, D.C., April 2, 1979.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATCH: When I testified on March 30, 1979, before the Sub-Committee on the Constitution of the U.S. Senate Committee on the Judiciary, your staff presented me a written question on your behalf and requested a written response.

Here are both.

Question. "Your perspectives on campaign organization are extremely interesting. But, I wonder if they do not beg another point. In his statement submitted during hearings two years ago, Curtis Gans of the Americans for Democratic Action stated:

"'. . . For two decades, or ever since the advent of television as a central factor in American lives, the practice of politics has been increasingly dominated by the political commercial image making and mass media manipulation. Only the need to maximize the vote in key states has forced national campaign managers to expend resources for organization in the several states.

"'However, should this nation move to a system of direct popular vote for President, what few remaining incentives to political organization would be lost. Electoral contests would be between Pat Caddell and Robert Teeter, between Deardourff and Bailey and Jerry Rafshoon. The contest would not be among those who could recruit and organize the largest number of participants in the process, but rather who could most effectively and skillfully manipulate media imagery.'

"This statement certainly bespeaks the high professional esteem in which you are held. On the other hand, it suggests the concerns of many that the role of grassroots political organization will be eroded, with the role of the national media, and those who utilize it, enhanced. Would you please comment on Mr. Gans' assertion?"

Answer. I share much of Mr. Gans' concern over television policies but come to an absolutely different conclusion about the impact on participatory democracy that would result in a shift from the Electoral College to Direct Election of the President. Apparently "serious students of the political process" (for whom Mr. Gans suggests he speaks) and competent practitioners in the political process (among whom I hope I am numbered) can see things dramatically differently.

Every political campaign designed to win has essentially two goals: First, to convince enough qualified voters that its candidate is best; second, to get enough of those supporters to the polls to win.

Historically, local people organizations were the major instrument to get both jobs done: Communication with the voters about the candidate via door-to-door campaigning, local literature drops, neighborhood phone banks, etc.; and Election Day turnout efforts either to maximize total voter turnout in areas of strength or to identify your own voters and turn them out to cut the losses in areas of weakness.

Obviously, the advent of television has had a profound impact on people participation in campaigns, but the impact and capacity of television politics is almost wholly in the first campaign function (communication about the candidate) and almost nonexistent in the second (turnout).

As a communication vehicle competent television is undeniably more effective than anything other than voters meeting the candidate personally—more effective than radio (one dimension only); more effective than brochure, newspaper or billboard advertising (one dimension only); more effective than door-to-door contact on the candidate's behalf; and to many voters even more effective than Party endorsement. The reason is that competent television can give voters the feeling that they know the candidate well enough to be confident in their own judgment of him or her and need not rely on neighbors' judgments or Party endorsement as the most sensible basis for a judgment.

Whether this is good or bad for the political process is hard to judge. Despite the human frailties and technical skills of the so-called "image-makers" I am satisfied that it is next to impossible for television to effectively "sell" a candidate as something that he or she isn't. I think that it is probably good for voters to feel they know the candidate well enough to make their own judgments rather than being forced to rely on the word or endorsements of others. But it is undeniable that the influence of the Parties and their endorsements suffers in the process. And obviously the value and use of people organizations to communicate candidate qualities and issue positions are significantly diminished by the availability of television communications.

But I fail to see any change at all that is likely in either the use or value of television as a communications vehicle about the candidate if the Electoral College gives way to Direct Election. Network television campaigns would remain the same; local television buys would still focus on regional issues; there would be less thinking in terms of key States and more in terms of key voter groups but the general patterns would be the same. As long as there is television politics, people organizations are going to be less important for communication about the candidates than television. That's a fact of life that isn't going to be affected either way by a Direct Election amendment.

The turnout job of a campaign is another story. Television as a turnout vehicle is almost completely ineffective. It can, of course, swell some interest in the campaign and it can persuade potential voters of the merits of a candidate. But it cannot drag voters to the polls; it can't canvas to identify a candidate's voters; it can't knock on your door with a personal neighborly plea to vote; it can't call you on the phone with an urgent neighborly plea; it can't check the voting lists to see whether you have voted: it can't, in short, wring every last vote for a candidate out of any block, or neighborhood, or precinct, or county, or State, or nation. Those are people organization functions—and any candidate anywhere who relies only on television courts losing on Election Day because his/her voters stay home.

It is here where Mr. Gans is profoundly wrong. He says Direct Election would kill people organization politics. The truth is that the Electoral College works dramatically against people organization politics and Direct Election would produce a dramatic increase in people organization politics.

Under the Electoral College, turnout simply doesn't matter to the presidential campaigns except where it can decide who wins a particular State and its bloc of electoral votes. Turnout can be critical in key States—that is, where both campaigns are competitive. But turnout is totally irrelevant under the Electoral College in those States which are sure winners or sure losers. In 1976, for example, once the Ford campaign decided it was going to lose the District of Columbia no matter what it did and win Utah no matter what Carter did, it spent no money there—particularly for political organization. The Carter campaign also ignored those two States for mirror image reasons:

"It simply didn't matter how much Carter won or Ford lost D.C. by. The electoral votes belonged to Carter—regardless of turnout. There was no advantage to Ford to cut his losses. There was no advantage to Carter to swell his plurality.

"It simply didn't matter how much Ford won or Carter lost Utah by, the electoral votes belonged to Ford—regardless of turnout. There was no advantage to Carter to cut his losses. There was no advantage to Ford to swell his plurality."

So when Mr. Gans says, "Only the need to maximize the vote in key States has forced national campaign managers to expend resources for organization in the several states" he is precisely correct. And one very big reason for that is that the Electoral College gives no bonus or recognition of any kind to coming close or winning big either. Under the Electoral College a presidential campaign would be incompetent if it worried ten seconds about how big it wins or loses in any State. The only States that should get any organizational money, time or thought at all should be where both campaigns are competitive and turnout makes a difference.

Direct Election would change that dramatically. Every vote would count. Turnout will be critical everywhere—and turnout organization will be important everywhere. If 1976 had been under Direct Election, the Ford campaign could not have permitted a 102,000 Carter plurality in D.C. and instead would, as a minimum, have had to canvass to identify and turn out its maximum vote to cut its losses. And the Carter campaign would have hyped D.C. turnout to a fair-thee-well to swell its plurality. In Utah, Ford would have hyped overall turnout and Carter would have canvassed to turn out his maximum vote. All of which would have put a premium on people and Party organization everywhere, not just in places where the election seemed close. Two results would, of course, have been more emphasis on people organization politics and significantly expanded voting.

It is easy to nominate television as the bogeyman of all our political ills. And surely television politics leaves much to be desired. In this case, however, I believe Mr. Gans has allowed those ills to blind him to common sense. No reform would better answer television's weakening of participatory democracy than a shift from the Electoral College to Direct Election in which turnout is important everywhere.

I would be remiss if I didn't also suggest that the advent of television is one reason why I believe that what may have been a justification for the Electoral College system in 1787 is no longer a justification for it today. Then, cohesive national communications was extraordinary difficult. The separate States and regions varied dramatically in their perception of the issues and their knowledge of the candidates. Each State and region was wary of the different perspectives and interests of others. They undoubtedly saw their electoral vote bloc as their best protection against alien ideas and people—far distant, but still within the same federation. Today's is another world where national mobility and national communications have homogenized our politics. Candidates are known equally well everywhere. Common news sources have tended toward a much more common perspective on issues. And, in my opinion, the Electoral College system which once served to protect local values serves today only to threaten a constitutional nightmare and to discourage the involvement of the people in their democracy.

I'd like to ask that you request the Committee's consent to insert this letter in the record of the Hearings of March 30, 1979.

Sincerely,

DOUGLAS I. BAILEY,
President.●

THE ADMINISTRATION'S NATIONAL HEALTH PLAN

● Mr. DURENBERGER. Mr. President, earlier today, the President announced his version of national health insurance. That now gives us seven different programs to provide comprehensive health care coverage for most Americans. The programs are different in that one deals with medicare-medicaid reforms, some with catastrophic illness, and others with national health insurance plans. There are two common threads. All will have to be considered by the Senate Finance Committee, and all will require more government, more regulation, and probably more public spending.

As we try to figure out how each program works and what it is attempting to do, we will also have to evaluate the role of the Federal Government in assuring the availability and affordability of quality medical care. The Government has a pervasive presence in the organization and funding of health care. This presence has developed haphazardly rather than by design. It is time to raise the question of whether further expansion of the public sector can remedy existing health care problems. As we debate this issue, we must also consider what role the private sector will play.

It is appropriate to note the evolution of national health insurance schemes over the past decade. National health plans have been debated since the turn of the century. However, the latest phase of this public debate began in 1970 when the health security plan was first announced. The intent at that time was to legislate a totally federalized health care system. Over the next few years, other plans appeared which represented variations on this theme for federalization. Some even dared to mention private responsibility for providing health services.

The issue has been stalemated. Those who want to federalize the program have not convinced the public that their approach is workable. Proponents of the private sector have either been fighting federalization or defending the status quo. No one raised the question of whether there is an alternative means for delivering quality health care at a reasonable cost.

While this debate was continuing, public attitudes were changing. People have become more concerned about economic instability, and are no longer confident that big government is the only answer to social problems. The desire to control inflation or limit government does not mean the American public has chosen to ignore social problems. They are, however, rejecting the solutions of big government and deficit spending which characterized the 1960's.

This attitude is reflected in the 1979 versions of health insurance. Sponsors are now talking about competition, incentives, and private initiative. It is a refreshing change in the debate.

Private initiative has a firm foundation in Minnesota. It is particularly evident in the health field. From this experience, I have developed my criteria for evaluating health care legislation. The underlying principle is private initiatives in response to public needs.

Effective public policy for health care should have four elements. The system should provide incentives for individuals to stay healthy. This is the idea behind preventive medicine which is our most efficient long-term method for controlling health costs. Second, access to medical facilities and personnel should be made feasible. Third, we should be moving toward the goal of quality health care. Last, we have to provide a system which does not provide waste and abuse, nor ignore the needs of the public.

What does the administration's health care program offer? Much of the proposal has been formulated in direct reaction to comprehensive solutions already introduced by Senator LONG and Senator KENNEDY. The need for catastrophic coverage is addressed and a great and expensive administrative superstructure is proposed. As far as the principal elements of prevention, access, quality, and reimbursement are concerned, however, the President's plan falls short of serious problem solving.

Prevention—while the administration has recognized the necessity for preventive medicine, strong measures to foster initiatives in this area are lacking.

Access—health care would federalize medicaid, which may be tantamount to blocking private initiative in developing alternative plans. Universal coverage is set as a goal without consideration of existing delivery systems.

Quality of Care—the expansion of medical coverage will increase the demands made of the present health care system. Yet the program contains no provisions for equity in medical treatment. Part of our present system would become an enormous medicaid mill; the other would stumble along as a privatized organization plagued by inflation and abuse.

Reimbursement—the major solution which the administration is offering for controlling waste is hospital cost containment. This is insufficient to the real problems of inflation and ignores the abuses of Federal-State reimbursement programs which need correction.

Despite its drawbacks, the "health care" proposal represents a worthy effort to redress complex problems with a long-term perspective on national health priorities. Each of us in Government has much work to do in this area, work which demands the utmost investment of energy and good thought.

The mood to create great solutions to the problems of national health care is upon us. I would again remind my colleagues that the subject of national health insurance has been seriously debated for decades. During those years, the active role of the private sector and the initiative of the individual citizen have been progressively discouraged.

As Congress considers the proposed health coverage legislation, I ask your support in developing competitive incentives which will promote greater responsibility in quality health care delivery.●

RELIGIOUS FREEDOM

● Mr. BENTSEN. Mr. President, in light of recent events in Eastern Europe, Americans have more reason than ever to be reminded of our commitment to religious freedom. This commitment is rooted in our Nation's history and transcends the diverse viewpoints of American life. Those on both sides of controversial issues adhere to this basic principle.

Recently, the Senate voted for an amendment to allow voluntary school prayer by prohibiting Federal courts from finding such truly voluntary prayer unconstitutional. Both supporters and opponents of this amendment should agree that if any coercion is present, the constitution would be violated and Federal courts would retain full jurisdiction. I have received inquiries from several constituents, and I want them to know that I, as a supporter of the amendment, believe this in no uncertain terms.

This view is shared by prominent opponents, as well as supporters, of the amendment. Prof. Laurence Tribe of the Harvard Law School, a leading constitutional law authority and a strong and firm opponent of the prayer amendment, agrees that the Federal courts would retain jurisdiction to decide if indeed coercion is present and therefore, whether the prayer in question is permissible under the Constitution.

Professor Tribe believes that the question of voluntariness is inherently fuzzy and difficult, and for this and other reasons he voiced opposition to the amendment. I believe that the courts would retain jurisdiction to remedy the abuses the Constitution was designed to prevent. Both of us, and I hope all Americans, would agree that the Constitution and the American way of life forbid any element of religious coercion, done by anyone, in any way, for any reason.●

TOWARD INCREASED EUROPEAN SECURITY

● Mr. KENNEDY. Mr. President, the talks on mutual and balanced force reductions (MBFR) in Europe, initiated in 1973, have yet to reach an agreement. Although there has been some progress, I believe there must be much greater effort and emphasis on achieving an agreement, which will not only increase the security of our European allies but will also benefit East-West détente.

In a recent article in the Bulletin of Atomic Scientists, David Linebaugh, a former official of the Arms Control and Disarmament Agency, makes three very thoughtful and constructive proposals to increase European security: A freeze and token reductions of United States and Soviet force levels in Central Europe; limitations on the size of maneuvers and on temporary increases in force levels by NATO and the Warsaw Pact members, to reduce the danger of surprise attack—and a moratorium on the testing and deployment of both U.S. sea and ground cruise missiles and the Soviet SS–20 mobile missile.

To make progress, Mr. Linebaugh points out that—

> These proposals bypass the complexities of the MBFR negotiations in Vienna without prejudicing the negotiating position of either side. They would provide an immediate start toward a more stable and restrained military relationship in Europe. They would not correct major asymmetries between NATO and the Warsaw Pact countries, but measures of detente would being to complement measures of defense. And they would set the stage for more ambitious steps—for reductions and for qualitative limitations where the arms competition is most intense and most difficult to curb.

Mr. President, I believe that these proposals deserve careful consideration in our preparations for the forthcoming United States-Soviet summit meeting in Vienna. Not only are they intrinsically worthwhile, but they represent important opportunities.

I ask that this important article be printed in the RECORD.

The article follows:

EUROPEAN SECURITY: THREE PROPOSALS

(By David Linebaugh)

President Carter intends to catch up with the Soviet Union in Europe. He submitted a 1979 defense budget to Congress that will greatly strengthen U.S. conventional forces in NATO. American defense spending will go up. Our NATO allies also plan to increase defense spending—by three percent each year over the next five years. The Russians will respond because they will consider it prudent to stay ahead of the Americans. And the arms competition between NATO and the Warsaw Pact will intensify.

Is there a way for the West to counter the growth in Russian military power in Central Europe without stimulating a costly and possibly dangerous arms race? The NATO weaknesses need correction; but agreed measures of restraint are also needed to restore confidence between East and West, to alleviate concern about Russian surprise attack capability, and to stop an incipient nuclear arms race.

There has been, of course, some movement in the East-West mutual and balanced force reductions (MBFR negotiations in Vienna. Yet agreement on a truly comprehensive reduction plan remains a distant prospect. Conflicting objectives, and disagreement in interpreting the facts of the present balance, will be difficult to reconcile.

Less grandiose proposals than a comprehenesive plan could be useful to test the possibility of immediate arms restraint. The west might therefore put forward one or more of the three limited plans suggested here:

Token reductions and a freeze on U.S. and Russian force levels in Central Europe.

Limitations on the size of maneuvers and force levels by NATO and the Warsaw Pact members to reduce the danger of surprise attack.

A moratorium by Russia and America on two nuclear weapons.

Proposal 1: A Freeze and Token Reductions. Russia and America would each make a token troop withdrawal from the two Germanies, where the force concentration is highest. Russia would withdraw one division, about 11,000 men. America with withdraw two brigades, about 7,000 men, but not their equipment. Russia and America would impose, in parallel, ceilings on their manpower in Central Europe. The purpose would be mainly political: to prime the pump in the Vienna MBFR negotiations, and to alter perceptions about the trend of events in Europe.

The freeze and token reductions would have little military effect on NATO. The personnel of the two American brigades would be withdrawn from the mountainous area of Southern Germany, the least likely part of the Central front for an attack by the Warsaw Pact forces. The withdrawal would have no impact on American and allied plans to strengthen and improve the readiness of their forces in the north German plain, the most likely area for an attack by Warsaw Pact nations. Indeed, the armament of the two withdrawn American brigades could be transferred to and stored in the north so that the net effect would be a useful redeployment if the two brigades returned to Europe in a crisis.

In the MBFR negotiations in June 1978, the East proposed first-stage reductions of 14,000 Americans and 30,000 Russians, at first glance more favorable to the West than mutual reductions of 7,000 Americans and 11,000 Russians. But the Eastern proposal made this reduction contingent on a second stage, in which the West would be required to reduce more than the East: 77,000 to 75,000. The Warsaw Pact/NATO force ratio for all reductions under the Eastern proposal is 1.1 to 1; but under this proposal, it is 1.5 to 1, much more favorable for the West.

The withdrawal of a Russian tank division could be monitored by the United States through national intelligence means, without overt inspection arrangements. It would also be possible to monitor, again by national means, the number of major Russian combat units in Eastern Europe, although not their exact force levels. Hence there would be a range of uncertainty about exact numbers of soldiers but not about numbers of major combat units. This is the situation that prevails today.

There are arguments against U.S. and Soviet token reductions and a freeze on their forces. Our European allies may have doubts about the idea. They seek accommodation with Russia but some also express fear that any American troop withdrawals might be the beginning of the end of the American commitment to defend Western Europe. Both Russia and the United States are adding a multitude of new weapons to their forces in Europe—tanks, artillery, aircraft, missiles. Token reductions would have no direct effect on this qualitative competition where the arms race is most intense.

Yet, small Russian and American reductions and a ceiling on their force levels would provide a political base both for negotiations and for more significant arms control agreements. And a ceiling on Russian and American forces would provide one fixed and calculable point in the European military balance. Any significant future Russian build-up in manpower would be forestalled. And the American force level would be coupled with the Russian force level—a political barrier against future pressures in Congress, such as former Senator Mike Mansfield exerted, to reduce them unilaterally.

Progress in limiting arms is unlikely at present in the Vienna negotiations. East and West are too far apart; too enmeshed in technical detail; too much ignored by the political leadership. Token reductions by the United States and Russia would prime the pump in Vienna and brighten the prospects for agreement.

Proposal 2: Stabilizing Measure. NATO and the Warsaw Pact might agree to limit the size of forces involved in maneuvers to 60,000 and the size of temporary increases in total force levels in Central Europe to 25,000. These limitations would stabilize the East-West military relationship in Europe by inhibiting threatening force concentrations, a necessary prelude to attack.

If East-West relations in Europe were to deteriorate and a severe crisis should arise, the Warsaw Pact nations might conceivably attack Western Europe after various amounts of time and preparation:

They might move after one or two days, virtually a "standing start" attack with only the forces at hand;

They might attack as long as a week after mobilization, which would permit the addition of perhaps nine divisions from Western Russia, as well as additional Polish and Czech divisions;

The attack might come two weeks after mobilization, permitting the addition of the combat elements of perhaps 30 divisions from Western Russia.

Senators Sam Nunn and Edward Bartlett have warned that Russia—in view of recent increases in that country's firepower and troop mobility—might attack with little warning and with only the forces at hand in Central Europe. But the Warsaw Pact would be in a considerably stronger position relative to NATO after a week, or even two, of mobilization, chiefly because the Russians, being nearer Central Europe than the Americans, can move in reinforcements faster. Therefore former NATO commander General Alexander Haig's estimate that NATO would have 8 to 15 days' warning seems more plausible than the Nunn-Bartlett forecast.

But limitations on maneuvers and on temporary increases in the level of forces would constrain the Warsaw Pact from taking any one of these courses. Even accepting the Nunn-Bartlett forecast, those states would need to mobilize at the point of attack, probably under cover of a maneuver. And General Haig envisages a substantial increase in the level of Warsaw Pact forces before an attack, through reinforcements from Western Russia. Thus, the two limitations—on maneuvers and on temporary increases in force levels—would inhibit the East from any large-scale attack.

The maximum size of forces to be deployed in maneuvers might be 60,000, the ceiling the Russians proposed at the Conference on Security and Cooperation in Europe, meeting in Belgrade in the fall of 1977. And, in fact, over the last few years there have been only two maneuvers involving more than 60,000 troops: one by the Warsaw Pact forces (*Shield*, June 1972) involved 70,000; one by West Germany (*Grosse Rochade*, September 1975) involved 68,000. A ceiling of 60,000 would guard against the use of large maneuvers to cover preparations for an attack. Large-scale Warsaw Pact maneuvers and troop movements in the late spring and early summer of 1968 provided cover for the Russian invasion of Czechoslovakia on August 20 of that year. A large number of Russian troops—perhaps 150,000—participated in the invasion. But a ceiling of 60,000 would still allow the Warsaw Pact groups and NATO to test and refine their ability to conduct full-scale operations at the crops- or army-group level.

A limit of 25,000 on temporary increases in the total size of Warsaw Pact and NATO force levels in Central Europe would prevent any substantial peacetime reinforcement or any disruption of the present manpower balance. At the same time, this limit would still permit both sides to continue current rotation and maneuver practices, including the annual U.S. exercise known as *Reforger*.

There are two arguments against a limit on temporary force increases: present unequal force levels, and difficulty in verification of compliance.

An agreement limiting temporary manpower increases would indirectly sanction the present somewhat unequal force levels of the two sides. The difference is about 15 percent—1 million NATO soldiers to 1.15 million Warsaw Pact soldiers. However, the present East-West position of approximate parity in manpower is considered more or less adequate by all Western governments, and NATO force improvements are planned for roughly constant manpower levels. Furthermore, NATO's significant weaknesses lie elsewhere—in deployment, reinforcement and standardization, for example. Nonetheless, an agreement which even indirectly appeared to accept inequality in manpower levels should be subject to review and reconsideration after, say, three years or after the negotiation of an MBFR agreement.

The issue of verification involves two questions: Can we monitor Warsaw Pact compliance with the agreement? Would Western security be adversely affected if the Soviets did not fully comply? The answer to both questions is probably a qualified no. In the process of verifying compliance by national means, there is a range of uncertainty, although this range narrows as national technical means improve. But even if the Warsaw Pact countries did not fully comply with the agreement, Western security would not necessarily be adversely affected because the West could detect militarily significant violations. If there were genuine preparations for attack, the Soviets would have to activate their forces enough so that the number of "indicators" would be large. The issue would not be the presence or absence of warning but NATO's reaction to it.

Proposal 3: A Moratorium on Two Mobile Missiles. America and Russia would agree to a freeze—a stop where you are—on the testing and deployment of two specific mobile missiles in the European theater. The moratorium would prohibit the Soviets from deploying further the SS–20 to threaten Western Europe, while simultaneously prohibiting the Americans from testing or deploying the long-range cruise missile which can be launched from the ground or the sea. The air-launched cruise missile, a strategic weapon already limited by SALT, would not enter into this agreement. Limitations on the ground- and sea-launched cruise missile in the protocol of SALT II, however, are temporary and put no constraints on any American plans for the development or deployment of this weapon.

The Soviet Union and the United States are on the threshold of a nuclear arms race in Europe. Moscow is deploying in Western Russia an intermediate-range mobile missile with a multiple warhead, the SS–20, as well as new nuclear-capable aircraft including the Backfire bomber. Since 1976 the United States has more than doubled the number of F–111 aircraft in Europe, is about to begin deploying new nuclear-capable aircraft, and is keeping the door open for deployment of the long-range ground- or sea-launched cruise missile and a mobile ballistic missile.

This incipient race gives rise to a host of difficult problems. For instance:

What purpose do nuclear weapons serve in NATO other than to deter use by the Soviets? Given Russia's nuclear capability, would nuclear use by NATO to repel aggression serve any rational purpose? How many nuclear weapons are enough for NATO?

Are there criteria which might be acceptable to both East and West for limiting deployment of nuclear weapons in Europe? How many would be sufficient for deterrence? For the ability to inflict unacceptable damage?

Should the West agree with the Russian view that American forward-based systems should be on the SALT III agenda, provided comparable Russian weapons are also on the agenda? Or should a new forum be established, and if so, should it be multilateral to meet the direct concerns of European states?

These questions will take time to resolve—within the U.S. government, with our Western European allies, and finally with the East. The negotiation of limitations and reductions will be slow: many states have direct interests; many weapons are involved; and there are substantial asymmetries in weapons between East and West which may make an equitable reduction agreement difficult to devise even in theory.

Meanwhile, new weapons technology for testing, production, and deployment will race ahead. And pressures will mount on each side to offset the weapons deployment of the other—for example, American deployment of the sea- and ground-launched cruise missiles in Western Europe, on the expiration of the SALT II Protocol which bans such deployment, to balance Russian deployment of their new medium-range mobile missile, the SS–20.

The SS–20 is of great concern to our Western European allies; it is more accurate and less vulnerable than the first-generation, fixed land-based MR/IRBMS—the SS–4s and SS–5s—that it may be replacing. The NATO governments, especially Germany, fear the political as well as the military consequences of the vast number of Russian nuclear weapons targeted on Western Europe; the long-range cruise missile could be a counter to this massive Russian power.

Cruise missiles and their launchers can be concealed and therefore cannot be destroyed by the Russians. This military advantage is an arms control disadvantage, however, since limitations on the number of ground- or sea-launched missiles and their launchers would be difficult to verify by national means. Deployment of these versions of the cruise missile could end *any* chance of limiting nuclear weapons in the European theater.

Time is needed to resolve these difficult issues. A moratorium on the SS–20 and cruise missiles would give negotiations a chance to get ahead of weapons deployment. Without this pause, the Soviet SS–20 deployment could double or treble in the next few years.

Soviet Russia has already deployed about 100 SS–20s while the United States has not deployed any cruise missiles in Western Europe. But the 120 British and French missiles on their submarines would provide an approximate equivalence to the Russian SS–20, and a *de facto* parity between East and West.

These three proposals may be negotiable with the Russians and the Eastern bloc. The idea of token American and Russian reductions was in fact first put forward by the Russians. But in Proposal 1 as suggested above, token reductions would be coupled with a freeze on Russian and American force levels, thus preventing any build-up of Russian forces. Proposal 2 which limits troops in maneuvers to 60,000, is in line with a Russian proposal made in the fall of 1977 at the Belgrade meeting of the Conference on Security and Cooperation in Europe. But the present proposal adds a limitation on temporary force increases, inhibiting the Warsaw Pact from bringing in reinforcements. In the case of Proposal 3, Western agreement to a freeze on the cruise missile would be partially responsive to the Russian interest in limitations on American forward-based systems. But the proposal also includes an important Russian weapon in the freeze.

These proposals bypass the complexities of the MBFR negotiations in Vienna without prejudicing the negotiating position of either side. They would provide an immediate start toward a more stable and restrained military relationship in Europe. They would not correct major asymmetries between NATO and the Warsaw Pact countries, but measures of detente would begin to complement measures of defense. And they would set the stage for more ambitious steps—for reductions and for qualitative limitations where the arms competition is most intense and most difficult to curb.●

CAN WE AFFORD "NO NUKES"?

● Mr. KENNEDY. Mr. President, I would like to insert into the Congressional Record an editorial from yesterday's New York Times entitled, "Can We Afford 'No Nukes.'"

I recently introduced legislation which would establish a 2-year moratorium on the granting of new construction permits for nuclear powerplants (the Nuclear Reappraisal Act of 1979, S. 1178). I believe this moratorium is necessary to cure the serious deficiencies in the present nuclear licensing process.

While the editorial did not endorse a moratorium explicitly, it stated that—

> A strong case can be made for a moratorium on starting new nuclear power plants, at least until the lessons of Three Mile Island are clear.

Nuclear moratorium legislation is often characterized as antinuclear legislation. It is not. It is pro-safety legislation. I welcome the Times editorial. I request that it be printed in the Record.

The editorial follows:

CAN WE AFFORD "NO NUKES"?

> Even before the Three Mile Island investigations are finished, pressures are rising to ban, or suspend, nuclear power. Moratoriums have been proposed in Congress and last weekend thousands of demonstrators picketed nuclear sites around the world, bearing signs calling for "No Nukes." Some people want to ban any new nuclear plants. Others would halt plants already in construction. Still others would abandon those now in service. Is there a sensible interim answer?
>
> That depends on one's perception of the risks. Ralph Nader yesterday urged Congress to shut down all nuclear plants now operating or under construction. The billions this would cost are, he believes, "a cheap price to pay" for averting catastrophes that could render large areas uninhabitable. Everyone is concerned about nuclear safety in the wake of Three Mile Island. But at this stage of the investigations, it is not yet clear how close to disaster that accident came. We surely take it as a warning to reassess the nation's nuclear commitment—but not as reason to abandon nuclear power before that assessment is complete.
>
> A strong case can be made for a moratorium on starting new nuclear plants, at least until the lessons of Three Mile Island are clear. Society may end up deciding to go slow on nuclear power; it makes little sense to expand nuclear capacity in the interim. Delaying construction permits for plants by, say twelve months, would not impose enormous costs.
>
> The 70-odd plants now operating and the 92 under construction are a more difficult matter. Some areas of the country—including New England, Illinois and South Carolina—are heavily dependent on nuclear plants. And even where installations are only partially built, they represent enormous investment—more than $50 billion, by one estimate. Consider the Long Island Lighting Company's partly built plant at Shoreham, L.I., the target of some 15,000 demonstrators last weekend. It is 80 percent complete and has already cost more than $1 billion. When finished in late 1981, it should generate 30 percent of LILCO's power, reducing oil imports by some 8 million barrels a year and holding down electric bills.
>
> The nation could not easily do without the power supplied by such plants. The White House Council on Environmental Quality, though skeptical about nuclear energy, has predicted that by the year 2000, even under optimistic assumptions, the nation would require all nuclear and coal-fired plants now in construction.
>
> Abandoning the nuclear plants would mean switching heavily to coal, with all *its* environmental and health consequences, or deepening dependence on foreign oil; or conserving more than seems possible—or doing without the energy, with probable blackouts and economic slowdowns. There is, in short, no painless way to abandon nuclear energy. The current reassessments may force society to conclude that nuclear power is unacceptably risky. Until then, the cry for "No Nukes" is unacceptably premature.●

NEW ENGLAND FUEL SHORTAGE

● Mr. DURKIN. Mr. President, the people of New England face the ominous prospect of severe shortages of home heating oil next winter. Unless the administration takes immediate action to replenish supplies, the consequences will be dire for many residents of New Hampshire and New England who could well find themselves without one of the basic necessities for survival—home heating oil.

New Englanders consider conservation a serious matter, and have demonstrated resolute determination in facing each new facet of the energy crisis as it has developed. Reacting to spiraling prices since decontrol of home heating oil and realizing that oil supplies are indeed exhaustible, the people of New Hampshire have responded in good faith, tightened their belts, turned down their thermostats, and shifted to alternate energy sources whenever possible. My constituents have conserved, and yet continue to ask what more they can do. Now, in spite of their heroic efforts, the prospect of severe fuel shortages looms ahead for New England, an area which is still dependent on home heating oil and will be until the time viable alternatives are available to replace conventional fuels.

In his appearance at Portsmouth, N.H., on April 25, President Carter promised to take action to insure that sufficient home heating oil stocks will be available for next winter. In order to have on hand the 240 million barrels by October 1, 1979, of oil necessary to meet the demands of a normally cold winter, the administration must order the oil industry to stock more than 1 million barrels of heating oil a day between now and October 1. Since it is apparent that little action has been taken to fulfill the President's promise made at Portsmouth, I have written to President Carter to urge him to live up to this commitment. I shall submit the text of my letter for the Record.

It is important that we keep a close watch on the level of home heating oil stocks as winter approaches.

According to the latest Department of Energy figures, as of June 8 the level of distillate stocks was only 125.5 million barrels, 14 percent below the comparable level of a year earlier. If we are to reach the necessary level of 240 million barrels by October 1, urgent action is necessary.

We in New Hampshire and New England are not seeking more than our share of limited fuel supplies, but we are asking the administration to accord equal treatment to all sections of our country and recognize the critical importance of heating oil to the survival of the Northeast. I urge the President to take preventive action—now. Dealing with fuel shortages before winter is upon us is more humane and makes more economic sense than reacting to preventable shortages once they have materialized. The President has an obligation to allocate fuels to provide for all of the basic necessities of life. No one questions that the fuel requirements of the American farmers and those who transport agricultural products must be met, but adequate stocks of home heating oil must now be recognized as a top equal priority.

The letter follows:

MAY 30, 1979.

Hon. JIMMY CARTER,
The President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On April 25th at the Portsmouth New Hampshire High School, you promised the people of New Hampshire adequate supplies of home heating oil at a reasonable price next winter. You stressed in the town meeting that you had ordered the Secretary of Energy to have 240 million barrels of home heating oil in stock by October 1, 1979.

According to Department of Energy figures, stocks of home heating oil were 115 million barrels on the 18th day of May, approximately the same level they were at the beginning of the month of May. At the Senate Energy and Natural Resources Committee Hearings on May 21st, DOE Deputy Secretary John O'Leary said that his department had not yet formally ordered the oil companies to build up heating oil stocks. Representatives of the major oil companies testified that DOE had not formally ordered them to build up heating oil stocks. At this point, if your promise is not met, at least 1 million barrels of home heating oil a day will have to be stocked over the next four months.

Since your promise at Portsmouth, press reports indicate that you have assured California adequate gasoline supplies, as well as stocks of diesel oil for the agriculture and trucking industries. While I agree that we must have adequate diesel fuel for food production and that truckers must be able to get the food to market, I am concerned that the cumulative effect of these three reported actions puts further strain on the promise to stockpile 240 million barrels of home heating oil in October.

I emphasize again that between now and October 1st at least 1 million barrels of home heating oil a day will have to be reserved if we are to meet the 240 million barrel figure.

If more time is wasted and decisive action is not taken by you immediately under the powers vested solely in you by law, the 240 million barrel stockpile of home heating oil by October 1, the bare minimum necessary for a normally cold New England winter, cannot be met. I cannot stress strongly enough that the result will be severe hardship and economic dislocation to the people I represent.

I respectfully urge you to immediately take all steps within your power to assure that your promise of an adequate supply of home heating oil at a reasonable price to the people of New Hampshire and New England is fulfilled.

Sincerely,

JOHN A. DURKIN.●

HAWAII CELEBRATES BIRTHDAY OF KING KAMEHAMEHA I

● Mr. MATSUNAGA. Mr. President, the people of the State of Hawaii yesterday celebrated the birthday of King Kamehameha I, the first monarch who united all the Hawaiian Islands into one Nation. In the Aloha State, yesterday was a holiday, marked by parades and luaus (feasts). Here in Washington, D.C., the Hawaii congressional delegation joined the members and guests of the Hawaii State Society, led by its most competent native Hawaiian President Don Van Gieson, in the annual observance of Kamehameha Day, with a sumptuous luau, featuring genuine Hawaiian food, last Saturday, and with a solemn tribute to the memory of Hawaii's first king by draping his golden statute in the Nation's Capitol with maile and flower leis flown in from Hawaii, on Sunday. Hawaii's first voting representative of native Hawaiian ancestry to the U.S. Congress, the Honorable DANIEL KAHIKINA AKAKA was the keynote speaker at the latter ceremony. Authentic Hawaiian pule, chants, and hula dances were featured at both events, under the able direction of Harold Mahina Bailey and Tom Kamaki Kanahele, both of whom deserve recognition for making Hawaiiana popular in the Nation's Capital.

Because he was an unusually able and enlightened leader, King Kamehameha I is held in high esteem, similar to that accorded to George Washington, Thomas Jefferson, and other Founding Fathers of the United States of America. Like Washington and Jefferson, Kamehameha was sought by his people to lead them; he himself did not initially take affirmative action to become their leader.

Kamehameha's help was first sought by his neighbors in the Kohala district of the Big Island of Hawaii following the death of the Big Island's ruling chief in the latter part of the 18th century. For fear that the new island chief would take away their fishing rights and farmlands, Kamehameha's neighbors urged him to lead them in the defense of their rights Kamehameha succeeded in overthrowing the anointed Big Island chief. Sparked by an ambition, kindled by the promise of modern weapons of warfare from Westerners, Kamehameha then engaged in a "bitter war," which lasted almost 10 years, and succeeded in consolidating all the islands of Hawaii under a single government.

King Kamehameha I won the support of the newly conquered peoples under his rule through judicious use of his new power and the promulgation of just laws. An outstanding example is the "Law of the Splintered Paddle." which he promulgated almost immediately after becoming ruler of a united Hawaii. His proclamation read:

O my people,
Honor thy god;
Respect alike (the rights of) men great and
humble;
See to it that our aged, our women and
our children
Lie down to sleep by the roadside
Without fear of harm,
Disobey and die.

It is entirely appropriate that the only statue of a king, that of King Kamehameha I of Hawaii, should stand in Statuary Hall of the U.S. Capitol, along with those of our other Founding Fathers, for he, even as a ruling monarch, believed in human rights for the governed. We the people of Hawaii are proud to share King Kamehameha's achievements with our fellow Americans.●

SOVIET GENOCIDE IN UKRAINE

● Mr. GOLDWATER. Mr. President, on May 15 I discussed the issue in the Senate of whether the proposed Genocide Convention would have an evenhanded application to the atrocities committed by Communist totalitarian regimes which were parties to the convention. At that time I submitted the decision by the International Commission of Jurists in 1960 as proof that Communist China had committed genocide in Tibet.

The Commission and its Legal Inquiry Committee found conclusive evidence that Red China had systematically intended to destroy religious beliefs in Tibet and had perpetrated such heinous crimes in pursuit of this end as killing religious leaders because of their religious beliefs and forcibly transferring large numbers of children to China in order to prevent them from having a religious upbringing.

Today, I wish to draw attention to the similar act of genocide committed by the Soviet Union. While there are many Soviet crimes that I could focus on, I will discuss today the documented suppression and attempted extermination of religion in Ukraine.

Mr. President, the historical record provides overwhelming evidence that the Russian Communists have ruthlessly persecuted religious groups in Ukraine. The historical facts reveal a deliberate attempt by the Soviet Government to destroy religions as such in Ukraine by methods which fall specifically within the terms of the Genocide Convention.

The planned and savage persecution of Ukrainian religions originated in the official Soviet policy to enforce atheism and in the refusal of the true Ukrainian religions to be used as an instrument of the Russian Government.

It is true that there were bloody persecutions of the Ukrainian church under the Czarist regimes in the 17th and 18th centuries. The modern day Communist czars have merely developed the practices of their predecesors to new heights of cruelty. The Communists have attempted to control the whole religious movement in Ukraine so that they can manipulate it at will.

Thus, the Ukrainian Orthodox Autocephalic Church in Ukraine was totally liquidated and destroyed during the period 1927 to 1936. In the same fashion, the Soviet Government destroyed attempts of church leader Metropolitan Sheptytsky to reestablish the Ukrainian Catholic Church in Kiev, the capital of Ukraine.

The outbreak of the revolution in 1917 enabled Ukrainians, whose ancestors had been Catholics and who had been forced to accept Russian Ortholoxy, to return to Catholicism.

Both the Ukrainian Orthodox Autocephalic Church and the renewed Ukrainian Catholic Church could not be tolerated by the Soviets. Both churches stood firmly on Christian principles and the Christian faith. The measures of the Soviet Government against the churches were ruthless.

Church leaders and the faithful were arrested at random and deported or executed as "enemies of the people." "Liquidating Committees" were set up with the power to close churches and confiscate church property.

All church schools were closed down, while church treasures and libraries were confiscated. Soviet post offices refused to accept any church literature.

The Soviet Government organized public antireligious debates, at which agitators ridiculed religion and the church. Those who dared to defend the church were marked for arrest and deportation.

In the years 1927 through 1936, the entire leadership of the Ukrainian Orthodox Autocephalic Church was physically destroyed; 9 archbishops, 22 bishops, and 2,400 priests were arrested, deported, or executed.

At this time, the Soviet Government destroyed or transformed numerous Ukrainian churches, chapels, and monasteries, priceless monuments of the Ukrainian culture. For example, in 1934 the Communists destroyed Saint Nicholas Cathedral, which had been erected in 1690, destroyed several 12th century cathedrals, transformed others into antireligious museums, converted one into a state hog-raising farm, another into a machine repair shop, and another into a movie house.

Then, with the outbreak of World War II and the fall of Poland, the western and northern Ukrainian lands found themselves under Russian Communist occupation. In June of 1941, the German-Russian war broke out and until the end of 1944 all Ukrainian lands were under the domination of Nazi Germany. Although the Germans treated the Ukrainians very harshly, the Ukrainian Catholic and Ukrainian Orthodox Autocephalic Churches were not destroyed.

A widespread persecution of these churches began with the arrival of Soviet troops in 1944, especially after the death, reportedly by poisoning by the Soviet police of the chief religious leader.

At this point in time, the Soviets began a planned nationwide persecution of Ukrainian Catholic priests and the forced absorption of the Catholic Church into the Government-controlled Orthodox Church.

In Kiev, the Soviet Government conducted a secret trial of all Ukrainian Catholic bishops, who were charged with "high treason" and sentenced to concentration camps.

Also, all professors of Ukrainian Catholic seminaries, and all members of Ukrainian Catholic orders of fathers and nuns were arrested. All monasteries were closed down or converted to government uses or simply razed to the ground.

Any Ukrainian Catholic priests who would not declare openly for the Soviet Government church were arrested and deported. Hundreds of priests were compelled to give up their duties officially. They continued, however, to administer them secretly, thus making the Ukrainian Catholic Church the "underground church."

After the destruction of the church in western Ukraine, the Soviet Government advanced to the last Ukrainian territory where the Catholic Church still existed, Carpatho-Ukraine. This land had been seized by Hungary, but at the end of World War II Soviet troops occupied it and in 1945 it was incorporated into the Soviet Union.

Immediately, mass arrests and "show trials" of Catholic priests became daily occurances at which the priests were charged with being "thieves." By 1950 the church had been liquidated.

As a result of terror and bloodshed, threats and barbarity, the Soviet Communists had completely destroyed the Ukrainian Catholic Church. Deported and murdered were 13 bishops and other high leaders and out of 3,000 priests, 50 percent were deported or killed. Another 20 percent escaped abroad and the rest, who remain alive, are underground.

Of 3,040 parishes and 4,400 churches and chapels, one-fourth were seized and given to the Communist-controlled "Russian Orthodox" Church and the remainder were either closed or destroyed.

The Soviet Government destroyed 15 monasteries and closed 9,900 Catholic primary and 380 Catholic secondary schools.

All of this was done, mind you, under the Soviet Constitution, which in article 123, supposedly guarantees every Soviet citizen a right to free religious worship.

Unfortunately, the tragic history of the Ukrainian Catholic and other religions in Ukraine has not been erased today. The persecution of religious communities in Ukraine continues even now.

Mr. President, as evidence of this fact, I need do no more than point to the statement by Vlatimir Shcherbitsky, first secretary of the Ukrainian Communist Party, who is reported by the Associated Press to have told party activists in Kiev that "expanding the atheistic education of the population remains an urgent task." In other words, the Communist dictators in occupation of Ukraine have underlined their intent of continuing to enforce atheism and to deprive the occupied peoples of freedom of religious choice.

Mr. President, I should point out that it is not only the Catholic Church and Ukrainian Autocephalic Church that has been cruelly persecuted in Ukraine. The Ukrainian Lutheran Church has been banned in Ukraine since World War II. Seventh Day Adventists are not allowed to offer religious instruction to their children. The Jehovah's Witnesses are banned in Ukraine.

The Jewish population has long endured religious and national persecution in Ukraine. Recently, the Jewish cemetery in Sarny has been turned into a refuse dump. There are no facilities in Ukraine for the production of religious articles and no Judaic publications. There is reportedly only one active Rabbi remaining in Ukraine where some 800,000 Jews reside.

Mr. President, the practices of the Soviets in Ukraine make it clear beyond any doubt that the Marxist atheists have never abandoned their goal of eliminating what they call all "religious remnants" in society.

In Ukraine, it is forbidden to teach religion to children in any educational institution, even under the auspices of a religious association. Theoretically, parents may instruct in religion, but if they attempt, they are exposed to public harassment and may be threatened with the loss of their children. The organized, planned, and ruthless antireligious activities of the Communist dictators in Ukraine is conclusive proof that the Soviets have committed and are committing acts which civilized nations condemn as genocide. There is clear evidence of Soviet intent to destroy religious groups as such. There is unchallenged evidence of killing and serious bodily harm to achieve the destruction of religion.

Conspicuous religious figures have been killed in an attempt to persuade others to give up their faith. And, as the Legal Inquiry Committee of the International Commission of Jurists stated in 1960, it is not necessary in order to prove intent of the eradication of religion "to show that those who have as a result been compelled to abandon or have chosen to abandon that same faith have also been killed." The Committee explained:

> The man who no longer adheres to his religious faith no longer belongs to the religious group, and as such he is outside the category of persons whom it is sought to destroy.

Under this standard, it is clear that Soviet antireligious practices cannot be brushed aside under the Genocide Convention as "political" actions which are exempt from the convention. Instead, Soviet antireligious crimes in Ukraine are clearly within the scope of the convention since they are committed with the clear intent to destroy entire groups as practicing religious bodies.

Mr. President, Communist Russia has imposed a ruthless and inhuman system upon Ukraine and the Ukrainian people. At least 5 million Ukrainian Catholics, among other religious believers, have had to endure suffering and persecution as a result of official Soviet policies. It well may be that ratification of the Genocide Convention, which in my interpretation clearly applies to Communist crimes of this nature, will enable the United States to raise the plight of the Ukrainian people before the world in an international court or otherwise.

On May 16, my friend from Wisconsin, Senator **PROXMIRE**, who is a leading proponent of the Genocide Convention, said that he agrees with my interpretation of the convention as applying with equal force to Communist nations as any others. I am pleased at the Senator's response and accept it as his sincere conviction.

However, I would like to receive further assurances from the State Department itself, and if and when the convention should reach the Senate floor, from the Foreign Relations Committee, that the convention would not be applied in one way to non-Communist nations and in another way to Communist totalitarian regimes. In particular, I am still concerned that Communist crimes might be called "political" actions and thereby be made exempt from the convention.

For example, if religious genocide would be otherwise proven under the convention, I am seeking assurance that the dictators in the Soviet Union or Communist China could not escape condemnation under the convention by declaring that their antireligious activities are purely "political" in nature.

Mr. President, I shall continue making a close study of the Genocide Convention from this standpoint and I would like my colleagues to do the same.

Finally, I ask that there may be printed in the Record the text of a resolution which I and several other Senators have introduced calling attention to the suppression of religion in Ukraine.

The material follows:

S. Con. Res. 9

Concurrent resolution relating to the restoration of the free exercise of religion in Ukraine

Whereas the Charter of the United Nations, as well as its Declaration of Human Rights, sets forth the objective of international cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion . . ."; and

Whereas in the so-called Brezhnev Constitution of the Union of Soviet Socialist Republics article 52 unequivocally provides that "Freedom of conscience, that is, the right to profess any religion and perform religious rites or not profess any religion, and to conduct atheistic propaganda, shall be recognized for all citizens of the United Soviet Socialist Republic. Incitement of hostility and hatred on religious grounds shall be prohibited;" and

Whereas not just religious or civil repression but the attempted genocide—the absolute physical extermination—of both the Ukrainian Orthodox and Catholic Churches, and all other truly independent religions, in a nation of about fifty million persons brutally violates the basic civilized rights enunciated above: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the President of the United States of America shall take in the name of human rights immediate and determined steps to—

(1) call upon the Government of the Union of Soviet Socialist Republics to permit the concrete resurrection of both the Ukrainian Orthodox and Catholic Churches and other independent religions in the largest non-Russian nation both within the Union of Soviet Socialist Republics and in Eastern Europe; and

(2) utilize formal and informal contacts with Union of Soviet Socialist Republics officials in an effort to secure the freedom of religious worship in places of both churches and all other independent religions as their own constitution provides for; and

(3) bring to the attention of all national and international religious councils the nature of this outstanding Stalinist crime and perpetuated violation of basic human rights, with an appropriate address to the mobilization of their resources toward the realization of the objective of this resolution.●

MARTHA'S VINEYARD PAYS TRIBUTE TO MARY MURTAGH

● Mr. KENNEDY. Mr. President, the sudden tragic death of Mary Murtagh last month brought a special shock and sadness to her many friends on Martha's Vineyard.

As a member of my staff, Mary had been responsible for the Island Trust legislation that I have sponsored in the Senate. In that work, she traveled frequently to Martha's Vineyard and won the respect and admiration and affection of all who knew her.

Recently, the Vineyard Gazette paid tribute to Mary Murtagh with an eloquent article and editorial that expressed the extremely satisfying relationship between Mary and the people of the Island. I am confident that Mary's friends will find these materials of great interest and I am pleased to submit them for the Record.

The tributes follow:

[From the Vineyard Gazette, May 25, 1979]

Miss Mary Murtagh Was Liaison Chief

Miss Mary Catherine Murtagh, 38, died unexpectedly on May 14 at the George Washington University Hospital. She was the director of liaison for the office of Technology Assessment in Congress.

Miss Murtagh won the respect and affection of many Islanders for her tireless efforts on the Vineyard's behalf as a representative of Sen. Edward M. Kennedy in connection with the senator's Island Trust legislation. She was formidable but endlessly agreeable, determined but fun. She had a reassuring air of confidence and expertness, which she coupled with a wry humor that never failed to break the tension.

Miss Murtagh was born in Detroit, Mich., and was graduated from the University of Detroit in 1962. She worked for the Social Security Administration in Detroit, New York and Baltimore before moving to Washington, where she began volunteering for Senator Kennedy's staff.

In 1970, Senator Kennedy hired her as a legislative assistant, and she quickly became adept at handling Massachusetts problems. Among her most successful efforts for the senator were work on the 200-mile fishing limit, now law, and the creation of the Boston National Historic Parks to include many of the city's important sights, also now law. She was involved in dozens of other issues, from fishing to community development.

While working for Senator Kennedy, she earned a law degree in 1976 at Georgetown University by attending night classes. She was a member of the District of Columbia Bar, the American Bar Association, and the American Civil Liberties Union.

She is survived by her mother, Mrs. Anna Murtagh of Southfield, Mich., and a sister, Mrs. Margaret Ann Brylski of Dearborn, Mich.

A Funeral Mass was held on May 19 at St. Maurice Church in Livonia, Mich. Her family suggests that memorial gifts be sent in her name to the Community for Creative Non-Violence, 1329 N street NW, Washington, D.C.

[From The Vineyard Gazette, May 25, 1979]

Remembering Mary Murtagh

To many Vineyarders news of the death of Mary Murtagh brought a sense of personal loss. She came into our lives in the early days of the Kennedy Bill, trying with patience and the exercise of much wisdom to accommodate the provisions of the bill and the grounds of Island opposition. She was resourceful but never devious. Her good will did not fail, and her example in a time of tawdry politics restored one's faith in the standards and honesty still to be found in the democratic political process.

We knew her as a friend, and as one Vineyarder who knew her as well as any, and perhaps better, said very simply, "She tried her best to help us."

Mary could be called self-effacing, but perhaps "selfless" is the better term, for in the quiet exercise of her assignment she left an impress of her own. Even when she was not much noticed in the course of discussion or in logistics or in some variation of a supporting role, one knew she had been present.

In the end, if it was the end, the bill was halted. The extremes to which attempted accommodation had been pushed were emphasized at the final hearing in Vineyard Haven when Congressman John F. Seiberling of Ohio said, "It is my interpretation that in no way does this legislation represent federal intrusion. On the other hand, it represents almost a blank check to local communities. It is local intrusion into the U.S. Treasury." But the president of the Martha's Vineyard Chamber of Commerce still declared: "We are simply asking that Congress end the effort to put the federal government in charge of our lives on Martha's Vineyard."

These statements are not quoted to revive old bitterness but to show that Mary Murtagh did not fail. The light of history will no doubt some day show what the real failure was and how it came.

Many Vineyarders, without thinking about it, had expected to see Mary Murtagh again, aside from any political mission, on such a visit as she had looked forward to and would have enjoyed in the alertness and richness of her mind.●

SUPPORT FOR THE NAVAL RESERVE

● Mr. HUMPHREY. Mr. President, I would like to commend the distinguished Senator from Kansas for the valiant battle he has waged against administration attempts to emasculate the Naval Reserve. As a freshman Senator, I quickly became aware of Senator Dole's hard work in this field. Earlier this session, Senator Dole and 24 other Members of the Senate joined me in a letter to Chairman Stennis requesting his help in protecting the Naval Reserve from the capriciousness of the present administration. Over one-quarter of the U.S. Senate, Mr. President, is already on record for favoring a strong Naval Reserve.

My colleagues and I feel strongly that, it is time that we put to rest, once and for all, annual moves by the administration to sap the vitality of the Reserve. The Naval Reserve serves as a crucial component of the Nation's capability to respond rapidly and effectively to a crisis in Europe. The Naval Reserve enhances the credibility of our security guarantee. The Naval Reserve, along side our other service reserves, underpins our strategy of flexible response.

In the DOD annual report for fiscal year 1980, Secretary of Defense Harold Brown admits, and I quote:

> Current and projected threat estimates indicate that both a rapid build-up and substantial replacement assets would be needed to fight a war in Europe. Under the total Force policy, we rely upon the Selective Reserve to provide immediate combat and combat support in theatre, as well as follow-on additional combat and tactical support, and immediate augmentation of active strategic airlift and naval forces units.

Now that the Soviets have caught up with the United States in strategic arms, our conventional forces assume added importance in our Nation's overall defense strategy. Particularly important is our Nation's ability to respond rapidly and decisively to a broad spectrum of threats. The Naval Reserve, Mr. President, insures that the Navy will be able to play such a role should it be called upon to do so. The Naval Reserve provides the Navy with a surge capability that it otherwise would not have.

Nevertheless, Secretary Brown endorsed the administration's attempt to reduce manpower in the Naval Reserve from 87,000 to 48,700.

In testimony given before Senator NUNN's Manpower and Personnel Subcommittee, the devastating impact the administration's cuts would have on the Naval Reserve was outlined. In addition to the cut in the Naval Reserve's drilling strength, the administration's proposed fiscal year 1980 Defense budget would result in the loss of: 4 air logistics support squadrons; 2 light attack helicopter squadrons; air composite squadrons; 20 Naval Reserve destroyers; 9 construction battalions; one-half of ship intermediate maintenance activities; one-third of cargo handling battalions; all the cryptologic communications personnel; naval beach group augmentation units; one-third of Navy's total force intelligence community; the entire auxiliary activities program (4,800 Reservists), in weather, intelligence, communications, and research and development, and, finally, the entire support activities program of 16,200 Reservists—management headquarters, medical, logistics, training, and so forth.

These cuts were recommended by the President despite the testimony of Adm. Thomas B. Hayward, the Chief of Naval Operations, before Congress last February in which he stated, and I quote:

> Let me make it unequivocally clear that I believe the Naval Reserve is an essential part of the Navy's wartime fighting capability. Its importance must grow as the margin between the active Navy's capabilities and those of its Soviet competitors narrows. In reality, the Selected Naval Reserve is vital to our fulfillment of that portion of our statutory mission relating to the conduct of sustained operations at sea . . . this effort requires better management, more resources and greater support.

Why then does the administration insist on making the Naval Reserve the object of such severe cuts? Is it just shortsightedness on the President's part? Or is there a deeper cause? I fear part of the answer, Mr. President, rests with the false sense of complacency that has set in on this Nation concerning defense matters. Admiral Hayward summed up the net effect of this complacency in a recent address where he stated that:

> Long periods of peacetime and long periods without turning to mobilization are unfortunately periods in which fundamental truths are set aside in the interests of cutting cost and so-called efficiency.

It is a fundamental truth, Mr. President, that in a time of crisis, the Reserve could mean the difference between supporting our troops and allies or not.

I will remind my distinguished colleagues, that after the disaster at Pearl Harbor, which triggered our belated entry into World War II, the Naval Reserve was the U.S. Navy. It provided us with the valuable time we needed to rebuild our fleet. Mr. President, today our Navy is again under attack, but this a more subtle attack than that waged on the Navy by the Japanese in World War II. Today, our Navy is being decimated by misplaced budgetary priorities.

The surface ship building program approved by the President virtually assures a severe rundown in our naval capabilities. Let us not let our Naval Reserve be scuttled, too. If war should break out again—and no Member of this distinguished body wants that, Mr. President—we will not enjoy what in retrospect was a great luxury in World War II, and that is, the time to catch up with the enemy. In such a case, Mr. President, the Naval Reserve might once again have to come to this country's rescue.●

● Mr. DOLE. Mr. President, the turmoil in the Naval Reserve has been of much concern to many of us during the past several years. If I recall correctly, we have been fighting an annual Naval Reserve cutback proposal for the past 6 years. Since 1973 we have seen the Naval Reserve strength steadily decrease from 129,000 billets to an administration proposed level of 48,000 for fiscal year 1980. For the past 3 years the President's budget has requested an inadequate level of Naval Reserve billets. For fiscal years 1977 and 1978 the administration requested a level of 52,000 billets. Last year, fiscal year 1979, it was further reduced to a level of 51,400, this year, of course, we see even a much greater reduction proposed by the administration to a level of 48,000. It appears, Mr. President, that the administration will never understand or listen to what Congress has said regarding this matter, for they continue to ignore congressional recommendations in establishing and maintaining an effective and combat-ready Naval Reserve.

Mr. President, this marks the fifth year in a row that the Senator from Kansas has fought the demise of the Naval Reserve and urged others to support a stable strength of this very valuable and economic asset. This year I was pleased to join my colleague Senator HUMPHREY from New Hampshire and others in a letter sent to Chairman STENNIS requesting assistance in protecting the Naval Reserve from the annual attempt to dismantle it.

Mr. President, if we are to maintain the freedom in this country, if we are to make meaningful progress in expanding freedom throughout the world, we must remain strong and vigilant. America's voice must be strong, our commitment of national strength unquestionable. We must fight for policies which keep America militarily strong so that the time will never come when we will no longer be able to negotiate with our adversaries, but only agree to the terms presented to us.

Mr. President, once again, I would like to commend my colleague from New Hampshire (Senator HUMPHREY) for his efforts in creating what appears to be a new and positive trend in the committee's recommended fiscal year 1980 Naval Reserve billet level of 87,000.●

REGULATORY IMPACT STATEMENT ON SENATE JOINT RESOLUTION 28

● Mr. BAYH. Mr. President, on May 1, 1979, the Committee on the Judiciary reported Senate Joint Resolution 28, a proposed constitutional amendment to abolish the electoral college and establish direct election of the President and Vice President.

Through an oversight, the report filed on Senate Joint Resolution 28 did not include a regulatory impact statement, as required by rule 29.5 of the Standing Rules of the Senate.

Mr. President, in accordance with rule 29.5 of the Standing Rules of the Senate, the committee does not consider that enactment of Senate Joint Resolution 28 would have any regulatory impact.

ORDER OF PROCEDURE TOMORROW—DOD AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, upon the disposition of the two orders on tomorrow, the Senate will automatically resume consideration of the pending military procurement authorization; am I correct?

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. ROBERT C. BYRD. Am I also correct in stating that a call for the regular order will not bring down this bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Now, Mr. President, I ask unanimous consent that, when the Senate resumes the consideration of this bill on tomorrow, Mr. BUMPERS be recognized to call up his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this means that, at around 10:30 a.m. tomorrow, the Senate will resume consideration of the pending measure, at which time, the distinguished Senator from Arkansas will be recognized to call up his amendment. There is a time limitation on that amendment of not to exceed 1 hour. Presumably, there will be a rollcall vote on the amendment, so Senators should be prepared for a rollcall vote by or before 11:30 a.m., because it may be that one or the other side, or both sides, will yield back part of that time.

Mr. President, I wonder if it would be agreeable to enter an order that, once the Senate goes to third reading, the Senate will vote then without further debate.

Let me state what I had in mind. I am not proposing it as a request at the moment. I am wondering out loud as to whether or not, once the Senate reaches third reading—the distinguished chairman is present.

I was just indicating this thought that, once the Senate reaches third reading on this bill, there be no further debate then. We go to third reading and immediately vote on the bill. This does not waive the right of Mr. NUNN to call up his amendment. He could call it up, in which event, there will be hours of debate before the bill gets to third reading. If he decides overnight not to call up the amendment, then—I have not made the request yet. I am just talking for the RECORD.

My thought is that if Mr. NUNN does not call up his amendment and we dispose of the amendment by Mr. BUMPERS, that is the only other amendment that can be called up anyhow under the agreement. We are limited to the Bumpers amendment and any amendments thereto and the Nunn amendment, if it is proposed, and any amendments thereto. That is all that can be called up.

I am simply saying that, once we have disposed of those two amendments, one which is sure to be called up, the other which may or may not be, we go to third reading and vote.

If there is a feeling that we cannot agree to that tonight, it is all right with me. What do the Senators think?

Mr. STENNIS. My response, Mr. President, is that I just have this thought: It might be that the Senator from Georgia (Mr. NUNN) might want to pursue the matter. There really was not any time limitation put on him.

Mr. ROBERT C. BYRD. That is right.

Mr. STENNIS. Taking it in its broadest significance, he could go beyond 12 o'clock or any o'clock until there is agreement.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Under the circumstances, though, if the Senator will yield, I do not think the Senator from Georgia may speak unless he does offer the amendment, if the majority leader's suggestion is carried out. Then perhaps the conversation on it might lead to the situation where he might not offer the amendment. Am I correct on that?

Mr. STENNIS. Certainly, I would not close the door on just such an event as that happening. But I do not believe we closed that door in the agreement, as I understand it.

Mr. ROBERT C. BYRD. This agreement would not preclude the Senator from Georgia from discussing this matter. We could have a very full discussion of it, because the request would be that, once the bill reaches third reading, there be no further debate.

Let us say we disposed of the amendment by Mr. BUMPERS. No other amendments would be in order other than Mr. NUNN's, but he could rise. He would not have to offer his amendment in order to talk. We could have a full discussion of it, which could last as long as the Senate wished. Then he could decide to offer it or not offer it. If he did not offer it, we would go to third reading and then have a vote on the bill.

Mr. STEVENS. If the majority leader will yield, it is not my understanding that there would be any debate on an amendment if it is not offered. Senator NUNN reserved the opportunity to offer an amendment. If he offers that, it is debatable. If not, no other Senator can offer an amendment. I do not think we have a situation where any debate would be in order.

Mr. ROBERT C. BYRD. Yes.

Mr. STENNIS. On the bill.

Mr. STEVENS. On the bill?

Mr. ROBERT C. BYRD. Yes. Before third reading.

Mr. STEVENS. Any Senator could debate at that time?

Mr ROBERT C. BYRD. Yes, indeed.

Mr. STENNIS. And after third reading, we can debate it.

Mr. ROBERT C. BYRD. As it is now. I was simply trying to have an immediate vote on the bill once we completed third reading.

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. The agreement, may I say to my friend, the acting Republican leader, does not provide for going immediately to third reading, once the Bumpers amendment has been disposed of.

Mr. STEVENS. But any other amendment being offered——

Mr. ROBERT C. BYRD. Other than by Senator NUNN.

Mr. STEVENS. By Mr. NUNN?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I would be happy to yield to the Senator from Mississippi for that matter as long as——

Mr. STENNIS. Well, I think that is true about the only two amendments eligible, of the two mentioned. The question is, Mr. NUNN offering his amendment after the Bumpers amendment is disposed of, then speak on it, on and on, or anyone else could.

Mr. ROBERT C. BYRD. He could.

Mr. STENNIS. We did not cut that off in the agreement.

I wanted to say, let us vote at 12, but I was afraid it would stir up something, so I kept quiet.

Mr. ROBERT C. BYRD. Yes.

Perhaps it would be better to leave it like it is then.

Mr. STENNIS. Then we will try to bring it to a head by 12 o'clock. We will try to.

I want to ask for a rollcall vote on final passage.

Mr. ROBERT C. BYRD. All right.

Mr. STENNIS. It is such an important bill.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Under the circumstances, if the majority leader will yield, would it not be wiser to take a look at this when we have the opportunity to talk to the Senator from Georgia and see what his wishes are tomorrow morning?

Mr. ROBERT C. BYRD. All right.

Mr. STEVENS. And the timeframe from there?

Mr. ROBERT C. BYRD. Yes. All right.

Mr. STENNIS. We did not cut him off.

Mr. ROBERT C. BYRD. Yes.

ORDER FOR STAR PRINT—SENATE CONCURRENT RESOLUTION 9

Mr. STEVENS. Mr. President, on behalf of the Senator from Arizona (Mr. GOLDWATER), I ask unanimous consent that there be a star print made of Senate Concurrent Resolution 9 so that the title shall be corrected to read "Relating to the Restoration of the Free Exercise of Religion in Ukraine."

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 1 minute to consider the nomination on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

FEDERAL RESERVE SYSTEM

The assistant legislative clerk read the nomination of Emmett John Rice, of New York, to be a member of the Board of Governors.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONVENE AT 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under the order, the Senate will come in at 9 o'clock tomorrow morning. I ask unanimous consent that the convening hour be changed to 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER LIMITING RECOGNITION OF TWO LEADERS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be reduced, if it is agreeable to the acting Republican leader, to 2 minutes each tomorrow.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS ZORINSKY AND SASSER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at the conclusion of the orders for the recognition of the two leaders, the following orders be entered: Mr. **ZORINSKY** for not to exceed 15 minutes and Mr. **SASSER** for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, is there any other order for the recognition of Senators that has been entered heretofore?

The PRESIDING OFFICER. No; there is not.

Mr. ROBERT C. BYRD. I thank the Chair.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9:30 a.m. After the two leaders are recognized for not to exceed 2 minutes each tomorrow, there will be two orders for the recognition of Senators for not to exceed 15 minutes each, at the conclusion of which the Senate will resume consideration of the military procurement bill.

Mr. **BUMPERS** will at that point be recognized to call up his amendment on which there is a 1-hour time limitation. There will likely be a rollcall vote on that amendment, which would mean this would reach a vote by around 11 a.m.

On the disposition of that amendment, Mr. **NUNN**'s amendment is the only remaining amendment that can be called up at that time, which would be the amendment that has been discussed here this evening, which is sponsored by Mr. **NUNN** and others, dealing with registration.

If that amendment is called up, there is no time limitation on it. If it is not called up, there can be, hopefully, an agreement to call the amendment up in the form of a bill at a definite time and date, or within a definite timeframe certain, and then the Senate could proceed to third reading and final passage of the military procurement authorization bill.

That is about the long and short of it.

There will be a rollcall vote on final passage of the bill and, depending on what Mr. **NUNN**'s decision is, that rollcall vote on final passage of the bill could occur as early as 12 o'clock or 1 o'clock tomorrow.

If the military procurement bill is disposed of on tomorrow, the next order of business would be the Endangered Species Act, Calendar Order No. 161, on which there is a time agreement.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:30 a.m. tomorrow.

The motion was agreed to and at 9:47 p.m., the Senate recessed until tomorrow, Wednesday, June 13, 1979, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 12, 1979:

THE JUDICIARY

George Arceneaux, Jr., of Louisiana, to be U.S. district judge for the eastern district of Louisiana, vice a new position created by Public Law 95–486, approved October 20, 1978.

FEDERAL COMMUNICATIONS COMMISSION

Tyrone Brown, of the District of Columbia, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1979 (reappointment).

OVERSEAS PRIVATE INVESTMENT CORPORATION

Allie C. Felder, Jr., of the District of Columbia, to be a member of the board of directors of the Overseas Private Investment Corporation for a term expiring December 17, 1981 (reappointment).

SECURITIES INVESTOR PROTECTION CORPORATION

Brenton H. Rupple, of Wisconsin, to be a director of the Securities Investor Protection Corporation for a term expiring December 31, 1981 (reappointment).

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. La Vern Erick Weber, 445–16–9508, Army of the United States (major general, Reserve of the Army for service in the Army National Guard of the United States).

Chaplain (Brig. Gen.) Kermit Douglas Johnson, [redacted], Army of the United States (colonel, U.S. Army), for appointment as Chief of Chaplains, U.S. Army, as major general in the Regular Army of the United States and as major general in the Army of the United States, under the provisions of title 10, United States Code, sections 3036 and 3442.

Chaplain (Col.) Patrick John Hessian, [redacted], Army of the United States (major, U.S. Army), for appointment as Deputy Chief of Chaplains, U.S. Army, and as brigadier general in the Army of the United States, under the provisions of title 10, United Sttaes Code, sections 3036, 3040, 3442, and 3447.

IN THE NAVY

The following-named officer having been designated for commands and other duties of great importance and responsibility, in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. William J. Cowhill, U.S. Navy.

The following-named officers having been designated for commands and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. John D. Johnson, Jr., U.S. Navy.

Vice Adm. William L. Read, U.S. Navy, (age 52) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

The following-named officer having been designated for commands and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. Ernest R. Seymour, U.S. Navy.

The following temporary rear admirals of the U.S. Navy for permanent promotion to the grade of rear admiral, pursuant to title 10, United States Code, sections 5780, 5781, and 5791:

LINE

Karl J. Christoph, Jr.
Thomas M. Hopkins
James H. Webber
James W. Lisanby
William G. Sizemore
Grover M. Yowell
Warren C. Hamm, Jr.
Edwin Barrineau
Robert W. Carius
Jack F. O'Hara
James A. Winnefeld
Crawford A. Easterling
Paul A. Lautermilch, Jr.
Thomas M. Ward, Jr.
Thomas R. Kinnebrew
Daniel G. McCormick, III
Henry J. Davis, Jr.
Frederick G. Fellowes, Jr.
Alexander M. Sinclair
Milton P. Alexich
Huntington Hardisty
Curtis B. Shellman, Jr.
Floyd H. Miller, Jr.
David S. Cruden
Albert J. Baciocco, Jr.
Clyde R. Bell
Arthur S. Moreau, Jr.
Bernard M. Kauderer
Charles O. Prindle
Frederick C. Johnson
Lowell F. Eggert
Conrad J. Rorie
Samuel W. Hubbard, Jr.

SUPPLY CORPS

William J. Ryan
Andrew A. Giordano
Joseph L. Flores

CHAPLAIN CORPS

Ross H. Trower

The following-named cadets to be permanent ensigns in the line of the U.S. Navy, subject to the qualifications thereof as provided by law:

Timothy P. Rooney
Paul E. Thurman
Peter J. Zarate

The following-named (Naval Reserve Officers Training Corps candidates) to be appointed ensigns in the line or staff corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

*James D. Darnell
Marvin H. Heinze
David H. Lewis
Ronald E. Weisbrook

The following-named temporary chief warrant officers to be appointed permanent chief warrant officers, in the line and staff corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

Harlon R. Arnold
William A. Barcus, Jr.
Steven D. Beaver
Herman M. Benjamin
James O. Bridges
Albert L. Corliss, Jr.
James V. Dicanio, Jr.
Leonardo G. Fernandez
John A. Fitch
Robert T. George, Jr.
David L. Giroux
Gregory E. Monroe
Wayne F. Oldroyd
Richard L. Pitzer
Gilbert C. Poppe
Glenn T. Rogers
Jeffrey L. Sewing
James A. Sheldon
Robert J. Smith
Dennis D. Teegarden
Foy C. Underwood
Allan R. Waters
Allan F. White
Ronald R. Woodruff

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*See next page.

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a permanent captain, in the line of the U.S. Navy, subject to the qualifications therefor as provided by law:

Capt. William H. Lynch, USN (ret.)

The following-named Navy enlisted candidates to be appointed ensigns in the Medical Service Corps, in the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law:

Edwin B. Abeya
Samuel P. Alford
Paul G. Barrett
Michael W. Biggs
Ricky Brown
Craig R. Coffield
Richard C. Foster
Vincent A. Glewont
Robert F. Ford
Dennis P. Halley
Robert C. Hoffner
Richard P. Hutchings
Charles L. King
William B. Lowe, Jr.
Steven R. McInnis
Paul E. Newsom
Richard G. Roberts
Christopher "W" Sacash
Sharon R. Thomas
Donald R. Turner

The following-named Navy enlisted candidate to be appointed a temporary chief warrant officer, in the staff corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Carl F. Horne

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a temporary chief warrant officer in the staff corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

CWO-2 Robert Gillespie, USN (ret.)

The following-named (U.S. Navy officer) to be appointed a permanent commander in the Medical Corps in the reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Brian G. McAlary

The following-named (U.S. Navy officer) to be appointed a temporary commander, in the line, in the reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Dale M. Couch

The following-named (civilian college graduates) to be appointed temporary commanders in the Medical Corps in the reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Neal S. Flowers
*Marion G. Peterson

IN THE ARMY

The following-named officer as Permanent professor at the U.S. Military Academy, under the provisions of the title 10, United States Code, sections 4331 through 4333:

To be professor and head of the department of chemistry

Hoff, Wilford J., Jr., [redacted].

The following-named officers for appointment in the Regulary Army, by transfer in the grade specified, under the applicable provisions of chapter 335, title 10, United States Code:

To be captain.

Brownback, Peter E., III, [redacted].
Casey, William M., [redacted].
Crea, Dominick A., [redacted].
Curtis, Howard G., II [redacted].
Faulkner, Sanford W. [redacted].
Heffelfinger, Harlan M., [redacted].
Huffman, Walter B., [redacted].
Isaacson, Scott P. [redacted].
Joyce, John F. [redacted].
Keller, Thomas R., [redacted].
Koren, Philip F., [redacted].
Martin, Thomas G., [redacted].
McConnell, Robert M., III, [redacted].
Millard, Arthur F., [redacted].
Mirakian, Stephen G., [redacted].
Naccarato, Timothy E., [redacted].
Nardotti, Michael J., [redacted].
O'Dowd, John H., Jr., [redacted].
Pedersen, Walton E., [redacted].
Pittman, Barry V., [redacted].
Polley, James D., IV, [redacted].
Reid, Michael J., [redacted].
Riseborough, John C., [redacted].
Schneider, Michael E., [redacted].
Seaman, Richard N., [redacted].
Studer, Eugene A., [redacted].
Thomas, John G., [redacted].
Tucker, Jeffrey T., [redacted].
Wittmayer, Chris G., [redacted].

To be first lieutenant

Algeo, James H., Jr., [redacted].
Bender Gregory N., [redacted].
Brodeur, Donald E., [redacted].
Enzenauer, Robert W. [redacted].
Gabbert, Craig V., Jr., [redacted].
Hemingway, Charles W., [redacted].
Highfill, William T., [redacted].
Holland, Robert F., [redacted].
Johns, James C., Jr., [redacted].
Kinder, Larry E., [redacted].
King, Ward D., Jr., [redacted].
Rogers, Alan S., [redacted].
Ruck, Ravid C., [redacted].
Schaeffer, Paul S., [redacted].
Ziedman, Eric J., [redacted].

The following-named officers for appointment in the Regular Army of the United States, in the grade specified, under the provisions of the title 10, United States Code, sections 3284 through 3294:

To be major

Brosmer, Donald L., [redacted].
Chang, Mark J., [redacted].
Clark, Gary B., [redacted].
Dubin, David, [redacted].
Keating, Philip J., [redacted].

To be captain

Anderson, Carol L., [redacted].
Baumgartner, John C., [redacted].
Belt, Julia A., [redacted].
Boyter, James K., [redacted].
Bulliner, Carolyn R., [redacted].
Cherry, Robert N., Jr., [redacted].
Cochran, Maureen C., [redacted].
Dixon, Laurits G., [redacted].
Duda, Francis C., [redacted].
Durkan, John P., [redacted].
Ferguson, Dwayne L., [redacted].
George, David T. [redacted].
Gravelle, Adrian J., [redacted].
Hadley, Arthur T., III, [redacted].
Heckert, Robert J., Jr., [redacted].
Holt, Mack A., [redacted].
Ives, Karen Lo, [redacted].
Kurano, Theodore T., Jr., [redacted].
Laluz, Catherine G., [redacted].
Lause, Glen D., [redacted].
Littlewood, Theodore P., Jr., [redacted].
McKay, Bernard J., [redacted].
McQueen, Jay D., [redacted].
Mervis, Stuart A., [redacted].
Miller, Janet J., [redacted].
Morgan, Donald, [redacted].
Murrell, James O., [redacted].
Nelson, Bruce A., [redacted].
O'Brien, Arthur W., [redacted].
Patrick, Jackie B., [redacted].
Phelan, Janice A., [redacted].
Piper, Llewellyn E., [redacted].
Reichard, Douglas W., [redacted].
Reynolds, Kenneth L., [redacted].
Selden, Tim C., [redacted].
Shackelford, William H., [redacted].
Snyder, Merle J., [redacted].
Spiegel, Robert H., [redacted].
Stockwell, Richard, [redacted].
Tiernan, Helen S., [redacted].
Timboe, Harold L., [redacted].
Treiber, Maureen S., [redacted].
Tyler, William F., [redacted].
Vanostrand, Susan K., [redacted].
Vivalda, Eugene J., [redacted].
Wakefield, Walter W., III., [redacted].
Wolfe, Michael W., [redacted].
Yeo, Ann P., [redacted].

To be first lieutenant

Ackerman, Steven C., [redacted].
Arnold, Peter G., [redacted].
Barnes, Joseph R., [redacted].
Bess, James V., [redacted].
Bowland, Warren F., [redacted].
Brennan, Michael J., [redacted].
Brennon, Michael W., [redacted].
Bruce, James M., [redacted].
Bulliner, Richard C., [redacted].
Burke, Charles S., [redacted].
Bussa, John J., [redacted].
Chandler, Denise L., [redacted].
Christensen, George L., [redacted].
Cooke John S., [redacted].
Cox, Robert A., [redacted].
Cunningham, Clarence E., Jr., [redacted].
Daley, Michael D., [redacted].
Davis, Lawrence H., [redacted].
Deckert, Raymond R., [redacted].
Dutton, Ronald E. [redacted].
Ebert, Frank R., [redacted].
Fisher, Jon G., [redacted].
Flores, Genaro S., [redacted].
Gonzales, Robert F [redacted].
Gregorie, Erik M., [redacted].
Greszko, Timothy J., [redacted].
Guilford, Jeffrey S., [redacted].
Hammes, Craig S., [redacted].
Hardy, Michael R., [redacted].
Harre, John W. [redacted].
Harrell, John C., [redacted].
Hersey, Barry S., [redacted].
Hoen, Michael M., [redacted].
Hughes, William F., [redacted].
Humberd, Quentin A., [redacted].
Humm, Gayle A., [redacted].
Jaeger, James J., [redacted].
Jakubowski, Joseph A., [redacted].
Johnson, Jon K [redacted].
Johnson, Leif G., [redacted].
Johnson, Linda C., [redacted].
Jones, Richard A., [redacted].
Judah, Michael W., [redacted].
Keene, Andrea L., [redacted].
Kidd, Lynn T., [redacted].
Lemon, Steven M., [redacted].
Lewis, Patricia A., [redacted].
Long, Margaret M., [redacted].
Lynch, James J., [redacted].
Nhamure, Linda B., [redacted].
Ogle, Forrest L., [redacted].
Ozimek, Thaddeus P., [redacted].
Palmer, Gary S., [redacted].
Parrett, Ethan E., [redacted].
Patrick, Roy E., [redacted].
Peden, John M., [redacted].
Phillip, Douglas F., [redacted].
Press, Paul P., [redacted].
Robertson, Andrew W., [redacted].
Rossi, Cheryl A., [redacted].
Rucker, John T., [redacted].
Samiljan, Arthur G., [redacted].
Sandberg, Bryan S., [redacted].
Schach, Raphael T., [redacted].
Scheider, Phillip C., [redacted].
Schulenburg, Robert J., [redacted].
Serene, Jan W., [redacted].
Stephan, Sandra L. [redacted].
Stewart, James R., [redacted].
Tannen, Kenneth J., [redacted].
Varney, Richard A., [redacted].
Walker, William O., [redacted].
Williams, Julia B. W., [redacted].
Wright, Carol M., [redacted].
Wysocki, Charles M., [redacted].
Yount Steven L., [redacted].
Zauner, Michael E., Jr., [redacted].

The following named officers for reappointment in the active list of the Regular Army of the United States, from the temporary disability retired list, under the provisions of the title 10, United States Code, section 1211:

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*Appointment sent out Ad Interim (during the recess of the Senate). Senate recessed on 10 April 1979–23 April 1979.

To be Colonel, Regular Army and Colonel, Army of the United States

Alberti, Donald W., [redacted]

To be Major, Regular Army and Major, Army of the United States

Oakley, Catherine M., [redacted]

CONFIRMATION

Executive nomination confirmed by the Senate June 12, 1979:

FEDERAL RESERVE SYSTEM

Emmett John Rice, of New York, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1976.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Tuesday, June 12, 1979*

The House met at 11 a.m.

Dr. Wallace B. Smith, president, World Church of the Reorganized Latter Day Saints, Independence, Mo., offered the following prayer:

O God of Faith, we acknowledge Your presence and being in both our lives and our community. As long as we have seen You in our history, our progress has taken on purpose. But in doubting the divine depth of our surface actions, we have sometimes questioned the meaning of our lives as a people. Once again this day remind us that our calling is greater than our vision. May we strive for the difficult and fail rather than be content to succeed in small things. May our early dreams of a society of freedom, humility, and stewardship be reborn this generation among us, and may those dreams both haunt and judge us. For the tasks are ours, but the dreams that guide us are our undeserved gifts. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 352, nays 8, answered "present" 1, not voting 73, as follows:

[Roll No. 207]

YEAS—352

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Aspin
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broyhill
Buchanan
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Derwinski
Devine
Dickinson
Dicks
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Russo
Sabo
Satterfield
Scheuer
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spence
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Zablocki

NAYS—8

AuCoin
Broomfield
Coughlin
Goodling
Jacobs
Quayle
Schroeder
Young, Alaska

ANSWERED "PRESENT"—1

Williams, Mont.

NOT VOTING—73

Addabbo
Ambro
Anderson, Ill.
Applegate
Ashley
Atkinson
Badham
Barnes
Beard, Tenn.
Bolling
Bouquard
Breaux
Brown, Calif.
Brown, Ohio
Burlison
Cavanaugh
Coleman
Conyers
Corman
Deckard
Dellums
Derrick
Diggs
Dingell
Dixon
Dougherty
Eckhardt
Edwards, Calif.
Fary
Flood
Ford, Mich.
Forsythe
Fuqua
Garcia
Goldwater
Guarini
Hagedorn
Hammerschmidt
Harsha
Heckler
Holtzman
Jeffries
Johnson, Calif.
Leland
Lloyd
McDonald
McEwen
Matsui
Mineta
Mitchell, Md.
Price
Rangel
Rodino
Rose
Rosenthal
Rudd
Runnels
Santini
Sawyer
Schulze
Solomon
Spellman
Staggers
Stark
Thomas
Treen
Udall
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wydler
Young, Mo.
Zeferetti

□ 1120

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on June 8, 1979, the President approved and signed a bill of the House of the following title:

H.R. 3404. An act to amend the Federal Reserve Act to authorize Federal Reserve banks to lend certain obligations to the Secretary of the Treasury to meet the short-term cash requirements of the Treasury, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will first recognize the gentleman from Missouri

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□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

(Mr. Skelton) for 1 minute, and then the Chair will recognize the gentleman from New Jersey (Mr. Thompson) for the offering of a privileged resolution. Following that we will go back to 1-minute speeches. We will recognize Members for unanimous-consent requests, and then we will take up the education bill.

The Chair recognizes the gentleman from Missouri (Mr. Skelton).

DR. WALLACE B. SMITH

(Mr. SKELTON asked and was given permission to address the House for 1 minute.)

Mr. SKELTON. Mr. Speaker, it is with a great sense of honor that I today welcome among us Dr. Wallace B. Smith, president of the Reorganized Church of Jesus Christ of the Latter-Day Saints.

Dr. Smith is the great-grandson of Joseph Smith, Jr., founder of the RLDS Church. He is the spiritual leader of the church's 220,000 members from 32 countries around the world. Independence, Mo., is the international headquarters for the RLDS Church.

Dr. Smith is the administrator and spiritual spokesman to the many thousands who seek his inspiration. He was ordained president of the RLDS Church in 1978. His many positions within the church include being ordained to the office of priest in 1945, elder in 1964, and to the quorum of high priests in 1965.

In his ministerial capacity, Dr. Smith has served as a member of the standing high council, the highest judicial body of the RLDS Church. He has been a counselor to the center stake president, a counselor to the center stake bishop, and assistant pastor of several congregations.

Dr. Smith attended Graceland College, the University of Portland, Oregon, and Kansas University, where he received his M.D. in 1954. He is a former flight surgeon in the U.S. Navy. His wife, Anne Smith, is a registered nurse and is active in volunteer and auxiliary programs of the Independence Sanitarium and Hospital. The Smiths have three daughters, Carolyn, Julia, and Laura.

Mr. Speaker, I am indeed fortunate to have had the opportunity to invite Dr. Smith to open our legislative session with his prayer this morning. His words and deeds as president of the RLDS Church set the highest example for each of us to follow in our work in Congress and in our daily lives.

PERMISSION FOR SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO MEET TODAY DURING 5-MINUTE RULE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation be permitted to sit today while the House is considering amendments under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON WATER RESOURCES OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING HOUSE SESSION

Mr. FLIPPO. Mr. Speaker, I ask unanimous consent that the Subcommittee on Water Resources of the Committee on Public Works and Transportation be permitted to meet today while the House is in session.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

DISMISSING THE ELECTION CONTEST AGAINST PARREN J. MITCHELL

Mr. THOMPSON. Mr. Speaker, I call up a privileged resolution (H. Res. 198) dismissing the election contest against Parren J. Mitchell, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 198

Resolved, That the election contest of Debra Hannania Freeman, contestant, against Parren J. Mitchell, contestee, Seventh Congressional District of the State of Maryland, be dismissed.

The SPEAKER. The gentleman from New Jersey (Mr. Thompson) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, under the Constitution and the Rules of the House, the Committee on House Administration is charged with the responsibility for investigating contested elections. In this Congress five election contests were filed. In each case I, as chairman of the committee, appointed an ad hoc panel to conduct the investigation.

In the contest before the House today, Freeman against Mitchell, the panel was chaired by our colleague, the gentleman from Connecticut, Mr. William Ratchford. Also serving with Chairman Ratchford were the committee members, the gentleman from North Carolina, Mr. Charles Rose, and the gentleman from Georgia, Mr. Newt Gingrich.

Mr. Speaker, I now yield such time as he may consume to the gentleman from Connecticut (Mr. Ratchford).

Mr. RATCHFORD. Mr. Speaker, I thank the gentleman from New Jersey, the chairman of the Committee on House Administration.

This election contest was filed by Mrs. Debra Hannania-Freeman against Parren J. Mitchell for the seat in the Seventh Congressional District of Maryland. In the election held on November 7, 1978, Parren J. Mitchell received 51,996 votes to Mrs. Freeman's 6,626 votes, a margin of 45,370 votes. The election results were certified by the Maryland State Board of Election Laws on November 30, 1978. Parren J. Mitchell was sworn in and took office on January 15, 1979, after presenting his credentials to the House.

On December 29, 1978, Mrs. Freeman filed a notice of intention to contest against Mr. Mitchell with the Clerk of the House. The notice of contest alleged inadequate and insufficient police protection of voting machines, conspiracy between Mr. Mitchell and election officials, malfunction of voting machines due to tampering, improper and illegal certification of Mr. Mitchell and various acts of fraud, violence, intimidation, assault, theft, extortion, and "dirty tricks."

On January 26, 1979, Mr. Mitchell filed a motion to dismiss and answer to the notice of intention to contest. The grounds for the motion and answer were: First, The notice of intention to contest was not timely filed within the required statutory period; second, The notice of intention to contest failed to state grounds sufficient to change the results of the election; and third, The contestee was without sufficient knowledge or information to respond to the remaining allegations.

Counsel for the contestant made his appearance on February 26, 1979, and subsequently filed the following papers with the committee:

First. Motion for stay of proceeding pending resolution of appeal to the Court of Special Appeals of Maryland;

Second. Motion to enlarge time for discovery by 30 days;

Third. Two notices of depositions, and

Fourth. A motion to strike and answer to motion to dismiss.

On March 5, 1979, the attorney general of Maryland filed a motion to quash subpenas, and I issued an order on March 6, 1979, which temporarily quashed subpenas without prejudice to the contestant.

The ad hoc election panel consisting of the Honorable Charles Rose, the Honorable Newt Gingrich and me as chairman held an open hearing on March 14, 1979, for the purpose of receiving oral argument on the motion to dismiss. Contestant Freeman and her counsel were present, counsel for the contestee was present, and the assistant attorney general for the State of Maryland was present. All sides were provided 20 minutes each to argue on the motion.

All parties were heard and upon conclusion of the hearing, the election panel took the case under advisement.

On April 3, 1979, the panel, on my motion, voted unanimously to go into executive session to discuss the oral argument, pleadings and motions on the case. After due deliberation the panel adopted a motion, by a vote of 3 ayes and 0 nays, to recommend to the full committee that the contestee's motion to dismiss be granted. On April 4, 1978, the full committee reviewed the panel's recommendation and by voice vote unanimously adopted a resolution recommending dismissal of the contest to the House. That recommendation is now before the House.

In assessing the record, the panel noted that contestant Freeman failed to provide sufficient record to support the allegations contained in her notice of contest in accordance with the provisions of 2 U.S.C. 383, and that Mrs. Freeman failed to state grounds sufficient to change the result of the election. The panel did not deem it necessary to rule on the remaining motions.

Although contestant is not required to prove her case on a motion to dismiss, contestant must initially support her allegations and conclusions with documentary evidence, or provide some other showing which would change the result of the election.

Contestant Freeman failed to present documentary evidence sufficient to support her allegations of inadequate and insufficient police protection of voting machines, conspiracy, malfunction of voting machines, improper and illegal certification, fraud, intimidation, extortion or "dirty tricks." Furthermore, contestant failed to demonstrate that her allegations, if true, would have changed the results of the election.

The panel concluded that the case should be dismissed because contestant Freeman failed to support her allegations with evidence sufficient to meet the contestant's burden in overcoming a motion to dismiss.

The decision is therefore based on the substantive defect of failure to allege grounds, and to support such grounds with documentary evidence, sufficient to change the election results.

☐ 1130

Mr. Speaker, at this point I yield to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. I thank the gentleman for yielding.

Mr. Speaker, I just want to commend the gentleman from Connecticut (Mr. RATCHFORD). The hearings made it very clear that there was no evidence that was substantial enough to warrant any question about who won the election. I think it was very clear there were a number of allegations with no proof. I would hope that the House would vote to dismiss the charges and to vote for passage of House Resolution 198.

Mr. RATCHFORD. Mr. Speaker, we have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ERLENBORN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 378, nays 0, not voting 56, as follows:

[Roll No. 208]

YEAS—378

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

NAYS—0

NOT VOTING—56

Addabbo
Ambro
Anderson, Ill.
Anthony
Ashley
Atkinson
Badham
Bouquard
Breaux
Brown, Calif.
Buchanan
Conyers
Coughlin
Deckard
Dellums
Dingell
Dixon
Dougherty
Eckhardt
Edwards, Calif.
Fary
Flood
Ford, Mich.
Forsythe
Fuqua
Garcia
Goldwater
Hagedorn
Hammerschmidt
Holtzman
Ireland
Johnson, Calif.
Kogovsek
Leland
Lloyd
McDonald
Mineta
Mitchell, Md.
Price
Rodino
Rosenthal
Rudd
Runnels
Schulze
Solomon
Staggers
Taylor
Treen
Udall
Waxman
White
Williams, Ohio
Wilson, Bob
Wydler
Young, Mo.
Zeferetti

☐ 1140

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CABLE COVERAGE OF HOUSE PROCEEDINGS

(Mr. NOWAK asked and was given permission to address the House for 1 minute.)

Mr. NOWAK. Mr. Speaker, I would like to inform my colleagues that starting today Courier Cable Co. of Buffalo, N.Y., has joined the network of cable television companies across the country providing televised coverage of House proceedings via the Cable Satellite Public Affairs Network.

Courier Cable will provide daily gavel-to-gavel coverage of the House sessions to the 40,000 homes subscribing to its service in the city of Buffalo. It is a pleasure today to welcome these new viewers of the House proceedings.

In addition, as a public service, Courier Cable will be providing this broadcast to the schools in the Buffalo public and parochial school system. Thus, this coverage will be available as an educational resource, useful in civics and government classes and in promoting a better understanding of the role of the legislative branch in our representative Government.

I would like to take this opportunity to commend Courier Cable for broadening its broadcast services in the city of Buffalo. I certainly hope that by increasing accessibility to live coverage of these proceedings we generate not only greater public awareness and understanding of this institution but also promote greater public interest and participation in civic affairs.

THE LATE JOHN WAYNE

(Mr. PEPPER asked and was given permission to address the House for 1 minute.)

Mr. PEPPER. Mr. Speaker, Members of the House, the monster cancer, which took away my beloved wife at the end of March, and has snatched away so many millions more, has now finally taken that beloved national hero, that brave and formidable warrior—John Wayne.

I was told the other day by the head of the Aging Institute that of all the people above 55 years of age who die, one-half of them will die from cancer. For that reason, the Aging Committee is going to hold hearings the 19th, 20th, and 21st of this month, at which we will have present not only the National Cancer Institute to tell what they are doing and what they hope to do, but 30 of the outstanding cancer experts in the United States and 2 from abroad.

Down in the Jefferson Memorial, on the ceiling you will find that Jefferson said, "For I have sworn upon the altar of Almighty God, eternal hostility against every form of tyranny over the mind of man."

I hope every one of us whose life is in jeopardy by that killer will swear upon the altar of Almighty God, as did Thomas Jefferson against tyranny, that we will do everything in our power to destroy this killer monster, cancer.

ONE SMALL STEP?

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, there will be a lot written and said about the President's health plan being announced today.

I believe the New York Times reported the only relevant news in its front page story.

The Times quoted a "senior White House official" as follows:

> It's not a wholesale federalization, but it's a step in that direction.

Those are the words of a top White House aide.

The Times also reported that the President's plan "was developed under pressure from Senator EDWARD KENNEDY."

Mr. Speaker, plans developed under pressure are not plans at all. They are offerings made to placate those who put on the pressure. If others are going to make national policy, why does not the President simply give them an office in the Executive Office Building—or one in the building just across the street from it?

HUMAN RIGHTS IN CZECHOSLOVAKIA

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, experience has shown that the Soviet bloc, despite an occasional small concession to its people, has no regard or respect for human rights and justice. Peaceful dissent is not permitted. To express an unpopular view is to invite retaliation in the form of physical violence or imprisonment.

In recent days, respected news agencies such as Reuters and Agence France press have confirmed and reported on the beatings and arrests in Czechoslovakia of charter 77 signatories who also are members of the committee for the unjustly persecuted. The charter 77 movement and the committee were established to monitor breaches of justice.

A June 4 Reuters dispatch out of Prague reported the arrest of seven men and three women. Czech officials told Reuters the 10 had gathered and spread false information at home and abroad with the aim of creating "loss of public confidence" in the state system.

The same news agency, in another dispatch, reported that a woman speaker for the charter 77 human rights movement was hospitalized with a brain concussion after being attacked by unknown persons in Prague. It was the third time a charter 77 speaker was attacked in the streets of Prague.

Based on reports from Western European newspapers, the Czech regime is highly displeased with a charter 77 document comparing economic conditions in Czechoslovakia with conditions in Western Europe. Predictable as was the response, it cannot be ignored. We must continue to publicize and object to the heavy-handed reprisals which are a way of life for Communists regimes. It is one way of reassuring our allies in Europe of our commitment to freedom.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2444) to establish a Department of Education, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make a statement. We intend to stay, or hope to stay, until we finish this bill this evening, regardless of the time.

Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 362, nays 19, not voting 53, as follows:

[Roll No. 209]

YEAS—362

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Aspin
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Devine
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Winn
Wirth

Wolff
Wolpe
Wright
Wyatt
Wylie
Yatron
Young, Fla.
Zablocki

NAYS—19

Bauman
Broomfield
Brown, Ohio
Danielson
Dickinson
Gradison
Hansen
Hinson
Jeffries
Kindness
Mattox
Michel
Quayle
Ritter
Rousselot
Solomon
Symms
Thomas
Young, Alaska

NOT VOTING—53

Addabbo
Ambro
Anderson, Ill.
Applegate
Ashley
Atkinson
Badham
Bolling
Bouquard
Breaux
Burton, John
Conyers
Davis, S.C.
Deckard
Diggs
Dingell
Eckhardt
Evans, Ga.
Fary
Flood
Forsythe
Fuqua
Gibbons
Goldwater
Hagedorn
Hammerschmidt
Harsha
Holtzman
Johnson, Calif.
Kogovsek
Lloyd
McCloskey
McDonald
Mathis
Mineta
Mitchell, Md.
Price
Rodino
Rosenthal
Rudd
Runnels
Santini
Schulze
Stockman
Treen
Udall
White
Williams, Ohio
Wilson, Bob
Wydler
Yates
Young, Mo.
Zeferetti

☐ 1220

Mr. LEWIS changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2444, with Mr. NEDZI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, June 11, 1979, title I had been considered as having been read and open to amendment at any point.

Are there further amendments to title I?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 54, in line 21, strike out the ";", and insert the following: "and that no individual should be denied such education opportunities by rules, regulations, standards, guidelines, and orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin or sex."

POINT OF ORDER

Mr. HORTON. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state the point of order.

Mr. HORTON. Mr. Chairman, I raise a point of order against this amendment, since it is on a subject that is different from that which is under consideration and, thus, it fails to meet the test that is imposed by rule 16, clause 7.

We are considering a reorganization statute, that is H.R. 2444, within the jurisdiction of the Committee on Government Operations. That committee has reported this bill.

The gentleman is introducing a new subject by way of his amendment which affects education programs. If such an amendment were introduced as a bill, it would not even be referred to the Committee on Government Operations.

In order to be germane, an amendment must have the same fundamental purpose as the bill under consideration. The purpose of H.R. 2444 deals only with the organizational structure of a new Department of Education.

The amendment raises a controversial subject of public policy and gets into substantive issues. Thus, the fundamental purpose of the amendment is not germane to the fundamental purpose of the bill.

I know yesterday there was a ruling of the Chair with regard to one of the other amendments that were offered that made reference to the inclusion in this bill of section 103, namely prohibition against Federal control of education. That provision is the restatement of the present law which prohibits the Federal Government from controlling or getting into the control of local education. In other words, that is a restatement of what the present law is. It was put in this bill so it would make certain to those who were involved with the Department of Education in the bill that they would know that it is not the intention of the Federal Government to direct or control education at the local level.

This amendment goes into substantive issues which are not involved in this committee. We have had no hearings on this subject; we have had no opportunity to discuss it; we have had no testimony on it. Whether I agree with the position of the gentleman is something else. I tend to agree with the gentleman's personal views. However, it is not something that is involved in the bill in the creation of a new department. Somewhere we must draw the line as to what is germane in this bill. This in my judgment is not germane, it is not involved with the organization of this Department and therefore I urge that the amendment be ruled out of order.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. WALKER) desire to be heard on the point of order?

Mr. WALKER. Yes, Mr. Chairman, I desire to be heard on the point of order.

Mr. Chairman, first of all, I think that this raises the same questions that were raised yesterday when a similar point of order was taken against a subject matter of the same kind; therefore, I think it would fall into the same category as the subject matter of yesterday and is germane under the bill.

Second, I would say that it is germane in its own right. What I am simply doing in this particular amendment is further defining findings which are already stated under the findings and purposes section of this bill.

The present findings says:

There is a continuous need to insure equal access for all Americans to educational opportunities of high quality.

All this language does is expand upon that particular phraseology by saying that no individual should be denied such educational opportunites by rules, regulations, standards, guidelines, or orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex.

It simply defines material which is already stated in the bill.

To say that this is not a subject matter which has not previously been considered is to say that in stating this particular finding, these kinds of problems were not considered.

I think it simply adds clarification to the definition and finding which is in the bill at the present time.

The CHAIRMAN. The Chair is prepared to rule.

The Chair would like to remind the Member that title I of H.R. 2444 in section 102 contains a diverse statement of purposes and findings applicable to the newly created Department of Education. These findings, while not affecting or creating new authorities which are to be transferred to the Department, are extremely diverse in character and emphasize several aspects of the question of the extent of Federal Government involvement in educational programs. Since it is difficult to group into one class all of the stated purposes and findings for the new Department, and since the pending amendment does not directly address new substantive authorities to be conferred upon or withheld from the Department, the Chair will rule that the amendment stating an additional finding relative to Federal educational policy is germane to title I of the bill.

The Chair would cite a relevant precedent contained in Cannon's precedents, volume VIII, section 3011, where, to a section embodying a declaration of policy and including a number of purposes, an amendment proposing to incorporate an additional purpose was held germane. There, the Chair emphasized that the declaration of policy section did not have any particular effect upon the bill, and that the section contained several diverse proposals.

Accordingly, the Chair overrules the point of order, and the gentleman from Pennsylvania is recognized for 5 minutes in support of his amendment.

Mr. WALKER. I thank the chairman.

Mr. Chairman, I think that this particular amendment is one of the more important that we will consider, because one of the great places where there has been too much Federal influence in local education has been in the area of the application of HEW of quota policies telling local school districts, telling higher education, telling schools all the way across the country, that they have to set certain quotas in order for certain people to qualify for certain programs. To me, that goes against the very nature of the society. We are a diverse people. We are a united people, and that unity depends upon not setting aside groups and individuals to receive special privileges, but to come together with true antidiscrimination policies.

This prior record of the Department of Health, Education, and Welfare, should give everyone fear that the same bureaucrats who were in the Department of Health, Education, and Welfare, will now be transferred to the Office of Education and will continue the same policies of having quota-based policies in their application to school districts.

Quotas are by definition discriminatory. You cannot set aside classes of people by law, by regulation, and not have discrimination.

Therefore, whenever we endorse quotas, we are, in fact, endorsing discrimination and we are denying equal access to education.

It is high time that we stopped denying equal access to education as a matter of Federal policy. To do so, we ought to endorse as part of the findings of this bill an antiquota approach.

It seems to me that this particular language and this particular approach is perfectly in keeping with what the Supreme Court told us in the Bakke decision last year; namely, that you do not use quotas to exclude people from educational programs.

□ 1230

The gentleman from Maryland, during the busing debate yesterday, I think, made clear the precise argument that I am arguing here today. He said at one point during that debate that "we are divided enough in our society, we don't need more division."

Any kind of a quota-based policy is divisive. It does cause division, it sets people apart, and it sets minorities apart from minorities.

Just recently it was brought to my attention that here in the District of Columbia they have proposed a new definition of a "minority" which excludes orientals and blacks born in Africa and certain other groups, and that leaves only blacks born in America and Hispanic-Americans and a few other groups.

With quota-based policies, we are now starting to divide up minorities, and that kind of a quota-based policy is very, very tragic for this society to operate.

Mr. Chairman, I urge the adoption of this amendment.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding.

May I ask, is the gentleman's amendment in any way intended to do away with affirmative action?

Mr. WALKER. Absolutely not. I am a proponent of the affirmative action programs. I think we can have affirmative action without relying on quotas, and in no way would the adoption of this language impact adversely on affirmative action programs which are not run with quota bases.

Mr. PANETTA. So to the extent we may have both goals and timetables, this is not intended to impact on that?

Mr. WALKER. No, the amendment would not impact on goals and timetables. The amendment uses the language, "any ratio, quota, or other numerical requirement related to race," and it does not touch goals and timetables whatsoever.

Mr. PANETTA. To that extent, then, it really follows the basic guidelines laid out by the Supreme Court in the Bakke decision?

Mr. WALKER. Precisely. I would say to the gentleman from California (Mr. PANETTA) that the language follows precisely with that of the Bakke decision.

Mr. PANETTA. Mr. Chairman, I thank the gentleman.

Mr. WALKER. Mr. Chairman, I thank the gentleman from California (Mr. PANETTA).

Mr. GONZALEZ. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I expected resistance to this amendment and not necessarily my getting involved. I am not a member of this committee. But this amendment is probably the most detrimental to the main purposes of equal opportunity of education to the most needed segments of our society that has been presented thus far and probably could ever be presented. The insidiousness of the amendment is compounded by the sponsor's deceptive—I should say hypocritical—presentation of this amendment, disguising it as a quota prohibition.

Mr. WALKER. Mr. Chairman, I demand that the words be taken down.

The CHAIRMAN. The Clerk will report the words objected to

Mr. GONZALEZ. Mr. Chairman, I will be glad to repeat them. If the gentleman wishes me to repeat them, I can repeat them verbatim.

The CHAIRMAN. The Clerk will report the words.

Mr. ERLENBORN. Regular order, Mr. Chairman I believe under the rules, when a demand is made that the words of the gentleman be taken down, the gentleman is not to speak again until the ruling of the Chair.

The CHAIRMAN. The gentleman is correct, and the Chair has made that point. The gentleman will be seated.

The Clerk read as follows:

> Mr. GONZALEZ. Mr. Chairman, I expected resistance to this amendment and not necessarily my getting involved. I am not a member of this committee. But this amendment is probably the most serious in a detrimental way to the main purposes of equal opportunity of education to the most needed segments of our society that has been presented thus far and probably could ever be presented. The insidiousness of the amendment is compounded by the sponsor's deceptive—I should say hypocritical—presentation of this amendment, disguising it as a quota prohibition.

The CHAIRMAN. The Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NEDZI, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee having had under consideration the bill (H.R. 2444) to establish a Department of Education, and for other purposes, certain words used in debate were objected to and on request were taken down and read at the Clerk's desk, and he herewith reported the same to the House.

The SPEAKER. The Clerk will report the words objected to.

The Clerk read as follows:

> Mr. GONZALEZ. Mr. Chairman, I expected resistance to this amendment and not necessarily my getting involved. I am not a member of this committee. But this amendment is probably the most serious in a detrimental way to the main purposes of equal opportunity of education to the most needed segments of our society that has been presented thus far and probably could ever be presented. The insidiousness of the amendment is compounded by the sponsor's deceptive—I should say hypocritical—presentation of this amendment, disguising it as a quota prohibition.

The SPEAKER. The Chair is ready to rule.

The Chair, having read the references concerning deception and hyprocrisy, will state that there have been previous opinions by the Chair that there is nothing wrong with using the word, "deceptive," or the word, "hypocritical," in characterizing an amendment's effect but when a Member so characterizes the motivation of a Member in offering an amendment that is not in order.

Consequently, the words in the last sentence read by the Clerk are unparliamentary and without objection, the offensive words are stricken from the RECORD.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. WALKER. Reserving the right to object, Mr. Speaker——

The SPEAKER. Does the gentleman from Pennsylvania (Mr. WALKER) object to the decision of the Chair?

Mr. WALKER. No, Mr. Speaker, I do not object to the decision.

The SPEAKER. The Chair recognizes the gentleman from Texas (Mr. BROOKS).

□ 1240

Mr. BROOKS. Mr. Speaker, I move that the gentleman from Texas (Mr. GONZALEZ) be allowed to proceed in order.

The motion was agreed to.

The SPEAKER. The Committee will resume its sitting.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2444, with Mr. NEDZI in the chair.

The CHAIRMAN. The gentleman from Texas (Mr. GONZALEZ) has the floor, and the gentleman will proceed in order.

Mr. GONZALEZ. Mr. Chairman, this mischievous amendment, disguised as an attempt to prohibit quotas is, in my opinion, a very insidious attempt to encrust into statute form a misinterpretation of the Bakke decision.

Now, the Bakke decision, unlike the remarks made in reference to that decision by the gentleman presenting the amendment, does not state that quotas, as such, are prohibited from consideration in an attempt on the part of educational authorities to provide opportunities that are otherwise denied because of societal quotas. The gentleman does not make reference to the fact that the reason we have had to have some attempt toward affirmative programs is because of the unjust traditional societal quotas that have mitigated against certain classes because of racial or ethnic and, in many cases, religious considerations.

This amendment, in reality, sanctifies quotas if they are the traditional discriminatory, prejudicial type that we have had to combat and continue to.

Now, even now, this is a vengeful blow at those trying to seek justice for true equal opportunity for higher education, and in fact, other forms of education, because it simply puts into law, or attempts to, one misguided interpretation of the Bakke decision.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. In just a minute.

Since the Bakke decision, in those areas where we have had resistance to the affirmative programs, such as they have existed, the record shows that we have had a drop in minority admissions to medical schools and law schools in excess of 10 percent, merely because those schools are doing the very thing, interpreting, in the light in which the sponsor of this amendment is attempting to interpret and force the amendment on this House.

Mr. Chairman, I will yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Chairman, I understood, from the gentleman's comments in the well, that the gentleman equates affirmative action programs with quotas.

Mr. GONZALEZ. I do not.

Mr. ERLENBORN. My understanding of the Bakke decision is that the court rejected that and made a clear distinction between quotas and affirmative action. The court endorsed the use of affirmative action, as I would, but the court, in the Bakke decision, said that quotas that exclude people merely because of some status, such as race or national origin, were not constitutional, whereas affirmative action was constitutional. I think the gentleman should not confuse the two.

Mr. GONZALEZ. I am not. And the gentleman's conclusion as to what I believe is erroneous. I do not equate either. But neither is the gentleman's interpretation the decisive consensus of interpretation of that opinion.

The amendment supports one view of the Bakke decision but it distorts the majority view.

It is an undisputed fact that decades of legally sanctioned discrimination created disadvantaged classes in this country. There is no way to overcome the effects of that discrimination without resort to vigorous affirmative action. But this amendment would discourage the very action that is needed and would perpetrate the effects of discrimination, even though that discrimination is now illegal. We cannot close our eyes to history nor can we close them to present reality. Present reality is that affirmative action is the only answer to overcome the burdens created by the dead hand of discrimination. This amendment would discourage the very kind of action that is needed in the very places where it is needed most. In the name of equality it would weaken and distort the means required to achieve equality.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I, like my colleague, the gentleman from Texas (Mr. GONZALEZ), was not going to speak on this amendment. I think the sponsor of this legislation—there obviously are some areas that he may not be as sensitive to as other areas. In terms of what has happened, with the Bakke decision, I have had several cases in which young people who are Hispanic and black and who are qualified to enter into medical schools in the Northeast are now being refused. They are being refused because many of these educational institutions are now going in reverse. Because of Bakke, they feel that they do not have to give any consideration to students who are minorities. That is the unfortunate part of the type of dialog that is taking place on this floor.

I will say to the gentleman from Pennsylvania that, as a person who sponsored yesterday what I consider to be a very spiritual bill, in terms of right to prayer, despite my liberal record I voted with the gentleman on that legislation. I vote for it because I think it is right that a child should be permitted an option to understand what his or her spiritual life is all about. The fact is that what the gentleman is doing with this amendment is that he is going to the very core of the prayer bill which he introduced yesterday. Because if we want to be fair in life, we cannot be fair sometimes and not other times. We must be consistent. I assure the gentleman from Pennsylvania that, with what is taking place here in terms of this amendment to this bill, he is not doing any good to people who are trying to break themselves out of a cradle of poverty. You have to understand what poverty is all about and you have to understand what discrimination is all about. If you do not understand, then it becomes a virtual impossibility to know the other side of the story. And that is the saddest part of what is happening here with your unfortunate amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I am shocked to hear that. I think the gentleman said there are medical schools which are now refusing entrance to people of Hispanic backgrounds because of the fact that they are Hispanic. Is that correct?

Mr. GARCIA. Yes.

Mr. ROUSSELOT. Where are those institutions?

Mr. GARCIA. At this particular moment I would not place that on the record, but I can show the gentleman a list.

Mr. ROUSSELOT. Mr. Chairman, the gentleman is the one who brought it up, and I think that is shocking to know that that is occurring. And that is directly related to the Bakke decision?

Mr. GARCIA. Yes.

Mr. ROUSSELOT. That is shocking. But the gentleman is willing to tell us which institutions?

Mr. GARCIA. I will be willing to tell the gentleman in private.

Mr. ROUSSELOT. In private.

Mr. GARCIA. Yes.

Mr. ROUSSELOT. I think we ought to know about that, and I appreciate my colleague's discussing it.

□ 1250

Mr. GARCIA. Mr. Chairman, coming from the State of New York, the gentleman may not be really interested in my point of view, but I have listened to the point of view of the gentleman from Pennsylvania (Mr. WALKER), and I can assure the gentleman that I have no problem in terms of the politics of what the gentleman may want to do for his constituents or what the gentleman thinks is politically right, but I do have problems when the gentleman takes the floor on a moral issue such as prayer, then the gentleman comes here on a political issue such as the Bakke decision. I believe it to be wrong. I think our country is not meant to be divided. We should try to bring people together.

An amendment like this divides. It does not unite.

I yield back the balance of my time.

● Mrs. COLLINS of Illinois. Mr. Chairman, I rise to speak against this amendment which would prohibit the proposed Department's ability to enforce education-related affirmative action efforts designed to achieve either race or sex-related hiring and admissions goals.

One issue that I have consistently monitored is Congress' action toward the goal of equal educational opportunity for all Americans. Through effective and efficient enforcement we can attain a higher degree of equal opportunity in this country.

The amendment before us would affect the policies and practices of recipients of Federal funds and Federal contractors. Clearly, the key words are "for purposes of compliance with any timetable, goal, ration, quota, or other numerical requirement related to race, creed, color, national origin or sex."

Let me point out that this amendment would have a sweeping effect, because it applies not just to "quotas" but to a "timetable," "goal," "ratio," or "other numerical requirement." It affects not just colleges and universities but any "individual or entity" and it relates to employment practices as well as to student admissions.

Goals are not rigid or arbitrary quotas. When an educational institution agrees to correct a discriminatory practice by setting a goal, the institution pledges good faith efforts to reach the target over a reasonable period of time. So long as the institution takes effective measures to achieve the goal, it will not be out of compliance with the civil rights laws. Under a remedial plan that provides for goals and timetables, there is no requirement that an institution hire or admit unqualified individuals.

Today, the House faces an important choice: It will decide whether to support the Office of Civil Rights as it came out of committee with a well-defined ability to manage its compliance programs efficiently with a minimum of bureaucratic delay. However, if this amendment is added to H.R. 2444—barring the new department from requiring any ratio, quota or other numerical requirement related to race, color, national origin, or sex—it would severely and permanently cripple the agency from carrying out its mandated antidiscrimination enforcement responsibility.

We can abandon the hope of any meaningful civil rights enforcement effort if the new department is prohibited from requiring remedial action by recipients of Federal funds who are in violation of laws preventing discrimination on the basis of race, sex, or handicap. Now more than ever before, the Nation's Federal apparatus must be fully applied against the widespread practices of racism and sexism. This amendment is a threat to the integrity of this country's educational system and to our school children and, therefore, must be rejected summarily.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1300

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. WALKER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 277, noes 126, not voting 31, as follows:

[Roll No. 210]

AYES—277

Abdnor
Alexander
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dicks
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Ferraro
Findley
Fish
Fithian
Flippo
Foley
Fountain
Frenzel
Fuqua
Gaydos
Gephardt
Gibbons
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Marlenee
Marriott
Martin
Mathis
Mavroules
Mazzoli
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Obey
Panetta
Pashayan
Paul
Petri
Pickle
Preyer
Pritchard
Pursell
Quayle
Quillen
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rostenkowski
Roth
Rousselot
Royer
Russo
Satterfield
Sawyer
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOES—126

Akaka
Albosta
Anderson, Calif.
Bailey
Baldus
Barnes
Bedell
Beilenson
Bingham
Boland
Bonior
Brademas
Brooks
Brown, Calif.
Buchanan
Burton, John
Burton, Phillip
Carr
Chisholm
Clay
Collins, Ill.
Corman
Cotter
Danielson
Daschle
Dellums
Derrick
Dixon
Dodd
Downey
Drinan
Eckhardt
Edgar
Edwards, Calif.
Fascell
Fazio
Fenwick
Fisher
Ford, Mich.
Ford, Tenn.
Fowler
Garcia
Gilman
Gonzalez
Gray
Green
Guarini
Hall, Ohio
Hawkins
Heftel
Holland
Hollenbeck
Holtzman
Howard
Jeffords
Johnson, Colo.
Kastenmeier
Kildee
Kogovsek
Lehman
Leland
Lowry
Lundine
Madigan
Maguire
Markey
Marks
Matsui
Mattox
Mikulski
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Murphy, Ill.
Murtha
Myers, Pa.
Nolan
Oakar
Oberstar
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rosenthal
Roybal
Sabo
Santini
Schroeder
Sebelius
Seiberling
Shannon
Simon
Smith, Iowa
Solarz
St Germain
Stack
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Vanik
Volkmer
Walgren
Weiss
Wilson, C. H.
Wirth
Wolpe
Yates
Zablocki

NOT VOTING—31

Addabbo
Anderson, Ill.
Ashley
Badham
Bolling
Cavanaugh
Conyers
Diggs
Dingell
Fary
Flood
Florio
Forsythe
Frost
Giaimo
Goldwater
Hagedorn
Johnson, Calif.
Lloyd
Price
Railsback
Rose
Rudd
Runnels
Scheuer
Schulze
Staggers
Treen
Wilson, Bob
Young, Mo.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Fary for, with Mr. Johnson of California against.

Mr. Runnels for, with Mr. Conyers against.

Mr. Staggers for, with Mr. Flood against.

☐ 1320

Mr. DICKS changed his vote from "no" to "aye."

Mr. BOLAND changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 57, line 5, after "selection" insert "or content".

Mr. ASHBROOK. Mr. Chairman, section 103 purports to be a "Prohibition Against Federal Control of Education." It appears to be sweeping in its coverage—including not only the Secretary of Education but "any other agency of the executive branch of the Federal Government." The prohibition is to the effect that no provision of law relating to a program adminstered by these officials or their agencies shall be construed to authorize them to exercise any of the enumerated controls over education.

The last phrase of the section, however, would have vitiated the whole prohibition. It read "except to the extent specifically authorized by law." In short, any "direction, supervision, or control" over education which is "specifically authorized by law" is permitted. Thankfully, the House saw fit to revise part of this section during yesterdays consideration of the bill in accepting my amendment. However, other portions of section 103 still need amendment.

What did the drafters of this section have in mind? Why should the Federal Government ever exercise "direction, supervision, or control over the curriculum, program of instruction, administration, or personnel" of our schools and colleges? Is not that constitutionally the function of States and local boards of education, or of the trustees of private institutions? What laws now in effect would be invoked to authorize such Federal control, and for what purposes? We do not know.

It may be that the authors of this section drafted it so sweepingly that they included education institutions run by the Federal Government itself. If that is the case, and such institutions need to be exempted from this prohibition, it would be a simple matter to have done so. No Federal law should authorize, or be construed to authorize, Federal control of functions constitutionally and historically left to others. As the so-called prohibition stood, before my amendment which we adopted yesterday it did not prohibit Federal control of education—it specifically authorized it.

This amendment would clarify the phrase relating to "the selection of library resources, textbooks, or other instructional materials" by specifically removing the content of books and materials from Federal control or scrutiny.

The danger of censorship of library materials by a Department of Education is not remote or farfetched. On May 4, in volume 44, No. 88 of the Federal Register, at pages 26325 and 26326, in the proposed rules for the HEW Education Division General Administrative Regulations, we find a subparagraph (a) under Section 100a.620. "General conditions on publication," entitled "Content of materials." Subparagraph (a) concedes that an HEW grantee "may decide the format and content of project materials that it publishes or arranges to have published." But it goes on to say that the grantee shall "avoid race stereotype or sex bias in project materials."

This proposed rule has raised great concern in library and publishing circles which have become aware of it, not because educators, librarians, or publishers are bent upon injecting "race stereotype or sex bias" in materials they use, but because they rightly fear and reject Federal censorship, and because current law clearly prohibits it. So the concern I am expressing is not without foundation.

Current law flatly states that no provision of any HEW education law shall "be construed to authorize any department, agency, officer, or employee of the United States" to exercise any control over our schools and colleges or libraries, or over the selection of library resources, textbooks, or other printed materials used by them. This amendment will add protection against those who would become involved in textbook context.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I will be glad to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I agree with the statement of my distinguished friend. The amendment is quite acceptable. This is a matter of semantics which does not in any way distort the bill. I think the amendment is perfectly appropriate.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I have no objection to the amendment but I do think the gentleman has left out the word, "of." On page 57, line 5, the gentleman should say, "after selection of," insert "or content." Is that not correct?

Mr. ASHBROOK. The gentleman from New York is quite correct, Mr. Chairman.

Mr. HORTON. Mr. Chairman, perhaps the amendment should be amended.

Mr. ASHBROOK. Mr. Chairman, the language in the amendment should read, "over the selection or content of library resources." Putting the words, "or content," after "selection" would make it read correctly.

Mr. HORTON. I have no objection to the suggested amendment and agree to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from the gentleman from Ohio (Mr. ASHBROOK).

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments to title I?

Mr. BENNETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong opposition to H.R. 2444, legislation to create a separate Cabinet-level Department of Education. The creation of such a department is not warranted and is another example of the unnecessary and expensive expansion of government. It is also questionable from a constitutional point of view.

Article X in the Bill of Rights of our Constitution specifically says that powers not granted to the Federal Government under the Constitution are left with the States or with the people. That was done for a very good purpose because they feared the extension of centralized Government even then. Today, we have even more reason to fear big government because even with constitutional restraints centralized Government has ballooned in this country.

This legislation is not merely a rearrangement of existing programs, but the creation of yet another Federal department with its personnel in the thousands and its budget in the billions. And, as with any new bureaucratic entity, this proposed department cannot help but be inflated in staff, payroll, and programs within a short period of time.

A Federal Department of Education would tend to foster a tendency toward centralization in curriculum content and weaken local control over what our children are taught, and how. This, of course is the very sort of thing that the people in this country are today standing up against. The American people want economy and efficiency in Government; they want less centralization of Government in Washington; less of a paternalistic government that takes on more and more of the authority and responsibility which our forefathers who formed the Constitution tried to leave to the States and local communities where processes would be more democratically arrived at.

My chief objection to this legislation is that the establishment of this Department would offer an implied promise to the people of this country that the Federal Government would do things which the Federal Government is not financially able to do.

If this legislation is accepted it will prove to be very expensive; expensive from all standpoints—and, come at a time when the very last thing the Federal Government should be doing is embarking on another big Government scheme to spend dollars that it doesn't have to spend. And, of course, this goes hand in glove with the question of increased bureaucracy.

Despite the inability to achieve the high objectives which might be outlined for any such Department now or in the future, I can readily visualize one of the first functions of the new Department of Education would be to have a planning staff to fill the vacant spaces in the Department, create new bureaus and new functions, and set out to propagandize the American public with press releases and other methods of information, explaining to the American public why they should request these things from the Federal Government.

I very sincerely urge my colleagues to oppose this legislation as being in the wrong direction of centralized national government; and too costly at a time when the Federal Government is dangerously in the red.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 57, after line 7 insert new section:

PROHIBITION AGAINST ABORTION EDUCATIONAL EXPENDITURE

SEC. 104. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer to fund, control, supervise, or to assist in any manner, directly or indirectly, the teaching of abortion as a method of family planning, or counseling the use of abortion by students or others, or the practice of abortion, through or in conjunction with the National Defense Education Act of 1958 (P.L. 85–864), as amended; the Elementary and Secondary Education Act of 1965 (P.L. 80–10), as amended; the Higher Education Act of 1965 (P.L. 89–329), as amended; the Adult Education Act (P.L. 89–750), as amended; or any other federally sponsored educational program, except as explicitly provided by statute.

POINT OF ORDER

Mr. BROOKS. Mr. Chairman, I make a point of order against the amendment under rule 16, clause VII.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BROOKS. Mr. Chairman, I would say it requires an amendment to be germane to the subject under consideration and to be germane the amendment must have the same fundamental purpose as the bill under consideration. This amendment does not and I would like to speak on it if I might.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. BROOKS. Mr. Chairman, this amendment has the effect of amending statutes not before the House. The amendment imposes an additional restriction on the expenditure of funds that are not now in the law. The amendment is not related to Federal control but is a direct restriction on Federal funding.

Mr. Chairman, the prior amendments to this title have been ruled proper as clarifying the intent of the legislation, not to extend the authority of the Federal Government in the areas of discrimination and religion. They did not undermine or add new restrictions to the authority but merely offer to prevent its undue expansion.

This amendment would curtail, in a manner not previously considered by the committee of substantive jurisdiction, existing authority to assist biological and health educational programs and rather than protecting the local authority from Federal control will add a new restriction and extend Federal control over that local authority. This is not a matter appropriate to a reorganization bill. It is not a decision that is within the jurisdiction of the Committee on Government Operations and should not be approved, "except as explicitly provided by statute." It just does not eliminate a flaw in this amendment because it simply leads us in circles. In effect, the amendment says no provision of law shall be construed to do so and so except as explicitly provided by statute. Of course, no provision of the law can be construed to do anything except as provided by statute.

The last phrase of this amendment appears to be a very artfully drawn one but, in fact, is meaningless and should not be used as a vehicle to gain consideration of a matter on the floor that is otherwise not in order, one that makes a mockery of the House rules on germaneness.

□ 1330

The CHAIRMAN. Does the gentleman from Ohio (Mr. ASHBROOK) conclude the point of order?

Mr. ASHBROOK. Absolutely not, Mr. Chairman.

I would indicate that my colleague, the gentleman from Texas, is correct in indicating that my amendment would attach to several provisions of law; however, under this reorganization that is precisely what we are doing. We are bringing the administration provisions of law, of statutes heretofore enacted, under the jurisdiction of the new Secretary of Education.

I would also point out that on page 90 in section 437 the General Education Provision Act is specifically referred to.

The Speaker in November 1971 in a direct ruling similar to this indicated where the General Education Provision Act is brought before the Congress, that opens up the provisions that are covered by the General Education Provisions Act.

Even beyond that, I limited the amendment to specific educational acts that under this reorganization are brought under the jurisdiction of the new Secretary of the Cabinet office to be created.

I think the rulings of the Chair in the past days, yesterday and today, clearly indicate that this amendment as a limitation on programs administered by the Secretary of the new department to be created would be germane.

The CHAIRMAN. The Chair is prepared to rule.

The gentleman from Texas makes the point of order against the amendment offered by the gentleman from Ohio on the grounds that it is not germane to the bill.

The Chair might state that the precedent cited by the gentleman from Ohio did not involve a reorganization bill.

The amendment which the gentleman from Ohio has offered would provide that no provision of law shall be construed to authorize the Secretary of Education or any other officer to fund, control, or assist the teaching of abortion as a family planning method or the counseling or use of the practice of abortion in connection with federally sponsored educational programs, except where explicitly provided by statute.

The gentleman has argued in opposition to the point of order that the provisions of title I as perfected by the Committee of the Whole yesterday already limit in various respects the authority of the Department of Education and other Federal officials to control the activities of local educational agencies receiving Federal funds for educational purposes.

The provisions of section 103 of the bill as amended contain restrictions on the authority of the Federal Government to exercise control over the local discretionary use of Federal funds and to require eligibility standards for the receipt of such funds; but it is contrary to the fundamental purpose of those limitations to directly change the Secretary's authority to provide funds to local educational agencies.

Nothing in the bill before the Committee of the Whole, which is essentially an organizational bill, changes the authority to provide Federal funds for educational purposes under those laws whose administration is transferred to the new Department.

Title I, as amended, remains restricted in scope to expressions of policy which indicate that the authorities being transferred by this bill are not to be construed as being expanded to permit increased Federal control over local educational policies.

For the reasons stated, the Chair sustains the point of order.

Are there additional amendments to title I?

Mr. BUCHANAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, a number of my constituents have written me expressing various concerns and raising certain questions about the creation of a Department of Education.

I therefore would like to ask the distinguished chairman of the committee, as I promised some of my constituents I would do, some questions concerning it.

Mr. Chairman, there has been a great deal of criticism and fear over the creation of another proliferating Federal bureaucracy and the example is cited of the Department of Energy and the growth that has occurred since its creation in expenditure and size.

How is this legislation designed to meet the problem of bureaucratic growth?

Mr. BROOKS. Mr. Chairman, if the gentleman will yield, section 403 reflects the strong concern of the committee over the possibility of an uncontrollable expansion of another Federal bureaucracy and the desire of the committee to inhibit such an expansion.

One of the major reasons for the new department is to reduce administrative costs and waste by streamlining the bureaucracy, consolidating programs that are now scattered among many departments and agencies.

We expect through the consolidation and the coordination of the existing educational programs an elimination of duplicative personnel systems and staff supported activities of the present systems. Stemming from this expectation, we have mandated a reduction of personnel positions by 450.

Mr. BUCHANAN. What, if any, provision has been made to curb an unbridled growth of the Department in the future, Mr. Chairman?

Mr. BROOKS. Well, in an effort to inhibit an expansion feared by many after witnessing the growth of some other Federal departments, we have limited the number of personnel positions that may be added within the Department each year to 50. Anything in addition to 50 would have to be done by statutory authority.

Mr. BUCHANAN. An additional fear which seems to trouble a number of my constituents is that such a creation, that is, of a separate Department of Education, would lead to an expansion of the Federal role in education resulting in Federal control of education.

Mr. BROOKS. The firm national tradition of State and local control over education will not be impaired in any way by this reorganization.

Section 103 contains a clear prohibition on Federal direction, supervision or control of local educational programs.

The Federal role is limited and specific. It is to promote equal access to quality educational opportunities and support the States, the localities, private and public institutions, in carrying out their responsibilities for education.

Mr. BUCHANAN. I thank the Chairman for his answers to these questions.

I must say, one of the really regrettable things that happen sometimes in our political process is that misinformation creates fears that are unfounded. As well as I understand this legislation, we are simply taking out education functions from various places and putting them in one new department, not to increase the power of the Federal Goverment or its control over education, only to find a better arrangement for serving the national priority of education and fulfilling the Federal role in that priority; is that correct, Mr. Chairman?

Mr. BROOKS. The gentleman states it very well.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. Yes, certainly.

Mr. GOODLING. Mr. Chairman, I am assuming that the gentleman understands we are pulling out all things that belong in education and are putting them into one department. Then we are only going to have one committee in the House in order to oversee those functions. The gentleman does believe that, does he not?

Mr. BUCHANAN. I have great faith in that one committee, I will say to my distinguished friend. And one of the reasons I have such faith is that because the distinguished gentleman is a part of that committee, and as long as the gentleman from Pennsylvania with his fine background in education and long record of leadership in education is serving as my leader on the Subcommittee on Elementary, Secondary and Vocational Education, and as a leader of the whole committee on our side of the aisle, I feel really good about where we are vesting our authority.

Mr. GOODLING. If the gentleman feels that good about my leadership, then I certainly would suggest that the gentleman does not swallow anything about what the gentleman has just heard about what this Department is or is not going to become.

Mr. BUCHANAN. Well, I will say to my friend, and I may have to say some of it at a later time, that I have looked at the questions. I have looked at the fears that have been raised; but there are certain questions I have about the vast giant jungle of the Department of Health, Education, and Welfare, in which many of these functions now reside.

I do not believe this new Department will have greater powers than HEW already has. I do believe that with its concentration of purpose and of function that education can fare better as that national priority that my friend knows is a priority and I feel very strongly is a priority and can be better served by having education stand on its own feet in its own Department.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. Buchanan) has expired.

(At the request of Mr. Goodling, and by unanimous consent, Mr. Buchanan was allowed to proceed for 3 additional minutes.)

Mr. GOODLING. Mr. Chairman, will the gentleman yield further?

Mr. BUCHANAN. Certainly.

Mr. GOODLING. Mr. Chairman, the gentleman knows I was being facetious originally, because, of course, this is not becoming a Department of Education. We are not bringing all functions of education, all functions of educating a youngster under one roof, under one management. We are not going to have one committee making the determinations. We are going to have just one more added to all those we presently have. That is the only point I was making.

Mr. BUCHANAN. Well, I will say to the gentleman that the gentleman's committee that he serves on certainly will have substantial and continuing responsibilities as it does now, but let me speak to the problem with which we are confronted right now in education. When I came to this place, I was an opponent of Federal aid to education, because I did not want Federal control of education. Where Federal money goes, Federal controls tend to follow.

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Mr. Chairman, I opposed early efforts at Federal aid to education. But the fact is that the Federal Government is draining away the tax revenues through its income tax. We have seen the situation of people simply voting not to fund education at the State and local level because of the large share of their taxes that are being drawn away by Washington.

If we do not provide support from here for education, we will not adequately meet this high priority nor do our best for our most precious resources in this country, our human resources.

If there is going to be a Federal role in education, I do not want to see continue to happen what has happened year after year since I have served in this Congress, and that is that we have all the budget cutters, OMB, the Budget Committees, the Appropriations Committees, and all of us in the Committee of the Whole, who like to cut the HEW budget. That is one of our favorite places to reach out to try to slash what we may consider unnecessary spending.

Education becomes a disproportionate and often unintended victim, of 10, 5, or 2 percent across-the-board cuts in HEW because most of the budget items in the Department of Health, Education, and Welfare are uncontrollable items of spending—entitlement programs like social security. So if we have a percentage cut, we end up with education taking a disproportionate share of that burden.

If we want to cut Federal aid to education, I say we should do so by facing that issue on its own merits, but it seems to me that if we are going to do an adequate job in our Federal role on behalf of Federal support for education, the least we can demand is that the program should stand on its own feet and be voted on its merits, which is not the present case.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. Buchanan) has expired.

(On request of Mr. Goodling, and by unanimous consent, Mr. Buchanan was allowed to proceed for 2 additional minutes.)

Mr. GOODLING. Mr. Chairman, will the gentleman yield further?

Mr. BUCHANAN. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, the gentleman's point about getting Federal moneys back to local and State school districts and departments is very, very important, there is no question about that.

In my remarks yesterday I said that where we have been successful in Federal aid to education has been in NSEA and vocational ed, where in fact we send money back. But we do not send money back and say, "You do this" or "You do not do this, but you must do that." We say, "NSEA will help to educate certain people. You figure out the best way to do that."

On the other hand, where we have had Federal involvement in the teaching of reading with Federal dollars, we ended up with teaching reading without phonics. We have had poor spellers because of that.

When we got to the involvement of the Federal Government with Federal dollars in the teaching of mathematics, we ended up with modern math. We do not know yet whether that is good or bad, but the fact is that nobody knew how to handle it, so we had the mathematics problem.

Yes, I am all for getting those dollars back. I am for letting those dollars get back there to let the State and local governments do the job. But I do not know how the Department of Education is going to get those dollars back and achieve this effort. Let us take that money, if we really want to do something for youngsters, and send it back and tell them to investigate the problem of the teacher-pupil ratio and reject this new Department.

Mr. BUCHANAN. Mr. Chairman, I agree with my friend, the gentleman from Pennsylvania (Mr. Goodling) in everything except whether the creation of the Department of Education will help or hurt that effort.

I will join my friend in oversight activities to assure that there will be no Federal control in education. I see no increase in powers in this bill, and we must have Federal support for education.

Mr. Chairman, I thank the committee chairman for answering my question, and I invite my friend, the gentleman from Pennsylvania (Mr. Goodling) to change his very fine mind on this subject.

The CHAIRMAN. If there are no further amendments to title I, the Clerk will designate title II.

Title II reads as follows:

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

Sec. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Under Secretary shall also be responsible for intergovernmental relations in the Department. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

PRINCIPAL OFFICERS

Sec. 202 (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) In addition, there shall be in the Department five officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The officers appointed under this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;

(2) public information functions;

(3) management and budget functions;

(4) planning, evaluation, and policy development functions;

(5) encouraging and monitoring involvement of parents, students, and the public in departmental programs; and

(6) providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities. (d) Except as otherwise provided by this Act—

(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, vested in the Secretary by section 301(a)(3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to insure compliance with civil rights laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS-18 of the General Schedule by section 5332 of such title.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 204. There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private as the Secretary shall delegate to the Office.

OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES

SEC. 206. There shall be in the Department an Office of Special Education and Rehabilitation Services headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting special education and rehabilitation services as the Secretary shall delegate to the Office and shall serve as principal adviser to the Secretary on matters affecting special education and rehabilitation services.

ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION

SEC. 207. There shall be in the Department an Assistant Secretary for Vocational and Adult Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 208. There shall be in the Department an Office of Educational Research and Improvement headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions of the Department concerning research, development demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate to the Office.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

SEC. 209. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense, the director of which shall be one of the officers appointed under section 202 of this Act.

GENERAL COUNSEL

SEC. 210. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

OFFICE OF INSPECTOR GENERAL

SEC. 211. (a) Section 2(1) of the Inspector General Act of 1978 is amended by adding "the Department of Education," after "the Department of Commerce,".

(b) Sections 11 (1) and (2) of such Act are amended by adding "Education," after the word "Commerce,".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 212. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter in this section referred to as the "Council").

(b) The Council shall—

(1) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs;

(3) promote better intergovernmental relations; and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators, and teachers;

(C) five representatives of public and private post-secondary education, including board members, administrators, and professors; and

(D) four members of the public, including parents of students and students.

In making appointments to the Council, the President shall select individuals who represent a diversity of geographic areas and demographic characteristics.

(2) The Under Secretary shall be an ex-officio member of the Council.

(3) Each member shall have a term of four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.

(e) The Secretary shall furnish such staff, services, and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

SEC. 213. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this section as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

In addition, the Committee shall review and assess the state of involvement and participation of students and parents in the overall education decisionmaking process and in specific education programs.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions, and boards that the President may from time to time deem appropriate.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

AMENDMENTS OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer amendments.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. ERLENBORN: On page 58, in line 12, strike out the word "five" and insert in its place "four".

Strike out all from line 20 of page 63 to line 2 of page 64, inclusive.

On page 64, in line 4, strike out "210" and insert in its place "209"; and

In line 8, strike out "211" and insert in its place "210"; and

In line 15, strike out "212" and insert in its place "211".

On page 67, in line 3, strike out "213" and insert in its place "212".

On page 99, in line 3, strike out "14" and insert in its place "13".

On page 100, in line 4, strike out "(5)" and insert in its place "(4)".

On page 52, in the table of contents, strike out "Sec. 209. Functions relating to education of overseas military dependents," and renumber sections 210 through 213 as sections 209 through 212, respectively.

Mr. ERLENBORN. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, these amendments relate to the Department of Defense dependent school system.

I first want to call the attention of my colleagues to the letter that is dated June 1 of this year that was sent to all Members and was signed by the gentleman from Illinois, Mr. MELVIN PRICE, chairman of the Committee on Armed Services, the gentleman from New York, Mr. JOSEPH P. ADDABBO, chairman of the Subcommittee on Defense of the Committee on Appropriations, the gentleman from California, BOB WILSON, the ranking minority member of the Committee on Armed Services, and the gentleman from Alabama, JACK EDWARDS, the ranking minority member of the Subcommittee on Defense of the Committee on Appropriations.

This letter addressed to all of our colleagues was sent in support of the amendment I am now offering.

Mr. Chairman, the Department of Defense dependent school system is probably not well known by most people in the United States, including most Members of Congress. It is a system that has grown through usage since World War II. After World War II, when we found ourselves with our servicemen deployed in various places around the world, it was apparent that in time of peace these servicemen would not be content to take those assignments unless they could have their families with them, and so dependents were authorized to join these servicemen in Europe, Asia, and various other parts of the world.

After the children joined these servicemen and, later, servicewomen, it was obvious they would have to have school facilities, curricula, and so forth that was equal to what those young people would have had had they been residing in the United States.

Strangely, without any direct legislative authorization, the Department of Defense began this overseas dependents school system, under the oversight of the Committee on Education and Labor to some small extent but mainly of the Committee on Appropriations, through the Subcommittee on Defense. The system grew and in many ways prospered.

There have been some problems with this overseas dependents school system, and the General Accounting Office in 1973 or 1974 made some recommendations. As a result, the structure in the Department of Defense, which had been service-oriented, with one service, the Navy, having authority in the Atlantic, the Air Force in the Pacific, and the Army in Europe, was changed. That structure was changed, and the Dependents School System was put directly in the Office of the Secretary of Defense rather than in one of the armed services.

As a result of legislation passed last year, we also have an underlying legislative authorization for the operation of these schools.

Mr. Chairman, when the administration was considering the development of the proposal for a Department of Education, they had many proposals as to different elements of education that could be brought from places outside the Office of Education and welded into the new Department of Education. The Office of Management and Budget, in making an assessment of some of these proposals addressing the proposal for transferring the dependents school system, made these observations:

□ 1350

First, there were some potential advantages of transferring the dependent schools, but also disadvantages. Let me read from the Office of Management and Budget's own assessment of the disadvantages:

Number one, problems of coordinating logistical and housekeeping support for the schools would be increased. The schools now rely completely on the military for logistical and housekeeping support. It is the most readily available and seems to be the most efficient and economic source of such support. If the schools were transferred to the Department of Education, the acquisition of these kinds of support from the military would become cumbersome and bureaucratic, and the schools would suffer as a result. A transfer would in effect be recreating, at least in part, an excessively layered structure, which is the very thing DOD is attempting to eliminate. This would require an excessive amount of time of officials in high reaches of both Departments and produce adverse effects on the attainment of goals.

Secondly, removing control and operation of the schools from the Department of Defense would have a negative impact on military personnel.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 5 additional minutes.)

Mr. ERLENBORN. The OMB memo goes on to spell out how military personnel would be adversely affected:

And, thirdly, there is some concern that transfer would lead to intrusion in the educational programs of the schools. The schools might be viewed as an opportunity to experiment by many education staffs. At least at the outset, there could be an irrepressible urge to observe, study and tinker with the programs of the schools.

I have observed since then—and some of my colleagues disagree with me—that there would be this possible urge of education personnel in the Department of Education, most of whom are people who came from education in the States, to decide what are the best books, the best curriculum, the best content of courses, and so forth, to make those decisions in the dependent school system, and then having professional educators here in Washington, where the greatest knowledge resides, of course, having made those decisions, then translate them, either subtly or not so subtly, into directives or encouragements to the rest of the schools in the United States to follow the course set by the new Department of Education in operating these schools.

It is interesting to note that, up until now, the Office of Education has had the authority to operate schools only in one instance, and that is in section 6, Impact Aid Schools. Those are the schools that are maintained on Defense bases in the continental United States and places like Puerto Rico. The Office of Education has specifically opted not to operate those schools but has, rather, delegated the authority to operate the schools to the Department of Defense. So there is the Office of Education itself consciously making the decision not to operate schools but, rather, to let the Department of Defense operate those schools.

The proposal before us now would transfer this school system, which, in terms of the number of children served, would be the 11th largest in the United States—about 130,000 children—which is widespread and diverse, around the world, and which, as the OMB memo spells out, would necessitate either recreation of support services or contracting them back to let DOD perform them anyhow.

I submit that this is not in the best interest of these children. We have a new system which has been very well received overseas. Just as recently as Easter I visited one of these schools in Japan; and it was reported to me that now, in getting direct appropriations for construction and maintenance of school facilities rather than having to work through the Armed Services, as before, competing with the Armed Services' needs, they are building the schools and obtaining the buses and the other support services needed in the past which sometimes have fallen short. Now it is a good school system, it is accredited by the same accrediting organization—the North Central Association—that accredits some of our schools here in the United States. It would be detrimental to the children in the system, it would be detrimental to the defense effort to destroy or at least diminish the military personnel's attachment to their assignment overseas. It would be detrimental in all ways to transfer this overseas dependent school system. It should stay with the Department of Defense.

Our colleagues who have performed the oversight in regard to this have joined with me in asking the Members to support this amendment to keep the dependent school system where it is. The only reason it is in this bill is to make it appear that there is a real organization effort underway. But it is not wise to tamper with this system just to make this appear to be a real reorganization.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from New York.

Mr. HORTON. I just want to understand what the amendment does. This amendment is directed to the removal——

Mr. ERLENBORN. The transfer of the overseas school system.

Mr. HORTON. But this does not affect the transfer? Does the gentleman's amendment actually affect the transfer which is in title III?

Mr. ERLENBORN. This is in title II. It is germane to title II, in eliminating the creation of an office within the Department of Education that would have this jurisdiction.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has again expired.

(On request of Mr. HORTON and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

Mr. ERLENBORN. Mr. Chairman, it might help the gentleman to know that if this is adopted I have additional amendments to title III that affect the transfer itself. But if this amendment were adopted, it would do away with the structure created within the new Department of Education meant to manage the overseas school system. Then, of course, a conforming amendment would be adopted in title III to take the transfer out of the bill.

Mr. HORTON. But the gentleman chose not to offer amendments to be considered en bloc which would also amend title III, section 303, so as to transfer the Department of Defense education schools.

Mr. ERLENBORN. That would follow.

Mr. HORTON. What we are dealing with here in the gentleman's amendment is simply the establishment of the office that would oversee the function of education in the Department of Defense schools?

Mr. ERLENBORN. The gentleman is correct.

Mr. HORTON. I thank the gentleman.

Mr. ERLENBORN. Mr. Chairman, I urge the adoption of the amendment.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, I have supported the transfer of DOD overseas schools to the Department of Education last year and this year in subcommittee and in full committee. I continue to do so for one basic reason: The Department of Defense's primary mission is not education; it is the defense of this country, military preparedness. Transferring these schools to an agency oriented to education will benefit overseas dependent students, their parents, and the entire military establishment. During the hearings on H.R. 2444, we heard the testimony of Navy Commander Michael Austin, speaking on behalf of the 26,000 members of the European Congress of Parents, Teachers and Students. Commander Austin wholeheartedly endorsed the transfer of overseas dependent schools into the Department of Education. He told our committee:

> We believe that our children deserve a better education than that which they are getting, that is, education must be relevant in terms of preparation for adult life, and that it must be compatible with the general educational process in the United States.

Commander Austin went on to tell us:

> The new Department of Education is certainly no panacea to immediately cure all of our ills. But we believe that the prognosis for survival there is much better than under the Department of Defense system.

I want to say that Grace Baisinger, head of the National PTA, sent me a letter dated June 8, 1979, and I quote from it:

> As president of the National PTA, and on behalf of American military parents abroad, I urge your support both of the DOD transfer and of the establishment of a Department of Education.

And she enclosed a letter from Dr. Ed Schulze, the President of the European PTSA. I quote from that letter:

> Our enthusiastic support of the Department of Education and inclusion of the DOD schools is based on a Sense of Convention resolution passed unanimously at the 1978 Convention. It will be in effect until the 1980 Convention.

□ 1400

Now I would like to say that the Secretary of Defense, the Honorable Harold Brown, wrote a letter dated June 11, and I quote from it. It says:

> I am writing to ask you to oppose any amendment to delete the Overseas Dependents' Schools from this legislation.
>
> We believe that the Overseas Dependents' School program is more appropriately located in the Department of Education than in the Department of Defense, for several reasons.
>
> It will improve prospects for enhancing the quality of education services to locate the schools in a Department of Education . . .
>
> The schools would be better able to tap resources from other Federal education programs.
>
> I know that one of the major objections to the inclusion of the Overseas Dependents' Schools program in the Department of Education is the fear that this may lead to increased Federal control of education. I do not believe that this concern is warranted. The Federal Government . . . already operates these schools.
>
> No serious objections to the transfer of the Overseas Dependents' Schools to the Department of Education have been raised by the Military Departments or by the military community—those who know best the needs of their children.
>
> We believe that the Department of Education is the most appropriate Federal agency to administer these schools, and I ask your support for the inclusion of the Department of Defense Schools in H.R. 2444.

I want to put one more quote in here. I quote from a letter from the Senator from Georgia, SAM NUNN, a distinguished member of the Senate Committee on Armed Services, in which he says:

> These schools are regular American public elementary and secondary schools serving the dependents of military personnel who are stationed abroad. Their purpose is to educate American children and is not integrally involved with the mission of the Department of Defense.
>
> Inclusion in the Department of Education will also facilitate the transition of these students, who are temporarily overseas and away from our nation, into our public school systems.
>
> The question we should be addressing is which Federal department is the most competent and best qualified to ensure that these American school children receive a sound and quality education. It would be a difficult case to argue that the Department of Defense would ever come close to giving these students the priority, attention and focus which they will receive in the Department of Education . . .

The CHAIRMAN. The time of the gentleman from Texas (Mr. BROOKS) has expired.

(At the request of Mr. JONES of North Carolina and by unanimous consent, Mr. BROOKS was allowed to proceed for 1 additional minute.)

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. I am going to join the gentleman in his remarks and call to the attention of the House that in my experience, the present system of educating our military dependents in Europe has been certainly to say the least, less desirable than it should be. I was there at one point in time in 1974 when the transition was made with the teacher corps, those leaving after the tour of duty and those who were coming in.

I could not help overhearing the enjoyment that they had had, the relaxation, how they had been to Switzerland 2 weekends and junkets one after the other.

I can only conclude at the present time—certainly it does not apply to all of them, but a great many of them go for the joy and the excitement and not for educational purposes.

I would conclude that any change would be for the better.

Thank you, Mr. Chairman.

The CHAIRMAN. The time of the gentleman from Texas (Mr. BROOKS) has expired.

(At the request of Mr. FORD of Michigan and by unanimous consent, Mr. BROOKS was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I was not going to speak on this, but I have served with the gentleman who offered this amendment for 15 years now in the Education and Labor Committee. During almost all of that time, we have continued oversight on the Defense Department's overseas schools, and I suspect that the gentleman and I have probably visited as many of these schools and talked to as many people in those schools as any two people in this House presently or in the past.

I also serve on the Post Office Committee where we have dealt over the years with some degree of success with the special status of the educational people who are, as a matter of fact, not treated like other civil service employees, because we recognize the difference in trying to provide education, as distinguished from supporting our principal defense mission.

Consistently over the 15 years of our oversight, our committee report has, among other recommendations, recommended that some day the DOD schools ought to be placed under HEW or in a Department of Education where they would not have to vie for support with all of the other important priorities and emergency situations that confront our military commanders.

We have had military commanders tell us they have had to face angry parents who are concerned about the condition of the schools, the currency of the textbooks and all sorts of problems with respect to inadequacy of materials, and at the same time they have got their pilots complaining, because there are holes in the runway; and they have had to make a choice between whether they support the schools with the available money or whether they take care of the principal mission that we have them in a foreign country to perform. I have heard this story over and over through the years.

I might remind the gentleman also that last year when he urged the adoption in this House of the Defense Department Dependents' Education Act of 1978, thereby giving this school system statutory authority for the first time, it has always been a creature of the Appropriations Committee in the past. The gentleman urged this legislation on us for, among other reasons, the fact that he wanted the school system to become independent of the conflicting demands made on the military for their operation.

Mr. McCLOSKEY. Mr. Chairman, I rise in favor of the amendment.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I would be glad to yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

My colleague from Michigan made reference to reports that I signed, making personal reference to me. I would be pleased to see those reports and agree with them if I saw my signature on such reports. I am not going to say that is not true, but to my knowledge, I have never signed a report recommending the transfer to a Department of Education now or in the future.

If I did, it just proves that I will have to read much more carefully what the gentleman writes before I ascribe my name to it, because I was never aware of such a recommendation being made.

If the gentleman would continue to yield, I might just say that the condition that the gentleman from Michigan refers to where there is competition between money to extend or resurface a runway and money to build a school, that is the old situation.

Now, the Department of Defense schools have their own separate appropriation, and there is no such tension between the two.

Mr. McCLOSKEY. Mr. Chairman, I rise in support of this amendment, because it seems to me that when we take an existing school system under the jurisdiction of one Cabinet Department, the Department of Defense, and add a second Cabinet-level Department to negotiate with the Department of Defense the operation of those schools on defense bases overseas, that we inexorably increase the cost and the complexity of Government, because now for the task of providing books and teachers and schools for our overseas dependents, we have two Cabinet Departments engaged.

When the gentleman from North Carolina mentioned that it was his observation of overseas schools, there was junketing taking place, that people went overseas to enjoy the overseas assignment rather than to educate children, what indication is there that the Department of Education, the new Department, is going to be any different?

We are now going to have two sets of bureaucrats going overseas to inspect: the Defense Department, which has the responsibility for the base, and the Department of Education, which has the responsibility for the schools on that base.

Now those schools that I have observed in overseas locations are generally headquartered on a base. They use base transportation furnished by the Defense Department.

Under the new system, will the school buses for the Department of Education be buses furnished by the Department of Education, or will they, as in the past be part of the defense base's own transportation system? It is absurd. It seems ridiculous to me to have a school operate on a base with two chains of command, one operating a school and one operating the base.

There are going to be disputes. There is going to be duplication of auditing, duplication of transportation, and duplication of assets.

We pledged ourselves in this Congress to try to simplify and cut the cost of Government. If we do not adopt this amendment, we will be accepting a system of two agencies of Government accomplishing a task which should be accomplished by one.

For those reasons, Mr. Chairman, I hope this amendment will be accepted in the interest of good Government.

I might cite that the Armed Services Committee which has examined this matter has addressed our colleagues in a letter signed by the gentleman from California (Mr. BOB WILSON), the ranking Republican; the gentleman from Illinois (Mr. PRICE), the chairman of the Armed Services Committee; the gentleman from New York (Mr. ADDABBO), chairman of the Subcommittee on Defense Appropriations; the gentleman from Alabama (Mr. EDWARDS), the ranking minority member of the Subcommittee on Defense Appropriations. Both from the subcommittee, the Appropriations Subcommittees, the ranking members and the chairman urge that this amendment be adopted, because they foresee the additional cost, the additional complexity that will result from assigning this to two Cabinet Departments.

□ 1410

Mr. FORD of Michigan. Would the gentleman yield?

Mr. McCLOSKEY. I am glad to yield to the gentleman from Michigan.

Mr. FORD of Michigan. If the Armed Services Committee has expressed all of this interest, how does it happen that the school system has been in existence since 1945 and never had a statute creating or authorizing it? They depended entirely on the Appropriation Committee to keep it going on a year-to-year basis.

The gentleman from Illinois, Mr. ERLENBORN's bill did not come from the Armed Services Committee, but it came from the Education and Labor Committee and finally gave them statutory existence only 1 year ago. Where is all of this attention that the Defense Department has been paying to these schools if they were satisfied to let them operate in limbo all of these years?

Mr. McCLOSKEY. Let me respond to the gentleman. Does the gentleman feel that by adding a new Office of Education in Europe, that somehow the education in Europe is going to be better? There is not a Department of Education officially anywhere near Camp Pendleton in California now so far as I know. By setting up an Office of Education at Camp Pendleton is that somehow going to make education better at Camp Pendleton?

Mr. FORD of Michigan. The gentleman does not understand the operation of the DOD schools. I would be very much surprised if we had a DOD school at Camp Pendleton. Those schools are outside of the United States. You have a title VI impact aid school at Camp Pendleton.

Mr. McCLOSKEY. If the gentleman is referring to Camp Pendleton, Camp Pendleton is 400 square miles and does have a school.

Mr. FORD of Michigan. I would say to the gentleman he is supporting the wrong amendment. The gentleman ought to be taking his schools out of the department by working on impact aid. The gentleman has a title VI school at Camp Pendleton, not a DOD school.

Mr. DERWINSKI. Mr. Chairman, I rise in support of the amendment.

I will be very brief, Mr. Chairman. I support this amendment because of its righteousness and practicality.

I would like to point out that on the number of trips I have taken abroad I have made a specific point to inspect these schools. I will give you examples. The school at Guantanamo Base, Cuba, represents the finest spirit of what you would see in a local school, a neighborhood school. The life of that base, that isolated base, revolves around that school.

I visited our naval base in Bahrain. I sensed the same feeling, the same spirit. If we divorce the military from the school system we take away the real spirit that binds it.

Aside from the debate over which bureaucracy would do a better job, I suggest that these have truly been neighborhood schools. They are good schools. They have the loyalty of the parents, they have the appreciation of the students. I have found a very very dedicated corps of teachers at these schools and I strongly support the amendment.

Mr. FASCELL. Mr. Chairman, I rise to speak briefly in opposition to the amendment.

I will ignore the arguments of turf and the efforts to take three wisps of straw to build a scarecrow on this issue. It seems to me the principal matter of concern ought to be the education of the children involved and the desires of the parents of those children and what is ultimately best. I think we also need to consider the teachers involved. It seems to me if you take the children and the teachers and put them into the mainstream of education, a first step which was taken by Education and Labor when they set up the separate division in DOD and took oversight of that matter, that this is the next logical step and we ought to pursue that step.

I cannot imagine there will be any difference with respect to the administrative responsibilities or problems either in terms of administration or logistics than now goes on. The reason for that, Mr. Chairman, is the parents are not going to stand for it. Their primary concern is the education of their children and they are supporting the move for inclusion of their schools under this Department of Education.

I certainly concur with them, and they certainly know what they are doing and how they feel about it. I assume that their ability to deal with the administrative problems will be just as capable as it has been up until now, regardless of what people might say who are opposed to this concept. I dare say that military commanders and local base commanders are not going to want any more headaches with respect to parents and children than they now have.

We recognize that there are people of good will and good commonsense who will have to acknowledge this program and recognize what the primary need is.

Therefore, Mr. Chairman, I trust that the amendment would be defeated.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, it seems to me that one of the basic reasons, as I understand it, that we have been considering a Department of Education is to coordinate this function of the Federal Government. Indeed, the findings in the bill show there is a need for improved coordination of Federal education and related programs. Surely, the education of our children abroad is public education. One of the purposes of the Department is to enable the Federal Government to coordinate all of its education activities and facilities. The very reason for talking about a Department of Education is to recognize these particular facts, recognize these particular purposes.

It seems to me that no matter how one stands, for or against the Department of Education, Members ought to be entitled to vote for a Department of Education that, indeed, coordinates all educational policies. If we begin to slowly erode these various responsibilities, we will not have a clean vote on whether or not we should have a Department of Education in our system. It is for these reasons that I approve the amendment.

Mr. FASCELL. Mr. Chairman, let me add just one final comment which I think is worth mentioning, and that is this: At the present time the teachers who are teaching the children of Americans overseas have done a good job in working their way politically, if you will, through the bureaucracy of DOD, which is, indeed, an extremely large bureaucracy. That office is headed by a gentleman who is very capable and who has to work under extremely difficult circumstances. But I think anybody will admit that to give teachers the opportunity to pursue their careers within a department which is totally dedicated to the pursuit of that career and the education of their wards, we can understand how it will improve the morale of people involved, because we are talking about their careers and their ability to instruct children.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1430

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 230, not voting 26, as follows:

[Roll No. 211]

AYES—178

Abdnor
Alexander
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Bafalis
Bailey
Bauman
Beard, Tenn.
Bennett
Bethune
Bevill
Boland
Bowen
Broomfield
Brown, Ohio
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Conable
Cotter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, S.C.
Derwinski
Devine
Dickinson
Donnelly
Dornan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Evans, Del.
Evans, Ga.
Ferraro
Flippo
Fountain
Frenzel
Gaydos
Giaimo
Gingrich
Ginn
Gradison
Grassley
Green
Grisham
Guyer
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Heckler
Hinson
Holt
Hopkins
Hubbard
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Kelly
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Luken
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKay
McKinney
Marlenee
Marriott
Martin
Mathis
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Ill.
Murtha
Myers, Ind.
Natcher
Nelson
Nichols
O'Brien
Pashayan
Patten
Paul
Pepper
Peyser
Pursell
Quayle
Rahall
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rosenthal
Roth
Rousselot
Roybal
Royer
Satterfield
Sawyer
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Stangeland
Stanton
Stenholm
Stratton
Stump
Symms
Taylor
Thomas
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whitten
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOES—230

Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Aspin
Atkinson
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Clinger
Coelho
Collins, Ill.
Conte
Corcoran
Corman
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Dicks
Dixon
Dodd
Dougherty
Downey

Drinan
Eckhardt
Edgar
Edwards, Calif.
Emery
Erdahl
Ertel
Evans, Ind.
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Leach, Iowa
Lehman
Leland
Levitas
Long, La.
Long, Md.
Lowry
McCormack
McHugh
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Perkins
Petri
Pickle
Preyer
Pritchard
Quillen
Railsback
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rostenkowski
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Smith, Iowa
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stockman
Stokes
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Weaver
Weiss
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wyatt
Yates
Yatron
Young, Mo.
Zablocki

NOT VOTING—26

Addabbo
Anderson, Ill.
Ashley
Badham
Bolling
Conyers
Diggs
Dingell
Fary
Flood
Forsythe
Goldwater
Hagedorn
Johnson, Calif.
Lloyd
Lundine
Madigan
Price
Rudd
Runnels
Schulze
Treen
Waxman
Wilson, Bob
Wright
Zeferetti

□ 1440

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Johnson of California against.

Mr. Runnels for, with Mr. Conyers against.

Mr. Bob Wilson for, with Mr. Diggs against.

Mr. Badham for, with Mr. Fary against.

Mr. Goldwater for, with Mr. Flood against.

Mr. Rudd for, with Mr. Waxman against.

Mr. Price for, with Mr. Dingell against.

Mr. Hagedorn for, with Mr. Schulze against.

Mrs. HECKLER changed her vote from "no" to "aye."

Messrs. LEHMAN, BEREUTER, and McCORMACK changed their vote from "aye" to "no."

So the amendments were rejected.

The result of the vote was announced as above recorded.

□ 1450

AMENDMENT OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SIMON: Page 59, line 5, strike out "and"; on line 8, strike out the period and insert in lieu thereof "; and"; and after line 8 insert the following:

(7) the encouragement and promotion of the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

Mr. SIMON. Mr. Chairman, I believe this is a noncontroversial amendment. It adds no personnel. It simply mandates that one of the considerations of this new Department of Education in this new area be foreign languages and the studies of other cultures.

This Nation has entered a new era, whether we recognize it or not, and the new Department of Education should help to bring us into this new era better equipped than we now are.

School board members in Carbondale, Ill., or Keokuk, Iowa, or in Vermont or Nevada look at their immediate needs and see that they must provide basic "reading, writing, and arithmetic." But if we are to meet this Nation's economic and security needs, we must also learn other languages and learn about the cultures of other countries. That is not always clear in local communities in Illinois or Iowa or Vermont or Nevada.

This amendment simply adds as a priority for the new department foreign languages and the study of other cultures.

Let me add that if this amendment is agreed to, I intend to follow through so that we do get the type of visible leadership in this vital area that the Nation needs. We must follow through, so that these are not simply empty words written into our statutes, but a living commitment which the new department has and conveys to the Nation.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I think this is a good amendment. I will be very happy to accept the amendment.

Mr. SIMON. Mr. Chairman, I thank the gentleman.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to my colleague, the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, I want to congratulate the gentleman from Illinois (Mr. SIMON) for his initiative in offering this amendment. I think it responds to a need a number of us have for many years felt has not been adequately met by the Federal Government.

I congratulate the gentleman for his leadership in general in this area, and I hope the amendment will be agreed to.

Mr. SIMON. Mr. Chairman, I thank my colleague, the gentleman from Indiana.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I have no objection to the amendment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I would like to add my commendation to the gentleman from Illinois (Mr. SIMON) for his leadership in this area, particularly in the formulation and establishment of the President's commission. I think this is the logical next step, and I congratulate the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. SIMON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GRASSLEY

Mr. GRASSLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GRASSLEY: Page 59, after line 8, insert the following new subsection and redesignate the succeeding subsection accordingly:

(d) The Secretary shall assign to one of the principal officers appointed under subsection (a) responsibility for the promotion and coordination of programs of the Department which provide assistance to rural education. Such officer shall work with the Interdepartmental Education Coordinating Committee to coordinate such programs with related activities and programs of other Federal departments and agencies.

Mr. GRASSLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. GRASSLEY. Mr. Chairman, the amendment at the desk is simple and straightforward. It contains only two sentences. However, for anyone who has ever had a problem or question relating to rural education, the adoption of this amendment could mean the end of a great deal of frustration and confusion.

My staff and I have attempted to locate the exact division, office, or person in the current Office of Education who can answer a simple question or look into a problem which affects the approximately 15 million children who attend rural schools. I have found bureaucratic roadblocks and confusion—and I know of several other Members who have had the same experiences. I have concluded that no one in the massive Office of Education is responsible for assisting rural schools, rural teachers, or rural students.

This situation is inexcusible. Of the nearly 17,000 public school districts in this country, more than 12,000 are rural and of these 32 percent have enrollments of less than 300 pupils. Rural schools have one-third of the enrollment, but only 5 percent of the research funds, only 11 percent of the library funds, only 14 percent of the vocational programs, and only 13 percent of the funds for dropout prevention programs.

Obviously, very little educational priority is given to rural schools. This Federal neglect of rural education has resulted in an urgent need for the promotion and coordination of programs providing assistance to rural schools and educators. The lack of a division, office, or section in HEW's Office of Education emphasizes this need. My amendment, by assigning one of the six principle officers of the new department the responsibility of working with rural education, would correct the confusion and problems that have characterized the attempts to deal with the Federal education bureaucracy.

This amendment does not create any new positions or bureaucracy. It does not call for any additional funding. The amendment only asks that one of the six principal officers created by this bill makes sure that someone in the new department works to promote and coordinate current programs applicable to rural education. At the same time, it is my hope that someone in the new department will be able to work with the Congress to answer questions the public has or to work on problems being experienced by rural school districts, administrators, teachers, and concerned parents.

The amendment seeks only equity for our rural residents and their children. Mr. Chairman, 20 percent of our Nation's nonmetropolitan children are poor. If we are trying to assure educational opportunity, we must not neglect this significant proportion of poor children or the rural communities that are too poor to provide quality education without proper assistance. Obviously, most rural people are not poor, but those who are are among the Nation's most disadvantaged. Past and present neglect of rural education has added to, not aided, this situation.

Let me give you just a few examples of the persent neglect of rural education that I am talking about. The National Center for Education Statistics annually publishes, "The Condition of Education" which provides a comprehensive overview of many aspects of American education—rural education is specifically excluded from the report.

The U.S. Office of Education distributes around 135 titles—none of them are on rural education, nor is "rural" contained in any subtitle. However, you will be pleased to know that there are helpful reports on education in Poland, Tunisia, and Ecuador.

The Office of the Assistant Secretary for Education supports a range of studies on education policy and finance. To date, however, ASE has provided funds for only one rural education study.

Obviously, the problems of our 15 million rural schoolchildren have been neglected at the Federal level. Therefore, I urge all of my colleagues who have rural school districts in their congressional districts or who have a concern for equal educational opportunities for all Americans, to support this simple amendment. I believe it will provide for a much needed service, without adding to the costs or bureaucracy of the new Department.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I have studied the amendment. We had a copy of it earlier. I think it is a good amendment, and I agree with the gentleman from Iowa (Mr. GRASSLEY) that there ought to be assistance to rural education. I think this is a good way to call specific attention to it.

I am very happy, Mr. Chairman, to accept the amendment.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I think the amendment is quite acceptable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. GRASSLEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: Page 58, line 8, strike out "six" and insert in lieu thereof "seven".

Page 64, after line 2, insert the following new section and redesignate the following sections and conform the table of contents accordingly:

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

SEC. 210. There shall be in the Department an Office of Bilingual Education and Minority Languages Affairs headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer and coordinate functions under Title VII of the Elementary and Secondary Education Act of 1965, post secondary education programs and any other programs relating to bilingual education, including research, development, evaluation and assessment with respect to such programs. The Assistant Secretary shall perform such additional functions as the Secretary may prescribe.

Mr. GARCIA. Mr. Chairman, I am offering this amendment to which my colleagues, the gentleman from California (Mr. ROYBAL), the gentleman from New York (Mr. RANGEL), the gentleman from New Mexico (Mr. LUJAN), and the gentleman from Arizona (Mr. UDALL), have also added their names. I believe the amendment to be germane to the purpose of a coordinated and efficient program of education.

Despite our present economic situation, this country is perceived as a land of opportunity and stability. This is substantiated by the significant number of immigrants and refugees from countries like Vietnam, Iran, Russia and Eastern Europe, and Haiti, that enter this country on a monthly basis. The fact is that the children of these immigrants will eventually enter our education system, and the government, both at the Federal and local levels, has the responsibility to provide them with services.

Mr. Chairman, a recent study performed by the National Center for Educational Statistics revealed some very interesting facts. Of of 1978, Arizona, California, Texas, Hawaii, and New Mexico have over 20 percent of limited English speaking ability children, better known as LESA. There are nine other States, New Jersey, New York, Pennsylvania, Florida, Louisiana, Illinois, Ohio, and Nevada, which have 10 to 20 percent of LESA children.

It is a fact today, Mr. Chairman, that almost 4 million school-age children in this country are in some need of bilingual education to overcome language barriers that prevent them from performing academically at the same level as their English-speaking peers.

In 1976, Mr. Chairman, the General Accounting Office concluded that "the language of the limited English-speaking children may not have been used enough in classroom instruction," in assessing reasons for poorer achievement by language minority children.

The purpose of my amendment is very simple. It is to finally have a person within the new department with the stature and the authority to efficiently administer and coordinate all bilingual efforts within it.

That not only means those that presently fall under the Office of Education in HEW but other related activities such as teacher training programs, research and development, aids to education, bilingual vocational education, postsecondary education, and others.

Only with this kind of coordination, Mr. Chairman, will we be able to significantly improve the administration of bilingual education programs, as well as the quality of the programs and, much more important, the end result.

In authorizing title 7 of the Elementary and Secondary Education Act, Congress has recognized the real need for bilingual education in this country and has shown its dedication and commitment to all bilingual language programs of this type.

To use the words of President Carter, in his very recent address to the legislature in Mexico City, he said:

> We are in fact a pluralistic society shaped by many influences forming a distinct culture while retaining much of the original character. An effective program of bilingual education in a country will serve to enhance our cultural riches.

Mr. Chairman, I strongly urge that my colleagues support this amendment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I am very sympathetic to the amendment, but the problem I have with it is that it increases the number of assistant secretaries to seven.

If this responsibility could be assigned to one of the existing secretaries to the six assistant secretaries, I think it would be a very good amendment. However, when we add an additional assistant secretary, it does create problems with regard to the number of personnel in this office. We are trying to limit the number of personnel.

We do have a number of amendments by which other Members are offering language to increase the number of assistant secretaries.

Mr. Chairman, if the gentleman would be willing to delete that portion of the amendment, I think the other part of the amendment would be good to have in the bill. Unfortunately, I would have to oppose the amendment because of the increase in the number of assistant secretaries which is at a high level.

The CHAIRMAN. The time of the gentleman from New York (Mr. GARCIA) has expired.

(By unanimous consent, Mr. GARCIA

was allowed to proceed for 3 additional minutes.)

Mr. GARCIA. Mr. Chairman, if I may respond to the gentleman from New York (Mr. HORTON), one of my other duties as a Member of this House is that I have been recently appointed chairman of the Subcommittee on the Census, and I would like the gentleman from New York to understand that one of the things that has become very clear to me as I hold hearings around this country is that there is a very large community in the United States—I would venture to say the number is close to 25 or 30 million people—whose primary language may not be English, and these people are not being served.

☐ 1500

I think that HEW has long had a system for bilingual education which has really never had the authority which these 25 million people, as I see it, are going to need. I would hope that the decade of the 1980's would be a decade in which all Americans are included, in terms of education.

Mr. HORTON. Mr. Chairman, will the gentleman yield further?

Mr. GARCIA. I yield to the gentleman from New York.

Mr. HORTON. I would agree with the gentleman and I am in complete accord with the gentleman that there is a problem of bringing education to this particular group, and I think the amendment is a good amendment. I think, under the circumstances, with a separate Department of Education you will have a different situation than you have now when you are dealing with the Department of HEW because of the bureaucracy and the other points we have made with regard to the need for HEW. But the problem I have with having one specific assistant secretary for this purpose is pure and simple. It does create additional personnel which would require us to have to increase the number of personnel in the Department. If this responsibility could be assigned to one of the six that are already designated in the bill, I would have no trouble with the gentleman's amendment.

Mr. GARCIA. If I may respond to the statement of the gentleman from New York, the basic problem I have with that is that I think that the question—it is my thought, obviously—of bilingual education is going to be extremely important to us in our future as a country. I would hate to have the system of bilingual education diluted by having that Secretary having other responsibilities besides the running and administering a bilingual education program throughout the United States.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I am troubled by the gentleman's amendment, if I may tell the truth. I remember what our former colleague, Mr. Dent, used to say in those passionate speeches on the floor of the House. I wonder whether this is really in the interest of our children? We have millions for whom English is not a first language, that is true. Almost every human being in this country did not have English—very few, in any case—as a first language. They learned, and they became a part of the general mainstream of our country. I am just wondering if we are doing them a favor with this separation from the mainstream.

Mr. GARCIA. If I may regain my time, the last thing I want to do, as I said on the last amendment, is to separate. I want to bring together. I think that, as opposed to our society, which is a monolingual society, when we go to the other cultures as we know them, where many of our grandparents and our parents came from, the fact is that those are many cultures. I find that to be extremely satisfying, and I think those cultures, especially the European cultures, mean a great deal. We do not have that.

I do not want to belabor the point, but I think it is going to strengthen us as a Nation and not weaken us.

The CHAIRMAN. The time of the gentleman from New York (Mr. GARCIA) has expired.

(By unanimous consent, Mr. GARCIA was allowed to proceed for 3 additional minutes.)

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I would like to commend the gentleman for introducing the amendment. I have a similar amendment at the desk, which I will not offer, and I will support the amendment offered by the gentleman from New York (Mr. GARCIA).

Referring to some comments that have been made, I would like to say that perhaps the word "bilingual" is a misnomer. What we have attempted to do, those of us who have supported this program, is to use that language as a tool to bring them into the mainstream and not to divide the cultures or to divide languages but, rather, to see that it is used as a tool in order to enhance the movement into English speaking and, eventually, wind up with two or three languages. As all of us know, the person who speaks two languages is better off than the person who speaks one.

So far as the Assistant Secretary is concerned, I think that perhaps something could be worked out. But this is such a technical area, with the research and methodology and all of the aspects of it. We are speaking of over 100 languages. I think the people involved, with the intent of the Congress, merit the position of an assistant secretary to coordinate all of these efforts.

Again I commend my colleague, the gentleman from New York (Mr. GARCIA). In view of his offering his amendment, at this time I will support it and I will withdraw my amendment

Mr. GARCIA. I thank the gentleman for his remarks.

Mr. BROOKS. Mr. Chairman, I am reluctantly in the position of having to oppose this amendment, because it would certainly detract from our general efforts to streamline the administrative structure of the new Department of Education. As H.R. 2444 now stands, the offices of assistant secretary control broad functional areas of Federal education programs, such as elementary and secondary education, and postsecondary education. There are no assistant secretaries to oversee one specific area of categorical programs, such as bilingual education, and I do not think that there should be. This is not to detract from the importance of bilingual education programs. I have supported them. I support them now. But I do not support them with a special secretary to be in charge of them. If you want to have an office that concentrates bilingual education, coordinates it within a new Department of Education, that is fine; but to have an assistant secretary is not workable, nor is it desirable.

There are many important components of the Federal effort to make educational opportunity equal among all children, and they will continue to maintain their importance in the new Department of Education. But I do not think that the effectiveness of bilingual education programs can be enhanced by the creation of an Office of Assistant Secretary for Bilingual Education.

Mr. CORRADA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of my colleague from New York, to H.R. 2444, which would reiterate our commitment to strengthen and improve the administration and oversight of the bilingual education program. Last fall when we reauthorized the Bilingual Education Act, we did a general overhaul to enable a more efficient delivery of services, coordination, and administration. The program is finally being administered in a conscientious manner. Yet in establishing a Department of Education, we should insure that bilingual education is not diluted and relegated to the back burner. We should not foster the fragmentation of initiatives all aimed at the same basic purpose, which is to serve the educational needs of children of limited English proficiency.

Close to 4 million of these children look at bilingual education as the vehicle through which they can gain an equal educational opportunity, an access to education which is not provided by the overall system which relegates them to underachievement, maladjustment, and the ranks of the dropouts.

Bilingual education should be monitored, refined, and improved, so that the high hopes which it has engendered in the hearts and the minds of those who need it are not thwarted. The integrity and effectiveness of the Federal commitment can be safeguarded by proper administration, and this can best be achieved through the vehicle which my colleague from New York proposes. I urge you to support his amendment.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I do so because I am not certain whether I will support or vote against the amendment offered by the gentleman from New York (Mr. GARCIA). But I would like to make some observations about the underlying program of bilingual education.

It has been pointed out that in the city of Chicago—which I do not represent but which is nearby my district—the bilingual education program includes, in some instances, teachers who are not proficient themselves in English, whose not only principal but almost only language is Spanish in the particular area in which they speak. The bilingual program was intended, and rightfully intended, to try to help to bring those whose principal language was other than English into the mainstream by helping them learn the English language. But in all of those many instances—and I think even those who are supporters of the program will agree that this has happened in some instances—it has become the practice merely to teach people in their principal tongue, which then of course makes it unnecessary for them to become proficient in English.

☐ 1510

In addition, I would point out that the argument of the chairman, the ranking member, against assigning specific duties to a specific under secretary is a valid argument. I think it is good organizational policy, one that would be backed by the Hoover Commission and other commissions concerned with organizational structure.

The Secretary of the Department should be given assistant secretaries without designated duties so that he could from time to time organize and reorganize as is necessary the functions within his Department without the strictures that would be attendant with having specific statutory designation of authority.

I do support the argument of our chairman, the ranking minority member, in that regard.

I am constrained, however, to point out that section 203 of the bill, beginning on page 59, violates that very tenet by creaing a separate Assistant Secretary for Civil Rights.

So, though they have made that argument relative to this amendment, it is not consistent with the practice contained in their bill. This being the case, one has to decide whether to go along with the exceptions that they have begun and support the amendment or rather to try to fight for more purity in the bill and good organizational structure and oppose the amendment.

So posed with that dilemma, all I can think of doing is insisting we have a vote on the amendment at least.

AMENDMENT OFFERED BY MR. DE LA GARZA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. GARCIA

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. de la Garza as a substitute for the amendment offered by Mr. Garcia:

Page 64, after line 2, insert the following new section and redesignate the following sections and conform the table of contents accordingly:

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

Sec. 210. There is established in the Department an Office of Bilingual Education and Minority Languages Affairs, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department. The Director and the Secretary shall consult concerning policy decisions affecting bilingual education. The Director shall report directly to the Secretary, and shall perform such additional duties as the Secretary may prescribe.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to my good friend, the gentleman from New York.

Mr. HORTON. The gentleman from Texas has offered an amendment which I think cures the concerns that I had with the amendment that was offered by the gentleman from New York (Mr. Garcia).

Accordingly, I would be very happy to accept this amendment. I think it is a good amendment. I think it is an amendment that should be in the bill. I certainly would indicate my support for it and urge its adoption.

Mr. de la GARZA. I appreciate the gentleman's cooperation.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman from Texas, the distinguished chairman of the committee.

Mr. BROOKS. I share that feeling and believe this amendment that the gentleman offers will facilitate the accomplishment of the aims of the gentleman from New York (Mr. Garcia) and will bring into a more prominent view and better expedite, facilitate, and coordinate the bilingual efforts of the Department of Education to be constructive. It would be constructive. I would certainly support it.

Mr. de la GARZA. I certainly appreciate the cooperation of the distinguished chairman.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to my good friend, the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

First, I would like to commend my colleague from New York (Mr. Garcia) for the introduction of his amendment and congratulate the gentleman from Texas (Mr. de la Garza) for offering a substitute, because it deals with the natural concerns that flow from the language of the original amendment

Both of them, however, address themselves to a very vital segment of the education process, and I am hopeful that the enactment of this amendment will aid in the coordination and administration of the entire bilingual program.

Mr. de la GARZA. I appreciate the gentleman's cooperation.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman from California.

Mr. ROYBAL. I, too, would like to commend the gentleman from New York (Mr. Garcia), and the gentleman from Texas (Mr. de la Garza) for the amendments that have been presented.

I sincerely hope that it will be carried unanimously and that it will strengthen the Department. It will strengthen bilingual education and mean a great deal to the Department of Education as a whole.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman from Texas for yielding.

I have no problem with the amendment to my amendment. I would accept that.

Mr. de la GARZA. I appreciate that.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I appreciate the gentleman yielding.

I commend the gentleman for their efforts in defining the purpose of this amendment.

Mr. de la GARZA. Mr. Chairman, I respectfully request my colleagues to support the substitute amendment.

Mr. Chairman, I appreciate the cooperation of all of the Members and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. de la Garza) as a substitute for the amendment offered by the gentleman from New York (Mr. Garcia).

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Does the gentleman make his demand on the amendment or on the amendment offered as a substitute?

Mr. ERLENBORN. On the substitute, Mr. Chairman.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 212]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clay
Cleveland
Clinger

Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Young, Fla.
Young, Mo.
Zablocki

☐ 1530

The CHAIRMAN. Three hundred sixty-three Members have answered to their name, a quorum is present, and the committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 396, noes 22, not voting 16, as follows:

[Roll No. 213]

AYES—396

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hansen
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Hefner
Heckler
Heftel
Hall, Ohio
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki

NOES—22

Badham
Bafalis
Bauman
Brown, Ohio
Burgener
Clinger
Early
Findley
Grisham
Johnson, Colo.
Kelly
Marlenee
Martin
Moorhead, Calif.
Mottl
Myers, Ind.
Nedzi
Obey
Paul
Shumway
Shuster
Young, Fla.

NOT VOTING—16

Addabbo
Anderson, Ill.
Bolling
Burton, John
Conyers
Dingell
Flood
Forsythe
Frost
Goldwater
Hughes
Johnson, Calif.
Runnels
Treen
Wilson, Bob
Zeferetti

☐ 1550

Mr. BAUMAN changed his vote from "aye" to "no."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GARCIA), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 290, noes 124, not voting 20, as follows:

[Roll No. 214]

AYES—290

Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Archer
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker

Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Cheney
Chisholm
Clausen
Clay
Cleveland
Coelho
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Dickinson
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Emery
Erdahl
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gramm
Grassley
Gray
Green
Guarini
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin

Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Tenn.
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Latta
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Livingston
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McClory
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marriott
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle

Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Taylor
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki

NOES—124

Abdnor
Ambro
Andrews, N.C.
Applegate
Ashbrook
Ashley
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett

Bethune
Bevill
Brown, Ohio
Broyhill
Burgener
Burlison
Butler
Byron
Campbell
Carney
Chappell
Clinger
Coleman

Conable
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, S.C.
Deckard
Devine
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.

English
Erlenborn
Evans, Ga.
Evans, Ind.
Findley
Flippo
Fountain
Frenzel
Gore
Gradison
Grisham
Gudger
Hagedorn
Hammerschmidt
Hance
Hansen
Harsha
Hinson
Holland
Hopkins
Ichord
Jeffries
Jones, Okla.
Kastenmeier
Kelly
Kindness
Kramer
Lagomarsino

Leach, La.
Lee
Lent
Lewis
Lloyd
Loeffler
Lott
Lungren
McCloskey
McDonald
McEwen
Madigan
Marlenee
Martin
Mathis
Mazzoli
Miller, Ohio
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Myers, Ind.
Neal
Nedzi
Nichols
Obey
Pashayan
Paul

Petri
Pritchard
Quayle
Regula
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sensenbrenner
Shelby
Shumway
Shuster
Snyder
Solomon
Spence
Stangeland
Stenholm
Stump
Symms
Tauke
Thomas
Trible
Vander Jagt
Whitehurst
Whittaker
Wydler
Young, Fla.

NOT VOTING—20

Addabbo
Anderson, Ill.
Anthony
Bolling
Bowen
Conyers
Dingell

Flood
Forsythe
Frost
Goldwater
Goodling
Hughes
Johnson, Calif.

Johnson, Colo.
Leath, Tex.
Runnels
Treen
Wilson, Bob
Zeferetti

☐ 1600

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MARLENEE

Mr. MARLENEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MARLENEE: Page 63, line 10, insert immediately after the period the following new sentence: "The Secretary, through the Assistant Secretary for Vocational and Adult Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Interdepartmental Education Coordinating Committee to coordinate related activities and programs of other Federal departments and agencies.".

Mr. MARLENEE. Mr. Chairman, the amendment that I am offering does not create any new Federal program. It does not increase the numbers of Assistant Secretaries. It gives to the proposed Assistant Secretary for Vocational and Adult Education the authority to coordinate, already existing educational programs that are now scattered throughout the proposed Department of Education, and to work with the Interdepartmental Education Coordinating Committee to provide a unified family education approach to better serve the needs of rural disadvantaged families.

In the vast array of the Federal Government, there is no one program designed to provide a family-oriented education and development program, in a residential setting and implemented as a comprehensive, family, human approach. The programs we have now are basically designed to break the cycle of poverty for the urban poor. Many of them are good, but the problem comes with the delivery of the programs and their coordination. The authority for administering the programs has been divided up and there is little effort to coordinate the programs. In the urban setting the problem is not as great because of the close geographical proximity of the people that take part and the programs that are offered, but in a rural setting the delivery of the programs becomes very impractical.

In Montana and other rural areas, vocational education schools are hundreds of miles apart, as are adult educational centers, counseling centers, child development centers, and so forth. Because services are so far apart geographically, the disadvantaged people are not able to participate because they have no way to get to the programs. In order to participate we split up, the very family unit we are trying to preserve.

In Montana we have tried to meet the needs of the rural disadvantaged by providing a residential family development program to improve the employability and family functioning of rural disadvantaged families within the six-State region of North Dakota, South Dakota, Wyoming, Nebraska, Idaho, and Montana. Families move as a unit from within the region to the former Glasgow Air Force Base and reside there for a period of 8 months. The premise underlying the operation is that family-oriented career education, implemented through a comprehensive family-human development approach represents an effective, efficient method of improving employability, standard of living and life satisfaction of a disadvantaged population. Students are provided with career guidance, vocational training, and individualized counseling. Family core programs are designed to provide parents with skills in home management, health, parental responsibility and basic surviving skills.

Central to this approach is the concentration of services and the focus on the entire family as a productive and mutually supportive unit. The people who come to the Family Training Center are those who have had little training and little success, but still harbor hope. At the center, these families, many of them young, gain strength and support from each other in their common motivation to become productive contributing members of society. They learn and grow together at the center. They have the stability of their family as they work to shed the yoke of welfare and misfortune.

The success ratio for the program has been good. Approximately 75 percent of the student families complete the program. Last year, 1978, data showed that 3 weeks after completion of the program, 89 percent of completing heads of households are found to be employed, versus 45 percent to entering the program. The income gain for students was $107 per month, for the head of household. Individual students, payback, in Federal taxes the cost of the program in 5.4 years which is half the time as similar nonfamily programs. Thereby the program makes the family unit a producer of income rather than a user of tax revenue. It goes beyond the job training approach and does not fit neatly into any existing CETA, WIN or labor program. It treats the educational needs of the entire family together in a residential setting, representing an effective way to not only improve employability, but increase the standard of living and participation in the community.

During its 7 year existence the Governors of the six States, served by the program, along with the congressional members of the States, the regional governmental councils and the agencies within the region, as well as the student families who have participated have gone on record numerous times in its support.

There is growing national interest in treating the problems of the family as a whole. The disadvantaged family suffers as a whole and our social agencies are beginning to realize that it makes sense to administer assistance under one unified program rather than as chopped-up and often disjointed programs.

As it now stands the programs are treating only individuals and therefore only a part of the problem. It makes little sense to treat a child for juvenile delinquency when dad is gone. It makes little sense to give homemaking skills, when dad is an alcoholic. It makes little sense to give dad vocational skills if the family is not supportive. It makes little sense to split up a family and ship it in four different directions and when the training is over; let them try to put it together again.

What this program does is take the whole family, the losers, and take them out of their environment and give them a chance as a family to say, hey, we can make it.

We feel that the time has come to have an agency, such as the proposed Office for Vocational and Adult Education take over the program at Glasgow and coordinate a family educational approach to assist in meeting the needs of the rural family as a unit, and to coordinate efforts of all sectors of the Department of Education and other related agencies to accomplish this goal and save money doing it.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I am happy to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I want to say to the gentleman from Montana (Mr. MARLENEE) that I have looked at this amendment. We have gone over it with the gentleman, and we have gone over it with the gentleman from Montana (Mr. WILLIAMS). It is a reasonable amendment. It provides for a unified approach to rural family education, which we think is an admirable purpose and one of the things that the new Department certainly will facilitate.

Mr. Chairman, I think it is a good amendment and we agree with the gentleman.

Mr. MARLENEE. I would only point out, Mr. Chairman, that this language has also been included in the Senate bill.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I would also agree with the statement made by the chairman of the committee. I think it is a good amendment and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MARLENEE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred fifteen Members are present, a quorum.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. WALKER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 403, noes 3, not voting 28, as follows:

[Roll No. 215]

AYES—403

Abdnor
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOES—3

Miller, Calif.
Moorhead, Calif.
Paul

NOT VOTING—28

Addabbo
Alexander
Anderson, Ill.
Bolling
Chisholm
Conyers
Dickinson
Dingell
Edgar
Flood
Florio
Forsythe
Goldwater
Goodling
Hansen
Hughes
Johnson, Calif.
Johnson, Colo.
Lehman
Mitchell, Md.
Nowak
Roberts
Runnels
Skelton
Treen
Waxman
Wilson, Bob
Zeferetti

☐ 1620

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer amendments.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. MILLER of California: On page 62, lines 14 and 15, strike out "and Rehabilitation Services"; and conform the table of contents accordingly.

On page 62, line 17, strike out "and Rehabilitation Services";

On page 62, lines 20 and 21, strike out "and rehabilitation services";

On page 62, line 23, strike out "and rehabilitation services".

Page 70, strike out line 24 and everything that follows through line 12 on page 71 and redesignate the succeeding paragraphs accordingly.

Page 77, line 18, strike out "section 208" and insert in lieu thereof "section 207".

Page 78, line 21, strike out "section 208" and insert in lieu thereof "section 207".

Page 80, line 19, strike out "section 209" and insert in lieu thereof "section 208".

Page 99, strike out line 11 and everything that follows through line 18 and insert in lieu thereof the following:

(f) Section 5315 of title 5 of the United States Code is amended by inserting immediately after paragraph (24) thereof the following:

Page 102, line 14, strike out "section 209" and insert in lieu thereof "section 208".

Page 104, strike out line 12 and everything that follows through line 18 and insert in lieu thereof the following:

(n) There shall be in the Department of Health and Human Services an Assistant Secretary for the Handicapped who shall be responsible for the administration and supervision of the Rehabilitation Services Administration, the National Institute of Handicapped Research, and such other programs, agencies, or functions affecting the handicapped as the Secretary of Health and Human Services shall delegate to the Assistant Secretary.

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc, considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, I rise to offer a number of amendments to H.R. 2444. Most of these are technical amendments, and I ask that they be considered en bloc. These amendments deal with the transfer of the Rehabilitation Services Administration (RSA) and the National Institute of Handicapped Research to the proposed Department of Education. The administration's original proposal to create a Department of Education did not include these transfer provisions. They were added in committee by amendment.

The organizational placement of any agency ought to be determined by the closeness of the relationship between the programs involved and other programs of the Department in question. The general mission of the Department, the kinds of services or research it finances, the people who are beneficiaries of the services, the professionals involved in the field, and the agencies at State and local levels that deliver the services of the Department's programs are the relevant factors. Measured by any of these criteria, rehabilitation programs should be placed in a Department of Health and Human Services, not a Department of Education. Both RSA and the Institute should remain in the Department of Health and Human Services. I will discuss the two agencies separately.

RSA is responsible for the financing of rehabilitation services which are administered by State rehabilitation agencies. The goal of the services is two-fold under Public Law 95-602, the 1978 Rehabilitation Act Amendments. First, the basic rehabilitation program supports services whose goal is employment; second, the new independent living program supports services aimed at a social goal—functioning and living independently in the community. In both cases the services financed are comprehensive services, managed and provided by a multidisciplinary team. By statutory definition and practice, the services include medical diagnosis, physical restorative health care, mental restorative health care, prosthetic and orthotic and other technological aids and devices, income support, counseling services, special services to the deaf and blind, and vocational training and placement services. The service providers are physicians from numerous specialties, psychologists, rehabilitation counselors, physical therapists, occupational therapists, speech pathologists, social workers, and vocational placement and training specialists. The beneficiaries of these services are disabled adults over the age of 16.

The services and professionals involved are health and social services and professionals, not educational services and teachers. The facilities providing the services are hospitals, rehabilitation clinics, workshops, and State rehabilitation agencies, not schools or colleges. The clients involved are adults, few of whom are students in elementary, secondary, or postsecondary schools.

The great leaders in the field of rehabilitation have been Mary Switzer and Howard Rusk. Mary Switzer was a member of the Public Health Service prior to becoming the head of what was then RSA and Dr. Rusk is a physician.

Let us review the Federal expenditures for the services financed by RSA. In fiscal year 1977, apart from the costs of State agency operations, about one-half of all services purchased by state agencies were health-related services, one-fourth vocational training, and less than a one-fourth support for studies at the college level.

Generally, we entrust most organizational placement issues to the executive branch. In this instance, the President proposed a new Department of Education, but his bill, like my amendment, would leave RSA and the Institute in the Department of Health and Human Services. During the past 12 years Democratic and Republican administrations have placed RSA and the predecessor program to the Institute in the social service division of HEW, not the Education Division or the Office of Education. Wilbur Cohen and Mary Switzer created a Social and Rehabilitation Service which included RSA and the Republican administrations placed RSA with the health and social service programs for aged and children in the Office of Human Development. At the State level, 41 of 83 rehabilitation and blind agencies are in human service departments and 22 in independent agencies. Only 20 are in education departments.

It is maintained by those that support a transfer to the Department of Education that rehabilitation must be separated from the "welfare" or "W" part of HEW. That proposition does a great injustice to the realities of programs and needs of the handicapped. The income support part of HEW provides income assistance to 5 million disabled people under disability insurance and an additional 1.5 million under SSI. That income is important to the disabled individual and to his or her rehabilitation and independent function. Also, DI and SSI finance about $200 million of rehabilitation services and those income support and rehabilitation programs all remain in the Department of Health and Human Services. The "W" or welfare part of HEW is also the social service component of HEW which provides title XX social service financing for the disabled and others whose incomes are at or below 80 percent of the median income. The social service component of HEW also include services to the developmentally disabled; and those services stay in the Department of Health and Human Services.

The other argument for a transfer of RSA, the Institute and the National Council on the Handicapped, to the Department of Education is that there will be greater visibility and higher stature for these programs. However, my amendment creates an Assistant Secretary for the Handicapped in the Department of Health and Human Services who reports directly to the Secretary and would be responsible only for programs for the handicapped. H.R. 2444 does not create an Assistant Secretary responsible solely for programs for the handicapped. My amendment therefore gives greater stature and visibility to RSA, the Institute, and the National Council than H.R. 2444.

With respect to the Institute, the case for its staying in the Department of Health and Human Services is even stronger. Of the $31.5 million budget for the Institute, $20 million is for medical, health, or technological research. This research is closely related to that of NIH, NIMH, the technology development research of NIH and the Office of the Assistant Secretary of Health. It bears little or no relationship to the educational research of the Department of Education.

Of the 20 rehabilitation research and training centers funded by the Institute, 11 are medical centers, 3 centers are for developmental disabilities which are psychological and social research centers, and 2 mental health centers.

Mr. BEARD of Tennessee. Would the gentleman yield?

Mr. MILLER of California. Yes, I yield to the gentleman.

Mr. BEARD of Tennessee. Would the gentleman tell me what organizations support your amendment?

Mr. MILLER of California. Yes. Some of the groups and individuals that support this legislation are the Disabled American Veterans, the Paralyzed Veterans of America, the American Congress of Rehabilitative Medicine, the Association for the Advancement of Psychology, the American Foundation for the Blind, the Institute of Rehabilitative Medicine in New York, Ed Roberts, who is the director of Rehabilitation in the State of California, Mr. L. R. Rader, who is the director of the Oklahoma Department of Public Welfare, Mr. William Spencer, who is the director of the Texas Institute of Rehabilitation, Dr. Henry Betts, who is the director of the Rehabilitation Institute in Chicago, the National Association of Social Workers and other combined groups.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. Mr. Chairman, I think the point is, ladies and gentlemen, that there is some feeling if you transfer these services to the Department of Education that somehow we are garnering support for the passage of this legislation. That is not the basis on which the transfer of programs into the new department ought to be based.

The rest of the programs surrounding disabled Americans in fact, are in and will continue to remain in the Department of HEW. That is where the money is, whether it is Social Security, which finances about $150 million of vocational rehabilitation services, or whether it is title XX of the Social Security Act. The fact is that in the Department of Education there is about $1 billion for rehabilitation.

It comes under the Education of the Handicapped Children. That would be transferred because that deals with the problems of education of the handicapped in the elementary and secondary school level. This does not deal with that area, and it belongs in HEW. It ought to remain in HEW. I think it is very clear that those people who have spent their lives in forwarding the progress of the disabled Americans in this country support this amendment to delete the transfer.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to my colleague from California.

Mr. BROWN of California. Mr. Chairman, I want to compliment the gentleman on his amendment. I think it is an excellent amendment, and I intend to support it.

I am rather at a loss, after listening to the large list of individuals and organizations who support the amendment, to understand how the proposed change could have been included in the bill before us. Does the gentleman have any idea of what led to putting the Rehabilitation Services Administration in the Department of Education?

Mr. MILLER of California. I do not understand. My original understanding was that there was some search for a heightening of visibility by creating an assistant secretary in the new department, but my concern is, why should we pick up and move a whole program?

What this amendment will do is provide for an assistant secretary in HEW, and let us leave it where it belongs. There was some theory about visibility, but I do not understand how we get visibility and have a program in the Department of Education.

Mr. BROWN of California. If the gentleman will yield further, I understood at one point that perhaps some of the organizations of handicapped citizens may have supported it, such as the American Coalition of Citizens with Disabilities, and yet I have received a very recent resolution, dated May 20, from their national convention in which they indicated that they support retaining RSA in HEW, under an assistant secretary. Is that the gentleman's understanding?

Mr. MILLER of California. It is my understanding that they would support my amendment now that it creates an assistant secretaryship in HEW; that that organization in fact would support this amendment.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I want to commend the gentleman as well. He has spent a great deal of time on issues that relate to people, and I think the advice he is giving us to fractionalize this program at HEW would not be to the advantage of the handicapped of the country.

Mr. MILLER of California. I thank the gentleman.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the transfer that is in the bill is a result of a series of amendments which I offered in committee. My amendments were quite simple. They transferred service under the Rehabilitation Act of 1973 and the Randolph-Sheppard Act for the blind from HEW to the Department of Education. Rehabilitation functions of the Social Security Administration were not transferred, and my amendments established in the Department of Education an office to administer special education and rehabilitation services.

My amendments, and the amendment that was adopted and is in the bill, provided for a common administration of education and training programs for the handicapped from birth through adulthood, eliminate the program overlap, and facilitate continuity of services. It also provided a focal point for coordination of habilitative or rehabilitative services for the handicapped.

The amendment was supported by the American Coalition of Citizens with Disabilities; the National Rehabilitation Association; the Council of State Administrators of Vocational Rehabilitation; the Council for Exceptional Children; and the American Council for the Blind.

Contrary to what Members have heard, the administration is not opposed to this amendment. My amendments which were accepted and are now part of the bill and which this amendment attempts to take out, were urged by Dr. Frank Bowe, director of the American Coalition of Citizens with Disabilities, who testified before our subcommittee. He argued that disabled children, youth, and adults need high-quality, well-planned and carefully coordinated services in order to prepare themselves for full participation in our society as independent, self-sufficient, taxpaying men and women.

□ 1640

So we established the office in the Department of Education that would insure that these services were coordinated in an atmosphere dedicated to training and to education. This language was included in the Senate bill which passed last year, and it was also in the bill that was reported in the House last year. Basically the language that we have is now the same language that is included in the Senate bill which was passed just this year.

I have just received from Dr. Bowe a telegram, and I would like to read it. It says:

> On behalf of the American Coalition of Citizens with Disabilities, representing more than 7 million disabled people; the Council for Exceptional Children and the National Rehabilitation Association, representing professions of special education and vocational rehabilitation; and the executive committee of the Council of State Administrators of Vocational Rehabilitation, we urge you to vote in support of H.R. 2444, a bill to establish a cabinet-level Department of Education. We strongly support the inclusion of vocational rehabilitation and related programs for the handicapped in the Department and the provision of an Assistant Secretary for Special Education and Rehabilitation.

This telegram is dated June 5, and it is signed by Dr. Bowe. It is also signed by Joseph Owens, who is the executive director of the Council of State Administrators, by Frederick Weintraub, assistant executive director for governmental relations for the Council for Exceptional Children, and by Elizabeth Anderson, president of the National Rehabilitation Association.

Mr. Chairman, I urge the defeat of the Miller amendment. This is a very important provision. It was strongly supported when I offered it in the subcommittee last year and this year. It was urged by Dr. Bowe and those others who testified before our subcommittee, and I feel it is a good provision to be retained in the bill.

Mr. BROWN of California. Mr. Chairman, would the gentleman yield?

Mr. HORTON. I would be glad to yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

I wonder if we could clarify the situation with regard to Dr. Bowe and the American Coalition of Citizens with Disabilities. I think the gentleman has undoubtedly correctly represented Dr. Bowe's position, but is he familiar with the resolution adopted by the American Coalition of Citizens with Disabilities?

Mr. HORTON. I do not have a copy of that. Dr. Bowe sent this telegram on the 5th of June, and I received it in my office on the 6th. I have no contrary information other than what he says.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has expired.

(At the request of Mr. BROWN of California, and by unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. If the gentleman would yield further, I have a copy of the resolution which was adopted by the American Coalition of Citizens with Disabilities at their house of delegates meeting at Houston on May 20. I am not sure that it contradicts what Dr. Bowe says, but I would like to quote from it, if I may. It says: "That the American Coalition of Citizens with Disabilities supports a proposed Congressional Amendment for Assistant Secretary for the Handicapped in the Department of Health and Human Services."

Mr. HORTON. I think the gentleman is perhaps misreading it. I think what they are talking about is in the Department of Education. That is what they want, and that is what this bill provides. All I can go by is the telegram that I received signed by Dr. Bowe who starts out saying, "On behalf of the American Coalition of Citizens representing more than" and so forth. He continues "we urge you to vote" for the bill "to establish a Cabinet-level Department of Education. We strongly support the inclusion of vocational rehabilitation and related programs for the handicapped in the Department. * * *"

Mr. BROWN of California. Mr. Chairman, will the gentleman yield further?

Mr. HORTON. Yes.

Mr. BROWN of California. The resolution adopted at the convention of the Coalition actually has the additional language "either in the Department of Health and Human Services or the proposed Department of Education."

Mr. HORTON. The gentleman left that out.

Mr. BROWN of California. No, I am merely trying to illustrate the point that the organization at its annual meeting took a position in support of either department as long as it contained an assistant secretary.

Mr. HORTON. Then what the gentleman is saying is that he agrees with what is contained in my telegram.

Mr. BROWN of California. No, I am saying that Dr. Bowe is expressing his own opinion, not the opinion of the organization.

Mr. HORTON. From the language the gentleman just read, it would indicate to me that they adopted a resolution which would urge that this be included in the Department of Education; if not included in the Department of Education, then in HEW. What I am urging for here is to have it included in the Department of Education, and the gentleman is making it appear that they had a resolution that would indicate that they did not want it in the Department of Education.

The CHAIRMAN. The time of the gentleman from New York (Mr. Horton) has expired.

Mr. SIMON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I have the honor to have succeeded my colleague, the gentleman from Indiana (Mr. Brademas) as chairman of the Select Committee of Education which includes this area of jurisdiction of the handicapped. I regret to be opposing my good friend, the gentelman from California (Mr. Miller) but no one here should fail to understand that the overwhelming majority of groups concerned about the handicapped do not favor the Miller amendment. They favor being part of the new Department of Education. This is a gray area in part because we are dealing with a mix of medical and educational functions, and I understand particularly there are those who are on the medical side who for one reason or another favor staying with HEW. But clearly the bulk of these organizations—and this includes the Coalition of Citizens, the national umbrella organization, it includes the organizations for the blind, the organizations for the deaf, the State Administrators of Vocational Administration—clearly favor being in the new Department. They favor it for some very concrete, solid reasons, and among these is the fact of increased emphasis which is important to these groups. There is no question that while the people who are in charge in HEW now are good, dedicated people doing a fine job, they have not been receiving the kind of attention there that this kind of a program deserves.

So I would urge my colleagues, with all due respect, to defeat the amendment offered by my good friend, the gentleman from California.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I will be pleased to yield to the gentleman.

Mr. MILLER of California. I thank the gentleman for yielding.

I would like to know what educational functions are involved that justify the transferring of a very heavily medically emphasized program to the Department of Education. I do not understand, outside of special education which I concede should be transferred, what would be left in terms of educational functions to be transferred to the Department of Education.

Mr. SIMON. If one picks almost any disability, there is a medical portion of that rehabilitation, but the bulk of the work is educational in nature, and that is whether someone has lost a leg or lost an arm, or is blind or deaf, or what the situation might be.

Mr. MILLER of California. If the gentleman would continue to yield, the point is there is no Federal program to carry out those educational functions. The programs which carry out the restorative health care of disabled individuals is through the social security program, title 19, title 20, which comes out of Social Security which is in HEW, which works with a compatible situation with RSA. RSA has not worked properly, let us face it. But to suggest they are going to pack up everybody's bag and move them down to the Department of Education will affect the handicapped individuals of this country, because the programs are there through the HEW budget; they are not in the Department of Education as it is now created.

Mr. SIMON. I would say the answers to that are two. No. 1, the State administrators of these vocational rehabilitation programs now do not favor the Miller amendment. No. 2, the bulk of the handicapped groups, the people who are most concerned, do not favor the amendment. I think that is very clear evidence of why it ought to be moved to the new Department.

Mr. MILLER of California. Will the gentleman yield?

Mr. SIMON. Yes.

Mr. MILLER of California. I would debate that evidence for the gentleman, but we have both stated who is for what.

Mr. ANDREWS of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from North Carolina.

Mr. ANDREWS of North Carolina. I thank the gentleman for yielding.

Mr. Chairman, all of the information I have on the subject, which is considerable, is in complete agreement with the statement made by my friend, the gentleman from Illinois (Mr. Simon). I would like to associate myself with his remarks and encourage support of his position.

□ 1650

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would not normally intervene in this debate. However, for the past several years in the Committee on Science and Technology I have been involved with a very small program which the committee has maintained for research on the problems of the handicapped. In that capacity I have had the opportunity to meet many of the people who are deeply involved in the problems of the handicapped and in rehabilitation services. I have assisted in developing a research program using the facilities of the Federal Government, I might say under the tutelage of our very dear former colleague, Tiger Teague, who took a lifetime interest in this subject.

I am completely at a loss to understand the statement made by my good friend from Illinois (Mr. Simon) with regard to where the bulk of the support for this proposal lies, as far as the handicapped community is concerned.

I sought to clarify this situation by reading the resolution that was adopted by the American Coalition of Citizens With Disabilities and very frankly their position is ambivalent. They support either position which will give the greatest visibility to the problems of the handicapped. What they really want is an assistant secretary dealing with the handicapped and with vocational rehabilitation and they would support this in a Department of Education if that is where they had to go to get it or they would support it in the present Department of Health, Education, and Welfare. Their position, as expressed in the resolution adopted at their convention, is not in opposition to remaining in the Department of Health, Education, and Welfare. Their primary concern is, as I stated, with an elevation of the awareness of the American public to the problems of the handicapped, as evidenced by the designation of an assistant secretary.

Now I note that the Secretary of Health, Education, and Welfare, has stated rather strongly in a letter to the chairman of the full committee, our distinguished colleague from Texas, that he opposes the shift of the Vocational Rehabilitation Services and the Institute for Research on Problems of the Handicapped, which is also included in the bill, to the new Department of Education. He objects to these being moved to the Department of Education and he makes a very strong and convincing case for it in a 3-page letter which I am sure the chairman of the full committee has read in great detail.

Very honestly, knowing what went into the development of this Institute for Research on Problems of the Handicapped, I have no remote idea of what justifies moving that institute to the Department of Education. It is not an educational function, nor is most of the work done in the Vocational Rehabilitation Administration. It is far more closely allied to similar work being done in the Social Security Administration and should remain in the department which has that function.

I will not attempt to identify the large numbers of organizations which have written to me in opposition to moving this vocational rehabilitation function to the Department of Education. My good friend and colleague from California listed most of them although not all of them and I have a host of letters here which were sent to me indicating the position of various groups concerned with vocational rehabilitation on this matter.

I suspect there are some educational groups who would like to grab as much of any related function as they could for this new department. That is a normal bureaucratic exercise and I can understand and sympathize with it. However, very frankly, those concerned with a total rehabilitation of the handicapped are not interested in making this change.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. MILLER of California and by unanimous consent, Mr. BROWN of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield to me?

Mr. BROWN of California. I will be glad to yield to the gentleman from California.

Mr. MILLER of California. Thank you for yielding.

Mr. Chairman, is it the understanding of the gentleman that the bill sent up by the administration did not propose to transfer RSA and the Institute on Rehabilitative Medicine?

Mr. BROWN of California. The gentleman is precisely correct. The bill did not in its original form from the administration. The letter from the Secretary indicates this.

Mr. MILLER of California. Is the gentleman aware of a letter from Dr. Howard Rusk who is clearly, I think, one of the most preeminent individuals involved in rehabilitative medicine? He says that the research activity of the institute is primarily medical, technological, and psychosocial. Very little of the research mission of the institute is actually related to education although the rehabilitative services for handicapped children obviously are involved. Yet the point is we have then transferred special education, which is proper, to the Department of Education but not the institute and not the Rehabilitative Services Administration.

I think clearly Dr. Rusk who, with Mary Switzer, started out on this road to rehabilitative research, medicine, and restorative health which makes the case that that is not the goal of RSA.

Mr. BRADEMAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from California.

In doing so, Mr. Chairman, I want to express my very high regard for the gentleman, one of the ablest members of the Committee on Education and Labor. I dislike having to disagree with him on this occasion.

Mr. Chairman, I speak as one who had for 10 years the privilege of serving as chairman of the Select Education Subcommittee of the Committee on Education and Labor, the subcommittee now so ably chaired by the gentleman from Illinois, (Mr. SIMON).

As chairman of that subcommittee, I had also the privilege of having been the sponsor in the House of the rehabilitation services amendments as well as of the National Institute for Handicapped Research.

It is, therefore, from that background that I must speak against this amendment.

At the outset, Mr. Chairman, and before I indicate some of the reasons for my opposition to the amendment of the gentleman from California, I want to say something of a matter which has been the subject of some debate here this afternoon, the matter of the position of Dr. Frank Bowe, of the American Coalition of Citizens With Disabilities.

For the information of my colleagues, I must indicate that I have just had a telegram from Dr. Bowe, dated June 12, 1979, in which he says:

> We strongly reaffirm nationwide desire of disabled people for office in new Department. Disregard rumors to the contrary.
>
> Dr. FRANK BOWE,
> *American Coalition of Citizens of Disabilities.*

May I also, Mr. Chairman, address myself to another matter that has come up; namely, the groups supporting that provision of the committee bill which provides for transfer to the new Department of Education of the Rehabilitation Services Administration and the National Institute for Handicapped Research.

Among the groups supporting the retention of these programs in the Department of Education are the following, who support the bill: The American Coalition of Citizens With Disabilities, the national coalition of national, State, and local organizations of and for the handicapped representing over 7 million persons; the National Rehabilitation Association, the professional association of persons involved in rehabilitation; the executive committee of the Council of State Administrators of Vocational Rehabilitation, the association of State agencies administering rehabilitation; the Council for Exceptional Children, the professional association of persons involved in special education; the National Federation of the Blind, a major association of blind citizens; plus the American Deafness and Rehabilitation Association; National Association of the Deaf; National Council of Rehabilitation Education; National Council of State Agencies of the Blind; and the American Association of Workers for the Blind.

Now, Mr. Chairman, let me address myself to the issue raised by the amendment of the gentleman from California (Mr. MILLER).

Mr. Chairman, I rise in opposition to the amendment.

The committee bill recommends the creation of an Assistant Secretary for Special Education and Rehabilitation.

The bill provides for the transfer to that office the following functions: The Rehabilitation Services Administration and the National Institute for Handicapped Research.

The basic purpose of the vocational rehabilitation program is to provide a comprehensive program of rehabilitation services for physically and mentally handicapped persons whose disabilities substantially impeded employment, but who can reasonably be expected to benefit in terms of employability from these vocational rehabilitation services.

The largest program transferred under the bill is the basic State grant for rehabilitation service program. These grants to States are used to provide the following services: Counseling, referral, job placement, vocational and training services, interpreter and reading services, rehabilitation teaching, tools and equipment, transportation, technological aids, construction of rehabilitation facilities, and recruitment/training.

The new Institute for Handicapped Research will address research pertaining to all areas of the handicapped. The Institute would in effect be addressing those areas not handled adequately by present research programs and is not intended to overlap with the programs of mental and health research conducted by NIH.

These two programs—Rehabilitative Services and the Institute—would be joined with the Bureau of the Handicapped, presently located in the Office of Education.

Mr. Chairman, there are several reasons I believe the vocational rehabilitation program administered by RSA should be joined with the programs administered by BEH.

The first reason is that there is a natural relationship between the programs that BEH and RSA administer. An examination of each program description will indicate that both have as their common mission improving the ability of handicapped individuals to adapt to society. I believe this relationship can be strengthened by joining these two programs and thereby for the first time, providing a continuity of service from preschool through adulthood.

The committee was wise to see that both programs address basically the same needs but to clearly different age categories. Although the Bureau for the Education of the Handicapped is primarily educational in its purpose and provides services for children, a significant portion of its programing responsibility is to support training of adults who in turn will train handicapped people. Programs such as the special education manpower development project illustrate this point. The regional vocational, adult, and postsecondary programs further illustrate the various age groups served by the programs under the Bureau for the Education of the Handicapped. On the other hand, the Rehabilitation Services Administration does not restrict itself to one age group either. RSA also trains nonhandicapped individuals of any age who in turn train handicapped individuals and provides for model preschool programs for the handicapped.

The committee, in placing vocational rehabilitation programs in the same office with programs concerned with general education of the handicapped, acknowledges the need for a continuum of services for the handicapped from birth through adulthood.

Dr. Frank G. Bowe, director of the American Coalition of Citizens with Disabilities, has communicated to me the following:

> This new structure makes eminently good sense to us. It distinguishes clearly between goal-directed programs aimed at enhancing the potential of disabled persons and entitlement programs aimed at protecting the income and medical needs of persons who are dependent upon others for partial or full support.

Another reason, Mr. Chairman, I favor placing vocational rehabilitation in the new institute with the programs of the Bureau of the Handicapped is that for the first time there would be the visibility necessary for the handicapped to compete for scarce dollars.

Third, Mr. Chairman, placing these programs in the new department will allow for them to assign more emphasis on training. Since this training is related to educational concerns, the overall goal is to improve the ability of handicapped individuals to adapt to society. It is my belief that the goal of helping handicapped individuals become productive and to live with independence and dignity the same independence and dignity of nonhandicapped individuals—is much more compatible with the concerns of education than it is with health and welfare. Handicapped individuals have special needs for services and benefits regardless of income. Education has traditionally made as one of its goals the delivery of services and benefits regardless of income. Health and welfare, on the other hand as they will exist in the Department of Health and Welfare, will deliver services and benefits on the basis of economic status. Thus this new realinement will better meet the needs of the handicapped as they relate to rehabilitation and education.

Mr. Chairman, in conclusion, I again quote from Dr. Bowe's correspondence to me on this matter:

> First, services for disabled people have suffered greatly from a severe lack of visability, fragmented and deeply buried as these programs have been. There is every reason to believe the structure proposed would make a truly historic breakthrough for disabled Americans, of whom there are currently fully 36 million.
>
> Second, educational and rehabilitative services for disabled people have been poorly coordinated on the federal level. A few weeks ago, HEW held the first meeting in ten years of the people responsible for coordinating special education, vocational education, and vocational rehabilitation programs for disabled youths and adults. The purpose of the meeting was to attempt to develop similar plans for service delivery within the three streams of services. That this occurred in 1979 speaks for itself.

Mr. Chairman, in summary, the committee bill represents a major opportunity to elevate the status of Federal programs for the handicapped and to further the common goals of programs for the handicapped. The bill will mean substantial improvement in this coordination of programs concerning both the education and the rehabilitation of handicapped persons.

Mr. Chairman, as chairman of the subcommittee with jurisdiction over both the education of handicapped children and the rehabilitation program for the last decade, I would observe that the explanation and the reasoning behind the gentleman's amendment are not founded in fact. It is obvious that there is a misunderstanding of what the rehabilitation program is primarily all about as well as the purpose of the National Institute of Handicapped Research. The explanation which has been given for the amendment does not represent either what Congress intended or enacted into law. The amendment does not represent the purposes for which these programs were enacted. The amendment reflects a misunderstanding of the goal of the Rehabilitation Services Administration of the purpose for the creation of a new National Institute of Handicapped Research, and of the functions of the Bureau for Education of the Handicapped. Because of this misunderstanding as well as the reasons I have already given, I urge my colleagues to join in opposing this amendment.

□ 1700

Mr. Chairman, I yield to the gentleman from South Carolina (Mr. JENRETTE).

Mr. JENRETTE. Mr. Chairman, I thank the gentleman for yielding. I would like to associate myself with the gentleman's remarks. I had the pleasure last year in the Committee on Government Operations to offer the amendment or to include it. At that time I not only talked to the doctors the gentleman mentioned and the associations, but many of the people came in on wheelchairs and other, that really felt strongly they should be given this visibility.

I appreciate the gentleman bringing this up. I hope the committee will go along and reject the amendment of the gentleman from California.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. MILLER).

The question was taken; and the chairman announced that the noes appear to have it.

RECORDED VOTE

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 265, not voting 21, as follows:

[Roll No. 216]

AYES—148

Akaka
Anderson, Calif.
AuCoin
Bailey
Beard, R.I.
Beard, Tenn.
Beilenson
Bennett
Bethune
Boggs
Boland
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burton, John
Burton, Phillip
Carr
Clausen
Clay
Coelho
Corman
Cotter
Crane, Daniel
Crane, Philip
D'Amours
Daschle
de la Garza
Dellums
Derwinski
Dickinson
Diggs
Dixon
Dodd
Donnelly
Dougherty
Downey
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Ertel
Evans, Ga.
Fazio
Fenwick
Fish
Frenzel
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Glickman
Gore
Gradison
Gray
Guyer
Hall, Tex.
Hammerschmidt
Hanley
Harkin
Hefner
Heftel
Hightower
Howard
Huckaby
Jones, N.C.
Jones, Okla.
Kindness
Kostmayer
LaFalce
Lagomarsino
Latta
Lederer
Lehman
Leland
Levitas
Lewis
Livingston
Lowry
Lujan
Lungren
McClory
McCormack
McDade
McDonald
Maguire
Markey
Mathis
Mavroules
Mikulski
Miller, Calif.
Miller, Ohio
Mitchell, Md.
Moakley
Moffett
Moore
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nolan
Nowak
Obey
Pashayan
Patterson
Paul
Preyer
Rangel
Rhodes
Richmond
Rinaldo
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Schroeder
Sebelius
Seiberling
Shannon
Shuster
Skelton
Snowe
Snyder
Solarz
Stark
Studds
Symms
Thomas
Van Deerlin
Walgren
Watkins
Waxman
Weaver
Weiss
Wilson, Tex.
Yates
Young, Fla.

NOES—265

Abdnor
Albosta
Alexander
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Baldus
Barnard
Barnes
Bauman
Bedell
Benjamin
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brooks
Broyhill
Burlison
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Deckard
Derrick
Devine
Dicks
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Okla.
Erdahl
Evans, Ind.
Fary
Fascell
Ferraro
Findley
Fisher
Fithian

Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gingrich
Ginn
Gonzalez
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hamilton
Hance
Harris
Harsha
Hawkins
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kramer
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Luken

Lundine
McCloskey
McEwen
McHugh
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikva
Mineta
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Patten
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Ritter
Roberts
Robinson
Rodino
Rose
Royer
Rudd
Russo
Sabo

Santini
Satterfield
Sawyer
Scheuer
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Simon
Slack
Smith, Iowa
Smith, Nebr.
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Stump
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Mo.
Zablocki

NOT VOTING—21

Addabbo
Anderson, Ill.
Bolling
Conyers
Davis, S.C.
Dingell
Evans, Del.

Flood
Forsythe
Goldwater
Goodling
Hansen
Holland
Holtzman

Hughes
Johnson, Calif.
Runnels
Treen
Wilson, Bob
Wilson, C. H.
Zeferetti

□ 1720

The Clerk announced the following pairs:

On this vote:

Mr. Conyers for, with Mr. Johnson of California against.

Mr. Runnels for, with Mr. Dingell against.

Messrs. COTTER, GIAIMO, MOORHEAD of California, and SYMMS changed their vote from "no" to "aye."

Mr. STACK changed his vote from "aye" to "no."

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows.

Amendment offered by Mr. WALKER: On page 59, after line 19, insert the following new section:

"QUALIFICATIONS OF OFFICERS

"SEC. 203. No individual may be appointed to an office created by section 201 or 202 unless he or she was an elementary, secondary, or postsecondary education teacher or administrator during at least eighteen of the twenty-four months preceding the date on which his or her nomination is submitted to the Senate for confirmation.", and

In line 21, strike out "203" and insert in its place "204".

On page 61, in line 23, strike out "204" and insert in its place "205".

On page 62, in line 71, strike out "205" and insert in its place "206"; and

In line 16, strike out "206" and insert in its place "207".

On page 63, in line 3, strike out "207" and insert in its place "208";

In line 12, strike out "208" and insert in its place "209"; and

In line 22, strike out "209" and insert in its place "210".

On page 64, in line 4, strike out "210" and insert in its place "211";

In line 8, strike out "211" and insert in its place "212"; and

In line 15, strike out "212" and insert in its place "213".

On page 67, in line 3, strike out "213" and insert in its place "214".

On page 52, in the table of content, after section 202, insert "SEC. 203. Qualifications of officers." and renumber sections 203 through 213 as section 204 through 214, respectively.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, the purpose of this amendment is to do one of the things which I think most educators have expressed that they want done by any action that we take with regard to the Department of Education. Many of the Members who have talked to the teachers and administrators in their districts about this Department have heard over and over and over again from them that what they want is a Department that will be responsive to the needs of education, that will recognize what really goes on within the schools, that will recognize the real educational problems there, and speak to those problems.

In the course of this debate, I submit to the Members that we have heard over and over again from the proponents of this Department just how bad the Office of Education really is, how it has promoted programs which have not been in the best interest of education, how it has been a bureaucratic nightmare, how the redtape piles up and up and up, and how this office has not served education at all. So it seems to me that the educators who are making that point to us that the Office of Education has not served their needs should have better than that from a Department of Education. And the way we can assure that we do get people responsive to education within the new Department is to put real live educators in the Department. That is what this amendment is all about. This amendment simply says that in order to qualify for one of the uppermost posts in this Department you must have been in the schools either in higher education or in elementary or secondary education for 18 of the 24 months preceding the appointment. In other words, it puts teachers, real educators, in charge of the Department of Education. That is what it should be all about. It should not be only a Department of Education; it should be a Department by educators. That is what we can achieve if we adopt this amendment.

It also seems to me to speak to a very key issue that has arisen in the course of this debate, and that is whether or not this Department is going to be a captive of a couple of special interests that are pushing for the adoption of the Department. We have heard over and over again about NEA and all of the power that it is wielding on this bill. One of the concerns has been that certain key people in NEA will simply transfer from their NEA offices over to the new offices in the Department of Education. This amendment will prevent that. This amendment will assure that you will not have special interest groups simply transferring over. What we will have is educators coming directly from the schools into the Department. In addition, I think that it also speaks to the problem of all of the people who now staff that Office of Education we have heard so many things about, who are not going to be in the uppermost reaches of this Department. We are going to have again teachers who staff the Department. I think that is as it should be.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. KAZEN. As I understood the gentleman's amendment, it said that they should be educators from the classrooms in the last 18 out of 24 months before their appointment. Does the gentleman mean actual schoolteachers, or does he also include administrators who may not have been schoolteachers?

Mr. WALKER. I also include administrators in the amendment.

Mr. KAZEN. I thank the gentleman.

Mr. WALKER. Anybody who has been serving as an administrator in this time. In other words, we could have an administrator who has been a college professor.

Mr. KAZEN. I did not understand that. I thought the gentleman was only including teachers, actually those who were in the classroom, and not administrators.

Mr. WALKER. I would certainly say to the gentleman that I would hope that they would use the power granted by this amendment to appoint teachers to the post, but it also includes administrators.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. HORTON. I do not find any language in the amendment that was handed me about schools. It does not say anything about schools. The gentleman said that they have to be elementary, secondary or postsecondary education teachers. He did not say anything about schools. I do not find the word "schools."

Mr. WALKER. I would say to the gentleman that teachers and administrators work in schools; therefore, I would assume they would have to come out of schools.

Mr. HORTON. Does the gentleman mean they have to work the whole 18 of the 24 months before in that position, before they are qualified for this position?

Mr. WALKER. They would have had to spend 18 out of the last 24 months as a teacher in the schools.

Mr. HORTON. In order to qualify for one of these jobs?

Mr. WALKER. In order to qualify for one of these jobs, yes.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

I would think the gentleman would be including the Inspector General and the general counsel—all must be teaching school for the last 18 months or they could not be the lawyers to represent the Department. It would fly in the face of the ability of the Secretary of Education to run the Department as efficiently as possible. Very seldom do people employ lawyers based on their having taught school for the past 18 months. The gentleman might want to do that, but it should not be a requirement.

To impose an artificial qualification such as this would hamstring the Secretary in his efforts to get the best possible administrators for the education program. I understand the intent—I think I understand the intent—behind the amendment. I would not want to presume on the gentleman's judgment, on his motives—God knows, I would not want to do that—but I would agree that the Secretary should have the benefit of the teachers and of administrators and other professional educational folk. But I do not think it would serve the new Department or any department well to have this kind of artificial restraint on employment to qualify for the position.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Chairman, I think education is too important to entrust to educators alone and particularly just practicing teachers alone. Even though I oppose this bill, I think the amendment should be defeated.

What about school administrators? What about managers generally? It seems to me that the kind of positions talked about in this legislation require managers as well as people who are interested in education, as well as classroom teachers. I think it would be utterly inflexible, and I think those who oppose this bill should oppose the amendment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think the gentleman raises an important point, particularly with regard to the counsels. But as I recall, we had a very distinguished counsel, Archibald Cox, who came directly out of law school, out of the far-reaches of Washington.

□ 1730

I do not see any reason why we could not bring law school teachers in to help staff this Department. That would be perfectly acceptable under this particular amendment, and it would, I think, clear up one of the objections of the chairman anyhow.

I thank the gentleman for yielding.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The question was taken; and the Chair announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 28, noes 374, not voting 32, as follows:

[Roll No. 217]

AYES—28

Abdnor
Ashbrook
Bafalis
Brinkley
Brown, Ohio
Dannemeyer
Devine
Dickinson
Dornan
Erlenborn
Findley
Gaydos
Grisham
Harsha
Kelly
Lent
Livingston
Lungren
Paul
Regula
Rousselot
Shuster
Solomon
Stangeland
Taylor
Thomas
Walker
Young, Fla.

NOES—374

Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Badham
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Dicks
Diggs
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki

NOT VOTING—32

Addabbo
Anderson, Ill.
Baldus
Bolling
Conyers
Davis, S.C.
Deckard
Dingell
Evans, Del.
Flood
Forsythe
Goldwater
Goodling
Hagedorn
Holtzman
Hughes
Jacobs
Johnson, Calif.
Nowak
Obey
Runnels
Scheuer
Seiberling
Stockman
Treen
Waxman
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wright
Wydler
Zeferetti

□ 1740

Mr. HYDE and Mr. ROYBAL changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: Page 58 after line 6, insert the following new section:

PROHIBITION AGAINST THE WITHHOLDING BY THE SECRETARY OF FUNDS TO FORCE RACIAL-ETHNIC QUOTA BUSING

SEC. 201(c). The Secretary and the Department may not withhold any funds, grants, contracts or awards otherwise authorized to be granted because of failure to transport students or teachers (or to purchase equipment for such transportation) in order to establish racial or ethnic school attendance quotas or guidelines in any school or school system, or because of the failure to transport students or teachers (or to purchase equipment for such transportation) in order to carry out such a plan in any school or school system.

□ 1750

POINT OF ORDER

Mr. BROOKS. Mr. Chairman, I want to reserve the right to make a point of order on the amendment. I have not read it, but I am suspicious of it.

Mr. HORTON. Mr. Chairman, I will make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HORTON. Under the test imposed by rule XVI, clause 7, it is not germane.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point of order?

Mr. DORNAN. Yes, Mr. Chairman. Just very briefly, this would appear to be redundant, given the overwhelming vote yesterday against busing. However, yesterday's language clearly states that the Secretary or the new department could not issue any order demanding busing. However, we have seen Federal judges throughout the land in the last decade preempt the authority of the legislative branch of our Government. Therefore, I want to make sure in clear and simple language to state that regardless of whatever orders come from without the powers of Congress that the Secretary would never be able to withhold any funds or grants or contracts or awards that were otherwise authorized to be granted under the Department of Education. It is that simple. It is just the other side of the coin of issuing an order to reject anyone else's saying that funds must be withheld that this Congress had deemed to be proper funding for the granting of moneys.

The CHAIRMAN. Does the gentleman from Texas (Mr. BROOKS) desire to be heard on the point of order?

Mr. BROOKS. Yes, Mr. Chairman. I make the point of order on the amendment under rule XVI, clause 7, requiring that amendments be germane to the subject under consideration. To be germane, the amendment must have the same fundamental purpose of the bill under consideration. The purpose of H.R. 2444 to establish a Department of Education deals only with the organizational structure of that Department. Amendments affecting programs or assigning new duties to the Secretary or his assistants or employees that are not now authorized by law are not consistent with that organizational purpose and, therefore, should be ruled out of order.

The CHAIRMAN. Does the gentleman from New York (Mr. HORTON) desire to be further heard on the point of order?

Mr. HORTON. I just wanted to make the point that this is in the section that has to do with the establishment of the Department and that this is a matter that is not within the jurisdiction of the Committee on Government Operations, and it is not involved in the organization of this Department, and, therefore, it should be ruled not germane.

Mr. FASCELL. Mr. Chairman, I would like to add something to the point of order, if I may.

It occurs to me that the manner in which the amendment is written, Mr. Chairman, is limitation of the jurisdiction of a court of competent jurisdiction. It goes far beyond the scope of this bill and not only affects the court of competent jurisdiction, but in effect tells and directs the Secretary of Education to ignore and disobey the orders of the court.

Mr. DORNAN. Mr. Chairman, I have a final thought. On page 56 of H.R. 2444 we say in line 12 "(5) to increase the accountability of Federal education programs to the President, the Congress, and the public;".

All I am doing with this amendment is merely limiting the scope of the Secretary of this new Department of Education, and the statement that I just read increases the accountability of this Federal program to the Congress.

The CHAIRMAN (Mr. NEDZI). The Chair is prepared to rule.

The Chair would point out to the gentleman that the matters alluded to in his final argument pertain to title I. The amendment which the gentleman has offered is to title II which deals with the structure of the new Department of Education. Title II does not go to the basic question whether substantive educational programs should be retained and to the purposes for which funds under those programs may be expended. Accordingly the Chair sustains the point of order.

Mr. DORNAN. I thank the Chairman.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Strike out all from line 23 on page 60 to line 21 on page 61, inclusive.

Mr. ASHBROOK. Mr. Chairman, for about an hour this afternoon I listened to my colleague, the gentleman from New York, and my colleague, the gentleman from Texas, very carefully delineate the responsibilities of these six assistant secretaries that will be created. In the amendment offered by the gentleman from New York (Mr. GARCIA) as amended by the gentleman from Texas (Mr. DE LA GARZA) they indicated they did not want specific responsibilities for assistant secretaries. Yet if we look at page 60 and page 61, starting on line 23 on page 60, going all the way through the remainder of section 203 on page 61, we see something rather interesting. We see the Assistant Secretary for Civil Rights, who not only would have a specific responsibility, but he would have powers far beyond any of the authority or powers granted to the other assistant secretaries.

Mr. Chairman, throughout the consideration of this bill I have heard conflicting statements about what this new Department is going to do. I have heard how it will save money and consolidate programs, and I have heard about new focuses and new prominences that only bigger budgets and staffs could achieve. Now we are discussing the assistant secretaries in DOE II, and once again I am preplexed by the contradictions.

My amendment would erase one of the contradictions in section 203 of the bill. There are to be six assistant secretaries with a variety of responsibilities, but with similar authority under section 202 of the bill. Along comes section 203 and creates one more assistant secretary, but this time with a detailed set of expansive powers and the authority to hire legions of attorneys, and to contract out for services.

We should take some time to consider whether we want to have a semiautonomous Office for Civil Rights within the Department of Education. I know that extensive discussion has occurred in the Government Operations Committee on this issue and that they decided to go with the present language in the bill. I wish to take exception to their decision. In many instances we have seen blatant abuse of the civil rights authority within HEW. Especially with title IX enforcement, there has been a disregard for local control of education and of local intelligence on matters of sexual equality. The examples of banned father-son picnics and of equal numbers of trophy cases for boys and girls athletics immediately come to mind as examples of how the Civil Rights Office has used and abused its powers in the past. I do not think expanded authority and expanded staff is any way for this Congress to signal its criticism of these activities.

My amendment would eliminate those powers and authorities vested in the Office of Civil Rights that are not given to the other assistant secretaries of DOE II. I urge all my colleagues who feel as I do that the harassment of local schools by the Federal Government has reached a point where we must act to rein it in.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Texas.

Mr. BROOKS. I would like to say to my distinguished friend on another subject that I have just been discussing—and I had hoped to get my arm fixed later; it needs a simple splint.

Mr. ASHBROOK. Is it being twisted, or what?

Mr. BROOKS. I do not think the fracture is too bad. It is not a double fracture. It is not in the elbow.

Mr. ASHBROOK. I saw the Speaker. I thought maybe it could be twisted.

Mr. BROOKS. That is the problem. It is going to be all right.

The problem is that I believe I would want everybody to know that I have agreed that we would rise tonight at 9 o'clock. I did not want that to be a surprise to anyone. I want the Members to know now, and I am sorry to impinge on the gentleman's time. I will get him a little extra time, if possible. We will return tomorrow and from now on stay as long as is necessary. I look forward to the continuation of these wonderful amendments.

Mr. ASHBROOK. One of which is being offered right now, the gentleman might add.

☐ 1825

Mr. BROOKS. It fits that category, if the gentleman would yield.

Mr. ASHBROOK. Well, maybe my friend from Texas would like to tell us why he thinks we need an entire section for an assistant secretary for civil rights in addition to the six assistants. Why we should give him broad authority to select, appoint and employ, authority that none of the other 6 assistant secretaries have, let him contract for outside consultants, something none of the other assistant secretaries have.

It looks to me like that is a wonderful section and requires a wonderful amendment.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. ASHBROOK was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. I would hope my friend from Texas, consistent with his remarks on other amendments, not wanting to place responsibilities in assistant secretaries, would support my amendment which seems to fit perfectly in the debate of my gentleman friend from Texas and the chairman and ranking member from New York.

Mr. BROOKS. Mr. Chairman, in reply to my distinguished friend, let me say I do not share his view. I am definitely opposed to the amendment. I think that an assistant secretary for civil rights should have the right to make those contract authorities. I think they need it, as somebody said, just to keep an eye on the other secretaries. There is some reason for that because over the years we have had significant and serious difficulties in seeing that a large segment of the people of the United States gets equal rights under the law, that they are entitled to under the Constitution. We have been hundreds of years getting around to giving it to them. They are now beginning to earn it, appreciate it and utilize it and I do not believe we should downgrade the effort this country and this Congress has made and that I have supported for many years as an opportunity to give these people, these citizens who are just as loyal as you or as I, who have been overseas, have fought with us, who do all of the things we try to do, who have the same motivations. They are Members of this Congress, they are teachers, they are lawyers. They are all the things we are. They are not any better, they are not any worse, and they need this opportunity to maintain opportunity to participate equally in this country and I am for it. I was for it in the committee and I am for it now and I am against trying to take it out of the bill. I think it would just be a step back and I do not believe this country is stepping back in civil rights in the year of 1979 and I am certainly not going to join in that step if some want to make that effort.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. I appreciate what my colleague says but I would raise a further question how we have to create an assistant secretary for civil rights who is separate and unequal, separate and unequal from the other 6 assistant secretaries. Why my friend from Texas feels it is necessary to give him the broad power to select the point to have outside contracting and others that the other 6 secretaries do not.

Mr. BROOKS. We want to understand, Mr. Chairman, he is not a grant administrator. He has a separate responsibility, a separate duty, a separate obligation and we trust he will exercise that properly and fairly in the public interests.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I want to again restate my opposition to this bill and I would expect that sometime in the not too distant future it shall be defeated. If by any chance, which I do not feel is a real chance, but if by any chance I am wrong and if this Department does, in fact, come into being I think it is important this amendment be defeated and this language stay in the bill.

This particular language was offered by the gentlewoman from Illinois (Mrs. COLLINS) to a large series of important amendments that I had offered both last year and again this year.

In response to the inquiry by the gentleman from Ohio, a very valid question, why should this assistant secretary have this unique and unusual authority to act in some ways independent of the Secretary? That is a valid question.

The reason is that both the Commissioner of Education and the Secretary of the proposed Department of Education, the principal responsibility is the management of the education programs such as they may be and the person charged with enforcement with civil rights responsibility, the enforcement of the civil rights laws found an inhospitable climate both in HEW and very likely would find in this new Department and what they found is that their budgetary proposals, in their proposals to hire additional staff, in their proposals to carry out the functions and responsibilities under their mandate, that the Commissioner of Education, albeit the proposed new Secretary of Education, would be unsympathetic to those budgetary requirements, to those staffing requirements, to those functioning requirements.

Mr. Chairman, the committee I think in good judgment insofar as this responsibility is concerned said, "Let us fortify the person charged with civil rights enforcement with the ability to independently deal with his own budgetary requirements, the ability to hire staff people independently and, in addition, to report independently back to the Congress so that none of these requirements will be short-circuited by the Secretary or the Commissioner of Education."

Mr. Chairman, we have found both in past practices and we have prognosticated for the future that if you wanted this office to work, this assistant secretary for civil rights to work, you had to protect them from the budgetary sniping of other people dealing with the educational component in new departments.

I myself think that the ability to enter into contracts and audits and studies and analyses are absolutely essential if you want to make the important function meaningful.

I would urge all of my colleagues, all of the members of the committee, those of you who are for this bill and those of you like myself who are against this bill, to resoundingly defeat this amendment.

Mr. FASCELL. Mr. Chairman, would the gentleman from New York yield?

Mr. ROSENTHAL. I shall be happy to yield.

Mr. FASCELL. While I support the bill and the gentleman does not I certainly agree with the gentleman with respect to his comments on this particular amendment. I think we should also make it quite clear that while there is a separate function here with regard to civil rights and this Assistant Secretary, he is placed within the Department under the Secretary of Education and that for administrative and support functions the line command still remains the same, but from the standpoint of the effective independent enforcement of civil rights as it relates to education we feel that this is the better approach.

Mr. ROSENTHAL. Mr. Chairman, I think it is probably the only way to have an efficacious enforcement in a civil rights program.

Mr. PANETTA. Mr. Chairman, would the gentleman from California yield?

Mr. ROSENTHAL. I would be happy to yield.

Mr. PANETTA. I thank the gentleman for yielding, Mr. Chairman.

Mr. Chairman, as a former Director of the Office of Civil Rights in the Department of Health, Education, and Welfare I can confirm the need to try to establish some independence on an enforcement mechanism in a department. That is what we are talking about.

Mr. Chairman, this office is responsible for enforcing title VI of the Civil Rights Act. It is an enforcement mechanism. Long ago it was placed in the Office of Education. It was removed from the Office of Education because the interests in education were diminishing the enforcement responsibilities of the office. Now as a separate office within the secretariat, it has the same problems and all of the problems you indicated. I think very strongly if we are going to have title VI, if we are going to have enforcement of title VI it ought to be comparable to what we have in the Justice Department which is a separate Assistant Attorney General for purposes of enforcing civil rights laws.

Mr. ROSENTHAL. Mr. Chairman, I thank the gentleman for his contribution. I again urge the members of the committee to defeat the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

In the opinion of the Chair the ayes have it.

For what purpose does the gentleman from Ohio rise?

Mr. ASHBROOK. Mr. Chairman, I request a recorded vote and pending that I make a point of order a quorum is not present.

The CHAIRMAN. A recorded vote has been demanded.

The Chair will count for a quorum.

□ 1810

The CHAIRMAN. 110 Members are present, a quorum.

PARLIAMENTARY INQUIRY

Mr. BROOKS. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. BROOKS. Mr. Chairman, did the Chair state that the ayes appear to have it?

The CHAIRMAN. The Chair will state that the noes had it.

Mr. BROOKS. Good; that does make me feel better.

The CHAIRMAN. That was an error on the Chair's part. That was quite obvious.

Mr. BROOKS. I thought the noes had it.

The CHAIRMAN. The Chair meant to announce that the noes had it.

Mr. BROOKS. The gentleman asked for a vote. Do we need one?

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 65, noes 342, not voting 27, as follows:

[Roll No. 218]

AYES—65

Applegate
Archer
Ashbrook
Badham
Bauman
Butler
Carney
Chappell
Collins, Tex.
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Devine
Dickinson
Dornan
Erlenborn
Evans, Ind.
Grisham
Guyer
Hall, Tex.
Hammerschmidt
Hansen
Hinson
Ichord
Jeffries
Kelly
Kindness
Kramer
Latta
Leath, Tex.
Lewis
Loeffler
Lott
McDonald
Miller, Ohio
Montgomery
Mottl
Murphy, Pa.
Pashayan
Paul
Ritter
Roberts
Robinson
Rousselot
Rudd
Satterfield
Sawyer
Schulze
Shumway
Shuster
Snyder
Solomon
Stangeland
Stenholm
Stump
Symms
Taylor
Thomas
Vander Jagt
Walker
Wampler
Whitehurst

NOES—342

Abdnor
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carr
Carter
Cavanaugh
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
de la Garza
Dellums
Derrick
Derwinski
Dicks
Diggs
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Hagedorn
Hall, Ohio
Hamilton
Hance
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Santini
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—27

Addabbo
Alexander
Anderson, Ill.
Bolling
Cheney
Conyers
Davis, S.C.
Deckard
Dingell
Evans, Del.
Evans, Ga.
Flood
Forsythe
Goodling
Hanley
Hollenbeck
Holtzman
Hughes
Johnson, Calif.
Johnson, Colo.
Lundine
Runnels
Treen
Waxman
Williams, Ohio
Wilson, Bob
Zeferetti

□ 1820

Messrs. CAVANAUGH, BROWN of Ohio, ABDNOR, and MOORE changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. TAUKE

Mr. TAUKE. Mr. Chairman, I offer amendments relating to an Assistant Secretary for Private Education.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. TAUKE: Page 64, after line 2, insert the following new section and redesignate the succeeding sections and conform the table of contents accordingly:

ASSISTANT SECRETARY FOR PRIVATE EDUCATION

SEC. 210. There shall be in the Department an Assistant Secretary for Private Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting private education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting private education.

Page 58, line 8, strike out "six" and insert in lieu thereof "seven".

Page 99, line 19, strike out "(6)" and insert in lieu thereof "(7)".

Mr. TAUKE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that this amendment and all conforming amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. TAUKE. Mr. Chairman, it has been a long day, and many of the amendments that have been offered have been characterized as "frivolous." I hope the Members will give serious consideration to this amendment because I believe it is a serious amendment.

Yesterday, as we began this debate, the distinguished gentleman from Illinois (Mr. ERLENBORN) offered an amendment which would have changed the name of this Department to the "Department of Public Education" rather than simply the "Department of Education." While at the time many members of the committee suggested that this amendment was a frivolous amendment, I think it did point out one of the major problems that we have with this new Department.

In speaking against that amendment, the distinguished chairman of the Committee on Government Operations, the gentleman from Texas (Mr. BROOKS), suggested that, indeed, in this country there was a major role being played by private education in our educational system.

□ 1830

The unfortunate thing is that in this measure, as it is proposed to us, that very important role is ignored. This measure virtually ignores private education.

In contrast with what we currently have in the Office of Education, where we have a deputy commissioner for private education, there is no official representing private education in this new Department of Education. This amendment speaks to that problem. What this amendment does is establish an Assistant Secretary for Private Education. The duties of the Assistant Secretary were very well described by the gentleman from Texas when he discussed the last amendment relating to the Assistant Secretary for Civil Rights. The gentleman said that, in large part, the Assistant Secretary for Civil Rights keeps an eye on all of the others. In large part, that is what an Assistant Secretary for Private Education would do. But in addition, the Assistant Secretary for Private Education would deal with those measures and regulations concerning private education and the duties designated by the Secretary.

Why is it important that we have a representative for private education in the Department? It is important because it recognizes the reality of our educational system; it recognizes the diversity of that educational system. Right now we have in this Nation about 20,000 institutions devoted to private education—20,000 institutions devoted to private education. While 18,000 of those are elementary and secondary, and they constitute 20 percent of the elementary and secondary institutions in the country. And 1,600 of those institutions are post secondary. Private post secondary institutions amount to over half of the total number of post secondary institutions in this country. Over 7.5 million students are educated in private institutions. I do not think we can ignore private education in this bill. I urge you to support this amendment in order to insure that the proper role of private education is recognized.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I want to congratulate the gentleman in the well on this amendment. The fact that the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) was not accepted, which would have named the Department the Department of Public Education, does not mean by any means that the interests of private education will be unaffected by this new Department of Education. The gentleman's amendment to establish an assistant secretary to deal with the interests and the concerns of private education I think is a very essential safeguard to the interests of those institutions. The diversity of education in this country, particularly that provided by private education, is absolutely vital. The workings, the authority carried out by the Department of Education in future years inevitably are going to affect these interests and, therefore, I think it is very important that this provision for an assistant secretary to provide surveillance of the interests of private education be adopted. I thank the gentleman for offering this amendment.

Mr. TAUKE. I thank the gentleman for his remarks.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I am troubled always by the idea that the Federal Government is going to control private education. And when one sees a special arrangement allowing for Federal influence which I fear controls private education, I think it is dangerous.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. TAUKE) has expired.

(On request of Mr. HORTON and by unanimous consent, Mr. TAUKE was allowed to proceed for 5 additional minutes.)

Mr. TAUKE. Mr. Chairman, if I could respond, first, to the gentlewoman from New Jersey (Mrs. FENWICK), I, too, am troubled with the problem of the Federal Government being involved in private education. As you look at this measure, you will find in many instances there are suggestions that certain officials will have control over private education. We need to have someone in the Department who looks out after private education, to prevent excessive control. On the other hand, if we do have Federal involvement in private education, we need a spokesman to make certain that that involvement serves the best interests of the private sector.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, one of the problems that I have with the gentleman's amendment is the same that I faced when the gentleman from New York (Mr. GARCIA) offered his amendment, which was to establish another assistant secretary for that particular purpose. Now here the gentleman is asking that the number of assistant secretaries be increased by one, or to seven. In other words, there would be created a new assistant secretary who would be responsible for this private education. In that correct?

Mr. TAUKE. That is correct.

Mr. HORTON. Now my concern is that we are adding to the number of personnel. What we have tried to do in this bill is to limit personnel. I understand that there is a need to be concerned about private education, about the bilingual education programs, which was the subject of the amendment offered by the gentleman from New York (Mr. GARCIA). But the problem that I have is the creation of another assistant secretary for this particular purpose. The concern that I have is that it is going to emphasize and perhaps create more problems with private education than if one of the assistant secretaries already authorized in the bill would have this responsibility.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. TAUKE) has again expired.

(By unanimous consent, Mr. TAUKE was allowed to proceed for 1 additional minute.)

Mr. TAUKE. Mr. Chairman, the gentleman makes a very excellent point. I certainly did consider the concern you articulate when I proposed this amendment. It is a concern I share. But the alternatives are not satisfactory. One of the alternatives suggested by the proponents of the bill and those who are managing it on the floor was that we place a deputy assistant secretary in the Office of the Assistant Secretary for Elementary and Secondary Education. But certainly because the private sector is so dominant in the post-secondary education field, this is hardly satisfactory.

Others suggested various other alternatives of having an office or something else. But none of them provided either the stature which should be afforded private education or a method by which we could encompass all aspects of private education. I think this is the only proposal which does both of those things.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. TAUKE) has again expired.

(On request of Mr. HORTON and by unanimous consent, Mr. TAUKE was allowed to proceed for 2 additional minutes.)

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from New York.

Mr. HORTON. I would like to determine from the gentleman whether or not he feels that an Assistant Secretary for Private Education would have adequate functions and responsibilities to occupy him full time?

Mr. TAUKE. As the gentleman from Texas so adequately indicated before, when we were talking about the Assistant Secretary for Civil Rights, the Assistant Secretary would keep an eye on the other secretaries and the activities throughout the Department because all of those activities relate to private education. I think that in itself would be a very full-time job. But in addition, the Assistant Secretary would have those other duties delegated to him or her by the Secretary. Moreover, the Assistant Secretary would have the responsibility of serving as something of an advocate or watchdog for private education in the Department. I think the workload of the current deputy commissioner of education in the Office of Education, the workload of that current office, is certainly heavy enough to compel the establishment of a similar office in this Department.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I would like to say that I am convinced by the gentleman's arguments and particularly by the fact that this is going to be an advocacy and constructive office for private education and not one aimed at greater restrictions and controls.

Mr. Chairman, I would urge the adoption of the gentleman's amendment.

Mr. TAUKE. I thank the gentleman for his remarks.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the thrust of the Federal education program is to develop public and private education without differentiating between the two. This amendment would run counter to that thrust. I am sure that private education will receive due recognition and attention in the structure of the Department of Education without our requiring the appointment of an Assistant Secretary for Private Education. The contributions which private institutions have made to our American education system at all levels are well known and are generally appreciated. I would say that we do not have an assistant secretary for bilingual education to help people who have difficulty in communicating in this country, and if we are not going to have an assistant secretary for bilingual education, we surely do not need one for private education whose members seem to be fairly good as communicating and accumulating, as well. The effect on private education of any action of the Federal Government should be considered throughout the Department. It should not be isolated in one office.

□ 1840

The bill explicitly provides that one of the purposes of the Department is to support more effectively States, localities, public and private institutions, and students and parents in carrying out their responsibility for education.

I certainly do oppose the amendment. I hope that the Members will defeat it decisively.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Iowa.

Mr. TAUKE. The gentleman is undoubtedly aware that under the current Office of Education there is a deputy commissioner for private education, and the gentleman is also undoubtedly aware that the President has made a commitment to some kind of official being designated to be an advocate, if you will, for private education in the new Department.

Is this consistent, do you believe, with your argument that in the new Department private education and public education will be treated equally?

Mr. BROOKS. They will both be treated fairly. I think there is nothing at all which prevents the Department of Education from consolidating, from coordinating, from emphasizing, from working with every facet of private education, as I am sure they will, at the President's suggestion and in his good judgment.

Mr. TAUKE. If the gentleman will continue to yield, if the President has already in a somewhat vague indication suggested there is a need for an official designated to be an advocate or representative of education in the Department, why is there an objection to our clearly designating who that official will be and what the responsibilities of that official might be?

Mr. BROOKS. Because we do not want to straitjacket the Department, because I personally do not believe, and the committee does not believe, and I do not think Congress believes that we ought to have an Assistant Secretary for private education when we did not have one for bilingual education; and we do not for every other categorical grant in the United States.

We have already said that we are interested in private education. The President has indicated that. I indicate that. The committee indicates that.

If the gentleman does not believe it, then he will just have to wait and see.

Mr. DOUGHERTY. Mr. Chairman, I rise in support of the amendment.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. DOUGHERTY. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

I would simply like to commend the author of the amendment, the gentleman from Iowa, and point out that one of the real problems with this bill is the very genuine and very real concern that private education, both on the lower level as well as higher education, is going to be shorted.

My feeling is this would give some assurance that private education would indeed have a voice and would be represented.

I appreciate the gentleman yielding. I wanted to commend the gentleman from Iowa.

Mr. DOUGHERTY. Mr. Chairman, I rise in support of the amendment, and I am somewhat exasperated by the responses the chairman of the committee just made to the gentleman from Iowa (Mr. TAUKE).

It indeed causes many of us a great deal of frustration when we hear the chairman of the committee refer to the Department and its Assistant Secretary for bilingual education in the same vein as an Assistant Secretary for private education. He obviously knows there is a difference in the number of students being served.

I think the responses of the gentleman simply fuel the fire of those of us who find ourselves in a very difficult position.

I support a separate Department of Education. I see it as a need that we have long wanted to have the Federal Government play a proper role in education.

I urge my colleagues to support this amendment. I must say that I am dismayed by the attitude expressed by many who backed this bill. Indeed, the bill calls in its findings for a recognition that the American people profit from a diversity of educational settings, both public and private.

We talk about a diversity of education, both public and private. Then why not an Assistant Secretary for private education? Why not, when we recognize that there is a divisiveness that surrounds this bill, why not meet the needs of those in private education by saying, yes, there is a role, and we will provide an Assistant Secretary for private education.

Why not recognize the frustrations that I am afraid exemplify here the parents who send their children to private schools and who feel they are ignored by their Government. Why not one more bureaucrat, Mr. Chairman? Why not an Assistant Secretary for private education?

Why must we feed the fires of suspicion among those who see this Department as nothing more than but a grab for power, total and complete power over the field of education?

Indeed, the chairman even talks about coordinated services between private and public schools. We do not see, though, the input of the private educator in the delivery of those services.

Mr. Chairman, anything less than an assistant secretary for private education is nothing more than arrogant tokenism. The parents of those young people who attend private schools in this Nation are entitled to a voice in the new Department. Those who teach in our private schools are entitled to a major role in the new Department.

Indeed, those of us who pay taxes to support public education, while also paying to send our children to nonpublic schools, we demand equal access to the decisionmaking process in the new Department.

Those of us who speak for private education and our constituents, Mr. Chairman, we have had it with unfulfilled promises. We have had it with meaningless words. We have had it with bureaucratic hogwash.

If there is no room for private education in the policymaking level of the new Department, then those of us who are concerned with private education have no choice but to tell our constituents, "Yes, your suspicions and fears are well founded; yes, the Department, if established, is to be viewed as biased against your interests; and the interests of your children."

Mr. Chairman, in the interest of creating a Department in a harmonious and positive manner, I urge the adoption of this amendment.

Mr. GLICKMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in my judgment, once we get an assistant secretary for private education, it will not be long before there is no private education any longer.

In my judgment, this is institutionalized regulation at a high level, the highest level, regulation by the Government of private schools. I think that is bad public policy; most of all bad public policy for all of the wonderful private and parochial schools in this country which promote and provide diversity in education.

Private schools would have everything to lose and nothing to gain by this kind of hierarchy. They would be competing with and subject to higher institutionalized level requirements, regulations, and burdens that our public schools inevitably have to deal with and fight against every single day.

In my judgment, Mr. Chairman, H.R. 2444 is bad, because it presumes ultimate Federal control over the policy of education, and for that reason, I oppose it; but an assistant secretary for private education throws in the towel for private schools, too, and assumes that ultimate Federal control over private education as well as public education.

Private education has to fight for its life, but let us not give them a corner room right next to the secretary of public education to have to deal with matters that he or she does not even have to deal with right now.

I urge, for the future of private schools in this country, a defeat of this amendment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I join the gentleman in his opposition to the amendment. I do not agree with him about the outcome of the bill, however, since I support the bill.

But the gentleman agrees, does he not, that the present bill transfers all of the functions and the duties of the present office of private education.

Mr. GLICKMAN. I agree.

Mr. FASCELL. And that means, therefore, that the status of private education, whatever it is in the present Department, would retain its status in the new Department.

Mr. GLICKMAN. That is correct.

Mr. FASCELL. And that no case has been made, and I agree with the gentleman, for elevating the status of the present officeholder or whoever that officeholder might be for private education in the present hierarchy, that all this amendment would then do is start a fight that does not now exist.

Mr. GLICKMAN. I agree with the gentleman.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Iowa.

Mr. TAUKE. The gentleman may note throughout the bill there are provisions under each of the other assistant secretaries which suggest those assistant secretaries shall administer functions affecting both public and private education.

Each of those assistant secretaries will deal primarily with public education. That is why we need someone in the Department who supports private education to prevent those people from taking over private education.

□ 1850

Mr. GLICKMAN. I just disagree with the gentleman's conclusion. I think it will lead to the demise of private schools in this country to have a person of that level in the Government.

Mr. TAUKE. Then I would suggest to the gentleman, if the gentleman will yield further, that he strike private schools throughout the bill so they truly are not affected by the Department, as the bill now indicates.

Mr. EDWARDS of Oklahoma. Would the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I want to compliment the gentleman from Kansas on his remarks. I agree with them.

The last thing in the world that the private education system needs is a Deputy Secretary in HEW or an Assistant Secretary. I agree with the gentleman and I say this as somebody who has supported tuition tax credits for private schools. I believe in private education. I believe this just moves it in the direction that we will have no private education. I think the gentleman made a very good statement.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I rise reluctantly to oppose the amendment offered by the gentleman from Iowa (Mr. TAUKE) from this side of the aisle. But I think that private education does not stand much of a chance of remaining private if it is subject to more Federal interference. Designating an Assistant Secretary for private education does not guarantee that such an officer will be a watchdog to protect private education. It may, depending on who is appointed and the direction of the administration at the time, be a mandate for further intrusion into private education.

Now, I think it is very telling that one of the principal opponents, one of the most vociferous opponents of this proposal to create a Department of Education is the U.S. Catholic Conference. Their fear is that they will not be properly affected by a new Department of Education.

The private universities and colleges in this country quite generally—not universally, but quite generally—are in opposition to the proposal to create a Department of Education. Some of these institutions, private institutions such as Brigham Young University out in Utah, have been very careful over the course of the years, and Hillsdale College in Michigan and Grove City College in Pennsylvania have been very careful over the years, not to take any Federal funds institutionally because they fear that following Federal funds would come Federal control.

Despite the fact that they carefully avoided taking any Federal funds, we have found that title IX and other provisions of Federal law are being enforced against these institutions. No matter how hard they try to keep the long arm of the Federal Government out of their affairs, to be completely autonomous and not to rely on Federal funds, these institutions already are suffering from Federal interference.

I feel that the creation of this Assistant Secretary for Private Education will mean an evermore rapid and deepening involvement by the Federal Government in private education, threatening its very existence, and therefore I hope the amendment would be defeated.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Iowa (Mr. TAUKE).

The question was taken; and on a division (demanded by Mr. TAUKE) there were—ayes 15; noes 48.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. ERLENBORN. Mr. Chairman, I withdraw my demand for a recorded vote and my point of order of no quorum.

Mr. TAUKE. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendments were rejected.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: On page 59, in line 2, after the semi-colon, add "and";

In line 5, strike out "; and" and insert in its place a period; and

Strike out lines 6 through 8, inclusive.

□ 1900

Mr. ERLENBORN. Mr. Chairman, subsection (6) provides as follows: "providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities."

This subsection would establish a relationship directly between the Department of Education proposed in this legislation and students, parents, and their communities, bypassing State education departments, bypassing local education agencies such as school boards, and calling for a direct relationship between the Federal Department of Education and the students and their parents in the communities. I would submit that the best place to have that interchange between the students and their parents is in the community and between the parents and students and their locally elected school boards. To give authority to this new Federal Department of Education to get involved directly with the students and the parents I think would be a mistake, and I would ask that the amendment be adopted.

Mr. HORTON. Mr. Chairman, I am going to rise in opposition to the amendment. I shall not take the 5 minutes, but this is the section that has to do with principal officers. The earlier part of the section says: "The officers appointed under this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of his act), including, but not limited to, the following functions:"

And then it enumerates (1), (2), (3), (4), (5), and (6), one of which is the one that the gentleman was just referring to. It reads: "Providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities."

It seems to me that this is a proper function of these officers, and I do not think it is intended that there is any desire to circumscribe or get around the States' involvement in educational programs. I think the gentleman is creating problems where there are not problems. Where we have the latest technology, where there is the latest development with regard to education, that information ought to be furnished as quickly as possible to students, parents, and communities through whatever channels are available, so I would urge that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 8, noes 32.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-five Members are present, an insufficient number. A quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 219]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Derwinski
Devine
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

☐ 1920

The CHAIRMAN. Three hundred and sixty-eight Members have answered to their name, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 243, not voting 42, as follows:

[Roll No. 220]

AYES—149

Abdnor
Anderson, Calif.
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bauman
Beard, Tenn.
Bereuter
Bethune
Bevill
Boland
Broomfield
Brown, Ohio
Broyhill
Burgener
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Coughlin
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Fenwick
Findley
Flippo
Fountain
Frenzel
Gingrich
Goldwater
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Heckler
Hillis
Hinson
Holt
Hopkins
Hubbard
Hughes
Hyde
Ichord
Jeffries
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lungren
McClory
McDonald
McEwen
Marlenee
Michel
Miller, Ohio
Moakley
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Nelson
Nichols
O'Brien
Pashayan
Paul
Quayle
Railsback
Regula
Roberts
Robinson
Roth
Royer
Rudd
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stenholm
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Wampler
Weiss
White
Whitehurst
Whittaker
Winn
Wolff
Wydler
Wylie
Young, Alaska
Young, Fla.
Zablocki

NOES—243

Akaka
Albosta
Alexander
Ambro
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bingham
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Carr
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
Dellums
Dicks
Dixon
Dodd
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gray
Guarini
Gudger
Hamilton
Hance
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Hollenbeck
Horton
Howard
Huckaby
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, Md.

Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Weaver
Whitley
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.

NOT VOTING—42

Addabbo
Anderson, Ill.
Bafalis
Biaggi
Bolling
Brademas
Burton, John
Conyers
Davis, S.C.
Derrick
Diggs
Dingell
Evans, Del.
Evans, Ga.
Flood
Forsythe
Goodling
Hall, Ohio
Hanley
Holtzman
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Long, La.
Lujan
McKinney
Mathis
Mikulski
Mikva
Ottinger
Pepper
Rousselot
Runnels
Russo
Treen
Udall
Walker
Waxman
Williams, Ohio
Wilson, Bob
Wirth
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Bafalis for, with Mr. Conyers against.

Mr. Rousselot for, with Mr. Johnson of California against.

Mr. Walker for, with Mr. Runnels against.

Messrs. PHILIP M. CRANE, NICHOLS, CLAUSEN, and DONNELLY, changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1930

Mr. BROOKS. Mr. Chairman, I ask unanimous consent that all debate on title II and all amendments thereto end at 8 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ERLENBORN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Are there further amendments to title II?

AMENDMENTS OFFERED BY MR. QUAYLE

Mr. QUAYLE. Mr. Chairman, I offer amendments to section 202.

The CHAIRMAN. The Clerk will report the amendments.

Amendments offered by Mr. QUAYLE: On page 58, strike out lines 12 through 15, inclusive; and in line 16, strike out "(c)" and insert in its place "(b)".

Strike out all after "Act)" in line 20 on page 58, up to and including line 8 on page 59, and insert in place of the stricken material a period.

On page 59, in line 9, strike out "(d)" and insert in its place "(c)".

On page 64, in lines 1 and 2, strike out "one of the officers appointed under section 202 of this Act." and insert in its place: "compensated at the rate provided for GS-18 of the General Schedule under section 5332 of title 5, United States Code."

On page 99, in line 3, strike out "14" and insert in its place "9".

On page 100, strike out all after "(41)" in line 2, strike out lines 3 and 4, and insert a period in place of the stricken material.

On page 102, in lines 16 and 21, strike out the word "principal".

Mr. QUAYLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that the conforming amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. QUAYLE. Mr. Chairman, this amendment that I am offering here in title II is consistent with an amendment I am going to offer in title IV that will place a cap on the number of employees in this new Department of Education.

This amendment, Mr. Chairman, simply strikes in title II the five officers reporting directly to the Secretary. I would just like to read from page 58 in this bill what we are talking about as far as the top employees in the Department of Education are concerned. It says as follows, in section 202(a):

> There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

That is all right. But then we go on in paragraph (b), as follows:

"In addition, there shall be in the Department five Officers * * * who shall be * * * confirmed by the Senate.

The question that I had concerning this is: What are these five officers going to do?

It just so happens that only 1 out of the 5 officers is even mentioned in the bill, and that happens to deal with the Department of Defense.

As to the other four officers, let me just read what they will be doing. They will be talking about congressional relations functions, public information functions, management and budget functions, planning, evaluation, and policy development functions, encouraging and monitoring involvement of parents, students, and the public in departmental programs. And, last, providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities.

Mr. Chairman, throughout this debate we have heard from both sides of the aisle from Members who support the bill and Members who oppose the bill that we do not want to create a huge new Federal bureaucracy, and that this is just a simple reorganization and we are not going to have a lot of Federal control.

As I said, I have a major amendment to title IV that is going to limit the overall size of the staff of employees, and, therefore, we need to simply strike these five officers that need to be confirmed by the Senate. If it so happens that they need these employees, they can hire them, but then they are not going to be executive level 5 employees appointed by and with the advice and consent of the Senate.

Mr. Chairman, this is a simple amendment. It is a conforming amendment, and I am sure my distinguished and respected chairman, the gentleman from Texas (Mr. BROOKS) might even accept this amendment.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, let me say that the bill provides the blueprints for the Department of Education, but it does not say where every nail is going to be and exactly what color paint is going to be used. We leave some things to the discretion of the people who are going to run this department. We establish six offices with specific functions.

We say they shall be headed by assistant secretaries, and their duties are pretty well determined by the nature of the office they will be in charge of. But there are other functions to be performed, dealing with congressional relations, public information, management and budget, planning, evaluation, and policy development, encouraging and monitoring involvement of parents, students, and the public in departmental programs. They will be dealing with each school. That is not listed, and there will be other things.

Foreign languages will be one of the things with which they will be concerned. Private schools will be one of the things they will be concerned with. Bilingual studies and evaluations will be another thing they will be concerned with.

We are not trying to identify each function to a specific officer. We know we are going to need some people to be in charge of these functions. We decided that five would be adequate.

That is a limited number, but we are running a lean operation. We say the Secretaries will take these five offices and perform the duties that are necessary. The duties are assigned by the Secretary, and we are sure that some flexibility of the administration is needed to manage a large, complex department.

Mr. Chairman, I would ask the membership to vote against these amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Indiana (Mr. QUAYLE).

The question was taken; and on a division (demanded by Mr. QUAYLE) there were—ayes 37, noes 68.

RECORDED VOTE

Mr. QUAYLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 220, not voting 44 as follows:

[Roll No. 221]

AYES—170

Abdnor
Albosta
Ambro
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bailey
Bauman
Beard, Tenn.
Benjamin
Bereuter
Bethune
Bevill
Boland
Breaux
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Early
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Ind.
Fenwick
Findley
Fithian
Fountain
Frenzel
Gilman
Gingrich
Glickman
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Hughes
Hyde
Ichord
Jacobs
Jeffries
Jones, N.C.
Kazen
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKay
Marlenee
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
O'Brien
Panetta
Pashayan
Paul
Quayle
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Royer
Rudd
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Wampler
White
Whitehurst
Whittaker
Winn
Wydler
Wylie
Young, Fla.

NOES—220

Akaka
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Bennett
Bingham
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Byron
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Corcoran
Corman
Cotter
D'Amours
Danielson
Daschle
Dellums
Derrick
Dicks
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Edgar
Edwards, Calif.
English
Ertel
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Gore
Gray
Guarini
Gudger
Hagedorn
Hall, Ohio
Harkin
Harris
Hawkins
Hefner
Heftel
Holland
Horton
Howard
Hubbard
Huckaby
Hutto
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Ottinger
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Scheuer
Schroeder
Seiberling
Shannon
Shelby
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Walgren
Watkins
Weiss
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wolff
Wolpe
Wright
Yates
Yatron
Young, Alaska
Young, Mo.

NOT VOTING—44

Addabbo
Alexander
Anderson, Ill.
Biaggi
Bolling
Brademas
Burton, John
Burton, Phillip
Conyers
Davis, S.C.
Diggs
Dingell
Eckhardt
Edwards, Ala.
Evans, Del.
Evans, Ga.
Flood
Forsythe
Goodling
Hanley
Holtzman
Johnson, Calif.
Long, La.
Lujan
Mathis
Mikva
Montgomery
Obey
Pepper
Quillen
Rousselot
Runnels
Russo
Sabo
Treen
Udall
Walker
Waxman
Weaver
Wilson, Bob
Wirth
Wyatt
Zablocki
Zeferetti

☐ 1950

The Clerk announced the following pairs:

On this vote:

Mr. Goodling for, with Mr. Johnson of California against.

Mr. Lujan for, with Mr. Brademas against.

Mr. Rousselot for, with Mr. Flood against.

Mr. Walker for, with Mr. Pepper against.

Mr. Runnels for, with Mr. Conyers against.

Mr. STRATTON and Mr. ALBOSTA changed their vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as some of my colleagues know, I am not in favor of this bill, but I think that this is an important communication from the American Civil Liberties Union on the whole question of this bill.

I would like permission of the House to read it.

The ACLU, up to this point, has taken no position on the substantive provisions of H.R. 2444, the Department of Education Organization Act. However, in light of the drastic and damaging anti-civil rights and civil liberties amendments recently approved by the House, this legislation has become a mechanism to severely undermine this nation's commitment to civil rights and civil liberties. For this reason, the ACLU now opposes enactment of this legislation. We urge you to reconsider your support of this bill and to vote against H.R. 2444.

The following amendments are reasons for opposing this bill:

The adoption of the antibusing amendment. I do not think we need to say more about that.

The adoption of the school prayer amendment, which passed on June 1, makes it a purpose of the Department of Education to permit opportunities for meditation and prayer in schools.

I voted against this in my own assembly at home. It is a bypassing of a Supreme Court decision.

And the antiaffirmative action, this amendment which passed, prohibits the Department of Education from using Federal funds to require that educational institutions use numerical requirements.

We have had a long struggle of civil rights in this House, in this Nation. I really think this is an important document that we should consider. I do not think we can go forward with a bill so encumbered with things that stand against what this country has tried to do for many, many years.

I hope very much that those who are thinking of supporting the bill will turn away from it. I think that this document deserves inclusion in the RECORD.

I thank the Chairman.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: On page 61, in line 14, after the word "private" insert "organizations and".

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, we have looked at this amendment before, as the gentleman knows, and agreed with it. I see nothing wrong with it whatsoever. I agreed with the gentleman earlier on this amendment.

Mr. ERLENBORN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment was agreed to.

● Mr. VENTO. Mr. Chairman, I rise in support of this legislation to create a Department of Education. Profound benefits to the country will directly result from passage of H.R. 2444 in two major areas: Improved administration and increased national attention focused on education-related issues.

The establishment of a Department of Education will improve the Federal Government's administration of its education programs and help State/local initiatives vital to meeting the needs of our society today. Presently, education programs account for only 8 percent of the total HEW budget. Sandwiched between the dominant concerns of health, welfare, and social programs, educational issues do not receive the full-time attention of high-level HEW officials which they deserve. The budget of HEW is the third largest in the world, exceeded by only the total budget of the United States and the Soviet Union. Because of this huge diverse responsibility, it is not possible, nor is it desirable, for the Secretary of HEW to increase his concentration on education at the expense of his other responsibilities. However, it is equally undesirable to maintain the secondary status of educational concerns inherent in the present structure. Creation of a separate Department of Education is the only logical solution to this dilemma. The constant turnover in the Office of Education top position further demonstrates the utter frustration that administrators continue to experience under today's structure.

We can realize substantial short- and long-term administrative savings through the elimination of 450 positions and an immediate reduction of $19 million in administrative costs. The Office of Management and Budget has estimated that the long-term savings will amount to more than $100 million, because of increased administrative streamlining. This expectation, of course, represents a major reason for moving ahead with this legislation; it makes sense in dollars, administrative structure, and for the future needs of our educational programs.

Increased administrative efficiency will also result from this legislation. One of the most frequent complaints about Federal education programs is the inevitable delay between the initiation and final enactment of regulations. This delay, which averages 519 days for routine regulatory promulgation, is directly attributable to the arduous route through which all regulations must pass before they are effective. This legislation would reduce the number of offices that must "sign off" on all educational regulations from 25 to 10. It would also cut the number of days of delay by more than half, eliminating the redtape. Local educational officials who must now deal with 40 separate agencies scattered throughout the Federal Government would have greater opportunities for input in policy formation in the new Department. By approving this legislation the House would be striking a major blow for Federal accountability: A goal which has received considerable prominence this session.

Another major advantage of this legislation will be the increased ability to coordinate Federal efforts in education. A single Federal agency will have the primary responsibility for the vast majority of Federal educational programs. Beyond the reduction in the number of agencies, H.R. 2444 also creates an Interdepartmental Education Coordinating Commission to encourage consistent Federal policies which impact on education. By itself, the improved administrative ability is sufficient grounds for passage of the Department of Education. Just as importantly, education will finally receive the national recognition commensurate with Cabinet-level status. The proposed department will administer a budget larger than five existing departments. Total national-State-local spending on education exceeds $120 billion, rivaling the defense budget. Education employs or directly affects more than 60 million people as students, teachers, administrators as well as persons in the private sector. Considering the importance of education in our society, the establishment of a Department of Education is long overdue.

In the past few years there has been a growing public concern expressed about the problems and new demand placed upon our educational system. For example, concerned parents point to declining standardized test scores, or to an increase in the number of high school graduates who lack the basic skills to function as productive members of the society. Whether these perceptions are accurate or the result of more sophisticated and rigorous standards for evaluation, the fact remains that the public's confidence in its educational system is waning.

However, public concern about education has increased. It is precisely this increased interest which is answered in a responsible fashion in this legislation. Formation of a Department of Education will provide a national focus on Federal/State efforts in education. The new department would convey to the American people as well as to the officials of the executive and legislative branch the importance that the Nation places on education. The news media would pay more attention, the Congress would pay more attention, and the people would be better informed by the clear lines of authority for Federal programs. This creates an atmosphere where the possibility for dealing effectively with the national educational role and problems would be enhanced. The public as well as the educational establishment would be well served by this increased national attention focused on education.

Opposition to the Department of Education is based on fear: fear of Federal control; fear of dominance of special interests; and fear that this will lead to a reduction of the family's influence. However a closer examination will show that these fears are not grounded in fact. It is very difficult to satisfy this criticism but insofar as is legislatively possible that has been accomplished.

The language of this legislation addresses these fears. The primary responsibility for the education of our children remains with State and local governments and the family. H.R. 2444 contains safeguards against dominance of the Department by special interest groups. And finally there is no provision for an unwarrented Federal intervention in family life.

Mr. Chairman, the Department of Education is an idea whose time has finally come. Support for this proposal has been growing in Congress for years. It is to the credit of President Carter that the administration has worked so hard for this legislation.

It is unfortunate that it has taken on a partisian flavor and become a political football, because the issue has long been considered by Congress. Former heads of the Office of Education continue to support it, and the Senate has led the way by an overwhelming vote in achieving this needed reorganization. It is because of the leadership and diligence of Chairman BROOKS that the legislation we will act upon today reached the floor in a balanced and well reasoned form. This legislation will serve the public interest well. The millions of public servants who have dedicated their lives to the education of our youth; the parents who are concerned that their children will enter this society with the tools to function as productive members; and most importantly our children; deserve no less.

There are interest groups on both sides of this issue, but all have as a goal the welfare of people in our society to attain improved schooling, education. In the final analysis the facts the advantages of this reorganization and new department offset the fears raised by critics.●

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Strike out all from line 8 on page 57 to line 16 on page 68 and insert in place of the stricken material:

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Under Secretary shall also be responsible for intergovernmental relations in the Department. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) In addition, there shall be in the Department five officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The officers appointed under this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;

(2) public information functions;

(3) management and budget functions;

(4) planning, evaluation, and policy development functions;

(5) encouraging and monitoring involve-

ment of parents, students, and the public in departmental programs;

(6) providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities; and

(7) the encouragement and promotion of the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

(d) The Secretary shall assign to one of the principal officers appointed under subsection (a) responsibility for the promotion and coordination of programs of the Department which provide assistance to rural education. Such officer shall work with the Interdepartmental Education Coordinating Committee to coordinate such programs with related activities and programs of other Federal departments and agencies.

Except as otherwise provided by this Act—

(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, vested in the Secretary by section 301(a)(3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS-18 of the General Schedule by section 5332 of such title.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 204(a). There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

(b) The Assistant Secretary heading such Office, in carrying out the functions of the Office, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS-18 of the General Schedule by section 5332 of such title.

SEC. 205. (a) There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate to the Office.

(b) The Assistant Secretary heading such Office, in carrying out the functions of the Office, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS-18 of the General Schedule by section 5332 of such title.

OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES

SEC. 206. (a) There shall be in the Department an Office of Special Education and Rehabilitation Services headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting special education and rehabilitation services as the Secretary shall delegate to the Office and shall serve as principal adviser to the Secretary on matters affecting special education and rehabilitation services.

(b) The Assistant Secretary heading such Office, in carrying out the functions of the Office, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS-18 of the General Schedule by section 5332 of such title.

ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION

SEC. 207. (a) There shall be in the Department an Assistant Secretary for Vocational and Adult Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education. The Secretary, through the Assistant Secretary for Vocational and Adult Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Interdepartmenal Education Coordinating Committee to coordinate related activities and programs of other Federal departments and agencies.

(b) The Assistant Secretary heading such Office, in carrying out the functions of the Office, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States

Code at daily rates not to exceed the equivalent rate payable for grade GS–18 of the General Schedule by section 5332 of such title.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

Sec. 208. (a) There shall be in the Department an Office of Educational Research and Improvement headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions of the Department concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate to the Office.

(b) The Assistant Secretary heading such Office, in carrying out the functions of the Office, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS–18 of the General Schedule by section 5332 of such title.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

Sec. 209. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense, the director of which shall be one of the officers appointed under section 202 of this Act.

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

Sec. 210. There is established in the Department an Office of Bilingual Education and Minority Languages Affairs, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department. The Director and the Secretary shall consult concerning policy decisions affecting bilingual education. The Director shall report directly to the Secretary, and shall perform such additional duties as the Secretary may prescribe.

GENERAL COUNSEL

Sec. 210. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

OFFICE OF INSPECTOR GENERAL

Sec. 211. (a) Section 2(1) of the Inspector General Act of 1978 is amended by adding "the Department of Education," after "the Department of Commerce,".

(b) Sections 11 (1) and (2) of such Act are amended by adding "Education," after the word "Commerce,".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

Sec. 212. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter in this section referred to as the "Council").

(b) The Council shall—

(1) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs;

(3) promote better intergovernmental relations; and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials wtih general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators, and teachers;

(C) five representatives of public and private postsecondary education, including board members, administrators, and professors; and

(D) four members of the public, including parents of students and students.

In making appointments to the Council, the President shall select individuals who represent a diversity of geographic areas and demographic characteristics.

(2) The Under Secretary shall be an ex officio member of the Council.

(3) Each member shall have a term of four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.

(e) The Secretary shall furnish such staff, services, and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

Sec. 213. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this section as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

In addition, the committee shall review and assess the state of involvement and participation of students and parents in the overall education decisionmaking process and in specific education programs.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions, and boards that the President may from time to time deem appropriate.

(d) The Director of the Office of Management Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous censent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ERLENBORN. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman from Illinois reserves the right to object.

Mr. ERLENBORN. Mr. Chairman, it really had not been my intention to ask that this whole, rather long substitute amendment for title II be read, but there was a tentative agreement that we would rise when we finish title II. I was not even going to offer the amendment.

The gentleman from Texas has refused, and wanted to go until 9 o'clock, so I guess we will have to hear the amendment. I would still be willing to withdraw the amendment if we could rise when we complete title II.

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Mr. BROOKS. Mr. Chairman, if the gentleman will yield, I would reply to the gentleman and say I announced, after talking with the Speaker of this House, the gentleman from Massachusetts, (Mr. O'Neill) and reaching an agreement with him, that we would work until 9 o'clock. I announced that and asked the gentleman from Ohio (Mr. Ashbrook) if he would yield and he did. I said then that I had made an agreement that I would ask that the Committee rise at 9 o'clock, and it seemed to suit the Members fairly well. I did not make any agreement that we would conclude at 6 o'clock, or 7 o'clock, or 8 o'clock, or 8:45 if we finished title II. I had said we would continue to work through 9 o'clock, hoping to get into the title III and moving this bill on so that the Members of Congress could vote on it without dilatory tactics and a continued delay.

Mr. ERLENBORN. Mr. Chairman, I had hoped we would be able to rise even earlier, but apparently we cannot, so I must object.

The CHAIRMAN. Objection is heard.

The Clerk continued to read the amendment.

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any further amendments to title II?

If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—TRANSFERS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) There are hereby transferred to and vested in the Secretary—

(1) all functions and offices vested in the Assistant Secretary for Education (or in the office of such Assistant Secretary) or in the Education Division of the Department of Health, Education, and Welfare, or in any officer or component thereof;

(2) all functions and offices vested in the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—

(A) under the General Education Provisions Act;

(B) under the Elementary and Secondary Education Act of 1965;

(C) under the Higher Education Act of 1965;

(D) under the Education Amendments of 1978;

(E) under the Act of August 30, 1890 (7 U.S.C. 321-328);

(F) under the National Defense Education Act of 1958;

(G) under the Education of the Handicapped Act;

(H) under part B of title V of the Economic Opportunity Act of 1964;

(I) under subparts I and II of part C of title VII, and part B of title VIII of the Public Health Service Act;

(J) under the National Commission on Libraries and Information Science Act;

(K) under the Vocational Education Act of 1963;

(L) relating to Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf;

(M) under the Model Secondary School for the Deaf Act;

(N) relating to the telecommunications demonstration program under subpart A of part IV of title III of the Communications Act of 1934;

(O) under section 203(k) of the Federal Property and Administrative Services Act of 1949; and

(P) under the Alcohol and Drug Abuse Education Act;

(3) all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare delegated to or vested in the Office for Civil Rights of such Department relating to functions transferred by this section;

(4) (A) all functions and offices vested in the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare under the Rehabilitation Act of 1973, except that the provisions of this subparagraph shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act; and

(B) all functions with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act (20 U.S.C. 107 et seq.);

(5) any advisory committee and authority for any advisory committee established by statute in or under the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, giving advice or making recommendations that primarily concern education functions transferred by this section, except that the Secretary may terminate or combine one or more of such advisory committees;

(6) the Institute of Museum Services in the Department of Health, Education, and Welfare and all functions vested in the Institute;

(7) the Advisory Council on Education Statistics and all functions vested in such Council; and

(8) the Federal Education Data Acquisition Council and all functions vested in such Council.

(b) There are hereby transferred to the Inspector General of the Department that portion of the Office of Inspector General of the Department of Health, Education, and Welfare that relates to functions transferred to the Secretary or the Department by this Act.

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 302. (a) There are hereby transferred to and vested in the Secretary of all functions of the Secretary of Labor or the Department of Labor under section 303(c) (2) of the Comprehensive Employment and Training Act.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

(c) Section 303(c) (3) of the Comprehensive Employment and Training Act is redesignated as subsection (d) and amended to read as follows:

"(d) For the purposes of carrying out subsections (b) and (c) of this subsection, the Secretary shall reserve from funds available for this title an amount equal to not less than 4.625 percent of the amount allocated pursuant to section 202(a).".

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

SEC. 303. (a) Notwithstanding the provisions of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time and in such manner as the President may designate, but not later than three years after the effective date of this Act, all functions and offices vested in the Secretary of Defense or the Department of Defense by the Defense Dependents' Education Act of 1978.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by section 209 of this Act all functions, other than administrative and support functions, vested in the Secretary by subsection (a) of this section.

(c) Not later than one year after the effective date of this Act, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing this plan, the Secretary shall also consult with representatives of organizations of parents of students enrolled in overseas dependents' schools and representatives of professional employee organizations and administrators of such schools.

(d) Nothing in this Act shall be construed to give the Secretary authority to operate overseas institutions of higher education.

TRANSFERS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 304. (a) There are hereby transferred to and vested in the Secretary those programs or parts thereof relating to science education of the National Science Foundation which are directed to (1) pre-college level science education; (2) science education designed specially for minorities or minority groups; (3) educational activities intended to provide science information for specific citizen and public-interest groups; and (4) ethics and values issues.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) The annual report to be submitted by the Secretary pursuant to section 435 shall include a description of arrangements, developed in consultation with the Director of the National Science Foundation, for coordinated planning and operation of the science education programs described in subsection (a), including measures to facilitate the implementation of successful innovations.

(d) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation under the National Science Foundation Act of 1950 to initiate and conduct programs.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions vested in the Attorney General, the Department of Justice, or the Administrator of the Law Enforcement Assistance Administration (or any successor agency thereto) with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsection (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 306. There are hereby transferred to and vested in the Secretary all functions relating to college housing loans vested in the Secretary of Housing and Urban Development or the Department of Housing and Urban Development by title IV of the Housing Act of 1950.

TRANSFERS FROM THE DEPARTMENT OF THE INTERIOR

SEC. 307. (a) There are hereby transferred to and vested in the Secretary all functions of the Secretary of the Interior or the Department of the Interior relating to the education of Indians, Alaskan Natives, and Aleuts.

(b) The provisions of subsection (a) shall take effect on the effective date specified in section 601, except that the transfer of functions relating to the operation, construction, and maintenance of schools and dormitories required by subsection (a) of this section shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting such transfers. Such plan shall be developed in consultation with representatives of the affected tribes, Indian organizations, and other groups.

(c) The transfer of functions from the Secretary of the Interior or the Department of the Interior shall not—

(1) modify or eliminate any eligibility requirements for participation in programs administered by the Secretary of the Interior or the Department of the Interior which were in existence on the day before the date of enactment of this Act; or

(2) alter in any way the trust responsibility of the United States for Indians, Alaskan Natives, or Aleuts.

EFFECT OF TRANSFERS

SEC. 308. The transfer of a function or office from an officer or agency to the Secretary or to the Department includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. NEDZI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2444) to establish a Department of Education, and for other purposes, had come to no resolution thereon.

NATIONAL HEALTH PLAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-148)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

Today I am proposing to the Congress a National Health Plan. This major new initiative will improve health care for millions of Americans and protect all our people against the overwhelming financial burdens of serious illness.

It has been 30 years since President Truman challenged Congress to secure for all Americans access to quality health care as a matter of right. It has been nearly 15 years since the Congress, responding to the leadership of Presidents Kennedy and Johnson, finally enacted Medicare and Medicaid. Now, after a decade and a half of inaction, it is time to move forward once again.

I have consulted with the Congress, with consumers, with leaders of labor, management, and the health care industry, and have carefully weighed every option. My proposal is practical, premised on effective cost controls, and consistent with sound budget practices. It will:

—protect all Americans from the cost of catastrophic illness or accident
—extend comprehensive health coverage to almost 16 million low-income Americans
—provide coverage for prenatal, delivery, postnatal, and infant care, without cost-sharing
—establish Healthcare, which will provide more efficient Federal administration of health coverage for the poor and the elderly
—reform the health care system to promote competition and contain costs
—create both the framework and the momentum for a universal, comprehensive national health plan.

PROTECTION FROM CATASTROPHIC EXPENSES

No American should live in fear that a serious illness or accident will mean bankruptcy or a lifetime of debt. Yet today over 80 million Americans are unprotected against devastating medical costs, and millions more can lose the protection they now have because of unemployment or the death of a working spouse.

This National Health Plan will protect every American from the serious financial burden caused by major illness and injury. All employers will provide catastrophic coverage for full-time employees and their families, with subsidies to ease the burden on small businesses. No family will be required to pay more than $2,500 for medical expenses in a single year. Americans who are not covered elsewhere can obtain affordable catastrophic coverage from a special Federal program. Under this special program, no one will be denied coverage because he or she is labelled a "bad medical risk."

EXPANDED BENEFITS FOR THE ELDERLY

The cost of health care falls most cruelly on America's older citizens who, with reduced incomes, have the highest medical expenses. Because Medicare places limits on hospital days and places no ceiling on out-of-pocket expenses, serious illness threatens senior citizens with loss of their homes and their life savings. Under the National Health Plan, the elderly will have unlimited hospital coverage and will be required to pay no more than $1250 for medical expenses in a single year.

Today, the elderly also face heavy financial burdens because physicians increasingly charge more than the Medicare fee. Under the National Health Plan, physicians would be prohibited from charging elderly patients more than the allowable fee.

IMPROVED PROGRAM FOR THE POOR

The National Health Plan also provides expanded benefits for the poor. The Plan will extend comprehensive coverage—full physician, hospital and related services—to all Americans with incomes below 55 percent of poverty ($4200 for a family of four). In addition, persons with incomes above 55 percent of poverty will be able to "spend-down" into comprehensive coverage if their medical expenses in a given year reduce their income to the eligibility level. A family of four with an income of $4500, for example, will be covered after $300 of medical expenses. Under these provisions, 15.7 million poor people, including 1.2 million elderly, will receive comprehensive coverage for the first time.

Today the existence of 53 separate State and territorial Medicaid programs impedes efficient management. Under the National Health Plan, the administration of programs for the poor and the elderly will be significantly upgraded by the creation of a single new Federal program—Healthcare. Healthcare will improve claims processing, reduce error rates in eligibility determination, and facilitate detection of fraud and abuse.

HEALTH SERVICES FOR MOTHERS AND INFANTS

Prevention is the best way to eliminate the suffering and cost of illness, and one of the most effective preventive health measures we can take is to assure health care for expectant mothers and infants. We have been far too slow to learn this lesson. Our infant mortality rates are higher than those of eleven other nations. This inexcusable record can and will be corrected.

Under the National Health Plan, employers will provide employees and their families with coverage for prenatal care, delivery, and infant care to age one, without any cost-sharing. A high priority in future years must be to expand this coverage to include children up to age six. The employer provisions of the Plan, combined with the Child Health Assurance Plan I have already proposed for low-income expectant mothers and children, will assure that no newborn child in this country will be denied the chance for a full and productive life by the high costs of health care.

EXTENDED INSURANCE COVERAGE

Today, many employees and their families suddenly lose all health coverage when the employee is laid off or is between jobs. Under the National Health Plan, employer-based insurance policies will be required to maintain coverage for 90 days after employment ends. In addition, employer-based policies will be required to maintain family coverage for 90 days after an employee's death, and to cover dependents until age 26.

COST CONTAINMENT

A renewed emphasis on cost containment must accompany new health benefits. The American people now spend over 9% of the Gross National Product on health services—$200 billion a year. Hospital costs in America are rising $1 million an hour, 24 hours a day. It is time to draw the line.

The National Health Plan is premised on passage of strong hospital cost containment legislation, which will save the American people $53 billion over the next five years, including $28 billion in Federal, State, and local expenditures. The Nation cannot afford expanded coverage without hospital cost containment legislation. In addition, my National Health Plan proposes a $3 billion annual limit on hospital capital expenditures. This Nation cannot support more duplicative facilities and more unnecessary equipment. We must not add to the 130,000 excess hospital beds we now have. We must and we will insure that needed extensions in coverage do not become the excuse for further waste.

This Plan will also provide for a mandatory fee schedule for physicians who serve Healthcare patients. The fee schedule will curb excessive inflation in physician fees and will reduce the disparities in fees paid to rural physicians as compared to urban physicians, and primary care physicians as compared to specialists. Over time, the new fee schedule will help produce a better geographic distribution of physicians and increase the availability of primary care services.

The Healthcare fee schedule will provide a model for private health insurance plans. Private plans will publish the names of physicians who agree to adhere to the Healthcare fee schedule for all their patients. To assure that Blue Shield and similar organizations reexamine their physician reimbursement policies, the Plan will prohibit physician domination of the governing boards of these organizations.

INCREASED COMPETITION

Competition has been weak in the health care industry because a very high percentage of costs are paid by third parties, and because patients generally cannot determine or shop for the services they need. In recent years, however, health maintenance organizations (HMOs) have injected important competitive forces into the health care system. The National Health Plan will encourage further competition by giving employees and Healthcare beneficiaries new financial incentives to enroll in HMOs or other cost-effective health plans.

Employers will be required to make equal contributions to the various health plans they offer their employees. Employees who choose more cost-effective plans will either pay lower premiums, receive additional compensation or receive expanded health benefits.

The Healthcare program will pay a fixed amount on behalf of elderly beneficiaries who choose to enroll in HMOs. If the HMO can provide the standard Healthcare benefit package for less than the fixed amount, it must offer additional health benefits to the patient.

The Plan also promotes competition by requiring Healthcare to use competitive bidding to select private companies to perform claims processing and related functions. Demonstration projects by the Department of Health, Education, and Welfare have shown that this change will produce significant administrative savings.

FRAMEWORK FOR A COMPREHENSIVE PLAN

A universal, comprehensive national health insurance program is one of the major unfinished items on America's social agenda. The National Health Plan I am proposing today creates both the framework and the momentum to reach that long-sought goal. In future years, the Plan can be expanded to include all low-income persons. Employer coverage can be made more fully comprehensive, with subsidies to ease the burden on small businesses. First-dollar coverage for preventive services can be extended throughout early childhood. I am today sending to the Congress an outline of a fully comprehensive plan which builds upon the significant health care improvements that I am asking the Congress to enact this session.

Consistent with current budgetary constraints, new Federal spending for the National Health Plan will not begin until FY '83. When the Plan is fully implemented, the Federal budget cost in 1980 dollars will be 18 billion and the premium cost to employers and employees will be $8 billion. A substantial portion of these expenditures reflect reduced out-of-pocket expenses for individuals and reduced spending by State and local governments for their health programs. These expenditures are a social investment in the future of our children, the economic security of our elderly, and the well-being and peace of mind of all Americans. They are an investment in a more effective and efficient health care system. Over time, the Plan's emphasis on prevention, competition, and cost containment will reap important dividends for our Nation and its people.

I urge the Congress not to lose this precious opportunity for progress. The real needs of our people are not served by waiting and hoping for a better tomorrow. That tomorrow will never come unless we act today. The National Health Plan I propose will provide millions of our citizens with better health, greater economic security, and more productive, dignified, and hopeful lives. The American people have waited long enough. I call on the Congress to act without delay.

JIMMY CARTER.

THE WHITE HOUSE, *June 12, 1979*.

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PERSONAL EXPLANATION

(Mr. WHITE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITE. Mr. Speaker, I would like to place in the RECORD the statement that had I been present, I would have voted "aye" on the dismissal of the PARREN MITCHELL contest, and I would have voted "aye" to go into the Committee of the Whole on the bill to create the Department of Education.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4388, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1980

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 96–266) on the resolution (H. Res. 311) waiving certain points of order against the bill (H.R. 4388) making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4390, LEGISLATIVE BRANCH APPROPRIATIONS, 1980

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 96–267) on the resolution (H. Res. 312) waiving certain points of order against the bill (H.R. 4390) making appropriations for the legislative branch for the fiscal year ending September 30, 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4391, MILITARY CONSTRUCTION APPROPRIATIONS, 1980

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 96–268) on the resolution (H. Res. 313) waiving certain points of order against the bill (H.R. 4391) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4392, DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 96–269) on the resolution (H. Res. 314) waiving certain points of order against the bill (H. R. 4392) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4394, DEPARTMENT OF HUD-INDEPENDENT AGENCIES APPROPRIATIONS, 1980

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 96–270) on the resolution (H. Res. 315) waiving certain points of order against the bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LATE JOHN WAYNE OPPOSES HANSEN AMENDMENT TO PANAMA CANAL TREATIES

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I am sure I voice the sentiments of my colleagues in the House in expressing sorrow at the death of a figure long prominent in American life, the actor John Wayne.

I take this time as well to draw to the attention of the Members of the House a mailgram sent by Mr. Wayne a few days before his death in which he strongly endorses the bill providing for carrying out the commitments of the United States under the Panama Canal treaties and in which he strongly opposes the amendment to be offered by the gentleman from Idaho (Mr. HANSEN). "The Hansen amendment," Mr. Wayne says in his telegram, "If passed, would seriously damage the alliance between our two nations and create additional administrative and economic hardships which would wreck our ability to jointly operate the canal. In the worst case, this amendment could result in the closing of the canal which quite obviously would cripple our shipping, our ports, our exporters, and consumers, not to mention our military strength."

Mr. Speaker, I include the entire text of the mailgram from John Wayne to the Speaker of the House. In drawing the mailgram to the attention of my colleagues, I express the hope they will follow the advice of Mr. Wayne and oppose the Hansen amendment when it is offered on the Panama Canal bill, and support passage of the bill.

June 7, 1979.

Hon. Thomas P. O'Neill, Jr.
U.S. House of Representatives, Washington, D.C.

Dear Congressman: As you may know I haven't had much time to think about politics lately. But I've maintained an active interest in the Panama Canal treaties and the action that the House of Representatives will soon be taking to implement them.

Many years of negctiations went into creating these treaties and they have been ratified in accordance with our constitution. In ratifying, we made a commitment to Panama and we must live up to it. We expect as much from other countries. They have a right to expect as much from us.

What is so compelling about these treaties is that they have demonstrated that we, as a country, value cooperation over domination, that we are farsighted enough to protect our own long term commercial and military interests, that we're sensible enough to act not on emotion but on a clearheaded assessment of where our national interests really lie.

Recently I heard that the House has proposed a couple of treaty amendments. One of them, the Hansen Amendment, if passed, would seriously damage the alliance between our two nations and create additional administrative and economic hardships which would wreck our ability to jointly operate the canal. In the worst case, this amendment could result in the closing of the canal which quite obviously would cripple our shipping, our ports, our exporters, and consumers, not to mention our military strength.

Let's not let this happen now in the final stage of these historic treaties. We negotiated these treaties fairly. We struck a bargain that serves the interests of both countries. We had a full debate and we approved them. If we now allow this new amendment to undo all of that, we're not being honest with ourselves or with others.

I hope you will support and work for the passage of reasonable legislation to implement the Panama Canal treaties. Is that too much to ask for a friendly nation who has sided with us in every international emergency or war since its existence?

Sincerely,

John Wayne.

☐ 1150

INTRODUCTION OF WELFARE REFORM BILLS

(Mr. HAWKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. HAWKINS. Mr. Speaker, I am introducing today two measures which address the need for jobs for individuals receiving public assistance. Carl Perkins, chairman of the Education and Labor Committee, joins me in offering both proposals.

The first proposal was submitted to the Congress by the administration as the jobs portion of the welfare reform program. A companion bill providing a national standard for cash benefits has been introduced by our colleagues, Jim Corman and Al Ullman, and has been referred to the Committee on Ways and Means for consideration.

I commend the administration for establishing as the keystone of welfare reform a program which provides work opportunities for persons who might otherwise be dependent on cash assistance. The administration's bill would provide job search assistance and work and training opportunities for principal wage earners in families with children eligible for each assistance. This proposal would also redirect 170,000 positions currently available under CETA title II–D, jobs for the structurally unemployed, to welfare recipients.

This proposal is a scaled-down version of the bill which emerged from the Welfare Reform Subcommittee during the last Congress and reflects the administration's conviction that only a substantially reduced proposal will be enacted. I do not share this conviction, but believe that we must provide a response which does not create jobs for welfare recipients at the expense of other economically disadvantaged individuals who are unable to obtain unsubsidized employment in the private sector.

The alternative proposal, the Work and Training Entitlement Act, which Chairman Perkins and I are submitting, addresses two major concerns with the administration's proposal.

First, single individuals, childless couples, youth, or families not meeting welfare eligibility would be denied the opportunity for productive work under the administration's bill. These individuals are particularly in need of employment and training assistance as they are denied cash benefits.

Second, the administration bill continues to distinguish between an entitlement to cash benefits and an entitlement to jobs. Thus, it requires cash eligibles to undergo a job search with the penalty of loss of benefits for refusal to work while not assuring employment opportunities if jobs are not available in the private job market.

Therefore, the bill which Chairman Perkins and I are introducing would: First, assure that singles, childless couples and others not on welfare who are now eligible for work and training opportunities under CETA would continue to have these opportunities; and second, assure those who are required to work an opportunity for work or training by entitling the CETA prime sponsor the funds necessary to provide the work or training opportunity.

The Work and Training Entitlement Act would tie the work requirement into an individual employability assessment so that individuals for whom low wage, unskilled work has been a revolving door to welfare can be directed to training opportunities which will at least offer them the chance to improve their employability as an alternative to welfare.

The administration's bill reflects the budgetary constraints which seem to dictate all our domestic policy decisions. These constraints do not apply to entitlement to cash benefits, however, which expand to meet the need. Nor does the limited jobs proposal recognize the costs, economic and social, which are implicit in failing to meet the need for productive work opportunities.

While I commend the administration for its diligence in pursuing the goal of welfare reform, I do not believe we should compromise our basic principles of assuring minimum benefits for those unable to work and maximum opportunities for those who are not only able, but willing and eager to perform productive work with the dignity which such work confers.

Mr. PERKINS. Mr. Speaker, would the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, today I am joining with my colleague, Gus Hawkins, chairman of the Subcommittee on Employment Opportunities, in introducing two welfare reform bills.

The first bill was submitted to the Committee on Education and Labor by the administration. It provides job opportunities for welfare-eligible persons, but only for those with children. It does this by adding a new title II–E to CETA to provide 400,000 new jobs, and by converting a substantial number of existing title II–D jobs into welfare jobs.

I had two major concerns with this approach. First, I thought it was unfair not to give single persons and married couples without children a chance to get one of these jobs and perform productive work.

Second, blue-collar workers and low-income persons now have access to CETA jobs under titles II–D and VI. The administration's proposal would effectively convert most CETA jobs into jobs which only welfare-eligible persons with children would qualify for. While I support welfare reform, and support the creation of jobs for welfare-eligible persons, I cannot support creating these jobs at the expense of blue-collar workers, low-income persons, single persons and married couples without children.

The second bill we are introducing today cures these defects.

The Hawkins-Perkins bill opens up eligibility for welfare jobs to singles and childless couples. It protects the existing rights of blue-collar workers and low-income persons to have access to jobs under titles II–D and VI. It guarantees the opportunity to work by creating an entitlement to a job for those eligible persons who are able and willing to work.

I believe our bill takes a fair and equitable approach, and I commend it to my colleagues.

HOUSE BUDGET COMMITTEE EARLY WARNING REPORT, WEEK OF JUNE 11, 1979

(Mr. GIAIMO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GIAIMO. Mr. Speaker, each Monday we hold briefings of the Budget Committee to focus on spending bills scheduled for House consideration that week.

This week's package of informational material accompanying these briefings includes summaries of the HUD–Independent Agencies appropriations bill; Treasury, Postal Service, and General Government appropriations bill; Panama Canal Act of 1979; energy and water development appropriations bill; legislative branch appropriations bill.

I intend to insert these in the CONGRESSIONAL RECORD each Monday in order to inform the House of the relationship of appropriations and other spending bills to amounts assumed in the first budget resolution for fiscal year 1980 by the House:

EARLY WARNING REPORT HOUSE BUDGET COMMITTEE, MONDAY, JUNE 11, 1979

HUD-Independent Agencies Appropriations bill____________________page 1
Treasury, Postal Service and General Government Appropriations Bill__page 2
Panama Canal Act of 1979__________page 3
Energy and Water Development Appropriations bill________________page 4
Legislative Branch Appropriations bill ____________________________page 5

PAGE 1—H.R. 4394—HUD-INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1980 (H. REPT. 96-249)

Scheduled: Thursday, June 14, 1979.
Committee: Appropriations.
Subcommittee: HUD-Independent Agencies.
Chairman: Mr. Boland (Massachusetts).
Ranking Minority Member: Mr. Coughlin (Pennsylvania).

I. Description of bill

This bill funds the Department of Housing and Urban Development, the Veterans Administration, the Office of State and Local Assistance in the Department of Treasury, and 19 other independent agencies. It provides $72,216 million in budget authority and $31,116 million in outlays.

II. Comparison with spending target

This Appropriations bill, combined with spendouts from prior appropriations and amounts assigned to the Subcommittee but not yet considered, exceeds the Subcommittee targets by $558 million in budget authority and $791 million in outlays.

Explanation of Problem. This bill exceeds its target for two reasons. First, the bill provides $6,855 in budget authority and outlays, the full amount authorized, for the General Revenue Sharing program. The House assumptions behind the 1st Budget Resolution contain a reduction of $684 million, a legislative savings that will require action by the Government Operations Committee to be effected. Second, the bill redirects funds from long-lead-time programs such as EPA construction grants, toward items with faster spendouts. This results in higher FY 1980 outlays, and lower outlays in the outyears.

III. SUMMARY TABLE

[In millions of dollars]

	Budget authority	Outlays
1. Amount in bill	72,216	31,116
2. Action to date		17,581
3. Amount assumed but not yet reported	517	471
Possible total	72,733	49,168
Target	72,175	48,377
Over	558	791
Under		

a. *Explanation of Difference From Target:* The bill provides $684 million above the House assumptions for Revenue Sharing. The bill provides $469 million in budget authority below amounts assumed in the Resolution for Environmental Protection Agency programs, primarily EPA Construction grants ($400 million). The bill also provides amounts above those assumed in the Resolution for NASA programs ($122 million), and assisted housing programs ($193 million).

b. *Amounts Assumed in Budget Resolution but not yet Considered:* Amounts assumed in the Budget Resolution but not yet considered total $517 million in budget authority and $471 million in outlays. These amounts are for the proposed targeted fiscal assistance program and for a number of Veterans Administration initiatives and savings for which legislation has not yet been enacted.

IV. Key budgetary floor amendments

None known at this time.

V. Comparison with President

This bill provides budget authority of $72,216 million, $507 million below the total requested in the President's budget. Major reductions occur in funds available for the National Credit Union Administration central liquidity facility ($—200 million) and the EPA ($—468 million). Significant additions would be provided for housing programs ($+195 million) and Veterans programs ($+71 million).

PAGE 2—H.R. 4393, TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATION BILL, 1980 (H. REPT. 96-248)

Scheduled: Friday, June 15, 1979.
Committee: Appropriations.
Sucommittee: Treasury, Postal Service, General Government.
Chairman: Mr. Steed (Oklahoma).
Ranking Minority Member: Mr. Miller (Ohio).

I. Description of bill

The bill provides $8,819 million in budget authority and $8,424 million in outlays to fund the Treasury Department, the U.S. Postal Service, the Executive Office of the President and ten other independent agencies.

II. Comparison with 1st budget resolution spending target

This Appropriations bill combined with spendouts from prior appropriations is above the Subcommittee target by $124 million in budget authority and above the Subcommittee target by $112 million in outlays.

Explanation of Problem. No major problem. However, recent estimates of the impact of 1979 supplementals increased outlay estimates above level assumed at the time of the First Resolution.

III. SUMMARY TABLE

[In millions of dollars]

	Budget authority	Outlays
1. Amount in bill	8,819	8,424
2. Action to date		326
3. Amount assumed but not yet considered	456	441
Possible total	9,275	9,191
Target	9,151	9,079
Over	124	112
Under		

a. *Explanation of Difference From Target:* The bill totals are above the Subcommittee target by $124 million in budget authority and above the Subcommittee target by $112 million in outlays. Recent CBO estimates of the impact of the 1979 supplementals increased outlays over previous levels.

b. *Amounts Assumed in Budget Resolution but not yet Considered:* The bill does not include $177 million in budget authority and $162 million in outlays assumed in the Budget Resolution to fund the Strategic Materials Stockpile. Legislation is pending which would significantly alter the current concept of stockpile operations; therefore the appropriation was deferred without prejudice.

IV. Key budgetary floor amendments

None known at this time.

V. Comparison with President

The bill provides budget authority of $8,819 million, $186 million below amounts requested in the President's budget. The major difference occurs in amounts provided for stockpile operations and other Federal property resources activities in GSA (−$179 million). Smaller reductions would occur for the Internal Revenue Service (−$7 million) and the Executive Office of the President (−$2 million).

PAGE 3—H.R. 111, PANAMA CANAL ACT OF 1979 (FEDERAL EMPLOYEE RETIREMENT PROVISIONS) (H. REPT. 96-98)

Scheduled: Tuesday, June 12, 1979.
Committee: Joint Referral to Four Committees.
Chairman: Murphy (New York).
Ranking Minority Member: McCloskey, Jr. (California.)

I. Description of bill

The entitlement provisions in this bill would provide $9 million for liberalized early retirement benefits to certain Federal employees affected by the Panama Canal Treaty.

II. Comparison with 1st Budget Resolution spending target

This bill is consistent with the Budget Resolution and the NEA target of the Post Office and Civil Service Committee. The House Report on the Resolution noted that funds were included for the retirement provisions "in order to preserve legislative flexibility on the implementation of the Panama Canal Treaty".

Explanation of Problem.—No problem.

III. Summary table

[New entitlement authority (In Millions)]

1. Amount in bill	9
2. Action to date	----
3. Amount assumed but not yet reported	−182
Possible Total	−173
Target	−173
Over	----
Under	----

(a) Explanation of Difference from Target—No difference.

(b) Amounts Assumed in Budget Resolution but not yet Considered:

The Budget Resolution assumed savings of $254 million resulting from legislation to annualize the cost-of-living increases in the Civil Service Retirement program (−$119 million), wage board reform (−$105 million) and dual compensation reform (−$30 million). These savings are partially offset by $81 million for various program increases, for a net NEA allocation of −$173 million under section 302(a). If these legislative savings are not eventually enacted, the target of −$173 million will be exceeded.

IV. Key budgetary floor amendments

Mr. Hanley is expected to offer a substitute approved by the Post Office and Civil Service Committee which would have a new entitlement authority and outlay impact of $6 million in Civil Service Retirement Program. This substitute would restrict the more liberal annuity computation to essential employees and would not waive for Federal workers covered by this bill the requirement under current law that retirees under age 55 receive a reduced annuity.

V. Comparison with President

This President's budget did not include the budgetary impact of this legislation.

PAGE 4—H.R. 4388, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FY 1980 (H. REPT. 96-243)

Scheduled: Wednesday, June 13, 1979.
Committee: Appropriations.
Subcommittee: Energy and Water Development. Chairman: Mr. Bevill (Ala). Ranking Minority Member: Mr. Myers (Ind).

I. Description of bill

This bill provides FY 1980 appropriations for all Department of Energy programs except those related to fossil fuels research and energy conservation; for water resources programs of the Corps of Engineers and the Bureau of Reclamation; and for a variety of independent agencies and commissions. In total, the bill provides $10,680 million in budget authority and $5,812 in estimated outlays.

II. Comparison with first budget resolution spending target

This bill is substantially below the subcommittee targets of $11,583 in budget authority and $9,913 million in outlays.

Explanation of Problem—No problem.

III. SUMMARY TABLE

[In millions of dollars]

	Budget authority	Outlays
1. Amount in bill	10,680	5,812
2. Action to date		4,058
3. Amount assumed but not yet reported	300	−100
Possible total	10,980	9,770
Target	11,583	9,913
Over		
Under	603	143

(a) Explanation of Difference from Target: The difference between the possible total and the subcommittee target consists of: $229 million attributable to energy programs because of program reductions, the use of unobligated balances, and deferral of funding for the Clinch River Breeder; $252 million attributable to water resources programs because of incremental funding as opposed to full funding for new water project construction starts; and $123 million related to the Department of Energy's atomic energy defense activities.

(b) Amounts Assumed in Budget Resolution but not yet Reported: With respect to items assumed but not yet reported, $300 million in budget authority was assumed for the Spent Fuel Storage Fund. Funding of this item was deferred pending enactment of authorizing legislation. Funding for continuation or termination of the Clinch River Breeder Project was not specifically assumed in the Resolution nor funded in this bill pending the outcome of the Department of Energy Authorization Bill for FY 1980. The specific provisions in the authorization bill will dictate the amount of funding required for the project.

IV. Key budgetary floor amendments

None known at this time.

V. Comparison with President

This bill is $779 million in budget authority below the President's request of $11,459 million.

PAGE 5—H.R. 4390—LEGISLATIVE BRANCH APPROPRIATIONS, FY 1980 (H. REPT. 96-245)

Scheduled: Wednesday, June 13, 1979.
Committee: Appropriations.
Subcommittee: Legislative Branch. Chairman: Mr. Benjamin (Indiana). Ranking Minority Member: Mr. Michel (Illinois).

I. Description of bill

This bill funds Congress, GAO, the Library of Congress, and minor items. It provides $953 million in budget authority and $830 million in outlays.

II. Comparison with spending target

It is generally consistent with the Legislative Branch Subcommittee's target, both in total and in functional categories, and does not present budgetary problems.

Explanation of Problem: No problem.

III. SUMMARY TABLE

[In millions of dcllars]

	Budget authority	Outlays
1. Amount in this bill	953	830
2. Action to date		136
3. Amount assumed but not yet reported	241	220
Possible total	1,194	1,186
Target	1,256	1,239
Over		
Under	63	53

a. *Explanation of Difference From Target:* The bill is below the target because of a number of individual line-item cuts. The subcommittee recommends closer attention to expenditures for travel and similar items, which should produce additional outlays savings, although these are not specifically required by the bill.

b. *Amounts Assumed in Budget Resolution but not yet Considered:* Senate items are traditionally not included in the House bill, totalling $218 million in budget authority and $202 million in outlays. The bill also excludes funds for acquisition of a site and general plan for the Government Printing Office, not yet authorized, amounting to $19 million in budget authority and $15 million in outlays, and additional funds for the Madison Memorial Library of $3.5 million in budget authority and outlays.

IV. Key budgetary floor amendments

None known at this time.

V. Comparison with President

The bill as reported is $63 million in budget authority below the President's budget for comparable items.

VI. Background

Mr. Solomon offered an amendment to the Budget Resolution, adopted on a division vote, which cut $2.4 million from budget authority and outlays for Congressional operations. Inasmuch as the reported bill is below the target, the intent of the Solomon amendment appears to have been satisfied.

CALIFORNIA STATE AT FULLERTON WINS COLLEGE WORLD SERIES

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, ever since its establishment in 1957, California State University in Fullerton has been a focus of community pride. It has been well deserved. Not only has the university striven for—and achieved—a high standard of academic excellence, but it also has built a strong athletic program, which time and again has earned accolades in national competition.

The men's and women's basketball teams and gymnastic teams have received well-earned praise for the California State Titans; but I direct my remarks today to the stunning 2 to 1 victory of the Titan baseball team over the University of Arkansas Razorbacks which earned for the Titans, this past June 8 in Omaha, Nebr., their first National Collegiate Athletic Association, division I baseball championship.

Coach Augie Garrido and his assistant coaches, Bill Kernen, Matt McCann, and Jody Robinson have dedicated their energies to developing promising young athletes into a smoothly running unit capable of taking a national championship.

The Titans had been to Omaha in previous years to test their skills against America's best collegiate teams but had not achieved the championship. This year proved to be different. Despite the fact that they were the first team since 1970 to lose their opening game of this world series of college baseball, Mississippi State 6 to 1 they continued to win each subsequent game leading to the title. Five consecutive wins followed over Connecticut 8 to 3, Arizona State University 16 to 3, Arkansas 13 to 10, Pepperdine 8 to 5 and Arkansas 2 to 1.

It has been a magnificent year for the Titans. Coach Garrido and his assistants led the team to a seasonal record of 60 wins against only 14 defeats thus becoming the first baseball team in NCAA history to win 60 games and a national championship in the same season. To add to this record Titan pitcher Tony Hudson was selected as the most valuable player of the Omaha tournament, while his teammates Kurt Kingsolver, Matt Vejar, Tim Wallace, and Dan Hanggie were selected for the all-tournament team. This is indeed a spectacular record, especially in view of the fact that baseball at the university has been in existence for only 14 years.

As a measure of the high esteem in which the residents of Orange County hold the achievement of the Titan baseball team, I wish to commend the Titan coaches and athletes, whose names are here appended, for their outstanding success in Omaha.

Baseball is affectionately called by Americans the "national pastime," it is a great source of pride to Orange Countians that the highest collegiate title for a sport so prized by the American people, has been achieved by the Titan baseball team of Fullerton State.

THE 1979 CALIFORNIA STATE UNIVERSITY, FULLERTON BASEBALL TEAM

Augie Garrido: Head Coach.

Bill Kernen, Matt McCann, Jody Robinson: Assistant Coaches.

Players: John Christensen, Pat Estrada, Boby Garrett, Kurt Kingsolver, Tim Miner, Mark Pirruccello, Jim Sutton, Dave Weatherman, Andre David, Sam Favata, Dan Hanggie, Ray Lane, Larry Nevilhon, Glen Robertson, Matt Vejar, Scott Desrosiers, Mike Garcia, Tony Hudson, Joe Martelli, Mickey Palmer, Bobby Smith, Tim Wallach.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I want to congratulate the gentleman, and ask what team Cal State lost to.

Mr. DANNEMEYER. It is my sad duty to tell the gentleman from Mississippi that the team was Mississippi State.

Mr. MONTGOMERY. I thank the gentleman.

□ 1200

JACK HALEY, SR., AND JOHN WAYNE

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, June 11 was a sad day for our country. I was absent yesterday to bear to their final rest the mortal remains of a very special actor and comedian, the beloved Tin Man from the classic film, "The Wizard of Oz," Jack Haley, Sr. I loved him deeply and was very, very proud to be lucky enough to have him as my uncle. After Jack's funeral his friends and admirers heard the sad news that his friend and America's great friend, John Wayne, had also left us for his celestial reward, to be born once more, this time to eternal life, as Jack Haley was on June 6.

It was only a week ago at UCLA Hospital that these two beloved Americans, the very essence of what is good and enduring in the entertainment industry of this big country of ours, were fighting side by side for their earthly lives—each of them possessing a powerful heart, physically and spiritually.

It was a great honor, Mr. Speaker, to bring Jack Haley to your office last October and to hear you two incomparable Bostonians reminisce about your boyhood days and hundreds of mutual friendships. Two talented Irishmen who made it big.

I think it was providential timing that the gentleman from Illinois (Mr. HYDE) spoke so powerfully in respect of John Wayne in this Chamber yesterday, not knowing that the Duke was within 1 short hour of his death.

I will take a special order tonight and I would like to read now the last two lines from yesterday's special order by the gentleman from Illinois (Mr. HYDE):

> A medal for John Wayne?
> Only if it is solid gold.

John Wayne had a special talent, a special gift from his Maker. So did Jack Haley.

The entertainment industry will miss these two great Americans, their special gifts were unique. I am very proud to be part of a nation that has given both of them so much honor and so much love. I think a poem written by my Uncle Jack years ago about how special the gift of talent really is, tells us simply and beautifully why we should thank God for giving us the Duke and the Tin Man, two fine men who used God's gifts the way He planned it.

TALENT

If you own your talent solely . . .
Try leaving it to one you love
No you can't by all things holy . . .
It returns to Him above
You alone can only use it
So enjoy it while you may . . .
Treat it kindly; don't abuse it
For He who gives can take away.

JACK HALEY, SR.

A TRIBUTE TO "THE DUKE"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 60 minutes.

Mr. DORNAN. Mr. Speaker, this Nation today mourns the passing of one of its greatest citizens, the Duke. The President today called John Wayne the Genuine Article. Mr. Wayne was a legend in his own time. Before the angels finally came to claim him yesterday, he had achieved something that very few Americans can ever hope to accomplish. He established himself as a living, breathing national institution. Duke was able to do this, not merely because he was a talented professional, and he was, indeed, a pro, an actor's actor, but he was able to establish himself as a national institution simply because he portrayed what the American people liked best about themselves. In complimenting him with thunderous applause, broken box office records that may never be attained again, and the ever coveted "Oscar" for his great role in "True Grit," Americans were, indeed, complimenting themselves and celebrating what they thought best about their own national character.

We American people loved John Wayne, and we loved him not as a person but also because he symbolized virtually in every major role ever played the virtues so closely and almost universally identified as traits of the All-American hero—rugged individualism, the combination of homespun toughness and manly gentility, straight talk, a simple and uncomplicated manner, a dedication to truth, unfailing courage, and a willingness to enter into mortal combat for the cause of justice, whatever the practical consequences might be.

I sometimes wonder whether the Good Lord gave Saint Michael the Archangel, the avenger of Heaven, the job of personally coming to pick Duke up yesterday.

The truth of John Wayne's remarkable ability to capture a distinctly American frontier flavor in his professional career came home to me when I viewed a John Wayne "western" in Europe, dubbed in French. Watching John Wayne stroll up to the local saloon after a hard day's ride, wipe the sweat and dust from that massive forehead, and ask in perfect Parisan French for a shot of bourbon whiskey—well, it was simply hilarious. It just did not fit. But I am sure that French audiences did not even notice.

From the time that John Ford, one of American motion picture industry's all-time great directors, first produced that John Wayne hit "Stagecoach" in 1939, Wayne's motion pictures invariably carried the same message: A simple and unsophisticated dedication to virtue, a thoroughly dangerous frame of mind to the many villains who operated under contrary designs.

Who can forget him in the beautiful film, "The Quiet Man," shot totally in Ireland, another great John Ford production. Keep in mind Mr. Ford's real name was Sullivan.

The battling mighty Irish boxing champion Trooper Thornton brilliantly played by Wayne, the counterportrayal brilliantly portrayed by his close friend, the late Victor McLaglen, that fight from one end of the village to the other pausing at the local pub in between seemingly endless rounds to down a few shots of whisky. It was especially moving to Americans, especially those of Irish descent.

Most of us were especially moved by his lecture to his fellow freedom fighters in "The Alamo." He was portraying in that film an American Congressman who had left the chamber just to the north of us here that we now call Statuary Hall. He was portraying the great Davy Crockett. He walked down the very steps that we have in front of our building here, today, to get on horseback and ride west to Texas.

When Wayne, portraying Crockett, spoke movingly of the values of personal liberty and the Republican Government in the face of dictatorial Mexico's final onslaught with massed foot, horse and cannon, it was a message that we could well reread, today.

In "Three Godfathers" with his friends, the great son of one of his longtime friends since his boyhood, the "Duke" staggers up to a bar on Christmas Eve, orders whiskey for himself, Harry Carey, Jr., and milk for a baby he had just rescued from certain death in the deserts of the Southwest, a rescue that is seemingly out of place in a society that now accepts abortion on demand and incarcerates older Americans in nursing homes because they have become an inconvenience.

"Duke" was always the same. He was rough but he was kind and he was always ready to sacrifice.

John Wayne only saw actual combat not as a participant but from a few feet away as a devoted Amercian visiting the fighting men that he loved so well. He developed a deep bond of sincere friendship with those who did have to bear the burden of real combat and this was certainly understandable.

In the "Sands of Iwo Jima," "Fighting Leathernecks," "The Green Berets," his performances were nothing less than artistic celebrations of the monumental courage and spirit of the American soldier, the American pilot, the American sailor.

I remember in 1973 when John was given the honor to address the recently returned POW's. I was present that day. He told them all something that would be infallibly true. He told them that they were the best men the country had ever produced. He told them that he was humble to be in their presence. And this was easy for him to say because he was a truly humble man. He told them he appreciated with every ounce of his great big presence the tremendous sacrifices they offered, when, to use Admiral Jeremiah Denton's phrase, "Hell Was In Session."

The presence of those brave men proved something to "The Duke" in flesh and in blood. They gave life and breath to their times of trial and tribulation to all the virtues he has so often extolled in his private life and on that silver screen.

Those POW's proved with their blood and their incomparable courage that the symbol that "the Duke" portrayed so well in his many films was not a producer's fantasy, an artistic expression of virtues of a by-gone era but representations of the truth, the truth about love and death and courage in a profound and beautiful way. John Wayne was the first personality I knew to wear a Montagnard bracelet.

I went to Vietnam the same year for my first time that he made his first visit there and it was a goal to come home myself with a Montagnard bracelet symbolizing the struggle those people were putting up and are still putting up against tyranny. That POW bracelet that 5 million people wore was born in the Montagnard bracelet of John Wayne. Years later on the television show when I gave Wayne a bracelet of a young Marine hero who had not come home, Capt. Steven Hansen, Wayne wore his POW bracelet and his Montagnard bracelet even in period films that he was to make subsequent to that moment.

My sister-in-law is a nurse at UCLA Hospital and when John's life was slipping away in the last 8 days it was only then when he would lapse into unconsciousness that they were able to take off his bracelets that were symbols to him of the American fighting man and the struggle for non-Americans across the world to be free.

When he told those POW's he would be ready to "ride into the sunset" with them any time, they understood what he was trying in his own bashful, roughhewn way to tell them. They understood clearly and they cheered him wildly. It was the greatest and the most important applause that John Wayne ever had. He told me so. Art and truth had been joined. The moment was almost sacred.

If John Wayne played himself in the films that he made so famous, as some of his critics claim, as they always do with the great stars, male and female, whose persona is so overwhelming that it comes through every single role they portray, then he continued to play that same role until he drew his very last breath.

Like Davy Crockett at "the Alamo," he knew he was making his last stand against hopeless odds. He was losing the toughest battle of his life. As the pain grew more and more intense in his final hours—and my sister-in-law told me that it was unbelievable agony for the Duke—he shunned until the very last few days the morphine, pain-killing drugs, in order to remain conscious and be with his family.

Until just 2 days ago he would recognize them and was still able to engage in conversation. His loved ones, his two sons, Mike and Pat, with whom I attended school at Loyola, his sister, Toni, whose son just graduated with one of my nephews 4 days ago, they all understood perfectly well the fight that their dad was making. After all, he was the Duke and he would not go out without swinging hard.

John Wayne will be missed. His wife will probably never again come before us on television or on the silver screen.

I thank the President for describing him in those very simple and very true words: "A genuine article, the Duke."

• Mr. ANDERSON of California. Mr. Speaker, by now most our our colleagues surely know that John Wayne died yesterday evening in Los Angeles. The Duke was one of the most-loved Americans of the past half-century, and we surely mourn his passing.

I suppose that the Duke was so popular, in large part, because he symbolized us, the American people. He seemed to have all those qualities that as young people, we learned to identify as "American." He was tough but honest, sure in his beliefs, and willing to fight for them when sufficiently provoked.

I recall hearing one comedian say recently that John Wayne would never die, because he is just too tough for death, and keeps scaring him off. That was the Duke's image, and somehow he did appear to keep scaring off the most feared killer of our age, cancer. But in the end, John Wayne had to die. We all do. And his death helps bring home that one simple fact.

America as had many heroes. They have come and they have gone. Few, of course, had their star shine so brightly and for so long as did the Duke's. Inevitably, though, America survives her heroes, outlasts them, and mourns their passing.

So America continues today, much the same as it was yesterday, and obviously the spirit of the Duke would want it no other way. But we have not outlasted his spirit. Because the spirit of John Wayne lives on. It is the spirit of America.•

GENERAL LEAVE

Mr. DORNAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to join in this tribute to a really great American.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDING THE TECHNOLOGY ASSESSMENT ACT OF 1972

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Fuqua) is recognized for 10 minutes.

• Mr. FUQUA. Mr. Speaker, last week I introduced a bill, H.R. 4399, to amend the Technology Assessment Act of 1972.

The Office of Technology Assessment, which was established by that act, was the brainchild of the Committee on Science and Technology which I now have the privilege to chair. The act was on the drawing boards, so to speak, for 6 years—from 1966 to 1972—prior to its actual creation. The Office did not begin operating until early in 1974.

In the last Congress our Subcommittee on Science, Research and Technology held a comprehensive review of OTA and its organic act which lasted well over a year. There were two main reasons for this extensive oversight:

First. We felt the time had come to attempt to gage the quality of OTA's work and its utility to the Congress. By then OTA had enough of a track record to make the inquiry worthwhile.

Second. It was evident that OTA was, and had been, suffering from growing pains initiated by both internal and external factors. We believe it would be helpful to pinpoint such factors insofar as we could and to suggest possible ways of alleviating them.

In brief, we found that OTA was doing valuable work, that its assessments in a high majority of cases were useful to congressional committees, and that their quality was, for the most part, very good. We also found evidence of some procedural strife and tensions among the Board, the Advisory Council, the Director, and various elements of the staff.

The subcommittee's work culminated in a thorough report of the issues involved, their origin and background, together with recommendations for a number of potential changes which, it was felt, the Office might profitably consider. The report was issued in November 1978, and submitted to the Technology Assessment Board at that time. As of now, we have no evidence that the Board, as an entity, is considering the substance of the suggestions made by the investigating subcommittee. We have received no comment from it.

However, in view of the fact that the Subcommittee on Accounts of the House Administration Committee has expressed to us a desire that we continue close oversight of OTA in this Congress, and in view of our obligations in this matter under the rules of the House, it is my intention to comply with their request—as well as our committee's responsibility—through hearings on H.R. 4399 at an appropriate time.

Mr. Speaker, all of the provisions of my bill, which makes certain reforms in OTA's structure and procedures, are based on information, data, views and recommendations which the committee received during hearings in the 95th Congress. Almost all are contained in the subcommittee's report recommendations as well.

The following is a summary of the bill's main provisions:

SUMMARY OF PROVISIONS OF H.R. 4399

THE BOARD

First. Limits the time any Member may serve on the Board to 8 years—but includes a grandfather clause to exempt time already served by current Members.

Second. Requires appointment or reappointment of Board Members every 2 years, (each new Congress) for Senate Members as well as House Members.

Third. Requires the Board to meet quarterly—although it may meet at the call of the Chair or on request of any four Members.

EXECUTIVE COMMITTEE

First. A five-Member Executive Committee of the Board is established to handle routine matters—including approval of pending assessment proposals—and such other duties as the Board may assign it.

Second. The Executive Committee is directed to give priority to House and Senate Committee requests in its consideration of proposals.

Third. The Executive Committee is made up of the Director, as Chairman—two House Members, one from each party, appointed by all the House Members—and two Senators, one from each party, appointed similarly.

Fourth. No Board Member (except the Director) may serve more than four years as a Member of the Executive Committee.

THE DIRECTOR

First. The Director is hereafter appointed by the Speaker and the President pro tem of the Senate from among not less than four nominees recommended by the Board.

Second. The Director is made a voting Member of the Board.

Third. The Director, as well as the Board, may initiate assessments, but only with approval of the Board.

THE ADVISORY COUNCIL

First. The Council as a statutory entity is abolished.

Second. However, the Board has the option of recreating the Council if it chooses—on either a permanent or ad hoc basis.

Third. If the Council is recreated, it is to consist entirely of nongovernment advisors. The Director of CRS and the Comptroller General would not be ex officio Members of the Council as they are now.

Fourth. The Board would make all rules governing the Council and assign its duties—which could not include any operational or functional activity of the office.

GENERAL COUNSEL

First. The Director is authorized, with the approval of the Board, to appoint a General Counsel to OTA at level V of the Executive Schedule. ($47,500).

Second. Aside from usual duties, the General Counsel has specific responsibility for interpretation of the OTA Act and for advising on the appropriateness of assessment requests made pursuant thereto.

MISCELLANEOUS

The foregoing, together with several minor changes, rounds out the bill.●

LOS ANGELES TIMES EDITORIAL: A CLEARLY CORRUPTING SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, despite the action of the House Administration Committee, in rejecting a bill to provide for public financing of congressional general elections, the issue is not dead. Many Members are committed to pushing for action via the Rules Committee or through a floor amendment to related legislation, such as amendments to the Federal Election Campaign Act. In addition, there is the recent disclosure of spending figures for the 1978 elections has convinced some important opponents of public financing that it is time to take another look.

One important foe of congressional public financing that has had a change of heart is the Los Angeles Times, which reviewed the incredible rise in campaign spending and special interest contributions and decided that its longstanding opposition to public financing was outdated. Observed the Times:

> It has become evident that candidates for the House and the Senate have also become dangerously dependent on special-interest money. It is just as apparent that the booming costs of running for congressional office have become a deterrent to challengers who might otherwise oppose incumbents. Those changing realities compel a change in our view.

Concluded the paper:

> We urge enactment of H.R. 1 and S. 623 because the availability of public money would at least encourage more frequent and more credible challenges to incumbents in districts that are marginal because the incumbents' performance has been marginal. More important, *public financing would all but eliminate a clearly corrupting system in which national legislators owe too much to the special interests and too little to their constituents.*" (Emphasis added.)

Mr. Speaker, that states the argument for public financing succinctly. I am entering a copy of the Times' editorial into the RECORD for my colleagues' attention, because the article provides a broad and convincing overview of the facts on campaign financing in 1978 that I believe justify partial public financing. I commend the article and its views to my colleagues:

A CLEARLY CORRUPTING SYSTEM

We were early supporters of partial public financing of presidential elections, first tried in 1976, and we now think the time has come to fund elections for the Senate and the House of Representatives in the same way.

Our reason for favoring public subsidies for presidential candidates was their increasing dependence on massive contributions from special interests. Candidates from both major parties had become too beholden to their biggest bankrollers, ranging from labor unions to corporations.

Until now, however, we have been against extending public financing to congressional candidates. It was our opinion that full disclosure of political contributions was an adequate safeguard against corrupting influences. We also thought that public financing and its concomitant spending limits would work unfairly in favor of incumbents.

But it has become evident that candidates for the House and the Senate have also become dangerously dependent on special-interest money. It is just as apparent that the booming costs of running for congressional office have become a deterrent to challengers who might otherwise oppose incumbents.

Those changing realities compel a change in our view.

Spending by congressional candidates in 1978 was almost 150% higher than in 1976, and too much of the additional money came from political-action committees (PACs), representing the most powerful lobbies in Washington.

Last year, the PACs gave House and Senate candidates $35.1 million, eight times the $4.4 million spent on congressional races by the Democratic and Republican parties.

There has also been a tremendous increase in the number of political-action committees—from 600 in 1975 to more than 1,900 in 1978. The largest gain has been in committees representing corporations—from 89 in 1975 to more than 800 in 1978.

Until recent years, the political-action committees gave most of their money to powerful incumbents whose committee positions gave them life-and-death control over important legislation. But now the committees are spreading their largesse to larger numbers of senators and representatives and, for the first time, are investing heavily in new members of Congress.

Last year, the PACs gave an average of $43,000 to candidates now serving their first term. Two of them—Democrats from Texas—got more than $110,000 each from the committees, and found themselves under obligation to their benefactors before they even took the oath of office.

One of the post-Watergate political reforms was a $10,000 limit on the amount that a PAC could contribute to a single candidate—$5,000 in both the primary and general elections. The rationale was that $10,000 could not buy too much influence. But the recent proliferation of committees representing the same economic interests destroys that presumption. One of the winning freshman Democrats from Texas acknowledges that most of the more than $110,000 that he got from the PACs came from a number of committees representing different aerospace companies.

In the same way, PACs representing unions or trade or professional associations can pool their contributions to become the major contributor to candidates and, more often than not, the major influence on their voting record.

We believe that the growing power and resources of the political-action committees, which all but negate the importance of the political parties and which diminish to a nullity the importance of the small contributor, call for a public system of financing Senate and House elections.

S 623, now awaiting its first committee test in the Senate, and HR 1, which is in serious difficulty in the House, would fund congressional races in much the same way as presidential elections. HR 1 was struck down by the House Administration Committee late last week by a 17–8 vote, but Common Cause and other advocates of public financing will attempt to force a floor vote through the Rules Committee.

Both the House and Senate measures would cover only general elections, and would become effective next year. To be eligible for matching funds from the $1 voluntary income-tax checkoff, House nominees would have to show a broad base of support by raising $10,000 in contributions of $100 or less—and 80 percent of the amount would have to come from the candidates' own states as a condition of receiving federal funds up to a limit of $60,000. House contenders would have to accept an overall spending limit of approximately $195,000.

In Senate races, the fund-raising necessary to qualify, the limit on matching funds and the spending ceiling would depend on the population of the state.

The matching dollars would amount to approximately $30 million for House contenders and $18 million for Senate nominees every two years.

Both the House and Senate measures also restrict the amount that candidates can contribute to themselves—$25,000 and $35,000, respectively. The limits now in effect for outside contributions—$1,000 from individuals and $5,000 from PACs—would remain the same. As in presidential elections, a party's nominee could reject public financing and the spending limits, but their opponents who did accept the subsidies would receive additional matching funds.

One of our objections to the new legislation and to the present mode of funding presidential elections is the binding limit on overall spending and on the expenditure of a candidate's own money. It strikes us that such controls impair a candidate's ability to communicate with the voters, and thus restrict the First Amendment guarantee of freedom of expression.

But the fact that nominees can choose not to accept public financing and its limits answers that objection, if not fully.

We are still convinced, however, that public financing will favor incumbents. Most successful challengers have had to outspend their opponents, and by a considerable amount, but they will not be able to do that if they accept the public subsidy. More than 90 percent of incumbents win reelection because they receive most of the political-action money and because they begin the race with a giant head start: office slush funds, the franking privilege, newsletters to their constituents, aides who specialize in public relations and many more advantages—all paid for with taxpayers' funds.

But we urge the enactment of HR 1 and S 623 because the availability of public money would at least encourage more frequent and more credible challenges to incumbents in districts that are marginal because the incumbents' performance has been marginal.

More important, public financing would all but eliminate a clearly corrupting system in which national legislators owe too much to the special interests and too little to their constituents.●

PRELIMINARY STUDY OF FEDERAL TAX RATES OF AMERICA'S TOP CORPORATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, each year, I place in the RECORD the effective Federal tax rates of America's top corporations. This annual corporate tax study, done at my request by accountants supervised by staff of the Joint Committee on Taxation, is nearly completed and will soon be published.

In light of the present controversy over the earnings of the oil industry and the appropriate size of any tax on earnings which are a result of decontrol, I asked the staff to provide me with an early look at the figures for this industry. A preliminary look at the figures suggests that the President has seriously understated the earnings and present financial health of the oil industry. The 19 oil companies included in my study are reported to have paid approximately $3.4 billion in U.S. taxes on worldwide income before taxes of over $30 billion, or an effective tax rate of 11 percent.

If we deduct U.S. Federal income taxes of $3.4 billion and foreign taxes of $13.6 billion from total worldwide income of $30 billion, the major oil companies had nearly $13 billion remaining at the end of 1977 for distribution to stockholders or new investment. Decontrol will bring the oil companies a bonanza of additional revenues. The Congressional Budget Office estimates that if the real price of oil were to remain constant, the industry's revenues would climb by $82.9 billion in the next 6 years. Future OPEC price increases will most likely result in a total increase of more than $100 billion.

We cannot legislate in darkness. Any change in the taxation of the oil industry must be accompanied by complete information on taxes currently paid by the major oil companies. We cannot create an intelligent severance tax until we know the specifics of the present corporate tax structure as it relates to the oil industry.

I will ask the Ways and Means Committee to request that the Department of the Treasury furnish to the committee a report made from actual tax returns for 1978 or 1977, the latest report period, including the following information from the eight largest American multinational oil companies in one report and the eight largest domestic oil companies in a second report.

Each report would separately state:
First. Total sales;
Second. Total cost of goods sold;
Third. Gross income;
Fourth. Depletion allowances;
Fifth. Intangible drilling expenses;
Sixth. Net income;
Seventh. Foreign tax credit;
Eighth. Investment tax credit; and
Ninth. Taxes actually paid for reporting year.

I believe that actual taxes paid by these oil companies is drastically overstated in the reports filed with the Securities and Exchange Commission.

OIL AND GAS COMPANIES—TAX YEAR 1977

	Thousands						Percent				
	U.S. income before tax	Foreign income before tax	Worldwide income before tax	Current U.S. tax expense	Current foreign tax expense	Current worldwide tax expense	Effective U.S. tax rate on U.S. income	Effective rate on foreign income	Effective worldwide tax rate on worldwide income	Effective U.S. tax rate on worldwide income	Effective rate of U.S. tax on adjusted worldwide income
Exxon	2,201,453	5,463,000	7,664,453	570,000	4,624,000	5,194,000	25.9	84.6	67.8	7.4	19.7
Mobil	968,970	3,380,461	4,349,431	107,500	2,812,757	2,920,257	11.1	83.2	67.1	2.5	7.4
Texaco	690,136	955,577	1,645,713	103,100	678,100	871,200	14.9	80.4	52.9	6.3	12.7
Standard Oil of California	798,207	548,480	1,346,687	272,811	294,138	566,949	34.2	53.6	42.1	20.3	26.7
Gulf Oil	685,000	1,513,000	2,198,000	139,000	1,160,000	1,299,000	20.3	76.7	59.1	6.3	14.3
Standard Oil of Indiana	1,312,082	1,186,999	2,499,081	460,700	895,200	1,3 5,900	35.1	75.4	54.3	18.4	29.3
Atlantic Richfield	690,478	218,100	907,578	11,500	173,850	185,350	1.7	79.7	20.4	1.3	1.6
Shell Oil			1,176,773	352,100	14,129	366,229			31.1	29.9	30.3
Continental Oil			1,308,924	132,663	724,602	857,265			65.5	10.1	23.4
Sun Co	549,255	169,835	719,090	230,107	111,969	342,076	41.9	65.9	47.6	32.0	39.3
Phillips Petroleum	598,441	532,120	1,130,561	208,926	347,485	556,411	34.9	65.3	49.2	18.5	28.8
Occidental Petroleum			887,142	7,800	516,236	524,036			59.1	.9	3.3
Union Oil of California			550,088	44,500	118,200	162,700			29.6	8.1	10.4
Ashland Oil			281,938	57,766	36,154	93,920			33.3	20.5	23.5
Amerda Hess	172,444	341,233	513,677	60,694	279,924	340,618	35.2	82.0	66.3	11.8	26.9
Marathon Oil	315,757	439,142	754,899	50,150	424,540	474,690	15.9	96.7	62.9	6.6	15.2
Standard Oil (Ohio)			235,906	1,298	14,974	16,272			6.9	.6	.6
Getty Oil	453,302	401,295	854,597	145,641	267,808	413,449	32.1	66.7	48.4	17.0	29.1
Tenneco			771,300	264,000	34,800	298,800			38.7	34.2	35.9
Cities Service			374,000	108,100	10,000	118,100			31.6	28.9	29.9
Total, oil and gas	9,416,905	15,167,862	30,170,838	3,328,356	13,628,866	16,957,222			56.2	11.0	21.1

NOTES—OIL AND GAS COMPANIES

1. Atlantic Richfield—The low effective U.S. tax rate is due primarily to investment tax credits.
2. Occidental Petroleum Corp.—Has investment tax credit carryovers available at Dec. 31, 1977 of $86,000,000.
3. Standard Oil Co. of Ohio (SOHIO)—The low effective U.S. tax rate is due primarily to net operating loss carryovers from prior years.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, this is called learning the hard way. On rollcall No. 220, I was in the House but failed to vote because of the use of a new bell procedure, believing it was just a quorum call. Had I been present I would have voted "nay."●

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. MIKVA. Mr. Speaker, I was absent for rollcall No. 182, rollcall No. 198, and rollcall No. 201.

Had I been present, I would have voted as follows:

Rollcall No. 182, amendment by Mr. BONER of Tennessee to H.R. 3875 (Housing and Community Development Act) which would have allowed counties to qualify for funds if they had "distressed" areas—vote, "no."

Rollcall No. 198, final passage of H.R.

3347 (Treasury International Affairs Authorization) —vote, "yes."

Rollcall No. 201, changing the name of the Department of Education—vote, "no."●

CREATION OF A DEPARTMENT OF EDUCATION

(Mr. FRENZEL asked and was given permission to extend his remarks at this point in the Record.)

● Mr. FRENZEL. Mr. Speaker, I have supported the concept of a separate Department of Education since before I came to Congress. I have cosponsored legislation for that purpose, and often declared myself in favor of the new Department.

I believe such a Department would make our education policy more accessible to the people. Now, education is tucked away in HEW, insulated so well that it is not always possible to identify policymakers and regulation-writers.

Very few people are suggesting a retrenchment of Federal effort in education. Certainly, I am not. As long as the Federal Government is making a substantial effort, I believe we ought to organize ourselves, with a new Department, to do the job in the best possible way.

But, despite my belief that a Department of Education would be beneficial, my constituency does not share my enthusiasm. A recent survey of about 10,000 people in my district revealed that the new Department was opposed by a strong 3 to 1 majority.

My dilemma is not unusual in Congress. Frequently, Members are faced with issues on which they and their constituents have differing views. If the issue is fundamental, or constitutional or involves an important difference, most Members, including myself, would vote their own best judgment.

However, in this case, education will not suffer much under the present arrangement, nor is there any expectation that it will prosper mightily under a new organization. If there were a great and immediate benefit in the new Department, I would support it and use those benefits as arguments to justify my actions at home.

In this case, the benefits are not great enough, nor are they immediate enough, to encourage me to oppose the strong feelings in my district. I still favor the new Department, but, for the present, I feel that I must vote against it.

When we achieve greater spending control, and when the people have more confidence in our bureaucracy, it will then be appropriate to try to organize the new Department.

The antibureaucracy and anti-Federal Government feelings in my district, and I suspect elsewhere, run deep. The Department of Energy is thought to be a horrible example of a recent consolidation which only escalated expense, bureaucrats, and regulation. Its work has been counterproductive. I would guess that energy problems would have escalated as fast, and been managed as poorly, under the old organization, but the memory of an apparent failure is fresh in the public mind.

There also is strong feeling that a new Department will centralize Federal control of education and remove some of the local control we now enjoy. This is surely not the intention of the legislation, but the fear is real.

We ought to be doing a continuous job of reorganizing our Government to meet changing problems in changing conditions. But, unless we manage our business better, and unless the executive department does a better operating job, we may find that we will have difficulty passing even urgent reorganization legislation. It is preferable therefore at this time to defer reorganizations which are merely useful, and to concentrate on those which are urgent.

One of the reasons for public lack of confidence is the total failure of congressional oversight. Because we have not discharged this oversight duty effectively, we must share the blame with the executive department for mismanagement, overregulation, low productivity, and a general inability to cope with problems in most areas of jurisdiction.

I believe the separate Department of Education a useful and a positive reorganization. But it is neither urgent, nor essential. Because it is broadly opposed by the people of my district, with some regret, I shall vote against it.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Bereuter) to revise and extend their remarks and include extraneous material:)

Mr. Dornan, for 60 minutes, on June 12, 1979.

Mr. Lagomarsino, for 60 minutes, on June 18, 1979.

Mr. Martin, for 10 minutes, today.

(The following Members (at the request of Mr. Mavroules) to revise and extend their remarks and include extraneous material:)

Mr. Fauntroy, for 5 minutes, today.
Mr. Weaver, for 10 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 15 minutes, today.
Mr. McHugh, for 5 minutes, today.
Mr. LaFalce, for 5 minutes, today.
Mr. Fuqua, for 10 minutes, today.
Mr. Drinan, for 5 minutes, today.
Mr. Mica, for 5 minutes, today.
Mr. Panetta, for 5 minutes, today.
Mr. Vanik, for 5 minutes, today.
Mr. Cavanaugh, for 5 minutes, today.
Mr. Ottinger, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. COLLINS of Illinois to insert her remarks just prior to vote on Walker amendment.

(The following Members (at the request of Mr. Bereuter) and to include extraneous matter:)

Mr. Petri.
Mr. Carter.
Mr. Whitehurst.
Mr. Quayle.
Mr. Snyder.
Mr. Findley in two instances.
Mr. Green in two instances.
Mr. Archer.
Mr. Dornan.
Mr. Collins of Texas in two instances.
Mr. Rhodes.

(The following Members (at the request of Mr. Mavroules) and to include extraneous matter:)

Mr. Santini.
Mr. Brodhead.
Mr. Peyser.
Mr. Mikva in two instances.
Mr. Young of Missouri.
Mr. Wolff in two instances.
Mr. Guarini in two instances.
Mr. Boland.
Mr. Kildee.
Mr. Mineta.
Mr. Gephardt.
Mr. Nelson.
Mr. Hall of Ohio.
Mr. Bonker.
Mr. Dixon.
Mr. Flippo.
Mr. Cavanaugh.
Mr. Matsui.
Mr. Ottinger in three instances.

Mr. Boner of Tennessee in two instances.

ADJOURNMENT

Mr. MAVROULES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 29 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 13, 1979, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the first quarter of calendar year 1979 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1, AND MAR. 31, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Elizabeth Holtzman, M.C.	2/12	2/13	Japan	20,440	103.00					20,440	103.00
	2/13	2/14	Indonesia	46,500	75.00	48,700	78.50			95,200	153.50

	2/14	2/16	Malaysia	495	225.00	119.53	54.33			12,448	279.33
	2/16	2/21	Thailand	7,613.50	375.00	3,119.90	153.69			10,732.40	528.69
	2/21	2/24	Vietnam[3]								
	2/24	2/26	Hong Kong, BCC	1,794.40	[3]375.00	766.98	160.20			2,561.38	535.20
							3,265.50				3,265.50
Hon. Hamilton Fish, Jr., M.C	2/12	2/13	Japan	20,440	103.00					20,440	103.00
	2/13	2/14	Indonesia	46,500	75.00	48,700	78.50			95,200	153.50
	2/14	2/16	Malaysia	495	225.00	119.53	54.33			124.48	279.33
	2/16	2/21	Thailand	7,612.50	375.00	480.90	23.69			8,093.40	398.69
	2/21	2/25	Hong Kong, BCC	1,335.50	300.00	144.93	30.20			1,480.43	330.20
							3,051.00				3,051.00
Hon. Billy Lee Evans, M.C	2/16	2/21	Thailand	9,135	450.00	3,119.90	153.69			3,211.25	603.69
	2/21	2/24	Vietnam[3]								
	2/24	2/25	Hong Kong, BCC	1,794	[3]375.00	766.98	160.20			2,560.98	535.20
							3,239.00				3,239.00
Garner J. Cline	2/12	2/13	Japan	20,440	103.00					20,440	103.00
	2/13	2/14	Indonesia	46,500	75.00	48,700	78.50			95,200	153.50
	2/14	2/16	Malaysia	495	225.00	119.53	54.33			124.48	279.33
	2/16	2/21	Thailand	7,612.50	375.00	3,119.90	153.69			10,732.40	528.69
	2/21	2/24	Vietnam[3]								
	2/24	2/27	Hong Kong	2,153.30	[3]450.00	766.98	160.29			2,920.28	610.20
							3,051.00				3,051.00
Arthur P. Endres, Jr	2/12	2/13	Japan	20,440	103.00					20,440	103.00
	2/13	2/14	Indonesia	46,500	75.00	48,700	78.50			95,200	153.50
	2/14	2/16	Malaysia	495	225.00	119.53	54.33			12,448	279.33
	2/16	2/21	Thailand	7,612.50	375.00	480.90	23.69			8,093.40	398.69
	2/21	2/26	Hong Kong, BCC	1,794.40	375.00	144.93	30.20			1,939.33	405.20
							3,176.40				3,176.40
Committee total					5,437.00		17,363.67				22,800.67

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Per diem for Vietnam was paid in Hong Kong.

May 10, 1979.

PETER W. RODINO, Jr., Chairman.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1786. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes; jointly, to the Committees on Ways and Means, Agriculture, Interstate and Foreign Commerce, and the Judiciary.

1787. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Indonesia (transmittal No. 79-41), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 3978. A bill to amend the Federal Trade Commission Act to exempt savings and loan institutions from the application of certain provisions contained in such act (Rept. No. 96-265, Pt. I). Ordered to be printed.

Mr. BEILENSON: Committee on Rules. House Resolution 311. Resolution waiving certain points of order against H.R. 4388. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-266). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 312. Resolution waiving certain points of order against H.R. 4390. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-267). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 313. Resolution waiving certain points of order against H.R. 4391. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes. (Rept. No. 96-268). Referred to the House Calendar.

Mr. DODD: Committee on Rules. House Resolution 314. Resolution waiving certain points of order against H.R. 4392. A bill making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes. (Rept. No. 96-269). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 315. Resolution waiving certain points of order against H.R. 4394. A bill making appropriations for the Department of Housing and Urban Development and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes. (Rept. No. 96-270). Referred to the House Calendar.

SUBSEQUENT ACTION ON BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X:

Referral of H.R. 51. A bill to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of piplines transporting natural gas and liquefied petroleum gas, to provide standards with respect to the siting, construction, and operation of liquefied natural gas facilities, and for other purposes, which was referred to the Committee on Public Works and Transportation, extended for additional period ending not later than June 15, 1979.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Rhode Island:

H.R. 4422. A bill to repeal the Connally Hot Oil Act and to provide to Secretary of Energy with authority to prescribe a maximum efficient rate for the production of petroleum, and to require petroleum production of rates up to that prescribed rate; to the Committee on Interstate and Foreign Commerce.

By Mr. BIAGGI:

H.R. 4423. A bill to amend the Internal Revenue Code of 1954 to provide that the one-time exclusion of gain from the sale or exchange of a principal residence shall apply without regard to any age limitation; to the Committee on Ways and Means.

By Mr. DAVIS of Michigan:

H.R. 4424. A bill for the relief of certain persons and States and political subdivisions thereof for damages sustained as a result of the Great Lakes and Saint Lawrence Seaway season extension program; to the Committee on the Judiciary.

By Mr. HAWKINS (for himself and Mr. PERKINS):

H.R. 4425. A bill to amend the Comprehensive Employment and Training Act to provide work and training opportunities to assist families to become economically self-sufficient, and for other purposes; to the Committee on Education and Labor.

H.R. 4426. A bill to amend the Comprehensive Employment and Training Act to establish a work and training entitlement program, and for other purposes; to the Committee on Education and Labor.

By Mrs. HOLT:

H.R. 4427. A bill to amend the Internal Revenue Code of 1954 to allow an exemption for certain professional liability insurance organizations; to the Committee on Ways and Means.

By Mr. JACOBS:

H.R. 4428. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to provide that an individual who has attained age 65, and is entitled to old-age insurance benefits, may elect to treat his or her employment or self-employment as not covered for social security benefit purposes and as exempt from social security taxes; to the Committee on Ways and Means.

By Mr. JEFFORDS:

H.R. 4429. A bill to amend the Food Stamp Act of 1977 to make individuals who have excessive income ineligible to participate in the food stamp program, and to make such individuals liable for the value of coupons received while so ineligible; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. KOSTMAYER:

H.R. 4430. A bill to amend the Walsh-Healey Act to provide that, where the majority of the employees of any employer to whom that act applies by secret ballot elect to do so, the employees of that contractor may work 10 hours in each day if they do not work in excess of 40 hours in any one week; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. MONTGOMERY (by request):

H.R. 4431. A bill to amend the Federal Unemployment Tax Act to provide that State unemployment compensation laws need not provide that the amount of unemployment compensation to which an individual may be entitled for any week must be reduced by the amount of any military retired pay to which such individual is entitled for such week; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 4432. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of cooperative electric and telephone companies; to the Committee on Ways and Means.

By Mr. YATRON:

H.R. 4433. A bill to amend title 38, United States Code, to provide for the payment of service pensions to veterans of World War I and the surviving spouses and children of such veterans; to the Committee on Veterans' Affairs.

By Mr. CARTER:

H.R. 4434. A bill to increase on an expedited basis the energy supplies of the United States by the expanded use of coal conversion technologies; to decrease the dependence of the United States on foreign energy sources; to establish an Energy Development and Management Authority; and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, and Science and Technology.

By Mr. SEIBERLING (for himself and Williams of Ohio):

H.R. 4435. A bill to amend title 28 of the United States Code to make certain changes in the divisions within the northern district of Ohio; to the Committee on the Judiciary.

By Mr. WEISS (for himself, Mr. Thompson, Mr. Lederer, Mr. Bonior of Michigan, Mr. Hollenbeck, Mr. Ford of Tennessee, Mr. Garcia, Mr. Stark, Mr. Kastenmeier, Ms. Schroeder, Mr. Maguire, Mr. Mitchell of Maryland, Mr. Markey, Mr. Edwards of California, Ms. Holtzman, Mr. Conyers, Mr. Kildee, Mr. Solarz, Mr. Ottinger, Mr. Richmond, Mr. Seiberling, Mr. Nowack, and Mr. Kostmayer):

H.R. 4436. A bill to facilitate the economic adjustment of communities, industries, and workers to civilian-oriented initiatives, projects, and commitments when they have been affected by reductions in defense or aerospace contracts, military facilities, and arms export which have occurred as a result of the Nation's efforts to pursue an international arms control policy and to realine defense expenditures according to changing national security requirements, and to prevent the ensuing dislocations from contributing to or exacerbating recessionary effects; jointly, to the Committees on Armed Services, Banking, Finance and Urban Affairs, Education and Labor, Government Operations, and Ways and Means.

By Mr. NELSON:

H. Con. Res. 138. Concurrent resolution expressing the sense of the Congress regarding the commissioning of an independent audit of domestic supplies of crude oil and refined petroleum products and related matters; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

218. By the SPEAKER: A memorial of the Legislature of the Commonwealth of Pennsylvania, relative to awarding the Congressional Medal of Honor to Anthony Casamento; to the Committee on Armed Services.

219. Also, memorial of the Legislature of the State of Nevada, relative to the regulation of safety and health in mines; to the Committee on Education and Labor.

220. Also, memorial of the Legislature of the State of Illinois, relative to the use of the amplitude modulation ("A.M.") radio broadcast band; to the Committee on Interstate and Foreign Commerce.

221. Also, memorial of the Legislature of the State of New Hampshire, relative to the importance of adequate energy supplies to tourism and of tourism to the economy; to the Committee on Interstate and Foreign Commerce.

222. Also, memorial of the Legislature of the State of North Carolina, relative to excessive crime, violence and immorality in motion pictures and television; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FISHER:

H.R. 4437. A bill for the relief of Dr. Blanka E. Shadrin; to the Committee on the Judiciary.

By Mr. SMITH of Iowa:

H.R. 4438. A bill for the relief of Jerome J. Hartmann and Rita J. Hartmann; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. Hopkins.

H.R. 1143: Mr. Boner of Tennessee.

H.R. 1173. Mr. Huckaby and Mr. Flood.

H.R. 2126: Mrs. Snowe, Mr. D'Amours, and Mr. Markey.

H.R. 2697: Mr. Guyer.

H.R. 3345: Mr. Pritchard, Mr. Mathis, Mr. Kildee, Mr. Brown of California, Mr. Brodhead, Mr. Hollenbeck, Mr. Roybal, Mr. Roe, Mr. O'Brien, Mr. Akaka, Mr. Florio, Mr. Gray, Mr. Coelho, Mr. Jeffords, Mr. Long of Maryland, Mr. Carr, Mr. Scheuer, Mr. Neal, Mr. Solarz, Mr. Clay, Mr. Drinan, Mr. Conte, Mr. Miller of California, Mr. Clinger, and Mr. Addabbo.

H.R. 3720: Mr. Mollohan.

H.R. 3721: Mr. Badham, Mr. Ginn, Mr. Jenrette, Mr. McDonald, Mr. Holland, Mr. Barnard, Mr. Jenkins, Mr. Shumway, Mr. Lagomarsino, Mr. Butler, Mr. Lee, Mr. Lott, Mr. Corrada, Mr. Livingston, Mr. Hollenbeck, Mr. Winn, Mr. Jones of North Carolina, Mr. Mathis, Mr. English, Mr. Whitehurst, Mr. Flood, Mr. Hyde, Mr. Mitchell of New York, Mr. Robinson, Mr. Dougherty, Mr. Grassley, and Mr. Gingrich.

H.R. 4223: Mr. Roybal and Mr. Mineta.

H.R. 4232: Mr. Kelly and Mr. Scheuer.

H.R. 4345: Mr. Moakley, Mrs. Snowe, Mr. Hopkins, Mr. Rahall, Mr. Weaver, Mr. Carter, Mr. Murphy of Pennsylvania, Mr. Kogovsek, Mr. Downey, and Mr. Nolan.

H.J. Res. 19: Mr. Stewart.

H.J. Res. 212: Mr. Conyers, Mr. Maguire, Mr. Roybal, Mr. Weaver, Mr. Edgar, Mr. Simon, and Mr. Clay.

H.J. Res. 321: Mr. Fisher, Mr. Bedell, and Mr. Gray.

H. Con. Res. 15: Mr. Florio, Mr. Cotter, Mr. Guarini, Mr. Moffett, Mr. Gudger, Mr. Hall of Ohio, and Mr. Ireland.

H. Con. Res. 122: Mr. Bingham.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

143. By the SPEAKER: Petition of the Ancient Order of Hibernians, Los Angeles, Calif., relative to human rights violations in Northern Ireland; to the Committee on Foreign Affairs.

144. Also, petition of the Tekakwitha Conference, Rapid City, S. Dak. relative to the recommendations of the Indian Policy Review Commission; to the Committee on Interior and Insular Affairs.

145. Also, petition of the board of directors, Las Virgenes Municipal Water District, Calabasas, Calif., relative to construction grant funding for cost-effective water reclamation projects; to the Committee on Public Works and Transportation.

146. Also, petition of the city council, Oxnard, Calif., relative to construction grant funding for water reclamation projects; to the Committee on Public Works and Transportation.

147. Also, petition of the township board, Dafter, Mich., relative to year-around navigation and shipping in the Saint Mary's River system; to the Committee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2444

By Mr. NEAL:

—Page 82, strike out lines 7 through 9 and insert in lieu thereof the following: "this Act, and to rules and regulations not otherwise subject to such section which are promulgated by the Secretary or any other officer of the Department."

H.R. 3434

By Mr. FRENZEL:

—Page 15, lines 16 and 17, strike out "a sum sufficient to carry out the purposes of this part (other than section 426)" and insert in lieu thereof "the sum of $266,000,000".

Page 15, lines 19 and 20, strike out "The sum of $266,000,000 shall be allotted by the Secretary each fiscal year" and insert in lieu thereof "The sum appropriated pursuant to section 420 for each fiscal year shall be allotted by the Secretary".

Page 15, line 25, strike out "such sum" and insert in lieu thereof "the sum so appropriated for such year".

Page 19, lines 16 and 17, strike out "From its allotment under section 421 for each fiscal year" and insert in lieu thereof "From the sums appropriated therefor and the allotment available under this part".

Page 23, lines 3 and 4, strike out "the full amount to which it is entitled from its allotment" and insert in lieu thereof "the full amount of its allotment".

H.R. 4388

By Mr. DODD:

—Page 11, strike out lines 21 through 24.

By Mr. GLICKMAN:

—Page 27, line 13, delete "$353,340,000" and insert in lieu thereof "$358,340,000".

By Mr. KOSTMAYER:

—Page 27, in line 23, after the period, insert: "No funds appropriated in this paragraph may be used to restrict the authorities of the Nuclear Regulatory Commission contained in existing law [42 U.S.C. 5841] with respect to additional staff allocations."

By Mr. MILLER of Ohio:

—Page 29, after line 13, insert the following section:

Sec. 502. Of the total budget authority

provided in this Act, for payments not required by law, five per centum shall be withheld from obligation and expenditure: *Provided, That* of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed ten per centum: And *provided further*, That this reduction shall not apply to title I of this Act.

By Mr. WEAVER:

—Add a new section 401:

No moneys appropriated in this title may be expended by the Nuclear Regulatory Commission for the issuance of an operating license for a nuclear powerplant located in a state which does not have an emergency evacuation plan approved by the Commission.

—Add a new section 401:

No moneys appropriated in this title may be expended by the Nuclear Regulatory Commission for the issuance of an operating license for a nuclear powerplant located in a state which does not have an emergency evacuation plan approved by the Commission, as of the effective date of this Act.

By Mr. WIRTH:

—Page 3, line 15, strike out "$235,329,000," and insert in lieu thereof "$231,972,000, and $5,357,000 for salaries and expenses of the Office of Inspector General,".

H.R. 4390

By Mr. KOSTMAYER:

—Page 31, add a new section to title III as follows:

SEC. 306. None of the funds contained in this Act shall be used to provide House Wall Calendars, U.S. Historical Society Calendars, plants from the U.S. Botanic Garden, or shipping trunks to Members of the House of Representatives, without reimbursement for such items from Member's official Office Expenses Allowances.

By Mr. MILLER of Ohio:

—Page 31, after line 12, insert the following section:

SEC. 305. Of the total budget authority provided in this Act, for payments not required by law, five per centum shall be withheld from obligation and expenditure: *Provided,* That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed ten per centum.

H.R. 4394

By Mr. MITCHELL of New York:

—Page 16, line 3, strike out "$131,121,000" and insert in lieu thereof "$168,521,000".

By Mr. ROYBAL:

—Page 4, insert after line 15 the following:

CONGREGATE SERVICES PROGRAM

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs as authorized by the Congregate Housing Services Act of 1978, $10,000,000, to remain available until September 30, 1984.

EXTENSIONS OF REMARKS

AN OPPORTUNITY TO SAVE MONEY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. BROWN of California. Mr. Speaker, we are constantly being presented with proposals to either spend more money, or save money. I have been involved with initiatives on both sides of the spending issue, and am fully aware of the rhetoric one uses for each position. One of my present efforts is to halt construction of the largest desalting plant in the world long enough to evaluate the alternatives, and develop the lowest cost option for meeting the goals the desalting plant is supposed to meet.

I refer, as those who read the RECORD know, to the proposed 100 million gallon per day desalting plant at Yuma, Ariz. This project has undergone incredible cost overruns, even before the contracts for construction are let, and needs new authorization legislation before it can proceed.

H.R. 2609, a bill to amend the Colorado River Basin Salinity Control Act, is expected to be before the House in the near future. While I have a very clear position on this legislation, I know that most Members are unaware of the issues behind it. For this reason, I would like to include a recent Associated Press story about this project in the RECORD at the conclusion of these remarks. I do not believe the author of this article questioned the assertions of the administration regarding the claim that only a desalting plant will meet our treaty obligations with Mexico, which I should add is being met today due to some of the expenditures made to date. I do know that I was not contacted during the preparation of this story.

However, I do believe that this story, being rather general, documents the significance of this legislation, and underlines the importance of developing lower cost alternatives, since the desalting plant itself is clearly an undesirable alternative. Since the administration's own technical advisory committee is recommending this same course of action, the Congress should certainly be considering the same alternatives.

The article follows:

[From the Associated Press, May 29, 1979]

DESALTING PLANT COSTS RISING WITHOUT A BUCKET OF WATER YET

(By James E. Walters)

YUMA, ARIZ.—After six years and commitment of some $68 million in federal tax money there still isn't one piece of equipment on the 80-acre site of what is projected as the world's largest desalting plant.

Anticipated construction costs have escalated from $155.5 million to at least $333.3 million. Some congressional critics say $500 million is more likely, or even $1 billion.

And while the plant in theory could supply about half the water used in a year by a city the size of Phoenix (population about 685,000), the cost per 1,000 gallons is estimated at 61 cents vs. the 26 cents now charged in Phoenix.

Even it's supporters use terms such as "least objectionable solution" in describing the plant.

So what's going on?

Actually quite a bit. A full-scale test facility has operated successfully for several years. It's produced as much as 500,000 gallons of desalted water a day, compared to the 96-million gallon a day capacity anticipated for the main plant, according to Pete Esselman, test facility manager since its beginning.

Construction work on the main plant, a king-size duplicate of the pilot facility, to be located near the Mexican border, now is scheduled to start in the fall, with a completion target for late 1983 or early 1984. The U.S. Bureau of Reclamation is building the plant.

The desalting system is divided into two processes. The pre-treatment process, says Esselman, is about the same as used by any municipal water treatment to remove pollutants. In the second step, salts are removed from this filtered water by what is known as a reverse osmosis process. The water is forced through porous membranes containing holes with an outside diameter smaller than human hair. The pre-filtering is required so that the incredibly small holes won't become clogged.

In actual use, the hair-sized membranes are wound into "pipes" as thick as 12 to 14 inches.

What comes out, according to tests, is water with a salt content of 250 parts per million. For comparison, the Yuma municipal water supply averages 850 parts per million.

"If chlorinated, as municipal water plants do for all water, the desalted water would be very good for drinking," Esselman says.

Plant-life can't utilize it very well however—all the minerals are gone. Therefore, the desalted water is blended with "regular" water before being returned to the Colorado River, eventually to be used for crop irrigation in Mexico.

Why a desalting plant at all?

Ed Hallenbach, project manager of the Yuma BLM office, calls it a "Catch 22 project, we have no other other choice" in view of this country's treaty obligations to Mexico and the water shortages in the U.S. Southwest.

The Colorado River provides water for the states of Arizona, California, Wyoming, Utah, Colorado, New Mexico and Nevada, plus Mexico. Estimates vary on how much water it can provide. But everyone agrees there's not going to be enough useable water to meet future demands of the region's booming population without major changes.

A treaty with Mexico requires the delivery of 1.5 million acre-feet of Colorado River water each year, unless there is an extraordinary drought (there are about 325,000 gallons in an acre-foot).

Various compacts, laws and court decisions allocate to the Colorado Basin states—including California—another 16 million-acre-feet.

But the Bureau of Reclamation estimates the river can provide an average of just 14.8 million acre-feet per year, an estimate GAO calls "one of the more optimistic projections."

Salinity adds to the problem. Water in low-rainfall areas such as the Southwest is naturally salty. Irrigation and use of commercial fertilizers increase this. Between 1944 and 1961, for example, the average annual salinity of water received by Mexico almost doubled—from 850 parts per million to nearly 1,500 parts per million.

While the 1944 treaty makes no mention of water quality, Mexico has contended that it is entitled to water that can be used for crop irrigation. Eventually, it filed a formal protest and the federal government agreed to pick up the tab for a desalinization plant as at least a partial solution.

The concept was attacked then—and now. At recent House Interior Committee hearings, a California congressman called the desalting project a $1 billion boondoggle.

Guy Martin, an assistant secretary of Interior, attributed $64 million of the cost increase since 1973 to inflation and $83 million for design changes and equipment additions to the desalting plant, as well as inadequate contingency funds.

The House committee, chaired by Rep. Morris Udall, D-Ariz., approved a Carter-administration recommendation to increase the appropriation ceiling to $333.3 million. A floor vote is scheduled next month.

Sen. Dennis DeConcini, D-Ariz., has recommended approval to a Senate committee, adding that he would certainly consider any "viable and inexpensive alternative" but none has been forthcoming.

Wesley Steiner, representing the seven Colorado Basin states, also has urged approval, saying "the desalting facilities are well underway and should now be completed as expeditiously as possible." Steiner, Arizona's state water engineer, noted that the states of Nevada and New Mexico had one qualification: they oppose any reduction of their electric power from BLM generating plants.

During the House committee hearings, Udall repeated arguments that any move to re-examine the desalting plant would have "drastic repercussions" when the United States is negotiating for Mexican gas and oil.

Figures supplied by Ken Sidebottom, second in command of the Yuma BLM office, estimate the annual operation, maintenance, replacement and power costs at the main plant at $11.5 million.

Expenditures so far include the test facility; work in relining the Coachella Canal to conserve existing water; and building a river bypass drain to carry unuseable brine from Mohawk-Wellton through Mexico via the Santa Clara Slough, some 40 miles to the Gulf of California.●

LITHUANIAN INDEPENDENCE

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. BRODHEAD. Mr. Speaker, the month of June marks the 38th anniversary of the deportation of thousands of Lithuanians to Siberia by the Soviet Union. I would like to take this opportunity to remind my colleagues of this terrible event and, in so doing, to remember the struggle for independence which still continues in Lithuania.

In the years that have elapsed since the Soviet annexation of their fatherland, the people have kept alive their call for freedom and justice depite the oppressive forces to which they have been subjected. We think with sorrow of those thousands who have lost their lives in the cause of freedom. We must also be gladdened that physical oppression and domination have not stilled the spirits and voices of those who have survived and continue to bring the plight of Lithuania to the attention of the world. Just as Lithuania is an example of the worst violation which can be inflicted upon a people, so too we are reminded of the strength of the spirit which has endured and even flourished despite this violation.

On this occasion, therefore, I join with the Lithuanian people in both solemn remembrance of the plight of Lithuania and the fervent hope that the struggle for Lithuanian independence will continue to be waged until it has been won. As a nation, we have affirmed our commitment to the protection of basic human rights for people throughout the world. Let us today think of Lithuania as a valuable ally and a leader in this effort.

I would like to close my remarks by citing a paragraph from an underground newspaper circulated in occupied Lithuania last year:

> Free is everyone who resists the efforts of the enslaver to make him godless, to dehumanize, to denationalize him. This rule can also be applied to entire nations. Every nation which struggles against the oppressor is free, notwithstanding the fact that its territory may be occupied. Such a nation even though it has lost its external freedom, has preserved its internal, spiritual independence. The history of the Lithuanian nation during the last decades (not speaking about the entire period from the loss of its independence) has proven this very convincingly.●

CAMPAIGN FINANCING

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. GREEN. Mr. Speaker, as a cosponsor of H.R. 1 and a supporter of public campaign financing, I am deeply concerned about the recent defeat of this legislation in the House Administration Committee. In the wake of this action, we are once again challenged to take the basic values of campaign financing and mold them into an effective, workable, and acceptable proposal that can earn the congressional mandate that this concept deserves.

A campaign financing bill offers the opportunity to tip the electoral scale from its frightening lean toward "x number of dollars equals x amount of impact," to a position where one individual has one vote with appropriate impact. Our system is heading along a dangerous path away from this individual equity among voters to a disproportionate level of influence being exerted by special interest groups.

While our political system is designed to benefit these groups as well as the individual, it should not favor them. As representatives of specific congressional districts, our primary responsibility and duty is to our constituencies. Yet when substantial and even excessive financial backing comes from national and more esoteric organized groups, a strain is placed on our ability to properly represent the needs and wants of the people back home. We face turning from being a government of the people, by the people, and for the people, to being one of the interests, by the contributors, and for ourselves.

The voters of this Nation are developing important special interests of their own. They have a special interest in seeing representation and leadership that is effective and uninhibited. They have a special interest in a candor and forthrightness in this body which will pervade in our debates and votes on this floor. They have a special interest in a political system which seeks to guarantee grassroots support for political leaders who will combine the sense of the constituency with the knowledge of leadership to act in the national interest. They have a special interest in the benefits and assurances provided by a system of public campaign financing.

I look forward to working with my colleagues in a continuing effort to enact an effective public campaign financing system which will benefit our constituents and our system of representative government.●

SOME GOOD ADVICE FROM THE PEOPLE OF THE FOURTH CONGRESSIONAL DISTRICT OF KENTUCKY

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. SNYDER. Mr. Speaker, over the years, we have heard about or actually experienced just about every kind of "shortage" imaginable—job shortages, oil shortages, beef shortages, grain shortages, railroad car shortages, money shortages. However, there is one thing we do not ever have to worry about running short of here on Capitol Hill, and that is advice.

We have hordes of so-called experts with their computer readouts. We have specialists with their volumes of statistics. We have organizations and study groups and public interest groups. We have dozens of executive branch agencies and the folks over at the White House. And every one of them is eager to give us some advice.

And, of course, even Members of Congress occasionally offer their advice to one another as evidenced by the stacks of "dear colleagues letters" in my inbasket every day, and the 7,081 CONGRESSIONAL RECORD pages this body has already managed to fill this year with sage comments, debate, and extended remarks.

No, Mr. Speaker, we do not need to worrv much about a shortage of advice. We have it aplenty. Fortunately, much of the advice we receive from these sources is sound, but in this flood of advice, it is always difficult to tell the sound from the unsound; the good advice from the bad.

That is why I always try to get as much advice as I can from the one source that has never failed me yet—never steered me wrong—the people of the Fourth Congressional District of Kentucky.

Their advice has always served me well. They are the real experts because they live and work under the regulations and the laws dreamed up, here in Washington.

Earlier this year, I sent out my annual questionnaire and now I would like to share the results of that poll with my colleagues. Fifteen thousand of my constituents took the time to respond and their opinions on some of the national issues we will be facing should be of interest to any of my colleagues who share my belief that whenever you can get reliable advice, you should take it.

Although we have no shortage of advice—and are not apt to in the near future—we cannot afford to ignore good advice when it comes along.

Questionnaire results follow:

QUESTIONNAIRE

(1) "Sunset" legislation would put an expiration date on government programs so that Congress would have to renew them by specific action rather than let them simply run on indefinitely. Do you favor such legislation? Yes, 98.6; no, 1.3; undecided, 0.1.

(2) Should Congress pass a law providing itself the power to review and veto regulations written by Federal agencies; Yes, 87.3; no, 9.9; undecided, 2.8.

(3) There will likely be legislation in Congress this year to place restrictions on firearm ownership. Do you favor such legislation? Yes, 24.7; no, 74.5; undecided, 0.8.

(4) Should Congress eliminate the "double taxation" of stock dividends? Yes, 78.7; no, 14.8; undecided, 6.5.

(5) For every ten percent increase in inflation, income taxes increase approximately 15 per cent. Should we index income taxes to prevent this automatic tax increase? Yes, 91.9; no, 5.9; undecided, 2.2.

(6) Do you support legislation requiring a balanced Federal budget except in times of national emergency? Yes, 91.8; no, 5.9; undecided, 2.3.

(7) Do you favor the idea of limiting foreign ownership of U.S. farmland? Yes, 92.4; no, 5.8; undecided, 1.8.

(8) Would you favor legislation which allows private companies to compete with the Postal Service? Yes, 79.4; no, 18.1; undecided, 2.5.

(9) The Administration is expected to submit a proposal for "decontrolling" the price of gasoline. Do you favor "decontrol"? Yes, 35.6; no, 57.9; undecided, 6.5.

(10) Do you favor the enactment of strict penalties for illegal aliens, those who help them enter the country and those who illegally employ them? YeYs, 92.0; no, 6.5; undecided, 1.5.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following votes. If I had been present, I would have voted as indicated:

On June 8, 1979: Rollcall 197, "yes", Rollcall 198, "yes".●

NEW LEADERSHIP AND AUTONOMY FOR THE PEACE CORPS AT ACTION

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. HALL of Ohio. Mr. Speaker, the Senate Governmental Affairs Committee recently submitted its report on "Organization of Federal Volunteer Programs in ACTION." This report concluded that the administration's proposal to provide new autonomy for the Peace Corps within ACTION should be given a chance to be implemented, and that it would be "inappropriate" to "subject the Peace Corps to further reorganization until the success of the new arrangements can be measured."

The Senate report also stated that the President's new Executive Order 12137 of May 16:

> Should ensure autonomy for the Peace Corps within ACTION and control over the critical functions of budget and policy. Under the new Executive Order the Peace Corps should have at least as much autonomy as it ever had before it became part of ACTION.

As a former Peace Corps volunteer and supporter of the administration's plan to to make the Peace Corps an independent entity within ACTION, I am pleased that the Senate Governmental Affairs Committee has decided to let this plan go forward, rather than to support making the Peace Corps part of the proposed International Development Cooperation Agency. With respect to putting the Peace Corps on the organizational chart of IDCA, the report observed:

> Linking the Peace Corps to the country's foreign assistance program by placing it as a semiautonomous unit within IDCA would make it harder for the Peace Corps to keep sufficient distance from the short-term foreign policy goals of the United States. Yet it is important to preserve this distance in order to insure continued support for the Peace Corps in this country and in the Third World. The reorganization would raise the possibility that the Peace Corps would be seen abroad as simply another part of our foreign assistance programs. The influence the Director of IDCA would have over the Peace Corps, as Chairman of the board governing the program, would mean that over the years, the programs' goals of the Peace Corps might become unduly influenced by the needs of our bilateral assistance programs. The uniqueness of the Peace Corps as an expression of American idealism, and the symbolic importance of its voluntary, people-to-people international development activities would be undermined.

When the House voted on April 10 to move the Peace Corps into the yet-to-be-established IDCA, the President's recommendation was not available. As one of the leaders of the floor fight against the IDCA amendment, along with another former Peace Corps volunteer, Congressman CHRISTOPHER DODD, I learned that many of my colleagues voted for the IDCA plan because they believed it was the only alternative to the status quo at ACTION.

Fortunately, we now have the option developed by Peace Corps Director Richard F. Celeste and issued as an Executive order by the President. Under the dynamic leadership of Dick Celeste, I am confident that the Peace Corps is about to embark on an era of renewed vitality. I hope that we in the House will not undercut his initiatives by inisisting on the IDCA proposal, but instead, concur with the Senate Governmental Affairs Committee that the administration's plan for autonomy for the Peace Corps within ACTION should be implemented without obstruction.

In a letter to the editor of the Washington Star, Dick Celeste vigorously responded to a Star editorial which had criticized the administration's proposal. I commend his letter to the attention of my colleagues:

"I AM THE BOSS OF THE PEACE CORPS"

(By Richard Celeste)

> I am calling the shots for the Peace Corps, and nobody else is. I am the boss of the Peace Corps. Nobody else. That is, I know what the president expects of me.
>
> The Washington Star's editorial, "ACTION and the Peace Corps" (May 29), described the presidential order granting the Peace Corps autonomy within ACTION as "a political gesture that promises to be expensive in both money and efficiency."
>
> I shaped a plan to give the Peace Corps real autonomy expeditiously, cleared it with ACTION Director Sam Brown, and the president concurred, issuing an executive order giving me complete control over the Peace Corps budget, personnel and policy.
>
> William Josephson, who served as one of the architects of the Peace Corps and an early general counsel, has concluded that the new executive order gives me more direct authority than any Peace Corps director since the Peace Corps was created in 1961.
>
> The Star recommends transferring the Peace Corps to IDCA to make it part of the U.S. foreign assistance program. Never has any president since the Peace Corps began made its volunteers and humanitarian programs part of the U.S. foreign aid establishments. And, to my knowledge, no experienced Peace Corps hand advocates such a step today. But The Star prescribes this bitter medicine to remedy an affliction—"a meddling amateur image"—which even our sternest critics have not diagnosed.
>
> Come on now.
>
> The Peace Corps has an active program of international volunteer action geared to the world of the 1980s in which 6,000 committed Americans work in the poorest villages of the Third World, shoulder to shoulder with host country citizens to meet their own basic human needs. We are currently struggling to muster the dollars and the qualified volunteers to fill the more than 4,000 requests we have from 63 countries who welcome Peace Corps volunteers as partners in their development efforts.
>
> Finally, the reorganization of the Peace Corps as a vital and autonomous agency within ACTION is going to save the taxpayers, in this time of fiscal restraint, something on the order of $15.6 million that otherwise would have to be spent in tax funds to duplicate administrative costs if the domestic ACTION and Peace Corps programs were split apart.
>
> I look forward to your tough scrutiny and constructive criticism as I move to exercise leadership in the Peace Corps of the 1980s.●

OIL-PRICE TIME BOMB WORRIES THE EXPERTS

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. GEPHARDT. Mr. Speaker, I applaud the efforts of the administration, the Congress, and the American people to meet the energy crisis by adopting an energy program. As one who supports gas rationing, decontrol of domestically produced crude oil, and the windfall profits tax, however, I am becoming increasingly pessimistic that this program will solve the crisis because it is lacking one key element; namely, a strategy for dealing with OPEC.

On May 10, the Secretary of the Department of Energy, James R. Schlesinger, appeared before the House Committee on Ways and Means. I asked Secretary Schlesinger whether the administration has any plans on how to attack the OPEC problem, such as import licensing, developing Mexican oil, making long-term contracts with Venezuela, or are we just at the mercy of OPEC now and forever. He replied that there is no prospect of immediate relief. In other words, we have no policy to deal with OPEC price demands.

I am continuing my efforts to work in a constructive manner to alleviate the demand for oil. People waiting in line for gas, however, are not unlike Members of Congress who are being asked now to make sacrifies that in the near future may prove to be irrelevant in the face of OPEC price increases. If there is no prospect for immediate relief, that debilitates against each individual's decision to take immediate steps to conserve energy. If there is no hope of moderating OPEC price behavior in the long run, that debilitates against each Member's hope that his or her vote will ultimately help solve the crisis itself.

On June 26, the OPEC members will meet again and they will probably decide to raise prices again. If OPEC continues to act in an unreasonable manner with respect to consumer prices, we should be ready to respond with our own policy for dealing with OPEC. An economic confrontation with OPEC would be a risky and economically dangerous game, but it may be a risk that would avert in eventual economic collapse.

Such an economic collapse is not a figment of my imagination. As reported by Robert J. Samuelson in The Washington Post on June 5, this is the oil-price time bomb that worries the experts too. I share a copy of this article with you below in the hope that the Congress and the administration will soon develop the policy we now lack.

OIL-PRICE TIME BOMB WORRIES THE EXPERTS

(By Robert J. Samuelson)

"I feel in my bones the way I did in July and August of 1939—that the world is headed into a storm," says Melvin Conant.

Conant—once the top international specialist for the Federal Energy Administration and now a Washington consultant—thinks the current oil scarcity is potentially that dangerous. He doesn't know what lies ahead, except that it isn't good and that it's wrapped up in the Mideast's volatile politics, fuel scarcities and—possibly—the use of oil as an international bargaining chip to influence the superpowers.

Though extreme in its pessimism, Conant's appraisal typifies the anxiety of world oil watchers. The more people know about oil, the more unsettled they are. What Americans see as high gasoline prices and occasional lines may be a far more threatening global squeeze.

In the past six months, the oil-producing countries rapidly have reacquired much of the power that seemed lost after the huge price increases of 1973–74. So far this year, most producing countries have raised prices 30 percent or more. Only Saudi Arabia (up 14.5 percent) has lagged, and the Saudis will probably close the gap when the Organization of Petroleum Exporting Countries meets later this month.

And no one knows when the explosion will abate. Conant thinks the price may double in 1979; a barrel of Saudi light oil, costing $12.70 at the end of 1978 and $14.50 now, will climb to $25. More optimistic analysts think the increase will amount to only 35 percent or 40 percent. But Algeria, Libya and Nigeria already have raised prices nearly 50 percent.

All this has resulted from the Iranian revolution (which reduced that country's output) and the Saudis' apparent decision to limit production. The resulting scarcity may persist for years. Unless the industrialized world can make large energy savings, new non-OPEC oil from Mexico and the North Sea will not suffice to maintain strong economic growth. World inflation and unemployment will rise.

This upheaval has made questions first asked in 1973–74—and since largely forgotten—suddenly relevant again. For example: Will oil be used as a strategic weapon?

There's evidence it will. In the past month, Petromin, the Saudi Arabian national oil company, has sharply increased the amount of oil it sells directly, mostly to other governments. Although figures aren't precise, the Saudi company soon may be taking as much as 2 million barrels a day of total production of 8.5 million.

For the Saudis, this is a perfect marriage of political and economic goals. Long dependent on four major U.S. companies—Exxon Corp., Mobil Corp., Texaco Inc. and Standard Oil Co. of California—to sell their oil, the Saudis have wanted to increase direct sales. With the oil market tight, they can.

At the same time, the Saudis can use their oil sales to build political alliances. The Middle East Economic Survey reports that early potential customers include India, Greece, Thailand, Finland, Taiwan, Korea and Italy.

More intriguing are the rumors—confirmed by Conant and others—that the Saudis might sell oil to Eastern European countries.

Even in small amounts, which are likely at the start, such sales almost certainly would be taken as a sign of Saudi displeasure with the United States and, specifically, with U.S. encouragement of a separate Israeli-Egyptian peace.

As a practical matter, the sales also could ease pressure on the Soviet Union, whose oil production is expected to peak soon; that will make it increasingly difficult for the Soviets to satisfy internal needs and maintain exports [1.8 million barrels daily in 1977] to Eastern Europe.

Or consider this question: How can developing countries swallow the price increases?

After the 1973–74 increases, a worldwide financial trauma—widely forecast and expected—did not materialize because oil producers deposited their surplus funds in international banks, which promptly re-lent the money to oil-importing countries, especially developing nations. The same thing could happen again.

But danger signs exist. Developing countries have piled up huge debts. According to the International Monetary Fund, debt is one-third larger (in relationship to economic output) than in 1973. In 1978, payments for debt interest and principal amounted to about 13 percent of their export earnings against only 10.6 percent in 1973.

If high oil prices aggravate an economic slowdown in the West, developing countries' exports also will slow. Can banks afford to lend more? Can they afford not to? Where will surplus oil dollars go?

A final question: What happens to the role of the big inter-national oil companies?

For all the abuse they take, the major international companies long imposed an order on world oil markets that probably worked to the advantage of consuming countries. Marketing most of the world's oil, the companies have allocated supplies efficiently among countries (diverting extra to the United States during the embargo, for example) and acted as a political buffer between oil producers and consumers.

Now, however, they're being further dislodged from their positions of privilege. The biggest companies such as Exxon and British Petroleum, which once sold excess crude to smaller companies, rapidly are being forced to eliminate such third party sales. In turn, these buyers (many of them large firms) will purchase directly from producing countries.

With tight oil supplies, this could intensify bidding. Conant, for example, thinks the spot market—which traditionally has represented 3 percent to 5 percent of sales—may expand to 10 percent to 15 percent. And it's the rapid rise in spot prices this year that has convinced OPEC members to raise their official prices.

Everything is conjecture. No one knows Saudi intentions, the resiliency of western economies and, therefore, the real pressure or prices. But Washington is asleep even to the questions. If it doesn't soon wake up, we surely will end with the worst possible answers.●

FHA MORTGAGE INSURANCE PROGRAMS

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. YOUNG of Missouri. Mr. Speaker, the House of Representatives passed the Housing and Community Development Amendments of 1979 last week, thus extending the FHA mortgage insurance programs for another year. A number of municipal officials in St. Louis County, Mo., have informed me that they are having significant problems with the FHA mortgage insurance programs. These Department of Housing and Urban Development programs are designed to facilitate homeownership for those individuals who are likely to encounter difficulty in getting a loan from a commercial lending institution.

These St. Louis officals have noted that due to the liberal policies of the FHA programs, many families are assuming mortgage debts which they cannot repay, resulting in foreclosure. For the family, foreclosure means the humiliating and frightening experience of being evicted; for the neighborhood, it means vacant housing which is subject to deterioration and decay, resulting in community blight; and for the taxpayer, it means paying off the defaulted loan.

Keeping in mind the many problems associated with foreclosure, it is alarming to realize that 1 year after a family has defaulted on a FHA loan, they are eligible to apply for another FHA loan, often resulting in another foreclosure. I believe that FHA should be required to tighten its eligibility requirements so that anyone who has defaulted on their FHA mortgage insurance loan, resulting in foreclosure, would be disqualified from getting another FHA loan for at least 3 years after this foreclosure, unless there has been a significant change in family income.

Tightening the FHA mortgage insurance programs would result in more stable communities, and it would also reduce wasteful Government spending.●

A NONFUEL MINERALS POLICY: NOT A DE FACTO POLICY BY DEFAULT

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. SANTINI. Mr. Speaker, the following article is of excerpts from a speech delivered by William L. Swager, manager of the minerals and materials economics programs, Battelle Memorial Institute, at a recent meeting of the Aerospace Technical Council. Mr. Swager, I believe, gets to the heart of our past mineral supply problems and the declining financial health of our minerals industry. He lays the problem to U.S. leadership having chosen a de facto materials policy.

This de facto policy, a policy by default, defies any sample description. It is the complex, hodgepodge accumulation of impacts brought about by numerous domestic and foreign policies, each in the name of some other national goal but together raising havoc on what was once a strongly functioning mineral industry.

Mr. Swager points out the impacts of this de facto materials policy as:

Destroying incentives for investment in our materials industries;

Dissipating the capital vigor of existing plants;

Stifling innovation;

Imposing delay-causing conditions that will assure future shortages;

Increasing our dependence on foreign suppliers; and

Encouraging investment elsewhere.

I recommend that my colleagues read the article that was printed in the May 22, 1979, edition of Iron Age. Surely, the evidence is sufficient to bring about a U.S. nonfuel minerals policy. Surely, the United States has grown of age, to think seriously of our longrun mineral needs, and to act responsibly for an economy that is worth passing onto those ahead.

The article follows:

DEFECTIVE MATERIALS POLICY AND HOW TO COPE WITH IT

Somebody recently said, "The problem with America is that the future isn't what it used to be." There is substance behind that flip observation and it has a bearing on our subject today.

The United States was known, at one time, as the land of plenty. Almost anything we wanted would be produced and we could get it when we wanted. The Great Depression of the 1930's changed this. It proved to all of us that the real gut problems of the country were distribution—not production.

Since that time administrations and congresses of both parties, reflecting our deep-seated concerns, have been preoccupied with improving distribution—for example, decent housing for all, equitable income distribution, freedom from hunger, personal transportation—and great progress has been made.

PRODUCTION VITALITY ASSUMED

However, the continuing vitality of production activities and particularly production of materials has, in great measure, been assumed. The Paley Commission of 1952, subsequent commissions, and authors of the almost 200 materials-related bills submitted in the last congress have called for an explicit materials policy: a policy that does not assume production will take care of itself; a policy that would help assure the availability of materials to those industries needing them—including the aerospace industry. Yet, enthusiasm for such a policy has been difficult to generate in Congress or in the administration. Rather, our leadership has chosen a de facto materials policy.

This policy is complex and implicit. It is the sum of all our domestic and foreign policies impinging on materials. It defies simple description.

We can, however, see its effects. In my opinion, it is:

Destroying incentives for investment in our materials industries.

Dissipating the capital vigor of existing plants.

Stifling innovation.

Imposing delay-causing conditions that will assure future shortages.

Increasing our dependence on foreign suppliers.

Encouraging investment elsewhere. Indeed, "The future isn't what it used to be."

In this brief time I would like to:

Explain the dynamics of materials supply systems.

Show how delays in such systems cause cycles in supplies.

Explain how our de facto policy increases delays in the system.

Review the titanium situation—showing how it reflects our de facto materials policy.

Make a few suggestions regarding what you and your companies might do.

First, delay in the response of the production system and unanticipated surge in demand clearly trigger shortages. Delays cause supplies to undershoot and overshoot. Supply/demand systems for metals have similar behavior and similar transient conditions obscuring the underlying feedback mechanism.

Experience shows that new mines and mineral processing facilities require at least five and probably 10 or more years to get into production. However, changes in demand can occur much more rapidly than this. If worldwide plans today for mines, beneficiation plants and processing plants for any commodity are based on only slightly underestimated demand shortage in 5 to 10 years is assured. If additional delays are incurred because of political or environmental reasons, strikes, or whatever—the shortfall can be quite severe.

LIMITS-TO-GROWTH SYNDROME

It is unfortunate that the limits-to-growth syndrome has been so deeply ingrained in all of us. Frank Huddle of the Library of Congress and dean of those concerned with materials policy recently said "I wonder how to communicate with the public that although minerals supplies in the ground are likely to last for centuries worldwide it is less certain that adequate supplies will be available to meet U.S. needs on a sustained basis, or that we will be able to pay the price for importing them."

The syndrome was laid bare during the International Materials Congress held late last month at Reston, Va. An assertion at that meeting remained unchallenged. That assertion was "let us set to rest the erroneous notion that we are going to physically run out of materials in any time period of concern to any of us and many generations beyond." Thus far and for a long time to come the problems with materials supplies are a result of the ill-workings of our institutions and not a result of a lack of materials in the earth.

Let us look back on the report of the National Commission on Supplies and Shortages published in December 1976. This commission was formed just as the country was emerging from the widespread shortages of 1973–1974. At the time, it was the general belief that the materials shortages of 1973–1974 were the first signals of the growing inadequacy of the U.S. natural resource base, and that such shortages were harbingers of catastrophies to come. However, the Commission observed that there had been no serious problem of supply nor could it see one in the foreseeable future based on the inadequacy of the resource base. The Commission listed the following causes of the shortages:

Sharp demand increases.

Limitations on investment in the materials processing industries in prior years.

A shortage mentality. (The limits-to-growth-syndrome and multiple orders by users when the shortage became apparent.)

Cutbacks by foreign suppliers.

Sound familiar? Although the National Commission on Supplies and Shortages listed quite properly the causes, its list tends to focus on individual causes obscuring the dynamic nature of the system—and how delays cause shortages.

Let's look at what happens as a result of having a de facto policy. More important-

* * * * *

been taken relative to materials. In this brief period, we can look at only a few.

First, the entire supply system from mine to finished part is increasingly vulnerable to even small interruptions. Materials and parts inventories are now not much more than what is the transportation pipeline. Recent advances in the ways inventories are managed have virtually removed all "surge tanks" from the supply system.

What actions have been taken by companies or by the government to make the system less vulnerable to materials shortages? To my knowledge, little or no action.

Next, materials producing industries, as you know, are capital-intensive. In these industries, the costs of goods sold today include depreciation allowances amounting to a small fraction of what is needed to replace plant and equipment—with nothing available for growth. What actions have been taken to reduce this "draining away of the capital substance" of our materials producing industries? In actuality, further drains on capital have been mandated by environmental and health and safety regulations.

CAPITAL INVESTMENT SCHEDULES

Next, our basic materials industries cannot now maintain capital investment schedules in new plant and equipment to meet peak demand. Uncertainties in demand and financial pressure now force companies to take less risk in capital budgeting. What would it now cost materials companies to maintain 20 percent excess capacity to meet an occasional peak year demand? Thirty years ago cost of capital was far less—perhaps 4 percent. Private investors were better able to risk investment in capacities closer to anticipated peak demand. What steps have been taken to assure that our materials industries can more nearly meet peek demand?

Finally, decisions for new plant and equipment in the material industries are now being delayed because of the inability of managements to estimate future energy costs. As you know, most metals are energy-intensive. Delays in energy availability delay investment in new materials capacity. Sohio, for example, delayed its plans for a pipeline for Alaskan petroleum from the West Coast to Texas. Plans for new refineries are now delayed because of the confusion on the mix of products required in the future.

I have purposely chosen not to discuss another area of disturbing inaction. A strong case has been made by some that Soviet actions in Africa are aimed at obtaining global control over several critical materials such as chromium, cobalt, platinum, palladium and manganese. Our strategic stockpile may provide a cushion in time of military war, but what happens when various forces in the world choose to wage an economic "war"?

Further, I have chosen not to discuss the highly publicized deterrents to private investment in domestic materials industries: environmental regulations, OSHA standards, and foreign dumping practices. Those subjects get the headlines while the underlying problems are unrecognized and ignored. Those problems are embodied in delays. Timely and systematic investment regardless of where it is in the world is an essential part of an explicit materials policy. Our current de facto materials policy is the antithesis of that. It causes delays.

TITANIUM OUTLOOK

Let us now turn to the titanium situation and how it was created by our de facto materials policy.

Most of you experienced the shortages of 1973–1974. The 1979 shortfall in titanium supplies virtually duplicates the 1973–1974 shortfall.

Then. In the early 1970's annual domestic production of titanium sponge was about 30-million pounds which, like now, was able to supply only 70–75 percent of our domestic requirements. Imports were available at a lower price than domestically produced sponge. This encouraged the domestic industry to invest its capital to expand ingot production rather than sponge production. While discouraging investment in new sponge capacity, the situation encouraged the growth of domestic ingot producers who willingly were dependent on low-cost foreign sponge sources. Assuming the prices of imported sponge remain relatively stable and there are no interruptions in imports, this mode of increasing output of titanium ingot and mill products appeared to make sense. That is, it did prior to the 1973–74 pinch.

In 1974 there was a surge in aerospace requirements, and that surge resulted in a titanium shortfall. This shortfall was further intensified by the large spurt in the use of titanium for industrial process equipment. As this occurred, foreign sponge producers did two things: they quoted higher prices, and they reduced the quantities they exported to the United States. The domestic shortfall obviously was intensified by declining imports. Also, at the same time, spot problems of capacity limitations were reported for specialized products. Delivery schedules escalated rapidly.

Now. We are now seeing not an "instant replay" of the 1973–1974 situation, but a "five-year replay." In 1975 and 1976, following the 1974 surge, the aerospace ordering of titanium cooled off. The titanium shortfall evaporated. Many titanium shops were operating at roughly one-half of capacity. The situation would have been much worse if industrial use of titanium had not continued at a high level. During this period, the producers saw little incentive to invest in increased titanium sponge capacity or in ingot melting facilities.

In 1977 there was some pickup in aerospace ordering, and a surge occurred in 1978 and continues today. Current demand for titanium is at an all-time high. Domestic titanium sponge producers now are operating at capacity. Production in 1979 will probably reach 44-million pounds. Because of the weakness of the U.S. dollar compared with other currencies, foreign producers are limiting titanium exports to the U.S.; imports from Japan and the Soviet Union are "iffy." This puts the squeeze on the raw material supplies of the independent ingot producers.

As a result, the outlook for titanium and titanium alloys appears to be a continuing period of tight supplies.

The history of titanium again emphasizes that shortages have been caused by surges in demand. Prior to the surges, conditions discouraged investment in new domestic sponge capacity, and downstream ingot capacity was built dependent on foreign supplies. When the surge in demand was recognized, it was too late to add domestic capacity. That's the pattern. That's the anatomy of nearly all of our materials shortages—except those few caused by political disruptions or war.

I could have used as examples any—or all—of the materials that concern you now. Major delays have been incurred in plans for new capacity in aluminum and steel; shortages of them are virtually assured.

It is now time to challenge the assumption that production will take care of itself. It is time to describe clearly the results of our de facto materials policy. It is time to challenge those who would do nothing.

What can you do about the situation?

My first suggestion is for you to use your understanding of how transport delays in feedback systems are the causes of instability to help explain why we need an explicit materials policy. That policy should deal with at least three conditions:

(1) First, materials for which we have plenty of resources and reserves.

(2) Next, materials for which our reserves—or known resources—are marginal relative to those in the world.

(3) And finally, materials for which we are totally dependent on others.

I give them in that order because we need to understand that production will not take care of itself. If we come to grips with a policy for producing adequate quantities of the materials we have in the ground we are much more able to deal with those involving various degrees of import dependence.

My second suggestion to you would be to know your materials supply systems. I leaned heavily on the experience of a titanium expert from Battelle to describe the titanium situation. The technical and economic details of supply systems are complicated, and potential bottlenecks are difficult to anticipate. Regardless, it is essential that your company be able to rely on people who have continuing intelligence pipelines regarding your supply systems, your demands on it, and the demands of others. Then you may be able to sense the dynamics and forecast better.

My next suggestion is that you communicate on a more continuing basis your needs for materials to all levels of your materials supply systems. It behooves each of you to maintain relationships with suppliers in good times and bad. By the way, what were your materials concerns and projections during 1975 and 1976? What kind of signals were your suppliers getting?

My final suggestion is that you hedge by stockpiling the technologies needed to make selective and critical substitutions. Until we see some change toward a more rational, realistic and explicit materials policy, you should consider a substantial development program for creating options—options for substituting materials in critical areas. This could be done by developing the substitution capability and stockpiling technology to make substitutions. You may be able to increase the flexibility of your requirements to some degree and be better able to live, hopefully for only a limited time, with a de facto materials policy that assures periodic shortages.

This country need not accept a future of periodic shortages and consequent disruptions. With today's knowledge and a firm resolve we ought to be smart enough, as a society, to create a future even better than it used to be.●

MAE BELLE PENDERGAST

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. MATSUI. Mr. Speaker, a most extraordinary woman has enriched the lives of Sacramento citizens for over 40 years. We commemorate the career of Mae Belle Pendergast, an outstanding journalist, known by all the community for her long and productive association with the Sacramento Union.

For decades Mae Belle successfully combined the roles of wife, mother, professional career woman, and volunteer community worker. She truly is a model for the women of today to emulate. Her achievements are remarkable. Her dedication to the betterment of Sacramento is unparalleled.

A few of the many highlights from her career are:

She established and trained a network of high school correspondents who reported on youth activities. She received the California Newspaper Publishers Award for best youth coverage for this effort.

Through an annual tabloid, Women With a View, she brought recognition to Sacramento's women by identifying many who contributed in the fields of art, business, education, health, welfare, and community service.

Twice Mae Belle received the California Newspaper Publishers Award for best woman's coverage.

She produced a daily television program concerning community issues and events.

She received the Penney-Missouri Award for Journalism and the National LULU Award for excellence in reporting men's fashions.

Numerous awards of appreciation have been given to Mae Belle over the years. Big Brothers of America, United Cerebral Palsy, American Heart Association, Red Cross, Boy Scouts of America, United Way are examples of organizations who have honored her. It is not possible to relate all the many activities, interests, and honors of Mae Belle.

Today we pay tribute to Mae Belle Lemaster Pendergast. We acknowledge her retirement from the Sacramento Union but we do not expect her to retire from the vital life of our community. We look forward to her continued presence as we say thank you, Mae Belle, for a job well done.●

TRIBUTE TO THE VERY REVEREND THEODORE J. DANUSIAR

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. GUARINI. Mr. Speaker, I am pleased today to ask my distinguished colleagues to join with me in marking the 25th anniversary of the ordination of the Very Reverend Theodore J. Danusiar.

Rev. Danusiar is pastor of SS. Peter and Paul Church, Jersey City, N.J., and also pastor of Annunciation Church, Lyndhurst, N.J. He is being honored at a banquet on June 16, 1979 at the Ukrainian Community Center, Jersey City, which is located in my district.

Father Ted, as he is known with affection by all who have come in contact with him, is a man of great talent. He has served God and man for the past 25 years since his ordination by Metropolitan Constantine Bohachevsky on June 14, 1954.

He was born on January 28, 1929, the son of John Danusiar and Mary Stanczak Danusiar in Cohoes, N.Y.

An eminent scholar, Father Ted graduated from Waterford High School, Waterford, N.Y., in 1946. He received a B.A. degree in philosophy from St. Basil's College, Stamford, Conn., in 1950. He also studied at Sienna College, Loudonville, N.Y., the Licentiate of Sacred Theology and the Graduate School of Arts at the Catholic University of America. In 1961, he received a masters degree in music education from the Graduate School of Music at the Catholic University.

Rev. Danusiar first served as curate at St. Nicholas Church, Elmira Heights, N.Y., in 1954. He was assistant pastor of SS. Peter and Paul Church, Jersey City, N.J., in 1954–55 before moving to the Cathedral of the Immaculate Conception in Philadelphia in 1955 where he served as assistant rector.

The years from 1956 to 1968 saw Father Ted based in the Washington, D.C., area where he served as pastor of St. Mary's Church, Manassas, Va. He was spiritual director of St. Josaphat's Seminary from 1956 to 1958 and helped establish the Ukrainian Mission Parish of St. John the Baptist in Richmond, Va. During his years in Washington, he served also as vice proto-presbyter of the Washington Deanery, diocesan director of vocations, and was a professor of music at the Catholic University of America.

Despite this busy schedule, Father Ted also found time to serve as council chaplain for the Carroll Council of the Knights of Columbus and later was 4th degree council chaplain and finally State chaplain for the Knights of Columbus in Washington.

Father Ted had a unique association with the late President Kennedy while he was in Washington. At President Kennedy's inauguration, Father Ted gave a blessing, and then on Sunday, November 24, 1963, he was one of three clergymen selected to escort the body of the late President from the White House to the Capitol. There in the rotunda of the Capitol, Father Ted, as the representative of Ukrainian Catholics, gave his final blessing to the beloved President.

In 1968, Father Ted was assigned to the Pennsylvania area where he served as pastor of St. John's Church, Maizeville, St. Mary's Church in Middleport, and St. Michael's Church in Shenandoah. While there, he organized CCD religion classes in St. John's, St. Michaels, and Our Lady of Siluva parishes. He was also an instructor of religion at Cardinal Brennan High School in Fountain Springs, Pa. Father Ted has always had a keen interest in parish life: In virtually every parish in which he has served, he has been spiritual director of the Holy Name Society and organized the United Holy Name Societies of the Shamokin Deanery which included 12 parishes in Pennsylvania.

In 1976, the people of New Jersey were fortunate enough to have Father Ted assigned to the Garden State where he has touched the lives of thousands of Ukrainian Catholics. He was pastor of St. Josaphat's Church in Trenton from 1976 to 1977 and was acting dean of the Trenton Proto-Presbytery until his appointment to SS. Peter and Paul Church in Jersey City.

Father Danusiar has been active in every community in which he has served and has especially enjoyed working with groups interested in the international language of music. He directed the children's choir at the Cathedral of the Immaculate Conception in Philadelphia and later was director of the children's community junior symphony orchestra in Frackville and Maizeville, Pa. He refined his considerable skills further by attending summer workshops and seminars in choral conducting sponsored by the well-known choral director, Fred Waring.

I am delighted that we have this opporunity to join with Robert S. Cheloc, general chairman of the Jubilee Committee, and the devoted members of the Ukrainian community in New Jersey in honoring this dedicated priest.

We wish him, "Mnoraya Lita," our best wishes for good health for many years to come.●

DAVID LIPSCOMB COLLEGE BASEBALL TEAM IN NASHVILLE, TENN.

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. BONER of Tennessee. Mr. Speaker, I rise today to honor an outstanding Nashville baseball team in its pursuit of excellence and skill. I would like to pay tribute to a college in Nashville that has once again won the National Association of Intercollegiate Athletics World Series championship in baseball. David Lipscomb College won this honor on Monday night, June 4, by defeating High Point, N.C. by a score of 5–2 in the championship game. David Lipscomb won this same championship in 1977 at St. Joseph, Mo.

This team also walked off with most of the individual awards in the tournament. Pitcher Kal Koenig won the tournament's coveted "Most Valuable Player Award" by coming in from the bullpen and registering seven strikeouts in only three innings of work to win the final game.

Freshman second baseman Terry Moore was awarded the "Charlie Barry Hustle Award" for his outstanding efforts in the series. In addition, four David Lipscomb players were named to the all-tournament team. They are Reggie Whittemore, Steve Liddle, Jeff Guy, and Kal Koenig.

I commend coach Ken Dugan and the members of the David Lipscomb College baseball team for once again achieving an NAIA World Series victory.●

TO SAVE OIL—BACK TO WOOD—BACK TO PAPER

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. OTTINGER. Mr. Speaker, one key to solving our energy crisis is the elimination of unnecessary and wasteful uses of petroleum. One such wasteful use is the excessive reliance on disposable plastics. This is eloquently pointed out by Robert C. Lohnes in an article which appeared on June 6 in the New York Times.

Mr. Lohnes reminds us that convenient disposable plastics are derived from crude oil which could "just as easily be fueling our cars and trucks, or heating our homes." Clearly, much of our use of plastics is unnecessary. We should begin to consider how to replace disposable plastic products with what they were once made of; namely, renewable wooden, glass, or paper products.

The text of the article follows:

BACK TO WOOD—BACK TO PAPER

(By Robert C. Lohnes)

RIDGEFIELD, CONN.—In America today, an "ocean" of petroleum byproducts is being gulped by plants manufacturing millions of disposable plastic knives, forks, plates and scores of other products which once were made from replaceable resources such as wood.

Every month, millions of barrels of oil go into supplying the steady growing plastics industry, many of whose disposable products go into littering our streets and parks.

In 1978, some 733,000 tons of disposable plastics were used and discarded. That's more than 1.5 billion pounds, or the equivalent total weight of 10 million average human beings—in one year!

There are some justifiable uses of disposable plastics, many of which can be found in the field of medicine.

But most of our disposable plastics find a market because they are convenient.

Is it more convenient to eat off a plastic plate, or to make a significant contribution to ending the gasoline shortage?

The airlines and dry-cleaning industries use gigantic amounts of "convenient" disposable plastics daily.

The vast majority of these plastics contain crude-oil derivatives that could just as easily be fueling our cars and trucks, or heating our homes.

Packaging is another area where plastics have replaced wood-derived materials.

Trees can be replaced, oil cannot. Every day in our offices and factories, millions of Styrofoam cups and plastic containers are used in a cavalier manner and then thrown away.

What's wrong with having restaurants, caterers, coffee vendors, sports arenas and others return to renewable wooden, glass or paper products?

When we are in an energy crisis that is becoming ever more painful to millions of pocketbooks and to styles of life—one that, conceivably, could lead to armed conflict—shouldn't we be considering all the alternatives?

Cutbacks in the production of disposable plastics isn't much of a sacrifice, especially when compared with the alternatives.

Of course, we must remember that the plastics and oil industries are "partners," and they probably would fight hard to keep their plastic bags, their plastic plates, their plastic cups.

As for me, I would trade a plastic cup for a gallon of gasoline any day.

IN MEMORIAM—JOAN GREEN FUSELIER

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. DIXON. Mr. Speaker, as the list of victims of the May 25 crash of an American Airlines jetliner in Chicago was released, our hearts were saddened to learn that we lost one of California's distinguished citizens. Joan Green Fuselier, director of the Consumer Product Safety Commission's area office in Los Angeles was returning to California after attending the 1979 National Workshop on Consumer Product Safety in Albany, N.Y.

I had the honor of knowing Joan Fuselier and enjoying her friendship for many years. Her dedication to helping others is attested to by all with whom she came in contact. As a policewoman for 8 years with the Los Angeles Police Department, prior to going to the Consumer Product Safety Commission, Joan had the opportunity to touch the lives of many young men and women. She had also served as senior deputy probation officer for the Los Angeles County Probation Department. The city of Los Angeles will sorely miss her strong leadership and dedication.

A graduate of the University of Southern California, Joan spent most of her life in Los Angeles and it was the people of our city for whom she sought a better quality of life.

My deepest sympathies are extended to the Fuselier family, although we are comforted in the knowledge that her accomplishments and generosity will always be remembered by those of us who were touched by her kindness.●

WHO IS THE NRC PROTECTING?

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. OTTINGER. Mr. Speaker, when it comes to a matter as crucial as the safety of our nuclear powerplants, the credibility and competence of the Nuclear Regulatory Commission must be beyond reproof. Yet 3 out of the 5 NRC employees responsible for inspecting nuclear reactors have recently condemned many of their supervisors as having a "don't rock the boat" attitude.

The discontent within the Commission was examined in an insightful article by David Burnham which appeared in the New York Times on June 4. Mr. Burnham reveals that "decisions are often made by people unfamiliar with the actual situation and that decisions are often made at a high level that could be better made at a lower level." Surely, this must give nuclear advocates pause at the effectiveness of their allegedly foolproof systems.

The text of the article follows:

NUCLEAR INSPECTORS UNEASY, POLL SHOWS

(By David Burnham)

WASHINGTON.—Three out of five of the Federal employees responsible for inspecting nuclear reactors believe that many of their supervisors practice a "don't-rock-the-boat philosophy" and that decisions are often made by Government officials unfamiliar with the actual problems.

The attitudes of the employees of the Office of Inspection and Enforcement of the Nuclear Regulatory Commission were examined in an opinion survey conducted for the Government by a private polling group, the Opinion Research Corporation, a number of months before the March 28 accident at the Three Mile Island reactor in Pennsylvania.

Prompted by the accident, the most serious in the civilian use of nuclear power in the United States, the performance of the commission in enforcing safety regulations is under comprehensive investigation by a special Presidential panel and two Congressional committees.

The $116,000 survey was ordered by the top executives of the commission's Office of Inspection and Enforcement in an effort to understand the attitude of their employees.

SOME OPEN CRITICISM

In the last three years, a number of commission employees have expressed open criticism of the agency's concern for safety. The critics have included Robert Pollard, who quit and subsequently joined the Union of Concerned Scientists, one of the leading private organizations that have questioned the credibility and competence of the commission.

A second critic was James Conran, who chose to remain on the commission staff. Mr. Conran forced the agency to revise substantially its view of the hazard of nuclear proliferation by writing a public letter to President Carter.

The attitude survey, a copy of which was obtained by the Union of Concerned Scientists in response to a request under the Freedom of Information Act, said that the findings identified several serious problems among the employees of the Office of Inspection and Enforcement. These problems included the following:

Low morale—a perception that the supervisors did not recognize and respect the ability of employees.

A belief that favoritism was shown in promotions within the agency.

A feeling among many employees that decisions were not being made on the basis of carefully considered data.

John Davis, the acting director of the inspection office, said that the decision to order the study was made several years ago to determine "what was bothering" the professional, managerial and administrative employees of the office.

FEW COMPARABLE STUDIES

Mr. Davis said one shortcoming of the survey was that very few similar studies had been made of other Government agencies and that therefore there were no directly comparable findings with which the attitudes of the Nuclear Regulatory Commission office could be compared.

The survey, however, found many indications of discontent within the commission office.

According to the statement summarizing the recent survey, for example, the employees said the best path for advancement was "knowing the right people and being willing to relocate."

Many criticized how decisions were made within the agency. A majority in the office said that "decisions are often made by people unfamiliar with the actual situation and that decisions are often made at a high level that could be better made at a lower level."●

CHARLES E. WRIGHT

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. BONER of Tennessee. Mr. Speaker, I rise today to honor an outstanding citizen of Goodlettsville, Tenn. Charles E. Wright was born in 1919 in Hartselle, Ala. He graduated from Morgan County High School in 1939 and served in the U.S. Army from 1941 to 1945 in the Alaska, Aleutian Islands, and European theaters of war.

Mr. Wright attended Auburn University from January 1946 to December 1948, and received a degree in pharmacy. He came to Tennessee in January 1949, working as a registered pharmacist in Madison and Old Hickory. As the owner and operator of the Goodlettsville drugstore from 1956 through 1968, he was a visible and active member of his community.

Mr. Charles Wright started working in the baseball program in 1957, and served as manager and commissioner, and also chairman of the Park Board since May 1967.

He is a charter member of the Goodlettsville Southern Methodist Church.

It is fitting that the citizens of Goodlettsville honor his dedicated services to the community by naming their local park after Charles E. Wright. I join in praising Mr. Wright's service to his community.●

ON SAFETY AND SERVILITY

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. QUAYLE. Mr. Speaker, in light of the fact that the Labor Department is expected to make a ruling on the Indiana Occupational Safety and Health Administration's right to run the State's program, I would like to submit this editorial for my colleagues' edification.

This editorial, "On Safety and Servility," which appeared in the Indianapolis News, June 2, 1979, indicates the views of many Hoosiers:

ON SAFETY AND SERVILITY

When Congress passed the Occupational Safety and Health Act in 1970 and created OSHA, it provided the option for states to run their own programs.

It provided the option, but no promises for making it easy. Consequently, it isn't.

States are permitted to run their own programs, and receive Federal aid for 50 percent of their operating expenses, but only subject to Federal approval of their program's effectiveness. Indiana began its own program, IOSHA, in 1974. The program has yet to earn permanent approval.

In fact, Indiana's program is no closer to autonomy than it was five years ago. Its six-month evaluation period ends on June 30 and there is a real possibility of a Federal take-over.

The American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) would like that. It filed suit in 1974, challenging the standards by which OSHA evaluates state plans. Congress said they must be "at least as effective as" the Federal agency. The courts upheld the union, saying standards should be set to prove state programs "fully effective."

So at this point it is not clear by what criterion the Labor Department (which has jurisdiction over OSHA) is to judge state programs. The Indiana Chamber of Commerce says it is debatable how, if OSHA has no standards for approving state plans, it can have standards for disapproving them. In the meantime, an AFL-CIO effort seeks revocation of all such state agencies—including IOSHA.

It seems to us, however, there are clear advantages to dealing with a local program rather than with a Federal agency—provided, of course, IOSHA is as effective as OSHA.

The Labor Department is critical of IOSHA. A report charges the program with shortcomings such as inspecting "poor targets," ignoring workers' voices, poor ability to identify hazardous conditions and a lack of preparedness by inspectors.

But while IOSHA admits to the need for improvement, particularly in the area of health inspections, it makes a strong case for its record on industrial hazards. Only three states have fewer days lost due to on-job injuries than Indiana, and those states have larger work forces. In a 1977–78 monitoring period, Indiana ranked sixth among 24 states with their own programs in terms of number of inspections performed, serious violations cited and penalties assessed.

Considering OSHA's own less-than-impressive national record, it strikes us as distinctly preferable to work on improving a local program than to surrender authority to a Federal agency. Locally written regulations can take local conditions into account.

It would not surprise us, either, if there were an element of harassment in Federal relations with and evaluations of the IOSHA program. Rule-writing bureaucrats, particularly those formerly preoccupied with exit signs, resist surrendering authority. Their rigidity, in fact, tends to increase in direct proportion to their distance from the actual workplace.

OSHA no doubt finds it incomprehensible that IOSHA can educate employers to safety hazards at informal conferences, without resorting to heavy-handed tactics or fining small businesses out of existence. We find it entirely comperhensible. Ask any parent who has a problem with his child's school if he would rather deal with the local school board or the Department of Health, Education and Welfare.

Indiana has backed its commitment to worker safety with time and money. We hope Indiana's congressmen exert sufficient influence to permit us to continue to do so.●

SANCTIONS AGAINST ZIMBABWE-RHODESIA: THE PRESIDENT'S DETERMINATION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. BONKER. Mr. Speaker, I would like to submit for the RECORD excerpts from Secretary Vance's statement before the House Foreign Affairs Committee this morning. Secretary Vance set forth a balanced and reasoned basis for the President's determination not to lift internationally imposed sanctions against Zimbabwe-Rhodesia at the present time. While the President has already made the decision required by the Case-Javits amendment, Secretary Vance stressed that sanctions are but one aspect of an ongoing process toward genuine majority rule in Zimbabwe-Rhodesia, a process which will be under constant review.

The question of whether the United States should act unilaterally to remove economic sanctions against Zimbabwe-Rhodesia may be raised on the House floor in the next few days. This is one of the most important foreign policy issues currently before Congress. Our decision will have far-reaching implications for our international affairs in general and our relations with the United Nations and the countries of Africa in particular. I hope Secretary Vance's statement will be useful to my colleagues in Congress, particularly for its clarification of the reasons why it is not wise to remove economic sanctions against Zimbabwe-Rhodesia at this time.

The excerpts follow:

EXCERPTS

Our challenge now is to build on the progress to help create the conditions which can bring an enduring peace.

How can the United States best serve the cause of reconciliation and peace?

First, we will continue to do all we can together with our British colleagues in support of efforts toward a peaceful solution. We have consulted closely with the new British Government and will do so on a continuing basis. The British Government is now engaged in broad consultations in the region to explore ways of enhancing the prospects for peace and international acceptance and will be sharing this information with us.

Second, we will seek to preserve our ability to communicate, and work for peace, with all the parties to the conflict. In this context, a member of our Embassy in South Africa will make periodic, extended visits to Salisbury, and will cooperate with the British emissary who is making similar visits.

Third, as we have previously said, we would support any peace agreement which the parties themselves might reach—whether it is based on open, impartially supervised elections or on some other form of political accommodation.

Finally, as the President has said, we will keep the sanctions question under constant review in light of progress toward a wider political process and more legitimate and genuine majority rule.

Premature lifting of sanctions would have several effects.

First, lifting Rhodesian sanctions now could undermine the position of the internationally recognized legal authority there—Great Britain. We should not pre-judge or undercut current British efforts. We should not rush to lift sanctions or endorse the Salisbury arrangements at a time when Britain is reviewing the situation and exploring means by which the prospects for further progress and a settlement can be improved. The situation could evolve significantly in the coming months. We should not discourage that evolution by effectively saying to Salisbury that its current arrangements have our support and need not be altered—and saying to the African nations that we no longer seek a fair settlement. As the President has noted, no other nation has recognized the new authorities in Salisbury.

Second, such an action would diminish the chances for a peaceful settlement. By giving the appearance of siding with Salisbury, our ability to work for a negotiated solution would be severely limited. We would encourage Salisbury to expect further American support and assistance in the military struggle. And we would harden the view of the external forces that their only option was a military one.

Third, a unilateral lifting of sanctions now would undermine the significant progress we have made in improving our relations throughout Africa in the past two and a half years.

Fourth, we would be giving others new opportunities to expand their influence in Africa at our expense. Concerned African nations want peace and they have supported our negotiating efforts. But if they conclude that we have abandoned the goal of fair majority rule in Southern Africa, they may turn increasingly to others in search of material and moral support for a military solution to the Rhodesian conflict and for protection of their territory from the expanding conflict.

Finally, to be satisfied that the progress already made in Zimbabwe-Rhodesia is sufficient would, in my judgment, represent a retreat from the principles of racial justice which we have strived to achieve in our own country. To have one standard of racial justice at home and another abroad is to deny our common humanity. We would tarnish our image abroad and divide ourselves at home. We need not invite these results. We have fashioned a course which affirms our own law, including the Case-Javits amendment at the same time that it respects our obligations as a member of the world community. It is a course which is faithful to our principles, as well as to our national interests.

Elections have been held in Zimbabwe-Rhodesia. Almost every observer, of any viewpoint, has drawn the same overriding message from that event. The Rhodesian people want peace.

Let us respect that central result. Let us maintain our ability to work for reconciliation. Let us pursue our national interest, in recognition both of new realities in Zimbabwe-Rhodesia and of the continuing, compelling cause of peace.●

CARRYOVER BASIS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. ARCHER. Mr. Speaker, the following editorials from the Houston Post of April 24, 1979, and the Houston Chronicle of May 1, 1979, concern the carryover basic rule for estate taxation. This 1976 law will force heirs selling inherited property to pay a capital gains tax based on the increase in value of an asset from the time it was purchased by a decedent until the time it was sold. As the law taxes heirs on increases in value due to inflation over an extended period of time, and as it will be difficult—if not impossible—to determine the original cost of the asset, the carryover basis is an unfair and confiscatory taxation of the American people. I would like to commend to the attention of my colleagues these expressions of public concern and opposition:

[From the Houston Post, April 24, 1979]

POST/COMMENTARY—THE CARRYOVER BASIS

By a legislative quirk, a provision was enacted by Congress that many members now view with doubt: the carryover-basis rule of estate taxation. That bland, rather vague phrase could have an impact on the heirs of every sort of person from a stamp collector to a farmer. The rule would greatly enlarge the taxes paid on capital gains by anyone who sells inherited property, whether that property is an office building, a tree farm, an art collection or the family home.

The new rule will go into effect Jan. 1, 1980, unless Congress revokes it. Fortunately, congressmen who never knew they had passed the legislation are now taking a good look at it. Even some of those who at first thought it a good idea are having second thoughts. The ruling would hit everybody, especially the small farmer, the heirs of small holdings.

The provision threatens the historic tradition of handing down property from one generation to the next. Say four children inherit the family farm. The land is now so valuable that they have to sell part or most of it to pay the estate taxes. As the law now stands, they have to take a capital gain only on the difference between the market value of the land on the day they inherited it and the sale price. But if the carryover-basis rule is allowed to stand, they will have to pay a capital gain on all the increase in the value of the land from the day it was bought by the deceased 20 or 40 years before. The heirs may be paying estate taxes, and then be taxed on capital gains on a price due in good part to inflation.

The forest industry is opposing the carryover-basis rule on grounds that it will drive all the small, private landholders out of tree production. Big lumber companies have their own forest land by the hundreds of thousands of acres. Nonetheless, they buy as much as 40 percent of their trees from small private growers. As cities grow into suburbs and suburbs stretch toward the next town, the small farms are being gobbled up at high land prices. Houses, as they spread, require more and more lumber in the very move of occupying land on which trees were once grown.

Many medium- and low-income heirs will sell the land or house or stamp collection for money to pay the estate taxes. When they do, they will have to pay so high a capital gains tax that it can wipe out the bulk of their inheritance. This can be termed confiscatory. The federal government will—in effect—have confiscated the property. The law will also compel costly research. Suppose a man has built up a collection of stamps or art in an attempt to keep abreast of inflation and leave an estate to support his invalid wife. Who can tell which stamp was worth what when it was bought? How does a 30-year-old heir know which pasture father added to the farm in what year for how much money?

This rule was adopted without formal introduction, hearings, investigation or debate. It was added as a rider at the last minute to a tax reform measure just clearing a House-Senate conference committee. Congress is about to take it up for review. It is to be hoped that our congressmen will strike the carryover-basis rule from the law books.

[From the Houston Chronicle, May 1, 1979]

LET US TALK ABOUT THIS

A drastic change in the way capital gains taxes are computed on property inherited and then sold was slipped through Congress in 1979 with a minimum of discussion. If any subject needed a thorough airing, this one did.

The change, which Congress, under pressure, has postponed until Jan. 1, 1980, requires heirs selling property to pay capital gains taxes based on the difference between the original price of property and the selling price. In these inflationary times, the figure can be astoundingly high. And mind you, this has nothing to do with estate taxes, which are separate.

Under the old law, still in effect, a person's property at death automatically was "stepped up" to current market value. Heirs who sold property immediately at market value therefore paid no capital gains tax and those who sold later paid taxes based on the gain during the time they owned it.

This rankled many liberals who looked upon this as one gigantic loophole—no matter that death was a prerequisite for taking advantage of the "loophole."

A House bill was introduced in 1976 to change the law. That bill got limited debate in the House Ways and Means Committee but never reached the House floor.

The Senate, meanwhile, in considering a tax revision bill added an amendment to liberalize estate and gift taxes. When the tax bill got to conference, House supporters of the measure to change the way capital gains on inherited property are figured promised to back the Senate amendment if the Senate would go along with the capital gains tax change the House liberals wanted. A deal was struck and the change was made part of the tax bill, which passed with little further discussion.

If the change becomes effective Jan. 1, the disposition of inherited property will become a complex, costly proposition: "an administrative nightmare," as one critic put it.

In many instances, determining with any accuracy the original cost of inherited property, whether it be business, farm or antiques, and its appreciation will be difficult. The paper work could be overwhelming, with a platoon of costly professionals required.

Perhaps the impact of the change has been exaggerated, but at least there is sound reason for more discussion than we have had thus far on the matter. The pressure that prompted Congress to delay implementation of the change is evidence enough of that.

Legislation has been introduced to repeal the 1976 change. Whether Congress repeals or revises the law or delays the effective date again, the subject warrants lengthy and balanced review in order for Congress to come up with an approach that is more workable and equitable than what we got in 1976.●

GIVE FREE ENTERPRISE A CHANCE

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. WHITEHURST. Mr. Speaker, the editorial which follows appeared in the June 12, 1979, edition of the Wall Street Journal. The gasoline lines which have been appearing, first in California and now in the Washington area, make it clear that the present "system," such as it is, is not working, and the editor's comments serve to reinforce my own contention that the Department of Energy ought to be terminated by date certain. I commend the editorial to the attention of my colleagues, and I urge that prompt and favorable consideration be given to my bill, H.R. 4329, to terminate the Department of Energy by January 15, 1982, unless the Congress acts in the meantime to extend it. Indeed, we might be even better off if the Department were terminated before that time.

One thing seems very clear: A controlled economy is not working in the energy market. Let us give free enterprise a chance.

The editorial follows:

GASOLINE: 88.8 CENTS, NO LINES

Back in February 1974, we printed an editorial entitled, "Gasoline: 59.9 Cents, No Lines." Doubting widespread fears of $1-a-gallon gas, and wondering what the market-clearing price would be if controls and allocations were lifted, we hit upon the simple device of asking what gasoline sold for in actual free markets, namely, the rest of the world. Adjusted for differences in measures and taxes, we found that the market-clearing price would have been 59.9 cents.

Since we have gas lines again today, we set out to update that editorial. A February 1974 dollar is worth only about 67 cents today. So we've adjusted our price to 88.8 cents. Sure enough, that is more than gasoline sells for today in Canada, after tax adjustment.

So the message is the same today as then: the U.S. doesn't have to suffer gasoline shortages under today's circumstances. The Middle East still looks like a tinderbox and serious shortage problems could still erupt. But the gasoline lines today are inflicted on the U.S. consumer by federal price ceilings and allocations. If both were abolished, the worst thing that would happen would be that the price would go up a few pennies to clear the market, and lines would disappear. More likely, in our guess, the price would settle out below current averages, let alone the current artificial highs that make headlines. Otherwise, how could the Canadian price be lower?

According to a preliminary estimate for June by the authoritative Lundberg Letter, the U.S. weighted average price for all grades of gasoline is now about 83.5 cents a gallon. There has been a 16-cent price run-up so far this year, attributable in part to the crude oil supply interruption in Iran, but also to the federal policies we've been writing about in this space in recent weeks. The Department of Energy is frantically trying to update its regulations to take account of emerging reality, but so far has been able to deliver only palliatives.

The allocation system, in particular, will remain. This means that supplies and prices will vary from region to region, and even station to station. For some regions and some stations, the price will be pushed far above what would be necessary to clear the market in the absence of controls. (See Notable and Quotable nearby.)

It is doubtful, though, whether the price has been lifted enough to clear the market under the current jumbled system—although this problem is ameliorated somewhat by the fact that dealers are widely ignoring the ceilings on the ground that neither they nor the Feds can understand them anyway. Lundberg statistics indicate that some 78 percent of the dealers are exceeding the mandated 11-cent dealer margin, compared with 34.5 percent a year ago. Before anyone yells "foul," remember that in the absence of official rationing, the price must go up to clear the market. It is current policy that dictates that the gains will be captured by your corner filling station, rather than the fellows who look for more crude oil.

Through all this we hear the usual nonsense that we heard in 1974. It was stated then, even by high-priced oil company economists, that gasoline demand was inelastic—meaning that demand doesn't fall when prices rise—that Americans are so car-happy they will pay anything for gasoline. This led to the $1 a gallon predictions ($1.50 in today's dollars). A short while later, gasoline prices were selling below ceilings, and prices remained there until last year. As it happens, gradual adjustment to the 1973 price boosts—augmented to some degree by the government's mileage standards—has brought about a reduction in per capita gasoline usage since 1974.

We do not find it cheering to look back over the record of these last five years. With gas pump economists on the nightly news still telling us that gasoline demand is inelastic, it seems that many newscasters remain more interested in conspiracy theories and economic police news than in market reality. With a President trying simultaneously to decontrol prices and demagog the oil companies, and with vast armies of officials and experts sowing confusion that protects their jobs and regulatory power, there is almost no one to educate the public in how markets work.

The main thing that has happened to gasoline prices since 1974 has been the depreciation of the U.S. dollar. Despite OPEC, despite Iran, at 88.8 cents, a free market would clear.●

UTILIZE COAL RESERVES

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. CARTER. Mr. Speaker, for many years I have advocated initiating such expedited program to increase our Nation's energy supplies by the expanded development of coal—our most abundant energy resource—by the use of coal conversion technologies.

It is regrettable that we have moved at such an agonizingly slow pace in this direction. We have the resources to make our Nation independent of energy supplies from other countries, yet we continue to rely—dangerously—on foreign sources of fuel.

Our security as a nation is threatened more seriously each day that large quantities of fuels are imported, and I believe that we must take steps now to remedy this situation.

We must begin to utilize as soon as possible our domestic reserves of coal in order to meet our energy requirements.

Today I am introducing legislation to establish a massive program for energy development by promoting full use of coal and coal conversion technologies.

Coal conversion processes have been and are being used in other countries to produce needed fuels, and I believe that we should make more extensive use of this technology to meet our own requirements for energy.

I am proposing, as I have in the past, the establishment of an "Energy Development and Managemet Authority" (EDMA) to undertake a large-scale program of energy development. Initially, this would be accomplished through the U.S. "Office for the Production of Energy from Coal"—a U.S. OPEC, so to speak.

Mr. Speaker, we desperately need such an OPEC to help in our efforts to meet our domestic energy needs and to reduce fuel imports, with the accompanying threat to national security.

The program that I am proposing would encompass—

First, developing a plan for increasing U.S. energy supplies froam coal;

Second, conducting research on coal conversion technologies;

Third, constructing and operating facilities for producing synthetic fuels from coal;

Fourth, making fuels available to markets within the United States;

Fifth, providing financial and technical assistance to private industries to help in the energy independence effort; and

Sixth, examining the need eventually to establish within the EDMA other offices to develop other domestic energy resources.

Mr. Speaker, we cannot afford to wait any longer to undertake a program of this nature. We must begin at once to reverse the flow of dollars to OPEC and spend the funds necessary to build our own OPEC to meet our own needs.●

A TRIBUTE TO MIKE WAMBLE

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to pay special tribute to a young man in my congressional district who utilized special lifesaving skills learned during his active involvement with the Red Cross to save the life of another young man. The young man's name is Mike Wamble of 2311 St. Elmo Street in Memphis.

Mike took immediate action during an incident at camp last summer which resulted in the saving of Murphy Hanley's life. Young Hanley had choked on a potato chip and had stopped breathing when Mike Wamble stepped in and applied Red Cross lifesaving techniques to dislodge the obstruction and restore Murphy Hanley's breathing.

This action on the part of Mike Wamble was a display of coolness, decisiveness, and most importantly of all, a concern for human life. On June 4, 1979, he was awarded the highest merit award by the American Red Cross, the Lifesaving Award. I want to congratulate Mike, his family, and those involved in his efforts.

In addition, Mr. Speaker, I would also like to insert into the RECORD the following news story which appeared in the Memphis Press Scimitar on the occasion of Mike's award:

RED CROSS HELPER CITED FOR LIFESAVING ACTIVITIES

Murphy Hanley, 14, was eating lunch at a Red Cross camp cafeteria when he choked and stopped breathing.

Hanley's brother was unable to revive him, but Michael Wamble, a Red Cross volunteer stepped in and used Red Cross lifesaving techniques to save his life.

For such activities in his five years of Red Cross work, Wamble, 18, received a special Red Cross Lifesaving Award at the Memphis chapter's annual recognition dinner at the Holiday Inn Rivermont last night.

Hanley, son of Mr. and Mrs. John Hanley of Nashville, attended the dinner to see Wamble receive his award.

Wamble, son of Mr. and Mrs. Rex O. Wamble of 2311 St. Elmo, began his Red Cross service as a swimming instructor at summer camps. He later served as vice-president of the Youth Council and worked with the Red Cross Disaster Services.

"Red Cross is fantastic," Wamble said. "It has helped me mature as an individual and taught me respect for others. It gives me a warm feeling to know I help others."

The Red Cross Lifesaving Award Wamble received is the highest merit given in the Red Cross.

Wamble also received the "Spirit of the Red Cross" award in January for dedicated and outstanding service to the Red Cross.

I would like to make a career out of Red Cross," Wamble said. "Right now I'm interested in working with either the Disaster Services or Youth Services. Whatever I do I want to be a part of the Red Cross."

At last night's meeting Lee C. Thompson, an assistant superintendent in the Memphis city school system, was elected chairman of the Memphis Red Cross chapter.

Other officers elected were James LeRoy, first vice-chairman; Mrs. Abe Goodman Jr., second vice-chairman; Mrs. Lee Abraham, third vice-chairman; Mrs. George Cates, secretary, and Calvin A. King, treasurer.

The chapter also recognized six volunteers for 10 or more years of service, including Louise Hoyt, Enid Walton, Mary Wilkerson, Ann Knapp, Marian Himmelreich and George Stocker.●

HOW TO HURT SADAT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. FINDLEY. Mr. Speaker, in last week's New York Times there appeared an excellent interpretive article by Anthony Lewis entitled "How To Hurt Sadat." Citing Israeli settlements in Arab areas as "an acutely sensitive point with all Arabs," Mr. Lewis states:

The testing-ground of whether the treaty can set a general pattern for peace is the West Bank, and there Israeli actions have

> lately been so unrestrained as to seem almost provocative." He goes on to state, "It is as if Israel were trying to show that the peace treaty gave it carte blanche to settle and permanently subjugate the West Bank.

Mr. Lewis' description of Israel's "autonomy" plan is no more encouraging. He points out that at Camp David Prime Minister Begin agreed to "full autonomy" and to the statement that U.N. Resolution 242, which calls on Israel to withdraw from occupied territory, is "the agreed basis for a peaceful settlement." The agreement also said:

> The Israeli military government and its civilian administration will be withdrawn.

Mr. Lewis continues:

> Now Israel maintains that it must keep control of land, water, settlement, radio, television—and have the right to approve political candidates. And the ultimate source of authority, it says, will be the military government. If that is "full autonomy," what do you suppose "partial autonomy" would be?

Asks Mr. Lewis.

This perceptive New York Times commentator echoes the sentiments of many Americans who today are beginning to doubt the sincerity of the Israeli Government's commitment to live at peace with its neighbors. Mr. Lewis concludes:

> Those of us who welcomed Begin's autonomy proposal when he made it at Ismailia 18 months ago are now being driven to believe that Arab critics had a point when they said it was a cynical trick. Israel's policy and the events on the ground are making a mockery of Camp David. They are adding to the burdens of the beleaguered Sadat. Worst of all, they are damaging the honor—and in the deepest sense the security—of Israel.

Mr. Speaker, I urge all of my colleagues to read Mr. Lewis' article and ponder seriously whether Israel is living up to its responsibilities under the Camp David agreement to promote a lasting peace in the Middle East.

Text of article follows:

How To Hurt Sadat

(By Anthony Lewis)

As Anwar Sadat comes under increasing pressure from the rest of the Arab world, the country that ought to have the most urgent concern about his survival is Israel. Logically, the Israeli Government should be doing what it can to bolster Sadat's credibility. It should be acting with a restraint designed to ease Arab fears of the Israeli-Egyptian peace treaty.

What is actually happening is the opposite. The testing-ground of whether the treaty can set a general pattern for peace is the West Bank, and there Israeli actions have lately been so unrestrained as to seem almost provocative. It is as if Israel were trying to show that the peace treaty gave it carte blanche to settle and permanently subjugate the West Bank.

Israeli settlements in Arab areas are an acutely sensitive point with all Arabs, including those most prepared to make peace. Nothing could more surely embarrass Sadat than signs that Israel, after Camp David, sees no reason in diplomacy or common sense to limit settlement activity. And those signs are abundant today.

Two weeks ago in Jerusalem the cochairman of the World Zionist Organization's settlement department, Matitiahu Drobless, announced plans for twenty new settlements in the occupied territories in the next year. Over the next five years, he said, 58,000 Israeli families would settle there—perhaps 200,000 people. There are now about 6,000 Jewish settlers in the territories, and one million Arabs.

Ariel Sharon, Minister of Agriculture and chief Government proponent of settlement, called for intensive Jewish settling activity for the next 20 to 30 years. He said existing plans would set up a chain of new towns in the fertile West Bank plain northeast of Telaviv. And he advocated the establishment of satellite towns to raise the Jewish population of Greater Jerusalem from 300,000 to one million.

Squatters from a group called the Greater Israel Movement occupied a building in the middle of Hebron, a major Arab center on the West Bank. The Israeli Government sent troops—who let food go through to the squatters and pumped water in to the building. The head of the movement, Rabbi Moshe Levinger, said the squatters were the vanguard of the settlement of Hebron. "Hebron is Eretz Israel," he said, "and Jews are entitled to have it." But Arabs could remain, he added, "as long as they understand that it is a Jewish city, that it belongs to the Jewish people."

It would be easy to dismiss those squatters as a band of zealots, unrepresentative of Israel. Only a small percentage of Israelis supports settlement activity in the midst of populous Arab areas.

But since the West Bank was occupied, in 1967, zealots have repeatedly started what looked like crazy schemes—and won Government support for them. Rabbi Levinger planted a "temporary" settlement in a military camp outside Hebron, and over 10 years got $50-million from the Government to develop what has become the fortress town of Kiryat Arba. Why should anyone expect the pattern to change?

In recent weeks there have been incidents in which settlers intimidated or provoked Arab residents of the West Bank. A band of Gush Smunim marched through Arab villages. A group of settlers destroyed an Arab vineyard near Hebron. During a demonstration at Bir Zeit University, the largest Arab University on the West Bank, a settler shot and seriously wounded a student.

The Government has done little to stop this growing settler vigilantism. Indeed, it has been taking a tougher line toward any show of objection to the Israeli occupation. It has summarily deported protesters. Nine students at Bethlehem University, convicted of raising the Palestinian flag and throwing stones, were fined $400 each and jailed for three months. Bir Zeit suffered a more drastic collective punishment: the whole university has been closed.

Then there is the Government's position on "autonomy" for the West Bank and Gaza. At Camp David Prime Minister Begin agreed to "full autonomy" and to the statement that U.N. Resolution 242, which calls on Israel to withdraw from occupied territory, is "the agreed basis for a peaceful settlement." The agreement also said: "The Israeli military government and its civilian administration will be withdrawn." Now Israel maintains that it must keep control of land, water, settlement, radio, television—and have the right to approve political candidates. And the ultimate source of authority, it says, will be the military government. If that is "full autonomy," what do you suppose "partial autonomy" would be?

Those of us who welcomed Begin's autonomy proposal when he made it at Ismailia 18 months ago are now being driven to believe that Arab critics had a point when they said it was a cynical trick. Israel's policy and the events on the ground are making a mockery of Camp David. They are adding to the burdens of the beleaguered Sadat. Worst of all, they are damaging the honor—and in the deepest sense the security—of Israel.●

THE NATIONAL SERVICE DEBATE

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. PETRI. Mr. Speaker, there is a move afoot in Congress to reinstate peacetime registration for the draft. Some advocates for the draft have argued the need for compulsory national service for our Nation's young people.

Before we vote on this issue, I hope my colleagues will turn their attention to the following article, "View From Hawkins Gore," written by Hollis Colby for the Ripon Forum.

View From Hawkins Gore

(By Hollis Colby)

Town meeting time is always a time for the exchange of violent opinion, and this year warn't no exception. But after the folks here in the Gore voted 43–29 to buy a new scarifier for the road grader, instead of patchin up the old one again, we thought the excitement was mighty high over with. We didn't reckon on the likes of Mr. G. Hooper Barlowe.

Mr. Barlowe ain't been around the Gore much, which most of us tend to hold in his favor. He was president of some ritzy college down country—Uruguay, or Lesotho, or New Jersey, or some such outlandish place. Bought hisself a piece of land back up on Hardscrabble Mountain a few years ago. He only came up about once a year, and the only way you'd even know he was around was when he come stormin' into Blodget's General Store wanting to buy fish eggs or some such fool thing.

Anyway, this Barlowe decided to come to Town Meeting this year. Didn't have nothing to say until we got to Article 19 on the Warning, to wit, to see if there was any further business to be transacted by the freemen of the town. Then it was that he got up.

"Feller citizens," he began, taking considerable liberties of speech in the eyes of some, "America is in big trouble. We are flabby, dissolute, depraved. And it mainly comes down to our young people. They don't have no ideal to draw them onward and upward."

"Do you know," he continued, "that when an American youth reaches the age of 18, he or she can do just as he or she pleases? Why, the government of this great land has even failed to provide that every young person should spend a year or two devoting him or herself to the public benefit! Why, even our armed forces don't have the God-given right to draft young men into the defense of their country any more, thanks to all them Republicans who put an end to the draft." That latter mention pretty much told us where Mr. G. Hooper Barlowe was coming from politically, and quite a few of us made a note that he ought to start heading back there.

"Now ladies and gentlemen," our illustrious part time resident went on, "the Congress may never pass the much-needed law that would force our young people to give a year or two of their lives for the benefit of everybody else. But right here in Hawkins Gore, you people can set a splendid example for the nation. You can put in your own version of universal service! You can pass a town ordinance that requires all your young people either to join the Hawkins Gore Puckerbrush Rangers, or spend a year rebuilding the stone walls on the hill farms, or clearing a field of popple to make a polo grounds, or any number of worthwhile projects of that ilk. And, ladies and gentlemen, I so move!" It was clear that Barlowe thought the Puckerbrush Rangers—otherwise known as the Midnight Fence Cutters—was the local militia, instead of the local snowmobile club. But in any case, his sudden motion jolted the members of the Hawkins Gore Historical, Literary and Athletic Wagering Society out of the torpor into which they commonly fell at the end of an exhausting town meeting.

"Mr. Moderator,"

"Mr. Moderator," said Ebenezer Colby, "would it be all right if I addressed a question to my friend Mr. Elias Blodgett?" The Moderator said it was, and cousin Ebenezer continued. " 'Lias, when you was a lad, don't you remember our granpas talking about the great days of 18 and 65?"

" 'Deed I do," replied the venerable storekeeper.

"Naow what was it that they thought was so great about 18 and 65?"

"Waal, Ebenezer, I 'spect the thing that Grandpa Colby and Grandpa Blodgett admired the most about 18 and 65 was how the true Republicans in the Congress of the United States passed an amendment to put an end to the abominable practice of slavery and involuntary servitude."

"That's the way I recalled it, 'Lias," said Ebenezer. "Naow don't it look to you like this business of making our young folks do what the guv'mint says, or else, smacks a bit of that involuntary servitude?"

"If it don't, Ebenezer, may I rupture myself pullin' on a jug of corn squeezings."

The constitutionality of Mr. Barlowe's proposal having thus been settled in the negative, Perley Farnham got up to offer an observation "Naow while this high level constitutional discussion was under way," said Perley, "I was doin' some figurin on the back of the town report here. And according to my figgers, if we was to launch a program to put all these 18 year olds to work as this distinguished gentleman proposes, it would cost the taxpayers approximately $47,550 per annum, or 59% of the budget of this here town. That includes paying the selectmen to make sure that all the young folks works, plus chain saw and bush hog rental, plus workmen's compensation insurance, plus an allowance for the victims to live on, plus paying the constable to seize fugitives and apply the beech seal as needed." For them what don't know, the beech seal is a technique invented by old Ethan Allen, in which a handful of beech switches is vigorously introduced against the backside of lawbreakers.

"Well," says I, "it would seem that the nub of this issue is whether the town is gonna vote $47,550 in taxes to impose involuntary servitude upon our youngsters, in violation of the Constitution of the United States, don't it?"

"A-yuh" muttered Luther Leach and several others.

Barlowe sputtered on some about William James and the moral equivalent of war and something called "socialist equilibrium", but it didn't do no good. We voted the thing down 73–1. That got changed to 73–0 when somebody pointed out that G. Hooper Barlowe had neglected to get his name on the checklist.

"Next year it'll be different," declared Barlowe, pretty put out about the unwillingness of us old farmers to embrace the Greater Good.

And we knew he was right. For all the while listening to the debate was 17 year old Pod Crummley, fast blossoming into one of the outstanding ne'er-do-wells of Northeastern Vermont and possibly the whole civilized world. And we was pretty sure that next summer, when Barlowe come up to his camp, he'd find a dead skunk had fallen down his chimney sometime in the late spring, shortly after the March meeting.●

OPINION SURVEY RESULTS

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. PEYSER. Mr. Speaker, I would like to share with my colleagues the results of a survey that was distributed to 6,000 residents of my congressional district between May 26 and June 8 of this year.

Over 900 people responded to the survey—more than 15 percent which, I understand, is a high rate of return for such surveys. Because of the diversity of the 23d district, which includes suburban, small city and large city residents, I believe the results of this survey are indicative of public opinion at least throughout the Northeast.

Frankly, Mr. Speaker, the returns are disturbing. It is clear that Congress is not reflecting the desires of the public, nor is the President. With 84.5 percent indicating a rating of either poor or fair for President Carter, and 86.2 percent rating Congress as either poor or fair, we had better start responding in a positive way to reach solutions to the problems we face as a Nation. Unless we start taking decisive actions, we are all in danger of drowning in a sea of unfavorable public opinion.

In addition to poor marks for Congress and the administration, the survey showed a majority of residents opposing Carter's plan to decontrol oil price, while supporting ratification of the SALT II Treaty by a 2-to-1 margin. There was also support for nuclear power, national health insurance, and mandatory wage and price controls.

The following is a summary of the responses I received to the 11-question survey. I hope that it will be of interest to all my colleagues.

The survey results follow:

SURVEY RESULTS

(Based on 923 respondents—answers in percent)

1. Do you favor or oppose decontrol of oil prices? Favor, 40.6; oppose, 50.7; undecided, 8.7.

2. Do you favor or oppose a windfall profits tax on oil companies? Favor, 61.5; oppose, 32; undecided, 6.5

3. Do you favor or oppose partial public financing of Congressional campaigns? Favor, 51.3; oppose, 40.5; undecided, 8.2.

4. Do you favor or oppose the concept of National Health Insurance? Favor, 57.9; oppose, 26.9; Undecided, 8.0.

5. Do you favor of oppose ratification of the Strategic Arms Limitation Talks (SALT II) Treaty? Favor, 53.9; oppose, 26.9; undecided 19.2.

6. Would you favor: 24.3 percent closing existing nuclear power plants, 26.5 percent continued use of nuclear power plants with no new construction, 38.7 percent construction of additional nuclear power plants, 10.5 percent undecided.

7. Do you: 39.3 percent favor reinstating the military draft, 31.5 percent favor registration without the draft, 20.9 percent oppose registration, 8.2 percent undecided.

8. Do you favor: 48.5 percent mandatory wage and price controls, 17.6 percent voluntary wage and price controls, 26.1 percent no wage and price controls, 7.8 percent undecided.

9. Are you satisfied with local public transportation facilities? 24.4 percent yes, 60.0 percent no, 15.6 percent undecided.

10. How would you rate the overall effectiveness of President Carter? 1.1 percent excellent, 11.2 percent good, 31.0 percent fair, 53.5 percent poor, 3.2 percent undecided.

11. How would you rate the overall effectiveness of the current Congress? 0.7 percent excellent, 6.4 percent good, 35.2 percent fair, 51.0 percent poor, 6.7 percent undecided.●

THE HELMS AMENDMENT RECOGNIZES THE RIGHTS OF AMERICANS OF EASTERN AND SOUTHERN EUROPEAN ETHNIC GROUPS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. BIAGGI. Mr. Speaker, on Thursday, June 7, the Senate during its consideration of legislation increasing authorization for the U.S. Civil Rights Commission adopted an important amendment offered by Senator JESSE HELMS of North Carolina. The amendment calls upon the Commission to study and report to Congress by September 30, 1980, denials of equal protection under the law for Americans of Eastern and Southern European ethnic backgrounds.

The significance of this amendment rests with the fact that it brings to the forefront a longstanding concern of mine—that millions of Americans, while not meeting the standard definition of "minority" encounter many problems of discrimination and denial of equal protection. The establishment of affirmative action programs, which impose strict quotas, has in effect prompted a form of reverse discrimination against members of ethnic groups addressed in the Helms amendment.

The U.S. Civil Rights Commission has been sorely deficient in addressing the concerns of such groups as Italian-Americans, Greek-Americans, and Polish-Americans. The Commission is more content to simply hold highly symbolic "consultations" which deal superficially with the deeprooted feelings of these groups. They are afforded second-class citizenry status in employment opportunities as well as educational opportunities, to name but two examples.

The Helms amendment deserves to be included in the final conference report on this legislation. It will most certainly demonstrate congressional commitment to investigating all forms of discrimination to all ethnic groups. As a pluralist society, the United States certainly has an obligation to promote equality for all its citizens.

I have long been concerned about the practice of both the subtle and the more obvious forms of discrimination against

Americans of Italian origin. We find it manifested in the glaring lack of high-level Italian-Americans in our own Federal Government. Consider the Federal judiciary. Despite scores of eminently qualified Italian-American jurists, we find a woefully small number of them as Federal judges. More disturbing to me, despite the mandate of legislative history which I established to create 145 new Federal judgeships, is the fact that Italian-American representation is very low. I am currently investigating discriminatory policies against Americans of Italian extraction in the National Endowment for the Humanities in the hiring of their key staff.

The Federal Government, often a contributor to the problem of discrimination as practiced against European ethnic groups, must be in a position to offer solutions. The Civil Rights Commission has conducted numerous studies and made recommendations on different facets of discrimination which exist in this Nation. Their work should be executed in a consistent fashion wherever discrimination is found to exist. The advent of affirmative action and quotas, while conceptually aimed at rectifying past discrimination against groups in this Nation, has promoted a new and potentially as serious form of discrimination against other Americans. The extent to which these programs and policies have worked to the disadvantage of these groups is definitely worthy of Commission study.

I commend the Senator for his insight in offering this amendment and urge the House conferees to adopt this important amendment to have the Civil Rights Commission address this most important problem.●

TRIBUTE TO BILL BRAY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. RHODES. Mr. Speaker, one of my very good friends, and a former colleague of many of us, Bill Bray has passed away. He was a man of great ability and staunch integrity, who worked hard at his job of representing the Sixth District of Indiana from the 83d through the 93d Congresses.

It was my privilege to serve with him during his tenure in Congress, and to know him as a warm personal friend and sage counsel. As a decorated veteran of World War II, and having served in Korea, Bill Bray knew first hand the perils of weakness in our defenses, and the threat they pose to peace. He was an expert on world military affairs, and worked ceaselessly as ranking Republican member of the Armed Services Committee, to keep the United States strong, to deter aggression.

He battled for a stronger American shipping fleet during his time as a member of the Merchant Marine and Fisheries Committee.

Bill Bray was raised on a farm, became a soldier, and then a lawyer before coming to serve in Congress. He was a man of strong opinions, a fighting spirit, and a very good man to have as a friend.

I share with my colleagues our sorrow at his passing. The Congress was enriched by his two decades among us. I extend my condolences to his lovely wife Esther.●

FAIR AND FREE ELECTIONS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. FINDLEY. Mr. Speaker, I urge my colleagues in the House to support the motion I shall offer to instruct the House conferees to the State Department authorization bill conference to accept the Senate language on Zimbabwe-Rhodesia.

The Senate language is not binding. It expresses the sense of Congress that the President should lift U.S. sanctions against Zimbabwe-Rhodesia in recognition of the free and fair elections held there in April and the implementation of black majority, democratic rule in Zimbabwe-Rhodesia. This is a moderate, half-step. It leaves room for U.S. leverage in that it does not call for the establishment of U.S. diplomatic relations with Zimbabwe-Rhodesia.

I would have preferred not to instruct conferees. I had hoped to offer an amendment to the Export-Administration bill on Zimbabwe-Rhodesia. However, House consideration of that bill has been delayed repeatedly in order to deny the House the opportunity to vote on the Zimbabwe-Rhodesian issue on a straight amendment to a bill. The opponents feel that it is to their advantage to have the vote on a motion to instruct conferees as they feel many may oppose such a motion no matter what the issue. Therefore, this motion to instruct is exceptional. I urge you to support it in order to give the House the opportunity to make its views known on this issue.

According to the overwhelming majority of international observers, including those from Freedom House such as Allard Lowenstein and Bayard Rustin, the April 1979 elections in Zimbabwe-Rhodesia were free and fair.

The election was not merely about which party would win. The election constituted a referendum on the constitution.

The election manifestos of the parties of Muzerowa, Sithole, and Chirau all made it clear that they would, if elected, uphold the 1979 constitution. Their political handouts implied that a vote would give support to the concept of a majority rule government on the basis of the arrangements agreed upon.

For example, the manifestos put out before the election included the following remarks:

> The UANC Party (Bishop Muzerowa): "The UANC Government will uphold and protect the constitution of Zimbabwe."
>
> The ZANU Party (Reverend Sithole): "ZNU shall uphold the constitution of Zimbabwe and shall protect it against any arbitrary or unconstitutional government of the day."
>
> The ZUPO Party (Chief Chirau): "ZUPO will uphold the spirit and integrity of the 1979 constitution without adding to, or detracting from, it."

The very fact of going to the poll thus constituted a vote for the new arrangement.

About 64.5 percent of the electorate did go to the polls and voted for one party or another. International observers have reported that the mood at the polls was overwhelmingly one of joy and celebration. Often, people voted despite violent intimidation and acts by guerrillas to discourage voting.

Only 3.55 percent of the total poll was spoiled ballots. There is no way of knowing how many of these were intentional and how many were by accident. However, it is telling that although the opportunity to protest the elections by spoiling ballots did exist, few of the voters took advantage of this.

I hope that the above facts demonstrate that the black population did enjoy a referendum on the constitution and the governmental arrangements for which it provided even though they did not participate in the formal referendum on the constitution held earlier in the year in which only whites—4 per cent of the population—were permitted to vote. Of course, it would have been highly desirable and adequate for the black as well as the white population to have been eligible to vote in the formal referendum.

However, there are two additional factors to consider:

First. The referendum in which whites only voted was necessary from the point of view that it was important that the white population formerly agree to a transfer of power from white to black in that country. This was the essential message of the referendum. And in that referendum, the whites took that step; they did agree to the transfer of power from white to black.

Second. Staging the elections was extremely difficult. Guerrilla forces threatened to kill and to maim in order to disrupt them and this they did. The elections were held under extremely difficult conditions. Loss of life did occur. Repeating this exercise within a short period of time would have been very dangerous and would have jeopardized the entire process. Therefore, voting occurred once—in elections that selected legislative representatives and that also served, in fact, as I mentioned above, as a de facto referendum on the constitution.

There is also some confusion about the willingness of Joshua Nkomo and Robert Mugabe to participate in the elections and about whether or not they were excluded from participating in the elections.

Please consider the following quotes:

> Rev. Sithole interviewed by Miss June Goodwin (Christian Science Monitor), August 28, 1978:
>
> Rev. Sithole: "The Patriotic Front is welcome to return home and participate in a general election."
>
> Mr. Ian Smith interviewed by Mr. Sandy Gall of I.T.N., December 8, 1978:

Question: "Could you foresee by any stretch of the imagination a situation where perhaps Mr. Mugabe and Mr. Nkomo could also be included in a National Government?"

I.S. "We have invited them to participate. We invited them to participate in our conference which led to the March 3rd Agreement. At least a dozen times subsequently we have invited them to come back and participate and offered them the same position as the rest of us in the Transitional Government, seats on the Executive Council, Ministers in the Ministerial Council but they have not accepted because they believe they have the support of the British and the U.S. Administrations and indeed they have today and the Administrations of these two countries are opposed to us. This puts the Patriotic Front in a very powerful position where there is a chance that they can come in without going through an election and being all powerful.

Mr. Ian Smith interviewed by Mr. Ian Mills, March 9, 1979:

I.S. "I should think about a dozen times over the last 12 months we have invited them in, we have offered their leaders a seat in the Executive Council, and the subsequent right to appoint Ministers to the Ministerial Council, we have offered for them to participate in these elections. Only the day before yesterday. I think it was, we issued another invitation to them to come in. They won't come in, because they know they can't win."

Appearance of Joshua Nkomo on the McNeil/Lehrer Report, May 18, 1979, With Senator Schweiker and Representative Stephen Solarz

Lehrer. Mr. Nkomo in Houston, back to you first, Sir. Putting past history aside in terms of elections that were at one time proposed, would you, as the leader of your group of the Patriotic Front, be willing to lay down your arms and come to a meeting now with Muzoewa, the United States, Great Britain and everybody else to try to work out a peaceful solution?

Nkomo. Now, the point is, don't talk about laying down arms before you are able to——

Lehrer. Stop fighting—lets——

Nkomo. You don't stop fighting because the fighting is the thing that has brought Smith even to accepting this, er, pseudo majority rule. So we are going to fight until such time as we are certain that real majority rule will be transferred—will be given to the people of Zimbabwe.

Lehrer. In other words, you wouldn't even stop fighting to go to a meeting and see if——

Nkomo. You don't go to a meeting first. No war has ended that way. What does happen, you negotiate and then—it is out of the negotiation that you stop the war. That is what is done in any war. You don't stop the war before you are certain that you are getting what you are fighting for.

Schweiker. . . . I'd like to ask him. Your partner, Mr. Mugabe, said very succintly that he has a commitment to Marxism—one-party state, in which democratic elections are a luxury. Now, isn't that really your policy? Isn't that what you're saying and isn't that what the issue is? A one-party state? He doesn't believe in elections either. Let's put it all on the table, right where it should be.

Lehrer. Mr. Nkomo?

Nkomo. Now, now, let me, let me understand what—Is that the Senator?

Schweiker and Lehrer. Yes.

Nkomo. What he is talking about? Now, look, you're talking about our country. And you're talking as if you are the arbiter. You are the judge of what must happen in Zimbabwe. We do not—we have not, never, suggested a form of government for the United States. And what right has the Senator to tell us what sort of government we should have in our country? Now, listen and be perfectly clear. This is where the United States went wrong in Southeast Asia. This is where the United States is going wrong and getting the heat in the Middle East. And if the United States attempts this type of thing in southern Africa, then you will fall into a quagmire. All your interests remain down there. And you have to be very careful what you are doing.

Nkomo and Mugabe were not excluded from contesting the elections. They preferred to disrupt the elections by force. However, their efforts failed. It still appears that they have no interest in a peaceful resolution of the situation to bring about democratic, black majority rule.

I hope that my colleagues will take steps to recognize the important steps taken toward black majority, democratic rule and to encourage that government to take all steps to implement fully black majority, democratic rule in that country. I believe that congressional approval of a sense of the Congress message urging the President to lift sanctions against Zimbabwe-Rhodesia will promote the needed steps.●

MAJ. GEN. STEWART CANFIELD MEYER—SERVICE WITH DISTINCTION

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. FLIPPO. Mr. Speaker, the distinguished military career of Maj. Gen. Stewart Canfield Meyer is one which I bring to the attention of my colleagues with pleasure. General Meyer is a man who reserves the recognition of the U.S. House of Representatives. He has served our country well in times of both war and peace with a record of distinction.

General Meyer will soon complete his military service and retire from active duty in the U.S. Army. His accomplishments have been many, but his final tour of duty is worthy of note. He assumed command of the U.S. Army ballistic missile defense organization in 1977, where he has served as the program manager of this essential element of our Nation's total defense strategy. Achieving the high standards and objectives of research and ballistic missile program require a leader with the intelligence and diligence of General Meyer.

General Meyer has been instrumental in the efforts which are so important to assure adequate defense capabilities for the United States and our allies. He has worked to maintain U.S. leadership in ballistic missile defense technology. These efforts provide our Nation with a hedge against the strategic uncertainties associated with ballistic missile attack on the United States.

These objectives support a careful and wise defense posture for our Nation in an era of uncertainty, technological advances, and the debate on a strategic arms limitation treaty. The ballistic missile defense program is supportive of a strong U.S. position in the negotiations of strategic arms limitations. The goals of the program help prevent any future technological surprise by hostile or competitive powers in the development of ballistic missiles. The program supports our offensive deterrent forces and intelligence assessments. The ballistic missile defense program has as a central goal the ability to provide our Nation with the capability, when it is required, to rapidly deploy a ballistic missile defense system.

General Meyer has made great contributions to reaching these goals. He has made his mark as the commander of the BMD Advance Technology Center and the BMD Systems Command, both located in Huntsville, Ala., and as the national range commander of Kwajalein Missile Range in the Marshall Islands.

General Meyer has shown that his abilities have been equal to the many challenges he has faced in a distinguished career of service in the U.S. Army. He was born in El Paso, Tex., on April 14, 1921. He graduated from the U.S. Military Academy in 1943 and was commissioned a second lieutenant in the field artillery.

He served most of World War II in Europe as a battery officer, battery commander, communications officer, and personnel staff officer with the 3d and 1st Armored Divisions. He returned from Europe in 1947 to become assistant professor of military science and tactics at the College of William and Mary. He obtained his master's degree in mechanical engineering from the University of Michigan in 1950, and served as test officer and detachment commanding officer with the Army Field Forces Board, Fort Bragg, N.C.

In 1953, he was ordered to Korea, where he commanded an artillery battalion and served as a staff section division chief at 8th Army headquarters. He was reassigned to the 6th Armored Division at Fort Leonard Wood, Mo., in 1955 as commanding officer (CO) special troops. After completing Command and General Staff College in 1956, he served with the Continental Army Command as a coordinator of research and development for combat vehicles.

Returning to Europe in 1959, he commanded a howitzer battalion and served with the Airborne Brigade of the 8th Infantry Division. In 1962, he attended the Army War College and was assigned to the office, Chief of Research and Development (OCRD), as chief, Policy Division, and later assistant director, Plans and Programs Directorate.

He was ordered to Vietnam in 1967 and served as executive officer, II Field Force Artillery, and later as CO, 9th Division Artillery. In 1968 he returned to OCRD as deputy director of missiles and space and and later executive officer. He was named military assistant to the deputy director, tactical warfare programs, Office of the Director of Defense Research and Engineering in September 1968 and remained in that position until he assumed command of XXIV Corps Artillery in Vietnam in 1970.

He was named director of research, development, and engineering, U.S. Army Materiel Command in 1971. He served in that position until August 1974 when he assumed command of MASSTER (Modern Army Selected Systems Test, Evaluation, and Review), now the U.S. Army Training and Doctrine Command, Combined Arms Test Activity, at Fort Hood. Tex.

General Meyer's awards include the Distinguished Service Medal, Silver Star, Legion of Merit, Bronze Star with five oak leaf clusters and "V" device, Air Medal with 16 oak leaf clusters, Army Commendation Medal with oak leaf cluster, and Purple Heart. He also holds the senior parachutist badge.

General Meyer has provided the United States with a lifetime of service and our country, indeed, owes him a debt of gratitude.●

THE COLLEGE OF THE HOLY CROSS CONFERS AN HONORARY DEGREE ON ITS COMMENCEMENT SPEAKER, EUNICE KENNEDY SHRIVER

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. BOLAND. Mr. Speaker, on Friday, June 1, the College of the Holy Cross in Worcester, Mass., held its commencement exercises for the graduating class of 1979.

On the 136th anniversary of the founding of the college, Holy Cross honored, as doctor of public service and as commencement speaker, a truly outstanding American, Eunice Kennedy Shriver. Her life has been characterized by a devotion to the needs of her fellow human beings, especially those who society might otherwise have found it convenient to overlook or ignore. Her development and promotion of the unique series of athletic competition known as the Special Olympics has touched the lives of millions of handicapped children throughout the world. Through her work with the Joseph P. Kennedy, Jr. Foundation, significant gains have been made in the struggle to prevent mental retardation and to improve the way in which society deals with those who are mentally retarded. In addition, her efforts on behalf of the National Institute for Child Health and Human Development have resulted in more sensitive and enlightened treatment of the needs of pregnant teenagers and their babies.

Mr. Speaker, I became aware of the power of Mrs. Shriver's address through a young graduate who listened to her that day. Paul A. O'Neil, who graduated cum laude, wrote to tell me:

> Because I was aware of some of the other commencement addresses given at graduations of friends of mine and had considered what sort of speech I might hear, I found myself beset with several emotions. First, I was pleased that Mrs. Shriver spoke to me, a graduate, not to foreign policy or another political debate. I was deeply moved by her description of what the Special Olympics had done for handicapped children—something no one had ever done for them, something the experts said couldn't and shouldn't be done. Then I was even piqued by her description of my generation as one uninterested in the great causes of our day, oriented solely towards jobs, not social change. But as she offered the idea of the Special Olympics as one which had its origins in commitment to the underprivileged and forgotten members of society, I grasped with her the parallels this program has for the course upon which I and my classmates may now embark. Commitment other than to self, sensitivity other than to gratification, devotion other than to what is comfortable—all these she urged upon the class of 1979.
>
> That address pointed up to me the importance, the power and the absolute necessity that all citizens commit themselves in a personal way to the improvement of society. Mrs. Shriver pleaded for the preservation of the family toward this end. Her words made me feel fortunate to have received an excellent education firmly founded in a moral scheme.
>
> I urge you to obtain Mrs. Shriver's address and give it the public accolade that I know you will agree it deserves.

Mr. Speaker, I, too, was touched by Eunice Shriver's words. I commend them to the House and to the American people. No better advice could have been given to the young graduates of 1979. I would like to insert at this point in the Record, a copy of Mrs. Shriver's commencement address as well as the citation of the honorary degree of doctor of public service which was presented to her by the College of the Holy Cross:

Commencement Address by Mrs. Eunice Kennedy Shriver

Father Brooks, Father Harman, Mr. Millard. Members of the Board of Trustees, College Staff and Faculty, Fellow Recipients, Parents and Members of the Class of 1979:

At the end of World War II—millions and millions of the world's best young men and women lay dead on the battlefields, in devastated cities, under the oceans, and in concentration camps. Food was scarce, housing nonexistent, currency value-less.

At that precise moment a great man spoke these words:

"Come on now, all you young men and women all over the world. You are needed more than ever. You have not been born to lose. You must take your place on life's fighting line. Twenty to Twenty-five—these are the years. Don't be content with things as they are. Don't take 'no' for an answer. Never submit to fashion. You will make all kinds of mistakes, but as long as you are generous and true and also fierce, you cannot hurt the world or seriously distress her as she was made to be wooed and won by youth."

That was Winston Churchill speaking in 1945.

To a cool and laid-back generation, Churchill's rhetoric seems flowery and old-fashioned. But his message is as true today as in those times. Youth *can* change the world. But youth must agree on what needs changing, and what to change it to.

Today, I'd like to speak to you about a simple idea that has changed many people—all within your lifetime. An idea that began small. That spread. And now has changed the lives and thoughts of millions.

It is the simple, obvious idea that when we speak of human rights, we mean rights for *all*. When we speak of opportunity, we mean opportunity for *all*. Not just some. Not just the best. Not only the brightest, the fittest, the most promising. But *all*.

Yet, for generations, even while civil rights were being won by racial and religious minorities, no one had thought to apply this idea—this central *moral* value of our American democracy—to 6 million of our fellow citizens—the mentally retarded.

Yet eleven years ago, in Chicago—not far from the scene of the first, controlled, nuclear chain reaction—another chain reaction was started—the beginning of a movement that would soon stretch throughout the world. There on Soldier Field—a track meet for 1,000 mentally retarded boys and girls took place.

This was an act of some daring, because never before had retarded persons taken part in a public event like this, in a public arena.

And many experts, the best and the brightest in their fields, said it couldn't, and shouldn't, be done.

They said the retarded couldn't leave the protection of their institutions.

They said the retarded couldn't understand the meaning of competition . . .

The retarded couldn't run 300 yards or swim the length of a pool . . .

The retarded couldn't take part in team sports . . .

The retarded would get sick, get hurt, get lost.

On every count, the "experts" of that time were wrong. Because no one had ever thought of the retarded as athletes! They had been regarded only as case histories. They had been tested over and over again for intelligence, the one quality in which they could not measure up to norms. But they had never been tested for courage. For determination. For skill. For the capacity for joy . . . qualities that make us truly human.

I'll never forget the sight of two mentally retarded athletes—a boy and a girl—running proudly into that stadium in Chicago carrying the ceremonial Olympic torch. Mayor Daley turned to me and said, "The world will never be the same." And he was right. Because the world saw, for the first time, what its most neglected, least appreciated, most scorned and hidden citizens could accomplish.

Since then, this idea has spread to every continent. It is called "Special Olympics." And millions of people who once did not consider the mentally retarded as even human—have been witness to the marvelous gifts of courage, of fidelity, of love they bring to us.

For in "Special Olympics" it is not the fastest time or the longest distance that matters. But the unconquerable spirit of the athlete; the joy of taking part; the courage to overcome; the generosity to share.

Many of our greatest athletes have been drawn to "Special Olympics" because it gives a meaning to sports, and to their lives, that has been missing from their professional careers.

And so, Rosey Grier, holding in his arms a tiny retarded girl who ran the 100 meter dash in 45 seconds, told me he'd learned more about the meaning of sports from her than from all his years of crushing opposing linemen.

Rocky Bleier, who overcame crippling war wounds to become a professional football superstar, said that he discovered new sources of strength in himself through helping the retarded and the handicapped overcome their disabilities.

Frank Gifford, who wrote a book on courage, says that Special Olympics has helped him redefine winning as a victory over self, rather than over others.

Ron Guidry, a marvelous example of skill and self-sacrifice, once told me that, even more than his own Cy Young Award, his family treasures the second place ribbon his retarded brother, Travis, won in the "Special Olympics" softball throw. And he means it.

The healing and inspiring power of an idea. Why did it take us so long to learn that in our help for the physically and mentally disabled, we help ourselves. In our recognition of their worth, we measure our own. In granting them the freedom to choose, to venture, to succeed, or to fail—we liberate ourselves. For now we recognize a profound secret of life. That in one way or another, and whatever the unit of measurement, we are all retarded with respect to someone else in some phase of our lives; our skills; our aspirations.

Through "Special Olympics" we are proving that even the least powerful, the most handicapped, the least valuable, measured in dollars and cents, have an intrinsic humanity that must be respected; an intrinsic strength that must be nurtured; an intrinsic worth that must be valued.

You may ask what "Special Olympics" and the mentally retarded have to do with you on this day of graduation from Holy Cross. Let me put it this way.

Your education at Holy Cross, with its emphasis on moral values, should have given you the ethical sensitivity, the conscience, to perceive what is wrong in many places and with many people and things in the world today.

Your Holy Cross education should have given you the imagination to think of ideas that will right these wrongs.

Holy Cross should have given you the inspiration and the courage to rally others to your cause and, so, literally, to change the world.

Beyond knowledge, beyond competence, Holy Cross should have instilled in you the awareness that values are as real and true as facts. And that our purpose in life is not simply to manipulate data, but, in the words of Kurt Vonnegut, Jr., "to serve as the eyes and ears and conscience of the maker of the universe."

This is an enormous advantage you have over so many graduates of the secular, value-free institutions in America—those best and brightest who are eager, sharp, quick-witted, and informed, but whose minds and talents are at the service of anymore who will pay the price.

Year after year I have seen such young people in Washington. All under 35. All with the power to affect our lives, but very few asking the ethical questions, the value questions, that could give meaning to what they are doing—owing no allegiance to a moral standard that transcends the bureaucrat or politician they work for.

Recently, the President of Harvard University wrote that the special mission of the university is simply the discovery and the transmission of knowledge; "not to improve society in specific ways."

The President of a great Catholic institution, Georgetown, took public exception to this and asserted that the university cannot be a moral neuter; that there is no way we can claim that the good life is not the ultimate purpose of the informed life.

Over and over again you will be brought face to face with circumstances in which the good life is not being lived; in which freedom and opportunity are being systematically denied. And you will either turn aside and go about your business, or you will make it your business to correct the injustices and to heal the wounds you see around you. Even if you are scorned and stoned, as were the Disciples of Christ. Even if you are jailed, as was the brave man who shares this platform today and is the true hero of this occasion. Even if you are exiled, like the Solzhenitsyns who have been unflinching in their insistence that there can be no collusion with evil; no compromise with principle. You will persevere:

Service and sharing can also be performed in quiet, every-day ways—by people who are ordinary citizens, but extraordinary human beings in their adherence to values.

Like a young nurse, Denise Shipp, who saw at first hand the callous, impersonal way in which pregnant adolescent girls were being treated and the tragic results of this treatment in babies born dead or malformed or mentally retarded; in families shattered, in battered children and in suicide.

She had an idea. To provide for these girls in her hospital, at Johns Hopkins University, a loving, caring environment in which teenagers would learn not only to be good mothers, not only to have healthy babies, but to go back to school, train for jobs, and to respect themselves * * * strong enough to resist becoming pregnant again at least until they were better able to cope with a family. Now, because of her idea, and based on her experience, literally thousands of young girls are being cared for in centers all over America, and their babies are being born healthy and strong.

Or, like Dr. Robert Cooke, a distinguished physician, who could not square his ethical values, his belief in the doctor's commitment to nurture human life, with the Supreme Court Decision on Abortion. And so he urged on his fellow doctors and their medical institutions the concept that the fetus must be, from its inception, treated as a patient; and its health and well-being should be considered paramount. And this idea, which reconciled respect for human life with the highest standards of medical practice, is providing a new ethical dimension to the abortion issue, which is influencing physicians and legislators alike.

These people have bucked the system. They have refused to do things in the same old way. They have sustained the belief that helping another in distress is life's highest calling. They have not permitted any meltdown in the core of their moral values.

They, and hundreds of thousands like them, know—as you have been taught at Holy Cross, that at the heart of law, of medicine, of teaching, of business, is the simple yet profound idea that each life is equal to every other life; that each life depends on every other life; and that the value of life is not measured in victories over others, but in encouraging in all persons the fullest expression of their ability to be human.

Recently, I have been to Communist China and to Russia. The official ideology of these countries denies God . . . denies religion. There's no belief in anything transcendent or eternal or universal except science, matter, and the state. And when some of their citizens subscribe to a different truth, a different philosophy, they try to crush them, to isolate them in their Gulag Archipelagos.

And yet I found that this belief in the State, in international Socialism, often inspires and motivates their youth. Many young Soviets and Chinese work for their countries vigorously. They study the philosophy of Communism in their schools. They see it in their plays and sing it in their songs. They make sacrifices for their countries. Supporting revolutionary groups abroad. Working in rural areas to improve health, sanitation, and education.

Here at home, on the other hand, many leaders in the name of academic freedom or separation of church and state, call for value-free education, value-free sex, value-free health services, value-free social programs.

Some times it seems the only value they subscribe to is "Me." Not a universal body of truth. Not a more spacious concept of a gracious and caring God. But only "Me." Why I think. What I feel. What I need.

Yet beyond the "I's" and the "Me" is the great eternal sea of human suffering and human need . . . the troubled friend, the loved one, the stranger with whom all of us have something to share. If only we make the effort to discover what gifts are needed.

I will suggest but one area under siege which needs your help. It is the Family. Respecting and strengthening the family could be the most dynamic world force for peace—an idea that seems to have escaped our wisest political leaders. Through the family we transmit values from one generation to another, from one culture to another. We learn about love, God, truth-telling, promise-keeping, commitment, equal opportunity, self-sacrifice, avoiding evil, suffering, the Ten Commandments, the story of the Good Samaritan. The kind of family life we wish to have when we marry. What kind of country we want to leave to our children. And we, in turn, transmit these values, first by an example of the celebration of a happy marriage and honorable children. And second by always demanding that families be honored and listened to.

Many of us would like to give the burden of strengthening families to government bureaucracies. And it is true that government should be concerned with many aspects of family life . . . jobs . . . health . . . adequate food . . . education. No parent should be without the chance to make a living. No child should go to school hungry. Or go to a school that leaves his mind unstimulated or his spirit unfulfilled.

But it is not government that is going to solve the psychological and moral problems damaging families today. The moral commitment to family life; to children; to the future; to a pledge of friendship and endurance between husband and wife. These can only come from you. And from your commitment to the values you have learned from your own family and from this great university.

Last week I attended the Texas Special Olympics in Austin. Almost 2,000 mentally retarded athletes took part in this single state. Many sports celebrities and important politicians were there.

During the program, a very quiet, young, black man named Johnny Jones came up to me and put something in my hand. It was a shiny leather box. I opened it and found the gold Olympic Medal he had won in Montreal representing the United States in the 400 meter relay—a first place Medal in world competition.

He said to me, "Mrs. Shriver—I want to give this to the Special Olympics of Texas."

"The thing is," he said, "We athletes don't always appreciate our gifts. But coming out here makes you think. It makes you do whatever you can to help."

"But why your Medal?", I asked.

And he answered, "Right now I don't have a lot of money. But I have the medal. And by giving that I'm giving a part of myself. Other people can give money and time—but this medal that means so much. It seemed like the least I could do."

In our giving to others—in failing to give—in our caring or failing to care—we inch mankind forward or let it fall back. The love we give to our friends, our parents, our children, to the sick, the aged, the poor, the powerless, becomes part of each of us and multiplies. We pass it on and slowly, day by day, through this mysterious arithmetic, the hardness and pain of life are diminished and the thin, precious spiral of hope ascends.

In your own lives, what will be your Olympic Medal? Will you hide it? Will you hoard it? Will you sell it to the highest bidder? Or will you give it away freely because it is part of yourself. Because it means so much. Because it is the least you can do.

CITATION CONFERRING THE DEGREE OF DOCTOR OF PUBLIC SERVICE—EUNICE KENNEDY SHRIVER

In the Golden Age of Greece, victory in

the Games was the realization of both health and beauty; in victory, a man fulfilled the promise of the body and the talents given him at birth. Honor and fame crowned his achievement because he had demonstrated the utmost grace and skill and strength of which the human form is capable. Eu Nikē, the Greeks said, "Fair Victory," "Beautiful Victory," and, hence, they gave us your name: Eunice.

Eunice Kennedy Shriver, you have made a beautiful victory possible for countless mentally and physically handicapped children, not only through your program of the Special Olympics, which today, in the United States and in several foreign countries, numbers over half a million participants and 150,000 volunteers, but also through your continuing association with The Joseph P. Kennedy, Jr. Foundation and the National Institute for Child Health and Human Development.

Every child who comes into the world, under whatever circumstances and in whatever place, is a differing expression of one and the same root, a kind of paradigm of the human aspiration. In every child the potentiality of the human race, all the stretching and straining toward life's limits, begins again. For more than twenty years, you have worked tirelessly so that those who are mentally and physically handicapped might have every chance to translate a possible victory into an actual victory.

In this, the International Year of the Child, the College of the Holy Cross is proud to confer upon you the degree, Doctor of Public Service.

Accordingly, we the President and Trustees of the College of the Holy Cross, authorized to that purpose by the Supreme Authority of the Commonwealth, confer upon Eunice Kennedy Shriver an honorary degree of Doctor of Public Service with all the rights and privileges pertaining thereunto. In proof thereof, we have issued these presents under the seal of the Corporation and the signatures of the President and Dean of the College.●

WEST GERMAN CHANCELLOR CALLS FOR DELAY IN THE FAST-BREEDER REACTOR PROGRAM

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. BROWN of California. Mr. Speaker, the recent visit of West German Chancellor Helmut Schmidt to the United States, and the resultant publicity of his remarks has helped clarify the position of West Germany on a number of important subjects. One of the most important of these subjects is energy, and the position of West Germany on nuclear energy in particular.

I was especially pleased to see that West Germany has shifted its position on the need to rush ahead with the development of fast-breeder reactors and plutonium reprocessing, and has now adopted a position quite similar to President Carter's.

Since the Congress is being told by advocates of early commercialization of the breeder reactor that we need to move ahead with the Clinch River breeder reactor and even larger breeder reactors, the statement by Chancellor Schmidt is quite interesting. I quote:

> I think the fast-breeder question, linked as it is with the question of reprocessing, should not be decided right now. We need some more years to decide that one.

Chancellor Schmidt gave two reasons for this caution:

> The problem involves both cost and nuclear proliferation. Plants for fuel reprocessing are large and expensive. Fast-breeders and the reprocessing plants produce plutonium that can be used in building weapons.

Mr. Speaker, I insert the full interview with Chancellor Schmidt to be included in the RECORD at this time:

HELMUT SCHMIDT SETS OUT TACTICS FOR ENERGY CRISIS

Always sensitive of historic European misgivings about the Germans, West German Chancellor Helmut Schmidt is careful to play down Bonn's emerging political strength. But last week, as he ranged across a series of other global and strategic questions in an exclusive interview with Time magazine's Bonn bureau chief, B. William Mader, he sounded every bit like a great-power leader.

Question: What should the consuming nations be doing about the energy crisis?

Schmidt: No. 1, we have to educate our societies and induce our economies to conserve energy to a much greater degree than we so far have been able to bring about. One of the most important instruments in so doing is to let people feel the fast-rising real costs of energy. Second, to a growing degree we have to replace oil by other primary resources of energy, especially coal and nuclear energy. Foreseeably, we will within the next one or two decades get into a worldwide debate about the irrevocable consequences of burning hydrocarbons whether oil or coal or lignite or wood or natural gas, because the carbon dioxide fallout, as science more or less equivocally tells us, results in a heating up of the globe as a whole. This leads to the third point, namely the necessity to put up rather large sums of money in order to develop scientifically, and from the engineering side, sources of energy like nuclear, geothermal, solar energy, all of which enable us to avoid the CO2 consequences. . . .

I have the feeling that we have not seen the ultimate maturity of nuclear energy as yet. I think the fast-breeder question, linked as it is with the question of reprocessing should not be decided right now. We need some more years to decide that one. In the meantime, we have to keep that option open. Of course, this entails two other questions in the energy-political field that deserve closest attention: international precautions or safeguards against proliferation of weapons-grade material, and processing security, whether it is reactors, reprocessing, fast-breeders or the stowaway business for the remnants. . . .

The problem involves both cost and nuclear proliferation. Plants for fuel reprocessing are large and expensive. Fast-breeders and the reprocessing plants produce plutonium that can be used in building weapons. And third, I will point to the great danger that if nuclear energy is not developed fast enough, wars may become possible for the single reason of competition for oil and natural gas.

Q: Do you believe that force, if necessary, should be used to secure oil supplies for the West?

A: I hate that I have to be quite frank in answering this one. I have deplored these utterances.

Q: What is your response to reports that West Germany is drifting away from the Atlantic Alliance?

A: That notion is being nurtured by people who for domestic reasons either fight my government in Bonn or fight the Carter administration in Washington. . . The malevolent intention of such rumors is obvious. It is also obvious that the *raison d'etre* of the Federal Republic would be lost if and when my country lost its strong (sense of belonging) within not only the Atlantic Alliance but also within the European Community. One will, at the same time, have to bear in mind the geostrategic situation of my country, being nearest to the territories in which you have big Soviet armies in Europe. One will also have to bear in mind the facts that Germany is divided and that West Berlin is in a particularly sensitive situation. Therefore, for 10 years it has been the policy and strategy of my country to use our strong foundations within the Western community as a basis from which to try, and so far not unsatisfactorily, to ease the situation for the people living in a divided nation, to ease the situation especially toward the eastern neighbors of Germany. In other words, not to let the East-West relaxation of tensions or detente circumvent the Central European situation.

Q: What is your assessment of Soviet military strength?

A: I have been in politics for more than a quarter of a century. Within that quarter of a century I have repeatedly heard voices that talked, sometimes in an even alarmed way, about the oncoming military superiority of the East. It never has materialized. I remember very clearly Jack Kennedy's talk, before he became president, about the so-called missile gap. I recall the race between the U.S. and the Soviet Union in the fields of rocketry and satellites. In the end, and this is the experience of a quarter of a century, the West has always been strong enough to make it understood that we would defend ourselves very effectively. Therefore I don't have any inferiority complexes right now about Eastern military power.

Q: How would you evaluate West Germany's political strength internationally in relation to its military and economic strength?

A: The economic strength of our country is sometimes grossly overestimated. The German economy is strong in itself, it is solid. On the other hand, it is only one-fifth or one-quarter of the volume of the American economy. The strength of the deutsche mark is envied something, sometimes applauded and hailed, but one must not delude oneself. It does not mean that the Germans can buy the whole world. The Americans could buy, more or less the whole world. . . . To sum it all up: Germany is not a world power. It does not wish to become a world power. But I will not deny that taking all into account, Germany politically is much stronger today than it was 10 years ago, 20 years ago. There is no doubt about it. Fifteen years ago, a prominent West German politician used to quip that Germany economically was a giant but politically was a dwarf. I don't think that this holds true any longer. But I am rather cautious that nobody in Bonn overplayed Germany's hand. There still is the unique vulnerability of this divided nation. There still is the sensitivity of all our neighbors in Europe, who well remember what was done to them in the German name under Hitler.

Q: What are the greatest problems facing the world economy?

A: There are three. The first is the general notion in most countries, including the Communist countries, the developing and industrial countries alike, to consume more than we produce and to fill in the gap by printing money. (That leads to) inflationary monetary policies as well as inflationary fiscal policies. The second factor rather suddenly broke upon all of us: namely, the oil price explosion and the insight that energy would become rather scarce much more quickly than anybody had foreseen. It misled a number of governments to seek refuge—because they had to pay high energy prices—in printing even more money and creating even more inflation. This led to an upheaval in the fabric of the world economic system. I would prefer not to call it a system any longer. It is more a constellation than a system. At least it is a very unsystematic system. Third, a number of developing countries today produce their own steel and their own ships, not to mention their own textiles. This has led to the necessity for a rather wide-ranging restructuring of industrial capacities and professional capabilities in the developed world. This process is not going fast enough.

Q. How important is Salt II to East-West detente?

A: Let me ask the question: How would the world change if Salt II failed or were not ratified on the American side? I have no doubt that the world would lapse back not only into a full-scale arms race between the East and West but also into another cold war.

Q: How would you assess U.S.-German relations and your own relationship with President Carter?

A: Our personal relations are good. We have been able to exchange our views without any mental or tactical reservations, which in itself is a great asset and leads to close cooperation. There have been federal chancellors in Bonn and American presidents who have not been on such good terms in their times. But personal relations are only one aspect between our two countries. Relations between the two administrations, in the German view, are characterized by three significant experiences. No. 1, we have, to a very great degree, adopted American ideas about the structure of a federal democracy, American ideas of human rights. Second, we have experienced an astonishing degree of American solidarity vis-a-vis a former enemy over whom you won a terrible war. There is a great underlying appreciation in Germany for this lesson in solidarity. Third, the Germans are convinced that their outward security has been maintained by the U.S. more than by anybody else. . . . My feeling is that the American nation, in a rather non-dramatic way, has come to accept the Germans and the Federal Republic of Germany as an almost natural ally.●

MICHAEL NOVAK ON THE THEOLOGY OF MADNESS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. DORNAN. Mr. Speaker, since Secretary of Defense Robert McNamara issued heady pronouncements on the nature and scope of modern war, the central doctrine of America's strategic establishment has been "Mutual Assured Destruction," spawning the appropriate acronymn "MAD." Among certain strategic theorists, madness makes eminent sense. Nuclear war is held to be unthinkable. Its ferocity imperiously dictates certain strategic options. The principal among these is the creation of a strategic nuclear balance that assures that the initiation of any attack by a nation will result in a massive, utterly devastating retaliation against that aggressor nation. The nuclear option becomes thus a non-option, because any nuclear exchange will assure the complete, or nearly complete, destruction of the urban and industrial centers of both of the nuclear contestants. Mutual suicide. The favorite metaphor of MAD proponents is that of two scorpions in a bottle.

Theoretically, this is not only plausible, but attractive. It gives a special urgency for both sides to engage in arms control agreements aimed at assuring what is roughly—very roughly—called nuclear parity. Stability is the objective notion that two societies will be instantaneously turned into radioactive infernos if either makes a serious strategic blunder. It suggests that only a "madman," one thoroughly ignorant of symmetrical beauties of MAD or the litany of strategic corollaries that follow upon its adoption, would dare initiate a nuclear strike.

There is only one problem with this strategic theory. It does not accord with political reality. The Soviets, as revealed in political and strategic writings on the subject, do not—I repeat, they do not—accept the proposition, the core proposition of the madmen, that nuclear was is "unthinkable." They concede its terrors. They agree that it must be avoided at almost every cost. They accept the reasoning of many of our most ardent arms control advocates that a nuclear exchange is a horrible cataclysmic event, bringing about massive death and destruction. The Soviets have not, in their official pronouncements or their doctrinal essays, displayed any cavalier attitude on the subject of nuclear war. But they differ radically from free world disarmement advocates on the central issue. The U.S.S.R. has never, repeat, never, officially acknowledged the legitimacy of the prediction that the U.S.S.R. itself would be destroyed in a nuclear war.

What is their operational military doctrine? It is very simply this: Nuclear weapons are means of war, not simply means of deterring or avoiding war. War is the continuation of "politics" by other means, to paraphrase their favorite mentor on the subject, the German theoretician Carl Von Clausewitz. War, in other words, is indeed a political option, a means to advance in their view the international class struggle. If the capitalist West is to resist, finding itself in an increasingly untenable geopolitical position, the "imperialists", that is, the West, might be tempted in desperation to unleash an attack against the leader of the Socialist camp. There is a common Soviet tenent, if it appears that war is inevitable, that the U.S.S.R. reserves for itself the right and duty to launch a preventative strike against the military capabilities of the West, against the weapons of mass destruction allied against the motherland. The Soviets thus reserve for themselves the right to "defang" the nuclear tiger by knocking out his nuclear teeth in quick, sharp strikes. The operational doctrine of Soviet military authorities is to fight, survive, and win a nuclear war. This is not a novel interpretation of Soviet doctrine. Any Member of this House may examine the substance of Soviet doctrine by reading the most authoritative republished version of it, Soviet Military Doctrine, edited by Major General Sokolovskiy. The emphasis on fighting and winning also runs through numerous published essays on the subject of nuclear war by officially recognized Soviet political theorists and military authors, including the current Minister of Defense Dimitri Ustinov.

Last week, I actually heard my colleague, Mr. DOWNEY, of New York, declare, during full debate on the supplemental appropriations bill for the Department of Defense, that he does not care what the Soviets think about these questions. From a Member of Congress, charged with deliberating upon life and death issues involved in strategic questions, I thought that the gentleman's remark was rather incredible. I am quite sure that relieved of the pressure of debate on these matters he is not, in his deeper moments, convinced that the perspectives or intentions of a potential adversary are either irrelevant or unimportant. But whether or not an individual Congressman actually thinks what the Soviets think is important or unimportant, whether or not the Soviets agree or disagree with our conception of nuclear war, if the U.S.S.R. can deliver a credible first, counterforce strike, a strike that renders U.S. retaliatory capabilities impotent or severely weakened, then the entire doctrine of mutual assured destruction is obsolete. The doctrine and American security and the liberty of our people are all gone forever, possibly disappearing in a radioactive cloud of dust.

Mr. Speaker, as difficult as it is to wrestle with these weighty matters of strategic theory and doctrine, Soviet intentions and our Nation's technological capacity to deter a nuclear assault, I find it far easier to address an even more profound problem—the moral problem of our ugly stated goals under the reigning doctrine of mutual assured destruction. Our clearly stated intentions, destroying the population centers of the Soviet Union as a matter of deliberate policy, are a violation of every principle of humanity, every rule of chivalry, every canon of military necessity, and proportionality in a same conduct of defensive warfare, the only type of violent conflict allowed by people living according to the canons of Judeo-Christian ethics. We are, by assenting to such a doctrine as the guiding strategic framework of our nuclear policy, throwing over our entire Judeo-Christian tradition and succumbing to a totalitarian notion of military conflict.

We are succumbing to a doctrine of "total war," war that is limitless in scope and violence, war that makes no distinctions between combatants and noncombatants, war that obliterates the distinction between legitimate national self-defense and murder on a mass scale. I do not see how some of the most morally outraged commentators on the vicious violence senselessly perpetrated by Lt. William Calley at My Lai can, with the same set of brain cells, condone a military policy that aims toward the deliberate destruction of millions of innocent civilians—as a matter of deliberate policy.

Are we engaging in a national death wish for our innocents? Are we adopting a more sophisticated version of the Jim Jones Guyana response to external threats? Are we asking our military commanders, educated at West Point and

Annapolis and Colorado Springs trained in the noble tradition of Robert E. Lee and Douglas MacArthur, to carry out a terror war in violation of every military code of duty, honor, decency and chivalry that formed their character? Are we doing this in order to satisfy the egocentric demands of armchair nuclear strategists, captivated by the pleasing symmetry of their own bloodless abstractions?

I raise these questions because they gnaw at me constantly. I raise them because we have seen a weakening of our Triad, and a slow, if unconscious, movement toward only a submarine-based nuclear deterrent which, as virtually every military commander will concede, is useless against hardened ICBM targets and appropriate only for "trashing" Soviet cities.

I do not know of anyone in the military or political science who believes for one single moment that an attempt on Soviet cities—and I say "attempt" because it is conceivable that their civil defense preparations would cut losses considerably—would not result instantly in a violent and devastating counter strike against American cities in mind-boggling unlimited retaliation. If our submarine commanders were to unleash Polaris and Poseidon missiles against Kiev, Moscow, Leningrad, and other large Soviet cities, attempting to kill anything that breathes, an enraged Soviet elite would not refrain from counterattacking in-kind, incinerating New York, Baltimore, Washington, Philadelphia, Chicago, and Los Angeles with a second and then a third strike of SS 9's and SS 18's, each carrying millions of tons of TNT. The Soviets would follow repeated missile attacks with and assault by Backfire bombers and their new long range B-1 type bombers for "clean-up" operations against middle America.

Mr. Speaker, I am revolted by MAD. The brilliant writer Michael Novak in yesterday's Washington Star has touched upon the subject in an impressive article, articulating the case for a strong national defense and scoring the deliberate evils of a drift toward countervalue targeting. At least Mr. Novak is right on target—in the very best sense of that expression. It is no wonder that Mr. Novak is achieving the national prominence that he richly deserves.

With Mr. Novak, I must take issue on one critical point: His use of the word "theology." I understand why he uses it. Faith is involved in the current "theology of arms control"; it is a vain faith, divorced from the lessons of history, Soviet perceptions, or the normal experiences of men observing human behavior. I repeat, I understand why he uses the word, even though he is a trained theologian himself. He is trying to communicate with an increasingly secularized society in which expressions of faith, especially of the religious sort, are viewed as rather quaint. My congratulations go to Mr. Novak for a superb analytical article. I ask that my colleagues give their very closest attention to the gentleman's clear and gripping message.

The article follows:

THE THEOLOGY OF ARMS CONTROL

(By Michael Novak)

Many observers have noticed that discussions of SALT II involve "the theology of arms control." Facts are hardly in dispute, but there are rival visions of war, power and human motivation. Since Americans are usually reluctant to face theological questions, it may be well to hit this issue head on.

Defense Secretary Harold Brown said recently at Annapolis that the Soviet Union since 1962 has concentrated its capacities on knocking out the U.S. land-based deterrent. The U.S. defense against this, according to President Carter, is the targeting of U.S. submarine missiles on Soviet cities.

Thus, Soviet arms aim primarily at military targets, ours at civilian targets. Theologically speaking, the Soviet approach seems morally defensible, ours less so.

Soviet threats are therefore, far more credible. They are more likely to use their counterforce on our military targets than we are to attack cities. This is particularly true since a Soviet second-wave attack would rain down on our cities.

Secondly, the U.S. government has made the decision not to defend American civilians, in case of nuclear war. We have now virtually no capacity to do so, nor is one being planned.

This is for a theological reason: the belief that "no one can win a nuclear war." The practical consequence is that U.S. cities are more vulnerable than Soviet cities.

One can imagine a "demonstration tactic," whereby the Soviets would destroy a single American city—say, Minneapolis-St. Paul—while letting it be known via the hot line that any American retaliation would be greeted with total destruction of the other 70 major U.S. metropolitan areas, on a second strike. In such circumstances, U.S. leadership might well believe surrender morally preferable to global destruction.

The present U.S. theology of arms control is, therefore, theologically and strategically weak. It depends upon a thoroughly optimistic reading of Soviet reasoning. Indeed, proponents of present U.S. policy—even Secretary Cyrus Vance and his chief adviser on Soviet affairs, Marshall Shulman—end up, despite themselves, arguing the Soviet case. They want us to understand the Soviets. They try to convince the rest of us that the Soviets will be gentle.

In 1963, Robert McNamara, then Secretary of defense, said that the United States had such a long lead in strategic weapons that the Soviets would never catch up. In 1979, Secretary Vance has enthusiastically welcomed the "parity" between the United States and the USSR. How did that happen?

Moreover, Vance in Chicago on May 1 tried to make a virtue of parity, by saying (against all historical evidence) that only parity makes arms control possible. But this is to say that numbers do matter, that strategic weaponry has political consequences.

It is also to say that the United States must now bow to Soviet aims. In 1977, Vance proposed a U.S. arms treaty, which the Soviets flatly rejected. Since then, the USSR has accepted a lighter version, which Vance has ever since been negotiating. The Soviet version, modified in negotiations, is the one Vance is now taking to the U.S. public.

When Secretary Vance, an honorable man, proclaims the loss of U.S. nuclear superiority as a suddenly discovered virtue, however, he is underemphasizing a critical point. Strategic arms are only part of the military balance.

In virtually every other department, Soviet superiority is unquestionable. In the European theater, Soviet tanks outnumber NATO's 40,000 to 16,000, and Soviet nuclear capabilities outnumber NATO's 4 to 1. The loss of U.S. strategic superiority tips the overall military balance decisively in the USSR's favor. The only thing between the United States and disaster is trust in Soviet rationality, as we optimistically perceive it.

The American people are getting used to the new perception of being the world's second-ranked military power. They will have to get used to being given threats and commands from Moscow which we dare not challenge.

During the crisis in Iran, the United States did not respond as it has responded to other crises in the Middle East for many decades. Mr. Brezhnev ordered the United States not to meddle in Iran. Mr. Vance tamely replied that we had no intention of meddling.

Oil supplies vital to U.S. interests were immediately cut off, and our citizens are now paying for our military weakness in shortages and higher prices. Our weakness is widely perceived around the world. We will pay for that. So will each of our allies.

Some sensitive observers do not believe that military superiority is the first prerequisite of liberty. Their theological beliefs about peace are already reaping grave consequences.

It is sound theology to recognize, in this real world, the moral necessity of military superiority in strategic forces. Parity here is fatal weakness, since the force of oppression already has superiority elsewhere.●

MAYOR H. S. MOSS

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. BONER of Tennessee. Mr. Speaker, I rise today to praise a man who has been the shining light and the major contributing factor in the rapid growth of the city of Goodlettsville, Tenn.

This month, June 1979, the Tennessee Municipal League in Knoxville named H. S. Moss as the "Typical Mayor of the Year," and I join with my fellow Tennesseans in honoring this dedicated public servant.

Mr. Moss arrived in Goodlettsville in 1941 to serve as vocational agricultural teacher for the high school. From that point on he has either been the unofficial or the official mayor of Goodlettsville. Goodlettsville was incorporated in 1958, but prior to that time many of the services enjoyed by its citizens were furnished through the efforts of the men's club and the PTA. Street lights, a fire department, and a park were all provided for the citizens of Goodlettsville prior to the time of actual incorporation.

For 32 years Mr. Moss has been a prime motivator in the men's club. He has been a man the rest of the community has looked to for leadership in the accomplishments of the men's club. So, it was natural that when the city decided to incorporate, the citizens suggested that Mr. Moss enter the race for commissioner. He received a majority of votes cast in that three-man election. It was the unanimous decision of the other two commissioners that he be elected as mayor, a position he has held ever since.

He could not tell you, and it would be hard for any person to guess, the num-

ber of hours H. S. Moss has spent on behalf of the city. He often must attend midnight sessions and then be up early the next morning and out on the job. Through 32 years of laboring for Goodlettsville, he has never once said "you owe me something." He has always said, "I am willing to give my time and energy for my fellow citizens." In addition, Mayor Moss has been active in his church and in such activities as scouting. Two sons, one of whom graduated from the University of Tennessee this week, are both Eagle Scouts. They were also leaders in their local Future Farmers Chapter.

H. S. Moss is a worker and Goodlettsville is a better place to live because of him.●

RESULTS OF 10TH CONGRESSIONAL DISTRICT OF ILLINOIS CONSTITUENT QUESTIONNAIRE

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. MIKVA. Mr. Speaker, more than 15,000 residents of the 10th Congressional District in Illinois have expressed their views on the issues facing the country in response to my 1979 constituent questionnaire. This survey is of tremendous assistance to me as the Congress makes its decisions and I would like to share the results of the survey with my colleagues.

One of the most important issues facing Congress today is energy and one of the most striking divergence of opinion was expressed on an energy question. Asked about the amount of money the Federal Government spends on energy research, 63 percent of the respondents felt that more should be allocated, while only 9 percent want less money spent and 17 percent indicated that present spending levels are adequate. Clearly, there is an overwhelming consensus of opinion that we need to step up our efforts in researching alternative energy sources. Just as clearly, however, there is no consensus on ways to solve our energy problems. The issue of decontrol produced the smallest difference of opinion, with 43 percent indicating they favor decontrol of gasoline prices and 46 percent favoring maintaining the controls. A similarly small margin is reflected in response to the question of the United States doing more in the international arena to break the OPEC oil cartel.

Strong sentiment was expressed on two environmental questions. Nearly twice as many people would like to see more money spent on the environment and natural resources than less, and a clear majority indicated their belief that there should be no relaxing of clean air and water pollution standards. Taken together, the responses show a strong majority of my constituents favor a continued commitment to a cleaner environment.

On the subject of foreign policy there was strong support for two of President Carter's recent decisions. The decision to establish diplomatic relations with mainland China was supported by 72 percent of the respondents and the poll reflected a 68 percent favorable sentiment on the question of negotiating a SALT treaty.

Large majorities were reflected on two other issues facing the Congress. By a 3-to-1 margin the poll favors the enactment of a Federal law to ban the sale, manufacture and distribution of handguns, except for the police, military, and licensed pistol clubs. I have introduced a bill in this Congress, as I have in every other Congress I have been a Member, to achieve that end.

By a 2-to-1 margin respondents favor Federal legislation to limit the percent of increase in charges that hospitals make for their services. This indicates strong support for the hospital cost containment legislation that is presently before the Congress.

The results of the entire survey follows:

[In percent]

	Respondent No. 1			No response
	More	Less	Same	
1. Further efforts to reduce the Federal budget deficit will involve difficult choices when Congress considers this year's appropriations bills. What are your priorities for the next budget? Below is a list of items that makes up most of the Federal budget, along with the percentages of the total budget now being allocated to that item. For each item, please indicate whether you think the item should receive more of the budget, less of the budget or remain the same.				
National defense (23.2 percent)	26	33	30	11
Social security (20.7 percent)	18	30	41	11
Income security and public assistance (including railroad and Federal employee retirement, supplemental social security, school lunches, food stamps) (11.5 percent)	7	55	26	12
Health care (10 percent)	27	26	35	12
Education and social services (including job training, aid to handicapped and elderly) (6.2 percent)	30	23	36	11
Veterans benefits (4.1 percent)	11	27	51	11
Transportation (3.5 percent)	26	29	34	11
Natural resources and environment (2.3 percent)	34	19	34	12
Revenue sharing (1.8 percent)	14	33	40	13
Energy research (1.7 percent)	63	9	17	11
International affairs (1.5 percent)	9	38	41	12
Agriculture (1.3 percent)	16	30	43	12
Space, science and technology (1.1 percent)	26	26	37	11
Commerce and housing (0.6 percent)	13	34	41	12
2. Do you favor the recent decision by the Carter administration to establish diplomatic relations with mainland China?	72	16	10	2
3. (a) To keep the social security system financially sound, the social security payroll tax will continue to increase in the years ahead, based on current law. There are proposals in Congress, however, to reduce this tax by using general revenues from the U.S. Treasury to pay for a portion of social security, such as medicare. Would you favor this kind of proposal?	52	32	11	5
(b) Would you rather see social security benefits reduced?	25	64	6	6
4. Currently, Federal price controls limit the amount that can be charged for each gallon of gasoline sold at the filling station. Should these controls be ended?	43	46	7	4
5. Do you think that voluntary wage and price guidelines will help reduce inflation?	18	65	14	3
6. Do you favor mandatory wage and price controls as a way of reducing inflation?	35	51	12	3
7. The Carter administration has proposed that there be a voluntary 7-percent limit on wage increases, with tax incentives for those workers who agree to such voluntary limits. Do you favor this proposal as a way of reducing inflation?	47	39	11	2
8. Currently, Presidential elections are funded in part by Federal funds in order to limit private contributions and the resulting influence of the contributors. Should this kind of campaign financing reform be extended to congressional elections?	53	36	8	2
9. Do you favor a Federal law to ban the manufacture, sale and distribution of handguns, except for the police, military and licensed pistol clubs?	72	23	4	1
10. Do you think the United States should negotiate a SALT treaty with the Soviet Union to cut back on the development of military weapons?	68	19	11	2
11. To control hospital costs, would you favor federal legislation to limit the percent of increase in charges that hospitals make for their services?	61	29	8	2
12. Some people say that one way to ease inflation is by relaxing clean air and water pollution standards, thus reducing the costs to business. Others argue that environmetal safeguards should be maintained to protect both our health and natural resources. Do you favor some relaxation of these environmental standards?	34	57	7	2
13. Which of the following do you favor regarding cigarette smoking:				
(a) Laws should be passed to ban smoking in public places such as government buildings	56	31	7	6
(b) The Federal Government should end all subsidies to tobacco growers	82	8	5	5
(c) There should be a large increase in the Federal tax on cigarettes to discourage smoking	59	28	7	5
14. Do you smoke cigarettes?	18	79	1	2
15. Since the OPEC oil cartel was formed several years ago, some people have argued that we should accept the existence of the cartel but move more aggressively in developing our own energy sources. Others have said recently, however, that in spite of possible economic political risks, the United States should be doing much more in the international arena to break the OPEC oil cartel. Would you favor a major effort by the United States to break the oil cartel?	42	33	20	5

ALCOHOL—THE NUTRITIOUS FUEL

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. OTTINGER. Mr. Speaker, as a strong believer in the need to develop alcohol fuels as an alternative energy source, I would like to call to the attention of my colleagues an excellent article on the subject by my good friend BERKLEY BEDELL of Iowa.

Congressman BEDELL has shown real leadership in encouraging the development of a national policy for gasohol production. In his Washington Post article of June 7, he decries the failures of our current energy policies and states:

> The adoption of a national alcohol-fuels program would be a positive expression of American determination and resolve to remedy its debilitating energy problems, and I believe that it is high time we accepted the challenge.

The text of his important article follows:

GASOHOL: THE NUTRITIOUS FUEL

(By Berkley Bedell)

The Post's recent editorial "The Corn Belt's Favorite Fuel" reflects prevailing misunderstandings regarding the production of alcohol fuels and current U.S. farm policy. As the author of the legislation you referred to, I feel compelled to respond to your contention that the public is being asked to choose between food and fuel and that net energy balance considerations make gasohol from grain alcohol impractical.

Your opposition to alcohol fuel produced from grain seems to be based almost exclusively on the argument that it would "divert good grain from the food markets to make motor fuel." Such a statement is simply not supported by the facts. In the alcohol production process, none of the protein in the original grain is lost. On the contrary, because of the action of the yeast, the amount of protein is actually slightly increased. Only some of the starch in the grain is lost. Obviously the world is deficient in protein, not starch. New technological processes produce a high-protein food supplement that is suitable for human consumption. By putting agricultural lands that the government now pays farmers to idle back into production, we can actually increase our ability to feed hungry people while helping to mitigate our problems with liquid fuel supply.

The byproduct of alcohol-fuels production is especially valuable for animal feeding purposes, as well. In an experiment conducted at the University of Kentucky, researchers fed a group of cattle a given quantity of hay and 100 bushels of corn. Another group of cattle was fed the same quantity of hay and 80 bushels of corn together with the byproduct from the other 20 bushels that had been run through an alcohol plant. Amazingly enough, the cattle fed the ration from which alcohol had been produced actually gained more weight than those fed the straight corn! This is due to what is called the "high bypass value" of the byproduct. Clearly, in a protein-deficient world, there is no food-versus-fuel trade-off; we can have our cake and eat it too.

The argument that we should forget about gasohol because there is a negative net energy balance in the production of alcohol from grain is also outdated. First, it is important to remember that the energy balance calculations that are now being quoted are based on the performance of alcohol plants that were designed for the production of beverage-grade alcohol at a time when energy was cheap. In contrast, Archer Daniels Midland in Decatur, Ill., which is the largest producer of fuel-grade alcohol in the United States, has been certified by the Department of Energy as having a positive net energy balance.

Engineering firms now tell us that they can construct new "grass roots" plants utilizing recent technologies that have positive net energy balances of up to a ratio of 4 to 1. Of course, we can use a variety of energy sources, such as coal and solar, for providing the process heat needed in an alcohol-production facility. If we could burn 100 calories of our abundant coal, for example, to produce 95 calories of scarce liquid fuel, it would certainly be a good exchange. Finally, it should be noted that if assessments of the net energy balance were to be the sole basis for energy policy-making, there would be no electricity in this country, since it requires approximately three BTUs of coal or oil energy to produce the equivalent of one BTU of electricity.

Those who say that producing ethanol from grains will not of itself solve the nation's energy problems are correct. However, the development of a national alcohol-fuels industry based in part on grains will serve as the catalyst for the technological development needed to enable us to transform the abundant cellulose materials, including municipal and agricultural wastes, into alcohol fuel. It will be easy to adapt plants that use grains as feedstocks for alcohol production to accommodate cellulose whenever that technology becomes commercially feasible. In the meantime, the United States could benefit from the valuable ethanol that could be produced from agricultural commodities.

I want to stress again that I am not contending that the production of alcohol fuel from grains and other renewable resources would be a panacea. However, a national program promoting the production of this needed supplement to our dwindling liquid fuel supplies would yield substantial benefits, both tangible and intangible. Certainly, it is time that U.S. energy policy stops reflecting "technological timidity," as Daniel Greenberg termed it [op-ed, May 22], and adopt some positive attitudes to end our present reliance on imported oil. This country was built by those who concentrated their energies on finding solutions, not in glorifying the problems. The adoption of a national alcohol-fuels program would be a positive expression of American determination and resolve to remedy its debilitating energy problems, and I believe that it is high time we accepted the challenge.●

ANNE FRANK'S 50TH BIRTHDAY

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. GREEN. Mr. Speaker, I am pleased to acknowledge today the 50th anniversary of the birth of Anne Frank, truly a daughter of our times and a mother of hope, strength, and courage in the future.

Hundreds of millions of people have read Anne Frank's account of the terrifying days she spent in hiding from Nazi soldiers. Her diary has been translated into more than 50 languages.

Anne Frank's spirit lives on not solely because she is Jewish or because she was a victim of the holocaust. She is a universal symbol of the beauty of the human soul and the wisdom of the human spirit. The spiritual attainments of Anne Frank's 16-year lifetime serve as a model for each of us throughout our lives, and in the lives of generations to come.●

ANTIOCH HIGH SCHOOL BASEBALL TEAM IN NASHVILLE, TENN.

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 1979

● Mr. BONER of Tennessee. Mr. Speaker, I rise today to congratulate coach Ron Wilson and the members of the Antioch High School baseball team in Nashville, Tenn., upon the winning of the class AAA State baseball title of the Tennessee Secondary School Athletic Association.

On June 4, this fine ball club defeated Knoxville South-Young, 5 to 2, in game three in the best-of-three series. The Antioch Bears lost the first game of the series but in a never-say-die fashion this team came back to win the following two games.

I join with their many fans in Nashville to salute the Antioch Bears for the outstanding ability and determination they demonstrated in winning the class AAA title.●